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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Wednesday, September 21, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D, offered the following prayer:

Seek the Lord while He may be found, call upon Him while He is near; let the wicked forsake his way, and the unrighteous man his thoughts; let him return to the Lord, that He may have mercy on him, and to our God, for He will abundantly pardon.—Isaiah 55: 6, 7.

Almighty God, by whose mercy we joined our Hebrew friends in entering a new year, now we come to join them again in confessing our sins. We have done those things we ought not to have done and we have left undone those things we ought to have done. We have fallen short of Thy purposes for our lives and we have failed to use wisely the gifts Thou hast given us. Humbly we make our confession unto Thee.

We pray that Thou wilt create in us clean hearts and renew a right spirit within us. Strengthen us in our resolve to mend our ways, to trust Thee more fully, and to serve our people more faithfully. Do Thou establish peace within our souls that we may be truly one with Thee and with our fellow creatures.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 602) entitled "An act to extend and revise the Library Services and Construction Act, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4544. An act to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2089. An act to establish within the Department of Justice the position of Associate Attorney General.

PROVIDING FOR CONSIDERATION OF H.R. 3, MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 743 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 743

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be considered as having been read for amendment. After the disposition of the amendment jointly recommended by the Committee on Ways and Means and by the Committee on Interstate and Foreign Commerce beginning on page 2, line 1 through page 66, line 21 of the reported bill, it shall be in order to consider the second amendment recommended by the Committee on Ways and Means beginning on page 66, line 22 through page 70, line 5 of the reported bill and to consider the second amendment recommended by the Committee on Interstate and Foreign Commerce beginning on page 70, line 6 through page 72, line 16 of the reported bill as a substitute therefor. After the disposition of said second amendment it shall be in order to consider the third amendment recommended by the Committee on Ways and Means beginning on page 72, line 17 and printed in italic through page 113, line 12 of the reported bill, and to consider the third amendment recommended by the Committee on Interstate and Foreign Commerce printed in H. Rept. 95-393, part II beginning on page 21 through page 36 as a substitute therefor. After the disposition of said third amendment it shall be in order to consider the fourth amendment recommended by the Committee on Interstate and Foreign Commerce now printed on page 113, line 13 through page 116, line 23 of the reported bill. No amendments to the bill or to the amendments made in order by this resolution shall be in order except germane amendments printed in the Congressional Record at least two (legislative) days prior to consideration thereof, except that it shall be in order to debate said bill and amendments by the offering of pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 743 provides for the consideration of H.R. 3, the medicare-medicaid antifraud and abuse amendments. This resolution provides for a modified open rule with 2 hours of general debate to be equally divided between the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce.

Since H.R. 3 was jointly referred to two committees, an opportunity is provided by the rule for each committee to offer amendments to the bill. In most cases these amendments are technical in nature. There is only one section in the bill where there is a substantive disagreement between the committees, the section which pertains to the confidentiality of medical records. In this instance each of the committees will offer an amendment reflecting its approach to the resolution of this controversial issue.

House Resolution 743 provides that after the disposition of the first amendment which has been jointly recommended by both committees, it shall be in order to consider the second amendment recommended by Ways and Means as well as a substitute to that amendment recommended by Interstate and Foreign Commerce. This amendment deals with the confidentiality of medical records and is the only one reported by the two committees in complete substantive disagreement.

After the disposition of the second amendment it shall be in order to consider the third amendment recommended by Ways and Means as well as a substitute to that amendment recommended by Interstate and Foreign Commerce. This amendment relates to a technical problem which would have precluded a few States from receiving Fed-

eral matching money to establish a separate medicaid fraud and abuse unit.

After the disposition of this amendment it shall be in order to consider the fourth amendment recommended by the Committee on Interstate and Foreign Commerce. This fourth amendment is a technical amendment to the medicaid program, which is solely under the jurisdiction of the Commerce Committee. Ways and Means has no objections to this amendment.

House Resolution 743 makes in order only committee amendments and germane amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to floor consideration.

The rule also allows for a motion to recommit with or without instructions.

H.R. 3 gives the Federal and State Governments new powers and sanctions in monitoring and controlling possible fraud and abuse in the medicare and medicaid programs. The bill increases the requirements for disclosure of financial information, strengthens the program's penalty provisions, and makes needed improvements in the professional standards review program. This bill would require HEW to suspend from the medicare and medicaid programs any practitioner convicted of a criminal offense related to the programs.

This bill makes a number of changes in the administration of the programs in order to monitor the programs better and to detect and correct fraud and abuse. The Comptroller General is directed to conduct a comprehensive review of the present administrative structure for the processing of medicare claims. Additionally, the Secretary of HEW is required to report to Congress with an analysis and recommendations relating to all aspects of the delivery of home health services under medicare.

The legislation also addresses the issue of the confidentiality of medical records, the circumstances under which records may be appropriately examined, and the safeguards that need to be established with respect to the disclosure of records. The committees substantively disagree in this area, as I mentioned earlier, and will present to the House their respective positions on this matter.

H.R. 3 was jointly referred to both committees in January. Since that time the two committees have worked closely together in developing this legislation. The one point of disagreement between the committees will be voted on by the House. I know of no opposition to the rule. Therefore, I urge the adoption of House Resolution 743 in order that H.R. 3 may be considered.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Illinois (Mr. MURPHY) has gone into detail in explaining the rule and the purpose of the bill; and I support the rule.

We know how important our medicaid and medicare programs are throughout the country. I would like to see them expanded. At the same time, I think we should give the Government the opportunity to investigate fraudulent operation of the programs and also give the Government the authority to prosecute and punish fraudulent practices.

Mr. Speaker, I support not only the rule, but I support the bill.

I have no further requests for time, but I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, the two committees involved in the development of the medicare-medicaid fraud and abuse bill sought this rather complex rule to expedite floor consideration of this important legislation.

As my colleagues are aware, the 1974 committee reorganization transferred medicaid, a general revenue health program, to the Commerce Committee, while the Ways and Means Committee retained responsibility for the tax-based insurance program for the aged and disabled—medicare.

However, the parallel nature of medicare and medicaid often requires that legislation relating to these programs be coordinated. This has been done on H.R. 3. In legislation containing over 36 different substantive provisions, our committee bills differ on only 3 provisions, and 2 of these differences are strictly technical ones which will be rectified with the adoption of the committee amendments. Thus we really differ on only one provision—the issue of confidentiality of medical records. And on that issue, disagreement only arose at the full committee level since the two health subcommittees adopted identical provisions on this issue.

Without debating the relative merits of the difference in the treatment of the confidentiality of medical records, I would like to insert in the RECORD for my colleagues information two letters that bear directly on the issue.

The letters follow:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., September 21, 1977.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: H.R. 3, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, will be debated on the House floor this week. This measure contains many vital anti-fraud and abuse provisions, on which both the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means have agreed. The Administration strongly supports most of these provisions, and we commend the members of the two Committees for their tireless combined effort on this landmark bill.

There is one provision, however, on which the two Committees have failed to agree. The Ways and Means amendments to H.R. 3 contain a provision sponsored by Representatives Philip Crane and Fortney P. Stark, which is concerned with prohibiting Federal officers, agents or employees from inspecting, acquiring or disclosing individually identifiable medical records. This provision, section 5(1)(1), will be the subject of a substitute amendment offered by Representative Paul Rogers, on behalf of the Committee on Interstate and Foreign Commerce.

The Administration is seriously concerned with the potential adverse effects of the Crane-Stark amendment on our Nation's health, and the purpose of this letter is to express our strong support for the Rogers substitute amendment.

Medical record confidentiality has long been a matter vitally important to Congress and to the Executive Branch. It has been the subject of a wide array of statutes affecting personal privacy, freedom of information, occupational health and safety, alcoholism and drug abuse treatment, and of various criminal laws. A substantial body of Federal regulations, covering such diverse areas as Food and Drug Administration enforcement, protection of biomedical research subjects, and Federal tax law enforcement, have also been directly concerned with medical record confidentiality.

Most recently, the Privacy Protection Study Commission, created by Congress in the Privacy Act of 1974, spent two years examining issues associated with the confidentiality of all records, including medical records. That Commission, whose seven members included Representatives Edward I. Koch and Barry M. Goldwater, Jr., issued its report on July 12, 1977, and HEW is currently engaged in a painstaking analysis of its recommendations.

While we recognize the concerns expressed by Ways and Means Committee members when they first adopted the Crane-Stark amendment, we believe those concerns will be more thoroughly and properly addressed in the context of legislation to implement the Privacy Commission's recommendations. We note that such legislation has already been introduced by Representatives Koch and Goldwater, Jr. Moreover, it is our intention to transmit our own legislative proposals to Congress in the very near future.

For that reason, we urge your strong support for the Rogers substitute amendment, which specifically addresses itself to the Privacy Commission recommendations by requiring HEW to produce its legislative proposals within 90 days of the publication of that report.

We are convinced that to act precipitously at this time on a broadly worded blanket restriction such as is contained in the Crane-Stark amendment would have immediate and far-reaching adverse consequences for the health of our nation.

Among other things, the Crane-Stark amendment would seriously hamper this Department's ability to assist States in preventing and controlling disease and epidemics. It would interfere with our ability to study the origins of diseases resulting from environmental hazards or occupational exposure to cancer-causing agents, where symptoms may take years to manifest. It would impede efforts to assure drug efficacy and safety. It would seriously undermine our efforts to control fraud and abuse in the Medicare and Medicaid programs, and to assure that Federal programs are paying for covered services which are reasonably priced and medically necessary.

Nor should other measures based on the Crane-Stark approach, such as the Satterfield amendment, which was rejected by the Commerce Committee, be adopted at this time, without careful and thorough consideration, including the opportunity for public hearings, in the regular Committee process. Personal privacy and confidentiality of records involve too many important ethical, legal and Constitutional considerations to be taken up outside that process.

We thank you for your attention to this matter, and we hope and trust you will support the Rogers amendment.

With best regards.

Sincerely,

JOSEPH A. CALIFANO, JR.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 20, 1977.

DEAR COLLEAGUE: Our purpose in writing is to help clarify questions that might arise during consideration of the section of H.R. 3 relating to the confidentiality of medical records.

The Interstate and Foreign Commerce Committee and the Ways and Means Committee have reported differing amendments pertaining to the confidentiality of medical records. As reported from the Commerce Committee, section 5(1) requires the Secretary of HEW to submit to the Congress his legislative recommendations in this complex area within 90 days after the release of the Privacy Protection Study Commission report. All legislative proposals would then receive the benefit of full public hearings so that all implications of such legislative changes could be thoroughly analyzed. The full Ways and Means Committee changed an identical provision in its Subcommittee's bill to include an amendment which would impose sweeping limitations on access to medical records. It is now apparent that this would adversely affect such activities as epidemic control, epidemiologic research, identification of persons to permit notification of exposure of hazardous substances, IRS auditing of medical providers, and law enforcement and judicial deliberations in areas where medical evidence is relevant to the issue in question.

We urge you to support the Commerce Committee substitute to the second Committee amendment and oppose all other amendments to this section. Our position on this issue is strongly endorsed by the Administration, and by our colleague on the Privacy Commission, the Honorable Edward Koch, who is the chief congressional sponsor of legislation to implement the Commission's recommendations.

Further information is attached for your review.

PAUL G. ROGERS,
DAN ROSTENKOWSKI,
TIM LEE CARTER,
Members of Congress.

This week the House will consider H.R. 3, the Medicare-Medicaid Anti-Fraud and Abuse Amendments. This bill has been reported by both the Committees on Interstate and Foreign Commerce and Ways and Means. As reported by Ways and Means, Section 5(1) of H.R. 3 provides that no officer, employee, or agent of the United States may inspect, acquire, or require the disclosure of any identifiable medical record unless the patient has given a detailed and specific authorization.

While the intent of that provision is laudable, i.e. the protection of the individual's privacy as it relates to his or her medical record, the provision as it now stands would be crippling to existing critical public health programs. In some instances, denying access to records could even preclude necessary action in a life threatening situation.

In addition to affecting the programs of the Department of Health, Education and Welfare, some of which we will outline for you, this provision also affects programs of Defense, the Veterans Administration, Labor, and the Consumers' Product Safety Commission among others. Representatives of these organizations appeared before the Subcommittee on Health and the Environment to oppose the provision in the Ways and Means reported bill.

A few of the vital program activities which would be significantly altered, if not terminated, by this provision include:

1. Epidemic investigation—frequently numerous records must be reviewed rapidly; individuals at risk identified, found, and offered appropriate protective measures or treatment; and community control programs planned. Recent examples include the hundreds of potential contacts to Legionnaire's Disease; St. Louis Encephalitis epidemics in four Southeastern States in 1975; and a nationwide exposure of patients to bacterially contaminated intravenous fluids;

2. Epidemiologic research—especially that related to the cause and course of illness over a long period of time. Again, individuals who at some past point in time may have been exposed to a toxic or carcinogenic agent, must be identified, found, examined, and treated if necessary. Recent examples include studies linking the use of DES in pregnant women to vaginal cancer in their daughters; vinyl chloride work exposure to an increased risk of liver cancer; and x-ray treatment two or three decades ago to an increased risk of thyroid cancer;

3. Communicable Disease Control—even such important ongoing programs as immunization and venereal disease control would be affected. In immunization programs it is often necessary to review a child's record to see what vaccines may be needed, not only routinely, but in the face of an epidemic control effort. Penicillin resistant gonorrhea a major new VD threat to this country, can only be controlled by identifying and treating all exposed individuals *before* they can transmit this organism to others;

4. Laboratory records—Certain findings, which may result from even routine testing, such as evidence of hepatitis, syphillis, and typhoid require immediate identification and follow-up not only for the protection of the individual, but the public as well;

5. Unpredictable events—examples include the recent life threatening situation of a young boy with Lasa Fever, where the only way to prevent his death was to identify the very small number of travellers to Africa who had had Lasa Fever and who could provide protection to the child on a few hours notice. Another recent example is that of Guillain-Barre syndrome associated with swine flu vaccine. All known cases of Guillain-Barre in the nation had to be quickly identified, seen vaccine history established so that a scientifically valid decision could be made as to the possible relation between immunization and that syndrome; and

6. Other important health activities including the monitoring of new-drug research by the Food and Drug Administration, qualify assurance activities of PSRO physicians (Connecticut, for example, requires their review of care paid for by private, insurors), and even reimbursement procedures under Titles XVIII and XIX are all affected by this amendment.

These are only some examples.

The issue of individual protection of course, is an important one. As you know, we established a Privacy Protection Study Commission two years ago to study the full implications of this problem. In July, that Commission submitted its final report which contained a series of recommendations designed to safeguard privacy with respect to medical records, but not cripple research and critical public health activities by an inappropriate, and even unsafe, prohibition to necessary access.

Other colleagues, the Honorable Ed Koch and Barry Goldwater, Jr., who served on the Privacy Commission, have introduced legislation (H.R. 8283, and H.R. 8286) to implement the findings of the Commission. HEW is also developing legislative proposals in this area. Everyone involved with this issue, however, is concerned that the complexity of the problem requires additional thought and benefit of full public hearings.

Other amendments have been proposed which do deal with some of the problems raised by the sweeping nature of the Ways and Means reported bill; however, even under these proposals significant problems remain. For example, one amendment relies on existing State law to provide necessary access to medical records. Unfortunately, we cannot rely on State statute, even temporarily, to resolve this problem for us. A review of State law by HEW has found that while most States do give record access authority to State officials for purposes of communicable disease control, many do not address chronic disease problems, or multi-generation carcinogen exposure, and few speak to the newly discovered health effects of certain environmental toxicological, or chemical exposures.

We hope you will join us in urging retention of the language of the bill as reported by the Committee on Interstate and Foreign Commerce which requires HEW to present to the Congress, within 90 days of the release of the Privacy Commission Report, draft legislation to implement the Commission's recommendations on medical records, which we can then consider with benefit of appropriate public hearings.

The rule that we have requested allows for continued coordination and consultation between the two committees while still allowing the House to work its will. Publication in the RECORD of amendments allows us to better evaluate amendments and coordinate our positions on proposed modifications to these very complex and expensive programs.

Finally, Mr. Speaker, I would like to explain for my colleagues, what I anticipate will be the order of business during the amendment process on H.R. 3.

First. The first committee amendment reported from each committee is identical.

Second. The second committee amendment is where there is substantive disagreement on the confidentiality issue and possible alternative amendments might arise.

Third. The Commerce Committee position on the third committee amendment contains one technical refinement not contained in the Ways and Means bill which had been reported prior to the discovery of the need for this minor change. The Ways and Means Committee recommends the adoption of the Commerce substitute amendment here.

Fourth. Finally, the Commerce Committee has a fourth amendment relating to utilization review of long-term care under medicaid which is not contained in the Ways and Means bill. I urge my colleagues to endorse it and I know of no Ways and Means objection to its adoption.

Mr. ROGERS. Mr. Speaker, H.R. 3 is an important piece of legislation which can add significantly to the ability of the State and Federal Governments to uncover and prosecute fraud and to reduce abuse of our public medical care financing programs. The proposed legislation is truly a joint product of the Committees on Interstate and Foreign Commerce and Ways and Means. Our Subcommittees on Health worked closely throughout preparation and consideration of the legislation. We held joint hearings on the bill. We held sequential markup sessions, with each subcommit-

tee reconvening to consider the product of the other subcommittee's deliberations. The result has been a bill reported by both committees which is substantially the same in all aspects; in only one area, that relating to access to medical records, is the substantive approach adopted by the committees different. The result of this cooperation is not only uniformity in the reports of the committees: I believe it is a stronger and more carefully crafted piece of legislation as a result of the positive interaction of the two committees.

The rule on H.R. 3 is designed to allow continuation of the cooperation and coordination of the two committees as we now bring this legislation before the Members. The rule provides that, in addition to the amendments reported by each of the committees, amendments will be in order only if they are germane amendments and are printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to consideration of H.R. 3 on the floor. This allows the committees to continue their procedure of considering jointly the proposals, and wherever possible, reaching recommendations with respect to the amendments that are consistent.

The first amendment in order under the rule is an amendment recommended jointly by the committees. It includes the portions of the bill which assure that power of attorney arrangements will not be used to circumvent the existing prohibition of current law against "factoring" arrangements, and which require disclosure of certain ownership information by medicare and medicaid providers. It also includes a provision which clarifies and reclassifies most fraudulent acts which are misdemeanors under the current law to make them felonies, subject to maximum penalties of 5 years in prison and a $25,000 fine. The amendment also contains provisions which are designed to enhance the capacity of individual PSRO's to review matters of quality and necessity of medical care services effectively, and which strengthen the State role in participating in PSRO selection and reviewing PSRO performance.

The second set of amendments to be considered will be the amendment reported by the Ways and Means Committee and the alternate amendment reported by the Committee on Interstate and Foreign Commerce concerning confidentiality of individually identifiable medical records. These amendments deal with the only area of substantive disagreement between the two committees. The Ways and Means Committee amendment prohibits any Federal employee, official or agent, or a PSRO, from inspecting any individually identifiable medical record without prior patient consent, except for medicare or medicaid related patient records where the inspection is for the purpose of PSRO review or fraud and abuse detection. The amendment recommended by the Committee on Interstate and Foreign Commerce would require the Secretary to review the recommendations of the Privacy Protection Study Commission and translate those recommendations into proposed legislation by mid-October, so that the Congress may hold full legislative hearings on the proposals prior to action. The commerce amendment also bans access by Federal employees to any individually identifiable medical data reviewed by a PSRO if it relates to care that was not paid for by medicare or medicaid.

The third set of amendments were identically reported by the two committees, except for a provision included in the Commerce Committee amendment which allows States to receive the higher Federal matching rate made available under the bill for the establishment and operation of a medicaid fraud unit even if the Constitution of the State prohibits prosecution by a statewide authority, provided the unit in such a State has procedures acceptable to the Secretary of HEW for referral of suspected criminal violations for prosecution.

The third amendments reported by the committees include a provision giving authority to the Comptroller General to subpena records in his investigations of medicare and medicaid, a provision suspending physicians or other practitioners from participation in medicare and medicaid if they have been convicted of a program-related criminal offense, and a provision requiring the disclosure of the names of any owner or manager of an institutional provider who has been convicted of fraud in medicare, medicaid, or the social services programs. These amendments also include provisions to provide incentive funding to establish State units to investigate fraud in medicaid, to require the Secretary of HEW to report to the Congress on how to assure quality of services provided in home health care programs, and to establish a system of uniform reporting for hospitals and other health care facilities, as well as to make several administrative reforms in the medicare program.

The fourth amendment is one reported by the Committee on Interstate and Foreign Commerce to provide States with additional time to meet the requirements of law concerning review of services delivered in long-term care institutions. The provision delays the imposition of some $250 million in penalties imposed on some 20 States by the Secretary of HEW in June and again this month until after December 31, and provides for permanent waiver of those penalties if the State is in compliance with the requirements of the law at that time.

Mr. MURPHY of Illinois. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BRADEMAS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 6, not voting 54, as follows:

[Roll No. 571]

YEAS—374

Abdnor	Dickinson	Jones, Tenn.
Addabbo	Dicks	Jordan
Akaka	Diggs	Kasten
Alexander	Dingell	Kastenmeier
Ammerman	Dodd	Kazen
Anderson, Calif.	Dornan	Kemp
	Downey	Ketchum
Anderson, Ill.	Drinan	Keys
Andrews, N.C.	Duncan, Oreg.	Kildee
Andrews, N. Dak.	Duncan, Tenn.	Kindness
	Early	Kostmayer
Annunzio	Eckhardt	Krebs
Applegate	Edgar	LaFalce
Archer	Edwards, Calif.	Lagomarsino
Armstrong	Eilberg	Latta
Ashley	Emery	Le Fante
Aspin	English	Leach
AuCoin	Erlenborn	Lederer
Badham	Ertel	Leggett
Bafalis	Evans, Colo.	Livingston
Baldus	Evans, Del.	Lloyd, Calif.
Barnard	Evans, Ga.	Lloyd, Tenn.
Baucus	Fary	Long, La.
Beard, R.I.	Fascell	Long, Md.
Bedell	Fenwick	Lujan
Beilenson	Findley	Luken
Benjamin	Fish	McClory
Bennett	Fisher	McCloskey
Bevill	Fithian	McCormack
Biaggi	Flippo	McDade
Bingham	Flood	McEwen
Blanchard	Florio	McFall
Blouin	Flowers	McHugh
Boggs	Flynt	McKay
Boland	Foley	McKinney
Bonior	Ford, Mich.	Madigan
Bonker	Ford, Tenn.	Maguire
Bowen	Forsythe	Mahon
Brademas	Fountain	Mann
Breaux	Fowler	Markey
Breckinridge	Fraser	Marks
Brinkley	Frenzel	Marlenee
Brodhead	Frey	Marriott
Broomfield	Fuqua	Martin
Brown, Calif.	Gammage	Mathis
Brown, Ohio	Gaydos	Mattox
Broyhill	Gephardt	Mazzoli
Burgener	Gibbons	Meeds
Burke, Calif.	Gilman	Meyner
Burke, Mass.	Ginn	Michel
Burleson, Tex.	Glickman	Mikulski
Burlison, Mo.	Goldwater	Mikva
Burton, John	Gonzalez	Milford
Burton, Phillip	Goodling	Miller, Calif.
Butler	Gore	Miller, Ohio
Byron	Gradison	Minish
Carney	Grassley	Mitchell, N.Y.
Carr	Gudger	Moakley
Carter	Guyer	Moffett
Cavanaugh	Hagedorn	Mollohan
Cederberg	Hamilton	Montgomery
Chappell	Hammer-schmidt	Moorhead, Calif.
Chisholm		
Clausen, Don H.	Hanley	Moorhead, Pa.
	Hannaford	Mottl
Clay	Hansen	Murphy, Ill.
Cleveland	Harkin	Murphy, N.Y.
Cochran	Harrington	Murphy, Pa.
Cohen	Harsha	Murtha
Coleman	Hawkins	Myers, Gary
Collins, Ill.	Heckler	Myers, John
Collins, Tex.	Hefner	Myers, Michael
Conable	Heftel	Natcher
Conte	Hillis	Neal
Conyers	Holland	Nedzi
Corcoran	Hollenbeck	Nichols
Corman	Holt	Nowak
Cornell	Holtzman	Oakar
Cotter	Horton	Oberstar
Coughlin	Howard	Obey
Cunningham	Hubbard	Ottinger
D'Amours	Huckaby	Panetta
Daniel, Dan	Hughes	Patten
Daniel, R. W.	Hyde	Patterson
Danielson	Ireland	Pattison
Davis	Jacobs	Pease
de la Garza	Jenkins	Pepper
Delaney	Jenrette	Perkins
Dellums	Johnson, Colo.	Pettis
Derrick	Jones, N.C.	Pickle
Devine	Jones, Okla.	Pike

Poage	Scheuer	Tsongas
Pressler	Schulze	Tucker
Preyer	Sebelius	Udall
Price	Seiberling	Ullman
Pritchard	Sharp	Van Deerlin
Pursell	Shipley	Vander Jagt
Quie	Shuster	Vanik
Quillen	Sikes	Vento
Rahall	Simon	Volkmer
Railsback	Skelton	Waggonner
Rangel	Skubitz	Walgren
Regula	Slack	Walker
Reuss	Smith, Iowa	Walsh
Rhodes	Smith, Nebr.	Wampler
Richmond	Snyder	Watkins
Rinaldo	Solarz	Waxman
Risenhoover	Spellman	Weaver
Roberts	Spence	Weiss
Robinson	St Germain	White
Rodino	Staggers	Whitley
Roe	Stangeland	Whitten
Rogers	Stanton	Wiggins
Roncalio	Stark	Wilson, C. H.
Rooney	Steers	Winn
Rosenthal	Steiger	Wirth
Rostenkowski	Stockman	Wright
Rousselot	Stratton	Wydler
Roybal	Studds	Wylie
Rudd	Stump	Yates
Runnels	Taylor	Yatron
Ruppe	Thompson	Young, Fla.
Russo	Thone	Young, Mo.
Ryan	Thornton	Zablocki
Santini	Traxler	Zeferetti
Sarasin	Treen	
Satterfield	Trible	

NAYS—6

Ashbrook	Edwards, Okla.	Quayle
Bauman	Moore	Symms

NOT VOTING—54

Allen	Hall	Moss
Ambro	Harris	Nix
Badillo	Hightower	Nolan
Beard, Tenn.	Ichord	O'Brien
Bolling	Jeffords	Rose
Brooks	Johnson, Calif.	Sawyer
Brown, Mich.	Kelly	Schroeder
Buchanan	Koch	Sisk
Burke, Fla.	Krueger	Steed
Caputo	Lehman	Stokes
Clawson, Del	Lent	Teague
Cornwell	Levitas	Whalen
Crane	Lott	Whitehurst
Dent	Lundine	Wilson, Bob
Derwinski	McDonald	Wilson, Tex.
Edwards, Ala.	Metcalfe	Wolff
Evans, Ind.	Mineta	Young, Alaska
Giaimo	Mitchell, Md.	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Dent for, with Mr. McDonald against.

Until further notice:

Mr. Nix with Mr. Jeffords.
Mr. Teague with Mr. Brown of Michigan.
Mr. Wolff with Mr. Caputo.
Mr. Metcalfe with Mr. Young of Alaska.
Mr. Mineta with Mr. Beard of Tennessee.
Mr. Mitchell of Maryland with Mr. Bob Wilson.
Mr. Brooks with Mr. Kelly.
Mr. Ambro with Mr. Del Clawson.
Mr. Badillo with Mr. Edwards of Alabama.
Mr. Koch with Mr. Whalen.
Mr. Giaimo with Mr. Buchanan.
Mr. Johnson of California with Mr. Derwinski.
Mr. Moss with Mr. Crane.
Mr. Steed with Mr. Lent.
Mr. Stokes with Mr. Burke of Florida.
Mr. Ichord with Mr. Lott.
Mr. Allen with Mr. Whitehurst.
Mr. Cornwell with Mr. Sawyer.
Mr. Evans of Indiana with Mr. O'Brien.
Mr. Hightower with Mr. Harris.
Mr. Hall with Mr. Krueger.
Mr. Lehman with Mr. Lundine.
Mr. Levitas with Mr. Charles Wilson of Texas.
Mr. Sisk with Mrs. Schroeder.
Mr. Rose with Mr. Nolan.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the rule House Resolution 743 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 8638, NUCLEAR ANTIPROLIFERATION ACT OF 1977

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 767 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 767

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 767 provides for the consideration of H.R. 8638, the Nuclear Anti-proliferation Act of 1977. This is an open rule providing for 1 hour of general debate to be divided and controlled in the customary manner by the Committee on International Relations, and the bill shall be read for amendment by titles instead of by sections. At the conclusion of the consideration of the bill, the previous question shall be considered as ordered on the bill and any amendments thereto, and there shall be no intervening motion except a motion to recommit. There are no waivers of any points of order against this legislation.

Mr. Speaker, H.R. 8638 is an indirect product of several years of congressional concern over the possibilities of nuclear weapons proliferation due to diversion of nuclear fuels from peaceful uses. This legislation has had input from administrative agencies as well as extensive testimony before the Subcommittees on Security and Scientific Affairs, and on Economic Policy and Trade of the International Relations Committee. H.R. 8638 represents a compromise of the two previous bills (H.R. 4409 and H.R. 6910), and it was reported as a clean bill from subcommittee, later being reported from full committee by unanimous voice vote.

There are seven titles to this legislation, each of which is designed to give the United States greater control over the export of nuclear fuel and equipment. Title II of the bill reaffirms our commitment to the International Atomic Energy Agency, and seeks to strengthen the IAEA safeguards program, as well as to establish uniform measurement standards for all nuclear material.

Title III pledges the United States to be a reliable supplier of enriched uranium to those countries which adhere to proper safeguards and antiproliferation policies, and it further instructs the President to study international nuclear fuel demands and possible arrangements for internationally supervised uranium enrichment.

Title IV of the bill establishes a number of conditions which will be made applicable to new agreements in regard to peaceful nuclear energy use. Among such requirements is that the United States shall retain the right of approval of any transfer of materials or equipment from one country to another.

Title V contains provisions by which the ERDA Administrator shall determine subsequent arrangements necessary to any agreement of cooperation. This section contains the requirement of timely warning of any diversion of plutonium which may be used for the manufacture of weapons.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Florida, my distinguished colleague on the committee (Mr. PEPPER), I believe has adequately explained for the House the important substantive features of the legislation that would be made in order by this rule. I rise in support of the rule.

Mr. Speaker, this is a straight, 1-hour open rule, providing for the consideration of H.R. 8638, the so-called Nuclear Anti-proliferation Act of 1977. Following 1 hour of debate, to be equally divided and controlled between the chairman and ranking minority member of the International Relations Committee, the bill will be read for amendment under the 5-minute rule, by titles instead of by sections. Finally, the rule provides for a motion to recommit.

Mr. Speaker, when this legislation was originally heard in the Rules Committee on Wednesday, September 14, there was some question as to the administration's position on some of the specific provisions of the bill. The author and manager of the bill, the gentleman from New York (Mr. BINGHAM) informed our committee that he had received a letter from the Secretary of State dated September 12, in which the Secretary expressed general

support for the legislation but in which he also suggested further changes. Because this legislation does involve some very delicate and ongoing negotiations, the Rules Committee decided to postpone action on reporting a rule until further discussions between the committee and the administration could be held to resolve these concerns.

The chairman of the International Relations Committee, along with the gentleman from New York (Mr. BINGHAM) and the gentleman from Illinois (Mr. FINDLEY), subsequently wrote to Secretary of State Vance on September 16 informing him of their intention to offer and support five amendments to address the concerns of the administration, along with offering some clarifying remarks for the RECORD to resolve any possible misinterpretations. Secretary of State Vance then responded to the chairman of the International Relations Committee on September 17 indicating that the five amendments and the clarifications, and I quote, "meet all of our concerns except for our continuing concern about the use of the concurrent resolution congressional review procedure." Secretary Vance added that—

Aside from this exception we are able to confirm that the Administration strongly supports the bill and wishes to see its prompt passage by the House without further amendment.

Mr. Speaker, having responded to the concerns of the administration, and the Rules Committee, the gentleman from New York (Mr. BINGHAM) renewed his request for a rule and the matter was promptly scheduled for Rules Committee consideration on Tuesday, September 20. Following brief presentations by Mr. BINGHAM and Mr. FINDLEY reciting the agreement worked out with the administration, our committee granted a rule on a voice vote.

Mr. Speaker, I do not want to go into the details of this legislation or the five amendments and additional clarifications which will be offered, since this rule does allot 1 hour's time to debate the substantive merits of the bill as well as additional time for the consideration of any amendments. Suffice it to say at this point, I think the Rules Committee acted properly and judiciously in holding this matter up briefly so that additional accommodation could be reached with the administration, and I think the International Relations Committee was both responsive and responsible in acting on the suggestion of the Rules Committee. As a result, this rule is no longer controversial because the committee has done the additional work necessary to build a more thorough and responsible legislative record to present to the House on this bill. I urge adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOTTL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 388, nays 0, not voting 46, as follows:

[Roll No. 572]

YEAS—388

Abdnor	Cornwell	Harrington
Addabbo	Cotter	Harris
Akaka	Coughlin	Harsha
Alexander	Cunningham	Hawkins
Ammerman	D'Amours	Heckler
Anderson, Calif.	Daniel, Dan	Hefner
	Daniel, R. W.	Heftel
Anderson, Ill.	Danielson	Hillis
Andrews, N.C.	Davis	Holland
Andrews, N. Dak.	de la Garza	Hollenbeck
	Delaney	Holt
Annunzio	Dellums	Holtzman
Applegate	Derrick	Horton
Archer	Devine	Howard
Armstrong	Dickinson	Hubbard
Ashbrook	Dicks	Huckaby
Ashley	Diggs	Hughes
Aspin	Dingell	Hyde
AuCoin	Dodd	Ichord
Badham	Dornan	Ireland
Bafalis	Drinan	Jacobs
Baldus	Duncan, Oreg.	Jeffords
Barnard	Duncan, Tenn.	Jenkins
Baucus	Early	Jenrette
Bauman	Eckhardt	Johnson, Colo.
Beard, R.I.	Edgar	Jones, N.C.
Beard, Tenn.	Edwards, Calif.	Jones, Okla.
Bedell	Edwards, Okla.	Jones, Tenn.
Bellenson	Eilberg	Jordan
Benjamin	Emery	Kasten
Bennett	English	Kastenmeier
Bevill	Erlenborn	Kazen
Biaggi	Ertel	Kelly
Bingham	Evans, Colo.	Kemp
Blanchard	Evans, Del.	Ketchum
Blouin	Evans, Ga.	Keys
Boggs	Fary	Kildee
Boland	Fascell	Kindness
Bonior	Fenwick	Kostmayer
Bonker	Findley	Krebs
Bowen	Fish	LaFalce
Brademas	Fisher	Lagomarsino
Breaux	Fithian	Latta
Breckinridge	Flippo	Le Fante
Brinkley	Flood	Leach
Brodhead	Florio	Lederer
Broomfield	Flowers	Leggett
Brown, Calif.	Flynt	Livingston
Brown, Ohio	Foley	Lloyd, Calif.
Broyhill	Ford, Tenn.	Lloyd, Tenn.
Burgener	Forsythe	Long, La.
Burke, Calif.	Fountain	Long, Md.
Burke, Mass.	Fowler	Lott
Burleson, Tex.	Fraser	Lujan
Burlison, Mo.	Frenzel	Luken
Burton, John	Frey	McClory
Burton, Phillip	Fuqua	McCloskey
Butler	Gammage	McCormack
Byron	Gaydos	McDade
Carney	Gephardt	McDonald
Carr	Gibbons	McEwen
Carter	Gilman	McFall
Cavanaugh	Ginn	McHugh
Cederberg	Glickman	McKay
Chappell	Goldwater	McKinney
Chisholm	Gonzalez	Madigan
Clausen, Don H.	Goodling	Maguire
	Gore	Mahon
Clay	Gradison	Mann
Cleveland	Grassley	Markey
Cochran	Gudger	Marks
Cohen	Guyer	Marlenee
Coleman	Hagedorn	Marriott
Collins, Ill.	Hall	Martin
Collins, Tex.	Hamilton	Mathis
Conable	Hammer-schmidt	Mattox
Conte		Mazzoli
Conyers	Hanley	Meeds
Corcoran	Hannaford	Meyner
Corman	Hansen	Michel
Cornell	Harkin	Mikulski
Mikva	Quillen	Stanton
Milford	Rahall	Steed
Miller, Calif.	Railsback	Steers
Miller, Ohio	Rangel	Steiger
Minish	Regula	Stockman
Mitchell, N.Y.	Reuss	Stratton
Moffett	Rhodes	Studds
Mollohan	Richmond	Stump
Montgomery	Rinaldo	Symms
Moore	Risenhoover	Taylor
Moorhead, Calif.	Roberts	Thompson
	Robinson	Thone
Moorhead, Pa.	Rodino	Thornton
Mottl	Roe	Traxler
Murphy, Ill.	Rogers	Treen
Murphy, N.Y.	Roncalio	Trible
Murphy, Pa.	Rooney	Tsongas
Murtha	Rosenthal	Tucker
Myers, Gary	Rostenkowski	Udall
Myers, John	Rousselot	Ullman
Myers, Michael	Roybal	Van Deerlin
Natcher	Rudd	Vander Jagt
Neal	Runnels	Vanik
Nedzi	Ruppe	Vento
Nichols	Russo	Volkmer
Nix	Ryan	Waggonner
Nolan	Santini	Walgren
Nowak	Sarasin	Walker
O'Brien	Satterfield	Walsh
Oakar	Scheuer	Wampler
Oberstar	Schulze	Watkins
Obey	Sebelius	Waxman
Ottinger	Seiberling	Weaver
Panetta	Sharp	Weiss
Patten	Shipley	White
Patterson	Shuster	Whitley
Pease	Sikes	Whitten
Pepper	Simon	Wilson, C. H.
Perkins	Skelton	Wilson, Tex.
Pettis	Skubitz	Winn
Pickle	Slack	Wirth
Pike	Smith, Iowa	Wright
Poage	Smith, Nebr.	Wydler
Pressler	Snyder	Wylie
Preyer	Solarz	Yates
Price	Spellman	Yatron
Pritchard	Spence	Young, Fla.
Pursell	St Germain	Young, Mo.
Quayle	Staggers	Zablocki
Quie	Stangeland	Zeferetti

NAYS—0

NOT VOTING—46

Allen	Ford, Mich.	Rose
Ambro	Giaimo	Sawyer
Badillo	Hightower	Schroeder
Bolling	Johnson, Calif.	Sisk
Brooks	Koch	Stark
Brown, Mich.	Krueger	Stokes
Buchanan	Lehman	Teague
Burke, Fla.	Lent	Whalen
Caputo	Levitas	Whitehurst
Clawson, Del	Lundine	Wiggins
Crane	Metcalfe	Wilson, Bob
Dent	Mineta	Wolff
Derwinski	Mitchell, Md.	Young, Alaska
Downey	Moakley	Young, Tex.
Edwards, Ala.	Moss	
Evans, Ind.	Pattison	

The Clerk announced the following pairs:

Mr. Dent with Mr. Sawyer.
Mr. Giaimo with Mr. Young of Alaska.
Mr. Ford of Michigan with Mr. Lent.
Mr. Brooks with Mr. Brown of Michigan.
Mr. Koch with Mr. Bob Wilson.
Mr. Badillo with Mr. Caputo.
Mr. Johnson of California with Mr. Derwinski.
Mr. Levitas with Mr. Wiggins.
Mr. Ambro with Mr. Crane.
Mr. Downey with Mr. Sisk.
Mr. Evans of Indiana with Mr. Buchanan.
Mr. Teague with Mr. Edwards of Alabama.
Mr. Wolff with Mr. Whitehurst.
Mr. Stokes with Mr. Del Clawson.
Mr. Stark with Mr. Krueger.
Mrs. Schroeder with Mr. Burke of Florida.
Mr. Rose with Mr. Lundine.
Mr. Hightower with Mr. Whalen.
Mr. Moakley with Mr. Lehman.
Mr. Metcalfe with Mr. Pattison of New York.
Mr. Moss with Mr. Mitchell of Maryland.
Mr. Mineta with Mr. Allen.

Mr. UDALL changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 7073, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 620 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 620

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 620 provides for the consideration of H.R. 7073 to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

This is an open rule with 1 hour of general debate. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The resolution provides for a waiver of section 402(a) of the Budget Act which provides that it shall not be in order to consider a bill authorizing the enactment of new budget authority for a fiscal year unless the bill has been reported by May 15 preceding the beginning of that fiscal year. The waiver is necessary because H.R. 7073 contains an authorization for fiscal year 1977 and, thus, should have been reported prior to May 15, 1976 to avoid a point of order on the floor.

Mr. Speaker, H.R. 7073 authorizes $46,636,000, the amount appropriated for fiscal year 1977 and $49,300,000 for fiscal year 1978 to the Environmental Protection Agency to carry out its insecticide programs pursuant to the FIFRA Act. Although the Committee on Agriculture has conducted a number of oversight hearings relating to the many problems besetting the FIFRA program, the Committee decided to report a bill simply authorizing amounts for the two fiscal years. The committee expects to take a comprehensive look at the FIFRA program later on in this session.

Mr. Speaker, I urge my colleagues to adopt House Resolution 620 so that we might proceed to the consideration of H.R. 7073.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated, this resolution provides for the consideration of H.R. 7073, the Federal Insecticide, Fungicide, and Rodenticide Act extension, under a 1-hour, open rule. Points of order are waived against a part of the bill containing fiscal year 1977 authorizations, which would violate section 402(a) of the Congressional Budget Act. It is my understanding that the fiscal year 1977 appropriations authorized in the legislation were provided in the supplemental appropriation bill and assumed in the third budget resolution for fiscal year 1977.

The purpose of the bill is to extend the authorization for funding of pesticide programs established pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act through fiscal year 1978. The authorization provided in the measure for the current fiscal year is $46,636,000 and for fiscal year 1978 is $49,300,000.

During the consideration of this legislation by the Rules Committee, comments were made relative to the often burdensome and unduly restrictive regulation of pesticides by EPA. This issue is not a new one, especially in the parts of the country that produce our food and fiber; and maybe we need to take a fresh, new look at the problem of balancing ecology and agriculture.

Consideration of this legislation will give us an opportunity to take that look. I urge the adoption of this rule so that we may proceed.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 383, nays 10, not voting 41, as follows:

[Roll No. 573]

YEAS—383

Abdnor	Anderson, Ill.	Ashley
Addabbo	Andrews, N.C.	Aspin
Akaka	Andrews, N. Dak.	AuCoin
Alexander	Annunzio	Badham
Ambro	Applegate	Bafalis
Ammerman	Archer	Baldus
Anderson, Calif.	Armstrong	Barnard
Beard, R.I.	Forsythe	Baucus
Beard, Tenn.	Fountain	Mathis
Bedell	Fowler	Mattox
Beilenson	Fraser	Mazzoli
Benjamin	Frenzel	Meeds
Bennett	Frey	Meyner
Bevill	Fuqua	Michel
Biaggi	Gammage	Mikulski
Bingham	Gaydos	Mikva
Blanchard	Gephardt	Milford
Blouin	Gilman	Miller, Calif.
Boggs	Ginn	Miller, Ohio
Boland	Glickman	Minish
Bonker	Goldwater	Mitchell, N.Y.
Bowen	Gonzalez	Moakley
Brademas	Goodling	Moffett
Breaux	Gore	Mollohan
Breckinridge	Gradison	Montgomery
Brinkley	Grassley	Moore
Brodhead	Gudger	Moorhead, Calif.
Broomfield	Guyer	Moorhead, Pa.
Brown, Calif.	Hagedorn	Mottl
Brown, Ohio	Hall	Murphy, Ill.
Broyhill	Hamilton	Murphy, N.Y.
Burgener	Hammer-schmidt	Murphy, Pa.
Burke, Calif.	Hanley	Murtha
Burke, Mass.	Hannaford	Myers, Gary
Burleson, Tex.	Harkin	Myers, John
Burlison, Mo.	Harrington	Myers, Michael
Burton, John	Harris	Natcher
Burton, Phillip	Harsha	Neal
Butler	Hawkins	Nedzi
Byron	Heckler	Nichols
Carney	Hefner	Nix
Carr	Heftel	Nolan
Carter	Hillis	Nowak
Cavanaugh	Holland	O'Brien
Cederberg	Hollenbeck	Oakar
Chappell	Holtzman	Oberstar
Clausen, Don H.	Horton	Obey
Clay	Howard	Ottinger
Cleveland	Hubbard	Patten
Cochran	Huckaby	Patterson
Cohen	Hughes	Pattison
Coleman	Hyde	Pease
Collins, Ill.	Ichord	Pepper
Collins, Tex.	Ireland	Perkins
Conable	Jeffords	Pettis
Conte	Jenkins	Pickle
Conyers	Jenrette	Pike
Corcoran	Johnson, Colo.	Poage
Corman	Jones, N.C.	Pressler
Cornell	Jones, Okla.	Preyer
Cornwell	Jones, Tenn.	Price
Cotter	Jordan	Pritchard
Coughlin	Kasten	Pursell
Cunningham	Kastenmeier	Quayle
D'Amours	Kazen	Quie
Daniel, Dan	Kelly	Quillen
Daniel, R. W.	Kemp	Rahall
Danielson	Ketchum	Railsback
Davis	Keys	Rangel
de la Garza	Kildee	Regula
Delaney	Kindness	Reuss
Dellums	Kostmayer	Rhodes
Derrick	Krebs	Richmond
Devine	LaFalce	Rinaldo
Dickinson	Lagomarsino	Risenhoover
Dicks	Latta	Roberts
Diggs	Le Fante	Robinson
Dingell	Leach	Rodino
Dodd	Lederer	Roe
Dornan	Leggett	Rogers
Drinan	Lehman	Roncalio
Duncan, Oreg.	Lent	Rooney
Duncan, Tenn.	Livingston	Rosenthal
Early	Lloyd, Calif.	Rostenkowski
Eckhardt	Lloyd, Tenn.	Rousselot
Edgar	Long, La.	Roybal
Edwards, Calif.	Long, Md.	Rudd
Eilberg	Lott	Runnels
Emery	Lujan	Ruppe
English	Luken	Russo
Erlenborn	Lundine	Ryan
Ertel	McClory	Santini
Evans, Colo.	McCloskey	Sarasin
Evans, Del.	McCormack	Satterfield
Evans, Ga.	McDade	Sawyer
Fary	McEwen	Scheuer
Fenwick	McFall	Schroeder
Findley	McHugh	Schulze
Fish	McKay	Sebelius
Fisher	McKinney	Seiberling
Fithian	Madigan	Sharp
Flippo	Maguire	Shipley
Flood	Mahon	Shuster
Florio	Mann	Sikes
Flowers	Markey	Simon
Flynt	Marks	Skelton
Foley	Marriott	Skubitz
Ford, Tenn.	Martin	Slack
		Smith, Nebr.

Snyder	Thornton	Weaver
Solarz	Traxler	White
Spellman	Treen	Whitley
Spence	Tribie	Whitten
St Germain	Tsongas	Wilson, C. H.
Staggers	Tucker	Wilson, Tex.
Stangeland	Udall	Winn
Stanton	Ullman	Wirth
Steed	Van Deerlin	Wright
Steers	Vander Jagt	Wydler
Steiger	Vanik	Wylie
Stockman	Vento	Yates
Stokes	Volkmer	Yatron
Stratton	Waggonner	Young, Alaska
Studds	Walgren	Young, Fla.
Stump	Walker	Young, Mo.
Taylor	Walsh	Zablocki
Teague	Wampler	Zeferetti
Thompson	Watkins	
Thone	Waxman	

NAYS—10

Ashbrook	Holt	Symms
Bauman	McDonald	Weiss
Edwards, Okla.	Marlenee	
Hansen	Smith, Iowa	

NOT VOTING—41

Allen	Downey	Mineta
Badillo	Edwards, Ala.	Mitchell, Md.
Bolling	Evans, Ind.	Moss
Bonior	Fascell	Panetta
Brooks	Ford, Mich.	Rose
Brown, Mich.	Giaimo	Sisk
Buchanan	Gibbons	Stark
Burke, Fla.	Hightower	Whalen
Caputo	Jacobs	Whitehurst
Chisholm	Johnson, Calif.	Wiggins
Clawson, Del	Koch	Wilson, Bob
Crane	Krueger	Wolff
Dent	Levitas	Young, Tex.
Derwinski	Metcalfe	

The Clerk announced the following pairs:

Mr. Dent with Mr. Wiggins.
Mr. Giaimo with Ms. Chisholm.
Mr. Brooks with Mr. Allen.
Mr. Badillo with Mr. Brown of Michigan.
Mr. Johnson of California with Mr. Bob Wilson.
Mr. Koch with Mr. Gibbons.
Mr. Evans of Indiana with Mr. Derwinski.
Mr. Wolff with Mr. Crane.
Mr. Rose with Mr. Buchanan.
Mr. Hightower with Mr. Edwards of Alabama.
Mr. Metcalfe with Mr. Whitehurst.
Mr. Moss with Mr. Del Clawson.
Mr. Mineta with Mr. Burke of Florida.
Mr. Sisk with Mr. Whalen.
Mr. Mitchell of Maryland with Mr. Downey.
Mr. Bonior with Mr. Ford of Michigan.
Mr. Fascell with Mr. Jacobs.
Mr. Levitas with Mr. Krueger.
Mr. Panetta with Mr. Stack.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDING UNITED STATES CODE TO PROVIDE AUTOMOBILE ASSISTANCE ALLOWANCE TO VETERANS OF WORLD WAR I

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6502) to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) section 1901 of title 38, United States Code, is amended by striking out "on or after September 16, 1940" in clauses (A) and (B) of paragraph (1).

(b) The amendment made by subsection (a) of this section shall become effective October 1, 1977.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi for concurrence in the Senate amendment?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not intend to object, but for the benefit of the Members of the House, I would ask our distinguished friend, the gentleman from Mississippi, to explain exactly what the amendment is about.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding. He is ranking minority member of the subcommittee, and has been very fair to me. I have been asked by Chairman ROBERTS to handle these three legislative matters affecting veterans and their compensation.

Mr. Speaker, this bill passed the House on May 23, 1977. As passed by the House, the bill would have extended to veterans of World War I some assistance in purchasing an automobile and in acquiring special adaptive equipment needed to overcome their service-connected disabilities. These are individuals who are blind or who have lost, or lost the use of, an extremity.

This assistance is now provided to eligible veterans with service since September 15, 1940.

The House-passed bill would have cost about a million dollars the first year and some $1.9 million over the next 5 years.

On August 3, the Senate passed our bill with an amendment to extend the benefit to all eligible disabled veterans regardless of period of service. The Senate amendment is expected to add only about 438 beneficiaries to that proposed by the House and would cost a bit more, just over $3 million the first year.

The additional cost will not exceed our budget allocation and I urge the adoption of the Senate amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I would like to take this opportunity to associate myself with the remarks of the distinguished chairman of the Subcommittee on Compensation, Pension and Insurance of the Committee on Veterans' Affairs, Mr. MONTGOMERY. I feel very strongly about providing the automobile allowance to veterans of World War I. The Senate amendment makes it available to all veterans who meet the other eligibility requirements, irrespective of the dates of service. This is not an unacceptable proposition. Transportation becomes more and more important every day. We know how important it is to us. It is even more important to those who have suffered serious service-connected disabilities. I therefore would urge all of my colleagues to support H.R. 6502 as amended by the Senate to include all veterans who are eligible for this assistance.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. Mr. Speaker, I concur in the Senate amendment.

This bill, Mr. Speaker, would extend and improve the present law which provides assistance in the purchase of a conveyance and of needed adaptive equipment for all veterans who served on or after September 16, 1940, and who, because of service-incurred disability, have lost, or lost the use of, a hand or a foot or who have suffered blindness.

The Subcommittee on Compensation, Pension and Insurance conducted hearings on this matter. On May 23, the House, by a large majority, passed H.R. 6502. The bill, as passed, would have extended the benefits to veterans of World War I who had suffered the required service-connected disability.

The Senate considered and passed our bill on August 3. That body amended the bill to extend the benefit to all who have served and are so disabled regardless of the period of time in which the service-connected disability was incurred.

The reasons given by the Senate for extending this measure is that the benefit has become general in nature for those now entitled.

As amended, the increased costs are small as veterans' benefits go, $3.3 million the first year and only $3.9 million during the next 5 years.

I urge that we adopt the Senate amendment and send the measure on to the President without further delay.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1977

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

Strike out all after the enacting clause and insert: That this Act be cited as the "Veterans and Survivors Pension Adjustment Act of 1977."

TITLE I—VETERANS' AND SURVIVORS' PENSIONS

SEC. 101. Section 521 of title 38, United States Code, is amended by—

(1) amending the table in section (b)(1) to read as follows:

"The monthly rate of pension shall be $197 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	900
.06	900	1,100
.07	1,100	1,700
.08	1,700	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension for a veteran shall be—	For each $1 of annual income	
$212 if he or she has one dependent; $217 if he or she has two dependents; and $222 if he or she has three or more dependents; reduced by—	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,000
.04	1,000	2,000
.05	2,000	3,000
.06	3,000	3,200
.07	3,200	3,600
.08	3,600	5,070";

(4) striking out "$4,760" in subsection (c)(3) and inserting in lieu thereof "$5,070";

(5) striking out "$155" in paragraphs (1) and (2) of subsection (d) and inserting in lieu thereof "$165"; and

(6) striking out "$57" in subsection (e) and inserting in lieu thereof "$61".

SEC. 102. Section 541 of title 38, United States Code, is amended by—

(1) amending the table in subsection (b)(1) to read as follows:

"The monthly rate of pension shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,100
.05	1,100	1,800
.06	1,800	2,700
.07	2,700	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of pension shall be $159 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,600
.03	1,600	2,400
.04	2,400	2,900
.05	2,900	5,070";

(4) striking out "$4,760" in subsection (c)(2) and inserting in lieu thereof "$5,070"; and

(5) striking out "$24" in subsection (d) and inserting in lieu thereof "$26".

SEC. 103. Section 542 of title 38, United States Code, is amended by—

(1) striking out "$57" and "$24" in subsection (a) and inserting in lieu thereof "$61" and "$26", respectively; and

(2) striking out "$2,890" in subsection (c) and inserting in lieu thereof "$3,080".

SEC. 104. Section 544 of title 38, United States Code, is amended by striking out "$74" and inserting in lieu thereof "$79".

SEC. 105. Section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $3,300 and $4,760 instead of $3,100 and $4,460, respectively.".

TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 201. Section 415 of title 38, United States Code, is amended by—

(1) amending the table in subsection (b)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $152 reduced by —	For each $1 annual income	
	Which is more than —	But not more than —
$0.00	0	$800
.03	$800	1,000
.05	1,000	1,200
.06	1,200	1,500
.08	1,500	3,770";

(2) striking out "$3,540" in subsection (b)(3) and inserting in lieu thereof "$3,770";

(3) amending the table in subsection (c)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $107 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.05	1,100	2,000
.06	2,000	2,600
.07	2,600	3,770";

(4) striking out "$3,540" in subsection (c)(3) and inserting in lieu thereof "$3,770";

(5) amending the table in subsection (d)(1) to read as follows:

"The monthly rate of dependency and indemnity compensation shall be $102 reduced by—	For each $1 of the total combined annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,000
.03	2,000	2,900
.04	2,900	3,600
.05	3,600	3,900
.06	3,900	5,070";

(6) striking out "$4,760" in subsection (d)(3) and inserting in lieu thereof "$5,070"; and

(7) striking out "$74" in subsection (h) and inserting in lieu thereof "$79".

TITLE III—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

SEC. 301. Section 322(b) of title 38, United States Code, is amended by striking out "$74" and inserting in lieu thereof "$79".

SEC. 302. The provisions of this Act shall take effect January 1, 1978.

The Clerk read the Senate amendment, as follows:

The Clerk read the House amendment to the Senate amendment, as follows:

On page 6 of the Senate engrossed amendment, between lines 8 and 9 insert the following:

SEC. 202. Section 541 of title 38, United States Code, is amended by adding at the end thereof the following paragraph:

"(g) The monthly rate of pension payable to any surviving spouse under any of subsections (b), (c), and (d) of this section, including the increase, if any, payable under section 544 of this title, shall be increased by 25 per centum beginning on the first day of the month in which the surviving spouse attains age seventy-eight.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and House amendment thereto be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi to concur in the Senate amendment with an amendment?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and again I do not intend to object, but I do think that it is important that the House know exactly what the agreement is.

Therefore, I yield to my distinguished colleague from Mississippi, who is chairman of the Subcommittee on Compensation, Pensions, and insurance, to explain this to the House.

Mr. MONTGOMERY. Mr. Speaker, on July 12, 1977, the House, by a vote of 403 to 0, passed and sent to the Senate H.R. 7345, the Veterans and Survivors Pension Adjustment Act of 1977. There were two principal provisions of the bill. It provided for an across the board cost-of-living increase for those veterans, widows, and children drawing pension benefits through the non-service-connected pension program and for needy parents of veterans who have died in service or from service-connected causes.

These increases were fixed at 7 percent over the maximum current rates of the payment formulas. The bill also made increases in the maximum income limitation now applying. These increased income limitations were fixed at a level which would assure that no pensioner would lose his pension solely because of the June 1 increase in social security payments.

The bill also provided that in addition to the 7-percent rate increase, upon reaching 78 years of age eligible widows would be entitled to another 25-percent increase in their current law pension rates. In other words, the total increase for these needy widows would be about 32 percent. This provision is the same as that provided last year in Public Law 94-432 for older veterans. The provision is primarily designed to give added relief to our elderly World War I widows.

The fiscal year 1978 cost of the House-passed bill is estimated to be $185.9 million.

On August 3, the Senate amended our bill and returned the measure to the House. The Senate amendment provided for a 6.5-percent increase in pension rates rather than 7 percent recommended by the House. The reduction was based on the latest CBO inflation factor during this calendar year.

The Senate amendment also eliminated the additional 25-percent increase for the widow at age 78.

The proposed House amendment would accept the 6.5-percent rate increase. Although I personally would have preferred a 7-percent increase, the Senate has indicated it would rather limit the increase to the latest CBO figures which indicate the rise in cost of living this calendar year should not exceed 6.5 percent.

We are insisting on the additional 25 percent rate increase for widows at age 78 years. When added to the 7 percent increase it will provide a combined increase of 32 percent for this group. I am aware of the plight of so many elderly widows, especially the widows of our World War I veterans. Every Member of the House has expressed a desire to provide more benefits for these individuals, who we all recognize have very special problems, and the 25 percent add-on, will provide some needed help.

In view of the very strong feelings of the House on this particular issue, it is my hope the other body will concur and send this worthwhile legislation on to the President.

For the reasons I have outlined, I urge the adoption of the proposed amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I support the amendment offered by my distinguished colleague from Mississippi (Mr. MONTGOMERY). I agree with the Senate language which will provide a 6.5 percent cost-of-living increase in pensions and the earning limitations. However, I cannot agree with the other body's decision to eliminate the 25 percent additional pension for widows of veterans upon reaching the age of 78. The House overwhelmingly accepted this language by a vote of 403 to 0 on July 12.

I have strong feelings about the 25 percent add-on for widows for several reasons, but the most important is the simplest. We gave the veteran a 25-percent add-on when he reached his 78th birthday last year. The mere fact that the nonservice-connected pension program is a needs-based program in the first place tells the entire story. These people are on fixed incomes; very low incomes, as a matter of fact. We all know the costs which our elderly are facing today. I do not believe I have to say much to convince you of the impact an additional 25 percent has on surviving spouses. I urge you to support the amendment which would restore the House language pertaining to the 25-percent additional pension to H.R. 7345.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. Mr. Speaker, on the 12th of July, 1977, by unanimous vote of 403 to 0, the House passed H.R. 7345 and sent it to the Senate. The bill had two major provisions. First, it provided for a 7 percent across-the-board increase in pension rates for those wartime veterans who are permanently and totally disabled and have limited incomes and for the widows and children of such veterans who meet the income limitations.

The other principal purpose, and one that we all agree to be extremely important, was to provide to the widows, principally the widows of World War I, the 25 percent pension add-on that we gave the older veterans last year in Public Law 94–432.

When we passed that 25 percent increase in pension rates for veterans aged 78 and over, we said that we would be considering the needs of the older widows this year as budgetary constraints dictated a deferral at that time.

The House-passed bill has been considered in the Senate and passed with amendments. Our rate increase was originally fixed at 7 percent and it was based on estimates of cost-of-living increases that have subsequently proven too high.

The rate increase provided by the Senate is 6.5 percent. Those increases actually represent only three $1 differences in the pension scales and one $1 difference in the parents' DIC scales. The income limitations are essentially the same as the ones we provided differing by $5 only for the single veteran or widow without a child and by $10 for a veteran with dependents or a widow with a child or children.

The increase in income limitations goes now to $3,770 annually for those without dependents and to $5,070 annually for those with dependents. Since only 90 percent of social security and other annuity type payments are considered as income, this means effective income limitations of $4,189 for those without dependents and $5,634 yearly for those with dependents.

I would urge that you support the request which would accept this part of the Senate amendment to our bill.

I must tell you, however, that when the Senate passed H.R. 7345, they dropped completely the 25 percent add-on feature for the widows aged 78 and over. The proposed amendment would restore this feature. I consider this one of our most important pieces of unfinished business. It is for that reason that I strongly urge you to join me in supporting passage of this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

VETERANS' DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1977

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1862) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Veterans Disability Compensation and Survivor Benefits Act of 1977".

TITLE I—VETERANS DISABILITY COMPENSATION

SEC. 101. (a) Section 314 of title 38, United States Code, is amended by—

(1) striking out in subsection (a) "$38" and inserting in lieu thereof "$41";

(2) striking out in subsection (b) "$70" and inserting in lieu thereof "$75";

(3) striking out in subsection (c) "$106" and inserting in lieu thereof "$113";

(4) striking out in subsection (d) "$145" and inserting in lieu thereof "$155";

(5) striking out in subsection (e) "$203" and inserting in lieu thereof "$216";

(6) striking out in subsection (f) "$255" and inserting in lieu thereof "$272";

(7) striking out in subsection (g) "$302" and inserting in lieu thereof "$322";

(8) striking out in subsection (h) "$350" and inserting in lieu thereof "$373";

(9) striking out in subsection (i) "$393" and inserting in lieu thereof "$419";

(10) striking out in subsection (j) "$707" and inserting in lieu thereof "$754";

(11) striking out in subsection (k) "$879" and "$1,231" and inserting in lieu thereof "$937" and "$1,312", respectively;

(12) striking out in subsection (l) "$879" and inserting in lieu thereof "$937";

(13) striking out in subsection (m) "$968" and inserting in lieu thereof "$1,032";

(14) striking out in subsection (n) "$1,099" and inserting in lieu thereof "$1,172";

(15) striking out in subsections (o) and (p) "$1,231" each time it appears and inserting in lieu thereof "$1,312";

(16) striking out in subsection (r) "$528" and inserting in lieu thereof "$563"; and

(17) striking out in subsection (s) "$791" and inserting in lieu thereof "$843".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. Section 315(1) of title 38, United States Code, is amended by—

(1) striking out in subparagraph (A) "$43" and inserting in lieu thereof "$46";

(2) striking out in subparagraph (B) "$72" and inserting in lieu thereof "$77";

(3) striking out in subparagraph (C) "$92" and inserting in lieu thereof "98";

(4) striking out in subparagraph (D) "$113" and "$21" and inserting in lieu thereof "$120" and "$22", respectively;

(5) striking out in subparagraph (E) "$28" and inserting in lieu thereof "$30";

(6) striking out in subparagraph (F) "$49" and inserting in lieu thereof "$52";

(7) striking out in subparagraph (G) "$72" and "$21" and inserting in lieu thereof "$77" and "$22", respectively;

(8) striking out in subparagraph (H) "$35" and inserting in lieu thereof "$37";

(9) striking out in subparagraph (I) "$78" and inserting in lieu thereof "$83"; and

(10) striking out in subparagraph (J) "$66" and inserting in lieu thereof "$70".

TITLE II—SURVIVORS DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 201. Section 411 of title 38, United States Code, is amended to read as follows:

"§ 411. Dependency and indemnity compensation to a surviving spouse

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*Monthly rate*
E–1	$277
E–2	286
E–3	293
E–4	311
E–5	320
E–6	327
E–7	343
E–8	362
E–9	[1] 378
W–1	350
W–2	364
W–3	375
W–4	397
O–1	350
O–2	362
O–3	388
O–4	409
O–5	451
O–6	507
O–7	550
O–8	602
O–9	647
O–10	[2] 708

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by Sec. 402 of this title, the surviving spouse's rate shall be $407.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by Sec. 402 of this title, the surviving spouse's rate shall be $759.

"(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $33 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $83 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.".

SEC. 202. Section 413 of title 38, United States Code, is amended to read as follows:

"Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

"(1) one child, $140;

"(2) two children, $201;

"(3) three children, $259; and

"(4) more than three children, $259, plus $52 for each child in excess of three.".

SEC. 203. Section 414 of title 38, United States Code, is amended by—

(1) striking out in subsection (a) "$78" and inserting in lieu thereof "$83";

(2) striking out in subsection (b) "$131" and inserting in lieu thereof "$140"; and

(3) striking out subsection (c) "$67" and inserting in lieu thereof "$71".

TITLE III—CLOTHING ALLOWANCE

SEC. 301. Section 362 of title 38, United States Code, is amended by striking out "$190" and inserting in lieu thereof "$203".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. Section 403 of Public Law 94–433 is amended by—

(1) striking out "nonamputee veterans." in clause (2) of subsection (b) and inserting in lieu thereof "such claims of veterans having nonamputation service-connected disabilities."; and

(2)(A) inserting "(1)" immediately after "(c)", and striking out in subsection (c)(1) (as so redesignated) "June 30, 1977." and inserting in lieu thereof "February 28, 1979."; and

(B) inserting immediately below subsection (c)(1) (as redesignated by subclause (A) of this clause) the following new paragraph:

"(2) If the Administrator enters into a contract for the conduct of the statistical analysis required by subsection (b)(2) of this section, (A) such contract shall specify that (i) the results of such analysis shall be submitted to the Administrator not later than December 31, 1978, and (ii) the statistical analysis and the contractor's findings and conclusions arising therefrom shall remain the exclusive property of the Administrator and may not be disclosed by the contractor until after the submission of the report required by paragraph (1) of this subsection to the Speaker of the House and the President of the Senate, and (B) the Administrator shall facilitate, to the maximum extent feasible, the conduct of such statistical analysis by the contractor.".

SEC. 402. Clause (3) of section 801 of title 38, United States Code, is amended to read as follows:

"(3) due to the loss or loss of use of one lower extremity together with (A) residuals of organic disease or injury, or (B) the loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude, or render medically inadvisable, locomotion without resort to crutches or a wheelchair,".

SEC. 403. (a) Section 3020 of title 38, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) Notwithstanding subsection (a) of this section, pursuant to an agreement with the Department of the Treasury under which the Administrator certifies such benefits for payment, monetary benefits under laws administered by the Veterans' Administration may be paid other than by check upon the written request of the person to whom such benefits are to be paid, if such noncheck payment is determined by the Administrator to be in the best interest of such payees and the management of monetary benefits programs by the Veterans' Administration.

"(e) Whenever the first day of any calendar month falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5), the Administrator shall, to the maximum extent praticable, certify benefit payments for such month in such a way that such payments will be delivered by mail, or transmitted for credit to the payee's account pursuant to subsection (d) of this section, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal holiday, the weekday (other than Saturday) immediately preceding such legal public holiday, notwithstanding that such delivery or transmission of such payments is made in the same calendar month for which such payments are issued.".

(b) Not later than sixty days after the effective date of this section, the Administrator of Veterans' Affairs shall submit to the appropriate committee of the Congress a report on the actions taken to implement the new subsection (e) added to section 3020 of such title by the amendment made by subsection (a) of this section.

(c)(1) The catchline of section 3020 of such title is amended to read as follows:

"§ 3020. Payment of benefits; delivery".

(2) The table of sections at the beginning of such chapter is amended by striking out

"3020. Payment of benefits by check; delivery."

and inserting in lieu thereof

"3020. Payment of benefits; delivery.".

(d) The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 404. (a) Section 1820 of title 38, United States Code, is amended by inserting before the semicolon in clause (1) of subsection (a) a comma and "but nothing in this clause shall be construed as authorizing garnishment or attachment against the Administrator, the Veterans' Administration, or any of its employees".

(b) The amendment made by subsection (a) of this section shall be effective on the date of enactment of this Act.

TITLE V—EFFECTIVE DATE PROVISIONS

SEC. 501. Except as otherwise provided in this Act, the amendments made by this Act to title 38, United States Code, shall become effective on October 1, 1977.

The SPEAKER pro tempore. The Clerk will report the House amendments to the Senate amendment.

The Clerk read the House amendments to the Senate amendment, as follows:

On page 6 of the Senate engrossed amendment, strike out line 12 and all that follows thereafter down through line 12 on page 7.

On page 7, line 13, of the Senate engrossed amendment, strike out "402." and insert "401.".

On page 7 of the Senate engrossed amendment, strike out lines 19 and 20 and insert the following: "pulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair,".

On page 7, line 21, of the Senate engrossed amendment, strike out "403." and insert "402.".

Page 8 of the Senate engrossed amendment, strike out line 22 and all that follows thereafter down through line 4 on page 9.

On page 9, line 5, of the Senate engrossed amendment, strike out "(c)" and insert "(b)".

On page 9, line 13, of the Senate engrossed amendment, strike out "(d)" and insert "(c)".

On page 9, line 15, of the Senate engrossed amendment, strike out "404." and insert "403.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the unanimous-consent request to concur in the Senate amendment with amendments?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and again I do not plan to object, I would ask the distinguished gentleman to give us a brief explanation of what we are agreeing to.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, on May 23, 1977, by unanimous vote, the House passed H.R. 1862. The bill would have provided an increase of approximately 6 percent in the monthly benefit rates for more than 2.2 million veterans disabled due to their service in the Armed Forces and for more than 330,000 widows and children of veterans who died as a result of their service-incurred disease or disability. The rate increase, costing about $313 million in fiscal year 1978, was based on CBO cost-of-living data estimates in May.

On September 9, the Senate passed H.R. 1862 with a number of amendments. Based on the latest CBO cost-of-living estimates since October 1, 1976, the Senate amendment calls for a 6.6-percent increase in the rates. For the reasons I have outlined, we are accepting the higher increase. This will add about $49 million to the cost in fiscal year 1978, still within our budget allocation.

Earlier this year we passed H.R. 7658, providing specially adapted housing grants for individuals with service-connected loss of one upper and one lower extremity requiring crutches, wheelchairs, braces, or canes. The Senate would also provide the assistance but would do so under a more stringent rule, limiting the grant to those with loss of one upper and one lower extremity where functions of balance or propulsion are so affected as to preclude or render medically inadvisable locomotion without crutches or a wheelchair. The proposed amendment generally tracks the language as originally proposed by the House.

Another Senate amendment would provide legal authority for the Administrator of Veterans' Affairs to pay monthly benefits by electronic transfer of funds to beneficiary bank accounts. We understand this is already being done and we are accepting the amendment.

Another amendment would require the Administrator to make benefit payments due on the first day of a month on the Friday preceding the first day of the month if that day falls on a Saturday, Sunday, or holiday. The amendment is said to be intended to alleviate hardship. Although the committee has found no cases of such hardship, having heard no objection from the Veterans' Administration to the Senate amendment, we are accepting it in order not to delay an important rate increase for our service-connected veterans and their eligible widows and children.

Another Senate amendment would extend the time in which the Administrator was to have completed and reported to the Congress on a study required by Public Law 94–433. The study was to have examined the relationship, if any, that service-connected extremity amputations bear to subsequently developing cardiovascular disease. The report was not received as required by law on June 30, 1977. The Veterans' Administration now proposes to contract with the National Academy of Science to do the study at a substantial cost of some $200,000. We had been assured by the VA that the study could be conducted in-house at a cost of no more than $60,000. In addition, our experience with the Academy based on a recently completed study has not been good. The Veterans' Administration has paid $6 million to the Academy for a study related to the staffing needs of VA health facilities to assure quality care for our veterans. We received no staffing information not already available in the VA. We are not accepting the Senate amendment.

We are accepting a Senate amendment that clarifies the Administrator's current immunity to garnishment suits except for child support.

The proposed House amendments would cost about $362 million in fiscal year 1978 as compared to $359.2 million as originally proposed by the House. Since the Veterans' Administration needs to crank in the proposed rate increases this week so that veterans will not encounter a delay in getting the increase in their October checks, I urge that the House adopt the proposed amendments which I feel will be acceptable to the other body.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Mr. Speaker, I would like to associate myself with the remarks of the distinguished chairman of the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs, Mr. MONTGOMERY, on H.R. 1862. The compromise that we have reached with the Senate on this measure keeps the strong points of the bills adopted by both House and Senate. There is no one on this body who will disagree with me when I say that the service-connected compensation bill is one of the most important bills to reach this body. The recipients of the benefits afforded by this bill have given a lot to this Nation. Many have been severely disabled and recipients of dependency and indemnity payments have given the supreme sacrifice—the loss of a loved one. All have served this country in a time of need, and it is truly necessary that this House respond in a like manner today. There are some changes from the original House language which passed on May 23, but I believe you will agree with me when I say the bill is a good one. The major change is acceptance of the Senate across-the-board, 6.6-percent increase compared to our 6-percent version. This will place an additional $49.2 million in the pockets of the Nation's disabled veterans, but I believe that a look at the Consumer Price Index will reflect the rate of inflation and justify the other body's figure of 6.6 percent for a cost-of-living increase.

I urge you to join me in supporting H.R. 1862.

Mr. Speaker, I withdraw my reservation of objection.

Mr. ROBERTS. Mr. Speaker, on May 23, 1977, by unanimous vote, the House passed H.R. 1862. This is a bill which is addressed to the needs of more than 2,246,000 veterans who suffer disablement due to their service in the Armed Forces of the Nation. The bill would also benefit more than 330,000 widows and children of veterans who died in the military service or who died of disease or disability attributed to their service.

The Senate, on September 9, 1977, passed H.R. 1862 with a number of amendments.

The bill as the House passed it would provide for an increase of approximately 6 percent in the monthly benefit rates. This action was based on the estimates back in May that the increase in the cost of living would be about 5 percent from October 1, 1976, the date rates were last increased, until October 1, 1977, the proposed effective date of the bill.

We have now learned that the cost-of-living indicators will probably show between a 6.3 and 6.5 percent increase by October 1.

It is for this reason that I recommend we accept the rates proposed by the Senate which would provide for across-the-board increases in payments for service-connected disability and death of about 6.6 percent.

These rate increases are justified by the rise in living costs these most deserving veterans and widows must cope with. The increases as passed by the Senate are estimated to add some $49.2 million to first year compensation and DIC rates.

The bill, as passed by the House was limited to rate increases for service-connected disability. The House has, as you will recall, passed several other bills designed to benefit those who have service-connected disabilities. Two bills that I think of have not been considered in the Senate. One other has been incorporated with changes in the Senate amendments to H.R. 1862.

The last bill I refer to is H.R. 7658, a bill which would liberalize entitlement criteria applying to the grant of assistance money for specially adapted housing. We passed the bill on July 12.

Currently, these grants are available to veterans if they have a compensable permanent and total service-connected disability, first, due to loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair; or second, which includes blindness in both eyes, having only light perception, plus loss or loss of use of one lower extremity; or third, due to the loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without resort to a wheelchair.

The assistance furnished under this program consists of payment of up to 50 percent of the total cost to the eligible veteran of a house having special fixtures or movable facilities made necessary by the nature of the veteran's

disability. The grant may not exceed $25,000, however, and there is no distinction between disabilities incurred in wartime and peacetime service.

The bill we posed on July 12 provides a modest liberalization of the current law by extending the specially adapted housing assistance to veterans with a compensable permanent and total service-connected disability resulting from the loss, or loss of use, of one upper and one lower extremity requiring crutches, wheelchair, braces, or canes.

The bill would add to the specially adapted housing program an additional group of veterans who also have a need for special housing facilities. Some of these veterans have severe disabilities that are of a nature which either can prevent natural mobility in a conventional house or which render various fixtures and facilities in such a house unusable to them without special adaptation. The Veterans' Administration estimates that over a 5-year period approximately 2,227 veterans would be eligible for the benefit should the reported bill become law. The cost for the first year is estimated to be about $18 million.

The Senate proposes a more stringent rule, limiting the grant to those with loss of one upper and one lower extremity where functions of balance or propulsion are so affected as to preclude or render medically inadvisable locomotion without crutches or a wheelchair. We have major problems with excluding canes and braces. It is hard to believe that an individual with loss of use of one arm and the loss, or loss of a leg could use a crutch. In addition, we have problems with the term "or render medically inadvisable" locomotion without crutches or a wheelchair. The medical determination is already required by law. I am glad, therefore, that the proposed amendment would provide the housing grant for permanent and total service-connected disability due to the loss, or loss of use of one upper and one lower extremity which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

During our hearings we heard from most of the national service organizations, and we have heard from some of them since the Senate adopted the more restrictive language in order to establish eligibility. The Disabled American Veterans strongly objects to the Senate language suggesting that it would exclude many severely disabled service-connected veterans who would otherwise be eligible under the proposed House amendment. I hope it will be adopted by the other body.

Let me also say that I support the gentleman in the remarks he has made in reference to the National Academy of Science study recently conducted and submitted to the Congress related to the VA's health care program. Other than some very adverse publicity prompted by the Academy's public relations department, we received very little to help us determine what the staffing needs are in the VA health care system. I, for one, will not endorse VA's entering into another contract with the Academy to conduct any study. Based on the results or lack thereof, obtained by the agency in the first report, which cost the agency more than $6 million, I seriously question the agency's decision to proceed as it has. I am delighted the Senate amendment is being rejected.

Finally, Mr. Speaker, the proposed amendments make clear the intention long in the law with respect to the limited waiver of immunity provided by 38 U.S.C. 1820, which permits suits by and against the Administrator of Veterans' Affairs in, but specifically limits such suits to, loan guaranty matters. Despite the Congress' clear intent and the statutory language, in Chicago Housing Authority against Davis, decided November 20, 1975, the U.S. District Court for the northern district of Illinois held that 38 U.S.C. 1820(a)(1) permitted garnishment of a VA employee's salary for the benefit of a creditor on the theory that it constituted a complete waiver of sovereign immunity. This decision clearly exceeded the scope of 38 U.S.C. 1820, as well as the scope of 42 U.S.C. 659 (enacted in Public Law 93–647) which permits garnishment of Federal employees' salaries only for alimony and child support purposes. As a result, we understand from the Veterans' Administration that several hundred garnishment actions have been instituted against the VA in the Chicago area. On the basis of this one case, the agency has had to honor the writs of garnishment which have been issued in that judicial district.

Nothing in this amendment shall be construed as limiting or nullifying the specific provisions of Public Law 93–647 which permit garnishment of Federal employees' salaries and other benefits based upon remuneration for employment for alimony and child support purposes.

Mr. Speaker, on May 23, the House passed H.R. 6501, to provide increased awards of service-connected compensation to certain veterans who suffered the loss or loss of use of paired extremities. This measure is most important in that it would provide more equitable benefits for severely disabled service-connected veterans; however, the Senate has elected not to take any action on the measure and we would urge that body, Mr. Speaker, to give serious consideration to the House-passed bill. I had hoped that the Senate would have incorporated the provisions of H.R. 6501 in the amendment which is before us today; however, it did not elect to do so. I hope we can get some action before the adjournment of the Congress.

I support the proposed amendments and urge that they be adopted so that we can proceed to get the additional benefits to be provided to our veterans and their eligible survivors.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks on the three bills concerning veterans benefits just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DAVIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 390, nays 1, not voting 43, as follows:

[Roll No. 574]

YEAS—390

Abdnor	Bonker	Corcoran
Addabbo	Bowen	Corman
Akaka	Brademas	Cornell
Alexander	Breaux	Cotter
Ambro	Breckinridge	Coughlin
Ammerman	Brinkley	Cunningham
Anderson, Calif.	Brodhead	D'Amours
Anderson, Ill.	Broomfield	Daniel, Dan
Andrews, N.C.	Brown, Calif.	Daniel, R. W.
Andrews, N. Dak.	Brown, Ohio	Danielson
Annunzio	Broyhill	Davis
Applegate	Burgener	de la Garza
Archer	Burke, Calif.	Delaney
Armstrong	Burke, Fla.	Dellums
Ashbrook	Burke, Mass.	Derrick
Ashley	Burleson, Tex.	Devine
Aspin	Burlison, Mo.	Dickinson
AuCoin	Burton, Phillip	Dicks
Badham	Butler	Dingell
Bafalis	Byron	Dodd
Baldus	Carney	Dornan
Barnard	Carr	Drinan
Baucus	Carter	Duncan, Oreg.
Bauman	Cavanaugh	Duncan, Tenn.
Beard, R.I.	Cederberg	Early
Beard, Tenn.	Chappell	Eckhardt
Bedell	Chisholm	Edgar
Beilenson	Clausen, Don H.	Edwards, Calif.
Benjamin	Clay	Edwards, Okla.
Bennett	Cleveland	Ellberg
Bevill	Cochran	Emery
Biaggi	Cohen	Erlenborn
Bingham	Coleman	Ertel
Blanchard	Collins, Ill.	Evans, Colo.
Boggs	Collins, Tex.	Evans, Del.
Bonior	Conable	Evans, Ga.
	Conte	Fary
		Fascell

Fenwick	Lloyd, Tenn.	Robinson
Findley	Long, La.	Roe
Fish	Long, Md.	Rogers
Fisher	Lott	Roncalio
Fithian	Lujan	Rooney
Flippo	Luken	Rosenthal
Flood	Lundine	Rostenkowski
Florio	McClory	Rousselot
Flowers	McCloskey	Roybal
Flynt	McCormack	Rudd
Foley	McDade	Runnels
Ford, Tenn.	McDonald	Ruppe
Forsythe	McEwen	Russo
Fountain	McHugh	Ryan
Fowler	McKay	Santini
Fraser	McKinney	Sarasin
Frenzel	Madigan	Satterfield
Frey	Maguire	Sawyer
Fuqua	Mahon	Scheuer
Gammage	Mann	Schroeder
Gaydos	Markey	Schulze
Gephardt	Marks	Sebelius
Gibbons	Marlenee	Sharp
Gilman	Marriott	Shipley
Ginn	Martin	Shuster
Glickman	Mathis	Sikes
Goldwater	Mattox	Simon
Gonzalez	Mazzoli	Skelton
Goodling	Meeds	Skubitz
Gore	Meyner	Slack
Gradison	Michel	Smith, Iowa
Grassley	Mikulski	Smith, Nebr.
Gudger	Mikva	Snyder
Guyer	Milford	Solarz
Hagedorn	Miller, Calif.	Spellman
Hall	Miller, Ohio	Spence
Hamilton	Minish	St Germain
Hammer-schmidt	Mitchell, N.Y.	Staggers
	Moakley	Stangeland
Hanley	Moffett	Stanton
Hannaford	Mollohan	Stark
Hansen	Montgomery	Steed
Harkin	Moore	Steers
Harrington	Moorhead, Calif.	Steiger
Harris		Stockman
Harsha	Moorhead, Pa.	Stokes
Hawkins	Mottl	Stratton
Heckler	Murphy, Ill.	Studds
Hefner	Murphy, N.Y.	Stump
Heftel	Murphy, Pa.	Symms
Hillis	Murtha	Taylor
Holland	Myers, Gary	Teague
Hollenbeck	Myers, John	Thompson
Holt	Myers, Michael	Thone
Holtzman	Natcher	Thornton
Horton	Neal	Traxler
Howard	Nedzi	Treen
Hubbard	Nichols	Trible
Huckaby	Nix	Tsongas
Hughes	Nolan	Tucker
Hyde	Nowak	Udall
Ichord	O'Brien	Ullman
Ireland	Oakar	Van Deerlin
Jacobs	Oberstar	Vander Jagt
Jeffords	Obey	Vanik
Jenkins	Ottinger	Vento
Jenrette	Panetta	Volkmer
Johnson, Colo.	Patten	Waggonner
Jones, N.C.	Patterson	Walgren
Jones, Okla.	Pattison	Walker
Jones, Tenn.	Pease	Walsh
Jordan	Pepper	Wampler
Kasten	Perkins	Watkins
Kastenmeier	Pettis	Waxman
Kazen	Pickle	Weaver
Kelly	Pike	Weiss
Kemp	Poage	White
Ketchum	Pressler	Whitley
Keys	Preyer	Whitten
Kildee	Price	Wilson, Tex.
Kindness	Pritchard	Winn
Kostmayer	Pursell	Wirth
Krebs	Quayle	Wright
LaFalce	Quie	Wydler
Lagomarsino	Quillen	Wylie
Latta	Rahall	Yates
Le Fante	Railsback	Yatron
Leach	Rangel	Young, Alaska
Lederer	Regula	Young, Fla.
Leggett	Reuss	Young, Mo.
Lehman	Rhodes	Young, Tex.
Lent	Richmond	Zablocki
Livingston	Rinaldo	Zeferetti
Lloyd, Calif.	Roberts	

NAYS—1

Mitchell, Md.

NOT VOTING—43

Allen	Brooks	Clawson, Del
Badillo	Brown, Mich.	Conyers
Blouin	Buchanan	Cornwell
Boland	Burton, John	Crane
Bolling	Caputo	Dent
Derwinski	Koch	Seiberling
Diggs	Krueger	Sisk
Downey	Levitas	Whalen
Edwards, Ala.	McFall	Whitehurst
English	Metcalfe	Wiggins
Evans, Ind.	Mineta	Wilson, Bob
Ford, Mich.	Moss	Wilson, C. H.
Giaimo	Risenhoover	Wolff
Hightower	Rodino	
Johnson, Calif.	Rose	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6796, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, September 20, title I had been considered as having been read and open for amendment at any point. Are there any further amendments to title I?

TECHNICAL AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Madam Chairman, I offer a technical amendment.

The Clerk read as follows:

Technical Amendment offered by Mr. FLOWERS: On page 25, in line 7, strike out "(A–E and long-lead procurement only)", and in line 10, after "thereof)" insert "(A–E and long-lead procurement only)."

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Madam Chairman, as I said, this is a technical amendment. It is needed to correct an error in printing. It merely inserts an omitted phrase and strikes an extraneous one in another section. They balance each other out. It has been cleared with the other side.

After reviewing the earlier debate and comments on this bill I would like to further clarify on our intentions regarding clean fuels from coal demonstrations. Earlier this session we passed a bill designed to shift our energy use from natural gas and petroleum to coal, believing, and I feel properly believing, that the national interest is best served by shifting our energy dependence to a domestic resource base. We also passed new amendments to the Clean Air Act to insure that the fuels we burn are burned in the most environmentally sound way possible. Now, the necessary third leg of this approach to meeting our energy and environmental needs is to insure the commercial availability of clean fuels from coal that will meet both requirements. All three components are necessary for a comprehensive energy policy and the third, a clean fuel from coal, is needed at the earliest practicable date. In this bill we authorize $30 million for a solvent refined coal demonstration plant. It is our intent in doing so to end further unnecessary delay and proceed immediately in fiscal year 1978 to demonstrate the commercial viability of the SRC solids process, the product of which has recently undergone a very successful, commercial burn test.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Could the gentleman just apprise us what the omitted matter is?

Mr. FLOWERS. The thing it relates to, as the amendment shows, is on page 25, lines 7 and 10. In the first instance, the omitted phrase is added to this authorization under the High Btu Test Facility section. The High Btu Test Facility project is a large and entirely new concept and, therefore, all the funds needed under this bill will be needed for the A&E work and long-lead procurement, to which the phrase that is added by the amendment "(A–E and long-lead procurement)" applies in that section and not in the next section where it erroneously was inserted. That is the reason for the amendment.

The CHAIRMAN. The question is on the technical amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The technical amendment was agreed to.

AMENDMENT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COUGHLIN: Page 33, after line 11, add the following new section:

SEC. 106. Section 106(a) of Public Law 91–273 (as amended by section 103(d) of Public Law 94–187) is amended by adding at the end the following: "No sums are authorized to be appropriated or otherwise made available for the purposes of the Clinch River Breeder Reactor to pay for more than that percent of any cost of such Reactor, after the total cost of such Reactor equals $2,000,000,000, which is determined as follows: 70 percent when the cumulative total cost equals or is less than $2,250,000,000; 60 percent when the cumulative total cost equals or is less than $2,500,000,000 but is greater than $2,250,000,000; and 50 percent when the cumulative total cost exceeds $2,500,000,000."

Mr. COUGHLIN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. COUGHLIN. Madam Chairman, this amendment was printed in the RECORD and has been described in the various briefing sheets. It would gradually increase the private financial participation in the Clinch River breeder reactor for all costs of that facility above $2 billion. The Clinch River project is currently estimated to cost $1.95 billion, so we are asking for a private participation in the overruns only, gradually increasing the private participation to 50 percent of those overruns.

This amendment, Madam Chairman, is identical to an amendment offered by the gentleman from Pennsylvania (Mr. MOORHEAD) and myself and voted on last May 20, 1976. At that time 173 Members of this House voted in favor of the amendment. There have been, as the Members know, changes in administra-

tion policy since that time that make this amendment even more imperative.

As the Members well know, the Clinch River breeder project is a massive project. The entire breeder project is a massive project. It recommends expenditures over the next 5 years of $2.6 billion, equal to 63 percent of our total nuclear fission research budget and 26 percent of all of our energy research and development.

The project also has been plagued by huge cost overruns. In 1969 the whole breeder project was estimated to cost $3.9 billion. Now it is up to $11.8 billion. The Clinch River breeder alone has escalated in cost from $699 million to the present $1.9 billion. At the same time the private participation has been declining from what was originally agreed to at 50 percent to some 13 percent today.

The idea of cost sharing is not new. The original legislation that authorized this program provided for a 50 percent private and a 50 percent public participation in the program. That amendment initially was offered by our former colleague, Mr. Hosmer, at the time the legislation was adopted but it was subsequently removed.

We are not talking now about asking private industry to contribute 50 percent of the total capital cost, as was the original proposal. We are asking that private industry contribute up to 50 percent of the overruns only.

This cost sharing plan is not new in other programs. ERDA's present policy with respect to the fossil fuel research and demonstration plants requires 50 percent private participation in such demonstration plants.

Why should this be different? Why should not private industry be required to contribute here, too?

At the present time 65 percent of the management of the liquid metal fast breeder reactor is in private hands. According to the General Accounting Office in two recent reports they have critized the breeder project because of inefficient management. If 65 percent of management is in fact in private hands and if they have been, as the General Accounting Office says they have been, inefficient, perhaps the private financial participation would create incentive to stop the cost overruns and improve performance of those participating in the breeder project.

This increase in private participation would also help to demonstrate the commitment of private industry to the breeder program, and after all in the long run it will eventually be private industry that will be the beneficiary of that program.

For these two very important reasons, to help to encourage an incentive for better management and to help provide an initial commitment of private industry, we would urge the support of this amendment. This project needs to be cost effective. It must stand the test of good management responsibility, and it should not be just an open-ended public commitment without the private commitment to go with it to insure that it is responsibly managed and responsibly done.

I remind the 173 of my colleagues who voted for this amendment at the time when all the facts we have now available to us were not available. These new facts makes it all the more important that we now have this private participation.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. COUGHLIN) has expired.

(On request of Mr. WYDLER, and by unanimous consent, Mr. COUGHLIN was allowed to proceed for 1 additional minute.)

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, is a cost overrun any amount above $2 billion? Is that the definition the gentleman is using?

Mr. COUGHLIN. The definition in the amendment is an amount over $2 billion.

Mr. WYDLER. In other words, if there is an inflationary period in the country, that is considered a cost overrun on the part of the project? Is that the definition we are going to be dealing with under the gentleman's amendment?

Mr. COUGHLIN. The $1.9 billion estimate includes an 8-percent inflation factor as well as a $197-million contingency factor. That is built into the figure of $1.95 billion.

Mr. WYDLER. I understand that.

Mr. COUGHLIN. The $2 billion allows for inflation. The cost overrun will be over and above the inflation factor.

Mr. WYDLER. But if inflation is over that, the gentleman's amendment will consider it a cost overrun under his present definition.

Mr. COUGHLIN. If the inflation rate is greater than an 8-percent factor, which is already included in the cost figure.

Mr. WYDLER. Of course, if the inflation is over 8 percent, that would be the responsibility of the Federal Government, would it not?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. COUGHLIN was allowed to proceed for 1 additional minute.)

Mr. COUGHLIN. Madam Chairman, I would certainly hope the inflation rate would not be over 8 percent. That is a very generous allowance. That is the one used by ERDA, by this administration and the past administration, for use in costing out this project.

Mr. WYDLER. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I was one of those 173 Members that supported this amendment in the past. Therefore, I can speak to my colleagues today and urge them with all the strength that I can not to follow my past example, but rather to follow the example that I am going to set forth today in my vote, which is against this amendment.

Now, this is a very mischievous amendment when you really analyze what it will do and what the facts of the matter are. It sounds good. We are all for economy, but actually when you analyze this amendment, when you see what it really does, it puts no pressure, no pressure whatsoever on the private companies that are involved in the Clinch River project. It puts all the pressure on the Federal Government.

We are tying ourselves up in knots here with this kind of amendment, if we really analyze what would happen.

What we would do if we pass this amendment, we give the private companies a veto power over the project. All they have to say is that, "We don't want to pay any more," and that will be the end of it. I certainly do not think when we are dealing with a matter of national interest such as this, which may well cure our energy problems by the year 2000, that we should turn the decisionmaking over in a matter like this really to some private electric companies and they determine that they do not want to go any further. That is a determination that we as Representatives of the people in the country should be making.

So I would say this is a most mischievous amendment. It really does undermine the whole Federal involvement and commitment to the breeder reactor.

I really feel that we should let negotiations in this matter, whatever the facts are at the time, be done by the new Secretary of Energy, Mr. Schlesinger. He is going to be in a position to look at all the facts. He has some doubts about the breeder that he has expressed recently and if he feels private industry is not doing their share or doing more or less here, he can make those determinations and let the Congress know what he thinks should be done; but for us to stand up here now and erect this wall so that any of these private companies can simply say, "We don't want to go any further," and that is the end of the program, I think that would be a very poor way to legislate at the present time.

I recommend that my colleagues reject the amendment.

Mr. COUGHLIN. Madam Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Madam Chairman, is the gentleman aware of the original authorizing legislation, which required a 50-percent participation by private industry in the entire cost of the project?

Mr. WYDLER. I understand that. I understand what we are dealing with here is a breeder reactor which has been chosen by most of the major countries of the world, such as France, as their major hope for solving their energy problems. Great Britain, West Germany, Japan, are all betting their futures on the breeder reactor. They are going to make that decision on a national basis.

What the gentleman's amendment would do would be to turn this decision over to the private companies to make. I certainly do not want to be a party to that. If they decided to get completely out and I thought it was in the national interest to continue, I want to be free to

do that. I do not want to tie myself up with an amendment that, in effect, turns all the decisionmaking power over to them. That is the end result of the gentleman's amendment, when we analyze it.

Mr. COUGHLIN. Madam Chairman, if the gentleman will yield further, is the gentleman aware that under the present ERDA policy all demonstration plants in the fossil fuel area require a 50-percent private participation?

Mr. WYDLER. That may be justified. I do not know if it is or not. I am not aware of that. I am not aware of what provision we are talking about or what is being built under that provision. In the particular case, we may want to do it. I think it is bad policy.

Mr. COUGHLIN. Does not the gentleman think that if this breeder reactor is going to be a cost effective method of producing electricity, private capital should not be delighted to help finance it if there is a cost overrun?

Mr. WYDLER. I would be delighted if we could get private industry to finance all research projects in the energy field, including solar and geothermal energy, including all the other projects coming before this Congress in this bill. Some of them are way out. They have very little chance of producing any energy for our Nation, but we are funding one after the other.

But, in this particular case we are telling private industry to come in and pick up a particular dollar amount on this project. In effect, when we are doing that, we are giving them the power to cut it off. Certainly as a Member of this Congress and a Representative of the people of my district, I do not want to let private industry make that decision.

Mr. HARKIN. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, I want to commend the gentleman from Pennsylvania for reintroducing his amendment which he had introduced last year, and which I had supported at that time, and which, as he indicated, was supported by 178 of our colleagues. I know there are a number of Members who voted for Mr. COUGHLIN's amendment last year who did not vote for the Brown amendment yesterday. I think this is a good chance once again for us here in this body to tell the private industries that are involved in the Clinch River breeder reactor, if in fact we are going ahead with it, that we are not going to put up with some of the waste and mismanagement and cost overruns that have come about in the past.

The gentleman from New York, my colleague on the committee, said that we do not want to get this thing tied up. But, again Mr. COUGHLIN answered that by pointing out that in the initial legislation it was contemplated and specifically spelled out that private industry would come up with 50 percent of the cost of this project. Over the years, the legislation has been changed to relieve them of that responsibility.

Again, I refer to an article that was in the Washington Star. Let me read a couple of passages:

A secret corporate memorandum for officials within the engineering firm that holds the $175 million government contract to design the controversial Clinch River Breeder Reactor predicted four years ago that because of the mismanagement, confusion, design mistakes and politics surrounding it "the project results will be extremely poor."

The memorandum was on a Burns & Roe letterhead, and there are two other passages which I think are of significance:

Under the initial concept of the Clinch River breeder, the electric utility industry was expected to share about half of the project's costs. As the cost estimates of the facility soared, however, the federal government absorbed all of the increase. Despite some prodding from ERDA, the industry has refused to contribute more than its initial promise of $250 million.

The memo blamed some of the project's problems on Westinghouse, the designer of the breeder hardware. "Westinghouse also is more interested in playing politics with the AEC and the schedule than it taking on the hard issues necessary and being straightforward with the utilities regarding the status of the project."

Here we have a project that started at just a few hundred million dollars, and now is mushrooming to $2 billion or $1.9 billion estimate of cost. What we are saying, even with the inflation factor that was built in, as the gentleman from Pennsylvania pointed out, if they do not tighten down on this thing; if in fact we are going ahead with it—and I will accept the vote of the House yesterday, although I was one of those opposed to going ahead with it—but if in fact we are going ahead we cannot just open up this Pandora's box by saying that regardless of the cost, private utility companies and private electric companies do not have to come up with another cent. It can be $2.5 billion or $2.3 billion, but it does not make any difference. Regardless of how badly they mismanage it or how badly they fumble the ball, the taxpayers are going to pick up the bill.

I do not believe that is the way we ought to conduct the business of this country. I do not believe the taxpayers in our districts want us to vote for something like this which says that regardless of what private industry does, we are going to bail them out. That is exactly what this bill is doing. That is exactly what has happened in the last 4 years everytime this thing has come up.

We keep reducing and reducing the amount of participation by the private industries. As the gentleman from Pennsylvania so accurately pointed out, when we talk about pilot plants for fossil fuels; when we talk about solar energy plants, we are talking about cost sharing. We are talking about getting private industry involved in them. But, on this one, on the one everybody says is going to produce so much electricity for us, private industries want to get bailed out. So, I say put it on the line, and at least put some cost consciousness into the building of this plant.

Madam Chairman, I would even go further than the gentleman from Pennsylvania. I would think that we ought to have something like $1.5 billion, that any cost overruns over $1.5 billion ought to be shared equally. But I understand the sentiment of the House. I can read the votes yesterday.

This, however, is over $2 billion, any cost overruns over $2 billion they have to share equally. I think it is a good amendment.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(On request of Mr. GARY A. MYERS and by unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Madam Chairman, the gentleman spoke of the Burns & Roe report. Is it not true that the Burns & Roe report is actually an instrument to monitor the efficiency of the program, and that they did make recommendations for a course of adjustment? And did not Burns & Roe recently come out with the report that, because of that earlier report, adjustments were made in the program, and they do not disagree with the project at this time?

Mr. HARKIN. I did not say they did not agree with the project. I would remind the gentleman that he said yesterday that the cost overruns were due, in most part, to the delays caused here in the Congress. I am pointing out that the Burns & Roe report shows that is not the case.

Mr. GARY A. MYERS. If the gentleman will yield further, the Burns & Roe report was warning that if no corrections were made that there would be cost overruns, and they also reported at a later date corrections were made. Any construction stage which is properly monitored should have regular monitoring. I do not think we should criticize if we are interested in a proper system.

Mr. HARKIN. I know that Burns & Roe suggested some changes. Some changes were made. They do support the program. However, I am saying that we should not leave them off the hook. I think they read the votes, too. We had a vote of 178 last year on the Coughlin amendment. If these cost overruns keep going up and keep going up, they are going to know that someplace along the line this Congress is not going to stand for it. I say we have reached that point.

Mr. GARY A. MYERS. If the gentleman will yield further, is the gentleman aware that the original cost for the Alaska pipeline project was to be $900 million and the final construction cost was $9 billion?

Mr. HARKIN. Madam Chairman, I would also remind the gentleman from Pennsylvania that private industry came

up with all of the money for it, and not this Congress.

Mr. GARY A. MYERS. I am not disputing that. I am apprising the gentleman that there has been a shift in the economy.

Mr. HARKIN. If they want to run this program like they built the Alaska pipeline, I am all for it, if that is what the gentleman wants.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I think it is important for us to understand what the purpose of this amendment is and what it would do.

In the first place, this amendment would simply have the effect of voiding the environmental impact statement which has now been completed. After about 3 or 4 years of work, we are now ready to start excavation and construction at Clinch River.

Madam Chairman, if this amendment were to be agreed to, if it were to become part of the law, we would be clear back to where we started.

How can we under the law require private corporations to contribute to a Federal project? We might just as well require them to contribute to the construction of a new Federal building.

Is there any rationale at all that indicates we can, out of the blue, say to some specific private citizens, "We hereby require you to contribute to a Federal project"? If there is, why should we not do this in all research and development? We have solar energy projects with 400 percent overruns in one year, but there is no talk about making the people involved in those overruns participate in the funding.

This amendment is a blatant attempt to reverse yesterday's vote on the Clinch River project, and the sponsor of the amendment, as we all know, has always opposed Clinch River and has offered one amendment after another to try to kill it.

The history of this situation is that when the project was first conceived way back in 1970's, there were extensive negotiations among the Atomic Energy Commission, the Joint Committee on Atomic Energy, and the private industries.

The private companies agreed voluntarily to participate up to the extent of about $275 million. There was no coercion. There was a simple agreement among them, and a semiprivate, semipublic corporation was established to manage the operation.

When it became apparent that because of inflation and because of additional regulations on the construction and design of the CRBR, this House voted to not require any more money of private industry and to put the rest of the burden on the Federal Government.

Private industry has no further obligation in this matter, we have no mechanism to make them legally participate, and they have no certain mechanism to participate. A utility would have to go back to its public utility commission and get permission to participate. All this amendment does is "goof" the project up, and everybody knows it.

I want to comment further on two points. One is that we will undoubtedly be going to a prototype, full-sized, commercial breeder. Industry is already heavily involved in working on this, and there is every reason to believe that an agreement with private industry will be arranged for joint sharing of all costs of the prototype breeder. However, there is no way to do that for the Clinch River plant.

Second, the gentleman from Iowa (Mr. HARKIN) used the words, "waste" and "mismanagement." Those words are totally undocumented. This is an attempt to rewrite history as the gentleman sees fit, after reading from a slanted news article.

On the Burns & Roe report, the gentleman was speaking as if that was information that just came out, rather than from a 4-year-old report. All the complaints made at that time were thoroughly reviewed by the Joint Committee on Atomic Energy, and substantial modifications were made in the program as a result. For example, the site of the project was actually moved about 400 feet.

To take a 4-year-old article on a report that was handled by the Joint Committee on Atomic Energy years ago, rehash the complaints that were resolved and make them the basis of an excuse to require private industry to fund a public project is ridiculous.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, I thank my colleague, the gentleman from Washington, for yielding.

I want to associate myself with the gentleman's remarks. I very strongly oppose the amendment offered by my dear friend, the gentleman from Pennsylvania (Mr. COUGHLIN), and ask that the House vote it down overwhelmingly.

Mr. GARY A. MYERS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, the subject of industry's participation in the project has come up in the past, as the gentleman from Washington (Mr. McCORMACK) has indicated.

During a hearing that our committee held, a gentleman by the name of Mr. Behnke appeared and testified on the subject, and after the hearing I asked him to supply a letter to me on the subject. Mr. Behnke is with the Project Management Corp., which is a group of supervisors on the breeder reactor project.

He wrote to me and gave what I thought were some convincing arguments as to why he thought it was unrealistic to try to expand the role of the funding by private corporations in the CRBR project. He went into a little bit of the background. He indicated, for instance, that the concept of a fixed percentage for private industry in this project was never a factor, that what was required was that the corporations agree to contribute, and that they did not feel that once their commitment was made, there was a flexible, open-end policy toward their funding.

They feel it would be unfair and unrealistic to expect their ratepayers to assume that sort of responsibility, and they feel it is unrealistic to expect that the regulatory bodies within the States, which have control over them, to allow that type of open-ended commitment to the electric customers throughout the country.

Madam Chairman, Mr. Behnke indicated that the project is, in fact, a Federal project and that the controls over the project lie within the Federal Government essentially. He also indicated that the decisions to go ahead, to slow down, to speed up, or whatever else in the overall management are decisions that can be effected by the Federal Government and that no prudent private manager would enter into an agreement which had an open-ended financial commitment under which they could not control major decisions.

Madam Chairman, as the gentleman from Washington (Mr. McCORMACK) pointed out, there is a different stage of development in which an increasing role of private capital was most appropriate.

Mr. Behnke mentioned that when we move into the large prototype facilities, certainly they would expect their role to be expanded; but on balance, he indicated that the private utilities had agreed to contribute to this project, making it the largest single research project that the electric utilities have undertaken in all of their history. He also indicated that it would be an imprudent decision by the Congress to expect them to accept an open-ended policy.

In closing, Madam Chairman, I would like to say that the gentleman from New York pointed out that we have to look beyond the narrow view of whether or not the utilities can afford to develop these projects. I think what we have to look at is whether or not we agree with the decision we made yesterday. Do we need the development of the breeder reactor and of the Clinch River project as an appropriate step in that development?

If that is true and if we honestly believe that there is no good rationale for the Congress lying back and saying that we are going to wait for some private concern to fund a portion of that or all of the research we should reject this amendment.

Madam Chairman, as I pointed out to the gentleman from Iowa, there are other examples of escalated costs. I do not know of any construction project planned in the late 1960's which spanned a 7-, 8-, or 9-year period of development that did not face severe problems with respect to final costs lining up with projected costs.

Madam Chairman, if there were good examples and comparisons to show that obviously mismanagement and inappro-

priate planning were an element of this project, I would be openminded about it; but the major projects across the country have suffered severely.

Mr. COUGHLIN. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Madam Chairman, I thank the gentleman for yielding.

At the time this amendment was drafted in 1976, we did check with the utility commissioners of several different States. They all indicated that there was no problem from a utility standpoint with respect to this matter.

Mr. GARY A. MYERS. Madam Chairman, I think the gentleman should clarify that.

Did the regulatory bodies indicate to the gentleman that they were willing to give approval to the utilities having an open ended financial obligation, and they would automatically approve any rate increase associated with it?

Mr. COUGHLIN. Not that they would automatically approve any rate increase, but they indicated that this could be worked out.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(On request of Mr. COUGHLIN and by unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, I thank the gentleman for getting me this additional time.

I think the gentleman's statement clarifies the matter.

The concern of the utilities is as to whether they can continue to make a profit and provide service to their customers on a sound financial basis while having an open ended obligation to the Federal Government to contribute to a basic research project.

I would like to see a letter of confirmation from the Pennsylvania Utility Commission or any other body with respect to that question.

Mr. COUGHLIN. If the gentleman will yield, I believe I can supply that.

The other thing I was astonished to hear was the statement by the gentleman from Washington (Mr. MCCORMACK) to the effect that there was no precedent for private industry to contribute to the project along with the Federal Government. We do that all the time, so there is ample precedent for this kind of cost-sharing approach.

Mr. MCCORMACK. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Washington.

Mr. MCCORMACK. Madam Chairman, let me say that we do not establish cost sharing programs by trying to coerce someone into participation. We invite them into a program, or respond to their requests.

Mr. HARKIN. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Iowa.

Mr. HARKIN. Madam Chairman, I am interested in what the gentleman from Washington (Mr. MCCORMACK) said about coercion.

I have a letter here dated March 10, 1975, from the administrator, Mr. Seamans, to Senator Pastore in which he outlines the history of the program.

The initial authorizing legislation authorized $7 million for this thing and, under cooperative arrangements with the reactor manufacturers and others, in accordance with the criteria that had been previously submitted by the Joint Committee on Atomic Energy.

So, we did not coerce them, they were here at the doorstep wanting to join in with the Government in building it.

Mr. GARY A. MYERS. We did not coerce them to increase beyond their original volunteered effort. The question is can we now go back to private industry and say that they must continue under a certain proportion? That would be coercion.

Mr. HARKIN. The original estimate was 50 percent to the private utilities and 50 percent to the Government, and if it goes over $2 billion then we would like to have them pick it up.

Mr. GARY A. MYERS. Madam Chairman, I would like to read the remarks of Wallace B. Behnke on that subject in which he says:

> A memorandum of understanding incorporating the concept of limited industry liability was negotiated by the parties and submitted to Congress for approval. Following Congressional approval, the provisional utility pledges were converted into legally enforceable contribution agreements totalling over $257 million and these agreements were incorporated in project arrangements which were approved by Congress in 1973. . . .

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 3 additional minutes.)

Mr. GARY A. MYERS. He goes on to say:

> . . . The commitment thus obtained represents by far the greatest financial support ever extended by the utility industry to a single research and development effort.

Therefore there is no fixed liability on a percentage basis on this project and to imply that there is is inaccurate.

Mr. HARKIN. Madam Chairman, I have to disagree with the gentleman because it had a 50–50 percent type of agreement, with the strict provision that the Government would not finance any additional capital additions for that plant.

Mr. GARY A. MYERS. Congress did go back and remove that requirement from the private utility industry. that is just the same situation as we can refer to such as in the old Social Security laws, and a lot of other things that Congress has done and then came along and revised. This, as actually negotiated, had a commitment from the private industry, it was before the private utility industry made their individual commitment and the memorandum of understanding shows that there was no fixed perecntage.

Mr. HARKIN. They anticipated it would be for $750 million, and they raised $250 million, just like that.

It was because of the huge cost overruns that they wanted to get out.

Mr. GARY A. MYERS. According to prudent and controlled management under today's conditions, the Government made an agreement and left control of the program in the hands of the Government.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, I want to make the point that whether it is going to get the approval of the utility regulatory commissions of the proposals, or not, when the private utility companies paid more for this, it only means that their rates have to go up and the consumers have to pay for it. That is all we are talking about. Because private utility companies do not have a bank where they can draw the money out, they draw it out of the consumers. All you are talking about when you talk about making the private utility companies pay is raising the utility rates for the consumers of the United States.

I hope the amendment will be defeated soundly.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BROWN of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the gentleman from New York (Mr. WYDLER) has demonstrated that he is not bound by the hobgoblin of small minds, which is consistency, in his vote on the Coughlin amendment, since he now opposes what he supported last year. I will put myself in his select company because I opposed the Coughlin amendment last year and support it this year.

Madam Chairman, I believe the House does not need to belabor this. The matter has been debated at considerable length both today and in prior years. I wanted to take this opportunity, however, to shed, I hope, a little light on the history of the breeder because there still seems to be some misunderstanding as to the extent of our breeder program and the patterns of finance for the Clinch River project and previous breeders.

As I said yesterday in connection with the debate on the amendment which I offered, breeders have been with us since the beginning of the nuclear age. We built experimental breeder reactor No. 1, which is now out of service, experimental breeder reactor No. 2, the fast flux test facility, the thorium cycle breeder, which is planned for operation later this year up at Shippingport, and then a breeder which many of us seem to have forgotten about, the Fermi reactor in Detroit, which was built entirely by private industry. It was intended to build upon the research and development experience of experimental breeders Nos. 1 and 2, which were 100 percent Government-financed. It was financed on its part by a consortium of utilities who paid for the entire cost of the Fermi reactor.

The Fermi plant was completely constructed, was in the process of being tested, and was generating power. It generated a very substantial amount of power, but never operated for any period of time at peak power, and then suffered a fuel-element failure which led to a core melt-down that was corrected. I might say that the plant demonstrated that its design was safe. This accident occurred with no loss of life. All of the safety features worked adequately, but it was necessary to slightly redesign and then rebuild major elements of the plant. In the process of seeking renewed licensing, it ran into problems with the Nuclear Regulatory Commission, and the problems, as with many other similar problems right today, required more money to correct than the private investors thought was desirable. So the plant was scrapped and is in the process of decommissioning at the present time.

The reason that I bring this up was because the gentleman from Washington (Mr. McCORMACK) has referred to this as a Government project, like a post office or a Federal building, and that the next prototype plant will be perhaps 50–50 financed between Government and industry. We tend to forget that the history of breeders has already included one 100 percent privately financed demonstration plant. Actually it was intended to be an operating plant that would supply base load power to the Detroit Edison Co. When they failed to get relicensing, the utilities felt that the breeder program should go ahead, but they did not want to undertake the cost commitment which they had found to be excessive. The overruns were great on the Fermi plant, as they are on Government plants. Their costs far exceeded what they originally expected, so they wanted the Government to participate. That led to the 50–50 arrangement on the Clinch River project. Clinch River is really only a very small amount larger than the Fermi plant. Clinch River is going to be the plant that corrects the mistakes that the private utilities made with the Fermi plant.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding.

I agree with everything the gentleman stated, but I want to make one addition. That is, after the Fermi plant it became obvious that the AEC would not license a plant without having experience with demonstration facilities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The question was taken; and on a division (demanded by Mr. COUGHLIN) there were—ayes 13, noes 19.

Mr. COUGHLIN. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Mr. COUGHLIN. Madam Chairman, if I can get a recorded vote, I will withdraw my point of order.

The CHAIRMAN. The Chair had announced that a quorum is not present, and the gentleman may not withdraw his request at this time.

Mr. COUGHLIN. Madam Chairman, I ask unanimous consent to withdraw my request.

The CHAIRMAN. The Chair will advise the gentleman that he cannot withdraw his request even by unanimous consent.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. COUGHLIN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 206, not voting 32, as follows:

[Roll No. 575]

AYES—196

Addabbo	Danielson	Kasten
Akaka	Delaney	Kastenmeier
Ambro	Dellums	Keys
Ammerman	Derrick	Kildee
Anderson, Calif.	Dodd	Kostmayer
	Downey	Krebs
Applegate	Drinan	LaFalce
Armstrong	Early	Le Fante
Ashbrook	Eckhardt	Leach
Ashley	Edgar	Leggett
Aspin	Edwards, Calif.	Lehman
AuCoin	Eilberg	Lloyd, Calif.
Badillo	Emery	Long, Md.
Baldus	Ertel	Lundine
Baucus	Evans, Colo.	McCloskey
Beard, R.I.	Fascell	McDade
Bedell	Fenwick	McHugh
Beilenson	Findley	McKay
Benjamin	Fish	McKinney
Biaggi	Fisher	Madigan
Bingham	Fithian	Maguire
Blanchard	Florio	Markey
Blouin	Ford, Mich.	Marlenee
Boland	Ford, Tenn.	Mattox
Bonior	Fraser	Meeds
Bonker	Frenzel	Meyner
Brademas	Gephardt	Mikulski
Brodhead	Gibbons	Mikva
Brown, Calif.	Gilman	Miller, Calif.
Burke, Calif.	Glickman	Minish
Burton, John	Goodling	Mitchell, Md.
Burton, Phillip	Hagedorn	Mitchell, N.Y.
Byron	Hamilton	Moakley
Cavanaugh	Hanley	Moffett
Chisholm	Harkin	Moorhead, Pa.
Clay	Harrington	Moss
Cohen	Harris	Mottl
Collins, Ill.	Hawkins	Murphy, Pa.
Conte	Heckler	Natcher
Conyers	Heftel	Neal
Corcoran	Holtzman	Nedzi
Corman	Howard	Nolan
Cornell	Hughes	Nowak
Cornwell	Jacobs	Oakar
Coughlin	Jeffords	Oberstar
D'Amours	Jordan	Obey
Ottinger	Roybal	Stokes
Panetta	Russo	Studds
Patterson	Santini	Thompson
Pattison	Sawyer	Traxler
Pease	Scheuer	Tsongas
Perkins	Schroeder	Tucker
Pike	Schulze	Udall
Pressler	Seiberling	Van Deerlin
Pursell	Sharp	Vander Jagt
Quayle	Shuster	Vanik
Quie	Simon	Vento
Rahall	Skelton	Walgren
Rangel	Skubitz	Waxman
Regula	Solarz	Weaver
Reuss	St Germain	Weiss
Richmond	Stangeland	Wirth
Rodino	Stark	Wylie
Rogers	Steers	Yates
Roncalio	Steiger	Zeferetti
Rosenthal	Stockman	

NOES—206

Abdnor	Gaydos	Myers, John
Anderson, Ill.	Ginn	Myers, Michael
Andrews, N.C.	Goldwater	Nichols
Andrews, N. Dak.	Gonzalez	Nix
	Gore	O'Brien
Annunzio	Gradison	Patten
Archer	Grassley	Pepper
Badham	Gudger	Pettis
Bafalis	Guyer	Pickle
Barnard	Hall	Poage
Bauman	Hammer-schmidt	Preyer
Beard, Tenn.		Price
Bennett	Hannaford	Pritchard
Bevill	Hansen	Quillen
Boggs	Harsha	Railsback
Bowen	Hefner	Rhodes
Breckinridge	Hillis	Rinaldo
Brinkley	Holland	Risenhoover
Broomfield	Hollenbeck	Roberts
Brown, Ohio	Holt	Robinson
Broyhill	Horton	Roe
Burgener	Hubbard	Rooney
Burke, Fla.	Huckaby	Rostenkowski
Burke, Mass.	Hyde	Rousselot
Burleson, Tex.	Ichord	Rudd
Burlison, Mo.	Ireland	Runnels
Butler	Jenkins	Ruppe
Carney	Jenrette	Sarasin
Carter	Johnson, Colo.	Satterfield
Cederberg	Jones, N.C.	Sebelius
Chappell	Jones, Okla.	Shipley
Clausen, Don H.	Jones, Tenn.	Sikes
	Kazen	Slack
Cleveland	Kelly	Smith, Iowa
Cochran	Kemp	Smith, Nebr.
Coleman	Ketchum	Snyder
Collins, Tex.	Kindness	Spence
Conable	Lagomarsino	Staggers
Cotter	Latta	Stanton
Crane	Lederer	Steed
Cunningham	Lent	Stratton
Daniel, Dan	Livingston	Stump
Daniel, R. W.	Lloyd, Tenn.	Symms
Davis	Lott	Taylor
de la Garza	Lujan	Teague
Devine	Luken	Thone
Dickinson	McClory	Thornton
Dicks	McCormack	Treen
Diggs	McDonald	Trible
Dingell	McEwen	Ullman
Dornan	McFall	Volkmer
Duncan, Oreg.	Mahon	Waggonner
Duncan, Tenn.	Mann	Walker
Edwards, Okla.	Marks	Walsh
English	Marriott	Wampler
Erlenborn	Martin	Watkins
Evans, Del.	Mathis	White
Evans, Ga.	Mazzoli	Whitley
Fary	Michel	Whitten
Flippo	Milford	Wiggins
Flood	Miller, Ohio	Wilson, C. H.
Flowers	Mollohan	Wilson, Tex.
Flynt	Montgomery	Winn
Foley	Moore	Wright
Forsythe	Moorhead, Calif.	Wydler
Fountain		Yatron
Fowler	Murphy, Ill.	Young, Fla.
Frey	Murphy, N.Y.	Young, Mo.
Fuqua	Murtha	Young, Tex.
Gammage	Myers, Gary	Zablocki

NOT VOTING—32

Alexander	Clawson, Del	Krueger
Allen	Dent	Levitas
Bolling	Derwinski	Long, La.
Breaux	Edwards, Ala.	Metcalfe
Brooks	Evans, Ind.	Mineta
Brown, Mich.	Giaimo	Rose
Buchanan	Hightower	Ryan
Caputo	Johnson, Calif.	Sisk
Carr	Koch	Spellman

Whalen Wilson, Bob Young, Alaska
Whitehurst Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Wolff for, with Mr. Dent against.
Mr. Levitas for, with Mr. Brooks against.
Mr. Mineta for, with Mr. Krueger against.
Mrs. Spellman for, with Mr. Rose against.
Mr. Metcalfe for, with Mr. Allen against.
Mr. Koch for, with Mr. Sisk against.
Mr. Evans of Indiana for, with Mr. Buchanan against.
Mr. Whalen for, with Mr. Derwinski against.
Mr. Young of Alaska for, with Mr. Whitehurst against.

Mr. BIAGGI changed his vote from "no" to "aye."

Mr. SMITH of Iowa changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. TEAGUE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the leadership has asked us to please expedite this bill as much as possible.

We were criticized a little yesterday for being very liberal with respect to time and for taking too much time. I would hope and plead that Members use their time wisely and well and not use a lot of time which they really do not need.

Madam Chairman, I will be constrained to object to any excessive requests for additional time.

I thank the Chair.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: On page 23, line 10, add the following: *"Provided*, That at least $10,400,000 of the amount authorized for the Liquid Metal Fast Breeder program shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development."

and,

On page 26, line 20, after "California", strike "(A–E only), $4,000,000" and insert in lieu thereof the following:

"(to include A–E effort, Long Lead Procurement and Limited Construction), $9,000,000."

Mr. GOLDWATER. Madam Chairman, this amendment basically restores several low cost, but critical and essential development and testing activities that will markedly improve the schedule and increase the likelihood that breeder reactors will be available when needed.

It makes this restoration without requiring that any additional operating funds be authorized. Instead, it directs that these more essential activities be performed within the operating funding limits already provided in the bill. The amount of work in question totals $10.4 million.

The amendment does require that an additional $5 million in capital funds be provided for the construction of facilities to test some of the components to be developed under this proposal.

Several of the activities to be restored are applicable to all types of breeder fuel cycles—rather than to the liquid metal fast breeder alone—and thus may be considered supportive of the President's proposal for an alternative fuel cycle program.

These activities had been included in the original fiscal year 1978 budget submitted to the Congress, but were eliminated in early budget cuts. They apply to both the Clinch River breeder reactor (CRBR) and the LMFBR base program.

The specific activities to be reinstated by this amendment are: Steam generator development and testing, development and testing of liquid metal pumps; and advanced fuel development.

The steam generator work is needed to maintain full design, manufacturing and testing capability for the prototype and plant-unit steam generators to be used in the CRBR. This component is the critical path item for the entire breeder program, and a minimum of 1 year will be saved if this activity is reinstated.

The work on liquid metal pumps is not for the CRBR, but is directed at later, larger breeders that may require advanced pumping concepts with increased reliability and safety. This activity will provide needed assurance that these pumps will be available when needed.

The advanced fuel development work will lead to the use of fuels with longer life and the higher breeding ratios needed to provide fuel for additional nuclear plants. This is the payoff of breeder reactors and should be expedited in the event that a national decision to employ breeder technology is implemented.

The $5 million in capital expenses is needed for the construction of additional steam generator testing facilities in support of the steam generator development work described above. Reinstatement of these capital funds will permit substantial schedule benefits to the steam generator work, which is the critical path item for the CRBR and the entire breeder program. A minimum of 1 year or more will be saved in the overall effort if this activity is reinstated.

These are not new items, but are reinstatements of several critical, relatively low-cost development activities that were eliminated in earlier budget cuts. They are needed to maintain the breeder option, not just for CRBR, but as part of the base R. & D. program in which the United States has always been a world leader.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I am happy to yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, I would like to say to the gentleman from California (Mr. GOLDWATER) that I would have no objection to his amendment at this time. It merely specifies that certain things would be done with the authorization which appear to be called for in the program. Speaking for myself, and also I believe for the majority, I have no objection to the gentleman's amendment.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, there is no objection to the gentleman's amendment from the minority side.

Mr. FREY. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Florida.

Mr. FREY. Madam Chairman, I am pleased to join my colleagues from both sides of the aisle in supporting H.R. 6796, the ERDA authorization bill for fiscal year 1978.

Due to some controversy and time restrictions at the end of last year, the Congress did not complete action on the ERDA fiscal year 1977 authorization bill until just a few months ago. Now our committee is bringing the fiscal year 1978 authorization to the floor with a carefully-considered expansion of the scope of our energy development efforts.

Madam Chairman there are many worthwhile programs included in this bill. We have already heard many of our distinguished committee members describe some of them. I would like to take the time allotted to me to comment briefly on a program that holds great promise for energy production. I am referring to ocean thermal energy conversion—OTEC.

In fiscal year 1977 the OTEC funding was authorized at $18 million, with $13.5 million actually appropriated. The bill before us today authorizes $45 million—although the amount requested was around $25 million. Why did the committee almost double ERDA's request? Essentially we found that what ERDA was doing with their $18 million was not much—in fact, ERDA was so casual about the OTEC program that only two people were assigned to the program.

I want the Members present to understand that we are not talking about some pie-in-the-sky scheme far off in the distant future. A form of ocean thermal energy was put to a practical test off the coast of Cuba in the twenties. The venture was not a commercial success, but it did prove that by taking cooler water from the ocean depths and running it to the warmer waters at the ocean surface, a steam can be produced to run a turbine. The theory was—and is—simple. No major breakthrough is necessary. The possibilities are endless for capturing abundant, environmentally safe, energy.

I have been interested in OTEC for some time—partially because I am a scuba diver, and particularly because Florida and the gulf States are prime locations off which an OTEC plant could function.

As a result of my interest and service on the Science and Technology Committee, Subcommittee Chairman MCCORMACK asked me to question Dr. Robert Hirsch, the Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems and Dr. Henry Marvin, the Director of the Division of Solar Energy, in February of this year. I would like to recap their answers to my questions for the record:

FREY. Your program summary that you've done indicates that OTEC is the only solar

operation—and I think you've said in your testimony that you felt this, on page 7 at least, and there's no question that you view this as one of the key ways or key potentials to go. Is that quite true, there's no question about that now?

HIRSCH. There is question. In raising the questions that I raise with respect to priorities in the program, these questions I raised before the General Advisory Committee, and it seems to me the things we were seeing in the OTEC Program led to there being greater promise in that area than the budget and the balance that we had provided for that aspect of the program. So I would say that I would agree with you that there are implications that this particular technology is more promising than our past funding might indicate.

FREY. So what you're really saying is that funds for this fiscal year aren't really commensurate with the potential that we have, or at least where we are today in total funding.

* * * * *

FREY. While I applaud what's been done, compared to how we're getting had overseas, it's ridiculous. Could you for the record possibly lay out for us what an accelerated pace on this program could do, if we had an increase in funds? What milestones you could potentially move up for us, and how much we could get to the point where we know if it's going to make sense or not? Like you, I don't want to waste money, but we're going to have to make an investment.

Congressman HAMILTON FISH (R-N.Y.). I don't know if this is going to help with the Administrator, but he told us this morning before another Committee he's here to defend the President's budget, and maybe he could put himself in a different posture as a scientist and a scholar in response to your question, with certain assumption such as a doubling of the amount of money this year.

HIRSCH. You're talking about doubling the requested level of $25 million, which is already a doubling of the program over the present year?

FISH. I think that's what Mr. Frey has in mind. What's going to happen if you put more money behind it?

* * * * *

FREY. I guess the question we're trying to ask is—all right, if we put some more money in, can we move up the schedule?

HIRSCH. The answer is yes.

Madam Chairman, that is the exchange that brings us here today with a $45 million authorization for the OTEC program. While I realize there are more controversial aspects of this legislation involved in the debate today, I do want the Members to understand the logic behind such a large jump in funding.

As I said earlier, Florida is one of the prime locations where an OTEC plant could function properly—another prime location is Hawaii. The State of Florida is most interested in pursuing OTEC, in fact, our State solar energy center is working on OTEC research now. Whether or not we will go ahead with the project, I cannot say, but I will tell you that other States are interested and other States recognize the incredible potential of ocean thermal energy.

There are some scientists who claim OTEC could provide 10 percent of the world's energy—not this country—but the world. The idea of using thermal gradients to run a turbine is not new, as I said earlier, but there are some modern applications that also hold great promise. One of these is ammonia production. Scientists tell us we can produce ammonia at sea at an OTEC plant. The fertilizer industry is greatly dependent on natural gas as the energy feedstock for fertilizer—and, in turn, the farmers of this Nation shudder every time natural gas prices go up and supplies go down. An unlimited amount of ammonia would certainly go a long way toward easing the fertilizer industry's dependence on natural gas. So while it would seem on the surface that OTEC benefits could only be reaped by tropical climates, the opposite is true.

At this point in our energy dilemma, we cannot afford to rule out any new source—especially one that is tried and tested. OTEC is such a source, with unlimited potential for the entire Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The amendment was agreed to.

Mr. BROWN of California. Madam Chairman, I move to strike the last word.

Mr. LUNDINE. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. I would inquire of the gentleman from California what is the intent of section 105? Section 105 authorizes $2 million for the development of a decontamination and decommissioning plan by ERDA, to be completed and submitted to the Congress within 1 year after the date of enactment. This study will include analysis and recommendation of the options for management, ownership, and ultimate disposition of the radioactive waste disposal operations at the Western New York Nuclear Service Center, at West Valley, N.Y., the only commercial nuclear fuel reprocessing plant ever to have operated in the United States.

Mr. BROWN of California. Section 105 is designed in part as a first step toward a definitive solution to the complex nuclear waste management and nuclear decontamination problems at the Western New York Nuclear Service Center. The plan is to be developed with joint cooperation from the Environment and Safety Divisions and the Nuclear Research and Development Divisions at ERDA with responsibility then being transferred to the new Department of Energy accordingly.

Mr. LUNDINE. The Western New York Nuclear Service Center, as you know, is located in my congressional district. Development of the plan authorized under section 105 is of particular importance to the people in my district. The plant, which will never operate again, must be decommissioned and decontaminated in a safe manner, the high level nuclear liquid wastes solidified and buried, and the two low-level waste burial grounds monitored.

My constituents have also experienced the economic benefits from employment and from the local tax revenues from Nuclear Fuel Services, a subsidiary of Getty Oil, who operated the plant from 1966 to 1972.

I feel it is extremely important that my constituents be active participants in the resolution of these extremely complex problems, and that careful consideration be given to the local economic impact of the forthcoming plan. Can the gentleman assure them that this will be the case?

Mr. BROWN of California. In approving section 105, the Science and Technology Committee was careful to provide for citizen participation. Prior to completion of the plan, informal public hearings must be held at times and locations convenient to those concerned. It is the intent of the committee that all interested parties be given opportunity to participate.

Mr. LUNDINE. I very much appreciate your cooperation in achieving this understanding of section 105.

Mr. HARSHA. Madam Chairman, I move to strike the requisite number of words.

I take this time to inquire of my distinguished friend, the gentleman from Alabama (Mr. FLOWERS), the chairman of the subcommittee dealing with this legislation, I notice on page 30 in title I of the bill, lines 21 through 24, the language authorizing an additional sum of $180 million for the enriched uranium production facilities, gas centrifuge that is authorized by this language. However, there is no particular designation, as appears in several other items in this title as to the location of that centrifuge plant. Could the gentleman inform me as to why that language does not contain a specific designation or location?

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to the gentleman.

Mr. FLOWERS. I thank the gentleman for yielding.

I know of the gentleman's interest in the centrifuge process. Let me say this, that when the committee dealt with this subject, it had not been determined by the Energy Research and Development Administration how they were going to handle the proposed centrifuge plant and/or the so-called Portsmouth add-on facility, which would be the gaseous diffusion facility, which I know is in the gentleman's district.

The committee intentionally remained silent on the subject to allow the Administrator to make that determination on the merits. It is not our intention here to deal with the issue of the location. That determination, as I understand it, has been made by the Energy Research and Development Administration. They decided to build the centrifuge plant, or announced that they decided to build the centrifuge plant, at Portsmouth. We do not intend to try to mandate that decision and have, thus, remained silent on the subject. This money obviously is intended to authorize funding for that project as determined by ERDA.

Mr. HARSHA. Then would the gentleman assure me that by this language and by the language in the report that

there is no intention to make a determination as to where the facility should go, that that will be the sole prerogative of the Administration, and that this language would not take away that prerogative?

Mr. FLOWERS. Will the gentleman yield further?

Mr. HARSHA. I am happy to yield to the gentleman.

Mr. FLOWERS. There is no intention on the part of this Member, or the committee, by remaining silent to affect the determination in any way whatsoever.

Mr. HARSHA. Could the gentleman further advise me as to whether or not the sum of $180 million for fiscal year 1978 is sufficient to continue uninterrupted the project activities for that particular project during fiscal year 1978?

Mr. FLOWERS. It is the full authorization that was requested of our committee.

Mr. HARSHA. I thank the gentleman.

Mr. PERKINS. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to my good colleague and friend, the gentleman from Kentucky.

Mr. PERKINS. Madam Chairman, I thank my distinguished colleague, the gentleman from Ohio (Mr. HARSHA) for yielding to me.

I am on the opposite side of the river and, naturally, the gentleman from Ohio (Mr. HARSHA) has been interested in the Portsmouth plant and the additions thereto, and legislation was written into the authorization heretofore. The answer given by the gentleman from Alabama (Mr. FLOWERS) certainly is satisfactory to me, and I am delighted that the gentleman from Ohio took the initiative to make sure that there was no intentional omission. I can agree with the gentleman from Alabama (Mr. FLOWERS) that the decision was not firmly made by ERDA at the time the bill was written, but now we have the assurances from the gentleman from Alabama.

I want to commend the gentleman from Ohio (Mr. HARSHA) on having worked for this plant and the additions thereto, the add-ons, for many years. We had so much interest in the Portsmouth and South Portsmouth area that we do not lose those jobs. There is no better place in the world, no more desirable location in the world, than at the Portsmouth plant.

Mr. HARSHA. I thank the gentleman for his comments. I certainly would be remiss in my remarks if I did not point out the fact that the distinguished gentleman from Kentucky was very instrumental and helpful in securing the location of this plant in the State of Ohio.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MCCORMACK, and by unanimous consent, Mr. HARSHA was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentleman from Ohio for yielding.

I wish to associate myself with the remarks of the chairman of the subcommittee (Mr. FLOWERS), the gentleman from Alabama, and also the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Ohio (Mr. HARSHA). The committee was silent on this issue, as has been explained, but I think as long as we are making legislative history it would be appropriate to point out the committee puts no restraints at all on the number of ultimate sites or the number of ultimate contractors who can be involved in uranium enrichment. As a matter of fact, there could easily be four separate contractors operating new centrifuge facilities at a Portsmouth site because it will be built in four modules. Those modules could be built and operated by separate contractors. In summary, there is no limit fixed in any law as to the number of sites that may be developed for uranium enrichment, either by centrifuge technologies or any other technology, and there is no limit on the number of contractors that may become involved in uranium enrichment, by any technology, or at any site.

Mr. HARSHA. I thank the gentleman from Washington for his remarks.

Madam Chairman, I rise in support of H.R. 6796, the energy research and development authorization for civilian research and development for fiscal year 1978.

This important legislation authorizes $180 million for the commencement of construction of a new uranium enrichment facility at Portsmouth, Ohio, which I have the privilege of representing in Congress.

The need for this additional enrichment facility is clearly demonstrated by the fact that all of the existing enrichment facilities are fully committed to fulfilling existing contracts. and it is only through the construction of this facility that ERDA can again accept orders for enrichment services.

The need for the placement of this facility in Portsmouth is also clear. With an unemployment rate of over twice the State average, the Portsmouth area desperately needs the jobs that this facility would create, both during the construction phase and after it becomes operational.

No community could have worked harder to attain this project. Thousands of letters were written to the President urging him to place the facility in Portsmouth. Also, many individuals and businesses in the area have invested large sums in capital improvements to accommodate the influx of plant and construction personnel.

The residents of the Portsmouth area clearly want and certainly deserve the economic opportunities which this facility would create, and it is my hope that this legislation will be approved by the Congress and that the administration will proceed with this project as expeditiously as possible.

AMENDMENT OFFERED BY MR. BEDELL

Mr. BEDELL. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEDELL: On page 22, line 15, strike out the period and add the following: ", including sufficient funds not to exceed $5,000,000, for research concerning and commercial scale demonstration of one or more advanced processes for the rerefining of used lubricating oils; Provided that, to the maximum extent feasible, construction of commercial demonstration plant provided for in the preceding sentence shall proceed simultaneously with the conduct of necessary research."

Mr. BEDELL. Madam Chairman, in our search for solutions to our Nation's energy problems, efforts to promote greater production and alternative sources have appeared more visible and hence more attractive than efforts to conserve energy, and the result has been that we have often overlooked effective, and sometimes simple, conservation measures. I believe that, while perhaps understandable, this situation should be acknowledged and corrected if we are to devise a truly balanced national energy program.

Today, I am offering an amendment to H.R. 6796, the fiscal year 1978 ERDA authorization bill, which would focus greater attention on one such conservation measure—the rerefining of used lubricating oil. My amendment would assure that there are sufficient funds within the ERDA budget for research and commercial demonstrations of advanced processes for the rerefining of used lubricating oil, without adding any additional funding to the ERDA budget and without diverting obligated moneys from other conservation programs. It would simply allow ERDA officials to insure that their rerefining program has sufficient funding by authorizing the allocation of necessary funds up to $5 million to the program from within the ERDA budget.

The recycling of used lubricating oil holds great potential as a conservation practice. Americans use about 1.2 billion gallons of such oil each year. Only half of this oil is consumed during use, and, while the remaining oil could be salvaged, reprocessed, and used again, it is more likely to be burned, dumped on roadways, or poured down sewers. While we could be instituting and supporting measures to protect our environment and conserve a precious resource, we are simply ignoring the potential of recycling used lubricating oil.

There are significant reasons for improving our Nation's capability for rerefining used lubricating oil. Rerefining could reduce oil pollution in our Nation's harbors and waterways caused by indiscriminate dumping and by drain-off from waste oil used as a road dust suppressant. It could eliminate a major source of atmospheric lead pollution which results from used lubricating oil being burned as a component of home heating oil. It could conserve those particular types of crude oil which are in shortest supply and are necessary to the manufacture of lubricating oil. And it could save 42,000 barrels of crude oil each day, a most significant figure in light of our heavy dependence upon imported crude oil. In short, the promotion of research, development, and

demonstration on rerefining of used lubricating oil will protect the environment, conserve energy, and benefit the economy.

Unfortunately, there are currently several obstacles to the widespread recycling of used lubricating oil as has been clearly demonstrated by a decline in the number of rerefining companies in the United States from 150 to 30 companies over the past decade.

While a natural obstacle has been the low priority in past years placed on conservation in our society, several specific Federal policies and actions have exacerbated the decline in rerefining companies. For example, in 1965, the Federal Trade Commission issued a trade regulation rule which required that the label "made from previously used oil" be displayed on the front of each container of rerefined lubricating oil, and which prohibited the use of the term "rerefined" with respect to most such oil. This decision has had a major impact on consumer perceptions of the rerefining industry and their products. While recent tests have shown that using rerefined oil does not affect lifetime engine wear and, in fact, wears equal to or better than quality virgin lubricating oil, this FTC ruling remains unchanged. The result has been to foreclose the automotive motor oil market to rerefined products.

The most pressing problem to the refining waste oil industry has been the environmentally damaging acidic sludge produced from the present rerefining process. This has, without question, been a serious concern. However, recent technological breakthroughs at the Bartlesville Energy Research Center (BERC) have produced a new solvent and distillation treatment which allows high recovery yields of purified oil without creating an environmentally objectionable byproduct. By assuring adequate funding for this ERDA program, we can make the necessary research and demonstration advances in minimizing pollution and thus help reverse the sharp decline in the small companies which have been involved in the rerefining process. Their contribution to saving oil and combating pollution has been obstructed and overlooked long enough, and it is time to encourage their involvement in the effort to develop an effective and acceptable rerefining process.

ERDA officials involved with this process are enthusiastic about the potential of recycling of used lubricating oil. ERDA plans call for a sizable demonstration or pilot plant to improve performance capabilities on a larger scale. However, before moving to this phase, they are evaluating the advantages, disadvantages, benefits, and costs of the process recently developed at BERC with existing technologies.

An aerospace study has been commissioned by ERDA to assess continued ERDA funding of the waste oil project. The study, which will be released in the very near future, evaluates funding levels and any supplemental factors which would be involved in assisting commercialization.

Madam Chairman, my objective in introducing this amendment is to support this recommendation by assuring that sufficient funds will be available within the ERDA budget for advanced research and demonstration efforts. These efforts need to be strengthened to maximize the potential energy conservation and environmental protections which the recovery and recycling of used lubricating oil can afford our Nation.

In closing, I would like to compliment the committee on their hard work and for the many hours which they have spent producing this ERDA authorization bill. I am also aware of the tight budgetary constraints under which the committee worked.

However, it is my belief that, because of the slow progress of Federal efforts to encourage waste oil recovery, congressional intent on this issue must be clearly established. Indeed, the priority of the waste oil recovery program within ERDA should be strengthened, and every reasonable effort should be made to provide the program with sufficient funding.

My intention is not to take money away from other valuable conservation programs authorized by this bill. Nor do I seek to add funds to the committee bill for recycling of used lubricating oil. However, I do believe that with the advances in research being made at Bartlesville, any unspent moneys within the ERDA budget should be available for transfer to this program if necessary and appropriate. My amendment would leave this decision to officials within ERDA.

I believe that with adequate funding and expedited research and demonstration this rerefining program can bring the advanced technology into the marketplace in the very near future. Such action would provide the needed protections to our environment as well as making great strides in promoting conservation efforts.

Mr. TEAGUE. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I am not sure I understand the gentleman's amendment, but if I do understand it the gentleman is giving ERDA authority to transfer money into this project without coming back to our committee which has the responsibility for reprograming money. If that be true, I am very much against the gentleman's amendment.

That comes under the subcommittee of the gentleman from the State of Washington and I wish he would comment on it, but that is my understanding of the amendment.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentleman from Texas for yielding.

I agree with the gentleman from Texas. In the first place, our subcommittee has already authorized $400,000 for this type of research. What the gentleman in the well is attempting to do is allow ERDA to take almost $5 million out of other projects where we are already short.

I would point out to the gentleman that the appropriations bill, which has already been passed, cut almost a quarter of our money out. It cut $72 million out of our end use energy conservation technology. What is left has to be spread among all these projects, and the gentleman now is attempting to give ERDA authority to move money around in an area where we have not had adequate information.

I would be glad to have hearings on the matter and find out what the gentleman wants, but the effect of the amendment would be to give ERDA authority to reprogram funds without coming back to our committee.

Madam Chairman, I oppose the amendment.

Mr. TEAGUE. Is it not correct that ERDA has authority to do that now if they want to?

Mr. McCORMACK. Not now.

Mr. BEDELL. Madam Chairman, will the gentleman yield?

Mr. TEAGUE. I yield to the gentleman from Iowa.

Mr. BEDELL. Madam Chairman, I think the chairman put his finger on the exact issue. ERDA does have authority, as has already been mentioned by a previous speaker. They have authority for $4 worth of spending for the $3 that they have. They do not have authority to proceed with the demonstration pilot project on this matter. This does not mandate that they do so. It simply gives them that authority, as they have in other areas of discretionary authority, if they feel they do not need the money for other projects and they need it for this project.

Mr. TEAGUE. Madam Chairman, why does the gentleman object to our committee having authority? We have never been a stumbling block to ERDA reprograming authority. Why does the gentleman object to them coming back to us?

Mr. BEDELL. I have no objection at all. We are at this time passing this legislation which will tie their hands through this authorization period. There are indications that that research is proceeding rapidly enough and making a breakthrough, that it is very likely that the people at ERDA would say, "Look, this is proceeding well enough, we should proceed with the demonstration project". I believe we should not keep them from doing so.

Mr. TEAGUE. As I understand, we would not even know where the money came from.

I think our committee does work hard and knows what is going on. I have much sympathy with what the gentleman is trying to do.

The gentleman from Washington (Mr. McCORMACK) has promised to hold hearings on this issue.

Mr. BEDELL. Madam Chairman, if the gentleman will yield further, they would know where the money comes from, exactly the same as with other ERDA projects.

Mr. TEAGUE. Not if it comes back as already programed, we know exactly where it comes from.

Mr. BEDELL. But the projects authorized in ERDA already have indicated

they have authority to go ahead with those projects without coming back to the committee.

Mr. TEAGUE. Why does the gentleman oppose the subcommittee?

Mr. BEDELL. Because I was not aware of the problem at that time.

Mr. TEAGUE. Certainly this is important enough to hold hearings on. That is the only reason I oppose the gentleman's amendment.

Mr. RISENHOOVER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise for an inquiry of the chairman. I will not take the 5 minutes.

This project is located in my district. I am aware of it. There has been a problem of getting ERDA involved in the funding. Of course, they pass the buck back and forth from one to the other. I do not object to the way the committee has handled the business. If the chairman of the subcommittee is willing to go out there and hold hearings, I think it is a very worthwhile project.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. RISENHOOVER. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I agree with the gentleman. It is very worthwhile. As I say, we put $400,000 into research for this coming fiscal year into this area, recognizing the potential; but we were not aware of the project at the time we wrote this bill, anymore than the gentleman is. We have had no chance to hold hearings on it. This is the reason we object to it now.

I will guarantee we will hold hearings on it by the subcommittee. We want to move ahead, but we feel that the amendment moves ahead without our knowing where we are going.

Mr. RISENHOOVER. As I understand, if the gentleman holds hearings and the subcommittee decides it is a worthwhile project, they would have to wait until next year, that ERDA has the authority to put money into the project before next year.

Mr. McCORMACK. I see no way to get it in before fiscal year 1979. ERDA has an opportunity now to come to us and expand the program already authorized. They could go in and put up money for funding the Bartlesville project if they approve it, without the existing amendment, and if we hold hearings on the subject and they then come back to us and request a transfer of funds and we have a chance to hold hearings, then we would be very likely to approve the transfer; but the amendment would take it out of our hands and, therefore, I object.

Mr. BEDELL. Madam Chairman, will the gentleman yield?

Mr. RISENHOOVER. I yield.

Mr. BEDELL. Am I correct that if the committee wanted to go ahead with the development project, the sample project, they would not be able to do that for a year even if they came back to the committee, and the purpose of this amendment is to get that opportunity?

Mr. McCORMACK. They could come back to the committee and obtain that opportunity now with our approval, but what the amendment would do would be to take away the committee's jurisdiction. We already have appropriations following that where other parts of the projects we have already authorized are not going to be funded.

This exacerbates that situation. We hold hearings, we can have a review of the subject if ERDA wants to expand on it and transfer funds to it.

Mr. BEDELL. On this year's authorization period?

Mr. McCORMACK. Yes.

Mr. RISENHOOVER. On the amendment offered by the gentleman from Iowa, if it comes to a vote I will vote for the committee. I am very satisfied with the chairman's explanation, and when he holds hearings I will be glad to request it.

Mr. McCORMACK. The subcommittee will be happy to cooperate, but I do recommend that the gentleman withdraw his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BEDELL).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: On Page 24 after line 10, insert a new section 102: "*Provided*, That prior to the obligation of any funds authorized pursuant to this Act for research, development, assessment, evaluation and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, a program plan be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate for their approvals. The Administrator is authorized to solicit proposals for any of the aforementioned activities. However, before any of these activities are undertaken, the Administrator is required to transmit the plan containing a description of such activities together with all pertinent data to such Committees and wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objections to the proposed action."

Mr. GARY A. MYERS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GARY A. MYERS. Madam Chairman, I would like to explain just briefly the effects of my amendment. The Senate bill now has, apparently, an authorization of up to $14 million for alternative fuel cycle research and development. It appears that a significant amount of that, perhaps as much as $13 million, could be attributed to research and development of fuel cycles at the Barnwell Nuclear Fuels Plant, which is a private enterprise venture, in reprocessing by the Allied General Nuclear Services Organization.

Madam Chairman, I do not have any argument with the idea of attempting to get research done at this facility. My concern is that the staff which now is located at Barnwell is not the appropriate staff structure, necessarily to accomplish the needs in the area, and some adjustments would have to be made. My concern is that we should not authorize what can be regarded as a bail-out for that corporation by authorizing the administration to fund just any project.

All this amendment does is to require after the administrator has solicited a research proposal, that the proposal be submitted to our committees, and not to exercise the obligation until after 30 days unless ERDA has had a disapproval of the committees.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Madam Chairman, the gentleman from Pennsylvania, of course, talked to me about this amendment and the desirability of including it in this section. We have no objection to it on this side.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, I support the amendment.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. GOLDWATER. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from California.

Mr. GOLDWATER. Madam Chairman, I rise in support of the amendment. I fully agree with the gentleman's proposal that the Science and Technology Committee take an active role in determining the nature of the activities to be conducted at the Barnwell Plant. This amendment will lend assurance that activities consistent with efficient usage of the plant will be conducted in an expeditious manner.

As many of my colleagues know, reprocessing is the activity in which "used" nuclear fuel is chopped up, dissolved and chemically treated to recover unburned uranium and plutonium that can be used again in a nuclear power plant. For many years the premise has been that the value of these recovered products would exceed the costs required to produce them, and I think this is still considered by most experts to be the case. Even more compelling in these times of energy shortages is the fact that uranium and plutonium "produced" via reprocessing would obviate the need to mine an equivalent amount of fresh material. Thus, uranium ore requirements could be reduced by about 25 percent, and important savings in uranium enrichment plants would also be obtained.

Until the first several months of this year, it had been generally expected that the United States would avail itself of the resource inherent in fuel reprocessing. Indeed, a commercial reprocessing plant had been built by Allied General Nuclear Services at Barnwell, S.C., at a cost of about $250 million, with operation originally scheduled for 1974.

However, due to changing regulatory requirements, additional processing and waste management facilities are needed at the plant, and operation has been delayed for another several years. In 1975, in response to Government studies showing a need for additional work on reprocessing technology, the plant owners proposed a joint Government-industry demonstration project to complete and operate the Barnwell facility. They believed then, as they do now, that the plant could be operated without exacerbating the proliferation problem. Extensive safeguards are to be employed at Barnwell, in full accordance with the requirements of the Nuclear Regulatory Commission and with at least as much stringency as those to be employed at any other commercial reprocessing plant in the world.

Unfortunately, the potential for using the energy resource inherent in the Barnwell Plant's capabilities took a turn for the worse on April 7, 1977, when President Carter said in his proliferation message that Barnwell "will receive neither Federal encouragement nor funding for its completion as a reprocessing facility."

I find this position especially ironic on two counts. First, it represents a failure to aggressively utilize a proven energy resource; namely, the 25-percent increase in uranium availability represented in spent nuclear fuel. In full operation, Barnwell would recover the energy equivalent of 1 million barrels of oil every operating day—some 300 million barrels a year. Even at the modest price of $10 a barrel, that would be the equivalent of $3 billion a year in imported oil. What is more, by the year 2000 the energy equivalent of the world's spent fuel will be almost 100 billion barrels of oil, equal to about 6 years of production at current free-world levels. This Nation cannot afford to cut its options on a technology with this much yield. It does not make good energy sense, but that is exactly what we are doing.

Second, I find it morally indefensible that the U.S. Government should completely disregard its implied commitments to the plant owners. The plant was constructed during a period when the United States actively encouraged the participation of private industry in nuclear fuel cycle activities. Substantial private investment was obtained. Now that Government policy has changed, we cannot walk away leaving the owners high and dry. This sets the worst possible example as the United States encourages and counts on private sector investment in other energy technologies to meet the Nation's needs as we see them today. We cannot expect investor support with this kind of cavalier behavior.

Fortunately, the situation may be on the brink of improving, with the administration recognizing that the facility represents an asset with possible application to ERDA's current fuel cycle research and development programs. Funds have been provided in the recently passed public works appropriations bill to conduct studies and research at Barnwell, up to $14 million, in support of the Nation's nonproliferation policies. Long-term uses of the facility will also be examined under this plan and under the ERDA Authorization bill as passed by the other body. Utilization of the plant and staff on useful R. & D. programs will allow Congress and the administration time to explore long-range options for using Barnwell.

The agreements to provide funding for R. & D. at Barnwell in fiscal year 1978 appear to reflect in part the requirement imposed by the Science and Technology Committee for ERDA to prepare a full report on the possible uses of the Barnwell facility. This report is to consider the plant's uses in safeguards demonstration, spent fuel handling and storage, and fuel cycle evaluation. Consideration of activities of this nature is certainly a step in the right direction, and the amendment now offered by the gentleman from Pennsylvania will add to the likelihood that this report will be worthwhile.

This Nation needs the energy represented by nuclear fuel reprocessing. We are also aware of the potential for misuse of the materials that reprocessing plants produce. However, as I have said many times, there is no reason why we cannot have the needed energy and at the same time assure that the potential for poliferation is completely controlled. In fact, with vigorous efforts in proliferation control technology, such as those now being considered at Barnwell, coupled with diplomatic initiatives to strengthen international safeguards, the United States can reduce the threat of proliferation much more effectively than if it abdicates its position of technological leadership. The studies and research activities now proposed at the Barnwell plant represent a first important step in using this plant to decrease the potential for proliferation. I support this use of Barnwell, and urge that the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will report title II.

The Clerk read as follows:

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subject to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Non-nuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Acts providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants to any organization for purchase or construction of research facilities.

No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Each grant under paragraph (1)(A) shall be made under such conditions as the Administrator deems necessary to insure that the United States will receive therefrom benefits adequate to justify the making of the grant.

"(3) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three celendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national

programs authorized to be funded by such Act or because of new scientific or engineering developments, and (B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress, unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objetcion to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), environment and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprogramming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting cost incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

"(j) Nothing in this section shall apply with respect to authorization or appropriation of funds for nuclear weapons purposes.".

SEC. 202. (a) The Administration is authorized to start any project set forth in section 102(a) (1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 102(a) (13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 (except that the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency and economy); and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 203. Any funds appropriated for magnetohydro-dynamics pursuant to section 101 (a) (1) or 102(b)(9) of this Act or pursuant to authorizations contained in any other law, to the extent provided for use at or in connection with facilities other than the Component Development and Integration Facility currently under construction, shall hereafter be expended for or in connection with facilities at such sites as may be selected by the Administrator.

SEC. 204. The Administrator, in cooperation with the Secretary of State, shall report to Congress within six months after the date of the enactment of this Act on the effects of April 27, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy" on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to Congress on each subsequent major related initiative.

SEC. 205. (a) In carrying out the programs for which funds are authorized by this Act, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 206. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator shall, for a period of ten years, make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however,* That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further,* That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations."; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are required or authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however,* That the term of such contracts, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

SEC. 207. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended.—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts,".

SEC. 208. The last item in section 101(b)(8) of Public Law 94–187, relating to project 76–8–g, is amended by inserting "gas centrifuge," after "production,".

SEC. 209. The Energy Research and Development Administration is directed to encourage and promote participation of State governments in the development of the Administration's plans and programs. The Administration may also provide, where consistent with its plans and programs, matching funds to States which are expending State funds for complementary energy activities.

SEC. 210. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: *Provided,* That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further,* That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and constructon costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the con-

dition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating reveneus are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligations to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706(2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or migrating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the condition of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the

Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and centum per annum of the outstanding inthorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demontrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administration to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be up dated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized,

taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committees on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee commitment to guarantee cooperative agreement or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereinafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirement and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further*, That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection

(k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section, shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided*, That Indian tribes are exempt from the operation of this subsection: *Provided further*, That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c))."

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will read the committee amendment to title II recommended by the Committee on Armed Services.

The Clerk read as follows:

Committee amendment: On page 79, line 1, insert:

SEC. 211. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended).

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD. It has been read before and it has been considered, and we have accepted it.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. THORNTON

Mr. THORNTON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THORNTON: On page 60, lines 14 and 15, strike the words "for which a waiver was made by the Administrator under section 9 of this Act".

On page 61, line 1, insert the following after "shall": "in case of default".

On page 75, line 6, insert after the word "shall" the following: "in case of default".

Mr. THORNTON. Madam Chairman, my amendments to section 210 of this bill, which provides loan guarantees for alternative fuel demonstration facilities, are designed to make clear that the provisions to give the Federal Government title to such patents as may be developed shall apply only in the event there is a default in payment under the loan guarantee.

As the bill presently reads, any invention which is developed under a guaranteed loan shall become the property of the United States, subject to the possibility of a waiver, even if there is no default by the borrower.

The legislation as it currently reads is undesirable for two reasons. First, it seems to me to be inequitable for the Government to automatically become the owner of inventions under a program where research, innovation, and development is carried out and paid for by the private sector. This loan guarantee mechanism is designed to accomplish the worthwhile public purpose of demonstrating commercial feasibility of alternate energy sources, and should there be a default, it is proper that assets, including inventions, should be treated as part of the security for the loan.

Not only does fairness suggest that the Government should not be entitled to patents in circumstances where no default occurs, but, also, we should consider that by depriving developers of property interests in inventions produced at their own expense as a result of personal work, potential participants might be discouraged from entering into the program. The public interest in the development of alternative fuels will thus be hurt. It is vital to the success of the program that we not drive away prospective developers by a provision relating to patents.

My amendments give us a viable way to achieve a balance between legitimate private and governmental interests. Patent rights would remain with the private developer unless default should occur. Once the Government is required to make payments directly to a synthetic fuels project under a default arrangement, then it would receive the patent rights.

I urge the adoption of my amendments.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. THORNTON. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

Madam Chairman, we have talked about the desirability of this amendment. I want to commend the gentleman for offering it.

Madam Chairman, not only do I not have any objection to it, I fully support the amendment and I would urge all Members to support it. I do not think there is any objection on the majority side to the gentleman's amendment.

Mr. THORNTON. I thank the gentleman for his remarks.

Mr. GOLDWATER. Madam Chairman, will the gentleman yield?

Mr. THORNTON. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

Madam Chairman, I rise in support of this amendment. I think it is an appropriate amendment. What we are trying to do with these loan guarantees is accelerate the innovation and development of new technology in the area of energy. Certainly, the concern over the loss of patents, patent rights and patent protection is a legitimate concern. If the proper protection as provided by the gentleman's amendment is not taken into consideration or implemented, certainly it would act as a disincentive for attracting new technology to this loan guarantee program.

So, Madam Chairman, I compliment the gentleman from Arkansas for offering his amendment, and I urge my colleagues on this side of the aisle to support it.

Mr. THORNTON. Madam Chairman, I thank the gentleman for his support.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Arkansas (Mr. THORNTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: On page 43, in line 13, strike "shall, for a period of ten years," and insert in lieu thereof, "is authorized, for a period of ten years, to".

On page 45, in line 21, strike "required or".

Mr. FLOWERS. Madam Chairman, this is merely a technical amendment necessitated by the Budget Act. At the time we appeared before the Committee on Rules and obtained a rule for this bill, we made a commitment to the members of the Committee on the Budget and the distinguished chairman of the Committee on the Budget that this amendment would be offered, and I do so now for the purpose of abiding by that commitment.

Madam Chairman, I urge the adoption of the amendment by the committee. I do not think there is any objection whatsoever to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TSONGAS

Mr. TSONGAS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS: Page 78, after line 25, insert the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) The Administrator of the Energy Research and Development Administration, under the Administration's energy traineeship program, is authorized during the fiscal year 1978 to make awards in amounts not exceeding $7,000 per student to finance the education of a total of 500 graduate students in engineering, science, and socioeconomic sciences related to energy, particularly in the areas of alternative energy sources (including wind, solar heating and cooling, photovoltaics, ocean thermal energy, biomass, and geothermal energy), energy conversion and utilization, and energy conservation. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $3,425,000.

(b) The Administrator is authorized to establish vocational training courses in solar heating and cooling and in energy conservation at approximately 100 community colleges, vocational schools, and other educational institutions in all parts of the country, and to provide assistance to any such institution in the conduct of such courses during the fiscal year 1978 in an amount not exceeding the sum of $5,000 per teacher for equipment and teaching facilities, $5,000 per teacher for the operation of the courses, and $1,000 per teacher for teacher training and instruction. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $1,150,000.

Mr. TSONGAS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TSONGAS. Madam Chairman, in 1957 the Soviet Union launched Sputnik and dramatized this country's lag in aerospace development. Wheels were then set in motion to respond to the challenge, and as we all know, that challenge was in time successfully met.

One of the critical ingredients of that effort was a program initiated by NASA to provide 1,000 yearly graduate traineeships to establish the manpower technical base needed to develop an aerospace industry.

Today we have an energy crisis that, in terms of long-run implications, dwarfs the Sputnik crisis of the 1950's and 1960's, and yet ERDA presently allows for only some 20 energy traineeships. That can only mean one thing—a serious shortfall of trained manpower.

My amendment seeks to meet that shortfall. It provides 500 graduate traineeships—only half of the NASA counterpart in aerospace—in engineering and physical and social sciences related to energy. It also provides for 100 courses in solar heating and cooling, as well as energy conservation at vocational schools, community colleges, and other educational institutions.

We need trained manpower to develop technologies and also to translate technological theory into hardware.

Madam Chairman, I have discussed this amendment with the gentleman from Washington (Mr. MCCORMACK), but first let me raise one other issue.

To give the Members some idea of what the current situation is in terms of the universities' capability to turn out graduate students in engineering, there are approximately 3,000 graduate students who leave the universities and graduate in each given year. In 1975 only 18 percent of the engineers and 10 percent of the scientists in industry were in the vital area of energy. Only a very few percent were in advanced technologies such as solar, geothermal, and areas related to other sources. Furthermore, while the number of graduates in engineering on advanced levels has remained steady in the last decade, the numbers of foreign students have increased from 8 percent in 1968 to almost 40 percent in 1976. In essence, American students simply do not have the financial wherewithal to continue in this field.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, it is my understanding that the subcommittee that handled this matter in the full committee would like to see this amendment accepted, and the majority is glad to accept the amendment.

Mr. MCCORMACK. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Washington.

Mr. MCCORMACK. Madam Chairman, I thank the gentleman for yielding.

We do believe this is a worthwhile amendment. The figures now proposed have been reduced from the figures the gentleman originally suggested and we accept the amendment.

Mr. TSONGAS. Madam Chairman, I thank the gentleman for his concurrence.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. TSONGAS

Mr. TSONGAS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS: Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at varying levels of subsidy (for example, at 20, 40, 60, 80, and 100 percent levels).

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense

(ii) the Department of Transportation (including the U.S. Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration)

(iii) the Department of Commerce

(iv) the Department of Agriculture

(v) the Department of the Interior

(C) provide a preliminary report to Congress within six months following the enactment of this Act.

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act.

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry—to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act.

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy system for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act.

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $28,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems ac-

quired shall be available for use for power generation by Federal agencies, under the mechanisms provided in the National Energy Act.

SEC. 211. (b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $10,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

Mr. TSONGAS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TSONGAS. Madam Chairman, several years ago, solar energy was viewed as something esoteric, academic, and even a bit strange, if you will, something for those who like to tinker with bizarre mechanical ideas.

However, events have begun to change all that. Thousands of people in this country have begun to experience rather similar situations.

People in my part of the country and in the Midwest saw severe dislocation due to the extreme cold of this past winter. Whole cities were trapped in the so-called energy shortage, while energy from the sun streamed down upon them, silent, sure, and unused. Enough energy to heat their homes—right there—and yet, all attention was on natural gas from Algeria and crude oil from Nigeria.

Madam Chairman, every summer Washingtonians suffer from air pollution that staggers the imagination, while the sun shines its polltion-free energy upon us—again silent and sure and unused.

New Yorkers have endured the infamous blackouts while the sun offered its energy to the Big Apple—silent, sure, and unused.

Madam Chairman, solar energy is a critical energy source just waiting to be embraced. Limitless, pollution-free, and decentralized, it is there; and it is about time that we maximize our use of it.

Solar cells or the so-called photovoltaic cells is the process of converting solar energy directly into electricity. It is to be distinguished from solar heating and cooling, which warms a particular liquid and transfers that into heat for a home.

Solar cells such as the one I have here are wafer-like silicon or, in some cases, cadmium sulfide areas wired together. The sunlight forms an electrical current when it strikes the cell.

These cells can be used in homes, thus providing truly decentralized electricity, and in remote locations, thus offering maintenance-free savings.

Why do we not start to use them?

Very simply, they cost too much because there is no market, and there is no market because they cost too much.

Madam Chairman, this vicious cycle has to be broken.

Solar cells used in very specialized areas have gone from $500 to $13.50 per peak watt, which is the recent price. That cost must be driven down to between 50 cents and $1 per peak watt to be competitive with nuclear, coal, and oil-based electrical generation.

Madam Chairman, that reduction will only come about if the Government works to create a market. That is what my amendment is all about.

Can the Government use them? My amendment provides for a 4-megawatt buy.

An FEA study done for DOD found that a 150-megawatt market exists over the next 5 years for use at remote facilities, at a potential savings of $500 million to the Federal Government, and that is just for DOD.

The potential of numerous other Federal agencies where solar cells could be cost-effective has not yet been analyzed, nor has the enormous market in Third World countries which do not have electrical grill systems, but do have sunshine.

Madam Chairman, I quote from the FEA study, as follows:

Photovoltaics offer a number of advantages to the DOD. In addition to potential cost and fuel savings, photovoltaic energy systems would provide the DOD a highly reliable, silent power source allowing virtually unattended operation in most areas of the world. Near term benefits to the DOD include cost and logistics savings at remote sites, in portable equipment and off-shore applications.

The U.S. would also receive national benefits from accelerated commercialization of photovoltaics. Over the longer term, photovoltaic energy systems will offer the nation a cost competitive source of commercial electric power or provide a user-owned dispersed source of power, thus reducing dependence on foreign energy sources. Other national benefits include the development of exports to underdeveloped countries where photovoltaic systems could be utilized for rural electrification and irrigation pumping.

That was the study conducted by FEA for the DOD.

It is time to move. In fiscal year 1977 ERDA is purchasing only 0.2 megawatts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TSONGAS. Madam Chairman, I ask unanimous consent that I may be permitted to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. TEAGUE. Madam Chairman, I must reluctantly object.

The CHAIRMAN. Objection is heard.

Mr. OTTINGER. Madam Chairman, I move to strike the last word.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Madam Chairman, I thank the gentleman for yielding to me.

To continue with what I was saying, Madam Chairman, in fiscal year 1978, which is the object of this bill, ERDA will purchase only 0.5 to 1.5 megawatts. My amendment would earmark $28 million to raise this to 4.5 to 5.5 megawatts.

This would put the fiscal year 1978 buy in line with the National Energy Act which, as the Members know, provides for a 3-year—1979 to 1981—procurement, between $39 million, the House version and $98 million which is the Senate version. Lower per unit costs should cause this buy to range up to 12 megawatts a year.

All of this is far below the 150 megawatts that DOD can already use by itself.

If anything, this amendment errs on the side of insufficiency.

Again, my amendment calls for $28 million to purchase 4 megawatts of solar cells and $10 million for technological development, particularly for engineering design and development of the manufacturing process—the area where the savings hope to be achieved—to study the potential of solar cell use at non-DOD Federal installations.

The one remaining issue is the capacity of industry to provide the cells. The gentleman from New York (Mr. OTTINGER) will address himself to that matter.

Mr. OTTINGER. Madam Chairman, I strongly support the amendment just introduced by my colleague, the gentleman from Massachusetts, PAUL TSONGAS. It is high time that the Federal Government give a real push to solar photovoltaic electricity. and the best way to do that is to provide a market for solar cells and systems for use by the Federal Government itself.

This amendment will do three good things:

First, it will give a market push to the photovoltaic industry, thus encouraging firms to invest in mass production techniques.

Second, with the lower solar cell prices that result, the amendment will provide our Nation an expanding new source of electricity from the sun.

And, third, it will provide a reliable source of electricity in Federal installations—systems that are lifetime cost effective.

This amendment will fill the fiscal 1978 photovoltaic gap—the gap caused by the fact that the National Energy Act, as passed by both Houses, includes Federal purchases of solar cell electric systems only to begin in fiscal 1979. We cannot and must not lose that year when we could and should be pushing ahead.

The Tsongas amendment provides that the Federal Government will contract to buy $28 million—up to 4 megawatts of generating capacity—in fiscal 1978, for delivery and installation by the end of fiscal 1979. Can the solar cell industry meet the demands of this expanded market? The answer is yes.

Last week I conducted a telephone survey of seven of the leading firms in the photovoltaics industry: Solarex, Spectrolab, Optical Coatings, Solar Technology, International, Motorola, Solar Power Corp. and Mobil-Tyco. All seven answered "yes" to that question.

Prof. James Gibbons of the Stanford Electronics Laboratories at Palo Alto, Calif., and a renowned expert in concentrator photovoltaic systems, says in a letter to our committee:

My general response to the Tsongas amendment would be to favor it enthusiastically. It will provide the funds we need to improve future price estimates, and to increase the

level of commercial activity in this field. At the same time, it is not large enough to cause the industry to freeze its options or focus its research activity too narrowly on a given technology.

Professor Gibbons said without this kind of a buy, we cannot even know on what we ought to concentrate our research and development.

Gary Johnson, manager of solar market planning for Motorola, said in a letter to one of our colleagues on the committee:

Several charts from my testimony before the Science and Technology Committee clearly attest to the fact that moderate near-term (1978) solar electric purchases are essential to the rapid development of the solar electric cell market. Demonstrations would be of particular assistance in the growth of commercial, government, and less-developed-country market segments.

The solar cell industry supports this amendment. Environmental, consumer, and labor groups support it. The Federal Government can make good and wise use of the solar electric systems it will buy.

I congratulate my colleaguee, the gentleman from Massachusetts, and urge adoption of the amendment.

Mr. McCORMACK. Madam Chairman, I move to strike the last word, and I rise to oppose the amendment.

I want to urge all Members to pay close attention to the discussion on this amendment which would increase the ERDA authorization by $38 million for the coming fiscal year for the Federal purchase of additional photovoltaic cells.

Though I am supportive of the photovoltaic program and of Federal purchases of photovoltaic cells, I agree with the administration and recommend no additional funding for this purpose in fiscal year 1978.

As we learn more about the photovoltaic market, and as the technology progresses, larger purchases than this year's may be practical. In fact, I have stood up and debated for an increased purchase for 1979, and, depending upon the President's request, we may be able to realize it at that time.

The total capacity for manufacturing photovoltaics, measured by the total sales in this country is about 750 kilowatts. The Tsongas amendment proposes to buy an additional 4,000 kilowatts worth of photovoltaic cells, that is, about 5½ times the manufacturing capacity, and to do so in the fiscal year which starts in 10 days. It completely ignores the fact that this manufacturing capacity does not exist, and that other orders will be made by NASA for its space program and by the Department of Energy—already authorized in this bill.

For fiscal year 1978, the administration requested $52.2 million for photovoltaics, including $3.5 million for a direct purchase of flat plate photovoltaic collectors for demonstrations, and we increased it to $57.2 million, an increase of $5 million, for demonstrations of concentrating collectors.

The Tsongas amendment would require the purchase of far more photovoltaic cells than could currently be produced, yet it does not allow time for conversion to mass production systems.

In May of this year the Assistant Secretary of Defense, testifying on this subject before the Committee on Public Works said:

The Department of Defense is concerned that the state-of-the-art of photovoltaic systems is not yet sufficiently established to warrant a full-scale commercialization program. It should be noted that the current U.S. capacity to produce photovoltaic devices is less than 1 megawatt—that is, less than 1,000 kilowatts—and that the equipment and procedures to expand this capacity through automated production are now being investigated.

They are just being studied.

In testimony before my subcommittee, Mr. Donald Beattie speaking for the administration just a few days ago this month, said:

Now, at this time we feel that the budget is adequate to proceed with the program that we have laid out and, as I mentioned in my opening comment, we are looking very carefully at the direction the program should go. It's receiving very top level scrutiny at this time, and we expect within the next few months to make some decisions, and those will be reflected in what we would ask for in the 1979 budget.

He further said that the administration would try to subsidize buyers to buy the cells, not manufacturers to make them. This is the principle embodied in the Solar Heating and Cooling Demonstration Act of 1974.

Since ERDA's program already contains a purchase of 500 kilowatts of photovoltaic cells, we in the committee believe that the additional massive purchase of photovoltaic cells should not be attempted for fiscal year 1978. We believe that such purchases may well be completely justified in 1979, depending upon the administration's new program and the progress we make in fiscal year 1978.

We can all be proud of the fact that we have increased the budget for solar energy to about $360 million for fiscal year 1978. That is a 900 percent increase in 3 years, following an organized, rational plan for developing these new technologies. It is not necessary or responsible to spend Federal money recklessly for projects which have no sound engineering basis or favorable economic studies.

We urge the Members to vote against the Tsongas amendment.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Madam Chairman, is there any information as to what would be an appropriate size for a commercial production plant? Do we know how many plants we would be requiring to come on the line or what size?

Mr. McCORMACK. All we know is it would total about 4 or 5 times the present capacity of this Nation regardless of what other demands there will be. Our present plan is to create incentives to develop lower cost mass production capacities by authorizing this purchase of significant quantities in the future.

Mr. GARY A. MYERS. Would it not be more appropriate to make a commitment to a firm which could make a commitment to a long-range plan rather than to over buy at this time?

The CHAIRMAN. The time of the gentleman from Washington has expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. McCORMACK was allowed to proceed for 1 additional minute.)

Mr. McCORMACK. Madam Chairman, I agree with the gentleman from Pennsylvania on the longer range program, which is what the administration, OTA, ERDA, the Budget Office and the United Nations recommends, a long range incentive plan.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. OTTINGER. Madam Chairman, is it not true what the $57.2 million authorized is photovoltaic systems in fiscal year 1978 only and $20 million is for purchase and installation of photovoltaic systems for approximately 1.5 megawatts. None of this is for actual use. It is all for research and development purposes.

Mr. McCORMACK. No, not at all. This is for demonstration purposes. We even agree to go ahead with that extra $5 million for demonstration programs as the gentleman requested.

Mr. OTTINGER. Right.

Mr. FREY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to ask the gentleman from Washington, in terms of the funding on this resolution, where are we going to get the money? Where is it going to come from if this is passed?

Mr. McCORMACK. If the gentleman will yield, the answer to his question is that the extra money for these purchases would have to be appropriated by the Appropriations Committee, above and beyond what has been appropriated for solar energy.

Mr. FREY. It would have to be a supplemental appropriation.

Mr. McCORMACK. Yes, it would have to come in the supplemental appropriation bill.

Mr. FREY. I must admit I am somewhat on the fence on amendment. I have been rather discouraged with ERDA and the progress they have made in the entire solar energy area. Our committee has carried the load and insured an increase in solar energy. The really sad fact is where we started from. When I was first elected to the Congress, the total funding for solar energy research was around $100,000 or such, which was criminal.

Certainly there is a lot to do. Certainly in the area of photovoltaic systems I would like to see more effort and more sense of urgency.

I would like to ask the gentleman from Washington, who has done a very fine job in the subcommittee and for whose ability I have great respect, what can we look forward to in the next fiscal year? Are we going to be able to catch up and

put more emphasis on this form of research?

Mr. McCORMACK. Madam Chairman, if the gentleman will yield, I appreciate the gentleman's comments.

We are doing everything that appears to be reasonable. I am proud of the work of our subcommittee and of the full Science and Technology Committee, on which the gentleman from Florida serves, for taking the leadership role for aggressive—but responsible—solar energy research, development, and demonstration programs. We will continue to move forward with demonstration programs using photovoltaic cells in fiscal year 1979, even though we do not think photovoltaic electricity will be competitive at that time with the cost of ordinary electric power.

We think the demonstration programs are important, just as we do in wind energy, ocean thermal gradients, bioconversion, and heating and cooling, all of which we have supported lavishly.

Mr. FREY. I do not know about lavishly, but they have been supported very wisely and very well. Madam Chairman, on balance I support this amendment—solar energy can provide near term energy—to write it off for this 21st century is wrong. I will continue my fight to insure the funding for solar energy to continue to rise and that commercialization is emphasized. I hope someday, solar energy will be the main source of electric energy in this country.

Mr. GORE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in enthusiastic support of the solar cell purchasing amendment. As a member of the subcommittee, I would like to make a couple of points. First, it has been said that all these cells will have to be purchased in the coming year. This is not actually true. The contracts must be signed next year but the deliveries are not required until the end of the fiscal year 1979.

Second, some statements have been made about the capacity of the solar industry to produce this number of cells. The people in the industry say that they can do it and the people familiar with the capacity say this very definitely can be done.

I did not approach this issue, Madam Chairman, as one who had a preconceived notion that solar energy is the undiscovered panacea for our Nation's energy problems, but rather as one who has devoted a lot of time and effort to the study of the merits and demerits, the promises and problems of most all of our energy resources.

As a member of three subcommittees dealing with energy, I have had an opportunity to work with the technical and policy issues of natural gas, of petroleum, of uranium and nuclear fission and fusion.

My support of solar technologies comes not from illusions, but from an analysis of the facts about electricity from the sun.

Madam Chairman, the facts are impressive, indeed. This industry has suffered from a measured neglect on the part of policy makers. The virtually unanimous conclusion of studies by private industry, universities, and the Government—that is ERDA, FEA and the Office of Technological Assessment—is that no further technological breakthroughs are required to significantly lower solar-cell prices. In addition, these studies have identified a myriad of applications where solar cells are cost-effective even at today's prices.

Given these facts, Madam Chairman, it makes no sense to continue the one-track ERDA solar cell program which exists today. No one disputes the need to continue advancing along the one development track we are currently following; that is, basic research for new breakthroughs. But we urgently need to now lay a complementary program-track alongside; namely, a significant market boost to greatly increase production levels in the industry.

Even this conclusion is no longer a subject of real dispute. In hearings just a week ago Friday, before the Advanced Energy Technologies Subcommittee, of which I am a member, ERDA discussed a proposed restructuring of its solar cell program to emphasize, as ERDA put it, "market-pull" in addition to the existing "technology-push" strategy. Other witnesses from inside and outside Government emphasized that significant Federal purchases of solar cell systems would have the additional effect of providing the essential, practical experience necessary to induce new, even more significant technological innovations.

In other words, both continued research projects and additional purchase programs are needed to best achieve our goals for solar cells.

Madam Chairman, it has been suggested that this amendment would operate to "freeze" current technology, because producers would rely on current, labor-intensive assembly techniques, rather than moving to automation. I am convinced, Madam Chairman, that this suggestion is quite unfounded.

First, just as in the National Energy Act purchases, the amendment program calls for contracts to be signed in fiscal 1978, but deliveries need not begin until fiscal 1979. This provides at least 1 year for automated assembly lines to be established. The size of the purchase, when added to the growing commercial market, virtually assures that automation will be used. This is the purpose of "stretching" the current industry capacity.

Second, just as in the National Energy Act, ERDA can be expected and encouraged to stipulate in its contracts that producers must show evidence that automated procedures will be used in the production of cells under the contract.

I understand this is the current practice, and would certainly be continued.

Third, the amendment provides for $10 million in Federal research on improved manufacturing processes, which will then be available for adoption by industry.

Finally, this amendment adds another year of guaranteed market levels for solar cells. It is agreed that the existence of an assured multiyear market is necessary to induce private investment in automated procedures.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

(By unanimous consent Mr. GORE was allowed to proceed for 2 additional minutes.)

Mr. GORE. Madam Chairman, it is outdated, discredited thinking by persons in the Government—both in the executive branch and in the Congress—that is the main impediment to developing solar energy technologies. Too many Government leaders have, for too long, relegated solar energy exclusively to a long-term role. I find it ironic that it is the American people and the solar industry that are leading the Congress on this issue, and not the other way around. They recognize the fact that solar energy and solar cells have a here-and-now practicality, while promising even greater utility in the future.

This amendment is the best way to speed the development and use of solar cells. It will help develop both an inexpensive technology and an industry capable of producing large quantities of cells in the future. Finally, the amendment is a needed, logical bridge to the National Energy Act purchase program already passed by this House. Thus, I strongly urge my colleagues to vote for the adoption of the solar cell purchasing amendment.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. At the same subcommittee meeting the gentleman referred to, the same question was asked, about what the 1977 price was going to be. The answer was that they did not know because they are not in yet. The same process would take place in 1978 under this amendment; buy in 1978, delivery in 1979. That is exactly what is happening today.

Mr. GORE. I would like to underscore that point. We need a year to work on automated systems. The way this purchase system operates, it provides us with that year.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from New York.

Mr. OTTINGER. I would like to point out on that very point that Professor Gibbons of Stanford University said that if he had orders today for 10,000 concentrator cells, he could deliver them for $5 a peak watt. He said that the main inhibition on solar electric system cost reductions is the lack of orders in sufficient quantities and that this, too, is a principal limitation on further research and development progress.

Mr. GORE. Madam Chairman, I would like to share with my colleagues an exchange of correspondence I have recently had with a representative of one of the companies working in this field, Motorola, Inc., Motorola has recently decided to enter the solar cell production industry. Mr. Gary B. Johnson testified before

the Advanced Energy Technologies Subcommittee but unfortunately was unable to complete his testimony. I wrote to Mr. Johnson to clarify his testimony as it pertains to this amendment. I request that my letter and Mr. Johnson's response be entered into the RECORD following my remarks. Thank you, Madam Chairman.

The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 12, 1977.

Mr. GARY B. JOHNSON,
Solar Energy Market Planning, Motorola Corp., Arlington, Va.

DEAR MR. JOHNSON: Thank you for your informative testimony on Friday, September 9, 1977, concerning the status of solar photovoltaic technologies, the potential market for these devices, and the need for increased federal procurement activities to meet our national energy goals.

Unfortunately, the press of House business left little time for you to present your testimony or to answer questions from members of the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration. Because of the great relevance of your statement to the upcoming debate on the ERDA authorization bill for FY '78, I would appreciate your response to the following questions on matters which were the subject of some confusion during the hearing. Please address these questions in any order or combination that you wish.

(1) Is there a need for increased federal purchasing of photovoltaic energy systems in order to further lower costs?

(2) How large a federal purchase program is needed to assure the development of a private solar cell industry capable of meeting our national solar energy goals?

(3) Should an increased federal purchase program, if any, begin in fiscal 1978 (October 1, 1977 to September 30, 1978)?

(4) Would a significant increase in federal purchasing of photovoltaic systems necessarily "lock-in" present technology and discourage further cost reduction innovations? Or would continued or increased funding for research, development and demonstration programs help alleviate any problem in this regard?

I have a number of additional questions for you which I will defer to a later date. Your expeditious response to the above questions would be of great assistance to me in considering the forthcoming ERDA authorization bill.

Thank you again for your valuable time and expert opinion on this matter of great national interest.

Sincerely,

ALBERT GORE, Jr.,
Member of Congress.

MOTOROLA INC.,
September 13, 1977.

HON. ALBERT GORE, Jr.,
Longworth Office Building,
Washington, D.C.

DEAR SIR: In response to your request of September 12, I would like to clarify the data presented at the hearing and the subsequent discussion. I would like to thank you and others for the opportunity to address the Subcommittee on Advanced Energy Technologies and Conservation, and for the opportunity to respond to the questions for clarification.

Several charts from my testimony should clearly attest to the fact that moderate, near-term (1978) solar electric purchases are essential to the rapid development of the solar electric cell market. Demonstrations would be of particular assistance in the growth of commercial, government, and less developed country market segments.

The charts labeled low end and high end major market projections represent our best current estimate of the flat plate electric cell market. We believe the market will develop to a low end sixty million dollars in 1981 with moderately expanded procurements represented by the new Marvin Plan for ERDA. Our fifty percent probable high end market chart requires an additional market pull of fifty three million dollars from 1978 to 1981 to accomplish. Let me point out that this is a solar flat plate panel number in 1975 dollars. It does not include money for system components such as batteries, regulators, inverters, installation, etc.

The chart labeled fundings estimate to reach the national goal should be interpreted to indicate that an additional three hundred and thirty million dollars would be required by the entire industry through 1982 to be on schedule with the national goal. It is unlikely that the industry could absorb this much money without a carefully controlled master plan. Large portions of money from such an effort must be directed at R & D, particularly in the materials area. Automation from large procurements does not yet represent the major cost reduction capability for solar; cheaper high grade materials still dominate the price reduction potential, hence, the need for continuing large efforts in research and development in addition to procurements.

My testimony will be revised to reflect these clarifications and then submitted to the Subcommittee for the record.

Sincerely yours,

GARY B. JOHNSON,
Manager, Solar Market Planning.
RAYMOND KENDALL,
Program Development Manager—Solar.

Mr. GOLDWATER. Madam Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

Madam Chairman, my colleagues, I rise in opposition to this amendment. I do so with some reluctance, as I am not at all opposed to the continuation of an orderly program in the area of photovoltaic electricity production. There is no question that we have to pursue solar energy in all its forms if the Nation is to be assured of a balanced and adequate energy supply. Photovoltaic electricity is here now, and will surely play a greater role in the future.

Mr. JEFFORDS. Madam Chairman, I move to strike the requisite number of words.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Madam Chairman, in reference to the last point of implementation, in the bill there is $100 million for laser fusion, $320 million for magnetic fusion and $700 million for the breeder. Certainly photovoltaic cells are a lot closer to implementation than either of those three.

Mr. JEFFORDS. Madam Chairman, I thank the gentleman from Massachusetts, and I certainly agree with his statement.

Madam Chairman, I have participated in these debates for some time on the solar energy issue, and I certainly commend our committee for the increase over the years. But I would like to remind the Members how they fought these increases in the past. These increases which they said were not necessary, now they endorse. Here is another time when we are being asked to put in an increase they again think we should endorse.

Madam Chairman, yesterday we made a commitment to commercialization. We said it is essential to work fast and go forward with commercialization. We did that with the breeder. That is a technology we are looking for in the next century. Here is a technology which, from the studies we have had, may become possible in this decade. Can we now turn back an amendment which will really logically move forward and do something in this decade which we need so desperately? That is why I support it.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Madam Chairman, I congratulate the gentleman on his statement.

I would like to acknowledge that I made an error in my previous statement. The gentleman from Washington is correct, that there is $5 million in the fiscal 1978 budget for purchase of photovoltaic cells for use. But there are only $20 million altogether in the 1978 authorization for this purpose. In the hearings which the gentleman from Washington conducted, all of the people who were actually involved in this industry, the Motorola people, the people who were actually working on it in California at Stanford, said the purchase of $28 million this year could really make a difference in learning the answers which are needed to many of the questions in respect to research, in making solar electric cell production economical. I think this is a prudent step. They also testified, as I read from the letter, that this is not such a large purchase as would lock in existing technology.

ERDA has been slow in advancing solar technology. It has virtually no money involved in concentrator systems which at the present time look as though they may be the most economical systems. Photovoltaic allows us to have that energy production right where it is needed, without the need for transmission lines, just what is needed where we need it. It is pollution-free, it is cheap, and I think it is something that deserves the kind of risk we are taking in the nuclear field, in the synthetic fuels field. We are spending $700 million for just the breeder reactor program, over $200 million on nuclear fusion. Certainly it is worth $28 million to start this year on a photovoltaic buy. Many scientists believe that solar electric is the energy source we will be relying on in the future. It is time we got started.

The Tsongas amendment deserves support. It is a very modest "buy." We are talking here only about $28 million.

Madam Chairman, I hope the gentleman's amendment will be adopted.

Mr. JEFFORDS. Madam Chairman, I

thank the gentleman for his support and for his comments, with which I agree.

I will also point out to the Members that this is one chance we have to buy something that will be immediately useful, something that has not yet undergone commercialization. We are going to be able to obtain something that can be commercialized so that we can help to achieve the independence in energy that we need.

Let us not lose sight of the purpose of Federal spending in the solar area. It is to generate a market at an artificially rapid pace—faster than would occur at normal free-marketplace economics. The purpose is to drive costs down so that widespread use in the civilian non-Federal marketplace will occur.

Will the level of spending of the Tsongas amendment have a reasonable chance of driving costs down, and stimulating the growth of a national marketplace of photovoltaic technologies?

A recent study done in close collaboration with FEA shows that:

First, a very significant Federal marketplace—or potential megawatt demand—for photovoltaic systems exists now, today, in the Department of Defense;

Second, fulfilling part of this demand through the Tsongas amendment will drive costs down significantly more quickly than the current ERDA plan; and

Third, the DOD applications are generally "directly transferable to the private sector."

The transferability of many of the products to the private sector, includes, for example, microwave repeater stations, airway navigation, and large scale applications at remote sites and for export to the remote areas of the world. The study shows that though the DOD market is large, the non-DOD market is "often several times larger." Thus, direct transfer of the DOD products to the private sector will be a key element in the photovoltaic industry's development and in photovoltaic energy system commercialization.

The key question we are faced with is leadtime. If we want automated production lines within 2 years, large scale buys today must be planned. The National Energy Act is a beginning, as it provides money for significant buys in fiscal years 1979, 1980, and 1981. But industry and FEA agree that the time is now—fiscal year 1978—to begin this process. There are about 10 manufacturers in the United States today, but no large automated facilities exist.

The purpose of this crucial amendment is to produce demand-pull incentives for expanded, automated, low-cost capacity, so as to generate self-sustaining momentum in the private sector within a decade. Recent indications are that this can clearly be done through an aggressive program.

The study done for FEA compared a baseline solar case, which is a continuation of existing ERDA procurement policies with an accelerated solar scenario; that is, a more active Federal effort to promote photovoltaic commercialization—and the projected difference is dramatic. The business-as-usual scenario leads to an array cost per peak watt of over $5 in 1979, whereas the accelerated scenario brings costs to an even $2 in 1979. By 1981, the accelerated scenario drops costs to just over $1.

The fact is that a large near-term market for DOD applications of photovoltaic energy systems exists. Over a cumulative 5-year program, according to FEA, a 150-megawatt market exists which emphasizes replacing gasoline-powered generators and batteries—the savings to the Government through the program will be $500 million for an investment of $240. So here we have our cake and eat it, too. We save money, stimulate the photovoltaic market, and help reduce fossil fuel consumption all at once. Under the Tsongas amendment delivery and installation of photovoltaic power systems occurs by the end of fiscal year 1979.

A large near-term market for applications of photovoltaic energy systems now exists. ERDA has recently proposed restructuring its photovoltaic program to near-term goals and accomplishments. The assumption, and I quote from the most recent ERDA document.

> The key assumption in undertaking this reorientation is that the market will enter an *explosive self-sustaining growth phase at an array price of $1 to $2 per peak watt. We think it is possible to achieve this price level in 1980.*

ERDA goes on to say that driving costs down to this level will "open a wide spectrum of market sectors that range from small dispersed systems to central power stations, and will include agricultural, residential, service/commercial/institutional, industrial, and utility applications."

Where will such an aggressive program bring us in roughly 10 years? By 1986, ERDA believes; that is, the midterm, photovoltaic array prices of $0.50 can be achieved with an annual production rate of 500 peak megawatts—this brings energy costs to the range of 50 to 80 mills per kilowatt hour, and that will allow competition for both distributed and large load-center utility-type applications. That is, aggressive action now will extend the probability to us of significant markets for large-scale photovoltaic systems in 10 years. And in the far term ERDA asserts such a program could energy costs to the range of 50 to 80 mills achieve an array price of $0.10–$0.30 per peak watt in 1990, energy costs dropping 40 to 60 mills, which should be cost effective for utility applications.

I should emphasize that this ERDA aggressive scenario projection is not part of the ERDA present program. The purpose of the Tsongas amendment is to make the scenario a reality.

For a wide variety of applications economic breakthrough points with competing fuel source systems occur 2 to 3 years earlier under the Tsongas scenario than under the current ERDA business-as-usual program. This is true for the time frame 1979 to 1983, and includes a host of systems for which direct transferability to the civilian sector is possible.

In a race against time to reduce oil imports, these benefits for one of our promising solar programs cannot be ignored.

Such a buy program will go a long way toward reducing demand-related barriers in the non-DOD markets for:

First, product development, including demonstration of systems reliability; and

Second, large-scale applications engineering. DOD would then absorb a large portion of applications-engineering and development expenses.

We must automate to achieve the benefits and milestones I have mentioned. Today's lack of automation impedes industry growth and market development. The industry is ready to go—it is only the limitation of the demand side which is holding manufacturers back from investing the capital to automate this very new industry.

Finally, I would like to point out that although I think Congress has gotten the message on the necessity to commercialize in the area of photovoltaics, I do not think that message has gotten down to the energy bureaucracy yet. The Department of Energy organization plan does not indicate they have yet received that message. The adoption of this amendment will help alert them to congressional desires, that the Congress and the Nation wants early commercialization in the photovoltaic field, with all the advantages it would give the Nation.

In reviewing the organization chart of the new department, it is apparent that there are a number of glaring deficiencies. First, in the solar electric area, both photovoltaics and solar thermal functions are placed under the direction of the Assistant Secretary for Energy Technology, an exclusively long-term research and development operation; and there is no provision discernible whatever for rapid commercialization of solar electric technologies.

This appears to fly in the face of the encouraging memorandum dated August 5, 1977, from the ERDA Director of the Division of Solar Energy, in which it is stated that:

> The Photovoltaic Program is being restructured. The desire is to reorient the program to near term goals and accomplishments; to involve industry in the identification and selection of the right technology, experiments and systems; and to increase activity in breakthrough (high risk) research. The key assumption in undertaking this reorientation is that the market will enter an explosive self-sustaining growth phase at an array price of $1 to $2 per peak watt. We think it is possible to achieve this price level in 1980.

This laudable goal to hothouse the commercialization of photovoltaics is not apparent in either the organization chart or the language accompanying it. Does this mean that there has been a downgrading of the importance of pressing photovoltaics for the near term?

Second, most of the research and de-

velopment money for solar has been placed under an Assistant Secretary whose primary function is to promote nuclear and fossil technologies. There thus appears to be no discernible organizational differences from the present energy organization structure, where attention to solar technologies has taken a back seat to nuclear and fossil technologies. Since all these technologies are being placed under the same Assistant Secretary, I am concerned that a concerted first-rate commitment to the solar option is in jeopardy.

Third, in the discussion section of the organization proposal, 15 projects are listed for an accelerated "early consideration." All of them are either coal or synthetic fuel technologies, none are related to solar. This language, too, gives me cause for concern that the commitment to solar does not match the overwhelming support in the country at large for a major push for solar technologies.

These problems are serious enough for me to conclude that the future of the solar program is unclear in the new Department and we are going to have to watch it closely.

Mr. RUDD. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to this amendment.

It is billed as a pro-solar energy amendment. Quite the contrary, it is in reality an anti-solar energy provision.

The amendment will have the practical effect of restricting, and maybe even destroying, the progress we are making toward developing a full, cost-effective photovoltaic industry.

This amendment would require the Federal Government to make sufficient guaranteed purchases of photovoltaics to produce 4 megawatts of electric power in just 1 year. This is totally unrealistic and counterproductive.

That is twice the amount of electric power that has been produced by solar technology in 20 years.

It is more than five times the amount of electricity that will be produced by solar technology this year.

The progress being made by private industry in this area of solar photovoltaics is tremendous.

The Motorola Corp. in my own district of Arizona, and several other companies, are making giant strides that need to be encouraged by the Federal Government.

But industry experts at Motorola and elsewhere tell me that this amendment requires much too much, much too soon.

Very fast technological changes are occurring in photovoltaics, and the cost is dropping appreciably each year.

The cost of producing a peak watt of electricity with photovoltaic flat-plates is now about $15. Next year, that price might drop to $10 per peak watt.

By 1986, it is expected to be down to about 50 cents a watt.

At least four major different technological approaches are being tried by the several large companies that are heavily involved in this area. The danger of this amendment is that it will require mass production in an irresponsibly short period of time, which will force critical technological decisions to be made too soon.

This will freeze current technology, which will prevent needed improvements to meet the goal of producing photovoltaic electricity at a cost of no more than 50 cents per peak watt by 1986.

Or it will predictably result in the Federal Government's purchase of photovoltaic systems that will be too costly when they are purchased, and may even be obsolete by the time that they are delivered.

Madam Chairman, the current House bill includes a carefully-timed program of increasing the Federal Government's photovoltaic purchases. It includes $39 million for a 3-year procurement, with a reasonable production of 500 kilowatts the first year.

The amount in the final bill will be somewhat higher, since the Senate version authorizes $98 million.

This bill schedule will provide the needed incentive for the private sector to justify continued capital investments that will improve photovoltaic technology, and dramatically reduce costs over the next several years.

The unreasonable schedule required by this amendment, however, poses the risk for any company to waste a corporate investment in mass production equipment that is later found to be using the wrong process.

This amendment will not speed up the development of a full, cost-effective photovoltaic industry, because no major companies will make a big push until an established commercial photovoltaic market is there.

The bill's current carefully-timed schedule for Federal photovoltaic procurement will help bring on that private industrial development and reduced costs of photovoltaic electricity.

I therefore urge defeat of this proposed amendment.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for yielding.

I would like to respond to the comment the gentleman from Vermont (Mr. JEFFORDS) made to the effect that this committee has fought against the advantages of solar energy and increases in solar energy and greater solar energy research and development.

Quite the contrary. We have led all the way in this field. On the floor we have objected to what we consider to be irresponsible amendments, but the actual expenditures this year are exactly what we predicted they would be.

I would like also to say that when comparing nuclear energy and solar energy budgets, we should keep in mind that nuclear energy will always be more expensive on a project-by-project basis. Research and development in solar energy is very easy to conduct by comparison

For example the $3½ million we have provided in this bill for flat plate photovoltaic projects is sufficient for 23 demonstration projects.

Mr. RUDD. Madam Chairman, I thank the gentleman from Washington.

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Madam Chairman, the gentleman from Arizona (Mr. RUDD) made reference to industry and its attitude toward the amendment. We took time to go to the industries and get reports on this amendment. Those industries include Motorola, which is the company to which the gentleman referred.

Let me read what the responses from Motorola were to the particular questions that were asked:

Question. Do you think that this Federal purchase is a good idea?

Answer (By Motorola). Yes.

Question. Do you think that this purchase will speed up the decline in the price of solar cells?

Answer (By Motorola). Yes.

Question. Do you think that the solar cell industry as a whole will be able to produce the 4 megawatts of capacity stipulated in the amendment in the time period specified?

Answer (By Motorola). Yes.

Question. Do you think that this program of Federal purchase and use will stifle innovation in the solar photovoltaic industry?

Answer (By Motorola). No.

Mr. RUDD. Madam Chairman, let me ask the gentleman this:

What is the basis of the questions that were asked, and where were the questions asked?

Mr. TSONGAS. These were questions that we posed or that were posed to the various companies involved in the photovoltaic industry, and I will give the gentleman a copy of them.

Mr. RUDD. The gentleman from industry, who testified in committee agreed with what I said earlier, in reference to them and that is, that this would be too much too fast.

Madam Chairman, I urge the House of Representatives to vote this amendment down.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, I want to congratulate the gentleman in the well on the statement he has made.

Frankly, I do not take much stock in the colloquy that just took place regarding some answers.

As I understand it, that was a telephone call somebody made from the office of the gentleman from New York (Mr. OTTINGER) to somebody who was working for the Motorola Co.

Madam Chairman, I think the gentleman from Arizona is telling us the truth about Motorola because he knows the facts.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. RUDD) has expired.

The question is on the amendment

offered by the gentleman from Massachusetts (Mr. TSONGAS).

The question was taken; and on a division (demanded by Mr. TEAGUE) there were—ayes 27, noes 30.

RECORDED VOTE

Mr. TSONGAS. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 227, noes 179, not voting 28, as follows:

[Roll No. 576]

AYES—227

Addabbo	Fenwick	Natcher
Akaka	Findley	Neal
Ambro	Fish	Nedzi
Ammerman	Fisher	Nolan
Anderson, Calif.	Fithian	Nowak
	Florio	Oakar
Andrews, N.C.	Ford, Mich.	Oberstar
Andrews, N. Dak.	Ford, Tenn.	Obey
	Fraser	Ottinger
Applegate	Frenzel	Panetta
Armstrong	Frey	Patterson
Aspin	Gephardt	Pattison
AuCoin	Gibbons	Pease
Badillo	Gilman	Pickle
Bafalis	Glickman	Pike
Baldus	Goodling	Pressler
Baucus	Gore	Pursell
Beard, R.I.	Grassley	Quayle
Bedell	Hamilton	Quie
Beilenson	Hanley	Railsback
Benjamin	Hannaford	Rangel
Bennett	Harkin	Rhodes
Bingham	Harrington	Richmond
Blanchard	Harris	Rinaldo
Blouin	Hawkins	Risenhoover
Boggs	Heckler	Rodino
Bonior	Holland	Roe
Bonker	Holtzman	Rogers
Brademas	Howard	Rooney
Breckinridge	Huckaby	Rosenthal
Brodhead	Hughes	Rousselot
Burke, Calif.	Ireland	Ruppe
Burke, Fla.	Jacobs	Russo
Burke, Mass.	Jeffords	Ryan
Burton, John	Jenrette	Santini
Burton, Phillip	Kasten	Sarasin
Byron	Kastenmeier	Sawyer
Carney	Keys	Scheuer
Carr	Kildee	Schroeder
Cavanaugh	Kostmayer	Schulze
Chappell	Krebs	Seiberling
Chisholm	LaFalce	Sharp
Clausen, Don H.	Lagomarsino	Simon
	Latta	Skelton
Clay	Le Fante	Skubitz
Cleveland	Leach	Smith, Nebr.
Cohen	Leggett	Solarz
Coleman	Lehman	St Germain
Collins, Ill.	Lent	Staggers
Conable	Long, Md.	Stark
Conte	Luken	Steers
Conyers	Lundine	Stokes
Corcoran	McClory	Studds
Corman	McCloskey	Thompson
Cornell	McDade	Thone
Cornwell	McHugh	Traxler
Coughlin	McKinney	Trible
D'Amours	Maguire	Tsongas
Daniel, Dan	Markey	Tucker
Dellums	Marks	Udall
Derrick	Marlenee	Ullman
Dicks	Mattox	Van Deerlin
Dingell	Mazzoli	Vanik
Dodd	Meyner	Vento
Dornan	Mikulski	Volkmer
Downey	Mikva	Walgren
Drinan	Miller, Calif.	Waxman
Early	Miller, Ohio	Weaver
Eckhardt	Minish	Weiss
Edgar	Mitchell, Md.	White
Edwards, Calif.	Mitchell, N.Y.	Wilson, Tex.
Eilberg	Moakley	Wirth
Emery	Moffett	Wright
English	Moorhead, Calif.	Wylie
Ertel		Yates
Evans, Del.	Mottl	Yatron
Fascell	Murphy, Pa.	Young, Tex.

NOES—179

Abdnor	Ashbrook	Beard, Tenn.
Alexander	Ashley	Bevill
Anderson, Ill.	Badham	Biaggi
Annunzio	Barnard	Boland
Archer	Bauman	Bowen
Breaux	Hefner	Perkins
Brinkley	Heftel	Pettis
Broomfield	Hillis	Poage
Brown, Calif.	Hollenbeck	Preyer
Brown, Ohio	Holt	Price
Broyhill	Horton	Pritchard
Burgener	Hubbard	Quillen
Burleson, Tex.	Hyde	Rahall
Burlison, Mo.	Ichord	Regula
Butler	Jenkins	Reuss
Carter	Johnson, Colo.	Roberts
Cederberg	Jones, N.C.	Robinson
Cochran	Jones, Okla.	Roncalio
Collins, Tex.	Jones, Tenn.	Rostenkowski
Cotter	Jordan	Roybal
Crane	Kazen	Rudd
Cunningham	Kelly	Runnels
Daniel, R. W.	Kemp	Satterfield
Danielson	Ketchum	Sebelius
Davis	Kindness	Shipley
de la Garza	Lederer	Shuster
Delaney	Livingston	Sikes
Devine	Lloyd, Calif.	Sisk
Dickinson	Lloyd, Tenn.	Slack
Duncan, Oreg.	Long, La.	Snyder
Duncan, Tenn.	Lott	Spence
Edwards, Okla.	Lujan	Stangeland
Erlenborn	McCormack	Stanton
Evans, Colo.	McDonald	Steed
Evans, Ga.	McEwen	Steiger
Fary	McFall	Stockman
Flippo	McKay	Stratton
Flood	Mahon	Stump
Flowers	Mann	Symms
Flynt	Marriott	Taylor
Foley	Martin	Teague
Forsythe	Mathis	Thornton
Fountain	Michel	Treen
Fowler	Milford	Vander Jagt
Fuqua	Mollohan	Waggonner
Gammage	Montgomery	Walker
Gaydos	Moore	Walsh
Giaimo	Moorhead, Pa.	Wampler
Ginn	Moss	Watkins
Goldwater	Murphy, Ill.	Whitley
Gonzalez	Murphy, N.Y.	Whitten
Gradison	Murtha	Wiggins
Gudger	Myers, Gary	Wilson, C. H.
Guyer	Myers, John	Winn
Hagedorn	Myers, Michael	Wydler
Hall	Nichols	Young, Alaska
Hammer-schmidt	Nix	Young, Fla.
	O'Brien	Young, Mo.
Hansen	Patten	Zablocki
Harsha	Pepper	Zeferetti

NOT VOTING—28

Allen	Edwards, Ala.	Mineta
Bolling	Evans, Ind.	Rose
Brooks	Hightower	Smith, Iowa
Brown, Mich.	Johnson, Calif.	Spellman
Buchanan	Koch	Whalen
Caputo	Krueger	Whitehurst
Clawson, Del	Levitas	Wilson, Bob
Dent	Madigan	Wolff
Derwinski	Meeds	
Diggs	Metcalfe	

Messrs. FLORIO, YOUNG of Texas, COLEMAN, ROUSSELOT, RHODES, JENRETTE, MOORHEAD of California, LE FANTE and CARNEY changed their vote from "no" to "aye."

Mr. BOLAND changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WIRTH

Mr. WIRTH. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIRTH: Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. Effective January 1, 1978, title V of Public Law 94–187 is amended to read as follows:

"TITLE V—AIR TRANSPORTATION OF PLUTONIUM

"SEC. 501. Subject to section 502, the Energy Research and Development Administration shall not ship plutonium in any form by aircraft (whether exports, imports, or domestic shipment) except in safe containers which (as determined by the Administration on the basis of appropriate tests) will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"SEC. 502. If it is determined pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration that a particular shipment of plutonium by aircraft must be made for purposes of national security, but such shipment cannot be made in a safe container or containers in accordance with the requirement imposed by section 501, the shipment may be made notwithstanding such requirement but only if—

"(1) express written authorization for the shipment is given by the Administrator personally; and

"(2) the Administrator transmits to the Committees on Science and Technology and Armed Services of the House of Representatives and the Committees on Energy and Natural Resources and Armed Services of the Senate, at the time of the shipment or within 10 days thereafter, a written notification and description of the shipment together with a detailed explanation of the reasons why it was necessary to make the shipment by aircraft and why it was not possible to make the shipment in a safe container or containers as required by section 501.".

Mr. WIRTH (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Madam Chairman, I have what I hope will be a noncontroversial amendment designed to increasing the safety of all Americans who live along the flight paths where plutonium is shipped.

ERDA is expected to have by October a container for such shipments that will not break or leak even as a result of an air crash. This amendment will prohibit the shipment of plutonium except in such containers after January 1, 1978. ERDA has informed me that there will be occasional shipments of national security plutonium materials that will be too large to fit in the container, and the amendment therefore allows the administration to grant a waiver for national security shipments, provided he sends an explanation within 10 days to the appropriate committees of the House and Senate.

Up until now there has been no such container, and ERDA has tried to minimize the shipment of plutonium by air. They have allowed such shipments, however, for a wide variety of reasons, from national security to medical. With the advent of the new container, however, almost all such shipments, including all nonnational security shipments, can be made in a safe manner. Nonnational security shipments of plutonium involve powdered materials, and therefore any quantity can be shipped in the safe containers if enough of them are used. Only military applications involve the shipments of large pieces of metallic plutonium, some of which are too large to fit in the new container. It is for this reason that the amendment allows an exemption, but only for national security shipments. Since ERDA estimates that

they will only be making 10 to 20 national security air shipments per year, and since most of them will fit in the approved container, the requirement for written permission and written reporting to Congress will not constitute any great burden on the administrator. It will, however, give many of the regulations that ERDA has drawn up for itself now the force of law, and provide a great measure of assurance to our citizens that these shipments are being made for legitimate reasons and in the safest possible manner.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, on this side we have considered the gentleman's amendment and think it improves the present situation. We accept his amendment.

Mr. STARK. Madam Chairman, today, the gentleman from Colorado, Mr. TIM WIRTH, and I are offering an amendment to the ERDA authorization bill for civilian research and development that is designed to restrict the air shipment of plutonium to containers capable of withstanding high-speed air accidents.

Although the Congress has acted before to protect the public from the dangers inherent in the transportation of plutonium, our intent has been subverted by ERDA. In 1975, Congressman SCHEUER passed amendments to the appropriations of both the Nuclear Regulatory Agency and ERDA prohibiting the shipment of this material by air until a safe container was developed. Certain classifications, however, such as those deemed necessary to our national security and our public health, were exempted. Due to these broadly interpreted provisions, all of the 88 shipments authorized by ERDA during the past year were shipped in grossly inadequate containers—designed to withstand an impact only one-fifth as severe as that which would occur in the event of an actual air crash. In fact, under the current laws, ERDA is able to justify just about any air shipment of plutonium as being exempt from the reasonable safeguards we attempted to impose in 1975.

What would happen if there was an accident involving the leakage of plutonium? The Union of Concerned Scientists has stated that as little as one-millionth of a gram if inhaled could cause cancer in humans. Indeed, according to a study commissioned by the NRC, if plutonium was leaked in a metropolitan area, it could necessitate the evacuation of an entire city. This is of special concern to me because of the fact that this most toxic material is constantly being flown in and out of the Livermore Municipal Airport, located in the district I represent. Obviously, the continued use of the container presently in use would be tantamount to negligence on the part of the Federal Government.

ERDA now expects that a container capable of withstanding midair collisions will be in production within weeks. Regrettably, however, ERDA holds that it would not be required under present law to transport any of the types of plutonium shipments that it authorized last year in these newer and safer containers. Such an opinion is indicative of a callous disregard for the health and safety of those Americans who reside near the flight paths of plutonium shipments. In fact, such an interpretation of the law makes the prohibitions passed by Congress in 1975 absolutely meaningless.

Our amendment requires that ERDA use the new containers for all air shipments of plutonium after January 1978. Under the amendment, only certain national shipments could be exempted. In these rare cases of national emergency, the Secretary of Energy would be required to not only authorize personally the exemption, but also promptly notify both Houses of Congress of the shipment and of the reasons it was absolutely necessary. Since almost all of the so-called national security shipments of the past year could have been transported by alternate means, this requirement should serve to discourage strongly the air shipment of plutonium in anything but a safe container. Indeed, the use of surface transportation is a far more desirable method of transporting plutonium shipments either too large or otherwise unsuited for the new container.

It is important that the dangers inherent in the air transportation of plutonium be reduced. Due to the development of this new container by ERDA, this is now possible. The very least we can do is require its use. I urge you to support our amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. WIRTH).

The amendment was agreed to.

Mr. FITHIAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to engage in a brief colloquy with the distinguished chairman of the subcommittee, the gentleman from Alabama (Mr. FLOWERS), after which I would like to make a comment on the thrust of this bill.

Am I correct, Madam Chairman, in believing that the science and technology people would assume that over the next 5 years we would get somewhere in the vicinity of 10 percent of our total energy package coming from nuclear power, and possibly 15 percent?

Mr. FLOWERS. I think that is an accurate statement. It is somewhere in that neighborhood of the electrical energy needs of this country at this time. It will be progressively increasing as we move toward the end of the century.

Mr. FITHIAN. And if I am correct, President Carter has called for a 65-percent increase in coal production by 1985, if I remember the President's message correctly. Is that also correct?

Mr. FLOWERS. That is correct.

Mr. FITHIAN. Well Madam Chairman, my problem with this whole bill does not stem from any opposition that I have to nuclear power. As a matter of fact, I think nuclear power has to figure in our system in a very real way in the next 20 years if our energy efforts are going to be meaningful. My concern, Madam Chairman, stems from my belief that ERDA has given too little attention to coal and coal technology, and too much attention to nuclear power, in a relative sense. I would cite to the House the fact that in the present budget, taken from the report to H.R. 796, that approximately five times the amount of money is being allotted for nuclear power as to the entire coal research and development portion of our efforts.

Now, I do not know the figures, but I believe it is correct to say that all geologists and all assessments that anybody has ever read would indicate that in the next 100 years or 200 years or 300 years, coal must figure as the major element in the energy equation. Yet, I find in this bill an authorization to spend five times the amount of money on nuclear power development as on coal development.

I would be interested in the subcommittee's view and the full committee's view as to whether or not ERDA is going in the right direction with regard to our overall energy development, or whether we are not treating coal as a kind of a bastard child, sometimes to be remembered and occasionally to be put upon in terms of environmental questions or whatever, but we have not really addressed ourselves in the energy development of this country to coal. That is my basic complaint about what we are doing here with this bill in the past 2 days.

Mr. FLOWERS. Will the gentleman yield further?

Mr. FITHIAN. I will be happy to yield.

Mr. FLOWERS. I think the gentleman makes a valid point. That is not to say that I think we are spending too much, or authorizing too much, on nuclear research and development, but I tend to agree with the gentleman that there is not enough emphasis being placed on coal or coal technology by the Energy Research and Development Administration. We are very cognizant of that in my subcommittee, I will say to my friend from Indiana.

We have attempted in several different areas to stimulate the interest of the administration. I think the gentleman will find that in high Btu coal gasification, particularly in solid coal field and others, low Btu, in almost every aspect of emerging coal technology, which we will need for the future to use coal more and burn it cleaner, our committee has recommended an increase in what ERDA has come to us with.

Not only do we feel that increases are necessary, we want to see ERDA move ahead aggressively in coal research. Undoubtedly the gentleman is right, that we are going to have to burn more coal, but we will have to find ways to burn it cleaner, we will have to find better ways to get it to the marketplace, and all of these things require a great deal of work on the part of the Federal Government.

Mr. FITHIAN. I thank the distinguished chairman.

Madam Chairman, let me just say that if my figures are correct and if 90 percent of our energy resources in this country lie in coal, then it speaks ill of this House and of this administration and of our colleagues across the way in the other body when we look at an item that constitutes 90 percent of our energy resource and find only 18 percent of our energy production coming from that source. We in no way correct this gross imbalance in this bill. ERDA must be made to realize that we cannot continue to place such lopsided emphasis on one energy source at the expense of the major energy source available. That major source is coal.

Mr. STARK. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to discuss a matter regarding an amendment that I had intended to offer today.

I am delighted to announce that within the last couple of days the University of California has agreed to a new set of guidelines for relations with employee organizations. This is an historic agreement setting the stage for the establishment of a clear-cut and equitable labor-management policy. As the new guidelines are similar to those required by my amendment, I am withdrawing the amendment. In doing this, of course, I am relying on the good faith of the university to promulgate the guidelines without delay.

I am very pleased that the labor/management problem at the Lawrence Livermore Laboratory can be resolved in this manner. Clearly, an administrative solution is preferable to a legislative one. The ERDA authorization bill is no longer threatened with burdensome and what some thought to be confusing language. And the specter of endless litigation is removed. But most importantly, it is a proven fact that the most workable and effective labor policies have been achieved through voluntary agreements rather than legislative demands. Thus, I am very happy that the university has finally seen fit to accept its responsibility in achieving the resolution of a labor/management conflict.

I would now like to discuss in some detail the provisions of this agreement which covers not only the 6,700 employees of the Lawrence Livermore Laboratory, but also the entire university system totaling over 100,000 employees.

First. The agreement calls for the use of the State conciliation service for mediation in a dispute settlement.

Second. It provides for the establishment of a grievance procedure terminating in third party final and binding arbitration with an outside hearing officer chosen under the auspices of the American Arbitration Association. Furthermore, verbal assurance has been given by Dr. Archie Kleingartner's office that the rules of the American Arbitration Association will be basically adhered to in the arbitration process. The university will no longer be allowed to veto unilaterally a grievant's appeal.

Third. The university is obligated to deal with employee organization representatives "promptly upon the request of either party, at reasonable times, to confer in good faith, to freely exchange appropriate information, opinions, and proposals and to endeavor to reach agreement on issues of mutual concern." Furthermore, when requested by employee organization representatives the university will put in writing a statement from management confirming the results of the discussions or negotiations. It is my understanding that this statement will confirm the results of the discussions as agreed upon by both parties.

The substance of this agreement is very similar to the provisions of my amendment.

Where the amendment calls for an impartial grievance procedure including binding arbitration as the final step in all rights disputes in accordance with the rules of the American Arbitration Association, the agreement calls for the development of a proposal whose object is to provide third party binding arbitration as the terminal point for processing grievances.

Where the amendment calls for collective bargaining as defined in section 7 of the National Labor Relations Act, the agreement defines the obligation of the University of California to deal with employee organization representatives in terms of section 7 language.

Where the amendment calls for the use of the Atomic Energy Labor-Management Relations Panel for mediation services, the agreement calls for the use of the State conciliation service.

In essence, the agreement provides for that which my amendment provided that LLL employees will be afforded the basic recognized labor rights similar to those of their 80,000 counterparts at other Government-owned, contractor-operated ERDA facilities who are covered under the National Labor Relations Act. This is a great step forward in labor management policy at the Laboratory which has previously been marked by conflicting and overlapping procedures. I know that the establishment of one clear-cut set of guidelines based on commonly accepted labor practices will be beneficial to all those involved.

While the University of California will, of course, be ultimately responsible for the implementation of the guidelines, each campus and laboratory will tailor specific policies, in accordance with the U.C. guidelines, to its own needs. For instance, budgetary considerations at LLL and the contract with ERDA may make for a situation different from that of one of the campuses and accordingly the actual procedures in operation under the guidelines may show some variance.

I hope the university sees that implementation at all campuses and laboratory facilities is begun without delay. Specifically I would call for the scheduling of a meeting in the very near future with LLL management officials and all interested employee organization representatives to discuss the establishment of lab procedures under these guidelines. A member of my staff should be present to witness these discussions.

I would also hope that discussions on implementation of the guidelines would commence at LLL as soon as possible. There is no reason for them not to begin in a matter of days. In fact, I would hold that whether or not this agreement was in fact made in good faith will be demonstrated by the speed in which it is fully implemented. I would construe any procrastination as a breach of faith.

In conclusion, I want to thank Senator CRANSTON for his tireless efforts in including our amendment in the Senate version of this bill.

I also want to thank groups in California and Washington who have supported these efforts. Shortly after my election to Congress, when I began to hear about the lab's labor/management problems—arbitrary firings, wage disputes, reclassifications et cetera—I began compiling voluminous files on problems faced by lab employees. Last year, when I first thought of offering an amendment to the ERDA bill to remedy the situation, I sought the help of the California State Employees Association which had represented certain of these employees. CSEA has remained helpful and supportive throughout.

Finally, I want to thank other employee representative groups, especially the Laborers' International Union whose efforts have been tireless and who provided invaluable assistance in hammering out details of the agreement with the university and its representatives.

Perhaps most important, throughout this time, the members of the committee and the subcommittee involved have shown total patience and cooperation for which I am grateful.

It is been a long haul, but I think that finally, all parties can welcome the results.

Madam Chairman, I would like to read and insert in the RECORD the specific guidelines issued by the university:

UNIVERSITY OF CALIFORNIA
SYSTEMWIDE ADMINISTRATION,
Berkeley, Calif., September 19, 1977.

PRESIDENT SAXON, CHANCELLORS, LABORATORY DIRECTORS: The following is a set of guidelines for the University of California, including the Lawrence Livermore Laboratory, on relations with employee organizations.

1. The Use of Mediation in Dispute Settlement

The University recognizes the extensive use of mediation in both the private and public sectors. As a California State institution, the University favors the use of the State Conciliation Service because of its familarity with the relationship between the University and state government and state policies generally. The State Conciliation Service has been involved in the settlement of interest disputes at several of the University campuses. We expect Chancellors and Laboratory Directors and employee representatives to be familiar with the potential utilization of the Conciliation Service and to use it for the resolution of disputes within appropriate guidelines.

2. The Use of Binding Arbitration in Grievance Settlement

The University now has a grievance resolution procedure which we firmly believe has

worked well. It provides for advisory arbitration with a hearing officer or a committee appointed generally from the University faculty, or, if the grievant prefers, an outside hearing officer, chosen under the auspices of the American Arbitration Association. Our experience with the use of the American Arbitration has led to conclude that a grievance procedure terminating in final and binding arbitration will prove successful. The University recognizes the extensive use of a binding grievance resolution procedure in the private and public sectors. For that reason, I am developing a proposal whose object is to provide third party binding arbitration as the terminal point for the processing of grievances. I anticipate that after consultation, including with employee organizations, the study and the modified procedure will become effective in the near future.

3. The Matter of Reducing Agreements Reached With Employee Organizations to Writing

The University does deal with employee organization representatives now on matters of wages, hours, and other terms and conditions of employment. The University herein defines this obligation as including to meet promptly, upon request of either party, at reasonable times, to confer in good faith, to freely exchange appropriate information, opinions, and proposals, and to endeavor to reach agreement on issues of mutual concern.

When requested by employee organization representatives, the University is willing to put in writing a statement from management confirming the results of the meet and confer process.

(Signed) ARCHIE KLEINGARTNER,
Vice President.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. STARK. I yield to the distinguished gentleman.

Mr. TEAGUE. I thank the gentleman for yielding.

Madam Chairman, the gentleman in the well has been very instrumental in working out this solution to a very troublesome problem. There is no question that there were pluses and minuses on both sides. But labor representatives, university representatives and ERDA representatives have worked out an agreement, and I understand the statements of the gentleman in the well do set forth what has been agreed to.

Mr. Jack Curran, of the Labor International Union, called me this morning and said they were very satisfied with what has been worked out.

Mr. LUJAN. Madam Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

Madam Chairman, I would like to ask the gentleman, would that include only those employees of the University of California who are domiciled in California, or would that include employees in other States who may be under contract with the University of California?

Mr. STARK. Madam Chairman, the memo I have, which is signed by the director of labor relations for the university—and "systemwide administration" is what appears in the heading—indicates that these guidelines of the University of California, including the Lawrence Livermore Laboratory, would cover university employees, and I would presume it would cover them also if they were in another State.

In another State, however, as in the State of New Mexico, I assume that the State law there would prevail, so there may be some difference. But, basically, the three guidelines are listed, and interest disputes would come before the Caliofrnia State Conciliation Service. That obviously would not be possible in the State the gentleman from New Mexico (Mr. LUJAN) represents. They would use binding arbitration in grievance settlements, and they would reduce agreements with employee organizations to writing.

These are the basic tenets of the agreement, and I think if they are carried out in the same spirit in the State of New Mexico as they are in the State of California, the gentleman's constituents would be well served.

AMENDMENT OFFERED BY MR. OTTINGER

Mr. OTTINGER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OTTINGER: On page 71, lines 18 and 19, strike "legislation" and insert "any authorization and appropriation".

Mr. OTTINGER. Madam Chairman, the synthetic fuels loan guarantee provisions of this legislation indeed have been difficult. In fact, two very similar proposals were defeated by the 94th Congress, but the current proposal, while it still causes me grave apprehensions and I cannot support it, has been substantially restricted, safeguarding the public against some of the worst possible abuses. I therefore have decided not to oppose those provisions today.

LEGISLATIVE HISTORY

This legislation began in the summer of 1975, when the other body passed the ERDA authorization bill for fiscal year 1976 (S. 588; S. Rept. 94–332) and added a bobtailed loan guarantee provision with open-ended authorization. As soon as it was passed by that body, the former chairman of the Fossil Energy Subcommittee, Representative KEN HECHLER of West Virginia, wrote to ERDA on August 1, 1975, and asked a series of questions about the provision. Almost at the same time, one of the principal beneficiaries of the project, WESCO, which is composed of Texas Eastern Transmission Corp. and Pacific Lighting Corp., filed with ERDA on July 30, 1975, a proposal for "ERDA to provide Federal Guarantees for Construction and Permanent Financing of the WESCO Coal Gasification Project" in New Mexico (Hearings, Vol. I, No. 36, 94th Congress, page 1253).

Thus began a monumental series of hearings in September and October 1975 by the Hechler subcommittee prior to the conference on the Senate version (S. 588). The House version (H.R. 3474) of the ERDA authorization bill did not, at that time, contain a loan guarantee provision. Subsequently, a conference committee met and reported H.R. 3474 with a vastly changed loan guarantee provision which is remarkably similar to the proposal before us today, except that it authorized $6 billion for loan guarantees and it clearly and specifically provided that loan guarantees could be used to finance plants that would produce synthetic fuels commercially (see H. Conf. Rept. 94–696). That provision of the conference report was rejected by the House on December 11, 1975, by a vote of 263 to 140.

During the entire period prior to this defeat, WESCO representatives and other oil and gas interests lobbied intensively for this subsidy to the oil and gas industry.

In the second session of the 94th Congress, H.R. 12112 was introduced, which authorized up to $4 billion in loan guarantees for synthetic fuels as a first bite on the original $6 million program. In all other respects it was identical to the loan guarantee provisions in the conference report. Extensive additional hearings were held by the Science and Technology Committee. The bill was amended in the committee and reported on May 15, 1976 (H. Rept. 94–1170; see Dissenting Views, page 107, et seq.). One such amendment was to delete all references in the bill to the words "commercial demonstration." The committee said (page 28, H. Rept. 94–1170):

The amendment recommended by the Committee does not contain the phrase "commercial demonstration" which was a part of the language contained in H.R. 12112 as introduced. The Committee emphasizes that the bill as amended establishes a program to further energy research, development and demonstration. The loan guarantees contained in the amendment are for the purpose of achieving the demonstrations of the several technologies which can be built up to full scale. The bill, as amended, is merely for the purposes of demonstrating technologies and not for commercial plant production.

Thereafter, three more committees considered H.R. 12112 and issued reports: Committee on Banking, Currency and Housing (H. Rept. 94–1170, part 2, June 18, 1976); Committee on Ways and Means (H. Rept. 94–1170, part 3, June 21, 1976); and Committee on Interstate and Foreign Commerce (H. Rept. 94–1170, part 4, June 25, 1976). In September 1976, the full House of Representatives rejected H.R. 12112. Thereafter, on September 30, 1976, the House approved the conference report on H.R. 13350, which was the ERDA authorization bill for fiscal year 1977 and which included loan guarantee authority (CONGRESSIONAL RECORD, Sept. 30, 1976 p. 34154). However, the conference report failed passage in the Senate on the last day of the 94th Congress.

H.R. 6796

The provisions of H.R. 6796, authorizing loan guarantees for synthetic fuels are nearly identical to those in H.R. 12112 as reported in May 1975, and amended by the House Committee on Science and Technology and the Ways and Means Committee. The main difference is that this bill does not authorize price

supports for these projects, nor does it authorize any funding for the program.

There are, however, two important matters that deserve comment here.

As I mentioned earlier, the Science and Technology Committee improved H.R. 12112 by making it clear that the bill was not intended to build plants for commercial production. The report on H.R. 6796 is even more forceful in this regard. The report states (page 262):

This amendment addresses the need for demonstrating energy conserving technologies, urban waste conversion and technologies utilizing renewable resources, as well as the demonstration of the production of synthetic fuels. However, it must be clearly understood at the outset, that these demonstrations are not of full-sized commercial facilities. The Federal Nonnuclear Act, which this amends, only authorized demonstration of energy technologies, not commercialization of them. For example, the Administrator, pursuant to Section 7(d), could demonstrate a high Btu coal gasification plant which is approximately half the size of a commercially viable plant.

Chairman TEAGUE, in a July 13, 1977 letter to Congressman JOHN D. DINGELL, also reiterated this statement of the Committee:

We did try and think through the problem of the size of the facilities as we considered the legislation, and concluded that the report language coupled with the requirement for specific authorization was the best way to handle it. Our report on H.R. 6796 (H. Rept. No. 95-349, Part 1) states on page 262: "The Federal Nonnuclear Act, which this amends, only authorized demonstration of energy technologies, not commercialization of them. For example, the Administrator, pursuant to Section 7(d), could demonstrate a high Btu gasification plant which is approximately half the size of a commercially viable plant." This was written to be in concert with the Administration's Alternative Fuels Demonstration Program.

These statements are quite helpful in understanding the legislative history of this proposal, clearly, commercialization is not authorized, whatever the size of the plant.

Related to this issue is the understanding that loan guarantees are to apply only to "new technologies" as defined in letters first from FEA Administrator O'Leary and then from Secretary Schlesinger to the chairman of the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce. They make a number of important commitments on how this legislation will be implemented. I insert the letters in the RECORD at the end of these remarks.

The area of principal concern is the definition of the term "new technologies." WESCO plans to use a technology developed during World War II. It is not useful in connection with eastern coals. It is not new technology. I am pleased to see that Secretary Schlesinger has shown skepticism in his letters about supporting such technology. I believe that we should be in dire straits before the Federal Government subsidizes the giant energy companies in commercial (but uneconomic) production of a technology developed more than a quarter of a century ago. Surely our energy industry is more progressive than that. Surely, the American ingenuity can do better.

And surely the U.S. taxpayers should not be asked to subsidize multibillion-dollar corporations like Exxon—a previous applicant for H.R. 12112 guarantees—and Texas Eastern to undertake production which they find too unsound to invest in themselves. As Dr. Schlesinger states, Federal loan guarantees should be used only to finance demonstration of new technologies.

The O'Leary and Schlesinger letters follow:

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., May 24, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of May 17, 1977, concerning the proposed amendments to the Federal Nonnuclear Energy Research and Development Act of 1974 being considered by the House Committee on Science and Technology. Mr. Teague requested my technical views on these amendments and, as is our practice with respect to all such requests from the Congress, I provided them to him. As you will note in my reply, I specifically noted that explicit criteria for selecting and financing new energy technologies would be a useful addition to the Committee report. Such an addition would insure that only demonstration-scale projects which serve the public interest and meet our energy objectives would receive loan guarantee assistance. Loan guarantee assistance should not be a mechanism for the government to take over functions which the private sector ought to perform. This is an issue still under active consideration in the Administration and as you pointed out, the program falls within ERDA's purview.

The responses to the specific questions posed by your letter of May 17 are as follows:

Q. 1(a) What is your definition of "demonstration scale project"?

A. A "demonstration scale project" is a project which is sized to demonstrate, to the satisfaction of the financial and technical community, the commercial viability of the technology, including its economies, its environmental acceptability, its technological applicability, its socio-economic impact and such other factors as are appropriate. In order to achieve these objectives, demonstration plants must be sufficiently large to provide reliable projections for their economic and technical operating characteristics. Generally speaking, plants up to and including one-half of commercial scale i.e., projects sized for maximum economic return to the investors, can be regarded as demonstration plants. Thus a demonstration plant can produce commercial quantities of fuel, but at less than optimum costs.

For a coal gasification plant, a demonstration scale project would be one whose size was approximately 125 to 144 million cubic feet/day (cfd).

Q. 1(b) What is your definition of a "full-sized commercial" facility?

A. Within the context of the proposed Energy Research and Development Administration (ERDA) amendments, the term "full-sized commercial facility" is a term of art which refers to a facility sized to optimize the economics associated with it. It is important to note that less than "full-sized commercial" plants can produce commercial quantities of fuels, but at higher prices than optimally sized plants.

Q.1(c) Do you intend that the amendment *not* authorize loan guarantees for facilities producing synthetic fuels in commercial quantities, such as the WESCO proposal as approved by the FPC?

A. Yes, that is my view, since the WESCO plant which is a "full-sized commercial facility," with an output of about 250 million cfd, would exceed the limit that I have recommended.

Q.1(d) The amendment approved by the Science Committee authorizes loan guarantees for "full-sized" oil shale facilities, after a modular facility is demonstrated, and for commercial facilities of any size that do not cost more than $50 million. We understand your letter to state unequivocably that you *do not* support authorization of loan guarantees for "full-sized" oil shale facilities or for commercial facilities of any size regardless of their cost. Is our understanding correct?

A. Yes, that is correct. I do not support loan guarantees for commercial oil shale facilities because, it is my understanding that several oil shale operators have indicated a willingness to proceed with commercial ventures without government support.

Q.1(e) Would you support an amendment that limits loan guarantees to demonstration scale projects, as defined by you? If not, why not?

A. Yes, I would support such an amendment. As stated in my letter to Rep. Teague, the addition of loan guarantee authority would complement existing authority and provide a needed means of achieving public objectives in demonstrating new non-nuclear technologies.

Q.2 If a facility, such as a demonstration facility, is not capable of producing synthetic fuels in commercial quantities without adding more modules, we understand that it will not receive sufficient revenues to pay off a loan over the prescribed time. If such a loan is guaranteed by ERDA, such a situation is likely to result in default.

(a) What consideration did you give to this problem in writing your letter of May 11?

(b) How do you plan to overcome this problem in the case of any demonstration scale project?

A. I will answer these two questions together since they deal with the same basic concern. First, let me state that it is not my intent to propose the creation of a giveaway program or to provide a mechanism for the government to support projects which the financial community considers suspect.

Demonstration projects are by their nature marginally economic and, when they can attract the capital, are subject to high interest costs. Loan guarantees could reduce the interest costs and, most importantly, make the necessary capital available.

While the concern you raise is real, I believe that careful review and selection of the projects which are presented for loan guarantee assistance will minimize the risk of default. For example, the House Science and Technology Committee would require that ERDA give careful consideration to the cost of making the technology commercially viable, the price at which the energy would have to be sold and the ability to market the energy, as well as other factors, before it recommends the approval of the project. Additionally, the ERDA amendments would require that Congress approve the project before the loan guarantee is granted.

I believe that this screening process will insure only the most economically viable projects offering the greatest return to the public will receive the requested support.

Q. 3. You state that you believe "it is desirable that Congress have the opportunity to review each major project on its merits."

(a) What is your understanding of the

meaning of the term "major project" in dollar and product terms?

A. Consistent with the Non-Nuclear Energy Research and Development Act of 1974 and ERDA's proposed amendments, a "major project" would include any project in which the federal contribution to construction costs exceeds $50 million or where the Federal Government is contingently liable for $50 million or more, as in the case of a loan guarantee.

(b) We assume you mean that Congress should approve each "major project" by enactment of authorizing legislation and not merely through the appropriation process. Is our assumption accurate?

A. The amendment which I support would require the approval of each proposed major project separately by Congress. The Congress should determine which mechanism is the most appropriate for approving these projects. However, it should not be less than a line item budget review through the appropriation process.

Q.4(a) You also indicate that loan guarantees should be limited to "demonstrating new nonnuclear technologies." We note that the term "new technologies" is used in section 7(a)(7) of the Federal Nonnuclear Energy Research and Development Act of 1974.

(a) Please explain to us what this term means.

A. Since the Act is being administered by ERDA, I expect that they will develop the official or working definition for this term. However, I believe that it should include all technologies which are not now commercially developed in the U.S.

(b) Does it encompass coal, but not oil shale, technologies developed as far back as the end of World War II?

A. It is indeed my view that the term "new technologies" should be allowed to include, or at the least not exclude, coal technologies or any other technologies under development since or even before World War II so long as they have not been commercially demonstrated in the U.S. Were we to apply an artificial time horizon, we might exclude technologies which could make significant contribution to our energy policy.

Q.5 Your letter states that "the objective of the proposed amendments is consistent with the President's energy program." Please indicate what you mean by this statement, as we are unaware of any statements by President Carter endorsing legislation authorizing loan guarantees for synthetic fuels.

A. Although the President's National Energy Plan does not explicitly refer to loan guarantees for synthetic fuel development, it does envision some form of subsidy support through the demonstration phase.

It is clear that the plan envisions a flexible policy in determining the form of government assistance which would be most appropriate and cost effective for the various technologies to be considered and the different stages of their development. I believe that limited loan guarantees offer a cost effective mechanism for assisting coal gasification development through the demonstration phase.

Sincerely,

JOHN F. O'LEARY,
Administrator.

THE WHITE HOUSE,
Washington, D.C., June 13, 1977.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. DINGELL: This letter responds to your letter of May 25 posing a series of questions on the Administration's synthetic fuels policy.

The Administration's policy on the issues you raise was stated in the National Energy Plan as follows:

In the long run, high Btu synthetic gas produced from coal may provide a substitute for declining natural gas supplies. The Administration will pursue an active RD&D program for high Btu coal gasification using advanced technologies. The program will be conducted with the urgency required to ensure that the new technology will be ready when needed.

The basic Federal role in this process is research, development and demonstration of new technologies. In general, the Government seeks to avoid subsidization of existing technologies, although circumstances may sometimes merit an exception to that policy. (Plan, Pg. 69)

* * * * *

An effective Federal research, development, and demonstration (RD&D) program is indispensable for the production of new energy sources. Research is not an end in itself. The purpose of RD&D is to produce technologies for practical use. The final stage of a successful RD&D program is commercialization, the movement of a functioning technology into the marketplace.

The ground work for eventual commercialization should generally be laid during the RD&D stage. Before embarking on costly research projects, the Government should have the best possible information on prospects for economic success and institutional acceptance. As scientific and technical advances are made, economic and institutional barriers to commercialization should also be addressed, so that if technical success is achieved in the RD&D program, commercialization can take place rapidly.

However, Government support of scientific research and engineering development does not constitute a commitment to subsequent demonstrations of technologies that do not meet technical, economic, national security, health, safety, and environmental criteria. The Government should support multiple parallel technological options in their early stages, but it should not drift unwittingly into a long-term guarantee of support for all options initially pursued. Only those technologies that satisfy criteria for practical success should be supported into the demonstration stage. Recognition that early Government support should not be regarded as a blank check for the future should benefit the entire RD&D program.

Commercialization activities, and in particular commercial demonstration projects, also must not become a hidden subsidy of technically feasible but economically uncompetitive technologies. Where subsidies are justified, they should be awarded in an open process that is responsive to national priorities.

A balanced RD&D program should have near-term as well as long-term benefits, should promote conservation and nonconventional resources as well as conventional resources, should support small-scale as well as large-scale projects, and should enlist the talents of individual inventors and small business as well as major corporations. . . . (Plan Pg. 79)

Answers to your specific questions follow:

Q1: "Clearly, the current ERDA statutes authorize subsidies for demonstrations. The issue is whether the Administration is *now endorsing* legislation authorizing loan guarantees to subsidize "marginally economic" demonstration plants that "produce commercial quantities of fuel, but at less than optimum costs," and that use "technologies under development since or even before World War II so long as they have not been commercially demonstrated in the U.S.". That is what Mr. O'Leary has endorsed.

"(a) Is the Administration now endorsing that broad a program?

A: The purpose of a Federal energy RD&D program is ". . . to develop technologies that will use energy more efficiently as well as those that will enlarge the supply of economical, environmentally acceptable sources of energy. In such an RD&D program it may be necessary to address economic and institutional issues in addition to strictly technological questions, but any determination must be made on a case-by-case basis. As the policy states we would not propose to the Congress "a hidden subsidy of technically feasible but economically uncompetitive technologies". The application of generic loan guarantee authority will be implemented in accordance with the policy guidelines quoted above.

Q2: "The amendments adopted by the Science Committee do not limit the size of a demonstration plant to 'one-half of commercial scale'. I note that in February, 1976, ERDA defined, in testimony before the Science Committee, demonstration plants as follows (Hearings, Pg. 78):"

"A demonstration plant is of sufficient size to eliminate doubt as to the process economics and performance of a commercial size plant. A commercial facility, as considered under the loan guarantee program is concerned with the resolution of commercial and financial uncertainties as well as social and environmental costs of the technical process.

"Mr. O'Leary's definition, although somewhat more wordy, closely parallels that of ERDA in 1976. Remember, in 1976, ERDA called H.R. 12112 a 'commercial demonstration program' and endorsed that concept. Please explain to me how Mr. O'Leary's definition really differs from ERDA's 1976 definition."

A: The optimal size of a plant to demonstrate commercial viability would vary with the technology. Mr. O'Leary's definition is not substantially different from the definition by ERDA in 1976 that you quoted. However, I believe that they are both generally descriptive of such plants and should be read in conjunction with the general policy that "only those technologies that satisfy criteria for practical success should be supported into the demonstration stage."

Q3: "At that same hearing, ERDA said that the objective of its present fossil energy demonstration program which now provides subsidies to 'support' demonstration 'is to establish the feasibility of advanced technolgies; i.e., second- and third-generation processes' through construction of 'single module demonstration-sized plants using commercial-sized equipment' that could serve as a 'nucleus of commercial plants by their replication in kind'."

"(a) Is it your understanding that World War II technologies, not yet demonstrated in the U.S., would be encompassed by the term 'advanced technologies'? Please explain."

A: The Administration's policy contains two elements: demonstrating new technology and overcoming economic and institutional barriers to commercialization. Both need be assessed on a case by case basis. Technologies which are well within the state-of-the-art will be less likely to need demonstration support than those that are more advanced, but would not be ruled out if there were substantial advantages to demonstrating economic and institutional viability. Our policy is that "In general, the Government seeks to avoid subsidization of existing technologies, although circumstances may sometimes merit an exception to that policy".

Q3(b): "What is the relationship of this loan guarantee demonstration program to the 'High Btu Coal Gasification Test Facility' program discussed in the Science Com-

mittee report (H. Rpt. 95-349, Part 1, pp. 40-43) and for which $20 million is authorized in FY 1978? The report states that the test facility would 'demonstrate and evaluate first and second generation gasification technologies in a single installation'. Why do we need loan guarantees to do the same thing?"

A: The generic loan guarantee authority is not confined to coal gasification. It could enable us to expand the research and development program for a variety of technologies at a pace faster than would be possible in its absence. Loan guarantee authority is adaptable to demonstrations of promising new technology by entrepreneurs who could not otherwise raise the capital. Thus demonstrations of technologies including biomass, wind power, and other decentralized technologies as well as promising second generation high-Btu technologies and projects for converting wastes to high-Btu gas could be advanced by loan guarantees.

Finally, we understand from conversations with your staff that you wish to know whether the Administration has any objections to project-by-project review by the authorizing committee as well as review for any necessary appropriations, and also whether alternatives to loan guarantees—such as all-events tariffs—would be considered. Our response is that we are in agreement that projects where significant sums are being guaranteed should be reviewed by Congress on a case-by-case basis and we have no objection to the normal requirements for authorization as well as appropriation. We will, of course, examine the alternatives to loan guarantees for all projects and utilize loan guarantees only where it is the best approach to carry out our policy.

Sincerely,

JAMES R. SCHLESINGER,
Assistant to the President.

Mr. OTTINGER. I continue to oppose these loan guarantee provisions because I think they encourage the United States to continue down the wrong energy path, the so-called hard path of huge capital cost, centralized, high-technology solutions.

I also think that Federal loan guarantees are a dangerous Federal intrusion into our capital markets and an invasion of our budget processes. I feel loan guarantees are properly used only to finance small companies that cannot otherwise raise capital, and then only to demonstrate genuinely new or unproven technology that could not otherwise attract capital in the marketplace. I thus have supported limited loan guarantees for the introduction of new electric car or other alternative engine concepts, and for solar, geothermal and biomass demonstration projects, provided the amounts are sufficiently restricted to assure their benefits are directed to relatively small companies.

I have one further concern about approving these loan guarantee provisions in this bill. The Senate has passed broader synthetic loan guarantee authorities, without many of the important protections provided in this bill. The sentiment on the House Science and Technology Committee is clearly in favor of an expanded synthetic fuels program. I fear that some of the protections we worked so long and hard to have included in this bill might get dropped or diluted in conference.

Lastly, ERDA and the new FEA Director have shown no appreciation whatsoever of the dangers of loan guarantees or the need for restriction of their use to protect against a raid on the Treasury by the large energy companies; indeed, they have been intimately involved in helping these companies try to obtain the broadest guarantees possible. There is, therefore, reason for concern that whatever authority we may grant will be abused and whatever restrictions we provide, evaded or even ignored. In the past, ERDA has proceeded without first obtaining the results of studies they themselves described as crucial for a sound determination and without reports to Congress it promised to deliver. The ERDA "Congressional Relations" lobbyists have virtually panted for unrestricted loan guarantee authority. Moreover, as a recent GAO report notes, ERDA failed to adequately administer the Coalcon project. The result is that the project has been terminated at a cost of over $15 million to the taxpayers.

So, from every vantage point, I think passage of these synfuel loan guarantee authorities is dangerous and unwise.

I refrain from another effort to delete these provisions this year only because of my confidence in the honor of the gentleman from Texas, our good chairman, Mr. TEAGUE.

He held endless hearings on these provisions to hear the environmental, community, and budgetary problems with these provisions. He supported the numerous protections we added. He has assured me he will seek to preserve these protections in conference and enforce their observation by ERDA and its successors in the Department of Energy. He has acted in the utmost of good faith and with infinite patience. The House is weary of dispute on this issue, and it would be a substantial imposition, having had these many protections adopted, to put our colleagues through this fight again.

Therefore, noting my severe reservations, relying heavily on the great integrity of our chairman, and having been assured that the protections adopted in committee and contained in the bill and report as previously described will be retained, I am not opposing this provision today.

Madam Chairman, I do have some questions to raise with respect to the amendment I have offered. It is a technical problem, and I do not intend to press the amendment; I intend to withdraw it. First, however, I would like to engage in a short colloquy with the chairman of the committee.

My amendment is technical in nature and clarifying. It amends the new section 19(m) which is proposed to be added to the Federal Nonnuclear Energy Research and Development Act.

The questions, I would like to ask Chairman TEAGUE are as follows:

It is my understanding that under this section the ERDA Administrator must submit a detailed report to the appropriate committees of Congress on each demonstration project and all related agreements or contracts before the Administrator makes any guarantee or commitments to guarantee under section 19. Is that correct?

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Texas.

Mr. TEAGUE. The gentleman from New York is correct.

Mr. OTTINGER. Of course, under the provision, the ERDA Administrator is expected to take all actions required under section 19 that can be completed before submitting that detailed report to the committees so that the committees and, of course, the public will be considering a proposal that is ready for execution by ERDA. Indeed, presumably the ERDA Administrator will include his recommendations in that report.

Mr. TEAGUE. That is correct.

Mr. OTTINGER. Do you agree that the appropriate committees then have 90 calendar days to consider that report and ERDA cannot take any final action on the proposed guarantee or related project agreements during this 90-day period?

Mr. TEAGUE. I agree, but I observe that the 90-day period does not run during any time that either House adjourns for more than 3 calendar days to a day certain.

Mr. OTTINGER. During this period, the committees could hold hearings on the proposal and make recommendations to ERDA, but they could not veto it, except by Congress enacting a later law or resolution vetoing the project. Is that correct?

Mr. TEAGUE. Yes.

Mr. OTTINGER. Where the actual cost of the entire demonstration facility for which a loan guarantee is sought exceeds $50 million, then there must also be a report submitted to the committees, but no loan guarantee agreement can be finalized by ERDA until Congress approves it through the enactment of an authorization bill and an appropriation bill, or a resolution is passed by both Houses in which the Congress states it favors the project. Is that your understanding of the provision?

Mr. TEAGUE. Yes.

Mr. OTTINGER. Passage of such a resolution would, of course, not obviate the need for an Appropriation Act pursuant to subsection (u) of section 20. Would you agree?

Mr. TEAGUE. Yes.

Mr. OTTINGER. I thank the distinguished gentleman from Texas who has been very patient and fair in the handling of this very difficult and controversial synthetic fuel legislation.

Mr. TEAGUE. I am aware of the gentleman's previous concern about some of the project sponsors. I was pleased to know of Mr. OTTINGER's support for loan guarantees based on the colloquy we have just had because of the history of previous opposition, however well intentioned. I am also pleased to note that the administration's earlier comments on this provision have also been clarified in respect to full-sized facilities by the

letters of Mr. James Schlesinger to Mr. JOHN DINGELL and me.

The ERDA authorization bill for fiscal year 1978, H.R. 6796, contains an amendment to the Non-Nuclear Energy Research and Development Act of 1974 which would provide authority to ERDA or its successor agency in the Department of Energy to use loan guarantees in the development of alternative forms of energy.

I want to make it clear that it is not the purpose of this amendment to write into the Non-Nuclear Act limitations which would restrict the latitude of the agency in administering loan guarantees not now imposed in authorizing other forms of assistance.

The Congress has indicated in section 8 of the act the applicability and intent of the act regarding demonstrations of full-size commercial facilities. This section authorizes the Administrator to "enter into cooperative agreements with non-Federal entities to demonstrate the technical feasibility and economic potential of energy technologies on a prototype or full-scale basis." The act is clear in that the intent of Congress is that commercial scale facilities qualify for assistance.

If the development of coal gasification is to proceed through the assistance of loan guarantees it is important that the agency be able to look at different demonstration projects under this legislation with respect to coal, environmental, and socioeconomic impact and other geographical limiting parameters. The agency must be free to consider all of the coal gasification projects so far announced based on their contribution to the energy technology and inventories of this country and not have that selection unnecessarily narrowed through prejudgment of legislation establishing procedure, eliminating what otherwise would be viable projects.

This section 210 contains no explicit language which limits the size of the facility to be demonstrated. The optimal size of a demonstration plant would vary with the technology and with the particular situation. For example, if the administration was considering proposing a high Btu coal gasification plant demonstration, they might choose to guarantee construction of a commercial size plant, or one that is smaller than commercial size. However, if by choosing the smaller size it thereby limits the number of potential participants that could bid on the project to only one, then the success of the project would be seriously jeopardized. A better public policy and a sound R.D. & D. policy would be to build a plant which would provide sufficient participants to bid for the award. The language of section 210 does not prohibit the Administrator from ERDA from making this choice to upgrade the size of the facility.

The language of the bill provides that all projects which exceed $50 million will require individual review and specific approval by both Houses of Congress through separate legislation. Congress will have ample opportunity to closely review the choice of the Agency before approving or disapproving authorizing legislation. With this authorization safeguard in place it is important now that the agency get on with the task before it and not be restricted in the review of the type and number of projects which can help to mitigate the energy shortfall in this country.

Madam Chairman, if the gentleman will yield further, I would like to express appreciation to the gentleman from New York (Mr. OTTINGER) for his patience in an attempt to work out something that we needed to work out and that we have worked out. I thank the gentleman.

Mr. OTTINGER. Madam Chairman, I thank my chairman, the gentleman from Texas.

Based on our previous conversations, I had given notice to the House that I would offer two other amendments. I will not be offering those amendments, Madam Chairman. I withdraw them.

The CHAIRMAN. The amendments are withdrawn.

Mr. OTTINGER. Madam Chairman, I ask unanimous consent to withdraw the amendment now pending.

The CHAIRMAN. Without objection, so ordered.

AMENDMENT OFFERED BY MR. TSONGAS

Mr. TSONGAS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TSONGAS: Page 78, after line 25, add the following new section (and redesignate the succeeding section accordingly):

SEC. 211. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906), as amended by section 210 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(8) Federal loan guarantees under section 20: *Provided*, That all of the other provisions of this Act shall apply to such guarantees in the same manner and to the same extent as they apply to demonstrations under this Act.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is amended by adding at the end thereof (after the new section added by section 210 of this Act) the following new section:

"LOAN GUARANTEES FOR COMMERCIAL BIOMASS DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a commercial demonstration program to produce on a commercial scale synthetic fuels and other desirable forms of energy from biomass;

"(2) to authorize loan guarantees for the construction and startup and related costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels and other forms of energy; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such commercial demonstration facilities.

"(b)(1) The Administrator is autorized in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels; and (B) financing the construction and startup costs of commercial demonstration facilities to generate desirable forms of energy (including synthetic fuels) in commercial quantities from bioconversion. The outstanding indebtedness guaranteed and committed to be guaranteed under clauses (A), and (B), of this paragraph shall at no time exceed $300,000,000.

"(2) An applicant for any guarantee under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5) With respect to any demonstration facility for the conversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed does not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all available forms of assistance under this section and other Federal statutes, that the impacts directly resulting from the proposed commercial demonstration facility have been fully evaluated by the borrower, the Administrator, and others;

"(6) the maximum maturity of the obligation does not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(d) At least sixty days prior to submit-

ting a report to Congress pursuant to subsection (m) of this section on each guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official recommends against making such guarantee or commitment, the Administrator shall not do so unless he determines in writing that such guarantee or commitment is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee under subsection (b) of this section if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing to the Governor reasons for not concurring with such recommendation. The administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any commercial demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, and start-up costs.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the commercial demonstration facility if the Administrator determines that this is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) (including any payment of principal and interest under subsection (h)) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patent and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accordance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, the holders of the obligation, for and on behalf of the borrower, from the fund established by this section, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (s) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by clauses (A) and (B), of subsection (b)(1), in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(k)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy.

"(2) The report submitted under paragraph (1) of this subsection shall include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, and the Department of Agriculture.

"(3) The comprehensive plan and program described in paragraph (2) shall include, but not be limited to—

"(A) information about potential commercial demonstration facilities proposed in the program under this section;

"(B) any significant adverse impacts which may result from any activity included in the program;

"(C) proposed regulations required to carry out the purposes of this section;

"(D) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program; and

"(E) methods and procedures by which the information gathered under the program will be analyzed and disseminated.

"(4) The report required under paragraph (1) of this subsection shall be updated and submitted to the Congress at least annually for the duration of that program under this section.

"(l) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed commercial demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of such commercial demonstration facility exceeds $50,000,000, such guarantee or commitment to guarantee shall not be finalized if prior to the close of such ninety-day period either House passes a resolution stating in substance that such House does not favor the making of such guarantee or commitment.

"(m)(1) There is hereby created within

the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), and (B), of subsection (b)(1) and subsections (g) and (h) of this section.

"(2) There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A) and (B) of section (b)(1) and subsections (g) and (h) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purpose for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(n) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(o) An applicant seeking a guarantee under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(p) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided,* That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and specifically, that in accordance with this agreement, (1) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (2) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (3) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(q) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(r) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided,* That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.

"(s)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a commercial demonstration facility under this section; or

"(ii) has any known financial interest in property from which biomass or other energy resources are commercially produced in connection with any commercial demonstration facility receiving financial assistance under this section,

shall, beginning February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall

"(A) act within ninety days after the date of enactment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(t) Nothing in this section shall be construed as affecting obligations of any borrower receiving a guarantee pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(u) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided,* That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further,* That the Administrator shall, upon request, provide such information (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman. For the purposes of this sub-

section, the term 'person' shall include the borrower.

"(v) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under subsection (b)(1), the authority to make contracts under subsection (h), the authority to charge and collect fees under subsection (j), and the authorities under subsection (m) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge, and oceanic and terrestrial crops.".

On page 48, line 14, and page 49, line 5, strike out "biomass,".

Mr. TSONGAS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TSONGAS. Madam Chairman, title II refers to the provisions with respect to conversion to synthetic fuels from coal, et cetera.

Our concern is with regard to the biomass section which relates to urban waste conversion which, for example, take place today in Saugus, Mass., and in other places, which we think is not adequately addressed.

Madam Chairman, my amendment to the bill, which was contained in the Senate version, passed both the House and Senate last year, but was lost in a filibuster on the Senate floor. It provides for $300 million in loan guarantees for biomass conversion, specifically looking to conversion of urban waste, solid waste, agricultural wastes, and so forth, to direct energy and synthetic fuels and also deals with other such aspects of biomass conversion.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for yielding.

I should like to point out that already we have two provisions in the bill that impinge upon this very subject: One is the overall loan guarantee authority for alternative fuel demonstration facilities, a subject which came up in the colloquy just a moment ago between the chairman and the gentleman from New York (Mr. OTTINGER); the other is title IV, which authorizes grants and contracts for municipalities to convert wastes to energy.

The provisions of the amendment which the gentleman is suggesting be added today are identical to those that were included in the ERDA authorization package for 1977, which failed in the other body in the last hour. It is appropriate to include them in this bill so long as we keep in mind the fact that the primary thrust of this particular amendment is to help municipalities convert their wastes into energy.

Would that not be the gentleman's concept?

Mr. TSONGAS. That would be the primary thrust of the amendment. Other entities would also be eligible, however.

Mr. McCORMACK. Certainly.

We have already requested the legislative counsel to analyze the three overlapping provisions which would occur in this bill, given the adoption of the gentleman's amendment. We would like to have available for the conference committee a consolidation of the three provisions. We have already been advised that there are no conflicts involved, and it should be a relatively straightforward process.

Given those understandings I would be happy to accept the gentleman's amendment.

Mr. TSONGAS. If the gentleman would yield, the issue I am concerned about, however, is that the $300 million loan guarantee authority not be transferred laterally to the same section, namely, synthetic fuels which we fought over last year by having the biomass section withdrawn.

Mr. McCORMACK. I agree with the gentleman on that. I believe we want to keep that authority as is provided in the gentleman's amendment.

Mr. TEAGUE. Madam Chairman, I am pretty sure the gentleman knows the history and intent of our committee. We have pressed forward, in favor of biomass research.

Mr. TSONGAS. Yes.

Mr. TEAGUE. Of course we cannot tell the gentleman what the conference will do. The gentleman knows that we are bound by the House and by the rules of the House. I do not think the gentleman has anything to be worried about. As I say, the history of our committee has been to encourage that which the gentleman wants to do, to support research and development for production of energy from biomass sources.

Mr. OTTINGER. Madam Chairman, if the gentleman will yield, I wonder if I could ask the chairman for some additional assurances. I am concerned that this not be used as a means for eliminating the various protections we agreed on in the loan guarantee program, the environmental agreements, the agreements to protect local communities in the course of the combination of this provision with the loan guarantee program mentioned by the gentleman from Washington, and I would like to have some assurances.

Mr. TEAGUE. The gentleman from New York (Mr. OTTINGER) will be one of the conferees if he so wishes. I cannot give the gentleman other assurances.

Mr. OTTINGER. All I wish to ask for is your assurance on the position you are taking and on the position of the gentleman from Washington.

Mr. TEAGUE. I do not know what position the gentleman is asking me to take. I have stated to the gentleman the whole purpose of the committee and the whole history of the committee.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOWERS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I will be glad to try to wind up with the gentleman from New York (Mr. OTTINGER) and the gentleman from Kansas (Mr. GLICKMAN) their concerns about this. Let me say that it appears to me you are asking us for assurances when you are giving nothing in return. The amendment is being accepted. It is part of the legislation. We support it. There is no problem there.

Mr. OTTINGER. What I am concerned about is the author's intention.

Mr. FLOWERS. It is clearly stated in the legislative history. There is nothing devious going on here. Something we are interested in, I will say to my friend from New York, is to have support for a synthetic fuels loan guarantee program as well. I am not sure that we have support from the gentleman from Massachusetts (Mr. TSONGAS). Let me ask the gentleman from Massachusetts (Mr. TSONGAS) do we have your support for the other aspects of the guarantee program?

Mr. TSONGAS. Which aspect, title II?

Mr. FLOWERS. Title II, yes.

Mr. TSONGAS. You have my support.

Mr. FLOWERS. Where is the other loan guarantee? Is it in title IV?

Mr. TEAGUE. It is in title IV.

Mr. FLOWERS. That is right.

Mr. TSONGAS. I support the provision in title IV, as well.

Mr. FLOWERS. How about the gentleman from Kansas? Does the gentleman wish me to yield?

Mr. GLICKMAN. I would like to ask some questions and I would like to do it on my own time.

Mr. FLOWERS. I think what we are all trying to do is to finish with this bill this afternoon so that we can quit early.

Mr. THORNTON. Madam Chairman, if the gentleman will yield, in order that I may proceed quickly on my own to offer my amendment, an amendment which simply brings this loan guarantee program into conformity with the language which we voted earlier, among other things I would like to exchange with the gentleman is his understanding as to whether my amendment to his amendment would be accepted?

Mr. TSONGAS. Madam Chairman, I read the gentleman's amendment and concur in it.

AMENDMENT OFFERED BY MR. THORNTON TO THE AMENDMENT OFFERED BY MR. TSONGAS

Mr. THORNTON. Madam Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. THORNTON to the amendment offered by Mr. TSONGAS: In subsection (g)(4), insert after the word "facility", which appears in the phrase "facility shall be available to the Government", the following "in case of default".

In subsection (q), insert after the word "shall" the following: "in case of default".

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. THORNTON).

Mr. THORNTON. Madam Chairman, I shall not take the 5 minutes. This is similar to the amendment which has been previously adopted by this committee with regard to the loan guarantee programs established by section 210. This amendment provides that patent rights should not automatically become the property of the Government unless the project goes into default and the

Government puts up some money under its loan guarantees. The earlier amendment was accepted, and adoption of this amendment would conform the language to that previously adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas (Mr. THORNTON) to the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS), as amended.

The amendment as amended was agreed to.

Mr. GLICKMAN. Madam Chairman, I move to strike the last word.

Madam Chairman, I do support the amendment. First of all, I would like to thank my subcommittee chairman, the gentleman from Washington (Mr. MCCORMACK), for his help in getting funds for biomass, and specifically for alcohol and gasoline blends in this bill, and I appreciate his interest.

I am particularly interested in biomass as it relates to alcohol production. I would like to ask the author of the amendment a couple of questions. One, would the gentleman's amendment to provide loan guarantees to finance these projects using biomass cover not only the use of solid wastes but also fuels produced from growing crops such as wheat, corn, sugar cane, and others, related to growing crops?

Mr. TSONGAS. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. I thank the gentleman for yielding.

I would say to the gentleman that the definition in the amendment includes the concerns of the gentleman.

Mr. GLICKMAN. Would the loan guarantees include those projects producing alcohol and alcohol-based products and derivatives from growing crops, solid waste, and other materials generally defined as biomass-related?

Mr. TSONGAS. If the gentleman will yield, yes, they would.

Mr. GLICKMAN. Madam Chairman, I strongly support this amendment. I would point out to this body that the Senate Finance Committee just yesterday approved, by a vote of 16 to 1, an exemption from Federal gasoline taxes for alcohol-based fuels using a 10-percent blend. I think that this phenomenon of utilizing alcohol as a blend in existing automobiles is a technology that is coming here and should be expedited.

Mrs. FENWICK. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I wonder if in the definition of crops might be included waste products from lumber and wood products?

Mr. GLICKMAN. I yield to the gentleman from Massachusetts for a response.

Mr. TSONGAS. The definition includes timber wastes. That, I believe, is what the gentlewoman is referring to.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I agree with the gentleman 100 percent. We should be pushing much further on the development of fuels from crops and alcohol-based fuels.

I would just like to ask the gentleman from Massachusetts one question. I assume in his definition as stated in the amendment biomass is a reference mainly to solar-energy-derived products, not only animal and timber waste, sewerage sludge, and oceanic and terrestrial crops—of course, including the alcohol fuels that the gentleman from Kansas referred to. This would exclude domestic coal conversion, oil shale, and other synthetic fuels projects, as far as his amendment is concerned.

Mr. TSONGAS. If the gentleman will yield, the gentleman is correct in his understanding of the amendment. The amendment is specifically for loan guarantees to biomass technologies, and specifically not for use for synthetic fuels—to include coal conversion and gasification, oil shale, and other synthetic fuels projects.

Mr. OTTINGER. I thank the gentleman.

Mr. GLICKMAN. Madam Chairman, I would like to commend my colleague from Massachusetts for the amendment we are now considering and for including crop production within his definition of biomass. I am convinced that alcohol-gasoline blends can take us a long way toward dealing with this energy problem, and I have been working to bring these blends into commercial use ever since I entered the House 9 months ago. This technology can improve our energy situation without imposing hardship on any Americans. And the technology is readily available, it just needs a push.

Though I have received differing reports from auto manufacturers, it is generally agreed that cars now on the road could run on gasoline-alcohol mixtures containing 5-percent alcohol. Use of 5 percent blends would mean a savings of 5 billion gallons of gasoline annually. Some manufacturers, Chrysler for example, indicate that cars now in use could be fueled with blends of up to 10-percent alcohol with no adjustments whatsoever. That would mean even greater energy savings.

But the technology just has not been developed commercially. I see two reasons why. First, the oil companies do not control the resources used in alcohol production—agricultural commodities, urban wastes, animal and timber wastes, and they would be forced to compete in the market place for some of their raw materials, just as American citizens have to buy our energy supplies in the market place.

Second, the economics of the technology have not been favorable. But this is changing rapidly. Today, depending on the particular blend, "gasohol" costs less than 5 cents per gallon more than unleaded gasoline.

I am afraid that the private sector just will not develop this technology without a push from the Government. In fact, several pushes might be needed. We need to act on several fronts. I am working to exempt these blended fuels from the Federal excise tax on gasoline. There have been proposals to adjust the tax treatment of distilleries producing alcohol for fuel. Representative TSONGAS' amendment to provide loan guarantees for commercial biomass demonstration facilities would help move "gasohol" along as well. I urge all of my House colleagues to join me in supporting this effort.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TSONGAS), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. The question is on report title III.

The Clerk read as follows:

TITLE III—AUTOMOTIVE TRANSPORT RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Transport Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobiles, on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, safety, and energy conservation;

(2) advanced alternatives to existing automobiles could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobiles could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile technology;

(4) an expanded research and development effort with respect to advanced automobile technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy, safety, and environmental problems are urgent, and therefore advanced automobile technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress in this title to—

(1)(A) direct the Energy Research and Development Administration to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile, automobile propulsion systems, and automobile components; and

(3) supplement, but neither supplant nor duplicate, the automotive research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile" means a personal-use transportation vehicle which is fuel-propelled and is energy-efficient, safe, reliable, damage-resistant, and environmentally sound, and which—

(A) requires, consistent with environmental requirements, the least total amount of energy to be consumed with respect to its fabrication, operation, and disposal, and represents a substantial improvement over existing automobiles with respect to such factors;

(B) to the extent practicable, is capable of utilizing different types of fuel;

(C) can be mass produced at the lowest possible cost consistent with the requirements of this title;

(D) has a projected ownership cost to the first owner which is competitive with automobiles of the same size and class which are produced using standard technology, taking into account the other features of such advanced automobile which may justify costs different than those associated with standard technology;

(E) operates safely and with efficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

(F) to the extent practicable, is capable of intermodal adaptability; and

(G) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including requirements for fuel economy, exhaust emissions, noise control, safety, and damage resistance;

(3) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(4) "advanced automobile subsystem" means a subsystem which impacts materially the performance of the automobile in terms of fuel economy, environmental impact, safety, damageability, or reliability, and for which there is promise of technological improvement in such performance through research and development;

(5) "damage resistance" refers to the ability of an automobile to withstand physical damage when involved in an accident;

(6) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(7) "fuel" means any energy source capable of propelling an automobile;

(8) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

(9) "integrated test vehicle" means a vehicle which incorporates an advanced automobile propulsion system and other advanced automobile subsystems which have not gone through production engineering and have not been made ready for mass production, and which are used to determine, when functioning in an integrated manner, the compatibility and performance characteristics of these advanced subsystems over their useful life, (A) consistent with the Nation's need to increase substantially automobile fuel economy, to reduce substantially environmental impact, to conform to Federal requirements, including safety and damageability standards, and otherwise to provide automobiles satisfactory to consumers without unduly compromising the advanced automotive propulsion system and other subsystems; and (B) compatible with the criteria for an advanced automobile, and provided that such vehicle shall not be designed as a production prototype;

(10) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(11) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(12) "safety" refers to the performance of an automobile or automobile system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(13) "Secretary" means the Secretary of Transportation; and

(14) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems, advanced automobile subsystems, and integrated test vehicles;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used, except that in integrating the various features of an automobile for the purpose of constructing integrated test vehicles, the Administrator shall incorporate advanced technology with respect to safety, damageability, and the other features of an integrated test vehicle in a manner which recognizes the automobile as a personal transportation system;

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry;

(4) require that not less than 75 per centum of appropriated funds shall be expended for development of the advanced automotive propulsion system; and

(5) insure that no more than thirty integrated test vehicles shall be produced.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for—

(1) research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives;

(2) research and development on other automobile subsystems in which possible improvements can be identified and which are suitable for inclusion in an integrated test vehicle; and

(3) the integration of advanced automobile propulsion systems developed under this program, with other advanced automobile subsystems developed under this program or elsewhere, into integrated test vehicles, which will be fully tested to determine the characteristics of such advanced propulsion system and other subsystems when integrated.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobiles.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administrator shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(1) supplements the automotive research and development efforts of industry;

(2) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(3) avoids duplication of private research and development.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the maximum extent practicable in the areas of safety and damageability research and development and, to the extent deemed appropriate by the Administrator, in other areas of research and development on automobile technology; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c), in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality

of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environment Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each integrated test vehicle developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all tests data and the results of such tests to the Administrator.

(c) The Secretary shall test, or shall cause to be tested in a facility subject to supervision by the Secretary, each type of integrated test vehicle developed in whole or in part with Federal financial assistance under this title, or referred to the Secretary for such purpose by the Administrator, to determine whether such vehicle complies with any standards promulgated as of the date of such testing, or reasonably expected to be promulgated in the future, under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and whose provisions are applicable to automobiles where testing would be appropriate. All test data and the results of all tests conducted by the Secretary shall be submitted to the Administrator.

(d) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant".

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under sections 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile technology; and

(5) suggestions for improvements in advanced automobile research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Transport Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $25,000,000 for the fiscal year ending September 30, 1978.

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA

Mr. BROWN of California. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California: Strike out title III (beginning on page 79, line 18, and ending on page 97, line 2) and insert in lieu thereof the following:

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Propulsion Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress in this title to—

(1)(A) direct the Energy Research and Development Administration in cooperation with the Department of Transportation to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research

and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advanced automobile;

(3) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(4) "fuel" means any energy source capable of propelling an automobile;

(5) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f–5);

(6) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(7) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the ease of diagnosis and repair of an automobile, its systems, and parts in the event of failure during use or damage from an accident;

(8) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(9) "Secretary" means the Secretary of Transportation; and

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administration shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(1) supplements the automotive propulsion system research and development efforts of industry;

(2) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(3) avoids duplication of private research and development.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes of this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 303. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Administrator; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c) in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title.

(b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environment Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(e) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in an appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Administrator.

(c) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purposes of this title, the term "con-

tract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant".

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under sections 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or appropriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $25,000,000 for the fiscal year ending September 30, 1978.

Mr. BROWN of California (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I would be happy to yield to the gentleman.

Mr. TEAGUE. There has been considerable controversy—that is not quite the right word—about coming into agreement on this amendment.

Mr. BROWN of California. Madam Chairman, I rise to offer an amendment to title III which has been worked out with the administration and the various Members who have been actively involved with this automotive propulsion research and development program. The amendment is basically technical, and as far as I can discern, there is no controversy.

Madam Chairman, the Automotive Propulsion Research and Development Act of 1977 has been before this body for several years, and it has passed the full House, in one version or another, on three occasions by more than two-thirds majority votes. This proposal is only before us today because the other body, which has passed this proposal an equal number of times, fell short of the votes needed to override a veto in the last Congress.

The Automotive Propulsion Research and Development Act of 1977 establishes, in the Energy Research and Development Administration, which is now in the Department of Energy, a 5-year research and development program for the development of advanced automotive propulsion systems. This legislation builds upon the existing programs in the Federal Government and private industry which deal with automobiles. It will add guidance and structure to these existing programs, and enable the Congress to oversee this program, which relates to a very important aspect of our national economy. Since automobiles consume the bulk of the oil this country uses, they are the best place to focus our efforts to conserve our scarce petroleum resources and reduce our oil imports. The only surprise is that this sensible approach has taken so long to become a reality.

I do not intend to give the background or full legislative intent of this legislation here. The changes which my amendment makes do not change the legislative intent, although the scope of the defined program is narrowed somewhat. This was primarily done to reduce the interagency conflict between the Department of Transportation and the Department of Energy, or its predecessor, ERDA. However, the main and primary purpose of this legislation, to develop advanced propulsion systems for advanced automobiles, remains unchanged. These advanced propulsion systems are expected to include the Brayton cycle engine, the Rankine cycle engine, the Stirling cycle engine, and other advanced engine concepts. The new engines will need to meet environmental standards, especially the Clean Air Act's auto emission standards, and fuel economy standards. The engines of the future should also be flexible in the type of fuel they use, so that the automobiles of the future can shift away from their dependence on our scarce petroleum resources.

Madam Chairman, I urge support of this amendment, and title III, the Automobile Propulsion Research and Development Act of 1977.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Texas.

Mr. TEAGUE of Texas. Madam Chairman, I understand that the gentleman from California has worked this out with other Members of the House and the administration, and as far as the chairman is concerned, we accept the amendment.

Mr. LUJAN. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New Mexico.

Mr. LUJAN. Madam Chairman, it is my understanding that the minority has discussed the amendment with the gentleman from California, and the minority has no objection.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I congratulate the gentleman on his efforts to get a reconciliation between the Department of Transportation and the Department of Energy on this amendment. There is a significant modification in the legislation with this amendment but it is something I think everyone can live with and we can move forward comfortably.

I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III? There being none, the Clerk will read.

The Clerk read as follows:

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 210 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any

combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $200,000,000.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 per centum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary, pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue produing products of municipal waste reprocessing demonstration facilities.

"(c)(1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580) are applied in carrying out this section.

"(2) Any energy-related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid waste; and specifically, in accordance with such Agreement (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580), and any applicable State or regional waste management plan.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. There being no amendments to title IV, the Clerk will read.

The Clerk read as follows:

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under sections 53, 63, 103, or 104 for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) price for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any price established under this subsection shall be on such a basis a will recover not less than the Government's costs over a reasonable period of time and, in the opinion of the Administrator of the Energy Research and Development Administration, will not discourage the development of domestic sources of supply independent of the Energy Research and Development Administration: *And provided further*, That the Administrator of the Energy Research and Development Administration, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That before the Administrator establishes such criteria, the Administrator shall transmit the criteria, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and wait a period of forty-five calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.".

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: Page 103, line 10, strike out "and".

Page 103, strike out "and," in line 12 and all that follows down through the end of line 16 and insert in lieu thereof the following:

, and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and the normal and ordinary business expenses which would otherwise be incurred by a private operator providing similar services and so certified by the Comptroller General of the United States: And

Page 104, line 5, after "criteria" insert

"or any price for uranium enrichment services".

Page 104, line 6, strike out "the criteria" and insert in lieu thereof "such criteria or price".

Mr. FLOWERS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. FLOWERS. Madam Chairman, the existing language found in the Atomic Energy Act only allows the Government to recover its costs over a reasonable period of time. This has resulted in uranium enrichment prices much lower than would be tolerated in a private business. Some ordinary and normal business expenses such as State or local taxes and rate of return on investment have not been included.

In order to correct this situation the committee recommends in title V that a price floor be established so that the Government has to recover all of its costs. We also propose, by the amendment, to add to this language suggested by the administration to include a price ceiling, beyond which the Government cannot charge. This ceiling would allow the Government to add charges which would reflect comparable charges for improving the machines and equipment, State and local taxes, insurance and an equity return. Without this ceiling under the proposed legislation which ERDA submitted to Congress, ERDA would have the authority, subject to congressional approval, to escalate charges. Although we have no reason to believe that ERDA would not exercise responsible control over future increases in the cost of uranium enrichment services, this ceiling will fully protect us from any such possibility.

I am pleased that the distinguished chairman of the Armed Services Committee (Mr. PRICE) who was previously chairman of the Joint Committee on Atomic Energy supports this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 33, noes 0.

So the amendment was agreed to.

The CHAIRMAN. There being no further amendments to title V, the Clerk will read.

The Clerk read as follows:

TITLE VI—TECHNICAL AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 601. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

SEC. 602. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs:

"(G) an Assistant Administrator of the Environmental Protection Agency;

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

SEC. 603. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

SEC. 604. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

SEC. 605. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 606. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

SEC. 607. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

SEC. 608. Subsection 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof "$100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee".

SEC. 609. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 610. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has de-

faulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Admistrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 611. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 612. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c) (1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case

of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94-377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TSONGAS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, it was my intention to introduce an amendment regarding solar centers and research, that the regional centers be fully funded.

I am not going to pursue that amendment, but I simply want to put the Energy Administration on notice that it is my intention to follow with interest the regional solar centers.

Mr. WIRTH. Madam Chairman, will the gentleman yield?

Mr. TSONGAS. I yield to the gentleman from Colorado.

Mr. WIRTH. Madam Chairman, I thank the gentleman for not offering the original amendment proposed. I think we are all interested in the direction of solar energy research and how that is going to be coordinated. The original plan put together by the National Academy of Sciences for a centralized body was ultimately awarded to us in Colorado. I think we are all interested in working with the committee on our future energy needs.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, this amendment has been prepared as a result of conclusions reached following appropriation enactments for fiscal year 1978, and following oversight hearings held in July 1977 before the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development, and Demonstration, which originated the electric vehicle R.D. & D. legislation.

These hearings, and a thorough evaluation by Purdue University of the electric vehicle demonstration plans, provided convincing arguments that the electric vehicle legislation as originally conceived needs revision.

The intent of these changes is to strengthen the program, consistent with the revised proposals by the ERDA, and to enhance the electric vehicle industry's ability to survive as a viable commercial endeavor when the R.D. & D. program is completed and Government support is withdrawn.

The proposed amendment extends the demonstration phase of the program, and converts it into one flexible, but continuous program, similar to that employed for commercial vehicle technology development. The pace of the demonstration program will now be determined as an engineering decision by ERDA/DOE. The new administration and the DOE support this change, and place a high priority on the electric vehicle program.

The new flexibility will allow for the evolutionary improvement of electric vehicle systems, rather than limiting them to two discrete steps. Ongoing research results will be introduced regularly into the procurement specifications for demonstration vehicles. Without this change the demonstration program probably would miss major battery advances expected in the early 1980's.

It is also planned that the early stages of demonstration will be oriented toward vehicle fleets operating over well established duty cycles. This improves the chances for a successful demonstration, and the dependability of data collection.

Several other Government agencies also have an interest in electric vehicles. The amendment provides for their participation in the ERDA/DOE demonstration program. This is an inexpensive way of expanding the demonstration program, and improving data collection and validity on electric vehicle performance and use.

The amendment also makes the Electric Vehicle Loan Guarantee program identical to the one for geothermal energy.

Members of Congress will be pleased to know that the electric vehicle program is, after some delay, getting under way. These amendments, which are requested by the administration, will accelerate and improve the program.

The CHAIRMAN. Are there further amendments to title VI? If not, are there further amendments to the bill?

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: Page 119, after line 12, add the following new title:

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out ", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstrations specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid vehicles which satisfy the performance standards set forth under subsection (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of vehicle operations, management, and control for maximum widespread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurements will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal year 1981 through 1984,

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicle acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy

Reorganization Act of 1974 (Public Law 93-438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

Mr. McCORMACK (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, I understand there is no controversy over the amendment. As far as I am concerned, the amendment is accepted.

Mr. GOLDWATER. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. GOLDWATER. Madam Chairman, this is an amendment that involves the electric vehicle program and it is one that has been worked on by members of the committee. I would urge this side of the aisle to accept it.

Mr. McCORMACK. Madam Chairman, I thank the gentleman from California, particularly for the gentleman's hard work in developing this.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. OTTINGER. Madam Chairman, I support the amendment.

Mr. FRENZEL. Madam Chairman, I rise today in support of H.R. 6796 the ERDA civilian research and development programs authorization.

In today's bill we are authorizing funding for a number of useful projects. Among these are loan guarantees for new technology demonstrations, grant and loan authority for municipal waste reprocessing, and a new automotive R. & D. program.

In trying to meet these needs the bill clearly spends too much of the taxpayer's money, but a pleasant surprise is that a great portion of the increases over last year's programs is spent in the right places. Most significant of the increases are: Geothermal up 85.7 percent, conservation research up 145 percent, solar energy up 16.4 percent, fossil fuels up 67 percent, and environmental research and safety up 18.3 percent.

In considering this bill many of our colleagues have notified us of their intention to offer amendments. Several of them appear worthy but I am particularly concerned with those regarding the Clinch River breeder reactor project and the encouragement of the solar voltaic cell industry.

Like many Members, I have some reservations about our Nation's nuclear energy policies. I believe that we have made some errors in the past. Although our history of safety has been good, strict safety measures are needed. Likewise, we need better resource management and siting of facilities. We have the best program available today but it certainly is not perfect. I have consistently voted to improve deficiencies in these and other vital areas. However, I am not convinced that a decision to terminate our program work on the demonstration of a breeder reactor technology is wise.

Our breeder reactor program is alleged to have been poorly managed, with an increase in project costs of 300 percent in just the last 4 years. It is further stated that the contributions of the 753 independent utilities cooperating with the TVA and the Federal Government have been woefully inadequate. I cannot argue with those statements. If they are accurate, they call for a massive restructuring of our management and financial policies.

But, the awful fact is that we do not live in a vacuum. The "plutonium genie" is out of the bottle. A minimum of 7 nations now have technological capabilities and within a few more years that number may well reach 10 or 12. These nations are not just sitting on their hands. Some are moving forward aggressively.

On July 6, just short weeks after President Carter's announcement, the New York Times carried articles describing the agreements just signed by

the French, West Germans, and other European nations for further research, development and sale of breeder reactors. The Japanese have also made clear their intention to forge ahead.

It seems unreasonable to believe that a group of nations, suffering because natural resources which they so desperately require are controlled by foreigners, would willingly accept further outside control of a scarce raw material when they have an opportunity to avoid it. This is simple logic both strategically and economically. However, that logic does not apply to them alone. Our best estimates of existing domestic supply range from a conservative 1.7 million tons to a high of 5 million tons. Even the skeptics tell us that this will not be sufficient for our future needs.

The costs of the breeder program are enormous. I would love to vote against the breeder on economic justification alone. But the overall economics of a delay in demonstration capability may well be worse than the costs of this project. ERDA's most recent cost benefit analysis, completed less than 3 years ago, concluded that each year of delay, could cost us almost $1.5 billion. This is only slightly less than the total which we could save on today's one-shot basis.

In trying to balance all of these factors I can only conclude that we should continue our domestic program. Much as I would want to vote against it, our energy needs must take priority. We should and must make every possible effort to build upon and tighten it. Our program must be strictly improved. The efforts of the International Atomic Energy Agency further encourage the development of coprocessing technologies unsuitable for weapons proliferation.

I will support amendments to streamline and improve the program but terminating it before we know whether it works seems to me to be too great a risk for our country.

My second major concern is with the amendment offered to provide a form of assured Federal market for the mass production of photovoltaic cells. I am normally leery of "pull through" markets but this seems to be an exceptional case. Increasingly higher rates of energy conversion clearly require a higher cost technology and that technology is presently only available through Government sponsored programs. The photovoltaic cell now in use was developed for NASA purposes and utilizes a single silicon cell approach. This technology was developed with an eye to getting the greatest wattage per pound of cell rather than increasing watts per dollar. Only with additional funding can this be reversed.

However, in searching for a commercially acceptable technology we cannot limit our efforts to single silicon cell research. The development of polycrystalline technologies is crucial for the future of solar power production and requires further R. & D. encouragement. Additionally we should not neglect the apparently less expensive technologies of cadmium sulfide or gallium arsenide single crystal cells. I will support the photovoltaic cell amendment, and I hope that the House will pass this measure.

Mr. VANIK. Madam Chairman, I rise in support of this amendment to target ERDA research funds for rerefinement of waste oil. These funds are urgently needed to develop an important energy recovery technology as well as to end a significant source of pollution. In the past, Congress has supported legislation for waste oil. The amendment before us today represents a vital stage in the development of the rerefinement industry. We have already begun to strengthen this important conservation industry; the amendment proposed by my distinguished colleague, Mr. BEDELL, is essential if the industry is to continue to develop an important energy supply.

During the past 2 years, Congress has enacted some legislation encouraging the use of recycled waste oil. However, much more is needed. The Energy Policy and Conservation Act of 1975 directed the National Bureau of Standards to develop tests to determine equivalent standards of quality for recycled waste oil and new oil. It also provided for the establishment of labeling standards for containers of waste oil. As part of the National Energy Act, the House has passed a provision to remove an excise tax that has hindered the full development of recycled waste oil. This tax had unfairly compromised the potential of the industry. On August 5, I reintroduced the National Oil Recycling Act to establish a comprehensive program to recycle used oil. Today's amendment is a vital step toward full utilization of the rerefinement process.

Rerefinement of waste oil reaps several economic and environmental benefits. Although about 50 percent of lube oil is consumed during use, the remainder is salvageable through the rerefining process. Unfortunately, currently, a large portion of our waste oil—which is produced by automobiles—is being collected at service stations and sold to unscrupulous oil dealers who mix used oil with heating oil and sell it to an unsuspecting consumer. This practice not only victimizes the conusmer of heating oil, it robs the rerefiner of valuable feedstock for his process. The National Oil Recycling Act contains provisions to deal with this problem.

The use of recycled oil would prevent it from being wasted and threatening the environment. Each year, 1.2 billion gallons of used oil are generated. We reprocess and recycle less than 8 percent. Used oil is wasted in several ways. It is applied to roads to keep dust from rising; this oil eventually runs off, polluting nearby fields and streams. It is burned in a mixture with heating oil, creating more air pollution than pure heating oil. Finally, it is simply dumped into our Nation's waterways, to the extent of 35,000 barrels per day. This waste robs our country of a potential source of bolstering its energy self-sufficiency.

Use of recycled oil would reduce oil imports by 70,000 barrels per day. Its use would help protect our environment and provide us with a needed extra supply of energy.

Passage of the amendment today will remove another major obstacle to the rerefining process. Previous rerefining processes produced an acidic sludge byproduct, which was a potential pollutant. Now, however, at a rerefining plant in Bartlesville, Okla., ERDA has developed a process which will yield high amounts of purified rerefined oil without the polluting byproduct.

Madam Chairman, I urge support for this amendment which is vital to the development of the rerefinement process of waste oil. It proposes no additional authorizations for the ERDA budget. It simply assures that enough funds, up to $5 million, are allocated for the research projects. This amendment to H.R. 6796, proposed today by my distinguished colleague from Iowa, Mr. BEDELL, represents a continuation in the effort to bolster this country's energy self-sufficiency through more efficient use of our current resources.

Mr. McCORMACK. Madam Chairman, I move to strike the last word.

Madam Chairman, the pending amendment adds a new title to H.R. 6796, changing several provisions of the Electric and Hybrid Vehicle Research Development and Demonstration Act passed by the Congress last year.

The amendment does five things which I will mention briefly and then expand upon:

First. It stretches out the electric vehicle demonstration program and at the same time allows an evenly paced expansion of the number of vehicles included in the demonstrations.

Second. It creates one continuous demonstration out of the two-step demonstration procedure now in the current law.

Third. Without changing the fiscal year 1978 start or the minimum number of demonstration vehicles, it extends the scheduled procurement of demonstration vehicles 2 years to 1984.

Fourth. It strengthens the electric vehicle loan guarantee program.

Fifth. It allows electric vehicle demonstrations sponsored by other agencies to be included in the ERDA/DOE electric vehicle demonstration.

As many of you may recall, the Electric Vehicle Research, Development, and Demonstration Act—Public Law 94-413—was passed over a Presidential veto under the previous administration. Considerable programmatic direction and guidance was written into this act because of the reluctance of the administration to support an expedited program.

Our current administration and the new Department of Energy strongly supports the electric vehicle program according to testimony provided during electric vehicle hearings on July 12, 1977. As a result of this new light and understanding of the important role of electric vehicles, we can rely more on administration program decisions. Much of this amendment revises programmatic directions based on recent evaluations of the demonstration program and this new attitude in the executing agency.

Your votes last year, sufficient to override a veto, were clearly motivated by a concern over the growing U.S. de-

pendence on foreign petroleum supplies, environmental degradation in urban areas because of existing petroleum-fueled vehicles, and the weak competitive position of U.S. industry in potential electric and hybrid vehicle markets.

The changes to the Electric and Hybrid Vehicle Research, Development and Demonstration Act through this amendment will improve and strengthen the chances that these goals will be met.

Stretching out the procurement portion of the demonstration, as I mentioned earlier, will allow the inclusion of more advanced vehicles and advanced batteries in the demonstration. Contracting for procurement or lease of electric and hybrid vehicles will start as originally scheduled in fiscal year 1978; however, the completion of vehicle leasing and procurement is extended 2 years by the amendment. The minimum number of vehicles will remain the same at 7,500; however, this number can be raised to 10,000 at the discretion of the agency administrator. The inclusion of advanced technology allowed by the stretchout is expected to provide considerable performance and cost improvements which will in turn effect the market acceptance of electric and hybrid vehicles.

The stretching out of the demonstration and providing a paced build-up of the number of vehicles included in the demonstration was recommended by ERDA, the committee staff, and an independent evaluation of the proposed demonstration. This evaluation, called for the original act, was completed by Purdue University in September 1977. Had it been available earlier, an amendment such as this would have been considered during our markup sessions.

The paced buildup of vehicles included in the program along with the 2-year stretch-out, will also allow a continuous updating of electric vehicle procurement specifications as the state-of-the-art and industrial production capability advance. The current law contains provisions for two electric vehicle procurement specifications and two procurements: One a fiscal year 1978 state-of-the-art and a second keyed to fiscal year 1981 technology. The proposed amendment will allow the administering agency to advance the procurement specifications annually as the technology advances.

The amendment also strengthens the important loan guarantee provisions of the act. Loan guarantees are essential because of the many small businesses which have been encouraged by other provisions of the act to become involved in the design, development and production of electric and hybrid vehicles. The loan guarantee provisions are identical to the geothermal loan guarantee provisions of this bill.

Mr. OTTINGER. Madam Chairman, I move to strike the requisite number of words, and, Madam Chairman, I ask unanimous consent that these remarks appear in the permanent RECORD immediately prior to the Committee rising on Wednesday, September 21, 1977.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OTTINGER. Madam Chairman, I wish to engage the gentleman from Washington (Mr. MCCORMACK) in a colloquy about the amendment. As I understand the amendment, it would slow up the timetable for purchase of vehicles, indicating that the deadline for contracting to purchase the first 2,500 vehicles slips from June 1978—under the act—to October of 1980—under the amendment. Is this accurate? Is it advisable?

I also understand that the amendment permits a very slow start in these purchases: 200 vehicles in fiscal year 1978, 600 in fiscal year 1979 and the remaining 1,700 in fiscal year 1980. Is this correct? Advisable?

Since this is a decelerated schedule, I would want to urge congressional oversight to assure that, as and when appropriations are increased, vehicle purchases will be accelerated accordingly. Is it accurate to assume that this will be done?

Mr. MCCORMACK. Since the Congress passed this bill with a veto overridden in September of 1976, the ERDA has been examining the job we gave them, and with the help of Purdue University has studied in depth the risks embodied in the current schedule and act. They made many recommendations for improving both the program and the governing legislation. You may recall some of these recommendations being mentioned during our hearings on July 12, 1977.

The amendment requires the administering agency to institute their first contracts for the procurement of demonstration vehicles at the same time that contracting would be required under the current law. It also contains an accelerating schedule of vehicle entry into the demonstration program. This eventually would add up to 10,000 vehicles by the year 1984. However, this accelerating schedule is still considered a minimum. I would expect and have discussed with the agency that procurements should exceed this minimum rate when vehicles meeting agency specifications are available.

It should be noted that, although the phase-in for the ordering of demonstration vehicles is more gradual under the amendment, the actual delivery dates do not slip substantially. Under the original law, 2,500 vehicles ordered in June 1978 were to be delivered by December 1979. This amendment should be interpreted to mean that 2,500 vehicles will have been delivered by the end of fiscal year 1980.

The agency has told our committee staff that the planned procurement for fiscal year 1978 could be as large as 500 vehicles, well above the 200-vehicle minimum.

Regarding these matters, the Purdue University risk analysis makes the following recommendations:

First. Extend the electric and hybrid vehicle research, development, and demonstration program to 10 years. The act now specifies 6 years for the program.

Second. Change the restrictive vehicle acquisition requirements in the act to allow flexibility in vehicle procurement procedures, timing, and numbers in order to respond to market opportunities and technology advances.

Third. Forge linkages among manufacturers, sale and service facilities, and users through innovative marketing and purchase approaches. The Government should serve as a catalyst and a cost-and-risk sharer.

Fourth. Concentrate in the demonstration program on those uses and markets, such as commercial fleets, where the special characteristics of electric and hybrid vehicles are most appropriate.

Fifth. Establish a continuing market for electric and hybrid vehicles within the Federal Government.

Sixth. Foster the image of electric and hybrid vehicles by protecting the investments of buyers and sales and service managers, insuring excellent maintenance and customer service, guaranteeing depreciation rates (or a vehicle after-market), developing innovative marketing approaches, and demonstrating them in favorable sites and appropriate missions.

Mr. OTTINGER. Will the amendment affect the dual emphasis on hybrid as well as strictly electric vehicles? There should be continued emphasis on the development on vehicles that combine electric propulsion systems with other technologies such as sterling engines, flywheels, or more efficient internal combustion engines. Can we be sure that this type of work will continue?

Mr. MCCORMACK. The amendment does not change this dual emphasis on electric and hybrid vehicles or the associated technology development. The amendment when it mentions electric vehicles always includes hybrid vehicles.

The agency has instituted a comprehensive R. & D. program under the act which includes balanced emphasis on the pure, both pure electric and hybrid. In the Government program the hybrid vehicle should follow the pure electric by no more than 1 year.

Mr. OTTINGER. Can we also assure that there will be continuing emphasis on providing financial assistance to small firms, as stipulated in sections 9 and 10 of the act?

Mr. MCCORMACK. The assistance will be improved. The loan guarantee provisions have been made identical to the new provisions of the geothermal loan guarantee program. This will make the guarantee program much more acceptable to the banking community.

Mr. OTTINGER. The hearings of July 12, 1977, included testimony by Dr. Gene Mannella of ERDA, who stated that they planned to limit their early demonstrations to "protected" or "sheltered" environments, that is, for use in warehouse operations for mail service, as airport buses, to furnish light agricultural transportation, in van carpooling and as patrol cars on military bases. Regular runs, predetermined distances, regular maintenance.

Is it your understanding that this will

be the only kind of program that is undertaken in fiscal year 1978?

Since this means neglecting the potential use of electric/hybrid vehicles as family transportation, what can be done to avoid the potential loss of information that would encourage fuel-saving by families?

Will there be some projects which emphasize the use of electric vehicles by families for short-run, limited-speed uses?

Mr. McCORMACK. The focus of the several objectives of the Electric and Hybrid Vehicle Research Development and Demonstration Act is to save oil imports—to cut down on our dependence on foreign oil. Many studies have shown that this second-car market you mention has the largest potential savings. This amendment does not change this objective. It improves our chances of getting there by improving the acceptance of electric and hybrid vehicles through the demonstration of up to 10,000 vehicles.

The demonstration should move rapidly to the second-car market. Although initial demonstration vehicles will most likely emphasize commercial or sheltered environments, the introduction of reliable, practical passenger vehicles will begin as soon as they become available.

It is expected that some portion of the first increment of 200 to 500 vehicles scheduled for 1978 will be passenger-carrying vehicles suitable for the family-second-car market.

I include the following letter from ERDA stating that McCORMACK's views reflect their opinions.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., September 23, 1977.

Hon. RICHARD L. OTTINGER,
House of Representatives.

DEAR MR. OTTINGER: The responses given by Representative McCormack to your questions represent the Energy Research and Development Administration view of the Electric and Hybrid Vehicle Program.

Sincerely,

VINCENT J. ESPOSITO,
Division of Transportation, Energy Conservation.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, as I understand what is happening, this is a stretch out concerning the electric vehicles; is that essentially what we are doing?

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, the amendment would change the program from two separate buys over the next several years, to a continuous purchase program over approximately the same length of time, allowing it to be stretched out further as engineering requirements determine.

Mr. WYDLER. Madam Chairman, I would just say that I think this is in the best interest of the country. Frankly, I do not think that this is a good program to begin with and the longer it is stretched out, the better we all will be so far as purchasing, I believe some, 5,000 electric vehicles that nobody really wants and nobody knows how to use, or how they will work does not seem to be exactly the best way to spend the taxpayers' money. But I would only feel comfortable with this program, frankly, if I knew that the vehicles we were going to purchase were going to be used by the Speaker of the House and the majority leader of the Senate and the President of the United States because somebody is going to get stuck with these vehicles. Nobody will want to drive them when they get them; but I would like to see that kind of a disposition made of them because then I feel that maybe the whole program would get the right attention it deserves.

Mr. McCORMACK. Madam Chairman, it is our position and our belief that the quality of these electric vehicles will be such that any person would be proud to ride in them.

Mr. WYDLER. I wonder if the gentleman would let the amendment be made that they be driven by the Speaker and the majority leader and the President, and whoever else really desires one.

Mr. OTTINGER. The gentleman from North Carolina (Mr. ROSE) is already driving such a vehicle back and forth to work at the House of Representatives. The market for them is increasing rapidly. An electric hybrid vehicle was demonstrated at the Rayburn Building yesterday that has high feasibility, and I think the gentleman will find that his skepticism is not warranted.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words.

I would like to indulge in a short colloquy with the chairman of the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration, the gentleman from Alabama (Mr. FLOWERS).

I would like to express my pleasure and commend both the distinguished gentleman from Texas, the chairman of the committee, and the distinguished gentleman from Alabama, the chairman of the Subcommittee on Fossil and Nuclear Energy for their fine job on the fiscal year 1978 authorization. I would also like to commend my colleagues for their support of the Clinch River breeder reactor project. In voting for the $150 million authorization, the House has strongly endorsed proceeding with the project at maximum speed. I understand that the intention of the House in voting to fully authorize the Clinch River breeder reactor project is to maximize achievement of project objectives in accordance with existing—March 1977—project arrangements, objectives and schedules, and to minimize costly and unrecoverable delays. I would like to ask the gentleman from Alabama if I am correct in this understanding?

Mr. FLOWERS. Yes, that is correct. At the same time we must recognize that there are differences between our position and that of the other body. In particular, levels of funding in the other body are not consistent with maximum progress for the project and there is some ambiguity about the status of licensing. The intention of our vote for full funding and of prior authorization acts is clear and unambiguous. The demonstration of licensability is a stated objective of the project and is incorporated in the statutory criteria.

In voting for full funding we approved President Carter's February 1977 budget submittal. Thus we fully intend that the project proceed in accordance with all objectives, including licensing. We hope to proceed to conference as expeditiously as possible and to obtain a resolution of the differences which would maximize achievement of project objectives and minimize unrecoverable delays. We contemplate that all procurements shall proceed as scheduled and that the licensing activities will go forward as expeditiously as possible to get maximum benefit from the program during fiscal year 1978.

Mr. McCORMACK. Madam Chairman, allow me to add some emphasis to your remarks with respect to the benefits of licensing.

First and foremost, the licensing process will provide the most effective forum for resolution of the basic environmental and safety issues which have been raised concerning the CRBRP. The Congress, the administration and the public must have the undeniable benefit of the detailed record created in the NRC Staff technical review and licensing hearings.

Second, a conscious suspension of the licensing process would have a disproportionate impact on the cost and timing of the project. GAO's analyses indicate cost increases ranging from $346 million to $546 million and delays ranging from 1 to 3 years as a result of a 6-month suspension of licensing activities.

House action on the CRBRP authorization has reflected a clear and unambiguous intention to proceed with licensing activities for the CRBRP. The project would be directed to proceed with the NRC technical review and hearing process to the maximum extent possible and to recoup as much of the lost time in the hearing process as possible. The public interest requires that the record on all issues be developed, that the earliest resolution of these issues be obtained, and that further undue and unrecoverable delays in the project be avoided.

The avoidance of these further unrecoverable delays and increased costs is a paramount intention of the Congress. Congress must make it clear that to the maximum extent possible the facility shall be constructed in accordance with the existing project arrangements, objectives, and schedules.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 38, noes 0.

Mr. ASHBROOK. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. TEAGUE. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair,

Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee having had under consideration the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, had come to no resolution thereon.

THE PANAMA CANAL TREATIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 60 minutes.

Mr. CRANE. Mr. Speaker, there are a number of arguments that can, and should, be raised against these proposed canal treaties. Most of them will be discussed in depth subsequently by a number of my distinguished colleagues but, to set the stage, let me point out that no nation can expect any more from a treaty than the other signatory nation—(or nations)—believes it has agreed to. In this case, it is increasingly apparent that Panama has a far different understanding of these treaties than do many people here in the United States and, for that reason, it behooves us to examine not just the basic treaty and the neutrality pact but also Panamanian interpretations of them. If we do not—before it is too late—we may well find we can neither defend the canal nor insure its neutrality.

Just about a month ago, the head of the Panamanian negotiating team, Dr. Romulo Escobar Bethancourt, made a speech before the Panamanian National Assembly on the proposed neutrality pact wherein he outlined what the United States wanted originally, what was compromised and what he believes Panama has agreed to. In the process, he made 11 key points which boil down to the following:

First, Panama, and not the United States, will be the sole guarantor of the canal's neutrality;

Second, neutrality will not necessarily apply in cases of foreign attack;

Third, Panama is not obligated to keep the canal open regardless of circumstance; and

Fourth, U.S. warships are not entitled to preferential treatment in transiting the canal, even in time of war.

When laid alongside the basic Panama Canal treaty, these provisions cast serious doubt on our ability to defend the canal, not just after the basic treaty expires in 1999 but even in the interim. Moreover, they do not guarantee the canal will be either permanently open or permanently neutral. In fact, what they look like is a throwback to the Constantinople Convention of 1888 which provided for the neutrality of the Suez Canal but which did not prevent the Egyptians from nationalizing it in 1956.

Let us look at the provisions of this proposed neutrality pact a little more closely, especially article IV, which allegedly gives the United States the right to defend the canal against foreign aggression after the year 2000, and article VI, which provides for expeditious rather than preferential transit of the canal by our warships. Article IV, despite President Carter's statement that ". . . we have no constraints on the action we can take as a nation to guarantee that neutrality," does not say a word about defense rights. All it says is that the United States and Panama ". . . agree to maintain the regime of neutrality established in this treaty, which shall be maintained in order that the canal shall remain permanently neutral.

The key word, of course, is "maintain." The administration seems to take the view that the word means "uphold" but it could just as easily be taken to mean "continue" in which case we have no right to intervene at all. In addition, the basic treaty states that the United States will pull out all of its military forces by 1999 and article V of the neutrality pact provides that only Panama shall have military forces in the area after the year 2000, so even if we have the right to intervene in theory we are effectively prevented from doing so in fact. Thus, when Dr. Escobar says, specifically, that Panama "is not giving the right of intervention" he would appear to have a pretty solid case.

Article VI, as a matter of fact, buttresses that point and then some. Quite obviously, if we cannot send our warships through the canal quicker than anyone else, it would be most difficult to defend the canal from attack. Not only that, but allowing all warships to use the canal on an equal basis, including those of nations that might have a vested interest in a takeover attempt, presents further problems. But, perhaps even more significantly, what all this plus Dr. Escobar's speech shows is that Panamanians view the United States not as a friend of neutrality but as a threat to it. Thus, the United States is only deluding itself if it infers that neutrality means to the Panamanians anything other than keeping us, above all, out of canal affairs after 2000 or that the Panamanians will interpret the treaties in any other light.

Another point should be raised about article VI as well and that is—what effect does it have on article IV of the basic Panama Canal Treaty? While it may be inferred that denying U.S. warships preferential treatment in matters of transit applies mainly to the post-2000 era, this is not explicitly stated and one must wonder if our defense rights up to the year 2000 might not be further circumscribed. If so, it would be more difficult to fight a guerrilla type conflict where speed of movement is essential to success.

Concluding, as one must, that our defense rights are no more foolproof or permanent than the aforementioned neutrality guarantees, let us turn to the question of keeping the canal permanently open. Here again, the comments of Dr. Escobar are most enlightening. According to him, the United States originally sought assurances that nothing would interfere with keeping the canal open. But the Panamanians insisted on exceptions, such as times when the canal is not operating at a profit, and, according to Escobar, rather than have them written into the treaty the United States dropped its request for a blanket assurance. As a consequence, Dr. Escobar's comment that Panama was then "freed of the obligation to maintain the canal open permanent" is not so much rhetoric but a reflection on what is likely to be reality.

If all these questions and contradictions are not enough to make us think twice about the wisdom of ratifying these treaties, then let me point out that the canal is still vital to both our economy and our defense posture and its importance is likely to increase rather than diminish in the years ahead. For one thing, Alaskan oil is beginning to come online and, by 1980, some 45 percent of it will be shipped through the canal to our Eastern ports. For another, of our 480 combat ships, only 13—the big aircraft carriers—are too big to use the canal and that number is likely to drop as carriers get smaller in the future. Finally, if we lose control over, and use of, the canal, it would necessitate the building of a two-ocean navy, something that would be very expensive to say the least.

As I noted at the outset, there are a lot more arguments that should be raised—the cost to the taxpayer, the human rights question, the psychological effect on other nations, the role of the big banks, and so forth—but, knowing these will be covered more fully by others, let me conclude by reiterating the point I made earlier—that we cannot consider these treaties in a vacuum. To make any type of intelligent judgment, we must take the Panamanian perspective into account.

Therefore, I urge my colleagues, if they have not done so already, to take a look at Dr. Escobar's speech, lay it alongside the proposed treaties and official U.S. explanation of them, and do a little comparing. I think you will see why some of us are so concerned.

Mr. FLOOD. Mr. Speaker, the signing in Washington, D.C., on September 7, 1977, of two proposed new Panama Canal treaties, which was preceded and attended by a carefully planned propaganda deluge, was no surprise to informed observers of interoceanic canal questions; instead, it was a direct consequence of the February 7, 1974, Kissinger-tack eight-point "'agreement of principles" to govern the negotiation of the treaty, which negotiation involving the disposal of valuable territory and property of the United States, was not authorized by the Congress.

Briefly summarized, those "principles" provided for the following:

First, the Treaty of 1903 with Panama and its amendments will be abrogated.

Two. The concept of perpetuity, which was embodied in the 1903 treaty, will be eliminated and replaced by a fixed termination date.

Three. The ending of U.S. jurisdiction over the Canal Zone will take place promptly.

Fourth. The Canal Zone will be "returned" to Panamanian jurisdiction.

Fifth. The geographical location of Panama on both sides of the Canal Zone will be recognized as its "principal" resource and Panama will be given "just and equitable" share of canal benefits.

Sixth. Panama will participate in canal administration.

Seventh. Panama will participate in the protection and defense of the canal.

Eighth. The United States and Panama will agree on new projects to "enlarge canal capacity."

The foregoing principles represented the major Panamanian demands over a period of years. They were promptly recognized by informed Members of the Congress as a "blueprint" for an abject surrender by the United States of its treaty-based sovereign rights, power, and authority over both the canal and its indispensable protective frame of the Canal Zone.

Mr. Speaker, in my years of study of Panama Canal history and problems, I have learned that there is little that is new. Today's problems existed in the early part of the 20th century when U.S. Isthmian Canal policies were formulated. In a superficial sense conditions have changed not for the better but for the worse. For these and many other reasons, a knowledge of Panama Canal history is imperative to arrive at policies derived from a reasoned line of thought.

Mr. Speaker, before the various aspects of the proposed treaties are discussed, it is absolutely essential to understand the diplomatic foundations of present Panama Canal policies, which are rooted in three important treaties.

First, the 1901 Hay-Pauncefote Treaty with Great Britain in which the United States made the long-term commitment to construct and operate the Isthmian Canal under the main points in the 1888 convention for the operation of the Suez Canal; and

Second, the 1903 Hay-Bunauvarilla Treaty with Panama, as amended, for the construction, maintenance, operation, sanitation, and protection of the Panama Canal, which was negotiated pursuant to the Spooner Act of 1902 that authorized the President to acquire by treaty the perpetual control of what is today the Canal Zone; and

Third, the 1914–22 Thomson-Urrutia Treaty with Colombia, which recognized the title to the Panama Canal and Railroad as vested entirely and absolutely in the United States, in return, it gave Colombia financial compensation and granted it permanent rights in the use of both the canal and railroad.

The negotiation of these three important treaties were the contributions of some of the ablest U.S. leaders in American history. They knew the background of the isthmus as a land of endemic revolution and endless political intrigue. They had learned the lessons of the Suez Canal.

They understood the difficulties with Colombia experienced during the first efforts to secure a satisfactory treaty for the Panama Canal and determined to solve permanently the problem of sovereignty in the Canal Zone by means of a treaty grant of "sovereignty en bloc" in perpetuity.

With duality of control over the Canal Zone as originally provided with the treaty with Colombia removed in the treaty with Panama, the framers of the 1903 treaty were justified in feeling that what would have been perpetual causes of conflicts and recriminations that usually feature extra-territorial rights had been eliminated forever. More than any other single factor, it was full sovereign control over the Canal Zone that enabled the United States to accomplish the difficult task of constructing, managing and protecting the canal effectively in both peace and war.

The Canal Zone is a constitutionally acquired domain of the United States. The treaties and statutes relating to it, as embodied in an extensive Canal Zone Code, are the "supreme law of the land." The validity of the U.S. title over the zone and canal is completely established.

As estimated in 1974, the cost of acquiring the Canal Zone was over $166,000,000, our most costly territorial acquisition. The total investment in the enterprise since 1904, including defense, is over $7,000,000,000.

The canal has proved its strategic value in two world wars, the Korean and Vietnam wars, and the Cuban missile crisis. The U.S. armed forces, on two relatively recent occasions, in fulfillment of our treaty obligations, protected the canal against "lawlessness and disorder" by repelling attempted Red-led mob invasions of the Canal Zone.

In defiance of the lessons of history and the realities involved in the mounting struggle for world domination, the framers of the September 7, 1977, proposed treaties would surrender this priceless asset of the United States to a small, weak, unstable and technologically primitive country. Such surrender is a program for disaster, and this fact is recognized by a vast-majority of our people in spite of an extensive propaganda to the contrary.

Mr. Speaker, the participants in this colloquy are to be highly commended for their clarifications and revelations concerning a highly complicated situation, what they have stated will be repeated both at home and abroad and aid in bringing about the rejection of the two giveaway treaties.

When the canal problem is reduced to its essentials there are only two crucial issues and they are simple:

First, retention by the United States of its undiluted sovereign control over the Canal Zone; and, second, the major modernization of the existing canal under existing treaty provisions.

Such modernization under the strongly supported terminal lake-third locks solution, which was developed in the Panama Canal Organization during World War II, can be accomplished at "comparatively low cost" with every assurance of success.

It will avoid diplomatic entanglements and provide the world with the best canal for the transit of vessels practicable of achievement. It will revitalize the isthmus and alleviate the economic conditions in Panama enormously as well as stimulate employment in the United States.

In addition, the Congress should authorize the election of a delegate in the Congress by U.S. citizen residents in the Canal Zone.

The situation on the isthmus is not a mere conflict between Panama and the United States but a focal matter in the current U.S.S.R. effort for world domination through gaining control of strategic waterways. The strength of the U.S. Navy has been reduced from 1,000 vessels a decade ago to about 470 ships today. Thus the Panama Canal is a more vital element in the U.S. seapower than ever. We can surrender its sovereign control only at our peril, for its loss would quickly transform the Caribbean and the Gulf of Mexico into red lakes.

As to current efforts to polarize proponents of surrender of the Canal Zone and opponents as liberals and conservatives, respectively, this is a fallacious endeavor. The canal question transcends all partisan considerations for it is an American issue relating to the security of the United States and of the entire free world.

Finally, Mr. Speaker, the United States is a great and powerful nation. The time has come to stop grovelling accommodations to repeated threats of violence and to act the part of a great power. There is no better place to draw the line than in the U.S. Canal Zone by rejecting the proposed treaties in their entirety.

Mr. ASHBROOK. Mr. Speaker, the Carter administration is attempting to get the new Panama Canal Treaty accepted by Congress and the American people. One of the main arguments used by the President and his associates is that the United States will be able to defend the neutrality of the canal.

Taking a look at that assertion does not give much confidence. Who honestly thinks that an American President would dispatch American troops to the Panama Canal once this country turned over the canal to the Panamanians? Of course, the answer is, very few.

In spite of rhetoric about the United States guaranteeing "the security and defense of the Panama Canal," the reality is clear. The new treaty would give up the canal to an unstable country ruled by a dictator. How that country will be able to protect the canal better than the United States is a question that has not been answered.

Proponents of giving the canal away argue that it is no longer as important to the United States. However, this overlooks the fact that the number and average size of ships using the canal is growing. In addition, during the Vietnam period the number of Government ships passing through it grew from 284 in 1965 to 1,504 in 1968. According to figures that I have from a few years ago, about 70 percent of the traffic through this waterway either originates or terminates in U.S. ports.

Stripped to their essentials, the agreements reached are little more than a surrender of American sovereignty over the U.S. owned zone and canal. The Panama Canal is far too important to give away to the anti-American Panamanian dictator. It is vital to the defense of the Americas. Last year, when I asked the Department of Defense how many Amer-

ican naval vessels could not navigate the waterway, I was told 13. The use of the canal for defense purposes is obvious.

Hanson W. Baldwin, a former military correspondent for the New York Times and Pulitzer Prize winner, has written an excellent article in opposition to a Panama Canal giveaway. According to Baldwin. "The future security and well being of the United States are threatened by the administration's proposed abandonment of sovereignty over the Panama Canal and the Canal Zone."

Not only does President Carter want to give the canal to Panama but he also would have us pay the Panamanians for the privilege of taking it. In addition to increasing payments from the operation of the canal to Panama to as much as $70 million a year, the U.S. negotiators have pledged up to $200 million in Export-Import Bank credits; up to $75 million in AID housing guarantees and a 20 million Overseas Private Investment Corp. loan guarantee. It makes one wonder who our negotiators were negotiating for.

This becomes even more the case once the treaty terms are read. The terms of the treaty show what a sell-out it really is. Following is a summary of those terms from the Washington Star.

SUMMARY OF TREATY TERMS

(Note.—Here is a summary of major principles of the two Panama Canal treaties signed last night by President Carter and Panamanian leader Omar Torrijos).

CONTROL

The United States and Panama would administer the canal jointly until the expiration of the new treaty on Dec. 31, 1999, turning control, management and maintenance of the canal at that time over to the Panamanian government. The old treaty, signed in 1903, gave the United States perpetual control over the canal and adjacent Canal Zone.

DEFENSE

For the duration of the treaty the United States has primary responsibility for defense of the canal. A board of U.S. and Panamanian military officers is established to consult on defense matters and every five years review military resources made available by both countries. The United States may decide on its own how and when to reduce its 9,000-man military force in the Canal Zone and schedule the closing of 14 bases there during the life of the treaty.

COMPENSATION

The United States will pay Panama $50 million to $60 million annually from canal revenue and an additional $10 million a year for the canal's operation. Panama also will receive $50 million in military assistance over the next 10 years.

LANDS AND WATERS

About 70 percent of the 500-square-mile Canal Zone reverts to Panama as soon as the treaty is ratified with the United States retaining temporary control over the rest, including areas considered vital to running the canal.

JURISDICTION

Within three years of ratification, the 3,500 American civilian employes in the Canal Zone would be subject to Panamanian law instead of American law. Panama after three years would take responsibility for public and social services, including schools, the Canal Zone police force and postal service.

NEUTRALITY

Under a separate treaty, the two countries agree to a guarantee that the canal will remain open to ships of all nations and that the canal's neutrality will be respected "in times of war as in times of peace." American and Panamanian warships and other vessels are given priority to use the canal.

Mr. DORNAN. Mr. Speaker, as a member of the Subcommittee on the Panama Canal, I have spent much of my time researching the technical, diplomatic and military history of the U.S. Canal Zone and Panama Canal. And the more I study, the more I admire the vision of the framers of our canal policy in insuring our sovereignty over the canal and its protective shell of the zone.

Although there were many opportunities for the framers to settle for an arrangement that granted less than sovereign rights, they foresaw the importance to the United States of maintaining ultimate power and authority over the canal and zone.

No aspect of the canal illustrates this importance more clearly than the military. In military affairs there is simply no substitute for ownership of the territory and the ability to control or to deny the waters and the airspace to our enemies. In a letter to President Carter, four former Chiefs of Naval Operations brought home the danger to the United States if the canal and zone were to be controlled by a foreign power:

Under the control of a potential adversary the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense with enormous potential consequences for evil.

Many of the proponents of the President's canal treaties argue that the canal has a declining strategic and economic value. The truth of the matter is that this strategic waterway is not only important to the United States today, but may well be more important than ever before in the history of this country.

As is clear to anyone who looks at a map of the world, the canal enables the United States to transfer its naval forces from ocean to ocean to meet strategic needs. This is particularly important in view of the dwindling size of our navy and the increasing size of the Soviet fleet.

Those who favor the Carter-Torrijos treaties also state that the canal is outdated—and therefore useless—because not all of our naval ships can transit it. It is true, of course, that there are 13 aircraft carriers which are too wide to pass thru the canal. Although this small percentage of our ships cannot transit the canal as it exists today, hundreds of combatant vessels, from submarines to cruisers to supply ships can be and are being sent through the canal with ease. Moreover, the Navy's largest aircraft carriers which cannot transit the canal as it is today can be strategically stationed as international tensions build in any part of the globe. In the longer run, even this shortcoming can be corrected: as carriers become smaller or as the canal is modernized under U.S. auspices, this problem will disappear.

The strategic value of the canal is not theoretical. Time and time again, the waterway has proven its worth to American military strategy. Emergency transits of our naval units and the consequent massive logistic support of our Armed Forces were effected during the Second World War, Korea, Vietnam, and the Cuban missile crisis. As long as the vast bulk of our navy can transit as it can now, the canal offers inestimable strategic advantages to the United States at minimum cost. To put it simply, it is the best bargain in our military arsenal.

But the strategic value of the canal would be completely inverted if the United States were to surrender its sovereignty and control to Panama. As mentioned, the value to the United States of denying the use of this strategic waterway to our adversaries would be lost to us.

At a time when the U.S. naval capabilities are being overshadowed by those of the Soviet Union, the threat to our Nation's safety is compounded by the possibility that the canal may be turned over to Panama, a nation the size of Atlanta. A country of this size—even if it had the best of intentions to remain a friend of the United States—would find it difficult, if not impossible, to resist the pressures of stronger nations. And I for one do not believe that Panama has the intention of remaining a friend of the United States. The present Panamanian Government has the closest of ties with Castro's Cuban dictatorship which, in turn, is up to its neck in Soviet alliances. A schoolchild could add up those facts and know that any surrender of our sovereign power to Panama is little better than surrendering it directly to the Soviets. Already there are reports of Soviet "advisers" pouring into Panama as they did in Cuba. Already the Panamanian-Soviet link has been strengthened by the recent signing of an economic pact which will serve only to make the Torrijos regime more dependent on Soviet good will. Parenthetically, it should be noted that the Soviet Union is the only power besides the United States with the technical expertise to operate the canal. Once the Yanquis have gone home, it is obvious to whom Torrijos will turn to run his canal.

Soviet advisers today, Soviet airfields and ports tomorrow, and a Soviet Canal by the year 2000.

There are some in Congress and across the United States who do not know whom to believe on the issue of the Panama Canal treaties. The State Department tells them one thing and strategic experts tell them another. To those people, I would say: Just remember what the State Department told you in 1960 about Fidel Castro. They said that he was not a Communist. Now those same people are telling you not to worry about turning over our canal because Torrijos is not a Communist. The State Department was wrong then and it is wrong now. It is imperative that the canal remain in our hands—for our own safety and for the safety of the Western Hemisphere.

Mr. BAUMAN. Mr. Speaker, one of the most important points of the new treaty on the Panama Canal is the issue of permanent neutrality. In the opinion of many observers, this—along with the defense issue—is really at the heart of the matter. According at least to most of those who are in favor of ratification, if the treaty guarantees neutrality and if U.S. defense priorities are firm there is very little left with which to object,

and passage of the treaty would be in the best interests of the United States. Many of my colleagues, Mr. Speaker, will address the issue of national defense. Permit me to make known a number of other points on the related issue of neutrality. If it can be shown that this treaty in fact jeopardizes the canal's permanent neutral status then, I believe, that the Congress has an obligation, not just to the American people, but to the international community at large to reject the present treaty.

The fact that this issue is vital is illustrated by the separate and distinct pact, signed separately by President Carter and General Torrijos, governing the conditions of neutrality. Article I of this second treaty guarantees the permanent neutrality of the canal. Article II pledges the signatories to equality of passage, while article III lists several stipulations regarding security, efficiciency and maintenance. A number of other articles deal with the implementation of permanent neutrality. In an accompanying protocol to the second treaty it is further stipulated that all nations of the world be invited to sign the neutrality instrument, which will be deposited at the Organization of American States.

On the face of it, Mr. Speaker, it appears that the permanency of neutrality is a universally guaranteed right which cannot be abrogated. It is my own opinion, however, that this is anything but the case and, to the contrary, the passage of the present treaty contains a number of pitfalls which might, in the future, seriously jeopardize neutrality.

In the first place, I am philosophically skeptical of the wisdom of placing our faith in the observance of a treaty with the present Government of Panama. One solid fact of accomplishment, in this connection, stands out: under American presence and administration the canal has always been open during both war and peacetime. This is a record which all Americans can be very proud of, and it is a record, furthermore, which required no special treaty to guarantee it.

Even under the best of conditions, second, I would still be skeptical about leaving the enforcement of neutrality in hands other than American. What can substitute for the guaranteed presence of American military power? The strategic vacuum that will be created by this treaty—even before the year 2000—offers at best a paper pledge no better than the intent of those countries in a position to enforce it. And who are these, Mr. Speaker: Only two—the United States and Panama will be in real position to determine the future accessibility of the canal to world shipping. It is of the u' most importance, therefore, to understand how these two countries interpret the neutrality conditions and, in effect, how they intend to enforce them.

Does the interpretation of the treaty held in the United States coincide exactly with the Panamanian interpretation? If the answer is no, the treaty is not only in grave trouble in the U.S. Congress, but the canal itself might be in equal trouble during the years ahead.

I believe, Mr. Speaker, that there is sufficient evidence that Panama's view of the treaty seriously differs with the American view. Dr. Romulo Escobar Bethancourt, Panama's chief treaty negotiator, told his country's national assembly on August 19 of this year that the canal might not remain open under all circumstances. "Differences . . . arose," he declared, "in what they—American negotiators—understood by neutrality and what we understood by neutrality." The American position, he went on, required a U.S. guarantee of the canal's neutrality and a permanently open canal. On both points, Dr. Escobar related, the United States conceded to Panama. Under the present treaty, we will not guarantee the canal, nor can we be assured that it will always remain open.

If Panama should decide that the canal is unprofitable, for example, it reserves the right to close it. If internal disorder in Panama dictated it, furthermore, Panama would also be able to temporarily close the canal. Thus, Dr. Escobar concluded, "Panama was freed of the obligation to maintain the Canal open permanently".

This is an amazing admission, Mr. Speaker, which I am sure is unknown to most Americans. What good is a permanently neutral canal, I ask, if it is not guaranteed by military power or if it can be closed by the country in territorial possession? Was the neutrality of the Suez Canal worth much during the many years that it was closed by Egypt?

Lest there be any mistake about this matter, let me conclude by reaffirming what we are doing if we ratify this treaty. We are taking ourselves out of the Panama Canal, lock, stock, and barrel. Even before the termination date of 2000, we are permitting Panama—and Panama alone—to determine the essential neutrality of the canal. Treaty pledges notwithstanding, Panama believes that it has the option to define neutrality and to enforce it. Listen again to Dr. Escobar:

> We did not give in either to the American's insistence that the United States and Panama jointly declare the neutrality of the Canal. We said that the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. After long discussion, they accepted that the declaration would be made by Panama alone, in other words, that Panama be the one to declare the Canal permanently neutral.

Mr. Speaker, in light of these interpretations of the treaty by Panama's chief negotiator, I ask publicly that the administration give us its own view of the neutrality pledges and how it intends to enforce them. As it stands, I oppose ratification of this treaty and I will continue to oppose any change in the status quo.

Mr. McDONALD. Mr. Speaker, I am pleased to join today with my friend and colleague Congressman PHIL CRANE of Illinois in this Special Order on the proposed Panama Canal Treaty.

The Carter administration has begun its educational process on the treaty and it hopes thereby to convince the American people somehow that it is right to give up our canal in Panama and to pay the Panamanians for taking it off our hands.

Now that this treaty is in the public view, the boys in the State Department have to convince the American people that a leftist dictator is the proper person to take custody of the American property and look after it. We are further to be convinced that we still have the right to defend the canal, even though no such language exists in the treaty to provide for any defense by the United States after December 31, 1999. The so-called neutrality protocol of the treaty is worthless.

We are further informed that the canal is no longer strategic in spite of the fact that all but our largest naval aircraft carriers can use the canal, and now with a smaller navy, strategic mobility is needed more than ever for our fleet.

Furthermore, a new element has entered the picture. Alaskan oil is now going through the canal. This oil will increase traffic through the canal by some 700 transits a year by 1982, it is estimated. This oil is vital for the eastern United States.

Other questions need to be answered as regards the treaty President Carter signed. Such as, were the very generous financial terms promised to Panama related to the large loans outstanding to certain New York City banks? Was not it a conflict of interest for Mr. Sol Linowitz to have negotiated this treaty while at the same time having an official capacity with one of those same New York City banks? Did we grant too many concessions to Panama in order to meet a time deadline so that Mr. Linowitz's appointment would not run over 6 months and he would have to come before the U.S. Senate for confirmation?

The American people, through their elected Representatives, have a right to answers to these questions and more. They have a right to be represented by their elected Representatives in approval or disapproval of this treaty in accordance with article IV, section 3, clause 2, of the Constitution, which states that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." And there is no question but what this is sovereign American territory. This has been stated in three U.S. treaties with Panama and upheld by the U.S. Supreme Court on several occasions, for example, Wilson against Shaw, 1907, and U.S. against Husband R in 1972.

Will there be violence and sabotage in the Canal Zone? There may, and if it comes, it ought to be dealt with very firmly. Any that does occur will have to be on the orders of General Torrijos as nothing happens by accident in a dictatorship, and we should remember that. We can and should defend the canal. Not by getting out and having to invade it at some future date in order to save it from a Castro, but by maintaining whatever military presence in the Canal Zone necessary to protect our interests.

Lastly, we should not forget that Torrijos is a friend of Castro and the Soviets are also waiting in the wings. A top level Soviet delegation was just recently in Panama. Our canal could go the way of the Suez Canal and be closed for 8 years

at tremendous cost to the American consumer. The treaty should be defeated.

Mr. SNYDER. Mr. Speaker, I want to call to the attention of my colleagues several questions put to Ambassadors Linowitz and Bunker on April 17 last in open hearings of the Committee on Merchant Marine and Fisheries regarding the new Panama Canal treaties.

What is of particular interest is the way these questions were ducked.

Of course, the negotiations at that point were still unconcluded.

Now that the treaties have been signed, however, uncertainty remains—what exactly are the answers to these specific questions?

The Ambassadors wanted to testify on August 17 only in executive session. Chairman JOHN MURPHY of New York promised them such a session at a later date.

I ask at this point, is there anything they could tell us in executive session that is worth a continental? If it is not spelled out in the treaties someplace, what good is it?

The existence of secret agreements has been officially denied, so all that binds Panama is what we can read in the treaty texts.

On August 17 the following questions were asked by my colleague from Kentucky (Mr. HUBBARD), and the gentlelady from Maryland (Ms. MIKULSKI), and myself:

1. Mr. HUBBARD. I understand the United States is not restricted from intervening militarily after the year 2000. Does this mean that the United States will have an affirmative right under international law to intervene, and should we intervene, would the United States risk international repudiation if other nations were to disagree with the decision of our Government to intervene?

Ambassador LINOWITZ. It would not be appropriate at this time for us to talk about the precise language. When the treaty is put into official form, you will have adequate opportunity to examine it.

Mr. HUBBARD. But you would try to protect our right under international law to intervene, in the wording?

Ambassador LINOWITZ. We will not use the words "intervene" or "intervention", I can guarantee you.

2. Mr. SNYDER. Do you mean "perpetuity" when you say "indefinite" and "permanent" in your statement today?

Ambassador LINOWITZ. I mean indefinite. On the record we will not go into further discussion on that point.

3. Mr. SNYDER. Well, does the neutrality that you refer to in your statement today mean that warships of an enemy at war with the United States could pass through the canal?

Ambassador LINOWITZ. Again, you are getting into specific provisions of the treaty which will have to wait until the treaty is ready.

4. Mr. SNYDER. Does it mean warships of an enemy of the United States not yet at war can cross through the canal?

Ambassador LINOWITZ. Mr. Congressman, you are asking these questions and I cannot address them in open session.

5. Mr. SNYDER. The State Department fact sheet, page 3, states, "Panama will assume general territorial jurisdiction over the present Canal Zone at the Treaty's start." Does that take place immediately upon ratification by the President, with the advice and consent of the Senate, or after various kinds of legislation that your counsel said we are going to have to adopt to implement the treaty?

Ambassador LINOWITZ. Territorial jurisdiction would not require implementing legislation.

Mr. SNYDER. So that will take place immediately upon the ratification of the treaty by the President with the advice and consent of the Senate?

Ambassador LINOWITZ. Yes, sir.

Mr. SNYDER. Does that language mean that the Guardia Nacional would be able to move into the Zone at that time, that is, Torrijos' army?

Ambassador LINOWITZ. The United States has the primary responsibility for the defense of the canal under the terms of the treaty?

Mr. SNYDER. We are not talking about defense; we are talking about police. That is, his police force.

Ambassador LINOWITZ. I am saying that any force that comes into the canal comes in with the knowledge that the primary responsibility is that of the United States and we are in that position.

Mr. SNYDER. Who will do the policing of the canal, not the defense?

Ambassador LINOWITZ. We are now getting into the terms of the treaty which I don't think we ought to discuss.

6. Mr. SNYDER. If we have a problem with the leadership down there in violation of the treaty, which they have done in times past, might not we be involved in another Normandy-type landing?

Ambassador LINOWITZ. It would not be appropriate for us to discuss this in open session.

Mr. SNYDER. You wouldn't want to pass judgment, then, on whether it might be a Bay of Pigs instead of Normandy?

7. Mr. SNYDER. Will you tell me how the U.S. military forces can take quick and effective action coming in over the beaches after the year 2000 to maintain the neutrality of the Canal without a secured air field down there?

Ambassador LINOWITZ. I don't think we can discuss that.

8. Ms. MIKULSKI. Thank you, Mr. Chairman. I would like to come back to a very fundamental question where we talk about maintaining the neutrality of the Canal. How do you see that neutrality being maintained

Ambassador LINOWITZ. You mean specifically?

Ms. MIKULSKI. Yes, specifically. Everybody says the Canal is going to be neutral territory. How will that be maintained? Since we are going to assume the responsibilities for maintaining the neutrality, how are we going to do it?

Ambassador LINOWITZ. The U.S. and Panama will have responsibility for maintaining the neutrality of the Canal. We will be in a position to undertake whatever is necessary to assure that neutrality is maintained.

Ms. MIKULSKI. What does "undertaking whatever is necessary" mean?

Ambassador LINOWITZ. I don't think in this open session we should go into that.

Has publication of the treaties answered these questions thoroughly?

Are they answered to the satisfaction of the Congress and the American people?

I think not.

Mr. Hubbard's question was pointed at our right to intervene to protect the canal and what other nations would think of it? I ask now, how can we intervene if Panama herself says we have no right to intervene?

Yet that is precisely what Panama's chief negotiator, Romulo Escobar Bethancourt, has been saying.

Article IV of the "Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal," is the basis for the administration's claim that the United States has the right to intervene to protect the canal.

It states:

The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.

Listen to what Escobar Bethancourt declared on this vital matter in an August 24 press conference in Panama City, as reported by the Panama City Domestic Service:

Now, there is the question of whether this does or does not give the United States rights to intervene in Panama.

Now that is the real question. The pact does not establish that the United States has the right to intervene in Panama. This word [intervention] was discussed and eliminated, and what is stated is that Panama and the United States will maintain the neutrality of the canal. What is the meaning of "will maintain?" In practice, the meaning of "will maintain is that, if neutrality is ever violated, Panama on one hand and the United States on the other, or the two countries jointly, will determine how they will guard the canal against such a violation.

"Continuing on the subject of neutrality, Escobar Bethancourt maintained that "the neutrality pact does not provide that the United States will say when neutrality is violated. That is not provided there. There is an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the canal remains open peacefully for all ships of all flags of the world. That is all it says. It does not say that it falls to the United States to decide when neutrality is violated or not.

In no way did the Ambassadors answer my question regarding the tenure of the Neutrality Treaty by equating perpetuity with indefinite, or permanent, and there is a vast difference, obviously. Mr. Linowitz declared in the hearing that the word perpetuity did not appear in the treaty, and it does not.

The same article IV is evidently the only basis for anyone's interpretation of the life of the Neutrality Treaty.

Panama can renounce that pact anytime it chooses, and then where will we be?

I am certain the American people are interested in the answers to my questions regarding the right of enemy warships to pass freely through the canal.

The Ambassadors ducked my two questions.

The Neutrality Treaty states quite clearly in article III(e):

Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the Canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance.

I wonder if the Senate wants to assent to a treaty by which the United States would be required to insure the safe passage through the canal of warships of the U.S.S.R. at a time we would be at war with the Soviets?

We cannot forget that neutrality is a vague, abstract concept which is defined

by the rules and regulations set forth by the sovereign or the authority that controls the waterway. Clearly, after year 2000, that will be Panama, exclusively. We have that exclusive right today. Even before 2000, Panama could give us trouble on this point since she will have a measure of joint authority over the canal.

Panama, after 2000, can define neutrality as meaning no U.S.S.R., no U.S.A., no anybody through the canal whose policies she does not like should it be to her self-interest.

In regard to my questions concerning the Guardia Nacional moving into the zone, what is still the major question is what President Carter would do should the Senate consent to ratification. Would he exchange ratifications with Panama—assuming that country ratifies the treaty—before, or after the whole Congress acts on implementing legislation regarding the transfer of property?

Questions still remain regarding the specific matter of policing the zone.

William R. Drummond, president of the Canal Zone Police Union, Local 1798, American Federation of Government Employees, indicates that certain aspects of the treaty are still open to question and interpretation. These areas include procedures for criminal investigation and criminal jurisdiction over both canal employees and their families, and armed forces personnel and their families.

My last two questions put to the Ambassadors, and Congresswoman MIKULSKI's question, addressed the same vital matter—the canal's neutrality—how would we go about moving in to protect the canal after we have pulled out?

The Ambassadors ducked the questions, and obviously the treaty does not answer them.

Of course, Escobar Bethancourt has already thrown monkey wrenches into our very right to intervene.

How can we possibly be better off under the proposed treaties than we are now?

It is a simple military concept that it takes at least three times the force to take an objective than to hold it.

We have military forces on site in the Canal Zone now.

We will have zero military force on site there after 2000.

That signifies perhaps at least three times the loss of American lives should we have to retake the Canal Zone if an aggressor seizes it, than would be involved to protect it if we do not give it to Panama.

The proposed treaties should be rejected.

Mrs. HOLT. Mr. Speaker, I wish to join my distinguished colleagues in expressing grave concern over the fate of Panama Canal under these new treaties. One aspect of the treaties which should be of particular concern to the United States is the effect which an American withdrawal from the Canal Zone will have on the balance of power and influence in the region.

All sides in this dispute agree that the U.S. presence in the Canal Zone is a formidable one. It is at the same time a peaceful one, and a force for stability in the area. Through that presence, the vital interests of the United States are protected—particularly the right of free and unhindered passage for our merchant and military vessels. The American presence is also a reliable and trustworthy guarantee that the canal will remain neutral, and that the vessels of all nations will be afforded the right of free passage. The efficient American administration of the canal and governance of the Canal Zone has thus operated to the benefit of all nations, Panama included, by holding the canal separate and apart from the political or ideological conflicts of the day.

It should also be pointed out that while the rights of all nations are thus protected by the American presence, the effective neutrality of the canal is a matter of particular importance to the United States. As a nation which spans the continent, the canal provides a vital sea link between the East and West coasts. It is also in our interest to forestall the intrusion of hostile foreign influences in nearby areas which could possibly pose a threat to American security. The Cuban missile crisis and its lessons remain with us today, and I would shudder to think of what this Nation's strategic position would be today if we had not had the courage to squarely meet the threat of offensive Soviet missiles in Cuba.

We must not lull ourselves into thinking that the hemispheric challenge posed by the Soviets is past, however. In fact, the vacuum left behind by a U.S. withdrawal from the Panama Canal Zone may afford an ideal opportunity for the expansion of Soviet influence in the Caribbean. The Soviet-Cuban connection is already well documented; Socialist or Marxist-style regimes are currently in place in Jamaica and Guyana, and the sympathies of both governments with the regime of Fidel Castro are scarcely disguised. The Soviet Union is also known to be attempting to expand its influence with the leftist military Government of Peru.

These are developments which bear watching. Infinitely more important, however, is the possibility that Soviet influence might one day fill the vacuum left behind by an American withdrawal from the Panama Canal Zone. This is not idle speculation, but a very real and plausible security consideration for this country. It carries direct implications for the effective guarantee of the canal's neutrality once it is under Panamanian control. I might point to the remarks of Dr. Romula Bethancourt, head of the Panamanian negotiating team, made before the National Assembly of Panama this last August 19. Speaking of the negotiating process leading to the final treaties, Bethancourt revealed that—

> The United States then proposed that there be a neutrality treaty between Panama and the United States and no one else. Because they did not want for either the Russians, the Cubans, or the Chinese they said so exactly—to intervene in the neutrality of the Panama Canal. Our position was that neutrality didn't make any sense if limited to two countries as a result of a treaty between the United States and Panama and that we opposed the other countries not having the right to join in that treaty. They changed their position and agreed to allow the countries of the American continent (except for Cuba), but no other, to join. We said no, that this was meaningless, because in case of a war between the United States and Russia or China, those countries not being a part of the neutrality agreement would be under no commitment to respect the Canal or the Isthmus of Panama. That was another reason for long delays, until they finally accepted the idea that all countries of the world could join the neutrality treaty.

So then, the door is open. What will happen? Even now, the Soviets are evidencing a new interest in Panama. A little over 2 months ago, from July 11–19, a Soviet economic delegation paid a visit to Panama. It has been revealed that during that visit, the Soviets discussed: a possible purchase from Panama of 50,000 metric tons of sugar; possible establishment of a Russian factory to repair sugar refining equipment; possible construction by the Russians of a hydroelectric plant; and the establishment of a Soviet presence in the Colon free zone, on the Atlantic side of Panama. It is also believed that discussions were held on the opening of a Soviet bank in Panama City.

It has been pointed out that these arrangements offer little commercial advantage to the Soviets, who already have an excess supply of sugar, yet have offered to pay Panama high prices for its own excess. We cannot know for sure, but this very strongly suggests that the objectives of this Soviet opening to Panama are other than commercial. What seems likely, in fact, is that already the Soviet Union is laying the groundwork for an expansion of its own influence in the void that will inevitably be left behind by an American withdrawal from the zone. The instability of the Torrijos regime and the leftist views of General Torrijos himself suggest that a Panama devoid of American presence may offer fertile ground for Soviet manipulation and influence.

This, I firmly believe, is something we cannot afford. Such a development may or may not come to pass. It is impossible to read what will happen in the future, but already we have evidence before us, and it is not encouraging. The interest of this country in the neutrality and impartial operation of the Panama Canal is too great to allow us to run the risk that we might be supplanted in the Canal Zone by a Soviet or any other hostile influence. Against such influence, these treaties offer no guarantee. I strongly urge their defeat.

Mr. SPENCE. Mr. Speaker, there are so many reasons why the U.S. Congress should not ratify the newly negotiated Panama Canal treaties that I hardly know where to begin. But please note that I spoke of the U.S. Congrses, rather than the Senate alone, in connection with ratification. I did so deliberately, because I do not believe it is either legal or constitutional for the vast amount of territory which the United States owns in Panama—territory to which we possess fee simple title—to be given away by the President and the Senate without the concurrence of this body. Others more qualified than I will probably discuss that

issue in detail today, but I want to make it absolutely clear that I will consider any transfer of title to property this Government now owns by right of purchase in Panama to be illegal and in direct violation of article IV, section 3, clause 2 of the Constitution, unless the House concurs in its transfer.

Second, let me note that I resent the idea currently being given such wide currency by proponents of the treaties that they must be ratified or we will be precipitating violent opposition in Panama and will be subjecting the United States to embarrassment and vilification in the capitals of the world. To take such a position is to engage in political blackmail, more compatible with the Marxist regime in Panama than with the representative democracy and system of checks and balances which are a revered part of the constitutional government we enjoy in the United States.

Who, after all, negotiated the treaty? The executive branch. Who announced its theretofore secret terms only days before the signing ceremony? The Chief Executive. If the United States treaty-making procedures, as outlined in the Constitution, were not clearly spelled out for the benefit and understanding of the leaders of Panama with whom we were negotiating, then there has been a reprehensible breach of faith both with those Panamanian leaders and with the Congress and the people of the United States. If it was so spelled out, then the leaders of Panama know that the treaty means nothing until it is ratified and failure to ratify it provides no legitimate cause for violence or rebellion which does not already exist.

That, then, is the crucial issue. Does any legitimate reason currently exist for such threats as Panama's chief negotiator, Dr. Romulo Escobar Bethancourt, made when he warned on August 19 that—

> If the Senate does not approve the treaty, Panama will adopt a course of violence.

When viewed against the historical background that there would be no Panama if it were not for the United States; that there would be no Panama Canal if it were not for the United States; that Panama received what amounted at the time to very generous compensation for the land required for the Canal Zone—over $44 million in addition to the $25 million we paid Colombia, her parent republic; that the United States has increased the annual payments to Panama as inflation has hit the world and has paid, through 1976, annuities totaling $56,600,000; that we have financed improvements there costing nearly $1.4 billion; and that we own fee simple title to the land and have consistently kept the canal open to ships of all nations—in view of all these facts, and the obvious willingness of Congress to agree to more participation by Panama in the operation of the canal and more generous financial arrangements in the future, I fail to see how any reasonable person could suggest that Panama has any legitimate grievance against the United States at all, let alone any that is worthy of a resort to violence. And, if their grievances are not legitimate, to give in to their demands or even to dignify them by serious negotiation is the rankest sort of appeasement. To do so gives new hope to every political terrorist group in the world and encourages every country with whom we have negotiated agreements for bases or other facilities or from whom we may have purchased territory, to demand it back with the same threats Panama has used and under the same munificent terms conceded to Panama in these treaties.

Mr. Speaker, despite my misgivings on these and many other points, the major topic I wish to address today is the question of whether the treaties do, in fact, insure our right to maintain the neutrality of the canal in the future and how we would accomplish that goal.

All of the verbal assurances we have received from the administration to the contrary notwithstanding, my personal review of the treaties and everything I have read relative to their interpretation convinces me that we have absolutely no such guarantee and that our ability to insure the neutrality of the canal in the future—or even our own right to use it—depends entirely upon our willingness to go to war for that purpose. Were the canal to come under military attack, that is, of course, our only resort even now, and the canal would be difficult enough to hold and protect militarily today. However, if it is indeed the case that the treaties provide us no legal right to unilaterally enforce neutrality, then giving up our bases and our physical presence there, as the treaties require, would greatly impair our ability to enforce such neutrality, as we are pledged to do under the Hay-Pauncefote Treaty with Britain, or to insure our own access to the canal even by military means in the future.

I am deeply concerned that we are being asked to approve a set of treaties which in fact do not do what we have been told they will do with regard to this matter of neutrality. The treaty language which purports to protect this right is unconscionably vague. And the assurances we have been given by the administration that Panama "understands" the language to mean that we have a right to guarantee neutrality are betrayed by the words of the very Panamanian who served as that country's chief negotiator of the treaties. Let me quote him directly, from a speech of August 19 to the Panamanian National Assembly:

> We did not give in either to the American's insistence that the United States and Panama jointly declare the neutrality of the Canal. We said that the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. After long discussion, they accepted that the declaration would be made by Panama alone; in other words, that Panama be the one to declare the Canal permanently neutral . . . Those are the facts of the matter so that with the neutrality pact, we are not giving the United States the right of intervention.

If the power to guarantee neutrality is, in fact vested solely in Panama, or even if it requires the cooperation of Panama—if, in other words, the right is not unilateral with the United States—then the treaty is not worth the paper it is written on insofar as the questions of neutrality or the protection of our own legitimate interests in the canal are concerned.

Mr. Speaker, in support of this viewpoint, I ask unanimous consent to insert at the conclusion of my remarks the text of Dr. Bethancourt's speech before the National Assembly; the text of a feature article from the September 17 issue of Human Events, entitled "Do New Treaties Give United States Right To Defend Canal?"; and the text of a column by Charles Maechling, Jr., entitled "The Canal Treaty: Words of Caution," which appeared in the August 8 issue of the New York Times.

As a member of the House Committee on Armed Services, it is of great importance to me to be assured that the canal will remain neutral and that neutrality can be guaranteed with as much ease and assurance as is humanly possible.

I do not consider such assurance necessary or important for any solely nationalistic reasons, but because it is plain to me on the face of the proposition that it is in the best interests of every legitimate, fair-minded, peace-loving country in the world. Indeed, it is I believe in Panama's best interests, if she were capable of dispassionately assessing her own best interests. Things have a way of changing in the political world. Today's enemies often turn out to be tomorrow's friends, and vice versa.

As I read the treaties, we are turning over enormous responsibility to a small country with an instable government which presently has a strong Marxist orientation. Many of the treaty provisions depend for their full implementation upon executive agreements which are not subject to the ratification process and which can easily be changed by this or future administrations, without the consent of Congress. The neutrality provision, indeed, as I have already suggested, seems to depend upon a mere "gentleman's agreement" for its legal force and interpretation. How can we depend upon a "gentleman's agreement" with leaders who threaten violent response if their demands are not met? How can we know who will be in power in Panama in the year 2001? What assurance can we possibly have on the basis of their past record that a future government will not unilaterally repudiate the treaties?

Furthermore, we are giving the Panamanians control over the operation of the canal and the setting of tolls. How can we be assured that their policies with regard to the operation of the canal will not provoke international incidents in the future?

How, under such circumstances, would we defend the canal or guarantee its neutrality? Can we use military means if necessary, without risking censure in the court of world opinion as a treaty violator? Or are we constrained to limit our efforts to diplomatic persuasion? The treaties ought to make this clear. Congress ought to know what the options are—what the language really means, not

only to the State Department but to the Panamanians—before we agree to put them into force and effect. Otherwise, we are asking for future trouble of a far more serious sort than that which we are supposedly attempting to resolve in the new treaties.

While I recognize that no one can absolutely guarantee anything in this world, I believe the United States has demonstrated repeatedly in times of crisis its ability and willingness to be fair and to abide by its treaty agreements and by international law. Those who are so anxious to be rid of the American presence in the Canal Zone today may see the day come when they would be ever so glad to have us there. Though I am aware that we are presently engaged in a pattern of waffling on our own commitments in such places as Taiwan, South Korea, Israel, and West Germany in what I consider to be a misguided effort to curry favor with our enemies and save a little money, I still believe we can stand comparison with any other country in the world in terms of our political stability and the keeping of commitments.

In conclusion, let me say that I have long been opposed, on the basis of principle, to the negotiation of treaties that would turn the Panama Canal over to Panama. I am now even more vehemently opposed to the specific treaties which have been negotiated, on the grounds that they have been negotiated under apparently misleading circumstances and in an atmosphere of unreasonable secrecy and blackmail; that, as noted earlier, they are vague and poorly drawn in their provisions and depend heavily for their implementation upon executive agreements not subject to the ratification process and easily changed; that they do not accomplish what they purport to accomplish; and that they contain clear provisions which are not in the best interests of this country or of peace in the future.

The material follows:

Dr. Romulo Bethancourt, Head of the Panamanian Negotiating Team Before the National Assembly of Panama—Address Concerning the Neutrality Pact with the United States, August 9, 1977.

The original (American) position was that to reach an agreement with Panama there would have to be a neutrality treaty and a military treaty. The military treaty would be made before the end of this century to be operative after the year 2000. This kept the negotiations stalled for a long time, because Panama opposed the enactment of a military treaty. Such treaty would have implied two things: First, the continued U.S. military presence in Panama after the end of the present treaty (2000); and second, the United States, as a great power, is a country frequently involved in wars in other parts of the world, and we did not want that, because of the existence of a military treaty the future youth of our country to have to go fight in the American battlefields with the pretext that this related to the defense of the Panama Canal. This was a position maintained until the United States withdrew the idea of a military treaty. We were then able to negotiate a neutrality treaty alone.

With regard to the neutrality pact, the following situation arose: The United States asked if Panama would disagree with the idea of the Canal being neutral. We told them we didn't, that on the contrary, a long-standing aspiration of Panama had been that the Panama Canal would be neutral. They said that they wanted the Panama Canal to be neutral and we said we entirely agreed with them. Differences then arose only in what they understood by neutrality and what we understood by neutrality. They proposed that Panama and the United States declare that the Canal was neutral and that the United States would guarantee that neutrality. Panama was opposed to this concept, explaining that we did not want the United States to maintain a guarantee over the State of Panama, using the neutrality issue as an excuse. This was another source of debate that kept the negotiations stalled *until the United States gave up the idea of its guaranteeing the Canal's neutrality.*

Another of the positions they presented was that Panama must agree to maintain the Canal permanently neutral and permanently open. We told them that Panama could commit herself to maintain the Canal permanently neutral because that was her wish. Panama has no interest in having anything other than a neutral Canal, the Panama Canal, because otherwise the Isthmus of Panama could become a battlefield. But we said *Panama could not promise to maintain the Canal permanently open* because of three circumstances that might arise. One, because of natural causes; we explained that an earthquake could take place, for instance, which would close the Canal, and, in such a situation, Panama could not be under an obligation to keep it open. Another possibility was temporary disruptions—landslides could take place and the Canal would have to be closed to carry out clean up operations. *The third possibility was that the Canal could become unprofitable for Panama; in such a situation, Panama could not be tied down to keeping open a canal which was not earning revenue.* They (United States negotiators) accepted the first two reasons—natural causes and temporary disruptions—but they did not accept the third reason, lack of profits. This, too kept the negotiations stalled for a long time.

They argued that if the Canal was not profitable, Panama could obtain money from the United States or the other countries that use the Canal to keep it open. We told them that when the new treaty with the United States ended, we did not want Panama to be under either direct or indirect obligation to turn to the United States or any other country to request money to keep the Canal open. Our respective positions remained unchanged until we reached the agreement I am about to describe. They said we can't present to our Congress an article that states you will close the Canal because of insufficient revenues. And we said we could not present an article committing us to operating the Canal permanently when we have no way of knowing if the Canal someday will yield no profit. We finally agreed to eliminate that article, and so Panama was freed of the obligation to maintain the Canal open permanently. The negotiations then went exclusively to the issue of neutrality.

The United States then proposed that there be a neutrality treaty between Panama and the United States and no one else. Because they did not want for either the Russians, the Cubans or the Chinese—they said so exactly—to intervene in the neutrality of the Panama Canal. Our position was that neutrality didn't make any sense if limited to two countries as a result of a treaty between the United States and Panama and that we opposed the other countries not having the right to join in that treaty. They changed their position and agreed to allow the countries of the American continent (except for Cuba), but no others, to join. We said no, that this was meaningless, because in case of a war between the United States and Russia or China, those countries not being a part of the neutrality agreement would be under no commitment to respect the Canal or the Isthmus of Panama. That was another reason for long delays, until they finally accepted the idea that all the countries of the world could join the neutrality treaty.

Later, there arose the problem of choosing a forum for all the nations of the world to join the pact. We said it had to be done in the United Nations. They answered that they did not much like the idea of the United Nations because of their problems with the non-aligned countries, the Third World, the Arabs, etc. They proposed the O.A.S. We agreed, provided that this body only serve as a depository, as the physical location where all the nations of the world would sign the treaty, and that O.A.S. would have no say in determining which countries would sign. This was another cause for discussion. It was solved through a protocol of neutrality—that famous protocol which has been attacked as giving the United States the right to intervene in Panama by some who apparently read such a description in a Miami newspaper. This protocol is only a note* indicating the existence of the neutrality pact. It summarizes the agreement and sets down that country such-and-such agrees to abide by it. That is the famous protocol. It is the same thing as the neutrality treaty but in the form of a protocol (that is what it is called), and the O.A.S. is the depository.

Another issue was preferential right of way through the Canal for American warships. The Americans said that they had two problems. First, they had to please the Pentagon—they had to present it with something it liked so it would support the treaty; and second, that as they would be leaving Panama as soon as the treaty ended, they should be allowed at least that much, if nothing else, because they built the Canal. We pointed out that we recognized they had indeed built the Canal, but that writing in the neutrality pact that the United States warships would have preferential right of way over the rest of the vessels violated the neutrality treaty and that was contrary to the objective of the treaty we were negotiating. This was another cause for lengthy discussion and much analysis. They searching through their books and we searching through ours; they invoking their treaty writers and we invoking ours. This is how these discussions are carried out. Changing their position, they asked for preferential right of way during times when the United States was at war—originally they wanted it in times of peace and war—and that this right be granted only when requested by the ship's captain. We said no—that war time was the least appropriate moment to grant preferential passage rights since it would be a violation of neutrality. After long discussions they accepted that U. S. warships could not be granted preferential rights. Then both countries set about looking for a formula which would not involve preferential rights, and we came to the agreement that the warships of the United States, in times of peace or in times of war, and the warships of Panama—we still don't have any now, but maybe by the year 2000 we will have some—will have the right to speedy passage through the Canal. This means that they will have the right to as rapid a passage as possible. We were able to agree on this because it's not in any country's interest to have another nation's warships delaying for long in its territorial waters; so the faster they go through, the better.

Another of the issues in the neutrality pact that we were—I should explain that I am giving you the true picture of what the neutrality agreement will consist of. We did not give in either to the American's insistence

* The meaning of "note" is not clear. It could mean a note of explanation or a small piece of paper.

that the United States and Panama jointly declare the neutrality of the Canal. We said that the declaration of the Canal's neutrality was an act relating to Panama's sovereignty, and that it would have to be a unilateral declaration. After long discussion, they accepted that the declaration would be made by Panama alone, in other words, that Panama be the one to declare the Canal permanently neutral. They proposed that in our declaration we say that the state of neutrality was intended to prevent the Canal from becoming a theater of war. We answered that we were declaring the Canal neutral so that neither the Panama Canal nor the Isthmus of Panama would become a theater of war. They wanted to separate the Canal and the Isthmus. We told them that we could not do that, that the Canal was part of our Isthmus, and that our neutrality only made sense if it covered both the Canal and the rest of the country. We wouldn't be any better off if, rather than dropping a bomb in the canal, they dropped it, for example, on Ocu or Santiago. They accepted that the declaration of neutrality be worded in such a way that neither the Canal nor any part of the Isthmus of Panama could be the object of reprisals in the course of another nation's conflict.

The other point we made in relation to our concept of neutrality is that it is not a neutrality which will allow the United States ships to transit peacefully, but rather one which will allow ships flying all the flags in the world to transit peacefully, notwithstanding what country may be involved, its being a communist country, a fascist country, or a monarchy—that we were not insistent on its being a democratic country to allow it peaceful passage. And finally, that the pact was to be made between the two countries, and it is stated there that Panama declared the neutrality of the Canal, in the manner that I already explained to you, following the establishment of a neutrality pact with the United States and a commitment being made on the part of both nations to maintain that neutrality. This concept of maintaining the neutrality was that which replaced their original position of guaranteeing the neutrality. The upholding of the neutrality is indicated within the treaty and in the protocol all other countries are committing themselves to this protocol.

Later came a discussion on their proposal that the two countries commit themselves to upholding this neutrality under all circumstances. We said that if the phrase "under all circumstances" was included, two important exceptions would have to be made. The first was that this would apply only so long as internal order was not involved, since these are problems for one country or our national guard to address; and second, in the case of an attack on the Isthmus or the Panama Canal by a third country. This was cause for much discussion, and in the end, they preferred to leave out the phrase so that we would not include the exception. We also pointed out that the neutrality pact must indicate clearly that after the 31st of December 1999 at 12 o'clock noon—or at 12 noon as Edwin (Edwin Fabroga) says or at 12 midnight as Ahumada (Adolfo Ahumada) says—that from that date on, the American troops could not be in Panama. After much discussion, they said, "We don't like that phrase—that there can be Russian troops or Cuban troops." Then a proposal was made to change the phrase to read that from the 31st of December 1999 on only Panamanian troops could be stationed in Panama. We were in perfect agreement with this. They were happy, because they had been half-thinking that we are going to call in the Russians, and we were happy because one of our aspirations was precisely that our troops be the only ones here.

So this is the "problem" with the neutrality pact. (Sarcastic) The criticisms made of it—some that you have heard or have read—indicate that we give the United States the right to intervene in our country after the year 2000. These critics think that rights of intervention are granted in the treaty. To the great powers, no one gives the right of intervention; they intervene whenever they feel like it with or without a treaty. When they (the Americans) landed in Santo Domingo, they had no military treaty with Santo Domingo, nor had any right of intervention in Santo Domingo, and they landed anyway. But there are people here who think that it is in the articles of a code (law code) that tell a country if it has the right to intervene or not, and they don't know that it is the bayonets, the guns, and the atomic bomb that gives a country the strength to intervene. And so a country like the United States can land in Panama whenever it feels like it after the year 2000 with or without a neutrality pact. But it cannot land, for example, in Russia, even if Russia tells it to land. Those are the facts of the matter so that with the neutrality pact, we are not giving the United States the right of intervention. What we are giving is an assurance that the Canal will be permanently neutral, that we are not going to close the Canal so that their ships or this ship or that ship cannot go through. Why this neutrality pact? Because they are thinking, "By the year 2000 this country (Panama) may have gone socialist and become our (U.S.) enemy and we now want to make sure that even if they become socialist, they cannot close our passage."

And, frankly speaking, they do not need this neutrality pact to intervene or not intervene. They need it to present it to their Congress, to tell their Congress, "Look, we are giving the Canal to those Panamanians, but we retain the right to watch over it so that they behave themselves." That's the truth. It's an internal political problem; they are trying to solve an internal problem with a Congress intensely opposed to these negotiations and one which, in addition, includes members who have not been elected by the American people but rather who have become members of Congress of their own accord—these are certain Panamanaians living here and others in Miami. (n.b. Referring to exiled people opposed to Torrijos' government.)

So about the neutrality pact, these are its real contents, distinguished Representatives. It was very carefully thought out, as you can see from my description of how its final form was arrived at. I might add that we feel very proud of the way the matter has been resolved. You should have seen the original draft they presented along with the military treaty. Agreeing totally to that would have been shameful; I would not have dared to sit at this table now to give you any kind of explanation if I'd brought with me their original draft for the military treaty and the neutrality treaty.

The other problem concerned the option for the construction of the sea level canal. Two months ago, almost on the day of the opening of the Alaskan pipelines, President Carter delivered a speech in which he said that his government was deeply interested in the construction of a sea level canal either through Panama or through another point in Central America, and right after President Carter's speech the American negotiators brought the question of the option to the negotiating table. During the earlier negotiations of 1966 and 1968 this issue had been intensely debated by the negotiators of that time, Doctor Diogenes de La Rosa and others since it was at that time that they (the Americans) were making the studies which they later completed and they wanted to speed up the time-table for possible construction. But in the present round of negotiations it appears they had put the problem aside until now, with President Carter's speech and the Alaskan oil.

And so the discussion of the option began. We talked about this option approximately two times and we arrived at no conclusion. Then came the Bogota conference.

There, the problem of the option truly made for a crisis, because there a very complete proposal was laid out for agreement by all the presidents, with Carter working through negotiators Linowitz and Bunker, and our side being represented by our Chancellor, Gonzales Revilla, and our negotiating team. They (U.S.) proposed that Panama have an option to build a sea level canal at an unspecified time, and second, that Panama commit herself to the idea that no other country could construct a sea level canal. They presented that proposal in Bogota, and we read it to the presidents. It was the proposal that the negotiators had brought and we read it to them, and as a result the negotiations between the two countries were practically broken off.

The General said in his statement that we had come to this Bogota conference to celebrate a new treaty only to find that we had come to a wake. There, the struggle between the two countries began, with Bogota taking part also, since the other presidents were meddling as if they were Panamanians too.

There was no way to reach an agreement on what they proposed. Panama's delegation wrote a proposal which met with general approval. Read word for word, it is more or less like this:

Article 3—The possibility of constructing a third set of locks or a sea level canal.

1. The Republic of Panama and the United States agree that a sea level canal could be important in the future or in the context of international relations.

Consequently, after its approval, the question of construction will be dealt with. There isn't even an option. The option relates only to studying the matter. We will sit down and analyze with the United States if it is feasible. If it is, the two countries will build it, maybe during the next 10 or 15 years. The generations of the future will be much more prepared. We do not give you a copy of the treaty because its release is pending on the announcement of President Carter and of General Torrijos, and its becoming an official document. We will publish it wholly when it does become (official), and we will debate it publicly.

The ones who cannot prove that this treaty is better than the one of 1903, that perpetuity is better, will have the problem. That the two million dollars a year is better than what is proposed now. We don't care if they say that General Torrijos is a dictator; those who are opposed and say that we are not revolutionaries—let them grab their knapsack and their grenade and go prove it with deeds.

Do New Treaties Give United States Right to Defend Canal?

With officials from 23 other hemispheric nations assembled at the headquarters of the Organization of American States, President Carter and Panamanian strongman Gen. Omar Torrijos signed those two historic treaties last week that relinquish U.S. control over the Panama Canal. But the atmospherics and the President's rhetoric about a "new" relationship south of the border concealed a grim aspect about these ceremonies: that they cap a headlong U.S. retreat around the globe—from Asia, Africa and now even Latin America.

Not all the pomp and glitter that filled Washington can cloak the fact that the U.S., primarily because of a lack of will, is surrendering a strategic waterway to an un-

trustworthy, pro-Marxist government of just 1.8 million people.

A key selling point of the Administration's is that the Canal Zone and the waterway won't really be yielded to Panama until Dec. 31, 1999, and that the U.S., through the second "neutrality" pact, can unilaterally and legally reintervene to protect the canal's neutrality thereafter. But this is an extremely dubious argument, at best.

As the text of the treaties—divulged two days prior to the signing—makes clear, the Torrijos government will exert major control over both the Zone and the canal long before the year 2000. U.S. sovereignty over the Zone, for instance, dissolves upon ratification of the pacts.

The Torrijos government will take over approximately 65 per cent of the Zone immediately after the treaties take effect. Just 30 months from the day they become operative, immigration, customs, schools, courts, prisons and police—now in the hands of the Americans—will be run entirely by Panamanians under Torrijos' direction.

U.S. citizens remaining in what is now called the Zone—many of them ship pilots, engineers and managers absolutely essential to the smooth operation of the canal—will be suddenly subject to Panamanian rule. In short, effective control of the Zone will pass to Torrijos some 20 years *before* U.S. is technically scheduled to leave.

A New Panama Canal Commission, comprised of five Americans and four Panamanians, will have the responsibility for canal operations until the year 2000. But the administrator of the canal—the man who will supervise the day-to-day operations—must be a Panamanian beginning Jan. 1, 1990. The Commission, furthermore, is charged with flushing out American workers and replacing them with Panamanians. Within the first five years of the treaties, for instance, the number of U.S. nationals working for the Canal Commission must be reduced by "at least 20 per cent. . . ."

Out of 14 military bases now in the Canal Zone, only four will remain after implementation, and these bases will be under direct Panamanian civil and political jurisdiction. The "implementation" agreements accompanying the treaties suggest that the Republic of Panama will share, with the U.S., "the responsibility for control of entry" to our defense sites.

In other words, there is a great myth in the making when the Administration says that the U.S. will "slowly" turn over the canal to Panama: the U.S., in fact, will surrender its interests quite quickly.

What is even more astonishing, however, is the language contained in the "neutrality" treaty that the White House and the State Department have repeatedly declared permanently gives the U.S. the unilateral right to reintervene to protect the canal and its neutrality after the year 2000. But no such explicit right exists.

The only reference to this "right" is contained in a vaguely worded passage, Article IV, which says: "The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this treaty, which shall be maintained in order that the canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two contracting parties."

As a Chicago Tribune correspondent noted: "The wording leaves unclear what action the U.S. could take should the neutrality be threatened—could it use military force? Would it be restricted to using diplomatic persuasion?" Indeed, the wording even suggests the U.S. might not be able to act in any fashion without the cooperation of Panama.

In rebutting such criticism, Administration officials insist there is an "understanding" with the Panamanians that Article IV means what U.S. officials say it means. If there is such an "understanding," however, Panama's chief negotiator, Romulo Escobar Bethancourt, is not letting on that he knows about it.

Appearing at an August 24 press conference before the Public Health Ministry in Panama City, Escobar was asked what rights the neutrality pact gave the United States.

"Now," said Escobar," "there is the question of whether this does or does not give the United States rights to intervene in Panama. Now that is the real question. The pact does not establish that the United States has the right to intervene in Panama. This word [intervention] was discussed and eliminated, and what is stated is that Panama and the United States will maintain the neutrality of the canal. . . ."

But the neutrality pact, Escobar continued, "does not provide that the United States will say when neutrality is violated. That is not provided there. There is an article which reads that Panama and the United States will maintain the neutrality pact with the purpose that the canal remain open peacefully for all ships of all flags of the world. That is all it says. It does not say that it falls to the United States to decide when neutrality is violated or not." Yet if the United States cannot unilaterally decide when neutrality is violated, our "right" to guarantee the canal's neutraliy means nothing at all.

In a speech before the National Assembly of Panama on August 19, Escobar went even further in denying U.S. intervention rights. The Americans, said Escobar, "proposed that Panama and the United States declare that the canal was neutral and that the United States would guaranntee that neutrality.

"Panama was opposed to this concept, explaining that we did not want that with the excuse of neutrality, the United States would maintain a guarantee over the state of Panama. This was another cause of discussion that kept the negotiations detained *until the United States gave up on the idea of its having a guarantee of neutrality over the canal* [emphasis added]."

Even if the Administration believes it has an "understanding" of some sort with Panama how good can this be when Panama's chief negotiator is saying something quite different to is own people?

Moreover, Escobar isn't the only one who believe the U.S. has no legal right to reintervene to guarantee the canal's neutrality. Roger Fontaine, director, Latin American Studies, Center for Strategic and International Studies at Georgetown University, told HUMAN EVENTS last week—after the treaties were disclosed—"I see no legal right to intervene unilaterally to guarantee the canal's neutrality. We can do so by force of arms, but on no other basis. Which means we can only do so by going to war".

What is most disturbing about the treaties, however, has nothing to do with their actual wording, but the obvious lack of good faith of Panama's top leaders, including its key negotiator, Escobar. If Panama intends to open up a "new" and more "harmonious" relationship with the U.S. because of these treaties, why is it, then, that Escobar continues to defame the U.S. before his own people at every conceivable opportunity? Why is it that he feels compelled to fuel the volatile student leaders with combustible rhetoric, virtually inciting them to confront the U.S. even after the treaties take effect?

Down in Panama, Escobar has yet to be caught flattering the Carter Administration for its munificent present. Instead, Escobar, while repeatedly condemning American "gringos", crows that whatever concessions were forthcoming from the United States were squeezed out of a reluctant and imperialist nation.

In his August 12 address to the Federation of Panamanian Students, as we disclosed last week, Escobar suggested that the students should strike out on their own if they are disenchanted with some of the "ugly" features of the treaties, such as the presence of U.S. military installations in Panama for 23 years.

"In the past," said Escobar in one of his most incendiary speeches, "when we set bombs against our oligarchy, when we challenged the regimes established in our country, we never asked anyone for permission. You have never asked anyone for permission.

"When one wants confrontation, one puts his knapsack on his back, his bomb at the waist and goes to stage the confrontation."

At the Organization of American States' ceremonies last week, Panama's strongman, Gen. Omar Torrijos, decided to imitate his chief negotiator by striking a sour note.

While President Carter was more than gracious, Torrijos stressed that despite the new treaties, the Panamanians would not be especially happy because "the 23 years agreed upon as a transition period means 8,395 days during which time United States military bases will remain, turning my country into a possible strategic target for reprisal." He also stressed he was fearful that the U.S. might try to exploit the neutrality treaty as "an instrument of permanent intervention." By this sort of rhetoric, of course, what Escobar and Torrijos have done is to set the stage for future confrontations and future negotiations.

President Carter, in truth, is asking the U.S. Congress to embrace two highly questionable treaties that will surrender one of the world's most strategic waterways to a nation ruled by dishonorable and disreputable men with mean and thuggish mentalities. The Congress should turn the treaties down flat.

THE CANAL TREATY: WORDS OF CAUTION

(By Charles Maechling, Jr.)

WASHINGTON.—The terms of the proposed new Panama Canal treaty are about to surface, and already an orchestrated campaign has begun to sell it without amendment to Congress and the public. In the process, two crucial and interrelated considerations are likely to be glossed over:

First is the need for an unconditional obligation on the part of the Republic of Panama to keep the Canal open at all times to international shipping; second is an assurance that sovereignty over the Canal Zone will reside with the United States before final turnover of territory and property to Panama.

It is not generally realized that, for 70 years, two treaties, not one, have governed the legal status of the Canal. The one the public never hears about, because its effects are taken for granted, is the Hay-Pauncefote Treaty of 1900 between the United States and Britain, under which we pledge to keep any isthmian canal "free and open to the vessels of commerce and of war of all nations" on terms of equality and without discrimination as to "conditions and charges of traffic." Panama has no such obligation and is not anxious to assume one.

The new treaty, to replace the old 1903 Hay-Bunau-Varilla Treaty between the United States and Panama, will undoubtedly contain some such language, but it will be an obligation running to the United States alone. By insisting on a bilatral treaty, the United States has foreclosed protection by an international umbrella and freed Panama from any indevendent obligation to the other maritime nations. The world community will have no assurance that in some future crisis, perhaps unrelated to the Canal itself, the Panamanian regime of the moment will not impose discriminatory tolls or suspend transit rights.

Indeed, the current dictator, Brig. Gen. Omar Torrijos Herrera, has openly implied that he will use the Canal as a political weap-

on and has even offered cut-rate transit to Latin-American states in exchange for support in the United Nations.

The Canal's strategic and economic importance to the United States will soon be underscored by the regular passage of Alaskan oil to the Gulf Coast and East Coast. But the Canal is just as important to other countries—77 percent of Nicaragua's trade, 50 percent of Ecuador's, and 40 percent of Peru's depend on it; and 23 percent and 40 percent of the Canal's east and westbound tonnage respectively have Japan as a terminus.

To allow the security of this traffic to rest on the vagaries of Latin-American politics and an obligation to the United States alone would be folly. If we cannot have an international regime for the Canal, there ought at least to be an additional commitment from Panama to other maritime users that the Canal will remain inviolate under all conditions.

The sovereignty issue has been equally muddied. Under international law, sovereignty is not a matter of mere verbal definition but of an effective bundle of jurisdictional rights actually exercised over a territory and its population.

By Article 3 of the 1903 treaty, full jurisdiction over the Canal Zone—executive, legislative and judicial—was granted to the United States "to the entire exclusion of the exercise by the Republic of Panama of any sovereign rights, power or authority." The so-called residual or titular sovereignty retained by Panama—not explicitly but by implication—was historically regarded as of no significance until inflated by American negotiators as early as the 1930's to placate Panama and, more recently, to downgrade American rights preparatory to their surrender.

Under the proposed arrangement, there will be a 25-year transition period during which the United States will gradually turn over bases, zonal territory, and Canal management to Panama. At the end of this period, sovereignty over what remains should automatically pass to Panama.

But any broad transfer of essential jurisdictional rights after three years could be interpreted as a premature transfer of all vestiges of United States sovereignty as well. Once sovereignty over the Zone has been ceded, either expressly or by implication, Panama could with some plausibility assert the right to impose every kind of burden or disability on American installations and personnel not specifically prohibited by the new treaty. There would be little hope for the United States to marshal international support against such harassment, for where sovereign rights are concerned the rest of Latin America would fall into line behind Panama. In no event should blanket transfer of jurisdiction or sovereignty precede transfer of territory or property.

We already have had a taste of Panamanian blackmail in these negotiations—a billion dollar demand at the front end and indeterminate demands later on. No reasonable person would deny the need for a new treaty, but why this should encompass blind faith in the long-term reliability of an unstable Central-American republic, currently headed by a Marxist-nationalist strongman, defies reason.

Mr. RUDD. Mr. Speaker, I want to congratulate my distinguished colleague from Pennsylvania (Mr. FLOOD) for his continued vigilance to inform the Congress and the American people about the vital stake of the United States in our canal in Panama.

I also congratulate the distinguished Congressman from Illinois (Mr. CRANE) for joining Chairman FLOOD in this special order today on the canal and the many serious questions over the proposed new treaty between the United States and Panama.

I took a special order on August 4 to bring the House's attention to the cleverly calculated initiatives of the Soviet Union to take advantage of the President's proposed giveaway of the canal, so that the Soviets could fill the void in Panama once the United States had withdrawn from the Canal Zone.

On July 19, a Soviet delegation headed by Nikolai Zinoviev, chief of all Soviet trade affairs in Latin America, signed a commercial agreement with Panama to open up extensive Soviet-Panama commercial operations.

These include the Soviet purchase of 50,000 tons of crude sugar, the construction by the Soviets in Panama of a $40 million hydroelectric plant, Soviet access to the free zone at Colon and establishment of Soviet facilities at old France Field airbase, and the possible opening of a major Soviet bank in Panama to conduct Moscow's commercial operations throughout Central America.

The agreement was signed by Panama's legislative commission coordinator, Marcelino Jaen, brother-in-law of Panama Dictator Omar Torrijos.

Just prior to the signing of the Soviet-Panama commercial agreement, a top Soviet Politburo delegation headed by Aleksei Romanov, chief of Communist Party operations and Soviet expansion in Latin America, also visited Panama with the approval of Dictator Torrijos.

The Soviet Communist Party delegation met with Panamanian Communist Party and government officials to discuss Communist activities and Panama's role along with Castro Cuba in assisting with the Soviet Communist program throughout this hemisphere.

Mr. Speaker, all this information has been carried prominently in Panama's and Cuba's Spanish language press and carried on radio and television throughout Central and South America.

Transcripts of news stories about these Soviet initiatives have been published by the U.S. Information Agency in its foreign broadcast information service report, which is distributed daily to U.S. Government agencies and officials, to Members of Congress, and to members of the U.S. news media.

These Soviet initiatives in Panama follow exactly the same pattern of Soviet initiatives to gain a foothold and eventually to control Castro Cuba in the early 1960's.

I cannot for the life of me understand why President Carter is so anxious to give away the Panama Canal, so anxious to withdraw our American presence in that vital and strategic location from a national security point of view, and so anxious to allow a Soviet presence and Soviet initiatives to establish another important beachhead for Communist expansionism and threats to our own people in the country of Panama.

It is most disturbing to me, and I am sure to other Members of Congress, that the President and the news media have to date refused to acknowledge the magnitude and the seriousness of the Soviet Union's aggressive initiatives in Panama.

There can be no doubt about the true intentions of the Soviet Union, both from a commercial viewpoint, but more importantly from a military and political viewpoint, in Panama.

One only needs to follow the public Spanish-language press, as does our U.S. Information Agency and the State Department. But rather than hiding the facts from the American people, which is the current policy of the State Department and this administration, we need to publicize these Soviet intentions and talk about them in connection with this proposed new United States-Panama treaty over ownership, control, and operation of the Panama Canal.

Take for example a recent article in Red Star (source: Intelligence Digest publication from Cheltenham, England, August 24, 1977), the official Soviet military organ, which was reprinted in the Cuban magazine Bohemia.

This article representing the official Soviet Communist Party line concerning Panama was written by Maj. Sergei Yuworov, a Soviet army officer, who stated:

Due to its privileged location as the juncture between South America and the rest of the continent, including the canal that permits United States warships to operate simultaneously in the Atlantic and Pacific, it—the Canal Zone—must be considered by the Soviet Union as a "priority zone." A second zone (from which to attack Panama) is the Central American isthmus, located to the north of Panama. The canal itself can be attacked as well from Colombia.

In his Red Star article reprinted in the Cuban magazine, Yuworov points to a third choice of "converting Cuba, and implicitly Puerto Rico, into bases from which Moscow's plans can be consummated."

This article by a Soviet army strategist obviously points to Soviet options for disabling or taking over the Panama Canal in the event of war with the United States. Now that President Carter has signed a proposed treaty to give up U.S. ownership and control of the Panama Canal to Dictator Torrijos, the Soviet Union is obviously restructuring its strategy after its experience with Castro. The current Soviet-Panama initiatives obviously represent a pattern leading to future Soviet influence or control of the canal's operations, if the proposed U.S.-Panama treaty is ratified by the Senate.

I believe that the United States Senate, as well as the House of Representatives, have a solemn constitutional obligation to thoroughly investigate and explore all these aspects of the Panama Canal situation.

We must not allow the staged media events that have been held so far, or the fact of President Carter's signature on the treaty with that of Dictator Torrijos, to influence our action along these lines.

The stakes for the American people are too high. We must stand up and look out for our own people and our Nation's best interests first. It is President Carter's problem if he has put his neck on the line—along with his credibility—in the eyes of other world leaders.

We must not be railroaded into giving up the Panama Canal.

The Congress also has a vital stake in this matter, and I for one will insist that we give every aspect of this questionable treaty the fullest possible examination, as well as its ramifications on the strategic world situation.

Mr. SYMMS. Mr. Speaker, I rise to associate myself with the remarks of Congressman PHIL CRANE and my other col-

leagues participating in this discussion of the Panama Canal Treaty. I would also like to express my appreciation to my friend PHIL CRANE for his leadership on this vital issue.

Mr. Speaker, one provision of the treaty signed by President Carter that concerns me is article XII, section 2(b). This provision would effectively preclude the United States from negotiating with any Western Hemisphere nation other than Panama for the construction of a new interoceanic canal. This is, at a minimum, a dangerous provision. Article XII, section 2(b) reads as follows:

During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

I find this provision to be unacceptable. What if we need a larger canal in the future to handle supertankers or large carriers? Under this provision of the treaty we would be totally at the mercy of the Government of Panama; they could simply say no—no to a modernized canal in Panama or no to a new canal in Nicaragua. It is incredible that we are now at such a point in our foreign policy that we are willing to allow third parties to have a veto over our dealings with another nation. This is one of the many reasons that I urge the Senate of the United States to reject this treaty.

Mr. ROBINSON. Mr. Speaker, I believe it would be dangerous to America's long-term national security, defense, economic, and geopolitical interests to give away, at the cost of some $7 billion to U.S. taxpayers, our Nation's sovereign rights in perpetuity over the Panama Canal and the buffering Canal Zone. I am, therefore, totally opposed to the Carter administration's proposed new treaties that would end effective U.S. control over this vital international waterway.

Should the Senate misguidedly ratify these treaties, I will be among those fighting to assure that we in the House of Representatives are accorded the right, under article IV, section 3, clause 2 of the Constitution, to deny this unwise proposed disposition of U.S. territory and property.

As a member of the House Defense Appropriations Subcommittee and as a citizen, I would like at this time to spell out certain elements of my position, with particular attention to the implications of the treaties to our national defense.

As proposed, these treaties would, among many important negative results, cede to Panama, immediately after ratification, some 65 percent of the 648-mile Canal Zone; end our ownership, control, management, and maintenance of the Panama Canal by the year 2000; and phase out all U.S. military bases there, with the evacuation of the U.S. military presence to be completed by the year 2000.

Thereafter, the United States and Panama would be pledged to "maintain the regime of neutrality" over the canal, but there does not appear to be one single word in the treaties that would preserve or guarantee the right of the United States to militarily defend the canal after the year 2000.

In fact, Dr. Romulo Escobar Bethancourt, the chief Panamanian negotiator, has already proclaimed at a press conference on August 24 that—

The treaty does not establish that the United States has the right to intervene in Panama.

He denied that the treaty gives the United States the right to decide when neutrality is violated, and denied that U.S. warships would always have the right to expeditious transit without conditions.

To understand the follies of such proposals, it is necessary to examine first the military importance of the Panama Canal and, secondarily, the nature of the Panamanian Government.

America is the commanding power on two oceans in the Western Hemisphere in part, because of the vital canal linkage that was built and that is owned, operated, policed, and controlled by this country. It has made it possible for us to maintain a one-ocean navy, rather than having had to construct a second enormously expensive fleet to assure navies to meet crises in both the Atlantic and Pacific Oceans.

Nearly every U.S. naval vessel, save for our present 13 aircraft carriers, can transit the canal, and the next generation of smaller carriers will also be able to pass through. Some 96 percent of the U.S. merchant fleet can also use it, as can most of the world's merchant vessels.

Its importance in peace or war should never be minimized. It was vital to the United States during World War II and the Korean war. During the Vietnam war, approximately 70 percent of cargo used to support the war effort moved through the canal. In normal commerce, some 68 percent of the trade transiting the canal either originates or terminates in the United States.

Its importance will continue to grow. Already, petroleum products account for about 22 percent of the canal's commerce. Almost 45 percent of the Alaskan oil output will be shipped through the canal by 1980.

Using the canal in preference to the Cape Horn route around the tip of South America saves about 30 days and 8,000 miles, to say nothing of the vast quantities of fuel saved. A trip from Norfolk, Va., to Yokohama, Japan, through the canal saves 5,666 miles. Between 1972 and 1975, there were about 750 U.S. naval transits through the canal. If these ships had been forced to navigate via the cape route, it would have cost about $20 million in extra petroleum costs alone.

The Canal Zone is also a command and coordination center for most U.S. military activities in Latin America, including intelligence and operational preparedness. We have 14 separate military facilities located there, with 9,300 combat and support personnel—a force that has been decisively increased in past time of war.

Such considerations led four former Chiefs of Naval Operations to declare in June of this year that—

The Panama Canal represents a vital portion of our U.S. naval and maritime assets, all of which are absolutely essential for free world security.

In a joint letter to President Carter at the time, they noted:

Sovereignty and jurisdiction over the Canal Zone and Canal offer the opportunity to use the waterway or to deny its use to others in wartime. This authority was especially helpful during World War II and also Vietnam. Under the control of a potential adversary, the Panama Canal would become an immediate crucial problem and prove a serious weakness in the overall U.S. defense capability, with enormous potential consequences for evil.

Adm. Thomas H. Moorer, a former Chairman of the Joint Chiefs of Staff, pointed out before a Senate subcommittee in July that the interocean mobility of the U.S. Navy would be seriously threatened should the Soviet Union ever be in a position to control the canal. He said:

The economic lifelines of the entire Western Hemisphere would be needlessly jeopardized.

This, of course, brings me to the subject of the unstable Government of Panama, which in July concluded tentative economic and commercial agreements with the Soviet Union, an adversary of ours eager to increase its control over the vital canal "choke point."

At least one authority reports there were a minimum 53 uprisings in the area of Panama before the country was created, and it has had 32 heads of government in 72 years.

At the time of the riots in Panama in 1964, which were used to launch the drive to end U.S. sovereignty over the Panama Canal and Zone, the Communist influence sparking the trouble had become prominent.

No less an authority than Ellsworth Bunker, later to become our chief U.S. treaty negotiator, wrote the State Department following the riots:

If an investigation is made . . . it will show that violent mobs infiltrated and, led by extremists, including persons trained in communist countries for political action of the kind that took place, assaulted the Zone on a wide perimeter, setting fire inside the Zone and attacking with incendiary bombs . . . It will show the government of Panama, instead of attempting to restore order, was, through a controlled press, television and radio, inciting the people to attack and to violence.

Mr. Bunker's observations were echoed by Joseph Califano, who was serving at that time as the American Counsel to the Organization of American States. Mr. Califano concluded:

We know that some of the leaders in the rioting were known and identifiable communists—members of the P.D.P., the communist party of Panama—and people who belonged to the Vanguard of National Action, which is openly and proudly the Castro communist party in Panama.

Since Gen. Omar Torrijos installed his military dictatorship in Panama in 1968 in a bloodless coup, the pro-Communist orientation of his government seems more pronounced. The dictator, who maintains friendly ties with Castro in Cuba, has said publicly that if there is not new treaty:

We would have to walk the Ho Chi Minh trail. The Ho Chi Minh trail is long and it exerts a heavy toll in blood.

More recently, he said that 50,000 young Panamanians would die if a new treaty should not be signed.

It is a matter of record that since his seizure of power, Torrijos has succeeded in suspending the legislature, suppressing the media, and subordinating the judiciary to his personally controlled 8,000-man national guard, which doubles as his police force.

From all the foregoing, Mr. Speaker, it is necessary to conclude that the proposed treaties represent a mess of pottage for the American people and the free world in general. They would risk the impairment of the worldwide mobility of our Nation's naval forces in the event of war. They would subject us to the grave danger that the Panama Canal would be nationalized and the right of U.S. warships to transit the canal would be denied in time of emergency.

The outcome of a war for allies in Europe or Asia could hinge upon a failure of U.S. supply and logistics at the critical Canal passage point.

The United States can defend the canal and prevent such eventualities only if our access and control of the zone and its U.S. military bases remain guaranteed. That can only be assured by rejection of the proposed treaties.

Mr. Speaker, I realize there is great concern among Americans over the reaction throughout Latin America if the United States should reject these treaties. However, I believe these fears may well be exaggerated.

Panama's per capita annual income, the fourth highest in all of Latin America, is largely attributable to the Panama Canal, and it remains in the strong economic interest of the Panamanians to keep the canal in operation. Any sustained terrorism leveled against the United States in Panama could, moreover, produce the economic and political collapse of the Torrijos regime. His regime has already produced for that nation's 1.7 million people a $1.5 billion national debt, with a debt service of about 40 percent of the entire national budget. The Panamanians have experienced a zero rate of economic growth in the past 2 years and a level of inflation that has increased at the rate of 10 to 15 percent.

It is entirely possible, in fact, that the canal's vulnerability to sabotage or disruption would increase if the proposed treaties were ratified. A rabid, anti-Torrijos Panamanian nationalist, for example, would probably be more inclined to undertake a wrecking mission at the canal if it were in the hands of his people's oppressor than if it were in the hands of a friendly democracy.

And if, as expected, the Panamanians were to drastically increase canal tolls to users following their takeover of the waterway, it is far more likely that military retaliation would be launched against Panama than against the United States.

GENERAL LEAVE

Mr. KELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Illinois (Mr. CRANE).

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Florida?

There was no objection.

ONLY THE EL PASO PROJECT GUARANTEES THE MAXIMUM USE OF U.S. LABOR AND U.S.-PRODUCED STEEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, I support the proposed El Paso Alaskan natural gas route and oppose the administration-supported Alcan route—the one which would go through Canada. There are competing, alternative routes for bringing natural gas from Alaskan to the lower 48 States.

I have made this decision on only one basis, but it is the basis on which every Member of Congress should oppose the Alcan project. I am referring to the U.S. economy.

Let me put it in a nutshell.

The chairman of the El Paso project has sworn under oath before the Federal Power Commission that this project will use goods and services purchased from the U.S. economy and create American jobs.

By contrast, the Alcan route assures—it maximizes—the non-American use of foods and services. That is not conjecture. It is fact. Turn to the pages of the National Energy Board's report on the Alcan project. What one reads there is a complete Canadianization of the project.

It is beyond me how the administration could choose a project which will use steel produced outside the United States, when the U.S. steel industry is as depressed today as during any point in history, and when the jobs in the steel industry, the use of such U.S. steel would create, run into the tens of thousands, perhaps hundreds of thousands.

In its support of the Alcan, trans-Canadian project, the administration has chosen a project which will preclude the creation of jobs in the American construction trades and American steel manufacturing, not to mention American transportation and related job areas. These will go to Canadians, unless Congress approves the El Paso route.

Several weeks ago, one of the largest employers in western New York, Bethlehem Steel, announced a layoff of 3,500 employees at its Lackawanna plant. It simultaneously announced a layoff of an additional 3,800 employees at its Johnstown, Pa., plant. The reasons were multiple, but they all boil down to inadequate demand for steel. The problems our domestic steel industry has—foreign competition, environmental control costs, and so forth—could all be overcome if the U.S. steel industry were vibrant, running at full speed, all from the increased demand which would make them more competitive in the world markets. That increased demand would be greatly fostered by the steel products for this mammoth natural gas pipeline project coming from U.S. steel mills.

Members of Congress and State and local officials are already meeting about the problems of the domestic steel industry. Senator PAT MOYNIHAN, Congressman HENRY NOWAK, in whose district the Lackawanna plant is actually located, myself and Congressman JOHN LAFALCE, in whose districts together with Congressman NOWAK's the workers at that plant live, have had meetings with Bethlehem officials and steelworkers. Similar meetings are being held in Pennsylvania and Ohio this month. State and local officials are having similar meetings.

How, Mr. Speaker, are we to help these thousands of unemployed American workers, and additional thousands who could become unemployed unless the situation reverses itself—how are we to help the ailing U.S. steel industry—when we are being undercut by a decision that gives jobs to Canadians instead?

The divergent positions of the El Paso project and the Alcan project are not conjecture. They are a matter of public record.

In testimony before the Federal Power Commission on May 27, 1975, the chairman of the El Paso project, Howard Boyd, in responding to the question said:

With respect to what facets of the proposal do you think there is a possibility that the project money would not be invested in the United States—

I think all of it would be invested in the United States.

That was a followup on his more extensive statement in prepared direct testimony to the Commission on March 24 of that year:

What effect will the El Paso project have upon the economy?

The Trans-Alaska Gas Project will cost, using 1973 dollars, approximately $6.7 billion. We are committed to spend this money to the extent possible in the United States. It will provide an important boost for the U.S. economy. It will create jobs for Americans in Alaska, on the West Coast, and in the shipyards and mills and factories all over America. It will pay taxes to American governmental entities and generate revenues which would be payable to American businesses. In contrast, a Canadian pipeline would siphon thousands of jobs to Canada, require the payment of taxes and revenues to Canadian entities, and the billions of dollars for this project, which could be spent in the United States, will be used to stoke the Canadian economy. While the El Paso project would not affect the U.S. balance of payments, the construction of a Canadian pipeline would severely and adversely affect our balance of payments and thereby further devalue the dollar on the world markets. This would further serve to increase our costs for imports, including OPEC oil.

That position was reiterated and stressed in a letter from El Paso to the President as the administration neared its final decision.

By contrast, we have the Canadian National Energy Board making no bones about what they intend to do. I quote from page 1–183 of the NEB's report of June of this year, "Reasons for Decision: National Pipelines":

In respect to Canadian content:

(1) The Company shall so design its program for the procurement of goods and services for the project to assure that:

* * * * * *

(b) The level of Canadian content is optimized, so far as practicable, with respect to the origin of products, services, and their constituent components.

(2) The Company shall submit to the Board for its approval a report specifying the proposed contractural and purchasing arrangements for procuring goods and services for the project, such report to respond, in a manner to be detailed by the Board, to the requirements set forth in subsection (1) hereof.

What those remarks boil down to is this: The administration has decided to give tens of thousands of jobs to Canadians, instead of to Americans.

I am not talking about trade restrictions or any sanctions against our good Canadian neighbors. I am talking about a commonsense decision to use a golden opportunity to help members of the unemployed, U.S. working force.

There are other reasons to support the El Paso route also.

One, protecting the environment—in Alaska, in Canada, in the United States. The Alaskan construction would follow the existing oil pipeline route, the bulk of the transportation would then be over sea routes, and little construction would be required in the Continental United States. The Alcan route, by contrast is entirely over land, cutting through Canada, then branching out in two directions, and cutting through the United States.

Two, security, in terms of U.S. interests, is much better assured by the El Paso route, because its pipeline portions are entirely overland in the United States.

But I want to concentrate these remarks on the jobs and steel production reasons for supporting the El Paso project.

The administration's decision must be reversed. It must be held to its campaign promise to reduce unemployment and to revitalize the American economy.

I say to my colleagues, if you are a Member from a district with high unemployment, you should support the El Paso project. If you are from a district with high unemployment in the construction trades, you should support the El Paso project.

I say to my colleagues, if you are a Member from a district with a steel plant or steelworkers in it, you should support the El Paso project.

The Congress of the United States should approve a project only if it will guarantee jobs and income to Americans—That is the El Paso project.

HELSINKI'S UNFULFILLED PROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 10 minutes.

Mr. TRIBLE. Mr. Speaker, I am pleased to join my distinguished colleague, Representative DRINAN, in a project he inaugurated entitled "Helsinki's Unfulfilled Promise." Ninety-four other Members of Congress have joined us in this project to aid the courageous struggle of Soviet Jews who are being held against their will in the U.S.S.R.

The 35 nations which signed the Helsinki Final Act, in August 1975, pledged to facilitate the reunification of families separated by political boundaries. Regrettably, the Soviet Union is not abiding by that pledge. Thousands of Soviet Jewish families and individuals have been denied the right to emigrate.

I would like to call your attention to the tragic story of one such family—Raul and Valentina Braz. Raul Braz reluctantly left his wife and young daughter behind when he was granted an exit permit from the Soviet officials. He believed that only administrative reasons prevented the authorities from allowing his wife and child to accompany him. He fully expected the period of separation to be short. Much time has passed since then and still he is alone. His hope and that of his young wife and daughter has not come to fruition. Instead, they remain separated today with little hope for a life together.

Raul's many appeals to officials have been ignored and answered with silence. Recently, he wrote a letter to President Carter which raises several points worthy of further consideration by the Members of the House. In his letter, Raul said:

We know, Mr. President, of your concern with the problem of the Jews in the Soviet Union. We also know of some of your statements on this issue. But, without claiming that not enough has been done, we are bound to express our feeling that not enough has been achieved. And here again, as on many occasions, it is the U.S.A. which is—and should be—heading this great human enterprise.

It is our conviction that the active defense of this cause remains and will remain an inseparable part of America's basic policies. This can be pursued without detriment to the principle of non-interference in the internal affairs of any country.

Ours is an issue which does not affect internal Soviet affairs, nor Soviet policy towards national minorities or general questions of emigration. It is crystal clear to everybody that the Jews are the only minority in the USSR which—unlike all other Soviet nationalities—is so closely related, personally and nationally to a majority of their people living outside the boundaries of the Soviet Union.

We take the liberty, with all due respect, to suggest to you, Mr. President, what might be the best way to emphasize the intention of making this issue a permanent element of American policy: let world public opinion know you are deeply and unequivocally concerned about this question. What better way is there to show this than by interceding in a few of the many cases of families tragically separated through no fault of their own?

The treatment received by the Braz family at the hands of Soviet Government brings into question the sincerity of their solemn promises at Helsinki. We are, therefore, obligated to insure that the pledges undertook in the Final Act do not go unfulfilled and that families such as the Braz's are allowed to be reunited. This can only be achieved by continued pressure from the West. On the eve of Yom Kippur, I encourage every Member of Congress to express his concern by participating in this vigil for Soviet Jews.

WISLA SOCIAL ATHLETIC CLUB CELEBRATES 50TH YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on October 1 the Wisla Social Athletic Club is celebrating its 50th year of service to Polish youth of Chicago, and I send my congratulations to the members on this achievement.

Wisla is affiliated with the National Soccer League and is located at 4411 West Fullerton Avenue in Chicago. Staffed by volunteers from the community, the social athletic club was founded in 1927 so that boys through the ages of 12 to 21 can have a place for athletic activities to build strong bodies and healthy minds.

I was delighted to have an American flag flown over the Capitol in honor of the 50th anniversary of the athletic club as recognition for the service record of this fine organization, and this flag will be presented at the banquet and awards ceremony which will take place on October 1.

The Wisla Social Athletic Club has long been a symbol of excellence and creative adult leadership for the youth of our Chicago community, and I extend my warmest best wishes to the members and the leaders of the athletic club for many more years of inspiration for our community.

Mr. Speaker, a short history of the Wisla Social Athletic Club follows:

SHORT HISTORY OF WISLA SOCIAL ATHLETIC CLUB

Wisla Social Athletic Club was established in 1927, and has served youth for 50 years since. Organized by a veteran of General Haller's Army, Mr. Joseph Rekucki, through the years it has grown in stature through volunteered efforts of many devoted people, mostly of Polish descent. Prime object of the organization is to occupy young people with sports and social activities. By growing in an atmosphere of unselfish devotion of elders, youth grow to up-right citizens. Teams are affiliated with the oldest in the country National Soccer League of Illinois, thus in the span of 50 years gave opportunities to generations of young men.

Wisla sponsored international games E.G. vs Sloboda S.C. in Soldiers Field in 1933 and most recently G.K.S. Tychy of Poland vs Cats in 1976.

Activities of the club were curtailed during the Second World War, when boys becoming men went to all front lines to defend this country. After the Second World War, the club started rebuilding, reaching in 1948 Major division status. Influx of new immigrants broadened the scope of the organization.

Starting work for youngsters at lower age level, the Wisla S.A.C. provided leadership for youth during the early, formative years.

Reaching for wider acceptance, the club organized Junior and Juvenile teams, which were credits to their coaches.

In recent years, Wisla Senior team gained honors of State of Illinois Soccer Champion (1975), outdoor champion of National Soccer League—Red section (1976), leader of Red section again in 1977, and presently is in hot pursuit of State of Illinois champion title, advancing to semi-finals without a loss.

On a Junior level—Wisla S.A.C. Junior soccer team gained in 1976/77—Triple Crown Championships: indoor, outdoor and state.

Elected officials of this unselfish organization for the current Jubilee year (1927–1977) are:

Edward E. Nowak—Chairman, Edward Mazur—President, Michal Kuczynski, Zygmunt Spott, Tadeusz Osadzinski, vice presidents, Edward Skiba—Secretary, Joseph Jakubow—Treasurer, Henryk Czaplak, Alderman George Hagopian, Rep. Ted Lechowicz, Boleslaw Centkowski, Tadeusz Kozlowski, Henryk Florczak, Wladyslaw Tutaj, John Guzik.

Directors. Manager of Major division team—Jan Sliwa.

Coach of Major division team—Henryk Sass.

Captain of the team—Wojciech Tofilo.

Reserve team Manager—Henryk Marciniak.

The 50th Anniversary of Wisla Social Athletic Club attests to the accomplishments of young people guided honestly today to be tomorrow's responsible citizens of U.S.A., country of dreams and opportunities.

PUBLIC LAW 86-90—CAPTIVE NATIONS WEEK—IN STRONG, ENDURING EFFECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, this year's 19th observance of Captive Nations Week successfully added another chapter to the series of observances started back in 1959 with Public Law 86-90. Along with each preceding annual observance, it has demonstrated that this law is in strong, enduring effect. And the reason for this persistent continuum is not difficult to understand. To penetrate and erase all the myths that have accumulated over the years about this national event, all one need do is to read the original Captive Nations Week resolution and objectively relate its farseeing contents to the world today and its prospective future. The reality of the captive nations still is very much existent and, worse still, is an expanding reservoir of resource exploitation for Soviet Russian expansionism in the world at large.

As further selected additions to our report on the 19th observance, I submit the proclamation of Mayor Thomas J. Early of Worcester, Mass., the resolution passed by the American Legion National Convention, and reports, articles, and commentaries in the Riverside, Calif., Press, the Parkersburg, W. Va., Sentinel, the West Frankfort, Ill., American, the Sunday News-Union Leader, the Denver Rocky Mountain News, the Gary, Ind., Post-Tribune, the Manchester Union-Leader, the Chicago Tribune, and the New Orleans Times-Picayune:

CITY OF WORCESTER, MASS.

PROCLAMATION

Whereas: The imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Thomas J. Early, Mayor of the City of Worcester, do hereby proclaim the week of July 17-23, 1977 as: Captive Nations Week in the City of Worcester, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

[From the American Legion National Convention, Aug. 23, 24, 25, 1977]

CAPTIVE NATIONS

Resolution 448 (Texas) as amended and consolidated with Resolution (Ky), and 55 (Ill.).

Whereas, the Captive Nations now represent the enslavement of more than one billion people, more than 30 percent of the world's inhabitants, and all are oppressed by communist-led dictatorships; and

Whereas, people living in the Captive Nations are denied such basic human rights as free speech, free press, freedom to vote for a choice, freedom of assembly and freedom to criticize those in authority; and

Whereas, the Captive Nations now include Armenia, Azerbaijan, Byelorussia, Cossakia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia, and the Soviet Union, Known as the Union of Soviet Socialist Republics, plus the fiercely independent Baltic Republics of Latvia, Lithuania and Estonia; plus the Eastern European Nations of Albania, Bulgaria, Yugoslavia, Poland, Romania, Czechoslovakia, Hungary, East Germany; plus the Asian nations of Mainland China, Tibet, North Korea, North Vietnam, South Vietnam, Cambodia and Laos, plus the Western Hemisphere's Cuba; and

Whereas, other nations including Panama, Angola, Mozambique, Somalia, Ethiopia are seriously threatened with communist enslavement; and

Whereas, such anti-communist governments as Taiwan, South Korea, Rhodesia, Republic of South Africa, Republic of Transkei, the Kingdoms of Lesotho and Swaziland are under heavy pressure to surrender to communist pressures; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we urge the leaders of the United States Government as the world symbol of life, liberty and the pursuit of happiness to speak out forthrightly in support of human rights for those enslaved inside the Captive Nations whose communist leaders deny the existence of God and the spiritual dimension of life, and whose avowed purpose is to destabilize noncommunist governments by destroying their purpose, values, traditions, and social systems, and be it further

Resolved, That we call upon the President and the Congress of the United States to exert the same political and economic pressures against communist governments on behalf of human rights as has been done against non-communist governments.

[From the Riverside (Calif.) Press, July 21, 1977]

CAPTIVE NATIONS WEEK GETS LATE CARTER PROCLAMATION

WASHINGTON.—President Carter has proclaimed the week of July 17 "Captive Nations Week."

Carter made the announcement Wednesday, after being reminded by the National Captive Nations Committee that this week is traditionally set aside for commemoration of the nations of Eastern Europe annexed by the Soviet Union after World War II.

In his proclamation, Carter said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

He urged appropriate ceremonies and activities "demonstrating America's support for those who seek national independence, liberty and human rights."

[From the Parkersburg (W. Va.) Sentinel, July 21, 1977]

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[From the W. Frankfort (Ill.) American July 21, 1977]

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[From the Sunday News Union Leader, June 25, 1977]

CAPTIVE NATIONS MEMORIAL GETS NEW HOME

(By Ken Gould)

ASHLAND, June 25.—The Captive Nations Memorial here that has hosted the annual Captive Nations Observance for 11 years has been dismantled and moved and the man who created it has sold his business and moved. George Ober Jr. who created the Memorial Cemetery that called public atten-

tion to the 47 nations that, once free, had forced to enlarge it twice to make room for all the white crosses that graphically portrayed the plight of those nations.

The crosses, signs, guard tower and Trojan Horse have been taken to the property of Frank and Barbara Anderson in Epsom where they will be assembled for display. The Captive Nations Observance this year, however, will be held at the Highway Motel in Concord on July 17.

Many persons well known in their support of all oppressed peoples in their fight for freedom have spoken at the observances here warning Americans of the enslavement by Communism of free peoples and the loss of personal rights and dignity once their country went behind the Iron Curtain.

Among them have been Dr. Bernardo Figuerado who with his family escaped from Cuba; Robert Opal and his wife Lucy who escaped from Poland; Jozef Mlot-Mroz, Polish Freedom Fighters; Mrs. Erma Zirgan formerly of Latvia; Raisa Stankievic of Byelorussia; Prof Ernesto Blanco who fled Cuba when Castro seized power.

Sustaining their descriptions of life under Communism have been Robert Hammond and Lee Hayes, crewmen on the Pueblo who experienced first hand the brutal treatment in a Communist prison. Numerous nationally known and state officials lent their support to telling the story.

Gov. Meldrim Thomson Jr. has attended and spoken at many of the sessions. Herbert Philbrick, former FBI counterspy has been a speaker; Gen. Harrison Thyng told of the torture of an American officer by the North Vietnamese. John P. H. Chandler Jr. chairman of the N.H. Conservative Union and Mrs. Cele Hammons of Lebanon, vice president of Freedom Foundation of Valley Forge have spoken, as well as Al Thomaier of Nashua.

Messages have come from Senators Norris Cotton and Thomas McIntyre plus Congressman James Cleveland. A sample message from Senator Cotton sums up the thinking of many of the speakers. "Freedom is not relative . . . it is total. As long as any among our family of nations is captive . . . we too are captive." This too was echoed by John Pemmington Gardner who spoke in 1976 on "The Age of Betrayal."

Mrs. Luella Ball of Claremont who has been general chairman of the event for many years points to the growing list of 47 Captive Nations stretching from the year 1917 when Russia fell to the three latest victims Ethiopia, Mozambique and Angola. When Cuba fell in 1960 the curtain was brought close to American shores, she commented. How much closer must it get before Americans become aroused she asks.

In this age of shrinking from patriotism by a large segment of the population, boldly standing for it has not been easy for George Ober Jr. The cemetery was first set up across the street from his vacation business here. However constant damage to the crosses and other items made a move necessary.

A neighbor, Roland Morrill, offered his land adjacent to the Ober home. "I set up the cemetery right outside my bedroom window so I could keep an eye on it," said Ober. Many a sleepless night have resulted.

Even this failed to deter persons bent on wrecking it. One person drove an automobile right through it ripping down the barbed wire and crosses. Another burned the signs asking America To Wake Up, others stole crosses; one person stole the guard tower and another person carried off the large figure of the guard.

A college professor who said he was from Canada berated Ober for the display and called him a Fascist. Some area ministers opposed the display and spoke of it in their churches.

Throughout it all Ober stood his ground. A religious man, he commented, "God gave me that job to do and I did it. Freedom dies as fighters for it die."

An editorial in a newspaper written during some of his ordeal describes Ober. "Wherever * * *. We need more such men . . . men who are motivated not by personal ambitions but by genuine concern for human conditions . . . men who have the love of God in their hearts. Such a man is George Ober Jr."

[From the Denver (Colo.) Rocky Mountain News, July 22, 1977]

CARTER BACKTRACKS, ISSUES CAPTIVE NATIONS PROCLAMATION

(By Ted Knap)

WASHINGTON.—President Carter changed his mind and issued a Captive Nations Proclamation because the Kremlin hath no fury like American ethnic voters scorned.

Every year since 1959 U.S. presidents have proclaimed the third week of July as Captive Nations Week, in accord with a joint resolution adopted by Congress.

Last week, when it became time to issue the proclamation, Carter decided to break with tradition.

A National Security Council official who worked on the matter said Carter decided not to issue the proclamation because he felt it would be "superfluous and unnecessary" and because he was "a little bit" concerned that it might further offend the Soviet Union.

The Soviets already had accused him of intervening in their domestic affairs with his publicized campaign for human rights. The campaign has become more subdued since the Kremlin called Carter an "enemy of detente" and rejected his proposals for a treaty limiting nuclear arms.

When American ethnic groups and congressmen representing ethnic districts heard of Carter's decision, they raised hell in several languages.

The National Captive Nations Committee said it was "appalled."

Chairman Lev E. Dobriansky made public a strongly worded letter to Carter.

"Your indifference to this concrete issue," Dobriansky wrote, "reflects not only poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy."

Dobriansky noted caustically that Carter had issued a Captive Nations Proclamation when he was governor of Georgia and had attacked President Ford for saying mistakenly in their second campaign debate that "there is no Soviet domination of Eastern Europe."

Republican ethnic leaders girded for attack. Rep. Edward J. Derwinski, R-Ill., prepared a statement saying Carter's silence on Captive Nations Week was a "contradiction to his human rights crusade." Several Democratic congressmen warned the White House that Carter's refusal to issue the proclamation would be seen by American ethnic voters as a sign of weakness and abandonment of their cause. Rep. Daniel J. Flood, D-Pa., reserved an hour of time in the House to talk about captive nations.

In face of such overwhelming political pressure, Carter changed his mind and issued a hurriedly drafted proclamation Wednesday, declaring Captive Nations Week retroactively back to Sunday.

The proclamation simply reaffirmed the traditional American belief in national self-determination, liberty and human rights. It did not mention the Soviet Union.

When President Eisenhower issued the first Captive Nations Proclamation 18 years ago, it bristled with indignation over people having been "made captive by the imperialistic and aggressive policies of the Soviet Communists."

The language was softened during the Kennedy and Johnson administrations, and by the time President Nixon established detente, direct references to the Soviet Union had been dropped.

A White House official said Carter did not consider this the "right occasion" for making an abrasive statement.

[From the Gary (Ind.) Post-Tribune, July 31, 1977]

RIGHTS WOES ON TWO SIDES

The most frequent complaints one hears about President Carter's outspokenness on human rights, particularl, in foreign countries, have come from Soviet boss Leonid Brezhnev and from those in this country and Europe who fear the stance is damaging U.S.-U.S.S.R. relations without helping Iron Curtain dissidents.

But they aren't the only ones. Now the President is catching flak from the National Captive Nations Committee for what its news release calls his "four-day late and weakly worded" Captive Nations proclamation.

Captive Nations Week was first proclaimed at the height of the Cold War to stress this country's concern over Soviet domination of the governments of Eastern Europe. It has received little more than lip service ever since President Dwight Eisenhower recognized what he considered the futility of this country going to the aid of Hungarian revolutionaries.

But the committee is now prompted to ask: "Which is more important to this administration—human rights or relations with the Soviet Union?"

Which probably principally serves to emphasize just how complicated the presidential job can be.

[From the Manchester (N.H.) Union Leader, July 24, 1977]

IS CARTER STARTING RETREAT ON HUMAN RIGHTS?

(By Edith K. Roosevelt)

WASHINGTON, July 3.—President Carter's four-day-late proclamation on Captive Nations Week yesterday was called "the beginning of a retreat on human rights" by Dr. Lev E. Dobriansky, Chairman of the National Captive Nations Committee.

Dr. Dobriansky, who earlier this week sharply criticized President Carter for his failure to proclaim Captive Nations Week, which began last Sunday, charged that there was "no excuse" for the delay—the first in the 19-year history of Captive Nations Week.

"Captive nations and human rights are a natural combination," Dobriansky said, "and we therefore expected a prompt and strongly worded proclamation from President Carter.

"Instead, we were first informed there would be no proclamation. Then we are presented with a pro forma statement which makes no mention of any of the 7 nations now under Communist captivity or the primary cause of their captivity—Soviet Russia.

"We note that this deplorable misreading of the cause of captive nations follows closely the formation of the interagency committee on U.S.-U.S.S.R. relations—the first such governmental agency of its kind.

"We felt compelled to ask: What is more important to this administration—human rights or relations with the Soviet Union?

"We will be watching very carefully the administration and the White House to determine the answer and how President Carter develops what he, himself, has called his 'crusade for human rights.'

"His near disastrous inaction on Captive Nations Week suggests that his commitment to his human rights crusade is growing lukewarm if not cold.

"If so, that is tragic news for the hundreds of millions living under communism who look to the United States and its leaders for encouragement, inspiration and hope for their individual freedom and national independence."

[From the Chicago Tribune, July 28, 1977]

CAPTIVE NATIONS "IGNORED"

(By Lev E. Dobriansky)

WASHINGTON.—President Carter's failure to proclaim Captive Nations Week is a grave disappointment to millions of Americans and our allies abroad. The Kremlin doubtless is delighted by this inaction, and will weigh it accordingly.

From Mr. Carter, who is supposedly committed to human rights globally, we expected the strongest proclamation yet. Instead, he chose to ignore, for the first time since 1959, this observance for the more than 27 nations held in Communist captivity.

The President's indifference to this issue reflects poor judgment and casts doubt on the substance of his human rights advocacy. This indifference marks a new low in the barometer of our foreign policy toward the imperio-totalitarian part of the world.

[From the New Orleans (La.) Times Picayune, July 25, 1977]

OPPRESSED ARE TARGET OF "WEEK"

(By Phyllis Schlafly)

Captive Nations Week is an annual observance designated by Congress and proclaimed by the president in accordance with Public Law 86-90.

The Captive Nations Resolution, which was passed by overwhelming majorities in Congress and signed into law by President Eisenhower, lists 22 nations that have been enslaved by "Communist Russia," and then states: "It is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive."

The original passage of the Captive Nations Resolution in 1969 worried the Kremlin dictators more than any action the United States has ever taken, more even than our annual appropriations for military weapons. The Kremlin dictators were shaken by our official declaration that the United States does not consider their rule over the satellite nations either legitimate or permanent.

Nikita Khrushchev was so upset at the Captive Nations Resolution approval on July 17, 1959, that he could talk of little else when Vice President Richard Nixon visited Moscow later that month. Khrushchev's reaction made it clear that the resolution had inadvertently touched the Achilles' heel of the Communist colossus.

Everyone knows that the Soviets enjoy total control over the captive nations of Eastern Europe. But de facto control is not enough for the Kremlin dictators. They yearn for the mantle of legality. They have always had a perpetual passion to extract an admission by the West that Soviet control of the satellite nations is both legitimate and permanent.

That is why for 19 years the Soviets kept calling for a European Security Conference whose principal purpose would be to proclaim that the West acknowledges and recognizes Soviet occupation of nine Eastern European countries as lawful.

The United States finally agreed to participate in such a conference, and the first session took place in Helsinki in July, 1973.

The Soviets made no secret of their objectives, bluntly proclaiming that they specifically reserve the right to carry out future Czechoslovakia-type invasions of any East European satellites.

This so-called right to invade a peaceful neighbor is called the Brezhnev Doctrine.

The United States ignored this flaunting of Soviet aggressive intentions and continued to negotiate until 1976 when the Helsinki Agreement was signed. The Soviets interpreted this agreement as tacit recognition of the legitimacy of their control of Eastern European countries.

The permanence of Soviet control, however, is again in jeopardy because of Leonid Brezhnev's illness.

According to the Washington Post, French President Valery Giscard d'Estaing told Secretary of State Cyrus Vance what many have suspected but feared to say. Namely, that Brezhnev's physical condition at their recent Paris conference was so poor that he was unable to engage in any meaningful conversation. Official denials were unpersuasive.

Despite his failing health, Brezhnev recently fired the president of the USSR and assumed that post himself. The vote to elect him was unanimous. No one dared vote against him.

When Brezhnev dies or collapses, the Soviet Union will start a period of indecision among the leaders and an opportunity for the captive nations to proclaim their independence and freedom.

The Kremlin could not cope with a rebellion involving most of its citizens. During the Hungarian Revolution in 1956, Russian soldiers refused to fire on the freedom fighters and Khrushchev had to bring in Siberian troops.

HEARINGS BEFORE THE SUBCOMMITTEE ON CRIME OF THE HOUSE COMMITTEE ON THE JUDICIARY ON THE REORGANIZATION OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I am pleased to announce that the Subcommittee on Crime, which I chair, of the House Committee on the Judiciary will hold further hearings on the reorganization of the Law Enforcement Assistance Administration of the Department of Justice.

Last June, a study group appointed by the Attorney General to make recommendations to him on the reorganization and restructuring of LEAA issued its report. On August 1, the subcommittee held a hearing at which the study group was invited to explain its findings and recommendations.

During a 60-day period which has just ended, the Attorney General invited all interested parties to submit to him their comments on the study group's report and recommendations. I asked the Attorney General to furnish to the subcommittee copies of all such comments received by him to facilitate our continued oversight activities. Subcommittee staff review of these comments, which number in the hundreds, reveals many thoughtful and persuasive observations and recommendations that need to be carefully considered in any reorganization of LEAA.

Many of those commentators will be among the witnesses who will appear when the hearings convene at 10 a.m. in room 2237 Rayburn House Office Building, on October 3, 1977, and continue at 1 p.m. in room 2226 Rayburn House Office Building on October 4.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

Mr. CAVANAUGH. Mr. Speaker, on September 15, I introduced H.R. 9141. At that time my colleague from Tennessee, JAMES H. QUILLEN, was erroneously listed as a cosponsor of the bill. He did not wish to be a cosponsor.

AGENCY RESPONSIVENESS ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 30 minutes.

Mr. HAMILTON. Mr. Speaker, any Member of Congress who is close to his constituents knows that they are deeply disturbed by the poor performance of the government. Social security beneficiaries, veterans, food stamp recipients and a host of others who depend on government programs in one way or another have expressed their misgivings to me time and time again. Conversations with my colleagues have convinced me that such misgivings are all too common. I do not exaggerate when I say that grave doubts about the competence of the government have taken root in every region of the Nation. To put it briefly, the American people are uncertain that the typical government agency has the vigor and imagination necessary to carry out its mission.

Such an attitude would not be so distressing if it were accompanied by a belief that the situation could easily be set right. It is a simple fact, however, that the American people have no such belief. Rather, they think that the government has become too remote from them and they question their own ability to influence it. They no longer perceive a direct relationship between their needs and the government's understanding of their needs. The ultimate result has been a disillusionment with government unprecedented in our history. It goes without saying that there is danger in this for a political establishment based on the consent of the governed. If such disillusionment were to persist, then it would only be a matter of time before consent to govern was withdrawn.

The sheer size of the Government has done much to foster negative attitudes and beliefs among the American people. After all, a political establishment which has 5 million employees, spends over $400 billion annually, owns one-third of the Nation's land, occupies 433 million square feet of office space and administers some 1,000 aid programs through 11 Cabinet departments, 59 independent agencies, and 1,240 advisory boards can hardly be as intelligible and efficient as the Founding Fathers intended it to be. Of course, intelligibility is an important

factor in the public's perception of Government: if agencies and activities are so varied that even the seasoned public servant is ignorant of most of them, then how can the average citizen be faulted if he complains that he does not know where to take a problem?

Efficiency is also an important factor in the public's perception of Government: while no one expects an immense not-for-profit-institution to function as smoothly as a profit-oriented small business, how can the average citizen be faulted if he complains that routine responses to his inquiries are delayed for months?

Beyond the sheer size of the Government—with its obvious implications for intelligibility and efficiency—there is the matter of rising expectations. The American people think the Government unresponsive and distant partly because their standards of performance are more strict now than ever before. In both the public and private sectors, the demand for more services of higher quality is outstripping the capabilities of the providing institutions and businesses. Naturally, there is disappointment when expectations are not met. The disappointment is especially acute when unsatisfactory services are tax-supported.

Nonetheless—and in stark contrast to their conservative tendencies of the past—the American people now look to the Government to solve increasing numbers of problems in increasingly efficient ways. The proliferation of regulatory agencies in the last few decades—nearly 50 such agencies have been created since 1960—is ample evidence of the new trend. Whether the Government has provided services of high quality is another question. Millions of Americans would say that it has not.

While many Government activities are objects of public dissatisfaction, there is one activity in particular which has received intense criticism. I am referring to the handling of citizens' complaints and inquiries by Federal agencies. What Member of Congress has not read angry letters from constituents whom Federal agencies have been unable or unwilling to help? What Member of Congress has not been made aware of the sluggishness, the unhelpfulness or the outright negligence of Federal agencies in their relations with the public? Such a state of affairs is intolerable and should not be allowed to continue.

Beyond its obvious implications for the citizen who has a problem to be solved, a question to be answered or a need for information, the handling of complaints and inquiries is one of the most critical of all Government services simply because it constitutes the principal presence of the Government in the life of most people. Although they may never attend a Government hearing, work for the Government or run for elective office, Americans nonetheless contact Federal agencies quite frequently. If their contacts with the House of Representatives are any indication—285,000 letters per day, not to mention telephone calls and personal visits—then Americans are contacting their Government more frequently than ever before. It is not difficult to see the effect that poor Government performance in this area must have. It is likely that it contributes as much as anything else to the universally low esteem in which public servants seem to be held.

These observations about the public relations of Federal agencies have recently been substantiated—with a vengeance. Under contract from the Office of Consumer Affairs in the Department of Health, Education, and Welfare, Technical Assistance Research Programs, Inc. of Washington, D.C., has just completed a study of the procedures for handling citizens' complaints in the central offices of seven Federal agencies. Although the study covered only complaints, it is probable that a parallel study of the procedures for handling inquiries would produce much the same results. I would like to share with my colleagues some of the more upsetting aspects of the study's conclusions.

First, the study reveals that agency procedures for receiving complaints are in need of reform. For example, citizens' complaints received by mail are not logged at most agencies. Furthermore, complaints received by telephone are not logged at any agency. This latter finding is significant in that a substantial number of telephoned complaints are received at all the agencies under study. If it is thought that the agencies believe logging to be unimportant, then another finding ought to raise a few eyebrows: so-called executive mail, that is, the complaint-related correspondence of congressional offices, et cetera, is logged in a uniformly excellent manner. In the absence of a contrary explanation, it might be thought that agencies are determined to provide high-quality service only to those who control their budgets. The failure of an agency to log complaints is not, of course, the most serious omission of which an agency can be accused, but it does have far-reaching consequences for the tracking of complaints and the establishment of an adequate data base for use by management. There are other deficiencies in the procedures for receiving complaints, but I shall not discuss them here.

Second, the study shows that agency responses to complaints are in need of improvement. Of the seven agencies under study, three fail to issue a final response more than 10 percent of the time. One of these three ultimately leaves one in five complaints unanswered. Such performance may seem marginally adequate until one realizes that most Federal agencies—including all of those under study—maintain statutory monopolies in their areas of service. The people receiving no final response from such agencies have nowhere else to go with their complaints. The potential for public frustration is apparent.

If a lack of final response were not bad enough, then there would still be the inappropriateness of the response issued. From 18 percent to 47 percent of the people polled say that responses of the agencies do not fit the complaints made. Such a disparity between the answer expected and the answer given is strong evidence that the lines of communication between the public and the agencies are in danger of breaking down. Undoubtedly the isolated life of the bureaucrat, complete with its dialect of English, is partly at fault.

Third, the report indicates that agency procedures for handling complaints are much too slow. The time consumed by such procedures, from receipt of the complaint to issuance of the final response, ranges from an average of 15 days for the fastest agency to an average of 49 days for the slowest. The public rightfully takes such delays to be unacceptable: from 34 to 65 percent of the people polled say that their complaints are not handled quickly enough. While agency footdragging in the handling of complaints comes as no surprise, there is no reason at all to excuse it. A delayed response may reach a person who has lost interest, or it may arrive too late to be of any use. There is every indication that the agencies can respond expeditiously: complaints from congressional offices are processed 10 days faster than others on the average. Again, the fact of preferential treatment for Congress suggests that agencies provide high-quality service only when their own well-being is at stake. Of course, fear of a reduced budget is not the proper sort of motivation for a tax-supported institution. It should be motivated by the importance of the mission it has been directed to carry out.

Fourth, the report gives reason to believe that the agencies under study do not go far enough to convince the public that complaints are pursued in a fair and evenhanded manner. The public perception of unfairness of treatment is a genuine problem: from 32 to 57 percent of the people polled say that the agencies handling their complaints discriminate against them in one way or another. While it is likely that the alleged discrimination is really a matter of insufficient authority to act forcefully enough to resolve complaints, the public perception of unfairness of treatment should not be ignored. An agency should take great pains to explain the limits of its authority to any person who may believe that he is being discriminated against. The belief that equitable treatment is being received is often as important as the equitable treatment itself.

Fifth, and finally, the report reveals a widespread feeling that the agencies under study do not handle complaints in an aggressive and effective fashion. When people lodging complaints with the agencies are asked whether they think that the agencies do as much as possible to resolve the complaints, from 45 to 65 percent reply that adequate effort is not exerted. Worse yet, when the same people are asked whether they get what they want from the agencies, from 48 percent to 70 percent reply that they do not. Again, such feelings may be due in part to public misunderstanding of the limits of agency authority, but in this case it is not realistic to assume that agency actions are as aggressive and effective as they might be. Every Member of Con-

gress knows that too many bureaucrats have become too secure in their jobs, too self-serving and too insensitive for it to be so.

I myself find such a state of affairs deeply troubling. My experience in public office has convinced me that the American people will forgive the honest mistakes and inevitable failings of their Government if they believe that it truly cares about their problems and does what is humanly possible to meet their needs. However, my experience has also convinced me that the American people have a low tolerance for uncaring attitudes and slipshod performance on the part of public servants. They will allow their hard-earned tax dollars to be drained off in subsidies to these negligent workers for only so long a time.

The recent report of Technical Assistance Research Programs, Inc. has confirmed what many Members of Congress—and virtually all congressional caseworkers—have long suspected: the complaint-handling mechanisms of Federal agencies are, with few exceptions, in a state of disarray. Consequently, I believe that Congress and the Executive should begin to think about remedies. Since it is safe to suppose that the mechanisms for handling inquiries—where these are distinct—are in a similar state of disarray, such mechanisms should not be excluded from deliberations. To help set the process in motion I am joining with Congressman GOODLOE BYRON in introducing the Agency Responsiveness Act of 1977. The measure is designed to facilitate, on the part of both the legislative and executive branches, governmentwide review and reform of the procedures of Federal agencies for handling citizens' complaints and inquiries. I am mindful that the bill may only be a first step toward comprehensive review and reform, but it is a step that must be taken.

In very brief terms, the Agency Responsiveness Act of 1977 would—

Require that the head of each executive agency submit to Congress, within 90 days after enactment, a report containing brief descriptions of: First, the administrative procedures used to screen, log, review and analyze citizens' complaints and inquiries; second, the resources committed to such procedures, and third, the administrative steps taken to improve such procedures;

Direct that the head of each executive agency take, within 90 days after enactment, such steps as may be necessary to improve the uniformity, speed, and comprehensiveness of responses to citizens' complaints and inquiries;

Require that the head of each executive agency submit to Congress, within 270 days after enactment, a report containing summaries of: First, citizens' complaints and inquiries received by the agency during the previous 6 months; second, the responses made to such complaints and inquiries; third, the time taken to make such responses, and fourth, legislative recommendations to improve further the agency's handling of such complaints and inquiries; and

Direct the congressional Committees on the Budget, in their annual allocation of funds, to take account of the efforts of agencies to insure efficient and adequate responses to citizens' complaints and inquiries.

Mr. Speaker, I have no illusions about the improvement in service that we could expect with the passage of the Agency Responsiveness Act of 1977. The problems of agency sluggishness and insensitivity have developed over many years and it will likely take some years to correct them fully. However, I do view this legislation as a promising start. It would give Congress the data necessary to address an unacceptable situation with forcefulness and resolve. Also, it would give executive agencies a reasonable chance to set their affairs in order on their own. Finally, it would serve as a notice to public officials who neglected the people that the winds of change were beginning to blow. I encourage my colleagues to lend their support to this worthy legislation.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Mrs. SCHROEDER) is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, because of an important White House meeting on the 1980 census I missed two votes on two rules. Had I been present I would have voted for both rules.

A TRIBUTE TO WILLIAM REECE SMITH, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, William Reece Smith, Jr., of Tampa, will receive the B'nai B'rith Humanitarian Award at a Gold Medallion Dinner Sunday evening, September the 25th. He will be presented this distinguished award by Mr. David M. Blumberg, president of B'nai B'rith International.

Reece Smith has earned this award because of the excellence of his service to mankind. I first met Reece when he came to practice law in Tampa in the early 1950's. He became an outstanding lawyer and was so recognized by his law partners by being elected president of his law firm and president of the Florida Bar. But, Reece was not one who stuck narrowly to his business and profession. He has always been active in community affairs and in humanitarian endeavors.

He recently became the president of the University of South Florida where he was admired and respected by his staff and loved by his students. He possesses those excellent qualities of leadership that enable him to get the job done in a highly professional manner. He has recently stepped down as president of the University of South Florida in order that he be eligible for election to a high national office. Everyone who knows Reece respects him and honors him.

Martha and I extend our congratulations to Reece and his lovely wife Marlene. Together they have done their work well as husband and wife, as parents, and as leaders. At this time, Mr. Speaker, I would like to read to the House the encomium of the B'nai B'rith Humanitarian Award:

William Reece Smith, Jr. is a man of outstanding achievement whose vision and leadership have brought great distinction to all his endeavors. One of Tampa's leading citizens, Mr. Smith stands as a magnificent example for all our young people.

A renowned attorney, Mr. Smith is prominent in numerous professional and legal organizations, having served as president of the Hillsborough County Bar Association, The Florida Bar, and the American Bar Endowment.

A former city attorney of Tampa, Mr. Smith has continued to serve its people through a multitude of community activities. While president of The Florida Bar, Mr. Smith was founding president of Florida Legal Services, Inc., a state-wide organization facilitating delivery of legal services to the poor. Currently, Mr. Smith is the chairman of the State of Florida Human Rights Advocacy Committee, a position he was appointed to by Governor Askew.

Mr. Smith is past president of the Tampa Philharmonic Association, the Florida Gulf Coast Symphony, and the Tampa chapter of United Cerebral Palsy. He was also chairman of the Community Mental Health Society and director of the Tampa chapters of the American Red Cross, American Cancer Society, Muscular Dystrophy Association and Visiting Nurses Association.

A patron of education, Mr. Smith is concerned about youth and the future of America. He is interim-president and past chairman of the Council of Advisors at the University of South Florida. He is also a former member of the Counselors at the University of Tampa and the Board of Visitors at Florida State University, College of Law.

William Reece Smith, Jr. is a man whose commitment to his community exemplifies the finest in American tradition. B'nai B'rith is proud to honor him with its National Humanitarian Award.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CAPUTO (at the request of Mr. RHODES), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KELLY) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 60 minutes, today.

Mr. KEMP, for 5 minutes, today.

Mr. COLEMAN, for 60 minutes, September 22, 1977.

Mr. TRIBLE, for 10 minutes, today.

(The following Members (at the request of Mr. BONIOR) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. RYAN, for 5 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Mr. HAMILTON, for 30 minutes, today.
Mrs. SCHROEDER, for 5 minutes, today.
Mr. GIBBONS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OTTINGER. to include extraneous matter during debate on ERDA authorization bill.

Mr. STARK, immediately following the remarks of Mr. WIRTH on the Wirth amendment in the Committee of the Whole today on H.R. 6796.

(The following Members (at the request of Mr. KELLY) and to include extraneous material:)

Mr. MCKINNEY.
Mr. KELLY.
Mr. LAGOMARSINO in five instances.
Mr. ABDNOR in two instances.
Mr. HYDE.
Mr. BAUMAN in two instances.
Mr. SNYDER.
Mr. FINDLEY.
Mr. STEIGER.
Mr. SHUSTER.

(The following Members (at the request of Mr. BONIOR) and to include extraneous matter:)

Mr. DAN DANIEL.
Mr. RYAN.
Mr. MAZZOLI in two instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. FLORIO.
Mr. ROSENTHAL.
Mr. EILBERG.
Mr. MCDONALD in four instances.
Mr. HAMILTON.
Mrs. SCHROEDER.
Mr. SIMON.
Mr. NOWAK.
Mr. CONYERS in two instances.
Mr. VANIK.
Mr. DOWNEY.
Mr. WOLFF.
Mr. CARNEY.
Mr. OBERSTAR.
Mr. MURTHA.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2089. An act to establish within the Department of Justice the position of Associate Attorney General; to the Committee on the Judiciary.

ADJOURNMENT

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 18 minutes p.m.) the House adjourned until tomorrow, Thursday, September 22, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2420. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's proposed fiscal year 1977 program in Costa Rica, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2421. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of an increase in the funding level of the Agency's proposed fiscal year 1977 program in Guyana, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2422. A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934; to the Committee on Interstate and Foreign Commerce.

2423. A letter from the Acting Executive Director, Blinded Veterans Association, transmitting the report on the audit of the organization's financial statements for the year ended June 30, 1977, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2424. A letter from the Secretary of Commerce, transmitting a report on the molluscan shellfish industries and water quality, pursuant to section 16(a) of Public Law 94-370; to the Committee on Merchant Marine and Fisheries.

2425. A letter from the Comptroller General of the United States, transmitting a report on the U.S. lethal chemical munitions policy (PSAD-77-84, September 21, 1977); jointly, to the Committees on Government Operations, and Armed Services.

2426. A letter from the Secretary of Health, Education, and Welfare, transmitting the Department's position on various amendments to H.R. 3, the Medicare-Medicaid Antifraud and Abuse Amendments of 1977; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 5643. A bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; with amendment (Rept. No. 95-615). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5858. A bill to amend the Tariff Schedules of the United States to permit the free entry of Canadian petroleum (including reconstituted crude petroleum) and crude shale oil, provided that an equivalent amount of the same kind and quality of domestic or duty-paid foreign crude petroleum (including reconstituted crude petroleum) and crude shale oil has been exported to Canada; with amendment (Rept. No. 95-616). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MAHON:

H.R. 9232. A bill to rescind certain budget authority recommended in the message of the President of July 19, 1977 (H. Doc. 95-187), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 9233. A bill to rescind certain budget authority recommended in the message of the President of July 26, 1977 (H. Doc. 95-197), transmitted pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. BREAUX:

H.R. 9234. A bill for the relief of the Alabama-Coushatta Tribes of Texas and the Coushatta Tribe of Louisiana; to the Committee on Interior and Insular Affairs.

By Mr. CARNEY (for himself and Mr. APPLEGATE):

H.R. 9235. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON:

H.R. 9236. A bill to improve agency responsiveness to citizen complaints and inquiries, to require submission to Congress of information on administrative procedures used to handle citizen complaints and inquiries, and for other purposes; to the Committee on Government Operations.

By Mr. HAMMERSCHMIDT:

H.R. 9237. A bill to repeal the provisions of the Postal Reorganization Act and reenact the former provisions of title 39, United States Code; to the Committee on Post Office and Civil Service.

H.R. 9238. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Ways and Means.

H.R. 9239. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the purchase and installation of certain teletypewriters for use by individuals whose sight, hearing, or speech is impaired; to the Committee on Ways and Means.

By Mr. MICHAEL O. MYERS:

H.R. 9240. A bill to amend section 5901 of title 5, United States Code, to increase the authorized maximum uniform allowance for Federal employees to $300 per annum; to the Committee on Post Office and Civil Service.

H.R. 9241. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR:

H.R. 9242. A bill to establish national policies to promote the adoption of Government programs which can be expected to provide the greatest net public benefit and to prevent Government programs from having unreasonable public costs, to establish a system requiring regulatory cost/benefit assessments to be prepared for any proposed legislation or regulation which may have a significant economic impact, and for other purposes; to the Committee on Government Operations.

By Mr. PERKINS (for himself and Mr. BUCHANAN):

H.R. 9243. A bill to provide for orderly trade in iron and steel products; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. CORRADA, Mr. DERRICK, Mr. EILBERG, Mr. FLORIO, Mr. FUQUA, Mr. ICHORD, Mr. LEHMAN, and Ms. SPELLMAN):

H.R. 9244. A bill to amend the Social Security Act to include optometrists in the professional standards review organization; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. SCHULZE:

H.R. 9245. A bill to amend title 38 of the United States Code in order to extend from 10 years to 15 years the period in which veterans' educational assistance may be used; to the Committee on Veterans' Affairs.

By Mr. STARK (for himself, Ms. BOGGS, Ms. BURKE of California, and Ms. SCHROEDER):

H.R. 9246. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H. Res. 771. Resolution to declare a state of war against the dreaded disease, amyotrophic lateral sclerosis; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

255. By the SPEAKER: Memorial of the Legislature of the State of Texas, relative to section 14(b) of the Taft-Hartley Act; to the Committee on Education and Labor.

256. Also, memorial of the Legislature of the State of Texas, relative to establishment of a post office at K.ein, Tex.; to the Committee on Post Office and Civil Service.

257. Also, memorial of the Legislature of the State of Texas, relative to a national energy program; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, Science and Technology, and Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

246. By the SPEAKER: Petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to educational accountability; to the Committee on Education and Labor.

247. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to reorganization of the Law Enforcement Assistance Administration; to the Committee on the Judiciary.

248. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to section 404 of the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

249. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to textile imports; to the Committee on Ways and Means.

250. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to the Federal forestry incentives program; jointly, to the Committees on Agriculture and Appropriations.

251. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to revenue for transportation projects; jointly, to the Committees on Public Works and Transportation, and Ways and Means.

252. Also, petition of the Southern Legislative Conference of the Council of State Governments, Atlanta, Ga., relative to energy policy; jointly, to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, Public Works and Transportation, Science and Technology, and Ways and Means.

SENATE—*Wednesday, September 21, 1977*

The Senate met at 10:30 a.m., and was called to order by Hon. WENDELL R. ANDERSON, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord our God, in the silence of this moment speak to our waiting hearts. Refresh us with Thy spirit to quicken our thinking, steady our nerves, control our emotions, sharpen our judgments, and strengthen our wills. Grant us wisdom and courage to do what must be done for our times, to do it as best we are able and as Thou dost give us light, to do all according to Thy will. With Thee may we begin, with Thee may we labor, and with Thee may we end the day. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 21, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL R. ANDERSON, a Senator from the State of Minnesota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ANDERSON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Tuesday, September 20, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are three measures on the Unanimous Consent Calendar that were cleared for action and placed on the Unanimous Consent Calendar yesterday. I ask unanimous consent that the Senate proceed to the consideration of those three measures.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THUY BACH KANTER

The bill (S. 1654) for the relief of Thuy Bach Kanter was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, the periods of time Thuy Bach Kanter, an alien lawfully admitted for permanent residence to the United States, has resided in the United States shall be held and considered to meet the residence and physical presence requirements of section 316 of such Act. Thuy Bach Kanter may file a petition for naturalization with any court having naturalization jurisdiction under section 310 of such Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–430), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

STATEMENT OF FACTS

The beneficiary of the bill is a 26-year-old native and citizen of South Vietnam who was admitted to the United States for permanent residence on December 11, 1975. She currently resides in Dacca, Bangladesh, where her husband, a U.S. citizen employed with the International Rice Research Institute, is now stationed. Mr. Kanter's employment requires him to spend extensive periods of time abroad; his wife is now traveling with a reentry permit and desires expeditious naturalization so that she may obtain a U.S. passport and alleviate difficulties encountered in the course of their travels.

YOUNG SHIN JOO

The Senate proceeded to consider the bill (S. 1005) for the relief of Young Shin Joo, which had been reported from the Committee on the Judiciary with an amendment, on page 1, line 11, after the period, to insert the following:

Section 204 (c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Young Shin Joo may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Ronald Taggart, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act, Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–431), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States as an immediate relative of the prospective adoptive child of U.S. citizens. The purpose of the amendment is to waive the provision of existing law relating to the number of petitions which may be approved.

STATEMENT OF FACTS

The beneficiary of the bill is a native and citizen of Korea who was born January 8, 1977. She is currently in the care of the Social Welfare Society of Korea; her natural parents are unknown. The prospective adoptive parents, Mr. and Mrs. Ronald Taggart, are U.S. citizens. They have two other adopted children who are natives of Korea.

WILLIAM H. SESSUMS III, ROBERT L. SESSUMS, AND GLORIA J. SESSUMS

The resolution (S. Res. 261) to pay a gratuity to William H. Sessums III, Robert L. Sessums, and Gloria J. Sessums, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to William H. Sessums, III and Robert L. Sessums, sons of William H. Sessums and to Gloria J. Sessums, daughter to William H. Sessums, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum to each equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may move, en bloc, to reconsider the votes by which the measures were passed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I so move.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished acting Republican leader, are there any nominations to which anyone on his side objects?

Mr. STEVENS. There are no objections to any of the nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. I thank the distinguished assistant Republican leader. I ask unanimous consent that the nominations on the Executive Calendar be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Arthur J. Goldberg, of the District of Columbia, to be Ambassador at Large and Representative to the Conference on Security and Cooperation in Europe (CSCE) and Chairman of the U.S. Delegation to the CSCE.

George W. Landau, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

Andrew J. Young, of Georgia, James F. Leonard, Jr., of New York, Lester L. Wolff, U.S. Representative from the State of New York, Charles W. Whalen, Jr., U.S. Representactive from the State of Ohio, and Coretta Scott King, of Georgia, to be Representatives of the United States of America to the 32d Session of the General Assembly of the United Nations.

Donald F. McHenry, of Illinois, Melissa F. Wells, of New York, Allard Kenneth Lowenstein, of New York, Marjorie Craig Benton, of Illinois, and John Clifford Kennedy, of Oklahoma, to be Alternate Representatives of the United States of America to the 32d Session of the General Assembly of the United Nations.

U.S. AIR FORCE

Maj. Gen. Abner B. Martin, U.S. Air Force, to be Lieutenant General.

Brig. Gen Walter D. Reed, U.S. Air Force, for promotion to the grade of major general and for appointment as the Judge Advocate General, U.S. Air Force.

Lt. Gen. John F. Gonge, U.S. Air Force, for appointment on the retired list, to Lieutenant general.

U.S. ARMY

Maj. Gen. George Gordon Cantlay to be lieutenant general.

Maj. Gen. Charles Calvin Pixley for appointment as the Surgeon General, U.S. Army, with the grade of lieutenant general.

Brig. Gen. Spencer Beal Reid, Brig. Gen. George Ivan Baker, and Brig. Gen. William Sinclair Augerson to the grade of major general Medical Corps.

Col. Quinn Henderson Becker, Col. William Raymond Dwyre, and Col. Edward James Huycke to the grade of brigadier general, Medical Corps.

Maj. Gen. William Albert Boyson and Maj. Gen. Charles Calvin Pixley to the grade of major general, Medical Corps.

Brig. Gen. Spencer Beal Reid, Brig. Gen. George Ivan Baker, and Maj. Gen. Kenneth Ray Dirks to the grade of brigadier general, Medical Corps.

Brig. Gen. William Emmett Ingram and Brig. Gen. James George Sieben to be major generals.

Col. Robert Lee Childers and Col. Francis Alphonse Ianni to be brigadier generals.

Lt. Gen. Richard Ray Taylor to be lieutenant general.

Col. James Julius Young to be brigadier general, Medical Service Corps.

U.S. NAVY

Rear Adm. James B. Stockdale to be vice admiral.

Rear Adm. William J. Crowe, Jr., to be vice admiral and senior Navy member of the Military Staff Committee of the United Nations.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, AND MARINE CORPS

Air Force nominations beginning Peter J. Abadie, to be captain, and ending Gary A. Wandmacher, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 1977.

Air Force nominations beginning William D. Bates, to be colonel, and ending Charles O. Titus, to be colonel, which nominations were received by the Senate on August 16, 1977, and appeared in the Congressional Record on September 7, 1977.

Air Force nominations beginning Alfred R. Abbatiello, to be lieutenant colonel, and ending Rita J. Wetzel, to be lieutenant colonel, which nominations were received by the Senate on August 16, 1977, and appeared in the Congressional Record on September 7, 1977.

Air Force nominations beginning Barry S. Abbott, to be first lieutenant, and ending Richard W. Siefke, to be first lieutenant, which nominations were received by the Senate on August 16, 1977, and appeared in the Congressional Record on September 7, 1977.

Air Force nominations beginning Robert O. Osborne, to be major, and ending Peter H. V. Winters, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 14, 1977.

Army nominations beginning Gasper V. Abene, to be lieutenant colonel, and ending Johnny L. Cokley, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 1977.

Army nominations beginning Harold L. Albert, to be colonel, and ending Barbara J. Young, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on August 4, 1977.

Army nominations beginning James B. Baylor, to be colonel, and ending Robert T. Cummins, to be lieutenant colonel, which nominations were received by the Senate on August 29, 1977, and appeared in the Congressional Record on September 7, 1977.

Navy nominations beginning Farouk B. Asaad, to be lieutenant commander, and ending Deborah N. Moore, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on August 1, 1977.

Navy nominations beginning Thomas C. Adams, to be captain, and ending Marilyn A. Edgar, to be lieutenant, which nominations were received by the Senate on August 15, 1977, and appeared in the Congressional Record on September 7, 1977.

Marine Corps nominations beginning Joseph P. Holt, to be second lieutenant, and ending James P. Guerrero, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on August 4, 1977.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it

be in order to move to reconsider, en bloc, the votes by which the nominations on the Executive Calendar were considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. I yield back the minority leader's time.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. I will say this, Mr. President—and the distinguished assistant Republican leader may certainly reserve any time that he has to respond—I would hope that we would begin to see some momentum today on the natural gas pricing bill, and I would hope that Senators on both sides of the aisle have been made fully aware of my statement and that of the minority leader to the effect that if the natural gas pricing bill has not been resolved by the close of business on Friday, there will be a Saturday session. There may also be some late, late, late, late sessions, and I would hope that in view of the statements, and also in view of the fact that we expect to adjourn in October, conferees for both houses will be working assiduously in efforts to get the conference reports back to the respective Houses on measures that are in conference.

The committees of the Senate might also be well advised to have early meetings and to work long and hard in the effort to report out such remaining measures as there be unreported at this time, which must be acted upon before we adjourn over until January.

I hope that the respective cloak rooms will alert Senators daily that if action on this pending bill is not completed on Friday and there has been no resolution thereof, there will definitely be a Saturday session.

I thank the Chair and I thank the Senate. I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I had yielded back the time on this side, but if I may just comment before that is accepted? We endorse the majority leader's goal of completing action on this bill this week.

It is our hope that all Senators will realize that the leadership, and particularly the Senator from West Virginia in his role as majority leader, have tried to be very understanding with regard to the situation of those who went to the NATO Parliamentarians' meeting and also with respect to the calendar as far as the religious holiday this week is concerned. As a consequence, the time frame for voting has been severely limited during this week, and it will require the cooperation of all Senators involved if we are to avoid a Saturday session.

I, for one, hope we do, but at the same time I understand the urgency of completing action on this bill in order that we may continue progress on the overall energy package.

It is, of course, our hope that we will be able to bring the bill to a vote early on Friday, as far as the major issue is concerned.

I can assure the majority leader that those who are managing the bill on this side have indicated a desire to get on with the schedule and to have the votes occur as soon as possible. I yield back the remainder of our time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I understand this request is necessary because witnesses have been notified to appear at the hearings to which I will refer. I am reluctant to seek unanimous consent for committees or subcommittees to meet during the session of the Senate at this stage of the session, as I indicated earlier—ample notice was given many, many weeks ago—except in instances where there are extenuating circumstances or the committees are being expected to report legislation that has to be acted upon before the Senate and House adjourn.

I ask unanimous consent that the Agricultural Production, Marketing, and Stabilization of Prices Subcommittee of the Agriculture, Nutrition, and Forestry Committee be authorized to conduct oversight hearings on Wednesday, September 28, to hear witnesses concerning the problems associated with the transportation of agricultural products.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama is recognized for not to exceed 15 minutes.

Mr. ALLEN. I thank the Chair. I yield to the distinguished Senator from South Dakota for a unanimous-consent request.

PRIVILEGE OF THE FLOOR—S. 2104

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Bethany Weidner, of my staff, be granted the privileges of the floor during voting and consideration of the natural gas legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, for the information of the distinguished majority leader, I shall use no more than half of the time which has been alloted to me.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator. I apologize for having imposed on his time by my extended remarks this morning.

Mr. ALLEN. That is all right. I anticipated there would be some remarks.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, last week I had occasion to speak from time to time on matters involving the proposed Panama Canal treaty and the proposed neutrality treaty for the Canal Zone. In my study of the terms of both treaties, I have relied heavily on Panamanian interpretations of the various documents involved inasmuch as the Panamanian negotiators have been somewhat more candid with the Panamanian National Assembly that our own negotiators have been with the U.S. Congress.

Too, Mr. President, the information we gathered as to the interpretation that the Panamanians put on these treaties is of vital concern to the Senate in reaching a determination as to whether it shall advise and give its consent to the ratification of these treaties. Because of the fact there has been no meeting of the minds between the two countries, the treaties would, in effect, be completely worthless if we had one interpretation and the Panamanians had another.

I might add also, Mr. President, that the dictator-controlled Panamanian Press, in many respects, has set forth more real information on this subject than has our own press. Over the weekend, I ran across an informative editorial in a U.S. newspaper, this week's Army Times, and this editorial does deserve high commendation for its very accurate assessment of one facet of the executive department's propaganda offensive for ratification of these treaties.

The Army Times editorial is entitled "Using the Chiefs"—having reference to the Joint Chiefs of Staff—and it points out the double standard, the inconsistency, and the impropriety of chastising military personnel on the one hand for speaking out against the policies of the executive branch yet coercing them on the other hand to speak out in favor of such policies. The editors of Army Times apparently share my own deep conviction that the professional military cannot be permitted to intervene publicly in politics and that grave danger is posed by deliberate misuse of the military for political advantage.

Army Times states its disapproval in this manner:

One of the reservations we have about the administration merchandising of the treaty is the early use of the Joint Chiefs of Staff to promote ratification.

In addition, JCS chairman Gen. George S. Brown, supposedly on his own accord, met with ranking military retirees in the Washington area in an attempt to win their support for the treaty.

We accept the contention that the chiefs acted out of honest conviction in their protreaty effort. But their presence among political figures who are endorsing the treaty is cause for concern. Critics of the pact already are charging that the military leaders acted out of loyalty to the Commander in Chief. Brown has denied the charge but probably has not laid it to rest.

We would rather have seen the military views given in that forum instead of the White House extravaganza preceding it.

I might state that while the Joint Chiefs have endorsed the treaty, four former Chiefs of Naval Operations have come out in strong opposition to the treaty, showing the direct contrast between those who are still on the payroll and in active military service who may have one view, but their equally distinguished colleagues, many of them, and certainly four former Chiefs of Naval Operations, have come out against the treaty.

You know, Mr. President, we have just recently been treated to the public spectacle of a senior military commander in Korea being summarily relieved of command for remarks thought inconsistent with the executive department's apparent determination to abandon South Korea, yet almost in the same breath we have had paraded before us assorted active-duty generals and admirals, all chorusing in unison the praise of the President and endorsing to a man this strategically disastrous treaty proposal. The irony, at least, has not been lost on the editors of Army Times who see danger in this obvious politicizing of the role of the military decisionmakers.

I again quote the Army Times:

It is fair, in our view, to criticize the President for the service leader's participation in the pre-debate "education" effort.

I welcome an education effort, educating the American people about these treaties, because the more they find out about the treaties, in my opinion, the harder and the more determined will the opposition of the American people be to the treaties.

When general officers have spoken out on other national policy matters, he and his representatives have been quick to remind them of the bounds of their military responsibilities.

"He," in this case, is the President.

In this case, however, the military leaders are showing approval of administration policy, not opposition. The difference may be difficult to explain and may result in some erosion in the military's traditional political neutrality.

Mr. President, I do believe that the fair and dispassionate views of our leading military officers should be considered by the Congress, but I trust the Members will recognize the unseemliness of ballyhooing active-duty military support for the new treaties, when such support is so obviously generated by a desire for job security and personal advancement rather than out of loyalty to the national interest of the United States, at least as I perceive it.

Mr. President, from time to time I have spoken out against these treaties, and I have pointed out reasons for my opposition. I am going to continue, week in and week out, until this matter comes before the Senate, with the approval of the distinguished majority leader and his graciousness in getting me this time, to speak out against these treaties and to give a backlog of information showing that approval by the Senate of these treaties will be contrary to our national interest.

I believe that the education process which the executive department is going to carry on in connection with trying to sell this treaty to the Senate and to the American people will be counterproductive insofar as getting approval of the treaties is concerned; and that public opinion will be stronger and stronger, as time goes on, against the treaties.

Mr. President, I ask unanimous consent that the editorial to which I referred be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

USING THE CHIEFS

The administration's selling job on the new Panama Canal treaty has to be one of the major political spectaculars of recent memory.

While Congress was on vacation in August, the President worked to rally support for the pact among legislators, key people in the former administration, union leaders, governors, business people and others. The signing brought more heads of foreign governments to Washington than have been here since the last state funeral.

The political activity gives the impression that the treaty is about to take effect. In fact, it still faces Senate ratification and what amounts to House endorsement through approval of related money bills. Heated debate on the issue is predicted.

The administration's effort may be good political strategy, but it tends to raise questions. If the treaty—actually two treaties are involved—is good, it may be asked, why the hard sell and why, until now, the lack of specifics?

We don't pretend at this point to know whether the treaty is the best arrangement the U.S. can make with Panama. Senate hearings and debate should provide light as well as heat on the issues involved. But it should be evident that overwhelming protreaty arguments are going to have to be made to persuade lawmakers and perhaps a majority of the American public that the U.S. should relinquish its Canal rights.

For many Americans the treaty surfaces at the wrong time. The U.S. has "lost" a war in Asia, and is preparing to withdraw ground combat forces from South Korea. Negotiating away American rights on the canal comes as the final straw.

One of the reservations we have about the administration merchandising of the treaty is the early use of the Joint Chiefs of Staff to promote ratification.

In addition, JCS chairman Gen. George S. Brown, supposedly on his own accord, met with ranking military retirees in the Washington area in an attempt to win their support for the treaty.

We accept the contention that the chiefs acted out of honest conviction in their protreaty effort. But their presence among political figures who are endorsing the treaty is cause for concern. Critics of the pact already are charging that the military leaders acted out of loyalty to the Commander in Chief. Brown has denied the charge but probably has not laid it to rest.

We would rather have seen the military views given in that forum instead of the White House extravaganza preceding it.

It is fair, in our view, to criticize the President for the service leaders' participation in the pre-debate "education" effort. When general officers have spoken out on other national policy matters, he and his representatives have been quick to remind them of the bounds of their military responsibilities.

In this case, however, the military leaders are showing approval of administration policy, not opposition. The difference may be difficult to explain and may result in some erosion in the military's traditional political neutrality.

Mr. ALLEN. I yield back the remainder of my time, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, for the purpose of committees submitting their reports, and Senators submitting statements and petitions and memorials, bills, and resolutions for introduction.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ABOUREZK. Reserving the right to object, what was the request?

The ACTING PRESIDENT pro tempore. For morning business.

Mr. ROBERT C. BYRD. If the Senator will just not get excited about anything at this point, I assure him that no advantage is being taken of any Senator vis-a-vis the natural gas pricing bill.

Mr. ABOUREZK. I do not think the majority leader would try to take advantage. I only wanted to know what the request was.

Mr. ROBERT C. BYRD. The Senator is entitled to know.

I was asking that there be a brief period for the transaction of morning business so that committees could report and Senators could introduce bills and resolutions and make statements and so on, and that the period be limited to 15 minutes, with statements limited to 2 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

PROPOSED AMENDMENTS TO NATURAL GAS LEGISLATION

Mr. ABOUREZK. May I be recognized, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. ABOUREZK. I have a series of amendments, which I do not have prepared yet, to the natural gas legislation. I ask unanimous consent at this time that I be allowed to introduce those during the day today.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. Reserving the right to object, why does the Senator need unanimous consent to introduce them?

Mr. ABOUREZK. I do not want to sign every one of them. I want to do it from the floor and I do not have them all prepared yet. It is just to avoid signing every one of them before offering them to the desk. As the majority leader said, I shall not take advantage of anybody by so doing.

Mr. STEVENS. This Senator does not feel the Senator from South Dakota will take advantage, but I do not understand why he needs unanimous consent to introduce amendments that he can introduce at any time.

Let me inquire of the Chair, is unanimous consent required?

The ACTING PRESIDENT pro tempore. If the Senator is submitting amendments for printing, that is considered morning business, and if done from the floor would not have to be signed. Apparently, he wants to offer them later without the need to sign each one.

Mr. STEVENS. No, these are to the pending bill, so he will not need consent from anybody, as I understand it.

Mr. ROBERT C. BYRD. These are amendments to the natural gas pricing bill. The Senator can offer amendments and have them printed at any time during the day.

The ACTING PRESIDENT pro tempore. The Chair understands that he just wants to submit them for printing.

Mr. ABOUREZK. That is all.

Mr. STEVENS. If it is necessary to have unanimous consent, I have no objection. But if it is something extraordinary, I might have to look into it.

Mr. ABOUREZK. It is only to have them printed and I did not want to sign them all. That is the only reason I made the request.

Mr. STEVENS. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXPRESSION OF APPRECIATION TO LEADERSHIP

Mr. ALLEN. Mr. President, in light of the colloquy just a moment ago between the distinguished majority leader and the distinguished Senator from South Dakota (Mr. ABOUREZK), I commend the distinguished majority leader for his manner and method of conducting the business of the Senate. In view of the fact that committees are necessarily in session during the time that the Senate is in session, if we did not have some way to register our objection to proceedings here in the Senate, the various steps that might be taken that would prejudice the interests of a particular Senator, we would all have to refrain from going to committee meetings. But the distinguished majority leader and the distinguished minority leader allow us to register objections, state positions, and urge that no steps be taken contrary to those positions, and we are able to depend absolutely on being protected in our positions on procedural matters by the two leaders. I express my commendation and my appreciation to the leaders for this fine policy that they have.

I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further morning business?

UN-NATURAL GAS

Mr. STEVENS. Mr. President, I shall have statements later today concerning this matter, but I would like to call the attention of the Senate to this morning's Wall Street Journal editorial concerning un-natural gas. The first paragraph of that editorial ought to bring everyone in the Senate up short, because it states:

As it prepares to vote on the deregulation of natural gas, the Senate needs to understand that the much-touted pipeline to bring gas from Alaska will never be built.

I commend this editorial to the Members of the Senate because it accurately addresses the problem of uncertainty in gas pricing as it affects the ability to finance a project whose cost was originally estimated at $10 billion and now is projected for at least $14 billion. No one knows for sure what it will really cost. This editorial only deals with a few of the reasons why the pipeline through Canada to carry Alaska's gas from Prudhoe Bay to what we call the south 48 may never be built; but, certainly, the discussion of the pricing mechanisms as they affect the ability to finance a project which, admittedly, is going to cost more than $10 billion, ought to be considered by the Members of the Senate. Above all, they ought to be considered by the Members of the Senate who come from industrial States that are going to be relying upon Alaska resources, particularly Alaska natural gas resources, whether they like it or not. I think the question of pricing is a significant question that must be considered—not the price of gas at the Alaska wellhead, but the price of gas as it affects the stability of the gas industry and the price of gas, as it determines whether or not the resources that may be available in the south 48 have actually been inventoried so that investors can be sure that the cost of transporting Alaskan gas, particularly transporting Alaskan gas through Canada, is absolutely necessary.

Again, Mr. President, I commend the Wall Street Journal editorial to the Members of the Senate and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UN-NATURAL GAS

As it prepares to vote on the deregulation of natural gas, the Senate needs to understand that the much-touted pipeline to bring gas from Alaska will never be built.

Oh, "never" may be a mite too strong. The Congress can build the pipeline if it is willing to soak the U.S. taxpayer for its cost of $10 billion and up. And in the far future the line will be built if it becomes clear that natural gas cannot be had for less than the $3.50 per thousand cubic feet (mcf) the Alaskan gas will cost crossing the U.S. border. But until we have exhausted the possibility that gas can be had right here in the Lower 48 at a cost below the $3.50 Alaskan price and above the $1.75 Carter control price, there will be no way the pipeline developers will be able to borrow $10 billion to build the project.

At $10 billion the pipeline will be the most expensive ever built, indeed the costliest private project ever devised by man. And when you consider that the Alaskan oil pipeline eventually cost 10 times the original estimate, the $10 billion estimate could prove to be far too modest. The sums involved are likely to dwarf the capitalization not only of the builders but the gas utilities that must pay back the cost by buying the gas. Raising such an enormous sum will be a problem simply because there are only so many financial institutions, each with prudent limits for investment in any one project.

The investment is huge, and the risk will be intolerable if Mr. Carter prevails with his $1.75 price ceiling. For then there will be no test of the possibility that if the price were ever decontrolled the nation would be awash in gas before it ever reached $3.50, a possibility suggested by resource estimates by some of the Carter administration's MOPPS experts and by the head of the United States Geological Survey. The administration can try to suppress or fog up the MOPPS estimates and fire the head of the USGS, but this is not much comfort to folks asked to shell out $10 billion to produce $3.50 gas.

The investors have to contemplate what would happen if come 1985, say, a President Simon succeeded in deregulating the price of gas. Presumably the Alcan line would at that point have long-term contracts with the gas utilities to buy $3.50 gas, and the utilities would have promises that they could roll this price into their rate base. But there is no guarantee that such promises and contracts would survive the political heat that would be generated if $2.50 gas floods the market.

The prudence of lenders always puts some limit on the folly of government. What sense does it make, after all, to cheer about spending $10 billion to bring gas from Alaska at a price of $3.50 while passing laws against getting gas from Oklahoma at $2? Mexico has also recently discovered huge reserves of gas, which probably will be imported into the U.S. at a price of $2.60 to $2.80. If you drilled straight down where those pipelines will cross the border, you could probably bring up gas at $2.

For that matter, there is right today a glut of gas in Alberta, which can and should be imported at $2. All you have to do is be willing to pay the Canadians a price it is illegal to pay the Texans. Don't be shocked, companies are already negotiating to pay $2.75 to buy liquefied natural gas from the Algerians. But Mr. Carter and Mr. Schlesinger don't want to deregulate because they're afraid someone might make a windfall profit.

Actually profits will in any event gravitate toward the same market return on investment everyone else gets, and in doing so will insure that the most economical resources will be exploited first. Conceivably it corresponds to someone's sense of social justice to take Alaska first even if Oklahoma would be cheaper. But if meeting the nation's energy needs means borrowing money for projects the size of the Alcan pipeline, you simply won't get the expensive resources so long as there is a risk that cheaper ones may be around. And the only way you can eliminate the risk is to deregulate the price and see what comes out of the ground.

(Routine morning business transacted and additional statements submitted will be printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2104, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 887

The ACTING PRESIDENT pro tempore. The pending question is amendment No. 887 in the nature of a substitute, by the Senator from Oklahoma.

AMENDMENT NO. 957

Mr. METZENBAUM. Mr. President, I call up amendment No. 957, introduced by Senator KENNEDY.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

Mr. BUMPERS addressed the Chair.

Mr. STEVENS. A point of order, Mr. President. Is there not an amendment pending before the Senate?

The ACTING PRESIDENT pro tempore. Yes, there is, but it is in the nature of a substitute, and amendment 957 perfects the original bill and takes precedence.

Mr. STEVENS. The amendment called up by the Senator from Ohio will take precedence over the amendment offered by the Senator from Oklahoma?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. BUMPERS. Mr. President, if I may, I inquire of the Senator from Ohio, through the Chair, is this an amendment offered in the nature of a substitute to the Bartlett amendment?

Mr. METZENBAUM. The answer is no.

The ACTING PRESIDENT pro tempore. It is an amendment to the original bill.

Mr. STEVENS. A parliamentary inquiry, again, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STEVENS. Was the amendment of the Senator from Washington in the nature of a substitute adopted for the purpose of original text?

The ACTING PRESIDENT pro tempore. It has never been called up.

Mr. STEVENS. So that the amendment that is offered by the Senator from Ohio is in the nature of a substitute to the bill as reported from the committee?

The ACTING PRESIDENT pro tempore. It is a perfecting amendment to the bill as reported.

Mr. STEVENS. A perfecting amendment in the nature of a substitute?

The ACTING PRESIDENT pro tempore. No.

Mr. STEVENS. Is it a substitute?

The ACTING PRESIDENT pro tempore. No, it just perfects. It is not a complete substitute.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) on behalf of Mr. KENNEDY proposes an amendment numbered 957:

On page 8, beginning on line 18, strike out all through line 19 and insert in lieu thereof the following: "be the price which was determined to be just and reasonable by the Commission and was in effect on April 20, 1977.".

AMENDMENT NO. 958

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, at this time, I call up amendment No. 958 for Senator KENNEDY, which is an amendment to amendment No. 957.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) on behalf of Mr. Kennedy proposes an amendment numbered 958 to amendment No. 957:

In lieu of the language proposed to be inserted, insert the following: "not exceed $1.45 per Mcf, plus the inflation adjustment as defined in section 3(a) (20).".

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STEVENS. Is this also a perfecting amendment?

The ACTING PRESIDENT pro tempore. It is a second-degree amendment. It is in order.

Mr. STEVENS. It is a second-degree perfecting amendment?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. STEVENS. An amendment to the perfecting amendment?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. STEVENS. And is it my understanding that if this amendment is called up by the Senator from Ohio that no further amendments are in order at this time?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. STEVENS. And are there any other amendments that could be called up, or could the Chair state whether there are any amendments that could take precedence to the amendment that has been offered by the Senator from Ohio?

The ACTING PRESIDENT pro tempore. No, because it is in the second degree.

The PRESIDING OFFICER (Mr. METZENBAUM). The Chair should like to clarify an earlier response to the Senator from Alaska.

When the Senator from Alaska asked whether any further amendments were in order at this time, the Chair responded, "no." That was before the Chair had an opportunity to study the two pending amendments. Since they are a substitute for a section of the original bill, a perfecting amendment to that language to be stricken in the original bill would be in order at this time.

Mr. ROBERT C. BYRD. To be stricken by which amendment?

The PRESIDING OFFICER. By the first Kennedy amendment.

Mr. STEVENS. No. 958?

The PRESIDING OFFICER. 957, 958 being second.

Mr. ROBERT C. BYRD. As I understand what the Chair is saying—I have not seen the amendments, and I am in no position to have said—the perfecting amendment in the first degree is a "strike out and insert."

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Which does mean, then, that the language of the bill which is to be stricken by the amendment in the first degree is open to perfecting amendments in two degrees.

The PRESIDING OFFICER. The Senator is absolutely correct.

Mr. ROBERT C. BYRD. So you could very easily have two amendments in that regard, in addition to the two amendments that now have been offered—that is four—plus the substitute by the Senator from Oklahoma which is also pending. You could have a plethora of amendments.

I think the Chair accurately has put the matter in focus. So the Senator from Alaska understands now that if he or any other Senator wishes to offer a perfecting amendment to the language to be stricken by the amendment in the first degree to the amendment offered by Mr. METZENBAUM, such amendment is in order.

Mr. STEVENS. I thank the Chair and the majority leader.

(This concludes proceedings which occurred subsequently.)

(Subsequently the following occurred:)

Mr. STEVENS. Is there a time agreement on this amendment?

The ACTING PRESIDENT pro tempore. There is not.

Mr. STEVENS. May I inquire whether it is possible to discuss the question of a time agreement on this amendment with the Senator from Ohio?

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. I can only answer that it is not possible to discuss a time agreement with respect to these two amendments, the Senator from Ohio actually having acted at the request of the Senator from Massachusetts whose amendments they are, the Senator from Massachusetts being engaged in committee responsibilities at the moment, and whether or not he would or would not be agreeable to a time agreement is a matter that I am not in a position to address myself to.

Mr. BARTLETT. Will the Senator yield?

Mr. METZENBAUM. I am glad to.

Mr. BARTLETT. Would the Senator make an effort to find out whether a time agreement could be achieved?

As the Senator knows, the Senator from Oklahoma, whose amendment was pending, was hoping to have a time agreement. I think this would be in the interest of moving ahead. We would certainly welcome an opportunity to discuss a time agreement on this amendment, on both of these amendments.

Mr. METZENBAUM. The Senator from Ohio indicated yesterday, for myself, not speaking for any Senator other than myself, that I would not be agreeable to a time limit, particularly with

respect to the Senator from Oklahoma's amendment, as well as the matter that the Senate will be coming to, absent some understanding and discussion with reference to a unanimous-consent agreement that amendments would be accepted should either the Bartlett amendment in the nature of a substitute or the Pearson-Bentsen amendment in the nature of a substitute be agreed to.

I had that colloquy yesterday with the minority leader. The minority leader indicated that such a unanimous-consent agreement would not be acceptable, and absent that, I would not be prepared to agree to any time limit.

Mr. BARTLETT. My question also applies to the Senator from Ohio's amendments.

Would the Senator from Ohio be receptive to a time agreement on these two amendments called up?

Mr. METZENBAUM. The Senator from Ohio thought he made clear that I would not be in any position to make any agreement with respect to a time limit on these amendments.

These amendments actually being the amendments of the Senator from Massachusetts and not my amendments, I having called them up as an accommodation to him.

Mr. BARTLETT. The Senator probably did not understand my question. My question had to do with his own personal attitude about the matter and not the attitude of the Senator from Massachusetts.

I just wondered what his attitude would be. I assume that he is trying to expedite indications to the Senator from Massachusetts to find out what the Senator from Massachusetts' preference would be.

But I am asking about the position of the Senator from Ohio regarding a time agreement on these two amendments of the Senator from Massachusetts.

Mr. METZENBAUM. I would not be prepared to answer that question without discussing the subject further with the Senator from Massachusetts.

Mr. BARTLETT. The Senator from Oklahoma requests that the Senator from Ohio advise us at the earliest moment when this communication comes through so that we would know the desires.

We keep asking. We are not trying to bother the Senator from Ohio, but we would like to know just what the desires are.

Mr. METZENBAUM. I will try to accommodate the Senator from Oklahoma to that extent.

Mr. BARTLETT. I thank the Senator from Ohio.

Mr. STEVENS. Mr. President, for myself, I suggest that the Senator from Massachusetts and the Senator from Ohio permit us to go ahead and have a vote on the Bartlett amendment. That was anticipated by the leadership, I think. If my memory serves me correctly, the majority leader indicated he anticipated a vote on the Bartlett amendment today, too.

Certainly, this is not the Pearson-Bentsen amendment that we all know will be the subject of greater controversy. But I think the Senator from Oklahoma had reason to believe he would have a vote on his amendment today, and we should have it.

I hope that the Senator from Ohio will contact the Senator from Massachusetts and determine whether we can set this matter aside, these two amendments, and discuss and vote upon the Bartlett amendment, as was anticipated.

I, for one, have to express surprise at this action. I say to the Senator from Ohio that my nose tells me I smell a filibuster. I think if we are going to smell a filibuster, we better get a cloture motion in here pretty quickly. I do not know what the majority leader intends to do about it; but I personally do not want to spend Saturday here just to participate in a filibuster or to oppose a filibuster, either way.

I cannot understand a premature calling up of amendments that would block further consideration of any of the other amendments.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, maybe I can help and somehow clarify the situation.

The amendment that was offered on yesterday by Mr. BARTLETT was an amendment in the nature of a substitute. That amendment is open to an amendment, it being a complete substitute for the bill.

Mr. BARTLETT. Yes.

Mr. ROBERT C. BYRD. So, then, it is open to amendment in two degrees.

The bill, in the meantime, however, is open to perfecting amendments in two degrees.

The Senator from Ohio was within his right to offer, on behalf of Mr. KENNEDY, a perfecting amendment to the bill itself and then to follow with an amendment to the perfecting amendment.

So he exercised his rights under the rules to offer both the amendment in the first degree and the amendment in the second degree. Disposition of those perfecting amendments will precede the disposition of the substitute amendment by the Senator from Oklahoma.

If the amendment in the second degree is disposed of, another amendment in the second degree may be offered to the pending amendment in the first degree. They are all subject to tabling motions.

In the event that the amendment in the first degree were tabled, it would carry with it the amendment in the second degree. In that event, another perfecting amendment to the bill would be in order.

So what I am saying is that perfecting amendments to the bill are in order prior to action on the substitute, because the desire is to perfect a bill, to make it as nearly perfect as possible, before voting on a substitute for the bill which was reported by the committee. I hope I have helped to clarify the matter.

I share the hopes that have been expressed by the distinguished acting Republican leader and the able Senator from Oklahoma that action will be taken on the amendments that have been offered on behalf of Mr. KENNEDY by Mr. METZENBAUM and that action will also be taken one way or the other on the amendment by Mr. BARTLETT today.

I must say that I do not see any filibuster occurring at the moment. I have been asked that question a number of times by the press, and I have been able to say truly that I have not heard that word used by Mr. METZENBAUM or anyone else, other than the representatives of the press. I have, however, the euphemistic term "extended debate" used by a Senator or some Senators, but that does not disturb me too much at this point. I know how these things go around here.

However, I have said that we are going to complete action on the energy package before this Congress adjourns; and that means if such a thing as a filibuster should develop—I do not believe it is going to develop—we just have to work our way through it.

Whether I win or lose on a given amendment, I make my fight, and that is it. It is the Senate's will that must be recorded.

So I believe that all Senators will approach the matter in that spirit. I know that all sides on a very controversial amendment do everything they possibly can to win for their respective position, but there comes a time when the Senate should vote. At this point, I do not want to believe, and have no reason to believe, that there will be any deliberate effort to kill this bill by a filibuster. If that becomes evident to me, then I will take recourse in any way I possibly can to see that the Senate finally works its will on the measure, and as soon as possible.

I hope that we are off to a good start now. I believe that before the day is over, we will see some votes on the floor, and that, in turn, may help open the way to more votes and—who knows—eventually perhaps a time agreement.

Mr. STEVENS. Mr. President, I ask unanimous consent that John Burnett and Douglas Logan, of my staff have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I make the same request for Donna West of Senator DOMENICI's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ark Monroe and Richard Arnold, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I appreciate the consideration of the Chair and the clarification of the rights of Senators to offer further amendments. I appreciate the statement of the majority leader.

No one likes to smell filibusters. I do have a slight perception of the aroma of a filibuster, not that that is a bad aroma,

but it is something that is coming into my senses. I hope I am wrong. The majority leader believes I am wrong, and I believe we would be well advised to act on the basis that I am wrong.

I do not believe that this is a bill—a significant portion of the energy package—which should be the subject of a filibuster. I believe we should have some votes today.

As I said, we have been most considerate of the problems of other Senators, both on Monday and Tuesday, and we are maintaining more than a quorum of Senators in order to do business. We should have the opportunity to vote today on some of the amendments to this bill, particularly in view of the fact that we shall not vote from sundown tonight until sundown tomorrow.

Looking forward to the prospect of spending Saturday here, it is only fair to the Members of the Senate that we have been attempting to move forward on the bill in the meanwhile. If this is not to come to conclusion by any other means today, I, for one, shall offer a motion to table it before 6 p.m.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Erich Evered of my staff be accorded the privileges of the floor during the consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. I would just like to say I am not going to offer my amendment as a perfecting amendment in the area to delete the language at this time, and may not at all. But I did want to say it is my understanding that the distinguished Senator from Massachusetts is agreeable to a time limitation. So I do hope that avenue will be pursued and we can at the earliest possible moment agree to such a time limitation.

Mr. BUMPERS. Mr. President, I have been absent for the past 2 days. Although I have not previously spoken about this subject of deregulation of natural gas, my position on it is fairly well known.

To the Senator from Alaska I would like to say I do not know of any devious plots going on in the Senate dealing with a filibuster. This is obviously, together with some of the tax measures, the centerpiece of the President's energy proposal. I feel strongly about it, so strongly that I certainly think the debate should not be cut short.

I have detected since I have been in the Senate the last 2½ years that filibusters only have an odor if you happen to be on the other side, and they smell quite differently to one who happens to be opposed to a measure that is about to go through.

I have never participated in one, and I can say here with a great deal of satisfaction I have voted for cloture every time it has ever been presented in the Senate for a very simple reason. I am always willing to face an issue up or down.

There are exceptions to my rule. I certainly would not vote for cloture if I thought a measure was going to have an unfair, disadvantageous effect on my home State. There will be instances where I may believe that a matter is unconstitutional, and I may not vote for cloture. There may even be a matter that I feel very strongly about—I am not sure that natural gas deregulation bill is such an issue—and would feel the Senate was making an impulsive, grave mistake, and that might cause me to vote against cloture.

But I have always believed the Senate ought to expedite debate in consideration of measures that come before it.

I know, however, the Senator from Alaska will agree with me. This matter is much too important to cut short the debate.

The Senator from Oklahoma's amendment is pending now. I know he feels as sincerely about that as anybody in this Senate feels about any measure he is going to offer here. I know the Senator from Colorado (Mr. HART) has an amendment which would exempt the independents, the independent gas producers in this country, and I know how strongly he feels about that because I have discussed it with him.

Then I know that the Pearson-Bentsen amendment is really the centerpiece of the debate here.

Then the Senator from Louisiana (Mr. JOHNSTON) feels very strongly about a measure he is going to propose which, as I understand, effectively deregulates gas over a 5-year period.

My point is there are divergent views in the Senate. A lot of the Senators feel very strongly about whatever their position is, and everybody ought to have the right to present his amendment in its best light, and he ought to be satisfied that all the Senators are well versed in whatever his position is. Then they can vote accordingly.

I do not think anybody here wants to impede the passage of some kind of measure here. I know the majority leader feels very strongly about getting us out of here by the middle of October. He also wants to accommodate the President by at least saying yes or no to the President on all of these energy matters. I think most Senators conscientiously feel we can and will do a satisfactory job on this energy legislation.

But, if I may, Mr. President, I would like to make some points. This is not a particularly good time to make them, because I think that with a few minor exceptions most people are fairly well locked in on how they are going to vote on this matter.

But this whole issue of deregulation of natural gas reminds me of Lucy holding the football for Charlie Brown every September. He insists that she is going to pull the ball out from him just the minute he gets there, and each September she swears she will not do it. She says, "This time I'm going to hold the ball and let you kick it." Every September Charlie falls for it, and every September Lucy pulls the football out, and Charlie takes a tumble.

Last winter was the harshest in modern history. We had gas curtailments everywhere, with industries shut down and people out of jobs. It was a golden opportunity for the oil and gas companies of this country to say, "See I told you. That mean old Congress has not deregulated the price of gas and oil and that is the reason for the big shortage. It just isn't enough incentive for us to go out and find all those trillions of cubic feet of natural gas that are waiting impatiently for us to find them, and unless you deregulate, the same thing is going to happen next winter."

Now, Mr. President, unfortunately a lot of my colleagues have fallen for that because they are afraid we are going to have another harsh winter, and the oil and gas companies are going to make these same arguments, and we are all going to get that same ton of mail we got last winter saying, "Why don't you let the oil companies find all this gas so I won't lose my job?"

There were, fortunately, some Members of the Senate last year who were ingenious enough to think up a counter argument. They argued that there really was no shortage, but the oil and gas companies withheld gas from the market, and that is the reason the shortage existed. They had it and refused to ship it because they saw they had the country in a stranglehold, and they could make their point a lot more dramatically by seeing people lose their jobs.

There are people in this Chamber who bought that argument. There was some substance to that argument.

But the truth of the matter is, Mr. President, neither of those arguments is worthy of our consideration. The truth of the matter is that in the last week of August there were 2,345 rotary drilling rigs in existence in this country, and all of them except 305 were in operation, and every rig in this country has been in operation for the last 2 years except those that were in the shop for repairs or those that were in transit from one location to another.

What have we gotten for it? Oil production has declined 500,000 barrels a day every year since the Arab oil embargo. The oil and gas companies in this country, if you raised the price of gas to $10 per Mcf tomorrow, could not drill an extra single hole because they do not have anything to drill them with.

The Congressional Budget Office says if we keep adding 20 to 30 new rotary rigs a week to the national supply, by 1985 we will indeed increase the supply of gas by 5 percent. God only knows what the price would be at that time if we passed the so-called Pearson-Bentsen amendment, but they will increase the supply of gas 5 percent.

Do you know what that 5 percent represents? It represents 5 percent of gas we are going to find faster than we otherwise would.

Mr. President, I have some strong philosophical feelings about this whole subject. We can solve the energy crisis of this country by mandate, by conservation, or we can solve it by price.

If we are going to pass a crude oil tax so that domestic oil costs the same price as some artificial price set by the OPEC nations and raise the price of gasoline 7 cents a gallon and home heating oil by that much or more, if we are going to deregulate natural gas and increase the winter gas bills next winter by 40 percent, if we are going to do those things and solve the energy crisis off the

hides and off the backs of the working people and the retired people on fixed income of this country, for heaven's sake let us have the decency to tell them that is the way we are going to solve it.

Let us tell them that there is not an ounce of sensitivity left in this body. All we are concerned with is what Franklin Roosevelt said at one time:

It is really an enigma of the human personality that the fat pocketbook groans louder than empty bellies.

That is what the Senate is listening to. It is listening to the groan of fat pocketbooks.

I do not know how this vote is going to come out, but I can tell you one thing. I am going to go home and look at the constituents in my State and tell them that I did everything in the world I could to solve this problem in a decent, sensitive, fair way so that those people who are legitimately engaged in producing more energy can do so and make a big profit and at the same time at least allow them to stay warm even though it is going to take an absolutely unbelievable proportion of their incomes to do so.

Mr. President, it is hard for me to accept the President's proposal to raise the price of gas to $1.75. I have no idea what it will go to if we agree to Pearson-Bentsen, and no one else in this Chamber does either. I do not care what anyone says here. God just made so much natural gas, and that is all we are going to find.

Let me give you an example. They are crying about how they cannot make any money. Let me give you an example. They come to my office saying: "Senator, it takes a million dollars to drill a gas well. We are having to drill 15,000 and 20,000 feet deep, and it costs a million dollars a well, and a lot of them are dry."

Under the President's proposal here is what that amounts to. Let us assume that they drilled five holes at $1 million each, and let us assume that four of them are dusters and only one produces. Assume further that the one that produces only produces 10 million cubic feet of gas a day.

Mr. President, I come from Franklin County, Ark., and there is a lot of gas around there. Arkansas is not considered a big gas-producing State. We import 80 percent of the gas we use in our State, and the other 20 percent is mostly produced around my home area.

But we have a lot of wells in that area that have produced more than 10 million cubic feet, and they are not considered big wells.

But assume you drill five wells. It costs you $5 million. And only one of them produces 10 million cubic feet a day.

Do you know what the return is at $1.75, the price the President is proposing? It is $6.4 million the first year.

How high is high? That is a pretty good return. I will sink my money into that kind of an operation any time. I have very few investments that pay 100 percent return the first year, and I doubt there are many people in this Chamber who have such investments. That is just about what the national drilling average is right now, about 1 out of 5.

I made a speech out in Michigan yesterday to a group of oil jobbers, and the oil jobbers' interests are not necessarily the same as the major oil and gas companies, as the Senator knows.

There was a fellow who came up to me after I had spoken and said:

Senator, how in the world can you champion $1.75 for natural gas that is produced in the United States when we just signed a contract to buy gas from Mexico for $2 or more an Mcf?

If you are sitting around the coffee shop in Charleston, Ark., that makes a lot of sense, because I used to do it. I tell you that the problems were so much simpler to solve before I got to the position of having to solve them. I just cannot believe the difference. We used to solve everything in the coffee shop every morning, and it was so simple, until I got to the Senate and all of a sudden things got more complicated.

But I tell you the short answer to that is the people of Mexico are not paying over $2 an Mcf. It is only that gas that the national oil company, owned by the Government of Mexico, ships across the border that they sell for $2.

Mr. President, if we are going to sell any of our natural gas across the border, even though it is privately owned, I think we should get $3 or $4 a Mcf for it because we do not have enough anyway. The reason Mexico is selling us gas is because they have a lot and we do not have enough. They know we can afford to pay it and will pay it. But they are not charging their own citizens that amount.

Do you know what the Congressional Budget Office said? They said that even under the President's proposal very shortly your winter gas bills are going to go up 20 percent. If you adopt deregulation your gas bills are going to go up 40 percent.

Mr. President, look at my mail last winter from the people who were trying to survive the harshest winter in recent times and pay their gas bills and stay warm. I am not going to write those people and say, "I voted for a bill that raised those prices still another 40 percent."

If it were a matter of not having the gas because the oil and gas companies could not make a profit, I would reevaluate my position. That is not what we are talking about here, and that is not what we are going to continue to be talking about.

Mr. President, that is probably about all I am going to have to say on this issue. I may make this speech a couple more times when I have a little larger audience because I like the speech. But that is about the sum and substance of my attitude about this bill we are debating here today.

Mr. HEINZ. Mr. President, I ask unanimous consent that Bill Reinsch, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, because it pertains to the gas supply issue, I shall address the Senate for a few moments on the agreement that was signed with Canada yesterday concerning the pipeline to be built from the Prudhoe Bay deposit in Alaska to the South 48 through Canada.

I am sure it comes as no surprise. I have opposed that pipeline. I continue to oppose the pipeline through Canada for many reasons.

I do believe, however, it is incumbent upon those of us who are involved in this issue to try to get all the facts we can to our constituents.

Therefore, I ask unanimous consent that at the close of my remarks on this subject the agreement be printed in the RECORD at that point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, it was my privilege this morning to meet with the President and Members of the Senate on general matters, and one of the subjects the President discussed with us was the alarming rate of the increased deficit in our balance of payments.

I find it incongruous at the time this deficit is increasing that we should be willing to export to our neighbor, Canada, the jobs and manufacturing capacity that will be lost as we send our resource through Canada.

The estimate of that pipeline that is being used now by the administration is $10 billion. Of that estimate $6 billion is attributed to the cost of the pipeline going through Canada, and that does not include that so-called Dempster latteral.

The portion that will go through Canada is the portion that is subject to the predicted cost overrun, mainly because the portion of that pipeline that would be built through my State parallels the existing oil pipeline right-of-way.

I think it is incumbent, as I said earlier today, for the Senate to realize that Alaska's natural gas resources are not going to be cheap. To the Senator from Arkansas, I would say it makes no sense, to me, to be fighting over an amendment that would limit the price of natural gas to $1.45 in lieu of the President's recommended price of $1.75, when we know that the cost alone of getting Alaska's gas to the South 48 will exceed that. What it means is that we will be committing our resources to guarantee a pipeline through Canada. We will be exporting our dollars; we will be denying our unemployed the right to work; we will be watching more steel plants close down while the Canadians tool up their steel plants to build a pipeline to carry our gas to our customers, and at a cost which far exceeds the price that apparently, in interstate commerce, would be paid for gas in the South 48.

I happen to believe that a free market is the best market we can deal with—at least a market which is as unregulated as possible in the circumstances that exist. But it is a strange national policy which exports jobs, exports dollars, and exports manufacturing demand, and at the same time places a limit on the amount that we pay for our gas, or at least proposes to, which is far below that which we are paying Canada for Canada's gas, or paying Algeria for Algerian

LNG, or Indonesia for Indonesian LNG, and will in fact increase the deficit in our balance of payments.

For years we have been worried about the problem of reliance upon foreign sources for our oil. Well, Mr. President, it is pretty obvious that we should become worried about relying upon foreign sources for liquefied natural gas. I wonder how many Americans know that there is no capacity in this country for liquefying large amounts of natural gas. The major plant is in Alaska already; it is the Kenai plant.

We see Savannah, Ga., in the process of building a billion-dollar plant to regasify LNG—imported liquified natural gas. There is no alternative source of supply of that product. We see California getting ready to approve regasification facilities for Indonesian liquefied natural gas, when they refuse to even consider approving a project for regasifying Alaska's liquefied natural gas. I am of the opinion that if that project had been approved, this pipeline would not have been approved to go through Canada.

The natural consequence of it, Mr. President, is that this country is not just drifting, it is being propelled, down a line which will lead to nationalization. I think that is what the proponents of these amendments, who want to limit the price of gas, really want: To force us into the circumstances that only the Federal Government will produce oil and gas in this country, and only the Federal Government will explore for oil and gas. I think they ought to take a good long look at what happened to England once that country started down the road to nationalization.

Mr. President, I really cannot be too strong in my disapproval of the pipeline decision to take our gas through Canada. But I also cannot be too strong in my opposition to these arbitrary limits on the price of gas. The homeowner in the eastern part of the United States who currently relies on gas may well be shut off this year because of the loss of about 10 percent of the supply—that 10 percent is not going to be there because the price was not sufficient to induce people to bring about the production that is necessary. The cost to that homeowner to convert to coal or oil is staggering. I estimate that it would cost him more to convert to another fuel than he could pay in the rest of his lifetime if we increased the price of natural gas tenfold, because we are only dealing with a 10-percent shortage on the east coast at the present time. It is not the same as if he were paying the full amount of the increase for all of his gas; he would be paying it only for the incremental amount that would be necessary to keep him onstream as a gas user. Therefore, if there is a 10-percent shortage, even if there were a tenfold increase he would still be paying only 10 percent more for his gas.

Somehow or other the economics of deregulating new natural gas has been so distorted in this body that it gets all out of proportion. But above all, I think it is incumbent upon us, particularly those who represent frontier areas—and there is no more frontier area in the country than my own—to realize that the cost of that natural gas from the Prudhoe Bay is going to be almost double the amount that would be provided by the amendment now pending before the Senate, and that is just the cost of getting it down here, without regard to what the wellhead price is.

Some people ask us why we care about the wellhead price; we never will get the high wellhead price that would be achieved by production that is near the major population centers for the country.

My answer is this: Alaskans will get the true value of their natural gas if there is a free market. We cannot hope to achieve the return that we should get from our natural resource as it is produced if there is an arbitrarily controlled market.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question at this point?

Mr. STEVENS. Let me finish this one point, and then I will.

Mr. President, the question of going through Canada will again come before this body later this month. I think everyone concerned with the matter that is before us now, natural gas pricing, ought to realize that that issue involves not only pricing, but it involves the economy of this country, the exporting of some $6 billion to $10 billion in demand for our labor and manufacturing market, as I say, at a time when the administration and Congress together must recognize that the most pressing problem that we have on the domestic scene is in fact this continuing deficit in the balance of payments. We cannot continue to export these dollars, at a time when the demand from the rest of the world for our products is diminishing. The economies of the rest of the world cannot absorb any increased production from this country, and therefore, even if we did improve our own economic climate, we would be faced with the problem of what to do to earn money to pay this deficit in the balance of payments; and the money is not going to be there. It is not going to be there particularly if we pursue a policy of exporting to our neighbor to the north the demand for our manufactured products and the jobs that could have been associated with an all-American route for transporting Alaska's natural gas to the markets in the South 48.

EXHIBIT 1

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA ON PRINCIPLES APPLICABLE TO A NORTHERN NATURAL GAS PIPELINE

The Government of the United States of America and the Government of Canada,

Desiring to advance the national economic and energy interests and to maximize related industrial benefits of each country, through the construction and operation of a pipeline system to provide for the transportation of natural gas from Alaska and from Northern Canada,

Hereby agree to the following principles for the construction and operation of such a system:

1. Pipeline routes:

The construction and operation of a pipeline for the transmission of Alaska natural gas will be along the route set forth in Annex I, such pipeline being hereinafter referred to as "the Pipeline". All necessary action will be taken to authorize the construction and operation of the Pipeline in accordance with the principles set out in this Agreement.

2. Expeditious construction; timetable:

(a) Both Governments will take measures to ensure the prompt issuance of all necessary permits, licenses, certificates, rights-of-way, leases and other authorizations required for the expeditious construction and commencement of operation of the Pipeline, with a view to commencing construction according to the following timetable:

Alaska, January 1, 1980.

Yukon, main line pipe laying January 1, 1981.

Other construction in Canada to provide for timely completion of the Pipeline to enable initial operation by January 1, 1983.

(b) All charges for such permits, licenses, certificates, rights-of-way, leases and other authorizations will be just and reasonable and apply to the Pipeline in the same nondiscriminatory manner as to any other similar pipeline.

(c) Both Governments will take measures necessary to facilitate the expeditious and efficient construction of the Pipeline, consistent with the respective regulatory requirements of each country.

3. Capacity of pipeline and availability of gas:

(a) The initial capacity of the Pipeline will be sufficient to meet, when required, the contractual requirements of United States shippers and of Canadian shippers. It is contemplated that this capacity will be 2.4 billion cubic feet per day (bcfd) for Alaska gas and 1.2 bcfd for northern Canadian gas. At such time as a lateral pipeline transmitting Northern Canadian gas, hereinafter referred to as "the Dempster Line", is to be connected to the Pipeline or at any time additional pipeline capacity is needed to meet the contractual requirements of United States or Canadian shippers, the required authorizations will be provided, subject to regulatory requirements, to expand the capacity of the Pipeline in an efficient manner to meet those contractual requirements.

(b) The shippers on the Pipeline will, upon demonstration that an amount of Canadian gas equal on a British Thermal Unit (BTU) replacement value basis will be made available for contemporaneous export to the United States, make available from Alaska gas transmitted through the Pipeline, gas to meet the needs of remote users in the Yukon and in the provinces through which the Pipeline passes. Such replacement gas will be treated as hydrocarbons in transit for purposes of the Agreement between the Government of Canada and the Government of the United States of America concerning Transit Pipelines, hereinafter referred to as "the Transit Pipeline Treaty". The shippers on the Pipeline will not incur any cost for provision of such Alaska gas except those capital costs arising from the following provisions:

(i) the owner of the Pipeline in the Yukon will make arrangements to provide gas to the communities of Beaver Creek, Burwash Landing, Destruction Bay, Haines Junction, Whitehorse, Teslin, Upper Liard and Watson Lake at a total cost to the owner of the Pipeline not to exceed Canadian $2.5 million;

(ii) the owner of the Pipeline in the Yukon will make arrangements to provide gas to such other remote communities in the Yukon as may request such gas within a period of two years following commencement of operation of the Pipeline at a cost to the owner not to exceed the product of Canadian $2500 and the number of customers in the communities, to a maximum total cost of Canadian $2.5 million.

4. Financing:

(a) It is understood that the construction of the Pipeline will be privately financed.

Both Governments recognize that the companies owning the Pipeline in each country will have to demonstrate to the satisfaction of the United States or the Canadian Government, as applicable, that protections against risks of non-completion and interruption are on a basis acceptable to that Government before proof of financing is established and construction allowed to begin.

(b) The two Governments recognize the importance of constructing the Pipeline in a timely way and under effective cost controls. Therefore, the return on the equity investment in the Pipeline will be based on a variable rate of return for each company owning a segment of the Pipeline, designed to provide incentives to avoid cost overruns and to minimize costs consistent with sound pipeline management. The base for the incentive program used for establishing the appropriate rate of return will be the capital costs used in measuring cost overruns as set forth in Annex III.

(c) It is understood that debt instruments issued in connection with the financing of the Pipeline in Canada will not contain any provision, apart from normal trust indenture restrictions generally applicable in the pipeline industry, which would prohibit, limit or inhibit the financing of the constructon of the Dempster Line; nor will the variable rate of return provisions referred to in subparagraph (b) be continued to the detriment of financing the Dempster Line.

5. *Taxation and provincial undertakings:*

(a) Both Governments reiterate their commitments as set forth in the Transit Pipeline Treaty with respect to non-discriminatory taxation, and take note of the statements issued by Governments of the Provinces of British Columbia, Alberta and Saskatchewan, attached hereto as Annex V, in which those Governments undertake to ensure adherence to the provisions of the Transit Pipeline Treaty with respect to non-interference with throughput and to non-discriminatory treatment with respect to taxes, fees or other monetary charges on either the Pipeline or throughput.

(b) With respect to the Yukon Property Tax imposed on or for the use of the Pipeline the following principles apply:

(i) The maximum level of the property tax, and other direct taxes having an incidence exclusively, or virtually exclusively, on the Pipeline, including taxes on gas used as compressor fuel, imposed by the Government of the Yukon Territory or any public authority therein on or for the use of the Pipeline, herein referred to as "the Yukon Property Tax", will not exceed $30 million Canadian per year adjusted annually from 1983 by the Canadian Gross National Product price deflator as determined by Statistics Canada, hereinafter referred to as the GNP price deflator.

(ii) For the period beginning January 1, 1980, and ending on December 31 of the year in which leave to open the Pipeline is granted by the appropriate regulatory authority, the Yukon Property Tax will not exceed the following:

1980—$5 million Canadian.

1981—$10 million Canadian.

1982—$20 million Canadian.

Any subsequent year to which this provision applies—$25 million Canadian.

(iii) The Yukon Property Tax formula described in subparagraph (b)(i) will apply from January 1 after the year in which leave to open the Pipeline is granted by the appropriate regulatory authority until the date that is tne earlier of the following, hereinafter called the tax termination date:

(A) December 31, 2008; or

(B) December 31 of the year in which leave to open the Dempster Line is granted by the appropriate regulatory authority.

(iv) Subject to subparagraph (b) (iii), if for the year ending on December 31, 1987, the percentage increase of the aggregate per capita revenue derived from all property tax levied by any public authority in the Yukon Territory (excluding the Yukon Property Tax) and grants to municipalities and Local Improvement Districts from the Government of the Yukron Territory as compared to aggregate per capita revenue derived from such sources for 198 is greater than the percentage increase for 1987 of the Yukon Property Tax as compared to the Yukon Property Tax for 1983, the maximum level of the Yukon Property Tax for 1987 may be increased to equal the amount it would have reached had it increased over the period at the same rate as the aggregate per capita revenue.

(v) If for any year in the period commencing January 1, 1988, and ending on the tax termination date, the annual percentage increase of the aggregate per capita revenue derived from all property tax levied by any public authority in the Yukon Territory (excluding the Yukon Property Tax) and grants to municipalties and Local Improvement Districts from the Government of the Yukon Territory as compared to the aggregate per capita revenue derived from such sources for the immediately preceding year exceeds the percentage increase for that year of the Yukon Property Tax as compared to the Yukon Property Tax for the immediately preceding year, the maximum level of the Yukon Property Tax for that year may be adjusted by the percentage increase of the aggregate per capita revenue in place of the percentage increase that otherwise might apply.

(vi) The provisions of subparagraph (b) (i) will apply to the value of the Pipeline for the capacities contemplated in this Agreement. The Yukon Property Tax will increase for the additional facilities beyond the aforesaid contemplated capacity in direct proportion to the increase in the gross asset value of the Pipeline.

(vii) In the event that between the date of this Agreement and January 1, 1983, the rate of the Alaska property tax on pipelines, taking into account the mill rate and the method of valuation, increases by a percentage greater than the cumulative percentage increase in the Canadian GNP deflator over the same period, there may be an adjustment on January 1, 1983, to the amount of $30 million Canadian described in subparagraph (b)(i) of the Yukon Property Tax to reflect this difference. In defining the Alaska property tax for purposes of this Agreement, the definition of the Yukon Property Tax will apply *mutatis mutandis*.

(viii) In the event that, for any year during the period described in subparagraph (iii), the annual rate of the Alaska property tax on or for the use of the Pipeline in Alaska increases by a percentage over that imposed for the immediate preceding year that is greater than the increase in percentage of the Yukon Property Tax for the year, as adjusted, from that applied to the immediately preceding year, the Yukon Property Tax may be increased to reflect the percentage increase of the Alaska property tax.

(ix) It is understood that indirect socio-economic costs in the Yukon Territory will not be reflected in the cost-of-service to the United States shippers other than through the Yukon Property Tax. It is further understood that no public authority will require creation of a special fund or funds in connection with construction of the Pipeline in the Yukon, financed in a manner which is reflected in the cost of service to U.S. shippers, other than through the Yukon Property Tax. However, should public authorities in the State of Alaska require creation of a special fund or funds, financed by contributions not fully reimbursable, in connection with construction of the Pipeline in Alaska, the Governments of Canada or the Yukon Territory will have the right to take similar action.

(c) The Government of Canada will use its best endeavors to ensure that the level of any property tax imposed by the Government of the Northwest Territories on or for the use of that part of the Dempster Line that is within the Northwest Territories is reasonably comparable to the level of the property tax imposed by the Government of the Yukon Territory on or for the use of that part of the Dempster Line that is in the Yukon.

6. Tariffs and cost allocation:

It is agreed that the following principles will apply for purposes of cost allocation used in determining the cost of service applicable to each shipper on the Pipeline in Canada:

(a) The Pipeline in Canada and the Dempster Line will be divided into zones as set forth in Annex II. Except for fuel and except for Zone 11 (the Dawson-Whitehorse portion of the Dempster Line), the cost of service to each shipper in each zone will be determined on the basis of volumes as set forth in transportation contracts. The volumes used to assign these costs will reflect the original BTU content of Alaskan gas for U.S. shippers and Northern Canadian gas for Canadian shippers, and will make allowance for the change in heat content as the result of commingling. Each shipper will provide volumes for line losses and line pack in proportion to the contracted volumes transported in the zone. Each shipper will provide fuel requirements in relation to the volume of his gas being carried and to the content of the gas as it affects fuel consumption.

(b) It is understood that, to avoid increased construction and operating costs for the transportation of Alaskan gas, the Pipeline will follow a southern route through the Yukon along the Alaska Highway rather than a northern route through Dawson City and along the Klondike Highway. In order to provide alternative benefits for the transportation of Canadian gas to replace those benefits that would have been provided by the northern route through Dawson City, U.S. shippers will participate in the cost of service in Zone 11. It is agreed that if cost overruns on construction of the Pipeline in Canada do not exceed filed costs set forth in Part D of Annex III by more than 35 percent, U.S. shippers will pay the full cost of service in Zone 11.

U.S. shipper participation will decline if overruns on the Pipeline in Canada exceed 35 percent; however, at the minimum the U.S. shippers' share will be the greater of either two-thirds of the cost of service or the proportion of contracted Alaska gas in relation to all contracted gas carried in the Pipeline. The proportion of the cost of service borne by U.S. shippers in Zone 11 will be reduced should overruns on the cost of construction in that Zone exceeds 35 percent after allowance for the benefits to U.S. shippers derived from Pipeline construction cost savings in other Zones. Notwithstanding the foregoing, at the minimum, the U.S shippers' share will be the greater of either two-thirds of the cost of service or the proportion of contracted Alaska gas in relation to all contracted gas carried in the Pipeline. Details of this allocation of cost-of-service are set out in Annex III.

(c) Notwithstanding the principles in subparagraphs (a) and (b), in the event that the total volume of gas offered for shipment exceeds the efficient capacity of the Pipeline, the method of cost allocation for the cost of service for shipments of Alaskan gas (minimum entitlement 2.4 bcfd) or Northern Canadian gas (minimum entitlement 1.2 bcfd) in excess of the efficient capacity of the Pipeline will be subject to review and subsequent agreement by both Governments; provided however that shippers of either country may transport additional volumes without such review and agreement, but subject to appropriate regualtory approval, if such transportation does not lead to a higher

cost of service or share of Pipeline fuel requirements attributable to shippers of the other country.

(d) It is agreed that Zone 11 costs of service allocated to U.S. shippers will not include costs additional to those attributable to a pipe size of 42 inches. It is understood that in Zones 10 and 11 the Dempster Line will be of the same gauge and diameter and similar in other respects, subject to differences in terrain. Zone 11 costs will include only facilities installed at the date of issuance of the leave to open order, or that are added within three years thereafter.

7. Supply of goods and services:

(a) Having regard to the objectives of this Agreement, each Government will endeavor to ensure that the supply of goods and services to the Pipeline project will be on generally competitive terms. Elements to be taken into account in weighing competitiveness will include price, reliability, servicing capacity and delivery schedules.

(b) It is understood that through the coordination procedures in Paragraph 8 below, either Government may institute consultations with the other in particular cases where it may appear that the objectives of subparagraph (a) are not being met. Remedies to be considered would include the renegotiation of contracts or the repoening of bids.

8. Coordination and consultation:

Each Government will designate a senior official for the purpose of carrying on periodic consultations on the implementation of these principles relating to the construction and operation of the Pipeline. The designated senior officials may, in turn, designate additional representatives to carry out such consultations, which representatives, individually or as a group, may make recommendations with respect to particular disputes or other matters, and may take such other action as may be mutually agreed, for the purpose of facilitating the construction and operation of the Pipeline.

9. Regulatory authorities—consultation:

The respective regulatory authorities of the two Governments will consult from time to time on relevant matters arising under this Agreement, particularly on the matters referred to in paragraphs 4, 5 and 6, relating to tariffs for the transportation of gas through the Pipeline.

10. Technical study group on pipe:

(a) The Governments will establish a technical study group for the purpose of testing and evaluating 54-inch 1120 pounds per square inch (psi), 48-inch 1260 psi, and 48-inch 1680 psi pipe or any other combination of pressure and diameter which would achieve safety, reliability and economic efficiency for operation of the Pipeline. It is understood that the decision relating to pipeline specifications remains the responsibility of the appropriate regulatory authorities.

(b) It is agreed that the efficient pipe for the volumes contemplated (including reasonable provision for expansion), subject to appropriate regulatory authorization, will be installed from the point of interconnection of the Pipeline with the Dempster Line near Whitehorse to the point near Caroline, Alberta, where the Pipeline bifurcates into a western and an eastern leg.

11. Direct charges by public authorities:

(a) Consultation will take place at the request of either Government to consider direct charges by public authorities imposed on the Pipeline where there is an element of doubt as to whether such charges should be included in the cost of service.

(b) It is understood that the direct charges imposed by public authorities requiring approval by the appropriate regulatory authority for inclusion in the cost of service will be subject to all of the tests required by the appropriate legislation and will include only:

(i) those charges that are considered by the regulatory authority to be just and reasonable on the basis of accepted regulatory practice, and

(ii) those charges of a nature that would normally be paid by a natural gas pipeline in Canada. Examples of such charges are listed in Annex IV.

12. Other costs:

It is understood that there will be no charges on the Pipeline having an effect on the cost of service other than those:

(i) imposed by a public authority as contemplated in this Agreement or in accordance with the Transit Pipeline Treaty, or

(ii) caused by Acts of God, other unforeseen circumstances, or

(iii) normally paid by natural gas pipelines in Canada in accordance with accepted regulatory practice.

13. Compliance with terms and conditions:

The principles applicable directly to the construction, operation and expansion of the Pipeline will be implemented through the imposition by the two Governments of appropriate terms and conditions in the granting of required authorizations. In the event of subsequent non-fulfillment of such a term or condition by an owner of the Pipeline, or by any other private person, the two Governments will not have responsibility therefor, but will take such appropriate action as is required to cause the owner to remedy or mitigate the consequences of such non-fulfillment.

14. Legislation:

The two Governments recognize that legislation will be required to implement the provisions of this Agreement. In this regard, they will expeditiously seek all required legislative authority so as to facilitate the timely and efficient construction of the Pipeline and to remove any delays or impediments thereto.

15. Entry into force:

This Agreement will become effective upon signature and shall remain in force for a period of 35 years and thereafter until terminated upon 12 months' notice given in writing by one Government to the other, provided that those provisions of the Agreement requiring legislative action will become effective upon exchange of notification that such legislative action has been completed.

In witness whereof the undersigned representatives, duly authorized by their respective Governments, have signed this Agreement.

Done in duplicate at Ottawa in the English and French languages, both versions being equally authentic, this —— day of ————, 1977.

———, ———,

For the Government of the United States.

———, ———,

For the Government of Canada.

ANNEX I

THE PIPELINE ROUTE

In Alaska

The Pipeline constructed in Alaska by Alcan will commence at the discharge side of the Prudhoe Bay Field gas plant facilities. It will parallel the Alyeska oil pipeline southward on the North Slope of Alaska, cross the Brooks Range through the Atigun Pass, and continue on to Delta Junction.

At Delta Junction, the Pipeline will diverge from the Alyeska oil pipeline and follow the Alaska Highway and Haines oil products pipeline passing near the towns of Tanacross, Tok, and Northway Junction in Alaska. The Alcan facilities will connect with the proposed new facilities of Foothills Pipe Lines (South Yukon) Ltd. at the Alaska-Yukon border.

In Canada

In Canada the Pipeline will commence at the Boundary of the State of Alaska, and the Yukon Territory in the vicinity of the towns of Border City, Alaska and Boundary, Yukon. The following describes the general routing of the Pipeline in Canada:

From the Alaska-Yukon border, the foothills Pipe Lines (South Yukon) Ltd. portion of the Pipeline will proceed in a southerly direction generally along the Alaska Highway to a point near Whitehorse, Yukon, and thence to a point on the Yukon-British Columbia border near Watson Lake, Yukon, where it will join with the Foothills Pipe Lines (North B.C.) Ltd. portion of the Pipeline.

The Foothills Pipe Lines (North B.C.) Ltd. portion of the Pipeline will extend from Watson Lake in a southeasterly direction across the north eastern part of the Province of British Columbia to a point on the boundary between the Provinces of British Columbia and Alberta near Boundary Lake where it will interconnect with the Foothills Pipe Lines (Alta.) Ltd. portion of the Pipeline.

The Foothills Pipe Lines (Alta.) Ltd. portion of the Pipeline will extend from a point on the British Columbia-Alberta boundary near Boundary Lake in a southeasterly direction to Gold Creek and thence parallel to the existing right-of-way of the Alberta Gas Trunk Line Company Limited to James River near Caroline.

From James River a "western leg" will proceed in a southerly direction, generally following the existing right-of-way of the Alberta Gas Trunk Line Company Limited to a point on the Alberta-British Columbia boundary near Coleman in the Crow's Nest Pass area. At or near Coleman the Foothills Pipe Lines (Alta.) Ltd. portion of the Pipeline will interconnect with the Foothills Pipe Lines (South B.C.) Ltd. portion of the Pipeline.

The Foothills Pipe Lines (South B.C.) Ltd. portion of the Pipeline will extend from a point on the Alberta-British Columbia boundary near Coleman in a southwesterly direction across British Columbia generally parallel to the existing pipeline facilities of Alberta Natural Gas Company Ltd. to a point on the International Boundary Line between Canada and the United States of America at or near Kingsgate in the Province of British Columbia where it will interconnect with the facilities of Pacific Gas Transmission Company.

Also, from James River, an "eastern leg" will proceed in a southeasterly direction to a point on the Alberta-Saskatchewan boundary near Empress Alberta where it will interconnect with the Foothills Pipe Lines (Sask.) Ltd. portion of the Pipeline. The Foothills Pipe Lines (Sask.) Ltd. portion of the Pipeline will extend in a southeasterly direction across Saskatchewan to a point on the International Boundary Line between Canada and the United States of America at or near Monchy, Saskatchewan where it will interconnect with the facilities of Northern Border Pipeline Company.

ANNEX II

ZONE FOR THE PIPELINE AND THE DEMPSTER LINE IN CANADA

Zone 1—Foothills Pipe Lines (South Yukon) Ltd. Alaska Boundary to point of interconnection with the Dempster Line at or near Whitehorse.

Zone 2—Foothills Pipe Lines (South Yukon) Ltd. Whitehorse to Watson Lake.

Zone 3—Foothills Pipe Lines (North B.C.) Ltd. Watson Lake to point of interconnection with Westcoast's main pipeline near Fort Nelson.

Zone 4—Foothills Pipe Lines (North B.C.) Ltd. Point of interconnection with Westcoast's main pipeline near Fort Nelson to the Alberta-B.C. border.

Zone 5—Foothills Pipe Lines (Alta.) Ltd. Alberta-B.C. border to point of bifurcation near Caroline, Alberta.

Zone 6—Foothills Pipe Lines (Alta.) Ltd.

Caroline, Alta. to Alberta-Saskatchewan border near Empress.

Zone 7—Foothills Pipe Lines (Alta.) Ltd. Caroline to Alberta-B.C. border near Coleman.

Zone 8—Foothills Pipe Lines (South B.C.) Ltd. Alberta-B.C. border near Coleman to B.C.-U.S. border near Kingsgate.

Zone 9—Foothills Pipe Lines (Sask.) Ltd. Alberta-Saskatchewan border near Empress to Saskatchewan-U.S. border near Monchy.

Zone 10—Foothills Pipe Lines (North Yukon) Ltd. Mackenzie Delta Gas fields in the Mackenzie Delta, N.W.T., to a point near the junction of the Klondike and Dempster highways just west of Dawson, Yukon Territory.

Zone 11—Foothills Pipe Lines (South Yukon) Ltd. A point near the junction of the Klondike and Dempster highways near Dawson to the connecting point with the Pipeline at or near Whitehorse.

ANNEX III

COST ALLOCATION IN ZONE 11

The cost of service in Zone 11 shall be allocated to United States shippers on the following basis:

(i) There will be calculated, in accordance with (iii) below, a percentage for Zones 1–9 in total by dividing the actual capital costs by the filed capital costs and multiplying by 100. If actual capital costs are equal to or less than 135 percent of filed capital costs, then United States shippers will pay 100 percent of the cost of service in Zone 11. If actual capital costs in Zones 1–9 are between 135 percent and 145 percent of filed capital costs, then the percentage paid by United States shippers will be adjusted between 100 percent and 66⅔ percent on a straight-line basis, except that in no case will the portion of cost of service paid by United States shippers be less than the proportion of the contracted volumes of Alaskan gas at the Alaska-Yukon border to the same volume of Alaskan gas plus the contracted volume of Northern Canadian gas. If the actual capital costs are equal to or exceed 145 percent of filed capital costs, the portion of the cost of service paid by United States shippers will be not less than 66⅔ percent or the proportion as calculated above, whichever is the greater.

(ii) There will be calculated a percentage for the cost-overrun on the Dawson to Whitehorse lateral (Zone 11). After determining the dollar value of the overrun, there will be deducted from it:

(a) the dollar amount by which actual capital costs in zone 1, 7, 8 and 9 (carrying U.S. gas only) are less than 135 percent of filed capital costs referred to in (iii) below;

(b) in each of Zones 2, 3, 4, 5 and 6 the dollar amount by which actual capital costs are less than 135 percent of filed capital costs referred to in (iii) below, multiplied by the proportion that the U.S. contracted volume bears to the total contracted volume in that zone.

If the actual capital costs in Zone 11, after making this adjustment, are equal to or less than 135 percent of filed capital costs, then no adjustment is required to the percentage of the cost of service paid by United States shippers as calculated in (i) above. If, however, after making this adjustment, the actual capital cost in Zone 11 is greater than 135 percent of the filed capital cost, then the proportion of the cost of service paid by United States shippers will be a fraction (not exceeding 1) of the percentage of the cost of service calculated in (i) above, where the numerator of the fraction is 135 percent of the filed capital cost and the denominator of the fraction is actual capital cost less the adjustments from (a) and (b) above. Notwithstanding the adjustments outlined above, in no case will the percentage of the actual cost of service borne by United States shippers be less than the greater of 66⅔ percent or the proportion of the contracted volumes of Alaskan gas at the Alaska-Yukon border to the same volume of Alaskan gas plus the contracted volume of Northern Canadian gas.

(iii) The "filed capital cost" to be applied to determine cost overruns for the purpose of cost allocation in (i) and (ii) above will be:

"Filed capital cost" estimates for the pipeline in Canada

[Millions of Canadian dollars]

The pipeline in Canada (zones 1–9): [1]	
48"—1,260 lb. pressure pipeline	3,873
or 48"—1,680 lb. pressure pipeline	4,418
or 54"—1,120 lb. pressure pipeline	4,234

"Filed capital cost" estimates for the pipeline in Canada

[Millions of Canadian dollars]

Zone 11 of the Dempster Line: [2]	
30" section of Demptster line from Whitehorse to Dawson	549
or 36" section of Dempster line from Whitehorse to Dawson	585
or 42" section of Dempster line from Whitehorse to Dawson	705

[1] These filed capital costs include and are based upon (a) a 1,260 psi, 48-inch line from the Alaska-Yukon border to the point of possible interconnection near Whitehorse; (b) a 1,260 psi, 48-inch; or 1,680 psi, 48-inch; or 1,120 psi 54-inch line from the point of possible interconnection near Whitehorse to Caroline Junction; (c) a 42-inch line from Caroline Junction to the Canada-U.S. border near Monchy, Saskatchewan; and (d) a 36-inch line from Caroline Junction to the Canada-U.S. border near Kingsgate, British Columbia. These costs are escalated for a date of commencement of operations of January 1, 1983.

[2] The costs are escalated for a date of commencement of operations of January 1, 1985.

Details for Zones 1–9 are shown in the following table:

FILED CAPITAL COSTS FOR THE PIPELINE IN CANADA

[In millions of Canadian dollars]

	48 in 1,260 psi	48 in 1,680 psi	54 in 1,120 psi
Zone:			
1	707	707	707
2	721	864	805
3	738	850	803
4	380	488	456
5	677	859	813
6	236	236	236
7	126	126	126
8	83	83	83
9[1]	205	205	205
Total zones 1 to 9	3,873	4,418	4,234

[1] The last compression station in zone 9 includes facilities to provide compression up to 1,440 psi.

It is recognized that the above are estimates of capital costs. They do not include working capital, property taxes or the provisions for road maintenance in the Yukon Territory (not to exceed $30 million Canadian).

If at the time construction is authorized, both Governments have agreed to a starting date for the operation of the Pipeline different from January 1, 1983, then the capital cost estimates shall be adjusted for the difference in time using the GNP price deflactor from January 1, 1983. Similarly at the time construction is authorized for the Dempster Line, if the starting date for the operation agreed to by the Canadian Government is different from January 1, 1985, then the capital cost estimate shall be adjusted for the difference in timing using the GNP price deflator from January 1, 1985. The diameter of the pipeline in Zone 11, for purposes of cost allocation, may be 30", 36" or 42", so long as the same diameter pipe is used from the Delta to Dawson (Zone 10).

The actual capital cost, for purposes of this Annex will be the booked cost as of the date "leave to open" is granted plus amounts still outstanding to be accrued on a basis to be approved by the National Energy Board. Actual capital costs will exclude working capital, property taxes, and direct charges for road maintenance of up to $30 million Canadian in the Yukon Territory as specifically provided herein.

For purposes of this Annex above, actual capital costs will exclude the effect of increases in cost or delays caused by actions attributable to the U.S. shippers, related U.S. pipeline companies, Alaskan producers, the Prudhoe Bay deliverability or gas conditioning plant construction and the United States or State Governments. If the appropriate regulatory bodies of the two countries are unable to agree upon the amount of such costs to be excluded, the determination shall be made in accordance with the procedures set forth in Article IX of the Transit Pipeline Treaty.

The filed capital costs of facilities in Zones 7 and 8 will be included in calculations pursuant to this Annex only to the extent that such Facilities are constructed to meet the requirements of U.S. shippers.

DIRECT CHARGES BY PUBLIC AUTHORITIES

1. Crossing damages (roads, railroad crossings, etc.; this item is usually covered in the crossing permit).*
2. Road damages caused by exceeding design load limits.*
3. Required bridge reinforcements caused by exceeding design load limits.*
4. Airfield and airstrip repairs.
5. Drainage maintenance.
6. Erosion control.
7. Borrow pit reclamation.
8. Powerline damage.
9. Legal liability for fire damage.
10. Utility system repair (water, sewer, etc.)
11. Camp waste disposal.
12. Camp site reclamation.
13. Other items specified in environmental stipulations.
14. Costs of surveillance and related studies as required by regulatory bodies or applicable laws.

BRITISH COLUMBIA STATEMENT

The Government of the Province of British Columbia agrees in principle to the provisions contained in the Canada-United States Pipeline Treaty of January 28, 1977, and furthermore British Columbia is prepared to cooperate with the Federal Government to ensure that the provisions of the Canada-United States Treaty, with respect to non-interference of throughput and non-discriminatory treatment with respect to taxes, fees or other monetary charges on either the pipeline or throughput, are adhered to. Specific details of this undertaking will be the subject of a Federal-Provincial Agreement to be negotiated at as early a date as possible. Such Agreements should guarantee that British Columbia's position expressed in its telegram of August 31 is protected.

ALBERTA STATEMENT

The Government of the Province of Alberta agrees in principle to the provisions contained in the Canada-United States Pipeline Treaty of January 28, 1977, and furthermore, Alberta is prepared to cooperate with the Federal Government to ensure that the provisions of the Canada-United States Treaty, with respect to non-interference of

* In the case of these items and all other road related charges by public authorities, total charges in the Yukon Territory shall not exceed Canadian $30 million.

throughput and non-discriminatory treatment with respect to taxes, fees, or other monetary charges on either the Pipeline or throughput, are adhered to. Specific details of this undertaking will be the subject of a Federal-Provincial Agreement to be negotiated when the Canada-United States protocol or understanding has been finalized.

SASKATCHEWAN STATEMENT

The Government of Saskatchewan is willing to cooperate with the Government of Canada to facilitate construction of the Alcan Pipeline through southwestern Saskatchewan and, to that end, the Government of Saskatchewan expresses its concurrence with the principles elaborated in the Transit Pipeline Agreement signed between Canada and the United States on January 28, 1977. In so doing, it intends not to take any discriminatory action towards such pipelines in respect of throughput, reporting requirements, and environmental protection, pipeline safety, taxes, fees or monetary charges that it would not take against any similar pipeline passing through its jurisdiction. Further details relating to Canada-Saskatchewan relations regarding the Alcan Pipeline will be the subject of Federal-Provincial agreements to be negotiated after a Canada-United States understanding has been finalized.

Mr. STEVENS. Now I am happy to listen to my friend from South Dakota. Does he have a question, I might ask?

Mr. ABOUREZK. Yes, on a couple of points. I want to ask about the pipeline itself, because in my area of the country there is great interest in a trans-Canada pipeline of some sort.

But on the question of the cost of natural gas which might come out of Alaska, I understood the Senator to say that the cost of producing that gas is much more than what the marketplace is right now, the wellhead price; is that correct?

Mr. STEVENS. That is my understanding, yes.

Mr. ABOUREZK. Based on that, does the Senator from Alaska advocate deregulating the wellhead price of natural gas, for whatever purposes he might want that deregulation?

Mr. STEVENS. I am of the impression that the cost of transporting the frontier gas that will be produced on the Outer Continental Shelf and from Alaska down here to the south 48—and I remind the Senator that 70 percent of the Outer Continental Shelf is in fact off Alaska, so if we are talking about Outer Continental Shelf gas we are talking about Alaskan gas—will exceed the price we are currently debating for the market price in the south 48.

It does not seem to me to be good economics to recognize that it is going to cost us that much to go up there and get that gas when at the same time we are arbitrarily keeping the price for the south 48 produced gas so low that there is no incentive to produce whatever there is to produce here.

The incentive would be to loan the money to the people to build this pipeline because we will get more money out of investing in a regulated pipeline than from investing in gas where the only price increase would be subject to the normal inflationary spiral. I thought we were trying to control inflation.

This pricing mechanism proposed here is self-defeating, in my opinion. It increases demand for OCS gas and frontier gas and probably propels us into the development of it prematurely in some places, so far as I am concerned. We do not want to run pellmell into this production. We want to do it on a planned and orderly basis. But there is no alternative. No one will drill for gas down here at this price, in my opinion. I think it ought to be an unregulated price for new gas. I firmly support that.

Mr. ABOUREZK. If no one drills for gas down here, if what the Senator says is accurate, would that create an instant market for new gas from, say, Alaska?

Mr. STEVENS. We have to remember we will not get the wellhead price, as I said. We would much rather see it come into the market at a time when the market has adjusted to demand, when we are not that far out of line in terms of pricing. Does the Senator understand what I am saying?

Mr. ABOUREZK. I understand what the Senator is saying, but the question recurs, if nobody is going to drill for new gas down here, would there be an instant market for new gas coming from Alaska even though it might be at a higher price under the regulation procedures?

Mr. STEVENS. That is what I say. I do not want to see that happen. I do not want to see an arbitrary price setting for gas.

Mr. ABOUREZK. The alternative, as I see it, is to raise the price for all new gas down here, whatever might be produced here, plus all the new gas in Alaska. Why would the Senator want to do that? Why would he not want to keep some of the gas at as low a price as we possibly could, while still returning to producers whatever their cost might be, plus an adequate profit? Why would the Senator want to artificially raise the price here in the Lower 48?

Mr. STEVENS. I do not want to artificially raise the price. I want the price to be what the market determines it should be.

Mr. ABOUREZK. There is not much of a market when there is a limited supply of the resource and a limited number of people producing that resource. That is not much of a free market.

Mr. STEVENS. There is a limited supply and a limited number of people involved because of Government regulation.

Mr. ABOUREZK. Does the Senator think there would be more people involved without Government regulation?

Mr. STEVENS. Yes.

Mr. ABOUREZK. Where would they find the gas fields which are not already taken? How does one get into the gas business?

Mr. STEVENS. One puts together enough money to go and drill a well. I have seen it done. I assisted in drililng one once.

Mr. ABOUREZK. Where do we find the leases that are not already taken?

Mr. STEVENS. I think there are many places in this country that have not been fully explored for oil and gas.

Mr. ABOUREZK. Why would they not be explored?

Mr. STEVENS. Because they can make more money investing in Time magazine than in gas right now.

Mr. ABOUREZK. I will try and respond to that. If I were in the gas business, I would do it because I was assured under the present law I would get my cost of production plus an adequate profit. Do they want something more than an adequate profit?

Mr. STEVENS. They want what the market price should be.

Mr. ABOUREZK. It is not much of a market. It is not a free market. It is pretty much of a monopoly.

Mr. STEVENS. Why should we be in a position where Alaskan production should be forced to come onstream prematurely at a price which is arbitrarily low, as far as the wellhead is concerned, because the transportation costs are, by definition, much higher? I think the Senator should look at the thing from the point of view of the producing States for just a moment. The demand is increasing.

As I say, one of the reasons it is increasing is because we are now realizing how much more reliant we are on foreign sources for LNG. Why should we rely on Algeria and Indonesia to the extent we do? We have substantial portions of the country which will be completely reliant, to the tune of about a quarter of their demand, on offshore sources. If we have an embargo of that gas, the southern industrial establishment and the California industrial establishment will really be crippled. There is nothing to take its place. That is one reason we wanted the LNG system developed now for Alaska. We wanted to have the mobility that would come from the distribution of our gas where it is needed most.

During the last winter, for instance, the gas from the Kenai Peninsula was taken all the way up to Massachusetts. That is the only source of LNG they had beyond foreign sources.

Why should we be locked into a transportation system that locks us into going through Canada? There is no increased gas coming from Canada. The Canadians will not sell us any more gas. The Senator says his people are interested in it. Everyone I have talked to from his region say if we put the pipeline through Canada they will sell us more gas. They will not sell us more gas. They might anticipate deliveries of Alaskan gas but they will not increase by one cubic foot the commitment for the sale of gas in the United States as far as any public pronouncement I have seen.

This has to do with pricing ultimately because, again, the only place they are going to be able to produce gas will be from the frontier areas. The reason for it is they project the volumes will be so great that if they hit a Prudhoe Bay they will make money. They are not all Prudhoe Bays in California, Texas, and Louisiana to be discovered, which will be producible, but they ought to have the incentives to do it. Today there is no incentive. There is not a marketplace incentive.

Again I say the shortage which will take place on the east coast is around 10 percent. It will not do a homeowner much good to have 10 percent less than the amount of gas he needs to heat his home. He will have to convert. At least a

portion of the area will have to convert because there will be curtailments. Those curtailments make no sense if there could in fact be an incremental supply of gas brought to the market because of market forces. Rather than convert to oil or coal, let me tell the Senator if he faces that problem he would be more than willing to pay the market price of gas to get new gas.

This whole thing came about because of an arbitrary decision in the Phillips case in the fifties. It makes no sense. It made no sense then and it makes no sense now, in my opinion, for us to continue this type of regulation.

On the other hand, I recognize—and I support the amendment of Senator BARTLETT—that there is not overwhelming support for the position of my good friend. Probably deregulation of new natural gas makes a lot more political sense right now. That is what we are talking about, new gas coming on stream to meet these demands.

Let me ask the Senator, why should he invest now in the drilling equipment, and the whole package it would take to explore for gas, to find it, to produce it, if he knows that by the time he got it to market the only adjustment there would be in the price that he would get for gas currently being produced is the inflationary cost? Why would he put his money in that? Why would he not put it in Time magazine, or why not put it in some of these big earners on the big board? Who is going to invest in the gas industry?

Is there something special about people from resource States that they ought to invest in producing oil and gas in the national interest when all of the stock advisers say to put it with the people who are making money and paying large dividends? Is there some reason we should be motivated to put money into facilities to produce gas 5 or 10 years from now under a regulated market price?

Mr. ABOUREZK. Let me quote one of the advertising slogans by one of the oil companies which produces natural gas: "We are producing energy to help people."

What the Senator is saying is that that is not quite true, that they are doing it to make money.

Mr. STEVENS. Making money is helping people, as far as I am concerned.

Mr. ABOUREZK. Which people?

Mr. STEVENS. They pay taxes, they support Government when they make money, they employ people when they make money. That is helping people.

I do not think anyone ever wanted to accuse the Senate of trying to tell the oil and gas industry of the United States that they should not make a profit.

Mr. ABOUREZK. They have not done that. The Senate has said in the past, and I hope will continue to say in the future, that an adequate profit is what the gas industry is entitled to. What the Senate has said in the past is that gas producers are not entitled to exorbitant profits. I think that is fair.

I do not know why, with a very precious natural resource such as natural gas or oil or coal, the Senate, and Congress as a whole, ought to say that, since these people have the edge on everybody else, have gotten the leases or are in the gas business, they ought to be able to take whatever they can from the American people.

Mr. STEVENS. The Senator represents a farm State. Does he tell his farmers, "Go ahead and plant corn for next year and we are going to have a program that tells you that we will take into account what it costs you to plant and we are going to be sure that you get a fair rate of return on your investment. But, of course, you cannot have the market price based on demand. We are not going to let that happen. If there is more demand for corn than you produce, you are just not going to be able to raise the price of that corn"?

Does the Senator really practice that kind of economics on farmers?

Mr. ABOUREZK. That is exactly the kind of economics the Department of Agriculture practices with farmers.

Mr. STEVENS. Baloney. The price goes up on demand and the Senator knows it. There is no ceiling on the price of corn.

Mr. ABOUREZK. There is no ceiling on the price of corn, but there is a floor.

Mr. STEVENS. Why does the Senator want to put a ceiling on the price of my gas?

Mr. ABOUREZK. If the Senator will let me finish, I shall try to explain it.

There is no ceiling on the price of corn. There is a floor on the price of corn which operates as a ceiling. When the Agriculture Department tells the farmers that they are going to give them so much of a percentage of parity—parity being some sort of complicated formula for computing the cost of production of that particular corn crop—they always come well under the price. Especially this year, the price is well below the cost of production for those farmers. In some years, it is a little more. Sometimes it is a little less, sometimes it is a great deal less.

Mr. STEVENS. I have supported all the floors under the agricultural products since I have been here, even though we do not get any of the benefits of those agriculture programs in my State. I do it because I believe that those people should be assured that, if they meet the national urgency and they attempt to produce and something causes that price to fall, when they are our largest earner in the foreign field, as exporters of farm products, we owe it to them to have a floor under their economic system. But I think that farmers, above all, ought to understand this concept we are talking about now.

This is not a floor; this is a ceiling.

Mr. ABOUREZK. That is right. Farmers understand that very well.

Mr. STEVENS. This is a ceiling where, no matter what you produce, you are not going to get more than this amount. If you produce to meet demand and someone is willing to pay a nickel more an mcf, you cannot have it. You cannot be moved at all by any economic incentive. The whole concept of free enterprise does not work in the natural resources area.

If the Senator wants to take a look at an interesting map sometime, I have one in my office. He should take a look at Siberia and the mining properties that are under development in Siberia. Take a look at western Canada and see the mining properties under development in western Canada. Then look at my State, which has greater potential in mining metals and minerals than either Siberia or Canada, and see that there are two mines producing.

Does the Senator know why? They have incentives. Even in Siberia, they have incentives to develop mines and minerals that we do not have. Somehow or other, the whole concept of free enterprise goes out the door when we talk about nonrenewable natural resources. Somehow or other, we have a great fear of our ability to produce, I guess.

I cannot understand it. For the life of me, I cannot understand why the marketplace should not determine the price that we pay for oil and gas, why we must insist upon arbitrary limitations on the price of this production.

The net result, incidentally, is that the American public is paying more now for gas and oil than they would have had it not been for the Phillips decision and for the regulation that we put into effect, back in 1972, on the price of oil.

Mr. ABOUREZK. I cannot agree with my colleague from Alaska that gas costs more now under regulation than it would under a free market system. The fact is that there can be no free market system in gas and oil. The reason there cannot be is that it is a limited resource, controlled by a limited number of people. There is no way that any kind of free market system can operate that way.

I wonder if the Senator would respond to a question on that pipeline.

Mr. STEVENS. I shall be glad to do that.

Mr. ABOUREZK. I am concerned—I am interested, as are other people in my State—with a pipeline bringing gas produced in Alaska down through Canada, not necessarily Canadian natural gas being hooked onto the pipeline. We are concerned about where the end of that pipeline will be. If it goes through Canada, of course, that will be available to midwest States. If it does not go through Canada, if it goes down—I think it was anticipated that it would go through Valdez——

Mr. STEVENS. Gravina Point, near Cordova. It is about 70 miles away.

Mr. ABOUREZK. And it would have to be shipped down to the Gulf ports or through California?

Mr. STEVENS. It could be shipped anywhere in the United States where there is a regasification facility. There are currently about six under construction and the major one would have been in California.

Mr. ABOUREZK. That would mean that the Midwest, which has a need for natural gas, would not have an insured source of supply——

Mr. STEVENS. Ah, that is where my friend is wrong.

Mr. ABOUREZK. Let me finish asking the question.

—if the pipeline went anywhere else except through Canada and down through the Midwest. Does the Senator have other information?

Mr. STEVENS. The existing gas supply pipelines come out of the South—Louisiana, Texas, Oklahoma. They basically start around Midland, Tex.,

and go currently west and east from there. Those pipelines are operating sort of like fingers on a hand. They are operating today at less than full capacity because the supply is not there. When Alaska gas comes in, it is going to come in from the north under this proposal of the administration. It is going to come in at the top of the fingers; we cannot put gas in the existing pipelines. So there are going to have to be additional pipelines built in the United States, through the northern tier, to take care of them.

If it came down the way we want, and it came through California and went over to Midland, Tex., it would have been injected into the existing gas pipeline. If it were put in those pipelines—as I said, they are operating at less than full capacity—the existing consumers of gas would get an incremental supply.

That was the system we wanted. That way, that would have linked Alaska gas into the existing gas supplies and provided the incremental supply that most areas of the country need. What this does is come down into the Midwest, into the Ohio Valley. There is no question that the great automobile and steel industries are wise to support that proposal. That is where the majority of the support comes from, the automobile industry and the steel industry and the steelworkers and automobile workers. There is no question that they want that gas to come in for industrial use.

The way we see it is that Alaska's gas is pretty well committed to industrial use now by virtue of this decision. It is not just an incremental supply, it is a stable supply for the two major industries of the country. That is going to be one of the things that those in this body 10 years from now are going to have to tussle with: When do we break the hold of major industries on gas supply and make certain it is available for residential users, who really should get the first priority? I think they do in any area where we have curtailment. But in this instance, there will not be any curtailment in those areas, because they will have more gas than they need now, because our gas cannot go any place other than the Midwest and East now, if that project is approved.

Mr. ABOUREZK. Were not those outlets operating at full capacity during the January emergency?

Mr. STEVENS. There was a release by California of some gas that enabled those pipelines to operate at full capacity, where some of the intrastate gas was made available for interstate use.

There again, I hope that phrase turns on a light for my good friend from South Dakota, because the reason that gas got into those interstate pipelines was because the price was a little higher than it had been previously. The gas came out of intrastate commerce and went into interstate commerce.

Mr. ABOUREZK. It turned on a light sometime ago for me when I learned, for example, that Exxon was not in business solely to establish wildlife refuges. They are there to get as much profit as the market will bear. That is why they need regulation. That is exactly what the Senator from Alaska reminded me of. I appreciate that.

Mr. STEVENS. I hope the Senator will live long enough to see an oversupply of gas. I think I will, and I believe it will come. We have one-fifth the supply of the United States. Only two of the basins have currently been explored for gas. There are many different zones in United States that have not been fully explored for gas. I think we will see an oversupply of gas, and we will see an adjustment of the gas price for the marketplace when that comes.

I also think we will see a substitution come about to thermal energy from the differential temperatures of the ocean, and to solar energy much quicker. We will go to the forms of energy that are most efficient quicker by virtue of the marketplace than we will get by virtue of some bureaucrat coming up asking us for money to bring about the conversion.

The substitution came from cordwood to oil and oil to gas naturally through the marketplace. No government ever told all these people in the East to change from oil to gas, but they did because gas was available and it was cheaper.

Solar will not be cheaper than gas as long as we keep it artificially regulated to the point where we will not have any gas in the first place.

Second, people will be unwilling to pay the price for solar heating or for differential thermal heating. The differential thermal heating we will get from the ocean offers the greatest hope for mankind, in my opinion.

They will never pay the price as long as we think some bureaucrat will hand us gas at less than what the market price will be.

This is the great fallacy of this regulatory program—it prevents the substitution of more efficient forms of energy according to the demands and dictates of the marketplace. We shifted our energy forms at least twice in the history of this country and without any great economic trauma, and we did so to our advantage, in terms of our productive capacity.

Mr. ABOUREZK. If we try to establish what the Senator calls the market price for gas—I wonder if I might have the Senator's attention to ask him this question.

Mr. STEVENS. I criticized the filibuster, so I will yield in a minute to my good friend. Someone might be filibustering. I do not want to participate in anything that looks like it, or sounds like it, or walks like it, or smells like it.

Mr. ABOUREZK. The Senator does not want to answer any question?

Mr. STEVENS. I will answer the Senator's questions, yes.

Mr. ABOUREZK. If the Senator intends to talk about a free market for natural gas, what would the Senator's definition of a free market be? Would it be a willing buyer and a willing seller with plenty of resources available for all the buyers who want it?

Mr. STEVENS. We are talking about wellhead price. I know the Senator knows there will be plenty of room for regulatory control and, in effect, its impact on the price the consumers pay because they bear a portion of the cost of transportation.

But I am talking about determining the price of gas the way the price of corn is. We want a floor under it. But if we want ceilings on it, the same thing will happen to corn as to the gas, if we put an arbitrary ceiling on it.

I am happy to yield to the Senator.

Mr. ABOUREZK. Not an arbitrary ceiling because there has been an adequate supply of corn.

Mr. STEVENS. I am not criticizing farmers. I support them. I think they responded to demand. I hope we never treat them the way we have gas producers and put a ceiling on instead of a floor.

Mr. ABOUREZK. We never associated the——

Mr. STEVENS. Do I have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. I yield to my good friend.

Mr. DOMENICI. Mr. President, just for 2 or 3 minutes, I want to make a comment on one of the Senator's statements.

I would like the RECORD today, Mr. President, to reflect my view on an issue that I think is subtly involved in some people's minds as we talk about natural gas supply, and I want to make this particular comment and give this observation.

I hope that no one is seriously talking about regulating the price of new natural gas with the idea in mind that there is not a lot of natural gas around for Americans and humankind to use, thus saying, "Let's leave this wonderful product in the ground rather than take it out." Because 30, 40, 50, 60 years from now we might need that tremendous source of energy because we use it for some very high-valued human purposes—medicinal. We use it in many of the synthetics, feed stocks, and the like.

So some people might want to leave the impression that we ought to really hold down the demand and the supply in a regulated manner so it will be around 30, 40, 50, 100 years from now for high-valued uses.

I want to make this point because I think anyone that studied it will agree with me, that is a rather irrational approach to this resource.

Why? Because everyone knows right now we can convert coal to natural gas, and everyone should understand that that natural gas that comes from coal is exactly the same product as the natural gas we get from under the ground.

Everyone admits the supply of coal in America is not the 10 years, the 20 years. We may have as much as 100 years' supply if it was to supply us with all our energy needs.

So the point I want to make is that we can, indeed, if we need small quantities of natural gas, almost for as far down the line as we could conceive of a use, it will be available through the conversion of coal to natural gas which most certainly will happen in large quantities. The technology is available. It has been done in Germany and other countries

and it will be done here. We have done it at demonstration projects.

So we should not approach it in any subtle manner or on any misconceived ideas prompting us to try and abuse the American consumer on the present needs that have been developed around natural gas by saying, "Let's make them pay an inordinate price by regulating and controlling it, let's get them off natural gas quicker than we ought to, let's force houses to get completely off natural gas because we want to leave some of that supply in the ground for 100 years from now."

There is no need for that. Anyone that studied it would say there is no need for that. It is a false issue in the debate on regulation or deregulation of some or all of the natural gas available, potential or probable, from lands under and by the United States, which can be developed to supply this tremendous product.

I have had occasion to talk about this issue with a number of experts and with people in the administration, including Dr. Schlesinger, and I do believe the issue of preserving natural gas in mother earth for generations yet unborn because of the high quality of use is not very logical in light of the potential to have that available almost forever under the conversion of coal to natural gas.

Mr. BARTLETT. Will the Senator yield?

Mr. DOMENICI. I am delighted to yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I would like to ask a couple of questions of the distinguished Senator from South Dakota.

One, is the distinguished Senator from South Dakota interested in a time agreement on this amendment?

We would very much like to have one. We think it is important to have an early consideration of the amendment and a vote.

I just ask if that might be negotiated.

Mr. ABOUREZK. To answer the question, I am not interested in a time agreement; no.

May I ask a parliamentary inquiry, Mr. President?

Mr. BARTLETT addressed the Chair.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. BARTLETT. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Alaska yielded to the Senator from New Mexico.

Mr. ABOUREZK. I raise a point of order that the Senator from Alaska has lost the floor and I ask for recognition.

Mr. DOMENICI addressed the Chair.

Mr. BARTLETT addressed the Chair.

Mr. ABOUREZK. I seek recognition.

Mr. BARTLETT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. BARTLETT. Will the Senator from New Mexico yield?

Mr. DOMENICI. I am pleased to yield to the Senator from Oklahoma.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. How did the Senator from New Mexico get the floor when it was held by the Senator from Alaska who has left the floor?

I say to the Senator, it is up for grabs, and I seek recognition.

The PRESIDING OFFICER. The Senator from New Mexico has the floor, having been recognized.

Mr. BARTLETT. Mr. President, the Senator from New Mexico yielded then to the Senator from Oklahoma and left his desk.

Mr. DOMENICI. I had not left the floor. If I have the floor, does the Senator from Oklahoma desire the Senator from New Mexico to yield to him?

Mr. BARTLETT. I do.

Mr. DOMENICI. I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BARTLETT. I have one other question to ask the distinguished Senator from South Dakota, and then I will yield the floor. I should like the attention of the Senator from South Dakota. I request the attention of the Senator from South Dakota. I should like to ask a second question.

I asked him a minute ago about a time certain to vote on this, and he declined. The next question is this: What is the purpose and the intent of the two amendments? Is the purpose to establish a price of $1.45 per mcf, a price less than that in the administration bill as reported by the committee? In other words, my question has to do with whether the price is higher or lower. Is the price lower than would be expected from the administration bill?

Mr. ABOUREZK. Is the Senator asking me the question?

Mr. BARTLETT. I would be glad to have it answered by the Senator from Ohio. I just want an answer to the question.

Mr. METZENBAUM. The answer is "Yes."

Mr. BARTLETT. Yes, that the price that the amendment offered by the Senator from Massachusetts, with the support of the Senator from Ohio, would establish would be less than the price of the administration bill, as the Senator from Ohio understands it.

Mr. METZENBAUM. As the Senator from Ohio said yesterday, it does not make good sense to have the price of natural gas at $1.45 today. It was 17 cents just a few years ago. The Federal Power Commission raised the price to 51 cents and at that time said they were going to allow a 15-percent return on the investment of the natural gas producers. Then, without any cost base relationship whatsoever, the Federal Power Commission increased the price to $1.41 or $1.42, and now the price is something like $1.45 or $1.46.

As I stated yesterday in the debate on this measure, I would favor rolling back the price, and the natural gas producers still would get more than an adequate return on their investment.

The Carter proposal provides that the price will go to $1.75 or an equivalent related to the oil price in this country. But under the proposal that has been offered by the Senator from Massachusetts, it would indeed cause a holding of the line instead of permitting it to go up another 30 cents per thousand cubic feet. I think that is entirely meritorious. It is in the best interests of the economy of this Nation. It will help to hold down the increasing unemployment that actually is taking place in this country. It will help us in moving forward so far as the gross national product is concerned.

The amendment is proposed by the distinguished Senator from Massachusetts (Mr. KENNEDY), and I think there is no question as to what the thrust of that amendment is. It is to establish a price lower than that proposed by the Carter administration. I do, indeed, support it. If I thought it were at all practical or pragmatic, or possible to do, I would support a rollback of the price, because there was no reason under the sun for the Federal Power Commission to establish a price of $1.41. It had no cost base relationship.

There recently has been a determination by a distinguished accounting firm that Gulf, which is complaining about the price they were getting, could have made a profit at 27 cents per thousand cubic feet.

So, indeed, the intention is to hold the line and not to permit any further increases as proposed by the Carter administration. If that position did not hold, I would support the $1.75 price of the Carter administration. If that did not hold, I would support $1.76 or $1.77. But I would not support—because there is no evidence of any reason to support—a deregulation of natural gas prices as is proposed by the distinguished Senator from Oklahoma, my good friend. Although he is my good friend, in this particular issue he and I have strong disagreement as to what would be in the best interests of our country.

Mr. BARTLETT. I thank the distinguished Senator from Ohio for answering my question. I am not going to comment on what he said, other than to say that, obviously, I strongly disagree.

Certainly, the FPC did make cost-base considerations in their testimony—which he knows is in the testimony—and if he observed it very closely, he would find out that the replacement cost of the gas was actually higher than the figures arrived at.

I have accomplished my purpose. I just wanted an answer to that question, as to what the intent was of the proposal by the Senator from Massachusetts.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I have had the cloakrooms try to determine whether or not any Senator wishes to come to the floor at the moment and speak on the pending question or on the pending bill, and there has been no indication of such desire. Senator KENNEDY at the moment is at the White House, and naturally cannot be here to speak on his amendment.

In consideration of these factors, I shall shortly ask that the Senate recess until 1:30 p.m. today. I believe that by that time Senator KENNEDY will have returned and will be able to speak to his amendment; and other Senators may be ready also at that time.

Therefore, if no Senator wishes the floor at this time, I ask unanimous consent that the Senate stand in recess until the hour of 1:30 p.m. today.

There being no objection, at 12:50 p.m. the Senate took a recess until 1:30 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. MCINTYRE).

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be permitted to sit during the sessions of the Senate on October 10 through October 14, to consider the Panama Canal Treaties and other matters pending before the committee which might have to be shifted to the afternoons to accommodate morning sessions on the canal treaties.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John I. Brooks and Jack F. Davis, of my staff, be granted the privilege of the floor during the consideration of the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL FINANCIAL INSTITUTIONS

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5262.

The PRESIDING OFFICER (Mr. MCINTYRE) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 5262) to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank, and the Asian Development Fund, and for other purposes, as follows:

In lieu of the matter proposed by said amendment, insert:

TITLE I—PURPOSE AND POLICY; DECLARATION OF CONGRESSIONAL INTENT IN RESPECT TO CONTINUED PARTICIPATION OF THE UNITED STATES GOVERNMENT IN INTERNATIONAL FINANCIAL INSTITUTIONS FOSTERING ECONOMIC DEVELOPMENT IN LESS DEVELOPED COUNTRIES

SEC. 101. (a) It is the sense of the Congress that—

(1) for humanitarian, economic, and political reasons, it is in the national interest of the United States to assist in fostering economic development in the less developed countries of this world;

(2) the development-oriented international financial institutions have proved themselves capable of playing a significant role in assisting economic development by providing to less developed countries access to capital and technical assistance and soliciting from them maximum self-help and mutual cooperation;

(3) this has been achieved with minimal risk of financial loss to contributing countries;

(4) such institutions have proved to be an effective mechanism for sharing the burden among developed countries of stimulating economic development in the less developed world; and

(5) although continued United States participation in the international financial institutions is an important part of efforts by the United States to assist less developed countries, more of this burden should be shared by other developed countries. As a step in that direction, in future negotiations, the United States should work toward aggregate contributions to future replenishments to international financial institutions covered by this Act not to exceed 25 per centum.

(b) The Congress recognizes that economic development is a long-term process needing funding commitments to international financial institutions. It also notes that the availability of funds for the United States contributions to international financial institutions is subject to the appropriations process.

TITLE II—INTERNATIONAL BANK RECONSTRUCTION AND DEVELOPMENT

SEC. 201. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 27. (a) The United States Governor of the Bank is authorized—

"(1) to vote for an increase of seventy thousand shares in the authorized capital stock of the Bank; and

"(2) if such increase becomes effective, to subscribe on behalf of the United States to thirteen thousand and five additional shares of the capital stock of the Bank: *Provided, however,* That any subscription to additional shares will be made only after the amount required for such subscription has been appropriated.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are hereby authorized to be appropriated, without fiscal year limitation, $1,568,856,318 for payment by the Secretary of the Treasury.".

TITLE III—INTERNATIONAL FINANCE CORPORATION

SEC. 301. The International Finance Corporation Act (22 U.S.C. 282 et seq.) is further amended by adding at the end thereof the following new section—

"SEC. 11. (a) The United States Governor of the Corporation is authorized—

"(1) to vote for an increase of five hundred and forty thousand shares in the authorized capital stock of the Corporation; and

(2) if such increase becomes effective, to subscribe on behalf of the United States to one hundred and eleven thousand four hundred and ninety-three additional shares of the capital stock of the Corporation: *Provided, however,* That any commitment to make payment for such additional subscriptions shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the increase in the United States subscription to the Corporation provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $111,493,000 for payment by the Secretary of the Treasury.".

TITLE IV—INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 401. The International Development Association Act, as amended (22 U.S.C. 284 et seq.), is further amended by adding at the end thereof the following new section:

"SEC. 16. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $2,400,000,000 as the United States contribution to the fifth replenishment of the Resources of the Association: *Provided, however,* That such amounts for contributions are provided in appropriation Acts.

"(b) In order to pay for the United States contribution provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $2,400,000,000 for payment by the Secretary of the Treasury.".

TITLE V—ASIAN DEVELOPMENT BANK AND ASIAN DEVELOPMENT FUND

SEC. 501. The Asian Development Bank Act, as amended (22 U.S.C. 285–285r), is further amended by adding at the end thereof the following new sections:

"SEC. 22. (a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to sixty-seven thousand and five hundred additional shares of the capital stock of the Bank: *Provided, however,* That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated.

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $814,286,250 for payment by the Secretary of the Treasury.

"SEC. 23. (a) The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States $180,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $180,000,000 for payment by the Secretary of the Treasury.".

TITLE VI—AFRICAN DEVELOPMENT FUND

SEC. 601. The African Development Fund Act (22 U.S.C. 290g–4(a)) is amended by adding the following new section:

"SEC. 212. (a) The United States Governor is hereby authorized to contribute on behalf of the United States $50,000,000 to the African Development Fund, which would represent an additional United States contribution to the first replenishment. The Secretary of the Treasury is directed to begin discussions with other donor nations to the African Development Fund for the purpose of setting amounts and of reviewing and possibly changing the voting structure within the Fund: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the African Development Fund provided for in this section, there are authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury.".

TITLE VII—HUMAN RIGHTS

SEC. 701. (a) The United States Government, in connection with its voice and role in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in—

(1) a consistent pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane or degrading treatment, or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person; or

(2) provide refuge to individuals committing acts of international terrorism by hijacking aircraft.

(b) Further, the Secretary of the Treasury shall instruct each Executive Director of the above institutions to consider in carrying out his duties:

(1) specific actions by either the executive branch or the Congress as a whole on individual bilateral assistance programs because of human rights considerations;

(2) the extent to which the economic assistance provided by the above institutions directly benefit the needy people in the recipient country;

(3) whether the recipient country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons or both; and

(4) in relation to assistance for the Socialist Republic of Vietnam, the People's Democratic Republic of Laos and Democratic Kampuchea (Cambodia), the responsiveness of the governments of such countries in providing a more substantial accounting of Americans missing in action.

(c) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress toward achieving the goals of this title, including the listing required in subsection (d).

(d) The United States Government, in connection with its voice and vote in the institutions listed in subsection (a), shall seek to channel assistance to projects which address basic human needs of the people of the recipient country. The annual report required under subsection (b) shall include a listing of categories of such assistance granted, with particular attention to categories that address basic human needs.

(e) In determining whether a country is in gross violation of internationally recognized human rights standards, as defined by the provisions of subsection (a), the United States Government shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States.

(f) The United States Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a)(1) or (2), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.

SEC. 702. Section 28 of the Inter-American Development Bank Act, as amended (22 U.S.C. 283y), section 211 of the Act of May 31, 1976 (22 U.S.C. 290g–9), and section 15 of the International Department Association Act, as amended (22 U.S.C. 284m), are repealed.

SEC. 703. (a) The Secretary of State and the Secretary of the Treasury shall initiate a wide consultation designed to develop a viable standard for the meeting of basic human needs and the protection of human rights and a mechanism for acting together to insure that the rewards of international economic cooperation are especially available to those who subscribe to such standards and are seen to be moving toward making them effective in their own systems of governance.

(b) Not later than one year after the date of enactment of this Act, the Secretary of State and the Secretary of the Treasury shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in carrying out this section.

SEC. 704. The President shall direct the United States Executive Directors of such international financial institutions to take all appropriate actions to keep the salaries and benefits of the employees of such institutions to levels comparable to salaries and benefits of employees of private business and the United States Government in comparable positions.

TITLE VIII—LIGHT CAPITAL TECHNOLOGY

SEC. 801. (a) The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall promote the development and utilization of light capital technologies, otherwise known as intermediate, appropriate, or village technologies, by such international institutions as major facets of their development strategies, with major emphasis on the production and conservation of energy through light capital technologies.

(b) The Secretary of the Treasury shall report to the Congress not later than six months after the date of enactment of this section and annually hereafter on the progress toward achieving the goals of this title. Each report shall include a separate and comprehensive discussion, with examples of specific projects and policies, of each institution's activity in light capital technologies and of United States efforts to carry out subsection (a) with respect to each institution.

TITLE IX—HUMAN NUTRITION IN DEVELOPING COUNTRIES

SEC. 901. (a) The Congress declares it to be the policy of the United States, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank, to combat hunger and malnutrition and to encourage economic development in the developing countries, with emphasis on assistance to those countries that are determined to improve their own agricultural production, by seeking to channel assistance for agriculturally related development to projects that would aid in fulfilling domestic food and nutrition needs and in alleviating hunger and malnutrition in the recipient country. The United States representatives to the institutions named in this section shall oppose any loan or other financial assistance for establishing or expanding production for export of palm oil, sugar, or citrus crops if such loan or assistance will cause injury to United States producers of the same, similar, or competing agricultural commodity.

(b) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress towards achieving the goals of this title.

TITLE X—EFFECTIVE DATE

SEC. 1001. This Act shall take effect on the date of its enactment, except that no funds authorized to be appropriated by any amendment contained in title II, III, IV, V, or VI may be available for use or obligation prior to October 1, 1977.

Mr. SPARKMAN. The House has rejected the conference report on H.R. 5262, a bill to authorize contributions to various international financial institutions, and has sent the bill back to the Senate with an amendment which affects the human rights provisions of the bill.

The House has amended only subsection 701(f) of the version agreed to in the conference committee. As recommended by the committee of conference, that subsection stated:

(f) In addition, where other means have proven ineffective in achieving the purpose of subsection (a), the United States Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a)(1) or (2), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance.

The House amendment deletes the words "In addition, where other means have proven ineffective in achieving the purpose of subsection (a)," at the beginning of the subsection and the words, "or unless the President certifies that the cause of international human rights would be more effectively served by actions other than voting against such assistance," at the end of the subsection.

No part of this legislation was more carefully considered and debated in committee, in this Chamber and in the com-

mittee of conference than the human rights provisions. The Senate, the House, and the President agree that one of the objectives of our participation in the international financial institutions is to advance the cause of human rights. At issue here is how best to achieve that objective.

I would have preferred the language recommended by the committee of conference on which I served. The bill, as amended by the House, does reduce the flexibility of the President in his efforts to advance the cause of human rights. However, I believe that, as amended, the human rights provisions of this bill are acceptable and should be approved by the Senate.

Before the Senate votes on the House amendment, it is important to be clear about the meaning of the word "oppose" as it is used in subsection 701(f).

Subsection 701(f) requires U.S. Executive Directors of specified international financial institutions to oppose assistance to any country described in subsection (a) (1) or (2) of the bill. Subsection 701(f) does not require the U.S. Executive Director to vote "no" on any assistance. This distinction is a fine one but important because it provides the Executive Director with some flexibility as they represent the United States in the international financial institutions.

The term "oppose" is both broader and more flexible than a simple directive to vote against assistance. "Oppose" is broader because the opposition of the U.S. Executive Director may come at any point in the process of the institution's consideration of a loan or other forms of assistance—not just when a loan comes to the Board of Directors for a formal vote. The term is more flexible because the U.S. Executive Director is not required to vote against a loan. The Executive Director could, for example, engage in informal efforts to persuade his counterparts representing other governments that a loan should not be extended because of the human rights record of the recipient government. Such persuasive representations could stop a loan before it is presented to the Board. It was the clear intention of the conference that "oppose" meant voting against, abstaining, or voting "present."

We must keep the objective of subsection 701(f) clearly in mind—that objective is to advance the cause of human rights. How the U.S. Executive Directors as representatives of the U.S. Government achieve that objective is less important than the achievement of that objective itself.

We have had some experience with the impact of a mandated "no" vote on the effectiveness of U.S. Executive Directors. Section 15 of the International Development Association Act now requires the U.S. representative to IDA to vote against any loans to any country which develops a nuclear explosive device unless the country becomes a party to the Nonproliferation Treaty. In reviewing the effects of that provision, we found that it has neither led to the modification of the policies of recipient governments as intended nor has it stopped the flow of loans to them because we lack a blocking percentage in the Banks. Instead, the U.S. Executive Director has not been able to participate effectively in the institution's internal negotiations affecting proposed loans.

Experience with that provision is one of the reasons why the Senate modified that section to enlarge the scope of possible action in such cases and insisted that the U.S. Executive Directors retain flexibility in their actions concerning assistance to governments which violate the basic human rights of their citizens.

If the Congress had intended to instruct the Executive Directors to vote "no" on assistance to a country which is described in subsection 701(a) (1) or (2) the legislation would say so. But it does not. The legislation, as modified by the House, does not require the U.S. Executive Directors to vote "no."

They could, for example, not vote at all or formally abstain if that is permitted within the rules of the institution. Opposition may also take place as the loan is being processed prior to formal approval by the Board.

After review and consideration of the House change, I have concluded that the Senate can accept the House amendment. Passage of this bill will make an important contribution to the objectives of our foreign policy and will help to advance the cause of human rights.

I move to concur in the House amendment to the Senate amendment to the House bill.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. Yes, I yield.

Mr. TOWER. I assume this matter has been cleared with the ranking Republican, Senator Case?

Mr. SPARKMAN. Yes, it has been cleared on both sides.

Mr. TOWER. I thank my distinguished friend.

Mr. SCOTT. Mr. President, will the Senator yield briefly?

Mr. SPARKMAN. Yes.

Mr. SCOTT. I am not familiar with this bill by number. Is this the general foreign aid bill the distinguished Senator is talking about?

Mr. SPARKMAN. Yes, it is, dealing with contributions to various international organizations.

Mr. SCOTT. Does the Senator recall the vote by which this bill was passed by the Senate? Was it a divided vote on this?

Mr. SPARKMAN. I cannot give the Senator the exact vote, but it was, shall I say, a very one-sided vote. It was overwhelmingly——

Mr. SCOTT. Overwhelmingly favorable?

Mr. SPARKMAN. Yes.

Mr. SCOTT. I thank the Senator.

Mr. SPARKMAN. I therefore move, Mr. President, that the Senate concur in the House amendment to the Senate amendment to the House bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama.

The motion was agreed to.

Mr. SPARKMAN. Mr. President, I move that the Senate recede from its amendment to the title.

The motion was agreed to.

ORDER OF BUSINESS

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Mr. Kent Wolgamott, a member of my staff, be accorded the privilege of the floor during debate and rollcall votes on the bill before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I ask unanimous consent that Mr. Steve McGregor and Mr. John Kirtland, of the staff of the Committee on Commerce, Science, and Transportation, be accorded the privilege of the floor during the discussion and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Dick Burdette and Hayden Bryant be granted privilege of the floor for the duration of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

AMENDMENT NOS. 957–958

Mr. KENNEDY. Mr. President, the purpose of my amendment is to retain the present price of $1.45 per thousand cubic feet of natural gas.

Mr. President, the $1.45 figure I propose must be compared to either the price set in the administration proposal which would now be $1.75, and to the unregulated price that would rise to substantially more than that. The best estimates suggest the price will rise to at least $3 and probably higher. These figures can be placed in better content when we consider that every 1 cent in-

crease in the price of natural gas costs the American consumer at least $225 million in increased bills and higher prices for goods.

Even the $1.45 price set in my amendment is considered by most experts to be significantly greater than what would represent a fair, even a generous, return on investment for producers. It is likely much higher than any strictly cost-based price would be, and it is not in any sense a market-determined price. But it does represent the Federal Power Commission's latest conclusions, and in the absence of any better yardstick, that is where I think we should draw the line.

But once again, Mr. President, the American people are being confronted with insistent demands by the oil and gas industry for still higher prices for energy products. At a recent FEA hearing, producers came forward one after another and complained about the "low" crude oil prices in the United States. And now Congress is being asked by the industry's supporters to remove controls on natural gas prices so that the U.S. domestic natural gas prices can zoom up until the oil companies' appetites for higher profits are satiated.

I want to emphasize at the start that natural gas prices already have risen by several hundred percent. Even in interstate commerce, regulated by the Federal Power Commission, prices for new natural gas have been permitted to go up by about 500 percent since 1972. Ceilings that were at 22 cents per thousand cubic feet in 1972 are now at $1.45.

But the producers say that is not enough. We must pay more, they say, if we want more output. In fact, they suggest that Congress should abandon consumers to take their chances in an unregulated market with the OPEC cartel, a highly concentrated domestic oil industry, and the prospect of rigid physical shortages of gas staring us right in the face. This is really like asking us to hold a gun at the heads of American consumers while the oil companies empty their pockets.

Will deregulation of natural gas prices really get us more gas? I think that is a very basic and fundamental question. Most objective studies have concluded that they will not. Let me review the recent major studies one by one.

The Congressional Budget Office, in a study just completed for the Energy Committee, compared the administration price proposal—$1.75 Mcf plus escalation—with deregulation, and concluded that by 1985 very little additional gas would be produced—and at much higher cost. While the study did not specifically look at lower price alternatives, it did have this to say about the recent past:

> By CPO calculations, deregulation of natural gas prices two years ago would not have yielded significantly more gas than has actually been found. Yet deregulated prices of new gas would be much higher today than they are, because of bidding by interstate consumers.

In other words, with the rise in the FPC's price for new gas to $1.42 a thousand cubic feet plus escalation, the industry did as much as it would have with deregulation.

The General Accounting Office got into this matter in its July 25 report, "An Evaluation of the National Energy Plan." Referring to an earlier report, GAO stood by its conclusion that "due to physical limitations it was unlikely that higher prices for natural gas, even under total deregulation, would result in increased gas supplies over current levels at least through 1985." GAO's conclusion is that the administration likewise has hopelessly overestimated the response of supply to prices which it has proposed.

ERDA's market oriented program planning study included a workshop on conventional gas supplies. The participants concluded that ". . . the bulk of the proven reserves can presumably be sold profitably at the current $1.42 ceiling."

Finally, the Joint Economic Committee staff study released last weekend compared supply curves estimated by the Federal Energy Administration at various times. FEA hired the best talent it could get as consultants on these projections. The 1974 Project Independence supply curve indicated that no additional gas would be available by 1985 for any price boosts beyond $1 per 1,000 cubic feet. Allowing for inflation since then we still have a price well below $1.45 mcf, beyond which there will be virtually no supply response. The 1976 FEA estimate is not much better.

What all of this means is that last year the FPC had been able to cost-justify new gas prices of about 55 cents/mcf. It went ahead and introduced a price of $1.42 with automatic escalation—without cost justification—primarily to give the industry all the incentive it needed. Now, there is simply no reason for raising this price another 30-odd cents. It will raise costs to consumers—directly in their home heating bills and indirectly in the prices of almost everything they buy—without providing enough additional gas to even think twice about.

How can it be that higher prices yield no more output? The answer is that the large volume of gas that is supposed to be brought forth with deregulation is a figment of the gas industry's imagination. Very little new onshore gas exists. But while these promised bonanzas may dance like sugarplums in industry official's dreams, the deregulated prices that they would conjure forth would haunt consumers like recurring nightmares.

To begin with, oil and gas producers already are engaged in a full-blown drilling boom in response to the enormous increases in prices and profitability that have taken place since 1972. The number of new gas wells drilled annually has risen by 85 percent since 1972 and has substantially more than doubled since 1971. In fact, the number of gas wells drilled set a new all-time record in 1973 and in each year since that time. A table in the new Joint Economic Committee staff study shows the record of accelerated drilling activity in the United States since 1957.

I ask unanimous consent to have the table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

DRILLING ACTIVITY IN THE UNITED STATES

Year	Total well completions					Total feet drilled (million feet)
	Oil	Gas	Dry	Service	Total	
1957	28,612	4,626	20,893	1,409	55,024	233.1
1958	24,578	4,803	19,043	1,615	50,039	198.2
1959	25,800	5,029	19,265	1,670	51,764	209.2
1960	21,186	5,258	17,574	2,733	46,751	190.7
1961	21,101	5,664	17,106	3,091	46,962	192.1
1962	21,249	5,848	16,682	2,400	46,179	198.6
1963	20,288	4,751	16,347	2,267	43,653	184.4
1964	20,620	4,855	17,488	2,273	45,236	189.9
1965	18,761	4,724	16,025	1,922	41,432	181.5
1966	16,780	4,377	15,227	1,497	37,881	166.0
1967	15,329	3,659	13,246	1,584	33,818	144.7
1968	14,331	3,456	12,812	2,315	32,914	149.3
1969	14,368	4,083	13,736	1,866	34,053	160.9
1970	13,020	3,840	11,260	1,347	29,467	142.4
1971	11,858	3,830	10,163	1,449	27,300	128.3
1972	11,306	4,928	11,057	1,464	28,755	138.4
1973	9,902	6,385	10,305	1,010	27,602	138.9
1974	12,784	7,240	11,674	1,195	32,893	153.8
1975	16,408	7,580	13,247	1,862	39,097	178.5
1976	16,996	9,045	13,690	1,690	41,421	185.2

Source: Independent Petroleum Association of America.

Mr. KENNEDY. Mr. President, in other words, oil and gas producers are drilling flat out right now. The active rig count has risen steadily as new rigs become available. Producers could not drill any more at twice the price than they are drilling now.

In truth, prices may be too high already. Profits are certainly high enough. The oil companies in constant dollar terms earned in the first 6 months of this year 45 percent more than they earned during the same period in 1972. And there is ample capital in the industry to stretch the available physical resources as far as they will go. Oil and gas producers are already investing heavily in other resources and industries, looking for new places to put their money down.

More money for the producers will just inflate costs in the industry again. Steel producers will be glad to raise the prices of oil field goods again. Shipyards and other steel fabricators will eagerly raise the prices of new drilling rigs. If there are excess profits left after these cost increases, landowners will simply charge more for mineral rights. But there will not be much more output to show for it.

Another reason why the prospect of large amounts of high-cost gas is not very plausible is that really large deposits of gas are almost by definition low in cost per thousand cubic feet. This is because the drilling costs of a prolific find are spread over its many units of output. The JEC staff study concludes that very few gas finds will be so high in development costs or so low in productivity that they will not pay at today's high prices. Any find that is uneconomic to develop at today's prices will not be very large. And these would not add up to much additional output.

If supply curves for natural gas are as inelastic as FEA and CBO believe them to be, then an increase in gas prices from $2 to $2.50 per thousand cubic feet in constant dollars will call forth only about 1 trillion cubic feet of additional gas by 1985. This would be roughly a 5 percent increase in annual production. Under deregulation, however, the price increase would apply to virtually all gas produced by 1985 including old, already flowing gas. Therefore, this 5 percent supply boost would cost consumers about 30 percent more in overall gas costs.

The extra output would cost no less

than about $12 per thousand cubic feet in aggregate price increases.

The President's gas pricing proposal also is designed to entice this extra increment of high-cost natural gas out of the ground. While it would do so at a fraction of the cost of the deregulation approach, the price it sets is still substantially higher than necessary to provide an incentive for full exploration and development of our Nation's gas resources. Under the President's proposal and my amendment, a special price category would be established for gas from wells that are found to involve exceptionally high costs. But these special prices would not be permitted to spread to all gas, including that discovered and developed at yesteryear's much lower costs.

THE NEED FOR A FIRM GAS PRICE CEILING

The best thing Congress can do to increase gas production is to put a firm ceiling on natural gas prices that cannot be expected to rise by more than the rate of inflation. I say this because there is much circumstantial evidence that expectations of rapid gas price increases over the past decade have resulted in underreporting of reserves and reduced output. Indeed, with the Federal Power Commission's repeatedly approved large increases in new gas prices and the previous administration's pushing hard for total deregulation of gas prices, producers with any business sense would have been foolish not to hoard as much gas as possible for higher prices—or at least to make investment decisions regarding increasing production accordingly. I think it is fair to assume that gas producers are smart businesspeople and have responded to the market prospects facing them where they could do so without incurring legal penalties.

In support of these suppositions, I submit for the record two more tables from the new JEC staff study. The first one shows how revisions of estimated reserves in existing gas fields, which made substantial positive contributions to reserves before 1969, turned negative in that year and have remained so except for one year since then. Thus, as expectations of major price increases arose, producers systematically cut back the estimated outputs that they could produce from reservoirs already committed to customers at old prices. The second table shows how rapidly reserves have been revised downward in specific Texas and Louisiana gas fields.

I ask unanimous consent to have the tables printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

ANNUAL ESTIMATES OF PROVED NATURAL GAS RESERVES IN THE UNITED STATES, 1965 THROUGH 1976, TOTAL ALL TYPES

[Millions of cubic feet—14.73 lb/in²a, at 60° F.]

Year	Changes in reserves during year							Proved reserves at end of year	Net change from previous year
	Revisions	Extensions	New field discoveries	New reservoir discoveries in old fields	Total of discoveries, revisions and extensions	Net change in underground storage	Production*		
1965	†14,775,570		†6,543,709		21,319,279	150,483	16,252,293	286,468,923	5,217,469
1966	4,937,962	9,224,745	2,947,329	3,110,396	20,220,432	134,523	17,491,073	289,332,805	2,863,882
1967	6,570,578	9,538,584	3,170,520	2,524,651	21,804,333	151,403	18,380,838	292,907,703	3,574,898
1968	3,016,146	7,758,821	1,376,429	1,545,612	13,697,008	‡118,568	‡19,373,427	287,349,852	(5,557,851)
1969	(1,238,261	5,800,489	1,769,557	2,043,219	8,375,004	107,169	20,723,190	275,108,835	(12,241,017)
1970	(99,721)	6,158,168	27,770,223	3,367,689	37,196,359	402,018	21,960,804	290,746,408	15,637,573
1971	(1,227,400)	6,374,706	1,317,574	3,360,541	9,825,421	310,301	22,076,512	278,805,618	(11,940,790)
1972	(1,077,791)	6,153,683	1,462,539	3,096,132	9,634,563	156,563	22,511,898	266,084,846	(12,720,772)
1973	(3,474,756)	6,177,286	2,152,151	1,970,368	6,825,049	**(354,282)	22,605,406	249,950,207	(16,134,639)
1974	(1,333,285)	5,847,251	2,013,745	2,151,473	8,679,184	**(178,424)	21,318,470	237,132,497	(12,817,710)
1975	383,449	6,027,433	2,423,382	1,649,424	10,483,688	**302,561	19,718,570	228,200,176	(8,932,321)
1976	(1,197,119)	5,337,707	1,421,013	1,993,867	7,555,468	(187,550)	19,542,020	216,026,074	(12,174,102)

*Preliminary net production.
†Separation of revisions from extensions of new field discoveries from new reservoir discoveries in old fields not available prior to 1966.
‡This value has been changed to correct a numerical error made in vol. 23.
**See footnote e, table I.

( ) Denotes negative volume.

Source: American Petroleum Institute. Reserves of Crude Oil, Natural Gas Liquids and Natural Gas in the United States and Canada as of Dec. 31, 1976.

AMERICAN GAS ASSOCIATION ESTIMATES OF ULTIMATE RECOVERY OF NATURAL GAS, SELECTED YEARS OF RESERVOIR DISCOVERIES AND ESTIMATES

[Billion cubic feet (BCF)]

	Years			Estimates (BCF)	
	Discovery	From	Through	From	To
A. Nonassociated:					
Texas:					
District 1	1953	1970	1974	390.4	206.0
District 2	1963	1967	1970	430.2	187.1
District 3	1935	1970	1973	5,809.5	3,828.3
District 4	1940	1970	1975	1,504.4	854.5
District 7B	1929	1966	1967	74.0	7.4
District 7C	1965	1969	1971	694.1	365.8
District 9	1950	1968	1969	2,442.7	2,204.7
Louisiana:					
North	1927	1966	1967	647.1	.4
South	1959	1969	1973	5,391.4	593.3
B. Associated dissolved:					
Texas:					
District 3	1929	1966	1974	543.7	82.0
District 4	1939	1970	1975	1,714.4	1,147.6
District 5	1933	1969	1970	192.0	142.0
District 6	1930	1967	1974	1,958.1	1,414.5
District 8	1949	1966	1968	1,509.1	76.5
Louisiana: South	1937	1969	1975	2,939.3	1,925.3

Source: Tabulations prepared by Joseph Lerner from Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas . . ., American Petroleum Institute & American Gas Association, various editions

In several cases, three-quarters or more of the reserves remaining in these fields were "depleted" within one to three years. Such depletion rates are completely implausible, except in terms of the strong incentives to manipulate figures so as to avoid delivering this gas at the prices contracted for earlier. Clearly, if we want to maximize production now, we must put an end to the incentive to withhold that pervades this market. And this requires a firm price ceiling that covers both the intrastate and interstate markets.

Deregulation today would continue this atmosphere of higher price expectations because it would free domestic wellhead prices to rise in response to any OPEC oil price increase.

It also would permit them to go to extreme scarcity levels in the event that another harsh winter or an oil embargo should again result in a sudden physical shortage.

It is my own suspicion that the imposition of a fair but firm nationwide natural gas price ceiling will lead to more output in the next few years than many experts believe is possible. This is because most supply forecasts nowadays are based on reserve data of the past several years when the incentive to underreport reserves has been very strong. While I am not suggesting that a burst of output from secret reserves will solve the Nation's gas shortage, I suspect that we will be pleasantly surprised at the trends in production if we can end the current price uncertainty with a fair but firm price ceiling.

WILL HIGHER GAS PRICES EFFECTIVELY CURB CONSUMPTION

Industry spokesmen as well as many disinterested economists point out that higher gas prices would help to elimi-

nate the present gas shortage by encouraging conservation and switching by consumers to other fuels.

The best recent information to come to my attention on the price sensitivity of natural gas demand is from my attention on the price sensitivity of natural gas demand from a model constructed by economists at FEA which, among other things, takes into account the economics of equipment replacement by commercial, residential, and industrial users. I am submitting another table drawn from the JEC staff study showing the elasticities of demand estimated by FEA for each of these three sectors for periods up to 8 years. This table shows that the conservation response to a price increase today increases modestly over the years but remains quite limited even in the longer run. It shows that every 1 percent rise in prices will yield much less than a 1 percent cutback in gas consumption even by 1985. These low elasticities imply furthermore that gas price increases will continue to pack an inflationary wallop even as far as 1985, because consumers will not be able to cut consumption by nearly enough to offset the price increases.

The lowest elasticities, in fact, are estimated for the industrial sector, which under most plans would incur the largest gas price increases. This sector's long-run demand elasticity is estimated at −0.36. This means that only 36 percent of the price increase would be offset through conservation. Sixty-four percent would constitute a cost increase, and most of this would be passed through in the form of higher prices. If these elasticities are accurate—and they are based on the best analysis I have seen—then radically higher gas prices to industrial users will have the primary effect not of saving gas but of aggravating the inflation rate.

PRICE ELASTICITIES OF NATURAL GAS DEMAND BY CONSUMING SECTOR, 1977–85

Year	Commercial	Residential	Industrial	Total
1977	−0.403	−0.332	−0.213	−0.268
1978	−.490	−.388	−.264	−.331
1979	−.559	−.428	−.297	−.358
1980	−.614	−.458	−.318	−.382
1981	−.659	−.481	−.333	−.399
1982	−.696	−.499	−.343	−.411
1983	−.726	−.514	−.350	−.420
1984	−.751	−.526	−.356	−.426
1985	−.773	−.535	−.360	−.431

Source: Federal Energy Administration.

These projected price elasticities of demand imply that increases in gas prices should not be imposed in large near-term jumps. Instead they should be programed in advance but stretched over several years so as to put consumers on notice to emphasize conservation when replacing their gas-using equipment without burdening the national economy in the initial years when little can be done to conserve. Further, they should be approached by the Government's capturing the addition to price, not through giving the industry a windfall.

The administration's gas pricing plan, as modified by the House, aims to do just this by imposing its taxes on oil and gas over several years. In addition to these taxes, regulatory controls on wasteful uses of gas and a more rational system of priorities for allocating gas during shortages should be adopted. I know that administrative controls are awkward and unpopular, but they can get the job done without the kind of pervasive damage to the economy that a chronically higher inflation rate involves.

WHAT WILL GAS PRICES DO UNDER DEREGULATION?

Price in a deregulated gas market probably would go much higher than today's new intrastate gas prices—$1.80 per mcf, and even higher than the equivalent of OPEC oil prices—around $2.40 per mcf. Today's intrastate prices, for instance, have been held down by the influence of controlled interstate prices and the fact that regulated interstate pipelines have been almost entirely precluded from bidding for intrastate gas. If these pipelines are permitted to enter intrastate markets without restraint, prices probably would be bid up until a substantial class of users switches to other fuels, relieving the shortage.

The first category of gas users likely to switch out of natural gas would be large commercial and industrial users, who could change to coal or oil. Few of them would do so, however, until gas reaches a price substantially above that of, say, middle distillate fuel oil. Such a switching price is estimated by the Joint Economic Committee staff to be in the range of $3 per mcf. Indeed, if the rigid physical shortage of gas were aggravated again by a severe winter or a new oil embargo, prices of gas without controls could rise to desperation levels of $5 per mcf, or even more for a period. The impact on the economy of rationing such a shortage using scarcity pricing would be pure disaster.

In my judgment, it would be far wiser to maintain Government control over prices in this volatile market and to reduce and ultimately eliminate the excess demand through deliberate and systematic substitution of other fuels for natural gas, using regulatory methods focused on certain large volume commercial and industrial uses.

THE MACROECONOMIC CONSEQUENCES OF DEREGULATION

The world economy still is staggering under the impact of the energy price revolution of 4 years ago. These price increases raised crude energy price directly by an estimated $58 billion annually by 1975, with markups and other second-round ripple effects accounting for substantially more. Data Resources, Inc., a leading economic consulting firm in Lexington, Mass., has estimated that energy price increases, aggravated by a very harsh monetary policy adopted in response to them, contributed perhaps one-half of the alarming inflation rate of the 1974–75 period. It contributed a considerably larger fraction of the increase in the inflation rate that year. DRI also attributed perhaps one-half of the decline in output and the rise in unemployment likewise to the energy shocks.

Even now, it is estimated that the continuing rise in energy prices has contributed 1 full percentage point to the rise in the Consumer Price Index over the past year. This consists of increases in gasoline prices, increases in electric rates, and sharp rises in natural gas prices even under FPC controls. These energy price increases are a major reason for which the so-called underlying rate of inflation remains at a higher level than it used to be.

The energy price increases incorporated in this bill would add to this dangerously high rate of inflation. Some of them are perhaps necessary in putting together an effective energy policy. But an outright deregulation of natural gas prices in this context would seem to me to be throwing all caution to the winds.

Let us be perfectly clear about the magnitude of the danger to the economy in any ill-advised measure that increases inflation. Higher inflation tends to push up interest rates, choking off the economy's growth. It tends to undermine business confidence and the investment that we need to create jobs and boost productivity. And I have no doubt that radical increases in gas prices would cause some enterprises simply to close their doors and let their labor forces go.

There can be no doubt about the drastic nature of the price increases we are talking about. By 1985 the administration's plan will be adding $16.7 billion a year and about $51 billion cumulatively to the cost of gas, according to the Joint Economic Committee study. The Congressional Budget Office estimates that deregulation will cost a cumulative $162 billion more than the administration's proposal leaving a potential total difference between present prices and what I propose of more than $200 billion. Subtracting for the fact that the CBO study included offshore gas which Pearson-Bentsen would not deregulate for 5 years, the increase is still over $150 billion.

The proposal I advance is clearly the responsible course. It concludes a cost-of-living inflation adjustment. It includes a provision allowing higher prices for high-price gas. It pegs the price well above the historic cost of producing gas. It saves consumers money. It reduces inflation. It fixes a firm price which will, once and for all, tell the oil and gas companies that this Congress has taken a stand and there is no benefit to them to withhold production any longer.

If the commodity we were discussing were any one other than gas or oil this debate could hardly take place. After a 350-percent increase in one jump just 14 months ago would we seriously stand here and vote for a further increase if the commodity were potatoes or automobiles or coffee? Yet that is exactly what we might do.

The oil and gas companies are spending tens of millions of dollars to excite this country to the possibility that American ingenuity, the spirit of discovery, and a few tens of billions of dollars for them will somehow put us back in command of our destiny. The imagery is appearing. The challenge excites possibilities. But the gas companies are not going to tell you what it costs. They will not tell you we are talking about tens of billions of dollars.

My amendment offers the only alternative to higher prices, the only opportunity to stop before we use gas to fuel—not more homes or industries—but inflation. That is the choice before us.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. KENNEDY. I just have a few more comments and then I would be glad to yield.

Mr. President, I ask unanimous consent to have included in the RECORD the tables to which I made reference in terms of the costs we are considering in this particular bill.

The Joint Economic Committee, in its review and study—and I will include this particular study—on page 75 of the Joint Economic Committee staff study is a very clear indication of exactly what will be the cumulative effect in moving toward the $1.75 per mcf with the gradual inflator going through 1985.

And then you can also see from this table what would be the normal inflationary factor. If we take my amendment at $1.45 and move it over the period of 1985, as you see clearly that the saving during that period would be approximately $40 billion in saving over the present administration's proposal.

Before we get into talking about what the extraordinary cost would be if we go toward the deregulated price, I think it is important that there be an understanding from that particular table what the cost of the administration's proposal would be.

I also will refer to two tables on page 45 about the long-term effect of price on natural gas production in 1985.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF THE ADMINISTRATION PLAN WITH DEREGULATION, 1978, 1980, AND 1985

	1978		1980		1985	
	Administration plan	Deregulation	Administration plan	Deregulation	Administration plan	Deregulation
Wellhead price of new gas (cents per thousand cubic feet)	175	400	189	317	208	280
Average price of all gas (cents per thousand cubic feet)	103	149	121	178	156	220
Net annual production (trillion cubic feet)	19.2	19.5	18.7	19.1	18.9	19.8
Revenues to industry (billions of dollars) [1]	20	28	23	32	29	41
Total consumer costs (billions of dollars) [2]	46	54	49	58	57	69
Typical monthly winter heating bill (dollars per month)	42.80	55.60	43.20	61.60	47.20	70.00

[1] Revenues to industry are measured at the wellhead and are computed on the basis of the quantity produced under the administration's plan. The difference in cumulative revenues by 1985 comes to $76,500,000,000.

[2] The difference in cumulative costs by 1990 comes to $162,000,000,000. These costs include wellhead prices, pipeline costs, and substitute fuels. Consumer costs are measured after shipment to the point of consumption.

Note: Prices are expressed in 1977 dollars.

Mr. KENNEDY. Mr. President, on the one side of the graph they have the dollars per mcf and on the other the increase in production. What any person can understand from this is the inelasticity of production in response to price. Even the most optimistic estimates about what can be realized show dramatically what the increase in cost was going to be. In other words, you are not going to discover dramatically more with the much higher cost.

If you look at those particular charts, you will see that at the outer limitations of productivity all the chart does is go straight up. That is the price. The horizontal bar of the chart shows the increase in productivity of natural gas and the vertical line is the increase in costs. I will tell you that no matter how high the increase in costs goes, you just do not see much increase in production.

These conclusions are based upon the most extensive studies that were done, based upon the figures which were available at this time. There are those who suggest all we have to do is just increase the cost and we are going to find all the gas that we effectively need. That is just not true.

The other chart refers to the natural gas pricing proposals. This is a comparative analysis done for the Committee on Energy. The chart, on page 13 in its studies, shows the comparison of the programs between the administration plan with 1978, 1980, and 1985. It also shows the typical monthly winter heating bills going up under deregulation. For a family home it will create increases from the administration's proposals of $42.80, to $55.60. By 1980, under the administration program it creeps up to $43.20 over the $42.80, but the deregulation increased from $55 to $61. By 1985 the administration estimates show a $47.20 price, about $4.50 increase, but the deregulation has increased by 1985 to $70.

It seems to me that no matter how we look at this particular issue in billions of dollars or in the cost for home heating oil the situation is very clear, and that is, that the American consumer is going to be at an extraordinary disadvantage.

I am glad to yield to Senator BARTLETT.

The PRESIDING OFFICER (Mr. MCGOVERN). The Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Massachusetts.

I heard the Senator say that he favored price controls on natural gas. I ask the distinguished Senator if he is of the opinion that this will increase or decrease the amounts of gas available to citizens in Massachusetts and the rest of the country.

Mr. KENNEDY. The proposal I am supporting would maintain the price which exists at the present time. With regulation we already have a 300-percent increase in about the last 14 months. This price will get all the production that we can possibly expect and a very substantial profit for the major gas companies. I do not believe that the case has been made by those who support deregulation that would convince the people of this country or of my region. Although we are not a major consumer in terms of heating oil, we are only about a 10-percent consumer of natural gas. We are basically a consuming part of the country. When you have dramatic increase in inflation we are going to see it very amply expressed in terms of inflation in goods that we purchase.

I think all the new gas that could be discovered would be developed under my proposal since it would clearly be understood that we were not going to see enormous increases by Congress in tampering with the price. If we were to pass what I have proposed here today and the natural gas producers and developers will understand that they could not say, "all we have to do is wait for another year or 2 and we can jack up that price another 300 percent," as we have seen in the recent years. I think the suggestion of the Senator from Oklahoma might see a lot of gas produced if we take a strong stand and a firm position, and say, "This is where we are going." I am completely satisfied that we will get the production. It is not only my own review, but, as the Senator I am sure is familiar with the study that was done by the Energy Committee, that study which would indicate that.

On page 13 they do the comparison by 1985 between what they think will be produced under the administration program and under deregulation, even though the cost will be billions of dollars higher—close to $150 billion from the American consumer—it would only produce, an additional 900 million Mcf. There is a difference, referring to this chart, of going from 18.9 trillion cubic feet up to 19.8. So there is some validity that there will be some increase. It is not insignificant, or unimportant, but look at the price we have to pay for it. We probably can reach nearly that amount by making a firm decision.

Mr. BARTLETT. Will the Senator yield further?

Mr. KENNEDY. Yes.

Mr. BARTLETT. I am very much aware that in the State of Massachusetts the citizens of Massachusetts are very successful in obtaining a lot of fish from the Atlantic Ocean.

Mr. KENNEDY. Not as many as we like. We are doing better.

Mr. BARTLETT. We in Oklahoma like the fish very much, and I know the people here do in Washington, D.C. I am just wondering if the Senator favors control of prices on fish that are produced by the fishermen from Massachusetts and if he would favor a rollback in those prices as this would be in comparison with the administration bill?

Mr. KENNEDY. I fail to see any possible tie-in with the issue that we are

talking about here or any possible comparison. If the Senator were talking about a small cartel of the North American shores which had 25 percent of the total known resources of fish product and if by some means all the United States fishermen were able to get together and combined with the other great fish-producing countries of the world, perhaps China, and perhaps a small group of other nations, and fix that particular price, then I think there might be some relevancy to the Senator's question. But the fact of the matter is we are not talking about fish.

If I may just take 1 minute of the Senate's time, the problem would be similar if farmers who live in the distinguished Senator's State were able to get together with the peanut farmers of Georgia and the highland farmers of Montana. We cannot get the fishermen of New England together and the shrimpers of Louisiana and the gulf with the tuna people of the west coast.

So the comparisons have absolutely no relationship here. We are talking about relating the price—as I understand the administration proposal—to the price of crude oil. The crude oil price is an administered price, the international price as a result of the cartel, and has absolutely no relevance to market forces. So obviously the answer would be in the negative. These is no comparison.

Mr. BARTLETT. If the Senator will yield further, I should like to point out the relevancy this way: The price of natural gas, of course, is not a cartel price fixed by American companies. The cartel price, of course, is on oil, and gas from Algeria that we import, on which we pay a higher price.

But the question first was whether the Senator's proposal of price controls would bring on additional gas. He indicated it would. I was wanting to ask him whether price controls on fish would bring on additional fish, if the price were reduced. I would assume it would not.

I think it is very relevant to point out that we are not going to have additional gas for the State of Massachusetts if the price is less than it otherwise would be with the administration bill, any more than we in Oklahoma would expect to have more fish available at a reasonable price if the price were rolled back. The people of Oklahoma might like to buy their fish at a lesser price, but I think they know that if they want fish, they are going to have to pay the price.

To carry the comparison a little farther, if the State of Massachusetts were selling fish both in an interstate market and an intrastate market, and the prices for fish were established in the same way that price controls were established on natural gas, then you would be paying a higher price in your own State than you would receive for the fish sent to Oklahoma, and you would be sending Oklahoma fish in the interstate market at prices lower than it is possible to catch or produce those fish.

So I think there is a good corollary here, which brings out that while you favor your price controls program when it does not have anything to do with industry in your State, primarily, it still affects it very much, in my opinion, because it affects the supply you would otherwise have. If Massachusetts is to have a supply of natural gas, other than domestic supplies, the price would be critical, because otherwise you would have only a choice between Algerian imported gas, synthetic gas, or imported gas from Canada, all at prices higher than the price of domestic natural gas. So your choice is limited by your desire to have available additional reserves of natural gas that could be available to Massachusetts.

If the utilities in Massachusetts do not want to purchase that gas, they do not have to, but it would be available if they were permitted and wished to do so.

Mr. KENNEDY. I would say to my good friend from Oklahoma that the comparison between the fishing industry and the oil industry really escapes me. Any student of the fishing industry in our part of the country knows it is highly competitive. There have been a number of things that have disadvantaged it, aside from the market and availability of resources. We have been faced, for example, with the 1894 act that has prevented New England fishermen from being able to purchase their ships overseas, and therefore they are limited in the number of ships they can afford.

The difference between the oil and gas industry and the fishing industry is the difference between night and day. The Senator knows we are dealing with administrative prices in the petroleum industry. Natural gas prices are related on a Btu equivalence basis, under the terms of the President's proposal. That is an administrative price; and the fact of the matter is that the Senator from Oklahoma, I do not think, has been convincing that we would see a production increase with deregulation.

We in New England have been glad for the natural gas we have been able to receive. When the producers in the southern part of the country were flaring that gas, they were glad to ship it up to New England, a gas-starved area of the country. Now we have become about 10 to 12 percent dependent on that product. When they had a surplus, they got us hooked on it, and I do not want to see that part of the population disadvantaged, any more than other people who have become dependent upon petroleum supplies.

But I respect the comments of the Senator, and will be glad, at some time, to exchange ideas with him in greater detail as to the relationship between the oil and gas industry and the fishing industry.

Mr. BARTLETT. I thank the distinguished Senator from Massachusetts. I think if we had a Kennedy-Bartlett fishing and oil company, we would get something done.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. DURKIN Does the Senator's amendment contemplate phasing out controls over a 3 or 4 year period?

Mr. KENNEDY. No. The price would increase with the inflationary index.

There is another provision which is extremely important for us to understand: That where a gas development project is going to require a substantially higher price, then the Secretary can make an independent decision. If this flexibility and authority he would have would mean a substantially higher price for development of a particular fuel or a particular resource, we want to give him that flexibility, instead of providing the broad sweep and scope of a market price under the Bartlett amendment, which would mean an additional $150 billion——

Mr. DURKIN. But your amendment has no fixed decontrol provision?

Mr. KENNEDY. The Senator is correct.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I ask unanimous consent that a member of my staff, Mr. Ed Knight, be accorded the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER (Mr. McGOVERN). Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I have had quite an education on the fishing industry in the discussion between the Senator from Oklahoma and the Senator from Massachusetts. About the only analogy I could think of was that of the fellow who caught a catfish down home and said, "Don't wiggle, little catfish; all I am going to do is gut you." That is about how I feel about this amendment, when they talk about rolling the price back to $1.45.

The price of new gas found in Texas today is from $2 to $2.25. We have had commitments made on that basis; we have had loans committed, wells drilled, and pipelines laid. Then the Senator comes in and talks about cutting it back to $1.45.

I have heard the JEC report quoted here. One of the problems with the JEC report is that it anticipates things that are not in the Pearson-Bentsen amendment, or that the Pearson-Bentsen amendment specifically prohibits. One of the things it assumes is that we have total deregulation. That is not the case at all. What we are talking about is deregulation of new gas. We are talking about 6 to 7 percent of the gas that might come onstream, of totally deregulated new gas.

Another thing which is not really considered too often is the fact of what the effect at the wellhead is when it finally gets to the burner tip. We are talking about 20 to 30 percent of the final cost at the wellhead that results in a cost at the burner tip. The rest is taken up by taxes, by distribution, by transporting it all the way to the markets to the north and to the northeast.

Another assumption under the JEC study which is specifically prohibited by the Pearson-Bentsen amendment is that they are going to redrill all the old fields. The Pearson-Bentsen amendment does not allow that at all. That would have cost $5 billion in additional cost, and what would have been classified as new gas under the JEC study. But it is not applicable and that is not the case.

Another thing the JEC study anticipates is that there would be a deregula-

tion of interstate contracts, and that that is going to cost another $3.5 billion.

Our amendment specifically applies the present regulations on that, so there would not be that kind of a deregulation.

The study is not valid.

We talk about paying foreign producers, paying the Canadians, $2.5 billion to $3.5 billion, whatever figures one wants to come up with, to build a $10 billion pipeline to bring gas from Alaska and Canada into this country. We speak of paying those kinds of costs, but we do not want to pay that to domestic producers. We do not want to spend the additional money to bring in the marginal fields and the deep holes that have to be drilled. No, we would rather go down to Mexico and help them finance a major pipeline, help them with their balance of trade, when we will have $45 billion worth of oil products imported into this country this year; when we are going to have a deficit in our balance of trade of almost $25 billion.

No, do not spend it here, to find reserves in this country. Let us pay it to someone else. Let us get down on our knees to the Arabs and pay them for it, but do not pay the additional amount of money that could take care of the problem here.

The MOPPS study said we would be awash with deregulated gas at the prices we would expect to see.

Let us talk about increased drilling. If they want to talk about the last 4 years we have had increased drilling, but if we go back to 1956 we have only recovered a fraction of the amount of drilling that was taking place then. Why has there been an increase in drilling in the last 4 years? Because we have seen the price of gas go up where it is making it economically viable to drill more wells. The problem is it still has not reached the price, in some of the instances, necessary to go after some of the marginal fields and some of the deep tests.

Where have we seen most of the drilling taking place? Over 90 percent of that drilling is taking place in areas that include where we think 70 percent of the new reserves will be found, because the potential new reserves we believe to be in those deeper areas and some of those high risk areas that have not been effectively drilled yet.

The argument has been made that these oil companies have so much money they are investing in other fields; they are going out and buying department stores and chain stores, that type of thing, instead of drilling. Why do Members think they are doing that? One of the reasons is because they find a more profitable place to put their money than putting it into the ground and drilling for oil and gas.

Drilling these oil wells and gas fields cannot be mandated. It will be done if there are the economic incentives there for them to do it. That is what the Pearson-Bentsen amendment would bring about.

Let me give an example of what has happened to some of the increased costs of drilling. The cost of just cracking a well today is over $300,000. Wells are costing as much as $5 million. Those are major commitments. Exploratory drilling has been going downhill for several years. Only in the last 4 years have we seen exploratory drilling beginning to pick up again. One of the reasons for that is because of the increased price being paid for gas.

If we have low prices we are going to do two things; and we are going to work at counterproductive purposes: If we force the prices lower than they are today, we are going to increase the use of a very cheap fuel, of a finite resource, and at the same time we are going to curtail the drilling to bring it on stream. So we achieve exactly the opposite kind of result than we are trying to achieve in our national energy policy.

I hope the Senate has the good wisdom to defeat this amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I wonder if the Senator from Texas would discuss the costs increasing a great deal for the exploration and production of natural gas.

The price of natural gas at the wellhead has gone up in the last 5 years some 500 percent. It was 22 cents some 5 or 6 years ago and jumped up to 42 cents, 72 cents, and it is now $1.45, or somewhere in there. I wonder if the Senator might advise the Senate how much additional natural gas has been found as a result of that 500-percent increase in the wellhead price?

Mr. BENTSEN. There is a substantial amount which has been found but the overall reserves have gone down. I assume that is the point the Senator wants to make. One of the specific reasons for that is that we have seen developed wells generally being drilled, not really exploratory wells. We have seen the costs go up to the point where they have not been willing to drill the deep wells, which are extremely expensive.

Mr. ABOUREZK. But is the cost of drilling those deep wells included in the price set for that gas? Is that what the law requires, that the price of the wellhead gas is based on the cost of production?

Mr. BENTSEN. No, that is not correct.

Mr. ABOUREZK. That is my understanding.

Mr. BENTSEN. No, that is not correct. If we are dealing in unregulated gas, as we would have in Texas, for example, the price would not be based on that.

Mr. ABOUREZK. Upon what is it based?

Mr. BENTSEN. It is finally a free market system in the unregulated market.

Mr. ABOUREZK. I am talking about regulated gas.

Mr. BENTSEN. But I am making the argument on the other side, for the unregulated gas. If the Senator is getting into regulated gas, then we have an arbitrary fix put on it that I really do not think correlates with the cost of gas.

Mr. ABOUREZK. If we are talking about unregulated gas, that should not be debatable because, presumably, unregulated gas can sell for whatever they can get out of it. Is that correct?

Mr. BENTSEN. That is correct.

Mr. ABOUREZK. So, presumably, they are charging somewhat more than what their costs are.

Mr. BENTSEN. I would hope so or they are not going to stay in business very long.

Mr. ABOUREZK. That is right. But on regulated gas they are charging more than what their costs are because that is what the law requires, that the price at the wellhead be based upon the cost of production plus an adequate profit.

Mr. BENTSEN. But the problem they are running into there is they are living off their old reserves and that is figured into that cost, reserves which were brought in at very cheap prices, and they are not being paid the cost of replenishing those reserves. That is the serious problem we face in this country.

Mr. ABOUREZK. Does the Senator mean for new exploration?

Mr. BENTSEN. That is correct, to add to those reserves.

Mr. ABOUREZK. Why are they not being paid for new exploration? I cannot imagine that gas companies would not demand that as part of the price.

Mr. BENTSEN. As I stated before, they are paying them for their overall costs based on an inventory which was acquired at a very cheap cost. Let me give an example. I will put it in terms which might be more easily understood.

In a situation where you have a shoestore and the price of shoes had gone up substantially, but you were allowed a price that you could charge the customers coming in, based on the average price, which included shoes bought at a very low price some time in the past but substantially less than what you had to pay for new inventory and new shoes, you would have a self-liquidating process. You cannot continue to buy new shoes for your inventory at the price that you were required to sell it to the customer for. So down goes your stock and finally, you are out of business.

Mr. ABOUREZK. My question, then, is, What does it cost to produce gas per mcf right now?

Mr. BENTSEN. That depends on the depth of the well and how expensive a well it is and it depends on how fortunate you are in finding gas. I can give no easy answer. That is one that ought to be dictated by the marketplace.

Mr. ABOUREZK. What is the most expensive cost of producing a well?

Mr. BENTSEN. I would say the most expensive cost of producing a well is when you put $5 million in a well and do not get anything. That gets quite expensive.

Mr. ABOUREZK. Is there a tax write-off?

Mr. BENTSEN. That reminds me of my wife, when she tells me, "You can expense it." I still have to have the funds for the purchase.

Mr. ABOUREZK. I have to be very honest; I have not yet heard of an oil company that produces gas or a gas company that produces gas that has gone broke.

Mr. BENTSEN. I shall bring in a list of them.

Mr. ABOUREZK. I would be happy to see it.

Mr. BENTSEN. I shall be happy to bring one in, because a lot of them have gone broke.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. KENNEDY. Mr. President, will the Senator let me proceed to address a few remarks in response to the Senator from Texas, if he will be good enough?

Mr. METZENBAUM. Yes.

Mr. KENNEDY. I wanted to respond to some of the remarks that the Senator from Texas made concerning the study of natural gas pricing questions by the staff of the Joint Economic Committee, issued by the Joint Economic Committee's Subcommittee on Energy. I regret to say that the Senator seriously misconstrued the contents of that study in his remarks yesterday. The study addresses the issue of deregulation of new natural gas pricing in its broadest form. Then it attempts to show how various limiting provisions would affect the cost of this action.

The Senator refers to the study as a "remarkable exercise in erroneous assumptions." but he, himself, seems to make the erroneous assumption that the study refers only to him. In fact, the report is not intended to comment on a particular variant of the deregulation provision. It is not targeted toward the Pearson-Bentsen amendment. Nowhere does it contain any description of the proposals of the Senator from Texas. It tabulates all the potential costs that deregulation of new gas prices would pose so that Members of Congress would be informed of the many pitfalls to be faced in considering the proposal.

The Senator from Texas was not correct, when he concluded that the Joint Economic Committee staff study deals with the immediate deregulation of all gas. In fact, the study limits deregulation only to so-called new gas. But that is precisely the joker in this deck. How is new gas to be defined? The study outlines in some detail the great significance of the new gas definition.

The Senator from Texas contends that his deregulation proposal contains a narrow definition of new gas. I agree that his current definition is somewhat tighter than the one he proposed to this body 2 years ago. He now concedes that gas from old wells for which delivery contracts have expired should not be reconstituted as new gas at many times the price. He also has made an attempt to exclude new gas prices for output from infield wells in old production areas, the easiest method of circumventing the new gas definition.

Nonetheless, the Pearson-Bentsen deregulation amendment would permit new gas prices for gas from extensions of old reservoirs and from new reservoirs in old fields. As we know very well from past experience, moreover, it has been very difficult to anticipate the ingenuity of the producers in circumventing the intention of the new-old gas definition. They have found many ways of getting their output out from under lower price ceilings in the past, and I see no reason to believe that they will behave differently in the future. That is one major reason why I oppose the major increase in the new gas price that the Pearson-Bentsen deregulation provision would usher in.

To avoid ambiguity about the new gas definition, the administration's natural gas pricing proposal would require a well producing new gas to be at least 2½ miles away from or 1,000 feet deeper than any existing well. But the Pearson-Bentsen amendment has no such restrictions in its definition. I gather, therefore, that even a shallower well in an old field, which would cost little to drill, would qualify for the new gas price if it had not been produced before. Also, production from an extension well adjacent to an old producing field would qualify. Indeed, production from already well-known and even proven gas reserves would get the new gas price, if the first production from the reservoir occurs after last April 20. This would mean, of course, that output from any reserves that have been hoarded during the past 10 years of rapidly rising gas prices now would benefit from deregulation under the Pearson-Bentsen language.

Finally, I would say that in regard to the estimates of cost and price, we could move very comfortably from the Joint Economic study to the Congressional Budget Office study. They are virtually identical when you find the comparable basis of comparison. CBO shows a cumulative cost of $162 billion.

When we talk about getting down on our knees to foreigners, with all the bleeding hearts that we hear from in the oil industry, we see that their profits have increased 45 percent over 1972—50 percent over 1972. In spite of all the heartache that we hear about of those rough and ready pioneers going out there to face the elements, they are doing pretty well. They are doing very well.

It is against this background that we find that, just about every one of the studies that have been done by various congressional groups shows that we just cannot give the assurance that the Senator from Texas has been willing to give us that those increased prices are going to mean that we are going to have the kind of natural gas needed to respond to the needs of this country. Quite to the contrary, they reach different conclusions. If the Senator has more information, either from studies or reports, that could give us some idea about elasticity of pricing or what he believes we are going to need in increased production, rather than the general hope that it would, I would be interested in hearing from the Senator.

Mr. BENTSEN. I say to the Senator from Massachusetts that when we are talking about bringing in a new reserve in a new formation, of course, it is classified as new gas, be it deep or be it shallow. That is really not the problem and should not be.

Then, insofar as heartaches, I do not know of any heartaches being expressed. These people are competent people who are able to stay in the business, able to survive in the business. But, again, they cannot be mandated, they cannot be directed to drill these wells. If they can find a more advantageous place to invest this money, they are going to do it. That is what some of them have done. I think that is a serious mistake when we are trying to develop energy self-sufficiency in this country.

I know of no other situation where we are willing to pay foreigners more than we are willing to pay our domestic producers or domestic manufacturers, whether we are talking about shoes that are manufactured in Massachusetts or Texas or something else. We generally hope to see that our domestic producers do equally well, at least, as foreign manufacturers. This is the one instance where we find a variance.

Mr. METZENBAUM. Will the Senator from Texas yield for a question?

Mr. BENTSEN. I am pleased to yield.

Mr. METZENBAUM. The Senator from Massachusetts has addressed himself to the cost of deregulation and the recent Joint Economic Committee figures. I asked Mr. David Schwartz, who was formerly assistant chief economist for the Federal Power Commission, to do an analysis for me with respect to the cost of the Pearson-Bentsen bill as compared to the Bartlett measure, which is for total deregulation at this time.

I would like to ask the Senator from Texas whether he would agree with the following paragraph which Mr. Schwartz included in a report to me, and I quote:

> In contrast to the JEC deregulation cost impact of $20.8 billion in 1978, the adjustment for roll-over gas which reduces the impact from $2.7 billion to $700 million will result in a cost of Pearson-Bentsen of $18.8 billion instead of $20.8 billion. For 1979, the adjustment for roll-over gas which reduces the total deregulation cost of $3.4 billion to $868 million and reduces the total impact of $30.7 billion to $27.6 billion.

Or, in other words, that whereas total deregulation would cost $20.8 million, according to the JEC report, in 1978, the measure which the Senator coauthors would cost $18.8 billion, approximately 10 percent less, and for 1979 the Pearson-Bentsen measure would cost again about 10 percent less, $27.6 billion instead of $30.7 billion.

Would the Senator agree with that analysis or does he have any——

Mr. BENTSEN. No, I do not agree with that analysis and the Senator knows that. The question of renegotiation of contracts, favored nation clauses, we vitiated that, Pearson-Bentsen as finally introduced.

The question of a redrilling of the old wells, as the Senator from Massachusetts stated, that is not in this bill as it was in the Pearson-Bentsen that passed in October of 1975. That has been changed. The same situation on rolled over gas.

So, no, I do not agree.

Mr. METZENBAUM. Would the Senator from Texas be good enough to advise the Senate as to what his staff or such analysts as he has used have determined would be the cost to the American consumers if Pearson-Bentsen is enacted for the years 1978, 1979, and 1980?

Mr. BENTSEN. I will be happy to do that. I will produce that in the debate as we go into the Pearson-Bentsen amendment.

Mr. METZENBAUM. I will look forward to that.

Mr. BENTSEN. I will also try to give him some idea as to being able to cut

back on some of the shortages he would experience in Ohio if we do not pass it.

Mr. METZENBAUM. I will be very happy to learn that information inasmuch as the head of one of the two major companies in Ohio has indicated that, whether or not there is deregulation, there will not be any additional gas available for a period of at least 5 years. That comes from one who is a strong supporter of deregulation.

I would hope also that at the time the Senator addresses himself to this question and the ensuing debate that he would also address himself to the fact that although the price of natural gas in his home State has increased, I think, tenfold, the actual amount of reserves and production presently available, or the production during this, has in fact decreased in spite of those price increases.

Mr. BENTSEN. I have stated to the Senator that most of the drilling has been in development wells because of the concern about what was going to happen here in the Senate, what the politics would be if the Government was going to take over the regulation, if they were going to roll prices back, as the attempt is being made in this amendment.

So what we have seen them spending money on is development wells in the less costly fields with the least risk because when they find that Congress and the Senators and regulators can come back in and change the rules of the game after they have invested millions of their investors' dollars and stockholders' dollars, it means they will play it as close to the chest as they can and not take the high risk.

The studies have shown that 90 percent of these wells are being drilled in those kinds of locations, rather than in those areas where most of the geologists and petroleum engineers think the great potential reserves will be found.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise in support of the amendment offered by the Senator from Massachusetts. The purpose of the Kennedy amendment is to retain the existing $1.45 Mcf price ceiling for new natural gas. This price established in July 1976 by the Federal Power Commission, would replace the Btu related price proposed in the administration's bill.

The logic of this amendment is compelling. The regulated price of new natural gas has increased five times over in the last 4 years, and despite these unprecedented price increases, natural gas production has declined.

Let me review the facts. In August 1965 the price of new gas was set in the Permian Basin area rate case at 16.5 cents per Mcf. By July 1971, the price was adjusted by the southern Louisiana area II rate decision to 26 cents per Mcf, a level which gas producers testified would enable them to increase production and obtain a generous rate of return through October 1977. In August 1973 in the second Permian Basin area rate, new gas was allowed the price of 35 cents per Mcf and 1 year later a 43-percent increase was permitted, revising the price to 50 cents per Mcf. Less than 2 years after the 50-cent price was fixed, the FPC in a very controversial decision, set a nationwide rate for new gas of $1.42 Mcf.

I realize that this information is familiar to many of my colleagues, but I think that it is crucial to remember that if we were proposing a price increase of this magnitude in any other necessity, such as food, clothing, or housing, it would be considered outrageous and would be universally opposed. Yet strangely, increasing the price of natural gas is somehow acceptable to many.

At $1.75 Mcf, gas will be selling at: 10 times what producers were getting for gas a decade ago; 6½ times the 26-cent price agreed to by producers in 1970 as an incentive price to bring forth additional supplies and meet the demands of consumers; almost 3½ times the last court-approved just and reasonable rate of 50 cents; almost 3 times the 60-cent range which the FPC staff has said would produce ample returns and incentives; well above the levels in recent years of the uncontrolled intrastate gas prices which President Carter called "exorbitant," about 25 percent above the most recently set rate of $1.42 Mcf.

Is it not logical, therefore, that we support the Kennedy amendment, which would say that indeed the $1.75 price is better than the Pearson-Bentsen amendment; the $1.75 price is better than total deregulation? But the $1.75 price cannot be justified, and the price that should be set is that which is in existence today.

It is argued that increased profits are required for increased production, but over the last 4 years, a fourfold increase in gas prices has accompanied a 12-percent decrease in production over the same time period.

The increased profits that resulted from price increases do not go to struggling companies. They go to Houston Natural Gas, whose earnings rose 35 percent in 1976 over 1975—Texas Gas Corp., whose earnings rose 35.7 percent in 1976—and Columbia Transmission Co., the pipeline subsidiary of the Nation's largest integrated company, whose earnings rose an amazing 85.5 percent in 1976. They also go to the oil companies who own 13 of the 14 largest natural gas companies.

Recently, during a hearing before the Senate Energy Committee, I asked FEA Administrator O'Leary how the administration determined the $1.75 price for natural gas. He responded that the price was established through a "give and take" by interested parties and was set to eliminate any uncertainty.

I am still unclear why we cannot have the same degree of certainty if we establish a 52-cent price—or a $1 price—or even $1.25.

But the facts are that the administration simply does not have the data to determine producer's costs, despite their authority to get it. When the chairman of the Energy Committee, Senator JACKSON, recently asked Mr. O'Leary how soon the administration could get data with respect to the actual costs of discovery and production, his answer was: "Three or four years."

I was a businessman for a long time and I know that no business would tolerate this kind of practice. This information is available. As a matter of fact, I have received a copy of a confidential accounting study of a major Gulf Oil natural gas field. The study was conducted by the prestigious accounting firm of Price Waterhouse. It showed that Gulf's average total exploration and production costs will be 24 cents per Mcf during the 20-year contract. I want to note that the study was dated January 1976. The 24 cents per Mcf price was broken down as follows: 10.09 cents for investment; 8.6 cents for expenses; and 4.7 cents for royalty purchaser costs.

These figures show beyond a doubt that high natural-gas prices are not justified. While natural-gas companies will respond to this by saying that these figures are the exception—I challenge them to prove their point. Let them submit to Congress their detailed expense figures and profits on other contracts.

There has been an effort over a period of years to obtain these figures from the natural-gas producers. There has been double talk as to why the figures could not and would not be made available. But if they really have economic needs, then I think Congress is entitled to know about that fact, if Congress is expected to act on a measure such as the Pearson-Bentsen proposal or the Bartlett proposal to decontrol natural-gas prices totally.

I have no argument with the notion that producers require adequate incentives to deliver a sufficient quantity of natural gas to meet the needs of America. I am convinced that more than adequate incentives will be available at the $1.45 price, increased by an automatic cost-of-living inflator as provided by Senator Kennedy's amendment. I urge support for this amendment which I believe will serve both consumers and producers well in meeting their needs.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. PEARSON. Mr. President, a parliamentary inquiry. Is the pending matter now before the Senate the Kennedy amendment No. 957?

The PRESIDING OFFICER. The pending amendment is the Kennedy amendment, but it is No. 958.

Mr. PEARSON. And that is subject to a further amendment in the second degree, 957?

The PRESIDING OFFICER. No, it is not.

Mr. PEARSON. Mr. President, it is my intention to move to table the Kennedy amendment, if all debate has been concluded.

Mr. President, I move to table the Kennedy amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. To clarify—if the Senator from Kansas will withhold that—the pending amendment is No. 958, which is an amendment to No. 957.

Mr. PEARSON. I move to table the amendment in the first degree which is

pending before the Senate, which I understand would carry with it the amendment in the second degree.

The PRESIDING OFFICER. The Senator is correct in that interpretation.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

Mr. PEARSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, a parliamentary inquiry.

I did not quite understand the Chair's announcement. Are we now about to vote on a tabling motion against amendment No. 957, which would take 958 with it?

The PRESIDING OFFICER. Yes, the Senator is correct in that interpretation.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

(Mr. PELL assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "nay."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 73, nays 21, as follows:

[Rollcall Vote No. 389 Leg.]

YEAS—73

Allen	Ford	Melcher
Baker	Garn	Muskie
Bartlett	Glenn	Nunn
Bayh	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Pell
Biden	Hansen	Percy
Brooke	Hart	Randolph
Bumpers	Haskell	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
	Hathaway	Scott
Byrd, Robert C.	Hayakawa	Sparkman
Cannon	Heinz	Stafford
Chafee	Helms	Stennis
Chiles	Huddleston	Stevens
Church	Inouye	Stevenson
Curtis	Johnston	Stone
Danforth	Laxalt	Talmadge
DeConcini	Leahy	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Durkin	Matsunaga	Weicker
Eagleton	McClure	Zorinsky
Eastland	McIntyre	

NAYS—21

Abourezk	Javits	Nelson
Case	Kennedy	Proxmire
Clark	Magnuson	Ribicoff
Cranston	McGovern	Riegle
Culver	Metcalf	Sarbanes
Hollings	Metzenbaum	Sasser
Jackson	Moynihan	Williams

NOT VOTING—6

Anderson	Mathias	Morgan
Humphrey	McClellan	Young

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So Mr. PEARSON's motion to lay on the table Mr. KENNEDY's amendment (No. 957) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion to lay the amendment on the table was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ALLEN and Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I yield to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. BAYH. Mr. President, I ask unanimous consent that Eve Lubalin, of my staff, be granted the privilege of the floor during the debate and votes on S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. I thank the distinguished Senator from Alabama.

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ALLEN. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that Gary Klein, of the committee staff, be accorded the privilege of the floor during debate and votes on S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Alabama is recognized.

TAXPAYER ATTORNEY FEES

Mr. ALLEN. Mr. President, during the last Congress, I offered an amendment to the Civil Rights Attorneys' Fee Award Act. My amendment was intended to permit taxpayers to recover attorney fees from the Government in lawsuits involving the Internal Revenue Service if the court hearing the case in its discretion felt that an award of fees would be justified. My amendment became law as part of Public Law 94–559 and has been codified in the United States Code at 42 U.S.C. 1988.

Although the new statute was given an unfortunate and overly restrictive construction by the Tax Court in the case of *Key Buick* v. *Commissioner*, 68 Tax Court No. 17 decided in 1977, the measure nevertheless is finding application in many cases in which the Government is behaving vexatiously or frivolously in pursuing meritless claims against U.S. taxpayers.

Yesterday I learned that a court in my own State has made perhaps the first fee award under the statute, and in my judgment, Senators should find the decision in the case interesting inasmuch as it demonstrates the potential broad applicability of the statute.

The case is styled *United States and Wayne E. Jackson, Internal Revenue Service Agent* v. *Garrison Construction Company, Inc.*, Civil Action No. 77–MO334, Northern District of Alabama, decided in 1977, and involves an attempt by the IRS to enforce a summons for a second audit of the taxpayer's business records. In an opinion dated September 13, 1977, Chief Judge Frank McFadden of the northern district of Alabama held that the Government had behaved vexatiously and that its suit against the taxpayer amounted to harassment which would support an award of an attorney fee to the successful taxpayer-defendant.

Accordingly judgment was entered against the Government in the amount of $1,000 so that the taxpayer would not be required to bear the burden of paying attorney fees for the defense of an action filed for no good purpose.

Although the taxpayer's attorney fee statute refers only to the court's discretion and makes no reference whatsoever to bad faith, the Government, in Garrison Construction, asserted that bad faith must be demonstrated before a fee could be awarded. Judge McFadden, to his great credit, apparently relied more on the actual wording of the statute than he did on the less-than-persuasive arguments of the Government. In short, the Judge found that it was "not necessary to show bad faith" and that an award would be supported by "vexatious or harassing treatment not amounting to bad faith."

Mr. President, this is a landmark decision and promises to shape the law in this area in a manner which reflects the intention of Congress in enacting the statute in the first instance and in a manner which will encourage the Internal Revenue Service to behave toward taxpayers with greater courtesy and respect.

Mr. President, some time ago the distinguished majority whip, Senator CRANSTON, and I introduced a bill, S. 1610, to correct the narrow construction given to 42 U.S.C. 1988 by the Tax Court in the Key Buick case. The bill was referred to the Subcommittee on Separation of Powers of the Committee on the Judiciary. At the present time the Department of the Treasury is consulting with the members of the Subcommittee on Separation of Powers and with the distinguished majority whip in an effort to draft legislation based on S. 1610 designed to broaden the scope of 42 U.S.C. 1988 without doing any damage to the ability of the IRS to collect just taxes.

I am, indeed, hopeful, that these discussions and consultations will produce a measure worthy of the support of the Congress and of the executive department, because I do believe virtually all of us now see the necessity for some rectification of the serious imbalance in resources which exists between the Government and the average taxpayer when a question of tax liability or some related question of procedure is disputed in Federal court. Garrison Construction shows we have made progress in establishing a balance, but more work remains to be done.

I understood the distinguished Senator from South Dakota wished to offer an amendment to S. 2104 at this time, so I yield the floor.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 889

Mr. McGOVERN. Mr. President, I call up my amendment No. 889 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes amendment No. 889.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, between lines 2 and 3, insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Oil and Gas Corporation Act'.

"PURPOSE

"SEC. 202. The purpose of this title is to establish a public corporation to explore and develop all natural gas and oil resources on Federal lands to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices and to assure that the Nation's energy requirements are met without degradation to the environment.

"ESTABLISHMENT OF THE CORPORATION

"SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the 'Federal Oil and Gas Corporation' which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

"(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the Board.

"(d) Members of the Board shall be appointed for terms of seven years, except that the terms of office of the members of the Board first taking office after the date of enactment shall expire as designated by the President at the time of nomination, one at the end of the fifth year, one at the end of the sixth year, and one at the end of the seventh year after such date. A successor to a member of the Board shall be appointed in the same manner as the original member and shall have a term of office expiring seven years from the date of expiration of the term for which his predecessor was appointed.

"(e) Any member appointed to fill a vacancy in the Board occurring pior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in the Board, so long as there are two members in office, shall not impair the powers of such Board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such Board.

"(f) Each of the members of the Board shall be a citizen of the United States. His compensation shall be paid at the rate provided for level III of the Executive Schedule (5 U.S.C. 5315). Each member of the Board shall be employed on a full-time basis and in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses incurred by him in the performance of the duties vested in the Board by this title. No member of the Board shall, during his continuance in office, be engaged in any other business.

"(g) No Director shall have a financial interest in any corporation engaged in the business of distributing and selling natural gas or oil to the public nor in any corporation engaged in the business of natural gas or oil exploration, development, transportation, or use, nor shall any Director have any interest in any business which may be affected by the activities of the Corporation.

"(h) The Board shall direct the exercise of all the powers of the Corporation.

"(i) Each member of the Board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this title.

"(j) Any member of the Board may be removed from office for cause at any time by joint resolution of the Senate and the House of Representatives. No member of the Board shall within one year after leaving office receive compensation directly or indirectly from any private source for activities directly related to the Corporation and further to assure the equity of this restriction and to assure the independence of the Board, the departing member's compensation shall be continued for one year at the same level as existed at the end of his term.

"(k) Any member of the Board who is found by the President of the United States to be in violation of any provision of this title shall be removed from office by the President of the United States.

"OFFICERS AND EMPLOYEES OF CORPORATION

"SEC. 204. (a) The Board may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates), define their duties, and require bonds of such of them as the Board may designate. Any appointee of the Board may be removed in the discretion of the Board. No officer or employee of the Corporation may receive a salary in excess of that received by the members of the Board.

"(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the Corporation is a party shall be considered a contract to which the United States is a party. The Board shall not enter into any such contract without first obtaining assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts.

"(2) If work, which if let by contract would be subject to paragraph (1) of this subsection, is done directly by the Corporation, the prevailing rare of wages shall be paid in the same manner as though such work had been let by contract. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employees and employers

"(c) Insofar as applicable, the benefits of chapter 81 of title 5, United States Code, shall extend to persons given employment under the provisions of this title.

"(d) In the appointment of officials and the selection of employees for the Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

"CORPORATE POWERS GENERALLY

"SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may sue and be sued in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal bylaws;

"(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropirate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal, State, foreign, or private lands: *Provided*, That exploration on State lands shall be in accord with leasing or other State land disposition or utilization program;

"(9) shall have the power to develop and sell natural gas or oil discovered by exploration, or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources, as herein authorized;

"(10) shall have the power to explore, develop, acquire, or sell natural gas and oil alone or on a joint or cooperative basis with any private or other public entity or entities: *Provided*, That no joint or cooperative basis is authorized if there is any likelihood that exploration, development, acquisition, or sale jointly or cooperatively with another entity or entities may adversely affect competition, restrain trade, further monopolization, or violate the spirit or content of any Federal statute respecting trade or commerce;

"(11) shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own, and operate research, testing, or demonstration facilities, alone or on a joint or cooperative basis with private or other public entities;

"(12) shall have the power to build, lease, purchase, or otherwise obtain and operate facilities necessary for the sale, purchase, transportation, or delivery of natural gas or oil except no facility may be constructed or operated unless such facility meets and com-

plies with all of the requirements of any Federal statute relating to environmental quality, or any regulation issued under such statute, including those aspects of life and objectives which are delineated in section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect; and

"(13) shall have the power to sell commerically valuable minerals which may be mined or extracted or discarded incidental to the production of natural gas or oil on Federal lands.

"(b) In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"(1) The exclusive use, possession, and control of all property to be acquired by such Corporation in its own name or in the name of the United States of America are entrusted to such Corporation for the purposes of this title.

"(2) The President of the United States may provide for the transfer to such Corporation of the use, possession, and control of such other Federal land or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such Corporation.

"(c) The Corporation shall maintain its principal office at a place determined by it.

"(d) Section 101 of the Government Corporation Control Act is amended by inserting 'Federal Oil and Gas Corporation;' after 'Tennessee Valley Authority;'.

"(e) The Corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts, or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States.

"TRANSMISSION PIPELINES

"SEC. 206. In order to place the Corporation upon a proper basis for the sale of oil and gas products on Federal lands, it may, either with funds appropriated by Congress or from funds secured from the sale of such oil and gas, or from funds secured by the sale of bonds construct, lease, purchase, or authorize the construction of transmission pipelines within transmission distance from the place where such oil and gas is produced and to interconnect with other systems. The Board may lease to any person the use of any transmission pipeline owned and operated by the Corporation, but no such lease shall be made that in any way interferes with the use of such transmission pipeline by the Board.

"OBLIGATIONS

"SEC. 207. (a) The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations (hereinafter collectively referred to as 'obligations').

"(b) Payment of principal and interest on obligations issued by the Corporation under this section is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. The Corporation may also incur debt not guaranteed by the United States. Proceeds realized by the Corporation from issuance of its obligations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

"(c) Obligations issued by the Corporation under this section may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board.

"(d) At least thirty days before selling any issue of obligations other than obligations having a maturity of less than one year, the Board shall so advise the Secretary of the Treasury in the greatest possible detail, including the amount, proposed date of sale, maturities, terms and conditions of and the expected rate of interest on such issue. If the Secretary of the Treasury so requests, representatives of the Corporation shall consult with him or his designee with respect to the proposed issue: *Provided*. That the issuance and sale of obligations of the Corporation is not subject to approval by the Secretary of the Treasury. If the Corporation determines that a proposed issue of obligations cannot be sold on reasonable terms, it may issue interim obligations to the Secretary of the Treasury, which such Secretary is authorized to purchase. Such interim obligations of the Corporation issued to the Secretary of the Treasury shall mature on or before one year from the date of issuance. Such obligations shall bear interest at a rate of no less than the current average yield on outstanding marketable securities or obligations of the United States of comparable maturity, as determined by the Secretary of the Treasury. For the purpose of any purchase of obligations of the Corporation, and to enable him to carry out the responsibility relating to guarantees of obligations made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this section. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

"(e) The Board may—

"(1) sell its obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

"(2) designate trustees, registrars, and paying agents in connection with obligations of the Corporation and the issuance thereof;

"(3) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms in addition to audits and reports required by the Government Corporation Control Act;

"(4) invest, subject to any covenants contained in any obligation contract, the proceeds of any obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and

"(5) perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section.

"(f) Obligations of the Corporation issued under this section shall contain a recital to that effect which shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and valid. Obligations of the Corporation issued under this section shall be lawful investments and may be accepted as security for all fiduciary trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States and shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to obligations guaranteed under this section.

"(g) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee under this section.

"(h) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

"MISCELLANEOUS PROVISIONS

"SEC. 208. (a) The Corporation may request the right to develop natural gas or oil which is or may be located on any Federal lands, including offshore rights, to the extent necessary to carry out its authorized activities: *Provided*, That the Corporation shall not request or be granted more than 10 per centum of such rights as are offered at that time for sale or lease to other qualified persons.

"(b) Except as provided in subsection (c) of this section, any Federal agency or department having authority to lease, sell, or otherwise dispose of Federal lands or rights to natural gas or oil which is or may be located on Federal lands, including offshore rights, shall, upon the receipt of a request of the Corporation under subsection (a) of this section, grant the Corporation such right to develop without payment within ninety days after the receipt of such request. Rights to develop under this subsection shall not be subject to any other Federal statute or regulation governing the lease, sale, or other disposition of any such lands or rights by any Federal agency or department.

"(c) Notwithstanding the provisions of section 644 of title 10, United States Code, the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation in accordance with this subsection. Within one year after the date of incorporation of the Corporation, the Secretary of Defense shall prepare and submit to the President a report which specifies the petroleum and oil shale reserves which he finds are necessary for retention to accomplish the purposes of such section 644. Within six months after receiving such report, the President shall designate those petroleum and oil shale reserves which are necessary for retention under such section. Such properties may not be transferred to the Corporation, except on such terms and conditions as may be set by the President.

"(d) The provision of this section shall not apply to any Federal lands or rights within any national park, forest, wilderness, seashore, monument, or wildlife refuge area, or to any lands held by the United States in trust for any Indian or Indian tribe.

"(e) All rights granted and properties transferred to the Corporation shall be explored, developed, and produced in the most rapid manner practicable without excessive risk of losses in recovery in accordance with the purposes of this title and subject to the authorized powers and limi-

tations of the Corporation under section 203 of this title.

"LEASES

"SEC. 209. (a) The Corporation shall build, lease, or purchase refining facilities for the crude oil it produces or otherwise obtains only if it is unable to make sales of such oil in a manner which will promote competition among suppliers of crude oil.

"(b) The Corporation shall build, lease, or purchase transportation facilities for the natural gas or oil it produces or otherwise obtains only if it is unable to arrange for delivery of such natural gas or oil in a manner which will promote competition among suppliers of natural gas or oil.

"SALES OF NATURAL GAS

"SEC. 210. (a) Sales of natural gas or oil by the Corporation shall be made at fair and reasonable prices designed to promote competition among suppliers of these energy resources.

"(b) Sales and transportation of natural gas or oil by the Corporation shall be subject to the jurisdiction of the Commission to the same extent and subject to the same requirements as sales and transportation of these energy resources by other suppliers.

"(c) In selling natural gas or oil, the Corporation shall give price, supply, or delivery preference to States, political subdivisions of States, and independent refiners.

"TAXATION

"SEC. 211. Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount to such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

"ROYALTY

"SEC. 212. (a) The Corporation shall make available, by license or otherwise, on a nonexclusive basis, upon payment of a reasonable royalty, and without territorial limitation, the use of any patent, trade secret, and copyrighted or other information obtained or developed by the Corporation in the performance of any of its activities under this section.

"(b) Copies of any written or oral communication, document, intelligence, report, or other information received, prepared, or sent by the Corporation or any of its personnel and, in the case of oral communications, reduced to writing in whole or in summary, shall be made available to any interested person upon receipt of a specific and identifiable request in writing, except that nothing in this subsection shall be deemed to require the release of any information required by law to be kept secret in the interest of the national defense or foreign policy; personnel and medical files and similar files the disclosure of which would constitute an unwarranted invasion of personal privacy; or information pertinent to a pending negotiation or transaction until the completion thereof.

"STATE AND LOCAL STATUTES

"SEC. 213. Except for compliance with Federal statutes which may be administered by the States, the Corporation shall be exempt from State and local statutes or controls which would impede, affect its ability to perform the activities authorized by this title: *Provided*, That the Corporation shall submit a prior report, together with reasons therefor, to the Congress with respect to each incident of noncompliance with any State or local statute or control.

"ENVIRONMENTAL IMPACTS

"SEC. 214. (a) It shall be the objective of the Corporation to prevent all adverse environmental impacts associated with the activities of the Corporation which will likely impose an unacceptable cumulative burden of pollution or degradation upon the natural resources of the vicinity and the region.

"(b) In exploring and developing natural gas or oil resources and in the construction and operation of any production or transmission facility, the Corporation shall administer such programs so as to promote the conservation of lands and other natural resources, to preserve and enhance the environment, to maintain ecological balances, to protect the public health, safety, and welfare, and to restore and rehabilitate, as far as practicable, any lands from which natural gas and oil resources have been taken and which will no longer be needed by the Corporation for such use.

"(c) The Corporation shall treat all decisions regarding the siting and design of any facility which may be constructed under this title as a significant aspect of land use planning in which all environmental, social, economic, and technical issues with respect to such facility should be resolved in an integrated fashion. In the resolution of these possible competing demands, the Corporation shall give all possible weight to the protection of the environment and full compliance with all applicable Federal laws and regulations.

"(d) To guide the Corporation in its consideration of the factors listed in subsections (b) and (c) of this section, the President shall appoint an environmental advisory committee (hereafter referred to as the "committee") consisting of ten members who may each serve for a period of no more than five years on a staggered basis and having equal representation from:

"(1) public interest and environmental groups having a regional or national scope; and

"(2) Federal agencies, including the Environmental Protection Agency and the Energy Research and Development Administration.

"(e) Members of the advisory committee who are not Federal employees shall receive adequate per diem compensation for days spent in actual performance of duties for the committee, not to exceed $100 per day, and shall be reimbursed by the Corporation for actual expenses in the performance of such duties, including costs of travel for necessary inspection of sites. In addition, the Corporation shall provide the committee with an adequate staff.

"(f) Prior to the initiation of any program of exploration or the construction of any major facility under this title, the Corporation shall prepare with the approval of the committee an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969. After adequate public notice, the Corporation shall make the impact statement available to all interested agencies and to the general public and shall hold such public hearings in places convenient to the area affected and shall allow interested persons to submit comments on the statement.

"ANNUAL REPORT

"SEC. 215. (a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of incorporation, and thereafter on February 1 of each year, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of such annual report, the Corporation shall submit a statement of the amount of financial assistance needed, if any, for its operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. The Corporation shall make this annual report readily available to the public.

"(b)(1) The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the Chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the use of the Congress.

"(2) Such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer such errors, and to file a statement which shall be submitted by the Comptroller General with his report. Nothing in this title shall relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236 of the Revised Statutes (31 U.S.C. 71) and accounts of all receipts and disbursements by or for the Corporation shall be rendered accordingly.

"OFFENSES; FINE AND PUNISHMENT

"SEC. 216. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporation.

"(b) Any person who, with intent to defraud the Corporation, or to deceive any Director, officer, or employee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"CONDEMNATION PROCEEDINGS

"SEC. 217. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity which, in the opinion of the Corporation, are necessary to carry out the provisions of this title. The proceedings shall be instituted in the United States district court for the district in which the land, easement, rights-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences

provided by the first section and sections 2 and 4 of the Act entitled 'An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain', approved February 26, 1931 (46 Stat. 1421).

"SEVERABILITY

"SEC. 218. If any provision of this title or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

"AUTHORIZATION OF APPROPRIATION

"SEC. 219. (a) All appropriations necessary to the Corporation for each fiscal year to carry out the provisions of this title are hereby authorized.

"(b) When the annual revenues of the Corporation exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for Corporation activities, the Corporation shall pay its remaining funds to the United States.

"REVIEW

"SEC. 220. On or before January 15, 1982, the President shall prepare and submit to the Congress a comprehensive review, in accordance with the provisions of sections 1001 and 1002 of the Department of Energy Organization Act, of the provisions of this title."

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. WALLOP: Rob Wallace; Mr. MCGOVERN: Paul Skravel and John Holum; Mr. DOMENICI: Darla West and Charles Gentry; Mr. CHAFEE: Nancy Barrow.

Mr. MCGOVERN. Mr. President, just to identify this matter for the benefit of Senators present, it has been referred to as a "yardstick amendment."

In brief, what the amendment would do would be to create a small government gas and oil corporation, not for the purpose of nationalizing the energy industry in this country, but, quite the contrary, to provide a public yardstick by which we can measure accurately what it costs to produce gas and oil, to bring it to production, and to market it.

To avoid any fear that this is an effort to take over the production of gas by Government ownership and production, the amendment would limit to 10 percent those reserves that could be developed under public direction, even though the Government owns vast quantities of gas and oil that belong to all of the American people. This amendment's purpose is not to nationalize the production of those energy resources, but, along the lines of the Tennessee Valley Authority, which provided a useful yardstick in determining the cost of the development and marketing of hydroelectric power, this amendment would provide the same authority with regard to gas and oil; and, as I have indicated, would be limited to 10 percent of the reserves available to the Government.

Mr. President, as debate continues over the nature of the energy crisis and our possible responses to it, there are at least two questions that remain at the forefront, that are unanswered. One of those is the question of how much oil and gas there is yet to be developed. As Senators know, who have been following this debate in recent days and at earlier times, that is a question that is wide open. You can get as many opinions on that question as there are experts.

The second question is, What will it cost to produce the oil and gas? Here again, as we were reminded just a few minutes ago in the remarks of the Senator from Ohio (Mr. METZENBAUM), when this question of cost determination was directed to the Federal Energy Administrator, he said it might be 3 or 4 years before they really had accurate cost estimates in hand.

So these questions remain unanswered, and I think in part they remain unanswered because the information used in preparation of the analysis is suspect. It is suspect because the statistics are supplied by parties with a vested interest in generating the right kind of answers: namely, those answers that best serve their purposes, answers which may be tailored to serve predetermined objectives. In the case now before us, the oil and gas industry supplies the economic data which are used to determine or to estimate the remaining reserves of gas and oil, as well as information concerning the cost of production. We are pretty much dependent on what the industry is willing to tell us with regard both to the extent of reserves and also to what the cost factors are.

Yet this statistical base supplied by industry must then be used by various Government agencies to determine what is a fair price level, which will serve as adequate incentive to bring forth new gas and oil. If the numbers indicate that it would be more expensive to bring new gas and oil on line, then, of course, prices would have to rise to provide the necessary incentives. I think it is obvious to any fair-minded person that it would be tempting if not irresistible for those providing the underlying data to shade it, at least, in some way that best served their interests. Thus the numbers, at least in some quarters, are suspect. Presently there is little that one can do to dispel the suspicion. That is why I offer this so-called yardstick amendment at this time.

The amendment would establish a public corporation with the authority to explore and develop natural gas and oil resources on Federal lands. In the process of its operation, this corporation would generate independent economic data—independent data, data which could then be used to determine how much gas and oil remains to develop, and at what cost. It would then be possible to compare the numbers generated by the oil and gas companies to those provided by the public corporation called for in this amendment.

Mr. President, let me just say this: If I were the chairman of the board of one of our large energy companies, and I had nothing to hide, I would urge support for this amendment as a further means of building public confidence in the estimates provided by my company. It would provide a means of removing the widespread suspicions surrounding the current system of estimating reserves and costs.

I am frankly not in any position, Mr. President, to say that we are being given dishonest information with regard to reserves or with regard to cost factors, but I think we are in a position to say that we really do not know whether the data being furnished to us by the private corporations are accurate; and this amendment would provide a further measuring rod to make that determination. A corporation board or executive, confident of their estimates, should further recommend the comparison and be eager to show how their company and the whole oil and gas industry measure up to the yardstick of a public corporation.

As the sponsor of the amendment, I would like to anticipate some of the questions and perhaps some of the charges that may be raised against it. I think Senators know that this is not a new proposal; it is one that has been considered at various times when we have discussed energy matters. Based on the previous questions that have been raised, and others one could anticipate, I would like to consider what some of those possible objections might be, and then at least briefly attempt to respond to them.

First, there doubtless will be those who will insist that this will be the first step in the nationalization of the domestic energy industry. While it is indeed true that it is impossible to know what will happen in the next Congress or in Congresses 10 to 20 years down the road, and therefore no one could give any absolute assurance that we will not one day consider the nationalization of the energy industry, that is not the purpose of this amendment.

Certainly, nationalization is not a step that would be taken lightly or without considerable thought and study. I cannot conceive of this Congress registering a strong vote in that direction.

While it is difficult to predict what the future holds, the involvement of this limited public corporation in the domestic energy industry does not present any such threat. The terms of the amendment would limit it to not more than 10 percent of such oil and gas rights as are offered at the time for sale or lease to other qualified persons.

I reiterate, the intent of this amendment is to provide us with a yardstick by which the performance of private industry can be judged. It is not an effort to get a foot in the door toward nationalization.

I might just say parenthetically, Mr. President, that one of the problems, very frankly, that the private oil and gas industry has in this country is the widespread public suspicion about its fairness and about the cost factors it submits by which the price is determined. As I said earlier, this ought to be a way of increasing public confidence, not destroying public confidence, in the way we set oil and gas prices in the United States.

Second, others may express the fear that public agencies, public corporations, bureaucracies, whatever, will grow beyond their intended size. I would simply point out, Mr. President, that we have the means to control such growth if we

choose to do so, and this corporation would be subject to all of the traditional controls available to the Congress. It would be subject to new legislation; it would be subject to the power of the purse; it would be subject, and should be, to oversight hearings, and it would be subject to the General Accounting Office and other restraints the Congress sees fit to deal with a public or quasi-public corporation of this kind.

In addition, the amendment would subject the corporation to a comprehensive review by the President, who would then prepare a report which would be submitted to the Congress for its consideration.

Third, some may say that while this sounds like a reasonable idea, it is not, in practice, feasible. That is, can a Federal oil and gas corporation successfully enter into the highly developed and sophisticated energy industry?

It has been pointed out that the key considerations here are: Can the corporation attract qualified personnel against the rival claims of private industry? Can it obtain sufficient capital? Can it establish a satisfactory market?

While one must, before the fact, of course, be content to answer those questions based on reasoning rather than actual proof, it can be said that the history of the Tennessee Valley Authority suggests that affirmative answers are possible; that it is possible, based upon the history of TVA, for an agency of that kind to recruit and maintain competent personnel; that it can be operated efficiently; that it can be operated competitively; that it can serve the public interest in providing a public measuring rod against which we have some test as to the reasonableness of the cost factors given to us by a purely private operation of the energy industry.

Fourth, the whole point of creating this public corporation is to act as a yardstick against which private companies can be measured. That being the case, will this corporation operate under conditions which are sufficiently similar to those of the private companies so that the yardstick has some meaning? I think that is a legitimate question and one which needs to be addressed.

While it is true that the two environments would not be identical—for example, the public corporation would not pay Federal taxes; its capital costs will be different; environmental safeguards may be given greater prominence in the public corporation, and so forth, all of these factors would be present—it is likely that they will be sufficiently similar to provide at least some rough comparison.

There would be ways of comparing cost factors, taking into consideration these different factors I have just mentioned. Those comparisons could be very useful at least in making general judgments about the performance of the private companies. At least, it would be one further indication which is not now present to us as to whether the cost figures being supplied by private energy are reasonable or not.

In a 1974 congressional research service study of the feasibility of a public energy corporation, it was concluded:

> The evidence suggests that a Federal oil and gas corporation would certainly be economically viable. There is no reason why it could not run at a high level of technical competence and general efficiency.

Mr. President, if anything has changed in the intervening years since 1974, it is the even greater urgency of the need for reliable information which could be provided by such a public corporation. If we are to provide the answers to the two questions at the forefront of our energy debate, the question of what our reserves are and what the cost factors are, and if these answers are to be free of the suspicion of being self-serving, then it seems to me the acceptance of this yardstick amendment is in the public interest, and I hope very much the Senate will see fit to adopt it.

Mr. President, this week I sent a letter to all of my colleagues in the Senate, setting forth the purposes of this amendment. I would like to briefly summarize this letter because I believe it does present a succinct statement Senators may wish to look at in getting a quick overview of what the amendment does.

Many of the key features of the major bill now before us, to which this amendment is offered as an amendment, call upon the President to calculate a variety of prices for new natural gas. In part, under the language of the bill, S. 2104, now before us, the President is called upon to calculate the Btu-related price for natural gas.

He is asked to calculate the maximum lawful price for new natural gas.

He is called upon to set a special incentive price for high-cost natural gas, and to calculate a price ceiling in the event of extraordinary supply and demand conditions.

Mr. President, to accurately calculate such prices requires intimate knowledge of underlying economic data, data which is in addition to but independent of that provided by the energy companies themselves. That, if seems to me, make the case for the yardstick amendment. That amendment establishing a public corporation with limited authority to explore and develop natural gas and oil resources on Federal lands seems to me to be the most reasonable way to get at this question of the independent data that we need to have to make these other calculations called for in S. 2104. I hope very much that the Senators will look at the terms of this amendment and see it as a reasonable effort not to subvert the private development and marketing of energy in this field, but to make that private operation more responsive to the public need and also to build the degree of public confidence that is going to be necessary to make workable the responsibilities that this legislation places on the President to develop a rational system of pricing for natural gas and other energy resources.

Mr. President, I yield the floor.

Mr. ALLEN. Will the Senator yield?

Mr. McGOVERN. Yes, I yield to the Senator from Alabama.

Mr. ALLEN. There are a number of Senators, as the distinguished Senator knows, who are interested in this bill and will be interested in this amendment, who are not present at this time because they are conferring elsewhere in an effort to expedite consideration of amendments and of the bill. So, in their absence, I might ask a few additional questions to elicit as much information as we can about this amendment which the Senator has before us.

Mr. McGOVERN. I shall be happy to respond to the Senator. I also think that, in view of what the Senator just said, it might be useful to defer a vote on this until a later time. I would be perfectly happy to make that kind of arrangement.

Mr. ALLEN. I appreciate the Senator's saying that because I would—and I know the Senator would—in deference to the absent Senators, not wish the amendment to come to a vote.

Mr. McGOVERN. As I say to the Senator, I even prefer that it not come to a vote today because I think if Senators have a chance of studying it overnight, we shall have a much better chance of passing it with a resounding margin.

Mr. ALLEN. I am not sure that, no matter how much time they have to study the amendment, they will come around to the view of supporting it. Nevertheless, I would like to find out a little more about the amendment.

What would be the taxpayers' investment in this public corporation? What would be the authorized capitalization, shall we say?

Mr. McGOVERN. The bill does not establish that figure, I say to the Senator. It is an effort to get the concept adopted in this legislation to authorize such a corporation. But it does not attempt to set cost figures.

Mr. ALLEN. Would that mean that such amount as Congress might appropriate would be authorized under the amendment?

Mr. McGOVERN. That is the intent.

Mr. ALLEN. Would it run $1 billion, $2 billion, $5 billion? What would be the Senator's best judgment?

Mr. McGOVERN. The limiting factor in the legislation is that in no case could this corporation be involved in the development of more than 10 percent of the available oil and gas being offered to other bidders.

What I am trying to establish in this amendment is the authority for such a corporation to be created. I realize that Congress would then, at a later date, have to approve of this concept and have to set a limit of how much we want to invest in it and how far we want to carry the principle. It is designed to carry the principle of a public yardstick. That would then later have to be evaluated in terms of how much we want to invest in carrying out that concept.

Mr. ALLEN. Would a ballpark figure be somewhere in the neighborhood of $5 billion?

Mr. McGOVERN. I would not want to make an estimate on it at this point.

Mr. ALLEN. Would the corporation be limited to exploration and production of oil and gas on Federal lands?

Mr. McGOVERN. That is correct.

Mr. ALLEN. After exploration and development and production of oil or gas, what disposition, then, would be made of the oil or gas?

Mr. McGOVERN. Will the Senator repeat that?

Mr. ALLEN. What disposition would be made of the oil or gas that might be explored for and produced?

Mr. McGOVERN. Up to the 10 percent level that the corporation is authorized to develop, it could be sold in the private market.

Mr. ALLEN. Would it entail, then——

Mr. McGOVERN. Let me say to the Senator, perhaps the best analogy I can give him as to how it would work would by the Tennessee Valley Authority. I would not envision that this is anything like that size an operation, but that is the principle. In the same sense that the Tennessee Valley Authority has been authorized by Congress to market a certain amount of hydroelectric energy, this corporation would be permitted, on Government-owned lands and reserves, to develop up to 10 percent of those reserves for marketing in normal commercial channels.

Mr. ALLEN. Would it be necessary to build pipelines to get the oil to market?

Mr. McGOVERN. It might be in some cases. The corporation presumably would have the same authority to do that that a private corporation would have. It would not be given special privileges that are not available to other corporations, because the purpose is to determine costs of exploration, production, and distribution. The Government corporation would be tailored, insofar as we could do it, to give us an accurate measuring rod to determine what these costs really are.

I want to stress to the Senator that, while this is sometimes a charge that is made against a proposal like this, it is not designed as an opening wedge to take over the energy industry of this country, but, rather, to provide the kinds of data that I think are now being challenged by a great many people.

We really do not know whether the data we are now being given by the major oil companies as to what it costs them to produce energy are reliable or not. While a public corporation of this kind is not going to give us absolute proof, it would give us one further indication by which we could measure the private estimates that we are now being given.

Mr. ALLEN. Could this yardstick, then, work both ways? There would be figures on the production costs—and I assume a provision for taxes which the corporation would not have to pay, but which private enterprise would have to pay—and then return on the investment.

Mr. McGOVERN. We would have to factor that in.

Mr. ALLEN. If those figures showed that such regulated figure at which oil or gas might be sold was too low, would it be the Senator's notion that, based on these yardstick figures, Congress then should enact legislation raising these ceilings?

Mr. McGOVERN. Absolutely.

Mr. ALLEN. So it would work both ways?

Mr. McGOVERN. Absolutely. It is the only fair way to do it. I would have to say, as one who does not claim to be an expert on the oil industry, that I really do not know whether these cost estimates that we are being given by the major oil companies are right or not. They may very well be. As the Senator has indicated, it is conceivable that they may be too low. I do not think that is the case, but if it turns out, after a reasonable test by the kind of public yardstick I have suggested here, that the cost factors are even higher than we have been led to believe, I would say it ought to work both ways.

Mr. ALLEN. Does the Senator think that the areas in which Government corporations have entered and established such a record of performance on the part of Government activity have been so good as to encourage one to think that this public corporation for exploring for and developing oil and gas would be better than the experience we have had with other intrusions by the Government into the area of private enterprise?

Mr. McGOVERN. I think it depends on the quality of the people that we would bring in to staff such a corporation.

Sometimes those things have worked well, sometimes they have not.

I do not think the corporation we set up a few years ago has been a great success. I would say on the other side that I do not think private enterprise has done a very good job of running the Penn Central Railway or the Lockheed Aircraft Corp.

So these things depend a lot on the personnel we get, whether it is in the private sector or the public sector.

The Tennessee Valley Authority, by a contrast, which I had the privilege to visit and look at firsthand, and I have come to know some of the men and women who work in that agency, I think has been run rather well.

Mr. ALLEN. I agree on that Tennessee Valley Authority.

Mr. McGOVERN. I think if we could use that as a kind of model of the way we staff up a Government gas and oil corporation, take some of the lessons we have learned in TVA which, as the Senator knows, has attracted the respect of people from all over the world, it is one of the great engineering and technological wonders of the United States, they come from all over the world to see it. If we can take that as a standard by which to measure the quality of the staff and the directors and the way we structure a gas and electric corporation, I would feel the chances are pretty good and we could maintain an efficient operation.

Mr. ALLEN. Of course, the Senator realizes the Tennessee Valley Authority does a whole lot more than produce power. They have flood control, navigation, and recreation facilities.

Mr. McGOVERN. Yes.

Mr. ALLEN. And reclamation of land. It does a whole lot more than merely provide electric power.

Mr. McGOVERN. I did not think the Senator would want me to get this Government oil corporation into too many different activities, so I have limited it.

Mr. ALLEN. I just wonder if it needs to get into any activity at all. I am not worried about how many, just about whether it ought to get into one.

But I do appreciate the information the Senator has given us on this subject. I am sure there will be other Senators who wish to question the distinguished Senator, or else make independent comments. But due to the absence of the Senators who are most interested in managing the bill, unless someone else wishes to question the Senator, I want to suggest the absence of a quorum.

Mr. SPARKMAN. Will the Senator withhold that?

Mr. ALLEN. Yes, I will.

Mr. SPARKMAN. I have listened to this with a great deal of interest and listened to the comparison or contrast, whichever it might be, with the TVA.

I live in the TVA area, as does my colleague.

Of course, the TVA, as the Senator has recognized, goes far beyond in public service, I think, than the proposed corporation would go.

But what about the matter of taxation? Would it pay taxes to the Federal Government in the area it represents?

Mr. McGOVERN. As it is presently structured, it would not. As I tried to explain earlier, if we were using this corporation as a yardstick, which is its purpose, we would have to factor in the tax cost as one of those things that would have to be an add-on in terms of figuring what private industry should be entitled to.

I think that while the corporation would not operate tax free, its prices ought to take into consideration, so that it does not have an unfair competitive advantage, what would be a price factor sufficient to allow for taxes to the Federal Government.

But I do not think it would make sense to the Federal Government to tax its own entity, its own Federal entity.

TVA, for example, does not pay any Federal taxes.

Mr. SPARKMAN. As a matter of fact, when the TVA was just beginning, I was a Member of the House of Representatives and I was a member of the Military Affairs Committee which at that time had jurisdiction over TVA because it began as an offspring of the Federal operation there in the Muscle Shoals District. Wilson Dam was really the beginning of it.

I sponsored a bill as a member of that committee. First of all, it authorized TVA to issue bonds. But we also dealt with the matter of taxation. It was decided that the TVA would pay taxes—I cannot say the basis on which they would pay it—to the States in the area.

I was the author of that bill.

Mr. McGOVERN. Would that be an income tax, or a tax on——

Mr. ALLEN. A payment in lieu of taxes.

Mr. SPARKMAN. In lieu of taxes.

Just a few days ago, this article appeared in the paper:

> TVA's payments in lieu of taxes to be $68 million in this fiscal year.

The fiscal year that this applied to.

Mr. McGOVERN. I just have been advised here by counsel that while I answered the question correctly, that the corporation would not pay Federal taxes, it does in fact follow the TVA formula in requiring it to make payments to the States in lieu of taxes.

Mr. SPARKMAN. In the area in which it operates.

Mr. McGOVERN. The same formula as in the TVA system.

Mr. SPARKMAN. I am pleased to hear that because I think this has been a real constructive action that was taken back in the early days of the TVA.

As I say, it appeared in the press just a few days ago that the Tennessee Valley Authority's payments to State and local governments in lieu of taxes this year will be $20 million more than fiscal 1976, and in the headline it says that it will pay $68 million in lieu of taxes during the present fiscal year.

Mr. McGOVERN. I am glad the Senator pointed that out because, as I say, we did make some effort in discussing the amendment to profit from the lessons of the TVA experience, and the formula is the same in the amendment.

Mr. SPARKMAN. I am pleased to hear that.

Mr. ALLEN. I say to my distinguished colleague that TVA pays to the Federal Government a large amount each year—in the tens of millions of dollars—on the Government's capital investment in the Tennessee Valley Authority.

So they are paying the money back.

Mr. SPARKMAN. The Senator is correct, and that was a part of that bond issue.

Mr. ALLEN. Yes. Of course, the bond issue is private capital investing in TVA.

But aside from that, TVA each year makes a payment to the U.S. Treasury as interest on the Government's capital investment in the Tennessee Valley Authority.

Mr. SPARKMAN. That is the point I was going to make. Not called an income tax, but it is a payment in lieu of taxes.

Mr. ALLEN. Yes, it is.

Mr. SPARKMAN. Based on the financing, individually, of the project.

Mr. ALLEN. That is correct.

Mr. SPARKMAN. And in addition to that, it pays in the present fiscal year $68 million to State and local governments.

Mr. ALLEN. That is correct.

Mr. McGOVERN. On that point, if the Senator will yield here again, there is a similar provision that if the sale of oil and gas in the Government corporation goes beyond cost, which it is expected it would, anything above cost would revert back to the Government.

Mr. SPARKMAN. I may say further in this connection, the States to which it pays taxes are listed.

In our own State of Alabama, 2 years are given, and this year's figures are $16,362,231 to the State of Alabama. It goes on and names the various States.

If the Senator will permit, I would like this news item to be printed in the RECORD.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the item that the Senator from Alabama referred to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TVA's PAYMENTS IN LIEU OF TAXES TO BE $68 MILLION IN FISCAL YEAR

KNOXVILLE, TENN.—The Tennessee Valley Authority's payments to state and local governments in lieu of taxes this year will be $20 million more than fiscal 1976.

The agency's Division of Navigation Development and Regional Studies said Thursday the payments to states, counties and cities will total more than $68 million by Sept. 30, when the federal fiscal year ends.

Since TVA is a federal agency, state and local governments cannot levy taxes against it. However, the in-lieu-of-tax payments make it the single largest taxpayer in Tennessee and one of the largest in Alabama.

As required by law, the payments represent five percent of the government utility's power revenues for the previous year, excluding sales to government and military installations.

Spokesman Lee Sheppeard said more than another $40 million in taxes and tax equivalents will be paid to state and local governments by municipal and cooperative electric systems that distribute TVA power.

Except for Alabama, Virginia and Illinois, all or part of the amount the states receive from TVA is redistributed to counties and cities. Local governments also will get most of the $40 million paid by local electric systems.

The payments are divided among the states under a formula that takes into consideration revenues from customers and the value of property in each state. They are made monthly on a preliminary basis.

The payment for each state, with this year's figures listed first and fiscal 1976 amounts second, are:

Alabama $16,362,231–$11,437,335; Georgia $657,812–$473,934; Illinois $10,000–$10,000; Kentucky $5,375,000–$4,280,790; Mississippi $2,953,407–$2,059,883; North Carolina $373,337–$300,756; South Dakota $35,376–$35,376; Tennessee $42,155,388–$29,591,935; Virginia $256,808–$179,632.

Mr. SPARKMAN. I thank the Senator.

Mr. McGOVERN. I thank the Senator from Alabama.

Mr. ALLEN. Mr. President, the distinguished majority leader was anxious that no action be taken on the bill or any of the amendments until the conference between the managers of the bill and those interested in some phase of the bill had concluded and those Senators had returned to the Chamber.

RECESS UNTIL 5:15 P.M.

At this time, I take the liberty of asking unanimous consent that the Senate stand in recess until 5:15 this afternoon.

The PRESIDING OFFICER (Mr. MATSUNAGA). Is there objection?

There being no objection, the Senate, at 5:01 p.m., recessed until 5:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATSUNAGA).

The PRESIDING OFFICER. The Senator from Alabama.

RESIGNATION OF BERT LANCE

Mr. ALLEN. Mr. President, the President of the United States has just announced the resignation of the Honorable Bert Lance as the Director of the Office of Management and Budget and, further, that he, as President, has accepted his resignation.

I personally hate to see Mr. Lance retire from this position. I think it is significant that not one single word of criticism has been leveled at Mr. Lance's record as Director of the Office of Management and Budget. Apparently he has done an outstanding job in that position.

I heard him testify at the hearings that all of the work of the department was up to date. In spite of his many difficulties and handicaps under which he was working, the work of the Office of Management and Budget had not been neglected, and there is no statement of any sort that he had not done an outstanding job.

Back last Wednesday, I believe, here on the floor of the Senate I stated if Mr. Lance had done nothing other than to encourage the President to drop his $50 rebate earlier this year, he would have justified his being named Director of OMB.

I think, too, Mr. Lance was and is the architect of the President's balanced budget by fiscal year 1981 goal, and I feel that Mr. Lance represents, despite his personal financial dealings, a demand for fiscal sanity and fiscal conservatism in the operation of our Federal Government.

I do not know where the Government is going to be headed with Mr. Lance absent from this position. I believe the course he was directing in his capacity as Director of OMB was one toward fiscal responsibility, fiscal sanity, and movement in the direction of a balanced budget. All of us admired the goal of a balanced Federal budget, although few of us felt there was much chance of that being achieved in the near future. But I am hopeful the President will name someone equally as sound as Bert Lance to this position.

I regard Mr. Lance as a honorable man, an able man, a man of high principles, and I think it is entirely possible that a person can be somewhat lax in his personal financial management and still demand on the part of the Government strict adherence to the best principles of fiscal management.

There was much support throughout the country and in Congress for a retention of Mr. Lance. Some of us felt that the demand for Mr. Lance being given a hearing and then that he resign was somewhat like the frontier justice of old where the vigilantes would say that, "We are going to give this horse thief a fair trial and then we are going to hang him." So it looked like that was the impression that was left. He was going to be given an opportunity to be heard and then he was going to be fired.

Apparently the decision was Mr. Lance's decision. The President did not say what he would have done had Mr. Lance not resigned, whether he would have discharged him or not.

But this is not something that gives me a great deal of comfort as I ponder the future of this administration.

I feel that Senator EAGLETON had a whole lot to be said in his favor when he said that Mr. Lance was the victim of guilt by, not association, but by accumulation, accumulation of rumors, accumulation of charges, that even if answered would not restore the confidence that had been lost as a result of these charges.

But I am apprehensive of the great power of the media to influence the course and direction of Government. I do not know who their guns will be turned on next. It will be somebody because that is what the media thrives on. Who it is going to be we will just have to wait and see.

It would have been difficult for President Carter to have retained Mr. Lance in office with the continuing charges leveled against him. There seemed to be no end to the clamor incited by the media for his scalp. Well, they have gotten his scalp. But I seriously question whether the best interest of the Government has been served by the fact that they have gotten his scalp.

I am wondering if that is going to be the fate of others in the administration. The President having caved in to the media demands, I am wondering if he can ever recover from this sad situation. If another attempt arises will he give in to the demands of the media or will he stand firm? I do not know whether this was the place to make a stand or not. I feel that it was.

But I do not believe that this is an unmixed blessing that this matter has now been resolved because it opens up more questions about the direction of our Government than have been solved by the resignation of Mr. Lance and the acceptance of his resignation by the President.

There was much support here in the Senate for the retention of Mr. Lance. The decision had to be made by the President or by Mr. Lance. Certainly in the ultimate by the President himself.

I think this is a sad day for the country and for the prospects of success in this administration. I really think that this was a testing time for the administration, whether the President was going to stand firm or not. Where we are going, I do not know. I do not believe the cause of fiscal conservatism and fiscal sanity in Government has been well served because from the impression I gained of Mr. Lance's record in office, and I am speaking of his record in office and I do not excuse or exonerate him from the practices in which he engaged—I do not say that that was not wrong—but I do say that he was doing a good job as Director of the Office of Management and Budget. He was instituting the requirement of zero-based budgeting that has a good chance of saving many billions of dollars in the operation of our Government. He was doing a good job and many of us here in the Senate hate to see him removed from office.

I am pleased that we are informed that the people of Georgia and I will say much of the Nation continue to admire and respect Bert Lance and his performance in office. This man sacrificed much.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. ALLEN. I am delighted to yield.

Mr. SPARKMAN. I want to say that I fully agree with my colleague in what he has been saying. By the way, I am sorry that our session comes at the same time that the press conference is going on, but I think it has been a remarkable job that President Carter has been performing out there, answering questions of all kinds, and I admire his standing up and defending his personal friend, his long-time friend and his selection to head up the Office of Management and Budget.

After all, that office under our setup is the President's office. I mean it is under his jurisdiction. I remember when the act was passed making these divisions. The General Acounting Office was set up as an agency of Congress. The Budget Office was the counterpart under the President. In the past they performed well and even now I think they perform well, both of them, in those respective capacities.

I just want to say that President Carter is standing by his friend, and he is doing it on sound ground, in making those pronouncements. This Senator was out watching the TV until he had to come back in here. I think it is a wonderful display, and I wish that all Senators could be seeing it.

I thank my colleague for the remarks he has made, and I join him completely in them.

Mr. ALLEN. Mr. President, I thank my distinguished senior colleague. We have not consulted on this matter, and I doubt that we had even had any conversation at all about it up to this time.

Mr. SPARKMAN. We did not mention it.

Mr. ALLEN. No, that is true.

Mr. SPARKMAN. We were sitting in there watching it, but you were in one part of the room and I was in another, and I had not mentioned it to you.

Mr. ALLEN. I am certainly pleased that our separate and independent thinking in this matter has brought us so close to the same conclusion.

Mr. SPARKMAN. By the way, I watched on TV a good part of Mr. Lance's appearance before the committee, and I felt that he put up a very fine, honest, and honorable performance, even when the attacks against him were quite heavy. They never broke him.

Mr. ALLEN. That is certainly true.

Mr. SPARKMAN. And I admire the way the man has been able to handle himself under such difficulties.

Mr. ALLEN. I thank the distinguished Senator.

Mr. President, I wonder what the comparative results of the decision to let Mr. Lance go would have been in comparison with a decision to retain him in office, whether letting him go would be more advantageous to the administration than holding him in office. Over a period of years, over the 3 to 7 years of the Carter administration remaining, I would feel, just in my own personal opinion, that to have held on to him would have portended better for the ultimate success of the administration than the decision to let him go, because this will encourage the media to attack at another point, and it will lessen the President's resolve to withstand such attacks in the future, whereas standing firm in the matter, I believe, would have greatly strengthened this administration and added to the respect of the Nation and of the Congress for the administration.

Certainly that is my own view, because I do not know of anything that the President has done that has caused me to admire him more than his holding on to Mr. Lance during the time that he did.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ALLEN. I will be delighted.

Mr. GOLDWATER. Mr. President, I have listened to the statement of my friend from Alabama, and I just wanted to make a comment or two on the subject that he is addressing himself to.

I felt and I said that I thought if Mr. Lance resigned, it would help the office of the President, which is the most important thing. It does not make any difference who the President is; it is the office. Now he has done that.

The thing that bothers me is not the media, although no one is a great admirer of the total media. Their job is to report, and that is what they have done. I think they have been, in some few cases, overly vicious. But the thing that disturbs me, and again this is not a criticism of the television and the media, is the fact that we have now found out that all you need to do to attract a large collection of television cameras is to find something that sounds a bit out of the ordinary, something that might even have the odor of illegality, and then it is "Katy bar the door," because the American people begin to be shown the weaknesses that every one of us has, I do not think there is a man in this body who could stand the kind of scrutiny that Bert Lance was subjected to. And whether we were wrong or right, we could be made to look wrong in the eyes of the American people.

I am afraid that we have opened a door that we are going to be sorry for, when we see the proliferation of televised hearings in the future based not just on what might grow out of a hearing on one person, but based on matters that sound newsworthy. We have been subjected this week to a television show on matters that were made news 2 years ago, and I am just fearful that we have now turned the stone and we are going to live to regret it.

Getting back to Mr. Lance, I have respect for his business ability. I do not think he made the right judgments at times, but have we made the right judgment every time? No.

So I commend the Senator from Alabama, and I will end by saying it might sound strange for a Republican to be talking like this about a Democrat, when Democrats were overjoyed when similar occasions occurred within the Republican ranks, but I just hope that this is not going to make it impossible to go out into the country and get the kind of men that we have to have back here to help us in our sometimes futile efforts to run this Government.

Mr. ALLEN. I thank the distinguished Senator from Arizona for the wisdom of his comments and his contribution to this discussion.

Mr. President, unless someone else wishes to speak at this time, I am going to suggest the absence of a quorum in accordance with the wishes of the distinguished majority leader.

The PRESIDING OFFICER (Mr. MATSUNAGA). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of the bill (S. 2104).

Mr. ROBERT C. BYRD. Mr. President, very shortly, after some calls are made to three Senators, I would hope to be in a position to propound a unanimous-consent request that would have to do with a rollcall vote on a motion to table the Pearson-Bentsen amendment tomorrow evening, circa 6 p.m., 6:15 p.m., 6:30, 6:45 p.m., or 7 p.m. I believe we will shortly have the answer to that question.

Pending hearing from those Senators, and we are making that effort now, I wish to impose on the time of the Senate for about 3 minutes.

RESIGNATION OF OMB DIRECTOR BERT LANCE

Mr. ROBERT C. BYRD. Mr. President, the decision by Bert Lance that he resign as Director of the Office of Management and Budget was clearly one of great personal agony for both the President and Mr. Lance.

Like the President, I believe that the decision was the right one. It is not easy to look beyond the kind of deep and long personal friendship shared by the President and Mr. Lance. But they managed to put that friendship aside. They recognized that from a national standpoint, the personal problems of Mr. Lance were of secondary importance to the great issues facing our country. The President and Mr. Lance are to be commended for their decision. The difficulty of the decision makes it all the more commendable.

One of the things that made the decision especially difficult, aside from the close friendship of the two men, was the fact that Mr. Lance's performance as Director of OMB during these several months was not in question. Indeed, every word of testimony about Mr. Lance's performance of his duties as OMB Director has been favorable.

His testimony before the Governmental Affairs Committee was important. The charges against Mr. Lance had been aired publicly, and he asked for an opportunity to answer them in a similarly public fashion and in a public forum. The President, I think rightfully, concluded that Mr. Lance should have that opportunity before any final decision was reached on his future as OMB Director, and the Governmental Affairs Committee afforded him that opportunity.

Despite the fact that Mr. Lance's testimony put some questions to rest, others remained unanswered.

The public reports on his personal financial situation could have seriously impaired his future performance in office.

Mr. Lance and the President obviously recognized that fact—as well as the fact that other unresolved questions, and the length of time needed to resolve them—could divert Mr. Lance's attention to his own personal affairs and could divert the attention of the President and Mr. Lance away from issues critical to the future of the Nation.

The Office of Management and Budget is a highly sensitive and extremely important agency. The Nation cannot afford to have as Director of OMB a man whose personal financial problems are of such magnitude that they detract from the time he can spend on his public duties.

Under other circumstances perhaps Mr. Lance might have continued to be an excellent executive as the Nation's fiscal leader. So it is to his credit and to the President's credit that Mr. Lance and the President recognized the several factors that could have hampered Mr. Lance in the effective fulfillment of his duties.

Mr. Lance and the President realized that the interests of the Nation must come first. Mr. Lance and the President put those interests first in this decision.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT—BARTLETT AMENDMENT AND PEARSON-BENTSEN AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader and I, and several Senators on both sides of the aisle and on both sides of the question as it pertains to the Pearson-Bentsen amendment, have been in consultation for the last hour, give or take a few minutes. It is the consensus of that group that Mr. BARTLETT will withdraw his amendment shortly and that Mr. BENTSEN and Mr. PEARSON will lay down their amendment.

It is the consensus of that group that a vote occur on a motion to table the Pearson-Bentsen amendment.

I therefore ask unanimous consent that at 6:30 p.m. tomorrow Mr. JACKSON be recognized for the purpose of offering a motion to table the Pearson-Bentsen amendment. That will be a rollcall vote. I further ask unanimous consent that that rollcall vote be a not-to-exceed 30-minute rollcall vote, which means that the rollcall vote can extend as long as 30 minutes, but in the meantime, if all Senators have voted, the Chair may announce the vote at any time prior to the expiration of the 30 minutes, but no sooner than the expiration of 15 minutes.

I am glad to yield to the distinguished minority leader.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, Mr. President, I thank my friend, the majority leader.

First I say that I think this is a good agreement and I commend, I congratulate, the adversaries on this measure for reaching the agreement. I think it significantly advances the work of the Senate. I think that it gives us a fair test of the issues involved in this important controversy.

Mr. President, I ask the majority leader if I understand correctly now that, at 6:30 tomorrow evening, as the first rollcall vote, we shall vote on the tabling motion to be made by the Senator from Washington against the Pearson-Bentsen amendment, and no other amendment or rollcall vote on another amendment will come ahead of that tabling motion?

Mr. ROBERT C. BYRD. The Senator is eminently correct.

Mr. BAKER. And that rollcall, for the sake of protecting certain Senators who might have trouble with their plane schedules or otherwise, will extend for not more than 30 minutes, so the rollcall, in any event, will be terminated by 7 p.m.

Mr. ROBERT C. BYRD. The Senator from Tennessee is preeminently correct.

Mr. BAKER. I am improving.

Mr. President, I have no objection.

Mr. ABOUREZK. Reserving the right to object, Mr. President. As to this agreement, I should like the majority leader to state for the record that it does not foreclose any of the rights any Senator might have on the amendments to the Pearson-Bentsen amendment should the tabling motion fail, or any procedural matters which might be available to different Senators.

Mr. ROBERT C. BYRD. Should it fail?

Mr. ABOUREZK. Should it fail.

Mr. ROBERT C. BYRD. The Senator from South Dakota is also preeminently correct.

Mr. ABOUREZK. There are no time agreements on debate or anything included in this? We shall only recognize the Senator from Washington for the purpose of making that tabling motion?

Mr. ROBERT C. BYRD. That is all that is contained in the request.

Mr. ABOUREZK. I thank the Senator.

Mr. BAKER. Reserving the right to object once again, Mr. President, I have such great respect for the Senator from South Dakota and his procedural prowess that I am concerned a little about his question about other procedural matters. I ask the majority leader, then, to reassure me on this point: That, regardless of any procedural matter other than a motion to adjourn, which might be so privileged that we might not preclude it, I assume, there will be a rollcall vote on a motion to table to be made by the Senator from Washington against the Pearson-Bentsen amendment to begin at 6:30 tomorrow night.

Mr. ROBERT C. BYRD. The distinguished minority leader is correct.

Mr. BAKER. I thank the distinguished majority leader.

I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Reserving the right to object——

Mr. BUMPERS. Reserving the right to object, if I may just clarify it, Mr. President, I want to address one additional question to the leader. I think I know the answer, but this is for clarification purposes.

The Pearson-Bentsen amendment will be subject to amendments after it becomes the pending business and, should the motion to table fail, we could start voting on those amendments immediately thereafter. We could even ask for, or would it be in order to ask for a unanimous-consent request, for example, that an amendment be voted on, in the event the motion to table fails, immediately thereafter?

Mr. ROBERT C. BYRD. Such a unanimous-consent request would be in order.

Mr. METZENBAUM. Will the leader yield for another question?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. The unanimous-consent-request though, would only be made after the time set for the vote with respect to the Pearson-Bentsen tabling motion?

Mr. ROBERT C. BYRD. No, that unanimous-consent request could be made prior thereto, but it would require unanimous consent for it to be implemented.

Mr. METZENBAUM. But am I correct in my understanding that those of us who will not be present tomorrow will have an opportunity to be on the floor should such a unanimous-consent request be made?

Mr. ROBERT C. BYRD. That kind of unanimous-consent request—the Senator would be protected on a unanimous-consent request of that nature.

Mr. METZENBAUM. I appreciate the assurance of the majority leader.

I assume that, likewise, we shall be protected with respect to any time agreement request that might be made during the day.

Mr. ROBERT C. BYRD. With respect to this bill.

Mr. METZENBAUM. With respect to this bill.

Mr. ROBERT C. BYRD. Yes, the Senator will be protected.

Mr. METZENBAUM. I thank the majority leader.

Mr. BARTLETT. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. As far as laying my amendment 887 aside, I would like to say it would be with the understanding that it could be brought up at another time to not interfere with Pearson-Bentsen. It would be done in the spirit that this would facilitate and bring to a time certain a vote on the Pearson-Bentsen amendment. It would be done, also, with the understanding that there be a spirit prevailing on both sides that this would not be exposing the Pearson-Bentsen amendment to unfair treatment or extended debate. I would certainly count on the spirit prevailing that it would be considered expeditiously, properly, with all rights for amendments being preserved by the individual Senators. With that understanding, that feeling, I do ask unanimous consent that amendment No. 887——

Mr. ROBERT C. BYRD. Mr. President, I should like the ruling first.

The PRESIDING OFFICER. There is a unanimous-consent request pending.

Is there objection? The Chair hears none. Without objection, it is so ordered.

The text of the agreement is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That at 6:30 p.m. on Thursday, September 22, 1977, the Senator from Washington (Mr. JACKSON) be recognized for the purpose of moving to table the amendment in the nature of a substitute, No. 862, by the Senator from Kansas (Mr. PEARSON) and the Senator from Texas (Mr. BENTSEN).

Ordered further, That the rollcall vote on the motion to table shall not exceed 30 minutes, and the results of the vote may not be announced before 15 minutes have expired on the vote.

Mr. ROBERT C. BYRD. Mr. President, I yield now to the distinguished Senator from Oklahoma to withdraw his amendment. Then I should like to be recognized again.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I firmly believe that the answer to the evils of regulation is most certainly not more regulation.

It is in that spirit that I have offered for consideration as a substitute amendment No. 887, identical to Senate bill 110, which I introduced during the opening days of this first session of the 95th Congress.

The following of my colleagues have asked to be added as cosponsors of amendment No. 887: Senators GARN, HANSEN, LAXALT, TOWER, and WEICKER.

Mr. President, one of the most important goals of an energy plan for the United States must be to increase the supplies of natural gas available to our consumers across the land. The specter of last winter's bitter cold forcing school shutdowns, factory layoffs, and worse, will not soon fade from our memory.

The tragedy of last winter's emergency is that it need not have happened. This country has no shortage of natural gas resources. What we are painfully low in are deliverable reserves.

Resources represent the physical presence of natural gas in some form or other in the ground. Reserves are those resources which have been found, quantified, and connected to a delivery system to carry it to where it is needed.

Resources need three things in order to be converted to reserves: Technology, time, and favorable economics.

We have the technology to locate and tap much of the vast resource of natural gas we know is there. We are learning how to drill deeper, to drill in greater water depths offshore, to squeeze more and more gas out of tight Western sandstones and impermeable Eastern shales. We can get substitute natural gas from coal, and now we hear of a possible new source of natural gas dissolved in geopressurized brines.

The technology is burgeoning and is not a limiting factor to getting more gas.

Time is on our side only if we act now to create the favorable economic climate to put technology to work.

Mr. President, S. 110 will create that necessary economic climate.

S. 110, as embodied in amendment No. 887 in the form of a substitute, would deregulate the wellhead price of new natural gas, defined in a straightforward sense.

Any natural gas dedicated to interstate commerce for the first time after the first of this year would qualify for a market-clearing price. This includes gas from properties just beginning production, as well as gas formerly in intrastate commerce being newly dedicated to the interstate market following expiration of the intrastate contract.

Natural gas produced from any well completed after the first of this year would command a free market price. In addition, any new gas production resulting from a well being deepened or recompleted into a new reservoir would be free of price controls.

Finally, regarding natural gas reserves remaining upon the expiration of a contract in interstate commerce, if that gas is continued in interstate commerce it would be entitled to an unregulated wellhead price.

There is no distinction between onshore and offshore natural gas.

The bill as introduced contains no provisions with respect to most favored nation clauses, allocation authority, curtailment priorities, incremental pricing, or a so-called windfall profits tax.

The bill does place some reasonable precautionary limitations on the Federal Power Commission, or rather its successor in the new Department of Energy, the Federal Energy Regulatory Commission. These limitations are as follows:

First. The Regulatory Commission may not disallow any portion of the price a pipeline pays for unregulated gas at the wellhead in determining what it may charge to its customers.

Second. The Commission may not deny, or condition the grant of, a pipeline certificate on the basis of the price of deregulated natural gas.

The purpose of these provisions is to prevent whatever regulatory body inherits the Federal Power Commission jurisdictions from "back-door" regulation of wellhead natural gas prices. Wellhead prices would be outside their authority, of course, but the temptation would be great for them to attempt to manipulate wellhead prices through other powers they do have.

There are two other restrictions:

Third. The Regulatory Commission may not disallow any portion of what a company charges an affiliate for gas, as long as the amount is not greater than comparable charges to nonaffiliates.

This is to preserve the integrity of "arm's-length" contracts.

Fourth. The Commission may not roll back any price it has previously determined as "just and reasonable."

This last provision is intended to guarantee the producer some dependability of price, something he has not often enjoyed in the past.

Mr. President, this amendment is simple and straightforward. I believe it represents the optimum solution to our country's dangerous shortage of natural gas reserves.

Mr. President, I ask unanimous consent that my amendment be withdrawn with the spirit and the conditions that I have mentioned. I realize that this is not a compelling matter on the part of any Senator, but I think it is very important that the Pearson-Bentsen amendment not be unfairly attacked or held up in any way. I realize that having it brought up in this way could lead to a filibuster, which I certainly hope will not be the case. It could lead to many unimportant amendments being considered. So it is my hopes that this will not occur.

The PRESIDING OFFICER. The Senator from Oklahoma has a right to withdraw his amendment.

The amendment was withdrawn.

Mr. ROBERT C. BYRD. Mr. President,

I express, on my own personal behalf and I believe on behalf of the Senate, gratitude to the very able, distinguished and dedicated Senator from Oklahoma (Mr. BARTLETT) for the fine spirit of accommodation and cooperation that he has exemplified by agreeing to withdraw his amendment.

Mr. President, I believe that, under the agreement, Mr. PEARSON and Mr. BENTSON were to be allowed to lay down their amendment at this time.

Mr. President, I ask unanimous consent that it be in order to offer the Bentsen-Pearson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 862

Mr. BENTSEN. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of the Senator from Kansas (Mr. PEARSON) and myself and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself and Mr. PEARSON, proposes an amendment in the nature of a substitute numbered 862.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided*, That such natural gas was not sold or delivered in intrastate commerce for the first time prior to January 1, 1977: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market, or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas: *Provided*, That old natural gas sold or delivered in intrastate commerce for the first time prior to January 1, 1977 shall, if sold or delivered in interstate commerce for the first time after January 1, 1977, be deemed by the Commission as having been sold or delivered from wells commenced on or after January 1, 1975.

"'(9) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12) "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however*, That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available

the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following four new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"'(3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"'(b) The Commission shall monitor the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in subsection (a).

"'(c) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(d) Pending the establishment of a national ceiling pursuant to subsection (a) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977 and on January first of each year thereafter until such establishment of a national ceiling, the Commission shall establish an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States in effect on the date of enactment of the Natural Gas Act Amendments of 1977 as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to subsection (a) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however*, That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(e) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(f) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(g) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.'.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. —) is amended as follows:

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1981'; and,

"(g) in section 12(b), by striking out 'October 1, 1977,', and inserting in lieu thereof 'January 1, 1978, and January 1, 1979,'".

Amend the title so as to read: "A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.".

Mr. DOMENICI. Mr. President, will the Senator yield for a request?

Mr. BENTSEN. I am delighted to yield to my distinguished friend.

Mr. DOMENICI. Mr. President, I ask the Senator from Texas if he would request that I be shown as an original co-

sponsor of the amendment which has just been laid before the Senate.

Mr. BENTSEN. Mr. President, I request that the distinguished Senator from New Mexico be shown as an original cosponsor.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator from Texas.

Mr. BENTSEN. I am very pleased to have him as a cosponsor.

Mr. BENTSEN. Mr. President, 2 years ago the U.S. Senate passed the Pearson-Bentsen bill deregulating the price of new natural gas by a vote of 58 to 32. We debated this proposal almost 2 months, off and on. Every possible argument, for and against deregulation of new gas was considered, analyzed, and discussed by this body. And the overwhelming verdict was that deregulation made sense for the country.

The Pearson-Bentsen bill was defeated by four votes in the House of Representatives. As a result we lost 2 years of increased incentives to production. We suffered through the so-called natural gas shortage in the winter of 1977. We have increased our dependence on expensive, imported sources of energy, and we have raised havoc with our balance-of-payments in the process.

Today the Senate again has the opportunity to redress the repressive, counterproductive regulatory policies of the past 23 years; policies that have clearly inhibited our inability to produce natural gas—the cleanest, most efficient, least expensive source of energy in general use.

Let me ask a question, Mr. President. Let me ask what has transpired since our vote of 2 years ago to suggest that deregulation of the price of new natural gas is less desirable, less logical, or less beneficial to America today than it was when last approved by the Senate.

We have had a striking demonstration of what it means to run short of natural gas. We saw schools and industries shut down across the country last winter, at a time we were struggling out of a recession.

We have seen a trend toward increased imports of expensive natural gas and oil.

And we have seen vast reserves of natural gas remain underground because it is not economic for the producers to explore, drill for, and market these hard-to-find reserves that are absolutely essential to our economic well-being.

To answer my own question, Mr. President, deregulation of the price of natural gas was a good idea 2 years ago. Today it has become a compelling national necessity.

There is one new element bearing on the equation of natural gas pricing in this country—the President's energy plan. Last April, when this plan was issued, I commended the President for his courage and foresight in bringing an important issue before the American people and for proposing a comprehensive national energy plan.

I said in April that there should be changes in the President's proposals, and events of the past few months, in both houses of Congress, have demonstrated that there is nothing sacrosanct about the President's program.

It can be improved. One way it can be improved is for Congress to recognize and accommodate the clear requirement for production incentives. The President implicitly realized that we have been holding the price of natural gas artificially low, but he merely proposed continued regulation at a higher peg, at $1.75.

Mr. President, this will not do the trick. Natural gas is to alternative sources of energy as sirloin steak is to chopped chuck. It is clean; it is cheap to produce and transport; it is readily available with current technology. In any rational system of pricing, one would expect to pay a premium price for the benefits of natural gas.

But we have chosen instead to price our sirloin steak lower than chopped chuck, and then we scratch our heads and wonder why we cannot get enough of it. We cannot get enough of it because there are not enough incentives to produce it.

The advantage of deregulation is increased natural gas production at a price still below that of other fuels.

It is interesting to sit in the Finance Committee and hear them talking about adding $3 a barrel to produce gasoline out of shale, or adding $3 a barrel, or 20 percent, to do it out of coal, but then to talk about proposing natural gas at a cost less than the cost of replenishing the supply.

The advantage of deregulation is decreased dependence on imported energy and a consequent improvement in our balance-of-payments position.

The advantage of deregulation is increased conservation of our most precious fuel; people will be less inclined to use natural gas in a wasteful or inefficient manner.

The advantage of deregulation is decreased reliance on expensive, environmentally risky coal and nuclear power plants.

The advantage of deregulation is that we bring the dynamics of the free market to bear on our energy problem. We permit our traditional system of economic incentives and rewards to function effectively.

In the Finance Committee I have supported the idea that we give an extra premium for coal where it is converted into gasoline, that we give an extra subsidy for doing it from oil shale, but I also think we should not be ignoring natural gas. That helps us buy time. We have a finite resource, but one of the ways we can stretch it is by incentives to drill the marginal supplies that should be brought into production.

The advantages are clear. They are not denied, even by opponents of deregulation. Some, however, would maintain that the benefits of deregulating the price of new natural gas are outweighed by the consequences of this policy.

Mr. President, the most compelling argument against deregulation of new gas is also the most politically potent. It is that, with deregulation, the average citizen who heats his home with natural gas will confront higher utility bills. The corollary of this position is that it is better to continue to subsidize this homeowner by holding natural gas prices artificially low and pray that the supply will somehow hold out in the absence of measures to improve the economics of production. This is not a proposition I would like to bet on.

It is true that deregulated new gas will cost more than regulated old gas. It is true, Mr. President, because the current pricing structure of natural gas does not reflect the realities of the marketplace.

However, deregulation of new natural gas will not—cannot—double or triple the utility bill of the American homeowner as some might suggest. There has been a great deal of misrepresentation and scare tactics on that point.

Let us be clear on one point: We are talking about new natural gas, not existing supplies. The cost of this new gas will be rolled in with the lower cost natural gas under long-term contracts and subject to Federal price controls. By the most optimistic projections, new gas will account for perhaps 15 or 20 percent of domestic consumption by 1985.

We should also understand that no more than one-third of the American homeowner's gas bill is attributable to the wellhead price of gas; two-thirds of the price reflects pipeline and retail transmission expenses, distribution, and taxes.

In 1976, the average homeowner's gas bill was about $240; let us assume for the sake of argument that it was in fact $300. Only $100 of this figure is directly related to the wellhead price. If the average consumer obtained 15 percent of his fuel from new, deregulated gas at a price that was double that of old gas, the impact of deregulation on his gas bill would be only $15 per year; 1.4 cents less than the current rate of inflation. Compare that to a much more assured supply, and I think the answer is obvious as to what the consumer would want.

For this 5 percent, the consumer would have a far greater certainty of supply.

The second major argument levied against deregulation of new gas is that the concept is not worth the candle because there is not enough unrecovered gas in this country to make much difference. The Congressional Budget Office Report, "Natural Gas Pricing Proposals," for example, suggests that new gas would result in only about 0.9 trillion cubic feet per year additional production in 1985, or about 5 percent of current consumption.

It is difficult to credit this estimate. It is apparently based on recent drilling and productivity experience which has been largely confined to shallow, inexpensive onshore areas precisely because with regulation these are the only wells that are economical to drill. Improve the economics, and you will increase exploration, drilling, and production.

By every reliable estimate available there are between 700 and 1200 trillion cubic feet of natural gas in this country waiting to be recovered. A supply that, at current production rates, will last for 35 to 60 years. A supply that should help us get over the hump of the energy crisis and give us additional time to develop

alternative sources of energy. A supply that, if tapped, will reduce our dependence on imported energy.

One of the true ironies of the energy crisis is that this country, with its rich reserves of natural gas, is increasingly looking abroad for supplies—to Canada, to Mexico, and to Algeria. Imports of natural gas are expected to be more than 3 billion cubic feet per day this year. The best thing we can do to check expensive foreign supplies which impact on our balance of payments would be to provide the incentives to encourage increased domestic production.

Finally, Mr. President, there is a glaring inconsistency in the CBO study that has given rise to the canard that deregulation of natural gas will somehow be a multibillion dollar rip-off of the American public.

In calculating the additional supplies that would be made available to the market by deregulation, the CBO cites the very pessimistic, unrealistic figure of .9 trillion cubic feet per year by 1985. But in calculating the cost of deregulation, the CBO unaccountably assumes that 4 trillion cubic feet of gas will be priced at $4/mcf in the year 1978. There is no new gas pricing formula I know of that would permit such a loose definition of new gas. No more than 4 to 6 percent of new marketed gas would receive deregulated prices during the first year of the program. The CBO study has accordingly bloated and distorted the cost to the consumer of deregulation of new gas.

Natural gas is a fuel for today; it is probably the best source of energy available to us.

We are currently in a period of energy transition. We are looking increasingly to coal; we are attempting to conserve; we are developing new sources of energy. Available natural gas can ease this transition; it can make us more self-reliant in an era of increased dependence.

In the absence of deregulation of new natural gas, we shall squander a valuable national resource. We will permit trillions of cubic feet of natural gas to remain underground because we balk at providing the incentives necessary to exploit it. Because we are reluctant to market natural gas at a price that reflects the true costs of production.

Mr. President, a recent New York Times survey suggested that 57 percent of the American people do not believe that we have an energy shortage—57 percent of the American people are wrong. We have an energy shortage, but we also have the means to overcome it.

In the final analysis, resources are not things. They are a process; the application of human knowledge to nature. Fossil oil was not a resource until people, compelled by a whale oil crisis, learned to drill for it and put it to productive use.

With the proper economic climate, interaction between human knowledge and nature works to produce new resources and new technology. Nowhere has this process worked more effectively or more consistently than in the United States of America. I am convinced that the ultimate answer to the energy problem lies in the development of new resources.

Until these technological breakthroughs occur, we confront a very real and very dangerous problem. We must make maximum use of available resources. We must do everything in our power to stem the hemorrhage of dollars—$45 billion in this year alone—that we send abroad to pay for our energy requirements.

The deregulation of new natural gas is one important tool at our disposal. It is a step that makes sense for America and it deserves the continued support of the Senate.

Mr. SCHMITT. Mr. President, I intend to support the Pearson-Bentsen substitute for S. 2104 for a number of technical and economic reasons. Most importantly, it is a proposal oriented toward consumers who want assured supplies of gas. My colleagues have been privately debating the issues raised by the bill for some weeks, and publicly on this floor, since Monday. Having listened to this discussion, I would like to focus my remarks in a slightly different area; the problems faced by our State governments.

The past few weeks have produced several resolutions from regional organizations representing the Nation's Governors calling for the deregulation of new natural gas prices at the wellhead. Only five State Governors voted against the standing resolution of the National Governor's Association supporting deregulation. While the details of the various statements differ, the essential point which they make is that we cannot afford to subject individual States and the Nation to the unemployment and shortages of home gas which would be forthcoming should proven natural gas supplies continue to diminish rapidly under continued price regulation.

Let me ask the rhetorical question: Why is there nearly unanimous support in our 50 statehouses over an issue that is so closely divided in both Houses of our Federal Government? Deregulation would not create financial windfalls for our States, nor can it be argued that 45 State Governors are in the vest pockets of the natural gas lobby.

The answer to this question is plain: Our State Governors fear the effects of a reduction in the supply of natural gas as much as they fear the effects of an increase in price. I believe this is true for a number of reasons.

First, the States face an enormous loss of revenue when a major portion of their industrial tax base is put out of business by natural gas curtailments. At the same time, they are confronted with increased liabilities in the form of unemployment compensation. While the national legislators and the administration can simply crank up the money presses to deal with this situation, the State governments cannot. They are not permitted the luxury of long-term deficit spending. As a result, natural gas curtailments can create a severe financial crisis for State and local governments.

Second, State governments are very sensitive to the size and stability of their respective long-term industrial tax bases. Continued shortages of natural gas will cause some industries to move in search of more stable energy supplies. There are relatively few States and municipalities which are willing to gamble their tax revenues by allowing Federal regulatory agencies to make decisions which will effect the exodus of State industries. Such Federal agencies are notoriously unresponsive to State problems.

Third, State governments are much closer to the hardships caused by industrial displacement. In addition to unemployment, they must deal with increasing crime rates, deteriorating services and a host of other social problems. State and local governments are not able to write off these costs in terms of national average statistics. They must deal first hand with idle workers in Cincinnati, Detroit, Boston, New York, and the thousands of small towns heavily dependent upon the availability of natural gas. Last winter's shortages were nothing more than the first gusts of what promises to be a major national storm if our gas supply picture is not improved. Cities and States know that and they also know who will take the brunt of the resulting public reaction.

Finally, State governments also face problems with residential utility customers. Many State public service commissions are unable to answer the growing number of consumers who ask, "Why can't I have natural gas to heat my home?" Moratoriums force new customers to install expensive electrical heat at nearly 10 times the cost of gas per Btu—or solar heat if they are particularly well off—while those customers who are fortunate enough to already have gas continue to receive a generous subsidy from federally enforced artificially low prices. Contrary to the President's intentions, this is not equitable. State governments are called upon far too often to answer for Federal policies on which they had no input.

Last week, I began to insert in the RECORD resolutions prepared by the State Governors. Today, I would like to offer section D.9, dealing with natural gas policy, of a statement prepared by the National Governor's Association. As with the previous resolutions, there are parts of section D.9 with which I cannot agree, but the call for deregulation is clear and unmistakable.

Mr. President, it appears to me that the overwhelming number of State governments view the deregulation of natural gas prices as the most effective long-term solution to the gas supply problem. I agree, and I ask that my colleagues consider deregulation from this unique consumer-oriented perspective.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS' ASSOCIATION STATEMENT ON NATURAL GAS POLICY

D.9—NATURAL GAS

The total resource of domestic fossil fuels is finite, and the total annual production of energy from these sources is limited. Natural gas is the most environmentally acceptable, readily usable and least expensive fuel, which has led to the rapid exploitation of available supplies.

Since 1968, production of natural gas has exceeded additions to inventory. Future natural gas curtailments are expected to cause increased distortion and dislocation in the

economy. Even with stringent conservation, discovery of new gas fields will be needed to provide lead-time while alternate energy resources are developed.

Federal price policies in the face of mounting prices for rival fuels have undervalued interstate gas with respect to other fuels, which results in lowered incentives for exploration, an artificially high demand and few incentives for conservation.

The National Governors' Conference supports the deregulation of new gas wellhead prices. Such deregulation should not affect contracts in force on the date of enactment of legislation, but the purchase of gas at the end of a contract should not be subject to federal wellhead price control. This phased process will serve to mitigate abrupt increases to existing customers. To determine the effects of deregulation, the federal government should provide for continued monitoring and evaluation of the performance of the natural gas industry, and report its findings to Congress.

The deregulation of producers' prices for new natural gas would offer an incentive for exploration and would provide the nation's oil and gas operators with the ability to attract needed capital. Such deregulation would encourage sales in the interstate market and ease the specter of sharp curtailments in the many States relying on interstate supplies. Increased average prices should encourage conservation and the conversion to alternate energy sources.

The deregulation of natural gas will result in an increase in the price of new gas. These higher prices create the possibility of excessive profits. It is highly desirable that any excess profits be used to explore for, find and develop new natural gas supplies.

If the price of new natural gas is deregulated, the Governors believe that Congress should simultaneously enact an effective excess profits tax which contains a plow-back provision that provides relief from such tax if excess earnings are dedicated to the exploration and development of new natural gas supplies.

To prevent accelerated depletion of remaining supplies of natural gas which could result from deregulation, such action should be accompanied by legislative and executive commitments to determine national priorities of use of natural gas, specific programs designed to promote natural gas conservation, and a major effort to convert and phase out as rapidly as possible those existing natural gas facilities which do not represent the wisest and best use of natural gas under current circumstances.

A program should be developed which would commit new supplies of gas sold to interstate pipeline carriers in such a way that inequities among regions are reduced.

There is evidence of vertical and horizontal integration and interlocking relationships among natural gas producers and purchasing pipelines. There is also evidence of integrated and interlocking relationships among natural gas, petroleum, coal and uranium mining firms.

There is a strong concern that this may result in an anti-competitive aspect of the energy industry which could cause an artificial inflation of the price of natural gas and other energy supplies.

It is the position of the Governors that developments of the energy industry should be closely monitored to determine whether the letter and spirit of national antitrust laws are fully respected.

The Conference urges prompt action by the Administration and Congress to facilitate the earliest availability of natural gas from the Arctic slope to markets in the Midwest, East, Middle South and Pacific Coast States. This resource, essential to the health of these sections of the United States, must not be withheld because of delays in administrative agency approval or unnecessarily extended court proceedings.

The Conference supported neutral procedural legislation which would achieve the above goals by providing:

1. A limit to court challenges to orders allowing construction of the pipeline.

2. A March 1, 1977 deadline for a Federal Power Commission recommendation of a pipeline system.

3. An April 1, 1977 deadline for other affected federal agencies to file their reports.

4. July 1, 1977 deadline for the President to issue a final decision.

5. The concurrent approval by both Houses of Congress of the route selected by the President with congressional analysis and review of the environmental impact of the proposed route as a critical part of the process.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MELCHER). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

DISABILITY PENSIONS

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7345.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, as follows:

Page 6 of the Senate engrossed amendment, after line 8, insert:

SEC. 202. Section 541 of title 38, United States Code, is amended by adding at the end thereof the following paragraph:

"(g) The monthly rate of pension payable to any surviving spouse under any of subsections (b), (c), and (d) of this section, including the increase, if any, payable under section 544 of this title, shall be increased by 25 per centum beginning on the first day of the month in which the surviving spouse attains age seventy-eight.".

Mr. CRANSTON. Mr. President, I rise to urge that the House amendment to H.R. 7345 not be agreed to, and that the measure be returned to the House.

As originally passed by the House on July 13, 1977, H.R. 7345, the Veterans and Survivors Pension Adjustment Act of 1977, contained a 7-percent cost-of-living increase and a provision increasing the pension rates for surviving spouses age 78 or over by 25 percent. The Senate Committee unanimously voted to report the bill on July 21, 1977, with an amendment in the nature of a committee substitute providing for a 6.5-percent increase and without the 25 percent add-on for surviving spouses age 78 or over.

As reported by the committee and unanimously passed by the Senate on August 3, 1977, this bill will have—

First, provided an increase of approximately 6.5 percent in the rates of disability and death pension under current law, including the additional amount authorized for dependents;

Second, increased by approximately 6.5 percent the rates of dependency and indemnity compensation (DIC) payable to parents;

Third, increased by the same percentage the maximum income limitations applicable to pensioners and parents entitled to DIC under current law, and to beneficiaries under the protected pension law;

Fourth, increased by the same percentage the amount of additional pension and DIC payable to those recipients so entitled based upon aid and attendance or housebound status; and

Fifth, increased additional allowances for recipients of wartime death compensation by the same percentage based upon need for regular aid and attendance.

On September 21, 1977, Mr. President, the House agreed to the Senate amendment with an amendment. In effect, the House has agreed to the 6.5-percent increase contained in the Senate-passed bill, and it has amended the bill to restore its 25-percent increase in pension rates for surviving spouses age 78 or over.

Mr. President, as chairman of the Veterans' Affairs Committee, I am deeply concerned with the difficulties experienced by elderly wartime veterans and their surviving spouses who must live on low fixed incomes. In many instances, these persons are forced to turn to income-assistance or in-kind programs such as supplementary security income or food stamps merely to survive. The veterans' and survivors' pension rates are scaled too low to enable many pensioners to live their lives in dignity. They are particularly vulnerable to hardship caused by inflation, which diminishes the purchasing power of their incomes. The 6.5 percent cost-of-living increase provided by H.R. 7345 will alleviate, to some extent, the harsh effects of continuing inflation for the vast majority of elderly pensioners.

The problem experienced by many pensioners, of suffering a reduction in pension in January attributable to the social security cost-of-living increase in July, will also be largely alleviated by this pension rate increase.

Nevertheless, a rate increase in and by itself does not restructure the present pension program, which contains numerous inequities, anomalies, and inconsistencies. In the 94th Congress I cosponsored, together with all the other members of the committee, S. 2635, a bill to reform the present pension program. Although that bill was unanimously passed by the Senate, the House did not act on it.

Subsequently, in Public Law 94-432, the VA was required to conduct a thorough study of the pension program and various alternatives to the program. I am sure that this study—which the VA has advised will be submitted by Novem-

ber 1—will provide extremely valuable information to the Congress about the present program. Moreover, I intend to introduce within 2 weeks, on behalf of the Veterans' Affairs Committee, a comprehensive bill which will provide for a thoroughgoing restructuring of the pension program including the following provisions intended to meet the particular needs of elderly veterans and surviving spouses receiving pension:

First. Substantially increased pension rates for needy veterans and surviving spouses age 65 or over based on the national minimum standard of need and sufficient to prevent their having to turn to income-assistance and in-kind programs.

Second. Substantially increased pension rates for needy surviving spouses age 65 or over who require aid and attendance.

Third. Annual automatic cost-of-living increases in the restructured pension program combined with a provision that the Veterans' Administration determine the increased pension amount in such a way as to prevent any reduction in pension attributable to a cost-of-living increase in social security benefits.

I am very hopeful that this bill will receive wide bipartisan support, and that it will be favorably received in the House. Hearings will be scheduled on this forthcoming measure early next year.

Mr. President, the Veterans' Administration opposed the House's 25 percent add-on because it is not need-based. The VA and the Senate committee prefer that any modifications in the basic pension program be deferred until such time as a comprehensive restructuring of the pension program—which would address the various inequities, anomalies, and inconsistencies of the program—can be considered. The bill which I will shortly introduce will provide for comprehensive restructuring in a way which will substantially improve the situation of elderly surviving spouses eligible for pension.

In view of this, I respectfully request that the Senate disagree with the House amendment to H.R. 7345, and that the measure be returned to the House.

Mr. President, I move that the Senate disagree to the amendment of the House to the amendment of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pensions and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

DISABILITY COMPENSATION FOR VETERANS

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 1862.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the amendment of the Senate to the bill (H.R. 1862) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, as follows:

Page 6, strike out line 12 and all that follows over to and including line 12 on page 7.

Page 7, line 13, strike out "402." and insert: 401.

Page 7, strike out lines 19 and 20 and insert: pulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair,".

Page 7, line 21, strike out "403". and insert: 402.

Page 8, strike out line 22 and all that follows over to and including line 4 on page 9.

Page 9, line 5, strike out "(c)" and insert: (b)

Page 9, line 13, strike out "(d)" and insert: (c)

Page 9, line 15, strike out "404." and insert: 403.

Mr. CRANSTON. Mr. President, I rise to urge the Senate to agree to the House amendments to H.R. 1862, a bill to provide a 6.6-percent cost-of-living increase in disability compensation for service-connected disabled veterans, in the rates of dependency and compensation rates for their survivors, and for other purposes and send it to the President.

Mr. President, on September 9, 1977, the Senate unanimously passed and sent to the House H.R. 1862, the Veterans Disability Compensation and Survivor Benefits Act of 1977. This bill was reported to the Senate by the Committee on Veterans' Affairs, which I am privileged to chair, with an amendment in the nature of a committee substitute, and with the full support of all of the members of the committee. The committee report, No. 95–412, provides a thorough explanation and discussion of each provision of the bill. As passed by the Senate, H.R. 1862 would have:

First, provided a 6.6-percent cost-of-living increase in basic compensation rates and those payable for more serious disabilities; in the additional allowances for spouses, children, and dependent parents paid to veterans rated 50-percent disabled or more; in dependency and indemnity compensation benefits payable to surviving spouses of veterans whose deaths were service-connected, including the additional allowances payable for dependent children and to those in need of aid and attendance; in benefits payable to the children of veterans whose deaths were service-connected, when there is no surviving spouse; in benefits payable to surviving children who have become permanently incapable of self-support prior to the age of 18; and in the annual clothing allowance paid to certain seriously disabled veterans whose disability tends to tear or wear out their clothing.

Second, extended to February 28, 1979, the date for submission to Congress of the study mandated by Public Law 94–433 on the relationship between amputation and cardiovascular disorders, and clarified other provisions of the study.

Third, in a provision derived from S. 1141, introduced by the Senator from Florida (Mr. STONE), extended eligibility for specially adapted housing grants to permanently and totally service-connected disabled veterans with certain severe disabilities.

Fourth, in response to a request from the Veterans' Administration, authorized the VA to cooperate with the Department of the Treasury's electronic fund transfer system so that benefit payments could be automatically deposited in a recipient's account if the recipient elects payment in this manner.

Fifth, incorporate the basic provisions of S. 543, cosponsored by the Senator from Rhode Island (Mr. PELL) and the Senator from Maine (Mr. HATHAWAY), so as to require, for any month in which the first of the month falls on a Saturday, Sunday, or legal public holiday, the Veterans' Administration to mail or otherwise transmit benefit payments so that they arrive, to the maximum extent practicable, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal public holiday, on the weekday—other than Saturday—immediately preceding the holiday, and required a VA report on actions under this provision.

Sixth, reaffirmed, by a clarifying amendment, the intent of the Congress not to permit garnishment or attachment of VA employees' salaries except as authorized in 42 U.S.C. 659—permitting garnishment for alimony and child support.

After negotiations between the Veterans' Affairs Committees of both bodies resulting in a compromise agreement, Mr. President, the House this morning unanimously concurred in the Senate amendment to H.R. 1862 without amending the first three titles of the bill, relating to the 6.6 percent cost-of-living increases. However, the House amended the fourth title of the bill in several particulars. First, section 401 has been deleted in its entirety. This section would have extended the date for the cardiovascular-amputation study mandated by Public Law 94–433 and now underway at the Veterans' Administration, and it would also have added some clarifying amendments to section 403 of Public Law 94–433.

Although I regret that the House did not find it necessary to include these clarifying amendments in its bill, I am satisfied that the study now underway will be a statistically valid analysis of the possible causal relationship between service-connected amputation and the development of subsequent cardiovascular disorders, as Public Law 94–433 requires. In addition, the Veterans' Administration has assured me that the study will analyze the cases of veterans with amputations below the knee as well as those with above-knee amputations; that the control group will consist of those veterans who have service-connected disabilities other than amputation; and that the VA will facilitate, to the maximum extent feasible, the conduct of the statistical analysis, so that the study will be completed and the VA report submitted to the Congress by February 28, 1979.

The House also amended the section dealing with eligibility for specially adapted housing grants for permanently and totally disabled veterans who have

suffered the service-connected loss of one upper and one lower extremity. Under the House amendent, which we have agreed to, clause (3) of section 801 of title 38, United States Code, would provide eligibility for such grants to veterans who have lost, or lost the use of, one lower extremity, together with residuals of organic disease or injury, or together with the loss or loss of use of one upper extremity, affecting the functions of balance and propulsion so as to preclude locomotion without the aid of braces, canes, crutches, or a wheelchair.

Mr. President, the Senate amendment used the phrase "without resort to" rather than "without the aid of", but I am satisfied that the phrase "without the aid of" in our agreed upon provision, which is precisely the same as that in clause (1) of section 801, has the same meaning as the phrase "without resort to" found in the Senate amendment.

We have also deleted the phrase "or render medically inadvisable," and added the words "braces" and "canes", the same words that appear in existing clause (1) of section 801 of title 38. This section, as it will now be amended, then, would slightly liberalize the law with respect to the eligibility of veterans who have lost, or lost the use of one lower extremity and who have residuals of organic injury or disease, and it would extend eligibility to those veterans whose loss or loss of use of one upper and one lower extremity severely impairs their ability to ambulate without the aid of mechanical devices such as braces, canes, crutches, or a wheelchair.

A third amendment in our agreed-upon measure deletes the requirement that the VA report to the Veterans' Affairs Committee of both congressional bodies on its efforts to implement the provision in H.R. 1862 requiring the VA to mail or electronically transmit benefit payments, in any month in which the first of the month falls on a Saturday, Sunday, or legal public holiday, so that they arrive on the preceding Friday, or the preceding weekday other than Saturday in the case of a legal public holiday.

The deletion of the requirement that the VA submit a report on its implementation of this provision will, of course, not have any effect on its duty to implement this provision to the maximum extent practicable. As chairman of the Senate Veterans' Affairs Committee, I will urge the VA to take steps to minimize the possibility of any overpayments resulting from this provision, and I will request a report to the committee promptly regarding plans for implementation.

Mr. President, I strongly favor the prompt enactment of this critical legislation, and I thus recommend that the Senate concur in the House amendments.

Mr. President, I move that the Senate agree to the amendments of the House to the amendment of the Senate to H.R. 1862, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. I thank all Senators for their cooperation.

ORDER EXTENDING TIME TO FILE REPORT ON S. 897

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the deadline for the Committee on Foreign Relations and the Committee on Governmental Affairs to report S. 897, the Nuclear Nonproliferation Act of 1977, be extended from September 23, 1977 to September 30, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

COUNCIL ON WAGE AND PRICE STABILITY AMENDMENTS OF 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 368.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2056) to amend the Council on Wage and Price Stability Act.

The Senate proceeded to consider the bill.

Mr. TOWER. Mr. President, S. 2056 amends the Council on Wage and Price Stability Act by extending the Council's authority from September 30, 1977 to September 30, 1979, and incorporating several new provisions into that act. Those new provisions are relatively minor. They include a statement that full employment is one objective of the anti-inflation program, directions to the Council in the course of its public hearings to emphasize the purpose of controlling inflation, and directions to the Council to review information about the effect of inflation in this country's participation in the world economy.

I have no major objection to this bill. I am skeptical over the Council's effectiveness in dealing with inflation, however, because I believe inflation is caused by overly stimulative fiscal and monetary policies more than anything else. The Council, of course, has no authority to impose mandatory controls in any form whatsoever and, in my opinion, should never be given such authority. The Council serves strictly as a monitoring agency and I would oppose any effort to expand its authority beyond that function.

I have been concerned, however, over recent press accounts that the administration may be developing wage/price standards or guidelines. For example, an article appearing in the Washington Post on September 1, 1977, noted that—

An administration source was widely quoted Tuesday as saying the Carter administration would begin work within a month on drafts of voluntary wage and price increase standards that would vary from industry to industry.

I ask unanimous consent that the article as it appeared in the Washington Post be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUSINESS, LABOR OPPOSE VOLUNTARY WAGE STANDARDS

NEW YORK, Aug. 31.—The Carter administration's reported interest in drafting voluntary wage-price standards is being met with opposition from major business groups and skepticism from labor.

A spokesman for the United Steelworkers said he was certain that labor would oppose wage and price guidelines. He said the reports sounded like "somebody's floating a trial balloon out of the White House."

"It's been shown in the past that they don't work. It's impossible to police prices," he said.

Economists for the U.S. Chamber of Commerce and National Association of Manufacturers said they feared that even discussion of some form of government wage-price system might further dampen business interest in capital investment because of the uncertainties it would raise.

Presidential spokesman Jody Powell said today that Carter was unaware of any study on wage-price standards and had given no instructions to develop one. But Powell left open the possibility that such a study might be progressing at some level of the administration below that of the President's attention.

An administration source was widely quoted Tuesday as saying the Carter administration would begin work within a month on drafts of voluntary wage and price increase standards that would vary from industry to industry.

The source described the step as preliminary and said voluntary wage-price standards were only one anti-inflation option under consideration. If approved by Carter, they could be ready within six months, the unidentified source said.

Major steel and auto companies, which have been key elements in previous administrations' wage-price efforts, declined to comment on the administration source report. Officials of the United Auto Workers were not available for comment.

Jack W. Carlson, chief economist for the U.S. Chamber of Commerce, and a former deputy member of the Cost of Living Council under the Nixon administration, said he believed any move in the direction of wage-price standards or guidelines could only harm the economy.

"The administration is making a mistake in talking about wage and price controls and in talking about six months from now because that will tend to discourage investment and make the economy less healthy," said Carlson.

Carlson, who predicts that the level of business fixed investment will average 6 or 7 per cent over the next 18 months, said there should be efforts to increase that to 10 or 12 per cent in order to lower unemployment and encourage a healthier economy.

George Hagedorn, chief economist for the National Association of Manufacturers, said that if the report is true—he also found it disturbing and detrimental to the economy to have the subject cropping up again even as a voluntary system.

"Either the program is a disguised form of compulsory controls or it is something that nobody pays any attention to," said Hagedorn.

"It (wage-price control) never has worked in peacetime and I don't think it ever will."

Mr. TOWER. The accounts in the press raised the specter of the wage/price guidelines, that were in vogue during the 1960's. The development of those guidelines during that period reflected an in-

creasing desire to involve the Federal Government in private wage and price decisions. As early as 1957, the economic report of the President stated that fiscal and monetary policies must be supported by private policies to assure a high level of economic activity and a stable dollar. By 1962, formal guideposts were outlined in the economic report of the President. By 1966, the report of the Council of Economic Advisers claimed that "in the years since 1962, the guideposts have gained increasing significance," and that the guideposts had become an "essential pillar for price stability."

The growing significance of guideposts in wage and price decisions over that period is outlined below:

EXCERPTS FROM THE ECONOMIC REPORTS OF THE PRESIDENT AND COUNCIL OF ECONOMIC ADVISERS 1957–66

1957. Statement that proper governmental fiscal and monetary policies must be supported by appropriate private policies to assure a high level of economic activity and a stable dollar.

1958. Statement that price increases should be warranted by increases in costs and that wage increases should not exceed productivity gains.

1959. Restatement of the public interest in settlements of contracts between business and management. Congress asked to make reasonable price stability an explicit goal of federal economic policy.

1960. Statement that the national average of wage increases should not exceed sustainable rates of growth in national productivity and that price reductions warranted by especially rapid productivity gains should be frequent.

1961. Statement focusing on the responsibility of government not to create inflationary pressures through fiscal or monetary policy. The control of unit labor costs is primarily a private responsibility.

1962. Formal statement of guideposts. Price level stability does not rule out flexible relative prices. Government policies must increase, not limit, private freedom. Guideposts "are not concerned primarily with the relation of employers and employees to each other, but rather with their joint relation to the rest of the economy." Productivity is a guide rather than a rule for appraising wage and price behavior.

1963. Restatement of the 1962 guideposts, with indication they are designed to provide standards for evaluating the normal processes of free private decisions and negotiations and are not to replace them.

1964. Restatement with some modifications. Productivity trend change defined as the five-year moving average of the annual percentage change in output per man-hour in the private economy. Government will strive to reinforce competition and notes that it is "the economy's single largest buyer of goods and services." A freezing of labor and nonlabor shares is not intended; and the guideposts call for price reductions in some instances.

1965. Restatement.

1966. Restatement recommending the continuation of 3.2 per cent as "trend productivity" rather than the five-year moving average.

SOURCE.—Guidelines, Informal Controls, and the Market Place: Policy Choices in a Full Employment Economy, 1966.

The point of all this is that the road to mandatory controls is paved with little steps of good intentions. Wage and price guidelines cannot be expected to deal with inflation. Inflation is caused by inappropriate fiscal and monetary policies. Failure to bring fiscal and monetary policies under control means that inflation cannot be brought under control, and failure to bring inflation under control through voluntary guidelines only encourages ever-widening and engulfing search for other, less voluntary means of controlling inflation. Ruinous mandatory controls are the end result.

In view of my concern over the possibility of wage and price guidelines, as reported in the press, I requested the administration to outline its intentions regarding the adoption of wage/price guidelines. I ask unanimous consent that a letter I sent to the President on September 13, 1977, be reprinted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 13, 1977.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: According to recent press accounts, the Administration may be considering the adoption of wage/price standards or guidelines as a means of controlling inflation.

I find these press accounts disturbing. I am greatly concerned over the presently high rate of inflation and the lack of progress in continuing to bring the rate of inflation down. However, I am also concerned over the effect which wage/price standards and guidelines, voluntary or otherwise, would have in shattering business confidence, reducing capital investment and creating uncertainties, inequities and distortions throughout the economy. The mere discussion of possible wage/price standards and guidelines in the press already appears to have created a great deal of concern on the part of wage earners and businessmen, particularly in view of legislation pending in the Senate to extend the life of the Council on Wage and Price Stability until September 30, 1979.

I am, therefore, writing to you for the purpose of determining the Administration's intentions regarding the adoption of wage/price standards or guidelines. An indication of the Administration's intentions would be particularly helpful to members of the Senate who will be expected to vote before the end of this month on the legislation to extend the Council's life. If the Administration could provide assurances that such standards or guidelines will not be adopted, I feel that this would go a long way towards reducing uncertainty and instilling confidence in the private sector.

Sincerely,

JOHN TOWER.

Mr. TOWER. On September 19, 1977, I received a reply from Mr. Stuart E. Eizenstat, Assistant to the President for Domestic Affairs and Policy. Mr. Eizenstat, writing on behalf of the President, stated that "a program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy of inflation." I ask unanimous consent that the letter from Mr. Eizenstat be reprinted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 19, 1977.

The Honorable JOHN TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: The President has asked me to reply to your letter of September 13. The President regrets that recent newspaper accounts suggesting the Administration's attitude toward developing formal numerical guidelines or standards as an anti-inflation tool have caused you concern. He is particularly disturbed because the news accounts were misleading and inaccurate. You will recall that the White House press office immediately denied the stories.

The Administration formally opposes mandatory wage and price controls including standby controls. Moreover, it is our judgment that a program under which the Federal Government promulgates formal numerical guidelines such as those of the early 1960's would not be a desirable or effective remedy for inflation. Instead, the President has stressed the importance of meeting with business and labor leaders and other groups in the private sector to seek voluntary ways to deal with the serious problem of inflation. Members of the Cabinet and presidential advisors have been doing so. That effort, of course, will continue.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

Mr. TOWER. I am encouraged by this letter from the administration. Not only does it describe guidelines as undesirable and ineffective, but it restates the administration's opposition to mandatory wage and price controls, including standby controls.

I agree that wage and price guidelines would not be a desirable or effective solution to the problem of inflation. The American public should be wary of wage and price guidelines, or any other seemingly-simple and deceptive solution to controlling inflation.

Inflation is a very serious problem that can be best solved by avoiding overly-stimulative fiscal and monetary policies. It cannot be solved by wage/price guidelines or controls, which only cause distortions, create gross inequities and discourage us from pursuing noninflationary fiscal and monetary policies. Moreover, informal and voluntary guidelines have a way of becoming something more than originally intended and they seduce us into thinking that mandatory controls will work where voluntary controls have failed. And mandatory controls are a bankrupt economic policy for any nation.

Mr. PROXMIRE. Mr. President, the bill before the Senate, S. 2056, would amend the Council on Wage and Price Stability Act of 1974 to extend the Council to September 30, 1979. Without this legislation the Council will expire on September 30 and the administration and the Congress would lose the services of a small agency, with an appropriation of only slightly more than $2 million, whose sole job is to monitor inflationary pressures and developments in the private sector and within the Government.

When the Council was created it was very clear that the Congress did not intend to create a powerful agency. It also had no intentions of making any move toward the establishment of mandatory wage and price controls in order to control inflation and with good reason: mandatory controls have not been successful in the past and cannot be successful in the future. The Congress intended the Council on Wage and Price Stability to perform its mission by means of intensive investigations into

the causes of inflation at the point where inflationary pressures develop and decisions to increase prices and wages and other cost factors are made—at the level of the individual firm and industry. Moreover, the Congress intended the Council to investigate the inflationary impact of Government regulations and current regulations that have been proposed.

The Council has a very limited staff to do the important job of monitoring and analyzing inflationary developments in the economy. Inflation is a very serious problem that we must come to grips with, and it has been quite evident that monetary policy almost alone cannot stop inflation to any significant degree without exacting an enormous toll on the economy in terms of lost jobs, income, and output, to say nothing of the loss of human dignity that goes along with unemployment.

The Council's work is that of a highly talented research group, and its output comes in the form of published reports and public filings on situations which it has closely reviewed. The job of the Council is to educate the participants in the economy as to the causes of rising prices and to engage the public interest in strengthening voluntary compliance with its findings in order to prevent cost pressures from being magnified as they are transmitted through the economy. Public opinion was considered, and still is, the key to reinforcing the Council's efforts in restraining inflationary actions by business or unions or Government agencies.

It is painfully evident that we are making only slow progress in beating down the underlying inflation rate to less than its present 6-percent annual rate. There have been encouraging signs that prices in certain areas have been going up at a more reasonable rate, but I think that we must all recognize that we still have a very serious problem and that we must take steps, even if they are small steps, to prevent return to the double digit rates of inflation that plagued us only 2 years ago.

We must also be realistic in what we expect from the Council on Wage and Price Stability. It cannot be expected to deliver any stunning victories in this long fight against inflation. It is, after all, primarily a watchdog agency. But it can work within the Government and with business and labor to develop new ideas and possible courses of action that will help to moderate price increases.

Nearly everyone recognizes that the current situation is bad, that new methods must be found to help, that traditional macro-economic policies that work by decreasing demand exact intolerable tolls. But nearly everyone involved in making decisions to increase prices and wages is somewhat adverse to change for fear that they will be losers in the process. This need not be the case at all. And it is in this respect that the Council can perform its most important job.

President Carter, in his reorganization of the White House and the executive office of the President, chose to retain the Council and to name the Chairman of the Council of Economic Advisors as the Chairman of the Council. This arrangement should foster a coordinated effort against inflation within the Administration.

Mr. President, by approving an extension of the Council on Wage and Price Stability, the Senate will indicate its deep concern with inflation. And its understanding that we must seek new ways to moderate price increases with reliance on macro-stabilization policies. I urge the Senate to support the fight against inflation by approving S. 2056.

Mr. STEVENSON. Mr. President, although I support passage of S. 2056, I do so reluctantly because I believe this bill does not address the principal deficiencies in the Council's structure—its inability to delay excessive wage and price decisions and its small staff. It lacks the resources to monitor effectively $1 trillion economy.

The Council on Wage and Price Stability was created to identify the causes of inflation, expose inflationary behavior to public scrutiny, and temper irresponsible wage and price increases. To fulfill its mandate, the Council is required to review and analyze economic concentration, anticompetitive practices, and the inflationary impact of governmental policies and programs. It is required to work with labor and management in sectors of the economy having special economic problems in order to improve the structure of collective bargaining, as well as to improve the performance of those sectors in restraining prices. The Council is required to improve wage and price data bases in order to improve collective bargaining and encourage price restraint. It is required to conduct public hearings in order to provide public scrutiny of inflationary problems. And it is required to monitor the economy as a whole by acquiring reports on wages, costs, productivity, prices, sales, profits, imports, and exports.

Obviously the Council does not have the tools to do its job. It cannot require prenotification of wages or price increases that would significantly increase inflation. It cannot, as the Chairman of the Federal Reserve Board has proposed, delay temporarily excessive wage or price increases. Its staff resources are grossly inadequate. It does not have the tools because government still lacks the courage of its professed concern about inflation.

I considered again introducing amendments to strengthen the Council, but learned they would receive no more support from this administration than its predecessors, such amendments being, as they are, opposed by powerful interests which might be exposed by a Council competent to do so.

S. 2056 contains a worthwhile improvement in the Council's mandate. The Council will be required to review and analyze international factors that play an increasingly important role in the health of our domestic economy. But once again, the Senate is asked to renew the Council's authority, to make a few technical and other amendments, and to continue its modest budget. We still lack the conviction that irresponsible inflationary behavior is a grave danger to our economy and one that must be subject to the strongest public scrutiny and pressure.

I submit that prenotification and delay authority would put teeth in the jawbone by giving the Council, the President, and the Congress time to fashion appropriate remedies before the public is made to suffer the consequences of irresponsible inflationary behavior. It would also afford the pressure of public opinion time to effect restraint. I believe such powers would be far preferable to the sporadic cries for wage and price controls which are ill suited to today's world, creating, as controls do, inequities and shortages.

We, as public policymakers, cannot approach today's economic problems in the lockstep of outmoded economic orthodoxy or in the dazzle of complex econometric models that tend more to confuse than clarify.

We must face up to our responsibilities and be willing to take actions that permit the democratic will to be exerted on market behavior—whether by business, labor, or government—that threatens our stability and economic growth. Sadly, approval of S. 2056 is but a shuffle step in that direction. I hope that the next time around, the administration and Congress will demonstrate their conviction and give the Council authority to wage a fight against inflation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–408), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

INTRODUCTION

The committee bill reported herein amends the Council on Wage and Price Stability Act to extend the expiration date of the Council on Wage and Price Stability from September 30, 1977, to September 30, 1979. The legislation would also authorize the appropriation of $2,210,000 for the Council's activities for the fiscal years 1978 and 1979.

The committee had referred to it S. 1542 which contained some of the same provisions as the committee bill herein. In addition, the committee considered several of the provisions contained in H.R. 6951 as reported (Rept. 95–316) by the House Committee on Banking, Finance and Urban Affairs. Those provisions would include full employment as one objective of the anti-inflation program, would direct the Council in the course of its public hearings to emphasize the purpose of controlling inflation, and would direct the Council to review information about and analyze the effects on the U.S. economy of U.S. participation in the world economy.

The committee conducted a single day of hearings on S. 1542 on July 19, 1977, and considered the legislation in markup session on August 4, 1977. The committee agreed without objection to approve a clean bill which contained a number of changes from S. 1542. The committee ordered a clean bill introduced and reported the bill by a unanimous vote of 15 to 0.

NATURE AND PURPOSE OF THE BILL

The Council on Wage and Price Stability Act provides for the establishment of the Council on Wage and Price Stability which was established on August 24, 1974, to monitor inflationary wage and price developments in the private sector of the economy, as well as the inflationary activities of the agencies and departments of the Federal Government.

As originally introduced on May 16, 1977, S. 1542 would have extended the life of the

Council to September 30, 1978, and increased its expenditure authorization from $1,700,000 to $2,500,000 for fiscal years 1978 and 1979. The additional authorization would have allowed the Council to increase its staff by 10 professionals. However, President Carter indicated in his reorganization plan that the size of the Council's staff would be held to 39. The administration advised the committee subsequently that a reduced expenditure authorization of $2,210,000 per year would be sufficient to cover the Council's activities for fiscal year 1978 and fiscal year 1979. The committee agreed to the lower authorization request.

S. 1542 would have deleted reference to the Deputy Director of the Council. In his testimony on July 19, 1971, Dr. Barry Bosworth, on Wage and Price Stability at that time, indicated that he would like the title retained. In a letter to Chairman Proxmire who was the Director-designee of the Council dated August 3, 1977, Dr. Bosworth requested formally that the title be retained so that in the Director's absence, authority would be delegated to the Deputy Director for the Council's day-to-day operations. Since one of the Council's senior staff members will be designated as Deputy Director the size of the Council's staff will not be affected by retaining the title.

The other sections of S. 1542 would have made technical clarifying amendments to the Council on Wage and Price Stability Act. Those amendments would have made it clear that (1) the Council is authorized to collect data relating to "inventories, shipments, orders, and other similar aspects of business operations," (2) the Council could resort to the courts for enforcement of its authority to require periodic reports as well as its authority to subpena data, and (3) data submitted voluntarily to the Council is afforded the same degree of protection and confidentiality as data that the Council subpenas. S. 1542 would also strengthen the present language of the act by requiring the Council to maintain the confidentiality of trade secrets and other confidential business information submitted to it.

The administration indicated by letter to Chairman Proxmire that it wanted to study further the amendments that would have clarified the Council's authorization to collect data and to resort to the courts to enforce its request for periodic reports. The committee agreed to delete that section of S. 1542. The amendments on confidentiality of information submitted to the Council were approved by the committee.

The committee also considered three provisions contained in H.R. 6951 as reported by the House Committee on Banking, Finance and Urban Affairs. Those provisions would include full employment as one of the objectives of the anti-inflation program, would have the Council in the course of its public hearings emphasize the purpose of controlling inflation, and would have the Council review information about and analyze the affects of the U.S. economy of U.S. participation in international trade and commerce, changing patterns of supplies and prices of commodities in the world market, investment of U.S. capital in foreign countries, short- and long-term weather changes in the world, interest rates, capital formation, and changing patterns of world energy supplies and prices.

The committee agreed to the three provisions contained in H.R. 6951. The committee indicated, however, that it did not feel the Council should initiate any forecasting of short- or long-term weather conditions in the world, but rather that it merely analyze existing information about weather conditions as they may affect the supply of raw materials and food stuffs. Nor does the committee expect the Council to intervene in the conduct of overall fiscal and monetary policies in carrying out the proposed directive to consider full employment as part of its anti-inflation program.

ESTIMATED COST OF THE LEGISLATION

Enactment of the legislation will result in an increase in authorized expenditures from $1,700,000 to $2,210,000 in each of the fiscal years 1978 and 1979.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Council on Wage and Price Stability Amendments of 1977."

SEC. 2. Section 3(a) of the Council on Wage and Price Stability Act is amended—

(1) by inserting "for the purpose of controlling inflation" immediately before the semicolon at the end of clause (4);

(2) by inserting "and focus attention on the need to move toward full employment" immediately before the semicolon at the end of clause (5);

(3) by striking out "and" at the end of clause (7);

(4) by striking out the period at the end of clause (8) and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following new clause:

"(9) review information about and analyze the effects on the United States economy of—

"(A) the participation of the United States in international trade and commerce;

"(B) the changing patterns of supplies and prices of commodities in the world market;

"(C) the investment of United States capital in foreign countries;

"(D) short- and long-term weather changes in the world;

"(E) interest rates;

"(F) capital formation; and

"(G) the changing patterns of world energy supplies and prices.".

SEC. 3. Section 4(f) of the Council on Wage and Price Stability Act is amended—

(1) by inserting in paragraph (1) after "section 2(g)" the following: "or submitted voluntarily pursuant to a Council request and judged by the Council to be confidential information";

(2) by striking out all that follows "United States Code" in paragraph (1) and inserting in lieu thereof a period and the following sentence: "Neither the Director nor any member of the Council may permit anyone other than sworn officers, members, and employees of the Council to examine such data."; and

(3) by inserting after "section 2(g)" in paragraph (2) the following: "or submitted voluntarily pursuant to a Council request".

SEC. 4. Section 6 of the Council on Wage and Price Stability Act is amended by inserting after "October 1, 1977," the following: "not to exceed $2,210,000 for the fiscal year ending September 30, 1978, and not to exceed $2,210,000 for the fiscal year ending September 30, 1979,".

SEC. 5. Section 7 of the Council on Wage and Price Stability Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1979".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following Calendar Orders numbered 391, 392, 393, and 396.

INTRAVENOUS FAT EMULSION

The Senate proceeded to consider the bill (H.R. 1904) to suspend until July 1, 1980, the duty on intravenous fat emulsion which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, following "That" insert "(a)";

On page 2, line 1, strike "SEC. 2." and insert "(b)";

On page 2, line 1, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 5, insert the following:

SEC. 2. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately before item 907.60 the following new items:

" 907.10	Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure (provided for in item 403.60, part 1B, schedule 4) to be used in the manufacture of photographic color couplers	Free	No change.	On or before 6 30 80.	
" 907.12	Photographic color couplers (provided for in item 405.20, part 1C, schedule 4)	Free	No change.	On or before 6 30 80.	"

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 3. (a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 912.05 the following new item:

" 912.06	Field glasses; opera glasses, prism binoculars, and other telescopes not designed for use with infrared light (provided for in item 708.51, 708.52, or 708.53, part 2A, schedule 7)	Free	No change	On or before 12 31 78	"

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 4. (a) Schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out ", or 300 cigarettes," in item 812.20; and

(2) by amending item 812.25 to read as follows: "Not exceeding $100 in value of articles (including not more than 100 cigars but not including alcoholic beverages except for 1 wine gallon of such beverages accompanying residents of American Samoa, Guam, or the Virgin Islands arriving directly or indirectly therefrom) accompanying such person to be disposed of by him as bona fide gifts (except that cigarettes may be entered under this item 812.25 for such person's

own consumption or as bona fide gifts), if such person has not claimed an exemption under this item 812.25 within the 6 months immediately preceding his arrival and he intends to remain in the United States for not less than 72 hours.".

(b) The amendments made by subsection (a) shall apply with respect to articles entered on or after the thirtieth day after the date of enactment of this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to suspend until July 1, 1980, the duty on intravenous fat emulsion, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-432), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

I. SUMMARY

H.R. 1904, as amended, would accomplish four objectives:

Temporarily permit (through June 30, 1980) duty-free treatment of imports of intravenous fat emulsion, a product used as a source of calories and essential fatty acids for patients requiring intravenous nutrition for an extended period;

Temporarily permit (through June 30, 1980) duty-free treatment for imports of color couplers and coupler intermediates which are chemicals used in the manufacture of color photographic paper, film, and graphic arts materials;

Temporarily permit (through December 31, 1978) duty-free treatment of imports of certain field glasses, opera glasses, binoculars, and other telescopes; and

Eliminate differences in the tariff treatment of cigarettes and liquor brought into the United States by nonresidents and residents of the United States for personal use or as gifts.

II. REASONS FOR THE BILL

The provisions of the bill regarding intravenous fat emulsions are intended to reduce the cost of those imports. There is no domestic production of the product.

The provisions regarding color coupler and coupler intermediates would eliminate an unnecessary cost of such products at a time when there is insufficient domestic production. Additional domestic production is scheduled to be in place by mid-1980, by which time the duty-free treatment provided in this bill will have ended.

The provisions of the bill regarding field glasses, opera glasses, binoculars, and other telescopes are intended to remove the present duty on the imports to permit savings to consumers. There is very little domestic production of the products.

The provisions of the bill regarding liquor and cigarette imports are intended to eliminate differences in the customs treatment accorded nonresidents and residents of the United States on imports of those products under the personal exemption provisions of the Tariff Schedules of the United States. Nonresidents now may bring in significantly larger amounts of cigarettes and liquor duty free for their own use or as gifts than may U.S. residents.

III GENERAL EXPLANATION

A. Intravenous fat emulsion

The first section of the bill would add a new item 907.75 to the Appendix of the Tariff Schedules of the United States (TSUS) providing duty-free treatment for column 1 (MFN) and column 2 (non-MFN) imports of intravenous fat emulsion entered, or withdrawn from warehouse, for consumption before July 1, 1980. Imports of intravenous fat emulsion are now classified under TSUS item 440.00 with a column 1 rate of duty of 5 percent ad valorem and a column 2 rate of duty of 25 percent ad valorem. If produced in a beneficiary developing country, column 1 imports of intravenous fat emulsion are eligible for duty-free treatment under the Generalized System of Preferences.

Intravenous fat emulsion is used as a source of calories and essential fatty acids for patients requiring intravenous nutrition for an extended period. It is especially valuable in treating infants and patients under cancer therapy or extensive burn treatment. Only one intravenous fat emulsion, imported from Sweden, is marketed in the United States. The product is imported and marketed in the United States by one company. There has been no production of intravenous fat emulsion in the United States in the last 5 years. Annual imports are valued at $2.5 million.

The Subcommittee on International Trade of the Committee on Finance held a public hearing on H.R. 1904 on July 14, 1977. No objections were heard. The Department of Commerce submitted a report favoring enactment of this provision and the International Trade Commission submitted an information report.

B. Color couplers and coupler intermediates

Section 2 of the bill, which is a committee amendment containing the substance of H.R. 5052, 95th Congress, would add new items 907.10 and 907.12 to the Appendix to the TSUS, providing duty-free treatment for imports of color couplers and coupler intermediates entered under column 1 before July 1, 1980. Color intermediates are now classified under item 403.60 of the TSUS at a column 1 duty rate of 1.7 cents per pound plus 12.5 percent ad valorem. Color couplers are classified under item 405.20 of the TSUS at a column 1 duty rate of 3 cents per pound plus 19 percent ad valorem. Column 1 imports of color couplers from designated beneficiary developing countries are eligible for duty-free treatment under the Generalized System of Preferences. The ad valorem duty rate for imports of color intermediates and couplers must be assessed on the American selling price of a similar competitive article if such an article is produced in the United States.

Color coupler intermediates are chemicals used to make color couplers, which are chemicals used to make color photographic paper, film, and graphic arts materials. Color couplers and intermediates are produced in the United States by two firms which do not offer the chemicals for sale. One firm imports the couplers and intermediates from an Italian subsidiary and accounts for the bulk of the imports. This bill would enable the firm to import the articles duty free from its subsidiary for a temporary period in order to supply their requirements photographic paper production. The firm anticipates building a plant near its photographic paper plant to produce these chemicals domestically. This plant is scheduled to be in place by mid-1980.

The Subcommittee on International Trade held a public hearing on H.R. 5052 on July 14, 1977. No objections to the bill were received from any source. The Department of Commerce submitted a report stating no objections to the bill. The U.S. International Trade Commission submitted an information report.

C. Field glasses, opera glasses, binoculars, and other telescopes

Section 2 of the bill is a committee amendment containing the substance of S. 1519, 95th Congress. It would add new item 912.06 to the Appendix to the TSUS providing duty-free treatment for imports of field glasses, opera glasses, prism binoculars, and other telescopes, all not designed for use with infrared light, entered, or withdrawn from warehouse, for consumption under column 1 before January 1, 1979.

These products are now dutiable under TSUS items 708.51, 708.52, and 708.53 at column 1 rates ranging from 8.5 percent to 20 percent ad valorem. Column 1 imports under all three items are eligible for duty-free treatment if imported from a designated beneficiary developing country under the Generalized System of Preferences.

There is no U.S. production of most of the imported articles. U.S. producers use imported prisms for high quality, expensive spotting scopes and telescopic sights for rifles for a limited market. The bulk of imports are from Japan. During 1976, the value of imports was $36 million.

The Subcommittee on International Trade held a public hearing on S. 1519 on July 14, 1977. Favorable testimony was heard. The Departments of State, of the Treasury, and of Commerce submitted reports opposing enactment of S. 1519 because the President may be able to secure in the Multilateral Trade Negotiations concessions from Japan in return for reduced duties on these articles. The committee believes the short period of this duty suspension will not reduce the value of the duties affected in the Multilateral Trade Negotiations. The U.S. International Trade Commission submitted an information report.

D. Cigarettes and liquor

Current law permits nonresidents to bring in more liquor and cigarettes duty free for personal use or as gifts than may residents. Adult nonresidents now may enter duty free, under TSUS item 81220, for personal consumption, not over 1 quart of alcoholic beverages and not over either 50 cigars, 300 cigarettes, or 3 pounds of smoking tobacco. Nonresidents now may also bring in duty free under TSUS item 812.25 not over 1 wine gallon of alcoholic beverages and not over 100 cigars if they are to be disposed of as bona fide gifts and various other restrictions are satisfied. Residents now may enter duty free under TSUS item 813.30 upon arrival in the United States from abroad not more than 1 quart of alcoholic beverages (1 wine gallon if an individual arrives from American Samoa, Guam, or the Virgin Islands of the United States) and not more than 100 cigars if acquired abroad as an incident of the journey from which they are returning and if for personal or household use. There is no quantitative limit on the number of cigarettes a resident may enter duty free subject to the $100 limitation for all duty-free items provided in item 813.30.

Sections 4(a) (1) and (2) of the bill would amend TSUS items 812.20 and 812.25. Item 812.20, as amended would no longer permit non-residents to enter up to 300 cigarettes duty free for their personal consumption. However, under item 812.25, as amended, nonresidents, within the $100 limitation applicable, could enter duty-free cigarettes for their own consumption or as bona fide gifts. Item 812.25, as amended, would also provide that nonresidents may no longer bring into the United States duty free any alcoholic beverages for gifts, except that residents of American Samoa, Guam, and the Virgin Islands could still enter duty free up to 1 wine gallon of such beverage as gifts. The remainder of present law discussed above regarding nonresidents is unchanged.

Because of the differences in the treatment

accorded residents and nonresidents of the United States described above a returning resident may enter 1 quart of liquor duty-free while a visitor to the U.S. may enter 6 fifths of liquor duty free. The possibility exists for the development of a "black market" in duty free liquor brought in by non-residents to the detriment of tax revenues to U.S. States. This factor, along with the more favorable tariff treatment accorded nonresidents over U.S. residents as regards the personal exemption on liquor and cigarettes, convinced the committee that more equal treatment was required.

IV. COST OF CARRYING OUT THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the committee estimates the customs revenue effect of carrying out the bill as it relates to intravenous fat emulsion at a $126,000 loss per annum; as it relates to color couplers and coupler intermediates a $550,000 loss per annum; as it relates to field glasses, opera glasses, prism binoculars, and other telescopes, a $3 million loss per annum; and as it relates to cigarettes and liquor, an indeterminant revenue gain each year.

V. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the committee states that the bill, as amended, will not regulate any individuals or businesses.

RUBBER LATEX MATTRESS BLANKS

The Senate proceeded to consider the bill (H.R. 2849) to suspend until July 1, 1978, the rate of duty on mattress blanks of rubber latex which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, after "That" insert "(a)";

On page 1, line 7, strike "SEC. 2. (a)" and insert "(b)";

On page 1, line 7, strike "the first section of this Act" and insert "subsection (a)";

On page 2, line 1, strike "(b)" and insert "(c)";

On page 2, line 8, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 15, insert the following:

SEC. 2. (a) Subpart D of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 734.97 and inserting in lieu thereof the following:

" 734.98	Bobsleds and luges of a kind used in international competition	Free	Free
734.99	Other	9% ad val.	45% ad val. "

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

SEC. 3. (a) Section 4946(a)(2) of the Internal Revenue Code of 1954 (relating to substantial contributors) is amended to read as follows:

"(2) SUBSTANTIAL CONTRIBUTOR.—For purposes of paragraph (1), the term 'substantial contributor' means a person who is described in section 507(d)(2), except that, for purposes of section 4941 (relating to taxes on self-dealing), contributions made before October 9, 1969, which were made on account of or in lieu of payments required under a lease in effect prior to such date and which were coincident with or by reason of the reduction in the required payments under such lease shall not be taken into account for purposes of applying section 507(d)(2).".

(b) For the purposes of applying section 507(d)(2)(B)(iv) of the Internal Revenue Code of 1954, the amendment made by subsection (a) shall be treated as having taken effect on January 1, 1970.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to suspend until July 1, 1978, the rate of duty on mattress blanks of latex rubber, and for other purposes.

YARNS OF SILK

The Senate proceeded to consider the bill (H.R. 3373) to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk which had been reported from the Committee on Finance with amendments as follows:

On page 1, line 3, after "That" insert "(a)";

On page 1, line 7, strike "SEC. 2. (a)" and insert "(B)";

On page 1, line 7, strike "the first section of this Act" and insert "subsection (a)";

On page 2, line 1, strike "(b)" and insert "(c)";

On page 2, line 8, strike "the first section of this Act" and insert "subsection (a)";

On page 2, beginning with line 15, insert the following:

SEC. 2. (a) Headnote 1(b) of the headnotes to schedule 1, part 15, subpart C of the Tariff Schedule of the United States is amended to read as follows:

"(b) the term 'mixed feeds' and 'mixed-feed ingredients' in item 184.70 embrace products which are admixtures of grains (or products, including byproducts, obtained in milling grains) or of soybeans (or products, including byproducts, obtained in processing soybeans) with molasses, oil cake, oilcake meal, or other feedstuffs, except that there shall not be included in the terms 'mixed feeds' and 'mixed-feed ingredients' in item 184.70 products which are admixtures of soy beans or soybean products with other soybean products, or of soybeans or soybean products with milk products, or with products containing milk or milk derivatives; and which consist of not less than 6 percent by weight of said grains or grain products or of said soybeans or soybean products.".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

SEC. 3. (a) Section 4254 of the Internal Revenue Code of 1954 (relating to computation of tax on communications services) is amended to read as follows:

"SEC. 4254. Computation of tax.

"(a) GENERAL RULE.—The amount on which a tax imposed by section 4251 is based shall not include, if separately stated, any tax on the amount paid for such service imposed by a State or political subdivision of a State or by the District of Columbia.

"(b) BILLS RENDERED FOR LOCAL TELEPHONE SERVICE OR TOLL TELEPHONE SERVICE.—If a bill is rendered the taxpayer for local telephone service or toll telephone service—

"(1) the amount on which the tax with respect to such services shall be based shall be the sum of all changes for such services included in the bill; except that

"(2) if the person who renders the bill groups individual items for purposes of rendering the bill and computing the tax, then (A) the amount on which the tax with respect to each such group shall be based shall be the sum of all items within that group and (B) the tax on the remaining items not included in any such group shall be based on the charge for each item separately.

"(c) WHERE PAYMENT IS MADE FOR TOLL TELEPHONE SERVICE IN COIN-OPERATED TELEPHONES.—If the tax imposed by section 4251 with respect to toll telephone service is paid by inserting coins in coin-operated telephones, tax shall be computed to the nearest multiple of 5 cents, except that, where the tax is midway between multiples of 5 cents, the next higher multiple shall apply.".

(b) Section 4254(a) of the Internal Revenue Code of 1954, as amended by subsection (a), shall apply with respect to amounts paid pursuant to bills first rendered on or after the first day of the first month which begins more than twenty days after the date of enactment of this Act, but such section, as so amended, shall not apply with respect to amounts paid for services rendered more than two months before such first day and for which a bill has not been rendered before such first day.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to extend for an additional temporary suspension of duties on certain classifications of yarns of silk, and for other purposes.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The resolution (S. Res. 243) authorizing supplemental expenditures by the Committee on Banking, Housing, and Urban Affairs for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 164, Ninety-fifth Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out the amount "$610,000" and inserting in lieu thereof "$670,000".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, there is a budget waiver to Calendar Order No. 394 at the desk.

I ask unanimous consent that the Senate proceed to the consideration of that resolution of budget waiver.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1682, legislation to provide for the implementation of treaties for the transfer of offenders to or from foreign countries. Such waiver is necessary to allow for the authorization of $900,000 of fiscal year 1978 funds for use in the implementation of these treaties. Compliance with section 402(a) of the Congressional Budget Act of 1974, was not possible by May 15, 1977, because the treaties with Canada and Mexico which this legislation implements were not ratified until July 19 and July 21, 1977.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the resolution was considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF OFFENDERS FOR ADMINISTRATION OF FOREIGN PENAL SENTENCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 394, S. 1682.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1682) to provide for the implementation of treaties for the transfer of offenders to or from foreign countries.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That title 18, United States Code, is amended by inserting after chapter 305 the following new chapter:

"Chapter 306.—TRANSFER TO OR FROM FOREIGN COUNTRIES

"Sec.
"4100. Scope and limitation of chapter.
"4101. Definitions.
"4102. Authority of the Attorney General.
"4103. Applicability of United States laws.
"4104. Transfer of offenders on probation.
"4105. Transferred offender serving sentence of imprisonment.
"4106. Tranfers of offenders on parole; parole of offenders transferred.
"4107. Verification of consent of offender to transfer from the United States.
"4108. Verification of consent of offender to transfer to the United States.
"4109. Right to counsel, appointment of counsel.
"4110. Transfer of juveniles.
"4111. Prosecution barred by foreign conviction.
"4112. Loss of rights, disqualification.
"4113. Status of alien offender transferred to a foreign country.
"4114. Return of transferred offenders.
"4115. Execution of sentences imposing an obligation to make restitution or reparations.

"§ 4100. Scope and limitation of chapter

"(a) The provisions of this chapter relating to the transfer of offenders shall be applicable only when a treaty providing for such a transfer is in force, and shall only be applicable to transfers of offenders to and from a foreign country pursuant to such a treaty. A sentence imposed by a foreign country upon an offender who is subsequently transferred to the United States pursuant to a treaty shall be subject to being fully executed in the United States even though the treaty under which the offender was transferred is no longer in force.

"(b) An offender may be transferred from the United States pursuant to this chapter only to a country of which the offender is a citizen or national. Only an offender who is a citizen or national of the United States may be transferred to the United States. An offender may be transferred to or from the United States only with the offender's consent, and only if the offense for which the offender was sentenced satisfies the requirement of double criminality as defined in this chapter. Once an offender's consent to transfer has been verified by a verifying officer, that consent shall be irrevocable. If at the time of transfer the offender is under eighteen years of age the transfer shall not be accomplished unless consent to the transfer be given by a parent or guardian or by an appropriate court of the sentencing country.

"(c) An offender shall not be transferred to or from the United States if a proceeding by way of appeal or of collateral attack upon the conviction or sentence be pending.

"(d) The United States upon receiving notice from the country which imposed the sentence that the offender has been granted a pardon, commutation, or amnesty, or that there has been an ameliorating modification or a revocation of the sentence shall give the offender the benefit of the action taken by the sentencing country.

"§ 4101. Definitions

"As used in this chapter the term—

"(a) 'double criminality' means that at the time of transfer of an offender the offense for which he has been sentenced is still an offense in the transferring country and is also an offense in the receiving country. With regard to a country which has a federal form of government, an act shall be deemed to be an offense in that country if it is an offense under the federal laws or the laws of any state or province thereof;

"(b) 'imprisonment' means a penalty imposed by a court under which the individual is confined to an institution;

"(c) 'juvenile' means—

"(1) a person who is under eighteen years of age; or

"(2) for the purpose of proceedings and disposition under chapter 403 of this title because of an act of juvenile delinquency, a person who is under twenty-one years of age;

"(d) 'juvenile delinquency' means—

"(1) a violation of the laws of the United States or a State thereof or of a foreign country committed by a juvenile which would have been a crime if committed by an adult; or

"(2) noncriminal acts committed by a juvenile for which supervision or treatment by juvenile authorities of the United States, a State thereof, or of the foreign country concerned is authorized;

"(e) 'offender' means a person who has been convicted of an offense or who has been adjudged to have committed an act of juvenile delinquency;

"(f) 'parole' means any form of release of an offender from imprisonment to the community by a releasing authority prior to the expiration of his sentence, subject to conditions imposed by the releasing authority and to its supervision;

"(g) 'probation' means any form of a sentence to a penalty of imprisonment the execution of which is suspended and the offender is permitted to remain at liberty under supervision and subject to conditions for the breach of which the suspended penalty of imprisonment may be ordered executed;

"(h) 'sentence' means not only the penalty imposed but also the judgment of conviction in a criminal case or a judgment of acquittal in the same proceeding, or the adjudication of delinquency in a juvenile delinquency proceeding or dismissal of allegations of delinquency in the same proceedings;

"(i) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(j) 'transfer' means a transfer of an individual for the purpose of the execution in one country of a sentence imposed by the courts of another country; and

"(k) 'treaty' means a treaty under which an offender sentenced in the courts of one country may be transferred to the country of which he is a citizen or national for the purpose of serving the sentence.

"§ 4102. Authority of the Attorney General

"The Attorney General is authorized—

"(1) to act on behalf of the United States as the authority referred to in a treaty;

"(2) to receive custody of offenders under a sentence of imprisonment, on parole, or on probation who are citizens or nationals of the United States transferred from foreign countries and as appropriate confine them in penal or correctional institutions, or assign them to the parole or probation authorities for supervision;

"(3) to transfer offenders under a sentence of imprisonment, on parole, or on probation to the foreign countries of which they are citizens or nationals;

"(4) to make regulations for the proper implementation of such treaties in accordance with this chapter and to make regulations to implement this chapter;

"(5) to render to foreign countries and to receive from them the certifications and reports required to be made under such treaties;

"(6) to make arrangements by agreement with the States for the transfer of offenders in their custody who are citizens or nationals of foreign countries to the foreign countries of which they are citizens or nationals and for the confinement, where appropriate, in State institutions of offenders transferred to the United States;

"(7) to make agreements and establish regulations for the transportation through the territory of the United States of offenders convicted in a foreign country who are being transported to a third country for the execution of their sentences, the expenses of which shall be paid by the country requesting the transportation;

"(8) to make agreements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of juveniles who are transferred pursuant to treaty, the expenses of which shall be paid by the country of which the juvenile is a citizen or national;

"(9) in concert with the Secretary of Health, Education, and Welfare, to make arrangements with the appropriate authorities of a foreign country and to issue regulations for the transfer and treatment of individuals who are accused of an offense but who have been determined to be mentally ill; the expenses of which shall be paid by the country of which such person is a citizen or national;

"(10) to designate agents to receive, on behalf of the United States, the delivery by a foreign government of any citizen or national of the United States being transferred to the United States for the purpose of serving a sentence imposed by the courts of the foreign country, and to convey him to the place designated by the Attorney General. Such agent shall have all the powers of a marshal of the United States in the several

districts through which it may be necessary for him to pass with the offender, so far as such power is requisite for the offender's transfer and safekeeping; within the territory of a foreign country such agent shall have such powers as the authorities of the foreign country may accord him;

"(11) to delegate the authority conferred by this chapter to officers of the Department of Justice.

"§ 4103. Applicability of United States laws

"All laws of the United States, as appropriate, pertaining to prisoners, probationers, parolees, and juvenile offenders shall be applicable to offenders transferred to the United States, unless a treaty or this chapter provides otherwise.

"§ 4104. Transfer of offenders on probation

"(a) Prior to consenting to the transfer to the United States of an offender who is on probation, the Attorney General shall determine that the appropriate United States district court is willing to undertake the supervision of the offender.

"(b) Upon the receipt of an offender on probation from the authorities of a foreign country, the Attorney General shall cause the offender to be brought before the United States district court which is to exercise supervision over the offender.

"(c) The court shall place the offender under supervision of the probation officer of the court. The offender shall be supervised by a probation officer, under such conditions as are deemed appropriate by the court as though probation had been imposed by the United States district court.

"(d) The probation may be revoked in accordance with section 3653 of this title and rule 32(f) of the Federal Rules of Criminal Procedure. A violation of the conditions of probation shall constitute grounds for revocation. If probation is revoked the suspended sentence imposed by the sentencing court shall be executed.

"(e) The provisions of sections 4105 and 4106 of this title shall be applicable following a revocation of probation.

"(f) Prior to consenting to the transfer from the United States of an offender who is on probation, the Attorney General shall obtain the assent of the court exercising jurisdiction over the probationer.

"§ 4105. Transfer of offenders serving sentence of imprisonment

"(a) Except as provided elsewhere in this section, an offender serving a sentence of imprisonment in a foreign country transferred to the custody of the Attorney General shall remain in the custody of the Attorney General under the same conditions and for the same period of time as an offender who had been committed to the custody of the Attorney General by a court of the United States for the period of time imposed by the sentencing court.

"(b) The transferred offender shall be given credit toward service of the sentence for any days, prior to the date of commencement of the sentence, spent in custody in connection with the offense or acts for which the sentence was imposed.

"(c)(1) The transferred offender shall be entitled to all credits for good time, for labor, or any other credit toward the service of the sentence which had been given by the transferring country for time served as of the time of the transfer. Subsequent to the transfer, the offender shall in addition be entitled to credits for good time, computed on the basis of the time remaining to be served at the time of the transfer and at the rate provided in section 4161 of this title for a sentence of the length of the total sentence imposed and certified by the foreign authorities. These credits shall be combined to provide a release date for the offender pursuant to section 4164 of this title.

"(2) If the country from which the offender is transferred does not give credit for good time, the basis of computing the deduction from the sentence shall be the sentence imposed by the sentencing court and certified to be served upon transfer, at the rate provided in section 4161 of this title.

"(3) A transferred offender may earn extra good time deductions, as authorized in section 4162 of this title, from the time of transfer.

"(4) All credits toward service of the sentence, other than the credit for time in custody before sentencing, may be forfeited as provided in section 4165 of this title and may be restored by the Attorney General as provided in section 4166 of this title.

"(5) Any sentence for an offense against the United States, imposed while the transferred offender is serving the sentence of imprisonment imposed in a foreign country, shall be aggregated with the foreign sentence, in the same manner as if the foreign sentence was one imposed by a United States district court for an offense against the United States.

"§ 4106. Transfer of offenders on parole; parole of offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205 (d), (e), and (h); 4206 through 4216; and 4218 of this title shall be applicable.

"(c) An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.

"§ 4107. Verification of consent of offender to transfer from the United States

"(a) Prior to the transfer of an offender from the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified by a United States magistrate or a judge as defined in section 451 of title 28, United States Code.

"(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

"(1) only the appropriate courts in the United States may modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in such courts;

"(2) the sentence shall be carried out according to the laws of the country to which he is to be transferred and that those laws are subject to change;

"(3) if a court in the country to which he is transferred should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of that country, he may be returned to the United States for the purpose of completing the sentence if the United States requests his return; and

"(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

"(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

"(d) The verifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

"(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

"§ 4108. Verification of consent of offender to transfer to the United States

"(a) Prior to the transfer of an offender to the United States, the fact that the offender consents to such transfer and that such consent is voluntary and with full knowledge of the consequences thereof shall be verified in the country in which the sentence was imposed by a United States magistrate, or by a citizen specifically designated by a judge of the United States as defined in section 451 of title 28, United States Code. The designation of a citizen who is an employee or officer of a department or agency of the United States shall be with the approval of the head of that department or agency.

"(b) The verifying officer shall inquire of the offender whether he understands and agrees that the transfer will be subject to the following conditions:

"(1) only the country in which he was convicted and sentenced can modify or set aside the conviction or sentence, and any proceedings seeking such action may only be brought in that country;

"(2) the sentence shall be carried out according to the laws of the United States and that these laws are subject to change;

"(3) if a United States court should determine upon a proceeding initiated by him or on his behalf that his transfer was not accomplished in accordance with the treaty or laws of the United States, he may be returned to the country which imposed the sentence for the purpose of completing the sentence if that country requests his return; and

"(4) his consent to transfer, once verified by the verifying officer, is irrevocable.

"(c) The verifying officer, before determining that an offender's consent is voluntary and given with full knowledge of the consequences, shall advise the offender of his right to consult with counsel as provided by this chapter. If the offender wishes to consult with counsel before giving his consent, he shall be advised that the proceedings will be continued until he has had an opportunity to consult with counsel.

"(d) The vertifying officer shall make the necessary inquiries to determine that the offender's consent is voluntary and not the result of any promises, threats, or other improper inducements, and that the offender accepts the transfer subject to the conditions set forth in subsection (b). The consent and acceptance shall be on an appropriate form prescribed by the Attorney General.

"(e) The proceedings shall be taken down by a reporter or recorded by suitable sound recording equipment. The Attorney General shall maintain custody of the records.

"§ 4109. Right to counsel, appointment of counsel

"In proceedings to verify consent of an offender for transfer, the offender shall have the right to advice of counsel. If the offender is financially unable to obtain counsel—

"(1) counsel for proceedings conducted under section 4107 shall be appointed in accordance with the Criminal Justice Act (18 U.S.C. 3006A). Such appointment shall be considered an appointment in a misdemeanor

case for purposes of compensation under the Act;

"(2) counsel for proceedings conducted under section 4108 shall be appointed by the verifying officer pursuant to such regulations as may be prescribed by the Director of the Administrative Office of the United States Courts. The Secretary of State shall make payments of fees and expenses of the appointed counsel, in amounts approved by the verifying officer, which shall not exceed the amounts authorized under the Criminal Justice Act (18 U.S.C. 3006(a)) for representation in a misdemeanor case. Payment in excess of the maximum amount authorized may be made for extended or complex representation whenever the verifying officer certifies that the amount of the excess payment is necessary to provide fair compensation, and the payment is approved by the chief judge of the United States court of appeals for the appropriate circuit. Counsel from other agencies in any branch of the Government may be appointed: *Provided*, That in such cases the Secretary of State shall pay counsel directly, or reimburse the employing agency for travel and transportation expenses. Notwithstanding section 3648 of the revised statutes as amended (31 U.S.C. 529), the Secretary may make advance payments of travel and transportation expenses to counsel appointed under this subsection.

"§ 4110. Transfer of juveniles

"An offender transferred to the United States because of an act which would have been an act of juvenile delinquency had it been committed in the United States or any State thereof shall be subject to the provisions of chapter 403 of this title except as otherwise provided in the relevant treaty or in an agreement pursuant to such treaty between the Attorney General and the authority of the foreign country.

"§ 4111. Prosecution barred by foreign conviction

"An offender transferred to the United States shall not be detained, prosecuted, tried, or sentenced by the United States, or any State thereof for any offense the prosecution of which would have been barred if the sentence upon which the transfer was based had been by a court of the jurisdiction seeking to prosecute the transferred offender, or if prosecution would have been barred by the laws of the jurisdiction seeking to prosecute the transferred offender if the sentence on which the transfer was based had been issued by a court of the United States or by a court of another State.

"§ 4112. Loss of rights, disqualification

"An offender transferred to the United States to serve a sentence imposed by a foreign court shall not incur any loss of civil, political, or civic rights nor incur any disqualification other than those which under the laws of the United States or of the State in which the issue arises would result from the fact of the conviction in the foreign country.

"§ 4113. Status of alien offender transferred to a foreign country

"(a) An alien who is deportable from the United States but who has been granted voluntary departure pursuant to section 1252 (b) or section 1254(e) of title 8, United States Code, and who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have voluntarily departed from this country.

"(b) An alien who is the subject of an order of deportation from the United States pursuant to section 1252 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been deported from this country.

"(c) An alien who is the subject of an order of exclusion and deportation from the United States pursuant to section 1226 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been excluded from admission and deported from the United States.

"§ 4114. Return of transferred offenders

"(a) Upon a final decision by the courts of the United States that the transfer of the offender to the United States was not in accordance with the treaty or the laws of the United States and ordering the offender released from serving the sentence in the United States the offender may be returned to the country from which he was transferred to complete the sentence if the country in which the sentence was imposed requests his return. The Attorney General shall notify the appropriate authority of the country which imposed the sentence, within ten days, of a final decision of a court of the United States ordering the offender released. The notification shall specify the time within which the sentencing country must request the return of the offender which shall be no longer than thirty days.

"(b) Upon receiving a request from the sentencing country that the offender ordered released be returned for the completion of his sentence, the Attorney General may file a complaint for the return of the offender with any justice or judge of the United States or any authorized magistrate within whose jurisdiction the offender is found. The complaint shall be upon oath and supported by affidavits establishing that the offender was convicted and sentenced by the courts of the country to which his return is requested; the offender was transferred to the United States for the execution of his sentence; the offender was ordered released by a court of the United States before he had completed his sentence because the transfer of the offender was not in accordance with the treaty or the laws of the United States; and that the sentencing country has requested that he be returned for the completion of the sentence. There shall be attached to the complaint a copy of the sentence of the sentencing court and of the decision of the court which ordered the offender released.

"A summons or a warrant shall be issued by the justice, judge or magistrate ordering the offender to appear or to be brought before the issuing authority. If the justice, judge, or magistrate finds that the person before him is the offender described in the complaint and that the facts alleged in the complaint are true, he shall issue a warrant for commitment of the offender to the custody of the Attorney General until surrender shall be made. The findings and a copy of all the testimony taken before him and of all documents introduced before him shall be transmitted to the Secretary of State, that a Return Warrant may issue upon the the requisition of the proper authorities of the sentencing country, for the surrender of offender.

"(c) A complaint referred to in subsection (b) must be filed within sixty days from the date on which the decision ordering the release of the offender becomes final.

"(d) An offender returned under this section shall be subject to the jurisdiction of the country to which he is returned for all purposes.

"(e) The return of an offender shall be conditioned upon the offender being given credit toward service of the sentence for the time spent in the custody of or under the supervision of the United States.

"(f) Sections 3186, 3188 through 3191, and 3195 of this title shall be applicable to the return of an offender under this section. However, an offender returned under this section shall not be deemed to have been extradicted for any purpose.

"(g) An offender whose return is sought pursuant to this section may be admitted to bail or be released on his own recognizance at any stage of the proceedings.

"§ 4115. Execution of sentences imposing an obligation to make restitution or reparations

"If in a sentence issued in a penal proceeding of a transferring country an offender transferred to the United States has been ordered to pay a sum of money to the victim of the offense for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such proceedings shall be transmitted through diplomatic channels to the treaty authority of the transferring country for distribution to the victim.".

SEC. 2. That section 636 of title 28, United States Code, is amended by adding a subsection (f) as follows:

"(f) A United States magistrate may perform the verification function required by section 4107 of title 18, United States Code. A magistrate may be assigned by a judge of any United States district court to perform the vertification required by section 4108 and the appointment of counsel authorized by section 4109 of title 18, United States Code, and may perform such functions beyond the territorial limits of the United States. A magistrate assigned such functions shall have no authority to perform any other function within the territory of a foreign country.".

SEC. 3. That chapter 153 of title 28, United States Code, is amended by adding the following section:

"§ 2256. Jurisdiction of proceedings relating to transferred offenders

"When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders—

"(1) the country in which the offender was convicted shall have exclusive jurisdiction and competence over proceedings seeking to challenge, modify, or set aside convictions or sentences handed down by a court of such country;

"(2) all proceedings instituted by or on behalf of an offender transferred from the United States to a foreign country seeking to challenge, modify, or set aside the conviction or sentence upon which the transfer was based shall be brought in the court which would have jurisdiction and competence if the offender had not been transferred;

"(3) all proceedings instituted by or on behalf of an offender transferred to the United States pertaining to the manner of execution in the United States of the sentence imposed by a foreign court shall be brought in the United States district court for the district in which the offender is confined or in which supervision is exercised and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings;

"(4) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer from the United States shall be brought in the United States district court of the district in which the proceedings to determine the validity of the offender's consent were held and shall name the Attorney General as respondent; and

"(5) all proceedings instituted by or on behalf of an offender seeking to challenge the validity or legality of the offender's transfer to the United States shall be brought in the United States district court of the district in which the offender is confined or of the district in which supervision is exercised

and shall name the Attorney General and the official having immediate custody or exercising immediate supervision of the offender as respondents. The Attorney General shall defend against such proceedings.".

SEC. 4. That chapter 48, title 10, United States Code, is amended by adding the following sections:

"§ 955. Prisoners transferred to or from foreign countries

"(a) When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders, the Secretary concerned may, with the concurrence of the Attorney General, transfer to said foreign country any offender against chapter 47 of this title. Said transfer shall be effected subject to the terms of said treaty and chapter 306 of title 18, United States Code.

"(b) Whenever the United States is party to an agreement on the status of forces under which the United States may request that it take custody of a prisoner belonging to its armed forces who is confined by order of a foreign court, the Secretary concerned may provide for the carrying out of the terms of such confinement in a military correctional facility of his department or in any penal or correctional institution under the control of the United States or which the United States may be allowed to use. Except as otherwise specified in such agreement, such person shall be treated as if he were an offender against chapter 47 of this title.".

SEC. 5. (a) There is authorized to be appropriated such funds as may be required to carry out the purposes of this Act.

(b) The Attorney General shall certify to the Secretary of State the expenses of the United States related to the return of an offender to the foreign country of which the offender is a citizen or national for which the United States is entitled to seek reimbursement from that country under a treaty providing for transfer and reimbursement.

(c) The Attoney General shall certify to the Administrative Office of the United States Courts those expenses which it is obligated to pay on behalf of an indigent offender under section 3006A of title 18, United States Code, and similar statutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-435), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 1682 is to provide the statutory framework to implement treaties with Canada and Mexico providing for the transfer of convicted offenders for the purpose of administering penal sentences.

PURPOSE OF AMENDMENTS

The purpose of the amendment to S. 1682 which is proposed in the nature of a substitute is to strengthen the proceedings at which the informed consent of prisoners desiring to participate in transfer under this legislation will be determined, to improve the procedures for appointment of counsel to advise the prisoners, and to make technical and clarifying amendments to the bill.

GENERAL STATEMENT

The Committee on the Judiciary recommends enactment of S. 1682, as amended, to implement treaties between the United States and Canada, and the United States and Mexico. This bill establishes a procedural framework for the transfer of prisoners convicted of crimes in a foreign country so that they may serve their sentence of confinement or supervision in their home nation.

This legislation contains the following major provisions:

1. The transfer and custody of prisoners who come under this treaty shall be carried out by the Attorney General.

2. Any person to be transferred to or from the United States will appear before a U.S. magistrate or judicial officer to verify that he has willingly and knowingly agreed to be transferred.

3. Any person who is to appear at a verification proceeding has a right to be advised by counsel, and if he is indigent, counsel shall be appointed for him through U.S. courts.

4. Any American citizen returning to this country as a prisoner is eligible for parole pursuant to U.S. law and regulations.

5. An American citizen returning home under this treaty does not waive an American's right to bring a writ of habeas corpus in a U.S. court, but when he volunteers for transfer, he would not gain opportunity to collaterally attack his foreign conviction in a U.S. court.

6. If an American returning to this country is freed by U.S. courts before his foreign sentence has expired, he may be delivered back to foreign authorities to complete his term.

The changes which the 20th century has brought to our lives are nowhere more evident than in the field of travel and communications. Travel by Americans to foreign countries is commonplace, and our government actively seeks tourists from abroad. One result is the increasing number of people who are convicted of crimes in a foreign country, and who find themselves in a foreign prison. This is no longer a matter limited to border areas.

Without this freedom of travel, we would not find situations such as the large number of Americans who are incarcerated in Mexico, mostly on charges of possessing marihuana and abusable drugs. They have generated adverse publicity by complaining about the legal process in Mexico by which the convictions were obtained, the difficulty in obtaining assistance from American consular officials, and the crowded and unsavory conditions in Mexican prisons. Our government has encouraged Mexican officials to toughen their enforcement of drug laws, and our drug enforcement agents continue to operate in Mexico. However, these prisoners have become an impediment to good relations with our neighbors. The transfer of prisoners will improve our relations with Mexico, but it will also benefit the prisoners who would be returned to this country. They can complete their prison sentences closer to home and family.

At first glance, many would question such a prisoner transfer, because it involves the use of the power and authority of the United States to administer punishment meted out by a foreign court that may not provide all the same rights a defendant enjoys in an American courtroom.

The committee, after considering the legislation, and after approving several substantial amendments, has found good reason to believe that allowing the transfer of prisoners offers benefits to the United States and to its citizens that warrant enactment of S. 1682. This transfer of prisoners is a part of American concern about human rights, because it provides an opportunity to improve the status of the prisoners who come under it. President Carter has recommended enactment of this legislation.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FURTHER ROUTINE MORNING BUSINESS

MESSAGES FROM THE HOUSE

At 1:30 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House agrees to the amendment of the Senate to the bill (H.R. 6502) to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2558. An act for the relief of Doctor John Alexis L. S. Tam and Yeut Shum Tam;

H.R. 2662. An act for the relief of Christopher Robert West.

At 3:27 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House had passed the bill (H.R. 3625) for the relief of Peter Neal Smith, in which it requests the concurrence of the Senate.

At 4:55 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that:

The House agrees to the amendment of the Senate to the bill (H.R. 1862) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes, with amendments in which it requests the Senate to concur.

The House agrees to the amendment of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes, in which it requests the Senate to concur.

PETITIONS

Mr. BAKER. Mr. President, I have received petitions from my constituents, Mr. S. Lee Vance and Mr. Sammy K. Keesecker, of Erwin, Tenn., who request that the Congress repeal the withholding tax law. Mr. Vance and Mr. Keesecker have requested that I present their petitions to the Senate and I now submit them for appropriate referral.

The PRESIDING OFFICER. The petitions will be received and appropriately referred.

(The petitions were referred to the Committee on Finance.)

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under authority of the order of September 20, 1977, the following committee reports were submitted on September 20, during the adjournment of the Senate:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

S. Res. 263. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the con-

sideration of S. 2114. Referred to the Committee on the Budget

S. 2114. An original bill to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes (Rept. No. 95-442).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

With an amendment:

S. 1651. A bill to insure equal protection of the laws as guaranteed by the fifth or fourteenth amendments to the Constitution of the United States (together with additional and minority views) (Rept. No. 95-443).

By Mr. BAYH, from the Committee on the Judiciary:

With an amendment:

H.R. 5742. An act to amend the Controlled Substances Act to extend for three fiscal years the authorization of appropriations under that Act for the expenses of the Department of Justice on carrying out that Act (Rept. No. 95-444).

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

With amendments:

S. 1509. A bill to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico and for such land to be held in trust by the United States for such tribes (Rept. No. 95-445).

By Mr. WILLIAMS, from the Committee on Human Resources:

Without recommendation:

H.R. 3744. An act to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes (Rept. No. 95-446).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 245. A resolution waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 1682. (Rept. No. 95-447).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations, without reservation:

Exec. A, 95-1. Protocol to the Convention on International Civil Aviation (Exec. Rept. 95-11).

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Eloise A. Woods, of Georgia, to be Chairman of the National Credit Union Board.

Roberta S. Karmel, of New York, to be a member of the Securities and Exchange Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Lawrence Owen Cooper, Sr., of Mississippi; and

Edgar C. Rutherford, of California, to be members of the Federal Farm Credit Board, Farm Credit Administration.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

BILL PLACED ON THE CALENDAR

Under authority of the order of September 7, 1977, the Committee on the Judiciary was discharged from further consideration of the bill (S. 957) to promote commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes, and the bill was placed on the Calendar.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 2558. An act for the relief of Doctor John Alexis L. S. Tam and Yeut Shum Tam; to the Committee on the Judiciary.

H.R. 2662. An act for the relief of Christopher Robert West; to the Committee on the Judiciary.

H.R. 3625. An act for the relief of Peter Neal Smith; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

The enrolled bill (S. 275) to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes, was signed today by the President pro tempore.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 21, 1977, he presented to the President of the United States the following enrolled bills:

S. 1731. An Act extending the special pay provisions for physicians and dentists in the uniformed services and reinstating the special pay provisions for optometrists and veterinarians in the uniformed services; and

S. 275. An Act to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF:

S. 2115. A bill to amend the Internal Revenue Code of 1954 to provide a fairer system of taxation of income earned abroad by United States citizens living or residing abroad; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 2116. A bill to prohibit the excessing of cabin sites and removal of cabins located at Conchas Lake, New Mexico prior to 1996 without State approval; to the Committee on Environment and Public Works.

By Mr. EASTLAND:

S. 2117. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, and for other purposes; to the Commitee on the Judiciary.

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2118. A bill to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN:

S. 2119. A bill for the relief of Calvin Graham; to the Committee on Armed Services.

By Mr. METCALF:

S. 2120. A bill to amend section 133(e) of the Legislative Reorganization Act of 1946 in order to provide for individual views in the Senate committee reports in lieu of supplemental views; to the Committee on Rules and Administration.

By Mr. WILLIAMS:

S. 2121. A bill to declare a portion of the Delaware River in Burlington County, New Jersey, nonnavigable; to the Committee on Environment and Public Works.

S. 2122. A bill to prohibit the United States Postal Service or the Postal Rate Commission from requiring handwritten addresses or return addresses on letters of individuals receiving certain special rates; to the Committee on Governmental Affairs.

By Mr. THURMOND:

S. 2123. A bill to permit any surviving spouse of a person interred in a post cemetery or the post section of a national cemetery to be interred in such cemetery; to the Committee on Veterans' Affairs.

By Mr. DECONCINI:

S. 2124. A bill to increase the tariff on imported copper and to exclude copper imports from the Generalized System of Preferences created by the Trade Act of 1974; to the Committee on Finance.

By Mr. WILLIAMS:

S. 2125. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to authorize the Pension Benefit Guaranty Corporation to extend, for not more than 18 months, the date on which the corporation first begins paying benefits under terminated multiemployer plans; jointly, by unanimous consent, to the Committees on Finance and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF:

S. 2115. A bill to amend the Internal Revenue Code of 1954 to provide a fairer system of taxation of income earned abroad by U.S. citizens living or residing abroad; to the Committee on Finance.

Mr. RIBICOFF. Mr. President, I am introducing legislation today that will establish a new and more fair system of taxing income earned by Americans who work overseas. This legislation will enable Americans to compete more effectively in overseas job markets by allowing tax deductions for the amounts by which basic living costs increase as a result of working abroad. My proposal replaces the existing fixed-level exclusion with a series of itemized deductions that will enable taxpayers to compute their taxes on the basis of actual circumstances and legitimate needs. The existing overseas income exclusion has proven to be arbitrary and unfair. Despite repeated attempts by the Congress to make the present system work, some taxpayers continue to receive an unjustified tax windfall while others are forced to pay unreasonably high taxes.

The overseas incomes exclusion directly affects the ability of Americans to work abroad. It involves serious issues of U.S. trade policy. Unfortunately, this provision, like other issues in the area of foreign source taxation, has been

treated in the past as if it solely involved questions of domestic tax policy.

The impact of this provision on American jobs in other countries has been almost completely overlooked. The truth is that to many Americans working abroad, the future looks grim. Increasing numbers of Americans are finding themselves unable to compete for overseas jobs against workers from other countries. Many Americans abroad are being forced out of their jobs. Both foreign and American companies are turning more and more to foreign instead of American labor. Even in highly skilled jobs, American companies are training foreign workers to do things that today can only be done by Americans.

Americans working in foreign countries are being squeezed out of their jobs because they are at a competitive disadvantage with respect to their foreign counterparts. They are losing out through no fault of their own. The serious problem facing the 126,000 Americans working abroad is a direct result of differences in the tax systems used by the United States and other countries. The United States is one of the only countries in the world that taxes income earned in other countries. So the American who gets a job overseas is generally taxed in this country on his foreign earnings. His foreign counterpart, on the other hand, does not have to pay any tax back home. In competing for a job, the foreign competitor can be paid less and still take home more money than the American each week. The more U.S. tax the Ameriacn has to pay, the larger his competitive disadvantage in a foreign country.

The size of the problem facing Americans working in foreign countries is greatly magnified by the extraordinarily high costs of living in many foreign places. For both U.S. and foreign workers, maintaining a reasonable standard of living and a familiar lifestyle abroad can be much more costly than at home. Neither is likely to accept an overseas assignment or compete for a job in another country without being reimbursed for the substantial increases in basic and necessary living costs due to working abroad. Consequently, companies looking to hire individuals for overseas jobs usually have no choice but to provide additional compensation to prospective employees for the added costs of living and working abroad. And the American has to pay tax on these reimbursements on top of the tax for his basic salary, while the foreign worker does not. So the American is really at a serious competitive disadvantage.

Generally, increased costs that result from working overseas fall into three basic categories: Housing, education, and increases in day-to-day living expenses like food, household goods, and medical care. In the Mideast, for example, housing that normally would cost $3,000 annually in the United States costs as much as $30,000 annually. In certain parts of the world, American-style primary and secondary education cost $7,000. In the United States, equivalent education would be available free through the public school system. Basic costs of living vary greatly overseas. In Oslo, for example, the cost of living is 164 percent of Washington, D.C. costs.

Because of increased costs in these three basic categories, it is not unusual for an American living and working abroad who earned $20,000 in the United States to spend as much as $80,000 a year to maintain an equivalent standard of living. Without an effective overseas income exclusion, the American who earned $20,000 in the United States and who competes with foreign workers for a job in the Mideast may have to pay as much as $40,000 in taxes while his competitors do not have to pay any tax at all.

From the employer's point of view, the tax an American employee faces back home acts as a strong disincentive to hiring Americans for jobs overseas. Because the American working in a foreign country has to bear the added expense of his taxes back home, it is less costly for employers to hire foreign labor. American employers overseas face a tough choice: they either have to offset U.S. taxes for American employees by providing them with extra compensation or lay off Americans and fill their jobs with foreign workers. Instead of protecting American jobs by making Americans more employable overseas, the present system often encourages American employers to train foreigners to do jobs that otherwise could only be done by Americans. Instead of helping safeguard American technology and know how, the current income exclusion promotes the transfer of these resources to others. As American companies are forced to turn in increasing numbers to these so-called tax equalization plans, the inevitable result will be that more and more Americans are going to lose their jobs and be pushed out of overseas markets.

As part of the Tax Reform Act last year, Congress made some major changes in the overseas income exclusion. In doing so, however, far too little attention was given to the serious impact of the income exclusion on U.S. trade policy. Without fully understanding the importance of the provision or the effect the changes would have on Americans trying to earn their living abroad, Congress reduced the level of the exclusion from $20,000—or $25,000, depending upon the length of the time overseas—to $15,000 for most taxpayers. The tax treatment of excluded income was also changed. As a result, the value of the provision for taxpayers facing inflated tax bills because of extraordinary living costs in foreign countries has been greatly reduced. Altogether, the changes made by the Tax Reform Act reduced the value of the income exclusion by more than 75 percent.

There is no way to make the type of fixed-level exclusion provided under present law equitable for all taxpayers working abroad. After all, Americans working in different locations overseas have no more in common than the fact that they earn their livings outside the United States.

As increases in basic living costs vary from one foreign location to another, so too does the amount of the additional tax burden by which the American worker is disadvantaged with respect to his foreign counterpart. The trouble with the present system is that the fixed-level exclusion does not provide tax relief on the basis of the taxpayer's actual and legitimate needs. As a result, the present system cannot adequately offset the competitive disadvantage facing taxpayers working in foreign places where basic living costs are extraordinarily high. For other taxpayers who work in foreign places with comparable living costs to those in the United States, the fixed-level exclusion generates an unjustified tax windfall. Since the competitive disadvantage facing Americans overseas fluctuates on the basis of increases in basic living costs, so too should tax deductions for additional foreign living costs.

At a time when the United States is running a record trade deficit that may reach $25 billion this year, we can hardly afford to minimize the importance of the overseas income exclusion in making Americans competitive for jobs in other countries and in helping to achieve other objectives of U.S. trade policy. The United States has taken many steps to pave the way for American companies to do business effectively in foreign countries. The cost of these steps far exceeds the cost of granting tax relief for increases resulting from additional foreign living costs. An important part of the justification for measures like DISC, deferral of taxes on corporate foreign source income and the granting of foreign tax credits is that they create jobs for Americans in new markets abroad. But once a company enters an overseas market, it has to choose between employing Americans and hiring foreign laborers. Because the present income exclusion is often inadequate, many companies have already started to choose foreign labor. From everything I have seen, I believe companies will turn away from Americans in increasing numbers until the strong disincentives to hiring Americans caused by the big tax bills in this country are reduced. By enacting this legislation, we can effectively and equitably deal with the urgent problem facing Americans abroad.

Mr. President, the General Accounting Office began major indepth study of the problems relating to the overseas income exclusion several months ago. The information-gathering phase of that study has not been completed. I asked the Comptroller General to study my proposal and last week I received a letter in which the Comptroller discussed both the GAO study and his views on my proposal. That letter stated:

> . . . Any special tax treatment for Americans working overseas would provide tax relief to help achieve objectives of U.S. trade policy and other issues of public policy . . . GAO's role, then, is to identify policy options and to provide objective information with which to evaluate those options.
>
> . . . The obvious purpose of the bill is to convert . . . to a system that provides tax relief for the unusually high, but necessary, costs of living in certain overseas areas. We believe that the draft bill, in principle, adequately provides for such a conversion. We provided detailed comments informally on a preliminary draft of your bill. We understand that the final draft of

your proposed legislation has been revised to take these comments into account.

Mr. President, I ask unanimous consent that the bill and the text of the Comptroller General's letter appear in the RECORD along with a technical explanation of my proposal and a series of realistic examples that show the effects of the bill for Americans working in various foreign countries.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF DEDUCTION.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. ADDITIONAL FOREIGN LIVING COSTS.

"(a) GENERAL RULE.—There is allowed as a deduction to an individual citizen of the United States—

"(1) who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(2) who, during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period,

the amount determined under subsection (c) for the taxable year.

"(b) EARNED INCOME LIMITATION.—The amount of the deduction allowed by subsection (a) for the taxable year shall not exceed the earned income of the taxpayer for the taxable year.

"(c) DETERMINATION OF AMOUNT.—

"(1) GENERAL RULE.—The amount of the deduction allowed by subsection (a) for the taxable year is an amount equal to the sum of the taxpayer's cost-of-living, housing, and education expense amounts for the taxable year.

"(2) COST-OF-LIVING EXPENSE AMOUNT.—The term 'cost-of-living expense amount' means the lesser of—

"(A) the amount paid to an individual by his employer as compensation for the amount by which the cost of living (exclusive of housing and education costs) in the foreign place in which that individual is resident or present exceeds the cost of living comparably in the United States; or

"(B) the amount set forth in the typical cost-of-living expense amount table prescribed by the Secretary under subsection (d) applicable to the foreign place in which that individual is resident or present.

"(3) HOUSING EXPENSE AMOUNT.—The term 'housing expense amount' means the excess of—

"(A) the lesser of—

"(i) the amount paid to an individual by his employer as compensation for the reasonable cost of housing in the foreign place in which that individual is resident or present to the extent it is not lavish or extravagant under the circumstances and is reasonably comparable to typical United States style housing, or

"(ii) the amount which an individual reasonably expended for the taxable year for United States style housing (including utilities) located in a particular foreign place in which he is resident or present (exclusive of amounts which are lavish or extravagant under the circumstances), over

"(B) an amount representing typical United States housing costs which is deemed to equal 20 percent of the individual's earned income for the taxable year, after his earned income is reduced by the sum of—

"(i) the amount determined under subparagraph (A),

"(ii) the amount determined under paragraph (2), and

"(iii) the amount determined under paragraph (4).

"(4) EDUCATION EXPENSE AMOUNT.—The term 'education expense amount' means the least of—

"(A) the amount paid to an individual by his employer as compensation for the amount by which the cost of school fees in the foreign place in which that individual is resident or present exceeds the cost of school fees for public education at the same or similar levels in the United States,

"(B) the sum of the amounts paid or incurred by the individual for the taxable year for school fees, or

"(C) the amount set forth in the typical education expense amount table prescribed by the Secretary under subsection (d) applicable to the foreign place in which that individual is resident or present.

"(d) TABLES.—

"(1) IN GENERAL.—The Secretary shall prescribe and update annually each of the following tables:

"(A) TYPICAL COST-OF-LIVING EXPENSE AMOUNT TABLE.—A table setting forth the amount by which the cost of living (exclusive of education and housing expenses) of an American family in various foreign places exceeds the cost of living (exclusive of education and housing expenses) in the United States, for families of different sizes, based upon the salary of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS–12.

"(B) TYPICAL EDUCATION EXPENSE AMOUNT TABLE.—A table setting forth, for various foreign places in which United States citizens claiming the benefit of this subsection are resident or present, the reasonable amount of school fees at adequate United States type schools (generally available to United States citizens) located within a reasonable daily commuting distance of such places. Such table shall also set forth an amount for foreign places not listed equal to the average of school fees based on a representative sample of adequate United States type schools located abroad.

"(C) AVERAGE COST-OF-LIVING, HOUSING, AND EDUCATION EXPENSE AMOUNT TABLES.—Tables setting forth, for each category of expense described in paragraphs (2), (3), and (4) of subsection (c), and for various foreign places, average amounts claimed by individuals claiming the deduction allowed by this section (other than individuals described in subsection (e) (1) and (2)) for taxable years ending with or within the most recently ended calendar year.

"(2) CONSULTATION WITH INTERESTED PARTIES.—The Secretary is authorized, in prescribing the tables described in subparagraphs (A) and (B), to consult with the Secretaries of State and Labor and firms and individuals outside the Government.

"(e) SPECIAL RULES.—

"(1) SELF-EMPLOYED INDIVIDUALS AND EMPLOYEES OF FOREIGN CORPORATIONS.—In the case of a self-employed individual (within the meaning of section 217(f)(1)) or an employee of a foreign person which is not engaged in a trade or business within the United States (other than a controlled corporation within the meaning of section 957)—

"(A) the amount taken into account for purposes of subsection (c)(2) (relating to cost-of-living expense amount) shall be the amount set forth in the latest average cost-of-living expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present;

"(B) the amount taken into account for purposes of subsection (c)(3) (relating to housing expense amount) shall be the lesser of—

"(i) the amount set forth in the latest average housing expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present, or

"(ii) the amount which would be determined under paragraph (3) of subsection (c) without clause (i) or subparagraph (A) thereof; and

"(C) the amount taken into account for purposes of subsection (c)(4) (relating to education expense amount) shall be the lesser of—

"(i) the amount set forth in the latest average education expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the table year for the foreign place in which the individual is resident or present, or

"(ii) the sum of the amounts paid or incurred by the individual for school fees for the taxable year.

"(2) EMPLOYEES OF CHARITABLE ORGANIZATIONS; EMPLOYEES FURNISHED LODGING; AND EMPLOYEES IN CAMPS.—

"(A) In the case of an individual who performs qualified charitable services during the taxable year, to whom his employer furnishes lodging the value of which would be excludible from gross income under section 119 if he did not elect to claim the deduction allowed by subsection (a), or an individual who, because of his employment, resides in a camp—

"(i) the amount taken into account for purposes of subsection (c)(2) (relating to cost-of-living expense amount) shall be the amount set forth in the latest average cost-of-living expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present;

"(ii) the amount taken into account for purposes of subsection (c)(3) (relating to housing expense amount) shall be the amount set forth in the latest average housing expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present; and

"(iii) the amount taken into account for purposes of subsection (c)(4) (relating to education expense amount) shall be the lesser of—

"(I) the amount set forth in the latest average education expense amount table prescribed by the Secretary under subsection (d)(1)(C) before the close of the taxable year for the foreign place in which the individual is resident or present, or

"(II) the sum of the amounts paid or incurred by the individual for school fees for the taxable year.

"(B) QUALIFIED CHARITABLE SERVICES.—For purposes of this paragraph, the term "qualified charitable services' means services performed by an employee outside the United States for an employer created or organized in the United States, or under the law of the United States, any State, or the District of Columbia, which meets the requirements of section 501(c)(3).

"(3) APPLICATION WITH SECTION 119.—The deduction allowed by subsection (a) shall not be allowed to an individual who is entitled under section 119 to exclude from gross income the value of meals or lodging furnished to him by his employer outside the United States unless he elects not to exclude the value of such meals or lodging from gross income for the taxable year.

"(4) EMPLOYER CERTIFICATION REQUIREMENTS.—For purposes of this section—

"(A) an amount shall be treated as paid by an employer as a cost-of-living expense amount, a housing expense amount, or an education expense amount only if such amount is paid in addition to regular compensation (which is not less than reasonable compensation in the United States for similar services), and is certified by the employer as paid specifically for such purpose,

"(B) an amount shall be treated as paid by an employer as a housing expense amount only if the employer certifies that—

"(i) such amount does not exceed what the employer regards as the reasonable cost of housing in the foreign place in which that individual is resident or present to the extent it is not lavish or extravagant under the circumstances and is reasonably comparable to typical United States style housing, and

"(ii) the amount paid to the employee for such purpose is not substantially in excess of amounts paid by the employer (or if not aplicable, by other employers to the extent information is available to the employer) to other employees performing similar services, or with the same responsibilities in the same area, and

"(C) no amount shall be taken into account under paragraph (2), (3), or (4) of subsection (c) as paid by an employer if the employer fails to make the required certification applicable to such paragraph.

"(5) REGULATIONS.—The Secretary shall issue regulations implementing this section, including regulations establishing procedures for employer certification of amounts, rules for situations in which the employer furnishes goods and services at less than fair market value, rules for situations in which the individual is in a particular foreign country for only part of the year, and rules covering changes in employment or familial status or change in location within a foreign country, during the taxable year.

"(6) APPLICATION WITH SECTION 911.—For taxable years ending before January 1, 1980, the deduction allowed by subsection (a) shall not be allowed to an individual unless he has elected, under section 911(e), not to have the provisions of section 911 apply to him.

"(7) DOUBLE DEDUCTIONS DISALLOWED.—An individual shall not be allowed, as a deduction under any other provision of this chapter (other than under section 151), any amount to the extent that the item to which such amount is attributable is properly allocable to, or chargeable against, amounts taken into account under paragraphs (3) and (4) of subsection (c).

"(8) VALUATION OF IN-KIND PAYMENTS.—In the case of goods or services furnished by an employer to an employee (or to the dependents of an employee), the value of the goods or services shall be the fair market value thereof at the loaclity at which they are furnished.

"(9) TREATMENT OF EMPLOYER CHARGES.—In the case of an employer charge or offset for housing, to reflect the cost of housing in the United States, to the extent the charge or offset does not exceed the amount described in subsection (c)(3)(B), the charge or offset shall be treated as a reduction in income but shall not be taken into account for purposes of computing the housing expense amount of subsection (c) or for purposes of the employer certification of subsection (e)(4). Any excess and all other employer charges and offsets shall be treated as a reduction in income which reduces employer compensation, as provided in the regulations issued by the Secretary, for purposes of computing the amount of the deduction in accordance with subsection (c).

"(e) DEFINITIONS.—For purposes of this section—

"(1) EARNED INCOME.—The term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered, but does not include that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. In the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, under regulations prescribed by the Secretary, a reasonable allowance as compensation for the personal services rendered by the taxpayer, not in excess of 30 percent of his share of the net profits of such trade or business, shall be considered as earned income. The term 'earned income' does not include any amount—

"(A) received as a pension or annuity, or

"(B) included in gross income by reason of section 402(b) (relating to taxability of beneficiary of nonexempt trust), section 403(c) (relating to taxability of beneficiary under a nonexempt annuity), or section 403(d) (relating to taxability of beneficiary under certain forfeitable contracts purchased by exempt organizations).

"(2) SCHOOL FEES.—The term 'school fees' means tuition, books, and local transportation for the primary (including kindergarten but not nursery school) and secondary education of any dependent of the taxpayer with respect to whom the taxpayer is allowed an exemption under section 151(e), at adequate United States type schools outside of the United States where such dependent is a full-time pupil or student. Such term does not include the cost of private lessons (other than remedial academic lessons), room, board, or other transportation.

"(3) ATTRIBUTION TO YEAR IN WHICH SERVICES ARE PERFORMED.—For purposes of paragraph (3), amounts received shall be considered received in the taxable year in which the services to which the amounts are attributable are performed.

"(4) TREATMENT OF COMMUNITY INCOME.—In applying paragraph (3) with respect to amounts received from services performed by a husband or wife which are community income under community property laws applicable to such income, the aggregate amount taken into account shall be the amount which would be taken into account if such amounts did not constitute community income.

"(5) TEST OF BONA FIDE RESIDENCE.—A statement by an individual who has earned income from sources within a foreign country to the authorities of that country that he is not a resident of that country, if he is not held subject as a resident of that country to the income tax of that country by its authorities with respect to such earnings, shall be conclusive evidence with respect to such earnings that he is not a bona fide resident of that country for purposes of this section.".

(b) DEDUCTION ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 of such Code (relating to definition of adjusted gross income) is amended by adding after paragraph (13) the following new paragraph:

"(14) CERTAIN FOREIGN-SOURCE INCOME RELATED EXPENSES.—The deduction allowed by section 221.".

(c) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and by inserting in lieu thereof the following:

"Sec. 221. Additional foreign living costs.
"Sec. 222. Cross references.".

SEC. 2. AMENDMENTS RELATING TO SECTION 911.

(a) LIMITATIONS ON AMOUNT OF EXCLUSION; PHASEOUT.—Paragraph (1) of section 911(c) of the Internal Revenue Code of 1954 (relating to limitations on amount of exclusion) is amended to read as follows:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (b), $20,000 in the case of an individual who qualifies under subsection (a), or

"(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a foreign country or countries for an uninterrupted period of 3 consecutive years.

For taxable years beginning after December 31, 1976, and before January 1, 1978, '$15,000' shall be substituted for '$20,000' in subparagraph (A) and for '$25,000' in subparagraph (B). For taxable years beginning after December 31, 1977, and before January 1, 1979, '$10,000' shall be substituted for '$20,000' in subparagraph (A) and for '$25,000' in subparagraph (B). For taxable years beginning after December 31, 1978, and before January 1, 1980, '$5,000' shall be substituted for '$20,000' in subparagraph (A) and for '$25,000' in subparagraph (B).".

(b) REPEAL OF SECTION 911.—Subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out section 911 and by redesignating section 912 as section 911.

(c) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 37(e)(8)(B) of such Code (relating to earned income) is amended by striking out "section 911(b)" and inserting in lieu thereof "section 221(e)(4)".

(2) Section 43(c)(1)(B) of such Code (relating to eligible individual) is amended to read as follows:

"(B) is not entitled to a deduction under section 221 (relating to certain foreign source income related expenses) or to exclude any amount from gross income under section 931 (relating to income from sources within the possessions of the United States).".

(3) Section 220(b)(7) of such Code (relating to employed spouses) is amended by striking out "determined without regard to section 911)".

(4) Section 403(b)(3) of such Code (relating to includable compensation) is amended by striking out "and 911".

(5) Section 410(b)(2)(C) of such Code (relating to exclusion of certain employees) is amended by striking out "(within the meaning of section 911(b))" and inserting in lieu thereof "(within the meaning of section 221(e)(4))".

(6) Section 415(b)(3) of such Code (relating to exclusion of certain employees) is amended by striking out "(within the meaning of section 201(c)(2) but determined without regard to any exclusion under section 911)" and inserting in lieu thereof the following: "within the meaning of section 401(c)(2))".

(7) Section 879(a)(1) of such Code (relating to earned income) is amended by striking out "(within the meaning of section 911(b))," and inserting in lieu thereof the following: "(within the meaning of section 221(e)(4)).".

(8) Section 1302(b)(2)(A)(i) of such Code (relating to base period income) is amended by striking out "section 911 (relating to earned income from sources without the United States) and".

(9) Section 1303(c)(2) of such Code (relating to exceptions for individuals receiving

support from others) is amended by striking out "(within the meaning of section 911 (b))" and inserting in lieu thereof the following: "(within the meaning of section 221 (e)(4))".

(10) Section 1304(b) of such Code (relating to certain provisions inapplicable) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(11) Section 1348(b)(1)(A) of such Code (relating to personal service income) is amended by striking out "or section 911(b)".

(12) Section 1402(a)(8) of such Code (relating to net earnings from self-employment) is amended by striking out "section 911 (relating to earned income from sources without the United States)".

(13) Section 3401(a)(8) of such Code (relating to wages) is amended by striking out subparagraph (a) and by inserting in lieu thereof the following:

"(8)(A) For services for an employer (other than the United States or any agency thereof) performed in a foreign country or in a possession of the United States by such citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country or possession of the United States to withhold income tax upon such remuneration, or".

(14) Section 6012(c) of such Code (relating to certain income earned abroad or from sale of residence) is amended—

(A) by striking out "Earned Abroad or" in the caption thereof, and

(B) by striking out "and without regard to the exclusion provided for in section 911 (relating to earned income from sources without the United States)".

(15) Section 6091(b)(1)(B)(iii) of such Code (relating to place for filing returns or other documents) is amended by striking out "section 911 (relating to earned income from sources without the United States)," and inserting in lieu thereof the following: "section 221 (relating to certain foreign source income related expenses),".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by striking out the items relating to sections 911 and 912 and by inserting in lieu thereof the following:

"Sec. 911. Exemption for certain allowances.".

SEC. 3. TREATY OBLIGATIONS.

No amendment made by this Act shall apply in any case in which its application would be contrary to any treaty obligation of the United States. For purposes of the preceding sentence, the extension of a benefit provided by any amendment made by this Act shall not be considered to be contrary to a treaty obligation of the United States.

The amendments made by section 1 and section 2(a) shall apply with respect to taxable years beginning after December 31, 1976. The amendments made by subsections (b), (c), and (d) of section 2 shall apply with respect to taxable years beginning December 31, 1979.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 16, 1977.

Hon. ABRAHAM RIBICOFF,
U.S. Senate.

DEAR SENATOR RIBICOFF: This is in response to your request for our views on a bill which we understand you plan to introduce to adjust the tax treatment accorded to foreign source income, and for information on the status of our review of the impact of the 1976 Tax Reform Act changes to Section 911 of the Internal Revenue Code.

This spring we became aware of widespread concern among U.S. individuals and businesses operating overseas that the subject changes might inordinately diminish U.S. competitiveness. Our subsequent inquiries revealed that there was a high degree of uncertainty within the Government concerning the impact of these changes. In June, therefore, we initiated our review to:

Secure the views of various U.S. company officials and individual citizens operating overseas (about 200 companies and 300 individual citizens in 11 countries) concerning the anticipated impact of these changes on (1) U.S. international investment and trade, (2) U.S. company employment practices overseas, and (3) U.S. citizens living and working abroad.

Develop estimates of the additional income flows to Treasury that will result from the subject changes to Section 911.

Analyze the impact of Section 911 changes on the cost of U.S. Government programs overseas.

The information-gathering phase of our review is nearing completion. The remaining questionnaires from companies and individuals operating overseas are scheduled to be returned to us in the next few days. We plan to complete a computer analysis of the responses to these questionnaires in about 2 to 4 weeks.

The Internal Revenue Service is asembling data from a sample of 8,000 of the 141,000 returns that claimed Section 911 exclusions in 1975. This data will permit us to estimate the income flows to the Treasury resulting from the changes to Section 911. It will also provide a basis for estimating the income flows under other potential legislative options.

If the Congress takes up the question of Section 911 relief this session, we will be available by early October to brief and/or testify on our analysis of the views of U.S. businesses and individuals operating overseas.

Should the Congress hold this question until the next session, our objective is to have a report on these matters ready for issuance early in the next session.

Our views concerning the draft bill you plan to introduce are as follows:

We regard taxation of Americans overseas as part of the continuing conflict between the goal of raising revenues and serving other objectives of U.S. policy. Any special tax treatment for Americans working overseas would provide tax relief to help achieve objectives of U.S. trade policy and other issues of public policy. Such special treatment and the extent thereof, are policy matters to be decided by the Congress. GAO's role, then, is to identify policy options and to provide objective information with which to evaluate those options. Accordingly, we regard the draft bill as one of several possible legislative options to liberalize the tax treatment of many, but not all, Americans overseas.

The obvious purpose of the bill is to convert, over a period of time, from a special tax exclusion of $15,000 ($20,000 for charitable organization employees) to a system that provides tax relief for the unusually high, but necessary, costs of living in certain overseas areas. We believe that the draft bill, in principle, adequately provides for such a conversion. We provided detailed comments informally on a preliminary draft of your Bill. We understand that the final draft of your proposed legislation has been revised to take these comments into account.

Please let us know if we can be of further assistance on this Bill or other matters.

Sincerely yours,

R. F. KELLER,
Comptroller General
of the United States.

TECHNICAL EXPLANATION OF PROPOSED LEGISLATION ON TAXATION OF U.S. CITIZENS WORKING ABROAD

1. Section 911 To Be Repealed and Replaced by Deduction for Additional Foreign Living Costs—

The Internal Revenue Code would be amended to phase-out the standard exclusion of section 911 (now $15,000) over a period of three years starting in 1977. The standard exclusion would be $15,000 in 1977, $10,000 in 1978, $5,000 in 1979, and would no longer be in effect in 1980 and thereafter. In lieu thereof, the bill would provide a deduction for additional foreign living costs of U.S. citizens employed in foreign countries, determined under three categories. The three elements are cost-of-living, education, and housing. During the phase-out period, the deduction for additional foreign living costs would not be available unless the taxpayer made an irrevocable election not to have section 911 apply.

2. The Three Elements of the Deduction—

In the case of a U.S. citizen who is an employee of a U.S. person or a U.S.-controlled foreign corporation or a foreign person engaged in trade or business in the United States, the elements of the deduction for additional foreign living costs would be as follows:

a. Cost-of-Living Element:

This element of the deduction would be equal to the lesser of the amount reimbursed by the taxpayer's employer for this purpose and the amount set forth in a table issued by the Internal Revenue Service. The IRS table would show, for various foreign places and families of different sizes, the amount by which the general cost-of-living (excluding education and housing) exceeds the average general cost-of-living in the United States for a family with an income of $20,000. The $20,000 will be automatically adjusted for inflation in accordance with adjustments in Federal pay.

b. Educational Element:

This element of the deduction is designed to cover the cost of tuition, fees, books and local transportation for the education, from kindergarten through grade 12, of dependent children in American-type schools located in the foreign country of employment. The deduction would be the least of (i) the amount reimbursed by the taxpayer's employer for this purpose, (ii) the actual amount expended by the taxpayer for this purpose, and (iii) the amount set forth in a table issued by the Internal Revenue Service. The IRS table would show for various foreign places the reasonable amount of such costs for American-type education. Where there is no local American-type school in the place of employment, the amount set forth in the IRS table as the general worldwide average of these costs is to be used. The deduction would not be augmented by the cost of non-local travel or room and board.

c. Housing Element:

The taxpayer could deduct the amount by which (i) the lesser of the amount reimbursed by the taxpayer's employer for this purpose, and the amount reasonably expended by the taxpayer for U.S. style housing in the foreign country, exceeds (ii) the cost of housing which that taxpayer would typically incur were he residing in the U.S. Typical U.S. housing costs are set at 16⅔ percent of the individual's earned income, less the three elements of the deduction for additional foreign living costs, general cost-of-living, education and housing. The 16⅔ percent was derived from statistics released by the Bureau of Labor Statistics on May 5, 1976, showing that the average housing cost for a family in the U.S. with a total budget (including income taxes, social security, etc.) of $22,000 is 16.5 percent of the total budget.

It will be noted that the bill uses 20 percent as this percent is applied to a different base: it is the mathematical equivalent of 16⅔ percent applied to the base described.

The bill recognizes that many employers while reimbursing the employee for the full cost of foreign housing will charge the em-

ployee for what the employer regards as an appropriate amount to represent U.S. housing costs. To the extent the charge does not exceed the amount determined under the bill for typical U.S. housing costs, the charge reduces income, but does not affect the computation of the housing element. Nevertheless, the employer is required to separately state the full cost of foreign housing which it deems to be reasonable and on which its reimbursement is based; this is designed to serve as a further check on the amount of the deduction. Any excess housing charge, or any other employer charge, will be treated as a reduction in employer reimbursement as provided in regulations to be issued by the Internal Revenue Service.

3. Special Categories of Taxpayers—

The deduction for additional foreign living costs would be determined in a special way for four categories of U.S. citizens: (i) the self-employed, (ii) employees of foreign persons (other than U.S.-controlled foreign corporations and foreign persons engaged in trade or business in the U.S.), (iii) employees of charitable organizations, and (iv) employees who are furnished housing by their employers which is excluded from the employee's income under section 119 or which is located in a camp.

For determining the deduction for additional foreign living costs for U.S. citizens in the four special categories, the IRS would develop a table of averages, setting forth the average amounts for each element of the deduction, for various foreign places, of U.S. citizens entitled to the deduction who are not in one of the four special categories.

For such U.S. citizens, the average table serves the same control function as the employer's reimbursement requirement for employees of U.S. corporations.

For self-employed individuals and employees of foreign persons, the elements of the deduction for additional foreign living costs would be determined as follows:

a. General cost of living element. The amount set forth in the average table issued by the IRS.

b. Education element. The lesser of (i) the amount set forth in the average table issued by the IRS, and (ii) the actual amount expended by the taxpayer for this purpose.

c. Housing element. The lesser of (i) the amount set forth in the average table issued by the IRS, and (ii) the excess of the actual amount reasonably expended by the taxpayer for U.S.-style housing in the foreign country over the cost of housing which that taxpayer would typically incur were he or she residing in the U.S. Typical U.S. housing costs would be determined in the same way as for employees of U.S. corporations.

For employees of charitable organizations and employees furnished housing as described, the table of averages would be used to determine all elements of the deduction, except the education element could not exceed the amount actually expended by the taxpayer for that purpose. The reason for such treatment of charitable and camp employees is that they are typically required to make an unusual sacrifice in their standard of living when they go overseas. In order to avoid imposing additional hardship on Americans in such categories, the bill provides the same deductions as are available to other U.S. citizens in foreign countries.

4. Technical Rules in Fitting the Deductions for Additional Foreign Living Costs into the Internal Revenue Code—

This part of the Technical Explanations will describe how the deduction for additional foreign living costs will be made part of the technical structure of the Internal Revenue Code.

The proposed legislation would put the deduction for additional foreign living costs in the same category as the deduction for moving expenses and the deduction for employee-related expenses reimbursed by the employer, as these are the deductions which the new deduction most closely resembles. As a result, a taxpayer will be able to claim the deduction for additional foreign living costs without losing his or her ability to claim the standard deduction. However, it is provided that deductions related to housing such as interest and real estate taxes cannot be taken a second time to the extent they are part of the deduction for additional foreign living costs.

Taxpayers who claim the benefit of the deduction for additional foreign living costs would be able to claim the foreign tax credit for income taxes paid to foreign countries, but the amount of the credit will be tightly controlled by the foreign tax credit limitation which would be computed by considering the deduction for additional foreign living cost as entirely related to foreign-source income.

U.S. citizens will be able to claim the deduction for additional foreign living costs when they have qualified under the same tests as now provided under section 911. The requirement under these tests is either one taxable year of foreign residence or presence abroad during 510 days in 18 consecutive months.

The amount of the deduction for additional foreign living costs cannot exceed the amount of earned income and for this purpose a pension or annuity is not considered earned income.

Employees who would otherwise be entitled to the benefits of section 119 will not be able to claim the deduction for additional foreign living costs unless they waive the benefits of section 119.

Employees would be required to file with their tax returns an employer certification attesting to the fact that the reimbursements are in addition to normal compensation. With respect to the housing element, the certification must also state that the amount of the reimbursement does not exceed what the employer regards as a reasonable cost in the foreign country for typical U.S. style housing and does not exceed what it or others pay as reimbursements to other employees performing similar services in the same area.

Where the employer furnishes goods or services in kind or charges less than local fair market value for items furnished, the local value, or the excess of the local value over the charge, is taken into income by the employee before computing the deduction for additional foreign living costs.

In devising tables, the Internal Revenue Service is authorized to consult with the Secretaries of Labor and State and others and can draw on surveys undertaken with respect to the compensation of Government employees. There are provisions in the bill designed to assure the prompt issuance and revision of the necessary tables.

As in the case of existing section 911, the deduction is available only to citizens of the United States, except to the extent made available to resident aliens by treaty.

COMPARISON OF U.S. TAX LIABILITY UNDER OLD LAW, CURRENT LAW, AND BILL

	Japan	Mexico	Saudi Arabia	England	Switzerland	Norway
INCOME						
Base salary	$23,000	$22,000	$21,000	$20,000	$22,000	$20,000
Family size	(3)	(3)	(3)	(3)	(3)	(3)
Allowances paid by employer:						
Cost of living	8,600	700	5,900	700	6,700	10,500
Housing	18,400	13,000	30,000	10,300	9,700	9,500
Education	3,000	1,000	2,200	1,500	2,100	2,600
Other allowances	5,550	2,250	23,050	2,600	5,800	2,660
Total allowances	35,550	16,950	61,150	15,100	24,300	25,200
Total earned income	$58,550	$38,950	$82,150	$35,100	$46,300	$45,200
Deduction for cost of living, education, and housing under bill	24,290	9,850	30,380	7,980	12,940	18,080
Total U.S. taxes (before foreign tax credit):						
Pre-1977 law	8,522	2,250	19,910	1,343	4,158	3,640
Tax Reform Act of 1976	14,614	5,601	26,414	4,146	8,687	7,860
Proposed legislation (when fully effective)	6,060	4,344	11,092	3,772	5,736	3,562

NOTES FOR CHART ENTITLED "COMPARISON OF U.S. TAX LIABILITY UNDER OLD LAW, CURRENT LAW AND BILL"

1. Calculations based on practice of several U.S. corporations as applicable to actual employees. It is assumed that there is no other income.

2. It is assumed that the allowances for cost-of-living and education will be fully deductible under the IRS tables. It is assumed that the allowance for housing represents reasonable foreign housing costs and is deductible to the extent it exceeds typical U.S. housing costs (as defined by the bill). It is assumed that the employer charge to the employee for U.S. housing costs is less than the comparable amount determined under the bill and, therefore, reduces income but does not affect the computation of the housing element of the deduction.

3. Other allowances are overseas allowances typically paid which are not deductible under the bill. The employer charge to the employee for housing is netted against other allowances in these examples.

4. For the pre-1977 calculations, it is assumed that there are itemized deductions of $1,000. In all other cases, it is assumed that the standard deduction of current law, $3,200 for a joint return, has been taken.

5. In computing tax, the rates and general tax credit applicable to 1977 have been used for all periods.

6. In cases where there is no foreign tax liability or it is less than the U.S. tax liability, the amounts stated for pre-1977 law and the bill will represent the total of U.S. and foreign taxes after foreign tax credit.

7. No account has been taken of tax equalization payments which employers typically make. It is noted that under many plans, there are no such payments in the first year of foreign employment. Also, the amount of payments made under tax equalization plan will be substantially reduced as a result of the bill.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 2116. A bill to prohibit the excessing of cabin sites and removal of cabins located at Conchas Lake, N. Mex., prior to 1996 without State approval; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, this bill prevents an injustice. In 1946 the Corps of Engineers agreed that private individ-

uals could construct recreational cabins around Conchas Lake in eastern New Mexico. Approximately 70 cottages were built in the area, and, in fact, 13 of the cabin owners permanently reside on the site. In addition, the State derives income from the cottages that goes to repaying revenue bonds.

Unfortunately, the corps has decided not to renew the leases on which the cabins stand, and the cabins must be phased out by 1982. My bill corrects this hard-hearted approach adopted by the corps by extending the leases through 1996. The importance of this date is that it allows for a subsequent review of the leases and the need for parkland in the area.

I would hope that the Senate Public Works Committee would take up this bill either this year or next and that my colleagues in the Senate would support it.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is prohibited from determining the 45 acre cabin site in the South Recreation Area at Conchas Lake, New Mexico to be excess of project needs prior to 1996, unless such a determination is agreed to by the Governor of the State of New Mexico or his designee.

SEC. 2. The Secretary of Army shall not require the removal or sale and purchase of existing cabins, cottages or other privately-owned improvements located on the site referred to in Section (1) of this Act prior to 1996, unless agreed to by the Governor of the State of New Mexico or his designee. Existing and prospective lease arrangements shall reflect the requirements of this section.

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 2118. A bill to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska; to the Committee on Energy and Natural Resources.

Mr. GRAVEL. Mr. President, today I am introducing a bill which would enable the Department of Agriculture through the Forest Service to convey several homesites within the Chugach and Tongass National Forests in Alaska.

After the Chugach and Tongass Forests were established in Alaska in 1907 there remained little land near population centers in southeast and portions of south-central Alaska which was available for settlement. Thus, the Forest Service and the Department of the Interior through the Bureau of Land Management entered into an agreement to provide certain lands within the national forests as homesites under the provisions of existing public land laws.

Under this arrangement the Forest Service granted special land-use permits to individuals for small-tract homesite locations in the forests. After meeting the 3-year residency requirements under the applicable public law (43 U.S.C. 687a), the Forest Service would recommend to the Bureau of Land Management that the homesite be eliminated from the national forest. Upon such recommendation the Bureau of Land Management would convert the homesite to public domain land and proceed to issue patent to the homesite occupant.

With the passage of the Alaska Statehood Act and the Alaska Native Claims Settlement Act it was felt that sufficient national forest lands would be converted to private ownership for purposes of settlement, development, et cetera, and subsequently, the homesite program was discontinued. However, because the administrative process was taking several years, patents to several homesites recommended for elimination from the forests were not conveyed by October 22, 1976.

On this date the National Forest Management Act of 1976 (Public Law 94–588) was signed into law. Section 9 of this act provided that no land now or hereafter reserved or withdrawn from the public domain as national forests could be returned to the public domain except by an act of Congress. Thus, several persons in Alaska who had met all of the requirements were denied patents to their homesites because the land could not be converted to public domain land to effect the conveyance of patent under the administrative procedures.

Discussions with the concerned agencies and their respective solicitors' offices resulted in the conclusion that no administrative provisions or actions could overcome this problem and that congressional action would be necessary.

The bill I am introducing does not undermine in any way the language of the National Forest Management Act of 1976, nor does it allow for any "raids" on national forest lands. The bill simply allows the Department of Agriculture to grant quitclaim deeds to those few persons who the Forest Service acknowledges have met all the requirements for forest homesites under previous statutes and regulations, but who through no fault of their own, were inadvertently denied patents due to the general provisions of the National Forest Management Act of 1976.

I ask my colleagues for speedy passage of this bill. Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2118

Be it enacted by the Senate and House of Respresentatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to convey the following tracts of National Forest land in Alaska, occupied as homesites, to the present occupants of said lands or their lawful successors in interest, provided such persons would otherwise qualify to purchase said lands under the requirements of the Act of May 14, 1898, as amended (43 U.S.C. 687):

Chugach National Forest

Homesite No. 222, Clear Lake Group, Lot 3, U.S. Survey No. 4979, Containing 1.58 acres.

Homesite No. 205, Clear Lake Group, Lot 1, U.S. Survey No. 4979, Containing 1.68 acres.

Homesite No. 208, Heney Creek Group, Lot 31, U.S. Survey No. 3601, Containing 3.03 acres.

Homesite No. 210, Heney Creek Group, Lot 46, U.S. Survey No. 3601, Containing 1.75 acres.

Homesite No. 225, Lakeview Group, Lots M and LL, U.S. Survey No. 3533, Containing 2.15 acres.

Homesite No. 224, Lawing Extension Group, Lot 4, U.S. Survey No. 3532, Containing 1.60 acres.

Homesite No. 186, Snug Harbor Group, Lot 3, U.S. Survey No. 3531, Containing 1.58 acres.

Tongass National Forest

Homesite No. 1144, Gartina Game Creek Group, Lot 9, U.S. Survey No. 2414, Containing 3.03 acres.

SEC. 2. Such conveyances shall be for the same consideration as established by the Act of May 14, 1898, as amended (43 U.S.C. 687a).

By Mr. BENTSEN:

S. 2119. A bill for the relief of Calvin Graham; to the Committee on Armed Services.

CALVIN GRAHAM

Mr. BENTSEN. Mr. President, 35 years ago, a boy from Texas enlisted in the Navy. He was 12 years old; his name was Calvin Graham, and he forged some of the documents required for enlistment.

As a member of the crew of the U.S.S. *South Dakota*, Calvin Graham served his country in two of the most important sea battles in the Pacific theater—Guadalcanal and Santa Cruz. He was injured and he received a Bronze Star for his bravery at the tender age of 13. When Calvin Graham's mother sent a copy of his birth certificate to the Navy, Calvin was sent home—spent 3 months in the brig and dismissed from the Navy without an honorable discharge. As far as the Navy is concerned, Calvin enlisted fraudulently and was never a bona fide member of the Armed Forces.

But the fact of the matter is that Calvin Graham did serve; he did see combat; he was wounded in the line of duty; he was a gunner on the U.S.S. *South Dakota* in some very important military operations. He is, by all accounts, the youngest veteran of World War II.

When he came of legal age, Calvin Graham enlisted in the Marine Corps during the Korean war, but was discharged when he broke his back. Mr. Graham's military injuries still trouble him; he has had recurring problems with his back and now seeks assistance for the dental injuries suffered during World War II. He is eligible for veterans' benefits for his Marine Corps injury, but cannot obtain assistance for his dental problems because of the questions surrounding his World War II enlistment and subsequent discharge.

Mr. President, in proposing special legislation to grant Calvin Graham an honorable discharge for his World War II service, I am compelled by a sense of justice as well as my humanitarian considerations.

At a time when President Carter has upgraded Vietnam discharges, it is inconceivable to me that a person who actively sought to serve his country in its hour of need should be denied an honorable discharge on a technicality. Calvin Graham deserves the forgiveness and the dignity that accompany an honorable discharge. He also deserves the right to veterans' benefits in the treatment of the consequences of that injury.

Mr. Graham has appealed his case on several occasions, most recently to President Carter, but to no avail. He has been informed by the Navy that his World War II service was "somewhat unusual and did not fall within the scope of the normal discharge process."

I would agree that Mr. Graham's service was indeed unusual; in fact, it was unique. The circumstances, surrounding his enlistment 35 years ago should not be held against him today when we are upgrading Vietnam discharges. Calvin Graham deserves recognition for his World War II service, and he deserves the benefits that should accrue to him from that service.

Mr. President, I ask unanimous consent that an editorial from the Fort Worth Star-Telegram be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

VETERAN DESERVES BENEFITS

U.S. Senator Lloyd Bentsen rates a salute for championing the cause of World War II veteran Calvin Graham, who, despite having won a Bronze Star, has been denied an honorable discharge from the Navy because of a technicality.

That technicality resides in Graham's having enlisted at age 12. Because of that the Navy claims he technically never served.

But the facts are that he did serve and that he was injured aboard the U.S.S. *South Dakota* at Guadalcanal and Santa Cruz.

Still, because the Navy insists that Graham technically never served, the veteran cannot receive treatment at a veterans hospital.

Bentsen has promised to introduce special legislation in the Senate to grant Graham the discharge has has sought vainly from every administration since Franklin D. Roosevelt's.

Hopefully that legislation will encounter smooth sailing and not be shipwrecked by a technicality.

By Mr. WILLIAMS:

S. 2122. A bill to prohibit the United States Postal Service or the Postal Rate Commission from requiring handwritten addresses or return addresses on letters of individuals receiving certain special rates; to the Committee on Governmental Affairs.

CITIZENS RATE MAIL

Mr. WILLIAMS. Mr. President, the U.S. Postal Service recently proposed the establishment of new rates for first class mail. Under this proposal private, sealed mail would be eligible for a special "citizen rate" of 13 cents a letter, while other first class mail, such as business letters, would carry a charge of 16 cents a letter. One of the criteria for determining eligibility for the citizen rate would require handwritten addresses and/or return addresses. I believe that this requirement would unfairly single out certain groups of private citizens to pay higher postage rates and would inefficiently distinguish between private and commercial first class mail. Therefore, I am introducing legislation today to insure that such a requirement does not go into effect.

The most important reason for establishing a specially reduced rate for personal. noncommercial first-class mail is to relieve the financial impact of steadily advancing postage rates on the pocketbooks of average citizens. Unfortunately, the Postal Service's proposal that citizen rate mail carry handwritten addresses would deny the privilege of reduced rates to many of the people who need it the most. For example, in the United States there are over 600,000 cerebral palsy victims, about 750,000 people who are completely paralyzed, and as many as 1.5 million persons with severe visual impairment. The overwhelming majority of these individuals, as well as thousands of others such as amputees or arthritis victims, find it physically impossible to hand-address their mail. Since they often live on modest incomes, the Postal Service proposal would impose an additional burden on the handicapped that the largest proportion of nonhandicapped people would not experience. The need to protect the handicapped from sharp rate hikes in postage is particularly important in light of the large number of handicapped persons who are homebound. These individuals depend on the mail as one of their few real links with the world at large. Increased postage rates may force them to curtail their use of the mail which would diminish the quality of their lives.

The proposed Postal Service requirement for handwritten addresses and return addresses also should be rejected because of its potential impact on the Postal Service's costs and the quality of its service. Since the proposal would deny lower postage rates to mailers who use printed or typed addresses, we could reasonably expect an increase in the proportion of hand-addressed mail. Such mail can be much more difficult to process because many of the addresses are hard to read. This can mean greater handling costs and an increase in the amount of mail that experiences delay.

I fully recognize that the Postal Service must establish certain standards in order to distinguish citizen rate mail from other first-class mail. However, I believe that all Americans, not just those without serious physical handicaps, should have an equal opportunity to meet the standards that are created. Furthermore, I believe that the standards for citizen rate mail should not entail additional costs and administrative problems for the Postal Service, which already has a huge deficit and more than enough processing problems.

The legislation I have introduced today would not impose on the Postal Service any specific additional criteria to be used in determining which mail would qualify for the new citizen rate. Also, it would not disturb the other proposed standards for this class of mail. However, my bill's removal of the requirement for handwritten addresses from the list of citizen rate mail criteria would send a clear message to the Postal Service that Congress expects the criteria for mail classes to apply equitably and efficiently.

The primary mission of the Postal Service is public service for all of the people. I believe that my legislation would remind the Postal Service of its obligation to maintain this basic purpose.

By Mr. THURMOND:

S. 2123. A bill to permit any surviving spouse of a person interred in a post cemetery or the post section of a national cemetery to be interred in such cemetery; to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, today I am reintroducing legislation which would provide assistance to certain persons who wish to have the right to be buried, upon their death, beside a deceased former spouse who is buried in a post cemetery or the post section of a national cemetery.

During the last Congress I was contacted by one of my constituents concerning his mother's request to be buried next to his father in a military cemetery. This was an unusual situation. His father had died in 1940 and was buried in a church cemetery. Since that time, Fort Jackson annexed this property and made it a post cemetery. Since this cemetery is now a military cemetery, this lady could not be buried next to her husband because she did not meet the requirements spelled out in the provisions of an act entitled "An Act to establish eligibility for burial in national cemeteries, and for other purposes" (62 Stat. 234; 24 U.S.C. 281). A private relief bill had to be passed to allow this lady to be buried next to her husband.

I am sure there are other individuals in this same situation at Fort Jackson and other areas across the country. I do not believe a private relief bill should have to be passed in each such instance. For this reason, I am reintroducing this bill which would allow any surviving spouse of a person buried in a post cemetery or the post section of a national cemetery located in the United States or any territory of the United States to be buried in the gravesite or the adjoining gravesite of such person.

By Mr. DECONCINI:

S. 2124. A bill to increase the tariff on imported copper and to exclude copper imports from the generalized system of preferences created by the Trade Act of 1974; to the Committee on Finance.

Mr. DECONCINI. Mr. President, the United States is the world's largest copper producing nation, and copper is an essential element of our total national wealth. The State of Arizona which I represent produces 60 percent of American copper. Copper has long been central to the State's economic well-being.

The State of Arizona, Mr. President, is now faced with a crisis which shows no signs of abating, and every sign of exacerbating. The price of world copper has plummeted, putting pressure on American manufacturers to lower their own prices to the point where they are operating at a loss. Just recently, the American copper industry lowered its price from 65 cents a pound to 60 cents a pound in an attempt to remain competitive with foreign imports. Since American producers need approximately 70 cents per pound to break even, substantial layoffs have occurred as American producers attempt to cut their losses.

In Arizona alone there are approximately 9,000 copper workers laid off. Each week my office receives new information about the possibility of further mines being closed. Clearly, some type of

Government action is needed. I do not believe that the people of Arizona can tolerate continued inaction. The economic future of our State is at issue.

I recognize, Mr. President, that the problem of copper is a complex one; certainly, I do not believe that the legislation I am introducing today is the final answer. It is, however, a beginning; and a necessary beginning. Furthermore, the problem is more than simply economic; it is, in part, political.

To some degree, I think we can fruitfully think of the present crisis as the result of the interaction of the free enterprise system with Government-owned industries. Most of the major copper producing countries outside the North American continent have nationalized their copper producing facilities. Thus, they no longer respond to the push and pull of the marketplace. In fact, much of the worldwide problem has been the result of their acting in a manner contrary to what economic logic would dictate.

In most of these countries—notably, Peru, Chile, Zambia, and Zaire—the copper industry serves two basic purposes. First, it is an important source of employment in restive and unstable societies. Second, copper is the commodity which yields the much-needed hard currency required to purchase essential fuel supplies. Thus, while prices have been dropping, these countries have actually increased their production, creating a serious glut in the world market and intolerably low prices. But since these are Government entities which need not be profitable because they serve other social and economic purposes, they have been operated at a loss.

American producers, on the other hand, are in the copper business to make a profit. We can hardly expect that they will continue to produce at a loss. It is my understanding that once the differential between the London price of copper and the New York price reaches 8 cents a pound there is a shift to foreign copper. Up to that point, American consumers of copper will buy the American product. The differential now stands at about 13 cents a pound and there is a clear shift toward imported copper.

To remain competitive, the price of American copper has been reduced to 60 cents a pound. U.S. copper producers are losing an estimated 10 to 15 cents on every pound of copper sold. The president of Newmont Mining Corp. which owns Magma Copper Co., a major Arizona producer, was recently quoted as saying:

> At these prices, there won't be more than two or three mines in the entire country that can operate profitably, even on a cash basis—not counting interest and capital costs. And some of the "temporary" cutbacks may be more permanent than is now being implied.

A Journal of Commerce article on September 2 of this year referred to statements by George B. Munroe, chairman of the board of Phelps Dodge, another major Arizona company, to the effect that "the production curtailments were a direct result of increased shipments of foreign copper to the United States." Other reports suggest that copper imports will account for 20 percent of American consumption this year. Normal imports rarely rise above 10 percent.

The Copper Employment and Protection Act of 1977 which I am introducing today moves toward a resolution of the domestic copper crisis. It is clear to me that the American worker cannot compete with imported copper being subsidized by foreign governments and produced with little or no regard for cost. This is not a typical trade question because it involves private companies competing with Government-owned entities.

At present, if the U.S. price for copper is less than 24 cents a pound, a tariff of 1 cent a pound is imposed on imported copper. If the American price is 24 cents or above, the tariff is reduced to eight-tenths of 1 cent per pound. In either case, the trigger of 24 cents is unrealistically low and reflects economic conditions 15 years ago when the rate schedules were first published.

The Copper Employment and Protection Act changes the triggering mechanism, using a figure that has been adjusted to mirror contemporary economic conditions. Rather than 24 cents, the bill uses 70 cents as its trigger. This figure was selected because it represents what is generally conceded to be the break-even point for the American production of copper.

However, the act goes well beyond simply a change in the triggering mechanism. It doubles, across-the-board, all the duty rates on copper. For example, the present duty on unwrought copper is eight-tenths of 1 cent per pound when the U.S. price is 24 cents or over and 1 cent when it falls below 24 cents. Under my bill, unwrought copper would be subject to a duty of 1.6 cents a pound when the price of U.S. copper was 70 cents or more, and 2 cents a pound when the U.S. price fell below 70 cents. The same doubling applies to all rates of duty on copper.

These are figures which I believe to be wholly realistic and consistent with other aspects of our national policy. We demand—rightfully so—that our mining industry follow certain guidelines designed to protect both the environment and the atmosphere from degradation. These measures are necessarily expensive, and they increase the cost of American copper production. It is not unreasonable, therefore, to impose a tariff to assist our industry in meeting those standards when it is in competition with other producing nations that have no such environmental restrictions. At the very least, it can be argued that we should not demand that American workers sacrifice their jobs and means of livelihood. Simple justice demands that there be some equity.

These changes in the trigger and the rates of duty would be meaningless in the real world unless another factor is taken into consideration. Outside of the North American Continent, there are four major producers of copper from which well over 50 percent of U.S. imports originate. They are Chile, Peru, Zaire, and Zambia. By the terms of the Trade Act of 1974, these are "less developed countries" which receive preferential trade treatment. This means that their exports to the United States are duty-free. Therefore, unless some change is made to this part of the law, the other provisions will have virtually no impact.

Consequently, title II of the Copper Employment and Protection Act eliminates copper as an item given preferential trade treatment. I certainly have no quarrel with the policy of extending a helping hand to nations in need. However, I do believe that the U. S. Government has an absolute obligation to its own citizens which must take precedence. In the case at hand, the copper preference is doing serious harm to working men and women across the country, especially in Arizona. Certainly, we can devise other means of helping the less-developed nations than do pursue policies which deprive our own citizens of jobs.

Mr. President, I would urge my colleagues in the Senate—and especially the members of the Finance Committee to which this legislation will be referred—to view with sympathy the plight of 9,000 Arizona working men and women who face indefinite unemployment. And, their numbers will be rising. More mines are scheduled to be closed this month. The legislation I am offering today is not a total solution, but it is a starting point which is necessary if we are to revive what was once a dynamic industry. No one likes to advocate the raising of tariffs.

Like most Americans, I believe that we should compete in world markets on equal terms with our neighbors. But in this instance, we are forcing American workers to bear the brunt of competition from Government-owned industries which can and do operate at a loss. Raising the tariff on copper and assuring that it is applied to all countries is a reasonable response to a dangerous situation.

I ask unanimous consent, Mr. President, to include in the RECORD not only the text of the bill, but a series of newspaper articles outlining the genesis of the present crisis in the American copper industry.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this act may be cited as the "Copper Employment and Protection Act of 1977".

TITLE I—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 101. Items 602.28, 603.49, and 603.54 of part I of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) are hereby amended as follows:

(a) by striking the number "24" under the heading "Articles" and inserting in lieu thereof the number "70";

(b) by striking the number "1" under the heading "Rates of duty" and the subheading "1" and inserting in lieu thereof the number "2"; and

(c) by striking the number "4" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "8".

SEC. 102. Items 602.30, 603.50 and 603.55 of part 1 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) are hereby amended as follows:

(a) by striking the number "0.8" under the

heading "Rates of duty" and the subheading "1" and inserting in lieu thereof the number "1.6"; and

(b) by striking the number "4" under the heading "Rates of duty" and in the subheading "2" and inserting in lieu thereof the number "8".

SEC. 103. Headnote 5 to subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is hereby amended by striking the number "24" wherever it appears in said headnote and inserting in lieu thereof the number "70".

SEC. 104. Items 612.02, 612.03, 612.05, 612.06, 612.08, 612.10, 612.15, 612.35, 612.39, 612.44, 612.61, 612.62, 612.64, 612.70, 612.71, 612.72, 612.73, 612.81, 613.10, and 613.11 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States are amended as follows:

(a) by striking the number "0.8" under the heading "Rates of duty" and the subheading "1–a" and inserting in lieu thereof the number "1.6";

(b) by striking the number "1" before "¢ per lb. on copper content" under the heading "Rates of duty" and the subheading "1–b" and inserting in lieu thereof the number "2"; and

(c) by striking the number "4" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "8".

SEC. 105. Items 612.17, 612.20, 612.30, 612.32, 612.36, 612.38, 612.40, 612.41, 612.43, 612.45, 612.50, 612,52, 612.56, 612.63, 612.80, 612.82, 613.04, 613.06, 613.08, 612.12, and 613.18 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) are hereby amended as follows:

(a) by striking the number "0.6" under the heading "Rates of duty" and the subheading "1–a" and inserting in lieu thereof the number "1.2";

(b) by striking the number "0.75" under the heading "Rates of duty" and the subheading "1–b" and inserting in lieu thereof the number "1.5"; and

(c) by striking the number "3" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "6".

SEC. 106. Item 612.31 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States is hereby amended as follows:

(a) by striking the number "1.4" under the heading "Rates of duty" and the subheading "1–a" and inserting in lieu thereof the number "2.8";

(b) by striking the number "1.625" under the heading "Rates of duty" and the subheading "1–b" and inserting in lieu thereof the number "3.25"; and

(c) by striking the number "3" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "6".

SEC. 107. Item 612.55 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is hereby amended as follows:

(a) by striking the number "5.6" under the heading "Rates of duty" and the subheading "1–a" and inserting in lieu thereof the number "11.2";

(b) by striking the number "5.75" under the heading "Rates of duty" and the subheading "1–b" and inserting in lieu thereof the number "11.5"; and

(c) by striking the number "17" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "34".

SEC. 108. Item 612.60 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States is hereby amended as follows:

(a) by striking the number "1.4" under the heading "Rates of duty" and the subheading "1–a" and inserting in lieu thereof the number "2.8";

(b) by striking the number "1.6" under the heading "Rates of duty" and the subheading "1–b" and inserting in lieu thereof the number "3.2"; and

(c) by striking the number "1.6" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "13".

SEC. 109. Item 613.02 of subpart C of part 2 of schedule 6 of the Tariff Schedules of the United States is hereby amended as follows:

(a) by striking the number "2.6" under the heading "Rates of duty" and the subheading "1–a" and inserting in lieu thereof the number "5.2";

(b) by striking the number "2.75" under the heading "Rates of duty" and the subheading "1–b" and inserting in lieu thereof the number "5.5"; and

(c) by striking the number "11" under the heading "Rates of duty" and the subheading "2" and inserting in lieu thereof the number "22".

SEC. 110. All numbers struck from the Tariff Schedules of the United States (19 U.S.C. 1202) in sections 101 through 109 above refer to said schedules as amended through December 3, 1976. If said numbers are superseded before the enactment of this Act, the superseding numbers in effect on the date this Act is enacted will be struck in lieu thereof.

TITLE II—AMENDMENTS TO THE TRADE ACT OF 1974

SEC. 201. Subsection 503(c) of title V of the Trade Act of 1974 (88 Stat. 2069) is hereby amended as follows:

(a) by striking the subsection heading "(2)" and inserting in lieu thereof the subsection heading "(3)"; and

(b) by inserting after "Preferences", in subsection 503(c)(1)(G) and before the renumbered subsection heading 503(c)(3) the following new subsection:

"(2) No article shall be an eligible article under this title with respect to the duty on its copper content as provided for in items 602.28 through 602.30, 603.49 through 603.55, and 612.02 through 613.10: *Provided*, That nothing in this subsection prohibits any item named herein from being an eligible article with respect to the duty on its content of any mineral or substance other than copper.".

[From the New York Times, Aug. 20, 1977]

KENNECOTT, TWO OTHERS JOIN 7.7 PERCENT CUT IN COPPER PRICE

(By Brendan Jones)

Three more companies, including the Kennecott Copper Corporation, the industry's giant, joined yesterday in a 7.7 percent cut in copper prices.

The 5-cent-a-pound reduction—from 65 to 60 cents a pound on electrolytic copper cathodes, the basic form of refined copper—was announced also by the Phelps Dodge Corporation, the No. 2 producer, and the Cities Service Company.

Yesterday's price action was a follow-through on the 5-cent-a-pound cuts initiated Wednesday by Asarco Inc. and the Duval Corporation, a subsidiary of the Pennzoil Company. The reduction, the fourth and the largest for copper since April, when the price stood at 74 cents a pound, indicates worsening of the excess world copper supply that has plagued the industry for the last three years.

The latest round of price-cutting, which has been enforced by a growing spread in domestic and foreign copper prices, is expected to become general in the industry next week.

"It is a matter of facing the realities of the world market conditions," said one industry official. Another commented that "business is so slow at present, it is doubtful that much more copper will be sold at 60 cents a pound than at 65 cents."

The basic reason for the slump has been continued sluggishness in the general economy and continued high production of copper by Third World countries, such as Zaire and Zambia. They have been maintaining production to sustain foreign-exchange earnings and employment.

As a result, the world copper supply is reportedly now at more than two million tons, an historic high that is twice the normal level. And even though there has been a recent pick-up of construction in this country, copper consumers still have large inventories to work off.

The difference between copper prices on the New York Market and on the London Metal Exchange has widened increasingly in recent weeks, with prices in London tending to be 10 cents a pound lower. Traditionally a London price that is only 8 cents below the United States price is enough to trigger a switch to imports by American copper consumers.

In announcing its 5-cents-a-pound cut on Wednesday, Asarco cited the disparity in domestic and foreign copper prices, as well as rising imports. The reduction, a company spokesman said, was "to help us stay competitive".

Meanwhile copper producers, who also have substantial inventories on hand, have been cutting production to about 85 percent of capacity. Many mines already are down to 95 percent of capacity.

Another disrupting factor in the industry was the relative shortness of a strike early last month by 45,000 copper workers. Many copper company officials had expected the strike to last three or four months and thus bring a welcome cut in supply.

Kennecott, however, made a surprise settlement with the unions less than a week after the start of the strike. While some companies have been slow to settle with the unions, the general reaction has been to announce scheduled layoffs and longer vacation shutdowns of operations to achieve lower production.

In Arizona, which accounts for 60 percent of domestic copper production, some 3,000 copper workers have been laid off so far this summer, and another 3,000 are reported to be still on strike. There are nearly 20 mines and seven smelters in the Tucson area, which contains the main part of the Arizona operations.

Commenting on big inventories being held by producers, one copper company executive said sadly yesterday: "There's a mountain of copper out there".

[From the Journal of Commerce, Sept. 2, 1977]

U.S. COPPER OUTPUT SLASHES HELD LIKELY

(By Tony Gampetro)

More production cutbacks by U.S. producers of copper and a continued lack of significant strength for prices appears likely to continue until the worldwide supply-demand picture for the metal moves into closer balance.

This appears to be the view of some market analysts recently. Their belief is based on the fact that worldwide inventories of the metal are at record levels—estimated by some at approximately 2 million tons.

London Metal Exchange (LME) warehouse stocks have recently been reported at 609,400 tons and on the Commodity Exchange Inc. at over 200,000 tons.

Also, while U.S. producers have begun to cut production, foreign producers are maintaining high output levels. And, despite the recent 5 cent cut in the U.S. producer price to 60 cents per pound, there continues to be a wide gap between LME and U.S. selling prices.

SOME BRIGHT SPOTS

There are some bright spots on the horizon, however, with economic trends expected to also play a major part in the metals picture.

ACLI International Commodity Services Inc. in their mid-August report on New York Commodities stated that "As bearish as the supply side of the fundamental balance is, however, it is unlikely that futures

values would have sunk as low as they have were it not for the reserved purchasing posture of industrial users. Because of widespread stockpiling in advance of this summer's strike, the buying power which would normally be supporting the market today already has been spent. Compounding, too, the seasonal weakness of consumption related to vacation shutdowns has been widening concern as to outlook for economic growth. . . ."

MORE NORMAL BALANCE

The report also stated that "once the large precautionary inventories built up in defense against this summer's walkout have been depleted (which, hopefully, will be accomplished in the early part of the third quarter), a more normal supply/demand balance should be gradually restored and prices should rebound to levels closer in accordance with production costs."

Analysts add that recent cuts in U.S. production and the strike within the industry this summer have been favorable factors in bringing the supply-demand situation into closer balance. Also some market observers have stated that foreign producers may eventually realize that high production at low prices is not favorable for anyone.

RECENT CUTBACKS

Some of the recent cutbacks by U.S. companies include:

Phelps Dodge announced in early August that it was restricting production at its western copper mines which would leave output at 85 per cent of capacity. This compares with 95 per cent prior to the strike.

George B. Munroe, chairman of Phelps Dodge Corp., stated that the production curtailments were a direct result of increased shipments of foreign copper to the United States.

Sales of foreign copper here are made possible by the lower prices quoted by foreign government controlled mines which, regardless of prevailing market conditions seek to maximize production and sales in order to obtain foreign exchange and maintain employment, according to the Phelps Dodge announcement.

Less than one-third of Inspiration Consolidated Copper Co.'s Arizona miners were to return to work following settlement of the company's labor disputes.

According to John B. Howkins, Inspiration's president, this curtailment of operations is necessary in view of the copper market situation caused by the high rate of foreign production that has resulted in very large inventories of refined copper and depressed prices. A substantial amount of this foreign copper is being imported into the United States, Mr. Howkins said.

Kennecott Copper Corp. has stated that it was cutting mine and concentrator output at its Nevada division. The Nevada concentrator is to process an average of 15,000 tons a day instead of 22,500 tons, which was the recent average.

[From Business Week, Sept. 5, 1977]

THE PLUNGE IN PRICES HITS COPPER OUTPUT

With copper prices plunging to a two-year low, industry executives are trimming production at some mines and considering further paring and complete shutdowns at others. "There will have to be more cutbacks," says Jack E. Thompson, president of Newmont Mining Corp., which owns Magma Copper Co. "At these prices, there won't be more than two or three mines in the entire country that can operate profitably, even on a cash basis—not counting interest and capital costs. And some of the 'temporary' cutbacks may be more permanent than is now being implied."

Industry spokesmen refuse to say whether they plan to close mines. But as George B. Munroe, chairman of Phelps Dodge Corp., puts it: "Long-term shutdowns are something that we, like the rest of the industry, are now looking at very closely."

The industrywide scrutiny of current operations is being prompted by last week's nickel-a-pound price cut to 60¢ per lb. While costs vary from mine to mine, the breakeven point for the U.S. industries estimated at roughly 70¢ a lb. Asarco Inc. and Pennzoil Co.'s Duval Corp. led the current round of price reductions. By this week, all major producers had fallen into line except Inspiration Consolidated Copper Co.

The nation's copper companies are slashing prices well below the cost of production to bring them closer to world spot prices, established on the London Metal Exchange. Before last week's announcement, the price of copper purchased on the world exchange had drifted as much as 13¢ a lb. beneath the U.S. price. When world prices move 8¢ or more below domestic levels, foreign supplies become attractive to U.S. consumers—despite transportation costs plus the 0.8¢-a-lb. import duty.

INVENTORY

The depressed metal exchange price is caused by a 2 million-ton inventory of copper held in the world's warehouses—about twice the normal stock—that has little chance of being whittled down soon. A sluggish world economy, the quick settlement with copper workers' unions in July, and full-speed production by nationalized copper companies abroad slim the chances of using up the bulging inventories.

While U.S. copper consumption has picked up briskly, use of the red metal in the rest of the industrialized world is still about 20% below the rate of 1974, the last good year for copper. "The economies of Western Europe and Japan haven't picked up enough to be able to work off this oversupply," says Simon D. Strauss, vice-chairman of Asarco.

Many in the copper industry and its industrial customers expected a long strike this year. A walkout of three months would have reduced copper stocks by about 350,000 tons. Anticipating a strike, consumers bought heavily before July as a hedge against any cutbacks in production. Yet the strike was settled unexpectedly soon, interrupting most operations for just a few weeks (BW—July 18).

FOREIGN PRODUCERS

But copper executives think the most lasting and troubling dilemma, brought to light by the recent price cuts, is that posed by foreign producers. The largest copper nations outside North America are Chile, Zambia, Zaire, and Peru. All are poor countries that desperately need foreign currency to make payments to the world's bankers on their sizable loans (page 31).

These countries have also nationalized their copper operations. As government trusts, they are less bound by the pricing system than private companies. "What we're really seeing in copper is the first real confrontation between nationalized producers abroad and private industry in the U.S.," says John B. M. Place, chairman of Anaconda Co., an Atlantic Richfield Co. subsidiary.

The combined effect of government aid to these less-developed nations and U.S. environmental regulations, which add at least 8¢ a lb. to production costs, justifies some type of trade restraints on copper imports, industry executives claim. Imports are expected to almost double their share of U.S. consumption this year to 20%. Some copper executives have reportedly discussed the subject with federal officials, though no organized lobbying effort is yet under way.

Government sources, noting the Administration's commitment to free trade and aid for poor nations, doubt that the copper industry will find a sympathetic ear in Washington. But without some government help, says Newmont's Thompson, "I don't see anything that will make the prospects for our industry during the next few years look any brighter than they are right now."

[From the New York Times, Sept. 10, 1977]

COPPER GLUT IS FORCING PRODUCERS TO IDLE MINES IN BID TO CUT COSTS

Faced with a veritable mountain of copper that has caused prices to tumble, the nation's producers have begun to idle their workers and mines in an attempt to cut costs and whittle inventories.

In one of a string of recent developments, the Kennecott Copper Corporation, the industry giant, said yesterday that it was eliminating 10 percent of the more than 10,000 jobs in Kennecott's four copper mining divisions. Part of a cost-cutting and productivity drive, the layoffs began in August and are scheduled to conclude in the next few months.

Although it is reducing its work force, Kennecott said it intended to maintain its production output. This, it said, would allow it gains on costs.

OUTPUT LOWERED BY 11 PERCENT

Meanwhile, the Duval Corporation, the mining subsidiary of the Pennzoil Company, announced yesterday that it would close two of its four copper production operations. Its Esperanza property near Tucson, Ariz., will be closed for an indefinite period on Sept. 26, and its Battle Mountain, Nev., mine and concentrator will be phased out over the next 90 days.

Duvall's announcement followed a six-week period during which all of the company's copper properties were closed. This cut production by about 11 percent. The forthcoming shutdown of the two Duval properties will lower output by roughly 20 percent.

Two days ago, Asarco Inc. announced the suspension of all its copper mining operations, idling some 1,300 workers. An additional 365 refinery employees were temporarily laid off because of some copper refining curtailments.

Asarco had only recently become the last of the Big Six United States copper producers to agree to a new labor contract, thus winding up a two-month strike by 3,600 copper workers.

In the last two months, a growing number of copper companies have curtailed production and closed mines in an effort to wrest themselves from the condition of excess supply that has characterized industry for more than three years.

RELENTLESS ROUND OF CUTS

The industry has been in a glum mood. It has been forced to participate in a relentless round of price cuts that have left the price of copper at 60 cents a pound. Industry observers believe companies are losing as much as 10 cents to 15 cents on every pound of copper they sell.

The trouble, of course, is too much copper. While United States producers are trimming production schedules, such underdeveloped nations as Chile, Zambit and Zaire are pounding out copper in substantial amounts, despite slack demand, in hopes of increasing foreign-exchange earnings.

Western nations' inventories are currently crammed with an estimated 2.2 million tons of copper, roughly double the normal level.

The copper industry had hoped to find relief from its tribulations when 45,000 copper workers went on strike at mines and smelters after contracts expired on June 30. A long strike seemed in the offing.

MAJORITY FOLLOWED SUIT

It never materialized. Kennecott, raced to a settlement, drawing rage from others in the industry, the majority of whom quickly followed suit.

"Copper buyers had anticipated a long strike," said David Healy, copper analyst at Drexel Burnham Lambert, in a telephone interview yesterday. "When the strikes were settled much faster than expected, there was

a hunk of copper looking for a home. I think everyone is pretty well provided with copper for three or four months."

The problem at hand remains that of striking a balance between United States production and that of the government-owned producers in developing nations.

"The balancing factor that is coming into play right now is the closing of United States copper mines," said George Cleaver, copper analyst at White, Weld & Company. "This action has been in the cards for some time. And I don't think it's all going to be temporary. Some of the mines that are being closed will probably never reopen."

Industry observers expect many more layoffs and nine closings soon. One large producer that has not yet announced any substantial curtailments is the Anaconda Company, a spokesman, however, acknowledged yesterday that, "since it's costing us more money to produce copper than we're getting in return, we have to be thinking about possible actions."

Another leading copper producer, the Phelps Dodge Corporation, has been operating at around 70 percent of capacity. Its Ajo, Ariz., mine is closed, and it is not expected to resume operations until next month.

"There have to be more closings," Mr. Cleaver said. "Some companies are merely hanging on to that element known as hope. Stick in there and maybe, just maybe, a year from now copper prices will be flying high again. But it's not that simple. I think it's going to be a two-year process before this imbalance sorts itself out. It's going to be a terribly uncomfortable process."

By Mr. WILLIAMS:

S. 2125. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to authorize the Pension Benefit Guaranty Corporation to extend, for not more than 18 months, the date on which the corporation first begins paying benefits under terminated multiemployer plans; jointly, by unanimous consent, to the Committee on Finance and Human Resources.

ERISA OVERSIGHT HEARINGS: A BILL TO PERMIT A DELAY IN MANDATORY MULTIEMPLOYER PLAN TERMINATION INSURANCE; DUAL JURISDICTION, PLANS OF SMALL EMPLOYERS AND OTHER MATTERS

Mr. WILLIAMS. Mr. President, the pension plan termination insurance program contained in title IV of the Employee Retirement Income Security Act of 1974 (ERISA) became immediately and fully effective for single employer pension plans in 1974. But for multiemployer plans, title IV contains a delayed effective date of January 1, 1978. Until that date, the Pension Benefit Guaranty Corporation may, in its discretion, provide insurance for the participants of terminating multiemployer plans, but on and after January 1, 1978, termination insurance coverage will be mandatory for these plans.

In recent months, I have become increasingly concerned about reports that a substantial number of multiemployer plans may terminate on or shortly after January 1 of next year, resulting in a severe drain on PBGC's multiemployer fund and a consequent extraordinary rise in the premiums that PBGC will have to charge to multiemployer plans. This, in turn, could trigger even more terminations.

The apprehensions about excessive multiemployer plan terminations may be well founded. Furthermore, I have concluded that a thorough review of title IV of ERISA is in order to determine whether interpretive or legislative changes must be made to better reflect the nature of these plans. I am therefore introducing legislation today to permit PBGC to postpone the effective date for mandatory multiemployer plan coverage under title IV for a period of not more than 18 months. To help insure that we will not have to repeat the postponement exercise, my bill also requires that if the PBGC exercises its discretion to postpone mandatory coverage, it will furnish a report to the Congress, explaining the reasons for the postponement and setting forth any proposals for legislative changes it believes are necessary to better accommodate title IV to multiemployer plans.

Mr. President, I ask unanimous consent that the text of the legislative proposal be included in the RECORD at the conclusion of my remarks.

Mr. President, as the principal Senate sponsor of the Employee Retirement Income Security Act of 1974, I have closely followed its implementation by the three Federal agencies which have administrative and enforcement responsibility under its provisions—the Department of Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation. I have followed with equal interest the course of Government and private litigation under ERISA.

When the Senate overwhelmingly endorsed ERISA on August 22, 1974, we knew at the time that we were enacting landmark legislation. Those of us on the Human Resources Committee knew only too well the magnitude of what was to be undertaken, for we had labored long and hard—first with our colleagues on the Finance Committee and later in conference with our colleagues from the House—to determine ERISA's substantive standards and administrative mechanisms. We were proud of what we had accomplished, but we were also apprehensive. Enactment was only the first step, and the great hurdle of implementation lay ahead.

The standards contained in ERISA would have to protect the interests of more than 40 million employees covered by private sector pension and welfare plans. Three separate Federal agencies would have to work together to administer and enforce the law properly—a law designed to be strong enough to accomplish its intended results, yet flexible enough to accommodate the legitimate interests of the many institutions and groups that comprise the modern employee benefit plan complex. For 3 years, I have held back from speaking out on implementation issues, believing that premature judgments were not in order.

Now the time has come for a careful evaluation. ERISA's termination insurance program has been in effect for more than 3 years. The reporting, disclosure, and fiduciary provisions have been in effect for more than 31 months. The minimum standards for funding, participation, and vesting, and the rules for related matters first came into play over 19 months ago. It is time to analyze the results and resolve outstanding issues.

I, for one, believe the substantive concepts of ERISA are generally sound. Most of the fiduciary rules, the minimum participation, vesting and funding standards, and the use of detailed reporting and broad disclosure as both a prophylactic and an enforcement tool seem to be suitable means of accomplishing ERISA's ends. The investigative and enforcement authority lodged with the Secretary of Labor appears to be both ample and flexible. The Pension Benefit Guaranty Corporation is operating and thousands of retirees are receiving benefits, thanks to PBGC's termination insurance.

But I have also observed certain problem areas. In some cases, these problems can be traced to administrative difficulties. In others, they arise because ERISA's rules have not worked as well in certain particulars as we had hoped and expected they would.

DUAL JURISDICTION

Of all of the problems I have observed in the implementation of ERISA, there is one that seems to be dominant. It is called "dual jurisdiction," a term used to describe the fact that many of ERISA's rules are subject to interpretation and enforcement by both the Labor Department and the Internal Revenue Service. In 1974, there was wide recognition that dual jurisdiction would make efficient administration of ERISA difficult, and after 3 years of dual jurisdiction, there is no question in my mind that bipartite—and in some cases tripartite—administration of the law has resulted in inefficiency, confusion, waste, and needless expense. Dual jurisdiction also has hindered the development of a rational and coherent overall philosophic approach to the myriad of issues relating to retirement security and welfare plan protection that were not explicitly addressed in ERISA.

There are three logical alternatives to dealing with the dual jurisdiction problem. First, agency administrative and enforcement jurisdiction could be further fragmented by mandating that the Labor Department be exclusively responsible for certain portions of the act and the IRS be exclusively responsible for other portions. Second, jurisdiction could be consolidated in one place. Third, the administrative structure could be left entirely or largely as it is. Obviously, there are variations of each of these broad alternative approaches.

The further fragmentation approach is designed to enhance efficiency and reduce duplication of effort, overlap, and resultant confusion by eliminating the necessity for both agencies to pass on the same matters. But this concept needs to be carefully examined. Among the questions that should be asked about proposals for further fragmentation are the following:

First. Is it wise, and will it be productive in the long run, to further separate the administrative and/or enforcement responsibilities of the agencies when the law that they are administering was conceived of, considered, and enacted as an integrated whole?

Second. To the extent that dual jurisdiction has prevented the development of a coherent, rational, philosophic ap-

proach to the problems associated with our national policy regarding retirement security and welfare plan coverage and protection, will not further fragmentation of administrative responsibility make development of sound national policy even less likely? On reflection, it seems to me that we are no further advanced in our thinking now than we were in 1974. The critical problems such as the respective roles of our private and public retirement security mechanisms, the desirability of further strengthening of ERISA's substantive provisions, the feasibility of the concepts of portability and reciprocity, the utility of the excise tax and disqualification as remedial tools, and the major, overriding problem of how our private retirement system is going to cope with the significantly increased proportion of our population that will be reaching retirement age early in the 21st century, remain unresolved.

Third. Given the pull and tug of competing demands on our time and resources. will not further fragmentation of administrative and policymaking functions so diffuse responsibility that the significant, important interests which we in the Congress recognized when we enacted ERISA will be lost or overwhelmed by other national interests and priorities?

Fourth. Is it possible that the proponents of further fragmentation of agency responsibility are overlooking the fact that, because the various subject-matter parts of ERISA are so inherently related to one another, there will of necessity be a great need for the agencies to consult and coordinate extensively even when their responsibilities for administration and enforcement have been separated? And will not this continuing need for consultation and cooperation undercut the very efficiencies that further fragmentation is designed to bring about?

For example, in many cases, conduct that gives rise to a violation of the participation, vesting, accrual, or related rules will also give rise to a violation of the fiduciary rules. Also, an issue arising under the annual financial report that is required to be filed with the Labor Department is likely to raise a similar issue under the tax return that is required to be filed with IRS. And even if responsibility for interpreting ERISA's definitional terms is split between the agencies, coordination and consultation will be required to avoid inconsistent application.

Furthermore, because ERISA is in fact an integral whole, it is inevitable that in the day-to-day administration of its provisions, the agencies will have to consult extensively with each other, and the public will often have to seek guidance from both agencies on different aspects of the same issues. Finally, none of the fragmentation approaches has addressed the problems caused by the present necessity for PBGC interaction with both Labor and IRS.

The second broad alternative would be a consolidation of administrative, enforcement, and policymaking functions. Within this broad alternative, there are many possible variations. However, at this point I am more concerned with the broader questions of whether consolidation is a good idea and whether it is feasible.

Having observed the effects of dual jurisdiction for 3 years, I have become convinced that consolidation merits serious consideration. Consolidation would undoubtedly significantly reduce inefficiency. It would end the duplication of effort that now exists and would continue to exist under the fragmentation approach. The need for coordination and consultation between different agencies of the Federal Government would not be ended, but it would be significantly reduced. And over the long term, the reduction in duplication of effort and overlap of function would result in a savings of taxpayer dollars.

Most importantly, placing the policymaking, administrative, and enforcement functions of ERISA in one agency would permit and foster the development of a sound and coherent national policy regarding the issues of retirement security for all American workers. Consolidation should also result in an entity with the motivation, ability, and strength to insure a fair hearing for the policy options it has under consideration and, most importantly, a fair and comprehensive hearing in the arena of public affairs for the policies it decides to choose and implement.

Compared to dual jurisdiction or further fragmentation of jurisdiction, consolidation of functions and assembling in one place the authority and the people with the skills and talents necessary to deal with this complex area of law and national policy is undeniably attractive.

In 1974, I concluded reluctantly that unified administration for ERISA was not feasible. A series of factors present at that time seemed to preclude unitary administration. However, during our 3 years of experience, enough has happened to warrant renewed consideration of a consolidated approach to ERISA's administration.

We have now experienced 3 years of dual jurisdiction. It has not been a happy experience. It has been a time of confusion and frustration. I have heard personally from many of my own constituents about the ways in which dual jurisdiction has impeded sound administration and coherent policymaking under ERISA. I am certain that most, if not all, of my colleagues in the Senate and House have received similar complaints. And I know that the problems of dual jurisdiction have hindered the staffs of the Labor Department, IRS, and PBGC in their efforts to administer the act.

Nor have the effects of dual jurisdiction been limited to rank and file workers and agency staffs. Major financial institutions that manage employee benefit plan assets and furnish services and products to plans have been affected. Lawyers, accountants, actuaries, investment advisers, and other professionals who are involved with the administration or asset management of plans have grappled with the conflict and confusion that has accompanied dual jurisdiction. Dual jurisdiction is no longer, as it was in 1974, a potential cause of apprehension. It is here, it is real, and it has caused significant problems. Those who opposed unitary administration in the years 1972 through 1974 have now lived through the realities of dual jurisdiction, and may wish to reconsider the idea of unified administration.

During the period 1972–74, when ERISA was being shaped, our thoughts and attention were focused primarily on the substantive concepts and standards that were to be included. In late 1973 and throughout 1974, we were forced to move rapidly in melding together the differing viewpoints of the four committees involved. Now, with ERISA's general concepts in place and operative, we can give the jurisdictional question a fresh, dispassionate review and reach a far better solution than we did in 1974.

The third broad alternative is to leave things as they are. If it appears that unified administration is not possible at this time, it may be better to do nothing for the time being. Dual jurisdiction is certainly not a desirable solution, but further fragmentation may turn out to be even worse if, as I suspect, it proves to be impossible to avoid substantial continued consultation and coordination between the agencies. resulting in continued confusion and delay.

OVERSIGHT HEARINGS

Mr. President, I have not made up my mind on the dual jurisdiction issues and I intend to examine them carefully. Therefore, I have scheduled oversight hearings by the Labor Subcommittee of the Human Resources Committee. These hearings will last for at least 3 days, commencing on Tuesday, October 11, 1977.

Our committee's oversight hearings will also cover several other subjects on which attention should be focused.

APPLICATION OF FEDERAL SECURITIES LAWS

A recent decision by the U.S. Court of Appeals in Chicago in the case of Daniel against IBT, et al., affirming a lower court ruling that the antifraud provisions of the Federal securities laws can be applied to a jointly administered, Taft-Hartley pension plan and its sponsoring union has caused consternation on the part of many plans, their fiduciaries, and their sponsors while at the same time being applauded by some advocates of workers rights. The circuit court decision leaves me with mixed feelings, for I am sympathetic to the plaintiff in the case, who lost a pension after more than 22 years of covered service because of a 4-month break in service. But at the same time I am disturbed by reports I have heard concerning the ruinous liability that may be visited on plans if the antifraud provisions are applied.

I am also greatly disturbed by the spectre of yet another Federal agency—the Securities and Exchange Commission—becoming heavily involved in the regulation of employee benefit plans, and about the further confusion that will result from application of yet another body of law. And I am troubled by the cavalier fashion in which the court of appeals dealt in its decision with the labor relations and collective bargaining ramifications that could flow from the application of the Securities Acts' antifraud provisions to collectively bargained plans.

MULTIEMPLOYER PLANS

Three years' experience with ERISA's substantive provisions have brought to light certain other problems that may warrant statutory adjustment. One entire set of problems arises from ERISA's application to multiemployer, jointly administered pension and welfare plans, which are subject to section 302(c) of the Labor-Management Relations Act as well as to ERISA. Multiemployer plans have encountered particular difficulties in satisfying certain of ERISA's requirements. In some cases, the Labor Department, IRS, and PBGC, by regulation and other forms of interpretation, have been able to ameliorate these problems without lessening the protections of the act for participants and beneficiaries—as in multiemployer class exemptions from certain of the prohibited transaction rules.

Nevertheless, certain problems remain, and they are serious enough to warrant our consideration. I suspect that many of the difficulties that multiemployer plans are experiencing under ERISA and the Tax Code have a common cause. I think the cause is that neither ERISA nor the Tax Code recognize and account for how truly different in nature these plans are from single employer plans.

When ERISA was enacted, we recognized that in some instances multiemployer plans merited different treatment. But all too often, the distinctions between these plans and single employer plans have been ignored. In addition, difficulties have arisen in applying the termination insurance provisions of the act to multiemployer plans, even though title IV contains numerous special provisions for these plans. These difficulties account for the apprehensions—shared alike by knowledgeable private sector observers and PBGC officials—concerning mandatory application of title IV to multiemployer plans, and are responsible for my decision to introduce legislation today. In this area and perhaps in others, consideration must be given to changes in interpretation and, if necessary, new statutory language that will recognize the differences between multiemployer plans and corporate, single employer plans.

The typical Taft-Hartley plan involves numerous employers, no one of which has the power to control the plan. Indeed, not even all of the contributing employers, represented by trustees they or their association has designated, can control the plan. Similarly, the union trustees, acting alone, cannot control the plan. In the abstract, this is not objectionable—indeed, it is desirable in light of ERISA's mandate that fiduciaries, such as a Taft-Hartley plan's joint board of trustees, act solely in the interest of the plan's participants and beneficiaries.

However, under title IV and elsewhere in ERISA, and also in the Internal Revenue Code, a tight, mutual relationship of responsibility and accountability between the plan sponsor and the plan itself is assumed. This assumption is the basis for the concept of contingent employer liability, which is the only effective deterrent in title IV against frivolous or otherwise unjustified terminations. It is also the basis for the Tax Code's remedies of disqualification and excise tax.

I believe that the key to understanding—and properly resolving—the difficulties of multiemployer plans under ERISA, and especially under title IV, will be found in a careful reexamination of this assumption. In addition, unique problems are encountered by multiple employer plans in industries that have experienced economic downturns, and resolution of these problems should be given a high priority.

Mr. President, in introducing legislation that will permit PBGC to postpone the date of mandatory termination insurance coverage for multiemployer plans and in focusing attention on the difficulties of these plans under ERISA, I am not suggesting that the level of protection for the rights and interests of their participants be reduced and I am distressed that it appears necessary to authorize PBGC to postpone coverage, even for a temporary period. But a postponement may be necessary to avoid the severe strains that will be placed on both PBGC and multiemployer plans if, as now seems possible, many of these plans choose to terminate as soon as PBGC protections become mandatory.

It may be, and it is my hope, that over the next few months the picture will brighten sufficiently so that PBGC will choose not to exercise its postponement authority. The almost 8 million participants covered under multiemployer pension plans deserve the same level of protection enjoyed by participants in single employer plans. Multiemployer plans play an important role, and their maintenance and growth should be fostered and encouraged.

However, application of ERISA and the Tax Code as they are now structured and interpreted may be impeding that goal rather than furthering it. Accordingly, at our upcoming oversight hearings and in the months ahead, I intend to carefully review whether adjustments in the law can and should be made to insure that the differences between multiemployer plans and single employer plans are recognized and accounted for.

PLANS OF SMALL EMPLOYERS

Another major problem area under ERISA involves the plans of small employers. Here again, in my opinion, ERISA may not sufficiently take into account the differences between small plans and plans maintained by large, corporate employers. Although the figures and explanations to date on plan termination frequency do not present a very coherent picture, I am concerned that ERISA's paperwork and compliance burdens for small plans, coupled with the alternative opportunities presented by individual retirement accounts, may be responsible for some proportion of the total plan terminations.

Adjustments to the law so that its compliance burdens for small plans are structured in a more equitable fashion may be possible. But no solution that involves a reduction in the level of protection provided by ERISA to the participants in small plans will be acceptable.

PREEMPTION

We also must examine the effects of ERISA's sweeping preemption provision, particularly as it relates to welfare plans—including uninsured, "self-funded" health care arrangements.

Regarding the self-funded health care arrangements being marketed by various entrepreneurs, I am hopeful that the Labor Department will be successful, through regulation or litigation, in drawing some clear lines concerning the differences between employee benefit plans intended to be covered by ERISA and to be protected from conflicting or multiple State regulation by ERISA's preemption provisions, and schemes that are designed to look like employee benefit plans but are really risk-pooling arrangements seeking to avoid State insurance laws. However, if it appears that legislative change is necessary, despite the best efforts of the Labor Department, I am certain that we will give it careful consideration.

FURTHER IMPROVEMENTS

Mr. President, it has been suggested that the time is appropriate for consideration of further improvements in ERISA's protections. There is merit to this suggestion. Although ERISA was a big step forward, it was really only an initial step. However, the administering agencies have yet to promulgate important regulations under the 1974 law. Also, I suspect that the confusions and difficulties engendered by dual jurisdiction have to some extent obscured dispassionate judgments about the impact of ERISA's substantive provisions on plan sponsors and administrators, as well as on plan participants and beneficiaries.

While it may be too early to legislate new advances, it is certainly not too early to consider potential changes. Expanding individual retirement accounts, such as limited IRA's for workers covered under plans which provide only meager benefits, should be considered not only on its merits, but also in light of the effect that the availability of IRA's has already had on existing plans and the further effect that an expansion might have. We must also measure the desirability of IRA's and the obvious value of the flexibility they offer to individuals seeking retirement security against the transactional costs and loss of economies of scale that are inherent in individually established IRA's as opposed to plans maintained by a sponsor.

Portability of vested credits as well as reciprocity arrangements for nonvested, accrued benefits are both ideas that merit consideration. The problems of devising a feasible system for either concept are formidable, as we recognized in 1972–74. However, I think it is incumbent on us to thoroughly explore these ideas, as well as a mechanism to safeguard retirees' benefits from the effects of inflation, because in the absence of immediate vesting, or a feasible portability and reciprocity system, there will continue to be signicant hardships at retirement time for people whose employment does not continue steadily with the same company or under the same plan. Workable solutions to these problems and to other problems, such as continued plan coverage opportunities for workers of small companies, may be found in governmentally established and controlled mechanisms, such as pooled funds or accounts, but it seems

to me that our strong and remarkably diverse private employee benefit plan system can also serve as a proving ground for new ideas and concepts.

Mr. President, all of the matters and problems to which I have alluded will be addressed in our committee's October oversight hearings. The time has come to productively review the results of the historically significant legislation we put into effect 3 years ago and the performance of the agencies in which we vested its administration. If we can conclude, as I surely believe we will, that ERISA's precepts have proven appropriate and its concepts have proven sound, we can devote our full attention to those areas in which operational problems have arisen and in which interpretive or legislative adjustments should be made.

Seven years have passed since the beginning of the Human Resources Committee's initial study of private pension plans, which finally culminated with the enactment of ERISA on Labor Day, 1974. This was a great triumph for American workers and a source of great satisfaction for us all. I am proud of the role that I was able to play in that process by virtue of my chairmanship of the Human Resources Committee.

Today, I am strongly committed to continue that role through effective oversight, thoughtful study, and the development of legislation, if necessary, to cure existing defects and to insure as best we can that our goal of true retirement security and health and welfare care for America's workers is in fact realized.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4082(c) of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) is amended—

(1) by inserting after "January 1, 1978" each place it appears the following: ", or the date fixed by the corporation under paragraph (5), whichever is later",

(2) by inserting after "December 31, 1977" the following: ", or the day before the date fixed by the corporation under paragraph (5), whichever is later", and

(3) by adding at the end thereof the following new paragraph:

"(5) The corporation may delay the January 1, 1978 effective date for benefit payments with respect to terminations of multiemployer plans to a date not later than July 1, 1979 if it determines, before January 1, 1978 that such a delay is necessary to prevent serious financial difficulty for the corporation and to insure proper coverage for multiemployer plans terminating after such effective date.".

(b) Section 4082 of such Act is amended by adding at the end thereof the following new subsection:

"(d) If, pursuant to subsection (c)(5), the corporation exercises its authority to fix a date later than January 1, 1978, the corporation shall present to the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Human Resources and the Committee on Finance of the Senate a report which comprehensively addresses those matters which caused the corporation to determine to fix a date later than January 1, 1978, including a full and complete explanation of any actions taken or to be taken by the corporation to alleviate or eliminate the difficulties referred to in subsection (c)(5), and explanations of options for other actions considered and rejected by the corporation. If the report contains recommendations for amendments to this title, such recommendations shall be fully explained, and shall be accompanied by explanations of other options for legislative change considered and rejected by the corporation. The report shall be presented by the earlier of—

(1) July 1, 1978, or

(2) 270 days before the date fixed by the corporation pursuant to subsection (c)(5)."

Mr. ROBERT C. BYRD subsequently said:

Mr. President, I ask unanimous consent that a bill introduced earlier today by the Senator from New Jersey (Mr. WILLIAMS), to amend the Employees Retirement Income Security Act of 1974, be jointly referred to the Committees on Finance and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 991

At the request of Mr. RIBICOFF, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 990, to establish a Department of Education.

S. 1245

At the request of Mr. GRIFFIN, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1245, the Corrections Construction and Program Development Act of 1977.

S. 1585

At the request of Mr. MATHIAS, the Senator from Kansas (Mr. DOLE) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 1585, the Protection of Children from Sexual Exploitation Act.

S. 1586

Mr. THURMOND. Mr. President, I ask unanimous consent that my name be added as a cosponsor to S. 1586, a bill to establish an Antitrust Review and Revision Commission. The bill was introduced by the distinguished senior Senator from New York (Mr. JAVITS), for himself and Senators ABOUREZK, DOLE, DOMENICI, and MATHIAS. My two predecessors, as ranking minority members of the Senate Antitrust and Monopoly Subcommittee, were cosponsors of previous bills for such an Antitrust Study Commission; namely, Everett McKinley Dirksen and Roman L. Hruska.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1587

At the request of Mr. STONE, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes.

S. 1651

At the request of Mr. BIDEN, the Senators from Kentucky (Mr. HUDDLESTON and Mr. FORD), the Senator from Indiana (Mr. LUGAR), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Utah (Mr. GARN), the Senator from Florida (Mr. CHILES), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1651, a bill to insure equal protection of the laws.

S. 1692

At the request of Mr. MELCHER, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 1692, to reform the Postal Service.

S. 1736, S. 1737, S. 1738

At the request of Mr. LEAHY, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1736, S. 1737, and S. 1738, the Solar Energy for Homes Acts.

S. 1820

At the request of Mr. METCALF, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1820, to establish programs for the maintenance of natural diversity.

S. 1868

At the request of Mr. MELCHER, the Senators from Oklahoma (Mr. BELLMON and Mr. BARTLETT), and the Senators from New Mexico (Mr. DOMENICI and Mr. SCHMITT) were added as cosponsors of S. 1868, the National Crude Oil Supply and Transportation Act.

S. 1888

At the request of Mr. BELLMON, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1888 to amend the Social Security Act to allow States to provide community work and training programs under State plans for aid to families with dependent children.

S. 1891

At the request of Mr. BELLMON, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1891, to amend the Social Security Act to improve assistance to dependent children of unemployed fathers.

S. 2088

At the request of Mr. METCALF, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 2088, the Advisory Committee Termination Act.

S. CON. RES. 31

At the request of Mr. GRIFFIN, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of Senate Concurrent Resolution 31, to disapprove the Federal Motor Vehicle Safety Standard relating to passive restraints.

S. CON. RES. 44

At his own request, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of Senate Concurrent Resolution 44, honoring Thaddeus Kosciuszko.

S.J. RES. 60

At the request of Mr. STONE, the Senator from Michigan (Mr. RIEGLE) was added as a consponsor of Senate Joint Resolution 60, to establish a White House Conference on Energy Conservation.

AMENDMENT NO. 864

At the request of Mr. SCHWEIKER, the Senator from Utah (Mr. GARN), the Senator from Idaho (Mr. MCCLURE), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Texas (Mr. TOWER), were added as cosponsors

of amendment No. 864, intended to be proposed to S. 1871, the Fair Labor Standards Amendments of 1977.

AMENDMENT NO. 886

At the request of Mr. FORD, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of amendment No. 886, intended to be proposed to amendment No. 868 to S. 2104, to establish a comprehensive natural gas policy.

SENATE RESOLUTION 264—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. BELLMON (for himself, Mr. HUMPHREY, Mr. SCHWEIKER, Mr. HATFIELD, Mr. CLARK, and Mr. HOLLINGS) submitted the following resolution:

S. RES. 264

Resolved, That the Select Committee on Nutrition and Human Needs, established by S. Res. 281, Ninetieth Congress, agreed to on July 30, 1968, and extended by S. Res. 4 through December 31, 1977, is hereby extended through December 31, 1979.

SEC. 2. (a) In studying matters pertaining to the lack of food, medical assistance, and other related necessities of life and health, the Select Committee on Nutrition and Human Needs is authorized in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to subpoena witnesses and documents, (4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (5) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services, (6) to interview employees of the Federal, State, and local governments and other individuals, and (7) to take depositions and other testimony.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

SEC. 3. For purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or Chairman of the Select Committee on Nutrition and Human Needs shall not be taken into account if such Senator, on the day preceding the effective date of title I of the Committee System Reorganization Amendments of 1977, was serving as a member of the Select Committee. However, in no case shall a member or chairman of the Select Committee be a member or chairman of more than three other standing, select, or special committees of the Senate, or joint committees of Congress.

SEC. 4. The expenses of the committee under this resolution shall not exceed $250,000 per annum of which amount not to exceed $20,000 shall be available for the procurement of the services of individual consultants, or organizations thereof.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers should not be required for the disbursement of salaries of employees paid at an annual rate.

Mr. BELLMON. Mr. President, today I am submitting a resolution to extend the life of the Select Committee on Nutrition and Human Needs for 2 years beyond the scheduled termination date at the end of this calendar year. I am joined in this resolution by Senators HUMPHREY, HATFIELD, SCHWEIKER, CLARK, and HOLLINGS. We are initiating this action because we believe that the gains our society stands to make by increasing our understanding of human nutrition are so significant that termination of the select committee's efforts at this time would be a premature act and a costly error.

The Senate needs a strong focus upon nutrition during the next 2 years while a wide variety of Federal efforts related to nutrition take new form. Those of us who will be required to make decisions about funding Federal feeding programs and nutrition research efforts would be greatly helped by a continuing committee forum organized around the concept of nutrition. We need a nonlegislative committee composed of members from various standing committees having legislative responsibilities related to nutrition. The shape and form of considerable legislation could be positively influenced by understanding gained through the Select Committee on Nutrition and Human Needs.

Many of my colleagues would join me in expressing anxiety about the alarming rate of increase in the costs of medical care in this country. Committees are wrestling with the difficult problem of finding ways to arrest this dangerous inflationary tendency in our existing system of medical care. That system is basically oriented toward the provision of medical services for the ill and toward the conduct of research into disease treatment. That vital system will be strengthened and streamlined by current Senate efforts, but it could be complemented by the parallel development of preventive measures developed through improved nutrition. By extending the life of the Select Committee on Nutrition and Human Needs, we have an opportunity to innovate approaches to improving human well-being by placing more responsibility in the hands of the individual citizens for their own health. We have an opportunity to stimulate avenues of disease prevention available to all citizens. We have a chance to dampen the growing demand for medical services and thereby to avert a crisis in our economy and social system.

Mr. President, current Federal food programs have grown to the point where they constitute a substantial obligation of Federal funds. The food stamp program, which cost the Nation $35 million in 1965, amounted to $5.689 billion just 11 years later in 1976. Child feeding programs, which have grown in their categorical numbers and their coverage, cost $497 million in 1965 and now require $2.471 billion in 1976. If we add to this substantial base the nutrition program for the elderly, the community food and nutrition program, food distribution programs, and the expanded food and nutrition program, we have 1976 Federal obligations of $8.376 billion—a 1,100-percent increase in this Nation's food program expenditures between 1965 and 1976. It would be a happy circumstance if I could say that these enormous Federal expenditures were cost-effective and were producing nutritionally sound and coordinated Federal food and nutrition education programs. Unfortunately, this may not be the case.

These programs have grown independently in response to various pressures, and their structure reflects a basic lack of organization around a central nutrition policy.

In the case of nutrition education programs which are federally funded, there are 30 such programs, but because of administrative complexity and lack of central organization, it is impossible to break out the cost data for 16 of these programs. Of the 30 programs of 11 agencies within 2 departments of the Federal Government which claim "nutrition education" as a component of their activities, only 14 can identify the portion of their budget actually expended on nutrition education. Almost universally, reliable data are lacking on the impact of nutrition education upon improving consumer decisionmaking in food purchases. In order to evaluate Federal feeding programs and nutritional education efforts, we need to develop criteria for judging their worth. Once developed, these criteria could then be worked into appropriate legislation so that program efforts would stand a much better chance of being effective. As Federal expenditures for food and nutrition programs move toward $9 billion, the absence of reliable program evaluation is a severe handicap to the Congress. The Select Committee on Nutrition and Human Needs will provide the focus we need to accomplish a more rational and effective use of this huge sum of taxpayers' dollars.

Mr. President, Congress has already begun a movement toward the allocation of more research dollars into human nutrition research. The estimated fiscal year 1977 expenditures for this research in the Department of Health, Education, and Welfare, the Department of Agriculture, the Agency for International Development, the Department of Defense, the Veterans' Administration, and the National Science Foundation, is slightly more than $112 million. As the realization grows that the best preventive medicine may be sound nutrition knowledge coupled with effective nutrition education, we can expect that more funds will have to be devoted to nutrition research. Those of us who have to make judgments about such funding could be greatly assisted by the work of the Select Committee on Nutrition and Human Needs during a 2-year extension of its life.

I would like to point out what the select committee would likely accomplish during the coming 2 years.

First, stimulate the development of a sensible Federal policy concerning nutrition research, feeding programs, and nutrition education. I have already pointed out that considerable thought needs to be given to a workable framework for maximizing the effectiveness of the Federal effort in these areas.

On the matter of human nutrition re-

search, a recent GAO study underscores this need with the following recommendations:

Human nutrition research has entered a new era marked by growing evidence implicating diet as a major cause of disease and by increasing public concern with nutrition. To determine the potential of diet for helping reduce disease and related cost of health care, nutrition research faces complex challenges needing long-term and interdisciplinary investigation. These challenges are to:

Define human nutritional requirements for promoting or maintaining growth, development, or well-being during pregnancy, infancy and lactation, and during childhood and adolescence; and for women, the elderly, those with disease and stress, and those persons taking drugs and vitamins;

Determine the nutrient composition of the current food supply and the biological availability of the nutrients in foods;

Evaluate the health consequences of the modern diet; and

Monitor on a continuous basis the nation's nutritional status and determine the relationship between nutritional status at one period of life on health in subsequent periods.

To help meet these challenges, action is needed to (1) establish a central focus for human nutrition research and provide Government-wide coordination of research programs, (2) define the subject areas comprising human nutrition research, and the reponsibilities of Federal agencies involved in such research, and (3) assess the need for establishing regional nutrition research centers in conjunction with colleges and universities having comprehensive nutrition departments and programs.

Second, continue and extend its work with dietary goals as guides to individual and institutional decisionmaking. At this point, it is important that practical steps in the application of dietary goals be developed and applied. Techniques for providing dietary information to citizens and concerned groups would be investigated. Needs for nutrition education for all citizens would be assessed. The means for providing this education would be explored, including public television, classroom instruction, private and voluntary efforts, personalized nutritional counseling, extension programs, et cetera.

Next year, the Department of Agriculture, which allocates the funds to feed 30 million children each day, will consider the reorganization of its child nutrition programs as well as its nutrition education programs. With 9 years of experience in health, poverty, and nutrition, the select committee will be able to conduct a parallel effort in the Senate, including hearings involving school administrators, parents, nutritionists, program evaluators, et cetera. Instead of simply reacting to administration proposals, the Senate would have the necessary resource to make its own input.

Title VII of the Older Americans Act will be renewed next year. At present, the only group which has looked at the needs of millions of homebound elderly is the select committee. Since there will be legislative changes proposed, it would be wise to continue the select committee to provide the necessary expertise.

Next year, there will probably be legislation proposed to stimulate nutrition education in medical schools. The select committee currently has a study underway to outline present practices, and it would be useful to continue this work.

Most likely, there will be forthcoming legislative proposals to require nutritional labeling of foods. The resources of the select committee will be of considerable assistance in evaluating these proposals.

The select committee has taken the lead in preparing legislation to reorient the health research establishment to give equal attention to prevention as it presently does to crisis care. We can expect that this will be an active and significant area of legislation which would benefit from the continued efforts of the committee.

Mr. President, I favor the progress made in the Senate toward reducing the number of committees and simplifying the committee assignments of Members. It has made our work much more manageable and effective. However, I am now convinced that the remaining work which needs to be done by the Select Committee on Nutrition and Human Needs should not be sacrificed. In recent months, the Office of Science and Technology Policy, the National Academy of Science, and the General Accounting Office have each concluded that a central focus for nutrition is badly needed in the Federal Government. This would seem to be exactly the wrong time to dismantle the select committee. I believe that all of us would subsequently regret the termination of this effort, since we are on the verge of making funding, legislative, and program decisions for future years in an area where focused research and activity has been absent. My earlier support of the committee's phase-out at the end of this year now seems premature. I strongly urge the prompt consideration of this resolution to extend the Select Committee for Nutrition and Human Needs for an additional 2 years by the Rules Committee. I hope there is early approval by the Senate.

Mr. President, I ask unanimous consent that a short statement by Senator HUMPHREY in support of this resolution be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Mr. President, I would like to express my support for the continuation of the Select Committee on Nutrition and Human Needs.

I applaud Senator Bellmon for his leadership in offering this resolution. This act demonstrates the Senator from Oklahoma's continuing strong commitment to the need to improve the nutritional wellbeing of this nation.

This resolution is important because it offers the opportunity to maintain a legislative resource, the Select Committee, that has been at the forefront of every nutrition issue for nearly the past ten years.

The Select Committee has led the way to improving nutrition programs that have particularly benefited elderly persons, schoolchildren, poor people and Indians.

While the Select Committee has led the way for the disadvantaged, helping them achieve a voice in the affairs of the nation, the Select Committee also has been instrumental in shaping discussion concerning issues and programs that affect all Americans as well as people abroad.

Before the Select Committee was created, the commitment of the Senate—and that of the federal government—to nutritional issues was weak at best. There has been a surging interest in nutrition and I attribute a large part of that interest to the Select Committee and its efforts.

Nothing, in my opinion, is more important in this broad issue area than the relationship of nutrition to physical and mental health. Six of the ten leading killer diseases that afflict Americans are linked to poor nutrition. Only recently the Select Committee began the task to correlate the relationship of nutrition to mental health.

Indeed, there is work to be done. Nothing demonstrates this more than the fact that of all the dollars spent on agriculture and health related research, only three percent goes to research on human nutrition. I submit that this is a dreadfully low amount, one that should be scrutinized very carefully in the years ahead.

Perhaps what we need in the area of nutrition is a broad, new and innovative thrust. I can think of no institution that can contribute more to this type of effort than the organization that did so much to raise our awareness in the first place, the Select Committee.

The Select Committee is a vital adjunct to the Committee on Agriculture, Nutrition and Forestry. It has served this Committee well and it promises to serve it even more in the future.

In essence, the issue here concerns whether or not the Senate would like to remain deeply and fully informed on nutrition issues so that it can play a more constructive and innovative role in nutrition policy. This resolution offers an opportunity to make that choice, a choice that will impact on the nation in a positive and constructive manner.

AMENDMENTS SUBMITTED FOR PRINTING

MINIMUM WAGE RATES—S. 1871

AMENDMENT NO. 963

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 1871) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to provide for an automatic adjustment in such wage rate, and to adjust the credit against the minimum wage which is based on tips received by tipped employees.

NATIONAL ENERGY POLICY—H.R. 8444

AMENDMENT NO. 986

(Ordered to be printed and to lie on the table.)

Mr. PERCY. Mr. President, today I am submitting an amendment to the energy tax bill to encourage the use and commercialization of ethanol and methanol automotive fuels. I learned this morning that an amendment similar to mine was introduced yesterday in the Committee on Finance by my distinguished colleague from Kansas, Senator DOLE. That amendment passed the committee by a vote of 16 to 1. The amendment I am introducing differs from that of Senator DOLE sufficiently to warrant its introduction today. In fact, Senator DOLE has agreed to cosponsor this new amendment along with Senators BAYH, BURDICK, CURTIS, FORD, MATHIAS, PELL, and YOUNG.

Specifically, the amendment will exempt automotive fuels composed of at least 10 percent nonpetroleum derived alcohol from the present Federal excise

tax of 4 cents per gallon. This exemption would cover alcohol derived from agricultural products, forest materials, coal, and other nonpetroleum sources.

The amendment adopted by the Committee on Finance yesterday would also exempt alcohol-blended fuels from the excise tax. However, the amount of exemption would vary, depending on the source of alcohol. I believe that this provision would unnecessarily complicate the goal we have in mind—that of providing the public with a simple choice; either conventional gasoline, or a renewable, domestic, clean alcohol fuel. Different prices for different types of alcohol will confuse the public and decrease the effectiveness of alcohol fuel as an alternative to imported petroleum.

Therefore, I wish to formally introduce this amendment on the floor today, and I ask unanimous consent that the text of the amendment, along with a letter concerning it which I recently wrote to my colleagues, be printed in the RECORD.

There being no objection, material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 986

On page 370, between lines 4 and 5, insert the following new section:

SEC. 2025A. REMOVAL OF CERTAIN EXCISE TAXES ON ALCOHOL AND FUELS CONTAINING ALCOHOL.

(a) ALCOHOL USED AS FUEL NOT SUBJECT TO TAXES ON DISTILLED SPIRITS.—

(1) IN GENERAL.—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; or", and by adding after paragraph (9) the following new paragraph:

"(10) without payment of tax to the extent that such spirits are alcohol (other than alcohol produced from petroleum or natural gas) the primary use of which is fuel for motor vehicles.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to alcohol withdrawn after the date of the enactment of this Act.

(b) GASOLINE MIXED WITH ALCOHOL.—

(1) IN GENERAL.—Section 4081 (relating to imposition of tax on gasoline) is amended by adding at the end thereof the following new subsection:

"(c) Gasoline Mixed With Alcohol.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale of any gasoline—

"(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

"(B) for use in producing a mixture at least 10 percent of which is alcohol.

"(2) LATER SEPARATION OF GASOLINE.—If any person separates the gasoline from a mixture of gasoline and alcohol on which tax was not imposed by reason of this subsection, such person shall be treated as the producer of such gasoline.

"(3) ALCOHOL DEFINED.—For purposes of this subsection, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum or natural gas.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales after the date of the enactment of this Act and before January 1, 1984.

(c) ALCOHOL MIXED WITH SPECIAL FUEL.—

(1) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(k) FUELS CONTAINING ALCOHOL.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081(c)(3)).

"(2) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or use after the date of enactment of this Act, and before January 1, 1984.

(d) REPORTS.—

(1) ANNUAL REPORT.—On April 1 of each year, beginning with April 1, 1979, and ending on April 1, 1983, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

(A) a description of the firms engaged in the alcohol fuel industry,

(B) the amount of alcohol fuels sold in each State and the amount of gasoline saved in each such State,

(C) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k), and 4081(c) of the Internal Revenue Code of 1954, and

(D) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels before the imposition of any Federal excise taxes.

(2) The reports submitted to the Congress on April 1, 1983, shall contain, in addition to the information required under paragraph (1), an analysis of the effect on the alcohol fuel industry of the termination of the exemption from excise taxes provided under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954.

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., September 15, 1977.

DEAR COLLEAGUE: I will soon be introducing an amendment to the Energy Tax Bill to encourage the use and commercialization of alcohol automotive fuel. Specifically, the amendment will exempt gasoline with a minimum blend of 10 percent non-petroleum derived ethanol or methanol from the present federal fuel tax of 4 cents per gallon for a test period of six years.

Alcohol as an automotive fuel could make a significant contribution towards reducing this nation's dependence on foreign sources of petroleum. It is completely usable in present engine designs when combined with gasoline in amounts of 20 percent or less. In addition, alcohol fuel can aid dramatically in eliminating harmful pollutants from car exhaust and in improving mileage efficiency.

The United States presently consumes 103 billion gallons of gasoline each year. The use of 10 percent alcohol-blended gasoline could cut this nation's oil imports by 20 billion gallons yearly, or almost one and one-half million barrels of crude oil each day. Alcohol will not only substitute for the dwindling supply of petroleum, but its increased utilization would provide a strong market for agricultural surplus and wastes, forest products, coal, and even urban sewage.

Several states have taken important initiatives in the development of alcohol fuel. They are designing methods of alcohol production that are consistent with the peculiarities of their specific regions. The success of these initiatives demonstrates the many benefits of a domestic fuel industry fed on American agricultural and natural resources.

Despite this progress, the development of a private alcohol fuel industry is still a risky enterprise. Alcohol production is more costly than gasoline and, therefore, less profitable. Economies of scale will not be realized until use becomes widespread. With increased demand, however, a blended-fuel market should grow to profitable proportions. Preferential treatment of alcohol is required to stimulate demand for this valuable domestic resource.

Exemption from the present 4 cents per gallon federal fuel tax for alcohol-blended gasoline would provide a mechanism to do just this. By making alcohol fuel price competitive with gasoline, public awareness of alcohol fuel as a way of decreasing our dependence on foreign oil would be promoted. It will serve to consume agricultural residues, timber products, coal, and sewage. As the demand for alcohol fuel increases, the construction and commercialization of alcohol producing plants would be encouraged.

The exemption will cause little revenue loss to the U.S. Treasury because at present, the capacity to produce alcohol is small and will require several years to grow. The exemption will end on January 1, 1984. By that time, alcohol-blended fuels are expected to be cost competitive with gasoline. In addition, because total consumption of automotive fuel will not be affected by the blending of alcohol with gasoline, state gasoline tax revenues will not be reduced.

A copy of the amendment is attached for your consideration. If you have any questions, or would like to co-sponsor this amendment, please have your staff contact Dave Carol (4-1460) or Chris Palmer (4-1462).

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

Mr. DOLE. Mr. President, the Senate Finance Committee during the energy tax bill markup yesterday accepted an amendment I introduced which would encourage the use and development of gasohol. My amendment provided that the 4-cent Federal gasoline tax will not be imposed on sales of gasoline which is at least 10 percent ethanol or methanol. Alcohol, either ethanol or methanol, will not qualify if it is produced from petroleum or natural gas. Use of coal-based alcohol will subject the gasohol to a 1-cent tax. The use of all other alcohol will exempt the gasohol from the entire 4-cent tax.

SURPLUS AGRICULTURAL PRODUCTS

The Senator from Kansas is pleased to join with the Senator from Illinois, Mr. PERCY, in providing further incentives for gasohol. Mr. President, the primary source of nonpetroleum based alcohol is excess agricultural products. The United States presently has a surplus of many feed grains including wheat. The technology is being developed which can economically and efficiently produce grain alcohol from these grains and also utilize the byproducts for animal feed and alternative agricultural uses.

A plant for this type of wheat fractionation has recently been built in Kansas with very promising results.

CHANCE TO REDUCE OIL IMPORTS

A 4-cent tax break for gasohol would make it price competitive with gasoline. Although I do not anticipate immediate substantial production of gasohol, I feel increased use of gasohol will help the industry to grow. Sales of gasohol means that public consciousness that gasohol can reduce our national dependence on foreign imports will be expanded. The energy savings for the next year or two may be small, however, no practical al-

ternative should be overlooked in our struggle for energy self-sufficiency.

NEW MARKETS

Use of wheat or corn to produce the grain alcohol will result in a new market for farmers, a new industry for agricultural areas and a more efficient fuel for motorists. Gasohol produces less pollution than regular gasoline. The State of Nebraska has led the way in promoting consumer use of gasohol by cutting the State gasoline tax on this fuel. Their program has been so successful that at least three other States have authorized studies of gasohol use.

Farmers are not the only ones which will benefit from more consumption of gasohol. The alcohol can be distilled from timber waste, municipal garbage, wastepaper and coal. Alcohol production plants are much cheaper to build than gasoline refineries and the few years which these amendments cover would be sufficient to develop a viable alcohol industry.

This amendment covers two areas that were not addressed by my original amendment. First, it will eliminate the tax on distilled spirits for alcohol produced for use in gasohol. Second, it will extend the same treatment of gasohol in my amendment to special motor fuels such as those used in airplanes and motor boats. I support both of these modifications. The net effect will be to increase even more the tax incentives for production and consumption of gasohol instead of gasoline.

Alcohol blends for use in autos cost more per gallon than gasoline at current prices. Yet, the benefits in reducing pollution, improving the economy and reducing the dependence on oil imports must also be considered in the economics. With these limited tax incentives, gasohol can be made competitive and a net energy savings be realized by America.

DISTRICT OF COLUMBIA APPROPRIATIONS—H.R. 9005

AMENDMENT NO. 980

(Ordered to be printed and to lie on the table.)

Mr. WEICKER (for himself and Mr. EAGLETON) submitted an amendment intended to be proposed to the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

NATURAL GAS POLICY—S. 2104

AMENDMENT NO. 964

(Ordered to be printed and to lie on the table.)

Mr. FORD. Mr. President, I submit an amendment for printing and I ask unanimous consent that the text of the amendment and an explanation in connection therewith be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 6–7, by striking all beginning with line 11, page 6 through line 1, page 7 and inserting the following:

"(1) The term 'new natural gas' means natural gas—

"(1) sold or delivered for the first time on or after April 20, 1977: *Provided*, That natural gas shall not be deemed new natural gas if the Commission finds, after hearing, that at any time prior to April 20, 1977, such gas could have been sold and delivered from completed wells and was wrongfully withheld from sale or delivery: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than fifteen years or for the life of the reservoir from which it is produced if less than fifteen years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (five years or less) or temporary emergency contracts including sales made pursuant to the Emergency Natural Gas Act of 1977 shall not be considered, for the purpose of this provision, as having been sold or delivered in commerce prior to April 20, 1977; or

"(2) produced from a new well the completion location of which—

"(i) is 2.5 statute miles or more (horizontal distance) from any old well; or

"(ii) is 1,000 feet or more deeper than the deepest completion location of an old well, if any, which is within 2.5 statute miles (horizontal distance) of such new well; or

"(iii) is in a newly discovered reservoir."

COMMENT ON FORD AMENDMENT 964: NEW NATURAL GAS DEFINITION

The definition in the committee bill severely restricts the amount of gas that would qualify for the new gas price. The bulk of additional offshore Federal Domain gas will be produced from leases acquired prior to April 20, 1977 (not from "new leases") and, hence, will be ineligible for the new gas rate. Absent modification, this provision will unduly discourage new drilling. Furthermore, the "newly discovered reservoir" requirement will offer little incentive for developmental drilling. The "new well gas" in (2) conforms to the House definition. The amendment prohibits withheld gas from being defined as "new gas"; requires commitment of O.C.S. gas for delivery.

AMENDMENTS NOS. 965 THROUGH 979 AND 981 AND 982

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted 17 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 983 AND 984

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 985

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 987 AND 988

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. MORGAN, and Mr. HELMS) submitted two amendments intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 989

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. JOHNSTON, Mr. TOWER, Mr. HUDDLESTON, Mr. DOMENICI, Mr. HELMS, and Mr. BARTLETT) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Tuesday, September 27, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Hugh H. Bownes, of New Hampshire, to be U.S. circuit judge for the first circuit vice Edward M. McEntee, retired.

A. Leon Higginbotham, Jr., of Pennsylvania, to be U.S. circuit judge for the third circuit vice Francis L. Van Dusen, retired.

Louis F. Oberdorfer, of Virginia, to be U.S. district judge for the District of Columbia vice William B. Jones, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

PROHIBITION OF POLYGRAPH-TYPE EQUIPMENT

Mr. BAYH. Mr. President, the Subcommittee on the Constitution has scheduled hearings on S. 1845 proposing legislation to protect the rights of individuals guaranteed by the Constitution of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of polygraph-type equipment for certain purposes, for Tuesday and Wednesday, September 27 and 28, 1977, beginning at 9 a.m. in room 2228, Dirksen Building.

Any persons wishing to submit written statements for the hearing record should send them to the Subcommittee on the Constitution, Suite 102–B, Russell Senate Office Building, Washington, D.C. 20510.

RURAL TRANSPORTATION PROBLEMS

Mr. HUDDLESTON. Mr. President, last week I announced that the Senate Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices would hold hearings on September 27, 28, and 29 on transportation problems affecting agriculture, forestry, and rural development. The hearings were scheduled to begin at 9 a.m. in room 322, Russell Senate Office Building. Since scheduling these hearings, it has been necessary to change the time of the September 28 hearing. It will now begin at 2 p.m. The hearings on September 27 and 29 will begin as scheduled, at 9 a.m.

NOMINATIONS BEFORE THE COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Tuesday, September 27, 1977,

at 10 a.m. in room 4232, Dirksen Senate Office Building, on the nominations of:

Bertram R. Cottine, of the District of Columbia, to be a member of the Occupational Safety and Health Review Commission;

George Claude Pimentel, of California, to be an Assistant Director of the National Science Foundation;

Floyd James Rutherford, of New York, to be an Assistant Director of the National Science Foundation;

John B. Slaughter, of Washington, to be an Assistant Director of the National Science Foundation.

INDOCHINA REFUGEES—"LET'S NOT PULL AWAY THE HELPING HAND"

Mr. CRANSTON. Mr. President, on Thursday the Human Resources Committee will hold hearings on S. 2108 and the Humphrey-Kennedy-Cranston-Hayakawa amendment No. 876 to S. 2108 to extend and revise the Indochina Migration and Refugee Assistance Act of 1975.

The committee will be acting under what amounts to emergency conditions. The Indochina Refugee Assistance Act expires September 30—less than 9 days away. Of the 146,000 Indochina refugees in the country, some 50,771 are receiving cash assistance. With the expiration of the act, these individuals will be thrown onto the general relief rolls of the various communities in which they reside. Meanwhile, 15,000 new Indochina refugees are entering the country—with no assistance program to provide for their care, housing, feeding, or assimilation into our society.

Congress cannot be blamed for the delay. The administration's legislation was introduced Friday, September 16. Hearings in the Human Resources Committee will be held Thursday and a markup in the committee is scheduled for Wednesday the 28th. We have been able to move as quickly as we have because of the total cooperation of Chairman WILLIAMS and the distinguished ranking minority members Senator JAVITS. It is my hope that a consensus on the legislation can be achieved and our schedule of action expedited further.

If—and this certainly is a big "if"—it is possible for the Human Resources Committee to reach an informal consensus within the next day or so I would like to see us discuss the Senate proposal with key members of the House Committee on the Judiciary who will be holding a hearing on companion legislation to S. 2108 on Friday. Our objective would be to present an agreed upon bill in the Human Resources Committee markup on Wednesday the 28th so that Congress can send a bill to the President as quickly as possible.

There are other difficult problems with the Budget Control Act and perhaps other difficulties of a procedural nature as well.

I have outlined the obstacles and possibilities in this general way so that those many citizens who are concerned and actively working to assist the Indochina refugees will understand why Congress may fall short of the October 1 deadline. I intend to work hard for quick enactment and I am confident that many of my colleagues feel the same as I.

I ask unanimous consent that the editorial "Let's Not Pull Away the Helping Hand," which appeared in the Los Angeles Times of September 21, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LET'S NOT PULL AWAY THE HELPING HAND

The deadline is only days away, but Congress still has not passed legislation needed to continue assistance that was first provided in 1975 to help relocate Vietnamese war refugees and to reimburse states for the welfare assistance that they have provided.

If Congress doesn't act by the end of the month, when the current program is scheduled to expire, the burden will fall on state and county welfare agencies. If that happens, California, which houses about one-half (75,000) of all the refugees in the nation, will be hit hard. This will be particularly true in the southern counties, and especially Los Angeles and Orange, where most of California's refugees are concentrated.

Mario Obledo, California's health and welfare secretary, estimates that the expiration of the federal program would cost California $39 million a year. The cost to Los Angeles County taxpayers has been estimated at $5 million; in Orange County, the tax rate would have to be raised another 3 cents per $100 assessed valuation to cover refugee aid.

That's a financial burden that federal officials should not pass on to the states and counties; they do not have the funds to meet it.

Historically, welfare has not been a way of life in Vietnam. And most of the refugees, in the short time that they have been here, have made remarkable adjustments. Many, however, have serious health, education and housing problems, and do need help. About 35% of the refugees (22,000 in California) are presently receiving some form of public cash assistance. Their plight is a national, not a local, problem.

There are several bills pending in Congress. They come down to two approaches:

One, being pushed by Sen. Hubert H. Humphrey (D-Minn.) and Rep. Fortney H. Stark (D-Calif.), would provide full federal funding for one year, then reduced reimbursement for the next two years. But its key point is a continuation of social services and special projects to provide funds for language and job-training programs to help make the refugees employable and self-sufficient. The estimated first-year cost is $118 million.

The Administration measure would cost an estimated $72 million, but it is strictly a welfare bill that calls for reduced reimbursements over the three-year period, and no special funding for training programs.

The Humphrey-Stark approach is much better. And with 15,000 more refugees from Southeast Asia being admitted to the United States under a special program, it is only fair to continue the full federal financing for at least one more year.

The refugees pose a special problem. The more than 50,000 still on welfare rolls are a strong indication that they need more time and help to develop job and language skills they must have to take their places beside other refugees as productive, self-sufficient residents of the American community.

ADDITIONAL STATEMENTS

HHH RURAL DEVELOPMENT SPEECH

Mr. ANDERSON. Mr. President, the beloved and distinguished senior Senator from Minnesota, HUBERT HUMPHREY, has fathered more important legislation than any Member of Congress in the 20th century. Not the least of his many achievements is the Rural Development Act of 1972.

Rural America is one of our Nation's richest resources. Our farmers possess a productive genius unmatched anywhere in the world or in history. Rural America at its best offers a way of life and a way of looking at life that must be preserved. Yet, our rural areas have needs that are just as pressing as the crying needs of our central cities. Our rural communities need jobs, housing, better educational facilities, better medical care, more access to credit and capital.

Many people called these problems to our attention, but only the genius that is HUMPHREY could come up with a way of attacking the problems on a broad, imaginative, and practical scale and then turn around and get the bill passed which incorporated the solution—the Rural Development Act of 1972.

On August 11, 1977, Senator HUMPHREY addressed the first annual Minnesota Rural Youth Institute held at Southwest State University in Marshall, Minn.

This innovative institute is under the leadership of Southwest State University's new president, Jon Wefald, a voice representing Minnesota agriculture whose eloquence is surpassed only by HUBERT HUMPHREY. In selecting a speaker for the first annual Rural Youth Institute, President Wefald made the only possible choice. He chose Senator HUMPHREY.

The August 11 speech is a Humphrey classic—straightforward and candid with ideas scattered across each page. Here is the definitive assessment of how the Rural Development Act has fared during these past 5 years. Senator HUMPHREY's remarks deserve not only the widest circulation, they demand the attention of both the administration and the Congress, because there is much work left to be done.

Mr. President, I ask unanimous consent that the text of Senator HUMPHREY's memorable speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SENATOR HUMPHREY'S REMARKS

I am pleased to be here tonight to talk about a subject very close to us—Rural America. I can not think of a place more appropriate to address this subject than Southwest State University, an institution that promises to distinguish itself in the area of rural affairs, not only in Minnesota, but throughout this nation.

Before I begin, I want to congratulate all of you who have been involved in the creation of the Rural Youth Institute. Under the leadership of President Jon Wefad—one of the finest Commissioners of Agriculture Minnesota has ever had—the Institute is bound to flourish. The concept is sound.

Unless youth can be convinced that Rural America offers promise, the young will continue to leave the countryside for urban life. While this trend shows some sign of reversing itself, it is important that mechanisms such as this Institute be created to deal with this problem in a constructive manner.

In thinking about rural life, it is important to remember that man existed for years and years without either the blessing or the curse of cities. It was only when man could produce a surplus of food that cities were

created. With advances in technology and worker productivity in agribusiness, urban areas throughout the world grew and prospered.

This historic rural to urban exodus, which has occurred worldwide for centuries, has not been without its side effects. As populations shifted to cities, the needs of those left in rural regions increasingly were neglected.

This became more evident in the United States in this century, particularly after World War II. With the advent of modern communications, man was forced to confront the problems of rural life, not only here at home but abroad as well.

In my comments tonight, I would like to emphasize our own situation here in this country. However, I would be remiss not to mention that rural people throughout the world have similar problems. It is true that the nature or depth of the problems may be different, but basically they are the same.

We live in an interdependent world with common problems. When we finally recognize and begin to cope with this reality, then we will take a long step down the road of solving the problems of mankind.

The stated policy of this nation has been to strive for rural development at the same rate as urban development. If much discrepancy exists between the standards of living between those in urban and rural areas, serious social and economic problems are almost sure to arise.

A major landmark in public policy regarding rural development was accomplished when the Rural Development Act of 1972, which I sponsored, went into effect.

Unfortunately, the full benefits of this legislation have not been felt by Rural Americans. Until this year, the executive branch has differed philosophically with the Congress as to how rural development should be accomplished. This resulted in some of the authorized programs not being implemented fully or in a timely manner.

A number of problems continue to plague Rural America. Many of these problems should have been dealt with as a result of the 1972 Act. Probably the most important, in many respects, is the employment picture.

The job situation has many dimensions. There is a high degree of hopelessness among the rural unemployed. A lower percentage of unemployed people of working age in rural areas are looking for work than the unemployed in urban areas.

The reasons for this, while not obvious, are none the less evident. The diversity of opportunity that is available in cities simply does not exist in rural areas. And, more importantly, wages are lower.

In 1975, the median annual income was $11,600 for rural families, while it was $14,909 for urban families—a $3,309 difference. But the reasons do not stop there. The jobs that are available in rural areas are lower skilled. Indeed, this combination of factors constitutes the heart of the economic problems that rural Americans experience.

We need jobs for Rural America and they need to be good jobs:

Housing is another important segment of the sad story on Rural America. Rural Americans occupy one-third of all the housing in the U.S. Yet they occupy 56 percent of all the sub-standard housing in this country.

The Farmers Home Administration was created in the midst of the depression to make loans and grants for housing assistance in rural areas. Private lending institutions simply did not have the faith in Rural America or the necessary capital to finance rural housing needs.

However, the Farmers Home Administration has not always fulfilled its Congressional mandate. It was the intent of Congress that those most in need get first priority on housing loans. But, the Farmers Home Administration began to view itself as a conventional lending institution and therefore chose to overlook the needs of the poorest Rural Americans.

In recent years this situation has been shameful. Those with moderate incomes have been fighting for loans against those who are poor—all during a time period when the Farmers Home Administration failed to use its total appropriated funds.

Another problem area in rural life is education. The sad fact is that rural areas have lagged far behind urban areas. Only three years ago, eight percent of rural adults were functionally illiterate, having less than five years of schooling. Expenditures per pupil in rural versus urban areas are disgraceful.

Clearly, people in rural areas are at a serious disadvantage when it comes to educational opportunity.

Other public facilities are lacking. Public transportation is weak in rural areas. Railroad lines have been reduced, airport facilities may be far away and provide limited service, and bus lines now find it unprofitable to stop at towns that have had such service for decades.

With low population density and property values, other less obvious transportation problems arise. Taxes often are insufficient to pay for upkeep of roads and bridges.

High quality law enforcement also often is hard to come by for rural communities. Again, inadequate revenues is the problem.

Another problem is water and sewer service. Inadequate solid waste disposal is a frequently found problem.

Fire prevention in rural areas is another major concern. Firefighting equipment is costly and personnel shortages plague many areas.

And health care facilities are lacking. It is more profitable for doctors, particularly specialists, to locate in urban areas. As a result, adequate health care is not easily available in non-metropolitan areas.

Some Rural Americans, of course, are more fortunate than others. So, who are the unfortunate?

Statistics plainly show that the black and the elderly show up worse than the average rural individual in the quality of lifestyle, education and health care that they receive.

But, we are making progress on this litany of problems. The Rural Development Act of 1972 has given us a statutory and funding base for coping with most of the problems outlined above.

Unfortunately, funding levels have been inadequate or the Executive has lacked the inspiration it needs to properly fulfill the will of the Congress.

Perhaps we should not be surprised that we have failed to make longer strides. Senator Herman Talmadge, Chairman of the Committee on Agriculture, Nutrition and Forestry, warned that:

"The Rural Development Act of 1972 will enable this nation to help to develop more and better jobs and income earning opportunities in rural communities to relieve the pressures of population, overcrowding and environmental pollution in the cities. However, the enactment of this legislation is only a beginning. The executive branch must do an aggressive, dedicated job of imolementing and administering the law if the intent of Congress is to be honored."

Unfortunately, Chairman Talmadge's concerns were real.

While the new Administration, under Secretary Bergland, offers bright hope for fulfilling many of these broken mandates, Congress has not always lived up to its responsibilities either. A brief review of rural development appropriations under the '72 Act depicts questionable commitment by Congress.

In a number of areas, Congress simply has not appropriated the funding needed to fully implement this legislation. We have yet to fully fund rural development planning grants, authorities to provide technical and financial assistance to public bodies for control of agriculture-related pollution and disposal of solid wastes, and authority for the Secretary of Agriculture to carry out a land inventory and monitoring program to study erosion and sediment damages, soil, water and related resource conditions at not less than five year intervals.

Most importantly, the 1972 Act authorized research by our institutions of higher education to insure that our farms units are as efficient as possible. Funds have not been requested for this type of endeavor. And, this comes at a time when the news media has informed us that agricultural schools are the fastest growing institutions of higher education in the nation.

Congress has had its failures in fulfilling the needs of Rural America. But now is not the time to bemoan the past. It is the time to look to the future.

We in the Congress must aggressively seek to equate rural and urban standards of living. If we find that we do not have the tools to build an adequate balance between urban and rural growth, then we should design new tools.

It is time to make a bold move forward in the steps toward rural progress. The Agricultural Act of 1970 states that "The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to peace, prosperity and welfare of all of our citizens that highest priority must be given to the revitalization and development of rural areas".

We must live up to that promise. It is in the interests of this nation that we have a strong Rural America. Our roots lie in the countryside.

Life in the rural areas must improve, or future generations will have no other choice but to move to the cities. This would lead us further down the path of highly mechanized, capital-intensive agriculture.

We need a healthy Rural America. Without one, we will have foreclosed our options for the future.

ALCOHOL FUELS: AN OVERLOOKED ANSWER FOR ENERGY

Mr. PERCY. Mr. President, the use of alcohol as an automotive fuel has become an important and visible issue in recent months. Alcohol can contribute significantly towards reducing this nation's dependence on foreign sources of petroleum and can provide a strong market for agricultural wastes, coal, and even urban sewage. It is a more efficient fuel than gasoline and reduces the amount of toxic emissions in automobile exhaust.

I will introduce an amendment today to the energy tax bill which will encourage the use and commercialization of alcohol fuel. Specifically, in order to make alcohol-blended fuel price-competitive with straight gasoline, I propose to exempt gasoline with a minimum blend of 10 percent nonpetroleum derived ethanol or methanol from the 4 cents per gallon Federal fuel tax. The exemption should help to create a demand for this new fuel which will, in return, induce private enterprise to invest in and develop an alcohol fuel industry.

In addition, I am considering legislation which will require a Federal agency to operate its passenger vehicles on alcohol-blended fuel for a period of 3

years. This will provide further research into this valuable domestic alternative to improved petroleum.

Developing a renewable, domestic, and clean alternative to the billions of dollars we spend each year on foreign energy supplies is a goal toward which we must all strive. A recent article by Jack Anderson of the Washington Post brought this point home. Mr. Anderson stated:

We can make up much of the oil deficit, experts attest, by producing alcohol fuels.

He also strongly condemned the oil industry for squashing attempts to build an alcohol fuel market. I have no way of verifying the truth of these allegations. However, I hope all Americans will recognize the importance of alcohol fuel as a valuable answer to our energy needs and will unite in furthering its development. Petroleum will one day run out all together. But if we develop a viable alcohol fuel industry, we need not fear the day when the wells run dry.

I ask unanimous consent to print Mr. Anderson's article, "Alcohol Fuels: An Overlooked Answer for Energy" in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ALCOHOL FUELS: AN OVERLOOKED ANSWER FOR ENERGY

(By Jack Anderson)

A miracle may not be needed after all to reduce the nation's huge purchases of overseas oil. We can make up much of the oil deficit, experts attest, by producing alcohol fuels. Not only would this eliminate our dangerous dependence upon overseas supplies, but the billions we now pay to the oil potentates could be spent at home instead.

The automobile industry is prepared to adjust from gasoline to alcohol engines. General Motors' top energy researcher, Joseph Colucci, has declared in a company newsletter: "We'll be ready if the government should legislate its use in automobiles."

The technology is not new. In Europe, alcohol blended with gasoline has been sold as a motor fuel for decades. Years ago, Chrysler Motors modified some cars slightly to accommodate alcohol fuels and shipped them to oil-short New Zealand. Today, many racecar drivers prefer alcohol fuels to gasoline. With only minor modifications in the fuel system, automobiles will operate on straight alcohol fuels.

Instead of hauling crude from Saudi Arabia, we could distill alcohol fuels from agricultural surpluses, timber wastes, wastepaper, even municipal garbage. The distilleries would also be far cheaper to construct than oil refineries.

Government experts tell us that alcohol engines would have two characteristics: They would operate more efficiently and produce less pollution. Studies by General Motors and Volkswagen, confirmed by Exxon's own internal research, have also shown that pure alcohol fuels reduce the noxious exhaust fumes now stifling our cities.

We spent several weeks investigating the alcohol-fuel story and reported our findings in a recent column. This stimulated a flood of letters into our office, demanding to know what the government is doing to promote alcohol fuels. The answer, regrettably, is not much. President Carter's 103-page national energy program devoted only a single sentence to the alcohol potential.

This strange reluctance to accept alcohol as a substitute for gasoline, despite the high stakes involved, can be traced partly to the oil industry. Officials close to the major oil companies control the policymaking machinery that produces the multi-billion-dollar energy decisions.

Investigators for Rep. Ben Rosenthal (D-N.Y.) have found a heavy concentration of executives from the energy industry holding down policymaking positions at the Federal Energy Administration and Energy Research and Development Administration. But there is no real statistical measure of the stranglehold that the oil industry has on the federal government.

The oilmen and politicians communicate with one another through inaudible poses and gestures. If there is to be a deal between them, they don't blatantly come to terms about it. The arrangement is carried off through a process that is almost imperceptible. There is not going to be an incriminating document, tape recording or photograph left behind.

At a crucial stage of the 1976 presidential campaign, for example, two oil-state governors, Oklahoma's David Boren and Texas' Dolph Briscoe, watched a football game a few seats apart in Dallas. A third spectator, then-Democratic National Chairman Robert Strauss, took a seat next to Briscoe.

Between plays, they talked about oil policy. It was all idle, innocent conversation, Strauss has assured us. But the two governors left the game assured that Jimmy Carter would look favorably upon the oil industry. Both Boren and Briscoe hit the campaign trail, thereafter, with renewed vigor. The grateful Carter, since assuming the presidential powers, has not gone out of his way to offend the oil crowd.

Next month, the federal energy establishment will be consolidated under James Schlesinger in the new Department of Energy. No one in Schlesinger's inner circle has shown much inclination to replace gasoline with alcohol fuels in our automobiles.

The prevailing attitude is best illustrated by the indifference of the energy officials now at the Agriculture Department. They have done little to convert agricultural surpluses into alcohol, even though farmers are eager to unload the surpluses, and the protein mash from the distilleries could still be sold as a food source. But the agriculture experts told our associate, Hal Bernton: "We haven't developed a position yet. We're studying the matter."

The Agriculture Department has been studying the matter for nearly 40 years. We dug up a 1938 report from the department's files commenting on the merits of 10 per cent alcohol blended with gasoline. "Experience has shown," states the 1938 study, "that blends of 10 per cent will function in present motor cars with practically the same efficiency as gasoline."

The oil industry, meanwhile, has moved quietly to block the development of alcohol fuels in outlying areas. The California legislature, for example, considered operating a fleet of experimental, state-owned cars on alcohol blends in 1975. The experiment would have been evaluated after a trial period and then perhaps expanded.

But the oil companies sent expert witnesses to testify against the project. They declared solemnly that it wasn't practical and that it would be costly to install new pumps at California gas stations. The project was eliminated, and the major oil companies are still fighting alcohol legislation in California.

The oil operators have also tried to block the state of Nebraska from producing and marketing a 10 per cent blend of grain alcohol and gasoline. Nebraska congressmen began receiving quiet calls from representatives of the Nebraska Petroleum Marketers, urging them to oppose the alcohol project.

Alcohol fuels might save the nation from an early energy crisis. But they would also threaten oil profits and break the oil industry's monopoly. Any small company or municipality could start producing fuel from grain or garbage.

THE ATLANTIC TREATY ASSOCIATION ASSEMBLY

Mr. JACKSON. Mr. President, the Atlantic Treaty Association held its Annual Assembly in Reykjavik, Iceland from August 26 to August 29. As my colleagues know, the ATA is a nongovernmental agency composed of the national organizations or councils—like the Atlantic Council of the United States—of the NATO countries. The main purposes of the ATA are to inform the public concerning the aims of the Atlantic Alliance and to promote the solidarity of the peoples who belong to the Atlantic community.

I believe two documents associated with the recent ATA Assembly will be of special interest to the Congress: the final resolution approved by the 15 delegations, and a copy of the letter President Carter sent to the ATA reaffirming his strong support for NATO.

I ask unanimous consent that these two documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

XXIIIRD ANNUAL ASSEMBLY OF THE A.T.A.

(Reykjavik, 26–29 August, 1977)

FINAL RESOLUTION

I. The XXIIIrd Annual Assembly of the Atlantic Treaty Association was held in Reykjavik on August 26–29, 1977. The Assembly expressed its appreciation to the Icelandic Atlantic Association for their efficient organization of the Assembly, and to the Association and to the Icelandic authorities for their warm and gracious hospitality. The Assembly also expressed its admiration for Iceland's centuries-long commitment to what the Secretary General of NATO, Dr. Joseph Luns, rightly called the longest unbroken parliamentary tradition in the world".

The Assembly welcomed the presence for the first time of a member of the recently elected Spanish Cortes as an observer. It hopes that representatives of all democratic political tendencies in Spain will soon accept the President's invitation to participate.

I. INTRODUCTION

2. The theme of the Assembly, presented by Pr. Nils Orvik, was "How to meet the growing threat". In approaching this question, the Prime Minister of Iceland, Mr. Geir Hallgrimsson, pointed out, "those living in a state of insecurity are at a disadvantage and prone to act imprudently and often forced to behave contrary to their own interests".

The Allied nations as a group have enough economic strength to achieve and maintain a favorable deterrent equilibrium of military force in every theatre vital to Alliance interests. *What is required is the political will to translate potential influence into military power and effective programs of political collaboration and diplomacy.* We have complete faith that the democratic peoples of the Alliance, when properly informed, will support whatever is required to maintain their institutions and their liberties.

3. Two years ago, in Paris, we noted that while the Soviet threat was increasing rapidly, the perception of the threat in the West had diminished.

One of the causes of this disturbing phenomenon was the uncertainty of Western opinion about the reality of détente. True détente is and must remain a major aspiration of Western policy; with deterrence and

defence, détente is one of the three pillars of NATO. The members of the Alliance will never give up their patient quest for political understanding with the Soviet Union.

But by any definition the goals of détente have not yet been achieved; Soviet foreign policy has not become reassuring in recent years. It is backed by conventional and strategic military force which is growing at an unprecedented rate.

4. We observe with satisfaction that Western opinion is beginning to recognize this development. The reversal of the trend in public awareness has been achieved by the course of events, and by educational and political efforts throughout the Alliance.

We have turned an important corner, but much remains to be done. While public opinion is moving towards a more realistic perception of the growing threat, the security of the Alliance remains precarious. It continues to depend upon a diplomacy which combines effective deterrence and Alliance solidarity. The success of that diplomacy turns upon the effectiveness of Alliance policy in containing the pressures of Soviet imperialism.

II. POLITICAL AND ECONOMIC ISSUES

5. One of the important duties of the Alliance and its members is to do everything possible to maintain and strengthen allied solidarity, and to restore solidarity when serious disagreements among Allies occur. In this connection, the Assembly notes with satisfaction the termination during the last year of longstanding disputes over fishing rights involving Iceland, Great Britain, Germany and other members of the European Community, and commends the Secretary General of NATO for his effective assistance in facilitating that result.

Ever since the meeting in Ottawa in 1974, the Assembly has expressed increasing concern about the failure to achieve a fair and balanced settlement of the disputes between Greece and Turkey, in the spirit of respect for their equal dignity and sovereignty, and for rights established by international treaties.

These difficulties have persisted too long. They could soon threaten the military and political cohesion of the Alliance as a whole.

We therefore urge the nations directly and indirectly concerned to cooperate urgently in actions and negotiations dominated by the overriding interest of all the Allies in the solidarity and effectiveness of the Alliance.

To this end, the Assembly expresses its hope that the United States promptly ratify the bilateral aid agreement between Turkey and the United States, and also the pending aid agreement between Greece and the United States when it is signed, on the basis of the equal treatment of those nations as friends and allies.

The Assembly hopes as well that the future of Cyprus can be agreed shortly in a manner satisfactory to all the parties concerned, on a humanitarian basis which scrupulously safeguards the human rights of all its people, and fully respects its sovereignty and integrity.

Equally, the Assembly expresses the hope that Greek forces will soon return to the NATO system of integrated command.

6. The Assembly considered at some length what purports to be the growing diversification of the communist parties of Europe, that is, the phenomenon popularly called national communism or Euro-Communisms. The new approach of some European communist parties claims to put national interests above international ideological solidarity. Whether West European communist leaders could be able and willing to accept the basic rules of Western democracy in practice, and to oppose the aggressive policies of the Soviet Union towards NATO, especially if they were to achieve power, remain grave and unanswered questions.

The Assembly therefore welcomes the decision of the Council to discuss these problems at a Seminar in Portgual next May.

Meanwhile, it reaffirms its Resolution on the subject adopted at Copenhagen in 1976, which appeals to public opinion for active solidarity among democratic parties in their fight against totalitarianism and for democratic government in their countries. This is important for the purpose of maintaining the units and defensive effectiveness of the Alliance.

7. The members of the Alliance, in cooperation with the other democratic industrial states, have made little progress during the past year in their efforts to restore and manage the integrated, progressive, and non-inflationary economy which served the world so well between 1945 and 1971. The world monetary system has continued in disarray, and the institutions and habits of economic policy discipline have continued to decline in influence.

Until the industrialized democracies establish effective rules and institutions for the management and harmonization of their increasingly integrated economies, they will be unable to bring inflation under control or achieve just systems of economic cooperation with the developing nations and those of the communist world.

In this area, as in the area of security, we call for the development of programs of action which improve collective decision-making and genuinely match the gravity of the situation.

8. The Assembly stresses the importance of a thorough review of the record of implementation of the Helsinki Final Act, particularly with respect to the "principles governing relations between States", confidence building measures, the removal of barriers to the freer exchange of information, people, and ideas between East and West, including the jamming of broadcast, and the deception of clandestine broadcasts, and expanded economic and technological cooperation. At the Belgrade meeting in October the Final act should be amplified so as to focus and strengthen the commitments of the nations to a more open and cooperative order in Europe. In this connection, the Assembly draws attention to the need to uphold and protect human rights as a fundamental principle.

III. MILITARY PROBLEMS

9. Within the last year, two facts have been widely recognized throughout the West: 1) that the Soviet Union and its allies have been increasing their nuclear and conventional military forces far more rapidly than the Western Allies; and 2) if present trends were to continue, the Warsaw Pact would have the capacity to undertake programs of political intimidation based on nuclear and conventional-force blackmail. The possibility of aggressions cannot be excluded.

To meet this threat it is essential that the second-strike capacity of United States strategic forces continue to be clearly assured, and that the capacity of the Alliance to deter and if necessary defeat conventional force attack in accordance with the strategy of flexible response be effectively maintained and strengthened.

10. It is and must remain the fundamental policy of the Alliance to preserve the full territorial integrity of all its members. In that connection, the Assembly welcomes the statement in President Carter's letter of August 26, 1977 to our President, Dr. Mommer, that "the United States remains categorically committed to NATO's strategy of forward defence and flexible response". It agrees with President Carter's conviction "that this strategy, kept credible through timely force improvements, can preserve the territorial integrity of all Alliance members".

11. In this perspective, we welcome the position taken by the North Atlantic Council in May, 1977, urging the Allies to intensify their cooperation in defence planning and production and increase their defence budgets at the rate of at least 3% a year in real terms, in order to maintain a force level adequate "for the purposes of defence and deterrence in the face of the continuing growth in the strength of offensive capabilities of the armed forces of the Warsaw Pact countries".

12. We hope that the policy of increases in Alliance defence capability at the rate of at least 3% a year in real terms will make a major contribution to maintaining and strengthening deterrent balance in the relationship between NATO and Warsaw Pact forces. The Soviet Union is in a position of strategic parity, at least, with the United States. And the Warsaw Pact's conventional forces are larger than those of NATO, mainly so far as the land forces are concerned. Furthermore, the Warsaw Pact's forces have achieved formidable qualitative improvements in equipment and training. The military budget of the Soviet Union is estimated to have been increasing at the rate of at least 5% a year in real terms.

Moreover, as President Carter said in his statement of May 10, 1977, "the Warsaw Pact's conventional forces in Europe emphasize an offensive posture . . . and are much stronger than needed for any defences purpose".

We note also the warning of the Chairman of the NATO Military Committee, General H. F. Zeiner Gundersen, in his address to our first plenary session: "Against the background of the strategic nuclear balance", General Zeiner Gundersen said, "and substantial advances in their tactical nuclear capability, they have provided their conventional forces with an ability to initiate a potentially devastating attack with little warning".

13. Increased rationalization will improve the economy of our defense effort, enabling the Alliance to maximize the improvements in its defense posture as a result of a real growth in expenditure. The Assembly therefore strongly supports the nine-point program adopted by the North Atlantic Council in May, 1977, designed to achieve an improvement in the military posture of allied forces, particularly with regard to reinforcement plans; the use of reserve forces; force readiness; maritime deployments; air defence; rationalization, interoperability, and standardization; improvements in logistics; electronic warfare; command and control and other communications systems; and the modernization of nuclear weapons. The Assembly stresses the importance in many perspectives of continuing to develop two-way programs of standardization and cooperation between Europe and North America in the design and production of military equipment. The European members of NATO should give special attention and priority to programs of manufacturing defence equipment for American use in response to recent American policy on that subject. In carrying out this policy, production should be as widely dispersed as possible for industrial and security reasons. All members should give serious attention to the adequacy of their mobilization plans under current circumstances, including those affecting reserve units, and the capacity of their industries to produce military equipment in sufficient quantities.

14. The Assembly stresses the critical need of the Alliance to strengthen all its bilateral and multilateral programs in the area of mutual support.

15. The expansion of the Soviet Navy has increased the vulnerability of the Alliance in the Atlantic. Iceland, Denmark, and Norway occupy positions of strategic importance of the Alliance. The importance of the Al-

liance to the countries of the Northern flank remains vital.

16. The Treaty area was defined before the Soviet Union became a major sea power, and developed its long-range air-lift capacity. Soviet activities and policies outside the Treaty area threatens vital security interests of the Alliance, and may continue to pose such threats in many parts of the globe. In recent years, the Assembly has repeatedly recommended that consultations, planning, and possibly exercises addressed to such problems be studies by the North Atlantic Council, and that interested members of the Alliance undertake appropriate consultation and measures, as envisaged by the Harmel Resolution adopted by the North Atlantic Council in 1967. Reiterating its previous Resolutions on the subject, the Assembly therefore appeals to the governments and to public opinion to consider the necessity to assure the availability of essential military and civilian supplies.

17. Military personnel have provided effective assistance in time of natural disaster, and the military staff of NATO has filed a report on the feasibility of such programs. The Assembly recommends that the North Atlantic Council develop plans which would make such assistance available to governments when they request it on the basis that no diversion of military effort be involved. Mutual cooperation within NATO would be enhanced by such action.

We urge greater cooperation and teamwork among the members of the Atlantic Alliance in the military, political, economic and cultural fields. If this can be achieved in sufficient degree it would do much to bring a period of stability and progress unparalleled in modern history and a better life for all our people.

LETTER FROM THE PRESIDENT TO THE ATLANTIC TREATY ASSOCIATION

Mr. KARL MOMMER,
President, Atlantic Treaty Association.

DEAR MR. MOMMER: I ask you to extend to the Association my warmest greetings as you assemble again to consider the current state of our Alliance. We look to you, opinion leaders in the North Atlantic Community, for insights on how we should move to strengthen even further the security on which the Atlantic Community vitally depends.

Your deliberations have never been more timely. We are faced with a renewed military challenge from the Warsaw Pact. In the last decade, the Warsaw Pact has steadily and impressively strengthened its forces deployed against Western Europe.

At last May's NATO Summit, I joined my Alliance colleagues in a thorough review of the challenge. We chose our response carefully—a major program of defense improvements, both short and long term, as well as both conventional and nuclear. My government is solidly committed to these efforts, which we believe will maintain the credibility of existing NATO strategy into the 1980s and beyond. We are intensively engaged, in cooperation with our Allies, in charting concrete force improvements in pursuit of this objective.

I would also like to reiterate that the United States remains categorically committed to NATO's strategy of forward defense and flexible response. This is my own firm conviction, and it will remain the policy of the United States as long as I am President. Since this is also the firm conviction of the Congress and the American people, there is absolutely no doubt that my successors in office will continue this commitment.

We continue to be convinced that this strategy, kept credible through timely force improvements, can preserve the territorial integrity of all Alliance members.

My nation's commitment to the defense of Western Europe is at the center of our foreign and security policies. The security of the North Atlantic community continues to be vital to that of the United States itself.

JIMMY CARTER.

MORE WOMEN NEEDED IN ALL-VOLUNTEER FORCE

Mr. PROXMIRE. Mr. President, the call for increasing the use of women in the military is growing.

A number of people around the country—military and nonmilitary—have recently urged a wider role for women in the service, not excluding combat.

One of the reasons for this stand is the fact that the All-Volunteer Force is failing to recruit qualified males. For the upcoming recruiting year the Army is hoping that 56 percent of the male recruits will be high school graduates. On the other hand the services have no trouble finding female graduates.

An editorial in the Flagstaff, Ariz., Sun on August 15 states:

Meanwhile, the all-volunteer Army is being called a flop in some circles. Some believe the recruiting problem, as far as the Army is concerned, could be solved if more high-quality women were recruited. Now the Army seems to be doing most of its recruiting among high school dropouts. We see no reason why the armed forces couldn't recruit more women.

And a UPI story quotes Col. Mary A. Marsh, the first women to command an American Air Force base, as saying that though it may take 5 to 10 years:

I very definitely do see a combat role for women in the Air Force. After all, we now are starting to train women to be navigators and pilots.

On September 1, the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee held a hearing on the role of women in the military, which brought out some interesting information and perspectives:

According to Dr. Carol Parr, who represented the National Organization for Women and other women's groups:

Average annual per capita costs associated with housing, medical care, and transportation are roughly $982 less for military women than for men. Thus, based on differences in dependency status, the average military woman costs the Department of Defense about eight percent less.

Maj. Gen. Jeanne M. Holm, the only woman ever to reach this rank, pointed out that—

American service women have been shot at, some have died from enemy action, some have been prisoners of war, and many have received combat decorations. . . . I applaud the Air Force's decision to train a few women as pilots and navigators, but I am mystified by what their test program is expected to prove; certainly not that women can fly airplanes. We already know that.

Jill Laurie Goodman of the American Civil Liberties Union addressed the moral difficulties of placing women in danger:

I suggest that concern for exposing women to the dangers of war is misplaced. It is based on the untenable proposition that the lives of women are more valuable than the lives of men. But I find it doubtful that mothers or fathers weep more for their daughters than for their sons.

Col. Mary Hallaren, U.S. Army, Retired, former director of the WACS, dismissed the notion that women could not serve under great stress by drawing upon her own experiences in London during World War II.

All four women agreed that any assignment distinction in the military should be based on ability rather than gender, and none shrank from the prospect of sending women into direct combat.

The Senate and the services must accede to a larger role for women in the military. We cannot afford not to.

THE PRICE OF DAM 26

Mr. HUDDLESTON. Mr. President, maintenance of a healthy transportation system is vital to the economy of the Nation. This means that all modes must function to their maximum efficiency, competing against each other for the ultimate benefit of the consumer.

The issue of whether or not those who use the public waterways should pay for that privilege has been debated for years and is reaching a climax in this Congress. In an editorial which appeared yesterday in the Journal of Commerce the issue is discussed. I recommend it and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE PRICE OF DAM 26

It now seems highly likely that waterways operators will have to begin paying user charges two years hence to defray some of the costs incurred by the Corps of Engineers in maintaining and improving inland navigation systems.

Although they have long fought successfully against efforts to impose such charges, those involved in for-hire transportation (represented largely by the Water Transportation Association) appear to have recognized the difficulty of persuading Congress to fund any more important navigation projects along the inland rivers unless they accept what they so long rejected.

The urgent need for new locks at a particular bottleneck on the Mississippi, a facility at Alton, Ill., doubtless spurred their willingness to accept a compromise. Some members of Congress have said they will not vote for the Ralton project, which also includes a dam, and President Carter has indicated he won't sign a bill funding it unless it contains some user charge provision. The railroads have been insisting on the charge for many years and have found a staunch ally in the Department of Transportation. In the face of such formidable pressure from the White House, Capitol Hill, DOT and their principal competitors, the waterways operators had little option but to retreat or face defeat.

What waterways operators have agreed to accept is a fuel tax of four cents per gallon on commercial traffic using 26 inland water routes beginning Oct. 1, 1979. This tax rate, about equal to other federal taxes on fuel used in transportation, would increase to six cents a gallon four years hence. It is, naturally enough, more than WTA members want to pay, but considerably less than the railroads think they should pay.

Barge lines will probably have to raise their rates if the bill (H.R. 8309) passes the House and Senate. This will be good news to the railroads long vexed by waterway competition, though not to industrial consumers of the bulk commodities traditionally moved by barge. As it stands, the bill wouldn't greatly upset the existing relationships between rail and barge rates on bulk commodi-

ties. The real question is how long it will be allowed to stand in its present form.

After 1981 that will depend on the pressure that can be brought to bear on Capitol Hill by the railroads, on one hand, and, on the other, by the waterways operators and the industries depending upon the waterways for their raw materials. For the former, disappointed as they may be in the initial tax rates specified in HR 8309, the most important thing is that its enactment would provide a hole in which a powerful lever could be inserted.

This is doubtless recognized by such waterways spokesmen as John A. Creedy, president of the WTA, and J. W. Hershey, president of American Commercial Lines, both of whom endorsed the compromise in addresses before the National Waterways Conference in Kansas City last week. Both know that the price of the locks and Dam 26 at Alton will be the establishment of a precedent that may cause them much trouble in the future.

The precedent, as noted above, involves the concept that commercial users of waterways should bear a share of the cost of maintaining and improving waterways that serve a number of different purposes, not all commercial, such as flood control, recreation and the like. How much of that share should they, and their industrial shippers, be required to bear?

Our guess would be that they will be bearing a fair share of it if HR 8309 is enacted and signed by the President in its present form. What bothers us is the question of what will happen on Capitol Hill after the four cents per gallon tax is raised to six cents in 1981. Will the new fuel taxes (or user taxes) by held to these rather moderate levels for long? Or will the big lever be employed to pry them up to much higher levels? These are questions the shippers will have to bear in mind.

We recognize, as do all parties having a direct interest in HR 8309, that it is more difficult to get Congress to establish a precedent than it is to expand on that precedent, once established. A case in point is the Social Security System, which started modestly as an actuarily-based retirement program managed by the government, but which has been vastly expanded in terms of rates, benefits and coverage for the better part of 40 years.

Another is the minimum wage law. Under the relentless pressure of the labor unions the minimum has been forced upward, step by step, for many years and is apparently to be levered up once again to $2.65 an hour, regardless of indications that one consequence of this will be to close off employment possibilities to teen-agers and unskilled minority workers.

Once the concept of special taxes on users of inland waterways gets on the statute books, it will be relatively easy for Congress to vote increases in the tax rates; much easier than getting the precedent established. So if the barge lines and their customers are a bit uneasy over the price they are paying for Dam 26 and the new locks at Alton, we think they have reason to be. Once Congress gets accustomed to the idea that it can legislate barge rates up to almost any levels, it is any man's guess what it will do.

WHERE CHILDREN WIN

Mr. HARRY F. BYRD, JR. Mr. President, the Nation should be deeply concerned, I feel, over the continuing decline in educational standards which has resulted in a 14-year drop in standardized test scores.

The question is whether we are willing to reverse our own educational policy mistakes which have led to this result.

A recent editorial in the Richmond Times-Dispatch suggests that too many seem too content to march in educational "mark time" for the foreseeable future.

That editorial commends school Superintendent Sam A. Owen of Greensville, Va., and his decision to institute merit-based promotions. Mr. Owens is an excellent superintendent and, incidentally, a fine friend.

In 1973, Mr. Owen began conditioning promotions on satisfactory scores on standardized tests. Since that time, Greensville students have advanced from scores well below the national average to test performance which, for many grades, well exceeds national performance.

The failure rate in Greensville schools has stopped by 50 percent, and the dropout rate has decreased to 60 percent of its initial level.

Mr. President, I ask unanimous consent that the Richmond, Va., Times-Dispatch editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHERE CHILDREN WIN

Little Greensville County in southern Virginia has been a beacon of hope for persons not only in this state but throughout the United States who would like the public schools to see to it that children learn to read and write and compute. By junking "social promotions" and instead requiring that a pupil master one grade's work before being moved on to the next and eventually handed a diploma, Greensville has been in the vanguard of an exciting educational revolution that is beginning to spread across the country.

But the State Conference of the NAACP, citing fears that the nationally standardized tests used to measure achievement in Greensville may have unbalanced some of the classrooms racially, is asking the federal Department of Health, Education and Welfare (HEW) to investigate. That is depressing news on the eve of another school year opening, for there are, unfortunately, many bureaucrats within HEW who value statistics and abstractions more than they do real learning and real people.

It is encouraging, however, that Supt. Sam A. Owen and his staff appear undaunted by the impending probe and that they are determined to press ahead with a program that they sincerely believe is in the best interest of each and every child in Greensville County. Mr. Owen has welcomed any "genuinely interested" group to look into "our programs, which I feel are the best that can be offered."

And well should the superintendent and his dedicated educators, black and white, feel that way. For the pupils in Greensville, 65 per cent of whom are black, have made amazing progress since the school board instituted achievement-based promotion—and sound basic education programs to back up that policy—in 1973–74.

Since that time, achievement scores on national tests of literacy have gone from well below the national average to well above it at many grade levels in the system. During the same period, the failure rate has been more than halved, the dropout rate has decreased from 15 per cent to 9 per cent, and the proportion of high school graduates who are well-prepared to continue their education or begin careers has increased dramatically. Whereas, according to Mr. Owen, less than half of the county's graduating class used to go on to college, 134 of the 182 graduates will this fall. And the remaining 48, he said, have learned skills they can market with employers.

While the achievement grouping in Greensville may have resulted in a few classrooms being more black or more white than the school system as a whole, there is clearly no intent to segregate by race. For the focus in Greensville is on learning by the individual, which is what education is supposed to be all about. As for the tests used, there is nothing sinister about them. They are published by the Science Research Associates, a highly respected firm, and are used by school systems nationwide.

A child in the public schools today will be tested many times tomorrow when he leaves school to make a living. Isn't it far better that he learns how to pass tests, how to succeed, while still in school? As the late Knute Rockne, Notre Dame football coach, used to say:

"Education is supposed to prepare a young man [and woman, we'd add] for life. Life is competition. Success in life goes only to the man who competes successfully. A successful lawyer is the man who goes out and wins—wins law cases. A successful physician is a man who goes out and wins—saves lives and restores men to health. A successful sales manager is a man who goes out and wins—sells the goods . . . There is no reward for the loser. There is nothing wrong with the will to win. The only penalty should be that the man who wins unfairly should be set down."

In Greensville, they're trying to prepare a lot of life's winners. Would they be doing more of a favor to the children by contenting themselves with losers under the safe status quo?

WOMEN IMPROVE WISCONSIN NATIONAL GUARD

Mr. PROXMIRE. Mr. President, the Wisconsin National Guard has a remarkable military history dating back to action in the Civil War. For years the Wisconsin Guard has retained its reputation for excellence and combat readiness.

Thus, when the adjutant general of the Wisconsin National Guard states that women have made a great improvement in the Guard, his conclusions carry weight. And that precisely is what Brig. Gen. Hugh M. Simonson has confirmed.

The Wisconsin National Guard has increased its women members from 40 to 400 in just over 4 years—a remarkable achievement. The 40 officers and 350 enlisted women obviously have been attracted by the broad range of opportunities that are available through the National Guard. The benefits are generous and there is equality in pay, dependent allowances, travel, and pensions.

As Brigadier General Simonson says:

The old image of the servicewoman is changing—and today's female member is making it change. She no longer sits on the sidelines and watches. She is professional in every sense of the word. She can direct traffic for convoys, pitch a tent, dig a fox hole, fire an M–16 and challenge her male counterpart to outperform her.

In the years to come as new legislation opens up even more job opportunities for women in the military, the National Guard will be the beneficiary of the growing skills of women military members.

Mr. President, I ask unanimous consent that the article by Brigadier General Simonson be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN MY OPINION—WOMEN HAVE MADE A GREAT IMPROVEMENT IN THE NATIONAL GUARD IN WISCONSIN

What made National Guard men and women excel recently when within hours of being called up in the dark of night, they were manning prison guard towers instead of a bank teller's cage, and caring for invalids requiring total care instead of driving an 18 wheeler? Why did they do so well at tasks totally unrelated to their trained professions?

What makes a hundred Guard men and women give up the three major holiday weekends during the summer to operate military trucks and helicopters aiding disabled motorists on the crowded highways or attending injured motorists at an accident scene and transporting them to a hospital?

SERVICE DEMANDS SACRIFICE, TRAINING

Whatever prompts Guard men and women to cheerfully accomplish these essential services in times of emergency also caused them to volunteer for military service to protect and preserve the state and the nation.

The same thing causes members of the National Guard to sacrifice vacation time for 15 days of annual training—training that taxes both their physical and psychological capacities. The same motivation causes Guard members to give up countless weekends with their families to take on long periods of service schooling. It is not the easy way. But it is the rewarding way to display pride in our state and our country.

THEY'RE LEADERS IN TIMES OF CRISIS

The Guard, performing in an emergency situation has the image of a person who has everything under control, is ready to listen to what others have to say, is courteous and concerned for the rights of others. These are traits of a good leader. Leadership is essential and is required of every solider.

The Guard men and women who perform so diligently as a last resort when all civilian services fail to contain a situation, are carrying out their secondary mission. Their primary mission is to provide the trained, equipped and ready units required in time of war or other national emergency.

To those Guardsmen who chose to retire or separate within the past few years—eat your hearts out. Our rapidly expanding women's program—Army and Air— has substantially improved the complexion, as well as the readiness, of the National Guard.

From 40 to over 400 in a little over four years. That's what the Wisconsin National Guard has accomplished in bringing women into its ranks. With more than 40 officers and 350 enlisted women in Wisconsin's Guard. they are involved in almost every phase of operation. The new female Guard members want challenge, more responsibility, and competition. Today's Guard woman is a mechanic, truck driver, military policewoman, nurse, doctor, public information specialist, band member, communications and radio equipment operator, to name only a few.

Benefits, such as choice of jobs, opportunities for promotion, pay and retirement, are all part of the equality afforded women in the National Guard. They receive the same pay, dependent allowances, chance to travel and, of course, pension after 20 years.

THE OLD IMAGE NO LONGER HOLDS

The old image of the servicewoman is changing—and today's female member is making it change. She no longer sits on the sidelines and watches. She is professional in every sense of the word. She can direct traffic for convoys, pitch a tent, dig a fox hole, fire an M–16 and challenge her male counterpart to outperform her.

Acceptance of women into this new role in the military has been a challenge. In a once predominantly male world, women are being accepted as soldiers/airmen by their male peers. That's exactly as it should be.

They will always be women (who wants to change that?) but they are troops. And that's also as it should be.—

HUGH M. SIMONSON.

AN OUTSTANDING U.S. DELEGATION TO THE U.N. GENERAL ASSEMBLY

Mr. PERCY. Mr. President, early in his administration, President Carter made a commitment to strengthen U.S. participation in the United Nations. He pledged that he would appoint a highly qualified delegation to represent the United States at this year's United Nations General Assembly to demonstrate to other nations the importance with which this administration regards U.S. participation in the organization.

Today the Senate confirmed the nominations of one of the most outstanding delegations the United States has sent to the U.N. General Assembly in many years. President Carter should be commended for the quality of the people he has selected to work with our former colleague and now U.N. Ambassador, Andrew Young.

United States representatives include James Leonard, Jr., former president of the United Nations Association; LESTER WOLFF, U.S. Congressman from New York, and active member of the House International Relations Committee who has demonstrated a great deal of interest and knowledge in U.S. participation in international organizations; CHARLES W. WHALEN, Jr. U.S. Congressman from Ohio, a former professor of economics and also an active and knowledgeable member of the House International Relations Committee; and Coretta Scott King of Georgia, my friend and an indefatigable advocate of social justice.

I am particularly pleased that two Illinois residents have been appointed to be alternate representatives to the U.N. General Assembly this year.

I have known Mrs. Marjorie Craig Benton, of Wilmette, for many years and have long admired her active involvement in issues of local, State, and national public concern. Among other activities, she serves as president of the Better Government Association in Chicago, as Chairman of the Citizens Committee on the River City Project in Chicago, and as an early supporter and initiator, with her husband Charles Benton, and the Benton Foundation, of the 1976 Presidential forums which ultimately led to the 1976 Presidential debates.

Donald F. McHenry from Chicago, formerly with the State Department and the Carnegie Endowment for International Peace, will also be serving as an alternate delegate. Other alternate delegates are Melissa Wells, former Ambassador to Guinea-Bissau, Allard Kenneth Lowenstein, former Congressman from New York, and John Clifford Kennedy, a partner and general manager of Kennedy & Co., Lawton, Okla.

The 32d session of the U.N. General Assembly promises to be important and undoubtedly controversial. Issues involving the Middle East, Southern Africa, and the ongoing North-South dialog on international economic issues will demand the greatest negotiating skill, coordination, and good commonsense the U.S. delegation can muster. I think President Carter has put together a team that will serve with distinction and will bring credit to the Carter administration and to the country.

HE WHO IS BLIND, WILL NOT SEE: THE CAMBODIAN MASSACRE

Mr. PROXMIRE. Mr. President, I have urged ratification of the Human Rights Convention on Genocide during every session of every Congress since 1967. One of the most frustrating reactions encountered by advocates of this treaty is blind indifference. We, as Members of the Senate, seem to believe if we close our eyes to this issue, it will forever be allayed.

I would like to bring to the attention of my colleagues a recent article in the Los Angeles Times written by William F. Buckley, Jr., concerning the situation in Cambodia. Although, I disagree with the call for military action, I feel the article brings up some cogent issues.

The situation is frightening. In the past 2 years, since the Khmer Rouge took over, an estimated 800,000 Cambodians have died. The majority of these deaths have been executions. I could continue with shocking specifics, but the situation is apparent for all those who will look.

As Mr. Buckley writes:

"What is happening in Cambodia mocks every speech made by every politician in the United Nations and elsewhere about our common devotion to human rights."

We, in the Senate, cannot resort to the argument that the Human Rights Convention prohibited practices which no longer occur—it is obvious, Mr. President. that they do. I urge the Senate to put the United States on record by ratifying the convention so that our objection to such atrocities will not be viewed as hypocritical.

Mr. President, I ask the unanimous consent that Mr. Buckley's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAMBODIA—OUR SINFUL SLOTH

(By William F. Buckley, Jr.)

I am quite serious: Why doesn't Congress authorize the necessary money to finance an international military force to overrun Cambodia?

That force should be made up primarily of Asians—Thais, notably, but also Malaysians, Filipinos, Taiwanese and Japanese. Detachments from North Vietnam and China should also be permitted, and token representatives from voluntary units of other countries that are signatories to the Genocide Convention as well as to the various protocols on human rights.

Our inactivity in respect to Cambodia is a sin as heinous as our inactivity to save the Jews from the Holocaust. Worse, actually, because we did mobilize eventually to destroy Hitler. We are doing nothing to save the Cambodians.

What is happening in Cambodia mocks every speech made by every politician in the

United Nations and elsewhere about our common devotion to human rights.

The idea, in Cambodia, isn't to go there and set up a democratic state. It is rather to go there and take power away from one, two, three, perhaps as many as a half-dozen sadistic madmen who have brought on their country the worst suffering, the worst conditions brought on any country in this bloody century.

The Rev. Francois Ponchaud, who lived in Cambodia from 1965 to 1975, estimates that 800,000 Cambodians have died since the Khmer Rouge took over two years ago. And he is thought to be inaccurate on the low side.

Richard Holbrooke, our assistant secretary of state for East Asian and Pacific affairs, puts the figure as high as 1.2 million.

Hundreds of thousands of these deaths were executions. The cause of the balance was worse: death mostly by starvation. (We finally mustered the judicial energy to execute Gary Gilmore last January; we could not have found one American, short possibly of the Son of Sam, who would have voted to starve him to death.) Other Cambodians have died of malaria and other diseases. The Khmer Rouge disdains to accept medical aid, or food, from the West.

As for the death figures, just what do they mean to those for whom human life means nothing?

Stephane Groueff, of France Soir, went to within a dozen kilometers of Cambodia recently, talking to hundreds of refugees. It is the deepest mystery as to what actually is the constitution of that evil leadership, as no correspondent has been there in two years, and the eight diplomatic delegations (seven Communist, plus Egypt) are all housebound, and denied permission to speak to any Cambodians.

There is speculation that 46-year-old French-educated Khieu Samphan, the head of the Presidium, as running the show in that country.

When you ask the Cambodian refugees who is the authority behind the Khmer Rouge, they will tell you, presumably in whispers, "the angkar." What is Khieu Samphan to the angkar? What is the role of Prime Minister Pol Pot? Or of Ieng Sari, the Hanoi intellectual whose real name is Nguyen Sao Levy? Or the Communist Party secretary general, Saloth Sar?

Groueff reports that there is only one known interview with Samphan. It was given to an Italian journalist at last summer's Colombo conference.

"In five years of war," Khieu Samphan reportedly told him, "more than a million Cambodians died. The present population of the country is 5 million. Before the war it was 7 million."

"What happened to the other million?" the journalist asked.

Samphan was annoyed.

"It's incredible," he said, "the way you Westerners worry about war criminals."

Two out of seven Cambodians are already dead. That is the equivalent of 57 million Americans killed. Even Stalin might have shrunk from genocide on such a scale. And what are we doing about it? Waiting for Rolph Hochhuth to write a play?

Is there no practical idealism left in this world? Only the endless talk that desecrates the language and atrophies the soul?

THE NUTRITION COMMITTEE

Mr. HOLLINGS. Mr. President, I believe the work of the Nutrition Committee, which was and is absolutely vital to the well-being of millions of the most vulnerable among us, is simply not yet done. That is why I rise today to support its continuation.

There are still millions of Americans who go to bed hungry each evening. Although Congress has been increasingly responsive to the problems of hunger and poverty, there remains a shamefully large segment of our population, mostly those least able to withstand the deprivation, who lack the minimum diet necessary to lead a healthy and productive life.

For example, we know that there are between 2 and 3 million homebound elderly citizens who are poor, who have no access to the present elderly nutrition programs, who live sad and isolated lives as the result of some infirmity, and who enter nursing homes at a very great expense to themselves and the Government, by the tens of thousands simply to receive adequate meals. All this information has recently been brought to the surface solely by the Nutrition Committee, and only the committee has developed comprehensive recommendations for legislative action to solve this problem.

This kind of investigation, oversight, and public education is exactly what the committee does best.

Under no other structure which currently exists in Congress would this kind of indepth, specialized, and often mutijurisdictional work, proving and exposing need and offering constructive alternative solutions, get done, except under the structure of a select committee. And this group—the homebound handicapped and elderly—represent just one very large group among us that still needs and deserves the attention of Congress.

Another group—low-income pregnant and nursing women and infants—are supposed to be served by the women, infants, and children program (WIC). This program provides high protein diet supplementation to low-income pregnant or nursing women and infants. The committee's early investigation proved that the period of greatest brain growth is the time for the most effective and low-cost nutritional supplements, which also, because of the early date, has the greatest chance for breaking the cycle of poverty.

This specific program, which connects adequate nutrition and health maintenance, has been evaluated by USDA and held to be a total success. Birth weights, head circumferences, and heights, have all been improved, while anemia and other deficiencies have been drastically reduced. The program is saving lives and reducing the shameful number of low income and minority children who die in infancy. I would like to point to this program when some decry the effectiveness of social intervention programs. The results of this program are of tremendous personal satisfaction to me, and I am proud to have been an original cosponsor. I am also happy that over 25,000 low-income women and infants participate in South Carolina.

The problem is that the program, as currently structured, cannot possibly reach more than one-fourth of those eligible in the country. I believe the committee still has a special obligation to fulfill to the more than 3 million eligible not reachable under current law.

There is another point to make about WIC. It is true that it is a program for low-income people. There is no doubt about it. But it is also a health program. It is administered through health clinics and run by doctors. It is a perfect example of the kind of multifaceted approach that can be constructed by a select committee such as the Nutrition Committee, that is charged with the obligation to investigate and educate in one particular area—like hunger—but which is left free to make recommendations that may cross traditional lines—in this case nutrition, education, and health.

I would hate to see this flexibility, which has proved to be so productive, lost. I would also hate to see the intensive oversight cease at a time when hundreds of thousands of eligibles are on waiting lists, and sustained and orderly program growth could mean so much to so many. The expertise to do this exists in the Nutrition Committee. What good could possibly come from eliminating it?

There are many other examples of the Nutrition Committee's unfinished business. Some Senators may assume that our child nutrition programs—school lunch, school breakfast, child care, summer food, commodity supplemental, and the WIC programs—are reaching most of those they are meant for. This is not necessarily true.

For example, the breakfast program serves only 10 percent of those served lunch, yet teachers and nutritionists tell us it may be a more important meal than lunch, in terms of its impact on school performance.

Over 15,000 schools still have no lunch program at all, with over 1 million low-income children left with no real access to an adequate noon meal.

That is one of the main reasons the committee should be maintained, its function, if anything, expanded.

I believe its elimination is a concession to form, an attempt at organizational cleanliness at the expense of national realities. By eliminating the Nutrition Committee, we might be hoping to eliminate hunger or poverty, but it is not going to work that way.

I have reviewed the reorganization statements made months earlier and find no suggestion that the work of the Nutrition Committee is complete or inadequate or no longer necessary. The reorganization plan did not begin to deal with the importance of the work done by the committee.

Regardless of the reasoning, however, the result is not one with which I believe a majority of Americans would concur.

The interest in problems of domestic hunger is greater than ever. Food is a finite resource basic to the maintenance of life and worthy of much gerater public scrutiny, not less. Good nutrition is the most important building block in the edifice of our individual and collective well-being. The public knows these things. We in the Senate would not be well served to ignore them.

And that brings me to the second basic reason for continuing the Nutrition Committee. Not only is the job of feeding the hungry not yet complete, the job of educating all consumers, regardless of income, in matters of diet and health, has only begun.

There is no doubt in my mind that diet and nutrition play a major role in preventing our most debilitating killer diseases, as well as extending our productive years. It is apparent that the best hope for achieving any significant extension of life expectancy lies in the areas of disease prevention, not cure or crisis care, and that nutrition along with life style and habits of personal care, provides the foundation for sound prevention.

It is also apparent that the economic costs of health care and disease, which has been a major concern of mine and many other Senators, are a large and growing burden on the Nation's resources. Many studies, including one completed recently by USDA, show how improving the American diet could help ease that burden by preventing disease before it strikes, with potential cost savings in the hundreds of millions of dollars.

The most complete possible factual background connecting diet and health has been made by testimony before the Nutrition Committee over the last several months. There is not a member of the committee who has not been profoundly impressed by the data linking dietary components to the development of atherosclerosis, the underlying cause of the No. 1 killer, heart disease, and to more than half of all cancers in women and at least one-third in men. Moreover, they have learned that nutrition has thus far been the only environmental factor which has been shown to increase the lifespan of experimental animals. Their witnesses have included the highest officials of government as well as the most respected of university lecturers and researchers.

The question before Congress now is where to go with all this new information, much of it alarming. What research need be done to determine the potential for helping reduce disease and related cost of health care? How should a food and fiber policy, taking into account health concerns and all segments of the food system, be coordinated, and who should be in charge? We do not even know, really, how present diets, changed as they are from a few years ago, affect human functional performance, or what the nutrient composition of the current food supply is.

We are at about the same stage of knowledge in dietary health matters now that we were 10 years ago with regard to poverty-related malnutrition.

The President and Members of Congress have responded to these questions, to the increasing public concern with diet, and to the growing evidence implicating diet as a major cause of disease, by asking for new, objective, expert advice.

As a result, two long-term studies have just been released by two of our most respected and unbiased groups: "World Food and Nutrition Study—The Potential Contributions of Research," by the National Academy of Science, and "Federal Human Nutrition Research—Need for Coordinated Approach To Advance Our Knowledge," by the General Accounting Office.

Both of these reports, which took many months to complete, acknowledge that major gaps in nutrition knowledge and research needs now exist, and, I quote, "the No. 1 barrier to progress in human nutrition research is a lack of central focus and coordination."

Another recent report, by the Congressional Research Service, found that—

> The planning and conduct of human nutrition research is scattered throughout complex and diversified Federal organization, none of which provides comprehensive nutrition information. Although Congressional interest in human nutrition is increasing, comprehensive information for determining the focus and direction of Federal human nutrition research is lacking.

Every group studying this issue has concluded, in short, that there is yet no fundamental structure for the management of the increasing Federal funding for human nutrition research and consequently there is much uncoordinated activity without reference to specific goals. At this early juncture, it is extremely important that a sound, sensible organizational basis be established within the Federal Government to conduct this important work, and to most wisely spend the money.

In saying this, I mean to take nothing away from the Agriculture Committee, whose chairman, the distinguished Senator from Georgia, I highly respect. I listened carefully in February when proponents of reorganization argued that eliminating this committee would do minimal damage because many of the Senators on it also serve on the Agriculture Committee.

But I think both interests—the traditional interests of the Agriculture Committee and the new highly visible nutrition issues—will be best served by the continuation of the Nutrition Committee, perhaps at only part of its current funding level, in the interests of reduced spending.

The Nutrition Committee has already established, alone among congressional committees, the most in-depth background testimony and research in many of the nutrition questions now undergoing such intense scrutiny—human nutrition research, nutrition education, food labeling, food quality, dietary goals, TV advertising, nutrition policy, elderly nutrition needs, and many others. It has members with health care expertise, who feel deeply the need to invest more in prevention through nutrition and diet and less in crisis care, whose expertise should not be lost. It has Senators and staff already familiar with legislation necessary to focus the Government's work in the above areas. I cannot believe losing this focal point, at a time when all concerned recognize this as the single most necessary ingredient in the development of a prudent food and nutrition policy, would serve our public interest. Before the Government can focus, Congress must be able to, and the Nutrition Committee has a head start on the field.

The work of the Agriculture Committee is very important, and our farm programs are well served by it.

But I am simply not sure it is geared up to, or should gear up, to do the kind of multidisciplinary work in dietetics, biochemistry, food technology, education, medicine, genetics, physiology, and agricultural science that underlie the broadening scope of human nutrition in the United States. For the next several months, at least, I sincerely believe that both committees would be best served by allowing the Nutrition Committee to continue its important work in the area of diet and health.

By doing original and much needed work in the area of diet and health, as well as continuing to provide a unique forum for the poor, the young, and the hungry, the committee is in a position to continue to help the people of America.

Members of the committee have worked hard and believe strongly in that work, and we all have benefited from it. That is why it should be continued.

THADDEUS KOSCIUSZKO

Mr. STEVENSON. Mr. President, Thaddeus Kosciuszko's significant contributions to the military victory of the United States in our War of Independence is a source of pride to all of us as recognized in Senate Concurrent Resolution 44. As we continue to mark our Bicentennial, it is fitting to recall the part General Kosciuszko played in planning the fortification of Philadelphia as well as his key role in the Battle of Saratoga and in the campaigns in North and South Carolina. I am pleased to join as a cosponsor of Senate Concurrent Resolution 44.

HUMAN RIGHTS AND NOMINATIONS

Mr. CASE. Mr. President, the Senate's confirmation today of Arthur Goldberg as chairman of the U.S. delegation to the Conference of Security and Cooperation—the CSCE—and George Landau as ambassador to Chile represent, respectively, the good news and bad news in the administration's handling of human rights.

The nomination of Ambassador Goldberg to head our delegation certainly was good news. As the original Senate sponsor of the legislation which established the Helsinki Commission, I was most pleased that President Carter selected a man who is both dedicated to the advancement of human rights and is effective in difficult negotiations.

As I commented during yesterday's confirmation hearing by the Senate Foreign Relations Committee, I also welcome the nomination of Ambassador Goldberg as an indication that the administration is not backing away from its dedication to human rights.

There have been recent comments by administration officials, including a

statement by President Carter, and even more important, some silences which have given cause for concern in that respect.

Of course there are many factors in shaping our foreign policy and dealing with individual nations. I, for one, am not prepared to claim that human rights in every case is the determining factor in relations with every country—there are limits to what we can do as a practical matter. However, I believe that through the efforts of Congress during the last session and the current one, and the welcome statements by the new administration, especially in its early days, human rights concerns have been given a higher priority in shaping our foreign policy.

On October 4, the Belgrade Conference will resume, continue the task of reviewing and following up the 1975 Helsinki accords in which 35 nations of East and West Europe and North America pledged themselves to a series of guidelines for the protection of human rights.

Therefore, I believe it is very important that this Government reaffirm its commitment to human rights.

The confirmation of Ambassador Goldberg is a welcome move in this direction.

Our concern over human rights is not confined to countries of one form of government or another, it is addressed to dictatorships of all stripes.

Therefore I questioned the nomination of a new Ambassador to Chile at this particular time. The move might be seen as a sign that the more traditional approach of the foreign service bureaucracy is still at work.

I am not concerned about the qualifications of the man selected for the job, George Landau, a career officer of considerable experience. Therefore I decided not to oppose the nomination.

But I do feel it is necessary to voice my concern over the timing. The improvements in the human rights situation in Chile are not all that perceptible. True, the old secret police technically has been abolished but apparently this is primarily a change in name. Some political prisoners have been released, but other persons have been arrested.

It is most unfortunate that the confirmation of Mr. Landau came as friends of Orlando Letelier, a former cabinet minister, marked the murder a year ago of the former cabinet minister and an American associate, Ronni Moffitt.

I hope this confirmation is not taken as a sign of a relaxation of U.S. concerns over human rights. As far as this Senator is concerned, it should not be. I trust that Mr. Landau, who handled himself very well before the Foreign Relations Committee yesterday, presses for the human rights both in individual cases and in the overall situation.

In Chile, as in dealing with the Soviet Union, we may not be able to obtain overnight improvements, but it is important to keep up the effort.

SUPPORT FOR SCHWEIKER MEDICAL SCHOOL ADMISSIONS BILL

Mr. SCHWEIKER. Mr. President, several months ago, I introduced legislation to protect medical school applicants from discrimination based on their views on abortion. My bill, S. 784, is a very simple one: it forbids schools which receive Federal support from asking their applicants' views on abortion or sterilization, or from discriminating against any applicants because of their views. Although the bill is primarily directed at medical schools, it would also apply to nursing schools and other federally-supported institutions dealing with health care education.

The need for the bill was made manifest by a survey done last year by Dr. Eugene Diamond, which I included in the CONGRESSIONAL RECORD on February 24, 1977, at page 5196. Dr. Diamond discovered that a large number of medical schools asked prospective students about abortion, and some admitted that pro-life views would be a negative factor in the admissions process.

These findings are disturbing for two reasons. First, much of the widespread disaffection with the medical profession in this country is based on the increasing depersonalization of health care, where technology often overwhelms more human concerns about care of the whole patient. I believe that a person who is opposed to abortion may well have the respect and concern for life that we should be encouraging in our young doctors.

The other reason is more basic. Although I have never seen precise statistics, I would be surprised if as many as one doctor in ten in our country has ever performed an abortion. Most physicians have practices that do not involve these questions at all. It makes no sense to screen out antiabortion students at the beginning of medical school when most of the students will not be concerned with that area of medicine in later practice.

Since introducing S. 784, I have heard from a number of people in support of this bill. Some of them have been students who faced the kind of questioning I propose to ban. Many of these students have expressed a very natural reluctance to "get involved," in some cases because they are still trying to get into medical schools. Fortunately, several students have been willing to give me their stories, which establish clearly the kind of questioning and discrimination that Dr. Diamond's study revealed in some of America's medical schools. Of equal importance is the perception of discrimination that is felt by these students, which can lead many of them not to apply to medical school at all. I would like to share a number of these letters with my colleagues, and ask unanimous consent that they be printed at this point in my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

The Honorable RICHARD S. SCHWEIKER,
Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHWEIKER: I strongly support your proposal which would disallow a medical school interviewer from asking a prospective student his position on abortion. I support this because I believe that the emotional atmosphere of this issue almost cost me my acceptance to a U.S. medical school.

While obtaining my undergraduate training at the University of San Francisco I became heavily involved in the Students United for Life. When I applied to medical school, I naturally listed these involvements as extracurricular activities. Little did I know at that time that my beliefs regarding abortion would probably prevent me from entering several medical schools.

At the University of California at Davis School of Medicine I just "happened" to be interviewed by Dr. Fred Hanson, an OB/GYN specialist who does abortions. In the next hour that I spoke with him, we debated the abortion issue for approximately forty minutes. He told me that it is difficult to say when life ends, and therefore it is also hard to say when it begins. Dr. Hanson stated that amniocentesis is 100 percent accurate, and asked whether I would abort a fetus diagnosed with Down's Syndrome. He knew that my youngest brother, Michael, had Down's Syndrome, and had been killed two months earlier, so he decided to rephrase the question. Would I abort someone with hemophilia? I asked him what sort of life these people had, since it occurred to me that if a hemophiliac led a miserable life, he could end it quite easily. He replied that hemophiliacs lead an existence that is not worth living. And so it went with Dr. Hanson.

My other U.C. Davis interviewer was a female medical student. (I believe her name was Jan Ewing.) She also was concerned about my views on abortion, and especially how I would feel toward a patient who had had an abortion.

My student interviewer at the University of Southern California School of Medicine quizzed me about my abortion beliefs, and concluded that I was consistent at the end of that issue.

At Northwestern University School of Medicine my student interviewer, because of his Jewish background, had a natural interest in Tay Sach's disease. This student, like the U.C. Davis interviewers, felt that everyone had his limit where he would or would not do abortions. His limit was Tay Sach's disease (and not Down's Syndrome), especially since the child would die by his second to fourth years anyway. Because I didn't agree with him, he accused me of being insensitive. Once again, my moral beliefs may have prevented me from entering a medical school.

In interviews at Georgetown University, Tulane University, St. Louis University, and Creighton University, the abortion issue was not discussed.

I was accepted at Georgetown, and have noted that the students in my class represent a wide variety of opinions about abortion and many other moral and ethical questions.

I wholly applaud this proposal, but I believe that it should be expanded to include nursing schools and other paramedical training programs.

Sincerely,

CHARLES T. MORTON,
First Year Student,
Georgetown University School of Medicine.

TUESDAY, *May 31, 1977.*

RICHARD S. SCHWEIKER,
U.S. Senator, Pennsylvania.

DEAR SENATOR: I am addressing this letter to you in support of the bill to curb medical school discrimination. I applied to a number of medical schools this year and I am writing this letter because of my belief that I was discriminated against by the University of California at San Francisco. The fact that I was interviewed there in October indicates in part how strong they originally considered my application to be. I was interviewed by two people at separate times. One interview, by Dr. Perloff, was held in her office at the

medical school. She asked a number of personal questions and somehow the question of my religious background came up and I told her I was and am a Catholic. She questioned me further on the degree of my Catholic upbringing and after she was apparently satisfied she changed the subject to abortion. The fact that it was my first interview and I was nervous put me at a great disadvantage. She knew it and used it to her advantage. I told her that I am generally against abortion except in the case in which the life of the mother is involved. She accepted my stand without much comment and then went on to the subject of birth control. We had an open disagreement about birth control and finally the subject was dropped. I felt uneasy throughout the interview, but not until afterwards did I realize exactly what had happened. I was upset shortly thereafter because I felt the interview went badly. I do not know to what degree I was discriminated against except that as stated in the article "Changing Values and the Selection Process for Medical School," written by John Wellington M.D., Associate Dean at UCSF, the interview is rated highest of all considerations in the selection process, and I feel Dr. Perloff did not agree with my position on abortion and the interview went badly because of it. Perhaps if this hadn't been my first interview I could have handled myself better, but nevertheless I feel that I was discriminated against.

I am writing this letter because I now realize the urgent need for legislation to prevent interviewers from asking questions of such a controversial nature that it could lead to discrimination.

I was rejected from UCSF, but I am happy to announce that I was found acceptable at UC Davis. I hope that this letter will be of help to you.

Sincerely yours,

GREGORY SPOWART.

SANTA MARIA, CALIF., *April 23, 1977.*

Re Committee on Human Resources Medical School Applicants.

Senator RICHARD S. SCHWEIKER,
Senate Office Building
Washington, D.C.

DEAR SENATOR SCHWEIKER: This is response to your recent letter regarding our son Douglas' medical school application experiences. I have consulted with him once more for verification.

1. At the University of Southern California (a private non-denominational school) he was asked if he would do abortions. He said he would not because of personal convictions, rather, he would try to educate the woman on the subject. He felt he had excellent substantiations, including scientific (having just completed a genetics course), for any questioning. He later received notice of rejection of his application. Since he knew his application presented an ideal experience-academic-recommendation (from numerous physicians as well) background, and since he felt the interview had proceeded very well, he wrote a letter to the Assistant Dean for Admissions. Doug told him that he felt he ought to be aware of the abortion questioning if he weren't already, and that such querying was a form of "reverse discrimination". The Assistant Dean's response was "the rejection was not on the basis of a poor interview report from the interviewer to whom you allude". It should be made clear that no one is asked to come for an interview unless his application meets all competitive requirements. The interviewer could give him the good report personally, but his viewpoints on abortions could nevertheless be a deciding factor. Who will ever know?

2. He had another interview at a California state medical school where the matter of abortion and related areas was discussed for a large part of the hour interview. Once again he cited his personal convictions and strong scientific arguments. A week later, after learning of your proposed legislation, I myself wrote the Dean of the Medical School attaching the enclosed clipping and relating our son's experience. The Dean promptly wrote a long and very nice letter assuring no prejudice, though he apparently was not aware of the abortion, etc., questioning. Doug is apparently on that school's waiting list for placement. At this point in time we would rather not relate the name of the specific school—perhaps later.

(It so happens that interviewers at both schools were lady M.D.'s. This may or may not be pertinent.)

3. Of further interest. From the University of California at Davis (state school), apparently all applicants received a 4-page questionnaire to "self-identify as disadvantaged". This is the school setting for the Bakke case appealed to the Supreme Court by the California Regents. From the "Medical School Admissions Requirements" handbook is this quote: "A special introductory three-week course is offered to these students. The purpose of this course is to introduce these students to the faculty through small group meetings, to familiarize the students with medical terminology, and to improve their learning techniques."!! It is impossible to believe anyone's learning techniques can be that much improved in three weeks after already finishing four years of college.

We trust all of the above will be of help in verifying that there truly are these forms of subtle "reverse discrimination" against those most qualified. In the instance of the Davis selection process, the quality of medicine cannot help but become diluted.

Sincerely,

Mrs. R. C. RIEHLE.

IDEA,
June 14, 1977.

Mr. RICHARD VODRA,
Legislative Aide,
Hon. RICHARD S. SCHWEIKER,
Russell Senate Office Building,
Washington, D.C.

DEAR MR. VODRA: After our telephone conversation in Washington last week, and upon my return to Chicago, I was in touch with two young men whose cases I feel would clearly show evidence of discrimination against medical school applicants who oppose abortion for conscientious reasons.

I have interviewed these candidates personally, and one of them on two occasions, as to the facts of their medical school interviews, the questions asked them, their backgrounds and academic qualifications (which are excellent), and some surrounding circumstantial evidence which in my estimate lends additional credibility to their accounts.

There is no question but that there has been discrimination against these medical school candidates precisely because of their prolife stances, and that they were denied admission to the first school of their choice because of their stands on abortion.

I spoke with them on my return from Washington, and assured them that their cases could be disguised sufficiently to make it difficult for anyone to detect their true identities, if they would be willing to give an affidavit for use by Senator Schweiker in furthering the legislation he has introduced. Both students discussed the matter with their families over the weekend.

I have been informed by both that upon further consideration they and their families have decided they would rather not come forward at this time. Both have subsequently been accepted by other medical schools in the area, and because of the regular meetings of Medical School Deans and other personnel, they feel it would be a simple enough procedure for anyone interested in so doing, to uncover their identities and place difficulties in their studies towards the M.D.

They are upset by these fears, but both were very upset also by the interviews and the overwhelming evidence of prejudice against them as prolifers. If it is of any use to Senator Schweiker in furthering his legislation, he has my permission to use this letter.

Sincerely,

FATHER CHARLES C. FIORE,
Director, IDEA.

Mr. SCHWEIKER. Mr. President, in addition to these letters, I have been encouraged by the number of press endorsements of S. 784. Many of these emphasize the need to protect the freedom of conscience of our Nation's students. I ask unanimous consent that a selection of these stories appear at this point in my remarks.

There being no objection, the stories were ordered to be printed in the RECORD, as follows:

THE RIGHT TO DISSENT

Human rights have suddenly made the headlines as a hot topic in Washington and around the world. Defining what they are in different societies and cultures may well prove a more difficult task than promoting the concept itself, but in the United States, at least, the freedom to hold religious and ethical beliefs that sometimes run contrary to the prevailing mores of American society has a long history as a constitutionally protected human right.

Since the Supreme Court's 1973 decision striking down most state and Federal abortion laws, the right of individuals and of hospitals not to participate in abortion procedures has been under fire by pro-abortion groups. Indeed, a survey of medical schools, conducted by Dr. Eugene F. Diamond and published last year in The Linacre Quarterly, indicates that in certain cases a suspicious interest in a future doctor's attitude toward abortion has been pushed all the way back to the student's interview for admission. Of the 60 schools that responded to the survey, 21 admitted that applicants were questioned about their position on abortion, and 17 said that such questions were possible; 18 denied such questions were asked, and four did not answer. To the survey's deliberately loaded, and intentionally rhetorical question, "Would a refusal to participate in abortion and/or sterilization procedures be considered a negative factor in an applicant?" two out of the 21 schools said yes. Why, one wondered, do the other 19 (or possibly as many as 40) schools bother to ask if the applicant's negative answer has no bearing on admittance?

Senator Richard S. Schweiker (R., Pa.) wonders, too, and he hopes to remove the speculation by introducing legislation that would prevent any school or institution receiving Federal funds under the Health Programs Extension Act of 1973 from questioning prospective students about their views on abortion and from discriminating against applicants because of their refusal "to counsel, suggest, recommend, assist or in any way participate in the performance of abortion or other medical services contrary to [their] religious beliefs or moral convictions." A policy, however informal, aimed at eliminating dissent within the medical profession on a controversial ethical question like abortion should not be tolerated in American society. If it requires legislation to discourage such a policy, then Senator Schweiker's bill deserves our support.

[From the Church Today, Apr. 4, 1977]

BEYOND THE ABORTION RULING

(By Rev. John C. Reedy)

If Senator Richard Schweiker's charge is true, there should be a lot of very loud screaming—which has not yet developed.

He is concerned about medical schools which are questioning applicants on their attitude toward abortion. In a news release about a bill which he has introduced, Schweiker referred to a survey which showed that 21 out of 60 schools admitted that they do question applicants on this subject.

Of the remaining 39, eighteen institutions reported that the subject might be brought up at the discretion of the interviewer.

Thirteen of the schools said that an applicant's refusal to participate in an abortion would present "administrative problems," and two said that such a refusal would be a strike against the applicant.

Given the present legal status of abortion, it's not difficult to see why these educators would prefer to avoid problems arising from conscientious objection to the procedure. They are training doctors for professional service in many hospitals which offer this choice to patients.

When classes are being taught abortion methods, would these students have to be excused? When it came time for students to be placed in residency, would the schools have to inform the hospitals that these students would refuse to participate in an abortion? In certifying the professional competence of their graduates, would they have to add a footnote saying, "with the exception of abortion procedures."

The "administrative problems" are understandable, but it would be outrageous if these problems were allowed to screen out applicants whose consciences see abortion as immoral.

If that were to happen, the wrong-headed judgment of the Supreme Court would go far beyond its intention of permitting a woman to have an abortion without legal interference; it would establish optional abortion as the approved medical and social rule in our society. And like the Amish, those who disagree with that rule would just have to endure the social penalties of dissent.

Whatever one thinks of the chances of reversing the court decision, this medical school practice represents a further step, and it calls for public response.

From the time the abortion judgment was handed down, the defenders of the decision have been less than candid in insisting that there were no social implications beyond protection of "the rights of a woman over her own body."

It was obvious that the medical profession and social welfare agencies would find it almost impossible to avoid their own dilemmas of formally endorsing abortion-on-demand or of complying only to the extent required by law.

Could public hospitals avoid discrimination, in hiring and assignment policies, against nurses and doctors who would refuse to cooperate in abortion procedures? Would not nursing schools face the same "administrative problems" found in the medical schools?

Is there any way to make sure that welfare administrators and social workers do not use the benefits they administer as a pressure to force poor women to chose abortions they don't want?

Senator Schweiker's proposal should alert groups and individuals who see the social acceptance of abortion as a national disaster.

The extension of a proabortion policy into social, medical and educational agencies is not established by decree of the Supreme Court. It is much more susceptible to public protest and political action.

Such action calls for vigilance in reviewing the policies and practices of those agencies which can give social approval to permissive abortion. It calls for forceful response, politically and legally, whenever these agencies do adopt procedures which extend the court's decision.

Even if his bill goes no further than his campaign for the Vice Presidency, Senator Schweiker deserves our thanks for calling attention to these medical school practices.

[From the Fredericksburg (Va) Free-Lance Star, March 17, 1977]

MED SCHOOL BIAS SEEN AGAINST ABORTION FOES

WASHINGTON.—If you are applying to medical schools and oppose abortion, don't let them know it. You might not get in, say some opponents of abortion.

A survey taken by a group of Catholic physicians "indicated that discrimination against candidates who oppose abortion does, in fact, exist on a small scale," says its author.

Sen. Richard S. Schweiker (R-Penn.) has recently introduced legislation designed to prevent medical schools from discriminating against applicants who oppose abortion or sterilization.

Schweiker's proposal would prohibit any medical school receiving federal funds from questioning prospective students about their views on such topics, according to Richard Vodra, a legislative assistant to Schweiker.

Federally funded schools that violate the bill's strictures would lose those funds, Vodra said.

Medical schools currently receive a total of about $300 million to $350 million per year in federal aid, according to Vodra.

"I doubt if you could run a medical school without federal money," Vodra says.

In introducing his bill in Congress, Schweiker included a survey of 60 medical schools concerning the kinds of questions they asked applicants in interviews, and what effect the answers had on the schools' admissions decisions.

The study was compiled by Dr. Eugene F. Diamond of Chicago for the National Federation of Catholic Physicians' Guilds, an association of Catholic doctors.

According to the survey, 21 of the 60 medical schools indicated they ask applicants about abortion. Another 18 said such questions were asked at the discretion of the interviewer.

Of the 60 schools, 13 said a student who refused to participate in abortion operations would cause "administrative problems" for the school.

Two schools acknowledged that an applicant's opposition to abortion or sterilization would be considered "a negative factor" in his application.

Diamond would not reveal the names of those two schools. "I feel it's a matter I should hold in confidence," he said in an interview.

In a comment attached to the survey, Diamond wrote "The results of this survey indicated that discrimination against candidates who oppose abortion does, in fact, exist on a small scale."

In the interview, Diamond said that asking a medical school applicant's views on abortion is an area of "potential bias."

Some persons in the medical education field feel that Schweiker and others are making too much out of something that may not exist.

Dr. Robert Keimowitz, director of admissions at George Washington University's medical school, says "I get the most bizarre comments" from applicants who are not accepted and from their parents.

Keimowitz says it is hard for these people to accept their denial. The pressures from such people might prompt a legislator to introduce a bill such as Schweiker's, he added.

But Keimowitz said he could not recall having heard any allegations of discrimination based on the abortion issue.

Competition for entrance to medical schools is tough.

Figures for the 1976-77 school year show that 41,684 persons applied for 15,153 places in the nation's 116 medical schools, according to Charles Fentress, spokesman for the Association of American Medical Colleges (AAMC). All of the medical schools belong to the AAMC, Fentress says.

Keimowitz said he would regard a bill like Schweiker's as "another legislative interference" in the medical education field.

Stephen R. Ramee, a first-year medical student at George Washington who was interviewed at five medical schools, says it is his impression that interviewers aren't trying to "pick people out" because of their views on such topics as abortion.

Ramee said interviewers ask "thought questions" to stimulate an intelligent response or defense of a position.

Ramee said when he was interviewed he was asked general questions about his attitudes on various subjects and about his specific goals in the medical field.

Although he wasn't asked about abortion in his interviews, Ramee said, "I've heard of questions like that asked."

Mr. SCHWEIKER. Mr. President, finally, I would like to explain in more detail why my bill is needed, and show some precedent for the approach I have chosen. Several years ago, Dr. John S. Wellington of the University of California, San Francisco, Medical Center, wrote a detailed article on the medical school admissions process, as seen by one on the inside. Wellington, John S., M.D., "Changing Values and the Selection Process for Medical School," in Ethics of Health Care—National Academy of Sciences, 1974, at 159. He revealed that the interview process is the most crucial, yet nonquantifiable, step in the selection procedure. In Dr. Wellington's words:

> Still, the principal instrument for assessing personal qualities in the candidate remains the interview. The interview has long since been stripped of any status as a valid predictor of any behavior that can be measured subsequently; yet the relative weight given to it in the selection process has increased, rather than decreased, in the 30 or more years it has been in general use. Why is this so? The answer is probably that it represents the only way in which admissions commission members feel that they can test for and apply to their own individual value system to selection. (at page 166)

Given the central role of the interview and the fact that so many of the complaints of discrimination arise from the interview setting, I felt that it was only appropriate that the question of abortion be taken out of the process. Abortion, as we all know, is a subject on which emotions run very high.

There is not likely to be any comparable subject for which the members of an admissions committee would be so ready to condemn an applicant for the "wrong" opinions. Emotions and prejudice run in both directions, and I would think we should be upset whether a student is kept out of a medical school because he is thought to be a "murderer of the unborn" or because he is thought to be "insensitive to the needs of women." I strongly believe that whatever minimal positive information could be gained from an abortion question is far outweighed by the prejudicial potential of the issue.

The method I chose in S. 784 to deal with the problem is one that originated in the civil rights struggle of recent

years. At first in facing racial imbalance, we simply tried to prohibit discrimination, but learned that the problems of proof were nearly insoluble in most cases.

A better approach turned out to be a flat prohibition on the collection of data that discrimination would be based upon. In short, if you do not ask, you will not know, and if you do not know, you cannot discriminate. New York State recently passed amendments to its human rights law that spell this principle out in more detail. I ask unanimous consent to have printed at this point in my remarks an article from the New York Times of February 6, 1977, explaining the new rules.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ILLEGAL QUESTIONS FOR JOB INTERVIEWS DETAILED IN NEW YORK STATE BOOKLET

ALBANY, Feb. 5—Amendments to the State's human rights law, passed during the last year by the Legislature, have made illegal dozens of personal questions commonly asked of those seeking jobs or housing.

But many people have no way of knowing their rights under the new legislation, so the Division of Human Rights has issued a 21-page booklet giving examples of typically asked questions that are now illegal.

Following are some of the questions on various subjects.

Age—Legal question: "Are you between 18 and 65 years of age? If not, state your age." Illegal question: "How old are you?" or "what is your date of birth?"

Arrest record—Legal question: "Have you ever been convicted of a crime? Give details." Illegal question: "Have you ever been arrested?"

Health—Legal question: "Do you have any impairments that would interfere with your ability to perform the job for which you have applied?"

Illegal question: "Do you have a disability?" or "Have you ever been treated for any of the following diseases. . . ?"

The Human Rights Division also points out that it is illegal for a prospective employer or landlord to inquire about marital status, either directly or through an indirect question such as "Do you wish to be addressed as Miss or Mrs.?" or "What are the ages of your children, if any?"

Other blanket prohibitions include questions about the use of birth control or future plans for having children, the applicant's place of birth, whether the applicant is a native-born or naturalized American citizen, national background or religion.

According to the state agency, a prospective employer cannot ask an applicant to "list all clubs or societies to which you belong" and cannot require or even suggest that the applicant enclose a photograph.

Many of these questions may legally be asked once the applicant has been given the job or apartment. Penalties, which can be imposed by the Human Rights Commissioner, range from a reprimand to a $500 fine.

The explanatory booklet, called "Rulings on Inquiries," may be obtained free from the division's office at 2 World Trade Center, New York, N.Y. 10047.

Werner H. Kramarsky, the Human Rights Commissioner, urged anyone who had been asked an illegal question to file a complaint through any of the division's 13 regional offices.

Mr. SCHWEIKER. Mr. President, my bill was introduced to deal with a problem that has been shown to exist both by survey and personal experience. It is not only an abortion bill. It is also a first amendment bill, seeking to protect the freedom of those who hold an opinion that may not be shared by some within the medical education establishment to enter and practice the profession of their choice, if they are otherwise qualified to do so. I hope that the Senate will have the opportunity to act on this legislation in the near future.

THE HELSINKI ACT

Mr. DOMENICI. Mr. President, on the eve of the Belgrade Conference reviewing the progress and problems of implementing the Helsinki Final Act, I wish to remind the Soviet Union that the U.S. Congress remains ever vigilant in its duty of monitoring these accords.

The Helsinki agreement espouses many sound international principles such as sovereignty, equality, and respect for the rights inherent in sovereignty; refraining from the threat or use of force; inviolability of frontiers; cooperation among states; and respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and equal rights and self-determination of peoples.

As a result of this agreement, the Soviets have gained recognition of the postwar boundaries and political status quo in Europe; reaffirmed the Soviet predominate position in Eastern Europe and at the same time increased their influence in Western Europe, gradually reducing American influence without precipitating a strong united Western Europe; expanded economic cooperation with the West, gaining access to Western technology and know-how and, lastly, improved their international image, tarnished by the 1968 Czechoslovak invasion.

The Communist countries are seeking cooperation in business, economic matters and the sciences. The Soviets have received what they have wanted since 1954; Western recognition of the existing postwar borders of Eastern Europe.

From a democratic point of view, such concessions can only be truly justified if the Soviet bloc countries live up to the human rights sections they accepted in the document.

The real thrust of the human rights sections are the underlying principles inherent in the human condition—that is the striving for freedom and individual liberty. Only those repressive governments which do not afford their people elemental social, political or religious rights would not and could not comply with the accords of Helsinki.

I wish at this time to publicize the U.S. Government exit visa representation list of divided families, which as of September 8, contained 107 cases involving 295 individuals who want to be reunited with their families as provided in the Helsinki agreement. Typical of these cases is the situation of Aloyas Jurgutis of Chicago. Mr. Jurgutis is an immigrant to this country, having left his native Lithuania 3 years ago. His wife, Maria, and 13-year-old daughter, Daina, have requested exit visas three times and have three times been denied. Maria Jurgutis has been placed under constant surveillance, has lost her job, and her daughter has been expelled from school. Are these not denials of human rights? Does this not violate the spirit of Helsinki?

Secretary of State Cyrus Vance has presented this list of families begging for reunification to Soviet authorities on numerous occasions. There has been no response.

It is time we receive as many concessions as we give. We will not be satisfied with cosmetic compliance.

The Soviet Union is actively pushing for compliance of the nine sections of the act which benefit it and unless we push for compliance with the human rights section this will go down in history as another in a series of victories for the Soviets at the bargaining table.

I, for one, will continue to demand the reunification of families listed on the exit visa representation list. I will not relent in demanding compliance with the human rights sections of the Helsinki Act, and I will continue to speak on behalf of those who cannot speak for themselves. I know many of my colleagues in the Senate join with me in these sentiments.

THE ECONOMIC OPPORTUNITY AMENDMENTS OF 1977

Mr. WILLIAMS. Mr. President, on September 14, 1977, I was pleased to cosponsor with my colleague from Wisconsin (Mr. NELSON) and others, S. 2090, the Economic Opportunity Amendments of 1977. This legislation reauthorizes the programs operated under the auspices of the Economic Opportunity Act, most of which are operated by the Community Services Administration, for a 3-year period. The intent of the amendments proposed is to enable this agency to function more effectively and efficiently in delivering services to the poor.

The Office of Economic Opportunity, the predecessor of CSA, was created in 1964 to lead the War on Poverty. For many of this agency's supporters, the memory of the turbulent history of OEO remains as real today as the significant segments of our society who still suffer from the problems caused by poverty The decision to dismantle OEO by the Nixon administration caused Congress to rename the organization the Community Services Administration and to reiterate its status as an independent agency. The effort of the dismantling effort, however, had caused instability, low morale among employees, ineffective personnel management, and in some instances, a lack of fiscal and program control. In spite of this background this agency and its mission to the poor has survived. More importantly, local poverty programs with their involvement of the community have established an effective delivery system for providing services while helping to alleviate the dilemmas confronting poor people.

A recent congressional report suggested major reforms were needed in the Community Services Administration and it elaborated upon many of the problems which exist in this agency. Many of the recommendations suggested by that re-

port have already been implemented by the dynamic, aggressive, and committed leadership which is now managing this agency. During the recent hearings on the confirmation of its Director, Ms. Graciela Olivarez and the agency's Deputy and Assistant Directors, I was most impressed with the enthusiasm and creative new approaches envisioned by this new management for CSA. Many of the appointees have previous experience in the poverty program and a demonstrated commitment and sensitivity to the problems of the poor. In addition, the hearings revealed an appreciation by this new leadership for the stringent program and fiscal management needed by this agency.

CSA has already developed and implemented new methods for interdepartmental coordination and cooperation as well as new requirements for program planning and evaluation. It is hoped CSA will testify in the near future before the Human Resources Committee on the status of their plans for implementing changes throughout CSA in program evaluation.

The amendments proposed by this legislation will enable CSA to seek innovative and effective methods to alleviate the effects of poverty as well as to assist in the proper management of the program. These proposed amendments will also assist CSA in implementing long range planning and in monitoring the size and length of service of those community representatives serving on the local board.

A minimum of 15 persons is suggested on a CAA's Board of Directors so as to reflect more accurately local participation. Such persons may serve no more than a total of 7 years. In addition, it is proposed that the Director will be permitted to delegate to regional officials the authority to make grants or contracts so as to reduce funding delays and decentralize authority.

Since 1967 the local contribution or non-Federal share by local programs has increased. Many CAA's could not increase their local financial support and waivers provided by statute for instances of extreme poverty and the failure of reasonable efforts to raise the match locally, had to be granted by the Agency. I am pleased, then, that the administration is recommending the amendment to return the non-Federal share to 20 percent with the Federal share not to exceed 80 percent.

The independence of CSA as mandated by Congress is most significant and largely accounts for the very survival of the poverty program. Because of the very strong congressional commitment to independence in 1974, conferees amended the statute to require the President to submit to Congress any reorganization plan which may have involved a transfer of the program. The proposed amendment would repeal this requirement because of the enactment of more general reorganization authority. The unique role of CSA as an independent advocate for the poor in forcing other agencies and departments to deal with problems of poverty and as a laboratory for testing new approaches to fighting poverty is critically important and must be continued.

The Economic Opportunity Amendments of 1977 propose to repeal a portion of section 222(a)(12) which grants authority to CSA to winterize homes for the poor and elderly. This weatherization program was successfully developed by CSA and it involves a total community effort which utilizes local CAP agencies as the delivery network. The CSA weatherization effort is not a program of merely insulating the homes of low-income people or the elderly thereby reducing their fuel costs. CSA's weatherization program is a community effort which employs and utilizes the skills of the poor within a given area. It is for this reason I cannot support this proposed amendment.

I would like to also underscore, Mr. President, another important provision in this proposed legislation which will reauthorize the Head Start program through 1981. As my colleagues will readily concur, this is a program that has been widely recognized to be one of the most popular and successful early childhood programs ever instituted by the Federal Government. As chairman of the Senate Human Resources Committee which has jurisdiction over this children's program and also a long-time supporter of the Head Start program, I would like to take this opportunity to reaffirm my support for the continuation of this program which has proved so vital to the lives of so many of our children.

This program was proposed in the original War on Poverty legislation by President Johnson to assist the economically disadvantaged child to reach his or her potential through a series of services.

The services ranged from comprehensive health screening and treatment, to nutritional, social, educational, and mental health services to eligible preschool children. Much of the early attention of the program focused on improving the cognitive skills of the children. Yet, the program also served as a vehicle to improve the child's health, to aid the child's social and emotional development and to improve and expand the child's ability to think, reason, and speak clearly. The program further assisted the whole family to better utilize community resources, as well as to overall improve communication between parent and child.

Each of the basic components of the Head Start program have enjoyed considerable success. The most notable achievements, however, have been in the area of health and the socialization of children. An illustration of some of these accomplishments may be cited from some of the numerous evaluations of the program. One representative report stated that the early Head Start detection and screening program resulted in fewer cases of anemia, substantially improved immunization levels, better nutritional practice, and overall better health for the participants of the program.

A candid examination of these Government and privately sponsored program evaluations will reveal that the program has not been without some fault. Recommendations have been made, some of which have already been incorporated and others of which I am hopeful we will be able to more carefully examine during the course of oversight hearings on this legislation. The consensus of the reports points to the many accomplishments of this landmark program and supports the need to continue such services to children of poor families.

One feature of the Head Start program that I believe has been key to the success of this preschool child development program is the important role that parents have played in the participation of the program as well as in program planning and administration. I feel very strongly that a provision which would require the active participation of the parent should be intricately woven into any Head Start legislation that moves through the Congress.

Unfortunately, the remarkable achievements the program has enjoyed are not appropriately reflected in the past funding levels for Head Start. The Nixon and Ford administrations gave little priority to the needs of the disadvantaged and this was reflected in the low budgets for child development programs serving the needy. It greatly concerns me that only 15 percent of the children eligible for this program are actually receiving services. Even the projected increases allowed in the Labor-HEW appropriations bill for fiscal year 1978 will merely increase services to 90,000 additional children. This level will still only bring the services to less than 20 percent of the children in need. Thus, a stronger commitment to expand the program is clearly necessary if we are to assist the underpriviledged child to break the vicious cycle of poverty.

Head Start has served as a prototype and inspiration for numerous other developmental programs that have benefited our children. As a long time supporter of the Head Start program, I welcome this opportunity to underscore the need to continue this program which has so vitally impacted upon the lives of our children. As chairman of the Senate Human Resources Committee, I look forward to holding hearings on this and other child development programs.

Mr. President, therefore, I am pleased to reaffirm my continuing support for the Community Services Administration.

THE PANAMA CANAL TREATY

Mr. THURMOND. Mr. President, I have before me a news article written by John Chamberlain for publication in The Florida Times-Union and published in the August 19, 1977, edition. Mr. Chamberlain's analysis of the terms of the Panama Canal treaties is informative and one with which I totally agree.

The Panama Canal is vital to our national security and economic well-being. President Carter is attempting to persuade the American people to put both in jeopardy in order that Panama be appeased. In view of the importance of this issue to the U.S. Senate and the

American people, I ask unanimous consent that this excellent analysis by Mr. Chamberlain be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Jacksonville (Fla.) Times-Union, Aug. 19, 1977]

GUANTANAMO SURRENDER NEXT

(By John Chamberlain)

The Carter Administration pulled a fast one when it divulged the major points of its proposed new Panama Canal Treaty during a Congressional recess.

This meant it would be days before the opposition, including Democrats as well as Republicans, could form its lines for putting pressure on 17 more or less undecided Senators who are still needed to block the treaty, which must have 67 votes to pass.

There must also be House of Representatives concurrence, a requisite for treaties that dispose of U.S. property.

The treaty, as set forth by our negotiators, contains its superficially reassuring features. We do not propose to relinquish all control of the canal until the year 2000. By then the present Panamanian dictator, Omar Torrijos, will be overthrown or dead. We can be sure the face of the world will be changed almost unrecognizably in 23 years.

Brezhnev will be gone, Jimmy Carter (if the fates are kind to him) will be sitting on a porch in Plains, Ga., shelling peanuts. Ronald Reagan may still be riding a horse but he will no longer be a political force unless Geritol develops some unsuspected properties.

By 2000 there may not be much Alaskan oil left to put in big tankers that can't get through the canal anyway.

So why, since many of us won't even be around in 2000 A.D., isn't it the mark of expedient wisdom to leave the long-term future of the canal up to our children, along with the six trillion of debt obligations that we have already bequeathed to them?

The reason why this is a stupid question is that Marxists of every stripe regard the fight over the treaty as a test of will in a struggle that is not going to be postponed to 2000.

The Panamanian Marxists have already made blackmail claims on us to compensate for artificially low canal fees. Our willingness to give up sovereignty over the sublime engineering feat that our technology (and our tropical medical hygiene) made possible where the French canal builders had failed will not be lost on Fidel Castro, who will surely be raising the question of our Caribbean base in Guantanamo.

The Jamaican Prime Minister, Michael Manley, who has welcomed thousands of Cubans to his country to run such things as a "people's militia," will be putting in more phone calls to Havana. The Washington-based Council for Inter-American Security, which has excellent correspondents, speaks of Jamaicans staring with awe at closed circuit television replays of Panamanian youth being trained in warfare, singing and shouting Marxist slogans. This is the sort of thing that dictator Torrijos looks upon with complaisance, even if it is "unofficial" insofar as his government is concerned. It makes it look as though we were quitting the canal out of fear.

Some of the still officially undivulged terms of the Treaty which I saw circulating last week at an Inter-American Symposium at the University of Miami in Florida would seem to indicate that many of the attributes of Canal Zone sovereignty are scheduled to be relinquished to Panama long before 2000. U.S. citizens working for the Department of Defense or whatever authority will be operating the canal will be required to have Panamanian visas on ID cards. U.S. Customs employees will lose their jobs immediately.

There could be a five-year rotation plan for canal employees recruited in the U.S. for "noncritical" jobs (pilots and marine engineers would, fortunately, be another matter). PX and Army commissary privileges would be discontinued after five years, with no compensatory cost-of-living subsidy from the U.S. government.

In short, the treaty would make it unpleasant for U.S. citizens to take jobs in the Canal Zone. With U.S. police jobs being turned over to Panamanians, who knows how many Castroites would be telling Americans where to park their cars or when to put out their lights?

We are told that the Canal Treaty must be accepted if Latin America as a whole is to be appeased. This is arrant nonsense. There is only worry in the West Coast Latin countries (Chile and Peru with their copper, Ecuador with its bananas) lest a Panamanian-owned canal, presumably "nationalized," should hike the canal tolls. When Brazil and the Argentine complain of Yankee "imperialism" these days, they have Carter's selective statements on "human rights" in mind, not the U.S. engineers who keep watch on the canal's Gaillard cut and Gatun dam.

The Senate, if it is seeking to know the truth about Latin American opinion, should find some means of conducting honest polls all the way from Guatemala to Cape Horn. An honest poll might disclose a yearning for a "users' control" of the Canal after 2000.

Everyone knows what happened to the Suez Canal when the "users" lost sovereignty there.

THE CHRISTENING OF THE "MESABI MINER"

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Minnesota (Mr. HUMPHREY), and the blessing attached thereto.

There being no objection, the statement and the blessing were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

Earlier this summer, Mrs. Humphrey and I had the pleasure and honor of participating in the christening of the ore ship, *Mesabi Miner*, in Duluth, Minnesota.

The Reverend Norbert W. W. Mokros, the seafarers' pastor for the Port of Duluth-Superior, delivered the blessing for the ship. Because I was so moved and impressed with what Reverend Mokros had to say in his blessing, I would like to share his words with my colleagues.

THE OCCASION OF THE CHRISTENING OF THE M/V MESABI MINER—A BLESSING

(By Norbert W. W. Mokros; Seafarers' Pastor, Port of Duluth-Superior, Saturday, June 11, 1977)

In the beginning God created all things.

He touched the earth of Nothern Minnesota and blessed it with a great abundance of iron ore. He looked upon his creation. Behold, it was and is good.

In the beginning of mining activities in Northern Minnesota men and women of different heritage joined in daily work to harvest the treasures which God had placed into the ground. The Mesabi miners looked upon God's gift and upon the work of their hands. Behold, they were and are good.

In the beginning of her journey through life we have come together to dedicate this great ship, the *Mesabi Miner*. Behold, she is forged out of God's gift, the iron ore. She is a good ship.

God's blessings come without human prayers but we pray at this time that in her journey through life the *Mesabi Miner* may be blessed to be a blessing.

May her name remind present and future generations of the men and women of the Mesabi Range whose hard work has become the cornerstone of our prosperity.

May present and future generations of iron ore miners prosper as the *Mesabi Miner* carries the evidence of their daily work to distant ports.

May shipyard workers who built her be praised for a job well done.

May those who own and manage her be richly rewarded for their faith in the future.

May present and future generations of seafarers look on her with pride and may they find the *Mesabi Miner* a safe and good ship in all seasons.

May wind and waves and the secrets of the deep cause her no harm.

May her life be long and may her time upon the waters bring daily work and daily bread for generations to come.

MESABI MINER,

I bless you to be a blessing!

From the bow to the stern, from the keel to the bridge, from port to starboard.

In the name of the Father, and the Son, and the Holy Spirit.

Amen!

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Jacob V. Eskenazi, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years; vice Robert W. Rust, resigned.

Rafael E. Juarez, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years; vice Doyle W. James.

Roy A. Smith, of Ohio, to be U.S. marshall for the southern district of Ohio for the term of 4 years; vice Elmer J. Reis, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, September 28, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert J. Del Tufo, of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years; vice Jonathan L. Goldstein.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, September 28, 1977, any representations or objections they

may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER FOR ADJOURNMENT UNTIL 2 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 2 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 2104 TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that after Mr. ALLEN has been recognized on tomorrow under the order previously entered, the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, earlier today, I obtained unanimous consent for the Foreign Relations Committee to sit during the sessions of the Senate October 10 to 14 to consider the Panama Canal treaties. I now wish to supplement that request to include September 26, 27, 29, 30, and October 4 and 5. I make this request because it is very possible that the Senate will be convening early on those days.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. I, of course, join the majority leader in that request. The majority leader and I have cosigned a letter to the chairman and ranking member of the Foreign Relations Committee urging them to conduct hearings, extensively and exhaustively and indicating to them that we shall make our respective efforts as majority and minority leader to expedite progress of those proceedings. So, not only do I not object to this, I urge the Foreign Relations Committee to continue those hearings for as long as necessary to make sure we make a thorough and complete record on this subject.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for this observation and I join with him in his statement fully.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the role.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 2 p.m. After the two leaders have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes after which the Senate will resume consideration of the unfinished business, S. 2104.

Debate on that bill, or on amendments in relation thereto, may ensue during the afternoon. It is conceivable that, governed by circumstances that may obtain at some point during the afternoon, the Senate could very well go to some other matter and transact other business.

However, no rollcall vote will occur on tomorrow prior to the hour of 6:30 p.m., unless it should become necessary to have a rollcall vote in order to establish a quorum. I do not anticipate that happening, but I think I should point out for the record that such exigency can, of course, occur.

But other than that possibility, there will be no rollcall votes tomorrow until 6:30 p.m. At 6:30 p.m. tomorrow Mr. JACKSON will be recognized for the purpose only of moving to table the Pearson-Bentsen substitute to the bill S. 2104.

That will be a rollcall vote, and I ask unanimous consent at this time that it be in order at any time tomorrow to order the yeas and nays on that motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That rollcall vote to table the Pearson-Bentsen amendment in the nature of a substitute, No. 862, will occur at 6:30 p.m. and that rollcall vote on that motion to table that substitute shall not exceed 30 minutes, and the results of the vote shall not be announced before 15 minutes have expired on the vote.

Mr. BAKER. Will the majority leader yield to me a second?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. I believe in previous conversation this was made clear, but for the record is it clear that if we reduce the time for the rollcall from 30 minutes down to not less than 15 minutes it will be done only on the concurrence of our respective sides speaking through the majority leader and minority leader?

Mr. ROBERT C. BYRD. Yes. As the minority leader has correctly stated, the minimum time for the rollcall vote will be 15 minutes, the maximum time will be 30 minutes. If in the opinion of the distinguished minority leader and myself, based on the advice we receive from our very diligent and effective staffs, all Senators have answered the rollcall vote in less time than 30 minutes, the Chair then will announce the results of that vote.

It is unclear at this time as to what will occur following the vote on the motion to table the Pearson-Bentsen amendment. It is conceivable that other rollcall votes may have been ordered during the afternoon on other matters, and that agreement has been reached by the Senate during the afternoon that such other rollcall votes would occur back to back behind the vote on the motion to table.

But what I have stated with respect to back-to-back votes would be a matter for the Senate to determine, and would require unanimous consent. So, all Senators are adequately protected.

I would hope that following the vote on the motion to lay on the table the Bentsen-Pearson amendment in the nature of a substitute, the circumstances would be such that the Senate could proceed further into the evening and make additional progress on the legislation. We cannot foresee at this time whether that will be the case, but I would hope that all Senators would be prepared to stay late tomorrow evening, in the event that circumstances following the vote which begins at 6:30 p.m. would indicate that progress can be made.

Friday I suspect—at this point at least—will be a long day, and rollcall votes will occur throughout the day on the Natural Gas Pricing Act and/or other matters. Senators are informed—and they have been repeatedly told—that if there is not a resolution of the natural gas pricing bill by the close of business Friday, the Senate will be in session on Saturday.

Now, by "resolution" I mean final action on that bill or a unanimous-consent agreement which would provide a time certain for final action on that bill—in either of which events the Senate would not be in session on Saturday. As of now, I should think that the chances for avoidance of a Saturday session, inasmuch as they hinge entirely on either of those two possible eventualities, are not good; but I hope that time will provide the answer and that all Senators, being reasonable men, will work together in an effort to resolve the pending matter before the close of business Friday.

Mr. BAKER. Mr. President, the majority leader kindles just a slight glow of hope that we may not be in session on Saturday, but I must say in all candor that I believe at this point I should still estimate, for those on my side who are curious about that calendar, that the chances are no better than 50–50 that we will avoid a Saturday session.

Mr. ROBERT C. BYRD. Mr. President, I am glad the distinguished minority leader has made this observation. I doubt that the chances are even close to 50–50. I did not make that statement for the record for the purpose, at all, of kindling any spark of hope, but, made the statement rather hoping that it might stimulate the thinking of Senators and generate their willingness to find a way to resolve the matter before the close of business on Friday.

I really think it is a forlorn hope at this point, but "hope springs eternal in the human breast," and the distinguished minority leader and I always wish for a little portion of luck in any case.

ADJOURNMENT UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 2 o'clock tomorrow afternoon.

The motion was agreed to; and at 6:45 p.m. the Senate adjourned until tomor-

row, Thursday, September 22, 1977, at 2 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 21, 1977:

DEPARTMENT OF STATE

Arthur J. Goldberg, of the District of Columbia, to be Ambassador at Large and United States Representative to the Conference on Security and Cooperation in Europe (CSCE) and Chairman of the United States Delegation to the CSCE.

George W. Landau, of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile.

The following-named persons to be representatives of the United States of America to the thirty-second session of the General Assembly of the United Nations:

Andrew J. Young, of Georgia.
James F. Leonard, Jr., of New York.
Lester L. Wolff, U.S. Representative from the State of New York.
Charles W. Whalen, Jr., U.S. Representative from the State of Ohio.
Coretta Scott King, of Georgia.

The following-named persons to be alternative representatives of the United States of America to the thirty-second session of the General Assembly of the United Nations:

Donald F. McHenry, of Illinois.
Melissa F. Wells, of New York.
Allard Kenneth Lowenstein, of New York.
Marjorie Craig Benton, of Illinois.
John Clifford Kennedy, of Oklahoma.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Abner B. Martin, (50), xxx-xx-x... xxx-...FR (major general, Regular Air Force), U.S. Air Force.

Brig. Gen. Walter D. Reed, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force for promotion to the grade of major general and for appointment as The Judge Advocate General, United States Air Force, under the provisions of chapter 839 and section 8072, title 10 of the United States Code.

Lt. Gen. John F. Gonge, U.S. Air Force, (age 55), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. George Gordon Cantlay, xxx-xx-x... xxx..., U.S. Army.

Maj. Gen. Charles Calvin Pixley, xxx-xx-x... xxx-x...Army of the United States (brigadier general, Medical Corps, U.S. Army) for appointment as the Surgeon General, U.S. Army, with the grade of lieutenant general, under the provisions of title 10, United States Code, section 3036.

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3442 and 3447.

To be major general, Medical Corps

Brig. Gen. Spencer Beal Reid, xxx-xx-xxxx, Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. George Ivan Baker, xxx-xx-xxxx, Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. William Sinclair Augerson, xxx... xxx-xx-x... Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Col. Quinn Henderson Becker, xxx-xx-xxxx, Medical Corps, U.S. Army.

Col. William Raymond Dwyre, xxx-xx-xxxx, Medical Corps, U.S. Army.

Col. Edward James Huycke, xxx-xx-xxxx, Medical Corps, U.S. Army.

The following-named Army Medical Department officers for appointment in the Regular Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3284, 3306, and 3307.

To be major general, Medical Corps

Maj. Gen. William Albert Boyson, xxx-xx-x... xxx-... Army of the United States (brigadier general, Medical Corps, U.S. Army).

Maj. Gen. Charles Calvin Pixley, xxx-xx-x... xxx-x...Army of the United States (brigadier general, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Brig. Gen. Spencer Beal Reid, xxx-xx-xxxx, Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. George Ivan Baker, xxx-xx-xxxx, Army of the United States (colonel, Medical Corps, U.S. Army).

Maj. Gen. Kenneth Ray Dirks, xxx-xx-xxxx, Army of the United States (colonel, Medical Corps, U.S. Army).

The following officers for appointment in the Adjutant General's Corps, Army National Guard of the United States, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. William Emmett Ingram, xxx-... xxx-xx-...

Brig. Gen. James George Sieben, xxx-xx-x... xxx...

To be brigadier general

Col. Robert Lee Childers, xxx-xx-xxxx.
Col. Francis Alphonse Ianni, xxx-xx-xxxx.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Richard Ray Taylor, (age 54), xxx-xx-xxxx Army of the United States (major general, U.S. Army).

The following-named Army Medical Department officer for temporary appointment in the Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general, Medical Service Corps

Col. James Julius Young xxx-xx-xxxx, Medical Service Corps, U.S. Army.

IN THE NAVY

Rear Adm. James B. Stockdale, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. William J. Crowe, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving and for appointment as senior Navy member of the Military Staff Committee of the United Nations in accordance with title 10, United States Code, section 711.

IN THE AIR FORCE

Air Force nominations beginning Peter J. Abadie, to be captain, and ending Gary A. Wandmacher, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 1, 1977.

Air Force nominations beginning William D. Bates, to be colonel, and ending Charles O. Titus, to be colonel, which nominations were received by the Senate on August 16, 1977, and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

Air Force nominations beginning Alfred R. Abbatiello, to be lieutenant colonel, and ending Rita J. Wetzel, to be lieutenant colonel, which nominations were received by the Senate on August 16, 1977, and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

Air Force nominations beginning Barry S. Abbott, to be first lieutenant, and ending Richard W. Siefke, to be first lieutenant, which nominations were received by the Senate on August 16, 1977, and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

Air Force nominations beginning Robert O. Osborne, to be major, and ending Peter H. V. Winters, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 14, 1977.

IN THE ARMY

Army nominations beginning Gasper V. Abene, to be lieutenant colonel, and ending Johnny L. Cokley, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 1, 1977.

Army nominations beginning Harold L. Albert, to be colonel, and ending Barbara J. Young, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 4, 1977.

Army nominations beginning James B. Baylor, to be colonel, and ending Robert T. Cummins, to be lieutenant colonel, which nominations were received by the Senate on August 29, 1977, and appeared in the CONGRESSIONAL RECORD of September 7, 1977.

IN THE NAVY

Navy nominations beginning Farouk B. Asaad, to be lieutenant commander, and ending Deborah N. Moore, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 1, 1977.

Navy nominations beginning Thomas C. Adams, to be captain, and ending Marilyn A. Edgar, to be lieutenant, which nominations were received by the Senate on August 15, 1977 and appeared in the CONGRESSIONAL RECORD on September 7, 1977.

IN THE MARINE CORPS

Marine Corps nominations beginning beginning Joseph P. Holt, to be second lieutenant, and ending James P. Guerrero, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 4, 1977.

EXTENSIONS OF REMARKS

MARIGOLD—SHOULD BE THE FLORAL EMBLEM OF AMERICA

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. KOSTMAYER. Mr. Speaker, I rise today to share with my colleagues the words of a constituent, David Burpee of Doylestown, Pa., on why the marigold should be the floral emblem of the United States.

Mr. Burpee's family has been in the seed business for over 100 years and has pioneered much work and research in the field of plant breeding. The Burpee Co. was the first American seed company to create and market seeds for many hybrid vegetables and flowers.

David Burpee has been the head of the W. Atlee Burpee Co. for over 40 years. The Burpee Co. distributes 4 million catalogs annually and I am proud that my home county, Bucks County, is the headquarters for this fine business.

The material follows:

REASONS WHY THE AMERICAN MARIGOLD SHOULD BE THE FLORAL EMBLEM OF THE UNITED STATES OF AMERICA

There are many reasons why the American Marigold (Tagetes erecta) should be the Floral Emblem of the United States.

Let me tell you some of them: The Marigold is native to Southwestern United States and to Mexico. It grows well and is popular in every state of our Union from Florida to Maine and from Hawaii to Alaska and also in every civilized country of the world. And it is known as the Friendship Flower.

The Marigold is not the state flower of any one of our states and is not the national flower of any foreign nation.

The Rose is the national flower of England and is considered a symbol of warfare.—The War of the Roses. The Rose is also the national flower of six other nations, two of which are behind the Iron Curtain.

When Cortez conquered ancient Mexico he found Marigolds growing there. The gorgeous golden Marigolds were so beautiful Cortez took seed with him back to Spain.

In Spain the beautiful golden Marigolds became the favorite flower of the devout to place at the altar of the Virgin Mary and because of that they were called Mary's Gold and then became known as Marigolds.

Then seed of Marigolds was taken to every civilized country of the world. They were so easy to grow everywhere and so beautiful they became popular everywhere.

In India Marigolds became, and still are, the favorite flower to put in leis to place around a person's neck to indicate friendship and because of that they have become known as friendship flowers.

It is my thought that since we are the only great nation in the world that does not have a floral emblem that especially in this Bicentennial year, when world affairs are so troubled, it would be very desirable to name as our National Floral Emblem the American Marigold, The Friendship Flower.

It would indicate that we desire to be friends with all the peoples of the world and through friendship it would perhaps help to deter future wars.

I earnestly urge you to support the American Marigold for the National Floral Emblem of the United States of America.

UTILITY CONSUMER EDUCATION

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Wednesday, September 21, 1977

Mr. METCALF. Mr. President, a recent issue of the Audubon Society magazine carried an article regarding the electric power industry's latest attempt to mold the minds of schoolchildren. The article, by Marvin Zeldin, describes "The Energy-Environment Game" which was sponsored by Edison Electric Institute, from whom Potomac Electric Power purchased 250 copies for free distribution to area schools.

One of the educators who was interviewed by the Washington Star regarding use of the Edison Electric Institute material pointed out that public interest and environmental groups often do not have the money to produce such attractive teaching aids or distribute them free. I hope that he and other educators take note of a Federal program designed to help the educators themselves develop such materials. I refer to the consumers education grant program enacted by section 505 of the Education Amendments of 1972 (Public Law 92-318, 20 U.S.C. 887d). Under this program, which the distinguished Senator from California (Mr. CRANSTON) and I initiated, applications for grants are being accepted, under December 16, 1977, from institutions of higher education, local educational agencies, State educational agencies and other public and private nonprofit organizations and institutions, including libraries.

Pepco customers unwittingly paid the $3,750 which Edison Electric Institute billed Pepco, because the utility reported the expenditure, improperly in my opinion, as an "above the line" cost, to be passed on to the customers.

I would hope that most school officials would prefer to develop their own teaching aids in this area, rather than depend on industry public relations devices. They have that opportunity under the consumer education grant program.

Mr. President, I ask unanimous consent to have printed in the RECORD Mr. Zeldin's article in the July 1977 issue of the Audubon Cause Miss Sheilah Kast's article in the August 1, 1977, issue of the Washington Star and the announcement in the September 19 Federal Register regarding applications for grants to support research, demonstration, and pilot projects designed to provide consumers' education to the public.

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

MIND CONTROL, THE EDISON ELECTRIC WAY

(By Marvin Zeldin)

(It was realized that the point of view formed in the impressionable years of youth is . . . likely to remain . . . through future years . . . Money was no object, because the public pays . . . No means of presenting the utility story to all schools was overlooked—even the kindergarten being provided with a specially published picture book.

("Efforts by Associations and Agencies of Electric and Gas Utilities to Influence Public Opinion," summary report of the Federal Trade Commission to the U.S. Senate, 1934.)

One day in the fall of 1976, students in an economics class at Albert Einstein High School in Kensington, Maryland, began playing "The Energy-Environment Game." The game, in the words of its promoters, is "a simulation dealing with society's demand for energy and its effect on the environment." Further, "the game is a representation of reality in which players assume roles of adults in the real world. Students, through a series of meetings, consider society's demand for energy, its potential impact on the environment, and possible trade-offs."

The game is based on a proposal by a fictitious electric utility company to build a new powerplant at one of three sites in a mythical community—a nuclear plant at one site, a fossil-fuel plant at another, or a nuclear or fossil-fuel plant at the third. A governor's commission considers the plans and sites for the new plant in a series of open hearings and through citizen task forces.

The game kit contains a teacher's guide, 32 guides for student players, a filmstrip and record, site-selection information, wall map for the classroom, reference materials, and 32 role cards. The 32 roles are divided into four groups: eight utility company officials; eight conservation organization types; eight commerce, industry, and professional types; and eight "residents," including housewife, construction worker, labor leader, lawyer, economics instructor, postman, and two students.

Purportedly, the game is impartial and objective. Indeed, in the teacher's guide, the game's promoters say, "This simulation program does not in any way give answers" to the problems of energy and environment, how much energy people really need, whether we use energy wisely, whether there are limits to growth, and whether technology can solve our current problems. "There is no planned, specific outcome to this game," the guide stresses.

Despite such disclaimers, the game is a slick but nevertheless transparent propaganda package. It promotes nuclear power as the answer to society's electricity needs. It pretends to characterize the conservation types fairly, but the pretense is destroyed by distorting conservationists into unthinking fools who oppose all new powerplants, whether nuclear or fossil-fueled. Consider:

The role card for the executive director of the "Natural World Society"—"You believe there should be opposition to every new proposed powerplant. . . . You'll use any argument you can to block the approval of a site."

The role card for a director of the "Universe Club"—"Your goal is to make people wake up and get involved in the human problem. That means organized opposition to all new powerplants."

The role card for a university physics teacher who is regional representative of "Scientists for Safety"—"You will try to prevent new plants from being built."

The role card for the president of the "Student Quality of Life Group"—"Your group intends to blanket this town with material that tells all about the long-term consequences of building new powerplants."

The role card for an architect and city planner, clearly another environmentalist type—"You oppose the building of more new powerplants because they are just adding to the abuses of the environment. . . . You further believe that to allow the electric utility industry to continue to build new mon-

ster plants will only prolong the day until man realizes that he has to change his way of life drastically. . . . If it takes blackouts to wake people up to the need for change, then blackouts it should be."

The role card for a college student whose way of life is "radical"—"You are known as kind of an oddball in this area because you live without electricity. . . . You are against building any new powerplants."

In contrast to the environmentalists and other oddballs who say no more powerplants should be built, the game has a hospital administrator, a reporter, an accountant, a labor union official, and assorted other reasonable characters giving their blessings to a new plant.

The role cards for the utility company officials portray them as well-meaning people who want a "balanced" approach to the energy-environment conflict. The reasonable utility company officials nevertheless get in their licks:

The role card for the utility company president—"You are concerned with the environment, but you feel some environmentalists have taken extreme positions. . . . You believe that many environmentalists are one-sided; they are not facing the trade-off condition honestly. They want 100 percent victory on their side—no harm to the environment at *no* additional cost." [Italics added.] The utility company president also complains about "delays caused by environmental concerns" and warns of "region-wide brownouts or even blackouts" if construction of new powerplants is delayed.

The role card for the utility's senior vice-president—"You firmly support nuclear-fueled powerplants. . . . You point out that not only is there little or no air pollution from nuclear-fueled plants, but that the transportation of nuclear fuel is easy and safe. . . . The trouble with some of the conservation groups is that they are so extreme that they are stopping *all* progress." [Italics added.]

The role card for the utility's director of environmental activities—"The proposal to build a nuclear plant is sound, you believe, because nuclear plants produce little or no air pollution . . . and nuclear fuel is . . . less harmful to the environment than are the fossil fuels."

The role card for another utility company official—"You favor the nuclear fuel because you believe that it is the only way we can cut down on air pollution."

The role card for still another utility company official—"You get fed up with hearing the environmentalists say, 'We don't need any more power.' You know from experience what it's like when there is a temporary power failure . . . You bet that some of the loudest complainers are some of the loudest conservationists! They just don't know what they are talking about."

And the role card for another utility spokesman—Conservationsts "scream at you" about pollution and "demand that no more powerplants be built."

The player's guide given to each student adds to the favorable image of the electric power industry. It tells the student that the industry "historically has provided the electric energy demanded by the public at reasonable costs"; that "rates have been kept low"; and that, in the words of the director of environmental activities of the fictitious utility, "We are doing our best with technology to offer the needed electricity, cut down on environmental effects, and help clean up the environment."

Whether electric rates are "reasonable" and "low" is, at a minimum, debatable; but the guide put into students' hands presents it as fact. And the statement that electric utilities are doing their "best" to help clean up the environment is more than debatable. Although the industry has made many improvements, some electric utilities still drag their feet on installation of scrubbers to clean up emissions; still lobby Congress to weaken the Clean Air Act and the Federal Water Pollution Control Act; and still fight pollution-control regulations in the courts.

Another character role in the energy-environment melodrama is that of the executive director of the local chamber of commerce. The role card instructs the student to portray the chamber official as a reasonable person, as one who believes energy is necessary to sustain economic growth but who is also concerned about the "long-term view—to keep the environment useful and attractive."

But in its zeal to promote nuclear power, the promoters of the game have the chamber of commerce official complaining that "fossil-fuel plants . . . interrupt natural beauty with . . . awkward-looking transmission lines." As if electricity from nuclear plants can somehow be delivered to customers without "awkward-looking" lines.

The total impact of the energy-environment game is clear: reasonable, responsible people are for more powerplants, especially nuclear plants, while unreasonable, irresponsible people—conservationists and other "oddballs"—are against all new powerplants.

Conservation organizations have certainly opposed specific powerplants at specific sites. But never have I known any spokesman for a responsible organization to proclaim "there should be opposition to all new powerplants."

Rational people agree that more powerplants are necessary. The question is not do we need more powerplants. The questions are: Where and when should new powerplants be built? Should they be nuclear or coal-fired? How stringent should pollution-control requirements be? Who should determine sites for new powerplants—utilities, unilaterally, or the public, through an accountable governmental body?

To give students a game that depicts conservation organization leaders as advocating "opposition to all new powerplants" is to libel serious, responsible, and intelligent men and women who have raised legitimate questions about specific proposed powerplants, about safety of nuclear power, and about lack of technology to store high-level radioactive wastes generated by nuclear powerplants safely and permanently for the literally thousands of years some wastes will remain lethal.

And to say—as the utility company president's role card does—that environmentalists want "no harm to the environment at no additional cost" is to distort the truth. As Russell E. Train, former Environmental Protection Agency administrator, has said, "We really do not have the option of not paying environmental costs at all. We have the option only of deciding in which form we shall pay them: in the form of pollution-control costs or increasing health hazards, of higher electric bills or higher doctor bills."

How did this pro-nuclear, anti-environmentalist game come to be played in a high school class in Kensington? Courtesy of the Potomac Electric Power Company (Pepco), the real electric utility serving Washington, D.C., and adjoining suburban Maryland communities.

The game was sponsored by the Edison Electric Institute (EEI), the national trade association for investor-owned electric utilities. Pepco, a member of EEI, purchased 250 of the energy-environment games from EEI at $15 each, according to Jill Downs, manager of Pepco's Educational Services Department. Pepco then listed the game in the "Dear Educator" brochure offering free "supplementary teaching aids" it sends to schools in its service area.

Before the Montgomery County school system accepted Pepco's offer, a committee reviewed and approved the game in 1974, according to Richard Wilson, coordinator of secondary social studies in the school system's division of instructional materials. Efforts to learn the names of members of the selection committee in order to interview them failed. "I raised this question with the people at the division of instructional materials," Wilson told me, "and they said 'no.' County policy forbids us to give that information out." Why? "I don't know," said Wilson.

Although they approved the game, the Montgomery County teachers who served on the committee apparently had some reservations about the game's objectivity. In a teacher resource manual on "energy and society," the school system notes that "factual data" for environmental advocates are "not adequately covered in the game." The teacher resource manual also notes: "It is important that this role-playing game be used as a closure. The game is structured so that until the students have acquired additional information . . . they should not attempt the game."

Despite that caution, the Einstein High School economics class played the game cold, as both introduction and closing item on the subject of energy and the environment. After the game's bias was called to the attention of the teacher, however, he did hold an open-class discussion about the slant of the EEI simulation.

By the end of 1976, Pepco had donated 235 of the 250 EEI energy-environment games to schools in Montgomery and Prince Georges counties and the District of Columbia. Pepco also said it charged the cost of the games—$3,750—to Account 909 in its report to the Federal Power Commission, which, under 1936 reforms triggered by the Federal Trade Commission's 1934 report on abuses by electric and gas utilities, established a uniform system of accounts for utilities.

Account 909, says the Federal Power Commission, is for "the cost of labor, materials used, and expenses incurred in activities which primarily convey information as to what the utility urges or suggests customers should do in utilizing electric service to protect health and safety, to encourage environmental protection, to utilize their electric equipment safely and economically, or to conserve electric energy."

Not to be listed in Account 909 are "expenses of a promotional, institutional, goodwill, or political nature." Those expenses belong in other accounts, such as Account 426.4, which is for expenses for "certain civic, political, and related activities."

The difference is significant. Account 909 is an "above the line" account; such expenses are supposed to be legitimate utility operating costs. In effect, Account 909 expenses are paid by Pepco's customers.

Account 426.4 is a "below the line" account; these expenses are not utility operating costs and are not charged to customers. Thus, 426.4 expenses are paid by Pepco's stockholders because they are deducted before dividends are paid.

Pepco's brochure describing the energy-environment game says, "No conclusion is preconceived—the decision belongs to the students." Richard B. Scheetz, coordinator of educational services at Edison Electric Institute headquarters in New York City, agrees with the brochure. "We have had a number of what I would call 'conversions' of people who violently attacked the structure of the game and then who used it with groups, both students and adults. After using it they became converts to the fact that we weren't trying to ram positions down people's throats." There are no "set" or "pat" answers, said Scheetz.

Scheetz added, however, "Most frequently they come out in favor of more electricity—and nuclear."

The news that most players of the energy-

environment game come out in favor of more nuclear powerplants was a shock to Raymond Montgomery, formerly of Creative Studies, a Boston firm that specializes in educational simulations. Creative Studies developed the game for Edison Electric Institute under contract.

"The last thing I want to do is promote nuclear power," Montgomery told me. "On the contrary, my personal bias is anti-nuclear. But I bent over backwards to keep my bias out. Perhaps I bent over backwards too far."

I have no reason to doubt Montgomery's intentions. But the facts are that Edison Electric, which is pro-nuclear, is delighted with the game's impact and has widely circulated the game. According to Scheetz, Edison Electric had distributed some 5,050 energy-environment game kits to utilities across the nation since 1974, at $15 a game to member utilities, $20 to schools, and $25 to companies that are not EEI members. Another 350 games have been distributed at this year's higher prices. "We encourage our member companies to make these available to educators in their service areas without charge," Scheetz added.

The game was "slightly revised" recently, Scheetz said. One change: reference materials that were not prepared by EEI were removed from the kit. To Montgomery, this was more than a "slight" revision, and he has protested the change. "They are going to mind-control the kids if they do not put the prime source material in the kit," Montgomery said. It would appear the EEI kit is already doing that.

Though the price of the game has gone up this year, that is not likely to bother electric utilities. If they write off costs of the game as Pepco does, we, the customers, will pick up the bill for the private power industry's brainwashing of our children.

"Money was no object, because the public pays," said the Federal Trade Commission in 1934. *Plus ça change, plus c'est la même chose.*

SOME TEACHERS CALL PEPCO'S GAME SLANTED, BUT USE IT ANYWAY

(By Sheliah Kast)

Among the $36,000 worth of films, booklets and other items the Potomac Electric Power Co. distributes free to classrooms each year is a game in which students play the roles of residents deciding where to build a new power plant in a fictitious town.

The game is biased in favor of utility companies' interests in more power plants, according to several teachers and curriculum specialists in Fairfax and Montgomery Counties.

But they say they approved "The Energy Environment Game" to be used in classrooms because they believe teachers can point out the biases to their students. One teacher who used the game, however, acknowledged that some students miss its bias.

Officials in the District and Prince Georges County schools said they do not suspect the game of bias, although Prince Georges plans to review it.

The loudest argument that the game is not biased comes from Pepco itself. Said spokesman Gayle Butler: "We think it's a really useful kind of tool and we don't think it forces the kids to any conclusions."

Reasoning that the game does not "try to propagandize any particular viewpoint," Butler said, Pepco included the money it has spent on the games—about $3,750 at $15 a game—in that part of its expenses paid by customers. A separate account, paid by Pepco stockholders, would be used to cover promotional expenses.

The game, designed for 7th through 12th grades, calls for 32 students to take varying roles as utility company executives, environmentalists, businessmen and residents. Some of them sit on a fictitious governor's commission deciding whether there should be a new power plant, whether it should use nuclear or fossil fuel, and where it should be located.

The Edison Electric Institute (EEI), a national trade association of investor-owned utility companies, hired a Boston consulting firm to develop the game about five years ago. Since 1974 EEI has sold 5,500 of the games, mostly to utility companies and occasionally directly to schools.

Richard Sheetz, EEI's coordinator of educational services, said that of the classes he watched when the game was being tested, "I observed that more frequently than not they came out favoring more electricity and more nuclear."

Argued Jill Downs, Pepco's educational services manager, "That's just what the kids have come up with themselves. It's not a preconceived effect of the game."

The game is only a small part of what Pepco puts into the classrooms, and an even smaller portion of what is placed there by industry and trade groups in general.

Conversations with a half-dozen curriculum specialists and teachers in the area indicated they have made peace with the influx of industry materials by reviewing them before they are allowed in the classroom and then either (a) balancing them against teaching resources from public interest or trade groups with the opposite bias, or (b) at least pointing out the bias to students.

"We're usually a little leery of material put out by trade groups because obviously the purpose of putting it out is not to be nice guys—it's to send a message," explained Kenneth Muir, spokesman for the Montgomery public schools.

Muir pointed to educational aids put out by the National Dairy Council. "The message of the dairy council is, 'Let's drink a lot of milk.' But they're also good nutritional information, and it's hard to find good nutrition information for small kids."

The answer, according to Muir, is to capitalize on the material's content, including its bias, "to provoke a discussion that maybe the utility company wouldn't like."

Doug Lapp, science curriculum specialist for the Fairfax schools, sought out four copies of "The Energy-Environment Game" to include in a kit of teaching aids about the energy crisis. The kit contains more than a dozen items, including "a quite impassioned pamphlet from the National Wildlife Federation . . . that focuses on solar and geothermal (power) as the sole solution," Lapp said.

"There's no question the Edison Electric materials are biased for the free enterprise interests. . . . The role definitions certainly do their best to make the power companies look good," Lapp added. But because of the over-all balance of material in the kit, he said, "I'm not so concerned about a bias in the Edison Electric materials."

Lapp pointed out a possible shortcoming in his own approach: Public interest and environmental groups often do not have the money to produce attractive, sophisticated teaching aids or distribute them free.

"If it's only the publishing companies and the industries that have money to produce educational materials, who's going to represent the public interest?" Lapp asked.

"If there had been a simulation available from the National Science Foundation, we would have preferred to use that. Anything that comes from an industry you're sure is being published for a reason."

"The Energy Environment Game" has been called biased for two reasons—the way it describes the roles of the 32 players, and the fact that it does not include conservation and solar energy as possible ways to avoid building a new power plant.

"The weakness of the thing is much more subtle than that it makes environmentalists look like simpletons," said David Harrison, a teacher who was the Montgomery schools' environmental education specialist when he approved using the game two years ago.

"The premise of the game was oversimplified. It basically presented two contrasting views—a view the power plant would be built, that would increase pollution but prevent unemployment, or the view there'd be no new power plant, and the nature lovers would be happy but there would be unemployment."

Harrison said he included a memo with the game warning that teachers should use it only if extra materials were provided to point out a third viewpoint—conservation.

Richard Sheetz at the Edison Electric Institute acknowledged that conservation and alternative power sources such as solar heat are not stressed in the game. In 1972–73, when the game was being developed, he argued, the conservation argument was not being made as often as it is now.

Harrison and John L. Day, a teacher who used the game with his economics class at Albert Einstein High School in Kensington and calls it "an excellent educational device," both said they thought Montgomery families are sophisticated enough that their children will be exposed to both sides of an issue.

But Day acknowledged that some students saw bias in the Edison Electric game and some did not.

"It was mostly the students who gave it a little extra thought who saw the bias," Day said. "It's very subtle."

Marvin Zeldin, who wrote an irate article about the game for the National Audubon Society magazine after his daughter played it in Day's class, has filed a formal request for the Montgomery schools to review the game. Spokesman Muir said he expected the review by a committee of teachers and parents to be made by November.

Zeldin noted that the cards which describe the roles in the game tended to "distort conservationists into unthinking fools who oppose all new power plants, whether nuclear or fossil-fueled."

Sheetz and Downs argue that Zeldin took the comments out of context, and that each category of roles includes some extreme and moderate positions.

Prince Georges County schools also plan to have a committee review the game. John J. Neville, acting supervisor of environmental education, said it has never been approved for use in the classroom, although some teachers may have sent for copies of it after it appeared in Pepco's brochure of teaching aids.

In the District, Asst. Supt. James Guines said "The Energy-Environment Game" had been tested in a limited number of schools but he did not know which ones. Guines said someone from Pepco had called him to arrange a meeting about expending the use of the game but Pepco's Downs said she knew of no such call.

In answer to those who say utility companies are trying to send a message to schoolchildren, she said, "There's definitely a message, different messages at different times."

Some of the educational materials, she said, are aimed at safety, preventing accidents that could damage Pepco's distribution system or lead to lawsuits against the utility.

"Industry has been criticized for not having a sense of community responsibility or wanting to get involved," she said. "I'm not sure this is the only answer but it's at least a start."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION, CONSUMERS' EDUCATION PROGRAM, CLOSING DATE FOR RECEIPT OF APPLICATIONS FOR FISCAL YEAR 1978

Notice is hereby given that, pursuant to the authority contained in Section 811 of the Elementary and Secondary Education

Act of 1965, as enacted by Section 505 of the Education Amendments of 1972, Pub. L. 92-318, 20 U.S.C. 887d, applications for grants are being accepted from institutions of higher education, local educational agencies, State educational agencies, and other public and private non-profit organizations and institutions (including libraries) for the support of research, demonstration, and pilot projects designed to provide consumers' education to the public.

Closing Date: December 16, 1977.

A. *Application forms and information:* Application forms and program information packages are available and will be mailed upon publication of this Notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.564, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date. In an effort to prevent the late arrival of applications due to inclement weather, natural disasters, delayed airline flights, tardy messenger service, or other unexpected circumstances, the Office of Education suggests that applicants consider the use of registered or certified mail as explained below.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 12, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered application:* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal Holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *State comment:* A local educational agency must provide a copy of its application to the State educational agency of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. For verification of submission to the SEA, the LEA applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. A State educational agency wishing to submit advice and comments on any LEA application originating within its State may do so by forwarding such advice and comments to the Office of Consumers' Education, U.S. Office of Education. (See address under "For Further Information Contact.") Advice and comments received from SEA's not later than January 6, 1978 will be considered in reviewing applications.

E. *Program information:* The amount of funds available under this program is $4,068,000, with approximately $3.6 million going for grant awards for applications submitted in response to this notice, and the balance for procurement contracts. It is estimated that a total of approximately 80 new grants will be awarded during Fiscal Year 1978. The average grant is expected to be about $45,000, though to minimum or maximum amounts have been predetermined.

F. *For further information contact:* Dustin W. Wilson, Jr., 7th & D St., SW., Washington, D.C. 20202, (202-245-0636).

G. *Applicable regulations:* Awards made pursuant to this notice will be subject to (1) The Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973 and, (2) the regulation for the Consumers' Education Program published in the FEDERAL REGISTER on May 24, 1976 (41 FR 21191-21199).

(20 U.S.C. 887d.)

(Catalog of Federal Domestic Assistance Number 13,564; Consumers' Education Program.)

Dated: September 15, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc.77-27297 Filed 9-16-77;8:45 am]

TRIBUTE TO THE LATE WILLIAM R. "BILL" HULL

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. CORMAN. Mr. Speaker, those of us who had the privilege of knowing and working with former Representative Bill Hull were very saddened to learn of his death on August 15, 1977, in Kansas City, Mo.

Billy was a kind and compassionate man who pledged his energies and resources toward making a meaningful contribution to his city of Westin and his entire constituency encompassing the Sixth District in Missouri. He served as mayor of Westin, as did his father, and was on the Westin School Board. From that experience and a significant meeting with former Speaker Sam Rayburn at the 1952 convention, Bill decided to expand his public service and seek election to the Congress. In 1954, he won the Democratic primary in the Sixth District of Missouri by 27 votes receiving the campaign assistance of Speaker Sam and former Representative Harold Cooley of North Carolina. He went on to win the general election and took his seat in the 84th Congress.

Bill was particularly kind to me in my first few terms in the House when we all go through a difficult period of adjustment to legislative procedures and congressional decorum. He was always anxious to help a newcomer by explaining the nuances of parliamentary procedure or simply identifying the crucial elements of a bill under floor discussion.

Although we never had the opportunity to serve on the same committee, I know Bill's well-earned reputation for hard work and diligence when he sat on the Public Works Committee and later on the Interstate and Foreign Commerce and Appropriation Committees. He has been characterized as one of the most hard-working and conscientious members of the House Appropriations Subcommittee on Agriculture and Health, Education, and Welfare. And his long record of accomplishments for the Sixth District of Missouri include planning and construction starts on water development and flood control projects north of the Missouri River.

Mr. Speaker, Bill Hull represented his district for nine terms and left a legacy of devotion and diligence which is difficult for anyone to match. He was a fine man, a good Congressman, and a credit to the State of Missouri which benefited from his service in the U.S. Congress. He was my very good friend and I shall miss him.

SHUSTER BLASTS FIRM FOR DEFENDING DANGEROUS AMUSEMENT RIDE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. SHUSTER. Mr. Speaker, I would like to bring to the attention of the House a matter in regard to my continuing attempts to ban the so-called amusement ride called the "Zipper." This ride has killed four children and I am appalled that the manufacturer is attempting to keep the ride on the market.

I have gathered evidence indicating that defective door latches may have been responsible for at least one of the deaths and possibly all. As a result of this evidence which I turned over to the Consumer Product Safety Commission; they commenced action to have the "Zipper" banned as an "imminent public hazard."

The Chance Manufacturing Co., maker of the product, responded to the proposed ban by filing suit on September 14 in New York Federal District Court, claiming that the Commission does not have jurisdiction over such rides, because they are "rented."

It is difficult to believe that this company would attempt to use a legal technicality to keep this dangerous product on the market after the deaths of these children. Actions such as these destroy the public's confidence in the business community. It brings to mind Lenin's admonition that capitalists "are so hungry for profits that they will sell the rope with which to hang themselves."

In all my life, I have never been exposed to such an apparent callous disregard for the safety of our young people. Killed thus far on the "Zipper" ride were:

Patty Hauser, 17, of New York; Rhonda Jo Racine, 15, of Princeton, Indiana; Esther Urbalejo, 12, of Tempe, Arizona; and Amy Gilbert, 14, of Bedford, Pennsylvania.

I have urged the Consumer Product Safety Commission to vigorously pursue this matter in the courts and today I have formally asked the Justice Department to initiate an investigation into potential charges of criminal violations against either the owners of the Chance Manufacturing Co. or the owner-operators of the rides.

AN OPPONENT TO NEW PANAMA CANAL TREATIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony by an opponent to the new Panama Canal treaties. At the time of his testimony, on September 15, 1977, the media apparently decided it was not of sufficient merit for their coverage, despite the fact that they gave full coverage to statements by advocates of the treaties during committee hearings.

This statement was made by Dr. John Wasylik, national commander-in-chief of the Veterans of Foreign Wars of the United States before the International Relations Committee, September 15:

STATEMENT

Mr. Chairman and Members of this Distinguished Committee: My name is Doctor John Wasylik, and my home is in Sandusky, Ohio. As National Commander-in-Chief of the Veterans of Foreign Wars of the United States, I am pleased and honored to appear before this distinguished body to share with you our views on the proposed Treaties affecting the Inter-Oceanic Canal and its framework, the U.S. Canal Zone on the Isthmus of Panama.

I am accompanied here today by two of my V.F.W. colleagues, Mr. Cooper T. Holt, Executive Director of our Washington Office and Colonel Phelps Jones, USA (Ret.), my Director of National Security and Foreign Affairs.

As you may be aware, positions in the Veterans of Foreign Wars are arrived at democratically at our annual National Conventions.

Our 78th National Convention was held in Minneapolis, Minnesota during the period August 20–26, 1977. Fourteen thousand delegates, representing more than 10,000 V.F.W. Posts and 1.8 million members were joined by delegates representing more than 600,000 members of the V.F.W.'s Ladies Auxiliary.

Our delegates gave respectful attention to arguments supporting the proposed treaty advanced by the Chief of Staff, U.S. Army, General Bernard W. Rogers, USA, and arguments opposing the treaty as set forth by Senator Strom Thurmond (S.C.).

Following these two thoughtful presentations by two patriotic and dedicated Americans, on Tuesday, August 23d both the V.F.W. and the Ladies Auxiliary delegates were asked by the Chair for an expression of their views. Both groups of delegates voted unanimously to accept Resolution Number 402, "U.S. Sovereignty Over the 'United States Canal' Located on the Isthmus of Panama."

Following this display of solidarity, the Chair gavelled the Convention into order and repeatedly asked if there was anyone there present who desired to speak in favor of the Treaty and assured the delegates than anyone who so desired would be given a courteous and respectful hearing.

No one rose to oppose the unanimous views of the delegates.

With the Chairman's permission, I would like to read the "Be It Resolved" portion of Resolution Number 402, with the request that the entire Resolution be included in the transcript of these hearings.

On the Canal Treaties issue, the heart of our mandate reads:

"Be It Resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

"(a) U.S. operation, control and defense of the Canal are non-negotiable;

"(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangement;

"(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

"(d) the foregoing position be again communicated to both the President (who in October, 1976 asserted that he would 'never give up complete or practical control' of the Canal) and the Congress;

"(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

"(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress."

This is where we stand. Now why do we hold so resolutely to this view?

In the first instance we are totally unpersuaded both by the assumptions which led to the treaty negotiations and by the proposed treaties which emerged from these negotiations.

Since August, 1914, the United States Canal on the Isthmus of Panama has been responsibly operated and defended to the benefit of the United States, the International shipping community, Panama, Central America, and Latin America.

The "payaway treaty" clique has fallen back on (1) implied blackmail ("unless we give it to the Panamanians, they may blow it up"), (2) self-fulfilling prophecy (forecasts of Vietnam-like guerrilla warfare), and, (3) self-inflicted descriptions of "colonialism."

The current ploy of much of the "prestige media" on the Canal question is, feigning more disdain than anger, to dismiss all who have stood in steadfast opposition to the proposed "payaway" (an accurate term, "sellout" would imply the Panamanians are seeking to buy our $7 billion Canal; they are not) as jingoistic non-readers of history who are carelessly calling for war

Nothing could be farther from the truth.

Long before the Canal and the Canal Zone turned into a political issue, the V.F.W. sought to inform the American public of the true nature of the issues involved.

There follows arguments advanced by the "payaway apologists" and the relevant V.F.W. response.

"PAYAWAY APOLOGISTS. How can anyone in 1977 argue for a policy of "colonialism?"

V.F.W. RESPONSE. Colonialism is, definitively, an exploitation arrangement wherein a natural resource; i.e., cotton, rice, tin, etc., is farmed, harvested, or mined by an oppressed people for processing, manufacturing, packaging and sale of the finished product abroad.

Panama "oppressed?" Clearly not! Panama (a) has the highest per capital income of any of the seven countries of Central America and stands 4th (of 20 nations) in all of Latin America; (b) is dependent on the Canal and the Zone for 30% of her foreign currency earnings while 13% of her gross national product arises from the same source.

Panamanian per capita wealth is about twice that of Colombia who, until 1903, was the country of which pre-1903 Panama was a province.

Panama "oppressed?" Tell that to Cambodia!

"PAYAWAY APOLOGISTS. What is needed is a *modern* arrangement to replace a treaty (Hay-Bunau Varilla) now 74 years old.

V.F.W. RESPONSE. Modernity, like beauty, rests in the eye of the beholder. Britain has occupied the "Rock of Gibraltar" since the 1713 Treaty of Utrecht which ended the War of the Spanish Succession. (Sensible people are thankful the British have been on the "Rock" for the past 264 years.) Unlike the Canal, Gibraltar has not played any significant role in Spanish economic growth. Like the Panamanians, the Spanish are unhappy about the status quo. Unlike our State Department, the British Foreign Office has kept a lid on the situation (to the benefit of us all) for 264 years, not 74.

Perhaps we should ask the British Foreign Office to conduct a "crash course" on how to protect vital national interests for our State Department.

"PAYAWAY" APOLOGISTS. But the Hay-Bunau Varilla Treaty of 1903 gave the U.S. all rights, powers, and authority "as if it (the U.S.) were the sovereign of the territory." The words "as if" indicate that it is Panama, and not the United States, which holds either "titular" or "residual" sovereignty.

V.F.W. RESPONSE. Those who so happily produce the "as if" clause conveniently forget to add what follows in this "in perpetuity" treaty; i.e., "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The bulk of scholarship on the sovereignty issue supports the V.F.W. view. A family of treaties (a) with "New Granada" in 1846; (b) with Britain in 1901; and, (c) with Colombia in 1922, all undergird and extend the sovereign pre-eminence of the U.S. as clearly recognized in the 1903 treaty with Panama; a treaty, incidentally, deliberately ratified after the signing of the Panamanian Senate.

"PAYAWAY" APOLOGISTS. Secretary of State John Hay advised President Theodore Roosevelt that the 1903 Treaty was advantageous to the United States and disadvantageous to Panama.

V.F.W. RESPONSE. Is there some natural order that mandates that most or all of the treaties entered into by the U.S. must be disadvantageous to America; the Paris Accords of 1973 bringing "peace" to Southeast Asia comes readily to mind?

Hay's view notwithstanding, as earlier indicated, the 1903 Treaty has been a success story for all concerned, most specifically including Panama.

"PAYAWAY" APOLOGISTS. How would you like to see America divided in two by the Mississippi River as the Canal divides Panama?

V.F.W. RESPONSE. Unlike the example of the Mississippi, the construction of the Canal and the birth and continued existence of a Panama, independent from Colombia, are inextricably linked. So while the U.S. Canal and the U.S. Zone, given human nature, may never be objects of popular admiration in Panama, nonetheless, the clear linkage between the U.S. presence and their national existence is there and, we suspect, most Panamanians understand this unalterable fact of their nationhood.

"PAYAWAY" APOLOGISTS. Who wants to fight another "Vietnam" over the Canal?

V.F.W. RESPONSE. No non-institutionalized person ever wants (a) any war, or (b) most especially a Vietnam-type encounter in which we will win the battle, but not the victory.

The war-like language about the Canal and the zone arises from occasional flights of oratory by General Torrijos ("We will walk the Ho Chi Minh Trail. It is long and exerts a heavy toll in blood."), from various Panamanian student groups, from supportive revolutionary rhetoric from Castro, and most disturbingly, by U.S. officials who, I would judge, believed that even an allusion to our defeat in Vietnam would suffice to unnerve the American people in their natural desire to retain our preeminence in the Canal. This latter tactic has backfired badly, and, if anything, has produced an opposite effect.

The real question is: apart from the 1964 student disorders, we've had 74 years of peace, stability and progress in the Canal. Can this record be sustained or improved upon by the transparent "partnership" with Panama being advocated by the State De-

partment? Remember, once America is meeting her responsibility as a matter of Panamanian sufferance and not unequivocal U.S. rights, we can be asked to pull out overnight.

"PAYAWAY" APOLOGISTS. But the Canal is especially vulnerable to sabotage.

V.F.W. RESPONSE. It always has been, but it has only been in the last three years that this long standing vulnerability has been pointed out to us, often by our own negotiators. Again, how would the pullout of the U.S. garrison enhance the security of the Canal from any group or faction seeking to make some irrational Third World "point" by blowing a lock or draining Gatun Lake?

If the Panamanian Government's reply is that they are unable to control their own citizens' actions in the face of a continued U.S. presence in the Canal, the question then looms: how reliable a "partner" would the Government of Panama be in any "partnership" with the United States in confronting any non-Panamanian; ie, Cuban pressure?

"PAYAWAY" APOLOGISTS. But the Canal and the Canal Zone are Panama's most important "natural resource."

V.F.W. RESPONSE. The Canal is not a "natural resource." It was built over a 10-year period by the Corps of Engineers. It is a quintessentially "artificial" or man-made enterprise. Secondly, the weight of history, law, and logic demonstrates that it is "ours" not "theirs."

"PAYAWAY" APOLOGISTS. But whatever the merits of the case might have been in the past, aren't we "painted into a corner" by the February, 1974 "Statement of Principles" agreed to by Secretary Kissinger and Foreign Minister Tack and the recent Treaty signing extravaganza?

V.F.W. RESPONSE. When you're "painted into a corner," you have two basic choices: (a) keep on painting; or, (b) use whatever turpentine is on hand to "unpaint" and get out.

In 1967, Panama rejected an initialed draft of a new treaty. Our State Department can well use this earlier Panamanian rebuff as a valid precedent for a re-examining the validity of the 1974 "Statement of Principles" and the resultant proposed treaties.

"PAYAWAY" APOLOGISTS. Have you ever seen the stark contrast between the "manicured" lawns of the U.S. Canal Zone and the poverty and squalor of Panama over the fence?

V.F.W. RESPONSE. Yes. A ridiculous bit of imagery insulting to both the Zonians and the Panamanians, who are placed in the nonsensical position of favoring litter and uncut grass.

The Canal Zone is not Grosse Point, Beverly Hills, Tuxedo Park or Chevy Chase. It is—and it should be—a typical American community adjusted for life in the tropics.

The best way to assure Americans in the Zone have a spokesman is to have the Canal Zone send a delegate to the U.S. Congress as does Guam, Puerto Rico, the Virgin Islands, and the District of Columbia.

"PAYAWAY" APOLOGISTS. But the U.S. pays an annual "rent" to Panama. Doesn't this mean that Panama owns the Canal?

V.F.W. RESPONSE. It is not "rent" for land or the Canal (we bought the property four times; from Panama, from the individual land owners, from the failed French enterprise and from Colombia). It is an annuity paid to Panama (as it was earlier to Colombia) for displacing the old trans-Isthmus railroad. Not even the U.S. government is so soft in the head that it pays "rent" on land that it owns four times over.

"PAYWAY" APOLOGISTS. What is the matter with the proposed Treaties' goals on this issue; ie, "to assure that the Canal is operational, secure, efficient and open, on a nondiscriminatory basis to world shipping."

V.F.W. RESPONSE. The "goals" cited above are a precisely accurate description of the arrangement. In short, why seek "goals" that have already been achieved?

"PAYAWAY" APOLOGISTS. Do you mean break off negotiations and thereby incur the wrath of all of Latin America, bring an abuse of America in the UN, and incur, perhaps, the public opposition of even our NATO allies?

V.F.W. RESPONSE. If we retreat when we're clearly right, we will have surrended, in advance, all our influence on other and more ambiguous international disagreements.

Three or four (of 20) Latin American countries, not, of course, including Panama, enjoy a significant degree of democratic freedoms. Democratic or authoritarian, many need the Canal operation even more than we do. I have neither seen nor heard of any hard intelligence that even suggests an international army drawn from Latin American states would either march on the Canal or seek to infiltrate the Zone in an international Vietnam-type operation. (Cuba, of course, having tasted a "revolutionary victory" in Angola is a separate matter.)

As for NATO, as the Arab-Israeli "Yom Kippur War of 1973" so clearly underscored, our allies do not have concerted policies apart from the defense of the NATO treaty area. I would expect a resolute U.S. stand on the Canal would gain the understanding and support of our major European friends.

As to the UN, we are in a classic "no win" posture with the General Assembly and its Third World plus communist majority. Former Ambassador "Pat" Moynihan's perception that many Third World countries in wanting to rip off the wealth of others are really calling for "duly sanctioned looting." His view has relevance here.

To sum up our total opposition to the proposed treaties:

If we wrongfully "cave in" on the sovereignty issue, we are on the Isthmus at the sufferance of the volatile dictatorship of Brigadier General Torrijos. We could be asked to leave overnight. Do we then skulk out or do we stand our ground?

The Canal is much closer to Cuba than is Angola. Soviet-inspired Cuban involvement on the Isthmus could well wear a "Panamanian Cloak." We would undoubtedly agonize, but we would probably acquiesce.

The proposed "Neutrality Treaty," which, we are told, would permit U.S. military action to defend the Canal, is "waffling" brought to an art form. The Panamanians have agreed to no such thing in writing or in their rhetoric. The Administration may kid itself. It should not be allowed to kid the American people.

Panama's wretched record in "human rights," as attested to by the January 30, 1977 "Freedom House" study, needs no amplification here. The Administration seems unembarrassed by this manifest hypocrisy. Our President went so far as to embrace, literally, General Torrijos following the signing extravaganza.

I mean no disrespect to the Joint Chiefs of Staff, but until late 1975 they were silent upon the Treaty negotiations. I will not comment upon their recent shift in view, but the unfettered military advice of four former Chiefs of Naval Operation calling for continued U. S. pre-eminence makes the compelling military case.

In reviewing the Panamanian Student riots of 1964, I note the following prominent Americans were then quoted as follows:

Ambassador Ellsworth Bunker. The assault on the Canal Zone had been led by "persons trained in communist countries for political action of the kind that took place" and that "the Government of Panama instead of attempting to restore order, was, through a controlled press, television, and radio, inciting the people to attack and to violence."

Former President (then Minority Leader) GERALD R. FORD. "With Cuba under the control of the Soviets through its puppet, Castro, and with increased Communist Subversion in Latin America, a Communist threat to the Panama Canal is clearly a grave danger. The American people will be shocked by the terms of this (Johnson Administration) treaty."

JOSEPH A. CALIFANO, Jr. (Currently Secretary of HEW, then an Assistant to the Secretary of Defense). "We know that some of the leaders were known and identifiable Communists, members of the Communist Party of Panama, and people who belonged to the Vanguard of 'National Action,' which is openly and proudly the Castro Communist Party in Panama."

Now, I realize that 13 years have passed and that people often change their minds over time.

My question is: what hard evidence, available to all of us in 1977, caused these three distinguished Americans to change their minds over recent years about the nature of the communist threat in Panama? We would all profit if they would share this new information with us.

In conclusion:

What the proposed Treaties embody is a slow motion act of strategic self-mutilation.

Only 13 of our warships cannot transit the Canal today. As Navy ships get smaller, even this small number will decrease.

The Canal and the Zone (a) save 8,000 miles and 15–30 days; (b) have the only ship repair facilities within 1,600 miles on the Atlantic side and 2,500 miles on the Pacific side; (c) have, in Howard Air Force Base, the only high performance air base within 1,000 miles; and, (d) is the only U.S. logistical base south of the Rio Grande.

As to the possibility of violence should the Treaties not be ratified, no one in America, especially including the V.F.W., is threatening anybody. We are being threatened by a Panamanian strong man who, seemingly on alternate days, either threatens violence or abhors it. And this is the man with whom we seek a "partnership"?

What, then, does the V.F.W. propose?

(a) A revised U.S. position which would immediately disabuse Panama of any major territorial, defense, control or operational aspirations; i.e., America is not running the Canal on Panamanian sufferance.

(b) Generosity and imagination on real life human grievances (ranging from parking places to job opportunities) where a long term U.S. administration may have needlessly chafed Panamanian citizens; and

(c) A major modernization packet to ready the Canal for ships now too large for passage and other measures all of which would combine to give a major boost to Panama's diversifying, albeit debt-ridden, economy.

To conclude:

An opinion research poll indicated that Americans favor, by 76–16 percent, continued U.S. sovereignty over the Canal and the adjacent Zone.

Change is an imperative when a given status quo is unworkable.

Change does not equal progress when current arrangements not only do a job, but do it superbly.

The Panamanians want very badly to have their way and far too many in the State Department see it their way; i.e., reciting "Panamanian Perceptions" ad nauseam.

Our people can, should and must be brought unapologetically to defend a 74-year record America and the world maritime community have unarguably benefitted from

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RESOLUTION No. 402—U.S. SOVEREIGNTY OVER THE "UNITED STATES CANAL" LOCATED ON THE ISTHMUS OF PANAMA

Whereas, Article II of the 1903 Convention between Panama and the United States, modified in part by the 1936 Treaty between the two Governments, states:

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land under water for construction, maintenance, operation, sanitation, and protection of said canal of the width of ten miles extending to the distance of five miles on each side of center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three miles from mean low water mark extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described shall not be included in this grant....

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamence; and

Whereas, the United States has more than fully met its obligations to Panama under existing treaty arrangements and, moreover, has efficiently and responsibly accommodated a large number of transits and amount of tonnage through the canal; and

Whereas, the United States has paid for the Canal and the Canal Zone four times (1) to Panama, (2) to the failed French consortium, (3) to private citizens of Panama, and, finally, (4) to Colombia; and

Whereas, the revolutionary government of Panama, a product of coup d' etat, has since June 1971, under the guise of seeking new canal treaty arrangements, undertaken a bitter and sustained campaign of anti-American propaganda fueled in large part by Cuban and Soviet communists; and

Whereas, given the emotionally irrational situation in Panama, a political/psychological "timebomb" is being consciously fabricated by the revolutionary government of Panama, set to explode to the detriment of the United States and the world shipping community; and

Whereas, due largely to our unswerving V.F.W. support, patriots in the United States Senate, led by Senators Thurmond (S.C.), Helms (N.C.) and McClellan (Ark.), have gone on record in opposition to the unprincipled "Statement of Principles" signed by former Secretary of State Kissinger and the Panamanians, and a parallel effort is being similarly supported in the House of Representatives, led by Congressman Dan Flood (Pa.); now, therefore

Be it resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States, that:

(a) U.S. operation, control and defense of the Canal are non-negotiable;

(b) tensions relating to the administration of the Canal Zone be resolved on the spot without disturbing present treaty arrangements;

(c) U.S. citizens and employees in the Canal Zone continue to meet their responsibilities under U.S. sovereignty;

(d) the foregoing position be again communicated to both the President (who in October 1976 asserted that he would "never give up complete or practical control" of the Canal) and the Congress;

(e) the Panama Canal Zone send to the Congress of the United States a delegate such as is done in Puerto Rico, the District of Columbia, and the Virgin Islands; and

(f) the proposed treaty being put forward by the Carter Administration be defeated in the 95th Congress.

Adopted by the 78th National Convention of the Veterans of Foreign Wars of the United States, held in Minneapolis, Minnesota, August 19 through 26, 1977.

UNEMPLOYMENT REMAINS SERIOUS PROBLEM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. CLAY. Mr. Speaker, unemployment remains one of the most serious problems facing America today. I think it is important to note that one of the country's leading newspapers, the St. Louis Post Dispatch, has reached a conclusion that very closely matches my own.

I would like to take this opportunity to share with my colleagues the editorial as it appeared on September 17, 1977:

BACK TO HUMPHREY-HAWKINS?

During last year's presidential campaign, no economic theme received more of a steady sounding from Candidate Carter than the need for full employment. In May, with joblessness standing at 6.9 per cent, Mr. Carter told Business Week, "I think the major priority of the next Administration has got to be employment. My own belief is that we can get the adult unemployment rate down to 3 per cent, or the overall rate down to 4.5 per cent, without any adverse effect on inflation.

To do so would require bold and decisive policies as Candidate Carter recognized. "Given the present state of the economy," he declared in a position paper, "we must pursue an expansionary fiscal and monetary program in the near future, with some budget deficits if necessary, to reduce unemployment more rapidly." As to the one specific piece of legislation then before Congress that would establish a federal policy to reduce unemployment, the Humphrey-Hawkins bill, Mr. Carter told a press conference after his nomination that he supported the measure's "overall purposes."

Candidate Carter's positions are worth recalling in light of last month's unemployment statistics that were released by the Labor Department. The overall joblessness rate now is 7.1 per cent. Among blacks, the percentage is 14.5, which equals its highest rate since World War II. Indeed, the unemployment rate for blacks is nearly two and one half times what it is for whites. Among black youths, the rate is more than 40 per cent.

Since he became President, the expansionary, employment-producing policies envisioned by Candidate Carter have given way to a cautious, hold the line against spending approach to the economy, the principal objective of which seems to be reassuring the business community that the Administration considers inflation its primary target. In essence, the philosophy of the preceding Republican Administration lives on the Democratic White House and Office of Management and Budget. The result, as the Labor Department figures so plainly show, is that Candidate Carter's promises have yet to be redeemed.

Given all of this, we find it encouraging that Mr. Carter again is turning his attention to full employment legislation. Recently, he met with members of the Congressional Black Caucus and promised within the month to try to work out an acceptable draft of the Humphrey-Hawkins bill. That legislation would mandate a national unemployment rate of less than 4 per cent within three years of its enactment, thus making work available to any American wanting it.

Mr. Carter apparently is concerned that the anti-inflation safeguards in Humphrey-Hawkins may be insufficient, which is a legitimate point. But fine-tuning and adjusting the legislation ought not to weaken its basic thrust. The important thing is that after so long a period of inattention to his major economic issue of the campaign, Mr. Carter now seems willing to give it the priority it deserves. Candidate Carter properly criticized President Ford for what appeared a callous indifference to the plight of the jobless. Unless he moves quickly, he will be justifiably subject to the same censure.

WIDESPREAD SUPPORT FOR IWY CONFERENCE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mrs. SCHROEDER. Mr. Speaker, I would like to share with my colleagues a letter from the Women's Conference Network supporting the International Women's Year (IWY) conference.

In November, for the first time in the 201-year history of the United States, women will come together and discuss issues which have an impact upon their lives and the lives of their daughters. The IWY conferences are indicative of a positive emerging cooperative spirit among women today. I think the support of the conference from a group with as broad a membership as the Women's Conference Network illustrates that spirit:

On behalf of the undersigned organizations, comprised of millions of members representing the widest cross section of American women, I convey to you their strong support for the International Women's Year Conference to be held in Houston in November of this year.

The recent state conferences, which will culminate in the Houston Conference, were a magnificent illustration of the freedoms we enjoy in the United States where all those who have a point of view are offered an opportunity to express it. This is particularly important with relation to the concerns of women who have been struggling to gain equality for many decades. The deliberations of the Houston Conference and the conclusions reached there will serve as a guide to the Congress and the Executive Branch of our Government in their efforts to promote and protect women's rights.

We strongly urge you to support the Conference and the concerns which will emerge from it. We believe that women's rights as human rights are a priority issue for this nation and deserve the consideration and support of everyone including Members of Congress.

Sincerely,

MARJORIE BELL CHAMBERS, Ph. D.,
President, American Association of University Women.

LIST OF ORGANIZATIONS

American Association of University Women.
American Jewish Committee.
Americans for Democratic Action.
B'nai B'rith Women.
Black Women Lawyer's Association.
ERAmerica.
Girl Scouts of the U.S.A.
League of United Latin American Citizens.
Mexican American Women's National Association.
National Abortion Rights Action League.
National Conference of Puerto Rican Women.

National Council of Jewish Women.
National Education Association.
National Federation of Business and Professional Women's Clubs, Inc.
National Gay Rights Task Force.
National Women's Democratic Club—Political Action Committee.
National Women's Political Caucus.
National Women's Party.
NETWORK (religious lobby).
Project on the Status and Education of Women, Association of American Colleges.
Religious Coalition for Abortion Rights.
Wider Opportunity for Women.
Women's Equity Action League.

AMERICAN SOCIETY IS GROWING OLDER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. BIAGGI. Mr. Speaker, in Sunday's Washington Post Outlook section a most interesting article appeared entitled "Aging America." The focus of the article was how this Nation is adapting to the simple societal fact that we as a people are growing older.

The House Select Committee on Aging on which I am privileged to serve is very much aware of this phenomenon of American life today. In addition to this Congress being cognizant and responsive to the growing numbers of elderly here now, we must begin to look ahead to the future when the numbers of elderly will soar dramatically.

In this regard, I am pleased to announce to my colleagues that the Subcommittee on Federal, State, and Community Services, which I chair, will conduct the first in a three part series of hearings on "Aging in the World of Tomorrow." Our first hearing will focus on the major demographic projections, including an expected growth in our elderly population to more than 50 million by the year 2025. The hearing will feature experts who will analyze this and other data and discuss their economic social and political implications for the future.

The hearing will be held at 9 a.m. on Tuesday, September 27 in room 2212. I believe the Post article serves as an effective introduction to the subject matter of the hearing and I recommend it for my colleagues' consideration:

[From the Washington Post, Sept. 18, 1977]

AGING AMERICA—ADAPTING OUR SOCIETY TO AN ERA OF LONG LIFE

(By Ken Ringle)

In Soviet Georgia, where people not uncommonly live more than a century, no one speaks of these people as "old" or "aged." The Russians refer to them as "long-living"—an emotionally neutral phrase from which Americans might profit.

For more and more we are a nation of relatively long livers ourselves—a culture from which medical technology has largely banished hunger and childhood disease and made possible the longest average life expectancy of any country in the world.

An American child born today can expect to live at least 71.3 years—24.3 years longer than a child born in 1900. Statistically, his chances of reaching age 94 are about the same—almost negligible. But what has changed dramatically is his chance of reaching 65—an age attained by only about 1 out of every 25 Americans at the turn of the century. Today 1 out of 10 Americans reach 65, and the average continues to inch upward.

By the year 2000, nearly 1 in every 5 people will be 65 or older. Their numbers will total close to 40 million people, more than twice the 1970 population of New York state or California.

Those numbers are about to wreak a profound change in our nation. What we are facing is what George L. Maddox, head of Duke University's Center for the Study of Aging and Human Development, calls "an emerging mismatch between our institutional arrangements in this country and that demographic fact—a mismatch we have not yet begun to come to terms with."

The ingredients and extent of the mismatch are staggering.

Born as a place of adventure, subdued by action rather than thought, the United States has always been a country of the young. In contrast to countries like China and Japan which showed great reverence for old people, even the native traditions here were less than supportive: Those too old to contribute to and follow the migrating Indian tribes were expected to wander off alone to starve.

Our medical philosophy has been geared toward keeping people alive (but not necessarily productive), our social institutions have been geared toward custodial rather than preventive care, our educational institutions have been geared toward vocational and professional training rather than lifetime learning, our transportation system has been geared to private vehicles rather than the public facilities on which the elderly must inevitably depend. Our suburban housing patterns have effectively shut the elderly out of our own lives and the lives of our children and our culture shuts them out of our minds by focusing on the immediate and the transient rather than that which endures.

Underlying our national life, in brief, has been the unstated assumption that old people weren't very important, they couldn't cope very well, and while we might owe them something in the way of social care, we didn't owe them much because there weren't very many of them and anyway they wouldn't be around too long.

The end of that assumption has been slow in coming. More than 10 years ago thoughtful economists were prophesying the impending bankrupcy of the social security system because of the growing number of old people. Most Americans who heard of the debate came away with the fuzzy notion that it somehow had to do with inflation. What it had to do with, of course, was the day when, thanks to the pill-born stabilization of our national birth rate, proportionately more people would be taking money out of the social security system than would be paying into it. Without major changes in the system, that day is not far off.

That threatened economic crunch, more than any other single factor, has been the moving force behind the current efforts to end mandatory retirement at 65.

It has also been the major force behind recent interest in the study of old age itself. For astonishing as it seems, though millions of man-hours have been devoted over the years to the study of how life begins, almost nothing had been done prior to 1950 on the study of how people change as it continues into the later years. What research was being done was almost entirely confined to the institutionalized aged—who, current studies show startlingly enough, amount to only about 6 per cent of all those over 65.

The reason for the lack was largely rooted in the notion that "life is a terminal disease" and that anyone past the age of about 60 was, in fact, in the process of dying.

Old people were stereotyped as feeble and sickly, senile and sexless—stereotypes that have become even sharper with many Americans in the age-segregated 1970s.

A year-long study of 180 school children by the University of Maryland's Center on Aging found that the children 3 to 11 typically viewed elderly people as "sick, sad, tired, dirty and ugly," and insisted that they themselves would never be old.

The stereotypes, the study found, were based on myths of aging centuries old, augmented in many cases by the treatment of old people in contemporary children's literature.

The most damaging thing about the aging myths is not, however, that they were believed by children but that in many cases they were and are believed by old people themselves.

"They are being told it's all downhill financially, it's all downhill sexually, it's all downhill intellectually," said Edward F. Ansello, associate director of the Maryland center, in making public the study last year. "They have this expectation of inevitable decline: If you live long enough you're going to be senile."

STRENGTH AND RESOURCEFULNESS

A growing body of research, however, continues to find no evidence that old age necessarily limits intellectual capacity, sexual activity or meaningful work.

The largest body of research has come from a longitudinal study of more than 200 elderly people performed over the past 20 years by the Duke University Center.

The study showed that far from meeting any depressing stereotype of decline, the vast majority of old people remained in good health, socially and sexually active, with reasonable financial security and good mental acuity until the final weeks of their life.

"The characteristics they seem to suffer most from," said Duke Center director Maddox, "is the tendency of society to treat them as though they are all alike."

Old people in fact are extraordinarily varied. The evidence suggests that rather than becoming more alike as they grow older, old people become, if anything, more varied. But basically, when studied over a long period, as they were in Duke's study, old people show remarkable continuity of character: If a person is a healthy, happy person at 50, he will probably be a relatively healthy, happy person at 80.

Many old people, of course, do undergo serious illness and other painful crises associated with old age, from forced retirement to the loss of a spouse.

But more significant than the crises, according to Maddox, is the extraordinary strength and resourcefulness they exhibit in meeting these challenges of later life. This is the true "wisdom of age"; the fruit of a lifetime of problem-solving and learning to deal with loss.

What negative changes are associated with age, the research shows, are primarily associated with speed and perception: Eyesight and hearing dim, and physical and mental reflexes slow down appreciably, making some tasks like driving unwise for the very old.

But most oldsters also demonstrate greater patience with tedious tasks, less tendency to boredom and an impressive ability to compensate for many of those qualities that have been diminished by age.

In contrast to a frequent stereotype, old people actually tend to be sick less frequently than younger people, possibly because of a lifetime accumulation of immunity to various illnesses.

When they are sick, however, the illness tends to be more serious and they take longer to recover.

As for senility, the Duke study indicates only about 15 per cent of all old people ever

become senile, and the larger portion of those due to an ailment called Alzheimer's disease which pebbles the brain with bits of hardened tissue and neurofibulatory tangles. Senility, the research shows, is not the result of age itself, but one symptom associated with several different diseases.

MEDICAL PESSIMISM

The portrait of old age that emerges from the Duke research and that of other gerontologists around the country is that of a huge portion of the American population composed of immensely varied individuals with an enormous store of unused potential for contributing to contemporary society.

It is this portrait that has provided much of the moral force behind current efforts to end mandatory retirement at age 65.

Beyond the retirement issue, however, lies an even more crying need—a need to rethink the very nature of our social institutions in the light of what we now know about the prospective numbers, the obvious needs and the demonstrated abilities of our growing population of old people.

Our national health care system, for example, is going to have to be radically changed, not because it would be a good idea, or because the traditional system hasn't worked, but because we can no longer afford to maintain even the inadequate system we have now.

In the process of concentrating our vast medical technology on conquering acute illnesses with dramatic impact, we have largely ignored the treatment of long-term, chronic illness and the concept of preventive care.

It makes a great deal more sense for the government to spend $5,000 on an individual over the course of his lifetime in preventing a chronic late-life illness than to spend $100,000 at the end of his life trying to pick up the pieces.

The Duke study and others demonstrate that much of the physical dysfunctioning usually associated with old age is actually the result of organic ailments which doctors won't take the time to diagnose and treat.

Gerontologist Robert N. Butler refers to this as "medical pessimism" toward the elderly—an inclination to treat any complaint as the inevitable concomitant of old age.

Part of this is due to physicians' natural facination with "quick return" medicine. Old people's ailments are often more difficult and time-consuming to diagnose, and oldsters respond to treatment less quickly than the young.

But part of it may also be due, some gerontologists believe, to inadequate knowledge by the average physician about the metabolism of old people and how it functions. Too little is known about what constitutes "normal" aging.

There is some indication, for example, that some high blood pressure in old people may actually be needed to force blood through the less elastic vessels of the aged. When physicians prescribe medication to lower blood pressure, they may actually be restricting the blood flow to the brain, thereby bringing on senility.

As for senility itself, many of the mental aberrations attributed to it may be reversible symptoms brought on by a wide range of factors ranging from infection to malnutrition.

CHANGING INSTITUTIONS

It is obvious that a wider body of knowledge on the physiology of aging is needed. But needed even more is a national program of health care designed to carry that knowledge and the medical care it inspires to the people who need it most. Most gerontologists believe this can be done with a program of preventive care that keeps old people out of institutions and active in the community.

Twenty-eight years ago New York's Montefiore Hospital launched a program of home care for the elderly which featured regular visits to the homebound by doctors, physical therapists and social workers. In the years since, some 100 other hospitals in the nation have set up similar programs. Two years ago, Montefiore helped set up a day hospital program offering custodial care to elderly patients who have no one at home to look after them during the day.

Such programs could be encouraged by state and federal legislation as a more human and more successful alternative to Medicare-subsidized nursing homes, at less than half the cost.

Similar imagination is needed in a program of income maintenance in the face of inflation that is eroding fixed social security incomes to close to the poverty level. Many experts recommend placing a floor under retirement incomes, pegged to the actual cost of living, financed either by increased social security taxes or other state and federal funds.

Housing is another area which helps make it hard to grow old. When America was an agrarian nation, houses were larger and designed for an extended family of three or more generations. Old people never really retired, but contributed to the family unit and received from it as their abilities and needs warranted. The advent of social security and the FHA brought with it more familial freedom and mobility but also spawned a proliferation of houses and a suburban lifestyle seldom conducive to home-based care of the elderly.

Many gerontologists, however, see a return to the extended family as an inevitable consequence of the aging of America. Some 80 per cent of the old people surveyed in Duke's 20-year study had at least one child living within a 30-minute driving time and most had significant interaction with their families.

Duke psychologist Daniel G. Blazer sees federal encouragement for programs of family care as a natural outgrowth of the determined emphasis on family life in the current Carter administration. Such a program might take many forms, including rent, mortgage or construction subsidies for families caring for older relatives and tax incentive programs for home-based care of the elderly.

Such a concept, he said, would help end the sense of social isolation felt by many institutionalized old people and permit a return to the fruitful contact between young children and older relatives which has become increasingly a casualty of our age-segregated society.

Other institutions will also have to change. Legislators wavering in their support of public mass transit systems might contemplate what life will be like when thousands of their constituents—and they themselves—are too old to drive.

The educational community will have to rethink its long-term emphasis on youth and provide more in the way of creative, unstructured lifetime learning programs for people of all ages. Britain's "open classroom" program, which utilizes television and community learning centers as well as home programs, has been a model in this regard.

SIGNS OF PROGRESS

Much, of course, is being done. Included in this year's Labor-HEW appropriations bill is an unprecedented $500 million for spending under the Older Americans Act, chief vehicle for research, community services and nutrition programs for the elderly.

In addition to the main HEW appropriation, up $75 million from last year, funds are flowing toward the elderly along other routes. Among them:

Jobs: Two measures of Carter's economic stimulus package, signed into law last spring, are designed to help older workers find jobs. The total federal outlay: $160.5 million.

Housing: $82.5 million will be spent by the Community Services Administration to weatherize homes belonging to the poor, elderly and handicapped. Some $200 million will go to help low-income people pay for last winter's fuel bills and $100 million for continuation of a loan authority program for housing for the elderly.

Education: Some $2.7 million is going toward further development of "Over Easy," a public television series designed to inform, educate and entertain the elderly.

Research: $2 million has been appropriated for the Center for Studies of Mental Health of the Aging. The National Institute on Aging will probably get $39 million, an increase of $5 million from last year's funding.

This is hardly a complete list of the various federal appropriations aimed at the elderly but it is indicative of government expenditures in the area. Add on the enormous cost of Medicaid and Medicare benefits, Supplemental Security Income, food stamps and the like and the true cost of old age to our society begins to become apparent.

Then there is the organizational attack: the President's Council on Aging, HEW's Administration on Aging, a Federal Council on Aging, a House Select Committee on Aging and a Senate Special Committee on Aging.

But more crucial than the dollars and the committees and the institutional changes to the future of aging in America, gerontologists believe, is an attitudinal change on the part of the American public: an awakening to the realization that "ageism," like racism and sexism, endures through the sort of dull, insensitive thinking that debases both young and old, and a challenge to make the increasing years of later life not only possible but enriching for every American.

It is the most brutal sort of self-interest for today's decision-makers to help do so. For the old people who will have to live with what we do or don't do today will include most of those reading this article.

COST ASSESSMENT ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. OBERSTAR. Mr. Speaker, today I am introducing the Cost Assessment Act which will enable the Government to perform its functions more efficiently by requiring that cost-benefit assessments be prepared for new regulations, some existing regulations, and proposals for legislation by Federal agencies or congressional committees. All regulations and legislation which would have a significant impact on costs to the public are subject to the bill's assessment requirements.

This measure will broaden, extend, and fix in law the economic impact statement program, which was established by an Executive order on December 31, 1974. Under that program, cost-benefit assessments must be drawn up for major new regulations from executive agencies. Under my bill, independent regulatory agencies and congressional committees will be added to the list of agencies which assess costs and benefits of their actions. The bill would extend the program beyond its present December 31, 1977 expiration date, and require guidelines for the preparation of assessments.

Information to be included in the assessments is specified in section 4(a) of the bill. An assessment must evaluate

the net public benefit of a proposal by comparing its direct and indirect costs with its direct and indirect benefits. In addition to an evaluation of quantifiable costs and benefits, an assessment must include a description of costs and benefits that are not readily quantifiable. Unlike previous cost-benefit legislation, this bill requires the evaluation of the "distributive" impact of costs and benefits; that is, how they are distributed among different income-level groups.

During their consideration of new regulations, agencies must prepare both draft and final cost-benefit assessments. A draft assessment must be published in the Federal Register along with the notice of proposed rulemaking. Federal agencies, committees, offices of Congress, and private groups and individuals will then have an opportunity to comment on the assessment. Following that process, the agency will have to prepare a final assessment and publish it in the Federal Register along with its notice of final action on the regulation.

The assessment process can be applied to an existing regulation when either the agency involved or any interested person so desires. If a review of an existing regulation is requested, the agency will first make a study to determine whether there is a substantial disparity between the costs and the benefits of the regulation. If the agency finds that substantial disparity exists, it must publish a notice to that effect in the Federal Register, outlining the reasons for its finding. If public comment on that notice convinces the agency that there is, indeed, a disparity, it will proceed with the assessment and amendment process.

Assessments are to be prepared for new legislation, also. Federal agencies are required to submit an assessment with each bill they propose to Congress that would have a significant cost impact. They must prepare a draft assessment, provide an opportunity for public comment on the draft, prepare a final assessment, and then submit both the draft and the final assessment to Congress. Congressional committees will have to include a cost-benefit assessment in the committee report on any bill that would have a significant impact on costs to the public.

The bill provides for a set of guidelines to be promulgated that will describe how the cost-benefit assessments should be prepared. The President is directed to prepare a set of guidelines, which will go into effect 120 days after enactment, unless vetoed by either House of Congress. The guidelines may go into effect earlier if both Houses approve them. The same procedure can be used to amend the guidelines. These guidelines are to be used by the executive branch agencies and congressional committees.

Unlike previous cost-benefit legislation, this bill applies to military and foreign affairs activities. In view of the bill's national security implications, it contains a provision to assure the privacy of classified materials in assessments of any such activities.

The assessment requirements are relaxed in cases where the preparation of an assessment would so delay the implementation of regulations or legislation as to risk impairment of personal health and safety, or of the national security. Under these circumstances, an agency can propose or promulgate a regulation without having prepared an assessment, provided that it publishes a draft assessment within 60 days, a final assessment 60 days after that, and reviews the regulation on the basis of the final assessment. Agencies can propose emergency legislation without an assessment, provided they submit to Congress all available information that would be helpful in drafting an assessment.

The aim of this assessment program is to improve the efficiency and competence of the Federal Government. Due to the volume of regulations and legislation that issue from the Federal Government, it is inevitable that some with costs outweighing their benefits will be enacted. This bill is designed to reduce that possibility, and to allow the Government to perform its functions more efficiently, by giving it objective criteria by which to judge proposed actions.

JUST ANOTHER POLITICIAN

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. BAUMAN. Mr. Speaker, the editorial writers for radio and television station WBOC–TV in Salisbury, Md., have expressed a view which I think is now generally shared by a great many Americans. It is an expression of disappointment at the deeper implications of President Carter's long defense of Bert Lance and his activities. Equally disappointing however, is the President's apparent tolerance of the indefensible smear job attempted by Jody Powell.

I include at this point a copy of WBOC's editorial of September 23, 1977.

[From WBOC–TV, Sept. 21, 1977]

CARTER'S WHITE HOUSE

With Jimmy Carter's credibility and prestige taking a nose dive with his handling of the Bert Lance affair, he certainly did not need another shaft from his own press secretary, Jody Powell. Jody, you may remember called some news reporters and encouraged them to confirm and publish a rumor involving the integrity of Senator Percy of Illinois.

Unfortunately, the allegations not only were untrue, but Jody Powell knew they could not be substantiated when he leaked the rumors. At the very best, the action was intolerably stupid . . . and if you think we are being too harsh with the Georgia whiz kid, Jody himself characterized his actions as "inappropriate, regrettable and dumb." So we don't think our use of the word stupid is out of order.

The tragedy for Jimmy Carter of course is Jody Powell represents the White House . . . his job is to speak for the President . . . and his voice represents Mr. Carter's.

Senator Percy is one of those so-called moderate Republicans and frankly he has never captured our imagination . . . but there is something vitally wrong when a White House spokesman accuses an American citizen—be he a Senator or just plain Joe—of any crime when he knows he doesn't have one shred of evidence to back it up.

To quote an editorial in the Philadelphia Inquirer—"the performance of the Administration in the Lance affair was defensive to the point of insensitivity. With Mr. Powell's actions, it became defensive to the point of vicious slander."

We're still looking for the visionary, highly moral Jimmy Carter the candidate to emerge and lead us to the holy grail. So far, we get only another politician in the Oval Office . . . surrounded by a staff of mid-thirtyish brain trusters who obviously still have lots to learn. Jimmy Carter though has been thru the mill. He should know better . . . and demand better from his staff.

PULASKI DAY

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. CARNEY. Mr. Speaker, on October 11 of each year, we celebrate Pulaski Day, in honor of that great Polish-American patriot, Casimir Pulaski. One hundred and ninety-eight years ago, Casimir Pulaski, a brigadier general in the Continental Army died of wounds suffered in America's Revolutionary War. What kind of man was Casimir Pulaski?

Casimir Pulaski, a Polish nobleman, was born in Podolia, Poland, on March 4, 1748. Early in his life, he became interested in military affairs. At the age of 20, he joined his father and brother in forming the Confederation of Bar. By so doing, Count Casimir Pulaski pledged his time, fortunes, and life to the independence of his country. Pulaski led the Polish insurrection against the domination of Poland by Russia, Austria, and Prussia. He performed heroic feats against overwhelming odds, and his fame as a cavalry leader spread throughout Europe.

Almost at the outset, the Confederation of Bar was plagued by both a lack of funds and a lack of harmony. In desperation, the Confederation engaged in a plot to kidnap the king. This plot was not Pulaski's idea, but he agreed to it so long as the king was not harmed. The plot failed, Pulaski's property was seized, and he was condemned to death.

Pulaski escaped to Turkey and then to France, where he met Benjamin Franklin. As a result of his conversations with Franklin, Pulaski became greatly impressed with the principles of the American Revolution. He saw the opportunity to fight for the ideal that dominated his life: the love of liberty. Franklin saw Pulaski as a valuable ally in the struggle against the British. Accordingly he wrote a letter recommending Pulaski to Gen. George Washington. Pulaski sailed to America and reported to General Washington. Impressed with Pulaski's credentials, Washington recommended that Congress commission Pulaski as a brigadier general so that he could command the cavalry.

Rather than waiting for his commission to be approved by Congress, Pulaski enlisted in the Army as a volunteer and was given the rank of captain.

He fought with Washington at Brandywine, and he is credited with saving Washington's army by means of a bold cavalry charge. Pulaski also fought in the battle at Germantown. His commission as a brigadier general finally came through, and he took command of the cavalry at Trenton, N.J.

During the winter of 1777–78, General Pulaski joined forces with Gen. Anthony Wayne and helped to defeat a British division at Haddonfield, N.J. Generals Pulaski and Wayne again fought side by side in skirmishes at Cooper's Ferry. In reporting on these battles, General Wayne declared that Pulaski had showed "his usual bravery."

In March 1778, Congress authorized the formation of a Legion of Lancers and Light Infantry, as recommended by General Pulaski. Pulaski worked tirelessly to recruit and organize the Legion and, by September, the Legion was trained and ready for battle. During the winter of 1779, Pulaski was ordered south to join forces with General Lincoln. Pulaski's Legion arrived in Charleston, S.C., while the city was under heavy siege and on the verge of surrender. He succeeded in lifting the morale and the resolve of the defenders until reinforcements under General Lincoln could lift the siege itself.

General Lincoln, General Pulaski, and French Admiral D'Estaing then combined forces against the British troops who were occupying Savannah. When it became apparent that the American and Pulaski charged into the midst of the fighting in an effort to turn the tide. He was severely wounded and died 2 days later aboard the brig *Wasp* on the way to Charleston. Although he was buried at sea, funeral services were held afterward in the city of Charleston, and the citizens of Savannah, Ga., erected a monument to the memory of Count Casimir Pulaski.

Casimir Pulaski began life as a member of the Polish nobility. With his inherited wealth and high social position, he could have settled down to a life of ease and comfort. Instead, he chose a life of hardships and sacrifices. A hero of two continents, Pulaski shall always be recommended as a proud and courageous soldier, the founder of the American cavalry, and a man who gave his life for the cause of American liberty. When we celebrate Pulaski Day in honor of this great American of Polish descent, let us also remember the ideals for which he fought and died.

PERSONAL STATEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. DOWNEY. Mr. Speaker, on September 19, I was unavoidably absent for the consideration of H.R. 4544, the Black Lung Benefits Reform Act of 1977, and H.R. 8655, a bill to increase the temporary debt limit. I would like to take this opportunity to list my positions on the votes related to these two measures:

H.R. 4544

Rollcall No. 561, "no."
Rollcall No. 562, "no."
Rollcall No. 563, "no."
Rollcall No. 564, "yea."

H.R. 8655

Rollcall No. 565, "yea."
Rollcall No. 566, "yea."

DRUG PROBLEM RISING IN EUROPE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. WOLFF. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I would like to call my colleagues' attention to three items bearing on the heroin problem, both here in the United States and abroad. In the United States, according to Peter Bensinger, Administrator of the Drug Enforcement Administration, the availability of heroin "is at its lowest point in 4 years." In Western Europe, however, both usage and addiction to heroin is increasing at an unprecedented rate. While we have been successful in securing the continued cooperation of a number of governments, as evidenced by both the success of the poppy eradication program in Mexico and the destruction of heroin and other drugs in Thailand, it is clear that the heroin problem is rapidly becoming a matter of world significance. Mr. Speaker, I would now like to insert into the RECORD three items further expanding on these themes. The first is a July 17, 1977, release from the Drug Enforcement Administration on the question of heroin availability in the United States; the second is an article appearing in the Washington Post, September 19, 1977, which discusses the increasing usage of heroin in Western Europe; and the third is an item appearing in the China Post, August 23, 1977, with respect to the destruction of drugs in Thailand:

HEROIN AVAILABILITY IN UNITED STATES

Heroin availability in the United States, as measured by heroin price/purity data and overdose fatalities, is at its lowest point in four years, it was announced today by Drug Enforcement Administration (DEA) head Peter B. Bensinger on ABC–TV's "Issues and Answers".

Retail heroin purity is 5.1 percent as of June 30, 1977, one percentage point lower than the recent record low of 5.2 percent during the 1973 heroin shortage following the Turkish poppy ban. Corresponding to this reduction in purity is a dramatic increase in the price of retail heroin to an all time high of $1.65 per milligram.

Bensinger noted that the figures for heroin related deaths and injuries are also encouraging. Heroin fatalities nationally decreased 21 percent from the first to the second half of 1976. This represented the first such decline since 1973.

A similar, and even more dramatic, decline occurred in heroin-related injuries. During the first quarter of last year, 4,336 heroin-related injuries were reported. The figure for the first quarter of this year was 3,021—a 30 percent drop.

"These signs of success," Bensinger said, "I attribute to three factors: (1) the effectiveness of the Mexican opium eradication program; (2) our close cooperation and sharing of intelligence with Mexican officials; and (3) the redirected enforcement effort DEA has taken to disrupt major trafficking organizations.

"The Mexican government in 1976 destroyed 28,230 poppy fields which could have produced 78 metric tons of six percent-pure heroin. In 1977, 26,720 poppy fields capable of producing 74 metric tons have been destroyed already.

"We have refocused our enforcement efforts through the expansion of Central Tactical Units (CENTACs), which aim at criminal kingpins who are generally immune to normal investigative techniques. These teams of special agents have been responsible for disrupting major trafficking organizations involving over 500 major violators."

Bensinger also announced the results of a new DEA study on bail and sentencing reform. "This study was undertaken," Bensinger said, "to provide statistical documentation of the fact that there is no meaningful deterrent to crime by our courts today.

The study indicates that over one-third of DEA defendants convicted of narcotics or more dangerous drugs violations received probation (24 per cent) or were sentenced under the Youth Corrections Act (YCA) (11 per cent). Of the total number of convicted narcotics and more dangerous drugs violators, excluding YCA, 61 per cent received sentences of three years or less.

The study also shows that prisoners in general are serving on an average of 46.7 per cent of their sentence, while narcotics offenders as a class are serving 43 2 per cent. "This means," Bensinger said, "that 50 per cent of the convicted narcotics violators actually serve less than one year in prison."

The study further noted that of the total number of convicted or more dangerous drugs violators, 81 per cent received sentences of six years or less, which according to present parole standards, means that four out of five serious drug violators could have served less than three years.

In the bail area, the study noted that one-half of DEA's serious defendants were released awaiting trial on bond (45 per cent) or personal recognizance (5 per cent); 71 per cent were released for $10.000 bond or less; and more than one-third were free on bond (37 per cent) for seven months to over a year.

"The bottom line," Bensinger said, "is that our courts are not providing a surety of punishment for drug traffickers. Drug law enforcement sees a decline in heroin availability in this country, but the courts must do their part in shoring up our leaky criminal justice system."

DRUG PROBLEM RISING IN EUROPE—AUTHORITIES JOIN U.S. ATTEMPT TO STOP TRAFFIC FROM ASIA

(By Murray Seeger)

THE HAGUE.—For years Europeans thought of drug addiction as an American problem. No longer. For example:

Three men—two Thais from Bangkok and a Dutchman—met recently in Copenhagen. The Asians handed over a package containing nearly 12 pounds of heroin. All three were arrested.

The First Secretary of the Liberian embassy in Sierra Leone flew from Hong Kong to Amsterdam. A suitcase he checked on the flight was opened by customs officers and 55 pounds of heroin were discovered.

There have been a number of similar incidents.

"Almost every city of Western Europe is becoming a center of heroin addiction," an American narcotics agent based in Europe said in a recent interview.

The number of European users is still thought to be far below that of the United States, but it is rising sharply. In West Germany alone, the number of registered addicts increased from 2,000 in 1972 to 25,000 last year. Drug related deaths in West Germany, one of Europe's major drug markets, rose from 104 in 1973 to 325 last year.

Persuaded by clear evidence that addiction is spreading, most European governments are cooperating with the U.S. Drug Enforcement Agency to try to break the chain that leads back to the poppy fields of Asia.

The European campaign is focused on Amsterdam, which police agencies agree is the home of the drug trade's biggest wholesalers, bankers and killer-enforcers, nearly all of them Chinese.

"We can never win this battle, but we believe we can channelize it," Jan van Straten, chief of the Dutch National Police drug unit, said in an interview. "We can't break it completely. There is too much money involved."

Proud of their reputation for having a liberal, charitable, open society, Dutch officials admit that the drug problem got out of hand before they began a serious counterattack last year.

Amsterdam Police Commissioner Gerard Toorenaar, a colorful officer with a reputation for personal bravery, was a lonely voice calling for tougher enforcement tools to help his understaffed force crack the organized international racket.

"We didn't like every colleague in Europe pointing their fingers at us," he said. "We can't root out the heroin trade entirely, but we can cut it down."

Now nearly a year after a series of tough new laws went into effect, Dutch authorities are optimistic that they can make some progress. One statute provides for longer jail sentences, up to 12 years for international traffickers in place of the previous four-year maximum, and up to eight years instead of two for domestic violators.

Moreover, simple possession of small quantities of heroin now means a short jail term or a fine, instead of the previous potential of a two-year term that was rarely imposed.

The national police intelligence unit has assigned several of its 165 agents exclusively to drug enforcement activities, and the squad is to be enlarged to 28. One officer has been stationed in Bangkok, a prime shipping center for drugs.

The U.S. Drug Enforcement Agency has three agents at the American embassy here and a fourth is being added to help train the Dutch officers. U.S. military police have assigned a unit to work with Dutch customs inspectors watching for drug traffic involving American troops.

In addition, since November, Amsterdam police have arrested and deported 700 Chinese as illegal aliens.

"We think most of these people were engaged in trafficking," Van Straten said.

Nowadays, Asians arriving in Euope are examined especially closely for drugs. The agents cite the case of 19 couriers from Kuala Lumpur, Malaysia, apparently sent with the idea that at least some of them could get through.

In Vienna, Austrian police found 40 pounds of heroin on nine of the couriers. In Brussels, Belgian agents recovered 30 pounds from the other 10.

Two barometers suggest that the Dutch police have made inroads into the illegal traffic. The street price of Chinese heroin in Amsterdam rose from about $30 a gram to more than $160 over the past year. The volume of drug seizures has risen dramatically, from 50 grams (1½ ounce) in 1971, to 376 pounds last year. So far in 1977, the Dutch have seized 352 pounds, 277 of which came from a single Rotterdam incident.

Still the Dutch police do not underestimate the difficulty in breaking into the core of the Chinese drug trade.

Amsterdam, one of the world's favorite tourist cities, is now plagued by petty crimes committed by addicts trying to support their habits. Overdose deaths occur at a rate of one a week among the city's 10,000 addicts. About half of the users are foreigners attracted by the city's easygoing atmosphere, the availability of drugs and the generous welfare benefits.

Amsterdam has always had Chinese users of hashish and opium, and the more recently arrived Turkish migrant workers brought in soft drugs.

The end of the Vietnam war accelerated heroin sales. Police experts believe that the Chinese who were supplying heroin to the American troops in Vietnam started looking elsewhere for markets as the war wound down and the troops were withdrawn.

The drugs now coming to Amsterdam originate in the "Golden Triangle," where Burma, Thailand and Laos meet. This was the source of heroin for Vietnam.

Given the Netherlands' history as an international trading center, its strongly rooted Chinese community and its lax drug laws, Amsterdam was an ideal point to relocate the business.

In France and Italy, the problem is less serious, but the trend is the same toward more use, especially among youths.

Stockholm, Sweden, is another major drug center. In a huge underground arcade in the center of the city, addicts meet their dealers openly and addicted prostitutes solicit customers.

Britain, which had an enlightened program of treating addicts with heroin substitutes, has now found that addiction to the real thing is on the rise.

ANTINARCOTICS EFFORTS—TONS OF DRUGS BURNED

Bangkok, Aug. 22 (AP) Thai Prime Minister Tanin Kraivixien personally put the torch to more than three tons of heroin and other illicit narcotics Monday and said the bonfire marked his country's determination to stamp out trafficking.

Tanin, cautioning eager news photographers to stand back, lit a smoky gunpowder fuss which raced 50 yards to tons of drugs previously doused with kerosene.

Diplomats, American antinarcotics officials and Thai officials witnessed the fire, which took place under strict security conditions at a military camp near Bangkok. One official said the loot, seized in 1973, and 1974, included 660 pounds of heroin and nearly three tons of marijuana and other drugs worth 1.5 million U.S. dollars in Thailand.

Troops armed with rifles kept observers well away from a barbed wire enclosure where the bonfire was held. A spokesman for the Public Health Ministry said the government was eager to avoid an incident similar to one in June, 1975, when hundreds of kilograms of seized heroin and morphine under the supervision of the ministry disappeared without a trace. Results of an investigation of the loss were not made public.

Before the bonfire Monday officials chemically tested samples of the heroin. The packages were tossed in a 10-meter long hole and soaked with kerosene. Troops wearing gas masks stood by in case of a wind shift and a flame thrower crew was held "in reserve."

Tanin, whose government has stressed its antinarcotics efforts, said authorities might hold another bonfire in several months with narcotics now stored as evidence in pending legal cases.

INSULATION SHORTAGE—PRICE INCREASE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. STEIGER. Mr. Speaker, the Senate Finance Committee is now considering the tax aspects of the proposed National Energy Act. During its deliberations the Finance Committee tentatively agreed to adopt a residential insulation tax credit along the lines proposed by President Carter. The credit is intended to encourage homeowners to insulate their homes.

I opposed the home insulation credit in both the Committee on Ways and Means and the Ad Hoc Energy Committee, in part, because I felt the credit would create or intensify a shortage of insulating materials.

The credit has not yet been enacted, but its prospects have helped to spur inflation and intensify the shortage. Materials are in short supply; prices are increasing. But I am fearful that Congress will ignore the facts and continue on its foolish course.

I recognize that it is probably too late to do anything about the insulation credit disaster, but those willing to weigh the proposal on its merits, and disregard its political glitter, may be interested in the following article which appeared in the Journal of the National Association of Home Builders on September 12:

SERIOUS INSULATION SHORTAGE CONFIRMED BY BUILDER SURVEY

The current shortage of insulation for new home construction appears to be much more serious and widespread than first reports indicated.

More than one-half of the builders and insulation subcontractors who responded to a recent survey of NAHB (Journal-Scope, Aug. 22) say insulation shortages are holding up the completion of housing under construction in their areas.

More than four in 10 of those responding to the survey describe the local supply situation as being either "serious" or "acute." Only one in 10 say it is "adequate" or "no shortage" exists in their area. The rest of the respondents—about 45 percent of the total—say "some shortage" exists but that available supplies are being allocated by distributors and manufacturers.

OTHER FINDINGS

Preliminary results of the survey, which is being conducted by NAHB's Economics division, were announced last week.

This additional information on the price/supply situation was disclosed:

Eighty percent of those responding have been told by their suppliers to expect possible curtailment of insulation supplies in the future.

Sixty-seven percent of those responding say they have been told to expect future price increases.

Those responding say insulation prices have increased about 25 percent during the last six months and that about half of the increase (13 percent) occurred during the last two months.

Of the builders who install their own insulation, the large majority—some 78 per-

cent—say they buy insulation from local distributors; 16 percent buy it from lumber yards; and the remaining 6 percent look to insulation manufacturers for their supply.

NAHB President Robert Arquilla and other association leaders are keeping a close watch on the situation.

Arquilla and the other senior national officers met recently in Washington with insulation manufacturers, suppliers, and federal officials in an effort to focus national attention on the problem.

Following the emergency meeting on Aug. 29, HUD Secretary Patricia Harris, after being briefed by Arquilla, assured NAHB of the Carter Administration's interest in seeking a quick and fair solution to the problem.

Arquilla later brought the problem to the attention of Congress in a personal letter to each member of the House and Senate.

He pointed out that the sudden shortage has been brought on largely by the diversion of supplies to the retrofitting of existing dwellings.

"There is not enough insulation material to meet the needs of new home construction and simultaneously carry out a massive nationwide program of retrofitting," he wrote.

Arquilla warned the lawmakers that the shortage, if allowed to persist, would have "dire effects" on the home building industry.

CEREMONY MARKS KOSCIUSZKO ROLE AT THE BATTLE OF SARATOGA

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. NOWAK. Mr. Speaker, last weekend, the Polish-American Congress of the Central and Northern District of New York sponsored a ceremony commemorating the role of Gen. Thaddeus Kosciuszko at the Battle of Saratoga during the Revolutionary War.

Appointed a colonel of engineers by the Continental Congress, Kosciuszko built the fortifications at Saratoga and this played a key role in defeating the British at this significant battle 200 years ago. Later, this Polish patriot was assigned the task of preparing American defenses along the Hudson River and constructed the fortifications at West Point.

Last Sunday's ceremony was held at the Saratoga National Historical Park, Saratoga, N.Y., where a monument to Kosciuszko is located. A delegation of approximately 50 persons from the Buffalo, N.Y., area participated. Those attending included Bronislaw Durewicz, president, Western New York Division, Polish-American Congress; vice presidents Krzysztof Wloch and Jean Kowalski, and secretary Richard Solecki.

Mr. Durewicz has provided me with this list of other western New York residents who participated in the observance:

Agnes Brzoskowski, Zofia Bystron, Adela Bystryk, Dr. Aleksander Chaberski, Zofia Dabrowski, Casimer Dabrowski, Zofia Durewicz, Janina Durewicz, Mieczyslaw Durewicz, Andrew Durewicz, Magdalena Ert, Ludwik Ert, Emily Fyderek, Mary Galas, Feliks Galas, Marek Golebiowski, Tadeusz Jasinski, Helena Jurecki, Dr. Joseph Kij, Henryk Lipok, Stanely Lesniak, Walter Kusmierski, Maria Letyta, Anna Lotarski, Antonina Markut, Stanley Markut, Jan Nagler, Bronislaw Nikonowicz, Ludwik Oles, Karolina Ptak, John Ptak, Krysia Slowikowski, Piotr Smolen, Boleslaw Stepien, Mary Stepien, Roman Szajta, Mary Sztama, Lilien Szwajda, Stefania Szymczak, Bohdan Wisniewski Maria Chruszcz, Bronislaw Brzoskowski, and Janusz Brzoskowski.

Aloysius A. Mazewski national president of the Polish-American Congress and of the Polish National Alliance, Chicago, was principal speaker. The program featured a wreath laying ceremony and a series of choral and musical offerings.

THE JOHNSTOWN FLOOD OF 1977—PART II

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. MURTHA. Mr. Speaker, I would like to insert for the information of the Members the second part of the article by Dave Leherr and Stuart Brown of the Pittsburgh Post-Gazette which tells the story of the Johnstown flood. Today's part tells the story of the weather forecasting problem surrounding the area and how it affected the loss of lives:

THE JOHNSTOWN FLOOD

At noon on Tuesday, July 19, Don Wilson climbed to the roof of the public safety building in downtown Johnstown for a routine check on the rain gauge there. He emptied the water from the gauge, made a routine examination of the relatively simple equipment and replaced the automatic chart that would take hourly rainfall readings.

He was not thinking of rain or even of a disaster. He was thinking about the next day, Wednesday, when he would begin three days' leave from his weather job to attend the Pennsylvania American Legion convention in Pittsburgh as a delegate.

The drive to Moraine State Park was a side trip, but it was then that he spotted the black clouds, the thunder and lightning, and thought of the coming Boy Scouts' meeting at the park. It was then he decided to check in with Dave Sisk, a meteorologist at the weather service office in Pittsburgh.

Sisk told Wilson the storm pattern was moving southeastward, but with no particular hint of special fury. As the summer afternoon played itself out, the two men and other weather experts tracked the passage of the summer storm, and took note of a separate storm that pummeled Downtown Pittsburgh with one-third of an inch of rain between 5:15 and 5:45 p.m.

"The Pittsburgh rain was a local thunderstorm," Sisk recalled. "It was a thundershower caused by afternoon heat. It moved through the district and broke up.

"The one up north was related, but it was more of an upper-level disturbance in an unstable atmosphere and it didn't break up.

But the showers that threatened Moraine State Park had moved southeastward across Mercer, Clarion and Venango counties. By 7 p.m., Parker, in Armstrong County, had an inch of rain, and so did Mercer.

On the basis of these and other observations, the Pittsburgh weather office put out advisories that night.

7:30 p.m.: ". . . a line of moderate to heavy thundershowers in Mercer, Venango, Clarion, Armstrong, Jefferson, Clearfield and Cambria. No severe weather has yet been reported . . . but brief heavy rain and minor urban flooding has occurred.".

11:40 p.m.: "Mud slides and basement flooding in Jefferson County. At 11:10 p.m., a Skywarn observer reported that heavy rain tonight in Jefferson County has caused parts of Sandy Lick Creek to overflow its bank on Route 9 between Falls Creek and Reynoldsville . . . As of 11:30, there was still light rain over the area. Residents should watch for further rises over the next several hours."

2:40 a.m., Wednesday, July 20: "A flash flood warning is in effect until 4 a.m. for persons in Indiana and Cambria counties. Heavy rain and some flooding have been reported in this area . . . Persons should move to higher ground immediately if near flood streams. Do not attempt to drive on flooded highways. Listen for later statements."

By then, parts of Johnstown were under five feet of water. People already were dead from the rain clouds that had started as a trickle at Moraine State Park.

Don Wilson got to his American Legion meeting at the Hilton Hotel at 10 a.m. Wednesday. An urgent message was waiting for him: the Johnstown area was flooded. Within hours he was back in Johnstown, rescuing the records from the rain gauge he had checked the day before. They would go into the official archives at the National Climatic Center in Asheville, N.C. Stunned as he removed the records, Wilson said: "I couldn't believe what I saw around me."

"Our people were hungry for reports that night; they never got them," said Charles H. Ryland, acting chief of the Pittsburgh National Weather Service office.

He explained that while the service has three offices touching on Western Pennsylvania weather—Pittsburgh, Erie and Harrisburg—forecasts for valley areas like Johnstown have to rely less on radar and other technology and more on volunteer observers, some of whom are paid a minimal fee for reporting.

"Any reports we could have gotten to supplement our own reports—any reports—would have helped," Ryland said. "But we weren't getting any at all. We could have had more definitive stuff put out well before midnight.

"Obviously it's too expensive to set up new weather stations everywhere, but we needed somebody in that area.

"We heard reports later that some people were trying to call different agencies but never got through. We heard the airport (near Johnstown) closed at 11 p.m. Somebody called the Conemaugh Dam but there was no answer there. We had one really good observer in Indiana County we never heard from. He might have reported a heavier rainfall then we knew. It turned out to be one of the missing links."

Meteorologist Sisk looked at his map showing up to 12 inches of rain that had hit points in the Johnstown area. He broke out the hour-by-hour figures for Johnstown itself. They began with half an inch of rain between 6:30 and 7 p.m. on July 19, and continued:

8:50 to 10 p.m.: 2.30 inches.
10 to 11 p.m.: 1.60 inches.
11 p.m. to 2:50 a.m.: 2.00 inches.
2:50 to 3:30 a.m.: 2.20 inches.
3:30 to 4 a.m.: 0.20 inches.

Total: 8.80 inches. Noting the next-to-last rainfall figure, Sisk commented: "This was the backbreaker."

Bill France came on duty at midnight at the Pittsburgh weather office on the 23rd floor of the Federal Building here. He remembered later he received "good briefings" from the outgoing crew concerning the heavy rains and warnings that had been issued. Later he made notes on what he saw and heard:

"Prior to about 1:30 a.m., there was no in-

dication of additional problems on heavy rain or flooding.

"Shortly after 1:30, received call from police concerning situation in Indiana (County) . . . saying things are pretty bad in Indiana . . . 'when will it stop raining?'

"I mentioned rain should be diminishing within a couple hours and asked what was ment by 'pretty bad.' He (caller) said there were reports of basement flooding and water on roads. We agreed to exchange any additional information.

"I tried to figure movement of radar pattern and saw that (radar) cells were timed at more than 20 m.p.h. by radar operator. It looked as if Indiana County should be out of this heavy rain by 4 a.m."

About 2 a.m., France's notes showed, two calls came into Pittsburgh "relaying rumors of power and communications outages along with seemingly unbelievable reports of cars floating down streets in Johnstown area.

"I attempted to locate any possible observing point that could give idea of heavy rain, but there were no appropriate locations that could be used. The radar pattern showed strong cells moving toward Johnstown vicinity.

"D-Radex (an experimental radar warning system) was called, but 'busy signal' resulted. However, it had automatically printed critical amounts (of rain) about 57 miles east (of Pittsburgh), Cambria County.

"I decided to issue a flash flood warning which was placed on NAWAS (a statewide weather warning system) at 2:33 a.m. and then on VHF (very high frequency) radio with warning alarm . . . warning was for Indiana and Cambria counties until 4 a.m."

Sometime after 3 a.m., France said, he went on a KDKA radio talk show with warning information. Other time-consuming calls went out, but France concluded grimly:

"Real reports did not begin to trickle in until 'after the fact'—6 a.m.—later."

UNEMPLOYMENT STATISTICS MAY NOT REFLECT REALITY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. SIMON. Mr. Speaker, many of the programs that Congress passes to help the impoverished areas are geared to the unemployment percentage.

Unfortunately, some of the most impoverished areas in the Nation do not list high unemployment simply because there are no jobs available and people know that and they do not look for jobs.

I am inserting in the RECORD a letter I have sent to Mr. Sar A. Levitan of the National Commission on Employment and Unemployment Statistics.

If there are other Members of the House and the Senate who face similar situations, I hope that they will contact this Commission so that we can, eventually, get this matter straightened out and have national policies that are more responsive to genuine poverty.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 21, 1977.

MR. SAR A. LEVITAN,
National Commission on Employment and Unemployment Statistics, Washington, D.C.

DEAR MR. LEVITAN: It was good talking to you on the phone about Pulaski County, Illinois and the inaccuracy of the statistics that emerge under the present definition of unemployment.

Just to reiterate the statistics for Pulaski County: Approximately 29% of the population of that small, impoverished area is on public welfare. They have the lowest per capita assessed valuation of any county in the state of Illinois. By income gauges, by any gauge, Pulaski County is an extremely poor county.

Yet, when the unemployment statistics come out, Pulaski County emerges around 6.4% unemployment, a figure that simply does not reflect the situation. There is a much higher percentage of people who, in fact, are unemployed, but they no longer seek employment because there just aren't any jobs available in Pulaski County.

I hope that as you move to determine what the gauge of unemployment will be, you'll take into consideration a situation like the people in Pulaski County face.

Obviously, this is important because many of the programs (for example, the Public Works Program) are gauged to the unemployment figure that is received from the Bureau of Labor Statistics.

Cordially,

PAUL SIMON,
U.S. Congressman.

MURDER OF A GENTLE LAND—PART I

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. DORNAN. Mr. Speaker, the reports emanating from Cambodia in the last year have painted a picture of genocide on a scale not seen in the world for a generation. In fact, when based on percentage of population killed, the slaughter in Cambodia makes the atrocities of Nazi Germany small by comparison.

The most shocking and poignant report to come out of Cambodia since the Communist takeover is in the book by John Barron and Anthony Paul, "Murder of a Gentle Land." This book was condensed and reprinted in the February 1977 edition of Reader's Digest.

For those of my colleagues who want to know the facts associated with Communist subjugation, I recommend that they read this story. I call to their particular attention to the closing remarks of the condensation:

. . . the world largely has remained silent. No outraged students protest on campuses. There is no great outcry in Congress.

After reading this account, I hope that my colleagues will ask themselves why there is no outcry in Congress. Why! Why! Why!

Since this condensation is very long, I shall ask that only half of it be printed today. The second half will appear tomorrow:

MURDER OF A GENTLE LAND—I

Peace came to Cambodia on the morning of April 17, 1975. After five years of civil war, the government under Gen. Lon Nol had collapsed, the army disintegrated, the last American diplomats fled. The beseiged capital of Phnom Penh and its three million people lay prostrate and defenseless before encircling communist forces.

The first communist squads of 10 to 12 soldiers, dressed in black pajama-like uniforms, were spotted infiltrating the capital at about 7 a.m. Clusters of people along the streets clapped and cheered, and children darted among the soldiers yelling, "The war is over!" Adults shouted, "Peace! Peace!" Women threw garlands of yellow alamanda blossoms; couples danced and sang in the streets.

In their rejoicing, the people were not necessarily celebrating the victory of communism. The harsh regimen the insurgents had imposed in conquered territories in the countryside alienated the peasantry, and more and more families had fled to the cities. At the beginning of the war in 1970, only about 13 percent of the nation's seven million citizens lived in urban areas. By spring 1975, it was 50 percent.

But the Lon Nol government did not command widespread allegiance either. It was notoriously incompetent and corrupt. The fratricidal war had caused perhaps 600,000 deaths, and a majority of the dead were civilians. Prior to 1970, Cambodian farmers annually produced bountiful surpluses of rice. Timber, cattle, poultry were also plentiful. But the war had disrupted the economy, ravaged the countryside.

Of course, the communists might punish, perhaps even kill, the leaders of the Lon Nol government. But toward the general populace they would surely be reasonable and just. They were, after all, fellow Khmers and fellow adherents of Buddhism, which teaches tolerance, respect and kindness toward others.*

"That morning we were shouting, 'Victory! Victory!'" recalls a 23-year-old economics student, Ung Sok Choeu. "It wasn't that we loved the Khmer Rouge so much, but seeing Lon Nol go was worth an outburst of joy. What use was it that Khmers should kill each other?"

Nonetheless, there were troublesome early portents. For, although Khmer Rouge authorities stopped looting by civilians and government soldiers, warning that transgressors would be summarily shot or hanged, they did nothing to deter wholesale looting by their own troops. Soon, communist soldiers rampaged through commercial districts, shooting open the bolted doors of shops or ripping them off with ropes attached to Jeeps. By 8:30, communist troops were halting traffic to confiscate cars, motorcycles and bicycles. During these thefts, the soldiers habitually invoked the strange term *Angka Loeu*. The phrase can be translated into English as "Organization on High." With a politeness which belied the pointed rifles or pistols, they would say, "*Angka Loeu* proposes that you lend me your motorcycle. *Angka Loeu* proposes that you drive me."

Most people in Phnom Penh had heard little of *Angka Loeu*, and its connotation of mysterious facelessness was compounded by the unquestioning obedience it commanded among the communist troops.

Soon the killing began. An 18-year-old high-school student, Sar Sam, saw it start. "At 8:45 that morning, a Khmer Rouge killed Mr. Kim, our neighbor. Mr. Kim was about 42. He joined the army in 1971 as a private second class, and he had only one leg."

About the same time, 10 to 20 civil servants and soldiers walked out of a government building. Waiting communist troops, without warning or explanation, cut them down with machine-gun fire. Later, in front of the Ministry of Information, communist soldiers surrounded a man who, by some word or gesture, had given offense, and kicked and stabbed him. The crowd watched as he slowly died.

Still through the centuries, other armies

*The Khmer Empire, dating from the early ninth century A.D., at one time encompassed most of modern Cambodia, Laos, Thailand and southern Vietnam. The communists in Cambodia were known as the Khmer Rouge; i.e., "red Khmers."

in other places doubtless had done the same as the communists did during their first two hours in Phnom Penh. It was possible that the initial killing and looting represented not the policies of *Angka Loeu* but the aberrations of individual soldiers.

However, there can be no argument about what began between 9 and 10 a.m. It was clearly and coldly premeditated by the Organization on High. And modern history fails to show anything quite like it.

CARAVAN OF MISERY

At about 9 a.m., in his private clinic across the street from the military hospital, Dr. Vann Hay was attending a colonel wounded in the last hours of the bombardment. "I was still in the operating room when I was told that Khmer Rouge soldiers were at the door of the clinic, asking that everybody leave immediately. I went to talk to them. There were maybe 20, all very young, and they repeated their order.

" 'These people here are sick,' I told them. 'They cannot get up and leave.'

" 'No exceptions,' said the Khmer Rouge. 'The town has to be cleared. Everybody get out.' "

Shooting in the air, broadcasting through loudspeakers, banging on doors, sometimes shouting harshly, sometimes speaking with saccharine courtesy, troops in the name of *Angka Loeu* now repeated the same stunning order all over Phnom Penh, a city of three million. Every man, woman and child, regardless of occupation, age or physical condition, must get out of the city.

To those who asked why, communist soldiers offered differing explanations: "The Americans are going to bomb." "It's an order from Angka." But the reply which events proved most valid was given to a group of foreign Catholic priests by an Angka commissar: "From now on, if people want to eat, they should go out and work in the rice paddies. Cities are evil. There are money and trade in cities, and both have a corrupting influence. That is why we shall do away with cities."

With a terrible efficiency, the communists concentrated initially upon expelling the sick and wounded from hospitals jammed with fresh casualties. Troops stormed into the Preah Ket Melea Hospital, Phnom Penh's largest and oldest, and shouted to patients, physicians and nurses alike, "Out! Everybody get out!" They made no distinction between bedridden and ambulatory patients, between the convalescing and the dying.

Hundreds of men, women and children in pajamas limped, hobbled, struggled out into the streets, where the midday sun had raised the temperature to well over 100 degrees. Relatives or friends pushed the beds of patients too enfeebled to walk, some holding aloft infusion bottles dripping plasma into the bodies of loved ones. One man carried his son, whose legs had just been amputated. The bandages on both stumps were red with blood, and the son, who appeared to be about 22, was screaming, "You can't take me like this! Kill me! Please kill me!"

Such processions were seen by countless thousands. One trained observer who watched them from the French embassy compound was Jon Swain, a young British journalist. Recording the scenes in his diary, he wrote that the communists were "tipping out patients like garbage into the streets. Bandaged men and women hobble by the embassy. Wives push wounded soldier husbands on hospital beds on wheels. In five years of war, this is the greatest caravan of human misery I have seen. The Khmer Rouge must know that few of the city's 20,000 wounded will survive. One can only conclude that they have no humanitarian instincts."

From noon onward, the masses in the streets multiplied as communist troops uprooted more and more families. In the ever-thickening congestion, along some boulevards, families advanced no more than 200 yards an hour. Driving became impossible. People pushed cars, motorcycles, bicycles and a motley assortment of carts loaded with whatever they had been able to assemble in haste—rice, canned food, pots, pans, clothes, blankets. People without vehicles carried bundles of belongings, or human cargoes—fearful children, aged or sick relatives too weak to walk.

That same afternoon the communists began to purge the capital of all printed matter. Rare and ancient manuscripts from temples and museums; the records of government and business; the contents of libraries; dictionaries, medical textbooks; even personal-identity cards—all were targets.

Tens of thousands, perhaps hundreds of thousands of books were thrown into the Mekong River or burned on its banks. Untold others were burned at a dump, and the libraries of Phnom Penh and Buddhist universities went up in flames.

"IT WAS A NIGHTMARE"

The soldiers came after Ang Sok and her family in midafternoon. Ang was a pretty girl of 22 with a quick, natural smile. Though her parents were poor farmers in the provincial town of Siem Reap, they helped all their children acquire an education, and Ang was in her third year of pharmacy studies at Phnom Penh University. Like most young people, she had cheered the communist troops entering the city. But when they began shooting and looting, she retreated into the house of her cousin, where three families—31 people, all related—had assembled. Among them were Ang's sister, Anna, 19, and two brothers, Tam, 25, and Kim, 23.

Ang asked the group of soldiers who ordered them out of the city where they should go. "As far away as possible." How long would they have to stay away? "For a period of time."

The three families departed at 5 p.m. "We took money, but the Khmer Rouge made us throw it away," Ang recalls. "We brought some blankets, mosquito nets and cookies for the children.

"On the road, there was a huge crowd of every age and condition, young, old and sick. Some could barely walk. Some dragged others. I remember a double-decker bed being pushed by a family."

The streams of benumbered and bewildered unfortunates trudging out of the city swelled steadily through the afternoon, and that evening several hundred thousand people slept by the streets or roads. The next day, in the name of *Angka*, parties of four to six soldiers systematically went from door to door repeating the initial order, and by midmorning the streets teemed with more hundreds of thousands of people.

A new realization soon spread: each soldier-servant of *Angka Loeu* held death at his or her fingertips. Given the alternative of leaving or being shot, Dost Mohammed, an electronics salesman, departed on the 18th with his wife, six children and mother. Some traffic was still moving, and a pedicab rolled past them. "Don't go on that side of the road!" a soldier shouted. The pedicab did not alter course, so the soldier killed the driver with machine-gun fire.

Another soldier riddled the driver of a Datsun who failed to hear an order to halt. A man, racing to find his family before leaving the city, pedaled his bicycle into a street the communists had closed. "I'm going to pick up my family," he yelled to guards. Without warning, a soldier sprayed him with machine-gun bullets, and he fell to the street, dead.

Near the French embassy, a French schoolteacher observed a communist patrol march through a line of refugees and, by happenstance, part a mother and father from their children. The frantic parents protested and sought to reclaim their children, now on the other side of the communist column. The patrol leaders fired a volley of rifle shots, killing both parents.

Not everybody personally witnessed such summary executions, but virtually everybody saw the consequences of them in the form of corpses rapidly bloating and rotting in the sun. The bodies, sometimes grotesquely contorted in the positions of final agonies, emitted a pervasive stench.

Then the water supply ceased throughout the city. People were reduced to drinking from ponds in parks and gardens, even from stagnant puddles. This brought on dysentery a killer that was to treat the people as mercilessly as Angka itself throughout the great exodus. Deaths during childbirth also were frequent.

Ly Bun Heng, one of Phnom Penh's leading architects, had cut short a stay in Paris and flown back to welcome the communists. He remembers: "On Boulevard Monivong I saw two women giving birth amid a crowd of camping refugees. One was on the sidewalk under a tamarind tree, maybe 15 yards from my house, lying on a piece of cloth and shouting, 'Help! Help me!' It was a pitiful sight."

Ly went to his house, where a contingent of Khmer Rouge were camped. "I have three bedrooms next to my garage,' I said. 'Please let us use one so this lady can have her baby in decent conditions.'

"They got furious. 'Go away. Don't bother us.'

"I went back to the woman. Hordes of curious children tried to get a look, and I chased them away. Hearing the racket, the Khmer Rouge chief came out and yelled, "Gatherings are forbidden! Disperse! Disperse!' But in all the noise the people didn't hear, so the soldier whipped out a pistol and began shooting into the tamarind tree. A shower of leaves fell upon the woman and the newborn baby. It was a nightmare."

A LIFELESS CITY

The boulevards leading to the principal highways out of Phnom Penh were so thronged that it took Thach Bun Rath, an 18-year-old business-school student, three days to walk 2½ miles. "The heat was intense, and people were dying in the streets. I saw the bodies of a number of old people by the wayside, and others in agony. A young woman carrying a dead baby in her arms was crying silently; she did not want to leave the tiny body on the street. Some of the bodies were people who had been shot—not just military, but women and children as well."

Ea Than, a 27-year-old librarian, left his home on the 18th in a family party of about a dozen people. "All of Phnom Penh seemed to be leaving toward the south. We were packed like sardines, and progress was unbelievably slow. It took us three days and three nights to cover the two miles between our house and Monivong Bridge. All along the way the Khmer Rouge were shooting into the air and at houses. 'Go on! Move on!' they shouted."

Because of the crush, Rosa Tevi, a beautiful 14-year-old niece of Ly Bun Heng, the Phnom Penh architect, did not reach the outskirts of the city until April 24. She recalls, "Just as we left Phnom Penh, we passed a dozen or more bodies lying by the roadside, already swollen. I'm sure they had been shot, for they were all crumpled up. In normal times I would have cried, but now no tears would come. Even Mummy, who cries for the smallest little things, was unable to cry. She just kept saying, 'Poor people! Poor people!' "

Phnom Penh had been transformed into

a wasteland occupied only by corpses, stray dogs, pigs, ducks and chickens, and Angka patrols standing guard to ensure that human life did not return. By April 23, the communists had begun to empty the other principal cities of Cambodia. Because the populations were much smaller, troops were apparently able to evacuate most of the provincial cities in less than 24 hours. But the scenes and agonies of Phnom Penh were duplicated on a lesser scale.

On the highways, roads and trails, the 3.5 million people driven from the cities wandered toward an unknown future. They had become a spiritually paralyzed mass of prisoners who understood only that if they did not go on, they swiftly would be "re-educated" by their new master, Angka Loeu.

A young philosophy professor, Phal Oudam, was one who had greeted the soldiers of Angka Loeu as harbingers of peace. "Now, only seeing them walk past, we were all much afraid. We trembled like half-drowned baby mice."

THE ORGANIZATION ON HIGH

Having emptied and vandalized the cities, Angka Loeu proclaimed the birth of a new Democratic Cambodia and proudly declared, "More than 2000 years of Cambodian history have been virtually stamped out." It is difficult to dispute that claim. Within a few days, the Organization on High had advanced faster and further than any other revolutionaries of modern times toward the obliteration of an entire society.

Probably fewer than two dozen persons controlled Angka Loeu at the time, and dominant among them were eight people with remarkably similar backgrounds. All were in their mid-40s; they had studied in France during the 1950s, and all ardently embraced communism. They were educated as economists, lawyers or teachers, and in the context of their values and beliefs, all apparently were principled, honest and courageous.

One of the dominant masters and leading theorists of Angka Loeu was Khieu Samphan, now chief of state in Democratic Cambodia. His life and personality may help to explain some of the Angka Loeu policies and deeds that seem most inexplicable. Khieu was born July 27, 1931. A small, frail child, beset by some respiratory ailment that caused his nose to run perpetually, he often was seriously ill. A classmate of his in both Cambodia and France remembers: "Khieu was a mediocre, quiet student whose most remarkable characteristics were passivity and total lack of aggressiveness. He was victimized by the whole class. We'd kick him, hit him, push him around, and he'd never once fight for himself. He had no defense, not even a verbal one."

He was never interested in girls, and reportedly confided to an old friend that he was impotent. In Paris, he may have sought medical counsel regarding this problem, for he said that the condition had been diagnosed as permanent and incurable. Transient impotence can result from any of several mundane causes, but chronic impotence that is not based on organic factors is considered by many psychiatrists to be the product of profound hostility. Certainly, Khieu Samphan, the meek, tormented young man, had cause to be hostile. In any event, as if to compensate for the void in his life, Khieu flung himself furiously into his books, then into communism.

Back in Cambodia, though penniless, Khieu obtained enough money to found a small biweekly newspaper that published communist propaganda.

In 1962, Prince Norodom Sihanouk, who had been currying favor with the communists, invited 34 prominent radicals to participate in the government. Among them was Khieu Samphan, who had been elected to the National Assembly. However, in a fit of exasperation with the communists, Sihanouk in 1967 publicly singled out Khieu and two other leftist assemblymen as subversives. Anticipating execution, they fled to join communist guerrillas in the jungle.

At the time, these insurgents numbered probably no more than 2000 men: a motley assortment of intellectuals from the cities, bandits and disaffected ethnic minorities. They might have languished indefinitely in the jungles but for a series of fortuitous events.

Secretly, Sihanouk was allowing North Vietnamese and Vietcong to ship quantities of supplies across Cambodia into South Vietnam, and permitting them to establish sanctuaries. But collusion with the Vietnamese, against whom Cambodians harbor an ancient, almost venomous animosity, caused problems at home. While the Prince was visiting France on March 11, 1970, thousands of students and workers sacked the North Vietnamese and Vietcong embassies in Phnom Penh, and on March 18 the parliament voted, 92-0, to depose Sihanouk. The premier, Gen. Lon Nol, continued in power as chief of state. The Prince, who had gone on to Moscow, immediately flew to Peking and, five days after his ouster, joined the communists in a coalition to fight the Lon Nol government.

Thus, the Cambodian insurgents almost overnight achieved a textbook objective of communists everywhere—a coalition that cloaked them with respectability and put at their disposal the resources of others. In the name of the Prince, North Vietnamese troops sprang from their sanctuaries, attacked Lon Nol's forces and began occupying as much of the western and northwestern provinces of Cambodia as they could.

Meanwhile, on April 30, American and South Vietnamese divisions invaded Cambodia in a massive surprise attack on the communist sanctuaries. This 60-day "limited incursion" succeeded militarily. However, it served to push the retreating North Vietnamese and Vietcong even farther into Cambodia, where—once the invaders pulled out—the communists were left in effective control. The insurgents, led by Khieu Samphan, moved into these areas protected by Vietnamese communists, who initially did virtually all the fighting. They were reinforced by the arrival of Cambodian communists, perhaps as many as 6000, whom Hanoi over the years secretly had recruited, trained and kept in reserve in North Vietnam.

On paper, control of the coalition rested with Prince Sihanouk and his ministers in Peking. In reality, it had shifted completely to Khieu Samphan and his cohorts in the jungles.

By early 1973, this tiny coterie of French-educated Cambodian communists had multiplied to at least 35,000 troops, by invoking the magic name of Sihanouk and by mass conscription in the occupied villages. Now they were ready to begin the final military assault.

In retrospect, it is evident that by this date they had also completed the grand design of the new Cambodia they proposed to construct. Kenneth M. Quinn, then a U.S. State Department specialist, in early 1974 made a remarkably prescient analysis of communist actions in the occupied territories—their attack on religion, the destruction of vestiges of the Sihanouk regime, attacks on parental and monastical authority, prohibition of traditional songs and dances, and use of terror.

The communists, Quinn perceived, had committed themselves to "total social revolution," and had determined that anything belonging to the past "was anathema and must be destroyed." To accomplish total revolution, they were attempting "to psychologically reconstruct individual members of society." He wrote: "This process entails stripping away, through terror and other means, the traditional bases, structures and forces which have shaped and guided an individual's life, until he is left as an atomized, isolated unit; and then rebuilding him according to party doctrine by substituting a series of new values, organizations and ethical norms."

The process was not an invention of Angka Loeu. Variants of it can be found in Aristotle's analyses of tyranny, in communist literature, in the history of the Soviet Union, Nazi Germany and other totalitarian states. But Angka Loeu was prepared to apply the process with a distinctive brand of brutality.

SENATOR GEORGE McGOVERN'S MEMO TO THE WHITE HOUSE: THE QUESTION OF LEADERSHIP

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. CONYERS. Mr. Speaker, at any given time a great many issues trouble citizens, beg for official attention, and justify public action. The quality of leadership, whether on the part of a President or of Congress, is shown by the type of agenda that is shaped and whether or not that agenda gives priority to resolving the big issues first. In the fall of 1977 the issue that continues to take precedence over all others—the solution of which is the key to accomplishing most other vital goals—is the failure of current economic policy and of leadership to eliminate the crippling unemployment in the country.

Last Saturday evening, September 17, Senator GEORGE MCGOVERN and President Doug Fraser of the United Auto Workers hosted a dinner in Detroit for Americans for Democratic Action. Senator MCGOVERN presented an exceptionally clear-sighted analysis of the failure of economic policy and of leadership, and offered a set of perspectives and proposals we would do well to consider to correct the present course.

As one of those rare public figures who has consistently demonstrated the courage of his convictions—and been more often right than wrong—I expected an enlightening discussion, and I was not disappointed. I learned a great deal from the Senator's remarks and I want to share them with my colleagues.

His remarks follow:

MEMO TO THE WHITE HOUSE

(By Senator GEORGE MCGOVERN)

"This Budget presents a definite program . . . involving three ends—first, a material reduction in the anticipated deficit for the current fiscal year; second, a relation between receipts and expenditures for fiscal year 1933 which will avoid a further increase in the public debt . . . third, a balanced Budget for 1934."—Herbert Hoover, December 7, 1931.

Last April, in a Washington speech, I suggested that the Carter Administration was trying to balance the budget on the backs of the poor and the jobless; that our great cities were deteriorating while the Administration held back on public investment and the reform of our tax, welfare, health and railway systems. The President replied that it was too early to make a judgment and that I was the

only prominent Democrat who felt that way. (Meanwhile, a considerable number of my Senate and House colleagues were confiding privately that they shared my concerns.) Late in July, Urban League Director Vernon Jordan charged that the Administration was betraying its promises to the residents of our cities—especially the Blacks. Again the President answered that it was too soon, adding the warning that such criticism would "damage the hopes and aspirations of those poor people. . . ."

His reactions echo two of the most disturbing traits of presidential conduct in the last decade. Lyndon Johnson and Richard Nixon used to rebuke critics of their war policy for hurting the chances of a negotiated peace in Vietnam. In March, 1969, two months after Richard Nixon's inauguration, when I called on the new President to carry out his "secret plan" to end the war, this demand was said to be "premature." Yet, fundamental decisions were even then being made which committed the nation to four more years of needless war. And though only eight months of the Carter Administration have passed, the President has already set the priorities that will determine policies for the next four years.

He has placed one goal above all others—balancing the federal budget by 1981. Mr. Carter told the United Auto Workers in May that he had "to make some hard choices." No one can deny that claim. But with the Carter military budget rising, who will pay the cost of balancing the budget? I think it might be both possible and desirable to achieve a balanced budget if it could be accomplished on a foundation of full employment, a prosperous urban and rural economy, basic tax reform and substantially reduced military spending. But the Carter formula for a "balanced budget" seems to fall on 10 million unemployed and underemployed Americans, on the minorities trapped in decaying central cities, and on the majority of Americans who need health insurance, decent housing and efficient transportation.

The President's response to the New York blackout expressed both the spirit and the substance of his policies. It took three days for the White House to speak a compassionate word. New York was not entitled to disaster relief, the Administration announced, even though federal law would have permitted it. The $11 million finally proffered was equal to 1 percent of the damage. The *Daily News* could have headlined the story: "Carter to City—Keep Hurting." I would like to believe that the President wanted to do more; but determined to balance the budget in his own way, he can hardly assist the small shopkeepers of New York who were crippled in the disastrous breakdown of order, let alone finance a genuine program to restore the economy and neighborhoods of all the great cities of the Northeast and the Midwest that gave him his margin of victory last November. The voters there thought they were electing a President who at last would have "a comprehensive urban program," as Mr. Carter promised the Conference of Mayors during the campaign.

The President's method of seeking a balancing budget reflects either obsolete economics or a misreading of present economics conditions—or both. Fifteen years ago in a speech at Yale, President Kennedy repudiated "the old and automatic cliche that budget deficits automatically bring inflation." A balanced budget is no inherently sound or competent; its utility is a function of specific economic conditions. Yet the Carter Administration is acting as though investing in jobs and domestic initiatives will inevitably fuel inflation. Under Mr. Carter, continued unemployment, postponed public investment, and budgetary cutbacks have become the formula for price stability—the exact formula of the Nixon and Ford years.

That formula failed then and it will fail now—either to balance the budget or to balance the scales of economic injustice, or even to stop inflation.

The consumer price index rose 60 percent between 1969 and 1975 and the budget deficits increased even while the brakes were being applied to investment in the cities and throughout our society. Through the last three decades, there has been no relation between the size of the federal deficit and the rate of inflation. In fact, sometimes larger deficits have been followed by lower price increases, greater economic prosperity and greater subsequent federal revenues. President Carter is absolutely right in his concern about inflation. Nothing weighs more heavily on working people, farmers, the poor and the pensioners. The Democratic Party should stand clearly and firmly for the stabilization of prices.

Federal spending for social needs is not the root of the recent inflation. Budget increases add to the demand for goods and services, but the problem of 1977 is not one of excess demand pushing up prices for a scarce supply of commodities. A large portion of our industrial plant lies idle; with 7 percent unemployment nationally and 20 to 40 percent of the work force idled in the central cities. The principal source of inflation now is the economic dominance of oligopolies such as the oil and steel cartels which can raise prices regardless of demand or supply. In 1972, the Federal Trade Commission estimated that monopolistic industries were overcharging consumers by 6 percent of the gross national product. In 1977, that overcharge exceeds $100 billion.

During the campaign, Mr. Carter pledged antitrust action to break up concentrations of economic power, especially in the energy industry. But his energy message kept that pledge merely by a brief indication that he would monitor the situation to see if and when he should do what he had previously said he would. The energy plan itself actually relies on higher prices to achieve conservation, leaving poor and average income Americans with both ends of a bad bargain. They will have to pay more—and given the Administration's assumption that the resulting price increases can and must be offset by budgetary restraint, they will have fewer jobs, poorer housing, less secure neighborhoods, lower farm income and worse health care.

Ironically, tight budgeting in today's economy may actually spur inflation. As federal restraint slows demand, oligopolies engage in "anticipatory pricing." They raise their prices to assure the same return on fewer sales.

Perhaps the President's brand of budget balancing reflects the political risks of other, more effective policies for price stability. First, antitrust action would threaten "business confidence"—another Carter priority and another economic myth that John Kennedy denounced 15 years ago as "a false confidence in the Administration in power issue . . . Business," he pointed out, "had full in 1929" (just before the Stock Market collapsed and the nation entered its worst depression). In early August this year the Dow-Jones Industrial Average fell sharply; the stock market was reflecting the objective reality of massive trade deficits. Mr. Carter's reassurances to business were beside the economic point. Second, after labor's experience with the inequities of the Nixon wage and price controls, the unions have joined management in fiercely resisting federal initiatives to restrain inflation by selective controls. In July the steel industry hiked prices despite a cautious slap on the wrist from the White House; the industry knew, as Mr. Carter has conceded publicly, that his policy is confined to very gentle persuasion, that inside the velvet glove there was only a velvet hand. Can he long ignore the obvious need for standby controls in sections of the economy where prices are not set by market forces but by administrative decisions?

Government doesn't have to stint on public investment as sharply as this Administration has in order to achieve fiscal restraint. Within a prudent budget ceiling, a President can allocate more or less to different purposes. This President, despite his campaign promise to trim Pentagon appropriations 5 to 7 billion dollars (at one point, the promise was a heftier $15 billion), has ratified the priorities of the past. The military received in $11 billion increase in Mr. Carter's first budget, with another raise slated in the budget this fall.

I was delighted when Mr. Carter canceled the B–1 bomber in July; several of us in the Senate had opposed it for 8 long losing years. But the initial euphoria following the President's decision tended to obscure the fine print. The basis of my longtime B–1 opposition was that the $100 billion for the bomber should be shifted to constructive domestic investment; instead the Carter Administration has designated the savings for other weapons projects—and yes, with single-minded consistency, to budget cuts in urgently needed public services. Shortly afterwards, the President also opted to spend more billions for the enhanced radiation bomb. Next the Administration announced that in compensation for the withdrawal of some of our forces from South Korea we would offer several billion dollars worth of extra aid to strengthen the security of the Seoul regime—much more than has been offered to secure New York or St. Louis or Detroit against the dry rot from within.

Potentially worst of all, the SALT talks have been endangered. If they fail and the arms race intensifies, weapons spending will further escalate. The most obvious and terrible danger is a greater risk of that final war. But we don't have to have a nuclear war to have wartime devastation in the South Bronx or along Detroit's burned-out 12th Street. Our cities are being "bombed" now and a SALT breakdown would mean more of it, and for a longer period, as further resources are diverted to the arms game madness.

A human rights policy properly conceived and applied would not threaten detente. But the Administration's policy seems to have no clear criteria. The repressive regimes of Iran and South Korea will get more American arms. Understandably the President's plea that he is supporting human rights for their own sake, not as an anti-Soviet device, falls on skeptical ears in the Kremlin. From Moscow's perspective, the Carter policy looks like a reincarnation of John Foster Dulles' attempt to bring Communism down by encouraging dissent and revolt in eastern Europe. The Administration has edged away from the early, more strident line on human rights American style in the Soviet Union. But in the meantime, SALT has been delayed at best and the Carter rhetoric has revived a cold war psychology among Americans. The resulting bellicosity, the sense that the country must stand rigidly, will not only make it more difficult to ratify a SALT agreement if the President does negotiate one, but may complicate the settlement of other issues, such as the Panama Canal treaty in which the United States will have to yield most of the ground in order to avert sabotage against the canal and the spread of terrorism in Latin America.

Even without military cutbacks and within a balanced budget, there could still be additional revenues for social needs through tax reform. But the Carter tax proposal apparently will not yield substantial additional revenues and may result in an actual

revenue reduction. The President has told his economic advisers that he does not want the federal government to take a higher percentage of the gross national product by closing tax loopholes.

Thus the tight circle around needed public investment closes: budget balancing, military spending and tax cutting leave only a trickle of dollars for the programs the President promised the Urban League. It is not "too early" to decide that there is no secret plan for social justice.

Real tax reform, of course, would offend big business and the wealthy; whereas tax cuts for the comfortable may be politically clever. In any case there is little popular clamor to aid the cities, the poor and the unemployed. To the contrary, many Americans are skeptical of government's capacity to solve social problems.

A President could lead in a different direction. He could educate the country that the Great Society (which did not include welfare reform, tax reform, national health insurance or a coherent urban strategy) fell short of its rhetoric because the Johnson Administration tried less than it talked about—and even that was slashed to pay for Vietnam. Instead Mr. Carter largely rides with the popular tide. His domestic programs are pinched. He favors detente with Cuba and Vietnam—quietly and with qualifications; he has not spoken strongly in public against congressional amendments that might wreck the World Bank for the sake of denying international loans to Vietnam. A majority of Americans oppose medicaid for poor women facing abortions—although they are now both legal and easy for the comfortable. Mr. Carter has endorsed this prevailing injustice, adding that "lots of things are unfair" and that government has no obligation to correct unfairness—especially if "moral" issues are involved. It seemed a far distance from the Jimmy Carter of 1976 who called for a government that was both competent and compassionate.

At his press conference after Vernon Jordan's criticism of the Administration, the President took special exception to the charge that the Administration did not care about the poor. But caring in the abstract will not provide paychecks, rebuild neighborhoods or meet a family's higher medical bills. To say that Mr. Carter is better than the Nixon-Ford era is to praise him—faintly. But amesty, vocalizing human rights, and a proposed measure of tax relief for the middle class don't excuse the lack of "leadership for a change," Jimmy Carter's slogan last year. It sounded as though he meant to change more than the name of the leader, to do more than amend the *status quo* or to reorganize some of the federal agencies.

Last year I urged Democrats to unite behind Jimmy Carter, urging that if we "have disagreements with Governor Carter, let us save them for President Carter." It isn't pleasant to express those disagreements even now. Democrats like Vernon Jordan, the members of the congressional Black Caucus, and the private dissenters in the House and Senate cloakrooms would like to be loyal to a Democratic President. But there is also the higher obligation of the President and the Congress to the dispossessed, the unemployed, the victims of urban danger, of rural insecurity, of social and economic injustice. If we do not help them, who will?

Recently I spent a Saturday with Bronx Borough President Robert Abrams surveying the spreading decay of that once vital urban center where one and a half million Americans are precariously holding on to life. As I traveled through the rubble amidst vast areas of burned-out, crime and drug-ridden abandoned neighborhoods, I thought of an earlier visit to the gleaming Strategic Air Command Center in Omaha. For thirty years SAC and other defense efforts have consumed the major portion of our federal budget as we have stood on 24-hour alert against the Russians. Is it possible that we have so concentrated our resources on the enemy abroad that we are now in danger of being destroyed by the silent enemy within? I pray that the well-intentioned occupants of the White House are pondering that question.

AGAINST NEW CANAL TREATIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony by an opponent to the new Panama Canal Treaties. At the time of his testimony, on September 15, 1977, the media apparently decided it was not of sufficient merit for their coverage, despite the fact that they gave full coverage to statements by advocates of the treaties during committee hearings.

This statement was made by Frank D. Ruggiero, national commander of AMVETS before the International Relations Committee, September 15, 1977:

STATEMENT OF COMMANDER FRANK D. RUGGIERO

Mr. Chairman and Honorable Members of the Committee: AMVETS is grateful for this opportunity to present the views of our organization on such a vital issue as the much publicized and highly controversial Panama Canal Treaties. It is our opinion that few matters in recent history have held the importance or portentousness of this fateful issue.

In concert with our great brother organizations, AMVETS speaks to this matter in the sense that we, the veterans of our Nation's wars, are of a right and necessity deeply concerned with the future of the U.S. defense posture in general and in the Western Hemisphere specifically. As do other concerned Americans, we address ourselves also to those issues which affect international and hemispheric commerce and embrace our national economy. Therefore, the issues involved here are directly germane to our concerns and activities, for what segment of our society has more right to oppose that which we believe threatens the United States' defense and economic position on the "American land mass."

The Administration and some Members of Congress have challenged the term "sovereignty" as that term pertains to the Hay-Bunau Varilla Treaty of 1903. They claim that the United States was never granted sovereignty over the Canal Zone in the legal sense. We do not argue that point. The dictionary definition of the term "sovereignty" is of little importance in this issue as we see it. The fact remains that any reduction in American military forces on the Isthmus of Panama and the loss of United States control over the Canal Zone could be disastrous. The U.S. defense posture, south of the Rio Grande would be virtually non-existent. The Canal, regardless of its inability at present, to accommodate the super-carriers and super-cargo vessels remains as the single most important waterway on the western half of the globe. The Isthmus itself, the Canal notwithstanding, serves as the roadway between all of the Americas and is, in our opinion, the "crossroads" of the hemisphere. This demands American presence and control to ensure that Communistic or otherwise adverse influences will not "choke off" North America from South America. The President's concern over "human rights" can best be served by maintaining our strong position in Panama and preventing the influence of Castro Cuba and other elements from establishing a toehold.

Furthermore, we are not convinced that the people of Panama, and we refer to the common people, not the pseudo-intellectuals, are desirous of having the United States pull out of the Canal Zone. Indeed, we have reason to believe that is the last thing they want to see happen. In this regard we quote from an article which appeared in the Chicago Tribune of March 25th by Mr. Ronald Yates:

"Incredibly and in spite of an almost daily diet of government inspired anti-American rhetoric in the Panamanian press, the poor and the unemployed of this Nation of 1.7 million say they are not ready to run Americans out of Panama but rather are prepared to fight to keep the Canal in United States hands."

And Mr. Yates found this to be a typical remarks of a Panamanian-on-the-street: "'You see, the only people in Panama who have ever given the United States trouble are Communists, rich university students, and parasitic intellectuals who live off the blood and sweat of people like us,' he continued. 'We have nothing against America or the Canal Zone because we know as long as America has control of the Canal, there will be jobs for Panamanians. But as soon as you (America) give it back to Panama, it's going to go all to hell and nobody will have jobs.'"

We fully appreciate that the passage of seven decades would necessitate adjustments in monetary considerations commensurate with today's values. We do not oppose any reasonable arrangements in this connection. Our sole opposition is to any Treaty which would dilute or compromise U.S. control of the Canal Zone now, or in the future.

General Torrijos was reported to have said "in the event that peaceful negotiations for a phasing out of United States control were closed, a campaign of violence against the 15,000 Americans in the Zone would be inevitable." "Two options would be open to me," he continued. "To smash it or to lead it—and I am not going to smash it." If we give in to this "threat," how could we guard against "sabotage" by subversive elements of Panamanian military forces? This prompts other questions:

1. If we (the United States) grant the desired concessions to Panama, what guarantee will we have that Panama will live up to its end of the bargain?

2. If Communistic influences prevail, such as those we suspect exist currently in the Caribbean area, how will we defend the Canal Zone should Panama succumb to these influences?

A strong stand must be made if we are ever to regain the "image" we once projected abroad. Some would say that by granting the Panamanian demands the United States would gain the respect of the "Third World nations." We think not. We believe that the opposite reaction would take place and that we would be looked upon as a "pushover." Respect is given to the strong, the assertive, the fair. Again, we do not oppose a fair financial arrangement, but not in the form of tribute.

We are asked if we were in the position to make the decision: "Would we be willing to go to war in order to retain United States control of the Canal Zone?" We ask, in turn: war with whom? Are we to believe that Panama by herself or all of the Latin American nations collectively would wage war against the United States over this or any other issue? Or, do we believe that the Third World and/or the Communist nations, including Red China and the Soviet Union,

would join forces in such an adventure? We believe the possibilities of such an occurrence are too remote to merit consideration.

It has been further suggested that should the Treaties not be ratified the veterans' organizations and other anti-Treaty groups would share collectively the blame for whatever "reprisals" are taken against American personnel in the Canal Zone. That, in effect, "their blood would be on our hands."

It is, and would be, the responsibility and solemn obligation of the Commander-in-Chief of the U.S. Army, Navy and Air Force to take whatever measures necessary, including armed force, to ensure the defense of the Canal Zone and the safety of its inhabitants.

In conclusion, Mr. Chairman and Members, we offer no alternatives to the current status of the United States on the Isthmus of Panama except in the area of more financial equity, and, indeed, recognize no need to enter into any further negotiations with the Republic of Panama which would attempt to eliminate or phase out United States control thereof.

Again, and finally, Mr. Chairman, we thank the Committee for this opportunity and will attempt to answer any questions the Members may wish to ask at this time or we will be happy to respond in writing, for the record.

STEPHAN HOVNANIAN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. FLORIO. Mr. Speaker, I feel that it is proper to take the time to pay tribute to a man who has served both his fellow Armenians and the United States well. The story of Stephan Kevork Hovnanian is a classic case of the traditional American dream. Through his intelligence, foresight, and just plain hard work, Stephan Hovnanian was an inspiration. His kindness and generosity are legend. His family, his fellow Armenians, truly all of us are better to have known him or known of him. His passing leaves an unfillable void.

To my colleagues, I commend the following article about the legacy of Stephan Kevork Hovnanian:

STEPHAN KEVORK HOVNANIAN: THE PASSING OF A FATHER, A FRIEND, A FOUNDER

(By Irene Voshikian)

The one man responsible for the famous and fascinating Hovnanian family has left them and his legacy behind. Stephan K. Hovnanian of Toms River, N.J., passed away on August 2, 1977, leaving a void that can never be filled again. It is only in his memory, and the great family he fathered, that his great life will have been fulfilled and his loss will be somehow less painful.

Stephan K. Hovnanian was born in Malatya on Christmas Day, 1900. He was one of the few to have survived the 1915 Turkish massacre and settled in Iraq with his two sisters and a brother. During the journey to Iraq, Stephan remembered in agony, the sight of his mother, fallen by the wayside, waving her children on as she remained behind to die. She did not know then that she waved her beloved family onward to a journey of grandeur.

Stephan married Yester Almajian in 1921 and the two were blessed with four sons and two daughters. Prematurely, Yester died in 1949. The family went on growing in prosperity and strength. Stephan then married the former Margaret Antonian and stayed in Baghdad while he sent his children one by one to the promised land called America.

Jirair was the first to arrive in 1948. He was followed by Hirair, Vahak, Dirouhi and Anahid and her family.

His oldest son Kevork, who was involved in their huge family construction business, arrived in America with his family in 1959 following the revolution where all of their properties and business was confiscated by the government. Finally Stephan, who was loved and admired as a great community leader and well respected businessman, arrived in America with his wife and sister in 1960 and was greeted at the airport by a bus-full of children, grandchildren, and relatives, many of whom he had never seen.

In America it was his sons who slowly began to rebuild that great business; and today Hovnanian brothers are known nationwide for the great building empire they have created. Stephan's daughters as well have proved to be outgoing and keen businesswomen. Indeed the great drive was part of their father's legacy. But he taught them much more.

Stephan Hovnanian will also be remembered as a man who instilled love, one against whom no angry word was ever spoken. Through his encouragement, his children have contributed over $100,000 to the Armenian Sisters Academy. They have supported the Academy from its infancy to its success today.

It was only last year that Stephan Hovnanian stood before a massive audience as a benefactor in the "Thank You America" Bicentennial celebration in New York. His speech was one of the most memorable and spontaneous. He had saved up a lifetime for that moment to tell his fellow Armenians how blessed he and his family were to be in America, safe in her embrace, flourishing in her generosity. He must have known it was to be his last hurrah. And the Waldorf Astoria walks resounded in his glory.

In one final deed to his memory, Stephan Hovnanian wrote an autobiography, published in Armenian, that tells the story of the horror of his life during the massacres. He needn't have written a book about the joy and blessings of his life for they speak for themselves for all the world to see.

During his recent trip to Yerevan, Armenia, he donated a rare and valuable collection of stones and coins to the Yerevan Museum and brought back with him some sand from Lake Sevan which he requested to be buried with him as his last wish.

By his family, by the Armenian community, and by the world he will be sorely missed. Not just for all he did, but more for all that he was a wonderful, kind and loving Hairig.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. MAZZOLI. Mr. Speaker, yesterday, during consideration of H.R. 4544, the black lung benefits bill, I was unavoidably detained and missed vote No. 562 on an amendment that sought to delete language providing an offset only against workmen's compensation benefits being received because of black lung disease. Had I been present, I would have voted "no."

COMPREHENSIVE WELFARE REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, September 21, 1977, into the RECORD:

COMPREHENSIVE WELFARE REFORM

President Carter has put forward a sweeping blueprint for rebuilding the nation's welfare system. It would scrap the existing system in favor of an entirely new one. Like previous major proposals to revise the welfare system, it is certain to generate a protracted legislative struggle.

The defects of the present system are clear. It treats people differently who have similar needs. It allows large variances in benefits in different regions of the country. It encourages the break-up of families. It discourages work. Finally, the complexity of the system makes for waste, error, red tape, and fraud.

Welfare reform proposals can be divided into two parts: those proposals that involve piecemeal changes and build upon the programs of the present system, and those that call for comprehensive restructuring of the system. Stating that the current welfare system was too hopeless to be cured by minor modifications, President Carter opted for a complete and clean break with the present welfare system. In choosing among several options for comprehensive reform, he rejected a cash-assistance strategy and chose instead a work-welfare strategy that distinguishes between those who can be expected to work and those who cannot.

The highlights of his plan include:

1. *Job Opportunities:* The federal government would help workers from low-income families to find jobs. When such employment could not be found in the private sector, public service jobs would be created, paying the minimum wage.

2. *Work Benefits and Income Support:* Aid for families with dependent children, supplementary security income, and food stamp programs would be replaced by a new work benefit and income support system. Income support would be provided for those persons who were aged, blind, disabled, or for single parents of children under 14. Under the plan two-parent families, single people, childless couples and single parents with no children under 14 would be expected to work full-time and would be required to accept available work. Cash supplements would be given to those whose incomes were low. Income support would be reduced 50¢ for each dollar of earnings and would be phased out entirely when a family earned $8,400 in outside income.

3. *Earned Income Tax Credit:* The current earned income tax credit would be expanded to provide more tax relief to the working poor. It would apply to private and nonsubsidized public employment. The current 10% credit on earnings up to $4000 a year would be continued and a 5% credit on additional earnings up to about $9,000 for a family of four would be provided.

4. *State and Fiscal Relief:* Each state would be guaranteed at least a 10% reduction in its current welfare expenses in the first year of the program and more fiscal relief would be provided later.

5. *Cost:* The overall cost would be $30.7 billion which is $2.8 billion above the total cost for current welfare programs. In addition, the expanded earned income tax credit program would cost $3.3 billion.

President Carter's proposal has some obvious benefits. It would reduce the number of persons on welfare primarily by increasing the number who are supported by work. It would insure that work was always more beneficial than welfare and that a private job brought in more income than a job created with federal funds. Those who could work would be required to work, but increased benefits would be available to those in need. Consolidation of current programs would provide simplicity for administration and would reduce fraud and waste. The President's proposal would also give substantial financial relief to state and local taxpayers.

There is no perfect solution to welfare problems, of course, and the President's program will be open to attack from many sides. Fiscal conservatives will note that it costs more. Some critics will not like the enlargement of the federal role in welfare, and others will not like further expansion of public employment. Welfare rights advocates will not approve of the requirement that welfare mothers either go to work or lose part of their assistance. Some governors may be disappointed that the federal government is not taking over all welfare expenses and other governors will object to the fact that over half of the fiscal relief for states will go to California and New York.

I have no trouble in principle with the program the President has put forward. I am not prepared to say that I can support all the particulars of the program, but I do approve of its general concepts: a rejection of the present welfare system, an effort to prevent the break-up of families, a requirement that able-bodied people should work, an effort to get people off welfare rolls and on to payrolls, and the division of poor people into two categories: those who are able to work and those who are not. I do have questions about higher costs, about the impact of the President's proposals on present job and health care programs, and about the ultimate chances for success of the President's program as a whole.

FUNDING MUNICIPAL PENSIONS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. McKINNEY. Mr. Speaker, I would like to call my colleagues' attention to two recent articles on the dangers of allowing municipal employee pension funds to go unfunded. These articles, the first by Nobel Prize-winning economist Paul Samuelson, Newsweek, April 4, 1977, and the second by Rebecca Leet, Washington Star, March 20, 1977, are particularly pertinent to the House's consideration of H.R. 6536, the District of Columbia Retirement Reform Act.

H.R. 6536 addresses the problem of "staggering" liabilities in the pension funds of the District's police, firemen, teachers, and judges reported by Ms. Leet by providing for the funding of $2.03 billion in unfunded liabilities built up over the years. Additionally, H.R. 6536 includes prohibitions against the investment of District of Columbia employee pension funds in the type of local investments warned against by Mr. Samuelson.

The two articles follow:

[From Newsweek, Apr. 4, 1977]

FINANCING PENSIONS

(By Paul A. Samuelson)

It is, sadly, an old story that union pension funds are not always handled wisely and honestly. Frank Fitzsimmons of the Teamsters union is being criticized today for many of the same things that his predecessors, Jimmy Hoffa and Dave Beck, had to be criticized for in their time.

It is, sadly, also an old story that many corporate pension funds have not always been handled optimally. Quite aside from outright fraud and breach of faith, companies used to go out of business leaving behind them unhonored commitments to workers who face a tough period of retirement with no pension income other than their bare minimum of social security.

When I hear complaints about the new regulations under ERISA (Employee Retirement Income Security Act), I remember abuses in the old system. And, now that the first hysteria had died down, we no longer hear of many cases where employers have been persuaded to omit pension plans for fear of the red tape involved.

There is no excuse in this age for scandalous mishandling of pension funds. Good and prudent management—they are the same thing in an uncertain world where no one can *guarantee* lucky investment results but where intelligent procedures can be agreed on—are available to organizations that want them. Just last week, for example, several New York City pension funds reformed their portfolio practices by converting a portion of their assets to "index" funds.

OLD WAYS

Pension management was not always so easy. Historically, trade unions came to grief in this area for reasons quite beyond their control.

Craft unions often began in the nineteenth century as beneficial cooperatives. Living workers were assessed to pay burial expenses and minimal survivors' benefits for workers who died or reached retirement. Actuarial funding of this obligation seemed out of the question; yet it did not matter so long as the trade and the union continued to grow. But when the time came that industry did not need new glass blowers, or when new workers deserted the old beneficial associations precisely to avoid their accrued obligations, these voluntary systems broke down in bankruptcy.

When lecturing at a small Roman Catholic college, I found that many of the monastic orders are facing a similar crisis today. A nun who is a Ph.D. in economics told me that her old-age support is in doubt now that her order cannot recruit new members. "Why not go under social security?" I asked naïvely. Her reply was sad: "That would require a million dollars in catch-up; and we just don't have the money."

MODERN PITFALLS

I ought to add that our social-security system is also *an actuarially unfunded* system. It would be disastrous to let people opt to go in and out of the system at will. Fortunately, there is no danger of that. Still, there is no obligation for this generation to have children at the same rate as did previous generations. Therefore, when those born during the baby-boom period of the '50s reach retirement age in the next century, their stipends will be felt as more of a burden by the thinner ranks of the then working population.

Two other perils dog union pension funds. First, there is always someone—an employer, a beleaguered city treasurer, your friendly congressman dreaming of "worker capitalism" or the local bargaining agent concerned that a factory not go out of business—who is advocating that the pension moneys be invested in the workers' own industry, firm or city. Sometimes, it works out fine. Not rarely, this violation of the principle of sound diversification of risk proved costly to older workers. ERISA properly set limits on such practices.

Second, union leaders of goodwill are tempted to put the money entrusted to them into good causes: ghetto housing projects, capital-development banks, environmental protection. The motives are good. But it is hard enough to preserve and enhance capital when you are single-mindedly pursuing that end. It is doubly hard to serve both God and Mammon.

What are the precepts of good management? Practical experience and theoretical economics agree on a few simple fundamentals.

Diversification of ownership of both stocks and bonds, with minimal turnover rates and loan-expense ratios—these are the golden rules.

Anyone can do it. So why not insist that it be done?

[From the Washington Star, Mar. 20, 1977]

DISTRICT OF COLUMBIA FACING STAGGERING PENSION DEBT

(By Rebecca Leet)

Like a raincloud hovering over flooded land, a $2 billion liability is hanging over the heads of District taxpayers. Unless something is done to reduce it in the near future, the impact on the city government could be staggering.

The liability has built up over the years because the city has paid the pensions of its police, firemen, teachers and judges mostly on a pay-as-you-go basis—from general operating revenues of the city rather than from pension funds built up by yearly contributions.

According to Treasury Department projections, by the end of the century, city taxpayers could be paying more each year to support former city workers than to meet the salaries of those teaching their children and protecting their homes.

Financial experts predict that point will be reached in 2012 when city taxpayers, assuming cost-of-living and other pension adjustments in the intervening years, will pay out a half-billion dollars in pensions.

And every year after that the amount would get bigger.

The city has known of this growing problem for years. So has Congress, which approved the pay-as-you-go pension system for police and firemen and approved converting the teachers' funded system to an unfunded system—at the city's request—in 1970. The pension system for the judges is underfunded and must be augmented by city operating revenues.

Lots of other American cities have used the same pay-as-you-go system. And many, like the District, are now moving to deal with their large pension liabilities—in no small part because of New York City's financial woes.

New York City discovered to its regret that investors who buy municipal bonds are reluctant or refuse to buy the bonds of a city which has a huge pension debt. The District is expected in the next few years to begin selling municipal bonds.

Aside from the difficulty of selling bonds, if the District does not begin whittling away at the pension liability it will become an almost impossible financial burden for a city which is watching its tax base shrink yearly.

Beginning tomorrow, the Fiscal and Government Affairs subcommittee of the House District Committee will hold three days of hearings on the pay-as-you-go system. Also to be considered will be a proposal, introduced by Rep. Romano L. Mazzoli, D-Ky., for converting to adequately funded sys-

tems for the three groups, which currently comprise 38 percent of the city work force. The remainder are covered by the federal civil service retirement system.

A proposal similar to Mazzoli's died in the House during the last Congress, in large part because the White House's Office of Management and Budget stated that it did not believe the federal government should be a financial participant in resolving the liability.

Whether the OMB position will change with the new Carter administration is unknown. President Carter asked recently for a task force to review various District financial problems and prepare a comprehensive plan for meeting them. He indicated that he expects a representative of OMB to be on the task force.

Even under Mazzoli's proposal, the District would pay 80 percent of the cost. The federal share would be an estimated $766 million through the year 2012 with about $48 million being appropriated in fiscal year 1978.

A glance at that year 2012, when the District begins to go-it-alone on pensions, provides a graphic picture of why the city needs to transfer to a funded system.

In that year, under the pay-as-you-go system, the city would take $522 million from its operating budget to pay retirees.

But if it begins converting next year to a funded system, it will in the year 2012 take only $465 million out of its operating budget, and that will go into the pension fund.

And, if the city not only begins to convert to a funded system, but also adopts the benefit changes proposed by Mazzoli, in the year 2012 it would take only $381 million out if its operating budget—a savings of $140 million in one year alone.

Few of the benefit changes being proposed by Mazzoli would affect current police, firemen, teachers or judges. The one which would most affect them is a tightening of requirements for disability retirement, a generally acknowledged area of abuse.

Those who retire after 20 years service, not on disability, receive 50 percent of their highest year's salary, and it is taxable. Those who retire on disability receive 66⅔ percent of their highest year's salary and it is taxfree.

Although the rate has improved since, in 1969 the District had a worse disability retirement record than New York. Ninety-nine percent of the firemen retiring and 98 percent of the policemen retiring did so on disability.

And a survey by The Star in 1975 showed that city teachers were retiring on disability at a rate double or triple that of teachers in the suburbs.

The bill would also eliminate the controversial clause which allows an officer to retire on full disability for aggravating—while on duty—an off-duty injury. Currently, officers who aggravate off-duty injuries, like old football injuries, can retire on full disability pay.

Also a board of surgeons would determine the percentage of impairment caused by an injury. After that determination, the retirement board would determine the percentage of disability a retiree should be awarded, based on the impairment, age, the prior position held, the nature of the injury, and factors affecting future capacity to earn a living.

THE IMPORTANCE OF AN INDEPENDENT CENTRAL BANK

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. KELLY. Mr. Speaker, for the benefit of my colleagues I include for the RECORD an address by the Honorable Arthur F. Burns, Chairman of the Federal Reserve Board, at the Jacksonville University commencement exercises on August 13. This address focuses upon the importance of an independent Federal Reserve Bank in conducting our Nation's monetary policies, especially in light of the inflationary pressures in our economy:

THE IMPORTANCE OF AN INDEPENDENT CENTRAL BANK

(By Arthur F. Burns)

It is a pleasure for me to be here on the campus of Jacksonville University to join in honoring this graduating class. I say that most sincerely. Having spent the greater part of my life as a university teacher, I always take satisfaction in the scholastic achievement of young men and women. This is rightfully a proud moment for you, and I very much appreciate being able to share it.

Today, I would like to talk to you about an issue that has been important throughout much of recorded history and which is certain to influence your lives—for better or worse. I refer to government's management of money—a function that in our country is lodged by statute with the Federal Reserve System.

No nation whose history I am familiar with has succeeded in managing the stock of money perfectly. Few, indeed, have even managed it well. And those societies that have been least successful have paid dearly for their ineptitude. Debasement of the currency had a great deal to do with the destruction of the Roman Empire. In our own times, excessive creation of money has released powerful inflationary forces in many countries around the globe. And once a nation's money is debauched, economic stagnation and social and political troubles usually follow.

Each of you in this assemblage, whatever your age, has experienced at first hand some of the consequences of monetary stress. For a dozen years now, our Nation has been subjected to a relentless siege of inflation that has conferred undeserved windfall gains on some and undeserved hardships on others. In terms of social well-being, these capricious pluses and minuses by no means cancel out. Young people wanting to buy a home these days know that the price of decent shelter has soared almost out of reach. Parents across the country know the shocking extent to which tuition costs have ballooned. And woe to anyone who has major medical expenses and is not adequately insured.

Those, moreover, are merely among the most readily visible consequences of inflation. There are other less apparent effects that are even more pernicious. Once a nation's economy has been gripped by inflation, it becomes virtually impossible to maintain an environment in which jobs are plentiful and secure. The economic recession of 1974–75, in the course of which unemployment climbed to a level above 8 million persons, would not have been nearly so severe—and indeed might not have occurred at all—had it not been for the inflationary distortions of the preceding several years.

That is clear, I think, from the sequence of events. Double-digit inflation severely drained many family pocketbooks, reduced consumer confidence, and led to more cautious consumer spending. Businessmen, however, were slow in responding to the weakening of consumer markets. They seem to have been blinded by the dizzying advance of prices and by the effect of that advance on their nominal profits. They thus continued aggressive programs of inventory expansion and capital-goods expansion longer than was prudent, thereby causing economic imbalances to cumulate to major proportions. By the time the weakening of consumer markets was fully recognized by businessmen, the need to scale back had become enormous. The worst recession in a generation ensued.

The only positive aspect of that traumatic episode is that it finally opened the eyes of many economists and public officials to the fact that inflation and unemployment are not alternatives for our economy. The message is now clear that inflation in time causes serious unemployment. Understanding of that relationship is gradually tending, I believe, to make public policies more sensible.

Some of you in this audience may be wondering, I suspect, whether the Federal Reserve may not have something to do with the inflation we have been experiencing. It may fairly be asked: Has not the Federal Reserve been creating too much money? And may not this be one of the causes of our inflation?

The question is, indeed, often put to me, and I welcome it because of the opportunity it affords to clarify the nature of the dilemma our country faces. Neither I nor, I believe, any of my associates would quarrel with the proposition that money creation and inflation are closely linked and that serious inflation could not long proceed without monetary nourishment. We well know—as do many others—that if the Federal Reserve stopped creating new money, or if this activity were slowed drastically, inflation would soon either come to an end or be substantially checked.

Unfortunately, knowing that truth is not as helpful as one might suppose. The catch is that nowadays there are tremendous nonmonetary pressures in our economy that are tending to drive costs and prices higher. This, I should note, applies not only to our country, nor is it anymore just a phenomenon of wars and their aftermath as tended once to be the case. Rather, powerful upward pressures on costs and prices have become worldwide, and they persist tenaciously through peace-time periods as well as wars.

This inflationary bias reflects a wide range of developments that have been evolving over a span of decades in both governmental and private affairs. Foremost among these developments is the commitment of modern governments to full employment, to rapid economic growth, to better housing, improved health, and other dimensions of welfare. These are certainly laudable objectives, but they have too often caused governmental spending to outrun revenues.

Other developments—such as the escalator arrangements that various economic groups have achieved through their efforts to escape the rigors of inflation—have speeded the transmission of inflationary impulses across the economy. What we as a people, along with other nations, have been tending to do is to subject available resources to increasingly intensive demands; but we at the same time have sought to insure that incomes do not get eroded when excessive pressures on resources generate inflation. This amounts, unfortunately, to creating upward pressures on costs and prices, and then arranging to perpetuate them. That is the awesome combination that fighters against inflation have to try to counter.

Theoretically, the Federal Reserve could thwart the nonmonetary pressures that are tending to drive costs and prices higher by providing substantially less monetary growth than would be needed to accommodate these pressures fully. In practice, such a course would be fraught with major difficulty and considerable risk. Every time our government acts to enlarge the flow of benefits to one group or another the assumption is implicit that the means of financing will be available. A similar tacit assumption is embodied in every pricing decision, wage bargain, or escalator arrangement that is made by private parties or government.

The fact that such actions may in combination be wholly incompatible with mod-

erate rates of monetary expansion is seldom considered by those who initiate them. If the Federal Reserve then sought to create a monetary environment that seriously fell short of accommodating the nonmonetary pressures that have become characteristic of our times, severe stresses could be quickly produced in our economy. The inflation rate would probably fall in the process but so, too, would production, jobs, and profits.

The tactics and strategy of the Federal Reserve System—as of any central bank—must be attuned to these realities. With sufficient courage and determination, it is nevertheless within our capacity to affect the inflation rate significantly. We may not, as a practical matter, be able to slow monetary growth drastically within any given short time span, but we do have considerable discretion in accommodating the pressures of the marketplace less than fully.

We are, indeed, often engaged in probing and testing our capacity to do just that. And, while we must be cautious about moving abruptly, my colleagues and I in the Federal Reserve System are firmly committed to a longer-term effort of gradual reduction in the rate of growth of money—something that is reflected in the progression of steps we have been taking to lower permissible growth-ranges for the money supply. Slowly undernourishing inflation and thus weakening it seems the most realistic strategy open to us. We believe that such an effort—especially if Congress becomes less tolerant of budget deficits—will ultimately create a much healthier environment for the determination of wages and prices.

The capacity of the Federal Reserve to maintain a meaningful anti-inflationary posture is made possible by the considerable degree of independence it enjoys within our government. In most countries around the world, central banks are in effect instrumentalities of the executive branch of government—carrying out monetary policy according to the wishes of the head of government or the finance ministry. That is not the case in this country because the Congress across the decades has deliberately sought to insulate the Federal Reserve from the kind of political control that is typical abroad. The reason for this insulation is a very practical one, namely, recognition by the Congress that governments throughout history have had a tendency to engage in activities that outstrip the taxes they are willing or able to collect. That tendency has generally led to currency depreciation, achieved by stratagems ranging from clipping of gold or silver coins in earlier times to excessive printing of paper money or to coercing central banks to expand credit unduly in more modern times.

With a view to insuring that the power of money creation would not be similarly abused in our country, the Congress has given our central bank major scope for the independent exercise of its best judgment as to what monetary policy should be. In fact, Congress has not only protected the Federal Reserve System from the influence of the Executive Branch; it also has seen fit to give the System a good deal of protection from transitory political pressures emanating from Congress itself.

Probably the two most important elements making for Federal Reserve independence are the following: First, the seven members of the Federal Reserve Board serve long and staggered terms and can only be removed for "cause." This arrangement severely limits possibilities for any "packing" of the Board and enables members of the Board to act without special concern about falling out of grace politically. Second, the Federal Reserve System finances its activities with internally generated funds and therefore is not subject to the customary appropriations process. This arrangement is intended to assure that the Congressional "power of the purse" will not be used in an effort to induce System officials to pursue policies that they otherwise might consider poorly suited to the Nation's needs.

The Federal Reserve has thus been able to fashion monetary policy in an impartial and objective manner—free from any sort of partisan or parochial influence. While the long history of the Federal Reserve is not faultless, its policies have consistently been managed by conscientious individuals seeking the Nation's permanent welfare—rather than today's fleeting benefit. Significantly, this country's record in dealing with inflation—albeit woefully insufficient—has been much better generally than the record of countries with weak central banks. Indeed, I would judge it no accident that West Germany and Switzerland, which in recent years also have managed their economy better than most others, happen to have strong and independent monetary authorities like ours.

The degree of independence which Congress has conferred upon the Federal Reserve has been a source of frustration to some government officials since the Federal Reserve Act first became law. Certainly, from the standpoint of the Executive Branch, it would at times—perhaps often—be more convenient to instruct the central bank what to do than to reckon with the System's independence. In the end, however, the country would not be as well served. The Federal Reserve, it needs to be emphasized, seeks earnestly to support or to reinforce governmental policies to the maximum extent permitted by its responsibilities.

When the System's actions depart, as they occasionally have, from the way in which the Executive Branch would wish it to act, that is generally because the System tends to take a longer-range view of the Nation's welfare. Actually, most of the time, monetary and fiscal policies are well coordinated and mutually reinforcing; in other words, they are the product of continuing and fruitful discussions between members of the Administration and Federal Reserve officials.

Not only is dialogue continuous with the Executive Branch of government, but Federal Reserve officials appear frequently before Congressional Committees—something that works, on the one hand, to keep Congress informed as to System activities and which, on the other, affords Senators and Congressmen an effective means of registering approval or disapproval of Federal Reserve policy. In practical terms, the economic policy dialogue that is always in process within our government produces a thorough exploration of options. It may fairly be said, I believe, that the System's independence results in a more thorough discussion and thrashing out of public issues than would otherwise occur.

Despite the salutary influence that the Federal Reserve's independence has had on our Nation's economy, legislative proposals that would place the System under tighter rein keep being introduced in Congress. The proposals that have been put forth over the years cover a wide range—for example, to enlarge the size of the Board, to shorten the terms of its members, to enable the President to remove Board Members at will, to diminish or eliminate the role of Federal Reserve bank directors, and to subject the System to the Congressional appropriations process or to audit by the Government Accounting Office. In recent years, there have also been proposals calling for numerical forecasts of interest rates or other sensitive magnitudes, which if ever undertaken by the Federal Reserve, could unsettle financial markets, besides misleading individuals who lack spohistication in financial matters.

The shortcomings of these individual proposals matter less, however, than what appears to be their common objective, namely, to reduce the Federal Reserve's independence and to restrict its scope for discretionary action. That, I believe, is the real thrust of the diverse efforts to "reform" the Federal Reserve System. It is perhaps of some significance that such proposals not infrequently come from individuals who are basically dissatisfied with what they regard as excessive Federal Reserve concern with battling inflation.

The element of populism in all this is strong—particularly the preoccupation with maintaining low interest rates. It makes no difference how often Federal Reserve officials repeat that the System's continuing objective is the lowest level of interest rates compatible with sound economic conditions. That is not enough. What is desired is assurance that interest rates will be kept permanently down, or at least not be allowed to rise significantly.

The Federal Reserve cannot, of course, give that kind of assurance. In a period of rising demands for funds, a determined effort by the System to keep interest rates down could quickly turn the Federal Reserve into something akin to the engine of inflation that it was during the early Korean War period when the System unwisely tried to keep interest rates down so that the cost of financing the Federal debt would not escalate. Actually, the consequences now would almost certainly be far worse than they were a quarter century ago because the public has become far more sensitive to inflation.

Long-term interest rates, in particular, tend to respond quickly nowadays to changing inflationary expectations. Once the financial community perceived that the Federal Reserve was pumping massive reserves into commercial banks with a view to creating monetary ease, fears of a new wave of inflation would quickly spread. Potential suppliers of long-term funds would then be inclined to demand higher interest rates as protection against the expected higher rate of inflation. Borrowers, on the other hand, would be more eager to acquire additional funds, since they would expect to repay their loans in still cheaper dollars.

In short, heightened inflationary expectations would soon overwhelm markets in today's inflation-conscious environment by actually causing long-term interest rates—which are generally more important to the economy than short-term rates—to rise. The policy of seeking lower interest rates by flooding banks with reserves would thus be frustrated. And I need hardly add that adverse effects on production, employment, and the dollar's purchasing power would follow.

The Federal Reserve System, I assure you, will not be deterred by the drumbeat of dubious propositions concerning money and interest rates. We are determined to continue on a path of further gradual unwinding of the inflationary tendencies that have become so deeply embedded in our economic life. We are determined to continue promoting the expansion of our economy and yet control the supply of money so as to prevent a new wave of inflation. Such a policy, I firmly believe, is the only responsible option open to us.

I hope that I have succeeded today in conveying some sense of the importance to you as individuals and to the Nation generally of the Federal Reserve's role in our government. Fortunately, despite the criticism that is not infrequently voiced by some members of Congress, the Congress as a whole has kept the Federal Reserve's role in a clear perspective and has fully protected the essentials of Federal Reserve independence. That will continue to be the case only if you who are graduating today and other citizens develop a full understanding of what is at stake.

GENOCIDE THE HANOI WAY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. McDONALD. Mr. Speaker, Mr. P. J. Honey, of the University of London, is one of the world's real experts on Vietnamese communism. He recently described how the "people's paradise" is taking shape in South Vietnam. Press reports have already described the new resistance movements that are forming against Communist rule. Professor Honey describes the changes in everyday life of the South Vietnamese. He points out that the "bloodbath" was not as extensive as predicted, but that it is taking place in a more subtle way wherein persons deemed "undesirable" from Hanoi's view languish in "reeducation" camps where life is hard and many die from malnutrition and various illnesses. The most interesting point he makes is that graft, corruption, and all those bad things that supposedly took place only under Diem continue to thrive. The item follows:

[From the London Daily Telegraph, Aug. 30, 1977]

GENOCIDE THE HANOI WAY

(By P. J. Honey)

When on Sept. 2, 1945, the Viet Minh proclaimed the "independence of the Democratic Republic of Vietnam" prominent points in its programme were:

1. Freedom of belief and of assembly
2. Freedom of commerce
3. Every peasant will own his own land

South Vietnam was "liberated" with the entry of Vietnamese Communist troops into Saigon on April 30, 1975. The war was over, with its shelling, air raids, pitched battles, and dreaded daily toll of casualties. That was unreservedly welcomed by every Vietnamese whether northern or southern, but what of the other consequences of Communist victory?

The gaiety, vitality, well stocked shops and markets, seething traffic, irreverent and contentious Press, rebellious students—indeed, all the things that made Saigon Saigon—would inevitably disappear. In the countryside the thriving farms, modern agricultural machinery, motorised transport on road, river, and canal, the newly acquired televisions, radios, and record players, everything which had removed the drudgery from farming during the preceding decade, would disappear too. Drab, colourless collectivised uniformity would be imposed, administered by a stifling State bureaucracy appointed on grounds of political acceptability rather than efficiency, flair, or ability.

Such changes would surely come, and were accepted by the South Vietnamese because of their inevitability; the worry was how they would be introduced. Would agricultural collectivisation be brutally enforced as it had been in the North, with the terror of the people's courts, the false accusations, public executions, and "isolation" of political undesirables until they either committed suicide or died from starvation?

That campaign had driven the northern peasantry into revolt and rocked the Communist regime. Would it be repeated in the South? Businessmen, traders, and manufacturers were scarcely less apprehensive about the possibility of another "census" such as the one which had led people of these occupations in North Vietnam to take their own lives.

COMPLETE TAKEOVER BY THE NORTH

The past two and a half years have proved both better and worse than had been feared—and there were not a few surprises. Vietnam was formally reunified, the restoration of the Hanoi-Saigon railway link receiving top priority so that its completion might symbolise national unity.

The Fourth Congress of the Communst party last December publicly asserted the party's supremacy in all matters, thereby removing any misapprehensions about the secondary role of the National Assembly and the Government, and a new national constitution is being drafted. These things were predictable, but less so the monopoly of power in South Vietnam exercised by the North Vietnamese to the virtual exclusion of all southerners, even those who had loyally fought for or supported the Communist side during the war. The military victory revealed that the historical regional antagonisms in Vietnam are as alive today as they ever were.

Despite their menacing talk of "blood debts," the Communists did not carry out mass executions. Some well known figures were killed immediately, but most of those prominent in South Vietnamese political life, together with military officers, policemen, and civil servants, were imprisoned in euphemistically termed "re-education camps." Life in these is extremely harsh, with the inmates obliged to carry out hard labour, to exist on a near starvation diet, and to confess their past "sins," while living in the most primitive conditions without medical attention or even medicines.

Many died of malnutrition or untreated sickness and others, unable to support such an existence, resorted to suicide. No terminal date was put on detention and almost all those arrested are still being held, but the few who have secured release must report daily to the police on their own activities, whom they met, what was said, and so on, and to "volunteer" for every manual labour appeal the Communist authorities may make under pain of being branded backsliders and returned to the dreaded camps. The most important detainees were moved from South Vietnam to the inhospitable and insalubrious region of the Chinese frontier.

Schools, colleges, and universities were taken over by the Communist authorities, who obliged every teacher to undergo political re-education and satisfy his instructor before he could continue to exercise his profession. Students, too, had to be politically indoctrinated and admission to higher education is now granted on the basis of social class and past political affiliation, not academic achievement.

The new rulers immediately seized the television and radio stations, newspapers, and publishing houses, establishing a State monopoly over the media. This was followed by the mass destruction of books in shops, libraries, or private bookshelves, and the banning by name of all South Vietnamese authors. Hundreds of tons of "approved" books were sent down from the North, all of them published under the Communist regime there, though one of the ironies of Saigon is the sight of northern cadres avidly reading banned books they have illegally saved from destruction and recommending them to their colleagues.

The systematic stripping of South Vietnam, not only of luxury goods but of factory and agricultural machinery, the closure of commercial enterprises, and the cessation of foreign trade caused much unemployment, particularly in the cities. After they had sold the last of their possessions in the flourishing black market, desperate southerners found themselves without jobs, or any means of supporting their families.

Some families committed suicide together, some took to robbery, and some sought to live by their wits. The Communist authorities offered only one let-out, re-settlement in "New Economic Zones." People were offered a few sticks to build a shelter, seed, and subsistence for three or four months, if they would settle in one of the zones and grow their own food. Huge numbers went—over three quarters of a million have already gone from Saigon alone—but the reality is appalling. Conditions proved impossibly difficult; land was often unsuitable or unirrigated; there were no tools; soap, medicines, utensils, and other essentials were unobtainable; corrupt officials pocketed much of the maintenance funds. The mortality rate among the very young and the very old exceeded 90 per cent in some zones, and most of those re-settled cannot do more than keep starvation at bay.

CITIES LEFT TO THE CIVIL SERVANTS

Like Cambodian Khmers Rouges, the Vietnamese Communists believe cities to be evil, so they plan to shift most of the population to agricultural work in the countryside. Only civil servants and industrial workers will be permitted to remain in the cities. Already the dead hand of Communism is visible in Saigon, where every street is deserted by 9 p.m. and the only lights to be seen after that hour are the street lamps. Doubtless the behaviour of the northern Communists since the capture of Saigon has confirmed the regime in this belief.

The scale of official corruption in South Vietnam is vast, and it extends downwards from the highest cadres to the humble bodoi, or foot soldier. Corruption was rife under previous regimes, and rightly criticised, but it was the kind which offered favours or good in return for money.

Today the welter of regulations, decrees, ordinances, and so on, introduced by the Communists is so comprehensive and oppressive that nobody can live without breaking at least some of the regulations. This renders everyone vulnerable, and the northern Communist officials can extort money, goods, or services from the hard pressed southerners merely by offering to turn a blind eye towards some transgression. In addition, almost everything is for sale to those who can raise enough money, exit visas, "illegal" escape by boat, immunity from prosecution for black marketeering, prostitution, drug peddling, and so on, but payment must be in gold or hard currency. Whatever their ideology, today's Communist rulers have proved themselves very hard-headed businessmen in their personal affairs.

Meanwhile Vietnam's proletarian paradise progressively takes shape.

POLITICS AS USUAL

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. ABDNOR. Mr. Speaker, there is an old saying to the effect that the more things change the more they remain the same. Politics is no exception, unfortunately, as we have been seeing in recent weeks. The following editorial from the Sioux Falls Argus Leader pretty well sums up the thoughts of many South Dakotans concerning these happenings.

PRESIDENT CARTER'S STYLE: POLITICS AT THE SAME OLD STAND

Recent events surrounding the Bert Lance affair have left many Americans wondering what happened to the man who was supposed to bring a new version of politics to the White House—Jimmy Carter.

Carter marketed himself during the last election as a down-home, folksy peanut farmer with vision, honesty and integrity. He was a man opposed to political payoffs, a man galled by ward politics, a refreshing breath of fresh air, a man who would surround himself with people of the same stripe.

Carter's conduct during the last several weeks—and that of his White House press secretary Jody Powell—might tell us we have just another batch of hack politicians.

It has come out that Carter made pre-election promises to his cronies, like Budget Director Bert Lance. Carter is reeling at the strong opposition to the Panama Canal Treaty.

As a result, the Carter popularity of the last several weeks has sunk to an all-time low, polls say. His judgment and integrity are in question. And, his holier-than-thou self-righteousnes is impairing the smooth progress of government, critics argue.

Take the Lance incident, for example. Carter continues to support this fast-shuffle banker from Georgia whose personal money management is questionable, at best. Testimony has substantiated that he was going to receive appointment to high political office—before the election.

In most parts of the country, this is called political patronage, pure and simple. Carter told us during the campaign that he was part of a new breed.

Carter is nothing new. It's politics at the same old stand. In fact, Carter is showing a remarkable lack of political savvy in his support of Lance.

The polls will probably show a continuing decline in Carter popularity after the Jody Powell incident last week.

Sen. Charles Percy of Illinois is a member of the Senate Governmental Affairs Committee and a critic of Budget Director Lance.

Powell tipped the Chicago Sun-Times that Percy was improperly using an airplane belonging to Bell & Howell, a firm the Illinois Republican once headed.

It turns out the firm doesn't own an airplane, Powell follows up with a public apology and Percy accepts that apology with a crass statement of his own.

To many people, the Powell-Percy incident was reminiscent of Watergate, dirty tricks and the Nixon thugs.

Looking at the broader perspective, the string of events during the last several weeks is the first real crisis for the Carter administration. So far, there has been bungling at every turn.

Americans are beginning to wonder. They're beginning to ask tougher questions. In some cases, they're becoming disgusted. Some are saying Carter is more style than substance. Some say Carter has allowed his own prejudices to stand in the way of good government. No matter how you slice it, public support is slipping badly.

President Carter has got to do a better job. Otherwise, his credibility to lead this country is compromised.

PANAMA: WHY THE RUSH?

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial:

[From The Ventura County (Calif.) Star-Free Press, Sept. 11, 1977]

PANAMA: WHY THE RUSH?

Some comment about the Panama Canal Treaties seems called for—in fact, some of our readers have insisted that we "take a stand" on this issue, which is a bit surprising. It's not the sort of issue that has much impact on our readers personally, but many of them seem quite concerned.

Our comments aren't likely to satisfy those who are most concerned, which is to say, those who are vigorously opposing the treaties. The treaty supporters seem unable to work up equal enthusiasm.

What concerns us most about the treaties is timing: Why the rush?

President Carter had valid reasons to let the canal negotiations simmer on the stove a bit longer, since he's been in office for less than eight months, and he has a long list of items awaiting his attention that should have taken priority over a canal agreement. After 14 years of negotiations on a treaty that transfers the canal in 22 years, why the rush?

The timing of the signing ceremonies is even harder to accept. The treaties mean nothing unless they are ratified by two-thirds of the U.S. Senate, and the Senate probably won't get around to voting on the canal treaties until January or February—perhaps five months after the show-biz signing of the treaties by President Carter and Panama's chief, Gen. Omar Torrijos. The formal signing is an obvious ploy to pressure the Senate into ratification, making the ceremony both cynical and premature.

One provision of the treaties requires their ratification by the people of Panama in an election there, which raises the inevitable question: Why not an election here?

One reason might be that Gen. Torrijos has more control over election results in Panama than President Carter has over elections here. Another explanation is the terms of the treaty: Instead of being paid for the canal by Panama, the U.S. is, in effect, paying Panama to take the canal, so the voters in Panama have more incentive to approve the treaties than the voters in the U.S. would have.

The canal is no longer militarily important, according to the Joint Chiefs of Staff, who can hardly be classified as "giveaway" artists when it comes to strategic installations. But the treaties call for the U.S. and Panama to guarantee the neutrality of the canal Does that mean we must send troops into Panama and save Gen. Torrijos in a civil war, in order to save the canal? That's how we got into Vietnam.

As these remarks attest, our feelings about the canal treaties are somewhat ambivalent, but since both California senators are already publicly committed to approving the treaties—one of those rare items on which they agree—our opinion seems almost irrelevant in terms of influencing the outcome of the Senate vote, and so do the opinions of Californians whose opposition to the treaties is undiluted by ambivalence.

UNITED STATES SHOULD BOYCOTT THE ARABS TOO

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. KOSTMAYER. Mr. Speaker, I enter into the RECORD today the following letter written to the editor of Today's Spirit in Hatboro, Pa. It was written by a constituent of mine, Mr. Bob Fishback of Huntington Valley, Pa.:

U.S. SHOULD BOYCOTT THE ARABS TOO

If Golda Meir could set up a branch capitol in Cairo, you wouldn't go cold this winter, pay more for gas than you ever dreamed possible, go to work in the dark or worse yet, find your job affected.

We feel the results of the oil shortage while the politicians are bombarding the media with tales of economies in their travel plans. The central issue is that some Arab nations and their Soviet friends are blackmailing us.

Curiously it was American pressure that has twice saved Egypt (1956 and 1973) from being conquered by the Israeli army.

Boycotts are a two-way street. The United States should immediately cut off all supplies to those oil-rich countries trying to shut us out. We should end economic ties with any other country that helps the Arab nations who boycott us.

This might, for example, mean ending our Russian wheat deal and all other trade with the USSR.

Such a strong step would require Congress and the White House to find some courage and put the American public ahead of the Arabs. It requires a higher priority for the people of this great country than for the big oil companies who aid the Arab cause.

Arab shieks may be rich, but they can't eat sand and drink oil.—Bob Fishback, Huntington Valley.

ROSENTHAL RESPONDS TO RHODES ABOUT FEDERAL BANKING AGENCY AUDIT ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. ROSENTHAL. Mr. Speaker, the Federal Banking Agency Audit Act (H.R. 2176) provides the GAO with authority to audit the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the nonmonetary policy activities of the Federal Reserve System. House Minority Leader JOHN RHODES recently asked me to describe the activities of the Federal Reserve which would be subject to review by the GAO under this legislation. Because my office has received a large number of similar inquiries, I would like to make my response to Minority Leader RHODES available to other Members of the House:

SEPTEMBER 20, 1977.

Hon. JOHN J. RHODES,
Minority Leader, House of Representatives, Capitol Building, Washington, D.C.

DEAR MR. RHODES: During debate on the Federal Banking Agency Audit Act (H.R. 2176) on September 4, 1977, you asked me to provide a general statement about what Federal Reserve operations the GAO would be authorized to audit under this legislation. I am pleased to provide the information contained in this letter and trust it will prove useful in your consideration of the Federal Banking Agency Audit Act.

At the outset I want to assure you that my intent and the intent of the Committee on Government Operations is that this legislation shall in no way diminish or impair the independent conduct of monetary policy by the Federal Reserve. It is for this reason

that monetary policymaking entities such as the Federal Open Market Committee and the Federal Advisory Council of the Federal Reserve are not included in this legislation.

The monetary policy exclusion in H.R. 2176 now reads:

"An audit made under paragraph (1)(a) shall not include transactions conducted on behalf of foreign central banks and foreign governments, transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account, or monetary policy deliberations and decisions or the economic effects of such decisions."

This language strictly prohibits the GAO from investigating or commenting in any way on the conduct of monetary policy. It is my belief there is no way the GAO can influence monetary policy under this legislation, and no basis for the concern that the independence of the Federal Reserve will be impaired.

From the standpoint of national economic well-being, monetary policy is clearly the most important of all Federal Reserve activities. However, it accounts for less than 5 percent of Federal Reserve expenditures. As shown in the table attached to this letter, which was derived from Table 10 on page 466 of the "Annual Report of the Board of Governors of the Federal Reserve System, 1976," the district banks of the Federal Reserve System spent $658 million on all their operations in 1976. District bank expenses relating to monetary policy deliberations, decisions, and implementation are included in the "Other Operations" expense category. Even under the assumption that the entire $29.9 million spent for "Other Operations" relates to monetary policy and therefore is not subject to GAO review, there remains $628 million or 95 percent of total expenses unrelated to monetary policy and subject to GAO audit.

A review of the expenditures categories presented in the attached table indicate the GAO would be responsible for reviewing the effectiveness and propriety of Federal Reserve check clearing, currency handling, fiscal agency, bank supervision, and general administrative activities.

If the monetary policy exclusion were broadened to prohibit GAO review of Federal Reserve check clearing and other payments mechanism operations, as some Members would like, the GAO would be barred from auditing important activities which accounted for expenditures amounting to $297.4 million in 1976 and which have nothing to do with monetary policy. For example, the GAO would be barred from evaluating the economy and efficiency of Federal Reserve payments mechanism operations. Moreover, it would be prevented from assisting Congress in making the very tough decisions that must be made in the coming years about private versus public ownership of electronic funds transfer systems.

In general terms, the Federal Banking Agency Audit Act would allow the GAO to audit all the operations of the Federal bank regulatory agencies with the exception of the monetary policy activities of the Federal Reserve. This general audit authority is consistent with the authority granted the GAO in its audits of the Federal Home Loan Bank Board and the National Credit Union Administration and is needed to facilitate congressional oversight of these important agencies.

Sincerely,

BENJAMIN S. ROSENTHAL,
Chairman.

Attachment.

Principal operations of Federal Reserve Banks, including total expenses, average number of employees, and ratio of total expense for each operation to total expenses—1976

[Expenses and number of employees in thousands; ratios in percent]

Operation	
Check clearing operations: [1]	
Total expense	$135,209
Ratio to total expenses	20.5
Average number of employees	6.3
Currency function:	
Total expense	$114,036
Ratio to total expenses	17.3
Average number of employees	2.3
Fiscal agency operations:	
Total expense	$48,158
Ratio to total expenses	7.3
Average number of employees	2.3
Bank supervision:	
Total expense	$23,322
Ratio to total expenses	3.5
Average number of employees	1.1
Other operations: [2]	
Total expense	$29,919
Ratio to total expenses	4.6
Average number of employees	1.4
General administration and support:	
Total expense	$307,806
Ratio to total expenses	46.8
Average number of employees	11.1
Accounting	$23,298
Auditing	$8,050
Bank administration	$38,519
Data processing [3]	$39,814
Occupancy	$64,292
Personnel	$27,219
Protection	$24,501
Other	$82,113
Total expenses [4]	$658,450
Less reimbursements	$51,502
Net expenses	$606,948

[1] Includes automated clearing house and noncash collections.

[2] Includes automated clearinghouse and statistics, foreign operations, and lending and credit.

[3] Does not include that part of data processing distributed to other areas.

[4] Does not include $41.8 million assessment for expenditures of the Board of Governors of the Federal Reserve System.

STATE DEPARTMENT NEGOTIATED PANAMA CANAL TREATIES IN FLAGRANT VIOLATION OF NATIONAL ENVIRONMENTAL POLICY ACT

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. SNYDER. Mr. Speaker, during the August recess I issued a press release concerning an exchange of correspondence I had with the State Department which proved that that agency, in its negotiations with Panama for a new canal treaty, utterly failed to take into consideration the requirements of the National Environmental Policy Act and its own guidelines on conforming with the law.

Then, on August 17, in open hearings of the Committee on Merchant Marine and Fisheries, I put several questions on this matter to the State Department treaty negotiators.

Their answers gave further proof of the flagrant violation of NEPA by that department. Some 10 days after that hearing the Department of State attempted to cover itself and issued a draft environmental impact statement of sorts. I was glad to see my colleague from California, Mr. LEGGETT, speak on that draft EIS on September 15, and point out that the department "flunks" NEPA.

Mr. Speaker, I urge every Member of both Houses of Congress to familiarize himself or herself with this utter contempt for the law of the land by the State Department, and to take the position that nothing further should be done regarding the proposed treaties until this whole matter is given a full airing.

The following is the text of the abovementioned August 17 hearings insofar as my questions and the State Department's answers are concerned.

Following that is my August 9 press release, which includes the full texts of the correspondence I had with the Department of State:

Mr. SNYDER. Mr. Ambassador, please spell out for us precisely how you used the State Department finding as to the environmental aspect and impact of the new treaty proposals as a guide to your decisions as you proceeded throughout the negotiations with Panama?

Ambassador LINOWITZ. Mr. Wyrough may be able to answer that.

Mr. WYROUGH. We have a review of the environmental impact of the proposed treaty underway. It is not yet completed. I think we can say that among the articles we expect to have in the treaty will be one concerning the environment which both countries move to protect.

Mr. SNYDER. Sir, if the environmental study is underway, how did it serve as guidelines for the treaty as required by the National Environmental Policy Act of 1969?

Mr. WYROUGH. I can only say to you that we have a review of the environmental questions underway. That review is not yet completed.

Mr. SNYDER. So you didn't follow your own State Department guidelines or the Environmental Policy Act of 1969? Is that inappropriate at this time?

Mr. WYROUGH. I have no further comment other than what I have made.

PRESS RELEASE

Congressman Gene Snyder today made public an exchange of correspondence which he declared, "demonstrates that the Department of State has utterly failed to comply with the National Environmental Policy Act (42 USC 4321), the directives of the White House Council on Environmental Quality, and, in fact, with the Department's own 'Procedures for Compliance with Federal Environmental Statutes' in the decision-making process of negotiating a new treaty with Panama by which it proposes to divest the U.S. taxpayers of their $7 billion investment in territory and installations in the Canal Zone and Panama Canal."

The Kentucky Republican wrote the State Department on June 9 requesting any environmental impact statement on the treaty; data concerning its investigation to determine if the treaty would significantly affect the human environment; requests of other agencies or non-governmental groups for information helpful in evaluating the environmental impact of the proposed action and any answers received; and details of all other actions taken in the matter.

Snyder said, "I am quite certain that until my letter stirred up the Department, no one

there had made any serious effort even to get started in complying with the law although they were going like gangbusters to get Ambassador Sol Linowitz's signature on a new treaty before his temporary six-month appointment as co-negotiator runs out this Wednesday. Before my June 9 letter, I had ascertained that neither the Council on Environmental Quality nor any other government agency had received any State Department environmental statement on the treaty, or requests for comment or information on the matter.

"I didn't even get a reply until July 26th, after my Panama Canal Subcommittee staff prodded State Department personnel working on the negotiations. That answer, dated July 22nd, states, 'The Department has not as yet made a determination as to whether the action in question will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, and consequently we have not yet prepared an Environmental Impact Statement.'

"This clearly shows that the Department, since it has not yet assessed the treaty's environmental implications, has utterly failed to consider those implications in the decision-making process.

"Both the White House and the State Department for months have furnished the media with official and leaked stories about the rapidity with which the negotiations are coming to a successful close. But it seems they overlooked completely, until I called attention to it, the requirements to take those implications into consideration in the treaty negotiations process itself.

"The September 24, 1976, memorandum of the President's Council on Environmental Quality quotes House Report 92-316 of the House Committee on Merchant Marine and Fisheries:

" 'The history of the act (NEPA) makes it quite clear that the global effects of environmental decisions are inevitably a part of the decision-making process and must be considered in that context."

"The CEQ memo concludes:

" 'Accordingly, agency officials responsible for analyzing the potential environmental effects of proposed actions should fully assess the potential impacts outside the United States as well as those within it; if any of these potential impacts are likely to be significant, an impact statement should be prepared."

"The State Department's own guidelines on Environmental Impact Statements published in the Federal Register September 19, 1972, states:

" 'The process of deciding on the need for an environmental impact statement on any Department action will itself require an analysis of the effects that the proposed action will have on the human environment. The inquiry into environmental effects is mandated, independent of the requirement to file environmental impact statements, by section 102(2)(B) of the act, which requires procedures to insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic, technical and other considerations. CEQ Guideline No. 1 underscores this by recognizing that the purpose of section 102 (2)(C) is to build into the agency decision-making process an appropriate and careful consideration of the environmental aspects of proposed actions, and to assist agencies in implementing not only the letter, but the spirt, of the act."

" 'Even where it is clear from the start that a proposed action will not require an environmental impact statement, the consideration of possible environmental effects will still be made, and, as required by the act, the results of that investigation will be an integral part of the decisionmaking process.' ".

"I wonder if the State Department has even contacted environmentalist groups on the Isthmus of Panama. That there will be environmental fallout from this treaty is certain. Panama says it wants to expand Panama City into the present Canal Zone. Does that mean industry, light, medium or heavy, will expand there? How about installations to fuel the new industries? Will industry bring erosion to the banks of the Canal?

"The Zone presently, because of its cleanliness, is known to be a barrier to the spread northward of hoof and mouth disease, always a worry to cattle ranchers in Mexico and the U.S. Will this remain true under Panamanian jurisdiction?

"What about considerations for a new sea level canal in this treaty? On April 14, 1975, Friends of the Earth and nine other national and international environmentalist groups vigorously protested any consideration of such a canal in treaty talks, citing 'grave potential dangers that could result from the project as a consequence of the intermixture of now-separate biological systems in the tropical Caribbean Sea and Pacific Ocean. There is no intermixing at present because marine organisms cannot survive in the existing lock-type Panama Canal, which contains only freshwater.' "

"What will happen to the Madden Forest Preserve and the abundant mammal and plant life of the Zone?

"What will be the fate of the myriad species of birds in the Zone, in the vicinity of the Gamboa Pipeline Road and elsewhere?

"The White House and the State Department seem to have made treaty decisions with little or no heed to environmental questions the law requires our policymakers and negotiators to be cognizant of."

DEPARTMENT OF STATE,
Washington, D.C., July 22, 1977.

Hon. GENE SNYDER,
House of Representatives.

DEAR MR. SNYDER: This is in response to your letter of June 9 to the Office of Environmental Affairs requesting certain information with respect to any environmental assessment being prepared in connection with the proposed treaty between the United States and the Republic of Panama.

The Department has not as yet made a determination as to whether the action in question will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, and consequently we have not yet prepared an Environmental Impact Statement. We are, however, preparing an assessment of the environmental implications of a treaty and when it becomes available, we would be happy to provide you with a copy.

We appreciate your interest and concern in this matter.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C., June 9, 1977.

OFFICE OF ENVIRONMENTAL AFFAIRS,
Department of State,
Washington, D.C.

GENTLEMEN: In accordance with the Department of State's Public Notice 364 published in the Federal Register, September 19, 1972. "Environmental Impact Statements," this is to request

1. Any draft environmental impact statement issued by the Department in connection with the proposed treaty with Panama.

2. A copy of the Department memorandum indicating the extent of the investigation conducted to determine if the proposed treaty will be a "major Federal action significantly affecting the quality of the human environment".

3. Copies of all requests made by the Department to other government agencies or non-governmental groups for information helpful in supplementing the Department's own work in evaluating the environmental impact of the proposed action, and copies of any response received.

4. Details of all other actions taken by the Department in regard to this matter.

I would appreciate an immediate response to this request.

Sincerely,

GENE SNYDER,
Ranking Minority Member,
Panama Canal Subcommittee.

IS THE ELECTORAL SYSTEM REALLY OBSOLETE?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. McDONALD. Mr. Speaker, every so often in the past few years, serious drives have been mounted to abolish our electoral system. The main argument appears to be that it is archaic and that only by a popular vote can we determine who really should be President. Very seldom is the constitutional history and justification presented for keeping the electoral system. It is really one of the unique features of the checks and balances our forefathers worked into the Constitution to prevent one section or several States from dominating the rest of the United States just by superior numbers of residents. Human Events printed an excellent commentary on this issue in its April 16, 1977 issue. The author was Dr. John Grady, a man who stands foursquare for the Constitution and whom I consider to be that kind of fearless American we need more of. The article follows:

IS THE ELECTORAL SYSTEM REALLY OBSOLETE?

(By John Grady)

(NOTE.—John Grady, M.D., is a family physician, former U.S. Navy jet pilot and three-term mayor of Belle Glade, Fla. He has been widely recognized for his efforts on behalf of constitutional government and Americanist principles. In 1976 Dr. Grady received more than one million votes in Florida as the Republican candidate for the U.S. Senate.)

Every four years, following the presidential election, there is a cry to "reform" our election process by replacing the electoral system.

This enlightened advice is dispensed nationwide through the editorial writers of the major, liberal, daily newspapers, spiced here and there with a supporting opinion by some erudite "constitutional expert" from the department of political science at one of our tax-supported, liberal centers of higher learning.

The principal argument for constitutional change is that the popular vote, nationwide, should be the sole criteria for the election of the President and Vice President. That argument against the electoral system is

pertinent and valid—if we have a national federal government, rather than a government of the United States; if we have now become a democracy, rather than a Republic; and if a national majority should always rule, regardless of reason, justice, law or constitutional assurances of liberty and individual rights.

If, however, we are a Union, one nation of many states, a true Republic and not a democracy (which our founding fathers historically recognized as a self-destroying form of government), then we should look again at the electoral system—what it means and what it assures.

The Constitution, Article II, Section 1, provides that "Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the Congress . . ." (and shall meet in their respective states and cast that state's vote for President and Vice President).

However, to evaluate the electoral system we must understand the Constitution by which it was established. So let us briefly lay a simple foundation of fact.

The framers of the Constitution were wise men, and that great document is filled with wisdom. It required and assured that the Congress would be so composed that it would provide total representation—for the people and for the states.

The United States Senate is composed of two senators from each state, thus giving equal representation for all states. Remember, the states formed and created the federal government, not the reverse.

The Constitution, Article I, Section 3, originally provided for senators to be elected by the legislatures of each state. Thus while the senators helped comprise the federal government, they really represented their respective states, not only the people but the people's state government. Moreover, their smaller number and their longer term of office (six years) was designed to establish stability and continuity.

The 17th Amendment, adopted in 1913, changed the method of election of senators to direct election by the citizens rather than by those citizens' representatives in the state legislature. Nevertheless, in the rationale of our founding fathers, the Senate, composed of an equal number of senators (two) from each state, was to represent the states.

By contrast, the House of Representatives was designed to represent the people, directly and proportionately. The House is composed of 435 congressmen elected every two years by the citizens of their respective states. That shorter term of office means closer contact and more prompt response of the congressman to the citizen. What is perhaps even more important, when the citizens want to replace their representative, they can do it quickly. This permits the people to maintain continuing control over the federal government by control of Congress.

The total number of representatives in the United States Congress (435) always remains constant, but the number allocated to each state is directly determined by the population of each state in relation to all other states of the Union. Again, this assures equal and proportional representation for both the states and the citizens thereof.

Moreover, the number of congressional seats is reapportioned among the states every 10 years, based on their current population, to be sure that equal representation continues.

Why have we reviewed our Constitution and the makeup of Congress in this essay on the electoral system and the method of electing our Presidents? Simple, the electoral vote for each state equals the combined number of its senators and its representatives, which have been equally, proportionately, fairly and constitutionally determined. And that electoral vote is cast for the candidate who by popular vote carried that state.

The electoral system demands in effect that the presidential and vice presidential candidates heed the people of every state, independently and regardless of size, because of the desirability of carrying each respective state and receiving its electoral vote. This political reality also aids in maintaining recognition of each state and a responsibility to it by this nation's highest office holders. Most importantly, the electoral system maintains the concept of a President of the United States rather than a National or Federal President.

Americans should note that in newspaper articles and television commentaries which question or condemn the electoral system, the liberal critic uses subtle ridicule to imply that the system (or the Constitution) is archaic, out of date, and somehow unfair.

These media moguls never explain what the electoral system is. They rarely take the time to inform—they're too busy molding public opinion! This is supported by a recent study which showed that only a small percentage of citizens, even regular voters, understood how the electoral vote is determined.

And herein lies the reason for many of our nation's problems today—a willingness to change, to modify our government, to forsake tried and true policies and traditions, to abandon successful economic systems and military concepts—without understanding our proven system and the errors and tragedies of history, or even knowing what the change will bring us.

But getting back to the matter of who goes to the White House, is it possible to elect a President by electoral vote even though he gets less than a majority of the total national vote? Yes, it's not only possible, but it has happened many times before, even though many of our political leaders don't seem to realize it.

Recent news reports, such as a UPI article of Jan. 28, 1977, have carried comments by both Republican and Democratic members of the U.S. Senate warning of the potential disaster of the electoral system. Sen. Birch Bayh (D.-Ind.), chief sponsor of a constitutional amendment to replace the electoral system with the popular vote, was quoted as saying, "Only by sheer luck last November did we survive another round of electoral roulette."

Sen. Hubert Humphrey (D.-Minn.), referring to his own 1968 presidential race, said that had a President been elected who was not the popular vote winner, "The loss of public confidence would have been staggering." Apparently Sen. Humphrey does not wish to admit that the loss of confidence in our government, and especially the Congress, is at an all-time low, and it isn't because of the electoral system, but rather the failure of congressmen to uphold their oath of office and protect and defend the Constitution of the United States.

Senate Minority Leader Howard Baker (R.-Tenn.), appearing before Sen. Bayh's subcommittee, also advocated a constitutional amendment. He stressed that if a President were elected who did not have a popular majority, it would somehow destroy our system of government.

One would expect unfounded statements from such Senate radicals as Bayh and Humphrey. But Sen. Baker and other more stable congressmen were apparently seeking favor with the liberal media rather than expressing any historical accuracy.

Since the popular vote was first recorded (in the election of 1824), 15 of 39 elections have given us Presidents who were elected with less than 50% of the popular vote: In 1824, Andrew Jackson received 42.2% of the vote, John Quincy Adams 31.9%, Henry Clay 13% and William Crawford 12.9%. None received a majority of the electoral vote, and the House of Representatives chose Adams as President.

The 14 others elected without majority popular vote were: James Polk (1844) 49.6%, Zachary Taylor (1848) 47.3%, James Buchanan (1856) 45.6%, Abraham Lincoln (1860) 39.8%, Rutherford Hayes (1876) 47.9%, James Garfield (1880) 48.3%, Grover Cleveland (1884) 48.5%, Benjamin Harrison (1838) 47.8%, Grover Cleveland (1892) 46.0%, Woodrow Wilson (1912) 41.8%, Woodrow Wilson (1916) 49.3%, Harry Truman (1948) 49.5%, John Kennedy (1960) 49.7%, and Richard Nixon (1968) 43.4%.

Several others barely made it over the 50% mark: Martin Van Buren (1836) 50.9%, Franklin Pierce (1852) 50.8%, and Jimmy Carter (1976) 50.1%.

In every case since the first Adams-Jackson contest, the electoral vote was important because it clearly identified the winning candidate and prevented the necessity of a run-off or the selection of the President by the House of Representatives.

In 1912 Wilson received 41.8% of the vote against 27.4% for Theodore Roosevelt and 23.1% for William Howard Taft. However, Wilson carried 435 electoral votes to 88 for Roosevelt and eight for Taft.

In 1948 Truman carried only 49.5% of the popular vote but 303 electoral votes. Thomas E. Dewey received 45.1% and 189 electoral votes. Strom Thurmond (States Rights Democrat) received 2.4% and 39 electoral votes, and Henry Wallace received 2.38% but no electoral votes.

In 1960 the vote was extremely close. John Kennedy polled 34,221,349 votes or 49.71% to Richard Nixon's 34,108,647 votes or 49.55%. A slate of "unpledged" (Democratic) electors carried Mississippi, and cast that state's eight electoral votes for Sen. Harry Byrd. They were joined by six unpledged (Democratic) electors from Alabama and one (Republican) elector from Oklahoma who also voted for Byrd—a total of 15. Nevertheless, Kennedy's electoral vote margin of 303 to Nixon's 219 was substantial.

Another aspect of the election process which has been distorted is the effect of independent or third-party candidates in presidential elections. Contrary to popular belief, minority party and independent candidates have been the rule throughout most of America's political history—not the exception.

As previously noted, 15 of the last 39 Presidents were elected with less than a majority of the popular vote. Consider the confusion and the cost of a presidential run-off nationwide if the popular majority vote concept were instituted. Moreover, what of the effect of newly occurring national and international events in the intervening time?

The following example demonstrates the stabilizing effect of the electoral system in such a multi-candidate election: In 1968 Nixon received 31,785,148 votes or 43.42%; Humphrey 31,274,503 votes or 42.72%; and George Wallace, running on the American Independent party, polled 9,901,151 or 13.53%. That year 16 other presidential candidates tallied 242,568 votes. Yet Nixon received 301 electoral votes to Humphrey's 191 and Wallace's 46. Again the electoral system saved much confusion and turmoil!

Finally, to be totally objective, let us examine a most remote possibility. If there were only two major party candidates, could it be possible for the candidate with the higher popular vote to lose the election? Yes, it could happen, and it might even be the best protection against mobocracy—the demands of mob rule which destroyed the Greek and Roman Republics when they permitted

themselves, as we are permitting ourselves today, to move from a republic to a democracy.

Let us give one clear hypothetical example:

Suppose that the incumbent, President Blue, is running for re-election against the challenger, Governor Pink. And let us assume that President Blue is a fiscal conservative and constitutionalist, and he knows that it should be unlawful, and certainly is immoral, to confiscate by government force the money honestly earned by responsible citizens, and give that money to those who are irresponsible, wasteful, dishonest and unwise.

During the election year, President Blue would not help a liberal Congress take billions of dollars of earnings from people in 49 states and give it to New York City, which was in dire financial difficulty. When the liberal Congress passed the bill anyway, President Blue courageously vetoed it.

By way of explanation, let us suppose that New York City provided high municipal salaries, lucrative city pensions, free college education for New Yorkers and generous welfare handouts (some welfare recipients could collect the equivalent of a $19,000 per year income).

In addition to its tax-and-spend philosophy and poor fiscal management, New York got into more trouble by lying about its debts and assets so that the city could keep selling municipal bonds while it borrowed itself into imminent bankruptcy.

Now comes the November election—a close one in which President Blue carries 49 states by relatively small margins of 10,000 to 100,000 votes, resulting in a 1.5-million-vote lead in those 49 states. (This is not at all an impossibility, as already demonstrated by the close vote in many past elections.)

But in New York, the voters who are seething because of the denial of their demands for free money, bread and circuses gives a two-million-vote margin for Governor Pink, who promises them a raid on the federal treasury. Result: Governor Pink receives a half-million-vote margin nationwide.

In this case, the electoral system would give President Blue a wide margin of victory for carrying 49 of 50 states; but the national popular vote method would elect Governor Pink—denying 49 states and the people therein their choice.

Moreover, this would destroy forever the concept of a union of states because one large state, or even one big city, or pehaps even one racial or ethnic group voting on a single issue for personal gain, could force their will upon the nation as a whole.

Back to those "naughty" electors again. Much is made of the possibility or "fact" that they do the "electing" rather than the people.

Admittedly, in 200 years of American history, on rare occasions an elector has cast a ballot for someone other than the candidate chosen by the vote of his or her respective state.

Unfortunately, the best of individuals turns maverick occasionally, and "goofballs" are sometimes placed in a position of public trust. However, the record of sanity and responsibility among electors is nearly perfect, and far better than that of other elected officials and such paragons of wisdom and virtue as "progressive" federal judges, university professors, and newspaper analysts who question the electoral system.

Furthermore, as I read the Constitution, I see nothing that says electors shall vote for *their* choice rather than cast ballots on behalf of the *state's* choice, but I readily admit that the wording in the Constitution is not sufficiently clear on that point.

As a result, some states have easily and wisely taken proper action to clarify that point by requiring, by state law, that electors cast their ballots according to the vote of their state. That simple solution could and should be effected in every state. Or, perhaps, the United States Congress could so legislate (without a constitutional amendment) expressing the "sense of the Congress" as to this particular point.

We could even go so far as to eliminate the electors who cast their state's electoral vote and make the recording of each state's electoral vote automatic. In this day of instant communication, the electors themselves are not really necessary.

Finally, as a practical matter, if the pressures in Congress are sufficiently strong that alteration of the present electoral system is inevitable, we should strive to influence and limit the changes to those which do the least violence to the system.

This could be achieved by the proposed "district plan" whereby each candidate receives one electoral vote for each congressional district he carries and two votes for each state he carries. This would retain the essential concept of the electoral system while quieting those who complain that a candidate can receive all of a state's electoral vote by winning that state by only one (popular) vote.

But any such changes would require a constitutional amendment, and any tampering with the Constitution in this regard could result in the replacement of the entire electoral system by a popular vote method. A prolonged, intense, public-opinion-molding effort by the liberal media could well bring that about.

There is great danger in making constitutional amendments too common. I might add, there is even a greater danger of a Constitutional Convention, which might result in the destruction of that great document—the greatest instrument of government in all history, and the greatest single factor in the preservation of this nation and the freedom of her people.

We have shown in this brief analysis that the electoral system is not only constitutional, it is reasonable and fair. It is another check and balance which our practical and intelligent founding fathers provided for our protection. We should keep it!

The attack on the electoral system is simply a small part of the current, general assault on the Constitution, American tradition, states' rights, and the Republic.

I certainly agree with Abraham Lincoln, who stands with Washington as one of our two greatest Presidents, and who incidentally was elected with only 39.8% of the vote but with 180 electoral votes to a combined total of 123 for his three opponents.

Lincoln said, "I am a firm believer in the people. If given the truth, they can be depended upon to meet any national crisis."

In this crucial time when our continued freedom and prosperity are in jeopardy, and our republican form of government is on trial, the people of the United States must be told the truth. In addition, all of us, young and old, must be given a better foundation in the principles which made America the greatest of all nations.

As a beginning, we should not only understand the electoral system and our own form of government; we would do well to comprehend why certain elements of the media and other "political pundits" are so intense in their attack on it.

THE PANAMA CANAL TREATY

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. DAN DANIEL. Mr. Speaker, no issue in all the years I have been in public office has generated as much interest among the citizens of this country as the transfer of the Panama Canal and the Canal Zone to the Republic of Panama. While specific figures vary, every poll that I have seen indicates disapproval by American citizens of this transfer.

The American Legion held its 59th convention in Denver, Colo., August 23–25. That group passed a resolution in opposition to the treaties of transfer and I believe it is important that the Members of this body be aware of the resolution which passed setting forth the reasons for this opposition.

Additionally, the Honorable Meldrim Thomson, Jr., Governor of the State of New Hampshire, made a statement at that same convention. I, therefore, insert both the resolution and statement in the RECORD:

59TH NATIONAL CONVENTION OF THE AMERICAN LEGION—RESOLUTION NO. 445

Committee: Foreign Relations.

Subject: Panama Canal.

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owner; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, that we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignity, ownership and control; (b) cedes U.S. territory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, that The American Legion rejects the actions of the Executive agencies of the federal government in attempting to by-pass the Constitution of the United States, and we fully support Article IV, Sec-

tion 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. Territory.

Dawn Or Dusk

(By Gov. Meldrim Thomson, Jr.*)

Commander Rodgers, Honorable Delegates to the 59th Annual convention of the American Legion:

Twenty-nine hundred miles southeast of us the sun rose this morning, as it does every day, on the American Canal in Panama before it was seen on the east coast of Florida.

Did its rising portend the dawn of a new era for this land or ours?

Or will the setting of the sun beyond the Rockies a few hours hence herald the fading dusk of an America once great and strong.

There is no group of citizens to whom I would rather entrust the answers to those two questions than to you, the working guardians of American liberty!

Behind us lies the rich history of two successful centuries of growth from a fledgling costal nation of 13 states to a great world power.

As we cross history's threshold into our third century, what kind of a future do we and our posterity face?

Will we stand brave and firm for freedom in the real world of spreading communism or crawl into historical obscurity before the hysterical howling of world opinion?

The answer to these vital questions will be found in our response to the demand of the communist affiliated dictator, General Omar Torrijos, that we give to the Republic of Panama the Canal, its locks and appurtenances—plus a yet unspecified indemnity for 62 years of use of that which by treaty we have held "to the entire exclusion of Panama" and "in perpetuity."

Under the misguided leadership of a craven Department of State we have seen the sacrifices made and the victories won in World War II frittered away in the Treaties of Teheran, Yalta, Potsdam and Helsinki.

Since the war to end all wars we have witnessed the lights of liberty extinguised in 31 countries around the world.

We have fought two ghastly no-win wars with hands and feet tethered while leaving more than a hundred thousand young Americans in the silent death of battle.

In recent years we have raised and supported new communist nations.

At the same time we have coerced and harassed old and loyal allies such as the Republic of China, Israel, Rhodesia and South Africa.

Now comes Omar Torrijos and his National Guard strongarm goons and says to Americans, either give us back that which we ceded to you forever or we shall take it from you by guerilla warfare and with the support of Latin America and third world opinion.

Thus, today the testing issue of America's future has become the Canal.

Will America continue her flight from greatness or will we, in the spirit of our Founding Fathers, draw the line of reckoning at the Big Ditch and there stand firm against the rising tide of communism in the Caribbean.

Have we become so spineless, so cowardly that we jump when any tiny foreign power, bent upon blackmail, snaps its corrupt fingers?

If so, then former Undersecretary of State, George Ball, was right when in 1962 at the dedication ceremony on the opening of the $20 million Thatcher Ferry Bridge that crosses the Canal at Balboa, he said in effect: "Here, in this place destiny changes horses."

If Ball's analogy to destiny changing horses proves correct, and the proposed Treaty becomes a reality, then I suggest that America will have dismounted from a Seattle Slew and climbed atop a Panama burro!

EMOTIONAL ISSUE

We are told by our give-away boys in the State Department that the Canal issue has become needlessly entwined with emotionalism.

Treaty negotiator Sol Linowitz was recently quoted as saying that the opposition to the treaty is one of emotionalism; it is one of great ignorance on the part of the American public.

He sounds much like the group of American businessmen with whom I talked in Panama City early last June.

About the many government instigated instances of Panamanian youth tearing down and desecrating Old Glory these money-hungry merchants said, "They are just kids blowing off steam!"

Back in 1964 when the Panamanian public descrations of the American Flag began our public officials should have issued an order similar to the one given by John Dix, the New Hampshire born custom official in New Orleans at the outbreak of our Civil War.

Dix said: "If any one attempts to haul down the American Flag, shoot him on the spot."

The Canal has been a proud part of our heritage for three-quarters of a century.

It is important to our economy; vital to our national security!

It has been as much a part of the national sovereignty as Florida, Alaska, and all of the central and western states acquired under the Louisiana and Gadsden purchases.

Recently Henry Kissinger, the architect of American compromise, accommodation and surrender, described the proposed give-away of the Canal as a response not only to wisdom of statesmanship but also of "patriotism".

Imagine it! Patriotic to relinquish the Canal!

Why that is like winning the Nobel Prize for Peace by the simple technique of surrendering all in Vietnam.

Contrast the unAmerican words of former Secretary of State Kissinger with that truly great American statesman Charles Evans Hughes who in 1923, in speaking on America's right to the Canal, suggested that it was unthinkable that any American President or Secretary of State would ever surrender any part of the rights which the United States had acquired under the Treaty of 1903".

Yes, Linowitz is right.

This brazen attempt to rip out a vital organ of our body politic is as fraught with emotion to any true patriot as the defilement of the American Flag.

Let us pray that the emotion that prompted John Paul Jones defiantly to cry from his sinking ship, "I have not yet begun to fight;" or that grand sentiment that inspired Stephen Decatur to toast, "Our country: in her intercourse with foreign nations may she always be right; but our country right or wrong", lead our United States Senators to respond to the Treaty proponents with the same eloquent defiance to the Germans' demand for surrender used by General Anthony C. McAuliffe at the Battle of the Bulge—"NUTS!"

WHY A TREATY

Why the great haste to cede our sovereignty in the Canal Zone to the Republic of Panama?

While we are told by Ambassadors Bunker and Linowitz that world public opinion demands a new treaty, and while we have been incessantly proded by Panama government instigated riots, I believe that the true reason is that our government is once again surrendering to the relentless pressure of world communism.

By the 1903 Hay-Bunau Varilla Treaty the Canal and its Zone were given to America "in perpetuity".

We presided as mid-wife at the birth of Panama. Part of the consideration for this service was the Canal Treaty. Now the grown child would renege on its birth service but shows no inclination to return as part of Colombia.

Article III of the 1903 Treaty declares that "the Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

That language clearly cedes sovereignty over the Canal Zone to the United States forever.

In 1907 our United States Supreme Court confirmed our title to the Canal Zone in the case of Wilson v. Shaw.

"It is hypocritical", the court said, "to contend that the title of the United States is imperfect, and that the territory described (the Canal Zone) does not belong to this nation because of the omission of some of the technical terms used in ordinary conveyances of real estate".

It was not until 1974 that United States officials, led by Kissinger in his eight point outline for a treaty, agreed upon with foreign minister Juan Tack, suggested that the United States did not have sovereignty over the Canal Zone.

Linowitz contends by the magic of legal sophistry that the United States in the 1936 Treaty relinquished the sovereignty created by the 1903 Treaty by the use of the words "territory of the United States under the jurisdiction of Panama".

A careful reading of the entire treaty will convince any reasonable mind that this language was an inaccurate description of our sovereignty and, more important, was never intended to change it.

A FEW BASIC FACTS

For almost four centuries men schemed and dreamed of building a canal to carry ships between the Atlantic and Pacific Oceans rather than follow the 7,000 mile route around Cape Horn.

As long ago as 1524 Charles V of Spain ordered the first survey for a proposed canal route over the Isthmus of Panama.

One of the first of many American presidents to become involved with the Canal was Ulysses S. Grant who sent a naval expedition to survey the Isthmus at Darien in 1870.

The French for two decades under Ferdinand De Lesseps, the builder of the Suez Canal, tried to construct a sea level canal across the Isthmus.

When they failed Theodore Roosevelt led Americans in an engineering and managerial feat that was the moon shot of the beginning of the century.

To Panama we paid $10 million to obtain the Canal in perpetuity.

From the bankrupt French Canal Company we bought its rights and properties to the Canal for $40 million.

And to Colombia we paid $25 million in 1922, to the disgust of Teddy Roosevelt.

We built a 51 mile Canal with three sets of locks at each end capable of raising and lowering ships 85 feet.

The chamber of each lock is 110 feet wide

*Luncheon talk given before delegates of the 59th American Legion Convention, Denver, Colo. August 24, 1977

and 1,000 feet long. The gates to each lock are 7 feet thick and 10 stories high.

Each filling of a lock requires 52 million gallons of water and takes 8 minutes to fill by gravity.

In the building of the Canal enough earth was moved to fill a ditch 10 feet deep and 50 feet wide, stretching from New York to Los Angeles.

After an expenditure of almost $400 million, the building of the world's largest earth dam and the creation of the largest man made lake, the Canal was ready to transit the first ship, the S.S. Ancon, on August 15, 1914.

Since building the Canal the United States has spent about $7 billion in improvements, maintenance and investments.

Under our sovereign operation of the Canal it has always been available to all nations except our enemies in times of war.

The tolls have been reasonable and uniform. Only twice in 63 years of operation have we raised the tolls; once in 1973 from 90 cents per ton to $1.08 and again in 1975 from $1.08 to $1.29.

Since we have lost $27 million on the operation of the Canal from 1973 through 1976, we must wonder what would happen to the tolls if Torrijos were to gain control of the Canal and raise them drastically to produce much needed revenue.

Two months ago I partially transited the Canal on a Danish container vessel carrying a payload of 13,000 tons. She was 690 feet long and 100 feet wide. Her toll charge was $26,000. She saved a quarter of a million dollars by avoiding the extra 10 day journey around the Horn.

WE NEED THE CANAL

The Canal is important to America's economic growth and vital to our national security.

Last year about 13,000 ships transited the Canal. This is almost twice the number that used the Canal the year after World War II.

The Canal can handle 96 percent of the World's shipping.

The Canal has been of great economic value to the consumers of America. For example, 42 percent of all cargo going through the Canal originates in the United States and 21 percent of all cargoes are destined for our nation.

Approximately 30 percent of all physical commodities transiting the Canal are energy related, such as petroleum, coal and coke.

Next month it is anticipated that three large tankers a day will transit the Canal bearing Alaskan oil from Prudhoe Bay to the energy hungry eastern seaboard.

Dare we leave such an important transportation link in our economy to a dictatorial communist leaning regime that has so poorly managed its internal affairs that it now must pay 40% of its annual budget to debt services?

We do not have a two-ocean navy. Former Secretary of the Navy William Middendorf and other naval experts have made that clear. Hence, the Canal is vital to our national security for the movement of naval vessels from one ocean to the other.

The Canal can handle 98 percent of all of our naval vessels, including our nuclear submarines. Only our large aircraft carriers cannot make the transit.

After the Singlaub incident we all know that the President keeps a headlock on the military. Active commissioned officers will either say what the administration desires or remain silent.

Therefore, we must look to our retired officers for the most accurate and honest appraisal of the importance of the Canal to our security.

Earlier this month four retired admirals each of whom had served as chief of naval operations; namely Arleigh Burke, Thomas H. Moorer, Robert B. Carney, and George W. Anderson wrote to the President as follows:

"We note that the present Panamanian Government has close ties with the present Cuban Government which in turn is closely tied to the Soviet Union.

"Loss of the Panama Canal which would be a serious setback in war would contribute to the encirclement of the United States by hostile naval forces and threaten our ability to survive."

I don't know about you, but I find the testimony of those four respected Admirals far more convincing on the question of the importance of the Canal to America's future safety than anything that might be said by Linowitz, Kissinger, Ford, or Carter.

INTERNATIONAL EXPLOITERS

Ambassadors Linowitz and Bunker say that the American public is ignorant about the Panama Canal issue.

They are right if they are speaking about the details of the proposed treaty. These two representatives of our international clique of bankers have refused to answer many vital questions put to them by our Congressmen.

But if they are speaking about the importance of the Canal to the United States they are dead wrong.

The great majority of Americans know that we paid more for the real estate of the Zone than we did for either Florida or Alaska and that America alone built the Canal and has successfully operated it as a great international waterway ever since.

Yes, and these hard working, taxpaying Americans recognize the value of the Canal to the future of our nation.

I tell you, sir, that regardless of the secretive and cowardly plans of the give-away boys, the average American means to hang on to the Panama Canal forever!

And if that means driving from the seats of power those public officials who would place the welfare of the Republic of Panama above that of the United States, then we shall be about that great task at once.

For practical purposes Panama is bankrupt.

When Torrijos grabbed the reins of power in 1968 without benefit of an election the public debt was $160 million. Now it stands at $1.4 billion.

The current budget for Panama is $607 million. Estimated revenues of $346 million fall far short of the budget. Current debt service is $221 million.

The list of banking creditors of the Panama Government reads like an International Bankers Who's Who.

It includes the Narody Bank of Moscow, the London Branch of the Chase Manhattan Bank, Citicorp International Bank of London, International American Development Bank, Continental Bank of Chicago, the Export Import Bank of Washington, the Marine Midland Bank, and the Agency for International Development.

All of these banks are vitally interested in the success of the proposed treaty. They see the American taxpayer as eventually picking up the tab for bailing Torrijos out of hock.

But I believe the taxpayers of this land are plain sick and tired of dancing to the tune fiddled by our errant diplomats.

I was told recently by American businessmen in Panama that they had a good dictatorship and that a new treaty would help their business.

Some of these businessmen were like representatives of those American multinational corporations who supplied Russia with the technology and machinery that made it possible to supply Vietnam with the materials of war used against our American soldiers.

Too often, and with disastrous results for this country, businessmen follow the dollar instead of the flag!

Some of the businessmen with whom I talked suggested that their American companies would lobby for a new treaty with Panama.

I hope that if they do the American taxpayers and working people of this nation will mount the biggest boycott in the history of America against all companies that place price above principle.

CONCLUSION

Gentlemen, we have accommodated ourselves to or retreated before communism since World War II. Now communism is on our southern doorstep.

The time is here when we must forget about world opinion, which incidentally has never contributed one depreciated dime to the tax bill of America.

Let us think America for Americans.

Let us stop worrying about corrupt, blackmailing dictatorships throughout the world, and instead charge our public officials with the welfare of our own citizens.

Whether we admit it or not communism is at war with what remains of the free world.

In his great address before the Congress General Douglas MacArthur recognized this elementary fact of modern life.

He warned, "The Communist threat is a global one. You cannot appease or otherwise surrender to communism in Asia without simultaneously undermining our efforts to halt its advance in Europe".

If we mean to remain a land of the free then we must immediately regain the initiative from the communist forces of the world.

We can do this best by making our stand at the Big Ditch.

Instead of a public debate over a proposed give away treaty of the canal we should demand of our public officials an immediate severance of diplomatic relations with the Republic of Panama as long as it tolerates the flagrant disregard of human rights by its dictatorial regime.

Gentleman, I respectfully challenge you to join me in sending to the Halls of Congress an emphatic and reverberative "NO" to the give-away of our Panama Canal.

WE ARE BEING BLACKMAILED BY A TWO-BIT DICTATOR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial.

[From The Camarillo, Calif., Daily News, Sept. 9, 1977]

PAY TO BE KICKED?

President Carter is out to sell the Panama Canal treaty and we must say that so far his Madison Avenue approach is interesting.

He has enlisted one former President, a number of top Republicans and the military. The pitch is the canal is no longer really necessary because warships and oil tankers are too big to use it.

Also, the top military men tell us that this country can't defend the canal against unfriendly revolutionaries in Panama. The Marxist-leaning dictator is also siding with Carter, promising civil disorders threaten-

ing the canal if the Senate fails to ratify the treaty.

The Senate should reject the proposed treaty if for no other reason than it makes us look like a bunch of suckers. First, we are being blackmailed by a two-bit dictator. Second, why should we pay $50 or $60 million a year until the year 2000 for the privilege of being kicked out?

NATIONAL ENERGY POLICY

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. ABDNOR. Mr. Speaker, there seems to be a growing recognition among the citizens of this country that our Nation has an energy problem, but there is a good deal of confusion and uncertainty in their perception of the gravity of the situation. The leadership of the Federal Government in proposing policies and solutions has only compounded the existing perplexity.

One of my constitutents, Mr. Chuck Shroyer of Mitchell, has recently written me of his concern. He forwarded his thoughts together with the comments of a leader of a segment of America's free enterprise system which is playing a large role in the development of South Dakota. As legislative leaders, we should pay close heed to the thoughts of both:

MEMO

AUGUST 29, 1977.

To: Congressman James Abdnor.
From: Chuck Shroyer.
Subject: National Energy Policy.

Attached is an outstanding energy position statement by Mr. Ray Herzog, chairman of the board and chief executive officer of the 3M Company. You should know that 3M did not ask me to write this. In fact, I've been struggling with putting my thoughts down and I have frankly found the task to be a tough one (which I'm sure is no surprise to you). In effect, the 3M energy message "galvanized" me into action. So—here are my thoughts which I hope you will consider.

President Carter is correct when he says we are in an energy war and it truly deserves our attention now. Unfortunately, President Carter's suggested course of action places far too much emphasis on taxes being increased to discourage consumption (and certainly consumers) and far too little on increasing production. I'm not any more anxious to pay higher fuel bills than aynone else is—but when faced with a choice of higher taxes or higher fuel bills because of gradual decontrol of energy price restrictions, I'll choose the latter.

My reasons for this are simple:

First. Our government has been tampering with supply and demand on petroleum and natural gas for far too long already. By attempting ot look like heroes to consumers, they've discouraged producers from going after all but the easiest to reach energy sources. In effect they have indirectly and certainly inadvertently created the very crisis they are now attempting to solve.

Second. I realize that there is distrust of big business in the Congress generally and specifically in response to the energy industries. Since I don't work for the energy industry, I feel free to speak in a candid and unbiased manner. It appears to me that most of the fears are unwarranted, and quite possibly a natural backlash from earlier years when energy industries enjoyed too much favor (tax wise—concessions) and were too cozy with Congress.

Now, with reformist fervor, many in Congress are attacking—in effect a 180° turn from earlier times.

So, if our government simply can't bring themselves to trust the energy industry with decontrol, then I suggest a middle ground of gradual decontrol and legislation guaranteeing all profits generated from that action are reinvested in energy production.

Third. The alternative to gradual decontrol and guaranteed profit reinvestment in energy production is an elaborate series of taxes designed to raise the price of U.S. energy equal to the world price, as far as the consumer is concerned.

But what's the cost of all this new government regulation and intervention? Do you really think this extra money collected will be redistributed to the consumers fairly? And most important, how do all these "discourage the consumer from using" taxes help the petroleum and natural gas industries increase their production to the needed levels?

To conclude, I'm for conservation, and to some extent, higher fuel prices will force greater conservation. But, I would far rather pay the higher bills directly to the energy industries than as taxes to the government. I'm convinced that the U.S. energy industry, with far greater inherent efficiency than the U.S. Government, will make much better use of the dollars, and in the end, will provide lower energy prices for the consumers than if we go the Carter proposed tax route.

Thanks.

CHUCK SHROYER.

COMMENTS

To Our Stockholders:

There is a growing, though still inadequate, recognition in this country of a serious energy problem. There may be different levels of concern, depending on where people live, what they do for a living or how well they can cope with higher energy prices. But there is recognition and, it seems a consensus which closely parallels our own position on the energy problem.

We believe action must be taken to conserve energy in industry, home and transportation and, just as importantly, to develop new oil and natural gas reserves. We also favor greater use of coal, development of safe, efficient nuclear power, tax credits for capital projects which conserve energy and continuing research on new technologies which are unfamiliar today but which almost certainly will become commonplace in the years ahead.

I believe President Carter did the country a service in his energy message by calling attention to the energy problem in such a way that it can no longer be denied or wished away. And certainly, I agree with the objectives of his energy program. But in my view, he erred in making what seems to be the characteristic assumption of our times: that government should dictate the solution to our problems.

The energy problem defies simple explanation. It is enormously complicated. But I think it can be said with justification that government, far from being the only institution which can solve our energy problem, is in many ways the cause of it. And I think it is fair for us to consider, as we debate the merits of the President's program and Congressional alternatives, the extent to which government should control the use of energy in this country.

Government control of natural gas prices, is cited frequently by critics of government intervention, and with good reason. It is a classic example of what happens when market forces are disrupted.

Natural gas is a clean, efficient and desirable fuel whose price has been kept artificially low for almost 25 years. As a result, the demand for natural gas has grown enormously while production has declined. On the one hand, natural gas has been too cheap in comparison with other fuels, and on the other, it has not been profitable enough to encourage producers to go out and look for more.

This is, in fact, the crux of our energy problem. We have simply been using more than we should, while at the same time, discouraging the production necessary to meet future demand.

Regulating natural gas prices may have seemed like a service to the public at the time it was begun, and it may seem so to many consumers today. But I see no public service in shortages, in an abrupt transition to higher prices or in a growing dependence on other countries for an increasing proportion of our energy needs.

I mention this not because I am looking for an opportunity to criticize government, but because I think it bears on the dialogue which is now taking place about this country's energy policy, the form it should take and the degree to which government should control this country's response to the energy problem.

Distasteful as it may be, I think we should recognize that higher energy prices are inevitable. 3M does, and it seems clear that the government does, too.

The President, for example, proposed a tax on oil which would raise its cost to consumers and thus help promote conservation. The revenues generated by this and other taxes presumably would be used to fund a variety of government programs, or perhaps even be rebated to consumers. I see little merit in this approach. Not only does it have questionable value as a means of encouraging conservation, but it does nothing to stimulate the development of new energy supplies.

3M favors, instead, the gradual decontrol of oil and natural gas prices which would allow them, over time, to rise to their free market levels, generating profits which would be reinvested in the exploration and development of new energy reserves.

Nobody likes higher prices. But I think we have to ask ourselves which is preferable: artificially low prices which promote waste and inefficiency and lead to shortages and an increasing dependence on foreign supplies, or the higher prics which encourage domestic production and help insure the energy supplies we need.

3M, obviously, has little to gain over the short term from gradual decontrol of oil and gas prices. Our costs, for the fuel we use and the energy used in the production of the things we buy, would certainly rise. We favor gradual decontrol because we expect to be in business for a long time to come and because our future depends on adequate energy supplies.

Please note that I am not suggesting government does not have a responsibility and a role to play in the solution of the energy problem. Government will and must be involved. What I am saying is that the United States should rely primarily on market forces, because I believe they will prove more effective.

I am optimistic about our ability to solve our energy problem, and I believe industry, in its own interests and those of the country, will do at least its share and, very likely, more. But if we are to be successful in our attack on the problem, we also will need understanding and support from government and the public.

One of the most difficult problems facing industry is the lack of coordination among government agencies and departments as well as the multitude of government regula-

tions which stifle progress by creating uncertainty.

Let me give you an example. 3M favors the conversion to coal from oil and natural gas in industrial facilities, and so does the federal government. We also are prepared, if necessary, to make substantial investments in coal-fired boilers and the pollution-control equipment they would require to meet environmental regulations. But current pollution regulations require that we employ the "best available" technology, not just now but in the future. This means we could make multi-million-dollar investments in systems which could suddenly become obsolete and require still another substantial investment. Would you make the investment?

I also believe business deserves to be treated fairly. We are major users of energy, and we want to make major contributions to the solution of the energy problem. But I do not believe we should be asked to bear a disproportionate share of the burden. There is an unfortunate tendency in this context to view the interests of business and consumers as different when they really are complementary. There is a tendency to say, "Let business bear the cost," an attitude which is not only inequitable but which ultimately is self-defeating, since business, if it is to survive, must pass these added costs along to consumers.

What we need today from my point of view is sensible, consistent and coordinated policies and regulations on the part of governmental units; a reasonable balance between government and the free market; and a recognition that the national interest should prevail over narrow personal or corporate interests or political expediency. If we can approach the energy problem in this way, then I have no doubt we will be equal to the challenge.

R. H. HERZOG,
Chairman of the Board
and Chief Executive Officer.

CARTER'S SELECTIVE HUMAN RIGHTS POLICY

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. BAUMAN. Mr. Speaker, the Carter administration continues its warfare against the American people's right to know. An administration which claims to have a high regard for human rights has determined to close down the Rhodesian Information Office here in Washington on the basis of a United Nations resolution which is not worth the U.S.-paid-for paper on which it is written.

Columnist William F. Buckley, Jr., has pointed up the inherent hypocrisy of the Carter stand on this issue and I share his views with my colleagues:

BLOOD-WAR AGAINST RHODESIA

(By William F. Buckley, Jr.)

Those who believe that the United Nations is entirely irrelevant are correct up to a point. It is true that moral declarations issuing from the U.N. and bearing its moral pedigree are suspect, in the same sense that professions of virtue from political candidates are suspect. Mostly, U.N. declarations are filed away until the time comes to celebrate the anniversary of their passage, at which point they are trotted out. But every now and then the U.N. does very concrete harm, Rhodesia being a case in point.

Lord Home, when he returned to Her Majesty's government as secretary for foreign affairs in 1973, admitted that if the Conservative party had been in power, it would not have gone along when sanctions were voted by the Security Council against Rhodesia in 1965. Why? Because, he said, he does not believe in sanctions except in extreme circumstances, and the Rhodesian situation was not an extreme circumstance. At the time, Dean Acheson fiercely denounced the imposition of sanctions as clearly in violation of the U.N. Charter inasmuch as the government of Rhodesia, having declared its independence of Great Britain, was on its own as regards internal arrangements.

Just the same, Great Britain, in a fit of pique that would have great resonance, asked for, and got, sanctions.

Years went by and last spring, seeking to tighten these sanctions, the Security Council voted to freeze all Rhodesian funds everywhere in the world (except when used to pay pensions). The idea was to immobilize the two or three Rhodesian Information Offices extant. Why? One would think that the mighty powers represented at the Security Council would have very little to fear from the tiny office in Washington whose annual budget is $200,000 and whose principal executive, Kenneth Towsey, has duly registered as an agent of a foreign power. What harm can he do?

Certainly Mr. Towsey has been in a position to be useful to newspapermen who desire information about Rhodesia that isn't easy to get elsewhere. Needless to say, the Rhodesian Information Office makes the case for the Rhodesian government—that is its job. But in doing so it handles a great deal of material—stories, statistics, photographs, field accounts, notices of negotiations—which do not come in automatically from the world's press.

When terrorists from Zambia descend on a Christian mission in Rhodesia and murder a few nuns, that information is not likely to reach us courtesy of the Zambian Information Service, and one cannot count on AP's being on the spot.

So when the resolution to freeze Rhodesian funds was offered, and U.S. representative Andrew Young voted in favor of it, a group of journalists addressed a letter to President Carter asking whether he intended to interpret that resolution as requiring him to freeze funds payable for the maintenance of the Rhodesian Information Office. Among the signers were Patrick Buchanan, John Chamberlain, Stanton Evans, James Jackson Kilpatrick, and Nick Thimmesch. President Carter has, to this day, not answered their patient inquiry.

However, Hodding Carter III, assistant secretary for public affairs and department spokesman, has now replied to an inquiry from someone in Corvallis, Oregon with the news that yes indeed, the State Department intends to freeze the Rhodesian currency, upon recommendation from the Treasury Department. "Although the resolution was not specifically directed against informational activities," he writes, "the Rhodesian Information Office . . . clearly falls within the categories of offices referred to in the resolution."

On the question whether this deprives U.S. citizens of their First Amendment rights to find out what's going on, Mr. Carter is absolutely chirpy with optimism. "American citizens will still be able to obtain information about Rhodesia from other sources, including directly from the regime in Salisbury." American citizens may, in fact, prove better able to obtain information about Rhodesia from Salisbury than from the White House, given the President's long silence in response to the inquiring correspondents.

One would hope there would be some limit—somewhere—to the indignities the United States is willing to undertake in behalf of our blood-war against Rhodesia.

CONSERVATIVES AND THE CLINCH RIVER BREEDER REACTOR

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. HYDE. Mr. Speaker, it is a cliché to many in the media and the groves of academe that we conservatives are naysayers and obstructionists and chronic defenders of the status quo. How paradoxical then, to find so many of us who call ourselves conservatives strongly supporting the proposed funding of the Clinch River breeder reactor and so many liberals saying "no, thou shalt not pass."

It is we, Mr. Speaker, who are the optimists, the true progressives who want to move forward to meet the challenges of the next decades, and those of a more liberal persuasion who want to return too much of our society to the wilderness that abounded 100 or so years ago.

I have the uneasy feeling that, for various reasons, the urgent nature of this Nation's energy situation is given little thought by most Americans. So long as gasoline is readily available at the gas stations, and we are not in the middle of a bitterly cold winter, other more pleasant topics successfully compete for our attention. But it takes no special insight to see that our country is just beginning to feel the inevitable energy shortages that, when fully realized, will disrupt our economy and standard of living to unacceptable dimensions.

We remember that, following World War II, nuclear energy was like the genie in a bottle—a tremendous force for good or evil—and once we had mastered its dimensions it would be harnessed for the good of all mankind. Somehow we got sidetracked in this endeavor because other less exotic forms of energy were available at a very cheap price. Now "the party is over" and we must take a long and intense look at our options. It is time to reconsider nuclear energy and the part it must play in our future.

Nuclear energy has, as its natural enemies, certain professional environmentalists and their adherents. In a larger sense, technology is their enemy—anything that involves the pristine wilderness that smacks of development and growth and expansion and that uses energy is to be resisted. Nuclear energy is an obvious area for their opposition because it conjures up the horrors of Hiroshima and Nagaski—mushroom clouds and radiation and vast numbers of dead.

Those who supported nuclear development have been gradually disappearing from government. The Atomic Energy Commission was replaced by the Energy Research and Development Administration, which in turn is being absorbed by the new super-agency under Dr. Schlesinger, the Department of Energy. The same is true of the Nuclear Regulatory Commission. Even in Congress, the Joint Committee on Atomic Energy has been deprived of its vitality if not its life. The result has been a loss of adequate forums for knowledgeable discussions on these issues, and now highly complex scientific topics are the subject matter of Sunday supplement articles and TV specials, where three sentence explanations on every issue, no matter how technical, are the only acceptable form.

All this underscores the difficulties which beset those of us in Congress who, lacking the training and expertise, must render judgments on this issue—judgments which could well determine the sort of society we and our grandchildren will be living in down the line.

There are two main problems with nuclear energy: the danger to our health and the danger of nuclear weapons proliferation. Neither of these has presented an insurmountable obstacle to many responsible scientists, and their views, plus what I hope is a liberal dose of commonsense, compel me to support the committee bill authorizing $150 million to keep the research and development project going at Clinch River for the next year at least. This sum should provide the project with enough opportunity to go forward in the search for scientific knowledge so that we will be better able to make informed intelligent decisions in the future.

The anticipated requirements for energy in the next 25 years will be at least double our present consumption. Even this is a wild guess because we cannot imagine at this time what discoveries lay just ahead from an inquiring and vital scientific community.

But surely no one maintains that our Nation can meet our present much less our future requirements with our present resources. Even without the OPEC cartel complicating our present situation, as responsible Members of Congress we must look far ahead to the fulfillment of our Nation's long-term interests even when these might, here and there, oppose our short-term desires.

All of the so-called exotic energy sources must be researched and, where feasible, developed. But surely nuclear energy in the form of the Clinch River breeder reactor is one of the most promising areas of exploration. The expectation is entirely reasonable that this project can lead us to plentiful, safe and economically feasible energy in amounts to meet our country's needs into the year 2000 and beyond.

We must consider whether the dangers described by opponents justify scrapping the fast breeder reactor program as the President proposes.

Upon analysis, the proliferation argument lacks substance. Other countries have had little difficulty building their own fast breeders. France has the Phenix; Britain has the PFR supplying electricity to northern Scotland, the Soviet Union is prepared to turn on its second large plant and is planning construction of another more than twice its size; West Germany, Belgium, and Japan are all pushing ahead on developing breeder reactors. While other countries are moving along with their breeder program, the United States is dragging its feet, and reducing the most effective weapon in our arsenal—our ability to create our own energy source.

The health and environment issue, while worthy of close attention, is far from the decisive factor the professional antinuclear lobby would have us believe. We have been producing and handling plutonium for over 30 years. Ten thousand pounds of it have been vaporized in the Earth's atmosphere in bomb tests, 10 million times the total releases expected annually if all our electricity were generated from plutonium. Plutonium is used as an energy source in our space program and in medicine—cardiac pacemakers, for example. With all of this, I know of no evidence that any human being, anywhere in the world, has ever been injured by plutonium toxicity.

The General Accounting Office has said the United States should not give up on fast breeder research and development and concludes, "there has been premature concern and emphasis on commercializing" the breeder reactor, and environmental, health, and weapons proliferation considerations. The GAO argues that the most prudent path to follow is to pursue the Clinch River breeder reactor as a research and development effort, particularly because "a decision on commercialization does not need to be made for perhaps 7 to 10 years."

In the past, the Congress has authorized work on the Clinch River breeder reactor—nearly 60 percent of the design work has been completed. The ERDA bill before us today continues our commitment to a tremendous national asset that must be thoroughly researched by the Government to see if it can be used safely and economically.

In closing, I want to share with my colleagues the final paragraph of a September 16 Chicago Tribune editorial, "Keep The Fast Breeder Alive";

> The House should vote the full ERDA authorization. That will not commit us to a "plutonium economy" in the future, but it will enable us to see if adequate proliferation and health safeguards can be developed—while also assuring that energy from nuclear fission will remain available to us if it should turn out to be as safe and as vitally needed as its advocates predict.

OPPONENT OF THE PANAMA CANAL TREATIES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following testimony by an opponent to the new Panama Canal Treaties. At the time of his testimony, on September 15, 1977, the media apparently decided it was not of sufficient merit for their coverage, despite the fact that they gave full coverage to statements by advocates of the treaties during committee hearings.

This statement was made by William J. Rogers, past national commander of the American Legion before the International Relations Committee September 15.

STATEMENT BY WILLIAM J. ROGERS

Mr. Chairman, Members of the Committee on International Relations: It is a distinct pleasure for me to appear before you today representing The American Legion. Needless to say, we are each aware of the thousands of inches of newsprint and the hours of television coverage which have been devoted to the proposed Panama Canal Treaty in the past month. My reason for appearing before you today is two-fold: first, to represent the viewpoint and position of The American Legion as adopted by our recently concluded 59th National Convention and my observations in traveling during 12 months throughout the United States and Panama. Secondly, I will spell out—objectively and dispassionately—what our concerns are and why we object to this specific treaty.

During these past 12 months, it has been my honor and privilege to visit all of the Departments of The American Legion. We have a department in every state and territory making up the United States. At each meeting without exception, our members were concerned about the possibility that the United States Government would relinquish sovereignty of the U.S. Canal Zone and Canal. Furthermore, we would give it to a dictatorship in Panama which runs contrary to our natural instincts as American citizens.

Today, I have come to speak for our four million members of The American Legion and the American Legion Auxiliary. We represent miners in West Virginia; grain growers in Illinois and Iowa; energy producers of Texas; machinery manufacturers in New York; and shipping industry of all states where rivers and harbors open to the sea . . . although we represent a composite and microcosm of the United States. For most of us in The American Legion and all our citizens are either buyers or sellers of commodities passing through the Panama Canal.

Moreover, all of us are dependent on the protection of the U.S. Navy to control the seas surrounding our country in the center of the Western Hemisphere. Quite frankly, the main thrust from every Legion Post was the same, deep apprehension about the proposed Treaty with Panama. Not the least concerned were our Legion Posts in the U.S. Canal Zone. Did the United States really intend to abandon its citizens to a dictatorship? If so, what did the United States stand to gain from such a giveaway?

I don't think it will come as a surprise to the members of this committee, but I think it may come as a surprise to certain of our leaders in the Executive Branch and to certain of our national cartoonists in recent weeks, but the typical Legionnaire, who also happens to be the typical American, understands the Panama Canal situation. The average Legionnaire understands the facts and the realities of standing straight for what is right, and objecting to something which is wrong and not in the American interest.

Though we have opposed any treaty which would surrender U.S. control and ownership since 1960, Legionnaires throughout the country have been given both sides of the picture. In The American Legion Magazine, which goes to every member, we invited the top spokesman for the Republic of Panama, Ambassador Gonzalez Revilla, to state the

case for the Panamanian government. The Ambassador's position to transfer ownership of the Zone and Canal to Panama was printed in full in the October 1976 issue of our magazine. Congressman Daniel Flood was invited to state the case for U.S. sovereignty in the same issue.

At our National Convention recently completed in Denver, we invited Ambassador Sol Linowitz to come and to take as long as he liked to state the case for giving the U.S. Zone and Canal to Panama. As you know, Ambassador Linowitz is articulate and knowledgeable on all the issues as the U.S. negotiator, and presented the Administration's viewpoint to our Foreign Relations Commission for well over an hour.

Since this was the major issue to be decided by our National Convention in 1977, we decided to set the Panama resolution aside from other foreign policy considerations and vote on it separately, by roll call, department by department if necessary, so we could be sure that the National Convention did not trespass on the will of our members, so we would know the real vote.

After the Chairman of the Foreign Relations Commission, Dr. Robert P. Foster, seated here beside me, read the resolution, convention members in a voice of one, called out for a vote. The vote to oppose giving the U.S. Zone and Canal away was unanimous. Although there were over 3,000 delegates representing the 2.7 million members of our organization, there was not one dissenting vote! The silence of the "nays" was as persuasive as vocal shouts of the "yeas." The truth is that The American Legion has expressed its collective judgments. The full text of that resolution is appended to my statement today.

I will now discuss the reservations and objections which we have to this proposed treaty. The first is the strategic and military importance of continued U.S. control of the Canal and the Canal Zone. At the onset, we realize that the United States has a one-ocean Navy with a global responsibility.

Today all but 13 of the ships in the U.S. Navy—the exception being the large aircraft carriers—can pass through the Canal. Moreover, we, along with the Congress, must be "forward looking" and long-range prognosticators regarding the true effects now and in the future of the proposed treaty. As each of you are aware, we have made a national commitment to the "mini-carrier" concept. And, when they come on line in 3–5 years, I have been assured by the Navy that they can traverse the Canal, making the Canal even more important in a military sense in the years ahead.

Harrison Baldwin has recently written: "It is ironic, indeed, that in an era when the U.S. Navy needs the Canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The Navy today is in the same strategic bind it was in prior to World War II: It is a one-ocean Navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945, the Navy must have a quick transfer capability between Atlantic and Pacific in order to meet sudden crises.

"General V. H. Krulak USMC (Ret.), writing in the summer 1975 issue of *Strategic Review*, summarized the Canal's naval importance: 'In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bones, one-ocean Navy.'

"During the Vietnam War about 98 percent of all supplies for our forces were shipped by sea; of this total approximately 33 percent were loaded in East and Gulf Coasts ports and transited the Canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased, for dry cargo, by some 640 percent and for petroleum products by about 430 percent. And the number of U.S. Government vessels (chiefly naval) transiting the Canal increased from 284 in 1965 to more than 1,500 in 1968."

Within the military community, and among the retired and active military, there is great diversity of opinion. In addition to the historic letter of four distinguished Chiefs of Naval Operation, including the former Chairman of the Joint Chiefs, Admiral Thomas H. Moorer, saying that the proposed Treaty is contrary to the security interests of the United States, we are hearing from many military leaders and the majority of these opinions, like the majority of our citizens, are opposed to the give away of the Zone and the Canal.

From a military viewpoint, a commander never gives away strategic territory which he may have to fight to regain. The U.S. Canal Zone is strategic territory. All the military, both active and retired, agree on that point.

From an economic perspective, the Canal is vital to United States interests. In 1975, approximately 14,000 ships transited the Canal of which 45 percent originated in the United States and 23 percent were bound for the United States. No other nation even approaches the invaluable, economic stake which we have in the Canal. However, the Canal is important to all maritime commercial nations since 96 percent of the world's merchant fleet can transit it.

The Canal is just this year assuming an additional commercial importance to the United States as Alaskan oil begins to flow. When the Alaskan pipeline reaches its full capacity, it will yield 1.2 million barrels of oil a day. The west coast of the United States can accommodate only 700,000 barrels a day. This means that approximately 500,000 barrels a day cannot be used on the west coast, and must be transported to the east. No pipeline has yet been constructed across the United States, and the trip around the Horn, as has been demonstrated, is not economically feasible. Unhindered use of the Panama Canal is critical until an adequate pipeline can be constructed.

Moreover, at the present time, the United States has an over-all investment in Panama of $7 billion. By the year of our total evacuation under the terms of the Treaty, that interest will have grown to $9.3 billion. To add insult to injury, the Treaty proposes that we pay some $70 million per year, plus about $350.0 million in economic and military aid to have the Torrijos group take over the territory and property.

Contrary to popular argument, control of the Canal by the United States serves the best economic interests of the people of Panama. In 1976, U.S. agencies purchased over $29 million worth of goods in Panama, and we paid over $108 million in wages to non-U.S. citizens. United States private investments amount to 50 percent of the capital investment in Panama. And U.S. employees spent $39 million there.

In the Preamble to The American Legion Constitution, we pledge to "safeguard the principles of justice, freedom and democracy"—in 1977 terms this translates into human rights. As this Committee is aware, Panama is a dictatorship, or in the words of Ambassador Bunker before Congressman Murphy's committee, an "authoritarian" government.

The aspect of the Torrijos government which is most significant, is that it is a repressive dictatorship. Freedom House, the respected organization which ranks countries on the basis of human rights, gives Panama the lowest rating in Latin America. Panama received the same 1977 rating on political and civil liberties as the Soviet Union, and was rated even lower than Cuba.

Gen. Torrijos came to power in Panama by a coup and is governing without the consent of the people. The truth is that since Gen. Torrijos participated in the overthrow of Panama's constitutional government by gunpoint in 1968, 1.6 million people have lost their human rights. There is no political party except the Communist Party, called the People's Party, El Partito del Pueblo. Furthermore the monies from Panama Canal annuities do not go directly to the people, the money goes to the Torrijos power group.

As you are probably aware, the Panamanian constitution requires a plebiscite vote of the people for ratification of any new Treaty, which will be held on October 23. The sad irony is that the controlled and censored Panama press—"guided" in the terms of our chief negotiator—will never give a full and objective account of the Treaty to the Panamanian people.

Another concern which we have is the political association and economic stability of the government in Panama. On the economic side; under Gen. Omar Torrijos' Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39 percent of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot financially afford to have the Treaties rejected either.

Politically, Panama's Omar Torrijos has alined himself with the most repressive pro-Communist regimes in this hemisphere—those of Cuba's Fidel Castro, Jamaica's Michael Manley, and Guiana's Forbes Burnham. According to U.S. Information Agency, Torrijos issued a communique last April with pro-Arab terrorist dictator Col. Moammar Qaddafi of Libya denouncing what they called "Zionist aggression by Israel." The communique was issued at the end of a week-long visit by Torrijos to Libya, for the purpose of creating close economic and political ties between the two countries.

Jack Anderson and Les Whitten stated in their nationally syndicated column on June 16 that they had evidence that this Torrijos-Qaddafi meeting had also resulted in a secret deal between Libya and Panama to give Arab extremists a foothold in the Americas and to cooperate with the Arab boycott against Jewish manufacturers.

Torrijos has also busied himself with making closer political and commercial ties with the Soviet Union. Again, according to the U.S. Information Agency, top officials from the Soviet Politburo and Central Committee of the Soviet Communist Party visited Panama last June. Almost immediately after the Soviet Politburo team left Panama, a Soviet commercial delegation headed by Nikolai Zinoviev arrived and concluded a major Soviet-Panama commercial agreement with the Torrijos regime. This agreement, according to news reports in the Torrijos-controlled newspaper Critica, could result in the opening of a Soviet bank to run Soviet commercial activities throughout Latin America, as well as a series of other multi-million-dollar-trade and construction projects with Panama.

Whether it was a Treaty of intent or as pact of infinite promise, we don't know. The treaty was signed by Omar Torrijos' brother-in-law, Marcelino Jaen, and Soviet leader Nikolai Zinoviev who is also listed as a KGB agent. After the signing, Panama's Jaen declared the Soviet treaty ". . . is an event of deep historic signing, not only for our country, but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the destiny of Latin America."

Of deepest concern is Torrijos' close ties with Fidel Castro and Cuba. Cuba under Castro continues to aggressively export and pursue communist domination and control of other nations. Just this past week-end, the New York Times reported that 4000 more Cubans were sent to Angola recently to "stabilize the nation's most serious crisis since the 1976 civil war." The 4000 Cuban troops would increase Cuban troop strength in Angola to 19,000. This to me clearly indicates that Castro hasn't backed off one inch from his declared goal of communist domination of the Western Hemisphere and the world.

Also of concern is the reliability of the Panamanian dictator to live up to what he signs. Panama has violated the present Treaty at least 11 times during the past two years. These violations included such militant acts as the Panamanian National Guard taking up positions in December 1975 within the U.S. Zone; attempting to arrest and actually shooting a citizen in the U.S. Zone in January 1976; setting off bombs and explosions in the U.S. Zone in October 1976, and capturing a vessel, the Sea Wolf, which was operating inside Canal Zone waters and burning and desecrating our United States flag.

Our Ambassador has protested such lawless Treaty violations, but one must question the wisdom of appeasing and making further concessions to a government whose recent history is pockmarked with deliberate violations of the current Treaty. If our current Treaty with Panama is being violated on a routine basis, where is the logic that such attitudes and behavior will improve between 1977 and 1999, the magic year when Torrijos is supposed to get everything, lock, stock and barrel?

I would like to turn now to the question of United States sovereignty. Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the United States and of the wording of the original Treaty of 1903.

Contrary to these assertions from public officials who should know better, we did not steal the Canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the Canal territory—a strip across the Isthmus of Panama some 50 miles long and 10 miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana Purchase, the Mexican cession, the Florida Purchase, the purchase of Alaska, or any other territorial acquisition.

Despite current contentions by the State Department that the 1936 Treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the Treaty actually re-emphasized the sovereignty, in perpetuity, of the United States.

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the Treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama. The wording is clear and unequivocal: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

One cannot transfer sovereignty unless one exercises it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

Even Gen. Torrijos in his remarks following last Wednesday's signing acknowledged United States sovereignty and I quote: "What nourishes the hopes of Panamanians for the recapture of their sovereignty was their feeling that the North American people fundamentally harbored no colonial aspirations."

I will now turn to the Treaties and the accompanying Annex and Protocol This analysis is based upon the limited time in which these Treaties have been available to this layman and I urge each member of this Committee to scrutinize these documents.

(1) Sovereignty is the crucial factor in the new Treaties. Both the Prologue to the Canal Treaty, and at least six other times in the document, Panamanian sovereignty over the U.S. Zone and the Canal Zone is acknowledged. As I stated earlier, once Torrijos is granted sovereignty all other questions are irrelevant.

(2) According to recent analysis of the Treaty, should Panama abrogate the Treaty the United States would have no legal basis in international law to maintain its position in the former Canal Zone.

(3) Article II, Section 1, of the Canal Treaty specifies that it should "be subject to ratification in accordance with the constitutional procedures of the two parties." However, it would appear that the Executive Branch is seeking ratification of the treaties without seeking enabling legislation from the House of Representatives to transfer real properties, appropriation of funds and perhaps other legislation which is not spelled out, as required by the Constitution of the United States. This by-passing of the House of Representatives appears to be an usurpation of legal powers which is clearly conveyed to the House by the Constitution.

(4) Article XII, Section 2(b), states that "during the duration of this Treaty the United States of America shall not negotiate with third states for the rights to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree." In plain terms, the United States has surrendered its rights to negotiate for a competing canal elsewhere in the Western Hemisphere unless it has Panama's consent.

(5) Article V of the Canal Treaty directs that employees of the Panama Canal Company, their dependents and other American nationals should "abide by the laws of the Republic of Panama and abstain from any activities in competition with the spirit of this Treaty" This Article also directs that they abstain from any political acts in the Republic of Panama. As I stated earlier, there are American Legion Posts in the Canal Zone and I am deeply concerned about forcing American citizens to submit to a dictatorship and their surrender of rights as Americans.

(6) Article IX, Section 3, recognizes the right of ownership of improvements to realty but does not recognize the right to own real estate. While we do not know how many Americans own property in the Canal Zone, if any, it would appear that this Article condones or perhaps authorizes exappropriation of property by the Panama government.

(7) Article XIII relates to payments to Panama for the right to operate the Canal. One such payment of $10 million per year from profits is cumulative which means there is a possibility that we could, over the 23 year period of the Treaty, end up owing the Panama government $230 million.

Additionally, I have strong reservations and objections to the Neutrality Treaty: (1) Only Article IV of this Treaty bears upon U.S. responsibility concerning the neutrality of the Canal and the entire document is so vague as to be virtually meaningless. In my lay reading of the entire Neutrality Treaty, I find no assurance that the United States can intervene to assure the neutrality of that vital area.

(2) Article III(e) states that "vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal." This statement assures the passage of warships through the canal of nations which may be at war with the United States.

(3) Article VI, Section 1, states that vessels of war and auxiliary vessels of the United States and the Republic of Panama "will be entitled to transit the canal expeditiously." The exact meaning of the word "expeditiously" is vague at best. Moreover, Article VI, Section 1, of the Neutrality Treaty appears to be in direct conflict with the protocol accompanying the treaty which states that vessels of all nations will be insured permanent access to the canal "on the basis of entire equality."

In brief summary, an evaluation of the facts about the Treaty have brought us to the day of the signing, September 7, 1977—a bad day for the United States.

United States military and national security losses are sufficient to reject the treaty. We are giving up our naval fleet flexibility at a time when we have fewer than 400 ships in the entire United States Navy. Economic losses of the United States are difficult to calculate, but logic dictates that U.S. consumers and exporters are going to pay the toll increases. Additionally, the cost to the United States taxpayer is in the billions. Moreover, someone will pay the billions of dollars owed international bankers by the Torrijos government. It will not be Panama. The Torrijos government is living on borrowed money and borrowed time.

Politically, human rights under Torrijos are no better than they were under Hitler during the 1930s and yet by supporting this Treaty, our United States Government is propping up a dictatorship. Worse yet, our government is forcing Americans to live under totalitarian rule and abide by its laws and decrees. That's what World War II was all about.

The pressures the White House can bring are enormous as all of us know. The resources at the President's disposition almost defy our collective imagination. The recent Treaty signing festivities were an example of Presidential style and substance. We in the Legion, while recognizing the awesome power of the Presidency and the Executive bureaucracy, also believe that the ultimate power in the United States resides with the people—with people like our members.

I will close with one question—if this Treaty is basically good for the United States, why does the Administration have to make such an effort to prove to Americans that it is in our national interest? Those of you in the House who return to your districts every two years, know what the people back home are thinking. You know the Legion Posts and grass roots opinion runs about 80 percent against the giveaway.

We believe this proposed Treaty will ultimately be decided by the people. We believe this is one defeat the United States can avoid. It is a loss we need not accept and you can count on The American Legion Posts to stand firm.

LANCE FINANCIAL MANEUVERING OUT OF TUNE WITH AVERAGE AMERICAN

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 1977

Mr. FINDLEY. Mr. Speaker, appearing in the Jacksonville, Ill., Journal-Courier on September 15, was an editorial con-

taining one of the best statements to date as to why Bert Lance, Director of the Office of Management and Budget, should step down. Mr. Lance's financial maneuverings are simply too far out of tune with the way the average American must handle his own personal business affairs.

The typical American citizen cannot be expected to have confidence in Mr. Lance's stewardship of financial planning in the executive branch. The editorial deserves careful consideration, and I place it in the RECORD at this point:

LANCE SHOULD STEP DOWN

Bert Lance should quit. Everybody who is nobody knows that.

The reason he should go back to Georgia is not the way he handles federal money as director of the Office of Management and Budget but because of the way he handles his own personal budget and the way we have to handle ours.

We are a nation of debtors. The total private debt in the United States, not counting corporations, hovers around a trillion dollars.

When we're young, we face the start-up costs—scraping together enough to buy a car, furniture and a house (with the mortgage running 9 to 9.5 percent if we're lucky).

Hospitalization pays only part of the bill for having children. The $14 baby shoes come later. A family of four is lucky to get away with $40 or $50 a week for groceries alone.

Then the family hits the middle years. That's the time after we've peddled our souls to the local orthodontist so the kids can bite apples and equipped them with $200 contact lenses and $13 jeans. In the middle years, we hope they'll be able to go to college—and that we'll be able to pay $2,300 a year at a state university.

During these middle years, aging relatives come to live with us, usually because they aren't making it on Social Security.

At the same time, inflation pinches in so that savings are gobbled up. We are barraged with "quick and friendly" offers from every kind of legitimate loan shark who, now that state usury laws have generally been repealed, can and do charge huge amounts of interest. It used to be a crime in some states to charge 7 per cent interest.

The best rate is from credit unions, perhaps 9 per cent on a new car or on a 10-year second mortgage on the house. Banks charge 10, 11, 12, 13 and more in interest on many of their loans. Credit buying at stores or through credit cards can cost 18 per cent a year.

So it's pinch and budget, borrow and scrape, watch the bank balance and hope that the check we floated Wednesday doesn't clear the bank before the paychecks goes in on Friday. And when it does bounce, set up a line of credit (18 per cent on those automatic loans on overdrawn checks) or cough up $6 or so for each bounced check, with a black mark on our credit rating.

This is why Bert Lance should step down. Maybe he hasn't broken any law but he has scandalized Americans by bending laws and ethics in banking.

He and his family have been able to overdraw their bank accounts again and again—sometimes by hundreds of thousands of dollars—without a peep, much less a bounced check.

And on top of that, Lance has used the same collateral for two different loans from two different New York banks. Try doing that yourself sometime and see if you can get even a nickel.

This conduct is an affront to all of us who scramble through the system, putting up with what we must. It is an affront to all Americans who have the courage and honesty to pay their bills on time, to borrow money legitimately and to pay the going rate so that we can fulfill obligations to our own families.

None of the laws of the ordinary people seem to apply to Bert Lance when it comes to money matters. And that hurts.

He is sloppy and careless in his personal financial affairs. Getting it done is more important to him than how he gets it done.

And wasn't that just what we were angry about in Watergate? Didn't we hear on the White House tapes the voices of our former leaders saying they didn't care how it was done—just get it done? Yes, we did.

The stinging truth remains from those days: The means are as important as the ends.

If this is the way bankers deal with one another, then it is time to reform the banking system.

And if this is the way Bert Lance operates, then he should get out.

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 22, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 23

8:00 a.m.
Energy and Natural Resources
To hold hearings on the nominations of John F. O'Leary, to be Deputy Secretary; Dale D. Myers, to be Under Secretary; Alvin L. Alm, to be Assistant Secretary for Policy and Evaluation; and Harry E. Bergold, Jr., to be Assistant Secretary for International Affairs; all of the Department of Energy.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Select Nutrition and Human Needs
To hold hearings on the role that nutrition plays in the needs of the elderly.
Until 12:30 p.m. 457 Russell Building

Select Intelligence
To hold a closed business meeting.
S-407, Capitol

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on the proposed supplemental appropriations for fiscal year 1978 for the Department of the Interior.
1114 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of James B. King, of Massachusetts, to be a member of the National Transportation Safety Board.
5110 Dirksen Building

*Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 1791, to establish the Chattahooche River National Recreation Area; S. 1156, to establish the San Antonio Mission National Historical Park; and S. 1671, to designate the Absaroka-Beartooth as a wilderness area.
3110 Dirksen Building

Foreign Relations
Foreign Economic Policy Subcommittee
To continue hearings on the IMF and the international debt.
4221 Dirksen Building

11:00 a.m.
Appropriations
Agriculture Subcommittee
To hold hearings on proposed supplemental appropriations for fiscal year 1978 for the Department of Agriculture.
1224 Dirksen Building

2:30 p.m.
Appropriations
Labor-HEW Subcommittee
To mark up proposed supplemental appropriations for fiscal year 1978 for the Department of Labor and the Office of Education.
S-128, Capitol

SEPTEMBER 26

8:00 a.m.
Energy and Natural Resources
To hold hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2016, to establish fees for services performed by U.S. marshals; S. 2049, to allow per diem and mileage expenses for witnesses who appear before U.S. courts; and S. 2072, 2074, and 2075, to amend the Jury Selection and Service Act of 1968.
2228 Dirksen Building

9:30 a.m.
Foreign Relations
To hear testimony on the proposed Panama Canal treaties from Secretary of State Vance, Ambassadors Ellsworth Bunker and Sol Linowitz, and Ambassador to Panama William Jorden.
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1833 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Charles D. Ferris, of Massachusetts, to be a Member of the Federal Communications Commission.
5110 Dirksen Building

3:00 p.m.
Conference
On S. 717, to promote safety and health in the mining industry.
Until 7:00 p.m. S-207, Capitol

SEPTEMBER 27

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To resume oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To hold hearings on S. 533, Human Resources Development Act of 1977.
Until 1:00 p.m.
1224 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building
Foreign Relations
To hear Secretary of Defense Harold Brown and Chairman of the Joint Chiefs of Staff General George S. Brown on the proposed Panama Canal treaties.
318 Russell Building
Judiciary
Juvenile Delinquency Subcommittee
To hold hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
1318 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's Report on OMB Director Lance.
5302 Dirksen Building
Governmental Affairs
Reports, Accounting, and Management Subcommittee
To hold hearings on S. 1847, 1838, 1329, and 2088, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building
Human Resources
To hold hearings on the nominations of George C. Pimentel, of California, to be Deputy Director of the National Science Foundation; Floyd J. Rutherford, of New York, and Jonh B. Slaughter, of Washington, each to be an Assistant Director of the National Science Foundation; and Bertram R. Cottine, of the District of Columbia, to be a Member of the Occupational Safety and Health Review Commission.
Until noon 4232 Dirksen Building
Judiciary
To hold hearings on the nominations of Thomas Tang, of Arizona, to be U.S. Circuit Judge for the Ninth Circuit, and Edward H. Johnstone, of Kentucky, to be U.S. District Judge for the Western District of Kentucky.
2228 Dirksen Building
Select Indian Affairs
To hold hearings on S. 1633, to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and S. 661, to restore Federal recognition of certain Indian tribes.
357 Russell Building

3:00 p.m.
Conference
On S. 717, to promote safety and health in the mining industry.
Until 7:00 p.m. S-146, Capitol

SEPTEMBER 28

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building
Commerce, Science, and Transportation, and Environment and Public Works
To hold hearings jointly on the nomination of Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances, Environmental Protection Agency.
4200 Dirksen Building
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on the activities of the Consumer Product Safety Commission.
5110 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building
Rules and Administration
To hold hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs.
301 Russell Building
Select Nutrition and Human Needs
To hold oversight hearings on food quality in the Federal food program.
Until Noon 6202 Dirksen Building

9:30 a.m.
Human Resources
To mark up S. 1784, to amend the Age Discrimination in Employment Act so as to protect the employment rights of older workers; S. 2108, to amend the Indochina Migration and Refugee Assistance Act of 1975; and S. 1328, to encourage the implementation of career education programs.
4232 Dirksen Building
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
224 Russell Building
Judiciary
Juvenile Delinquency Subcommittee
To continue hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
1318 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues arising from the Comptroller of the Currency's report on OMB Director Lance.
5302 Dirksen Building
Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
318 Russell Building

1:00 p.m.
*Select Indian Affairs
To mark up S. 1509, to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico; S. 1582, Ak-Chin Indian community water bill; and S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.
154 Russell Building

SEPTEMBER 29

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building

9:30 a.m.
Foreign Relations
To hear Attorney General Griffin Bell and others on the proposed Panama Canal treaties.
318 Russell Building

10:00 a.m.
Governmental Affairs
Reports, Accounting, and Management Subcommittees
To resume hearings on S. 1847, 1838, 1329, and 2088, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 1430, to improve the judicial machinery in customs courts.
2228 Dirksen Building
Select Indian Affairs
To hold hearings on S. 2046, to enable Alaska Natives to maintain and consolidate tribal governing bodies, and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservatory District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.
1202 Dirksen Building
Joint Defense Production
To receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building

2:00 p.m.
Select Ethics
To hold an open followed by a closed business meeting.
S-216, Capitol

SEPTEMBER 30

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building

9:00 a.m.
Select Nutrition and Human Needs
To resume oversight hearings on food quality in the Federal food program.
Until 1:00 p.m. 6202 Dirksen Building

9:30 a.m.
Foreign Relations
To receive testimony on economic considerations from executive branch officials on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
Labor Subcommittee
To continue hearings on S. 1183 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

Veterans' Affairs
To hold hearings on a study by the National Academy of Science on health care for American veterans.
Until 12:15 p.m. 4221 Dirksen Building

10:00 a.m.
Joint Defense Production
To continue to receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building

OCTOBER 3

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Select Small Business
To hold hearings on S. 1815, Small Business Venture Capital Act of 1977.
424 Russell Building

OCTOBER 4

9:30 a.m.
Foreign Relations
To receive testimony from Members of Congress on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
Aging Subcommittee
To hold hearings on S. 1282, to provide assistance for legal services projects for the elderly.
1224 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Commerce, Science, and Transportation
To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building

Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

Select Indian Affairs
To resume hearings on Federal Indian Domestic Assistance programs.
6202 Dirksen Building

OCTOBER 5

9:30 a.m.
Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal treaties.
318 Russell Building

Human Resources
To hold hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building

Rules and Administration
To hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

9:30 a.m.
Human Resources
To continue hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Until 1:00 p.m. 6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Banking, Housing and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6202 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building

Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
357 Russell Building

Select Small Business
To receive testimony on the implementation of that part of P.L. 95-89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
6202 Dirksen Building

OCTOBER 10

9:30 a.m.
*Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

OCTOBER 11

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to amend the laws relating to diplomatic immunity.
4221 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 18

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

OCTOBER 19

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 23

10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 1460 and 2096 protecting the privacy of public financial records.
5302 Dirksen Building
Finance
To resume markup of proposed Energy Tax Act of 1977 as embodied in H.R. 8444.
2221 Dirksen Building

SEPTEMBER 27

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
318 Russell Building

SEPTEMBER 28

9:30 p.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

SEPTEMBER 29

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

10:00 a.m.
Conference
On S. 1019, authorizing funds for fiscal years 1978 and 1979 for certain maritime programs of the Department of Commerce.
S-128, Capitol

OCTOBER 4

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building

OCTOBER 11

9:30 a.m.
Judiciary
Juvenile Delinquency Subcommittee
To resume hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, September 22, 1977*

The House met at 10 o'clock a.m.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 22, 1977.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore for today.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Dr. Clifton W. King, minister, Greater Los Angeles Church of Divine Science, Los Angeles, Calif., offered the following prayer:

O, Spirit, who is the Mother-Father of all the human family, grant wisdom to those we have chosen to govern our land. May their decisions be toward the goal of peace for all. We have the principles of trust and honor to God, country, and family. Let all our decisions be based on this premise that our fairness leads to justice for all. Then we know the world will see the source of our strength and wisdom. Help us to reflect on looking for a way to lay aside our misunderstandings and know, with Your guidance, man can live with man in a world of peace and caring. One where children find joy in growing to be adults. Knowing wherever man exists there is oneness, for You are the Mother-Father of all, the Omnipresence, now and forevermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last

day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. MICHEL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 283, nays 6, answered "present" 1, not voting 144, as follows:

[Roll No. 577]

YEAS—283

Abdnor	de la Garza	Keys
Addabbo	Delaney	Kildee
Akaka	Devine	Kindness
Alexander	Dickinson	Kostmayer
Allen	Dicks	Krebs
Ammerman	Dornan	LaFalce
Anderson, Calif.	Downey	Lagomarsino
	Drinan	Latta
Andrews, N. Dak.	Duncan, Oreg.	Leach
	Duncan, Tenn.	Lederer
Annunzio	Edgar	Leggett
Applegate	Edwards, Calif.	Livingston
Ashbrook	Emery	Lloyd, Calif.
AuCoin	English	Lloyd, Tenn.
Badham	Erlenborn	Long, La.
Bafalis	Fary	Lott
Baldus	Fascell	Lujan
Barnard	Fenwick	Luken
Baucus	Findley	McClory
Bauman	Fisher	McCormack
Beard, R.I.	Fithian	McDonald
Beard, Tenn.	Flippo	McEwen
Bedell	Flood	McFall
Benjamin	Florio	McHugh
Bennett	Flynt	McKay
Bevill	Ford, Tenn.	Madigan
Biaggi	Fraser	Maguire
Bingham	Fuqua	Mahon
Bonker	Gaydos	Markey
Brademas	Gephardt	Marlenee
Breaux	Giaimo	Marriott
Breckinridge	Gibbons	Martin
Brinkley	Ginn	Mazzoli
Brodhead	Gonzalez	Meeds
Brown, Calif.	Gore	Metcalfe
Brown, Ohio	Grassley	Meyner
Broyhill	Guyer	Michel
Buchanan	Hagedorn	Mikulski
Burgener	Hall	Miller, Calif.
Burke, Calif.	Hamilton	Miller, Ohio
Burke, Fla.	Hammer-schmidt	Mineta
Burke, Mass.		Minish
Burleson, Tex.	Hanley	Mitchell, N.Y.
Burlison, Mo.	Hannaford	Moakley
Burton, John	Hansen	Moffett
Burton, Phillip	Harkin	Montgomery
Caputo	Harsha	Moore
Carney	Hawkins	Moorhead, Calif.
Carr	Heckler	
Cavanaugh	Hefner	Moorhead, Pa.
Cederberg	Heftel	Murphy, Ill.
Clausen, Don H.	Hightower	Murphy, N.Y.
	Hillis	Murphy, Pa.
Clay	Hubbard	Murtha
Cochran	Huckaby	Myers, Gary
Cohen	Hyde	Myers, John
Collins, Ill.	Ireland	Natcher
Collins, Tex.	Jeffords	Neal
Conable	Jenkins	Nedzi
Corcoran	Jenrette	Nowak
Corman	Johnson, Colo.	O'Brien
Cornell	Jones, N.C.	Oakar
Coughlin	Jones, Okla.	Oberstar
Cunningham	Jones, Tenn.	Obey
D'Amours	Jordan	Panetta
Daniel, Dan	Kastenmeier	Patten
Daniel, R. W.	Kazen	Patterson
Danielson	Kemp	Pease
Davis	Ketchum	Perkins
Pickle	Sawyer	Thompson
Pike	Schroeder	Thone
Poage	Schulze	Tsongas
Pressler	Sebelius	Udall
Preyer	Seiberling	Ullman
Price	Sharp	Van Deerlin
Pritchard	Shipley	Vander Jagt
Pursell	Sikes	Vanik
Quie	Simon	Vento
Quillen	Sisk	Volkmer
Regula	Skelton	Waggonner
Reuss	Skubitz	Walgren
Rhodes	Smith, Nebr.	Wampler
Rinaldo	Snyder	Watkins
Risenhoover	Spence	Weaver
Roberts	St Germain	White
Rodino	Staggers	Whitley
Roe	Stangeland	Whitten
Rogers	Stanton	Wilson, C. H.
Rooney	Steed	Wilson, Tex.
Rostenkowski	Steers	Winn
Rousselot	Stockman	Wirth
Roybal	Stratton	Wright
Rudd	Studds	Wylie
Ryan	Stump	Yatron
Santini	Symms	Young, Mo.
Satterfield	Taylor	Zablocki

NAYS—6

Aspin	Brown, Mich.	Jacobs
Broomfield	Forsythe	Mattox

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—144

Ambro	Foley	Nix
Anderson, Ill.	Ford, Mich.	Nolan
Andrews, N.C.	Fountain	Pattison
Archer	Fowler	Pepper
Armstrong	Frenzel	Pettis
Ashley	Frey	Quayle
Badillo	Gammage	Rahall
Bellenson	Gilman	Railsback
Blanchard	Glickman	Rangel
Blouin	Goldwater	Richmond
Boggs	Goodling	Robinson
Boland	Gradison	Roncalio
Bolling	Gudger	Rose
Bonior	Harrington	Rosenthal
Bowen	Harris	Runnels
Brooks	Holland	Ruppe
Butler	Hollenbeck	Russo
Byron	Holt	Sarasin
Carter	Holtzman	Scheuer
Chappell	Horton	Shuster
Chisholm	Howard	Slack
Clawson, Del	Hughes	Smith, Iowa
Cleveland	Ichord	Solarz
Coleman	Johnson, Calif.	Spellman
Conte	Kasten	Stark
Conyers	Kelly	Steiger
Cornwell	Koch	Stokes
Cotter	Krueger	Teague
Crane	Le Fante	Thornton
Dellums	Lehman	Traxler
Dent	Lent	Treen
Derrick	Levitas	Trible
Derwinski	Long, Md.	Tucker
Diggs	Lundine	Walker
Dingell	McCloskey	Walsh
Dodd	McDade	Waxman
Early	McKinney	Weiss
Eckhardt	Mann	Whalen
Edwards, Ala.	Marks	Whitehurst
Edwards, Okla.	Mathis	Wiggins
Eilberg	Mikva	Wilson, Bob
Ertel	Milford	Wolff
Evans, Colo.	Mitchell, Md.	Wydler
Evans, Del.	Mollohan	Yates
Evans, Ga.	Moss	Young, Alaska
Evans, Ind.	Mottl	Young, Fla.
Fish	Myers, Michael	Young, Tex.
Flowers	Nichols	Zeferetti

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to the Senate amendments to bills of the Senate of the following titles:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes; and

H.R. 5262. An act to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes, and that the Senate receded from its amendment to the title to the bill H.R. 5262.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1904. An act to suspend until July 1, 1980, the duty on intravenous fat emulsion; and

H.R. 2849. An act to suspend until July 1, 1978, the rate of duty on mattress blanks of rubber latex.

The message also announced that the Senate disagrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 7345) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for the other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1005. An act for the relief of Young Shin Joo;

S. 1654. An act for the relief of Thuy Bach Kanter; and

S. 2056. An act to amend the Council on Wage and Price Stability Act.

PERMISSION FOR SUBCOMMITTEE ON AVIATION OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT FOR PURPOSE OF MARKING UP H.R. 8729 ON FRIDAY, SEPTEMBER 23, 1977

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Public Works and Transportation may be permitted to sit on Friday, September 23, 1977, for 1 day, for the purpose of marking up H.R. 8729, the Airport and Aircraft Noise Reduction Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman assure us that it is for 1 day only?

Mr. ANDERSON of California. If the gentleman will yield, yes.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

OBJECTION TO VOTES ON JEWISH HOLY DAY

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I take strong umbrage at the actions of the Republican leadership in calling for a vote on today, Yom Kippur, the highest of the high holy days of the Jewish religion. It was my understanding that there was an agreement that there would be no votes today so that those who wished to observe this holiday would not have the effect of having missed a vote upon their records. It seems to me that there should be no more votes and that calling this vote was thoroughly reprehensible.

THE VOLKSWAGEN HYBRID ELECTRIC VEHICLE

(Mr. McCORMACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, under the sponsorship of the Committee on Science and Technology, there will be a demonstration today of a Volkswagen hybrid electric vehicle. It will be in the Rayburn Horseshoe from 10:30 until noon. The Members are welcome to visit the hybrid electric vehicle and have a ride and learn why this technology is so important in helping to solve our energy crisis.

To repeat, the demonstration will be from 10:30 until noon today in the Rayburn Horseshoe.

THE AMERICAN DOUBLE STANDARD ON MORALITY IN GOVERNMENT

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, it becomes clearer day by day that the liberal media has established a double standard on morality in government in our country. Conservatives in government are subjected to minute scrutiny on every detail of their lives, public or private. Favorable comment on any contribution to government is usually ruled out. Any action or incident which may be twisted to provide an adverse reaction is capitalized. A different standard is applied to liberals in government. The Bert Lance affair is just another example.

Bert Lance is one of the ablest of the Carter appointments. He is obviously highly qualified for the important position of Director of the Office of Management and Budget. He was a successful businessman. He followed business practices which did not originate with him nor did they apply only to him. No one established that he broke any laws. His banking practices were not commendable. On those practices, a carefully manipulated case against him was built.

Mr. Lance is a conservative. Government is now predominately liberal and there is a need for conservative voices. A conservative influence is particularly needed in budget affairs. For the sin of being conservative as much as for loose banking practices, Mr. Lance was forced to go. Had he been an avid liberal, the chances are there would have been no further inquiries into his affairs after he was approved by the Senate.

There is another aspect. Disclosure and all the rest have as one effect to drive successful businessmen out of office. They simply will not put up with the harassment of having to explain every business transaction they or their families engage in. When the advocates of free enterprise are no longer willing to make the sacrifices so often required during public service, free enterprise in the American system will definitely be on skids, if indeed it is not already on skids.

HEARINGS TO BE HELD BY SUBCOMMITTEE ON RULES AND ORGANIZATION OF THE HOUSE

(Mr. LONG of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Louisiana. Mr. Speaker, the House has a very demanding legislative schedule to conclude before the prospective adjournment in October. One of the most important measures to come before us is House Resolution 766, which embodies the recommendations of the Commission on Administrative Review to reform our administrative structure and improve the use of Members' time because of the limited time available, the resolution was referred to the Rules Committee with a reporting requirement of October 5, 1977.

As chairman of the Subcommittee on Rules and Organization of the House, I must make maximum use of the time that is available to give all interested Members an opportunity to present their views to the subcommittee. Therefore, I am planning to hold hearings on Monday, September 26, subject to the approval of the subcommittee. The hearings would begin at 10 a.m. in the Rules Committee hearing room, H–313 in the Capitol. It is my intention to continue these hearings all day and into the night, if necessary, in order to conclude them and have subcommittee markup on Wednesday, September 28, 1977, to enable us to meet our October 5 deadline. The record will remain open through the close of business Tuesday, September 27. I make this announcement prior to having the opportunity to take up the schedule with the subcommittee members, to give as much notice as possible.

Members testifying are requested to submit written statements and to summarize their views in a 5-minute oral statement. In questioning by the subcommittee members, the 5-minute rule will be strictly applied.

We are striving to be impartial and open in our subcommittee consideration. These guidelines are intended to assure fairness to all members of the subcommittee and the full committee who wish to participate in the Monday hearings. They will also assure fairness to all Members of Congress who wish to present their views to the Subcommittee on Rules and Organization.

Further details will be forthcoming in a "Dear Colleague" letter.

DR. CLIFTON W. KING

(Mr. LLOYD of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LLOYD of California. Mr. Speaker, I am very pleased to sponsor today's visiting chaplain, Dr. Clifton W. King, and would like to thank Dr. Latch and the Speaker for their assistance.

Clifton King is ordained as a minister in the International Federation of Divine Science Churches, Denver, Colo., where he received his charter to establish the Greater Los Angeles Church of Divine Science.

Dr. King, who was associate minister of the Santa Anita Church of Arcadia, is founder and director of the Santa Anita Personal Development Center. He lectures extensively, holds private consultations, and conducts workshops on motivation and techniques for successful achievement. With his wife, Dr. Loriene Chase, he coauthored the recently published book, "The Human Miracle." Soon to be published are "Two-Way Prayer Can Change Your Life" and "Happiness Through the Beatitudes."

Dr. King is a member of the International New Thought Alliance, International Order of St. Luke the Physician, International Platform Association, National Association of Church Business Administrators, and is on the staff of the University of Southern California Stress Safety Center.

It is a pleasure to welcome Dr. King and his wife, Dr. Loriene Chase, to Washington.

BERT LANCE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, history will record that in 8 months President Carter went from asking "Why not the best?" to "Why not Bert?" The President has had to adjust his thinking from moralistic and holier-than-thou statements to pragmatic judgments and hard choices. In short, the Lance affair, in bringing the President out of the clouds and back to reality may have been the best thing to come out of the affair.

What does the Lance affair mean? I do not know. I do not think anyone knows. History will sort out the facts and make a judgment. But I think the President, standing before the press, his face showing his obvious grief and, yes, anger, at what he had to do, gained some sympathy from the American people.

Who can tell? Perhaps we may have seen the kind of human reaction from the President the people have sensed was missing because of his rigid self-discipline and high-sounding moralistic rhetoric. Whatever the outcome, the fall of Bert Lance has at least brought home to the President, in unforgettable form, the fact that human beings both in and out of Government are, after all, only human—a fact he never seemed to acknowledge during the Presidential campaign of 1976. I suspect, also, that the Carter White House will never quite look at the media in the same way.

REPLY TO MR. OTTINGER ON VOTES DURING JEWISH HOLIDAY

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I think the remarks of the gentleman from New York (Mr. OTTINGER) were totally out of place and unfortunate. The gentleman from Illinois (Mr. MICHEL) who objected and obtained the vote on the Journal is one of the most distinguished Members of this House. The total basis of what the gentleman from New York said, as I understood it, was that in some way the action of the gentleman from Illinois (Mr. MICHEL) was aimed at the Jewish Members who are not here today because of the high holy day. That, I can assure you, is totally untrue. Such a base motive would be out of character with any action the gentleman from Illinois has ever taken.

Unfortunately, the majority leadership has seen fit to change the rules in this House so that quorums can no longer be obtained by a point of order of no quorum.

Further than that, it was the majority leadership that scheduled business today, despite the fact that it is a Jewish holiday. In the past over the years the practice was that the House adjourned on days like this and no business was considered. When the House is in session, the Constitution requires us to have some record of the presence of a quorum. I think it is highly unfortunate that this slur on the honor of one of the great Members of this House was made by anyone, and I protest it, for one.

MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 30 minutes; the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 30 minutes; the gentleman from Florida (Mr. ROGERS) will be recognized for 30 minutes; and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Ways and Means (Mr. ULLMAN).

Mr. ULLMAN. First, let me commend Chairmen ROSTENKOWSKI and ROGERS for their diligence in bringing this legislation to the floor. It is very much needed.

Mr. Chairman, the legislation we consider today is designed to strengthen the ability of the Government to detect and eliminate fraud and abuse in the medicare and medicaid programs. It deserves the wholehearted support of Members of this body.

I have personally felt offended upon realizing the degree to which certain operators have found ways to profit from these programs that were designed to benefit the elderly and the poor—ways to distort the intended operations of these programs in order to line their pockets at the expense of the beneficiaries, and the contributors and taxpayers who support the programs financially. There is need to strengthen the Government's hand in combating fraud and abuse, and that is what this legislation would do.

Two points need to be made. First, we do not mean to blacken the names of the many thousands of honorable physicians, hospitals, and other providers of health care services paid for through medicare and medicaid. Although fraud and abuse are more widespread than we can tolerate, it is the minority who are engaging in the reprehensible activities we aim to stop. Second, the bill will help in the fight against fraud and abuse, but it cannot put a complete stop to it. Administrators of the programs, and all who are associated with the programs, need to be vigilant to guard against fraud and abuse. The bill we consider today will help, but it can by no means be viewed as the complete solution.

Medicare and medicaid are major and complex programs, and the bill is complex also. It reflects a tremendous amount of careful and detailed work by the Ways and Means Subcommittee on Health which devoted many days to public hearings and intensive markup sessions. Similar efforts were expended by the Interstate and Foreign Commerce Subcommittee on Health and the Environment which has responsibility for the medicaid program. I want to commend the chairmen of these two subcommittees, who are co-floor managers for the bill, as well as the members of their subcommittees for their diligence and for the cooperative spirit they displayed, which has enabled this complex bill to come to the floor with only one substantive disagreement of consequence between committees that needs to be resolved.

This legislation represents an important step toward getting our health financing programs under control. We should take this first step now, before we are called upon to consider major changes in the Nation's health care financing policy. This is important and carefully prepared legislation. I urge my colleagues to support H.R. 3, the medicare-medicaid antifraud and abuse amendments.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation before the House at this time, H.R. 3, the medicare-medicaid antifraud and abuse amendments, is the product of many months of extremely close consultation and coordination between several committees of the Congress.

At the outset, I would like to particularly commend my colleague from Florida (Mr. ROGERS) for the cooperation of his subcommittee in the development of H.R. 3.

Our committees worked effectively together on this issue and I am confident that this cooperation will continue in our ongoing work on hospital cost containment and other Federal health activities of mutual concern.

Numerous hearings, studies, and investigations undertaken by our committee, other committees of the Congress, the General Accounting Office, and other agencies have demonstrated that there exist, to a disturbing degree, fraudulent and abusive practices associated with the provision of health services financed by the medicare and medicaid programs. The disclosures to date have focused on a broad range of improper activities which are not restricted to one particular class of providers or treatment setting. In whatever form it is found, however, fraud in these health care financing programs adversely impacts on all Americans. It cheats taxpayers who must ultimately bear the financial burden of misuse of funds in any Government-sponsored program. It diverts from those most in need, the Nation's elderly and poor, scarce program dollars that were intended to provide vitally needed quality health services. The wasting of program funds through fraud also further erodes the financial stability of those State and local governments whose budgets are already overextended and who must commit an ever-increasing portion of their financial resources to fulfill the obligations of their medical

assistance programs. In addition to these adverse financial consequences, the activities of those who seek to defraud these programs unfairly call into question the honesty and integrity of the vast majority of practitioners and health care institutions.

I personally find the disclosures of fraud and abuse and waste in medicare and medicaid particularly alarming in view of the considerable discussion of expansion of the Federal role in the provision of health insurance for additional groups of Americans. Both the fraud question and the rising cost question in our Federal health financing programs must be addressed prior to congressional consideration of the further expansion of the Federal role in financing through any national health insurance proposal.

Finally, Mr. Chairman, before detailed review of the provisions of H.R. 3 as reported, I would like to take this opportunity to acknowledge the fine work of one particular prosecutor in this field. Although, certainly not the only individual at either the Federal or State level pursuing this complex type of crime, he has distinguished himself through his aggressiveness and his effectiveness in his prosecution of those who seek to misuse programs designed to aid our elderly and our poor. Samuel K. Skinner, until recently the U.S. attorney for the northern district of Illinois, had led a dedicated young staff into the complex legal world of medicare and medicaid fraud—an area often relegated to stepchild status in U.S. attorneys' offices plagued with a significant case backlog of more traditional crimes. Although there has been a recent change in leadership in this particular U.S. attorney's office, I hope that the office itself will continue to demonstrate the national leadership they have shown in this area. Their efforts have stimulated others and their acquired expertise has been invaluable to other law enforcement teams for the first time stepping into Social Security Act program enforcement in earnest.

I will first summarize the major provisions of H.R. 3 on which the two committees are in agreement, highlighting, where appropriate, those provisions that relate to the medicare program. After that, the differences that remain in the bills will be noted.

The provisions of H.R. 3 are focused on five major areas: Strengthened program penalty sanctions, increased disclosure of information, needed improvements in the professional standards review program, administrative reform, and technical revision. Touching briefly on the major provisions that fall under each of these headings:

PROGRAM PENALTY SANCTIONS

First. H.R. 3 modifies the penalty provisions in existing medicare law. Most fraudulent acts now classified as misdemeanors are to become felonies. The types of financial arrangements and conduct to be classified as illegal have been clarified. (Section 4.)

In broadening these criminal provisions, your committee sought to make clear that kickbacks are wrong no matter how a transaction might be constructed to obscure the true purpose of a payment. In exempting reimbursement by employers to employees "for employment in the provision of covered services," the committee intended to exempt only those payments that represented payments for legitimate employment. For example, if a distributor of equipment or supplies pays a retailer on a commission basis for the use of his store to sell a product, such payment would represent a legitimate payment to a legitimate agent employed in a traditional manner to sell a product. That is a simple extension of the conventional chain of sale. On the other hand, the payment by a laboratory of the salary of an employee of a physician or of a clinic as an inducement to the physician or the clinic to refer business to the laboratory uses the employment relationship simply as a guise to pay a kickback. We are in a complex area where right and wrong are often clouded with shades of gray. In such situations, the committee stresses the need to recognize that the substance rather than simply the form of a transaction should be controlling.

Second. The bill also requires the Secretary of HEW to suspend from participation under medicare and medicaid a practitioner who has been convicted of a criminal offense related to his involvement in medicare or medicaid. (Section 7.)

DISCLOSURE OF INFORMATION

First. In an effort to disclose conflict of interest situations or situations ripe for abuse, the bill requires the annual disclosure by medicare and medicaid institutional providers of the identity of any person who has a 5 percent or more ownership interest in the entity. (Section 3)

Such disclosure shall clearly indicate the names of owners or other principal employees who have been convicted of fraud against the medicare, medicaid, or State social service grant program. Where an application contains the name of an individual with such a conviction record, the Secretary can refuse to contract with the applicant. (Section 8)

Second. H.R. 3 also authorizes the Comptroller General of the United States to sign and issue subpenas in order to obtain necessary information and facilitate review of Social Security Act health programs. (Section 6.)

Third. And finally, from the standpoint of disclosure, the bill requires any provider of services participating in medicare to promptly notify the Secretary of its employment of an individual who was recently in a managerial or similar capacity by a medicare fiscal intermediary or carrier that services the provider. (Section 15.)

PROFESSIONAL STANDARDS REVIEW

In our review of the operation of the medicare program, the Ways and Means Committee has not been satisfied with the rate of development of the nationwide peer review system mandated by the Social Security Amendments of 1972.

Moreover, since issues of medical necessity and quality of care may be present in cases of possible program abuse—as distinct from criminal fraud—PSRO's can be a valuable resource for the exercise of the professional medical judgment that may need to be made in certain of such cases. To achieve this end, H.R. 3 includes several provisions making modifications in the administrative structure of the program to enhance the capacity of individual PSRO's to effectively review matters of quality and necessity. (Section 5.)

ADMINISTRATIVE REFORM

First. In the area of administrative reform, H.R. 3 authorizes the Secretary to assign and reassign institutional providers to available medicare intermediaries within certain limitations. Under present law, choice of program intermediaries or auditors is left to each provider. (Section 14.)

Second. The bill also requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets, and bill data to allow for better comparison and review of provider performance. (Section 19.)

Third. Finally, the bill directs the Comptroller General to conduct a comprehensive review of the present administrative structure for the processing of medicare claims—section 12—and requires the Secretary of HEW to report to the Congress with an anlysis and recommendations relating to all aspects of the delivery of home health services under medicare. (Section 18.)

TECHNICAL REVOLUTION

First. On the more technical side, H.R. 3 clarifies existing law to insure that a power of attorney cannot be used to circumvent the prohibition of existing law against the use of "factoring" arrangements in connection with the payment of provider claims by the medicare and medicaid programs. (Section 2.)

Second. Also it modifies the provisions of existing law related to the rental or purchase of durable medical equipment to require the purchase of such equipment where purchase will be less costly than extended rental payment. (Section 16.)

The purpose of this provision is to avoid unreasonable expenses to the medicare program and to beneficiaries resulting from prolonged rentals of equipment. Since total rental payments often considerably exceed the reasonable purchase price of equipment in cases where the equipment is required over a long period of time, it is desirable to authorize the Secretary in such cases to make lump-sum payment for the purchase of the equipment. In view of the fact that beneficiaries are liable for the 20-percent coinsurance amount whether they rent or purchase, a provision authorizing lump-sum payment, rather than payment on a monthly basis, as under present law, for the purchase of equipment in appropriate cases will be helpful to the interests of beneficiaries.

Moreover, it is worth noting that the

bill authorizes the Secretary to continue to approve rentals where purchase would be more costly or would produce a financial hardship for the beneficiary. Such provisions do not deprive beneficiaries of any rights to benefits; on the contrary, they merely define—as is the case with all other medicare benefits—the methods and circumstances under which payment will be made by the program for medically necessary equipment obtained by beneficiaries.

ISSUES IN CONFLICT

At present there are three remaining differences in the versions of H.R. 3 that have been reported by the two committees. As I noted, only one of these differences represents a substantive policy disagreement.

Of a controversial nature is a difference in section 17 and an additional section—number 20—added by the Interstate and Foreign Commerce Committee. The Commerce Committee change in section 17 pertains to a technical problem which would have precluded a few States from receiving Federal matching money to establish a separate medicaid fraud and abuse unit.

Section 20 of the bill was added by the Commerce Committee to address a pressing problem in the medicaid program related to State penalties for failure to have a fully effective program of utilization review of long-term care.

At the appropriate point during the consideration of the committee amendments, I would recommend that the Commerce Committee version of these amendments be accepted. Had not our committee already reported H.R. 3 when these two medicaid provisions were added by the Commerce Committee, we would have added them to our version of H.R. 3 as well. I know of no Ways and Means objection to the adoption of the Commerce version of these provisions.

The final difference between the two versions of H.R. 3 is a more substantive one. It relates to the different posture taken by the two committees in section 5(1) on the issue of the confidentiality of medical records.

As reported from the respective subcommittees, section 5(1) was identical. However, an amendment was adopted in the full Committee on Ways and Means—reversing its subcommittee's decision—significantly restricting Federal access to medical records of individuals.

The version of 5(1) adopted by the Interstate and Foreign Commerce Committee—and the Ways and Means Subcommittee on Health—would have required the Secretary of HEW to submit to the Congress his legislative recommendations in this area, 90 days after the report of the Privacy Protection Study Commission has been received. The version adopted in the full Ways and Means Committee, however, would upon enactment prohibit any Federal official or professional standards review organization from inspecting any individually identifiable medical record without prior patient consent except for medicare or medicaid related patient records where the inspection is for fraud and abuse detection or PSRO review.

The confidentiality issue was a controversial one throughout the development of H.R. 3 as is evident from the failure of the committees to agree. We sought on the one hand to limit Federal access to records that are personal in nature while on the other hand we sought to preserve access where public policy necessitated it.

Members of the Ways and Means Committee were not satisfied to defer further action until the Privacy Commission report had been evaluated. However, I would be remiss not to point out that since the Ways and Means action, much concern has been expressed from both within and outside Government about the unintended implications of the approach taken by our committee. It is my understanding that such concern about the sweeping nature of our approach led the Interstate and Foreign Commerce Committee to retain the joint subcommittee position on this matter.

It is an issue on which I personally disagree with the position adopted in my full committee. In fact, at the appropriate time I myself will support the version originally adopted by my subcommittee that is embodied in the Commerce Committee bill.

Finally, in strongly endorsing H.R. 3, I must add one caution. It should be clearly understood that this legislation will not eliminate fraud and abuse. Legislation alone cannot do that. Improved program management, with the institution of efforts specifically directed to combating fraud and abuse, and more widespread and effective peer review activity will be necessary. H.R. 3 is only a step toward the achievement of that goal. It is designed to eliminate weaknesses in existing law that might encourage fraudulent or abusive practices, to provide the appropriate governmental agencies with additional tools to combat these problems and to address certain policies and practices in the administration of medicare and medicaid that have led to an inefficient use of program moneys.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I want to congratulate the gentleman from Illinois (Mr. ROSTENKOWSKI) for his usual excellent leadership on this very important issue.

Mr. Chairman, in light of the dramatic changes that have taken place in the area of medicaid payments for abortion, notably the June 20, 1977, U.S. Supreme Court decisions on the States' continuing power to limit such payments, and our own congressional initiatives on the Labor/HEW appropriations bill, I would like to ask the chairman a few questions:

Q. Is it a federal crime for a doctor, or other Medicaid provider to falsify a statement for payment for an abortion which does not fit within the new guidelines established by Congress restricting payments for abortions under Medicaid?

Mr. ROSTENKOWSKI. It is a Federal crime to knowingly and willfully make a false statement in connection with medicare or medicaid payments, either under the Social Security Act or under the Federal Criminal Code.

Mr. HYDE. Is it true that under Federal law such a false certificate with regard to abortion is punishable, and if so, what Federal laws would the violator be prosecuted under?

Mr. ROSTENKOWSKI. Under section 1001 of title 18 of the Criminal Code, each false statement is punishable as a crime subject to a fine of up to $10,000 and imprisonment for up to 5 years. Section 4 of H.R. 3 upgrades the Social Security Act penalties for the same offenses. H.R. 3 modifies sections 1877 and 1909 of the Social Security Act to increase the crime to a felony punishable by fine of up to $25,000 and imprisonment of up to 5 years for each offense.

I trust that that answers the gentleman's question.

Mr. HYDE. It does, Mr. Chairman, and I thank the gentleman for his response.

Mr. Chairman, in light of these latest developments I have referred to, restricting medicaid abortion payments, we urge a careful and close monitoring of such payments by the Department of Health, Education, and Welfare and other Federal agencies charged with preventing medicaid fraud, because of the overriding public interest and concern in this area.

Again I thank the gentleman.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I want to compliment the gentleman from Illinois (Mr. ROSTENKOWSKI) on the usual good work that he always does. I know that this area is one of concern. I am troubled by the recent release of information concerning abuse and frauds that presumably had been perpetrated by some physicians in excess of their usual fees, and which subsequently had to be reissued because of a number of errors. I am particularly concerned about one part of this bill on page 83 that provides for the issuance of subpenas by the Comptroller General.

I understand that not too long ago in another bill we provided for the same power in the Inspector General's office in HEW. Will the gentleman please tell me if we have to have this subpena power vested in the Comptroller General also?

I say this, because mistakes were made recently in information released on physicians participating in the medicare program and their images were damaged. A physician in my own district was incorrectly identified as one who had abused the program when in fact he had not. By granting subpena power to GAO are we not opening the door to yet more confusion and possible error?

Mr. ROSTENKOWSKI. The doctors that were listed were not members of the medical profession necessarily found cheating; indeed, it was just a listing of people that were earning in excess of $100,000 from medicare.

On the other issue raised by the gentleman, this legislation gives an arm of the Congress, the GAO, the authority to

subpena information for the purpose of program review on behalf of the Congress.

Mr. GONZALEZ. What troubles me is the fact that even though it is true that these particular doctors were not specifically charged with fraud in that list, there were doctors who were and have been indicted and convicted, as I know, in my own area.

As a result this type of listing has done irreparable damage, because that doctor's name was associated in a very questionable way as one who profited illegally in this particular program.

Mr. ROSTENKOWSKI. As I understand it, what happened in this situation is that in some cases, HEW gave the wrong figures. In some of their listings, they attributed to individual doctors revenues from clinics that were in the aggragate, receiving large amounts of medicare money. That was also an error.

Mr. GONZALEZ. Yes; that is true. I want to thank the distinguished gentleman.

Mr. ROSTENKOWSKI. I would also like to point out to the gentleman from Texas, who raises a very valid point, that this information was made available, not under any fraud and abuse review, but under the Freedom of Information Act.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Texas.

Mr. HALL. I thank the gentleman for yielding.

I stand very strongly behind H.R. 3, however there is one provision about which I would like to ask for clarification. The professional standards review organizations, or PSRO's, as we call them, have referred suspicious matters on any evidence of fraud to the State licensing authority of the particular State involved. It has been up to that authority to take action if deemed necessary. I notice that H.R. 3 will require these professional standards review organizations, rather than disclosing any suspicious data or evidence of fraud to the State licensing authorities, to disclose that information, to designated Federal and State law-enforcement agencies.

My question is this: By requiring this procedure are we not placing the professional standards review organizations in the policing business rather than in assuring quality care for the people as Congress previously intended? Should the PSRO's not continue in the capacity that they have practiced in the past by referring all findings, or evidence to the medical authority of its State for the authority to take action, if the authority sees fit to do so.

Mr. ROSTENKOWSKI. I believe the legislation is intended to permit the PSRO, if it uncovers abuses, to turn them over to a prosecutorial arm of the Government rather than being forced to conceal evidence of a possible crime.

Mr. HALL. At the present time the PSRO's turn over to State agencies for those agencies to decide whether or not any prosecution, should be demanded. It appears that we are putting the PSRO in a policing position by having them turn over any evidence of fraud to the Federal or State authorities, rather than State licensing authorities of that paricular State for them to determine whether or not it should be given to the prosecutive authorities.

Mr. ROSTENKOWSKI. As I understand it, it is a very limited authority—it is only where the PSRO believes there is clear evidence of fraud that this subject matter is turned over.

Mr. HALL. Under H.R. 3, the PSRO would not turn any evidence over to the State medical authority, but would go directly to the Federal or State authorities. Is that not correct?

Mr. ROSTENKOWSKI. Where there is evidence of fraud; yes.

Mr. HALL. Could the gentleman give me the reason why they have changed from the way they are doing it now and requiring that these PSRO's turn this information over to the Federal or State authorities? What do we gain by that?

Mr. ROSTENKOWSKI. Fraud is a criminal act, and the reason that we have changed it is because we want prosecution in this area.

Mr. HALL. But do we want the PSRO's to make that determination?

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from New York.

Mr. PIKE. I thank the gentleman for yielding.

I would like to say to the chairman of the Subcommittee on Health of the Committee on Ways and Means—as he knows and as I guess a lot of the Members of the body know—have never made any secret about the fact that I was in the health care business before I was ever in the Congress business. I think that this legislation has been carefully and meticulously drawn. There is nothing in it which is going to make it impossible for any health care provider to operate legitimately. There is nothing in it that is going to create a deluge of paperwork. I think that the increase in the penal provisions are appropriate. It was too easy for people to pay minimal fines in the past and go right on abusing the system. I think that the legislation is a healthy attempt to protect us from outrageous acts.

I commend the gentleman, and I support the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to rise in support of H.R. 3, as amended and reported by the Ways and Means Committee.

This legislation will provide strong, necessary measures to deal with the troublesome problem of fraud and abuse in the medicare and medicaid programs. It will do so in the following ways:

First, by providing authority for the Secretary of HEW to require the disclosure of identities, and information about certain business transactions of those who receive Federal and State funds under these programs. Moreover, H.R. 3 provides incentives to encourage thorough investigation of potentially fraudulent conduct, assists Federal and State efforts to prosecute suspected violations, and insures that strong penalties and sanctions await those who are convicted of medicare- and medicaid-related crimes.

Second, the proposed legislation contains a number of important provisions that undoubtedly would strengthen the administration of the medicare and medicaid programs. For example, the General Accounting Office would be required to undertake a comprehensive review of the administrative structure for processing medicare claims, and the Secretary of Health, Education, and Welfare would be required to report to Congress with regard to improving quality standards and efficiency for home health and other in-home services.

Finally, the bill contains various provisions of a technical nature that are intended to make the medicare and medicaid programs more efficient. One such provision, for example, would eliminate a loophole by prohibiting the use of a power of attorney as a device to circumvent the existing prohibition against factoring payments of provider claims by medicare and medicaid.

Mr. Chairman, the testimony provided by numerous witnesses to the Ways and Means Committee and the Committee on Interstate and Foreign Commerce was most revealing and compelling. It strongly supported the kinds of changes that H.R. 3 seeks to achieve.

Such changes are necessary if the integrity of our health care programs is to be maintained and improved. And, unless this occurs, it will become increasingly difficult for Congress to ask the American people to finance valuable, but ever-more-costly, expansion of health care programs.

Mr. Chairman, I am well aware that no bill can be entirely successful in eliminating abuse, or even fraud, in virtually any Government program. But these two committees, and their Health Subcommittees, have worked extremely hard to bring to this floor a bill that will be cost-effective, and that will help to lay the groundwork for building a more rational and equitable health care delivery system.

The fact that H.R. 3 was reported out of the Ways and Means Committee by a vote of 37–0 undoubtedly reflects a belief by Members on both sides of the aisle that H.R. 3 will help to achieve such important goals. I, for one, share that belief, and therefore strongly urge my colleagues to support this important legislation.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to commend the gentleman from Illinois, our distinguished subcommittee chair-

man, Mr. DAN ROSTENKOWSKI, and the ranking minority member of the subcommittee, the gentleman from Tennessee (Mr. DUNCAN) for developing this very important piece of legislation which deals with the issue of medicare and medicaid fraud and abuse.

I think that this legislation when it is finally implemented with its appropriate regulations will probably serve to help restrain and contain some of the excessive costs of these programs.

I would have preferred stronger language in section 15 to restrict the hiring of former employees of fiscal intermediaries, because in our oversight work last year we detected this as one of the critical causes of abuse that is now going on. I am going to be watching this section very carefully. The present section of the law provides for disclosure. I am very hopeful that this will get to the root of the problem and prevent that kind of action, which would compromise employees into a relationship because of employment.

I commend again the gentleman for his very vigorous work on this bill, and I certainly am very happy to support it.

Mr. DUNCAN of Tennessee. If I might proffer a question to the chairman of the subcommittee, there is some question that we will not vote on the amendments on this bill today.

Mr. ROSTENKOWSKI. As I understand the schedule, there is a good possibility that because of the time frame and the committee amendment adopted by the Commerce Committee, we are going to try to get to this tomorrow. But, this is not an official position, but one which I and the chairman of the Subcommittee on Health and Environment are trying to persuade the leadership to put on the agenda for tomorrow.

As I understand it, however, it is tentatively scheduled for Wednesday of next week, which does not fall within the time frame providing for passage by the 30th, which is the date we plan that this legislation must be passed.

Mr. DUNCAN of Tennessee. I thank the gentleman.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, the consideration by the House of H.R. 3, the medicare-medicaid antifraud and abuse amendments, is the culmination of a long process of cooperation and joint activity between the Health Subcommittees of the Interstate and Foreign Commerce Committee and the Ways and Means Committee. Our joint effort began last fall when my colleague, the Honorable DAN ROSTENKOWSKI, joined with me in a pledge to the Members that we would work jointly to produce legislation which would provide the necessary framework for more aggressive investigation, discovery, and prosecution of fraudulent activities in our public medical care financing programs. During the intervening period, we have worked together to perfect the legislation we are recommending to the Members today. We are confident that H.R. 3 will contribute significantly to the ability of Federal and State governments, of program administrators and concerned providers, to remove the stigma of fraud from medicaid and medicare.

I would like to take a moment to return my colleague's kind words about the cooperative attitudes and productive working relationship which allowed our two subcommittees to perform their tasks in bringing a jointly reported bill to the floor. DAN ROSTENKOWSKI's and JOHN DUNCAN's contribution was significant.

I believe I speak for both of us in assuring Members that H.R. 3 is a stronger piece of legislation because of our joint subcommittee work. We have established a strong precedent for cooperative work on hospital cost containment legislation, improvements in our current health financing programs, and national health insurance.

Chairman ROSTENKOWSKI has already summarized many of the provisions of H.R. 3, which are joint provisions of the medicare and medicaid program. I would particularly note the importance of two of those provisions:

First, the bill upgrades the penalty for provider fraud of medicare and medicaid to a felony carrying a maximum fine of $25,000 and up to 5 years in prison. This removes the anomoly of current law which terms even the most outrageous activities of providers who bilk the programs of millions of dollars as no more than misdemeanors. We received many indications during our work on the legislation that the relatively minor penalties of current law often served as a deterrent to the investment of the time and energy by prosecutors to bring persons defrauding the programs to trial;

Second, the bill provides States and the Federal Government for the first time with the tools to keep providers out of our publicly-financed medical care programs once they have been convicted of fraud or abuse. Too often today, these providers simply buy new facilities or move to another State and continue to collect the public dollar. H.R. 3 would assure that these practices will not continue.

Additionally, H.R. 3 contains several provisions relating solely or primarily to the medicaid program. First, the bill provides financial assistance to States to build their capacity to combat fraud and abuse by providing 90 percent Federal funding for the development and operation of State units to investigate and prosecute. The higher Federal matching payments are authorized for fiscal years 1978 through 1980 to encourage the development of these units. To date, State efforts to uncover fraud in their medicaid programs have been spotty at best. Often, even when patterns of fraudulent activity were uncovered, there was little interest in carrying on with the difficult work of bringing the cases to prosecution. However, during hearings on the legislation, the committees found that there were exceptions. Where a separate investigative entity was established, the rate of prosecutions and convictions substantially increased. There was testimony that in the period from 1970 to January 1975, in New York State, for example, there was not a single prosecution for medicaid fraud arising out of the operation of a nursing home. After the establishment of a special prosecutors office, investigations, indictments, and convictions rapidly increased; several million dollars in criminal restitution have been recovered. We believe this experience can be duplicated in other States. The availability of higher Federal matching funds can assist in meeting the initial investment required to establish working units. We believe that the tie-in to a prosecuting unit is a vital one. For States that have constitutional prohibitions against statewide prosecuting authorities—like Arkansas—we have made provision for secretarial approval of arrangements which assure that prosecutions will be carried out.

Second, H.R. ? provides assistance to States to help them administer their programs efficiently so that opportunities for fraud are reduced. The bill requires States to establish timely payment procedures and provides funds for programs of technical assistance to speed the payment process. Slow payments by State medicaid programs have often resulted in duplicate billings and overpayments, use of factoring firms, and other activities which create a climate in which fraud and abuse flourish. Additionally, the bill amends the requirements of the current law to make it less difficult for States to receive the higher matching rate which is available for development and operation of medicaid management information systems. States will be allowed to send notices of benefits received on a sample basis. Finally, the bill penalizes States if they allow private insurors to write contracts which refuse payment for medical services if the person is covered by medicaid.

Third, the bill requires the establishment of uniform cost reporting systems for medicare and medicaid programs. This should increase our ability not only to implement effective cost control programs, but also to facilitate audit and identification of fraud and abuse in accounting practices and payment claims.

Finally, H.R. 3 contains several provisions to strengthen the PSRO program. While fraud is an extremely serious problem in medicare and medicaid, a more insidious problem is abuse—through overuse and inappropriate use of medical care services, and through provision of care of low quality. PSRO's were established to deal with precisely these issues. I believe they can be effective partners in reducing abuse in medicaid and medicare. But in the past, partly because of the suspiciousness of some States, partly because of a failure by HEW to involve State personnel, and partly because of the inexperience of the PSRO's—the relationship between State medicaid programs and PSRO's has not always been a cooperative one. The committee was convinced that PSRO's have significant promise and that the concept of a single review mechanism for qual-

ity and appropriateness of care for both medicare and medicaid patients is a good one. We were also convinced that State participation in the selection of the PSRO, the establishment of review priorities, and in the monitoring of PSRO effectiveness is important. After extensive discussions with representatives of the Governors and State medicaid directors, as well as HEW, we have developed procedures which spell out the State role, provide for memorandums of understanding between the PSRO and the State, give States an opportunity to influence review priorities, and require the Secretary to suspend PSRO review if the State develops reasonable documentation that the PSRO is not effective.

My colleague has noted the differences in the approaches adopted by the two committees relating to access to medical records. The Commerce Committee examined the approach recommended by the Crane amendment in the Ways and Means Committee closely. We shared their strong concern for the right of a patient to privacy. We were also concerned, however, that vital activities of the Government to protect the health and safety of the public should not be unnecessarily impaired. We took additional testimony from witnesses on the impact that the Ways and Means provisions would have on existing programs of public health, cancer and other epidemiologic research, environmental and occupational disease control, drug testing, and similar activities. Additionally, we reviewed the numerous communications we received from respected medical care professionals, from the Mayo Clinic, from various schools of public health, from cancer research centers, and from persons who are active in the field of environmental and occupational health, and from many Departments and agencies of the executive branch. Our reviews convinced the committee that balancing concerns of privacy versus concerns for protection of the public health were exceedingly complex, and required extensive and detailed examination to assure that damaging effects would not unintentionally be the result of any language adopted.

The Commerce Committee reluctantly reached the conclusion that the Crane amendment adopted by the Ways and Means Committee would seriously undermine existing critical public health, cancer research and environmental and occupational safety programs, and, in some instances could even preclude necessary action in life threatening situations.

It would impede efforts to assure drug efficacy and safety. It would seriously undermine efforts to assure that Federal programs are paying for medically necessary services and for covered services that are reasonably priced—and in that way work in direct contradiction to the purposes of H.R. 3.

Any language such as the Crane amendment in the Ways and Means bill that would seriously hamper or profoundly delay access to medical records during epidemic field investigations would essentially prevent CDC from determining the cause of epidemics and promptly implementing appropriate control.

As with any medical emergency, time is of the essence in epidemic investigations. A requirement for prior written approval—or for the elimination of patient/case names for medical record review—would effectively prevent any meaningful data gathering and seriously impede efforts to control the speed of epidemic disease. The burdensome tasks of removing or otherwise obliterating names from medical records, and particularly hospital charts, not only would make followup investigations of family or contact studies impossible, but would add a logistic burden to chart reviews that in most instances would prevent effective, timely control and prevention of disease. Patients' names appear on medical records many times on a single page of hospital charts; hospital charts are often 50 to 100 or more pages long; and the staggering impracticability of duplicating and removing names from hundreds to thousands of pages of hospital records prior to review would effectively stop meaningful investigation and identification of causes of diseases and ultimate prevention and control. Moreover, the necessary painstaking cross checking and confirmation of extensive laboratory results without patient name confirmation would lead to chaotic data retrieval and inevitable error.

Consider the effect on the investigation of Legionnaires' disease, for example, if we had required written approval or elimination of patients' names from medical records before they could be reviewed. During this investigation hundreds of records from five city hospitals had to be reviewed to determine if the disease had spread beyond the index hotel to the rest of the city. Obliterating patient identities could have seriously impeded the investigation by imposing a requirement which would have resulted in inordinate delay; delay which could have translated to additional cases and unnecessary death. If public health control measures had been determined as necessary to stopping the disease, delay would have been costly, indeed, to those at risk of being affected.

Other cases could be cited—the link of angiosarcoma of the liver to vinyl chloride; the relationship between X-irradiation of the head and face of children and the development of cancer of the thyroid in young adults; the link of mothers who received DES to daughters who now are at a high risk of cervical cancer; these kind of studies with long latency periods between exposure to a harmful substance and onset of illness could be carried forward only with great difficulty if specific, time-limited authorization by the patient was required. Risks to patient health and safety would be nearly impossible to assess—especially where two generations of a family are involved.

The Commerce Committee has recommended an amendment which would allow 3 months to turn the recently issued Privacy Commission recommendations into legislative language; the administration is at work on that, and expects to have recommendations by mid-October. Translating this report into legislation requires careful deliberation and time-consuming work. I believe the Members of the Congress and the general public should have the assurance that the legislation that is developed has been offered for review and comment by the public and to know that when we pass it we have reasonable assurance that we are aware of its full effect.

In closing, I might note that the Commerce Committee has reported H.R. 3 with a provision which provides to the States an additional 6 months to meet the requirements of the law regarding review of long-term institutional care. If they can meet the law's standards at that time, they will receive a permanent waiver of all back assessments against them. This provision was added to H.R. 3 because of the need to provide timely relief to the States from some $250 million in reductions recently assessed against 20 States. The committee felt that enforcement of the law at this point, after years of inaction by HEW, with a somewhat rigid and literal interpretation of the requirements of the act, and without adequate notice, was a source of justifiable complaint by the States. This provision puts them on notice that the law will be enforced, and they must achieve compliance by the end of the year.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. HALL. Mr. Chairman, with reference to the discussion we had just a moment ago concerning the PSRO's and their requirement, as set out on the fact-sheet of the Democratic study group, I believe that the distinguished gentleman in the well indicated that that would be a discretionary act on behalf of PSRO, whether they had to give their information that they had to the Federal or State authorities or to their State licensing boards.

Mr. ROGERS. This is correct. It is discretionary. I think the confusion came about because the provision says, in the beginning, that PSRO's shall provide this information; but it says later on in the language that this provision is at the discretion of the PSRO.

Mr. HALL. I thank the gentleman.

Mr. ROGERS. It is a discretionary matter. But as the distinguished chairman of the Subcommittee on Health of the Committee on Ways and Means stated, where it is obvious that it is fraud, we would expect the PSRO to take action, although that kind of activity is certainly not the central purpose of PSRO. We want them to do peer review on the quality, necessity, and appropriateness of care, but, if fraud is obvious, certainly something should be done.

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, I would like to compliment the distin-

guished chairman of the subcommittee for taking this action in connection with fraud and abuse in medicare and medicaid.

Mr. Chairman, the principle that communications between patient and physician are entitled to the highest confidentiality is one of the few aspects of the practice of medicine that has not changed since the time of Hippocrates. The need for this principle has always been self-evident. It is essential to proper diagnosis that the patient be willing to reveal intimate details concerning his physical condition and habits to the physician, and such disclosure will not be forthcoming unless the patient assumes that the information provided will be treated as confidential. It is a right which citizens accept and upon which they rely. Unfortunately, the basis for this assumption has been eroded in the past few years, and it is my fear that if the present trend goes much further incalculable damage will be done to health care in this country.

I am not alone in my alarm at these developments. Both the Westin report, sponsored by the Department of Commerce, and the more recent report of the Privacy Protection Study Commission have documented changes in the character of the medical record in terms of its becoming more comprehensive as a result of centralization and computerization. Consequently, major portions of medical records and even complete medical records, have been duplicated and are now in the custody of more than one person or institution whether or not the patient has consented. These changes, coupled with a rapidly growing demand for access to medical records, especially by Federal agencies who are eager to exploit what they perceive as a gold mine of useful information, endanger the rights of patients involved. The potential dangers have been exacerbated by the absence of effective third party security over records and related information in their possession. For example, a recently released Department of HEW audit agency report revealed that the records of the Social Security Administration, containing highly personal medical information about millions of Americans, are available to all sorts of people who have no reason to see them.

I fully recognize that some uses of medical records by third parties are legitimate, even without the patient's knowledge or consent. But I am convinced that such invasions of privacy require justification, and should be permitted only upon clearly defined conditions. I am particularly disturbed by the extent to which Federal agencies presently have access to private medical records and by the unwillingness of the Federal health care establishment to have their use of such records either approved or reviewed by someone other than themselves.

It is a fact that officials, employees and agents of the United States are and have been engaged in the practice of examining individually identifiable medical records of private citizens, even those who are not involved in medicare-medicaid or any other federally subsidized medical care delivery, without the knowledge or consent of the patient involved.

These unauthorized disclosures have come from medical records in possession of medical facilities, insurance companies, PSRO's and other businesses and institutions which have obtained personal medical records during the course of business. For the most part inspection and disclosure of them has originated with Federal agents and employees who have perceived a multitude of reasons for their actions. Considered in the aggregate, it becomes clear that there is no effective Federal limitation which applies to inspection and disclosure by Federal agents and employees.

I regret that the provision adopted by the Interstate and Foreign Commerce Committee, purporting to deal with the issue, fails to provide any real semblance of protection for the confidentiality in question. That provision is defective because it addresses only the confidentiality of medical records available to a PSRO while ignoring the question with regard to the vast majority of such records which are not available to PSRO's. In that limited sense confidentiality would be preserved by that amendment only with regard to such records where the medical care of the patient is not paid for or otherwise subsidized by the United States, or where such care is not connected with a program funded by the United States. Nothing in this amendment prohibits any Federal officer, employee or agent from seeking and obtaining other medical records without the patient's consent. Moreover, under this provision a penalty of 6 months in jail and $1,000 fine would be imposed only upon employees of a PSRO and not upon Government employees otherwise guilty of violations.

At the appropriate time I will offer an amendment which I believe will reasonably and effectively deal with this issue. It will protect the medical records of all citizens, not just those whose medical records happen to be available to a PSRO.

While providing desirable safeguards it will also provide procedures for legitimate inspection of medical records for clearly defined purposes involving an overriding public interest which transcends the individuals right to confidentiality. It would apply only to officers, employees, and agents of the Federal Government, including PSRO's in those instances where a medical record clearly identifies the patient.

Simply stated, my amendment would prohibit Federal officers, employees, or agents from inspecting or requiring the disclosure of individually identifiable medical records without the permission of the patient, unless the inspection is made upon the request or with the permission of: First, the chief public health official of the State in which the record is located, unless he is specifically prohibited from doing so by State law; or second, a State health official who has the authority to perform such inspections himself; or the inspection is made necessary by a medical emergency presenting an immediate threat to human life.

Furthermore the prohibition would not apply to: First, inspection of medical records pertaining to care paid for or provided by the United States when such inspection is by medical personnel for the purpose of providing care; second, inspection by PSRO's and other qualified personnel for the purpose of performing medicaid and medicare utilization review; third, inspection for the purpose of verifying or auditing payments for medical care; and fourth, inspection for the purpose of investigating or prosecuting medicare or medicaid fraud and abuse.

My amendment permits an exception in an emergency which threatens human life and leaves unaltered existing law pertaining to employees of the Defense Department and Veterans as specifically set out in title 10 and title 38, respectively, of the United States Code.

It might be argued that this is not the proper vehicle for legislation dealing with confidentiality of medical records. However, that argument is now moot. The issue is before us and the facts which were developed during consideration of this provision accentuate the need for action now and not at some later date.

The Westin report has been available for 10 months. The Privacy Commission delivered its report on July 12. Meanwhile, the computerization of medical records and the use of those records by third parties increases. There can be no justification for postponing positive action now.

The question presented is a simple one. Should the right of confidentiality of a patient in his personal medical record be protected by this Congress, especially when his medical care is not paid for by the Government under medicare and medicaid? My answer to that is, yes, and my amendment offers an opportunity to act in a reasonable and effective manner to provide that protection.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the distinguished gentleman from North Carolina, who has been a most constructive and helpful member, and who has taken a very active part in the writing of this legislation.

Mr. PREYER. Mr. Chairman, the debate that is going on today on the issue of privacy of medical records reflects the substantial progress that this Nation has made in two areas of importance. In recent years, there have been tremendous improvements in all aspects of medical care. The quality of treatment available today is vastly improved over that which was available only a decade ago. We have witnessed consistent advances everywhere in the health field: Better and more effective drugs; new diagnostic and surgical techniques; more highly trained health professionals. Not only is better treatment a commonplace, but that treatment has been made available to an increasing percentage of the population.

Many of these improvements are the result of actions taken by the Congress. Federally funded medical research and programs such as medicare and medicaid have all contributed to today's high quality medicine.

The second area in which there has been notable growth recently is protection of personal privacy. It is only within the last few years that we have become fully aware of personal privacy as a fundamental right. Congress has led the way by enacting protections for privacy in a number of laws: The Privacy Act of 1974, the Fair Credit Reporting Act, the Crime Control Act of 1973, and the Family Educational Rights and Privacy Act of 1974. The importance of privacy is reflected in the creation by Congress in 1974 of the Privacy Protection Study Commission, charged with the responsibility of researching, investigating, and analyzing privacy issues in a wide number of areas in both the public and private sectors.

The bill we are now debating arises at the intersection of the medical and privacy issues. Few people live their lives without leaving a trail of medical records containing a wide variety of personal information. When considering this legislation, it is important for us to remember the lessons that we have learned from our past experiences in both of these areas.

Within my generation, the patterns of medicine have changed considerably. Medical care is no longer characterized solely by a doctor and a patient. That relationship still exists, but it has been augmented by medical insurance, by drug regulation, by medicare and medicaid, by publicly funded research, by disease control efforts, by professional standard review organizations, and by other programs started or controlled by the Federal Government for the benefit of society. While all may not agree that every program is necessary or desirable, the legislation of the last few decades clearly demonstrates the importance of governmental action in medical care matters. Society has a strong, although not unlimited, interest in the way medical care is delivered. Our job here is to focus that interest by regulating use of medical records in an appropriate manner.

While the history of privacy regulation is shorter, there are still lessons to be derived from our experience. Privacy has rarely been approached in legislation as an absolute right. It is important and necessary in modern society, but like many other rights, privacy must be balanced against other conflicting values.

This principle is clearly demonstrated in recent privacy legislation. The Privacy Act of 1974 established a broad protection for information about individuals, but the protection is not absolute. There are 11 categories of permissible disclosures and uses specified in the law. Congress found it necessary and appropriate to strike a balance between privacy and other interests, and specifically permitted the use of personal information by the Bureau of the Census, by the National Archives, by law enforcement agencies, and by others. In the Freedom of Information Act, a balancing test was included in the law. Disclosures of personal information were not required if disclosure would constitute a clearly unwarranted invasion of personal privacy.

The same balance must be found for uses and disclosures of medical records. We should enact limitations that preserve the important privacy rights of patients without unduly sacrificing other important interests. In attempting this balance, we can be guided in part by the identification of interests in medical matters already made by Congress in previous legislation. Such legislation reflects a judgment by Congress that there is a significant societal goal to be accomplished by control and regulation of medical affairs. It is now our duty to consider whether any of these goals conflicts with the patient's right of privacy and to decide how to accommodate any conflicts that exist.

Mr. ROGERS. Mr. Chairman, I reserve the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3 as reported by the Commerce Committee except for the Commerce Committee's provision regarding the confidentiality controversy. In that regard I prefer the Ways and Means bill.

H.R. 3 is designed to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs.

This legislation is the product of extensive hearings and meetings which began in the last Congress. Moreover—it is a product of close consultation throughout its development by the Commerce Committee with the Committee on Ways and Means. In addition to the joint hearings which we held—the two appropriate subcommittees each held sequential executive sessions to consider the bill in light of the actions taken by the other subcommittee. As a result, both committees are recommending very similar proposals in reporting the bill to the House.

Mr. Chairman, I believe this legislation is needed to address the very real problems of fraud and abuse in the medicare and medicaid programs which our committees and others have investigated. This year we will spend over $32 billion on these programs—over 80 percent of our Federal health costs—and I believe it is incumbent upon us to do what is possible to prevent wasteful and fraudulent use of taxpayers dollars.

This bill as reported by the Commerce Committee requires the Secretary of HEW to submit to Congress legislation based on recommendations of the Privacy Commission regarding confidentiality of medical records. This report will be due within 3 months of the issuance of the Commission's recommendation. A better and more immediate solution is contained in the Ways and Means bill.

Mr. Chairman, estimates of the cost of fraud and abuse under medicare and medicaid range upwards to over a billion dollars. The loss of these funds means that some program beneficiaries are not receiving the services which they very much need.

I support the provisions of this legislation which are designed to eliminate the weaknesses in existing law that lead to fraudulent activities as well as the provisions which will insure a better operation of both the medicare and medicaid programs.

Mr. Chairman, in conclusion I want to add my congratulations to the diligent members of the Subcommittee on Health of the Committee on Ways and Means, and, most particularly, I want to single out for compliment the gentleman from Florida (Mr. ROGERS), the distinguished chairman of the Health Subcommittee of the Committee on Interstate and Foreign Commerce.

In addition to the 2 days of joint hearings held by the two subcommittees, we conducted numerous markup sessions.

Mr. Chairman, the gentleman from Florida (Mr ROGERS) has been a most diligent and most patient chairman and deserves the congratulations of the entire House.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I simply want to respond to the very kind remarks of the gentleman from Illinois (Mr. MADIGAN), who has been such a constructive member of our committee. His remarks were most generous, and all the members of the committee appreciate the contribution he is making to our efforts.

Mr. ANNUNZIO. Mr. Chairman, as a cosponsor, I rise in strong support for H.R. 3, the medicare-medicaid antifraud and abuse amendments. This bill will affect a great many of our medical personnel and facilities and the way millions of our citizens are medically treated.

Passage of this legislation is urgently needed, because the longer we wait, the more taxpayers' money is wasted. There is no excuse for blatant waste and fraud to exist in our Federal programs.

H.R. 3 is primarily focused on five major areas of crucial concern to all of us: Strengthened program penalty sanctions, increased disclosure of information, needed improvements in the professional standards review program, administrative reform, and technical revision.

The bill strengthens the penalty provisions in the existing law. Most fraudulent acts now classified as misdemeanors are to become felonies. A further provision clarifies the prohibition against assigning medicare and medicaid claims to third parties, and it also applies to situations where a hospital or doctor tries to bypass the prohibition by using power of attorney. The medicaid mills of New York City highlighted this problem, and I was appalled to find the extent of these activities in the Chicago area.

H.R. 3 would also require disclosure by providers and suppliers of services under medicare and medicaid to the Secretary of HEW and the Comptroller General of full and complete information about the owners of the facilities, those sharing in the proceeds of fees, and business dealings among them. Too often during the course of recent hearings we have heard of unnecessary services and drugs dispensed, as well as providers directing a patient to fill his or her prescription at certain pharmacies.

In Illinois, for example, a professor of dentistry, asked in 1975 to evaluate the billings submitted to the Illinois Department of Public Aid by a high-volume medicaid dentist, concluded that there was obvious fraud in approximately 20 percent of all bills.

A report issued by the Subcommittee on Health and Long-term Care of the Senate Special Committee on Aging summarized the findings of an intensive 6-month investigation involving 21 medical laboratories, and 50 medical clinics in Illinois, as well as assessing independent evidence in other States. It concluded, "that clinical laboratory services under medicare and medicaid are fraught with fraud and rampant abuse."

Mr. Chairman, I am not picking on Illinois; other studies have found flagrant abuse in many other areas of the country.

These practices are a disservice to the people we represent and are demoralizing to the taxpayer and outrageous to the honest citizen. These amendments will strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicaid programs and put a stop to the estimated 10 percent of payments that have been fraudulent. We have to cut the waste and protect our honest citizens, and do it as soon as possible. The passage of H.R. 3 is a good start, and I strongly urge the approval of this legislation.

Mrs. KEYS. Mr. Chairman, I rise in support of H.R. 3, the medicare-medicaid antifraud and abuse amendments. The Health Subcommittees of both Ways and Means and Interstate and Foreign Commerce have labored together to strengthen the antifraud provisions of our medical payment programs.

At joint hearings held by the subcommittees, prosecutors from around the country praised this attempt to tighten the medicare-medicaid law. The legislation before us requires disclosure of additional information by medicare-medicaid providers and gives the Comptroller General the authority to secure further information where necessary. These are important tools to assist Federal and State law enforcement officials in assuring the integrity of our health programs.

I am pleased that the subcommittee chose to adopt a money-saving provision to alter the payment system for durable medical equipment under the medicare program. Under present law, reimbursement to medicare beneficiaries for equipment such as wheelchairs and beds is made in monthly installments. Because beneficiaries find it difficult to pay for such equipment in a lump sum, they chose to rent the equipment even though rental may be much more costly in the long run than outright purchase.

A General Accounting Office study found that significant savings would result for both the beneficiary and the Government if equipment were purchased. In one case cited by the GAO, a bed was rented for $1,654 when it could have been purchased for $342. Under H.R. 3, the Secretary of Health, Education, and Welfare will be given new flexibility in establishing reimbursement procedures which will reduce costs for both the recipient and the Government.

Finally, I would like to express my support for the provision of H.R. 3 which would permit the States additional time to meet the requirements for review of long-term care facilities. Kansas was among those States that found themselves subject to a one-third reduction in their medicaid funds for failure to adhere to the strict requirements of the law. Medicaid funds to beneficiaries in Kansas were jeopardized by the mere failure of the State to review one or two institutions. This is an unusually harsh penalty, and I am pleased that a more reasonable rule has been proposed. I urge my colleagues to give it their support.

Mr. MARTIN. Mr. Chairman, there has been, and in spite of H.R. 3 there will be, fraud in the medicare and medicaid programs; there has been, and will be, abuse. This bill will not cure all the ills of these programs, but I support it and urge our colleagues to do the same. If we wait for the bill repealing avarice, we will have a long wait.

H.R. 3 is a timely response to a few very unseemly ripoffs of Federal funds by health care providers, mainly in the area of home health care. By and large, home health care is cost-effective and I believe it should be noted that the malefactors in the abuses noted by the committee have been small, independent operators. There is no indication that the types of abuses and the frauds brought to our committee's attention have been particularly widespread.

I feel the report on this bill pretty well deals with the technical features of it. This opportunity should be taken to mention some few remaining problems.

When we mention fraud or abuse we mean to say inadequate enforcement. What we lack—and it is a lack this bill does not cure—is enforcement personnel. In committee, a few of us sought to create a body within the Justice Department to police medicare and medicaid and enforce this and related legislation. That move failed and I am under no illusions about its marketability today. But, we will eventually have to do it because the investigation and prosecution of these cases is drudgery, and worse, is unlikely to garner the headlines so often prized by prosecutors. So, in a world of overworked personnel, we can expect prosecution of these fraud and abuse cases getting less attention than we might want. Eventually, we will vote the special units we are unwilling, it appears, to vote now.

The other problem I would like to mention is a problem of enforcement emphasis. We have concentrated, rightly, on providers. Certainly there is fraud and abuse to be found among providers and it ought to be rooted out. Additionally, however, it is within the realm of possibility that there are cases of patient fraud and patient abuse. The Secretary of Health, Education, and Welfare has just revealed there are some 1,400 Federal employees receiving welfare in the Washington area. I am sure some of them are in conformity with the standards. But, about a third of them are earning over $10,000 a year.

I would offer the opinion that this revelation points to the distinct possibility that a rather substantial number of Federal employees with no need of welfare are getting it and that the odds are that cases of medicaid fraud and abuse will be found. It is essential to the success of the medicaid program that such efforts as HEW has conducted here be expanded nationally. Public assistance programs depends on the public's uncertain willingness to support them. The public deserves assurance that programs such as medicaid are free of abuse by both providers and patients. I hope we will be as diligent with the latter as with the former.

Mr. THONE. Mr. Chairman, as numerous studies have confirmed, fraudulent and abusive practices associated with health care services financed by the medicare and medicaid programs have become more and more pervasive and serious. What concerns me greatly is that those who so desperately need the medical services provided by these programs, the poor and elderly, are not receiving these services when abuse and fraud in the system divert program moneys. In addition, it is the American taxpayer who pays the price for the misuse of funds in such federally financed programs.

Fraudulent and abusive activities weaken the financial stability of local and State governments where already stretched budgets must be readjusted to meet commitments for medical assistance programs. And, perhaps most alarming, such abuses unjustly call into question the honesty and integrity of all practitioners and health care institutions.

The time has come for Congress to take action to curtail these destructive activities and H.R. 3 would serve this purpose. It would strengthen the ability of Government to discover, prosecute and punish fraudulent activities under the medicare and medicaid programs.

This would be achieved because the bill clarifies the existing prohibition of "factoring" arrangements in connection with the payment of claims, so that a power of attorney cannot be used to sidestep the law. It would do this by increasing the criminal penalties for defrauding these programs. It would do this by preventing participation in these programs by per-

sons who have been convicted of fraudulent activities. The list goes on and on.

In an area where recently there has been confusion, H.R. 3 would provide an additional 6 months for States to meet the requirements of medicaid law concerning reviews of long-term care institutions without being subject to penalty and waiver of past penalties if States are in compliance at the end of the 6-month period. This provision would remedy the situation of many States, like Nebraska, which were severely penalized for minor violation of present review requirements.

Mr. Chairman, I urge Members to support H.R. 3 and the curtailment of abuse and fraud in our medicare and medicaid programs.

Mr. MICHEL. Mr. Chairman, in legislating as well as in many other fields, the old adage "better late than never" certainly applies. Nowhere is this more evident than in the proposed legislation dealing with medicare and medicaid fraud.

I would like to point out, because memories are short, that steps taken by our House Appropriations Committee and the Ford administration addressed the problems we are dealing with today.

In 1975, our committee through my insistence initiated a fivefold increase in staffing for the Office of Investigations and Security, which at the time was the primary investigative arm of HEW. We also urged the consolidation of all investigative functions under that office, a step that was shortly thereafter undertaken. This spring our committee provided 110 positions for the new Office of Inspector General, which was created by Congress to coordinate all investigative activities, and an additional 50 positions to continue and expand medicaid fraud and abuse investigations.

The Ford administration initiated the medicaid quality control program, which includes the medicaid management information system. During the Ford administration, 45 States were brought into the system and of those, 15 States had achieved operating systems. It is estimated that such systems result in savings of up to 14 percent. In addition, several medicaid fraud and abuse teams were initiated, which go into the States in a concerted effort to weed out fraud and abuse, and have resulted in a number of prosecutions and considerable savings.

The bill before us would delay until December 31 the imposition of penalties for the failure of States to implement utilization control provisions. I believe this is a fair way of dealing with the problems faced by the States in this area.

At the same time, however, we should not reduce the pressure to come up with effective quality control systems by delaying the penalties. Previous experience in the medicaid-AFDC field indicates that the use of penalties is effective in inducing the States to get moving as far as quality control is concerned.

Let me conclude by saying that in the case of medicare and medicaid we have discovered through painfully expensive experience that good intentions are not always enough. The good intentions behind these programs did not take into account the fact that the programs were open to abuse. I believe that what we have here, in the form of penalties and State authority to suspend eligibility of medicaid recipients convicted of defrauding the programs, is necessary, both for the taxpayer and those who truly need and deserve help.

Mr. McKINNEY. Mr. Chairman, I rise in support of H.R. 3, medicare-medicaid antifraud and abuse amendments, for this legislation not only represents a strengthening of our Government's ability to detect and eliminate fraud and abuse in these two programs, but also constitutes a significant step toward getting our health financing programs under control.

Numerous studies and investigations have disclosed abuse in the medicare and medicaid programs. 10 percent of payments estimated to be fraudulent. While only a distinct minority of health providers are guilty of such reprehensible activities, still the headlines cast taint upon the honest and integrity of all practitioners and health care institutions. Moreover, such fraud adversely affects all Americans: penalizing the Nation's elderly and poor by diverting scarce program dollars from these health services; cheating taxpayers who ultimately bear the financial burden of misuse of funds for Government-sponsored programs; and eroding the financial stability of State and local governments whose already overextended budgets must be readjusted to fulfill the obligations of their medical assistance programs. Further, and perhaps as important, such abuse, demoralizing to the taxpayer and outrageous to the honest citizen, serves to undermine citizen support for these two vital programs.

While none of us anticipate that this measure before us today will completely stop the abuse—legislation alone cannot do the job—H.R. 3 will strengthen the ability of Government to discover, prosecute, and punish fraudulent activities under the medicare and medicaid programs. The provisions of the bill are focused on five major areas: Strengthened program penalty sanctions, increased disclosure of information, needed improvements in the professional standards review program, administrative reform, and technical revision. Of particular importance in terms of administration are the provisions requiring the General Accounting Office to undertake a comprehensive review of the administrative structure for processing medicare claims, and requiring the Secretary of Health, Education, and Welfare to report to Congress with regard to improve quality standards and efficiency for home health and other in-home services.

Disclosures of fraud, abuse, and waste are particularly alarming in view of the considerable discussion of expansion of the Federal role in the provision of health insurance for additional groups of Americans. This year we will spend over $32 billion on medicare and medicaid—over 80 percent of our Federal health costs. It is incumbent upon us to do everything possible to prevent wasteful and fraudulent use of taxpayers dollars. The American people will understandably be reluctant to finance any expansion of health care programs unless the fraud is curtailed and the excessive costs of these programs are contained. It is to this end that we are directing our efforts today.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 3. The medicare-medicaid antifraud and abuse amendments bill which would strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs.

There is no doubt that the medicare and medicaid programs have been a godsend to the poor, particularly the aged poor whose average medical bills total six times that for younger people. However, fraud in these two programs adversely affects all Americans including taxpayers, who must ultimately bear the financial burden of a misuse of funds in any Government-sponsored program and most importantly the elderly and poor sick people who are most in need of the programs. Additionally, loss of funds through fraud places an unnecessary burden on State and local governments whose budgets are already overextended and who must commit their financial resources to fulfill the obligations of their medical assistance programs.

Mr. Chairman, my major concern is that the medicare and medicaid services be available to those who need them. Such practices as:

First. Referring patients to another practitioner in the same facility even though there is no medically necessary reason;

Second. Billing patients for additional services that are not actually provided;

Third. Billing patients for services not rendered;

Fourth. Selecting certain laboratories which will offer kickbacks to the physicians;

Fifth. Intentional misrepresentation by nursing homes of costs involved in service to patients; and

Sixth. Intentional billing more than once for same service, makes it is impossible for these medical programs to reach all the citizens who could benefit from the services, and diminishes the overall effectiveness of these programs.

Numerous hearings, studies, and investigations have documented the prevalence of these fraudulent practices in health services financed by medicare and medicaid. This bill would give the Federal and State governments new powers and sanctions in monitoring and controlling abuses in these areas.

Mr. Chairman, I believe passage of this bill would assure the delivery of necessary medical services under the medicare and medicaid programs to all needy recipients. I therefore urge my colleagues to join me in supporting H.R. 3.

Mr. ROGERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MADIGAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

WHY PROMPT PASSAGE OF H.R. 3 IS IMPORTANT

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, I just want to emphasize to the Members the importance of passing the bill, H.R. 3, in this body tomorrow, if that is possible.

The consideration of the bill was originally scheduled with that in mind, but there seems to be some slippage in the schedule. The chairman of the Subcommittee on Health of the Committee on Ways and Means, the gentleman from Illinois (Mr. ROSTENKOWSKI), and I are trying to urge the leadership to reschedule the further consideration of H.R. 3 tomorrow morning.

The reason it is so important is because of the penalties that will be levied against States under the medicaid law on October 1 if section 20 of H.R. 3 has not been enacted by that date. Those penalties would amount to some $250 million, imposed on 20 States, for past failure to meet the review requirements in the law.

The States, under the provision in the bill, would be given relief until January 1, 1978, in order to come into compliance with the provision for inspection required under the original law. It is of extreme importance to the affected States that this be done.

Mr. Speaker, I hope that we can get this bill scheduled tomorrow. I am sure, now that all of the facts have been brought to the attention of the leadership, that this bill can be brought up and passed tomorrow.

Therefore, Mr. Speaker, I join with the gentleman from Illinois (Mr. ROSTENKOWSKI), the chairman of the subcommittee, in urging that we take such action tomorrow.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to impose on the time of the gentleman from Florida (Mr. ROGERS) to comment on the cooperation that exists between the Subcommittee on Health of the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means.

I think, as is the case with most mergers, in the beginning people are Doubting Thomases, and they throw obstacles into our path. However, through the efforts of the staff of both of our subcommittees and through the outstanding leadership of the gentleman from Oregon (Mr. ULLMAN), our chairman of the Committee on Ways and Means, and of the gentleman from West Virginia (Mr. STAGGERS), the gentleman from Florida (Mr. ROGERS) and I have come to several agreements which I think are in the best interests of the health community and in the best interests of the efficient functioning of the various committees of the Congress.

Mr. Speaker, I know that there have been many, many observations about jurisdictional jealousies. However, I am hoping that tomorrow, with the passage of this legislation, we will put to rest a lot of those Doubting Thomases.

I hope, too, that I can continue to work with the gentleman from Florida (Mr. ROGERS). I had the privilege when I first came to Congress to sit at the elbow of the gentleman from Florida (Mr. ROGERS) on the Committee on Interstate and Foreign Commerce. I know how diligently and how often he committed himself to the job at hand, and I know of the many hours of midnight oil he burned in committing himself to the welfare of the health community.

Mr. Speaker, he is certainly a leader in that area, and I would like at this point to commend him and to encourage him to continue his work for the improvement of the health of the people of the United States.

It has been a pleasure to have had the privilege of working with him on this particular piece of legislation, and I am looking forward to working with him on many other pieces of legislation.

Mr. ROGERS. Mr. Speaker, I thank the gentleman.

As he knows, I not only reciprocate those remarks without question, but I think this instance is an excellent example of how committees which have some joint jurisdiction can work together if an effort is made.

PERMISSION FOR THE SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF THE COMMITTEE ON JUDICIARY TO SIT TOMORROW WHILE HOUSE IS IN SESSION

Mr. EDWARDS of California. Mr. Speaker, on behalf of the gentleman from Pennsylvania (Mr. EILBERG), I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary may be permitted to sit and hold hearings tomorrow on H.R. 9133 and H.R. 9110, the Indochinese Migration and Assistance Act, while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AUTHORIZATION

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, so that we may have some record of the attendance of the House, as the Constitution requires, in order to do business, I demand a division.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) demands a division.

Those in favor of the motion will rise and remain standing until counted. The Chair will count all Members standing.

The ayes will be seated and the noes will rise.

On this vote, there are 18 ayes and no noes.

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Does the gentleman object to the vote on the ground that a quorum is not present?

Mr. BAUMAN. No, Mr. Speaker.

The SPEAKER pro tempore. Will the gentleman allow the Chair, then, to announce the vote?

Mr. BAUMAN. Mr. Speaker, the gentleman insists on his point of order, and hopes that the point will be entertained by the Chair.

The SPEAKER pro tempore. Does the gentleman from Maryland (Mr. BAUMAN) desire an automatic rollcall?

Mr. BAUMAN. No, Mr. Speaker, the gentleman from Maryland simply makes the point of order that a quorum is not present and the Constitution does require a quorum to do business in the House.

PARLIAMENTARY INQUIRY

Mr. DE LA GARZA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DE LA GARZA. Mr. Speaker, is the gentleman from Maryland (Mr. BAUMAN) objecting to a quorum not being present or to the vote as announced by the Chair?

The SPEAKER pro tempore. The Chair will state that the Chair was in the process of announcing the vote and that the Chair did not count for a quorum. The Chair was simply taking count of the Members who were standing. It was the Chair's understanding that the gentleman from

Maryland (Mr. BAUMAN) in making his point of order that a quorum was not present, was doing so in order that a quorum be called in order to establish the presence of a quorum.

Will the gentleman from Texas, Mr. DE LA GARZA, withdraw his motion and move a call of the House?

Mr. DE LA GARZA. Mr. Speaker, if it is permissible to withdraw my motion without asking unanimous consent then I will do so, and if it is not, then I will ask unanimous consent to withdraw my motion.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, has the Chair entertained my point of order of no quorum?

The SPEAKER pro tempore. The Chair is in the process of entertaining the gentleman's point of order.

Mr. BAUMAN. I object to the withdrawal of the motion.

The SPEAKER pro tempore. While the motion may be withdrawn if the gentleman from Texas asks, the House having taken no final action on the motion, the gentleman from Maryland (Mr. BAUMAN) must in the meantime decide within his own mind—and the Chair will protect the gentleman's rights, and is so doing—whether the gentleman from Maryland wants to object to the vote on the ground that a quorum is not present or the Chair would recognize someone for a motion for a call of the House. If the Chair sustains the point of order, the gentleman from Maryland may have one but he may not have both.

Mr. BAUMAN. The only point of order that the gentleman from Maryland has made is that a quorum is not present, and there is pending a motion at this time regarding resolving into the Committee of the Whole House on the State of the Union.

The SPEAKER pro tempore. Under the rules of the House, if a quorum is not present, the motion on a call of the House would still take precedence over the pending motion to resolve into Committee.

The gentleman from Maryland makes the point of order that a quorum is not present and evidently a quorum is not present.

Mr. ROSTENKOWSKI. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 578]

Ambro	Butler	Dent
Andrews, N.C.	Byron	Derrick
Archer	Carter	Derwinski
Armstrong	Chappell	Devine
Ashley	Clausen, Don H.	Diggs
Aspin	Clawson, Del	Dingell
Badham	Cleveland	Dodd
Badillo	Collins, Ill.	Drinan
Beard, Tenn.	Conte	Early
Bellenson	Conyers	Edwards, Ala.
Bolling	Cornwell	Eilberg
Bonior	Cotter	Ertel
Bowen	Coughlin	Evans, Colo.
Brooks	Daniel, Dan	Evans, Del.
Broyhill	Davis	Evans, Ind.
Burton, John	Florio	Fish
Flowers	Lent	Russo
Fowler	Levitas	Sarasin
Frenzel	Long, Md.	Scheuer
Frey	McDade	Sebelius
Gammage	McDonald	Selberling
Giaimo	McKinney	Shuster
Gilman	Mann	Slack
Goldwater	Marks	Smith, Iowa
Goodling	Mathis	Solarz
Gradison	Meeds	Spellman
Harrington	Mikva	Staggers
Harsha	Mitchell, Md.	Stokes
Heckler	Moorhead, Pa.	Teague
Hefner	Mottl	Thornton
Holland	Murphy, N.Y.	Traxler
Hollenbeck	Myers, Michael	Treen
Holt	Nichols	Trible
Holtzman	Nolan	Udall
Horton	Obey	Ullman
Howard	Pattison	Walker
Huckaby	Pettis	Walsh
Hughes	Pursell	Waxman
Jeffords	Quayle	Weiss
Johnson, Calif.	Rahall	Whalen
Johnson, Colo.	Railsback	Whitehurst
Jones, Okla.	Rangel	Whitley
Kasten	Richmond	Wiggins
Kelly	Robinson	Wilson, Bob
Koch	Roncalio	Wolff
Krueger	Rose	Wydler
Le Fante	Rosenthal	Yates
Leggett	Rudd	Young, Fla.
Lehman	Runnels	Zeferetti
	Ruppe	

The SPEAKER pro tempore (Mr. WRIGHT). On this rollcall 286 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AUTHORIZATION

The SPEAKER pro tempore. The pending business is the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7073, on which the Chair will again put the question.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7073, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentleman from Nebraska (Mr. THONE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are beginning general debate only on H.R. 7073, legislation reported by the Committee on Agriculture earlier this year to extend funding authority through fiscal 1978 for pesticide programs established by the Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

Mr. Chairman, it was the committee's original intention to report this bill and other amendments to the FIFRA as part of the comprehensive farm bill. To this end, 3 days of oversight hearings were conducted by our full committee on March 7, 8, and 9. Testimony was received from 31 witnesses, including administration spokesmen, Members of Congress, basic manufacturers of technical grade material for pesticides, formulators, farm and specialty user groups, the State Departments of Agriculture and the Association of Pesticide Control Officials, the State extension services, and witnesses from conservation and environmental groups.

In addition to these 3 days of oversight hearings, the Subcommittee on Department Investigations, Oversight, and Research, which I chair, held additional hearings on April 26 and 27. A number of major problem areas were identified during the March and April hearings, and they are listed for the Members' consideration beginning on page 2 of House Report 95–343, part 1, which accompanies H.R. 7073.

Because of the numerous complex issues identified during these extensive hearings and because of our committee's involvement with the issues surrounding the general farm bill and amendments to the Food Stamp Act, we chose to report H.R. 7073 in its present form so that we might be in compliance with the Congressional Budget and Impoundment Control Act. H.R. 7073 was ordered reported by voice vote on May 11, and the committee report was filed on May 16.

I would like to call the Members' attention to page 23 of the committee report where we indicated that "substantive changes in the act will be considered later in this session."

Pursuant to this public commitment to consider major changes in the act addressing the problem areas identified in the earlier hearings, our subcommittee held additional hearings on June 8 and 9 to receive testimony suggesting specific changes in the act.

As the House is aware, however, we were involved in floor debate and conference committee meetings on the farm bill up to the beginning of the August district work period. As such, our subcommittee was unable to return to consideration of amendments to FIFRA until the House returned earlier this month.

The Subcommittee on Department Investigations, Oversight, and Research met in a series of open business meetings beginning on September 7 and running through September 15. We moved to develop our own bill from a comparative print containing the text of S. 1678, which passed the Senate on July 29, H.R. 8681 by Mr. FITHIAN, H.R. 8954 by Mr. THONE, and the text of the administration proposal. The Members may wish to refer to pages 6–15 of House Report 95–343 to review the text of the original proposal from the Environmental Protection Agency.

Mr. Chairman, the procedure adopted by the subcommittee and the cooperation and interest of our Members assured that all points of view were afforded full consideration. I want to express my personal appreciation to the ranking minority member, Mr. THONE, and to all of the members of the subcommittee for their cooperation and diligence in this effort.

I would also like to commend the new

Administrator of the Environmental Protection Agency for his willingness to work with us in an open and fair manner as we moved through each of the highly complex issues involved in this act.

Mr. Chairman, our subcommittee agreed by unanimous rollcall vote of 14 yeas to 0 nays to report H.R. 8681, as amended by the subcommittee amendment in the nature of a substitute, to the full committee with a recommendation for its approval.

H.R. 8681, as amended by the subcommittee, is a compromise between clearly delineated points of view. It does address the major areas of concern identified in the earlier hearings, and it appears to be recognized by a wide spectrum of groups as basically a good and fair bill which will go a long way toward making the pesticide programs work while maintaining an appropriate balance between competing interests. I do not wish to imply, however, that any group is totally satisfied with all of the provisions of the bill or that all of the members of any particular group are entirely satisfied with a position endorsed by that group.

Mr. Chairman, H.R. 8681, as amended by the subcommittee, is now before the full Committee on Agriculture. Our chairman, the gentleman from Washington (Mr. FOLEY) has indicated that each of our Members will be afforded every opportunity to review the subcommittee's recommendation and offer amendments.

We expect to complete general debate only on H.R. 7073 today, and we have asked the leadership to postpone further action on this measure until such time as our committee completes consideration of H.R. 8681, as amended. Mr. FOLEY has stated that he will seek committee approval to offer the text of H.R. 8681 as finally agreed to by the committee as an amendment to H.R. 7073.

It is my understanding, Mr. Chairman, that we do expect to file a report to accompany H.R. 8681 after we have completed action so that the Members of the House will have a full explanation of the proposed committee amendment to H.R. 7073.

Mr. Chairman, because we are still working on H.R. 8681 and it is not in final form, I am hesitant to discuss its provisions in detail. I am prepared, however, to respond to any specific concerns which the Members might have.

Mr. Chairman, I reserve the balance of my time.

Mr. THONE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the gentleman from Texas (Mr. DE LA GARZA), chairman of the subcommittee has so well explained, this extension of, H.R. 7073, is an extension of the bill popularily known as FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act. This is a simple extension. I will just let my remarks go on that, until my concluding remarks here. The House should be much more interested in the major amendments to FIFRA which are included in H.R. 8681, which is currently still being processed in the full Committee on Agriculture.

As the subcommittee chairman indicated, this Committee bill will be offered as an amendment to H.R. 7073 when floor amendments are offered. I assume that will be tomorrow or the first part of next week. But before I speak on H.R. 8681, let me most briefly review for the Members of the House the problems facing our country in dealing with pesticides.

The basic FIFRA legislation was passed in 1947, and it was an attempt to protect the environment and human health while making chemicals available for use in pesticides. It is particularly necessary to have these pesticides to combat the pests which would severely reduce the production of food and fiber. Consumers, as well as farmers, are well served by this legislation.

In 1972 amendments were passed by Public Law 92–516 and in 1975 by Public Law 94–140, but EPA has continued to be bogged down with the implementation of these laws for a variety of reasons. EPA would be the first to admit that it may take under current conditions 10 to 15 years before the logjam would be broken and all the pesticides would be reregistered.

To address the problems, the Subcommittee on Department, Investigations, Oversight, and Research of the Committee on Agriculture, so ably chaired by the gentleman from Texas (Mr. DE LA GARZA), has held a series of hearings and markup sessions on major amendments to this pesticide legislation which deals with a most difficult and complex set of issues that are much intertwined with widespread ramifications. The product of this effort, H.R. 8681—and much credit must be given to the gentleman from Indiana (Mr. FITHIAN, for his dedication and contribution to the final work product—encompasses these major amendments, and the major problems addressed include registration and reregistration which involve proprietary rights and trade secret data, availability of pesticides for minor uses, waiver of data requirements pertaining to efficacy, classification of pesticides, export of pesticides, the role the States should play in certifying applicators for application of restricted-use pesticides and enforcement for pesticide use violations and the State registration of pesticides. Numerous other problems are addressed, but I will not take time to delineate all of those here at this time.

The subcommittee had some hard choices to make and came up with a compromise bill that we feel will serve all segments of our society. The subcommittee chairman, the gentleman from Texas (Mr. DE LA GARZA), put it well when he stated that no one got what they wanted. In my opinion a majority should be able to support this compromise legislation, as it goes a long way in meeting the needs of each competing interest and the public.

The subcommittee approved the legislation with a vote of 14 affirmative votes and no negative votes. H.R. 8681 is now being finalized by the Committee on Agriculture so we have a rather unique situation here. The bill should be completed early this afternoon, and we do not expect any major changes before it is offered on the floor.

Let me state again that in my opinion this legislation will help greatly in resolving the difficulties now faced by the Environmental Protection Agency in its registration processes and, more importantly, will assure that pesticides are available for farmers' use in meeting the challenge of producing more and more food and fiber to this Nation and to the world.

Finally, I wish to address what I consider to be a most important feature of this bill, as it now reads and as I understand it will read when the committee amendment is added during the amending process. That is the fact that authorized funding will be implemented only through fiscal year 1978, that is, through September 30, 1978.

In my opinion, the committee amendment will make substantial changes in the administration and operations of the Environmental Protection Agency as they relate to pesticides. It will change procedures for examination and compensation of data, and it will, hopefully, cut the backlogs that currently exist at EPA for new registrations and reregistrations—which, I might add parenthetically, are somewhere between a 4- to 15-year backlog and to which I alluded earlier.

The simple 1-year authorization will permit our committee and the Congress to review next year how EPA is implementing the substantial changes which undoubtedly will be made in the existing law by the committee amendment bill which will be offered by my colleagues on the other side of the aisle.

I cannot emphasize too strongly the interest on our side of the aisle in limiting this funding authorization for FIF RA to 1 year, not only in this body but also during the conference with the other body which will follow. I believe that the chairman of the subcommittee, the gentleman from Texas (Mr. DE LA GARZA) feels likewise on this most fundamental issue because of the rather unique situation presented by this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I have no further requests for time.

Mr. THONE. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Virginia (Mr. WAMPLER), the ranking member of the full committee.

Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 7073 to extend the authorization for funding of pesticide programs under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, through September 30, 1978. This bill authorizes funding for pesticide programs by the Environmental Protection Agency at the level of $49,300,000 during fiscal year 1978. Additionally, the bill as reported also provides authorization for a funding level in the current fiscal year at $46,636,000.

Mr. Chairman, American farmers and consumers have a vital stake in the administration of the pesticide program. As pointed out in a June 20 Report to the President, "World Food and Nutrition Study," the National Academy of Science stated:

The magnitude of crop losses from pests is not known precisely, but worldwide it is estimated to average about a third of potential food production. The world's most important crop, rice, suffers the most loss from pests—perhaps 40 to 50 percent. Pest losses vary widely over time and space, so that average loss figures obscure regional outbreaks that can devastate the food economy of an area. Some losses have been so consistently large that certain crops of great nutritional potential are not grown in particular areas. Preemptive losses of this kind are not included in estimates of pest losses, but should be considered in the planning for research on pest problems.

Our current technology has not been able to stabilize levels of pest control because the effectiveness of some pest control practices diminishes over time.

When losses in agricultural production are added to pest losses during storage, processing and transportation, the magnitude of the problem of controlling pests in terms of the cost and quality of the end food product on the family dinner table, boggles the mind.

It is therefore essential that we have an adequate and economical pest management program. At this point in time agriculturalists have mainly relied on chemical pesticides to control pests that attack our food systems.

However, Mr. Chairman, this is one side of the coin. On the other side of the coin, there is the necessity to also assure our people that in controlling these pests we do not put harmful pesticides on the market that will cause an unreasonable risk to man or his environment. This is the crux of the FIFRA Act.

I make these points, Mr. Chairman, to put the debate in proper perspective.

As Members of the House are aware, the Administrator of the Environmental Protection Agency has requested that we extend this act over a longer timeframe than this bill authorizes. The other body's bill, S. 1678, differs from the bill before us in that the other body's bill authorizes an additional year extension.

I would be amiss if I did not state categorically that I have not been happy with the administration of this act by the Environmental Protection Agency. This is perhaps the basic reason why the House has been reluctant to grant EPA authorizations for a period of greater than 1 year. These problems still exist. Amendments to this bill, in the form of a committee bill are currently being finalized in the Committee on Agriculture which should correct many of these deficiencies of administration of this act by the agency. I also hasten to add that EPA is not entirely to blame for the administrative deficiencies that exist. Some of the blame for this situation falls in the lap of the Congress. I believe some of the amendments that will be offered later by the Committee will correct these deficiencies.

I shall speak to these amendments when they are offered.

For the moment, I do want to make it clear that in supporting this bill, I strongly believe it is essential to only extend this bill through fiscal year 1978, so that the Committee on Agriculture can continue to exercise the maximum amount of oversight on this program, thus assuring that we balance the absolute need to prevent losses of agricultural products from pests as against the risks to man and his environment by the use of pesticides in controlling these pests.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I am delighted to yield to my distinguished colleague, the gentleman from Illinois (Mr. FINDLEY), a member of the Committee on Agriculture.

Mr. FINDLEY. Mr. Chairman, I know from personal experience that dealing with the FIFRA legislation is not a pleasant task. It is very difficult to define the narrow paths of public interests. There are so many conflicting issues involved.

Mr. Chairman, I want to salute our colleagues, the gentleman from Nebraska (Mr. THONE) and the gentleman from Texas (Mr. DE LA GARZA) and the committee leadership, for doing an exceptional job in staying with what has to be regarded as one of the most thankless tasks in the House of Representatives.

Mr. WAMPLER. I thank the gentleman.

Mr. THONE. Mr. Chairman, all I would have to offer at this juncture is to say I concur in the profound remarks made by the gentleman from Illinois.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Texas have further requests for time?

Mr. DE LA GARZA. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7073) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, had come to no resolution thereon.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks during the general debate on the bill H.R. 7073 which has just been concluded.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NUCLEAR ANTIPROLIFERATION ACT OF 1977

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8638, with Mr. PREYER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New York (Mr. BINGHAM), will be recognized for 30 minutes, and the gentleman from Illinois (Mr. FINDLEY), will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Chairman, today it is my privilege to present for consideration H.R. 8638, the Nuclear Antiproliferation Act of 1977. This legislation will establish for the first time since the inception of the atoms for peace program in 1954 consistent and effective criteria to be applied to the negotiation of agreements for cooperation in the exchange of nuclear technology and in the granting by the Nuclear Regulatory Commission of license pursuant to such agreements.

This bill is the result of some 3 years' work by the International Relations Committee, beginning with hearings on the proliferation problem and the extension of the Export Administration Act in 1975 and continuing last year in the adoption by the House of the Zablocki-Findley amendment of which H.R. 8638 is an outgrowth. Earlier this year, I joined with a number of colleagues to introduce comprehensive antiproliferation legislation H.R. 4409 which, along with H.R. 6910, the administration's subsequent proposal, was the subject of a number of hearings before two subcommittees of the International Relations Committee this spring and summer. The legislation we bring before the House today is the result of extensive consultations with the administration. As the exchange of letters which will be appended to my statement will show, H.R. 8638, with certain amendments, has the full support of the administration, except for those sections providing for a congressional veto of certain executive branch actions by concurrent resolution. Indeed, this legislation is on the top priority list of legislation which the administration hopes to see enacted at this session.

This legislation is the result of a bipartisan effort. I wish especially to pay tribute to the leadership of the chairman of the full committee, Mr. ZABLOCKI, and to take note of the hard work put into the drafting of this legislation by my colleagues on the opposite side of the aisle, Mr. FINDLEY of Illinois and Mr. WHALEN of Ohio. As the committee report indicates, the bill was reported out of committee without dissent.

Mr. Speaker, the purpose of this bill is

quite simple: It seeks to address the peril of nuclear proliferation in a responsible, comprehensive, and effective fashion. I need not lecture my colleagues on the gravity of the problem posed by the uncontrolled spread of the capability to detonate nuclear weapons to nations and terrorist groups. The specter that more nations might employ nuclear weapons in what might otherwise be relatively confined local conflicts is very real indeed. The fact that such volatile areas as the Middle East, Africa, South America, and Southern Asia might see the introduction of nuclear weapons capability attained from the diversion of ostensibly peaceful nuclear technology points to the very great need for reassessment of our nuclear export policies.

There is no simple answer to the problem of nuclear proliferation. It helps little to embargo all exports of nuclear materials, as some would have us do. Neither is it a responsible position to say "The genie is out of the bottle; so we mustn't do anything in an effort to curb proliferation that might put U.S. industry at a commercial disadvantage."

The bill seeks to provide a clear and understandable set of standards and export criteria to replace the loose and inconsistent policies of the past—policies which, for instance, did not explicitly rule out the manufacture by nonnuclear weapon states of nuclear explosives labeled artificially as "peaceful." The ambiguity of past agreements and policies has not only led to genuine confusion, but has provided a pretext for distortion as well. The codification of consistent standards accomplished by this legislation will help to eliminate such possibilities in the future.

The legislation also seeks to clarify the responsibilities of the various executive branch agencies responsible for the coordination and implementation of U.S. antiproliferation policies. This is an important step designed to replace the ad hoc approach which has too often characterized past executive branch actions in the antiproliferation area.

This bill seeks to maximize the executive branch's flexibility in seeking agreement with all nations on antiproliferation goals. It is particularly sensitive to the need for continued cooperation with our European allies, even as they reassess their commitment to the use of plutonium as a reactor fuel. Thus, the bill permits reprocessing in certain Euratom facilities for cases in which a compelling need for such reprocessing exists.

This legislation seeks to implement policies for international cooperation in using peaceful nuclear technology. It does not affect our domestic nuclear power programs. The bill incurs no direct financial costs, though it does mandate several studies and training programs aimed at promoting greater safety and security.

The policies and standards promulgated in this act do not arise out of narrow commercial considerations, nor even out of security interests that are exclusively the concern of the United States. Rather, these policies, by helping to prevent scores of countries from coming to within a hair's breadth of nuclear weapons, serve the cause of international security generally. For as one country strives to come closer to a weapons option, its neighbors will surely follow. And the closer individual countries are allowed to come, the easier it is for their leaders, perhaps at a moment of high crisis, to make the final decision to acquire weapons themselves.

These policies do not constrain the development of legitimate nuclear power production activities; rather by assuring that nuclear power is more safe, the bill contributes as well to its being more acceptable. Nothing should be more important to the industries responsible for promoting nuclear power.

In working on this legislation we have received encouragement from some in the nuclear industry. There are others in the industry who believe this legislation might unnecessarily put them at a disadvantage with foreign competitors in the nuclear marketplace. I believe such a view is shortsighted because as it now stands there is a de facto moratorium on sales of U.S. nuclear technology overseas. Indeed, there have been no sales of reactors for more than 2 years in large measure because of uncertainty as to what the U.S. nuclear export standards are or will be. It is this uncertainty which this legislation seeks to address; it is surely in the industry's interests to see the confusion clarified.

This legislation will, in addition, provide mechanisms for frequent congressional review of executive branch implementation of policies designed to combat proliferation.

The question has been raised as to what impact this legislation will have on our ongoing negotiations abroad designed to improve cooperation with other nations in combating proliferation. I can assure my colleagues that this legislation will be completely complementary to these efforts.

Earlier this week U.S. Ambassador Gerard Smith met with other nuclear supplier and consumer nations in London to continue vital discussions aimed at curbing nuclear proliferation. We have been in contact with the Ambassador and his staff consistently in recent days and weeks and I can testify to the fact that he sees passage of this legislation as vital to his work. It is my understanding that he shared these views as recently as Tuesday in a cable he forwarded to our distinguished colleague from Illinois (Mr. ANDERSON).

The fact is that other nations are looking to us for leadership in setting standards which will allow nuclear commerce to continue but which are designed to prevent more nations from achieving the capability to mass produce nuclear weapons.

It is important to note that the United States has received strong encouragement and cooperation abroad in our antiproliferation efforts.

Both the French and West German Governments have agreed not to export any more reprocessing facilities and the United States has been successful in averting the proposed sale by France of a reprocessing plant to South Korea. The Indian Government has retreated significantly from its position of 1974; the new Desai government is now saying that it foresees no need for any additional nuclear tests, "peaceful" or otherwise.

Japan has agreed not to build a commercial reprocessing facility; they also will not recycle the plutonium recovered from their experimental Tokai facility and will convert that test facility to more safeguardable alternative processing techniques as soon as feasible.

Two nations with very large reserves of raw uranium, Canada and Australia, have taken antiproliferation positions which are even more strict than our own; Canada has refused to export to nations which have not signed the NPT or which do not recognize her right to approve retransfers or reprocessing of its materials; Australia has pledged to open her vast uranium reserves for export to nations which share strong antiproliferation policies and which seek to avoid premature commitment to commercial use of plutonium fuels.

It is also noteworthy that significant progress has been made at the London Conference of Nuclear Supplier and Consumer Nations; this gathering is in itself unprecedented in that it represents a global awareness of the proliferation danger and an unparalleled commitment to attempt to resolve a pressing global concern. Most of these same nations are working together with the United States in our international fuel cycle evaluation program designed to explore and demonstrate more safeguardable technologies for the use of the peaceful atom. No effort could be more important; this legislation seeks therefore to promote and not in any way hinder such progress by complimenting the diplomatic efforts which have already met with significant success abroad.

This very morning we have news of great progress at the London Conference of Nuclear Supplier and Consumer Nations. Apparently, the U.S. negotiators have successfully reached agreement with the key supplier nations on guidelines for nuclear exports. These guidelines are designed to prohibit the spread of nuclear weapons capability; they are, as such, entirely consistent with the purposes and provisions of this act. I believe this is an extremely encouraging development which makes swift adoption of H.R. 8638 even more appropriate than before. The London agreements may well prove to be the basis for unprecedented international cooperation in combating an overriding peril of our time: nuclear prolifertion.

I can summarize the scope of the various titles of the bill, as follows:

Title I would spell out initiatives for international nuclear cooperation which the United States will pursue, including cooperation on safeguards, sharing of safeguardable nuclear technology as well as nonnuclear and alternative energy technologies, and the negotiation of multilateral antiproliferation agreements among nuclear supplier nations.

Title II would spell out U.S. initiatives to strengthen the International Atomic Energy Agency, which is equipped to implement safeguards on the peaceful uses of nuclear energy.

Title III would pledge the best efforts of the United States to insure its reli-

ability as a supplier of enriching services for light water reactor fuel to nations which adhere to our antiproliferation guidelines.

Title IV would establish guidelines for the negotiation of new agreements for cooperation and revise procedures for congressional consideration of these agreements.

Title V would establish consistent and effective criteria for the licensing of all U.S. nuclear exports and arrangements subsequent to agreements. This title also closes loopholes in existing law to apply these criteria to all exports which are to be used in nuclear facilities. In addition, procedures for prompt consideration of export applications would be provided to enhance our position as a reliable supplier of nuclear fuel to nations which share our antiproliferation policies.

Title VI would establish requirements for executive branch reports to the Congress on the status of antiproliferation negotiations and programs.

Title VII contains definitions and a savings provision.

Mr. Chairman, several questions have been raised regarding the intent of this legislation as represented by the committee's report. I wish at this time to lay to rest any doubts which may be had regarding the interpretation of this report.

First, the reference to "certain initially exempted Euratom facilities" found on page 7 of the committee report is intended to mean nothing more than that these facilities shall remain outside the compass of the timely warning standard until such time as, through mutual agreement between the United States and Euratom, they might be subjected to technical or institutional changes that would permit them to satisfy the "timely warning" criterion. The committee confirms the administration's understanding that diplomatic efforts to achieve this upgrading are not subject to any particular time limitation.

Second, with regard to the words "must find" contained in the committee report's discussion of "timely warning" on page 18, the committee wishes to confirm the administration's understanding that the intent of the bill is not to have the administrator make a formal finding, but rather, as stated in the act itself, to give his view that the reprocessing and retransfer arrangements in question meet the standards set forth in this act.

Third, the committee report language on page 19 discussing alternative reprocessing technologies was not intended to prejudge the extent to which coprocessing, of which there are several variants, might or might not satisfy the requirement for timely warning.

Fourth, regarding public participation in the export licensing process, the language found on pages 17 and 22 of the report was not in any way intended to expand upon the provisions of the legislation designed to provide careful but prompt consideration of all export licensing applications.

Finally, the language of the committee report regarding the requirement for NRC licenses for components, items, and substances to be used abroad in nuclear facilities is not intended in any way to expand upon the provisions of the legislation. It is the purpose of the legislation here simply to require NRC licenses for any export especially relevant because of its significance for nuclear explosive purposes which could be used in a nuclear facility.

The exchange of correspondence with Secretary of State Vance, previously referred to, follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 16, 1977.

Hon. CYRUS R. VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: In response to executive branch concerns, the five attached amendments to H.R. 8636, the Nuclear Antiproliferation Act of 1977 will be offered on the Floor and supported by the undersigned. Mr. Bingham, the floor manager of the legislation, will offer for the Record the attached statement which will clarify the questions raised by the executive branch with respect to possible misinterpretations of House Report 95-587.

It is our understanding that with the inclusion of these amendments and this statement, the executive branch is able to give its unqualified support to swift passage of this legislation by the House.

We would appreciate your confirmation of the understanding as soon as possible.

With best wishes,

Sincerely,

CLEMENT J. ZABLOCKI,
Chairman, International Relations Committee.

JONATHAN B. BINGHAM,
Chairman, Subcommittee on Economic Policy and Trade.

PAUL FINDLEY

AMENDMENT OFFERED BY MR. BINGHAM

On page 15, line 10 strike everything following the semicolon down through the semicolon in line 22 of the same page and insert in lieu the following: "(8) except in the case of agreements for cooperation arranged purusant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be processed, or (in the case of plutonium, U-233, uranium enriched to greater than 20 percent in the isotope 235, or in the case of other nuclear materials after irradiation) otherwise altered in form of content without the prior approval of the United States;

(9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no plutonium, no U-233, and no uranium enriched to greater than 20 percent in the isotope 235 transferred pursuant to the agreement for cooperation, or recovered from any source of special nuclear material so transferred or from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to the agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States;"

On page 15, line 22 strike the numeral "9" and insert in lieu thereof the numeral "10".

On page 16, line 15 strike the numeral "10" and insert in lieu thereof the numeral "11".

On page 24, strike everything from lines 7-21, inclusive, and insert in lieu thereof the following: "(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel assemblies or been the subject of a subsequent arrangement therefore prior to the date of enactment of this act or for subsequent retransfer to a nonnuclear weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing unless in his view such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among the factors in making this judgment, the Secretary of Energy will give foremost consideration to whether or not timely warning of any diversion will be provided to the United States well in advance of the time at which the nonnuclear weapon state could transform the diverted material into a nuclear explosive device; and".

On page 26, line 8 insert the following immediately after the comma: "the Secretary of Defense,".

Page 28, line 6 insert after the semicolon and before the word 'and' the following: "*Provided further*, That if the President determines that failure to continue cooperation with any such group of nations after the expiration of such eighteen-month period because the provisions of paragraph 4 or 5 of subsection 127 a. have not been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes the above determination;".

On page 39, line 3, strike the word "of" and insert in lieu thereof the following: "in the isotope U-235 contained in".

THE SECRETARY OF STATE,
Washington, D.C., September 17, 1977.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations, House of Representatives

DEAR MR. CHAIRMAN: Thank you for your letter of September 16, 1977. As you know, the President attaches the highest priority to enactment of anti-proliferation legislation during this session of Congress.

We have carefully reviewed the five amendments to H.R. 8638 that were enclosed in your letter, as well as the proposed clarification which Chairman Bingham would offer. These amendments and clarifications (attached) meet all of our concerns except for our continuing concern about the use of the concurrent resolution Congressional review procedure. Aside from this exception, we are able to confirm that the Administration strongly supports the bill and wishes to see its prompt passage by the House without further amendment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report.

Sincerely,

CYRUS VANCE.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield such time as he may consume to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, at the very outset I want to commend our colleague from New York, Mr. BINGHAM, the able Chairman of the Subcommittee on International Economic Policy and Trade and the members of that subcommittee, including the gentleman from Illinois (Mr. FINDLEY), for their efforts on this bill. They, along with the members of the Subcommittee on International Security

and Scientific Affairs, have worked diligently and have produced a responsible piece of legislation which deserves the support of the House.

Mr. Chairman, H.R. 8368, the Anti-Proliferation Act of 1977, helps to strengthen, clarify, and reorder U.S. nuclear antiproliferation policy, thereby making it less likely that other nations will acquire nuclear weapons through the diversion or exploitation of U.S.-supplied materials and technology.

The bill sets forth a careful blend of flexibility and firmness, of inducements for cooperation and measures of restraint. While tightening export criteria that have previously been ambiguous, loose, and sometimes inconsistent, it also promotes policies that help to assure that the United States remains an effective and reliable supplier of nuclear technology to those countries that commit themselves to peaceful use guarantees. The bill also improves procedures for interagency review and lays the basis, through more timely and meaningful reporting requirements, for continuing congressional oversight of this sensitive area.

Moreover, this bill is compatible with and supportive of the code of principles adopted in London at the Nuclear Suppliers Conference.

Like the Zablocki-Findley legislation of last year, of which this bill is an outgrowth, the legislation sets forth an important standard for judging whether nuclear reprocessing operations are effectively safeguarded. I speak here of our requirement for an assurance that safeguards can provide timely warning of nuclear diversion.

Our committee has found that nuclear safeguards are more like warning bells than locks. If they are to be of use, it follows that they must ring early, and well before a diverting nation has had time to convert its stolen material into bombs. It can be seen in the case of South Africa how important such warning time can be. This legislation helps to assure that warning alarms over the material we export will ring clearly, reliably, and in time for action by the international community still to be possible.

The bill we bring before you today has been jointly reviewed by two subcommittees, the Subcommittee on International Economic Policy and Trade and the Subcommittee on International Security and Scientific Affairs. By proceeding in this manner, the committee was able to bring two important sets of expertise to bear upon the problems raised by U.S. commerce in the nuclear field. The bill, moreover, is the product of nearly 2 years of hearings, consultation, and research. We are proud of its contents and comforted by the protection it provides.

I urge the adoption of the bill H.R. 8368.

Mr. FINDLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation is truly the product of the Congress and more particularly of the House of Representatives. Over the years I am sure many of us have heard the question raised: Just what is the role of the Congress in foreign policy? And many people I suspect would respond that the role of the Congress is exclusively to respond to initiatives from the executive branch.

Under the leadership of the gentleman from Wisconsin, the chairman (Mr. ZABLOCKI), the committee has set a new tone, a new course, and a new record of accomplishment and has initiated some very significant legislation. Most notable in this series has been the war powers resolution. Properly in the same series is the bill which is now before us today.

It is the product of the House of Representatives and the product of bipartisan cooperation. I think it is a great tribute to the leadership of the committee on both sides of the aisle and to the staff of the committee on both sides of the aisle.

I am very proud to have had a role in it. I am glad to recognize the significant contribution of the gentleman from New York (Mr. BINGHAM), who has very diligently stayed with this complicated matter and seen it through.

The final product finds itself in the notable position of being endorsed strongly by the administration with only one reservation, that dealing with the longstanding concern of the administration with concurrent resolutions.

But aside from that, the administration endorses the legislation without amendment, which in my view is the highest praise it could possibly receive from the other end of the avenue. This legislation is crucial because it creates a framework to stem nuclear spread.

The spread of atomic weapons to a multitude of nations around the globe is an intolerable prospect. Nuclear proliferation threatens to undermine international stability and to tax beyond endurance our national security requirements. Moreover, our effectiveness in achieving our foreign policy objectives would diminish as states increasingly menace each other with nuclear conflagration and possible extinction.

Such a scenario, though grim, is not inevitable. But determination rather than indifference must fashion our approach to stemming nuclear spread. Through carefully devised and thoughtful policy, we can discriminate between the vast majority of nuclear technologies which are beneficial and safe and those which are unnecessary and dangerous. By regulating our exports accordingly, we can prevent or at least postpone that time when scores of nations are on the verge of atomic weapons capability. Even a delay would afford us the opportunity to develop new, proliferation-resistent technologies. And, indeed, as one sage commented—one could do a lot of living in the 10, 20, or 30 years we could prolong a world free of proliferation. Thus, resolve must substitute for complacency in directing U.S. nuclear export policy.

Unfortunately, in the past, U.S. policy has often been indifferent and incomplete. Its many inconsistencies have perplexed other nations. The application of our safeguard standards has been confused and indecisive. For example,

We have refused to export nuclear reprocessing facilities. On the other hand, we have contemplated permitting other nations to reprocess U.S. supplied fuel.

South Korea, an ally, met harsher American opposition to its nuclear aspirations than did nonallied India. Although we blocked Korea's acquisition of a reprocessing facility, we continued supplying India with nuclear materials even after her illegal 1974 detonation of a bomb.

Such muddled policy antagonized both friend and trading partner. Charges of unevenness and discrimination have greeted our export decisions.

We very much need, therefore, the clear, deliberate, and uniform regulation of our nuclear commerce H.R. 8638 provides. Through a thoughtful blend of unilateral initiative and multilateral cooperation, this legislation creates a comprehensive framework for implementing our nonproliferation objects. Incentives and rewards balance sanctions to deter misuse of our nuclear materials. Flexibility juxtaposes with rigor of export criteria to forge a policy that is neither arbitrary nor peremptory. Moreover, the definition of an effective safeguard standard—timely warning—will insure that recipient nations cannot manufacture, undetected and overnight, bombs from materials we provide for peaceful purposes.

By requiring safeguards to provide reliable, timely warning of diversion we are not committing to a new standard but are returning to an old truth. U.S. policy statements have long reiterated the importance of timely warning. In a May 1975 report to Congress, President Ford stated:

> The international safeguards system deters diversion by the threat of early detection of diversions should they occur at the national level and by the political consequences resulting from reporting of diversions to the international community.

To be effective, safeguards must detect diversion of plutonium from peaceful to nonpeaceful uses. This detection must come well in advance of the plutonium's insertion into an explosive device. Otherwise, the likelihood that the diversion will be discovered is minimal. And the opportunity for the international community to take action against the offending nation is slight.

Now a nation that possesses nuclear reactors and spent fuel cannot immediately transform diverted material into a bomb. To manufacture an explosive device will require many difficult steps and long months. Existing safeguards, when applied to reactors do provide reliable, timely warning.

Such safeguards are basically sophisticated monitoring and accounting systems. Periodic inspections keep track of how much nuclear material a nation should have on hand and how much it does have. Discrepancies indicate the possibility of clandestine diversion of nuclear materials from peaceful to military ends. A report of a discrepancy to the international community, therefore, comes in timely fashion. Months remain in which to take action against a nation that violates its peaceful uses assur-

ances. Warning time heightens the risk involved for the violator, making that nation more suspectible to exposure, criticism, and sanctions. Time translates into deterrence.

The current safeguards system, however, does not prevent a nation from renouncing its peaceful uses assurances and diverting its nuclear stockpiles to nonpeaceful uses. The danger is not so much secret diversion but a determined and open national expropriation of nuclear stockpiles.

Therein lies the danger of reprocessing, which separates plutonium from used reactor fuel, enables a nation to have continuously on hand weapons-usable material. Since a nation, without violating the Non-Proliferation Treaty, may have quietly conducted atomic weapons research, it need only have access to reprocessed plutonium in order to assemble a weapon within a matter of days. In a crisis situation, the temptation to explode a bomb will be great for a nation with the near-weapons capability reprocessing provides.

Present safeguards, when applied to reprocessing, do not, therefore, permit timely warning. Knowing that our nuclear exports have brought a nation only to the verge of atomic weapons capability is not enough. As a responsible supplier we need sufficient warning time to deter the manufacture of a bomb.

Therefore, we must devise safeguards that, when applied to reprocessing, will provide reliable, timely warning. Promising technologies exist which, if pursued, may satisfy this standard. Diluting or mixing plutonium to make it inaccessible are two possibilities. This bill, by defining the standard that safeguards must meet intends to stimulate development of these new technologies. Until that time, we must defer the export of reprocessing facilities.

The International Relations Committee has worked closely with the administration to fashion this safeguard standard. Indeed, the President and the Secretary of State have urged that this legislation pass Congress during this session—in its present form—without amendment. The collaboration between the two branches of Government has paralleled the cooperation between Republican and Democrat in designing this bill. The Nuclear Anti-Proliferation Act of 1977 retains the bipartisan character that shaped the Findley-Zablocki nuclear amendment to the 1976 Export Administration Act. This amendment last year won the overwhelming support of this House. Our unity of purpose is born of the shared conviction that proliferation threatens us all. I urge my colleagues in the House to join in this effort and to support H.R. 8638.

Here is the text of Secretary Vance's letter to me:

THE SECRETARY OF STATE,
Washington, D.C., September 17, 1977.

Hon. PAUL FINDLEY,
House of Representatives.

DEAR MR. FINDLEY: Thank you for your letter of September 16, 1977. As you know, the President attaches the highest priority to enactment of anti-proliferation legislation during this session of Congress.

We have carefully reviewed the five amendments to H.R. 8638 that were enclosed in your letter, as well as the proposed clarifications which Chairman Bingham would offer. These amendments and clarifications (attached) meet all of our concerns except for our continuing concern about the use of the concurrent resolution Congressional review procedure. Aside from this exception, we are able to confirm that the Administration strongly supports the bill and wishes to see its prompt passage by the House without further amendment.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report.

Sincerely,

CYRUS VANCE.

Mr. BINGHAM. Mr. Chairman, I yield 10 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Chairman, I thank the gentleman from New York, the chairman of the subcommittee, for recognizing me for this time to comment on this legislation.

I wish to compliment the gentleman from New York (Mr. BINGHAM), and the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on International Relations and their colleagues on both sides of the aisle for the initiative they have taken in addressing this important issue of nuclear proliferation.

Mr. Chairman, I am in full support of the nonproliferation principles embodied in this bill—principles virtually identical to those recommended by the President in H.R. 6910, which he submitted earlier in the session and which I cosponsored. It appears there is a consensus between the President and the Congress and it is appropriate that these principles be embodied in legislation at this time.

However, with the administration, I share a concern that certain features of H.R. 8638, as it was originally reported, are not conducive to achieving the nonproliferation objectives laid out therein.

Let me bring to your attention the concern of the administration, and my concern with several important features of this legislation as it was reported by the Committee on International Relations on August 5.

These include what I would call an unrealistic description of the meaning of the requirement associated with the term "timely warning," as it appears in the committee report.

Second, there would be an adverse impact on Euratom treaty nations if the legislation, as reported, were to become law.

Third, there would be a disruptive interference in other nations' management of their own fuel cycles, unless the legislation is modified to make it sufficiently flexible. We must not attempt to dictate unreasonably and arbitrarily what their domestic commercial activities will be.

Fourth, the bill, as reported, could cause burdensome congressional review procedures in some instances.

These and other concerns were brought to the attention of the Committee on International Relations in hearings and in communications with chief sponsors of the bill after it was reported by the committee.

There are further substantial concerns which the administration has expressed with respect to this legislation and which I understand are now to be corrected with amendments which the committee chairman has worked out with the administration and which I certainly support.

First among these has to do with the timely warning language in section 501(b) of the bill, as further elaborated on in the report accompanying the bill (Rept. No. 95–587). As it is written, that report implies that the bill is to be construed as prohibiting foreign reprocessing of U.S. spent fuel under any conditions for an indefinite period. It is critically important that the legislation, as it is amended, also establish in the legislative history whatever corrections are necessary in the report, so that there is no ambiguity at all on this particular issue. If this is not done, it would appear to other nations that the United States has prejudged the outcome of the ongoing international nuclear fuel cycle evaluation upon which the administration is so heavily depending to achieve worldwide unanimity on how to assure an appropriately safeguarded nuclear fuel cycle.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. MCCORMACK. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I welcome this opportunity to salute the chairman for his very constructive input upon this legislation. The gentleman has elaborated on the concerns that the gentleman had with the legislation and which was reported by the committee and it was substantially due to the gentleman's own influence that amendments were agreed to on a bipartisan basis, after consultation with the administration, which I think improved the legislation substantially and the gentleman is entitled to great credit for that achievement.

I want to add also, for my part, that the language as amended by these agreed-to amendments is changed, and therefore the committee report which dealt with the original language has to be reexamined in light of the new amendments. I am sure the gentleman recognizes that, and I certainly do myself.

I thank the gentleman.

Mr. MCCORMACK. I thank the gentleman for his remarks. May I ask, would the gentleman care to elaborate on the word "reexamine" with respect to the report? Will we have some legislative history which will clarify that matter so that there is no potential ambiguity?

Mr. FINDLEY. It is my understanding that these amendments will be offered during the amendment period. This would provide an ample opportunity for all of us to participate in the legislative history, and the committee report will have to be read in light of the legislative history that accompanies these amendments at that time.

Mr. MCCORMACK. I thank the gentleman.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MCCORMACK. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding to me. I would just like to agree with the statements made by the gentleman from Illinois. It seems obvious to me that where the provisions of the bill are subject to amendment, that any interpretation of the bill as originally reported out, contained in the committee report, would not be applicable to the amendment.

Mr. McCORMACK. I thank the gentleman. I appreciate his making that point.

There are several other matters which I will mention briefly. I will not take the time of the committee to go into great detail. One of them has to do with the time required for renegotiating treaties with Euratom. The legislation provides for an 18-month deadline. I understand that will be increased. Would the gentleman inform me if he intends to support an amendment to extend this time limit?

Mr. BINGHAM. The provisions of the amendment which will be offered, and which were contained in the exchange of correspondence with the Secretary of State, would provide that at the end of 18 months the administration could extend the time for an additional 12 months, and beyond that for an ensuing 12 months if necessary. In other words, in that process some light pressure is maintained for a conclusion of negotiations. The administration has total flexibility in terms of extending the time required to conclude those negotiations.

Mr. McCORMACK. I thank the gentleman. If I may make some general observations with respect to this legislation, it seems to me that the problem I have had with the committee version as it was originally reported, was that it was too rigid and too arbitrary. The amendments which have been worked out between the administration and the committee, I believe, substantially treat the concerns which I have.

I am deeply concerned that this Nation, while using all of its influence to minimize the potential for nuclear weapons proliferation, also have the flexibility to negotiate, and not unnecessarily restrict our friends overseas who have already signed a nuclear nonproliferation treaty.

There are several factors to consider here which are important. The first is that it makes no sense for us to put restraints upon weapons states as defined in the nuclear nonproliferation treaty, as if we are trying to restrain them from developing weapons. They already have them. Furthermore, it is an insult for us to attempt to put new restraints upon nations who have signed the nuclear nonproliferation treaty at our request, and are subject to inspection by the International Atomic Energy Agency. We must remember that we pressured them into signing the nuclear nonproliferation treaty, in which they gave up their right to make nuclear weapons in exchange for our assistance in their developing peaceful nuclear energy. To have us say to them, "Now, you must come to us for permission for almost everything you do," would virtually constitute a unilateral attempt on our part to abrogate that treaty.

Accordingly we should carefully consider where we should be exerting pressure, and where we should not; where we should be rigid and where we should be flexible.

The law must make that allowance. The committee bill, as reported, did not.

This is where the fine tuning of this bill becomes important. I am sure all of us who are interested in this subject are aware of the story which appeared in the Washington Post this morning relating to the fact that the nuclear supplier nations have reached tentative agreement on the sale or transfer of nuclear materials in the world. I think this is an outstanding and most important accomplishment.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCORMACK) has expired.

Mr. BINGHAM. Mr. Chairman, I yield 2 additional minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I would like to call the attention of the members of the Committee on International Relations to the fact that this agreement, which is so important, was worked out by our administration, with great flexibility, negotiating on an even 1-to-1 basis with the other nuclear suppliers around the world. It was not with any arbitrary pressure upon them, but on a negotiation basis. This is important. We are presently undertaking negotiations on nuclear fuel reprocessing. This legislation which we have before us, must be so tuned that it does not interfere with these negotiations. If we arbitrarily say to the other nations of the world, with whom we are attempting to negotiate mechanisms for the international control of reprocessing, that we will exercise a veto on what they may do, even after they have signed the nuclear nonproliferation treaty, we are going to effectively cut off any meaningful negotiations. The world will be the losers, and we will have lost an opportunity to reduce the potential for nuclear weapons proliferation by being too rigid and too arbitrary.

Mr. Chairman, I am pleased with what we have accomplished. However, I have amendments which I am considering for submission and I will be looking forward to studying them with the leaders of the committee between now and the time the bill comes to the floor.

Mr. FINDLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to make a very brief comment. First of all, I would hate to have anyone left with the impression that this legislation does not encourage Euratom to be in compliance with the criteria set forth in section 127. I view this as a sense of Congress expression that export licensing to Euratom comply with these criteria within 18 months. Nevertheless it recognizes the difficulty that may be entailed by encouraging the administration down the path with that goal in mind but giving the administration increments of 1 year beyond that 18 months if such difficulties are incurred.

Second, I appreciate the comments of the gentleman from Washington (Mr. McCORMACK) in regard to the flexibility the administration must have as it deals with nations which have signed in good faith the NPT. And yet we ought to view those comments in the light of the expression by Mr. Gerard Smith, our Special Ambassador at Large for nuclear issues, when he telephoned a Member of this body a strong endorsement of this legislation and his expression of hope that it would be enacted at a very early date. Obviously, as the Ambassador charged with the task of renegotiating our international nuclear agreements, he does not see it as being too inflexible upon the administration.

Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, H.R. 8638, the Antiproliferation Act of 1977, marks a great step forward in the battle to curb nuclear spread.

Specifically, it requires that the reprocessing of U.S.-supplied fuel must occur under conditions that provide timely warning of illicit diversion of bombs-usable material. Without such timely warning, the nuclear safeguard system becomes meaningless: We would discover that the plutonium has been diverted after the bombs have been built. Delayed warning or no warning at all would render deterrence impossible.

That is an explanation of an amendment which is the result of mutual consultation and compromise between the administration and the committee. I understand it will be offered on the floor by the gentleman from New York (Mr. BINGHAM).

Mr. Chairman, the timely warning amendment will require the Administrator of ERDA to determine before entering into a subsequent arrangement for the reprocessing of U.S.-spent nuclear fuel that the reprocessing will not result in a significant increase in the risk of proliferation. In making this judgment, the amendment will further require the Administrator to give foremost consideration to the question of whether the reprocessing facility and the reprocessed product can be safeguarded so as to provide timely warning to the United States of any diversion well before the time at which a violating country could transform weapons-usable material into a nuclear explosive device. Such warning time is essential if the international community or the community of supplier states is to have the opportunity for action. And it is only when such an opportunity for action exists, that safeguards can reliably be considered to deter.

The compromise formulation of this amendment takes account both of the indispensable character of timely warning and of the need for a certain flexibility in its interpretation and application.

Mr. Chairman, through this legislation we are, in effect, closing a major loophole that has existed in our nuclear export policy. No longer will we tolerate a nation doing well-nigh what it pleases with our nuclear materials. We also define our responsibility as a nuclear supplier. We will assure recipient States of a reliable and economic supply of nuclear reactors and low enriched uranium fuel. In return, nuclear recipient States have

the obligation to adhere to nonproliferation objectives. This is a fair exchange and one which enhances our national security and international stability.

In designing this bill, Congress and the Carter administration continue the fight against proliferation initiated by President Ford. The policy statement of the Ford administration on stemming nuclear spread recognized that "the accumulation of plutonium under national control, especially in separated form, is a primary proliferation risk." On the whole, in fact, the tone, procedure, and substance of H.R. 8638 are remarkably similar to those set forth in President Ford's policies. This bill, therefore, deserves the support of us all. It proposes a responsible and effective approach to limiting nuclear proliferation.

Mr. Chairman, as the chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI) pointed out, this legislation in fact is very similar to legislation passed last year by this House as a part of the Export Administration Act.

Mr. WINN. Mr. Chairman, a world in which many states possess a nuclear arsenal is a chilling prospect. The spread of atomic weapons threatens international stability and enormously increases U.S. security requirements.

Our international focus is wide. No dispute, no conflict does not somehow touch U.S. interests. We are called upon to mediate differences and to propose solutions in every region, no matter how remote. Our counsel is one of restraint and our aim is conciliation. The introduction of nuclear weapons into regions of tension would render these foreign policy objectives immeasurably more difficult to achieve.

Escalation of hostility into conflagration is more likely when nuclear states confront each other. New nuclear states will be unlikely to deter one another, since their respective forces are sure to be uneven in quality, ragged, perhaps even primitive. They may be prone to go off accidentally or so vulnerable as to be continuously inviting targets for preemptive destruction. Such a disturbing and volatile situation would overtax our limited sources for national defense.

Thus we must move surely and resolutely to stem the spread of nuclear weapons. I believe this legislation directs us to that end through a blend of unilateral initiative and multi-lateral cooperation. It combines flexibility with an urgently needed definition of U.S. nuclear export policy. I urge my colleagues to support H.R. 8638.

Mr. WHALEN. Mr. Chairman, few measures which pass this House have been as carefully chiseled over a period of years as has H.R. 8638, a bill to provide for more efficient and effective control over the proliferation of nuclear explosive capability. As a cosponsor of this bill, known as "the Nuclear Nonproliferation Act of 1977," I strongly urge its passage without substantial amendment.

As the Nation which stimulated today's broad distribution of nuclear material and technology, we have a special obligation to provide leadership in this area.

This legislation defines not only our responsibility as nuclear supplier, but the reciprocal responsibility of the nuclear recipient. Through an interplay of incentive and disincentive, unilateral initiative and multilateral collaboration, this legislation renews U.S. leadership in stemming nuclear spread.

We pledge our reliability as a supplier of low enriched uranium fuel and we ban the manufacture of nuclear explosive devices from U.S. material and equipment. We set a standard for effective safeguards and we offer training programs in nuclear safety. We offer to beef up the IAEA and to work with other nuclear supplier states in resolving waste management problems and in evaluating alternative fuel cycles. We provide for flexibility in applying our export criteria which does not, however, vitiate the core of our intent or leave us open to charges of unevenness and discrimination. In effect, we clarify what was once vague and define what was misunderstood.

Without a clearly established U.S. nuclear export policy, it has been impossible to convince other states of the direction their policies should take. The United States, as the preponderant nuclear supplier in the world market, too readily arouses commercial suspicion with its counsel of restraint. As long as we do not clarify our own intentions regarding the export of reprocessing plants or the reprocessing of U.S. supplied fuel, we will not be able to convince either France or Germany of their need to restrict the export of these unnecessary and dangerous facilities.

To argue that self-imposed restraint will cut the United States out of the international nuclear market is too narrowly commercial an argument. Moreover, it does not recognize that the economic gains from reprocessing sales are nonexistent. It fails to understand that other nuclear states—most of whom are our military allies—share our desire to avoid a proliferated plane. It also refuses to acknowledge that leadership by persuasion and example is possible and effective. This legislation renews and defines U.S. leadership.

It is vital that we pass H.R. 8638 promptly and without any crippling amendments in order that U.S. determination in this area be made clear. I therefore urge my colleagues to support this bill.

Mr. DERWINSKI. Mr. Chairman, I am pleased to participate in the debate on this important legislation, which the House is taking up today. There are some points which I think need to be emphasized and given careful consideration by all Members.

I am sure that everyone here recognizes that the use of nuclear energy to meet world energy needs is not a future option facing mankind, it is a present and continuing reality. Today, nearly twice as many civilian power reactors are operating outside of the United States as are operating within our Nation. The misuse of civilian nuclear equipment or material has been possible since the dawn of the atomic age—over 30 years ago. This concern continues, and may be heightened, as the world now must increasingly turn to the use of nuclear energy as the age of fossil fuels is ending. Thus to establish new nonproliferation measures is appropriate. But these measures must be appropriate to today's realities which beyond all others includes the fact that the United States must enlist the support of other nations if an effective regime is to come about.

These other nations are as concerned as we that proliferation is avoided and are now even more involved in world nuclear trade than are we. The President, in May of this year, initiated an international approach—the international fuel cycle evaluation, in recognition of such realities. This legislation unilaterally concludes this evaluation by congressional fiat.

All of us here know that looming as complicated and delicate international issues are, for example, the disposal and treatment of spent reactor fuel, alternatives to reprocessing and alternative nuclear technology that may be more proliferation resistant. These issues and others involve basic energy and economic issues vital to the survival and well-being of almost all the nations of the world. International negotiations of such subjects will be complicated and possibly difficult and if the basic U.S. position is to prevail, compromise may be necessary, incentives proposed, and sharing of responsibility acknowledged.

But H.R. 8638 without waiting for such negotiations would implement solutions—not proposals but solutions—which can only be seen as prejudging, predetermining, and attempting to unilaterally impose the U.S. position on all others.

Moreover, Mr. Chairman, to obtain adherence to the U.S. position, the weakest of incentives are offered. Indeed, one incentive that the NRC promptly issue export licenses once statutory requirements are fully met is not only an exercise in circuitous logic but not even important enough for the authors of the bill to set any time limits beyond which the NRC must at least report to Congress why further delay is required.

The argument can be made that the reliability of the United States as a partner in nuclear trade has been seriously eroded. Today, there is an effective world moratorium on procuring further nuclear power facilities from the United States. The proposed legislation does nothing to seriously reestablish the United States as a reliable trading partner and thus ignores the need for active U.S. participation in world nuclear trade as a vital concomitant of our nonproliferation strategy.

A tortuous procedure of licensing steps ranging from possible court review of decisions by the NRC whether or not to allow wide ranging public participation in export licensing procedures, to a host of possible executive orders all subject to congressional veto, are created which must be viewed by any potential trading partner as so ripe with the possibility for frustration and delay as to preclude, unless no other alternative is available any further nuclear trade with the United States. And today not only are alternatives to trading with the United States possible, but more nations are entering

such trade across the full spectrum of the nuclear fuel cycle.

U.S. agreements for cooperation do not presently give the United States the right to demand renegotiation. The proposed bill requires their renegotiatons which at a minimum is not likely to be compatible with the constitutional and parliamentary process of other nations affected by the renegotiations provision.

Although the subject of proliferation has been under intensive study by some Members of Congress for some time, the world community is just beginning to respond to the issue. These Members may take pride in their alerting both our own government and foreign governments to this concern. But now that the world is attempting to evolve a workable international solution, it is not appropriate for the United States to unilaterally dictate the shape and substance of it. If solutions are to work, their creation must be shared, not imposed. To legislate on so complicated a matter now, with legislation that itself has not been subject to widespread scrutiny so that its impacts are clearly perceived and understood by all affected participants—here and abroad—will not further nonproliferation objectives. It is more likely to frustrate and perhaps even abort the international process vital for success.

In conclusion, Mr. Chairman, it is my belief that the cause of antiproliferation will be strengthened by setting aside H.R. 8638 and taking the time to draft legislation based on sounder assumptions. Congress should build upon the solid foundation of international cooperation that has so well served the United States and its global neighbors during this atomic age.

Mr. BUCHANAN. Mr. Chairman, I rise in support of H.R. 8638, the Nuclear Antiproliferation Act.

It is particularly appropriate for us to be considering this legislation at this time—a time when radioactive debris from a Chinese nuclear explosion is making its way across the United States.

The legislation we are considering here today can go a long way toward curbing the potential for similar explosions by those countries not now possessing nuclear capabilities.

In the past, U.S. nuclear export policy has been vague and ill-defined. It has lacked the comprehensive framework that would permit a coherent approach to curbing nuclear proliferation.

Replete with loopholes, our policy has aroused the commercial suspicions of other supplier states while it has provoked charges by recipients of unevenness and discrimination.

Inconsistency of policy has not served us well. It has enhanced neither our general foreign policy objectives, our security, nor our nonproliferation goals.

Indeed, the Indian explosion of a nuclear device in 1974 serves as a poignant example of the detrimental impact of an indifferent and indefinite U.S. nuclear export policy. Stunned by the 1974 explosion, the United States imposed no sanctions on India because our bilateral agreement for cooperation did not rule out so-called "peaceful" nuclear explosions, although U.S. nuclear experts later testified there is no such thing as a "peaceful" nuclear explosion.

Publicly, we had denied for years that a legitimate distinction existed between peaceful and nonpeaceful devices. Yet we had failed to obtain from India explicit assurances that U.S.-supplied material would not be diverted from its energy program to the manufacture of a nuclear device of any kind.

As we uttered protests, India was thus able to assert that she was under no legal obligation to forgo making bombs from U.S.-supplied materials.

Notwithstanding the events of 1974, our reluctance to stand by our alleged nonproliferation standards remained. Although Canada, whose materials had also been used in the Indian explosion, suspended nuclear shipments to India, we did not. Our supply of low-enriched uranium fuel to India continued without interruption. Such an unfortunate message from the United States was not lost upon other states with nuclear aspirations.

Little wonder then that nuclear ambitions in the Republic of Korea and China heightened after the Indian episode. However, in the case of these two nations, the United States took action to dissuade China and Korea from acquiring the reprocessing facilities that would shorten their steps to manufacturing a bomb. Threats of sanctions brought positive results. Both nations abandoned projects that were potentially damaging to regional and international stability.

The bill we have before us is long overdue. It is designed to provide the guidelines for implementing deliberate and uniform policies to control the spread of atomic weapons. New and rigorous criteria will govern the export of nuclear material and technology by the United States. For example, it bans the use of U.S. materials to manufacture explosive devices of any kind.

At the same time, it does recognize that incentives can be as effective as prohibitions in curbing nuclear spread.

In this legislation, we provide assurances of U.S. reliability as a supplier of low-enriched uranium fuel to nations that adhere to nonproliferation objectives. We also commit the United States to offer national safeguards and safety programs to other states and to strengthen the IAEA.

I, therefore, urge adoption of this legislation.

Mr. FINDLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FOWLER. Mr. Chairman, "We are here to make a choice between the quick and the dead. That is our business. Behind the black portent of the new atomic age lies a hope which, seized upon with faith, can work our salvation. If we fail, then we have damned every man to be the slave of fear. Let us not deceive ourselves: We must elect world peace or world destruction."

These are not my words. They were spoken by Bernard Baruch in 1946, back at the beginning of an attempt to control dangerous nuclear activities by providing for international supervision of those actvities. The so-called Baruch plan fell victim to the cold war and the question of nuclear proliferation faded from serious international discussion.

In the years since 1946, the basic issues have not changed but the problem has become far more dangerous. In 1946 the United States stood alone in possession of nuclear capability. In 1976, five other nations, U.S.S.R., Great Britain, France, China, and India, were classified as nuclear weapons states while 15 others had nuclear reactors capable of producing enough plutonium to construct several bombs each year. By the mid-1980's the number of countries having such nuclear capability may double.

Today the House is considering H.R. 8638, a bill which represents another attempt to control the spread of nuclear weapons. This legislation would establish for the first time a comprehensive nuclear export policy for the United States. It would also set forth specific commitments by the United States in pursuing increased international cooperation in antiproliferation efforts.

This legislation is realistic in its acknowledgement of a legitimate role for nuclear power in meeting a nation's nonmilitary needs. Therefore it provides guarantees of nuclear fuel enrichment services and assistance in spent fuel storage for those countries that share our antiproliferation objectives. But the bill is also realistic in recognizing the critical importance of halting the proliferation of nuclear explosive capability. Thus, it applies standards to all U.S. nuclear exports and requires termination of these supplies if the recipient detonates a nuclear device or violates a safeguards agreement.

In voting on this bill we can have no illusions that the United States acting alone can solve the proliferation problem. Indeed the bill itself places great emphasis on international efforts especially in the area of strengthening the International Atomic Energy Agency. But we cannot lose sight of our leadership responsibilities. Just last week the news told of encouraging developments at the London Nuclear Suppliers Conference. Today the House has the opportunity to demonstrate to the world a strong commitment by the United States to nuclear nonproliferation. Let us continue to press for international agreement but let us not be afraid to set an example for others to follow.

H.R. 8638 is not a final solution, but I am reminded of the Chinese proverb cited by President Kennedy upon conclusion of the first nuclear test ban treaty: "A journey of a thousand miles begins with but a single step." Let us take another step on that long road away from nuclear catastrophe.

I would like to conclude by again quoting from the 1946 speech of Bernard Baruch:

> Science has taught us how to put the atom to work. But to make it work for good instead of for evil lies in the domain dealing with the principles of human duty. We are now facing a problem more of ethics than physics.
>
> The solution will require apparent sacrifice in pride and in position, but better pain

as the price of peace than death as the price of war.

Mr. Chairman, I urge adoption of H.R. 8638.

Mr. BINGHAM. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. PREYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability, had come to no resolution thereon.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the general debate on H.R. 8638 just concluded, and that I may be permitted to include extraneous matter with the statement I made in general debate on H.R. 8638.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE 70TH ANNIVERSARY OF A GREAT AMERICAN ENTERPRISE

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, last Sunday I had the happy privilege of attending an open house in Syracuse. It was held by United Parcel Service in observance of the company's 70th anniversary.

On display were package delivery vehicles that dated all the way back to 1913, and a collection of historical photographs that recorded the company's history.

As I scanned the pictures and captions I suddenly realized that I was in the presence of one of the best examples of the creative productivity of our free enterprise system.

Here was a company that started out as a messenger service in 1907 with $100 of borrowed capital and a will to succeed through good service. One of the founders used to sleep on the counter near the phone overnight so that no customer who wanted service would be denied it simply because it happened to be after business hours.

Jim Casey was the individual who showed such high dedication to service. This venerable gentleman, who still puts in a full day at the UPS office, helped found the company and the policies that have been responsible for its success. He was forced to drop out of school to help support his brothers and sisters, and in the best Horatio Alger tradition made a substantial contribution to this Nation despite his handicapped beginnings.

The teenage founders rented office space under a Seattle sidewalk, unheated and lit by a lightbulb hanging from the concrete overhead. And they performed with diligence the dog-walking, errand-running services that messenger companies provided in that day.

Eventually the little operation came to concentrate exclusively on package delivery service. The 1913 Model T Ford that I saw at the open house was a replica of the company's first package delivery vehicle. When the company could afford to buy that first vehicle, it acquired the capability to give Seattle citizens a regularly scheduled delivery service all over the city.

The company began delivering packages for small retail shops, and did such a good job that the major department stores eventually abandoned their own delivery fleet and gave the little firm responsibility for getting merchandise to customers.

During this era of service from retail stores to customers, United Parcel Service expanded its business to more than a dozen metropolitan areas, all the while gaining experience in the specialized task of handling small parcels.

Finally in the early 1950's the company began acquiring rights to serve broad areas of the Nation. The knowledge distilled from the years of service to retail stores was now applied to a common carrier business that had as its objective package pickup and delivery to any address, no matter how remote it might be.

Today, except for some minor restrictions, all 50 States are benefited by the economical and dependable delivery provided through United Parcel Service.

It is an exceptional success story that was made possible through the determination of the company's managers and a free enterprise climate that provided economic rewards to those meeting the transportation needs of Americans.

As a consequence, our economic system—which depends heavily on the movement of merchandise in small packages—can function more efficiently because of the existence of this fine delivery service.

United Parcel Service is 70 years young. It is in its prime as a service organization and as a responsible citizen of this Nation.

I am proud to take this moment to wish the company well on its birthday and I know I speak for many of my colleagues who have discussed UPS with me when I say, "It's great to have you around."

STATEMENT ON UGANDA TRADE BAN LEGISLATION

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I am today introducing legislation in the House that will establish a trade ban with Uganda. My legislative package has three parts. The first is a bill to prohibit the importation of any Ugandan products into the United States. The second is a bill to amend the Export Administration Act of 1969 to prohibit the exporting of American goods to Uganda. The third is a bill to amend the International Coffee Agreement Act of 1968 to establish a ban on Ugandan coffee imports into the United States.

Each of these bills deals with a different aspect of United States-Ugandan commercial trade. Together, they represent the full range of policy options that the Congress can exercise to effectively reduce or eliminate commercial trade with Uganda. Once I have introduced these bills, I will vigorously pursue their enactment. I am hopeful that hearings can be held yet this year.

Few Americans are aware that much of Idi Amin's foreign exchange comes from the United States. We are helping Amin stay in power in a very real sense.

U.S. coffee companies are now buying one-third of Uganda's green coffee and providing approximately one-third of Uganda's total export earnings. It is Uganda's hard currency balance of trade surplus, much of it from U.S. coffee imports, that Amin is using to pay his mercenaries, to buy military hardware, to import luxury goods, and to enrich himself.

Last year, the United States imported from Uganda 62,235 tons of green coffee valued at $176,747,400, International Coffee Organization figures. This represents 4.76 percent of total U.S. green coffee imports in 1976, but it constitutes 33.6 percent of Uganda's total green coffee exports in 1976. The importance of U.S. coffee imports to the ramshackle Ugandan economy is further illustrated by the fact that 86 percent of Uganda's total export earnings came from coffee exports.

Over the past 7 years, the following trends have developed in United States-Uganda trade: One, coffee exports have become a larger percentage of total Ugandan exports; two, U.S. imports as a percentage of total Ugandan exports have been growing, probably because of an increase in U.S. imports of Ugandan coffee. Finally, Uganda's balance of trade improved significantly last year over previous years, due largely to an increase in U.S. coffee imports and a sharp rise in coffee prices the world over.

Clearly, Amin's hold on power is becoming more vulnerable to U.S. economic pressure. The United States has experienced a 33-percent increase in Ugandan coffee imports for the first half of this year over the same period of time last year. The situation is getting worse, not better. I offer this package of bills today in the belief that it provides our country with a responsible course of action to deal with Amin.

First, taking action to disassociate ourselves from Amin's rule is consistent with our Nation's commitment to justice, liberty, and respect for human rights. Genocide has become a matter of policy in Uganda and we cannot ignore that fact. Amin's premeditated atrocities are crimes against humanity. Amin is no more an internal matter for Uganda than was Hitler an internal matter for Germany. President Carter recognizes that the character of our Nation is modified by our acts in foreign policy. His

global commitment to human rights bears this out. However, our human rights policy is so much empty rhetoric if we fail to act against wholesale slaughter in Uganda.

Second, conditions in Uganda could not get much worse. Any semblance of a working economy has disintegrated. Standards of civil conduct have disappeared. Earlier this month, Mr. Godfrey Lule, Uganda's former Minister of Justice, informed the U.N. that for the people of Uganda there was now "no known behavior or code of conduct that can guarantee personal safety from unwarranted arrest, torture, and murder—fear engulfs everyone, high and low."

Third, U.S. commercial trade is very important to Amin and a trade ban would pose real problems for his government. Generally, I am not an advocate of economic boycotts as tools for conducting our foreign policy. However, Amin's Uganda should be viewed as an exceptional case. The United States must not in any way help Amin remain in power. The brutality of Amin's rule demands that we take a stand and refuse to trade with him.

Fourth, a U.S. trade ban could serve as a catalyst for international action to hasten Amin's downfall. Since the United States buys the lion's share of Uganda's green coffee, it is up to us to take the first step to bring economic pressure to bear upon conditions in Uganda. There is evidence that a coordinated boycott organized with a few of our allies could have a dramatic economic impact upon Amin's government.

The United Nations and the Organization of African Unity stand silent in the face of continuing accounts of atrocities and mass murder in Uganda. Resolutions have been passed, embassies have been closed, and ambassadors have been recalled in protest, while the slaughter has been allowed to continue. The absence of effective action from anywhere in the world reveals the need for some country to demonstrate that it has the means and the will to stand up against Amin's practice of internal genocide. The United States must demonstrate a willingness to help Ugandans in their plight by putting into place a trade ban with Idi Amin's government. At the very least, a trade ban will serve to put distance between our Nation and Amin's reign of terror. At best, a trade ban will hasten Amin's downfall and raise the prospects of a better day in the country once known as "The Pearl of Africa."

TRIBUTE TO THE LATE HON. WILLIAM R. HULL, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. COLEMAN) is recognized for 60 minutes.

Mr. COLEMAN. Mr. Speaker, the people of north Missouri and Members of Congress were saddened to hear of the death of a former colleague, William R. "Bill" Hull, Jr., on Monday, August 15, 1977.

For 18 years, Mr. Hull represented Missouri's Sixth District in an exemplary fashion.

Born the son of a tobacco farmer in Weston, Mo., Bill Hull and his brothers built a prosperous business which still continues as a major operation in the Missouri river town. Through the 1940's, Bill Hull contributed significantly to the well-being of Weston, serving as its mayor; a member of the school board; an honorary trustee of the Weston Museum; a supporter of scouting and the Shrine; and a member of the Weston Christian Church.

In 1952, Bill Hull met former House Speaker Sam Rayburn at the Democratic National Convention in Chicago. With Rayburn's urging, Mr. Hull entered the 1954 congressional campaign in north Missouri and won the first of nine consecutive terms to the House of Representatives.

His 18 years in Washington were marked by his conservative voting record and a strong emphasis on programs for the farmer. Dedicating himself to flood control, watersheds and rural development projects, Mr. Hull remained close to the agricultural interests in the Sixth Congressional District of Missouri. He served on the House Appropriations Committee.

In recognition of his many contributions to his district and State, he received honorary degrees from William Jewell and Park Colleges. He later donated his congressional papers to libraries at the two colleges.

Bill Hull's years in Congress were momentous ones for our country. His honesty, dedication to duty and forthrightness contributed significantly to the tough decisions this country had to make in the 1950's and 1960's.

The people of Missouri were fortunate to have been served by such a decent man. The Members of Congress were fortunate to have known and worked with such an outstanding public servant.

I extend my personal condolences and those of my colleagues to the family and friends of William R. "Bill" Hull, Jr.

Mr. DIGGS. Mr. Speaker, I rise with sorrow today to join my colleagues in saluting our late friend and distinguished Member of this body, Representative William R. Hull, Jr. of Missouri.

Bill Hull and I first came to Congress with the "Class of '55", and, during the next 18 years of his service, he continually made his commitment to the people of Missouri and to the betterment of peoples throughout the country. He served with distinction on three committees, including the Public Works, Interstate and Foreign Commerce, and Appropriations Committees. He championed legislation that would improve the lives of all Americans. He was a compassionate man who concerned himself with the plight of all peoples, and who devoted his energies to finding solutions.

Like his fellow Missourian, Harry Truman, Bill Hull never passed the buck on any of the tough issues. He was a good friend and an honorable man and he will be missed.

Mr. WINN. Mr. Speaker, I was indeed saddened to learn of the death of our former colleague William R. Hull.

As a freshman in the 91st Congress, I became acquainted for the first time with this warm, friendly, genuine son of Missouri. He was a man with great love for his country and great respect for his fellow citizens.

For 18 years Bill Hull served his country and his constituents in an outstanding manner. He was respected by all his colleagues on both sides of the aisle. The opportunity to know and serve with Bill Hull during my years in Congress will long be remembered.

My deepest sympathy goes to his family in their loss.

Mr. DERWINSKI. Mr. Speaker, it is a privilege for me to join in paying a special tribute to our late colleague and good friend, the Hon. William R. Hull, Jr.

During his 18 years in Congress, Bill Hull was a respected and dedicated colleague, one who acquired many friends by always being a man of integrity. He was wholeheartedly responsive to the needs of our Nation and of his district, which he served so well. His hard work and conscientious representation were well appreciated by his constituents who first elected him in 1954, and saw fit to return him to Congress with perfect consistency. I know that he will be sorely missed by them and all of us who respected him immensely.

Bill was a solid and responsible legislator, and a devoted public servant who truly reflected the grassroots consensus of America. His emphasis on the interests of the farmers did much to revitalize governmental programs in rural areas.

Serving on the Appropriations Committee, he earned respect for his ability and effectiveness. He handled the demanding responsibilities of his congressional assignments with intelligence and insight.

Not only was he an objective man, especially in analyzing the great issues before our country, Bill was a man of compassion, good will, and foresight. His knowledge and vast experience in Government contributed to his effective legislative leadership.

I salute Bill as a fine American, who not only believed but practiced the greatness he saw in our country.

Mrs. Derwinski joins me in extending our heartfelt condolences to the family and friends of Bill Hull.

Mr. McKAY. Mr. Speaker, I am pleased to join with other Members of the House in paying tribute to Representative William Hull.

Although I served with him only a short time, I have fond memories of the brief friendship we developed and hope that his family will take heart in the knowledge that some of us care that people like him were willing to put their life and future in the hands of our system of politics. He performed a valuable service for his community and Nation.

I extend to his family my sympathies in their time of bereavement.

Mr. GIBBONS. Mr. Speaker, I rise to salute our departed colleague, William R. Hull, Jr.

Bill Hull was a fine Congressman. He loved his country, and he served it well.

He was a gregarious, friendly person, whose quiet ways and thoughtful manner made him an easy person to listen to and a pleasure to work with.

Bill will be missed by all of those who knew him, especially his family—to whom I extend my gratitude for sharing him with us.

Mr. PERKINS. Mr. Speaker, William R. Hull was an outstanding gentleman. It was my privilege to serve in this House with him for 18 years, and I am greatly saddened by his recent death.

Although our districts were widely separated, we had many common interests, particularly in the field of agriculture.

Mr. Hull was a tobacco man, having operated Hull's Tobacco Warehouse in his hometown of Weston, Mo., before coming to Congress. He knew the concerns of the Nation's small tobacco farmers, and he was a stalwart champion of their welfare in the Congress.

He had the abiding respect of his colleagues in the House who regretted his decision to retire a few years ago. I shall always remember him as an honest, able, and decent man whose many sterling qualities enriched this House and reflected great credit upon the people he served so well.

Mr. BROYHILL. Mr. Speaker, it was with a great deal of sadness that I learned of the passing of my friend, Bill Hull. During our service together in this body, I worked with him on numerous occasions for legislative goals that we both had in common. His wisdom, commonsense, and plain speaking were great attributes that made him an effective legislator and spokesman for his district. We need more like him today. Mrs. Broyhill joins me in extending our sincere condolences to his family.

Mr. PICKLE. Mr. Speaker, I would like to join with my colleague, the gentleman from Missouri (Mr. COLEMAN), in paying tribute to our former colleague, William R. Hull, Jr.

It was my privilege to serve in the House of Representatives with Bill Hull for some 8 years. I had the further privilege of visiting with him about legislation and the matters which affect our Nation.

In many respects you might say that we were side-kicks on the same committee, the Committee on Interstate and Foreign Commerce. Many was the time we would lean on the rail in the back of the House Chamber to discuss the merits of the various pieces of legislation and amendments that were under consideration on the floor. We were kindred spirits and more often than not when the time came to vote on the issues we had discussed we would be on the same side.

I had the highest regard for Bill Hull. He did not go to the well to comment on every bill that was before the House, but he had a good balanced approach to legislation that reflected his integrity and his commitment to his constituents.

Bill Hull was a public servant of the highest order. I missed him when he left the Congress and we will all miss him now.

Mr. GIAIMO. Mr. Speaker, it is my privilege to join in offering condolences in behalf of my former colleague and friend on the Committee on Appropriations, William R. Hull, Jr. Hearing of Bill Hull's death saddened me, as I am sure it did all of the many friends of Bill's around the country and in this House.

A native Missourian, Bill Hull lived most of his life prior to serving in the House of Representatives in Weston, Platte County, where he engaged in farming and was the owner of a large tobacco warehouse business. Always active in civic affairs, Bill first was elected to Congress in 1954, and served successively in the 85th through the 92d Congresses. While in the House, Bill was an able member of the Committees on Public Works, Interstate and Foreign Commerce, and Appropriations. While we did not share subcommittee assignments on appropriations, Bill and I became good friends, and I regarded him as an adept spokesman for the interests of his constituents and the Nation. I know all of my colleagues who served with Bill Hull regret the passing of this fine American, whose dedication to our constitutional form of government marked his career in the House of Representatives as one of unwavering principles.

Mr. BURLESON of Texas. Mr. Speaker, it was with much sadness that I heard the news of the passing of my former colleague, the Honorable William R. Hull, Jr., of Missouri. I knew Bill Hull well, having served with him during his 18 years in Congress. He was a distinguished and able gentleman whom I respected and whom I was proud to call my friend.

Soon after our acquaintance, it only took a short time to measure him as a man to be depended upon and one who responded with a warm friendship. He was respected by his colleagues who recognized his ability and dedication.

I join with my friends and colleagues in expressing deepest sympathy to his family and wish for them God's comfort in their great loss.

Mr. DUNCAN of Oregon. Mr. Speaker, we pause today to express our sadness at the passing of our former colleague, Bill Hull, of Missouri. I knew and respected him both as a friend and as a colleague.

Bill and I served together on the Appropriations Committee when I came from Oregon in the 1960's. He worked hard and served well. His example as a legislator made my work a little easier. I shall always be grateful to him.

My deepest sympathy goes to his children and family. Their sense of loss is shared. Their sense of loss should equal their pride in knowing he served his family, State, and Nation well.

Mr. CARTER. Mr. Speaker, I join in this tribute today to a fine man with whom I was proud to have served.

When I came to Congress in 1965, Bill Hull had been serving the people of the Sixth Congressional District of Missouri well for 10 years. I consider myself fortunate to have had the privilege of being counted among his colleagues for 8 years.

Bill Hull was a gentleman in the most fundamental meaning of that term.

He was modest and little given to trumpeting his own achievements. Yet it is the truest mark of the man that Bill is remembered best by those of us who knew him for his personal qualities.

Bill Hull was a fine fellow and friend. I sincerely regret the loss to this country of his example as a human being who served always honorably and to the best of his ability.

Kathleen and I extend our deepest sympathy to his son and daughter and to the rest of his family in their loss.

Mr. UDALL. Mr. Speaker, I was saddened to learn of the death last month of my good friend and former colleague, Bill Hull of Missouri.

Bill Hull had been here 6 years when I came to Congress and we served together for 12 more until his retirement in 1973. He seemed so much a part of this institution, the part that is right and good, it is hard to realize that almost half of our number did not have the opportunity to work with him. They would have learned, as I did, that Bill was one of the most reliable, congenial, and open people one could meet .

The people of the Sixth District of Missouri were his people and he served them well over a difficult era for our Nation and for those of us in public life.

And when he retired, Bill Hull did so when the time was right for him, with the honor and respect of his colleagues and his constituents.

I am proud to join his successor, TOM COLEMAN, in paying tribute to an outstanding Congressman and expressing our sympathy to his family.

Mr. McCLORY. Mr. Speaker, it is a privilege to join in this special order paying final tribute to our late colleague, William R. Hull, Jr., of the Sixth Congressional District of Missouri.

Congressman Hull, who served here for 18 years—including the first 8 years of my service in this House—truly personified the description of a statesman.

Bill Hull was attentive to his job here and was most conscientious in serving the needs and problems of his constituents in Missouri.

Congressman Hull brought pride and honor to this body and set an example for others to follow.

Mr. Speaker, I feel privileged to offer these few words of respect and tribute and wish to add to the surviving members of his family my deepest sympathy.

Mr. SKELTON. Mr. Speaker, I am sure there are many Members of Congress who join with me today in an expression of deep sorrow at the recent death of former Missouri Congressman William R. Hull, Jr. Bill Hull served in the U.S. Congress from 1954 to 1972. During that time, he was a staunch supporter of the interests of his constituents, particularly the Missouri farm family. Bill Hull was instrumental in the passage of important bills concerning rural development, flood control, and watersheds.

Any time the people of a congressional district honor a Representative by returning him to office, you can be sure that that Representative has served his constituents well. Bill Hull served a total of nine terms in the House of Representatives. Clearly, he was a man who understood the needs of his constituents and defended their interests.

I had occasion to meet with Bill Hull several times on matters of governmental interest. He impressed me at all times as being a gentleman and a dedicated

public servant. Above all, I was struck by his great love for the State of Missouri and her people. He was a man who maintained close ties in the community and drew strength from them. He will be greatly missed by the people whom he represented for so long and by all of us who had the privilege of knowing him.

Mr. HORTON. Mr. Speaker, I would like to take a moment to talk about an old friend and former colleague, Bill Hull from Missouri. Bill died last month at the age of 71.

Although Bill's first primary was extremely close, he won by only 27 votes, succeeding primaries and general elections were handily won, often by 2-to-1 margins. His prior experience in tobacco raising coupled with his years of service to the people of Weston, Mo., where he was born and raised, combined to make him ideally suited to represent Missouri's Sixth Congressional District.

During his 18 years in Congress, Bill Hull served on the Interstate and Foreign Commerce Committee and on Public Works. He succeeded a fellow Missourian, former Congressman Clarence Cannon, on the Appropriations Committee. It was on this committee that Hull brought his interest in flood control, watersheds, and rural development projects to bear.

Bill Hull was a good friend and colleague to many of us here today. I had the privilege and pleasure of serving with him in the 88th through 92d Congress. His contribution both to the Congresses in which he served and to the district which he so loyally and skillfully represented will be remembered.

Mr. BOLLING. Mr. Speaker, I join the gentleman in expressing my sorrow on the death of Bill Hull.

Over the years he and I served together we became good friends. He was a fine public servant and wholly decent and honorable man. It was always a pleasure to be in his company. He was friendly, humorous and utterly sincere. He loved his fine children and shared his pride in them with his friends.

He was an asset to the Congress, his congressional district and the life in Washington as well as Weston.

Mr. ICHORD. Mr. Speaker, at the outset, I want to take this opportunity to commend my friend and colleague TOM COLEMAN from Missouri for taking this special order to pay tribute to one of our most respected former colleagues, Representative William R. Hull, Jr., of Missouri.

After coming to Congress in 1955, Bill Hull was assigned to the Committee on Public Works, where he served until 1963 when he went on the Interstate and Foreign Commerce Committee. In 1964 our fellow Missourian Clarence Cannon died, leaving a vacancy on the Appropriations Committee for which a member of the Missouri House delegation was eligible. The honor went to Bill Hull and he served that committee for 8 years.

Bill Hull was a personal friend of mine and a great friend to the people of the State of Missouri. In his 18-year tenure in the Congress, he achieved a fine record of outstanding service. Bill was a dedicated and stalwart legislator. His service as a member of the Public Works, Interstate and Foreign Commerce and Appropriations Committees has been of significant importance to the Congress and the Nation. Bill was deeply concerned about economy in Government and he contributed significantly to various reductions in appropriations during his tenure in Congress. He was a quiet, gently-spoken, effective representative who worked hard on legislation through the committee process.

When I was first elected to this body in 1960, Bill Hull was one of the Members of Congress who was most helpful in giving me good advice and direction on how to become an effective Congressman. He was one of our most admired and respected colleagues.

Mr. Speaker, I want to extend my deepest sympathy to his family.

Mr. BURLISON of Missouri. Mr. Speaker, friends and colleagues of Bill Hull were grieved on hearing of his death on August 15, 1977. I join my colleagues in offering condolences to our former colleague's family.

Bill Hull was one of the most esteemed and respected Members of this body during his nine terms of service. He was a humble man with compassion and understanding. But he was more than that. He was able and dedicated. He was dedicated to the best interests of his State and Nation while at the same time holding in high regard the interests, concerns, and aspirations of his constituents in Missouri's great Sixth Congressional District. His loss weighs heavily on his many friends and admirers.

GENERAL LEAVE

Mr. COLEMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order.

TO ESTABLISH A PATIENT'S BILL OF RIGHTS UNDER MEDICARE-MEDICAID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 20 minutes.

Mr. COHEN. Mr. Speaker, I intend to offer an amendment to H.R. 3, the medicare and medicaid antifraud and abuse amendments, to establish in law a patient's bill of rights and to create a grievance procedure for patients whose rights are abridged during treatment in medical facilities. The amendment is a modification of legislation I introduced earlier this year with Congressman PEPPER, chairman of the House Select Committe on Aging.

Patients' rights have been under the purview of the Federal Government since the Secretary of Housing, Education, and Welfare implemented patients' rights regulations for skilled nursing facilities in October of 1974. Since that time regulations have been implemented for intermediate care facilities, and HEW is expected to publish specifications for patients' rights in hospitals. These regulations will assure institutionalized patients a wide range of personal and civil liberties.

Unfortunately, enforcement of these rights has been inadequate. At present, the only remedy is a total cutoff of Federal reimbursement. The Federal Government has been reluctant to withdraw its share of dollars from a facility since such action would frequently force the facility to close down. The inadequacy of existing patients' rights guarantees was pointed out recently in a report prepared by the AFL-CIO, entitled "America's Nursing Homes: Profit in Human Misery." Among its many recommendations was a call for a strictly enforced bill of rights for nursing home patients.

My amendment accomplishes two important tasks. First, it sets forth in law the rights of institutionalized patients. These important guarantees include such rights as—

The right to participate in planning total care and medical treatment, and to refuse certain treatment or to participate in research projects.

The right to present grievances without fear of recrimination.

The right to be free from chemical or physical restraints, except in emergencies or under a doctor's orders.

The right to full information in writing concerning services and charges by all health care facilities.

Second, the amendment establishes graduated penalities for institutions which are found to violate patients' rights and sets up a procedure by which patient complaints can be processed fairly and quickly. Under this new grievance procedure, patients who believe their rights have been abridged, or persons acting in their behalf, can file a complaint with the appropriate State agency. This agency would investigate the complaint and file a report within 10 days. After the investigative report is filed, the facility would have the opportunity for a hearing. Proven violations of the bill of rights could lead to the imposition of penalties of no greater than $500 per instance—except in the case of retaliation against a dissatisfied patient by an offending facility, in which case, the fine could reach $1,000. Any decision by the State agency could be appealed to the U.S. district court by either party involved in the complaint. In addition, special precautions would be included to protect the patient and the facility from harassment by the other party.

The rights of all patients should be assured, irrespective of where that care is received. This amendment begins that process by covering providers of inpatient medical care participating in the medicare and medicaid programs.

The amendment was drafted in consultation with the National Senior Citizens Law Center, and the American Association of Homes for the Aging. The principles embodied in this amendment have been widely discussed and have the support of the National Council of Senior Citizens, the Gray Panthers, the National Association of Retired Federal Employees, the National Retired Teachers Association/American Association of Retired Persons, the National Citizens Coa-

lition for Nursing Home Reform, and several State ombudsmen programs.

I believe these guarantees of the patient's full civil rights are essential to insure that the patient receives quality health care.

The amendment follows:

AMENDMENT TO H.R. 3, AS REPORTED

Offered by Mr. Cohen

Page 116, add after line 23 the following new section:

Patients' Rights in Certain Medical Facilities

SEC. 21. (a) Title XI of the Social Security Act is amended by adding after section 1126 (added by section 8) the following new section:

"DEVELOPMENT AND ENFORCEMENT OF STANDARDS RELATING TO THE RIGHTS OF PATIENTS OF CERTAIN MEDICAL FACILITIES

"SEC. 1127. (a) The Secretary, in prescribing standards under section 1861(e)(9) for hospitals, under section 1861(j)(15) for skilled nursing facilities, and under section 1905(c)(2) for intermediate care facilities, shall require that all such hospitals and facilities to which such sections apply (hereinafter in this section referred to as 'facilities') adopt and make public a statement of the rights and responsibilities of the patients who are receiving inpatient treatment or care in such facilities (hereinafter in this section referred to as 'patients') and deal with such patients in accordance with the provisions of such public statement.

"(b) The Secretary shall require that the statement referred to in subsection (a) include the following:

"(1) A guarantee that the patient's civil and religious liberties (including the right to independent personal decisions and knowledge of available choices) will not be infringed and that the facility will encourage and assist in the fullest possible exercise of these rights.

"(2) A guarantee of the patient's right to have private and unrestricted communications with his physician, his attorney, and any other person.

"(3) A guarantee of a married patient's right to privacy for visits by the patient's spouse, and, if spouses are inpatients of the same facility (other than a hospital) a guarantee of the right of the spouses to share the same room in the facility.

"(4) A guarantee of the right of each patient (and of a staff member of a facility on behalf of any patient) to present grievances for the patient or other patients to the facility's staff or administrator, to governmental officials, or to any other patients or individuals within or outside of the facility to work for improvements in patient care.

"(5) A guarantee of the patient's right to manage his own financial affairs, or to have a periodic accounting of any financial transactions in his behalf should the patient delegate such responsibility to the facility for any period of time.

"(6) A guarantee of the patient's right to receive adequate and appropriate medical, nursing, and supportive care as reimbursed, to be fully informed of his medical condition and proposed treatment, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment and know the consequences of such actions.

"(7) A guarantee of the patient's right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records (in accordance with the provisions of this Act), and security in storing and using personal possessions.

"(8) A guarantee of the patient's right to receive fair and equal treatment and services and a written statement of the services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under titles XVIII or XIX of this Act.

"(9) A guarantee of the patient's right to be free from mental and physical abuse and from physical and chemical restraints.

"(10) A guarantee that the patient will not be transferred or discharged from the facility, or transferred from one room to another within the facility except for medical reasons, for the patient's health and safety or for the health and safety of the other patients; must be accomplished with adequate procedures to protect the physical, psychological, and social well-being of the patient involved, and shall be subject to the remedies and enforcement procedures established by or under subsection (d).

"(11) A statement of the facility's regulations and an explanation of the patient's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients.

"(12) A guarantee that, should the patient be adjudicated incompetent in accordance with State law and not be restored to legal capacity, the above rights and responsibilities shall devolve upon a sponsor or guardian who shall see that the patient is provided with adequate, appropriate, and respectful medical treatment and care and all rights which he is capable of exercising.

"(13) A guarantee of any other patient's rights the Secretary determines to be appropriate.

"(14) The guarantees specified in paragraphs (6) and (9) may be temporarily suspended by a facility with respect to a patient if—

"(A) the physician attending the patient determines that the suspension of such a guarantee for a specified and limited period of time is medically necessary and the physician records such determination (and the reasons therefor) in the patient's permanent medical record; and

"(B) the facility promptly notifies any sponsor or guardian of the patient of such suspension, its duration, and the reasons therefor.

"(c) The Secretary shall also require—

"(1) that each facility make available a copy of the statement, including a description of the remedies and enforcement procedures established by or under subsection (d), to each patient (or to the patient's guardian), as evidenced by the patient's written acknowledgement, at or prior to the time of admission to the facility or at the time of the initiation of the medical relationship between the facility and the patient, and to each member of the facility's staff, and post a copy of such statement in a public place within the facility; and

"(2) that each facility prepare a written plan and provide appropriate staff training to implement each patient's right included in the statement.

"(d) The procedure for enforcing a patient's rights guaranteed under subsection (a) shall be as follows:

"(1) The Secretary shall establish a procedure under which any patient, or any person acting on behalf of a patient, who believes that such patient has been denied any right so guaranteed may submit a complaint, written or oral, with an appropriate State agency in the State in which the patient is situated (hereinafter in this subsection referred to as the 'State agency') which shall investigate the complaint, keeping confidential insofar as possible the identity of the complainant (and the name of the patient or patients involved if the complainant is not such a patient), and shall render a written report thereon to the complainant within twenty working days. A copy of the State agency report, including the complaint (with identities of the complainant and any patients deleted), shall be made a permanent part of the file maintained on the facility by the State agency and shall be available to the public.

"(2)(A) If as a result of a State agency investigation conducted under paragraph (1), there is sufficient evidence of a violation, the State agency shall assess against the facility a civil penalty as determined by the Secretary in subparagraph (C)(i) by an order made after notice (provided in accordance with subparagraph (B)) and after opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(B) The written notice referred to in subparagraph (A) shall include notice of the State agency's proposed order and notice of the facility's opportunity to request, within 15 days of the date the notice is received by the facility, a hearing on the proposed order.

"(D) Not later than 60 days after an order of assessment of a penalty against a facility becomes final under this paragraph the facility must either—

"(i) file suit contesting such assessment in an appropriate court of competent jurisdiction and pay the amount of the penalty assessed into an escrow account established by the State agency; or

"(ii) pay the amount of such penalty to the patient whose rights were violated.

"(3) Not later than 60 days after a final decision on such complaint has been made or if the State agency has failed to act within twenty days, the complainant may bring an original action in the appropriate United States District Court or any state court of competent jurisdiction to enforce the guaranteed rights involved under this section. Such court shall have jurisdiction in any such action without regard to the amount in controversy. The complainant may join any additional causes of action which he (or the patient or patients involved), may have against the facility for enforcement or damages arising out of rights guaranteed under this subsection or otherwise. A complainant who prevails in court shall be awarded legal fees and costs, including reasonable attorney's fees, and shall be entitled to immediate release and payment of the statutory damages awarded from any escrow account established under paragraph (2)(D) by the State agency with respect to such complainant and, to the extent not so provided, from the facility.

"(4) If any facility fails to pay, to a patient or into an escrow account, a civil penalty assessed under this subsection within 60 days of the final order of the State agency or the final judgment of a court imposing such assessment (as the case may be), the Attorney General of such State or of the United States shall recover the amount assessed (plus interest at currently prevailing rates from the last date of such 60-day period) in an action brought in any appropriate district court of the United States or any State court of competent jurisdiction. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(5) In any case where the patient or facility brings an action under this subsection following a decision of a State agency which is not in favor of the patient or the facility, respectively, and the action is determined to constitute harassment of the facility or patient, respectively, such patient or facility must pay all legal fees and costs (including reasonable attorney's fees) incurred by the State agency in connection with its decision.

"(6) In implementing the procedures established by or under this subsection for the enforcement of the patient's rights, the Secretary (utilizing existing procedures and instrumentalities whenever feasible) shall actively encourage, insofar as is possible depending on local circumstances, the involve-

ment of nursing home patient advocates and ombudsmen (at the option of the patients or complainants involved) as representatives of individual patients.

"(7) The Secretary shall insure that individuals who invoke the enforcement procedures under this subsection, and patients for whom such procedures are initiated by third parties, are protected against retaliation in any form by the facility involved or by any of its employees, agents, or representatives. For this purpose the Secretary shall specifically provide that any act of such retaliation shall be subject to a civil penalty not to exceed $1,000 for each act of retaliation.

"(8) In order to determine whether a facility is adequately protecting its patients' rights, each routine certification survey of the facility shall include a private meeting between patients and survey personnel to discuss patients' experiences within the facility as regards rights under this section and compliance with standards generally.

"(9) The Secretary shall first publish proposed regulations for carrying out this subsection within 6 months after the date of the enactment of this section, and such regulations shall first become final and fully effective no later than nine months after such date.

"(10) Costs incurred by a State agency in carrying out its functions and responsibilities under this subsection shall be considered administrative costs incurred in carrying out functions and responsibilities under title XVIII or under the State's plan approved under title XIX or both (as determined by the Secretary) for purposes of Federal reimbursement.

"(11) Notwithstanding any other provision of law, civil penalties paid to any individual in accordance with this subsection shall not constitute income or resources or otherwise be taken into account (A) for purposes of determining the eligibility of such individual or his or her family or household for assistance under a State plan approved under title XIX, or for aid, assistance, or benefits in any form under any Federal program, or any State or local program financed in whole or in part with Federal funds, which conditions such eligibility to any extent upon the income or resources of such individual, family, or household, or (B) for purposes of determining the amount or extent of such aid, assistance, or benefits.".

(b) Sections 1861(e)(9) and 1861(j)(15) of the Social Security Act are each amended by striking out "health and safety" and inserting in lieu thereof "health, safety, and rights".

"(C)(i) Any facility which violates any right of a patient guaranteed by the facility under this section shall be liable to individual patients (or their heirs) for a civil penalty determined by the Secretary in an amount not to exceed $500 for each such violation unless that is not possible in which case such penalty shall be paid to the State in which the facility involved is located. Each day such a violation continues shall, for purposes of this section, constitute a separate violation.

"(ii) The imposition of a civil penalty under this subsection shall not preclude, and shall be in addition to, any other monetary damages recoverable by patients as a result of the violation.

H.R. 3

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, the following is the amendment I plan to offer to H.R. 3, medicare-medicaid anti-fraud abuse amendments:

Page 82, strike out line 22 and all that follows through line 18 on page 85.

SEXUAL EXPLOITATION OF CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I wish to announce that the Subcommittee on Crime will meet on Monday, September 26, to mark up legislation that addresses the problem of sexual exploitation of children. The markup session will be held in room 2237, Rayburn House Office Building, commencing at 11 a.m.

ALL SECTORS OF AMERICA OBSERVE CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in the spirit of Public Law 86-90, which calls for the annual observance of Captive Nations Week in the third week of July, reports on the recent 19th observance conclusively show that all sectors of America observe this important week. There has been a myth that the week is of interest only to so-called ethnic groups, at that with an ancestral heritage in Eastern Europe. Nothing could be further from the truth. Public Law 86-90 applies to all Americans, and the nationwide reports on the 19th observance clearly show this.

Under the prudent rule of selectivity I submit additional items for the RECORD, including the proclamation of Gov. Michael S. Dukakis of Massachusetts and editorials, reports and articles in the Richmond Times-Dispatch, the Miami News, the Chicago Tribune, the Manchester Union-Leader, the Spokane Chronicle, Columbus Citizen Journal, Scranton Tribune, Miami Herald, Chattanooga News-Free Press, and the Muncie, Ind. Star:

A PROCLAMATION OF GOV. MICHAEL S. DUKAKIS, 1977

Whereas: The week of July 17-23, 1977, is observed nationally as "Captive Nations Week" in accordance with Public Law 86-90; and

Whereas: The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief; and

Whereas: Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples; and

Whereas: The 1977 Captive Nations Week serves as an appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights;

Now, therefore, I, Michael S. Dukakis, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of July 17-23, 1977, as "Captive Nations Week" and urge the citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

ANOTHER INCONSISTENCY

In every July for the past 19 years, the United States has observed Captive Nations Week to show its sympathy for people enslaved by communism. Objects of our concern have been not only such unfortunate nations as Estonia, Latvia and Lithuania, which have been annexed by the Soviet Union, but also such satellite countries as Hungary, Czechoslovakia and Bulgaria, which are leashed tightly to Moscow and are independent in name only.

This year, however, a strange and deeply disturbing thing happened when the National Captive Nations Committee got in touch with the White House to make arrangements for the traditional presidential proclamation that would officially designate Captive Nations Week. Every president in the past 19 years has issued such a proclamation, and the committee assumed that President Carter, an ardent champion of human rights, would do so with enthusiasm.

Captive Nations Week was scheduled to begin July 17. When the committee had received no word from the President by late in the afternoon of July 15, an official of the organization called the White House to inquire about it. A presidential aide casually informed him there would be no presidential proclamation.

Incredulous, the committee official wanted to know why. Well, explained an aide, since the President's position on human rights is so well known, there was no need for a proclamation. That the failure of an American president to designate Captive Nations Week might be intepreted as a sign that the United States no longer cared very much about people who live under communism against their wills either did not occur to the White House or did not bother it. To many of those people and their friends and relatives in the United States, the designation of Captive Nations Week, through a presidential proclamation, has come to symbolize the continuation of hope for eventual freedom.

The White House's decision promoted an immediate letter of complaint from Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee. It also evoked protests from ethnic groups throughout the country and from some members of Congress. Finally, on July 20, four days after Captive Nations Week had begun, the White House saw its error and the President issued a Proclamation of sorts. While it reiterated the United States' belief in liberty and human rights, the proclamation contained not one condemnatory word about Communist tyranny over the captive nations.

Said a disappointed Dr. Dobriansky of Mr. Carter's performance:

"His near disastrous inaction on Captive Nations Week suggests that his commitment to his human rights crusade is growing lukewarm if not cold. If so, that is tragic news for the hundreds of millions living under communism who look to the United States and its leaders for encouragement, inspiration and hope for their individual freedom and national independence."

President Carter's reluctance to make a forceful gesture of sympathy for the millions of people who are oppressed by the Soviet Union is another illustration of the inconsistencies that mar his human rights campaign. Our feeling all along has been that there is great danger in waging such a campaign with unreserved candor and without careful regard for the United States' legitimate international interests. But we also have felt, and have said, that if the President is determined to criticize those nations that restrict human rights he should criticize impartially, denouncing the Soviet Union and Communist China with the same fervor that he denounces South Africa. That his administration has not done.

[From the Miami (Fla.) News, July 28, 1977]

NOTE CAPTIVE NATIONS DAY

(By Anita Karns)

On Saturday, July 23, by Public Law 86-90, the 18th annual community (also national) observance of Captive Nations took place in which 28 ethnic groups participated in the New World Park with outstanding senators, congressmen and clergy—and what appeared in The Miami News? Not a single word, not a single picture. Why?

It seems like the disgusting and insidious needs of a dollar diplomacy demand the obvious gag of the vital, albeit peaceful, manifestations of this courageous and dedicated, patriotic organization which is here to stay in America.

Let's see some real spirit and meritorious news before, during and after this observance next year and from now on equal to the efforts of Captive Nations' leader, Rev. John Paul Nagy.

[From the Chicago (Ill.) Tribune, July 29, 1977]

REMEMBER CAPTIVE NATIONS WEEK? MR. CARTER DID—BARELY

(By Robert H. Michel)

[Rep. Michel, Republican of Florida, is minority whip of the U.S. House.]

WASHINGTON.—On Wednesday, July 20, President Jimmy Carter proclaimed Captive Nations Week. If you are not aware that he did so, don't feel ashamed. There were no headlines, no five-minute spots on the television evening news. Perhaps a small piece in the back pages of most newspapers—that's all there was to it.

The next day the President delivered a major address on Soviet-American relations. The words "captive nations" appear nowhere in the text.

It is a sad commentary on both the administration and the media that such a proclamation could have been issued so casually and so late, and reported so little. "Human rights" is a nice-sounding abstraction; "captive nations" makes us look a bit closer at the fate which has befallen a specific group of millions of human beings for over 30 years.

I thought of this as I read a recent article in Time magazine: "G.I. Watch on Deadly Border." The story told of what Time calls "the hideous fence system" set up by East Germany [needless to say, at the direction and with the approval of the Soviet Union], to keep Germans from fleeing to the West. "A deep concrete-lined ditch . . . a minefield . . . a close-meshed wire fence that begins three feet underground . . . and rises ten feet above the earth . . . antipersonnel mines . . . automatic firing machine guns that are triggered by an electronic eye and set up to hit, variously, at knee, head, or chest level . . . hungry police dogs . . ." That is what denial of human rights means in specific terms.

And it is precisely a lack of specificity that troubles me when the President speaks of human rights. Earlier in his administration, he wrote a letter to Soviet dissident Andrei Sakharov, assuring him of the administration's commitment to human rights. It was a human—and humane—gesture, one that focused attention on one human being rather than on some abstraction.

How wonderful it would have been if the President had used Captive Nations Week to send a letter to just one person suffering deprivation of human rights. Has Mr. Brezhnev's blustering brought an end to something far more important than "personal diplomacy"—i.e., personal concern on the part of the President?

Some say that the President, to be consistent in his human rights stance, must condemn denial of rights in friendly nations with the same force and frequency as denial of rights in Communist nations. The idea is absurd. Take all the violations of freedom in all the Latin American countries, South Korea, and any other non-communist nation you might care to name, put them all together and they don't add up to an infinitesimal portion of what has been and is being done to victims of communism in Eastern Europe, Cambodia, and South Viet Nam.

This doesn't mean we ignore violations of human rights in friendly nations. It means we concentrate most of our energy on the one ideology which, whenever it gains power, always engages in wholesale violations of human rights: communism.

This is not Cold War rhetoric. It is common sense. It is also the experience of this cruel and bloody century.

[From the Manchester (N.H.) Union Leader, July 27, 1977]

CAPTIVE NATIONS CHAIRMAN RAPS PRESIDENT

CLAREMONT.—Mrs. Howard T. Ball, chairman of the recently commemorated Captive Nations Week in the Granite State, sent a wire to President James Carter this week demanding that he apologize for neglecting to proclaim the celebration nationally and "speak for Christianity and not for the anti-Christ that is ruling the world today."

Mrs. Ball said she was dismayed at the failure of the nation's President to recognize the Captive Nations and told President Carter in her wire that New Hampshire has honored and remembered all through the years these "precious, crucified, enslaved people."

Mrs Ball's wire stated: "For the second time at Captive Nations Day Memorial since 1962 when every New Hampshire governor proclaimed this third week of July as such—Law 86-90, U.S. Congress and passed in 1959—no Presidential proclamation was read. President Kennedy's was released too late and then naturally was considered 'old news.' To this date no copy of your proclamation has been known. As chairman in this state for honoring and remembering all through the years these precious, crucified, enslaved people, my heart is heavier than ever. For if America should fall then where do people go. The blood of America is on every land. These countries, and Cambodia, South Vietnam, Laos and the tiny island of Timor, so recently. We have failed them in breaking our promises and words. What does the Bible say to this?

Mr. President, you and America owe the Captive Nations an apology. I demand that you speak for Christianity and not for the anti-Christ that is ruling the world today."

[From the Spokane (Wash.) Chronicle, July 27, 1977]

DELAY BRINGS COMPLAINT

For those who take much stock in proclamations by mayors, governors and presidents, the delay by President Carter in giving official recognition to the observance of "Captive Nations Week" was a bitter pill to swallow.

It seems that the President was four days late in calling attention to the general public that "Captive Nations Week" was to have been observed in this country starting on Sunday, July 17.

There was no excuse for such an error—if indeed, an error occurred—according to Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee. He said such a thing never happened before in the 19 years of such observances.

Claiming that the efforts of the committee and the President's human rights stand are a sort of hand-in-glove combination. Dobriansky said their request to the White House was expected to result in a prompt and strongly worded proclamation from President Carter.

Instead, the White House first informed the committee there would be no proclamation, but later a presidential statement was issued, but even it was a disappointment because no mention was made of the 27 nations under communist control.

Says Dobriansky: "We feel compelled to ask which is more important to this administration, human rights or relations with the Soviet Union? This deplorable misreading of the cause of captive nations follows closely formation of the interagency committee on U.S.-U.S.S.R. relations, the first such governmental agency of its kind."

Just how effective in bringing about international understanding a Captive Nations proclamation would be is somewhat questionable. But the national organization sees the President's response as the beginning of a retreat from Carter's stand on human rights. That, too, is questionable.

[From the Columbus (Ohio) Citizen Journal, July 25, 1977]

CARTER CHANGES VIEWS ON ETHNIC PROCLAMATION

(By Ted Knap)

WASHINGTON.—President Jimmy Carter changed his mind and issued a Captive Nations Proclamation because the Kremlin hath no fury like American ethnic voters scorned.

Every year since 1959 U.S. presidents have proclaimed the third week of July as Captive Nations Week. Last week, Carter decided to break with tradition.

A National Security Council official said Carter decided not to issue the proclamation because it would be "superfluous and unnecessary" and was concerned it might further offend the Soviet Union.

The National Captive Nations Committee chairman, Lev E. Dobriansky, wrote Carter: "Your indifference to this concrete issue reflects not only poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy."

Rep. Edward J. Derwinski (R-Ill.) prepared a statement saying Carter's silence on Captive Nations Week was a "contradiction to his human rights crusade." Several Democratic congressmen warned the White House that Carter's refusal to issue the proclamation would be seen by American ethnic voters as a sign of weakness and abandonment of their cause.

Carter changed his mind and issued a hurriedly drafted proclamation Wednesday declaring Captive Nations Week retroactively back to Sunday.

[From the Scranton (Pa.) Tribune, July 25, 1977]

BETTER LATE THAN NEVER

President Carter was in Yazoo, Miss., last week when, as some followers of current news were saying, he would have been more productive had he been in New York City, where looters, crime, social ills and other problems combined in a blackout-triggered explosion to deal the city's economy a crushing blow.

Earlier, the President had gone week-ending at Camp David, forgetting, it seems, to proclaim Captive Nations Week, an annual expression of official concern for nations under the heel of Communist oppressors.

By way of recompense, however, the President did belatedly designate last week as Captive Nations Week. It took a reminder from the National Captive Nations Committee that the seven days had arrived for the annual commemoration of the nations of Eastern Europe "annexed" by the Soviet after World War II.

In his proclamation, the president said "our own country was established on a profound belief in national self-determination. Throughout our history we have sought to give meaning to this principle and to our belief in liberty and human rights."

The President spoke well. Late, but well.

[From the Chattanooga (Tenn.) News-Free Press, July 24, 1977]

FORGETTING

It has been the custom to proclaim the week of July 17 each year as "Captive Nations Week," to call attention to the Soviet captivity and oppression of the satellite countries of Eastern Europe—Latvia, Lithuania, Estonia, Poland, East Germany, Czechoslovakia, Hungary, Romania and Bulgaria. But this year, Mr. Carter almcst forgot till he was reminded. That's understandable. It's easy to forget dates and certain occasions.

The bad part, though, is that we seem to have forgotten the captive nations. We have acquiesced to Soviet enslavement, and do business with the enslavers.

[From the Miami (Fla.) Herald, July 24, 1977]

CAPTIVE NATIONS

About 200 South Floridians from the Ukraine, Hungary and other Communist-bloc nations braved Saturday's thunderstorms to protest treatment of citizens in their homelands. The occasion was the 23rd annual "Captive Nations Day," in Bicentennial-New World Center Park. It was celebrated by prayers, songs and speeches.

[From the Muncie (Ind.) Star, July 24, 1977]

MILLIONS WITHOUT FREEDOM

In the first week of July, Americans celebrate the birth of their independence as a nation founded on the principle that governments derive their just powers from the consent of the governed.

In the third week of July. they observe Captive Nations Week, which they have been doing since 1959 as a sobering reminder that not all nations are free.

In fact more than a billion people live under communism. They do not have freedom of speech, press, assembly, worship and movement, or the right to dissent or petition the government for redress of grievances.

Their rulers do not believe what Thomas Jefferson wrote in the Declaration of Independence, that all men "are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

Rather, these rulers believe in the unlimited power of the state, whose machinery is in their hands, and in this cold-blooded and often brutal process the consent of the governed has no part at all.

Since 1971 a relatively small number of Communists using subversion and armed force have extended their rule over 40 nations. In some other cases—for example. Malaysia, Indonesia, Greece, Spain, the Dominican Republic, Mexico and Portugal—Communist conspiracies have been foiled.

In some nations where the people have tried to loosen the bonds of totalitarian government, including Hungary, Czechoslovakia and Poland, Communist military might has crushed the popular uprisings and restored the dictatorship full force.

Communist imperialism and expansionism thrive on conquest. Leonid Brezhnev has said that the struggle "will be waged right up to the complete and final victory of Communism on a world scale."

In Asia, having polished off South Vietnam, Laos and Cambodia, the Communists are hungrily eyeing South Korea and Taiwan. In Africa, having seized Angola and established Marxist dictatorships there and in eight other states, they are gazing at the Transkei, Rhodesia and South Africa and licking their chops.

They are busy hatching their schemes and fishing for converts in Europe and in North and South America.

During this week it is appropriate to consider now the captive nations became captive and what to do to turn the tide in favor of freedom here and elsewhere.

THE ARKANSAS STRUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, in the September 17, 1977, issue of the Waterways Journal, there is an editorial which comments on the attitude of certain officials and representatives of the waterways industry who attended last week's convention in Kansas City. The editor calls this "The Arkansas Strut." Since my colleagues may be interested to learn how successful and worthwhile the Arkansas River Navigation System is in returning the Federal investment and particularly how much is saved in shipping costs, I commend it to the attention of the Members:

THE ARKANSAS STRUT

There's a new dance step just waiting to be introduced formally in Arkansas and Oklahoma these days—the Arkansas Strut. Strangely enough, it appeals to rivermen.

Like other popular ideas waiting for their debut, it has been difficult to keep it under wraps, although there are no "patents pending."

They say if you want to know what is new and fashionable in the world, you must travel to the big city. And so it was this week in Kansas City, Mo., where the first signs of popularity oegan to emerge for this new and important step. The symptoms, if we may call them that, were noticed by Journal staff members attending the annual meeting of the National Waterways Conference, Inc., along with other related waterway organizations. The only delegates indicating genuine knowledge of the new step, however, were those from Oklahoma and Arkansas.

"What is the Arkansas Strut?" you ask.

The Arkansas Strut is that haughty step one takes on after being informed that his navigation system has turned out to be much more, much earlier than had been anticipated. It is that air of confidence and "I-told-you-so" attitude one exhibits after learning from the U.S. Engineers that industrial investments along the Arkansas Waterway total almost twice the cost of the system. Preliminary estimates, the Corps reported recently, show that industrial investment has reached more than $2.4 billion as compared with project costs of $1.3 billion. A two-state job survey indicated that 20,000 new jobs have been attributed to the river system, increasing payrolls to their highest level in history and strengthening the barge and towing industry's claim of the waterway's importance to the national economy.

The importance of the report by Col. Ernest Edgar, Little Rock District engineer, is that it points out how the river system far surpassed the tonnage that had been projected for its first 10 years of service. And state officials have pointed out—obviously with much pride—that total amortization of the project could come years earlier than projected.

There are always skeptics, of course, but there are none among the officials at the Tulsa Port of Catoosa. In February, 1975, in the inland waterways terminal section of our Water Resources Congress annual meeting issue, they reported that the port had been operating at a profit as early as the middle of 1974. More than four million bushels of wheat had moved through the port in 1974.

The impact of the Arkansas Waterway on agriculture, as just one example, could appear no more significant at any time than it can today when farmers are facing record crops and low prices. Port officials have emphasized that the use of barges in transporting grain east and fertilizer west on the river system saved farmers as much as $5 a ton in shipping costs.

The kind of dreams that were made possible by the construction of the Arkansas Waterway are the same kind of dreams running through the minds of those who support the Tennessee-Tombigbee Waterway. It is the feeling of the Carter Administration, after applying its new criteria, that the Tenn-Tom project should be killed.

The Arkansas Waterway report only verifies the words of Harry Cook, executive vice-president of the NWC, who said recently: "Navigable channels alone do not make usable waterways." When the books are balanced finally, history usually reveals that nonfederal contributions far outstrip federal investment as far as water resource development is concerned, and the benefits are far reaching. Already fantastic amounts of money have been invested by nonfederal entities for Tenn-Tom developments.

History has shown that believers in the Arkansas project were right. They have earned the right to strut.

ANNOUNCEMENT OF CHANGE OF HEARING DATE RE H.R. 8359

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I wish to announce that the hearing on H.R. 8359 originally scheduled to be held on September 28, 1977, has been rescheduled for September 30, 1977, in room 2141, Rayburn House Office Building beginning at 9 a.m.

At that time the Subcommittee on Monopolies and Commercial Law will hear testimony from lawyers and economists on the technical aspects of H.R. 8359, a bill to restore effective enforcement of the antitrust laws. A further hearing is scheduled for October 6, 1977, in room 2141, Rayburn House Office Building, beginning at 9 a.m.

PERSONAL STATEMENT

Mr. BRECKINRIDGE. Mr. Speaker, I rise for the purpose of making a personal statement.

Mr. Speaker, I was unable to make two recorded calls on Monday, September 19, because I was testifying at the field hearings conducted by the Subcommittee on Consumer Protection in Cincinnati, Ohio, on the tragic fire that occurred on May 28 at the Beverly Hills Supper Club in Southgate, Ky., taking 164 lives.

I failed to respond to rollcall No. 560, a quorum call.

On rollcall No. 561, a recorded vote on Representative ERLENBORN's amendment in the nature of a substitute to Representative THOMPSON's amendment in the nature of a substitute to H.R. 4544, the Black Lung Benefits Reform Act of 1977, had I been present I would have voted "nay."

MEMORIAL SERVICES FOR NATIONAL SOJOURNERS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am privileged to offer for reprinting in the

CONGRESSIONAL RECORD a presentation of the National Sojourners for their memorial services held in New Orleans during their 57th national convention in June. The proceedings were prepared and presented by the national chaplain, Col. Leighton E. Harrell, AUS, retired. They were taped and transcribed by Capt. J. M. Hirst, president, Seminole Chapter No. 373, National Sojourners, Orlando, Fla.

At the beginning of the service eight Heroes of '76 ®, in full uniform, entered the room bearing three unlighted candles, three colored flowers, and a circlet of flowers. They stood, facing the audience, on each side of the altar, and Brother William F. Koeckert assisted in the lighting of the candles and placing of flowers.

The following statement was presented:

This morning we come to pay tribute to those of our members who have left us during the past year. We have been told by our National Secretary that there were 171 who have left us to enter into their eternal reward. In addition, since we have been here at this meeting, we have received word that Brother William E. Persons, Immediate Past Commander of Col. George F. Unmacht Camp, Heroes of '76 ®, passed away this past Monday evening, the 20th of June 1977 because of cancer. He left his office as Camp Commander the 16th of June, just four days before his death. In paying tribute to those who have left us, we include him this morning. Brother Koeckert, will you place this scroll upon the Bible? This scroll contains the names of those who have left us.

We are proud of our National Colors—red, white and blue. We would like to place upon the altar a red candle which will be lighted.

The red candle is symbolic of the sacrifice of shedding blood which our forefathers gave during the inception of our Nation, and in the forming of this Country of ours. It is also symbolic of the sacrifices that have been made by those who have served since then, and we pay tribute to them as we light the candle of red.

The candle of white. When our constitution was written by our Masonic forebears there were those who said it was the greatest article that had ever been composed by mankind. That was the result of a purity of interest and honesty of purpose. And so was founded a Nation like no other Nation on the face of the earth. Other Nations since that time have undertaken to formulate their constitutions and write into them the purity of purpose which was written into ours.

The candle of blue. Above us is the blue sky of heaven, and the blue in our flag which reminds us not only of those who have been sincere in their work, but that over us there is a Deity whose loving arms protect us day after day. He provides us with the blue sky above, and protects and surrounds us wherever we are. These three colors have been woven as the colors of our flag, and we pay tribute to our flag and to our Country as we come to pay tribute to these, our Companions who have left us.

Upon our Holy Scriptures, upon which rests the scroll which contains the names of those who have left us, we will place flowers First of all, we will place a flower of red.

Red has always been symbolic not only of personal sacrifice, but also of the zeal and sincerity of purpose which a person applies as he conducts his daily duties. Thus, as we come to pay tribute to those who have left us, we pay tribute to their sincerity of purpose and the faithfulness of their work.

The Flower of white. White has always been symbolic of that purity of life, that rectitude of conduct, which is so essentially necessary to our gaining admission to that Supreme Lodge above. Though not one of us is perfect, He knows our imperfections and loves us. We believe that in the lives of those who have gone before us there has been that integrity of purpose and purity of life which has made us feel that we should pay tribute to them as they leave us.

The Flower of blue. Blue, once again, not only pays tribute to the basic laws upon which our Masonic membership is based, but also the friendship and sincerity of purpose which those who have left us have built into their lives.

You will notice that as these flowers have been placed upon the Bible, they have been placed in a triangular form. Almost from the beginning of time the triangle has been a symbol of Diety. And we place them in triangular form to show that those who have left us have believed in this Deity; this overriding Providence; the great God of Love whose arms are ever around us, and whose hands have guided and directed us in all of our operations. We could not, as we live day after day, walk with confidence in this world of ours if we did not believe that there is a great God above us filled with compassion; filled with love; filled with understanding; who has sought us far more than we have sought Him, and who has made great sacrifices that you and I may enjoy this world which He has created for us. Today, we will take one step further; we will place around this triangle a symbol of Deity, which is the circle.

We are taught in our Masonic ritual that at the center of the circle stands each individual, and that the rim of the circle represents the Deity that is equally close and equally distant from every one of us. No matter which way we turn we are surrounded by His love and by His care. It is in that belief that, as we come to the end of this year, we can commit these, our beloved ones, into the care of our Heavenly Father who has always reigned above us and loved us, and who, every day gives evidence of His kindness, of His consideration, and of His thoughtfulness.

We have come to place these symbols upon our altar in tribute to those who have gone before us, and we need to remember that the finest tribute that we pay to those whom we love is not the flowers that we place in this place or that; not the stone monuments that we erect in their memory; not the tributes paid to them verbally. The finest tribute we can pay to those whom we love and respect is to bring to full fruition the ideals and dreams and hopes which they had. These, our Brothers, dreamed great dreams for us, and we, as we pay tribute to them, can make those dreams come true; that our Country will continue to be the greatest Country on the face of the earth; that our organization, National Sojourners, will continue to hold up examples of patriotism and teach to the citizens of our Country, that wherever we go we will teach the lessons of loyal citizenship so that the world will understand that we, who proudly call ourselves Americans, have a dedication to a purpose which is not based upon selfishness or hope of personal gain, but which is based upon service, love, understanding and fellowship. In this spirit we pay tribute to those who have gone before us.

We would not close this service without saying also that we extend to the families which have been left behind, our sympathy. We quite understand that words of sympathy can never ease the pain, but we also understand that the great God above us, in His infinite kindness, will clear away the clouds, and that the sun will shine again, and that He will take away the ache and pain from our hearts until we can walk with head erect and shoulders back, proud that we have a God who loves us and takes pain from our hearts, and fills our hearts again with love and understanding.

And thus it is that we pay tribute to these 172 persons who left us during the year. Thus it is that we extend our sympathy to their families. Thus it is that we face tomorrow assured of the fact that if we follow the leadership of our Supreme Commander, there is no such thing as defeat—eternal victory shall be ours.

May we stand.

Our gracious Heavenly Father, we are grateful for those who have gone before us; for the examples they have set; for the lives they have lived; for the service they have given; and for all that they have done to make this a better Country and to build friendship among our group. And now, as we come to the end of this service, we not only commit them to They care, but we also bear up to Thee on the arms of love those who have suffered the loss: May they understand that the Heavenly Father understands and loves them, and though, like David of old, they may not bring back those who have gone, yet they can live so that in the world to come they shall be united with those whom they loved.

We do not know what tomorrow holds for us, but may each of us walk in the assurance that, if we put our hands in Thine, there is no obstacle too great; there is no trouble which shall overcome us; there is nothing that can cause us to falter so long as we walk with our hand in the hand of the Heavenly Father. Our Father, dismiss this service with Thy love.

May we stand with bowed heads as these soldiers who have come and brought our flowers and candles to us—as they retire from the room, and then may we unite voices and say together: Glory to God in the highest and on earth, peace and good will among men.

Brother Soldiers, will you retire.

Now we will say together: Glory to God in the highest and on earth, peace among men of good will.

Mr. Speaker, as my colleagues in the Congress know, the National Sojourners are members of the armed services who also are members of the Masonic order. They are strong advocates of patriotism, an adequate national defense, and belief in the God of our fathers.

THEY SAY "NO" TO A CONSUMER PROTECTION AGENCY

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, there are times when a simple list of names can do more to clarify a complex issue than any number of sophisticated arguments. We have been told by President Carter and many other advocates of a Consumer Protection Agency that there is no widespread opposition against such an agency. Only the Washington lobbyists are against it—or so we are told. There are many arguments that can be made against such a claim, but the one I want to present to you today consists of the names of over 140 Illinois firms who have informed the chamber of commerce that they are opposed to this proposed bureaucratic monstrosity.

This, Mr. Speaker, is the voice of the people. It is the voice that is attempting to make itself heard over the barrage of the administration propaganda. I hope that someone in the administration bothers to read this list and to let the fact sink in that these are only 260 out of 15,000 such firms, large and small,

throughout the Nation, that are against the idea of a Consumer Protection Agency.

The names of these Illinois firms are:

L. Jack Mendel, RPT, Freeport Rehabilitation Center, 1045 W. Stephenson Street, Freeport, Illinois 61032

Lloyd G. Smith, Lloyd G. Smith Co., 1791 So. West Ave., Freeport, Illinois 61032

Floyd J. Bienfang, Flagg Twp. Trustee, 1205 Sixth Ave., Rochelle, Illinois 61068

Walt Busky, Busky Catalog Sales, May Mart Shopping Center, Rochelle, Illinois 61068

Leonard D. Carmichael, Maplehurst Farms, RR # 1, Rochelle, Illinois 61068

Tex Dickenson, Rochelle Printing Co., Inc., 600 S. 7th St., Rochelle, Illinois 61068

Jim Feather, General Manager, WRHL Radio (Rochelle Broadcasting Co., Inc.) 400 May Mart Drive, Rochelle, Illinois 61068

Donald E. Gillis, Kahler, Gillis Agency, Inc., 421 N. 6th St., Rochelle, Illinois 61068

John J. Nink Jr., President, Nink Enterprises Co., May Mart Center, Rochelle, Illinois 61068

L. D. Purhis, Carow International Inc., 509 So. 2nd St., Rochelle, Illinois 61068

Gale Thornton, Thornton's Body Shop, U.S. # 51 South, Rochelle, Illinois 61068

John Tompkins, Rochelle Newspapers, Inc., 401 N. Main St., Rochelle, Illinois 61068

Rex Wood, Caron International, 509 So. 2nd Street, Rochelle, Illinois 61068

James L. King, President, Sauk Valley Equipment Co., 200 E. 3rd Street, Rock Falls, Illinois 61071

T. T. Hill, President, Regal-Beloit Corporation, P.O. Box 38, So. Beloit, Illinois 61080

W. W. Keefer, Warner Electric Brake & Clutch Co., 449 Gardner Street, South Beloit, Illinois 61080

Thomas L. Rosenow, Chairman, Frantz Mfg. Co., 301 W. Third St., Sterling, Illinois 61081

Ronald J. Hartz, Wentsel, Wilkins, Lowe & Wheeler, Inc., 315 First Ave., P.O. Box 655, Sterling, Illinois 61081

John F. Wahl, Wahl Clipper Corp., 2902 N. Locust St., Sterling, Illinois 61081

E. R. Hollingsworth, Chairman, E. R. Hollingsworth & Associates, 1004 Talcott Building, Rockford, Illinois 61101

Bruce M. Livingston, Woodward Governor Company, 5001 N. Second St., Rockford, Illinois 61101.

R. E. Palmer, President, J. L. Clark Manufacturing Co., 2300 Sixth St., Rockford, Illinois 61101.

Wm. F. Schmeling, E. W. Schmeling & Sons, Inc., 1031 School St., Rockford, Illinois 61101.

John Carbangh, Beaky's Inc., 2430 Auburn St., Rockford, Illinois 61103.

L. J. Schmidt, Secretary, Civic League, Inc. (Executive Committee), 303 N. Main Street, Room 616, Rockford, Illinois 61103.

Fred J. Kile, Johnson, Kile, Seehausen & Assoc., Inc., 501 7th St., Rockford, Illinois 61104.

Thomas F. Brown, Land-Mark Printing Co., 327 S. Winnebago, Rockford, Illinois 61105.

Mott Bros. Company, 907 S. Main St., Rockford, Illinois 61105.

Michael J. Chiodini, President, Rockford-Milwaukee Dispatch, Inc., P.O. Box 3037, Rockford, Illinois 61106.

Ray Nihan, Nihan & Martin Pharmacy, Highcrest & Alpine, Rockford, Illinois 61107.

Richard Fratesi, Metal Cutting Tools, Inc., 21 Airport Drive, Rockford, Illinois 61109.

Milo J. Hackman, Rockford Universal & Drive Shaft Ser., 1206 Milford Ave., Rockford, Illinois 61109.

R. R. Gilbert, Waddell White Truck Sales, Inc., 3814 11th St., Rockford, Illinois 61110.

Roland D. Miles, V.P. & Cashier, City National Bank & Trust Co., 1100 Broadway, Rockford, Illinois 61110.

Fred W. Clarke, Rogers & Clarke Mfg., Co., 901 River Lane, Rockford, Illinois 61111.

J. Mark Amacher, Black Hawk Federal Savings & Loan Assoc., 1800 5th Ave., Rock Island, Illinois 61201.

T. W. Brown, Reynolds Engineering Co., 501 38th Street, Rock Island, Illinois 61201.

Fred Cook, Bituminous Insurance Companies, 320 18th Street, Rock Island, Illinois 61201.

Robert H. Evans, Illinois Iowa Blacktop, 220 34th Ave., Box 697, Rock Island, Illinois 61201.

John G. Gibbs, Black Hawk Federal Savings & Loan Assoc., 1800 5th Ave., Rock Island, Illinois 61201.

Lloyd R. Larson, Dohrn Transfer Co., 4016 Ninth Street, Rock Island, Illinois 61201

Clifford E. Missman, Missman, Stanley & Associates, 1011 27th Avenue, Rock Island, Illinois 61201

W. J. Reese, President, W. J. Reese & Assoc. Inc., 2108 5th Street, Rock Island, Illinois 61201

Wm. T. Schneider, President, Bill's Moving & Storage Inc., 2640 Blackhawk Rd., Rock Island, Illinois 61201

Duane E. Anderson, National Bank of Aledo, 201 West Main, Aledo, Illinois 61231

Lois I. Cagle, Cagle's Clothing Center, 125 E. Main St., Aledo, Illinois 61231

W. J. Thede, The Thede Co., 217 E. Main St., Aledo, Illinois 61231

Ray Adams, Adams-Cramm Insurance, 1180 42 Ave., East Moline, Illinois 61244

Federated, East Moline Department Stores, Inc., 806–808 15th Ave., East Moline, Illinois 61244

Hadley Kurtz, Kurtz Realty & Co., 367 42nd Ave., E. Moline, Illinois 61244

Richard J. Puffer, College Administrator, 2705 4th Street Court, East Moline, Illinois 61244

Clarence H. Vyncke, City of East Moline Illinois, 915 16th Avenue, East Moline, Illinois 61244

Roy M. Conrad, Beling Engineering Consultants, Beling Building, 16th St. at 10th Ave., Moline, Illinois 61265

Don Herrman, V.P., Public Relations, Elliott Flying Service, Inc., P.O. Box 100 (Quad City Airport), Moline, Illinois 61265

Charles D. Horton, President, Moline Paint Mfg. Co., 5400 23rd Ave., Moline, Illinois 61265

Robert E. Manhard, Blackhawk Realty Co., 3440 38th Avenue, Moline, Illinois 61265

Joseph Miller, Taylor Insulation Co., 1609 2nd Ave., Moline, Illinois 61265

Kenneth Nipp, Nipp's Machine Shop, 5402 3rd Avenue, Moline, Illinois 61265

Gene A. Oppenheimer, Harrington Signal Co., 406 7th St., Moline, Illinois 61265

Rufus H. Roys, Western Structural Company, 3201 Fourth Avenue, Moline, Illinois 61265

James P. Sandstrom, President, Sandstrom Products Co., Main St., Port Byron, Illinois 61265.

C. A. Siegfried, Jr., CAE, American Rental Association, 2920 23rd Avenue, Moline, Illinois 61265.

Lloyd H. Eees, Whiteside FS, Inc., 100 E. Knox St., Morrison, Illinois 61270.

R. Wayne Soliday, Soliday Farm Equip., Rt. 3, Box 9, Prophetstown, Illinois 61277.

Mr. Edward H. Boll, Carus Corporation, 1500 Eighth Street, La Salle, Illinois 61301.

Robert Spenader, Lee FS, Inc., 35 East Ave., Amboy, Illinois 61310.

Keith Hunter, President, Marseilles Telephone Co., 455 Main St., Marseilles, Illinois 61341.

Michael D. O'Connor, The Mendota Reporter, 702 Illinois Ave., Mendota, Illinois 61342.

Richard O. Brooke, Oakwood Memorial Park Inc., RR No. 1, Ottawa, Illinois 61350.

Robert N. Ettelbrick, K. J. Brown & Co., 107 W. Main St., Ottawa, Illinois 61350.

Paul A. Gerding, President, Bellrose Silica Company, Box 460, Ottawa, Illinois 61350.

Douglas O. Biederstedt, Doug Biederstedt/Realtors, P.O. Box 465, Peru, Illinois 61354

James J. Giordano, Chamlin & Assoc., Inc., 3017 Fifth St., Peru, Illinois 61354.

Florence Kramkowski, Partner, Paul Cohard, 415 5th Street, Peru, Illinois 61354.

A. S. Reiss, G & O Mfg., Co., 820 Brunner St., Peru, Illinois 61354.

Enid Snyder, The Snyder Ins. Agency, 1711 4th St., Peru, Illinois 61354.

K. A. Stachowiak, Monarch Industrial Inc., 1101 Center St., Peru, Illinois 61354.

H. Dean Reynolds, Reynolds-West & Assoc., Inc., 127 So. Bloomington St., Streator, Illinois 61354.

Raymond E. Ringenberg, Tiskilwa State Bank, Tiskilwa, Illinois 61368.

T. N. Kenney, Tonica State Bank, Tonica, Illinois 61370.

Robert L. Gess, United Facilities, Inc., Box 1443, 1557 S. Henderson St., Galesburg, Illinois 61401

L. A. Linman, L. A. Linman Agency, 1380 No. Henderson St., Galesburg, Illinois 61401

Carroll Watts, President, Galesburg Auto Supply Inc., 883 West Dayton St., Galesburg, Illinois 61401

Richard M. Bishop, President, First Galesburg National Bank & Trust Co., 200 E. Main St., Galesburg, Illinois 61401

William H. Buens, Gustafsons Paint & Wallpaper, 224 W. 2nd St., Kewanee, Illinois 61443

J. H. Dodge, V. P. and Treas., Boss Manufacturing Company, 221 West First Street, Kewanee, Illinois 61443

Robert R. Field, Kewanee National Bank, 635 Tenney Street, Kewanee, Illinois 61443

Raymond G. Hanson Sr., R. G. Hanson Co. Inc., 118 S. Chestnut St., Kewanee, Illinois 61443

I. L. Klavohn, President, Mutual Electric Supply Corporation, First & Chestnut Streets, Kewanee, Illinois 61443.

Patrick J. Murphy, Murphy Book Store, 222 N. Tremont St., Kewanee, Illinois 61443

Stuart L. Chapman, Campus Co-op Book Store, Inc., 717 W. Adams, Macomb, Illinois 61455

H. D. Ewing, Union National Bank, P.O. Box 417, Macomb, Illinois 61455

Kay Ruggler, Doris Patrick, K & D Shoppe, 15 E. Side Square, Macomb, Illinois 61455

Jerry S. Purdum, Purdum-Bucher Agency, 215 East Jackson St., Macomb, Illinois 61455

T. Wiley Clark, Martin & Clark Co., 1348 South Main St., Monmouth, Illinois 61462

Roger E. Gurholt, Administrator, Community Memorial Hospital, 207 So. 8th St., Monmouth, Illinois 61462

Everitt F. Hardin, Community National Bank in Monmouth, 311 North Main Street, Monmouth, Illinois 61462

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Don Searles, Waterless Dredging Co., 124 N. 15th St., Mattoon, Illinois 61938

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M. C. Shutt, Girard Elevator Co., 210 East Center St., Girard, Illinois 62640
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E. L. Spellman, Sec., Logan Landfill, Inc., 111 Park Pl., Lincoln, Illinois 62656
E. L. Spellman, Sec., Lincoln Industrial Park, Inc., 111 Park Pl., Lincoln, Illinois 62656
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Jim Powell, Powell Jewelers, P. O. Box 763, Mt. Vernon, Illinois 62864
Wm. Regenhardt, Southern Ill. Asphalt Co., Box 1707, Mt. Vernon, Illinois 62864
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Matt Hall, Owner, Speede Service, P. O. Box 494, Carbondale, Illinois 62901
Frank Janello, Franklin Insurance Agency, 512 W. Main, P. O. Box 1289, Carbondale, Illinois 62901
C. E. Needham, President, The First State Bank of Dongola, P. O. Box 217, Dongola, Illinois 62926
George W. Dodds, WGGH Radio, Box 340, Marion, Illinois 62959

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. WHALEN, for 5 minutes, today.
Mr. O'BRIEN, for 30 minutes, September 23, 1977.
Mr. KEMP, for 10 minutes, today.
Mr. COHEN, for 20 minutes, today.

(The following Members (at the request of Mr. DANIELSON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. ALEXANDER, for 15 minutes, today.
Mr. DIGGS, for 5 minutes, today.
Mr BOWEN, for 10 minutes, on September 23, 1977.
Mr. RODINO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $724.50.

(The following Members (at the request of Mr. LEACH) and to revise and extend their remarks and include extraneous matter:)

Mr. PRESSLER.
Mr. DORNAN in three instances.
Mr. DERWINSKI.
Mr. WHALEN.
Mr. LAGOMARSINO.
Mr. MARRIOTT.
Mr. ABDNOR.
Mr. HYDE.
Mr. VANDER JAGT.
Mr. CRANE.
Mr. BAUMAN.
Mr. ROUSSELOT.

(The following Members (at the request of Mr. DANIELSON) and to include extraneous material:)

Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. MCFALL.
Mr. BINGHAM in five instances.
Mr. REUSS in two instances.
Mr. CARNEY.
Mr. RYAN.
Mr. ROSENTHAL.
Mr. MURTHA in two instances.
Mr. LLOYD of California.
Mr. VAN DEERLIN.
Mr. ROYBAL in two instances.
Mr. NATCHER.
Mr. RICHMOND.
Mr. ROGERS in five instances.
Mr. MINETA.
Mr. WRIGHT.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1005. An act for the relief of Young Shin Joo; to the Committee on the Judiciary; and

S. 1654. An act for the relief of Thuy Bach Kanter; to the Committee on the Judiciary.

ADJOURNMENT

Mr. DANIELSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Friday, September 23, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2427. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting his certification that downward fluctuations in foreign currency exchange rates have made it necessary to provide additional funds to maintain in fiscal year 1977 the budgeted level of operation for Radio Free Europe/Radio Liberty, Inc., pursuant to section 8 of the Board for International Broadcasting Act of 1973, as amended (90 Stat. 832); to the Committee on International Relations.

2428. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the intention of the Department of State to consent to a request by the Government of Saudi Arabia for permission to transfer certain U.S.-origin military equipment to the Yemen Arab Republic, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on International Relations.

2429. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Arthur J. Goldberg and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations

2430. A letter from the Assistant Secretary of the Treasury, transmitting project performance audit reports prepared by the International Bank for Reconstruction and Development and post-evaluation reports from the Asian Development Bank, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended (87 Stat. 718); to the Committee on International Relations.

2431. A letter from the Administrator, Federal Energy Administration, transmitting the monthly report for June 1977, on changes in the aggregate market shares of motor gasoline retailers, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2432. A letter from the Administrator, Federal Energy Administration, transmitting the monthly report for June 1977, on changes in the refiner sales distribution and the retail market shares of selected refined petroleum products, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

2433. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's third report on the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act of 1975; to the Committee on Interstate and Foreign Commerce.

2434. A letter from the chairman, board of directors, Future Farmers of America, transmitting a report on the audit of the organization for the year ended June 30, 1977, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2435. A letter from Secretary of Transportation, transmitting a report on the applicability of Federal motor vehicle safety standards and regulations to electric and hybrid vehicles, pursuant to section 13(d) of Public Law 94-413; to the Committee on Science and Technology.

2436. A letter from the Secretary of Health, Education, and Welfare; transmitting a draft of proposed legislation to amend the Social Security Act to expand the availability of emergency assistance under title IV in the case of natural disaster or other occurrence of regional or national significance beyond a State's control; to the Committee on Ways and Means.

2437. A letter from the Comptroller General of the United States, transmitting a report on the Office of Education's basic educational opportunity grant program (HRD-77-91, September 21, 1977); jointly, to the Committees on Government Operations, and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 5723. A bill to provide that certain persons who were originally appointed as supplemental security income hearing examiners under pre-1976 provisions of title XVI of the Social Security Act shall without any restriction be deemed appointed as administrative law judges; with amendment (Rept. No. 95-617, Pt. I). Ordered to be printed.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8490. A bill to amend chapter 21 of the Internal Revenue Code of 1954 to clarify, extend, and facilitate compliance with the recently enacted provisions relating to social security coverage for employees of nonprofit organizations which failed to file certificates providing coverage for such employees but which nevertheless treated such employees as having such coverage; with amendment (Rept. No. 95-618). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE (for himself, Mr. BONIOR, Mrs. COLLINS of Illinois, Mr. DAN DANIEL, Mr. EILBERG, Mr. HARRINGTON, Mr. KINDNESS, Mrs. LLOYD of Tennessee, Mr. LAFALCE, Mr. MURPHY of Pennsylvania, and Mr. ROE):

H.R. 9247. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for expenses paid by a taxpayer in connection with his education or the education of his spouse or any of his dependents at certain educational institutions; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 9248. A bill to amend the U.S. Housing Act of 1937 for the purpose of making mobile home parks for the elderly and handicapped eligible for assistance under such act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEDERER:

H.R. 9249. A bill to require that imported meat and meat food products made in whole or in part of imported meat be subjected to certain tests and that such meat or products be identified as having been imported; to require the inspection of imported dairy products and that such products comply with certain minimum standards of sanitation; to require that the cost of conducting such tests, inspections, and identification procedures on imported meat and meat food products and on dairy products, as the case may be, be borne by the exporters of such articles, and for other purposes; to the Committee on Agriculture.

By Mr. LEDERER (for himself and Mr. BRODHEAD):

H.R. 9250. A bill to encourage financial institutions to help meet the credit needs of the communities in which they are chartered, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JONES of Oklahoma (for himself, Mr. ULLMAN, Mr. WAGGONNER, Mr. BRODHEAD, Mr. DUNCAN of Tennessee, Mr. ARCHER, Mr. CRANE, and Mr. MARTIN):

H.R. 9251. A bill providing that until July 1, 1978, the tax treatment of certain transportation expenses between a taxpayer's residence and place of work shall be determined without regard to Revenue Ruling 76-453 or any similar ruling; to the Committee on Ways and Means.

By Mr. PEASE:

H.R. 9252. A bill to amend the Export Administration Act of 1969 to prohibit exporting to Uganda of goods subject to control under that act; to the Committee on International Relations.

H.R. 9253. A bill to amend the International Coffee Agreement Act of 1968 to prohibit the importation into the United States of coffee which is the product of Uganda; to the Committee on Ways and Means.

H.R. 9254. A bill to prohibit the importation of Ugandan products into the United States; to the Committee on Ways and Means.

By Mr. RISENHOOVER:

H.R. 9255. A bill to amend title 10 of the United States Code to increase the minimum grade held by the Chief of the National Guard Bureau from major general to lieutenant general; to the Committee on Armed Services.

By Mr. RUPPE (for himself, Mr. LAGOMARSINO, Mr. KINDNESS, Mr. KETCHUM, Mr. CEDERBERG, Mr. HORTON, Mr. MCCLOSKEY, Mr. BONIOR, Mr. D'AMOURS, Mr. COHEN, Mrs. COLLINS of Illinois, Mr. RICHMOND, Mr. PURSELL, Mr. WHITEHURST, Mr. BLANCHARD, Mr. HARRINGTON, Mrs. SPELLMAN, and Mr. GOODLING):

H.R. 9256. A bill to amend the Federal Meat Inspection Act to permit States to impose inspection, marking, labeling, packaging, and ingredient requirements that are more stringent than Federal standards; to the Committee on Agriculture.

By Mr. RUPPE (for himself, Mr. PURSELL, Mr. CEDERBERG, Mr. FRENZEL, Mr. STEERS, Mr. MCCLORY, Mr. HILLIS, Mr. HANLEY, Mr. ANDERSON of Illinois, Mr. CLEVELAND, Mr. CORCORAN of Illinois, Mr. STOCKMAN, Mr. WON PAT, Mr. KINDNESS, Mr. MURPHY of of Pennsylvania, Mr. EILBERG, and Mr. VENTO):

H.R. 9257. A bill to authorize the Secretary of the Interior to review means of transmitting Alaskan crude oil to Midwestern and inland States; jointly, to the Committee on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. SISK:

H.R. 9258. A bill to amend the acts authorizing the Central Valley project, California, and to assure its operation and maintenance, to authorize the Secretary of the Interior to enter into certain agreements with the State of California and local agencies, to study the feasibility of certain additions to the Central Valley project and to construct and operate the Peripheral Canal, the Mid-Valley Canal, the Los Vaqueros Unit, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SISK (for himself and Mr. MURPHY of Illinois):

H.R. 9259. A bill to require that specific alien and citizenship status information be provided prior to the issuance of a social security card, to require that social security cards which cannot be duplicated be issued, to require that these cards be presented to employers by prospective employees before obtaining employment, to provide penalties against employers for violating the provisions of this act, and for other purposes; to the Committee on Ways and Means.

By Mr. TEAGUE:

H.R. 9260. A bill to prohibit a finding of death with respect to any member of the uniformed services in a missing status unless the next of kin of the member agrees to the finding; to the Committee on Armed Services.

By Mr. ROE:

H.J. Res. 598. Joint resolution providing for the designation of a week in May of each year as National Burglary and Theft Prevention Week; to the Committee on Post Office and Civil Service.

H.J. Res. 599. Joint resolution requesting the President to proclaim the second week of May as Municipal Clerks' Week; to the Committee on Post Office and Civil Service.

By Mr. HANSEN (for himself, Mr. FRENZEL, Mr. LENT, Mr. KELLY, Mr. MCEWEN, Mr. BOB WILSON of California, Mr. MOORE, Mr. MADIGAN, Mr. STANGELAND, Mr. TRIBLE, Mr. SPENCE, Mr. GAYDOS, Mr. CARTER, Mr. BAFALIS, Mr. WALSH, Mr. WYLIE, Mr. WHITEHURST, Mr. BROWN of Michigan, Mr. REGULA, Mr. BEARD of Tennessee, Mr.

WIGGINS, Mr. HARSHA, Mr. MOLLOHAN, Mr. STRATTON, and Mr. FISH):

H. Con. Res. 360. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. APPLEGATE (for himself, Mr. BENJAMIN, Mr. BEVILL, Mr. BUCHANAN, Mr. COUGHLIN, Mr. CUNNINGHAM, Mr. DENT, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EILBERG, Mr. FITHIAN, Mr. GAYDOS, Mr. HARSHA, Mr. KINDNESS, Mr. LAFALCE, Mr. MCCLORY, Mr. MURPHY of Pennsylvania, Mr. MURPHY of Illinois, Mr. NOWAK, Ms. OAKAR, Mr. PERKINS, Mr. ROE, Mr. SHARP, Mr. THOMPSON and Mr. WALKER):

H. Res. 772. Resolution urging the International Trade Commission to recommend to the President the continuation of the existing import restraints on specialty steel; to the Committee on Ways and Means.

By Mr. O'BRIEN (for himself, Mr. BURGENER, and Mr. GILMAN):

H. Res. 773. Resolution to amend the Rules of the House of Representatives to establish a permanent Select Committee on Handicapped Individuals; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. STANTON introduced a bill (H.R. 9261) for the relief of John D. Robertson, which was referred to the Commitee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

The SPEAKER presented a petition of the council of the city of New York, N.Y., relative to full employment; to the Committee on Education and Labor.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3

By Mr. ROUSSELOT:

On page 41 lines 2–3 and lines 23–24, on page 42 lines 15–16, on page 43 line 7, on page 44 lines 15–16, on page 45 lines 23–24, on page 46 lines 15–16, and on page 47 lines 7–8, strike "$25,000" and "five years" and substitute "$50,000" and "ten years".

On page 41 lines 5–7, and on page 44 lines 19–20, strike "misdemeanor," "$10,000," and "one year," and substitute "felony," "$25,000," and "five years".

On page 65, line 1, strike "ANNUAL REPORTS" and substitute "SEMI-ANNUAL REPORTS"

On page 65, strike lines 2–7 and substitute:

SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and September 1, 1978, and not later than April 1 and September 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding year, including data and information on—

H.R. 6566

By Mr. WEISS:

Page 18, after line 3, insert the following new section:

SEC. 104. None of the funds authorized to be appropriated under this Act shall be obligated or expended for production, procurement, or deployment of any enhanced radiation weapon or for research, development, test, or evaluation with respect to any such weapon.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House Rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 4, 1977 (page 27164).

H.R. 3401. February 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3402. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to designate $1 of their income tax liability to be used for purposes of reducing the public debt of the United States.

H.R. 3403. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals alternative, limited income tax credits or deductions for the tuiiton paid for the primary, secondary or higher education of the taxpayer, his spouse and dependents.

H.R. 3404. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, refundable income tax credit for 50 percent of the wages paid new employese working in the United States. Provides for future assessments of this credit by the Secretary of the Treasury.

H.R. 3405. February 9, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to postpone until model year 1982 the imposition of certain motor vehicle emission standards. Deletes the requirement of a 90-percent reduction in emissions of nitrogen oxides from light-duty motor vehicles.

Directs the Administrator of the Environmental Protection Agency to study emissions of sulfur-bearing compounds from motor vehicles and aircraft. Directs the Administrator to establish railroad locomotive emission standards.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 3406. February 9, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to postpone until model year 1982 the imposition of certain motor vehicle emission standards. Deletes the requirement of a 90-percent reduction in emissions of nitrogen oxides from light-duty motor vehicles.

Directs the Administrator of the Environmental Protection Agency to study emissions of sulfur-bearing compounds from motor vehicles and aircraft. Directs the Administrator to establish railroad locomotive emission standards.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 3407. February 9, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 3408. February 9, 1977. Public Works and Transportation; Interior and Insular Affairs. Transfers from the Secretary of the Army to the Secretary of the Interior the authority, real property, project authorization and unexpended appropriations for the Tocks Island Reservoir Project, Pennsylvania, New Jersey and New York. Terminates authorization of the project as part of the Delaware River Basin project under the Flood Control Act of 1962. Stipulates the priorities of the Secretary of the Interior in administration of the project.

H.R. 3409. February 9, 1977. International Relations. Deems void any suit or judicial or administrative process against a person or the property of a person entitled to immunity under the Vienna Convention on Diplomatic Relations. Makes Presidential determinations of entitlement to immunity binding upon governmental authorities. Requires the President to publish a list of missions and personnel entitled to such immunity.

Repeals the criminal penalties for wrongful suit against an immune person. Repeals exceptions to suits against servants in the service of personnel of a foreign mission. Repeals the present criteria for determining eligibility for immunity.

H.R. 3410. February 9, 1977. House Administration. Requires all States within each of designated regions which hold Presidential primaries to do so on a single date chosen by the Federal Election Commission.

Restricts voters registered with a party affiliation to those candidates seeking such party's nomination. Allows independent voters to vote for any candidate.

Requires ballots in an election for delegates to a national nominating convention to indicate the Presidential candidate, if any, to which each candidate for delegate is committed.

Conditions Federal matching payments on a Presidential candidate's entering at least one primary in each region.

H.R. 3411. February 9, 1977. Government Operations; Rules. Terminates the Civil Aeronautics Board, the Federal Aviation Administration, and the Occupational Safety and Health Administration of the Department of Labor on October 1, 1980. Terminates the Federal Energy Administration, the Interstate Commerce Commission, and the Federal Marine Commission on October 1, 1981. States that such agencies may be continued for an additional period of time if such extension is authorized by specific legislation after public hearings are held on the appropriateness of such extension and after receipt of reports from the General Accounting Office, the Congressional Budget Office, and the Office of Management and Budget fully evaluating each such agency separately.

H.R. 3412. February 9, 1977. Education and Labor. Directs the Bureau of Labor Statistics to expand the Current Population Survey so as to provide monthly to each State statistics on the number of unemployed persons within it.

H.R. 3413. February 9, 1977. Judiciary. Amends the Rules Enabling Acts to empower the Judicial Conference of the United States rather than the Supreme Court to prescribe, contingent upon Congressional approval, rules of pleading, practice, and procedure for Federal courts.

H.R. 3414. February 9, 1977. Public Works and Transportation. States that no person performing work under a contract in connection with a civil works project entered into by the Army Corps of Engineers shall be immune from any State or local laws, ordinances, or taxes on the ground that such performance took place in whole or in part on property of the United States. Permits

any State or political subdivision thereof to tax real property transferred to any individual for a profitmaking activity and receive payment for such individual even though the United States retains an interest of any kind in such property.

H.R. 3415. February 9, 1977. Interstate and Foreign Commerce. Establishes a Commission on Natural Gas Resources to study the production, distribution, and consumption of natural gas in the United States.

H.R. 3416. February 9, 1977. Agriculture. Provides under the Agricultural Adjustment Act of 1938 that leasing of flue-cured tobacco acreage-poundage marketing quotas after June 15 of any year be permitted only between farms on which at least 80 percent of the farm acreage allotment (currently 50 percent) was planted for such year.

H.R. 3417. February 9, 1977. Agriculture. Directs the Secretary of Agriculture to enter into cooperative fencing agreements with private landowners whose lands are adjacent to National Forest System lands. Authorizes the Secretary to enter into cooperative agreements with such landowners for the purpose of controlling noxious weeds.

H.R. 3418. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation; and (5) reduce the maximum corporate normal tax rate.

H.R. 3419. February 9, 1977. Judiciary. Amends the Voting Rights Act of 1965 to repeal the prohibitions against voting qualifications, prerequisites, tests, or devices which abridge the right of a citizen to vote who is a member of a language minority.

Repeals the requirement that States and other political subdivisions make available registration and voting materials and voting assistance in languages other than English.

H.R. 3420. February 9, 1977. Interior and Insular Affairs. Imposes additional restrictions on sales and resales of excess lands sold to qualify for water rights under the Federal reclamation laws.

H.R. 3421. February 9, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to authorize the possession and use of gambling devices aboard passenger vessels documented under the Laws of the United States while such a vessel is within the territorial seas of the United States or the special maritime and territorial jurisdiction of the United States if the vessel is engaging in foreign trade, offshore domestic trade, or a cruise approved by the Secretary of Commerce.

H.R. 3422. February 9, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3423. February 9, 1977. Veterans' Affairs. Establishes a mortgage protection life insurance program for certain veterans unable to acquire commercial life insurance because of service-connected disabilities.

H.R. 3424. February 9, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 3425. February 9, 1977. Veterans' Affairs. Provides that educational loans made by the Veterans' Administration to eligible veterans and other persons shall not bear interest in excess of three percent, and that no interest shall accrue before the beginning date of repayment.

H.R. 3426. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from gross income the gain from the sale or exchange of taxpayer's principal residence provided that he has used and owned it as such for five out of the previous eight years.

H.R. 3427. February 9, 1977. Interstate and Foreign Commerce. Establishes procedures for declaration of energy emergencies and energy disasters situations by the President, upon request by Governors of affected States. Authorizes the President to provide relief in such emergencies and crisis situations by ordering delivery of energy supplies to the affected area, imposing energy conservation measures, and furnishing financial and other assistance.

Authorizes suspension of stationary source fuel or emission limitations imposed under the Clean Air Act during energy emergency situations.

H.R. 3428. February 9, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to make recommendations for rates of pay for Members of Congress and the Resident Commissioner from Puerto Rico, transmitted by the President to Congress, subject to Congressional approval by specific resolution passed by each House. Sets forth the rules and procedure to be followed with respect to consideration of such resolution.

Amends the Legislature Reorganization Act of 1946 to establish annual rates of pay for Members of Congress, Delegates to the House, the Resident Commissioner from Puerto Rico, and House and Senate leadership at the rates in effect on September 30, 1976.

H.R. 3429. February 9, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3430. February 9, 1977. Education and Labor; Banking, Finance and Urban Affairs. Amends the Fair Labor Standards Act of 1938 to authorize the Secretary of Labor to investigate any proposed business closing or relocation and to provide assistance to certain employees and local governments affected by such action.

Denies specified tax benefits to a business closing or transferring an operation upon certain findings by the Secretary.

Establishes a National Employment Relocation Administration within the Department of Labor and a National Employment Relocation Advisory Council.

H.R. 3431. February 9, 1977. Post Office and Civil Service. Designates the anniversary of Martin Luther King, Junior's, birth, January 15, a legal public holiday.

H.R. 3432. February 9, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3433. February 9, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Set forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3434. February 9, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3435. February 9, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3436. February 9, 1977. Education and Labor. Authorizes the Commissioner of Education to provide Federal aid to those State teacher retirement systems which allow retirement credit to teachers for out-of-State teaching service.

H.R. 3437. February 9, 1977. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorized for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration cost for vocational education programs.

H.R. 3438. February 9, 1977. Education and Labor. Directs the Secretary of Labor to (1) contract with Opportunities Industrialization Centers, Incorporated, for the provision of skills training to certain types of unemployed persons through such Centers, and (2) contract with other national community based organizations, for the provision of comprehensive employment services, including counseling, job creation and development, remedial education, and followup. Directs the head of each agency having administrative authority with respect to specified Federal grant and construction programs to take steps to assure that special consideration be given national community based organizations in providing employment services and job opportunities for unemployed individuals pursuant to such authority.

H.R. 3439. February 9, 1977. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize the use of Federal civil defense funds by local civil defense agencies for natural disaster or civil disturbance relief. Increases the Federal contribution for travel expenses and per diem allowances for students in civil defense training programs and increases the Federal financial contribution to States for civil defense personnel and administrative expenses. Increases the authorization for appropriations under such Act for travel expenses, personal equipment for State and local workers, and personnel and administrative expenses.

H.R. 3440. February 9, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself. Revises the application of rules governing the two-year period a course must be in operation before enrollment of eligible veterans or persons can be approved.

H.R. 3441. February 9, 1977. Veterans' Affairs. Exempts courses which lead to a stand-

ard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself. Revises the application of rules governing the two-year period a course must be in operation before enrollment of eligible veterans or persons can be approved.

H.R. 3442. February 9, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 3443. February 9, 1977. Post Office and Civil Service. Amends the Federal Salary Act to postpone the effective date for recommended adjustments in pay made by the Commission on Executive, Legislative, and Judicial Salaries until the first pay period after the first period of 30 calendar days of continuous congressional session. Provides rules for considering legislation to disapprove such salary adjustments within such 30-day period including procedures to limit debate on such measures and to force such a measure out of committee ten days after its introduction.

H.R. 3444. February 9, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to stipulate that pay adjustments for Members of Congress may take effect no earlier than the beginning of the Congress next following the Congress in which they are approved.

H.R. 3445. February 9, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to keep from becoming effective any salary adjustment recommended by the President under such Act unless specifically approved by both Houses of Congress within 30 days after such adjustments is submitted to Congress.

H.R. 3446. February 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 3447. February 9, 1977. Post Office and Civil Service. Grants to a Federal annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor annuity. Eliminates the annuity reduction made by an unmarried annuitant to provide a survivor annuity to an individual having an insurable interest in cases where such individual predeceases the annuitant. Requires the Civil Service Commission to inform each annuitant of each annuitant's rights of election under this Act.

H.R. 3448. February 9, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946, as amended by the Executive Salary Cost-of-Living Adjustment Act, to establish the rate of pay for Members of Congress at the rate in effect on September 30, 1977.

Amends the Federal Salary Act of 1967, as amended by the Executive Salary Cost-of-Living Ajustment Act, to exempt from review by the Commission on Executive, Legislative, and Judicial Salaries the rates of pay for the Vice President and for Members of Congress.

Establishes the rate of salary of the Vice President at the rate in effect for such office on September 30, 1977.

H.R. 3449. February 9, 1977. Judiciary. Amends the Civil Rights Act of 1968 to allow the Secretary of the Department of Housing and Urban Development to initiate civil actions to enforce the provisions of such Act. Extends from 30 to 60 days the period during which no civil suits may be initiated and the Secretary must make efforts to obtain voluntary compliance with such Act.

Permits courts to award attorneys' fees to prevailing plaintiffs without regard to financial ability to assume such fees.

H.R. 3450. February 9, 1977. Ways and Means. Establishes the National Commission on the Social Security Program to study and evaluate the Old-Age, Survivors, and Disability Insurance program of the Social Security Act to determine the effectiveness of the program in meeting the needs for which it was established. Requires the study of alternative structures to meet such needs.

H.R. 3451. February 9, 1977. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 3452. February 9, 1977. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 3453. February 9, 1977. Merchant Marine and Fisheries. Amends the Coastal Zone Management Act of 1972 to further define those energy activities subject to the provisions of the Act. Deletes various conditions imposed upon States in utilizing Federal grant monies available under such Act.

H.R. 3454. February 9, 1977. Interior and Insular Affairs. Designates specified lands in certain national forests as components of the National Wilderness Preservation System. Directs the Secretary of Agriculture to review the suitability of designating as wilderness other specified National Forest System lands.

H.R. 3455. February 9, 1977. Interior and Insular Affairs. Authorizes appropriations for fiscal years 1978 and 1979 to the Nuclear Regulatory Commission for salaries and expenses.

H.R. 3456. February 9, 1977. Small Business. Amends the Small Business Act to empower the Small Business Administration to make loans to assist any small business to continue or reestablish its business at its existing location or at a new location, or to establish a new business at a new location as the Administration deems necessary if such concern has been adversely affected by the decision of a contiguous foreign nation to float that nation's specific currency.

H.R. 3457. February 9, 1977. Judiciary. Authorizes the President to set aside for as long as he deems necessary any Federal agency rule or regulation which he determines: (1) may be harmful to human life; (2) may restrict the Nation's supplies of fuel or energy resources; (3) may threaten the Nation's supplies of food and fiber; (4) may interfere with military maneuvers or national security; or (5) may have an adverse effect on the Nation's economy disproportionate to the ecological benefits of such rule or regulation. Permits Congress to disapprove such presidential action within 30 days after it is taken.

H.R. 3458. February 9, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3459. February 9, 1977. Judiciary. Declares that a certain individual be deemed to have died from injuries sustained after the enactment of the Public Safety Officers' Benefit Act of 1976.

H.R. 3460. February 9, 1977. Judiciary. Relieves certain individuals of all liability to the United States for overpayment of travel expenses.

H.R. 3461. February 9, 1977. Judiciary. Authorizes classification of a certain individual as an immediate relative for purposes of the Immigration and Nationality Act.

Provides that a certain individual be conditionally admitted to the United States for permanent residence.

H.R. 3462. February 9, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3463. February 9, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3464. Feburary 9, 1977. Judiciary. Permits a certain individual to file a claim for the return of certain property acquired by the United States under the Trading With the Enemy Act.

H.R. 3465. February 9, 1977. Judiciary. Provides that a certain individual be deemed to have served 20 years for purposes of military retirement compensation. Directs the Secretary of the Treasury to pay such individual a lump sum commensurate with such service.

H.R. 3466. February 9, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3467. February 16, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to include flight attendants within the definition of "airman" under such Act.

H.R. 3468. February 16, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to conduct a study of the feasibility and desirability of establishing the Santa Margarita National Recreation Area, in the area which is now Camp Pendleton, California.

H.R. 3469. February 16, 1977. Judiciary. Requires specified minimum prison sentences for any individual who uses or carries a firearm during the commission of a Federal felony and for whoever is convicted by a State court of a crime punishable by a term of imprisonment exceeding one year and used or carried a firearm transported in, or affecting, interstate or foreign commerce during the commission of such crime.

H.R. 3470. February 16, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares on a space-available basis for persons 60 years of age or older and retired, or 65 years of age or older, and for handicapped individuals and their attendants. Directs the Civil Aeronautics Board to conduct a study and to report to Congress regarding the feasibility of such reduced air transportation rates for persons 21 years of age or younger. Authorizes specified types of air carriers in California to enter into agreements with other air carriers to establish joint fares, rates and services.

H.R. 3471. February 16, 1977. Interior and Insular Affairs. Increases the amount authorized to be appropriated for land acquisition and development of Fort Union Trading Post National Historic Site, North Dakota and Montana.

H.R. 3472. February 16, 1977. Ways and

Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to require that every hospital and clinic or other station of the Public Health Service, every hospital and outpatient dispensary facility of the Veterans' Administration, and every hospital for which a grant, loan, or loan guarantee is made under the Public Health Service Act furnish noncovered prescription drugs, eyeglasses, and hearing aids, at prices not exceeding the actual cost thereof to any individual entitled to hospital insurance benefits under the Medicare program.

H.R. 3473. February 16, 1977. House Administration; Rules. Establishes in the House of Representatives a foreign travel account to defray expenses of Members, officers, or employees.

Prohibits the payment of such expenses to Members of Congress who have not been reelected.

Requires any House Member, officer, or employee to submit a report to the Committee on Standards of Official Conduct if such person's foreign travel expenses will be defrayed by funds other than public or personal funds.

H.R. 3474. February 16, 1977. Banking, Finance and Urban Affairs. Establishes a National Commission on Neighborhoods to study the factors contributing to the decline of city neighborhoods and to make recommendations for programs necessary to facilitate neighborhood preservation and revitalization.

H.R. 3475. February 16, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to extend the duration of the Federal riot reinsurance program and the Federal crime insurance program.

H.R. 3476. February 16, 1977. Agriculture. Directs the Secretary of Agriculture, through the Agricultural Stabilization and Conservation Service and the Extension Service, to establish and maintain a program whereunder county committees will lease plots of land to individuals or groups to produce organic crops for their personal use.

H.R. 3477. February 16, 1977. Ways and Means; Appropriations. Amends the Internal Revenue Code to provide an income tax refund from 1976 taxes. Provides for the reimbursement of tax revenues lost to the governments of American Samoa, Guam and the Virgin Islands. Directs the Secretary of the Treasury to make a $50 payment to each individual paid benefits for March, 1977 under the Railroad Retirement Act or the Old-Age, Survivors, and Disability Insurance program of the Social Security Act. Extends the temporary reduction in the corporate tax rate.

H.R. 3478. February 16, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely canceling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Requires the FTC to prescribe rules for determining octane ratings of gasoline and display requirements for such ratings.

H.R. 3479. February 16, 1977. Education and Labor. Amends the Age Discrimination Act of 1967 to make its provisions applicable to individuals over age 65. Prohibits denying an individual an office in a labor organization because of such individual's age.

H.R. 3480. February 16, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to pay benefits to any textile worker who has been totally disabled by byssinosis and to the surviving dependents of any such worker whose death was due to byssinosis.

Sets forth the conditions under which there shall be a rebuttable presumption that a worker's byssinosis arose out of employment in a textile plant.

H.R. 3481. February 16, 1977. Post Office and Civil Service. Revises provisions prohibiting Federal, Postal Service, and District of Columbia employees from engaging in political activities.

Establishes the Board on Political Activities of Federal Employees to decide cases regarding violations of this Act. Sets forth procedures to be followed in such cases.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 3482. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 3483. February 16, 1977 Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 3484. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 3485. February 16, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to repeal provisions allowing an employer and a labor organization to enter into an agreement to require membership in such organization as a condition of employment.

H.R. 3486. February 16, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to prohibit an employer from discriminating against an employee who is enrolled in a full-time program of secondary, vocational, or higher education for nonmembership in or failure to provide financial support to a labor organization.

H.R. 3487. February 16, 1977. Post Office and Civil Service. Declares that all Federal employees have the right to form, join, and assist a labor organization or to refrain from any such activity without fear of penalty or reprisal.

H.R. 3488. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited exclusion from gross income of interest on savings deposits paid or accrued by an individual taxpayer.

H.R. 3489. February 16, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to nominate two individuals each for appointments to the Merchant Marine Academy.

H.R. 3490. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, refundable income tax credit for 50 percent of the wages paid new employees working in the United States. Provides for future assessments of this credit by the Secretary of the Treasury.

H.R. 3491. February 16, 1977. Education and Labor. Directs the Secretary of Labor to (1) contract with Opportunities Industrialization Centers, Incorporated, for the provision of skills training to certain types of unemployed persons through such Centers, and (2) contract with other national community based organizations, for the provision of comprehensive employment services, including counseling, job creation and development, remedial education, and followup.

Directs the head of each agency having administrative authority with respect to specified Federal grant and construction programs to take steps to assure that special consideration be given national community based organizations in providing employment services and job opportunities for unemployed individuals pursuant to such authority.

H.R. 3492. February 16, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to make it an unlawful employment practice for an employer to either: (1) request any employee or applicant for employment to provide copies of military discharge papers or other services records; or (2) make inquiries relative to the military discharge of any employee or applicant for employment.

H.R. 3493. February 16, 1977. Education and Labor. Amends the Older Americans Act of 1965 to authorize the disbursal of funds to recipients of grants or contracts who agree to establish a project which provides at least one home-delivered meal, five days a week to persons covered under the Act. Creates an information and referral service for homebound individuals receiving meals under the Act.

Requires a demonstration project to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administrations for the elderly.

H.R. 3494. February 16, 1977. Interstate and Foreign Commerce. Requires franchisors to give franchisees 90-days notice, with limited exceptions, of intent to cancel, or failure to renew, a franchise agreement. Allows such cancellation of failure to renew only for certain specified reasons. Requires a franchisor to compensate a franchisee for the value of the franchisee's business when the franchisor, for a legitimate business reason, fails to renew the franchise. Sets forth the judicial remedies available to a franchisee for a violation of this Act by franchisor.

H.R. 3495. February 16, 1977. Post Office and Civil Service. States that for purposes of civil service retirement the cost-of-living adjustments allowed to officers and employees of the Postal Service and the Postal Rate Commission shall be considered to be part of the basic pay of such officers and employees.

H.R. 3496. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to exclude from gross income the net profits derived from hobbies and other activities not engaged in for profit, where the profits for the taxable year do not exceed $500.

H.R. 3497. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3498. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to exempt from the earnings test, widows with minor children who are entitled to mother's insurance benefits.

H.R. 3499. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling under the supplementary medical insurance program.

H.R. 3500. February 16, 1977. Education and Labor. Amends the National Relations Act to stipulate that, subject to specified provisions, it shall not be an unfair labor practice for a labor organization or its agents to engage in,

or induce any individual employed by any person to engage in, a strike, refusal to perform services, or threat thereof: (1) at the site of the construction, alteration, painting, or repair of any structure; and (2) directed at any of several persons in the construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of such construction, alteration, painting or repair.

H.R. 3501. February 16, 1977. Education and Labor. Amends the National Labor Relations Act to require an employer which assumes the ownership or operation of a business to honor any applicable collective-bargaining contract in its entirety.

Amends the Labor Management Relations Act to permit a labor organization to bring suit against a new employer which refuses to honor an existing agreement in United States district court regardless of the citizenship of the parties or amount in controversy.

H.R. 3502. February 16, 1977. Interstate and Foreign Commerce. Amends the Emergency Natural Gas Act of 1977 to stipulate the provisions of contracts entered into or renegotiated after the date of enactment of such Act but before August 1, 1977, shall not affect the amounts or prices of natural gas purchases under any other contractual provisions based on previous transactions.

H.R. 3503. February 16, 1977. Merchant Marine and Fisheries. Revises the boundaries of the Tinicum National Environmental Center, Pennsylvania. Increases the amount authorized to be appropriated for land acquisition for, and development of, such center.

H.R. 3504. February 16, 1977. Education and Labor; Judiciary. Amends enforcement procedures and authority under the equal employment opportunity provisions of the Civil Rights Act of 1964.

Render such provisions applicable to employment of aliens outside the United States.

Prohibits employment discrimination against the handicapped and aliens with permanent residence status.

Broadens the applicability of anti-discrimination provisions to the Federal government.

Transfers specified authority of certain departments and agencies to the Equal Employment Opportunity Commission.

Revises the anti-discrimination provisions of Title VIII of the Civil Rights Act of 1968 relating to unfair and discriminatory housing practices.

H.R. 3505. February 16, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to require the downward adjustment of the annual rate of pay for Members of Congress if the level of inflation for any calendar year exceeds the acceptable level of inflation established by Congress for such year.

H.R. 3506. February 16, 1977. Government Operations. Requires all rules proposed by any Federal agency to be submitted to Congress together with an estimate of the costs to be incurred by the Federal Government, State and local governments, nongovernmental entities, and individuals affected by such proposed rule. States that such rule shall become effective not sooner than 60 days after submission to Congress unless, within such period, either House disapproved such rule.

H.R. 3507. February 16, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to extend for six months the emergency unemployment program thereunder.

H.R. 3508. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the increment by which an individual's old-age benefits shall be increased because of delayed retirement beyond age 65.

H.R. 3509. February 16, 1977. Armed Services. Amends the Federal Civil Defense Act of 1950 to authorize the use of Federal civil defense funds by local civil defense agencies for natural disaster or civil disturbance relief. Increases the Federal contribution for travel expenses and per diem allowances for students in civil defense training programs and increases the Federal financial contribution to States for civil defense personnel and administrative expenses. Increases the authorization for appropriations under such act for travel expenses, personal equipment for State and local workers, and personnel and administrative expenses.

H.R. 3510. February 16, 1977. Veterans' Affairs. Authorizes a presumption of service connection for cause of death for the purposes of payment of dependency and indemnity compensation in the case of a blinded veteran who had a service-connected disability rated permanent and total for at least 1 year immediately preceding death, if death was due to causes not the result of misconduct on the part of such veteran.

H.R. 3511. February 16, 1977. Veterans' Affairs. Provides, for purposes of awarding veterans' wartime disability compensation, that progressive muscular atrophy developing a 10 percent or more degree of disability within 7 years after separation from active service during a period of war shall be presumed to be service connected.

H.R. 3512. February 16, 1977. Education and Labor. Congressional Award Program Act.—Establishes the Congressional Award program in the United States and its territories to recognize and promote youth leadership and excellence in the areas of expedition fitness, personal creative development, and public service.

Creates a Congressional Ward Board with a Director to supervise such program.

H.R. 3513. February 16, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to direct the Administrator of the Environmental Protection Agency to study the effects of sewage sludge disposal in marine waters. Requires modification of ocean dumping permit requirements following completion of such study. Authorizes financial assistance to States and localities to meet additional costs of compliance with such modifications.

H.R. 3514. February 16, 1977. Small Business. Amends the Small Business Act to authorize the Small Business Administration to make loans if such Administration has determined that there is a disaster resulting from any sewage or sludge deposit, any fish kill, or any oil spill.

H.R. 3515. February 16, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 3516. February 16, 1977. Interstate and Foreign Commerce. Prohibits the shipment in interstate or foreign commerce of any fur or leather, raw or in finished form, from animals trapped in any State or foreign country which has not banned the manufacture, sale, or use of leg-hold or steel jaw traps.

Directs the Secretary of Commerce to publish a list of such States and foreign countries.

H.R. 3517. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3518. February 16, 1977. Interstate and Foreign Commerce; Public Works and Transportation; Agriculture; Banking, Finance and Urban Affairs; Merchant Marine and Fisheries; Interior and Insular Affairs. Establishes the Federal Regulatory Agency Nominating Board to compile a list of persons qualified to serve as a Commission, board member, or commission member of specified regulatory agencies. States that when a vacancy occurs in such a position which the President is required to appoint a successor by and with the advice and consent of the Senate, the Board shall submit a list of three names of persons qualified to fill such vacancy from which the President shall make his selection.

H.R. 3519. February 16, 1977. Banking, Finance and Urban Affairs. Sets national standards for the sale of condominum units and for the conversion of existing rental units into condominiums. Requires developers to disclose specified information concerning their condominium projects. Makes provisions for the enforcement of this Act by individual owners of dwelling units and by those who face eviction due to condominium conversions which do not adhere to the requirements of this Act.

H.R. 3520. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare, to carry out a program to develop information and educational materials relating to the skin disease known as vitiligo. Authorizes the Secretary to make grants and enter into contracts with public and nonprofit private entities for projects for research and training in the diagnosis, treatment, and control of vitiligo.

H.R. 3521. February 16, 1977. Veterans' Affairs. Provides that representatives of the Polish Legion of American Veterans are recognized as claims agents for claims arising under laws administered by the Veterans' Administration.

H.R. 3522. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for the expenses incurred in providing special education for a dependent handicapped child.

H.R. 3523. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide for the computation of benefits thereunder on the basis of the worker's three years of highest earnings.

H.R. 3524. February 16, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the armed forces in any labor organization or for any member of the armed forces to join, or encourage others to join any labor organization. Sets forth penalties for violations of this Act.

H.R. 3525. February 16, 1977. Government Operations. Terminates all Federal regulatory agencies three years after they are created unless extended by an Act of Congress.

H.R. 3526. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3527. February 16, 1977. Veterans' Affairs. Provides that any portion of any public or private retirement, annuity or endowment payment made to any person (including monthly social security insurance benefits), attributable to any dependent of such person, shall not be included in computing annual income for the purpose of determining eligibility for a service pension or a non-service-connected disability pension paid by the Veterans' Administration.

H.R. 3528. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to extend the earned income tax credit to handicapped persons who maintain households, whether or not they have children residing there.

H.R. 3529. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow physicians, dentists and optometrists annual tax exclusions, decreasing from $20,000 to $5,000 over their first five years of medical practice in areas certified by the Secretary of Health, Education, and Welfare as having an insufficient number of practicing physicians.

H.R. 3530. February 16, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase the amount to be used by the individual's years of coverage in excess of ten in determining the minimum primary insurance amount to which an individual shall be entitled. Directs that the increase shall coincide with the 1975 and 1976 cost-of-living in benefits computed under the regular formula.

H.R. 3531. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of registered professional nurses.

H.R. 3532. February 16, 1977. Armed Services. Deletes the name "American Ephemeris and Nautical Almanac" from the publication put out by the Naval Observatory under the direction of the Secretary of the Navy which provides data to navigators and astronomers.

H.R. 3533. February 16, 1977. Rules. Amends the Congressional Budget Act of 1974 to require Congress to review each Federal program at least every six years as though it were being proposed to be enacted for the first time. Prohibits the extension of budget authority for any such program beyond such six-year period until the Congressional committees with jurisdiction over such programs conduct such reviews.

H.R. 3534. February 16, 1977. Government Operations. Establishes the Commission on the Reorganization of the Executive Branch of the Government to study all instrumentalities of the Government except those of the Legislative or Judicial Branches to determine what changes are necessary to eliminate duplication and improve efficiency. Requires the Commission to submit to the President and Congress a final report by December 31, 1978, at which time the Commission shall cease to exist. Permits the President to submit to Congress reorganization plans to implement any recommendation of the Commission until January 1, 1980.

H.R. 3535. February 16, 1977. Judiciary. Grants a Federal charter to the United States Submarine Veterans of World War II.

H.R. 3536. February 16, 1977. Judiciary. Grants a Federal charter to the United States Submarine Veterans of World War II.

H.R. 3537. February 16, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946, as amended by the Executive Salary Cost-of-Living Adjustment Act, to establish the rate of pay for Members of Congress at the rate in effect on September 30, 1975.

Amends the Federal Salary Act of 1967, as amended by the Executive Salary Cost-of-Living Adjustment Act, to exempt from review by the Commission on Executive, Legislative, and Judicial Salaries the rates of pay for the Vice President and for Members of Congress.

Establishes the rate of salary of the Vice President at the rate in effect for such office on September 30, 1975.

H.R. 3538. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations for fiscal year 1978 for health planning and related programs.

H.R. 3539. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize appropriations for fiscal year 1978 for biomedical research and related programs.

H.R. 3540. February 16, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

Regulates the export of nuclear material, equipment, and devices.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 3541. February 16, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3542. February 16, 1977. Education and Labor. Amends the Higher Education Act of 1965 to require recipients of Federal aid to higher education to give senior citizens access, on a space available basis, to scheduled courses and programs.

H.R. 3543. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title IV (Aid to Families with Dependent Children), Title XVIII (Medicare), and Title XIX (Medicaid) of the Social Security Act to provide that the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance shall be set at 75 percent. Requires that the non-Federal share of such aid be paid from State (rather than local) funds.

H.R. 3544. February 16, 1977. Judiciary. Prohibits former Federal employees who participated in a contract formulation the value of which exceeded $10,000 from being employed, for a period of two years, by anyone who has a direct interest in that contract.

H.R. 3545. February 16, 1977. Post Office and Civil Service. Requires the retirement of any Federal employee reappointed after a break in service of more than three days who has attained age 70 years and has completed five years of creditable service. Permits Federal retirees with five years of creditable service to retain their life and health insurance benefits and receive Federal annuities.

H.R. 3546. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit the taking of a business deduction for expenses paid or incurred to advertise electric and natural gas utility services. Disallows any rate increases to cover additional utility taxes caused by this Act.

H.R. 3547. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to disallow the deduction of oil company advertising expenses incurred for purposes other than the sale of products or services.

H.R. 3548. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to disallow business income tax deductions for expenses incurred for lobbying before Congress or other legislative bodies.

H.R. 3549. February 16, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3550. February 16, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3551. February 16, 1977. Science and Technology. Directs the President to establish (1) a National Earthquake Hazard Reduction Program, (2) an Office of Earthquake Hazard Reduction, (3) a National Advisory Committee on Earthquake Hazard Reduction, and (4) an Earthquake Prediction Evaluation Board.

Specifies the duties of the Office of Earthquake Hazard Reduction, including the development of an Earthquake Hazard Reduction Program plan.

Enumerates the Federal agencies to be assigned responsibilities in, and details the elements of, the Earthquake Hazard Reduction Program.

Directs the Earthquake Prediction Evaluation Board to monitor prediction methods and issue earthquake predictions.

H.R. 3552. February 16, 1977. Science and Technology. Directs the President to establish (1) a National Earthquake Hazard Reduction Program, (2) an Office of Earthquake Hazard Reduction, (3) a National Advisory Committee on Earthquake Hazard Reduction, and (4) an Earthquake Prediction Evaluation Board.

Specifies the duties of the Office of Earthquake Hazard Reduction, including the development of an Earthquake Hazard Reduction Program plan.

Enumerates the Federal agencies to be assigned responsibilities in, and details the elements of, the Earthquake Hazard Reduction Program.

Directs the Earthquake Prediction Evaluation Board to monitor prediction methods and issue earthquake predictions.

H.R. 3553. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to direct the Secretary of the Treasury to implement certain tax counseling services for the elderly.

H.R. 3554. February 16, 1977. Judiciary. Authorizes the President to nullify and cancel for as long as he deems necessary any Federal agency rule or regulation which he determines: (1) may be harmful to human life; (2) may restrict the Nation's supplies of fuel or energy resources; (3) may threaten the Nation's supplies of food and fiber; (4) may interfere with military maneuvers or national security; or (5) may have an adverse effect on the Nation's economy disproportionate to the ecological benefits of such rule or regulation. Permits Congress to disapprove such presidential action within 30 days after it is taken.

H.R. 3555. February 16, 1977. Rules. Terminates budget authority for all Federal programs. Requires Congress to consider whether any such programs merit continuation on the same, a greater, or a lesser level, or termination.

Requires the Comptroller General to identify inactive or inefficient programs.

H.R. 3556. February 16, 1977. Interstate and Foreign Commerce. Deems any food containing more than .02 parts per million of polybrominated byshenyl adulterated for purposes of the Federal Food, Drug, and Cosmetic Act.

Prohibits any State from establishing or enforcing a standard less stringent than the standard established by this Act.

H.R. 3557. February 16, 1977. Education and Labor. Amends the National Labor Relations Act and the Railway Labor Act to repeal provisions allowing an employer and a labor

organization to enter into an agreement to require membership in such organization as a condition of employment.

H.R. 3558. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farm trucks and soil and water conservation trucks from the Highway Use Tax.

H.R. 3559. February 16, 1977. Veterans' Affairs. Authorizes and directs the Administrator of Veterans' Affairs to pay a pension to a veteran of World War I or his widow without regard to his or her annual income derived solely from payments of social security benefits, railroad retirement benefits, or pensions.

H.R. 3560. February 16, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares on a space-available basis for persons 60 years of age or older and for handicapped individuals and their attendants. Directs the Civil Aeronautics Board to conduct a study and to report to Congress regarding the feasibility of such reduced air transportation rates for persons 21 years of age or younger. Authorizes specified types of air carriers in California to enter into agreements with other air carriers to establish joint fares, rates and services.

H.R. 3561. February 16, 1977. Judiciary. Authorizes each Federal agency to establish one or more agency appeal boards for review of decisions of presiding employees. Permits agencies to compel the attendance of persons or the production of documents and other tangible items by subpena.

H.R. 3562. February 16, 1977. Judiciary. States that in the event that an agency employee who presides at the reception of evidence becomes unavailable before rendering a decision, such decision shall be made by an employee qualified to preside at hearings. Prohibits employees from participating on an appeals board of an agency if he or she participated in the decision by the agency except as a witness or counsel before such appeals board except that an employee shall not be considered a participant in such decision solely by virtue of his or her general organizational or supervisory responsibility for such functions.

H.R. 3563. February 16, 1977. Judiciary. Permits Federal agencies to conduct abbreviated administrative proceedings in specified circumstances. Authorizes the Administrative Conference of the United States to establish a committee to draft uniform procedural rules which would be binding on all agencies.

Prohibits the publication of information by Federal agencies which is prejudicial to or may otherwise cause damage to an individual's business or reputation.

H.R. 3564. February 16, 1977. Judiciary. Exempts ratemaking proceedings from certain procedural requirements which previously pertained to both rulemaking and ratemaking.

States that matter pertaining to military or foreign affairs function of the United States shall not be exempt from public rulemaking requirements unless the matter is specifically authorized to be kept secret in the interest of national defense or foreign policy and is in fact so properly classified. Makes rulemaking proceedings concerning matters of public property, loans, grants, benefits or contracts subject to public participation requirements of other rulemaking proceedings.

H.R. 3565. February 16, 1977. Judiciary. Provides that in the event that an agency employee who presides at the reception of evidence becomes unavailable before rendering a decision, such decision shall be made by an employee qualified to preside at hearings. Prohibits the participation of an employee on an appeals board of an agency if he or she participated in the decision by the agency except as a witness or counsel on the record before such appeals board.

H.R. 3566. February 16, 1977. Judiciary. Amends the organic acts of the Virgin Islands and Guam and the Canal Zone Code to change the terms of the judges of the district courts for such territories to good behavior.

H.R. 3567. February 16, 1977. Post Office and Civil Service. States that the rate of postage for sealed letters of private individuals shall not exceed 10 cents per ounce per letter. Sets civil penalties for use of such rate on mail sent by corporations, associations, or other entities other than private individuals.

H.R. 3568. February 16, 1977. Ways and Means; Interstate and Foreign Commerce Amends title XVIII (Medicare) of the Social Security Act to include within the meaning of the term "outpatient physical therapy services" any provider, clinic or agency which provides only speech pathology services.

H.R. 3569. February 16, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (Medicare) of the Social Security Act to extend the coverage for dental services to include any services performed by a properly licensed dentist and to authorize payment under such program for all inpatient hospital services furnished in connection with dental procedures requiring hospitalization.

H.R. 3570. February 16, 1977. Ways and Means; Interstate and Foreign Commerce; Amends title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 3571. February 16, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 3572. February 16, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensations will not have the amount of such pension of compensation reduced because of increases in social security benefits.

H.R. 3573. February 16, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3574. February 16, 1977. Agriculture; Ways and Means. Extends, under the Agricultural Act of 1970, specified commodity programs and the Food for Peace (Public Law 480) and Food Stamp programs from 1978 through 1982. Establishes new acreage allotment and set aside programs for wheat, feed grains, cotton and soybeans. Puts meat import quotas on a quarterly basis, includes processed meats, and grants the Secretary of Agriculture power to reduce quotas during specified periods. Establishes a temporary advisory committee on Federal Crop Insurance. Provides financial assistance to agricultural producers based on approved conservation plans.

H.R. 3575. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited income tax credit for wages paid individuals certified by the Secretary of Labor as hard-core unemployed. Directs the Secretary of Labor to establish a program, with administrative procedures to guard against duplicity and fraud, for the certification, by local agencies of the hard-core unemployed eligible for tax-supported hiring under this Act.

H.R. 3576. February 16, 1977. Public Works and Transportation; Interior and Insular Affairs. Transfers from the Secretary of the Army to the Secretary of the Interior the authority, real property, project authorization and unexpended appropriations for the Tocks Island Reservoir Project, Pennsylvania, New Jersey, and New York. Terminates authorization of the project as part of the Delaware River Basin project under the Flood Control Act of 1962. Stipulates the priorities of the Secretary of the Interior in administration of the project.

H.R. 3577. February 16, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to allow the granting of variances from clean air standards to powerplants which emit sulfur dioxide. Requires that such variances be granted where (1) the unemployment rate in the affected State exceeds four percent and where (2) the variance does not allow for continuous sulfur dioxide emissions which may pose a serious threat to public health.

H.R. 3578. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare, to carry out a program to develop information and educational materials relating to the skin disease known as vitiligo. Authorizes the Secretary to make grants and enter into contracts with public and nonprofit private entities for projects for research and training in the diagnosis, treatment, and control of vitiligo.

H.R. 3579. February 16, 1977. Agriculture. Establishes the price support of milk, under the Agricultural Act of 1949, at 100 percent of parity, and declares that such support shall be provided through purchases of milk and the products of milk.

H.R. 3580. February 16, 1977. Education and Labor. Amends the Internal Revenue Code to exempt farming vehicles from the highway motor vehicle excise tax, excepting vehicles owned by corporations with gross annual receipts exceeding $950,000, or which derive more than 50 percent of their gross receipts from nonfarming activities.

H.R. 3581. February 16, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that divorced and surviving divorced spouses of individuals eligible for annuities under such Act shall be entitled to receive benefits under such Act in the same amount as they would have received under the Social Security Act if all the employment of the individual was subject to such Act.

H.R. 3582. February 16, 1977. Judiciary. Empowers the Federal Trade Commission, after a patent on a drug is more than one year old, to review complaints made to it by a qualified applicant for a license under a drug patent, and, upon a finding that the price of the patented drug charged to druggists by the patentee is more than 500 percent of the cost of production, to order such patentee to grant an unrestricted patent license to any qualified applicant to make, use, and sell such drug.

H.R. 3583. February 16, 1977. Public Works and Transportation. Designates the new Poe lock on the Saint Marys River at Sault Sainte Marie, Michigan, as the "John A. Blatnik lock."

H.R. 3584. February 16, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to approve user charge systems based upon ad valorem taxation if specified requirements are satisfied.

H.R. 3585. February 16, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 3586. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt farming vehicles from the highway

motor vehicle excise tax, excepting vehicles owned by corporations with gross annual receipts exceeding $950,000, or which derive more than 50 percent of their gross receipts from nonfarming activities.

H.R. 3587. February 16, 1977. Ways and Means. Amends the Internal Revenue Code to exempt highway vehicles from the highway use tax where 80 percent of their use is involved in the initial transportation of unprocessed farm and forest products.

H.R. 3588. February 16, 1977. Government Operations; Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to make grants to States and units of local government to assist in the execution of consumer protection plans.

H.R. 3589. February 16, 1977. Government Operations; Rules. Establishes the Department of Peace: (1) to develop policies and programs to foster peace; (2) to coordinate activities in the United States Government affecting peace; (3) to cooperate with other governments in related research and planning; (4) to encourage cultural exchange programs; and (5) to encourage private institutions and groups to work for the peaceful resolution of international conflict.

Establishes the George Washington Peace Academy to prepare citizens for positions promoting international peace and understanding.

Establishes a Joint Committee on Peace and International Cooperation to make a continuing study of matters relating to the Department of Peace.

H.R. 3590. February 16, 1977. Interior and Insular Affairs. Dedicates the Chesapeake and Ohio Canal National Historical Park to Justice William O. Douglas.

H.R. 3591. February 16, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to promulgate guidelines for research involving DNA.

Imposes strict civil liability on persons carrying out such research for all injury to persons or property caused by such research.

Sets forth a mandatory licensing procedure for the conducting of such research.

Authorizes the Attorney General to bring suit to enjoin DNA research believed by the Secretary to be unreasonably hazardous to the public health.

Gives the Secretary inspection authority over DNA research facilities.

H.R. 3592. February 16, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to promulgate guidelines for research involving DNA.

Imposes strict civil liability on persons carrying out such research for all injury to persons or property caused by such research.

Sets forth a mandatory licensing procedure for the conducting of such research.

Authorizes the Attorney General to bring suit to enjoin DNA research believed by the Secretary to be unreasonably hazardous to the public health.

Gives the Secretary inspection authority over DNA research facilities.

H.R. 3593. February 16, 1977. Education and Labor. Makes States and their political subdivisions subject to the Age Discrimination in Employment Act of 1967. Prohibits discrimination on the basis of age among employees in or applicants for positions in the Executive Branch of the Federal Government or the Library of Congress.

H.R. 3594. February 16, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to exempt from review by the Commission on Executive, Legislative, and Judicial Salaries the rate of pay for Members of Congress.

H.R. 3595. February 16, 1977. International Relations. Urges the President to negotiate a treaty for an international system of enforcement standards and penalties for illegal opium producers and traffickers. Directs the United States representative to the International Criminal Police Organization to propose the establishment of a special opium control staff within the organization. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish foreign opium control assistance. Directs the President to terminate all foreign assistance to any country which permits the production of opium which illegally enters the United States. Establishes an Executive Committee on International Opium Control to review all national and international control measures.

H.R. 3596. February 16, 1977, Judiciary. Establishes a United States Court of Labor Management Relations to have jurisdiction over labor disputes in industries substantially affecting interstate commerce that have resulted or threaten to result, in a concerted work stoppage which adversely affects or potentially adversely affects the general welfare of the nation.

H.R. 3597. February 16, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration. Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 3598. February 16, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act, the Community Mental Health Centers Act, and the Social Security Act, to authorize appropriations for health services programs for fiscal year 1978.

H.R. 3599. February 16, 1977. Judiciary. Permits the postage-free deposit of newspapers in letterboxes.

H.R. 3600. February 16, 1977. Interstate and Foreign Commerce; Judiciary. Amends the Federal Trade Commission Act to prohibit the application of a per se rule of illegality under the antitrust laws in the case of territorial market allocation agreements made as part of a licensing agreement: (1) for the manufacture, distribution and sale of a trademarked soft drink product; or (2) for the distribution or sale of a trademarked private label food product.

H.R. 3601. February 16, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to (1) make loans to certain cities and counties for the establishment and initial operating costs of clinics for the spaying and neutering of dogs and cats, and (2) make grants for the establishment of courses to train paraprofessionals in the anesthetising and spaying and neutering of dogs and cats.

H.R. 3602. February 16, 1977. Interior and Insular Affairs. Renames the Advisory Council on Historic Preservation as the Council on Historic Preservation. States that such Council is to administer specified Acts which relate to the historic preservation responsibilities of the Secretary of the Interior and to promote nominations to the National Register of Historic Places properties proposed for sale, transfer demolition or substantial alteration as a result of action by any Federal agency.

H.R. 3603. February 16, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to require the Overseas Private Investment Corporation to terminate insurance or reinsurance issued to any investor, upon a Corporation determination that such investor has offered or paid, directly or indirectly, any significant amount of money (or anything of significant value) to a foreign official to influence any decision of a foreign government.

H.R. 3604. February 16, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to require the Overseas Private Investment Corporation to terminate insurance or reinsurance issued to any investor, upon a Corporation determination that such investor has offered or paid, directly or indirectly, any significant amount of money (or anything of significant value) to a foreign official to influence any decision of a foreign government.

H.R. 3605. February 16, 1977. Agriculture; Interstate and Foreign Commerce; Ways and Means. Amends the Social Security Act in order to replace all existing Federal public assistance and welfare programs with a guaranteed annual income program.

H.R. 3606. February 16, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to enter into a contract or contracts with COMSAT General Corporation for experimental aeronautical satellite communications services without regard to restrictions prohibiting the making of Government contracts in excess of authorized or appropriated sums.

H.R. 3607. February 16, 1977. Science and Technology. Authorizes appropriations for specified programs of the National Science Foundation for fiscal year 1978. Limits the transfer of funds from one program to another.

H.R. 3608. February 16, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 3609. February 16, 1977. Judiciary. Prohibits the use of appropriated funds or funds made available to a wholly owned Government Corporation to pay for any communication to influence any member of any State electorate to favor or oppose, by vote or otherwise, any legislation or legislative issue in the ballot in such State unless expressly authorized by Congress.

H.R. 3610. February 16, 1977. Judiciary. Prohibits the use of Federal funds for specified activities designated to support or defeat any legislation or legislative issue on the ballot in any State.

H.R. 3611. February 16, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 3612. February 16, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3613. February 16, 1977. Judiciary. Provides that a certain individual be classified as a child under the Immigration and Nationality Act.

H.R. 3614. February 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 3615. February 16, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3616. February 16, 1977. Judiciary. Provides that a certain individual be considered a national of the United States for the purposes of the Immigration and Nationality Act.

H.R. 3617. February 16, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3618. February 16, 1977. Judiciary. Provides that a certain individual be classified as a child under the Immigration and Nationality Act.

H.R. 3619. February 16, 1977. Judiciary. Specifies the tax treatment of a certain individual under the Internal Revenue Code.

H.R. 3620. February 16, 1977. Judiciary. Relieves a certain individual of all liability to the United States for certain over payments of compensation while employed in the National Park Service.

H.R. 3621. February 16, 1977. Judiciary. Directs the Comptroller General to settle the claim of a certain individual against the United States. Limits the amount of such settlement to $225.

H.R. 3622. February 16, 1977. Judiciary. Directs the Comptroller General to settle the claim of a certain individual against the United States. Limits the amount of such settlement to $446.45.

H.R. 3623. February 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claim against the United States.

H.R. 3624. February 16, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3625. February 16, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 3626. February 16, 1977. Judiciary. Deems a certain individual to have died on a certain date, for the purposes of determining the entitlement of his beneficiary to benefits under a Veterans' Administration life insurance policy.

H.R. 3627. February 16, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3628. February 16, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 3629. February 16, 1977. Judiciary. Provides that a certain corporation may appeal a ruling of the Federal Communications Commission, notwithstanding other provisions of law.

H.R. 3630. February 17, 1977. Ways and Means.

Amends the Internal Revenue Code to provide that income received from nonmember telephone companies shall not be used in determining whether mutual and cooperative telephone companies qualify as tax exempt organizations.

H.R. 3631. February 17, 1977. Appropriations. Appropriates specified amounts to the Secretary of the Interior for construction of the Natchez Trace Parkway.

H.R. 3632. February 17, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3633. February 17, 1977. Merchant Marine and Fisheries. Amends the Federal Aid in Wildlife Restoration Act to enable any State to use funds apportioned to it for any fiscal year for hunter education and public target range programs, which remain unexpended at the close of such year for such programs during the succeeding fiscal year.

Amends the Internal Revenue Code of 1954 to impose a tax on component parts of ammunition for firearms.

H.R. 3634. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the excise tax on trucks, buses, and tractors, and parts and accessories for such vehicles.

H.R. 3635. February 17, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to include physician extender services.

H.R. 3636. February 17, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3637. February 17, 1977. Judiciary. Grants the consent of Congress to the Mississippi-Louisiana Bridge Construction Compact.

H.R. 3638. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to limit the mileage rate applicable to the business deduction for the use of automobiles to the same rate used to reimburse Federal employees for such use.

H.R. 3639. February 17, 1977. Public Works and Transportation. Directs the Secretary of Transportation to compile information on motor vehicle safety devices and to make such information available to the States. Authorizes the Secretary to make incentive grants to any State which uses such information as part of its procedure for issuing motor vehicle operating permits.

H.R. 3640. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 3641. February 17, 1977. Ways and Means; Interstate and Foreign Commerce Amends Title XVIII (Medicare) of the Social Security Act to establish a Long-Term Care Services program to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 3642. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 3643. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any dependents.

H.R. 3644. February 17, 1977. International Relations. Restricts payments of the United States to the United Nations to the ratio of the population of the United States to the total population of member nations.

H.R. 3645. February 17, 1977. Post Office and Civil Service. Revises provisions prohibiting Federal, Postal Service, and District of Columbia employees from engaging in political activities.

Establishes the Board on Political Activities of Federal Employees to decide cases regarding violations of this act. Sets forth procedures to be followed in such cases.

Directs the Civil Service Commission to conduct a continuing program to inform all employees of their rights of political participation under the Act and to educate employees with respect to those activities which are prohibited.

Creates a specific criminal offense for extorting political contributions from Federal personnel.

H.R. 3646. February 17, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 3647. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax credit for the rent paid for their principal residence.

H.R. 3648. February 17, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3649. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative twelve months of their employment.

H.R. 3650. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative twelve months of their employment.

H.R. 3651. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative twelve months of their employment.

H.R. 3652. February 17, 1977. Interior and Insular Affairs; International Relations; Merchant Marine and Fisheries. Establishes a program of Federal insurance against losses incurred by eligible ocean mining prototype operations. Directs the Administration of the National Oceanic and Atmospheric Administration to develop criteria designed to protect the marine environment from such operations.

Stipulates that this Act shall be transitional in nature pending the outcome of the United Nations Conference on the Law of the Sea.

H.R. 3653. February 17, 1977. Ways and Means: Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 3654. February 17, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3655. February 17, 1977. Public Works and Transportation. Authorizes the Secretary of the Army to construct a lock and dam project on the Mississippi River near Alton, Illinois. Authorizes the Secretary to provide wildlife protection and recreational activities with such project.

Withdraws authority (1) to study the deepening of navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River, Illinois; and the Mississippi River north of its junction with the Missouri River, Missouri; and (2) to study or construct a specified Mississippi River channel.

H.R. 3656. February 17, 1977. Post Office

and Civil Service. Amends the legislative Reorganization Act of 1946 to establish the rates of pay for Members of Congress, Delegates to the House of Representatives, the Resident Commissioner from Puerto Rico, the House and Senate leadership, and the Vice President at the rates in effect for such positions on September 30, 1976.

Stipulates that basic pay rates for certain executive, legislative, and judicial positions may not be increased until the President determines that there are in effect codes of conduct applicable to every individual in such a position.

H.R. 3657. February 17, 1977. Education and Labor. Amends the Employment Act of 1946 to set forth full employment and balance economic growth policies to be achieved through identification of social and economic goals and the preparation and implementation of a Full Employment and Balanced Economic Growth Plan. Establishes countercyclical, structural, regional, and growth employment programs and a State and local stabilization grant program to supplement the policies included in the plan.

Provides for congressional review of the Full Employment and Balanced Economic Growth Plan.

H.R. 3658. February 17, 1977. Veterans' Affairs. Removes the requirement that a veteran die in the service in order to be entitled to a memorial headstone or marker when his remains have not been recovered or identified, or have been buried at sea.

H.R. 3659. February 17, 1977. Veterans' Affairs. Requires submission to Congress to notice of the proposed acquisition of land by the Veterans' Administration for a national cemetery, together with a prospectus containing a description of the land, a description of the cemetery facilities to be built on it, and an estimate of the maximum cost of the project. Allows the acquisition of such land to go forward if Congress does not disapprove within a specified period of time following receipt of notice.

H.R. 3660. February 17, 1977. Public Works and Transportation; Small Business; Banking, Finance and Urban Affairs. Authorizes the President to provide disaster relief under the Disaster Relief Acts of 1970 and 1974 and the Small Business Act, without declaring a disaster, in the event that severe weather conditions followed by severe economic loss or a shortage of natural gas, oil or other energy supplies caused the closing or curtailing of a business and a substantial increase in unemployment in a State.

H.R. 3661. February 17, 1977. Judiciary. Repeals the Gun Control Act of 1968.

H.R. 3662. February 17, 1977. Judiciary. Grants the consent of Congress to the Mississippi-Louisiana Bridge Construction Compact.

H.R. 3663. February 17, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to make family-owned corporations and partnerships eligible for real estate and operating loans.

H.R. 3664. February 17, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 3665. February 17, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 3666. February 17, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 3667. February 17, 1977. Interstate and Foreign Commerce; Ways and Means. Amends title XVIII (Medicare) of the Social Security Act to provide payment for rural health clinic services pursuant to the program of Supplementary Medical Insurance Benefits for the Aged and Disabled of such title.

H.R. 3668. February 17, 1977. Government Operations. Authorizes the Administrator of General Services to make payments to local governments based on the amount of tax-exempt public and foreign lands within the boundaries of such governmental units.

H.R. 3669. February 17, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to terminate Federal Power Commission authority to regulate sales of new natural gas and sales of natural gas to certain high priority customers.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 3670. February 17, 1977. Banking, Finance and Urban Affairs. Amends the Home Owners' Loan Act of 1933 to increase the percentage of its total outstanding loans which a Federal savings and loan association may secure by first liens on single-family dwellings.

H.R. 3671. February 17, 1977. Judiciary. Amends the Immigration and Nationality Act to make it unlawful to knowingly hire an alien not lawfully admitted into the United States. Requires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

Permits the Attorney General to adjust the status of specified illegal aliens to that of alien lawfully admitted for permanent residence.

H.R. 3672. February 17, 1977. Interstate and Foreign Commerce. Amends the Railroad Revitalization and Regulatory Reform Act to increase the Federal share for rail assistance programs under the Department of Transportation Act, rail service continuation projects under the Regional Rail Reorganization Act of 1973, and the costs of providing mandatory rail passenger service under the Railroad Revitalization and Regulatory Reform Act.

H.R. 3673. February 17, 1977. Agriculture. Prohibits the importation of palm oil unless the Secretary of Agriculture has certified that such imports originate from pure and wholesome supplies and that such imports were processed in plants meeting minimum sanitation standards. Directs the Secretary to establish standards which are comparable to domestic standards for purity, wholesomeness, and sanitation. Directs the Secretary to inspect such imports. Subjects such imports to the Federal Food, Drug, and Cosmetic Act after entry. Requires that such imports be labeled. Imposes penalties for violation of such labeling requirements.

H.R. 3674. February 17, 1977. Ways and Means. Amends the Tariff Schedules of the United States to impose a customs duty on palm oil which is not imported for use in the manufacture of iron or steel products, tinplate, or terneplate.

H.R. 3675. February 17, 1977. Public Works and Transportation. Requires each airport authority of specified airports to file a Noise Exposure Study with each political subdivision within the "impact area" of such an airport. Stipulates that each such airport shall be regulated, by a Community Noise Impact Board with respect to: (1) the times during which takeoffs and landings may occur; (2) takeoff and landing procedures; (3) jet and propellor use not necessary to flight; (4) allocation of runway use; and (5) the types and numbers of aircraft permitted to use the airport.

H.R. 3676. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deferral of an individual's income tax liability to the extent it equals a limited portion of the higher educational expenses incurred for the taxpayer, his spouse and dependents. Defers payment until the year following the end of the individual's attendance at an institution of higher education, or the tenth year following the taxpayer's initial deferral, whichever is earlier.

H.R. 3677. February 17, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to require localities to provide as part of their housing assistance plans a plan to identify and reclaim deteriorated housing stock where feasible.

Amends the Housing Act of 1964 to require the designation of concentrated revitalization areas in which 90 percent of rehabilitation loan funds must be allocated.

H.R. 3678. February 17, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend various authorization provisions of such act through fiscal year 1978.

Allows the Administrator of the Environmental Protection Agency to accept State certification as discharging his responsibilities under certain compliance deadlines contained in the act.

Revises the scope of permit authority with respect to discharges of dredged or fill material. Exempts farming and related activities from such permit requirements. Redefines the term "navigable water" as applied to such permits.

Establishes an emergency contingency fund to deal with imminent threats to public health and welfare.

H.R. 3679. February 17, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that whenever a retired employee who is receiving a larger annuity under such act than would be payable to the spouse of such employee, the amount payable to the surviving spouse of such an individual shall be the same amount which would have been payable to the retired employee but for his or her death.

H.R. 3680. February 17, 1977. Education and Labor. Establishes a career education program for elementary and secondary schools to increase the emphasis such institutions place upon career awareness, exploration, decisionmaking, and planning.

Specifies procedures to be used in implementing this act, both at the national and local level.

Directs the Office of Career Education within the Office of Education to administer this act.

H.R. 3681. February 17, 1977. Education and Labor. Establishes a career education program for elementary and secondary schools to increase the emphasis such institutions place upon career awareness, exploration, decisionmaking, and planning.

Specifies procedures to be used in implementing this Act, both at the national and local level.

Directs the Office of Career Education within the Office of Education to administer this Act.

H.R. 3682. February 17, 1977. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorization for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration for vocational education programs.

H.R. 3683. February 17, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one physical checkup a year under the supplementary medical insurance program.

H.R. 3684. February 17, 1977. Veterans' Affairs. Provides that all decisions of the

Administrator of Veterans' Affairs be subject to judicial review and that all rules, regulations, orders and determinations of the Administrator be subject to the provisions of the Administrative Procedure Act. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 3685. February 17, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Court to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 3686. February 17, 1977. Judiciary. Directs the Attorney General to make grants to qualified State programs for the compensation of victims of crime.

Establishes an Advisory Committee on Victims of Crime to advise the Attorney General with respect to the administration of such grant program and to the compensation of victims of crime.

H.R. 3687. February 17, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 3688. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the Tax Reform Act's increased tax exclusion of gain on sales of residences of the aged shall apply to sales during, as well as after, 1976.

H.R. 3689. February 17, 1977. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to increase the amount authorized to be appropriated under such Act.

H.R. 3690. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited exclusion from gross income of interest on savings deposits paid or accrued by an individual taxpayer.

H.R. 3691. February 17, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits. Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3692. February 17, 1977. Banking, Finance and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 3693. February 17, 1977. Banking, Finance and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 3694. February 17, 1977. Banking, Finance and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-Help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 3695. February 17, 1977. Veterans' Affairs. Expands the existing program of grants to States for the construction, remodeling or renovation of State veterans' care facilities to include hospital and domiciliary as well as nursing home care facilities.

H.R. 3696. February 17, 1977. Veterans' Affairs. Repeals the requirement that medical services be furnished only within the limits of Veterans' Administration facilities to eligible veterans receiving an allowance for regular care and attendance or veterans who are permanently housebound.

H.R. 3697. February 17, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to make payment to a medical facility which provides treatment to any alien unlawfully in the United States for the costs of such treatment when the medical facility cannot recover such costs under any other program.

H.R. 3698. February 17, 1977. Post Office and Civil Service. Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act to provide that a teacher's entitlement to any allowance or other benefit under such Act shall be made without regard to whether the teacher was recruited outside or inside the United States.

H.R. 3699. February 17, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to make grants to health agencies of States or their political subdivisions, or to any qualified nonprofit agency for programs of prenatal health care for adolescents, health care for infants or adolescent mothers, family planning services, social services and funds to purchase adoption services for adolescent mothers.

H.R. 3700. February 17, 1977. Banking, Finance and Urban Affairs. Amends the Consumer Credit Protection Act to prohibit specified practices in the case of second mortgages which secure residential real property.

H.R. 3701. February 17, 1977. Banking, Finance and Urban Affairs. Amends the Flood Disaster Protection Act of 1973 to: (1) abolish prohibitions against the granting of Federal financial assistance and secured loans for aquisition or construction in a flood hazard area, unless the community in which such area is located is participating in the national flood insurance program; and (2) repeals the requirement that a community tentatively identified as having special flood hazards apply for participation in the program.

H.R. 3702. February 17, 1977. Armed Services. Makes specified pay and eligibility adjustments in the Retired Servicemen's Family Protection Plan and the Survivor Benefit Plan of the Armed Forces.

H.R. 3703. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 3704. February 17, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 3705. February 17, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals who elect the standard deduction to take a separate deduction for charitable contributions. Allows taxpayers with incomes of less than $29,000 to take a charitable deduction in excess of the actual amount of charitable contributions made, based on a specified adjustment factor.

H.R. 3706. February 17, 1977. Judiciary. Directs that orders of a State court relative to the custody of children of divorced or separated parents be given full faith and credit by every other State until such issuing court no longer has under the law of the State in which it is located, or declines to exercise, jurisdiction over modifications of such orders.

H.R. 3707. February 17, 1977. Judiciary. Establishes two divisions within the eastern judicial district of New York.

H.R. 3708. February 17, 1977. Judiciary. Provides that a certain corporation may appeal a ruling of the Federal Communications Commission, notwithstanding other provisions of law.

H.R. 3709. February 17, 1977. Judiciary. Directs the Secretary of the Treasury to extend the expiration date of a certain temporary importation bond, notwithstanding the provisions of the Tariff Schedules.

H.R. 3710. February 17, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 3711. February 21, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution certain vessels to maintain evidence of financial responsibility in an amount equal to source. Requires petroleum facilities and applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3712. February 21, 1977. Education and Labor. Amends the Library Services and Construction Act to authorize the appropriation of funds through fiscal year 1981 for the purpose of making grants to States for: (1) library services; (2) the construction of public libraries; (3) the carrying out of interlibrary cooperation programs; and (4) the carrying out of library programs for older persons.

Requires any State expending Federal funds received under such Act for the administrative costs of such programs to match the amounts expended with non-Federal funds.

H.R. 3713. February 21, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 3714. February 21, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Court to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 3715. February 21, 1977. Agriculture. Directs the Secretary of Agriculture, in the event of an export embargo on grain sales to any country or area with which the United States continues commercial trade, to set the loan level for such commodity (wheat, feed grain, soybeans, rice or flaxseed) at 100 percent of the parity price for such commodity as determined the day such embargo is initiated. Requires such loan level to remain in effect for the duration of such embargo.

H.R. 3716. February 21, 1977. Post Office and Civil Service. Requires that any increase in rates of pay for Members of Congress occurring through administrative action be specifically approved in a resolution adopted

by each House of Congress before such increase may take effect.

Prohibits any such increase from taking effect before the first day of the Congress beginning after the Congress during which such resolution is adopted.

H.R. 3717. February 21, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3718. February 21, 1977. Education and Labor. Amends the Employment Act of 1946 to set forth full employment and balanced economic growth policies to be achieved through identification of social and economic goals and the preparation and implementation of a full employment and balanced economic growth plan. Establishes countercyclical, structural, regional, and growth employment programs and a State and local stabilization grant program to supplement the policies included in the plan.

Provides for congressional review of the full employment and balanced economic growth plan.

H.R. 3719. February 21, 1977. Judiciary. Amends the Legal Services Corporation Act to: (1) require client organization representation on the Legal Service Corporation Board of Directors and recipient organization boards of directors; (2) subject the Corporation and State advisory councils to Government in the Sunshine Act requirements; (3) revise restrictions on political activities with respect to staff attorneys; (4) revise limitations on the use of funds made available by the Corporation; and (5) require independent hearing examiners.

H.R. 3720. February 21, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize free or reduced transportation rates for persons over 65 and handicapped individuals and their attendants. Amends the Urban Mass Transportation Act of 1964 to give funding priority under such act to public bodies which offer reduced rates to such individuals. Authorizes the Secretary of Transportation to prescribe standards for facilities funded under such act to insure ready access to such facilities by these individuals. Amends the Older Americans Act of 1965 to authorize a grant program for special transportation research and demonstration projects for such individuals.

H.R. 3721. February 21, 1977. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to increase the amount authorized to be appropriated for fiscal year 1977 for the Securities and Exchange Commission.

H.R. 3722. February 21, 1977. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to authorize specified amounts to be appropriated for the Securities and Exchange Commission for fiscal years 1978–1980.

H.R. 3723. February 22, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to: (1) extend the emergency unemployment compensation program thereunder; (2) set the amount of compensation payable to individuals for weeks of unemployment during the extension period; (3) set forth sanctions with respect to obtaining benefits through fraud; (4) authorize States to recover overpayments in accordance with specified procedures; and (5) direct the Secretary of Labor to arrange for modification of State emergency compensation agreements in order that they conform with the revisions made by the Act.

H.R. 3724. February 22, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 by extending the limitation on aggregate annual contractural contributions for low-income housing projects and for the operation of such projects.

Establishes a National Commission on Neighborhoods to study the factors contributing to the decline of city neighborhoods and to make recommendations for programs necessary to facilitate neighborhood preservation and revitalization.

H.R. 3725. February 22, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 3726. February 22, 1977. Agriculture. Extends the provisions of the Rice Production Act of 1975 through the 1978 crop.

H.R. 3727. February 22, 1977. Judiciary. Permits the furnishing of accommodations to judges of the courts of appeals, upon approval by the appropriate judicial council, at any place where Federal facilities are available regardless of whether court terms are authorized to be held at such locations.

H.R. 3728. February 22, 1977. Judiciary. Directs the President, by and with the advice and consent of the Senate, to appoint a specified number of additional judges to the United States District Court for the Eastern District of Kentucky and to the United States District Court for the Western District of Kentucky.

H.R. 3729. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow firefighters a limited business tax deduction for meal expenses incurred at their post on overnight duty.

H.R. 3730. February 22, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to require the authorization for appropriations to maintain State and local services by: (1) altering the formula for determining the amount of such authorization for each calendar quarter; (2) extending such authorization five years; and (3) setting forth certain maximum aggregate amounts which may be appropriated during specified periods.

Revises the period for determining the allocation of funds appropriated pursuant to such authorization.

Directs that principles used by the Bureau of the Census be used in determining whether a government qualifies as a "local government" for purposes of such assistance.

H.R. 3731. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to limit the mileage rate applicable to the business deduction for the use of automobiles to the same rate used to reimburse Federal employees for such use.

H.R. 3732. February 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to authorize and direct the Secretary of Health, Education, and Welfare to make grants to designated agencies to meet part of the costs involved in planning, establishing, maintaining, coordinating, and evaluating programs for comprehensive services for school-age girls, their infants and children.

H.R. 3733. February 22, 1977. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 3734. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under Title XVIII (Medicare) of such Act, in cases where claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 3735. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicaire), Title XIV (Medicaid), and Title XX (Grants to States for services) of the Social Security Act to establish a Special Commission on Quality Assurance and Utilization Control in Home Health Care.

Requires the Commission to conduct a review of the provision of home health care and services in the United States, and to develop a plan for quality assurance and utilization control in such care.

H.R. 3736. February 22, 1977. Judiciary. Entitles, absent certain findings, persons to be investigated and indicted by a Federal grand jury to notice and a right to appear.

Grants certain rights, including the right to counsel, to Federal grand jury witnesses.

Revises procedures for, and sets forth defense relative to, finding recalcitrant grand jury witnesses in contempt.

Entitles witnesses compelled to testify before a Federal Grand jury, Congress, or executive agency to transactional immunity.

Specifies guidelines regarding the rights and authority of a Federal grand jury, including the power to initiate independent inquiries.

H.R. 3737. February 22, 1977. Post Office and Civil Service. Designates the anniversary of Martin Luther King Junior's birth, January 15, as a legal public holiday.

H.R. 3738. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to entitle an individual otherwise eligible, to widower's or widow's benefits at age 50. Eliminates the special dependency requirements for entitlement to widower's insurance benefits. Directs that individuals eligible for widow's or widower's benefits shall no longer be required to accept rehabilitation services.

H.R. 3739. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3740. February 22, 1977. Agriculture. Excludes from eligibility for food stamps under the Food Stamp Act of 1964 any household whose principal wage earner is on strike for the duration of such strike. Excepts a household from this exclusion if it was participating in the food stamp program immediately prior to the start of such strike, or if any of its members is subject to an employer's lockout.

H.R. 3741. February 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with commission actions authorizing specialized carriers.

H.R. 3742. February 22, 1977. Post Office and Civil Service. Permits National Guard technicians who served before 1969, and were separated after 1968 but before the date of enactment of this Act, to be credited with such service for purposes of civil service retirement, and computing leave, health insurance, severance pay, tenure, and status.

H.R. 3743. February 22, 1977. Agriculture. Establishes the Federal Farm Assistance Corporation, within the Department of Agriculture, and authorizes the Corporation to negotiate for and purchase farmland or units which may come on the market.

Allows lease of such farm units to eligible applicants, and directs the Corporation's Board of Directors to approve the sale to the lessee of such farm units upon a determina-

tion that the lessee can successfully manage and operate such farm unit.

H.R. 3744. February 22, 1977. Education and Labor. Amends the Fair Labor Standards Act to: (1) set the non-agricultural worker minimum wage at not less than 60 percent of the average wage of production workers; (2) equalize the minimum wage of agricultural and certain other workers with that of non-agricultural workers; and (3) repeal the provisions authorizing the taking into account of tips in determining wages for the purpose of minimum wage requirements.

H.R. 3745. February 22, 1977. Judiciary. Sets forth procedures for the settlement of contract claims disputes between executive agencies and Government contractors. Authorizes executive agencies to establish contract boards of appeals to which agency decisions may be appealed.

H.R. 3746. February 22, 1977. Public Works and Transportation. Amends the Appalachian Regional Development Act of 1965 to increase to 70 percent the limitation on Federal assistance to an Appalachian highway construction project, unless a State uses between 45 and 60 percent of such funds for a development highway project to increase Federal assistance to 90 percent.

H.R. 3747. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3748. February 22, 1977. Ways and Means. Amends the Tariff Schedules of the United States to exempt specified textile, leather, rubber, and plastic products and wearing apparel from the duty imposed on articles assembled abroad from components produced in the United States.

H.R. 3749. February 22, 1977. Post Office and Civil Service. Establishes a Commission on Natural Gas Resources to study the production, distribution, and consumption of natural gas in the United States.

H.R. 3750. February 22, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to require that the Administrator of the Environmental Protection Agency make grants for special studies and demonstration projects designed to assist in providing a safe supply of drinking water to the public.

H.R. 3751. February 22, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to accept certification by State water pollution control facilities of responsibility for treatment projects within such State.

Authorizes financial assistance to State programs so certified in an amount not to exceed two percent of the Federal allotment for waste treatment works projects.

H.R. 3752. February 22, 1977. House Administration. Excludes from "expenditure" for purposes of the Federal Election Campaign Act of 1971, and from "contribution" for purposes of the Presidential Election Campaign Fund Act and criminal provisions relative to campaign finance, payments made or obligations incurred by a candidate or his principal campaign committee for campaign buttons, bumper stickers, or subject to specified limits, other campaign advertisement materials which advocate the election of both such candidate and any other individual who is a candidate for Federal office.

H.R. 3753. February 22, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation Zone Transition Act to approve as governing international fishery agreements for purposes of the Fishery Conservation and Management Act of 1976, agreements concerning fisheries off the United States coast with: (1) the European Economic Community; (2) Japan; (3) Korea; and (4) Spain.

H.R. 3754. February 22, 1977. Ways and Means. Provides a two year extension of time for the payment of so much of any income tax as is attributable to the application to 1976 of the change made by the Tax Reform Act in the exclusion for sick pay.

H.R. 3755. February 22, 1977. Post Office and Civil Service. Reinstates Civil Service retirement survivors annuities for surviving spouses of employees whose annuities were terminated due to remarriage before July 18, 1966, and surviving spouses of Members of Congress who died before January 8, 1971, whose annuities were terminated due to remarriage.

H.R. 3756. February 22, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares on a space-available basis for persons 60 years of age or older and for handicapped individuals and their attendants. Directs the Civil Aeronautics Board to conduct a study and to report to Congress regarding the feasibility of such reduced air transportation rates for persons 21 years of age or younger. Authorizes specified types of air carriers in California and Florida to enter into agreements with other air carriers to establish joint fares, rates and services.

H.R. 3757. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax exclusion for the interest on governmental bonds the proceeds of which are used for facilities to furnish hydroelectric energy.

H.R. 3758. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) to decrease from 20 to 10 the number of years a divorced woman must have been married to an insured individual in order for her to qualify for wife's widow's benefits on his wage record.

H.R. 3759. February 22, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress regarding the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce.

Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 3760. February 22, 1977. Judiciary. Prohibits the importation, manufacture, sale, purchase, transfer, receipt or transportation of handguns except as authorized by the Secretary of the Treasury. Creates exceptions for handguns utilized by Federal, State, or local governmental law enforcement officials or intended for use as a curio, museum piece, or collector's item.

H.R. 3761. February 22, 1977. Government Operations; Rules. Abolishes specified Federal regulatory agencies on September 30, 1977, unless Congress and the President approve their continuation. Sets limits on the continued existence of Federal regulatory agencies. Sets forth the procedures to be followed by the President to transfer the functions, powers, and duties of terminated agencies to himself or to a successor agency.

H.R. 3762. February 22, 1977. Ways and Means. Allows individuals a limited income tax credit for amounts expended for installation of solar heating and cooling equipment in the taxpayer's principal residence, and for that portion of the real property taxes attributable to such installation.

H.R. 3763. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3764. February 22, 1977. Veterans' Affairs. Eliminates the provision in the Veterans' Assistance and Employment Act of 1976 which prohibits colleges and universities from receiving Veterans Administration educational benefits for classes in which more than 85 percent of the enrollment is composed of students having their fees paid either by the Federal Government or the institutions themselves.

H.R. 3765. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 3766. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3767. February 22, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior, through the Director of the Bureau of Outdoor Recreation, to make grants to States, local governments, and private nonprofit institutions to defray 75 per cent of the cost of renovating structures for use as youth hostels.

Requires that a public hearing be held with respect to each application for a renovation grant under this Act.

H.R. 3768. February 22, 1977. Judiciary. Renders applicable to first convictions for using a firearm to commit a Federal felony or for unlawfully carrying a firearm during the commission of such a crime the prohibition against suspended or probationary sentences presently mandatory with respect to second or subsequent convictions.

H.R. 3769. February 22, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to extend the applicability of such Act to mines other than coal mines. Transfers mine health and safety functions from the Secretary of the Interior to the Secretary of Labor.

Revises procedures for establishment and enforcement of mine health and safety standards. Authorizes the payment of compensation to miners idled by mine closures resulting from orders issued pursuant to this Act.

Repeals the Federal Metal and Nonmetallic Mine Safety Act of 1966.

H.R. 3770. February 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that in the labeling and advertising of drugs sold by prescription the established name of such drug must appear each time the drug's proprietary name is used.

Permits a pharmacist to fill or refill a prescription for a drug, identified by its proprietary name, with any lower cost and suitable substitute drug under specified circumstances.

H.R. 3771. February 22, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act to require full disclosure of pertinent data on labels of foods and food products. Prohibits misleading brand names under the Federal Trade Commission Act.

H.R. 3772. February 22, 1977. Interstate and Foreign Commerce. Requires manufacturers to label products as to month and year of manufacture for those goods whose design and performance features change at such a frequency as to make its date of manufacture part of its relevant description.

Empowers the Federal Trade Commission to enforce this Act.

H.R. 3773. February 22, 1977. Interstate and Foreign Commerce. Requires manufacturers to display on a conspicuous label on each item of durable goods sold to consumers the performance life of such product. Declares the National Bureau of Standards to have final authority over the designation

required by this Act, and requires the Federal Trade Commission to enforce the provisions of this Act.

H.R. 3774. February 22, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to terminate the Airlines Mutual Aid Agreement.

H.R. 3775. February 22, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to study and undertake prevention or mitigation measures for shore damage attributable to high water levels in one or more of the Great Lakes.

H.R 3776. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to require the Secretary of the Treasury to establish specific criteria and procedures to audit returns and to report certain information regarding audits completed in the previous 12 months to the Joint Committee on Taxation.

H.R. 3777. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a deduction the ordinary and necessary expenses paid during the taxable year for the repair or improvement of property used by the taxpayer as his principal residence. Permits an owner of rental property to amortize expenditures for the restoration of rental housing.

H.R 3778. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from the income tax, pensions paid to retired policemen and firefighters or to their dependents, widows or other survivors to the extent that such benefits are based on full-time service for a governmental entity.

H.R 3779. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for nutritional counseling as part of the home health services provided under the supplementary medical insurance program.

H.R 3780. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Requires automatic sprinkler systems in all skilled nursing facilities and intermediate care facilities certified for participation in the Medicare or Medicaid, and Veterans' Administration programs unless a waiver of such requirement is granted in accordance with conditions set forth in this Act.

Establishes a program of low-interest Federal loans and grants to assist such facilities in constructing or purchasing and installing automatic sprinkler systems.

H.R. 3781. February 22, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize reduced air fares for persons 60 years of age or older.

H.R. 3782. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 3783. February 22, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 3784. February 22, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to repeal the increase in salaries of Members of Congress authorized by the Act of August 9, 1975.

H.R. 3785. February 22, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 3786. February 22, 1977. Ways and Means. Redefines the "on" and "off" indicators used in determining emergency benefit periods under the Emergency Unemployment Compensation Act of 1974.

Stipulates that amounts appropriated to the Extended Unemployment Compensation Account shall not be repayable advances.

Extends the period for which emergency compensation is payable to encompass weeks ending on or before March 31, 1978, and in the case of any individual who had a compensable week on or before March 31, 1978, June 30, 1978.

Provides compensation to individuals in approved training programs after exhaustion of the maximum amount of emergency compensation otherwise payable.

H.R. 3787. February 22, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to acquire certain lands in the State of New Mexico upon which the Zuni Salt Lake is located, and to hold the title to such lands in trust in the name of the United States for the benefit of the Zuni Indian Tribe of New Mexico. Allows any claim of the tribe to be adjudicated in the United States Court of Claims without first exhausting any available administrative remedies.

H.R. 3788. February 22, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend various authorization provisions of such Act through fiscal year 1978.

Allows the Administrator of the Environmental Protection Agency to accept State certification as discharging the Administrator's responsibilities under certain compliance deadlines contained in the Act.

Revises the scope of permit authority with respect to discharges of dredged or fill material. Exempts farming and related activities from such permit requirements. Redefines the term "navigable water" as applied to such permits.

Establishes an emergency contingency fund to deal with imminent threats to public health and welfare.

H.R. 3789. February 22, 1977. Post Office and Civil Service. Requires the Secretary of Commerce to furnish population census statistics relating to municipalities or subdivisions of municipalities to such areas upon request for such information. Stipulates that such statistics may not be furnished if such information was obtained in a census which occurred more than 22 years before the date of such a request.

H.R. 3790. February 22, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on concentrate of poppy straw for production of codeine or morphine until June 30, 1979.

H.R. 3791. February 22, 1977. Armed Services. Directs the Secretary of the Interior to convey without consideration designated lands in Eglin Air Force Base to the city of Niceville, Fla., for use as a nonprofit cemetery.

H.R. 3792. February 22, 1977. Agriculture. Amends the Agricultural Fair Practices Act of 1967 with respect to the administrative procedures to be followed by the Secretary of Agriculture in enforcing the provisions of the act.

H.R. 3793. February 22, 1977. Post Office and Civil Service. Gives employees of the executive branch the right to have a representative present during questioning which is a part of an investigation which could lead to adverse personnel action being taken by an agency against such employee. Gives such employees the right to appeal any action taken in violation of this Act to the Civil Service Commission. Makes specified changes to such rights if such employee is employed by the Central Intelligence Agency, the National Security Agency, or the Federal Bureau of Investigation.

H.R. 3794. February 22, 1977. Post Office and Civil Service. Increases the Federal Government's contribution to Federal employee group life insurance premiums from one-third to one-half of the cost of such premiums.

H.R. 3795. February 22, 1977. Post Office and Civil Service. Provides that the Federal contribution for Federal employee health benefits coverage shall be determined on the basis of the average of the two health benefits plans having the highest subscription charges.

H.R. 3796. February 22, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to establish regulations relating to navigation and vessel safety, and marine environmental protection. Establishes a 200 mile maritime safety zone around the United States. Requires periodic inspection of vessels subject to such Act.

H.R. 3797. February 22, 1977. Education and Labor. Amends the National Labor Relations Act to permit to be certified as collective bargaining representative of a bargaining unit of guards a labor organization which admits, or is affiliated directly or indirectly with a labor organization which admits employees other than guards.

H.R. 3798. February 22, 1977. Judiciary. Amends provisions setting forth additional penalties for using or unlawfully carrying a firearm during the commission of a Federal felony to name such activity "armed criminal action."

Specifies penalties for armed criminal action. Stipulates that offenders shall not be disposed of under the Federal Youth Corrections Act or juvenile delinquency provisions and denies them parole eligibility.

H.R. 3799. February 22, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for members of Congress proposed during any Congress shall take effect.

H.R. 3800. February 22, 1977. Post Office and Civil Service. Permits any Federal employee or Member of Congress who, at the time of retirement, does not elect a reduced annuity in order to provide a survivor annuity to a spouse or other person to make such an election within one year after retiring. Requires such employee to refund to the Government an amount equal to the amount such employee's annuity would have been reduced during the period from the date of retirement to the date of election plus interest.

H.R. 3801. February 22, 1977. Merchant Marine and Fisheries. Requires the Administrator of the Environmental Protection Agency, in cooperation with the Secretary of the Interior, to promulgate regulations which must be complied with before any large scale killing of birds or mammals shall be permitted. Prohibits any such killing until an environmental impact statement has been approved.

Prohibits the eradication or suppression of certain animals injurious to agriculture or to other animals until an environmental impact statement has been approved by the Administrator and the Secretary.

H.R. 3802. February 22, 1977, Public Works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to establish a program to supplement air carrier revenues for the full financing of the modification or the partial financing of the replacement of subsonic turbojet-powered aircraft in order to reduce aircraft noise in accordance with standards specified in such Act.

Amends the Airport and Airway Development Act to authorize the Secretary of Transportation to make grants for the modification of specified types of aircraft in order to enable such aircraft to comply with noise standards under such Act.

H.R. 3803. February 22, 1977. Interstate and Foreign Commerce. Amends the Railroad Unemployment Insurance Act and the Internal Revenue Code of 1954 to stipulate that unemployment benefits for railroad workers shall not be reduced by amounts

received as military retirement benefits by such individuals.

H.R. 3804. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3805. February 22, 1977. Armed Services. Stipulates that no veteran may be denied care or treatment under the CHAMPUS program for any service-connected disability solely because care or treatment for such disability is available at Veterans' Administration medical facilities.

H.R. 3806. February 22, 1977. Judiciary. Makes it a Federal crime for any person to assault or kill any firefighter or law enforcement officer on account of such firefighter's or officer's performance of duty. Stipulates that any person: (1) conspiring to commit an offense in violation of this Act; or (2) transporting or aiding in transporting, or receiving or aiding in receiving, in interstate commerce any dangerous weapon knowing or intending that it will be used to commit an act in violation of this Act shall be punished the same as a person committing such an Act.

H.R. 3807. February 22, 1977. Judiciary. Prohibits disclosure of information identifying or tending to identify a person as a present or former participant in the United States foreign intelligence operations if (1) the information has been designated by statute or Executive order as requiring some degree of protection or (2) the person disclosing the information knows or has reason to believe that such disclosure may prejudice the safety or well-being of the person identified.

H.R. 3808. February 22, 1977. Judiciary. Increases from 30 to 60 days the time period between the publication of a Federal rule and the effective date of such rule. Increases from 15 to 30 days the time period between the publication of a notice of a hearing and the beginning of such hearing.

H.R. 3809. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited exclusion from gross income of interest on savings deposits paid or accrued by an individual taxpayer.

H.R. 3810. February 22, 1977. Banking, Finance and Urban Affairs; Government Operations. Amends the Council on Wage and Price Stability Act to require each Federal agency to prepare an economic impact statement for each rule it proposes that will have a significant impact on prices and employment. Requires such statement to be published in the Federal Register along with comments thereon made by the Director of the Council of Wage and Price Stability.

H.R. 3811. February 22, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to acquire by donation, purchase or otherwise, the Rhode Island Veterans' Cemetery, and such additional lands as may be necessary, and to establish such as a national cemetery within the National Cemetery System.

H.R. 3812. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to restrict the amount of the deduction State legislators may take for living expenses while conducting legislative business to the daily dollar limitations to be established by the Secretary of the Treasury for each State legislature.

H.R. 3813. February 22, 1977. Interior and Insular Affairs; Appropriations. Makes changes in the management program of Redwood National Park including authorizing the Secretary of Agriculture to alter the boundaries of the Park Protection Zone. Authorizes the Secretary to acquire specified lands and sets forth procedures for such takings.

H.R. 3814. February 22, 1977. Judiciary. Requires formal public rulemaking with respect to procedures and policies concerning public property, loans, grants or benefits. Requires agencies to reimburse specified individuals participating in agency rulemaking proceedings. Waives the sovereign immunity of the United States in suits where relief other than money damages is sought. Requires the establishment of enforcement procedures for grant-in-aid programs.

H.R. 3815. February 22, 1977. Interstate and Foreign Commerce. Amends the Securities Exchange Act of 1934 to make it unlawful for an issuer of registered securities or an issuer required to file certain reports, under such Act, to make payments to foreign officials to influence an official act of such official or to influence an act or decision by a foreign government. Imposes a fine for such unlawful act.

Makes it unlawful for a domestic concern to use the mails or interstate commerce to make payments to such foreign officials. Imposes a fine upon any agent of such domestic concern for such unlawful act.

H.R. 3816. February 22, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to permit any United States district court to define an unfair or deceptive practice when the Federal Trade Commission, having been petitioned to so define a specified practice, has failed to do so within 120 days.

Imposes a civil penalty upon any person who refuses to provide reports, evidence, or testimony to the Commission when required to do so.

Directs the Commission to determine if the advertising of distilled alcoholic beverages constitutes unfair or deceptive trade practices.

Sets forth the applicability of such Act to banks, common carriers, and air carriers.

H.R. 3817. February 22, 1977. Veterans' Affairs. Extends from ten to fifteen years the delimiting period in which a veteran's educational assistance may be used.

H.R. 3818. February 22, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 3819. February 22, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance) and Title XVIII (Medicare) of the Social Security Act to provide full benefits at age 60 when based upon the attainment of retirement age. Allows reduced benefits at age 57. Sets the minimum primary benefit rate for old-age, survivors, and disability benefits at $150 a month.

H.R. 3820. February 22, 1977. Interior and Insular Affairs; Public Works and Transportation. Requires the Secretary of the Interior to: (1) develop and implement a mass transportation program for each urban national park and recreation area involving modes of transport other than personal motor vehicles; and (2) conduct a comprehensive study of transportation problems and opportunities throughout the National Park System.

H.R. 3821. February 22, 1977. Post Office and Civil Service. Authorizes the postage free mailing of absentee ballots and other absentee voting material.

H.R. 3822. February 22, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3823. February 22, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living salary adjustments for Members of Congress based on any adjustment of the General Schedule which takes effect before October 1, 1978.

H.R. 3824. February 22, 1977. Armed Services; Merchant Marine and Fisheries; Ways and Means. Authorizes the President to transfer commissioned officers of the Coast and Geodetic Survey and the National Oceanic and Atmospheric Administration to an armed force with the individual's consent. Includes commissioned officers of the National Oceanic and Atmospheric Administration within the definition of "Federal service" for purposes of unemployment compensation as it relates to members and ex-members of the armed forces.

H.R. 3825. February 22, 1977. Judiciary. Grants a Federal charter to the National Opportunity Camps.

H.R. 3826. February 22, 1977. Interstate and Foreign Commerce. Prohibits the manufacturing in the United States for introduction into interstate commerce, or the importation into the United States, of any reproduction, antique glass article which is not legibly and permanently marked to indicate the calendar year in which such article was manufactured.

Empowers the Federal Trade Commission to enforce this Act.

H.R. 3827. February 22, 1977. Education and Labor. Authorizes $10,500,000 to be appropriated for each of the fiscal years 1978–1982, for the construction of the Navajo Community College.

H.R. 3828. February 22, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 3829. February 22, 1977. Post Office and Civil Service; Armed Services; Standards of Official Conduct. Sets standards of conduct for employees and officers of the Federal Government. Requires specified Federal officers and employees to file financial disclosure statements which are to be made available to the public. Establishes a Commission on Ethics and Financial Disclosure to investigate and report violations of this Act to the Attorney General for enforcement.

H.R. 3830. February 22, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 3831. February 22, 1977. Ways and Means. Amends the Internal Revenue Code to increase the amounts excludable from gross income as income earned abroad by repealing the provisions respecting such exclusions enacted in the Tax Reform Act and restoring former law.

H.R. 3832. February 22, 1977. Judiciary. Declares that the name and symbol "Tree City USA" is the property of the United States to be used in conjunction with the Arbor Day Foundation and its cooperators.

Authorizes the Secretary of Agriculture to establish and collect use and royalty fees with respect to such symbol.

Authorizes injunctive relief and specifies criminal penalties for unauthorized use of such symbol.

H.R. 3833. February 22, 1977. Post Office and Civil Service. Provides third-class mailing privileges to Gold Star Wives of America, Inc.

H.R. 3834. February 22, 1977. Judiciary. Directs the Secretary of the Treasury to pay a sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3835. February 22, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 3836. February 22, 1977. Judiciary.

Relieves a certain corporation of all liability to the United States for a loan made to it by the Economic Development Administration.

H.R. 3837. February 22, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3838. February 22, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 3839. February 23, 1977. Appropriations. Rescinds budget authority proposed in the message of the President of January 17, 1977. (H.Doc. 95–48), with respect to military personnel pay, Air Force procurement, foreign military credit sales, and international organizations and conferences contributions for international peacekeeping.

H.R. 3840. February 23, 1977. Education and Labor. Amends the Vocational Education Act to establish maximum and minimum percentage requirements for particular uses of sums allotted to each State for vocational education programs under such Act.

H.R. 3841. February 23, 1977. International Relations. Restricts diplomatic immunity, with respect to the personnel of a permanent foreign diplomatic mission, to (1) the head of the mission and the head's immediate family, and (2) two staff members of the mission with diplomatic rank and their immediate families after the names of such staff members have been transmitted to the Secretary of State.

H.R. 3842. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3843. February 23, 1977. Banking, Finance and Urban Affairs Amends the United States Housing Act of 1937 by extending the limitation on aggregate annual contractual contributions for low-income housing projects and for the operation of such projects.

Establishes a National Commission on Neighborhoods to study the factors contributing to the decline of city neighborhoods and to make recommendations for programs necessary to facilitate neighborhood preservation and revitalization.

H.R. 3844. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the income limitation for the income tax credit for the elderly.

H.R. 3845. February 23, 1977. Ways and Means. Extends through fiscal year 1978 an eight percent increase in social services funding for child care under Title XX (Grants to States for Services) of the Social Security Act. Directs that such funding after 1978 increase according to rises in the cost of living.

H.R. 3846. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4.800 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3847. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4.800 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3848. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3849. February 23, 1977. Merchant Marine and Fisheries. Establishes eligibility requirements for membership on the National Advisory Committee on the Oceans and Atmosphere. Authorizes appropriations for expenses of the Committee for fiscal year 1978.

H.R. 3850. February 23, 1977. Education and Labor. Repeals the Occupational Safety and Health Act of 1970.

H.R. 3851. February 23, 1977. Agriculture. Terminates all price-support programs for tobacco beginning with the 1978 crop. Prohibits the payment of any export subsidy to any person under the Agriculture Trade Development and Assistance Act of 1954 (Public Law 480—Food for Peace) for the export of tobacco to any foreign country after December 31, 1978.

H.R. 3852. February 23, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3853. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to permit a deduction by a taxpayer for depreciation of his principal residence property.

H.R. 3854. February 23, 1977. Ways and Means. Amends the Internal Revenue Code by entitling persons owning a homestead, having low income, and being 65 years of age and over to be reimbursed for property taxes accrued for the taxable year.

H.R. 3855. February 23, 1977. Interstate and Foreign Commerce. Amends the Federal Railroad Safety Act of 1970 to require the Secretary of Transportation to promulgate regulations requiring that the glass in all exposed windows in the locomotives and rear cars of all passenger and freight trains be bulletproof.

H.R. 3856. February 23, 1977. Veterans' Affairs. Removes the time limit within which programs of education for veterans must be completed.

H.R. 3857. February 23, 1977. Public Works and Transportation. Requests the Board of Engineers for rivers and harbors to determine whether modifications to the Whitewater River Basin, California, are advisable at the present time.

H.R. 3858. February 23, 1977. Ways and Means. Amends the Tax Reform Act to provide an unlimited exclusion from gross income of disability payments received by persons who retired on or before October 1, 1976, and either retired on disability, or were entitled to retire on disability.

H.R. 3859. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 3860. February 23, 1977. Post Office and Civil Service. Permits postage-free mailing of answers to congressional questionnaires and personal income tax returns.

H.R. 3861. February 23, 1977. Veterans' Affairs. Provides for a burial allowance of $150 to be paid by the Veterans' Administration: (1) to any State or political subdivision thereof for burying a veteran in any cemetery owned by the State or subdivision if such cemetery or section thereof is used solely for the interment of veterans; or (2) to a person prescribed by the deceased veteran if burial is in a cemetery other than the kind described.

H.R. 3862. February 23, 1977. Veterans' Affairs. Provides that, where the death of a qualified veteran occurs in a State home, the Administrator of Veterans' Affairs shall pay the actual cost (not to exceed $250) of the burial and funeral, and shall transport the body to the place of burial in the same or any other State.

H.R. 3863. February 23, 1977. Veterans' Affairs. Removes the requirement that a veteran die in the service in order to be entitled to a memorial headstone or marker when his remains have not been recovered or identified, or have been buried at sea.

H.R. 3864. February 23, 1977. Government Operations. Amends the State and Local Fiscal Assistance Act of 1972 to increase by 10 percent the amounts allocated to State and local governments if such governments fund public education from sources other than property taxes.

H.R. 3865. February 23, 1977. House Administration. Requires Federal agencies to publicly report to Congress all expenditures made for or on the behalf of a Member of Congress or a congressional employee with respect to the travel of such person and requires the committee of Congress which approved such travel to reimburse such agency for such expenditure.

H.R. 3866. February 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commisssion to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 3867. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide that payments for State and local sewer services shall be treated as deductible real property taxes where they are billed independently from property taxes.

H.R. 3868. February 23, 1977. Armed Services; Merchant Marine and Fisheries. Terminates the authority of Members of Congress and Delegates to Congress from the various territories to make appointments to the service academies. Amends the Merchant Marine Act, 1936, to accomplish such purpose with respect to the Merchant Marine Academy.

H.R. 3869. February 23, 1977. Post Office and Civil Service. States that when figuring cost-of-living adjustments for Federal employees stationed outside the United States, consideration shall not be given to commissary or exchange privileges of such employees unless such privileges are derived from the individual's employment as a civilian Federal employee.

H.R. 3870. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to require an automatic cost-of-living adjustment in the income tax rates, the amount of the standard deduction, personal exemption, and depreciation deduction, and the rate of interest payable on certain obligations of the United States.

H.R. 3871. February 23, 1977. Interstate and Foreign Commerce; Ways and Means. Amends the Social Security Act to extend Federal assistance to Puerto Rico, the Virgin Islands, and Guam under the Aid to Families with Department Children, Child Welfare, Medicaid, and Social Services programs on the same basis as in the case of other States. Amends Title II (Old-Age, Survivors, and Disability Insurance Benefits) to extend to such territories the program of special benefits at age 72 for certain uninsured individuals.

H.R. 3872. February 23, 1977. Judiciary. Prohibits the State income taxation of nonresident commuters who work in Federal areas but do not reside in the area or in the State.

H.R. 3873. February 23, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing or renew motor fuel franchises unless written notification is provided and the franchisee

has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Requires the FTC to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

H.R. 3874. February 23, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Reqires the FTC to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

Prohibits specified unfair practices in the marketing of automotive gasoline.

H.R. 3875. February 23, 1977. Banking, Finance and Urban Affairs. Revises the Fair Credit Reporting Act with repect to the release of obsolete credit information and disclosure of consumer reports to third parties and to consumers.

H.R. 3876. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 3877. February 23, 1977. Education and Labor. Amends the Older Americans Act of 1965 to direct the Secretary of Health, Education, and Welfare to reimburse the States for real property tax relief programs aimed at elderly households.

H.R. 3878. February 23, 1977. Interstate and Foreign Commerce. Revises the warning label on cigarette packages and requires the inclusion on such packages of a label bearing a statement of the tar and nicotine content.

H.R. 3879. February 23, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to include tobacco products within the definition of food as contained in such Act, thereby subjecting tobacco products to the same regulation as food under such Act.

H.R. 3880. February 23, 1977. Judiciary. States that no sentence of death shall be imposed upon any person convicted under Federal, territorial, or State law and that no unexecuted death sentence shall be carried out after the enactment of this Act. Directs that each provision authorizing or requiring the imposition of capital punishment shall be deemed to authorize or require the imposition of life imprisonment and that death sentences remaining unexecuted on the date of the enactment of this Act shall be deemed sentences of life imprisonment.

H.R. 3881. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to substitute a health protection tax on cigarettes manufactured in or imported into the United States for the present tax. Sets forth graduated tax rates based on the tar and nicotine content of each cigarette. Directs the Federal Trade Commission to determine the tar and nicotine content of each brand of cigarettes manufactured in or imported into the United States.

H.R. 3882. February 23, 1977. Interstate and Foreign Commerce; Public Works and Transportation. Prohibits smoking in specified areas of Federal facilities and in interstate passenger carrier facilities. Requires the separation of smokers from nonsmokers in certain areas of such facilities.

H.R. 3883. February 23, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 by adding a new Title X: Elementary and Secondary Drug Abuse Eradication Act of 1977. Directs the Commissioner of Education to carry out a grant program to local educational agencies for their use in programs designed to eliminate the use of drugs by elementary and secondary school students.

H.R. 3884. February 23, 1977. Judiciary. Applies penalties for using or unlawfully carrying a firearm during the commission of a Federal felony to unlawful use or carrying of an explosive or other destructive device and to unlawful use or carrying of a firearm or destructive device during the commission of a State felony.

H.R. 3885. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3886. February 23, 1977. Judiciary. Grants a Federal charter to the National Opportunity Camps.

H.R. 3887. February 23, 1977. Education and Labor; Banking, Finance and Urban Affairs. Amends the Fair Labor Standards Act of 1938 to authorize the Secretary of Labor to investigate any proposed business closing or relocation and to provide assistance to certain employees and local governments affected by such action.

Denies specified tax benefits to a business closing or transferring an operation upon certain findings by the Secretary.

Establishes a National Employment Relocation Administration within the Department of Labor and a National Employment Relocation Advisory Council.

H.R. 3888. February 23, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 3889. February 23, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 3890. February 23, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 3891. February 23, 1977. Agriculture. Amends the Food Stamp Act of 1964 by revising the eligibility requirements for participation in the program.

Requires each State to develop and submit to the Secretary of Agriculture for approval a State quality control plan specifying what actions will be taken to meet error tolerance goals established by the Secretary for administration and control of the food stamp program.

H.R. 3892. February 23, 1977. Armed Services. Prohibits the change in status of any member of the uniformed services currently in a missing status due to service in Southeast Asia until certain conditions have been met.

H.R. 3893. February 23, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scale in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 3894. February 23, 1977. Armed Services. Establishes Optometry Corps within the Army and the Navy and establishes a separate optometric service within the Air Force.

H.R. 3895. February 23, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to prohibit the assessment of penalties against an employer where such employer has corrected the violations with which he is charged within a prescribed abatement period.

H.R. 3896. February 23, 1977. House Administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 3897. February 23, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 3898. February 23, 1977. Interstate and Foreign Commerce. Amends the Controlled Substances Act of 1977 to set forth penalties for (1) breaking and entering a pharmacy with intent to unlawfully obtain a controlled substance and (2) obtaining, or attempting to obtain, a controlled substance from a pharmacy by force or violence.

H.R. 3899. February 23, 1977. Post Office and Civil Service. Applies to the United States Postal Service provisions requiring that buildings built, leased, or financed by the United States be designed and constructed to insure ready access to and use of such buildings by the physically handicapped.

H.R. 3900. February 23, 1977. Post Office and Civil Service. Requires the United States Postal Service to consider specified factors in determining the need for an existing third or fourth-class post office. Sets guidelines relating to such determinations.

H.R. 3901. February 23, 1977. Ways and Means. Amends the Second Liberty Bond Act to require that each annual budget submitted to Congress by the President include one item specifically providing for the retirement of the public debt.

H.R. 3902. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to exempt nonprofit volunteer firefighting or rescue organizations from the excise tax on sales of special fuels, automotive parts, petroleum products, and communication services.

H.R. 3903. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and

their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 3904. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 3905. February 23, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 3906. February 23, 1977. Post Office and Civil Service. Makes Inauguration Day, January 20 of each fourth year after 1977, a legal public holiday.

H.R. 3907. February 23, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 3908. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3909. February 23, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to investigate the feasibility of the Colorado-Big Thompson Project Hydroelectric Power Study, Pick Sloan Missouri Basin Project, Colorado.

H.R. 3910. February 23, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 3911. February 23, 1977. Interstate and Foreign Commerce. Exempts sales of natural gas by small, independent producers from regulation by the Federal Power Commission.

H.R. 3912. February 23, 1977. Judiciary. Grants a Federal charter to the National Ski Patrol System.

H.R. 3913. February 23, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this act: (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 3914. February 23, 1977. Judiciary. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 3915. February 23, 1977. Ways and Means. Amends Title IV (Child Welfare Services) of the Social Security Act to authorize States to provide day treatment and in-home services to any child or family experiencing problems which such services would assist in solving, and to any other child or family where parental difficulties may jeopardize the physical, emotional, or psychological condition of the child.

H.R. 3916. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public housing agencies for congregate housing under the United States Housing Act of 1937.

H.R. 3917. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to revise the conditions and limitations applicable to home health services under such titles.

Establishes a Home Health Patient Ombudsman in the Department of Health, Education, and Welfare.

Increases the amount of Federal funds which may be made available to public housing agencies for congregate housing under the United States Housing Act of 1937.

H.R. 3918. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such act.

H.R. 3919. February 23, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to construct a hydroelectric plant at Monticello Dam, California.

H.R. 3920. February 23, 1977. Interior and Insular Affairs. Enlarges the service unit of the Sacramento, California, canals unit of the Central Valley project to include the Will S. Green Canal, and Yolo and Solano Counties.

H.R. 3921. February 23, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who is a Japanese American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 3922. February 23, 1977. Merchant Marine and Fisheries; Armed Services. Amends the Maritime Academy Act of 1958 to authorize the Secretary of the Navy to appoint students at maritime academies or colleges assisted under such Act as Reserve midshipmen in the Navy and to commission such individuals as Reserve ensigns upon graduation.

H.R. 3923. February 23, 1977. Government Operations; Rules. Abolishes within three years of the enactment of this Act, or three years after they have been established, all Federal regulatory agencies unless the President and Congress determine that such agencies should continue to exist.

H.R. 3924. February 23, 1977. Interior and Insular Affairs. Declares that the United States holds certain lands in New Mexico in trust for the Pueblo Indians of Santa Ana. Authorizes the Secretary of the Interior to acquire, by purchase or exchange, all State school lands in a certain area of New Mexico.

H.R. 3925. February 23, 1977. Post Office and Civil Service. Designates the apple blossom as the national flower of the United States.

H.R. 3926. February 23, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Sets forth procedures for identifying and publicizing pollution sources.

H.R. 3927. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay. Applies this repeal retroactively.

H.R. 3928. February 23, 1977. Post Office and Civil Service; Judiciary. Requires Federal employees, grade GS–13 and above, who have been employed by the Government for less than three years to file an annual statement describing present and former positions and recent or pending agency actions over which such employee has any influence and in which such employee's former employer has an interest. Requires persons who have terminated their Federal employment at a grade of GS–13 or higher during the past three years to file a statement with regard to actions in which such person's present employer was interested.

H.R. 3929. February 23, 1977. Ways and Means; Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of depositories and obligations of the United States and agencies of the United States.

H.R. 3930. February 23, 1977. Ways and Means; Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of the United States and agencies of the United States.

H.R. 3931. February 23, 1977. Ways and Means; Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of the United States and agencies of the United States.

H.R. 3932. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to exclude the income of trusts established solely for the care of mentally incompetent beneficiaries from taxation. Excludes distributions to non-family members for the care of such beneficiaries from the beneficiaries' gross income.

H.R. 3933. February 23, 1977. Ways and Means. Amends the Social Security Act to exclude from the classification of unearned income with respect to the Supplemental Security Income program, the support and maintenance provided to a mentally retarded individual by the family of such an individual. Specifies the treatment of other forms of income to mentally retarded individuals.

Requires action on applications for supplemental security income benefits within a maximum of 60 days.

H.R. 3934. February 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to exclude from the income of an individual applying for such benefits, specified income earned from employment in a sheltered work setting.

H.R. 3935. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide an additional income tax exemption

for each of the taxpayer's dependents who is mentally retarded.

H.R. 3936. February 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to provide that payments of tuition, fees, or other training costs by any person for a mentally retarded adult individual attending a school for the retarded shall not be treated as income of such individual in determining eligibility for benefits under such Title.

H.R. 3937. February 23, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to provide that 1974 Social Security benefit increases shall be disregarded in determining an individual's eligibility for supplemental security income benefits. Eliminates support and maintenance furnished a mentally retarded individual living in another person's household from that individual's unearned income for supplemental security income benefit purposes.

H.R. 3938. February 23, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to expand the coverage of the supplementary medical insurance program to physician services furnished by physician extenders and clinical staff of community mental health centers.

H.R. 3939. February 23, 1977. Interstate and Foreign Commerce. Authorizes the Federal Energy Administrator to establish an energy stamp program to assist low-income households in meeting monthly fuel costs.

H.R. 3940. February 23, 1977. Ways and Means. Amends the Aid to Families with Dependent Children program of the Social Security Act: (1) to lower to 16 the age at which individuals may participate in community work and training programs; (2) to provide for the payment of transportation costs and work-related expenses to trainees; (3) to establish a criminal penalty for fraud related to the Aid to Families with Dependent Children program; (4) to authorize the Federal payment of a portion of the cost of investigating and prosecuting fraud; (5) to prohibit the payment of benefits to illegal aliens; and (6) to authorize the deposit of benefits directly in a recipient's bank.

H.R. 3941. February 23, 1977. Armed Services. Establishes the Defense Civil Preparedness Agency within the Department of Defense to prepare and conduct national programs for civil defense. Establishes a National Emergency Service Advisory Committee to consult with the Agency and the Federal Disaster Assistance Administration regarding civil defense policies.

Authorizes the President or the head of the Defense Civil Preparedness Agency to exercise certain powers during a state of civil defense emergency. Makes the Federal Government immune from civil liability for actions during such emergency. Waives the provisions of the Administrative Procedure Act during such an emergency.

H.R. 3942. February 23, 1977. Agriculture. Authorizes the Secretary of Agriculture to make grants to cities to pay up to 100 percent of the cost of trees and shrubs to be planted under the cities' forestry programs, including programs of cities which provide for the planting of trees on private land.

H.R. 3943. February 23, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 3944. February 23, 1977. Ways and Means. Amends title II (Old-Age, survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 3945. February 23, 1977. Interior and Insular Affairs; Ways and Means. Authorizes Indian tribes to adopt, by majority vote, constitution and by laws and provides that, upon adoption of such constitution and by-laws, a tribe shall be a corporate body, with certain powers designed to encourage the location of new private industry on tribal lands. States that any person who establishes new private industry on a reservation shall qualify for certain tax incentives if he employs a work force one-half of which are Indians.

H.R. 3946. February 23, 1977. Ways and Means. Amends the Tariff Schedules of the United States to suspend the customs duty on wool not finer than 46s through September 30, 1981.

H.R. 3947. February 23, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 3948. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 3949. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to continue an individual's entitlement to benefits thereunder through the month of his or her death, without affecting any other person's entitlement to benefits for that month.

H.R. 3950. February 23, 1977. Post Office and Civil Service. Directs the Secretary of Commerce to collect, analyze, and publish current world population statistics at least anually.

H.R. 3951. February 23, 1977. Post Office and Civil Service. Entitles the former spouse of a Federal employee or Member of Congress to a portion of that employee's or Member's annuity, and to a portion of the annuity of any surviving spouse of such employee or Member.

H.R. 3952. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional investment tax credit for machinery and equipment placed in service on existing manufacturing plants or in nearby areas.

H.R. 3953. February 23, 1977. Veterans' Affairs. Revises the procedures relating to the construction, alteration, and acquisition of Veterans' Administration medical facilities.

H.R. 3954. February 23, 1977. Judiciary. Stipulates that no Federal court shall have jurisdiction to hear or decide cases or controversies involving public schools. Vests such jurisdiction in the courts of the several States, with appellate jurisdiction by writ of certiorari in the Supreme Court.

H.R. 3955. February 23, 1977. Judiciary. Amends the Civil Rights Act of 1964 to prohibit any department, agency, officer or employee of the United States from using the withholding of Federal funds to coerce changes in the racial distribution of teachers or students within a school system when a freedom of choice system, as defined by this Act, is used for the assignment of students.

Prohibits Federal courts from requiring school boards to make changes in the racial distribution of teachers or students when students are assigned in conformity with such a system.

H.R. 3956. February 23, 1977. Judiciary; Education and Labor. Removes the authority of any United States court to make any decision, enter any judgment, or issue any order whose effect would be to require pupils to be transported to or from school on the basis of their race, color, religion or national origin.

Forbids any Federal department, agency, officer, or employee empowered to extend financial assistance to any program or activity to withhold or threaten to withhold such funds in order to induce implementing or continuing a plan or program whose effect would be to require pupils to be transported to or from school on the basis of their race, color, religion or national origin.

H.R. 3957. February 23, 1977. Post Office and Civil Service. Requires each Federal agency to establish a flexible scheduling or compressed work schedule program on an experimental basis.

H.R. 3958. February 23, 1977. Veterans' Affairs. Authorizes and directs the Administrator of Veterans' Affairs to establish a national cemetery in the State of South Carolina, at or near the city of Columbia if desirable and practical. Authorizes the transfer of surplus federally-owned lands for a site for such cemetery, or in the alternative the acquisition of such lands as the Administrator judges to be suitable.

H.R. 3959. February 23, 1977. Education and Labor. Limits, to those elementary and secondary school facilities destroyed or damaged after January 2, 1968 and prior to October 1, 1978, the distribution of disaster relief to local educational agencies.

H.R. 3960. February 23, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such act.

H.R. 3961. February 23, 1977. Interstate and Foreign Commerce. Amends the Consumer Product Safety Act to revise the rulemaking procedures of the Consumer Product Safety Commission.

Directs the Commission to pay participants in rules making proceedings without regarding Federal prohibitions against advancing public moneys.

Provides civil penalties for violations of programs implemented by the Commission.

H.R. 3962. February 23, 1977. Agriculture. Amends the Federal Meat Inspection Act and the Poultry Products Inspection Act to increase the maximum Federal contribution to the cost of any State meat or poultry inspection system from 50 to 80 percent of the estimated total cost of the Federal-State cooperative program.

H.R. 3963. February 23, 1977. Agriculture. Directs the Secretary of Agriculture to promulgate standards of quality for foreign dairy products which are to be marketed in the United States.

Prohibits the entry of a foreign dairy product into the United States unless such a product has been inspected and found to be pure and wholesome.

H.R. 3964. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 3965. February 23, 1977. Science and Technology. Authorizes appropriations in specified amounts out of the Airport and Airway Trust Fund to the Secretary of Transportation for fiscal year 1978 for specified aviation-related research, demonstration, and development projects under the Federal

Aviation Act of 1958 and the Airports and Airway Development Act of 1970.

H.R. 3966. February 23, 1977. Interstate and Foreign Commerce. Declares that States and localities shall have primary jurisdiction over the formulation and implementation of natural gas conservation programs. Stipulates that the Federal Power Commission shall have no authority to alter such State-regulated programs.

H.R. 3967. February 23, 1977. Interstate and Foreign Commerce. Amends the Natural Gas Act to terminate Federal Power Commission authority to regulate sales of new natural gas and sales of natural gas to certain high priority customers.

Directs the Commission to prohibit the curtailment of natural gas supplies for essential agricultural purposes. Restricts the use of natural gas as boiler fuel.

H.R. 3968. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited, nonrefundable tax credits for the installation of solar energy equipment in residences and businesses, and for insulation installed in residences, over ten and four year periods respectively.

Allows the accelerated amortization of businesses which install solar energy equipment.

H.R. 3969. February 23, 1977. Judiciary. Establishes a National Court of Appeals to be composed of a chief judge and six associate judges.

Grants the court jurisdiction over (1) cases referred to it by the Supreme Court and (2) cases transferred to it by a court of appeals, the Court of Claims, or the Court of Customs and Patent Appeals. Permits the court to decline to decide any case referred to it by the Supreme Court, unless directed other wise by the Supreme Court, or any case transferred to it.

H.R. 3970. February 23, 1977. Judiciary. Declares all forged, altered, or counterfeit coins or currency and all illegally possessed dangerous drugs contraband and subject to seizure and summary for forfeiture to the United States.

Directs that all such contraband in the possession of the United States be immediately destroyed except where essential for purposes of law enforcement or criminal proceedings.

H.R. 3971. February 23, 1977. Judiciary. Limits to seven years the amount of time which a circuit judge may serve as chief circuit judge.

Sets priorities for selection of circuit judges for en banc hearings.

Revises eligibility criteria for retirement from regular active service of Federal judges.

Authorizes the appointment of legal assistants for courts of appeals.

Directs that copies of briefs, decisions, and related documents filed in certain appellate courts be deposited in the Library of Congress.

Establishes a Commission on the Federal Judicial System to study the structure and procedures of the Federal judicial system on a continuing basis.

H.R. 3972. February 23, 1977. Judiciary. Establishes an additional United States district court for the State of California.

H.R. 3973. February 23, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam-era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 3974. February 23, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period. Provides for a conditional extension of the delimiting period for certain Vietnam era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 3975. February 23, 1977. Veterans' Affairs. Permits acceleration of monthly educational assistance payments made by the Veterans' Administration to eligible veterans and dependents. Provides alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting periods. Provides for a conditional extension of the delimiting period for certain Vietnam-era veterans. Provides for the development of additional educational, employment, and readjustment assistance programs for veterans, and for protection against abuses and misuse of veterans benefits. Revises the criteria for nonaccredited courses.

H.R. 3976. February 23, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to limit military assistance to Portugal for fiscal year 1977.

H.R. 3977. February 23, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to direct the Secretary of Commerce to require that a specified percentage of United States oil imports be transported on United States-flag vessels.

H.R. 3978. February 23, 1977. Agriculture. Amends the Bankhead-Jones Act of 1935 and the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to conduct research and development in the agricultural uses of solar energy and to grant loans to persons desiring to purchase and install farm machinery using solar energy and home solar energy thermal conversion systems.

Establishes the Research and Demonstration Planning Committee with the Department of Agriculture to assist State departments of agriculture to determine appropriate solar energy research projects. Directs such State departments to establish model farms and solar energy demonstration projects.

H.R. 3979. February 23, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize the President to furnish energy production and conservation assistance to developing countries, including solar, wind, and water projects. Authorizes consultative visits by the Energy Research and Development Administration to design such projects.

Authorizes the President to carry out studies to identify the energy needs, uses, and resources of various countries and regions, with special emphasis on the transfer of energy technology.

H.R. 3980. February 23, 1977. Science and Technology; International Relations. Amends the Federal Nonnuclear Energy Research and Development Act of 1974 to direct the Administrator of the Energy Research and Development Administration to establish a program to assist less developed and impoverished nations and regions in the development and utilization of unconventional, nonnuclear energy technologies.

H.R. 3981. February 23, 1977. Banking, Finance and Urban Affairs; Small Business. Amends the National Housing Act and the Small Business Act to authorize Federal financial assistance to individuals, families, nonprofit groups, and small businesses for the purchase of solar renewable source, or other energy conserving measures and equipment.

H.R. 3982. February 23, 1977. Public Works and Transportation. Directs the Federal Energy Administrator to establish criteria for evaluating the energy effectiveness of buildings. Requires that all Federal buildings be life cycle cost effective in accordance with such criteria. Requires consideration of energy efficiency in the procurement and leasing of new Federal buildings. Requires that each agency select space in existing Federal buildings for retrofitting with appropriate energy conservation measures.

H.R. 3983. February 23, 1977. Public Works and Transportation. Directs the Administrator of General Services to establish a solar hot water and space heating program designed to place solar hot water and space heating devices in 15,000 federally owned buildings within six fiscal years following enactment of this Act.

Establishes a Federal Photovoltaic Utilization Program for the annual acquisition and use of photovoltaic solar electric systems, primarily for use by the Department of Defense and administered by the Administrator of General Services and the Secretary of Defense.

H.R. 3984. February 23, 1977. Small Business; Science and Technology. Amends the Small Business Act and the Federal Nonnuclear Energy Research and Development Act of 1974 to provide assistance to individuals and small business concerns for the acquisition, development and maintenance of solar energy equipment and energy-related inventions.

H.R. 3985. February 23, 1977. Ways and Means. Amends the Internal Revenue Code to provide tax credits for the installation of solar, geothermal, wind and other specified types of alternative energy equipment in residences and businesses.

H.R. 3986. February 23, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 3987. February 23, 1977. Post Office and Civil Service. Directs the Civil Service Commission to permit a certain individual to reenroll in a health benefits plan of his choice which is offered to Federal employees.

H.R. 3988. February 23, 1977. Judiciary. Relieves a certain military officer of all liability to the United States for overpayments of basic pay.

H.R. 3989. February 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3990. February 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3991. February 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3992. February 23, 1977. Judiciary. Declares a certain individual conditionally eligible for naturalization under the Immigration and Nationality Act.

H.R. 3993. February 23, 1977. Judiciary. Directs that the provisions of the Internal Revenue Code of 1954 relating to nonrecognition of gain on sale or exchange of a residence be applied to the sale of the residence of a certain individual.

H.R. 3994. February 23, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 3995. February 23, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 3996. February 23, 1977. Judiciary. Declares that certain individuals have a certain priority date on the fifth preference foreign state limitation for Korea.

H.R. 3997. February 23, 1977. Judiciary. Specifies the tax treatment of a certain corporation and certain individuals under the Internal Revenue Code.

H.R. 3998. February 24, 1977. Ways and Means. Requires that specified Federal or federally assisted programs disregard a general increase in monthly social security benefits in determining the income or resources of any individual who is the recipient of such benefits.

H.R. 3999. February 24, 1977. Armed Services. Amends the Uniform Code of Military Justice to establish an independent Courts-Martial Command within the Office of the Judge Advocate General of each armed force. Revises the classification and jurisdiction of courts-martial. Establishes procedures with respect to pre-court-martial proceedings. Sets forth specified rights of the accused during investigations and courts-marital. Increases the number of judges on the Court of Military Appeals from three to nine. Authorizes the court to divide itself into three separate panels of three judges each when necessary to expedite the business of the court.

H.R. 4000. February 24, 1977. Armed Services. Sets forth regulations regarding the discharge of members from the Armed Forces. Sets forth procedures and regulations regarding separation with a discharge of service.

H.R. 4001. February 24, 1977. Judiciary. Makes it unlawful for a parent to kidnap his minor child.

H.R. 4002. February 24, 1977. Judiciary. Makes it unlawful for a parent to kidnap his minor child.

H.R. 4003. February 24, 1977. Armed Services. Sets forth procedures which the Secretary of Defense or the Secretary of a military department must follow before a military base or installation is closed or the number of civilian personnel positions at such a facility is reduced below a specified level.

H.R. 4004. February 24, 1977. Education and Labor. Requires each State receiving financial assistance under the Elementary and Secondary Education Act of 1965 which is operating a program designed to insure reading readiness for educationally deprived preschool children or children in grades 1, 2, or 3 to continue such programs at their present level.

Prohibits the exclusion of children enrolled in such program from further participation on the ground that such child has achieved a reading aptitude equal to or greater than the normal reading aptitude for the grade in which the child is enrolled.

H.R. 4005. February 24, 1977. Education and Labor. Requires each State receiving financial assistance under the Elementary and Secondary Education Act of 1965 which is operating a program designed to insure reading readiness for educationally deprived preschool children or children in grades 1, 2, or 3 to continue such programs at their present level.

Prohibits the exclusion of children enrolled in such program from further participation on the ground that such child has achieved a reading aptitude equal to or greater than the normal reading aptitude for the grade in which the child is enrolled.

H.R. 4006. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to establish a Long-Term Care Services program to provide home health, homemakers, nutrition, long-term institutional care, day care, foster home, and outpatient mental health services. Specifies that these services shall be delivered by community long-term care centers under the direction and control of a State long-term care agency.

H.R. 4007. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow State legislators to take a business deduction for living expenses incurred away from the legislative districts they represent and to revise the method for computing the deduction for Members of Congress. Limits the deduction to dollar amounts to be established by the Secretary of Labor for each legislature. Limits the deduction by State legislators to expenses incurred for days actually spent conducting legislative business.

H.R. 4008. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care under the supplementary medical insurance program.

H.R. 4009. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for certain clinical psychologists' services under the supplemental medical insurance program.

H.R. 4010. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4011. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Creates a national system of health insurance. Establishes a Health Security Board in the Department of Health, Education, and Welfare to administer such health insurance program.

Repeals the Medicare provisions of the Social Security Act and all health benefit plans for employees of the Federal Government.

H.R. 4012. February 24, 1977. Ways and Means. Amends the Social Security Act to provide that, if the delivery day for benefit checks under Titles II and XVI falls on a Saturday, Sunday or legal public holiday, benefit checks for such month shall be mailed for delivery on the first day preceding such designated day which is not a Saturday, Sunday or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month for which such benefit checks are issued.

H.R. 4013. February 24, 1977. Interior and Insular Affairs. Authorizes appropriations for fiscal year 1978 for the advanced coal extraction technology program of the Bureau of Miners in the Department of the Interior.

H.R. 4014. February 24, 1977. Interior and Insular Affairs. Authorizes the Bureau of Mines in the Department of the Interior to make grants to States for coal reclamation research and demonstration projects.

H.R. 4015. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Medicare program of the Social Security Act to include speech pathology and audiology services among the items covered under Medicare.

H.R. 4016. February 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to reduce from 72 to 65 the age beyond which deductions on account of an individual's outside earnings will no longer be made from such individual's benefits.

H.R. 4017. February 24, 1977. Public Works and Transportation. Amends the Local Public Works Capital Development and Investment Act of 1976 to give funding priority to any local government which applied for funds prior to enactment of this Act, and which did not receive a grant because of utilization of an incorrect unemployment rate in its application.

H.R. 4018. February 24, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of certain doxorubicin hydrochloride antibiotics until after June 30, 1979.

H.R. 4019. February 24, 1977. House administration. Prohibits travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned or retired.

H.R. 4020. February 24, 1977. Armed Services. Entitles specified reserve members of the uniformed services and members of the National Guard to the same medical and dental benefits enjoyed by members of the uniformed services on active duty.

Entitles the dependents of such individuals to the same medical and dental benefits presently available to the dependents of members on active duty under specified circumstances.

H.R. 4021. February 24, 1977. Merchant Marine and Fisheries. Directs the Secretary of the department in which the Coast Guard is operating to require the inspection of certain towing vessels before such vessels are put into operation and at least every two years thereafter.

Authorizes the Secretary to issue regulations regarding: (1) the design, construction, alteration, or repair of towing vessels; (2) the operation of towing vessels; and (3) the staffing of such vessels.

H.R. 4022. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to elect accelerated amortization (twice the allowable depreciation deduction) for manufacturing property placed in service in States having an unemployment rate which is greater than six percent.

H.R. 4023. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4024. February 24, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such executive order is in effect without the filing of a certificate of origin with the Secretary of the Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4025. February 24, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such executive order is in effect without the filing of a certificate or origin with the Secretary of the Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4026. February 24, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such executive order is in effect without the filing of a certificate of origin with the Secretary of the Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4027. February 24, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any executive order restricing the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such executive order is in effect without the filing of a certificate or origin with the Secretary of the

Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4028. February 24, 1977. Veterans' Affairs. Provides for the payment of pensions to cetrain veterans of World War I and their widows.

H.R. 4029. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow limited income tax credits for the installation of solar heating and cooling, equipment in residences. Provides for an investment tax credit for the installation of insulation and solar energy equipment in structures used in a trade or business, or held for the production of income, including lodging facilities. Allows the accelerated amortization of depreciable geothermal, solar, shale oil and waste-energy equipment.

H.R. 4030. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to increase, from 50 to 51 percent, the maximum amount of voting stock certain private foundations may own in certain public utilities without being subject to the excise tax on excess business holdings.

H.R. 4031. February 24, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 4032. February 24, 1977. Post Office and Civil Service. Requires the heads of Federal agencies to notify Congress 180 days in advance of taking planned organizational or other changes which will cause the transfer of a substantial number of Federal employees or eliminate the possibility of further employment of such employees without reduction in grade.

H.R. 4033. February 24, 1977. Government Operations. Amends the Federal Property and Administrative Services Act of 1949 to require that any housing which is surplus government property must first be offered for sale to the occupants thereof when such property is being disposed of.

H.R. 4034. February 24, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to investigate the feasibility Powerplants, Central Valley project, California.

H.R. 4035. February 24, 1977. Banking, Finance and Urban Affairs. Authorizes the Administrator of General Services to establish design standards for certain buildings financed with Federal funds to insure that windows in such buildings can be opened and closed manually in order to conserve energy.

H.R. 4036. February 24, 1977. Veterans' Affairs. Removes the time limitation within which programs of education for veterans must be completed.

H.R. 4037. February 24, 1977. Post Office and Civil Service. Excludes from the definition of "letter," telegrams, letters sent in bulk, and other items not generally considered to be letters. Limits such definition as narrowed by this Act to postal law provisions dealing with private carriage of letters, illegal carriage of letters, and prompt delivery of mail from a vessel. Permits the carriage of mail by private carrier not otherwise permitted if such mail is addressed to such carrier of if the Postal Service determines that such private carriage is in the public interest.

H.R. 4038. February 24, 1977. House Administration. Restricts use of excess campaign contributions to (1) expenses incurred in connection with official duties of Federal office, (2) expenses of future campaigns for Federal office, and (3) charitable contributions.

H.R. 4039. February 24, 1977. Interior and Insular Affairs; Science and Technology. Establishes a National Energy and Conservation Corporation to undertake programs of exploration, development, and production of public land and tideland oil, natural gas, oil shale, and coal resources. Directs the Corporation to administer programs consistent with objectives of land use planning, conservation, and environmental protection.

H.R. 4040. February 24, 1977. Armed Services. Makes it unlawful for any individual or entity to solicit to enroll or enroll any member of the Armed Forces in any labor organization or for any member of the Armed Forces to join, or encourage others to join any labor organization. Sets forth penalties for violation of this act.

H.R. 4041. February 24, 1977. Judiciary. Sets forth penalties for the robbery or attempted robbery of any narcotic drug from any pharmacy.

H.R. 4042. February 24, 1977. Judiciary. Grants an exemption from antitrust liability to professional retail pharmacists who negotiate collectively for reimbursement for dispensing prescription drugs under a government or private prepaid prescription program.

H.R. 4043. February 24, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to permit a veteran, who is being supplied with drugs but who is not a patient in a Veterans' Administration facility, to determine whether the drugs will be supplied directly by the Administrator or from a source approved by the Administrator and whether the Administrator shall pay such source directly or reimburse the veteran who will pay for the drugs.

H.R. 4044. February 24, 1977. Judiciary. Makes it a Federal crime to rob a controlled substance from a pharmacy.

H.R. 4045. February 24, 1977. Post Office and Civil Service. Classifies all deputy United States marshals holding non-supervisory or non-specialist positions at GS–5 through GS–11. Classifies such marshals in supervising or specialist positions at GS–12 through GS–14. States that all law enforcement personnel performing the duties of a marshal shall be classified as a marshal. Sets the salary level of the Director of the United States Marshals Service at level V of the Executive Schedule. States that the Director shall set the salary levels of non-law enforcement employees of the Service.

H.R. 4046. February 24, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and implement youth camp safety standards, including standards for day camps, resident camps, and travel camps. Establishes the Advisory Council on Youth Camp Safety within the Department of Health, Education, and Welfare.

H.R. 4047. February 24, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 4048. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited income tax credit for the purchase and installation of qualified insulation and heating improvements in the taxpayer's principal residence.

H.R. 4049. February 24, 1977. Interstate and Foreign Commerce. Amends the Regional Rail Reorganization Act of 1973 to authorize appropriations to the United States Railway Association for fiscal year 1978.

H.R. 4050. February 24, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to make payments from any revenues received by the United States from visitors to the Grand Canyon National Park to the appropriate school district serving that Park as reimbursement for educational facilities furnished by such district to pupils who are dependents of persons employed in connection with such Park and living at or near the Park upon real property of the United States not subject to taxation by the State or local agencies.

H.R. 4051. February 24, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to provide that new drugs for human or animal use will be regulated under such Act solely to assure their safety, and not their effectiveness.

H.R. 4052. February 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4053. February 24, 1977. Public Works and Transportation. Authorizes the Secretary of the Army to construct a lock and dam project on the Mississippi River near Alton, Illinois. Authorizes the Secretary to provide wildlife protection and recreational activities with such project.

Authorizes the study of bulk commodity freight requirements on the Upper Mississippi and Illinois waterway.

Withdraws authority (1) to study the deepening of navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River, Illinois; and the Mississippi River north of its junction with the Missouri River, Missouri; and (2) to study or construct a specified Mississippi River channel.

H.R. 4054. February 24, 1977. Education and Labor. Establishes a career education program to assist States and local educational agencies in increasing the emphasis they place in elementary and secondary school education on job awareness, exploration, decisionmaking, and planning.

H.R. 4055. February 24, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to require that bulk cargo vessels subject to the Act be equipped with the best available pollution control equipment and that certain United States oil tankers be equipped with a segregated ballast capacity.

H.R. 4056. February 24, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to direct the Secretary of Commerce to require that a specified percentage of United States oil imports be transported on United States-flag vessels.

H.R. 4057. February 24, 1977. Post Office and Civil Service. Increase the maximum permissible size and weight of mail other than letter mail.

H.R. 4058. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4059. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4060. February 24, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend until September 30, 1978, the period of time during which funds allotted to States for the construction of treatment works shall remain available.

H.R. 4061. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to allow a deferral of an individuals' income tax liability to the extent it equals a limited portion of the higher educational expenses incurred for the taxpayer, his spouse and dependents. Defers payment until the year

following the end of the individual's attendance at an institution of higher education, or the tenth year following the taxpayers' initial deferral, whichever is earlier.

H.R. 4062. February 24, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such title.

H.R. 4063. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the excise tax on trucks, buses, and tractors, and parts and accessories for such vehicles.

H.R. 4064. February 24, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to extend the eligibility of mortgages for insurance and to increase the maximum allowable mortgage amounts.

Permits the Secretary of Housing and Urban Development to insure, on a permanent basis, mortgages and loans with provisions of varying rates of amortization.

H.R. 4065. February 24, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4066. February 24, 1977. Veterans' Affairs; Armed Services. Provides to veterans with a total service-connected disability the right to travel on a space-available basis on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command.

H.R. 4067 February 24, 1977. Education and Labor. Amends the Wagner-Peyser Act to direct the Secretary of Labor to provide technical and management assistance to State public employment offices, establish a national clearing house for employment service information in the United States Employment Service, and implement an assistance program for certain State employment office job placement projects.

Directs the Secretary to study the merits of a nationwide job bank system and of replacing the State employment office system with a Federal office system.

H.R. 4068. February 24, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior through the Director of the Bureau of Land Management to amend the legal description of the land in Colorado granted by the United States in a patent issued to Albert F. Garbareno.

H.R. 4069. February 24, 1977. Science and Technology. Requires any person engaged in weather modification activities to comply with a comprehensive State and Federal licensing and reporting system.

Directs the Secretary of Commerce to establish a weather modification system within the National Oceanic and Atmospheric Administration

H.R. 4070. February 24, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to study and alleviate the siltation problems on the Mississippi River upstream of Mile 300, particularly at the Quincy Bay, Broad Lake, and Triangle Lake areas in Illinois.

H.R. 4071. February 24, 1977. Public Works and Transportation. Deauthorizes the Lafayette Dam and Reservoir, Wabash River, Indiana.

H.R. 4072. February 24, 1977. International Relations. Establishes a Deputy Secretary for the Americas in the Department of State.

H.R. 4073. February 24, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 4074. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the withholding tax requirements with respect to gambling winnings.

H.R. 4075. February 24, 1977. Ways and Means. Increases the tax benefits accorded income earned abroad by United States citizens by: (1) increasing the limitation on the exclusion of such income for certain individuals who have lived in foreign countries; (2) allowing these individuals to claim tax credits for certain foreign taxes paid; (3) allowing the taxpayers to claim the exclusion when they receive certain income outside of the country; (4) removing the income from the taxpayers' tax computation. Repeals the election to forego the exclusion of such income. Prohibits taking foreign credits if the taxpayer takes the standard deduction.

H.R. 4076. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to provide that taxpayers shall not be required to pay the principal or interest for underpayments of taxes for any period prior to April 16, 1977 (March 16, 1977 in the case of a corporation), nor penalized for any failure to withhold and deduct taxes on remuneration paid before 1977, to the extent that such failures or underpayment are attributable to new or increased tax liabilities imposed by the Tax Reform Act.

H.R. 4077. February 24, 1977. Judiciary. Extends the design patent for the insignia of the United Daughters of the Confederacy for an additional 14 years.

H.R. 4078. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for optometric and medical vision care including eyeglasses under the supplementary medical insurance program.

H.R. 4079. February 24, 1977. Banking, Finance and Urban Affairs; Education and Labor; Small Business. Provides emergency assistance necessitated by critical energy shortages or unusually severe weather to certain totally or partially laid off workers, businesses, and local governments.

Directs that the following executive departments and agencies participate in the administration and implementation of such assistance program: (1) Federal Disaster Assistance Administration, (2) Small Business Administration, (3) Department of Labor, and (4) Department of Commerce.

H.R. 4080. February 24, 1977. Public Works and Transportation. Stipulates that no Federal loan guarantees shall be made for turbojet-powered aircraft purchase loans for specified air carriers unless the aircraft to be purchased comply with specified noise standards for new subsonic aircraft.

H.R. 4081. February 24, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to prohibit the entrance into or operation within the United States of any civil supersonic aircraft engaged in commercial service which generates a noise level in excess of the level in effect for new subsonic aircraft.

H.R. 4082. February 24, 1977. Banking, Finance and Urban Affairs. Amends the Renegotiation Act of 1951 to limit the terms of members of the Renegotiation Board to five years, set rates of compensation for such members, and declare the Chairman of the Board its chief executive officer and confer upon him the duty to direct the executive functions of the Board.

Increases the minimum money value of contracts and subcontracts to which the Act is applicable. Sets other requirements with respect to exemptions under the Act and audits of reports submitted pursuant to the Act.

H.R. 4083. February 24, 1977. Merchant Marine and Fisheries. Establishes the Bicentennial Land Heritage Program for the acquisition, improvement, rehabilitation, and maintenance of units of the National Wildlife Refuge System, and for the improvement of community recreation facilities.

H.R. 4084. February 24, 1977. Judiciary. Makes it a Federal crime to rob a controlled substance from a pharmacy.

H.R. 4085. February 24, 1977. Judiciary. Makes it a Federal crime to rob a controlled substance from a pharmacy.

H.R. 4086. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4087. February 24, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act to authorize payment of funds in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by the order of a court.

Increases the penalties for defrauding the Medicare and Medicaid programs.

Requires the Secretary of Health, Education, and Welfare to suspend any physician or practitioner from participation in the Medicare or Medicaid programs whenever such individual is convicted of a criminal offense related to their involvement in such programs.

H.R. 4088. February 24, 1977. Science and Technology. Authorizes the appropriation of designated sums to the National Aeronautics and Space Administration for research and development programs, construction of facilities including land acquistion, and research and program management.

Sets forth guidelines with respect to the use and availability of funds appropriated pursuant to this Act.

H.R. 4089. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to provide that recognized Indian tribes shall be treated as State governments in determining the tax treatment of: (1) charitable donations to the tribes; (2) excise tax liability on special fuels, manufacturing, communications and highway motor vehicles use; (3) tribal fellowships, colleges scholarships, and universities; (4) tribal taxes; (5) tribal retirement systems and donations to employee systems; (6) contributions to candidates for tribal bonds and other obligations.

H.R. 4090. February 24, 1977. Ways and Means. Amends the Internal Revenue Code to limit the parimutual gambling winnings on horse and dog races and jai alai which are subject to tax withholding to one-half of the proceeds exceeding $1,000 where the winnings are at least 300 times the size of the wager.

H.R. 4091. February 24, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as household income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4092. February 24, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as house-

hold income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4093. February 24, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as household income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4094. February 24, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any costs of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4095. February 24, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any costs of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4096. February 24, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any cost of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4097. February 24, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4098. February 24, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4099. February 24, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4100. February 24, 1977. Post Office and Civil Service. Amends the Federal Aviation Act of 1958 to prohibit the entrance into or operation within the United States of any civil supersonic aircraft engaged in commercial service which generates a noise level in excess of the level in effect for new subsonic aircraft.

Amends the Clean Air Act to prohibit use of tolls or other charges for the use of New York City bridges as part of any clean air implementation plan.

Voids all such tolls and charges previously so included. Authorizes the Administrator of the Environmental Protection Agency to revise implementation plans through public hearing procedures should such a prohibition result in a failure to achieve air quality standards.

Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 4101. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4102. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4103. February 24, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4104. February 24, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4105. February 24, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4106. February 24, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4107. February 24, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain organization in full settlement of such organization's claims against the United States.

H.R. 4108. February 24, 1977. Interior and Insular Affairs. Directs the Secretary of Agriculture to convey all rights in a certain parcel of land to a certain individual.

H.R. 4109. February 24, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4110. February 24, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4111. February 24, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4112. February 24, 1977. Judiciary. Declares two individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4113. February 28, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection, grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 4114. February 28, 1977. Merchant Marine and Fisheries. Amends the National Sea Grant Program Act to authorize appropriations for the national sea grant program for fiscal year 1978.

H.R. 4115. February 28, 1977. Agriculture. Amends the Federal Meat Inspection Act to direct the Secretary of Agriculture to appoint inspectors to examine and inspect the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in slaughtering establishments inspected under the Act.

Directs the condemnation and destruction for food purposes of all carcasses and parts thereof which are not slaughtered in accordance with the prescribed methods of humane slaughter.

Prohibits the importation of any carcasses and parts thereof not slaughtered in accordance with such humane methods.

H.R. 4116. February 28, 1977. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 to require as part of the private pension plan termination insurance program that the Pension Benefit Guarantee Corporation insure during periods when a beneficiary is unemployed and not eligible for benefits under the Social Security Act benefits which: (1) are forfeitable, have been in effect for less than 60 months, or are for other reasons deemed nonbasic; and (2) are payable before normal retirement age.

H.R. 4117. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to disallow business income tax deductions for expenses incurred for lobbying before Congress or other legislative bodies.

H.R. 4118. February 28, 1977. House Administration. Requires Federal agencies to publicly report to Congress all expenditures made for or on the behalf of a Member of Congress or a congressional employee with respect to the travel of such person and requires the committee of Congress which approved such travel to reimburse such agency for such expenditure.

H.R. 4119. February 28, 1977. House Administration. Directs the Attorney General in consultation with the Secretary for Health, Education, and Welfare to prescribe standards for polling and registration facilities which will assure ready access by the handicapped and the aged.

Permits designation of facilities for Federal elections which do not comply with such standards only where conforming facilities are available.

Requires States to provide alternative registration and voting methods for aged and handicapped persons assigned to inaccessible registration facilities or polling places.

Requires that paper ballots be made unavailable to persons unable to operate voting machines.

H.R. 4120. February 28, 1977. Education and Labor. Amends the Older Americans Act to 1965 to direct area and State agencies which administer or supervise State and community programs on aging pursuant to such Act to employ personnel adequately trained in the field of aging to deliver specified services to the aged. Authorizes grants to institutions of higher education to assist such institutions in planning, developing, and carrying out programs designed to apply the resources of higher education to the problems of the elderly.

H.R. 4121. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for amounts they pay into employee's retirement trusts, or for annuity contracts.

H.R. 4122. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a limited income tax deduction for amounts they pay into employee's retirement trusts, or for annuity contracts.

H.R. 4123. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 4124. February 28, 1977. Government Operations. Establishes the Commission on American Government to study the organization and operation of Federal agencies and to recommend improvements therein. Requires the Commission to make such interim reports as it deems necessary and final report not later than 30 months after the appointment of all Commission members. Terminates the Commission 90 days after the submission of its final report.

H.R. 4125. February 28, 1977. Education and Labor. Amends the National Labor Relations Act to stipulate that, subject to specified provisions, it shall not be an unfair labor practice for a labor organization or its agents to engage in, or induce any individual employed by any person to engage in, a strike, refusal to perform services, or threat thereof: (1) at the site of the construction, alteration, painting, or repair of any structure; and (2) directed at any of several persons in the construction industry who are either joint veterans or in the relationship of contractor and subcontractor in the performance of such construction, alteration, painting or repair.

H.R. 4126. February 28, 1977. Merchant Marine and Fisheries. Revises the boundaries of the Tinicum National Environmental Center, Pennsylvania. Increases the amount authorized to be appropriated for land acquisition for, and development of, such center.

H.R. 4127. February 28, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 4128. February 28, 1977. Interstate and Foreign Commerce. Prohibits franchisors from prematurely cancelling or failing to renew motor fuel franchises unless written notification is provided and the franchisee has failed to comply with reasonable terms of the agreement.

Specifies that refiners may not increase the percentage of gasoline distributed through refiner operated retail outlets for a two-year period. Directs the Federal Trade Commission (FTC) to report to Congress on methods to promote competition in the marketing of gasoline.

Requires the FTC to prescribe rules for determining octane ratings of gasoline and to display requirements for such ratings.

Prohibits specified unfair practices in the marketing of automotive gasoline.

H.R. 4129. February 28, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any organization plan to state the improvements expected to be gained by such reorganization.

H.R. 4130. February 28, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any organization plan to state the improvements expected to be gained by such reorganization.

H.R. 4131. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a nonrefundable income tax credit for a portion of their contributions to neighborhood corporations providing them with municipal services.

Provides for payments to these corporations by the Secretary of the Treasury of a portion of the non-Federal taxes paid by corporation members.

H.R. 4132. February 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $7,500 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 4133. February 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) to decrease from 20 to 10 the number of years a divorced woman must have been married to an insured individual in order for her to qualify for wife's or widow's benefits on his wage record.

Allows for the payment of reduced benefits in the case of a marriage of less than 20 years.

H.R. 4134. February 28, 1977. Interior and Insular Affairs. Revises the boundaries of the Manassas National Battlefield Park in Virginia. Authorizes the Secretary of the Interior to acquire additional lands for the battlefield and to make minor revisions in the boundary. Establishes procedures to allow owners of property within the boundaries of the battlefield to retain a right of use and occupancy.

H.R. 4135. February 28, 1977. Interstate and Foreign Commerce. Amends the Federal Aviation Act of 1958 to prohibit the entrance into or operation within the United States of any civil supersonic aircraft engaged in commercial service which generates a noise level in excess of the level in effect for new subsonic aircraft.

Amends the Clean Air Act to prohibit use of tolls or other charges for the use of New York City bridges as part of any clean air implementation plan.

Voids all such tolls and charges previously so included. Authorizes the Administrator of the Environmental Protection Agency to revise implementation plans through public hearing procedures should such a prohibition result in a failure to achieve air quality standards.

H.R. 4136. February 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that an individual who would be fully qualified at age 62 for benefits under such Title may qualify for disability benefits under such program if such individual has 40 quarters of coverage, regardless of when such quarters were earned.

H.R. 4137. February 28, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to prohibit the inclusion of increases in monthly benefits under such Title as annual income for the purpose of determining eligibility for benefits, or the amount of benefits payable, under specified Veterans' benefits programs.

H.R. 4138. February 28, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such Title payable only to individuals who are both citizens and residents of the United States.

H.R. 4139. February 28, 1977. Ways and Means. Amends Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act to make benefits under such Title payable to a resident alien only if such alien has continuously resided in the United States for at least five years.

H.R. 4140. February 28, 1977. Merchant Marine and Fisheries. Amends the Fishermen's Protective Act of 1967 to extend the period during which reimbursement under the Act is available to commercial fishermen seized by foreign nations.

H.R. 4141. February 28, 1977. Merchant Marine and Fisheries. Extends until October 1, 1980, the appropriation authorizations for the Seal Beach and San Francisco Bay National Wildlife Refuges, California, and for the Great Dismal Swamp National Wildlife Refuge in North Carolina.

H.R. 4142. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4143. February 28, 1977. Education and Labor. Amends the Act which established the Youth Conservation Corps to direct the Secretaries of Agriculture and Interior to jointly extend the Youth Conservation Corps so as to make possible the year-round employment of young adults.

H.R. 4144. February 28, 1977. International Relations. Extends the Export Administration Act of 1969 to September 30, 1978. Increases the fines (1) for violation of regulations issued under such Act, (2) for certain exportation to Communist-dominated nations, and (3) for certain other violations. Permits conditional deferral of such fines. Prohibits appropriations to carry out such Act after October 1, 1977, unless authorized by specific legislation. Authorizes appropriations for the Department of Commerce for fiscal year 1978 to carry out such Act.

H.R. 4145. February 28, 1977. Ways and Means. Directs the Secretary of Labor to reimburse States for unemployment compensation paid to a member of a group of employees certified by the Secretary as having a significant number or proportion of members totally or partially unemployed, or threatened with such unemployment, primarily due to the inability of an employer to obtain an adequate supply of natural gas.

H.R. 4146. February 28, 1977. Government Operations. Establishes an executive department to be known as the Department of Education, Training, and Careers to be administered by a Secretary of Education, Training, and Careers.

Transfers to such Department the Educational Division of the Department of Health, Education, and Welfare; other specified educational functions of the Secretary of Health, Education, and Welfare; and other specified educational functions of certain Federal departments and instrumentalities.

Redesignates the Department of Health, Education, and Welfare and the Secretary of such Department as the Department of Health and Welfare, and the Secretary of Health and Welfare.

H.R. 4147. February 28, 1977. Ways and Means. Amends the Internal Revene Code to

provide an additional income tax exemption for taxpayers, spouses, or dependents with serious mental or physical disabilities which result in death, or which can be expected to result in death or be of long-continued or indefinite duration.

H.R. 4148. February 28, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of crude petroleum and crude shale oil from Canada, when an equivalent amount of the same kind and quality of duty-paid foreign crude petroleum and crude shale oil has been exported to Canada within 30 days prior to entry.

H.R. 4149. February 28, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to make financial assistance available to States to rehabilitate unsafe highway bridges. Establishes the Federal share of a bridge replacement of rehabilitation project. Amends the Highway Safety Act of 1976 to authorize appropriations from the Highway Trust Fund for bridge replacement and rehabilitation projects.

H.R. 4150. February 28, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education and Welfare to formulate and administer a utility stamp program under which, at the request of any State chief executive, any eligible household within such State shall have the opportunity to offset a portion of its utility bill with coupons amounting to an allotment of $25 monthly.

H.R. 4151. February 28, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to require studies of additional air pollution problems. Requires increased study of economic impact and cost-effective controls. Authorizes variances and extensions from standards applicable to stationary and mobile sources.

Establishes procedures for the prevention of significant deterioration of air quality. Imposes limitations on the use of indirect source controls. Prohibits conflicts of interest in State regulatory authorities.

Authorizes appropriations to carry out the Act for the next three fiscal years.

H.R. 4152. February 28, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study Como Bluff site, Wyoming, for possible inclusion into the National Park System.

H.R. 4153. February 28, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 4154. February 28, 1977. Ways and Means. Amends the Internal Revenue Code to allow homeowners and renters who pay their gas bills an income tax credit for up to $25 of the expenses incurred in the conversion of pilot lights on gas cooking stoves, ranges and ovens to a system of manual ignition. Allows a $25 income tax deduction to other individuals and corporations for the same expenses.

H.R. 4155. February 28, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to extend various authorization provisions of such Act through fiscal year 1978.

Allows the Administrator of the Environmental Protection Agency to accept State certification as discharging his responsibilities under certain compliance deadlines contained in the Act.

Revises the scope of permit authority with respect to discharges of dredged or fill material. Exempts farming and related activities from such permit requirements. Redefines the term "navigable water" as applied to such permits.

Establishes an emergency contingency fund to deal with imminent threats to public health and welfare.

H.R. 4156. February 28, 1977. Interior and Insular Affairs. Requires that electric power in the southwestern power area be sold at agreed points or delivery and at uniform, nondiscriminatory rates.

Stipulates that agreed points of delivery shall not be changed unilaterally by the Secretary of the Interior.

H.R. 4157. February 28, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to assist in the establishment of water research and technology institutes to study water resources related problems. Authorizes appropriations to fund such institutes and related water research activities. Repeals the Water Resources Research Act of 1964.

Directs the Secretary to study the feasibility of converting saline or other contaminated water into usable water. Repeals the Saline Water Conversion Act of 1971.

H.R. 4158. February 28, 1977. Interior and Insular Affairs; Interstate and Foreign Commerce; International Relations.

Amends the Mineral Leasing Act of 1920 to prohibit exports of domestically produced and pipeline-transported natural gas to foreign nations, with the exception of exchanges or temporary exports for convenience or increased efficiency of transportation.

H.R. 4159. February 28, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4160. February 28, 1977. Judiciary. Permits a certain corporation to appeal from an order issued by the Federal Communications Commision.

H.R. 4161. February 28, 1977. Judiciary. Declares a certain refined Postal Service employee totally disabled, and deems his injuries to have been employment related. Declares such individual eligible for disability benefits.

H.R. 4162. March 1, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 4163. March 1, 1977. Judiciary. Amends provisions imposing additional sentences for using or unlawfully carrying a firearm during a Federal felony to (1) increase the minimum sentence for a second or subsequent offense, (2) include the unlawful use of carrying of a destructive device or other dangerous weapon, and (3) prohibit a suspended or probationary sentence and deny parole with respect to any conviction under such section.

H.R. 4164. March 1, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for the relief of victims of the May 6, 1976, earthquake in Italy.

H.R. 4165. March 1, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to redefine "vessel of the United States," and to require the Secretary of Commerce to submit to Congress an annual report regarding foreign investment in the United States fishing industry.

H.R. 4166. March 1, 1977. Merchant Marine and Fisheries. Amends the Fishery Conservation and Management Act of 1976 to redefine "vessel of the United States," and to require the Secretary of Commerce to submit to Congress an annual report regarding foreign investment in the United States fishing industry.

H.R. 4167. March 1, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt certain Federal public works projects from prohibitions against the jeopardizing or taking of endangered species, and the destruction of modification of their habitats.

H.R. 4168. March 1, 1977. Interstate and Foreign Commerce. Deems any food containing more than 0.2 parts per million of polybrominated byphenyl adulterated for purposes of the Federal Food, Drug, and Cosmetic Act.

Prohibits any State from establishing or enforcing a standard less stringent than the standard established by this Act.

H.R. 4169. March 1, 1977. Interior and Insular Affairs. Recognizes the prior conveyances of title and interests in lands and waters now comprising the State of Maine made by the Passamaquoddy and Penobscot Indian Tribes as valid and binding. Limits the relief which may be granted as a result of claims arising out of the allegedly wrongful loss of aboriginal title rights in Maine by these tribes to monetary damages. Transfers all cases involving this Act to the United States District Court for the District of Maine.

H.R. 4170. March 1, 1977. Ways and Means; Interstate and Foreign Commerce. Prohibits any federally assisted continuing care institutions from requiring any cash payment in addition to or in lieu of its regular periodic charges for care and services unless such payment is made in accordance with a written contract or agreement which sets forth the rights and obligations of the parties involved.

H.R. 4171. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to limit the application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 4172. March 1, 1977. Post Office and Civil Service. Entitles retired Federal law enforcement and firefighter personnel who were rehired and serving as law enforcement officers or firefighters on July 12, 1974 to have their annuities recomputed in accordance with the annuity benefits provided for retired firefighter and law enforcement personnel by the Act of Congress on such date.

H.R. 4173. March 1, 1977. Armed Services; Judiciary; Government Operations; Ways and Means. Reorganizes the intelligence agencies of the United States. Restricts the collection of information on any American. Limits the use of specified persons and specified methods to collect foreign intelligence. Creates civil remedies for persons whose rights have been abridged by a Federal officer acting under color of law.

H.R. 4174. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers a limited, refundable income tax credit for 50 percent of the wages paid new employees working in the United States. Provides for future assessments of this credit by the Secretary of the Treasury.

H.R. 4175. March 1, 1977. Banking, Finance and Urban Affairs. Requires the developers of all federally assisted condominium projects to disclose specific information on proposed new condominimum construction or conversion to condominium units of existing structures.

Establishes regulations to protect tenants in a leased-unit structure which is to be converted to condominium use.

Authorizes the Secretary of Housing and Urban Development to make grants to State and local governments to establish similar programs.

H.R. 4176. March 1, 1977. Interstate and Foreign Commerce. Prescribes criteria for Federal, State, and local agencies regulating electric utilities which would require that rate schedules accurately reflect long-run incremental costs of service and that price differentials for different customer

classes reflect actual documented differentials in costs of service.

Prohibits any allowance for recoupment of any advertising costs except if such advertising is designed to discourage energy consumption during peak load periods or to encourage conservation of electricity in general.

Establishes standards for the treatment of fuel adjustment clauses and for the determination of effective dates for proposed changes in rates and schedules.

H.R. 4177. March 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husbands' and widower's insurance benefits; (2) to reduce from 20 to 15 the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 4178. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to provide for the accelerated amortization of coal conversion facilities over a 12 month period. Authorizes the President to enter into price guarantee contracts with any person operating or proposing to construct or operate such facilities in order to make them economically feasible and competitive with alternative fuels.

H.R. 4179. March 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide that podiatrists shall be treated the same as doctors of medicine for certification, claims payment, and related purposes.

Includes the cutting and removal of warts when done as routine foot care in the coverage provided under the Medicare supplementary medical insurance program.

H.R. 4180. March 1, 1977. Education and Labor. Amends the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees.

H.R. 4181. March 1, 1977. Judiciary. Amends the Bankruptcy Act to include among debts which have priority specified debts to consumers based on deposits of money made in connection with the purchase, lease, or rental of goods or services for personal or household use not delivered on the date of bankruptcy or on account of a cause of action based on the breach of an implied or express warranty in connection with such goods or services.

H.R. 4182. March 1, 1977. Public Works and Transportation; Interior and Insular Affairs. Transfers from the Secretary of the Army to the Secretary of the Interior the authority, real property, project authorization and unexpended appropriations for the Tocks Island Reservoir Project, Pennsylvania, New Jersey, and New York. Terminates authorization of the project as part of the Delaware River Basin project under the Flood Control Act of 1962. Stipulates the priorities of the Secretary of the Interior in administration of the project.

H.R. 4183. March 1, 1977. Judiciary. Requires candidates for Federal office, Members of Congress, and specified officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4184. March 1, 1977. Government Operations. Establishes an Office of Inspector General within each of the Departments of Agriculture, Commerce, Housing and Urban Development, Interior, Labor, and Transportation, the Environmental Protection Agency, and the Energy Research and Development Association, General Services, National Aeronautics and Space and Veterans' Administration. Makes it the duty of such offices to direct the auditing investigation of the programs of the agency in which each such office is established and to recommend policies to each respective agency to promote the efficiency and economy of and to prevent and detect fraud and abuse in the programs administered by each agency.

H.R. 4185. March 1, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to grant broadcast licenses and license renewals for five-year terms.

Revises the Act to allow certain appeals from orders or decisions of the Commission to be brought in the United States court of appeals for the circuit in which the broadcast facility is, or is proposed to be located.

Requires the Commission to examine its broadcast license renewal procedure to determine how it can be simplified.

H.R. 4186. March 1, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Bankruptcy Act to repeal provisions of the law allowing automatic cost-of-living adjustments in the salaries of Members of Congress, persons paid pursuant to the Executive Schedule, the Vice President, and specified judicial positions including bankruptcy referees.

H.R. 4187. March 1, 1977. Public Works and Transportation. Directs the Secretary of the Army to convey to the trustees of the Salem Wesleyan Church all rights, title, and interest of the United States in specified lands at the Jim Woodruff Dam and Reservoir, Florida.

H.R. 4188. March 1, 1977. Judiciary; Rules. Requires public notice of, and allows public participation in, rulemaking proceedings conducted by executive agencies. Requires all regulations promulgated by such agencies containing criminal penalties to be submitted to Congress for approval.

H.R. 4189. March 1, 1977. Education and Labor. Amends the Occupational Safety and Health Act to prohibit the assessment of a civil penalty for the initial citation of any employer for a violation of any standard or regulation imposed by such Act unless such employer fails to abate such violation within a specified time determined by the Secretary of Labor.

Permits the Secretary of Labor to inspect such employer and issue a citation, if necessary, to insure the abatement of any initial violation.

H.R. 4190. March 1, 1977. Science and Technology. Directs the President to establish (1) a National Earthquake Hazard Reduction Program, (2) an Office of Earthquake Hazard Reduction, (3) a National Advisory Committee on Earthquake Hazard Reduction, and (4) an Earthquake Prediction Evaluation Board.

Specifies the duties of the Office of Earthquake Hazard Reduction, including the development of an Earthquake Hazard Reduction Program plan.

Enumerates the Federal agencies to be assigned responsibilities in, and details the elements of, the Earthquake Hazard Reduction Program.

Directs the Earthquake Prediction Evaluation Board to monitor prediction methods and issue earthquake predictions.

H.R. 4191. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to prohibit the taking of a business deduction for expenses paid or incurred to advertise tobacco products.

H.R. 4192. March 1, 1977. Banking, Finance and Urban Affairs. Establishes a Solar Energy Loan Administration to provide financial assistance for the purchase and installation of solar hardware. Requires that such solar equipment meet minimum standards prescribed under the Solar Heating and Cooling Demonstration Act.

H.R. 4193. March 1, 1977. Interior and Insular Affairs. Grants the consent of Congress to the California-Nevada interstate compact, designed to provide for the equitable apportionment of water within the Lake Tahoe, Truckee River, Carson River, and Walker River Basins.

H.R. 4194. March 1, 1977. Agriculture. Increases the amount of the capital stock of the Federal Crop Insurance Corporation subscribed by the United States of America.

H.R. 4195. March 1, 1977. Judiciary. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4196. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to decrease the floor on allowable medical deductions to 2 percent of adjusted gross income. Eliminates the 1 percent floor on deductions for drugs and medicine. Includes deductible amounts for medical insurance with other medical care expenses for which the 2 percent floor is applicable.

H.R. 4197. March 1, 1977. Post Office and Civil Service. Limits the number of civil service employees in grades above GS–13 after September 30, 1980.

H.R. 4198. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals whose income consists solely of employee compensation and interest to elect to have the Internal Revenue Service compute their income tax liability.

H.R. 4199. March 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such title.

H.R. 4200. March 1, 1977. Small Business. Amends the Small Business Act to authorize the Small Business Administrator to offer reinsurance against excess losses resulting for products liability claims or completed operations claims against small business concerns.

H.R. 4201. March 1, 1977. Post Office and Civil Service. Counts as creditable service for purposes of the Civil Service Retirement System Service by individuals creditable under the Railroad Retirement Act of 1974 performed before such person is employed by the Panama Canal Company or the Panama Railroad Company if such person is so employed before January 1, 1978.

H.R. 4202. March 1, 1977. Government Operations; Rules. Abolishes within 3 years of the enactment of this act, or 3 years after they have been established, all Federal regulatory agencies unless the President and Congress determine that such agencies should continue to exist.

H.R. 4203. March 1, 1977. Armed Services. Grants an annuity to dependents of deceased members of the armed forces who performed the service required under the Retired Serviceman's Family Protection Plan which made them eligible for retired pay but who died before the effective date of such Plan.

H.R. 4204. March 1, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living salary adjustments for Members of Congress before October 1, 1978.

H.R. 4205. March 1, 1977. Education and Labor. Exempts musical and social programs and activities designed for parents and students from the prohibition against sex discrimination imposed by the Education Amendments of 1922.

H.R. 4206. March 1, 1977. Education and Labor. Amends the Education Amendments of 1972 to except from the sex discrimination prohibition of such Amendments gym-

nastics classes participation in which is limited to students of one sex only.

H.R. 4207. March 1, 1977. Agriculture. Amends the Commodity Exchange Act for the purpose of authorizing the President to remove a Commissioner of the Commodity Futures Trading Commission for cause.

H.R. 4208. March 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4209. March 1, 1977. Veterans' Affairs. Authorizes a presumption of service connection for cause of death for the purposes of payment of dependency and indemnity compensation in the case of a blinded veteran who had a service-connected disability rated permanent and total for at least one year immediately preceding death, if death was due to causes not the result of misconduct on the part of such veteran.

H.R. 4210. March 1, 1977. Education and Labor. Amends the Higher Education Act of 1965 and the National Defense Education Act of 1958 to defer payment of student loans for a period of not more than three years while the student is a participant in an accredited medical internship or residency program.

H.R. 4211. March 1, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to establish by regulation a uniform functional accounting system and statistical system for the purpose of calculating the reasonable cost of services provided by health services institutions.

Amends Titles XVIII (Medicare) and XIX (Medicare) of the Social Security Act to require providers of services to use such uniform accounting and statistical systems in determining the cost of service provided under the provisions of such Titles.

H.R. 4212. March 1, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4213. March 1, 1977. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorized for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration costs for vocational education programs.

Makes technical amendments to such Act.

H.R. 4214. March 1, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to reduce the age at which railroad employees and their spouses become eligible for annuities under such Act.

H.R. 4215. March 1, 1977. Education and Labor. Grants an annuity to dependents of deceased members of the armed forces who performed the service required under the Retired Serviceman's Family Protection Plan which made them eligible for retired pay but who died before the effective date of such plan.

Amends the Occupational Safety and Health Act of 1970 to provide that the requirements of such Act shall apply to the Congress, Federal agencies, and the courts of the United States.

Assigns to the Secretary of Health, Education, and Welfare, the case of any workplace under the authority or jurisdiction of the Secretary of Labor and, the Occupational Safety and Health Review Commission, the powers otherwise assigned to the Secretary of Labor or to such Commission, including the authority to (1) conduct investigations and inspections; (2) issue citations; and (3) conduct hearings and issue orders.

H.R. 4216. March 1, 1977. Post Office and Civil Service. Authorizes the payment of a civil service annuity to those employees of the Bureau of Indian Affairs and the Indian Health Service who are not entitled to full retirement benefits and who meet specified employment and length of service requirements.

H.R. 4217. March 1, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures of family farms.

H.R. 4218. March 1, 1977. Agriculture. Directs the Secretary of Agriculture to conduct a study and institute a pilot project regarding an aerobic digesters and to issue reports relating to such study and project. Authorizes the Secretary to make grants to specified small farmers for the construction of digesters which have been proven to be safe and efficient.

H.R. 4219. March 1, 1977. Banking, Finance and Urban Affairs. Amends the National Housing Act to establish a guaranteed loan program for the acquisition and installation of solar energy heating and cooling systems in dwelling units.

H.R. 4220. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to authorize any taxpayer to elect to have any portion of any overpayment of tax or any contribution in money which the taxpayer forwards with the return for such taxable year be available, as the taxpayer may designate on such return, for the National Endowment for the Arts or the National Endowment for the Humanities.

H.R. 4221. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow an amortization deduction for qualified solar heating and cooling equipment placed in service for nonresidential structures. Makes qualified solar heating and cooling equipment eligible for the investment credit.

H.R. 4222. March 1, 1977. Science and Technology; Agriculture. Amends the Solar Heating and Cooling Demonstration Act of 1974 to establish a program of solar thermal conversion technology demonstration in nonresidential agricultural structures. Directs the Administrator of the Energy Research and Development Administration to administer such program, with the assistance of studies conducted by the Secretary of Agriculture.

H.R. 4223. March 1, 1977, Science and Technology; Agriculture. Amends the Solar Heating and Cooling Demonstration Act of 1974 to establish a program of solar thermal conversion technology demonstration in nonresidential agricultural structures. Directs the Administrator of the Energy Research and Development Administration to administer such program, with the assistance of studies conducted by the Secretary of Agriculture.

H.R. 4224. March 1, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4225. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax deduction for a portion of the expenses incurred for the installation of qualified solar energy equipment in any residence.

H.R. 4226. March 1, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to extend medical assistance under such Title to all persons in need of mental health services regardless of age.

H.R. 4227. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited tax credit in an amount of $250 for each individual who is at least 65 years of age before the beginning of the taxable year, whose principal place of abode during the taxable year is the principal residence of the taxpayer, and who is not a lodger with the taxpayer.

H.R. 4228. March 1, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited tax credit in an amount of $250 for each individual who is at least 65 years of age before the beginning of the taxable year, whose principal place of abode during the taxable year is the principal residence of the taxpayer, and who is not a lodger with a taxpayer.

H.R. 4229. March 1, 1977. Agriculture. Increases the amount of the capital stock of the Federal Crop Insurance Corporation subscribed by the United States of America.

H.R. 4230. March 1, 1977. Agriculture. Requires, under the Federal Meat Inspection Act, that imported meat and meat food products made in whole or in part from imported meat be labeled "imported" or "imported in part" at all stages of distribution until reaching the ultimate consumer.

Prohibits the importation of any dairy product into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced comply with all inspection grading and other standards prescribed by the Secretary of Health, Education, and Welfare.

H.R. 4231. March 1, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to revise the scope of Federal permit authority with respect to discharges of dredged or fill material in navigable waters. Requires permits for such discharges into wetlands adjacent to navigable waters.

Exempts farming, ranching, construction, and releted activities from such permit requirements.

H.R. 4232. March 1, 1977. Interstate and Foreign Commerce. Establishes a Commission on Genetic Research and Engineering to study and evaluate present laws and regulations concerning genetic research and engineering.

Requires the Commission to review and make recommendations with respect to genetic research and engineering conducted by Federal agencies.

H.R. 4233. March 1, 1977. International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to revise the formula for allocation of food and commodities to prohibit more than 25 percent of such aid from being allocated to countries which do not meet the poverty criteria of the International Development Association, with certain exceptions.

H.R. 4234. March 1, 1977. Interior and Insular Affairs. Designates specified lands in certain national forests as components of the National Wilderness Preservation System. Directs the Secretary of Agriculture to review the suitability of designating as wilderness other specified National Forest System lands.

H.R. 4235. January 1, 1977. Education and Labor. Amends the Wagner-Peyser Act to direct the Secretary of Labor to provide technical and management assistance to State public employment offices, establish a national clearing house for employment service information in the United States Employment Service, and implement an assistance program for certain State employment office job placement projects.

Directs the Secretary to study the merits of a nationwide job bank system and of re-

placing the State employment office system with a Federal office system

H.R. 4236. March 1, 1977. Interior and Insular Affairs. Regulates surface and mining operations through a permit program administered by the Secretary of the Interior. Requires applicants to meet minimum environment protection performance standards. Allows States to establish surface mining control programs at least as stringent as minimum Federal standards.

Includes provisions to fund mineral resources research programs and to provide for reclamation of abandoned mine sites.

H.R. 4237. March 1, 1977. Veterans' Affairs. Designates the Veterans' Administration hospital in Saint Albans, New York, as the "Henry Schuman Veterans' Hospital."

H.R. 4238. March 1, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to sell reserved mineral interests of the United States in specified land in Florida to the recordowner of the surface thereof.

H.R. 4239. March 1, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4240. March 1, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4241. March 1, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individuals' estate in full settlement of such individual's claims against the United States.

H.R. 4242. March 1, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual's estate in full settlement of such individual's claims against the United States.

H.R. 4243. March 1, 1977. Interior and Insular Affairs. Authorizes and directs the Secretary of the Interior to convey a certain tract of land in California to a certain person, provided that the individual makes application and pays the fair market value for that land.

H.R. 4244. March 1, 1977. Judiciary. Directs the Secretary of the Interior to pay a specified sum to a certain individual to rectify a land transaction.

H.R. 4245. March 1, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4246. March 1, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4247. March 1, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4248. March 1, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4249. March 2, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 4250. March 2, 1977. Education and Labor. Amends the National Labor Relations Act to permit, subject to specified provisions, a labor organization to engage in, and induce others to engage in, a strike, refusal to perform services, or threat thereof (1) at a construction site; and (2) directed at anyone of several persons in the construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of work at such site.

Establishes a Construction Industry Collective Bargaining Committee in Department of Labor with jurisdiction over collective bargaining agreement disputes.

H.R. 4251. March 2, 1977. Post Office and Civil Service; Judiciary. Amends the Legislative Reorganization Act of 1946 to repeal automatic cost-of-living adjustments for Members of Congress. Abolishes such adjustments for: (1) certain executive and judicial employees and officials; (2) the Vice President; and (3) referees in bankruptcy.

H.R. 4252. March 2, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of, a firearm to (1) increase the penalties thereunder, (2) encompass State crimes, (3) prohibit a suspended or probationary with respect to a first conviction, and (4) forbid a defendant to plead guilty to a lesser charge.

H.R. 4253. March 2, 1977. Government Operations; Rules. Requires the President to submit to Congress plans to reform once every ten years the regulatory activities of specified Federal agencies according to a staggered schedule set forth in this Act once every ten years. States that if Congress fails to enact comprehensive regulatory reform legislation dealing with such plan within a specified period the applicable agency shall cease to exist.

H.R. 4254. March 2, 1977. Government Operations: Rules. Requires the President to submit to Congress plans to reform once every ten years the regulatory activities of specified Federal agencies according to a staggered schedule set forth in this Act. States that if Congress fails to enact comprehensive regulatory reform legislation dealing with such plan within a specified period the applicable agency shall cease to exist.

H.R. 4255. March 2, 1977. Government Operations; Rules. Requires the President to submit to Congress plans to reform once every ten years the regulatory activities of specified Federal agencies according to a staggered schedule set forth in this Act. States that if Congress fails to enact comprehensive regulatory reform legislation dealing with such plan within a specified period the applicable agency shall cease to exist.

H.R. 4256. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance), of the Social Security Act to (1) remove the limitation on the amount of outside income which an individual may earn while receiving benefits under such Title; (2) revise certain eligibility requirements for such benefits; and (3) authorize direct payment to the provider of services to Medicare supplementary medical insurance beneficiaries under certain circumstances.

Amends the Social Security Act and the Internal Revenue Code to allow individuals 65 years of age or older to elect to exempt wages and self-employment income from social security taxation.

H.R. 4257. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability Insurance), of the Social Security Act to (1) remove the limitation on the amount of outside income which an individual may earn while receiving benefits under such Title; (2) revise certain eligibility requirements for such benefits; and (3) authorize direct payment to the provider of services to Medicare supplementary medical insurance beneficiaries under certain circumstances.

Amends the Social Security Act and the Internal Revenue Code to allow individuals 65 years of age or older to elect to exempt wages and self-employment income from social security taxation.

H.R. 4258. March 2, 1977. Armed Services. Authorizes appropriations in specified amounts for fiscal year 1978 for the procurement of naval vessels for the armed forces. Prohibits the obligation of funds authorized under this Act for a certain guided missile destroyer program for material or components which are not suitable for use in a nuclear powered strike cruiser until the President has made certain determinations and has reported them to Congress.

H.R. 4259. March 2, 1977. International Relations. Authorizes appropriations for the relief of victims of the May 6, 1976, earthquake in Italy.

H.R. 4260. March 2, 1977. Government Operations. Requires the Office of Management and Budget to study the efficiency and effectiveness of each Federal agency every ten years and to recommend to the President and Congress reorganization or abolition of each such agency as may be necessary to improve such efficiency and effectiveness. Abolishes each such agency upon the due date of such report unless during the ten-year period since the last report Congress has passed legislation continuing such agency.

H.R. 4261. March 2, 1977. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a program of information and assistance to States and localities in order to control mosquitoes. Authorizes studies, investigations, and grants to qualified State plans to effectuate the purposes of this Act.

H.R. 4262. March 2, 1977. Post Office and Civil Service. Includes civilian security police of the Department of Defense within the civil service retirement provisions applicable to law enforcement officers and firefighters.

H.R. 4263. March 2, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4264. March 2, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) permit Federal courts to impose an additional term of imprisonment upon anyone using or carrying a firearm during the commission of a felony which may be prosecuted in a Federal court, (2) require Federal courts to impose such a sentence for a second or subsequent such conviction, and (3) classify felons using or carrying firearms as dangerous special offenders.

H.R. 4265. March 2, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 4266. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish for displaced homemakers Multipurpose Service Centers in order to provide such persons jobs, health, financial, and legal services.

Directs the Secretary to prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for allowing displaced homemakers to participate in (1) programs established under the Comprehensive Employment and Training Act of 1973, (2) work incentive programs under the Social Security Act, (3) related, Federal employment, education, and health assistance programs, and (4) programs established or benefits provided under Federal and State unemployment compensation laws.

H.R. 4267. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish for displaced homemakers Multipurpose Service Centers in order to provide such persons job, health, financial, and legal services.

Directs the Secretary to prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for allowing displaced homemakers to participate in (1) programs established under the Comprehensive Employment and Training Act of 1973, (2) work incentive programs under the Social Security Act, (3) related, Federal employment, education, and health assistance programs, and (4) programs established or benefits provided under Federal and State unemployment compensation laws.

H.R. 4268. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish for displaced homemakers Multipurpose Service Centers in order to provide such persons job, health, financial, and legal services.

Directs the Secretary to prepare and furnish to the Congress a study to determine the feasibility of and appropriate procedures for allowing displaced homemakers to participate in (1) programs established under the Comprehensive Employment and Training Act of 1973, (2) work incentive programs under the Social Security Act, (3) related, Federal employment, education, and health assistance programs, and (4) programs established or benefits provided under Federal and State unemployment compensation laws.

H.R. 4269. March 2, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to raise the limitations on the amount of insurance on residential, business, and church properties which may be obtained under the Act.

H.R. 4270. March 2, 1977. Public Works and Transportation. Designates the Federal building and United States Courthouse in Hato Rey, Puerto Rico, the "Federico Degateau Federal Building."

H.R. 4271. March 2, 1977. Interstate and Foreign Commerce. Imposes a minimum and increases the maximum sentence for distribution of narcotic drugs and hallucinogens other than marihuana, peyote, and mescaline. Prohibits the granting of a probationary or suspended sentence with respect to such a crime.

Eliminates the additional sentence for distribution of such a substance to a person under 21 years old.

H.R. 4272. March 2, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing penalties for the use of a firearm during the commission of certain crimes to (1) increase the penalty for using or carrying a firearm during the commission of a Federal felony and (2) prohibit suspended or probationary sentences for anyone convicted under provisions of the Act.

H.R. 4273. March 2, 1977. Judiciary. Revises the jurisdiction of the Supreme Court and United States district courts to prohibit the consideration of any case arising out of a State law relative to abortion.

H.R. 4274. March 2, 1977. Judiciary. Removes the jurisdiction of the United States Supreme Court and the Federal district courts over any case arising out of State statute, ordinance, rule, or regulation which relates to the assignment of public school students to particular schools because of race, creed, color, or sex.

H.R. 4275. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to develop and implement youth camp safety standards, including standards for day camps, resident camps, and travel camps.

Establishes the Advisory Council on Youth Camp Safety within the Department of Health, Education, and Welfare.

H.R. 4276. March 2, 1977. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule. Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 4277. March 2, 1977. Judiciary. Permits the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries conducted by a nonprofit organization and authorized by State law.

Defines "nonprofit organization" as any religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organization or association not organized for profit and none of the net income of which inures to the benefit of any private individual.

H.R. 4278. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title IV (Aid to Families with Dependent Children), Title XVIII (Medicare), and Title XIX (Medicaid) of the Social Security Act to provide that the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance shall be set at 75 percent.

H.R. 4279. March 2, 1977. Interstate and Foreign Commerce. Amends the Fair Packaging and Labeling Act to require that packaged consumer commodities be labeled to show their total selling price.

H.R. 4280. March 2, 1977. Interstate and Foreign Commerce. Amends the Fair Packaging and Labeling Act to require that packaged consumer commodities be labeled to show their total selling price.

H.R. 4281. March 2, 1977. Interstate and Foreign Commerce. Amends the Fair Packaging and Labeling Act to require that packaged consumer commodities be labeled to show their total selling price.

H.R. 4282. March 2, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4283. March 2, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4284. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 4285. March 2, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Bankruptcy Act to repeal provisions of the law allowing automatic cost-of-living adjustments in the salaries of Members of Congress, persons paid pursuant to the Executive Schedule, the Vice President, and specified judicial positions including bankruptcy referees.

H.R. 4286. March 2, 1977. Education and Labor. Establishes, within the Department of Health, Education, and Welfare, an Office of Youth Camp Safety to develop, with the approval of the Secretary, youth camp safety standards, including standards for day camps, resident camps, and travel camps.

Establishes the Advisory Council on Youth Camp Safety within the Department of Health, Education, and Welfare.

H.R. 4287. March 2, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to extend the applicability of such Act to mines other than coal mines. Transfers mine health and safety functions from the Secretary of the Interior to the Secretary of Labor.

Revises procedures for establishment and enforcement of mine health and safety standards. Authorizes the payment of compensation to miners idled by mine closures resulting from orders issued pursuant to this Act.

Repeals the Federal Metal and Nonmetallic Mine Safety Act of 1966.

H.R. 4288. March 2, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 4289. March 2, 1977. Agriculture. Requires the Federal Crop Insurance Corporation, under the Federal Crop Insurance Act, to reopen for 30 days the period during which insurance or reinsurance applications may be made by persons in counties in which the Secretary of Agriculture determines a state of emergency exists with respect to insurable crops.

H.R. 4290. March 2, 1977. Public Works and Transportation. Authorizes the Secretary of the Army to construct a lock and dam project on the Mississippi River near Alton, Illinois. Authorizes the Secretary to provide wildlife protection and recreational activities with such project.

Withdraws authority (1) to study the deepening of navigation channels in the Minnesota and Wisconsin; Illinois River, Illinois; and the Mississippi River north of its junction with the Missouri River, Missouri; and (2) to study or construct a specified Mississippi River channel.

H.R. 4291. March 2, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to entitle surviving spouses of deceased railroad employees who have remarried but whose remarriage has terminated to an annuity. Stipulates that, in the case of an individual who has been widowed with respect to two or more deceased employees, such person shall be entitled to only one annuity. Stipulates that such an individual shall be considered the surviving spouse of the employee by which such consideration will result in the higher annuity.

H.R. 4292. March 2, 1977. Judiciary. Provides for appointment of a special prosecutor to investigate alleged violations of criminal law involving abuse of office, fraud against the United States, obstruction of justice, or campaign finance by any of specified Federal officials or campaign managers.

Directs the Attorney General to promulgate regulations requiring employees of the Department of Justice to disqualify themselves from investigations or prosecutions which may result in a conflict of interest or the appearance thereof.

H.R. 4293. March 3, 1977. Agriculture. Provides under the Agricultural Adjustment Act of 1938 that leasing of flue-cured tobacco acreage-poundage marketing quotas after June 15 of any year be permitted only between farms on which at least 80 percent of the farm acreage allotment (currently 50 percent) was planted for such year.

H.R. 4294. March 2, 1977. Education and Labor. Civil Rights Amendments—Amends the Civil Rights Act of 1964 to prohibit discrimination on the basis of marital status in (1) public accommodations, (2) public facilities, (3) public education, and (4) federally assisted opportunities. Prohibits such discrimination in housing. Amends the Education Amendments of 1972 to prohibit such discrimination in federally assisted education.

H.R. 4295. March 2, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 4296. March 2, 1977. Agriculture. Provides, under the Consolidated Farm and

Rural Development Act, that emergency loans shall be made available in any area of the United States, Puerto Rico, or the Virgin Islands which the Secretary of Agriculture has designated an emergency area due to a labor dispute, in which farmers are not participants, but which has prevented the production, processing or sale of products produced by farming, ranching or aquaculture operations.

H.R. 4297. March 2, 1977. Science and Technology; Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to extend through fiscal year 1978 the authorization of appropriations necessary to carry out the purposes of the Act with respect to: (1) the regulation of and research pertaining to ocean dumping; and (2) the acquisition, development, and operation of the marine sanctuaries.

H.R. 4298. March 2, 1977. Ways and Means. Revises Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to: (1) eliminate the five-month waiting period for disability benefits; (2) permit adopted children to qualify for benefits without regard to time of adoption; (3) eliminate the reconsideration stage in benefit determinations; (4) provide for the issuance of duplicate benefit checks where the initial checks are lost or delayed; and (5) provide for expedited benefit payments to disability beneficiaries.

Increases the amount of outside earnings which an individual may earn without a deduction in benefits under Title II of the Social Security Act.

H.R. 4299. March 2, 1977. Post Office and Civil Service; Rules. Amends the Federal Salary Act of 1967 to make recommendations for rates of pay for Members of Congress and the Resident Commissioner from Puerto Rico, transmitted by the President to Congress, subject to congressional approval by specific resolution passed by each House. Sets forth the rules and procedure to be followed with respect to consideration of such resolution.

Amends the Legislative Reorganization Act of 1946 to establish the annual rates of pay for Members of Congress, Delegates to the House, the Resident Commissioner from Puerto Rico, and House and Senate leadership at the rates in effect on September 30, 1976.

H.R. 4300. March 2, 1977. Judiciary. Revises provisions imposing penalties for the commission of rape, including carnal knowledge of a female under age 16, within the special maritime and territorial jurisdiction of the United States to (1) set forth penalties for any unconsented sexual contact or penetration; (2) proscribe sexual contact or penetration with any person under age 18; (3) detail sentencing guidelines; and (4) prohibit introduction of evidence regarding a victim's prior sexual conduct absent a ruling by the court after an in camera hearing.

H.R. 4301. March 2, 1977. Merchant Marine and Fisheries. Amends the National Sea Grant Program Act to authorize appropriations for fiscal year 1978 to continue the national projects program, and to carry out the purposes of the Act.

H.R. 4302. March 2, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to stipulate that an individual who has completed 30 years of service shall be deemed to have a "current connection with the railroad industry" for purposes of such Act.

H.R. 4303. March 2, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to revise certain eligibility requirements. Authorizes (1) payment of full benefits to disabled wives, husbands, widows and widowers without regard to age; (2) benefits for essential spouses of disability beneficiaries without regard to age or children in care; (3) payment of child's insurance benefits based on the wage record of a supporting relative in certain cases; and (4) computation of a married couple's benefits based on their combined earnings record. Repeals specified earnings tests used in reducing benefits.

H.R. 4304. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Titles II (Old-Age, Survivors, and Disability Insurance) and XVIII (Medicare) of the Social Security Act to authorize medicare coverage for disabled individuals under age 65 from the first month of their entitlement to benefits based on disability, in cases where the individuals involved become reentitled to such coverage after a previous coverage period which ended within the previous 60 months.

Amends the Railroad Retirement Act of 1937 to extend the same provisions to individuals previously covered by such Act who are now under Title II of the Social Security Act.

H.R. 4305. March 2, 1977. Armed Services. Authorizes the recomputation at age 60 of the retired or retainer pay for members or former members of the uniformed services whose retired or retainer pay was computed on the basis of pay scales in effect prior to January 1, 1972, in order to reflect any retired or retainer pay increases for other members which was based on changes in the Consumer Price Index since that date.

H.R. 4306. March 2, 1977. Government Operations. Amends the Budget and Accounting Act, 1921, to require that all departmental budget requests made to the Office of Management and Budget with respect to any fiscal year be submitted to the Congress along with the President's budget for such year. Requires officials requested by the appropriate committees of the Congress to testify before such committees on the President's budget and on such departmental budget requests.

H.R. 4307. March 2, 1977. House Administration. Amends the Federal Election Campaign Act to limit the purposes for which contributions made to a Federal officeholder to support his official activities may be used for (1) ordinary and necessary expenses incurred in official duties and (2) charitable contributions. Prohibits use of such funds to defray campaign costs.

Limits the purposes for which a candidate for Federal office may use excess campaign contributions to (1) reimbursement of contributors, (2) deposits in the Presidential Election Campaign Fund, (3) expenses in future elections, and (4) in the case of successful candidates, expenses incurred in official duties.

H.R. 4308. March 2, 1977. Judiciary. Amends the Immigration and Nationality Act to: (1) increase limitations for immigrants born in foreign states in the western hemisphere and the Canal Zone; (2) increases the number of visas and conditional entries for natives of foreign contiguous territories; and (3) waive the labor certification requirement for specified contiguous-territory relatives of U.S. residents.

H.R. 4309. March 2, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4310. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to provide that taxpayers shall not be required to pay the principal or interest for underpayments of taxes for any period prior to April 16, 1977 (March 16, 1977 in the case of a corporation), nor penalized for any failure to withhold and deduct taxes on remuneration paid before 1977, to the extent that such failures or underpayment are attributable to new or increased tax liabilities imposed by the Tax Reform Act.

H.R. 4311. March 2, 1977. Judiciary; District of Columbia. Empowers a judicial officer of a Federal or District of Columbia court to deny pretrial release to a person charged with a violent crime upon finding that no conditions of release can reasonably assure that such person will not flee or pose a danger to any other person or to the community.

H.R. 4312. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4313. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4314. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4315. March 2, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4316. March 2, 1977. Veterans' Affairs. Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself.

Revises the application of rules governing the two-year period a course must be in operation before enrollment of eligible veterans or persons can be approved.

H.R. 4317. March 2, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

Regulates the export of nuclear material, equipment, and devices.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 4318. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such title.

H.R. 4319. March 2, 1977. Post Office and Civil Service. Requires the retirement of any

Federal employee reappointed after a break in service of more than three days who has attained age 70 years and has completed five years of creditable service. Permits Federal retirees with five years of creditable service to retain their life and health insurance benefits and receive Federal annuities.

H.R. 4320. March 2, 1977. Post Office and Civil Service. Discontinues civil service pension annuities during the period an annuitant is serving as a judge or justice of the United States. Permits such person, upon termination of judicial service, to elect to continue receiving an annuity or to receive a lump-sum payment.

Permits retirees entitled to elect a reduced annuity with a survivor annuity by reason of marriage which occurred after retirement but before January 8, 1971, who failed to make such election within the maximum time allowable because of a failure to notify such person of such right, to make such election within one year after the effective date of this Act.

H.R. 4321. March 2, 1977. Judiciary. Directs the Attorney General to establish Special Drug Forces in the Department of Justice composed of law enforcement personnel and special United States attorneys.

Declares the duty of the drug forces to be to assist States and local governments in which there is an unusually large amount of drug trafficking and whose law enforcement and criminal justice system is unable to effectively prosecute violations of the Controlled Substances Act.

H.R. 4322. March 2, 1977. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 4323. March 2, 1977. Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 4324. March 2, 1977 Banking, Finance and Urban Affairs. Prescribes procedures and standards governing the disclosure of customer records by financial institutions to Federal agencies.

H.R. 4325. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional income tax exemption for a taxpayer or his spouse who is deaf.

H.R. 4326. March 2, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to formulate and administer a fuel stamp program under which, at the request of any State chief executive, an eligible household within such State shall have the opportunity to offset a portion of its fuel bill with coupons amounting to an allotment of $25 monthly.

H.R. 4327. March 2, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that the automatic cost-of-living increases in benefits be made on a semiannual basis (rather than only on an annual basis as at present).

H.R. 4328. March 2, 1977. Ways and Means. Authorizes and directs the Secretary of Labor, through the Bureau of Labor Statistics, to prepare, as part of the Consumer Price Index, the Consumer Price Index for the Aged and Other Social Security Beneficiaries designed to reflect the relevant price information for individuals, as a group, who are 65 years of age or older or are otherwise entitled to monthly benefits under the program of Old-Age, Survivors, and Disability Insurance of the Social Security Act.

H.R. 4329. March 2, 1977. House Administration. Sets forth requirements for State Presidential primary elections with respect to (1) dates of such elections, (2) eligibility of a political party for a separate ballot, (3) eligibility of voters, (4) scope of voter choice, (5) allocation of delegates at nominating conventions, and (6) selection of convention delegates.

Specifies alternative procedures for obtaining placement on primary ballots.

H.R. 4330. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (medicare) and title XIX (medicaid) of the Social Security Act to provide payment for services performed by professional clinical social workers. Includes outpatient services, community mental health centers, and neighborhood health centers among "qualified providers" under titles XVIII and XIX. Removes specified limitations which are imposed on coverage of psychiatric and mental health services under such titles.

H.R. 4331. March 2, 1977. Judiciary. Declares any law, regulation, or contract requiring an employee to assign to his employer all patent rights to any invention of the employee void unless the invention (1) was made by an employee while performing compensated services, (2) specifically relates or grew out of work performed by the employee for the employer, or (3) was made with the use of the employer's materials or facilities.

H.R. 4332. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals whose income consists solely of employee compensation and interest to elect to have the Internal Revenue Service compute their income tax liability.

H.R. 4333. March 2, 1977. Armed Services. Authorizes the Secretary of Defense to transfer to the Secretary of the Interior a specified part of Fort Story Military Reservation, Cape Henry, Va., for inclusion in the Colonial National Historical Park.

H.R. 4334. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to provide a deduction for State and local taxes imposed on the furnishing or sale of electrical energy, water, sewage disposal services, gas, or telephone services.

H.R. 4335. March 2, 1977, Judiciary. Grants a Federal charter to the United States Submarine Veterans of World War II.

H.R. 4336. March 2, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to extend for one year the emergency compensation program thereunder so as to permit benefits to be paid with respect to weeks ending before March 31, 1978.

H.R. 4337. March 2, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to direct the Secretary of Commerce to require that a specified percentage of United States oil imports be transported on United States-flag vessels.

H.R. 4338. March 2, 1977. Judiciary. Directs the Attorney General to make a record of lawful admission for permanent residence for illegal aliens who meet specified conditions who were in the United States prior to July 4, 1976 and for certain aliens with nonimmigrant or parolee status.

Amends the Immigration and Nationality Act to subject employers who bring into the United States or harbor illegal aliens to a fine or imprisonment.

H.R. 4339. March 2, 1977. Public Works and Transportation; Ways and Means. Directs the Secretary of the Army to promulgate regulations establishing a user charge for shallow-draft cargo vessels for the use by such vessels of any navigation project on any inland waterway of the United States.

Amends the Federal-Aid Highway Act of 1976 to extend the time during which the National Transportation Policy Study Commission has to submit its final report to Congress regarding its study of the transportation needs of the United States.

Amends the Internal Revenue Code to impose a tax on the sale of fuels used by shallow-draft vessels used in commercial inland waterway transportation.

H.R. 4340. March 2, 1977. Education and Labor. Amends the administration and enforcement procedures of the Employee Retirement Income Security Act of 1974 to direct the President to establish an Employee Benefit Administration.

Empowers such Administration to perform, among other duties, (1) the functions of the Secretary of Labor under the Employee Retirement Income Security Act and the Welfare and Pension Plans Disclosure Act and (2) such functions of the Secretary of the Treasury under the Internal Revenue Code regarding employee benefit plans and under the Employee Retirement Income Security Act as the President may designate.

Establishes the Pension Benefit Guarantee Corporation within the Administration.

H.R. 4341. March 2, 1977. Veterans' Affairs. Eliminates the requirement for inspections of the mobile home manufacturing process by the Administrator of Veterans' Affairs in connection with the granting of loans to veterans for the purchase of such homes.

H.R. 4342. March 2, 1977. Agriculture. Amends the Disaster Relief Act of 1974 to provide disaster victims with two options for borrowing funds: (1) a three percent interest rate with up to $2,500 forgiveness on the loan; or (2) a one percent interest rate with no forgiveness clause.

H.R. 4343. March 2, 1977. Post Office and Civil Service. Sets forth a plan for the conduct of labor-management relations in the Federal service. Establishes the Federal Labor Relations Authority, responsible for carrying out the purposes of this Act.

H.R. 4344. March 2, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 4345. March 2, 1977. Amends the Internal Revenue Code to provide a $5,000 tax exclusion from gross income for any amount received as an annuity, pension, or other retirement benefit.

H.R. 4346. March 2, 1977. Banking, Finance and Urban Affairs. Establishes a Federal Bank Commission to administer all Federal laws regulating the banking business, foreign and domestic.

Transfers to such Commission all bank examining and supervisory functions of the Board of Directors of the Federal Deposit Insurance Corporation, and specified functions of the Comptroller of the Currency.

Transfers to such Commission all functions of the Federal Reserve System under the Bank Holding Company Act, the Consumer Credit Protection Act, the Edge Act, the Clayton Act, the Banking Act of 1933, and the Securities Acts with certain exceptions.

H.R. 4347. March 2, 1977. Judiciary. Relieves the Milton Public Library, Milton, Pennsylvania, and the Himmelreich Library, Lewisburg, Pennsylvania, of all liability to the United States for allegedly wrongful payments by the Federal Disaster Assistance Administration.

H.R. 4348. March 2, 1977. Public Works and Transportation. Transfers from the Secretary of the Army to the Secretary of the Interior the authority, real property, project authorization and unexpended appropriations for the Tocks Island Reservoir Project, Pennsylvania, New Jersey, and New York. Terminates authorization of the project as part of the Delaware River Basin project under the Flood Control Act of 1962. Stipulates the priorities of the Secretary of the Interior in administration of the project.

H.R. 4349. March 2, 1977. Judiciary. Relieves certain Pennsylvania libraries of liability for allegedly wrongful payments by the Federal Disaster Assistance Administration.

H.R. 4350. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals a non-refundable income tax credit for the first $300 in expenses incurred with respect to each dependent for primary or secondary education in a private nonprofit school.

H.R. 4351. March 2, 1977. Judiciary. Amends the Clayton Act to prohibit persons with nonfarming business assets in excess of $3,000,000 from engaging in the production of agricultural products. Directs the Secretary of Agriculture to acquire, under certain circumstances, any property or interest of which a person must divest himself by virtue of this prohibition.

H.R. 4352. March 2, 1977. International Relations. Amends the Export Administration Act of 1969 to direct the Secretary of Commerce to prohibit participation of domestic concerns in foreign restrictive trade practices or boycotts. Imposes a penalty for violation of such prohibitions. Authorizes civil actions for treble damages by persons aggrieved by violations of this Act. Repeals the authority of the President to allocate a portion of export licenses on factors other than exportation history.

H.R. 4353. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to provide identical income tax rates for single persons and married couples filing joint returns. Limits the earned income that must be reported by a married individual filing a separate return to the amount actually earned by that individual.

H.R. 4354. March 2, 1977. Interior and Insular Affairs. Enlarges the boundaries of Sequoia National Park, Calif., by including Mineral King Valley.

H.R. 4355. March 2, 1977. Post Office and Civil Service. Prohibits cost-of-living salary adjustments for Members of Congress pursuant to the Legislative Reorganization Act of 1946 on or after October 1, 1977, and before October 1, 1978.

H.R. 4356. March 2, 1977. Banking, Finance and Urban Affairs. Requires appropriate Federal financial supervisory agencies to develop programs and procedures which will encourage financial institutions to help meet the credit needs of the local communities in which they are chartered.

H.R. 4357. March 2, 1977. Education and Labor. Amends the Civil Rights Act of 1964 to define sex discrimination for employment purposes to include discrimination on the basis of pregnancy.

H.R. 4358. March 2, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency. Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4359. March 2, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency..

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4360. March 2, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4361. March 2, 1977. Merchant Marine and Fisheries; Ways and Means. Prohibits the importation of fish or fish products produced by any foreign nation which (1) is engaged in the killing or capturing of whales, (2) is not a member of the International Whaling Commission, (3) violates certain Commission regulations, and (4) transfers equipment for the killing or capturing of whales to any other enterprise which engages in certain activities concerning the killing or capturing of whales within ten years of such transfer.

Sets forth procedures for implementation of such prohibitions by the Secretary of Commerce and the Secretary of the Treasury.

H.R. 4362. March 2, 1977. Small Business; Government Operations; Banking, Finance and Urban Affairs. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority concerns. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 4363. March 2, 1977. Small Business; Government Operations; Banking, Finance and Urban Affairs. Amends the Small Business Act to expand assistance under such Act to minority small business concerns. Establishes the Office of Minority Small Business Assistance Personnel to work with all Government agencies having procurement powers. Provides statutory standards for contracting and subcontracting by the United States with respect to minority contracts. Creates a Commission on Federal Assistance to Minority Enterprise.

H.R. 4364. March 2, 1977. Judiciary. Amends provisions of Federal law setting forth penalties for interstate or foreign commerce in stolen cattle to include stolen swine, sheep, fowl, insects, horses, mules, or carcasses thereof.

H.R. 4365. March 2, 1977. Banking, Finance and Urban Affairs. Creates the National Consumer Cooperative Bank, the Self-help Development Fund, and the Cooperative Bank and Assistance Administration to assist the formation and growth of consumer and other types of self-help cooperatives.

H.R. 4366. March 2, 1977. Judiciary. Grants a Federal charter to the National Opportunity Camps.

H.R. 4367. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4368. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4369. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4370. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formulary Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4371. March 2, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) and Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act to extend Medicare hospital coverage to include drugs. Establishes a Formula Committee within the Department of Health, Education, and Welfare to prepare and maintain a listing of qualified drugs.

H.R. 4372. March 2, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals

H.R. 4373. March 2, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals.

H.R. 4374. March 2, 1977. Education and Labor. Amends the Elementary and Secondary Education Act of 1965 to direct the Commissioner of Education to make grants to, and enter into contracts with, institutions of higher education for the purpose of offering five-year demonstration programs to encourage disadvantaged secondary education students to pursue professional training in the biomedical sciences.

Sets forth the activities each demonstration program must provide and the criteria each applicant must meet in order to be eligible for assistance under such program.

H.R. 4375. March 2, 1977. Judiciary. Includes investigation, inspection, and law enforcement personnel of the Department of the Interior in the list of Federal officials whose homicide shall be subject to Federal criminal laws.

H.R. 4376. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to limit application of the Tax Reform Act's elimination of the sick pay exclusion for persons who have not retired on total disability, to taxable years beginning after December 31, 1976.

H.R. 4377. March 2, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior and the Cherokee, Choctaw, and Chickasaw Indian Nations to enter lease or purchase agreements transferring the Nation's rights and interests in the Arkansas Riverbed to the United States, subject to the approval of both Houses of Congress.

H.R. 4378. March 2, 1977. Interior and Insular Affairs. Provides for the quadrennial election of officers and a tribal council of the Osage Indian Tribe of Oklahoma. Outlines the procedure for the election, filling of vacancies, and removal of such officials.

H.R. 4379. March 2, 1977. Interior and Insular Affairs. Amends the Act reserving certain mineral rights to the Osage Tribe of Oklahoma to make those rights perpetual.

H.R. 4380. March 2, 1977. Interior and Insular Affairs. Amends the Act placing certain property of the Osage Tribe of Oklahoma in the trusteeship of the United States, to continue such trusteeship indefinitely.

H.R. 4381. March 2, 1977. Interior and Insular Affairs. Provides that the Department of the Interior may determine the heirs of legatees of any deceased owner of mineral rights, unrestricted real estate, or funds on deposit of the Osage Tribe of Oklahoma.

H.R. 4382. March 2, 1977. Interior and Insular Affairs. Amends certain provisions of law to permit any adult member of the Osage Indian Tribe of Oklahoma to dispose of his estate by will and establish an intervivos trust. Places the property of deceased and incompetent members of that tribe under the jurisdiction of the District Court of Oklahoma. Restricts the inheritance rights of persons not of Osage or Indian blood in certain interests.

H.R. 4383. March 2, 1977. Interior and Insular Affairs. Repeals the Act requiring the Secretary of the Interior to issue a certificate of competency to members of the Osage Tribe of Oklahoma of less than one-half In-

dian blood. Requires the Secretary to revoke, upon application, certificates of competency issued to members of the Osage Tribe under certain provisions of law. Removes certain distinctions between full-blooded Osage Indians and half-blooded members of that tribe.

H.R. 4384. March 2, 1977. Ways and Means; Interior and Insular Affairs. Exempts the Osage Indians of Oklahoma and their estates from the payment of estate, inheritance and income taxes on any Osage headright or mineral interest and the income derived from that interest.

H.R. 4385. March 2, 1977. Interior and Insular Affairs. Provides for the use of certain funds related to the Osage Indian Tribe of Oklahoma.

H.R. 4386. March 2, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to establish rules and regulations pertaining to leases on oil and gas within the Osage Indian Tribes mineral estate so that oil and gas leases producing from a common source of supply may be unitized.

H.R. 4387. March 2, 1977. Judiciary. Relieves certain Pennsylvania libraries of liability for allegedly wrongful payments by the Federal Disaster Assistance Administration.

H.R. 4388. March 2, 1977. Education and Labor; Ways and Means. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria with respect to the black lung benefits program established under such Act.

Creates the Black Lung Disability Insurance Fund for the payment of claims, to be financed by the imposition of an excise tax on coal mine operators.

H.R. 4389. March 2, 1977. Education and Labor; Ways and Means. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria with respect to the black lung benefits program established under such Act.

Creates the Black Lung Disability Insurance Fund for the payment of claims, to be financed by the imposition of an excise tax on coal mine operators.

H.R. 4390. March 2, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to construct interceptor and collector drains as part of the San Luis Unit, Central Valley Project, California.

H.R. 4391. March 2, 1977. Banking, Finance and Urban Affairs. Amends the United States Housing Act of 1937 to authorize the Secretary of Housing and Urban Development to make contributions to enable public housing agencies to enter into security arrangements designed to prevent crimes and insure the safety and well-being of tenants.

H.R. 4392. March 2, 1977. Ways and Means. Amends the Social Security Act in order to replace all existing Federal public assistance and welfare programs with a guaranteed annual income program.

H.R. 4393. March 2, 1977. Education and Labor. Amends the Service Contract Act of 1965 to extend its coverage to professional employees who are paid at a rate not exceeding the rate received by Federal Government employees in grade 15 of the General Schedule. Requires that the minimum fringe benefits and salaries paid to such employees conform to the most recent National Survey of Professional, Administrative, Technical, and Clerical Pay issued by the Department of Labor.

H.R. 4394. March 2, 1977. Agriculture. Directs the Secretary of Agriculture to coordinate all research, extension, and teaching activity in the food and agricultural sciences conducted or financed by the Department of Agriculture and other agencies of the executive branch of the Federal Government. Authorizes the Secretary to cooperate with and assist the States in carrying out programs of animal disease research. Establishes competitive grants and teaching assistantship programs to help carry out the purposes of this Act.

H.R. 4395. March 2, 1977. Veterans' Affairs. Provides that all decisions of the Administrator of Veterans' Affairs be subject to judicial review and that all rules, regulations, orders and determinations of the Administrator be subject to the provisions of the Administrative Procedure Act. Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 4396. March 2, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to include within the definitions of "air commerce" and "air transportation" intrastate air commerce and transportation.

H.R. 4397. March 2, 1977. Agriculture; International Relations. Amends the Agricultural Trade Development and Assistance Act of 1954 to extend authority to finance agricultural commodity sales and to enter into commodity assistance programs to 1981.

H.R. 4398. March 3, 1977. Education and Labor. Amends requirements of the Comprehensive Employment and Training Act of 1973 for prime sponsor comprehensive manpower plans under the comprehensive manpower services program and for applications for assistance under the public service employment programs.

Revises eligibility for designation as prime sponsors and composition guidelines for prime sponsor planning councils.

Imposes restrictions relative to the operation of public service employment programs.

Revises conditions applicable to all programs under the Comprehensive Employment and Training Act of 1973.

H.R. 4399. March 2, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals treat amounts for certain improvements to property for medical care purposes as deductible medical care expenses without reducing the deduction for any increase in the value of the property.

H.R. 4400. March 2, 1977. Judiciary. Authorizes a certain corporation to appeal a certain order of the Federal Communications Commission.

H.R. 4401. March 3, 1977. Judiciary. Authorizes the conditional admission of a certain person to the United States for permanent residence.

H.R. 4402. March 2, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4403. March 2, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4404. March 2, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4405. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to include chronic renal disease requiring hemodialysis or renal transplantation within the definition of the term "disability" for purposes of determining an individual's eligibility for disability insurance benefits without regard to such individual's ability or inability to engage in substantial gainful activity.

H.R. 4406. March 3, 1977. Government Operations. Amends the Intergovernmental Cooperation Act of 1968 to require the Federal Government to coordinate any sale, purchase, or change of use of Federal real estate with State and local authorities. Requires as a condition for Federal areawide development assistance that State and local governments and areawide agencies prepare coordinated areawide development plans.

H.R. 4407. March 3, 1977. Judiciary. Amends provisions imposing additional sentences for commission of a Federal felony with the use of, or while unlawfully carrying, a firearm to (1) increase the minimum authorized sentence, (2) remove maximum limits for such sentences, and (3) prohibit suspended and probationary sentences with respect to first, as well as to subsequent, convictions.

H.R. 4408. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to provide a $5,000 tax exclusion for persons aged 65 or over for amounts received as an annuity, pension, or other retirement benefit, and for all persons receiving retirement benefits under a public retirement system.

H.R. 4409. March 3, 1977. International Relations. Sets forth United States nuclear nonproliferation policy. Directs that the United States initiate negotiations to establish criteria and safeguards for nuclear materials and equipment. Directs that the United States assure an international nuclear fuel supply. Revises the procedures for approval of proposed international agreements for cooperation.

Grants the Nuclear Regulatory Commission authority to approve retransfers under such agreements. Sets forth the licensing criteria for nuclear exports. Restricts the authority of ERDA to distribute special nuclear material. Permits the President to suspend nuclear export licensing to prevent proliferation.

H.R. 4410. March 3, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

Regulates the export of nuclear material, equipment, and devices.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 4411. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4412. March 3, 1977. Ways and Means; Interstate and Foreign Commerce. Presents a national health care plan. Establishes a program of grants and loans for the construction and modernization of comprehensive ambulatory health care centers. Sets forth a health care insurance program.

Amends the Internal Revenue Code to provide an unlimited personal deduction for amounts paid for health care plans providing specified minimum benefits. Limits the deductions employers may take for contributions to employee health care plans. Limits the damages available in malpractice suits arising from the furnishing of services under such a health care plan, or under the Social Security Act.

H.R. 4413. March 3, 1977. Post Office and Civil Service. Requires agency heads to notify each employee of any administrative procedure through which adverse agency action, taken or proposed, may be challenged.

H.R. 4414. March 3, 1977. Ways and Means. Revises the Internal Revenue Code by amending and repealing portions of the Code with respect to capital gains and losses, income derived from the extraction of minerals, individual and corporate income, the estate and gift tax and State and local obligations.

H.R. 4415. March 3, 1977. Ways and Means. Amends the Social Security Act to provide that, if the delivery day for benefit checks

under Titles II and XVI falls on a Saturday, Sunday, or legal public holiday, benefit checks for such month shall be mailed for delivery on the first day preceding such designated day which is not a Saturday, Sunday, or legal public holiday, without regard to whether the delivery of such checks is made in the same calendar month for which such benefit checks are issued.

H.R. 4416. March 3, 1977. Education and Labor. Repeals the Occupational Safety and Health Act of 1970.

H.R. 4417. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors and Disability Insurance) of the Social Security Act by removing the limitation upon the amount of outside income which an individual may earn while receiving benefits.

H.R. 4418. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax deduction for the amounts paid to meet the educational expenses at a higher education institution or a trade or vocational school for the taxpayer, his spouse or any individual for which the taxpayer is entitled to a personal exemption.

H.R. 4419. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4420. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husband's and widower's insurance benefits; (2) to reduce from 20 to 15 years the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 4421. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husband's and widower's insurance benefits; (2) to reduce from 20 to 15 years the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 4422. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors', and Disability Insurance) of the Social Security Act: (1) to eliminate special dependency requirements for entitlement to husband's and widower's insurance benefits; (2) to reduce from 20 to 15 years the duration-of-marriage requirement for divorced wives; (3) to provide benefits for certain divorced husbands; (4) to provide benefits to husbands who have minor children in their care; and (5) to provide benefits for widowed fathers with minor children on the same basis as benefits for wives, widows, and mothers. Permits the payment of old-age insurance to a married couple on their combined earnings record.

H.R. 4423. March 3, 1977. Ways and Means. Removes the limitation on the amount of outside income which an individual may earn while receiving benefits under Title I (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4424. March 3, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for one comprehensive physical examination a year, dental care including dentures, eye examinations including eyeglasses, hearing aids including examination, treatment of foot conditions, and immunizations under the supplementary medical insurance program.

Sets forth measures to safeguard against consumer abuse in the provision of these items and services.

H.R. 4425. March 3, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 4426. March 3, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria for the black lung benefits program established under such Act. Requires a re-evaluation of prior claims in light of changes made by this Act.

H.R. 4427. March 3, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make the provisions, currently applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 4428. March 3, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 4429. March 3, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of general or cost-of-living increases in social security benefits or in benefits under any other Federal retirement, annuity or endowment program.

H.R. 4430. March 3, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 4431. March 3, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 4432. March 3, 1977. Veterans' Affairs. Provides for the payment of pensions to certain veterans of World War I and their widows.

H.R. 4433. March 3, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to exempt from the antitrust laws certain market allocation agreements made as part of a licensing contract for the manufacture, distribution or sale of trademarked soft drink products.

H.R. 4434. March 3, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4435. March 3, 1977. Education and Labor. Directs the Bureau of Labor Statistics to expand the current Population Survey to provide each State, Puerto Rico, Guam, Virgin Islands, and District of Columbia monthly statistics of the number of unemployed persons within its jurisdiction.

H.R. 4436. March 3, 1977. Education and Labor. Directs the Bureau of Labor Statistics to expand the current Population Survey to provide each State, Puerto Rico, Guam, Virgin Islands, and District of Columbia monthly statistics of the number of unemployed persons within its jurisdiction.

H.R. 4437. March 3, 1977. Agriculture. Amends the Agricultural Act of 1949 to establish the support price of milk at not less than 85 percent of parity, adjusted quarterly.

H.R. 4438. March 3, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that prescription drugs manufactured in final dosage form and distributed or packed by a different person be labeled to show the identity of both the manufacturer and the distributor or packer.

H.R. 4439. March 3, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 4440. March 3, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the procedures for voluntary departure of illegal aliens and to set minimum penalties for entering the United States illegally and for bringing in or harboring an illegal alien.

Sets the border patrol force at a minimum of 3,800 officers. Requires the Attorney General to study the feasibility of requiring aliens to carry machine readable identification cards and of providing the border patrol with electronic sensing devices.

H.R. 4441. March 3, 1977. Government Operations; Rules. Terminates the Civil Aeronautics Board, the Federal Aviation Administration, and the Occupational Safety and Health Administration of the Department of Labor on October 1, 1980. Terminates the Federal Energy Administration, the Interstate Commerce Commission, and the Federal Marine Commission on October 1, 1981. States that such agencies may be continued for an additional period of time if such extension is authorized by specific legislation after public hearings are held on the appropriateness of such extension and after receipt of reports from the General Accounting Office, the Congressional Budget Office, and the Office of Management and Budget fully evaluating each such agency separately.

H.R. 4442. March 3, 1977. Agriculture. Repeals the Food Stamp Act of 1964. Directs the Secretary of the Treasury to make payments to each State of the Nation during each of the five fiscal years following enactment of this Act for the purpose of financing a program which is established and maintained by each State to assist in meeting the nutritional needs of its citizens.

H.R. 4443. March 3, 1977. Banking, Finance and Urban Affairs. Amends the Federal Deposit Insurance Act to prohibit any insured bank from investing any of the funds of a common trust fund or other fund for the collective investment of assets held by the bank as fiduciary, agent, or in any similar capacity, in real estate used principally for agricultural purposes.

H.R. 4444. March 3, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revision or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 4445. March 3, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4446. March 3, 1977. Armed Services. Entitles members of the armed forces reserves who were on active duty after August 13, 1961, and before May 31, 1963, or after August 5, 1964, to retired pay.

H.R. 4447. March 3, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Department of Health, Education, and Welfare to convey specified lands in the State of California to D-Q University.

H.R. 4448. March 3, 1977. Post Office and Civil Service. Extends to former employees of county soil conservation committees who are employed by any Federal agency, specified civil service compensation, leave, and seniority benefits afforded to former employees of such county committees who are employed by the Department of Agriculture.

H.R. 4449. March 3, 1977. Judiciary. Amends the Immigration and Nationality Act to make it unlawful to knowingly hire an alien not lawfully admitted into the United States. Requires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

Permits the Attorney General to adjust the status of specified illegal aliens to that of alien lawfully admitted for permanent residence.

H.R. 4450. March 3, 1977. Judiciary. Amends the Bail Reform Act of 1966 to require consideration of the safety of others and the community at large in setting conditions for pretrial release.

Permits the Government to appeal conditions of release in certain circumstances. Directs that a convicted person who has filed an appeal be detained unless it is shown by clear and convincing evidence that the appeal raises a substantial question of law or fact.

Sets forth sanctions for violating release conditions, threatening witnesses or jurors while on release, and committing serious offenses while on release.

H.R. 4451. March 3, 1977. Interior and Insular Affairs: International Relations. Amends the Mineral Leasing Act of 1920 to prohibit exports of domestically-produced and pipeline-transported crude oil to foreign nations, with the limited exception of exchanges or temporary exports for convenience or increased efficiency of transportation.

H.R. 4452. March 3, 1977. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to prohibit national television networks from: (1) supplying licensees with more than one-half of programming hours broadcast; (2) being the licensee of more than one television broadcasting station; and (3) having a beneficial or financial interest in any television broadcasting station of which it is not the licensee. Requires plans of divestiture to be filed with the Federal Communications Commission.

Directs the Commission to study the effects of this Act and report annually to Congress.

H.R. 4453. March 3, 1977. Judiciary. Requires candidates for Federal Office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 4454. March 3, 1977. Judiciary; Post Office and Civil Service; Armed Services; Standards of Official Conduct. Sets standards of conduct for employees and officers of the Federal Government. Requires specified Federal officers and employees to file financial disclosure statements which are to be made available to the public. Establishes a Commission on Ethics and Financial Disclosure to investigate and report violations of this Act to the Attorney General for enforcement.

H.R. 4455. March 3, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 4456. March 3, 1977. Banking, Finance and Urban Affairs. Amends the Federal Fire Prevention and Control Act of 1974 to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to voluntary fire departments to enable them to purchase firefighting equipment which they cannot afford due to post-1972 inflation.

H.R. 4457. March 3, 1977. Government Operations. Amends the Reorganization Act of 1949 to extend the President's authority to submit Executive branch reorganization plans to Congress to December 31, 1980. Requires the approval of both Houses of Congress within 60 days after the date on which such plan is transmitted to Congress to give such plan effect. Gives the Senate and Government Operations 45 days to consider such plan at which time such Committees must report their recommendations of such plan or be discharged from further consideration thereof.

H.R. 4458. March 3, 1977. Ways and Means. Amends the Internal Revenue Code with respect to distilled spirits and wines hereafter called liquors to allow, under regulations prescribed by the Secretary of the Treasury: (1) labeling gin or vodka with a trademark without conspicuously displaying the names of the distiller or producer; (2) the drawback of taxes paid on imported liquors, packaged or bottled in the United States, which are to be exported; and (3) the tax free return of liquors to bonded premises for bonded storage pending export.

H.R. 4459. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals an income tax credit for up to $100 of the expenses incurred for the higher education of the taxpayer, his spouse or a dependent.

H.R. 4460. March 3, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of workers certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred up to two years prior to the date of the petition on which such certification was granted.

H.R. 4461. March 3, 1977. Interior and Insular Affairs. Authorizes the Secretary of Agriculture and the Secretary of the Interior to permit the conduct of weather modification activities and environmental research which are within or may affect areas which are a part of the national wilderness preservation system or other Federal lands.

H.R. 4462. March 3, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study the feasibility of establishing a national park, recreation area, or wilderness area at appropriate segments of the Ridgelands east of San Francisco Bay, California.

H.R. 4463. March 3, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study the feasibility of establishing a national park, recreation area, or wilderness area at appropriate segments of the Ridgelands east of San Francisco Bay, California.

H.R. 4464. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to exclude from the income tax, pensions paid to retired policemen and firefighters, or to their dependents, widows or other survivors, to the extent that such benefits are based on full-time service for a governmental entity.

H.R. 4465. March 3, 1977. Ways and Means; Interstate and Foreign Commerce. Requires every employer to offer qualified health care insurance to his employees and their families. Establishes a program of Federal participation to provide qualified health care insurance to low-income, nonemployed and self-employed individuals and their families. Requires the Secretary of Health, Education, and Welfare to pay the full premium for continuation of qualified health care insurance for individuals receiving State or Federal unemployment benefits.

H.R. 4466. March 3, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4467. March 3, 1977. International Relations. Amends the Foreign Assistance Act of 1961 to authorize appropriations for fiscal year 1978 for the relief of victims of the May 6, 1976, earthquake in Italy.

H.R. 4468. March 3, 1977. Science and Technology. Directs the Secretary of Commerce to coordinate the establishment and operation of a Federal climate program for the collection, analysis, and dissemination of data concerning climatic states and the influence of human activities on climatic dynamics. Empowers the Secretary, in order to carry out the purposes of this Act, to: (1) establish advisory committees composed of experts in climatology and related fields and of representatives of interested Federal departments; and (2) transfer funds and make grants to governmental bodies and to nonprofit and educational institutions.

H.R. 4469. March 3, 1977. Government Operations. Amends the Accounting and Auditing Act to direct the Comptroller General to make audits of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency. Sets forth procedures for making such audits.

Requires the General Accounting Office to prepare a report to Congress with its conclusions.

H.R. 4470. March 3, 1977. Post Office and Civil Service. Provides third-class mailing privileges to Gold Star Wives of America, Inc.

H.R. 4471. March 3, 1977. Interstate and Foreign Commerce. Prohibits the use of any means or instrumentality of transportation or communication in or affecting interstate or foreign commerce to engage in an unfair consumer practice in connection with the sale or distribution of services, or other property.

H.R. 4472. March 3, 1977. Judiciary. Requires lobbyists to: (1) register with the Federal Election Commission; (2) make and retain specified records; and (3) file reports with the Commission regarding their activities.

H.R. 4473. March 3, 1977. Post Office and Civil Service. Increases civil service retirement and survivors' annuities (other than an annuity of a surviving child) by the lesser of $26 per month or the amount necessary, if any, to increase such annuity to $260 per month. Increases the annuity of a surviving child by the lesser of $26 per

month or $78 per month divided by the number of children.

H.R. 4474. March 3, 1977. Public Works and Transportation. Amends the Federal Water Pollution Control Act to delete the requirement that industrial users pay a proportionate share of the costs of federally-assisted waste treatment works. Removes restrictions on user charge systems utilized by applicants for waste treatment construction grants provided that such applicants demonstrate that operation and maintenance costs will be recovered.

H.R. 4475. March 3, 1977. Public Works and Transportation. Authorizes Federal grants to assist the States in developing and implementing comprehensive and continuing plans for services to the blind.

H.R. 4476. March 3, 1977. Public Works and Transportation. Amends the Public Works and Economic Development Act of 1965 to authorize the Secretary of Commerce to make grants to, and enter into contracts with, State and local governments, Indian tribes, and Alaska Native organizations to pay the costs of community improvements projects carried out by youths.

H.R. 4477. March 3, 1977. Ways and Means. Amends the Supplemental Security Income program of the Social Security Act to increase the guaranteed annual income under such Act, to exclude certain assets and forms of income from consideration in the determination of eligibility and benefit amounts under such program, and to require the establishment of an outreach program to inform all individuals who may become eligible for such benefits of the availability of such benefits and the steps to be taken in obtaining them.

H.R. 4478. March 3, 1977. Judiciary. Amends the Immigration and Nationality Act to make it unlawful to knowingly hire an alien not lawfully admitted into the United States. Reqquires that employees of the Department of Health, Education, and Welfare disclose the names of illegal aliens who are receiving assistance under the Social Security Act.

Makes punishable by a fine or imprisonment the making of false border crossing cards, alien registration receipt cards, and other documents used for entry into the United States.

Permits the Attorney General to adjust the status of specified illegal to that of alien lawfully admitted for permanent residence.

H.R. 4479. March 3, 1977. Judiciary. Removes Federal court jurisdiction over school assignment.

H.R. 4480. March 3, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4481. March 3, 1977. Agriculture. Directs the Secretary of Agriculture to make payments to farmers and ranchers who operate a beef or dairy production business in an area designated as an emergency area or major disaster area and who are forced to sell their livestock foundation herd in order to avoid excessive financial losses.

H.R. 4482. March 3, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Court to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 4483. March 3, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to require skilled nursing facilities participating in the Medicare program to comply with relevant provisions of the 1976 edition of the Life Safety Code of the National Fire Protection Association.

H.R. 4484. March 3, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Servie and Labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing and adverse actions which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 4485. March 3, 1977. Judiciary. Authorizes a certain individual to enroll in the self and family option of the Foreign Service Benefit Plan.

H.R. 4486. March 3, 1977. Judiciary. Authorizes a certain corporation to appeal a certain order of the Federal Communications Commisison.

H.R. 4487. March 3, 1977. Judiciary. Authorizes a certain corporation to appeal a certain order of the Federal Communications Commission.

H.R. 4488. March 3, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4489. March 3, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4490. March 3, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4491. March 4, 1977. Public Works and Transportation. Authorizes modification of the navigation project for Port Everglades Harbor, Florida.

H.R. 4492. March 4, 1977. Interstate and Foreign Commerce. Amends the Uniform Time Act to establish the starting date of daylight savings time as Memorial Day, and the ending date as Labor Day.

H.R. 4493. March 4, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of, a firearm to (1) increase the penalties thereunder, (2) encompass State crimes, (3) prohibit a suspended or probationary with respect to a first conviction, and (4) forbid a defendant to plead guilty to a lesser charge.

H.R. 4494. March 4, 1977. Public Works and Transportation. Amends the Interstate Commerce Act to exempt from the motor vehicle provisions of such act motor vehicles used exclusively for the transportation of members of religious organizations.

H.R. 4495. March 4, 1977. Veterans' Affairs. Removes the 10-year delimiting period during which eligible veterans must complete their programs of education, and terminates all educational assistance to any eligible veteran as of December 31, 1989.

H.R. 4496. March 4, 1977. Ways and Means. Amends title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide benefits for widowed fathers with minor children on the same basis as benefits for widowed mothers with minor children.

H.R. 4497. March 4, 1977. Ways and Means. Amends the Internal Revenue Code to allow taxpayers to amortize coal mining equipment over a period of 12 months.

H.R. 4498. March 4, 1977. Interstate and Foreign Commerce. Authorizes the Secretary of Health, Education, and Welfare to establish and administer a program to assist States in providing energy stamps to certain low-income households in order to enable such households to meet residential energy costs.

H.R. 4499. March 4, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for occupational therapy services under the supplementary medical insurance program.

H.R. 4500. March 4, 1977. House Administration. States that the third Tuesday in June of each election year shall be the last possible day on which a State may hold a primary election for Federal office.

H.R. 4501. March 4, 1977. Armed Services. Excludes industrially funded personnel from the computation of the end strength for civilian personnel within the Department of Defense for any fiscal year.

H.R. 4502. March 4, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commisison to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 4503. March 4, 1977. Veterans' Affairs. Provides that representatives of the Polish Legion of American Veterans are recognized as claims agents for claims arising under laws administered by the Veterans' Administration.

H.R. 4504. March 4, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 to make any recommendations of the President regarding the salaries of Members of Congress, the Resident Commissioner from Puerto Rico, and the Senate and House leadership advisory only.

Amends the Legislative Reorganization Act of 1946 to establish the annual rates of pay for Members of Congress, Delegates to the House, the Resident Commissioner from Puerto Rico, and the Senate and House leadership at the rates in effect for such positions on March 1, 1977, unless otherwise revised by law.

H.R. 4505. March 4, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to extend coverage under the supplemental medical insurance program of such Title to aliens who are, and were on January 1, 1975, permanently residing in the United States under color of law although they are not lawfully admitted for permanent residence.

H.R. 4506. March 4, 1977. Veterans' Affairs. Removes the requirement that a member of the Women's Army Auxiliary Corps must have served for at least 90 days before October 1, 1943, and been honorably discharged for a service-connected disability rendering her unfit for further service, in order for such service to be deemed active duty for the purposes of all laws administered by the Veterans' Administration.

H.R. 4507. March 4, 1977. Judiciary. Makes it a Federal crime to fire a firearm or in any manner propel any object at or upon any railroad car engine used by any common carrier engaged in interstate or foreign commerce.

Expands the Federal prohibition against entering a train in any Territory, District, or other place within exclusive Federal jurisdiction with an intent to commit robbery, murder, or other violent crime to encompass entry upon any railroad car used by any common carrier engaged in interstate or foreign commerce.

H.R. 4508. March 4, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to increase the inpatient hospital deductible from $40 to $104 in the case of any spell of illness beginning before 1978.

Amends the Internal Revenue Code to roll back the time period considered for the purpose of determining the rate of hospital insurance tax on employees, employers, and the self-employed.

H.R. 4509. March 4, 1977. Banking, Finance and Urban Affairs; Education and Labor. Di-

rects the President, through the Secretary of Labor, to cary out a progam of projects, by means of contacts with public and private employers and institutions of higher education, to: (1) increase employee participation in decisionmaking and gains due to increased productivity; and (2) demonstrate programs and guidelines to maintain employment levels and improve the quality of working life.

Establishes a Human Resources Advisory Council to furnish advice and assistance in the administration of such projects.

Authorizes the Secretary to guarantee loans made to small businesses to enable them to participate in projects under this Act.

H.R. 4510. March 4, 1977. Interstate and Foreign Commerce; Ways and Means. Revises the criteria and methods for designating Professional Standards Review areas and organizations under the Social Security Act. Extends review to institutions operated by the Public Health Service and Veterans' Administration. Revises the reporting duties of local organizations and the functions of Statewide and National Professional Standards Review Councils. Circumscribes the use which may be made of data acquired by any Professional Standards Review Organization.

H.R. 4511. March 4, 1977. Post Office and Civil Service. Makes National Guard civilian technicians members of the competitive service. Gives such individuals certain rights relating to order of retention and procedures for removal or suspension from employment.

H.R. 4512. March 4, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to authorize the appointment of the daughters of Canal Zone residents and the daughters of personnel of the United States Government and the Panama Canal Company residing in the Republic of Panama to the Merchant Marine Academy.

H.R. 4513. March 4, 1977. Banking, Finance and Urban Affairs. Amends the Defense Production Act of 1950: (1) to pay the expenses of the Joint Committee on Defense Production from the contingent fund of the House of Representatives; and (2) to extend the provisions of such Act through September 30, 1979.

H.R. 4514. March 4, 1977. Judiciary. Sets forth guidelines relative to State and local government liability and Federal court abstention in civil actions for the deprivation of a constitutional or Federal statutory right, including the right to enjoy ones reputation, by persons acting under color of law.

Renders a prosecuting officer of a State, municipality, or other unit of local government liable for damages or subject to an injunction for failure to disclose material evidence.

H.R. 4515. March 4, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Service and labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing any adverse actions which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 4516. March 4, 1977. Post Office and Civil Service. Prohibits collective bargaining agreements between the United States Postal Service and labor organizations recognized as exclusive bargaining representatives for their respective postal employee units from containing any adverse actions which would preclude employees from being represented in grievance and adverse actions arising under such agreements by representatives of their own choosing.

H.R. 4517. March 4, 1977. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to dredge portions of the Yazoo River, Mississippi.

H.R. 4518. March 4, 1977. Interstate and Foreign Commerce. Amends the Health Programs Extension Act of 1973 to prohibit any entity receiving Federal funds from discriminating against any applicant for study because of the views of the applicant regarding abortion or sterilization.

H.R. 4519. March 4, 1977. House Administration. Directs that five regional primaries be held each Presidential election year. Sets forth guidelines for such primaries relative to (1) date, (2) content of ballots, (3) qualifying for placement on ballots, (4) eligibility for voting, and (5) scope of voter choice.

Requires allocation of State convention delegates on the basis of percentage of votes received within the State.

Requires each delegate to vote for the candidate for whom he was appointed until (1) two ballots have been taken, (2) such candidate receives less than 20 percent of votes cast, or (3) such candidate releases him.

H.R. 4520. March 4, 1977. Education and Labor. Establishes (1) a national youth service program designed to provide assistance to States, local governments, and private nonprofit organizations for the employment of youths, (2) an opportunity in private enterprise programs designed to provide assistance to business concerns for the employment of youths, and (3) an Office of Youth Initiatives in the Executive Office of the President.

H.R. 4521. March 4, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 4522. March 4, 1977. Veterans' Affairs. Stipulates that the recalling to duty and assignment on a full-time basis of any retired member of the armed forces to the American Battle Monuments Commission shall not be chargeable against the authorized end strengths and grade limitations of the Department of Defense or the military departments concerned.

H.R. 4523. March 4, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers in the United States who sustain losses incurred on or after January 1, 1973, as a direct result of contamination of their food crops, animal feedcrops, livestock (including poultry), or livestock products by toxic chemicals at levels dangerous to the public health or at such levels that the Secretary determines that the contamination has adversely affected the economic viability of the farming operation.

H.R. 4524. March 4, 1977. Interstate and Foreign Commerce. Amends the Toxic Substance Control Act to authorize the Administrator of the Environmental Protection Agency to make grants to assist States, individuals, and businesses in compensation and prevention of injuries caused by injurious chemical substances. Stipulates that priority shall be given to cases involving polybrominated biphenyls.

H.R. 4525. March 4, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to rescind the authority of any air carrier to provide nonstop service between two points if such authority is not exercised for any continuous 1-year period. Authorizes the Board to grant such authority to another carrier with or without a hearing.

H.R. 4526. March 4, 1977. Public works and Transportation. Amends the Federal Aviation Act of 1958 to direct the Civil Aeronautics Board to adopt time limitations for decisions regarding applications for certificates of public convenience and necessity to engage in interstate air transportation. Requires the Board, if it does not act within such period, to issue the certificate as requested unless it, by order entered within the specified time period, finds that the public interest or extraordinary circumstances justify delay for a period of time specified in the order.

H.R. 4527. March 4, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,800 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title.

H.R. 4528. March 4, 1977. Ways and Means. Provides that health maintenance organizations extending basic health services under the Health Maintenance Organization Act shall be tax exempt under the Internal Revenue Code.

H.R. 4529. March 4, 1977. Judiciary. Authorizes a certain corporation to appeal a certain decision of the Federal Communications Commission.

H.R. 4530. March 4, 1977. Judiciary. Declares a certain individual eligible for naturalization under the Immigration and Nationality Act.

H.R. 4531. March 4, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for perment residence, under the Immigration and Nationality Act.

H.R. 4532. March 4, 1977. Judiciary. Directs the Attorney General to cancel any outstanding orders and warrants of deportation warrants of arrest, and bond which may have been issued in the name of a certain individual.

H.R. 4533. March 4, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals for the period of their imprisonment in Southeast Asia.

H.R. 4534. March 4, 1977. International Relations. Authorizes a certain retired Public Health Service official to accept employment in the Canadian Department of Agriculture without loss of retirement benefits.

H.R. 4535. March 4, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4536. March 4, 1977. Judiciary. Declares certain individuals lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4537. March 7, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to facilitate emergency actions to mitigate the impacts of the 1976–1977 drought, including the undertaking of conservation activities to mitigate damages to Federal reclamation projects and the purchase of water supplies and redistribution of such water to such projects.

H.R. 4538. March 7, 1977. Veterans' Affairs. Allows a deceased veteran's estate to receive in cash, for the purchase of an appropriate non-Government furnished headstone or marker, the amount it would cost the United States Government to provide such a headstone or marker.

H.R. 4539. March 7, 1977. Public Works and Transportation. Directs the Secretary of Transportation to establish a single system of measuring noise and the impact of noise at airports and areas surrounding airports and to prescribe land uses for such areas which are compatible with such noise levels.

Amends the Airport and Airway Development Act of 1970 to make grants available under such Act for noise compatibility programs with respect to land situated near airports.

Requires the retrofitting or replacement of subsonic aircraft which do not meet existing noise standards. Prohibits the operation of foreign aircraft over the United States which do not meet such standards after 1985.

H.R. 4540. March 7, 1977. Armed Services. Directs the Secretary of the Air Force to appoint a Chief of the Biomedical Sciences Corps at the rank of brigadier general.

H.R. 4541. March 7, 1977. Education and

Labor. Limits, to those elementary and secondary school facilities destroyed or damaged after January 2, 1968 and prior to October 1, 1978, the distribution of disaster relief to local educational agencies.

H.R. 4542. March 7, 1977. Judiciary. Repeals the requirement that persons, including attorneys, prosecuting claims before any United States Government department or bureau take an oath of allegiance and support the Constitution of the United States.

H.R. 4543. March 7, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4544. March 7, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to authorize disability payments to miners employed in specified mines for a certain number of years without regard to actual evidence of disability. Requires the acceptance of medical evidence submitted in support of a disability claim except where clearly erroneous.

H.R. 4545. March 7, 1977. District of Columbia. Authorizes the District of Columbia parole board to credit the time a prisoner was on parole before parole was revoked, for purposes of diminishing the time for which he was originally sentenced.

H.R. 4546. March 7, 1977. District of Columbia. States that whoever, in the District of Columbia, and with intent to appropriate merchandise to his own use, (1) removes merchandise from its place of display or storage, (2) obtains merchandise by charging it to another person without that other person's consent, or by charging it to a fictitious person, (3) alters or removes a label or pricetag, or (4) transfer merchandise from its container to another container, shall be guilty of shoplifting. Sets forth penalties for violation of this Act.

H.R. 4547. March 7, 1977. District of Columbia. Prohibits the fraudulent use or possession of credit cards in the District of Columbia. Prohibits possession of flash paper or water soluble paper. Prohibits the possession of any knife with an unlawful intent. Grants authority to the District of Columbia to seize motor vehicles used in narcotics violations. Provides for the forfeiture of such vehicles for the District of Columbia.

Prohibits the service or execution or process on a Sunday. Makes it unlawful to obtain or attempt to obtain communications services with the intent to avoid lawful payment for such services.

H.R. 4548. March 7, 1977. District of Columbia. Authorizes the D.C. Armory Board to use the amount of money not needed for the operation of R.F.K. Stadium ("sinking fund") to repurchase stadium bonds before maturity, provided such repurchase is financially advantageous to the Board. Authorizes the District of Columbia to borrow, from the Secretary of the Treasury, such amount as may be necessary, to make its contribution to the sinking fund. Forbids the repayment of that loan from such sinking fund.

Vests all rights, title and interest to the Stadium in the District of Columbia, after the stadium bonds have been paid off.

H.R. 4549. March 7, 1977. District of Columbia. Permits any State, territory, or possession to sue in the Superior Court of the District of Columbia to recover taxes due to it if the reciprocal right is accorded to the District by such State, territory, or possession.

Authorizes the Corporation Counsel or his assistants to bring such a suit in the name of the District.

Authorizes the Commissioner of the District to procure any necessary services in other jurisdictions in prosecuting any suit under this Act.

H.R. 4550. March 7, 1977. District of Columbia. Amends the District of Columbia Self-Government and Governmental Reorganization Act to extend the time in which the Secretary of the Treasury may make and the Mayor of the District of Columbia can accept loans for the completion of capital projects.

Permits such loans to be made to the extent they are provided for in appropriation Acts for any fiscal year.

Extends the time in which the Mayor must submit a complete financial report to the Council in each fiscal year.

Stipulates that payments due on bonds, notes, or other obligations shall be made without further approval of authorization.

H.R. 4551. March 7, 1977. Armed Services. Repeals the Military Selective Service Act.

H.R. 4552. March 7, 1977. International Relations. Amends the Export Administration Act of 1969 to prohibit the export of any agricultural commodity pursuant to an agricultural commodity export agreement unless the exporter has obtained an agricultural export license from the Secretary of Commerce. Prohibits approval of such license unless the Secretary of Commerce determines that: (1) there will be a sufficient domestic supply of the commodity for a 12-month period; (2) the proposed transaction will not increase consumer prices; and (3) the proposed transaction will not increase domestic unemployment. Exempts from this Act exports in a quantity for which the price is less than $10,000,000.

H.R. 4553. March 7, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to include military service performed between December 1, 1941, and December 31, 1976, as "years of service" for purposes of eligibility for benefits under such Act.

H.R. 4554. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to allow an additional income tax exemption for each of the taxpayer's dependents who is mentally retarded.

H.R. 4555. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to increase from $1,000,000 to $45,000,000 the maximum size of small issues of industrial development bonds on which the interest qualifies for a tax exclusion.

H.R. 4556. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to provide that the treatment processer considered as mining for purposes of the percentage depletion deduction shall include any treatment process necessary to convert coal to low-sulfur synthetic fuel.

H.R. 4557. March 7, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to exempt from the prohibition of the Act the harassment, harming, killing, or wounding of any endangered or threatened species attributable to the construction or operation of the Tellico Dam and Reservoir Project in Tennessee.

H.R. 4558. March 7, 1977. Agriculture. Provides, under the Consolidated Farm and Rural Development Act, that aliens legally admitted to the United States for permanent residence are eligible for emergency loans if they are established farmers, ranchers or persons engaged in aquaculture. Makes eligible for such loans domestic corporations or partnerships primarily engaged in farming, ranching or aquaculture which have stockholders or partners who are aliens legally admitted for permanent residence.

H.R. 4559. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time handicapped employees over the first cumulative 12 months of their employment.

H.R. 4560. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to allow employers to take the credit for expenses of work incentive programs for wages paid new, full-time, handicapped employees over the first cumulative 12 months of their employment.

H.R. 4561. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day-care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 4562. March 7, 1977. Ways and Means. Amends the Internal Revenue Code to exempt trade or business expenses incurred in providing day-care services on a regular basis in a taxpayer's dwelling unit from the prohibition on deducting expenses with respect to a dwelling unit which is used by the taxpayer as his residence.

H.R. 4563. March 7, 1977. Education and Labor. Amends the Older Americans Act of 1965 to allow States to distribute Federal funds for the establishment of projects to provide home-delivered meals to qualified homebound elderly persons.

Directs the Commissioner of the Administration on Aging to conduct a demonstration project involving at least three States to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly as a component of, or substitute for, regular nutrition projects assisted such Act.

H.R. 4564. March 7, 1977. Public Works and Transportation. Entities States having any portion of a free or toll highway, bridge, or tunnel which is part of the Interstate Highway System to receive additional Federal funds if such States make such highways toll free. Reduces Federal-aid highway apportionments for States not electing to eliminate such tolls.

H.R. 4565. March 7, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 4566. March 7, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 4567. March 7, 1977. Judiciary. Amends the Immigration and Nationality Act to exclude from admission into, and provides for the deportation from, the United States of any alien who engaged or assisted in, or incited or directed others to engage in, the persecution of others on the basis of religion, race, or national origin under the direction of the Nazi government of Germany between March 23, 1933, and May 8, 1945.

H.R. 4568. March 7, 1977. Government Operations. Amends the Reorganization Act of 1949 to extend the President's authority to submit Executive branch reorganization plans to Congress to December 31, 1980. Requires the approval of both Houses of Congress within 60 days after effect. Gives the Senate and House of Representatives Committees on Government Operations 45 days to consider such plan at which time such Committees must report their recommendations of such plan or be discharged from further consideration thereof.

H.R. 4569. March 7, 1977. Agriculture. Declares that it is the policy of the Federal Government to retain, protect and improve agricultural land, to reduce its conversion to nonagricultural uses and to limit the encroachment of industrial activities. Estab-

lishes the Agricultural Land Review Commission to study, issue research grants, reports and recommend pursuant to such policy. Authorizes the Secretary of Agriculture to provide financial and technical assistance for pilot projects testing methods of retaining, protecting and improving such land.

H.R. 4570. March 7, 1977. Merchant Marine and Fisheries; Public Works and Transportation. Establishes a fund for the purpose of paying for otherwise uncompensated losses resulting from oil pollution.

Imposes, within certain monetary limits, joint, several, and strict liability on the owners and operators of each oil pollution source. Requires petroleum facilities and certain vessels to maintain evidence of financial responsibility in an amount equal to applicable liability limits.

Amends the Ports and Waterways Safety Act to grant additional authority to the Secretary of Transportation with respect to vessel design and safety. Establishes a 200-mile maritime safety zone over which the United States shall exercise control.

H.R. 4571. March 7, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograh depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4572. March 7, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4573. March 7, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to require the Secretary of Health, Education, and Welfare to establish criteria and minimum standards for the training and licensure of radiologic technologists. Directs that State and local governments be encouraged to minimize exposure of the public to ionizing from all sources. Authorizes the Secretary to make grants to States to carry out such purposes. Requires promulgation of performance standards and inspection programs for X-ray systems.

H.R. 4574. March 7, 1977. Education and Labor. Permits an individual receiving civil service disability compensation to also receive pay from the armed forces for disabling injury other than the one for which civil service compensation is being paid.

H.R. 4575. March 7, 1977. Veterans' Affairs. Removes existing limitations and permits any person entitled to war orphans' assistance and who uses any or all of such assistance before entering upon active duty to receive veterans' educational assistance as he may be entitled to by reason of such duty.

H.R. 4576. March 7, 1977. Merchant Marine and Fisheries. Amends the Commercial Fisheries Research and Development Act of 1964 to authorize appropriations to the Secretary of Commerce for fiscal years 1978, 1979, and 1980 to carry out the purposes of the Act.

H.R. 4577. March 7, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to prohibit cost-of-living salary adjustments for Members of the Congress before October 1, 1978.

H.R. 4578. March 7, 1977. Public Works and Transportation. Requires each airport authority of specified airports to file a Noise Exposure Study with each political subdivision within the "impact area" of such an airport. Stipulates that each such airport shall be regulated, by a Community Noise Impact Board with respect to: (1) the times during which takeoffs and landings may occur; (2) takeoff and landing procedures; (3) jet and propeller use not necessary to flight; (4) allocation of runway use; and (5) the types and numbers of aircraft permitted to use the airport.

H.R. 4579. March 7, 1977. Government Operations; Rules. Abolishes specified Federal regulatory agencies on September 30, 1977, unless Congress and the President approve their continuation. Sets limits on the continued existence of Federal regulatory agencies. Sets forth the procedures to be followed by the President to transfer the functions, powers, and duties of terminated agencies to himself or to a successor agency.

H.R. 4580. March 7, 1977. Interstate and Foreign Commerce; Public Works and Transportation; Agriculture; Banking, Finance and Urban Affairs; Merchant Marine and Fisheries; Interior and Insular Affairs. Establishes the Federal Regulatory Agency Nominating Board to compile a list of persons qualified to serve as a commissioner, board member, or commission member of specified regulatory agencies. States that when a vacancy occurs in such a position which the President is required to appoint a successor by and with the advice and consent of the Senate, the Board shall submit a list of three names of persons qualified to fill such vacancy from which the President shall make his selection.

H.R. 4581. March 7, 1977. Ways and Means. Amends the Trade Act of 1974 to permit to be included within a group of work as certified by the Secretary of Labor as eligible for adjustment assistance thereunder individuals whose last total or partial separation from employment occurred before the date specified in the certification as the day on which total partial separation began or threatened to begin among the adversely affected group.

H.R. 4582. March 7, 1977. Merchant Marine and Fisheries; Interior and Insular Affairs. Prohibits the development of hard mineral resources of the deep seabed except under international conventions or pursuant to a license issued by the Secretary of Commerce. Prescribes requirements and imposes limitations on the granting of such licenses by the Secretary.

H.R. 4583. March 7, 1977. Government Operations. Prohibits the purchase or operation by the Federal Government of any motor vehicle not of a type generally available in Government motor pools on the date of the enactment of this Act. Prohibits the use of Government motor vehicles by Government officials between such official's home and place of employment. Prohibits the issuance of any motor vehicle for the exclusive use of any Government official or employee not designated in this Act.

H.R. 4584. March 7, 1977. Interstate and Foreign Commerce. Amends the Railroad Retirement Act of 1974 to revise the method of computing annuities for certain retired employees and their surviving spouses.

H.R. 4585. March 7, 1977. Interior and Insular Affairs; Judiciary. Authorizes appropriations for the Indian Claims Commission for fiscal year 1978.

Directs the Court of Claims to determine the proper amount of attorney fees for attorneys representing Indian tribes in cases transferred from the Commission to the Court of Claims. Authorizes that Court to exercise the powers of the Commission relating to information from government departments and official records as evidence.

Authorizes additional commissioners, for the Court of Claims in order to facilitate determination of cases transferred from the Commission. Authorizes Supreme Court review by certiorari of such cases.

H.R. 4586. March 7, 1977. Banking, Finance and Urban Affairs. Requires the developers of all condominium projects to disclose specific information on proposed new construction or conversion of existing structures to any federally regulated financial institution and any prospective purchaser as a prerequisite for the granting of a construction or purchase loan.

Establishes the Office of Assistant Secretary for Condominiums in the Department of Housing and Urban Development.

Sets forth regulations to protect the rights of tenants of multifamily rental housing which is to be converted to condominiums.

Authorizes the Secretary of Housing and Urban Development to make grants to State and local governments to establish similar programs.

H.R. 4587. March 7, 1977. Interior and Insular Affairs. Requires the Secretary of the Interior to undertake a study of the site of the 1964–1965 Worlds Fair in New York and includes appropriate parts of such area in the Gateway National Recreation Area.

H.R. 4588. March 7, 1977. Interstate and Foreign Commerce. Requires manufacturers to display on a conspicuous label on each item of durable goods sold to consumers the performance of life of such product. Declares the National Bureau of Standards to have final authority over the designation required by this Act, and requires the Federal Trade Commission to enforce the provisions of this Act.

H.R. 4589. March 7, 1977. Interstate and Foreign Commerce. Requires manufacturers to label products as to month and year of manufacture for those goods whose design and performance features change at such a frequency as to make its date of manufacture part of its relevant description.

Empowers the Federal Trade Commission to enforce this Act.

H.R. 4590. March 7, 1977. Interstate and Foreign Commerce. Requires posting of the selling price and unit price on or near consumer products displayed for retail sales.

Transfers authority to promulgate rules under the Fair Packaging and Labeling Act to the Federal Trade Commission from the Department of Health, Education, and Welfare.

H.R. 4591. March 7, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require retailers of prescription drugs to post the prices of certain commonly prescribed drugs for the general public.

Empowers the Secretary of Health, Education, and Welfare to enforce the provisions of this Act.

H.R. 4592. March 7, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require that in the labeling and advertising of drugs sold by prescription the established name of such drug must appear each time the drug's proprietary name is used.

Permits a pharmacist to fill or refill a prescription for a drug, identified by its proprietary name, with any lower cost and suitable substitute drug under specified circumstances.

H.R. 4593. March 7, 1977. Interstate and Foreign Commerce. Requires the prominent labeling of prescription and over-the-counter drugs and pharmaceuticals whose effectiveness or potency become diminished after storage as to the date beyond which the product shall not be used.

Authorizes the Food and Drug Administration to establish the "beyond use" dates for all applicable products, and the manner in which they shall be labeled.

H.R. 4594. March 7, 1977. Judiciary. Empowers the Federal Trade Commission, after a patent on a drug is more than one year

old, to review complaints made to it by a qualified applicant for a license under a drug patent, and, upon a finding that the price of the patented drug charged to druggists by the patentee is more than five hundred percent of the cost of production, to order such patentee to grant an unrestricted patent license to any qualified applicant to make, use, and sell such drug.

H.R. 4595. March 7, 1977. Post Office and Civil Service. Requires the Civil Service Commission to establish a Special Cost-of-Living Pay Schedule for Federal employees located in any city or metropolitan area having a population of 500,000 or more, such schedule to contain special rates of basic pay representing increases in comparable rates provided by the General Schedule, for the purpose of setting the increased cost-of-living of such employees.

H.R. 4596. March 7, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize free or reduced transportation rates for persons over 65 and handicapped individuals and their attendants. Amends the Urban Mass Transportation Act of 1964 to give funding priority under such Act to public bodies which offer reduced rates to such individuals. Authorizes the Secretary of Transportation to prescribe standards for facilities funded under such Act to insure ready access to such facilities by these individuals. Amends the Older Americans Act of 1965 to authorize a grant program for special transportation research and demonstration projects for such individuals.

H.R. 4597. March 7, 1977. Public Works and Transportation. Establishes the Airport Noise Curfew Commission to study and make recommendations to the Congress regarding the establishment of curfews on nonmilitary aircraft operations over populated areas of the United States during normal sleeping hours.

H.R. 4598. March 7, 1977. Ways and Means. Amends the Social Security Act to assure a minimum annual income to all elderly residents of the United States.

H.R. 4599. March 7, 1977. Government Operations; Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to make grants to States and units of local government to assist in the execution of consumer protection plans.

H.R. 4600. March 7, 1977. Post Office and Civil Service. Requires uniformed Federal firefighters to be provided with a uniform allowance of $300 upon appointment and an annual uniform allowance of $200, unless such firefighter is provided with a uniform or uniform allowance under any other provision of law. Makes the Civil Service Commission responsible for promulgating regulations respecting Federal allowances.

H.R. 4601. March 7, 1977. Post Office and Civil Service. Requires uniformed Federal firefighters to be provided with a uniform allowance of $300 upon appointment and an annual uniform allowance of $200 in lieu of comparable benefits under any other provision of law.

H.R. 4602. March 7, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service.

H.R. 4603. March 7, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 4604. March 7, 1977. Science and Technology. Establishes an Energy Extension Service in the Energy Research and Development Administration to assist in the development of energy conserving practices. Establishes a program of financial assistance to State institutes conducting energy conservation research and development projects.

Directs the Administrator of the Energy Research and Development Administration to develop performance standards for energy efficiency equipment and processes.

Amends the Energy Policy and Conservation Act to direct the Federal Energy Administrator to establish a voluntary standards and certification program for energy-conserving products.

H.R. 4605. March 7, 1977. Judiciary. Prohibits the use of Federal funds for specified activities designed to support or defeat any legislation or legislative issue on the ballot in any State.

H.R. 4606. March 7, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4607. March 7, 1977. Judiciary. Authorizes classification of a certain individual as a child for purposes of the Immigration and Nationality Act.

H.R. 4608. March 7, 1977. Judiciary. Authorizes classification of certain individuals as citizens of the United States as of their birthdates, for purposes of the Immigration and Nationality Act.

H.R. 4609. March 7, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 4610. March 7, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to certain individuals in full settlement of such individuals' claims against the United States.

H.R. 4611. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to restrict the amount of the deduction State legislators may take for living expenses while conducting legislative business to the daily dollar limitations to be established by the Secretary of Labor for each State legislature.

H.R. 4612. March 8, 1977. Agriculture. Amends the Agricultural Act of 1949 by establishing the support price of milk at not less than 90 percent of the parity price on the date of enactment, and by providing for quarterly adjustments.

H.R. 4613. March 8, 1977. Post Office and Civil Service. Repeals the Postal Reorganization Act. Re-enacts provisions relating to the postal service which were in effect immediately prior to the enactment of such Act.

H.R. 4614. March 8, 1977. Ways and Means. Amends Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act to include in the coverage provided under such programs the services of licensed (registered) nurses.

H.R. 4615. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited deduction for amounts paid by or on behalf of an individual for an individual retirement account, a trust, or an annuity contract.

H.R. 4616. March 8, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to direct the Secretary of Commerce to make payments to Puerto Rico, Guam, and the Virgin Islands to coordinate budget-related actions of such governments with Federal efforts to stimulate economic recovery.

H.R. 4617. March 8, 1977. Interstate and Foreign Commerce. Prohibits refiners and distributors of motor fuels from terminating, cancelling, or failing to renew motor fuel franchises without prior written notification in accordance with specified criteria and procedures.

H.R. 4618. March 8, 1977. International Relations. Amends the Export Administration Act of 1969 to increase penalties for violations under such Act. Revises Presidential authority to control exports. Prohibits support of foreign boycotts by domestic exporting concerns. Exempts petroleum products and agricultural commodities from export controls designed to regulate domestic supply and inflation. Revises export regulation policy with respect to national security. Directs the Secretary of Commerce to study the effects of the export of technical data.

Requires the export of nuclear material, equipment, and devices.

Prohibits use of funds under the Foreign Assistance Act of 1961 for nuclear powerplants.

H.R. 4619. March 8, 1977. International Relations. Amends the Foreign Relations Authorization Act, Fiscal Year 1977, to authorize increased appropriations to the Department of State for fiscal year 1977 for (1) international organizations and conferences (2) migration and refugee assistance, and (3) assistance to Americans incarcerated abroad.

Amends the Foreign Service Buildings Act to revise appropriations authorized for foreign service buildings.

Requires that a Member of the House of Representatives Committee on International Relations be the chair of the House delegation to the Canada-United States Interparliamentary Group, the Mexico-United States Interparliamentary Group, and the North Atlantic Treaty Parliamentary Conference.

H.R. 4620. March 8, 1977. Post Office and Civil Service. Entitles physicians employed by the Federal Government to a professional allowance in addition to basic pay.

Authorizes Federal agencies to enter into service agreements with prospective government physicians whereby the physician is paid a bonus of up to $5,800 per annum in return for agreeing to work a specified number of years in such agency.

H.R. 4621. March 8, 1977. Veterans' Affairs. Entitles all veterans of the Mexican border period and of World War I, and their widows and children, to pensions on the same basis as veterans of the Spanish-American War and their widows and children, regardless of whether a veteran was disabled or receiving disability compensation, and regardless of income level.

H.R. 4622. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the requirement that certain corporations engaged in farming use the accrual method of accounting.

H.R. 4623. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to exempt certain corporations substantially owned by members of two or three families from the requirement that corporations engaged in farming use the accrual method of accounting.

H.R. 4624. March 8, 1977. Judiciary. Makes it unlawful for any Federal employee or official or for any person engaged in any business or other activity in or affecting interstate commerce to: (1) permit, require, request, or attempt to require or request any employee or persons applying for employment to take any polygraph test; or (2) discharge, discipline, or deny promotion to any employee or deny employment to any individual for refusing to submit to any requirement or request that such person take a polygraph test.

Permits any person aggrieved by a violation of this Act, or any employee organization authorized by such person, to obtain compensatory and injunctive relief in appropriate United States district courts.

H.R. 4625. March 8, 1977. Government Operations. Directs the Secretary of the Treasury to make payments to each State and local governmental unit, upon application, to compensate it for the loss of real property tax revenues resulting from the location of exempt real property (owned or occupied by representatives of a foreign

country or international organization) within such State or local governmental unit. Sets forth eligibility requirements for such payments.

H.R. 4626. March 8, 1977. Post Office and Civil Service. Allows any Federal employee or Member of Congress who was a Japanese-American World War II internee to credit, for civil service retirement purposes, the period during which such individual was detained or interned in a camp or similar facility.

H.R. 4627. March 8, 1977. Merchant Marine and Fisheries. Authorizes appropriations for the jellyfish control program for fiscal years 1978, 1979, and 1980.

H.R. 4628. March 8, 1977. Ways and Means; Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to invest any portion of the Treasury's operating cash for periods of up to 90 days in specified obligations of the United States and agencies of the United States.

H.R. 4629. March 8, 1977. Veterans' Affairs. Directs the Administrator of Veterans' Affairs to pay a monthly pension of $150 to each veteran who served in the active military, naval or air service for 90 days or more during World War I and was discharged or released for a service-connected disability; or who served for a period of 90 consecutive days and such period began or ended during World War I.

H.R. 4630. March 8, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4631. March 8, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4632. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the limitations made by the Tax Reform Act of 1976 on the exclusion for sick pay.

H.R. 4633. March 8, 1977. Agriculture. Amends the Agricultural Act of 1949, as amended, to set loan levels for the 1977 crops of wheat, corn, and upland cotton, and to set the 1977 price supports of milk and wool.

H.R. 4634. March 8, 1977. Government Operations. Permits the head of a Federal agency administering any Federal assistance program under which assistance is apportioned on the basis of a standard metropolitan statistical area (SMSA) to modify the geographic boundaries of such area in order to include within the area only (but all) areas which are essentially metropolitan upon request of the Governor of the State(s) in which such area is located and in concurrence with the Executive Office of the President.

H.R. 4635. March 8, 1977. Interstate and Foreign Commerce. Prohibits unfair consumer practice. Establishes procedures to govern the maintenance of class action suits by persons suffering damage as a result of an unfair consumer practice.

H.R. 4636. March 8, 1977. Judiciary. Amends the Immigration and Nationality Act to eliminate the limit on the number of alien children which may be adopted.

H.R. 4637. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to deduct an amount equal to the sum of the amounts paid to an adoption agency for the medical care of a child adopted by the individual. States that if the amounts paid for such medical expenses cannot be ascertained an amount equal to the lower of 75 percent of the adoption agency charges or $500 may be deducted.

H.R. 4638. March 8, 1977. Education and Labor. Amends the Vocational Education Act of 1963 to increase the appropriations authorized for State advisory councils on vocational education.

Permits the use of Federal funds to pay part of the State and local administration costs for vocational education programs.

Makes various technical amendments to such Act.

H.R. 4639. March 8, 1977. Education and Labor. Establishes a career education program for elementary and secondary schools to increase the emphasis such institutions place upon career awareness, exploration, decisionmaking, and planning.

Specifies procedures to be used in implementing this Act, both at the national and local level.

Directs the Office of Career Education within the Office of Education to administer this Act.

H.R. 4640. March 8, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4641. March 8, 1977. Judiciary. Removes the limitation on dues for United States membership in the International Criminal Police Organization.

Authorizes the Secretary of the Treasury to pay to the International Criminal Police Organization the unpaid balance of the dues for calendar years 1975 and 1976.

H.R. 4642. March 8, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act to require full disclosure of pertinent data on labels of foods and food products. Prohibits misleading brand names under the Federal Trade Commission Act.

H.R. 4643. March 8, 1977. Banking, Finance and Urban Affairs. Prohibits any officer or agency of the United States or any financial institution whose deposits are insured by an agency of the Federal Government from providing financial or other assistance to aid in the purchase of construction of real property which is not insured against catastrophic losses.

Establishes a Disaster Insurance Corporation to reinsure private insurance companies which provide insurance against catastrophic losses. Directs the corporation to provide catastrophic insurance when such insurance is not available from private insurance companies.

H.R. 4644. March 8, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to eliminate automatic cost-of-living adjustments in the salaries of Members of Congress.

H.R. 4645. March 8, 1977. Ways and Means. Amends the Social Security Act to allow Federal officers and employees to elect coverage under Old-Age, Survivors and Disability Insurance.

H.R. 4646. March 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to require the issuance of non-alterable social security cards. Requires that cards issued to resident aliens who are not permitted to be employed in the United States be marked to indicate such restriction.

Establishes criminal penalties for employers who knowingly hire alien holders of cards which indicate that they may not lawfully engage in employment in the United States.

H.R. 4647. March 8, 1977. Agriculture. Amends the Perishable Agricultural Commodities Act to raise the maximum license fee for commission merchants, dealers and brokers and to raise the minimum invoice value of specified goods any person must buy or sell or negotiate the sale of in order to be deemed a dealer or broker.

Allows the Secretary of Agriculture, under specified circumstances, to withhold from public disclosure the name, address and other identifying information about any person who has filed an unfair conduct complaint against any commission merchant, dealer, or broker.

Directs the Secretary to inspect the records and require surety bonds of any commission merchant, dealer or broker who has violated the provision of such Act requiring prompt full payment in respect of any transaction in any perishable agricultural commodity.

H.R. 4648. March 8, 1977. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to provide that new drugs for human or animal use will be regulated under such Act solely to assure their safety, and not their effectiveness.

H.R. 4649. March 8, 1977. Ways and Means. Amends the Internal Revenue Code to allow certain individuals to compute the amount of the deduction for retirement savings on the basis of the earned income of their spouses.

H.R. 4650. March 8, 1977. Agriculture. Establishes within the Department of Agriculture an Advisory Committee on Timber Sales Procedures to study the methods by which the Forest Service sells timber and to make independent recommendations with respect to establishing procedures for such sales.

H.R. 4651. March 8, 1977. Post Office and Civil Service. Makes National Guard civilian technicians members of the competitive service. Gives such individuals certain rights relating to order of retention and procedures for removal or suspension from employment.

H.R. 4652. March 8, 1977. Interior and Insular Affairs. Amends the Alaska Native Claims Settlement Act to authorize the Secretary of the Interior to recognize assignments made by Alaska Native Regional Corporations to receive payments from the Alaska Native Fund, provided that any such assignment reserves the right of the United States to assert any setoff and counterclaim against the assignees that it could assert against the assignor.

H.R. 4653. March 8, 1977. Education and Labor. Amends the Age Discrimination in Employment Act of 1967 to make its provisions, currently applicable to persons between 40 and 65 years of age, applicable to anyone 40 years of age or older.

H.R. 4654. March 8, 1977. Ways and Means. Amends the Tariff Schedules of the United States to reduce the customs duty on unmounted underwater lenses.

H.R. 4655. March 8, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study the feasibility of the powerplant enlargement and reregulating reservoir, Hungry Horse project, Montana.

H.R. 4656. March 8, 1977. Judiciary. Makes theft of any radio communications device licensed by the Federal Communications Commission a Federal crime.

H.R. 4657. March 8, 1977. Judiciary. Makes interstate or foreign commerce in stolen Federal Communications Commission licensed radio communications devices a Federal crime.

H.R. 4658. March 8, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to permit the importation of articles composed of endangered or threatened species if such articles are eligible for

classification as antique under the Tariff Schedules.

H.R. 4659. March 8, 1977. Education and Labor. Amends the Library Services and Construction Act to authorize the appropriation of funds through fiscal year 1981 for the purpose of making grants to States for: (1) library services; (2) the construction of public libraries; (3) the carrying out of interlibrary cooperation programs; and (4) the carrying out of library programs for older persons.

Requires any State expending Federal funds received under such Act for the administrative costs of such programs to match the amounts expended with non-Federal funds.

H.R. 4660. March 8, 1977. Ways and Means. Declares all income tax returns to be confidential and prohibits the disclosure or inspection of such returns unless specifically authorized by this Act.

Increases the criminal penalties for unauthorized disclosing the information contained in tax returns.

Makes it a felony to knowingly receive any such information or material which is criminally disclosed.

H.R. 4661. March 8, 1977. Veteran's Affairs Exempts courses which lead to a standard college degree from the "85–15" rule whereby the Administrator of Veterans' Affairs is required to disapprove enrollment of any eligible veteran, not already enrolled, in any course offered by a proprietary profit or proprietary nonprofit educational institution where more than 85 percent of the students enrolled have their fees paid by either the Veterans' Administration or the institution itself.

H.R. 4662. March 8, 1977. Veterans' Affairs. Provides that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator of Veterans' Affairs rather than deducted from amounts awarded under the claims.

H.R. 4663. March 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that program or under Title XVIII (Medicare) of such Act, in cases where claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants.

H.R. 4664. March 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4665. March 8, 1977. Armed Services. Revises the special pay structure for active duty medical officers of the uniformed services to direct the Secretaries of Defense and Health, Education, and Welfare to promulgate regulations through which variable incentive pay may be adjusted to reflect (1) amounts that the Federal Government has paid to, or (2) benefits received by, medical officers prior to the commencement of active duty.

H.R. 4666. March 8, 1977. Science and Technology. Directs the Administrator of the Environmental Protection Agency to establish an Oil Spill Removal Research, Development, and Demonstration Project. Requires the transfers of similar programs from other Federal agencies to the project. Directs the Administrator to assist educational institutions and small businesses in participating in oil spill removal research programs.

H.R. 4667. March 8, 1977. Science and Technology. Directs the Administrator of the Environmental Protection Agency to establish an Oil Spill Removal Research, Development, and Demonstration Project. Requires the transfer of similar programs from other Federal agencies to the project. Directs the Administrator to assist educational institutions and small businesses in participating in oil spill removal research programs.

H.R. 4668. March 8, 1977. Interstate and Foreign Commerce. Amends the Federal Trade Commission Act to prohibit the application of a per se rule of illegality under the antitrust laws in the case of territorial market allocations agreements made as part of a licensing agreement: (1) for the manufacture, distribution and sale of a trademarked soft drink product; or (2) for the distribution or sale of a trademarked private label food product.

H.R. 4669. March 8, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 4670. March 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4671. March 8, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4672. March 8, 1977. Armed Services. Sets forth procedures which the Secretary of Defense or the Secretary of a military department must follow before a military base or installation is closed of the number of civilian personnel positions at such a facility is reduced below a specified level.

H.R. 4673. March 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4674. March 8, 1977. Interior and Insular Affairs. Redesignates the Boundary Waters Canoe Area in Superior National Forest, Minnesota, as the Boundary Waters Wilderness Area. Specifies restrictions relating to timber harvesting, mining, and use of recreational vehicles within such area.

Increases the one and one-quarter percent of the fair appraised value the amount payable to the State of Minnesota with respect to lands within the Superior National Forest.

H.R. 4675. March 8, 1977. Ways and Means. Prohibits any business deduction, under the Internal Revenue Code, relating to expenses paid or incurred for the transportation of any person by commercial airplane in excess of any amount which is equal to the retail price of a coach class fare ticket on such airline.

H.R. 4676. March 8, 1977. International Relations; Agriculture. Extends through 1981 the authority of the President, under the Agricultural Trade Development and Assistance Act of 1954, to enter into agreements to finance sales of agricultural commodities for foreign currencies and to engage in famine relief and other foreign agricultural and food assistance programs.

Requires that the Commodity Credit Corporation be reimbursed at the export price for commodities made available for famine relief and other assistance programs from price support inventories. Authorizes reimbursement of the Corporation for their expenditures incurred under the foreign sales program.

H.R. 4677. March 8, 1977. Interior and Insular Affairs. Authorizes the Secretary of the Interior to study methods of preserving critical scenic, environmental, and outdoor recreational values of the Lake Tahoe Basin in California and Nevada. Authorizes the Secretary of Agriculture to acquire, by purchase, specified National Forest lands in order to further such preservation.

H.R. 4678. March 8, 1977. Agriculture. Repeals the current program of distress relief assistance in the preservation and maintenance of foundation herds and substitutes a new emergency feed program, to be administered by the Commodity Credit Corporation.

H.R. 4679. March 8, 1977. Ways and Means. Amends Title IV (Aid to Families with Dependent Children) of the Social Security Act: (1) to revise eligibility requirements for grants; (2) to revise the procedure for adjusting the amount of grants; (3) to authorize Federal financial participation in the investigation and prosecution of fraud conducted by State agencies; (4) to require States to provide evidentiary hearings; and (5) to impose criminal sanctions for misuse of grants by recipients.

H.R. 4680. March 8, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act of 1974 to authorize the Secretary of Housing and Urban Development to make supplemental grants to metropolitan cities, urban counties, and nonurban counties with high unemployment rates to finance community development and similar activities, the total amount of such assistance to be dependent upon the national unemployment rate.

Sets forth guidelines for allocating funds appropriated for grants under this Act.

H.R. 4681. March 8, 1977. Post Office and Civil Service; Judiciary. Amends the Federal Salary Act of 1967 to keep from becoming effective any salary adjustment recommended by the President under such Act unless specifically approved by both Houses of Congress within 30 days after such adjustment is submitted to Congress.

Amends the Legislative Reorganization Act of 1946 to repeal automatic cost-of-living adjustments for Members of Congress. Abolishes such adjustments for (1) certain executive and judicial employees and officials, (2) the vice President, and (3) referees in bankruptcy.

H.R. 4682. March 8, 1977. Banking, Finance and Urban Affairs. Requires appropriate Federal financial supervisory agencies to develop programs and procedures which will encourage financial institutions to help meet the credit needs of the local communities in which they are chartered.

H.R. 4683. March 8, 1977. Post Office and Civil Service. Reinstates civil service retirement survivors annuities for surviving spouses of employees whose annuities were terminated due to remarriage before July 18, 1966, and surviving spouses of Members of Congress who died before January 8, 1971, whose annuities were terminated due to remarriage.

H.R. 4684. March 8, 1977. Ways and Means; Interstate and Foreign Commerce. Amends the Social Security Act to establish a catastrophic health insurance benefits program under which residents of the United States shall receive benefits in case of catastrophic illness. Replaces the Medicaid program with an medicaid assistance plan for low-income people. Establishes a system of Federal certification of basic health insurance provided by private insurance carriers which meet certain specifications. Requires the Secretary to offer basic Federal health insurance to individuals residing in States in which no private health insurance program has received Federal certification.

H.R. 4685. March 8, 1977. Ways and Means. Interstate and Foreign Commerce. Amends Title II (Old-Age, Survivors, and Disability

Insurance) of the Social Security Act to authorize a 15-percent increase in social security benefits.

Permits the payment of full social security benefits and medicare benefits to eligible persons at age 60.

H.R. 4686. March 8, 1977. Education and Labor. Amends the Headstart Follow Through Act to extend the followthrough program for 1 year.

H.R. 4687. March 8, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4688. March 8, 1977. Banking, Finance and Urban Affairs. Amends the National Flood Insurance Act of 1968 to increase the amount of coverage available to reflect any increases in the cost of building materials and labor. Extends the national flood insurance program to June 30, 1979.

H.R. 4689. March 8, 1977. International Relations. Restricts payments of the United States to the United Nations to the ratio of the population of the United States to the total population of member nations.

H.R. 4690. March 8, 1977. Veterans' Affairs. Requires active duty for 180 days or more for eligibility for veterans' job counseling, training, and placement.

H.R. 4691. March 8, 1977. Interior and Insular Affairs. Authorizes the State of Oklahoma to convey oil and gas mineral leases to specified lands in Carter County, Okla., and directs the United States to issue a new deed providing for oil and gas exploration and developments on such lands.

H.R. 4692. March 8, 1977. Judiciary. Makes it unlawful to manufacture or transfer any handgun not meeting certain specifications or to modify any handgun if such modification results in the handgun no longer meeting such specifications.

Imposes certain mandatory prison terms for using, offering to use, carrying, or displaying a handgun during the commission of a Federal felony.

Revises certain exceptions to prohibitions against commerce in firearms by repealing the "generally suitable for sporting purposes" test and permitting commerce in circumstances otherwise complying with such exceptions so long as the firearms involved are not concealable handguns or handguns not meeting specifications.

H.R. 4693. March 8, 1977. Veterans' Affairs. Removes the time limit within which programs of education for veterans must be completed.

H.R. 4694. March 8, 1977. Post Office and Civil Service. Requires substitute postal employees be given credit for retirement purposes for services performed in excess of 40 hours per week before the effective date of the Federal Employees Salary Act of 1965, provided that the employing agency deducted, for purposes of retirement, amounts from the compensation paid for such service.

H.R. 4695. March 8, 1977. Small Business; Agriculture. Amends the Disaster Relief Act of 1974 to provide disaster victims with two options for borrowing funds: (1) a three percent interest rate with up to $2,500 forgiveness on the loan; or (2) a one percent interest rate with no forgiveness clause.

H.R. 4696. March 8, 1977. Interior and Insular Affairs. Authorizes the State of Oklahoma to convey oil and gas mineral leases to specified lands in Carter County, Oklahoma, and directs the United States to issue a new deed providing for oil and gas exploration and developments on such lands.

H.R. 4697. March 8, 1977. Agriculture. Excludes cost-of-living increases in Social Security benefits from consideration as household income for purposes of determining: (1) eligibility for participation in the food stamp program; (2) the charge for issuing a coupon allotment to a household; and (3) eligibility for any Federal program administered by the Department of Agriculture which provides for the donation or distribution of surplus agricultural commodities to low-income persons.

H.R. 4698. March 8, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to assure the individuals otherwise eligible for benefits under such Title do not lose such eligibility, or have the amount of such benefits reduced, because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of such Act.

H.R. 4699. March 8, 1977. Veterans' Affairs. Provides that recipients of veterans' pensions and compensation will not have the amount of such pension or compensation reduced because of increases in social security benefits.

H.R. 4700. March 8, 1977. Ways and Means. Amends the program of Aid to Families with Dependent Children of Title IV and Title XVI (Supplemental Security Income for the Aged, Blind and Disabled) of the Social Security Act to assure that recipient of aid and benefits under such Titles do not have the amount of such aid or benefits reduced because of increases in the amount of benefits under Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act.

H.R. 4701. March 8, 1977. Veterans' Affairs. Designates the Veterans' Administration hospital in Saint Albans, New York, as the "Henry Schuman Veterans' Hospital."

H.R. 4702. March 8, 1977. Merchant Marine and Fisheries. Authorizes the use of a certain corporation's ship for the purpose of transporting passengers.

H.R. 4703. March 9, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to set forth a formula which the Secretary of Housing and Urban Development must follow in order to determine the amount to be allocated to each city and urban county under the supplemental block-grant program. Authorizes the Secretary to make urban development action grants to severely distressed cities.

Amends the Housing Act of 1937 to increase the limit on funds that are authorized to be appropriated for contracts for annual contributions to low-income housing projects in 1977.

Amends the National Housing Act to extend specified Federal Housing Administration insurance programs.

H.R. 4704. March 9, 1977. Agriculture. Amends the Rural Development Act of 1972 to declare that small farm extension programs shall consist of extension programs with respect to improving operations of small farmers using paraprofessional personnel to work with small farmers on an intensive basis.

Authorizes appropriations for small farm research and extension programs for each of fiscal years 1978 and 1979.

H.R. 4705. March 9, 1977. Rules. Terminates budget authority for all Federal programs. Requires Congress to consider whether any such programs merit continuation on the same, a greater, or a lesser level, or termination.

Requires the Comptroller General to identify inactive or inefficient programs.

H.R. 4706. March 9, 1977. Interstate and Foreign Commerce. Increases from three to five years the term for which a license to operate a radio broadcasting station may be issued, and for which such licenses may be renewed under the Communications Act of 1934.

H.R. 4707. March 9, 1977. Banking, Finance and Urban Affairs. Amends the Housing and Community Development Act to provide that units of general local government receiving grants under the hold-harmless provisions of such Act, shall be entitled, after fiscal year 1977, to continue to receive at least the amount to which they are presently entitled.

H.R. 4708. March 9, 1977. Education and Labor. Amends the National Labor Relations Act to require an employer which assumes the ownership or operation of a business to honor any applicable collective-bargaining contract in its entirety.

Amends the Labor Management Relations Act to permit a labor organization to bring suit against a new employer which refuses to honor an existing agreement in United States district court regardless of the citizenship of the parties or amount in controversy.

H.R. 4709. March 9, 1977. Ways and Means. Amends the Railroad Retirement Act and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to exempt individuals suffering from multiple sclerosis from the requirement that an individual be entitled to disability benefits for at least 24 consecutive months in order to qualify for hospital insurance benefits under the Medicare program.

H.R. 4710. March 9, 1977. Ways and Means. Amends the Railroad Retirement Act and Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to exempt individuals suffering from multiple sclerosis from the requirement that an individual be entitled to disability benefits for at least 24 consecutive months in order to qualify for hospital insurance benefits under the Medicare program.

H.R. 4711. March 9, 1977. Science and Technology. Directs the Administrator of Energy Research and Development to establish a program for research and development of industrial energy conserving technologies. Authorizes financial assistance in the form of grants and loans for the development and demonstration of such technologies, with special attention to be given to stimulation of depressed industrial areas.

H.R. 4712. March 9, 1977. Government Operations. Gives the President four additional years from the enactment of this Act to submit plans for reorganization of the Executive Branch to Congress for consideration under present provisions of law. Permits the President to modify such plans during the 30-day committee consideration period without affecting the time limits otherwise applicable to such consideration.

Requires any reorganization plan to state the improvements expected to be gained by such reorganization.

H.R. 4713. March 9, 1977. Judiciary. Establishes a system for settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency of an agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 4714. March 9, 1977. Post Office and Civil Service. Amends the Defense Department Overseas Teachers Pay and Personnel Practices Act to provide that a teacher's entitlement to any allowance or other benefit under such Act shall be made without regard to whether the teacher was recruited outside or inside the United States.

H.R. 4715. March 9, 1977. Merchant Marine and Fisheries. Amends the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize the issuance of interim ocean dumping permits through 1981, in accordance with specified conditions and limitations. Requires additional studies of ocean dumping of biological, chemical, and radiological materials.

H.R. 4716. March 9, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4717. March 9, 1977. International Relations. Amends the United Nations Participation Act of 1945 to permit enforcement of any Executive order restricting the importation of Rhodesian chrome, pursuant to any United Nations Security Council resolution. Requires that steel mill products containing chromium not be imported while such Executive order is in effect without the filing of a certificate of origin with the Secretary of the Treasury unless such shipment is released by the Secretary. Authorizes the Secretary to prescribe regulations to carry out this provision.

H.R. 4718. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow a limited income tax deduction for food and lodging expenses incurred while receiving medical care away from home.

H.R. 4719. March 9, 1977. Ways and Means. Repeals the tax exclusion of income earned by residents of Puerto Rico within the Commonwealth.

H.R. 4720. March 9, 1977. Science and Technology. Directs the Administrator of the Energy Research and Development Administration to make a complete study of the use of grain, grain products, or their derivatives in the development and use of fuels.

H.R. 4721. March 9, 1977. Veterans' Affairs. Increases the rates of: (1) pensions for war veterans with a nonservice-connected disability, their surviving spouses and children; (2) dependency and indemnity compensation for parents of veterans who died in active military service; and (3) the monthly rate of death compensation payable to a widow or dependent parent if the payee is a patient in a nursing home of helpless or blind.

H.R. 4722 March 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the requirement that certain corporations engaged in farming use the accrual method of accounting.

H.R. 4723. March 3, 1977. Ways and Means. Amends the Internal Revenue Code to exempt certain corporations substantially owned by members of two or three families from the requirement that corporations engaged in farming use the accrual method of accounting.

H.R. 4724. March 3, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 to abolish automatic cost-of-living pay adjustments for Members of Congress.

Amends the Federal Salary Act of 1967 to make the recommendations of the President with respect to salaries of Members of Congress effective only upon a resolution by the Congress approving such recommendations.

H.R. 4725. March 3, 1977. Ways and Means. Amends Title II (Old-age, Survivors, and Disability Insurance) of the Social Security Act to revise the eligibility requirements for disability insurance benefits for blind persons. Revises the method of computing the primary insurance amount for blind persons under such Act.

H.R. 4726. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4727. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4728. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4729. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4730. March 9, 1977. Judiciary. Amends the Federal Rules of Evidence with respect to the introduction in cases of rape or assault with intent to rape of evidence of a person's past sexual behavior.

H.R. 4731. March 9, 1977. Agriculture. Directs the Secretary of Agriculture to enter into cooperative fencing agreements with private landowners whose lands are adjacent to National Forest System lands. Authorizes the Secretary to enter into cooperative agreements with such landowners for the purpose of controlling noxious weeds.

H.R. 4732. March 9, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress that the complete authority to regulate terminal and station equipment used for telephone exchange service shall rest with the States even though such terminal and station equipment also may be used in connection with interstate services.

H.R. 4733. March 9, 1977. Government Operations. Amends the Antirecession provisions of the Public Works Employment Act of 1976 to revise the nondiscrimination section thereunder by specifically applying to projects receiving assistance under such provisions prohibitions contained in certain Acts, including the Rehabilitation Act of 1973 and the Age Discrimination in Employment Act of 1975.

Directs that such nondiscrimination provisions shall be enforced in the same manner as are specified sections of the State and Local Fiscal Assistance Act of 1972.

H.R. 4734. March 9, 1977. Education and Labor. Amends requirements of the Comprehensive Employment and Training Act of 1973 for prime sponsor comprehensive manpower plans under the comprehensive manpower services program and for applications for assistance under the public service employment programs.

Revises eligibility for designation as prime sponsors and composition guidelines for prime sponsor planning councils.

Imposes restrictions relative to the operation of public service employment programs.

Revises conditions applicable to all programs under the Comprehensive Employment and Training Act of 1973.

H.R. 4735. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to: (1) reduce individual and corporate income tax rates; (2) allow a limited income tax deduction by certain domestic corporations for dividends paid; (3) allow a tax credit for new savings deposits; (4) allow a deduction for a portion of a property's cost in lieu of a deduction for depreciation; and (5) reduce the maximum corporate normal tax rate.

H.R. 4736. March 9, 1977. Interstate and Foreign Commerce. Amends the Controlled Substances Act to provide that the possession of specified amounts of marihuana for private use, or the transfer of not more than such amounts without profit for private use shall no longer be a crime against the United States.

Provides for a civil penalty of not more than $100 for such possession and transfer.

H.R. 4737. March 9, 1977. Interstate and Foreign Commerce. Amends the Controlled Substances Act to provide that the possession of specified amounts of marihuana for private use, or the transfer of not more than such amounts without profit for private use shall no longer be a crime against the Unitted States.

Provides for a civil penalty of not more than $100 for such possession and transfer.

H.R. 4738. March 9, 1977. Public Works and Transportation. Authorizes the Secretary of Transportation to make grants to States and municipalities for the construction of bikeway projects.

H.R. 4739. March 9, 1977. Merchant Marine and Fisheries. Directs the Secretary of Commerce to establish a National Aquaculture Development Plan which identifies each aquatic species which can be commercially cultured and contains a program of aquacultural development for such species.

Establishes the Interagency Committee on Aquaculture to coordinate aquacultural programs and projects.

Establishes within the Treasury a Federal Aquaculture Assistance Fund to guarantee loans for the financing of aquacultural facilities and to make disaster loans available to recipients of such guaranteed loans. Authorizes a program of grants for aquacultural projects.

H.R. 4740. March 9, 197. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to: (1) authorize appropriations for marine mammal research grants for fiscal year 1978; (2) increase the appropriations authorized for fiscal year 1977 and authorize appropriations for fiscal year 1978 to enable the Department of Commerce to carry out its functions under the Act; (3) authorize appropriations for fiscal year 1978 to enable the Department of the Interior to carry out its functions under the Act; and (4) authorize appropriations for fiscal year 1978 for the operation of the Marine Mammal Commission.

H.R. 4741. March 9, 1977. Merchant Marine and Fisheries. Amends the Endangered Species Act of 1973 to authorize appropriations for fiscal years 1978, 1979, and 1980 for State cooperative programs.

H.R. 4742. March 9, 1977. Merchant Marine and Fisheries. Amends the Atlantic Tunas Convention Act of 1975 to authorize appropriations to carry out the purposes of the Act for fiscal years 1978, 1979, and 1980.

H.R. 4743. March 9, 1977. Interstate and Foreign Commerce; Public Works and Transportation. Amends the Interstate Commerce Act to establish time limitations during which common carriers by railroad, specified transportation companies, motor carriers, and freight forwarders are required to acknowledge receipt of, and dispose of, claims alleging loss or damage to property.

H.R. 4744. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the income limitation for the income tax credit for the elderly.

H.R. 4745. March 9, 1977. Interior and Insular Affairs. Directs the Secretary of the Interior to convey to the city of Provo, Utah, without consideration, all interest of the United States in specified lands.

H.R. 4746. March 9, 1977. Interior and Insular Affairs. Amends the Water Resources Research Act and the Saline Water Conversion Act to extend the authority of the Secretary of the Interior with respect to specified water resources programs.

H.R. 4747. March 9, 1977. Education and Labor. Amends the Education Amendments of 1972 to exempt from the prohibition against sex discrimination of such Amendments physical education classes and gym classes participation in which is limited to students of one sex only.

H.R. 4748. March 9, 1977. House Administration. Provides for the designation of any nationally accredited law school as a depository library upon request of such law school.

H.R. 4749. March 9, 1977. Education and Labor. Prohibits the sexual exploitation of children by making it unlawful for any individual to (1) cause or permit a child to be photographed or filmed engaged in a sexual act prohibited under this Act; (2) photograph or film a prohibited sexual act; (3) knowingly transport a film or photograph depicting a prohibited sexual act; or (4) receive for sale or sell any such film or photograph, if such individual knows or should know such film or photograph has or may be transported in such a manner as to affect interstate or foreign commerce.

H.R. 4750. March 9, 1977. Science and Technology. Authorizes the Administrator of the Energy Research and Development Administration to construct and operate a National Coal Conversion Demonstration Facility to

test new coal conversions and mining technologies.

H.R. 4751. March 9, 1977. House Administration. Permits each Member of Congress to designate one nationally accredited law school located in the geographic area he or she represents as a depository library.

H.R. 4752. March 9, 1977. Education and Labor. Directs the Coordinating Council on Juvenile Justice and Delinquency Prevention to organize and convene a National Conference on Learning Disabilities and Juvenile Delinquency.

Directs the Conference to formulate methods of disseminating extant knowledge and the results of ongoing research related to learning disabilities and handicaps to appropriate agencies and individuals.

H.R. 4753. March 9, 1977. Education and Labor. Authorizes the Secretary of Agriculture to formulate and carry out a program, through a system of grants to State educational agencies, providing for: (1) the nutritional training of food service and educational personnel; and (2) the conduct of nutrition education activities in schools and child care institutions eligible under the School Lunch and Child Nutrition Act.

Establishes within the National Agricultural Library of the Department of Agriculture a Food and Nutrition Information and Education Resources Center to assemble and collect food and nutrition education materials and to disseminate such information.

H.R. 4754. Marrh 9, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 4755. March 9, 1977. Education and Labor. Amends the Occupational Safety and Health Act to exclude from coverage under such Act employers with less than 25 employees during any consecutive six-month period in the most recent fiscal year.

H.R. 4756. March 9, 1977. Interstate and Foreign Commerce. Amends the National Traffic and Motor Vehicle Safety Act of 1966 to stipulate that no motor vehicle safety standard may require shoulder belts. Directs the Secretary of Transportation to amend the Federal motor safety standard numbered 208 to bring such standard into conformity with this Act.

H.R. 4757. March 9, 1977. Banking, Finance and Urban Affairs. Authorizes the Secretary of the Treasury to make loans to administrative authorities for purpose of enabling such authorities to carry out energy conservation investment programs. Directs such authorities to use funds from such loans to provide loans to any owner of a dwelling which does not comply with specified insulation standards in order to bring such dwelling into compliance.

H.R. 4758. March 9, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to require studies of additional air pollution problems. Requires increased study of economic impact and cost-effective controls. Authorizes variances and extensions from standards applicable to stationary and mobile sources.

Establishes procedures for the prevention of significant deterioration of air quality. Imposes limitations on the use of indirect source controls. Prohibits conflicts of interest in State regulatory authorities.

Authorizes appropriations to carry out the Act for the next three fiscal years.

H.R. 4759. March 9, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to regulate research projects involving recombinant DNA. Establishes the recombinant DNA Research Advisory Committee to make recommendations to the Secretary of Health, Education, and Welfare.

H.R. 4760. March 9, 1977. Banking, Finance and Urban Affairs. Directs the Secretary of Housing and Urban Development to require any lease or rental agreement entered into or renewed by a person aged 62 or over with respect to a dwelling unit assisted by a Federal housing program shall contain provisions entitling such person to terminate, without penalty, the lease or rental agreement if such person or his or her spouse dies or incurs any mental or physical disability during the period of the lease or rental agreement.

H.R. 4761. March 9, 1977. Education and Labor. Directs the Secretary of Labor, through the Bureau of Labor Statistics, to publish a monthly price index reflecting the retail prices of items purchased generally by individuals 62 years of age and older, such index to be known as the Consumer Price Index for the Elderly.

Directs the Secretaries and Administrator of certain Federal agencies and departments to utilize such index in administering specified retirement systems.

H.R. 4762. March 9, 1977. Education and Labor. Amends the Older Americans Act of 1965 to authorize the disbursal of funds to recipients of grants or contracts who agree to establish a project which provides at least one home-delivered meal, five days a week to persons covered under the Act. Creates an information and referral service for homebound individuals receiving meals under the Act. Requires a demonstration project to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly.

H.R. 4763. March 9, 1977. Education and Labor. Directs the Secretary of Health, Education, and Welfare to make grants to States having approved comprehensive plans for providing counseling assistance to the elderly, such grants to be distributed on the basis of statewide need and priorities. Permits the use of grants to fund preretirement and career counseling programs, referral services, community activities, and counseling for families of sick and disabled senior citizens.

H.R. 4764. March 9, 1977. Interstate and Foreign Commerce. Establishes within the Department of Health, Education, and Welfare a Home Health Clearinghouse to consolidate information on services and benefits available to the elderly.

Creates in the Department an Assistant Secretary for Elderly Health.

H.R. 4765. March 9, 1977. Judiciary. Amends the Legal Services Corporation Act to direct the Corporation to provide financial assistance to qualified programs designed to furnish legal assistance to eligible older persons in connection with any determination relating to eligibility or payment for home health services or specified health-related hearings under the Social Security Act.

H.R. 4766. March 9, 1977. Ways and Means. Authorizes a taxpayer, under the Internal Revenue Code, to elect to treat qualified architectural and transportational barrier removal expenses which are paid for incurred during the taxable year as expenses which are not chargeable to capital account. Deems such expenses so treated as allowable tax deductible expenditures.

H.R. 4767. March 9, 1977. Ways and Means. Amends Title XX (Grants to States for Services) of the Social Security Act to reallot unused social services funds to States which will use such funds during the succeeding year in preventing or reducing inappropriate institutional care.

Allocates additional Federal matching funds for multipurpose senior center programs. Directs the Secretary of Health, Education, and Welfare to clarify and standardize the eligibility requirements applicable to the provision of assistance to multipurpose senior centers.

H.R. 4768. March 9, 1977. Agriculture; Ways and Means. Amends the Social Security Act by authorizing the Secretary of Health, Education, and Welfare to formulate and administer a food allowance program for the elderly.

H.R. 4769. March 9, 1977. Education and Labor; Post Office and Civil Service. Establishes within the Department of Labor a Midcareer Development Service, through which the Secretary of Labor is authorized to make loans and grants for training designed to upgrade the work skills of middle-aged persons. Authorizes specified studies and programs designed to aid in retraining older workers in needed job skills, alleviating the effects of local mass lay-offs and promoting work opportunities in the community and in the executive branch of the Federal Government.

H.R. 4770. March 9, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to provide payment for hearing aids and dentures under the supplementary medical insurance program.

H.R. 4771. March 9, 1977. Interstate and Foreign Commerce. Amends Title XIX (Medicaid) of the Social Security Act to direct the Secretary of Health, Education, and Welfare to pay a specified percent of each State's costs attributable to the establishment and operation of a State medicare fraud and abuse control and prevention unit.

H.R. 4772. March 9, 1977. Judiciary. Prohibits use or supply of false documentation, false information of birth or immigration documents of another for purposes of obtaining a Federal document containing an element of identification.

Forbids commerce in such information, documentation, or official documents for purposes of securing a State or local government document containing an element of identification.

Prescribes specified acts relative to: (1) forgery, counterfeiting, or alteration of Federal, State, or local government documents containing an element of identification; (2) interstate or foreign commerce in any such counterfeited, forged, or altered document; and (3) receipt, possession, use, or furnishing of any such document with intent to secure false official identification.

H.R. 4773. March 9, 1977. Agriculture. Amends the Perishable Agricultural Commodities Act to raise the maximum license fee for commission merchants, dealers and brokers and to raise the minimum invoice value of specified goods any person must buy or sell or negotiate the sale of in order to be deemed a dealer or broker.

Allows the Secretary of Agriculture, under specified circumstances, to withhold from public disclosure the name, address and other identifying information about any person who has filed an unfair conduct complaint against any commission merchant, dealer, or broker.

Directs the Secretary to inspect the records and require surety bonds of any commission merchant, dealer or broker who has violated the provision of such Act requiring prompt full payment in respect of any transaction in any perishable agricultural commodity.

H.R. 4774. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to repeal the carryover basis provisions enacted by the Tax Reform Act which provide that beneficiaries receiving property from a decedent's estate will retain the decedent's basis in the property. Restores prior law which "stepped up" or "stepped down" the property's basis to its market value at the time of death without imposing tax consequences on the appreciation or depreciation the property underwent while held by the decedent.

H.R. 4775. March 9, 1977. Education and Labor; Interstate and Foreign Commerce. Authorizes grants to assist the States in developing and implementing comprehensive and continuing plans for services to the blind; for the evaluation of visual loss and of the services needed at the onset of blindness; for provision of services to the blind; and for

developing or demonstrating new or improved techniques for the provision of services to the blind.

Directs the Secretary to establish within the Department of Health, Education, and Welfare, or other agency charged with administration of the Vocational Rehabilitation Act a Division for the Blind.

H.R. 4776. March 9, 1977. Ways and Means. Amends the General Provisions of the Social Security Act to prohibit any payment to any State under specified programs unless the State prohibits any public utility from disconnecting or terminating the heat, light or power unless the State or local agencies responsible for the administration of the State's social security programs has been notified by such utility of its intention to disconnect or terminate and has been given at least 30 days to investigate and take steps to protect the occupants of such residence from any suffering or hardship which might result.

H.R. 4777. March 9, 1977. Agriculture. Amends the Perishable Agricultural Commodities Act to raise the maximum license fee for commission merchants, dealers, and brokers, the minimum invoice value of specified goods any person must buy or sell or negotiate the sale of in order to be deemed a dealer or broker.

H.R. 4778. March 9, 1977. Science and Technology. Establishes an Energy Extension Service in the Energy Research and Development Administration to assist in the development of energy conserving practices.

Establishes criteria for the development of State energy conservation implementation plans. Directs the Administrator of Energy Research and Development to develop energy conservation plans for Federal programs.

H.R. 4779. March 9, 1977. Agriculture. Directs the Secretary of Agriculture to make loans to agricultural producers who sustain losses incurred on or after January 1, 1973, as a direct result of their food crops, animal feedcrops, livestock (including poultry), or livestock products being quarantined or condemned by a Federal or State official because such crops, livestock or products contain quantities of toxic chemicals dangerous to the public health.

H.R. 4780. March 9, 1977. Judiciary. Excludes from the criminal proscriptions and licensing requirements of the Gun Control Act of 1968 any device which (1) is intended only to fire a defensive gas, a pyrotechnic signal, or both, and (2) does not have a separated chambered barrel capable of firing a fixed round of ammunition.

H.R. 4781. March 9, 1977. Banking, Finance and Urban Affairs. Prohibits the consideration of any cost of living increase of Old Age, Survivors, and Disability Insurance benefits for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under specified Federal housing programs.

H.R. 4782. March 9, 1977. Education and Labor. Establishes a career education program to assist States and local educational agencies in increasing the emphasis they place in elementary and secondary school education on job awareness, exploration, decisionmaking, and planning.

H.R. 4783. March 9, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to require that bulk cargo vessels subject to the Act be equipped with the best available pollution control equipment and that certain United States oil tankers be equipped with a segregated ballast capacity.

H.R. 4784. March 9, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act of 1936 to direct the Secretary of Commerce to require that a specified percentage of United States oil imports be transported on United States-flag vessels.

H.R. 4785. March 9, 1977. Post Office and Civil Service. Increases the maximum permissible size and weight of mail other than letter mail.

H.R. 4786. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow an income tax deduction for State and local taxes paid or incurred for the furnishing of public utility services.

H.R. 4787. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to allow individuals to deduct up to $500 of the expenses paid or incurred for transportation between their residence and place of business or employment.

H.R. 4788. March 9, 1977. Ways and Means. Amends the Tariff Schedules of the United States to permit the duty-free importation of Tricot and Raschel warp knitting machines until June 31, 1980.

H.R. 4789. March 9, 1977. Ways and Means. Amends the Internal Revenue Code to deny tax-exempt status to certain organizations if such organizations hold farm real property purchased after the date of enactment of this Act and the holding of such property is not substantially related to the charitable or educational purpose which would otherwise make the organizations tax-exempt

H.R. 4790. March 9, 1977. Judiciary. Amends the Immigration and Nationality Act to require that any alien who has been: (1) detained for further inquiry pending entry; (2) temporarily excluded; or (3) arrested before deportation shall have the right to be represented by counsel from the time of such detention or exclusion.

Authorizes the Attorney General to withhold the deportation of any alien to any country in which the alien would be subject to persecution on account of race, religion, or political opinion.

H.R. 4791. March 9, 1977. Public Works and Transportation; Ways and Means. Authorizes the Secretary of Transportation to approve Federal participation in State projects to repair or replace unsafe highway bridges. Amends the Highway Revenue Act of 1956 to extend the appropriations authorized under such Act for the Highway Trust Fund through fiscal year 1990. Amends the Land and Water Conservation Fund Act to extend such fund through fiscal year 1990. Postpones specified excise tax reductions under the Internal Revenue Code of 1954.

H.R. 4792. March 9, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $4,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such title.

H.R. 4793. March 9, 1977. Judiciary. Establishes a system for settling disputes and appealing decisions settling disputes between executive agencies and private contractors. Permits the establishment within each agency of an agency Board of Contract Appeals. Requires the establishment of procedures for appeals involving claims of $25,000 or less.

H.R. 4794. March 9, 1977. Judiciary; Education and Labor. Amends the Civil Rights Act of 1964 to prohibit discrimination based on affectional or sexual preference in: (1) public accommodations; (2) public facilities; (3) public education; (4) federally assisted opportunities; (5) equal employment opportunities; (6) housing; and (7) educational programs receiving Federal assistance.

H.R. 4795. March 9, 1977. Armed Services. Removes the present restrictions which prohibit enlisted members of the armed forces on active duty from engaging in a civilian pursuit or business or prohibit members of the Army, Navy, Air Force, or Marine bands from remuneration for furnishing music outside of a military base where such activities are in competition with local civilians.

H.R. 4796. March 9, 1977. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States.

H.R. 4797. March 9, 1977. Judiciary. Authorizes a certain corporation to appeal a certain order of the Federal Communications Commission.

H.R. 4798. March 9, 1977. Judiciary. Authorizes the conditional admission of a certain person to the United States for permanent residence.

H.R. 4799. March 10, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to increase to $5,000 the amount of outside earnings which is permitted an individual each year without any deduction from benefits under such Title, and to provide that earnings in excess of that figure will reduce benefits by only one-third of the excess.

H.R. 4800. March 10, 1977. Ways and Means. Amends the Emergency Unemployment Compensation Act of 1974 to extend the emergency benefit program thereunder for one year and to direct a determination of whether an emergency benefit period exists for each area of a State rather than only on a Statewide basis.

Sets forth sanctions for persons failing to seek or take employment and for persons fraudulently obtaining emergency benefits.

Amends the Internal Revenue Code with respect to maximium credits against unemployment tax and eligibility of aliens for unemployment compensation.

Amends the Unemployment Compensation Amendments of 1976 to extend the report deadline of the National Commission on Unemployment Compensation.

H.R. 4801. March 10, 1977. Education and Labor. Amends the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to review the standards promulgated under that Act to insure that such standards are effective and capable of being implemented; to authorize the Attorney General to enforce such standards, and to permit consultative inspections of work sites by the Secretary.

H.R. 4802. March 10, 1977. Judiciary. Requires that any rule proposed by any Federal agency be submitted to Congress for approval along with a cost-benefit analysis of such rule.

Permits holding employees, rather than their employers, responsible for violations of agency rules if such employee violated such rule.

H.R. 4803. March 10, 1977. Rules. Amends the Legislative Reorganization Act of 1970 to require that each report accompanying a public bill or joint resolution contain a "Paperwork Impact Statement" estimating the amount of paperwork which would be required of private businesses in carrying out such bill or resolution.

H.R. 4804. March 10, 1977. Interior and Insular Affairs; Public Works and Transportation. Authorizes the Secretary of the Interior to implement specified measures which will encourage the use of transportation modes other than personal motor vehicles for travel to and in national parks.

H.R. 4805. March 10, 1977. Interior and Insular Affairs; Public Works and Transportation. Authorizes the Secretary of the Interior to implement specified measures which will encourage the use of transportation modes other than personal motor vehicles for travel to and in national parks.

H.R. 4806. March 10, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4807. March 10, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administra-

tion, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4808. March 10, 1977. Government Operations. Establishes a Department of Energy in the executive branch. Transfers all functions of the Federal Energy Administration, the Energy Research and Development Administration, and the Federal Power Commission to the Department. Transfers specified functions from other departments and agencies to the Department.

H.R. 4809. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XI (General Provisions and Professional Standards Review) of the Social Security Act to assure the participation by registered professional nurses in the peer review and related activities authorized under such title.

H.R. 4810. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends title XVIII (medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4811. March 10, 1977. Government Operations. Authorizes the Administrator of General Services under the Federal Property and Administrative Services Act of 1949 to sell or lease at 50 percent of fair market value specified surplus real property which became available due to the closing or reducing of activities at a Federal facility to any State or political subdivision of a State which requires such property to conduct an economic development program. Gives the United States the right to reclaim such property in the event it is no longer used for economic development purposes.

H.R. 4812. March 10, 1977. Education and Labor; Interstate and Foreign Commerce; Banking, Finance and Urban Affairs. Amends the Clean Air Act to require investigation and reporting of employment loss resulting from such act's requirements by the Administrator of the Environmental Protection Agency. Authorizes the Secretary of Labor to provide financial and other assistance to qualified unemployed individuals. Authorizes the acquisition and disposition of property near firms closed as a result of the act's requirements.

H.R. 4813. March 10, 1977. Ways and Means. Amends the Internal Revenue Code to provide a limited income tax credit for the purchase and installation of qualified insulation and heating improvements in the taxpayer's principal residence.

H.R. 4814. March 10, 1977. Judiciary. Directs the United States to pay reasonable litigation costs, including attorney fees, to prevailing defendants in civil actions in which the United States is a plaintiff.

H.R. 4815. March 10, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Reaffirms the authority of the States to regulate terminal and station equipment used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4816. March 10, 1977. Government Operations. Amends the Public Works Employment Act of 1976 to direct the Secretary of Commerce to make payments to the governments of Guam, the Virgin Islands and American Samoa to coordinate actions by such governments with Federal Government efforts to stimulate economic recovery.

H.R. 4817. March 10, 1977. Interstate and Foreign Commerce. Amends the Clean Air Act to revise carbon monoxide and nitrogen oxide emission standards for light-duty motor vehicles. Extends interim emission standards for hydrocarbons and carbon monoxide through model year 1979. Extends interim standards for nitrogen oxides through model year 1981. Authorizes revisions or waivers of nitrogen oxide standards in subsequent model years.

Authorizes non-disclosure of emission data to the public where deemed necessary to preserve trade secrets. Establishes procedures for public participation in hearings on proposed motor vehicle emission standards.

Authorizes appropriations to carry out the Act through fiscal year 1980.

H.R. 4818. March 10, 1977. Ways and Means. Amends the Trade Act of 1974 to require the International Trade Commission, upon a finding that an increase in customs duties is necessary to provide relief from import competition, to examine the impact of such increase on domestic retail prices.

H.R. 4819. March 10, 1977. Judiciary. Prohibits the Department of Justice and the Federal Bureau of Investigation from compensating any person for furnishing information unless such compensation is expressly authorized by law.

Repeals authorization for appropriations to the Federal Bureau of Investigation for expenses of unforeseen emergencies of a confidential character the purpose for the spending of which need not be specified.

H.R. 4820. March 10, 1977. Judiciary. Repeals the provision excepting all positions in the Federal Bureau of Investigation from Federal competitive service.

H.R. 4821. March 10, 1977. Public Works and Transportation. Amends the Urban Mass Transportation Act of 1964 to authorize appropriations for urban mass transportation programs under such Act through fiscal year 1982. Sets forth measures and requirements for funding under such Act designed to insure that elderly and handicapped persons have access to mass transportation systems. Authorizes the conversion of specified loans made under such Act and the Housing Amendments, 1955, into grants.

H.R. 4822. March 10, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Courts to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 4823. March 10, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Courts to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 4824. March 10, 1977. Judiciary. Directs the President to appoint a specified number of additional judges to designated United States district courts and courts of appeals.

Authorizes the Director of the Administrative Office of the United States Courts to place an additional eight positions in grades 16, 17, and 18 of the General Schedule.

H.R. 4825. March 10, 1977. Post Office and Civil Service. Amends the Postal Revenue and Federal Salary Act of 1967 to abolish the Commission on Executive, Legislative, and Judicial Salaries.

H.R. 4826. March 10, 1977. Agriculture. Establishes the Federal Farm Assistance Corporation, within the Department of Agriculture, and authorizes the Corporation to negotiate for and purchase farmland or units which may come on the market.

Allows lease of such farm units to eligible applicants, and directs the Corporation's Board of Directors to approve the sale to the lessee of such farm units upon a determination that the lessee can successfully manage and operate such farm unit.

H.R. 4827. March 10, 1977. Public Works and Transportation. Amends the Federal Aviation Act of 1958 to authorize the Civil Aeronautics Board to grant exemptions from the requirements of such Act for all-cargo operations in interstate air transportation pending consideration of an application for initial certification under such Act if such exemption is in the public interest.

H.R. 4828. March 10, 1977. Ways and Means. Amends the Tariff Schedules of the United States to increase the value limit for personal articles which may be imported duty-free by residents returning from American Samoa, Guam, or the Virgin Islands.

H.R. 4829. March 10, 1977. Post Office and Civil Service. Amends the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to specify when an adjustment in the rate of pay for Members of Congress proposed during any Congress shall take effect.

H.R. 4830. March 10, 1977. House Administration. Provides for the designation of any nationally accredited law school as a depository library upon request of such law school.

H.R. 4831. March 10, 1977. Merchant Marine and Fisheries. Amends the Merchant Marine Act, 1936, to make Federal ship mortgage insurance available for obligations for fishing vessels which do not exceed 87½ percent of the actual or depreciated cost of such vessels.

H.R. 4832. March 10, 1977. Education and Labor. Directs the Commissioner of Education not to terminate or defer assistance under the Elementary and Secondary Education Act of 1965 to a local agency for alleged noncompliance with Title VI of the Civil Rights Act of 1964 if within five years preceeding the date of any such imposed action the Commissioner of Education has determined that such agency was in compliance with Title VI, unless a Federal court, subsequent to the Commissioner's determination, has determined that such agency is not in compliance with Title VI, and has not yet complied such court's final order or judgment.

H.R. 4833. March 10, 1977. Judiciary. Authorizes the Secretary of Commerce to make grants to States which submit and have approved by the Secretary a plan for providing a benefit to the spouse or dependents of rescue squad workers who die as a direct result of an injury sustained in the performance of duty.

H.R. 4834. March 10, 1977. Ways and Means. Amends the Internal Revenue Code to exempt aircraft used primarily for agricultural operation from the excise tax imposed on the use of civil aircraft.

Provides for the refund of the tax on gasoline and aircraft to the aerial applicator who is the ultimate purchaser thereof.

H.R. 4835. March 10, 1977. Judiciary. Provides for appointment of a special prosecutor relative to alleged violations of criminal law involving abuse of office, fraud against the United States, obstruction of justice, or campaign finance by any of specified Federal officials or campaign managers.

Directs the Attorney General to promulgate regulations requiring employees of the Department of Justice to disqualify themselves from investigations or prosecutions which may result in a conflict of interest or the appearance thereof.

H.R. 4836. March 10, 1977. Judiciary. Directs the National Commission on New Technological Uses of Copyrighted Works to submit its final report to the President and Congress by July 31, 1978.

H.R. 4837. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4838. March 10, 1977. Public Works and Transportation. Terminates the authorization of Salt Creek Dam and Reservoir project, Ohio.

H.R. 4839. March 10, 1977. Education and Labor. Permits the Commissioner of Education to provide financial assistance to local educational agencies determined to be within an area in which an emergency has occurred prior to July 1, 1978, or which has had public elementary or secondary school facilities destroyed or seriously damaged prior to July 1, 1978.

H.R. 4840. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4841. March 10, 1977. Armed Services. Authorizes supplemental appropriations for fiscal year 1977 for use by the various military departments for research, development, test, and evaluation and for use by the Secretary of Defense for military family housing, operating expenses, and maintenance of real property in support of military family housing.

H.R. 4842. March 10, 1977. Banking, Finance and Urban Affairs. Authorizes increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund.

H.R. 4843. March 10, 1977. Post Office and Civil Service; Judiciary. Prohibits the first salary adjustment which would be made under the Federal Salary Act of 1967 after the date of enactment of this Act from taking effect for the Vice President, Members of Congress, judges, commissioners, and referees, and positions in the Executive Schedule.

H.R. 4844. March 10, 1977. Agriculture. Repeals the Food Stamp Act of 1964. Replaces the existing program with a new program substantially similar, but: (1) eliminates charges for coupon allotments and makes coupons redeemable for cash; (2) requires national income standards of eligibility to be income guidelines for the nonfarm United States prescribed by the Office of Management and Budget; (3) directs that food stamp applications be included on application forms for other public assistance programs; (4) directs the Secretary to make contracts or grants for research that will help improve the administration and effectiveness of the food stamp program.

H.R. 4845. March 10, 1977. Post Office and Civil Service. Amends the Legislative Reorganization Act of 1946 and the Federal Salary Act of 1967 to repeal the provisions of such laws which grant adjustments of pay rates for Members of Congress and the Vice President simultaneously with adjustment of the pay of Federal civil servants.

H.R. 4846. March 10, 1977. Public Works and Transportation. Directs the Secretary of the Army to convey the Fort Gibson Reservoir project to the State of Oklahoma.

H.R. 4847. March 10, 1977. Public Works and Transportation. Directs the Secretary of the Army to convey the Tenkiller Reservoir project to the State of Oklahoma.

H.R. 4848. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to authorize payment for specified services performed by chiropractors, and physical examination, and related routine laboratory tests.

H.R. 4849. March 10, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to regulate research projects involving recombinant DNA. Establishes the recombinant DNA Research Advisory Committee to make recommendations to the Secretary of Health, Education, and Welfare.

H.R. 4850. March 10, 1977. Agriculture. Requires payments by the Secretary of Agriculture to farmowners or operators storing certain agricultural commodities whenever the export sales of such grains are suspended.

H.R. 4851. March 10, 1977. Agriculture. Establishes a temporary advisory committee to advise the Administrator of the Federal Grain Inspection Service. Amends the United States Grain Standards Act of 1976 to repeal the requirement that the State and other official agencies designated to perform inspection or weighing functions pay fees to the Administrator to cover certain supervisory costs. Directs the Secretary of Agriculture to establish a single system of recordkeeping by grain storage or handling facilities which will meet the requirements of Federal law and the regulations of the Community Credit Corporation.

H.R. 4852. March 10, 1977. Post Office and Civil Service. Requires appointments to the position of postmaster at post offices serving a delivery area with a resident population of 5,000 or less to be made from a list of qualified applicants who have resided in the area for at least one year unless no such individual has applied for the position.

H.R. 4853. March 10, 1977. Post Office and Civil Service. Requires appointments to the position of postmaster at post offices serving a delivery area with a resident population of 5,000 or less to be made from a list of qualified applicants who have resided in the area for at least one year unless no such individual has applied for the position.

H.R. 4854. March 10, 1977 Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish and carry out a medical malpractice insurance program which will enable qualified hospitals with one hundred beds or fewer to purchase insurance against the portion of losses arising from medical malpractice claims which exceed $1,000,000.

H.R. 4855. March 10, 1977. Ways and Means. Amends Title XVIII (Medicare) of the Social Security Act to provide reimbursement to public district hospitals which provide care to indigent patients in counties which do not have a county hospital for indigent care.

H.R. 4856. March 10, 1977. Ways and Means; Interstate and Foreign Commerce. Amends Title XVIII (Medicare) of the Social Security Act to include within the meaning of the term "hospital" under such Title, rural health facilities of 50 beds or less.

Sets forth exceptions to staffing, health, and safety requirements set forth for hospitals in the definition of such term.

H.R. 4857. March 10, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to increase the ceiling on the total principal indebtedness which may be outstanding at any one time for operating loans.

H.R. 4858. March 10, 1977. Education and Labor. Amends the Federal Coal Mine Health and Safety Act of 1969 to revise eligibility criteria for the black lung benefits program established under such Act. Requires a reevaluation of prior claims in light of changes made by this Act.

H.R. 4859. March 10, 1977. Judiciary; Rules. Requires that the public be given an opportunity to participate in the rulemaking proceedings of a Federal agency.

Requires that proposed rules be submitted to Congress for disapproval before they become effective.

H.R. 4860. March 10, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to establish regulations relating to navigation and vessel safety, and marine environmental protection. Establishes a 200-mile maritime safety zone around the United States. Requires periodic inspection of vessels subject to such Act.

H.R. 4861. March 10, 1977. Merchant Marine and Fisheries. Amends the Ports and Waterways Safety Act of 1972 to establish regulations relating to navigation and vessel safety, and marine environmental protection. Establishes a 200-mile maritime safety zone around the United States. Requires periodic inspection of vessels subject to such Act.

H.R. 4862. March 10, 1977. Ways and Means. Amends the Internal Revenue Code to allow as a credit against the income tax a limited amount of specified higher education expenses, including tuition, fees, books and supplies, incurred by the taxpayer for himself and any other individual.

H.R. 4863. March 10, 1977. Agriculture. Designates the Department of Agriculture as the lead agency of the Federal Government to coordinate all agricultural research activities in other Federal departments and agencies, the land grant colleges, the State agricultural experiment stations, and research in the private sector.

Establishes, to assist the Secretary of Agriculture in the administration of research and grant programs, the: (1) Agricultural Research and Education Policy Advisory Committee; (2) Agricultural Research Policy Analysis Institute; (3) Committee on Agricultural Research Facilities; and (4) the Animal Health Science Research Advisory Board. Establishes grants and fellowships for specified purposes, including a National Agricultural Research Award.

H.R. 4864. March 10, 1977. Agriculture. Designates the Department of Agriculture as the lead agency of the Federal Government to coordinate all agricultural research activities in other Federal departments and agencies, the land grant colleges, the State agricultural experiment stations, and research in the private sector.

Establishes, to assist the Secretary of Agriculture in the administration of research and grant programs, the (1) Agricultural Research and Education Policy Advisory Committee; (2) Agricultural Research Policy Analysis Institute; (3) Committee on Agricultural Research Facilities; and (4) the Animal Health Science Research Advisory Board. Establishes grants and fellowships for various purposes, including a National Agricultural Research Award.

H.R. 4865. March 10, 1977. Education and Labor. Amends the section of the Comprehensive Employment and Training Act of 1973 which authorizes assistance for youth and other special programs to establish a Youth Employment Office within the Department of Labor to administer the youth programs under such section.

Directs the United States Employment Service to provide employment counseling and placement services for youth. Requires that the State plans submitted in order to receive assistance for public employment services be amended to include provision for the development and promotion of employment opportunities, job counseling, and job placement for youth.

H.R. 4866. March 10, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities must be approved by affected States prior to application for approval by the Nuclear Regulatory Commission.

Authorizes States to adopt safety standards which are more stringent than Federal requirements.

H.R. 4867. March 10, 1977. Interior and Insular Affairs. Amends the Atomic Energy Act of 1954 to stipulate that licenses for construction or modification of nuclear materials production or utilization facilities shall be subject to State disapproval for a 90-day period following notification of the affected State.

H.R. 4868. March 10, 1977. Judiciary. Authorizes individuals to whom the proceeds of a child support order are payable to register such order in any court in any State in

which the individual responsible for making such payments resides.

Allows courts in which such an order is registered to entertain contempt proceedings against an individual who fails to comply with the support order in the same manner as if such court originally issued the order.

H.R. 4869. March 10, 1977. Interstate and Foreign Commerce. Amends the Public Health Service Act to establish, within the National Institutes of Health, the Center for the Evaluation of Medical Practice. Directs the Secretary of Health, Education, and Welfare to use the Center to conduct and support research on the evaluation of the effectiveness of medical practice.

H.R. 4870. March 10, 1977. Ways and Means. Amends Title II (Old-Age, Survivors, and Disability Insurance) of the Social Security Act to revise the method of computing OSADI benefits by requiring that the primary insurance amount be based on an individual's ten or fewer years of highest earnings.

Requires the recomputation in accordance with this Act of the primary insurance amount of an individual entitled to OASDI benefits who has wages or self-employment income after 1978.

H.R. 4871. March 10, 1977. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 4872. March 10, 1977. Agriculture. Amends the National Forest Management Act of 1976 to require the use of oral instead of sealed bidding in the disposition of timber and timber products derived from the National Forest System lands unless the Secretary of Agriculture determines otherwise by regulation.

H.R. 4873. March 10, 1973. Armed Services; Government Operations. Amends the Federal Property and Administrative Act to prohibit the award of contracts for technical support services under rebid or recompetition procedures for substantially the same services on the basis of lower salaries than those paid by the predecessor contractor. Prohibits a procuring agency from awarding a contract unless it has determined that the salary levels for professional employees proposed under such contract are keeping with the professional contribution and reflect the professional status, responsibility, and value of the education and experience of such professional employees.

H.R. 4874. March 10, 1977. Education and Labor. Amends the National Labor Relations Act to permit, subject to specified provisions a labor organization to engage in, and induce others to engage in, a strike, refusal to perform services, or threat thereof: (1) at a construction site; and (2) directed at any one of several persons in the construction industry who are either joint venturers or in the relationship of contractor and subcontractor in the performance of work at such site.

Establishes a Construction Industry Collective Bargaining Committee in Department of Labor with jurisdiction over collective bargaining agreement disputes.

H.R. 4875. March 10, 1977. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 4876. March 10, 1977. Appropriations. Makes economic stimulus appropriations for fiscal year 1977 to the Department of the Treasury; the National Aeronautics and Space Administration; the Department of Labor; the Department of Commerce; and the Department of Transportation.

H.R. 4877. March 11, 1977. Appropriations. Makes supplemental appropriations for fiscal year 1977 to the Department of Agriculture, the Department of Defense, the District of Columbia, specified international organizations, the Department of Housing and Urban Development, the Department of the Interior, the Department of Health, Education, and Welfare, the Department of Labor, the Legislative, Judicial, and Executive Branches, the Department of State, the Department of Justice, the Department of Commerce, and the Department of Transportation.

Increases the amount to be appropriated for increased pay costs authorized by law for fiscal year 1977.

H.R. 4878. March 14, 1977. Education and Labor. Includes Native Hawaiians in the Indian manpower programs of the Comprehensive Employment and Training Act of 1973.

Increases the minimum amount of funds to be reserved for such programs.

H.R. 4879. March 14, 1977. Education and Labor. Amends the Indian Education Act and certain other related education assistance programs to provide Federal financial assistance to individuals, any of whose ancestors were natives of the Hawaiian Islands prior to 1778.

H.R. 4880. March 14, 1977. Interior and Insular Affairs. Amends the Indian Financing Act of 1974 to include within its coverage individuals, any of whose ancestors were natives of the Hawaiian Islands prior to 1778.

H.R. 4881. March 14, 1977. Interior and Insular Affairs; Education and Labor. Amends the Indian Self-Determination and Education Assistance Act to include within its coverage individuals, any of whose ancestors were natives of the Hawaiian Islands before 1778.

H.R. 4882. March 14, 1977. Judiciary. Amends the provision of the Gun Control Act of 1968 imposing additional sentences on persons committing Federal felonies while carrying, or with the use of a firearm to (1) increase the penalties thereunder, (2) encompass State crimes and (3) prohibit a suspended, probationary or concurrent sentence with respect to a first conviction.

H.R. 4883. March 14, 1977. Veterans' Affairs. Requires the Administrator of Veterans' Affairs to pay (in addition to any already paid) a monthly pension of $150 to each veteran of World War I who meets specified service requirements, or to the surviving spouse of each such veteran, or when there is no surviving spouse, to the child or children of each such veteran.

H.R. 4884. March 14, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures of family farms.

H.R. 4885. March 14, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures of family farms.

H.R. 4886. March 14, 1977. Agriculture. Amends the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make and insure loans under such Act for the solar heating or cooling of residential structures of family farms.

H.R. 4887. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the administrators of specified Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increase reflects the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act of 1974 to authorize the use of community development block grants for payments to assist in the acquisition and installations of solar energy equipment.

H.R. 4888. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the administrators of specified Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increase reflects the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act of 1974 to authorize the use of community development block grants for payments to assist in the acquisition and installations of solar energy equipment.

H.R. 4889. March 14, 1977. Banking, Finance and Urban Affairs. Authorizes the administrators of specified Federal housing programs to increase the amount of loans made on single- or multi-family dwelling units by up to 20 percent where such increase reflects the cost of solar energy equipment.

Amends the National Housing Act to authorize home improvement loans for the cost of acquisition and installation of solar energy systems.

Amends the Housing and Community Development Act of 1974 to authorize the use of community development block grants for payments to assist in the acquisition and installations of solar energy equipment.

H.R. 4890. March 14, 1977. Veterans' Affairs. Guarantees automatically any loan to a qualified veteran for the purchase and installation, of solar heating and/or cooling in a dwelling which such veteran owns and occupies.

H.R. 4891. March 14, 1977. Veterans' Affairs. Guarantees automatically any loan to a qualified veteran for the purchase and installation, of solar heating and/or cooling in a dwelling which such veteran owns and occupies.

H.R. 4892. March 14, 1977. Veterans' Affairs. Guarantees automatically any loan to a qualified veteran for the purchase and installation, of solar heating and/or cooling in a dwelling which such veteran owns and occupies.

H.R. 4893. March 14, 1977. Armed Services. Abolishes the National Security Council and establishes the Central Intelligence Agency directly under the President.

H.R. 4894. March 14, 1977. Armed Services; Post Office and Civil Service. Stipulates that beginning with fiscal year 1979 military retired pay shall be made by the Civil Service Commission and that appropriations for such payments shall be made to the Commission. Directs the Secretary of Defense and the Chairman of the Civil Service Commission to jointly issue such regulations as may be required to effectuate the provisions of this Act.

H.R. 4895. March 14, 1977. Armed Services. Amend the Strategic and Critical Materials Stock Piling Act to direct the Secretaries of the Army, Air Force, and Navy to require the Administrator of General Services to establish a program (1) to provide for the acquisition of strategic and critical materials from foreign countries through the barter of goods owned by the United States; and (2) to insure the active cooperation and participation of each appropriate department and agency having custody of goods suitable for barter.

H.R. 4896. March 14, 1977. Post Office and Civil Service. Entitles Federal customs and immigration inspectors to the same retirement benefits as Federal law enforcement officers and firefighters. Permits the appropriate agency to set minimum and maximum ages for such inspectors.

H.R. 4897. March 14, 1977. Ways and Means Amends the Internal Revenue Code to create the World Peace Tax Fund and a Board of Trustees to administer the Fund and to make grants for research and other projects aimed at achieving world peace.

Permits persons conscientiously opposed to participation in war to designate his or her income, gift, or estate taxes to be paid into the Fund.

H.R. 4898. March 14, 1977. Veterans' Affairs. Provides that the decisions of the Administrator of Veterans' Affairs on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be subject to judicial judicial review.

Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 4899. March 14, 1977. Veterans' Affairs. Provides that the decisions of the Administrator of Veterans' Affairs on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be subject to judicial review.

Repeals the requirement that the Administrator determine and pay fees to agents or attorneys in allowed claims for monetary benefits.

H.R. 4900. March 14, 1977. Ways and Means; Interstate and Foreign Commerce. Creates a national system of health insurance. Establishes a Health Security Board in the Department of Health, Education, and Welfare to administer such health insurance program.

Repeals the Medicare provisions of the Social Security Act and all health benefit plans for employees of the Federal Government.

H.J. Res. 351. March 24, 1977. Appropriations. Makes further continuing appropriations for specified departments, agencies and other organizational units of the U.S. Government for fiscal year 1977 for specified programs and activities.

H.J. Res. 352. March 24, 1977. Judiciary. Constitutional Amendment—Provides for the direct popular election of the President and Vice President of the United States.

H.J. Res. 353. March 24, 1977. Judiciary. Constitutional Amendment—Amends the Constitution to require Congress to assure that the total expenditures of the Government, during any fiscal year, do not exceed the total receipts of the Government during such fiscal year. Permits an exception to such requirement in time of declared national emergency, but states that expenditures shall never exceed receipts by more than ten percent. Provides a schedule for the institution of such requirement.

Sets forth a schedule for the elimination of the Federal indebtedness.

H.J. Res. 354. March 24, 1977. Judiciary. Constitutional Amendment—Forbids the assignment of any student to a particular school on account of race, color or creed. Forbids the assignment of any Federal, State, or local employee to a particular job or locations because of race, color or creed.

H.J. Res. 355. March 28, 1977. Post Office and Civil Service. Authorizes and requests the President to annually designate September 8 as "National Cancer Prevention Day."

H.J. Res. 356. March 28, 1977. Post Office and Civil Service. Changes the dates of observance of Washington's Birthday, Memorial Day and Columbus Day.

H.J. Res. 357. March 28, 1977. International Relations. Calls for the President to seek a treaty or international agreement establishing a wildlife preserve for humpback whales in the West Indies.

H.J. Res. 358. March 28, 1977. International Relations. Requires the President to seek a treaty or other arrangement with Canada calling for an immediate moratorium on the killing of the eastern timber wolf.

H.J. Res. 359. March 28, 1977. Judiciary. Constitutional Amendment—Permits any State to allow, prohibit, or regulate abortion.

H.J. Res. 360. March 29, 1977. Judiciary. Constitutional Amendment—Limits the consecutive terms of office of Senators to two terms, and of Representatives to six terms.

H.J. Res. 361. March 29, 1977. Judiciary. Constitutional Amendment—Declares the term "person," with respect to due process and equal protection, applicable to human beings irrespective of age, health, function or condition of dependency, including the unborn. Prohibits the deprivation of life of an unborn person, except under laws permitting medical procedures required to prevent the death of the mother.

H.J. Res. 362. March 29, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the last Friday of each year as "National Arbor Day."

H.J. Res. 363. March 29, 1977. Post Office and Civil Service. Designates the week beginning June 19, 1977, as "National Food Service Employees Week."

H.J. Res. 364. March 29, 1977. Post Office and Civil Service. Authorizes and requests the President of the United States to proclaim April 9 as "Bataan-Corregidor Day."

H.J. Res. 365. March 29, 1977. Post Office and Civil Service. Authorizes the President of the United States to proclaim the second week in April of each year as "National Medical Laboratory Week."

H.J. Res. 366. March 29, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the last Friday of each year as "National Arbor Day."

H.J. Res. 367. March 30, 1977. Interior and Insular Affairs. Relinquishes all powers and authority of the United States over the territory of Puerto Rico unconditionally and without reservations.

H.J. Res. 368. March 30, 1977. Interstate and Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to conduct a study of the effects of saccharin within one year of the enactment of this resolution.

Directs the Secretary to submit a report on the findings of such study to the President and Congress.

Prohibits the banning of saccharin until such report has been submitted to the President and Congress.

H.J. Res. 369. March 31, 1977. Post Office and Civil Service. Authorizes and requests the President to designate the year 1977 as the "Year of Education" in honor of the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson.

H.J. Res. 370. March 31, 1977. Post Office and Civil Service. Designates the week starting with the third Monday in February of each year as "National Patriotism Week."

H.J. Res. 371. April 4, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the week of September 18 through September 24, 1977, as "National Lupus Week."

H.J. Res. 372. April 4, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the Sunday preceding the fourth Thursday in November of each year as "National Family Week."

H.J. Res. 373. April 4, 1977. Judiciary. Constitutional Amendment—Provides for the direct election of the President and Vice President of the United States.

H.J. Res. 374. April 4, 1977. House Administration. Directs the Secretary of the Interior to permit the National Committee of American Airmen Rescued by General Mihailovich to construct and maintain, with private funds, a monument to General Draza Mihailovich.

H.J. Res. 375. April 4, 1977. Post Office and Civil Service. Designates April 14, 1977, as "National Free Enterprise Day."

H.J. Res. 376. April 4, 1977. Interstate and Foreign Commerce. Declares that the Federal Power Commission and other Federal agencies with authority over the allocation of natural gas shall give the highest priority to specified agricultural users.

H.J. Res. 377. April 4, 1977. Post Office and Civil Service. Authorizes the President of the United States to designate the last Friday of each year as "National Arbor Day."

H.J. Res. 378. April 4, 1977. Judiciary. Constitutional Amendment—Prohibits compelling a student to attend a public school other than the one nearest his residence.

Grants Congress the power to enforce by appropriate legislation the provisions of this amendment, and to insure equal educational opportunities for all students wherever located.

H.J. Res. 379. April 5, 1977. Post Office and Civil Service. Requests the President of the United States to designate July 18, 1978 as "Small Business Day."

H.J. Res. 380. April 5, 1977. Post Office and Civil Service. Establishes the Patriots' Pledge.

H.J. Res. 381. April 5, 1977. Judiciary. Prohibits assignment of public school students to a particular school based upon their race, creed, or color.

H.J. Res. 382. April 5, 1977. Post Office and Civil Service. Designates the first week in May of each year as "Be Kind to Animals Week."

H.J. Res. 383. April 6, 1977. International Relations. Gives Congressional endorsement to the efforts of the United States Delegation to the Third United States Nations Conference on the Law of the Sea to achieve a multilateral treaty which articulates the principle that deep seabed resources are the common heritage of all people and should be utilized with a view to distributing revenues to all countries. Endorses particularly the establishment of an International Seabed Authority to regulate such a system.

H.J. Res. 384. April 6, 1977. Judiciary. Constitutional Amendment—Provides for the direct election of the President and Vice President of the United States.

H.J. Res. 385. April 6, 1977. International Relations. Directs the United States to work within the third United Nations Conference on the Law of the Sea to establish an international organization for the conservation and protection of whales.

Directs the Department of State to undertake a series of bilateral and multilateral initiatives with nations having an interest in whales in order to achieve whale conservation as soon as possible.

H.J. Res. 386. April 6, 1977. Banking, Finance and Urban Affairs. Provides for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789. States that one such medal shall honor President James Madison and shall be issued to coincide with the dedication of the new James Madison Building of the Library of Congress.

H.J. Res. 387. April 6, 1977. International Relations. Directs the United States to work toward the establishment of an international organization to insure the conservation and protection of whales.

Requires the Secretary of State to undertake a series of bilateral initiatives with appropriate foreign nations to develop proposals with respect to such organization, and to enter into bilateral negotiations to conserve and protect whales prior to the establishment of such organization.

Requires the President to establish an interagency Task Force on whale conservation and protection.

H.J. Res. 388. April 6, 1977. Merchant Marine and Fisheries. Amends the Fishermen's Protective Act of 1967 to patrially reimburse vessel owners for fees paid to any foreign nation for the privilege of fishing in such nation's fishery zone.

H.J. Res. 389. April 6, 1977. Post Office and Civil Service. Designates the pine tree as the national arboreal emblem of the United States.

H.J. Res. 390. April 6, 1977. Interstate and

Foreign Commerce. Requires the Secretary of Health, Education, and Welfare to conduct a study of the effects of saccharin within one year from the enactment of this resolution.

Directs the Secretary to submit a report on the findings of such study to the President and Congress.

Prohibits the banning of saccharin until such report has been submitted to the President and Congress.

H. Con. Res. 191. April 6, 1977. Directs the Clerk of the House of Representatives to make specified changes in the bill H.R. 3365.

H. Con. Res. 192. April 6, 1977. Agriculture; Interior and Insular Affairs; Public Works and Transportation. Expresses the sense of Congress that all agencies with responsibility for rural water supply and waste disposal facilities should coordinate their activities to provide assistance in the research, planning, financing and construction necessary to provide rural America with adequate environmentally sound and economic water supplies and waste disposal facilities.

H. Con. Res. 193. April 6, 1977. International Relations. Pledges the support of the Congress to advance human rights. Urges the President to inform other nations that the United States will consider human rights protection in evaluating its relations with other nations.

H. Con. Res. 194. April 6, 1977. International Relations. Declares that Congress (1) would support a Presidential declaration of policy against the United States manufacture of lethal chemical weapons, and (2) urges a treaty banning the manufacture and possession of such weapons by any nation.

H. Con. Res. 195. April 6, 1977. Sets forth the congressional budget for the United States Government for fiscal year 1977. Specifies the appropriate level of new budget authorities and the estimated budget outlays for each major functional category.

H. Res. 401. March 14, 1977. Interstate and Foreign Commerce. Calls for the consideration of the relationship between the violence depicted on television and violence in society by those persons responsible for television programing and broadcasting in the United States.

H. Res. 402. March 14, 1977. sets forth the rule for the consideration of H.R. 4876 (economic stimulus appropriations).

H. Res. 403. March 14, 1977. Waives all points of order against specified provisions in H.R. 4877 (supplemental appropriations) for failure to comply with certain requirements of rule XXI of the Rules of the House of Representatives, during the consideration of such bill.

H. Res. 404. March 15, 1977. Authorizes and directs the Committee on Rules of the House of Representatives to investigate and evaluate the scope and impact of the House broadcast tests as it affects the proceedings of the House and the conduct of Members.

H. Res. 405. March 15, 1977. Sets forth the rule for the consideration of H.R. 4088 (NASA appropriations).

H. Res. 406. March 15, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 407. March 16, 1977. Elects a certain individual to the Committee on Agriculture of the House of Representatives.

H. Res. 408. March 16, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 409. March 16, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 410. March 16, 1977. Rules. Requires that the Congressional Record for the House of Representatives contain an accurate and verbatim account of remarks actually delivered on the floor of the House, together with permitted supporting data.

Limits revisions of verbatim remarks in the Record to the correction of grammatical and typographical errors which do not change the meaning, context, or substance of those remarks.

Entitles Members to insert in the Record remarks not actually delivered on the floor. Requires that such insertions always be clearly distinguished from verbatim remarks.

H. Res. 411. March 16, 1977. Sets forth the rule for the consideration of H.R. 4800 (Emergency Unemployment Compensation).

H. Res. 412. March 17, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 413. March 17, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 414. March 17, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 415. March 17, 1977. International Relations. Declares that the House of Representatives applauds the efforts of the Women's Peace Movement to end violence in Northern Ireland.

H. Res. 416. March 17, 1977. International Relations. Declares that the House of Representatives applauds the efforts of the Women's Peace Movement to end violence in Northern Ireland.

H. Res. 417. March 17, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 418. March 17, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 419. March 17, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 420. March 21, 1977. Rules. Establishes the Select Committee on Congressional Operations in the House of Representatives to continue the functions of the Joint Committee on Congressional Operations for the House. Requires the committee to: (1) make a continuing study of the operation of Congress; (2) identify any court proceeding of interest to Congress or the House; (3) conduct a continuing study of the standing committee structure of the House; and (4) supervise and control the functions of the Office of Placement and Office Management as they relate to the House.

H. Res. 421. March 21, 1977. House Administration. Disapproves a specified regulation proposed by the Federal Election Commission pertaining to voluntary contributions to a separate segregated fund and transmitted to the House of Representatives January 12, 1977.

H. Res. 422. March 21, 1977. Interstate and Foreign Commerce. States that this Congress should expeditiously determine the future telecommunications policy of this Nation. Request the Federal Communications Commission to defer implementation of any further new telecommunications policies until Congress has completed its study on the matter and determined what such future policy should be.

H. Res. 423. March 22, 1977. Sets forth the rule for the consideration of H.R. 4250 (Labor in construction industry).

H. Res. 424. March 22, 1977. Sets forth the rule for the consideration of H.R. 5040 (Department of State authorizations).

H. Res. 425. March 22, 1977. Small Business. Requests the President of the United States to convene a White House Conference on Small Business with the help of the Senate Small Business Committee to develop recommendations, including suggestions for joint legislative and executive action, for revitalizing and maintaining economic viability of the small business infrastructure.

H. Res. 426. March 22, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 427. March 22, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 428. March 22, 1977. House Administration. Declares that the expense of investigations and studies by the House Select Committee on Ethics shall be paid out of the contingent fund of the House.

H. Res. 429. March 22, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of world population growth, its effects, and methods to reduce such growth.

H. Res. 430. March 23, 1977. Sets forth the rule for the consideration of H.R. 3965 (Aviation research projects).

H. Res. 431. March 23, 1977. Sets forth the rule for the consideration of H.R. 4991 (National Science Foundation authorizations).

H. Res. 432. March 23, 1977. Interstate and Foreign Commerce. Declares that the House of Representatives does not favor Energy Action No. 11, relating to the price incentive factor for crude oil production.

H. Res. 433. March 23, 1977. Rules. Declares that the House Select Committee on Assassinations shall continue in operation for the duration of the 95th Congress.

H. Res. 434. March 23, 1977. House Administration. Declares that there shall be paid out of the contingent fund of the House such sums as may be necessary to enable the Committee on International Relations to facilitate the interchange and reception in the United States of members of foreign legislative bodies and officials of foreign governments.

Amends the Legislative Branch Appropriations Act, 1963, to increase the amount of funds available for such purposes.

H. Res. 435. March 24, 1977. House Administration. Extends the time period during

which payments may be made from the contingent fund of the House of Representatives to certain standing or select committees.

H. Res. 436. March 24, 1977. House Administration. Declares that certain administrative expenses of the former House Select Committee on Professional Sports shall be paid out of the contingent fund of the House.

H. Res. 437. March 24, 1977. Interstate and Foreign Commerce. Directs that hearings be commenced as soon as possible by the committee with appropriate jurisdiction to consider and determine what should be the Nation's future telecommunications policy.

H. Res. 438. March 24, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 439. March 24, 1977. Rules. Directs the House Committee on International Relations to conduct hearings to determine the nature and extent of any United States involvement in the hostilities in Northern Ireland.

H. Res. 440. March 24, 1977. Interstate and Foreign Commerce. Sets forth guidelines for the development of pay television.

H. Res. 441. March 24, 1977. Sets forth the rule of the consideration of H.R. 5045 (Reorganization of executive agencies).

H. Res. 442. March 28, 1977. House Administration. Authorizes the Committee on House Administration to incur further expenses to enable House Information Systems to develop, operate, maintain, and improve computer services for the House of Representatives, and to give computer support directly to committees, Members, and administrative offices of the House.

H. Res. 443. March 28, 1977. International Relations. Declares that the House of Representatives condemns the action of Uganda, and that Uganda deserves the condemnation of the world community.

H. Res. 444. March 28, 1977. International Relations. Declares that the House of Representatives condemns the actions of Uganda, and that Uganda deserves the condemnation of the world community.

H. Res. 445. March 29, 1977. Sets forth the rule for the consideration of H. Res. 433 (Continuation of Select Committee on Assassinations).

H. Res. 446. March 29, 1977. Interstate and Foreign Commerce. Expressing the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 447. March 29, 1977. Interstate and Foreign Commerce. Sets forth guidelines for the development of pay television.

H. Res. 448. March 30, 1977. Sets forth the rule for the consideration of H.R. 4976 (Authorizations for health services programs).

H. Res. 449. March 30, 1977. Sets forth the rule for the consideration of H.R. 4975 (Authorizations for biomedical research).

H. Res. 450. March 30, 1977. Sets forth the rule for the consideration of H.R. 4974 (Authorizations for health planning programs).

H. Res. 451. March 30, 1977. Sets forth the rule for the consideration of H.R. 4895 (Stockpiling of critical materials).

H. Res. 452. March 30, 1977. Standards of Official Conduct. Amends rule XLIII of the Rules of the House of Representatives to prohibit any Member from soliciting or accepting a gift of money for personal use.

H. Res. 453. March 31, 1977. Rules. Establishes within the House of Representatives a Standing Committee on Intelligence to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the House appropriate proposals for legislation.

Sets forth procedures whereby the Committee may disclose publicly information in its possession. Authorizes the House to approve disclosure of certain classified information over the objection of the President.

Prohibits the appropriation of funds for specified intelligence activities unless authorized by House bill or joint resolution.

H. Res. 454. March 31, 1977. Rules. Establishes within the House of Representatives a Standing Committee on Intelligence to oversee and make continuing studies of the Intelligence activities and programs of the United States Government, and to submit to the House appropriate proposals for legislation.

Sets forth procedures whereby the Committee may disclose publicly information in its possession. Authorizes the House to approve disclosure of certain classified information over the objection of the President.

Prohibits the appropriation of funds for specified intelligence activities unless authorized by House bill or joint resolution.

H. Res. 455. March 31, 1977. Rules. Establishes within the House of Representatives a Standing Committee on Intelligence to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the House appropriate proposals for legislation.

Sets forth procedures whereby the Committee may disclose publicly information in its possession. Authorizes the House to approve disclosure of certain classified information over the objection of the President.

Prohibits the appropriation of funds for specified intelligence activities unless authorized by House bill or joint resolution.

H. Res. 456. March 31, 1977. Rules. Amends the Rules of the House of Representatives to make specified changes in the operations of committees, subcommittees, and the Congress as a whole in considering proposed legislation.

H. Res. 457. March 31, 1977. Interstate and Foreign Commerce. States that this Congress should expeditiously determine the future telecommunications policy of this Nation.

Calls for a moratorium on any further implementation of new telecommunications policies by the Federal Communications Commission until the 95th Congress has completed its study on the matter and determined the appropriate national telecommunications regulatory policy or adjourned sine die.

H. Res. 458. March 31, 1977. Rules. Amends the Rules of the House of Representatives to provide for and to regulate television and radio coverage of the House of Representatives.

H. Res. 459. March 31, 1977. Interstate and Foreign Commerce. States that a review of the national telecommunication policy should be completed expeditiously.

H. Res. 460. March 31, 1977. Rules. Creates a House select committee to conduct an investigation of all records, memorandums, papers, documents, books, and other information of any standing or select committee of the House or officer of the House respecting expenses incurred by or on behalf of any such committee or its members or employees.

H. Res. 461. March 31, 1977. Public Works and Transportation. Directs the Architect of the Capitol to study the feasibility of using solar energy in connection with the operation of House Office Buildings and related structures.

H. Res. 462. March 31, 1977. Public Works and Transportation. Directs the Architect of the Capitol to study the feasibility of using solar energy in connection with the operation of House Office Buildings and related structures.

H. Res. 463. March 31, 1977. Public Works and Transportation. Directs the Architect of the Capitol to study the feasibility of using solar energy in connection with the operation of House Office Buildings and related structures.

H. Res. 464. March 31, 1977. Rules. Creates a House select committee to conduct an investigation of all records, memorandums, papers, documents, books, and other information of any standing or select committee of the House or officer of the House respecting expenses incurred by or on behalf of any such committee or its members or employees.

H. Res. 465. March 31, 1977. House Administration. Directs the payment of expenses out of the contingent fund of the House for investigations and studies to be conducted by the Select Committee on Assassinations.

H. Res. 466. March 31, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 467. March 31, 1977. Rules. Establishes within the House of Representatives a Standing Committee on Intelligence to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the House appropriate proposals for legislation.

Sets forth procedures whereby the Committee may disclose publicly information in its possession. Authorizes the House to approve disclosure of certain classified information over the objection of the President.

Prohibits the appropriation of funds for specified intelligence activities unless authorized by House bill or joint resolution.

H. Res. 468. March 3, 1977. Sets forth the rule for the consideration of H.R. 3199 (Water pollution control authorizations).

H. Res. 469. March 31, 1977. Sets forth the rule for the consideration of H.R. 5294 (Debt collection practices).

H. Res. 470. April 4, 1977. Directs the printing of additional copies of "The 1977 Joint Economic Report for the use of the Joint Economic Committee.

H. Res. 471. April 4, 1977. Rules. Amends rule XII of the Rules of the House of Representatives to require that each committee report accompanying a public bill or joint resolution contain an evaluation of the paperwork which would be incurred in carrying out such bill or resolution including estimates of time and cost required of affected parties, a showing of whether the effects of the bill could be substantial, and an estimate of recordkeeping requirements.

H. Res. 472. April 4, 1977. Interstate and Foreign Commerce. Expresses the sense of the House of Representatives that the ban or prohibition of saccharin should be delayed until the appropriate congressional committees have determined that consumption of saccharin is unsafe.

H. Res. 473. April 5, 1977. Sets forth the rule for the consideration of H.R. 5262 (United States participation in international finance programs).

H. Res. 474. April 5, 1977. Rules. Amends rule XI of the Rules of the House of Representatives to require committee approval of travel proposals.

Prohibits any Member or employee from accepting any gift of travel from any foreign national without the consent of the House of Representatives.

H. Res. 475. April 5, 1977. Rules. Creates a House Select Committee on Population to conduct an investigation and study of World population growth, its effects, and methods to reduce such growth.

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H. Res. 478. April 5, 1977. Interstate and Foreign Commerce. Calls for the consideration of the relationship between the violence depicted on television and violence in society by those persons responsible for television programming and broadcasting in the United States.

H. Res. 479. April 5, 1977. Rules. Requires that the CONGRESSIONAL RECORD for the House of Representatives contain an accurate and verbatim account of remarks actually delivered on the floor of the House, together with permitted supporting data.

Limits revisions of verbatim remarks in the RECORD to the correction of grammatical and typographical errors which do not change the meaning, context, or substance of those remarks.

Entitles Members to insert in the RECORD remarks not actually delivered on the floor. Requires that such insertions always be clearly distinguished from verbatim remarks.

H. Res. 480. April 5, 1977. Judiciary. Refers a certain bill, together with all accompanying papers, to the Chief Commissioner of the Court of Claims for appropriate review.

H. Res. 481. April 6, 1977. Sets forth the rule for the consideration of H.R. 5101 (Environmental Protection Agency appropriations authorization).

SENATE—*Thursday, September 22, 1977*

The Senate met at 2 p.m. and was called to order by Hon. PAUL S. SARBANES, a Senator from the State of Maryland.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, eternal and unchangeable in Thy holiness, justice, and love, as our forefathers lifted up their hearts in prayer so in our time we appeal to "the Supreme Judge of the world for the rectitude of our intentions." Make us mindful day by day that all of us, human and imperfect as we are, labor under Thy transcendent judgment. We need Thee every hour, and humbly ask Thy guidance, grace, and guardianship now and evermore. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 22, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL S. SARBANES, a Senator from the State of Maryland, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. SARBANES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, September 21, 1977, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider four nominations on the Executive Calendar, which I understand have been cleared on the minority side of the aisle also.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the majority leader is correct. The nominations on the Executive Calendar for the National Credit Union Administration, Securities and Exchange Commission, and Farm Credit Administration are cleared for confirmation by the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL CREDIT UNION ADMINISTRATION

The ACTING PRESIDENT pro tempore. The clerk will state the first nomination.

The second assistant legislative clerk read the nomination of Eloise A. Woods, of Georgia, to be Chairman of the National Credit Union Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SECURITIES AND EXCHANGE COMMISSION

The ACTING PRESIDENT pro tempore. The clerk will state the next nomination.

The second assistant legislative clerk read the nomination of Roberta S. Karmel, of New York, to be a member of the Securities and Exchange Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FARM CREDIT ADMINISTRATION

The ACTING PRESIDENT pro tempore. The Clerk will state the next nomination.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the next two nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The second assistant legislative clerk read the nominations of Lawrence Owen Cooper, Sr., of Mississippi, and Edgar C. Rutherford, of California, to be members of the Federal Farm Credit Board, Farm Credit Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which Mr. Lawrence Owen Cooper, Sr., was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which Mr. Edgar C. Rutherford was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The distinguished minority leader is recognized.

Mr. BAKER. Mr. President, I have no need for my time under the standing order, and I yield back the time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is now recognized for not to exceed 15 minutes.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, no doubt the Senate is aware by now of my very deep conviction that the proposed Pana-

ma Canal treaties are directly contrary to the national interest of the United States and the free world.

This is the seventh speech I have given in the Senate since the Panama Canal Treaties were signed by the President and the Panamanian dictator. I intend to make other speeches from time to time while this matter is before the Senate and before the country, I might say, Mr. President.

But, Mr. President, the more I study this matter, the more I am convinced that these proposed treaties are not even in the interest of the people of Panama. Stating the matter bluntly, these treaties seem chiefly to benefit the large multinational banks and the elitist dictatorial regime now in power in Panama, a regime which has repressed and subjugated the people of Panama since its inception in 1968.

Let us face it—dictator Torrijos and the clique surrounding him see these treaties not as a program for uplifting and improving the lot of the people of Panama, but rather as a means for perpetuating their own privileged position as a ruling class.

Dictator Torrijos in 1968 was an undistinguished left-leaning major in the Panamanian National Guard. Now, after a career based more on gangsterism than on military ability, he professes to hold the rank of brigadier general and is without argument titular head of one of the world's worst dictatorships.

Mr. President, Freedom House, which is recognized internationally as an impartial monitor of the status of human freedom—and, I might add, counts Dr. Henry Kissinger as a member of its advisory council—rates Panama as one of the ever-growing number of nations in the world whose people are counted among the "not free." As a matter of interest, according to Freedom House, 67 nations are "not free," 48 are "partly free," and 42 are "free." So, Panama is in bad company, but certainly not alone.

But, Mr. President, in addition to these three major categories, Freedom House further breaks down and characterizes the governments of the world by rating political rights under those governments on a scale of 1 to 7, with 7 being least free. Panama is rated 7.

That is right at the bottom in the degree of freedom which the citizens of Panama enjoy or fail to enjoy under the dictator regime in Panama.

Civil rights—or, if you prefer, human rights—are rated on a similar scale, and Panama receives a 6.

A 7 is the worst they can possibly receive under this rating system.

The sad case of the late Leopoldo Aragon is typical of the consistent pattern of gross violation of human rights by the military dictatorship in Panama. Aragon was a working journalist, an idealist, and politically a Social Democrat. Strongly anti-Communist, he had been forced to leave Czechoslovakia because of his opinions and was barred from virtually all socialist-Communist dominated countries. In Panama, rather than being expelled for his political activities, he was jailed summarily without trial for 15 months in Panama's infamous penal colony, Coiba—pronounced CO-E-BA. Amnesty International, the International Commission of Jurists, and the Human Rights Commission of the United Nations finally prevailed on Dictator Torrijos to release this journalist-idealist, who had had the audacity to suggest that Panamanians should be permitted to enjoy basic human rights on the same footing as people of this country or of other free nations.

Of course, Mr. President, Senators know the sad end to correspondent Aragon's life, but I question whether many Members of the Senate are aware that our own Department of State refused Aragon's application for a visa to enter the United States, presumably because the Department of State, like dictator Torrijos, did not wish any dissent or opinion conflicting with its own view of what is best for Latn America and the Republic of Panama. I sometimes wonder where our own country would rate on the scales at Freedom House if the Department of State could impose its programs here as they are imposed abroad.

To be sure, Mr. President, the Panamanian dictatorship, in the present glare of international publicity, will pay lipservice to the forms of democracy. We will be treated to the spectacle of a plebiscite by the Panamanian people allegedly in ratification of these proposed treaties, we will see demonstrations of support and even expressions of patriotic affection for this guileful gangster dictator, and some of us will be reminded of similar plebiscites and expressions of support from another era and on another continent.

Yes, we will see the forms of democracy observed, but I trust that our own media, our own free press, will report substance and not sham. I trust, Mr. President, that our press, being free, will recognize the hollowness, indeed the perversity, of a plebiscite conducted in a country with a censored and controlled news media and with a legislature hand-picked and installed by a military dictator.

Perhaps Senators wonder why the Panamanian dictator is even bothering to go through the motions of conducting a plebiscite. Some hint can be found in remarks made on August 19 in the dictator-controlled Panamanian National Assembly. So-called Representative Luis Castillo posed the following revealing question:

> Mr. President, distinguished negotiators, dear comrade: I would like to ask the negotiators about the plebiscite. Since this is the means by which the Panamanian people will ratify the treaty and is related to the ratification by the U.S. Congress, I would like to ask whether a date has been set for the plebiscite and whether it has considered that it is important for the plebiscite to be held before the U.S. Congress ratifies the treaty. The idea is that once the results of the plebiscite are known—and we feel sure the Panamanian people will approve the treaty by a majority—this would have an impact on the U.S. Congress.

So, Mr. President, the real purpose of this plebiscite is going to be to add fuel to the propaganda fires here in the United States. The Panamanian plebiscite will have nothing whatsoever to do with the desires or interests of the Panamanian people. It will be conducted only for its impact on the U.S. Congress. Panama is a small country but the dictator and his henchmen understand our politics much better, apparently, than we understand the facts of political life in Panama. As chief negotiator, Romulo Escobar Bethancourt put the matter:

> As for the U.S. Congress, there is a big problem, to be frank with you. They (the U.S. negotiators) have a big problem, worse than you can imagine . . . Why? Because the U.S. Congressman, as a good politician, acts as an instrument of those electing him. He is always aware of how the voter of the district or state that elects him feels.

I might say parenthetically, Mr. President, if the Members of the Senate act according to the wishes of their constituents, in my judgment, there is no doubt whatsoever that the two treaties will be rejected by the U.S. Senate. Of course, I think that would be a most fortunate result of the treaty vote in the U.S. Senate.

You see, Mr. President, this matter of elections is something of a novelty down there in Panama. Of course, Torrijos did not get there by an election. He took over in a coup.

Negotiator Bethancourt had to go to some trouble to explain the whole process to the "representatives" in the National Assembly. I can almost imagine their amusement at the thought of having to take account of the views of the people.

But they do have to ratify it, and that is the form that they are going through. It is absolutely meaningless. It will be 999 to 1, I dare say, in favor of the ratification of the treaty unless it would serve their best interests to show a closer vote, indicating that the treaties are not stacked in favor of Panama, which, of course, they are.

But, Mr. President, one representative in this appointed National Assembly of over 400 members did voice a little opposition to the dictator's treaties. Let us see what happened to him. This is Representative Luis Emilio Veces:

> I wish to clear up a point of order. . . .

This fellow seems to have the same problems with the Chair that a number of us have experienced from time to time—not the present occupant of the Chair, I hasten to add.

This Representative continues:

> I wish to clear up a point of order, because the Secretary has declared that the vote was unanimous for the resolution approving the accomplishments of the Panamanian negotiators regarding the treaty.

One can almost imagine the situation. Over 400 dictator-appointed assembly members shouting approval of the actions of the dictator's negotiators, yet one brave voice insisting to be recorded as an abstention. Apparently, a direct vote against might have been viewed as treason. Representative Veces bravely continues:

> I wish to explain my abstention from voting. With the indulgence of those at the presidential table, the vice president, the cabinet ministers and fellow representatives, I wish to explain that I am incapable of bregrudging the merits with which the resolution credits

those abroad who have expressed their solidarity with our country. However, there is a basic issue which has caused me to abstain from voting for that resolution. It is the fact that I cannot share the pleasure of those at this meeting or the pleasure expressed by the government team today for a treaty which I have not yet seen.

Apparently, they had the same problems in Panama, in this dictator-run national assembly, that we had here in the U.S. Congress—the same problems in discovering actually what had been negotiated on behalf of our respective Governments. But Representative Veces had an additional concern which caused him to abstain:

According to the national press and the government team, we have ample guarantees permitting a debate on the new treaty draft. Nevertheless, the same government team has made a series of threats of a political nature against persons who oppose the treaty.

We have not had any such situation as that in this country, and I do not anticipate that we will have any, although, of course, the President and the Department of State are conducting what they call an educational campaign. I believe the more people are educated, though, on this question, the more against the treaty they are going to be. If there is any retaliation, it will not be on the part of the executive department, I am sure. If there is any at all against those who vote for the treaty, it will be by the voters back home, in my judgment. Says Representative Veces:

I wish to state clearly that in such a situation it would appear that we are left only to take it or leave it.

We shall not have that situation here. We shall have an opportunity to amend the treaty. If we amend it successfully in a basic and fundamental way, that will have the effect of killing the treaty, because it would then have to be renegotiated. I am hopeful that we will be able to amend it.

For instance, one section, aside from the major question of whether we ought to give the canal away, one article says that, during the 23-year period of the treaty, the United States will not negotiate with any other nation regarding another Isthmian Canal. There has been suggested a route through Nicaragua. The House, at one time, back around 1903, favored and passed a resolution to that effect, for the Nicaraguan route. But under the treaty, we will not be able even to negotiate with another nation for another sea-level canal without the permission of Panama. Of course, they are not going to give their permission, because the Panama Canal would be a great asset.

Certainly, that ought to be knocked out of the treaty, and many other provisions, as well, should be knocked out, assuming that the treaty is going to be ratified in some form, which I oppose. The similarities between this Panamanian Assembly and our own Congress are sometimes startling. Veces continues:

I am also worried about a number of ideas being expressed, such as that those who oppose the government or the treaty are traitors to the fatherland.

That was stated down in Panama, not here, because no one goes that far.

These are ideas which given the pretense that there is a democratic atmosphere, constitute a threat for anyone in this country who has the power to reason.

Certainly, that same situation would apply here. Those of us who have the power to reason and who can point out the defects in this treaty and the inadvisability of going ahead with it certainly are held up to some degree of—vilification possibly is too strong a word, but some degree of ridicule in the media.

Representative Veces seems to be seeking to discover the limits of permissible dissent, and negotiator Bethancourt advises him in this fashion.

Here is the propaganda line they are handing out in Panama—

Any person who during the debate objects to the approval of the treaties because Torrijos is a dictator will receive our reply explaining why we do not consider Torrijos a dictator, and in addition we will reprimand that person.

So they do not have much freedom of speech down there in Panama.

That will be the debate, at whatever level people choose to engage in it, but whoever decides to enter the debate should know that he will get a reply.

The reply that they are suggesting is not too favorable to any dissenters' life and health.

Veces got his answer, and I am sure he got with it the clear message it carried.

The following facts certainly portend great danger to our use of the Panama Canal.

Mr. President, on July 19, a Soviet delegation in Panama negotiated an agreement with Panama which included the following points—construction of a major heavy equipment repair facility in Panama for use by the Soviet Union; permission for the Soviet Union to take advantage of the tariff "free zone" at Colon for Soviet merchandise; establishment of Soviet installations at France Field, formerly a U.S. Air Force base; and informally, a commitment to allow construction of a Soviet hydroelectric plant and oil storage facilities. Moving in very rapidly, Mr. President. Against that background, I question seriously the judgment of those who would urge the Congress to support treaties which will prop up and perpetuate a military regime whose leader oppresses his own countrymen and seems bent on forging an alliance with the world's bloodiest and most tyrannical imperial power.

These treaties are clearly not in the best interest of the United States or the free world. Since they will tend to darken and prolong the night of tyranny and oppression in Panama, neither are they in the best interest of the Panamanian people.

Mr. SPARKMAN. Will the Senator yield?

Mr. ALLEN. I am delighted to yield to my colleague.

Mr. SPARKMAN. Speaking of those early discussions and particularly the proposal for a sea-level route through Nicaragua, I want to call to the Senator's attention that his predecessor and mine many years ago, Senator John T. Morgan, was one of the great advocates of the sea-level route through Nicaragua.

I have often thought it would have been a great blessing had that gone through.

Mr. ALLEN. Yes.

The ACTING PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. ALLEN. Mr. President, I ask unanimous consent for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ALLEN. The Senator already has been called, as the distinguished Senator knows, the father of the Panama Canal.

Mr. SPARKMAN. Correct.

Mr. ALLEN. He had advocated the Nicaragua route.

The House of Representatives passed the resolution calling for the Nicaraguan route in working out a treaty with them and in the Senate.

They only changed in the resolution substituting Panama for Nicaragua.

Senator Morgan, though he for decades advocated the Nicaragua route, was so interested in the Isthmian Canal, he urged his friends in the House not to make any effort to go back to Nicaragua, not to have a conference, and they accepted the Senate amendment.

Certainly, it is a great tribute to Senator John T. Morgan that he was willing to sacrifice his own notions of where it ought to go in order to achieve the objective of getting the Isthmian Canal.

Mr. SPARKMAN. While we are reminiscing, I would like to recall that one of the great men in Panama during those days was an Alabaman, Gen. Killiam C. Gorgas, who cleared it of yellow fever.

Mr. ALLEN. That is correct. Also, Gen. William L. Sibert of Alabama.

Mr. SPARKMAN. A corps engineer.

Mr. ALLEN. He did not get the credit, but he was actually the engineer in charge of the construction.

Mr. SPARKMAN. The Senator is correct.

Mr. President, may I be recognized in my own right since the time is up?

The ACTING PRESIDENT pro tempore. Does the Senator make a unanimous-consent request to be recognized?

Mr. SPARKMAN. I ask unanimous consent that my colleague's time be extended.

Mr. ALLEN. Three minutes.

Mr. SPARKMAN. For 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The time of the Senator is extended for 3 minutes.

Mr. ALLEN. I yield to the Senator.

Mr. SPARKMAN. Mr. President, of course, my colleague realizes that these treaties are coming before us.

Mr. ALLEN. Yes.

Mr. SPARKMAN. I had printed in the RECORD sometime back a rather detailed announcement on the hearings. The Senator recognizes that I am chairman of that committee.

Mr. ALLEN. The very distinguished chairman, I might say.

Mr. SPARKMAN. I shall do my best to preside, shall I say, on a nonpartisan basis.

Mr. ALLEN. I know that the Senator will.

Mr. SPARKMAN. I believe we do have

a wonderful parade of witnesses that are coming before us.

Mr. ALLEN. I might say, while the Senator is looking for his paper, that I have requested time before the committee and the distinguished Senator has certainly graciously stated I would have that time to speak or testify in opposition to the treaties.

Mr. SPARKMAN. Mr. President, I would like to refer to the notice that I put in the RECORD.

First, we are going to open these hearings on the 26th. I will be presiding and not supporting either side.

Mr. ALLEN. I understand.

Mr. SPARKMAN. I am going to be presiding officer. We do have a very fine schedule of witnesses. It will probably run about 2 weeks, I should think, and maybe longer than that.

We do not look forward to presenting the treaties—there are two treaties—to the Senate until we are back here the first of the year. I believe that is what Senator ROBERT C. BYRD has scheduled.

Mr. ALLEN. That is correct.

Mr. SPARKMAN. But we are going to start off with our negotiators, Ambassador Bunker and Ambassador Linowitz.

I have tremendous respect for both of them. I believe they did yeoman work down there. We expect to hear from them first.

Then we are going to hear from the Defense people because they are vitally concerned in this matter.

Then we will hear from some of our former Secretaries of State, Secretary Kissinger and Secretary Rusk are particularly mentioned.

I think we have a very fine selection.

Furthermore, we are not going to try to rush these hearings. We are going to give an opportunity to as many as we possibly can—that will include Members of both Houses of Congress, it will include the military, it will include interested citizens and others.

We plan to give as broad a hearing as we possibly can.

Mr. ALLEN. I know that.

Mr. SPARKMAN. I want to assure the Senator of that.

Mr. ALLEN. I know he will be eminently fair and give all sides an opportunity to be heard. I do not know any Member that I would rather see chair these hearings than my distinguished senior colleague from Alabama (Mr. SPARKMAN).

I know it will be a fair hearing. He has outlined those who will testify on behalf of the treaty. I am sure he will be just as fair in giving an opportunity to those of us who oppose the treaty to be heard.

I have full confidence in the Senator's handling of the hearing.

HEARINGS TO BEGIN SEPTEMBER 26 ON PANAMA CANAL AGREEMENTS

Mr. SPARKMAN. Mr. President, as I announced on behalf of the Foreign Relations Committee, hearings on the proposed Panama Canal agreements will begin the week of September 26. During that week, the committee will hear from an array of executive branch witnesses. The following week, on October 4 and 5, we will hear from Members of Congress.

Now turning to the week of October 10, I wish to announce that the committee has rearranged its schedule so that all 5 days during the morning can be devoted to testimony on the proposed canal agreements. During that time, the committee will hear from a variety of public witnesses and outside experts. Among others—

We will ask President Ford and Governor Reagan to appear.

We will ask former Secretaries of State Dean Rusk, William Rogers and Henry Kissinger to appear.

We will ask military and defense specialists to appear.

We will ask a panel of Canal Zone residents to appear.

We will ask veterans' organizations to appear.

We will ask scholars on United States-Latin American relations to appear.

We will ask business, labor, and church leaders to appear.

In short, during the week of October 10, we will hear from as many organizations and individuals as we can.

But this will not complete the committee's hearings on the Panama Canal treaties. Once again, I want to state that the committee will endeavor to compile a full and complete hearing record. We will honor as many requests as we possibly can—and then some.

There will arrive, however, a cut-off point somewhere down the road, and for that reason I want to encourage individuals who wish to express themselves on this issue to do so in writing. They can send their views to the Senate Foreign Relations Committee and as chairman I want to assure them that their written statements will be retained in the committee's files for use by the members of the committee and the Senate as a whole. I hope that many individuals interested in the canal issue will avail themselves of this opportunity.

Mr. ALLEN. I appreciate this information. The distinguished chairman could not possibly have been fairer than he has outlined the policy of the committee will be. Of course, I never had any doubt that that was the case.

Mr. SPARKMAN. I thank my colleague.

The ACTING PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENT NO. 889, AS MODIFIED

The ACTING PRESIDENT pro tempore. The pending question before the Senate is the amendment offered by the Senator from South Dakota, No. 889.

Mr. McGOVERN. Mr. President, after further reading overnight of the amendment I submitted earlier this week, there are two or three clarifying language changes that I desire to make to modify the amendment. I have sent the language to the desk.

On page 1 of the amendment, on the final line, I would strike the word "all."

On page 2 of the amendment, a comma should have been inserted after the word "lands" on line 1.

On line 3, following "prices" the following language should be added: "to serve as an independent source of data by which to measure costs of production, prices, and the extent of reserves and other factors related to the performance of private oil and gas companies."

On page 7, beginning on line 22, after the word "Federal," everything from there to the bottom of the page should be stricken and the word "lands" added, with a semicolon.

Mr. President, the purpose of these modifications is not to change the direction of the amendment in any way, which is basically a yardstick by which to measure the factors under which we determine what the costs are of exploring, developing, producing, and marketing oil and gas, but simply to make the intent of the amendment clearer and to refine it more definitely so that it accomplishes what the amendment is intended to do.

I do not intend to discuss the amendment any more at this time. It is my understanding that no vote can occur on this or any other amendment until 6 o'clock, and that such a vote would not occur until action had been taken on the so-called Bentsen amendment, in the form of a tabling motion. I anticipate that my amendment will be the next order of business after the rollcall vote which has been slated for 6:30 tonight on the Bentsen amendment.

The ACTING PRESIDENT pro tempore. The amendment offered by the Senator from South Dakota will be modified as he has indicated.

The modified amendment is as follows:

On the first page, between lines 2 and 3, insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Oil and Gas Corporation Act'.

"PURPOSE

"SEC. 202. The purpose of this title is to establish a public corporation to explore and develop natural gas and oil resources on Federal lands, to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices, to serve as an independent source of data by which to measure costs of production, prices, extent of reserves, and other factors related to the performance of private gas and oil companies, and to assure that the Nation's energy requirements are met without degradation to the environment.

"ESTABLISHMENT OF THE CORPORATION

"SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the 'Federal Oil and Gas Corporation which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

"(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the Board.

"(d) Members of the Board shall be appointed for terms of seven years, except that the terms of office of the members of the Board first taking office after the date of enactment shall expire as designated by the President at the time of nomination, one at the end of the fifth year, one at the end of the sixth year, and one at the end of the seventh year after such date. A successor to a member of the Board shall be appointed in the same manner as the original member and shall have a term of office expiring seven years from the date of expiration of the term for which his predecessor was appointed.

"(e) Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Vacancies in the Board, so long as there are two members in office, shall not impair the powers of such Board to execute its functions, and two of the members in office shall constitute a quorum for the transaction of the business of such Board.

"(f) Each of the members of the Board shall be a citizen of the United States. His compensation shall be paid at the rate provided for level III of the Executive Schedule (5 U.S.C. 5315). Each member of the Board shall be employed on a full-time basis and in addition to his salary shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by him in the performance of the duties vested in the Board by this title. No member of the Board shall, during his continuance in office, be engaged in any other business.

"(g) No Director shall have a financial interest in any corporation engaged in the business of distributing and selling natural gas or oil to the public nor in any corporation engaged in the business of natural gas or oil exploration, development, transportation, or use, nor shall any Director have any interest in any business which may be affected by the activities of the Corporation.

"(h) The Board shall direct the exercise of all the powers of the Corporation.

"(i) Each member of the Board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this title.

"(j) Any member of the Board may be removed from office for cause at any time by joint resolution of the Senate and the House of Representatives. No member of the Board shall within one year after leaving office receive compensation directly or indirectly from any private source for activities directly related to the Corporation and further assure the equity of this restriction and to assure the independence of the Board, the departing member's compensation shall be continued for one year at the same level as existed at the end of his term.

"(k) Any member of the Board who is found by the President of the United States to be in violation of any provision of this title shall be removed from office by the President of the United States.

"OFFICERS AND EMPLOYEES OF CORPORATION

"SEC. 204. (a) The Board may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates), define their duties, and require bonds of such of them as the Board may designate. Any appointee of the Board may be removed in the discretion of the Board. No officer or employee of the Corporation may receive a salary in excess of that received by the members of the Board.

"(b)(1) For purposes of the Act of March 3, 1931 (Davis-Bacon Act; 40 U.S.C. 276a), each contract to which the Corporation is a party shall be considered a contract to which the United States is a party. The Board shall not enter into any such contract without first obtaining assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts.

"(2) If work, which if let by contract would be subject to paragraph (1) of this subsection, is done directly by the Corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employees and employers.

"(c) Insofar as applicable, the benefits of chapter 81 of title 5, United States Code, shall extend to persons given employment under the provisions of this title.

"(d) In the appointment of officials and the selection of employees for the Corporation, and the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

"CORPORATE POWERS GENERALLY

"SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may sue and be used in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal bylaws;

"(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal lands;

"(9) shall have the power to develop and sell natural gas or oil discovered by exploration, or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources, as herein authorized;

"(10) shall have the power to explore, develop, acquire, or sell natural gas and oil alone or on a joint or cooperative basis with any private or other public entity or entities: *Provided*, That no joint or cooperative basis is authorized if there is any likelihood that exploration, development, acquisition, or sale jointly or cooperatively with another entity or entities may adversely affect competition, restrain trade, further monopolization, or violate the spirit or content of any Federal statute respecting trade or commerce;

"(11) shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own, and operate research, testing, or demonstration facilities, alone or on a joint or cooperative basis with private or other public entities;

"(12) shall have the power to build, lease, purchase, or otherwise obtain and operate facilities necessary for the sale, purchase, transportation, or delivery of natural gas or oil except no facility may be constructed or operated unless such facility meets and complies with all of the requirements of any Federal status relating to environmental quality, or any regulation issued under such statute, including those aspects of life and objectives which are delineated in section 101 (b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect; and

"(13) shall have the power to sell commercially valuable minerals which may be mined or extracted or discarded incidental to the production of natural gas or oil on Federal lands.

"(b) In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"(1) The exclusive use, possession, and control of all property to be acquired by such Corporation in its own name or in the name of the United States of America are entrusted to such Corporation for the purposes of this title.

"(2) The President of the United States may provide for the transfer to such Corporation of the use, possession, and control of such other Federal land or personal property of the United States as he may from time to time deem necessary and proper for the purposes of such Corporation.

"(c) The Corporation shall maintain its principal office at a place determined by it.

"(d) Section 101 of the Government Corporation Control Act is amended by inserting 'Federal Oil and Gas Corporation;' after 'Tennessee Valley Authority;'.

"(e) The Corporation may contract with any person or public agency which it deems qualified, to design, prepare specifications and bidding documents, recommend the award of contracts, or supervise the construction and installation of equipment and facilities of any required type anywhere in the United States.

"TRANSMISSION PIPELINES

"SEC. 206. In order to place the Corporation upon a proper basis for the sale of oil and gas products on Federal lands, it may, either with funds appropriated by Congress or from funds secured from the sale of such oil and gas, or from funds secured by the

sale of bonds construct, lease, purchase, or authorize the construction of transmission pipelines within transmission distance from the place where such oil and gas is produced and to interconnect with other systems. The Board may lease to any person the use of any transmission pipeline owned and operated by the Corporation, but no such lease shall be made that in any way interferes with the use of such transmission pipeline by the Board.

"OBLIGATIONS

"SEC. 207. (a) The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sale agreements, or any other form of securities, agreements, or obligations (hereinafter collectively referred to as 'obligations').

"(b) Payment of principal and interest on obligations issued by the Corporation under this section is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. The Corporation may also incur debt not guaranteed by the United States. Proceeds realized by the Corporation from issuance of its obligations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

"(c) Obligations issued by the Corporation under this section may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board.

"(d) At least thirty days before selling any issue of obligations other than obligations having a maturity of less than one year, the Board shall so advise the Secretary of the Treasury in the greatest possible detail, including the amount, proposed date of sale, maturities, terms and conditions of and the expected rate of interest on such issue. If the Secretary of the Treasury so requests, representatives of the Corporation shall consult with him or his designee with respect to the proposed issue: *Provided*, That the issuance and sale of obligations of the Corporation is not subject to approval by the Secretary of the Treasury. If the Corporation determines that a proposed issue of obligations cannot be sold on reasonable terms, it may issue interim obligations to the Secretary of the Treasury, which such Secretary is authorized to purchase. Such interim obligations of the Corporation issued to the Secretary of the Treasury shall mature on or before one year from the date of issuance. Such obligations shall bear interest at a rate or yield no less than the current average yield on outstanding marketable securities or obligations of the United States of comparable maturity, as determined by the Secretary of the Treasury. For the purpose of any purchase of obligations of the Corporation, and to enable him to carry out the responsibility relating to guarantees of obligations made pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this section. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

"(e) The Board may—

"(1) sell its obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

"(2) designate trustees, registrars, and paying agents in connection with obligations of the Corporation and the issuance thereof;

"(3) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms in addition to audits and reports required by the Government Corporation Control Act;

"(4) invest, subject to any covenants contained in any obligation contract, the proceeds of any obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and

"(5) perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section.

"(f) Obligations of the Corporation issued under this section shall contain a recital to that effect which shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and valid. Obligations of the Corporation issued under this section shall be lawful investments and may be accepted as security for all fiduciary trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States and shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to obligations guaranteed under this section.

"(g) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee under this section.

"(h) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

"MISCELLANEOUS PROVISIONS

"SEC. 208. (a) The Corporation may request the right to develop natural gas or oil which is or may be located on any Federal lands, including offshore rights, to the extent necessary to carry out its authorized activities: *Provided*, That the Corporation shall not request or be granted more than 10 per centum of such rights as are offered at that time for sale or lease to other qualified persons.

"(b) Except as provided in subsection (c) of this section, any Federal agency or department having authority to lease, sell, or otherwise dispose of Federal lands or rights to natural gas or oil which is or may be located on Federal lands, including offshore rights, shall, upon the receipt of a request of the Corporation under subsection (a) of this section, grant the Corporation such right to develop without payment within ninety days after the receipt of such request. Rights to develop under this subsection shall not be subject to any other Federal statute or regulation governing the lease, sale, or other disposition of any such lands or rights by any Federal agency or department.

"(c) Notwithstanding the provisions of section 644 of title 10, United States Code, the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation in accordance with this subsection. Within one year after the date of incorporation of the Corporation, the Secretary of Defense shall prepare and submit to the President a report which specifies the petroleum and oil shale reserves which he finds are necessary for retention to accomplish the purposes of such section 644. Within six months after receiving such report, the President shall designate those petroleum and oil shale reserves which are necessary for retention under such section. Such properties may not be transferred to the Corporation, except on such terms and conditions as may be set by the President.

"(d) The provisions of this section shall not apply to any Federal lands or rights within any national park, forest, wilderness, seashore, monument, or wildlife refuge area, or to any lands held by the United States in trust for any Indian or Indian tribe.

"(e) All rights granted and properties transferred to the Corporation shall be explored, developed, and produced in the most rapid manner practicable without excessive risk of losses in recovery in accordance with the purposes of this title and subject to the authorized powers and limitations of the Corporation under section 203 of this title.

"LEASES

"SEC. 209. (a) The Corporation shall build, lease, or purchase refining facilities for the crude oil it produces or otherwise obtains only if it is unable to make sales of such oil in a manner which will promote competition among suppliers of crude oil.

"(b) The Corporation shall build, lease, or purchase transportation facilities for the natural gas or oil it produces or otherwise obtains only if it is unable to arrange for delivery of such natural gas or oil in a manner which will promote competition among suppliers of natural gas or oil.

"SALES OF NATURAL GAS

"SEC. 210. (a) Sales of natural gas or oil by the Corporation shall be made at fair and reasonable prices designed to promote competition among suppliers of these energy resources.

"(b) Sales and transportation of natural gas or oil by the Corporation shall be subject to the jurisdiction of the Commission to the same extent and subject to the same requirements as sales and transportation of these energy resources by other suppliers.

"(c) In selling natural gas or oil, the Corporation shall give price, supply, or delivery preference to States, political subdivisions of States, and independent refiners.

"TAXATION

"SEC. 211. Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount of such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

"ROYALTY

"SEC. 212. (a) The Corporation shall make available, by license or otherwise, on a nonexclusive basis, upon payment of a reasonable royalty, and without territorial limitation, the use of any patent, trade secret, and copyrighted or other information obtained or developed by the Corporation in the performance of any of its activities under this section.

"(b) Copies of any written or oral communication, document, intelligence, report, or other information received, prepared, or sent by the Corporation or any of its personnel and, in the case of oral communications, reduced to writing in whole or in sum-

mary, shall be made available to any interested person upon receipt of a specific and identifiable request in writing, except that nothing in this subsection shall be deemed to require the release of any information required by law to be kept secret in the interest of the national defense or foreign policy; personnel and medical files and similar files the disclosure of which would constitute an unwaranted invasion of personal privacy; or information pertinent to a pending negotiation or transaction until the completion thereof.

"STATE AND LOCAL STATUTES

"SEC. 213. Except for compliance with Federal statutes which may be administered by the States, the Corporation shall be exempt from State and local statutes or controls which would impede, affect its ability to perform the activities authorized by this title: *Provided*, That the Corporation shall submit a prior report, together with reasons therefor, to the Congress with respect to each incident of noncompliance with any State or local statute or control.

"ENVIRONMENTAL IMPACTS

"SEC. 214. (a) It shall be the objective of the Corporation to prevent all adverse environmental impacts associated with the activities of the Corporation which will likely impose an unacceptable cumulative burden of pollution or degradation upon the natural resources of the vicinty and the region.

"(b) In exploring and developing natural gas or oil resources and in the construction and operation of any production or transmission facility, the Corporation shall administer such programs so as to promote the conservation of lands and other natural resources, to preserve and enhance the environment, to maintain ecological balances, to protect the public health, safety, and welfare, and to restore and rehabilitate, as far as practicable, any lands from which natural gas and oil resources have been taken and which will no longer be needed by the Corporation for such use.

"(c) The Corporation shall treat all decisions regarding the siting and design of any facility which may be constructed under this title as a significant aspect of land use planning in which all environmental, social, economic, and technical issues with respect to such facility should be resolved in an integrated fashion. In the resolution of these possible competing demands, the Corporation shall give all possible weight to the protection of the environment and full compliance with all applicable Federal laws and regulations.

"(d) To guide the Corporation in its consideration of the factors listed in subsections (b) and (c) of this section, the President shall appoint an environmental advisory committee (hereafter referred to as the "committee") consisting of ten members who may each serve for a period of no more than five years on a staggered basis and having equal representation from:

"(1) public interest and environmental groups having a regional or national scope; and

"(2) Federal agencies, including the Environmental Protection Agency and the Energy Research and Development Administration.

"(e) Members of the advisory committee who are not Federal employees shall receive adequate per diem compensation for days spent in actual performance of duties for the committee, not to exceed $100 per day, and shall be reimbursed by the Corporation for actual expenses in the performance of such duties, including costs of travel for necessary inspection of sites. In addition, the Corporation shall provide the committee with an adequate staff.

"(f) Prior to the initiation of any program of exploration or the construction of any major facility under this title, the Corporation shall prepare with the approval of the committee an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969. After adequate public notice, the Corporation shall make the impact statement available to all interested agencies and to the general public and shall hold such public hearings in places convenient to the area affected and shall allow interested persons to submit comments on the statement.

"ANNUAL REPORT

"SEC. 215. (a) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of incorporation, and thereafter on February 1 of each year, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of such annual report, the Corporation shall submit a statement of the amount of financial assistance needed, if any, for its operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. The Corporation shall make this annual report readily available to the public.

"(b)(1) The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the Chairman of the Board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the use of the Congress.

"(2) Such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer such errors, and to file a statement which shall be submitted by the Comptroller General with his report. Nothing in this title shall relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236 of the Revised Statutes (31 U.S.C. 71) and accounts of all receipts and disbursements by or for the Corporation shall be rendered accordingly.

"OFFENSES; FINES AND PUNISHMENT

"SEC. 216. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States, shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporation.

"(b) Any person who, with intent to defraud the Corporation, or to deceive any Director, officer, or empolyee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"CONDEMNATION PROCEEDINGS

"SEC. 217. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights-of-way, or of any transmission capacity which, in the opinion of the Corporation, are necessary to carry out the provisions of this title. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right-of-way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States in fee simple, and to enter a decree quieting the title thereto in the United States of America. In any such eminent domain proceeding (including a proceeding in the District of Columbia) a corporation may file with the complaint or at any time before judgment a declaration of taking in the manner and with the consequences provided by the first section and section 2 and 4 of the Act entitled 'An Act to expedite the construction of public buildings and works outside the District of Columbia by enabling possession and title of sites to be taken in advance of final judgment in proceedings for the acquisition thereof under the power of eminent domain', approved February 26, 1931 (46 Stat. 1421).

"SEVERABILITY

"SEC. 218. If any provision of this title or the applicability thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

"AUTHORIZATION OF APPROPRIATION

"SEC. 219. (a) All appropriations necessary to the Corporation for each fiscal year to carry out the provisions of this title are hereby authorized.

"(b) When the annual revenues of the Corporation exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for Corporation activities, the Corporation shall pay its remaining funds to the United States.

"REVIEW

"SEC. 220. On or before January 15, 1982, the President shall prepare and submit to the Congress a comprehensive review, in accordance with the provisions of sections 1001 and 1002 of the Department of Energy Organization Act, of the provisions of this title.".

The ACTING PRESIDENT pro tempore. The Chair informs the Senator that the order provides that there will be no rollcall votes prior to 6 p.m. today. There could be other votes, voice or division, if requested in the regular order of business.

Mr. McGOVERN. At the appropirate time, I shall ask that this amendment be voted on by rollcall vote. I am aware of the unanimous-consent formula under which we are operating. It is my understanding that that vote by rollcall would be the next one following the vote on the Bentsen amendment at 6:30.

The ACTING PRESIDENT pro tem-

pore. If the amendment of the Senator from South Dakota has not been acted upon by that time, then following that vote, it will be the pending question before the Senate.

Mr. McGOVERN. I thank the Chair.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, once again the Senate finds itself in the midst of a debate as to what policy will best address our Nation's natural gas supply situation.

This is a critical issue. The severe shortage of natural gas experienced last winter, which resulted in factory shutdowns, job layoffs, school closings, increased reliance on important foreign crude oil, human suffering, and economic dislocation, is only a review of what may happen if we fail to adopt a comprehensive and workable natural gas policy.

The need for extensive reform of the Natural Gas Act, which has been interpreted by the Supreme Court as requiring regulation of interstate producer sales of natural gas, is well documented. The supply situation facing many of our interstate pipelines, that have been experiencing accelerating curtailments for 7 years, remains dismal. The most recent Federal Power Commission estimate indicates that natural gas curtailments will be 3.8 trillion cubic feet for the year April 1977 through March 1978 compared to actual curtailments of 3.38 trillion cubic feet for the previous 12-month period. Pipelines will be able to deliver only 73 percent of the natural gas they are committed to deliver to customers this year.

Proved recoverable reserves of domestic natural gas were estimated at 290 trillion cubic feet in 1970. By the end of 1976, the same reserves had diminished to 215 trillion cubic feet, a decline of 26 percent over 6 years. In the period of 1970 to 1975, natural gas reserves dedicated to interstate pipelines declined from 174 trillion cubic feet to 107 trillion cubic feet—a difference of 38 percent.

Since 1967, U.S. consumption of natural gas has annually outstripped additions to reserves with the exception of 1970 when Prudhoe Bay gas was added to our reserve inventory. Annual domestic natural gas production peaked in 1973 at 22.6 trillion cubic feet. In 1976, producer sales had dropped to 19 trillion cubic feet. At the same time, domestic producer sales to major interstate pipelines decreased from a high of 12 trillion cubic feet in 1973 to approximately 10 trillion cubic feet in 1976.

The Senate is well aware of the need to reverse this deepening and pervasive natural gas supply situation being experienced in the interstate marketplace. In October of 1975, the Senate passed by an overwhelming margin of 58 to 32 the so-called "Pearson-Bentsen" natural gas deregulation bill. In January of this year, the Senate passed the Emergency Natural Gas Act of 1977 which authorized temporary purchases of natural gas by interstate pipelines from the unregulated intrastate market. But still, we have failed to come forward with a permanent solution to overcome our spiralling natural gas shortages.

Mr. President, once again the Senate has pending before it a proposal offered by Senator BENTSEN and myself for mitigating and ultimately resolving this critical situation. Our proposal would deregulate the wellhead price of new natural gas produced from onshore reserves, phase out the wellhead price regulation of new natural gas produced from the Outer Continental Shelf lands, provide a statutory priority for essential uses of natural gas in agricultural and industrial processes, extend certain provisions of the Emergency Natural Gas Act to assure that in the near term consumers who are dependent on gas-starved interstate pipelines will be adequately served, and would prohibit arbitrary and inflationary indefinite price escalation clauses from being triggered due to deregulation.

Our proposal is premised on the fact that a competitive marketplace is required to elicit necessary new supplies of natural gas from untapped frontier areas. One need only look to the unregulated intrastate marketplace, which has not suffered from severe natural gas shortages, to realize the benefits of allowing competitive pricing for an available commodity. Investors are attracted to a free marketplace not hampered by Federal regulation and price controls. It is time to rectify the disparity between regulated and unregulated markets and to return certainty to the Nation's natural gas supply situation.

In order to alleviate the natural gas shortage over the long term, the wellhead price of new natural gas sales in interstate commerce would be decontrolled under our proposal. The impact on the consumer will be minimum by regulating immediately only new natural gas sold from onshore lands and phasing in the decontrol of new sales from the Outer Continental Shelf. It is important to emphasize that if no new gas is found then no price higher than current FPC rates for regulated interstate sales will occur.

New natural gas is given a restrictive definition under the Pearson-Bentsen amendment. Only natural gas sold from new reservoirs and new extensions of reservoirs will be deregulated. The economic incentives of nonregulated pricing should only be applicable to truly new gas discoveries.

Old, flowing natural gas would remain under Federal rate regulation. There is no attempt to provide a windfall to producers of old natural gas.

The Pearson-Bentsen proposal contains other provisions which will assure an adequate supply of natural gas for appropriate uses. The Emergency Natural Gas Act is extended for 2 years which will continue to facilitate immediate and substantial deliveries of surplus intrastate natural gas without jeopardizing the nonregulated status of the sellers. Provisions are contained in the amendment which will prevent a shifting of the interstate shortage to the producing States.

Our proposal establishes priority of service categories for essential natural gas users in times of curtailment including high priorities for agricultural and essential industrial end users. This provision will provide certainty for those end use categories which rely upon an adequate supply of natural gas and which cannot shift to alternative fuel such as coal.

Mr. President, certain modifications have been made to the Pearson-Bentsen proposal between the time we introduced our bill, S. 256, in January of this year and introduction of the current Pearson-Bentsen amendment.

We have deleted "infill" drilling from the definition of new natural gas. The effect of this action will prohibit deregulation treatment for sales of new natural gas produced from new wells drilled in existing reservoirs. Thus, under our proposal we are deregulating only new natural gas.

The boiler fuel prohibition and termination provision of the Pearson-Bentsen bill has been deleted. The Senate recently passed S. 977, the Jackson coal conversion legislation, which effectively addressed this issue.

The section in our earlier bill dealing with the certification of coal gasification facilities by the Federal Power Commission has been removed. The deletion of this provision was based on our determination that coal gasification issues are better considered in the overall context of synthetic fuels legislation rather than natural gas policy legislation.

Limitations have been placed on FPC certification authority with respect to curtailment in order to effectuate the orderly implementation of the forthcoming coal conversion program. Existing certificates of public convenience and necessity may not be altered by the FPC in lieu of the Congressional intent expressed within the Jackson coal conversion bill. However, the ability of the FPC to implement curtailment programs, with the exception of the above mentioned statutory priorities, is not altered.

Limitations have been placed on indefinite price redetermination clauses. "Most favored nation" clauses and other price redetermination devices written into contracts formulated after September 1, 1977 will not be allowed to operate with respect to sales of either interstate or intrastate natural gas. This antiinflationary device will prevent unwarranted price escalations due to deregulation of new natural gas.

S. 256 as introduced contained a 180-day emergency sales provision for purchases of unregulated gas by interstate pipelines. The Pearson-Bentsen amendment instead of introducing a new 180-day emergency sales concept would amend the Emergency Natural Gas Act by extending the sales and allocation provisions up to April 20, 1979. This will provide interstate pipelines with adequate access to surplus intrastate gas.

Mr. President, under our restricted definition of new natural gas we an-

ticipate increases in deregulated sales of between 7 and 10 percent annually. This very gradual rise in the volumes of new natural gas being commingled with large volumes of flowing natural gas will dampen possible price escalations. In addition, the price for unregulated sales of new natural gas in the intrastate market has averaged $1.83 for the previous two quarters. It is inconceivable that the price for new natural gas will accelerate to the alleged level of $4 to $5. The benefits of adding substantial new supplies of natural gas to our domestic reserve inventory far outweighs the "cost" of deregulation.

Another factor which makes the $4 to $5 price escalation estimate totally unacceptable is that elasticity exists between price and demand. That is, users of natural gas with the ability to convert to other fuels such as crude oil and coal will do so when such a conversion becomes economic. If foreign crude oil is available at the Btu equivalent of $2.50 per Mcf and new natural gas for whatever reason moves beyond this price, the end user will obviously convert to foreign crude oil rather than waiting for the price of new natural gas to rise to the market equivalent of LNG or SNG.

Supporters of the administration's natural gas program, which I will discuss shortly, have listed free market cost impacts as a result of deregulation ranging from $45 to $120 billion through 1985 as a tactic to justify the retention of Federal price controls. In reality, these charges are unsupported by any sound economic logic and, in fact, have been thoroughly discredited by the Nation's leading economists.

The administration's supporters have consistently disregarded the fact that the wellhead price averages only about 25 percent of the burner-tip price to the consumer, the remainder being fixed and regulated pipeline and distribution charges. However, since pipelines are not operating at capacity because of regulatory-induced shortages, a greater proportion of fixed charges must be absorbed in the unit cost of gas. In other words, consumer costs increase when pipelines are not full. Deregulation is a device for refilling these gas-starved interstate pipelines.

A more realistic tally of the cost of deregulation must take into consideration the enormous costs that consumers would otherwise pay for substitute fuels, increased oil imports, capital costs to convert to coal, and increased air quality maintenance charges, as well as less quantifiable effects of income and employment loss that would be caused by spot and chronic energy shortages.

I would note that two recent studies have discredited the biased and unsupported cost figures alleged by the administration. A recent study put forward by Congressmen STOCKMAN and BROWN indicates that the President's bill will cost consumers an additional $48 billion over the Pearson-Bentsen proposal if allowed to go into effect. A study released on September 16, 1977, by Professor Erikson of North Carolina State University, comes to the same general conclusion and shows that the ultimate cost to the consumer of continued regulation will approximate $100 billion between 1978 and 1990. Even deliberately choosing assumptions unfavorable to deregulation reduces this benefit only to about $50 billion.

The administration's argument that there is little if any new natural gas to be found is ridiculous. I am convinced that deregulation of new natural gas will result in increased supplies of this essential commodity for domestic consumption. Most industry and Government experts indicate that there are between 600 and 900 trillion cubic feet of conventional remaining recoverable reserves—volumes of gas which at present rates of consumption will carry us well into the next century. Furthermore, we are told that nonconventional gas resources, such as Devonian shale and geopressurized brine, if and when they become technologically and economically recoverable, would significantly expand the known natural gas supply base.

Continuation of current policy concerning the pricing of natural gas production will not result in these reserves being developed. Unrealistically low Federal price controls over natural gas production have prevented the capital investment necessary to make an adequate supply of natural gas available to the interstate marketplace through expanded exploration and development efforts. Uncertainty as to future Federal policy has restrained the most costly production of natural gas from remaining reserves.

In contrast to the Pearson-Bentsen proposal, the administration's natural gas proposal will do little to reverse the critical natural gas supply situation. The administration's proposal—instead of deregulating the wellhead price of new natural gas—would expand Federal control to the previously unregulated intrastate market. If 23 years of Federal regulation over interstate natural gas production have demonstrated anything, it is the simple economic fact that price controls will impede supply and accelerate demand for cheap but nonexistent energy commodities. Adequate economic incentives will encourage development of more costly natural gas resources located deeper in the Earth and further offshore than presently producing fields, and in frontier areas such as Alaska.

Other facets of the President's natural gas program are also counterproductive. Tying the price allowed for new natural gas to the weighted average price of all domestic crude oil would continue the policy of unrealistically low prices for our Nation's most efficient and desirable energy resource.

The definition of new gas is overly restrictive and when coupled with an unrealistically low price ceiling, will provide no incentive for developing new resources. Furthermore, restrictions placed on end-users of natural gas are overburdensome and impossible to administer. Finally, extensive mandatory interconnection and allocation authority would only further exacerbate the situation.

Mr. President, in summary, the natural gas proposals put forward by the administration:

Ignore the potential for finding, developing, and delivering new supplies of natural gas;

Extend to the entire national market permanent ceiling prices below the cost of finding and developing new supplies;

Write off our domestic natural gas reserves and increase our already critical dependence on foreign energy supplies; and

Refuse to recognize that full development of domestic supplies will have the advantage of using existing pipelines and distribution systems, fostering consumer investments, increasing domestic employment, improving the Nation's balance of payments, and enhancing air and water quality.

Mr. President, we are at a critical juncture in the formulation of a workable national energy policy. The Pearson-Bentsen proposal pending before the Senate provides the incentives necessary to elicit sufficient supplies of new natural gas to fuel our economy and heat our homes and schools. Implementation of a national energy policy that ignores the need for stimulation of domestic energy production would be a critical mistake. This is a lesson which we were taught last winter and which we will be taught time and time again unless we take positive and decisive action.

I urge that all Members of the Senate once again join Senator BENTSEN and myself in approving the Pearson-Bentsen amendment as the correct means for remedying an extremely critical natural gas supply situation.

Mr. STEVENS. Will the Senator from Kansas yield for a question?

Mr. PEARSON. I yield to the Senator from Alaska for a question.

Mr. STEVENS. I would like to ask my colleague what would be the effect of his amendment on natural gas from the Alaskan North Slope. My interpretation is that "new natural gas," as defined in this amendment, includes North Slope gas, since no North Slope gas was sold or delivered in interstate commerce before January 1, 1977.

Mr. PEARSON. That is correct, unless North Slope gas was sold or delivered in intrastate commerce prior to January 1, 1977.

Mr. STEVENS. A small amount of Prudhoe Bay gas has been produced and is being used for operations on the North Slope related directly to development and production of the field. Does this constitute sale or delivery in intrastate commerce?

Mr. PEARSON. No. The quantities of natural gas used in oil field operations cannot, by any stretch of the imagination, be considered as intrastate commerce.

Mr. STEVENS. Then, since North Slope gas is new natural gas, under your amendment it is not subject to wellhead price regulation. Is this correct?

Mr. PEARSON. Yes. The Senator from Alaska has interpreted this correctly.

Mr. STEVENS. I thank the Senator from Kansas for his response.

Mr. SCHMITT. Mr. President, as we approach an extremely critical vote later today on the issue of the regulation or deregulation of the price of new natural

gas, I think it is once again important, as I and others have tried to do on other occasions, to discuss the basic resource question. If we take the step of deregulation of the price of new natural gas, is there a resource base available to be tapped?

Mr. President, as a geologist with a number of years of close contact with the geology of petroleum and natural gas and with the geology of other mineral deposits, I believe it is safe to say that we have already begun to tap the resources of natural gas that are yet to be defined by drilling.

By way of introduction, I think it is important to rebut at the onset one of the basic philosophical concepts that seems to underlie the administration's natural gas program. That concept is that there is a limited, finite, and known amount of gas yet to be discovered and produced.

Mr. President, that is just blatantly untrue. It does not apply to natural gas and it does not apply to any other mineral resource that we use in large or small quantities on this planet called Earth. Some day hundreds or possibly thousands of years from now we might find some resources that have literally disappeared, have run out, and that our current technology is unable to make available to us. But until that distant time, the basic principles of mineral economics and the search for and discovery of ore deposits will still apply.

The size of any resource base is limited by the size of the Earth—the size and the percentage of that resource in accessible portions of the Earth. The size of the reserve, that is, the known producible amounts of a resource, for example natural gas, is dependent on four major parameters or variables.

First, there is the price. What will be the return on investment to the stockholders within a free enterprise entity for the exploration, development, and production of the particular resource?

Second, what is the technology at any given time available for producing that resource at a particular price? And as technology improves, of course, that means that you can produce either at a lower price or at grades or amounts per unit of volume that are progressively higher.

Third, there is science, geoscience, geology if you will. What is the status of our fundamental, basic knowledge that allows us to search for, to identify, and to define the limits of particular reservoirs, if you will, of the resource in question, such as natural gas?

And fourth, there is the overall availability of risk capital. That is, is money available that can be invested in producing a particular resource?

Of course, the availability of capital is dependent on many factors, some of which fundamentally relate to the overall health and status of the national economy.

Mr. President, any one of these four variables—price, technology, science, and risk capital—can affect the size of the reserves that would be available for production. In the specific case of natural gas, the proved reserves, that is, the gas we know is available for production at the present average price—let us say, such as the $1.45 on the interstate market—that reserve base is about 220 trillion cubic feet of natural gas. There are a variety of estimates, but they are very close to that number.

(Mr. HATHAWAY assumed the chair.)

Mr. SCHMITT. That resource base has been steadily decreasing in recent years, largely—in fact, almost entirely—because of a fixed price structure, a structure fixed arbitrarily by the Federal Government.

If we are to expand that resource base, then either the price must go up, technology for production must decrease the cost, science must find new sources of supply, or very large amounts of risk capital at low interest rates must be found.

The question which is facing the Senate today is a question of, one, which of these variables can we effect immediately so that, as rapidly as possible, the crises of supply which our consuming States faced last winter, and which they will continue to face in future winters, will be ameliorated; and, two, what is the best means for improving the incentives or decreasing the cost of the production of natural gas?

It appears obvious to me, and I believe it is appearing obvious more and more to the country, to people as well as public officials, that an immediate deregulation of new natural gas is the first step this country must take in order to increase the size of our reserves. Therefore, hopefully within the next 2 or 3 years, we can relieve the crisis of supply faced by consumers, both private and industrial, in the consuming States of the Union.

With an increase in price, there is the potential return to stockholders of various small, medium, and large companies. That return can be used for increased exploration, that is, the increased amount of activity to go out and look for, drill for, and eventually find, new natural gas supplies.

Such an increase in price also attracts investment capital. It also stimulates the advancement of technology, decreasing the overall costs. It also encourages the scientific portion of the oil and gas industry to search for new supplies in what are commonly called frontier areas, areas in which we have not looked for gas but in which there is great potential for future production.

The estimates of the potential reserves which could be found by deregulation of new natural gas vary. However, it is almost universally agreed in every major study by reputable and knowledgeable groups—universities, the National Academy of Sciences, various industry groups, the Institute of Gas Technology, the U.S. Geological Survey, independent groups of professional geologists—that the resource base is from 1½ to 2 times the size of the quantity of gas that has been produced and is known as available today. That resource base, compared to the 220 trillion cubic feet of presently known gas, is generally estimated to be at least 700 trillion cubic feet, and for a variety of logical and geological reasons it is almost certainly as large as 1,500 trillion cubic feet of gas. That is at prices which are reasonably expected to occur as a consequence of the deregulation of new natural gas.

At this point I should say that the naysayers who are opposed to increasing the supply of natural gas will tell us that the price is going to jump to extremely high numbers, $4 or $5 per thousand cubic feet. But that is just not so. It was not so in Texas where the intrastate market has been unregulated for some years. The price went up recently to about $2.40, as I recall the number, or close to that figure, but very quickly dropped until today, as their supply has increased, outstripping demand, the most recent contracts have a wellhead price for natural gas very close to $1.60.

A similar experience has taken place in Oklahoma.

If we allow the interstate price of new natural gas to seek its own level, there is clear evidence, clear certainty, that the price will stabilize for the next few years somewhere between $2 and $2.50 per thousand cubic feet.

I should also add here that that is about 20 percent of the cost of gas that the consumer finally pays when they turn on their burner or heat their house. The actual price at the wellhead is only one-fifth, approximately, of the price that we as consumers must pay to use natural gas.

It is also important to remember that as new natural gas comes onto the market, it will come on very slowly for the first few years because it has to be found, drilled and produced, and it will be mixed with much lower priced gas which will remain regulated in price. So the actual impact on the consumer will be very small. In fact, as the supply increases, we may begin to see the same "problem" develop which has occurred in Texas. That is, the price will start to drop. The supply will outstrip demand.

The problem of estimating the available resources of natural gas to get an accurate estimate of the potential supply, of course, is a very great problem. It requires a great deal of effort by geologists and their associates. The economic incentive for that effort has been almost nonexistent for 25 years. But we can make some general geological arguments that, I believe, are not only simple but accurate.

If we look at the volume of rock from which we have produced the gas found to date, we can estimate that at least that much volume of rock has yet to be drilled, has yet to be even looked at, for the production of natural gas. There are volumes of unexplored rock which have equal potential for production as that from which we have already produced, or even greater potential for production because they are younger rocks and, therefore, the gas has not had as much time to escape from the formation.

Our primary concern with this Pearson-Bentsen amendment is a concern about the gas that would be available to us in the contiguous United States. This gas is also potentially in very great abundance. As a matter of fact, the Pitt's energy group, which has, for a number of

years, been looking at the various sedimentary rock basins where gas can be expected to accumulate throughout the United States, has estimated that we have 98 percent of the land area over those basins yet to explore for natural gas. I find that a staggering number, but, based on their studies, it is what they assert as correct. I would personally reduce that figure by a considerable amount, estimating that there is at least twice that volume of rock yet to be explored.

Mr. President, it is also extremely important to recognize that there is another source of natural gas, other than that which we find in reservoirs of porous and permeable rock. That is the gas that is dissolved in water, in brines, the so-called geopressured brines of the gulf coast of the United States. It has been estimated that within these geopressured brines, there are 60,000 to 80,000 trillion cubic feet of natural gas yet to be produced. Remember, that is in comparison to the 1,500 trillion cubic feet that I mentioned earlier that we feel can be found in normal rock settings, and in comparison to only 220 trillion cubic feet that we presently know are available for production.

So, if anybody tells you that there is not natural gas to be found, then you can laugh at them, as I have—discreetly, I hope—in the past. There is abundant gas yet to be found.

To be fair, the geopressured gas resources still require the development of some new technology in order to produce them. By geopressure, I mean that these brine solutions are at very high pressure and high temperatures, and we just have to push our drilling technology and our trapping technology, if you will, a little bit further before those resources will be available. But again, as I said earlier, technology is one of the variables that increases the availability of any mineral resource, including natural gas.

So, Mr. President, I hope that this discussion, this summary, once again, of some of the arguments about our resource base and about its very large size will serve to help in this debate. I hope it will serve to at least keep public awareness of the very fundamental fact that there is natural gas to be found and produced that will alleviate future crises of supply, such as we experienced last winter. Unfortunately, our supply inadequacy has been growing for so long that I would be remiss if I did not say that, for the next two or three winters, even with deregulation of natural gas, many portions of this country will suffer from shortages, with even normally cold winters.

Unfortunately, when we have shortages of natural gas and when we continue to regulate the price so these shortages will continue and get worse, we increase the overall cost of energy to the consumer, because they must switch to electricity, which, on a Btu basis, costs more than five times the cost of natural gas. Or they must switch to expensive imported natural gas, which costs from two to three times more than domestic natural gas.

So, Mr. President, I find no persuasive argument whatsoever from the consumers' point of view that would lead me to conclude that deregulation is bad for the consumer. Not only will it provide a supply of gas, which is absolutely necessary to their well-being and to the economy, but within a few years, all previous experience in mineral economics indicates, the actual price of that extremely valuable and environmentally sound fuel, pure natural gas, will be decreased. What could be considered more consumer-oriented legislation than the Pearson-Bentsen amendment, that would provide for the deregulation of the wellhead price of new natural gas?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I send to the desk an amendment to amendment No. 862 and ask unanimous consent that it be stated.

Mr. DURKIN. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. An amendment to amendment No. 862 would not be in order except by unanimous consent, since there is a perfecting amendment pending to the language of the bill proposed to be stricken by the Pearson-Bentsen substitute. It would take precedence over any amendment to Pearson-Bentsen.

Mr. WEICKER. I asked unanimous consent.

Mr. DURKIN. I object.

Mr. BURDICK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BURDICK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from South Dakota (Mr. McGOVERN).

Mr. DOMENICI. Are there any time limits on Senators speaking at this point?

The PRESIDING OFFICER. No time limits.

Mr. DOMENICI. Mr. President, I want to spend a few moments today talking about natural gas. In particular, about the Pearson-Bentsen amendment substitute which we will vote on this evening, at least we will vote on whether or not we should table it this evening.

I thought it might be important that some of us who have worked on this problem and have lived with it share our views with our fellow Senators here today before this very critical vote.

I say first, Mr. President, to my fellow Senators, that I do not think there can be a viable national energy policy that does not address the issue of the adequacy of the natural gas supply in the United States.

I do not think I have to trace the history of this valuable energy source, the abuse, the misuse, the misunderstanding, the regulation, and the more current history of shortages, because I am quite sure that in numerous committees and here on the floor others have done it on a number of occasions, and in the last week or so many have gone through that history over and over again.

But I would like to express in my own way how I view this issue and share a few of my feelings nonetheless.

Mr. President, if any of my fellow Senators could have been with me, the Senator from New Mexico, about 5 years ago, 5½ years ago, if they would have walked with me in two counties of my State, the counties of Valencia and McKinley, where about 80 percent of the uranium for the United States was then produced and is still produced, if they could have been with me and viewed the activity in those counties, and the price of yellow cake, the first processing of the raw ore uranium, if they could have seen the activity in those counties they would have been amazed, that little or nothing was happening.

America found its first uranium when a wonderful Indian gentleman in my State who traveled all over that part of the country on horseback happened to be shown by a geologist a little piece of rock and was told, "Do you know this is valuable? It is uranium."

He had been over by one of our major Indian pueblos and had seen some of this ore. He walked into a mercantile store with this rock and said, "This looks like something the Government geologist told me about, can you get it assayed?"

The history of what happened is rather irrelevant, other than that particular little Indian man found the Jackpot uranium mine and the United States just dug uranium off the surface with big steam shovels.

Then we looked around and we found some more of it close to the surface and we dug a little more.

So if they were with me in New Mexico 5 years ago when that yellow cake was not worth very much, they would have seen us digging that yellow cake, that uranium, right off the surface of the earth.

They would have read, in geological periodicals and Atomic Energy Commission estimates of America's uranium reserves, that they would estimate them at that point based upon two things, the price and where we found it.

If that same Senator or anyone interested in whether the marketplace works in this country would have been with me about 1½ months ago and visited that same area, they would have been amazed, for we are no longer just

digging with a steam shovel off the top of the earth to get this uranium, but, quite to the contrary, we are 2,500 feet underground in cement shafts. One mine cost $350 million. We go down in Mother Earth and dig that same uranium we were scraping off the top, off little foothills and mountains.

If we would have gone up the road a little further, we would have found three more of those mines. Then if we would have returned from that trip in time to read the Mitre report on uranium adequacy in America and its supply, commissioned by the Ford Foundation, we would not have been surprised to find that there are now people saying we have an awful lot more uranium than we thought 5 years ago.

All you would have to do would be to go out there and see that activity with the private sector literally turned loose, with all their vitality and energy, and you would find mines that cost $350 million, and no one even thought a few years ago of investing money in or digging a hole in Mother Earth to get that uranium out. You would begin to say, "Well, maybe there is something to the notion that there is a little more uranium than we thought 5 or 10 years ago."

The point is that in that particular aspect of energy supply in our country, something happened in the last 4 or 5 years that is very relevant to what we are asking Congress to let happen with natural gas in the bill before us.

I wish that Senators and public servants who travel this country singing the praises of the private sector, appearing before groups and talking about the fact that it truly is what makes America great—when we need something in this country, turn them loose and they will supply it—would understand that that applies in energy development and in energy production, also. I wish they would eliminate the side issues of whether energy companies are too big, whether energy companies are making too much money, and address those somewhere else—change the tax laws, if they wish.

Maybe their position is right. I do not know. From everything I read, I do not know whether they are making too much money. But if they are, we have ample opportunity, on a regular basis, to revise our tax codes. If we think they are too big—and I do not know if they are or not; if we think there is a monopoly—I do not know if there is or not, although I have read everything I could on the subject, and I do not believe there is; but if that is so, why do we not address that issue somewhere else? Why do we not turn the private sector loose to find natural gas in this country and see whether or not what many contend to be the case is true?

As one concerned not only about New Mexico but about the entire United States as well, if that question were asked of me—"Why don't you and why won't you?"—I would like to know some other facts. These are the kinds of facts I would like to know:

I would say to one who asked about the private sector, "Is there any real chance that $1.75 as the price of new natural gas and regulation of the interstate and intrastate markets under that price for new natural gas will produce more new natural gas for the United States or not?" I would start with that, because if it will work, then I might be likely to go along, even though my instincts tell me that the last 30 years of regulating have done nothing other than produce aberrations and insignificant conclusions or conclusions that no one can understand.

I would ask, "If it is going to do that, why don't we go along with the President?" In answering that question, it seems to me that we are presented with a living model that it will not work. Our economists work with models all the time, and they are usually hypothetical. You start with some assumptions, and either you believe the conclusions or you do not.

However, there is a living model that denies the validity of regulating new natural gas at $1.75 and imposing that on the interstate and intrastate markets. What is that model?

That model is found in the fact that we have had and have today two markets in America. We have an interstate market and an intrastate market. One is regulated and one is unregulated.

If different marketplaces exist in the same country for the same product and one is regulated and one is unregulated, it seems to me that we should look at those two markets and see what they reveal in terms of the adequacy of continued regulation at $1.75 per thousand cubic feet for new natural gas. You do not have to look at it very long to arrive at three or four conclusions.

First of all, in the last 10 years, substantially more than half of all new natural gas found in this country went into the intrastate market. There were two markets competing for it—one governed and regulated by the Federal Power Commission and one a free market system. Why would 80 percent of the new production go to the intrastate instead of the interstate, as it does today? Simply because people do not like to be regulated by the Federal Government? Absolutely not. Because in one case they were paid the market value and in the other they were paid what the Federal Power Commission, with all its rules and regulations and hearings, determined it was worth.

One might say, "Has that changed in the last couple of years?" There are many who say, "There is plenty of incentive now; we just want to kind of push it a little." It has not changed very much. In fact, even with the huge demand in the United States, after interstate versus intrastate, the latest figures for April, May, and June of this year indicate that most new gas produced went into the intrastate market because there was no control over it and that free market governed. Then, in that free market, contracts were renegotiated. They ran out. We amended them and changed them. More than 60 percent of those renegotiations yielded a price in excess of $1.75, the price recommended as the ceiling. In fact, for that kind, the average was $1.94. For new natural gas contracts for the same 3 months, the average price was $1.83.

While I mention those figures of $1.83 and $1.94, I remind everyone that it is not $4 and it is not $5, which are the figures some have bandied about. That free and open marketplace yielded those averages.

So I make the point for two reasons: Because it has not gone inordinately high and, second, it is more than the price the President suggests as the ceiling.

How can anyone honestly say that that set of facts, $1.75 for new gas, is a new incentive to go out and produce more, while, as a matter of fact, some of it will have to be rolled back under the President's approach because the open market has already brought more than he has suggested?

Mr. President, one would have to look at those two living models for some kind of answer. One would have to conclude that we have had, for some substantial period of time, living proof that the marketplace indeed will bring on new natural gas and, second, that the existing marketplace is not going to respond effectively to a price lower than the price it has been bringing in the last 3, 4, or 6 months.

One would have to conclude at that point that you should look for something else, some other policy for this country, and then attempt to analyze those options and see what bearing they will have on supply and what bearing they will have on the consumers of this country. I am going to take those next.

First of all, anyone who proposes that we do not need to deregulate new natural gas had better be ready to say that the policy they suggest will bring on board more new natural gas without deregulation. What I mean is that if they are not ready to say that, they had better be ready to answer to the American people as to where we are going to get the natural gas this winter, the winter after that, and the winter after that, because everyone will understand the importance of supply when the factories in this country close down. Everybody will understand when a thriving city says: "You can thrive no more; there is no more natural gas. You cannot add any more houses here. You cannot grow."

Everybody is going to understand when the schools close, and then they will run that through a computer and they will tell us how many billions of dollars that cost us and, if that is not bad enough, when people freeze because there is not enough natural gas people will begin to ask why.

So anyone suggesting that we ought not deregulate, better have a policy that will produce more natural gas than we have or say that is impossible, in which event we will have to go some other direction.

Let me talk about whether it is possible or impossible to produce more natural gas by 1985 than we are using today or than the President predicts under his plan.

Mr. President, there is another myth around, and that is that there is not very much natural gas available for the fu-

ture, and I could spend an hour with report after report indicating that that is indeed a myth. But I am not going to do that. Suffice it to say that I do not believe any credible geologist believes that there is not a tremendous amount of natural gas locked in the inlands of America and offshore that this generation and a few generations down the line can use and should use. The question is, "When do we get it out of the ground and how?"

Mr. President, I am going to suggest that if there is another myth about, it is that the Pearson-Bentsen deregulation statute is going to turn loose on the American consumers almost instantly—I mean people banter this around like as soon as it is passed all the gas in this country is going to double, triple, and quadruple in price.

Let us talk about the reality and give a realistic assessment to this gradual deregulation proposal. First of all, this substitute does not require, or even suggest, that old natural gas that already is coming out of the ground is going to be deregulated. It is going to remain under the regulatory control of the Federal Power Commission. Mr. President, under the most optimistic assumptions of production of new natural gas, 90 percent of the natural gas used by Americans in a full year after this bill is passed will be old natural gas. And this amendment or substitute is not going to have anything to do with the price of that old gas.

In fact, we are given a rare opportunity to buttress the future price because much of our gas for the next 10 years will be old natural gas. New will merely mix new gas in with it each year incrementally. So all we have to assess is the impact on the American economy of somewhere between 6 and 10 percent new natural gas deregulated bringing market value, and I am prepared to do that now and say, first, it will yield by 1985 for use by Americans at least 3 trillion cubic feet more than we will have if we do not deregulate. And this is per year.

One might ask how relevant is that. Mr. President, not only is that relevant, but that is the whole issue. If we believe we will get 3 trillion cubic feet more of natural gas per year this way than under the President's plan, then it is very simple. It is very simple to tell the American people what that means. First of all, it means that if you do not have that 3 trillion cubic feet each year you are going to use something else or you are going to be on curtailment or you are going to be shut down.

Let us assume that we are not going to have the drastic results but rather we are going to substitute for that 3 trillion cubic feet some other kind of energy. For that is the issue. What will take its place?

Now, let me give you some random figures. If electricity takes its place at today's prices of electricity—that is a simple one—the consumer will pay between 8 and 18 times as much per unit of energy that way as if some of that new natural gas I just described was available for them to use it. And I am figuring in that ratio new natural gas at about $2.25 a thousand.

If it is not electricity, it might be natural gas that we convert from coal, although we have not even been innovative enough to have one of those on board yet for comparison purposes. Let us say we had one, that would only cost $4.50 to $5 per thousand to take the place of the natural gas and more realistically we might be importing either from Canada or foreign countries in the form of liquefied natural gas something we will use in its place.

I need not tell the people of this country or my fellow Senators that in neither case are we going to get either of those for less than what they think the American market will bear. We would do much better to give it to Americans who produce it and keep the money here and have no economic impact worse than the price the substitute would bring. So how can we honestly conclude that the American consumer is hurt by this when any analysis you can make will clearly indicate that the risk is worth taking? I would remind my fellow Senators that if the risk proves wrong we are still here to take a look at it, but I urge that they consider seriously turning loose the activity, the growth, the potential, that I witnessed in the uranium fields of New Mexico, turn that loose by letting the small and large American energy companies take their risks, explore new fields, go where the risk is high but the chance of making money is attractive, and let us see if they do not respond by producing that 3 trillion cubic feet per year in excess of the President's estimates under his plan.

If they do, we are better off, our people are better off, and most certainly if we do not have to send those billions of dollars that they might get if they produce it to foreign countries, the overall international posture of America will be better.

The opportunity is a unique one, in my opinion. Misunderstandings are abundant. Myths are floating around, and have for years.

In my opinion, the risk to the consumer is far greater under continued regulation; and I would remind those who are for it that someone will have to take the blame next year, the year after, or the year after that, when we are short, when we have another real tough winter, when our balance of payments continues to be so unhealthy because of energy that it threatens our total international financial system.

When you add up all those risks, compared to the risk of turning the private sector in America loose, governing them under general monopoly laws and tax laws rather than strangling their productive capacity with regulations, their production of energy through cost controls and regulatory processes, in my opinion where we want to place the risk, and which risk we want to take, are easy choices. I believe if we do that, our country will be better off, there will be a great deal more hope, and the consistency of the desire to invest, plan, and produce that will flow from it may have far larger ripples than any of the models we can come up with in our econometric back rooms.

POTENTIAL DOMESTIC GAS SUPPLY

The national energy plan, particularly that portion which continues unrealistically low prices for domestically produced natural gas, is founded on a notion that is unsupported by facts and is untrue. That notion is that there is no more natural gas to be found in the continental United States and that a higher price would not generate greater natural gas production of any significant quantity.

A thorough review of many studies of the potential supply of domestic natural gas conducted by the potential gas agency of the Colorado School of Mines reveals that the concensus of the studies is a potential gas supply of between 700 to 1,200 trillion cubic feet. This is more than equal to the cumulative production of natural gas to this point in time plus proved reserves, a total of 731 trillion cubic feet.

Another report by this committee estimated an undiscovered potential supply of 923 to 973 Tcf remaining to be found. This is more than four times the present proved reserves and almost two times the total amount of gas produced in the United States throughout the more than 100 year history of the industry. The range of all the estimates, 700 to 1,200 Tcf, represents a 35 to 60 year supply at present consumption levels.

Only those who feel an overriding need to oppose deregulation or phased decontrol of natural gas will try to maintain, and even they cannot produce proof, that the amount of remaining natural gas is so small as to be inconsequential to future energy requirements.

RELATION OF PRICE TO SUPPLY

Some proponents of continued price control argue that even if there is more gas to be found and produced, higher prices will not cause that gas to be found and produced. History repudiates that theory, a repudiation clearly written in the comparison between gas reserves committed to the intrastate systems and the interstate system in recent years. In the interstate market, where prices have been artificially low, new gas reserves have fallen each year while in the intrastate market, where prices have been free to respond to demand, new gas reserves have increased each year. There is, as the history of these two markets vividly demonstrates, a direct relationship between the price for new gas and the amount of gas committed to each market.

Relevant facts which serve as proof of this relationship are easy to find for those who look. For example, most new gas now goes to intrastate markets. FPC statistics show that over 80 percent of the new gas coming into production is committed to the intrastate market. This increase in intrastate commitment in recent years, combined with closing out of interstate, fixed-price contracts, has resulted in over half of total production being devoted to the intrastate market during 6 of the last 7 months the conclusion is obvious—there is more gas to be found and it will be found if prices control the situation rather than the Government controlling prices.

THE PRICE OF $1.75 PER MCF IS NOT AN INCENTIVE

The price of $1.75 per Mcf is less than producers of new gas are receiving now. Accordingly, it is not even an "incentive" price as its supporters contend and it is certainly not a "ripoff" as opponents of decontrol claim.

These figures are very revealing in that regard: During the 3-month period of April, May, June of this year, 56.4 percent of new contract volumes was for prices exceeding $1.75/Mcf. During that same period, 81.7 percent of renegotiated or amended contract volumes was at prices exceeding $1.75/Mcf. During this same 3-month period, the average price paid was $1.83 per Mcf for new contracts and $1.94 for renegotiated or amended contracts.

So, it should be clear to all who have an open mind, that far from being an additional incentive as supporters of $1.75 per Mcf claim, this price represents a reduction below that now being received from most new gas production. Why will producers produce more when they will receive less? The answer is obvious—they will not.

The price of $1.75 per Mcf is not even an adequate replacement cost. The NEP had as one of its fundamental principles, the major premise that natural gas should be at least priced at its replacement cost. FPC filings show that a ceiling price of $1.75 per Mcf violates that premise since the industry-wide average cost of finding and producing new gas now ranges up to $2.60. It is clear, then, that $1.75 per Mcf will not support new gas exploration and production in todays' economy and that the objective of replacement-cost-pricing is not really a serious objective of those who propose price controls at this level.

TRUE COST OF FAILING TO DECONTROL

Proponents of price controls and extension of controls to the intrastate system have indulged in a highly popular game known as the "big cost scare." They claim that any form of price decontrol will result in staggering costs to the American public in a gigantic ripoff for the oil and gas industry. Some of these cries of anguish are based on estimates of costs reaching as high as $120 billion. These exaggerated claims and phony estimates are unsupported by any sound economic logic, and, in fact, have been thoroughly discredited by many of the Nation's leading economists and by various independent organizations and individuals.

Some of the common errors in calculating huge costs are:

First. Only new gas would be decontrolled, but some of the estimators conveniently figure on the basis of all gas being decontrolled.

Second. Big-cost calculators fail to recognize the gradual nature of price increases under any decontrol plan since most gas consumed would continue to be price-regulated old gas which is estimated to average about 48 cents per Mcf.

Third. Most of those who project huge consumer price increases fail to consider the fact that the wellhead price averages only about 25 percent of the price to the consumer. The remaining 75 percent is attributable to fixed and regulated pipeline and distribution charges.

Opponents of new gas decontrol also avoid the fact that alternatives undoubtedly cost more than decontrolling new gas. People who make a big case of the high cost of deregulation of new natural gas do not carry the issue far enough—they do not compare their projecting with the costs that continued controls will cause—the costs of alternate or substitute fuels.

They also forget the misery, suffering and economic costs associated with curtailments. The memory of last winter's bitter lesson is soon forgotten, but it should be remembered that fixed prices have led to severe curtailments in the interstate system. A study in 1975, even before the bad winter, shows curtailments cost the consumer, nationwide, more than $4 billion.

Even if we forget about curtailments, we cannot forget that for gas not produced and made available, an equivalent amount of some other form of energy must be obtained and substituted for that undeveloped gas. There is an alternate action, or course, and that is simply to do without. And that seems to be the NEP's real objective: To force people and business to do without after the shortage has been spread around. And if price were the true determinant in that decision, many activities would cease, many homes would go without heat, many plants would close down because the natural gas that is not there would have been cheap in comparison to alternate or substitute fuels. For example, fuel oil, used to heat a typical home may cost the homeowner as much as 80 percent more than natural gas. Costs of electricity for denied users may cost up to 18 times as much as natural gas. Imported liquefied natural gas is certainly no bargain at as high as $5 per Mcf, and synthetic natural gas is still about 15 times as expensive as natural gas.

Do we do consumers a favor when we insist on price controls which guarantee shortages that must be filled by much more expensive substitutes? The answer, again, is obvious. It is the sheerest of folly to suggest that by so doing we are serving their interests.

So, to those who say that the consumer cannot stand the cost of deregulation of new natural gas, I say, consumers cannot stand the financial drain imposed by continued regulation. Of course, my opponents on this point would simply subsidize the consumer from public funds when their policies cause people to be unable to pay for alternate fuels, as is the case with home heating oil in the Northeast. In the bargain, they will blame the gas producers for having failed to produce enough gas to meet interstate system needs. Clearly, the stage then is set for a self-righteous and indignant self-fulfilling prophecy.

DISASTROUS EFFECT ON OUR BALANCE OF TRADE

Essentially what we will do if we refuse to allow a gradual return of domestic energy to a free market pricing system is to pay our balance of trade deficit twice. We would pay it first directly to the OPEC countries in inflated imported oil prices and then again through the various taxes that are a part of the so-called national energy plan. In that total plan, there are taxes related to natural gas, primarily to force industry and utilities to convert from natural gas to coal or something else. Those taxes are concrete evidence that a principal part of our national energy policy would be to subsidize foreign oil purchases through the taxes collected on domestic oil and natural gas. How else can you explain the rebate for home heating oil costs when these costs are directly attributable to heavy reliance on foreign oil?

The issue here today is natural gas pricing, but we should not lose sight of the fact that our ever-increasing dependence on foreign oil has come about not because we have no domestic reserves of oil and natural gas, but because we made a conscious decision to retard the development and production of those fossil fuel resources. In other words, we have preferred, and we continue to prefer, to pay foreign nations, often unfriendly and unreliable foreign nations, high prices for their oil while we refuse to pay even replacement costs to our own producers.

Is it any wonder we are in the sad and pitiful energy posture that is a disgrace for an intelligent people who pride themselves on having achieved greatness through reliance on the free market system?

Secretary of the Treasury Blumenthal has warned this country of the imminent danger of continued reliance on foreign oil and the disastrous effect it has on our balance of trade. It May Secretary Blumenthal said:

> The rising cost and volume of our oil imports is swamping our basically strong position on other parts of our trade picture . . . As a result, our trade balance, including fuel imports, has moved from a $9 billion surplus in 1975 to a $9 billion deficit in 1976 to a projected deficit this year likely to total over $20 billion. Roughly half of this deterioration is the result of the increase in our bill for imported fuel.

Statistics compiled since this statement was issued present an even more ominous picture of our current and future trade situation under a policy that discourages domestic oil and gas production. Trade deficits, primarily because of the importation of expensive foreign oil, reached $12.6 billion for the first half of this year. That will mean, at the best, a trade deficit of about $25 billion for calendar year 1977, as opposed to the 1976 trade deficit of $9 billion. These figures vividly demonstrate the magnitude of our slide down the path of total dependence and financial strain, a slide greased by energy policies which the NEP would make even more detrimental to our national interests.

RESULTS OF INDEPENDENT STUDIES

Independent studies support my argument that the NEP would produce less gas than is now being produced. A 1977 publication of the Brookings Institution,

"Setting National Priorities," contains the following excerpts:

If the Carter proposal is enacted, producers would probably explore for and produce less gas than they do now: Almost certainly they would produce less than if prices were decontrolled. (P. 325)

In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are now uncontrolled. In addition, they will remove the market test for supplemental gas supplies and encourage investment in uneconomic facilities and processes. (P. 326)

The thrust of the Carter proposals on energy prices is to raise them gradually to most consumers through taxes and special measures, while controlling the price of most oil and gas produced domestically. This policy mix is intended to lower oil imports by reducing oil consumption; it does not provide much incentive to increase domestic oil and gas supply. (P. 327)

To the extent that prices charged by energy producers are allowed to rise, they can afford to produce more while still meeting environmental requirements. President Carter's goal of maintaining or improving environmental quality and safety is thus inconsistent with holding energy prices to producers down; the two can be reconciled only through other policies that lower consumption even more, or else by relaxation of the import target. (P. 332)

The major policy issue concerning crude oil price controls is whether to have them at all, and at what levels prices should be set. Ignoring for the moment the additional domestic energy supply that would come forward if controls were eliminated, abolition of crude oil price controls would remove the substantial enforcement and compliance costs of the program. In addition, it would remove losses in potential petroleum output due to uncertainty about future regulatory decisions and climate and to the distortions created by the controls themselves. The present multiple price system leads to the use of more real resources in producing a given amount of oil than need be used. (P. 328)

Preference for the use of mandatory conservation measures instead of using a price and tax instrument to reduce demand implies that Government should redistribute well-being through the use of energy measures, or else that, given some level of energy consumption, private decisions about the way it is used are inferior to those of Government. (P. 334)

The Office of Technology Assessment of the U.S. Congress in its publication, "Analysis of the Proposed National Energy Plan," has these critical statements regarding the NEP:

(From executive summary) the actions proposed in the plan may not be strong enough to prevent oil imports from reaching levels that could threaten national security and economic stability. The plan's domestic oil, natural gas, and coal production targets represent the upper limits of capacity and are not likely to be achieved.

Although the plan proposes moving energy prices toward "the true replacement cost of energy", its proposals would continue to hold the price of natural gas below the Btu-equivalent of other energy resources. This could prolong a distortion of energy consumption patterns by continuing to make gas—a clean-burning premium fuel—more attractive than alternative fuels. (P. 6)

Delays in leasing schedules and exploration of frontier areas will probably cause production of oil to fall short of the plan's goal by between 1 million and 1.5 million barrels of oil equivalent . . . (P. 43)

The GAO has also been rather critical of the concept and mechanics of the NEP and is highly skeptical of its ability to achieve its objectives. Here are some excerpts from the GAO publication entitled "An Evaluation of the National Energy Plan," released on July 25, 1977:

Portions of the plan dealing with domestic supply are not likely to achieve the results that have been projected. Unless energy demand is reduced, the level of imported oil is likely to be about 4.3 MMB/D more than the administration's goal of 6.0 MMB/D.

We have serious doubt whether the production levels forecast in the plan for coal, nuclear, and natural gas can be achieved. (P. 2.5)

While we agree with the concept of pricing energy at its replacement value and share the administration's concern for windfall profits, the specific actions proposed have several problems. These include: Producers' revenues are expected to actually be lower than they would be with continuation of current policy, which may affect the availability of capital for exploration and development; virtually no increase in production is expected . . . (P. 2.15)

No category of oil will command a higher price under the plan than under existing policy. Hence, there is no additional financial motive for producers to increase their exploration and development activities. Moreover, according to the administration estimate, lower prices for most of the oil to be produced between now and 1985 will cut producers' revenues by 1985 by almost $13 billion (in 1977 dollars), relative to a continuation of existing policy . . . This, in turn, will presumably reduce their profits and ability to attract new capital to finance additional exploration. Therefore, the plan not only keeps incentives for new production at current levels, but potentially reduces producers' financial ability to increase their efforts to produce more oil. (P. 4.5)

The plan will reduce revenues to producers for most oil already discovered and may adversely affect oil companies' financial ability to support additional exploration. By not increasing the financial incentives for additional exploration and by reducing companies' financial strength, the plan fails to come to grips with the problem of increasing domestic crude oil production (P. 4.15)

MISINFORMATION GIVEN TO THE PRESIDENT

President Carter has not had the advantage of the best available information relating to the relationship between the potential gas supply and the effect of higher prices on developing that potential. In several meetings with the President, it was obvious to me that he had been given erroneous information and faulty forecasts from various studies designed to support an argument against decontrol of natural gas prices. The President was genuinely interested and deeply concerned when other Senators and I presented the actual facts and more reliable forecasts of the amount of gas and the consumer cost that would result from decontrol of new natural gas. In the course of these meetings, I sent the President a letter addressing these issues and enclosing an analysis by the minority staff of the Energy and Natural Resources Committee of the various studies of the cost of deregulation. Mr. President, I ask unanimous consent that a copy of the letter and the staff analysis be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

SUMMARY

Mr. DOMENICI. Mr. President, just let me summarize my statement by these rather simple and direct points:

There is enough natural gas remaining in the ground to warrant trying to find and produce it.

No system of continued price controls will lead to the discovery and production of significant quantities of potential supply of gas.

The price at which substantial quantities of natural gas can be produced will not cause near the disruptions or dislocations in our economy nor the financial hardships that will be generated by either substitution of higher priced alternatives or shortages in pipeline systems across the Nation.

Domestic natural gas production will not increase significantly, leaving in the ground huge amounts of this most precious fuel, while we bankrupt ourselves paying the OPEC countries for the Btu's we failed to produce from our own natural gas resources.

So, I urgently recommend that my fellow Senators vote against the motion to lay on the table, and that in due course they vote for the Pearson-Bentsen substitute to discontinue regulation at prices that are unreasonably low, which in my opinion will lead to more shortages and far worse problems than we have seen in the past 2 years.

EXHIBIT 1

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., September 19, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am enclosing a brief staff analysis of the several studies that have been published purporting to prove that deregulation would be enormously costly to American consumers. I believe it conclusively refutes the accuracy of those studies as they apply to the Pearson-Bentsen amendment that I support.

Each study referred to contains one or more of three basic errors: Assuming that large amounts of "old" gas will go to the deregulated market price; Assuming that very little or no new gas will be produced under deregulation and; Assuming that the market price under deregulation will rise excessively and that substitute fuels are cheaply available.

I would like to note specifically that under Pearson-Bentsen, only wells that actually add to our nation's gas reserves will receive the new gas price. The proportion of all gas which is new would increase by less than 10% each year, so that even by 1985, only 50–70% of all gas would be new gas. Pearson-Bentsen provides for the same "phase-in" of higher prices, and the same cushioning of consumer impact that you seek. And higher prices would come only at the same pace that the supplies themselves are received.

I trust that this information will be useful to you, and may lead us to be able to work cooperatively toward a natural gas policy that will insure adequate gas supplies for all Americans.

Sincerely yours,

PETE V. DOMENICI,
U.S. Senator.

STAFF ANALYSIS OF STUDIES OF THE COST OF DEREGULATION

All studies of the overall effect of deregulation must take account of the following factors:

1. The amounts of gas that will be deregulated.

2. The average price of deregulated gas.

3. The amount of gas produced under deregulation that would not be found under the type of regulation being compared.

4. The alternative costs imposed by the absence of the additional gas produced under deregulation.

Three groups have recently issued studies showing large costs to consumers under deregulation: The Executive Office, Energy Policy and Planning, the Congressional Budget Office and the Joint Economic Committee.

The EPP study of June 9, 1977, presents several different cases, but Case 2 was the source of the charge that deregulation would be a "$71 billion rip-off." That case assumes that "one-half of the gas covered by existing contracts would be at the market price by 1985," and also assumes deregulation of "all gas over and above today's proved reserves both onshore and offshore." Neither of these assumptions is correct with regard to Pearson-Bentsen. "Rollover" contracts are not deregulated, and offshore gas remains under some control until 1982.

Further, the study assumes that absolutely no additional gas will be found under decontrol. The general question of supply elasticity will be discussed further below, but no analyst seriously believes that no additional gas can be found that is economical only at a price above $1.75. Use of this false assumption, however, means that there is no alternative fuel cost to consider.

The EPP study assumed a deregulated price of $2.35 in 1978, rising to $2.50 in 1985 (both in 1975 dollars). This is derived from the Btu-equivalent of industrial distillate at the marketplace, netted back to the wellhead. This is a fairly reasonable figure, and is consistent with figures furnished to the Committee by FEA and with other studies. The argument alluded to in this report that the price might actually go to much higher figures is discussed in connection with the CBO study.

In summary, the EPP study is fatally flawed by its incorrect assumption of major deregulation of "rollovers" and by its assumption of absolutely no new supply.

The CBO study also assumes that rollovers would be deregulated (p. 2, n. 1). A comparison of Table 1, p. 16, with the chart on p. xiii shows that the cost figures could not be derived if only the 3.5 TCF of production from new reserves were included as "new" gas. Thus, a large portion of rollovers must be included as new gas, although the amount cannot be calculated from the data given.

Second, the study assumes that deregulated gas will initially go to a $4 price, although it admits that this would soon fall. This is based on the policy of averaging new purchases in with old gas, and selling the mixture at the average price. If new gas does begin to rise rapidly, there is no reason that the FERC and state commissions should allow the continuation of this practice of "rolling-in" of new supplies. Further, our experience with intrastate sales and FPC emergency sales does not suggest that unregulated gas will sell at astronomical prices.

In the unregulated intrastate market, "rolling-in" has not driven prices above their current levels of $1.30-$2.39, even though some pipelines have average gas costs lower than some interstate pipelines. Under FPC practice and the Emergency Natural Gas Act, certain emergency sales were permitted at essentially unlimited prices. Nevertheless, prices did not go to outrageous levels. Even during the worst part of the winter crisis, two sales that were permitted at $2.76 and $3.04/Mcf continued for only a very few days until other sources were found and conservation measures taken to eliminate the need for gas at that high a price. Similar factors would be at work under the Pearson-Bentsen plan to prevent a skyrocketing price.

The third problem with the CBO study is that it argues that less than one TCF of additional gas can be produced by 1985 through the workings of deregulation. This is derived from a complicated model which is driven by the assumption that drilling will accelerate by only 9 percent per year, as opposed to 5.5 percent under the national energy plan. This assumption seems questionable.

The study's own figures show that successful gas exploratory footage has already been growing at 16 percent per year, compounded for the last six years. (Compare the 9 million feet on page 9 with the 3.67 million feet at p. 11, n. 10). FPC figures show developmental footage of gas wells growing at over 15 percent from 1971 to 1976. These and similar figures showing increased rigs in use, and industry capacity to manufacture rigs, indicate that it is unrealistic to assume arbitrary limits to the drilling effort that can be mounted.

A series of studies made both by academics and those involved in the gas business generally agree on a production increase of about 3 TCF by 1985 under deregulation. These figures can be listed briefly as follows:

	AGA	Pindyck-MIT	1976 FEA	MIT-WAES	IGT	Erickson	Stockman-Brown
Deregulation	20.0	24.0	20.6	19.1	21.6	20	18.8
Regulation	16.1	20.4	16.3	16.1	16.2	15	16.4

The final flaw in the CBO study is its unrealistic assumption as to substitute fuels. In its discussion at pp. 21–22, it assumes that substitutes will generally be less costly than gas, a consequence of its unrealistic assumption for the price of gas. Even so, it fails to recognize that for residential and some other uses, the substitute will be electricity, which will cost in the range of $8–$12 per Mcf equivalent. Even worse, the figures in Table 3, the basic source for the "$10–$15 billion per year" cost figures, have a basic conceptual error. That table shows "gas supply costs" based on the total amount sold, which is 18.9 TCF under Mr. Carter's plan, but 19.8 under deregulation. (See Table 6, where production and average price figures are given, which tally with the total costs in Table 3). Nonetheless, the "substitute fuels" cost charged to regulation, is only .5 billion, which would be only 56¢/Mcf for the .9 TCF that must be replaced. The study is obviously only counting here the extra cost of substitute fuels (and underestimating it), when logically, the total cost of such fuels must be considered.

Although the CBO study is probably the best done of the three here considered, its errors with regard to rollovers, the new gas price, the rate of drilling increase, and the cost of substitute fuels mean that little credence can be given to its ultimate conclusion.

The "Joint Economic Committee" study is in fact, as noted on p. vii, the work of one person, Mr. Lawrence Kumins. Mr. Kumins has made similar studies in the past, under the aegis of the Library of Congress, and these have been extensively criticized.

This study contains an initial 62 pages of restating of many of the long-standing and controverted arguments against deregulation. At pages 62–70, he then produces annual deregulation costs of $20–35 billion annually. This is based on very dubious assumptions, including no increased supply at all from higher prices. The cost figures, as summarized in the chart on page 70, are based on the increase of virtually all gas to the assumed deregulated price of $3.00 per Mcf. His study assumes, contrary to the language of Pearson-Bentsen, that rollover will be deregulated and that existing contracts would be broken to allow higher prices. In fact, only $1.5 billion of increased costs in 1978 and $3.0 billion in 1979 are listed as due to new gas, which is more in line with Administration figures.

One additional fallacy of Kumins' analysis is illustrated by his estimate on page 75, that the President's plan would cost $62.1 billion above existing law through 1985. The Administration's estimate, which has not been thought excessive by anyone, was only $15 billion.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to speak to this matter having listened with great care and considerable profit to the remarks of my distinguished friend the Senator from New Mexico, who has concerned himself with this question much more closely than I, and who has far closer command of the facts and the experience of this industry; and only with some hesitation do I address myself to the matter.

It seems to me that the pricing of natural gas presents a most difficult choice to this body, for our decision will inevitably have large effects on the Nation's economy immediately and in the coming years. In view of the seriousness of this decision, I should like to state my view of the situation before us.

As a principle, I am opposed to the control of prices by the Federal Government. It is our experience, and it is the fact, that this is a most inefficient way to allocate resources. Those of us committed to the free market must, however, recognize the extraordinary distance between the free market arrangements we idealize, and the historical structure of the natural gas market—and, indeed, more broadly, the entire energy market. At present, natural gas is greatly underpriced, and petroleum is even more greatly overpriced. Neither condition could obtain in even an imperfectly free market. One need note that while, since 1973, the world market price of petroleum has been sextupled by a cartel of governments, the response of the United States has been to double imports of this commodity, for which there has been a six-fold increase in price.

Reference to market theory will not explain this phenomenon. For generations, the major international oil companies kept petroleum prices at a level which most of the world would now consider to have been very low.

Within the last decade, gasoline has sold by volume in the United States at a

price cheaper than bottled water. Today, the major oil producers keep it at a level which most of the world considers to be very high. The fact is that we have never, in recent memory—not, surely, since the end of the Second World War—had anything which could be described as an energy market in which producers did not affect prices, and will not—whatever bill we pass here—have one now or in the future to come. This is a singularly inappropriate occasion on which to lapse into repetitions of free market doctrine, much as that might be my own inclination, and we would much better serve our constituents to look pragmatically at the facts as they now exist.

The history of the Federal Government in the regulation of natural gas prices is one of failure; indeed, it is one of debasement of the regulatory process. For whatever reason—presumably the fear of reaction among consumers—the Federal Power Commission greatly underpriced natural gas. This was done in the face of warnings that such a course could only lead to misuse and waste of this fuel, and to shortages of it. This is precisely what has happened. It is not any working of the energy market, but rather poor and unintelligent regulation, which has led to the natural gas shortage we faced last winter, and will face—again, no matter what bill we pass today—for several winters to come.

The pricing of natural gas is a matter of enormous importance not only to the producing States, but to the consumer States, not least my own State of New York which produces some gas, but is a large importer. A shortage of natural gas in New York results not only in inconvenience for many and grave difficulty for some individual consumers, but in addition threatens our already diminishing industrial base. Quite simply, if industries need gas, cannot get enough in New York, and can get enough elsewhere, they will soon go elsewhere. We in New York therefore look at this problem with the greatest seriousness.

I offer one principle which I believe to be a good guide to public policy here: Across the entire range of fuels, Btu equivalent pricing should be prevalent. We are failing in this now, for natural gas is priced significantly under its Btu equivalent in oil. As a result, natural gas is wasted; one can state as a general proposition that any fuel which is significantly underpriced will be wasted. Thus do we misuse one of the greatest bounties nature has provided to our country, its supply of natural gas. From this underpricing by the Federal Government, what can we conclude but that the Federal regulatory process is undependable at best, and extravagantly wasteful at worst?

The administration proposal before us continues to rely on that flawed and fallible process, but with the difference, and I believe an important difference, that Secretary Schlesinger and those around him know this history, and are determined not to repeat it. In fairness, there has been a vast increase in demand for natural gas in this decade.

First, the environmental legislation of the period placed a special premium on this miraculously clean and convenient fuel. Second, the OPEC price increases of 1973 placed further demand on this strikingly cheap fuel. To this day almost half the gas sold in interstate commerce is priced in the neighborhood of 32 cents per thousand cubic feet, or so I understand. No regulatory process is likely to keep up very well with such changes in the market. And again, in fairness, we should be clear that the Federal Power Commission did provide a huge increase in the interstate price of gas less than 2 years ago.

The proposal placed before us by the distinguished Senators from Kansas and Texas would rely on the free market. As I have noted, however, our action here may render that market unregulated, but will not render it free. It is in fact a market clearly under heavy internal pressures, and one whose price determinations are not greatly less "administered" than are those of the regulatory process.

It is difficult to formulate a position, still less a legislative proposal, on this issue, not least because one finds widely disparate estimates of every single variable. What are reserves? How much will supply increase if price is increased a certain amount? What will price be in an unregulated market? Each participant in the discussion provides his own estimates, and each provides colored charts and detailed maps to support his claims.

I emerge with a view that seems to me to take into account both the failures of Federal regulation on the one hand and of market forces on the other in setting reasonable prices for natural gas. I cannot endorse immediate deregulation, for the immediate doubling or tripling of prices which would ensue would be unduly disruptive of our already troubled economy, and highly inflationary.

I would prefer to allow prices for new natural gas, as defined in the administration's proposal, to rise in steps over a 4-year period to a price roughly the Btu equivalent of new oil, which is to say about $2.50 per thousand cubic feet. After 1981, controls should be relaxed further, but in view of the potential for economic disruption and in view of the fact that prices are, as I have said, not at all free of producer influence, I believe that some form of price ceiling should remain in effect.

As the choice before us now is to vote for or against the proposal of Senators PEARSON and BENTSEN to deregulate natural gas prices at once, I shall vote against the proposal. Should the Pearson-Bentsen proposal fail, however, I shall keep an open mind toward new proposals which appear to me to be reasonable efforts to deal with the pricing of natural gas.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I value and respect the remarks of the distinguished Senator from New York. I know his feelings for letting the free market system work. He made one statement which I am sure he did not mean to make. That is that the Pearson-Bentsen amendment brought about immediate deregulation. Surely, the Senator meant on new gas.

Mr. MOYNIHAN. If the Senator will yield, I stand corrected. I do, in fact, stand corrected.

(Mr. KENNEDY assumed the chair.)

Mr. BENTSEN. I thank the Senator.

I share the concern of the Senator from New York and some of the other Senators about what will happen to the price, how far it will go, on new gas with deregulation. No one can really say. I have heard some rather wild figures quoted. But I can say what happened in Texas. In Texas, the price got up to about $2.25, and then more gas was brought onstream. The supply was increased. Today, they are letting contracts as low as $1.60. The price has gone down.

I would like to add something to try to help in this debate, to satisfy some of the concerns, such as expressed by the distinguished Senator from New York, the concerns for the homeowner who cannot switch from natural gas. He is not going to build a coal chute into his cellar, and he may not even have a cellar these days. So I am going to offer an amendment at the appropriate time requiring incremental pricing for natural gas used as boiler fuel, if the Pearson-Bentsen amendment is not tabled.

We have heard a great deal about impending curtailments of natural gas this winter. We have heard some very legitimate concerns from our constituents about the prospects of higher fuel bills. We have a clear obligation to help assure that available natural gas in this country is put to its most efficient possible use. We have a clear obligation to try to keep down the cost to that homeowner who is already paying too much on his utility bills.

How do we balance these things? How do we encourage the drilling for natural gas, the bringing on of greater production, the drilling in the expensive formations in the deep wells, and the marginal wells, and the high risk wells? How do we do that and still take care of that homeowner?

The way we do it is with incremental pricing.

My proposal is that we have incremental pricing for the large boiler fuel user, those who consume over 1,500 mcf. That will help meet both of these concerns.

Under the terms of my amendment, large boiler fuel users will be required to pay the average cost of new and artificial gas supplies until that cost reaches the level of 120 percent of the cost of No. 6 residual oil, if it should have to go that high.

Large boiler fuel users, in other words, will be called upon to absorb the impact of higher priced, new gas before homeowners or small businesses pay anything at all in that regard.

I think there is general agreement in this Chamber that the use of natural gas as a boiler fuel is wasteful in times of

shortage. In 1976, over 2 trillion cubic feet of natural gas was burned by industrial boilers.

It is important to understand, Mr. President, that most utility and industrial boilers can also be fired by coal or oil. Most of them are capable of the option. And what is the President trying to do but get these people to convert? So there they are looking at the economics of it.

We have had, in effect, incremental pricing in Texas. We have seen the effect in the marketplace and what is happening to the utilization of natural gas for boiler fuel. Practically all of our boiler fuel was natural gas until the price was increased. Now we are seeing major conversions over to coal.

Mr. President, most utility and industrial boilers continue to burn desperately needed natural gas, because it is cheaper than the alternative sources of energy in other parts of the country. Incremental pricing will encourage conversion. It will also make more gas available to the homes, schools, and hospitals in this country.

I recognize that incremental pricing for boiler fuel users is a complex subject. It might be best explained by an example.

Many pipelines in this country have two categories of customers: Residential and industrial/utilities. With deregulation, new supplies of natural gas will become available on the markets; the best estimate is an increase of 4 to 10 percent in the first year of deregulation. New gas will cost more than old, regulated gas.

Under the terms of my amendment, if the pipeline in question purchases new gas to meet its combined industrial and residential demand, it would be required to sell the new, more expensive product to the industrial consumer who uses gas as a boiler fuel and has the ready option of conversion.

The new gas would not go to the residential consumer, who would continue to benefit from the old, regulated prices. Industrial users, in effect, would be penalized for their wasteful patterns of consumption and be forced to pay more for the privilege of using natural gas when it is at a premium throughout the country.

This arrangement would remain in effect until the average cost of gas used as a boiler fuel reaches 120 percent of the cost of No. 6 residual fuel oil. If this level is attained, the FPC would be free to allocate all or part of the excess of other customers.

Why do that? Why say it can go to 120 percent above residual fuel oil? Because what we are trying to do is get them to convert, get them to convert to coal, to make it more expensive for them to maintain natural gas.

Simply stated, my amendment would provide a strong economic incentive for industrial gas users to shift to alternative sources of energy; it will free up additional supplies for residential users; and it will insulate the homeowner from higher fuel costs.

If there are no large boiler fuel users on a pipeline, the incremental pricing provision would not be needed and, under my amendment, would not be applicable.

In summary, Mr. President, incremental pricing of new natural gas to large boilers will mitigate the economic impact on homeowners and high priority users, while discouraging pipelines with boiler fuel loads from acquiring new supplies for wasteful purposes. It will encourage and enable pipelines with large residential fuel loads to acquire new gas supplies that might otherwise be dumped under boilers at cheap prices but at a high cost to our economy.

Mr. President, this amendment makes eminent good sense; it should be an integral part of any comprehensive national energy plan.

I propose to offer it. We are under a limitation now on such amendments and they cannot be voted on, but I ask of the Senate the opportunity to make that kind of amendment on Pearson-Bentsen. I say to my friends, if we table it at 6:30 tonight, that opportunity has been foreclosed.

Mr. President, let me say that I also want to state my support for an amendment by Senator STONE and Senator CHILES. That amendment would allow interstate producers to bid freely for any intrastate natural gas not previously sold in the interstate market. Technically, the amendment would remove the $1.46 price limitation on any gas which interstate pipelines wish to purchase after the expiration of intrastate contracts. With that amendment, interstate and intrastate pipelines could freely compete for this gas. Since this gas has already been found, it can quickly be brought on stream to meet any expected curtailments.

Let me show some of the figures that the Federal Power Commission is talking about. This is from their September 1977, projections of expected curtailment for this coming winter. The following States will have the same or even less amounts of gas than last winter, to name a few: For the State of New York, they are predicting a curtailment of 16 percent of the supply that they actually need. This amendment of Senator STONE's and Senator CHILES' would help make some of that gas available to take care of that.

North Carolina is expecting a curtailment of 56 percent. Think of the jobs that are involved in a situation like that.

Ohio, 22 percent; Nebraska, 20 percent; Kentucky, 20 percent; Arizona, 44 percent; Georgia, 20 percent; Florida, 30 percent; Wisconsin, 10 percent.

That is part of the problem that we see facing us this winter. What I have discussed is something that will protect the homeowner and let the industrial user determine whether it is the proper decision to continue to use natural gas or to convert and, in turn, to open up the intrastate market on the rollover contracts to the interstate market, to try to assist in the shortages that we are concerned about this winter.

WELLHEAD PRICING OF NATURAL GAS

Mr. TOWER. Mr. President, I shall avoid lecturing my colleagues on how markets work in a free enterprise economy. Those points have been made on numerous occasions in the past, particularly in connection with my own natural gas deregulation proposals in the 91st and 93d Congress, and in connection with similar legislation introduced by my colleagues.

In my view, Mr. President, the issue before the Senate is whether we shall provide natural gas producers with the capability of increasing the domestic supply of natural gas. The administration claims that its proposal—reflected in the House-passed bill, the bill before the Senate, and amendment No. 868 to the bill provided by the Senator from Washington—will provide adequate incentives. That proposal would increase the price of "new gas," as defined, to the "Btu-related price," as defined. New gas would be that produced from a new lease, from a new well drilled $2\frac{1}{2}$ miles from an old well, or from a new well within $\frac{1}{2}$ of an old well but 1,000 feet deeper than the deepest well within $2\frac{1}{2}$ miles. The Senator from Washington adds the requirement that the well also be completed in a new reservoir. The Btu-related price means the average crude oil acquisition cost per barrel for refineries in the United States, divided by 5.8. Thus, the expected price under this proposal for so-called new gas would be about $1.75 sometime in 1978.

Mr. President, it is my opinion that the proposal is grossly inadequate to accomplish its purpose. The proposed gas pricing provisions have their policy foundation—like the rest of the Carter energy plan—in President Carter's prophecy of doom. He has sent us an overall energy plan that effectively writes off the oil and gas industry. Specifically, it assumes that the gas industry has no potential for growth, and is, in fact, unable to maintain its present level of service to American consumers. It also assumes that, because gas reserves are finite, efforts to stimulate exploration for additional supplies are unnecessary and unproductive. Thus he has fashioned a plan that in its totality will gradually phase the gas industry out of existence.

Mr. President, my specific objections to the Carter pricing policy are as follows. First and foremost, the price is inadequate, and the administration is fully aware of the fact. The administration assumes that supply will significantly respond to price up to $1.75, but will not respond beyond that point until the price reaches about $4. However, officials of the Energy Research and Development Administration demonstrated that such is not the case, and Dr. McKelvey at the U.S. Geological Survey has also provided evidence contrary to the Carter prophecy of doom. For their efforts the ERDA study was suppressed, then revised. Dr. McKelvey's fate was more dramatic—he was fired. But there are experts, Mr. President, whom the administration has been unable to gag. Stanford Research Institute, the Federal Energy Administration, and Professors Macavoy and Pindyck of Yale and MIT, respectively, among others, demonstrate an increase in gas supply of 15 percent by 1980 and over 26 percent by 1985 with deregulation of new natural gas, meaningfully defined.

Second, the definition of "new natural gas" is arbitrary in that it has no rational, geological basis, and so restrictive as to be useless. Why do the administration and the Senator from Washington so cavalierly disregard that many new gas reserviors in great likelihood exist within $2\frac{1}{2}$ miles and 1,000 feet of depth from currently producing wells? The incentive not to attempt to find such reservoirs is assured by the paltry reward the proposal provides for the attempt.

Third, the establishment of the new natural gas price at the Btu-related level creates an incentive not to drill for gas. Since the price would be related to the average cost of crude—that is, the mix of prices of old, new, new-new, and stripper and tertiary recovery oil, the price of new natural gas is guaranteed to be below the price of new oil. Thus, great incentive exists for producers to concentrate their efforts on high, oil-potential areas. High, gas-potential areas would be relatively disregarded. Since by 1980 the new gas equivalent of new oil ought to be close to $3 per thousand cubic feet, and since the price under the administration's bill would be about $2.30, the relative disincentive to drill for gas will be quite significant.

Finally, since the controls would be extended to the intrastate market, with a price of $1.75, or less, applicable to intrastate gas sales, the administration accomplishes a prospective roll-back of those prices. This action is indefensible. Exploration and development programs have been budgeted and other investment decisions made on the basis of the current or anticipated stream of revenues available to producers under intrastate sales contracts. In such situations the administration assures a cutback in drilling activity.

Worse yet, the provision has an absolutely unconscionable effect on that category of producer which has committed to high cost drilling onshore in anticipation of cost recovery through intrastate sales contracts. I have been visited by one producer who will lose a considerable sum of money as his reward for successful pioneer drilling efforts, because the administration changed the rules of the game. He is, incidentally, a small, independent entrepreneur.

The horrible consequences of the administration proposal need not occur. It is clear that we have, as a nation, an opportunity to be self-sufficient in natural gas, satisfying all residential and essential business requirements for the commodity. On the basis of the analysis presented, Mr. President, I conclude that the Senate now has before it a clear policy objectives in a forthright, efficient way by passing amendment No. 862 introduced by my distinguished colleagues from Texas and Kansas. Or we can make President Carter's prophecy of doom self-fulfilling by passing his proposed Natural Gas Policy Act.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Ron Smith and Mike Butler of my staff be granted privilege of the floor during the consideration and debate and votes on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I call attention to my printed amendment No. 890 to S. 2104, the Natural Gas Policy Act. My amendment provides for an independent producers exemption to the price control provisions of that bill.

The purpose of the independent producers exemption is to maximize supplies of natural gas with minimum consumer impact.

There is consensus among parties to the natural gas debate that higher prices are necessary to encourage drilling for higher cost reserves. This is essential if we expect to increase our production of this vital energy resource. The challenge before us is to devise the mechanism which will increase the supply of natural gas without substantially increasing costs to consumers.

The independent producers exemption would, I believe, achieve this objective. By deregulating the price of new gas for independent producers only, natural gas supplies can be substantially expanded at the lowest possible cost to consumers.

Most important, this amendment would also lead to greater competition within the now concentrated natural gas marketplace. It would provide a way for rigorously competitive independents to attract investment capital, expand their exploration and production, and gain a stronger position in the natural gas market.

Before exploring the rationale and data supporting my amendment, I might note that my efforts 2 years ago in the natural gas debate focused primarily on the issue of concentration. Today's amendment, which focuses on the issues of supply and price, will also have dramatic effects in reducing concentration in the natural gas marketplace.

Perhaps a recent history would be in order at this point.

Almost 2 years ago to the day, this body wrestled with two difficult issues: Short-term natural gas shortages and long-term natural gas deregulation. As I noted at that time, gas and petroleum deregulation raise questions beyond simply the price at which gas or oil should be sold and who should determine such prices.

There is much merit in eliminating Government regulation of petroleum and natural gas prices. It is more consistent with our economic system to have free market mechanisms, rather than Federal agencies, determining price and allocation of product.

Unfortunately, the question is not that simple. The debate over deregulation cannot take place without reference to the reasons why the Government has found it necessary to regulate portions of the petroleum and gas marketplace in the first place.

The answer is straightforward: Large segments of the petroleum and natural gas marketplace are not genuinely competitive. To begin with, the world price of petroleum and other fuels is presently fixed by the OPEC cartel. This is an "administered" or monopoly price, not a "free market" price as some have claimed.

Domestically, the major oil companies direct the course of petroluem development through an intricate web of intercorporate ties, cooperative arrangements, joint ventures, and farm out arrangements. The 20 largest oil companies accounted for 76.3 percent of the crude oil produced in the United States in 1973, and the same 20 companies controlled about 93.5 percent of the country's reserves in 1970. The 16 largest firms controlled 92 percent of all crude oil transported through pipelines in the United States in 1973, and the 20 largest companies maintained 82.9 percent of the total U.S. refining capacity. And in marketing the top 20 companies controlled 77.2 percent of gasoline sales in 1973.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. HART. I yield to the Senator from Texas for a question.

Mr. TOWER. Will the Senator repeat those figures? He said 20 companies controlled how much?

Mr. HART. The 20 largest oil companies accounted for 77.2 percent of the crude oil produced in the United States in 1973.

Mr. TOWER. Is it not a fact that four automobile manufacturing companies manufacture all domestically produced automobiles in the country?

Mr. HART. The Senate happens at the present time to be debating natural gas and petroleum pricing and regulation and it is not debating automobile manufacturing. At a time when we get to Government regulation of automobile prices, which some might advocate, I think the question which the Senator raises might be appropriate, but not in the context of the bill before us.

Mr. TOWER. I stand properly chastised.

Mr. HART. Mr. President, the economic and political implications of such concentrated power in an industry so vital to our economy are massive. Overall control of crude oil by a handful of companies—coupled with cooperative business arrangements and vertical integration—has resulted in a largely noncompetitive petroleum industry.

That is what prompted the deconcentration amendment which I, and a number of my colleagues, offered to the 1975 natural gas deregulation bill, which by the way, I voted for. That amendment

sought to create a genuine free market in which price mechanisms could effectively function through the restructuring of major elements of the petroleum industry. That effort lost by only five votes 54 to 45 on the only occasion to that date the Senate had addressed itself to this question.

Concentration in the petroleum and natural gas industry is illustrative of the present trend toward increased concentration of corporate power regulated by Government bureaucracy. We must take the necessary legislative action to move this country away from the twin spirals of "bigness" in the public and private sectors.

Now we are once again confronting the issue of natural gas deregulation, and once again we must remind ourselves that the question of natural gas price regulation cannot be resolved apart from the broader question of the structure of the petroleum industry.

My amendment to the Natural Gas Policy Act is the only one which addresses the dual problem of deregulation and deconcentration. It differs from the effort of 2 years ago in that it proposes to use economic incentives, rather than legislated divestiture, to provide greater competition in the natural gas industry. Specifically, it seeks to remove Government regulation over the price of new natural gas produced by the more than 9,000 independent producers. It leaves the administration's proposed price levels intact with regard to the larger 18 petroleum and natural gas companies.

These 18 companies, in 1976, controlled in excess of 55 percent of all gas produced in the United States and approximately 70 percent of all new gas produced in the United States. My proposal would change the market shares. The selective decontrol plan that this amendment advocates would use market mechanisms to encourage the influx of new and additional capital to the independent segments of the natural gas marketplace while checking any potential anticompetitive practices among the major 18 companies.

Adoption of this amendment would benefit independent producers through increased access to capital and increased market shares. It would benefit consumers by increasing supply without substantially increasing prices. It would benefit our economy by increasing genuine competition in a dangerously concentrated keystone industry.

BRIEF SUMMARY OF IPE PROVISIONS

Mr. President, at this point let me briefly summarize the highlights of this amendment.

First of all with regard to exempted sales:

Independent producers are exempt from price controls on new gas sales, and all producers are exempt from sales of new gas produced from high-cost areas.

How are those high-cost areas defined?

Another provision in my bill pertains to geologically determined high-cost areas. The administration plan provides for the Secretary of Energy to allow higher prices for gas in high-cost formations such as very deep reserves, geopressurized basins, or tight sands. The problem with the administration proposal is that the producers must show, on a case-by-case basis after drilling, that such areas are, in fact, high cost. This poses a problem for the investors, since they are not guaranteed in advance that they will receive a reasonable return for high-cost reserves. As a result, investors are less willing to take the higher risk associated with these reserves.

In the proposal which I have offered, there is a provision for price exemption, in advance, for geologically known high-cost areas for all producers. With this exemption, both independents and majors can risk capital in seeking to produce from costly reserves.

How are independent producers defined in this amendment?

Independent producers are defined as either small producers—less than 1 percent of U.S. gas production—or nonintegrated producers—vertically or horizontally. Small integrated producers are exempt; large, nonintegrated are exempt. All but the 18 largest gas and oil companies could qualify under this definition.

This amendment attempts to define new gas.

New gas is natural gas, under this amendment, produced from a well drilled after April 20, 1977. The new well must be in a newly discovered reservoir, or it must be $2\frac{1}{2}$ miles horizontal distance or 1,000 feet vertical distance from an old well or existing well. This provision is identical to the House-passed definition.

The independent producers exemption is also extended to new Outer Continental Shelf—OCS—sales in order to give independents a further incentive to acquire leases on the outer continental shelf.

Emergency Cap: Under this amendment, the President has the standby authority during periods of extreme shortage to place a ceiling price on "exempted sales." Any such ceiling price could be no lower than 100 percent of the U.S. average Btu equivalent price of No. 2 home heating oil, and that price today is approximately $3 per Mcf of natural gas.

The oil and gas model developed by the House Energy and Power Subcommittee predicts that deregulated prices for independent producers could approach $5 to $6 per Mcf this winter. These prices are far in excess of prices required to promote rapid expansion of supplies. Hence, they should not be allowed. Under the amendment which I am offering, the President could prevent excessive prices.

This amendment also deals with the issue of farm outs.

Independents will not be eligible for the unregulated price on natural gas sales from farm out arrangements made after April 20, 1977. To maintain a high volume of drilling in the short run, however, independents will be eligible for the unregulated price on new gas from previously existing farm-outs. The proposal is designed to provide maximum incentives for independents to purchase leases—from majors or from landowners as the majors' leases expire—and thus acquire all rights for production from new wells.

Under current farm-out practices, an independent producer contracts to drill on land on which a nonindependent—major—producer holds the gas lease. Under usual arrangements, the independent has rights to sell only 40 to 50 percent of the gas flow and the major retains rights to sell the remainder.

THE HART PROPOSAL WILL INCREASE PRODUCTION OF NEW NATURAL GAS

The chief purpose of deregulation is to increase the exploration for and production of new gas, and the independent producers exemption would increase supplies of new gas substantially. I have been asked by my colleagues how different the supply of new natural gas would be under my proposal and under the Pearson-Bentsen proposal. My proposal would provide roughly the same amount of new supplies as Pearson-Bentsen, which provides deregulation of broadly defined new gas for all producers.

Either form of deregulation will encourage the discovery and production of all new gas which is commercially feasible to produce at a deregulated price. The reason is that it will no longer be price which constrains production but rather such factors as rig availability which would be the same under both proposals.

Today, the search for new natural gas supplies is constrained by price controls on new gas, which limit the expected profitability of new wells. Investors in the U.S. capital markets in Chicago and New York, and in the world capital markets in Europe are waiting for the profitability of gas exploration to improve. The independent producers exemption (IPE) will improve the profitability of every potential reserve of natural gas, just as would the Pearson-Bentsen proposal.

Under my amendment, however, the independents will become better able to compete with the majors for investment capital and a fair share of the market. Neither the administration plan nor the Pearson-Bentsen proposal address the current non-competitive structure of the industry. The independent producers, furthermore, since 1955 have plowed back 100 percent of their revenues into exploration and production. With deregulated prices for independents, these investments can be accelerated and increased. The top 18 companies, by contrast, plow back approximately 60 percent of their revenues for new exploration and production. The rest of the revenues go toward bidding for nonenergy corporations like Marcor, or to subsidize downstream operations.

Estimates of the amount of additional natural gas which would result from deregulation vary. According to the natural gas supply model used by administration analysts, a deregulated price under either my proposal or Pearson-Bentsen will encourage the discovery of about 0.7 trillion cubic feet (Tcf) of new gas by 1985.

However, according to the models used by the oil and gas industry, deregulated prices will bring a substantially greater

amount of new natural gas to the market. The industry estimates that additional supplies due to deregulation will be increased by 4.7 Tcf by 1985.

Without deregulation, the administration predicts a total of 4.2 Tcf of new gas will be sold by 1985. Thus, my deregulation plan could double the amount of gas produced in 1985, when compared to the administration plan.

The additional natural gas produced as a result of the independent producers exemption can be used for a number of purposes. First, it can help prevent the closing of schools and factories in the event of severe shortages. Second, it can reduce the sales of imported liquified gas, which is almost twice as expensive as this new American gas will be. Third, it can reduce imports of OPEC oil which would otherwise be burned as distillate oil in homes and businesses. As a result, our balance of payments will be improved, and our domestic, economic security will be enhanced.

UNDER THE INDEPENDENT PRODUCERS EXEMPTION WHAT WILL THE NEW GAS PRODUCED COST CONSUMERS

A key question is what it will cost the American consumer to obtain amounts of natural gas over and above what would be produced under the administration's bill. As I have mentioned, my amendment will deregulate the sales of all new gas produced by independent producers.

The question of cost to consumers should be viewed in terms of not only what the higher priced gas will cost but also to what extent this gas can replace even more expensive alternative sources of energy. To begin with, the amendment will result in the production of an amount of gas which would not have been produced under the administration's plan. When the price is allowed to go above $1.42—the current ceiling price—or $1.75—the administration's proposed ceiling price—additional gas will be produced.

Whether or not consumers get their money's worth from this gas depends on two issues: how much additional new gas is produced as a result of the deregulated price, and to what extent consumers will end up paying a deregulated price for gas that would have been produced anyway under the administration plan.

To answer these questions, we should examine the worst case under the Hart proposal—that prices rise as high as they can. The IPE provides authority for the President to place a cap on the dollar price of deregulated sales. Today this cap would approach $3. Thus, for purposes of this analysis, one question to be answered is how much gas would be produced between the $1.75 and $3 levels which would not otherwise be produced? The short answer is approximately $8 billion worth of new gas in 1985.

Next, if one assumes that all new gas is sold at the highest permissible price, $3, how much of it also would have been produced at $1.75? In other words, to what extent will consumers have to pay $3 for gas which would have cost no more than $1.75 but for IPE? Again, a short answer is probably less than $2 billion worth by 1985.

There is one vital point to remember. Any gas produced between the $1.75 and $3 levels will be tremendously beneficial to consumers because it not only will provide much needed additional supplies, but it will do so at a price much lower than alternative sources of supply such as liquified natural gas or synthetic natural gas which sell today for between $3.50 to $4 and $3.50 to $5.50, respectively—FEA estimates.

Mr. President, I ask unanimous consent that a chart showing illustrative costs of SNG and LNG be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

TABLE 11.—SOME ILLUSTRATIVE COSTS OF SNG AND LNG

Option	Btu scf	Costs 10⁶ Btu	Date costs estimated	Lead time
SNG from biomass (FPC certification of CRAP, Inc. Hooker, Okla.)	980	$1.33 plus up to $0.22 for transport	May 1976	2 yr (for 3,500 Mcf day).
Low Btu gas (from eastern coal at $21 ton; small scale)	125–165	$2 plus cleanup	January 1977	1–2 yr.
Intermediate Btu gas (from eastern coal at $21 ton; large scale)	260–310	$1.90 plus cleanup	do	2–4 yr.
New LNG from Algeria to Northeast United States (Tenneco)	1,018	$4.20	December 1976 (projected for 1984).	8 yr.
SNG from propane, butane, and natural gasoline	980	$4.25–$4.50	January 1977	2 yr.
SNG from naphtha	980	$4–$5	do	2 yr.
SNG from western coal (El Paso)	954	$3.10	March 1975	3 yr.
SNG from western coal (WESCO)	954	$4.50	February 1977	5 yr.
Gas entrained in eastern coal beds	980	$1.44	January 1977	5 yr (for 150,000 Mcf day).
Gas from Alaska (assuming wellhead price of $1.70–$1.75)	1,018	$3.30–$3.90 depending on	January 1977 (projected for 1982–83).	5 yr.

Note: Sources are FPC, Bureau of Mines, or private industry. Costs are set forth in dollars prospective for the year in which the project is to be completed. For purposes of comparison to alternative technologies, all capital subsidies (e.g., accelerated depreciation, investment tax credits) must be set forth explicitly.

Source: FPC, National Gas Survey, Draft Final Report of the Transmission, Distribution and Storage Technical Advisory Task Force, rate design, May 1977, ch. 6, p. 4.

Mr. HART. The administration has run its proposed program through computer models. According to its models, about 0.3 Tcf of new gas in 1978 and about 4.2 Tcf of new gas in 1985 would be produced under its plan. Since independents produce roughly one-third to one-half of new gas each year, about one-third to one-half of 0.3 Tcf will qualify for the deregulated price in 1978. This would constitute an increase in consumer expenditures on natural gas by $100 to $150 million—an increase of 0.2 percent to the cost of natural gas.

This analysis assumes the worst case for the Hart proposal. Namely, it assumes that all new gas deregulated under the Hart proposal, which would have been produced at the $1.75 level, will now cost consumers $3.

In 1985, the administration computer run predicts that under the Hart proposal roughly half of the new gas will still not be deregulated since majors will still be doing most of the offshore new production at that time. However, if again we assume the most dramatic case on the cost side against consumers, independents may increase their share of new onshore production from 33 percent of the market in 1977 to almost 100 percent in 1985. Under this scenario, roughly half of the new gas produced in 1985, which would otherwise be sold at $1.75—in today's prices—would be sold at up to $3. This would increase costs to consumers by roughly $2 billion in today's prices—or an approximate 10 percent increase. Where then is the consumer benefit?

As I have just indicated under the worst possible scenario, the IPE could increase consumer prices by about $2 billion in 1985. However, the computer models also illustrate the additional amount of new gas which will be produced between the $1.75 and $3 level. The administration's computer models are very conservative in their estimation of the ability of industry to produce more drilling rigs in the next few years. The industry's computer models, such as the Institute of Gas Technology or the Natural Gas Supply Committee, show a much faster industry response. The additional supply which will be generated will be worth in excess of $2 billion and upwards of $14 billion depending on how much new gas is found. For simplicity of argument, we have averaged the upper and lower estimates of new production to arrive at $8 billion worth of new production in 1985. In other words, there will be $8 billion worth of new gas produced by the independents at a price between $1.75 and $3 which would not have been produced at the $1.75 level. Were the consumer to not have this additional supply of new natural gas, he would have to go out and purchase alternative sources of energy whose Btu equivalent price in all likelihood would be well in excess of $3 per Mcf. As I have already mentioned, LNG sells for $3.50 to $4.00 per Mcf, and SNG sells for $3.50 to $5.50 per Mcf. Roughly $8 billion worth of additional gas in 1985 can replace roughly $12 billion or more of high-cost substitutes.

Moreover, there will be a marked increase in the share of new production held by the independent producers. According to the administration's own es-

timates, at a $3 level, the independents' share of the new gas market will expand from 33 percent to upward of 60 percent.

EVOLVING INDUSTRY STRUCTURE

The important question to ask now is whether long-term natural gas pricing problems can be solved separately from the overall problem of the structure of the industry. The answer is no.

In 1976, the majors sold about 55 percent of all the natural gas sold in the United States and about 66 percent of all the new gas. If the administration plan, the Pearson-Bentsen plan, or the Johnston compromise is adopted, there will be no change in this market domination by the majors.

With the Hart proposal, most onshore gas will be produced by deregulated independents, and more new gas will be produced. As a result, independents will increase their market share from 33 percent in 1976 to approximately 50 percent in 1985, according to administration estimates. According to industry estimates, which show a greater increase in production, the independents' share of the market could increase to almost 60 percent by 1985.

By the end of the 1980's, if the independents take a greater role in offshore gas, they could be producing 75 percent of the Nation's gas.

SUMMARY

To summarize, I invite support for an amendment which will provide the maximum new supplies at the minimum cost to the consumer. The amendment recognizes that a reduction of Government interference in the marketplace, through a selective elimination of price controls, can be achieved without threat to consumers if the noncompetitive structure of the industry is changed. According to supply estimates from both the administration's and the industry's computer models, this proposal will enable the independent producers to gain their fair share of the gas industry and to create genuine competition at the same time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, I rise in support of the Pearson-Bentsen substitute amendment. As Senators know, this amendment calls for the deregulation of new natural gas onshore. In addition, it deregulates offshore gas gradually over a 5-year period.

I find this proposal for pricing natural gas far superior to the President's proposal which would establish a price ceiling for certain new natural gas supplies at the Btu-equivalent of the refiner acquisition cost of domestic crude oil, or no less than $1.75 per thousand cubic feet, Mcf.

Mr. President, I am far from an expert on this subject but it seems to me that the basic argument is whether or not deregulation will increase production of natural gas. The President has made the assumption that there is not a great deal of gas left. Thus deregulation of prices would not increase production. However, a study completed recently by the Potential Gas Committee, comprising representatives of industry, State and Federal agencies, and universities, estimates a potential of between 923 to 973 trillion cubic feet (Tcf), of new natural gas remaining to be discovered in the United States. That figure, coupled with the 216 Tcf of proved reserves estimated to exist as of the end of last year, could provide about 60 years of gas at current consumption rates. That supply base could increase immensely if prices were allowed to rise to a level competitive with other energy sources.

The Congressional Budget Office, in a report entitled "Natural Gas Pricing Proposals" stated that outright deregulation of new gas would result in less than 1 Tcf/year more production by 1985. But, a number of estimates including those by MIT, the Institute of Gas Technology, Stanford Research Institute, and even the Federal Energy Administration, estimate that the amount of additional gas that could result from new gas deregulation is in the range of 3 to 5 Tcf/year by 1985.

Now let me say a few words as a newcomer to this subject. When they would say that the natural gas in such and such a well is exhausted, or when they would say the oil is exhausted, I always thought they were referring to a physical fact, that there is no more oil left, or no more gas left.

I discovered that there are these variations in estimates as to how much there is left because what is left does not convert to a physical fact; it converts to an economical fact. In other words, at a point in the extraction of natural gas from a given well, it is very cheap to get out and can be sold at a profit. The further down, the more expensive it gets. If it gets so expensive to extract the gas that it is no longer economic to get it up and sell it at the prevailing prices, then they stop extracting. The gas is still there but for all practical purposes it is exhausted since it is economically unprofitable to extract it. That is what they mean when they say there is no more gas left. It means only that there is no more gas left at the prevailing prices. Once we raise the prices there is a lot more gas. If we lift the lid altogether, there is no telling how much gas there would be.

Certainly it is true that there has been a decline in productivity over the past few years. But this is easily explained. Over 90 percent of all the gas wells completed in the United States in 1975 were in less expensive shallow onshore areas where only 30 percent of the estimated potential gas resource base exists—we have already used up the cheapest and most easily accessible gas. Less than 10 percent of the gas wells were completed in more expensive development areas, deep onshore and offshore, where 70 percent of the remaining U.S. gas resources are estimated. Currently it does not pay to drill in these areas.

There is a very, very important distinction between what is regarded as the exhaustion of gas as a physical fact, which we would never achieve, and the exhaustion of gas as an economic fact, which we achieve very easily if we have the price low enough.

I am convinced, however, that unregulated prices will provide the incentive to increase production by exploring these expensive development areas. Certainly, no good businessman will explore for gas in expensive areas if he does not have a chance of making a profit. But for some reason, profit has become a dirty word in Congress and to many people outside the Congress.

Mr. President, what baffles me more than anything else is the fact that the President and some Members of this Senate would have the Federal Government force regulation on the intrastate market which has never been regulated.

If we study the facts, based on FEA and FPC figures, we will learn that for the past 12 months, in the intrastate market, production has been consistently higher than the previous 12 months.

Conversely, production in the interstate market, which is regulated, has been consistently lower over the same period of time.

Why, then, do we want to start regulating a healthy market which continues to increase production? Surely my colleagues can see the illogic of such action.

Mr. President, we have regulated interstate gas for the past 20 years. Prices have been unrealistically low, encouraging waste. Continued regulation can only result in the same disastrous shortages we experienced last winter. I shudder in anticipation of a cold winter.

A study by the Brookings Institute reached basically the same conclusion.

(The Carter proposal) in some ways makes the situation worse than it is at present. If the Carter proposal is enacted producers would probably explore for and produce less gas than they do now; almost certainly they would produce less than if prices were decontrolled.

In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are now uncontrolled.

Mr. President, I urge my colleagues to let the law of supply and demand take over. Certainly it has proven more effective than the Federal Government "law of regulation." I hope my colleagues will join me in supporting the Pearson/Bentsen substitute amendment by voting against the motion to table it.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NATIONAL DAY OF THANKSGIVING, PRAYER, AND PRAISE

Mr. ALLEN. Mr. President, the third Thursday in December of this year will mark the 200th anniversary of the first congressionally proclaimed Day of Thanksgiving by the Continental Congress on December 18, 1977.

The observance of this particular day as a day of Thanksgiving is intricately interwoven into the fabric and history of our Nation. In fact, Mr. President, this time of thanksgiving, prayer, and praise to God resulted in the survival of George Washington's incapacitated army through its long and hungry winter days at Valley Forge. It was the prelude to victory and a new nation.

Our fledgling country had just experienced a great victory over the British at Saratoga, when General Burgoyne surrendered his army of 5,728 officers and men to American Gen. Horatio Gates. This event has been called the turning point of the Revolution.

On Friday, October 31, 1777, a committee of three, headed by Samuel Adams, was appointed by the Continental Congress, in session at York, to prepare a recommendation to the several States to set apart a Day of Thanksgiving for the victory at Saratoga. On November 1, 1777, the committee brought forth its report, recommending that Thursday, December 18, 1777, be set apart as a day of "solemn thanksgiving and praise, that with one heart and one voice the good people may express the grateful feelings of their hearts and consecrate themselves to the service of their divine benefactor. * * *"

On the same day, Henry Laurens, President of the Congress, wrote a letter to each of the Governors of the 13 States, enclosing the Thanksgiving Proclamation.

So it was for the first time that a congressionally sponsored thanksgiving was kept in the United States.

I intend, in a moment, to call up and ask for immediate consideration of a resolution urging the President of the United States to proclaim the third Thursday of December as our National Day of Prayer, 1977. The President is authorized, under Public Law 77–379, to proclaim a National Day of Thanksgiving on the fourth Thursday in November. Public Law 82–324 authorized the President to proclaim a National Day of Prayer on some day other than a Sunday. So this would be the resolution under that statute.

What better day is there than the day of America's first Thanksgiving to be proclaimed as our 1977 National Day of Prayer? The date is already historic, patriotic, and sacred in the life our our country.

It should be noted, also, that this resolution has the support of the heads of 12 major religious bodies in the United States. I ask unanimous consent that their names be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

The Rev. Jimmy R. Allen, President, Southern Baptist Convention.

The Most Rev. Joseph L. Bernardin, President, National Conference of Catholic Bishops.

The Rt. Rev. John M. Allin, Presiding Bishop, The Protestant Episcopal Church.

The Rev. Dr. Kenneth L. Teegarden, General Minister and President, The Christian Church (Disciples of Christ).

Bishop Kenneth Goodson, Chairman, Council of Bishops, United Methodist Church.

The Rev. Dr. John T. Conner, Moderator, The United Presbyterian Church in the U.S.A.

The Rev. Robert J. Marshall, President, Lutheran Church in America.

Elder L. Tom Perry of the Council of the Twelve, Church of Jesus Christ of the Latter Day Saints.

Rabbi Henry Siegman, Executive Vice President, Synagogue Council of America (action of Council pending).

Dr. Muhammad Abdul-Rauf, Director, The Islamic Center of Washington.

Bishop Kenryu T. Tsuji, Buddhist Churches of America.

Sri Chinmoy, Director, United National Medication Group.

SENATE JOINT RESOLUTION 81

Mr. ALLEN. Mr. President, the cosponsors of this resolution trust that the Senate will see fit to adopt it. On behalf of myself, Mr. BARTLETT, Mr. STENNIS, Mr. RANDOLPH, Mr. SCHMITT, Mr. DOMENICI, Mr. CHILES, Mr. HANSEN, and Mr. THURMOND, I call up the resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 81) to express the sense of the Congress that, in the light of history, the third Thursday in December, 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and respectfully to request that the President, under the provisions of Public Law 82–324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. ALLEN. Mr. President, the submission of this resolution was suggested by our beloved Chaplain, Dr. Elson, and I think it is entirely appropriate. I hope other Members of the Senate will join the President in this proclamation.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 81

Whereas the President is authorized under a provision of Federal law to proclaim a National Day of Thanksgiving on the fourth Thursday of November (Public Law 77–379), and

Whereas the President is authorized under a provision of Federal law to proclaim a National Day of Prayer on a day other than a Sunday (Public Law 82–324), and

Whereas the third Thursday of December in the year 1977 marks the 200th anniversary of the first proclaimed Day of Thanksgiving by the Continental Congress, and

Whereas such a proclamation on this date has the support of the leaders and presidents of twelve national religious bodies in the United States, and

Whereas such date is already historic, patriotic, and sacred in the life of our country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that, in the light of history, December 15, 1977 (such date being the third Thursday in December, 1977) would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and the President is hereby respectfully requested, under Public Law 82–324, to issue a proclamation designating such date as a "National Day of Prayer for the Year 1977", and calling upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Alabama ask unanimous consent that my name be added as a cosponsor?

Mr. ALLEN. Mr. President, I ask unanimous consent that any Senator who desires to be named as a cosponsor ab initio be allowed to have his name added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD, Mr. BAKER, Mr. TALMADGE, and Mr. CURTIS requested that their names be added as cosponsors of the resolution.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. PERCY. Mr. President, I am sorry that I was unable to speak earlier on the Pearson-Bentsen amendment. I do so now with the earnest hope that this amendment will not be tabled and we will be able to vote up or own on this amendment on its merits alone.

I support the amendment and cosponsor the amendment, and I should like to indicate now why I feel that the Pearson-Bentsen proposal to deregulate new natural gas is in the national interest.

I supported deregulation in this Chamber 2 years ago, and in light of the gas shortages of the past two winters, the case for phased deregulation is even more compelling today.

Supporting deregulation is not a matter I take lightly. Natural gas supplies one-quarter of our total energy needs. Decontrol could mean far higher prices for gas consumers. On the other hand, continuing regulation could lead to serious shortages.

Let me emphasize three fundamental points in this debate. First, the Nation has run on cheap natural gas for 20 years. Now it is running out. Domestic production peaked in 1973 at around 22½ trillion cubic feet per year. Today we consume natural gas faster than we find it. Even deregulation will not return us to the years of geometrically increasing supplies. It will at best slow or stop the decline in production.

Second, in order to significantly alleviate the problems we must not only encourage supply, but also increase our end-use efficiency. Insulation in homes,

modifications to heating systems in buildings, and waste heat recovery in industrial processes, all save gas at prices far below those of new supplies. This "conservation gas" is a cleaner fuel environmentally than gas itself. Allowing gas prices to rise will not only encourage production but also make economic a whole new range of conservation opportunities.

Lastly, the administration's ceiling price of $1.75 per thousand cubic feet (Mcf) is below the replacement value of gas. Were the administration to adhere to its own stated goal of pricing energy at its replacement value, the ceiling price for natural gas would be more like $2.50 per Mcf rather than $1.75. The extension of a $1.75 ceiling price into intrastate markets will actually lower intrastate gas prices. This provides exactly the wrong signal to consumers, and will hurt many producers, especially those independents whose production is concentrated in the intrastate market. Basic economics tells us that resources will be inefficiently distributed until consumers receive price signals that reflect the true worth of the gas they consume. Without a true market price for natural gas, significant conservation will not take place because it will be cheaper to consume than to conserve.

Having said all that, Mr. President, let me add that I am sensitive to the fact that the Pearson-Bentsen proposal is vulnerable to criticism. Deregulation could result, not in free-market pricing of gas, but rather in OPEC cartel pricing. Natural gas prices could conceivably rise above the price of heating oil on a Btu-equivalency, although the evidence from the uncontrolled intrastate markets does not support this.

Another possible weakness of the Pearson-Bentsen proposal is that there is no consensus on the amount of additional gas which deregulation would produce. Estimates differ by an order of magnitude, from one-half trillion cubic feet additional gas in 1985 according to the House Committee on Interstate and Foreign Commerce, to 5 trillion cubic feet in 1985 according to the industry-sponsored report of Dr. Edward Erickson from North Carolina State University. It is hard to reach a final judgment on the merits of deregulation when the size of additional supply is far from certain.

Mr. President, despite these points, I believe that Senate adoption of the Pearson-Bentsen proposal is in the best national interest.

My reasons are as follows:

First, to produce gas costs more today than in the past. The huge gas surpluses of the 1950's resulted from production of so-called "associated" gas, or gas found during oil production. That gas was cheap to produce. Today, new gas finds rely more on "nonassociated" deposits, tighter formations, and offshore finds. Higher incentive prices are needed.

The administration believes its price of $1.75 is sufficient incentive. It argues that the elasticity of gas supply is relatively high at prices below $1.75, but is low above that level. I question why the supply curve should bend so sharply at the $1.75 level. Empirical work by the Massachusetts Institute of Technology finds that a 3-percent rise in gas prices will produce a 1-percent supply increase with no change at $1.75. The Federal Energy Administration found a similar price response.

Second, I believe that impact of new gas deregulation on consumers will be small. New gas has recently provided only a 10-percent supply increment each year. It will therefore take a number of years before the full impact of higher prices is felt. The General Accounting Office last year concluded there would be "no real difference in macroeconomic activity," from higher prices. That includes GNP, inflation, and unemployment.

A repetition of last winter's shortages would, however, have a significant consumer impact. National Journal reporter Robert Samuelson warns:

> If energy scarcities result, the consumer impact would be felt through lower economic growth and higher joblessness.

Fortunately, last year's crisis had only a temporary impact We may not be so fortunate in the future. We cannot afford to subject the economy to a mini-recession every winter.

We should not delude ourselves into thinking natural gas price controls help the poor. Residential consumers, rich and poor alike, account for only one-third of gas consumption. Controls help only those who were lucky enough to get hooked up to the gas lines before the shortages hit. Other businesses and families pay the full cost of imported oil or expensive electricity.

Gas controls also produce regional distortions which hurt consumers. Two-thirds of the energy used in the gas-producing States comes from gas at prices cheaper than oil even though it is not controlled. One-third of the energy in my part of the Midwest is gas. In the New England area the fraction is one-tenth. The majority of energy consumers in areas outside the producing States are limited to oil and electricity. Our present gas pricing system gives unfair advantages to certain regions of the country.

This leads me to a third important point, Mr. President, in support of the Pearson-Bentsen proposal. Natural gas at even the present uncontrolled price of $2.25 is one of the least costly new energy sources.

For example, Prudhoe Bay gas from Alaska will cost from $2½ to $3. Imported liquefied natural gas costs up to $4 and synthetic gas from coal costs $4 to $5. Heating oil at OPEC prices is $2.60 for the heating equivalent of a thousand cubic feet of gas. Electricity cost the equivalent of $13 per Mcf. I believe consumers will benefit more from larger supplies of more costly domestic gas than from having to switch fuels or pay for even more costly substitute gas.

My fourth point is this: Like the rest of my colleagues here, I am a believer in free enterprise and in reduction of unnecessary Government regulation. To decontrol new gas will slowly move us toward a free market for gas. Private firms and not Department of Energy regulators will be responsible for gas allocation.

Finally, Mr. President, we must face squarely the national security implications of continued deregulation. It is not in our best interests to import liquefied natural gas in large volumes from the same OPEC countries which we are dependent upon for oil. We also cannot expect to rely upon Canadian or Mexican supplies forever. Although our relations with those countries are good, it is likely that their domestic needs will someday outstrip their production.

Mr. President, for these reasons, I am compelled to support the deregulation of new natural gas and the phased deregulation of gas from the Outer Continental Shelf. I hope my distinguished colleagues will join with me in supporting the Pearson-Bentsen amendment, and certainly vote against the tabling motion that is expected to be offered at 6:30 this evening.

Mr. President, none of us is unaware of the fact that winter is approaching. Each morning when we go out there is a little more chill in the air. In fact, it is earlier this year than expected.

Another cold winter is anticipated. When it gets cold and when we run out of gas in some of our States, as we did this last winter, and when we again have a shortage of supplies and increasing demand, we are going to recognize the laws of supply and demand cannot be repealed on the floor of the Senate.

We tried it with meat. We tried to do it for 90 days. I can remember one night at 11 o'clock saying: "Those who are now saying they are for the consumer by voting for artificial price controls on meat are going to rue the day they have ever done it."

What happened? The free market was destroyed. Mayor Daley had to hire 250 meat inspectors to go out and chase meat around the black market. Sure, the counter price said meat was at a frozen level. What did you have to do? As in the war, you bought a case of rum if you wanted a case of Scotch. You had to buy a leg of lamb or something like that in order to get a steak. And even if the price was right you could not get the supply. It was under the counter some place.

We had a demonstration of how we cannot rig and control prices. We have tried in the Department of Agriculture for 40 years. We took six crops and tried to control them. And which were the sickest crops always? You never heard about the 114 crops in the free market. But it was always those we tried to rig, regulate, and control that caused the most problems.

We are just not smart enough to do it. They tried to do it over in the Soviet Union. They cannot do it over there. They have lines of people waiting to get tomatoes, eggs and bacon, or whatever it may be. We should not try to run our energy, our energy supply and our energy market in that kind of way. That is not the American way to do it. We are not trying to run these markets with bureaucrats. If we are fearful that prices are fixed then double the size of the Jus-

tic Department. Get after the price fixers. Put them in jail if they are conspiring together to keep prices up. But in all the investigations we made in the Permanent Investigations Subcommittee of the Senate last year and the year before we could find no evidence whatsoever of price fixing of that kind. We have a good Justice Department. We have a good Antitrust Division, and we ought to back it up and support it, and have faith in the free market.

How ridiculous it is for me to live in Georgetown and have gas heat and know that my heat costs me less than half that of anyone who has oil, but I know I can sit there in my comfort at half the cost to anyone else who is comfortable, knowing that no one else can get gas.

If you want to open a restaurant that takes a gas furnace, you cannot open it in Virginia or Maryland or Washington, D.C.

Artificially controlled prices keep down supply. You cannot repeal the law of supply and demand. We do not have that kind of wisdom.

Let us work toward what we said we were going to work toward, a phased deregulation of resources over a period of 40 months. Now we are lagging behind. We are fearful. We are afraid someone is going to complain. But the people are going to be bitter in West Virginia, they are going to be bitter in Illinois, and they are going to be bitter all over this country if they cannot get adequate fuel resources this coming winter if it is as cold as we anticipate it is going to be. Every time we go out and it gets a little cooler in the morning, let us think about that cold winter coming along with shortages of supply and let us move toward market pricing and put the price at what it is worth. Only then do we begin the conservation program that we desperately need to stop our growing dependence upon oil imports.

When the oil exporting countries tell us, "So long as you waste and squander our depleting resources we are going to keep raising our prices," they are telling us something that we should be listening to and reckoning with in our own domestic sources of supply.

We have to have adequate incentive and we have to price it at what it is really worth, and that is the replacement cost.

For those reasons, I hope that we will work toward approval of the principle embodied in the Pearson-Bentsen amendment, and I congratulate both of the authors of that amendment as being realistic and fair, even though they are going to be misunderstood by many consumer groups. I think in the end what the consumer will want is fair and honest pricing—pricing that will bring adequate supplies and will give us the message that this is a valuable depleting resource that we are using up, wasting and squandering, and only through market pricing will we ever be able to reconcile these contradictions.

Mr. HANSEN. Mr. President, first of all, I commend most highly the distinguished senior Senator from Illinois for the compelling logic in the statement he has just made. The only regret I have is that there were not more Members of the Senate in the Chamber to hear his very persuasive arguments and to recognize the inevitability of the scenario that he has painted for us.

I want to comment on a discussion yesterday between the Senator from Alaska and the Senator from South Dakota. In it, the Senator from South Dakota was urging that there is not much of a free market when you have a limited supply of something and a limited number of people producing. Now I was always taught that every commodity that is marketable exists under exactly those conditions. It used to be said that only air and water were free, and we are now learning that even that is not true. The essence of a free market is not that a commodity is not limited, because every commodity is limited, whether it be labor, land, aluminum, lawyers or whatever. Those limits can frequently be expanded, but there are always limits.

The essence of a free market is the opportunity to compete. And there is certainly that in the oil and gas business. Certainly there are large companies, but by any measure you choose, it is less concentrated than most other businesses. The top producer has less than 10 percent of gas production. The top 10 have less than 50 percent. And there are thousands of small producers, who every day are leasing land, putting together deals and exploring and producing. It is true that there are a lot less than there used to be, but that decline is a direct result of the price ceilings that have said one cannot take a risk and try to make a profit.

This leads to my second comment. The Senator from South Dakota states that if he were in the gas business he would be "assured under the present law I would get my cost of production plus an adequate profit. Do they want something more than an adequate profit?"

The Senator is mistaken in thinking that a gas producer is guaranteed anything under existing regulation or under any ceiling price. Even assuming the correctness of every number the FPC used in arriving at its "cost-based" price of $1.45, it is axiomatic that half of the production must be bringing a return below the 15 percent rate of return allowed.

If the average cost is $1.45, half of it must be above that, at $1.50, $2, or whatever. And no one will willingly spend $2 to return $1.45. When a person goes to drill, the FPC or any regulator cannot guarantee that he will find anything, or if he does find it, how much he will find, or how much he had to spend to find it.

All the regulator can guarantee is that no one will try to drill where he thinks gas can be found if he thinks the costs will exceed the ceiling price.

When the price of farm products rose because of several famines and large foreign purchases, our farmers planted fence to fence, and the shortage evaporated in short order. Should we chastise them for "withholding production" because they did not do all that additional planting at the earlier price? Of course not.

It all comes down to the question, do we want to let Americans try to solve America's energy problems? Or do we want to guarantee that we will have to put ourselves on the mercy of the world market to meet the shortages that will surely continue. Economists and bureaucrats may not know much, but they do know one thing with certainty, and that is how to create a shortage. It has been proven throughout history that you can produce a shortage in very short order by putting a ceiling on prices. Whether it is rent control, wage control, fixed-price theater tickets, or natural gas regulation, the result is the same. Shortage, stifling of production, and the necessity of substitutes.

Mr. President, I say let us put an end to this vicious cycle, and turn our productive genius loose. It will work. It has already worked in the intrastate market.

We should join together, in less than another hour, and vote to prove, once again, that the experience that America and, indeed, all of the world has had throughout history will prove to be workable and will hold true in the case of natural gas deregulation. I urge my colleagues to let the free market demonstrate what it can do to solve this shortage also.

Mr. President, I ask unanimous consent that Bill Pursley of Senator STONE'S staff may have the privilege of the floor during the debate and any votes upon the bill before us.

The PRESIDING OFICER. Without objection, it is so ordered.

Mr. DURKIN. I make the same request for Reid Ashinoff of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, the same request for Rick Sloan of Senator METZENBAUM'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I, as usual, listened with great interest to the remarks of the Senator from Wyoming. I think, in support of his remarks and his great interest in this issue of deregulation of natural gas, it is worth some summary remarks as to the elasticity of supply, that is, the increase of supply as a function of various changes in the market.

As I said earlier, there are really four basic changes in the energy economy that can affect supply price, available technology, available science—that is, understanding of a resource base—and the availability of capital, risk capital in particular. But I think it is worth looking once again at the question of what is the reaction of a market to an increase in price.

Mr. President, I yield briefly to the Senator from Minnesota.

Mr. ANDERSON. Mr. President, I ask unanimous consent that Susan Martell of my staff be accorded floor privileges during the debate on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, it has been argued, clearly incorrectly, I believe, but nonetheless argued on this floor that there is no elasticity of supply, that is, that the supply of natural gas will not increase with an increase, albeit a brief increase, in the price of new natural gas.

I think it is worth our while to look at the experience of Texas, which is that in 1971 there were 1,000 new gas wells drilled, and at that time the price was about 75 cents per thousand cubic feet at the wellhead for new natural gas.

In 1975, we saw 2,275 new gas wells drilled in Texas, when the price was $2.20 per thousand cubic feet, a substantial increase from 75 cents.

In 1976, we could see the beginnings of a drop in price as the new supply produced by these wells became available, and the price in 1976 was about $1.75. More recently, in 1977, we have seen new contracts for new natural gas in Texas, in intrastate market, begin to go for about $1.60. So the price continues to drop in response to an increase in supply.

In Oklahoma—and I see that the Senator from Oklahoma is in the Chamber; he has talked previously about this subject—we had a similar reaction between 1972 and 1976 to an intrastate uncontrolled natural gas supply. In 1972, the intrastate price in Oklahoma was about 30 cents per thousand cubic feet, according to my information. There were 103 active rigs, and during that year 393 billion cubic feet of gas was added to the reserve.

In 1976 with the price of $1.70 per thousand cubic feet, there were 192 active rigs in contrast to 103, and during that year, 878 million cubic feet of gas was added to the reserve. There is no question, from these assurances and from general market economics, that with just a brief increase in the market price for natural gas we will see a rapid increase in the availability of reserves for production, and soon after that rapid increase we will see a drop in price because the available supply will outstrip the demand.

All of the predictions of very high increases in natural gas prices for long periods of time are just false. They will not occur.

Mr. President, I think it is also worth noting that various studies have indicated approximately what the increase in annual production of natural gas would be at various price levels.

In order to set the perspective, we should note at this time that the present production of natural gas is about 20 trillion cubic feet, on an annual basis. The Massachusetts Institute of Technology, an institution in the home State of the Senator from Massachusetts who spoke yesterday, has predicted in their study that at a price of $1.98 per thousand cubic feet there will be an addition of 3 trillion cubic feet of gas added to the 20 trillion cubic feet as a consequence of that price increase, on an annual basis.

Mr. President, that increase of 3 trillion cubic feet will occur by 1985.

The American Gas Association, in taking a price of $2.90 per thousand cubic feet predicts 3.9 trillion cubic feet additional gas to be available by 1985. The Institute of Gas Technology, at a price of $2.50, predicts 5.4 trillion cubic feet added gas supplies on an annual basis.

The Federal Energy Administration, taking a price of $2.40 per thousand cubic feet, predicts 4.3 trillion cubic feet added to the gas supply.

All of these empirical models are subject to debate, and subject to variations in the assumptions they may have used. But it is interesting to note that in these four cases the conclusion was roughly the same: that a great increase in the supply of natural gas will result from a relatively modest initial increase in the price of interstate natural gas, new natural gas.

Mr. GOLDWATER. Will the Senator yield at that point for a question?

Mr. SCHMITT. I will be happy to yield to the Senator from Arizona for a question.

Mr. GOLDWATER. The question I think we have to address ourselves to on behalf of the American people is the resulting price increase of gas to the user. I would like to ask the Senator from New Mexico if my estimate is correct or nearly correct. A 15-percent increase—I think that is about what the Senator has been talking about—at the wellhead will result in about a 3-to-5-percent increase to the user of gas in the home; is that correct?

Mr. SCHMITT. The estimates vary. One thing we know is that the price that the consumer sees at his home is composed of many additions of price starting from the wellhead. The wellhead price constitutes about 20 percent of the price that the Senator would pay for gas in his home. That is a national average. The increase will vary nationally from 3 to 5 percent.

Mr. GOLDWATER. I have seen the figure. In fact, my State is probably more dependent upon gas than most States. Seventy-nine percent is our dependency upon gas. Our figures show that a 15-percent wellhead increase will result in a low of 3 percent and a high of 5 percent to the average user. This would not apply, of course, to the smelters, to those people who use tremendous amounts of gas. But for the homeowner, the one that we have seen so many tears shed for in this body, the increase would not be prohibitive, in my opinion.

Mr. SCHMITT. The Senator is correct. The initial increase, of course, would be very small, because any new gas entering into the interstate market would be mixed with old gas that had a regulated low price. So the average would remain quite low. It would be an insignificant increase in the first few years as a consequence of new production or new gas at the higher price. As we accelerate production there may be a brief period of time where we might see the 3- to 5-percent increase the Senator refers to.

Experience in the intrastate market, and in other commodities that have comparable economics, will show us very quickly that the supply will be such that it will begin to hold the price down and actually drive it down. That is characteristic of the copper market in Arizona and New Mexico with which the Senator and I are so familiar. Right now, because of the oversupply, the price of copper has been driven down. It will be down for a while and the consumer will benefit because of the low price. Gradually, though, production will decrease because of the lower price and it will cycle back up.

Natural gas does not follow these normal cycles because we have artificially regulated the price. What the consumer has had for about 25 years is an artificially low price which has driven people from the exploration for new gas and our reserves have dropped. It is no longer a problem of price but it is a problem of supply. We are going to have to relieve the restrictions of price on the exploration for natural gas in order to increase supply.

Fortunately, in one sense—and I never would have voted for regulation—regulation has given us a chance to increase supply with a very small impact on the consumer because of the old gas at a low price being mixed with a limited amount of new gas coming on at the higher price. The consumer will see from the wellhead price a relatively small increase.

I think it is important to look at the other side of the coin, if the Senator will indulge me, of what happens if we do not increase the supply. What happens? The consumer is forced to other alternative energy sources which are much more expensive. The cost of electricity in equivalent Btu units is five or more times what it is for natural gas even under a deregulated price. The cost of foreign imported oil, which is where we will have to get it, is two or three times more than the cost of natural gas.

On top of all of that is the environmental question. Whether we switch to oil or coal or what have you, any reasonably available alternative source right now is tremendously more damaging to the environment than is pure and clean natural gas. I believe that is obvious.

I cannot understand why we do not see more of our friends, who, like myself, are very interested in the environmental causes, coming here and talking to the opponents of the Pearson-Bentsen amendment for deregulation of natural gas, with this very important consideration of the environmental impact.

Mr. GOLDWATER. This is one area that some seem to forget, the environmental problems. I want to thank the Senator for bringing out this very valuable information on the impact on increased production of gas, which we have to have—and this has to apply, too, I might say, to oil—and that we are not directing our energies in this energy bill to that end. We are talking about conservation. The American people will not conserve. We are not talking about the need for more fuel or more natural gas in 1985 or 1990 or the year 2000.

It would be just a natural thing. I have talked to the producers of some of the gas wells in Texas and Oklahoma. They just turn that valve down, and

when they cannot sell gas outside their State at a profit, they are going to sell it in their State at a profit. That is something I cannot understand, why our colleagues from the populous Eastern States that depend on interstate pipelines cannot understand that we probably will go through another very cold winter this year. The people who operate the valves are liable to push them in the other direction and we will have just as bad a situation.

I thank the Senator from New Mexico for bringing these points out. They are points that I think we should talk more about than the political kind of chatter we have been hearing about energy.

Mr. SCHMITT. I thank the Senator. I think that, by his questions, he has, once again, pointed out the idea that the amendment that will deregulate the price of natural gas is a consumer-oriented piece of legislation; particularly for the consumers in the large Eastern and Midwestern populated States that are going to have another hard winter.

There is nothing we can do about that. There is going to be another winter of shortage of supply unless there is a miracle of an extremely warm winter. An average winter will mean a shortage of the supply of gas. It means that if we continue to regulate gas at artificially low prices, winter after winter, it will be the same thing and the consumer will be forced to convert to much higher-cost foreign oil or electricity. That is not, in my mind, a consumer-oriented philosophy. The philosophy is, for the short term, intermediate term, to use what is abundant, which is to say natural gas, and to use it in sound ways which it is obviously suited to, to make that gas available while we develop these other energy sources through our use of technology, other energy sources that will provide, sometime early in the next century, inexhaustible sources of clean energy and electrical power.

The Senator is absolutely correct, it is a consumer bill. If the consumers were voting on this measure and had the facts before them, I am sure they would vote, first of all, not to table the Pearson-Bentsen amendment and, then, vote in favor of the deregulated price of natural gas.

Mr. GOLDWATER. The Senator is right.

Mr. SCHMITT. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I ask unanimous consent that a member of my staff, William Donovan, be granted privilege of the floor during the debate on this particular bill throughout the rest of the day and the weekend.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I ask unanimous consent that Gordon Jones of my staff be granted privilege of the floor during all votes and consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If the Senator will withhold, the Senate is not in order.

The Senator may proceed.

Mr. JACKSON. Mr. President, the pending amendment has been debated at length, not only this year, but in previous years. I think the significant thing to point out is that since that time the price of natural gas has been going up steadily.

The current new natural gas price of $1.46 represents a fourfold increase over the past 4 years. The administration's proposal would allow $1.76 beginning this year and it goes on up in the years ahead, recognizing the inflationary factors that exist in our economy.

Mr. President, I think there are adequate incentives in the administration's bill. I believe that we can get the natural gas that we need.

We have a responsibility, Mr. President, to look at the other side of the picture, and that is the all pervasive impact that the cost of energy has on our economy.

We are still suffering from the sudden increase in the price of oil caused by the OPEC price fixing back in 1973. Mr. President, specifically, 80 percent of the oil produced in the free world.

Therefore, they have effective control over the price of oil which, in turn, if we deregulate, as the Pearson-Bentsen amendment would do, Mr. President, then we are letting it go to the OPEC price.

I believe this is the issue. It is the issue not just of natural gas per se, but it is the issue of our economy.

I hope that the Senate will respond effectively by supporting my motion to table, which I shall make at 6:30.

ADDITIONAL STATEMENTS SUBMITTED

Mr. STEVENS. Mr. President, natural gas has become an increasingly important source of energy in the United States over the last 30 years. Between 1945 and 1970 natural gas production and consumption increased by 450 percent, from 4 trillion cubic feet (Tcf) per year to 22 Tcf per year, and as a share of total energy consumption, natural gas rose from 12 percent to about 33 percent. Natural gas is the main fuel for home heating; for the United States as a whole, it now accounts for over 40 percent of residential energy consumption. Because gas prices have been maintained at low levels, this fuel has increasingly become the choice of electric utilities and large industrial consumers. This, of course, is not surprising; gas has been clean, convenient, and most of all, cheap.

Today, however, America is faced with an acute shortage of natural gas. Beginning in 1971, demand for natural gas began to exceed its supply, and since that time natural gas shortages have been steadily growing. By 1973 it was no longer possible to have gas lines installed in new homes built in many regions of the country, and a large number of industrial consumers found their supplies curtailed. In the severe winter of 1976–77 the shortage reached 23 percent of "firm"—noninterruptable—requirements, and aside from the direct cost of unfulfilled demand, this resulted in additional unemployment of about 1 million people during the month of January and more than $4 billion of lost GNP.

The explanation for the natural gas shortage is simple. Separated from all the political rhetoric, the cause of the shortage can be simply stated: The Federal Power Commission, under the congressional mandate of the Natural Gas Act and the judicial decision of Phillips Petroleum Co. against Wisconsin, has pegged the price of natural gas at the wellhead at an artificially low level and, as a result, demand for natural gas at this low price has far outstripped the supply.

The establishment of the low wellhead price has produced two significant effects. First, the incentive was removed for the exploration and discovery of new natural gas reserves, and as a result total U.S. reserves of gas fell by about a third between 1967 and 1976. Second, low prices removed the incentive to produce gas out of existing higher cost reserves, so that production fell even with respect to a particular level of reserves.

To mitigate the problem, President Carter has proposed in his national energy plan to increase new contract wellhead prices of "new" gas. The plan assumes that there is not enough undiscovered gas remaining to justify any price higher than $1.75 per Mcf. While the Carter proposals will help to reduce projected shortages they will not eliminate them and significant shortages will continue.

As compared with the alternative offered by the President, deregulating the field price of new natural gas is the single, most effective way to increase supplies and avoid the economic dislocations attending supply curtailments. Deregulation would allow the free market price to fulfill its economic role as allocator of this scarce resource. In addition, deregulating the field price of new natural gas would generate the funds essential to finance exploration and development of frontier areas and provide

adequate incentives to make the potential rewards of the petroleum search worth the enormous costs and risks.

Nowhere in the United States is the cost of exploration and development of our natural gas reserves as high as in the frontier areas of Alaska. Exploration and development in Alaska requires large amounts of capital to meet the environmental, labor, management, and transportation costs. Alaska, however, holds great promise for sizable new deposits of natural gas. Estimates differ, but a moderate and reasonable estimate published by the Potential Gas Committee in 1976 places total Alaskan potential gas reserves at 225 trillion cubic feet and proven Alaskan reserves at 32 Tcf. This additional petroleum can be found and successfully marketed if the industry is provided with the necessary economic incentive and profit. Deregulation of the field price of new natural gas not only provides the right economic climate to develop Alaska's vast gas potential but also establishes the necessary economic stability that industry needs.

The administration's assumption that there is not enough domestic natural gas left to make it worthwhile to encourage and provide the means for a maximum exploratory and development effort is not valid. It is difficult to know just how much natural gas exists. Indeed, no unanimity exists on the availability of gas. The Potential Gas Committee estimates that potential U.S. reserves total 927 to 977 Tcf while the USGS places the total at 523.6 to 856.6 Tcf, a significantly lower estimate.

The disparity in estimated potential U.S. reserves between the Potential Gas Committee and the USGS is not surprising. The actual record in prediction in energy resources does not inspire high confidence in resource forecasts. Wildly wrong predictions of resources are legion. In 1891 the U.S. Geological Survey estimated that there was no oil in Texas; in 1914 the Bureau of Mines estimated total future U.S. production at 6 billion barrels. A consensus of 11 U.S. oil companies' forecasts for 1980 made in 1962 was already exceeded in 1972 Perhaps, the best example of the difficulty of energy prediction was exhibited in the report of the Cabinet task force on oil import control in 1970—Cabinet task force 1970. It concluded:

> The world market seems likely to be more competitive in the future than in the past because the growing number and diversity of producing countries and companies makes it more difficult to organize and enforce a cartel. . . . These reasons support the conclusion that the landed price of foreign crude by 1980 may well decline and will in any event not experience a substantial increase.

The best way to determine how much gas is economically recoverable is not by expanding the Government's use of regulation measures to deal with the energy problem but by providing the industry with the economic incentive to explore for additional gas reserves. Otherwise, the mistaken assertions of the proposed national energy plan that domestic production cannot be increased substantially will become a self-fulfilling prophecy.

If present policy is continued, shortages can only grow worse as demand continues to increase and supplies dwindle. The costs of the policy—in lost consumer surplus, induced expenditures on oil and coal, and lost GNP—are enormous, and they are growing.

Deregulating the field price of new natural gas is the most effective way to promote the development of Alaska's vast gas potential. The development of Alaskan gas will ease the energy shortage, help correct the balance of payments and employ the American worker.

Mr. HATCH. Mr. President, since 1954 the Federal Government has set the price for interstate natural gas sales. Now, nearly two decades later, persistent and serious gas scarcities developed as artificially low prices, held down by the Federal Power Commission, stimulated demand and dampened production. Economist Milton Friedman summarized the problem very well when he observed that if you wanted to create a shortage of any commodity, simply have Government fix and enforce a maximum price on the product which is less than the price which would otherwise prevail. This, my dear colleagues, is precisely what we have done since 1954, and precisely what we would do on even an expanded basis by passing this bill.

In April of this year we were warned by the administration that the world would run out of gas one day near the turn of the century. For this reason the law of supply and demand was repealed, and we were told we needed a new Department of Energy and a lot of new taxes to promote conservation. It develops now that the administration no longer feels that way. Energy Director Schlesinger concedes that in the United States we now have 30 years supply of ordinary natural gas, and some 100 years of geopressured methane. Indeed, an impressive preponderance of opinion among the leading experts assess our supplies as being much greater than Director Schlesinger's estimates. The truth seems to be that this country has natural gas in great abundance. One respectable estimate sets our reserves at 920 trillion cubic feet. Other reputable sources estimate our reserves and remaining resources to exceed 1,600 Tcf. Russian scientists are convinced that the world supply is 350 billion Tcf, enough gas to last this planet for 20 million years. Whatever rationale you adopt, it is highly probable that our country is simply awash in natural gas. With this evidence, it mystifies me and millions of Americans like me, why we would contrive a national energy policy which would deny us the benefits of this marvelous resource. The answer, my distinguished colleagues is simple, straightforward, and quite obvious. The price of gas, as set by the Federal Power Commission is not high enough to enable producers to develop additional supplies.

It has been stated in this debate that deregulating the price of gas would not increase the supply. However, our own Energy Research and Development Administration advises otherwise. Dr. Christian Knudsen of ERDA states that if the price of gas were deregulated, the country would be awash in natural gas. In detail Dr. Knudsen estimates:

At a cost of $2.60 per Mcf we could expect our gas reserves to rise to 923 Tcf, a fourfold increase over the present reserve of 216 Tcf;

At a price of $3 another 1,000 Tcf of hitherto uneconomic new sources would be tapped including 300 Tcf Devonian shale in Appalachia, 300 Tcf of coal seam methane, and 300 to 400 Tcf of western tight sands;

This means that a price range of from $2.50 and $3.50 this Nation's total immediate gas reserves could be multiplied 8 to 10 times, and 60 to 80 years added to the expected life of our reserves. In addition, Dr. Knudsen suggests that at a price of $3 the Nation could begin to tap the 20,000 to 50,000 Tcf known to exist in the form of geopressured methane in the gulf coast region. This source alone is a 1,000-year supply.

In sum, Dr. Knudsen's committee concludes that this country's natural gas potential is immense and would last from 100 to 2,000 years. But again, and I emphasize this, the realization of this potential is dependent upon increasing the price. It is incomprehensible that we should willingly be enduring shortages when we can eliminate shortages by allowing a market-clearing price, at prices that are still cheaper than alternatives.

We could have all the natural gas we could use.

The distinguished Senator from Washington concludes, I think too simplistically, that little additional natural gas would be produced even if the price were increased, citing the static state of intrastate reserves in recent years. The Senator fails to point out, however, that field price controls on gas have confined recent drilling to unproductive, shallow, inexpensive onshore areas. He also neglected to point out that less than 10 percent of recent gas-well completions have been in the more expensive, deeper onshore areas where 70 percent of U.S. gas resources are located. Furthermore, it is significant that current exploratory drilling levels are drastically below the levels of the 1950's. I would also point out that formerly the opponents of deregulation argued that natural gas producers were holding back output in order to get a higher price. Now they argue that a deregulated price would only increase supply by 5 percent. Obviously, they can not have it both ways. Which way do they want to argue? Another certain consequence of this strange business of holding down domestic prices means more imports of high-priced foreign fuels. It transfers American income and wealth to foreigners. It decreases American income and increases foreign income. We penalize American producers to aid foreign producers. Energy companies now look increasingly abroad for natural gas supplies. Foreign supplies could easily account for 20 percent of our total use by 1985. There is nothing inherently evil about importing energy, and our experience with OPEC oil has taught us that foreign oil is better than no oil at all. But there is great evil in support-

ing the energy industries of foreign countries at the expense of our own, and the OPEC experience has graphically demonstrated the need for restraints on foreign pricing power.

Most foreign gas is higher priced than deregulated domestic gas. Mexican gas, it is estimated, will cost $3.10 per Mcf compared to about $2.25 for deregulated domestic gas. In order to reduce foreign gas imports, Congress must assure maximum production of U.S. reserves by deregulating the price, and thus far, it has refused to do so.

Carter administration officials cannot deny that, under their proposed controls, natural gas production is expected to decline from almost 20 Tcf per year to about 15 Tcf. This means that passage of this bill will cost us one-quarter of our natural gas output over the next few years. The Government's own scientists predict that deregulation can prevent this fall. Simply stated, if we do not deregulate, we will lose this gas. Gas is almost 40 percent of our total national energy output. By losing one-quarter of it we will be literally throwing away 10 percent of our domestic energy supplies. This lost gas, which between now and 1990 will reach 25 Tcf will have to be replaced. And how will it be replaced? It will be replaced by foreign oil purchased at a rate of $4 per million Btu's for industrial distillate, after the Carter tax is imposed, and by electricity at a cost of $11 per million Btu's. It is easy to see that this will cost consumers far more than deregulated gas. Not only will consumers pay more, but they will also be paying more for imports.

Under this bill, U.S. consumers will be spending an extra $26 to $40 billion on imported OPEC oil between now and 1990 just to replace the supplies we lose because of our gas price controls. Our rising oil imports will absorb much of Saudi Arabia's excess productive capacity making it much easier for OPEC to push for higher prices. Suppose this leads to price increases of even as little as $1 per barrel, an increase less than the increase OPEC is already calling for, this added $1 will cost the United States an additional $2.55 billion per year and $23 billion between now and 1990. And this increase would apply to all oil, not merely oil imported to supplement our natural gas production shortfall.

Contrary to what those who advance this bill would have us believe deregulation is not a consumer atrocity. Consumer gas bills would not double or triple. For example, in 1976, the average home gas bill was about $240, though in some areas the average went as high as $460. Significantly, however only about one-third of this bill represents the wellhead price of gas which is the only element of the price that would be affected by deregulation. The other two-thirds represents pipeline and transmission expenses. Finally, most gas is sold under long-term contracts, and only "new" gas—about 5 percent to 10 percent per year—would be affected by deregulation. These factors would cushion the price increases. While no one can accurately say just where prices might go under deregulation, it would surely not be to the levels the bill's proponents are contending. We must face the reality that great pressure exists for higher energy costs everywhere and for all fuels, and neither the administration nor Congress can artificially shield consumers from the consequences. The price increases cannot be confined to businesses. They will be passed on in the price of products and contribute to general inflation and will result in production of less at home and more imports from abroad, increasing our already dangerous balance-of-payments problem.

It is interesting to review the experience of Canada with respect to deregulation. American gas buyers, with FPC permission, are now making contracts with Canadian producers to buy gas at $2.25 Mcf, fully three times the average well-head price now being paid to U.S. producers. As a result, Canadian gas production is booming, while in the U.S. gas production continues to decline. The significance of this is that merely 3 years ago, Canada was so worried over its gas reserves that she embargoed shipments to the United States. But the combination of higher prices offered to the Canadian producers and rising U.S. demand, has sent them into an exploration spree, exploiting areas formerly thought to be too costly to yield. The result is that Canada is piling up to 1 to 2 trillion cubic foot surplus of natural gas each 12 months, which it is happy to sell to the United States at nearly 85 cents above the present regulated price of new gas in this country.

This coming winter, we will probably again be short of natural gas. And we will probably again be forced into purchasing $2.25 gas from Canada, $4 LNG from Algeria, $5 SNG, and $6 to $9 propane from domestic producers, all because we insist on limiting our domestic producers to a price so low compared to what these foreign sources are charging, that they cannot go out and get the enormous reserves that ERDA and USGS tell us are there.

I submit, my distinguished colleagues, that this entire gas price situation is ridiculous and is becoming an outrage. It has lead me to the conclusion that the energy program of this administration most probably has nothing to do with energy conservation or production. It has everything to do with increasing Government power and with raising the taxes of Americans. The bureaucrats and the U.S. Congress are now putting themselves in the position of running the entire U.S. energy industry, and that really means the entire U.S. economy.

Remember, bureaucracy creates crisis in order to create more bureaucracy in order to exercise more control over our lives, usually always to the detriment of all.

It is vitally necessary that we adopt a policy for our national energy needs that will work. It is clear and unequivocal by the weight of all credible evidence that has come before me, that the price control features of S. 2104 will not work and are therefore not in the national interest. Therefore this measure must be defeated, and we must pass the deregulation bill introduced by the distinguished Senators from Kansas and Texas.

Thank you.

NATURAL GAS PRICING

Mr. McCLURE. Mr. President, On January 31, 1977, I addressed this body on the need for deregulation of this Nation's new natural gas supplies. At that time we were witness to the devastating effects created by shortages of natural gas: millions of Americans out of work, thousands of cold homes, schools closed by the score, and losses to the economy totalling million of dollars. As I said then, it is not my intention to weigh down this body with the thousands of figures—but corresponding few facts—created by this issue. We have heard the debate and seen the relentless rain of statistics beginning with the 1954 Phillips decision empowering the Federal Power Commission to regulate the wellhead price of natural gas dedicated to interstate commerce. We have read the hundreds of hours of hearings and debates, seen thousands of entries in the CONGRESSIONAL RECORD and have been asked to consider hundreds of bills and resolutions relating to natural gas. We have seen the potential supply figures, the differing economic scenarios depicting a regulated and deregulated market, the conclusions of the experts and editorial comment from newspapers across the Nation. All attest to the fact that for 23 years this Nation has failed to deal with the fundamental problem of shortages of supply of natural gas and acknowledge the fact that current ceiling price formulas constitute a powerful disincentive to increase production and conserve existing supplies. I am firmly convinced that the most effective response to deal with the problem is to turn our backs to the discredited advocates of control and work toward increasing supplies of natural gas. This Nation should not again face the possibility of misery and economic dislocation caused by induced shortages.

We are now in the midst of a battle over the pricing of new natural gas—at a time when reserves are dwindling, production is declining and resources are estimated by reputable sources to be sufficient to meet our needs for more than 50 years. We must now act on the question of whether we will give producers the incentive to explore, develop and bring new gas to the marketplace. The issue is as simple as that. It presents a challenge which cannot be met by further delay and political sidestepping.

There is a strong record of the relationship between the volume of reserves developed and resources discovered to the amount of drilling conducted. In addition, there is a strong relationship between increased prices for natural gas and corresponding increases in domestic drilling. More simply, there is a direct relationship between prices and production. This is the most important fact, for no good argument can be made that future supplies of gas would not be responsive to price.

The case for providing such incentives is strong. But the strongest argument lies in the fact that the consumer, either because of the high cost of alter-

nate fuels which companies serving them must utilize if they cannot obtain sufficient supplies of natural gas, or because of the equally high costs to commercial users, will end up paying higher costs. That is the most unacceptable cost of a shortage policy such as that which the administration advocates.

Under existing price controls, producers cannot meet all consumer demand for natural gas. The experience of the interstate market earlier this year proves this. Net curtailment of natural gas by 27 major interstate pipeline companies totalled 936.4 Bcf. As a result of curtailments, residential consumers paid an average of 20 cents per Mcf more for gas and commercial customers paid 15 cents more. One and one-tenth billion dollars more was paid for the same amount of gas by residential users. More was paid by industrial users. We must remember that these costs affect you and me. We need to keep in mind that commercial and industrial costs are passed on to consumers in the form of higher prices for goods and services. This is for the same amount of natural gas and not for an increase in supply or the cost of production incentives.

The cost of substitute fuels to replace shortages of natural gas is another high cost the consumer must absorb. When companies serving consumers cannot get adequate supplies of natural gas, then they must purchase oil, electricity, liquified gas, synthetic gas and other alternate fuels to make up the differences. These substitute fuels are expensive, and their cost may be the single most expensive factor in the administration's shortage policy.

Empty natural gas pipelines contribute more costs to the consumer natural gas bill. In testimony before the Senate Committee on Energy and Natural Resources, Dr. L. Philip Gramm testified that the wellhead cost of natural gas represents only about 20 percent of the homeowner's monthly bill. In the Northeast, 81 percent of the residential gas bill is for pipeline and discrimination costs.

Pipeline and gas distribution companies costs are fixed, whether they operate at full or reduced volumes. The greater the natural gas shortage, the less gas flows down the pipeline. Any fall-off in natural gas production and sales means that the consumer pays more to recover these fixed costs. Thus, it is important to have full pipelines or consumers will pay more per unit of gas to make up the differences. The consumer is adversely affected by an energy policy that ignores production incentives. The effects of curtailments, alternate fuels, and empty pipelines could cost American consumers more than $123 billion through 1990 if Federal controls are retained.

The administration's argument for a $1.75 price ceiling for new natural gas is flawed by a major misconception—that at prices above $1.75, only 0.4 Tcf more gas in 1985 would be produced. It is just not so. There is an abundance of conventional gas in marginal fields alone that can be produced if prices are raised to a level high enough to justify the production cost.

Opponents of decontrol make an even weaker argument that true competition does not exist in the natural gas industry. The Texas experience, where higher prices have not brought on more production as yet, suggests that this is not so. In early 1970 a sharp demand for natural gas developed while supply was relatively low. Low prices had curtailed exploration, and a major producer suddenly found it could not meet a long-term contract. Prices rose, and the number of wells drilled increased. By 1975, total supply had fallen, but not to the level anticipated had prices not risen and produced incentive. Interestingly enough, demand had fallen, due to the higher prices, and a surplus resulted. After several years, some gas has sold as low as $1.30 Mcf with most prices leveling off at $2 Mcf.

Gov. Dolph Briscoe of Texas presented the Senate Energy and Natural Resources Committee with an accurate summary of the problem facing the Congress and the Nation, when he stated:

Let me emphasize a central fact not widely recognized. The energy development requirements, given in the President's National Energy Plan, are unprecedented, compared to any nine-year period of our history. More than half of the 1985 domestic production must come from newly found and newly developed sources. To achieve his requirements in oil and gas in the face of recent and present declines, reserves must be found to provide 11 million barrels of oil equivalent per day of new production. Simply put, that will require the discovery of about 60 billion barrels of oil or oil equivalent over the next nine years, more than we have ever found in any nine years of our history.

We have wasted more than three and a half years since OPEC quadrupled the oil price. Time is getting very short because the lead times involved in both conserving energy and expanding energy production are quite long. We are already in a precarious economic and strategic situation because of rising oil imports. If we do not radically modify President Carter's energy plan along the lines I have indicated, our import requirements in the 1980's could break the back of the world economy and endanger the peace. There is no need for that. The fate of the United States and the other OECD nations must not be permitted to depend on whether or not Saudi Arabia is prepared to expand its oil production capacity. We are blessed with large energy reserves. Now is the time to bring them into production. We shall not win this moral equivalent of war with one hand tied behind our back. I came here today to urge you to untie the hand of production.

There is much debate as to what the cost of deregulation will be. We do not know exactly, but I am confident that it will be below the cost imposed on this Nation by a controlled natural gas market.

We need to be truthful and face the fact that in either case consumer costs will increase. But under deregulation, more benefits will reult from these increased costs. I am confident that if we vote for deregulation, we will increase domestic supplies, lessen our dependency on foreign imports, promote conservation, and save the consumer money over the next 10 to 15 years.

Mr. JAVITS. Mr. President, we have been debating natural gas pricing policy in this Chamber for almost 4 years, and we have yet to reach a consensus among ourselves, with the House, or with the President. The results of this continuing debate, and consequent failure to resolve this critical issue of energy policy, is a haphazard course that has been detrimental to all concerned parties—producers large and small, consumers, industrial, commercial or residential, and workers, especially in the Northeast. It is time to resolve this issue.

The very fact of the Congress continuing debate on natural gas deregulation has been, in my view, one of the principal reasons for the steady decline in natural gas production and in addition to proved reserves. No matter what price a producer is getting, whether it be too low to pay for fixed costs or high enough to make a steady profit, producers cannot be expected to make massive investments when there is a good chance prices will not be under any control at all next year. And that is precisely the situation that U.S. gas producers have been facing these past several years.

When the price at the wellhead just 3 years ago was 24 cents/Mcf, producers contended that much more was needed. The Federal Power Commission responded under the existing standard of "just and reasonable" by increasing the regulated price to 52 cents, but production continued to fall. Producers again argued that greater costs had necessitated still greater increases in the price of natural gas. The Federal Power Commission, under an administration that favored deregulation of natural gas prices, nearly tripled the price at which contracts could be signed, up to $1.45 for new natural gas. Thus, in the space of a few short years, the allowable price for natural gas has already skyrocketed—as much as the OPEC imposed price for imported oil—from 24 cents to $1.45, a sixfold increase.

It has become abundantly clear to me that the answer to increasing our domestic production of natural gas is not to increase the price. This method has been tried and failed. It has failed for a single obvious reason: Each time the price has been increased there was the continuing likelihood that Congress would permit much greater price increases by deregulation. It takes no great imagination or understanding of business practice and investment decision-making to understand that when greater profits are likely to be available next year, business will wait until next year before making major investments.

The argument for total deregulation is all the more flawed by the assertions of producers themselves. Three years ago, a price of $1.75/Mcf would have been more than even the producers would have said was necessary for maximized production. Even in the debate in the last Congress, a price of $1.75 was more than it was contended would be the rise in a deregulated market. But now, when the choice is between a new high price of $1.75 and the possibility of any price demanded, the natural gas industry contends that $1.75 is not a price high enough to elicit the investment

needed to bring out maximum domestic production.

On this point, it may be possible that a still higher price will bring out additional supplies. I would listen very carefully to any argument why it is desirable to place a special premium on the use of natural gas over the Btu equivalent price for oil. If $2 is actually the price needed to guarantee that all possible domestic natural gas sources are exploited as quickly as possible, then at least we will know the economic consequences of our actions. To allow the price to go still higher—higher even than the equivalent OPEC price for oil—strikes me as an economic and political disaster. It strikes a blow to the U.S. consumer of gas equal to the blow struck by OPEC 4 years ago when those countries quadrupled the price of crude oil.

Moreover, once the price is deregulated, it is absolutely impossible to determine how high that price may go. Given the industrial need for the natural gas, and industry's built-in investment for using that fuel, its price could rise well above the replacement cost.

One reason the price is likely to rise well above the real costs of production is that there are many variable costs, that rise or fall directly with the possible sale price of the gas. Principal among these costs is the royalty payment to the landowner. The producer is willing to pay the landowner whatever is necessary, as long as he can still produce below the price at which he can sell. If that price is not regulated at all, the landowner can hold out for exhorbitant rates, and the producer will meet them. In other words, the variable costs will rise to fill up whatever price is available. The result is that there will be a further increase in the already huge flow of dollars from the consuming States to the producing States. And that means that residential consumers, who have absolutely no choice in their use of fuels, and have only limited opportunities for conservation, will have to pay that price as well. This is a harsh burden to bear, especially given the fact that there is no assurance, or even likelihood, that these enormous price increases will bring out considerably more domestic gas than the certainty of a reasonable price level for the future. Whether the increased consumer cost be $10 billion/year (CBO) or up to $35 billion/year (JEC), as has been estimated, these costs, and the inflationary effects that they produce, are not the answer to our need for increased gas production.

Additionally, although I believe that a certain price of $1.75, with an adjustment for inflation as provided, will bring out sufficient natural gas to supply our needs for several decades, what will we do when the supply begins to get tight; what will our industry do when the reservoirs supplying their pipelines begin to decline significantly in production. The pressure on the price when a physical supply shortage exists will be tremendous, and yet the Federal Government will have absolutely no control over the price if we dereguate today.

The producing States can tie up the Congress for years before allowing price controls placed back on natural gas, even in the face of a supply shortage and enormous price increases.

Finally, it is time that the disparity in both price and availability of gas be reduced between the producing regions and the consuming regions of the country. It is a remarkable state of affairs when one section of the Nation, with a natural monopoly on a critical commodity, can keep almost all new production of that commodity even for inefficient uses while factories may close and lay off workers in other regions. We may have seen no factories close in the Northeast if the current anomaly between interstate and intrastate gas did not exist. I commend the President for taking on this issue directly and forcefully.

Mr. President, for all these reasons I have determined that it is in the best interests of the Nation for the Congress to adopt the President's proposal on natural gas pricing. While I have serious doubts about some of the other elements of the President's recommendations, this aspect will achieve our goals of increasing production without unduly burdening U.S. consumers; in the long run, which this policy is designed to serve, it will provide adequate incentives for production that will help us to cut down on our huge demand for imported oil, which to me should remain the central and overriding goal of our national energy policy.

NATURAL GAS DEREGULATION—A POLICY TO KEEP AMERICA STRONG

Mr. STONE. Mr. President, on April 20 of this year, the President of the United States called upon this country, and especially the Congress, to adopt an effective and comprehensive national energy policy. He emphasized the seriousness of America's energy crisis and the urgency of finding solutions.

Like most other Americans, I applaud the President's call for action. I agree with him that, while there are no lines at the gas pump today, America faces one of its most serious national challanges. Our ever-increasing dependence on unreliable, foreign sources of energy threatens our very survival as a strong and independent Nation.

After months of national debate, in Congress and throughout the country—including countless newspaper editorials, television specials, citizen conferences, and unparalleled lobbying from almost every organized group of American citizens—the Congress of the United States is moving toward decision time. And, although the Senate will ultimately take action on many important energy policy matters over the next several weeks, I believe that the matter presently before the Senate is the single most important energy policy decision we are likely to make.

I believe this for two basic reasons. First, the availability of adequate, reliable, and reasonably priced natural gas supplies—from conventional and nonconventional sources—will continue to be a critical energy resource for America for many years to come. Second, our determination, or lack thereof, to move ahead in securing adequate, reliable, and reasonably priced natural gas supplies for America will truly be a measure of our wisdom and courage in trying to solve the Nation's energy crisis.

Mr. President, as the Senate proceeds to debate the important question of natural gas pricing policy, it is important that we not lose sight of our ultimate objectives. It occurs to this Senator that often—amidst the blizzard of statistics, charts, and estimates—we run the risk of becoming confused about these objectives. Of course, we need to study statistics, charts, and estimates if our policy decisions are to be wise and effective. Like other Senators over the past several months, I have suddenly acquired a geologist's vocabulary and an economist's vision. Nevertheless, Mr. President, computer projections and economic models by themselves will not provide the country with a sensible and effective natural gas pricing policy. Our ultimate policy goals must guide our ultimate policy choices.

What are these ultimate policy goals as they bear upon natural gas pricing policy? I hope that among others, all Senators can agree on the necessity of securing for America adequate, reliable, and reasonably priced energy resources. Adequate, to spur economic growth and maintain our standard of living. Reliable, to assure our national economic and political independence. Reasonably priced, both to prevent personal hardship and to encourage energy development.

To me, Mr. President, this national goal is more important than any other single consideration. I confess that I am more interested in moving toward its realization than I am in being certain that gas producers have far too little, just enough, or far too much incentive to explore for and develop natural gas resources.

The Senate should not and will not adopt a policy which countenances windfall profits for producers at the expense of millions of hardpressed American consumers. But neither, Mr. President, should the Senate adopt a pricing policy that fails to insure that America will have the maximum, feasible supply of domestic natural gas to heat our homes and run our business.

Mr. President, my State of Florida has a special concern about the availability of natural gas supplies. Largely because of its peninsula nature, Florida is far more dependent on oil—and on foreign oil—than is the Nation as a whole. Therefore, to the extent that adequate supplies of natural gas are not available for my State, my State has no alternative but to increase its dependence on foreign oil.

Approximately 1.5 million Florida consumers depend on natural gas for satisfying many of their energy needs. The problem in Florida—as in the remainder of the country—is that adequate supplies of natural gas have not been available for these consumers in recent years. Over the past 10 years, Florida Gas Transmission Co., which is the largest supplier to Florida, has produced and delivered approximately 2½ times as much natural gas as it has been able to purchase. As a

result, large industrial customers were unable to receive gas more than 90 percent of the days last year—and many commercial and smaller industrial customers were forced to do without gas for about 20 percent of the time.

Every serious natural gas pricing proposal before the Congress contemplates an increase in the price of natural gas. The differences between the proposals are the extent to which prices will increase and, more importantly, what the country gets in return for the price increase.

As to the two principal proposals before the Senate—the President's national price ceiling and the phased-in deregulation of "new" natural gas prices in S. 256—there is considerable difference of opinion among the experts as to the difference in natural gas prices which would result. Almost every day a new natural gas pricing study, comparing the President's proposal with the phased-in deregulation proposal, is publicly presented. And, almost every other day, a second study is presented which challenges the assumptions and accuracy of the previous day's study.

It is certain that both proposals will increase natural gas prices over present Federal Power Commission pricing policy. It is certain that the phased-in deregulation proposal provides for greater price increases for "new" natural gas production than the President's proposal which establishes a national ceiling beginning at $1.75 per mcf. However, in considering the impact on prices of phased-in deregulation as proposed in S. 256, several important facts must be remembered. First, the wellhead price of natural gas constitutes only about 20 percent of the delivered cost of natural gas to the ultimate natural gas user. Generally, transmission and distribution costs—unaffected by wellhead prices—represent well over half of the delivered cost of natural gas. Therefore, even a substantial rise in the wellhead price of natural gas will only moderately affect consumer prices. Second, under the provisions of S. 256, immediate deregulation of wellhead natural gas prices is proposed only for "new" onshore natural gas. "Old" natural gas would continue to be regulated at much lower wellhead prices and offshore natural gas production would remain under Federal price controls for 5 years. An analysis of the definition of "new," onshore natural gas in S. 256 demonstrates that for several years after enactment of S. 256, the natural gas user will be paying a weighted price based on a mix of "old" and "new" gas, with "new" gas constituting only a small portion of the total mix.

How great the price difference between these two proposals and its significance for the economy and the consumer appear to remain very debatable and uncertain questions.

What is more certain, Mr. President, is what the country gets in return for the price increase under phased-in deregulation as compared with the President's national price ceiling proposal.

According to most studies I have reviewed, the President's proposed national price ceiling for natural gas will do little if anything to affect the continuing decline in domestic natural gas production. Indeed, the President's proposal assumes that domestic natural gas resources are near exhaustion and that we can expect little if any supply response from higher wellhead prices.

The administration's natural gas policy is based on a very pessimistic evaluation of this Nation's remaining undeveloped natural gas potential. I have two very serious problems with this evaluation. First, it ignores virtually all professional estimates of our undeveloped natural gas resources which indicate there is from 35 to 60 years of undeveloped conventional supplies remaining in the ground. Other estimates indicate there may be hundreds of years of nonconventional supplies to be developed.

While I personally do not accept this assumption, I fear that should the Congress decline to continue and expand present Federal price controls on natural gas, as the President proposes, there will indeed be no new supplies and domestic production will do exactly what the President assumes—decline.

Mr. President, I fear such a consequence because of the well-known historical impact on exploration and production on Federal price controls on natural gas. The President's own bill, S. 1469, part D, section 401, subsection (6), states that as a result of these Federal price controls. The incentives to find new natural gas have declined along with the proven reserves of natural gas, while demand for this premium and relatively inexpensive fuel has increased. Although the President's proposal would provide for some price incentive over the present price for "new" natural gas production, from $1.45 per Mcf to approximately $1.75 per Mcf—beginning in January 1978—it extends Federal price controls to the heretofore unregulated intrastate natural gas market where wellhead prices are already averaging the proposed $1.75 per Mcf level. In other words, the President proposes to extend to the intrastate market the same bankrupt price control system which nearly everyone concedes has created the present natural gas shortage in the United States.

By contrast, the proposal for phased-in deregulation holds out the realistic prospect of reversing the recent pattern of decline in natural gas production and providing America with the natural gas we need to heat our homes and run our businesses. It is important that the Senate understand that S. 256 immediately deregulates the wellhead price for only "new", onshore natural gas production. Price controls of offshore production would be phased-out over a 5-year period. This means that higher prices will be offered for new supplies—supplies which may not otherwise be forthcoming. It means that the marketplace will offer rewards for new exploration and production. It does not mean windfall profits for producers who do not invest in this new exploration and production, which our country so urgently needs.

Mr. President, it is false consumer protection to discourage the development of new supplies of domestic natural gas and force our consumers to more expensive—and less secure—alternatives. Florida's major supplier has been forced to turn to the Republic of Mexico for new supplies and is pleased it has been selected to participate in this project. But at the same time, these new supplies are estimated to cost about $2.50 to $2.75 per million Btu at the border and will be controlled and curtailed according to the needs of another sovereign nation. Other supplemental supplies are even more expensive and many are less reliable.

In evaluating the impact of these price increases of deregulation of "new" gas we need to consider price increases which will result if we do not deregulate new gas prices and encourage the development of new supplies. In Florida the average residential consumer pays about $3 to $3.20 per million Btu for natural gas—and more than three-fourths of this amount is for the pipeline and distribution costs which will remain regulated. By comparison No. 2 heating oil costs about $3.60 to $4 per million Btu, propane costs approximately $5.45–$6.55 per million Btu and electricity costs about $11.50 per million Btu. So when consumers cannot obtain natural gas, they are forced to much more expensive alternative fuels and I might add environmentally less desirable fuels. This does not protect the consumer.

Most importantly, Mr. President, deregulation of "new" natural gas prices provides the opportunity for U.S. production to supply U.S. demand. Any energy pricing policy which does not move us away from increasing dependence on unreliable foreign sources of energy is not a policy America can afford.

The danger of not providing incentives for greater domestic natural gas production is illustrated by increasing American imports of liquefied natural gas from abroad. To me it is instructive that the Federal Power Commission on April 29, 1977, issued an order approving a proposal to import approximately 168.4 billion cubic feet per year of liquefied natural gas to the United States from Algeria over a 20-year period at a delivered cost of $3.37 per Mcf, beginning in 1980. This liquefied natural gas would be delivered to the Louisiana gulf coast. It will require the construction of an LNG plant at Lake Charles, La., at an estimated cost of $164,340,000 and an extension of existing pipeline at an estimated cost of $28,830,000.

The importation of this LNG is a direct result of serious curtailments in gas deliveries caused by declining domestic natural gas production. Even with the importation of this large volume of LNG, Trunkline Gas Co. will continue to experience a pipeline supply deficiency.

Mr. President, I do not fault the Federal Power Commission for this decision. I do fault our present national policies for bringing this about. I refuse to accept the idea that America must take serious national security and environmental risks to supply its natural gas needs. Certainly a comparison of what the consumer will pay to import liquefied natural gas from abroad as opposed to providing incentives for greater domestic production indicate that the American consumer has as much, if not greater,

interest in energy independence as any oil or gas producer.

With imports of oil already constituting nearly one-half of our national consumption and with no end in sight for OPEC, it is imperative that we take every reasonable and effective step toward greater energy self-sufficiency. After carefully reviewing all of the charts, the curves, the models, and the projections, I respectfully urge my colleagues not to overlook this fundamental imperative. Our national survival may well depend on it.

THE PEARSON-BENTSEN COMPROMISE

Mr. DOLE. Mr. President, the arguments relating to the Pearson-Bentsen proposal—both pro and con—have been thoroughly gone over. The Senator from Kansas does not wish to occupy a great deal of time in the Senate going over the same arguments.

But as we vote on this legislation this afternoon, a major point we should keep in mind is that it is a compromise. When we passed this legislation on October 22, 1975, it was the product of the work and the ideas of a great many Senators. It is a middle-of-the-road approach.

It probably is not a bill that will satisfy everybody or perhaps even anybody entirely. It is a compromise that embodies the best approach to addressing the conflicting interests and the controversies that surround this issue.

When I voted for this bill 2 years ago, I expressed my own reservations about it. It is far from the straightforward deregulation that might have avoided this entire problem had it been adopted many years ago. It is phased-in deregulation. It would provide an incentive for the small producers who do the vast bulk of exploration and drilling in this country to get out and make the maximum effort to expand our supply of natural gas. At the same time, it would increase prices only gradually and in a predictable manner.

As stated in the summary of the Pearson-Bentsen amendment that appeared in the RECORD—

> Over the short term, due to a restrictive definition for new natural gas, the supply response of new production to deregulation will be slow as it requires three to five years to develop a new reserve once it is discovered.

The amendment is tightly drawn to insure that we receive the maximum amount of natural gas from existing reserves. It would deny any windfall profits that exist where gas is already flowing and would insure that the higher prices only apply where the new resources we so greatly need would be developed. In the same vein, offshore deregulation is phase-in only over a period of 5 years, rather than the deregulation of new natural gas immediately for on-shore development.

In spite of my reservations about the slow rate of development, and probably the reservations of many others, this is the best compromise and most effective solution we can achieve. That is why we adopted it in 1975, and that is why it should be adopted now.

CONFERENCE COMPROMISE

The Senator from Kansas would assume that if we approve this substitute amendment, and it goes to the conference committee, there will be a further compromise with the House of Representatives. The House bill is far more restrictive on price regulation. It even takes the regressive step of expanding the regulatory structure we now have.

But I would assume that for any Senator who is concerned about the consumer price increase being too rapid under this bill would recognize that a compromise between the Pearson-Bentsen substitute and the House bill would have an even slower increase in the price of natural gas. The other side of that coin is an even slower development in our supply of natural gas.

If we are ever going to get out of our predicament of a shortage of natural gas, we must take some action to increase the drilling incentive. This amendment is the minimum first step we must take.

CONFLICTING ESTIMATES

Mr. President, earlier this week the Senator from Massachusetts (Mr. KENNEDY) conveniently released a study by the Joint Economic Committee showing that gas deregulation would cost consumers $25 billion more in the next few years. Just as conveniently, the Natural Gas Supply Committee last week released a study by Prof. Edward Erickson of North Carolina State University showing that consumers will be saved over $123 billion if we do decontrol natural gas prices.

Without making any assumptions about the accuracy of either of these studies, it seems to me that both could be correct. If we deregulate the price of natural gas, the cost to consumers most certainly will rise, although it would be gradually and perhaps not as much as $25 billion. At the same time, there will be an increase in the supply of natural gas that is absolutely essential to consumers.

If we do not deregulate, there will be no increase in the supply of gas—or at least not as rapid an increase. Then we will have the situation where natural gas needs are going unfilled. When natural gas requirements are unfilled, they must be met with some other kind of fuel, such as imported oil or even imported gas. Dr. Erickson estimates that the cost of alternate fuels needed to replace the shortage of natural gas would be $271 billion between now and 1990. The cost of pure deregulation in the same time he estimates at $147.7 billion. The difference or the cost savings is $123.3 billion. While the specific figures could probably be challenged, the concept is certainly valid that we will pay a higher price to replace the natural gas supplies we will not have unless this deregulation bill is passed.

CADILLAC AT VW PRICES

Mr. President, we might properly describe natural gas as the "Cadillac of fuels." It is absolutely essential as a feedstock and as a process gas in the production of fertilizer, plastic, and the many chemicals that are vitally essential to the high standard of living we enjoy. It is a clean, nonpolluting fuel. It is efficient and usable for a great many purposes.

If we term natural gas as the "Cadillac of fuels," we might say that it has been going for Volkswagen prices. Given the superiority of natural gas over oil and coal and other fuels, we might even expect the price would bring a premium. On the contrary, it has been held far below the comparable prices for other fuels.

As we might predict, when we force people to sell Cadillacs at VW prices, we see a drop in the production and sale of Cadillacs. In short, the price of natural gas must cover the basic replacement cost for the product. The replacement cost includes that expense of exploring and developing new natural gas resources. It should also take into consideration the cost of replacing natural gas with other fuels. For, if we must use coal or oil or some other fuel than natural gas to produce plastics, fertilizers, and chemicals, the cost of those materials and all the end products they go into will go up as well.

The price of natural gas should give the maximum incentive to get out and develop the additional gas reserves we so greatly need at this time. The price should also encourage the maximum exploitation of existing reserves to insure that we get the maximum benefit of the marginal reserves in each field, which are the hardest to get out of the ground. For a fuel as valuable as natural gas, that effort is very much in the public interest.

I would point out that we are talking about reliable estimates of between 700 and 1,200 trillion cubic feet of natural gas that remain in this country. That is a supply that will last 35 to 60 years at current rates of consumption. It is a substantial amount that will help us greatly in future years as we develop new energy resources.

CONSUMER INTEREST PROMOTED

The main argument I have heard in opposition to deregulation is the increase in consumer prices. That is a proper argument, as long as it is not used to exclude the equally important consumer interest in an adequate supply.

When we talk about deregulation, we are talking about the deregulation of new natural gas, not existing supplies. The higher cost of new natural gas will be phased in with the lower cost of existing gas production that will continue to go to consumers under long-term contracts subject to Federal price controls. In the optimistic estimates, new gas will account for about 15 to 20 percent of domestic consumption by 1985. The remainder of gas consumers get will continue to be under price controls. The total price consumers will pay will be a combination of the old and new gas prices.

It is also important to understand that not more than one-third of the American consumer's gas bill is due to the wellhead price of gas. The other two-thirds of the consumer cost of gas is due to pipeline and retail transmission expenses, distribution, and taxes.

When we work through these ratios, we find that the maximum increase in the price of natural gas for consumers is about 5 percent by 1985. I would say that for a fuel as important as this, it is worth a 5-percent increase in the price to have a far greater certainty of supplies.

It is also worth pointing out that some

opponents of this proposal have stated that natural gas has a very inelastic demand. In other words, the facilities for using natural gas are in place already, and could only be replaced to accommodate another fuel at great expense. Therefore, present natural gas users are in a situation where they would have to pay a very high price for natural gas before they could afford to cut back or convert to another fuel.

To quote from the statement yesterday of the Senator from Massachusetts (Mr. KENNEDY)—

> These projected price elasticities of demand imply that increases in gas prices should not be imposed in large near-term jumps. Instead, they should be programed in advance but stretched over several years so as to put consumers on notice to emphasize conservation when replacing their gas-using equipment without burdening the national economy in the initial years when little can be done to conserve.

That is exactly what we propose to do in this compromise amendment. It would phase in price increases over a period of several years at a very gradual rate. I might add that it would be at a very predictable rate which would facilitate conversion where necessary. The rate of increase would undoubtedly be much more predictable than it would be if we leave the rate of increase to the discretion of the Federal Government.

AGRICULTURE AND OTHER PRIORITIES

Another proper concern of consumers is that the priorities on natural gas should be carefully set and protected. The Pearson-Bentsen substitute includes a section clearly stating the appropriate priorities, and I am pleased to have had some part in developing this provision. The central change from previous Federal Power Commission priorities that is set forth in this provision is to give a far higher priority to agriculture. The structure of priorities would go essentially as follows:

First, residential users, small commercial users of less than 50 Mcf, and purposes that protect health, life, and property all fall within the highest priority. This has been the basis of FPC policy all along, and in my view we clearly must keep it this way.

Second, is the priority for agriculture. The agriculture priority includes irrigation pumping, crop drying, the use of natural gas as a raw material feedstock or process fuel in producing fertilizer and farm chemicals, food processing and food packaging as well as other farm uses that the Secretary of Agriculture may identify. The purpose of this priority, which the Senator from Kansas had a role in developing, is to insure that the American people and the millions of people throughout the world who depend on U.S. farmers for food will not be in short supply due to inadequate natural gas available for farmers and farming activities.

Third and just behind agriculture is the priority for uses where no substitute for natural gas exists. Those are the feedstock and process gas uses necessary in the production of plastic, chemicals, and many other essential materials. Behind this priority comes the rest of natural gas uses including boiler fuel uses.

I believe this structuring of priorities will protect the interests of the consuming public. It is a very important reason why we should adopt the Pearson-Bentsen substitute.

Mr. President, my view is that we will not find a better solution to the natural gas problem that protects the consumer interest as well as this compromise proposal. It will insure a strong incentive for the development of new natural gas supplies while insuring that consumers will not receive a sharp and steep price increase in the cost of natural gas. It is essential to maintaining the high standard of living that we presently enjoy. I urge my colleagues to vote against tabling this amendment in order that we can adopt it in a subsequent vote.

The VICE PRESIDENT. The hour of 6:30 having arrived, the Chair recognizes the Senator from Washington.

Mr. JACKSON. Mr. President, I move to table amendment No. 862, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Washington. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STENNIS (when his name was called). On this vote I have a pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) is necessarily absent.

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 390 Leg.]

YEAS—46

Abourezk	Glenn	Morgan
Anderson	Haskell	Moynihan
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Huddleston	Nunn
Bumpers	Inouye	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Ribicoff
Cannon	Kennedy	Riegle
Case	Leahy	Sarbanes
Church	Magnuson	Sasser
Clark	Matsunaga	Stevenson
Cranston	McGovern	Talmadge
Culver	McIntyre	Williams
Durkin	Metcalf	
Eagleton	Metzenbaum	

NAYS—52

Allen	Gravel	Pearson
Baker	Griffin	Percy
Bartlett	Hansen	Randolph
Bellmon	Hart	Roth
Bentsen	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
	Hayakawa	Scott
Chafee	Heinz	Sparkman
Chiles	Helms	Stafford
Curtis	Johnston	Stevens
Danforth	Laxalt	Stone
DeConcini	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Wallop
Eastland	McClellan	Weicker
Ford	McClure	Young
Garn	Melcher	Zorinsky
Goldwater	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stennis, against.

NOT VOTING—1

Humphrey

So the motion to lay the Pearson-Bentsen amendment on the table was rejected.

Several Senators addressed the Chair.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The Senator from South Dakota.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Presiding Officer has recognized the Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that the minority leader was seeking recognition and the Senator from Texas was seeking recognition. I presumed they were going to move to reconsider.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Presiding Officer under the rules, is required to recognize the person he believes first sought recognition. It is the judgment of the Presiding Officer that it was the Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, I am very sorry that this situation has taken this turn of events.

Mr. McGOVERN. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McGOVERN. Mr. President, I will be happy to yield for a motion to reconsider if it is understood that I will then be recognized.

Mr. BENTSEN. I thank the Senator from South Dakota. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I ask unanimous consent that Martin Zeller, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

Mr. CANNON. Mr. President, I ask unanimous consent that Aubrey Sarvis of my staff be granted the privileges of the floor during the consideration of the pending legislation.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senate will be in order.

Mr. GLENN. Mr. President, I ask unanimous consent that Ann Wray, of Senator CRANSTON's staff, Lyle Morris, of my staff, and Stuart Brahs, of Senator RIBICOFF's staff, be granted the privileges of the floor.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The VICE PRESIDENT. The Chair

has recognized the Senator from South Dakota.

Mr. ROBERT C. BYRD. Will the Senator yield to me, Mr. President?

Mr. McGOVERN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask for order.

The VICE PRESIDENT. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, under the rules and customs of the Senate, the Presiding Officer is supposed to recognize the Senator who first seeks recognition. When several Senators seek recognition, of course, it is the prerogative of the Presiding Officer to recognize the person whom he thinks first sought recognition.

The power of recognition by the Chair cannot be challenged, but I also want to call attention to another custom of the Senate. That is that when several Senators seek recognition, the leadership will be accorded that recognition. If the majority leader seeks recognition, it has been the custom that he will be recognized. If the majority leader does not seek recognition and the minority leader is seeking recognition, it is the custom that he will be recognized.

If this Senate is to operate and operate effectively, it must operate on the basis of comity, understanding, cooperation, and courtesies extended mutually between the two sides. I hope my remarks will not be taken by the Presiding Officer as being anything other than in the spirit of attempting to further that comity that always has existed in this body and must continue to exist.

That is the only way this Senate can operate, because once that custom begins to deteriorate, in this instance it is the minority leader—once that system begins to deteriorate it will ultimately become the majority leader, perhaps. I must defend that custom, whether it be the minority leader or the majority leader, because that is the only way that I know by which this Senate can continue to effectively perform its duties.

I want to say to the Presiding Officer, the Vice President of the United States, he is my friend and I am his friend. He has been a great Senator, and he is proving to be a great Vice President. Nothing will ever happen to impair my respect for him and my friendship for him. But I respectfully say to the Chair the leadership, by custom, must be recognized first. In this instance, the minority party leadership was not recognized. I thank the Chair, the Senate for its indulgence and the Senator from South Dakota for yielding.

Mr. McGOVERN. Mr. President, I just want to mention the fact that in view of the majority leader's remarks I wish to remind him of the fact that I expected to yield to him.

Mr. BAKER. Mr. President, will the Senator yield for a moment?

Mr. McGOVERN. I yield to the minority leader.

Mr. BAKER. Mr. President, I wish to thank the Senator from South Dakota, the majority leader, and the Chair for permitting us to proceed as we have.

Several Senators addressed the chair.

The VICE PRESIDENT. The question recurs on the amendment offered by the Senator from South Dakota.

The Presiding Officer wishes to state that he agrees with the precedents expressed by the distinguished majority leader, but it was the judgment of the presiding officer that the Senator from South Dakota had sought recognition first.

(Subsequently the following proceedings occurred:)

Mr. ROBERT C. BYRD. Mr. President, I just wish to make a very brief statement about the situation which arose in the Senate earlier this evening.

The distinguished Vice President had recognized the distinguished Senator from South Dakota before the Vice President was aware of the fact that the distinguished minority leader was seeking recognition, and the Vice President, having recognized Mr. McGOVERN, found himself in a situation in which it was difficult for him to derecognize the distinguished Senator from South Dakota and recognize the minority leader.

It was an embarrassing moment for the Vice President. He did what he thought was the only thing that he could do at that time, having recognized the Senator from South Dakota. He came to my office later and discussed the matter, and was very regretful that the situation had developed as it did. He indicated that he in no way intended to be arbitrary in the matter, but, having taking the action, at that very moment he felt that there was no recourse for him except to stand by his earlier recognition of the Senator from South Dakota.

I want to say that the Vice President also is not in a position to address the Senate unless, by unanimous consent, he is given that right. I am embarrassed by the whole situation as it developed. I am sorry that the Vice President was put in that position. I am sorry that the minority leader was not recognized. But I am sure that the Vice President did what he thought he had to do under those circumstances.

I did explain to the Vice President that, in a situation of that kind, the Senate would understand if he, having recognized another Senator, and not having noticed an attempt by the majority leader or minority leader to get recognition, would nevertheless have recognized the majority leader if the majority leader had sought recognition; or in the event the majority leader did not seek recognition, the minority leader if he had sought recognition. I would be the first to defend the Vice President in so doing.

So I think we have a good understanding all around. There was no intention on the part of the Vice President to be arbitrary in the matter. He did what he thought was his duty as he understood the situation at that time. I am sure that the minority leader harbors no ill feeling in the matter and that the situation will not occur again.

Mr. BAKER. Mr. President, I thank my friend, the majority leader, for further advising the Senate of the remarks of the Vice President in his office, privately and out of this Chamber. In the same vein, I might add for the record that, tonight, immediately after the matters that the majority leader referred to had concluded, I went to the Chair and advised the Vice President, whom I have known for many years and served with in this body for more than 10 years, and whom I count as my friend, that there were not only no hard feelings, but I understand how, in the tumult of the moment, that sort of thing can occur.

I have known the Vice President of the United States in his role as a Senator, I have known him personally and socially, for too long to doubt for 1 minute the sincerity of his actions and the necessity for any further elaboration of that point now.

So, I say, Mr. President, since it is not possible, except under extraordinary circumstances, to communicate directly with the President of the Senate for purposes of this record, I say that I fully understand that. I believe that there is no harm done; that there is no impairment of the friendship and affection I feel for the Vice President, the President of this body. I think the precedent and the traditions of the Senate have been amply protected and explained by the distinguished majority leader, and I am simply happy that the matter was resolved so fully and completely and without any rancor on anybody's part.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader, and I know the Vice President will appreciate the minority leader's very generous and sincere comment. As I say, the Vice President had no opportunity to explain to the Senate his position except by unanimous consent and I feel that I owe him the courtesy to state for the record my understanding of the difficult situation that he was in. I have only the highest regard and respect for the Vice President and I regret that he could not convey to all of the Senators at that point the sentiments that he privately expressed to me and, as I understand it, the sentiments that he privately expressed to the minority leader.

Mr. President, I yield the floor.

(This concludes proceedings which occurred subsequently.)

PRIVILEGES OF THE FLOOR

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. DECONCINI: Jim Magner, Gene Karp, and Romano Romani; Mr. RIEGLE: Jim Humphreys and Mike Romo; Mr. DANFORTH: Charles Wood; Mr. THURMOND: Emory Sneeden and Peter Chumbris, Antitrust Subcommittee; and Robert Lyon, Jr.; Mr. MCCLURE: Mike Hathaway; Mr. HATCH: Andrew Gray Nokes; Mr. CRANSTON: Ann Wroy; Mr. GLENN: Lyle Morris; Mr. BROOKE: Meg Power; Mr. STONE: Bill Pursley; Mr. RIBICOFF: Stuart Brahs; Mr. HASKELL: Martin Zeller; Mr. FORD: Kenneth Godfrey, and Jim Fleming; Mr. HELMS: Richard J. Bryan; Mr. CANNON: Aubrey Sarvis; Mr. MUSKIE: David Johnson.

AMENDMENT NO. 889

The VICE PRESIDENT. The amendment of the Senator from South Dakota will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an amendment.

On the first page, between lines 2 and 3, insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—FEDERAL OIL AND GAS CORPORATION ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Federal Oil and Gas Corporation Act.'

"PURPOSE

"SEC. 202. The purpose of this title is to establish a public corporation to explore and develop natural gas and oil resources on Federal lands, to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices to serve as an independent source of data by which to measure costs of production, prices, extent of reserves and other factors related to the performance of private gas and oil companies, and to assure that the Nation's energy requirements are met without degradation to the environment.

"ESTABLISHMENT OF THE CORPORATION

"SEC. 203. (a) In order to provide for the exploration and development in the public interest of natural gas and oil resources on Federal land, there is hereby created a body corporate by the name of the 'Federal Oil and Gas Corporation' which shall establish and administer on Federal land a national program of natural gas and oil exploration and development.

"(b) The Corporation shall have a Board of Directors, which shall consist of three members appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be appointed from the same political party. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this title, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(c) The members of the Board first appointed shall be deemed the incorporators, and the incorporation shall be basis of merit and efficiency without regard to race or sex. Any appointee of the Board who is found by the Board to be guilty of a violation of this subsection may be removed from office by such Board.

"CORPORATE POWERS GENERALLY

"SEC. 205. (a) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may sue and be sued in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal bylaws;

"(6) may purchase, or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal lands.

AUTHORITY TO PRINT REPORT

Mr. JAVITS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. Yes, I yield.

Mr. JAVITS. I yield to Senator MOYNIHAN.

Mr. MOYNIHAN. Mr. President, this request has been cleared by the leadership on both sides, as well as by the chairman and the ranking minority member of the Rules Committee. I ask unanimous consent that the Committee on Rules be discharged from further consideration of House Concurrent Resolution 263, and that the Senate proceed to its immediate consideration.

The VICE PRESIDENT. Is there objection?

Mr. JAVITS. Mr. President, I join in that request.

The VICE PRESIDENT. Without objection, it is so ordered.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 263) providing for the printing of three thousand additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture, entitled "The Role of the Federal Government in Nutrition Education".

The VICE PRESIDENT. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the motion by which the resolution was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with consideration of S. 2104.

AMENDMENT 889

The VICE PRESIDENT. The Senator from South Dakota is recognized.

Mr. McGOVERN. Mr. President, I ask unanimous consent that Mr. Paul Servelle of my staff may have the privilege of the floor during vote and discussion of this measure.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, the amendment that I have offered to the bill before the Senate, S. 2104, I have referred to as a yardstick amendment. Under the terms of the basic bill now before us, the President is called upon to calculate a variety of prices for new natural gas. In a sense, this bill is a pricing bill. To accurately calculate such prices, as I think all the Senators know, requires very intimate knowledge and a collection of underlying economic data, data which is in addition to but independent of that provided by the energy companies themselves. It is to generate that reliable, independent data, including such matters as cost, the extent of our reserves, and other factors that enter into pricing that has led me to offer this yardstick amendment.

Mr. President, this amendment would establish a public corporation with limited authority to explore and develop natural gas and oil only on Federal lands. Even that authority would be limited to 10 percent of the oil and gas offered for development.

I want to stress, as I did in my remarks yesterday, that the amendment is not the first step to nationalize the energy industry. It is more closely the opposite of that. It is to provide a competitive spur to the industry and to develop a dependable measuring system by which the performance of the industry can be judged. If there is any one pervasive attitude among the American people toward the major oil producers in this country, it is the feeling that, somehow, the prices are being set in other than a truly competitive way; that, indeed, the public is being exploited by prices that are excessive and do not reflect the Nation's reserves of oil and gas or our capacity to produce them at reasonable rates.

I am not in a position, frankly, and I do not think other Senators are, to say whether or not that view is accurate. We do not have, at the present time, a dependable, independent data bank on which to base judgments as to what is a fair price for oil and gas, to say nothing of other sources of energy in this country. So the purpose of this limited public corporation—limited to the development and marketing of not more than 10 percent of the available gas and oil on the public domain—is to provide us with that yardstick by which we can measure the performance of our private oil and gas companies.

Mr. President, as was brought out here very briefly in a colloquy on yesterday afternoon among the senior Senator from Alabama (Mr. SPARKMAN) and the junior Senator from Alabama (Mr. ALLEN) and myself, this measure, in effect, borrows on the principle of the Tennessee Valley Authority. I would say to any Senator who honestly believes that the Tennessee Valley Authority was bad for the economy of the United States and against the interest of the people of this country, he should probably vote against this amendment that I am offering here this evening.

If, on the other hand, over the years, he has come to the view that the Tennessee Valley Authority has not been destructive of free enterprise, that it has not been against the interests of the American people but, in fact, has brought about a more reasonable rate structure in hydroelectric power and other electricity rates, that it, in fact, has been a spur to the economy of the United States, including our electric utility industry, then I would invite him to give serious and sympathetic consideration to the same principle when applied on a care-

fully prescribed scale to this Federal gas and oil corporation.

I am very much aware that any time language of that kind is used, it frightens a great many of our people who think in terms of everything being handled under strict free enterprise or private enterprise rules. But we have discovered, I think, in this country and in other societies, that it can be helpful to the proper functioning of private enterprise if there is some public measure that is reliable by which we judge the performance of those industries.

I might say that in testimony on a similar measure that was offered some 3 years ago by the Senator from Illinois (Mr. STEVENSON), although this amendment I offer today is different in some respects from the Stevenson proposal, a professor of economics at the University of Oklahoma for some 25 years, Prof. W. N. Peach, very well summarized the parallel between the principal of a limited Government oil and gas corporation and our experience with the Tennessee Valley Authority.

That is what he had to say in testimony offered in April of 1974 before the Commerce Committee, and I quote:

The arguments advanced in opposition to the proposed Federal Oil and Gas Corporation are almost identical with those advanced four decades ago against the TVA. It would ruin the private electrical industry, lower the profits of private electric companies, would lead to socialism, would be subsidized with tax dollars, would be inefficient, would have overwhelming advantages over private firms, would be exempt from taxes, would be a loser for the tax-paying public, would lose money for the Treasury, would fail in its objectives, would undermine systematically every private electric utility, would discourage investment in the private electric industry, and would have serious negative implications.

Now, there is the summary by Professor Peach of the University of Oklahoma of the charges and the fears and anxieties that were leveled 40 years ago at the Tennessee Valley Authority.

But then he goes on to say, and I quote:

What were the effects of TVA? Despite all the dire predictions, the TVA had the effect of lowering electric rates throughout the Nation and vastly increases the profits of private companies. It has not led to socialism or the electric power industry. It has not discouraged investment. Nor has it had any of the other dire effects that were predicted.

I think, Mr. President, the testimony of this long-time, distinguished professor of economics at the University of Oklahoma, which is one of our major oil-producing States, ought to weigh very heavily on Senators. He is obviously a man who has studied the industry over the years and who is presenting what seems to me on the surface to be common sense.

He goes on to point out that there is a long list of other countries that already have some Government involvement in the production of oil and gas, not the least of which is Royal Dutch Shell and British Petroleum.

There are some 56 countries—as a matter of fact, that is, non-Communist countries. I make no reference to the Communist countries. But 56 non-Communist countries which have at least partially owned energy corporations, and one of the reasons for those in many cases is to provide some measure on the reserves that are available and of the cost of developing those reserves.

Mr. President, I ask unanimous consent that the testimony I referred to by Professor Peach, together with a Library of Congress analysis prepared by Mr. John Jimison, relative to the experience of other countries in oil and gas corporations, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF W. N. PEACH, PROFESSOR OF ECONOMICS, UNIVERSITY OF OKLAHOMA

Dr. PEACH. Mr. Chairman, and members of the committee: My name is W. N. Peach. For the past 25 years I have been a professor of economics at the University of Oklahoma. Prior to that I taught at Syracuse University and the University of Texas at Austin.

I am pleased to appear here in support of the proposal to establish a Federal Oil and Gas Corporation. It seems to me to be a modest and reasonable proposal and long overdue.

The recent lifting of the Middle East embargo has not solved our energy crisis although many irresponsible statements either state that it has or imply as much. At best, the Middle East will continue to be an unreliable and expensive source of supply for the United States.

We must continue our conservation efforts and greatly expand them. A reasonable and well thought out conservation program can do much to alleviate our present energy shortage.

But after making due allowance for conservation efforts, most people agree that we must substantially increase our supply of energy. Some estimate that we must approximately double our supply by 1985. There are many other estimates. Accepting this as a reasonable estimate, the cost has been put at $300 billion to $1 trillion.

In recent years, governments throughout the world have been playing a more important role than formerly in the energy field. This has been true of producing countries and consuming countries, left wing and right wing, or if you prefer, capitalist and socialist countries.

Only in the United States is increased Government activity opposed as religious heresy. Elsewhere in the world, an increasing role for government in this basic industry seems to be accepted as desirable and necessary. To many groups in the United States—some of them powerful—the prospect of having their Government participate directly on a modest scale in the production and other aspects of the energy industry seems to provide an excuse for another round of the crusades.

As I understand it, the Federal Oil and Gas Corporation is not scheduled to take over a single oil well now owned by a private company, nor a single gas well, nor a single geothermal well, nor any oil shale deposit owned by a private company. But the proposed Federal Corporation is designed to develop a fraction of the new wells. Most of these new wells are located on land owned by the Federal Government.

The arguments advanced in opposition to the proposed Federal Oil and Gas Corporation are almost identical with those advanced four decades ago against the TVA. It would ruin the private electrical industry, lower the profits of private electric companies, would lead to socialism, would be subsidized with tax dollars, would be inefficient, would have overwhelming advantages over private firms, would be exempt from taxes, would be a loser for the tax-paying public, would lose money for the Treasury, would fail in its objectives, would undermine systematically every private electric utility, would discourage investment in the private electric industry, and would have serious negative implications.

What were the effects of TVA? Despite all the dire predictions, the TVA had the effect of lowering electric rates throughout the Nation and vastly increased the profits of private companies. It has not led to socialism of the electric power industry. It has not discouraged investment. Nor has it had any of the other dire effects that were predicted.

Every responsible person agrees that the United States is abundantly endowed with energy resources. What we need is to develop and use them. One of the most important things the proposed Federal Oil and Gas Corporation could do is to assure that we never again find ourselves in the position of an "energy crisis." That is intolerable in the face of our abundant supplies.

We have abundant supplies in the offshore areas of the gulf coast, the east coast and the west coast, in the oil shale deposits in the Green River area of Colorado, Utah, and Wyoming where there are trillions of barrels of high quality oil, compared with the 100 or so billion barrels produced in the past century in the United States.

Although production of oil from shale is not specifically included in the operations of the proposed Federal Oil and Gas Corporation, it seems to me this would be an appropriate activity. The Federal Government owns most of this land and has been operating prototype plants there for many years.

We have enough coal to last for hundreds—even thousands—of years, which can be gasified and liquefied. It is not necessary to wait for another century while additional experiements are conducted. Other countries, including Germany, England, the U.S.S.R., Japan, and other countries have the technology now. They are willing to share it with us.

We have untold amounts of geothermal energy in the West There are recent developments which suggest that geothermal heat may be made available in other parts of the Nation.

There is an unlimited amount of solar energy available. The technology for heating and cooling is already available, although further development is needed to make electricity for large cities available.

Helium is available wherever there is water, and can be used for many purposes now.

Then there are the so-called exotic sources of energy which will require decades of further experimental work. But there is no need to wait until the year 2000 to develop all the energy America needs, as a flood of self-serving propaganda would have us believe. We have the energy resources now. All we need do is develop them. And the proposed Federal Oil and Gas Corporation is a promising way of doing just what is needed.

As has been pointed out elsewhere in these hearings, the Federal Government now owns most of the land from which our future energy resources will come—offshore, oil shale, geothermal, et cetera. The Federal Government, plus State and local governments, are large consumers of energy both in times of peace and war. The Federal Government spends most of the money on research and development of energy resources.

The proposed Federal Oil and Gas Corporation can perform a useful service in such areas as oil shale, geothermal and other energy resources. Over the next decade it can increase the supply of energy.

Second, it can introduce an element of competition in an industry that is not known

around the world as one characterized by vigorous competition. It can give preference to cities, States and the Federal Government, and the independent.

Third, in some areas, such as oil shale, it can do some experimenting and set environmental standards and determine their costs. Once the standards and their costs are settled, private industry can take over with the knowledge of these important costs.

Thank you.

Senator STEVENSON. Thank you, Professor Peach. I think you are the first proponent from the State of Oklahoma. I hope you get back safely.

Dr. PEACH. I hope so.

Senator STEVENSON. I was glad to hear you place emphasis on conservation. I am afraid the statements of some who say the energy crisis is behind us are doing the public a real disservice and certainly are undermining the efforts to conserve oil and gas in the country.

You mentioned, also, that other countries have such corporations.

Dr. PEACH. Yes.

Senator STEVENSON. There is nothing really remarkable about this proposal. What is really remarkable, I think, is that unlike all the other developed countries of the world and many of the underdeveloped countries of the world, this is the only country that hasn't already created a Government Oil and Gas Corporation.

Are you familiar with the experience of the foreign corporations? Can you tell us anything about how effective they are?

Dr. PEACH. Some of them, for example, Canada has set up an oil and gas corporation within the last 3 or 4 months. It has been in process for a long time. England certainly has been operating. They own most of British Petroleum, and I didn't hear anybody say anything about British Petroleum being inefficient, and Royal Dutch Shell.

Senator STEVENSON. It is going to be too efficient and therefore unfair competition, or inefficient. That is argued both ways.

Dr. PEACH. My feeling is, Senator, that we have plenty of energy in this country, and that what we ought to do is get on and develop it, and then continue with experiments and continue reesarch and development.

But it doesn't make any difference what anybody says about the degree of competition. The fact is that we have an energy crisis now and it can be resolved, and you don't have to wait until the year 2000 to do it.

I have seen a lot of propaganda to the effect that nothing significant can be done till the year 2000 or 2020, and that just isn't true.

I think we ought to save a lot of that testimony, because it will make good reading as a substitute for the comics.

Senator STEVENSON. You would go further than we have gone to authorize this corporation to develop alternative sources of energy. It is our attention, and judging from what you have said, it is not clear in the bill to authorize the corporation to produce oil from shale.

Dr. PEACH. Yes.

Senator STEVENSON. But we have not gone beyond that to authorize the corporation to produce coal or oil from coal.

Dr. PEACH. Occidental Petroleum announced a few months ago that they have an in situ process where they can do that and bring it up to the level of ground for, say, $1.25 a barrel. If you add $1.50 for transplanting that, that is still pretty cheap compared to today's prices.

I would remind you that this is the biggest source of fossil fuel available—trillions of barrels. We have only produced in this country 100 million barrels since 1859, about that.

Senator STEVENSON. That is from shale.

Dr. PEACH. And coal will last us for thousands of years, and also the oil shale. They are producing—let me remind you that Germany ran her war machine in World War II on gas produced from coal. This technology is not new, except in this country. Well, it is not new in this country, either.

But the British have announced that they have a simple process where the capital investment is fairly low, and that we can have that to produce gas and liquefy coal any time we want it.

Senator STEVENSON. How do you answer the accusation that this corporation, simply because it is a Government corporation, would be bound to be inefficient?

Dr. PEACH. It can be inefficient if you appoint the wrong kind of people to it. If you appoint people who have a philosophy that is hostile to a Government corporation, of course, it is going to be inefficient, and then you hire not only inefficient top level people, but all the way down the middle ranks. It need not be.

Senator STEVENSON. Like any public business, the quality of the service depends on the quality of the business.

Dr. PEACH. That is right.

Senator STEVENSON. I expect a great deal of general cynicism is reflected toward Government in that statement.

Dr. PEACH. Right. Look at Dun and Bradstreet's record of business failures.

Senator STEVENSON. You always have the same cynicism that is directed at business, too, and it is tragic, because it leaves many people in a dilemma, by asking themselves whom to distrust least.

Senator Tunney?

Senator TUNNEY. Thank you, Mr. Chairman.

I just point out that I wouldn't say that the British economy is a model of efficiency, and I think that the analogs which show what we are prepared to do in this country in coal and in steel, where they have Government control over production, are really terribly valuable.

Dr. PEACH. No, but the coal industry in Britain had been running much longer than ours, and they hadn't built the right kind of pillars in them, so the British coal industry collapsed, and that is why the central government took it over. It had already collapsed under private enterprise, too.

I am not saying that private enterprise is inefficient, either, but either one of them could be.

The reason for the takeover by the British Government was that they were already so inefficient. A coal miner in the United States goes down to dig out coal and on the average, which is in a sense meaningless, he will turn out 20 to 21 tons of coal a day, a short day, too.

In Britain, he will turn out two or three.

Senator TUNNEY. I think that the reason we have a more efficient coal industry in this country is because of the fact that the private-enterprise system worked, and it took, I think, foresight on the part of the unions, John L. Lewis at the time, who was the major factor in that, to allow these technological changes that took place even though it meant men would be shifted from the coal industry into some other walk of life.

But I must confess that I think the free-enterprise system as we have known it, with all its imperfections, is best, becaue I think there is a greater degree of flexibility in the free-enterprise system to accommodate to changing conditions. Particularly, we have a management and a union leadership that are prepared to attempt to reach those kinds of accommodations which are so necessary with changing technology.

But I think in the case of Federal control over an industry, there are built-in points of resistance which are not there with the free-enterprise system, and I have to be amused to a degree, because we stop and laugh at the inefficiencies in the Soviet system and in other state-controlled and state-planned economies; yet when we get into trouble in this country, we seem to have a desire to immediately make necessary changes in existing structures, to go and adopt systems which have proved so inefficient in other areas.

I recognize this is not exactly the same as a Federal takeover of the entire oil and gas industry, but for the life of me I don't see how it is going to be more successful than creating the kind of incentives for free enterprise so that there is truly free enterprise, by eliminating monopolistic and cartel control over the industry through the use of the antitrust laws and programs and in the case of future oil and gas development, of perhaps assuring that the independents get an opportunity to participate in the exploration and development of those new areas.

I know off the coast of Louisiana recently there were bonus bids that produced something like $2.6 billion with no independent involved.

Dr. PEACH. That is right.

Senator TUNNEY. Therefore, I strongly would eliminate the bonus bidding system as it presently exists and replace it with royalties.

Just one last area. You mentioned, as Senator Stevenson has brought up, that this corporation could provide service by getting involved in oil shale, geothermal, on other energy sources.

The thing that is of very great concern to me——

Dr. PEACH. To a small extent perhaps 10 or 15 percent. I want to leave it 85- to 90-percent private.

Senator TUNNEY. We had some bidding recently in California on geothermal steam leases, and of course all of the leases went to the major oil companies, because of the bidding system.

Dr. PEACH. That is right.

Senator TUNNEY. I dare say the same thing is true with shale.

Dr. PEACH. That is right.

Senator TUNNEY. So, we are perpetuating a system guaranteed to protect the majors and doing great damage to the independent.

I am not saying that the majors ought not to be allowed to participate in the development of these Federal oil-producing and gas-producing lands, too. What I am saying is that there has to be a great degree of competition, and if we can get at the problem by using antitrust laws and by eliminating bonus bidding, that would be better than setting up a special creature of the legislature which is a national oil and gas corporation.

Dr. PEACH. Well, the antitrust laws that we have on the books are 84 years old this year. They have had antitrust cases against the whole Standard Oil trust. They presumably broke them up in 1911. So, we had Standard Oil of New Jersey, Standard Oil of New York, which is now Mobil, Standard Oil of California, and Standard Oil of California, you see we didn't do anything.

I don't think the antitrust legislation or the enforcement of it has been at all effective, and that is why I prefer this bill which sets up a corporation, where you will get some competition, and then I think if you have competition, you would get lower prices from the Middle East.

Senator TUNNEY. You are saying that you don't think it is going to be possible to enforce the antitrust laws in this country as it applies to big oil?

Dr. PEACH. Not that it isn't possible, but 84 years is a pretty long time, and I don't know of any major industry where competition has disappeared because of a trust, and then been reopened because of the legislation. I just don't know of any.

Senator TUNNEY. Thank you, very much.

Thank you, Mr. Chairman.

Senator STEVENSON. Even when they are enforced, as in the case of the FTC which has filed a complaint, it takes many, many years. It has a complaint against the eight largest

oil companies. I don't know what the outcome will be, or whether there ever will be an outcome of that case, or what the result would be.

Dr. PEACH. Not only at the Federal level, but also at the State level. I understand there are about 20 State cases pending, and none of them is going to get anywhere. What difference does it make if you fine Exxon or Texaco $100,000.

Senator STEVENSON. Did you have something more you wanted to add?

Dr. PEACH. No; that is all.

Senator STEVENSON. Thank you, sir.

The next witness is Mr. John Miller, president of the Independent Petroleum Association of America.

NATIONAL OIL AND GAS CORPORATIONS

The following list represents an attempt to identify corporate entities engaged in petroleum or natural gas activities throughout the world which are wholly or partially owned by national governments. Due to the time limitations, this list may not be complete or completely up to date. For example, the Japanese government has an interest in numerous different corporations engaged in oil and gas activities, only one of which is listed. This list includes no oil or gas entities from Communist-bloc nations, which are of course government-owned and operated.

1. Abu Dhabi—Abu Dhabi National Oil Corporation.
2. Algeria—Sonatrach.
3. Argentina—Gas del Estadado, Y.P.F.
4. Australia—National Pipeline Authority.
5. Austria—Osterreichishe Mineral Oel Vervaltung, A.G.
6. Bolivia—Yacimintos Petriferos Fiscales Bolivianos.
7. Brasil—Petrobras.
8. Burma—Myanma.
9. Cameroons—Société Nationale de Raffinage.
10. Canada—Panarctic, Petrocanada.
11. Chile—Emprisa Nacional del Pétróleo.
12. Columbia—Ecopetrol.
13. Denmark—Dansk Olie Naturgas.
14. Dubai—Oil Corporation.
15. Ecuador—Corporación Estatal de Petroleo Ecuatoriano.
16. Egypt—Egyptian General Petroleum Company.
17. Finland—Neste Oy.
18. France—CFP, ERAP-ELF, SOUAP.
19. Germany (West)—Deminex, Veba, Gelsenberg.
20. Great Britain—British National Oil Corporation, British Gas Corporation.
21. Greece—Aspropyrgos Oil Corporation.
22. India—State Oil and Natural Gas Commission, Indian Oil Corporation.
23. Indonesia—Pertamina.
24. Israel—Netivein Neft, Israel National Oil Corporation.
25. Iran—Iranian National Oil Corporation.
26. Iraq—Iraq Petroleum.
27. Italy—ENI, Agip.
28. Japan—Japan Oil Development Company.
29. Kuwait—Kuwait Oil Company.
30. Libya—National Oil Company.
31. Mexico—Petroleos Mexicanos (Pemex).
32. Netherlands—Dutch State Mines, Nederlandse Gasunie, Royal Dutch (Shell).
33. New Zealand—National Gas Corporation.
34. Nigeria—Nigerian National Oil Corporation.
35. North Yemen—North Yemen National Oil Company.
36. Norway—Statoil, Norsk Hydro.
37. Oinan—Government Oil Corporation.
38. Pakistan—Oil and Gas Development Corporation.
39. Peru—Petroleos de Peru (Petroperu).
40. Philippines—Philippine National Oil Company.
41. Qatar—Government Oil Corporation.
42. Saudi Arabia—Petromin.
43. Somalia—Somali Oil Corporation.
44. South Africa—Southern Oil Exploration Corporation (SOEKER).
45. Spain—Hispanoil, CAMPSA.
46. Sri Lanka—Ceylon Petroleum Corporation.
47. Sweden—OPAB, Petroswede, Svenska Petroleum. AB.
48. Switzerland—Zurich Group.
49. Syria—General Petroleum Company.
50. Taiwan—Chinese Petroleum Corporation.
51. Thailand—Oil Fuel Organization.
52. Trinidad—Tesoro Petroleum Company.
53. Tunisia—CFTP, SITEP.
54. Turkey—TPAO.
55. Uraguay—Ancap.
56. Venezuela—Corporación Venezolana del Petroleo (CVP).

(Mr. MATSUNAGA assumed the chair.)

Mr. BARTLETT. Will the Senator yield.

Mr. McGOVERN. I will yield to the Senator for a question.

Mr. BARTLETT. Does the Senator feel that the operations are similar? Does the Senator believe that the operations of the TVA are similar to the exploration and production operations of an oil company?

Mr. McGOVERN. I say to the Senator that there are some obvious differences. It would be rather easy, I think, to distinguish some of the differences.

For one thing, the Tennessee Valley Authority is not limited simply to the marketing of hydroelectric power. It is involved in a number of different enterprises, as the Senator knows.

The similarity I would stress is that over the years the TVA has provided what I regard as one of the major purposes of this amendment, and that is a dependable yardstick that the public has confidence in as to what it does cost to produce and market at reasonable rates hydroelectric power.

The books of that authority are open. They are available to all of us. Over the years I think the operating experience of the TVA has been such as to suggest, at least, that there is a useful concept here that we might very well explore with regard to the gathering of data that could be helpful to us in determining what the cost and marketing factors are with regard to oil and gas.

I say to the Senator, I do not impugn the integrity of the private oil corporations. The Senator has vastly more knowledge about the actual operation of those corporations than I do. I only reflect what I think is the view of a great many Americans of a deep doubt about whether we have all of the data that we need to make a judgment about what the cost factors are.

It is my hope that perhaps citing the Tennessee Valley Authority experience might strengthen the case for my amendment.

Mr. BARTLETT. Will the Senator yield further?

Mr. McGOVERN. Yes; I yield for a further question.

Mr. BARTLETT. If the Senator permits, I will make a very short statement which I would like to ask him to make a comment on.

Mr. McGOVERN. I am very happy to do that.

Mr. BARTLETT. It has been my understanding that those national corporations, from a great majority of nations which have them, have not produced nearly as efficiently or as well as have the private enterprise companies which oftentimes have been invited into the same nation to provide competition.

The American companies have been the ones mainly invited because of their know-how and their experience in risk-taking.

The big difference I see with the TVA, and with a national company compared with a private enterprise company, it is very difficult in the political arena to take risks after unsuccessful ventures.

In other words, if there is a series of dry holes on a supposedly foolproof seismic high, it is very difficult to say, "Let's dig one more well."

Private enterprise can do that quite well because they have had lots of experience and know that if it is not here, maybe it is over there, and there may be additional information. Does the Senator have any concern that the national companies really have not done well compared with private enterprise in their own country?

Mr. McGOVERN. I say to the Senator that I imagine that this is an uneven record, that in some cases they have done quite well. One thinks of Royal Dutch Shell, of British Petroleum. There doubtless are others that have done very well, and I am sure it would not be difficult to find some Government corporations that have done very badly.

So I do not present this as a utopian notion, with any thought in mind that the Government should take over the oil and gas industry in this country.

It may very well be that after a limited period of time in the testing of such a Government oil and gas corporation, the anxiety the Senator feels about it may well be borne out. I do not know. I suspect that it depends a great deal on the quality of the people who are recruited and selected to run that corporation.

I say to the Senator that I do not think that a Government oil and gas corporation would be involved in more than 10 percent of the offerings on the Federal domain. I do not think one could argue that it would be less efficient or more efficient than the private companies that are given access to the 90 percent of the offerings on the Federal domain.

However, let us test it out. Let us utilize this public body as a source for the gathering of data that may or may not be available to us in reliable form by the private corporations.

We are talking in this bill—not in the amendment, but in the bill—about decisions that are going to involve tens of billions of dollars, as the Senator knows. I believe that with a modest investment, the kind of startup capital that would be involved in creating this corporation, we could get some valuable experience, that possibly we could develop a yardstick here that would have public confidence and that would be useful to us, either in verifying the cost estimates that we are now given by the private companies or in

presenting sharper focus on the information we need to arrive at more dependable judgments on cost factors, reserves, and the other things that enter into fair price.

Mr. BARTLETT. The Senator has mentioned British Petroleum and Royal Dutch Shell. This brings to mind that I believe both of those companies have a very sizable percentage of their ownership in the hands of private corporations.

Mr. McGOVERN. That is correct.

Mr. BARTLETT. Undoubtedly, they have provided some leadership. Also, I believe that in the North Sea, where they have had some really good success, the private corporations, such as Phillips Petroleum and others, led the way in a very difficult kind of drilling.

Mr. McGOVERN. I would not dispute that for a moment. I hope that if this amendment is adopted, and under the authority it gives to the President to nominate a board of directors—whose nominations would have to be confirmed by the Senate—and with the authority the corporation would have to recruit personnel, we would borrow very heavily from the most experienced people they could find in the private enterprise sector.

The only caveat I would add is that they would have to be people who are separated, in terms of conflict-of-interest guidelines, from private industry. But there is no reason why they could not be people with a lifetime of experience in the oil industry.

I hope, as I said, that a sizable portion of them would be people with experience in the exploration and development of oil.

Mr. BARTLETT. I thank the distinguished Senator from South Dakota.

Mr. McGOVERN. Mr. President, while we have sufficient Senators in the Chamber, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I will continue my explanation of the purposes of this amendment.

One of the most compelling statements that has come to my attention in support of the basic principle behind this amendment was offered by Mr. S. David Freeman in January of 1974, when he testified in support of a similar proposal. Mr. Freeman, as Senators know, was responsible for a considerable portion of the administration's energy package. He is one of the Nation's most renowned authorities in the energy field and recently was chosen to head the Tennessee Valley Authority.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. McGOVERN. I yield to the Senator from New Hampshire.

Mr. DURKIN. This is a very important debate, and I am concerned that the full membership of the Senate is not here to hear this very important debate on a profound subject. I am wondering whether the distinguished Senator from South Dakota would mind suggesting a quorum call, so that at least a majority of the membership could hear this very important debate.

Mr. McGOVERN. The Senator from New Hampshire has the right to suggest the absence of a quorum. It would be fine with me.

Mr. DURKIN. If I have the floor, Mr. President, I should like to suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota has the floor. Does he yield the floor for that purpose?

Mr. McGOVERN. Mr. President, I yield for the purpose of a quorum call, with the understanding that upon the completion of the quorum call, I will reserve my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENSON. Mr. President, I object.

Mr. DURKIN. Mr. President, a point of order.

No objection lies. The pending business is the amendment of the Senator from South Dakota. After a quorum call, there is no way he may lose the floor, because he has it by virtue of the unanimous-consent agreement which was entered into yesterday afternoon.

Mr. STEVENSON. Mr. President, will the Senator yield?

Mr. McGOVERN. If the Senator will withhold for one moment, I will yield to him.

The PRESIDING OFFICER. The request requires unanimous consent, for the reason that upon the completion of a quorum call, the Chair would recognize the first Senator who is on his feet to be recognized.

Mr. DURKIN. Mr. President, a point of order.

By virtue of the unanimous-consent agreement entered into yesterday evening, the pending business, once the Pearson-Bentsen tabling motion was resolved, is the amendment of the Senator from South Dakota, and that cannot be changed by a ruling of the Chair.

The PRESIDING OFFICER. According to the RECORD of yesterday, no assurance has been granted that the Senator from South Dakota would once more be recognized upon the completion of a quorum call.

Mr. McGOVERN. Mr. President, as I understand it, the Senator from New Hampshire is right in stating that this amendment will remain the pending business. As I understand the ruling of the Chair, if another Senator obtains recognition before I do, following the quorum call, he could move to table or do whatever he wished, within the confines of the rule.

The PRESIDING OFFICER. The Senator is correct.

Mr. McGOVERN. That is why I am reluctant to yield for a quorum call, although I appreciate the desire of the Senator from New Hampshire to have an audience.

I believe that if we had all Senators in the Chamber, we would get a much stronger vote. Perhaps, before a vote takes place, arrangements can be made to get Senators here.

I do appreciate the Senator's comments.

Mr. DURKIN. I thank the Senator.

Mr. McGOVERN. Mr. President, I yield to the distinguished Senator from Illinois for any questions he may have.

Mr. STEVENSON. I thank the Senator for yielding. I am sympathetic to his objective and to that which I understand to be the objective of the Senator from New Hampshire.

Did I correctly understand the Senator from South Dakota to say earlier that this amendment is similar to a proposal the Senator from Illinois once made?

Mr. McGOVERN. Yes. As a matter of fact, the amendment represents about a third of a major piece of legislation that the Senator from Illinois offered in 1974. The Senator will recall that I discussed with him on the floor my desire to bring up a proposal similar to his.

If the Senator will permit me, one of the differences is that his bill, as I understand it, would have permitted this gas and oil corporation to operate not only on Federal lands but also on State and private lands in some cases.

Also, he permitted up to 20 percent the offerings to be developed by the Federal Gas and Oil Corporation. This amendment would limit that to not more than 10 percent.

I may not be entirely right about the initial statement saying that the Senator's bill opened the way for development by the Oil and Gas Corporation on other than Federal land but his bill was so modified in the House of Representatives and it was basically that amendment that developed in the House of Representatives that I used as a working model here with the change that I have just mentioned.

Mr. STEVENSON. Mr. President, the Senator from South Dakota did mention his intention to offer an amendment similar to the proposal which I made, and I appreciate that. Of course, I have no objection to his doing so.

Mr. McGOVERN. If the Senator will yield to me, the reason I wanted to discuss it with the Senator is because I recognize him as the leader in this field. For several years when we talked about Federal gas and oil corporations, I referred to it as the Stevenson proposal. I did not want to identify the Senator any closer than he wanted to be identified with this particular amendment at this time. But there is no question that he has been the pioneer in the Senate in this concept of bringing the Government into the development of oil and gas on a limited basis. I want to fully recognize that.

Mr. STEVENSON. Mr. President, it is not for any pride of authorship or parentage, perhaps I should say, that I ask that question. Indeed after some of my experiences with this proposal I am more than happy to share the parentage with such volunteers as the distinguished Senator from South Dakota.

I have not had a chance to examine this proposal, and it is for that reason and also because of some reservations about the time and the place for its consideration that my own vote on this amendment is at the moment undecided.

But with the Senator's leave, I shall, if I might, make just a few observations

about the purpose of such a corporation as I see it.

Mr. McGOVERN. I am more than happy to give the Senator an opportunity to be heard on this whole question.

Mr. STEVENSON. I thank the Senator once more.

I introduced a similar proposal, Mr. President, because of a firm conviction that it was foolish, at best, for the United States, or that matter for any country, to leave itself literally at the mercy of a handful of corporations, many of which are subject to the control of foreign governments. These are large producers, multinational corporations, and as was demonstrated during the Arab boycott they are not by any means beyond the control of certain foreign countries.

Energy is as vital to the life of a highly developed industrialized country such as ours as air and water are to our bodies. And yet the United States has left the control of the largest part of the supply of that energy to a few corporations, and to the best of my knowledge it alone in the world has done so. Every country in the world with oil and gas supplies to explore and to develop already has such a corporation. It is only this one and this one alone that has failed to see the folly of leaving itself to the whims and to the mercy of a few corporations for the supply of that most vital commodity of all, energy.

So, unlike the proposal of the Senator from South Dakota, my purpose in the beginning was not to offer the country a yardstick. It was to offer the country the assurance of energy, creating a corporation that would produce energy supplies from the public domain for the benefit of the public.

My proposal, as that of the Senator, was confined to the public domain.

It has been said that such corporations are not efficient. That is not true. The Senator from South Dakota has wisely and quite rightly pointed to the experience of other corporations which are subject to the control of their governments. Royal Dutch is one. British Petroleum is another. And there are many other examples.

The Canadian experience is one of the most telling and significant.

We can share parentage with the Canadians. They have taken this proposal as it was originally introduced and. I understand, have approved it. It is now law. The corporation is called Petrocan and it often operates, as would corporations we have proposed, in joint ventures with private corporations, so that they can take advantage of all of the skills and resources available within the private domain as well as the energy supplies available in the public domain.

This corporation was strenuously opposed by conservative elements in Canada. Now it is strenuously supported by those very same elements within Canada, because it is working. It is working to explore in the public domain and high risk areas, the Arctic islands, for example, is cooperation with private industry, opening up new supplies and relieving that country of its dependence not only on undependable foreign sources of energy but also on multinational corporations that are not entirely under the control of that country any more than they are within the control of this country. That was one of the purposes.

The main purpose is simply to assure a supply of this most vital commodity regardless of the actions of other countries.

Second, to do so from the public domain for the benefit of the public which owns those oil and gas resources.

Third, to do so in experimental ways and in ways that are environmentally sound; to begin developing new techniques for offshore development, for example, that could supply us further oil.

One of its purposes, as the Senator from South Dakota has indicated, was also to supply reliable figures on the cost of exploration and production so that for the first time we would have the yardstick which he has mentioned. That purpose was incidental to the main purpose of simply producing a supply of energy that could save us against the day when supplies are depleted, or cut off by hostile powers.

There were other purposes far from nationalization. One purpose was to maintain competition in the industry, to do it not through price controls but through a competitive corporation. The purpose was to head off the day when the public might demand that the Government move into this area in order to develop the public domain and take over other corporations to assure a supply of energy in ways that are far more ambitious than anything that I have proposed or that the Senator is proposing in this measure.

I might add also that one of the other purposes, as I recall, was to assure a supply of crude oil for independent refineries. That was one of the ways in which we contemplated that competition might be maintained in this industry.

Independent refineries are vulnerable. They, too, can be cut off from production, which is controlled increasingly by a handful of very large corporations.

Mr. President, my question at the moment is not so much one of substance, since I have not had a chance to read this amendment, but one of tactics and timing.

Senators are not here; we have not had hearings on this particular proposal. However obvious it is to every other country in the world, I am afraid that the need to take this single most elementary step toward national survival is not very obvious, as yet, in the United States, and probably not in the Senate.

Therefore, Mr. President, I ask the Senator, would it not be wise to save this amendment, which, as I understand it, has far more purposes than the yardstick purpose, for another time—after hearings, after these pricing measures have been disposed of, hopefully after we have had a better opportunity to inform the public of all of its purposes, and hopefully, Mr. President, after we have the support of the administration? I do not think that such support is altogether unlikely, and certainly it is not impossible.

I have no counts. I still bear some bruises. But I ask the Senator, would it not be better to save this proposal for another day, and, in the meantime, to afford ourselves and others an opportunity to refine it, to hold those hearings, and to generate more public support and support from within the Congress than I fear is available on this day?

Mr. McGOVERN. Mr. President, I think the Senator has certainly raised a reasonable question, and obviously has given us an excellent summary of the original purposes of the legislation that he introduced some 3 years ago.

I would just say that the reason why I have taken the course that I have on this bill is at least two-fold: First of all, because of the experience that the Senator referred to on the legislation offered earlier. I was a cosponsor of that measure. It did not seem useful to me, at this time, to press exactly that same proposal; that is why we cut in half the percentage of Federal and gas reserves that would be available to this Government corporation; and we have strictly limited it to the Federal domain.

But the other reason for pressing it now is that we do need to look very closely at the pricing aspects of the amendment before us. We are talking about a natural gas pricing bill—that is the basic legislation before the Senate, and one of the problems in trying to arrive at a fair system of pricing is that we do not have reliable data. The Senator has brought that out himself, on numerous occasions.

As a matter of fact, in testifying on the proposal that the Senator from Illinois offered in 1974, I was just starting to read a few comments from Mr. David Freeman, which I would like to read now, and I think the Senator will find them familiar.

He said, in his testimony before the Commerce Committee:

> A major need at the moment is to find out what it costs to develop oil and gas in the United States. One of the major issues facing the Congress and the public is how much oil and gas should sell for, what should be the price that is allowed.

Then he goes on to say:

> We don't really know for sure what the size of the windfall profits are, because the country is devoid of any information as to what the cost is.

He makes this statement:

> A major need at the moment is to develop a Federal entity that can provide that cost-information.

I will say to the Senator from Illinois, and so that my colleagues understand it, that it is that aspect of this legislation that seems to me to be especially pertinent now, at a time when we have an important pricing bill before us.

I realize that is only one of the purposes of this amendment. It will do all of the things that the Senator mentioned; it will give us a more assured supply of crude oil, gas and oil of all kinds. It will permit us to adhere to higher environmental standards. It will enable us to experiment with other forms of exploration and development.

But beyond all of these things, it does

provide a dependable yardstick by which to measure cost.

Let me just continue with a couple of other observations by Mr. Freeman. He said:

Now, all of these problems, these jobs to be done, combine in my mind to suggest the need for a Government corporation, limited to operate on the Federal domain.

Which is exactly what this amendment does.

It could perform the exploration of the Federal domain by contract or otherwise to find out what the people own.

And then, if the Senator will note this point, because here is where I got the idea for the name of this amendment:

Its main function would be to supplement and not supplant private enterprise, and to act as a yardstick and a spur, and to provide, in essence, a supplier of last resort.

Then he repeats this yardstick phrase, and in this context, on the next page, he says:

One of the major reasons for creating a Federal entity would be to provide an environmental yardstick . . . an entity that will be pioneering in environmental protection.

So what we have in this amendment, as we did in the Senator's original bill, is a yardstick that will give us a means of measuring whether or not these cost data that we are being supplied by a handful of major corporations are accurate or not, and then, second, a yardstick by which we can measure their environmental performance.

So, just as I joined the Senator in support of his original proposal, I am hoping that after pondering this matter, and before we vote on this all important question of how we are going to price natural gas, a decision involving tens of billions of dollars of the consumers' money, he will join me in strong support of this amendment.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. McGOVERN. Mr. President, I ask unanimous consent that the full text of Mr. Freeman's testimony be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF S. DAVID FREEMAN, DIRECTOR, THE ENERGY POLICY PROJECT, WASHINGTON, D.C.

Mr. FREEMAN. I regret, Mr. Chairman, I did not have time to prepare a detailed written statement and I will be testifying from notes.

My testimony this morning, Mr. Chairman, is based upon my experience in Government over a number of years, dealing with these matters and my personal studies of the questions before the committee since I left Government.

I am not speaking on behalf of the Ford Foundation's energy policy project, because our report will be forthcoming in the coming months. I am addressing myself to title VI of your bill dealing with the Federal Oil and Gas Corporation.

It seems useful to examine the problems that the country faces in the area of oil and gas supply before I address myself specifically as to what corporate mechanism or other Government entity one might want to create to solve those problems. First and foremost, in my opinion, is the fact that most of the economically recoverable oil and gas that the Nation has available for the next decade is on the Federal domain and we don't know, precisely where it is, how much we have got or what it will cost to produce it.

That is a very sobering and unhappy fact, but as far as I can find out, it is true. In a sense, considering that our energy supply situation is at best tight and at worst in a crisis situation, nothing could be more urgent as a matter of public policy than to find out what we have in the storehouse.

The Government is failing in its role as a proprietor, not to mention its role as the sovereign, and the two roles are virtually indistinguishable in this particular area. We must not forget, however, that the Federal domain is also a recreation asset. What we do on the Federal domain is in a sense an action that we take with a multipurpose resource.

We are about as ignorant of the environmental impacts of development as we are of the resources that are to be developed. The Department of the Interior has custody over the Federal domain. I think it is just a cold, hard fact that it is an old agency which does not seem to show the administrative capability or the initiative to mount the kind of programs that are needed in the public interest in the 1970's.

To the extent that they are trying to mount a development effort, it seems to me single-minded and oblivious to the multipurpose aspects of the Federal domain; and in the sense, somewhat self-defeating. But in any event, finding out the oil and gas resources that the Nation owns requires a capability that the Department of the Interior just does not possess. It means an effort in exploratory drilling that isn't being done. That is one job facing the country.

A second big job, it seems to me, is to develop some strategic oil reserves. If we have learned nothing else from the experience of the last 3 or 4 months, it should be that this Nation needs to have some ready reserves that would be available, in shape to be produced by turning a few valves, whenever some emergency situation develops.

We don't have that capability. We have learned that the Nation's economy can almost go into a tailspin if there is an interruption, or the fear of an interruption, of energy supplies. Our stockpiles are inadequate, and I think it is unrealistic in the extreme to expect the oil industry to invest the billions of dollars required to develop some sort of a stockpile of oil that they wouldn't be selling.

This is an investment for the national welfare, national security, if you please, that requires a public investment. The oil resources located in the Federal domain provides our best hope of developing such strategic reserves. The oil and gas that we think exists off the Atlantic and Pacific coasts and the oil and gas resources in the naval petroleum reserves provide an excellent and, as far as we can find out, sizable opportunity for development and then shutting the fields in so that we have strategic reserves on tap and available.

This is another big job, a big job that is not being done, and a big job with no public agency that I know of with an action-oriented program to get the job done.

A third major need at the moment is to find out what it costs to develop oil and gas in the United States. One of the major issues facing the Congress and the public is how much oil and gas should sell for, what should be the price that is allowed.

We are now in a situation where the producing nations throughout the world with a near monopoly power, certainly supremacy in the marketplace, are fixing the world price of oil at levels that seem very high compared to just a few weeks ago.

The price of oil in the United States is rushing up to those levels. We have a very, very serious question before the country of the size of the windfall profits. Yet, when one analyses this question, we don't really know for sure what the size of the windfall profits are, because the country is devoid of any information as to what the cost is.

Certainly, this becomes maddening when you realize that a large fraction of the oil and gas is being produced on the Federal domain, and our administrators did not have the foresight to even require cost information as a condition of leasing the public's own resources. So, it seems to me that a major need at the moment is to develop a Federal entity that can provide that cost information.

A fourth need, and in my view a major one, was identified and discussed by Senator Hart just a few moments ago. If the crude oil shortage disappears, the refinery shortage will rear its ugly head, because it is being hidden by the fact that we are short of crude oil.

This country is in a position where we have to hope and pray that the oil refineries will be built. There is no legal compulsion on the oil companies to build the refineries, and there is a very real question as to whether they will do so.

It is my view that an oil refinery is at least as important to the American people as an electric powerplant, and indeed, the electric powerplants are not going to be able to run if they don't have fuel to burn in them. I have been associated with the FPC in public regulation, and I would not lightly suggest that we move to public utility regulation over the oil industry.

I think it is much preferable that we try to encourage greater competition and to get the job done. Yet the question of the construction of oil refineries cannot be left to hope or guess or prayer. The buck has got to stop somewhere.

There needs to be an action program that will assure that the refineries are built. It seems to me that Senator Hart's amendment addresses that point in a very constructive way.

Now, all of these problems, these jobs to be done, combine in my mind to suggest the need for a Government corporation, limited to operate on the Federal domain. It could perform the exploration of the Federal domain by contract or otherwise to find out what the people own.

It could take custody of the existing naval petroleum reserves and do the exploration and development work to bring them up to the status of a ready reserve.

It could develop strategic oil reserves which the Nation needs as a backup to avoiding shortages in an emergency.

It could build the refineries if the petroleum industry doesn't do so, and then turn those refineries over to new independent companies.

In a sense, Mr. Chairman, this corporation would become the supplier of last resort. It would provide the Nation with the capability to fill the gap if for reasons of its own private enterprise does not develop the resources. And perhaps just as important, this corporation could and must become a model for environmental protection.

Your bill builds this mandate into its corporate charter, but it would be my suggestion, Mr. Chairman, that you go further than that. I would think that any activity of this Corporation—any program of drilling or construction—should be made sub-

ject to prior approval by the Environmental Protection Agency.

It seems to me there are other opportunities which this Corporation might serve in the future. We are living in an era where some of our Western Hemisphere friends have oil resources where for political reasons of their own, they are not particularly anxious for private enterprise development.

Venezuela is one such nation, where the enormous tar belt lies awaiting development. It might very well be that the most effective way for that development to take place would be through some joint venture between this Federal Oil and Gas Corporation and the Federal Oil and Gas Corporation of Venezuela. It is quite possible there will be many activities in the international field where this Corporation could play a role that private enterprise could not play.

But its main function would be to supplement and not supplant private enterprise, and to act as a yardstick and a spur, and to provide, in essence, a supplier of last resort.

I would like to end my testimony with one note of caution. I grew up in the Tennessee Valley, worked for the Tennessee Valley Authority, and believe the TVA proved without doubt that "efficiency is where you find it." It doesn't rest exclusively in Government or private companies. It is just a creature—a function of the people who are attracted to the organization and the leadership.

But my word of caution is that a Government corporation, or a Government agency, can have a charter when it is enacted, can fulfill that charter magnificently as TVA has, but 25 years later, the times may call for a new direction and a different entity.

I think you should seriously consider building a death sentence into this corporation, perhaps at 15 years. If it is doing a good job, the Congress will renew its charter. It would provide an excellent occasion to review its activities, perhaps change its mandate.

I offer that suggestion based on my own experience that TVA could do well to have its mandate reexamined at this stage in its history, even though it has done an excellent job of carrying out the mandate that Congress gave it of promoting low cost electricity.

I also feel that the provision requiring the EPA to review and pass on the Corporation's activities is very important and raise a somewhat broader caution. We are moving into a new era, I think, an era of scarcity. As important as the enactment of this Corporation is, we should not do it and give the country a false signal.

The answer to the energy problem lies as much, perhaps more, in adopting a policy of conservation of resources. Making investments in mass transit, in new cities, and a different growth pattern for our Nation; people moving back to town and all sorts of activities are going to require, I believe, action by not only the Federal Government, but all levels of government.

For that reason, I think we should recognize that this Federal Corporation is not a signal that we are going to supply all the energy that we have been wasting in the past. It is an entity to fulfill some jobs that need doing. But it should be put in the context of an overall energy policy that in my view must recognize the finite nature of existing resource base and a need for emphasizing conservation.

Thank you.

Senator STEVENSON. I would certainly echo that point you have made. It was never really suggested as a solution to the energy crisis nor intended to suggest that the Nation still doesn't need to operate a new energy ethic, a new energy life style.

There are increasingly limited sources of many materials but in this case oil and gas.

It was our intention, Mr. Freeman, to subject the activities of the Corporation to the Environmental Protection Act. I think you are saying more than that, that the activities of this Corporation should go beyond the mere requirements of the law, to innovate and develop new ways of really respecting the fragility of the environment.

It is not just a question of compliance with whatever the existing standards are; you are suggesting more than that, aren't you?

Mr FREEMAN. Yes, sir. One of the major reasons for creating a Federal entity, I believe, would be to provide an environmental yardstick, if you please, an entity that will be pioneering in environmental protection. It seems to me that it should be working hand-in-hand with the EPA to show the way in this area.

Senator STEVENSON. You have made another very interesting point, I thought. It is difficult, if not impossible, to determine what in fact are windfall profits because the Government has now no way of determining what actual costs are.

That problem has come up in other contexts. It has come up in the question of regulating natural gas, for example. The industry claims that cost-based regulation is impossible because the FPC can't make determinations of actual cost.

I don't know which way the Government will go, but if it takes the regulatory route, at least in some cases, this Corporation, its formation about actual costs might have that advantage, too, might supply costs in another context, maybe cost-based regulation to help determine the regulation of rates.

Mr. FREEMAN. Yes, sir. I think it would, and I think there is another side benefit that perhaps should be mentioned. In the electric power industry, the Government benefits from the executives in the Tennessee Valley Authority and in Bonneville and in the other publicly owned entities who are available for participation in Government to deliberate about electric power matters.

I don't think it would hurt this country to have a corporation with public servants who have had actual experience in the oil and gas industry to participate in the council's of Government, combining experience in oil and gas with no conflict of interest.

Senator STEVENSON. It has been charged that the competition from such a corporation would be unfair and also that the yardstick would be unrealistic and unfair because the Corporation would receive some cost benefits, particularly leases at no cost to itself.

How do you answer that criticism?

Mr. FREEMAN. Well, it seems to me that any pricing mechanism should include a component that would reflect that element of cost. It is simply a matter of identifying that factor and including it.

I know that the argument about the TVA yardstick is as old as TVA. The yardstick concept is a broader one than simply an accounting proposition. To the extent that this Corporation prices oil, all the elements of costs should be included. But I don't know that its major purpose, or even a primary purpose, would be selling oil and gas.

I think its very creation will perhaps make it less likely that the Government would ever become involved in the actual marketing of oil.

Senator STEVENSON. It is also claimed, somewhat inconsistently, that the Corporation would be inefficient. The claim is made that it would not have access to the necessary resources of technology, to the managerial skills in the industry.

Is that a fair complaint or problem that we have to address ourselves to?

Mr. FREEMAN. It seems to me that that argument, simply made in the abstract, has very little support. If you look at the history of one major Government Corporation we have had in the energy field, TVA, most observers will agree that TVA is perhaps the most resourceful or one of the most resourceful and most efficient of our electric utilities.

I would also think that this Corporation would carry out its activities through contract with people in private enterprise, and I am not certain exactly how it should or would operate.

But it would be entirely consistent with the charter in your bill for it to draw upon the existing resources in the oil industry through the device of contracts.

Senator STEVENSON. It was certainly contemplated that it would operate as other corporations do and through joint ventures, for example, with especially in the early stages major oil companies serving as the operator of leasing blocks in the public domain.

I offhand don't see why its role as the participant in such a joint venture would require any great magnitude of skill and technology or at least any that couldn't be acquired by contract, as you suggest.

Mr. FREEMAN. Mr. Chairman, I think its success will depend, just as any other organization, on the caliber of people appointed to manage it.

Senator STEVENSON. You mentioned, Mr. Freeman, at the outset of your statement, I think the word was "most," that most of our oil and gas resources are in the public domain.

Do you have any way of estimating what the Nation's oil and gas resources are?

Mr. FREEMAN. As I said, Mr. Chairman, most of the resources that we believe are economically recoverable in the next 10 or 15 years are on the Federal domain. We are attempting to make an assessment of this question in the course of a study we have underway.

I make that statement on the basis of what we know strictly from the Geological Survey information and what data is available which suggest that the Outer Continental Shelf, the naval petroleum reserve in Alaska, and other Federal lands probably contain more than half of the oil and gas that we expect to be discovered in the next 10 to 15 years. I think the industry's own studies tend to confirm that.

That raises, I think, a major reason for this Corporation that will assist those in private enterprise, to the extent this Corporation will get out and explore and identify the resources on the Federal domain, they can be offered for lease that much sooner.

One of the bottlenecks that we have is the pace at which we are acquiring knowledge to intelligently lease.

If this Corporation can be a trailblazer, in a sense, it can be an entity that can get out there and identify with more particularity what we own so it then could be leased; it could turn out to have its major benefit simply expanding the pace at which private enterprise can have access to the Federal domain.

Senator STEVENSON. I think your comments have assumed that the activities of this Corporation would be confined to the development of oil and gas resources in the public domain. Those, of course, are not the only sources of energy in the public domain.

Should it be confined to oil and gas or, for example, should it also have the authority to develop oil shale in the public domain?

Mr. FREEMAN. I wouldn't necessarily limit its authority, but I would assume that its major activity would be in oil and gas. Quite frankly, I hadn't thought about the other resources.

Surely, oil shale is a resource that can be at least demonstrated. There appears to be interest by private enterprise; at least huge sums of money were bid for a lease. Perhaps we will get some movement in that area.

I think there should be authority.

In a sense, I would make this corporation a supplier of last resort, and I think I would be inclined to have a test that if private

enterprise is not moving ahead that it would have the authority to do so in these other areas, but I would not give it a mandate and a direction to move out in all directions.

Senator STEVENSON. Wouldn't your comments about the lack of information in the Government about the dimensions of its resources of oil and gas apply with equal effect to oil shale? Can't the exploratory purpose be fulfilled by such a corporation in relation to oil shale as well as oil and gas?

Mr. FREEMAN. I think that there is a big job to be done in identifying with more particularity not only the Government's shale resources, but surprisingly we don't know enough or nearly enough about the coal resource in the West.

And then the geothermal resource in a sense cries out for the kind of inventory based upon drilling some holes in the ground that has not been accomplished.

So I think that your point is a very important one. When it comes to finding out what the Government owns, as distinguished from going beyond that, this corporation has got a big job to do across the board.

Senator STEVENSON. The Geological Survey apparently has authority to conduct resource explorations in the public domain.

Why hasn't it done so?

Mr. FREEMAN. I think it is a combination of inertia and budgetary constraints and policy not to do it. In other words, there are not the people in the Department pushing to do the job. There are budgetary restraints, and I think there has just been a policy over the years of not finding out.

Senator STEVENSON. Has that been a policy by negligence, or is it a deliberate policy? If so, why? Why has that been the policy?

Mr. FREEMAN. Based on my experience in the Executive Office Building as I observed it, it was a problem primarily of insufficient attention to the energy problem, insufficient agitation for getting it done, and a generally negative attitude by the Bureau over the years for providing the funds, and the Interior Department at the very top over the years just didn't make a fight for these programs.

I think this goes back over many, many years, and it continues on almost to the present.

Senator STEVENSON. Would you be concerned that to whatever extent this Corporation displaced private investment in the public domain it would give the private oil and gas industry an incentive to develop oil and gas production abroad?

Mr. FREEMAN. I would not picture that the net effect of the Corporation would be to displace private enterprise in the Federal domain.

As I mentioned earlier, I would think the net effect of its activities to be very much the other way, that its primary function is going to be to find out what is out there and develop in some areas strategic reserves.

But in the process of doing that it could open up more leasing more quickly to private enterprise. So I would not see the Corporation's activity as resulting in a net negative impact on the opportunities for private enterprise in the Federal domain.

On the contrary, I would see it having a positive impact.

Senator STEVENSON. Assuming that its development of resources in the public domain were incremental, would it through competition and the yardstock make the opportunities for profit relatively more attractive abroad and in that way provide the incentive for the development abroad instead of within the United States?

Mr. FREEMAN. It is difficult to foresee how the pricing patterns and profitability will develop, but it seems to me at the moment the profitability picture looks very attractive in the United States with the prices at the levels which they are, unless the costs in the Outer Continental Shelf are a whole lot higher than what the prices were just a few years ago.

I do not really see that we have a problem of lack of profitability for the oil industry in developing the Federal domain. If they are offering hundreds of millions of dollars just for the privilege of going out and exploring the leases, it seems to me that their judgment is that this activity is potentially profitable. I frankly don't see the squeezing of the industry out on a profit basis as a clear and present danger.

Senator STEVENSON. Thank you, Mr. Freeman.

Senator Hart?

Senator HART. Mr. Freeman, thank you very much. Along with the chairman, I appreciate the good note on which you concluded your informal prepared statement, to caution us never to suggest in these days where priority is so high in the effort to meet our energy crisis that we are committing ourselves to generating enough energy to premit us to resume the wasteful practices and lifestyle that brought us to this point.

One very tiny question that I ask simply because you are here and knowledgeable and not of Government. Many people have been struck by the size of the bonuses that were paid in the recent offshore lease sale, on the Gulf offshore. Does that suggest to you that the costs are probably very low in the Gulf offshore?

Mr. FREEMAN. Yes, sir. It suggests to me that they must be low in relationship to the prices that are now the market prices for crude oil.

It also suggests to me that the oil industry knew an awful lot more about the resource than the Government that was offering the land. It is suggestive of a situation where the Federal domain is an extremely attractive area to explore. It has also suggested to me that the Government should be putting some of that $200 million, or whatever was bid, in the finding out what else we own out there and getting it into the marketplace so we can try to become as self-sufficient as we can, consistent with regard for the impact on the coastal zone of such development.

Senator HART. I wish to thank you for the explicit endorsement of the amendment that would establish seven or more of those refineries.

Thank you, Mr. Chairman.

Senator STEVENSON. Mr. Freemen, you pointed out that the Department of the Interior now has the custody of the oil and gas resources in the public domain and indicated that it had over the years acquired a rather conservative approach toward the development of these resources.

I am not trying to paraphrase what you said, but this Corporation would not really solve that problem, would it? It wouldn't take over custody of these resources from the Department of Interior. As a matter of fact, the way the bill is now drawn, its exploration and development activities would be limited to a maximum of 20 percent of the leases within the public domain.

I am—I guess I am leading up to two questions. One, should the Corporation be limited, and, if so, at what point should its exploration and development activities be limited, and beyond that and beyond perhaps this proposal for incorporation, do you have any suggestions to make as to what agency should take custody of these resources or how can custody of the Interior Department be reformed?

Mr. FREEMAN. Mr. Chairman, in a way it is ironical. The Deparement of the Interior's objectives, at least in the last couple of years, and its great desire to speed the development of the resource offshore.

The President has spoken about tripling the leasing program. It has in a sense a single-minded desire to develop in my view at the cost of the environmental impact, which I don't believe is given the same kind of serious attention.

But it is failing even in its single-minded devotion to development for lack of capability, for lack of knowledge of the resource, apparently unable to develop the staff resources, the knowhow and the leasing programs with its staff or expansion of staff.

I view this Corporation's activities in the Federal domain as being supportive, and perhaps providing a flow of information that would permit the Department of the Interior to accelerate its leasing program.

I would view its first two jobs, as being this task of finding out what the people own and developing the strategic reserves.

Those are two very big problems.

I realize that title VI gives it the privilege of identifying up to 20 percent of ongoing lease sales. I would certainly want to keep that limit and perhaps make it even more limited, because I don't see that the major function of the Corporation being to develop leases that private enterprise is ready, willing, and able to develop.

I would see its major function as being to find out what we own, to develop strategic reserves, and to be able to fill the gap if private enterprise doesn't.

I think having that capability would be a tremendous spur to the development, the capability that would provide the knowledge, and the capability of a supplier of last resort.

My opinion would be to place even sharper limits on its direct competition role and emphasize the other.

As far as transferring the Interior Department's custody of the Federal lands, quite candidly, Mr. Chairman, I have not thought about that question sufficiently to give you an answer.

I was assuming that this Corporation would provide the Interior Department with increased knowledge. If that Department is converted into a Department of Natural Resources, as has been proposed, and in the process of conversion it can take on a new life, that that would be the logical place for our resources to lie.

Senator STEVENSON. As you visualize it, this Corporation ought to have access for exploratory purposes in the public domain before it acquires a lease?

Mr. FREEMAN. Oh, yes, it seems to me it should have a charter to roam broadly and widely throughout the entire Federal domain, and its major activity would be to provide the knowledge that would enable the Government as a storekeeper, as a lessor, to proceed with the leasing program more vigorously and more intelligently.

We run the great risk of a gigantic giveaway, a giveaway of our resources, a giveaway of our environment, if we go ahead with a leasing program without knowing what we are doing.

Senator STEVENSON. I think it is a very helpful point. We had better check in the bill to make sure that it would have that authority and duty.

One final question, Mr. Freeman. The President in his radio message of December 19 said that "Rising U.S. oil prices are caused by steeply increasing world oil prices."

Are domestic price increases justified by higher producing-nation prices?

Mr. FREEMAN. Excuse me, Mr. Chairman. You meant January 19?

Senator STEVENSON. You are right.

Mr. FREEMAN. The Saturday radio speech.

Yes; I was struck by the President's statement which, as I heard it, and I haven't read the text, but as I heard the speech he at least implied that the price increases were directly and totally the result of the increase of oil prices by the producing nations.

But we import only 30 percent of our oil. So 70 percent of the price increase is a result of actions of his administration.

I think it is still quite questionable whether it will serve the public interest to permit the $1-a-barrel increase in fuel prices

on December 19—perhaps that is the date that stuck in your mind—when the Cost of Living Council permitted the price of flowing crude oil to go up $1 a barrel.

I think it is arguable about new oil. We have to get cost information before we can determine what level of price will be in the public interest.

One has to assume that oil was discovered years ago and selling at $3 and $4 a barrel was earning a profit for the companies.

I think that one has to take a hard look and come up with some justification that I haven't heard before you could countenance the kind of increases that have been sanctioned recently.

It is my personal view that we need to roll back the price of oil, certainly roll back the dollar-a-barrel increase on flowing crude which amounts to $3 billion a year for the American consumer.

Senator STEVENSON. Thank you very much, Mr. Freeman. It is very constructive and helpful statement and, like Senator Hart, I thank you too, for your explicit support of the proposal for the Oil and Gas Corporation.

Mr. FREEMAN. Thank you, Mr. Chairman.

Senator STEVENSON. The next and final witness is Comdr. Kirby Brant, the Deputy Director of the Naval Petroleum and Oil Shale Reserves.

Commander Brant, I understand a funny thing happened to you on your way to our meeting this morning, I am glad you could make it.

I believe we have a statement. You are welcome, of course, to read the full statement, or to condense it, however you choose.

If you want to summarize it, I would of course, enter it into the record.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield to the Senator from Montana for the purposes of a question.

Mr. MELCHER. I wonder if the Senator will yield for a pertinent observation to follow up his colloquy.

Mr. McGOVERN. Yes, I yield for that.

Mr. MELCHER. I thank the Senator.

Since 1974, since the remarks were made by Mr. Freeman, and since the time when the Senate and the House of Representatives had an opportunity to consider a similar proposal, H.R. 49 was passed last year, and became Public Law 94-258.

It does provide much of the yardstick data that the question revolves on in this amendment, and then, like the previous proposal, it deals with public lands, the naval petroleum reserves, one of which is a proven reserve of great magnitude at Elk Hills in California. It also deals with Naval Petroleum Reserve No. 4 in Alaska, which is an unknown quantity.

In the case of a proven reserve at Elk Hills, the act called for production by the Navy at the maximum efficiency rate and with sound engineering principles; it called for the sale of the oil with a set-aside for small refineries; it called for the necessary pipeline construction that would be required in the case of production of that oil; and it turns over the money to the Treasury. To that extent, for this 6-year period that is called for for production in Elk Hills, that kind of data is being collected. It will serve as a yardstick.

As to the question of exploration on public lands, where the quantity or the location of oil and gas are unknown, it also calls for that in Naval Petroleum Reserve No. 4. For 6 years after enactment last year of the bill, there will be data coming in, a measure of the yardstick type of operation that is sought.

I also mention that, in this regard, the act also goes into the quesion of how to protect the environment in a fragile area, Naval Petroleum Reserve No. 4 in Alaska. So I think we have some information gathering for the very purpose that the Senator now offers his amendment. It may not be as comprehensive; it will only be in limited areas; but it does serve a purpose.

Mr. McGOVERN. If the Senator will yield on that point, actually, as I understand Naval Petroleum Reserve No. 4, it is more comprehensive and goes far beyond what I am proposing here. It provides that all that oil will be developed under Government auspices; does it not?

Mr. MELCHER. It only provides, in the case of Naval Petroleum Reserve No. 4, that there be exploration at this time until Congress further directs that there will be development.

Mr. McGOVERN. I appreciate the point the Senator is making. Obviously, there have been some steps taken since this idea was first broached in 1974. But it is limited to a few parts of the country. It does not give us the kind of measuring rod that we need, in my judgment, to determine the exploration and production costs over a wide variety of circumstances. That is the reason why I think we need this amendment.

Mr. President, the General Accounting Office, earlier this year, released a study that I think points up further the need for this amendment. I quote from the United Press International Report of March 9, 1977, with regard to this report:

WASHINGTON.—The Interior Department approves the sale of offshore oil leases based on inaccurate and unreliable geological data, often with little competitive bidding, according to a study by the General Accounting Office.

The study recommends the Secretary of Interior be authorized to "conduct a systematic exploration program, on a selective basis," to develop better data for "more informed resource development decision making."

GAO found the department's revenue estimating process for OCS sales was based on inadequate data, often including overly optimistic estimates which were never achieved

In the California sale, it was also said.

The study said OCS tracts "were selected for leasing without obtaining adequate information to assess their resource potential and to meet the department's then existing goal of 10 million acres each year."

Mr. President, there has been a whole variety of findings along this line that, I think, have demonstrated the need for more reliable and independent data to determine, first of all, what these reserves are on the Federal domain, where most of our oil and gas reserves are believed to be located; and, secondly, to give us some more effective measure of what the cost factors are.

It seems to me, Mr. President, that if I were the head of a major oil corporation in this country or a member of the board of directors of such a corporation, faced with that widespread public suspicion that exists about the fairness of our present oil prices in this country and about the method by which they are arrived at, and I had confidence that my corporation was accurately estimating those costs, accurately reporting the reserves, and accurately determining what a fair price is, I would welcome an amendment of this kind by which public confidence could be gained.

What better way to do that than through a carefully structured, limited, modest effort of this kind that would permit an agency, owned and operated by the American people, operating on oil and gas owned by the American people, to determine what those reserves are, to determine what kind of environmental standards are practical and workable, and to determine what the cost factors are so that we have some means of gauging price? It is for these reasons, Mr. President, that I am very hopeful that this amendment will be sympathetically considered by Congress.

I ask unanimous consent that the news article that I referred to on the GAO study be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAO STUDY BLASTS OCS SALES

WASHINGTON.—The Interior Department approves the sale of offshore oil leases based on inaccurate and unreliable geological data, often with little competitive bidding, according to a study by the General Accounting Office.

The study recommends the Secretary of Interior be authorized to "conduct a systematic exploration program, on a selective basis," to develop better data for "more informed resource development decision making."

Oil and gas companies currently conduct exploratory drilling.

Leases to drill on the ocean floor are sold without the GAO, Congress' investigative arm.

"Consequently, decisions to lease tracts . . . could not reasonably assure that the public received a fair market value return for the resources," the GAO said Monday in a 67-page report.

The report, presented to the Select Committee on the Outer Continental Shelf, said the Interior Department's process of selecting offshore tracts was frequently unreliable and was frequently non-competitive.

The report was based on a study of an OCS lease sale in 1975 by the Interior Department off the California coast.

GAO found the department's revenue estimating process for OCS sales was based on inadequate data, often including overly optimistic estimates which were never achieved.

In the California sale, it said, the government received $417 million in revenues while the Office of Management and Budget had estimated expected revenue at $2 billion and included that figure in its budget.

"We found that the Department of the Interior's tract selection and evaluation process was not reliable and that bidding was not generally competitive," the GAO said.

The study said OCS tracts "were selected for leasing without obtaining adequate information to assess their resource potential and to meet the department's then existing goal of 10 million acres each year."

"Tracts believed to have little or no resource potential were added to the sale just to meet this former acreage goal," the GAO said.

The report also found that while the department estimated two-thirds of the tracts

would be leased, oil and gas companies submitted bids on only 70 of the 231 offered for sale. And of the 70 tracts, only 56 or about 24 per cent eventually were leased.

"The lack of competition and interest is further evidenced by the fact that 49 of the tracts bid on received only one or two bids," GAO said.

Mr. McGOVERN. Mr. President, out of deference to my colleague (Mr. ABOUREZK) who was called to the majority leader's office and who asked me to give him a brief period to speak on this amendment, I wonder if the Members of the Senate will agree to a unanimous-consent request that, following a brief quorum call, I be continued in my right to the floor. I do not intend to detain the Senate over a long period of time, but I did tell my junior colleague that I would reserve a brief period of time for him. I ask unanimous consent that, following the quorum call, I retain the right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, and I do not intend to object, does the Senator have any idea how long that quorum call might extend?

Mr. McGOVERN. I would think, at the most, 7 or 8 minutes. We just have to get the Senator here from the majority leader's office.

Mr. McCLURE. I understand that. With that understanding, I expect that the Senator would either limit the quorum call himself or would understand that someone else may call it off.

Mr. McGOVERN. I accept that understanding.

Mr. McCLURE. With that, I have no objection.

Mr. McGOVERN. Mr. President, I suggest the absence of a quorum, without losing my right to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from South Dakota was to be recognized.

Mr. McGOVERN. Mr. President, I yield to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Dakota.

LEGISLATIVE SCHEDULE

Mr. President, the amendment of the distinguished Senator from South Dakota is the pending question. I had hoped the Senate would be able to reach a vote on that amendment tonight. It is my impression after talking with several Senators that that will not be possible.

I would suggest, therefore, that we adjourn or recess soon and go over until the morning at 10:30 and resume action on the pending measure shortly after the two leaders have been recognized and any orders that may have been entered prior thereto are consummated.

Hopefully, in the meantime, Members will have an opportunity to give serious thought to finding a way to resolve the matter that is before the Senate.

Tomorrow will likely be a long day. The Senate will be in session Saturday unless a time agreement can be reached tomorrow which would provide for a date and time when we might be able to see a conclusion of action on the bill.

I would urge all Senators to plan their schedule accordingly, and I urge all Senators to devote their best talents toward finding our way out of the bramble bush in which we now find ourselves.

Mr. BAKER. Will the Senator from South Dakota yield to me so that I can have a brief colloquy with the majority leader?

Mr. McGOVERN. Yes.

Mr. BAKER. I thank the Senator.

Mr. President, I am particularly interested in the majority leader's remarks about his hopes that we could get an agreement for a time to vote on the several amendments that are pending. I am told there are now 140 amendments pending at the desk, or thereabouts.

I am also especially interested in his remarks about the prospects of a Saturday session. This is Thursday and it is now almost 8:30 in the evening. I know Senators on this side are anxious to complete their plans for tomorrow and, indeed, for Saturday.

I wonder if the majority leader would agree with me that it is now extremely likely we will have a session on Saturday, and that there will be votes on Saturday?

Mr. ROBERT C. BYRD. Yes. At this time, I can see no alternative.

Mr. BAKER. And that Senators would be well advised, at least on this side of the aisle, to plan for a Saturday session?

Mr. ROBERT C. BYRD. On both sides of the aisle, yes.

Mr. BAKER. Mr. President, I thank the majority leader.

I understand then that we are coming in tomorrow at 10:30 and will return to the consideration of this amendment, the McGovern amendment, at 11 o'clock.

I say to the majority leader that I, too, hope we can arrive at some orderly arrangement for the consideration of the several amendments, and time agreements on them, possibly, and I would be more than happy to meet on tomorrow to see if we could facilities that.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes, if the Senator will yield.

Mr. METZENBAUM. I just want to be clear.

Did I understand that we would come in at 10:30 and take up the bill at 11 o'clock?

Mr. ROBERT C. BYRD. Yes, I said that, but there will be—may I ask the Chair, have any orders been entered for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. No orders have been entered.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, in further response to the distinguished Senator from Ohio, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. DANFORTH, Mr. DOLE, Mr. CHAFEE, and Mr. CLARK be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would mean that the Senate would need to come in at no later than 10 o'clock, in order to resume consideration of the pending question at 11 o'clock.

Mr. METZENBAUM. There is an understanding that not before 11 o'clock do we take up S. 2104.

Mr. ROBERT C. BYRD. In the neighborhood of 11 o'clock, yes.

Mr. METZENBAUM. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me further?

Mr. McGOVERN. I yield.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

Mr. METZENBAUM. Mr. President, I object. I do not want to object, but, for the purpose of an inquiry, is the majority leader suggesting that we stand in recess rather than in adjournment by reason of the limitation of speeches made by any Member?

Mr. ROBERT C. BYRD. No, that is not the case. If the Senator is alerting the Senate to the possibility that a filibuster is now underway, I would like to know.

Mr. METZENBAUM. I am not saying that at all. I was merely inquiring about the reason for the recess instead of adjournment.

Mr. ROBERT C. BYRD. My reasons are simply these: By recessing, no morning business is automatic, no resolutions would come over under the rule. I was going to follow the request with respect to recessing over with another request, that immediately after the orders entered into for tomorrow are consummated, there be a brief period for the transaction of routine morning business, for certain purposes only, and that the Senate then proceed to its resumption of consideration of the pending business.

Those are my reasons.

Mr. METZENBAUM. The Senator from Ohio was merely making inquiry. I had not spoken during the day, and I was not certain whether there was any indication by reason of the motion to recess. I have no objection.

Mr. ABOUREZK. Mr. President, reserving the right to object, may I address a question to the majority leader?

Mr. ROBERT C. BYRD. If the Senator from South Dakota will yield.

Mr. McGOVERN. I yield.

Mr. ABOUREZK. Is the reason for the recess that if we are in adjournment tonight, we would have the reading of the Journal take place tomorrow?

Mr. ROBERT C. BYRD. That is also true, unless waived by unanimous consent.

Mr. ABOUREZK. With the exception that it would not be read on a unanimous-consent request.

Mr. ROBERT C. BYRD. The Senator is correct. By virtue of a recess, the read-

ing of the Journal is not required on the following day.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders which have been entered into for the recognition of Senators, and just prior to the resumption of the consideration of the pending business, there be a brief period, not to exceed 5 minutes, for morning business, with no resolutions coming over under the rule, and for the purpose only of submission of reports by committees, statements by Senators, not to extend beyond 1 minute each, and for the introduction of bills, resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. STONE. Mr. President, will the Senator from South Dakota yield to me for a minute in order to discuss the possibility of lining up an amendment which I will propose, to succeed his?

Mr. McGOVERN. I yield for that purpose.

Mr. STONE. The majority leader thinks well of this idea. The Senator from Florida, joined by the Senator from Ohio (Mr. GLENN) and the senior Senator from Florida (Mr. CHILES), has a printed amendment, No. 959, the effect of which would be to allow interstate pipelines to bid on intrastate gas.

I think the managers of the Pearson-Bentsen substitute will take the amendment.

I ask whether we can obtain unanimous consent to follow the McGovern amendment with the Stone-Glenn-Chiles amendment, 959, briefly, without tne anticipation of a rollcall vote.

Mr. BAKER. Mr. President, will the Senator from South Dakota yield so that I may respond to the Senator from Florida?

Mr. McGOVERN. I yield.

Mr. BAKER. Mr. President, I do not know precisely what the proposal of the Senator from Florida deals with. I certainly do not object to that procedure, except that at this hour, with some Senators on this side having departed—and there will be no more votes tonight—I am not in a position to agree to a unanimous-consent request that this next follow the McGovern amendment. I am sorry, but I cannot do that.

Mr. STONE. Will the minority leader accept the suggestion to discuss it? It has been cleared with Senator Pearson.

Mr. BAKER. I will be pleased to do that. I think the odds are good that we can do this.

Mr. McGOVERN. Mr. President, will the majority leader modify his earlier unanimous-consent request with the understanding that I have no desire to unduly delay this amendment and that I be recognized after the completion of morning business and the special orders that have been entered into.

Mr. ROBERT C. BYRD. Certainly.

ORDER FOR RECOGNITION OF SENATOR M'GOVERN TOMORROW

Mr. President, I ask unanimous consent that when the Senate resumes its consideration of the unfinished business tomorrow Mr. McGOVERN be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguised Senator for yielding.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that during the day tomorrow during all consideration and votes on energy legislation during the day Judy Heffner, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I thank the Senator from South Dakota.

Mr. ROBERT C. BYRD. Mr. President, I take the liberty of announcing that there will be no more rollcall votes tonight and I take it that all Senators are in accord.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, I have completed my remarks for tonight. I yield the floor.

Mr. ABOUREZK. Mr. President, may I ask the majority leader how long we intend to stay in tonight?

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from South Dakota I am perfectly willing to stay all night, if any Senator wishes to stay. I have already indicated there will be no rollcall votes tonight. The pending question is on the adoption of the amendment by Mr. McGOVERN. Mr. McGOVERN has indicated that he does not anticipate a vote tonight on that amendment. He will be recognized.

Mr. MATSUNAGA. He has given up the floor.

Mr. ROBERT C. BYRD. He has given up the floor.

He will be recognized tomorrow morning when the Senate resumes its consideration of the unfinished business. So I am ready to go. I am ready to go home or I am ready to stay, whatever any Senator wishes.

Mr. ABOUREZK. If the majority leader is asking me, I say let us go home.

Mr. ROBERT C. BYRD. Very well.

I appreciate the Senator's willingness to go home.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand there has been no morning business.

The PRESIDING OFFICER. The Senator is correct.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent tha the RECORD show a place for routine morning business and that committee reports, statements by Senators, bills, resolutions, petitions, and memorials may be shown as having been introduced thereby and reported thereby.

The PRESIDING OFFICER. Without objection, the RECORD and the Journal will so indicate.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on September 20, 1977, he approved and signed the bill (S. 1153) to abolish the Joint Committee on Atomic Energy and to reassign certain functions and authorities thereof, and for other purposes.

ALASKA-CANADA NATURAL GAS PIPELINE—PM 114

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

Natural gas has become the Nation's scarcest and most desired fuel. It is in our interest to bring the reserves in Alaska to market at the lowest possible price. Consequently, I am today sending the Congress my decision and report on an Alaska Natural Gas Transportation System.

The selection of the Alcan project was made after an exhaustive review required by the Alaska Natural Gas Transportation Act of 1976 determined that the Alcan Pipeline System will deliver more natural gas at less cost to a greater number of Americans than any other proposed transportation system.

The Alcan proposal, taken together with the recently signed Agreement on Principles with Canada, demonstrates that our two countries working together can transport more energy more effi-

ciently than either of us could transport alone.

Unnecessary delay would greatly increase the total cost of the pipeline system. I urge the Congress to act expeditiously to approve this important project.

JIMMY CARTER.

THE WHITE HOUSE, *September 22, 1977.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC-2040. A letter from the Assistant Secretary and Chairman of the National Advisory Council on Child Nutrition transmitting, pursuant to law, the annual report of the Council (with an accompanying report); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2041. A letter from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to repeal certain requirements relating to notice of animal and plant quarantines (with accompanying papers); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2042. A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, a report of the final determination of the Commission in the case of the Lower Sioux Indian Community in Minnesota, et al v. United States (with an accompanying report); to the Committee on Appropriations.

EC-2043. A letter from the Assistant Secretary of State transmitting a draft of proposed legislation authorizing a contribution of tin metal by the United States to the buffer stock established under the Fifth International Tin Agreement (with accompanying papers); to the Committee on Armed Services.

EC-2044. A letter from the Acting Deputy General Counsel transmitting, pursuant to law, a notice of meetings related to the International Energy Program (with accompanying papers); to the Committee on Energy and Natural Resources.

EC-2045. A letter from the Secretary of the Interior transmitting, pursuant to law, a report on the Missouri River in the State of Montana (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-2046. A letter from the Assistant Legal Adviser for Treaty Affairs transmitting, pursuant to law, copies of international agreements other than treaties (with accompanying papers); to the Committee on Foreign Relations.

EC-2047. A letter from the Secretary of the Treasury transmitting proposed legislation to authorize United States participation in the Supplementary Financing Facility of the International Monetary Fund (with accompanying papers); to the Committee on Foreign Relations.

EC-2048. A letter from the Chairman of the National Advisory Council on International Monetary and Financial Policies transmitting, pursuant to law, a special report on United States participation in the Supplementary Financing Facility of the International Monetary Fund (with accompanying papers); to the Committee on Foreign Relations.

EC-2049. A letter from the Assistant Administrator of the Agency for International Development transmitting, pursuant to law, notification of an increase in the funding level of the fiscal year 1977 program for Jamaica (with accompanying papers); to the Committee on Foreign Relations.

EC-2050. A letter from the Director of the ACTION Agency transmitting a report on the Agency's system of records entitled "Outplacement Counseling Talent Bank" (with accompanying papers); to the Committee on Governmental Affairs.

EC-2051. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, three proposed new record systems reports submitted by the Department of the Air Force (with accompanying papers); to the Committee on Governmental Affairs.

EC-2052. A letter from the Deputy Director of the Administrative Office of the United States Courts transmitting, pursuant to law, the second report of the Director of the Administrative Office of the United States Courts on the operation of the speedy trial plans (with an accompanying report); to the Committee on the Judiciary.

EC-2053. A letter from the President of the National Railroad Passenger Corporation transmitting a comparison between the Corporation's 1977 and 1978 fiscal year budgets (with accompanying papers); to the Committee on Appropriations.

EC-2054. A letter from the Chairman of the Securities and Exchange Commission transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934 (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

EC-2055. A letter from the Assistant Administrator of the Agency for International Development transmitting, pursuant to law, notification of an increase in the funding level of proposed 1977 program in Costa Rica (with accompanying papers); to the Committee on Foreign Relations.

EC-2056. A letter from the Assistant Administrator of the Agency for International Development transmitting, pursuant to law, justification of an increase in the funding level of proposed program in Guyana (with accompanying papers); to the Committee on Foreign Relations.

EC-2057. A letter from the Assistant Secretary of the Treasury transmitting, pursuant to law, project performance audit reports prepared by the International Bank of Reconstruction and Development, and Post-Evaluation Reports from the Asian Development Bank (with accompanying reports); to the Committee on Foreign Relations.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

Senate Joint Memorial 18 adopted by the Legislature of the State of Oregon; to the Committee on the Judiciary:

"SENATE JOINT MEMORIAL 18

"Whereas the State of Oregon has an outstanding claim for substantial expenses incurred in furnishing troops and aiding the United States in maintaining the common defense during the Civil War period; and

"Whereas other states received reimbursement for similar claims, totaling $44,725,072.38 by March 15, 1892; and

"Whereas the State of Oregon repeatedly submitted appropriate claims for reimbursement pursuant to several Acts of Congress each accompanied by supporting vouchers and affidavits; and

"Whereas the claims of the State of Oregon were approved by Robert Lincoln during his tenure of office as the Secretary of War and by the board of war claims examiners; and

"Whereas the United States Senate passed legislation three times before 1933 to enable the payment of the claims of the State of Oregon; and

"Whereas the claims of the State of Oregon have never been paid and are now long owing; and

"Whereas the State of Oregon desires only that an appropriate forum for the adjudication of its claims be made available; and

"Whereas the United States Court of Claims has refused to exercise jurisdiction over the claims of the State of Oregon for these long-standing debts; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Congress of the United States is memorialized to enact legislation necessary to ensure that the State of Oregon is permitted to adjudicate its claims against the United States before the United States Court of Claims for debts owing since the Civil War period.

"(2) If the United States Court of Claims denies jurisdiction or refuses to exercise jurisdiction over the claims of the State of Oregon arising from the services of this state to the United States during the Civil War period, the President of the Senate and the Speaker of the House of Representatives of the Oregon Legislative Assembly shall cause a copy of this memorial to be sent to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives of the United States Congress and to each member of the Oregon Congressional Delegation."

Senate Joint Memorial No. 15 adopted by the Legislature of the State of Oregon; to the Committee on Appropriations:

"SENATE JOINT MEMORIAL 15

"Whereas the requirements for student consumer information to be imposed upon higher education institutions pursuant to section 131 of the Education Amendments of 1976 will greatly increase the cost of providing educational information; and

"Whereas the federal legislation P.L. 94-482 included appropriation authorizations for implementation of these standards at the institutional level; and

"Whereas the 1977 Supplemental Appropriations for higher education programs include no funding as authorized in the above sections of the Education Amendments of 1976; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) That the Congress of the United States is urged to pass legislation that will provide adequate funding for student consumer information to meet the standards imposed pursuant to the federal legislation.

"(2) A copy of this memorial shall be sent to the presiding officer of each house of the Congress and to each member of the Oregon Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENSON, from the Select Committee on Ethics:

Without amendment:

S. Res. 265. An original resolution amending Senate Resolution 110, 95th Congress, to establish January 1, 1978 as the effective date for public financial disclosure by Senate Members, candidates, officers and certain employees, and for other purposes (Rept. No. 95-448).

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 266. An original resolution to pay a gratuity to the First National Bank of Nevada, Las Vegas, Nevada, as guardian of the Estate of Patricia A. Morton.

S. Res. 267. An original resolution to pay a gratuity to Ernest G. Catucci; Enrico G. Catucci; Peter G. Catucci; Gerard Catucci; Angelo Catucci; Anthony Catucci; Kenneth N. Catucci; Geralyn Humphries; Christine Reeves, and Tinalynn Catucci.

By Mr. CHILES, from the Committee on Governmental Affairs:

With amendments:

S. 431. A bill to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes (Rept. No. 95-449).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CHURCH:

S. 2126. A bill to amend the Consolidated Farm and Rural Development Act, to make the Emergency Livestock Credit Act of 1974 permanent, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCLELLAN:

S. 2127. A bill to amend the Canal Zone Code with respect to the appointment and service of probation officers, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2128. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Finance.

By Mr. HEINZ:

S. 2129. A bill for the relief of Steve Wing-On Yan; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. HATFIELD, Mr. HASKELL, Mr. JAVITS, Mr. STEVENS, and Mr. GRAVEL):

S. 2130. A bill to amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to recognized Indian tribes as are applicable to other governmental units; to the Committee on Finance.

By Mr. WILLIAMS:

S. 2131. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing and Urban Affairs.

By Mr. ALLEN (for himself, Mr. BARTLETT, Mr. STENNIS, Mr. RANDOLPH, Mr. SCHMITT, Mr. DOMENICI, Mr. CHILES, Mr. HANSEN, Mr. THURMOND, Mr. ROBERT C. BYRD, Mr. BAKER, Mr. TALMADGE, Mr. CURTIS, and Mr. DECONCINI):

S.J. Res. 81. A joint resolution to express the sense of the Congress that, in the light of history, the third Thursday in December, 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977"; and respectfully to request that the President, under the provisions of Public Law 82-324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977". Considered and passed.

By Mr. JACKSON:

S.J. Res. 82. A joint resolution to approve the presidential decision on an Alaska Natural Gas Transportation System; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHURCH:

S. 2126. A bill to amend the Consolidated Farm and Rural Development Act, to make the Emergency Livestock Credit Act of 1974 permanent, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FAMILY FARM CREDIT ACT OF 1977

Mr. CHURCH. Mr. President, I am pleased to introduce legislation today that addresses a critical problem facing our Nation's family farm: credit, or more accurately, the lack of it.

Farmers are caught in an economic vise. Prices of most farm commodities are low in dollar terms and particularly so in terms of purchasing power. Yet the cost of things farmers buy or use to produce have as much as doubled in the last 4 years. Prices paid by farmers for commodities and services, interest, taxes, and wage rates are up by one-third since August 1973. The costs of many individual items are up considerably more than average.

The interest payable per acre on farm real estate debt has more than doubled.

Farm wage rates have advanced by an average of 43 percent.

Fertilizer prices paid by farmers have risen about 50 percent.

Farm machinery prices are up almost 80 percent on the average.

Farm and motor supplies have about doubled in price.

Mr. President, I ask unanimous consent that a list of item-by-item comparisons for today's prices and those of 4 years ago be printed in the RECORD immediately following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Historically, the main purpose of the Farmers Home Administration has been to help young and beginning farmers get established in agriculture. Unless FmHA loan levels are realistic, fewer and fewer farmers will be coming into the business, and those already in the business will be forced into bankruptcy. The end result will be a continuing increase in the average age of farmers and the size of farms.

We have made it a national policy to provide special assistance to those wishing to enter agriculture. Unfortunately, our admirable declaration of intent has not been carried out. The solution to this problem lies not in making the Farmers Home Administration another rural bank, but to strengthen its ability to assist in promoting new entries into farming and family farms.

We have saddled Farmers Home with a host of rural development programs that have interfered with its primary mission: to help farmers. We authorize FmHA to make 1-percent loans on housing projects, but charge young farmers with 5-percent loans to purchase farms.

Yes, many have forgotten that Farmers Home was never intended to be just a bank. It is much more than that. FmHA should be the place where farmers can turn when their financial backs are against the wall. Many of our family farms, especially those just starting out, cannot weather the booms and busts of the agricultural economy without help now and then. FmHA should be the place to which farmers turn when no one else will help. FmHA has the flexibility. The Agency can offer technical assistance and personal attention. And FmHA is set up to involve farmers in helping their fellow farmers.

I understand that the Agriculture Committee expects to review the issues raised by this legislation in the near future. It is my hope that the committee will reemphasize and strengthen the mission of Farmers Home: to assist and maintain the family farm tradition of this country. A tradition that has made the American agricultural system second to none.

I ask unanimous consent that the text of the bill be printed in the RECORD preceded by a summary of its provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Item	1973	Now
Pick-up truck, ¾-ton	$3,300.00	$5,650.00
Anhydrous ammonia, ton	92.50	188.00
Grain drill, 24-tube	2,860.00	5,210.00
Disk tiller, 12-ft	1,570.00	2,520.00
Wheel tractor, 90-99 h.p	10,800.00	18,800.00
Tandem disk harrow, 16-ft	2,050.00	4,520.00
Combine, large, self-prop	22,200.00	42,300.00
Corn planter, 4-row	1,830.00	4,450.00
Gasoline, farm del., gal	.328	.572
Diesel fuel, gal	.209	.451
Baler twine, 40-lb. bale	8.96	15.20

SUMMARY OF PROPOSED LEGISLATION

Section 1 allows the act to be cited as the Family Farm Credit Act of 1977.

Section 2 makes corporations and partnerships eligible for farm ownership loans as long as the entity does not become the operator of a larger than family-size farm. The members of the partnership or corporations would have to be members of a family. The credit elsewhere test would apply to both the entity and the stockholders or partners.

Section 3 authorizes farm ownership loans up to $225,000, instead of the present $100,000, and up to $300,000 for guaranteed loans. It eliminates the $225,000 total indebtedness restriction that may exist against a farm and replaces it with a more realistic figure of $450,000.

Section 4 deletes the requirement that the Secretary hold all required escrow funds in a segregated account.

Section 5 eliminates the maximum dollar limitation on the amount of new loans that may be held in the Ag. Credit Ins. Fund, as other funds administered by FmHA.

Section 6 adds a new section which would authorize the Secretary to purchase the guaranteed portion of any outstanding guaranteed loan from the holder and to use the assets of the Ag. Credit Ins. Fund and the Rural Development Ins. Fund for such purposes.

Section 7 eliminates the transfer of employment and overproduction determinations required by section 310B of the Consolidated Farm and Rural Development Act, as well as deleting the Dept. of Labor certification, where the FmHA financial assistance does not exceed $500,000 or where employment will not be increased by more than 20 employees.

Section 8 does for operating loans what section 2 does for farm ownership loans.

Section 9 allows operating loans to be used for farm facility improvements and authorizes farm operating loans up to $100,000, instead of the present $50,000, and up to $225,000 for guaranteed loans. Like section 2, it eliminates the requirement that the county committee certify as the maximum amount of such a loan.

Section 10 provides that the interest rate for guaranteed operating loans will be one negotiated between the borrower and lender.

Section 11 authorizes the consolidation of operating loans.

Section 12 specifies that an eligible partnership for an emergency loan must be a U.S. partnership. A similar requirement is already imposed on corporations.

Section 13 empowers the Secretary to establish an appeal procedure from determinations made by the county committees.

Section 14 exempts guaranteed loans from the credit graduation requirements.

Section 15 empowers other Fed. agencies to become jointly involved with the financing of any program FmHA can finance.

Section 16 authorizes the Secretary to withhold foreclosure action and permit a borrower to lease his farm or ranch to a third person for up to three years if the borrower is unable to meet the mortgage payments due to illness, disability, or other cause beyond his control and will likely be able to meet the required payments if permitted to lease his farm or ranch.

Section 17 makes the Emergency Livestock Credit Act permanent and raises the permissible guarantee to $500,000.

Section 18 authorizes the Secretary to make such rules and regulations necessary to carry out the provisions of this Act.

S. 2126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Family Farm Credit Act of 1977".

SEC. 2. Section 302 of the Consolidated Farm and Rural Development Act is amended by—

(a) deleting the language through the first comma and inserting the following: "The Secretary is authorized to make and insure loans under this subtitle to farmers and ranchers, and to private domestic corporations, partnerships, and other business entities engaged primarily and directly in farming or ranching, in the United States who individually or, in the case of a partnership, each member of the partnership is a member of the family and in the case of a corporation or other business entity, each person who owns any share or interest in the business entity is a member of the family, (1) are citizens of the United States,"; and

(b) inserting at the end thereof the following; "In the case of corporations, partnerships, and other business entities the family farm requirement of item (3) shall apply to the farm or farms in which the entity and each person who owns any share or interest in the business entity or partners, as applicable, have an ownership and operator interest and the requirement of item (4) shall apply both to the entity and each person who owns any share or interest in the business entity or partners. As used in this subsection, the term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.".

SEC. 3. Section 305 is amended by deleting the first sentence and inserting in lieu thereof the following: "The Secretary shall make or insure no loan under sections 302, 303, and 304 of this title which would cause (a) the unpaid indebtedness under these sections to any one borrower to exceed $450,000 of the value of the farm or other security, or (b) the loans under such sections to exceed $225,000, or in the case of a guaranteed loan to exceed $300,000.".

SEC. 4. Section 307(a) is amended by deleting in the unnumbered paragraph following subsection (a)(2) the words "as escrow agent".

SEC. 5. Section 309(f)(1) is amended by changing the period at the end of the first sentence to a semicolon and by deleting the second sentence which reads "The aggregate of the principal of such loans made and not disposed of shall not exceed $500,000,000 at any one time.".

SEC. 6. After section 309A add a new section 309B to read as follows:

"SEC. 309B. The Secretary in his discretion is authorized to purchase, on such terms and conditions as he may deem appropriate, the guaranteed portion of any loan guaranteed pursuant to this title and may use for such purchases funds from the Rural Development Insurance Fund in respect of rural development loans as defined in section 309A (a) and funds from the Agricultural Credit Insurance Fund in respect of all other loans under this title.".

SEC. 7. The language of restrictions appearing in section 310B is amended by adding in each of subsections (1), (2), and (3) after "312(b)" the following: ", except for cases where such assistance does not exceed $500,000 or for cases where direct employment will be increased by not more than twenty employees,".

SEC. 8. Section 311(a) is amended by—

(a) deleting the language through the first comma and inserting the following: "The Secretary is authorized to make and insure loans under this subtitle to farmers and ranchers, and to private domestic corporations, partnerships, and other business entities engaged primarily and directly in farming or ranching, in the United States who individually or, in the case of a partnership, each member of the partnership is a member of the family and in the case of a corporation or other business entity, each person who owns any share or interest in the business entity is a member of the family, (1) are citizens of the United States,"; and

(b) inserting at the end thereof the following: "In the case of corporations, partnerships, and other business entities the family farm requirement of item (3) shall apply to the farm or farms in which the entity or partners, as applicable, have an ownership and operator interest and the requirement of item (4) shall apply both to the entity and each person who owns any share or interest in the business entity or partners. As used in this subsection, the term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.".

SEC. 9. (a) Section 312(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942(a)) is amended by striking out the word "and" at the end of clause (9); striking out the period at the end of such section and inserting in lieu thereof a comma and the following: "and (11) repairing, improving, or constructing any farm facility or building.".

(b) Section 313 of such Act (7 U.S.C. 1943) is amended by deleting at the end of clause (1) "$50,000," and inserting in lieu thereof "$100,000 or, in the case of a guaranteed loan, to exceed $225,000, or", by changing the comma following the word "program" to a period, and by deleting the balance of the sentence.

SEC. 10. Section 316 is amended by—

(a) inserting in the third sentence after the word "Loans" the phrase ", other than guaranteed loans,"; and

(b) adding a new sentence at the end of such section as follows: "Guaranteed loans made under this subtitle shall bear interest at such rate as may be agreed upon by the borrower and the lender.".

SEC. 11. (a) Section 317 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1947) is amended by striking out "except" in the parenthetical matter and inserting in lieu thereof "including consolidated loans made under section 318 of this Act, but not including loans made under".

(b) Subtitle B of such Act is amended by adding at the end thereof a new section as follows:

"SEC. 318. (a) Notwithstanding the provisions of sections 312 and 316 of this Act, and any other provision of law, two or more operating loans may be refinanced and consolidated under this subtitle at the request of the borrower, subject to the approval of the Secretary, without regard to whether such loans have been previously renewed.

"(b) In any case in which operating loans are refinanced and consolidated under this section, the Secretary may, in his discretion, release any or all of the security for the prior loans and require such new security as he deems necessary.

"(c) Consolidated loans made under this section shall bear interest at a rate computed in accordance with the provisions of section 316 and shall be payable in not more than ten years, but in no event may any such loan be made for a period longer than the useful life of the security therefor. The interest and maturity period of any such loan shall be computed from the date of consolidation thereof.".

SEC. 12. Section 321 of such Act is amended by adding to section 321(b)(2) after "partnership" the words "of the United States".

SEC. 13. Section 333(b) is amended by deleting the semicolon at the end thereof and inserting the following: ": *Provided, however,* That the Secretary may provide a procedure for appeal and review of any determination relating to a certification or recommendation required to be made by the county committee under this title, and for reversal or modification thereof should the fact warrant such action.".

SEC. 14. Section 33(c) is amended by inserting at the beginning thereof the following: "except for guaranteed loans,".

SEC. 15. At the end of such Act, after section 345, add a new section 346 to read as follows:

"SEC. 346. Notwithstanding any other provision of law, departments, agencies, and executive establishments of the Federal Government may participate and provide financial and technical assistance jointly with the Secretary to any applicant to whom assistance is being provided under any program administered by the Farmers Home Administration. Participation with the Secretary by any other department, agency, or executive establishment shall be only to the extent authorized for, and subject to the authorities of, such other department, agency, or establishment, except that any limitation on joint participation is superseded by this Act.".

SEC. 16. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized, in any case in which he is required to satisfy the terms of any loan insured or guaranteed by the Farmers' Home Administration or in any case in which he is required to foreclose on a loan made by the Farmers' Home Administration and such action would result in the borrower of such loan losing his farm or ranch, the Secretary may withhold any foreclosure action and permit the borrower to rent or lease the farm or ranch to a third person for a temporary period of time, not to exceed 36 months, if the Secretary finds that the borrower—

(1) is unable to meet the mortgage pay-

ments on the farm or ranch because of illness, physical disability, or other cause beyond the control of the borrower, and

(2) will likely be able to meet the mortgage payments if permitted to rent or lease the farm or ranch.

SEC. 17. (a) Clause (3) of section 3(a) of the Emergency Livestock Credit Act of 1974 is amended to read as follows:

"(3) the loan is for the purpose of maintaining the operation of the loan applicant, and the total loans made to the loan applicant do not exceed the amount necessary to permit the continuation of his livestock operations at a level equal to its highest level during (A) the eighteen months immediately preceding the date of enactment of this Act in the case of loans made prior to the date of enactment of the Family Farm Credit Act of 1977, or (B) the five-year period immediately preceding the date of the loan application in the case of loans made after the date of enactment of the Family Farm Credit Act of 1977, but in no event may the total loans guaranteed under this Act for any loan applicant exceed $500,000 outstanding."

(b) Section 8 of such Act is amended to read as follows:

"SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

SEC. 18. The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions and purpose of this Act.

By Mr. McCLELLAN:

S. 2127. A bill to amend the Canal Zone Code with respect to the appointment and service of probation officers, and for other purposes; to the Committee on the Judiciary.

CANAL ZONE PROBATION OFFICER TRANSFER

Mr. McCLELLAN. Mr. President, I am introducing today a bill to provide for the transfer of the probation personnel from the Canal Zone Government to the Federal probation system. This legislation was proposed by the Judicial Conference of the United States and has the approval of the Governor of the Canal Zone.

With the revision of the Canal Zone Code in 1963, a probation/parole unit was established in the Canal Zone under the administration of the Civil Affairs Director. The unit's duties are largely patterned upon section 3655, title 18, United States Code, which provides probation service to the U.S. district courts under the administration of the Director of Administrative Office of the U.S. Courts.

Mr. President, I am informed that the Canal Zone probation office is the only one under the American flag that is not part of the Federal system. The Probations offices of Guam, the Virgin Islands, and Puerto Rico are all under the Federal probation system. It is believed that a transfer would permit the Canal Zone probation officers to participate more fully in training programs and other considerations which might not otherwise be available to them.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this point some pertinent documents on this measure.

There being no objection, the material was ordered to be printed in the RECORD as follows:

Hon. WALTER F. MONDALE,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the Judicial Conference of the United States I am transmitting herewith a draft bill, approved by the Conference at its March 10–11, 1977, meeting, to amend chapter 15 of title 3 of the Canal Zone Code (Act of October 18, 1962, 72A Stat. 70), to provide for the transfer of the probation personnel from the Canal Zone Government to the Federal Probation System.

Probation personnel serving the court for the District of the Canal Zone currently work under the direction of the Civil Affairs Director of the Canal Zone Government. The proposed transfer would ally them more closely with the United States District Court, permit them to be fully integrated into the Federal Probation System, and afford them the benefits of the training programs and administrative support that other personnel of the Federal Probation System currently enjoy.

Should the Congress wish any further information or testimony in regard to this proposed amendment, representatives of this office will be pleased to comply.

Respectfully submitted,

ROWLAND F. KIRKS,
Director.

REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES—MARCH 10–11, 1977, WASHINGTON, D.C.

PROBATION SYSTEM FOR THE CANAL ZONE

The Conference approved and authorized the Director of the Administrative Office to transmit to the Congress proposed legislation which would transfer the probation personnel of the United States District Court for the District of the Canal Zone from the Canal Zone Government to the federal probation system. Judge Wollenberg pointed out that such transfer would save the Canal Zone Government the expense of administering the office and would ally the probation personnel more closely with the United States District Court. It would have the further effect of permitting the Canal Zone office to be fully integrated into the federal probation system and would afford its personnel the benefits of training programs and administrative support that other personnel of the federal probation system currently enjoy.

CANAL ZONE GOVERNMENT,
Balboa Heights, Canal Zone, Apr. 27, 1977.

Hon. GUTHRIE F. CROWE,
U.S District Judge for the District of the Canal Zone, Balboa Heights, Canal Zone

DEAR JUDGE CROWE: This is in response to your letter of January 27, 1977 concerning a proposal to transfer the probation office of the district and magistrates' courts in the Canal Zone to the Administrative Office of U.S. Courts.

Our General Counsel has now completed his study of the proposal and advises that the same is legally unobjectionable as long as it causes no diminution of this office's authority with respect to parole. As I understand it, the Administrative Office is in accord with my retention of control over the parole function of the probation officers and, accordingly, I have no objection to the introduction of legislation necessary to effect the transfer.

With regard to the draft bill which accompanied your letter, our review indicates that there may be some need for revision. I am enclosing for your consideration a legislative proposal prepared by our legal staff which I believe would, if enacted, make the appropriate changes to the Canal Zone and United States codes.

Sincerely yours,

H. R. PARFIT,
Governor.

By Mr. INOUYE:

S. 2128. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Finance.

Mr. INOUYE. Mr. President, I rise today to introduce a bill which I believe will have an important effect on the tax relief this country provides for elderly persons with little or no social security.

For many of our citizens, old age is not a time of peace but of impoverishment. Elderly people find themselves on a fixed income, the value of which is constantly being gnawed away by inflation. At the same time, they are finding themselves more and more in need of expensive medical services. Recognizing their predicament, the Federal Government has long had a policy of according them some form of tax relief.

The Government achieves this objective for the overwhelming majority of the elderly population by granting tax-free status to income received from the social security system. For those not covered by social security, we attempt to achieve this objective through the tax credit for the elderly enacted last year as part of the Tax Reform Act of 1976. However, I regret to say that experience with the tax credit for the elderly seems to indicate that it has structural deficiencies and inadequate credit levels which make its intended relief grossly inadequate. Ironically, enactment of the tax credit for the elderly has also contributed significantly to an ever-widening gap between the tax treatment of these two groups of older Americans, those who receive social security and those who do not.

The purpose of this legislation is to rectify the deficiencies in the tax credit for the elderly by providing permanent and slightly more substantial relief for those not covered by social security. This legislation attempts to do this by raising the maximum base figures used in computing the credit and by abolishing the present phaseout provisions. Additionally, the bill contains an escalator clause which is designed to keep the credit it provides at a meaningful level as the cost of living increases. I urge early and favorable action on this bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 37 of the Internal Revenue Code of 1954 (relating to limitations on credit for the elderly) is amended to read as follows:

"(c) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this

section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year."

(b) Paragraph (2) of section 37(b) of such Code (defining initial amount) is amended—

(1) by striking out "$2,500" each place it appears and inserting in lieu thereof "$3,000",

(2) by striking out "$3,750" and inserting in lieu thereof "4,500", and

(3) by striking out "$1,875" and inserting in lieu thereof "$2,250".

(c) Subsection (b) of section 37 of such Code (relating to section 37 amount) is amended by adding at the end thereof the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1977, each dollar amount contained in paragraph (2) shall be increased by an amount equal to the product of such dollar amount (without regard to this paragraph) multiplied by the percentage (if any) by which the Consumer Price Index prepared by the Department of Labor for July of such calendar year exceeds such index for July of 1977. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be increased to the next higher multiple of $10."

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

By Mr. PACKWOOD (for himself, Mr. HATFIELD, Mr. HASKELL, Mr. JAVITS, Mr. STEVENS, and Mr. GRAVEL):

S. 2130. A bill to amend the Internal Revenue Code of 1954 to provide the same tax exemptions and general tax treatment to recognized Indian tribes as are applicable to other governmental units; to the Committee on Finance.

Mr. PACKWOOD. Mr. President, Senators HATFIELD, HASKELL, JAVITS, STEVENS, GRAVEL and I are today introducing the Indian Tribal Government Tax Status Act.

This bill is virtually identical to H.R. 4089, which was introduced in the House of Representatives by Congressman ULLMAN on February 24, 1977. Hearings were held before the House Ways and Means Committee on September 7, 1977, and the Subcommittee on Miscellaneous Revenue Measures met yesterday to mark up the bill. We are hopeful that favorable action can be taken by both Houses in the near future.

The basic purpose of this bill is to provide recognized Indian tribes and Alaskan Native villages with generally the same tax treatment as is presently available to other governmental units. Indian tribes and Alaskan Native villages already perform many substantial government functions, such as law enforcement, land use planning, water, sewer and garbage services, housing, and social and health programs. The government role provided by Indian tribes is recognized in the revenue sharing program, which provides funds for Federal or State-recognized Indian tribes and Alaskan Native villages which perform substantial government functions. Yet under our present tax laws, tribes which perform these government functions do so without the tax status enjoyed by local governments providing the same service.

The Indian Tribal Government Tax Status Act would remedy this inequitable situation. This bill would extend to Indian tribal governments exemption from several Federal excise taxes, allows contributions to Indian tribal governments to be tax deductible, allows Indian tribal governments to issue tax-exempt bonds, allows citizens paying taxes to Indian tribal governments to deduct them for Federal income tax purposes, and provides that Indian tribal governments will be taxed like local governments in several other respects.

The Indian Tribal Government Tax Status Act would reaffirm the goal of self-determination for Indians and Alaskan Natives.

I ask unanimous consent that the Indian Tribal Government Tax Status Act be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as "The Indian Tribal Government Tax Status Act".

(b) Whenever in this Act an amendment is made to a section or other provision, the amendment is to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

The Congress finds that—

(a) the governmental status and powers of Indian tribes have been repeatedly recognized and affirmed by the Congress, the executive branch, and the courts from the earliest days of the Republic, and

(b) notwithstanding such recognition, Indian tribes are subject to certain Federal taxes from which States and subdivisions of States are exempt, and

(c) the exemption of Indian tribal governments from such taxes would be consistent with the Federal laws and treaties recognizing the governmental status of Indian tribes and with the role of Indian tribes in providing public service to Indians.

SEC. 3. RECOGNIZED INDIAN TRIBES TREATED AS STATES FOR CERTAIN PURPOSES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Provisions Affecting More Than One Subtitle

"Sec. 7871. Recognized Indian tribes treated as States for certain purposes.

"SEC. 7871. RECOGNIZED INDIAN TRIBES TREATED AS STATES FOR CERTAIN PURPOSES.

"A recognized Indian tribe shall be treated as a State—

"(1) for purposes of determining whether contributions or transfers to or for the use of such a tribe are deductible under—

"(A) section 170 (relating to income tax deduction for charitable, etc., contributions and gifts),

"(B) sections 2055 and 2106(a)(2) (relating to estate tax deduction for transfers for public, charitable, and religious uses), or

"(C) section 2522 (relating to gift tax deduction for charitable and similar gifts);

"(2) for purposes of any exemption from, or refund of, an excise tax imposed by—

"(A) chapter 31 (relating to tax on special fuels),

"(B) chapter 32 (relating to manufacturers excise taxes),

"(C) subchapter B of chapter 33 (relating to communications excise tax), or

"(D) subchapter D of chapter 36 (relating to tax on use of certain highway vehicles);

"(3) for purposes of section 164 (relating to deduction for taxes);

"(4) for purposes of section 511(a)(2)(B) (relating to the taxation of colleges and universities which are agencies or instrumentalities of governments or their political subdivisions); and

"(5) for purposes of—

"(A) section 37(e)(8)(A) (relating to certain public retirement systems),

"(B) section 41(c)(4) (defining State for purposes of credit for contributions to candidates for public offices),

"(C) section 117(b)(2)(A) (relating to scholarships and fellowship grants), and

"(D) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities).

For the purposes specified in the preceding sentence and for purposes of section 103, a subdivision of a recognized Indian tribe shall be treated as a political subdivision of a State only if such subdivision is recognized by the Secretary, after consultation with the Secretary of the Interior, as performing one or more substantial governmental functions."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER C. Provisions affecting more than one subtitle".

SEC. 4. INTEREST ON GOVERNMENTAL OBLIGATIONS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 103(a) (relating to interest on certain governmental obligations) is amended by striking out "or a possession of the United States" and inserting in lieu thereof "a possession of the United States, or a recognized Indian tribe,".

(2) Subsection (a) of section 103 is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any obligation (other than an industrial development bond) issued by a recognized Indian tribe all or a major portion of the proceeds of which are to be used directly or indirectly in any commercial or industrial activity.".

(b) INDUSTRIAL DEVELOPMENT BONDS.—

(1) Subparagraph (A) of section 103(b)(3) is amended by inserting "(including a recognized Indian tribe)" after "a governmental unit".

(2) Section 103(b) is amended by adding at the end thereof the following new paragraph:

"(8) OBLIGATIONS ISSUED BY RECOGNIZED INDIAN TRIBES.—An industrial development bond issued by a recognized Indian tribe may be treated as described in subsection (a)(1) only if—

"(A) the principal activities of the trade or business are to be carried on in the area reserved—

"(i) by Federal statute, Executive order, or treaty to the Indian tribe issuing the obligation, or

"(ii) by order of the Secretary of Interior to such tribe prior to the date of the enactment of this paragraph, except that lands added to existing reservations by action of the Secretary of the Interior through consolidation or land exchange programs will be considered parts of the original reservation for purposes of this paragraph.

"(B) substantially all of the activities of the trade or business to be carried on outside of such area are purchasing, marketing, or similar activities directly related to the activities described in subparagraph (A)."

(3) Section 103(b)(6)(E) is amended by adding at the end thereof the following new sentence: "Where there is an issuer which is a recognized Indian tribe and another issuer, this subparagraph shall be

applied separately with respect to each such issuer."

SEC. 5. DEFINITION OF RECOGNIZED INDIAN TRIBE.

Subsection (a) of section 7701 (relating to definitions is amended by adding at the end thereof the following new paragraph:

"(37) RECOGNIZED INDIAN TRIBE.—The term 'recognized Indian tribe' means any tribe, band, community, village, or group of Indians or Alaska Natives which is recognized by the Secretary, after consultation with the Secretary of the Interior, as performing substantial governmental functions."

SEC. 6. EFFECTIVE DATES.

The amendments made by sections 3, 4, and 5—

(1) insofar as they relate to chapter 1 of the Internal Revenue Code of 1954, shall apply to taxable years beginning after September 30, 1977,

(2) insofar as they relate to chapter 11 of such Code, shall apply to the estates of decedents dying after September 30, 1977,

(3) insofar as they relate to Chapter 12 of such Code, shall apply to gifts made after September 30, 1977, and

(4) insofar as they relate to taxes imposed by subtitle D of such Code, shall take effect on October 1, 1977.

Mr. JAVITS. Mr. President, I am pleased to join my distinguished colleague from Oregon as a cosponsor of this legislation. Senator PACKWOOD has set forth the case most thoroughly. I wish to note that Indian tribes in my own State of New York support this measure as a further step in the important goal of fostering Indian tribal self-government. I ask unanimous consent that the resolution supporting this bill, unanimously adopted by one of these tribes, the Seneca Nation of Indians, be inserted in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION—H.R. 4089

Motion by Floyd Bucktooth, Seconded by Francis George, to adopt the following Resolution:

Whereas the effective exercise of sovereignty by the Seneca Nation of Indians of New York and the provision of adequate services to members of the Seneca Nation depend on the existence of a sound and independent revenue base; and

Whereas the ability of the Seneca Nation of Indians to establish a sound and independent revenue base is severely impaired by the present failure of the Internal Revenue Code of 1954 to accord to Indian tribal governments the benefits bestowed upon other units of government, including the deductibility of taxes and contributions paid to them, their exemption from various federal excise taxes and the exempt status of interest paid by them to holders of their obligations; and

Whereas the Indian Tribal Government Tax Status bill (H.R. 4089) now pending in the United States House of Representatives would equalize the federal tax treatment of Indian tribal governments' revenue measures with that now enjoyed by other units of government; and

Whereas such equalized federal tax treatment conforms to the federal policy of fostering Indian tribal self-government embodied, *inter alia*, in the Indian Self-Determination and Education Assistance Act, P.L. 93-638;

Now, therefore, be it resolved that the Seneca Nation of Indians, acting through the Seneca Council, hereby endorses the federal tax policies embodied in the Indian Tribal Government Tax Status bill (H.R. 4089), and

Be it further resolved that the Seneca Nation of Indians hereby respectfully requests that Senators Jacob K. Javits and Daniel Patrick Moynihan of New York act as co-sponsors of the Senate companion bill to H.R. 4089 to further Indian self-determination and to strengthen Indian tribal government.

By Mr. WILLIAMS:

S. 2131. A bill to amend the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WILLIAMS. Mr. President, today, I am introducing a bill to amend the Securities Exchange Act of 1934 to require the Federal bank regulatory agencies to adopt rules and regulations to govern banks effecting transactions in securities for their customers. The bill is designed to subject banks which offer services which are the functional equivalent of those provided by broker-dealers to the investor protection safeguards which have been embodied in the Securities Exchange Act since 1934. The bill would eliminate regulatory disparities which hold significant potential for injury to investors while at the same time avoid excessive regulation or duplication by maintaining the current pattern of regulation of bank activities by the Federal banking agencies.

This bill is the result of a study of bank securities activities which the Congress directed the Securities and Exchange to conduct in 1975. Specifically, the SEC was directed to study the extent to which banks maintain accounts on behalf of public customers for buying and selling publicly traded securities and determine whether the exclusions of banks from the statutory definitions of "broker" and "dealer" are consistent with the protection of investors and the other purposes of the Exchange Act. In addition, the Congress directed the Commission to study the adequacy of the regulation of banks insofar as they engage in securities activities.

The Commission submitted its report to the Congress in three installments. The final report was transmitted on June 30, 1977. I should note that the Committee on Banking, Housing and Urban Affairs has printed this study as a committee print in order to disseminate the important information it contains as broadly as possible. Together with the two earlier installments, the final report represents a significant step toward understanding the expanding and rapidly changing nature of the financial services industry. I believe the Commission's work deserves careful consideration and prompt attention by the Congress and by the Federal banking agencies that regulate and supervise commercial banks.

While the Commission's contribution is significant, it is only part of much larger reexamination of the public policies, laws, and regulations that form the cornerstones of our highly successful financial system. As my colleagues are aware, the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs is conducting a broader inquiry into the Federal banking and securities laws. The subcommittee's report is scheduled for completion during the current Congress, and will result in legislation designed to clarify, modify, or reaffirm the public policies and laws developed in the 1930's.

At the present time, however, the investigatory work of the Securities and Exchange Commission has established that some bank brokerage and investment management activities are not subject to an entirely adequate regulatory structure. It reinforces a number of concerns raised in the subcommittee's earlier hearings on bank securities activities. The Commission's final report identifies specific inadequacies and recommends a combination of both administrative and legislative efforts designed to enhance those basic investor safeguards currently available to bank customers. In addition, the Commission has identified regulatory disparities which, unless corrected, may result in undetected securities law violations resulting from bank securities activities.

Accordingly in view of both the Commission's willingness to submit legislation to effectuate its recommendations and its expertise in the regulation of securities activities for the protection of investors, I asked the Commission to prepare and submit legislation to implement the recommendations of the final report. It is this legislation which I am introducing today so that necessary and desirable improvements in the basic system of investor protection can be made without further delay. The SEC's legislation can then be considered in connection with the subcommittee's interim report scheduled to be completed in the next several months.

Mr. President, I want to stress that this bill, as well as the underlying report on which it is based, is only the beginning of a long and comprehensive reexamination of the changing nature of key financial institutions and the adequacy of existing regulation. For example, there are many aspects of bank securities activities that the Commission's study and legislative recommendations do not and were not intended to address. However, this bill will allow the commencement of legislative consideration to assure the application of basic investor safeguards on behalf of public customers in connection with bank securities services.

Comprehensive financial reform has been the subject of intensive study and legislative effort by Congress and the executive branch over the last 10 years. Attention has been given to both the competitive and regulatory problems of the securities industries and various depository institutions; such as commercial banks, savings and loans, mutual savings banks and credit unions, the needs of customers and the national interest in an efficient financial system. The study completed by the Commission, and the one now in process by the Subcommittee on Securities, will contribute to the Congress ability to chart, through additional legislation, the course for comprehensive financial reform.

Mr. President, the securities markets play a pivotal role in the vitality of our economy. I believe a reexamination of

the provisions of both the banking and securities laws that set the pattern of regulation, and so directly affect the functioning of the marketplace, must be undertaken if our financial services industry is to be attuned to the needs of the 1980's and beyond. The bill which I am introducing today will begin the analysis of necessary improvements in the statutory and regulatory framework the financial services industry is presently operating under while continued attention can be focused on long-term reforms.

Mr. President, I ask unanimous consent that the transmittal letter from Chairman Harold M. Williams of the Securities and Exchange Commission, the accompanying materials, and the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bank Securities Services Reform Act of 1977".

SEC. 2. The Securities Exchange Act of 1934 is amended by inserting after section 15B the following new section:

"TRANSACTIONS IN SECURITIES BY BANKS FOR CUSTOMERS

"SEC. 15C. (a)(1) Each appropriate regulatory agency shall adopt rules and regulations as necessary or appropriate in the public interest and for the protection of investors with respect to effecting transactions in securities for customers by banks for which it is the appropriate regulatory agency. The rules and regulations of each appropriate regulatory agency with respect to such transactions, at a minimum, shall—

"(A) prescribe standards of competence and supervision for persons associated with a bank. In connection with such standards, the appropriate regulatory agency may require such persons to pass specified examinations with respect to Federal securities laws, the operation of the securities markets and other relevant matters;

"(B) prescribe records to be made and kept and the periods for which such records shall be preserved; and

"(C) prescribe transactional or periodic reports to customers concerning such transactions.

"(2) Each appropriate regulatory agency shall adopt specific procedures to monitor and enforce compliance with this section and rules and regulations thereunder and other provisions of the Federal securities laws. In this connection, the appropriate regulatory agency shall ensure that bank examiners receive training regarding the Federal securities laws and the operation of the securities markets and other relevant matters.

"(3) In acting pursuant to this subsection, each appropriate regulatory agency may classify persons, securities, transactions, reports, procedures and other matters, and prescribe greater, lesser, or different requirements for different classes thereof.

"(4) In acting pursuant to this subsection, each appropriate regulatory agency regularly shall consult and request the views of the Commission, and shall coordinate with the other appropriate regulatory agencies to ensure insofar as practicable the uniformity of rules, regulations, examination procedures and bank examiner training programs.

"(b)(1) Each appropriate regulatory agency shall advise the Commission by quarterly reports of the identity of those banks for which examination reports have been completed (and received by the appropriate regulatory agency, in the case of an examination by State authorities) during such period and which effected transactions in securities for customers. Such information shall be furnished to the Commission not later than 60 days after the end of each quarterly period.

"(2) Upon the request of the Commission, each appropriate regulatory agency shall furnish the Commission with those portions of an examination report, and any data supplied to it in connection with an examination, regarding a bank's effecting transactions in securities.

"(3) Upon having reasonable cause to believe that there may exist a violation of Federal securities laws by a bank or a person associated with a bank, the appropriate regulatory agency for such bank shall notify the Commission of its belief and the grounds therefor.

"(c) In administering and enforcing compliance with this section and rules and regulations thereunder, the appropriate regulatory agency shall consider and act in the public interest and for the protection of investors.

"(d)(1) No bank shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in contravention of any rule or regulation of its appropriate regulatory agency with respect to banks' effecting transactions in securities for customers.

"(2) The appropriate regulatory agency for a bank may, in accordance with section 8 of the Federal Deposit Insurance Act, enforce compliance by such bank or a person associated with such bank with the provisions of this section and the rules and regulations thereunder. For purposes of the preceding sentence, any violation of any such provision shall constitute adequate basis for the issuance of an order under section 8 (b) or 8(c) of the Federal Deposit Insurance Act, and the customers for whom the bank effects transactions in securities shall be deemed to be 'depositors' as that term is used in section 8(c) of that Act.

"(3) Nothing in this section shall be construed to impair or limit the power of the Commission or the appropriate regulatory agency to initiate any other action pursuant to this title or any other provision of law.

"(e) For purposes of this section—

"(1) the term 'customer' includes, among other persons, a person for whom a bank acts as agent or trustee;

"(2) The term 'Federal securities laws' means this title, the Securities Act of 1933, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940, and any rules and regulations under such Acts;

"(3) the term 'person associated with a bank' means any person directly engaged in the management, direction, supervision or performance of a bank's effecting transactions in securities for customers, and any person directly or indirectly controlling such activities or controlled by a bank in connection with such activities; and

"(4) the term 'security' means any security as defined in section 3(a)(10) of this title other than (A) a security which is issued or guaranteed as to principal or interest by the United States, or (B) a municipal security as defined in section 3(a)(29) of this title.".

SEC. 3. Section 3 (a) (34) of the Securities Exchange Act of 1934 is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) When used in section 15C of this title—

"(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or, in cases other than a bank specified in clause (i) or (iii) of this subparagraph, a bank which is a bank holding company or subsidiary thereof; and

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System).".

WASHINGTON, D.C.,
September 15, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: Please find enclosed, pursuant to your request of July 13, 1977, legislation prepared by the Commission which would implement the recommendations contained in our Final Report on Bank Securities Activities ("Final Report").

The proposed legislation would amend the Securities Exchange Act of 1934 in order, among other things, to mandate the appropriate Federal bank regulatory agencies to adopt rules and regulations to govern banks effecting transactions in securities for their customers, as recommended in the Final Report. The amendments take the form of two suggested additions to the Exchange Act, a new Section 15C and an amendment to a definitional provision in Section 3(a)(34). We are also enclosing a legislative comment on the proposals, including a section-by-section analysis. Should you or your staff have any questions with respect to these materials, we would be pleased to be of assistance.

The proposed legislation strictly adheres to the scope of the Commission's study and the recommendations therein made. As pointed out in the attached legislative analysis, there are areas (such as bank transactions in municipal and governmental securities for customers, which the Commission was not authorized to study, and which therefore are not included in the proposed legislation) which are similar to the areas covered by the study and which may well be appropriate for further legislative attention.

The views herein are those of the Commission and do not necessarily reflect the views of the President. Our views are being submitted simultaneously to the Office of Management and Budget, and we will inform you of any advice we receive from that office concerning the relationship of our views to the program of the Administration.

As is our usual practice with legislative recommendations prepared by us, we are also submitting copies of these proposals to the Speaker of the House, the President of the Senate and the Chairman of the House Subcommittee on Consumer Protection and Finance. In addition, we are sending a copy of the legislative recommendations to the Chairman of the House Subcommittee on Oversight and Investigations.

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

PROPOSED LEGISLATIVE COMMENT

I. INTRODUCTION

Pursuant to a Congressional direction in the Securities Acts Amendments of 1975, the Securities and Exchange Commission (the "Commission") conducted a study of the extent to which banks maintain accounts on behalf of public customers for buying and selling publicly traded securities and whether the exclusions of banks from the definitions of "broker" and "dealer" in the Securities Exchange Act of 1934 (the "Exchange Act") are consistent with the protection of investors and other purposes of that Act. In this regard, the Congress directed the Commission to study the adequacy of the regulation of banks insofar as they engage in secu-

rities activities and to report to the Congress the results of its study together with such recommendations for legislation as it deemed advisable.

In the course of the study, the Commission submitted to the Congress three Reports on Bank Securities Activities. The Initial Report presented detailed factual and statistical analyses of four bank-sponsored brokerage-type services which are similar to services offered by broker-dealers. The Second Report set forth the comparative regulatory framework relating to banks and broker-dealers in offering and operating each of the four services from the point of view of investor protection. The Final Report examined the corporate financing services and trust department securities trading activities of banks. The Final Report also included the Commission's conclusions and recommendations for legislation regarding all of these bank securities activities.

Although the Commission concluded that eliminating the exclusions of banks from the definitions of "broker" and "dealer" in some respects would result in duplicative and unduly burdensome regulation, the Commission established that some bank brokerage and investment management activities are not subject to an entirely adequate regulatory structure. Such documentation reinforced a number of concerns raised by earlier Congressional hearings on bank securities activities. In addition, the Commission's study identified regulatory disparities which, unless corrected, may result in undetected securities law violations resulting from bank securities activities.

The Commission in its Final Report submitted to the Congress specific recommendations, which are incorporated in this legislation, to enhance those basic investor safeguards currently unavailable to bank customers and to prevent regulatory disparities from recurring with the passage of time. This legislation would amend the Exchange Act by adding a new Section 15C.

II. SECTION-BY-SECTION ANALYSIS

Section 15C(a)(1)—Appropriate Regulatory Agency Rules and Regulations:

The Commission's study established that the federal banking agencies in many cases have not adopted specific requirements relating to important areas of investor protection regarding securities transactions effected for customers. Such areas include the competency and supervision of personnel, record-keeping requirements and transactional and periodic reports to customers. Consequently, actual bank practices in these areas have varied and have not always adequately ensured investor protection.

Therefore, Section 15C(a)(1) would provide a clear statutory basis and a Congressional mandate for the federal banking agencies to adopt rules and regulations to govern banks' effecting transactions in securities for customers, specifically including the areas of bank practices discussed above. It further would establish a statutory framework which would provide through Section 15C(a)(3) for coordinating among the federal banking agencies to ensure the uniformity of their regulating securities transactions for customers, for consulting the Commission to take advantage of that agency's expertise in securities matters, and, through other provisions of law, for providing the public an opportunity to comment upon proposed rules and regulations.

Section 15C(a)(2)—Compliance Procedures:

Bank examinations have focused principally upon matters which affect bank solvency. However, the significant role of banks in effecting securities transactions for customers require that investor protection and compliance with the federal securities laws also should be primary factors in examining these activities. Furthermore, the federal banking agencies do not have uniform standards in this area regarding the conduct of such examinations and in training bank examiners. Therefore, Section 15C(a)(2) would direct each appropriate regulatory agency to adopt specific examination and enforcement procedures regarding such securities transactions. Additionally, each agency would be required to specifically train its bank examiners in the requirements of the federal securities laws, in the operation of the securities markets, and other relevant matters.

Section 15C(a)(3)—Classification:

The appropriate regulatory agency may determine that under limited circumstances it is consistent with the public interest and the protection of investors to adopt different requirements or procedures regarding certain banks, persons associated therewith, transactions or classes of securities or other matters under this Section. For example, banks which effect only small transactions and which are wholly dependent upon the broker-dealer to obtain best executive might be excluded from competency requirements regarding trading skills. In this connection, Section 15C(a)(3) would provide in part that the appropriate regulatory authorities may classify persons, securities, transactions, reports, procedures and other matters, and prescribe greater, lesser, or different requirements for different classes thereof.

Section 15C(a)(4)—Consultation and Cooperation:

In order to take advantage of the Commission's expertise in such matters and to reduce the likelihood of disparities in the regulation of functionally similar activities as between securities regulation and banking regulation, each appropriate regulatory agency in acting pursuant to Section 15C(a) would be directed to consult regularly with the Commission. This consultation would include the need for revisions or additions to such agency's rules and regulations. This procedure would increase the cooperation between the Commission and the federal banking agencies presently mandated by the Exchange Act under Section 17A(d)(3)(A)(i), which directs prior consultation among the Commission and the appropriate regulatory agency regarding rules and regulations that concern a clearing agency or transfer agent, and under Section 13(f)(4), which directs the Commission to consult the federal banking agencies and others in exercising its authority regarding reports by institutional investment managers.

Furthermore, each federal banking agency would be required to coordinate with the other such agencies to ensure insofar as practicable the uniformity of rules, regulations, examination procedures and bank examiner training programs regarding banks' effecting securities activities for customers.

Section 15C(b)—Notice to the Commission of Examinations, Request of the Commission for Examination Reports, and Notice to the Commission of Possible Securities Law Violations:

Paragraph (1) of Section 15C(b) would require each appropriate regulatory agency to report quarterly (not later than 60 days after the end of each quarterly period) to the Commission the identity of those banks for which examination reports have been prepared during such period and which affected transactions in securities for customers. Paragraph (2) of Section 15C(b) would direct each such agency to furnish upon request of the Commission any portion of an examination report, and any data supplied to such agency in connection with an examination regarding a bank's effecting such transactions. This procedure, which is similar to the procedure mandated by Exchange Act Section 17(c)(3) for examination of bank transfer agents, would contribute to the uniformity of such examination and would provide the Commission with an ongoing awareness of the manner in which these bank securities activities are conducted.

Paragraph (3) of Section 15C(b) would require the appropriate regulatory agency to notify the Commission in the event that it has reasonable cause to believe that there may exist a violation of federal securities laws by a bank or a person associated with a bank. Notification of such belief and the grounds therefor would assist the Commission in performing its responsibilities under the federal securities laws and permit uniform enforcement of those laws.

Although it would not be specifically required by this legislation, it is understood that the Commission would continue its practice of cooperating with the appropriate regulatory agency in connection with entering formal orders of investigation or commencing proceedings against banks or persons associated with banks.

Section 15C(c)—Public Interest and Protection of Investors:

In administering and enforcing compliance with Section 15C and rules and regulations thereunder, the appropriate regulatory agency would be required to consider and act in the public interest and for the protection of investors.

Section 15C(d)—Enforcement:

Paragraph (1)—This paragraph would provide that no bank shall effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security in contravention of any rule or regulation of an appropriate regulatory agency with respect to banks' effecting transactions in securities for customers.

Paragraph (2)—This paragraph would provide that the appropriate regulatory agency may enforce compliance by such bank or a a person associated with such bank in accordance with Section 8 of the Federal Deposit Insurance Act. Any violation of this section or any rule or regulation thereunder would constitute a violation of the Federal Deposit Insurance Act.

Paragraph (3)—Nothing in Section 15C would be construed to impair or limit the power of the Commission or the appropriate regulatory agency to initiate any other action pursuant to the Exchange Act or any other provision of law.

Section 15C(e)—Definitions:

Section 15C(e) defines certain terms for purposes of Section 15C.

Paragraph (1)—The term "customer" would include, among other persons, a person for whom a bank acts as agent or trustee.

Paragraph (2)—The term "federal securities laws" would mean the Exchange Act, the Securities Act of 1933, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940, and any rules and regulations under such acts.

Paragraph (3)—The term "person associated with a bank" would mean any person directly engaged in the management, direction, supervision or performance of a bank's effecting transactions in securities for customers, and any person directly or indirectly controlling such activities or controlled by a bank in connection with such activities.

Paragraph (4)—The term "security" would mean any security as defined in Section 3(a)(10) of the Exchange Act other than (A) a security which is issued or guaranteed as to principal or interest by the United States or (B) a municipal security as defined in Section 3(a)(29) of the Exchange Act.

The Commission was not authorized to examine banks' transacting for customers in those securities which are exempted from the definition of securities in this paragraph. However, to the extent that such transactions are similar to transactions in those securities included in that definition, bank customers may be in need of the in-

vestor safeguards which would be provided by this legislation. Whether to provide this protection may be an appropriate subject for further legislative inquiry.

Section 3(a)(34)(G)—Appropriate Regulatory Agency:

Section 3(a)(34)(G) would define the term "appropriate regulatory agency" for purposes of Section 15C to mean (i) the Comptroller, in the case of a national or District of Columbia bank, (ii) the Federal Reserve Board in the case of a state member bank, or, in cases other than a bank specified in clause (i) or (iii) of this subparagraph, a bank which is a bank holding company or subsidiary thereof; and (iii) the Federal Deposit Insurance Corporation in the case of any other bank whose deposits are insured by that Corporation (other than a member of the Federal Reserve System). This definition would be similar to the other definition of that term in Section 3(a)(34).

To be within this subparagraph, bank holding companies and their subsidiaries must be themselves "banks", as that term is defined in the Exchange Act.

This subparagraph would not include non-deposit trust companies or banks whose deposits are not insured by the Federal Deposit Insurance Corporation, when they are is not a bank holding company or a subsidiary thereof. Federal regulation of such banks, which are relatively few in number, may be an appropriate matter for further legislative inquiry.

ADDITIONAL COSPONSORS

S. 247

At the request of Mr. GOLDWATER, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 247, to provide recognition to the Women's Air Forces Service Pilots.

S. 1178

At the request of Mr. THURMOND, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 1178, to amend the Communications Act of 1934.

S. 1726

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. HUMPHREY, the Senator from Iowa (Mr. CLARK), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 1726, a bill to amend the Small Business Act to declare a national small business economic policy.

S. 1810

At the request of Mr. MCCLURE, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1810, relating to strategic stockpile goals.

S. 1838

At the request of Mr. NELSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1838, a bill to insure fair and equitable representation for smaller and medium-sized businesses on Federal advisory committees.

S. 1974

At the request of Mr. NELSON, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 1974, the Regulatory Flexibility Act.

S. 2124

At the request of Mr. DECONCINI, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2124, to increase the tariff on imported copper.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Nebraska (Mr. CURTIS) and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. CRANSTON, the Senator from Maine (Mr. MUSKIE) and the Senator from Alabama (Mr. ALLEN) were added as cosponsors of Senate Concurrent Resolution 26.

SENATE CONCURRENT RESOLUTION 44

At the request of Mr. JACKSON, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Concurrent Resolution 44, recognizing the contributions of Gen. Thaddeus Kosciuszko.

SENATE JOINT RESOLUTION 35

At the request of Mr. INOUYE, the Senators from North Carolina (Mr. HELMS and Mr. MORGAN) were added as cosponsors of Senate Joint Resolution 35, designating Municipal Clerks' Week.

SENATE JOINT RESOLUTION 69

At the request of Mr. NELSON, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 69, requiring each executive department and agency to designate a small business advocate.

SENATE JOINT RESOLUTION 80

At the request of Mr. MATHIAS, the Senator from Arizona (Mr. DECONCINI), the Senator from Indiana (Mr. BAYH), the Senator from South Carolina (Mr. THURMOND), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Joint Resolution 80, relating to National Law Student Recognition Day.

AMENDMENT NO. 876

At the request of Mr. KENNEDY, the Senator from Rhode Island (Mr. PELL) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 876, intended to be proposed to S. 2108, to amend the Indochina Migration and Refugee Assistance Act.

AMENDMENT NO. 980

At the request of Mr. WEICKER, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of amendment No. 980, to be proposed to the bill (H.R. 9005) making appropriations for the District of Columbia for 1978.

SENATE RESOLUTION 266 AND SENATE RESOLUTION 267—TWO ORIGINAL RESOLUTIONS REPORTED TO PAY GRATUITIES

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolutions:

S. RES. 266

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to the First National Bank of Nevada, Las Vegas, Nevada, as Guardian of the Estate of Patricia A. Morton, daughter of Jean N. Morton, an employee of the Senate at the time of her death, a sum equal to 5 months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. RES. 267

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ernest G. Catucci; Enrico G. Catucci; Peter G. Catucci; Gerard Catucci; Angelo Catucci; Anthony Catucci and Kenneth N. Catucci, sons of Pietro G. Catucci and Geralyn Humphries; Christine Reeves and Tinalynn Catucci, daughters of Pietro G. Catucci, an employee of the Senate at the time of his death, a sum to each equal to one tenth of nine and one half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED FOR PRINTING

NATURAL GAS POLICY—S. 2104

AMENDMENT NO. 990

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENT NO. 991

(Ordered to be printed and to lie on the table.)

Mr. HASKELL. Mr. President, a problem which continues to persist throughout several drafts of the natural gas bill is the proper definition of what constitutes new onshore gas. The definition contained in the Jackson amendment to S. 2104 is based on arbitrary distances—2.5 miles—from an old well and arbitrary depths—1,000 feet—below an old well. Arbitrary parameters, though easy to administer, are obviously inappropriate. New reservoirs are found without regard to these parameters.

As stated in a publication of the West Texas Geological Society:

> The proposed 2½ miles and 1000 feet deeper limits are not in keeping with reality in West Texas and South East New Mexico.

Distance and depth should not be the determining factors. Rather, new gas should be defined as gas derived from a newly discovered reservoir, as certified by a qualified geologist. I think we can all agree that a geologist is the person most capable of identifying whether the character of the gas and geological structure indicate that the gas indeed emanates from a new reservoir.

The definition I propose places the determination in the hands of qualified geologists. The Federal Energy Regulatory Commission would be required to review the Secretary's findings within 90

days and render its decision on whether the gas is "new" or not. This provision is designed to provide realism in the determination of what is "new" gas.

AMENDMENT NO. 992

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 993

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 994

(Ordered to be printed and to lie on the table.)

Mr. BAYH submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 995, 996, AND 997

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted three amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 998 THROUGH 1004

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted seven amendments intended to be proposed by him to the bill (S. 2104), supra.

NOTICES OF HEARINGS

SENATE SELECT COMMITTEE ON SMALL BUSINESS

Mr. NELSON. Mr. President, I wish to announce that the Senate Select Committee on Small Business has rescheduled a hearing on the Small Business Venture Capital Act of 1977 (S. 1815) and also on the minority enterprise small business investment companies (MESBIC) legislation.

The hearing which was scheduled to be held on Tuesday, September 27 will now be held on Monday, October 3 in room 424 of the Russell Senate Office Building at 10 a.m.

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

Mr. CHILES. Mr. President, the Subcommittee on Federal Spending Practices and Open Government will be holding oversight hearings on the Government in the Sunshine Act on Wednesday, September 28, 1977.

The hearing will be held in room 1224, Dirksen Senate Office Building at 10 a.m. Please direct any question to Mr. Ronald A. Chiodo, subcommittee chief counsel and staff director (224-0211).

ADDITIONAL STATEMENTS

MESSAGE FOR RED CHINA

Mr. GOLDWATER. Mr. President, an unusual thing happened in Washington the other day. It was unusual in that it should have occurred many, many months ago. Our Secretary of State visited with Ambassador James Shen who represents the Republic of China on Taiwan. Those are the free Chinese, not those living in slavery on the mainland. A meeting like this would not usually cause much attention, but when Ambassador Shen has been purposely ignored even insulted by my government, I long ago took offense of this and wrote my President my feelings about it. I am grateful now that our Secretary of State has finally allowed Ambassador Shen to visit because the Republic of China has a far better message to convey to our Secretary of State than the Communists who control Red China. In the Arizona Republic following this meeting was an editorial on the subject and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MESSAGE FOR RED CHINA

Ambassador James Shen, who represents the Republic of China (Taiwan) in Washington called on Secretary of State Cyrus Vance the other day.

Ordinarily such a meeting would attract little attention. When a new administration comes to power, all of the 150 or so foreign ambassadors in Washington want to pay their respects to the new secretary of state.

But Vance had been putting Shen off, not wanting such tacit recognition of National China to hinder his efforts to "normalize" relations with Communist China.

A few days ago Shen got in to see Vance. This was after Vice Premier Teng Hsiao-peng of Communist China said Secretary Vance had accomplished nothing on his recent trip to Peking. That made a liar out of Vance, who said the trip had been useful.

At all events, by receiving Ambassador Shen in Washington, Vance was sending a message (in the parlance of diplomacy) to Peking. He was saying, in effect, "Two can play at the game of snubbing each other."

It also is quite likely that the Carter administration has learned exactly how dangerous the "normalization" game may be to American interests.

The Chinese Nationalists, it is interesting to note, are recovering from the understandable depression orated by recent American advances toward the Chinese Communists. Premier Chiang Ching-kuo recently told a group of American women journalists the government on Taiwan didn't want a war with the mainland, but if the Communists should attack, "We have the confidence and the ability to hold off the attack."

The Chinese premier also said something that apparently is beginning to make an impression on the Carter administration.

"The United States is a Pacific power," he said, "and the Republic of China is its most faithful ally in this area."

At the same time, the ministry of foreign affairs in the Taiwan government was making the Republic of China's stand crystal clear.

"The Peking regime now occupying the Chinese mainland is a rebel group, having absolutely no right to represent the Chinese people," the statement said.

"Any agreement or understanding involving the rights and interests of the Republic of China and its people, which might have been reached between the United States and the Chinese Communist regime as a result of Mr. Vance's visit, shall be considered null and void by the Government of the Republic of China."

It is becoming more and more clear that the United States will hurt itself more than it will hurt Taiwan if it chooses to denounce its mutual defense pact between the two countries and recalls its ambassador from Taipei as the price of being graciously permitted, by Red China, to send an ambassador to Peking.

RHODESIAN INFORMATION OFFICE

Mr. ALLEN. Mr. President, yesterday I read an article by William F. Buckley, Jr., entitled "Blood War Against Rhodesia." Mr. Buckley's column appeared in the Washington Star, and in it Buckley objects to a proposal of the Department of State that the President, by Executive order, freeze Rhodesian funds going to the Rhodesian information service here in Washington.

Frankly, Mr. President, I thought this matter of closing the Rhodesian Information Office had been laid to rest by enactment of section 504 of Public Law 95-501, the Foreign Relations Authorization Act of 1978—but apparently not. Section 504 states:

> It is the sense of the Congress that any foreign country should be allowed to maintain an information office in the United States if maintenance of such office is consistent with United States law.

Congress is, therefore, quite clearly on record in opposition to harassment or shutting down of foreign information services by unilateral executive fiat. Of course, on the other hand, as indicated in the language of section 504, Congress would not oppose appropriate action taken against a foreign information service which violates the requirements of the Foreign Agents Registration Act. No such allegations have been made against the Rhodesian Information Office, and one might assume therefore that the Rhodesian Office would be permitted to stay in business.

But, Mr. President, if William Buckley's article is correct, obviously at least some members of the executive department are in fact recommending to the President that he circumvent the law and the clearly expressed will of the Congress by means of the back-door method of blocking operating funds.

You know, Mr. President, this subterfuge of shutting off operating funds reminds me of an expression which was often heard in wardrooms of Navy ships during World War II: Gentlemen, there will be liberty but no boats." In other words, the Rhodesian Information Office will be allowed to keep its doors open but will be denied the money for rent.

We are on very dangerous ground indeed when any of us in Government seek to use Government to suppress the free expression of opinions or the free dissemination of information. Our body politic thrives on open debate; and our citizens must have available information from all sides of all issues in order to make informed judgments in fulfillment of their responsibilities as voters and participants in a democratic system. We should each deplore, therefore, any effort directed at stifling the flow of information to the people of the United States, and I am confident that Senators do agree with me that—Congress having already spoken directly to this topic—any adverse action by the President

would be highly inappropriate and damaging.

Mr. President, I have previously written to the Attorney General on this subject, and I ask unanimous consent that my letter to the Attorney General, together with Mr. Buckley's column, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 7, 1977.

Hon. GRIFFIN BELL,
Attorney General, Department of Justice, Constitution Avenue, Washington, D.C.

DEAR ATTORNEY GENERAL BELL: As you know, I have written on several occasions with respect to the Department of Justice investigation of the offices of the Rhodesian information service here in Washington, D.C. After an initial misunderstanding of applicable department regulations, Benjamin Civiletti, Assistant Attorney General, supplied to me certain information I had sought bearing on my concern that the inspection was politically motivated and represented an abuse of the powers of the Department of Justice. Although the information supplied was inconclusive in that respect, I of course trust greatly your own judgment in this matter, and therefore I am certain that the peculiar timing and lengthy duration of the inspection will not lead to inappropriate action in the efforts of your department to administer impartially the Foreign Agents Registration Act.

I have a further concern which I have also in the past mentioned to you and which has, in fact, become a concern of the Congress expressed in public law. I refer to the recent resolution of the United Nations Security Council which calls for a ban on Rhodesian financial support for any information office of the Rhodesian Government. U.N. resolutions may be implemented by the President in his discretion by executive order in accordance with the terms of the United Nations Participation Act; however, as I have previously pointed out, serious Constitutional issues arise if a prior restraint on speech is imposed by executive fiat, even if done pursuant to Congressional authorization. In any event, all questions on this subject should have been put completely to rest by the enactment of Public Law 95-501, the Foreign Relations Authorization Act of 1978, which expressly provides at section 504: "It is the sense of the Congress that any foreign country should be allowed to maintain an information office in the United States if maintenance of such office is consistent with United States law."

Obviously, the provision is designed to indicate Congressional disapproval of any backdoor attempt to shut down an information office such as the one maintained by the Rhodesians so long as that information office is operating legally in accordance with the terms of the Foreign Agents Registration Act or other applicable statute. Specifically, the provision was meant to convey to the President in the strongest possible terms complete disapproval of any executive order purporting to implement the United Nations Security Council resolution.

The inhabitants of most other nations of the world do not enjoy Constitutional protections similar to those available within the United States under the provisions of our Constitution. Therefore, implementation of a Security Council resolution designed to hamper free speech might not be clearly reprehensible to residents of countries already accustomed to autocratic rule. Such is not the case, thankfully, within the United States, and I was therefore astonished to learn that the executive department still has under consideration a plan for choking off funds for the Rhodesian information office.

In my judgment the Congress of the United States—and particularly the Senate—will take great exception to any suppression of information by the executive department accomplished by an underhanded denial of operating funds to any legally operated information service of any foreign government. Certainly, vigorous exception would be taken to a conscious and total disregard of the express will of the Congress set forth in statute.

Regardless of approval or disapproval of the policies of the Government of Rhodesia in Salisbury, few—if any—members of Congress would allow personal political opinion to outweigh the overriding benefits of open discussion in a free society. I do not see how that sentiment could have been made more explicit than was done in Public Law 95-105, and I accordingly strongly urge you to take an active role in advising against any unwise or precipitous action calculated to appease Third World dictators by a callous and arbitrary abridgment of the right of our own people to free access to information from whatever source. I know that the demands of your office are great, but this matter is of sufficient gravity to merit your personal intervention.

With kindest personal regards, I am
Sincerely,

JAMES B. ALLEN.

BLOOD-WAR AGAINST RHODESIA

(By William F. Buckley, Jr.)

Those who believe that the United Nations is entirely irrelevant are correct up to a point. It is true that moral declarations issuing from the U.N. and bearing its moral pedigree are suspect, in the same sense that professions of virtue from political candidates are suspect. Mostly, U.N. declarations are filed away until the time comes to celebrate the anniversary of their passage, at which point they are trotted out. But every now and then the U.N. does very concrete harm, Rhodesia being a case in point.

Lord Home, when he returned to Her Majesty's government as secretary for foreign affairs in 1973, admitted that if the Conservative party had been in power, it would not have gone along when sanctions were voted by the Security Council against Rhodesia in 1965. Why? Because, he said, he does not believe in sanctions except in extreme circumstances, and the Rhodesian situation was not an extreme circumstance. At the time, Dean Acheson fiercely denounced by imposition of sanctions as clearly in violation of the U.N. Charter inasmuch as the government of Rhodesia, having declared its independence of Great Britain, was on its own as regards internal arrangements.

Just the same, Great Britain, in a fit of pique that would have great resonance, asked for, and got, sanctions.

Years went by and last spring, seeking to tighten these sanctions, the Security Council voted to freeze all Rhodesian funds everywhere in the world (except when used to pay pensions). The idea was to immobilize the two or three Rhodesian Information Offices extant. Why? One would think that the mighty powers represented at the Security Council would have very little to fear from the tiny office in Washington whose annual budget is $200,000 and whose principal executive, Kenneth Towsey, has duly registered as an agent of a foreign power. What harm can he do?

Certainly Mr. Towsey has been in a position to be useful to newspapermen who desire information about Rhodesia that isn't easy to get elsewhere. Needless to say, the Rhodesian Information Office makes the case for the Rhodesian government—that is its job. But in doing so it handles a great deal of material—stories, statistics, photographs, field accounts, notices of negotiations—which do not come in automatically from the world's press.

When terrorists from Zambia descend on a Christian mission in Rhodesia and murder a few nuns, that information is not likely to reach us courtesy of the Zambian Information Service, and one cannot count on AP's being on the spot.

So when the resolution to freeze Rhodesian funds was offered, and U.S. representative Andrew Young voted in favor of it, a group of journalists addressed a letter to President Carter asking whether he intended to interpret that resolution as requiring him to freeze funds payable for the maintenance of the Rhodesian Information Office. Among the signers were Patrick Buchanan, John Chamberlain, Stanton Evans, James Jackson Kilpatrick, and Nick Thimmesch. President Carter has, to this day, not answered their patient inquiry.

However, Hodding Carter III, assistant secretary for public affairs and department spokesman, has now replied to an inquiry from someone in Corvallis, Oregon with the news that yes indeed, the State Department intends to freeze the Rhodesian currency, upon recommendation from the Treasury Department. "Although the resolution was not specifically directed against informational activities," he writes, "the Rhodesian Information Office . . . clearly falls within the category of offices referred to in the resolution."

On the question whether this deprives U.S. citizens of their First Amendment rights to find out what's going on, Mr. Carter is absolutely chirpy with optimism. "American citizens will still be able to obtain information about Rhodesia from other sources, including directly from the regime in Salisbury." American citizens may, in fact, prove better able to obtain information about Rhodesia from Salisbury than from the White House, given the President's long silence in response to the inquiring correspondents.

One would hope there would be some limit—somewhere—to the indignities the United States is willing to undertake in behalf of our blood-war against Rhodesia.

THE GREAT ALASKAN LAND GRAB

Mr. STEVENS. Mr. President, the most important issue facing Alaska in this Congress is the so-called "d-2 lands" issue. As you know, a number of pieces of legislation have been introduced dealing with the potential designation of millions of acres of public lands in Alaska as potential national parks, wildlife refuges, wild and scenic rivers, and national forests. Additionally, the unique program of cooperative management of State, Federal, and private lands has been proposed in legislation I have introduced in behalf of Alaska Governor Jay Hammond, Congressman Don Young, and myself. Our legislation seeks the flexibility and balance necessary to make a reasonable and responsible decision on the "d-2 lands" issue.

One of America's finest newspapers, the Washington Post, has recognized the need for a balanced decision on this issue. An editorial appearing in the Sunday, September 11, issue of the Post articulately explains the need for a bal-

anced and rational approach to land-use planning in Alaska and the d-2 issue. I commend this editorial to your attention and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE GREAT ALASKAN LAND GRAB

You are likely to hear a good deal about good guys and bad guys this winter when Congress settles down to carve up—again—the State of Alaska. The issue now is how much of that beautiful land should be tucked away into federal wilderness areas, national parks and so on. It is a controversial topic, not only in Alaska but among conservationists throughout the rest of the nation as well. Those who want to limit the amount of land the federal government protects from development are often described as rapacious exploiters who want to plunder our children's inheritance. Those who want to expand the federal set-aside are usually described as fuzzy-minded conservationists who would destroy the economy of Alaska, deprive its residents of basic rights and restore the colonial rule that statehood eliminated, all for the benefit of a few birds and animals.

The truth is that there are no bad guys in this argument. The preservationists are not wrong in trying to save a large part of Alaska; future generations do have a right to know what the earth looked like and contained before man began to make a mess of it. Their Alaskan opponents are not wrong in seeking to develop the land, a right that their forerunners in the lower 48 states made the most of. Although the two groups are in bitter confrontation before Congress, each should concede that there is some merit in the other's arguments. The question is one of degree—of just how much of Alaska's enormous acreage should be used for what purpose.

Finding a proper balance between these interests is a task Congress needs to accomplish by the end of next year, when time will run out on a period of protection from mining and other uses that Congress approved in 1971 for 80 million acres. There is nothing magical about that 80 million figure, but it is central to the debate, being either too much or too little, depending on which side is talking. That is, of course, a lot of land. It is the equivalent of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York and New Jersey. But the conservationists are supporting a bill introduced by Rep. Morris Udall (D-Ariz.) that would put 145 million acres into various categories of federally protected land. This would add to the 80-million-acre area the equivalent of Pennsylvania, Maryland, Delaware, Virginia and West Virginia.

Many, but by no means all, Alaskans are outraged by both the size of the Udall proposal and the restrictions it would place on the use that could be made of this vast acreage. It is in usage, as well as in the total amount of land the federal government decides to preserve, that compromises can be reached. Federal rules and standards that are appropriate for wilderness areas and national parks in the continental United States may not necessarily be appropriate in Alaska. The territory is so vast and so cold, for example, that the general rule against motorized transport and the existence of man-made structures in a wilderness area might lock up the land as no wilderness area elsewhere is locked up. Congress needs to think about this problem in Alaskan terms, adapting the techniques developed for preserving wilderness and parks elsewhere to Alaska's peculiarities.

No doubt there has been a certain amount of grabbing on both sides in this argument. The conservationists are trying to seal off too much of Alaska from any use. Their opponents are also reaching for too much, trying to win the right to mine and timber and exploit too large a part of America's last frontier. Somewhere in between, Congress must find a balance, protecting large areas from any major human disruption and opening other parts of the federal lands for Alaskans to use in some ways, ways that may or may not be comparable to the multi-use standards now in existence. The obligation is twofold: to save much of Alaska for future generations and to leave its present residents sufficient opportunity for developing some of the frontier they have worked hard to open up.

THREE BUDGETS FOR A RETIRED COUPLE AND PREPARING FOR RETIREMENT

Mr. CHURCH. Mr. President, the Department of Labor recently updated its three hypothetical budgets for a retired couple living in an urban area.

These budgets are designed to portray three relative standards of living—defined as lower, intermediate, and higher—for a retired couple.

As of autumn 1976, these levels were $4,695 for the lower budget; $6,738 for the intermediate budget; and $10,048 for the higher budget.

Four items account for the bulk of the elderly's expenditures: Housing, food, transportation, and medical care. These expenditures typically account for about $4 out of every $5 in an aged couple's budget.

Mr. President, I ask unanimous consent that a Department of Labor news release on the three budgets for a retired couple be printed at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, Senate Committee on Aging hearings make it clear that the intermediate and lower budgets are well beyond the means of many older Americans.

In 1975, for example, an estimated 2.9 million aged families—or 44 percent of all two-person families with an aged head—had annual incomes below the intermediate budget. Of this total, 1.4 million elderly families lived on less than the lower budget.

These facts underscore the importance of programs, such as social security, to enable older Americans to live in dignity and self respect.

They also provide compelling reasons for prompt enactment of my social security Cost-Of-Living Improvement Act, S. 1243. This bill would authorize semi-annual cost-of-living adjustments during periods of rapid inflation, instead of only one a year as under present law. In addition, S. 1243 would establish a special index to measure more accurately the impact of inflation upon the elderly for purposes of computing benefit increases.

Finally, these facts make it clear that adequate and timely preparation for retirement is essential. Sylvia Porter made this point emphatically last month in her first article of a six-part series on preparing for retirement.

Mr. President, I commend this article to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Aug. 14, 1977]

YOUR MONEY'S WORTH: ECONOMIC NIGHTMARES LOOM IN RETIREMENT UNLESS YOU ACT

(By Sylvia Porter)

The cost of living for a retired couple jumped another 7 percent in 1976, and in some sections of the United States annual living expenses of the average retired couple are now as high as $11,000—excluding personal income taxes.

Even though in some areas a retired couple can live on an annual income as low as $4,373, one out of every four elderly Americans now lives in poverty. And for those who live to be 75, the proportion living in poverty is a startling 50 percent.

Despite all threats, it would be far too pessimistic to expect a return to double-digit inflation in the United States for any prolonged period, if at all. That would imply an unreasonable repetition of a disastrous combination of adverse forces. But it is reasonable to anticipate an ever-rising cost of living, perhaps at an annual rate of 5 to 6 percent for years to come. Even 6 percent compounded annually would mean that the dollar which bought you 100 cents of goods and services in 1974 would buy you only a bit more than 50 cents worth in 1984, only about 30 cents worth in 1994.

Inflation of that magnitude not only pinches the working family. It fiercely erodes the buying value of your Social Security dollars, your private pension benefits, any other savings you have in fixed-income investments (insurance, cash savings).

Instead of the relaxed, comfortable years pictured in the unreal-life ads, you may find your retirement years an economic nightmare. And this may be piled on top of the "shock" of retirement—which ranks in a high ninth place in a list of 40 leading "stress" producers, not far behind "death of a spouse."

What, then, should you do now?

If you are in your 20s or 30s, now is the right time to begin to think and prepare for independence in your 60s–70s.

If you are in your 50s, now is the time you must plan in earnest for your financial security. You are very late but not yet too late to manage your older years properly.

If you are in your 60s, you are almost surely too late to prepare for your maximum benefit. You've drifted into a position where you are fighting from weakness, not strength.

You must ask yourself at least these 10 key questions.

1. When will you retire?

At 65 or sooner? Even today, a man retiring at 65 can look forward to a life expectancy of another 13 years, and his slightly younger wife can expect to live an average of nearly 20 more years. So the sooner you start the better your chance to lay the groundwork for the comfortable life you'll want.

2. Will you lead a life of leisure or continue to work?

If you are in sufficient physical and mental health, you'll begin another career—and the odds are if you are young today, you'll have two or more careers in your lifetime. If you want just to play, that, too, you must plan for now.

3. How much are you worth today?

Your worth is the total you have after you subtract all your liabilities from all your conservatively estimated assets. It should be an unexpectedly pleasant computation to figure out.

4. Where will you retire?

That will be a significant factor in your expenses for heat, clothes, other basics.

5. What can you save by retiring?

Here you weigh Medicare benefits, work-

connected expenses, lower or no life insurance premiums, etc.

6. How much money do you need in retirement?

Many costs you have today will decline or cease to be at all important. Your home mortgage should have been paid off, your over-all housing expenses should be lower. The expenses of rearing and educating your children will be behind you. The list is long.

7. When can you start drawing Social Security and your other pension benefits?

8. What precisely is your benefit deal under your corporation's pension plan?

For the first time ever, you should be able to get exact, easy-to-understand details from your corporation.

9. Will you have enough health insurance?

10. And what kind of investments can help you obtain additional retirement income?

In tomorrow's column, one typical real-life couple's retirement program will be tailored to your own benefit.

EXHIBIT 1

BUREAU OF LABOR STATISTICS,
Washington, D.C., August 4, 1977.

THREE BUDGETS FOR A RETIRED COUPLE, AUTUMN 1976

The Bureau of Labor Statistics of the U.S. Department of Labor has updated to autumn 1976 its three hypothetical annual budgets for a retired couple and related area cost indexes that can be used to compare the cost of these budgets in selected urban areas. This updating reflects changes in prices between autumn (September, October, November) 1975 and autumn 1976.

In the autumn of 1976, the estimated U.S. average annual cost of the lower level budget for an urban retired couple, excluding personal income taxes, amounted to $4,695. At the intermediate and higher levels, the budget costs amounted to $6,738 and $10,048, respectively, as is shown in table A. Costs for all the budgets are about 4.5 percent greater than the estimated budget costs for the autumn of 1975. Costs for 39 metropolitan areas, four nonmetropolitan regions, and Anchorage, Alaska, are shown in tables 1–3, and comparative indexes are shown in tables 4–6.

The updated budget costs represent the costs at autumn 1976 prices of three hypothetical lists of goods and services that were specified in the mid-1960's to portray three relative levels of living—simply termed lower, intermediate, and higher—for a retired couple. The cost of the lower budget is not intended to represent the income necessary for subsistence at the poverty level, but simply represents a level relatively lower than the intermediate budget.

TABLE A.—SUMMARY OF ANNUAL BUDGETS FOR A RETIRED COUPLE AT THREE LEVELS OF LIVING, URBAN UNITED STATES, AUTUMN 1976

Component	Lower budget	Intermediate budget	Higher budget
Total budget [1]	$4,695	$6,738	$10,048
Total family consumption	4,493	6,333	9,281
Food	1,443	1,914	2,402
Housing	1,613	2,334	3,653
Transportation	322	629	1,161
Clothing	206	347	535
Personal care	138	202	296
Medical care	[2] 571	[2] 574	[2] 579
Other family consumption	200	332	657
Other items	202	405	767

[1] Beginning with the autumn 1973 updating of the budgets for a retired couple, the total budget is defined as the sum of "total family consumption" and "other items." Income taxes are not included in the total budgets.
[2] Preliminary estimate.

Note.—Because of rounding, sums of individual items may not equal totals.

Method of updating

Consumption costs were updated to 1976 by applying the change in the Consumer Price Index between autumn 1975 and autumn 1976 for individual areas to the autumn 1975 budget costs for each main class of goods and services. This method of updating is approximate because the Consumer Price Index (CPI) reflects spending patterns and prices paid for commodities and services purchased by urban wage earners and clerical workers in general, without regard to their family type or level of living. The hypothetical spending behavior of the retired couple differs from the pattern of the CPI family. The last direct pricing of the budgets was in spring 1969.

Changes in consumption costs reflect only changes in prices. The market baskets are based to a large extent on analysis of expenditure and consumption patterns of the early 1960's when these budgets were developed; the baskets have been held constant since then.

TABLE B.—PERCENTAGE CHANGES IN THE BUDGETS FOR A RETIRED COUPLE, AUTUMN 1975 TO AUTUMN 1976

Component	Budget level		
	Lower	Intermediate	Higher
Total budget	4.3	4.2	4.7
Total family consumption	4.3	4.2	4.7
Food	1.1	.1	.2
Housing	6.5	6.5	6.5
Transportation	8.4	9.0	9.6
Clothing	4.0	3.9	4.1
Personal care	7.8	7.4	7.6
Medical care [1]	3.4	3.4	3.6
Other family consumption	4.7	4.7	4.6
Other items	4.1	4.1	4.2

[1] The autumn 1976 cost estimates for medical care contain a preliminary estimate for out-of-pocket costs for medicare.

Changes in budgets, 1975–76

Between autumn 1975 and 1976, the total cost of the lower budget rose by 4.3 percent, and the intermediate and higher budgets rose 4.2 and 4.7 percent, respectively—all smaller changes than in the previous years. The percentage increases from autumn 1975 to autumn 1976 for all the components in the three budgets are shown in table B.

The increase in food prices from autumn 1975 to autumn 1976 was approximately 1 percent at the lower level and less than 1 percent at both the intermediate and higher levels, compared with increases of 7 and 8 percent a year earlier.

Transportation costs rose the most—approximately 9 percent for each budget level—as a result of large cost increases for both public and private transportation.

Housing costs rose at approximately the same rate—6.5 percent—for all three budget levels but had a greater impact at the higher level because the proportion of the total cost of consumption accounted for by housing is larger at that level.

The budget costs are updated annually and reflect autumn price levels. During the period from October 1976 to June 1977, the All Items Consumer Price Index for the U.S. rose 4.9 percent. The change in the total budget cost for a retired couple, however, differs from the change in the U.S. All Items CPI for at least two important reasons: (1) The expenditure weights used in the CPI are different from the hypothetical weights used in the budgets, and (2) treatment of homeownership costs is different.

Description of the three budgets

The retired couple is defined as a husband, age 65 or over, and his wife. They are assumed to be self-supporting and living in an urban area; they are in reasonably good health and able to take care of themselves. Different qualities and quantities of goods and services are provided for each level due to variation in consumption patterns, differences in climate, and differences in types of transportation facilities.

Food-at-home costs in the budgets are based on quantities in the 1964 low-, moderate-, and liberal-cost food plans developed by the U.S. Department of Agriculture in accordance with nutritional standards formulated by the National Research Council of the National Academy of Sciences. Also included in the food total is a specified number of meals away from home and an allowance for guest meals, which vary at each budget level.

Shelter allowances for all three budget levels are based on average costs for rented and owned dwellings. Rental costs include contract rent, estimated costs of fuel and utilities where these are not part of the rent, and insurance on household contents. Homeowner costs are based on the assumption that retired couples own their homes and have no payments for mortgage principal and interest.

The medical care component provides for "out-of-pocket" costs for Medicare and allows for items not covered by Medicare—dental care, eye glasses, most out-of-hospital prescription and nonprescription drugs, and a checkup visit to a physician by Medicare enrollees who do not use any Medicare services within 1 calendar year. Medical costs not covered by Medicare are the same for all three budget levels except for very minor differences in the cost of eyeglass frames.

The sources of data, methods of calculation, and quantities of goods and services for all the components in the three budgets are described in detail in BLS Bulletin 1570–6, "Three Budgets for a Retired Couple in Urban Areas of the United States, 1967–68." Copies may be obtained under accession numbered PB 227521/AS at a cost of $4.75 from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Supplements with budgets for spring 1969–70, autumn 1971, 1972, 1973, 1974, and 1975 are available free of charge from BLS Regional Offices.

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THE WASPS SEEK VETERANS STATUS

Mr. GOLDWATER. Mr. President, in connection with the visit to Washington, D.C., this week of a large delegation of WASPs, the women pilots of World War II, I would like to bring to the attention of my colleagues a cogent summary of reasons why these ladies believe they have earned the right to be called veterans.

The WASPs arrived in town to testify at the hearing scheduled Tuesday before a select subcommittee of the House Veterans' Affairs Committee on legislation granting veterans' status to them.

The article explaining their services and military-type organization during World War II was written by a well-known Arizona columnist, Paul Dean, of the Arizona Republic in Phoenix.

Mr. Dean describes the numerous instances in which the women pilots were identical to male military pilots—identical in all but one important technicality, that is. For the women were barred by law from being commissioned as flight officers and had to remain civilians.

For all practical purposes, however, the girls were in the military service.

They received officer's training.

They were subject to military discipline.

They flew the same aircraft as male pilots.

They passed the same physical standards and flight qualification tests as male officers.

And so on, and so on.

Mr. President, the WASP legislation has strong support in Congress among Members who wish to see that these ladies receive the official recognition as veterans that they are due.

Already there are over 150 Members of the House of Representatives who have either sponsored, cosponsored, or publicly announced their support of legislation granting veterans' status to the WASP.

And, I am pleased to report that 26 Senators are cosponsoring a similar bill, S. 247, that I have introduced for the WASP in this chamber.

Mr. President, so that those of my colleagues who will be hearing from these ladies will know more about their cause, I ask unanimous consent that the article about them by Paul Dean be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIG WAR'S FLYING FEMALES STIFLE YAWNS OVER NEW CROP

(By Paul Dean)

Ten women will become U.S. Air Force pilots next month and newspapers and network television are crowing of this feminine progress from hither to blue yonder.

Mrs. Gerry Nyman of Casa Grande, wife, mother of four adult boys, has smiles for the graduates but feels indignation.

Mrs. Brownie Kindig of Scottsdale, retired from a career as a legal secretary, is having trouble swallowing yawns.

Mrs. Betty Blake, mother and Phoenix real estate lady, frowns in frustration. Mrs. Margaret Tamblin another mother, another businesswoman, is another woman "humphing" at the hullabaloo.

For these ladies, edging into comfy years now, were driving combat aircraft, from the clumping Super Fortress to the spunky Mustang, before the tenderfoot 10 at Williams Air Force Base had been born.

They were WASPs, the appropriate and buzzing acronym for Women's Air Force Service Pilots. Nationwide, more than 800 live with their memories from scrapbooks and logbooks. Three dozen of them survived World War II and the years since, and live in Arizona.

And if hell hath no fury like a woman scorned, try plotting the anger of female pilots denied.

One WASP, Ann Baumgartner, had checked out in jets before aviation was into the 50s.

Two WASPs, Dorothea Moorman and Dora Strother, were qualified as B29 pilots and flew the bombers to bases around the country in staged defiance of male fliers who said this bomber was a tad dodgy.

And all WASPs flew all 77 types of military aircraft manufactured for World War II to all fields in all weather and for all purposes.

If statistics impress, the WASPs logged 12,800 ferry missions, covering 9,200,000 miles, while other operations brought that total to 60,000,000 miles, the equal of 240 trips to the moon.

If deeds excite, WASPs flew as instrument instructors, towed troop-carrying gliders, sweated out test flights, were the only pilots allowed to ferry the chunky P47 Thunderbolt from the Republic plant, and performed military airlifts by the thousands.

They went through boot camp, wore uniform, were subjected to military courtesies and discipline, received government pay, attended Officer Training School and, on a less sophisticated level, ate military chow.

More than 25,000 women applied for World War II flight and 1,000 served this country, many sitting on pillows to reach the pedals of macho Warhawks and Lightnings.

Yet 38 died on active service, with one shot down and killed by a student gunner while towing a target sleeve for ground-to-air firing.

Penny Houghton, now a Superior Court reporter in Washington, D.C., remembers one of the deaths:

"The other girls had to pass the hat to collect enough money to ship her body home."

And there's the painful abrasion between women pilots then and now.

The ten who graduate from Williams AFB are eligible, as they have been since signature at a recruiting office, for college on the GI bill, disability benefits lifetime pensions and space—available air travel anywhere in the world once retired and full fringes from free treatment at veterans' hospitals to the macabre moment of subsidized burial with a free flag on the casket.

But the WASPs of World War II?

They received nothing beyond backpats when their service was disbanded in 1945. They have been given no benefits since. They are not considered veterans.

They don't have the authority to buy a BX aspirin to cure headaches earned at their occasional reunions at military airfields.

Bills to bring veteran's benefits to the WASPs have been aborted by Congress since 1944. A new, stronger, unified, tighter organized drive, with Sen. Barry Goldwater, R-Ariz., as pilot-in-command, continues to be jostled by Senate and House and their committees.

So the Mmes. Nyman, Kindig, Blake and Tamblin do not downgrade the efforts, proficiency, dedication and deserved status of the flying ladies of Williams.

Nor are they seeking retroactive liberation.

But they would like equality with today's military women.

HUMANITARIAN PROBLEMS IN INDOCHINA AND REFUGEE RESETTLEMENT

Mr. KENNEDY. Mr. President, this morning the Committee on Human Resources conducted a hearing on the continuing need for Federal assistance to Indochina refugees, and on the humanitarian problems that remain in Southeast Asia in the aftermath of the Indochina war.

I was pleased to receive the testimony of the Hon. Philip Habib, Under Secretary of State for Political Affairs, and Chairman of the President's Task Forces on Indochina Refugees, regarding U.S. policy toward this serious and growing humanitarian problem.

During the hearing, testimony was received on the growing food shortages in Laos and Vietnam, which have become a significant contributing factor to the flow of refugees from Indochina. To date, the United States has responded generously to the humanitarian problems confronting the refugees, but we have failed to address serious problems contributing to the refugee movement and to the needs of war victims who remain in their native lands.

In this connection, I was pleased to learn from Secretary Habib that the administration is seriously considering an American contribution to international relief and food programs now underway in Laos. We have diplomatic relations with Laos, and there is no legislative prohibition on the use of Public Law 480, title II, food-for-peace funds or Laos. I hope the administration will urgently use this authority for humanitarian purposes in Laos, and also seek ways to meet our humanitarian responsibilities in Vietnam.

Mr. President, I ask unanimous consent that the text of my opening remarks at the hearing be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SENATOR KENNEDY'S OPENING STATEMENT AT HEARINGS ON LAOS, VIETNAM, AND RESETTLEMENT OF INDOCHINA REFUGEES

The Committee meets this morning to review the continuing movement of Indochinese refugees to the United States—and to consider legislation for extending the Indochina Refugee Assistance Program established by Congress in 1975. This program assists local communities and voluntary agencies in helping the refugees to become productive and contributing members of our society.

Pending before the Committee are the Administration's proposal to extend this program—and a substitute, which Senator Cranston and I introduced earlier this week in behalf of Senator Humphrey.

The current program expires September 30. And given this fact, action on the pending legislation is needed urgently.

The legislation before us recognizes a continuing federal responsibility to help the refugees help themselves. And I know that I speak for other members of this Committee and the Senate, in pledging our best efforts to enact a responsible bill within the shortest time possible.

A sudden cut-off of the program at this time would undo much of the resettlement progress already achieved—and this would be wasteful of public funds. A sudden cut-off would bring undue hardship to many refugee families who are adjusting to a new life in a new land—and it would deny needed assistance to new arrivals under President Carter's parole program. And finally, a sudden cut-off would bring heavy burdens to the local communities and the voluntary agencies, who are helping the refugees.

The agenda for action is clear, and so is the need to act.

Although our primary focus this morning is on the continuing movement of refugees to the United States and the Indochina Refugee Assistance Program, we cannot ignore the many other immediate and longer term humanitarian problems remaining in Southeast Asia. And the time is past due to develop a comprehensive national policy towards these people problems—not only because of our traditional humanitarian con-

cern for people in need, but also because these problems play such an important role in our relations with the countries of the area.

The number of displaced persons from the Indochina peninsula in Thailand continues to grow. So does the number of "boat people" from Vietnam, who are scattered in nearly a dozen countries of Asia.

In a sensitive way, we must work closely with the many host governments involved with these difficult problems. And we must strengthen our support of the United Nations High Commissioner for Refugees (UNHCR) and others, who are making every effort to provide adequate care and protection for the homeless. We must also support the UNHCR's international efforts to promote lasting solutions—including local integration in receiving areas, resettlement overseas, and voluntary repatriation, if conditions permit it.

Finally, even as our country joins with others in pledging more help to the displaced persons from the Indochina Peninsula, we must not further neglect the vast human needs that continue in Vietnam and Laos. Many humanitarian problems—including food shortages and the rehabilitation of war victims—continue. We must be mindful of such problems—not only because they contribute to the displaced persons problem in all of Southeast Asia, but also because of our responsibilities as a nation in helping the people of these countries to rebuild their homes and normalize their lives.

Of special concern today are the growing food shortages in the Indochina Peninsula, caused by drought and the dislocations of war. Tens of thousands of people are hungry. And recent reports suggest the threat of severe malnutrition and starvation in many areas in the weeks and months ahead.

As I wrote to the President in July, it would be in the finest humanitarian tradition of the American people, if our country could join with others in providing food assistance to the people of Vietnam and Laos under international auspices. And I share the hope of many, that ways can be found to accomplish this end.

The people problems of Southeast Asia—especially the movement of refugees to the United States—touch the lives and concerns of many Americans. We hope to learn more about these problems today, and alternatives open for action.

SALT I INTERIM AGREEMENT

Mr. SPARKMAN. Mr. President, a number of my fellow Senators are aware that the SALT I Interim Agreement limiting strategic offensive arms will expire on October 3, 1977. The Committee on Foreign Relations has been discussing this situation over the past several months with representatives of the Department of State and the Arms Control and Disarmament Agency.

This morning, I received a letter from the Secretary of State stating that it is the intention of the executive branch to issue a unilateral policy declaration to the effect that, while the current SALT negotiations are being completed, the United States intends not to take any action that would be inconsistent with the Interim Agreement's provisions, or with the goals of the ongoing negotiations, provided that the Soviet Union exercises similar restraint.

Any decision related to the Interim Agreement is one of critical importance. Accordingly, I have called a meeting of the Committee on Foreign Relations for Monday afternoon to discuss this matter.

Mr. President, I ask unanimous consent that the letter to me from the Secretary of State be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., September 21, 1977.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: As you know, we have been exploring for some time ways in which we can facilitate an early and successful conclusion of the SALT II negotiations. One aspect of this subject which State and ACDA staffs have discussed with you is the situation that will exist after the present Interim SALT Agreement expires on October 3. In this regard, we have been considering a policy declaration expressing our intention, while the negotiations are being completed, not to take any action that would be inconsistent with the Interim Agreement's provisions, or with the goals of the ongoing negotiations, provided that the Soviet Union exercises similar restraint. Under this proposal, although the Soviets may also issue a statement of their policy in this regard, along the same lines, there would be no agreement limiting strategic offensive arms in force between the United States and the Soviet Union after October 3 and pending the conclusion of a new SALT Agreement.

Our objective is to maintain the status quo while the SALT II negotiations are being completed, and to complete the work on a SALT II Agreement within the near future. We do not seek to enter into a new agreement extending SALT I during this period, by an "exchange" of statements or otherwise. Accordingly, we have informed the Soviets that we intend to issue a unilateral policy declaration along the following lines:

In order to maintain the status quo while [SALT II] negotiations are being completed, the United States declares its intention not to take any action inconsistent with the provisions of the Interim Agreement on Certain Measures With Respect to the Limitation of Strategic Offensive Arms which expires October 3, 1977, and with the goals of these on-going negotiations, provided that the Soviet Union exercises similar restraint.

In considering how to proceed in this matter, we considered and rejected the possibility of a joint U.S.-Soviet statement which might have raised the question of whether an international agreement was intended. We do not intend to enter into an agreement and believe that our proposal is consistent with this intent, in substance as well as in form.

As indicated in our discussions with you and with the Committee staff, it is our desire to proceed in this matter in close consultation with the Congress. We fully recognize your committee's responsibilities with regard to international agreements generally and SALT II in particular. We hope you share our assessment that our discussions of this subject have been most helpful and constructive.

Sincerely,

CYRUS VANCE.

OPPRESSOR ISRAEL?

Mr. ABOUREZK. Mr. President, I ask unanimous consent to have the following article by T. D. Allman printed in the RECORD.

It is an amazing statement published in a small circulation magazine, New Times, of what is happening under the "humane" occupation of the West Bank by Israel.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From New Times magazine, Aug. 19, 1977]

OPPRESSOR ISRAEL?

(By T. D. Allman)

(Since 1967, Israel has consolidated her grip on the Arab lands she conquered during the Six-Day War. But ten years of military rule over a subject people have hardly enhanced her reputation as an outpost of human rights in the Mideast. Where Palestinian fields once blossomed, the Israelis have created a desert. Now, with a new hard-line government in Tel Aviv, Israel's approach to the Palestinian problem is apt to disturb even her most steadfast supporters.)

When Israel's tough new Prime Minister, Menahem Begin, paid an official visit to Washington a few weeks ago, he and Jimmy Carter formed an instant mutual admiration society. "Never in my 30 years in public life," said Begin, "have I been as impressed by a political leader." Declared Carter in turn: "I don't think the meeting with him could have been any better."

Administration officials were specially pleased by the Israeli leader's apparent flexibility: all Mideast issues, he indicated, were negotiable, including, presumably, the status of the Arab territories that Israel conquered and seized 10 years ago this summer during the Six-Day War. At the conclusion of their talks, both Begin and Carter spoke optimistically of establishing, in Begin's words, "real peace" in the Middle East after "the delay of almost a generation."

To those who know Begin as an unbending hard-liner who considers the occupied Arab lands "liberated Israel"—and who hopes to annex them permanently—it all seemed too good to be true.

It was.

Less than a week after he left Washington, Prime Minister Begin reversed the policy of the preceding Rabin administration and gave legal status to three previously unauthorized Israeli settlements on occupied lands of the West Bank of the Jordan River. By officially establishing the three communities (Kaddum, Ofra, Maale Adumim) as a permanent part of Israel, the Begin government undercut both the prospects for a successful Geneva Conference this October and Jimmy Carter's hopes for eventually establishing a Palestinian homeland in the occupied territories. During their talks, in fact, Carter had specifically requested Begin to defer any further settlements at least until after Geneva.

After Begin's surprise move, Secretary of State Vance publicly criticized Israel for acting "contrary to international law" and creating "an obstacle toward peace"; privately, the unexpected decision was said to have infuriated Carter. The Washington Post called it "reckless, provocative and indefensible . . . a frontal assault on the American effort to arrange a settlement." But, really, Begin's actions should have come as no surprise. For a decade now, Israel has ruled the West Bank, the Gaza Strip and the Golan Heights with an iron fist, all the while digging in—and shoving out the areas' Arab inhabitants.

It is not a pretty picture, and in the U.S. press, traditionally sympathetic to the Israeli cause, it has remained one of the untold stories of the long, tortuous Middle East conflict. But the latest Israeli move to permanently solidify her hold on the occupied territories now confronts Israel's long-time American supporters with questions that most would prefer not to ask:

Is Israel really a threatened outpost of human rights? Or is it a country that has used a generation of U.S. arms and money, and above all a generation of U.S. good will

and emotional support, to quadruple its size and dispossess millions of people?

The statesmen on all sides speak of regional security, demilitarized zones and international law, but in the two small West Bank villages of Bardala and Tel el Beida, where a thousand or so farmers try to scratch a living from the rocky soil, there exists a perspective that is found nowhere on the detailed 1:500 negotiating maps.

In Tel el Beida and Bardala, the long Arab-Israeli conflict is a daily problem afflicting human lives. The situation there is one that few Israelis will even admit exists. It is also a human dilemma that the Arabs, preoccupied with ideology and rhetoric, have largely ignored.

Only a few years ago, the most significant thing about both villages, with their mud brick houses, some of them sprouting television aerials, was not that they lay atop the fault line of one of modern history's most perplexing problems. It was that in spite of four Arab-Israeli wars, the villagers had made some progress. At Tel el Beida, a modern irrigation system had doubled crop yields. At Bardala, the villagers had constructed a municipal water system that piped drinking water to each household.

Today, the two villages are much changed. The irrigation system is now a ruin of dusty culverts. The pipes are also dry, and the village women, as in the day of Turkish rule, must fetch water from a distant well; the round-trip, down and up a rocky hillside, is nearly a mile.

Not that either village has suffered a drought. Rather, the inhabitants are afflicted by something which for them has assumed all the characteristics of a *permanent* natural calamity. The source of their misfortune is the nearby Medah cooperative farm, a new Jewish settlement. One of nearly one hundred such settlements Israel has established in the occupied territories, Medah is a cluster of modern buildings surrounded by high fences where 30 Jewish families now live.

A year after Israeli forces originally swept through the area, just west of the Jordan river and south of the Israeli town of Beit She'an, Israeli engineers surveyed the two Palestinian villages. Then, in violation of Jordanian water law—which even official Israeli publications say that Israel is obliged to respect—the Israelis drilled a new and deeper well only a few yards from the Palestinian well.

Since then, the Palestinian water supply has steadily diminished. But the Israelis not only have forbidden the villagers to drill an artesian well, they also refuse to sell them water. The thousand Palestinians of Bardala and Tel el Beida formely consumed 270 cubic meters of water an hour. But the 30 Jewish families at Medah now consume 1,500 cubic meters of water an hour, and the two Palestinian villages are slowly dying of thirst.

The Israeli cooperative has become an island of Jewish affluence, which has created around itself a sea of Palestinian desolation. When, as planned, Medah doubles in size, the nearby Arab villages may be left with no water at all.

Such takeovers were far from rare in the occupied territories even before the Begin government's decision to legalize Kadum, Ofra and Maale Adumim, but if Israel's new leaders have their way, they may multiply many times over. Under the Israeli occupation, the Arab population of the Syrian Golan Heights has been reduced from 77,000 to 13,000. Some 200,000 Palestinians—about a quarter of the remaining population on the West Bank—have been forced to emigrate. Even in the tiny Gaza Strip, where more than 450,000 Palestinians, mostly refugees, are packed into a largely desert area of only 120 square miles, the Israelis have confiscated nearly 100,000 acres of the best land, and there established four barricaded Jewish settlements.

In the highlands above the Jordan valley, all signs of Palestinian life are being systematically eradicated. Palestinian cisterns have been sealed. Panamanian farmers have been forcibly removed, and their lands turned over to Jewish settlers. When there are no Israelis available to cultivate the land, the fields are chemically defoliated. Palestinian shepherds working their traditional grazing lands are tracked down by Israelis in Jeeps, and chased away by rifle fire. And most significant of all, the Israelis have confiscated some 80 percent of all arable land abutting the west bank of the Jordan river—the area which would be the bread basket of any new Palestinian mini-state. High Israeli fences bar the original owners from their lands, and one passes dozens of dismantled Arab irrigation stations.

Beyond the rusting machinery, one sees the other side of Israel's proudest national claim. For here, where Palestinians' fields once blossomed, the Israelis have created a desert. Israel's defeated Labor government, fearful of international censure, kept most of the confiscated lands vacant. Now Menahem Begin wants to open them to intensive Jewish settlement, and many observers fear the Israelis will not stop there.

"I have seen the Israelis watch a Palestinian farmer double his output," an American agricultural development expert told me before last May's elections, "and then seize half his land." In the Jordan valley village of El Makruk, an Arab farmer pointed to the Israeli barbed wire. "They have taken three-quarters of what my father left me," he said. "There is no land for my sons to till. One of them is now a day laborer for the Israelis. The other two have had to leave the country to find work."

The residents of the occupied territories always have suspected that the real, if unadmitted, Israeli policy was to dispossess them of their homeland. With Begin's election, this now has become explicit Israeli policy, and the Palestinians know that even if they try to resist, the Israelis will be the chief beneficiaries. "We could dismantle the Israeli well some night," a farmer at Bardala told me, as he walked in his parched fields, "but then the Israelis would take all our land, and the American newspapers would report that the terrorists had struck again."

Palestinians are not the only ones embittered by Israeli policy and the arrogance with which it is often administered. "Last winter," a U.S. official stationed in the Gaza Strip reports, "the Israelis erected an immense set of Chanukah candles on the highest rise above the refugee camps. It was like rubbing people's noses in the dirt." He adds: "Periodically, just to show that not even Americans can protect anyone, they pick up one of my Arab employees and torture him. The last one was a sixteen-year-old office boy. They tried stuffing his own boot down his throat."

"Economically and socially," a United Nations official says, "Gaza is becoming a Soweto." Israelis can settle and work in Gaza, but Palestinians who work across the border in Israel are forbidden to reside in their old villages, even when they work in Israeli fields that once belonged to them.

In Gaza, local Palestinian capital has built one of the largest orange packing plants in the Mideast, and in spite of its aridity and dense population, the strip produces a quarter as many oranges for export as does the whole of Israel. But while Israeli products have free entry everywhere in the occupied territories, Palestinian-grown oranges are not permitted to compete in Israel, nor may they be exported to countries where Israeli oranges are sold.

Gaza, like the rest of the occupied territories is also becoming a Soweto politically. The youth have been radicalized by ten years of hard Israeli rule. Even Israeli officials agree that if free elections with political parties were permitted, Yasser Arafat and the PLO would win an overwhelming majority. Yet the Israeli government continues to denounce the Palestine Liberation Organization as totally unrepresentative.

Throughout the occupied territories, one confronts a pervasive reality: After ten years, the Israelis have no empathy for the peoples Begin's Likud government now wishes to rule forever. Rather, the chief concern of the Jewish settlers is to avoid at all cost the emergence of an integrated society in which both peoples might live together as equals.

"The Palestinians complain all the time," says Hillel Wiseberg, a member of the Medah cooperative, when asked about the water shortages in the two villages a five-minute walk from his house. "They forget all their progress is due to us." Should Israel, in return for peace, relinquish settlements like Medah, which have been built on Arab territory "This is Jewish land," replies Wiseberg, who emigrated from Britain 11 years ago. "Why should we turn it over to aggressors?" He adds that in eight years at Medah, he has never entered either nearby Palestinian village, never taken a meal with any of his non-Jewish neighbors, never had a serious discussion with any of them. "You surprise me with all this talk of a water shortage," he says. "We have no shortage here." Should the Israelis share the water with their neighbors? "If they were industrious like us," Wiseberg says, "they wouldn't have these problems."

"The Arabs have no right either to Gaza or the Sinai peninsula," an Israeli escort officer informed me during an official briefing at Gaza. Maps published in Israel show no international borders for Israel. "Wherever Jews settle," says an Israeli businessman, "that is Israeli. That is all there is to it."

In Jerusalem, Israeli spokesmen used to say that such statements were totally unrepresentative of Israeli opinion. They quoted official statements saying that "Israel considers this a temporary occupation." They emphasized that Israel, as a democracy, is deeply concerned with all human rights, and has no desire to deprive other peoples of their lands.

But that was all before the May election. And even before the victory of the conservative Likud party, Jews attempting merely to open a dialogue with Arabs discovered that it was a perilous enterprise. When a group of Jewish American women, all Zionist activists, visited several Arab countries late last year, they were attacked by Israeli officials for meeting with Jihan Sadat, Egypt's first lady, and for visiting a Jewish school in Damascus. When Charlotte Jacobson, the group's leader, said "The Arabs are tired of war," then Foreign Minister Yigal Allon accused her of abetting "the Arab propaganda war." Some Likud supporters, indeed, now believe the real Zionist struggle is not with the Arabs, who present no immediate military threat, but with "unreliable" Jews—Soviet Jews who emigrate, but do not come to Israel; Americans who support Carter's evenhanded approach to the Mideast rather than follow Israeli policy; Israeli citizens who attempt a dialogue with the Palestinians.

When Israeli members of the Council for Israel-Palestine Peace met with PLO officials in Paris last year, Allon denounced the action, saying there was "no hope and no chance" of mutual understanding, and that the only place Israelis should meet Palestinians was on the battlefield. The Council's leader, General Mattityahu Peled, a hero of the Six Day War, disagrees. He says Israel should depend for its security not on keeping Arab lands, but by relying on the Israel Defense Forces, which he points out have never failed the homeland in battle. (Supporters of Menahem Begin in Parliament have denounced General Peled as an anti-Zionist traitor.)

In most ways, the defeated Labor govern-

ment was as adamantly opposed to an equal relationship with the Palestinians as the Likud block. But it at least had a policy for dealing with the occupied territories and their embittered population that bore some relationship to reality.

The so-called Allon Plan was a clever strategy for retaining Israel's military gains, while getting rid of the political liabilities of policing a hostile population; it would have done so by keeping Israel's military outposts on Arab land while transferring the local population to King Hussein (whose forces killed thousands of Palestinians in Black September 1970). The Plan also sought to excise the threat to Israel's Jewish identity involved in incorporating a large Moslem and Christian Palestinian community. As Allon himself put it, "Both to preserve its Jewish character and to contribute to a solution of the Palestinian issue, Israel should not annex an additional Arab population."

The Allon Plan was presented to the world as an act of Israeli generosity. But the prospect of returning any lands at all to the Arabs alarmed many Israelis, including Menahem Begin. In a crucial television debate just before the election, Begin accused his hawkish opposition, Shimon Peres, of willfully endangering the very survival of Judaism by supporting the plan, and this seems to have decided the election. For, contrary to the initial analyses, which indicated that domestic difficulties caused the Labor defeat, a study by Professor Uri Ra'anan of the Fletcher School of Law and Diplomacy reveals that Israeli popular opposition to withdrawal from Arab lands cost Labor more votes than anything else.

So now, at a time when those Jews leaving Israel have begun to outnumber those immigrating *to* Israel, Begin talks of waves of Israeli youth Judaizing a land that already is densely populated by Mideast standards. And should the waves of settlers actually materialize in the West Bank and Gaza, what is to happen to the Palestinians who are already there? And what of the 2 million Palestinians abroad, who dream of returning home?

The fact is that any annexation of the occupied territories is bound to threaten Israeli democracy *and* Israel's Jewish character far more effectively than Arab armies ever have been able to do. That is why Arab extremists—who, unlike Hussein, Assad, Sadat and Arafat, really do want to drive the Israelis into the sea—were almost as jubilant about the May election results as the Likud winners.

For if Begin has his way and Israel actually does annex the occupied territories, it will be obliged under its own constitution to give the Palestinians of Gaza and the West Bank the same rights nearly half a million Palestinians already have as Israeli citizens. Overnight, Israel would become a nation about 35 percent Arab.

Even now, Israel is becoming relatively less Jewish within its own original borders. Since 1948, the Palestinian population of the country has tripled, and now it is growing at a rate of 5.9 percent annually, versus a Jewish growth rate of only 1.5 percent a year. In Jerusalem, which Mayor Teddy Kollack has vowed to transform into a "Jewish city," Jews last year declined as a proportion of the city's total population, in spite of a continuing program to uproot Palestinians from the old city. And Galilee, an area shielded from both Arab armies and PLO *fedayeen* by the intensive Israeli fortifications on the Golan Heights, demographically has all but slipped out of Jewish hands without a single battle being fought. In western Galilee and the fertile Jezreel Valley, the Jewish population in one recent year increased by only 759 persons, the Palestinian population by 9,035.

Palestinians may soon comprise the majority in the entire crucial area of northern Israel lying between the West Bank and Lebanon, and between the Golan Heights and the sea. By the end of the century, it is conceivable that all of Israel might have an Arab majority. Long before that, however, Palestinians could hold the balance of power, thanks to an electoral system that consistently produces weak coalition governments.

Building on their demographic gains, Palestinian citizens of Israel already have won growing power by peaceful, constitutional, democratic means. They have built a record of honest local government that even some Jews envy at a time when one Israeli cabinet minister has committed suicide following corruption charges, and a prime minister has resigned for the same reason. Nazareth especially, with Tewfiq Zayyad, its communist Palestinian mayor, has earned the reputation of being the Bologna of Israel.

The Israeli reaction to the Palestinians' exercise of their democratic rights under the Israeli constitution has been deeply disturbing to those who hope Israel will remain an outpost of human rights in the Mideast. Last year, peacefully demonstrating Galilee Arabs, all of them Israeli citizens, were shot dead by Israeli troops when the government confiscated their land, for no other discernible reason than that they were non-Jewish.

And only a few months after supporters of Israel angrily denounced a UN resolution accusing Israel of racism, Israel Koenig, the governor of the country's northern region, officially described the non-Jewish Israeli citizens under his jurisdiction as people inferior to Jews, and possessed of a "Levantine, superficial Arab character" in which "imagination plays a more important role than reason."

Especially alarming to Koenig was that non-Jewish Israel citizens were using the same "methods that were followed by the Jewish settlers before the creation of the state." "Organized operations for the purchase by Arabs of real estate in the northern areas," Koenig warned, were threatening Jewish control. The governor also lamented the Palestinians' proclivity for higher education.

Koenig has several recommendations for preventing non-Jews from exercising the same political rights as Jews in Israel. Higher education, he argues, should be discouraged among non-Jews. Government agents should infiltrate legal political parties supported by non-Jews and destabilize them. Non-Jewish leaders who threaten Jewish interests, even by peaceful, legal means, should be removed from office and replaced by those willing to serve Jewish interests. Taxes on non-Jews should be raised to prevent them from purchasing land. Businesses and factories should be required to give employment preference to Jews over non-Jews. Non-Jewish Israeli citizens should be encouraged to leave the country and then "obstacles placed in the way of their return and obtaining work in Israel." Social benefits should be made available "exclusively to Jewish families."

Like the practice of random arrest and torture in Gaza, like depriving West Bank villages of water, Koenig's proposals are indicative of how ten years of military rule over a subject people has led Israel toward deliberate, ethnic discrimination, even within its own pre-'67 borders. As Koenig himself concedes, "One of the most disturbing phenomena is the lack of tolerance shown by the middle-class Jew toward the Arab citizen; in certain cases this can amount to real hatred."

Ten years ago, General Dayan declared: "Soldiers of the Israel Defense Forces, we do not aim at conquest." But today, Israel is caught up in its conquests—and the consequences of conquest: the economic costs of prolonged military occupation; the social costs for a people who never can let their guard down; the international costs of increasing ostracism. Above all, if it keeps the occupied territories, Israel will go on paying the moral costs of unequal and coercive relations with a conquered people, a relationship that is degrading, corrupting and embittering to victor and vanquished alike. The growing truth is that while Arab armies never have penetrated Israel's frontiers, and the PLO never has developed an effective resistance inside Israel, Israeli democracy and the egalitarian ideals of Zionism already are seriously threatened by the search for a military solution to problems that are chiefly social and political.

One sees the price Israel has paid for its victories in the Arab menials sweeping the streets; in the de facto segregation of the school systems; in a national syndrome of fear, arrogance and exclusivity. Less than 5 percent of all Israelis now live on kibbutzim yet even they are increasingly dependent on landless Palestine labor. "My students have contempt for manual jobs," a Jewish teacher says. "They say it's 'Arab work.'"

"What is the Israeli policy?" a Palestinian farmer in Bardala asks, as he showed me his dying fields. He was a Christian, and to summon up the fate that now haunts not only the Arabs, but Israeli as well, he quoted the twenty-third chapter of Exodus: "I will not drive them out from before thee in one year; lest the land become desolate and the beasts of the fields multiply against thee. By little and little I will drive them out before thee, until thou be increased, and inherit the land."

As Prime Minister Begin now has served notice on the world at Kaddum, Ofra and Maale Adumim, this remains his policy too—whatever overtures toward "real peace" he makes when he comes to Washington seeking support, money and guns. After 30 years, America does have a commitment to Israel, and with Menahem Begin as Prime Minister, Israel needs that commitment now more than ever. But as Jimmy Carter should fully understand by now, kind words in Washington are no substitute for steps toward genuine peace in the Mideast. From now on, we may have to honor our commitment to Israel not by praising the Lord and passing the ammunition, but, as George Ball once put it, by finding ways to save Israel in spite of herself.

ALTERNATIVE REPORT OF THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Mr. CHURCH. Mr. President, the independent spirit of handicapped Americans is one of the most encouraging phenomena of our times. It should have been evident at the White House Conference on Handicapped Individuals held in Washington last May, and it was.

Many of the handicapped at the White House Conference were strongly dissatisfied with its proceedings, and their views are embodied in an alternative report that deserves the thoughful consideration of the Congress. I ask unanimous consent that it be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, thankfully, the shameful days of pity and ignorance of the handicapped are past. The White House Conference alternative report details their aspirations, foremost of which is to be independent members of society, respected for their individual capacities. That is a goal we must share and assist, but their own self-reliance, as

emphasized in the alternative report, represents the new spirit in full expression.

EXHIBIT 1

REPRESENTATIVES OF THE HANDICAPPED AT THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS FOR AN ALTERNATIVE CONFERENCE REPORT

The White House Conference on Handicapped Individuals, mandated by title III of Public Law 93–516, was convened on Monday, May 23, 1977, at the Sheraton-Park Hotel in Washington, D.C. The Conference was widely publicized as the first major polling of the entire field of the handicapped, with the purpose of creating a broad consensus of needs and priorities to guide the government for years to come. Perhaps it was the ancient misconceptions regarding the incompetence of the handicapped which caused the planners to organize the Conference into a rigid, computerized structure, or perhaps they just lacked faith in the basic ability of handicapped Americans to think and speak for themselves. Whatever it may have been, many felt that the traditional custodial approach predominated, leaving little room for freedom of thought or expression by delegates, alternates, and observers. There was also the feeling that the Conference report to be presented to the President and Congress was already written and the exercise of checking boxes on computer forms was a hollow gesture.

By Wednesday, a group of about 400 of the 2500 in attendance at the Conference were enough dissatisfied with the structure of the Conference to withdraw from participation and hold a meeting to discuss their dissatisfaction. This group was made up primarily of the handicapped themselves, as opposed to the group gathered for the general White House Conference, which was dominated by professional providers of services. The dissatisfied group decided to write an alternative conference report, one which would reflect the direct and pressing needs of the handicapped themselves.

The group—which called itself Representatives of the Handicapped for an Alternative Conference Report—elected a chairman. This was Kenneth Jernigan, president of the National Federation of the Blind and a delegate to the Conference from the state of Iowa. The group then appointed members for a writing committee to produce an alternative report, choosing one or two persons from each handicap category present. The committee numbered 19, from 11 states. Its members were: William Adrian, Leroy Baugus, James Brooks, Shirley Burghard, Howard Felix, Michael Fuehrer, Don Galloway, Mervin Garretson, James Gashel, Paul Gassert, Mary Sloan Jones, Leonard Meyer, Louis Michaux, Rami Rabby, Les Sinclair, Dan Sorenson, Isaiah Uliss, and Kathy Weger. The committee members comprised the following handicaps: three are blind, two are deaf, three are in wheelchairs, three are former mental patients, two are epileptics, two have cerebral palsy, one is an amputee, one has a learning disability, one is a parent of a handicapped child. In addition, two committee members represented the non-white caucus, and two are veterans.

During the 24 hours after the Wednesday meeting, the writing committee produced a document which was debated and amended at another general meeting held Thursday, May 26. At this meeting resolutions were introduced from the floor and these, along with the document produced by the writing committee, were adopted by the whole group as the Alternative Conference Report. This is the report reproduced below.

In statements to the press, Jack Smith, executive director of the Conference, indicated that he felt the handicapped of the nation are in general not sophisticated enough about the issues confronting them to determine their own needs and priorities. As a result he viewed the Conference as an educational experience for the handicapped, a chance for them to meet each other and the "experts." Contradicting this, the handicapped persons at the alternative conference easily reached a consensus on the issues of importance to them, and they considered that the major division in the field is between the handicapped themselves and the professionals with a vested interest in programs as they now exist.

More copies of this report may be obtained from the White House Conference on Handicapped Individuals, 1832 M Street, NW., Suite 801, Washington, D.C. 20036, or from the National Federation of the Blind, 1346 Connecticut Avenue, NW., Suite 212, Washington, D.C. 20036.

ALTERNATIVE REPORT OF THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

I. PREAMBLE

Believing in the goals, purposes, and potential value of the White House Conference on Handicapped Individuals authorized by title III of Public Law 93–516, we, the representatives of the handicapped for an alternative Conference report, have assembled to express views which have come from our own experience as handicapped individuals and as representatives of broader constituencies. It is our intent that this report stand on its own and also add to any positive recommendations from the White House Conference which would benefit the millions of handicapped Americans. Since the structure and planning of the Conference did not allow for creative expression and original thought by the delegates and other participants, a broadly based group of handicapped individuals and other interested persons has come together to more truly reflect the needs and aspirations of handicapped Americans. We feel that the issues presented in the workbooks of the White House Conference were not formulated at a grassroots level meaningfully involving the handicapped.

The recommendations in the present report have been carefully developed and worded. They reflect the best ideas expressed in workshops as well as by individuals. We hope that there will be a number of White House conferences on the needs of handicapped individuals. Furthermore, we hope that the spirit of the alternative report will establish the tone of subsequent conferences, that they will be truly written and created by the handicapped and those who are vitally interested in the welfare of handicapped individuals, and that there will be full implementation of measures which would be of maximum benefit to such individuals, moving them into the mainstream of American life.

II. BACKGROUND

As the participants in the national White House Conference on Handicapped Individuals arrived in Washington, D.C., and learned in more detail the structure and operation of the Conference, a growing wave of dissatisfaction spread. By Wednesday, May 25, a sizable number of delegates and other participants determined that something had to be done for the benefit of the Conference and of all handicapped individuals. A large group (approximately 400) assembled, and its members were generally labeled "those dissatisfied with the Conference." In large part the reasons for the dissatisfaction were these:

State White House Conferences. We felt that state conferences selecting delegates to the national Conference were not structured to allow a truly representative consensus of the needs and wishes of the handicapped. There seemed to be an overrepresentation of professional service providers. In many (if not most) instances, the delegates were not actually elected at all, but rather they were chosen by select committees or by individuals. This was seen as an undemocratic process.

Issues/Recommendations Structure. We felt that the approach to developing issues and recommendations was similarly undemocratic. It seemed as though the White House Conference staff had no faith in the basic capacities of handicapped persons to come together to hammer out their own agenda of national priorities. That this should be done by checking boxes and "prioritizing" 3,500 separate recommendations (many of which duplicated one another and others of which were unclear in meaning or impact) speaks to this lack of faith. The White House Conference staff claimed that the issues grew out of the state conferences, but even at that level, we were presented with "awareness papers" stating "what we already know," accompanied by long lists of issues which formed the basis of the polling to be done at the state and national conferences. The overly structured reporting forms for the state conferences, the delegate workbooks, and the computerized voting system for the national Conference inhibited the freedom of choice of the delegates and their ability to exercise their best judgment.

Custodial Care of Handicapped Delegates and Participants. There were several elements in the grand logistics plan for the national White House Conference which were reminiscent of a kind of custodialism that the Conference itself should have been designed to bring to an end. For example, participants in the Conference were pressured into staying in a single hotel, where they were assigned roommates, and into eating all of their meals in the hotel under a meal ticket system. Normally, delegates to federal conferences are given a per diem amount and allowed to arrange their own food and lodging. It was only after massive protest (including letters from the Governors of several states) that delegates were permitted to make their own arrangements. Other participants still were required to eat and sleep at the Conference hotel. Even so, those delegates eating away from the hotel were given $16 per day, while the hotel received $28 per day per delegate for meals. Delegates were asked to fill out detailed medical forms, and dossiers containing this information were sent to the airlines carrying them to the Conference. Along with their airline tickets, some delegates received "speciman tickets" showing them what a real ticket was like. This speciman ticket was made out to "John P. Doe," and this was further labeled "your name." We as representatives of the handicapped feel that such treatment was in most cases unnecessary and undesirable and will further damage our image with the general public, and in doing so, will impede the goals of the White House Conference itself.

III. TERMINOLOGY

This report uses the term "handicapped" throughout. Yet, consistent with the concept of allowing the people we represent flexibility and self-determination, we recognize the following generic labels as options currently used in various parts of the country: (1) handicapped; (2) individuals who are handicapped; (3) individuals with a handicap; (4) disabled; (5) individuals who are disabled; (6) individuals with a disability; (7) handicapper; (8) individuals who are handicappers; (9) able-bodied.

IV. RECOGNITION OF UNIQUE NEEDS

Whereas handicapped consumers of this country believe that blanket legislation, recommendations, and approaches toward concerns and issues affecting all handicapped groups tend to generate confusion and to be lacking in specific definition; and

Whereas some of the issues inherent in

each category of the handicapped reflect diametrically opposite problems; and

Whereas sighted persons do not always know what is best for blind people, and orthopedically handicapped persons rightfully resent unwarranted determinations of their needs from able-bodied people, and deaf persons do not always agree with hearing people regarding what is best for deaf children and adults:

Be it resolved that the issues and concerns at this Conference be analyzed and grouped according to each specific handicap in order to more fully and properly meet the needs of each handicapped group; and

Be it further resolved that all delegates and alternates, state directors, the Conference implementation committee, and report editors give full and careful consideration to position papers and recommendations from specific groups of the handicapped and particularly from established consumer organizations represented by and under the leadership of handicapped individuals themselves.

V. CONSUMER PARTICIPATION

Whereas the White House Conference on Handicapped Individuals was brought about for the purpose of providing avenues through which handicapped persons could secure full independence and freedom of expression; and

Whereas traditionally the decision-making structures the policy-making boards and governing bodies of agencies and programs serving the handicapped have largely excluded representatives chosen by the handicapped themselves; and

Whereas that approach is no longer acceptable in the new age of independence for the handicapped:

Be it resolved that all programs and services must in the future adopt policies which provide for meaningful consumer representation in their basic policy-making processes; and

Be it further resolved that meaningful consumer participation requires that at least fifty percent of those serving on policy-making bodies be bonafide consumer representatives, plus, where this is appropriate, an additional number of parents of consumers. We define the terms "consumer" and "consumer representative" as follows:

A "consumer" is defined as an individual who by reason of his handicap is eligible for, may require, has received, or is a recipient of some kind of human service including medical, mental, rehabilitation, housing, transportation, etc., as provided by an agency.

A "consumer group" is defined as a group of consumers who have joined together for the general welfare of their membership.

A "consumer representative" is an individual who represents a constituency, is elected by them, and is accountable to them.

VI. CIVIL RIGHTS

Preface 1. All of the succeeding resolutions, when dealing with the term "handicapped," adopt the definition of that term found in the Rehabilitation Act of 1973.

Preface 2. All of the succeeding resolutions include handicapped persons who are black, Asian-Americans, and Hispanic-Americans.

Be it resolved that to secure adequate enforcement of federal civil rights laws for the handicapped, we support the following:

(1) The establishment of an adequate enforcement staff in the Department of Labor and the Department of Health, Education, and Welfare, and in other federal departments as they issue regulations under section 504 of the Rehabilitation Act of 1973, as amended. There must be regional distribution of staff. There must be adequate staff, at the least 1,000 positions, designated to work exclusively on section 504 in the Department of HEW.

(2) Such staff must be substantially integrated by including handicapped persons, parents of handicapped children, or other advocates for the handicapped, and these staff members must be specifically trained.

(3) Legislatively or by amending the regulations, we must require regular compliance reviews of facilities and recipients.

(4) Legislatively, an individual's right to take legal action under sections 503 and 504 must be ensured.

(5) Legislatively, the right to recover legal fees for actions brought under sections 503 and 504 must be ensured.

(6) Section 504 must be amended to clearly require affirmative action plans, including employment goals and timetables and including provisions to prevent discrimination against the more "severely" handicapped.

(7) Sections 503 and 504 or their regulations must be amended to provide a specific time limit for the resolution of complaints brought to the Department of Labor or Department of HEW. The limit should be 120 days from the date the complaint is filed, and complainants must be allowed to go directly to court if the Departments fail to issue a finding by the time deadline.

(8) Title V of the Rehabilitation Act of 1973, as amended, must be further amended to require an annual report on governmental efforts to enforce sections 501, 503, and 504, and this report must be prepared by a non-Executive Branch agency.

(9) The government must provide technical assistance to recipients of federal funds to aid their compliance with title V.

(10) The Justice Department must be allowed to bring civil suits to enforce title V.

We also recommend the following actions:

(1) Amend all titles of the Civil Rights Act of 1964 to include discrimination against the handicapped; remove the requirement that all administrative remedies be exhausted before lawsuits can be brought; and add a title dealing with discrimination against the institutionalized handicapped.

(2) Establish and fund a legal advocacy network to enforce the civil rights of the handicapped.

(3) Demand that the federal government hire people with substantial handicaps by rigorously carrying out section 501 of the Rehabilitation Act of 1973. The Administration should assign responsibility (and introduce legislation to assign responsibility) for monitoring federal compliance with section 501 to an agency outside the Civil Service Commission, and this agency should be staffed by a majority of handicapped employees. Such an agency must be given authority to apply sanctions against federal departments that do not respond.

(4) Require all federal agencies to establish employment goals and timetables for the handicapped.

(5) Request that President Carter accomplish these recommendations by July 4, 1977, or publicly proclaim a timetable for their accomplishment.

(6) Handicapped persons who are faced with additional discrimination because of sex or lifestyle should receive particular consideration in the enforcement of civil rights provisions.

(7) In any law requiring that reasonable accommodation be made for the hiring of the handicapped as a part of affirmative action, the providing of assistants (readers, interpreters, manual writers, etc.) shall be considered reasonable accommodation.

(8) As our fight for civil rights grows, we endorse as a tool in obtaining our rights the possible future use of economic boycotts of industries that discriminate the handicapped.

VII. REMOVAL OF ATTITUDINAL BARRIERS

Be it resolved that there must be a strong emphasis on assertiveness training groups for the handicapped, to be conducted, if possible, by qualified handicapped persons. One of the basic problems faced by handicapped persons is the struggle to be assertive. Their failure to be assertive results from the institutional oppression they face. The handicapped need to form consciousness-raising groups to confront and overcome their fears.

Be it further resolved that there must be an emphasis on the forming of alternative identities for the handicapped which are more positive than those imposed on them by institutions.

Whereas inherent in attitudinal barriers faced by the handicapped is the assumption of intrinsic inferiority, reinforced by continual association with the medical, psychological, rehabilitation, and special education industry/institutions; and by continual representation of and segregation of such individuals in sterile, stereotyped social contexts; and

Whereas social-psychological research indicates that actual behavioral commitments and actual exposure to discrepancies between perceived events and established stereotypes and the most conducive to attitude change; and

Whereas our immediate purpose is not to get society to "like" all handicapped individuals, but rather to provide such individuals the opportunity to be liked or disliked on their own:

Be it resolved that the following be made priorities:

(1) Legislative bodies shall mandate inclusion of the handicapped in the Civil Rights Act of 1964, as amended, and provide for funded implementation and enforcement that includes significant input from the handicapped. This will also include mandating and funding affirmative action in transportation, environmental access, education, recreation, cultural participation, and all levels of employment. The result of this will be (a) behavioral commitments to affirmative action; (b) increased numbers of handicapped persons providing positive role models; (c) increased opportunities for social contact between the handicapped and the general public; and (d) decreased association between the handicapped and "helping" professions and institutions.

(2) Legislative and executive bodies at all levels must maintain a commitment to the concept of total integration in its broadest sense. This would include: total integration in the educational curriculum at all levels (i.e., integration of the handicapped as people in children's books, films, etc.; integration of common tools used by the handicapped; and integration of the handicapped in educational faculties, staffs, and administrations). This would also include total integration of the handicapped in the media at all levels (i.e., integration of the handicapped as people in movies, plays, commercials, magazines, billboards, etc., as well as integration of the handicapped in media review boards, administrations, staffs, etc.).

(3) Legislative and executive bodies at all levels must place a funding priority on services and programs relating to the handicapped that are primarily administered and staffed and/or otherwise monitored by them, so that the handicapped may be competent about the business of helping themselves. Examples would be: funding outreach, peer counseling, and assertiveness training programs designed, administered, and staffed with maximum input from the handicapped.

VIII. ARCHITECTURAL ACCESSIBILITY

Be it resolved that all citizens, including those with characteristics labeled handicaps, have the right of access to and usage of the constructed environment.

To facilitate this right, we should evolve beyond the present practice of "barrier-free design" to the more comprehensive approach of "total environmental design." Barrier-free design stresses minimum standards and removal of barriers—access rather than total use. Total environmental design stresses optimum design standards and design for use by everyone—usability rather than just ac-

cess, and the avoidance of special features where feasible. To accomplish this goal, we make the following recommendations:

(1) Each state should enact legislation and building codes that encompass the total environmental design concept. Such laws and codes should meet the following criteria:

(a) Promote usability by the widest range of individuals with differing physical characteristics.

(b) Increase safety in use.

(c) Decrease maintenance and operating expenses.

(d) Enhance aesthetics.

(e) Provide flexibility of standards according to geographic region or climate.

(f) Provide optimum design standards for new construction.

(g) Provide design flexibility for reconstruction.

(h) Avoid "special" or "separate" features unless this is technologically impossible.

(i) Establish a state-level total environmental design board as the sole authority for rules, interpretations, exceptions, variances, standards, etc., such a board to include handicapped members, including handicapped women (in order to gauge the meeting of their specific needs).

(2) A new graphic symbol should be created to replace the present accessibility symbol. The new symbol should more meaningfully represent the concept of total environmental design, rather than simply accessibility to wheelchairs.

(3) The federal Architectural and Transportation Barriers Compliance Board should be upgraded as follows:

(a) An independent board shall be located in the appropriate federal service agency for the handicapped.

(b) The board shall have sole authority and jurisdiction regarding the resolution of any conflicts under the federal statute and shall have sole enforcement responsibility for buildings and properties under its jurisdiction, and all other relevant areas.

(c) The board shall have accessibility standard-making authority with regard to all federal programs. Where federal and state jurisdictions overlap, the board shall determine equivalency of standards and the higher standards shall prevail.

(d) The board shall be the sole waiver authority within the federal system under its jurisdiction. Waivers shall not be granted to new construction.

(e) Enabling legislation shall also mandate a regional board network under the authority of the federal board.

(f) An annual line item budget shall be provided for the board which fully funds all activities of the board commensurate with its duties.

(4) Each state shall create consumer monitoring bodies to assist in the barrier-free design/total environmental design enforcement effort, and these bodies shall include women.

(5) All design and building-related professionals shall be required to undergo barrier-free design/total environmental design training and refresher programs.

[Note: Information on total environmental design can be obtained by contacting: Environmental Design Section, Office of Programs for Handicappers, Michigan State University, East Lansing, Michigan 48924. Two prototype barrier-free design documents—Act 177 of the Michigan Public Acts of 1975, and the State Building Code of Michigan—can be obtained from: State Representative Jelt Sietsema, Room 4, State Capitol, Lansing, Michigan 48909.]

IX. TRANSPORTATION ACCESSIBILITY

Be it resolved that all citizens have the right of access to and use of all public transit services, vehicles, equipment, and fixed facilities; and that therefore:

(1) Bus transit services shall consist of line haul vehicles all of which are accessible, complemented by an appropriate number of accessible demand-response vehicles that provide point-to-point service and feeder service to the line haul vehicles.

(2) The U.S. Department of Transportation, and in particular, the Urban Mass Transit Administration, and other federal agencies providing money for transportation shall be authorized (by amending legislation and administrative rule changes) to prescribe vehicle standards which will result in total vehicle accessibility for vehicles ordered on or after January 1, 1978. Total accessibility standards should also be developed and mandated for other modes of transportation where accessibility technology has not yet been brought to bear (intercity buses, rail services, air carriers, etc.) These standards shall be effective July 1, 1979, and shall include visual and auditory travel information mechanisms.

(3) Each state or territory shall enact legislation requiring that all vehicles purchased with federal, state, or local funds, or other government-funded transportation, be accessible and usable by handicapped persons and have at least two wheelchair tiedown areas, commencing January 1, 1978.

(4) The federal government agencies funding transportation shall mandate the establishment of consumer advisory groups composed of at least 75 percent handicapped consumers. The groups will work with transit agencies, authorities, and planning organizations.

(5) Federal agencies funding transportation projects shall mandate coordination of such services to improve efficiency and effectiveness.

X. REMOVAL OF COMMUNICATION BARRIERS

Whereas communciation is the major means by which human beings are distinguished from animals; and

Whereas the problems of communication provide almost insurmountable barriers for deaf people and others who have handicaps that break down the means by which most people normally communicate; and

Whereas since these barriers are readily overcome by consideration of the communication needs of such people; for instance, telephone installations usable by people confined to wheelchairs and who cannot reach normal telephone installations in public buildings, or the hearing impaired who are able to use telephones if volume controls are provided, or the deaf whose ability to use telephone communications is limited to devices known as TTY's (teletypewriters)—all of which should be required installations in public and private buildings.

Be it resolved that we take note of the differences in the modes of communication needed and supported by various categories of the handicapped, and urge that consideration be given to special needs as the means of eliminating communication barriers which effectively and needlessly separate people. Included herein are the efforts to suppress sign language. It is our consensus that deaf people shall have the right to communicate in any manner which is convenient and effective for them, and that the right to visual communication shall be guaranteed at all levels of society including the educational system. We condemn all attempts to deprive deaf persons of their right to choose the manner in which they prefer to communicate.

Be it further resolved that visual communication is an unusual mode of communication but one that should be encouraged to overcome the barriers that currently exist in many situations, including such areas as transportation, courts of law, administrative and other service agencies, television, and interpersonal relationships such as doctor-patient relations, and the like. Such means of overcoming communication barriers shall include, but not be limited to, the use of interpreters (both oral and manual), the development of alternative indicia to complement normal audible signals (such as flashing lights for fire alarms and other emergency warnings), the use of pre-recorded or other means of communication in elevators, on highways, etc., for persons who, for reasons of health or other problems, cannot communicate verbally; the requirement that all public announcements and emergency broadcasts on open-circuit public or commercial television be both audible and visual; the refutation of the claim that visible captions on television are objectionable or offensive to people who hear; the development of devices such as teletypewriters for the deaf and mechanical "voices" for persons whose speech impediments are so great as to preclude their being understood without such assistance.

Be it further resolved that there is a need to develop means to insure that audible announcements such as are generally provided in train stations, bus stations, and airports (as well as on planes and buses) are also provided in visible form; there is also a need to increase awareness of visual communication modes and to encourage the use of visual communication among all people by endorsing the concept that sign language be taught in schools at all grade levels, and taught as a foreign language at the high school and college level. This will be done not so much as a means of communication with deaf people (although it is acknowledged that this would be one result) but as an international language which is desperately needed in a rapidly shrinking world where the need for communication among nations as well as among individuals grows greater by the hour.

For the blind we support the continued viability of the Braille system and feel that it is essential that both Braille reading and writing be taught effectively to blind children and newly blinded adults. We strongly support wider availability of Braille books and we strongly support all efforts to expand the Braille production capacity in America and throughout the world. The use of tape recordings and reading devices (while having a valuable place) must not be promoted to the extent that the importance of Braille is at all diminished.

We recommend that every effort be made to place communication barriers as one of the highest priority problems so far identified, and that it be given great consideration in implementation strategies so that the communicatively handicapped, be they individuals or nations, are truly members of one world.

Whereas millions of disabled Americans with hearing, speech, and other communicational impairments encounter serious employment, social, information, and service discrimination because of (a) the non-availability of low-cost or rental telecommunication devices for the deaf (TTY's); (b) the present inequitable long-distance and message-unit telephonic rate structures that penalize utilization of this slower, printed communication mode; and (c) the failure of all telephone companies to provide equal services at equal rates to communicationally impaired consumers:

Be it resolved that we call upon and urge the President, the Federal Communications Commission, the Congress, appropriate state regulatory commissions, and individual telephone companies to take all necessary and appropriate action to mandate the availability of such telecommunication devices for the deaf on a low-cost or rental basis, and to modify and reduce telephonic long-distance and message-unit structures for users of telecommunication devices.

Whereas telephone companies are currently seeking to make an identifiable charge

for directory assistance in ascertaining telephone numbers; and

Whereas in many parts of the country service has been limited so that addresses and other public information are no longer provided on request; and

Whereas this would impose increased costs on and reduce services to the blind and others who are unable to use the print directory;

Be it resolved that telephone companies be urged to exempt the blind and all others who are unable to use the print directory from such a charge, and that this exemption be done by means of a credit card system; and

Be it further resolved that telephone companies be urged to provide to persons unable to use the print directory any information printed in the directory, upon request.

XI. EDUCATIONAL ISSUES

Whereas Public Law 94–142, the Education for All Handicapped Children Act of 1975, however necessary and however well-intentioned in spirit, tends to stereotype or generalize across the entire gamut of diverse handicaps and to create surface assumptions and misunderstandings among the naive and frequently uninformed educational community about the unique needs of differing handicapping conditions:

Be it resolved that although mainstreaming (or placing of handicapped children in regular public classrooms) with full support services is the right of every handicapped child, it shall also be the right of any handicapped child to be educated in a fully supported alternative setting when this is judged desirable by school administrators solely for their own convenience). Separate residential schools for the education of deaf children are one instance of this need, since when such children have no chance to communicate at home or, on a steady basis, in public school, a residential school for the deaf offers the constant communication necessary to proper educational and mental development. Thus Public Law 94–142 should be amended to provide that while mainstreaming remains an unquestioned right for every handicapped child, alternatives shall also be available and a right for those children who desire them; and

Be it further resolved that the law be extended to include the 0–5 age group of children; and

Be it further resolved that emphasis be placed on the right to select an appropriate educational setting, maintaining a wide selectivity of options, including special classes within public schools, special day schools, residential schools, or adult activity centers, depending on the handicap and the individual education plan for each child or adult; and

Be it further resolved that implementation procedures be strengthened in the area of assessment, support services, due process, the individualized education plan, including native language and mode of communication; and

Be it further resolved that clear distinctions be made among the educational needs of each category of the handicapped, such as the blind, orthopedically handicapped, deaf, etc.

Be it resolved that strong support be extended to early diagnosis and intervention; and

Be it further resolved that programs be developed to increase public awareness to the special educational needs and problems of each handicapped group, including the need for readers for the blind and sign language programs for the deaf; and

Be it further resolved that television captioning be required on all public and commercial programs since this greatly delimits out-of-school learning opportunities for the hearing-impaired; and

Be it further resolved that intermediate educational units such as state and regional schools for the handicapped be maintained with increased and direct support from the state educational agency as a necessary option for some handicapped persons, depending on individualized assessment and programming; and

Be it further resolved that no program or law be developed that limits freedom of choice of the handicapped with respect to the type of educational setting which is most appropriate to their needs.

Be it resolved that to assure handicapped children appropriate education services, the federal government shall immediately mandate the availability of comprehensive developmental education services to all handicapped children from birth through five years of age.

Whereas the passage of title V of the Rehabilitation Act of 1973, as amended, mandates affirmative action in employment and non-discrimination in employment of the handicapped; and

Whereas a large percentage of handicapped persons previously discriminated against will become eligible for such employment and, consequently, may require employment preparation; and

Whereas title V carries no mandate for funding to provide for the vocational assessment, vocational counseling, and vocational training of the handicapped, nor for individualized developmental or prevocational training; and

Whereas the Vocational Education Act of 1973 (Public Law 94–482) mandates that only ten percent of those funds appropriated under the act be set aside for the training of such handicapped persons:

Be it resolved that the mandated funds set aside under the Vocational Education Act be increased from ten percent to 25 percent.

Whereas all children have a right to an education which meets their needs and which allows them full equality of opportunity; and

Whereas many children with handicaps are denied these rights because of discriminatory practices, including denial of appropriate services, segregation, and exclusion; and

Whereas Congress passed and the President signed Public Law 94–142, the Education for All Handicapped Children Act, to assure handicapped children the right to a free and appropriate public education, to provide full procedural safeguards for these children and their parents, and to assist the state and local educational agencies to carry out their constitutional responsibilities to these children; and

Whereas Public Law 94–142 requires each State to provide all its handicapped children with a free appropriate public education by September 1, 1978, or become ineligible for federal funding, and sets forth minimal requirements necessary for the federal government to assure that children with handicaps are, in fact, protected; and

Whereas various organizations and individuals have recommended amendments to Public Law 94–142 that will undermine its effectiveness in protecting handicapped children and weaken its provisions; and

Whereas we support this federal law which mandates that national, state, and local government must finally take effective action to assure that each handicapped child is assured equal educational opportunity.

Be it resolved that every national, state, and local government agency responsible for implementing this law and for providing an education to handicapped children do so immediately; and

Be it further resolved that we oppose any attempt to weaken the long-needed protection provided in Public Law 94–142, and that therefore, other than the amendments proposed herein, we oppose amendment to this legislation.

Whereas many handicapped people, especially those belonging to minority groups, often go through and leave the educational system not knowing how to read or write, and are thus prevented from gaining employment or achieving full participation in society:

Be it resolved that programs be established to identify individuals with reading problems and that these people be integrated into the Right-To-Read program, and that all means (including federal programs and media campaigns) be used to accomplish this result; and

Be it further resolved that there be increased research into and expansion of teaching techniques such as the consonant-vowel-consonant principle and auditory senses; and

Be it further resolved that community colleges be encouraged to establish programs for the reading handicapped, including increased funding for such programs, and for programs set up for non-English-speaking Americans; and

Be it further resolved that there be established programs coordinated with private industry to allow continuing schooling in conjunction with part-time employment, with full-time employment in the private industry being the goal at the end of the program; and

Be it further resolved that community-based tutorial programs be established and expanded to provide corrective programs free to those with reading disabilities.

Be it resolved that for all handicapped children in public or separate school programs, there be provided arts education and recreation experience.

XII. MENTAL HEALTH

Whereas the long-overdue de-institutionalization of mental hospital patients has thrust thousands of exceptional persons into communities unprepared to receive them; and

Whereas psycho-social rehabilitation facilities are much too few in number and are woefully under-financed; and

Whereas community mental health residences are rare and inadequate and vocational training and employment of such aforementioned persons in the sheltered, public, and private sectors are shamefully unavailable:

Be it resolved that adequate federal funding be provided directly to non-profit mental health facilities with a proven record of service delivery (as judged from the point of view of their clients) and to small community-based, client-controlled mental health alternatives; and

Be it further resolved that ombudsperson offices be established at all levels to ensure that the aforesaid is carried out with integrity and dispatch.

Be it resolved that, with regard to persons termed mentally ill, we support the following:

(1) Government support for all those confined to mental institutions.

(2) Compiling of directories and media dissemination of information about services available to those termed mentally ill.

(3) Free access at all times of persons to their own medical records.

(4) Elimination of questions such as, "Have you ever been in a mental institution?" on job applications or government forms, since this results in a labeling which is a barrier to employment.

(5) Elimination of consideration of a history of so-called mental illness in granting drivers licenses or automobile insurance.

(6) Recognition of the contributions to society of those labeled mentally ill.

(7) De-institutionalization of those labeled

mentally ill, through the use of halfway houses, communes, etc.

(8) Emphasis by health agencies on practical preparation for living and self-healthful life-styles.

(9) Expansion of new forms of therapy, such as self-help therapy.

(10) Realization that so-called mental illness is often a biochemical physical illness or nutritional deficiency that has mental overtones.

(11) Use of volunteers in work with the so-called mentally ill.

(12) Withholding of funds from programs which ignore federal mandates for deinstitutionalization.

(13) Encouragement for consumer groups of the so-called mentally ill to coordinate their efforts and ally themselves with each other.

(14) More homelike facilities for those who must be institutionalized.

(15) Periodic follow-up and time limits on involuntary institutionalization.

(16) Payment of the minimum competitive wage for all patients working in mental institutions.

(17) Establishment of patient advocacy programs in institutions and the dissemination of the "Mental Patient's Bill of Rights."

(18) Awareness of the overuse and the dangers of heavy tranquilizing drugs as mental treatment.

(19) Banning of electric convulsive shock therapy and psychosurgery.

(20) Elimination of custodial warehousing of patients in institutions due to the lack of proper mental treatment.

(21) Elimination of central registers of those labeled mentally ill and a ban on the publishing of such registers.

(22) Elimination of degrading terminology for the so-called mentally ill.

(23) Participation of former mental patients in national meetings of the American Psychiatric Association.

(24) Moratorium on construction of new state mental institutions, and the establishment instead of small community-based, client-controlled social rehabilitation units.

(25) Use of daycare centers as an alternative to institutionalization.

(26) Free involvement of those termed mentally ill and of the physically handicapped in programs of the church and encouragement for the church to speak out against the injustice done to those termed mentally ill.

(27) Recruitment of law students to the area of patient advocacy.

(28) Elimination of the discriminatory policies of departments of vocational rehabilitation regarding those termed mentally ill.

(29) Inclusion of the so-called mentally ill in the definition of "seriously disabled" and their inclusion in Fair Employment Practices Acts.

(30) Elimination of the title and connotation of "lunacy" or "sanity" hearings.

(31) An increase from 20 to 25 in the number of members of the White House Special Commission on Mental Health, the five new members to be former mental patients.

(32) The appointment of former mental health patients to the task forces to be formed by the White House Special Commission on Mental Health.

XIII. MEDICAL AND FINANCIAL ASSISTANCE

Whereas Social Security and public assistance programs allow very limited earnings, above which benefits are either reduced sharply or terminated altogether; and

Whereas these principles which originated as part of the Elizabethan poor law are not compatible with present-day concepts of encouraging people to work to their maximum potential and to contribute to society as a whole:

Be it resolved that Social Security and public assistance laws and regulations be amended to remove all disincentives to employment for recipients.

Whereas handicapped individuals who benefit from the medicare and medicaid programs are often not able to obtain equal medical insurance or assistance once they become ineligible for medicare or medicaid benefits; and

Whereas this reduction of available medical assistance benefits constitutes a substantial disincentive to employment for handicapped individuals:

Be it resolved that medicare and medicaid benefits be extended to handicapped individuals who are employed but who have no other equally effective or comprehensive medical assistance plan available.

Whereas a five-month waiting period is presently a prerequisite of eligibility for disability insurance benefits or the disability freeze under Social Security; and

Whereas this waiting period imposes a substantial financial hardship on handicapped persons who are otherwise entitled to receive benefits which they have earned; and

Whereas the purpose of the Social Security disability insurance program is to insure against the economic loss which occurs as a result of a disability; and

Whereas the true economic adversities usually begin at the onset of a disabling condition, not five months later:

Be it resolved that we urge the elimination of the five-month waiting period in the Social Security disability insurance program.

Whereas there is presently a requirement that an individual must have been entitled to disability benefits for at least 24 consecutive months in order to qualify for medicare on the basis of disability; and

Whereas this arrangement results in many disability insurance beneficiaries not having any financial assistance to meet the costs of medical care, costs which are steadily increasing and already far beyond the means of those who must rely on Social Security benefits for their basic subsistence:

Be it resolved that we urge elimination of the 24-month waiting period for medicare eligibility in the Social Security disability insurance program.

Whereas since the Supplemental Security Income (SSI) program became effective on January 1, 1974, the several states and the District of Columbia have been relieved of from 50 percent to 83 percent of the costs of aid payments to their needy aged, blind, and handicapped citizens; and

Whereas, with today's high cost of living and inflation, the basic SSI grants are insufficient to purchase the necessities of life by our neediest citizens:

Be it resolved that the Congress should require the state and the District of Columbia to supplement the SSI grants by not less than 50 percent of such grants.

Whereas the condition of epilepsy necessitates medical control and requires the constant purchase of expensive medication; and

Whereas because of negative social attitudes, many persons with epilepsy find it difficult to obtain suitable employment even though they have the ability to compete on equal terms; and

Whereas this social and economic discrimination places an almost impossible financial burden upon such persons:

Be it resolved that the extra financial burden borne by epileptics should be recognized in providing financial and medical assistance to such individuals and that benefits should be made available to cover the cost of medication designed to control epileptic seizures, so that such individuals will be able to participate fully in remunerative employment.

Whereas the condition of epilepsy is a handicap which is not visible; and

Whereas it is desirable for other persons to be aware of this medical condition so that appropriate treatment can be provided in the event of seizures:

Be it resolved that medical alert bracelets shall be made available to all epileptics through appropriate medical institutions, and that such bracelets shall be made available free of charge.

Whereas because utility resources, especially telephones, are necessities for the health and safety of handicapped persons, among the many economic oppressions suffered by the handicapped, the unreasonable conditions imposed by utility companies are some of the heaviest burdens:

Be it resolved that pressure be brought to bear on all major utilities to revise their repressive policies concerning security deposits, excessive installation fees, etc.

XIV. REHABILITATION SERVICE DELIVERY

Structure

Be it resolved that umbrella agencies for the handicapped as suggested by President Carter in his keynote address before the White House Conference on Handicapped Individuals tend to have a negative impact on the level and quality of services to handicapped Americans. Experience and studies have demonstrated that human services to categories of the handicapped, each of which have unique and specialized needs and characteristics, deteriorate when scrambled together by government technocrats who work on the principles of economies of scale and administrative convenience.

While coordination of services to the handicapped is acceptable and desirable, the separate needs and specialized character of each handicap must be recognized, and this separation and individual identity reflected in the organizational structure of such services. For example, rehabilitation services to the physically handicapped, the deaf, and the blind must be given the highest possible visibility, each having its own budget and appropriation and its own professional staff.

In addition, within each handicap category, services (vocational rehabilitation, independent living skills training, education, and social services) must be consolidated to the greatest extent possible in order to maintain continuity of service and to focus on the total needs of the client.

Quality of services and accreditation

Traditionally the rehabilitation system has focused on an individual's disabilities and not on his abilities. Such a focus has resulted in the following phenomena: consideration of all clients as psychological wrecks who require endless diagnosis and evaluative treatment; frequent channeling of clients into a narrow set of stereotyped occupations; sponsorship of clients in bachelors, masters, and doctoral programs as a means of avoiding the unpleasant task of actually having to place them in employment situations; etc.

In order to alter this focus, and in order to improve the attitudes of rehabilitation counselors, we propose (a) that a majority of the governing boards of rehabilitation agencies and facilities be composed of elected representatives of handicapped consumer organizations; (b) that persons appointed to executive level and senior professional staff positions in rehabilitation agencies and facilities be handicapped, all other qualifications being equal; (c) that standards of quality service be established, and decisions on the accreditation of specific rehabilitation agencies be made, by statewide standard-setting and accreditation boards a majority of the members of which shall be composed of elected representatives of handicapped consumer groups; and (d) that funding of graduate degree programs in rehabilitation

and related subjects be made conditional upon including in the curricula a heavy emphasis on the basic normality, productivity, and competence of the handicapped.

In addition, we propose that private placement specialists be used by rehabilitation agencies in their attempts to place the handicapped in employment.

We also note that there must be a continuum between the processes of education, special education, and vocational training, ending in employment. These areas of preparation and training must be coordinated to produce the best results for the client.

Be it resolved that the position of Commissioner of the Rehabilitation Services Administration in the Department of Health, Education, and Welfare should be filled by a handicapped person sensitive to the needs of the handicapped.

Be it resolved that there be affirmative enforcement of the requirement in the Rehabilitation Act of 1973 that rehabilitation clients be notified of their right to appeal decisions made on their cases.

XV. OMBUDSPERSON FOR THE HANDICAPPED

Whereas the handicapped of the United States must insure that their civil and other rights are protected at the national, state, and local levels, without regard to race, color, creed, national origin, sex, or age; and

Whereas ombudsperson functions include those of watchdog or investigative oversight operations; complaint officer; disseminator of information; public service producer of specialized programs for all media; citizen and agency advocate; promoter of maximum people's awareness; recommendor of needed legislation to avoid complaints; independent critic of the bureaucratic establishment—all of these and more, with clout, able to get to the top levels of decision-making:

Be it resolved that paid ombudsperson offices be established at all levels for all concerns of the handicapped, with specialized training provided to ensure that the handicapped can themselves be employed in these offices for all community concerns, in a new career ladder; and

Be it further resolved that these offices will be staffed sufficiently that there will be available expertise to deal with the various responsibilities delegated to the offices; and

Be it further resolved that the President of the United States immediately appoint a paid President's Ombudsperson Council comprised of and on behalf of the handicapped so as to establish a direct channel for all handicapped concerns to the highest office.

XVI. ADDITIONAL RESOLUTIONS

Recreation discrimination

Whereas the leisure needs of handicapped children, youths, adults, and aged persons are largely ignored by medical, educational, vocational, social, recreational, arts, and cultural services; and

Whereas more than 35 million handicapped persons daily accumulate 170+ million empty, debilitating, and demeaning hours of enforced leisure per day, this in denial of leisure fulfillment, denial of recreation, parks, cultural, and arts opportunities, and denial of a normal American lifestyle:

Be it resolved that measures should be taken immediately by the President and the Congress to ensure that all federal agencies and programs respond to this massive disenfranchisement of more than 35 million Americans.

Sexism

Be it resolved that this alternative conference deplores the neglect of the subject of sexism which is an added oppression for all handicapped women, as well as non-handicapped women, and is also a discrimination that injures both women and men in their relationships.

It is urged that future conferences address this area of oppression through speakers and workshops, run by women but open to all. Also, it is urged that support, both moral and financial, be given to the Disabled Women's Caucus, open only to women, and that this group be an integral part of all future conference planning.

Prevention of prenatal and birth trauma and injury

Whereas the identification and ultimate prevention of those prenatal insults and labor and birth trauma which contribute to congenital and birth injury can only be done if the mother's prenatal, labor, and birth records are preserved and made available to the individuals concerned and to authorized epidemiologists, until the offspring reach adulthood:

Be it resolved that federal funds shall be made available to only those hospitals providing obstetric services which direct that a photocopy of the monther's complete prenatal, labor, and birth records be attached to the records of her newborn infant and preserved until the child reaches adulthood. The "complete records" shall include medical progress notes, nurses notes, x-rays, laboratory reports, etc.

Minimum wage in sheltered workshops

Whereas our society, as expressed through an act of Congress, has determined that there should be a minimum wage paid to all workers; and

Whereas the current Fair Labor Standards Act provides that handicapped workers in sheltered workshops can be paid as little as 25 percent of the congressionally established statutory minimum wage; and

Whereas the minimum wage was established so that workers would have economic stability above the subsistence level; and

Whereas it costs at least as much and generally more for handicapped persons to maintain economic stability above the subsistence level as it costs for non-handicapped persons; and

Whereas sheltered workshop managements use the subminimum wage provisions to support poor business management paid for by the sweat, the tears, the labor, and the frustrations of the handicapped workers:

Be it resolved that we call upon Congress to amend the Fair Labor Standards Act to extend the benefits of the federal statutory minimum wage to handicapped workers in sheltered workshops.

Publishing the risks of prescription drugs

Be it resolved that the U.S. Food and Drug Administration require that all drugs be accompanied by a Patient Package Insert (an information sheet) which advises the consumer, in clearly understandable language, the risks as well as the benefits of the respective drug.

Distribution of the alternative conference report

Whereas the White House Conference on Handicapped Individuals was mandated by the Congress to "stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps"; and

Whereas the structure of the White House Conference was so undemocratic and its conclusions so predetermined by the Conference staff that the representatives of handicapped individuals in attendance felt forced to hold an alternative conference in order freely to express their true concerns; and

Whereas those concerns and suggested solutions are contained in the report—known as the Alternative Conference Report—of which this resolution is a part; and

Whereas this Alternative Conference Report is more representative of the needs of handicapped citizens of America and closer to the "national assessment" of those needs called for by Congress than is any report likely to be prepared by the staff of the White House Conference:

Be it resolved that this Alternative Conference Report should be distributed as an official document of the White House Conference on Handicapped Individuals, and that it should receive the same distribution as the final report of the White House Conference; and

Be it further resolved that if this cannot be accomplished with the cooperation of the White House Conference staff, the report be distributed without such cooperation, to the President, the Congress, and the press.

JUSTICE BRANDEIS HUMANITARIAN AWARD PRESENTED TO MRS. WILLIAMS

Mr. JACKSON. Mr. President, I ask unanimous consent that the proceedings of the ceremony held in New Jersey on June 23, 1977 for the presentation of the Justice Brandeis Humanitarian Award to Mrs. Jeanette Williams as the Woman of the Year be printed in the RECORD.

There being no objection, the proceedings were ordered to be printed in the RECORD, as follows:

"WOMAN OF THE YEAR AWARD" TO MRS. HARRISON WILLIAMS, JR.

Jeanette Williams received the first "Woman of the Year Award" presented by the New Jersey Region of the Zionist Organization of America at the Justice Louis D. Brandeis Humanitarian Awards Dinner on June 23, 1977.

Mrs. Williams, the wife of Senator Harrison A. Williams, Jr. of New Jersey, is a committed supporter of the State of Israel. She is a strong believer in the concepts of human rights, human dignity, and democracy. Senator Henry M. Jackson said of her, "Jeanette Williams has been an important force in bringing justice to all people in the tradition of Justice Brandeis. She has . . . led in the battle to raise the level of hope for poor people throughout our country."

Mrs. Williams has worked in the United States Congress for 20 years. She is currently the Senior Professional Staff Member on the Senate Committee on Human Resources. She has an enviable record and remarkable background. Jeanette has worked first as personal secretary to Senator Hubert Humphrey and then as press and legislative assistant to a Representative. For the past 14 years she has worked for the Senate Committee on Labor and Public Welfare now the Committee on Human Resources, and has received the Senate Recognition Award for her distinguished service. Mrs. Williams is listed in Who's Who of Women. She has received the Hadassah Myrtle Wreath Award for humanitarianism. Currently, Mrs. Williams is the 1977 Chairman of the National Advisory Committee on Mental Health Services and Women. Among Jeanette Williams other activities: She organized the New Jersey Task Force on Women and Alcohol, a member of the American Red Cross, and the National Society of Literature and the Arts. She is a participant of the Aspen Institute for Humanistic Studies, the Advisory Board of the New Jersey Humane Society, and the National Board of the Medical College of Pennsylvania. Jeanette was the keynote speaker at Harvard University in August 1976 and has spoken with many groups in New Jersey.

In presenting the award, Judge Joseph H. Lerner, National Vice President of The Zionist Organization of America, described Mrs. Williams, "as long time Zionist and committed supporter of the State of Israel and a person of great charm, warmth, and

inner strength. She is possessed of true beauty, and extrovertial personality, and a love of life."

"She has with fierce loyalty, stood with her husband, the able Senator Harrison A. Williams, Jr., Chairman of the Senate Committee on Human Resources in his activities on behalf of human rights, human dignity, and the fight for universal democracy." In conclusion Judge Lerner said, "You have been a great inspiration to us in our work in Zionism and for the State of Israel. It is, therefore, my great honor to present to you this plaque containing the eternal flame of Israel as our tribute to you as the Woman of the Year.

The plaque's inscription reads: "The Eternal Light to 'Woman of the Year'. . . .

"She lights the way with her sensibility for the needs of others. A woman of valor, whose devotion and support is lengendary. An outstanding American, a dear friend of Israel, she has been a source of strength and comfort to all whose lives she touched.

"Zionist Organization of America"

In accepting this award, Mrs. Williams said:

"This is a life moment—for me!

"Some life moments are experienced at the time, and some are relished in retrospect.

"This moment is happening to me now.

"It is an emotional experience for me to be honored by you as the first Woman of the Year and if I might, at the outset, strike a personal note, I am proud to be married to The Man of the Century.

"In preparing myself not only to receive this honor, and to attempt to deserve it, I re-read about some of the outstanding women in Jewish History who have demonstrated the greatest capacity of self-sacrifice, whether in ancient times as Esther and Deborah, or in more modern, Golda Meir.

"They have demonstrated that the only way one can gather strength is from commitment, and tonight we all reinforce our commitment to the survival of the State of Israel.

"Earlier this week a new Prime Minister was sworn in in Israel. Many in this country have expressed concern about the future, Jew and Non-Jew alike.

"It would appear that they want Israel itself to be more evenhanded. But how can you compromise with the threat of extinction? Although Israel must and will make every effort to reach an accommodation with her neighbors, Israel must learn from the great women in her history to gather strength from its own commitment to survive, and Israel will.

"We know the history of Ruth whose story was so recently read in synagogues throughout the world. Everyone, of course, is familiar with the story of the Moabite woman who chose to follow her husband's mother, Naomi. The legacy which Ruth leaves behind has been a guide to many of us in our relations with others. And, as Ruth said, I am proud to say: 'Thy people shall be my people.'

"In receiving this award I can only say ha-da-var shenti-ta-tem mee-toeh-ha-lev, gar bi-lee-bee. What comes from the heart, goes to the heart. This award which I feel comes from your heart, goes to my heart where I shall treasure it forever."

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 19, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

I ask unanimous consent that the notification be printed in the RECORD.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 19, 1977.

In reply refer to: I-8548/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

THE CULTURE OF APPEASEMENT

Mr. HAYAKAWA. Mr. President, in the years following our withdrawal from Southeast Asia, there has been an ongoing discussion both in this country and on the international scene, over the legacy of Vietnam. The debate as to whether the United States has completely recovered from the war in Vietnam has centered around such topics as the willingness of this country both to honor commitments to her allies and to effectively counter an expanding Soviet military capability.

Mr. Norman Podhoretz, in a recent issue of Harper's magazine, has addressed these questions in a most interesting fashion. He has drawn a parallel between the trends in this country since the war in Vietnam and the situation in Great Britain between the two World Wars. His most alarming conclusion is that these periods have been characterized by what he refers to as a "naive pacifism" in the face of a growing threat. Vietnam altered our whole attitude toward war and as a consequence, we have refused to correctly assess Soviet intentions, just as Britain failed to perceive Hitler's real motives.

In the interests of insuring a wider audience, I ask unanimous consent that Norman Podhoretz' article entitled "The Culture of Appeasement" which appears in the October issue of Harper's magazine, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Harper's, October 1977]

THE CULTURE OF APPEASEMENT

(By Norman Podhoretz)

Has the United States recovered from Vietnam? The general feeling seems to be that it has. Just this past Independence Day, for example, Tom Wicker of the New York Times delivered himself of the view that it was "a familiar sort of Fourth"—the kind, he said, "that was commonplace, even predictable, before the long, successive traumas of Vietnam and Watergate brought Americans a decade of self-doubt, self-criticism, self-loathing, on the one hand, and responding denials, anger, and chauvinism on the other." Of course, Wicker's rhetoric loads the case; it is in fact so reminiscent of the fevered atmosphere of the Vietnam era that in itself it casts doubt on the return to normalcy he then goes on to celebrate. But such subtleties aside, many people would agree that we have recovered from Vietnam and that we are back to normal again. I am not one of those people. I think that, far from having put Vietnam behind us, we are still living with it in a thousand different ways. It is there everywhere, a ubiquitous if often eerily invisible presence in our political culture. And it has left us a legacy of influence which threatens to have an even more destructive effect on our future than it has already had on our past.

Perhaps the most obvious evidence of this influence is in the new American attitude toward war. The idea of war has never been as natural or as glamorous to Americans as it used to be to the English or the Germans or the French. We have always tended in this country to think of war as at best a hideous necessity, not as a "continuation of politics by other means" or, alternatively, as an opportunity for heroism, glory, and honor. War to Americans is a calamity when it happens, it is a dirty business while it lasts, and the sooner it can be gotten over with the better. But negative as this attitude may be, it is still a far cry from the undifferentiated fear, loathing, and revulsion that the prospect of war now seems to inspire in the American mind.

No doubt a rise in pacifist sentiment is inevitable in the wake of any war, especially a war that ends, as Vietnam did, in humiliation and defeat. No doubt, also, the way the war in Vietnam was reported as well as the way it was opposed (a distinction more easily made in theory than it was ever observed in practice) helped to stimulate a vaguely pacifist response. All one heard about and saw was the horrors of war—unredeemed, as it appeared, by any noble purpose. No heroes emerged, only villains and victims, and nothing good was accomplished by American troops and American arms, only evil: only destruction, misery, murder, and guilt.

This is how pacifist ideologues look upon war in general, and the prominent position of pacifist organizations in the protest movement against American military involvement in Vietnam probably influenced the way the the war came to be conceived and described. (It is worth noting, however, that the pacifist world was split between those who, in the traditional pacifist spirit, regarded all wars as equally evil and those who, in a

newer spirit, were willing to justify and even celebrate "wars of national liberation" and to condemn only "wars of imperialist aggression," such as they imagined the United States was waging in Vietnam.)

But be all that as it may, so powerful did the pacifist tide become that it even reached backward to engulf World War II, probably the most popular war in which the United States had ever participated. To this "Vietnamization" of World War II, as we may call it, two immensely successful novels of the Sixties, Joseph Heller's Catch-22 and Kurt Vonnegut's Slaughterhouse-Five, made perhaps the largest contribution. Although written without reference to Vietnam and published in 1961, just before American troops began to be sent there, Catch-22 achieved full cultic status only later in the decade, when it could be seized upon to discredit the one war from which something good had almost universally been thought to have come. Not even World War II, the war against Hitler, was worth fighting, said Catch-22, to the acclaim of millions; nor, added Vonnegut in his story of the bombing of Dresden, had we acted any less criminally in that war than we were acting in Vietnam.

As the past was thus Vietnamized, so is the future now being subjected to the same treatment. We have, that is, reached a point at which any American military action, anywhere in the world, in support of any objective whatever, has become difficult to imagine. Officially, of course, the President and those who speak in his name continue to declare that we will "honor our commitments." But does anyone take it for granted any longer—as everyone did before our defeat in Vietnam—that we would do so if it meant going to war?

And even short of actually going to war, there is the matter of our willingness to maintain the military forces necessary to deter the Soviet Union from moving any further ahead. Here, too, just as we officially remain committed to the defense of Western Europe, Japan, Israel, South Korea, and perhaps one or two other countries, we are also officially determined to prevent the Soviet Union from achieving the kind and degree of military superiority which would make a mockery of that commitment. But again appearances are misleading. Every year, it seems, the struggle against military spending grows more intense. While the Soviet Union engages in the most massive military buildup in the history of the world, we haggle over every weapon. We treat our own military leaders as though they were wearing the uniforms of a foreign power. Everything they tell us about our military needs is greeted with hostility and suspicion, and when, in response to sentiment of this nature, the President decides to scrap the B–1 bomber, one would think from the answering cheer that our mortal enemies had suffered a grievous defeat.

Now it may be that the decision to develop an updated B–52 fleet armed with cruise missiles instead of the B–1 was sound from a strictly military point of view, as well as from an economic one. But it would be naive to suppose that the campaign against the B–1 was fueled by a desire for the most effective possible weapons system at the lowest possible cost. No doubt this was what the President and some others had in mind, but cost-effectiveness was hardly the factor which made for the tremendous passion over the B–1. The real goal of the campaign against it, according to a spokesman for Clergy and Laity Concerned (a group which is itself a legacy of Vietnam, having been spawned in opposition to that war and having survived to fight another day), "was to raise fundamental questions about the meaning of national security and the militarization of American foreign policy, using the B–1 as symbol *par excellence*." We can, therefore, expect that the next stage of the campaign will be an effort to prevent development of the cruise missile. For "to the extent that the Administration is allowed to replace an obsolescent technology (the manned bomber) with a new and even more dangerous technology (the cruise missile), it can be assumed that the public, the press, and the Congress have failed to learn the most crucial lessons of the B–1 campaign." Those lessons being presumably that we ought to have no weapons at all.

In addition to pacifism, Vietnam has left us with a legacy of native anti-Americanism. Obviously, the explicit anti-Americanism which surfaced on the radical Left in the late Sixties has receded into virtual invisibility. No longer do we see the name of a country spelled with a *k* to suggest an association with Nazi Germany. Nor do vilifications of American society fill the papers and the airwaves to the exclusion of any other idea as they did only a few years ago. Eldridge Cleaver has become a born-again Christian and a patriot. Rennie Davis has become an insurance salesman. Tom Hayden has joined the Democratic Party. Jerry Rubin is off the streets and "into" the pursuit of maturity. Abbie Hoffman has disappeared. But this does not mean that the anti-American attitudes they and others like them did so much to propagate have also disappeared. These attitudes are still here and, in subtler forms they now assume, are perhaps even more widespread, and certainly more respectable, than they ever were before.

They are present, for example, in the notion that the main obstacle to nuclear disarmament is the American military establishment. From this it is concluded that unilateral "restraint" in the development of weapons by the United States is all that is needed to make the Russians follow suit, as though the only reason they have constructed so awesome an arsenal is that we have set them a bad example which they have been forced to imitate. Anti-Americanism is also present in the idea that Americans consume more than their "fair share" of resources. From this it is concluded that a voluntary reduction in the American standard of living (a kind of unilateral economic disarmament) is all that is needed to facilitate a more equitable distribution of wealth throughout the world, as though prosperity were a zero-sum game and as though we did not in any case produce more wealth than we consume. And anti-Americanism is present in the view that the main threat to the liberties of the American people is the American government itself. From this it is argued that preventing the FBI and the CIA from using questionable methods of surveillance in the attempt to catch spies and terrorists is a more urgent order of business than doing anything when the KGB employs the same methods against American citizens in America on a vastly larger scale.

Indeed, immediately after the news broke this past summer that the Soviet Union had been monitoring an untold number of phone conversations in this country, that this had been known to the authorities for at least the past four years, and that nothing had been done about it for fear of endangering detente, Tom Wicker rushed into print to express his outrage at electronic eavesdropping—by American law-enforcement agencies. The next day, while the President was denying that there was anything "aggressive" about the Soviet activity, the *New York Times* reported on another page that civil suits had been filed against agents of the FBI associated with a former colleague named John Kearney who had "headed an internal security unit known as Squad 47 [and who] has been charged with five felony counts stemming from allegedly illegal mail-openings and wiretaps that his men conducted in a search for fugitive members of the Weather Underground, a terrorist group."

The third major legacy of Vietnam with which we are still living is the altered American attitude toward Communism. Before Vietnam the spread of Communism was regarded as the single greatest danger to American security and American values. Today no less an authority than the President of the United States stigmatizes this old attitude as an "inordinate fear of Communism" and congratulates himself and his fellow Americans on having overcome it.

One may wonder how the fear of a totalitarian system armed, as Solzhenitsyn puts it, "to the teeth," aggressively on the move, and sworn to destroy the political system to which we ourselves are presumably committed, could ever be inordinate. But Mr. Carter is almost certainly right in observing that no such fear is widespread in America today. A few individuals like Henry Jackson, Paul Nitze, and Elmo Zumwalt, and a few small groups like the Committee on the Present Danger and the Coalition for a Democratic Majority keep trying to alert American public opinion to the unprecedented dimensions of the Soviet military buildup, but they are rewarded for their pains with accusations of hysteria, paranoia, servility toward the Pentagon, and worse. While the number of strategic nuclear missiles in the Soviet arsenal increases, while Soviet warships now appear for the first time in distant waters which no Russian navy ever thought necessary or desirable to patrol, while Soviet conventional forces are strengthened and multiplied on the Western front, while Soviet probes are made into Africa through Cuban surrogates with the evident intention of enabling the Russians to control sealanes vital to the commerce of the entire West, and while Communist parties move closer and closer to power in Italy and France—while all this goes on, elaborate exercises in statistical manipulation and sophistical rationalization are undertaken to explain it all away as unreal or as insignificant or as understandable or as unthreatening.

Nor are such exercises confined to articles in the liberal press. They even come out of the CIA and the Department of Defense, whose reassuring estimates of the Soviet-American military balance are obversely reminiscent of intelligence reports which also told a series of Presidents what they wanted to hear about the progress of the war in Vietnam. What Presidents Kennedy, Johnson, and Nixon wanted to hear was that the war could be won and that it was going well; what President Carter wants to hear is that defense spending can be cut without endangering the security of the United States.

Kennedy, Johnson, and Nixon were given wishful intelligence analyses and inflated body counts; Carter is given the CIA Team A and the Department of Defense Presidential Review Memorandum 10, whose contents, in William Safire's description, "feed the hopes for a smooth road to peace, with reduced American military expenditures leading to easily balanced budgets."

But denying the realities of the Soviet military buildup is only one of the forms our new freedom from the old "inordinate fear of Communism" has been taking. Another variant acknowledges that this buildup is real but regards it as a development to be welcomed by the United States rather than feared. The reasoning behind this bizarre notion is that only when the United States and the Soviet Union are equal in strength—when, in the jargon of arms control, "parity" has been achieved—will both sides feel secure enough to put a halt to the arms race and even to begin cutting back. In accord with these assumptions, Richard Pipes, the former director of the Russian Research Center at Harvard (who also headed a team of nongovernmental experts appointed during the Ford Administration to review the

CIA's estimate of Soviet military capability), writes, "The United States in the mid-1960's unilaterally froze its force of ICBM's at 1,054 and dismantled nearly all its defenses against enemy bombers. . . . The Russians were watched benignly as they moved toward parity with the United States in the number of intercontinental launchers, and then proceeded to attain numerical superiority."

A similarly benign attitude has been developing toward the progress of Communism in Western Europe. In this case, government officials, under Nixon and Ford and now under Carter, have lagged behind the "advanced" sectors of public opinion and the foreign-policy establishment in continuing to see the entry of Communist parties into the governments of Italy and France as a danger to NATO (not to mention to democracy). But the indications are that the gap is being closed. Already Secretary of State Cyrus Vance has spoken in much milder terms about Eurocommunism than his predecessor did; echoing the latest conventional wisdom on the subject, he has suggested that Eurocommunism may be more of a threat to the Soviet Union than it is to the West. By this logic, the spread of Communism into non-Communist countries ought to be encouraged by the United States rather than resisted, and American power used not to make the world safe for democracy but to make it safe for Communist regimes which declare their independence of Soviet control. Yet no Communist regime outside the Soviet orbit, not even one in Yugoslavia, countenances any political liberty at all within its own borders, while some independent Communist regimes, notably the one in China are more totalitarian than the Soviet Union itself. Jean-Francois Revel, the distinguished French political commentator, puts it with characteristic sharpness when he says in his recent book The Totalitarian Temptation that "de-Russification does not mean democratization"; to which one may add that it does not mean any lessening of hostility to the cause of liberty in international affairs either. But, clearly, Revel's view is on the defensive nowadays in the United States, where we seem to be moving beyond our new freedom from the "inordinate" fear of Communism to an even headier freedom from any fear of Communism at all.

Or is it perhaps the opposite which is true? Have we, that is, been plunged by Vietnam into so great a fear of Communism that we can no longer summon the will to resist it?

In speculating on this possibility, I have been struck very forcibly by certain resemblances between the United States today and Great Britain in the years after the first world war. The British, of course, were on the winning side in that war, whereas we were the losers in Vietnam. But World War I took so great a toll of lives and ideals that for all practical purposes it was experienced by the British as a defeat. Especially among the upper-class young—as Martin Green shows in his brilliant "Narrative of 'Decadence' in England After 1918," Children of the Sun—there developed many of the same tendencies we see all around us in America today. Thus, for example, words such as soldier and fighting, which had previously carried a positive charge, now became so distasteful that the Iliad, with its celebration of the martial virtues, could no longer be comfortably read. Nothing good could be said about war: it was wanton carnage pure and simple. Nor was it ever justified: the things that matter, Aldous Huxley declared, can be neither defended nor imposed by force of arms. When war comes, wrote Brian Howard in verse more typical in its sentiments than gifted in its language, it is "because a parcel of damned old men/Want some fun or some power or something." It was in an atmosphere suffused with such ideas and attitudes that the Oxford Pledge never to fight "for King and country" was taken by so many thousands of British undergraduates in the early 1930s.

For England itself had been discredited by the first world war in the eyes of an entire generation of the privileged young. It was a wicked country because it had senselessly sent the flower of its youth to the slaughter, and it was doomed because it rested on obsolescent social and political foundations (by which some meant that there was too much inequality and others meant there was not enough). Worst of all from the point of view of not a few of these "bright young things" of the postwar period, England was dull and philistine. The arts were more exciting in France and life was more interesting in Germany. England was in fact so stodgy in its tastes, so puritanical in its morals, and so drearily middle-class in its culture that almost any alternative society was to be preferred.

Politically this hostility to England could find expression equally well on the Left and the Right. Perhaps the most striking example was the Mitford sisters, daughters of the country's highest aristocracy, one of whom, Unity, became a Nazi and another, Jessica, became a Communist. In his recent book on Unity, David Pryce-Jones tells the story of a British diplomat who was set upon by the two sisters during a visit to their country estate in the early Thirties. Are you, they demanded of him, " 'a Fascist or a Communist?' and I said, 'Neither, I'm a democrat.' Whereupon they answered, 'How wet.' "

There were a good many others in the upper reaches of British society who also thought that being a democrat was "wet" (or, as I suppose we would say today, square). Some, like Sir Oswald Mosley and his followers in the British Union of Fascists, as well as prominent writers like D. H. Lawrence and Wyndham Lewis, sympathized with or actually supported Hitler and Mussolini (Osbert Sitwell, anticipating a similar fantasy of today about Italian Communism, once argued that Italian Fascism offered an escape from the equally horrible alternatives of Russian Bolshevism and American, capitalism); others, like W. H. Auden, Stephen Spender, John Strachey, and Philip Toynbee, were attracted to Stalin and to Communism. And there were even some for whom being a democrat was so wet that they were willing to commit treason against the democratic country in which they lived. About treason, at least, there was nothing wet. Whereas "to many English people," Rebecca West later wrote, patriotism had "something dowdy about it," treason had "a certain style, a sort of elegance." Moreover, it was understandable that treason should be committed against England. Thus when Guy Burgess, who had been a Soviet agent while pretending to work for British Intelligence, fled to Moscow in the Fifties just as he was about to be caught, Auden said that his old friend had become a Russian citizen for the same reason that he himself had become an American citizen—"it was the only way completely and finally to rebel against England."

That Auden and Burgess were both homosexuals clearly had something, perhaps everything, to do with their need "completely and finally to rebel against England." And indeed, it is impossible to read books like *"Children of the Sun* or Paul Fussell's *"The Great War and Modern Memory"* without being struck by the central role homosexuality played in the entire rebellious ethos of the interwar period in England. Much of the literature of the first world war itself, says Fussell, who has made a very thorough study of it, was "replete" with homosexual passion. Soldiers had been a common object of fantasy and desire for Victorian homosexuals because of "their youth, their athleticism, their relative cleanliness, their uniforms, and their heroic readiness, like Adonis or St. Sebastian, for 'sacrifice.' " It is therefore not surprising that young officers fresh out of schools where, according to Robert Graves, they were "trained up to become pseudo-homosexuals" (Graves' name, by the way, was stricken from the rolls of his own school, Charterhouse, for revealing this in his great memoir of the war, *"Goodbye to All That"*) regularly fell in love with each other or, more frequently, with the lower-class "lads" under their command.

But if homosexual feeling was aroused by the war, homosexual feeling also accounted for a good deal of the pacifism which rose out of the trenches and into the upper reaches of the culture after the war was over. In war poem after war poem and in memoir after memoir, the emphasis was on the youthful, masculine beauty so wantonly wasted by the war, the bodies meant for embrace by their own kind that were consigned so early to the grave. Fussell writes of Wilfred Owen, possibly the best of the English war poets and himself a homosexual and a casualty of the war: "What he encountered at the front was worse than even a poet's imagination could have conceived. From then on, in the less than two years left to him, the emotions that dominated were horror, outrage, and pity: horror at what he saw at the front; outrage at the inability of the civilian world . . . to understand what was going on; pity for the poor, dumb, helpless, good-looking boys victimized by it all." And the way "the sight and touch of beautiful lads ending with their frightful death in a wanton slaughter" gave rise to the new postwar surge of hostility to British society is altogether explicit in the case of one Capt. Ralph Nicholas Chubb, who, in the words of his biographer, "watched the slaughter of a boy, a creature, such as those he had always mentally, and once physically loved. He was the curly-haired, seventeen-year-old son of a blacksmith. . . . His death symbolized for Chubb all the horrors and taboos of society. The boy, a beloved object, was not only forbidden by law to be loved by an adult male but was legally sacrificed by the same laws in the service of his country."

No wonder, then, that so many of those who resented their own country to the point of pledging never to fight for it and even, in a few instances, to the point of joining forces with its enemies, should have been, or should have chosen to become, homosexuals. For whatever else homosexuality may be or may be caused by, to these young men of the English upper class it represented—as Martin Green so convincingly demonstrates—the refusal of fatherhood and all that fatherhood entailed: responsibility for a family and therefore an inescapable implication in the destiny of society as a whole. And that so many of the privileged young of England "no longer wanted to grow up to become fathers themselves" also meant that they were repudiating their birthright as successors to their own fathers in assuming a direct responsibility for the fate of the country.

The list of these young men is almost endless, ranging from dandies and aesthetes of the Twenties like Brian Howard and Harold Acton, to expatriate writers of the Thirties like Auden and Isherwood, to Soviet agents like Burgess and MacLean. It was through their writings, their political activities, and the way of life they followed that an indispensable element was added to the anti-democratic pacifism of the interwar ethos: a generalized contempt for middle-class or indeed any kind of heterosexual adult life. To be heterosexual was to be "an utterly dreary middleclass bore." At Oxford, said John Betjeman, it was only "state-subsidized undergraduates [who were] generally heterosexual." The best people looked to other men for sex and romance.

Anyone familiar with homosexual apologetics in America today will recognize these attitudes. Suitably updated and altered to fit contemporary American realities, they are purveyed by such openly homosexual writers as Allen Ginsberg, James Baldwin, and Gore Vidal—not to mention a host of less distinguished publicists—in whose work we find the same combination of pacifism (with Vietnam naturally standing in for World War I), hostility to one's own country and its putatively dreary middle-class way of life, and derision of the idea that it stands for anything worth defending or that it is threatened by anything but its own stupidity and wickedness. Vidal in particular often reminds one in his tone and style of the homosexual apologists described by Fussell and Green, even when he is being most up to date. For example, reviewing a recent book by Christopher Isherwood (who figured centrally in the culture of England during the interwar period before he emigrated to America, and who is thus a living link between that culture and our own), Vidal praises homosexuality for serving the alleged ecological need to control population growth. But even this trendy rationalization echoes one of his English forebears, John Addington Symonds, who once wrote: "It would not be easy to maintain that a curate begetting his fourteenth baby on the body of a worn-out wife is a more elevating object of mental contemplation than Harmodius in the embrace of Aristogiton."

The great influence of this complex of attitudes in the mid-1930s provoked George Orwell to an outburst against "so-called artists who spend on sodomy what they have gained by sponging." Even to wish to write about such people, as Cyril Connolly had just done in his novel The Rock Pool, was to "betray a kind of spiritual inadequacy" and a "distaste for normal life and common decency." Thinking no doubt of the contribution this "sluttish antinomianism" was making to the paralysis of British will in the face of an ever-growing Nazi threat, Orwell added, in a sentence which after forty years retains every last bit of its original force and relevance: "The fact to which we have got to cling, as to a life-belt, is that it is possible to be a normal decent person and yet to be fully alive."

One wonders: to what extent did the policy of appeasing Hitler which the British government followed in the Thirties derive from the fear that a generation raised on pacifism and contempt for the life of its own society would refuse or be unable to resist so powerful and self-confident an enemy as Nazi Germany? It would be very hard to say, although we know that at least one prominent Englishman of the day, the press magnate Lord Rothermere, believed that "a moribund people such as ours is not equipped to deal with a totalitarian state." We know, too, that Hitler himself thought the British would never fight. As he went from strength to strength they seemed to grow more and more fearful. Except for a few lonely figures like Winston Churchill who were generally dismissed by their own countrymen as hysterical warmongers, they blinded themselves to his intentions, rationalizing away his every aggressive move, and proclaiming that every advance he made was bringing the world closer and closer to peace. What else could this mean but that they had already given up?

It is of the greatest interest to note that Brezhnev today has expressed similar sentiments about the United States. Not so long ago, in a speech to Communist party leaders in Prague—to which as little attention has been paid in this country as was paid in England to equally revealing speeches by Hitler in the 1930s—Brezhnev bragged of the advances the Soviet Union had been making under cover of détente and predicted that they would lead to an irreversible shift in the balance of power by the 1980s. One imagines that he was led to this conclusion by the response of the United States to the Soviet military buildup, a response which has uncannily followed the pattern of British response to the German buildup of the Thirties.

The historian Walter Laqueur divides the British response into four distinct stages. In stage one, it was claimed that the report of German rearmament were grossly exaggerated; in stage two, the reports were acknowledged as true, but it was alleged that Germany was so far behind that it could never catch up; in stage three, it was admitted that Germany had achieved parity with or even surpassed Britain, but it was also said that this did not constitute a military threat since the Germans had to defend themselves against potential enemies in the East as well as in the West; and in stage four, when the full extent of German superiority was finally faced, it was said that survival now had to be the overriding consideration, and the counsels of appeasement prevailed. Compare this to Richard Pipe's description of the American response to the Soviet military buildup of the past few years:

"The frenetic pace of the Soviet nuclear buildup was explained first on the ground that the Russians had a lot of catching up to do, then that they had to consider the Chinese threat, and finally on the grounds that they are inherently a very insecure people and should be allowed an edge in deterrent capability."

We have, then, reached stage three. Are we about to move into stage four?

The Russians, at any rate, evidently think we already did move into it during the heyday of détente. In fact, according to a highly placed source within the Carter Administration recently quoted by the New York Times, the reason the Russians are so furious with the new Administration's human-rights initiative is that it seems to spell a reversal of what they previously saw as the inexorable decline of American will and American power. One can only hope that they are right; and yet the doubts grow with every new assertion by the President or the Secretary of State that this policy is not intended to "single the Soviet Union out," and with every new article in the press warning against the use of human rights as a political weapon in the service of a "mindless anti-Communism."

The Soviet Union, after all, has nothing to fear from a policy directed no more against them than against some of our own allies, or against right-wing military dictatorships which, however viciously they treat their own citizens, pose no threat to the United States, whether military or ideological. For, as Daniel P. Moynihan has pointed out, with the passing of Nazi Germany and the disappearance of Fascism as a plausible political creed, it is only Communism—or, if one prefers, Marxist-Leninism—which challenges liberal democracy in the world of ideas, values, ideologies. Small Communist or Marxist-Leninist countries attack us as viciously as, and often more effectively than, big ones.

Of these countries one may say what St. Augustine said of children: their virtue resides not in their wills but in the weakness of their limbs. (Where they are not weak, as in their systems of internal control, they are fully capable of rivaling the Russians and the Chinese in political barbarism and cruelty, and sometimes, as in Cambodia, even of surpassing them.) But no such virtue attaches to the Soviet Union. As the most powerful of all the Communist states, it is by that very fact the most dangerous enemy of liberty, democracy, and human rights on the face of the earth.

There was a time when all this was well understood in the United States, but that was before Vietnam. The defeat of our effort to halt the spread of Communism in Southeast Asia has left many who supported and even supervised that effort with the feeling that there is nothing we can do to stem the tide of Communism anywhere, not even in Western Europe. They have thus ironically become the de facto allies of those who are so little opposed to Marxist-Leninism and so much opposed to the United States that they think nothing should be done by America to stem the Communist tide. In short, these repentant hawks (so many of whom have found a perch in the upper levels of the Carter Administration), having been wrong on the one side are now making up for it by being wrong on the other. They were wrong in their hawkishness toward Vietnam—not because they wanted to hold the line against an advancing Communist tide but because they failed to see that the costs of holding such a line in Vietnam would inevitably turn out to be too high. And now, once again, they are wrong, this time in their dovishness toward the Soviet Union—not because they want to reach an accommodation with the Russians, but because they fail to see that the Russians are after something larger and more ambitious than an accommodation with us.

To be sure, how we can prudently and effectively deter the Soviet Union and resist the advance of Communism generally without unleashing a nuclear war is a serious and difficult question—the most serious and the most difficult question of the age. But even to begin answering it requires the realization that the democratic world is under siege, the conviction that it is worth defending, and the understanding that American power is indispensable to its defense. Until this realization, this conviction, and this understanding become as widespread in the United States as once upon a time they used to be, I for one will regard all talk of recovery from Vietnam as a delusion and a deceit. Meanwhile, the parallels with England in 1937 are here, and this revival of the culture of appeasement ought to be troubling our sleep.

EFFECTIVE RESETTLEMENT OF INDOCHINESE REFUGEES

Mr. ANDERSON. Mr. President, the United States took a necessary and commendable action in welcoming 150,000 Indochinese refugees to this country over the last 2½ years. Our commitment to welcome these people as respected members of our society requires an effort on our part to assist these refugees to learn English, to find adequate housing, and to obtain work which will hopefully fully utilize their talents.

Resettlement programs have been started in 30 States and have proven to be quite effective. In the first 6 months of this year the unemployment rate among Indochinese fell from 13 to 7.9 percent. Today it is below the national average. It is a very active and committed group of Americans assisting these refugees which has made the current success possible.

The chairman of the Coalition for the Effective Resettlement of Indochinese Refugees is a very dedicated and hard working Minnesotan, Stanley Breen. The coalition is a group of more than 130 representatives of State, local, and volunteer organizations. All of the major volunteer agencies responsible for resettlement in the 28 States, where 90 percent of the Indochinese reside, are represented.

Mr. Breen testified before the Senate

Human Resources Committee today on an urgent matter. The Indochinese refugee assistance program will expire September 30, 1977, unless Congress acts to extend this program. Mr. Breen was here to urge Congress to act quickly before these self-help programs expire.

Our commitment to these displaced people must not end now before the job of assimilating these refugees is complete. The administration has proposed extending the medical and cash assistance programs for refugees not eligible for AFDC and medicaid and providing for temporary additional assistance to refugees who arrive after August 31, 1977. Senators KENNEDY, HUMPHREY, and I have introduced a separate bill which would extend the integrated benefit program for 3 years. Without job counseling and employment training as well as medical and cash assistance we would be shortsighted in our aid to these Indochinese and would be creating a perpetrating welfare dependence. Our proposal realistically provides for a phaseout of assistance on a graduated basis over 3 years to allow State agencies to phase in their increased involvement.

We must act quickly and we must authorize an integrated program.

In order that my colleagues might have the benefit of Stanley Breen's statement to the Senate Human Resources Committee, I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE CHAIRMAN OF THE COALITION FOR THE EFFECTIVE RESETTLEMENT OF INDOCHINESE REFUGEES

(By Stanley B. Breen)

As Chairman of the Coalition for the Effective Resettlement of Indochinese Refugees, I would like to express to the members of the Senate Human Resources Committee the Coalition's view on legislation extending the Indochina Migration and Refugee Assistance Act. The Coalition for the Effective Resettlement of Indochinese Refugees consists of more than 130 representatives of state, local and voluntary organizations throughout the United States. It represents all the major voluntary agencies responsible for resettlement, the 28 states in which 90 percent of the Indochinese reside, as well as county and private agencies who are closely involved in resettlement activities.

Over the last several months, members of the Coalition have worked closely with representatives of the Department of Health, Education, and Welfare, the State Department, the White House, and members of Congress to insure effective implementation of policies and legislation affecting the Indochinese refugees. We are, therefore, pleased that the Administration has recently requested legislation which would extend funding for certain portions of the Indochina Refugee Assistance Program (IRAP). This displays much needed attention to a problem which will not go away if we were to simply ignore it.

However, we have some very strong reservations about the content of the Administration bill. In its present form, the Administration proposal represents both bad policy—in that it perpetuates the welfare syndrome—and unequal administration—since only a minority of states could participate in the program.

The current refugee assistance program provides a comprehensive set of services, including social services, bilingual mental health counseling, employment and training programs, cash assistance, and medical assistance, which are designed to provide economic support to the refugees while they help the refugees acquire the tools for self-sufficiency.

The essential features which can aid the Indochinese in obtaining and upgrading employment, such as supportive social services, counseling, and training projects, would be eliminated under the Administration proposal. The Administration's bill provides only for cash and medical assistance for those refugees not eligible for AFDC and Medicaid, with temporary additional assistance to Indochinese refugees who arrived after August 31, 1977. Only a portion of these limited cash and medical services would be federally funded: 75 percent in FY 1978; 50 percent in FY 1979; and 25 percent in FY 1980. Because no supportive services or employment and mental health projects would be funded, the Administration proposal breeds dependency by handing out a welfare check without providing an incentive and a mechanism for breaking the welfare cycle.

Unfortunately, the ongoing programs designed to reduce dependency among the general population cannot adequately provide the needed services. The Work Incentive program, which provides jobs and training to AFDC recipients, is not available to those receiving Indochina Refugee Assistance. The CETA program is of little use in the resettlement effort, since the Indochinese were not an identified service group when most prime sponsors were establishing their priorities in using limited funds. Nearly all Title XX service agencies are currently spending all of the available funds and therefore cannot provide comprehensive services to refugees without reducing vital services elsewhere (even if they had the bilingual capacity to deal with this group). English language instruction provided in Adult Education programs will aid in the long-range assimilation of the refugee population but cannot have the immediate impact upon employment which comprehensive placement and training programs can have.

Programs which have proven themselves to be effective would be abandoned under the Administration proposal just at the time when they are beginning to produce substantial results. In 1976 HEW realized that existing resources were not adequate to reduce the high rate of welfare dependency among the Indochinese. Employment and training and mental health projects were therefore funded to meet the special needs of the refugees. Most of these began functioning in January of 1977 when the unemployment rate among the Indochinese was 13 percent. Six months later, a survey revealed an Indochinese unemployment rate of only 7.9 percent. While not all of the improvement can be attributed to the success of the special projects, it is clear that the concentrated efforts of the state and local governments and the voluntary agencies is having a substantial impact. The experience and resources of these projects will be lost without the supportive services and project funds necessary to maintain the programs to their successful completion.

The bill which the Sub-committee is currently considering is further hampered by administrative problems. The greatest of these is that most states do not have state statewide general assistance programs which meet the needs of unemployed refugees who are not eligible for AFDC. The Administration bill calls for a partial reimbursement for costs incurred. However, only 17 states have statewide general assistance programs which would authorize them to expend funds for this purpose. Some of these programs provide benefit levels as low as $30 per month. Since the reduction in federal funds would begin immediately, the states would have no opportunity to pass legislation to provide matching funds and would therefore be excluded from the program. The local taxpayers and the refugees would then bear the full weight of a cessation of federal funds for refugee relief. Those states which were able to continue to provide adequate services would find themselves inundated by an influx of new refugees. Internal migration is already hampering resettlement efforts as the Indochinese congregate in a few heavily impacted areas and this trend would be accelerated. The more gradual reduction of funding and the block grant approach of the Humphrey-Kennedy-Cranston-Stark measure would give the states considerable flexibility in their efforts to aid refugees within reasonable fiscal limits.

The reduction in services contained in the Administration bill would create substantial problems for affected refugees, voluntary agencies, and state and local governments. And while it would appear to reduce federal spending for this project, it would substantially increase the real burden upon the taxpayers who would have to fund long-term support for those who remain economically dependent.

The Coalition, therefore, recommends that several essential features, similar to those contained in bills introduced by Congressman Stark and Senators Humphrey and Kennedy, be incorporated into the Administration bill. These minimum requirements would include:

Continued funding for social services and special employment and mental health projects;

Uniformity of treatment among the states. This would be accomplished by providing 100 percent funding for current programs during the first year so that states would have time to seek supplemental funds through their legislatures, and by allowing the states flexibility in their efforts to cope with reduced federal funds during the phase-out period;

A planned phase-out of funding so that federal planned participation will be terminated at the end of three years.

These features would create the framework for a phase-out of special services so that neither the refugees nor the state and local taxpayers are unfairly burdened. It also provides a clear termination date so that the program is not continued indefinitely.

As I indicated at the beginning of this presentation, the Coalition has been seeking continued help for the Indochinese refugees for many months. However, the deficiencies in the current Administration proposal are so great that most of the Coalition members would actually oppose pasage of the bill in its present form. This bill does not represent a reasonable compromise between those who would like to continue full federal funding indefinitely and those who seek to reduce federal spending. It is a palliative which does not meet any of the real needs of the Indochinese or the American taxpayers.

THE CASE FOR U.S. INTELLIGENCE FORCES

Mr. GOLDWATER. Mr. President, recently a very important speech was given by Mr. Gordon B. McLendon of the Association of Former Intelligence Officers.

This speech reveals in plain words the practical reasons why the Nation needs an intelligence service.

It pinpoints several vivid examples of American intelligence successes which have played important roles in preserving American liberties.

It demonstrates the reasons why the public media must show responsibility to the common good by voluntarily re-

fraining from abusive attacks on our intelligence community which damage necessary intelligence missions by revealing sources, secrets, and methods that took enormous time and money to build.

It also discloses several major areas in which the military capabilities of the Soviet Union may be perceived by the rest of the world, even if our own Government may dismiss the conclusion, as being superior to the U.S. power position in the world.

In other words, Mr. President, this is a speech that every Member of the Congress should read because it directly involves the survival of our people, our freedoms and the American experiment in self-government.

Therefore, Mr. President, I ask unanimous consent that the text of Mr. McLendon's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

U.S. INTELLIGENCE—AMERICA'S FIRST LINE OF DEFENSE

(By Gordon McLendon)

Before I conclude this speech thirty minutes from now, a missile could be launched from the Soviet Union, strike into this city and blow us all to kingdom come. I begin this way not because I believe such is going to happen—heaven forbid—but to point out to you that what we are going to discuss here is not in any sense some idle theory.

Take a look at your watch—it should say P.M.—twenty-nine minutes from now, your life and that of your family could be over.

If you believe me, we can get on with this speech.

To quote that gifted pseudonym, Adam Smith, "we are all at a wonderful party, and by the rules of the game we know that at some point in time the Black Horsemen will burst through the great terrace doors to cut down the revelers; those who leave early may be saved, but the music and wines are so seductive that we do not want to leave, but we do ask, 'What time is it? What time is it?' Only none of the clocks have any hands."

It is my hope to talk to those of you who are not frozen at the party and then sliced apart by the Black Horsemen of greed at the end. I am sure I speak to most of you.

While it is not this speaker's purpose to argue the case for or against increased military spending, it is my function today to make the strongest case for the importance of U.S. intelligence forces. In order to do that, there are certain basic facts concerning our defense forces that must be known:

Vast numbers of Americans today cynically close their ears to all comparisons of U.S. vs. Russian military strength on the ground that both sides possess enormous overkill. Enough, they argue, becomes much, and much has long since become far too much. Mutual destruction can be accomplished but once, they argue, and both sides have long had that potential.

However understandable, such a point of view has blind spots. In the first place, massive new Soviet nuclear rockets (ICBM's), such as the SS–9, can easily destroy U.S. missiles in their silos—because present U.S. policy is to fire only after an enemy attack.

Furthermore, the Russians do not regard a nuclear war as either impossible, unthinkable or unsurvivable. They do not believe that the United States can destroy the Soviet Union either by first strike or retaliation. Over the last twenty years, the Russians have devoted great effort to enormous civil defense projects. They believe that their present civil defense capability may well keep Soviet losses in any nuclear war below 20 million people—fewer than Russian losses in World War II. They believe that the bulk of Russia's industry could also survive. But the Russians believe that the United States, which has no nuclear civil defense program, may lose as many as 100 million people and by far the greater part of our industry. Dr. Eugene Wigner, America's Nobel Prize winning nuclear physicist from Princeton, confirms the Russian view. "The total explosive power in Russian missiles," says Dr. Wigner, "is now about 6 times greater than the explosive power in our missiles. The maximum damage that we could inflict on them would be less than 4% of the Russian population; they could destroy or threaten to destroy 45% of our population."

If the Russians are indeed thinking this way, U.S. nuclear capability is not the deterrent to the Russians that most Americans believe.

Besides the Russian nuclear civil defense system, the Soviets count upon weapons to secure them against U.S. nuclear rocket attack. We refer to Russia's moving, and mobile, missile launchers. We cannot aim at these launchers on the ground because they are easily concealed from our satellites and can be rapidly moved. They are not restricted by the SALT I agreement. Yet the United States has no mobile missile launchers. These moving Russian launchers, such as the SS–16 and the SS–20 can head off across a field, set up and fire in minutes at targets anywhere in the world.

The United States Navy is down to only 438 ships, compared to Russia's 1,440 active combat ships, including the new carrier *Kiev*.

The decay in readiness of our fleet was dramatically demonstrated during the *Mayaguez* incident. The U.S. carrier *Hancock*, 31 years old, which has been operating without one of its four shafts, limped weakly out of Subic Bay toward the Gulf of Thailand, making only 23 knots—and never reached the *Mayaguez*. Our helicopter carrier *Okinawa* was on its way to the flash point but part of *Okinawa's* boiler plant was off the line. Struggling along at thirteen or fourteen knots, it also never got there. The escort ship *Holt* was the first U.S. ship at the scene, but it had power-supply problems and so *Holt's* main battery was down the night before the engagement.

The former U.S. Secretary of Defense, James Schlesinger, said, "clearly, this nation cannot long tolerate the present readiness condition of the U.S. Navy."

In submarines, the Russians have a 3 to 1 advantage over the United States and are turning out a new sub every 5½ weeks. The newest Russian Delta class submarine has the new SSN–8 ballistic missile, with a range of over 4,000 nautical miles, capable of reaching any target in the United States from protected Russian waters. The United States won't have a comparable submarine missile until the first Trident submarine is ready in 1979.

In the air, the Soviets have the largest bomber force in the world—825 medium and heavy bombers—almost double the number of U.S. bombers. The United States may still enjoy a slight qualitative advantage in tactical air, but the Russians have now begun to deploy newer capable aircraft in great numbers—the Flogger, Foxbat, Fencer and Backfire. Ninety percent or more of these Soviet Backfire bombers are already in combat squadrons. The Soviet Backfire is far superior to any American bomber. It was the Backfire that we were building the B–1 to counter, and now we have cancelled the B–1. Soviet deep penetration capability in the air continues to grow rapidly.

The Soviet have 2,600 fighter-interceptors. The United States has 315, a margin of over 8 to 1. In 1975, the United States Air Force produced only 181 aircraft of all sizes.

Perhaps the best summary of air comparison came at the end of 1976 when the authoritative *Jane's All the World's Aircraft* reported that Soviet airpower is outstripping the U.S. so swiftly that now the United States might have to use major nuclear weapons just to counter a conventional Communist air attack.

Russia outproduces the U.S. in all military hardware except helicopters. Russia's Warsaw Pact forces in Europe outnumber our NATO forces 3 to 1 in combat formations. The Soviets now have a force of over 12,000 surface-to-air missiles (SAMS) ready and on launchers. The United States has dismantled all its strategic SAM defenses. Russia is now deploying its most advanced new intercontinental nuclear rocket, the SS–18 with a warhead of around 50 millions tons of TNT—more than 2500 times as large as the bomb dropped on Hiroshima. Russia has a 3-to-5 to 1 advantage in missile explosive power.

As late as the early 1960's, the Russian navy was simply a small coastal defense force. Now, it is a formidable blue-water navy whose total active combat ships, large and small, outnumber the U.S. six to one!

Soviet fleets now roam the Indian Ocean, have begun to edge out the United States in the seas off Japan, and in the Mediterranean they now challenge the U.S. sixth fleet. The Supreme NATO Commander Atlantic, Admiral Kidd, said recently of the Mediterranean, "What used to be an Atlantic lake in the minds of the Alliance and the United States is now . . . an Atlantic moat, filled with predatory steel sharks, conceived and constructed in the Soviet Union."

On the ground, the Russians have nearly 4.5 million men under arms, well more than twice the U.S. military force. Russian combat ground forces outnumber us 3½ to 1. The Soviets—and no one who has just come from Russia, Siberia and Outer Mongolia, as I have, can miss this—devote at least 20% of their national product to defense. The United States devotes 5 percent. But the most distressing fact of all is this: of the total U.S. defense budget, costs at the Pentagon for wages and pensions take up 55 percent of our total military budget. Secretary of Defense Harold Brown says, "the whole pay structure needs to be looked at."

The point also should be made here that however we or our administration view our military capability, the rest of the world may view it quite differently. Regardless of what we feel to be our military strength, if certain of our marginal allies feel that we are vulnerable to Soviet power, the Russians may more easily intimidate them by their very mass of arms and thus extract political, economic and military concessions from them. For instance, Russia's nearer neighbors, along the vital Persian Gulf, may interpret the very volume of Soviet weaponry and men as superiority *per se* and be far more willing to acquiesce in demands and offer concessions.

Then, of course, there is China. The most important of all factors in today's world balance of power is the continued tension between Russia and China. Were those two to patch up their differences, the U.S. power position in the world would be frightfully damaged. At this moment, the United States would seem far nearer to a reconciliation with China than the Soviet Union. But suppose that China—particularly after our oriental loss of face in Viet Nam—decides that the margin of Russian military superiority over the United States is increasing so rapidly that the United States can no longer be counted upon as a reliable counterweight to the Soviet Union? Fearing U.S. weakness, a Chinese rapprochment with Russia is easy to conceive. And thus, even if we Americans interpret our preparedness one

way and see no shift in military balance with the Soviet Union, that does not mean that other countries, whose friendship we consider important, see our position to be the same versus that of the Soviets. As Alice might say to the Red Queen in Wonderland, "what's important is not, it's what seems to be that is."

You have to talk tough, and from strength, if you expect the Russians to listen.

As the Soviet historian Andrei Amalrik says, "The Russians despise you, consider you an idiot and they do exactly what they want if you talk to them with courtesy and tact."

Too many of our State Department theorists must know, but somehow forget, that when you deal with the Russian leaders, you are not dealing with the products of American Ivy League colleges or even public schools, men bred in the manners and traditions of Western civilization. Rather, in Russian leaders, you are talking to men whose heritage and views go back to the brutality of the czars and savage peasant bandits and Genghis Khan and the Tartars and ruthless conquerors of the past. You must talk to them hard and from strength.

Again, the purpose of this talk is to refocus attention on the importance of our intelligence forces. We make no excuses for past intelligence transgressions in domestic areas. There were FBI and CIA excesses and wrongs—abuses that were thoughtfully committed, and not by mistake. Such attacks on our domestic freedoms demand the most outraged resistance. But we have had that resistance, and hopefully the public and the Congress have made their point. It is important to note that our own intelligence revealed its own past mistakes—they did not have to be unearthed. Such candor by U.S intelligence deserved nationwide applause. At any rate, explicit new legislation and tough congressional oversight committees have now been set up to protect our rights under the 1st and 4th Amendments. We must not continue what has at times since late 1974 become a destructive orgy within our intelligence community, for the attacks that have been made have not only revealed the questionable activities, but also have revealed intelligence sources, secrets and methods that took enormous time and money to build. These continued random attacks by publicity-seeking committees have damaged our first line of defense—U.S. Intelligence. To quote Secretary Schlesinger again, "It has caused delight and derision among our potential foes, concern among our friends, and wonderment on the part of all."

If you are a football coach and you find yourself operating with eight players to the opposition's eleven, you must change your game plan. You must operate far more strategically with your eight men—with far greater intelligence. And so just as the United States devotes less and less to defense relative to the Soviets, there is greatly increased need for accurate intelligence concerning potential enemies. With the volume of our defense going down, what we keep must be employed with maximum intelligence.

And even now, the United States has the best intelligence in the world. You get a lot for your intelligence dollar. The brilliant Lt. Gen. Sam Wilson, head of intelligence at the Defense Department, has pointed out vivid examples of American intelligence successes:

One—American intelligence spotted the Soviet nuclear missiles on their way to Cuba in 1962 and supported the President as he worked through 13 nightmarish days to force the Russians to remove them . . .

Two—U.S. intelligence gave seven years warning on the development of Moscow's anti-ballistic missile system . . .

Three—American intelligence pinpointed eight new Soviet intercontinental ballistic missiles and evaluated the development of each missile three or more years before it became operational . . .

Four—U.S. intelligence anticipated two major new Soviet submarine programs well before the first boats slid down the ways . . .

Five—U.S. intelligence revealed the status and design of two Soviet aircraft carriers well before the front one went into sea trials . . .

Six—U.S. intelligence successfully monitors and predicts trends in oil prices and tracks the flow of petro dollars—vital to your pocketbook and everyday life . . .

Seven—American intelligence performs the vital task of assessing yearly world crop prospects—a key to strategic planning of all sorts.

Eight—U.S. intelligence monitors compliance with strategic arms limitation agreements. Our intelligence does not have to estimate, does not have to guess . . . our intelligence knows whether our possible opponents are keeping their agreements. And that's a new job for intelligence—keeping the peace and restraining the arms race.

Nine—U.S. intelligence experts are more than craftsmen, more than scientists, they are dedicated, talented artists. They are also brave people on perilous duty in strange lands, they are gifted analysts puzzling out mysterious actions by alien peoples in remote, closed and secretive societies. You do not want these courageous men and women who risk their lives for this country exposed and destroyed.

Ten—in 1942, the United States Navy cracked the most secret of Japanese codes, and we were thus able to crush the Japanese fleet at Midway, avenging Pearl Harbor and also turning the entire Pacific war around.

Eleven—for nearly ten years before he was betrayed and executed in 1963, the famous Colonel Oleg Penkovsky, one of Russia's foremost intelligence officers, was also—to the bitter dismay of the Soviets—also a double agent for the CIA, and, as such, played a key role for us in the Cuban missile crisis.

Twelve—had it not been for the joint effort of our intelligence with the celebrated British special intelligence service (MI–6) in 1953 Iran would likely have joined the Soviet Union. The demagogic premier of Iran, Mohammed Mossadegh, was on the very verge of overthrowing the Shah and making Iran part of Russia. However, the CIA, with British intelligence, toppled Mossadegh, restored the Shah to power, and saved that vital country and its great oil resources for the free world.

I hope that these examples illustrate the crucial place which U.S. intelligence occupies in the preservation of the American dream.

But that was yesterday. What about today? Take Africa—from which we import important minerals. Suppose our intelligence told you that the Russians—using Cuba as their cover—have not only reversed their promised withdrawal of troops in Angola but also increased them to between 14 and 15 thousand? This strong Soviet-Cuban force is intimidating to Southwest Africa—Namibia—which is scheduled for independence on 1 December.

Through our intelligence, we know where these Cuban troops are: 6,000 are infantry, there is a Cuban arsenal including an armored regiment with 120 T–54 and T–34 Soviet tanks and 1900 men, an armored car regiment with 70 Soviet-made vehicles and 1600 men, five regiments equipped with mobile rocket launchers. We know that the Cubans have at least a dozen MIG–4 fighters, helicopters and Antavos–2 light transport planes, and we know that Angolan airfields at Huando, Mocamedes and Cabo Linda are rapidly being modernized. The names of these cities may mean little to the average man until it is pointed out they are part of a potential Soviet staging area for a major offensive against Southwest Africa. Going northward into Central Africa, U.S. Intelligence knows that Cuban and Soviet forces are using Brazzaville as the first stop for most Communist expeditionary forces before they fan out across the southern rim of Africa.

All too close to strategic areas of the Middle East, there are about 500 Cuban advisers in Somalia and they would like to take over Djibouti, the important Red Sea port long controlled by the French. We know that in Aden, which is already fully communist, there are 1000 Cuban advisers and more than twice that number of what the Russians like to call technicians—which means pilots, guerrilla trainers, doctors, economic experts and agricultural and educational teams.

All of this information is most important to us, particularly in a day when there are talks about re-establishing diplomatic and trade relations with Communist Cuba. And this information can only be supplied to Washington by a very able U.S. intelligence force. Whether Washington uses the information intelligently is beyond the scope of this address.

As the director of Central Intelligence advocates, Congress should change our security laws so that the charter of the CIA specifically refers to and limits the CIA to "foreign" intelligence.

The fact is that the service rendered this nation by our intelligence service during the past 30 years makes the few improprieties look small. Not that they should be ignored, but rather viewed in proper perspective. Spy stories in the morning paper make such juicy reading that they are publicized out of all proportion. In the process, enormously complex and expensive technical intelligence may be exposed and countered.

Again, abuses of our intelligence services did not have to be "discovered;" they were identified, revealed and made public by the intelligence community itself. Intelligence itself told the public about them. They have been ended.

When you approach the CIA headquarters building on the green lawns at Langley, Virginia, you will see a statue of Nathan Hale. That will probably call to memory his words, "I regret that I have but one life to give for my country." But there is something else significant about that statue of Nathan Hale at Langley. A close look will show you that Nathan Hale's hands are tied behind him and his legs are bound with a rope. He was bound just that way before the Redcoats hanged him for American espionage.

That is not the way Americans want their intelligence agents, like Nathan Hale. The American people must rally round our vital intelligence forces and insist on keeping the ropes off Nathan Hale.

If we do, the time tomorrow can be 0001 and not 2359. There need be no words from the old years as evocative as Quisling, blitzkrieg, Sig Heil, Stuka, panzer, Messerschmidt, or Coral Sea. The words of tomorrow can be as dazzling as the morning sun.

DR. OLIN ROBISON ON THE SOVIET UNION

Mr. MUSKIE. Mr. President, a recent issue of the Christian Science Monitor contains an interview with Dr. Olin Robison, president of Middlebury College in Vermont and former provost of Bowdoin College in Maine. Dr. Robison was interviewed after his return from the Soviet Union, where as a guest of the Soviet Academy of Sciences, he spoke on the policies of the Carter administration.

Dr. Robison's 20-year interest in Soviet affairs, demonstrated by involvement in exchange programs between young American and Soviet leaders and yearly American-Soviet conferences, has

led to the formation of personal friendships with Soviet educators, researchers, and officials in the Soviet Foreign Ministry. In Dr. Robison's view, these exchanges provide a valuable channel of understanding between the United States and the Soviet Union, outside the context of formal diplomacy.

In the interview with the Christian Science Monitor, Dr. Robison discusses the personal insights he has gained into the causes and cures of misunderstandings between the two countries.

It is a most informative interview, and to share it with my colleagues I ask unanimous consent that the interview published in the newspaper's August 25 edition be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

DÉTENTE OVER DINNER—COLLEGE PRESIDENT SHARES UNOFFICIAL DIALOGUES WITH SOVIETS

(By Richard M. Harley)

MIDDLEBURY, VERMONT.—When Middlebury College President Olin Robison recently spoke in Moscow as a guest of the Soviet Academy of Sciences, he discovered that he had become something of a minor prophet.

Back in 1975, with the American election looming on the horizon, he had predicted on a similar visit to Moscow that any Southerner who could beat George Wallace in the South would be the next President of the United States.

"They remembered that," laughed Dr. Robison on his return from Moscow several weeks ago. "Never mind the fact that at the time I was thinking of Terry Sanford, not Jimmy Carter. Terry had just had the good wisdom to invite me to be his foreign policy adviser in the campaign, and of course, I was thinking that that showed him to be a man of great sagacity!"

In July, just six months into the Carter administration, Dr. Robison again found himself before an Academy of Sciences audience. This time he spoke on the new administration's policies. But in the discussion that followed, he soon found that the winds had shifted since his last talk.

Although the Soviets were still curious about the new American policies, they also wanted to know about President Carter's much-publicized religious faith, a curiosity that kept Dr. Robison fielding questions for another two hours from some 50 America-watchers and researchers at the Academy.

Such dialogues may seem out of the ordinary to most Americans, but they are actually nothing new. Unofficial dialogues and exchanges between Soviets and Americans began to blossom in the early 1960s and increased through the Nixon-Kissinger-Ford détente era.

Even though détente presently seems to have stalled, the exchanges still manage to roll on. In the next year alone, for example, Dr. Robison expects to host a half-dozen ranking Russian officials at his rural Vermont home, alongside a lazy, meandering "Otter Creek" that seems about as far removed from Moscow and Soviet affairs as one could imagine.

U.S.-Soviet exchanges most often are arranged not at the top levels of government but by middle-level officials, educators, scientists, artists, or private citizens, who seek to gauge which way the winds are blowing, and how relations between the two superpowers might be improved.

Dr. Robison's contacts with the Russians go back to a trip to the Soviet Union in the late 1950s while he was still a student at Baylor University in Waco, Texas. His interest in Soviet affairs continued after his ordination as a Baptist minister and through his subsequent work with the Peace Corps and the State Department. But most contacts developed in recent years while he held administrative posts at Wesleyan University, Bowdoin College, and Middlebury College.

Helping to head a government-funded program of exchanges in the late 1960s between young American political leaders and the Soviet Committee on Youth Organizations, Dr. Robison led many Americans to conferences all over the U.S.S.R. He has further taken part in a program of yearly American-Soviet conferences launched in the early 1970s by the United Nations Association.

For Dr. Robison, the exchange provide a valuable channel of understanding between the superpowers—even at times when U.S.-Soviet relations have been fraught with friction. And over the years he has developed personal friendships with Soviet educators, researchers, and officials in the Soviet Foreign Ministry.

In July Dr. Robison was again the guest of the Institute of United States and Canadian Studies, a part of the Soviet Academy of Sciences. The insights he has gained into current U.S. Soviet misunderstandings were the subject of the following interview with the Monitor:

Most of us do not often find ourselves in conversations with the Soviets. How would you characterize your relationships with your Soviet friends?

The sessions are always cordial. Everyone wants very badly to treat people with gracious hospitality, and at the same time good conversations take place.

What kinds of conversations?

I remember one evening last year in which a very distinguished Russian was a guest here at Middlebury. We had a superb discussion on whether the cold war had been necessary. I had taken the position that it probably was, that any time you have great competing powers—especially from different cultural backgrounds—something like the cold war is probably necessary to get things sorted out.

How did the Russian respond to that?

Well, he wasn't having any of it. He said it was our fault. They didn't have anything to do with it. Finally, after this went on for nearly four hours, one of the guests said to my Russian friend, "Let me be straight about this. Are you saying that the cold war was exclusively the fault of the Americans?" And he said, "Oh, no. I didn't mean to say that. It was partly Churchill's fault!"

Did he laugh at that?

Yes, he did have the grace to laugh at that.

We read a lot about reactions around the world to the American stance on human rights. Did you find in your most recent trip to Moscow that President Carter's open statements on human rights are as serious a concern for the Russians as the Western press leads one to think?

Yes, and I'm reasonably sure that the human rights posture of the new government has had more to do with changing the overall atmosphere of U.S.-Soviet relations than have, say, the armaments discussions. One senses in talking with the Soviets that they are angry, frustrated, and intensely indignant over President Carter's statements on human rights.

Why indignant? How can we understand that reaction?

Many Russians feel that President Carter does not view them as equals and that the President has singled them out for special censure. They believe that he has taken the high moral ground from which he can talk down to them. More than anything else, the Soviets want the leadership of the United States to treat them as equals. I think it would be difficult to overstate how important that is.

Did the Russians themselves actually say this?

One ranking Soviet official said to me, "The relationship [between the U.S. and the Soviet Union] cannot go forward unless the President is prepared to deal with us as equals." He claimed that Presidents Nixon and Ford had been prepared to do this, or at least were moving in that direction. Then he added, "I don't see that readiness now. There's no preparedness to deal with us on an equal footing, either in SALT [strategic arms limitation talks] or other matters."

So the very rights policy that many Americans hope will promote equality and respect for the individual comes across to the Russians as a statement of U.S. superiority?

Russian friends repeatedly said to me that they felt we were trying very hard to put them in the worst possible light internationally. One ranking official said, "We view President Carter's statements on human rights as a well thought out, well-planned campaign of psychological warfare. It is a special instrument to be employed in the struggle against the socialist countries."

How did you respond to that?

I said, "That's a strong statement; that's a terribly strong statement. I'm going to read it back to you. Did you really mean to say what I have written down?" He said, "That's exactly what I mean."

What about the administration's statements that the U.S. human rights policy is a general one, with no particular country single out as a target?

They either do not hear or choose not to believe these statements. I asked many of my Russian friends, "Can you conceive of circumstances in which the President would speak out on human rights and it would not be seen by them as anti-Soviet?" The consistent answer was, "No, it's aimed at us."

I understand that your recent talk at the Soviet Academy of Sciences drew questions about Jimmy Carter's religion?

Yes, indeed. They are intensely curious. They've read a great deal about the fact that he is serious about his religious commitment, that he's a regular churchgoer.

Where do they get their information?

From many of the same sources we do—primarily our own press. The professional people in the Institute of U.S. and Canadian Studies read most major U.S. newspapers and periodicals. They are fascinated with the religious side of the President's life, but they feel a bit uneasy about it. They're quick to admit that they do not understand it, and want to know more.

Why the curiosity? Presumably they don't want to be converted?

Oh, no. Intellectual curiosity. Academician Georgi Arbatov, my host and the director of the Institute, asked me to talk to him and his colleagues about the fact that Mr. Carter is perceived to be a religious man. Knowing, as he does, my own Baptist background, he wondered if I would comment on what it means to be a Baptist, and how this might affect the way the President makes decisions. Still others, when asking about the President's human rights stance, would say, "Is he doing this because of a missionary zeal that comes from his religion?"

How did you reply?

I said that Jimmy Carter's stance on human rights is consistent with his Baptist religion, but not exclusively the product of it. And I suggested that distinctiveness of the President's approach to human rights may reflect the way evangelical Christianity—such as President Carter's Baptist faith—differs from more liturgical forms of Christianity—such as the Russian Orthodox Church with which the Russians would be familiar. Participation is the clearest statement of faith in the liturgical churches. But the Evangelical shows his commitment by proclamation, by talking about it. So perhaps with the Baptist and human rights, a commitment to the cause is not enough:

you've got to be prepared, in religious terms, to bear witness to your commitment.

One would expect the Russians to know something about such aspects of Western Religion, but perhaps we should not take that for granted?

In the Institute of U.S. and Canadian Studies, not a single one of the 300 researchers specializes in the religion of the United States. No young Russian is going to make it up the professional ladder by studying religion.

Two years ago, my wife Sylvia lectured at the Institute on the history of religion in American political life. She stressed to the Russians that any understanding of American life had to include an appreciation of the role religion has played in the formation of American values. My Russian friends accept this on an intellectual level, but have not been prepared to commit any resources to such studies.

Apart from religion and human rights, what exactly did the Soviets expect when Jimmy Carter was elected?

Shortly after last November's election, I was invited, along with other American members of a United Nations Association working group, to meet with our counterparts in Moscow. At that time they were, of course, curious about the implications of the election. Those of us then in Moscow described President-Elect Carter as a man in the mainstream of the Democratic Party. The Russians, however, convinced themselves from our statements plus their own analysis of the American scene, that there would be no changes of consequence under the new administration.

So given such expectations, the shifts in President Carter's policies from his predecessors must have come as a bit of a shock to the Soviets?

I think that any change in style or substance in U.S. foreign policy would have made them anxious. After all, they had dealt with Secretary Kissinger for eight years. In that length of time they had at least become comfortable with their ability to predict where the U.S.-Soviet relationship was going.

Why has it been so hard for the Soviets to adjust to the new American approach?

I find no appreciation in Moscow of the fact that the new President had to put some distance between himself and the previous administration, if not in substance, then at least in style. And in both of these I think President Carter has done just that.

But also, I don't think my Russian friends have a very accurate understanding of the relation between American public opinion and presidential behavior. They are reluctant to accept the idea that public opinion forms the boundaries within which a president can operate. They are equally reluctant to admit that Soviet behavior in the last three or four years has not been conducive to a favorable political climate for détente in this country.

Reluctant in what way?

They don't want to hear that Americans think the Soviets behaved badly in Angola and Portugal, and that this was not in the spirit of détente. "What do you mean?" they would say. I pointed out that during détente, most Americans thought we had all agreed to curb our competitive instincts for a while—sort of like the Indianapolis 500, which they all know about, in which a yellow flag means that although the race is on, nobody can pass anyone else. But the Soviets were seen to be racing ahead despite the yellow flag, and no new American president could come into office and fail to address this perception.

Are there aspects of U.S.-Soviet differences that need to be better understood by Americans?

I would say yes. The most basic is not to lose sight of the profound value differences in our two societies. Their history is so different from ours. They are a people who did not participate in the Renaissance, the Reformation, the Enlightenment or the 20th-century discussions of Wilsonian democracy, of restructuring the world into a more harmonious order.

Where our society has placed a higher value on personal freedom and liberty, they have given greater emphasis to social structure and public services. Thus the Soviets—from the time of their revolution—have defined the most important "human rights" as food, housing, employment, and domestic order. The fact that we do not agree with this order of priorities should not obscure our understanding that it is a different value system. Acknowledging the differences must surely be the first step toward finding common ground on which to build understanding.

What, in your view, does the existence of such cultural differences mean for the future of the American stance on human rights?

It means that if we're going to go forward in the human rights policy, I think we're going to have to be progressively more skillful, sophisticated, and discerning—perhaps more pointed, and less general. And the Soviet Union is going to have to become perhaps a little less edgy in all this, or else the atmospherics within which the relationship between our two countries is progressing are going to become very bad indeed. The atmospherics matter. They count. And the overall posture that we have toward each other does form the context in which concrete relations are formed.

What future do you see for American-Soviet dialogues like the one in which you have participated?

One result of détente was that many levels of communication were established between the U.S. and the Soviet Union. We now have about 200 agreements of one sort or another with the Soviets, ranging from joint space efforts, joint research in science and technology, and cultural exchanges of artists, dance troupes, young political leaders, and so forth.

And lest we think that, in the present period of strain, we're slipping into a cold war situation, a significant number of Americans and Russians continue to move back and forth between the two countries with some ease. We know it's been useful for them. It's equally useful for us. And that, it seems to me, serves the cause of peace.

REPORT BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, pursuant to section 302(b) of the Congressional Budget Act, the Committee on Banking, Housing, and Urban Affairs reports the following allocation of spending responsibility as set forth in the second concurrent resolution on the budget for fiscal year 1978.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS—REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

		Fiscal year 1978			
		Direct spending jurisdiction		Entitlements requiring appropriations action	
	Function	Budget authority	Outlays	Budget authority	Outlays
050	Defense production guarantees		(1)		
400	Rural housing insurance fund	106	(1)		
	FHA fund	853	785		
	FDIC		−379		
	FSLIC fund		−402		
	Other	5	−99		
450	New communities fund	83	83		
	Other	1	42		
500	GNMA participation sales fund		4		
550	GNMA participation sales fund		(1)		
600	Housing assistance programs	34	−9		
700	VA direct loan revolving fund		−81		
	GNMA participation sales fund		−7		
800	Coinage profit fund	3	3		
	Liquidation of Reconstruction Finance Corporation		(1)		
900	Interest on uninvested funds (not controllable)	8	8		
	Refunds under the Renegotiation Act (not controllable)				(1)
	Committee total	1,092	−53		(1)

1 Less than $500,000.

HERBERT STEIN PRESENTS: STEINCOMICS

Mr. WILLIAMS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Minnesota (Mr. HUMPHREY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HUMPHREY

On September 14, Herbert Stein, Chairman of the Council of Economic Advisors during the Nixon-Ford Administration, advised the readers of the Wall Street Journal's op-ed page to consider the possibility that the nation has achieved a full employment economy.

Once we are properly intrigued by this implausible possibility, he then implies that aggregate tax, spending and credit policies aimed at stimulating the economy to improve employment be re-evaluated with the intention of reducing efforts in these areas.

With this mind-set, it goes without saying that development of new, comprehensive policies and programs to marshal economic forces to attain better overall performance is totally out of the question. Apparently, we may be, in Professor Stein's view, in the best of all possible worlds at present.

His unabashed assessment was made less than two weeks after the Labor Department announced an official unemployment rate of 7.1 percent for August—nearly 7 million jobless men and women. It is generally accepted that the official figures translate into real unemployment and underemployment of more than 10 percent—nearly 10 million who are either out of work and seeking jobs, have been forced into part time employment for want of full time opportunities, or are so discouraged that they are no longer looking for work and have dropped out of the labor force.

Notwithstanding prevailing conditions in the real world, Professor Stein asserts that unmet demands for workers in the quasi-slave migrant labor market, uncooperative clerks in department stores, and unidentified people who are inadequately performing unidentified jobs, provide evidence that we are close to a full employment economy, if indeed we have not already arrived.

As further proof that a full employment economy, to everyone else's surprise, may have unobtrusively overtaken the nation, Professor Stein points to another series of factors. This list is comprised of a lowering rate of productivity, rising wages (for those who are working), and a nearly record level of employment among those 16 years and older.

Professor Stein concedes that minority unemployment is at a record high level of 14.5 percent, but he omitted mentioning the 17.5 percent jobless rate of teenagers or the appalling record high unemployment rate of 40.4 percent for minority teenagers. In fact, the rate of teenage unemployment is not given in his essay.

According to Professor Stein, totally unacceptable minority unemployment, a constant problem for decades, should not deter us from entertaining the thought that we nevertheless have a full employment economy. Minority unemployment problems, he says, require new, and for him, admittedly unknown approaches. Besides he says, because our society has changed its collective attitude toward marriage and child bearing in the past two decades, it would be "entirely consistent" to assume that it has loosened its grasp on the work ethic to the point where improvements in welfare, unemployment insurance and related programs have actually made joblessness attractive to many. Thus, there is no need to even consider the despair, death, illness, and crime that stem from the inability of men and women to be self supporting, useful and fulfilled citizens.

Professor Stein went on to note that white unemployment has dropped from 8.5 percent in May 1975 to 6.1 percent in August of this year while black unemployment has risen from 14.3 percent to 14.5 percent during the same period. He then asserted that the core of the nation's unemployment program is centered on minority workers and that is where remedial efforts should be largely if not entirely focused.

It is certainly true that unemployment among minority workers is at an alarming level requiring immediate and effective action. But Professor Stein has conveniently ignored the fact that other labor force categories also have intolerable unemployment rates. Joblessness among women who are heads of households stands at 10.5 percent. Joblessness among nonfarm laborers is 12.6 percent. The unemployment rate for construction workers is 11.5 percent. For the wholesale and retail trades it is 8.3 percent, it is 9.3 percent for agricultural workers, and 14.7 percent for white teenagers.

He points out that unemployment among minorities remains high despite massive and expensive efforts to eliminate racial discrimination and provide blacks and others with equal educational and job opportunities. The professor admits he has no answers for this dilemma, other than to say we should not repeat unsuccessful efforts of the past. To this he adds the pessimistic comment that an increased national obligation to provide education "had as its corollary a lowered sense of private responsibility to learn." And he says, "The heightened sense of national obligation to provide jobs—or at least a paycheck—had as its corollary a lowered sense of private responsibility to work." His final remark in this vein asserts that "Programs which intensify the responsibility of the employer—as a last resort the government—and simultaneously dilute the responsibility of the employee are unlikely to add to the total of productive work."

What a marvelous exercise in doublethink regarding minorities. The more educational opportunities provided, the less incentive to learn. The more job opportunities created, the less incentive there is for individual workers to seek and find employment. If government becomes the employer of last resort the result will be nonproductive activity. What complete and total nonsense—Dr. Stein should know better.

There is no question that minority unemployment—and for that matter all structural unemployment—constitutes a major economic problem in our society. It is by no means the only major problem. The goal of a full employment economy should be the reduction of adult joblessness to a level of 3 percent, as set forth in the Full Employment and Balanced Growth Act, a goal that was exceeded during the 1960's. Under this standard, joblessness would be reduced to a level reflecting unemployment that occurs due to seasonal fluctuations, changes caused by new production techniques, products and service methods, and job terminations due to the normal search for new employment opportunities.

But even a sustained full employment economy defined at the completely unacceptable level suggested by Professor Stein will continue to escape us absent a concerted effort to coordinate fiscal and monetary policies and programs to shape a comprehensive guide by which to manage the economy. We have never attempted this before. As a consequence, we find ourselves stumbling from one recession to another, posting tragic rates of unemployment and simultaneously soaring levels of inflation. Can we expect otherwise? How can we reach and hold a full employment economy while following a course that has us reacting to economic problems on a fragmented, emergency, too little and too late basis? In effect, we are walking backwards into the future, seeing only where we've been and not where we are going.

We can't solve minority and other structural economic problems while the economy as a whole is ailing. What is needed is a comprehensive approach to economic management by government, one which establishes the framework and the procedures by which the Administration and Congress can develop and implement the fiscal and monetary policies and programs, both on an aggregate and targeted basis, to reach stated production, employment and real income goals.

Only in this way can an economic climate promoting maximum activity by business and maximum job opportunities in the private sector be reached and sustained. This is not an argument for mandatory economic planning and programming aimed at control of business activity. Rather, it is an effort to establish a rational system to help guide the economy, without interferring with private sector activity, toward stable growth and full employment. Anyone who says this cannot be done denies that government can utilize many of the same successful techniques and management devices constantly employed by business to analyze market trends, foresee problems and make and follow the decisions necessary to survive and grow.

This is the essential thrust of the Full Employment and Balanced Growth Act which Representative Augustus Hawkins and I have introduced in the House and Senate. The legislation recognizes that the vast majority of job opportunities necessary to achieve a full employment economy must be provided in the private sector. It also recognizes that all of the jobs necessary to reach and hold adult unemployment at or below 3 percent cannot always be supplied by business. To fill the gap between need and private sector performance, the legislation calls for the temporary implementation of public works and facilities, job training and public service employment programs.

Professor Stein's remarks to the contrary, there is plenty of useful, productive work to be done in the public sector to meet the social priorities of State and local governments. Unemployed people should be given jobs to meet these needs. There is no point in paying people to do nothing while priority requirements go unanswered. President Carter, in his welfare reform proposals, recognizes this, as do many Republican as well as Democratic Members of Congress who support his program.

Anything less than a comprehensive, coordinated, ongoing, voluntary economic policy development effort by government to help guide the economy keeps us right where we are, behind an economic eightball.

THE SOUTH PACIFIC AND U.S. POLICY

Mr. GLENN. Mr. President, today the South Pacific Commission is meeting in Pago Pago and I should like to take this opportunity to discuss South Pacific developments and possible U.S. roles in the region with my colleagues.

All too often we neglect the South Pacific, but, on occasion, we become too zealous. Independent nations such as Fiji, Tonga, and Western Samoa are ignored, just as are the problems of American Samoa.

Although we have often talked about building an East-West bridge, we have been preoccupied with the Vietnam war, the Middle East crucible, and SALT. Now, with the advent of peace in the Pacific, we have an opportunity to turn our attention to economic development. Australia, the principal supporter of the South Pacific Commission, should not bear these leadership responsibilities alone. Nor is it in our own economic or political interests to remain inactive. We are not, however, members of the Pacific Forum. Yet it is this very organization that is the principal vehicle for regional economic development. The South Pacific Bureau for Economic Cooperation (SPEC), the Secretariat of the Forum, provides specific technical and educational services to the member states of Australia, Cook Island, Fiji, Nauru, New Zealand, Nive, Papua, New Guinea, Western Samoa, and Tonga.

It is my conviction that we must foster this type of economic development by the Pacific nations and territories. I do not propose increased grant aid, rather our emphasis should be on trade and investment. By encouraging private eco-

nomic activity in this region, we can assist our Pacific neighbors in achieving their development goals.

Concessional funds can be channeled through multilateral flows from the Asian Development Bank. The U.S. contribution should emphasize private sector involvement and technical cooperation in identifying resource potential. Among the possibilities are: assistance tied to purchases of goods and services from the United States; loan funds generated from private capital markets to finance mineral and resource development; and, where justified, joint ventures that offer a mutually beneficial partnership. For example, before tourism can rapidly expand, a more adequate telecommunications infrastructure must be built. Regional shipping and aviation trunk carriers are additional needs given the distances of the Pacific Ocean. The advantage of tourist oriented industries as a base is that they are dollar producing, labor intensive industries, that can provide the funds for other development projects.

There are, of course, problems. The South Pacific Commission is struggling to agree on a priority list of projects. Obviously the integration of previously separate, but often similar, economic systems will not be easy. But the unity necessary to achieve that task is a precondition to successful regional development. Moreover, the Commission is an ideal organization to build greater cooperation between public and private sectors. Conversely, if the press accounts of bureaucratic bungling by the State Department regarding the shipment of two used cars from Honolulu to Western Samoa and the resentment it created are accurate, we obviously need to improve our representation efforts.

There is then obviously a need to strengthen our diplomatic presence in the South Pacific. Now is an opportune time to seek mutually constructive means of assuring these states of our good intentions while strengthening our own economic and political ties. Presently the U.S. Ambassador to New Zealand is also responsible for our contacts with Western Samoa, Tonga and the Consulate in Suva. Clearly an experienced and knowledgeable ambassador-at-large or an ambassador to these separate states is more desirable. Given the surplus of senior Foreign Service Officers in the Department, I would hope a qualified career officer to assume these duties could be found.

We need a coherent regional policy for East Asia and the Pacific region. Indeed, a regional policy emphasis can easily supplement our global policies. Our own welfare and economic interests are intertwined with the Pacific Basin. Compared with the Atlantic world, the Pacific Basin offers great potential given its economic growth potentials. By displaying an awareness of the aspirations of these people, by helping them to achieve economic development goals, we will be buiding a peaceful and prosperous Pacific that benefits us all.

IN SUPPORT OF AIRBAGS

Mr. ABOUREZK. Mr. President, there has been a lot of discussion in recent weeks concerning the relative merits of Secretary of Transportation Brock Adam's decision which would require the installation of airbags and passive protection devices on all new-model cars. Congress has the authority to overrule this decision by passing a concurrent resolution within 60 calendar days of the decision.

The current debate has been useful, I think, in that it has served to air both sides of the issue thoroughly. While most of the opponents of the airbag ruling do not deny that lives could be saved, they have cited the additional costs of such a program and, perhaps more importantly to them, they have charged that such a requirement is an unwarranted intrusion by the Federal Government into what should be a purely personal decision.

I would like to express my own personal support for Secretary Adam's decision and briefly list the reasons why I think that Congress should allow it to stand.

First, I am amazed that there is opposition to something that promises to save 9,000 lives per year. Studies indicate that the annual toll of front seat fatalities could be cut by 40 percent. Thousands of injuries could be prevented each year. I think that all of my colleagues would agree, it is hard, if not impossible, to put a price tag on a human life.

Second, even if one does try to argue that the economic cost of requiring airbags would be prohibitive, I think that he leaves himself open to debate. While initial installation of an airbag could cost up to $120 and a passive protection device $25. such expenditure could easily be viewed as a very cost-effective investment. The most obvious direct savings would be on insurance premiums. There are some insurance companies that already give substantial discounts to those policyholders who drive cars equipped with airbags. It has been estimated that potential insurance savings could reach $2.5 billion per year. Americans would also benefit from a reduction of support payments in various forms for those who have been seriously hurt in auto accidents and might otherwise have been protected had they been in a car equipped with the protection devices.

Third, I find the charge that airbags would infringe on individual rights lacking in several respects. The fact that every taxpayer ultimately pays for the incredible cost of automobile accidents seems to refute the claim that it should only be up to the individual to decide whether or not he should use the airbag protection system. It also seems to me that there may be many front seat passengers, who either due to age, unawareness, or other reasons, would not be able to effectively exercise their freedom of choice and ride in a car equipped with airbags. One expert has likened the airbag to a vaccination—it is a preventative. Seen in this light, I fail to see how the government can be accused of excessive interference.

I hope, Mr. President, that the Senate will support Secretary Adam's airbag decision. I am confident that, in the final analysis, the benefits will far outweigh the cost.

THE PANAMA CANAL

Mr. CRANSTON. Mr. President, I urge all within and without the Senate to read the remarkable statement on Panama just made public by our esteemed colleague from South Carolina (Mr. HOLLINGS).

Senator HOLLINGS was one of the numerous Senators who in the last Congress cosponsored the resolution that warned the State Department against negotiating a treaty with Panama.

He was one of the numerous Senators who cosponsored the resolution in the last Congress who has refrained from cosponsoring the resolution in this Congress.

And now, after reading, thinking, listening, asking, studying, and traveling to Panama to make a penetrating examination of all the factors at close hand, Senator HOLLINGS has come out for ratification of the Panama Treaty.

He set forth a careful, detailed, and thoughtful dissertation of all the steps and stages he went through as he came to his decision, and the reasons and thought processes that led him to his conclusions, in his September newsletter to his constituents.

I ask unanimous consent that Senator HOLLINGS' statement be printed in the RECORD, and I urge that it be read with care equalling the care with which it was written.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL

Do you want to give the Panama Canal away? NO! I don't either. Nor does President Carter. If President Carter's treaty is not giving it away, what is it doing? Keeping it to use! Given the present circumstances, the two new treaties are the only reliable and fair way for the United States to keep the Canal to use.

We all start by agreeing that the Panama Canal is important to the United States, both from a commercial standpoint and from a strategic standpoint. We all start by agreeing that the Canal should be continuously open and continuously in use. The debate centers on how best to keep it open and operating, so that our commerce can flow and our Naval fleets can remain mobile.

After looking at this question from every angle, listening to both sides over the years, and visiting Panama for another first-hand look, I join all our recent Presidents the Joint Chiefs of Staff, and a bipartisan group of political leaders in supporting Senate ratification of the treaties. They are the best safeguards for an open Canal, and they guarantee America's continued access and continued freedom of transit permanently.

If this treaty prevented our ability to use or defend the Canal, it would be different. But it does no such thing. On the contrary, the United States continues to operate and defend the Canal until the year 2000. After 2000, we retain the right to intervene to guarantee the Canal's accessibility to U.S. shipping.

Let's be practical. The Canal is like an airplane—it is no good unless it can be used. We can go out and squat in the airplane, but unless we can fly it, the plane is of no use.

So title to the Canal is not the issue. The problem is the unimpeded right to use it. Does the treaty give the United States the permament, unimpeded right to use the Canal? Are we guaranteed freedom of transit even after 2000? A few days ago in Panama when President Demetrio Lakas was asked these questions, he answered "Yes" to both. Returning home and checking, Article IV of the treaty provides it, and Dictator Torrijos states in Washington, "we are agreeing to a treaty of neutrality which places us under the protective umbrella of the Pentagon."

Why, then, all the hubub? Two main reasons. First, we have not yet fully learned the lesson of Vietnam. A decade there should have convinced us that people do not like foreigners in their country. The Vietnamese did not like it. The Panamanians do not like it. But failing to recognize this, the treaty opponents see no problem. They think the whole thing is a scheme of the State Department, and all we need to do is prove title or sovereignty and the treaty will be defeated. Secondly, we feel frustrated. The cry is, "We lost in Vietnam; we lost in Angola; we are pulling out of Korea; we talk about abandoning Taiwan. We have given away too much and 'detented' too much, and just once we should stand up and say—'NO!'" This was exactly my reaction ten years ago when former Secretary of the Navy Robert Anderson came before our Commerce Committee to testify on a proposed new treaty for the Canal. "We bought the Zone, we built the Canal, we paid for it all. Why should we want a new treaty?" Secretary Anderson said quietly, "We made a bad treaty. The people of Panama have never accepted it, and now they are ready to lay down their lives for their country." "Baloney" was the reaction. America's sovereignty must be protected at all costs. In 1967 in Vietnam, it was becoming difficult to explain to next-of-kin how their sons were being sacrificed for U.S. sovereignty. But in Panama—it could be explained easily. This feeling permeated a glowing newsletter about U.S. "sovereignty" five years ago. But the legal opinions to support sovereignty were not forthcoming.

President Lyndon Johnson had conferred with former Presidents Eisenhower and Truman and the three Presidents agreed we needed a new treaty. When President Nixon and President Ford also endorsed the idea, everyone began to wonder. Nixon had ignored the State Department and Ford would like to have ignored State if his conscience would allow him. Ronald Reagan was giving him a fit and it would have been a lot easier for Ford if he could just stand up and say "No" on the Panama Canal. My conscience hurt—and in another newsletter last year, it was pointed out that we did not have sovereignty, and the need was emphasized to rid ourselves of the vestiges of the "Ugly American" in the Canal Zone by relinquishing separate courts, the commissaries, special stores, etc. But, the newsletter concluded, the United States should make sure ". . . that we will be in charge of the Canal both five years and 50 years from now." Previously, I had joined in the Panama Canal resolution putting Henry Kissinger on notice. We never knew what he was up to and it was thought healthy to let him know that some of us in the Senate were watching. In January of this year, with Henry gone, there was no need to co-sponsor the resolution.

Today I am better informed—reading "The Path Between the Seas" by David McCullough—a 698 page historical account of how we created the Republic of Panama after Colombia, the sovereign, refused to ratify our treaty. Talking and listening at length to Ambassador Bunker and Ambassador Linowitz, who was President Johnson's Ambassador to the Organization of American States—hearing the joint Chiefs of Staff, including General Brown, the Chairman, and General Jones, head of the Air Force—talking more recently with Army Secretary Alexander after his return from a trip to the Canal Zone—traveling to Colombia, Argentina, Peru and the Canal Zone, meeting with their Presidents—talking in Brazil to the Foreign Minister and the President of the Brazilian Senate and with many other officials—talking with the Economic Minister and Secretary of Commerce in the Republic of Panama—meeting with a group of Zonians, people living in the Canal Zone—lunching with American business leaders who had lived from two to twelve years in Panama City—outside the Zone—traveling with the U.S. Governor of Panama over the entire Canal—being briefed all along by Lt. General Dennis P. McAuliffe, the U.S. Commander of the Canal Zone—spending an evening with the U.S. Ambassador to Panama Jorden, meeting with a former prisoner of the Bay of Pigs in Cuba. With the exception of some of the Zonians, they agree to a man that the Senate should ratify the treaty. Even the Zonians emphasize that the treaty ought to be "modernized."

There must be good reason for all of these leaders plus six American Presidents to favor a new treaty. The good reason, of course, is an appreciation of the true character of America. Some think our strength lies in our military might alone. But America's power lies in its solid stand on the principle of self-determination. Having lost 56,000 for this principle in Vietnam, it is appalling that some would suggest we now lose Americans to deny the principle in Panama.

Much is proclaimed about building the Canal—but so little said about building the Republic of Panama. If ever a country should be stamped, "Made in the USA," Panama is the country. We created it 70 years ago—and today it is a stronghold of American free enterprise. Seventy major U.S. banks operate in Panama City—those which refuse to operate in Communist countries. Recently, when Panama needed increased revenues, she took the Chamber of Commerce approach—a value-added tax rather than an increase in income tax. Dictator Torrijos' economic team are all U.S. trained and educated. President Lakas—six years in the United States, a graduate of Texas Tech. Planning Minister Nicolas Barletta, a classmate of Governor Hunt of North Carolina—both graduates of N. C. State. The Guardia Nacional, or army—U.S. trained. Like many other heads of state in Latin America, Torrijos has visited with Castro. But Panama does not recognize the Soviet Union and Panama refuses to recognize Red China—she recognizes Taiwan instead. In a population of 1,700,000—there are reportedly 600 Communists—but none in the government. The government is patterned after the United States' with three branches—legislative, executive and judicial. And they have an American system of education. Now the important point of all this is that we have taught them one American trait—patriotism. The Republic of Panama has developed a nationalism of its own. The people are proud, they are patriotic. They have learned the cardinal principle of government—the right of the people to determine their own destiny. The ten-mile strip of foreign occupation in the heart of their country is viewed the same way as if the French had retained a five-mile zone on either side of the Mississippi. Every Panamanian schoolchild is taught the wrong that the United States did in obtaining the treaty in 1903. Everyone in the city and countryside of Panama feels it and as they showed in 1964, they are willing to die for it. But most importantly, in this section of the world where the United States lacks strong friends, the Panamanians are friends of the United States. Everything they feel or know comes from the United States. Pointing out to President Lakas the feeling that existed in the United States, that the people were tired of being pushed around, that somewhere, sometime we had to stand up and say "No"—the President responded quietly, "But why do it to a friend."

Let me touch briefly on the certain aspects of the Panama Canal controversy:

1. SOVEREIGNTY

1. Legally, we don't have sovereignty;
2. Morally, we don't have sovereignty;
3. Realistically, we don't need, we don't want sovereignty.

Legally—Article III of the 1903 treaty grants to the United States certain rights as ". . . if it were the sovereign of the territory." This retained sovereignty in Panama. President Roosevelt's Secretary of War William Howard Taft, later to become President, said in a 1905 report: "The truth is that while we have all the attributes of sovereignty, the very form in which the attributes are conferred in the treaty seems to preserve the titular sovereignty over the Canal Zone in the Republic of Panama." The Supreme Court decisions cited by treaty opponents are like the 1896 Plessy v. Ferguson segregation decision—totally untenable in this day and age. The real test is how the Government of the United States or Congress treats the Canal Zone—and it has not been as sovereign. If the Panamanian couple gives birth to a child in South Caroline or Louisiana or Alaska, under the Constitution that child is a U.S. citizen. If the same couple gives birth to a child in Guam or the Virgin Islands, then the child becomes a citizen, because Congress has treated these two areas as under our sovereignty. But if the same Panamanian couple gives birth to a child in the U.S. Canal Zone, that child does not become a citizen. So while the treaty said we could act as if sovereign, we were not and we did not.

Morally—No question, the United States rooked Panama back in 1903. We actively supported the revolution against Colombia by its Isthmus section after Colombia refused to ratify the treaty we wanted. We sent ships and troops and this guaranteed the outcome. Then we signed the treaty hurriedly before the official delegation objecting from Panama could even arrive in Washington. Signing for Panama was—not a Panamanian—but a French citizen who had not been in Panama for 17 years, and who returned to France immediately after the ratification. Further, it was made known that our military might would be withdrawn from the fledgling revolution in Panama unless ratification was promptly forthcoming. Such withdrawal would have left Panama at the mercy of a far stronger Colombia. This congeals hundreds of items, but it is interesting to note that the majority of the U.S. payment was retained by a New York bank and invested in real estate in the City of New York. At the time, Teddy Roosevelt's Secretary of State commented. "You and I know too well how many points there are in this treaty to which a Panamanian patriot could object." Said Woodrow Wilson, who would soon be President, "Our acquisition of the Panama Canal Zone has been a scandal since the day of the fake "revolution" of November 3, 1903. . . . In every country to the south of us we are distrusted, feared, hated." Today this diplomacy is characterized by conservative columnist James Kilpatrick as a "national shame."

Don't want sovereignty—After spending our history destroying colonialism from the beginning in 1776 thru to the Philippines, Cuba, World War II, Korea and Vietnam,

let's not insist on colonialism in Panama. If there is one thing that President Carter and the United States have going for us in the world today, it is our stand on human rights—the right of people to determine their own destiny. We finally are getting the Soviets and others on the defensive about their denial of human rights, and things are beginning to move our way. Are we now going to say, "Yes, human rights for everyone—except the people of Panama.

2. DEFENSE

Flying up and down the length of the Canal in a helicopter. Lt. General McAuliffe was pointing out the strategic points to be defended—the lakes, the power facilities, the bridge and most important, the dam at Gatun Lake filling from the Charges River. This lake is 25 miles across, the largest man-made lake in the world. The locks are filled by gravity flow taking 52 million gallons of water for each ship that goes through. If the dam was blown at any point emptying the lake, it would take two years to refill. "It would take 80,000 to 100,000 men to defend key points," said General McAuliffe. "This does not mean wall-to-wall coverage of the entire length, only the key places. And this would not include the hundreds of inspectors necessary to examine each ship going through—an almost impossible task." Guantanamo Bay in Cuba is a tip of land—easily defended. But the Panama Canal is open to ships from Cuba, Russia—all nations—and a lunch box of explosives could put it out of commission.

3. COMPETENCE

Can the Panamanians learn to operate the Canal efficiently? Presently there are 12,000 Panamanians helping to operate the Canal efficiently. Can they take over the jobs of pilots, engineers, etc? Yes. This could be done in short order. The Pan-American Airlines manager in Panama City, having operated in seventeen countries, said the best management and operating team of the seventeen was right now in Panama. Another friend, the Latin American manager of Intercomsa handling 85% of the communications from Latin America, came two years ago with an operating team of twenty-two U.S. experts. Already, he has sent back all but three to the United States—the Panamanians are doing the job. Let's remember the Egyptians readily learned to operate the Suez Canal.

4. TOLLS AND PAYMENTS

Can the Canal operate without further appropriations from the Congress? This year the Canal will operate at a $7 million profit. But for the past several years, the Canal has been subsidized by the American taxpayer. The first ship with Alaskan oil went through the Canal on August 30. This increase in traffic will permit the Canal Company to pay the added 30c per ton plus the $10 million required annually under the treaty. Tolls will have to be increased from $1.29 a ton to approximately $1.70. But if a pipeline connection for Alaskan oil is made from the West to the East Coast, then further increases in tolls could be counterproductive. This plus the loan guarantees may require us to subsidize again.

Treaty opponents cry, *"It's bad enough to give it back, but why do we have to pay them to take it?"*

Spain: $685 million for base rights for five years.

Greece: $700 million for base rights for four years.

Turkey Demanding $1 Billion for base rights for four years.

Philippines Demanding $1 billion for base rights for five years.

We have had a free ride in Panama for 74 years. Now Panama, like other allies, wants compensation for the military installations in her country—Fort Kobbe, Fort Amador, Howard Air Force Base, Fort Clayton, Albrook Air Station, Fort Davis, Fort Gulick, Fort Sherman, the Jungle Warfare Range, etc. We are not paying to take the Canal back—we're paying for these installations. And most of the payments will be coming from toll revenues.

5. NEW CANAL

A new sea-level canal will probably be built by Panama and the United States before the year 2000. An estimate in 1970 reported the cost at $2.7 billion. With inflation today that cost would be $5.7 billion. With hindsight now we realize that rather than working for thirteen years to renegotiate the old treaty, we should have insisted on a new sea-level canal. This would have been wide enough for all our warships as well as the largest oil tankers. Then the sovereignty, sabotage and other problems would have been moot. What is unexplainable is the provision that forbids us to negotiate a new canal anywhere but Panama.

6. IMPORTANCE OF THE CANAL

The Panama Canal is important to the commerce and defense of the United States. It is especially important to South American countries such as Columbia, Peru, Chile, Ecuador and Nicaragua. Colombia, for example, drills its oil on the Pacific side and refines it on the Atlantic side. The Canal is Colombia's lifeline. Over ¾ of Nicaragua's trade passes through the Canal. The list goes on. I recently heard the statement that all Latin American nations wanted Panama to control the Canal. False. They feel that Panama should have sovereignty over its own territory, but time and again different leaders in South America told me that the United States is the only power in the Western Hemisphere strong enough to protect the Canal. They are worried about toll increases. They are worried about freedom of transit for their countries. They feel that the neutrality treaty is ideal in that Panama regains sovereignty and they all have freedom of transit—with a U.S. guarantee. Finally, they are worried about communism. More so than are treaty opponents, because attempts have been made on these leaders' lives. They all oppose any communist takeover of the Canal.

7. COMMUNISTS IN THE CANAL

Treaty opponents feel that once the treaty is ratified then in a couple of years the Canal will be turned over to the communists. No one knows or can guarantee what will happen in the years to come. All studied opinion holds firm that communism will have no issue upon which to take root if the treaty is ratified. However, they all feel that if the Senate turns the treaty down, then the communists will have a controlling issue not only in Panama but all over South America. Right now the communists in Panama are in the streets agitating against this treaty which they know will deprive them of their big issue. The best way to keep it from the communists in the future is to validate the neutrality treaty. And the best way to keep it from the communists today is to ratify the new treaty.

8. TORRIJOS

No question about it—he is a dictator. But not "tin horn" like opponents contend. Every head of state emphasized this fact—Torrijos is a man supported by his people. Previously, rulers of Panama were from the city, educated in Europe. But as President Lopez-Michelsen of Colombia said, "Torrijos is not a patrician. He is first and foremost a man of his people." Torrijos is from the countryside. He was educated in Panama and trained at Fort Sherman and the U.S. Army School of the Americas. He came to power after the uprising in 1964. At the time he was a major in the National Guard—and had the bitter task of subduing his own people. After the riots, he took over pledging to rid the Canal Zone of foreigners. When asked if the Senate's failure to ratify the treaty would weaken or strengthen Torrijos, all national leaders in South America plus the American business leadership in Panama City said it would strengthen him. Several immediately replied: "It would make him a hero."

What happens if the Senate ratifies the treaty—There is no guarantee that this would solve all of our problems in Panama or in Latin America. Brazil particularly has a chip on her shoulder. They favor the treaty but the Brazilians want the United States to know that this would not solve all the problems in Latin America.

During the twenty year transition period, the Panamanians will have a chance to prove themselves. No doubt ratification will be followed with free elections next year as promised. There is every reason to believe that with the United States and Panama working together under the new treaty, Panama could become a showcase of American free enterprise. Ratification could prove a dramatic turning point in U.S.-Latin American relations. For ten years now, we have ignored South America. Each President has promised a new policy—only to be followed with neglect. During this period, the countries down under have developed a nationalism. No longer are they client states of the United States. And the disregard for this development has resulted in a "Bad Neighbor" policy. With the new Panama treaty, the United States could once again start acting as a "Good Neighbor."

What happens if the Senate fails to ratify—The one group in Panama solidly opposed to the treaty are the communists. They realize that their principal arguing point will vanish with ratification. But they become an important movement if the treaty is rejected. Talking recently to a senior U.S. official in Panama, one who had served in combat at the DMZ in Vietnam—a man with guts and a lot of sense—"Just remember," he said, "There's lots of jungle out here and the use and control of this Canal depends upon a friendly people. If the treaty is not confirmed, you will have another Vietnam on your hands." Maybe not a Vietnam, but at least an Ireland. The top CIA man in one South American country said, "Turn that treaty down and within hours, cars will be overturned and this embassy will be firebombed." When asked how long this would last, he answered, "Just as long as the President of this country permits it—and, politically, he would probably have to let it go on for some time." I wondered who would be with us. Surely not the British and French after the way we treated them in the Suez Canal. The Free World and the Communist World would both be arrayed against us. We would have learned nothing from experience. Separatism cannot sustain. It held us back in the South; it is the trouble today in Africa; and that ten-mile wide strip of separatism in Panama is an embarrassment.

Listening and studying as carefully and thoroughly as one can, I am convinced that our future in the Canal, our credibility on human rights, our being true to ourselves, and the respect for the United States will all be advanced by ratification. By every count, the new Panama Canal treaties are in the best interests of every American. In short, ratification is in our national interest.

EQUAL RIGHTS AT WORK

Mr. NELSON. Mr. President, in the Washington Post this week there appeared an editorial praising the Senate's recent action on the pregnancy disability amendments as a major step toward giving working women equal rights. This legislation is a tribute to my good friend

and able colleague from New Jersey, Senator HARRISON A. WILLIAMS, JR., who introduced this legislation and carefully guided it through consideration in committee and on the floor of the Senate. The margin of the vote on this measure, 75 to 11, reflects the capable and distinguished leadership of Senator WILLIAMS in working towards passage of this important legislation.

I have long been an admirer of Senator WILLIAMS who has consistently demonstrated his sensitivity and compassion for the needs of working people. His tireless efforts to relieve unnecessary burdens and unfair treatment of the American worker merit the recognition and praise of us all.

I ask unanimous consent that the text of the Washington Post editorial of September 20, 1977, entitled "Equal Rights at Work," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EQUAL RIGHTS AT WORK

The Senate took a needed step toward providing women with on-the-job equality last week By a vote of 75 to 11, it passed an amendment to the Civil Rights Act of 1964 requiring that pregnancy be included in any workers' disability program offered by employers. The immediate effect of the legislation, if it becomes law, will be to overturn a Supreme Court decision holding that the exclusion of pregnancy from such programs is not discrimination based upon sex. That decision seemed to be a strained interpretation of the 1964 act when it was announced last December, and we urge the House to join the Senate promptly in undoing it.

The way in which many employers look upon pregnancy has long been a problem for many working women. A male employee unable to work because he has broken a leg, say, playing touch football usually was able to use sick leave or receive disability pay until he recovers. But a female employee who has been unable to work because she was having a baby has often been denied sick leave as well as disability pay and sometimes summarily was dismissed. This attitude began to change a decade or so ago; but it is still sufficiently widespread to put a hardship on many women who either must work before, during and after pregnancy, or who want to. The amendment passed by the Senate says employers must not treat women who can't work because of pregnancy differently, from the way they treat men (or women) who can't work because of some other physical condition. About half of the states already have similar laws.

In a country in which 36 million women work and some 80 per cent become pregnant during their working lives, this change is not insignificant. Yet it is overdue. Two-thirds of those 36 million are in the work force because of pressing economic needs at home About 40 per cent of all pregnant women now work during pregnancy, and many of them return to work as quickly as they can after the baby is born. Common sense requires that for these women, at least, pregnancy be treated as no more a disruption of their working lives than a broken leg. When continuity at work has as large a role in determining pay scales, promotions and pension rights as it now does in many industries, treating pregnancy as such a temporary disruption rather than a termination of employment is a major step toward giving working women equal rights.

OUR TROUBLED WORLD

Mr. GOLDWATER. Mr. President, this is not going to be easy for the average reader to believe or even to understand, but I would like to make a specific report today on what we might call, Our Troubled World. I will relate incidents that have occurred since January the 1st through the 31st of July of this year. Now keep in mind a troubled world is not new. We have had about two wars a year throughout the 7,000 years of semi-recorded history of the world, and during that time we have had fewer than 250 days of total peace. But let us group these troubles into three different categories. First, coups; second, conflicts; and third, terrorism.

There have been, during this time, three coups, the Congo, Seychelles, and Pakistan. During the same period the number of conflicts are a good deal more. Continuous conflicts have been going on in Angola, Burma, Ethiopia, Iraq, Laos, Lebanon, Malaysia, Namibia, North Ireland, Pakistan, Rhodesia, Thailand, Timor, and Zaire. Sporadic conflicts have been going on in Botswana, Cambodia, Chad, Korea, Mauritania, Morocco, Mozambique, Philippines, Egypt, Libya, and Somalia.

Now for something new to most modern inhabitants of this globe but, indeed, not new to history, the subject of terrorism. During this period we are discussing there has been continuous terrorism practiced in Italy, North Ireland, and Turkey. At the same time sporadic terrorism has been practiced in Argentina, Botswana, Cambodia, Colombia, Egypt, El Salvador, Ethiopia, Federal Republic of Germany, Guatemala, India, Iraq, Israel, Kuwait, Lebanon, Mexico, the Netherlands, Peoples Republic of China, Rhodesia, South Africa, Spain, Syria, Thailand, Uganda, United Kingdom, U.S.S.R., Venezuela, Vietnam, Greece, Nicaragua, and Peru. This compilation has been gathered from the publication, The Army, in September 1977 issue and represents a world chart on which these records are kept by the Office of the U.S. Army's Assistant Chief of Staff for Intelligence. These incidents interest me, because of the number of them and the growing spread of them. I think that the United States must consider them as we discuss our own foreign policy and discuss our own means of living with our foreign policy and enforcing it.

In the world of yesterday our foreign policy was directed only at those problems which directly affected our own interests. For example, we were not even up to speed when World War I came, and the thought that Hitler might try to dominate the world could not be accepted by most Americans in or out of government. My purpose in bringing these startling statistics to my colleagues is to point out that our world of today involves literally every square mile of land and water on this globe and we must adjust our thinking, not just in foreign policy, but in armed services, communications, and so forth, to this fact.

INTERNATIONAL WOMEN'S YEAR OBSERVATION

Mr. BAYH. Mr. President, I know that many of my colleagues are receiving a great deal of mail on the State IWY conferences conducted this past summer pursuant to Public Law 94–167. Due to the controversy engendered recently concerning these conferences, the Presiding Officer of the National Commission on the Observation of International Women's Year and our former colleague from the House of Representatives, Bella Abzug, has asked that her statement on behalf of the national commission be inserted in the CONGRESSIONAL RECORD. Mr. President, I ask unanimous consent her remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

DEAR FRIENDS AND FORMER COLLEAGUES: I would like to clarify the nature of the state meetings for women which have been held under Public Law 94–167 pursuant to the direction of the Congress, throughout this country this summer. Indeed, the process of these state meetings, which have been designed to elicit individual participation from a broad spectrum of Americans on issues of concern to women, is almost complete. More than 100,000 women have participated in these meetings, and the participants have reflected every age, racial, ethnic, and religious group; women from the cities, the suburbs and rural America; homemakers, blue collar women, clericals and professionals; and, as the media coverage has made clear, women with every possible political point of view. This is something which should be commended because this is what we intended.

However, I would like to set the record straight about some of the events which have occurred at the state meetings which I do not believe were anticipated by this legislation. As I understand the legislation, the Congress planned meetings which were open to the public with the maximum amount of participation of low income women and members of diverse racial, ethnic, and religious groups and women of all ages.

The objective of the state meetings is to celebrate the contributions of women to the development of our country, to assess the present role of women in our society, to identify barriers preventing women from participating fully and equally in all aspects of national life, and to develop recommendations by which such barriers can be removed. To a large extent, these objectives have been achieved. These meetings have seen Indian women come and portray their particular plight to other concerned Americans. In New York, Chinese grandmothers took buses with their daughters and granddaughters to participate in the New York State Meeting for women in Albany, New York, many of them voting in an election for the first time. In Minnesota, at the end of the state meetings, women who held diametrically opposing views on the issue of abortion, adopted the following resolution, which was overwhelmingly supported: "Recognizing that we will never all agree on every issue, we pledge to bind ourselves together in love, to continue to work on the concerns of universal importance—the need for our personal dignity, the relief of our suffering, the achievement of our aspirations—so that we can go on to that great victory—equality for women, not only in Minnesota, but around the world." In Vermont, women came out in February in a blinding snow storm to go to their meeting.

And these were not, as some would say, an elitist radical feminist cadre. More than 42% of the women who attended the Vermont meeting stated that they had never belonged to a women's organization and had never attended a meeting addressed to the concerns of women before. I submit that this is exactly what was intended by this legislation—broad-based, diverse, individual participation at these historic meetings.

The National Commission on the Observance of International Women's Year has taken seriously its mandate to implement this public law. The Commission has published regulations and workshop guidelines which insure the maximum in fairness and contain valuable factual information on a broad range of substantive issues, including the legal status of the homemaker, employment, education, abused women, child care, rape, social security, female offenders, older women, and women's health needs. The Commission, in designating state coordinating committees within each state to plan and conduct the state meetings for women, did everything in its power to draw into the process women with all kinds of backgrounds and organizational affiliations. It did not, as some would have you believe, attempt to stack the coordinating committees with pro-ERA supporters and persons who favored choice in the matter of abortion. In fact, the Commission did not ask of one individual who was being considered for appointment to the coordinating committee what her view was on any issue, including abortion and the equal rights amendment. The Commission, in its regulations, ensured that there would be opportunity for nominations from the floor prior to the election of delegates to the National Conference and that recommendations which were voted on in workshops would have an opportunity to be considered in the plenary sessions to the extent possible given the time constraints of the meeting. The Commission has employed professional staff to assist it in carrying out this congressional mandate under P.L. 94-167, and the staff is equally accessible to all members of the public to respond to their questions and to assist them in participating fully in the state meeting and national conference process.

Despite the Commission's careful implementation of the law and the gratifying response of the overwhelming number of women who have participated at the state meetings there has been, on the part of a militant and well-organized group, a deliberate attempt to disrupt, to spread misinformation to infuse the state meeting process with distrust and to polarize the participants.

The Commission has witnessed the same tactics in meeting after meeting. Prior to the meeting there are allegations that the meeting and the election results are prepackaged and rigged; during the meeting the same rhetoric, unsupported by the facts, continues; and after the meeting, even though the entire slate of the protesting group or a substantial number of its members are elected as delegates. Is this good faith participation, or a deliberately orchestrated attempt to discredit a fair process? For example, a Commission staff member went to the "Pro America" booth the night before the state meeting began and was told by the persons handing out literature that the election was rigged, that conference participants would not be allowed to vote on recommendations, and that they must be sure to sign affidavits that they voted for the entire "Pro America" slate or their ballots would not be counted. When asked by the IWY Commission staff member who told them that they would not be allowed to vote for whomever they pleased as a delegate to the National Conference and that they would not be allowed to vote on recommendations, the response was "our leaders". In fact, nothing of the sort occurred or ever could occur under the Commission's democratic procedures. Almost all of the persons elected as delegates at that meeting were endorsed by the "Pro America" slate: the ballots were counted and the electorate spoke. But some persons tainted the process with deliberate and calculated misinformation.

Phyllis Schlafly's May newsletter for the Eagle Forum instructed her followers to protest the state meetings for women from start to finish. She also ordered them to report on "the crooked way the votes are taken: the many violations of fair elections rules and parliamentary procedure." I believe that there is a difference between organizing persons of your political persuasion to participate in the meetings and to be vigilant to ensure that correct procedures are complied with. But that is a different thing from Mrs. Schlafly's preordained results. Any responsible and fairminded person or organization would demand proof of wrongdoing before such serious and defamatory charges are levelled.

In this same newsletter, Mrs. Schlafly also instructed her followers that they should remind their legislators that "all the pressure they are getting for ERA is due solely to this Federally-financed propaganda campaign." This brings us to another issue of harassment and deliberate misinformation engaged in by persons who are determined to impede the process of these state meetings. No doubt many of my former colleagues are being deluged with mail demanding that the Commission be investigated and that its appropriation be withdrawn because it is engaging in illegal lobbying activities. This, of course, is a legal matter. Duplicative lawsuits have been filed against the Commission by Stop-ERA members on this issue. The Seventh Circuit Court of Appeals in Chicago has ordered the complaint dismissed. The issue is now again before the Federal district court in the Southern District of Illinois. On the motion of Stop-ERA members in Illinois seeking to enjoin the Illinois State Meeting for women, a preliminary hearing was held on April 28, 1977. In denying plaintiff's motion, the court stated, "the evidence also shows that the Commission is conscious of the proscriptions against lobbying in its appropriation statutes. . . . There is no indication in this record of imminent danger of direct lobbying activities by Commission members or staff personnel in the Illinois or other state legislatures." Yet, the false allegations and deliberate misinformation continue. We are witnessing a harassment campaign of unparalleled proportions.

Some of the critics of the Commission go so far as to claim that every time I speak somewhere as the Presiding Officer of the Commission, or other Commission members speak their views on some controversial issue, that constitutes a violation of the lobbying restriction in the public law. I know that the members of the U.S. Congress know something of constitutional law and freedom of speech, and I am confident that they would accord the individuals who serve as members or staff to the National IWY Commission the same First Amendment freedom of speech rights as Mrs. Schlafly. It is one thing to use federally appropriated monies for lobbying activities; this the Commission cannot and will not do. It is another to attempt to parlay a lobbying restriction in a federal law into a mechanism for muzzling people and inhibiting their freedom of speech under the First Amendment.

Let us examine the nature of some of the participation that has occurred at the state meetings. A man who identifies himself as an active Mormon, missionary and former member of the Sunday School Board of the Church of Latter Day Saints wrote despairingly to the Salt Lake Tribune of some of the events he witnessed at the Utah State Meeting for Women, a meeting where the Nineteenth Amendment giving women the right to vote was seriously debated. Mr. Vernon decried the booing and hissing of minority viewpoints by "conservative fanatics and the mindless sheep who followed them", and he characterized the refusal of the majority to allow the more liberal minority participants to present their views as "the height of intolerance and bigotry". Mr. Vernon also stated in his anguished letter, "So, congratulations to you my fellow Mormons. You won the battle, but you lost the war. You won your points against the ERA, . . . even to the extent of voting down teaching little girls in public schools how to recognize potential rapists."

This monolithic anti-change voting, whatever the issue, has occurred at a minority of the meetings. Regrettably there have been instances, which I think the Congress did not anticipate in its hope for unprecedented individual and diverse participation at these meetings, of male leaders, often lawyers or clergymen, coming to the meetings "in charge" of a group of women. These leaders then instructed their followers on when to speak, handed them slips of paper telling them what to say, chastised them when they did not do a good job and told them not to speak again, and even told them when, and how often, they were excused to go to the ladies room.

In fact, some of the State meetings for women have seen the participation of members of male organizations which I am certain that the Congress never envisioned participating under this Public Law. Leaders of the Ku Klux Klan have boasted of their success in controlling certain State meetings, and have stated that their informants and infiltrators have participated at the State meetings and will participate in the National Conference. Mr. Robert Shelton, imperial wizard of the United Klans of America, Inc., has stated that he and other members of the Klan will be in Houston for the National Conference for Women to "protect our women," since, according to Mr. Shelton, "it's not safe for a decent woman to be there." I am quite certain that the women who are coming together in Houston to discuss their problems and attempt to identify the barriers that inhibit their full participation in the life of this country do not want or need the involvement of an institution such as the Ku Klux Klan to assist them in this endeavor.

Other male leaders at the State meetings have told their flock to vote "no" on any recommendation, not just on the controversial issues of the Equal Rights Amendment and abortion, but for equal funding for educational opportunity for our daughters as well as our sons, a vote "no" against the reform of rape laws so that more rapists can be apprehended and convicted; a vote "no" against the provision of shelters for chronically beaten women so they can escape their cycle of abuse and despair; a vote "no" against social security law reform so that the value and dignity and self-worth of the homemaker—surely one of the most valued members of our society—can be recognized in monetary terms; a vote "no" against improving the status of women's health facilities in our country. I must ask, are these people "pro-family"? Do they have any legitimacy to the claim of being "Pro-America"? Can they convince any of us that they are, in any meaningful sense, "Pro-Life"? I fear that this monolithic negativism shows only more clearly the need for further dissemi-

nation of information and more public education as to the facts.

The most recent attack on this Commission and its activities has occurred in an ad hoc congressional forum. No attempt was made to insure timely notice, due process, a fair cross-section of opinion, or an opportunity to respond to charges at this forum. Indeed, the Commission itself was never even formally notified of the proceeding. The Commission was told a few days prior to the hearing that it would be accorded 30 minutes at the end of the hearing to refute charges made during a two day period. Despite these repeated attacks and attempts to impede its functions, this Commission will fulfill its obligation to convene a National Conference for Women as mandated by law, in Houston, Texas this November.

I thank you for this opportunity to assist my former colleagues in understanding the nature of the responsibilities of the National IWY Commission and some of the events which have occurred at the State meetings. The Commission looks forward to the continued support of the Congress as it plans the National Conference for Women in Houston, Texas, to fulfill the mandate that has been entrusted to the Commission under the law.

APPROVAL OF THE ACCEPTANCE OF FOREIGN EDUCATIONAL TRAVEL

Mr. STEVENSON. Mr. President, as required by rule 43, paragraph 4(b), I give notice that the Select Committee on Ethics has approved the following staff acceptance of foreign travel.

A Senator requested approval for the acceptance of foreign travel by a person under his supervision pursuant to the invitation of the American Council of Young Political Leaders, 1616 H Street NW., Washington, D.C., and the requirements of rule 43, paragraph 4(a) on gifts.

The program in which the Senate staff member is invited to participate is to be held from Tuesday, September 20 to October 1, 1977, and deals with security and cooperation in Europe. The itinerary begins and ends in Washington, D.C., with travel to London, Berlin, East Berlin, Bonn, and Brussels. The Department of State has determined that food and lodging to be furnished by the Government of the Federal Republic of Germany will be of minimal value and can be fully accepted. Similar accommodations to be furnished in Brussels with North Atlantic Treaty Organization funds may be lawfully accepted under an exchange of notes between the Department and NATO dated March 31, 1977. All other expenses will be paid by the sponsoring organization, a U.S. group.

In accord with rule 43, paragraph 4(a): First, officials of the Department of State informed the committee that this program's principal purpose is educational, it is funded by a U.S. organization except for minor travel expenses which may be lawfully accepted, and participation in it is not in violation of any law; and second, the committee, therefore, finds that participation by the following Senate employee is in the interest of the Senate and the United States:

Mr. Gerald Grant, office of Senator JIM SASSER.

APPROVAL OF THE ACCEPTANCE OF FOREIGN EDUCATIONAL TRAVEL

MR. STEVENSON. Mr. President, as required by rule 43, paragraph 4(b), I give notice that the Select Committee on Ethics approved the following staff acceptance of foreign travel.

Several Senators requested approval for the acceptance of foreign travel by persons under their supervision pursuant to the invitation of the Van Leer Jerusalem Foundation, Jerusalem, Israel, and the requirements of rule 43, paragraph 4(a) on gifts. Due to the recess and innocent oversight the required CONGRESSIONAL RECORD announcement could not be made before the program commenced on August 24. However, the committee had approved the program and participation for several Senate employees at its meeting on August 4, 1977.

The program in which the Senate staff members were invited to participate was held from August 24 to September 2 1977, and dealt with political and social problems of the Middle East. The foundation paid the necessary expenses of travel to and from Israel and incidental food and lodging while there. The Department determined in advance that some minor travel furnished by the Government of Israel was of minimal value and could be lawfully accepted. The employee for whom approval was requested assists the supervising Senator on international affairs.

Notice is hereby given in accordance with rule 43, paragraph 4(b) that the select committee approved participation by the following Senate employees in the program:

Mr. Ron Ober, office of Senator DENNIS DECONCINI.

Mr. Mahlon S. Priest, office of Senator BOB PACKWOOD.

Mr. Allyn Kreps, office of Senator ALAN CRANSTON.

ETHICS COMMITTEE NOTICE: QUARTERLY REPORT DUE SEPTEMBER 30 ON INDIVIDUALS WHO PROVIDE OFFICE SERVICES AND ARE COMPENSATED BY OTHERS THAN THE SENATE

Mr. STEVENSON. Mr. President, for the Select Committee on Ethics I give notice that rule 49, paragraph 6 requires a Senate Member or officer who is the supervisor of an individual who performs services for any Member, committee, or office of the Senate for a period in excess of 4 weeks and who receives compensation therefor from any source other than the U.S. Government to report the utilization of such services to the Ethics Committee.

Supervisors must file such report within 1 week of the day such an individual completes 4 weeks of services; on June 30, September 30, December 31, March 31, or the closest weekday of each year; and within 1 week of the day such an individual ceases to perform Senate service.

The next quarterly report is due next Friday, September 30.

Forms may be obtained from the Select Committee on Ethics, 1417 Dirksen Senate Office Building.

TESTIMONY OF WILLIAM ROGERS, PAST COMMANDER OF THE AMERICAN LEGION, BEFORE THE HOUSE INTERNATIONAL RELATIONS COMMITTEE

Mr. THURMOND. Mr. President, during the past few months much has been written and said about the new and controversial Panama Canal Treaty. However, last Thursday, the testimony given by the past commander of the American Legion, William Rogers, before the House International Relations Committee is one of the most rational statements I have heard on this diverse subject.

In his testimony, Past Commander Rogers accurately expresses the views of the membership of the American Legion as adopted at their National Convention in Denver, Colo., on August 23–25. He also spells out—objectively and dispassionately—what the concerns of the American Legion are and why they object to this specific treaty with Panama.

Since the American Legion and the American Legion Auxiliary are composed of approximately 4 million Americans from all sections of the country, I am sure that my distinguished colleagues in the Senate would be interested in more closely examining this excellent statement. Therefore, I ask unanimous consent that the testimony of Past Commander Rogers, before the House International Relations Committee, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY WILLIAM J. ROGERS

Mr. Chairman, members of the Committee on International Relations: It is a distinct pleasure for me to appear before you today representing The American Legion. Needless to say, we are each aware of the thousands of inches of newsprint and the hours of television coverage which have been devoted to the proposed Panama Canal Treaty in the past month. My reason for appearing before you today is two-fold: first, to represent the viewpoint and position of The American Legion as adopted by our recently concluded 59th National Convention and my observations in traveling during 12 months throughout the United States and Panama. Secondly, I will spell out—objectively and dispassionately—what our concerns are and why we object to this specific treaty.

During these past 12 months, it has been my honor and privilege to visit all of the Departments of The American Legion. We have a department in every state and territory making up the United States. At each meeting, without exception, our members were concerned about the possibility that the United States Government would relinquish sovereignty of the U.S. Canal Zone and Canal. Furthermore, we would give it to a dictatorship in Panama which runs contrary to our natural instincts as American citizens.

Today, I have come to speak for our four

million members of The American Legion and the American Legion Auxiliary. We represent miners in West Virginia; grain growers in Illinois and Iowa; energy producers of Texas; machinery manufacturers in New York; and shipping industry of all states where rivers and harbors open to the sea . . . altogether we represent a composite and microcosm of the United States. For most of us in The American Legion and all our citizens are either buyers or sellers of commodities passing through the Panama Canal.

Moreover, all of us are dependent on the protection of the U.S. Navy to control the seas surrounding our country in the center of the Western Hemisphere. Quite frankly, the main thrust from every Legion Post was the same, deep apprehension about the proposed Treaty with Panama. Not the least concerned were our Legion Posts in the U.S. Canal Zone. Did the United States really intend to abandon its citizens to a dictatorship? If so, what did the United States stand to gain from such a giveaway?

I don't think it will come as a surprise to the members of this committee, but I think it may come as a surprise to certain of our leaders in the Executive Branch and to certain of our national cartoonists in recent weeks, but the typical Legionnaire, who also happens to be the typical American, understands the Panama Canal situation. The average Legionnaire understands the facts and the realities of standing straight for what is right, and objecting to something which is wrong and not in the American interest.

Though we have opposed any treaty which would surrender U.S. control and ownership since 1960, Legionnaires throughout the country have been given both sides of the picture. In The American Legion Magazine, which goes to every member, we invited the top spokesman for the Republic of Panama, Ambassador Gonzalez Revilla, to state the case for the Panamanian government. The Ambassador's position to transfer ownership of the Zone and Canal to Panama was printed in full in the October 1976 issue of our magazine. Congressman Daniel Flood was invited to state the case for U.S. sovereignty in the same issue.

At our National Convention recently completed in Denver, we invited Ambassador Sol Linowitz to come and to take as long as he liked to state the case for giving the U.S. Zone and Canal to Panama. As you know, Ambassador Linowitz is articulate and knowledgeable on all the issues as the U.S. negotiator, and presented the Administration's viewpoint to our Foreign Relations Commission for well over an hour.

Since this was the major issue to be decided by our National Convention in 1977, we decided to set the Panama resolution aside from other foreign policy considerations and vote on it separately, by roll call department by department if necessary, so we could be sure that the National Convention did not trespass on the will of our members, so we would know the real vote.

After the Chairman of the Foreign Relations Commission, Dr. Robert P. Foster, seated here beside me, read the resolution, the convention members in a voice of one, called out for a vote. The vote to oppose giving the U.S. Zone and Canal away was unanimous. Although there were over 3,000 delegates representing the 2.7 million members of our organization, there was not one dissenting vote! The silence of the "nays" was as persuasive as vocal shouts of the "yeas." The truth is that The American Legion has expressed its collective judgment. The full text of that resolution is appended to my statement today.

I will now discuss the reservations and objections which we have to this proposed treaty. The first is the strategic and military importance of continued U.S. control of the Canal and the Canal Zone. At the onset, we realize that the United States has a one-ocean Navy with a global responsibility.

Today all but 13 of the ships in the U.S. Navy—the exception being the large aircraft carriers—can pass through the Canal. Moreover, we, along with the Congress, must be "forward looking" and long-range prognosticators regarding the true effects now and in the future of the proposed treaty. As each of you are aware, we have made a national commitment to the "mini-carrier" concept. And, when they come on line in 3–5 years, I have been assured by the Navy that they can tranverse the Canal, making the Canal even more important in a military sense in the years ahead.

Hanson Baldwin has recently written: "It is ironic, indeed, that in an era when the U.S. Navy needs the Canal to a greater degree than at any time since the end of World War II, Washington is considering its abandonment. The Navy today is in the same strategic bind it was in prior to World War II: It is a one-ocean Navy (in size and power) with two-ocean responsibilities. We are outnumbered in submarines and surface ships by the Soviet Union, and, more than at any period since 1945, the Navy must have a quick transfer capability between Atlantic and Pacific in order to meet sudden crises.

"General V. H. Krulak, USMC (Ret.), writing in the summer 1975 issue of Strategic Review, summarized the Canal's naval importance: 'In truth the Panama Canal is an essential link between the naval forces of the United States deployed in the Atlantic and in the Pacific. It is only because of the waterway that we are able to risk having what amounts to a bare-bones, one-ocean Navy.'

"During the Vietnam War about 98% of all supplies for our forces were shipped by sea; of this total, approximately 33% were loaded in East and Gulf Coast ports and transited the Canal. The volume of military-sponsored cargo in the four years from 1964 to 1968 increased, for dry cargo, by some 640% and for petroluem products by about 430 percent. And the number of U.S. Government vessels (chiefly naval) transiting the Canal increased from 284 in 1965 to more than 1,500 in 1968."

Within the military community, and among the retired and active military, there is great diversity of opinion. In addition to the historic letter of four distinguished Chiefs of Naval Operation, including the former Chairman of the Joint Chiefs, Admiral Thomas H. Moorer, saying that the proposed Treaty is contrary to the security interests of the United States, we are hearing from many military leaders and the majority of these opinions, like the majority of our citizens, are opposed to the giveaway of the Zone and the Canal.

From a military viewpoint, a commander never gives away strategic territory which he may have to fight to regain. The U.S. Canal Zone is strategic territory. All the military, both active and retired, agree on that point.

From an economic perspective, the Canal is vital to United States interests. In 1975, approximately 14,000 ships transited the Canal of which 45% originated in the United States and 23% were bound for the United States. No other nation ever approaches the invaluable, economic stake which we have in the Canal. However, the Canal is important to all maritime commercial nations since 96% of the world's merchant fleet can transit it.

The Canal is just this year assuming an additional commercial importance to the United States as Alaskan oil begins to flow. When the Alaskan pipeline reaches its full capacity, it will yield 1.2 million barrels of oil a day. The west coast of the United States can accommodate only 700,000 barrels a day. This means that approximately 500,000 barrels a day cannot be used on the west coast, and must be transported to the east. No pipeline has yet been constructed across the United States, and the trip around the Horn, as has been demonstrated, is not economically feasible. Unhindered use of the Panama Canal is critical until an adequate pipeline can be constructed.

Moreover, at the present time, the United States has an overall investment in Panama of $7 billion. By the year of our total evacuation under the terms of the Treaty, that interest will have grown to $9.3 billion. To add insult to injury, the Treaty proposes that we pay some $50.0 million per year, plus about $350.0 million in economic and military aid to have the Torrijos goup take over the territory and property.

Contrary to popular argument, control of the Canal by the United States serves the best economic interests of the people of Panama. In 1976, U.S. agencies purchased over $29 million worth of goods in Panama, and we paid over $108 million in wages to non-U.S. citizens. United States private investments amount to 50% of the capital investment in Panama. And U.S. employees spent $39 million there.

In the Preamble to The American Legion Constitution, we pledge to "safeguard the principles of justice, freedom and democracy"—in 1977 terms this translates into human rights. As this Committee is aware, Panama is a dictatorship, or in the words of Ambassador Bunker before Congressman Murphy's committee, an "authoritarian" government.

The aspect of the Torrijos govenment which is most significant, is that it is a repressive dictatorship. Freedom House, the respected organization which ranks countries on the basis of human rights, gives Panama the lowest rating in Latin America. Panama received the same 1977 rating on political and civil liberties as the Soviet Union, and was rated even lower than Cuba.

Gen. Torrijos came to power in Panama by a coup and is governing without the consent of the people. The truth is that since Gen. Torrijos participated in the overthrow of Panama's constitutional government by gunpoint in 1968, 1.6 million people have lost their human rights. There is no political party except the Communist Party, called the People's Party, El Partito del Pueblo. Furthermore, the monies from Panama Canal annuities do not go directly to the people, the money goes to the Torrijos power group.

As you are probably aware, the Panamanian constitution requires a plebiscite vote of the people for ratification of any new Treaty, which will be held on October 23. The sad irony is that the controlled and censored Panama press—"guided" in the terms of our chief negotiator—will never give a full and objective account of the Treaty to the Panamanian people.

Another concern which we have is the political association and economic stability of the government in Panama. On the economic side; under Gen. Omar Torrijos, Panama's national debt has grown from $167 million to $1.5 billion. The debt service alone will consume 39% of that country's budget this year. Panama's Department of Planning indicates that to refinance loans coming due, together with the $139 million deficit, a total of $323.6 million will be required. Obviously, Panama cannot financially afford to have the Treaties rejected either.

Politically, Panama's Omar Torrijos has aligned himself with the most repressive pro-Communist regimes in this hemisphere—those of Cuba's Fidel Castro, Jamaica's Michael Manley, and Guiana's Forbes Burnham. According to U.S. Information Agency, Torrijos issued a communique last April with pro-Arab terrorist dictator Col. Muammar Qaddafi of Libya denouncing what they called "Zionist aggression by Israel." The communique was issued at the end of a week-long visit by Torrijos to Libya, for the

purpose of creating close economic and political ties between the two countries.

Jack Anderson and Les Whitten started in their nationally syndicated column on June 16 that they had evidence that this Torrijos-Qaddafi meeting had also resulted in a secret deal between Libya and Panama to give Arab extremists a foothold in the Americas and to cooperate with the Arab boycott against Jewish manufacturers.

Torrijos has also busied himself with making closer political and commercial ties with the Soviet Union. Again, according to the U.S. Information Agency, top officials from the Soviet Politburo and Central Committee of the Soviet Communist Party visited Panama last June. Almost immediately after the Soviet Politburo team left Panama, a Soviet commercial delegation headed by Nikolai Zinoviev arrived and concluded a major Soviet-Panama commercial agreement with the Torrijos regime. This agreement, according to news reports in the Torrijos-controlled newspaper Critica, could result in the opening of a Soviet bank to run Soviet commercial activities throughout Latin America, as well as a series of other multi-million-dollar trade and construction projects with Panama.

Whether it was a Treaty of intent or as pact of infinite promise, we don't know. The treaty was signed by Omar Torrijos' brother-in-law, Marcelino Jaen, and Soviet leader Nikolai Zinoviev who is also listed as a KGB agent. After the signing, Panama's Jaen declared the Soviet treaty ". . . is an event of deep historic signing, not only for our country, but for the American continent as well, who are always facing strong forces that represent a philosophy that is contrary to the destiny of Latin America."

Of deepest concern is Torrijos' close ties with Fidel Castro and Cuba. Cuba under Castro continues to aggressively export and pursue communist domination and control of other nations. Just this past week-end, the New York Times reported that 4,000 more Cubans were sent to Angola recently to "stabilize the nation's most serious crisis since the 1976 civil war." The 4,000 Cuban troops would increase Cuban troop strength in Angola to 19,000. This to me clearly indicates that Castro hasn't backed off one inch from his declared goal of communist domination of the Western Hemisphere and the world.

Also of concern is the reliability of the Panamanian dictator to live up to what he signs. Panama has violated the present Treaty at least 11 times during the past two years. These violations included such militant acts as the Panamanian National Guard taking up positions in December 1975 within the U.S. Zone; attempting to arrest and actually shooting a citizen in the U.S. Zone in January 1976; setting off bombs and explosions in the U.S. Zone in October 1976, and capturing a vessel, the *Sea Wolf*, which was operating inside Canal Zone waters and burning and desecrating our United States flag.

Our Ambassador has protested such lawless Treaty violations, but one must question the wisdom of appeasing and making further concessions to a government whose recent history is pockmarked with deliberate violations of the current Treaty. If our current Treaty with Panama is being violated on a routine basis, where is the logic that such attitudes and behaviour will improve between 1977 and 1999, the magic year when Torrijos is supposed to get everything, lock, stock and barrel?

I would like to turn now to the question of United States sovereignty. Many of the arguments for the switch in sovereignty and much of the conscious or subconscious motivation for it stem, in part, from ignorance or distortion of the manner in which the Panama Canal territory was acquired by the United States and of the wording of the original Treaty of 1903.

Contrary to these assertions from public officials who should know better, we did not steal the Canal, nor does Panama have residual, titular, or any other kind of sovereignty over it. The United States bought the Canal territory—a strip across the Isthmus of Panama some 50-miles long and 10 miles wide—at a cost to the American taxpayer that far exceeded the cost of the Louisiana Purchase, the Mexican cession, the Florida Purchase, the purchase of Alaska, or any other territorial acquisition.

Despite current contentions by the State Department that the 1936 Treaty revisions recognized Panama's sovereignty over the Canal Zone, it is clear that in both wording and intent the Treaty actually re-emphasized the sovereignty, in perpetuity, of the United States.

History and the law appear to indicate in no uncertain terms that there is no merit whatsoever to the concept that the Treaty of 1903 vested so-called titular sovereignty or residual sovereignty in Panama. The wording is clear and unequivocal: "The Republic of Panama grants to the United States in perpetuity the use, occupation and control" of the Canal Zone. "The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

One cannot transfer sovereignty unless one exercises it. The United States has, and will retain until Congress decides otherwise, complete sovereignty and control over the Canal Zone in perpetuity.

Even Gen. Torrijos in his remarks following last Wednesday's signing acknowledged United States sovereignty and I quote: "What nourished the hopes of Panamanians for the recapture of their sovereignty was their feeling that the North American people fundamentally harbored no colonial aspirations," (emphasis added).

I will now turn to the Treaties and the accompanying Annex and Protocol. This analysis is based upon the limited time in which these Treaties have been available to this layman and I urge each member of this Committee to scrutinize these documents.

(1) Sovereignty is the crucial factor in the new Treaties. Both the Prologue to the Canal Treaty, and at least six other times in the document, Panamanian sovereignty over the U.S. Zone and the Canal is acknowledged. As I stated earlier, once Torrijos is granted sovereignty all other questions are irrelevant.

(2) According to recent analysis of the Treaty, should Panama abrogate the Treaty, the United States would have no legal basis in international law to maintain its position in the former Canal Zone.

(3) Article II, Section 1, of the Canal Treaty specifies that it should "be subject to ratification in accordance with the constitutional procedures of the two parties." However, it would appear that the Executive Branch is seeking ratification of the treaties without seeking enabling legislation from the House of Representatives to transfer real properties, appropriation of funds and perhaps other legislation which is not spelled out, as required by the Constitution of the United States. This by-passing of the House of Representatives appears to be a usurpation of legal powers which is clearly conveyed to the House by the Constitution.

(4) Article XII, Section 2(b), states that "during the duration of this Treaty the United States of America shall not negotiate with third states for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree." In plain terms, the United States has surrendered its rights to negotiate for a competing canal elsewhere in the Western Hemisphere unless it has Panama's consent.

(5) Article V of the Canal Treaty directs that employees of the Panama Canal Company, their dependents and other American nationals should "abide by the laws of the Republic of Panama and abstain from any activities in competition with the spirit of this Treaty." This Article also directs that they abstain from any political acts in the Republic of Panama. As I stated earlier, there are American Legion Posts in the Canal Zone and I am deeply concerned about forcing American citizens to submit to a dictatorship and their surrender of rights as Americans.

(6) Article IX, Section 3, recognizes the right of ownership of improvements to realty but does not recognize the right to own real estate. While we do not know how many Americans own property in the Canal Zone, if any, it would appear that this Article condones or perhaps authorizes exappropriation of property by the Panama government.

(7) Article XIII relates to payments to Panama for the right to operate the Canal. One such payment of $10 million per year from profits is cumulative which means there is a possibility that we could, over the 23 year period of the Treaty, end up owing the Panama government $230 million.

Additionally, I have strong reservations and objections to the Neutrality Treaty: (1) Only Article IV of this Treaty bears upon U.S. responsibility concerning the neutrality of the Canal and the entire document is so vague as to be virtually meaningless. In my lay reading of the entire Neutrality Treaty, I find no assurance that the United States can intervene to assure the neutrality of that vital area.

(2) Article III(e) states that "vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the canal." This statement assures the passage of warships through the canal of nations which may be at war with the United States.

(3) Article VI, Section 1, states that vessels of war and auxiliary vessels of the United States and the Republic of Panama "will be entitled to transit the canal expeditiously." The exact meaning of the word "expeditiously" is vague at best. Moreover, Article VI, Section 1, of the Neutrality Treaty appears to be in direct conflict with the protocol accompanying the treaty which states that vessels of all nations will be insured permanent access to the canal "on the basis of entire equality."

In brief summary, an evaluation of the facts about the Treaty have brought us to the day of the signing, September 7, 1977—a bad day for the United States.

United States military and national security losses are sufficient to reject the treaty. We are giving up our naval fleet flexibility at a time when we have fewer than 400 ships in the entire United States Navy. Economic losses of the United States are difficult to calculate, but logic dictates that U.S. consumers and exporters are going to pay the toll increases. Additionally, the cost to the United States taxpayer is in the billions. Moreover, someone will pay the billions of dollars owned international bankers by the Torrijos government. It will not be Panama. The Torrijos government is living on borrowed money and borrowed time.

Politically, human rights under Torrijos are no better than they were under Hitler during the 1930s and yet by supporting this Treaty, our United States Government is propping up a dictatorship. Worse yet, our government is forcing Americans to live under totalitarian rule and abide by its laws and decrees. That's what World War II was all about.

The pressures the White House can bring are enormous as all of us know. The resources at the President's disposition almost defy our collective imagination. The recent

Treaty signing festivities were an example of Presidential style and substance. We in the Legion, while recognizing the awesome power of the Presidency and the Executive bureaucracy, also believe that the ultimate power in the United States resides with the people—with people like our members.

I will close with one question—if this Treaty is basically good for the United States, why does the Administration have to make such an effort to prove to Americans that it is in our national interest? Those of you in the House who return to your districts every two years, know what the people back home are thinking. You know the Legion Posts and grass roots opinion runs about 80 percent against the giveaway.

We believe this proposed Treaty will ultimately be decided by the people. We believe this is one defeat the United States can avoid. It is a loss we need not accept and you can count on The American Legion Posts to stand firm.

RESOLUTION No. 445

Whereas, the United States is the rightful and legal owner of the U.S. Canal Zone and the Panama Canal, having acquired this U.S. property through court tested treaties and agreements and mutually agreed upon payments to Colombia, Panama and the individual land and property owners; and

Whereas, the United States Supreme Court has ruled that the United States is legally entitled to sovereignty and ownership of the U.S. Canal Zone for the purpose of building, operating, protecting and maintaining a canal across the Isthmus; and

Whereas, the United States has lived up to its obligation under the Treaty to the letter of the law; and

Whereas, the political, economic and the military factors offer conclusive evidence that it is in the vital national interest of the United States to retain sovereignty and ownership of the U.S. Canal Zone and Canal; and

Whereas, over three-fourths of our American citizens consistently voice their opposition to any kind of "giveaway" or dilution of U.S. sovereignty over this territory; and

Whereas, the United States as leader of the free world has a moral obligation to remain fair, firm and strong when faced with political blackmail; and

Whereas, surrender of the U.S. Canal Zone would be tantamount to a major military defeat with enormous consequences for evil; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Denver, Colorado, August 23, 24, 25, 1977, that we reiterate and reaffirm our continuing and uncompromising policy in opposition to any new Treaties or Executive Agreements with Panama, relating to the U.S. owned Panama Canal and its protective frame of the U.S. Canal Zone as expressed and set out in separate resolutions adopted consecutively at each annual American Legion National Convention since the Miami Convention in 1960; and, be it further

Resolved, that we strongly urge all elected members in the U.S. Congress to oppose any new treaty with the government of Panama which: (a) in any way dilutes full U.S. sovereignty, ownership and control; (b) cedes U.S. territory or property; (c) surrenders any jurisdiction and control which would threaten the economic and security interests of the United States; and, be it further

Resolved, that The American Legion rejects the actions of the Executive agencies of the federal government in attempting to by-pass the Constitution of the United States, and we fully support Article IV, Section 3, Clause 2, of the Constitution which provides that only the Congress has the authority to dispose of U.S. Territory.

WOMEN PARTICIPATE IN REFORGER EXERCISE

Mr. PROXMIRE. Mr. President, the Army is currently conducting an experiment in which women are taking part in NATO war games in West Germany. Project Reforger provides a look at female participation in deployment, operations in an extended field environment and redeployment.

Women have traditionally been kept from combat duty, although they have served in support units. This is due in part to a deep-seated bias against women in uniform.

Gen. Bernard Rogers, Army Chief of Staff, has expressed serious reservations about having women in a combat role:

What we're talking about is a young woman soldier with a rifle and a bayonet, out there in a fighting position, exposed to the possibility, the probability, of hand-to-hand combat with an enemy soldier. Or in a tank that's been hit, destroyed, and she's crawling out of the escape hatch. I'm not sure that society's ready to accept that yet.

I disagree. I recently polled my Wisconsin constituents to see how they felt. Out of a sample of 10,000 the results were overwhelming. To the question "Should women be allowed to volunteer for combat jobs?" 70 percent of constituents replied yes, 30 percent said no. That is more than 2-to-1 margin.

Three points need to be made here. First, women in combat support units are already exposed to great danger. In previous wars women have given their lives for this country. Second, if a qualified woman wants to volunteer for dangerous duty, she should be free to do so. It is her decision to make. Third, there is very little of the old-fashioned hand-to-hand combat left in the modern battle plans.

General Rogers, for all his misgivings, is to be commended for following through on the Reforger test. Gen. DeWitt Smith, Army Deputy Chief of Staff for Personnel, has promised to push through this and other Army studies on the use of women and then to translate the results into Army policy as soon as possible.

As a result of an experiment uder General Kingston at Fort McClellan and Fort Jackson the Army has already decided that women and men will receive exactly the same basic training in the first 7 weeks of training. This is an important step forward, and I hope that the Army will continue to move quickly along this path.

Gen. William Westmoreland has said:

The pendulum has gone too far. We are asking women to do impossible things. I don't believe women can carry a pack, live in a foxhole, or go for a week without taking a bath.

I know that the Reforger experiment, among others, will prove him wrong.

Mr. President, I ask unanimous consent that the September 19, 1977, New York Times article by Jonathan Kandell entitled "Women in Uniform Face Combat Role" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

(By Jonathan Kandell)

BUCHLOE, WEST GERMANY.—Jet fighter-bombers screamed through the hazy late summer skies, while helicopters skimmed above onion-shaped church domes and turreted castles.

Tanks and armored personnel carriers slowed civilian traffic to a crawl as they rumbled along the highways that cut across the Bavarian farm fields and forests.

This year's maneuvers by Allied troops stationed in West Germany involved a simulated attack by an enemy force, presumably Russian, that initially outnumbered the defending troops by three to one.

Before the aggressors are thrown back—some time this week, according to the war-game schedule—the hypothetical casualties will be heavy. Inevitably, the "dead" and "wounded" will include American women soldiers.

MUCH REMAINS UNCLEAR

Legislation forbids women from being assigned to combat roles. But the United States armed forces are still struggling to determine just what constitutes a combat role and how well women soldiers react in situations that will expose them to battle.

About 110,000 women are in the United States military, accounting for more than 5 percent of total personnel. This is considerably higher than in any other major armed force in the world.

The Russians, for all the fanfare they gave to female troops and individual exploits during World War II, now have a mere 10,000 women in their military ranks. The Israelis have only 8,000 women on active duty.

American women serve not only in administrative, clerical and medical posts, but they also drive jeeps and trucks, handle field communications and supplies, fly helicopters and gather intelligence. There is even a military policewoman at Checkpoint Charlie, the gateway between the Allied and Soviet-controlled sectors of Berlin.

7 PERCENT LIMIT FORESEEN

But according to the Pentagon's estimates, women in uniform will not surpass 7 percent of the total, or about 147,000 members, by 1982. Unless their numbers increase at a faster pace, officers say, the military may find that the pool of available male volunteers will not be enough to meet the two million troop level that the Pentagon says it must maintain.

The alternatives would be a return to the draft, or more likely, even further raises in an already high pay scale for enlisted men.

As a result, restrictions on women in the military services appear to be loosening. The Navy has asked that laws be amended to permit women to serve aboard ships. The Senate has asked the Pentagon to make it easier for women to serve on Air Force planes.

A recent study by the Brookings Institution of Washington contends that as many as 400,000 women could fill noncombat roles and attributes the slow growth in their numbers to "sexual stereotypes" in the military.

Gen. Bernard Rogers, the Army Chief of Staff, who came here to review American troops during the maneuvers, maintains that combat restrictions are the ultimate issue preventing an expansion of women recruits.

"What we're talking about is a young woman soldier with a rifle and a bayonet, out there in a fighting position, exposed to the possibility, the probability of hand-to-hand combat with an enemy soldier," he said. "Or in a tank that's been hit, destroyed, and she's crawling out of the escape hatch. I'm not sure that society's ready to accept that yet."

But other military officials and experts contend that women have already breached the line between combat and noncombat roles because modern-day warfare is likely

to cause battle casualties among rear-guard and support units.

"If you have an irregular, shifting front as you would expect in a war in Europe women will be fighting the enemy and they are going to get killed," said Cecil Johnson, a civilian who heads the career development and soldier productivity section of the Army Research Institute, which is evaluating the performance of women soldiers in this year's maneuvers in West Germany.

CRISIS COULD BE DIFFERENT

"I'm not talking about women in assault roles," Mr. Johnson said. "They are support troops, but in a crisis like an ambush, there is nothing that says a commander can't use them any way he wants. On these maneuvers, you'll see them doing guard duty, carrying machine guns, setting up foxholes."

According to Col. William Beckwith, who heads the Army Research Institute team here, "basic training for women is being upgraded for contingency operations" meaning, combat situations.

"The women coming out of basic training in the future will be trained the same as the men—weapons handling, grenade throwing, the works," Colonel Beckwith said.

The only difference, he added, would be in bayonet training, which will be confined to men while women receive rape-prevention training.

ENERGY PROGRAM COMMENTARIES

Mr. GARN. Mr. President, it is a basic part of my political philosophy that if government would not act, things would get better. The field of energy is a perfect example of that principle. President Carter has proposed a detailed and strict energy plan for the Nation, and it turns out that most of what he is asking for would be accomplished quite naturally by the workings of the free market. Of course, Government will not leave well enough alone, and we will probably pass the President's program, thus interfering with the attainment of the goals. Our economy is probably healthy enough to meet some of them anyway, and President Carter will be able to take credit for something that was going to happen anyway. That is the best example of political savvy I have ever seen.

As evidence, I would like to insert into the RECORD an editorial which recently appeared in the National Enterprise, a business and financial weekly published in Salt Lake City, and a copy of a speech by Richard F. Messing, vice president of Arthur D. Little, a consulting firm which examined the energy program and the present trends in energy use and production. Both the editorial and the speech comment on the study, pointing out that the price increases brought about by Arab actions are having predictable effects: People are conserving, using less, looking for alternative sources. All the things, in short, that President Carter wants them to do. They may not be doing as fast as he would like, but a good share of the blame for that must rest with his proposals, which would continue the bureaucratic and regulatory structure now growing in the Federal establishment, and on the continued price controls that inhibit conservation and alternatives. I am convinced that if we were to defeat, the President's program, its goals would in fact be met better than they will be if we pass it. I intend to vote that way during consideration of the energy bills, Mr. President, and hope that enough of my colleagues will join me to defeat the program.

Mr. President, I ask unanimous consent that the editorial and speech referred to be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

ENERGY AND THE POLITICAL MASTER

The House of Representatives has labored mightily, and brought forth H.R. 8444, its version of the Carter energy package. The Senate, less tidy in its procedures, has now begun to work on the package in small pieces. How they will all be put together in the end, no one knows.

Before the Senate completes its work, perhaps we should take a moment to assess the energy situation, and forecast what might happen should the Congress, as has happened before, be unable to come to agreement.

Conveniently to our purposes, consultant Arthur D. Little has just completed a study of the energy picture. The study was undertaken at the behest of industry, but there is no reason to think ADL has sold its soul. Heaven knows industry is as willing to pay for bad news as for good.

In this case the news, if neither good nor bad, is very interesting. ADL concludes that, should the energy program not be enacted, Carter's energy goals would be achieved anyway. To be slightly more accurate, it is everyone's consensus that Carter's goals are not attainable under his own proposals, but ADL concludes that no legislation at all will come as close to achieving them as complete enactment.

How can such a thing be? It is inconceivable, in this day and age, that anything can be done by any agency other than the federal government. What strange and powerful force is at work here? As usual, it is the market, the old invisible hand. Energy prices have been increasing in recent years and, as economists used to be able to tell you, when prices go up, demand drops. Where the demand is inelastic, more efficient use of resources results. And that is what the ADL study found. Here are a few specific findings from the study:

1. New buildings can be built 30–50 percent more energy efficient, without first cost penalties, and are now being built that way;

2. Some retrofitting is taking place, though that is more difficult and more costly than new construction;

3. Voluntary appliance efficiency standards are being produced by the market, resulting in energy savings of 5–30 percent.

4. Three-fourths of the industrial energy is consumed by only about 12 industries. These have already taken the most obvious steps to conserve energy, and are now forecasting energy savings in the 15–20 percent range;

5. Automobile manufacturers are already ahead of presently mandated auto efficiency standards, and will be unaffected by the Carter proposals, as he well knew when he proposed them;

6. Even without the proposed incentives to coal production, 1.1 billion tons of coal will be produced (federal environmental impact statements permitting) in 1985. Carter had called for 1.2 billion tons;

7. What transitions to coal can take place already have, or will, without passage of Federal legislation. Coal will become more competitive as a boiler fuel as prices of oil and gas continue to rise;

8. That rise will take place very nicely without the Carter tax proposals. It will be helped along by OPEC pricing policies, thus providing a powerful incentive to develop alternative (and cleaner) energy sources.

What can we conclude from even this brief study? We can conclude that Carter is a political mastermind. He has enunciated an intricate series of energy proposals, and called out the troops to fight the moral equivalent of war for them. And all along, he knew he was going to achieve the victory, because the victory does not depend on the battle. The only thing which could rob him of his unearned triumph would be the failure of Congress to act. Maybe we should encourage a Senate filibuster.

THE NATIONAL ENERGY PLAN AND BUSINESS STRATEGIES

(By Richard F. Messing)

[NOTE.—Figures 1 through 4 not printed in the RECORD.]

During the three months since President Carter submitted his National Energy Plan to Congress, there has been much discussion concerning its impact on various sectors of our society. Questions and controversies have arisen concerning (1) its relative effect on producers and consumers of energy, (2) its regional impact, (3) the degree of fairness to special groups such as farmers and poor people, and (4) the likely impact on inflation, on the rate of economic growth, and on the vitality of individual industries.

Many of you have followed the Congressional hearings on the specific provisions of the plan, and may have participated in formulating industry reactions. Generally the plan seems to have survived in the House of Representatives, with the exception of the auto tax rebate and the standby gasoline tax, although a 5¢/gallon gasoline tax has been substituted. My purpose today is to step back a bit and consider the overall implications to the strategies of business management.

A major conclusion which I would like to highlight is this: the Administration plan capitalizes on trends which are already well established in our society, and in many respects understates the momentum effects of these trends. Let me develop this thesis by considering three areas, namely energy conservation, the transition to coal as an industrial and utility fuel, and the pace of energy price increases.

Much of the Congressional and industry criticism of the Carter Energy Plan has focused on its emphasis on conservation in contrast to resource development. Press coverage relating to the gas-guzzler tax and the standby gasoline tax might lead one to conclude that only conservation was addressed, but in terms of emphasis, the plan might better be described as a fuel-switching plan rather than a conservation plan. Table 1 compares the prospective 1985 energy savings as calculated by the Administration. Note that the bottom line saving is in oil imports, and that the proposed reduction in energy usage is less significant than the growth in use of other fuels. The expected saving of 4.5 MBOE would be reduced to about 3 MBOE if the bill now under consideration in the House of Representatives is adopted.

Let us examine the ways in which the proposed 1.9 MBOE reduction in use will be achieved. Table 2 shows the proposed demand by end use sector, expressed so that net electrical usage is included in each sector. While all sectors share in the expected savings, the total savings of 1.9 MBOE are still relatively small (17%) compared to the projected growth of 11.3 MBOE in total energy usage. Most of the proposed savings are in the industrial and utility sectors, which also account for most of the projected growth.

The relative growth rates reflected in these projections are summarized in Table 3. While the Administration proposes little or no growth in the residential/commercial and transportation sectors (whether or not the plan is adopted), sizeable growth is projected

for industry and utilities. One key underpinning of the analysis is use of a forecast rate of growth in real GNP of 5% per year between now and 1985. Many in the Energy Office now question the realism of this estimate, and are beginning to backtrack on the projections. Partly in response to criticisms by Dr. Barry Commoner and the Office of Technology Assessment, Mr. David Freeman recently stated that the numbers should not be taken too literally and are subject to change.

What conservation trends are already evident, and what growth may be considered likely in each sector?

Figure 1 shows that the space heating component of the residential/commercial market is dominant (65–70% of demand). While air conditioning poses peak-requirements problems to utilities, it is not a large factor in overall energy use. The easiest way to affect the energy requirements in these markets is to change the standards employed in new construction, although the effect will be only gradual because the existing building inventory is about 40 times larger than the annual new additions.

Our studies show that new buildings can be constructed with today's technology to use 30–50% less energy than traditional designs, and at little or no first-cost penalty. If the standards prepared by ASHRAE are adopted, energy savings in different classes of buildings are substantial (Table 4), and in many cases there are actual cost savings. The ASHRAE standard calls for double glazing, more insulation, better sun shielding, and better orientation, but without going to extremes such as 6" studs which are in the diminishing return part of the cost curve. Cost savings are achieved through a 40% reduction in furnace size and a 30% reduction in air conditioning tonnage.

The retrofit problem may be more difficult but still can yield handsome savings. Figure 2 shows prospective savings for a series of energy-saving investments in a university building. As more costly steps are undertaken, the incremental savings become less. One problem is that building owners are often presented with only a total package and cannot evaluate when the point of diminishing returns is reached. Many companies are reporting energy savings in buildings of 30% or more by modest adjustments, and are now moving to the second stage of more capital-intensive improvements.

The other principal component of the residential/commercial market is appliances. Voluntary standards of appliance efficiency are being established, although the President's program calls for mandatory standards. Our work shows potential energy savings in the range of 5–30%, and even up to 50% for gas ranges, with only a 10–20% increase in first cost (Table 5). While this industry is first-cost sensitive, energy efficiency has been shown to be an increasingly important marketing tool.

Thus I think we can conclude that the momentum effects for energy saving in the residential/commercial sector are well established.

In the industrial sector, principal attention is focused on about a dozen industries which account for three-quarters of total use. Most of these industries have already taken the obvious housekeeping steps to save energy, such as adjusting steam traps and furnace combustion conditions, but now face the more expensive steps such as installation of heat recuperators or use of oxygen enrichment. We have surveyed energy-saving processes for the EPA; each industry is reporting on its progress to FEA, and forecasting future savings which are generally in the range of 15–20% per unit of output over the next five years. Energy savings of this magnitude should come close to balancing expected increases in production for many industries. Paybacks are such that the equivalent cost of fuel saved is only $3–5/barrel of oil, whereas the cost of purchased oil is $15/barrel.

In transportation, the major change already under way is the move by the major auto companies to reach the mandated efficiency of 20 mpg in 1980 and 27.5 mpg in 1985. Detroit is now ahead of schedule in realizing these goals, and it is impressive to see how well the American public has accepted the GM line of cars which showed the greatest shrinkage in weight and horsepower. Even the Olds Delta 88 and Buick Riviera are now sufficiently fuel efficient to qualify for a rebate if the gas-guzzler tax were to be enacted.

Many are concerned whether the energy savings can be achieved without an adverse effect on economic growth. Recent experience shows that they have been closely related (Figure 3), but a longer-term analysis prepared by ERDA (Figure 4) gives a somewhat different impression. While denial of energy supplies could have important dislocation effects, savings derived through higher efficiency would not have as adverse an economic effect.

The second area concerns the transition to coal as a utility/industrial fuel. Projections for fuel supplies contained in the Administration's energy plan are shown in Table 6. It is evident that the plan places considerable emphasis on increased coal production. The indicated coal supply without the incentives provided in the plan amounts to 1.1 billion tons by 1985, a level which probably can be realized if some uncertainties affecting new investment can be removed. This represents an increase of 435 million tons or 65% over 1976 tonnage. With the incentives provided in the plan, the projected supply is increased to 1.25 billion tons, which may be a more formidable challenge.

Estimates of new coal mining capacity are somewhat elusive since plans change, and are considered more reliable for the near term (1976–80) than for the longer range. Data compiled by the National Coal Association (Table 7) shows that near-term expansions are substantial, but that longer-range plans are still not crystallized nor reflected in the projected capacity. If expansions continue at the pace corresponding to the near term, however, a production level of 1.1–1.2 billion tons should be possible. Our analyses show that there are over 50 major new competitors in the coal industry who are anxious to play a role in its expansion. The companies included in this list are well financed and technologically sophisticated, and should be better able to contend with environmental and regulatory problems than the smaller independents who have previously dominated the industry.

Growth in coal capacity in the Western region is especially striking (Table 8). If the industry in that area can realize a 90% operating rate, local requirements can be readily met and still leave a substantial volume of coal for shipment out of the region, especially to the Middlewest and Southwest. Companies operating in this area are finding the major constraint to be the lack of contracts with consumers, rather than their inability to produce.

Many utility and industrial companies burning oil or gas under boilers are awaiting a clarification of availability and pricing of these fuels before making commitments for conversion to coal. Even though curtailments of gas supply have limited supplies for low-priority applications, there is still a substantial consumption of gas under boilers, primarily supplies from intra-state sources (Table 9). If interstate pipelines are given greater opportunity to bid for these gas supplies, the resultant higher gas prices would facilitate the transition to coal. While there is a general reluctance to take on the added burdens of coal handling and environmental management, many large companies are making plans for boiler conversion or replacement in order to reserve their available supplies of gas for higher form-value uses.

One key issue which will affect the transition to coal is the pace of price increases for various energy forms. The Administration proposes both a crude oil equalization tax and a user tax on oil and gas, with the dual objectives of energy conservation and fuel switching. Even without these measures, however, we believe that energy prices are on a fast up-track, and that coal is becoming relatively a more competitive fuel (Table 10). These values are projected for an industrial user in the Eastern U.S. and are expressed in current dollars. Reasons for the increases in oil and gas at a rate double that of projected inflation include the following:

1. Continued OPEC pricing aggressiveness, especially as resource limitations become more apparent in the mid-1980s. Also, the downstream functions of shipping and refining may become more constrained because of under-investment during the intervening period, and the transition from old to new domestic oil will be effective. Note that the proposed $3 per barrel user tax (equivalent to about 50¢ per MMBTU) is relatively small compared to the expected price increases.

2. Roll-in of premium-price gas supplements, such as Alaskan gas, LNG, and SNG, plus the prospective increases in the price of "new" gas.

Coal prices, on the other hand, are generally based on mining economics with escalations to reflect prospective cost increases. Costs are expected to increase because of higher labor rates, but hopefully there will be a turn-around in the productivity trend as new workers become more experienced and as the provisions of the Mine Health and Safety Act are stabilized. Note that even with the burden of scrubber costs, coal becomes an increasingly attractive alternative; the difference is believed sufficiently large to justify new boiler investment for many locations where logistics of coal delivery and storage are favorable.

Electric energy cost increases are moderated by the stabilizing effect of lower-cost embedded capacity and the likelihood that long-term fuel purchase contracts will likely be negotiated as new generating units are committed. These values assume that all users will share equally in rate increases, although pressure for rate reform may lead to wider application of marginal cost pricing to large users, hence the rate of increase could be somewhat higher than the indicated 6% per year.

In summary, there are already established trends towards energy conservation, towards greater availability and use of coal, and towards higher energy prices which may outpace the goals specified in the Carter energy program. Momentum effects may therefore be more controlling than application of the specific provisions of the program.

TABLE 1.—CARTER ENERGY PLAN PROJECTED 1985 IMPACT

	MBOE/day	Percent
Reduced energy demand	1.9	42
Increased coal output	2.3	51
Increased nuclear and other	.3	7
Oil import saving	4.5	100

TABLE 2.—CARTER ENERGY PLAN PROJECTED ENERGY DEMAND

[MBOE/day]

	1976	1985		
		Without plan	With plan	Difference
Residential/commercial	9.6	10.0	9.6	−0.4
Industrial	10.9	16.6	15.9	−.7
Transportation	9.5	10.8	10.5	−.3
Electric generation loss	7.0	10.9	10.3	−.5
Total	37.0	48.3	46.4	−1.9

TABLE 3.—CARTER ENERGY PLAN ANNUAL DEMAND GROWTH (1976–85)

[Percent per year]

	Without plan	With plan
Residential/commercial	0.5	0
Industrial	4.8	4.3
Transportation	1.4	1.1
Electricity generation	5.0	4.4
Total	3.0	2.5

TABLE 4.—IMPACT OF CONSERVATION DESIGN ON ENERGY USE AND CONSTRUCTION COSTS

[In percent]

Building type	Reduction in energy consumption with conservation design		Change in construction cost with conservation design
	Northeast	South	
Single family	30	6	+1
Single family	15	8	+0
Low-rise apartment	51	42	−2
Office building	62	59	−2
Retail store	42	38	−1
School building	46	52	−2

TABLE 5.—APPLIANCE INDUSTRY

[In percent]

	Percent energy saved	Percent added cost
Refrigerator	30	10
Dishwasher	20	10
Dryer:		
Electric	7	3
Gas	15	3
Water heater:		
Electric	15	15
Gas	20	12
Room air-conditioner	25	20
Range:		
Electric	5	2
Gas	50	15
Clothes washer	30	1

TABLE 6.—CARTER ENERGY PLAN PROJECTED ENERGY SUPPLIES

[MBOE/day]

	1976	1985		
		Without plan	With plan	Difference
Oil and gas	27.4	32.2	27.6	−4.6
Coal	7.1	11.0	13.3	+2.3
Nuclear	1.0	3.7	3.8	+.1
Other	1.5	1.7	1.7	
Total	37.0	48.5	46.4	−2.1

TABLE 7.—COAL CAPACITY EXPANSIONS

[Millions of tons]

	West	East	Total
1976–80	154	178	332
1981–85	83	85	168
Total	237	263	500
Percent of total	47	53	100

Source: National Coal Association, August 1976.

TABLE 8.—WESTERN COAL MARKETS

[Millions to tons]

	1975	1980	1985
Western utilities	36	65	95
Other Western use	9	18	27
Subtotal	45	83	122
Eastern and export	36	135	171
Total	81	218	293
Western capacity	88	242	325

Source: Bureau of Mines and ADL estimates.

TABLE 9.—INDUSTRIAL GAS CONSUMPTION (TCF—1976)

	Total	Boiler use
Chemicals	1.93	0.92
Paper	.45	.41
Food	.47	.41
Petroleum	1.35	.35
Metals	1.16	.09
Others	2.85	.54
Total	8.21	2.72

TABLE 10.—FORECAST OF ENERGY PRICES FOR INDUSTRY

	1,000,000 Btu		Percent per year increase
	1976	1985	
Oil (No. 6, 0.5 percent S)	$2.00	$5.97	12
Gas	1.73	4.10	10
Coal (without scrubber)	.95	1.72	7
Coal (with scrubber)	1.40	2.47	7
Electricity	8.29	14.36	6
Electricity (cents per kilowatt-hour)	2.83	4.90	6

RECOMBINANT DNA LEGISLATION

Mr. STEVENSON. Mr. President, one of the more important issues on the congressional science and technology agenda has been consideration of legislation to regulate the conduct of scientific research involving DNA recombinant molecules. The Recombinant DNA Safety Regulation Act (S. 1217), introduced by Senator KENNEDY and reported by the Human Resources Committee, is now on the Senate calendar. Senator NELSON and Senator MOYNIHAN have also introduced a comprehensive amendment in the nature of a substitute.

Research involving DNA recombinant molecules could well unlock the mysteries of heredity and life itself. Industrial technologies based on recombinant DNA techniques could bring previously unimagined benefits to mankind in such diverse fields as medicine, agriculture, and energy. Recognition of these potential benefits has been accompanied by an equally strong fear of the possibility of creating new forms of life that could threaten humanity. The heart of our legislative task has been to devise a way to reap the benefits of recombinant DNA research while protecting mankind against some biological catastrophe.

As we consider our present course of action, three considerations must be kept in perspective.

INITIAL CONCERNS OF SCIENTISTS

First, we should bear in mind how this issue first came to public attention. More specifically, what were the initial concerns of the scientific community? What dangers did these scientists seek to avoid? What actions did they recommend and were these actions taken?

Answers to these questions provide an important backdrop to whatever decisions Congress makes regarding the regulation of recombinant DNA research. It is clear that scientists were the ones who first spoke out. It is also clear that they were primarily concerned about potential, not verified, risks associated with recombinant DNA molecule experimentation. For instance, Dr. Maxine Singer of the National Institutes of Health, in the statement prepared at the 1973 Gordon Conference on Nucleic Acids, said:

> Certain such hybrid models may prove hazardous to laboratory workers and to the public. Although no hazard has yet been established prudence suggests the potential hazard be seriously considered.

The Gordon Conference statement further recommended to the President of the National Academy of Sciences and to the president of the National Institute of Medicine that—

> The Academies establish a study committee to consider this problem and to recommend specific actions or guidelines, should that seem appropriate.

Such a committee was created and in July 1974 its report was published in Science magazine. The report noted:

> Our concern is based on judgments of potential rather than demonstrated risk since there are few available experimental data on the hazards of such DNA molecules.

The committee went on to urge all scientists working with recombinant DNA molecules to avoid such experiments until further attempts had been made to evaluate the actual hazards that might be involved.

These early initiatives by the scientific community reflected a well-defined sense of public responsibility. The plea of these scientists was clear and straightforward: exercise great caution in this new area of experimentation until the potential risks can be evaluated further. There was no claim, at any time, that such experiments should be banned permanently; nor was there any prejudgment as to the level of risk that inevitably would be involved in recombinant DNA research.

These initial expressions of caution were coupled with recommendations to devise experimental procedures that would protect the health and safety of recombinant DNA researchers, the general public, and the environment. Again, the scientific community responded. In February 1975, the Asilomar Conference, sponsored by the National Academy of Sciences, proposed physical and biological containment standards for recombinant DNA research. The report of the Asilomar Conference noted:

> The evaluation of potential biohazards has proved to be extremely difficult. It is this ignorance that has compelled us to conclude that it would be wise to exercise considerable caution in performing this research . . . the standards of protection should be greater at the beginning and modified as

improvements in the methodology occur and assessments of the risks change . . . future research and experience may show that many of the potential biohazards are less serious and/or less probable than we now suspect . . . This document represents our first assessment of the potential biohazards . . . little is known [about survival of laboratory strains of bacteria, enhancement effects, depression of survival, etc.] . . . answers are essential to assessment of biohazards.

The dominant theme of caution, the need for further experimentation, and an overriding concern for safety were again very clear. But the possibility of modifying these standards to reflect new research findings and experience was explicitly acknowledged.

ACCUMULATION OF SCIENTIFIC EVIDENCE

The second consideration to keep in perspective is the scientific evidence that has accumulated since 1973. In the process of formulating the research guidelines published by NIH in July 1976, the NIH DNA Advisory Committee conducted a series of technical meetings throughout 1975 and 1976. These sessions have continued in 1977 to consider possible revisions of the guidelines. During these deliberations, careful attention was paid to learning more about the survivability of special "biological containment" systems, such as E.-coli, as well as to refining the proper levels of physical containment for different types of recombinant DNA experiments.

As these efforts continued, it became increasingly clear that many of the hazards associated with recombinant DNA research were less severe than initially feared. In time, scientists began to report these changes, revising downward their perception of risk and suggesting the feasibility of adjusting the NIH guidelines accordingly. Moreover, scientists were also discovering that many of the so-called novel DNA recombinations were nothing more than laboratory-controlled duplications of events which could occur in nature. These latter discoveries raised questions about the proper definition of recombinant DNA that should be used as a basis for any Federal regulatory effort.

These new perceptions were summarized by Dr. Roy Curtiss III, University of Alabama, in a letter of April 12, 1971, to Dr. Donald Frederickson, Director of NIH. Dr. Curtiss described his experiments which had been conducted to determine whether a DNA recombinant molecule in an E.-coli host could be transferred to other microorganisms if accidentally released from the laboratory environment. He also reported similar experiments conducted by other NDA researchers. On the basis of this new evidence, Dr. Curtiss concluded that he could no longer perceive any danger to human beings or the environment, assuming that normal experimental safeguards were followed. Curtiss wrote:

The arrival at this conclusion has been somewhat painful and with reluctance since it is contrary to my past "feelings" about the biohazards of recombinant DNA research . . . In no instance—in his and other experiments—have I found evidence that the necessary genetic information could be cloned in one step, would permit E.-coli K–12 to colonize the intestinal tract, and to lead to the production of the product(s) in the intestinal environment that would be harmful to the mammalian host.

The substance of these findings and the rapidity with which they were being made raised new doubts about the various regulatory approaches being considered by Congress. For example, many of the initial assumptions concerning the scope of the regulations were open to question. Some scientists viewed the physical and biological containment standards adopted by NIH in its July 1976 guidelines as excessively stringent. Revisions of the guidelines were contemplated by NIH. Concern was also expressed about legislative approaches that would subject recombinant DNA researchers to the redtape and complicated procedures of a Washington-based regulatory commission. University-based scientists were particularly concerned about the threat of criminal liability, as provided for in some legislation, on the research process. Although it was important that regulatory controls be extended to privately supported research, these controls should be administered in a way that did not place an unequal burden on smaller private research firms. Other issues, such as the protection of proprietary information and scientific discoveries, remained a source of contention.

In these circumstances, Congress has every reason to proceed cautiously in writing permanent legislation. There is a clear need to take account of the rapidly changing perceptions of the likely risks of recombinant DNA research. This view is supported by a new substantive evaluation of the problem being conducted by the Carter administration. I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD at this point an exchange of letters between myself and Dr. Frank Press, Director of the Office of Science and Technology Policy, regarding the administration's current views on the regulation of recombinant DNA research.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *September 7, 1977.*

Dr. FRANK PRESS,
Director, Office of Science and Technology Policy, Executive Office of the President, Washington, D.C.

DEAR DR. PRESS: I am writing to inquire of the Administration's position regarding passage in this session of Congress of legislation to regulate activities involving recombinant DNA.

In exercise of this Committee's jurisdiction for comprehensive policy oversight of science and technology, the Subcommittee on Science, Technology and Space has been monitoring the development of the various legislatve proposals to extend Federal regulatory control over all recombinant DNA research. Over the course of the past several months, Subcommittee staff members and I have met with a number of scientists and other experts familiar with the conduct of recombinant DNA research. Their reports of the reassessment of the risks involved in recombinant DNA activities and their descriptions of the research procedures that would be subject to Federal regulation have been particularly useful.

On the basis of these discussions and a careful review of recent literature, I have become increasingly concerned that much of the legislation drafted to deal with this problem is ill-designed to achieve the objective we all seek: namely, protection of the public from the potential risks of recombinant DNA activities, whether funded by public or private sources, without impeding unnecessarily the beneficial use of these techniques.

I have also become more sensitive to the potential effect of this legislation on the regulation of basic research by the Federal Government. It is essential that we balance carefully the duty to protect the freedom of scientific inquiry and the government's obligation to protect the health and safety of citizens. The balance will be achieved only if we have an accurate and timely reading of the dangers which must be avoided by government action. If the reports which I have received are at all accurate, I fear the regulatory procedures proposed in some of the pending legislation intrude excessively and needlessly on scientific freedom.

The Subcommittee is giving serious consideration to scheduling oversight hearings on the effect of proposed recombinant DNA legislation on the conduct of basic research. These hearings would provide a forum for receiving up-to-date assessments of the risks associated with recombinant DNA experimentation and suggestions as to the proper governmental role in light of these new assessments. I am also interested in exploring further whether effective regulation of recombinant DNA research might be achieved under existing statutes.

For these several reasons, I have come to the view that the arguments advanced initially for swift passage of recombinant DNA legislation are no longer persuasive. Indeed, I believe a period of thoughtful deliberation by both the Senate and House would be a major factor in devising a regulatory solution that is effective, sensible, and fair to all concerned.

Your comments on whether the Administration shares these concerns would be extremely helpful to me and my Senate colleagues in considering this issue in the closing days of the first session.

Sincerely,

ADLAI E. STEVENSON,
Chairman, Subcommittee on Science, Technology, and Space.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY,
Washington, D.C., September 16, 1977.

Hon. ADLAI E. STEVENSON,
Chairman, Subcommittee on Science Technology and Space, U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENSON: Thank you for your letter of September 7 inquiring about our current views on the regulation of research involving recombinant DNA.

The key elements of the Administration position are reflected in the Administration bill submitted several months ago. Many of the bills under consideration, of course, were cast at a time before recent experimental evidence became available. The Administration bill and certain of the other bills introduced in the Congress provide the Secretary of the Department of HEW sufficient flexibility to tighten or relax the guidelines under which biohazards committees must function. I believe that such flexibility is important to the implementation of any regulation in this rapidly changing field of research.

Your inquiry about the many ramifications of the proposed legislation is timely. We are consulting with the various agencies of the government to review the situation.

Yours sincerely,

FRANK PRESS,
Director.

Mr. STEVENSON. A close reading of Dr. Press' letter confirms two important points. First, the advent of new experimental data on recombinant DNA research has underscored the importance of approaching the entire question of Federal regulation in a pragmatic and careful manner. Second, the Administration itself is reviewing the situation internally. Congress would be well advised to await whatever new recommendations or conclusions are produced by this Executive review.

My hope is simply that Congress can be as responsive and as concerned with scientific evidence as were the scientists who initially spoke out about the potential risks of recombinant DNA research.

Mr. President, much of this analysis has been drawn from an excellent summary of actions affecting the perception of risks in DNA recombinant molecule research prepared by the Congressional Research Service. I ask unanimous consent that the full text of this summary be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

A BRIEF SUMMARY OF ACTIONS AFFECTING THE PERCEPTION OF RISK IN DNA RECOMBINANT MOLECULE RESEARCH

Developments in molecular biology which were discussed during the June 11–15, 1973 Gordon Conference on Nucleic Acids (New Hampton, New Hampshire) led to the issuance of a statement by some of the conference participants concerning DNA recombinant research. In this statement, signed by Dr. Maxine Singer of the National Institutes of Health and Dieter Soll of Yale University, on behalf of a number of scientists at this conference, the technique of DNA recombinant research was identified and a comment included that:

"Certain such hybrid models may prove hazardous to laboratory workers and to the public. Although no hazard has yet been established, prudence suggests the potential hazard be seriously considered."

This concern was communicated in this Gordon conference letter to the President of the National Academy of Sciences and to the President of the National Institute of Medicine. The suggestion was made that:

". . . the Academies establish a study committee to consider this problem and to recommend specific actions or guidelines, should that seem appropriate."

A committee (known as the "Berg Committee" since it was chaired by Paul Berg of Stanford University), appointed by the National Academy of Sciences to investigate the concerns expressed in the "Gordon Conference" letter, conducted a preliminary study of the problem and made its report to the Academy and the public. In their report, (published in Science in July 1974) the committee noted, among other points, that:

". . . our concern is based on judgments of potential rather than demonstrated risk since there are few available experimental data on the hazards of such DNA molecules and (ii) that adherence to our major recommendations will entail postponement or possibly abandonment of certain types of scientifically worthwhile experiments . . .

"Nonetheless, our concern for the possible unfortunate consequences of indiscriminate application of these techniques [DNA recombinant research] motivates us to urge all scientists working in this area to join us in agreeing not to initiate experiments . . . [of certain types] . . . until attempts have been made to evaluate the hazards and some resolution of the outstanding questions has been achieved . . ."

Then, in February 1975, an International Conference on Recombinant DNA molecules was held at the Asilomar conference center (California). This conference was sponsored by the Assembly of Life Sciences, National Research Council, National Academy of Sciences and a summary report of the conference was published in the *Proceedings of the National Academy of Science* in June 1975. The meeting was limited to invited participants including a select few lawyers and press representatives. In their summary report, the committee provided recommendations with regard to the physical and biological containment which should be utilized to insure safety. Categories of containment were described which are now further refined and identified with the P1–P4 codes established in the NIH guidelines and the concept of biological containment, now known as Ek-1, Ek-2, etc. in the NIH Guidelines was anticipated by the committee. In the introduction to their recommendations, the conference committee indicated that the meeting:

". . . was organized to review scientific progress in research on recombinant DNA and to discuss appropriate ways to deal with the potential biohazards of this work."

The committee report also noted that:

". . . the evaluation of potential biohazards has proved to be extremely difficult. It is this ignorance that has compelled us to conclude that it would be wise to exercise considerable caution in performing this research . . . the standards of protection should be greater at the beginning and modified as improvements in the methodology occur and assessments of the risks change . . . future research and experience may show that many of the potential biohazards are less * * *

* * * * *

represents our first assessment of the potential biohazards . . . little is known [about survival of laboratory strains of bacteria, enhancement effects, depression of survival, etc.] . . . answers are essential to assessment of biohazard."

Following the Asilomar conference, the NIH DNA Advisory Committee began its series of intensely technical meetings to construct detailed guidelines. This committee was chartered by the Director of the National Institutes of Health in October 1974. In their charter, it was noted that:

". . . the use of this technology [DNA recombinant molecule research] has various possible hazards because new types of organisms, some potentially pathogenic, can be introduced into the environment if there are no effective controls . . . The goal of the Committee is to . . . recommend programs of research to assess the possibility of spread of specific DNA recombinant molecules . . . and to recommend guidelines on the basis of the research results."

The first meeting of the DNA Advisory Committee was held in February 1975, the second in May 12–13, 1975, the third in July 1975, several intervening meetings of working groups, a critical meeting in January 1977 when a "final" draft for consideration by the Director was constructed. Other meetings were held in the late spring and early summer of 1977. Throughout these meetings, there was communication with a number of investigators, numerous special working groups with consultants and a flow of information about the characteristics of various cloning cell systems and proposed vectors of transfer of DNA fragments. Emphasis was placed upon ascertaining survivability probabilities of special "biological containment" systems as well as refining the desired levels of physical containment.

At the same time, as information became available, there was an obvious increase in awareness, with emphasis upon the variants of *Escherichia coli* which were being constructed as cloning systems, that many of the hazards originally postulated for such systems were highly improbable. This emphasis evolved in association with the conduct of specific types of experiments not prohibited by the guidelines. From these many exchanges among professionals during the development of the current NIH guidelines, as well as in the work directed toward the revision and updating of the guidelines, changes in the perception of risk became evident.

It also became obvious that the definitions of the types of DNA recombinant research covered by the NIH guidelines required more specific language since many of the experiments being conducted were not really "novel" recombinations but were laboratory controlled duplications [although accelerated] of events which were possible and probably occurred in nature. Some investigators, including Stanley Cohen at Stanford, became more certain as they continued their evaluations of the biochemistry of DNA recombination that there was indeed a high degree of recombination going on in nature by the same biochemical mechanisms as the experiments being conducted in the laboratory. This concept of non-novel recombination and the increasing certainty about the virtual absence of risk when using *E. coli* variants and non-prohibited types of experiments became further strengthened by other evaluations.

An analytical paper which had a major impact within the scientific community was a letter submitted to the Director of NIH by Dr. Roy Curtiss III of the University of Alabama. In his letter of April 12, 1977, Dr. Curtiss described the many experiments conducted in his laboratory to evaluate the potential risk if a DNA recombinant molecule in an *E. coli* variant was accidentally released or whether the recombined molecule could be transferred to another microorganisms as a result of an accident. In his letter, Dr. Curtiss also summarized a number of other risk assessment experiments which had been conducted around the country and pointed out that these data consistently supported his own opinion that he could no longer perceive any danger whatsoever to any human being with the exception of the risk to a careless laboratory worker, as always exists in any work with microorganisms. In his own words:

"The arrival at this conclusion has been somewhat painful and with reluctance since it is contrary to my past 'feelings' about the biohazards of recombinant DNA research . . . In no instance [in his and other experiments] have I found evidence that the necessary genetic information could be closed in one step, would permit *E. coli* K–12 to colonize the intestinal tract, and lead to the production of the product(s) in the intestinal environment that would be harmful to the mammalian host."

The initial view that experiments with DNA recombinant molecules might pose some unknown risk was a reaction primarily by molecular biologists and biochemists who were not familiar with the detailed epidemiology or ecology of the "model" systems with which they were working. As a part of the continuing evaluation of the risk, an effort has been made in the past several years to involve those scientists who do have the experience in working with infectious organisms to estimate the dangers which might be produced by research with recombinant DNA molecules. These groups have been publishing their views very recently, and their views also have had an impact on the DNA recombinant research scientists' perception of risk. For example, at their annual meeting in New Orleans in May 1977, the Council of the Amer-

ican Society for Microbiology adopted a resolution which included a recommendation that experiments requiring proposed P–1 containment should be exempt from the regulations for DNA recombinant research. In a letter to *Science* from the President of ASM [Harlyn O. Halvorson, Brandeis University], it was noted that:

". . . there has been surprisingly little input from individuals accustomed to dealing with hazardous microorganisms . . . There is at present no demonstrable evidence that microorganisms containing recombinant DNA molecules are hazardous."

Following the 1977 Gordon conference, an open letter to Congress was submitted from a group of scientists which was presented as a consensus of opinion. This letter, published in *Science* on July 15, 1977, was signed by 137 members of the conference (86 percent of the members of the meeting). Comments included in the letter indicated that:

"We are concerned that the benefits of recombinant DNA research will be denied to society by unnecessarily restrictive legislation . . . We feel that much of the stimulus for this legislative activity [legislation to regulate DNA recombinant research] derives from exaggerations of the hypothetical hazards of recombinant DNA research that go far beyond any reasoned assessment . . . the experience of the last four years has not given any indication of actual hazard . . ."

Still later (July 14, 1977), Sherwood L. Gorbach [New England Medical Center Hospital and Professor of Medicine and Microbiology, Tufts University School of Medicine] provided a letter to the Director of the National Institutes of Health in which he reported what he called a "consensus of opinion" following a Workshop of Studies for Assessment of Potential Risks Associated with Recombinant DNA Experimentation [now referred to as the Gorbach Falmouth Report.] The Workshop [held at Falmouth, Massachusetts] was sponsored as a part of the NIH program to secure risk assessment data for input to the restructuring of the DNA recombinant molecule research guidelines. His concluding statement was:

"It was the consensus of the group that the possibility of transfer of a non-mobilizable plasmid from *E. coli* K12 to a wild-type strain *in vivo* is extremely unlikely. However, it was recommended that animal and human feeding experiments should be performed, to confirm the previous observations in man and to provide further assurance that *in vivo* transfer of these plasmids should not occur."

In evaluating these trends in risk assessment, it should be kept in mind that primary attention has been given to the *E. coli* experiments and not to other host cell systems. Since the vast majority of DNA research molecule experiments are with *E. coli* variants, the experimenters actually are saying that these DNA recombinant experiments pose little, if any, risk and therefore there is no need for strict regulation. This is not to say, however, that these investigators are suggesting at this time that all of the prohibited experiments of the NIH guidelines now should be permitted although, in some instances, evidence is being cited, as with the transfer of toxins through *E. coli* variants, that there may be little risk even with certain types of these experiments. The efforts at reconstructing definitions of the types of DNA recombinant research to be covered by the NIH guidelines which have been occurring within the NIH DNA Advisory Committee also would reflect these new perceptions of risk and exclude those experiments which are not novel, that is, experiments where it is known that exchanges occur in nature.

FREEDOM OF SCIENTIFIC INQUIRY

Mr. STEVENSON. Mr. President, the third consideration to keep in perspective is our responsibility to safeguard the conduct of scientific research from unnecessary and unreasonable governmental intervention.

Freedom of scientific inquiry is rooted in the first amendment to the U.S. Constitution as a fundamental element of freedom of speech—Sweezy against New Hampshire; Keyishian against Board of Regents; Epperson against Arkansas. Of course, such freedom is not absolute. The Atomic Energy Act imposes stringent regulatory controls over the scientific use of radioactive substances. Controls are enforced in the use of human subjects in scientific experimentation. Dangerous drugs and chemicals must be used according to governmental standards. There is, however, a strong commitment under the Constitution to the principles of free inquiry. There is, or at least there should be, a heavy presumption against governmental interference. This is particularly true in relation to regulation of recombinant DNA research; this is the first time that government is proposing to regulate actual research procedures, as distinct from materials or equipment used in research.

The constitutional protections afforded scientific research require that governmental regulation be justified by a compelling need to protect the community's health and welfare and that governmental regulations be drawn as narrowly as possible to achieve the necessary protection. Dr. Thomas I. Emerson, lines professor of law emeritus, Yale Law School, recently addressed this issue in testimony before the Subcommittee on Scientific Research of the House Committee on Science and Technology. Professor Emerson said:

The degree of risk that would be needed to justify governmental regulations could only be determined in the light of concrete information and presumably the more serious the risk, the less degree of certainty that would be demanded.

The recent evidence of the decreased risks associated with recombinant DNA research using E.-coli K–12 as the host vector requires us to weigh carefully the benefits of the proposed regulations against their likely impact on the freedom of scientific inquiry. At this juncture, one can easily rule out extreme remedies: Few persons would argue in favor of eliminating all regulatory controls. Likewise, a total ban on recombinant DNA research, or even highly stringent regulations, no longer appears either necessary or reasonable. The most apparent solution would seem to be the extension of the NIH guidelines, as revised, to cover both federally supported research and the private sector. In striking this balance, Congress must take fully into account the protection which scientific inquiry is afforded under the Constitution.

Mr. President, the Subcommittee on Science, Technology, and Space, which I chair, of the Committee on Commerce, Science, and Transportation, will hold 2 days of public hearings on November 2 and 3, 1977, to develop further the relationship between proposed regulation of recombinant DNA research and the constitutional protection of scientific research from unwarranted governmental intervention. The subcommittee will do its best to develop more fully this important dimension of the recombinant DNA question.

For the reasons I have already discussed, this is clearly a time for deliberation and care in disposing of recombinant DNA legislation. I would urge my colleagues to consider seriously the option of acting on this legislation next session. By then:

The Carter administration will have completed its review of the current situation, including a new look at whether adequate regulatory controls could be achieved under existing statutes;

The NIH Recombinant DNA Advisory Committee will have considered and hopefully acted on revisions to the existing guidelines;

Additional scientific information will be available to use in evaluating the nature and scope of proposed regulations;

The Subcommittee on Science, Technology, and Space will have completed its November hearings; and

All interested Senators will have had additional time to consider their positions in this rapidly changing scientific area.

This period will also provide an opportunity to examine further the degree to which national standards should preempt State and local regulations. We should also weigh carefully how the lay public can most constructively participate in decisions that regulate this area of scientific experimentation. In my view, the resolution of these issues is neither self-evident nor easy. Fundamental questions about the relationship of governmental action to scientific freedom are involved.

It is my understanding that the House of Representatives has no plans to consider recombinant DNA legislation during this session.

However, if a majority of the Senate decides to pursue the matter this year, I will urge that we enact legislation which is essentially interim in character and which permits great flexibility in accommodating to the scientific evidence as it is developed. I have several amendments in preparation that would insure such an approach.

I commend the Senators who have taken the lead in the Senate's efforts to deal with this important and complicated scientific question, principally Senators KENNEDY, NELSON, WILLIAMS, MOYNIHAN, BUMPERS, METZENBAUM, CRANSTON, JAVITS, SCHWEIKER, and SCHMITT, among others. And I ask for their support of this suggestion to pursue a course of deliberation for the balance of the first session. I believe such a course will unquestionably result in better legislation next year.

GENOCIDE CONVENTION AND THE U.S. POSITION

Mr. PROXMIRE. Mr. President, on September 14, 1977, the New York Law Journal published an article which does a fine job of summarizing the specifics of the Genocide Treaty, and relates the past history of its attempted ratification.

Raymond E. Lisle, the author, presents in a succinct manner the objections and rebuttals most commonly voiced in relation to each article of the treaty.

The outdated and easily refutable arguments presented in this article are all too familiar to the Members of this body who have supported efforts to secure ratification of this treaty. I urge the Members of the Senate to give this article the attention it deserves.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GENOCIDE CONVENTION AND THE U.S. POSITION

(By Raymond E. Lisle)

On Dec. 9, 1948, the General Assembly, with the horrors of Hitler's wanton persecution of the Jews and other minority groups still fresh in mind, unanimously approved the International Convention on the Prevention and Punishment of the Crime of Genocide (hereafter the Convention).[1] Eighty-three nations have ratified it.[2] It has been in force since 1951.[3] The United States had taken a leading part in its drafting. President Truman transmitted it to the Senate for advice and consent in 1949.[4] It has been before the Senate for twenty-eight years.

The Senate held extensive public hearings in 1950 and shorter hearings in 1960, 1971 and 1977. It has been reported favorably five times.[5] After twenty-five years, it came to the Senate floor for full debate on Jan. 28, 1975. After five days of debate, the Senate refused, by votes on Feb. 5 and 6 falling narrowly short of the two-thirds majority required, to cut off a filibuster and impose cloture.[6]

The priority given by the present administration to human rights,[7] a strong message of support from President Carter,[8] the reversal by the House of Delegates of the American Bar Association on Feb. 17, 1976, of its previous opposition to the Convention,[9] the blocking of the logjam on Senate ratification of human rights conventions by Senate approval in 1976 of two conventions on the political rights of women,[10] explicit endorsement of the Convention by the Defense Department,[11] continued aggressive support by the Ad Hoc Committee on Human Rights and Genocide Treaties,[12] all suggest the greatly improved chances of Senate ratification in the present session of Congress.

THE UNDERSTANDINGS

The legal issues presented by the Convention appear most clearly in the context of the fears as to possible dangers to the interest of the U.S. and its nationals which might result if this country should become a party. Some of the objections, developed in the course of the twenty-eight years during which the Convention has been before the Senate, seem curiously dated. In the effort to reassure those American critics who have felt that certain articles were vague and ambiguous to the point that unfriendly powers could use them, albeit unjustifiably, to distort the policies of the United States and to jeopardize its nationals, the Senate Committee on Foreign Relations has developed three "understandings" which would be part of the instrument of ratification. Certain additional reassuring clarifications would be included in the implementing legislation.

These declarations are to be distinguished from reservations. A reservation to a treaty or convention is a "statement made in or accompanying the ratification of a treaty" which "would exclude or vary the legal effect of one or more of the provisions of the treaty in their acceding to the reserving state." When a state makes a reservation to a treaty, each of the other signatory and acceding states has the right to consider whether in view of the reservation it will "consider itself in treaty relations with the reserving State." Failure to object within a reasonable time after deposit of the instrument of ratification may be regarded as acceptance of the reservation. The Legal Adviser of the Department of State takes the position that all three of the proposed statements merely explain or clarify the meaning of the provisions of the Convention rather than vary or exclude their legal effect and therefore constitute understandings not reservations.

The Legal Adviser believes that a condition entered by the Senate and included by the President in the instrument of ratification, whether it is a reservation or an understanding, takes effect in domestic law with the treaty itself. This position follows from the shared role of President and Senate in the treaty process. He opines that the Supreme Court can be expected to give full weight to the understandings if any matter relating to the Convention should come before it.[13]

DEFINITION

The Convention [14] defines genocide as any of five acts if "committed with intent to destroy in whole or in part, a national, ethical, racial or religious group, as such; . . ." namely, killing, or causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group.

Charges have been made that lynchings, school busings, birth control clinics, police repression of the Black Panthers and the My Lai incident might be considered to constitute genocide under the language of the Convention.[15]

For example, Senator Goldwater, on the floor of the Senate on Jan. 30, 1974, charged that there was no assurance that under the Convention "simple birth control measures offered to relieve the burden of over-population or given as advice in the administration of an outgoing welfare program will not be treated as an instrument of genocide." An American visiting India could theoretically be brought to trial, he thought, because U.S. aid money had been used to supply birth control service to a group in India. A U.S. official going to Japan might find himself tried for genocide because of a role played in the dropping of the atomic bomb there. A person could be charged for "mere words or personal habits which can be construed by someone else to cause 'mental harm' to members of some race, religion or other group." [16] Senator Ervin asked in a "Summary of Objections to Genocide Treaty" whether "the duty and power to prosecute . . . criminal homicides, assaults and batteries . . . would be forthwith transferred from the states . . . to the Federal government;" whether a county official who refused to give a member of a group the amount of welfare benefits deemed desirable could be punished for genocide and whether the World Court would have power "to judge the adequacy of welfare benefits awarded by Congerss or a State Legislature." [17]

None of these fears is well-founded. None of the five acts in the definition is genocide unless "committed with intent to destroy in whole or in part" one of the named groups as such.

ARTICLE II—CLARIFICATIONS

To avoid, however, any misconceptions, the Foreign Relations Committee, with administration approval, has recommended that our ratification be accompanied by an understanding that the intent required by the Article be the intent to destroy one of the named groups "in such a manner as to affect a substantial part of the group concerned." This distinguishes genocide from homicide.[18]

A second understanding would record the U.S. view that the words "mental harm" mean "permanent impairment of mental facilities" thus excluding emotional stress of a passing character.[19]

The legislation which has been drafted to implement the Convention further clarifies Article II in providing that the intent is a separate element of the offense of genocide not to be presumed solely from the commission of the act charged. A substantial part is defined to require such numerical significance that the destruction of that part would cause the destruction of the group as a viable entity. It spells out in detail the meaning of mental harm as "permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members." All these clarifications have been drafted in such manner as to be consistent with the negotiating history.[20]

AN INTERNATIONAL CRIME

The Convention "confirms" that genocide, "whether committed in time of peace or in time of war," is a crime under international law, which the contracting parties undertake to prevent and to punish.[21] Use of the word "confirms" signifies that genocide was criminal even before the Convention went into force just as were the wartime offenses against humanity which were a basis of the Nuremberg trials. This concept is consistent with the 1951 Advisory Opinion in which the International Court of Justice declared that genocide, whether in peace or in war, had come to be universally recognized as an international crime under customary international law.[22]

In the early phases of the struggle for ratification, its opponents contended that the Convention would change the constitutional structure of the United States, that the United States lacked constitutional power to make treaties in the human rights field in that the treatment by a state of its own nationals is a matter of domestic jurisdiction and not of international concern warranting the use of the treaty power.[23] The contention seemed hardly apposite on a matter evoking such great international concern that eighty-three nations have already ratified the Convention which declares genocide a crime.

A number of international agreements, to which the U.S. is a party, have made international activities crimes which nations have agreed to punish—oil pollutions,[24] slave trading,[25] trade in narcotics,[26] destruction of submarine cables [27] and pelagic sealing.[28] The Foreign Relations Committee commented that it "finds some merit in the argument that if the U.S. Government is conceded the power to make treaties governing the killing of seals, it is capable of acceding to a treaty on the killing of people.[29]

The special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year 1968 concluded after a survey of the constitutional issues involved and of the past treaty making practice of the U.S. that "Treaties which deal with the rights of individuals within their own countries as a matter of international concern may be a proper exercise of the treaty-making power of the United States . . . It may seem almost anachronistic that this question continues to be raised. It is nearly a quarter of a century since this country used the treaty power to become a party to the U.N. Charter, one of whose basic purposes is the promotion of human rights for all . . . In each of the last two years the U.S. Senate has approved a human rights treaty without a single dissenting vote. In

Footnotes at end of article.

December, 1968, the Chief Justice of the United States noted that 'We as a nation should have been the first to ratify the Genocide Convention and the Race Discrimination Convention,' And yet the suggestion persists that this Nation is constitutionally impotent to do what we and the rest of the world have, in fact, been doing."

In his letter of transmittal, former Supreme Court Justice Tom C. Clark, who was Chairman of the group of distinguished lawyers making up the Committee, reiterated their finding that ". . . after a thorough review of judicial, Congressional and diplomatic precedents, that human rights are matters of international concerns; and that the President with the United States Senate concurring, may, on behalf of the United States, under the treaty power of the Constitution, ratify or adhere to any international human rights convention that does not contravene a specific Constitutional prohibition." [30]

PUNISHABLE ACTS

Discussion of Article III of the Convention, making not only genocide but conspiracy, direct and public incitement, attempt to commit, and complicity in, genocide punishable, has over the course of years raised the question as to the relationship of the inclusion of "direct and public incitement to commit genocide" with the freedom of speech guaranty of the First Amendment. The Foreign Relations Committee found the language of the Convention entirely consistent with *Brandenburg* v. *Ohio*,[31] the most recent case in which the Supreme Court has drawn the line between protected speech and prohibited direct and immediate incitement to action. *Brandenburg* prohibits a state "to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action."

Justice Rehnquist, then Assistant Attorney General, when asked by Senator Church in 1970 whether he was satisfied "that such constitutional protection, as presently exists in the field of free speech, would not be adversely affected in any way by the terms of this convention" replied, "I am satisfied, first, that they would not be and, second, that they could not be." [32] The American Civil Liberties Union saw no First Amendment problem.[33]

PUNISHMENT OF PERSONS

Those subject to punishment under the Convention are persons, whether "constitutionally responsible rulers, public officials or private individuals." [34] The Committee Report expresses the view that the Convention would have been stronger if it had been directed against governments as well as individuals but recognizes that "there exists no present means in international law to punish a government in power.[35] The obligation of a contracting party to punish "constitutionally responsible rulers" would be most likely to be invoked by a successor government.[36]

IMPLEMENTING LEGISLATION

Article V obligates the contracting parties "to enact, in accordance with their respective Constitutions," the necessary implementing legislation. It thus makes clear that the Convention is not self-executing. In the United States, it is the recommendation of the State Department, concurred in by the Foreign Relations Committee, that there be a declaration included in the resolution of ratification that the instrument of ratification not be deposited until after the implementing legislation has been enacted. The draft of such legislation was introduced in the 92nd and 94th Congresses (in the latter as S. 3155) and texts were sent to the chairmen of the Judiciary Committees of the two houses in the 95th Congress at the end of May, 1977.[37]

TRIAL OF OFFENDERS

Article VI providing that persons charged with offenses under the Convention "shall be tried by a competent tribunal of the State in the territory of which the act was committed or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction" was the subject of considerable discussion. The negotiating history of the first part of the Article made clear it was intended to impose an obligation on the State in whose territory acts of genocide had been committed and did not bar another State from trying before its own tribunals its nationals who had committed such acts outside the State.[38]

This legislative history would be recorded in a third understanding, which like the other two understandings discussed above, would be incorporated in the instrument of ratification. As recommended by the Foreign Relations Committee the understanding would state that the U.S. Government "understands and construes Article VI . . . in accordance with the agreed language of the report of the Legal Committee of the . . . General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State." [39]

While the United States does not generally exert jurisdiction over its nationals who have committed offenses outside its territorial jurisdiction, there is no constitutional or other bar to Congress asserting such jurisdiction based on the nationality principle of jurisdiction.[40]

As to the alternative provided by Article VI, no international penal tribunal exists at present.[41] The jurisdiction of the International Court of Justice extends only to States.[42] If such a tribunal were established, it would have jurisdiction over United States nationals under the terms of the Article itself only if the U.S. agreed to such jurisdiction by treaty or by statute expressing its consent.

EXTRADITION

Article VII provides that genocide shall not be considered a political crime for the purpose of extradition and that the parties pledge themselves to grant extradition in such cases "in accordance with their laws and treaties in force."

The Article is not itself an extradition treaty. Neither U.S. law nor any of the U.S. extradition treaties at present cover genocide.[43] The Convention would obligate the U.S. to include genocide as a covered offense in negotiating new, or revising existing, extradition treaties.[44] The U.S. would not be required to enter into new treaties or to modify existing ones but only to include genocide among the covered offenses when new treaties are made or existing ones modified.[45]

Considerable sensitivity was shown in the hearings to the possibility that American citizens might be extradited and subjected to trial for genocide before unsympathetic foreign tribunals which might not accord them the constitutional benefits and protections available to them in the U.S. The Committee Report quite correctly points out that the ratification of the Convention would merely open the way to adding one more crime—genocide—to the many crimes for which American citizens may already be extradited under existing extradition treaties.[46] However, in 1971 the Foreign Relations Committee rejected by only one vote a proposal that the Convention be ratified subject to a reservation prohibiting the extradition of a U.S. citizen accused of an offense under the Convention "unless the Secretary of State determines such person is guaranteed all the constitutional rights of an accused under our Federal laws." [47]

The sensitivity on this issue seems to have been met by including in the implementing legislation, which must be enacted before the President deposits the instrument of ratification, a provision that it is the sense of the Congress that the Secretary of State in negotiating extradition treaties reserve for the U.S. the right to refuse extradition of a United States national charged with genocide when the offense was committed outside the U.S. and "(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or (b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense." [48]

The legal capacity for meeting these requirements would be provided by another section of the implementing legislation, which would give the U.S. jurisdiction to try its nationals allegedly committing offenses under the Convention "within or without the United States." [49] and by the understanding with reference to Article VI, supra.

U.N. ROLE

Article VIII which empowers a contracting party to call upon the competent organs of the United Nations "to take such action under the Charter . . . as they consider appropriate for the prevention and suppression of acts of genocide . . ." seems to do little to increase the powers of the U.N. Genocide, involving mass murder on a broad scale, presumably not only violates the human rights provisions of the Charter but would normally involve a threat to the peace. As the Committee report points out, spurious propaganda charges alleging genocide in the United States can be made by our enemies whether or not the U.S. is a party to the Convention. Our failure to ratify in fact weakens the effectiveness of our replies. Any enforcement powers of the U.N. are in any case vested in the Security Council and thus subject to our veto.[50]

SETTLEMENT OF DISPUTES

Article IX provides that any contracting power may submit disputes with other parties "relating to the interpretation, application or fulfillment" of the Convention, including those relating to the responsibility of a State for genocide, to the International Court of Justice.

Concern was expressed by some witnesses as to the effect of this provision of the Connally Amendment by which the U.S. in purporting to accept the so-called optional clause providing for the compulsory jurisdiction of the Court stipulated its acceptance did not apply to "disputes with regard to matters which are essentially within the jurisdiction of the United States of America as determined by the United States of America." [51]

The Conally Amendment relates to action taken by the U.S. under Article 36(2) of the Court's Statute setting forth a procedure by which States may recognize as "compulsory *ipso facto* and without special agreement" the jurisdiction of the Court. The Convention's provision relates to Article 36(1) which defines the jurisdiction of the Court as comprising all cases which the parties refer to it and "all matters specially provided for in the Charter . . . or in treaties and conventions in force."

The provision in the Convention is not a new one in U.S. practice. The U.S. has become a party to many conventions providing for the reference to the World Court of disputes arising under such conventions, including the Japanese Peace Treaty, the Antarctic Treaty and the Statute of the International Atomic Energy Agency.[52]

A number of countries, notably the communist countries, have entered reservations to their ratifications stating that they do not

Footnotes at end of article.

consider themselves bound by Article IX. The U.S. in ratifying would probably reject such reservations and would not itself be bound to accept the jurisdiction of the Court in cases brought under the Convention by countries which have made such a reservation.[53]

Only States may bring cases before the Court, not individuals or groups. If a State should bring charges against the U.S. under the Convention and the U.S. should be found in default of its obligations, it should be noted the Court has no enforcement powers. The jurisdiction of the Court under Article IX is limited to determination whether a government, as an entity, has complied with its obligations under the Convention and not whether individuals have done so. There is no possibility of trials of individuals before the Court or of findings of individual responsibility. In the more than twenty-five years that it has been in force, no disputes under the Convention have been referred to the Court.[54]

CONCLUSION

Review of the legal issues presented by the important substantive articles of the Convention and of the experience of the more than twenty-five years during which the Convention has been in force demonstrates that the opposition has been motivated by legal misunderstandings, unfounded suspicion of the world outside the United States and an unrealistic fear of spurious but damaging legal attacks on American policies. Ratification of the Convention by the United States would have great symbolic value. Continued failure of this country, alone of the democratic powers, to ratify, at a time when its President is putting great emphasis on the protection of human rights everywhere, must inevitable weaken whatever influence in this area it might otherwise exert.

As this article was prepared, there were reports that there has been a tentative administration decision to put off action on the Convention so as not to give anti-Panama Treaty elements another issue with which to rally forces against the Administration.[55] At the same time it is reported that former Justice Arthur J. Goldberg will go to next month's East-West conference in Belgrade as chairman of the American delegation.[56] It is said his designation was meant to dramatize the Administration's commitment to human rights. It would be regrettable if the impact of this admirable appointment would be lost by failure to press ahead with ratification of the Genocide Convention, of which he has been one of the mightiest supporters.

FOOTNOTES

[1] Res. 260(III), 3 U.N. GAOR Part I (A/816), p. 174 (1949), 78 U.N.T.S. 277.

[2] The list of ratifications is conveniently accessible in Hearings on Ex. O., 81st Cong. 1st Sess. Before Senate Comm. on Foreign Relations, 95th Cong., 1st Sess. 96 (1977) (hereafter Hearings). The list includes all major nations except the People's Republic of China.

[3] Id. at 95.

[4] Statement by Senator Proxmire, id. at 5.

[5] Hearings on the Genocide Convention Before a Subcomm. of the Senate Comm. on Foreign Relations, 81st Cong., 2nd Sess. (1950); 91st Cong., 2d Sess. (1970); 92d Cong., 1st Sess. (1971); 95th Cong., 1st Sess. (1977).

[6] S. Exec. Rep. No. 94-23, 94th Cong., 2d. Sess. 4 (1976) (hereafter Report). This Report summarizes the congressional history of the Convention, 2-7.

[7] In his address to the U.N. on Mar. 17, 1977, President Carter in emphasizing his support of human rights stated "To demonstrate this commitment . . . I will work closely with our own Congress in seeking to support the ratification . . . of the United Nations Genocide Convention. Supra, n. 2 at 50.

[8] Message to the Senate Recommending Advice and Consent to Ratification of the Genocide Convention, May 23, 1977, 13 Pres. Docs. 802-3 (1977).

[9] See 1977 Hearings, supra n. 2, for text of resolution.

[10] Inter-American Convention on the Granting of Political Rights to Women, TIAS 8365 and Convention on the Political Rights of Women, TIAS 8289; 193 U.N.T.S., 135.

[11] Senator Proxmire stressed the importance of these positive developments in supra, n.9 at 7.

[12] The Committee comprises fifty-two national organizations "whose total membership is in the millions." Former Justice Arthur J. Goldberg who heads the Committee testified on its behalf at the 1977 Hearings. Id. at 61. Justice Goldberg stressed the desirability of prompt action to strengthen the position of the United States at the pending Belgrade Conference of the thirty-five signatories of the Helsinki Accord to review the implementation of the Accord by these signatories.

[13] Memorandum Concerning Reservations and Understandings to Treaties, Office of the Legal Adviser, Department of State, Mar. 22, 1971 in Report, supra n. 6 at 15-16. For the effect of various reservations both as to the States which object to such reservations and those which accept them, see Advisory Opinion on Reservations to the Convention on Genocide (1951) I.C.J. 15, the Vienna Convention on the Law of Treaties, opened for signature, May 23, 1969, Art. 2(1)(d) (signed but not ratified by the U.S.) and the discussion with specific reference to the problems which would arise if the U.S. understandings were considered to be reservations in Comment: The United States and the 1948 Genocide Convention, 16 Harvard Int'l. L.J. 683 et seq. (1975).

[14] Text of Convention in Report, supra. n. 6, Art. II.

[15] Report supra n. 6 at 6. The N.Y. Times, June 17, 1977, p. 11, col. 4, reported that American Indian militants belonging to the International Indian Treaty Council Intend to accuse the U.S. of violating the Convention. Such propagandistic use of the term "genocide" is not warranted by the Article II definition but can be expected to occur whether or not the U.S. ratifies.

[16] 120 Cong. Rec. 1259-60 (1974).

[17] 1977 Hearings, 93.

[18] Report, supra n. 6 at 6-7.

[19] Id.

[20] 1977 Hearings, 19-20.

[21] Art. I.

[22] Advisory Opinion on Reservations to the Convention on Genocide, (1951) I.C.J. at 23. Genocide had been declared "a crime under international law which the civilized world condemns" by a General Assembly resolution in 1946. U.N. GAOR Res. 96(I), U.N. Doc. A/231 (1946).

[23] See Phillips and Deutsch, Pitfalls of the Genocide Convention, 56 A.B.A.J. 641-46 (1970); Raymond, "Genocide: An Unconstitutional Human Rights Convention?" 12 Santa Clara Lawyer 294-318 (1972); Schmidhauser and Berg, The American Bar Association and the Human Rights Conventions: The Political Significance of Private Professional Associations, 38 Social Research 362-410 (1968); and materials collected in Sohn and Buergenthal, International Protection of Human Rights (1973) 913 et seq.

[24] U.S.T. 2989; TIAS 4900; 327 U.N.T.S. 3.

[25] TS 778; 2 Bevans 607; U.N.T.S. 253.

[26] 18 U.S.T. 1407; TIAS 6298; 520 U.N.T.S 204.

[27] 1 Bevans 89, 112, 114.

[28] TIAS, 3948, 5558, 6774, 8368; 314 U.N.T.S. 105, 494 U.N.T.S. 303, 719 U.N.T.S. 313.

[29] Report, supra n. 6 at 5.

[30] President's Commission for the Observance of Human Rights Year 1968. A Report in Support of the Treaty-making Power of the United States in Human Rights Matters (1969) printed in full in 1977 Hearings, 139-154. See Also Henkin, Foreign Affairs and the Constitution 129-71 (1972). Goldberg and Gardner, 58 A.B.A.J. 141 (1972) reprinted in 1977 Hearings, 67-73. The Committee's conclusion seems fully in accord with Reid v. Covert, 354 U.S. 1 (1957).

[31] 395 U.S. 444 (1969).

[32] Report, supra, N. 6, at 7-8.

[33] Id. at 8.

[34] Art. IV.

[35] Report, supra, n. 6 at 8.

[36] Id.

[37] Introduced as H7986 by Representatives Rodino and Zablocki. The text, which would add Chapter 50A—Genocide to title 18 of the United States Code, appears, with a sectional analysis, in 1977 Hearings, 19-22.

[38] Report of the Sixth Committee—U.N. Doc. A/760 and Corr. 2 (3 December 1948) quoted in Report, supra n.6 at 10.

[39] Report, supra n.6 at 9.

[40] United States v. Bowman, 260 U.S. 94, 96102 (1922); Restatement (Second), Foreign Relations of the United States, sec. 30.

[41] For discussion of various proposals for an international criminal court, see Dautricourt, The International Criminal Court, in Bassiouni and Nanda, 1 International Criminal Law 636 et seq. (1973).

[42] I.C.J. Stat. art. 35, para. 1.

[43] Report, supra n.6 at 41. Statement by Herbert J. Hansel, Legal Adviser of the State Department in 1977 Hearings, 40.

[44] Statement by Legal Adviser, 1977 Hearings, 40.

[45] Id.

[46] Report, supra, n.6 at 11.

[47] Id., 11-12.

[48] Sec. 3 of draft act in 1977 Hearings, 20. The analysis points out that sec. 3(b) is as a matter of policy at present included in all extradition treaties. Id at 22.

[49] Sec. 1092(a), 1977 Hearings, 20.

[50] Report, supra n.6 at 12.

[51] Id. at 13. All administrations beginning with that of President Truman have called for repeal of the Connally Amendment. See this writer's A New Role for the World Court, N.Y.L.J., June 8, 1977, p. 1, col. 1.

[52] A list is provided in 1970 Hearings, supra n. 5, at 215.

[53] Supra, n. 51. 1977 Hearings, 37-38.

[54] Id.

[55] N.Y. Times, Sept. 7, 1977, p. A17, col. 4.

[56] Id., Sept. 8, 1977, p. A7, col. 1.

TRIBUTE TO SENATOR HAYAKAWA'S MOTHER

Mr. GARN. Mr. President, in a recent newspaper column, our distinguished colleague from the State of California, Senator HAYAKAWA, paid tribute to his mother on her 93d birthday. His article is a loving vignette, touching in its insights and moving in its simple affection.

I am sure that the entire Senate joins Senator HAYAKAWA in wishing a happy 93d birthday to his mother. After all, we have a special reason to acknowledge her; for we have her to thank for the presence among us of one of our most inventive, articulate, and refreshing Members.

I ask unanimous consent, Mr. President, that Senator HAYAKAWA's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

HAPPY BIRTHDAY TO A GREAT LADY

(By U.S. Senator S. I. HAYAKAWA)

This past month, my mother celebrated her 93rd birthday in Yamanashi City, Japan. She is a tiny, impressive, dignified lady of a previous era.

Mother's health is good and her mind is sound. She enjoys tending the garden, going

to flower shows and practicing the Christian faith she embraced as a high school girl (at a time when few girls in Japan or in the United States went to high school at all). She reads, and watches a good deal of television—happily, Japanese television draws much from history and national culture, and these Mother has always appreciated. She understands some English, especially when spoken to her by her non-Japanese-speaking children like me. But she has never learned to speak more than a few words.

In a sense, the years that have brought Mother to this age have also brought her back to the kind of life which would have seemed to have been in store for her.

She was born in 1884, the daughter of a physician. Her father was a pioneer in introducing Western medicine to Japan, and was held in high respect by all.

My father was the son of a rural landowner and not in any way the social equal of Mother's family. But education counts a great deal in Japan, and Father had excelled in high school and had learned English and had been to the United States to study and work. So, my maternal grandfather consented to unite his daughter with what seemed to be a promising young man indeed. The marriage was to last 71 years (Father died last year at 91).

Father took his bride to Vancouver, British Columbia, and the following year, 1906, I was born, the eldest of a family of two sons and two daughters.

It wasn't easy for Mother in Canada. Accustomed to a house filled with servants, she had to adjust to a much humbler life, first in a rooming-house, then on a small farm in British Columbia. She had to learn housekeeping and the British-Canadian ways of keeping house and providing a table. I remember during my childhood that Father always regarded Mother's cooking as good enough for weekdays but he'd take over on Sundays because he had had experience as a houseboy in San Francisco.

There were few other Japanese families in Vancouver then, and none at all in the other places where we lived in those years—Cranbrook, Raymond, Calgary, ultimately Winnipeg. Unable to speak English and with Father beginning to travel as he ventured during the First World War into an import-export business, Mother spent most of her time at home with the children. She used to tell us stories about the Russo-Japanese War. She read us Japanese fairy tales.

But she was often lonely. She read a lot of magazines. I didn't know until long afterward that they were rather highbrow magazines—the Japanese equivalents of Harper's and Atlantic Monthly. One day her parents sent to her from Japan a koto, a stringed musical instrument. Playing a koto is a ladylike accomplishment in Japan. I remember when it arrived it reminded her of all that she had left behind. She tried it out, and wept. Ultimately my brother and I played with the thing as a big toy.

But I remember also very vividly that Mother always asked and always listened with great interest to what we were learning in school. We worked out between us a mixture of English and Japanese. As I grew older and tried to explain abstract ideas, communication became more complicated, but we managed, using our peculair language.

It occurred to me long after I had become a writer to ask myself: Why is it that I don't feel I have understood a difficult theory until I can write it in a way that everyone can understand; I suddenly knew. In a very real way, I'm still explaining things to my mother.

As the children grew up, Mother got out more and made friends, especially in Methodist Church circles in Winnipeg. She was such a lady that she seems to have made a deep impression on people despite her halting English.

Father and Mother returned to Japan when I was still in college, and over the years there have been long separations between us. But we have never forgotten how to talk to each other. Mother is, in fact, the only person with whom I can speak Japanese without self-consciousness.

Mother never doubted for a moment that I would go to college and pursue scholarly interests. When I became a writer, Father and Mother were equally delighted. To Father, who had wanted to be a poet at one time, I realized some of his unfulfilled dreams. To Mother, the fact that I had become a writer and professor was a fulfillment of the dream she had on the farm in the old days in Canada, when she quizzed me about my studies.

It was a dream she carried confidently during the long separations when our only communications were by mail—and during the Second World War, when there was no communication at all. It was a dream as natural to Mother as the fact that, once back in Japan, she went back to her cultural pursuits—art and calligraphy and tea ceremony. And during the decades when Japanese women were taking to Western dress, she went back to the Kimono—for keeps.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Barry E. Teague, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years vice Ira De Ment, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, September 29, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Harvey N. Johnson, Jr., of Illinois, to be U.S. marshall for the northern district of Illinois for the term of 4 years vice John J. Twomey, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, September 29, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

TIME-LIMITATION AGREEMENT—S. 1585

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 398, S. 1585, the child pornography bill, is called up and made the pending business before the Senate, there be a time agreement on that bill of 2 hours to be equally divided between Mr. EASTLAND and Mr. THURMOND, or their designees, that there be a time limitation on any amendment of 30 minutes, that there be a time limitation on an amendment by Mr. ROTH of 1 hour, that there be a time limitation on any amendment in the second degree, debatable motion, appeal, or point of order, if such is submitted to the Senate, of 20 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, may I ask the majority leader, did he say Calendar No. 398?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished minority whip and the distinguished Senator from South Carolina (Mr. THURMOND) be recognized for not to exceed 5 minutes on another matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' BENEFITS REVIEW

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1307.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendments of the House of Representatives to the bill (S. 1307) to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes.

(The amendments of the House are printed in the House proceedings of the RECORD of September 12, 1977).

Mr. CRANSTON. Mr. President, last night the Senate passed a compromise version of S. 1307, an act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes, in which the other body has today concurred, sending the bill to the President.

I would like to speak today in further explanation of the compromise measure worked out with the House Committee on Veterans' Affairs.

BACKGROUND

On June 23, 1977, the Committee on Veterans' Affairs unanimously voted to

report favorably, and on June 28, I reported, S. 1307 with a committee amendment and a title amendment.

On September 9, 1977, the Senate, by a vote of 87 to 2, passed S. 1307 with a committee modification which reflected changes made primarily to try to take into account certain objections which the White House had to the reported bill. On September 12, 1977, the House of Representatives passed S. 1307 with a substitute amendment, embodying the text of H.R. 8698 as reported by the House committee.

Mr. President, over the past 2 weeks we have engaged in extensive negotiations with the Committee on Veterans' Affairs of the other body and reached a compromise agreement which I believe fairly balances the concerns of the two Houses in areas where there were differences.

MODIFICATIONS TO HOUSE AMENDMENTS

Mr. President, there were two provisions in the House amendment which, although they have been substantially modified in the compromise measure, I would have preferred not to be included in this legislation. The first such provision would have defined the term "deserter," as it is used in the bar-to-benefits section 3103 of title 38, United States Code, to include any person who was absent without authority for a continuous period of at least 180 days. The second provision would have had the effect of rendering Discharge Review Board upgrading decisions ineffective for purposes of removing a bar to benefits.

In negotiations regarding this legislation, we were able to make the following major changes in the proposed new bar to benefits. First, this provision no longer artificially defines as a "deserter" a person who has been absent without authority for 180 or more days continuously. Rather, the compromise language includes no characterization of such person as a deserter with regard to this provision. Second, instead of an absolute bar, under which the individual would have had no opportunity to assert that there were mitigating factors, such as the overall quality of his or her entire military record, the reasons which caused him or her to be absent without authority, or subsequent laudatory behavior—the compromise provides for a conditional bar. Thus, an individual discharged on the basis of such prolonged absence is afforded the opportunity to demonstrate, to the satisfaction of the Administrator that there are sufficient mitigating circumstances for the granting of veterans' benefits. Third, whereas the House amendment would have made the bar applicable to veterans who were at the time of discharge, awarded discharges under honorable conditions, that is, with honorable or general discharges, the compromise provision makes the conditional bar applicable only to those who were discharged under other than honorable conditions.

The compromise measure thus preserves the right of the military to determine, at least initially, the character of the individual's service for purposes of veterans' benefits, and will spare those issued honorable and general discharges the delay, expense, effort, and anxiety involved in applying for a determination from the Administrator that the new conditional bar should not be applied to them in situations where the discharging military authority had already deemed their service honorable.

Mr. President, the compromise agreement modifies in one further important respect the new conditional bar provision and the provision eliminating the effect of Discharge Review Board upgradings in cases where the individual was initially given a discharge under circumstances constituting a bar to benefits. The House amendments called for the retroactive application of both these provisions. Broad retroactive application of these provisions, however, would have been extremely disruptive and difficult to implement. It would have meant that all those who had previously obtained upgradings of discharges which, as originally issued, would have come within one of the bars would have lost their existing entitlement to benefits. It would also have meant a similar loss of existing entitlement and a need to seek a further favorable administrative action for all those who had previously received upgrading from military boards or favorable character-of-discharge determinations from the VA with respect to discharges within the scope of the new conditional bar—for prolonged absence. Retroactive application of these provisions would thus have overturned the reasonable, justified expectations, based on often long-settled determinations, of the great numbers of veterans in those categories who have, over the years, obtained general eligibility for benefits, such as compensation for service-connected disabilities and health care.

Moreover, Mr. President, retroactivity would have imposed upon the VA the virtually impossible task of reviewing all its current benefit-recipient files to try to find all those who—despite the fact that the circumstances under which their discharges were initially issued brings them within one of the statutory bars—have become entitled to benefits through subsequent administrative action. Without an exhaustive, legally sophisticated, manual search of literally millions of files and the immediate termination of benefits in all cases in which a section 3103 bar, including the proposed bar for discharges for prolonged absences, would have applied, the VA would have been making illegal benefit payments to many veterans. Such a process would have been an administrative "nightmare" and would have been enormously costly.

Under the compromise agreement, the provision eliminating the effectiveness of the Discharge Review Board upgradings in avoiding a bar to benefits and the provision creating a conditional bar to benefits based on prolonged absence apply prospectively only, except that they apply to persons who have been awarded upgradings of their discharges under special programs and persons who, prior to the date of enactment, had not become generally eligible for benefits by virtue of such processes as discharge upgrading and VA character-of-discharge determinations.

Thus, by applying these bar provisions prospectively only, major unfairness to veterans with established entitlement to benefits and massive administrative burdens will be avoided.

"SECOND" DETERMINATIONS

Mr. President, in addition, the bill as passed by the Senate had required the Discharge Review Boards to make the "second" determinations, which persons who received upgraded discharges under other than honorable conditions through the Carter and Ford special programs must obtain as a precondition to entitlement to benefits, in only a limited number of cases—those cases in which the individual has received or applied for benefits or has made a request that such a determination be made. The House amendment included a provision which would have required Discharge Review Boards to make such second determinations immediately after the date of enactment in all cases. An identical provision had been included in the bill reported from committee in the Senate. The administration strongly objects to the requirement of mandatory review in all such cases; and we attempted to retain the discretionary aspect of the Senate-passed bill in this regard—which we had negotiated with the White House between the time of reporting and the time of passage—or, in the alternative, to allow the boards 3 years to make these determinations. However, the House committee felt very strongly, in the interest of fairness to these individuals and of making these determinations on "fresh" records, that the determinations should be made promptly in all cases. Thus, the compromise agreement requires that all second determinations be made no later than 1 year after the date of enactment in all cases. This was the last issue to be resolved in our negotiations.

SENATE PROVISIONS RETAINED

PRESERVING ELIGIBILITY FOR PRESENT VA BENEFICIARIES

Mr. President, in addition to obtaining agreement that the provisions regarding statutory bars-to-benefits generally have prospective application, we have retained the provision giving persons receiving benefits on the date of enactment the benefit of the doubt by providing that such benefits shall continue until such time as a final determination is made that the person would not have been upgraded under discharge review standards for general applicability. Such determinations must, however, be finalized within 90 days after a preliminary adverse determination is made, and the whole "second" determination process must be completed within 180 days of enactment.

HEALTH CARE ENTITLEMENT FOR SERVICE-CONNECTED DISABILITIES OF THOSE WITH UNDESIRABLE DISCHARGES

Mr. President, I am especially pleased that the provision granting entitlement to health care for service-connected disabilities to persons with undesirable discharges contains the Senate language regarding the scope of this provision. The House amendment would have greatly restricted the types of injuries and illnesses covered by limiting them to those incurred or aggravated during the performance of military duty, that is,

apparently, those that occurred during official duty hours. One change was made in the health care provision; whereas, the Senate-passed version would have made the furnishing of health care under this provision discretionary with the Administrator of Veterans' Affairs, the compromise measure includes the House approach making this benefit a nondiscretionary entitlement. I think this was a definite improvement.

NEW UNIFORM DISCHARGE REVIEW REQUIREMENTS

Finally, the compromise measure requires, as did the Senate-passed version, the establishment of a discharge review program employing the newly required uniform standards and requires that, for at least 1 year, the program be open to all former military personnel from all service periods regardless of the requirement in current law—section 1553(a) of title 10, United States Code—that limits discharge-review proceedings to discharges granted no more than 15 years prior to a request or motion for review.

SUMMARY OF PROVISIONS OF S. 1307 COMPROMISE AGREEMENT

Mr. President, I would now like to outline in greater detail for my colleagues the provisions of the compromise agreement reached with the other body.

Mr. President, the provisions of the compromise agreement on S. 1307 may be summarized as follows:

NEW UNIFORM DISCHARGE REVIEW REQUIREMENTS

The measure would establish certain requirements for the granting of veterans' benefits as a result of the upgrading of administrative discharges under other than honorable conditions. Under these requirements, a discharge upgraded by a service Discharge Review Board would cerate an entitlement to benefits only if the upgrading was based on a case-by-case review of all the evidence and factors in the case, under published uniform standards and procedures generally applicable to all persons administratively discharged from active duty service. In addition, discharge review standards must, for purposes of veterans' benefits, be historically consistent with criteria of determining honorable service and may not, as did the Carter special discharge review program, include any criterion for automatically granting or denying an upgrading. These new requirements would be applicable to all future upgradings by Discharge Review Boards of administrative discharges under other than honorable conditions in order for such upgradings to carry with them entitlement to benefits.

Under current law, Discharge Review Boards can consider for upgrading only those discharges issued within 15 years of an application or motion for review. This measure waives that limitation, for a period of at least 1 year after the publication of the new discharge review standards and procedures, to permit former military personnel with administrative discharges under other than honorable conditions to apply for upgrading under the new standards despite the fact that they were issued their discharges more than 15 years earlier.

EFFECT ON SPECIAL DISCHARGE REVIEW PROGRAMS

Mr. President, the measure would also preclude the granting of veterans' benefits on the basis of discharge upgradings awarded under, first, President Ford's January 19, 1977, program for certain persons who had applied under his earlier clemency program, second, the Defense Department's April 5, 1977, special discharge review program, and third, any subsequent program employing these kinds of revised standards not generally applicable to all persons with administrative discharges under other than honorable conditions. While allowing veterans to keep whatever upgraded discharge paper they receive or have received under any such special program, the compromise legislation would provide for the granting of veterans' benefits in any such case only upon a second determination by the Discharge Review Board concerned, a determination that the individual would have been granted an upgrading under standards meeting the new discharge review requirements discussed above.

SECOND DETERMINATIONS

In the case of a person whose administrative discharge under other than honorable conditions—undesirable or clemency discharge—has been upgraded under a special program and who is receiving benefits on the date of enactment, the legislation provides that the appropriate Discharge Review Board must make a determination on its own initiative and on an expedited basis as to whether the individual would have been granted an upgrading under the new standards applicable to all persons with administrative discharges under other than honorable conditions, and if the board's preliminary determination is unfavorable—that is, if the board, upon reviewing the case record, determines that it would not have granted an upgrading under the new, generally applicable standards—the individual is to be so notified in writing and given the right to personal appearance prior to the making of a final determination. In such cases of persons receiving benefits on the date of enactment, the provision of benefits is not to be terminated during the pendency of a final second determination unless 90 days have expired since the making of a preliminary determination or 180 days have expired since the enactment date, whichever is the earlier. If a favorable determination is made, the individual's right to benefits is established and he or she, of course, keeps the benefits received prior to that determination. Even when the final determination, after personal appearance, is not favorable to the individual, the individual would not be required to repay the value of benefits received prior to the making of the unfavorable determination, or the expiration of 90 days after an unfavorable preliminary determination or 180 days after enactment, whichever is the earliest.

These second determinations would also be made on an expedited basis in the cases of those who received benefits prior to the date of enactment as a result of a special program upgrading and those who make a written request for such a determination.

To facilitate the making of second determinations on an expedited basis when the individual has received or applied for benefits, the VA is required to notify the appropriate board of review, as soon as administratively feasible, of any such application for or receipt of benefits.

In all other cases in which the individual would, in the absence of this legislation, be entitled to veterans' benefits as a result of upgrading under a special program, the determination would be made on the board's own initiative and within 1 year from the date of enactment.

In the event of any upgrading of administrative discharges under other than honorable conditions under a special program after the date of enactment—occasioned by any delay in the administrative establishment of a new uniform program meeting the new requirements—the second determination as to whether the discharge would be upgraded under the new requirements must be made at the time the upgraded discharge is awarded.

NOTICE AND HEARING PROCEDURES

The legislation would also require the Secretary of Defense to fully inform each person administratively discharged under conditions other than honorable whose discharge is upgraded under a special program of his or her right to obtain an expedited second determination and of the implications of the provisions of this legislation for him or her.

BAR TO BENEFITS

REVIEW BOARD ACTION NOT EFFECTIVE TO REMOVE BARS

Mr. President, this measure also provides that, when an individual has been discharged or released from active duty on grounds which constitute a bar to veterans' benefits under current law; for example, discharge by order of a general court martial and discharge as a deserter, no subsequent action of a Discharge Review Board will have the effect of avoiding the bar to benefits. Thus, an upgrading of a discharge by a Discharge Review Board would not remove the bar. This provision reverses the present VA interpretation of current law. Recourse to a Board for Correction of Military Records, however, would continue to be available to remove such a bar.

PROLONGED ABSENCES

In addition, this legislation would create a new conditional statutory bar to benefits—applicable to persons who were absent without authority from active duty for a continuous period of 180 days or more if the individual was discharged under conditions other than honorable. Individuals as to whom this bar might apply, however, are to be afforded the opportunity to demonstrate to the Administrator that there are compelling reasons to warrant such prolonged unauthorized absence. If the Administrator is satisfied that such compelling reasons exist, the bar does not apply.

LIMITED RETROACTIVE APPLICATION

The provisions eliminating the effectiveness of the Discharge Review Board upgradings in avoiding a bar to benefits

and creating a new bar to benefits based on prolonged absence apply prospectively only, except that they apply to persons who have been awarded upgradings of their discharges under special programs and persons who, prior to the date of enactment, had not become generally eligible for benefits by virtue of such processes as discharge upgrading and VA character of discharge determinations. Thus, for example, when a person was administratively discharged under conditions other than honorable on the grounds of a continuous unauthorized absence of 180 days or more and his or her discharge was upgraded under generally applicable standards—that is, outside a special program—before the date of enactment, he or she would be entitled to veterans' benefits without regard to these provisions. The new conditional bar would apply, however, in connection with the required second determination to a person discharged under identical circumstances whose discharge was upgraded under a special program. This bar provision would also apply to a person so discharged, before or after the date of enactment, who, after the date of enactment, receives from a Discharge Review Board an upgrading of a discharge under other than honorable conditions.

NOTIFICATION OF ALTERNATIVE REMEDIES

To insure that persons affected by the new conditional bar, as well as anyone who might be affected by any existing bar to benefits under section 3103(a) of title 38, who apply to a Discharge Review Board for an upgrading of their discharges are made aware of the effects of the new provisions, the legislation requires the Secretary of Defense to advise such persons that they might possibly be administratively found to be entitled to veterans' benefits only through the action of a Board for Correction of Military Records or the action of the Administrator of Veterans' Affairs. The Secretary must also advise such persons of the procedures for making application to a Board for Correction of Military Records and the Administrator for such purposes and of their right concurrently to pursue their remedies before a Discharge Review Board, for discharge upgrading, a Board for Correction of Military Records, and the Administrator.

SPECIAL VA CHARACTER-OF-DISCHARGE STANDARDS PRECLUDED

Mr. President, this measure would also preclude the Administrator of Veterans' Affairs, in replacing, revising, or amending regulations governing the standards and procedures by which the Veterans' Administration determines whether an individual with a less than honorable discharge was discharged "under conditions other than dishonorable"—which decision, if favorable, entitles the individual to veterans' benefits—from giving any special advantages, through character of discharge regulations, to veterans who may have received upgraded discharges under a special program.

HEALTH CARE ENTITLEMENT FOR PERSONS WITH UNDESIRABLE DISCHARGES

Mr. President, a further provision would grant an entitlement, for certain persons with discharges under other than honorable conditions, to health care and related benefits—of the type generally authorized for persons with discharges under honorable conditions—for any disability incurred or aggravated during active-duty service in line of duty. The beneficiaries of the new entitlement would be persons administratively discharged under conditions other than honorable who have disabilities incurred or aggravated during active duty service in line of duty, but not including persons barred from receiving benefits by section 3103(a) of title 38. Disabilities incurred or aggravated during a period of service from which the individual was discharged by reason of a bad conduct discharge are also excluded from this entitlement.

BENEFITS ELIGIBILITY AFTER RE-UPPING

Finally, a provision identical to section 302(a) of H.R. 5027 as passed by the Senate on September 9, 1977, regarding "re-upping," eliminates a clear inequity in the law regarding eligibility for veterans' benefits under certain circumstances when an individual, before completing a period of service, agrees to extend his or her period of service. This provision expands the definition of the term "discharge or release"' in section 101(18) of title 38, United States Code, in order to assure eligibility for veterans' benefits to one who has satisfactorily completed a period of service when he or she has not received a discharge or release at the completion of that period because of having agreed to extended active-duty service.

CONCLUSION

Mr. President, while the compromise legislation is not exactly the same as that passed by the Senate, I believe that it is substantially faithful to the policy and approach reflected in the Senate-passed version.

Before closing, I want to call special attention to the fact that the bill requires the establishment of new uniform discharge review standards and procedures and the entertaining of discharge applications from those discharged more than 15 years ago. It is extremely important that the Administration prepare the new uniform standards and procedures and implement them shortly after the enactment of this measure. Otherwise, there would be a most unfortunate hiatus in the activities of the discharge review boards that would seriously prejudice those whose applications for review are pending or who wish to apply for upgrading in the future in order to obtain benefits eligibility, and those who, having received upgraded discharges under the Ford and Carter special programs, must now have their cases reviewed again to determine their eligibility for benefits.

Mr. President, in conclusion, I wish to pay special tribute to the outstanding cooperative efforts through this long process of the Senator from South Carolina (Mr. THURMOND) and the Senator from Vermont (Mr. STAFFORD), the ranking minority member of the committee. Senator THURMOND originally introduced this measure and has been the principal driving force behind it. His cooperation, courtesy, and openmindedness have been indispensable to the ultimate resolution of this legislation. I have greatly enjoyed the experience of working so closely with the able Senator from South Carolina and his able counsel, Gary Crawford, as well as with our distinguished ranking minority member, the Senator from Vermont and the minority counsel of the committee, Garner Shriver.

In addition, I wish to compliment the chief counsel of the House Committee on Veterans' Affairs, Mack Fleming, and the minority counsel, John Holden, and the assistant minority counsel, James Webb, and thank them for their excellent work and cooperation in resolving the matters of disagreement between the Senate-passed bill and the House amendment.

Mr. THURMOND. Mr. President, final passage of this measure, which I introduced on April 19, has been long in coming.

The number of meetings, conferences, hearings, and debates, in both the House and Senate, on this difficult and controversial issue has been numerous. However, the product which is now before the Senate is refined and complete and is one which bears witness to the validity and viability of our legislative process.

Much credit for the fashioning and final passage of this legislation belongs to the distinguished chairman of the Senate Veterans' Affairs Committee, Senator CRANSTON and his capable staff. In particular, I should like to recognize and commend the contributions of Jonathan Steinberg and Ed Scott, chief counsel and general counsel to the full committee. On the minority side, Garner Shriver, the minority counsel, and Gary Crawford, the assistant minority counsel, also played important roles in the common effort to formulate a meaningful legislative response to the problem of veterans' entitlements within the context of the special discharge review program of the administration.

Mr. President, S. 1307 is evenhanded and fair. It defends the dignity and honor of those who have served their country honorably and offers an equitable procedure for determining eligibility for veterans' entitlements to those who have served in any of the wars in which our country has been involved. This legislation reaffirms the principle that veterans' benefits should be awarded to those who faithfully served their country, and not to deserters. I urge that this measure receive the full support of my colleagues.

Mr. CRANSTON. Mr. President, I move that the Senate agree to the amendment of the House to the text of the bill (S. 1307) to require a case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes, with an amendment.

UP AMENDMENT NO. 843

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 843:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That (a) section 3103 of title 38, United States Code, is amended by—

(1) inserting "or on the basis of an absence without authority from active duty for a continuous period of at least 180 days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence," after "deserter," in subsection (a), and by inserting a comma and "notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10" before the period at the end of such subsection; and

(2) adding at the end of such section the following new subsection:

"(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Veterans' Administration shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

"(2) Notwithstanding any other provision of law—

"(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

"(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person for such determination, (ii) on its own initiative within one year after the date of enactment of this paragraph in any case where a general or honorable discharge has been awarded on or prior to the date of enactment of this paragraph under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after such enactment date.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of his or her right to such appearance. The Administrator shall, so soon as administratively feasible, notify the appropriate board of review of the receipt of benefits under laws administered by the Veterans' Administration, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A) (i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.".

(b)(1) The Secretary of Defense shall fully inform each person awarded a general or honorable discharge under revised standards for the review of discharges referred to in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by subsection (a)(2) of this section, of his or her right to obtain an expedited determination under section 3103(e)(2)(B)(i) of such title and of the implications of the provisions of this Act for each such person.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall inform each person who applies to a board of review under section 1553 of title 10, United States Code, and who appears to have been discharged under circumstances which might constitute a bar to benefits under section 3103(a) of title 38, United States Code, (A) that such person might possibly be administratively found to be entitled to benefits under laws administered by the Veterans' Administration only through the action of a board for the correction of military records under section 1552 of such title 10 or the action of the Administrator of Veterans' Affairs under section 3103 of such title 38, and (B) of the procedures for making application to such section 1552 board for such purposes and to the Administrator of Veterans' Affairs for such purpose (including the right to proceed concurrently under such sections 3103, 1552, and 1553).

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103(a) of such title, but shall not provide such health care and related benefits pursuant to this section for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.

SEC. 3. Paragraph (18) of section 101 of title 38, United States Code, is amended to read as follows:

"(18) The term 'discharge or release' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.".

SEC. 4. In promulgating, or making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, the Administrator of Veterans' Affairs shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans awarded general or honorable discharge under revised standards for the review of discharges described in section 3103(e)(2)(A) (i), (ii), or (iii) of title 38, United States Code, as added by section 1(a)(2) of this Act, or (2) otherwise making any special distinction between such veterans and other veterans.

SEC. 5. This Act shall become effective on the date of its enactment, except that—

(1) section 2 shall become effective on October 1, 1977, or on such enactment date, whichever is later; and

(2) the amendments made by section 1(a) shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, except that, notwithstanding any other provision of law—

(A) with respect to any person, who, on such enactment date is receiving benefits under laws administered by the Veterans' Administration, (i) such benefits shall not be terminated under paragraph (2) of section 3103(e) of title 38, United States Code, as added by section 1(a)(2) of this Act, until (I) the day on which a final determination not favorable to the person concerned is made on an expedited basis under paragraph (2) of such section 3103(e), (II) the day following the expiration of 90 days after a preliminary determination not favorable to such person is made under such paragraph, or (III) the day following the expiration of 180 days after such enactment date, whichever day is the earliest, and (ii) the United States shall not make any claim to recover the value of any benefits provided to such person prior to such earliest day;

(B) with respect to any person awarded a general or honorable discharge under revised standards for the review of discharges referred to in clause (A) (i), (ii), or (iii) of such paragraph who has been provided any such benefits prior to such enactment date, the United States shall not make any claim to recover the value of any benefits so provided; and

(C) the amendments made by clause (1) of section 1(a) shall apply (i) retroactively only to persons awarded general or honorable discharges under such revised standards and to persons who, prior to the date of enactment of this Act, had not attained general eligibility for such benefits by virtue of (I) a change in or new issuance of a discharge under section 1553 of title 10, United States Code, or (II) any other provision of law, and (ii) prospectively (on and after such enactment date) to all other persons.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the bill.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

S. 1307—SUMMARY OF COMPROMISE AGREEMENT PROVISIONS

The provisions of the compromise agreement on S. 1307 may be summarized as follows:

NEW UNIFORM DISCHARGE REVIEW REQUIREMENTS

The measure would establish certain requirements for the granting of veterans' benefits as a result of the upgrading of administrative discharges under other than honorable conditions. Under these requirements, a discharge upgraded by a service Discharge Review Board would create an entitlement to benefits only if the upgrading was based on a case-by-case review of all the evidence and factors in the case, under published uniform standards and procedures generally applicable to all persons administratively discharged from active-duty service. In addition, discharge-review standards must, for purposes of veterans' benefits, be historically consistent with criteria for determining honorable service and may not (as did the Carter Special Discharge Review Program) include any criterion for automatically granting or denying an upgrading. These new requirements would be applicable to all future upgradings by Discharge Review Boards of administrative discharges under other than honorable conditions in order for such upgradings to carry with them entitlement to benefits.

EFFECT ON SPECIAL DISCHARGE REVIEW PROGRAMS

The measure would also preclude the granting of veterans' benefits on the basis of discharge upgradings awarded under (a) President Ford's January 19, 1977, program for certain persons who had applied under his earlier Clemency Program, (b) the Defense Department's April 5, 1977, Special Discharge Review Program, and (c) any subsequent program employing these kinds of revised standards not generally applicable to all persons with administrative discharges under other than honorable conditions. While allowing veterans to keep whatever upgraded discharge "paper" they receive or have received under any such 'special" program, the compromise legislation would provide for the granting of veterans' benefits in any such case only upon a "second" determination by the Discharge Review Board concerned—a determination that the individual would have been granted an upgrading under standards meeting the new discharge-review requirements discussed above.

"Second" determinations

In the case of a person whose administrative discharge under other than honorable conditions (Undesirable or Clemency Discharge) has been upgraded under a "Special" program and who is receiving benefits on the date of enactment, the legislation provides that the appropriate Discharge Review Board must make a determination on its own initiative and on an expedited basis as to whether the individual would have been granted an upgrading under the new standards applicable to all persons with administrative discharges under other than honorable conditions, and (b) if the board's preliminary determination is unfavorable (that is, if the board, upon reviewing the case record, determines that it would not have granted an upgrading under the new, generally applicable standards), the individual is to be so notified in writing and given the right to personal appearance prior to the making of a final determination. In such cases of persons receiving benefits on the date of enactment, the provision of benefits is not to be terminated during the pendency of a final "second" determination unless 90 days have expired since the making of a preliminary determination or 180 days have expired since the enactment date, whichever is the earlier. If a favorable determination is made, the individual's right to benefits is established and he or she, of course, keeps the benefits received prior to that determination. Even when the final determination (after personal appearance) is not favorable to the individual, the individual would not be required to repay the value of benefits received prior to the making of the unfavorable determination, or the expiration of 90 days after an unfavorable preliminary determination or 180 days after enactment, which ever is the earliest.

These "second" determinations would also be made on an expedited basis in the cases of those who received benefits prior to the date of enactment as a result of a special program upgrading and those who make a written request for such a determination.

To facilitate the making of "second" determinations on an expedited basis when the individual has received or applied for benefits, the VA is required to notify the appropriate board of review, as soon as administratively feasible, of any such application for or receipt of benefits.

In all other cases in which the individual would, in the absence of this legislation, be entitled to veterans' benefits as a result of upgrading under a special program, the determination would be made on the board's own initiative and within one year from the date of enactment.

In the event of any upgrading of administrative discharges under other than honorable conditions under a special program after the date of enactment (occasioned by any delay in the administrative establishment of a new uniform program meeting the new requirements), the "second" determination (as to whether the discharge would be upgraded under the new requirements) must be made at the time the upgraded discharge is awarded.

Notice and hearing procedures

The legislation would also require the Secretary of Defense to fully inform each person administratively discharged under conditions other than honorable whose discharge is upgraded under a special program of his or her right to obtain an expedited "second" determination and of the implications of the provisions of this legislation for him or her.

BAR TO BENEFITS

Review Board action not effective to remove bars

This measure also provides that, when an individual has been discharged or released from active duty on grounds which constitute a bar to veterans' benefits under current law (for example, discharge by order of a general court-martial and discharge as a deserter), no subsequent action of a Discharge Review Board will have the effect of avoiding the bar to benefits. Thus, an upgrading of a discharge by a Discharge Review Board would not remove the bar. This provision reverses the present VA interpretation of current law. Recourse to a Board for Correction of Military Records, however, would continue to be available to remove such a bar.

Prolonged absences

In addition, this legislation would create a new conditional statutory bar to benefits—applicable to persons who were absent without authority from active duty for a continuous period of 180 days or more if the individual was discharged under conditions other than honorable. Individuals as to whom this bar might apply, however, are to be afforded the opportunity to demonstrate to the Administrator that there are compelling reasons to warrant such prolonged unauthorized absence. If the Administrator is satisfied that such compelling reasons exist, the bar does not apply.

Limited retroactive application

The provisions eliminating the effectiveness of the Discharge Review Board upgradings in avoiding a bar to benefits and creating a new bar to benefits based on prolonged absence apply prospectively only, except that they apply to persons who have been awarded upgradings of their discharges under special programs and persons who, prior to the date of enactment, had not become generally eligible for benefits by virtue of such processes as discharge upgrading and VA character-of-discharge determinations. Thus, for example, when a person was administratively discharged under conditions other than honorable on the grounds of a continuous unauthorized absence of 180 days or more and his or her discharge was upgraded under generally applicable standards (that is, outside a special program) before the date of enactment, he or she would be entitled to veterans' benefits without regard to these provisions. The new conditional bar would apply, however, in connection with the required "second" determination, to a person discharged under identical circumstances whose discharge was upgraded under a special program. This bar provision would also apply to a person so discharged—before or after the date of enactment—who, after the date of enactment, receives from a Discharge Review Board an upgrading of a discharge under other than honorable conditions.

Notification of alternative remedies

To ensure that persons affected by the new conditional bar (as well as anyone who might be affected by any existing bar to benefits under section 3103(a) of title 38) who apply to a Discharge Review Board for an upgrading of their discharges are made aware of the effects of the new provisions, the legislation requires the Secretary of Defense to advise such persons that they might possibly be administratively found to be entitled to veterans' benefits only through the action of a Board for the Correction of Military Records or the action of the Administrator of Veterans' Affairs. The Secretary must also advise such persons of the procedures for making application to a Board for Correction of Military Records and the Administrator for such purposes and of their right concurrently to pursue their remedies before a Discharge Review Board (for discharge upgrading), a Board for Correction of Military Records, and the Administrator.

SPECIAL VA CHARACTER-OF-DISCHARGE STANDARDS PRECLUDED

This measure would also preclude the Administrator of Veterans' Affairs, in replacing, revising, or amending regulations governing the standards and procedures by which the Veterans' Administration determines whether an individual with a less than honorable discharge was discharged "under conditions other than dishonorable"—which decision, if favorable, entitles the individual to veterans' benefits—from giving any special advantages, through "character-of-discharge" regulations, to veterans who may have received upgraded discharges under a special program.

HEALTH CARE ENTITLEMENT FOR PERSONS WITH UNDESIRABLE DISCHARGES

A further provision would grant an entitlement, for certain persons with discharges under other than honorable conditions, to health care and related benefits (of the type generally authorized for persons with discharges under honorable conditions) for any disability incurred or aggravated during active-duty service in line of duty. The beneficiaries of the new entitlement would be persons administratively discharged under conditions other than honorable who have disabilities incurred or aggravated during active-duty service in line of duty, but not including persons barred from receiving benefits by section 3103(a) of title 38. Disabilities incurred or aggravated during a period of service from which the individual was discharged by reason of a bad conduct discharge are also excluded from this entitlement.

BENEFITS ELIGIBILITY AFTER RE-UPPING

Finally, a provision identical to section 302 (a) of H.R. 5027 as passed by the Senate on September 9, 1977, regarding "re-upping", eliminates a clear inequity in the law regarding eligibility for veterans' benefits under certain circumstances when an individual, before completing a period of service, agrees to extend his or her period of service. This provision expands the definition of the term "discharge or release" in section 101(18) of title 38 in order to assure eligibility for veterans' benefits to one who has satisfactorily completed a period of service when he or she has not received a discharge or release at the completion of that period because of having agreed to extended active-duty service.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment, with an amendment.

Mr. THURMOND. Mr. President, the distinguished Senator from California and I have worked on this bill for several months. We finally got the bill passed through the Senate, and it went to the House of Representatives. They adopted an amendment, which we can accept with an amendment—and I think it is acceptable, now—for the purpose of preventing deserters from receiving veterans' benefits. I think it would be unconscionable for a man who deserted his country in time of war to receive veterans' benefits, and this bill in its present form is intended to prevent that from happening.

I am in favor of the bill as amended, and I hope it will be adopted by the Senate.

Mr. CRANSTON. Mr. President, I thank the distinguished Senator from South Carolina for his wonderful cooperation in this matter.

Mr. THURMOND. I thank the Senator very much.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move that the Senate agree to the amendment of the House to the title of the bill with an amendment.

UP AMENDMENT NO. 844

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted title amendment numbered 844.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the title amendment.

The amendment was agreed to.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, four Senators whose names already have been mentioned will be recognized, each for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business, not to extend beyond 5 minutes.

Immediately upon the conclusion of the period for the transaction of routine morning business, the Senate will resume the consideration of the unfinished business, and the pending question at that time will be on the adoption of the amendment by Mr. McGOVERN.

I assume that there will be several rollcall votes tomorrow, and the Senate may be in late.

Mr. McGOVERN. Mr. President, I have no desire to drag out the discussion of this matter over a long period of time. Three or four Senators spoke to me about the amendment and stated they want to be heard at least briefly. I anticipate that when we meet tomorrow morning, we probably can work out some agreement to come to a vote in a reasonable time.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. He has been very considerate of the leadership and of the Senate. I have no doubt that this is his estimation of what will happen as he has stated. I thank him for yielding.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. If there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and, at 8:55 p.m., the Senate recessed until tomorrow, September 23, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1977:

DEPARTMENT OF JUSTICE

Benjamin J. Malcolm, of New York, to be a Commissioner of the United States Parole Commission for the term of 6 years, vice Curtis C. Crawford, term expired.

Cecil M. McCall, of Georgia, to be a Commissioner of the United States Parole Commission for the term of 6 years, vice Maurice H. Sigler.

Robert D. Vincent, of Oklahoma, to be a Commissioner of the United States Parole Commission for the term of 6 years, vice Lawrence A. Carpenter, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1977:

NATIONAL CREDIT UNION ADMINISTRATION

Eloise A. Woods, of Georgia, to be Chairman of the National Credit Union Board.

SECURITIES AND EXCHANGE COMMISSION

Roberta S. Karmel, of New York, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1981.

FARM CREDIT ADMINISTRATION

The following-named persons to be members of the Federal Farm Credit Board, Farm Credit Administration, for terms expiring March 31, 1983:

Lawrence Owen Cooper, Sr., of Mississippi.
Edgar C. Rutherford, of California.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

RISING SUN LODGE NO. 90, PRINCE HALL FREE AND ACCEPTED MASONS, YOUNGSTOWN, OHIO, SPONSORS RECOGNITION BANQUET

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. CARNEY. Mr. Speaker, on Saturday, October 8, 1977, Rising Sun Lodge No. 90, Prince Hall Free and Accepted Masons, will sponsor a recognition banquet honoring its 25-year and over members. The guest speaker for the occasion will be the Honorable Julian Bond, State Senator from Georgia. The event will be held at the Mahoning Country Club in Girard, Ohio.

Special recognition will be given to the Past Worshipful Master Raymond Lewis, who has been awarded the last and highest 33° granted on the basis of exemplary service to the organization and to the community.

On August 13, 1924, in an open Grand Lodge held in Cleveland, Ohio, the Most Worshipful Grandmaster Brother George W. Holland; Senior Grand Warden Brother E. J. Gatlitt; Junior Grand Warden Brother Harrison L. Adams; and Grand Secretary Brother Howard T. Greer, authorized and empowered Brother M. V. Penny as worshipful master; Wesley I. Dodson, senior warden; and John B. Lewis, junior warden, to open and hold a lodge designated as Rising Sun Lodge No. 90, under the register and jurisdiction of the Grand Lodge of Ohio, to be established in Youngstown, Ohio, or within 3 miles of same.

These brethren were further authorized and empowered to admit, enter, pass, and raise free masons according to the most ancient customs and usages of the craft in all ages and nations throughout the world.

From this humble beginning, Rising

Sun Lodge No. 90 has steadily pressed forward and is now a very substantial lodge in free masonry. On April 19, 1965, Saint Paul Lodge No. 100 and Rising Sun Lodge No. 90 merged, which was approved by the Most Worshipful Prince Hall Grand Lodge in August of that year.

Rising Sun Lodge No. 90 has never striven for a large membership, but for loyal men with integrity and a compassion for brotherly love and friendship.

Mr. Speaker, at this time I would like to insert a list of the honorees, and to extend my sincere congratulations and best wishes to each of them.

Our honorees are as follow:

1. Leroy Benson, 59 S. Fruit St., Youngstown, Ohio 44506
2. Solomon Brooks, 473 Lansing Av., Youngstown, Ohio 44506
3. Nubron Brown, P.M., 2633 Stocker Ave., Youngstown, Ohio 44505
4. Thomas Campbell 617 North Avenue, Youngstown, Ohio 44502
5. Jasper Cherry, 220 N. Hine St., Youngstown, Ohio 44506
6. John Clayton, 1 Narcissa St., Struthers, Ohio 44471
7. James Danridge, 470 Glenwood Av., Youngstown, Ohio 44502
8. Raymond Dickerson, P.M., 626 Lexington Youngstown, Ohio 44504
9. Melvin Doxie, 920 Shehy Street, Youngstown, Ohio 44506
10. Thomas Hall, Sr., P.M., 2925 Karl Street, Youngstown, Ohio 44505
11. German Henry, 450 Garfield St., Youngtown, Ohio 44502
12. Ollie Hightower, 35 Sycamore St., Youngstown, Ohio 44505
13. Alfred Jackson, P.M., 346 W. Scott St., Youngstown, Ohio 44502
14. Raymond Lewis, 33° P.M., 442 W. Marion Av., Youngstown, Ohio 44507
15. Lee Maxwell, P.M., 172 W. Warren Av., Youngstown, Ohio 44507
16. James McCoy, 351 Kenmore Ave., Youngstown, Ohio 44507
17. Olin McKenzie, P.M., 145 S. Forest Av., Youngstown, Ohio 44506
18. Wallace Mitchell, 2705 McGuffey Rd., Youngstown, Ohio 44505
19. Arthelious Moore, 346 Cabot Street, Youngstown, Ohio 44509
20. Edwin Murphy, P.M., 27 W. Washington, Struthers, Ohio 44471
21. Isaac Nelson, 31 Narcissa St., Struthers, Ohio 44471
22. Richard Phillips, 421 Laclede Ave., Youngstown, Ohio 44507
23. Charles Pickard, P.M., 543 Burnett St., Youngstown, Ohio 44502
24. Willie Pride, 823 Rose Place, Youngstown, Ohio 44506
25. George Robinson, 348 Wallace St., Youngstown, Ohio 44502
26. Benjamin Smith, P.M., 411 St. Louis, Youngstown, Ohio 44507
27. Peter Starks, 202 N. Fruit St., Youngstown, Ohio 44506
28. Mizell Stewart, 724 Marshall St., Youngstown, Ohio 44502
29. John Williams, 3033 Orrin Avenue, Youngstown, Ohio 44505
30. Harold Wilson, 397 Plum Street, Youngstown, Ohio 44502
31. Henry Woods, P.M., 566 W. Delason, Youngstown, Ohio 44507

*"P.M." stands for "Past Master."

Submitted by,

ALBERT C. TATE,
Senior Warden and General Chairman of Banquet Committee.

EAA OSHKOSH 1977

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. LLOYD of California. Mr. Speaker, the Experimental Aircraft Association has just concluded the most successful fly-in convention and sport aviation exhibition in its history. This year marked the silver anniversary of this annual event which has grown to be the largest aviation gathering in the world. The convention was held in Oshkosh, Wis., on July 30 through August 6, 1977.

The Experimental Aircraft Association (EAA) is a worldwide organization with 119,400 memberships having been issued since inception in January 1953. Members reside in 65 countries. Its headquarters offices are located in Franklin, Wis., a Milwaukee suburb. While the Oshkosh event is primarily a convention of its members, it is also open to the public. Some 350,000 people took advantage of this opportunity and visited the fly-in grounds during the 8-day convention week. An estimated 3,000 itinerant aircraft attended in addition to the 1,389 display aircraft registered this year.

John Baker, president of the Aircraft Owners and Pilots Association, said that—

> The AOPA and EAA are allies in their dedication to the ideals of freedom for aviation . . . sport aviation is an integral part of general aviation and we will fight for it too.

Mr. Baker stressed the working relationship of the two aviation associations and termed EAA President Paul Poberezny a "visionary" for realizing the importance of sport pilots to the aviation industry.

Convention Chairman Tom Poberezny said:

> 1977—our Silver Anniversary Convention—was our best yet. The attendance exceeded last year's figures yet improvements to our Convention facilities enabled us to easily handle the growth. We look forward to 1978 as another growth year for EAA.

The silver anniversary EAA convention was highlighted by many special events which made it markedly different from conventions in years past. With record crowds of over 185,000 the first weekend, the Canadian Forces Air Demonstration Team—the "Snowbirds"—had the opportunity to fly their precise, breathtaking 28-minute display of formation areobatics before one of their largest audiences ever. The "Snowbirds" with their nine-plane formation show were making their second appearance in a row at Oshkosh.

Other convention special events and exhibitions took place including, speaking engagements by prominent flyers, presentations of achievement awards, a beauty contest, commemorative activities such as, "Lindbergh Day" with flights by the "Spirit of St. Louis," and demonstrations by the Warbirds of America. Special guest of the Warbirds for most of the week was Gregory "Pappy" Boyington, author of the book "Baa, Baa, Black Sheep" upon which the TV series by the same name is based.

For the second year in a row, the "History of Flight" pageant was featured as a part of the Thursday night airshow. Dozens of historic aircraft were flown to vividly demonstrate the advances made in aviation in the past 50 years. Fittingly, the airplane that flew first was Buck Hilbert's 1926 Swallow biplane. This type of aircraft flew the mail for United Airlines' predecessor company 50 years ago. Then came Beeches, Wacos, Travelairs, Bellancas, Luscombes, Pipers, Swifts, Stearmans, North Americans, and finally a United Airlines DC–8 flown by Capt. Jim Lacey with an all-EAA member crew.

FAA Administrator Langhorn Bond visited from Washington with Flight Standards Service Director Richard Skully. Administrator Bond announced the enactment of new regulations concerning nationality and registration marking for light aircraft, which climaxed a 12-year project on the part of EEA to change the requirement for billboard size markings on aircraft to those that would not interfere with the paint schemes of light aircraft.

From Capitol Hill, Congressman WILLIAM STEIGER of Oshkosh and JIM LLOYD of California both visited the convention. Both having been previous visitors to the fly-in, they pronounced it "great" and commenced to thoroughly enjoy themselves like other EAA'ers.

Oshkosh, which has it all, was successful for EAA in other respects as well. For example, during the course of the convention, 3,397 people joined as new members of the association. This was, by far, the highest number yet recruited at a fly-in. One thousand seven hundred and five renewed their memberships. Over 30,000 campers made Oshkosh their home for the week on the two campsites adjacent to the convention grounds. Many flying in took advantage of the expanded aircraft camping areas as well.

Above all, EAA's annual convention is an international affair. As in the past, an international visitors tent was in operation the full week to register and greet overseas guests. A total of 631 people from 43 countries checked in. The largest contingent was from Canada—227 in all—but a remarkable 147 also came from Australia. Visitors came from as far away as Indonesia, Kenya, Egypt, India, Israel, Hong Kong, the Philippines, and Poland.

In the general public area, the commercial exhibit building was filled to capacity. All 162 booths in the main building were sold out months in advance of the fly-in. Represented were such manufacturers as Champion Spark Plug, Mooney, Cessna, Narco, Bendix, Collins, Avco Lycoming, Pitts Aerobatics, and Christen Industries. Because of the overwhelming demand for exhibit space, an additional tent was erected where 48 display spaces were sold. The new "Foxjet" display took up about one-third of the tent. Exhibiting outdoors were Bellanca, Beech, Piper, Grumman American, Taylorcraft, Varga, Great Lakes, Aerostar, Meyers, Maule, Rallye, and others. A

total of 230 exhibitors displayed their wares during the 8-day period.

Last year, 64,839 flight operations were recorded making Oshkosh's Wittman Field the busiest airport in the world for that week. This year, it was a repeat performance except flight operation figures are not available since it was not possible for the tower personnel to keep count. However, the FAA estimates that over 60,000 flight operations took place. The slight decrease is due to the IFR weather that prevailed many mornings of the fly-in and the fact that the fly-by pattern was not as active this year, because of rain showers.

It is obvious that the EAA convention was another success, and also demonstrates American ability to "put it all together." The EAA board of directors have announced the dates for the 1978 EAA fly-in convention and sport aviation exhibition to be at Wittman Field. It will be July 29 through August 5, 1978.

A WELL-PROCESSED ANTIPROLIFERATION BILL

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. WHALEN. Mr. Speaker, I would like to direct the attention of my colleagues to the lead editorial in Tuesday's New York Times which concerns the Nuclear Antiproliferation Act currently under consideration in the House.

This piece notes the careful construction of the bill over a 3-year period and the "sensible compromise" which was reached with the administration regarding the reprocessing of U.S.-supplied nuclear fuel by other countries. According to the Times, this bill achieves its goal of setting "reasonably strict standards governing American nuclear cooperation with other nations," and will go far toward preventing other nations from using American technology and fuels to produce nuclear weapons. It deserves to be passed by the House without any crippling amendments.

The editorial follows:

A WELL-PROCESSED ANTI-PROLIFERATION BILL

The House of Representatives is expected to vote tomorrow on a comprehensive bill designed to prevent other nations from using American nuclear technology or fuels for making nuclear weapons. Incredibly, although the United States has long been the world's major supplier of nuclear technologies, it has never spelled out the conditions of export or the circumstances that would cause it to break off nuclear cooperation with other nations. Instead, there has been a hodge-podge of inconsistent bilateral and multilateral agreements.

The new bill, whose chief sponsor is Representative Bingham of New York, is distilled from three years of Congressional inquiry and the Administration's own antiproliferation proposals. It would provide for the first time a set of reasonably strict standards governing American nuclear cooperation with other nations.

The measure would require the United States to retain control over the reuse or reexport of American nuclear fuels or fuels cycled through American-supplied reactors. It would end nuclear cooperation with nations (such as India and South Africa) that refuse to put all of their allegedly peaceful nuclear activities under international safeguards. It would provide sanctions and incentives to encourage other nations to accept antiproliferation policies. And it would spell out in more detail than ever before the procedures and criteria for nuclear cooperation.

The legislation was bottled up last week in the Rules Committee while the Administration and the bill's sponsors battled over the criteria to be used in deciding whether other nations may reprocess American-supplied fuel. A sensible compromise now provides that timely warning of possible diversion of the fuels is to be the "foremost consideration" before transfers are approved. No American fuel could be reprocessed if it would result in "a significant increase in the risk of proliferation."

The bill has aroused intense opposition from those who fear it would unduly restrict American nuclear exports. But it represents a sensible consensus of Congressional committees and Executive agencies that have given considerable thought to the problem of nuclear proliferation. We hope the House resists any effort to reprocess their package.

WHAT I SEE IN THE AMERICAN FLAG

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. YATRON. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues a truly inspiring expression of patriotism. This statement was not made by a President, a Secretary of State, or an officer in our Armed Forces. But like the words spoken by people in such high position throughout our Nation's history, these words come straight from the heart.

I call to the attention of my colleagues the essay written by Howard Pollman of Minersville, Pa. Sponsored by Amvets Post 211 in Llewellyn, Pa., this young man, a member of the sixth grade, won the local, State, and national Amvet essay contest with his outstanding composition entitled "What I See in the American Flag." I am genuinely proud to represent Howard and Amvets Post 211 in the Congress. His words are cause for faith that our heritage as a nation lives on in the hearts of generation after generation.

The material follows:

WHAT I SEE IN THE AMERICAN FLAG

(By Howard Pollman)

When I look at the blue field of the American Flag I see the men lying dead on the battlefield who gave their lives for our freedom. Freedom to do and talk as we please freedom of religion to preach and teach as we please. I see Betsy Ross sitting in her rocking chair making the first American flag. I see George Washington giving his freezing men orders at Valley Forge. I see the first shot of the Revolutionary War at Lexington and Concord, the shot heard 'round the world. I see the pioneers in covered wagons crossing the continent, expanding our country.

When I look at the stars in the blue field I see the fifty States that started from the thirteen original colonies. The fifty free states, not belonging to any other countries. Free from ruling dictators, free to make their own laws. I also see the stars our astronauts will reach in the future.

When I look at the red and white stripes I see the blood of President John Fitzgerald Kennedy and Abraham Lincoln who were tragically murdered. When I look at the white stripes I see the bandages that covered the wounds of the soldiers that fought in the Revolutionary War, World War I and World War II, and the Korean War. I also see the clothes of doctors and scientists developing new cures and working for a better future.

When I see the flag I feel that it should be treated with respect. When someone holds the flag they should be proud of it and should walk straight and tall. When I hold the flag I feel proud. I feel proud that it represents the greatest nation in the world, the United States.

FOOD AND NUTRITION IN THE UNITED STATES

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. RICHMOND. Mr. Speaker, I would like to share with my colleagues the third in a series of four Wall Street Journal articles on food and nutrition in the United States. The problem of food advertising blitzes aimed at youngsters is becoming a major contribution to poor nutrition, as the author of this article points out:

THE WAY WE EAT—FOOD MARKETERS SPEND BILLIONS PERSUADING US TO BUY THEIR PRODUCTS

(By John E. Cooney)

The nation's food merchants want your attention. Listen to New York advertising executive Jack Trout describe what they are doing to get it:

"It's food war out there and advertising is the weapon," says the president of Ries Cappiello Colwell Inc. "TV is the bombers that have mass impact, and print media and couponing are the infantry for the hand-to-hand stuff."

The battlefield analogy is apt. Selling food in America is not only a big business—our grocery bill last year totaled $153.1 billion—it's also a hotly competitive one. To persuade you to buy their products, food makers will spend about $4 billion on advertising alone this year, up 7% from the 1976 level. Billions of cents-off coupons will be offered as added inducement. And by the time the year is out, food marketing specialists will have designed, packaged, tested—and sometimes discarded—dozens of new edibles you never knew you were going to want.

Nutritionists wince at this approach. "Food is sold on the basis of what's for fun, amusement or sex appeal—not what's good for you," contends Joan Gussow, chairman of the nutrition program at Columbia University's Teachers College. But many in the food industry, where nutriiton is often used as a sales tool these days, don't see it that way. "Food companies are only trying to capture the taste buds of America," says one supermarket chain executive. "They sell what people buy."

It's in the aisles of the country's 183,700 grocery stores and supermarkets where consumers finally do decide what and how much to buy. They get plenty of help. Milk, always a big draw, is often placed at the rear of the store; shoppers must pass high-profit "impulse' items such as snack foods to get to it. And "non-nutritious products like orange drinks that are only 10% juice and 90% water are positioned near oranges so people will think they are better than they are," says Warner Isaac, a buyer for

Consumers Coop, a cooperative supermarket chain based in Berkeley, Calif.

But it's outside the grocery store where the selling of food begins. The medium is usually television—its visual impact persuaded food marketers to buy $2.58 billion worth of TV time last year—and the message is often directed at women, who do most grocery shopping, and children, who are the most susceptible. Though nearly every type of food is advertised, it's the packaged, processed items like cereals, snacks, specialty foods and soft drinks that are pushed the hardest.

SELLING SPAGHETTI SAUCE

Perhaps typical is the commercial for Hunt-Wesson Inc.'s spaghetti sauce. The theme of the ad is simple: It emphasizes how much members of Boston's Italian community happen to like the sauce. For if "people who eat the most spaghetti use it, it lends credibility" to the product, explains Daniel Ailloni, president of Stratmar Systems Inc., a market research concern.

Then there's the campaign devised by Marsteller Inc., a New York agency, to sell the yogurt made by Dannon Milk Products Co. Yugurt's reputation as a health food is an obvious selling point in this nutrition-conscious age, and Marsteller hasn't overlooked it with the slogan. "If you don't always eat right, Dannon is the right thing to eat."

But one television commercial, showing hoary octogenarians in Soviet Georgia lapping up Dannon Yogurt after a hard day in the field, seems to make light of the product. As it turns out, that's the idea: By combining dry humor with an exotic foreign setting, says Marsteller vice president Milton Sutton, the agency hopes to enhance Dannon's appeal among a presumably sophisticated "upscale population—the middle management types." Otherwise, he adds, "we might show somebody in a bowling alley."

MOTHER'S ROLE

Also subtle is the promotion of General Food Corp.'s Shake 'n Bake, a mixture of crumbs and spices that, when applied to raw chicken, enables the user to create a dish strongly resembling homemade fried chicken. Shake 'n Bake commercials, however, stress more than convenience. One depicts a mother serving up a chicken dinner while small children stand nearby. The object of this homey, rather winsome vignette, says Stratmar Systems' Mr. Ailloni, is to "reinforce the mother's role."

(Apparently, it can be risky to make a food product too easy to use. When cake mixes were first introduced some years ago, they flopped. Then the eggs were removed from the mixes "so women could add their own eggs, pretend they were doing some real work and get rid of the guilt," one marketing observer recalls. Soon after, cake-mix sales soared.)

A study of children's reactions to televised food advertising by the psychology department at Columbia's Teachers College found that youngsters who watch a lot of TV try hardest to influence what their mothers buy at the supermarket. Breakfast cereals—the most heavily advertised food products on television—were what these children asked for most often. Next came cookies, candies and ice cream, all highly advertised items. And the study showed that mothers often gave in to their youngsters' demands.

"It's pretty hard to turn down a child who is reaching out of the shopping basket and begging for certain products," says Mary Alice White, one of the professors who conducted the study.

Food companies are under increasing pressure from consumer groups and government agencies alike to abandon some of their merchandising tactics. For instance, Action for Children's Television, a Newtonville, Mass., group critical of food commercials aimed at children, is asking the Federal Trade Commission to halt commercials that say Milky Way candy bars should be eaten "wherever you are . . . at work, rest or play." The ACT complaint contends that a "child could very likely make the erroneous assumption that eating a Milky Way at rest and play, every day, will lead only to enjoyment, not cavities."

The television industry is responding to this criticism. A trade group, the National Association of Broadcasters, has voted to trim the number of all daytime commercials; it has also ruled that cereal commercials must depict a "complete breakfast" including milk and fruit.

The food industry is responding too. Kellogg Co., the big cereal maker, has begun advertising the fact that it answers all letters that ask nutrition questions. And General Foods is conducting a campaign in newspapers and magazines that seeks to explain the need for processed foods. A typical ad begins this way: "Dear General Foods: Nothing you do to a pea is going to make it a better pea. So why do anything?" Part of the answer: ". . . what if it's February, and you live in North Dakota, and the only part of Nature still making peas is a thousand miles away? What we do to foods to solve problems like this is called food processing. . . ."

Nonetheless, nutrition is "not a direct concern" of most marketers, says Ronald G. Nelson, executive vice president of Consumer Response Corp., a test-marketing company. How the product looks—how it's packaged—is.

A package, of course, protects a food product during transportation. It is also an important marketing tool because it both promotes and describes what's inside. But sometimes this description is less than informative. "Packagers can put a great big apple with a drop of condensate on an apple drink that has very little apple juice in it," observes Ruth McMurry, a New York graphics designer.

Clever packaging and expensive promotion don't guarantee success, though. "It's not simply a matter of who comes up with the biggest ad budget is who dominates the market place," says an executive at J. Walter Thompson Co., the big advertising agency. "You have to sell your product better or people won't buy it."

Take Maxim, the freeze-dried coffee from General Foods. Although it was the first of its kind, introduced in 1964, it has been outsold in each of the past six years by Taster's Choice, a Nestle Co. competitor brought to market just a decade ago. One of Maxim's problems, marketers say, is that it didn't attempt at the outset to capture sales from an obvious market, regular-coffee drinkers. The apparent reason: fear that Maxim would compete with Maxwell House coffee, also a General Foods product. At Nestle, however, "one of our lines of attack has been that one jar of Taster's Choice makes 120 cups of coffee, or about the amount that two pounds of ground coffee makes," a spokesman says.

Pringle's Potato Chips, a Procter & Gamble Co. product that comes packed in a tube resembling a tennis-ball container, is another example of how difficult selling food can be. Last year, Snack Food, a trade publication, estimated that Pringle's had garnered 10% to 15% of the $1 billion potato chip market. Today, industry sources believe, Pringle's market share is only 6% or 7%.

Some believe the sales slip is due to the fact that Pringle's costly container has forced the retail price of the product 10% above that charged by competing chips. A Snack Food article also suggests that at a time when "natural" foods are becoming increasingly popular, "many consumers perceive Pringle's as a 'make-believe' product of an era forever gone. . . ." But Mr. Trout, the Ries Cappiello Colwell president, suspects that Procter & Gamble "got so hung up on making something that didn't break, they forgot to make it taste good."

To minimize product failure, food makers rely on test markets, or areas of the country where the local populace's reaction to a new item is sought as a barometer of national opinion. "Virtually none of the major companies go into roll out (national marketing) of a product until they have test marketed it," says Emmanual Demby, chairman of Motivational Programming Inc., a testing and research concern.

This isn't an exact science, but it's close. People in coastal cities, marketers have found, tend to accept nearly all new products quickly. Those who live in the Middle West, however, seem to reject most of them. Thus it is that Syracuse, N.Y., which is neither coastal nor Midwestern, is considered to be an ideal test market, researchers say.

Statistics aren't available on the number of new foods that don't pass muster in these outings. But it's doubtful, for instance, that shoppers will ever see "Ice Flow," a slush-like drink, or "Kool and Creamy," a pudding, on supermarket shelves; both recently flunked their tests. And the results aren't in yet on the Gerber Products Co. sampling of the college market's receptiveness to its baby foods, which occurred after the company discovered some students were eating these foods as snacks. (One Gerber test advertisement read, "Baby yourself during exams.")

Once the food manufacturer has packaged, tested and promoted a product, its fate is in the grocer's hands. And the first thing the retailer does is to determine whether his customers will buy the item. Gourmet foods, for instance, are seldom found in stores catering to blue-collar neighborhoods. "And don't try and sell black-eyed peas in North Dakota," adds a spokesman for Pathmark supermarkets.

Pricing is an important factor, too. The average supermarket carries 10,000 items, and about 20% of them are sold either at a loss or at no profit, industry analysts say. But these foods, usually staples, are priced low to entice customers into the store and expose them to foods and other goods that do bring a profit. It's worth the effort: By one estimate, nearly half the items bought on a weekly shopping trip are purchased on impulse. "Most people don't plan menus or food purchases," explains Earle Wendel, professor of marketing at Cornell University.

Atmosphere and store design, however, may be the most effective ploys grocers have. Good lighting, for instance, can easily boost sales, says William Pierson, manager of Studio 70, a supermarket-design firm. "We use incandescent lighting that makes meat look red—the wrong color on meat can make it look unappetizing."

Today, some supermarket chains are experimenting with an idea borrowed from discount outlets, the "warehouse store." Spartan in appearance—the aisles are often crowded with food items still in shipping boxes—these stores are meant to attract budget-minded shoppers. But outside of the Pacific Northwest, results "have been uneven," says Thomas Wilson, senior partner in the consulting firm of McKinsey & Co. "It depends on whether people think they're getting a bargain and if they want to get one in stores like those."

At the other extreme are the luxury stores. Byerly Markets, a three-supermarket chain in Minneapolis, offers carpeted floors, low ceilings, chandeliers, a bakery, a well-staffed meat department and plenty of check-out counters. Yet Byerly keeps its food prices competitive by lowering another cost: It advertises only once or twice a year. Volume is high, a Byerly spokesman says, and the company makes money.

The Byerly approach could be the wave of the future. Analyzing speech patterns in shoppers' replies to marketing questions, Consumer Response Corp. determined that while people complain a lot about high food prices, what most really want are short check-out lines and pleasant surroundings.

THE BAKKE CASE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. HYDE. Mr. Speaker, there are certainly times when the Supreme Court Justices must individually possess the wisdom of King Solomon to rule wisely and fairly on a case. One such case, I am sure, will be The Regents of the University of California against Allan Bakke, which concerns the equal protection clause of the 14th amendment and the controversial subjects of reverse discrimination, quotas and affirmative action. According to this week's Newsweek magazine, the greatest number of amicus curiae briefs in Supreme Court history have been filed in the Bakke case. This is hardly surprising when one considers that regardless of the Court's decision, this will be a landmark decision which will affect millions of Americans now and in the years to come.

Ms. Joan Beck, a columnist for the Chicago Tribune, has written a very interesting piece on some of the issues that will have to be resolved if the Court rules against Allan Bakke. I believe many of the questions she raises in her column deserve attention and thoughtful deliberation, and I insert this article at this point in the RECORD.

CAN SCHOOLS DISCRIMINATE FOR, YET NOT BE AGAINST?

(By Joan Beck)

If the Supreme Court rules against Allan Bakke in his challenge to the minority admissions quota system used by the medical school at the University of California-Davis the decision will raise many more issues than it settles. For example:

Isn't an admission quota system based on race a violation of Constitutional guarantees in the 14th Amendment of equal protection under the law? Can the Supreme Court permit discrimination based on race even if the purpose is benign and the intent to compensate for past wrongs?

If reverse discrimination is justified and legal, to what groups should it be extended? Are blacks, American Indians, Asian-Americans, and Mexican-Americans who received special admissions considerations at U.C.-Davis equally disadvantaged? Are all blacks by definition more disadvantaged than all whites? Should any other group get special treatment?

Should women, who have also been the victims of discrimination in the past, be given preferential treatment? More or less than racial minorities? Should women get this preferential treatment even if they don't need extra consideration to compete successfully with men when competition is sex-blind? Should a black woman get even more of a break than a black man?

If a preferential quota system for minorities is valid and legal for medical school, should it be extended to other areas where such minorities are not now as successful as whites? Like high level government jobs? Symphony orchestras? Corporate boards of directors? The United States Congress?

What about areas like many professional sports where blacks are overrepresented? Do whites need a program of reverse discrimination in pro basketball, baseball, football, and boxing to compensate for whatever cultural, environmental, or genetic disadvantage keep them from winning such highly paid opportunities on merit alone?

Is it desirable for every racial and ethnic group to be represented in medical, law, and other professional and selective schools in the same proportion as in the general population? If so, should there be quotas for Jews, who are often greatly over-represented in schools which choose most of their students by individual merit? Do non-Jewish whites need quotas themselves to assure they will get their proportionate number of places in such competition?

If reverse discrimination is legal and desirable, how long should it continue? A decade? A generation? A century? Forever?

Can more discrimination ever be a remedy for discrimination itself, regardless of how well intended?

Is it a patronizing racial slur in itself to argue that minorities are still incapable of making it on their own merit without special consideration? Are minority individuals who do succeed in professional fields likely to be smeared with the suspicion that they are "quota doctors" or "quota lawyers" who don't measure up to the usual standards?

Would racial tensions and divisiveness grow worse in this nation if the Supreme Court did open the floodgates to all these ugly questions by approving the practice of minority quotas in the case of Bakke vs. the Regents of the University of California?

Rather than dividing people up according to skin color and ethnic background—as this nation has unconscionably done so often in the past—wouldn't it be better to move now toward ending all such ugly and divisive kinds of discrimination and working toward a society that is less, not more, built on color?

Can't greater efforts be made to overcome all kinds of disadvantages and to provide optimum learning stimulation for all children very early in their lives, when such help is most effective? Wouldn't minority students then reach college and graduate school age fully able to compete on their own for professional opportunities? Shouldn't the challenge of finding ways to increase the number of minority professionals be solved long before the graduate school level?

Hasn't this nation suffered enough from racial discrimination?

YOM KIPPUR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ANDERSON of California. Mr. Speaker, at sunset yesterday members of the Jewish faith throughout the world began observance of Yom Kippur, the most solemn of Jewish holy days. This also marks the conclusion of the High Holy Days, which began on September 13 with Rosh Hashana, the first day of the year 5738 in the Hebrew calendar.

Yom Kippur—the Day of Atonement—is a time for fasting and prayer, for introspection and penance. Perhaps its meaning and significance should be felt by all of us. Jews and non-Jews alike, during this most holy period of religious observance. As we recall the suffering endured throughout history by the Jewish people, as well as the many obstacles which have been placed in the path of their religious freedom, we can certainly appreciate and join with their prayers for guidance.

Prejudice and persecution have been the unfortunate companions of the Jewish people through much of their history. Certainly, we have only to view the plight of Soviet Jews, or the constant struggle for existence of the State of Israel, to see that this truth still exists today. Despite this tradition of sorrow, no people have dedicated themselves so strongly or effectively to the concept of social justice in our Nation today as our citizens of Jewish descent.

We can all identify with the prayers for universal brotherhood, world peace, individual freedom, and spiritual and moral growth which mark observance of the High Holy Days. We can all appreciate the Jewish teachings of the sanctity and dignity of human life, and their dedication to human justice.

Yom Kippur is the time for personal communications with God, a time to ask forgiveness for the transgressions one has committed in the past. It is also a time to forgive others for the wrongs they may have committed.

Mr. Speaker, it is this spirit of forgiveness and atonement that is the most vital aspect of the Yom Kippur observance. This theme is one which we would all do well to emulate, as we resolve to follow this universal human sentiment in our own official and personal lives.

COMMODITY CREDIT CORPORATION AND PUBLIC LAW 480

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. BOWEN. Mr. Speaker, I would like to direct to the attention of my colleagues section 1201 of the Food and Agriculture Act of 1977, which authorizes the Commodity Credit Corporation, upon request of a Public Law 480 recipient country, to act as its shipping or purchasing agent, or both, in the case of title I commodities.

Although the legislation itself establishes no guidelines or standards, it is not the intent of the Congress to encourage the Department of Agriculture to get into the business of acting as purchasing or shipping agent for Public Law 480 recipients. The honest private American shipping agent in this trade serves an extremely worthwhile purpose. He helps build wider commercial markets for U.S. farm commodities by assisting title I recipients to stick with our agricultural products.

Thus, although allegations of improprieties in recent years have created an atmosphere which required the creation of a safety valve such as that provided in section 1201, the Department should exercise restraint in responding to casual requests that it move into the private sector by undertaking shipping agent or purchasing agent responsibilities for foreign countries.

In discussing this matter with the appropriate authorities of the Department of Agriculture, I have been told that they will proceed with the greatest care and only in instances where the recipient country's request is based on thorough documentation and solid evidence that abusive improprieties have been used to exert undue pressure to favor an agent whom they do not wish to use. I am pleased to know of this attitude on the part of departmental officials, and such an approach is entirely consistent with the intent of the Congress.

RETIREMENT SYSTEM AND THE CONCEPTS OF TOWNSEND PLAN

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. McFALL. Mr. Speaker, with the Congress now giving active consideration to changes in the social security laws and the welfare system, the concepts of the Pay-as-You-Go Social Security and Prosperity Insurance Act offer unique alternatives to the policy positions most often discussed.

Again I have introduced legislation, H.R. 3063, embodying the basic principles of the original Townsend plan in order that these alternatives may be before the Congress when it considers revisions in these important social programs.

At this time I would like to include in these remarks an assessment of the overall picture of providing adequately for retirees, disabled persons, and many others who have been forced to live in extreme poverty because of circumstances beyond their control. It reflects the views of Mr. John Doyle Elliott, the Washington representative of the Townsend organization, and I believe the Members will appreciate the analysis he has prepared:

PROSPERITY-SHARING RETIREMENT FOR ALL

(By John Doyle Elliott)

Our guideline's always been that public policy, functions, projects and administration ought faithfully to reflect, in their construction and execution, both equality of sacrifice in their support (taxes, etc.) and progressive benefits in their effects on the interests and welfare of our people. Failure so to reflect measures their injustice, their moral and economic flaws. If taxes are wrong, what's really right?

We hold it self-evident that all dishonesty, injustice, wrongs—no matter who may fancy profit thereby—will, in History's balance of the books, be recorded as injuries, destructions and losses, not profits. They foster catastrophy—not glory!

Part 1. Split the budget—or never "reform" taxation. Tax "reform" seems an endless exercise by Congress. Furor over unjust taxes constantly re-arises, with "reformed" taxes no better than those before them. "Deformed" might better type them.

We discern a ruinous fallacy in this dilemma—the prevailing assumption that taxes are, ipso facto, a loss, cost, burden to our Society and citizens. We herewith undertake its clarification. In truth, were it not for what we buy with taxes—if any of us, indeed, survived—we'd be living in trees and caves! That overruling reality in no way justifies corruption—rather, it abolishes the last excuses for it!

We have two basic classes of taxes, revenue. First are those to finance public works, projects and services which are essential to honest life and happiness, inherently requiring consumption of manpower, resources and money—thereby denying them to the support of life, prosperity, freedom and happiness. Those taxes ARE burdens, limitations, costs—however valuable and essential. Society's overhead.

Second, however, we also have public projects and services—Social Security and health insurance, for example—to remedy flaws in our honest prosperity, upon which depends our ability best to afford all other things. These are benefits, not burdens.

The same tax-impact can't be right for both burdens and benefits—an obviously self-evident truth. Social Security benefits, for example, are of progressively greater value to the financially misfortuned than to the well-fortuned. To the affluent, they are insignificant. Burdens and benefits require opposite tax-impacts.

The real answer. All public budgets—federal, state, local—must be as cleanly split as possible between burdens and benefits. For burdens, there must be progressively-rated taxes honoring equality of sacrifice, on the net incomes of all persons and companies, without distinctions and clearly known to all.

For benefits—in themselves clearly progressive—there must be flat-rate taxes proportionately the same for all, on the gross income (gross receipts) of all persons and companies, as specified in Sections 214 and 229 of the second section and in the fourth section of H.R. 3063, the "Pay-As-You-Go Social Security, Health and Prosperity Insurance Act"—the up-to-date embodiment of the Townsend Plan.

Only these principles, identical for all throughout our economy, based on clean division of burdens and benefits, can establish permanently just taxation. Their lack measures our prosperity's flaws—their presence measures our ability to meet and afford the future as we should.

Part 2. We must perfect social security—or perpetuate the losses of recessions. Those losess are irrecoverable. Unemployed time is lost forever.

Argument-crushing reality. Without Social Security and related benefits—thin shadow though they are for what they ought to be—this recession would be vastly more severe. Equally clear: If even such poor benefits had existed in the late 20's and early 30's, they would mightily have eased the Great Depression and beneficially have altered history. There's the truth.

Self-evident, now, for all to see, we have recessions not because of too much social security, but because of too little. The cure's perfected social security.

To end recessions, prosperity-sharing, not impoverishing retirement for all aged and disabled is essential—for our country to be the fine house of freedom-with-justice it should be. There are only bad reasons for contemporary living standards in retirement being inferior to those of any other time of life.

The alternative is continued destruction of life, liberty and successful pursuit of happiness—with economic failure and dependency persisting as life's final reward for multitudes—with persisting recessions, damaging to all—excuselessly dictating on-going failure by our country to achieve its deserved, full glory in the world-wide eyes of mankind.

Spectacle! Our Tricentennial launched with responsible leaderships decreeing that "social expenditures" must be sacrificed in favor of defense etc.—that "we can't have both butter and guns". The truth is that on our honest, just human-prosperity depends our ability, together, best to afford all other things. See to our butter—or we're on the swiftest road to gunless! The Pentagon ought to be Social Security's foremost champion!

Plainly, it's the problem that we can't afford—not the cure!

Regardless of our success in all other things, economic failure and dependency as the punishing, final reward in life for our people bitterly mocks all other glories. Always, that's been this Lobby's keystone conviction.

In this light, we are proud again to have presented the ways and means for the establishment of perfected social security and national health-insurance—embodied in H.R. 3063, the "Pay-As-You-Go Social Security, Health and Prosperity Insurance Act" (the up-dated application of the principles of the Townsend Plan to the problems of social security and unjust poverty).

The best time left to perfect Social Security and Medicare is now—to reinforce recovery and future recession-prevention.

Let us cease mistakenly fearing public programs essential to remedy of admitted flaws in our honest prosperity—like Social Security and health-insurance.

Only they can strengthen us as we mightily need strengthening.

Their lack is our real weakness, rendering the losses of recessions inevitable.

Part 3. Mounting confusion reigns between honest realities and prevailing debates in Congress on funding Social Security. "Fewer workers supporting more retirees"—"Ballooning budgets"—"Skyrocketing taxes"—etc. Some ignorantly, some calculatingly so join to perpetuate social injustice in deference to greed-blinded interests.

The truth: If prosperity-sharing—not impoverishing—retirement and disability benefits, with complete health-insurance, were living facts of life for all our people (whether by public, or private policies, or by both) the economic impacts of such benefits would be essentially the same. The only variants would be simple and uniform versus complex and differing administration and management. The one real question is:

"Is social security good, or bad?" It is to remedy admitted flaws in our honest prosperity. On that depends our ability best to afford all other things. The problem is because of our misfortuned, not because of the well-fortuned. The problem's not too much social security—the problem's too little!

What we can't afford is the problem—it's not the cure!

Present social security (like the Public Assistance titles after 38 years of defenseless injustice) should be inherently reconstructed—repudiated as a brutal failure progressively compounded by continuance. Two courses are open:

First, replacement by the prosperity-sharing retirement and disability insurance of H.R. 3063, the up-dated Townsend Plan Bill, providing al beneficiaries (even those caught with no other resource) up-to-date participation in prevailing standards of income and living and full health-insurance.

Second, amend the present system by vesting in ALL individuals a "presumed wage in covered employment", initially providing benefits sufficient to bar eligibility for Supplementary Security Income benefits. Quarterly, raise this "presumed wage" to provide, in two year's operation, prosperity-sharing participation in prevailing standards of income and living as the minimum Social Security benefit.

Thus, in either case, we'll have all our people insured EQUALLY by the SAME nondiscriminating system. No less can spell justice. Only so can we reduce administrative costs to full value for money spent.

Since SSI federally provides its benefits for all persons who, through Social Security or some other means, do not have it equivalent—such a minimum Social Security benefit would be a vastly simpler way of doing the same thing for all with but one administrative operation. Why go on with two systems discriminatingly segregating millions of people and tremendously amplifying and complicating administrative costs? Why do the same work twice via TWC systems?

Medicare should automatically cover all beneficiaries, thus virtually eliminating Medicaid. It should immediately include all prescribable treatment, care, supply-including health-maintenance. No bills to patients. Thus, in total, experienced operation, it should expand to cover ALL our people throughout their lives.

Finance the "presumed wage", all Social Security benefits, completed Medicare and total, national health-insurance by the general revenue tax defined and provided in H. H. 3063 (Sections 214 and 229 of the second section and in the fourth section), to render the financial impact of the whole system justly progressive, not punishingly regressive as it now is.

The foregoing reforms are, in our long-constant judgment, 35 years overdue.

Mr. Speaker, since, during the last year very particularly, it has been officially, accepted that social security—however masked and complicated—is in reality a pay-as-you-go funding operation, it seems most timely to take an up-to-date look at this basic, from-the-beginning principle of the Townsend Plan.

MAYOR WHEELER REPORTS ON CRIME

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. SKELTON. Mr. Speaker, for the past few months, a subcommittee of the House Small Business Committee has been conducting hearings on the serious problem of "Crime and Its Impact on Small Business." In July, the subcommittee held a hearing in Kansas City, Mo., where we were privileged to hear from numerous well-informed individuals, including FBI Director Clarence Kelley. Among the witnesses who testified was Kansas City Mayor Charles B. Wheeler, Jr. Mayor Wheeler presented a thought-provoking report on crime in the Kansas City area and measures adopted by local police to combat the problem. I think that his remarks merit the attention of the Members of the House and I offer them now for consideration:

REMARKS OF CHARLES B. WHEELER

Mr. Chairman, distinguished members of the committee, Director Kelley, other important guests and participants: On behalf of the City Council and the people of Kansas City, Missouri, I welcome you to the greatest city in the heartland of America.

The subject of this hearing is a sober one. I have read that crime itself is no small business and that crime against business nets more money each year than Sears, Wards and Penny's combined. It's a problem when crime is more profitable than the nation's largest retail businesses.

In thinking about this issue in the last few days, I've decided that the most meaningful distinction to be made between crimes-against-business and crimes-against-individuals is that businesses have the unique ability to pass their losses on to their customers. Whether business overhead rises as a result of shoplifting, commercial burglary or increasing insurance rates, the one who is ultimately hurt in the pocketbook is the individual customer. This fact emphasizes the importance of the topic before the Committee to the general public.

A January, 1976 report of the Dept. of Commerce estimated that businesses lost over 23 billion dollars in 1975 due to crime. That was a 50% increase over crime-related losses in 1971. Total 1975 losses equalled $112 for every man, woman and child in the country.

Of course, businesses in the urban centers are more heavily victimized than those in suburban and rural areas. Small businesses, having annual receipts of less than $100,000, are more than three times as severely affected by crime losses as the average business, and are 35 times as severely affected as very large firms. Unfortunately, small firms are the least able to absorb these losses, nor can they afford the overhead required for extensive protective measures.

In talking to my friends at the Missouri Council on Criminal Justice, I was told that an estimated 26% of all businesses in the United States were the victims of burglary or robbery in 1974. Hardest hit were retail establishments—39% were victimized—followed by transportation, manufacturing and wholesale operations. The types of retail businesses which suffered the most from crime in 1974 were drugstores (66% robbed or burglarized), gas stations (53% victimized) and liquor stores (an even 50% were affected). These are precisely the types of businesses with which the committee is concerned. And these statistics do not even include shoplifting, employee pilferage, and the rest.

To say that crime has a depressing effect on small businesses is a rather mild statement when put to a liquor store owner who must face a 50–50 chance of being robbed or burglarized!

My researchers have made a few calls around the city in order to obtain a reasonably close estimate of the cost of crimes against small businesses in Kansas City. It was a difficult assignment. For lack of a clear definition of "small" businesses, police departments are unable to accurately assess the extent of the crime problem as it relates to them. The Kansas City Police Department, in its 1976 annual report, provided information about the number and cost of crimes against businesses in general. Given my earlier statement about the comparative impact of crime on businesses of varying sizes, you can draw your own conclusions as to the impact of crime on small businesses in Kansas City.

3,471 instances of commercial burglary were reported in Kansas City last year, costing businesses a total of $1,829,080.

588 robberies of commercial establishments resulted in an additional loss of $81,173.

3,121 cases of shoplifting were reported. The total value of property lifted was $139,464.

Losses for all offenses totaled $2,049,717.

So it can easily be seen that crime is a problem to Kansas City businessmen and to the customers who eventually pick up the tab for it. But it is not a problem which we in city government are ignoring. The Kansas City Police Department has traditionally offered numerous crime prevention services to businessmen and other individuals. On request, Kansas City police officers will conduct security surveys of business establishments, train employees in crime prevention techniques and suggest new procedures for the prevention of robbery and shoplifting. A new pamphlet designed specifically to help the small businessman deal with the threat of robbery has just come out of the print shop and is being distributed by Kansas City police officers. I brought a few copies of the pamphlet for review by members of the committee. TAC II alarms are used by Support Unit personnel mainly to assist the small businessman by alerting the police at the first sign of a burglary. Use of these alarms is seen as a good preventive measure both by the police and the business community.

And we are trying out some new measures in crime prevention.

In 1976 the City received a substantial grant from LEAA to institute a project designed to strengthen the community's ability to protect itself against the crimes of robbery and burglary. The project, called Direct Patrol, permits police supervisors to reorganize patrol time to enable officers to spend more time explaining effective crime prevention techniques to the operators of small businesses in Kansas City's high crime area. The concept is being tested in a 37 square mile area east of Prospect and from Sni-a-bar road on the south to the river on the north. So far the experiment has demonstrated significant potential for a reduction in these two crimes which most seriously affect small businesses. 162 businesses are participating by installing in their establishments devices to help in the accurate identification of suspects. In businesses which we expect to be victimized, because of location and past history of victimizations, a new crime-eye camera is being installed to photograph robberies in progress. 32 cameras have been installed under the project, and 30 more are being installed right now. A number of robbers have been caught on these candid cameras, but none have been willing to stand trial. In light of the strength of the evidence against them, they have all pleaded guilty. If the project is as successful as it appears to be, the new techniques will be utilized throughout the city.

We are doing something, but we are a long way from solving the problem. Extensive losses due to crime against businesses cannot be tolerated. The business community must establish aggressive policies that anticipate and fight crime problems common to its industry. It is also important to recognize that we do not expect the business community, alone, to solve a problem which transcends the marketplace.

I trust that these hearings will be successful in providing a better understanding of the impact of crime against small businesses and in identifying the first steps which can be taken, by businesses and by government, to reduce the impact.

Again, thank you gentlemen for being here.

PRESSLER DEFENDS SOUTH DAKOTA

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. PRESSLER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

WASHINGTON, D.C., *September 21, 1977.*

Hon. KURT WALDHEIM,

Secretary General, The United Nations, New York, N.Y.

DEAR SECRETARY GENERAL: I am writing today on behalf of many South Dakotans—Indians and non-Indians alike—who were justly disturbed by an Associated Press story which characterized South Dakota as "similar or worse" than South Africa in racism.

These widely reported comments are unfair to the hard working people of South Dakota. They were attributed to Russell Means, the former leader of the American Indian Movement (AIM), in an AP interview. Means was in Geneva, Switzerland, to address a United Nations conference on indigenous populations.

Means was quoted as saying that South Dakota Indians are "in a similar or worse situation than anyone in South Africa . . . They still hunt Indians in South Dakota."

I respect the Associated Press for its responsible reporting. If these comments are accurate, I consider them a gross exaggeration which cannot promote harmony among our people.

While there is no doubt that American Indians have been historically mistreated in the United States, and that inequities persist, I firmly believe that Means' reported statements misrepresent the situation which exists. In fact, most Indians and non-Indians in America are striving for better understanding and cooperation in this area.

In South Africa, Blacks are permitted neither to vote nor to voice opposition to the status quo. In America, Indians and other minorities are free both to vote and to express vocal protest to inequities they perceive. In South Dakota, the mayor of the second largest city is an Indian, and so is one of our former Congressmen.

It is obvious that there is still room for improvement in Indian-non-Indian relations in America, as there is need for better treatment of native groups throughout the world. I sincerely hope that the U.N. confer-

ence on indigenous populations will further this goal. But I also hope that you will view the situation in South Dakota and the United States in a truer light.

Sincerely,

LARRY PRESSLER,
Member of Congress.

THE CLINCH RIVER BREEDER REACTOR VOTE WAS NOT FINAL

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. BROWN of California. Mr. Speaker, the reaction to the House vote on my amendment to terminate the Clinch River breeder reactor project is still coming in, but one thing is already obvious. This will not be the last time the House must deal with this particular project, and the many complex issues surrounding it. It is my fervent hope that the weeks and months of debate have awakened Members and the country to the importance of our decisions, and have begun changing the perceptions of those whose initial reaction is to proceed with a plutonium economy.

The vote on my amendment, while appearing decisive, was not nearly as overwhelming as some have claimed. It is significant that on the amendment by Mr. COUGHLIN on the same project the House was evenly divided. It is also significant that many Members decided to vote for the amendment by Mr. DODD on the assumption that this was a compromise position between the pro and anti administration forces.

It is also significant that the proponents of the Clinch River breeder project vehemently denied there was any connection between this project and the commercialization of the plutonium breeder reactors. If this were true, and I believe many of the supporters of Clinch River believe there is no connection, the vote would be relatively harmless—although extremely wasteful of taxpayers' money. But because Clinch River is a symbol of the plutonium economy, this vote was more than an expensive waste of money.

Mr. Speaker, I cannot speak for the President and his intentions with this bill. However, I would not be surprised if the President decides to veto this bill, if the Clinch River project remains in it. The vote for my amendment was clearly enough to sustain a veto, which should encourage the President and make his decision easier for him. I know he is receiving advice to veto the bill, as the following editorial from the September 22, 1977, Los Angeles Times demonstrates:

[From the Los Angeles Times, Sept. 22, 1977]

CLINCH RIVER AND THE WORLD

It was shockingly irresponsible of the House of Representatives to vote to proceed with construction of a plutonium-fueled breeder reactor at Clinch River, Tenn. Should the Senate concur, President Carter should veto the bill and wage an all-out fight to sustain the veto against any attempt to override, and any subsequent appropriation. For, should the view of the House prevail, the President's campaign to prevent the spread of nuclear weapons in the world will be hopelessly undermined.

Authorization for the reactor, voted by 246 to 162, is part of the $6.7 billion bill for energy research and development in the fiscal year beginning Oct. 1. The legislation would authorize $150 million to begin construction of the reactor; the total cost of the project is estimated at $1.9 billion.

As Energy Secretary James R. Schlesinger has often said, there are many better ways to spend that kind of money to meet the nation's energy needs. If plutonium-burning reactors are ever needed at all—and there is good reason to doubt that they will be—it won't be until late in this century. The final decision can be made later.

More important, a decision to go ahead with the Clinch River project would end all hopes of persuading other nations to forgo the use of plutonium as reactor fuel. That is a most chilling prospect.

The attraction of the plutonium-burning breeder reactor is that it would in theory breed more fuel than it would consume; it would be a sort of nuclear perpetual-motion machine, making uranium reserves last longer.

But there are other reactor technologies in prospect that would do much the same thing without multiplying the perils of nuclear weapon proliferation.

Plutonium that is ostensibly produced for reactor fuel can be easily diverted and used to make nuclear weapons. No known system of international safeguards or inspections can prevent this from happening. So, if more and more plutonium-burning reactors are built around the world, more and more countries will be able to build their own A-bombs.

The Administration has proposed an indefinite moratorium on any U.S. use of plutonium in power-generating reactors, and has urged other countries to do the same.

Nuclear experts say breeder reactors can be designed to operate on materials other than plutonium. Other nations are being pressed to delay their own separation and use of plutonium until a serious look can be taken at these alternative technologies.

So far, the Carter campaign has met with only partial success. The French and West Germans promise not to export any more plutonium-separation plants, but are not inclined to abandon their own plans for breeder reactors.

Given a little time, though, this picture could change. European breeder programs are running into increasingly strong environmental objections. And, as the economic and technological risks of rushing into plutonium-burning reactors are better understood, governments themselves may have second thoughts.

The House legislation goes next to conference with the Senate, which earlier gave the President half a victory by voting to keep Clinch River in limbo for at least another year. It is imperative that the Senate stick by its guns and not be persuaded to accept the dangerous and irrational provision in the House bill.

To bring about that result, Carter must mount a much more determined and effective lobbying operation than was apparent in the House this week. He has much riding on this reactor on a little river in eastern Tennessee, and so does the world.

FEC COMMISSIONER CONCEDES FRAUD POTENTIAL IN UNIVERSAL VOTER REGISTRATION BILL

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. MARRIOTT. Mr. Speaker, earlier this summer I sought the opinion of a current Federal Election Commissioner, Thomas E. Harris, regarding the fraud safeguard adequacy of H.R. 5400, the same-day voter registration bill. I brought to Commissioner Harris' attention the July 13, 1977, Washington Star account of how Members of Congress had readily obtained phony identification cards from a California mail order house and raised the possibility that local polling officials, recruited for the election day duty, and lacking fraud detection expertise, might well approve registration efforts and subsequent vote casting by individuals bearing such bogus IDs.

In his letter of response, Commissioner Harris took issue with this contention. He expressed doubt that either States or the FEC would approve IDs obtained from mail order houses but would "reserve its approval for more traditional types of identification such as driver's licenses, State-issued identification cards, passports, and the like."

That is precisely the point, and Commissioner Harris has missed it. Mail order houses such as that described in the Star article specialize in the production of just the sort of documents that the Commissioner, in his letter of September 7, cites as being the subject of likely approval by the States and the FEC.

The catalogs of these mail order houses indicate their willingness to prepare and provide a wide variety of IDs and documentation to whoever has the appropriate fee. The propensity for the production of fraudulent documents is vast and an inexperienced, short-time poll or registration worker would likely be unable to distinguish the legitimate from a clever bogus.

And that brings us back to square one. H.R. 5400 is a dangerous, unwise, fraud-prone piece of tomfoolery that will badly distort the electoral process and will guarantee future generations of voters that dishonesty will become an essential ingredient of the American political campaign.

I bring my exchange of correspondence with Commissioner Harris to the attention of my colleagues.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 4, 1977.

Commissioner THOMAS E. HARRIS,
Federal Election Commission,
Washington, D.C.

DEAR COMMISSIONER HARRIS: As you know, the Congress is currently considering a bill to provide for voter registration on election day, HR 5400.

Substantial opposition to this proposed legislation has centered on the presumed propensity for voter fraud. I expect that you saw recent news accounts in the Washington Star (July 13, 1977) of Members of Congress who had easily obtained phony identification cards, which presumably could be used as acceptable identification under the proposed law.

I would like to know the opinion of the Federal Election Commission as to whether or not you feel this bill would provide adequate safeguards to protect the integrity of our electoral process.

Specifically, do you feel that local polling officials who are typically hired for a single day's service, as compared to being full time professionals, would be qualified to ascertain valid versus phony identification documents? Further, would these polling officials be reasonably expected to determine the authenticity of residency claims.

In short, are you convinced this proposed legislation would be good for the country.

Sincerely,

DAN MARRIOTT,
Member of Congress.

FEDERAL ELECTION COMMISSION,
Washington, D.C., September 7, 1977.

Hon. DAN MARRIOTT,
Longworth Office Building,
Washington, D.C.

DEAR MR. MARRIOTT: This letter is in response to your letter of August 4, 1977, in which you ask the Commission's opinion on H.R. 5400, a bill to provide for voter registration on election day. Specifically, you ask whether the proposed legislation would be good for the country.

The Commission has a policy of not commenting on the substantive merits of proposed legislation. I have enclosed for your information a copy of the Commission's testimony on H.R. 5400. This testimony, which was given by Commissioner Tiernan before the House Administration Committee and the Senate Committee on Rules and Administration, comments on H.R. 5400 and S. 1072 as they were referred to the Committees. As you will note, the Commission offered a number of comments and suggestions many of which were adopted by the respective committees in the bills they reported.

In your letter you also express concern as to the use of phony identification cards such as those reported in the Washington Post as having been obtained by Members of Congress. (July 13, 1977.) Specifically, you presume that identification of this type would be acceptable identification under the bill. I do not agree with this presumption.

Although the bill does allow a state to require an identification, the Commission must approve the form or forms of identification which may be required. See Section 6. I do not think any state would propose nor do I think the Commission would approve forms of identification which are obtained from mail order houses. Rather, I think the Commission would reserve its approval for the more traditional types of identification such as driver's licenses, state-issued identification cards, passports, and the like.

I hope that the Commission's testimony will be of assistance to you. If you have any further questions about this bill or the Federal Election Campaign Act, please do not hesitate to contact the Commission.

Sincerely yours,

THOMAS E. HARRIS,
Chairman.

STATEMENT ON UNRECORDED VOTE

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. RYAN. Mr. Speaker, on Rollcall No. 555, I was recorded as not voting. This vote, taken on September 15, was on final passage of H.R. 3744, the bill to increase the minimum wage rate. I was present on the floor when the vote was taken and did go through the usual procedure of voting with my voting card. Unfortunately, the computer failed to record my vote for final passage.

In accordance with my other votes on amendments to the legislation, I voted "yes." I ask that the RECORD be corrected to indicate how my vote was cast. I would also hope that the problems we seem to be having with Members' votes being recorded be studied and rectified as soon as possible, so this type of situation will not continue to arise.

UNNEEDED REGULATION

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ABDNOR. Mr. Speaker, we have been flooded in recent months with appeals from the White House and consumer groups to support the proposed Consumer Protection Agency. We have all heard the arguments for and against the establishment of such an agency, and my colleagues are well aware of my opposition to the proposal. However, there is one aspect of this continuing debate which I would like to emphasize.

In an effort to make it appear as though the Consumer Protection Agency concept is receiving widespread support, the White House has tried to convince us that many members of the business community support the concept. Early this summer President Carter reported 100 business firms supported the consumer agency bill and these firms reflected growing support on the grassroots level.

I would like to take this opportunity to point out the fact that, contrary to what the administration would like us to believe, business firms in this country are overwhelmingly opposed to the establishment of a Consumer Protection Agency.

The U.S. Chamber of Commerce has conducted a survey of its membership which encompasses a wide spectrum of American firms, both small and large. The chamber has received letters from over 15,000 of them who are strongly opposed to this legislation.

Among the individuals and firms who have expressed such opposition are 114 from my home State of South Dakota. In addition to those who have contacted the Chamber of Commerce, I have received hundreds of letters from individuals who have contacted me directly and they virtually all have been opposed to the Consumer Protection Agency.

The names of those individuals who have contacted the chamber are:

SOUTH DAKOTA

Donald R. Fountain, Fountains Inc., W. Hwy. 46, Beresford, South Dakota 57004

Sid A. Bostic, V. P. and Mgr., Northwestern National Bank, P.O. Box 197, 527 Main Ave., Brookings, South Dakota 57006

Orrin P. Juel, Juels Shoes, 413 Main, Brookings, South Dakota 57006

Merle Dean, Chr. of the Board, Farmers State Bank, Canton, South Dakota 57013

James Deinema, Deinema Ford Co., 5th and Cedar, Canton, South Dakota 57013

Milton L. Wass, Wass Funeral Home, 301 N. 3rd, Beresford, South Dakota 57014

John P. Rasmusson, Sioux Valley Telephone Co., 525 4th St., Dell Rapids, South Dakota 57022

G. F. Schmid, Gambles, 108–N. Wind, Flandreau, South Dakota 57028

C. M. Galloway, Galloway's, 117 N. Egan, Madison, South Dakota 57402

Robert Hickt, Farmers & Merchants Corp., 124 E. Center, Madison, South Dakota 57042

Jerome B. Lammers, Lammers, Lammers & Kleibacker, Box 284, Madison, South Dakota 57042

J. H. Lammers, Lammers, & Lammers & Kleibacker, Box 284, Madison, South Dakota 57042

Lyle R. Weismantel, National Bank of South Dakota, Madison, South Dakota 57042

Dorn Van Cleave, Sioux Alfalfa Meal Co., Box 398, Vermillion, South Dakota 57069

Mr. and Mrs. John H. Litzelman, Weoperatea Ranch & Farms, Box 394, 224 Court St., Vermillion, South Dakota 57069

Lynn W. Palmer, self-employed; Life Insurance Sales, Fidelity Union Life, 120 E. Main, Vermillion, South Dakota 57069

Don Buehrer, Mount Marty College, Yankton, South Dakota 57078

Jim Cope, Morgen Manufacturing Co., P.O. Box 160, Yankton, South Dakota 57078

Warren Hatch, Hatch Furniture, 109 E. 3rd St., Yankton, South Dakota 57078

Lawrence Hintgen, Globe Clothiers, Inc., 119 W. 3rd., Yankton, South Dakota 57078

Jay Miller, Yankton Area Chamber of Commerce, Box 588, Yankton, South Dakota 57078

Colin D. Monfore, Pres., Yankton Printing Co., 319 Walnut, Yankton, South Dakota 57078

Robert C. Bliefernich, Cr. Mgr., Sioux Falls Paint & Glass Co., Box 1064, 3803 N. 4th Ave., Sioux Falls, South Dakota 57101

Lee E. Engen, Pres., Home Federal Savings & Loan Ass'n., Main & Dakota at 11th, P.O. Box 1487, Sioux Falls, South Dakota 57101

Mr. G. S. "Wendol" Holcomb, Holcomb White Trucks, Inc., I–29 and 38A, P.O. Box 1747, Sioux Falls, South Dakota 57101

Charles A. Kearns, Kearns Machinery Co., Box 1307, Sioux Falls, South Dakota 57101

Marlo H. Mahlstedt, Electric Construction Co., P.O. Box 1835, Souix Falls, South Dakota 57101

C. P. Moore, Northwestern National Bank of Sioux Falls, Box 1028, Sioux Falls, South Dakota 57101

Jerry Simmons, Jerry Simmons & Associates, P.O. Box 1423, Sioux Falls, South Dakota 57101

Howard F. Ness, Ness Realty Co., 515 S. Dakota Ave., Sioux Falls, South Dakota 57102

Si Spisak, Si Spisak Realtors, 401 S. Phillips Ave., Sioux Falls, South Dakota 57102

Edgar A. Engle, Sutherland Lumber Co., 1111 N. Cliff Ave., Sioux Falls, South Dakota 57103.

Bill Hegg, Hegg Realtors, 1212 E. 10th St., Sioux Falls, South Dakota 57103

Doug Metcalf, ReComm Realtors, 203 S. Bahnson, Sioux Falls, South Dakota 57103

R. W. Best, Best Business Products, Inc., 621 W. Russell St., Sioux Falls, South Dakota 57104

D. Pat Fines, Vandel Fines Realty, Inc., 518 W. 11th St., Sioux Falls, South Dakota 57104

Garry Jacobson, Malloy Electric, Bearing & Supply, 809 W. Russell, Sioux Falls, South Dakota 57104

Jack G. Renschler, Renschler Standard Truck Plaza, 5303 N. Cliff Ave., Sioux Falls, South Dakota 57104

David V. Anderson, Realty Center, 405 W. 34th St., Sioux Falls, South Dakota 57105

Paul Batcheller, Zip Feed Mills, Inc., 304 E. 8th St., Sioux Falls, South Dakota 57105

Lyle Gall, Lyle Gall Realtors, 910 W. 41st, Sioux Falls, South Dakota 57105

E. J. Gerloff, Administrator, Central Plains Clinic, LTD, 2727 S. Kiwanis Ave., Sioux Falls, South Dakota 57105

Arnold J. Josten, Josten Concrete Products Co., 1201 S. Van Eps, Sioux Falls, South Dakota 57105

LeRoy K. Kruse, GKR Realtors, Inc., 1020 E. 41st St., Sioux Falls, South Dakota 57105

Lloyd A. Myhre, Myhre Inc., Realtors, 1107 S. Minnesota Ave., Sioux Falls, South Dakota 57105

Orville C. Nelson, Brydell-Nelson Realtors, 501 W. 27th, Sioux Falls, South Dakota 57105

Henry T. Quinn, 4101 S. Cliff, Sioux Falls, South Dakota 57105

H. N. Robinson, Independent Lumber Co., 3500 S. Minnesota Ave., Sioux Falls, South Dakota 57105

H. A. Billion, Billion Chry. Plym. Datsun, 3401 W. 41 St., Sioux Falls, South Dakota 57106

Ed Larson, Sioux International Inc., 6401 W. 12th, Sioux Falls, South Dakota 57106

Bob Pfeifer, Pfeifer Implements Co., 5301 W. 12th St., Sioux Falls, South Dakota 57106

C. A. Palen, Sioux International, Inc., 6401 W. 12th, Sioux Falls, South Dakota 57106

Don Randolph, Gallery of Homes, 3404 S. Marion Rd., Sioux Falls, South Dakota 57106

Delores E. Ferrerstein, Dorothy's 108 E. Kemp, Watertown, South Dakota 57201

L. Lewis Ferrerstein, Dorothy's, 108 E. Kemp, Watertown, South Dakota 57201

Arlan R. Koehn, Koehn Mfg. Inc., 202 1st Ave. N.W., Watertown, South Dakota 57201

Hal J. Babbe, Milbank Mutual Ins. Co., E. Hwy. 12, Milbank, South Dakota 57252

Welsey Finstad, Finstad's Red Owl, 203 S. 3rd, Milbank, South Dakota 57252

Charles J. Tobin, Midland Atlas Co., Inc., 101 N. Main—Box 283, Milbank, South Dakota 57252

James Rasmussen, Gen. Mgr., Thompson Bros., Inc., P.O. Box 457, Toronto, South Dakota 57268

Wilmot State Bank, Wilmot, South Dakota 57279

Lyle W. Swenson, Davidson County Sheriff, P.O. Box 819, Mitchell, South Dakota 57301

Ron Trautman, Methodist Hospital, 909 S. Miller, Mitchell, South Dakota 57301

R. F. Weller, Mgr., Holiday Inn of Mitchell, 1525 W. Havens St., Mitchell, South Dakota 57301

Gary J. Enright, Northwestern Public Service Co., Huron, South Dakota 57350

Dick Fadgen, County Agent, Box 36, Huron, South Dakota 57350

William L. Fullerton, Fullerton Furniture Inc., 1585 Dakota South, Huron, South Dakota 57350

Alan W. Hawks, Pres., DesLauries & Hawks Chevrolet, Inc., 2nd & Wise S. W., Huron, South Dakota 57350

C. J. McEnelly, Mick's Milling Inc., Utah & Marker Rd., Huron, South Dakota 57350

W. H. "Whip" Meyer, Meyer Modernizing Co., Inc., 52-19th S. W., Huron, South Dakota 57350

Bruce J. Patten, Director-Huron Area Chamber of Commerce, 1080 Dakota Ave. S., Huron, South Dakota 57350

Wesley Peppers, The Music Center, 46-4th St. S. W., Huron, South Dakota 57350

C. John McEnelly, Mick's Milling Inc., 305 Market Road, S.E., Huron, S.D. 57350

Ken J. Meyer, Meyer Modernizing, 52-19 S.W., Huron, S.D. 57350

Stan Ward, Ward Agency, Inc., 304 Kansas S.E., Huron, South Dakota 57350

Dennis Mennenger, Miller T.V. Sales & Service, 221 N. Broadway, Miller, South Dakota 57362

Clarence Kuiper, Home Implement Co., Inc., Box 517, Platte, South Dakota 57369

K. G. Klatt, Pres., Dakota State Bank, Box 400, Tripp, South Dakota 57379

Huebl Funeral Chapel, 15 S.E. 4th Ave., Aberdeen, South Dakota 57401

Steve Crawford, V.P., Crawford Freight Line, Inc., 315 S. Roosevelt, P.O. Box 1554, Aberdeen, South Dakota 57401

Peter O. Schmitt, V.P., Aberdeen News Co., 124 S. 2nd St., Aberdeen, South Dakota 57401

M. F. Smith, Smith Truck Sales, Inc., 102 S. 3rd St., Aberdeen, South Dakota 57401

Myron F. Walth, Brown County Co-op Ass'n, Box 1473, Aberdeen, South Dakota 57401

R. R. Deibert, Deibert's Inc., 805 7th, Eureka, South Dakota 57437

Ivor H. Ochsner, First National Bank, P. O. Box 576, Frederick, South Dakota 57441

Robert T. Wuttke, First Potter County Bank, 104 N. Exene, P. O. Box F, Gettysburg, South Dakota 57442

Royce L. Hackl, Bank of Hoven, P. O. Box 7, Hoven, South Dakota 57450

Dale Borchard, Dakota Hatchery & Mill, Box 311, Redfield, South Dakota 57469

Ted Schanzenbach, First National Bank of Selby, Box 344, Selby, South Dakota 57472

Ken Balgeman, Pres., South Dakota Retailers Association, 216 E. Capitol (P. O. Box 1026), Pierre, South Dakota 57501

Ken Beck, Beck Motors, Inc., Chevrolet-Pontiac-Cadillac, Hwy. 34 E. Box 729, Pierre, South Dakota 57501

R. H. Lucas, Lucas & Theim, Inc., 347 Pierre St., Pierre, South Dakota 57501

James H. Hunt, Mgr., Associated General Contractors of S. D., Box 488, Pierre, South Dakota 57501

Robert D. Parsons, Edward D. Jones Co., Box 609, Pierre, South Dakota 57501

Dorothy Poulos, Poulos & Hanson Real Estate, 320 E. Capitol, Pierre, South Dakota 57501

Leroy T. Hunt, Mgr., Midland Coop Mktg. Ass'n., P.O. Box 207, Midland, South Dakota 57552

Leon Miller, Miller Bros. Auto Co., Box 609, Winner, South Dakota 57580.

J. V. O'Donnell, Pres., First National Bank, Lemmon, South Dakota 57638

Dennis Olson, V. P., Wheeler Manufacturing Co., Inc., 107 Main, Lemmon, South Dakota 57638

James E. Anderson, Anderson & Call, Inc., "The Hut Party Store", 913 Mt. Rushmore Rd., Rapid City, South Dakota 57701

Robert D. Antior, Johnson Machine, Inc., 814 E. Omaha, Rapid City, South Dakota 57701

Bruce Livermore, Black Hills Electronic Supply, Inc., 1018 Jackson Blvd., Rapid City, South Dakota 57701

Milo Rypkema, Dodge Town, Inc., 1120 E Omaha, Rapid City, South Dakota 57701

Richard F. Weller, Owner, Pyreness II Restaurant, 1st Federal Plaza-Suite 900, Rapid City, South Dakota 57701

Paul E. Case, Delux Homes, Inc., Box 1405, Rapid City, South Dakota 57709

Greg Cummings, 1st American Systems, Inc., Box 3130, Rapid City, South Dakota 57709

Dr. William Duhamel, Duhamel Broadcasting Ent., P.O. Box 1760, Rapid City, South Dakota 57709

Ed Glassgow, Pres., Ed Glassgow & Associates, P.O. Box 1692, Rapid City, South Dakota 57709

Tom E. Nelson, Western Mutual Life & Casualty Co., 602 Mount Rushmore Rd., Rapid City, South Dakota 57709

Clifford Bruggeman, Owner, Cliff's Electric, 502 Roundup St., Belle Fourche, South Dakota 57717

T. E. McColley, McColley's Chapel of the Hills & Inn by the River, 401 N. Garden St. & 602 W. River St., Hot Springs, South Dakota 57747

Jack Riordan, Mountain Co., Inc., Mt. Rushmore Concession, Keystone, South Dakota 57751

William D. Cook, Pres., Brady Consultants, Inc., S. Hwy. 14, P.O. Box A, Spearfish, South Dakota 57783

Bob Behrens, Lushbough Hardware Hank, 1123 Main, Sturgis, South Dakota 57785

NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. NATCHER. Mr. Speaker, October 2–8, 1977 is National 4–H Week. Currently 6 million youths and more than a half million volunteer leaders of all ages in 84 countries are looking toward a new year of involvement under the theme, "4–H—Freedom To Be."

Mr. Speaker, "Freedom To Be" is indeed an appropriate goal for our youth. The flexibility of the 4–H program, offering many and varied kinds of learning, different in scope and latitude, allows young people to have the freedom to learn, the freedom to explore—the elbow-room and the opportunity to reach toward self-determination, the basis of our democracy.

Our Founding Fathers, as we clearly remembered during our Bicentennial celebration, sought personal freedom. The 4–H's original pioneers were men and women working toward the concept of personal liberty. Their seeds have been carefully nurtured and the 4–H program has grown into a vast and significant informal youth education program.

Many accolades and tributes have been awarded the 4–H Clubs of America, as their development over the years has responded to the changing world, and contributions have been demonstrated in hundreds of areas including fire fighting, environmental improvements, energy conservation, juvenile deliquency, drugs, community programs, senior citizen activities and consumer product information along with the more traditional programs of food-nutrition, clothing, home improvement, health, safety, leadership, livestock, crops, poultry, forestry, and marketing. These accomplishments are indeed commendable and of great benefit. No program has come further or has been more adaptable in meeting needs of these times.

However, Mr. Speaker, I wish today to emphasize the value of the personal involvement of our youth in 4–H.

Stress is not placed on quantity but on quality. While offering these diversified programs, 4–H Clubs are not merely exposures to experiences, but are instead, vivid learning experiences themselves. Youths work within the clubs and learning is a complete interaction between the members, the volunteers and the task to be accomplished. It encompasses all levels. This is an ideal opportunity, a medium, for youth to share their ideas and translate their concerns into positive action.

It is this individual freedom, this ability to explore under the informal learning-by-doing programs that builds real-life goals and helps individuals become competent, productive citizens. Often the knowledge and skills 4–H'ers develop through the wide scope and range of their work opens the door to a lifetime of personal growth. This freedom challenges 4–H members to participate, to broaden, to innovate, to express themselves, to reach out, to accomplish, and to accelerate their interest and concern for others.

Mr. Speaker, 4–H enables members, rural and urban, from all racial, cultural, economic, and social backgrounds to better realize personal self-fulfillment and self-awareness; 4–H provides inexhaustible resources. The 4–H activities stress the mental, physical, and spiritual growth through total involvement of their members. It encourages, through the dedication of the volunteer leaders and the hard work of the members,

humanism, empathy, understanding, patience, and feelings of belonging and high-expectation.

In our State of Kentucky, membership in 4–H totals 170,000. The young citizens are reaching previously set goals, they are contributing to our society and are setting even higher standards and challenges. I am proud of all the 4–H Clubs in the Second Congressional District of Kentucky.

Freedom is a right as well as a privilege. I wholeheartedly commend 4–H as the provider of enriching freedom of thought and exploration. Mr. Speaker, 4–H'ers are actively working within their own motto: "To Make the Best Better," and I want to extend to them my every good wish to continue toward their own individual goals with their abundance of energy, boldness of conception, and creative spirit as demonstrated over the past 63 years.

SCHOOLS, FIRE DEPARTMENT, HIGHWAYS, WATERPLANT, ALL DEPEND ON H.R. 6530, BORROWING AUTHORITY FOR THE DISTRICT OF COLUMBIA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. FRASER. Mr. Speaker, on Monday, the House will consider H.R. 6530, to continue for another year the authority of the District of Columbia to borrow from the U.S. Treasury for its capital outlay program, rather than go to the municipal bond market with its own bonds.

The table below, from Senate report 95–439 on the District of Columbia appropriation bill, H.R. 9005, shows the great variety of local capital projects that will be without authorization if H.R. 6530 does not pass. I urge my colleagues to support H.R. 6530:

SUMMARY OF CAPITAL OUTLAY RECOMMENDATIONS

The following tabulation sets forth the capital improvements program requested in the budget and the Committee's recommendations by project:

SUMMARY OF CAPITAL OUTLAY RECOMMENDATIONS

Project title	Estimate	House allowance	Committee recommendation
DISTRICT OF COLUMBIA OBLIGATIONS			
Washington Hospital Center	$312,700	$312,700	$312,700
Childrens Hospital, grant No. 1	6,600	6,600	6,600
Childrens Hospital, grant No. 2	3,500	3,500	3,500
Providence Hospit.l	61,500	61,500	61,500
Casualty Hospital	19,500	19,500	19,500
Columbia Hospital	18,000	18,000	18,000
Georgetown Hospital	29,800	29,800	29,800
Sibley Hospital	65,600	65,600	65,600
Cafritz Memorial Hospital	30,400	30,400	30,400
Saint Elizabeths Hospital	3,345,900	3,345,900	3,345,900
Total, District of Columbia obligations	3,893,500	3,893,500	3,893,500
PUBLIC BUILDING CONSTRUCTION			
Public Schools			
Perry-Simmons Elementary School Replacement	7,709,000	----------	----------
Bell Career Center Modernization	4,835,000	4,835,000	4,835,000
Phelps Career Center Modernization	5,475,000	5,475,000	5,475,000
Hendley Elementary School Playground	451,500	451,500	451,500
Total, Public Schools	18,470,500	10,761,500	10,761,500
University of the District of Columbia			
Downtown Permanent Campus, Phase I	56,696,400	56,696,400	56,696,400
Public Library			
Lamond-Riggs Branch Library	1,659,000	1,659,000	1,659,000
Department of Recreation			
Fairfax Recreation Center Ground Development	301,500	301,500	301,500
Fire Department			
Fire Apparatus Replacement	500,000	740,000	740,000
Engine Company No. 11, Replacement	1,808,500	1,808,500	1,808,500
Total, Fire Department	2,308,500	2,548,500	2,548,500
Department of General Services			
Permanent Improvements, Various District Buildings	5,925,000	5,625,000	[1] 1,240,500
Conversion of Juvenile Court Building Judiciary Square	880,000	880,000	880,000
Municipal Office Building	35,000,000	35,000,000	([1])
Total, Department of General Services	41,805,000	41,505,000	2,120,500
Municipal Planning Office			
Washington Civic Center	27,700,000	27,000,000	----------
Total, public building construction	148,940,900	140,471,900	74,087,400
Washington Metropolitan Area Transit Authority			
Metro Rapid Rail Contribution	$8,353,500	$8,353,500	$8,353,500
Department of Transportation			
Highway Fund			
Bridge Replacement/Rehabilitation	4,861,000	4,861,000	4,861,000
Street Improvements and Extensions	3,000,000	3,000,000	3,000,000
Safety Improvements and Realignment of Intersections	80,000	80,000	80,000
Minnesota Avenue, NE	108,000	108,000	108,000
Bicycle Network	50,000	50,000	50,000
Total, Department of Transportation, Highway Fund	8,099,000	8,099,000	8,099,000
Department of Environmental Services			
General Fund			
Relief of Flooding and Drainage Complaints	500,000	500,000	500,000
I–95 Site Development	600,000	600,000	400,000
Capitol Hill Relief Sewer	1,300,000	1,300,000	1,300,000
Total, Department of Environmental Services, General Fund	2,400,000	2,400,000	2,200,000
Sanitary Sewage Works Fund			
Service Sewer Extensions	400,000	400,000	400,000
Advance of Paving and Miscellaneous	400,000	400,000	400,000
Oxon Run Sanitary Relief Sewer	250,000	----------	----------
Total, Department of Environmental Services, Sanitary Sewage Works	1,050,000	800,000	800,000
Water Fund			
Water Service Extensions and Fire Hydrants	1,000,000	1,000,000	1,000,000
Replacement of Undersized and Defective Watermains	350,000	350,000	350,000
Trunk and Secondary Watermains	200,000	200,000	200,000
Elevated Storage Tank	1,400,000	1,400,000	1,400,000
Total, Department of Environmental Services, Water Fund	2,950,000	2,950,000	2,950,000
Total, Department of Environmental Services	6,400,000	6,150,000	5,950,000
Washington Aqueduct			
Replacement of McMillan Filtration Plant	750,000	750,000	750,000
Major Plant Replacement and Rehabilitation	190,000	190,000	190,000
Washwater and Basin Sludge Disposal, Dalecarlia and Georgetown	850,000	850,000	850,000
Total, Washington Aqueduct	1,790,000	1,790,000	1,790,000
Total, capital improvements program	177,476,900	168,757,900	102,173,400

[1] Recommendation of $5,625,000 for Permanent Improvements to Various District Buildings to be funded by appropriation of $1,240,500 and remaining $4,384,500 by reprograming balance of funds available from the Lorton Improvement Program. Request of $35,000,000 for a Municipal Office Building to be funded by reprograming balance of funds available from the Lorton Improvement Program.

ENDORSEMENTS FOR MEDICAL RECORDS CONFIDENTIALITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. CRANE. Mr. Speaker, tomorrow, the House is expected to vote on H.R. 3, the medicare/medicaid anti-fraud and abuse bill and amendments thereto. The Ways and Means Committee adopted the Crane-Stark amendment, prohibiting the acquisition, disclosure, or inspection of individually identifiable medical records by Government agencies and their employees, without the consent of the patients. This amendment is contained in the bill as reported in section 5( ), beginning on page 66, line 22 and ending on page 70, line 5.

At this time I would like to point out that my amendment has received endorsements from the American Osteopathic Association, the National Association of Chain Drug Stores, Inc., and the National Association of Retail Druggists. I am enclosing copies of these endorsements for the record.

Both physicians and other medical personnel, such as pharmacists, are concerned over the increased inspection of medical records by various Government agencies, in violation of the patients' rights to confidentiality in seeking medical treatment. Although I have cited numerous examples of Government use of medical records in previous statements before this body, it has recently been brought to my attention that HEW is now seeking access to prescription records of private patients, in addition to those of medicare and medicaid patients. These prescription records are just as much a part of the patient's medical records as the records kept in his physician's office, and I want to make it clear that the definition of medical records as stated in the Crane-Stark amendment is intended to include prescription drug files. I also intend to ask HEW for a full explanation of its practices regarding these drug files, which would seem to run counter to its repeated assurances that it supports the concept of medical records privacy.

The material follows:

SEPTEMBER 6, 1977.

Hon. PHILIP M. CRANE,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN CRANE: On behalf of the American Osteopathic Association, I wish to commend you for your leadership in attempting to protect the confidentiality of patients records particularly with regards to the "Medicare/Medicaid" Anti-Fraud and Abuse Bill.

I have enclosed a copy of a resolution recently approved by our House of Delegates expressing the Association's support of your efforts.

Thank you for your involvement and I wish you continued success in this endeavor.

Sincerely,

JOHN S. PERRIN,
Director.

RESOLUTION

In July, 1977, the House of Delegates adopted the following resolution:

Whereas, there is increasing federal involvement in the health care system, via PSRO, HEW, Medicare and Medicaid; and

Whereas, there has been greater invasion of medical records by insurance companies and various news media; and

Whereas, the protection of privacy of patient records is a tenet of the Hippocratic and Osteopathic oaths; and

Whereas, it is essential for complete patient care to have freedom of expression, without fear of revelation; therefore, be it

Resolved, that the American Osteopathic Association constantly endeavor to obtain legislation to protect the confidentiality of patient records.

AUGUST 25, 1977.

Hon. PHILIP M. CRANE,
Longworth House Office Building,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CRANE: The National Association of Chain Drug Stores, Inc., (NACDS) wishes to express interest and strong support for your amendment which would prohibit Federal agencies from having access to the medical records of private patients.

It is our firm belief that this provision regarding safeguards to protect the medical records of private patients should be incorporated in the Medicare-Medicaid Anti-Fraud and Abuse Amendments (H.R. 3) when the House votes on this legislation.

Of particular concern to our membership is that the Department of Health, Education and Welfare (HEW) and state Medicaid agencies are attempting to gain access to the prescription drug files of private patients. In brief, we believe that this sort of activity is an unwarranted intrusion into the practice of pharmacy and a blatant invasion into the privacy of patients who are having their prescriptions filled in our stores. Thus, NACDS on behalf of our entire membership, which consists of more than 200 corporations that are operating in excess of 100,000 drug stores and 1,500 leased pharmacy departments throughout the United States, registers support for your amendment. It is our hope that the language contained in this amendment will include prescription drug files under the definition of medical records.

Sincerely,

TY KELLEY,
Vice President, Government Affairs.

SEPTEMBER 9, 1977.

Hon. PHILIP M. CRANE,
Longworth House Office Building,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CRANE: The National Association of Retail Druggists is gratified that you have succeeded in having H.R. 3 amended in committee in order to protect the medical records of private patients from the scrutiny of federal agencies. We want to assure you of NARD's support for your amendment and we will also ask our members to contact their representatives in Congress to gain their support when the measure comes to the House floor.

We trust that "medical records" includes the prescription drug files of the private patients of the 30,000 independent pharmacies that NARD represents. We are increasingly concerned that the Department of Health, Education and Welfare, as well as state Medicaid bureaus, are attempting to gain access to the Rx drug records of the stores we represent, which we feel is a glaring intrusion into the privacy of these patients.

May we recommend that the language of your amendment be clarified to specifically include the protection of the prescription drug files of private patients.

Sincerely,

WILLIAM E. WOODS,
Executive Vice President.

THE ROLE OF CHURCHES IN THE JOHNSTOWN FLOOD

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. MURTHA. Mr. Speaker, before the advent of instant communications and our hectic life pace, the communities of our Nation revolved around area churches and the services and friendship they provided.

During the devastating floods that hit Johnstown on July 19–20, some of that past returned. The area was largely isolated from outside communications. More important, the tremendous job done by church officials and congregations became a key in helping citizens and restoring community life.

The churches provided a range of many vital services. Most important among them were: Collecting food and clothing; providing shelter; distributing supplies; feeding homeless citizens; and, of course, providing the spiritual leadership essential to restoring faith in a community that has been so devastated by the forces of nature.

In reviewing those hectic days, the special efforts of a number of churches come to my attention, and would like to list them for a special place in this journal of American history:

Park Avenue United Methodist Church, Rev. William Huson, Park Avenue, Johnstown, Pa. 15902.

St. Benedict's Catholic Church, Rev. Joseph R. Kiniry, 2310 Bedford Street, Johnstown, Pa. 15904

St. Mary's Greek Orthodox Church, Rev. Anthony Mortessis, 435 Somerset Street, Johnstown, Pa. 15901

St. Anne's Catholic Church, Rev. Hubert Konieczny, P.O. Box 400, Holsopple, Pa. 15953

Bethel United Methodist Church, Rev. Robert Callihan, Box G, Holsopple, Pa. 15953

Laurel-Trinity Lutheran Church, Rev. Jesse E. Wolfe, Box 185, Jennerstown, Pa. 15547

Benscreek Lutheran Church, Rev. Arthur L. Mentzer, R.D. No. 2, Holsopple, Pa. 15953

Maple Spring Church of the Brethren, Rev. Carroll S. Ringgold, R.D. No. 1, Holsopple, Pa. 15953

St. David's Lutheran Church, Rev. Lurther A. Gotwald, 100 S. Main Street, Davidsville, Pa. 15928

St. Gregory's Church, Rev. Richard Conti, 120 Boltz Street, Daisytown, Pa. 15902

Salix United Methodist Church, Rev. John F. Olexa, Box 106, Salix, Pa. 15952

St. Johns The Baptist Church (Woodvale), Rev. Andrew Ulicky, 606 Maple Avenue, Johnstown, Pa. 15902

St. Patrick's Church, Msgr. Rodney F. Hemler, 609 Park Avenue, Johnstown, Pa. 15902

The Seventh Day Adventist Church, Reverend Michael Miller, 1035 Goucher Street, Johnstown, Pa. 15905

Recognition should also go to the Greater Johnstown Council of Churches which coordinated much of the community activity. This effort included:

Rev. Hieromonk Nicholas, President and Coordinator.

Reverend John Kraus, Assistant Coordinator.

W. D. Dibrell, Domestic Disaster Coordinator for Church World Services.

District Coordinators were:

Rev. Fitzhugh Lyons, East Conemaugh.

Rev. Robert Vhisler, Morrelville.

Rev. David Dodson, Cambria City.

Rev. A. E. Surrett, Hornrstown.

Rev. William B. Husor, Moxham.

Rabbi Rav A. Soloff, Beth Sholam Congregation.

Very Rev. Msgr. John Yurcism, Dean of Christ the Savior Cathedral in Morrelville.

ORGANIZED LABOR'S POLITICAL CONTRIBUTIONS IN 1976

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. VANDER JAGT. In recent days, Mr. Speaker, I received a copy of a report by the Public Policy Research Corp., of Washington, D.C., entitled "Organized Labor's Influence on House Committees." In discussing this very revealing document with other Members, it was suggested that because of its wide interest and impact on all Members of the House that it should be inserted in the RECORD. This I am doing although excluding the listing of contributions by organized labor to individual Members. Instead, the following listing focuses solely on labor's contributions to committee members by political party. I would report, however, that as a member of the House Committee on Ways and Means I am listed as receiving $600 from organized labor. The entire listing of organized labor's political contributions in 1976 is as follows:

House committee	Contributions to— Democrat members	Republican members	Total
Agriculture	$499,151.06	$6,700.00	$505,851.06
Appropriations	393,572.11	23,622.98	417,195.09
Armed Services	293,728.11	8,550.00	302,278.11
Banking, Finance and Urban Affairs	779,844.29	4,000.00	783,844.29
Budget	365,422.84	1,750.00	367,172.84
District of Columbia	184,081.86	8,008.00	192,089.86
Education and Labor	502,096.40	17,467.20	519,563.60
Government Operations	474,608.72	10,673.97	485,282.69
House Administration	308,683.52	700.00	309,383.52
Interior and Insular Affairs	575,910.72	20,700.00	596,610.72
International Relations	261,431.23	14,749.40	276,180.63
Interstate and Foreign Commerce	680,710.49	24,907.48	705,617.97
Judiciary	$229,799.11	$6,000.00	$235,799.11
Merchant Marine and Fisheries	481,115.30	19,623.97	500,739.27
Post Office and Civil Service	371,898.30	10,841.40	382,739.70
Public Works and Transportation	483,600.89	15,150.00	498,750.89
Rules	203,730.85	3,550.00	207,280.85
Science and Technology	509,749.25	4,425.00	514,174.25
Small Business	413,183.71	24,002.98	437,186.69
Standards of Official Conduct	10,250.00	5,150.00	15,400.00
Veterans Affairs	294,948.52	10,150.00	305,098.52
Ways and Means	345,336.10	2,850.00	348,186.10
Grand total	8,662,853.38	243,572.38	8,906,425.76

THE PLIGHT OF THE BRAZINSKASES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. DORNAN. Mr. Speaker, there are presently residing in the United States a father and a son who exemplify the love of liberty and dedication to human rights which have made our Nation great. Pranas Brazinskas and his son, Algirdas, fled the brutality of the Communist occupation of their Lithuanian homeland and have sought asylum in the United States. Their story is a story of bravery and long suffering and is deserving of our attention. I do not believe that anyone who knows of their trials will support efforts now underway by the Justice Department to return them to their Soviet captors.

Their story follows:

The Brazinskas family has a long history of fighting for the freedom of Lithuania. Stasys Brazinskas, the father of Pranas and grandfather of Algirdas, died while fighting the Soviet occupation of his homeland. His son, Pranas, shared his father's love of freedom and engaged in guerrilla warfare against the Soviet occupying forces. Throughout the years, Pranas has been incarcerated in many concentration camps and prisons in the Soviet Union for his action in defense of Lithuania. Algirdas chose to join his father in his struggle for freedom as soon as he reached puberty.

Despite their many imprisonments, the Brazinskases continue to oppose the Soviet occupation of Lithuania. In 1969, a Soviet dragnet began to close around the two freedom fighters for their political activities. Having been alerted to their danger, Pranas and Algirdas planned an escape by diverting a Soviet plane. They eluded the Soviet agents and made their way to the town of Batuai on the eastern edge of the Black Sea.

On October 15, 1970, the father and son boarded an Aeroflot civilian plane and—without violence—ordered the pilot to divert the flight to Turkey. Unbeknown to them, a Soviet agent, a "chekist," was also on board the flight. When the agent learned of the Brazinskas' demand, he opened fire on them. A Russian stewardess was caught in the crossfire and was killed. A Russian radio engineer was also wounded. Despite this struggle on board the plane, the flight landed in Trabzon, Turkey.

Although the Brazinskases were taken to jail upon their arrival, an Istanbul court ruled 2 days later that they had had political motives for diverting the flight and were entitled to go free.

For the following 4 months, the Soviet Union brought pressure to bear on the Turkish Government to overrule the decision of the Istanbul court and on March 8, 1971, a special commission was established to handle the Brazinskas case. This special, extra-judicial commission, under extreme pressure from the Soviet authorities, overturned the previous court decision and voted to return the man and the boy to Russia and certain death.

But as fate would have it, the Turkish Government itself was overthrown 4 days later and the new regime recognized the justice of the Brazinskas case. They were allowed to remain in Turkey as free men.

But only for a short time. Since they were indigent, they were forced to surrender themselves for voluntary incarceration. This was the only means by which they could receive aid from the Turkish Government and stay alive.

After nearly 3 years in a Turkish jail, a general amnesty is declared on May 21, 1974, and the Brazinskases were once again free. Since they had no place to go, they were sent to a refugee camp in Turkey where they spent the next 2 years under guard.

Then in the early part of June 1976, a Turkish friend was able to warn them that the Turkish Government had struck a secret deal with the Soviets and they would soon be turned over to the Soviet Union. In fear for their lives again, the Lithuanians escaped the camp through a trapdoor.

Six weeks later, after negotiations with the American Embassy in Ankara and the Turkish police, the two were allowed to leave Turkey. For the next 6 weeks, the father and son were shunted from Turkey to Rome to Lisbon. When in Lisbon, they received word that they could emigrate to Canada.

On their way to Canada, they stopped in New York. Once in New York they made their way directly to the General Consul of Free Lithuania.

Since that time, they have pursued every avenue of relief to enable them to remain in America. They have been supported in their efforts by the Lithuanian community in America and by the Lithuanian government-in-exile.

In spite of the justice of their case, our Justice Department has decided to send them back to Communist imprisonment and certain death.

All Americans who believe in liberty must certainly be amazed to learn that our Justice Department would consider deporting Pranas and Algirdas. This father and son who have suffered the worst of Soviet brutality and oppression should be heroically welcomed into our country. I, for one, am appalled that an agency called "Justice" does not recognize its true role in this case: To defend the Brazinskases.

This Nation has long been the sole hope of millions of enslaved people around the world. For our Government to surrender the Brazinskases to their oppressors would extinguish that flame of hope.

BRITAIN IN TRANSITION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. General Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on the politically-rooted economic problems of Great Britain.

BRITAIN IN TRANSITION

(By Henry Huglin)

LONDON.—More than in most advanced countries, Britain is in transition—from the political, economic, and social structure, built up over the centuries, to something somewhat different—but just what is not now discernable.

For us Americans, there may be important lessons in Britain's plight and future. Peter Jay, the new British ambassador to the U.S., wrote recently: "We in Britain are a confused and unhappy people ... So, too, are our many friends in the U.S. who rightly see in the anguish of the United Kingdom the advanced stages of a disease that has already taken hold throughout Western Europe, and that is beginning to show its unmistakable symptoms in the U.S.

But, just now, during Queen Elizabeth's jubilee celebration, the pride and pomp and circumstance—and apparent affluence and bustling activity—mask the economic, social, and political problems gnawing away at Britain.

For many years now, Britain has been plagued by mounting internal political troubles. Most serious is the tragedy of the interminable internecine terrorist warfare of Northern Ireland. Also, there is the move for Scotch and Welsh regional authority, and consequent eroding of central government power.

Then, their residual class system has become a major British handicap. Although opportunity and upward mobility have improved, there are still remarkably strong feelings of class distinction and identification, which lead to polarized class attitudes of "us against them." Further, the two major political parties, Conservative and Labor, are strongly class linked.

But Britain's most serious problems derive from politics—in weak political leadership and growing, self-centered clout of the labor unions. Yet, the major effects are now economic.

The Economist magazine has described Britain's plight: "... these Elizabethan years of great worldwide advance have been years of relative national decline. In 1952 Britain's GNP per head was 1½ times West Germany's and 4½ times Japan's. Though a Briton today is 69 percent better off than he was in 1952, he is only between one-half and three-fourths as prosperous as a Japanese or German."

In Britain, the rewards for hard work and initiative, and for return on capital investment have been greatly eroded. Hence, much of Britain's industry is stagnating.

Unemployment is at a record 40-year high. And there was a drop in real purchasing power last year of 3.5 percent.

Productivity is only about half that of other Western European countries.

Living standards are slipping, due to high inflation, which has been 25 percent and is still 17 percent. The government's hope is to reduce it to 10 percent, which will still be twice ours.

There has recently been some good economic news, but it is not long-term.

The labor union leaders, with their great political leverage and selfish irresponsibility, are getting the government to bow to their will.

The present Labor Government's "social contract," in which the unions agreed to restrain their wage demands, has recently collapsed. The unions are demanding from 15 percent to 30 percent in raises, in contrast to the 10 percent set by the government to hold down inflation and to try to stabilize and rejuvenate the economy.

From all this, Haseler, in a recent book, "The Death of British Democracy," sees a process underway of weakening British institutions and an "increasingly ungovernable and dangerous plurality of starkly conflicting ideologies and interests."

Some commentators even believe that the struggle in Britain is part of a general struggle in the world between totalitarianism and freedom.

What are the lessons in this for us?

Well, Britain is a sobering example of too much emphasis on economic equality and security at the expense of rewards for initiative, skill, and hard work; too much redistribution of what wealth there is at the expense of creating new wealth; and too much welfare, at the expense of economic incentives for society's development and economic expansion. Thus, an inexorable downward economic spiral has been created.

Then, the bad consequences are clear of one sector of society—in this case, the labor unions—getting too much political power.

Of course, the British are basically a talented, sensible, experienced people. They have risen effectively to other great challenges, but those were external. They may pull through their present crisis and rejuvenate their system, but it is not at all certain that they will do this and remain democratic.

We Americans can fervently hope the British will pull through in good shape; and we need to draw useful lessons from their experience for ourselves.

THE JOHNSTOWN FLOOD OF 1977—PART III

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. MURTHA. Mr. Speaker, in the third part of this series on the Johnstown Flood of 1977 as outlined in an investigative reporting piece by Dave Leherr and Stuart Brown of the Pittsburgh Post-Gazette, they discuss two problems that could affect many other communities—warning devices against a natural disaster and the safety of dams.

In Rockville, Md., late last week, Edward S. Epstein of the National Oceanic and Atmospheric Administration got a call to make a hurry-up visit to the Johnstown area.

NOAA—known conversationally as "Noah"—is part of the same federal department as the weather service, the Commerce Department. As NOAA's associate administrator, Epstein headed a seven-member federal team that surveyed the devastation and looked for recommendations.

He spent two and a half days in the flood region. His team's report will be long and probably won't be ready for six weeks. But, Epstein said this week, he is appalled by what he saw and heard. One of his first conclusions is likely to be, he said, that the flood warning systems were inadequate.

"It's as simple as this. The message didn't get in or out," Epstein said in a telephone interview. "The rain that really topped it all off began nearer to 1 a.m. (July 20) and by that time it was too late for many people.

"Could lives have been saved? The answer has to be yes, if—and this is a big if—there were flood warning programs in effect and if people had responded to them.

"For example, there were people who lost their lives in trailers at Seward (Westmoreland County). That happened fairly late, say, after 3 a.m. With a total system of warning, communications and preparedness, lives there would have been saved."

Epstein recalled last April's flood disaster in the Tug River Valley of Southern West Virginia and Kentucky.

"There were similarities with Johnstown but it wasn't a single, intense storm like this; it lasted several days and it was bad but lives were saved."

One reason, he said, was an automatic early warning system.

By contrast, Epstein mentioned a disaster at Big Thompson Canyon in Colorado almost a year ago, where a flash flood killed more than 125 persons, mostly campers.

That tragedy, he said, led to a system that includes waterborne flood alarms resembling toilet floats, placed in streams and ringing alarms after a certain level is reached. An alarm might sound in a sheriff's office, he said.

"Fifty or 60 communities around the country already have things like this, some of them in Pennsylvania," Epstein said.

And there are other techniques, he added—better links between observers and weather offices, more extensive use of radar, a more thorough listing of the whereabouts of rain gauges, where they are and who's responsible for checking them.

"One thing that occurs to us here (in the Johnstown situation) is that the first reports of a flood should perhaps go to local authorities, someone with responsibility to deal with such things as evacuation.

"One thing we've learned in all our disaster work is you cannot rely on any single method of dissemination of information because no one method is going to do the job.

"So you have to ask this question: How would people in Johnstown have reacted a month ago if someone had come in and said, 'You need contingency plans for a flash flood'? Would they have accepted that notion?"

"This was a once in 500-year type of flood," says U.S. Rep. John Murtha of Johnstown who represents most of the flood-ravaged district.

Johnstown Mayor Herbert Pfuhl describes it more dramatically.

"This flood came from the top down," he says. "It was not a flood of river water, it was a flood of rain water. It was run-off. It was like walking to the top of a mountain and coming face to face with a 15-foot high wall of rampaging water that was going to wash you back down."

The runoff, spawned by as much as 12 inches of rain in six hours at some points, contributed almost totally to the breakdown of the dams, says the U.S. Corps of Army Engineers.

Laurel Run, owned by the Johnstown Water Authority and critical to the Johnstown area in maintaining city water pressure, was by far the most disastrous break.

The break unleashed 110 million gallons of water on the village of Tannervville and other homes downstream and is believed responsible for a large number of the deaths, although at this point there's no accurate barometer.

"Forty-five of the dead victims have Johnstown addresses; who knows how many of them were in Tanneryville or along the path of that water?" state police say.

Weather Service rain measurements in that area hit the 12-inch mark.

"That's one helluva lot of water to be going over a dam," says George Cingle, Jr., chief of planning for the Pittsburgh district of the Corps of Engineers and director of its flood emergency operations center here.

"The gush of water totally overflowed the structure and eroded the downstream section of the dam until it could take no more and crumbled. With that kind of volume and intensity of water pouring over the dam, you couldn't expect anything else."

Cingle says the story was apparently the same at five other dams that broke on Otto Run and Sandy Run in Adams Township, Peggy's Run, and two unnamed streams near Ebensburg and St. Michael, all in Cambria County.

None of the dams was a corps dam or a state dam. The only corps dam in the area is the Conemaugh, built in 1952 at a cost of $46 million. It held and did its job.

"It worked beautifully," says Cingle. "Without it, there's no telling the additional destruction the flood would have caused."

It might have even hit parts of Pittsburgh as it rampaged down the Allegheny River.

Although not state dams, state law requires periodic inspections of them by the Pennsylvania Department of Environmental Resources.

Joseph Ellam, head of the dams section in DER's division of dams and encroachment, says the Laurel Run Dam was last inspected in May of 1976.

"The dam was in satisfactory condition, there was nothing wrong with it," says Ellam. He, like Cingle, says the reason it broke was because "it just got too much water in such a short period of time."

But for others, like U.S. Sen. H. John Heinz, R-Fox Chapel, who toured the flood stricken area twice, that explanation was not enough.

"The Laurel Run Dam was built in 1918 or 1919, it was 60 years old," says Heinz. "The minimum standards for safety have changed drastically since then. What we desperately need is a dam safety and upgrading program at the federal level.

A report being circulated in Washington, D.C., by Dan Cook, chief investigator for a subcommittee of the House Government Operations Committee, also cities an inadequate warning system as one of the major problems in the flood.

"Inadequate Civil Defense warning system procedures coupled with the late hour during which most residents were asleep probably contributed to the loss of life," says Cook.

"It seems ridiculous to me that the Army Corps of Engineers is responsible for protecting the water quality of virtually every stream and rivulet but we don't give the same attention to saving people's lives on the same water courses."

Confusion, contradiction and controversy still surround the breakup of the Laurel Run Dam. Officials says the report that the dam was still intact 24 hours after it broke was probably because those giving the reports actually thought it still stood.

But when it did break, apparently it was sudden and inescapable.

Ellam quotes the caretaker assigned to the dam by the Johnstown Water Authority as saying he saw water flowing over the top of the dam early Wednesday morning while flashes of lightning lit up the sky.

Moments later, about 3 a.m., the caretaker says he heard a loud noise, a rushing of water and what sounded like the dam breaking up. Other officials say the caretaker had no time to issue a warning or call anybody. It all happened too quickly.

* * * * *

Would a network of Corps dams along the tributaries and streams where the flood hit have made a difference?

It's another one of those questions that the Corps of Engineers says it can't answer. Hindsight never resolves anything.

But more significantly, the Corps says it's a matter of economics.

"I seriously doubt if economically we could justify all the things that would have to be done to stop this kind of flood," says William Salesky, hydrologic engineer for the Corps.

"The cost of any such projects would far exceed the benefits, especially in light of the freakish nature of what happened."

Salesky and Cingle both make the point that now—in the wake of the ravage and desolation—people will say the dams should be built along all the runs and tributaries that flooded the Conemaugh basin.

But before the flood, the story would have been different.

"There's a new era today," says Cingle. "I don't suspect that today we could even build the Conemaugh Dam or the Kinzua Dam (a $110-million structure completed in 1969 near Warren)."

When there are no floods or threats of floods, people don't want flood control projects built in or near their home towns, says Cingle.

"They don't like the idea of spoiling the natural setting, because that's why they move to areas around water in the first place," Cingle says.

"They don't want the environment destroyed by protective devices. They don't like the idea of relocation that accompanies major projects like dams. And in this particular area we also have the problem of worked out coal mines to contend with in building dams."

And even if new dams are built, Cingle goes on, until something hits, their value is totally theoretical.

"You can look at a dam six ways from center while it is being planned and built, but it's all still theoretic: This is where you start chasing your own tail."

Meanwhile, the Corps and the state DER are working around the clock to make sure the 60 to 70 other dams in the Johnstown area are secure.

The word so far is that there is no danger of any giving way.

Some are giants like the 42-foot-high Willmore Dam owned by Bethlehem Steel Co. with a capacity of 1.25 billion gallons of water; or the 84-foot-high Hinkston Dam, also owned by Bethlehem with a capacity of 1.125 billion gallons of water.

"We're keeping a daily watch," says the Corps. "We have to."

Whether the six destroyed dams will be rebuilt or what it will cost if they are is still uncertain.

Laurel Run would seem a must because of its crucial role in Johnstown's water supply.

GENERAL JONES' SPEECH TO THE AIR FORCE ASSOCIATION

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. WRIGHT. Mr. Speaker, on Tuesday, September 20, 1977, Gen. David C. Jones, Chief of Staff, U.S. Air Force, delivered an outstanding address to an Air Force Association convention luncheon in his honor in Washington, D.C.

Because of the significant content of this speech, particularly as it relates to this Nation's defense posture as well as other topics of such vital interest to all of us in the Free World, I am pleased to call to the attention of my colleagues the text of General Jones' remarks:

ADDRESS BY GEN. DAVID C. JONES

Mr. Secretary, members of the Air Force Association, ladies and gentlemen.

One of the highlights for the Chief of Staff of the Air Force each year is the annual convention of the Air Force Association. I always welcome this opportunity to get together with many friends and to say thanks to the great supporters of the Air Force and of a strong national posture.

As you know, this year's convention, marking the Air Force's 30th birthday, will be my last as Air Force Chief. I would like to use this opportunity to share with you a few summary observations about how far we have come and some judgments about where we should be going.

As I look back at events over the 30 years of our history, the phenomenon that strikes me most is the tremendous explosion of technology. The progress has been revolutionary and new opportunities are emerging almost daily.

The same year AFA was formed, scientists at the University of Pennsylvania unveiled the first practical digital computer. It contained 19,000 vacuum tubes, sprawled over 15,000 square feet, weighed 30 tons. That same computing power is available today in an integrated circuit the size of a sugar cube.

Technological changes have permeated our entire society, and because ours is such a highly technical Service, the impact on the Air Force has been continuous and dramatic. Moreover, the rate of technological breakthrough in the days ahead will increase almost exponentially.

One of the key challenges of the future—for the Air Force and for the nation—is to continue to act responsibly and wisely as we soar up the technological curve.

For, when I see man's giant strides in technology in only a few years—from being totally earthbound to walking on the moon—and compare this to the lack of progress man has made in dealing with men, I am struck by the stark contrast. The ideals of human dignity, charity, brotherhood, and justice have been recognized for thousands of years. Yet we are little closer to achieving them on a global scale than when Christ preached the Sermon on the Mount. To this day, man abuses man. There is hostility, false pride, inability to work with each other. This was brought home to me very clearly two weeks ago when I was in Korea. At Panmunjom, I looked at the hostility in the eyes of the North Korean soldiers, then went by the stump of the tree where the two American Army officers were so tragically and brutally murdered just a year ago. The experience caused me to reflect once again that we live in a world with far too many fences and not enough bridges.

Thirty years ago, there were barely 50 nation states on the earth, and now there are more than three times that many. This growth in the family of nations has many good aspects, for it is a consequence of eliminating many of the vestiges of colonialism. But there are many old and some new frictions. Many of these states are not economically viable and face great difficulty in the days ahead. We have finite resources on this beautiful planet. Appetites are growing and the resources are diminishing. A rise in terrorism and the threat of nuclear proliferation pose continuing problems for man in his dealings with man—competition, hostility, continuing tension—even if we did not have differences between the Soviet Union and the United States.

The key consideration for us, and perhaps for this planet, is the relationship between our two countries. There are very fundamental differences—differences that will continue regardless of cooperation and negotiations. We are an open society; they are a closed society. When we try to exercise influence, it is to maintain access, to work on a cooperative basis; their influence is typi-

cally used to gain control. We generally want stability in the world so we can encourage international progress and improvements in an evolutionary way. The Soviets often promote instability, except in their own sphere of influence—instability where vacuums could be created allowing them to gain a foothold. Cooperation between our societies has seldom been unequivocal.

So, unfortunately, we must anticipate continuing differences—different ideals, different goals and means, different priorities. It is important that we understand the Soviets, that we not mirror image, and not assume that they think as we do.

In order to prevent this in the Air Force, we formed a group in the Pentagon called CHECKMATE. We have a "Red" team and a "Blue" team. The "Red" team has been told to "think Soviet"—study the history, read everything available in classified and open literature, get inside the Soviet mind. We try to get the Red team thinking from the Soviet perspective, examining what they might do, what options are feasible and appealing. Then the Blue team, faced with this simulated confrontation, reacts to see how we and the West should respond.

I would like to put on the 'Red" hat for just a few moments and invite you to imagine yourself in the Kremlin to see how the world might look from that perspective. The view is mixed—some minuses and pluses.

On the one hand, we face some serious problems. Our GNP growth is slowing and there are many who predict that it will be almost stagnant in the 1980s. We face chronic problems in our agriculture—some good crop years but in general a need to use hard currency to import foodstuffs. There is reason to believe we could have an energy problem and move from being a net exporter to net importer of petroleum.

We have a vast oil reservoir in Siberia, but it is imprisoned in permafrost and to exploit this resource will demand tremendous capital investment. Tapping that oil and transporting it West of the Urals will be a very difficult and expensive undertaking.

There is some restlessness in our Soviet republics and in our East European nations. We have a lid on it now, but we have long memories; our experiences in Poland, East Germany, Hungary, and Czechoslovakia have taught us that, if we do have problems in the economy or with our agriculture, or if we relax our vigilance and controls, there are seeds of great dissension ready to sprout overnight.

We look beyond our borders and see the pressure of a billion Chinese at our back door. In the Middle East, we took two steps forward and three back, with scant political return on decades of military investment. In Africa, it is a mixed bag. We see opportunities, involvement, footholds—but with Soviet arms clashing with Soviet arms in Ethiopia and mistrust elsewhere, we face difficulties and uncertainty as to where we will stand in the long run. Overall in our diplomacy, we find some bargain hunters, some hangers on, but few friends.

As we look across the ocean at our principal adversary, the United States, we see a very resilient society. It has bounced back from the body blows dealt by Watergate, Vietnam, and riots in the streets. It has climbed out of the depth of recession and the economy is on the upturn, though at an uncertain pace. After 60 years we are still compelled, in so many ways, to look up to America—and things are looking up in America.

Despite all these minuses, there are some pluses in our Kremlin tally sheet. I won't try to enumerate all, but will touch on some key ones. First, America's dynamic chain of economic and social vitality has some fragile links. One is a self-inflicted dependence on foreign sources of oil—sources not far from my borders. Another is an excessive social and economic intricacy, in which a power failure in her largest city spawned virtually a shutdown of the city and widespread looting. A third is a uniquely American ingenuousness, sometimes bordering on the naive: a tendency to become complacent, to expect the best from others because they wish it so, to be caught off guard and less than ready if attacked. They always respond when the signals are unmistakable or the first blow has been received, but the response often takes a long time. Finally, I see a nation never completely at ease with the power—especially the military might—it has so patiently built.

Meanwhile, the biggest plus that I see from the Kremlin is my own military capability. For the first time in our history, there is no serious threat of invasion of Mother Russia. We have now matched the United States in the strategic field. (Even the Americans admit this, and there are some who say we have surpassed the Americans in this all-important area of strategic power.) We have the largest ICBM force in the world—the most megatonnage, the most destructive capability. We have the largest army in the world, well equipped, mobile, and heavily armored. We have a new navy—not long ago a coastal force and now a true blue water fleet—modern, well equipped, with range almost worldwide. And we have a new air force. Formerly, our aircraft were limited by very short range, small payload and not much sophistication in their avionics. All that has changed and our equipment is modern and highly capable. In sum, we're strong at home and in our neighborhood, but we have also achieved a substantial land growing capability to project that strength to many parts of the world.

Despite the great production capacity in the United States, we in the Soviet Union outproduce our opponent in military hardware in almost every respect. And during a crisis or buildup, we could continue to outproduce them in hardware for many months and in some cases for years.

From the Kremlin, I see a mixture—constraints and options and opportunities. And I may hear voices—voices on the one hand saying, "We face problems in our economy, in tapping the oil in Siberia, many challenges, a need for Western capital and technology. It would be best if we cut back on our investment in military hardware and expanded cooperation with the West—that course would provide the greatest opportunity for the Soviet Union in the days ahead."

On the other hand, I may hear other voices, likely to be louder, saying, "That is not the path. It is only our military power that gives us influence abroad. We are not a superpower from an economic standpoint; we are not a superpower from a technological standpoint. Our political influence in the world stems from our military capability, and our opportunities may come externally. There will be vacuums and confusion in the world—there will be opportunities, and we must continue to expand this military might."

Which voices will prevail is hard to predict, but as we step out of the Kremlin, we have to ask ourselves what all this means in terms of U.S. security interests.

The mix of technological power and unpredictable mankind puts a premium on military vision and readiness. Today we have an uneasy balance of forces. Tomorrow's challenges will be greater.

We need vision not only in the sense of military hardware and skills, but also in the impact our initiatives have on the broader dynamics of international relations. We must follow the avenues of stability in SALT and other arms negotiations. We must always keep an eye cocked to margins, to restraint, to weapons and programs that stabilize the chemistry of strategic deterrence.

It is essential for the future of our country that we continue to pursue negotiation rather than confrontation, with strategic negotiations as a first priority.

But in these negotiations, we must assure that the equal sign in the deterrent equation does not become blurred. I am in wholehearted agreement with the position of the current administration—reiterated by Secretary Brown last week—that essential equivalence is the policy of this nation—that we will maintain a strategic balance with the Soviet Union. We should support negotiations and reductions on both sides, with an eye to sustained parity. This presents a special challenge to us in the United States Air Force, for we are the keepers of the majority of the nation's strategic weapons and the country looks to us for innovative strategic concepts and well-managed strategic programs.

We were naturally disappointed with the decision on the B–1. However, no single weapon system spells the difference between success or failure of strategic deterrence. The key is in the aggregate TRIAD capability and we are working on alternatives to the B–1—cruise missiles as well as other initiatives—to keep the TRIAD modern and impregnable.

We believe it is important that this country continue to have a manned penetrating aircraft. The B–52 can continue in this role for many years, and we advocate an option for an FB–111H—a much improved version of the current FB–111 using B–1 engines and other B–1 technology features.

We are not faced with "all or nothing" issues in our programs. We have a menu of options for the years ahead. I am confident that national wisdom will maintain a rough strategic balance and an overall military balance. To that end, the Secretary of Defense has said that, "we plan to raise the level of U.S. defense spending by approximately three percent a year in real terms."

In international affairs, one aspect of the vision we need is the pursuit of reasonable policies which reflect our high standards of statesmanship and cooperative spirit. Panama is a case in point.

Our security interests depend on access, not perpetual ownership of the Canal. Our influence in the Western Hemisphere for many years may depend on a just and responsible solution—the kind of solution embodied in the treaties being debated today. Cooperative management with a friendly Panama will serve our interests—and protect access to the Canal—far better than a vain struggle with a hostile Panama over issues of a bygone era. Moreover, such a position would cost us respect and influence all through Central and South America.

The Joint Chiefs of Staff are unanimous in this outlook, and I can assure you that our support is not based on just loyalty to the Administration. Our deliberations have been open and candid and our position is heartfelt. The security risks are far greater without the treaties than with them.

We need vision, and in the face of technology's indifferent power we also need readiness—for today's forces and tomorrow's. If someone years from now writes a history of the Air Force, I hope when he comes to my name he'll say, "He helped to make readiness our watchword."

What we have lost in military matters in this generation is time. Time has been our solvent, our teacher and our friend in all the wars of our history. It's no longer there and, in its place, we must substitute a readiness composed of several ingredients.

First, contemporary readiness requires modern weapons—new systems like the F–15, new kinds of systems like the AWACS. It also takes parts and supplies on hand, a taut posture, realistic training—the kind we have at Red Flag, where our crews go to mock war day after day against the kind of forces and tactics they are most likely to face.

We must be able to respond any place in the world quickly, in some places with stationed forces, in others with autonomous mobility.

However, we must recognize that, except in the realm of strategic warfare, we do not have a go-it-alone capability for major conflict. This applies particularly in Europe, but

the point is valid for most other areas in the world where our national interests are at risk.

Therefore, readiness requires coalition—a concept we have not always emphasized in our thinking and planning. We could have done better in Southeast Asia, for example, as we shaped a coalition fighting force. We left the South Vietnamese excessively dependent upon our "calling the shots" and did not do enough to develop their own capability and confidence. We have a chance now to do it right in Korea—to share our arms and training in a way that will assure a strong and confident deterrent and defense.

We have to think hard in this area—about interoperability, rationalization, standardization. It has to take on renewed meaning and be translated into real initiatives. There is great emphasis here in the Pentagon. Ambassador Bob Komer, Advisor to the Secretary and Deputy Secretary of Defense for NATO Affairs, with Assistant Secretary of Defense rank, has been charged to zero in on the NATO issues. He is working with the Services to ensure that all our programs take into account the need to cooperate with our NATO allies across the whole spectrum of R&D, procurement, and employment. The Department of Defense and the Services are seeking new ideas, new incentives, new techniques to foster a fresh climate of cooperation and mutual benefit within the Alliance, and to make NATO standardization a two way street. To you in industry, that poses a special challenge: to fit corporate and technical priorities into this broader framework.

Finally, and perhaps most important of all, readiness takes strong professionalism—from the top down. People are the key. Today, we have the best in our history—the best commanders, the best discipline, the best esprit, the cream of our country's youth and talent. Deputy Secretary of Defense Duncan visited one of our bases not long ago and came back delighted with the Air Force men and women he saw. "Give me half a dozen of those young people for any business," he said, "and I'll guarantee success before the start."

That's a spirit and advantage we must preserve. The Soviets do not have it—their discipline, in general, is based on fear and locked into rote patterns, their initiative is the kind that wears blinders and collapses with disruption, their morale is low. The people contrasts are startling.

We have a good thing going—a great nation moving down an open road, and a great Air Force helping to defend it. You in this audience have helped to make that true.

We'll have changes ahead—shifts and challenges far greater than you and I have seen in 30 years—new weapons, new tensions, new questions.

Somewhere out in the Air Force this afternoon there are young people who will be our senior leaders 30 years from now—somewhere the officer who will stand where I'm standing and look back with a feeling of gratitude and awe over our future and his past. He'll talk of change and concern, and I'm confident that he'll talk with pride.

In conclusion, I'd like to borrow something Bill McBride, our Vice Chief, said last night: "The U.S. Air Force of today is second only to one—the U.S. Air Force of tomorrow."

MEXICAN INDEPENDENCE DAY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ROYBAL. Mr. Speaker, the date of September 16 is one of special significance to many citizens of the United States, for on this day in the year 1821, the people of Mexico proclaimed their independence from Spanish colonial rule, ending forever the reign of foreign tyranny in the Western Hemisphere. Thus, this Independence Day symbolizes not only the emergence of Mexico as a free nation, but also represents a cultural and historical landmark.

In recognition of the importance of this date, I take great pride in paying sincere tribute to all of the Nation's Hispanic citizens.

As we celebrate this occasion, let us be reminded that while we must seek to renew cultural and historical ties, we must also collectively reassess the status of our people in this country—our contributions, goals and accomplishments, as well as the obstacles which still confront us. Finally, this is a day for all Hispanic-Americans to take a hard look at the role which they will play in shaping the future of this Nation.

This is a time of critical importance to all Hispanics. Due to increasing numbers, as well as ever-growing political strength, citizens of Hispanic origin can no longer be ignored. Of all minority groups in the United States, the Hispanic population is currently experiencing the greatest rate of growth. It is anticipated that by the year 1990, Hispanics will constitute the largest ethnic minority group in the Nation.

But numbers alone are not enough to reach the goals of the Hispanic community. Now, to obtain the equality of opportunity previously denied them, Hispanic-Americans throughout the Nation are working to transform their numerical strength into true political power.

The current political strength of the Hispanic population can be exemplified by results of the last Presidential election, where, in California, some 1.4 million Hispanic voters were registered. Similarly, that same year, 900,000 were recorded in Texas, 800,000 in New York, and in Arizona, 177,800. Thus, it seems inevitable that Hispanic voters will play a major role in the political future of this Nation.

Nevertheless, despite our increased numbers and political awareness, many obstacles must still be overcome. To this day, many Hispanic people still face the serious burdens of poverty, illiteracy, and discrimination. Such facts can be illustrated by a staggering unemployment rate of 9.8 percent for Hispanic workers in the second quarter of 1977—compared to an average 7 percent for the general population. In addition, unemployment figures for Hispanic youth hit a high of 22.3 percent during the same period.

Similarly, important areas of employment still remain closed to citizens of Hispanic origin. One such obvious area of underrepresentation exists within the Federal Government itself. Here, Hispanics make up only 2.5 percent of the Federal workforce, while comprising 7 percent of the general population.

Although some increase in opportunities has been experienced under the present administration, many areas of need yet remain, and numerous obstacles are still to be dealt with. Yet, I grow ever more confident in our ability to overcome such difficulties, as the Hispanic people reach goals and make contributions previously thought impossible.

September 16 is not just a date of importance to Mexican-Americans alone. Indeed, it is of great significance to all those sharing in the proud heritage of the Hispanic culture. Today, we must all recognize, and seek to strengthen, the common culture and heritage comprising a most important segment of this Nation—the Hispanic community. Together, through a united Hispanic people, bound by our commonality and pride, we will at last attain the political and economic equality so long denied us.

RIVER BARGE TRAFFIC

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. VAN DEERLIN. Mr. Speaker, perhaps as early as next week we will be asked to consider measures which could seriously affect the future of a transportation industry with an unusually low profile, that of our shallow draft river barges.

Although I do not personally subscribe to all of the contentions presented in a recent speech by Mr. John Creedy, president of the Water Transportation Association, I nevertheless found it particularly enlightening with respect to the importance of the river barges role in intercity commerce, and the remarkable efficiency and energy conservation of river barge transport.

Accordingly, I recommend highly Mr. Creedy's remarks to my colleagues, for their consideration prior to next week's votes on H.R. 8309.

THE WATERWAY FUEL TAX COMPROMISE: SOME BASIC QUESTIONS

(Remarks of John A. Creedy)

It is difficult to praise any increase in taxation or the imposition of new taxes anywhere, but it is possible to praise the art of compromise.

There is today a lineup of the major waterway organizations in support of a bill designed as a compromise of two major issues, the much-needed reconstruction of Lock and Dam 26 on the Mississippi and the imposition of a tax on the inland waterways. The bill would impose a 4 cents a gallon fuel tax on commercial traffic, rising to 6 cents in 1981 and would require a very thorough study of impact. The 4 cents is the same as other federal taxes on fuel used in transportation.

In the same measure is a commitment to go ahead with the reconstruction of Lock and Dam 26, a notorious obsolete bottleneck on the Mississippi at Alton, Illinois which is long overdue for replacement.

The present deadlock over this facility would be broken. A compromise would be accomplished.

It may have seemed logical to separate the issue of taxation and a badly needed lock. It may have seemed desirable to get a handle on the answers to some of the basic questions raised by this change of policy before the change is made and not afterwards as is now proposed.

But that is not the present course and, whatever the misgivings, and the logical anomalies, for example, why water transport and not railroads, why shallow draft and not deep draft, the spirit of compromise in support of the recommendation of the House Public Works and Ways and Means Committees' joint bill, H.R. 8309, is prevailing.

But the questions remain.

The first basic question is one of objective.

There are two over-riding goals of current national policy. The first is the conservation of energy. The second is control of inflation. And barging makes a major constructive contribution to both national problems and the objective of a new tax program should be to keep that contribution unimpaired.

Barging produces transportation at less expenditure of energy than any overland mode by quite a wide margin. At the same time it produces about 17 per cent of the inter-city ton-miles and receives in revenues less than 2 per cent of the total expended, a substantial contribution in the fight against inflation, if there ever was one.

But in addition to the savings directly achieved by those who ship by barge, the barges have a remarkable effect on rates competing modes charge the public. The railroads themselves have testified that their rates on water competitive commodities are "less than they would otherwise be" by $500,000,000 to $750,000,000 a year because of water competition. So, in only 10 years, water competition saves the public in rates paid to the railroads, by their own testimony, the entire $5 billion that the government has spent on the shallow draft navigation since 1824.

And these profitable water-competitive rates, which do so much good in the fight against inflation, help promote improved rail efficiency—the introduction of unit trains, multiple car and other more efficient services—a classic case of lower rates leading to higher volume and higher profits.

The railroads try to persuade everyone that the vast 25,000 mile inland navigation system was constructed solely for the profit of a few barge lines. But everyone knows better than that. Low cost transport of coal for utilities is reflected in the consumers' light bill. Low cost transport of fuel oil contributes to holding down the price of fuel. Low cost transport of raw materials going into the manufacture of aluminum or steel spreads its benefit throughout the whole country. Low cost transport of grain and farm supplies such as fertilizers directly benefits the farmers.

The present system of financing waterways requires a cost-benefit analysis. If the analysis shows the public benefits are in excess of the costs, the project is approved. Navigation projects return $6 or $7 for every dollar expended and the Gulf Intracoastal Canal returns $27 for every $1 spent. The multi-purpose hydro-navigation project on the Columbia, in addition to its favorable cost-benefit, has one extra dimension. It relieves the Pacific Northwest of dependence on fossil fuels, a benefit certainly not foreseen in the 1930's when the projects were first authorized.

The multi-purpose projects have been highly successful in returning their costs to the public through savings. The justification for the use of public funds in these projects is that benefits to the public exceed the cost to the public. To state it differently, when the benefit to the public clearly exceeds the cost to the public, it is appropriate that the project be financed from general tax revenues provided by the public.

Now both Senator Pete V. Domenici of New Mexico and the Department of Transportation, disregarding the basic fact that the benefits accrue to the public generally and not to some special group, want a system of special taxation that could make some waterways, where the benefit to cost ratio is favorable, uneconomic to use. This could radically alter many long-established regional relationships and lead us far into the unknown as to the effect of the tax level they propose on the over-riding goals of fuel conservation and the fight against inflation.

Proponents of these radical measures have tried to sell the proposition that the major fuel conservation and anti-inflation effects of barging will not be impaired. They argue that there will be little diversion of barge traffic, that all waterways will continue as before, that regional competitive relationships will not be impaired, that multi-purpose federal water management programs of which navigation is an integral part will not be affected, that local inland port bond issues dependent on the revenues from waterway traffic will be paid off on schedule, that the farm community will not be disadvantaged, that the railroads will not raise their rates and that, indeed, nothing much will change at all.

The fervor with which the railroads have been promoting the DOT program on the waterways suggests that a great deal will change and that the DOT is either misleading itself when it argues that there will be little change, or that it knows better, and is attempting to mislead the Congress.

This was clearly demonstrated when Brock Adams, Secretary of Transportation, tried to explain to the Congressman from Oklahoma, Mr. James R. Jones, in House Ways and Means hearings, that the Administration did not intend to close down navigation on the Arkansas River when, in fact, the DOT proposal for 100 per cent cost recovery of operations and maintenance on a segment-by-segment basis would clearly do just that to the Arkansas. The Secretary had no satisfactory answer on that basic question and this is typical of the floundering of the proponents on all questions relating to taxation of the waterways. Whatever their rhetoric, their proposal is to raise $300,000,000 or more a year in revenues from an industry whose total gross revenues are no more than $900,000,000. This would obviously have a major not a minor effect on inland navigation. The effect, if not the intention, would certainly be to stifle inland navigation and protect the railroads from inconvenient, but in terms of the struggle against inflation, publicly desirable competition.

Proponents of the cost recovery approach parade a couple of very phony arguments.

The first is the increasingly threadbare claim of the railroads that there is inequity in the use of public funds.

Despite all the tax benefits amounting to billions, the $6 billion programs of loans, grants and loan guarantees in the 4R Act, the $7 billion—soon to go to $9 billion—rescue of the railroad retirement fund, the expenditures for railroad grade crossings, the federal harbor investments facilitating railroad import and export traffic, the current income and current value of land grants, the F.R.A. research and other similar programs, all of which dwarf the $5 billion on shallow draft waterways spent since 1824, they still seriously maintain there is inequity between the water and rail modes in the use of public funds.

To make this argument, they are forced to limit the comparison to only those federal monies which go into rights of way, rail versus water. They blithely ignore all the other subsidy programs under which the railroads receive vast federal funds.

Here the analogy of the blind man and the elephant comes to mind.

Insisting that the only thing to look at is the rail right-of-way is like the blind man insisting that the elephant's trunk is the only thing to look at. In fact, the obviously sound approach is to look at the whole animal, to take into account the trunk, the tusks, the body, the legs, the tail, and everything else. Similarly railroad aids should be looked at as a comprehensive whole.

It is highly instructive that there has never been a comprehensive study of all direct and indirect aids on both sides. Even when the Congress specifically requested the DOT to make such a study, DOT omitted most of the subsidy programs on the railroad side. All this suggests that everyone knows very well where such a study would come out; the rail subsidy programs are at least equal to the waterway programs if not greatly in excess of them.

We've seen another misleading statistic from the Congressional Budget Office which shows barge subsidies at 40 per cent of revenues compared to 3 per cent for railroads. This is not only incorrect, but turns on its head the public benefit of low cost water transport.

This remarkable statistic is accomplished by two feats of sleight of hand: first, leaving out most of the subsidy programs on the rail side and exaggerating federal investment on the water side—including port development and offshore costs involving the merchant marine for example.

Second, using a misleading relationship between federal aid and gross revenues. That this is the wrong approach is demonstrated by the following example. If each mode receives $1 in subsidy, the mode charging $10 a ton will show a subsidy of 10 per cent, the mode charging $1 a ton will show a subsidy of 100 per cent. The fact that the average barge rate is one fifth of the average rail rate shows how the barge industry's major strength—its efficiency—is used against it improperly in such a comparison. In fact, the use of public funds on the rail side is far greater than on the water side.

The second question of policy is whether the tax should be related to recoupment of cost. Under the proposed bill it is not and a study is to be made as to whether it should be. Proponents of recoupment try to persuade us that there is a uniform federal policy of recoupment of cost. In fact, the policy they refer to applies primarily to fees on services such as recovery of the cost of obtaining copies of government reports. There is no consistent cost recovery policy on major government investment programs.

Where benefits—as in the case of barging—permeate the entire economy, the reverse is the case. There is a consistent "no recovery" policy which applies to dozens of programs totaling many billions, some of which nevertheless benefit special groups and regions of the nation. The benefits of all these programs, of course, return their costs many times over through enhanced efficiency of the economy and improved social well-being.

The government gets little or no recovery from such programs as research in improving the quality of agricultural products. The research programs of the National Institutes of Health result in medical research of valuable products which are used by drug companies without any recoupment of the research expenditures by the government. Cost recovery is not expected from billions spent on such programs as atomic energy and other energy programs, on the development costs of satellite communications, on vocational education, on mass transit, on soil conservation, rural telephones, college libraries, housing and mineral exploration. The rationale for "no recovery" is that these programs benefit the entire society.

In a time of high inflation and of energy shortages, the low cost of barge transportation and the fact that it is the most energy-efficient method of transporting goods provides powerful reasons for a "no recovery" policy for waterway investment, more powerful than for most of the other government programs named above.

And of course when, in addition, the forthcoming studies show the railroads benefit from government programs at a rate far in excess of that of waterways, fairness and

logic would require any policy to recover cost through taxation to apply to railroads as well.

No case has been made for taxing the inland water carriers; certainly no case has been made for singling out the inland operators and not including railroads. There can be no case for protecting the railroads from competition of a more efficient service. There can be no case for closing down essential waterways already built. There can be no case for delaying essential replacement of obsolete facilities. There can be no case for disadvantaging one region against another or stifling regional economic development.

There is a considerable case for getting the facts right and then taking another look in 1981 not only on the level of the tax but as to whether any tax at all can be justified.

MURDER OF A GENTLE LAND—PART II

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. DORNAN. Mr. Speaker, yesterday I read into the CONGRESSIONAL RECORD the first half of the Reader's Digest condensation of the John Barron/Anthony Paul book, "Murder of a Gentle Land."

Today the second half of this work follows:

MURDER OF A GENTLE LAND—PART II

A RECEPTION FOR SIHANOUK

Having "cleansed" the cities, Angka Loeu commenced to "purify" the population by eliminating "corrupt" elements. At Battambang, Cambodia's second-largest city, the communists directed the government troops back to their barracks, allowed them to pack their belongings and marched them to the high-school building in the center of town. By next day, more than 1000 officers, 2000 noncoms and 1000 soldiers were milling about. Politely, the communists told them to separate by rank. Then they distributed rice to the ordinary soldiers and authorized them to buy whatever else they wanted at a nearby market. Among the defeated soldiers a feeling of relief grew: they were being treated fairly; no longer would Cambodians have to kill Cambodians.

The following morning a dramatic announcement was made. Prince Sihanouk was returning to Phnom Penh! To welcome the Prince, officers would travel to the capital for the celebration.

Kom Kiry, a 52-year-old infantry major, was one of those who left in the convoy. In the lead were a Jeep and Land Rover holding about 20 armed communists; then came a bus carrying some 30 government army officers and 10 guards; five open trucks with more officers; and, bringing up the rear, a truck holding about 60 communists.

In Kom's truck there was a festive air. A communist official had passed the word that after the welcoming ceremonies, all the officers would be given a certificate absolving them of blame for having served in Lon Nol's army. All would then go free.

For about three hours the convoy drove along Highway 5 toward Phnom Penh, and then abruptly turned off onto a secondary road leading toward the Battambang-Phnom Penh railroad tracks. The officers, who had been joking and laughing, suddenly were hushed. They could see, waiting on the right side of the road 200 yards from the main highway, a long line of about 60 armed communist soldiers.

The vehicles halted and the officers were ordered to disembark. Kom studied the terrain. On the right-hand side of the road were soldiers; on the other was a field and, in the distance, forest.

Perhaps ten minutes after the vehicles had driven off, a burst of machine-gun fire—about 20 rounds—came from the highway. A signal, thought Kom. A minute later, the soldiers along the road began shooting into the officers. Kom slipped away in a low crouch, then broke into a desperate run.

For three hours the Khmer Rouge fired into the piles of dead and dying officers. Hiding in the forest, Kom could hear the sounds of gunfire. Of the 315 officers in that convoy, only four—Kom and three others—appear to have escaped.

This was only one of many organized massacres perpetrated throughout Cambodia during the first days after surrender. For, despite their pledges of reconciliation, the communists immediately set out to exterminate the entire government officer corps and management echelon of the civil service. The massacres were committed on such a large scale and with such a basic sameness of methods as to remove any doubts that Angka Loeu had planned them well before the war ended.

By refusing to bury the slain, the communists advertised their deeds. It was as if Angka Loeu deliberately had chosen to turn the entire countryside into a ghastly corpse-strewn charnel house to intimidate the populace.

A TERRIBLE STILLNESS

The communists frequently bragged that they had eliminated all prostitution in Cambodia, and they may have been right. Less than a mile outside Sisophon in late April, a truck driver stumbled upon one example. He saw the crumpled bodies of about 20 young women. Each had been bludgeoned to death with blows on the back of the head. The truck driver knew some of the women as prostitutes and concluded that the rest were, too.

The communists also killed some students, teachers and other "intellectuals" for no apparent reason other than the fact that they were educated. Approximately 2000 schoolteachers were incarcerated at Wat Ek monastery northwest of Battambang, another 1000 or so at a camp northeast of the city. A driver for the communists who later escaped to Thailand claimed that in May he saw soldiers kill 17 teachers from the Wat Ek camp with axes.

In the first months, the pogrom against intellectuals was not carried out as rigorously as that against military officers and other "impure" elements. But it was sufficiently widespread so that educated people began to hide their education.

Angka Loeu, rightly or wrongly, identified many inhabitants of Phum Kauk Lon as former officers, customs officials and police agents. On or about April 20, troops marched the whole village out of their huts and into the nearby Arak Bak Kar forest. As the people walked among the trees, machinegun squads lying in ambush cut them all down—approximately 360 men, women and children.

One evening in May, a squad of communist soldiers appeared at Khal Kabei in the Thmar Puok district. "Stay close to home tonight," they said. And a tractor drove past, towing a trailer carrying a group of women aged 18 to 25.

As dawn came, the villagers discovered why the Khmer Rouge had wanted the night to themselves. About 500 yards along a cart track east of Khal Kabei, where all could see, were the remains of the young women. "They had been buried up to the necks," said a villager. "You could see only their heads." Each had been stabbed in the throat.

For more than a week, as the heads became swollen with putrefaction and the smell of death permeated the village, the Khmer Rouge refused to let Khal Kabei arrange a proper burial. *"Kael American kael Lon Nol"* ("The dandruff of the Americans and Lon Nol"), the soldiers called the corpses. From the young women's appearance, especially their carefully groomed long hair, the villagers guessed they were the wives and daughters of officers and senior civil servants.

On April 27, at Mongkol Borei, *Angka Loeu* further "purified" the population. Led by an officer called Taan, a squad of communist soldiers rounded up ten civil servants along with their families, about 60 people in all. They bound the hands of each behind the back, forced them aboard a truck, and drove them two miles out of town to a banana plantation adjoining Banteay Neang village.

Weeping, sobbing, pleading for their lives, the prisoners were formed into a ragged line, the terrified wives and children clustering around each head of the family. One at a time, each official was thrust forward and forced to kneel between two soldiers armed with bayonet-tipped AK-47 rifles. The soldiers then stabbed the victim simultaneously, one through the chest and the other through the back. Family by family, the communists proceeded methodically down the line. As each man lay dying, his wife and children were dragged up to his body. The women, forced to kneel, also received the simultaneous bayonet thrusts, then the children and babies.

An eyewitness, 35-year-old Ith Thaim, whom the Khmer Rouge had drafted to drive the truck, remembers that a terrible stillness settled over the plantation, the Khmer Rouge saying nothing, "the blood like water on the grass."

EXODUS

On the five national highways leading out of Phnom Penh, the midday temperature those last days of April rose above 100 degrees. The dry season now ending had parched the flatlands and evaporated the rice paddies, leaving stagnant, fetid pools and ponds increasingly fouled by excrement and bodies.

No stores of potable water, no stocks of food, no shelter had been prepared for the millions of outcasts. They slept wherever they could, frequently in the open fields and ditches. Along some stretches of the highways, trucks did haphazardly distribute small quantities of American rice brought from Phnom Penh. But most families received none at all.

The very young and the very old were first to die. Adults and children alike slaked their thirst in roadside ditches. Consequently, acute dysentery racked and sapped life from bodies already weakened by hunger and fatigue.

Dr. Vann Hay, thrown out of his Phnom Penh clinic on April 17, had started northward on Highway 5, and spent a month on various roads and trails. Of all the agonies he saw, the most difficult for him to bear was the ordeal of the children.

"We must have passed the body of a child every 200 yards. Most of them died of gastrointestinal afflictions which cause complete dehydration. I had some medication with me, but most children brought to me required massive dosages, and lengthy rest afterward. Neither was available."

Generally, on the main highways, the march was guarded by troops stationed at checkpoints every few miles, and by soldiers posted along the way. These troops usually demanded that the people walk throughout the day at as brisk a pace as the congestion allowed.

The discipline imposed by *Angka Loeu* was Draconian. During the first days of his trek Dr. Vann Hay saw soldiers cut down five or six people who failed to keep pace. "They would give a first warning, then a second warning, then they would shoot. Most of the ones I saw being killed were elderly."

A former intelligence officer, Thiounn Kamel, was swept up in the throngs pushed

out of Phnom Penh on National Highway 1. "Once, when I couldn't move because of the crowd, I stopped on the side of the road. There was a truck loaded with armed Khmer Rouge. When their truck also couldn't move, they just shot at the people to clear the way. It was savage."

Among tens of thousands of families marching south on National Highway 2 was a slender, pretty Khmer Airlines stewardess named Lon. She and her husband took turns carrying their four-month-old daughter, Vathana. The infant was accustomed to canned milk because Lon, needing to return to work after childbirth, and not breast-fed her. Now the canned milk brought from Phnom Penh was gone, and the mother's body was incapable of producing milk. Though Lon herself was suffering the effects of malnutrition and dehydration, she struggled to match the pace required by the soldiers, hoping somewhere to find sustenance for the baby.

Finally, however, she knew she was going to collapse and, in tears, she begged her husband to forsake her, to try to save their daughter and himself. The husband hesitated, then reached for the baby. As he cradled her in his arms, the child smiled and laughed at him. He turned back and, through his own tears, said to his wife, "We stay together."

Friends who observed this scene and who themselves had to quickly move on understood, as probably did the husband, that he really was saving, "We die together."

Chaos increased as the communists also began emptying villages, jerking peasants from their homes of a lifetime and throwing them into the milling masses of urban exiles. Uncertainty and fear compounded the agonies of the march. People could not be sure of where they were going or what awaited them. Thousands of Pailin residents were driven northward along a narrow dirt road pocked with holes. After they had walked half a day, they were halted by soldiers who ordered them to march back in the direction whence they came. The next day soldiers ordered them north again.

However, sooner or later, at some barricade or village, the exiles encountered an *Angka Loeu* commander who, as if casting a net into a sea of fish, arbitrarily hauled people off the road and ordered them to begin building a new settlement.

By early June, the first great exodus was over. Some 3.5 million people from the cities and probably another 500,000 from villages had been uprooted and scattered throughout the land. The highways out of Phnom Penh were barren and quiet. The corpses were deteriorating into skeletons, the hospital beds and cars rusting.

Dr. Vann Hay had escaped to Vietnam, but he will never forget his trek from Phnom Penh northwest toward Oudong, then south again along the Mekong, and southeast on Highway 1 to the South Vietnamese border. "Thinking of all the bodies I saw, plus the sick who came to see me—between 20 and 30 every day—half of whom were not going to live, I figure that between 20,000 and 30,000 people must have died the first month, just in the area described."

In all of Cambodia, a minimum of 300,000 human beings perished during the exodus. And for the survivors, the worst was yet to come.

THE NEW VILLAGES

Ngy Duch was a tall, lean, muscular youth of 22 with a narrow face, dark eyes and straight black hair. Buddhism had taught him never to inflict pain on another human being, and to abhor the war. When news of peace reached him in the town of Pailin, he had celebrated, playing his bamboo flute late into the night. But soon he and his ailing mother and several other relatives were driven from their homes.

For 23 days Ngy shepherded his relatives eastward through the forests, finally reaching the village of Ampil Pram Daum. There, an Angka Loeu boss, a Comrade Mon, declared that the family would stay.

Ampil Pram Daum, about 45 miles northeast of Battambang, once was a large village in the midst of fertile rice fields. The original residents had vanished, and 2000 refugees were consigned to the locale. However, consistent with its determination to wipe away the past, Angka Loeu prohibited anyone from living in the vacant houses. All had to build their own huts and create a "New Village."

Sooner or later, Angka Loeu drove virtually everybody from the cities into one of the thousands of New Villages. While conditions varied according to the availability of water and the fertility of land, the regimen of work, life and death dictated by Angka Loeu was largely uniform.

Each arriving family was allotted a space, about five yards square, on which to build a hut. Normally, neither materials nor tools were provided, so the family had to forage for bamboo, branches, straw, grass or whatever the land might yield.

The hut completed, everybody joined the common labor force to clear trees and underbrush, plow for the planting of rice, and erect irrigation dikes. They labored from about 6 to 11 a.m., and from 1 to 5 p.m., seven days a week—and, in some settlements, three hours at night if the moon was out. Men, women and children were segregated into separate work parties and kept apart in the fields. Except during the midday break, Angka guards allowed neither rest nor conversation.

Ngy Duch convinced Comrade Mon that his mother was too ill to work. But he was assigned to a group of 215 people and for a month pulled a plow as if he were an ox.

In the evenings, all New Villagers were compelled to attend ideological lectures and, frequently, to witness a Kosang, the Khmer word for "construction." A Kosang was a ritualistic warning to someone who had displeased Angka Loeu. He was expected to confess and repent, and thus "construct" himself into a good and pure person. The ceremony evoked silence and fear, for everyone quickly learned that no one ever received more than two Kosangs.

About mid-June, while working in the field, Ngy stepped on a sharp piece of bamboo which penetrated almost all the way through his foot. His whole leg swelled, he developed a high fever, and pains shot up to his waist, so he hobbled to Comrade Mon and requested a few days' respite from work. "Such a tiny wound is not enough reason for staying home," Comrade Mon said.

That night Ngy received his first *Kosang*, as village committee members took turns berating him: "You must learn to live with pain. You must not be soft. You must not be lazy, trying to get out of work." There followed a litany: Ngy was free; Ngy was equal; Ngy was happy.

Humbly, Ngy admitted he had been a lazy malingerer. He pledged to work honorably for *Angka Loeu*.

STARVATION DIET

The Wheel of History, *Angka Loeu's* missionaries habitually warned, would grind down anyone who disobeyed or flagged. References to the mystical Wheel of History were endlessly repeated. A student recalls: "The words induced us to think of a huge roller with unimaginable weight behind us all the time, and ready to crush any one of us into powder should we happen to slow down for any reason."

There were strictures against all things foreign, against music and dance, against sex, against traditional family relationships. Parents might "request" a certain form of behavior, but their children were free to disregard the request. And children were singled out for the most intensive brainwashing. In the village of Khna Sar, university student Ung Sok Choeu observed: "The only subjects being taught were revolutionary thinking and the aims of the Khmer Rouge struggle, and how to detect the enemies of both. As a result, all the children turned into little spies, reporting everything that was said at home."

In Ampil Pram Daum, the children's reports led to numerous *Kosangs*. Some children derived a heady sense of power from the knowledge that they could place the life of any elder in jeopardy. In time, the mere sight of them made Ngy afraid.

During the first six to eight weeks after evacuation of the cities, *Angka Loeu* generally succeeded in distributing a ration of about nine ounces of rice daily to each person. But by midsummer many villagers were receiving only half a milk can of rice, insufficient to sustain life. Epidemics of malaria, cholera and typhoid spread. Approximately 1000 people inhabited the New Village of Ta Orng; about 200 died in June. Sambok Ork contained 540 people when organized in late April; in July and August, two to five died daily, according to philosophy professor Phal Oudam, who was drafted to file biweekly reports of deaths to *Angka Loeu*. Out of roughly 800 inhabitants in Phum Svay Sar, about 150 died in the summer.

By September, Ngy and the people of Ampil Pram Daum had stripped the jungles of crabs, snails, bamboo shoots, bindweed and all else edible. People looked like skeletons draped with a thin, sickly cover of skin. Of the original 215 in Ngy's group, about 15 percent had died and only ten were strong enough to do their jobs. Ten men had been executed. Three were former soldiers who upon arrival had naively told Comrade Mon the truth about their past. One morning, a communist squad appeared in the field and escorted them into the forest, where Ngy later saw their bullet-punctured bodies. Children spies overheard two police inspectors discussing their former work. Both men were clubbed to death with hoes.

On September 14, the village committee ordered Ngy to patrol the area in the evening after the workday ended. He pleaded that he was so weak he could barely work during the day. A few hours later, *Angka Loeu* gave him his second *Kosang*. Comrade Mon shouted, "Stop going against the Wheel of History. Stop refusing orders given by *Angka Loeu*. There is no reason why you cannot do night duty."

Before Ngy's work group departed for the fields the next morning, a committee member casually mentioned that soldiers would accompany them. Ngy instantly knew what their presence meant. He sneaked back to his hut, put some valuables in his money belt and slipped his flute into his trousers. Then, kneeling before his mother and putting her feet on his head for the traditional Khmer benediction, he stole into the forest.

Through the deathly summer of 1975, the serfs of the New Villages looked to the fall harvest for some relief from their misery. But in the autumn, *Angka Loeu* once more convulsed the population by instituting another great migration. More than half a million people suddenly were lifted out of settlements they had built in the south, and scattered anew to start all over again in the north and northwest.

Among those swept away were Ang, the winsome pharmaceutical student from Phnom Penh, her sister Anna, and their two brothers, Kim and Tam. After 30 hellish hours first in Chinese trucks, then in suffocating freight cars, they staggered off a train in Sisophon. Seeing that the two brothers were so sick they scarcely could stand, an *Angka* functionary unexpectedly took pity on them and all four wound up in Zone 5 Hospital.

The hospital, established in an old brick schoolbuilding, was filthy. Serum was stored in open soft-drink bottles and a liquid potion

was kept in used pencillin bottles and given to all patients, no matter what their malady. Most of the "doctors" and other personnel were illiterate. They made no effort to diagnose the ills of individual patients, treating all with the same mishmash of pills, herb medicine and serum.

Kim knew he was dying. Toward the end, he could only stare vacantly at his sisters and faintly squeeze their hands. When he died, his body was dumped into a cart along with the other dead of the day and, as Ang and Anna watched, trundled away toward a communal burial pit.

Three days later, the sisters left the hospital hoping to catch a fish for Tam in the river. They returned to find his bed empty. "Oh, he's dead," said an attendant. "We've already buried him."

In November, the sisters attempted to escape to Thailand in the company of a bandit. Her foot cut by barbed thorns, her reserves gone, Ang repeatedly fell and, upon ascending a barren mountain, could walk no farther. "If I stay with you, we must all die," the bandit said.

Forcing her tearful sister to go on with the bandit, Ang lapsed into deep sleep. When she awoke she felt stronger, and began wandering westward, satisfying her thirst by licking dew from the foliage. On the ninth morning, she awoke by a cow trail near a village and, when two men passed, decided to take a chance.

She ran out, grabbed the older man by the hand and said, "I've just escaped from Cambodia!" Both men were startled by the bedraggled forlorn figure standing before them. "Is she human?" the younger man asked. He spoke in Thai. She was free.

In a refugee camp, Ang heard that the bandit escorting Anna had stepped on a mine near the border. Badly hurt, he managed to crawl into Thailand. Behind he left the body of a young woman dismembered by the explosion.

THE HUNTED

Nothing so provoked the wrath and cruelty of *Angka Loeu* as an escape attempt. Escapees seldom received any quarter.

Once triumphant, *Angka Loeu* began sealing off the entire border with Thailand—a 449-mile frontier that curves through mountains and jungles, across rivers. Villages and settlements were evacuated to create a no-man's-land about three miles wide all along the border. The crossings, their approaches and jungle trails were seeded with mines and boobytraps.

Phal Oudam, the philosophy professor, slipped out of the disease-ridden village of Sambok Ork on the evening of September 4, 1975. With five other men, he headed into the jungle toward Thailand. They had walked along a trail perhaps an hour when a boobytrap exploded underfoot, injuring four of them.

Phal climbed a tree. At dawn he looked down on a grisly scene. "I could see countless groups of bodies, five, ten yards apart, the corpses piled on top of each other. Later, as I picked my way along the track, I saw more; some swollen bodies; some only skeletons. Groups of 5, 20, 3, 2. The Khmer Rouge would put two sticks in the ground, then tie a string between them to the grenades' firing pins. If you walked carefully, you could see the traps, but at night it was impossible."

Throughout the border region, *Angka Loeu* patrols roamed the jungles and mountains hunting escapees. Keo Kim Taun, a former government soldier, was one of 37 people who tried to escape from the village of Soeur. A patrol spotted them cooking rice in a jungle clearing and opened fire with AK-47 machine guns, killing 21, the youngest of whom was five years old. Keo and the other 15 survivors reached Thailand 12 days later. En route, they saw innumerable corpses of people slaughtered by such patrols.

Abdul Hadji Mohammad, who was one of the few to escape the persecution of Muslims, remembers: "We walked for ten nights, moving only when it was dark. All along the way, the jungle smelled of rotting corpses; we could not get away from that smell."

Ouk Phon, who escaped from Phum To Tea in the Samring district, reports: "In one spot I saw about 50 corpses tied together with rope, and elsewhere, under a tree, the skeleton of a child, its hands still tied. On the way to the border, I suppose I passed 5000 bodies. Some paths were so thick with skeletons the bones could cut my feet."

Yet despite all the dangers, the will to be free of *Angka Loeu* was so inextinguishable that each month thousands tried to escape. Although the first waves contained a disproportionate number of students, intellectuals, formerly prosperous tradesmen, civil servants and military personnel, by autumn of 1975, as British journalist Jon Swan put it, the overwhelming proportion was made up of "humble country folk, recognizable by the heavy tattooing of their bodies, dark skins and coarse hands and feet—the people one would think best suited for the rigors of peasant revolution."

NGY DUCH, who, back in Pailin—long ago, it now seemed—had welcomed the peace with melodies from his flute, made it, too, and was taken to a refugee camp in Thailand. "At the camp, the only thing I had left was my flute," he remembers. "I played it every day, and all the unfortunate Khmers listened and dreamed of the country they had lost."

A NEW DARK AGE

By 1976, *Angka Loeu's* domination of Cambodia was beyond challenge. The population, socially atomized and physically enfeebled, was utterly at the mercy of its new masters. And the New Villages, hewn from the wilderness, were, in their fashion, functioning. The December rice crop, described by the communists as "not a bumper one but sufficient for self-supply," had been harvested. Now *Angka Loeu* seemingly could afford to stabilize the country and ameliorate the deathly rigors. But that was not to be.

In October 1975, monitors abroad listened as the communist commander in Sisophon received radio orders to prepare for the extermination, after the harvest, of all former government soldiers and civil servants, regardless of rank, and their families. Soon word spread among the communist soldiers that teachers, village chiefs and students were to be included in the toll.

The killing began during early 1976. Before, the organized slaughter largely had been confined to officers and senior civil servants. Now the lowliest private, the most humble civil servant, the most innocent teacher, even foresters and public-health officials, became prey.

Father Francois Ponchaud, a French authority on Cambodia, reports that on January 26, a communist official in the Mongkol Borei district declared: "Prisoners of war [people expelled from the cities and villages controlled by the Lon Nol government on April 17] are no longer needed, and local chiefs are free to dispose of them as they please." And after that, the killing rose steadily as *Angka Loeu* strove to obliterate every human trace of the old government by the first anniversary of its victory. .

Ponchaud lived in Cambodia from 1965 to 1975, studying Buddhism and Cambodia, and becoming one of the foremost religious writers in the Khmer language. His calculations are unlikely to be biased by political considerations. After interviewing Cambodian refugees given asylum in France and studying the daily broadcasts of Radio Phnom Penh, Ponchaud concluded that between April 1975, and February 1976, at least 800,000 Cambodians died as a consequence of famine, disease and execution. Last summer, after one month in Thailand eliciting fresh data from refugees, he concluded that his earlier evaluation was now "far below reality."

The authors, on the basis of their interviews, estimate that, at minimum, 1.2 million men, women and children died in Cambodia between April 17, 1975, and December 1976 as a consequence of the actions of *Angka Loeu*.

If any question remains, listen to *Angka Loeu* leader Khieu Samphan. As Cambodian chief of state, Khieu attended the Colombo conference of non-aligned nations last August and, while there, was interviewed by the Italian weekly magazine *Famiglia Cristiana*: "In five years of warfare more than one million Cambodians died. The current population of Cambodia is five million. Before the war the population numbered seven million."

The interviewer asked: "What happened to the remaining one million?"

"It's incredible," Khieu replied, "how concerned you Westerners are about war criminals."

After the desolation of the cities, the early massacres and in the midst of the first famine, one of the *Angka Loeu* bosses, Ieng Sary flew to a special session of the United Nations General Assembly. He left behind a country without universities, commerce, art, music, literature, science or hope. As one young refugee said, "There is no love anywhere."

Upon landing in New York, Ieng Sary boasted, "The towns have been cleaned." And when he appeared at the United Nations, delegates from around the world warmly applauded.

Otherwise, the world largely has remained silent. No outraged students protest on campuses. There is no great outcry in Congress. No one demonstrates on Pennsylvania Avenue, the Champs Elysées or Trafalgar Square about what "peace" has brought to Cambodia.

And in the jungles, in the thousands of New Villages, under the guns of *Angka Loeu*, the Cambodians each evening try to sleep, knowing that the next day will be as dark as the night that has enveloped them.

MICHIGAN NO-FAULT HEARINGS

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ECKHARDT. Mr. Speaker, on June 13, 1977, the Subcommittee on Consumer Protection and Finance of the Interstate and Foreign Commerce Committee held its fourth and final hearing to consider various State experiences with no-fault automobile insurance.

Throughout these sessions, the subcommittee has examined the different no-fault laws to see whether they provide more equitable, efficient and expeditious compensation to the victims of motor vehicle accidents than the predecessor liability insurance system and whether they achieve these objectives at reasonable costs. In addition, the data presented at these hearings has vastly enhanced the ability of the Members to valuate the need for Federal no-fault standards.

In Massachusetts, the subcommittee found that a no-fault law with modest benefits and a low $500 threshold—the amount of medical expenses a person must incur in order to sue for general damages, commonly referred to as "pain and suffering"—was working well to provide prompt payment of benefits to

all auto accident victims at significantly reduced rates. It was noted, however, that the $2,000 benefit package in the State is adequate to provide compensation for seriously injured victims, and it is highly unlikely that Massachusetts' dollar threshold could support a higher benefit package. A detailed summary of the Massachusetts no-fault experience appears at pages 20680–20684 of the CONGRESSIONAL RECORD of June 23, 1977.

In Florida, we learned that a $1,000 threshold had become a target for the unscrupulous and the State responded by adopting a "verbal" or descriptive threshold, one which permits suits for general damages for certain types of injuries. The verdict is still out on that particular threshold. Subsequent to our hearing, the subcommittee learned that the Florida Legislature again addressed the subject of no-fault, at first voting to repeal the law and then, at the last minute, voting to retain it with certain relatively minor modifications. A detailed discussion of the subcommittee's findings appears at pages 29559–29562 of the CONGRESSIONAL RECORD of September 15, 1977.

In New York, the subcommittee examined a law which offered a high level of benefits but did not restrict the right to sue for general damages to any great extent. The subcommittee found that the law was providing fast, certain and equitable payment to almost all victims, as well as utilizing a much greater percentage of the premium dollar to compensate accident victims than was the case under the preexisting liability insurance system. However, the hearing also revealed that New York's dollar threshold was being abused and that the law lacked an adequate mechanism to prevent doctors and hospitals from overcharging the victims of automobile accidents.

Subsequent to our hearings, the New York Legislature revised its law to adopt a verbal threshold and to limit payment to the providers of medical services to reasonable amounts. It is, of course, too early to evaluate whether these changes will achieve their objectives. A detailed summary of the New York hearing appears at pages 29766–29768 of the CONGRESSIONAL RECORD of September 16, 1977.

Finally, the subcommittee reviewed a no-fault law in Michigan which offers unlimited medical and rehabilitation benefits and high work loss and survivors benefits while limiting suits in tort for general damages with a verbal threshold. While some concerns exist—and they will be discussed later in this report—Michigan officials testified that the law is working well in fulfilling the promises of no-fault by providing prompt, sure and adequate compensation for losses suffered by automobile accident victims at reasonable rates.

During the 1-day hearing in which the Michigan experience was reviewed, the subcommittee heard from a number of knowledgeable witnesses on no-fault automobile insurance, including the Honorable Richard A. Austin, the Michigan secretary of state. In addition, the subcommittee heard the testimony of Thomas Jones, the Michigan commissioner of insurance; Tom Downs, chairman, Committee cn Uniform Motor Vehicle Accident Reparations Act, National Conference of Commissioners on Uniform State Laws; Sam Fishman, director, Michigan United Auto Workers; William Gaines and John McCarron, investigative reporters for the Chicago Tribune, who have written a number of articles on automobile insurance compensation; Rosemary Pryor, a seriously injured accident victim compensated under the Michigan no-fault system; Tom Tuzzolino, a seriously injured accident victim compensated under the Illinois fault system who was accompanied by his mother, Karen Tuzzolino; Ivan E. Barris, Esq., speaking on behalf of the Michigan Bar Association; Elmer P. Simon, vice president and general counsel, Frankenmuth Mutual Insurance Co., speaking on behalf of the Michigan Association of Insurance Companies; Sheldon L. Miller, Esq., speaking on behalf of the Michigan Trial Lawyers Association; Robert Rowe, senior vice president, League Insurance Group; and Philip Loving, cochairman, Concerned Citizens Task Force of Detroit.

HISTORY OF THE MICHIGAN NO-FAULT STATUTE

The embryo of Michigan no-fault automobile insurance can be traced to September 1965, when the Michigan Credit Union League and the Law School of the University of Michigan cosponsored the Ann Arbor Conference on Auto Insurance. This conference, which brought together legal scholars, insurance industry leaders and government officials, examined both the legal theory and business practices involved in compensating individuals injured in car accidents. It was during this conference that particular interest was first shown toward the new theory of no-fault compensation, developed by Profs. Robert Keeton of the Harvard Law School and Jeffrey O'Connell of the University of Illinois Law School.

During the succeeding 7 years, a number of events transpired which eventually led to no-fault legislation. By the early 1970's, several States including Massachusetts, Florida, New Jersey, and Connecticut had enacted no-fault laws. Moreover, several in-depth studies, extremely critical of the existing tort system, were published. The 2-year, 26-volume study conducted by the U.S. Department of Transportation, a report to New York Governor Rockefeller by the superintendent of insurance. Richard Stewart, entitled, "Automobile Insurance—For Whose Benefit?" as well as certain Michigan studies, substantiated the inadequacies and unfairness of the fault system.

Secretary Austin articulated the State interest that prompted the Michigan legislature to enact its no-fault bill as follows:

> There existed a social problem resulting from automobile crash bodily injuries which was inadequately alleviated by a patchwork compensatory system comprised of an archaic tort system to which had been grafted inadequate uninsured motorist and financial responsibility statutes.

He summed up the inherent weaknesses of the tort system in this way:

> 1. Payment of damages was not timely and did not occur until after determination of liability.
>
> 2. If payment was realized, it usually was tendered in a lump sum—inaccurate for future losses and late for accurate past losses.
>
> 3. Many injured parties were not protected by tort and consequently not covered with respect to their losses, e.g., cases involving contributory negligence and single vehicle crashes, among others.
>
> 4. Savings through "wrap-arounds" or coordinated benefits was prevented because the tortfeasor was liable for the other person.
>
> 5. A major portion of the premium dollar was expended for administration of the tort system.
>
> 6. The tort system was characterized by inequities such as the over-compensation of small injuries, under-compensation of large injuries, and discrimination against the poor and uneducated.

Secretary Austin testified that one pre-1972 study of approximately 20,000 Michigan automobile crash cases involving serious injuries showed that roughly 57 percent of those injured received no compensation at all; 11 percent received less than 50 percent of their economic loss; 11 percent received 50 to 100 percent of economic loss; and, the remaining 20 percent—those least seriously injured—received anywhere from 100 to 400 percent of economic loss. Less than 3 percent received any compensation within 30 days, and it took from 1 year to 4 years for approximately 46 percent to receive any compensation.

Other studies documented the fact that people with higher incomes and more education did far better than people with lower incomes and lesser educations. For example, those with a family income under $5,000 recovered 38 percent of their economic loss. Those with family incomes of $5,000 to $9,999 recovered 52 percent of their economic loss, and those with income over $10,000 recovered 61 percent of their economic loss. By the same token, those who had only a grade school education recovered 24 percent of their economic loss, and those who had some college training recovered 70 percent of their economic loss.

Secretary Austin testified that even more revealing was a 1972 study by the Michigan Department of State of certain 1970 auto crash victims. He described the findings of this study as follows:

> Now all of these cases were already two years in process under the tort system when the study was made. The results of the examination were disconcerting. Two years after the crashes, legal settlements with insurance companies or the driver alleged to be at fault were nowhere near completion, in most cases. In certain instances, lawsuits which had been threatened still had not been instituted. Of the few that were filed, some offered little hope of obtaining a decent settlement, and on top of that, the lawyer would get his share, to which he was entitled, usually a third of the total amount, plus expenses, off the top, often leaving an inadequate amount for the victims.
>
> Other findings included victims and families with unpaid and continuing medical bills, debts, despondency, suspicion of the system, families torn apart were not uncommon. It could be stated some of the survivors or families of survivors of the crashes might be considered worse off. Under the tort system, there were found families of victims with loved ones injured or dead often with mounting unpaid bills, facing an insurance system which held the upper hand,

which could afford to stall them into a forced settlement.

People were found trying to cope with a legal system which because of the need to establish fault too often worked to the disadvantage of those needing quick and adequate compensation.

In short, actual case studies showed the tort system to be inhumane, unfair, and unresponsive to the needs of the crash victims.

On the basis of the deficiencies disclosed in these studies, Michigan's then-Insurance Commissioner Russell E. Van Hooser testified before a joint legislative committee, and outlined the following criteria as goals which an optional system of automobile insurance should meet:

1. Compensation of injured persons adequately, promptly, and without regard to fault for medical expenses, wage loss and rehabilitation loss.
2. Reduction or elimination of the nuisance value of small claims.
3. Reduction of the duplication and overlapping of benefits within the automobile insurance system and between the automobile insurance system and other systems.
4. Reductions or elimination of some of the other frictions and inefficiencies of the present system, such as the adversary relationship between insurer and injured party, court congestion, litigation expenses, and overhead expense.

In October 1972, the Michigan Legislature enacted and Governor Milliken signed into law no-fault legislation patterned after the model State law drafted by the National Conference of Commissioners on Uniform State Laws. The law was implemented on October 1, 1973.

PROVISIONS OF THE MICHIGAN LAW

The Michigan no-fault law requires the owners of all motor vehicles in the State to purchase personal injury protection—PIP—and property protection insurance—PPI.

Personal injury protection.—PIP coverage provides unlimited medical and rehabilitation benefits; work loss benefits of up to $1,285 per month for a maximum period of 3 years; dependent survivor loss benefits of up to $1,000 a month for a maximum period of 3 years; replacement service benefits of up to $20 per day for a maximum period of 3 years for disabled accident victims and dependent survivors of death victims; and, funeral and burial expenses of $1,000.

The statute contains a cost-of-living provision which has increased income loss benefits from the original $1,000 per month to a current level of $1,285. Thus, potential aggregate income loss benefits per person have increased from $36,000 to $46,260, an increase of 29 percent in 3 years.

Eligibility for PIP benefits is broad. The limited number of persons who are not covered by such benefits include the owner of a vehicle who does not purchase the mandatory coverage and who is injured in his own vehicle—the family is covered, however—a person injured in an automobile that he has stolen, or a nonresident who does not have coverage that has been certified by his insurer. Nonresidents are covered if their insurer is licensed in Michigan or has certified coverage. Nonresidents are also covered if hurt in a Michigan car or as a pedestrian in the State.

Under the provisions of the Michigan law, persons remain subject to tort liability for noneconomic losses due to injuries resulting in death, serious impairment of a bodily function, or permanent serious disfigurement.

Property protection insurance.—PPI benefits are payable without regard to fault to third parties for damage to tangible property. The statutory policy limit for damage from any one accident is $1 million.

Tort liability with respect to automobile property damage has been abolished for insured car owners. Thus, drivers are liable for the damages to their own cars, regardless of fault, and drivers are not liable for damages that may result to other cars. Collision insurance is not mandatory; however, several options of first party collision coverage are available, depending upon such variable factors as fault and deductibles.

PERFORMANCE OF BODILY INJURY NO-FAULT

On October 6, 1976, Commissioner Jones submitted a report to the Governor evaluating the performance of the Michigan no-fault law. This report, which is part of the record, concluded that the State's insurance system is fulfilling its main objective of guaranteeing prompt, sure, and more adequate compensation for losses suffered by automobile accident victims.

As Secretary Austin testified:

No-fault in Michigan has lived up to most of its promise. Today the injured in auto accidents are far better off than they were under the old tort system. In the great majority of cases, injury victims' medical bills are paid and they are paid promptly. Almost everyone is protected and we no longer have the incentive for insurance companies to stall and delay to try to beat down an injured person who is a potential legal adversary. Instead, today we have insurance companies faced with the prospect of long-term payouts for medical care, replacement services and wage loss, (who) have an economic incentive to rehabilitate accident victims to get them back on the job. . . . Let there be no confusion, the heart and soul of Michigan's no-fault law, those provisions dealing with the compensation of personal injuries, are working and they are working well. . . .

Mr. Barris, representing the State Bar of Michigan, testified as follows as to the success of Michigan's law in providing prompt payment of no-fault benefits for economic losses to all victims while also preserving the right of the most seriously injured to sue for their noneconomic losses as well:

Now Michigan's no-fault automobile insurance system has accomplished both of these goals. At the same time it has succeeded in reducing litigation and shifting insurance premium dollars from adjustment and legal cost to benefits paid to the accident victims.

By its very nature, first-party coverage for medical and rehabilitation expense, income loss, and dependent survivor benefits, Michigan's no-fault system has met the first goal . . .

The second goal, which really boils down to a matter of elemental fairness to the victim of another person's negligence, has been met by the design of Michigan's tort liability threshold . . .

Thus, Michigan has preserved the right of adequate recovery for truly serious injuries, while at the same time reducing the number of tort liability claims and auto accident lawsuits filed.

In support of the proposition that PIP coverage provides enough benefits to compensate victims for their actual economic loss, without regard to fault, Commissioner Jones detailed two case histories of seriously injured victims who had received well over $30,000 worth of no-fault benefits and who ultimately could be anticipated to receive between $170,000 and $300,000 in benefits. Commissioner Jones pointed out that under the preexisting fault and liability insurance system, one of the victims would have received only $1,000—from her "medical payments" coverage, a minimal no-fault coverage carried by most people in fault States—while the other victim would either still be waiting for a judgment 4 years later or would have had to take an inadequate out-of-court settlement just so her family could survive. Commissioner Jones added that—

The end result could have been two financially ruined families and, equally important inadequate medical treatment for the injured girl(s).

In addition, the subcommittee heard testimony from Ms. Rosemary Pryor, who was paralyzed from the waist down when the driver of the pick-up truck in which Ms. Pryor was riding lost control and hit a tree. Ms. Pryor was in a medical hospital for 1 month and in rehabilitation for the better part of 6 months thereafter. Her insurance company paid close to $9,000 for her medical bills, $7,000 for lost wages and $36,000 for her rehabilitation. Her insurance company has paid for a new car with hand controls, for the construction of a bedroom and bathroom that was accesible to her, for the purchase of wheelchairs and other devices to aid her mobility, and for special counseling and training.

Their main concern is for me to become as independent and healthy as anybody else, to be able to take care of myself and do for myself without dependence on other people, friends and family, nurses, whatever.

This assistance enabled Ms. Pryor to return and complete college and to enter the work force.

Had Ms. Pryor been injured in Michigan prior to enactment of its no-fault law, she would have been denied any recovery because the preexisting tort law prohibited a passenger from suing the driver of the car in which the passenger was riding.

The Michigan no-fault system, with its full and prompt compensation, was sharply contrasted with the Illinois fault system, when the subcommittee heard the testimony of Mrs. Karen Tuzzolino. She was accompanied by her son, Tom, who was seriously injured when he was hit by a car at the age of 5. Under the Illinois fault system, compensation was both delayed and inadequate. Mrs. Tuzzolino testified that it took 6 years to recover through a lawsuit and that the recovery, $40,000, less one-third for her attorney, was not nearly enough to pay for her son's operations and care. The Tuzzolino family was forced to incur large debts to pay Tom's bills and Mrs. Tuzzolino, with seven children to care for, was forced to learn a trade and go to work to help pay the bills.

The contrast was further highlighted through the testimony of two investigative reporters for the Chicago Tribune, William Gaines and John McCarron. They compared cases handled under the no-fault system of Michigan. In so doing, they documented the compensation gaps of the fault system and its slowness. They found that more than half of all Illinois auto accidents victims receive nothing from the fault and liability insurance system and they found that there was a 3-year backlog of cases in the courts which delayed compensation to those who could successfully maintain a tort suit. Both reporters commended the adequacy and speed of compensation under Michigan's no-fault law.

Information presented by Commissioner Jones also disclosed that under no-fault almost all claims are settled within 30 days rather than the months and years consumed under the tort system.

Moreover, data referred to by the Commissioner revealed that many more accident victims are compensated under the no-fault system than under the tort system. According to these data, over 30 percent of catastrophic claims—in excess of $25,000—now being paid under no-fault involved victims of single car accidents, people who generally would not have been compensated under the fault system.

Furthermore, Commissioner Jones testified that the performance of no-fault indicates more insurance premium dollars are being directed from legal costs to benefits for accident victims. While Michigan has not conducted a closed claims study, which would be the means of developing precise data comparing the flow of benefits under the tort and no-fault systems, Commissioner Jones testified that one large insurer has found that since no-fault has been in effect in Michigan the proportion of premium dollars going toward benefits has increased by 58 percent. The Commissioner estimated that approximately 75 cents of the no-fault portion of the premium dollar is returned to insureds as benefits under no-fault. He was uncertain, however, how much of this return would go for attorney's fees. The 1971 DOT study, referred to above, found that insureds received 64 cents of the premium dollar in benefits under the fault system. Of this amount, 20 cents is estimated to represent costs for attorney's fees.

Other evidence presented during the hearing would tend to confirm the availability of more dollars to compensate victims. During a 1-year period encompassing portions of 1975 and 1976, auto negligence cases filed with the Michigan Circuit Court declined by 20 percent and the trend appears to be continuing in 1977. The reduction in cases filed not only reduces the expense of litigation but court congestion as well.

Finally, Commissioner Jones testified that premium dollars are used more efficiently through coordination of different insurance coverages and elimination of duplication. It has been estimated by the Michigan Insurance Bureau that up to 40 percent of the policyholders of some companies are taking advantage of coordination of benefits with an average annual premium savings of $30 each.

MICHIGAN'S "VERBAL" THRESHOLD

The Michigan no-fault law, like all other no-fault laws, permits victims to maintain lawsuits for any economic losses not compensated by no-fault benefits—although the high benefits in Michigan probably preclude almost all such suits. However, Michigan's law also maintains a "verbal" threshold which permits a person to sue in tort for non-economic losses in cases of "death," "serious impairment of a bodily function," or "permanent serious disfigurement." Michigan is the only State whose verbal threshold has been in effect long enough to assess—the verbal thresholds of Florida and New York were not enacted until 1976 and 1977, respectively.

It is clear from our hearings that a fiscally sound no-fault plan—particularly one that provides adequate benefits to the seriously injured—must have a threshold that eliminates nuisance lawsuits and is not subject to abuse. While some witnesses expressed concerns about possible future erosion of Michigan's threshold, present data demonstrates that the Michigan threshold is accomplishing these objectives.

Mr. Barris of the Michigan State Bar testified that the verbal threshold has eliminated the "fudging, padding, and outright fraud encountered in States which have adopted a dollar medical expense threshold for tort liability." Moreover, he testified that the verbal threshold has also "eliminated the garden variety type of nuisance lawsuit which are so expensive to defend against from the standpoint of the insurance companies."

But, Mr. Barris appreciates that the elimination of lawsuits is not an end in itself. Rather, it is the means by which one can afford a fairer system of compensation:

> We suggest to you that reduction in auto accident litigation should be regarded not as end in itself but as a means to an end. The end, we should remember, is a reduction in the time and cost required to provide fair compensation to auto accident victims. Indeed, litigation in itself is a means, not an end, a means to obtaining fair compensation.
>
> To the extent that fair compensation can be obtained by faster and less expensive means, it should be replaced by those means.

With respect to the reduction in lawsuits being filed, the previously cited figures of auto negligence cases filed in the Michigan circuit court confirm that there was a significant 20-percent reduction between June 1975 and June 1976. Further, data collected by the Michigan Association of Insurance Companies (MAIC) and by the National Association of Independent Insurers and the insurance services office reveal an 87 percent reduction in bodily injury liability claims in Michigan. The MAIC data also discloses the shift to first-party claims, finding an increase of 161 percent in the filing of such claims between 1973 and 1975.

The success of Michigan's verbal threshold in holding down the costs of litigation to the automobile insurance system is borne out by data produced by the fast track monitoring system devised by the National Association of Insurance Commissioners. This data shows that for the year ending in the fourth quarter of 1976, the pure premium for PIP was $23.67 while residual bodily injury liability coverage cost $18.53. In contrast, data for New York for the same period, during which New York had lower benefits and a $500 medical threshold, reveal that the pure premium for PIP was $23.43 while residual bodily injury coverage was $48.05. Thus, while New York "no-fault" system was spending two-thirds of its bodily injury premium litigating fault, the Michigan no-fault system was spending proportionally far less.

Commissioner Jones noted that while the threshold is currently working well, some concerns have been raised about its future efficacy. He said that certain decisions in lower courts may permit more lawsuits than was the intention of the drafters of the threshold. He also said that some insurance companies believe the number of suits will soon rise and have substantially increased their reserves in anticipation.

Most of the concern seems to arise from a Michigan appellate court decision that held that the question of what constitutes a "serious impairment of bodily function" is not a matter of law for the judge; instead, it is a question of fact for the jury to decide.

But Commissioner Jones affirmed that the threshold is presently working and that court filings to do not support the fears expressed by insurance companies:

> We are not saying, and I hope I have not given the impression that we are saying, the threshold is not now working. We are saying, and felt it was important to point out, that there may be potential problems vis-a-vis the manner in which the judicial system is interpreting the legislative language, and we believe the legislative intent with respect to no-fault.
>
> The concern is widespread in the industry, in the insurance industry, but it has not shown up in the number of suits filed in the local circuit courts. There is concern about this . . . (but) the facts do not at this time justify the industry concern on the threshold.

PERFORMANCE OF PROPERTY DAMAGE NO-FAULT

According to Secretary Austin and other witnesses, the major criticisms leveled at Michigan's no-fault system are directed at the property damage portion of the law. It should be noted that none of the Federal standards no-fault bills provide for no-fault property damage coverage.

The aforementioned report to the Governor of Michigan attributes most consumer discontent with respect to property damage coverage to the inability to hold negligent drivers "responsible" for collision damages, particularly in cases in which the "innocent" driver has to pay the deductible. However, the report points out that the insurance bureau also received numerous complaints under the previous tort liability system, under which only about one-third of the automobile collisions resulted in payment under the property damage liability provisions.

While an analysis of the overall cost efficiency of the Michigan no-fault

property damage system has not been undertaken, the insurance department believes that first-party no-fault has resulted in a salutary redistribution of the premium burden for auto collision damages. Since first party collision insurance is priced in relation to the value of the vehicle, owners of older, lower priced vehicles pay relatively lower premiums than the owners of higher priced cars. The "ability to pay" principle is absent in the pricing of liability insurance.

COST EXPERIENCE

Commissioner Jones testified that rate increases under no-fault in Michigan have been lower than those experienced by most other States during the inflationary 1970's.

There were no rate increases from 1971 to 1974, followed by increases of approximately 40 percent from 1975 to 1977. Commissioner Jones pointed out that these increases have been no higher than those in tort States of similar demography such as California, Illinois, and Ohio, despite the far greater benefits that are paid to victims under Michigan's no-fault system.

He pointed out, further, that Michigan's rate increases have been less than those in no-fault States that did not effectively limit the right to sue for general damages, such as Florida and New York.

Finally, the Commissioner pointed out that Michigan's auto insurance rates have been running far behind the national inflation rate for the goods and services which insurance buys. During this same time period, for example, the cost of medical care rose by about 60 percent.

Chicago Tribune reporter Bill Gaines further documented the Commissioner's testimony during the course of his investigation into the fault system of Illinois and the no-fault system of Michigan. He found that the rates were 15 percent higher in Illinois for individuals of comparable backgrounds in comparable locations.

CONCLUSION

Michigan's no-fault law is a demonstrable success. It delivers the promised benefits of a good no-fault law—prompt and adequate compensation for almost all auto accident victims, including the seriously injured, for a premium that does not exceed the premium of the preexisting fault system, except to reflect inflation.

Of the four laws that the subcommittee examined—those of Massachusetts, Florida, New York, and Michigan—Michigan's is far and away the best. The others all suffered from built-in defects, either inadequate benefits or an inadequate threshold, that have predictably prevented those laws from achieving the success of a properly drawn no-fault law.

The subcommittee has held five additional hearings after the Michigan one on H.R. 6601, the Standards for No-Fault Motor Vehicle Accident Benefits Act, and related bills. Testimony was received from representatives of the legal profession, consumer groups, unions, State officials, medical and vocational rehabilitation experts, and the insurance industry. In addition, Transportation Secretary Brock Adams presented the administration's position in strong support of H.R. 6601.

HOUSE OF REPRESENTATIVES—*Friday, September 23, 1977*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Keep thy heart with all diligence; for out of it are the issues of life.—Proverbs 4: 23.

O God of grace and truth, we pause before Thee, ere the day continues, to pray for a clear sense of Thy presence that we may feel anew that we are not alone in our labors but that Thou art with us. As we seek to solve our perplexing problems and endeavor to meet the needs of our people, help us to tap the spiritual resources which are available which give us courage, strength, and wisdom.

Help us to know that which is worth knowing, to love that which is worth loving, and to do that which is worth doing. Give us clear insight to discern between good and evil, truth and falsehood, and the creative faith to do the good and to live the truth for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 332, nays 14, not voting 88, as follows:

[Roll No. 579]

YEAS—332

Abdnor	Butler	Flippo
Addabbo	Byron	Flood
Akaka	Caputo	Florio
Alexander	Carr	Flowers
Allen	Carter	Flynt
Ammerman	Cederberg	Foley
Anderson, Calif.	Clay	Ford, Mich.
	Cochran	Ford, Tenn.
Anderson, Ill.	Cohen	Fowler
Andrews, N.C.	Coleman	Fraser
Annunzio	Collins, Tex.	Fuqua
Applegate	Conable	Gaydos
Archer	Conte	Gephardt
Ashbrook	Corcoran	Gibbons
Badham	Corman	Gilman
Bafalis	Cornell	Ginn
Baldus	Crane	Gonzalez
Barnard	Cunningham	Gore
Baucus	D'Amours	Gradison
Bauman	Daniel, Dan	Grassley
Beard, R.I.	Daniel, R. W.	Guyer
Beard, Tenn.	Danielson	Hagedorn
Bedell	Davis	Hall
Benjamin	de la Garza	Hamilton
Bennett	Delaney	Hammer-schmidt
Bevill	Dellums	
Biaggi	Derrick	Hanley
Bingham	Devine	Hannaford
Blanchard	Dickinson	Hansen
Blouin	Dicks	Harkin
Boggs	Dornan	Harrington
Boland	Downey	Harris
Bonior	Drinan	Harsha
Bonker	Duncan, Oreg.	Hawkins
Bowen	Duncan, Tenn.	Heckler
Brademas	Early	Hefner
Breaux	Edwards, Calif.	Heftel
Breckinridge	Eilberg	Hightower
Brinkley	Emery	Hillis
Brodhead	English	Holt
Brown, Calif.	Erlenborn	Holtzman
Brown, Ohio	Ertel	Hubbard
Broyhill	Evans, Del.	Huckaby
Buchanan	Fary	Hughes
Burgener	Fascell	Hyde
Burke, Calif.	Fenwick	Ichord
Burke, Fla.	Findley	Ireland
Burke, Mass.	Fish	Jeffords
Burleson, Tex.	Fisher	Jenkins
Burton, Phillip	Fithian	Johnson, Colo.
Jones, N.C.	Moore	Schulze
Jones, Okla.	Moorhead, Calif.	Sebelius
Jones, Tenn.		Seiberling
Jordan	Moorhead, Pa.	Shipley
Kazen	Moss	Shuster
Kemp	Mottl	Simon
Ketchum	Murphy, Ill.	Sisk
Keys	Sharp	Skelton
Kildee	Murphy, Pa.	Skubitz
Kindness	Murtha	Slack
Kostmayer	Myers, Gary	Smith, Nebr.
Krebs	Myers, John	Snyder
Krueger	Myers, Michael	Solarz
LaFalce	Natcher	Spellman
Lagomarsino	Neal	Spence
Latta	Nedzi	St Germain
Le Fante	Nix	Staggers
Leach	Nolan	Stanton
Lederer	Nowak	Stark
Leggett	O'Brien	Steed
Lehman	Oakar	Steers
Levitas	Oberstar	Stockman
Livingston	Obey	Stratton
Lloyd, Tenn.	Ottinger	Studds
Long, La.	Panetta	Stump
Long, Md.	Patten	Symms
Lujan	Patterson	Taylor
Luken	Pattison	Teague
Lundine	Pease	Thompson
McClory	Pepper	Thone
McCloskey	Perkins	Trible
McCormack	Pickle	Tsongas
McEwen	Pike	Tucker
McFall	Pressler	Udall
McHugh	Preyer	Ullman
McKay	Price	Van Deerlin
McKinney	Pursell	Vanik
Madigan	Quie	Vento
Maguire	Rahall	Volkmer
Mahon	Railsback	Waggonner
Markey	Rangel	Walgren
Marks	Regula	Wampler
Marlenee	Reuss	Watkins
Marriott	Rinaldo	Waxman
Martin	Risenhoover	Weaver
Mathis	Roberts	Weiss
Meeds	Robinson	White
Metcalfe	Rodino	Whitley
Meyner	Roe	Wilson, C. H.
Michel	Rogers	Wilson, Tex.
Mikulski	Rooney	Winn
Mikva	Rosenthal	Wirth
Milford	Rostenkowski	Wydler
Miller, Calif.	Roybal	Wylie
Miller, Ohio	Rudd	Yates
Mineta	Russo	Yatron
Minish	Ryan	Young, Fla.
Mitchell, N.Y.	Santini	Young, Mo.
Moakley	Satterfield	Zablocki
Moffett	Sawyer	Zeferetti
Mollohan	Scheuer	
Montgomery	Schroeder	

NAYS—14

Aspin	Glickman	Mattox
AuCoin	Goodling	Quayle
Broomfield	Hollenbeck	Sarasin
Brown, Mich.	Jacobs	Walker
Coughlin	Lloyd, Calif.	

NOT VOTING—88

Ambro	Edwards, Ala.	Pettis
Andrews, N. Dak.	Edwards, Okla.	Poage
	Evans, Colo.	Pritchard
Armstrong	Evans, Ga.	Quillen
Ashley	Evans, Ind.	Rhodes
Badillo	Forsythe	Richmond
Beilenson	Fountain	Roncalio
Bolling	Frenzel	Rose
Brooks	Frey	Rousselot
Burlison, Mo.	Gammage	Runnels
Burton, John	Giaimo	Ruppe
Carney	Goldwater	Sikes
Cavanaugh	Gudger	Smith, Iowa
Chappell	Holland	Stangeland
Chisholm	Horton	Steiger
Clausen, Don H.	Howard	Stokes
	Jenrette	Thornton
Clawson, Del	Johnson, Calif.	Traxler
Cleveland	Kasten	Treen
Collins, Ill.	Kelly	Vander Jagt
Conyers	Koch	Walsh
Cornwell	Lent	Whalen
Cotter	Lott	Whitehurst
Dent	McDade	Whitten
Derwinski	McDonald	Wiggins
Diggs	Mann	Wilson, Bob
Dingell	Mazzoli	Wolff
Dodd	Mitchell, Md.	Wright
Eckhardt	Murphy, N.Y.	Young, Alaska
Edgar	Nichols	Young, Tex.

Mr. BENNETT changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On September 20, 1977:

H.R. 5294. An act to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors.

On September 21, 1977:

H.R. 7933. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 263. Concurrent resolution providing for the printing of 3,000 additional copies of the report by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the Committee on Agriculture entitled "The Role of the Federal Government in Nutrition Education."

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1307. An act to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3373. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON H.R. 5503, ARMED FORCES, DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on H.R. 5503, a bill relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON H.R. 9019, THIRD BUDGET RESCISSION BILL FOR 1977

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on H.R. 9019, the third budget rescission bill for 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON H.R. 3813, EXPANSION OF REDWOOD NATIONAL PARK, CALIF.

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on H.R. 3813, a bill to amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. ROSTENKOWSKI) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.
September 22, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 3:20 p.m. on Thursday, September 22, 1977, and said to contain a message from the President in which he transmits his decision and report on an Alaska Natural Gas Transportation System.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

DECISION AND REPORT ON AN ALASKA NATURAL GAS TRANSPORTATION SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–225)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs and ordered to be printed with illustrations:

To the Congress of the United States:

Natural gas has become the Nation's scarcest and most desired fuel. It is in our interest to bring the reserves in Alaska to market at the lowest possible price. Consequently, I am today sending the Congress my decision and report on an Alaska Natural Gas Transportation System.

The selection of the Alcan project was made after an exhaustive review required by the Alaska Natural Gas Transportation Act of 1976 determined that the Alcan Pipeline System will deliver more natural gas at less cost to a greater number of Americans than any other proposed transportation system.

The Alcan proposal, taken together with the recently signed Agreement on Principles with Canada, demonstrates that our two countries working together can transport more energy more efficiently than either of us could transport alone.

Unnecessary delay would greatly increase the total cost of the pipeline system. I urge the Congress to act expeditiously to approve this important project.

JIMMY CARTER.

THE WHITE HOUSE, *September 22, 1977.*

PROPOSED RESCISSION IN GENERAL CRIMINAL JUSTICE AND CORRECTIONS GRANT FUNDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–226)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose

rescission of $2.7 million in general criminal justice and corrections grant funds appropriated to the Department of Justice.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 23, 1977.*

ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6796, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 21, 1977, pending was the amendment offered by the gentleman from Washington (Mr. MCCORMACK) adding a new title VII, on which, by a division, the ayes were 38, the noes were 0, and pending was the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

Mr. LUJAN. Madam Chairman, before the House concludes its consideration of H.R. 6796, I would like to commend my colleague, Chairman TEAGUE, for his management of this bill on the floor. Also, I would like to thank the Chairman for his clarifying statement with respect to section 210 of this bill which amends the Federal Nonnuclear Energy Research and Development Act of 1974. I am, of course, addressing myself to the loan guarantee authority afforded ERDA when this act becomes law.

On Wednesday, during discussion of this bill, Mr. OTTINGER of New York quoted from the committee report on H.R. 6796 concerning an apparent prohibition against the use of loan guarantees for the construction of full-size commercial facilities such as a high Btu coal gasification plant. In response to Mr. OTTINGER, Chairman TEAGUE made it clear that the language of this amendment is strictly procedural in that it only creates a new tool for ERDA to use in expanding the Nation's energy supply. It is neither designed to be restrictive in nature with respect to the size of proposed projects nor is it aimed at limiting the kind and types of technologies that may be eligible for loan guarantees.

In his statement, Chairman TEAGUE cited section 8 of the Nonnuclear Act which under the discussion of "Demonstrations," authorizes the demonstration of selected technologies "on a prototype or full-scale basis." I would like to reinforce what the chairman has said by noting that section 8 also stipulates that the Administrator shall specify information to be contained in proposals, one of which is "plans for continued use of the plant if the demonstration is successful." Clearly, continued operation of a plant of less than commercial scale would not be justified.

Additionally, it is clear in section 7 of the act that it was the intent of Congress that commercial-scale facilities qualify for assistance. For example in section 7(b)(1), joint Federal-industry corporations are subject to a number of guidelines, the first of which is that "each such corporation may design, construct, operate, and maintain one or more experimental, demonstration, or commercial-size facilities, or other operation which will ascertain the technical, environmental, and economic feasibility of a particular energy technology."

I think it is obvious from the excerpts above, that the intent of the Congress when it passed the Nonnuclear Act was to permit a limited number of full scale or commercial size projects. Any amendment to the Nonnuclear Act which would expand section 7, thereby adding additional forms of Federal assistance such as loan guarantees, would thus be subject to, unless otherwise explicitly stated, the original intent of the Nonnuclear Act.

Mr. GIBBONS. Madam Chairman, I move to strike the last word.

Madam Chairman, I realize it is Friday, and I realize that we are in a hurry. I want to be brief, but this, I think is significant.

First of all, I want to commend the committee for the bill that they brought out and say I intend to support it. My remarks are not intended to criticize them in any way but to point up what is happening. This bill contains a lot of guaranteed loans. Perhaps that is the only way we can get going in some of these synthetic fuel projects that need to go on and some of the other projects that need to go on in the energy area, but let me point up to the House, and particularly to those very conscientious Members who are here today, what is happening in all of this.

A few years ago we set up something called the Federal Financing Bank. The Federal Financing Bank is nothing more than a door to the Treasury. It has one employee, and he operates a $48 billion industry. When we go to the Federal Financing Bank, as we often do, it is just like going to the Treasury. There is only one difference, and that is that when we go to the Federal Financing Bank, we usually do not put that item on the budget. So we often see here where the Congress is running a deficit of $40 billion, $50 billion, or $60 billion a year, but we have to raise the national debt ceiling by $70 billion or $80 billion a year. In other words, we are taking money directly out of the Treasury without counting it in the budget. This bill that we have here today will continue that process.

If we look at the portfolio of debt that is held by the Federal Financing Bank, we find, shockingly, that some of it is just a rollover of existing bad debt. In other words, it is an appropriation. And I would imagine that some bad loans will be made in this program. Some of the FFB debts are quite large bad debts. I do not know whether they will ever be paid back, or how they will be paid back.

What I am pointing out, Madam Chairman, is that we are approaching the point where we cannot control spending, because, frankly, sometimes some of the Members do not understand when we are spending. That is very regrettable.

When we set up the Federal Financing Bank, it had a balance of zero. At the end of the fiscal year that is now starting, that Federal Financing Bank will have a balance, a current balance, of $48 billion worth of paper, some of it current, some of it rolled over, some of it that will never be paid, and some of it that will be paid. It is something that we need to examine. As I say, I am not criticizing the Committee on Science and Technology here today for what they have done, but, rather, something that this Congress must put the brakes on.

We must begin to put these things back in the budget where they are subject to the budget process. We must be aware of this in the authorization and the appropriation processes and the budget committees. If we do not do it, we will certainly be guilty of the charges that are sometimes made—that the Congress does not know how to control its spending.

Mr. KEMP. Madam Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. KEMP. Madam Chairman, I congratulate the gentleman from Florida for his statement. I heartily endorse his remarks and I associate myself with his remarks.

I cannot think of anything more important to bring to the attention of this body as well as to the country than the need to put into the budget all of these off-budget items that are growing by leaps and bounds year after year. The gentleman is making an important contribution not only to this debate but also as to what is wrong with the whole budget process.

I thank the gentleman for yielding.

Mr. GIBBONS. I appreciate the remarks of the gentleman from New York.

Mr. WALKER. Madam Chairman, I rise in support of H.R. 6796, the authorization for the Energy Research and Development Administration for fiscal year 1978. This bill provides the real basis for progress in meeting national energy demands in both the near and long term. Far more than the ill-conceived National Energy Act which the House passed last month, H.R. 6796 will form the genuine program to insure that multiple energy

technologies are developed for America's future.

Although there are many important energy initiatives in this bill, I would like to address myself to the environment and safety area of the bill. The committee has authorized slightly over $275 million for fiscal year 1978 for environment and safety activities. The Environment and Safety Office has the responsibility for insuring that the many energy technologies which are being promoted and developed are also safe, clear, and environmentally acceptable. This can be a very difficult job.

There is a very fine line between insuring the safety and environmental acceptability of an energy technology and choking off the development of that technology by imposing unreasonable standards. I think that the Congress learned a great deal from the overreaction which took place in response to the increased environmental awareness of the early 1970's. Industry found it impossible to operate under some of the most stringent restrictions and Government began to realize that the scales had been tipped too far toward environmental concerns.

The Science and Technology Committee has not reacted in this way when considering the environment and safety programs of ERDA. Instead, we have fashioned a well-balanced program that both responds to safety and environmental concerns while permitting the rapid development of needed energy technologies. In this regard, I want to compliment Chairman TEAGUE, our ranking minority member, JACK WYDLER, and the distinguished chairman of our Environment and Atmosphere Subcommittee, GEORGE BROWN, for their outstanding work in guiding this entire bill through committee.

Madam Chairman, the authorization request for the environment and safety portion of the bill came through committee basically unchanged. However, we did add a total of $11.9 million among several areas.

In the overview and assessment area $8.9 million was added. Of this total, $3.6 million will go to the national coal utilization assessment program. This is an extremely important program. Recently there has been a great deal of media attention given to the implications of the so-called greenhouse effect on the atmosphere caused by the burning of fossil fuels. While the effects of increased coal burning on the atmosphere will be long range, it is important to have a full assessment as quickly as possible to enable us to shape future coal utilization plans in the most environmentally acceptable manner.

In addition, the increased funding for the national coal utilization assessment program will enable more detailed studies to be made on the regional and local level of the environmental and socioeconomic impacts of increased coal production and use. The committee has also provided an additional $1 million for a separate assessment of the effects of the addition of carbon dioxide to the atmosphere. This study goes beyond the coal survey which I have already mentioned. Included in this assessment will be initial surveys of forest biomass changes, studies of the interaction of atmospheric carbon dioxide with the ocean and accelerated deployment of 20 atmospheric CO_2 measurement stations.

In the decontamination and decommissioning area the committee has provided $1 million for a study of the options available with regard to the disposal of radioactive waste at the closed western New York Nuclear Service Center. It is important to note that the options to be considered are not intended to relieve the State of New York or any private parties from any existing legal responsibilities without the concurrence of the Congress. However, the thousands of gallons of nuclear waste now stored on the plantsite are a serious problem. This study can provide the basis for allocating future responsibilities and for reaching an environmentally safe solution.

Madam Chairman, from these brief descriptions of some of the actions taken by our Environment and Atmosphere Subcommittee I think that my colleagues can see that H.R. 6796 is a piece of legislation that not only enhances the development of our many energy options but protects our environment as well. I ask all of my colleagues to give the bill their full support.

Mr. DORNAN. Madam Chairman, much has been said about the fact that the United States has enough coal to supply its energy needs for at least the next 100 years and, with improved mining techniques, probably for much longer. Whether it is practical, however, to utilize this resource is still another question. Certainly in its original state, coal cannot be used to supply all of the energy needs of this country.

Also, the thought has been advanced that as more coal is mined, the lower Btu content of western coal may not lend itself to continued development of this very abundant resource because of unit material handling and transportation costs. But the conversion of coal as a gaseous or liquid product could result in its use to a much greater degree than is presently possible. And conversion of the low Btu, low sulfur western coals into a high Btu synthetic gas which can be commingled with natural gas in existing pipelines with idle capacity is possible today with present technology.

Yet, there are no commercial scale high Btu coal gasification plants operating in this country and if coal is to contribute to our sagging energy base, it is essential that at least one such plant, and preferably more than one, be constructed to obtain firsthand knowledge of coal gasification technology, its environmental effects, its commercial scale economics, and the institutional and socioeconomic impacts. The knowledge gained will not only be applicable to the development of first generation technology but will also speed the commercialization of second generation technology when it becomes available.

The Lurgi process is a commercially viable technology—available now—which can be utilized to supplement domestic supplies of natural gas through early commercial production of synthetic gas from coal.

The argument has been made that Lurgi is an antiquated process and that development of the industry should wait upon the availability of second generation technology. But this argument ignores the fact that Lurgi technology has advanced through several stages of development since it first emerged in the early 1930's. The first commercial plant producing town gas from lignite was constructed in 1936. During World War II, several plants were built to produce synthesis gas for the production of liquid hydrocarbon fuels. More current models are now installed worldwide in Germany, England, South Africa, Korea, Pakistan, and Australia. Based upon the experience gained in South Africa, a new generation of gasifiers are planned in expansion of the existing Sasol plant, construction of the new Sasol II complex and in the proposed U.S. SNG plants currently waiting for approvals.

There are some distinct differences which can be drawn between the Lurgi process and second generation technology such as Hygas, Bi-Gas, and CO_2 acceptor processes. First of all, Lurgi technology is available now and can be in commercial operation in the United States in 1983, some 7 to 9 years ahead of any commercial second generation process. In addition, Lurgi process and equipment costs and efficiencies are well established. Similar second generation costs and efficiencies are generally based on factored or computer model estimates from limited pilot plant data and are yet to be proven in commercial installations. A fair comparison of investment and operating cost cannot be made between a proven commercially available process and a computer model of a process that is still in the pilot phase.

Reliability is also a factor which must be considered in weighing the two approaches. Lurgi gasifier reliability has been proven and the conservative design of these plants incorporates the use of multiple gasifiers. In a full sized plant, this would be between 20 and 30 gasifier units. Second generation gasification processes contemplate using two or three scaled up gasifiers which have yet to be proven in operation. This design approach, unlike that of Lurgi, does not include spare units in the gasification section and is thus subject to lower onstream reliability.

A C. F. Braun report for ERDA indicates that the present cost difference between Lurgi and the other second generation processes amounts to $80 million. But it is predicated on the absence of spare gasifiers and very short interruption for maintenance. It is possible, therefore, that if the commercially untried second generation processes suffer greater down time for maintenance than anticipated, it will be difficult for such plants to equal the present WESCO

Lurgi reliabiilty onstream factor of 91 percent.

Conversely, if it is deemed necessary that greater reliability must be built into these newer technologies by adding spare gasifiers, the cost of second generation plants will rise accordingly. In fact, the capital cost advantage of second generation plants is soon offset by anticipated cost escalation if the time differential between the two systems is greater than 2 years.

It is unrealistic to expect a fair comparison of investment and operating cost data between a commercially proven process like Lurgi which is now available for use and processes which are still in the early stages of testing and which cannot be in commercial operation until the early 1990's.

If it is determined that consumers must wait 9 years for the startup of a second generation plant beyond the 1983 startup date possible for a Lurgi-based plant, the cost of gas differences based on data developed in the C. F. Braun report would be $9 billion more for an 8 percent escalation rate or $1.5 billion for a 4-percent rate over a 20-year plant life. And the expected second generation commercialization date of 1992 is even optimistic. Based on past history of major technological innovations and the present status of the new processes, some 15 to 17 years may be required to reach full commercialization which will increase cost to the consumer that much more.

Use of our Nation's coal reserves for the production of synthetic pipeline quality gas should be an early major energy objective and Lurgi technology is the only way commercial production can be accomplished in the next 5 to 6 years. In addition, Lurgi coal gas is environmentally sound and economically advantageous when compared with electricity. It can supply the needs of millions of homeowners and businesses at least a full 9 years ahead of presently contemplated second generation technologies. There is no way that plants constructed some 9 years after startup of commercial production from a first generation plant can be cost competitive with that plant. To delay the implementation of known technology for that which may prove to be 15 percent more efficient in another decade does not serve the social and economic needs of energy dependent Americans. That risk is too great.

Two leading proponents of second generation technology, Dr. Henry Linden, a leader in the development of the Institute of Gas Technology's Hygas program and Mr. Erick Reichl, president of the Conoco Coal Development Co., have gone on record as stating that there is no better way to push forward with second generation technology than to establish a benchmark with first generation technology against which to work. Both of these men agree that if development of coal gasification is to go forward in this country, it is essential that it be supported with Federal loan guarantees.

Mr. JENRETTE. Madam Chairman, as the House considers the fiscal year 1978 authorization bill for the Energy Research and Development Administration, I want to call special attention to the Barnwell nuclear fuel plant in my State of South Carolina.

The Barnwell plant today stands partially completed after the Federal Government encouraged the owners of Barnwell and other private investors to enter the nuclear fuel cycle business beginning in the 1950's. This policy of encouragement abruptly changed direction on April 7, when President Carter indefinitely deferred commercial reprocessing and recycling of spent fuel produced in U.S. civilian nuclear powerplants and stated that the Barnwell facility "will receive neither Federal encouragement nor funding for its completion as a reprocessing facility." This policy was put forward by the President in good faith as a deterrent to further nuclear proliferation. I wrote to the President on March 31 and offered my support for a constructive pause in the development of commercial reprocessing in the United States. While supporting the pause, I did urge the President to use this pause to institute an international safeguards system and to perfect techniques for handling highly radioactive wastes and plutonium. An obvious place to undertake evaluations such as these is at the Barnwell plant.

While the President's April 7 policy statement effectively rules out any near term prospect for the operation of Barnwell as a commercial reprocessing venture, it should not preclude the utilization of existing facilities and staff at Barnwell to further the administration's programs in nonproliferation, safeguards and nuclear waste management.

Administration support for utilization of Barnwell for noncommercial reprocessing programs is expressed in a July 19 letter to me from Assistant to the President for Congressional Liaison, Frank Moore. In that letter, Mr. Moore states that "the administration supports" the appropriation of up to $14 million in fiscal year 1978 to undertake fuel cycle research and development at Barnwell as well as a study to evaluate long-term uses of the facility. The definition of the programs to be undertaken in fiscal year 1978 are described in an amendment by Senator HOLLINGS of South Carolina to the Senate version of the fiscal year 1978 Public Works-ERDA appropriations bill. The House accepted this amendment in conference and on August 8, President Carter signed the fiscal year 1978 Public Works-ERDA appropriations bill into law.

On July 12, the Senate approved a fiscal year 1978 ERDA authorization bill which includes $1 million for ERDA to study the long-term optional uses for Barnwell, including how the facility might be used under multinational or international auspices to assist efforts to control the spread of nuclear proliferation.

The bill also includes $13 million for research and development at Barnwell related to nuclear safeguards and alternative fuel cycle development. Utilization of the plant and staff on useful R. & D. programs will allow Congress and the administration time to explore long-range options for using Barnwell.

Consistent with the Senate action, the House Science and Technology Committee has directed ERDA to explore the options for using Barnwell in fiscal year 1978 and to "prepare a full report during this fiscal year on the possible uses of the Barnwell facility." The committee also asked that the evaluation include "how the facility could be incorporated into the operations at Savannah River," which is the ERDA reservation adjacent to Barnwell.

The Science and Technology Committee version of the authorization bill does not include, at this time, funding for the research and development programs included in both the fiscal year 1978 Public Works—ERDA appropriations bill and and the Senate approved version of the fiscal year 1978 ERDA authorization bill. I urge the House conferees on the fiscal year 1978 ERDA authorization bill to support research and development programs for Barnwell.

There are several very compelling reasons to keep the reprocessing option open and at the same time utilize the Barnwell facility. We may have to reprocess for natural resource and waste management reasons. Reprocessing reduces the volumes of high level radioactive wastes and reprocessing and recycle can provide up to 60 percent more energy from every pound of uranium.

Another very compelling reason to move quickly on the Barnwell matter is that the Federal Government, including previous administrations and Congress, actively encouraged the owners of Barnwell to enter the reprocessing business through policy statements and technology access programs. To suddenly reverse this trend and leave the owners of Barnwell unable to proceed after an investment of some $250 million will have serious repercussions throughout the private sector and will make efforts by the administration and Congress to encourage future private investment in high risk energy technologies difficult, if not impossible. I pointed this out to President Carter in an April 28 telegram to him.

Finally, reprocessing offers the best means to dispose of spent fuel from nuclear powerplants.

South Carolina is now more than 30-percent dependent on nuclear power for its electricity energy needs and this will grow to nearly 50 percent by the turn of the century. The utilities in South Carolina and indeed most of the United States believe that nuclear fuel reprocessing and recycle of the unused uranium and plutonium is the best way to dispose of spent fuel. I believe that too, and I believe that reprocessing can be undertaken without unduly harming the environment or accelerating nuclear proliferation. The best place to demonstrate how to achieve these goals is to use the Barnwell plant.

The CHAIRMAN. There being no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. COUGHLIN. I am, Mr. Speaker.

The SPEAKER pro tempore. The clerk will report the motion to recommit.

The clerk read as follows:

Mr. COUGHLIN moves to recommit the bill H.R. 6796 to the Committee on Science and Technology.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 47, answered "present" 2, not voting 68, as follows:

[Roll No. 580]

YEAS—317

Abdnor	Flowers	Mikulski
Addabbo	Flynt	Milford
Akaka	Foley	Miller, Ohio
Alexander	Ford, Mich.	Mineta
Allen	Ford, Tenn.	Minish
Ambro	Fountain	Mitchell, N.Y.
Ammerman	Fowler	Moakley
Anderson, Calif.	Fuqua	Mollohan
	Gammage	Montgomery
Anderson, Ill.	Gaydos	Moore
Andrews, N.C.	Gephardt	Moorhead, Calif.
Annunzio	Giaimo	
Applegate	Gibbons	Moorhead, Pa.
Archer	Gilman	Moss
Ashbrook	Ginn	Mottl
Aspin	Glickman	Murphy, Ill.
Badham	Goodling	Murphy, Pa.
Baldus	Gore	Murtha
Barnard	Gradison	Myers, Gary
Baucus	Grassley	Myers, John
Bauman	Gudger	Myers, Michael
Beard, R.I.	Guyer	Natcher
Beard, Tenn.	Hagedorn	Nedzi
Benjamin	Hall	Nix
Bennett	Hamilton	Nowak
Bevill	Hammer-schmidt	O'Brien
Bianchard		Oakar
Blouin	Hanley	Oberstar
Boggs	Hannaford	Obey
Boland	Hansen	Panetta
Bonker	Harkin	Patten
Bowen	Harris	Patterson
Brademas	Harsha	Pattison
Breckinridge	Hawkins	Pease
Brinkley	Heckler	Pepper
Broomfield	Hefner	Perkins
Brown, Mich.	Heftel	Pickle
Brown, Ohio	Hightower	Pike
Broyhill	Hillis	Pressler
Buchanan	Hollenbeck	Preyer
Burgener	Holt	Price
Burke, Calif.	Hubbard	Pritchard
Burke, Fla.	Huckaby	Pursell
Burke, Mass.	Hughes	Quayle
Burleson, Tex.	Hyde	Quie
Butler	Ichord	Railsback
Byron	Ireland	Rangel
Caputo	Jacobs	Regula
Carter	Jeffords	Reuss
Cavanaugh	Jenkins	Rinaldo
Cederberg	Johnson, Colo.	Risenhoover
Chappell	Jones, N.C.	Roberts
Clay	Jones, Okla.	Robinson
Cochran	Jones, Tenn.	Rodino
Cohen	Jordan	Roe
Coleman	Kazen	Rogers
Collins, Ill.	Kemp	Roncalio
Collins, Tex.	Ketchum	Rooney
Conable	Keys	Rostenkowski
Conte	Kildee	Rudd
Corcoran	Kindness	Russo
Corman	Krueger	Santini
Cunningham	Lagomarsino	Sarasin
D'Amours	Latta	Satterfield
Daniel, Dan	Le Fante	Sawyer
Daniel, R. W.	Leach	Scheuer
Danielson	Lederer	Schroeder
Davis	Leggett	Schulze
de la Garza	Levitas	Sebelius
Delaney	Livingston	Sharp
Derrick	Lloyd, Calif.	Shipley
Devine	Lloyd, Tenn.	Shuster
Dickinson	Long, La.	Simon
Dicks	Lott	Sisk
Diggs	Lujan	Skelton
Dingell	Luken	Skubitz
Dornan	Lundine	Slack
Drinan	McClory	Smith, Nebr.
Duncan, Oreg.	McCloskey	Snyder
Duncan, Tenn.	McCormack	Solarz
Edwards, Okla.	McEwen	Spellman
Eilberg	McFall	Spence
Emery	McHugh	St Germain
English	McKay	Staggers
Erlenborn	McKinney	Stanton
Ertel	Madigan	Stark
Evans, Del.	Mahon	Steed
Evans, Ind.	Marks	Steers
Fary	Marlenee	Stokes
Fascell	Marriott	Stratton
Findley	Martin	Stump
Fish	Mathis	Symms
Fisher	Mattox	Taylor
Fithian	Meeds	Teague
Flippo	Metcalfe	Thone
Flood	Meyner	Trible
Florio	Michel	Tsongas
Tucker	Wampler	Wydler
Udall	Watkins	Wylie
Ullman	White	Yatron
Van Deerlin	Whitley	Young, Alaska
Vanik	Wiggins	Young, Fla.
Vento	Wilson, C. H.	Young, Mo.
Volkmer	Wilson, Tex.	Young, Tex.
Waggonner	Winn	Zablocki
Walgren	Wirth	Zeferetti
Walker	Wolff	

NAYS—47

AuCoin	Edwards, Calif.	Moffett
Bedell	Fenwick	Neal
Bingham	Fraser	Nolan
Bonior	Harrington	Ottinger
Brodhead	Holtzman	Rahall
Brown, Calif.	Kastenmeier	Rosenthal
Burton, John	Kostmayer	Roybal
Burton, Phillip	Krebs	Ryan
Carr	LaFalce	Seiberling
Cornell	Lehman	Studds
Coughlin	Long, Md.	Thompson
Crane	Maguire	Waxman
Dellums	Markey	Weaver
Dodd	Mikva	Weiss
Downey	Miller, Calif.	Yates
Early	Mitchell, Md.	

ANSWERED "PRESENT"—2

Bafalis	Gonzalez

NOT VOTING—68

Andrews, N. Dak.	Edwards, Ala.	Quillen
	Evans, Colo.	Rhodes
Armstrong	Evans, Ga.	Richmond
Ashley	Forsythe	Rose
Badillo	Frenzel	Rousselot
Bellenson	Frey	Runnels
Biaggi	Goldwater	Ruppe
Bolling	Holland	Sikes
Breaux	Horton	Smith, Iowa
Brooks	Howard	Stangeland
Burlison, Mo.	Jenrette	Steiger
Carney	Johnson, Calif.	Stockman
Chisholm	Kasten	Thornton
Clausen, Don H.	Kelly	Traxler
	Koch	Treen
Clawson, Del	Lent	Vander Jagt
Cleveland	McDade	Walsh
Conyers	McDonald	Whalen
Cornwell	Mann	Whitehurst
Cotter	Mazzoli	Whitten
Dent	Murphy, N.Y.	Wilson, Bob
Derwinski	Nichols	Wright
Eckhardt	Pettis	
Edgar	Poage	

The Clerk announced the following pairs:

Mr. Biaggi with Mr. McDonald.
Mr. Brooks with Mr. Badillo.
Mr. Murphy of New York with Mr. Conyers.
Mr. Ashley with Mrs. Chisholm.
Mr. Carney with Mr. Edgar.
Mr. Mazzoli with Mr. Richmond.
Mr. Whitten with Mr. Koch.
Mr. Dent with Mr. Frey.
Mr. Evans of Colorado with Mr. Del Clawson.
Mr. Mann with Mr. Whalen.
Mr. Wright with Mr. Stockman.
Mr. Nichols with Mr. Eckhardt.
Mr. Horton with Mr. Jenrette.
Mr. Treen with Mr. Traxler.
Mr. Cotter with Mr. Bellenson.
Mr. Kelly with Mr. Sikes.
Mr. Stangeland with Mr. Cornwell.
Mr. Runnels with Mr. Andrews of North Dakota.
Mr. Howard with Mr. Edwards of Alabama.
Mr. Forsythe with Mr. Breaux.
Mr. Whitehurst with Mr. Quillen.
Mr. Burlison of Missouri with Mr. Rousselot.
Mr. Goldwater with Mr. Derwinski.
Mr. Don H. Clausen with Mr. Cleveland.
Mr. Thornton with Mr. Frenzel.
Mr. Steiger with Mr. Evans of Georgia.
Mr. Smith of Iowa with Mr. Holland.
Mr. Johnson of Colorado with Mr. Kasten.
Mr. Rose with Mr. Bob Wilson.
Mr. Walsh with Mr. Lent.

Mr. KREBS and Mr. SEIBERLING changed their vote from "yea" to "nay."

Mr. BLOUIN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 1811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "ERDA Authorization Act of 1978—Civilian Applications".

SEC. 2. In accordance with section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration subject to titles I, VI, and VII of this Act, the following:

TITLE I—FOR ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For operating expenses, for the following programs, a sum equal to the total of the following amounts:

(1) Magnetic fusion, $199,900,000.

(2) Fuel cycle research and development, $357,885,000, including $20,000,000 for international spent fuel disposition, pursuant to section 105 and including $13,000,000 for research, development, assessment, evaluation, and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, except that none of the authorized funds may be used for operations of the plant to process spent fuel from reactors.

(3) Liquid metal fast breeder reactor, $408,300,000: *Provided*, That an amount not to exceed $5,000,000 shall be applied for research and development on means to reduce the ability to divert plutonium from its intended purposes and to increase the detectability of plutonium if it should be so diverted: *Provided*, That none of the funds made available by any appropriations Act pursuant to this Act, or any other authorization Act, including funds from the General Treasury, revenues received, changes in selected resources, transferred funds, or funds from any other source, shall be used in fiscal year 1978, in any way, directly or indirectly, to terminate or cancel the Clinch River Breeder Reactor Project, or to plan such termination or cancellation; and any such funds shall only be used for the purposes of continuing the project in accordance with section 106 of Public Law 91-273, as amended by Public Law 94-187 and as further amended by section 103(f) of this Act.

(4) Nuclear research and applications, $181,929,000.

(5) Light water reactor safety facilities, $24,000,000.

(6) High energy physics, nuclear physics, and basic energy sciences, $409,454,000.

(7) Nuclear materials security and safeguards, $40,106,000.

(8) Uranium enrichment, $990,585,000.

(9) Program management and support, $152,165,000.

(10) Enrichment and other revenues, —$946,540,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. For "Plant and capital equipment", including construction, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts.

(a) Magnetic Fusion:

Project 78-3-a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(b) Fuel Cycle Research and Development:

Project 78-5-a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A-E and long-lead procurement), $10,000,000.

Project 78-5-b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A-E and long-lead procurement only), $3,000,000.

(c) Liquid Metal Fast Breeder:

Project 78-6-a, modifications to reactors, $8,700,000.

Project 78-6-b, safeguards and security upgrading, Idaho Falls, Idaho and Chicago, Illinois, $4,935,000.

Project 78-6-c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E, long-lead procurement and limited construction only), $20,100,000.

Project 78-6-d, experimental breeder reactor II modification, Idaho Falls, Idaho (A-E and selected long-lead procurement only), $3,100,000.

Project 78-6-e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (A-E only), $4,000,000.

Project 78-6-f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,800,000.

Project 78-7-a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,000.

Project 78-7-b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,100,000.

(d) Light Water Reactor Safety Facilities:

Project 78-8-a, upgrade Test Area North hot shop facility, Idaho National Engineering Laboratory, Idaho, $3,000,000.

(e) High Energy Physics:

Project 78-10-a, accelerator improvements and modifications, various locations, $4,500,000.

Project 78-11-a, master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California, $1,700,000.

(f) Nuclear Physics:

Project 78-12-a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

Project 78-12-b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.

(g) Basic Energy Sciences:

Project 78-13-a, national synchrotron light source, Brookhaven National Laboratory, New York, $24,000,000.

Project 78-13-b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(h) Uranium Enrichment:

Project 78-14-a, centrifuge facilities modifications, various locations, $30,000,000.

Project 78-14-b, process control modifications, gaseous diffusion plants, various locations, $17,400,000.

Project 78-15-a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(i) Project 78-21, General Plant Projects, $44,265,000.

(j) Capital Equipment Not Related to Construction:

(1) Magnetic fusion, $27,600,000.

(2) Fuel cycle research and development, $25,300,000.

(3) Liquid metal fast breeder reactor, $35,650,000.

(4) Nuclear research and applications, $15,195,000.

(5) Light water reactor safety facilities, $800,000.

(6) High energy physics, nuclear physics, and basic energy sciences, $60,800,000.

(7) Nuclear materials security and safeguards, $2,794,000.

(8) Uranium enrichment, $19,000,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 103. (a) Public Law 91-273, as amended, is further amended by striking from subsection 101(b)(1), project 71-1-f, process equipment modifications, gaseous diffusion plants, the figure "$820,000,000", and substituting therefor the figure "$920,000,000", which is an increase of $100,000,000 over the amount authorized by Public Law 95-39.

(b) Section 101 of Public Law 93-60, as amended, is further amended by striking from subsection (b)(1), project 74-1-g, cascade uprating program, gaseous diffusion plants, the figure "$417,300,000" and substituting therefor the figure "$460,000,000", which is an increase of $42,700,000 over the amount authorized by Public Law 95-39.

(c) Public Law 94-187, as amended, is further amended by:

(1) striking from subsection 101(b)(5), project 76-5-a, Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey, the figure "$214,600,000" and substituting therefor the figure "$238,600,000", which is an increase of $24,000,000 over the amount authorized by Public Law 95-39;

(2) striking from subsection 101(b)(5), project 76-5-b, 14 Mev intense neutron source facility, Los Alamos Scientific Laboratory, New Mexico, the figure "$22,100,000" and substituting therefor the figure "$25,300,000", which is an increase of $3,200,000 over the amount authorized by Public Law 94-187;

(3) striking from subsection 101(b)(8), project 76-8-e, conversion of existing steam-plants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio, the figure "$13,500,000" and substituting therefor the figure "$15,250,000", which is an increase of $1,750,000 over the amount authorized by Public Law 95-39;

(4) striking from subsection 101(b)(8), the words "project 76-8-g, enriched uranium production facility, Portsmouth, Ohio, $255,000,000" and substituting therefor the words "project 76-8-g, gaseous centrifuge, enriched uranium, production facilities, Portsmouth, Ohio, $362,630,000", which is an increase of $107,630,000 over the amount authorized by Public Law 95-39.

(d) Project 77-4-e, high performance fuel laboratory, Richland, Washington (A-E only), authorized by Public Law 95-39, is increased by $5,000,000 for a total authorization of $6,500,000.

(e) Project 77-4-d, fuel storage facility, Richland, Washington, authorized by Public Law 95-39, is increased by $23,000,000 for a total authorization of $30,000,000.

(f) CLINCH RIVER BREEDER REACTOR PROJECT—

(1) The new section 106 contained in section 103(d) of Public Law 94–187, as amended, is amended as follows:

(A) in subsection (a) of section 106, strike "September 30, 1976" and insert in lieu thereof, "September 30, 1978",

(B) at the end of subsection (b) of section 106, insert the following new sentences: "Nothing contained in this section shall be construed as authorizing the Administrator to use the procedures of this section to propose and proceed with a cancellation or termination, of the Clinch River Breeder Reactor Project and the cooperative arrangements associated therewith. No funds appropriated pursuant to the authorization contained in this section shall be used in any way, directly or indirectly, to cancel or terminate the project, or to plan such cancellation or termination. The Congress hereby endorses the opinion of the Comptroller General of the United States contained in the June 23, 1977, letter to Vice Chairman Jackson and Senator Baker of the Joint Committee on Atomic Energy from Comptroller General Staats, insofar as the opinion interprets the authorities under this section. The Congress hereby declares that this restatement of the authorities under this section is now and always has been the intention of the Congress for the interpretation of these authorities. Consequently, the Congress further declares that the proposal of the Administrator to modify the cooperative arrangements under this section to terminate the project, with the exception of a 'final design', contained in the May 18, 1977, letter to Vice Chairman Jackson of the Joint Committee on Atomic Energy from ERDA Acting Administrator Fri shall be deemed to be unauthorized by this section, and no funds appropriated for any fiscal year pursuant to the authorization of this section shall be used to implement in any way, directly or indirectly, the proposal. The Congress also declares that, insofar as the Comptroller General's opinion contained in the June 23, 1977, letter interprets the Impoundment Control Act of 1974, the intent of Congress is that funds appropriated pursuant to an authorization to design, construct and operate a project, or conduct a specified program, shall only be used for the continued design, construction, and operation of the project, or continued conduct of the program, and shall not be used in any way, directly or indirectly, to cancel or terminate the project or program, or for planning thereof, unless expressly authorized in an authorization Act by Congress. Funds made available for such continued design, construction and operation on a project, or continued conduct of a program shall therefore be deemed to be deferred or rescinded, as appropriate, for purposes of the procedures of the Impoundment Control Act of 1974, when such funds are used for such cancellation or termination, or for planning thereof, rather than for the continuation of the authorized project or program. Consequently, a disapproval resolution under the Impoundment Control Act shall have the effect of requiring as a matter of law that such funds shall be used for such continuation activities, and shall not be used for such termination or cancellation activities. Furthermore, when such funds are being withheld, or are proposed to be withheld, approval of a disapproval resolution or failure to approve a rescission resolution, as appropriate, shall not be considered to be satisfied under the Impoundment Control Act by releasing such funds for such termination or cancellation activities, but shall be considered to be satisfied only by the release of such funds for such continuation activities.

(2) Section 309 of Public Law 95–39, which authorizes funds for the ERDA nuclear programs in fiscal year 1977, is amended by inserting the following sentence at the end of the section: *"Provided,* That none of the funds made available by Public Law 94–355, or any other appropriations Act, including funds from the General Treasury, revenues received, changes in selected resources, transferred funds, or funds from any other source, shall be used in fiscal year 1977 in any way, directly or indirectly, to cancel or terminate the Clinch River Breeder Reactor Project, or to plan such termination or cancellation.".

RESCISSIONS

SEC. 104. (a) Public Law 93–276, as amended, is further amended by rescinding therefrom authorization for project 75–5–g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 105. The Energy Research and Development Administration is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress, with other nations or groups of nations, for proivding appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(2) of this Act authorization of appropriations in the amount of $20,000,000: *Provided,* That none of the funds appropriated pursuant to this Act or any other funds made available to the Administrator, or upon establishment of a Department of Energy by an Act of Congress, to the Secretary of Energy, under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear research or power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor), unless expressly authorized by annual authorization legislation hereafter enacted for the Energy Research and Development Administration, or, upon establishment by Act of Congress, the Department of Energy: *Provided further,* That nothing contained in this section shall be construed in any executive branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, reverse, or cancel the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977, for the issuance of license numbered XSNM–845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station, or any Order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

SEC. 106. (a) The Energy Research and Development Administration shall conduct a study of the Barnwell Nuclear Fuels Plant located in South Carolina to determine if that facility may be utilized in support of the nonproliferation objectives of the United States.

(b) The study required under subsection (a) shall—

(1) include an evaluation of the means by which the facility could be used in demonstrating improved safeguards equipment and procedures;

(2) include methods of reducing nuclear weapons proliferation resulting from the use of fuel reprocessing facilities;

(3) include an evaluation of the practicality of demonstrating new institutional arrangements for managing and operating fuel processing facilities, which may minimize the potential for these facilities to be used for nonpeaceful purposes;

(4) include an evaluation of the multinational and international management options available; and

(5) include an evaluation of technological controls and other safeguard devices by which a facility could be externally monitored and disabled to prevent the use of the facility for nonpeaceful purposes.

(c) In carrying out the study required under subsection (a) due consideration shall be given to the impact which the effective and efficient use of resources, and the independence of resource supply can have in assuring our national security objectives.

(d) The study required under subsection (a) shall be completed and a report submitted to the Congress not later than 6 months after the date that funds are appropriated for carrying out the purposes of this section. In addition to the items required under subsection (b), the report required by the preceding sentence, shall include recommendations and funding requirements to implement recommended programs resulting from such study.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(2) of this Act authorization of appropriations in the amount of $1,000,000.

SEC. 107. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a study which considers the available options, including, but not limited to—

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other purposes.

(b) Preparation of such study shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the study. The study shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of

the study to the Congress the Administrator shall release the proposed study for comment by interested parties, and such comments as are received shall be submitted as attachments to the final study submitted to the Congress.

(d) Nothing in this section shall be construed as intending to commit the Federal Government to any new assistance or participation in the Western New York Nuclear Service Center, nor as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

(e) For the purpose of carrying out the provisions of this section, there is included in subsection 101(2) of this Act authorization of appropriations in the amount of $1,000,000.

TITLE II—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 201. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under sections 53, 63, 103, or 104 for such periods of time as the Administrator of Energy Research and Development may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on such a basis as will recover not less than the Government's cost over a reasonable period of time and, in the opinion of the Administrator of Energy Research and Development, will not discourage the development of domestic sources of supply independent of the Energy Research and Development Administration: *And provided further*, That the Administrator of Energy Research and Development, to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator of Energy Research and Development shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That any change in enrichment services prices in the first provision above shall not be implemented for a period of sixty days, during which the Congress is in continuous session, after the transmission of the proposed price to the President of the Senate, the Speaker of the House of Representatives, the Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology. Such prices shall be considered authorized by the Congress unless either House of Congress approves a resolution of disapproval of such prices prior to the expiration of the aforementioned sixty-day period. The Senate Committee on Energy and Natural Resources and the House Committee on Science and Technology shall have single jurisdiction over any such resolution of disapproval introduced pursuant to this section. If such a resolution of disapproval has been introduced, but has not been reported by the committee on or before the fortieth day after transmission of the message, a privileged motion shall be in order in the respective body to discharge the committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407).".

TITLE III—GENERAL PROVISIONS

SEC. 301. Funds appropriated pursuant to titles I, VI, and VII of this Act may be used for the construction or acquisition of any facilities or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development and demonstration activities. Title to all such facilities and items of equipment shall remain in the United States, unless the Administrator or his designee determines in writing that the research, development and demonstration authorized by this Act shall best be implemented by permitting title or other such property interests to be in an entity other than the United States.

SEC. 302. Except as otherwise provided in this Act—

(a) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by this Act,

(b) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless (1) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (2) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 303. The Administration is authorized to start any project set forth in title I, subsections 102 (a) through (h), only if the currently estimated cost of that project does not exceed by more than 25 per centum the estimated cost set forth for the project. Further, the total cost of any project undertaken under these subsections shall not exceed the estimated cost set forth for that project by more than 25 per centum unless and until additional appropriations are authorized: *Provided*, That this subsection will not apply to any project with an estimated cost less than $5,000,000.

SEC. 304. Subject to the applicable requirements and limitations of this Act, when so specified in appropriations Acts amounts appropriated for the Administration pursuant to this Act for "Operating expenses" or for "Plant and capital equipment" may be merged with any other amounts appropriated for like purposes to any other Act authorizing appropriations for the Administration.

SEC. 305. When so specified in appropriations Acts, amounts appropriated pursuant this this Act for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

SEC. 306. Amounts appropriated pursuant to this Act for activities under subsections 101(9) and 103(i) are available for use, when necessary, in connection with all Administration programs.

SEC. 307. The Administrator is authorized to perform construction design services for any Administration construction project whenever (a) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (b) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

SEC. 308. When so specified in appropriations Acts, any moneys received by the Administration may be retained and used for operating expenses (except sums received from disposal of property under the Atomic Energy Community Act of 1955 and the Strategic and Critical Materials Stockpiling Act, as amended, and fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7)), notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and may remain available until expended.

SEC. 309. When so specified in appropriations Acts, transfers of sums from the "Operating expenses" appropriation may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred, may be merged with the appropriations to which transferred.

SEC. 310. TRANSFER PROVISIONS.—In the event that any of the programs authorized by this Act are transferred to a Department of Energy established by Act of Congress, the following procedures shall apply to such transfer.

(a) The Secretary shall designate one or more officers in a position of seniority in the Department, of not less seniority than Assistant Secretary, to serve as the administrator and manager of the research, development and demonstration programs authorized by this Act. The responsibilities of the designated officials shall include all functions associated with the program administration and management of all programs and projects authorized in titles I, VI, and VII and all additional responsibilities included under titles II, IV, and V of this Act. Such responsibilities shall specifically include, but not be limited to, the dissemination of technical information and all authority for agency determinations for all nonregulatory functions for such programs in titles I, II, IV, V, VI, and VII under the Atomic Energy Act, the Federal Nonnuclear Energy Research and Development Act, the Solar Heating and Cooling Demonstration Act, the Geothermal Research, Development and Demonstration Act, the Electric and Hybrid Vehicle Research, Development and Demonstration Act, the Solar Energy Research, Development and Demonstration Act, and responsibilities of the Administration under the Energy Reorganization Act and any additional functions, such as contract appeals, associated with the research, development, demonstration and other nuclear and nonnuclear programs authorized by this Act. Such authority for agency determinations for nonregulatory functions shall not be vested in any regulatory board or commission which is or may be established in the department.

(b) All laws governing the conduct of the research, development, demonstration and other programs authorized by this Act including, but not limited to, the statutes spec-

ified in subsection (a), and all procedures for congressional notification and review, specifically including the requirements to keep the Congress "fully and currently informed", shall be continued in the department.

(c) There shall be no change in the structure of any program authorized by this Act including, but not limited to, Government-owned and contractor-operated facilities, headquarters components, the so-called national laboratories, energy research centers and the operations offices managing such laboratories, weapons programs and other research, development, demonstration and related program activities, unless any such changes are expressly authorized in a subsequent authorization Act for the department, notwithstanding any other provision of law.

SEC. 311. No nuclear fuel shall be exported to supply a nuclear power reactor under an Agreement for Cooperation which has not been reviewed by the Congress of the United States under the procedures in section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by Public Law 93-485, directly or indirectly to a non-nuclear weapons state (within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons) which has not ratified the Treaty on the Non-Proliferation of Nuclear Weapons unless the first proposed license under such agreement authorizing the export of either such reactor or such fuel after the date of this Act is first submitted to the Congress for review under the congressional review procedures provided for Agreements for Cooperation in the above-referenced section 123 d. of the Atomic Energy Act of 1954, as amended.

SEC. 312. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, biomass, and other domestic resources into alternative fuels: *Provided*, That no loan guarantee for a full sized oil shale facility shall be provided under this section until after a successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further*, That no loan guarantee shall be available under the subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of such facility is determined not to be warranted by the Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of

the designated period of time, if the borrower has been unable to secure alternative financing, the Administration is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official, within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706 (2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions for which a waiver was made by the Administrator under section 9 of this Act, and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed.

In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation.

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of

this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided,* That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by section (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture joint stock company or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section shall be subject to the title and waiver requirement and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided,* That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further,* That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section, shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided,* That Indian tribes are exempt from the operation of this subsection: *Provided further,* That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such assistance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

"(y) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge, and oceanic and terrestrial crops.".

SEC. 313. In order to provide economic farm units to qualifying farmers whose land is economically infeasible to reclaim from damages resulting from the Teton flood of June 5, 1976, and who are unable to find suitable replacement land for their flood damaged farm, and in order to restore the economic and agricultural base of the flood damaged region, there is hereby transferred 5,955 acres of land, hereinafter described, in the State of Idaho presently under the jurisdiction of the Energy Research and Development Administration, to the Secretary of the Interior who, acting through the Bureau of Reclamation, shall make such lands available for sale to qualifying farmers according to the terms hereafter provided.

Part I. As used in this Act, the term:

(a) "Teton flood" means the flood resulting from the collapse of Teton Dam of the Lower Teton Division of the Teton Basin Federal Reclamation Project on June 5, 1976.

(b) "Energy Research and Development Administration land" means those public and acquired lands in the State of Idaho identified as sections numbered fourteen (14), twenty-three (23), twenty-four (24), twenty-five (25), and thirty-six (36), in township six (6) north, of range thirty-three (33) east of the Boise meridian; sections numbered nineteen (19), thirty (30), and thirty-one (31) in township six (6) north, of range thirty-four (34) east of the Boise meridian; and the southeast quarter, the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of the northwest quarter, of section numbered eight (8) and the south half and the south half of the north half of section numbered nine (9) in township five (5) north, of range thirty-four (34) east of the Boise meridian, all situated in the county of Jefferson and State of Idaho, and containing 5,955 acres, more or less, which would be transferred for the purposes of this Act.

(c) "Qualifying farmer" means the resident, owner-operator of a farm who resides in the immediate locality, whose livelihood is derived from his farming operation and whose land was damaged due to the collapse of Teton Dam on June 5, 1976, to the extent that in the opinion of the Secretary of the Interior, it is not economically feasible to reclaim such land so that it produces an income commensurate with that earned prior to the Teton flood.

(d) "Irrigable land" means farm land that is suitable for irrigated agriculture and has been certified as irrigable by the Secretary of the Interior.

Part II. For a period of not more than five years after transfer to the Bureau of Reclamation, the land heretofore described shall be available for purchase by those who, on or before October 1, 1978, are determined to be qualifying farmers pursuant to regulations issued in accordance with part V of this Act by the Secretary of the Interior.

Part III. Energy Research and Development Administration land as described in part I(b) of this Act shall be certified as irrigable by the Secretary of the Interior, and lands so certified shall be made available in a manner to be prescribed by the Secretary for purchase by qualifying farmers at its current fair market value as determined by a board of appraisers composed of a Federal appraiser, a State appraiser, and one appraiser from the disaster region: *Provided*, That irrigable land transferred to a single ownership shall not exceed 160 acres of class I land as defined by the Secretary or the equivalent thereof in other land classes as determined by the Secretary. The United States, through the Secretary, shall convey fee simple title of the Energy Research and Development Administration land to the qualifying farmer. The cost of developing the replacement land for farming shall be borne by the qualifying farmer who purchases the land.

Part IV. Any part of the Energy Research and Development Administration land remaining in the possession of the Bureau of Reclamation at the end of the five year period, except land needed for public rights-of-way, as determined by the Secretary, shall be returned to the Energy Research and Development Administration.

Part V. Within ninety days after the enactment of this Act the Secretary shall prescribe and publish in the Federal Register such rules and regulations as may be necessary and proper to carry out the provisions of this Act.

Part VI. Full recovery for the loss of all or part of flood-damaged farms shall be obtained by owners pursuant to the Teton Dam Disaster Assistance Act of 1976, Public Law 94-400, 94 Stat. 1211, and the Supplemental Appropriation Act of 1976, Public Law 94-438, 90 Stat. 1415.

Part VII. Actions taken pursuant to this Act are in response to emergency conditions and depend for their effectiveness upon their prompt completion and, therefore, are deemed not only to be major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (83 Stat. 852, as amended, 42 U.S.C. 4321).

Part VIII. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administration of this Act.

TITLE IV—ASSISTANCE PAYMENTS TO THE LOS ALAMOS SCHOOL BOARD AND THE COUNTY OF LOS ALAMOS

SEC. 401. (a) Section 91 a. of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391) is amended to read as follows:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator shall, for a period of ten years, make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however*, That with respect to the Cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the County of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further*, That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in its operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations.".

(b) Section 91 d. of such Act is amended to read as follows:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County, and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the County Los Alamos, New Mexico), the Administrator shall present to the Joint Committee on Atomic Energy recommendations as to the need for any further assistance payments to such entity.".

SEC. 402. Section 94 of the Atomic Energy Community Act of 1955 is amended to read as follows:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are required or authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided, however*, That the term of such contracts, in the case of the Cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the County of Los Alamos, New Mexico, shall not extend beyond June 30, 1987."

TITLE V—LAWRENCE LIVERMORE LABORATORY EMPLOYEE GRIEVANCE PROCEDURE

SEC. 501. The Administrator shall not use any funds appropriated pursuant to this Act under any contract in effect on or after October 1, 1977, for research services or material contract or supplies by the Lawrence Livermore Laboratory unless that contract specifically provides that the employees of the Laboratory will be protected by an impartial grievance procedure which includes binding arbitration as the final step covering all "rights disputes" in accordance with the rules of the American Arbitration Association. The contract shall further guarantee the employees the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing. If a question arises concerning representation of employees, the services of the Federal Mediation and Conciliation Service may be invoked to provide appropriate procedures for the determination of employee representaitves. The employer shall bargain in good faith with the representatives of its employees on all matters dealing with wages, hours, and other terms and conditions of employment. If the parties fail to reach an agreement, the services of the Atomic Energy Labor-Management Relations Panel shall be invoked for mediation purposes. All unresolved issues shall then be referred to such panel for final and binding arbitration. Nothing contained herein should be construed to permit any employee representative or person to engage in a work stoppage or to permit the employer to lock out its employees: *Provided, however*, That no employee rights or activities shall be guaranteed in such contract which would be in violation of the law of the State of California.

TITLE VI—FOR NONNUCLEAR ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 601. For operating expenses, for the following programs, a sum equal to the total of the following amounts:

(1) Conservation research and development;

Electric energy systems and energy storage:

(a) Electric energy systems, $36,700,000.

(b) Energy storage systems, $49,900,000.

End use conservation and technologies to improve efficiency:

(a) Industrial energy conservation, $40,000,000.

(b) Buildings and community systems, $56,000,000: *Provided*, That $2,000,000 of such sum are hereby authorized for a research and development program in residential gas furnaces.

(c) Transportation energy conservation, $88,000,000, of which $2,000,000 shall be available to the Alternative Fuels Utilization Program for study of automotive utilization of alcohol fuels and blends: *Provided*, That, of those funds authorized, funds as may be necessary are hereby authorized for the Energy Research and Development Administration to conduct studies to determine the feasibility of utilizing existing distillery facilities or other types of refineries including but not limited to sugar refineries, in the implementation of programs to extend the supply of gasoline by means of a mixture of gasoline and alcohol: *Provided, further*, That no more than two hundred electric vehicles may be purchased within the provisions of Public Law 94–413 utilizing funds made available in this section.

(d) Improved conversion efficiency, $78,200,000.

(e) Small grants for appropriate technology, $6,000,000.

Energy extension service:

(a) Energy extension service, $8,000,000.

(2) Fossil energy development:

Coal:

(a) Liquefaction, $107,000,000.

(b) High Btu gasification, $51,200,000.

(c) Low Btu gasification, $73,900,000: *Provided*, That the sum of $40,000,000 which represents the portion of the appropriations heretofore made in the total amount of $56,000,000 for project 76–1–a (clean boiler fuel demonstration plant (A–E) and long-lead procurement) which remains unobligated and is no longer needed is hereby authorized to be made available instead, in addition to any amounts appropriated for the purposes involved pursuant to this Act for the low Btu gasification program.

(d) Advanced power systems, $25,500,000.

(e) Direct combustion, $65,200,000.

(f) Advanced research and supporting technology, $45,000,000: *Provided*, That of those funds authorized, funds as may be necessary are hereby authorized for the following purpose:

(1) The Administrator shall conduct a feasibility study of the technology and the commercial applications of the process of fine-grinding of coal and dry vegetable residues to four micron-size particles for the purpose of preparing these substances as clean burning fuels.

(2) In carrying out the feasibility study, the Administrator may provide for adequate participation by individuals, corporations and private and public research facilities, colleges and universities.

(3) A report of the findings together with recommendations for advancing the technology, if deemed appropriate by the Administrator, shall be submitted to the Congress as soon as possible but not later than January 1, 1978.

(g) Demonstration plants, $50,900,000.

(h) Magnetohydrodynamics, $80,000,000.

Petroleum and natural gas:

(a) Enhanced oil recovery, $46,100,000.

(b) Enhanced gas recovery, $30,000,000.

(c) Drilling, exploration and offshore technology, $1,600,000.

(d) Processing and utilization, $1,400,000.

Oil shale and in situ technology:

(a) Oil shale, $28,000,000.

(b) In situ coal gasification, $11,000,000: *Provided*, That, of those funds authorized for fossil energy development, and funds as may be necessary are hereby authorized for the Energy Research and Development Administration to conduct a study to determine the extent of the Nation's coal reserves, the general geographic location of such reserves and the cost of extracting said reserves.

(3) Solar energy development:

(a) Thermal applications, $107,700,000.

(b) Technology support and utilization, $12,000,000.

(c) Solar electric application, $178,900,000: *Provided*, That $7,500,000 of such sum are hereby authorized for design work for small community applications.

(d) Solar Energy Research Institute and Regional Centers. There is hereby authorized from funds made available under subsections (a), (b), and (c) of this section an amount no less than $10,000,000 for the operation of the Solar Energy Research Institute and its associated regional centers.

(e) Fuels from biomass, $19,500,000; and under such rules and regulations as he may establish, the Administrator is authorized to guarantee a loan or loans for the demonstration of a 50 MW wood-fueled power generating facility.

(4) Geothermal energy development:

(a) Engineering research and development, $17,100,000.

(b) Resource exploration and assessment, $17,600,000.

(c) Hydrothermal technology applications, $32,000,000.

(d) Advanced technology applications, $23,500,000.

(e) Utilization experiments, $16,000,000.

(f) Environmental control and institutional studies, $8,100,000.

(g) Low head hydroelectric demonstration, $15,000,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 602. For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

Project 78–1–a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites undetermined (A–E and long-lead procurement only), $6,000,000.

Project 78–2–d, solvent refined coal demonstration plant, site undetermined (A–E and long-lead procurement only), $2,000,000.

(3) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $6,170,000.

(B) Fossil energy development, $5,500,000.

(C) Solar energy development, $7,900,000.

(D) Geothermal energy development, $2,500,000.

AMENDMENTS TO PRIOR YEAR ACTS

SEC. 603. (a) Public Law 94–187 is amended by:

(1) Striking from subsection 101(b)(1), project 76–1–b, high Btu synthetic pipeline gas demonstration plant, the words "(A–E and long-lead procurement)" and the figure, "$20,000,000", and striking from subsection 201(b)(1) "project 76–1–b, high Btu synthetic pipeline gas demonstration plant (A–E and long-lead procurement) $5,000,000", which authorized appropriations for this project totaling $25,000,000, and substituting therefor in subsection 101(b)(1), project 76–1–b, high Btu synthetic pipeline gas demonstration plant, the figure "$220,000,000".

(2) Striking from subsection 101(b)(1), project 76–7–c, low Btu fuel gas demonstration plant, the words "(A–E and long-lead procurement)" and the figure "$15,000,000", and striking from subsection 201(b)(1) the words and figures, "project 76–1–c, low Btu fuel gas demonstration plant (A–E and long-lead procurement), $3,750,000," which authorized appropriations for this project totaling $18,750,000, and substituting therefor in subsection 101(b)(1), project 76–1–c, low Btu fuel gas demonsration plant, he figure "$15,000,000".

(3) Striking from subsecion 101(b)(2), project 76–2–a, five megawat solar thermal test facility, the figure "$5,000,000", and striking from subsection 201(b)(2) the words and figures "proiect 76–2–a, five megawatt solar thermal test facility, $1,250,000", which authorized appropriations for this project totaling $6,250,000, and substituting therefor in subsection 101(b)(2) the figure "$21,250,000", which is an increase of $3,000,000 over the amount authorized by Public Law 94–355, as amended.

(4) Striking from subsection 101(b)(2), project 76–2–h, ten megawatt central receiver solar thermal powerplant (A–E and long-lead procurement), the words "(A–E and long-lead procurement)" and the figure "$5,000,000", and striking from subsection 201(b)(2) the words and figures "project 76–2–b, ten megawatt central receiver solar thermal powerplant (A–E and long-lead procurement), $1,250,000" which authorized appropriations for this project totaling $6,250,000, and substituting therefor in subsection 101(b)(2), the words "Barstow, California," and the figure "$61,250,000": *Provided*, That if the solar electrical generating facility hereby supported contributes electricity to a distribution network serving the public on a commercial basis and if any Federal monetary contribution is included in the rate base for the purpose of computing return on capital investment to such utilities, that portion of the capital costs derived from Federal funds and included in the rate base shall be recovered with interest from the revenues of the solar facility.

(b) Project 77–1–d, MHD component development and integration facility, authorized by Public Law 94–373, is increased by $8,200,000 for a total authorization of $13,200,000.

TITLE VII—FOR NONNUCLEAR ENVIRONMENTAL RESEARCH AND DEVELOPMENT, PROGRAM MANAGEMENT AND SUPPORT, AND RELATED PROGRAMS

OPERATING EXPENSES

SEC. 701. For operating expenses for the following programs, a sum equal to the total of the following amounts:

(1) Environmental research and development:

(a) Overview and assessment, $43,010,000.

(b) Biomedical and environmental research, $143,970,000, of which $1,000,000 shall be made available to the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912), as amended.

(2) Life sciences research and biomedical applications, $38,113,000.

(3) Program management and support:

(a) Program direction, $257,100,000.

(b) Institutional relations, $30,179,000, including funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended; and $1,800,000 is authorized to be appropriated pursuant to this paragraph (3) for financial awards by ERDA to independent inventors for the purpose of carrying out section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913), as amended.

(c) Supporting activities, $54,460,000.

(d) International cooperation, $5,000,000.

(4) Funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910) in the amount of $500,000 for the Council on Environmental Quality.

PLANT AND CAPITAL EQUIPMENT

SEC. 702. For plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Environmental Research and Development:

Project 78–9a, modifications and additions to biomedical and environmental research facilities, various locations, $6,000,000.

(2) Program Management and Support:

Project 78–1–b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

Project 78–1–c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $5,700,000.

Project 78–19–a, program support facility, Argonne National Laboratory, Illinois (A–E and long-lead procurement only), $5,000,000.

(3) Project 78–22, Construction Planning and Design, $10,000,000.

(4) Capital Equipment Not Related to Construction:

(A) Environmental research and development, $18,825,000.

(B) Program management and support, $5,155,000.

SEC. 703. The Administrator of the Energy Research and Development Administration, or its successor agency, is hereby authorized, to the extent and in such amounts as are provided in appropriation Acts, to enter into a cooperative arrangement with an interstate pipeline organization for participation in the construction and operation of a high Btu pipeline gas demonstration plant, utilizing the HYGAS steam-oxygen process and Illinois Basin type coal.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION OFFERED BY MR. TEAGUE

Mr. TEAGUE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. TEAGUE moves to strike out all after the enacting clause of the Senate bill S. 1811 and to insert in lieu thereof the provisions of H.R. 6796, as passed, as follows:

That, in accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), there is hereby authorized to be appropriated to the Energy Research and Development Administration for the fiscal year 1978, for energy research, development, and demonstration, and related activities, the sum of $6,740,889,000.

TITLE I—ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

FOSSIL ENERGY DEVELOPMENT

(1) Coal:

(A) Coal liquefaction, $109,000,000.

(B) High Btu gasification (coal), $51,200,000.

(C) Low Btu gasification (coal), $73,900,000.

(D) Advanced power systems, $25,500,000.

(E) Direct combustion (coal), $59,200,000.

(F) Advanced research and supporting technology, $59,000,000.

(G) Demonstration plants and major test facilities (coal), $70,900,000.

(H) Magnetohydrodynamics, $63,400,000: *Provided*, That at least 5 percent of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Petroleum and natural gas:

(A) Natural gas and oil extraction, $88,100,000.

(3) In-situ technology:

(A) Oil shale, $28,000,000.

(B) Coal gasification, $27,600,000.

SOLAR ENERGY DEVELOPMENT

(4) Solar Heating and Cooling, $91,900,000.

(5) Other Solar Energy Programs, $238,500,000, including $7,000,000 for a parallel design of a 1500 kilowatt wind energy conversion system and the production of two test units, and $191,200,000 for other solar electric applications.

GEOTHERMAL ENERGY DEVELOPMENT

(6) Geothermal Energy, $123,900,000.

CONSERVATION RESEARCH AND DEVELOPMENT

(7) Conservation Research and Development:

(A) Electric Energy Systems and Energy Storage, $85,300,000.

(B) End-Use Conservation and Improved Conversion Efficiency, $254,000,000.

(C) Energy Extension Service, $8,000,000.

(D) Small Grant Program for Appropriate Technologies, $10,000,000.

ENVIRONMENT AND SAFETY RESEARCH AND DEVELOPMENT

(8) Environment and Safety Research and Development:

(A) Overview and Assessments, $51,910,000.

(B) Environmental Research, $143,970,000.

(C) Life Sciences Research, $38,113,000.

(D) Decontamination and Decommissioning, $19,000,000.

NUCLEAR RESEARCH AND DEVELOPMENT

(9) Nuclear Research and Development:

(A) Light Water Reactors, $313,600,000.

(B) Waste Management, $185,000,000.

(C) Liquid Metal Fast Breeder Reactor, $483,300,000: *Provided*, That at least $10,400,000 of the amount authorized for the Liquid Metal Fast Breeder program shall be expended for the development and testing of steam generators and liquid metal pumps, and for advanced fuel development.

(D) Other Advanced Reactor Concepts, $84,170,000.

(E) Advanced Fuel Cycle Concepts, $92,400,000.

(F) Nuclear Energy Assessments, $23,300,000.

(G) Uranium Enrichment, $913,985,000.

(H) Magnetic Fusion, $207,900,000.

ALL OTHER PROGRAMS, $874,807,000, including—

(i) not more than $1,000,000 for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912);

(ii) funds to reimburse the National Bureau of Standards for costs incurred in carrying out the provisions of section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5913);

(iii) funds to carry out the provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Council on Environmental Quality; and

(iv) funds for administrative program support in the amount of $305,053,000.

SEC. 102. Prior to the obligation of any funds authorized pursuant to this Act for research, development, assessment, evaluation and other activities at the Barnwell Nuclear Fuels Plant related to alternative fuel cycle technologies, safeguard systems, spent fuel storage and waste management, a program plan be submitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate for their approvals. The Administrator is authorized to solicit proposals for any of the aforementioned activities. However, before any of these activities are undertaken, the Administrator is required to transmit the plan containing a description of such activities together with all pertinent data to such Committees and wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objections to the proposed action.

PLANT AND CAPITAL EQUIPMENT

SEC. 103. (a) For "Plant and capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) Conservation Research and Development:

(A) Project 78–1–a, high bay addition, Los Alamos Scientific Laboratory, New Mexico, $800,000.

(2) Fossil Energy Development:

(A) Project 78–2–a, analytical research, chemistry and coal carbonization laboratory, Pittsburgh Energy Research Center, Pennsylvania, $6,600,000.

(B) Project 78–2–b, modifications and additions to Energy Research Centers, various locations, $3,000,000.

(C) Project 78–2–c, low Btu fuel gas small industrial demonstration plants, sites undetermined (AE– and long-lead procurement only), $6,000,000.

(D) Project 78–2–d, solvent refined coal demonstration plant, site undetermined (total estimated cost is $300,000,000, including the Federal share thereof), $30,000,000.

(E) Project 78–2–e, high Btu coal gasification test facility, site undetermined (total estimated cost is $1,200,000,000, including the Federal share thereof), (A–E and long-lead procurement only), $30,000,000.

(3) Magnetic Fusion:

(A) Project 78–3–a, mirror fusion test facility, Lawrence Livermore Laboratory, California, $94,200,000.

(B) Project 78–3–b, fusion materials irradiation test facility, Hanford Engineering Development Laboratory, Washington (A–E and long-lead procurement), $14,400,000.

(4) Fuel Cycle Research and Development:

(A) Project 78–5–a, facilities for the national waste terminal storage program, site undetermined (land acquisition, A–E and long-lead procurement), $10,000,000.

(B) Project 78–5–b, liquid metal fast breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee (A–E and long-lead procurement only), $3,000,000.

(C) Project 78–5–c, advanced isotope separation facility, site undetermined (A–E only), $3,500,000.

(5) Liquid Metal Fast Breeder Reactor:

(A) Project 78–6-a, modifications to reactors, $8,700,000.

(B) Project 78–6–b, safeguards and security upgrading, Idaho Falls, Idaho, and Chicago, Illinois, $4,935,000.

(C) Project 78–6–c, safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A–E, long-lead procurement and limited construction only), $20,-100,000.

(D) Project 78–6–d, experimental breeder reactor II modification, Idaho Falls, Idaho (A–E and selected long-lead procurement only), $3,100,000.

(E) Project 78–6–e, modifications to facilities, Liquid Metal Engineering Center, Santa Susanna, California (to include A–E effort, Long Lead Procurement and Limited Construction), $9,000,000.

(F) Project 78–6–f, fuels and materials examination facility, Hanford Engineering Development Laboratory, Washington, $134,-800,000.

(G) Project 78–7a, modifications to utility system 300 area, Hanford Engineering Development Laboratory, Washington, $3,600,-000.

(H) Project 78–7–b, test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho, $1,100,000.

(6) Light Water Reactor Safety Facilities:

(A) Project 78–8–a, upgrade Test Area North hot shop facility, Idaho National Engineering Laboratory, Idaho, $3,000,000.

(7) Environmental Research and Development:

(A) Project 78–9–a, modifications and additions to biomedical and environmental research facilities, various locations, $6,000,000.

(8) High Energy Physics:

(A) Project 78–10–a, accelerator improvements and modifications, various locations, $4,500,000.

(B) Project 78–10–b, proton-proton intersecting storage accelerator facility, Brookhaven National Laboratory, $10,500,000.

(C) Project 78–11–a, master substation reliability and capacity improvements, Stanford Linear Accelerator Center, California, $1,700,000.

(9) Nuclear Physics:

(A) Project 78–12–a, accelerator and reactor improvements and modifications, various locations, $1,900,000.

(B) Project 78–12–b, high intensity uranium beams, Lawrence Berkeley Laboratory, California, $6,000,000.

(10) Basic Energy Sciences:

(A) Project 78–13–a, national synchrotron light source, Brookhaven National Laboratory, New York, $24,000,000.

(B) Project 78–13–b, combustion research facility, Sandia Laboratories, Livermore, California, $9,400,000.

(11) Uranium Enrichment:

(A) Project 78–14–a, centrifuge facilities modifications, various locations, $30,000,000.

(B) Project 78–14–b, process control modifications, plants, various locations, $17,400,-000.

(C) Project 78–15–a, water system improvements, gaseous diffusion plant, Paducah, Kentucky, $4,500,000.

(12) Program Management and Support:

(A) Project 78–1–b, chiller modifications for energy conservation, Bendix Plant, Kansas City, Missouri, $830,000.

(B) Project 78–1–c, process waste heat utilization, gaseous diffusion plant, Paducah, Kentucky, $1,700,000.

(C) Project 78–19–a, program support facility, Argonne National Laboratory, Illinois (A–E and longlead procurement only), $5,000,000.

(13) Project 78–21, General Plant Projects, $44,265,000.

(14) Project 78–22, Construction Planning and Design, $10,000,000.

(15) Capital Equipment Not Related to Construction:

(A) Conservation research and development, $9,170,000.

(B) Fossil energy development, $5,500,000.

(C) Solar energy development, $7,900,000.

(D) Geothermal energy development, $2,-500,000.

(E) All other programs, $214,019,000.

(b)(1) There is authorized an additional sum of $100,000,000 for the process equipment modifications, gaseous diffusion plants (project 71–1–f), authorized by section 101(b)(1) of Public Law 91–273.

(2) There is authorized an additional sum of $42,700,000 for the cascade uprating program, gaseous diffusion plants (project 74–1–g), authorized by section 101(b)(1) of Public Law 93–60.

(3) There is authorized an additional sum of $30,000,000 for the high Btu synthetic pipeline gas demonstration plant (project 76–1–b) authorized by section 101(b)(1) of Public Law 94–187.

(4) There is authorized an additional sum of $131,250,000 for the low Btu fuel gas demonstration plant (project 76–1–c) authorized by section 101(b)(1) of Public Law 94–187.

(5) There is authorized an additional sum of $41,000,000 for the ten megawatt central receiver solar thermal powerplant, Barstow, California (project 76–2–b), authorized by section 101(b)(2) of Public Law 94–187.

(6) There is authorized an additional sum of $24,000,000 for the Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, New Jersey (project 76–5–a), authorized by section 101(b)(5) of Public Law 94–187.

(7) There is authorized an additional sum of $1,750,000 for the conversion of existing steamplants to coal capability, gaseous diffusion plants and Feed Materials Production Center, Fernald, Ohio (project 76–8–e), authorized by section 101(b)(8) of Public Law 94–187.

(8) There is authorized an additional sum of $180,000,000 for the enriched uranium production facilities, gas centrifuge (project 76–8–g), authorized by section 101(b)(8) of Public Law 94–187.

(9) There is authorized an additional sum of $5,500,000 for the MHD component development and integration facility (project 77–1–d) authorized by Public Law 94–373.

(10) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington, (A–E only) (project 77–4–c).

(11) There is authorized an additional sum of $23,000,000 for the fuel storage facility, Richland, Washington (project 77–4–d).

SEC. 104. Public Law 93–276, as amended, is further amended by rescinding therefrom authorization for project 75–5–g, molten salt breeder reactor (preliminary planning preparatory to possible future demonstration project), $1,500,000, except for any funds heretofore obligated.

SEC. 105. The sum of $40,000,000, which represents the portion of the appropriations heretofore made in the total amount of $56,-000,000 for project 76–1–a (clean boiler fuel demonstration plan (A–E and long-lead procurement)) which remains unobligated and is no longer needed, is hereby authorized to be made available instead, in addition to any amounts appropriated for the purpose involved pursuant to this Act, for project 78–2–f (gasifiers in industry, various sites).

SEC. 106. (a) The Administrator of the Energy Research and Development Administration shall prepare and submit to the Congress within one year after the date of the enactment of this Act a plan which considers the following options:

(1) Federal technical and financial aid in support of decommissioning high level waste disposal operations at the Western New York Nuclear Service Center;

(2) Federal operation of the Western New York Nuclear Service Center for the purposes of decommissioning existing facilities and disposing of existing high level wastes, including a demonstration program for the solidification of high level wastes for permanent burial;

(3) permanent Federal ownership of and responsibility for all or part of the Western New York Nuclear Service Center, and Federal receipt of the license from the present co-licensees; and

(4) use of the Western New York Nuclear Service Center for other puropses.

(b) Preparation of such plan shall be in cooperation with the Nuclear Regulatory Commission and other Federal agencies, the State of New York, the industrial participants, and the public, and the Administrator shall conduct informational public hearings (in lieu of any formal administrative hearings) prior to completion of the plan. The plan shall recommend allocation of existing and future responsibilities among the Federal Government, the State of New York, and present industrial participants in the Western New York Nuclear Service Center.

(c) Ninety days prior to submission of the plan to the Congress the Administrator shall release the proposed plan for comment by interested parties, and such comments as are received shall be submitted as attachments to the final plan submitted to the Congress.

(d) Nothing in this section shall be construed as relieving any party of any duties or responsibilities under any law, regulation, or contract to provide for the safe storage of nuclear waste.

TITLE II—GENERAL PROVISIONS

SEC. 201. Title I of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new section:

"PROVISIONS APPLICABLE TO ANNUAL AUTHORIZATION ACTS

"SEC. 111. (a) All appropriations made to the Energy Research and Development Administration or the Administrator shall, except as otherwise provided by law, be subjects to annual authorization in accordance with section 261 of the Atomic Energy Act of 1954, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 305 of this Act. The provisions of this section shall apply with respect to appropriations made pursuant to the Acts providing such authorization (hereinafter in this section referred to as 'annual authorization Acts').

"(b)(1) Funds appropriated pursuant to an annual authorization Act for 'Operating expenses' may be used for—

"(A) the construction or acquisition of any facilities, or major items of equipment, which may be required at locations other than installations of the Administration, for the performance of research, development, and demonstration activities, and

"(B) grants in any organization for purchase or construction of research facilities.

No such funds shall be used under this subsection for the acquisition of land. Fee title to all such facilities and items of equipment shall be vested in the United States, unless the Administrator or his designee determines in writing that the research, development, and demonstration authorized by such Act would best be implemented by permitting fee title or any other property interest to be vested in an entity other than the United States; but before approving the vesting of such title or interest in such entity, the

Administrator shall (i) transmit such determination, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and (ii) wait a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(2) Each grant under paragraph (1)(A) shall be made under such conditions as the Administrator deems necessary to insure that the United States will receive therefrom benefits adequate to justify the making of the grant.

"(3) No funds shall be used under paragraph (1) for any facility or major item of equipment, including collateral equipment, if the estimated cost to the Federal Government exceeds $5,000,000 in the case of such a facility or $2,000,000 in the case of such an item of equipment, unless such facility or item has been previously authorized by the appropriate committees of the House of Representatives and the Senate, or the Administrator—

"(A) transmit to the appropriate committees of the House of Representatives and the Senate a report on such facility or item showing its nature, purpose, and estimated cost, and

"(B) waits a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

"(c)(1) Not to exceed 1 per centum of all funds appropriated pursuant to any annual authorization Act for 'Operating expenses' may be used by the Administrator to construct, expand, or modify laboratories and other facilities, including the acquisition of land, at any location under the control of the Administrator, if the Administrator determines that (A) such action would be necessary because of changes in the national programs authorized to be funded by such Act or because of new scientific or engineering developments, and B) deferral of such action until the enactment of the next authorization Act would be inconsistent with the policies established by Congress for the Administration.

"(2) No funds may be obligated for expenditure or expended under paragraph (1) for activities described in such paragraph unless—

"(A) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the Administrator has transmitted to the appropriate committees of the House of Representatives and the Senate a written report containing a full and complete statement concerning (i) the nature of the construction, expansion, or modification involved, (ii) the cost thereof, including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary and in the national interest, or

"(B) each such committee before the expiration of such period has transmitted to the Administrator a written notice to the effect that such committee has no objection to the proposed action;

except that this paragraph shall not apply to any project the estimated total cost of which does not exceed $50,000.

"(d)(1) Except as otherwise provided in the authorization Act involved—

"(A) no amount appropriated pursuant to any annual authorization Act may be used for any program in excess of the amount actually authorized for that particular program by such Act, and

"(B) no amount appropriated pursuant to any annual authorization Act may be used for any program which has not been presented to, or requested of the Congress,

unless (i) a period of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after the receipt by the appropriate committees of the House of Representatives and the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (ii) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objecion to the proposed action.

"(2) Notwithstanding any other provision of this section or the authorization Act involved, the aggregate amount available for use within the categories of coal, petroleum and natural gas, oil shale, solar, geothermal, nuclear energy (non-weapons), enviromental and safety, and conservation from sums appropriated pursuant to an annual authorization Act may not, as a result of reprograming, be decreased by more than 10 per centum of the total of the sums appropriated pursuant to such Act for those categories.

"(e) Subject to the applicable requirements and limitations of this section and the authorization Act involved, when so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may be merged with any other amounts appropriated for like purposes pursuant to any other Act authorizing appropriations for the Administration.

"(f) When so specified in an appropriation Act, amounts appropriated pursuant to any annual authorization Act for 'Operating expenses' or for 'Plant and capital equipment' may remain available until expended.

"(g) The Administrator is authorized to perform construction design services for any administration construction project whenever (1) such construction project has been included in a proposed authorization bill transmitted to the Congress by the Administration, and (2) the Administration determines that the project is of such urgency in order to meet the needs of national defense or protection of life and property or health and safety that construction of the project should be initiated promptly upon enactment of legislation appropriating funds for its construction.

"(h) When so specified in appropriation Acts, any moneys received by the Administration may be retained and used for operating expenses, and may remain available until expended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484); except that—

"(1) this subsection shall not apply with respect to sums received from disposal of property under the Atomic Energy Community Act of 1955 or the Strategic and Critical Materials Stockpiling Act, as amended, or with respect to fees received for tests or investigations under the Act of May 16, 1910, as amended (42 U.S.C. 2301; 50 U.S.C. 98h; 30 U.S.C. 7); and

"(2) revenues received by the Administration from the enrichment of uranium shall (when so specified) be retained and used for the specific purpose of offsetting cost incurred by the Administration in providing uranium enrichment service activities.

"(i) When so specified in an appropriation Act, transfers of sums from the 'Operating expenses' appropriation made pursuant to an annual authorization Act may be made to other agencies of the Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriations to which they are transferred.

"(j) Nothing in this section shall apply with respect to authorization or appropriation of funds for nuclear weapons purposes.".

SEC. 202. (a) The Administration is authorized to start any project set forth in section 103(a)(1) through (12) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 103(a)(13) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000 (except that the building cost limitation may be exceeded if the Administration determines that it is necessary in the interest of efficiency and economy); and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 203. Any funds appropriated for magnetohydrodynamics pursuant to section 101(a)(1) or 103(b)(9) of this Act or pursuant to authorizations contained in any other law, to the extent provided for use at or in connection with facilities other than the Component Development and Integration Facility currently under construction, shall hereafter be expected for or in connection with facilities at such sites as may be selected by the Administrator.

SEC. 204. The Administrator, in cooperation with the Secretary of State, shall report to Congress within six months after the date of the enactment of this Act on the effects of the April 27, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy" on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamations, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to Congress on each subsequent major related initiative.

SEC. 205. (a) In carrying out the programs for which funds are authorized by this Act, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the projects and activities involved.

(b) At least once every six months, or upon request, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report

on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 206. (a) Section 91 of chapter 9 of the Atomic Energy Community Act of 1955 is amended—

(1) by striking out subsection a. and inserting in lieu thereof the following:

"a. From the date of transfer of any municipal installations to a governmental or other entity at or for the community, the Administrator is authorized, for a period of ten years to make annual assistance payments of just and reasonable sums to the State, county, or local entity having jurisdiction to collect property taxes or to the entity receiving the installation transferred hereunder: *Provided, however,* That with respect to the cities of Oak Ridge, Tennessee, and Richland, Washington, the Richland School District, the Los Alamos School Board, and the county of Los Alamos, New Mexico, the Administrator is authorized to continue to make assistance payments of just and reasonable sums after expiration of such ten-year period: *Provided further,* That the Administrator is also authorized to make payments of just and reasonable sums to Anderson County and Roane County, Tennessee. In determining the amount and recipient of such payments the Administrator shall consider—

"(1) the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership;

"(2) the maintaining of municipal services at a level which will not impede the recruitment or retention of personnel essential to the Energy Research and Development Administration program;

"(3) the fiscal problems peculiar to the governmental entity by reason of the construction at the community as a single-purpose national defense installation under emergency conditions;

"(4) the municipal services and other burdens imposed on the governmental or other entities at the community by the United States in it operations in the project area; and

"(5) the tax revenues and sources available to the governmental entity, its efforts and diligence in collection of taxes, assessment of property, and the efficiency of its operations."; and

(2) by striking out subsection d. and inserting in lieu thereof the following:

"d. With respect to any entity not less than six months prior to the expiration of the ten-year period referred to in subsection a. (or not less than six months prior to June 30, 1979, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District; or not less than six months prior to June 30, 1986, in the case of Anderson County and Roane County, Tennessee, and the Los Alamos School Board; and not less than six months prior to June 30, 1987, in the case of the county of Los Alamos, New Mexico), the Administrator shall present to the appropriate committees of the House of Representatives and the Senate recommendations as to the need for any further assistance payments to such entity.".

(b) Chapter 9 of such Act is further amended by striking out section 94 and inserting in lieu thereof the following:

"SEC. 94. CONTRACTS.—The Administrator is authorized, without regard to section 3679 of the Revised Statutes, to enter into a contract with any governmental or other entity to which payments are authorized to be made pursuant to section 91, obligating the Administrator to make to such entity the payments directed or authorized to be made by section 91: *Provided,* however, That the term of such contracts, in the case of the cities of Oak Ridge, Tennessee, and Richland, Washington, and the Richland School District, shall not extend beyond June 30, 1979; and in the case of the Los Alamos School Board shall not extend beyond June 30, 1986; and in the case of the county of Los Alamos, New Mexico, shall not extend beyond June 30, 1987.".

SEC. 207. (a) Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the comprehensive plan developed under subsection (a), the Administrator shall develop and transmit to the Congress, on or before September 1, 1978, a comprehensive environment and safety program to insure the full consideration and evaluation of all environmental, health, and safety impacts of each element, program, or initiative contained in the nuclear and nonnuclear energy research, development, and demonstration plans.".

(b) Section 15(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed description of the environmental and safety research, development, and demonstration activities carried out and in progress including the procedures adopted to mitigate undesirable environmental and safety impacts,".

SEC. 208. The last item in section 101(b)(8) of Public Law 94–187, relating to project 76–8–g, is amended by inserting "gas centrifuge," after "production,".

SEC. 209. The Energy Research and Development Administration is directed to encourage and promote participation of State governments in the development of the Administration's plans and programs. The Administration may also provide, where consistent with its plans and programs, matching funds to States which are expending State funds for complementary energy activities.

SEC. 210. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(7) Federal loan guarantees and commitments thereof as provided in section 19.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is further amended by adding at the end thereof the following new section:

"LOAN GUARANTEES FOR ALTERNATIVE FUEL DEMONSTRATION FACILITIES

"SEC. 19. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a demonstration program to produce alternative fuels from coal, oil shale, and other domestic resources;

"(2) to authorize assistance, through loan guarantees under subsection (b) for construction and startup and related costs, to demonstration facilities for the conversion of domestic coal, oil shale, and other domestic resources into alternative fuels; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) Except as provided in paragraph (5) of this subsection, the Administrator is authorized, in accordance with such rules and regulations as he shall prescribe after consulation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by, or on behalf of, any borrower for the purpose of financing the construction and startup costs of demonstration facilities for the conversion of domestic coal, oil shale, and other domestic resources into alternative fuels: *Provided,* That no loan guarantee for a full sized oil shale facility shall be provided under this section until after successful demonstration of a modular facility producing between six and ten thousand barrels per day, taking into account such considerations as water usage, environmental effects, waste disposal, labor conditions, health and safety, and the socioeconomic impacts on local communities: *Provided further,* That no loan guarantee shall be available under this subsection for the manufacture of component parts for demonstration facilities eligible for assistance under this subsection.

"(2) An applicant for any financial assistance under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5)(A) The Administrator is authorized, in the case of a facility for the conversion of oil shale to alternative fuels which is determined by the Administrator pursuant to the proviso in paragraph (1)(A) of this subsection, to be constructed at a modular size, to enter into a cooperative agreement with the applicant in accordance with section 8 of this Act and the other provisions of this Act to share the estimated total design and construction costs, plus operation and maintenance costs, of such modular facility. The Federal share shall not exceed 75 per centum of such costs. All receipts for the sale of any products produced during the operation of the facility shall be used to offset the costs incurred in the operation and maintenance of the facility. The provisions of subsections (d), (e), (k), (m), (p), (s), (t), (u), (v), (w), and (x) shall apply to any such modular facility. The provisions of this section shall apply to any loan guarantee for such modular facility.

"(B) After successful demonstration of the modular facility, as determined by the Administrator, the facility is eligible for financial assistance under this section for purposes of expansion to a full sized facility and the applicant may purchase the Federal interest in the modular facility as represented by the Federal share thereof by means of (i) a cash payment to the United States, or (ii) a share of the product or sales resulting from such expanded operation, as determined by the Administrator. If expansion of

such facility is determined not to be warranted b ythe Administrator, he may, at the option of the applicant, dispose of the modular facility to the applicant at not less than fair market value, as determined by the Administrator as of the date of the disposal, or otherwise dispose of it, in accordance with applicable provisions of law, and distribute the net proceeds thereof, after expenses of such disposal, to the applicant in proportion to the applicant's share of the costs of such facility.

"(6) To the extent possible, loan guarantees shall be issued on the basis of competitive bidding among guarantee applicants in a particular technology area.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed to any borrower at any time does not exceed—

"(A) an amount equal to 75 per centum of the project cost of the demonstration facility as estimated at the time the guarantee is issued, which cost shall not include amounts expended for facilities and equipment used in the extraction of a mineral other than coal or shale, and in the case of coal only to the extent that the Administrator determines that the coal is to be converted to alternative fuel; and

"(B) an amount equal to 60 per centum of that portion of the actual total project cost of any demonstration facility which exceeds the project cost of such facility as estimated at the time the loan guarantee is issued;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed demonstration facility have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such facility under this section, under other provisions of law, or by other means;

"(6) the maximum maturity of the obligation does not exceed twenty years, or 90 per centum of the projected useful economic life of the physical assets of the demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator;

"(7) the Administrator has determined that, in the case of any demonstration or modular facility planned to be located on Indian lands, the appropriate Indian tribe, with the approval of the Secretary of the Interior, has given written consent to such location;

"(8) the obligation provides for the orderly and ratable retirement of the obligation and includes sinking fund provisions, installment payment provisions or other methods of payments and reserves as may be reasonably required by the Administrator. Prior to approving any repayment schedule the Administrator may consider the date on which operating revenues are anticipated to be generated by the project. To the maximum extent possible repayment or provision therefor shall be required to be made in equal payments payable at equal intervals; and

"(9) the obligation provides that the Administrator shall, after a period of not less than ten years from issuance of the obligation, taking into consideration whether the Government's needs for information to be derived from the project have been substantially met and whether the project is capable of commercial operation, determine the feasibility and advisability of terminating the Federal participation in the project. In the event that such determination is positive, the Administrator shall notify the borrower and provide the borrower with not less than two nor more than three years in which to find alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Administrator is authorized to collect from the borrower an additional fee of 1 per centum per annum on the remaining obligation to which the Federal guarantee applies.

"(d) Prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee and cooperative agreement, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment or agreement on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official within sixty days after receipt of such request or at any time prior to the Administrator submitting such report to Congress, recommends against making such guarantee or commitment or agreement, the proposed guarantee or commitment or agreement shall be referred to the President, and the Administrator shall not do so unless the President determines in writing that such guarantee or commitment or agreement is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee or cooperative agreement is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee or enter into a cooperative agreement under subsection (b) of this section, if the Governor of the State in which the proposed facility would be located recommends that such action not be taken, unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee or enter into a cooperative agreement despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. This Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review initiated by the Governor to be unlawful by the reviewing court pursuant to 5 U.S.C. 706 (2) (A) through (D). Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, startup costs, costs to political subdivisions and Indian tribes by such facility, and costs of any water storage facilities needed in connection with such demonstration facility, and determine who shall pay such costs. Such determination shall not be binding upon the States, political subdivisions, or Indian tribes.

"(3) There is hereby established a panel to advise the Administrator on matters relating to the program authorized by this section, including, but not limited to, the impact of the demonstration facilities on communities and States and Indian tribes, the environmental and health and safety effects of such facilities, and the means, measures, and planning for preventing or mitigating such impacts, and other matters relating to the development of alternative fuels and other energy sources under this section. The panel shall include such Governors or their designees as shall be designated by the Chairman of the National Governors Conference, Representatives of Indian tribes, industry, environmental organizations, and the general public shall be appointed by the Administrator. The Chairman of the panel shall be selected by the Administrator. No person shall be appointed to the panel who has a financial interest in any applicant applying for assistance under this section. Members of the panel shall serve without compensation. The provisions of section 106(e) of the Energy Reorganization Act of 1974 (42 U.S.C. 5816(e)) shall apply to the panel.

"(f) Except in accordance with reasonable terms and conditions contained in the written contract of guarantee, no gaurantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the guarantee or related agreements), including the authority to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or any other

property of the borrower (of a value equal to the amount of such payment) to the extent that the guarantee applies to amounts in excess of the estimated project cost under subsection (c)(2)(B), without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended, except section 207 of that Act (40 U.S.C. 488), or any other law, or to permit the borrower, of the demonstration facility if the Administrator, to continue to pursue the purposes of the demonstration facility if the Administrator determines that this is in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any other person with respect to such property.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under paragraph (1) including any payment of principal and interest under subsection (h) from such assets of the defaulting borrower as are associated with the demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patents, including any inventions and technology resulting from the demonstration facility, shall be treated as project assets of such facility. The guarantee agreement shall include such detailed terms and conditions as the Administrator deems appropriate to protect the interests of the United States in the case of default and to have available all the patents and technology necessary for any person selected, including, but not limited to the Administrator, to complete and operate the defaulting project. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the demonstration facility shall, in case of default, be available to the United States and its designees on equitable terms, including due consideration to the amount of the United States default payments. Inventions made or conceived in the course of or under such guarantee, title to which is vested in the United States under this Act, shall not be treated as project assets of such facility for disposal purposes under this subsection, unless the Administrator determines in writing that it is in the best interests of the United States to do so.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligations, for and on behalf of the borrowers, from the fund established by this section, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (t) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5, of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by subsection (b)(1), in amounts which (1) are sufficient in the judgment of the Administrator to cover the applicable administrative costs, and (2) reflect the percentage of projects costs guaranteed. In no event shall the fee be less than 1 per centum per annum of the outstanding indebtedness covered by the guarantee. Nothing in this subsection shall be construed to apply to community planning and development assistance pursuant to subsection (k) of this section.

"(k)(1) In accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planning which directly result from, or are necessitated by, one or more demonstration facilities assisted under this section to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such demonstration facilities by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the applicant for assistance for a demonstration facility under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the facilities for such payments by such applicant.

"(2) Prior to issuing any guarantee under this subsection, the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee. The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this subsection, the Administrator shall pay out of the fund established by this section such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with the State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of ths subsection will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satsfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such demonstration facility that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such demonstration facility and which are determined by the Administrator to be appropriate for such inclusion shall be included in the total costs of the demonstration facility.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of demonstration facilities, and for establishing related management expertise.

"(6) At any time the Administrator may, with the concurrence of the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the demonstration facilities occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this subsection.

"(10) In carrying out the provisions of this subsection, the Administrator shall provide that title to any facility receiving financial assistance under this subsection shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee such facility shall not be considered a project asset for the purposes of subsection (g) of this section.

"(l)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy. Such report shall be updated and submitted to Congress at least annually and shall include specific comments and recommendations by the Secretary of the Treasury on the methods and procedures set forth in subparagraph (B)(viii) of this subsection, including their adequacy, and changes necessary to satisfy the objectives stated in this subsection. This report shall include—

"(A) a study of the purchase or commitment to purchase by the Federal Government, for the use by the United States, of all or a portion of the products of any alternative fuel facilities constructed pursuant to this program as a direct or an alternate form of Federal assistance, which assistance, if recommended, shall be carried out pursuant to section 7(a)(4) of this Act; and

"(B) a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing

and Urban Development, the Department of the Interior, the Department of Agriculture, and the Department of the Treasury, and shall include therein, but not be limited to, the following:

"(i) information about potential demonstration facilities proposed in the program under this section;

"(ii) any significant adverse impacts which may result from any activity included in the program;

"(iii) the extent to which it is feasible to commercialize the technologies as they affect different regions of the Nation;

"(iv) proposed regulations required to carry out the purposes of this section;

"(v) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program;

"(vi) the methods and procedures by which the information gathered under the program will be analyzed and disseminated;

"(vii) a plan for the study and monitoring of the health effects of such facilities on workers and other persons, including, but not limited to, any carcinogenic effect of alternative fuels; and

"(viii) the methods and procedures to insure that (I) the use of the Federal assistance for demonstration facilities is kept to the minimum level necessary for the information objectives of this section, (II) the impact of loan guarantees on the capital markets of the United States is minimized, taking into account other Federal direct and indirect securities activities, and any economic sectors which may be negatively impacted as a result of the reduction of capital by the placement of guaranteed loans, and (III) the granting of Federal loan guarantees under this Act does not impede movement toward improvement in the climate for attracting private capital to develop alternative fuels without continued direct Federal incentives.

"(2) The Administrator shall annually submit a detailed report to the Congress concerning—

"(A) the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including, but not be limited to (i) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility, including byproduct production therefrom, and the distribution of such products and byproducts, (ii) a detailed statement of the financial conditions of each such demonstration facility, (iii) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (iv) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (v) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section; and

"(B) The activities of the funds referred to in subsection (n) of this section during the presiding fiscal year, including a statement of the amount and source of fees or other moneys, property, or assets deposited into the funds, all payments made, the notes or other obligations issued by the Administrator, and such other data as may be appropriate.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports and the one-hundred-and-eighty-day report required in paragraph (1) of this subsection shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate.

"(m) Prior to issuing any guarantee or commitment to guarantee or cooperative agreement pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility and such guarantee, agreement, or contract. Such guarantee, commitment to guarantee, cooperative agreement, or contract shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of a demonstration facility to be assisted with a guarantee or cooperative agreement pursuant to subsection (b) of this section exceeds $50,000,000 such guarantee or commitment to guarantee or cooperative agreement shall not be finalized unless (1) the making of such guarantee or commitment or agreement is specifically authorized by legislation hereafter enacted by the Congress or (2) both Houses pass a resolution stating in substance that the Congress favors the making of such guarantee or commitment or agreement.

"(n)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section.

"(2) There are hereby authorized to be appropriated to the fund for administrative expenses from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other Government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by subsection (b)(1) and subsections (g), (h), and (k) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection.

"(5) The provisions of this subsection do not apply to direct loans or planning grants made under subsection (k) of this section.

"(o) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(p)(1) An applicant seeking a guarantee or cooperative agreement under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (A) the citizenship of officers or directors of a corporation, and (B) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(2) The Administrator, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

"(q) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section.

"(r) Inventions made or conceived in the course of or under a guarantee authorized by this section, shall in case of default, be subject to the title and waiver requirement and conditions of section 9 of this Act.

"(s) Nothing in this section shall be construed as affecting the obligations of any person receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(t) The information maintained by the Administrator under this section shall be made available to the public subject to the provision of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided*, That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disiose such information and dis-

closure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further,* That the Administrator shall, upon request, provide such information to (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(u) Notwithstanding any other provision of this section, the authority provided in this section to make guarantees or commitments to guarantee or enter into cooperative agreements under subsection (b)(1), to make guarantees or commitments to guarantee, or to make loans or grants, under subsection (k), to make contracts under subsection (h), and to use fees and receipts collected under subsections (b) and (j) of this section, and the authorities provided under subsection (n) of this section, shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(v) No person in the United States shall on the grounds of race, color, religion, national origin, or sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with assistance made available under this section: *Provided,* That Indian tribes are exempt from the operation of this subsection: *Provided further,* That such exemption shall be limited to the planting and provision of public facilities which are located on reservations and which are provided for members of the affected Indian tribes as the primary beneficiaries.

"(w) In carrying out his functions under this section, the Administrator shall provide a realistic and adequate opportunity for small business concerns to participate in the program to the optimum extent feasible consistent with the size and nature of each project.

"(x)(1)(A) Recipients of financial assistance under this section shall keep such records and other pertinent documents, as the Administrator shall prescribe by regulation, including, but not limited to, records which fully disclose the disposition of the proceeds of such asssitance, the cost of any facility, the total cost of the provision of public facilities for which assistance was used and such other records as the Administrator may require to facilitate an effective audit. The Administrator and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other pertinent documents.

"(B) Within 6 months after the date of enactment of this section and at 6-month intervals thereafter, the Comptroller General of the United States shall make an audit of recipients of financial assistance under this section. The Comptroller General may prescribe such regulations as he deems necessary to carry out this subparagraph.

"(2) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c))."

SEC. 211. (a) The Administrator of the Energy Research and Development Administration, under the Administration's energy traineeship program, is authorized during the fiscal year 1978 to make awards in amounts not exceeding $7,000 per student to finance the education of a total of 500 graduate students in engineering, science, and socio-economic sciences related to energy, particularly in the areas of alternative energy sources (including wind, solar heating and cooling, photovoltaics, ocean thermal energy, biomass, and geothermal energy), energy conversion and utilization, and energy conservation. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $3,425,000.

(b) The Administrator is authorized to establish vocational training courses in solar heating and cooling and in energy conservation at approximately 100 community colleges, vocational schools, and other educational institutions in all parts of the country, and to provide assistance to any such institution in the conduct of such courses during the fiscal year 1978 in an amount not exceeding the sum of $5,000 per teacher for equipment and teaching facilities, $5,000 per teacher for the operation of the courses, and $1,000 per teacher for teacher training and instruction. For this purpose there is authorized to be appropriated for the fiscal year 1978 (in addition to any amounts otherwise authorized under this Act) the sum of $1,150,000.

SEC. 212. (a) The Administrator of the Energy Research and Development Administration shall—

(1) initiate and conduct an "application and system design study", cooperatively with the Federal Energy Administration and other appropriate Federal agencies, to determine the potential for the use of solar photovoltaic systems at specific Federal installations; and this study shall—

(A) include an analysis of those sites that are currently cost-effective for solar photovoltaic energy systems, using life-cycle costing techniques, as well as those which would be cost-effective at varying levels of subsidy (for example, at 20, 40, 60, 80, and 100 percent levels).

(B) identify potential sites and uses of solar photovoltaic energy systems at the following agencies as well as any others which the Administrator deems necessary:

(i) the Department of Defense

(ii) the Department of Transportation (including the U.S. Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration)

(iii) the Department of Commerce

(iv) the Department of Agriculture

(v) the Department of the Interior

(C) provide a preliminary report to Congress within six months following the enactment of this Act.

(D) include the presentation of a detailed plan for the implementation of solar photovoltaic energy systems for power generation at specific sites in Federal government agencies to Congress within twelve months following the enactment of this Act.

(2) initiate and conduct a study of the options available to the Federal government to provide for the adequate growth of the solar photovoltaic industry—to include such possible incentives as government funding, loan guarantees, tax incentives, the operation of pilot plants or production lines and other incentives deemed worthy of consideration by the Administrator. A preliminary report shall be submitted to Congress within six months following the enactment of this Act.

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Administrator deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act.

(4) be authorized to acquire up to an additional 4.0 megawatts (peak) of solar photovoltaic energy systems. The sum of $28,000,000 is hereby authorized to be appropriated (in addition to any other amounts authorized by this Act to be appropriated) for the fiscal year ending September 30, 1978, and for delivery in the following twelve months. Such sums shall remain available until expended. The solar photovoltaic energy systems acquired shall be available for use for power generation by Federal agencies, under the mechanisms provided in the National Energy Act.

(b) For technology development, particularly for engineering design and development of the manufacturing process of solar photovoltaic energy systems (primarily for the implementation of automated processes and other cost reducing production technologies), the sum of $10,000,000 is hereby authorized by this Act to be appropriated for the fiscal year ending September 30, 1978.

SEC. 213. Effective January 1, 1978, title V of Public Law 94–187 is amended to read as follows:

"TITLE V—AIR TRANSPORTATION OF PLUTONIUM

"SEC. 501. Subject to section 502, the Energy Research and Development Administration shall not ship plutonium in any form by aircraft (whether exports, imports, or domestic shipment) except in safe containers which (as determined by the Administration on the basis of appropriate tests) will not rupture under crash and blast testing equivalent to the crash and explosion of a high-flying aircraft.

"SEC. 502. If it is determined pursuant to rules promulgated by the Administrator of the Energy Research and Development Administration that a particular shipment of plutonium by aircraft must be made for purposes of national security, but such shipment cannot be made in a safe container or containers in accordance with the requirement imposed by section 501, the shipment may be made notwithstanding such requirement but only if—

"(1) express written authorization for the shipment is given by the Administrator personally; and

"(2) the Administrator transmits to the Committees on Science and Technology and Armed Services of the House of Representatives and the Committees on Energy and Natural Resources and Armed Services of the Senate, at the time of the shipment or within 10 days thereafter, a written notification and description of the shipment together with a detailed explanation of the reasons why it was necessary to make the shipment by aircraft and why it was not possible to make the shipment in a safe container or containers as required by section 501.".

SEC. 214. (a) Section 7(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906), as

amended by section 210 of this Act, is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(8) Federal loan guarantees under section 20: *Provided*, That all of the other provisions of this Act shall apply to such guarantees in the same manner and to the same extent as they apply to demonstrations under this Act.".

(b) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.) is amended by adding at the end thereof (after the new section added by section 210 of this Act) the following new section:

"LOAN GUARANTEES FOR COMMERCIAL BIOMASS DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a commercial demonstration program to produce on a commercial scale synthetic fuels and other desirable forms of energy from biomass;

"(2) to authorize loan guarantees for the construction and startup and related costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels and other forms of energy; and

"(3) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such commercial demonstration facilities.

"(b)(1) The Administrator is authorized in accordance with such rules and regulations as he shall prescribe after consultation with the Secretary of the Treasury, to guarantee and to make commitments to guarantee, in such manner and subject to such conditions (not inconsistent with the provisions of this Act) as he deems appropriate, the payment of interest on, and the principal balance of, bonds, debentures, notes, and other obligations issued by or on behalf of any borrower for the purpose of (A) financing the construction and startup costs of commercial demonstration facilities for the conversion of biomass into synthetic fuels; and (B) financing the construction and startup costs of commercial demonstration facilities to generate desirable forms of energy (including synthetic fuels) in commercial quantities from bioconversion. The outstanding indebtedness guaranteed and committed to be guaranteed under clauses (A), and (B), of this paragraph shall at no time exceed $300,000,000.

"(2) An applicant for any guarantee under this section shall provide information to the Administrator in such form and with such content as the Administrator deems necessary.

"(3) Prior to issuing any guarantee under this section the Administrator shall obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms and conditions of such guarantee.

"(4) The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

"(5) With respect to any demonstration facility for the conversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended), the Administrator, prior to issuing any guarantee under this section, must be in receipt of a certification from the Administrator of the Environmental Protection Agency and any appropriate State or areawide solid waste management planning agency that the proposed application for a guarantee is consistent with any applicable suggested guidelines published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(c) The Administrator, with due regard for the need for competition, shall guarantee or make a commitment to guarantee any obligation under subsection (b) only if—

"(1) the Administrator is satisfied that the financial assistance applied for is necessary to encourage financial participation;

"(2) the amount guaranteed does not exceed 75 per centum of the total cost of the commercial demonstration facility, as determined by the Administrator: *Provided*, That the amount guaranteed may not exceed 90 per centum of the total cost of the commercial demonstration facility during the period of construction and startup;

"(3) the Administrator has determined that there will be a continued reasonable assurance of full repayment;

"(4) the obligation is subject to the condition that it not be subordinated to any other financing;

"(5) the Administrator has determined, taking into consideration all available forms of assistance under this section and other Federal statutes, that the impacts directly resulting from the proposed commercial demonstration facility have been fully evaluated by the borrower, the Administrator, and others;

"(6) the maximum maturity of the obligation does not exceed thirty years, or 90 per centum of the projected useful economic life of the physical assets of the commercial demonstration facility covered by the guarantee, whichever is less, as determined by the Administrator.

"(d) At least sixty days prior to submitting a report to Congress pursuant to subsection (m) of this section on each guarantee, the Administrator shall request from the Attorney General and the Chairman of the Federal Trade Commission written views, comments, and recommendations concerning the impact of such guarantee or commitment on competition and concentration in the production of energy and give due consideration to views, comments, and recommendations received: *Provided*, That if either official recommends against making such guarantee or commitment, the Administrator shall not do so unless he determines in writing that such guarantee or commitment is in the national interest.

"(e)(1) As soon as the Administrator knows the geographic location of a proposed facility for which a guarantee or a commitment to guarantee is sought under this section, he shall inform the Governor of the State, and officials of each political subdivision and Indian tribe, as appropriate, in which the facility would be located or which would be impacted by such facility. The Administrator shall not guarantee or make a commitment to guarantee under subsection (b) of this section if the Governor of the State in which the proposed facility would be located recommends that such action not be taken unless the Administrator finds that there is an overriding national interest in taking such action in order to achieve the purpose of this section. If the Administrator decides to guarantee or make a commitment to guarantee despite a Governor's recommendation not to take such action, the Administrator shall communicate, in writing, to the Governor reasons for not concurring with such recommendation. The Administrator's decision, pursuant to this subsection, shall be final unless determined upon judicial review to be arbitrary and capricious. Such review shall take place in the United States court of appeals for the circuit in which the State involved is located, upon application made within ninety days from the date of such decision. The Administrator shall, by regulation, establish procedures for review of, and comment on, the proposed facility by States, local political subdivisions, and Indian tribes which may be impacted by such facility, and the general public.

"(2) The Administrator shall review and approve the plans of the applicant for the construction and operation of any commercial demonstration and related facilities constructed or to be constructed with assistance under this section. Such plans and the actual construction shall include such monitoring and other data-gathering costs associated with such facility as are required by the comprehensive plan and program under this section. The Administrator shall determine the estimated total cost of such demonstration facility, including, but not limited to, construction costs, and start-up costs.

"(f) Except in accordance with reasonable terms an conditions contained in the written contract of guarantee, no guarantee issued or commitment to guarantee made under this section shall be terminated, canceled, or otherwise revoked. Such a guarantee or commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Subject to the conditions of the guarantee or commitment to guarantee, such a guarantee shall be incontestable in the hands of the holder of the guaranteed obligation, except as to fraud or material misrepresentation on the part of the holder.

"(g)(1) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on and unpaid principal of the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(2) If the Administrator makes a payment under paragraph (1) of this subsection the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the commercial demonstration facility if the Administrator determines that is in the public interest.

"(3) In the event of a default on any guarantee under this section, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to cover the amounts of any payments made under paragraph (1) (including any payment of principal and interest under subsection (h)) from such assets of the defaulting borrower as are associated with the commercial demonstration facility, or from any other security included in the terms of the guarantee.

"(4) For purposes of this section, patent and technology resulting from the commercial demonstration facility shall be treated as project assets of such facility in accord-

ance with the terms and conditions of the guarantee agreement. Furthermore, the guarantee agreement shall contain a provision specifying that patents, technology, and other proprietary rights which are necessary for the completion or operation of the commercial demonstration facility, in case of default, shall be available to the Government and its designees on equitable terms, including due consideration to the amount of the Government's default payments.

"(h) With respect to any obligation guaranteed under this section, the Administrator is authorized to enter into a contract to pay, and to pay, the holders of the obligation, for and on behalf of the borrower, from the fund established by this section, as applicable, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such demonstration facility; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of default.

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.

"(i) Regulations required by this section shall be issued within one hundred and eighty days after enactment of this section, except as provided in subsection (s) of this section. All regulations under this section and any amendments thereto shall be issued in accordance with section 553 of title 5 of the United States Code.

"(j) The Administrator shall charge and collect fees for guarantees of obligations authorized by clauses (A) and (B), of subsection (b)(1), in amounts sufficient in the judgment of the Administrator to cover the applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by the guarantee.

"(k)(1) The Administrator is directed to submit a report to the Congress within one hundred and eighty days after the enactment of this section setting forth his recommendations on the best opportunities to implement a program of Federal financial assistance with the objective of demonstrating production and conservation of energy.

"(2) The report submitted under paragraph (1) of this subsection shall include a comprehensive plan and program to acquire information and evaluate the environmental, economic, social, and technological impacts of the demonstration program under this section. In preparing such a comprehensive plan and program, the Administrator shall consult with the Environmental Protection Agency, the Federal Energy Administration, the Department of Housing and Urban Development, the Department of the Interior, and the Department of Agriculture.

"(3) The comprehensive plan and program described in paragraph (2) shall include, but not be limited to—

"(A) information about potential commercial demonstration facilities proposed in the program under this section;

"(B) any significant adverse impacts which may result from any activity included in the program;

"(C) proposed regulations required to carry out the purposes of this section;

"(D) a list of Federal agencies, governmental entities, and other persons that will be consulted or utilized to implement the program; and

"(E) methods and procedures by which the information gathered under the program will be analyzed and disseminated.

"(4) The report required under paragraph (1) of this subsection shall be updated and submitted to the Congress at least annuually for the duration of that program under this section.

"(l) Prior to issuing any guarantee or commitment to guarantee pursuant to subsection (b) of this section, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate a full and complete report on the proposed commercial demonstration facility and such guarantee. Such guarantee or commitment to guarantee shall not be finalized under the authority granted by this section prior to the expiration of ninety calendar days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which such report is received by such committees: *Provided*, That, where the cost of such commercial demonstration facility exceeds $50,000,000, such guarantee or commitment to guarantee shall not be finalized if prior to the close of such ninety-day period either House passes a resolution stating in substance that such House does not favor the making of such guarantee or commitment.

"(m)(1) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Administrator without fiscal year limitation as a revolving fund for the purpose of carrying out the program authorized by clauses (A), and (B), of subsection (b)(1) and subsections (g) and (h) of this section.

"(2) There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this section, including, but not limited to, the payments of interest and principal and the payment of interest differentials and redemption of debt. All amounts received by the Administrator as interest payments or repayments of principal on loans which are guaranteed under this section, fees, and any other moneys, property, or assets derived by him from operations under this section shall be deposited in the fund.

"(3) All payments on obligations, appropriate expenses (including reimbursements to other government accounts), and repayments pursuant to operations of the Administrator under this section shall be paid from the fund subject to appropriations. If at any time the Administrator determines that moneys in the fund exceed the present and reasonably foreseeable future requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

"(4) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities as authorized by subsections (b)(1), (g), and (h) of this section, the Administrator shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under paragraph (2) of this subsection for loan guarantees authorized by clauses (A) and (B) of section (b)(1) and subsections (g) and (h) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Road Act; and the purpose for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(n) For the purposes of this section, the term—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States,

"(2) 'United States' means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and

"(3) 'borrower' or 'applicant' shall include any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity.

"(o) An applicant seeking a guarantee under subsection (b) of this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Administrator determines that it satisfactorily meets all the requirements of section 802 of title 46, United States Code, for determining such citizenship, except that the provisions in subsection (a) of such section 802 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable.

"(p) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of enactment of this section: *Provided*, That project agreements entered into pursuant to this section for any commercial demonstration facility for the conversion or bioconversion of solid waste (as that term is defined in the Solid Waste Disposal Act, as amended) shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environment Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes, and specifically, that in accordance with this agreemnt, (1) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (2) energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; and (3) the Environmental Protection Agency will retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines

published pursuant to section 209(a) of the Solid Waste Disposal Act, as amended, and any applicable State or regional solid waste management plan.

"(q) Inventions made or conceived in the course of or under a guarantee authorized by this section shall, in case of default, be subject to the title and waiver requirements and conditions of section 9 of this Act.

"(r) With respect to any obligation which is issued after the enactment of this section by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under, this section, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954, as amended: *Provided,* That the Administrator shall pay to such issuer out of the fund established by this section such portion of the interest on such obligations, as determined by the Secretary of the Treasury to be appropriate after taking into account current market yields (1) on obligations of said issuer, if any, or (2) on other obligations with similar terms and conditions the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with, such terms and conditions as the Secretary of the Treasury shall require.

"(s)(1) Each officer or employee of the Energy Research and Development Administration who—

"(A) performs any function or duty under this section; and

"(B)(i) has any known financial interest in any person who is applying for or receiving financial assistance for a commercial demonstration facility under this section; or

"(ii) has any known financial interest in property from which biomass or other energy resources are commercially produced in connection with any commercial demonstration facility receiving financial assistance under this section,

shall, beginning February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(2) The Administrator shall

"(A) act within ninety days after the date of enacment of this Act—

"(i) to define the term 'known financial interest' for purposes of paragraph (1) of this subsection; and

"(ii) to establish the methods by which the requirement to file written statements specified in paragraph (1) will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administrator of such statements: and

"(B) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(3) In the rules prescribed in paragraph (2) of this subsection, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occuping such positions shall be exempt from the requirements of this subsection.

"(4) Any officer or employee who is subject to, and knowingly violates, this subsection or any regulation issued thereunder shall be fined not more than $2,500 or imprisoned not more than one year, or both.

"(t) Nothing in this section shall be construed as affecting obligations of any borrower receiving a guarantee pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.

"(u) The information maintained by the Administrator under this section shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination: *Provided,* That upon a showing satisfactory to the Administrator by any person that any information, or portion thereof, obtained under this section by the Administrator directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code: *Provided further,* That the Administrator shall, upon request, provide such information (A) any delegate of the Administrator for the purpose of carrying out this Act, and (B) the Attorney General, the Secretary of Agriculture, the Secetary of the Interior, the Federal Trade Commission, the Federal Energy Administration, the Environmental Protection Agency, the Federal Power Commission, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under this and other statutes, but such agencies and agency heads shall not release such information to the public. This section is not authority to withhold information from Congress, or from any committee of Congress upon request of the chairman. For the purposes of this subsection, the term 'person' shall include the borrower.

"(v) Notwithstanding any other provision of this section, the authority to make guarantees or commitments to guarantee under subsection (b)(1), the authority to make contracts under subsection (h), the authority to charge and collect fees under subsection (j), and the authorities under subsection (m) of this section shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this section.

"(w) For purposes of this section 'biomass' shall include, but is not limited to, animal and timber waste, urban and industrial waste, sewerage sludge, and oceanic and terrestrial crops.".

SEC. 215. (a) Nothing in this title shall apply with respect to any authorization or appropriation for any military application of nuclear energy, for research and development in support of the Armed Forces, or for the common defense and security of the United States.

(b)(1) The term "military application" means any activity authorized or permitted by chapter 9 of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2121, 2122).

(2) The term "research and development," as used in this section, is defined by section 11 x. of the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended; 42 U.S.C. 2014).

(3) The term "common defense and security" means the common defense and security of the United States as used in the Atomic Energy Act of 1954, as amended (Public Law 83-703, as amended).

TITLE III—AUTOMOTIVE PROPULSION RESEARCH AND DEVELOPMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Automotive Propulsion Research and Development Act of 1977".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) existing automobile propulsion systems on the average, fall short of meeting the long-term goals of the Nation with respect to environmental protection, and energy conservation;

(2) advanced alternatives to existing automobile propulsion systems could, with sufficient research and development effort, meet these long-term goals, and have the potential to be mass produced at reasonable cost; and advanced automobile propulsion systems could operate with significantly less adverse environmental impact and fuel consumption than existing automobiles, while meeting all of the other requirements of Federal law;,

(3) insufficient resources are being devoted to both research on and development of advanced automobile propulsion system technology;

(4) an expanded research and development effort with respect to advance automobile propulsion system technology would complement and stimulate corresponding efforts by the private sector and would encourage automobile manufacturers to consider seriously the incorporation of such advanced technology into automobiles and automobile components; and

(5) the Nation's energy and environmental problems are urgent, and therefore advanced automobile propulsion system technology should be developed, tested, demonstrated, and prepared for manufacture within the shortest practicable time.

(b) It is therefore the purpose of the Congress in this title to—

(1)(A) direct the Energy and Development Administration to make contracts and grants for research and development leading to the development of advanced automobile propulsion systems within 5 years of the date of enactment of this Act, or within the shortest practicable time consistent with appropriate research and development techniques, and (B) evaluate and disseminate information with respect to advanced automobile propulsion system technology;

(2) preserve, enhance, and facilitate competition in research, development, and production with respect to existing and alternative automobile propulsion systems; and

(3) supplement, but neither supplant nor duplicate, the automotive propulsion, system research and development efforts of private industry.

DEFINITIONS

SEC. 303. As used in this title, the term—

(1) "Administrator" means the Administrator of the Energy Research and Development Administration;

(2) "advanced automobile propulsion system" means an energy conversion system, including engine and drive train, which utilizes advanced technology and is suitable for use in an advance automobile;

(3) "developer" means any person engaged in whole or in part in research or other efforts directed toward the development of advanced automobile technology;

(4) "fuel" means any energy source capable of propelling an automobile;

(5) "fuel economy" refers to the average distance traveled in representative driving conditions by an automobile per unit of fuel consumed, as determined by the Administrator of the Environmental Protection Agency in accordance with test procedures which shall be established by rule and shall require that fuel economy tests be conducted in conjunction with the exhaust emissions tests mandated by section 206 of the Clean Air Act (42 U.S.C. 1857f-5);

(6) "intermodal adaptability" refers to any characteristics of an automobile which enable it to be operated or carried, or which facilitate its operation or carriage, by or on an alternative mode or other system of transportation;

(7) "reliability" refers to (A) the average time and distance over which normal automobile operation can be expected without significant repair or replacement of parts, and (B) the case of diagnosis and repair of an automobile, its systems, and parts in

the event of failure during use or damage from an accident;

(8) "safety" refers to the performance of an automobile propulsion system or equipment in such a manner that the public is protected against unreasonable risk of accident and against unreasonable risk of death or bodily injury in case of accident;

(9) "Secretary" means the Secretary of Transportation; and

(10) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

DUTIES OF THE ADMINISTRATOR

SEC. 304. (a) The Administrator shall establish, within the Energy Research and Development Administration, a program to insure the development of advanced automobile propulsion systems within 5 years after the date of enactment of this Act, or within the shortest practicable time, consistent with appropriate research and development technique. In conducting such program, the Administrator shall—

(1) establish and conduct new projects and accelerate existing projects which may contribute to the development of advanced automobile propulsion systems;

(2) give priority attention to the development of advanced propulsion systems with appropriate attention to those advanced propulsion systems which are flexible in the type of fuel used; and

(3) insure that research and development under this title supplements, but neither supplants nor duplicates, the automotive research and development efforts of private industry.

(b) The Administrator shall, in fulfilling his responsibilities under this title, make contracts and grants with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporaton, partnership, or individual for research and development leading to advanced automobile propulsion systems which are likely to help meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives.

(c) In providing financial assistance under this title, the Administrator shall give full consideration to the capabilities of Federal laboratories, except that not more than 60 per centum of the funds appropriated pursuant to the authorization under section 312 shall be directly expended in Federal laboratories. In accordance with section 307, such laboratories shall be available for testing components and subsystems which, in the Administrator's judgment, is likely to contribute to the development of advanced automobile propulsion systems.

(d) The Administrator shall conduct evaluations, arrange for tests, and disseminate information pursuant to section 307 and submit reports required under section 310.

(e) The Administrator shall intensify research in key basic science areas in which the lack of knowledge limits development of advanced automobile propulsion systems.

(f) The Administrator shall insure that the conduct of the program as defined in subsection (a) of this section—

(1) supplements the automotive propulsion system research and development efforts of industry;

(2) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(3) avoids duplication of private research and development.

DUTIES OF THE SECRETARY

SEC. 305. The Secretary, in furtherance of the purposes this title, shall evaluate the extent to which the automobile industry utilizes advanced automotive technology which is or could be made available to it. The Secretary shall submit a report to the Congress each year on the results of such evaluation including any appropriate recommendations which may encourage the utilization of advanced automobile technology by the automobile industry.

COORDINATION AND CONSULTATION

SEC. 306. (a) The Administrator shall have overall management responsibility for carrying out the program under section 304. In carrying out such program, the Administrator, consistent with such overall management responsibility—

(1) shall utilize the expertise of the Department of Transportation to the extent deemed appropriate by the Administrator; and

(2) may utilize any other Federal agency (except as provided in paragraph (1)) in accordance with subsection (c), in carrying out any activities under this title, to the extent that the Administrator determines that any such agency has capabilities which would allow such agency to contribute to the purposes of this title. (b) The Secretary, whenever the expertise of the Department of Transportation is utilized in accordance with subsection (a), may exercise the powers granted to the Administrator under subsection (c) and shall enter into contracts and make grants for such purpose, subject to the overall management responsibility of the Administrator.

(c) The Administrator may in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Administrator deems necessary to carry out any duty under this title.

(d) The Administrator shall consult with the Administrator of the Environmental Protection Agency and the Secretary, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the area of automobile propulsion system research, development, and technology. The Administrator may establish such advisory panels as he deems appropriate to review and make recommendations with respect to applications for funding under this title.

(c) Nothing contained in this title shall be construed to reduce in any way the responsibilities of the Administrator for automotive research, development, and demonstration under the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.) and the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

EVALUATION, TESTING, AND INFORMATION DISSEMINATION

SEC. 307. (a) The Administrator shall, for the purposes of performing his responsibilities under this title, consider any reasonable new or improved technology, a description of which is submitted to the Administrator in writing, which could lead or contribute to the development of advanced automobile propulsion system technology.

(b) The Administrator of the Environmental Protection Agency shall test, or cause to be tested, in a facility subject to Environmental Protection Agency supervision, each advanced automobile propulsion system in appropriately modified production vehicle equipped with such a system developed in whole or in part with Federal financial assistance under this title, or referred to the Administrator of the Environmental Protection Agency for such purpose by the Administrator, to determine whether such vehicle complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), or any other provision of Federal law administered by the Administrator of the Environmental Protection Agency. In conjunction with any test for compliance with exhaust emission standards under this section, the Administrator of the Environmental Protection Agency shall also conduct tests to determine the fuel economy of such vehicle. The Administrator of the Environmental Protection Agency shall submit all test data and the results of such tests to the Administrator.

(c) The Administrator shall collect, analyze, and disseminate to developers information, data, and materials that may be relevant to the development of advanced automobile propulsion system technology.

PATENTS

SEC. 308. Section 9, of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder) or grant, entered into, made, or issued by the Administrator under this title.

COMPTROLLER GENERAL AUDIT AND EXAMINATION

SEC. 309. Section 306 of the Energy Reorganization Act of 1974 (42 U.S.C. 5876) shall apply with respect to the authority of the Comptroller General to have access to and rights of examination of books, documents, papers, and records of recipients of financial assistance under this title; except that for the purpose of this title, the term "contract" (as used in section 166 of the Atomic Energy Act (42 U.S.C. 2206), insofar as it relates to such section 306) means "contract or grant".

REPORTS

SEC. 310. (a) As a separate part of the annual report submitted under section 15(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 with respect to the comprehensive plan and program then in effect under sections 6 (a) and (b) of such Act, the Administrator shall submit to Congress an annual report of activities under this title. Such report shall include—

(1) a current comprehensive program definition for implementing this title;

(2) an evaluation of the state of automobile propulsion system research and development in the United States;

(3) the number and amount of contracts and grants made under this title;

(4) an analysis of the progress made in developing advanced automobile propulsion system technology; and

(5) suggestions for improvements in advanced automobile propulsion system research and development, including recommendations for legislation.

(b) The Administrator shall conduct a survey of developers, lending institutions, and other appropriate persons or institutions and shall otherwise make a study for the purpose of determining whether, and under what conditions, research, development, demonstration, and commercial availability of advanced automobile propulsion system technology may be aided by the guarantee of financial obligations by the Federal Government. The Administrator shall report the results of such survey and study to the Congress within 1 year after the date of enactment of this Act. Such report shall include an examination of those stages of advanced automobile propulsion system technology research, development, demonstration, and commercialization for which financial obligation guarantees may be useful or ap-

propriate and shall contain such legislative recommendations as may be necessary.

AMENDMENT OF THE NATIONAL AERONAUTICS AND SPACE ACT

SEC. 311. (a) Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by redesignating subsection (e) as subsection (f), and by inserting immediately after subsection (d) the following new subsection:

"(d) The Congress declares that the general welfare of the United States requires that the unique competence in scientific and engineering systems of the National Aeronautics and Space Administration also be directed toward the development of advanced automobile propulsion systems. Such development shall be conducted so as to contribute to the achievement of the purposes set forth in section 302(b) of the Automotive Propulsion Research and Development Act of 1977.".

(b) The subsection of section 102 of such Act redesignated as subsection (f) by subsection (a) of this section is amended by striking out "and (d)" and inserting in lieu thereof "(d), and (e)".

AUTHORIZATION FOR APPROPRIATION

SEC. 312. There is authorized to be appropriated to carry out the purposes of this title, in addition to any amounts made available for such purposes pursuant to title I of this Act, the sum of $25,000,000 for the fiscal year ending September 30, 1978.

TITLE IV—ESTABLISHMENT OF FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

SEC. 401. The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), as amended by section 210 of this Act, is further amended by adding at the end thereof the following new section:

"FINANCIAL SUPPORT PROGRAM FOR MUNICIPAL WASTE REPROCESSING DEMONSTRATION FACILITIES

"SEC. 20. (a) It is the purpose of this section—

"(1) to assure adequate Federal support to foster a program to demonstrate municipal waste reprocessing for the production of fuel and energy intensive products; and

"(2) to gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities.

"(b)(1) The Administrator is authorized and directed, to the extent provided in appropriation Acts, to establish such a demonstration program by making grants, contracts, price supports, and cooperative agreements pursuant to this Act or any combination thereof for the establishment of municipal waste reprocessing demonstration facilities. For the purpose of this section municipal waste shall include but not be limited to municipal solid waste, sewage sludge, and other municipal organic wastes.

"(2) The aggregate amount of funds available for grants, contracts, price supports, and cooperative agreements for municipal waste reprocessing demonstration facilities shall not exceed $200,000,000.

"(3) For purposes of this section the term 'municipal' shall include any city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(4) Municipal waste reprocessing demonstration facilities established under this section shall be owned or operated (or both owned and operated) by the municipality and shall involve the recovery of energy or energy intensive products. Such facilities may be established by any public or private entity, by contract or otherwise, as may be determined by the local government which will own or operate (or both own and operate) such facilities and to which financial support is provided. The Federal share for any such facility to which this section applies shall not exceed 75 per centum of the cost of such facility, and not more than $40,000,000 in Federal funds under this section may be used for the construction of any one facility.

"(5) The Administrator shall promulgate such regulations as he deems necessary, pursuant to section 7(a)(4) and section 7(c)(1) and (6) of this Act, for purposes of establishing a price support program for revenue producing products of municipal waste reprocessing demonstration facilities.

"(c)(1) The Administrator shall consult with the Environmental Protection Agency to assure that the provisions of section 8004 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580) are applied in carrying out this section.

"(2) Any energy-related research, development, or demonstration project for the conversion (including bioconversion) of municipal waste carried out by the Energy Research and Development Administration pursuant to this or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the development of energy from solid wastes; and specifically, in accordance with such Agreement (A) for these energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related aspects of projects for recovery of fuels or energy intensive products from municipal waste as defined in this section shall be the responsibility of the Energy Research and Development Administration including energy-related economic and institutional aspects; and (C) the Environmental Protection Agency shall retain responsibility for the environmental and other economic and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008 of the Resource Conservation and Recovery Act of 1976 (Public Law 94–580), and any applicable State or regional waste management plan.

"(d)(1) The Administrator shall establish such guidelines as he deems necessary for purposes of obtaining pertinent information from municipalities receiving funding under this section. These guidelines shall include but not be limited to methods of assessment and evaluation of projects authorized under this section. Such assessments and evaluations shall be presented by the Administrator to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources upon the request of either such committee.

"(2) The Administrator shall annually submit a report to the Congress concerning the actions taken or not taken by the Administrator under this section during the preceding fiscal year, and including but not limited to (A) a discussion of the status of each demonstration facility and related facilities financed under this section, including progress made in the development of such facilities, and the expected or actual production from each such facility including byproduct production therefrom, and the distribution of such products and byproducts, (B) a statement of the financial condition of each such demonstration facility, (C) data concerning the environmental, community, and health and safety impacts of each such facility and the actions taken or planned to prevent or mitigate such impacts, (D) the administrative and other costs incurred by the Administrator and other Federal agencies in carrying out this program, and (E) such other data as may be helpful in keeping Congress and the public fully and currently informed about the program authorized by this section.

"(3) The annual reports required by this subsection shall be a part of the annual report required by section 15 of this Act, except that the matters required to be reported by this subsection shall be clearly set out and identified in such annual reports. Such reports shall be transmitted to the Speaker of the House of Representatives and the House Committee on Science and Technology and to the President of the Senate and the Senate Committee on Energy and Natural Resources.

"(e) No part of the program authorized by this section shall be transferred to any other agency or authority, except pursuant to Act of Congress enacted after the date of the enactment of this section.

"(f) Nothing in this section shall be construed as abrogating any obligations of any municipality receiving financial assistance pursuant to this section to comply with Federal and State environmental, land use, water, and health and safety laws and regulations or to obtain applicable Federal and State permits, licenses, and certificates.".

TITLE V—BASIS FOR GOVERNMENT CHARGE FOR URANIUM ENRICHMENT SERVICES

SEC. 501. Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"v. (A) enter into contracts with persons licensed under section 53, 63, 103, or 104 for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration; and

"(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Energy Research and Development Administration in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; (iii) any prices established under this subsection shall be on such a basis as will recover not less than the Government's costs over a reasonable period of time, and (iv) no change in price for uranium enrichment services shall permit the recovery of revenues greater than the sum of all Government costs and the normal and ordinary business expenses which would otherwise be incurred by a private operator providing similar services and so certified by the Comptroller General of the United States: *And provided further*, That the Administrator of the Energy Research and Development Administration, to the extent necessary to assure the maintenance of a viable domestic-uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Administrator shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That before the Administrator

establishes such criteria, or any price for uranium enrichment services the Administrator shall transmit such criteria or price, together with all pertinent data, to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and wait a period of forty-five calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain), unless prior to the expiration of such period each such committee has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.".

TITLE VI—TECHNICAL AMENDMENTS TO THE GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 601. As used in this title—

(1) the term "Act" means the Geothermal Energy Research, Development, and Demonstration Act of 1974 (88 Stat. 1079); and

(2) the term "Administrator" means the Administrator of the Energy Research and Development Administration.

SEC. 602. Section 101(b) of the Act is amended—

(1) by striking out subparagraph (E) of paragraph (1) and inserting in lieu thereof the following:

"(E) the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems;";

(2) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (1) the following new subparagraphs:

"(G) an Assistant Administrator of the Environmental Protection Agency;

"(H) an Assistant Secretary of Treasury; and

"(I) an Assistant Secretary of Agriculture."; and

(4) by striking out "one member of the Project" in paragraph (2) and inserting in lieu thereof "the Assistant Administrator of the Energy Research and Development Administration for Solar, Geothermal, and Advanced Energy Systems".

SEC. 603. Section 103(b)(4) of the Act is amended by inserting the phrase "or administrative regulations" after "legislation", and by inserting ", environmental and taxing" after "leasing".

SEC. 604. Section 105(e)(3) of the Act is amended by striking out the period and inserting in lieu thereof "or such assistance would not be adequate to satisfy the goals and requirements of the demonstration program under this section.".

SEC. 605. Section 201(b) of the Act is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(5) construction and operation of a new commercial, agricultural, or industrial structure or facility or modification and operation of an existing commercial, agricultural, or industrial structure or facility, when geothermal hot water or steam is to be used within or by such structure or facility, or modification thereto, for the purposes of space heating or cooling, industrial or agricultural processes, onsite generation of electricity for use other than for sale or resale in commerce, other commercial applications, or combinations of applications separately eligible under this title for loan guarantee assistance.".

SEC. 606. Section 201(b)(4) of the Act is amended by striking out "from" and inserting in lieu thereof "using".

SEC. 607. Section 201(c) of the Act is amended by adding at the end thereof the following new sentence: "In the case of a guaranty for the purposes specified in subsection (b)(5), the aggregate cost of the project shall be deemed to be that portion of the total cost of construction and operation which is directly related to the utilization of geothermal energy within the structure or facility in question, except that the aggregate cost of the project with respect to which the loan is made may be the total cost including construction and operation in cases where the facility or structure has been located near a geothermal energy resource predominantly for the purpose of utilizing geothermal energy, or as determined by the Administrator the economic viability of the project is substantially dependent upon the performance of the geothermal reservoir.".

SEC. 608. Subsection 201(e) of the Act is amended—

(1) by striking out "$25,000,000" and inserting in lieu thereof "$100,000,000: *Provided*, That in the case of a guaranty under subsection (b)(5), the amount of the guaranty for any loan for a project shall not exceed $50,000,000";

(2) by striking out "$50,000,000" and inserting in lieu thereof "$200,000,000"; and

(3) by inserting before the period at the end thereof the following: ", unless the Administrator determines in writing that a guaranty in excess of these amounts is in the national interest. Any such determination shall be submitted to the Speaker of the House and the Committee on Science and Technology of the House of Representatives, and to the President of the Senate and the Committee on Energy and Natural Resources of the Senate, accompanied by a full and complete report on the proposed project and guaranty. The proposed guaranty or commitment to guarantee shall not be finalized under authority granted by this Act prior to the expiration of thirty calendar days (not including any date on which either House of Congress is not in session) from the date on which such report is received by the Speaker of the House and the President of the Senate: *Provided*, That such guaranty or commitment to guarantee shall not be finalized if prior to the close of such thirty-day period either House passes a resolution stating in substance that such House does not favor the making of such guaranty or commitment to guarantee".

SEC. 609. Section 201 of the Act is further amended by adding at the end thereof the following new subsections:

"(g) With respect to any guaranty which is issued after the enactment of this subsection by, or in behalf of, any State, political subdivision, or Indian tribe and which is either guaranteed under, or supported by taxes levied by said issuer which are guaranteed under this title, and for which the interest paid on such obligation and received by the purchaser thereof is included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954, as amended, the Administrator shall pay to such issuer out of the fund established by this title such portion of the interest on such obligations, as determined by the Administrator, in consultation with the Secretary of the Treasury, to be appropriated after taking into account current market yields (1) on obligations of such issuer, if any, or (2) on other obligations with similar terms and conditions, the interest on which is not so included in gross income for purposes of chapter 1 of said Code, and in accordance with such terms and conditions as the Administrator shall require in consultation with the Secretary of the Treasury.

"(h) The full faith and credit of the United States is pledged to the payment of all guaranties issued under this title with respect to principal and interest.

"(i) The Administrator shall charge and collect fees for guaranties in amounts sufficient in his judgment to cover applicable administrative costs and probable losses on guaranteed obligations, but in any event not to exceed 1 per centum per annum of the outstanding indebtedness covered by each guaranty. Fees collected under this subsection shall be deposited in the fund established by this title.

"(j) The Secretary of the Treasury shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any guaranty exceeding $25,000,000 will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect commercial securities activities.".

SEC. 610. Section 202 of the Act is amended to read as follows:

"DEFAULT; PAYMENT OF INTEREST

"SEC. 202. (a) If there is a default by the borrower, as defined in regulations promulgated by the Administrator and set forth in the guarantee contract, the holder of the obligation shall have the right to demand payment of the unpaid amount from the Administrator. Within such period as may be specified in the guarantee or related agreements, the Administrator shall pay to the holder of the obligation the unpaid interest on, and unpaid principal of, the guaranteed obligation as to which the borrower has defaulted, unless the Administrator finds that there was no default by the borrower in the payment of interest or principal or that such default has been remedied. Nothing in this section shall be construed to preclude any forebearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the guaranteed obligation and approved by the Administrator.

"(b) If the Administrator makes a payment under subsection (a) of this subsection, the Administrator shall be subrogated to the rights of the recipient of such payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements, or to permit the borrower, pursuant to an agreement with the Administrator, to continue to pursue the purposes of the project if the Administrator determines this to be in the public interest. The rights of the Administrator with respect to any property acquired pursuant to such guarantee or related agreements, shall be superior to the rights of any person with respect to such property.

"(c) In the event of a default on any guarantee under this title, the Administrator shall notify the Attorney General, who shall take such action as may be appropriate to recover the amounts of any payments made under subsection (a), including any payment of principal and interest under subsection (d), from such assets of the defaulting borrower as are associated with the project, or from any other security included in the terms of the guarantee.

"(d) With respect to any obligation guaranteed under this title, the Administrator is authorized to enter into a contract to pay, and to pay, holders of the obligation, for and on behalf of the borrower, from the Geothermal Resources Development Fund, the principal and interest payments which become due and payable on the unpaid balance of such obligation if the Administrator finds that—

"(1) the borrower is unable to meet such payments and is not in default; it is in the public interest to permit the borrower to continue to pursue the purposes of such

project; and the probable net benefit to the Federal Government in paying such principal and interest will be greater than that which would result in the event of a default;

"(2) the amount of such payment which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement; and

"(3) the borrower agrees to reimburse the Administrator for such payment on terms and conditions, including interest, which are satisfactory to the Administrator.".

SEC. 611. Section 204 of the Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection (c):

"(c) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this title, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authorizations may be without fiscal year limitations. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.".

SEC. 612. Title II of the Act is further amended by adding at the end thereof the following new section:

"COMMUNITY IMPACT ASSISTANCE

"SEC. 205. (a) The Administrator, for any project which has a guarantee under this title of not less than $50,000,000 and which will have an intended operating life of not less than five years to satisfy the purposes under this title for which the guarantee has been made, shall endeavor to insure that, taking into consideration appropriate local community action and all reasonably available forms of assistance under this section and other Federal and State statutes, that the impacts resulting from the proposed project have been fully evaluated by the borrower, the Administrator, and the Governor of the affected State, and that effective steps have been taken or will be taken in a timely manner to finance community planning and development costs resulting from such project under this section, if applicable under other provisions of law, or by other means. When the project will be located on leased Federal lands, the Administrator shall specifically review State and local actions under section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94–377) and insure that any funds made available to the State pursuant to such section 9(a) are used to finance such planning and development costs before any Federal assistance under subsection (c) of this section is considered or authorized.

"(b) The Administrator, for projects not included under subsection (a), may in his discretion consider the community impacts which may result from such projects, and may take such actions, under authority directly available to him under other statutes or in coordination with other Federal agencies or the State, as he considers necessary and appropriate to insure timely and effective planning and financing for such community impacts.

"(c)(1) In order to discharge his responsibilities under subsection (a), and in accordance with such rules and regulations as the Administrator in consultation with the Secretary of the Treasury shall prescribe, and subject to such terms and conditions as he deems appropriate, the Administrator is authorized, for the purpose of financing essential community development and planing which directly result from, or are necessitated by, a project under subsection (a), to—

"(A) guarantee and make commitments to guarantee the payment of interest on, and the principal balance of, obligations for such financing issued by eligible States, political subdivisions, or Indian tribes,

"(B) guarantee and make commitments to guarantee the payment of taxes imposed on such project by eligible non-Federal taxing authorities which taxes are earmarked by such authorities to support the payment of interest and principal on obligations for such financing, and

"(C) require that the qualified borrower receiving assistance for a project under this section advance sums to eligible States, political subdivisions, and Indian tribes to pay for the financing of such development and planning: *Provided*, That the State, political subdivision, or Indian tribe agrees to provide tax abatement credits over the life of the project for such payments by such applicant.

"(2) No guarantee or commitment to guarantee under paragraph (1) of this subsection shall exceed $1,000,000.

"(3) In the event of any default by the borrower in the payment of taxes guaranteed by the Administrator under this section, the Administrator shall pay out of the fund established by this title such taxes at the time or times they may fall due, and shall have by reason of such payment a claim against the borrower for all sums paid plus interest.

"(4) If after consultation with State, political subdivision, or Indian tribe, the Administrator finds that the financial assistance programs of paragraph (1) of this section will not result in sufficient funds to carry out the purposes of this subsection, then the Administrator may—

"(A) make direct loans to the eligible States, political subdivisions, or Indian tribes for such purposes: *Provided*, That such loans shall be made on such reasonable terms and conditions as the Administrator shall prescribe: *Provided further*, That the Administrator may waive repayment of all or part of a loan made under this paragraph, including interest, if the State or political subdivision or Indian tribe involved demonstrates to the satisfaction of the Administrator that due to a change in circumstances there will be net adverse impacts resulting from such project that would probably cause such State, subdivision, or tribe to default on the loan; or

"(B) require that any community development and planning costs which are associated with, or result from, such project, and which are determined by the Administrator to be appropriate for such inclusion, shall be included in the aggregate costs of the project.

"(5) The Administrator is further authorized to make grants to States, political subdivisions, or Indian tribes for studying and planning for the potential economic, environmental, and social consequences of projects and for establishing related management expertise.

"(6) At any time the Administrator may, in consultation with the Secretary of the Treasury, redeem, in whole or in part, out of the fund established by this section, the debt obligations guaranteed or the debt obligations for which tax payments are guaranteed under this subsection.

"(7) When one or more States, political subdivisions, or Indian tribes would be eligible for assistance under this subsection, but for the fact that construction and operation of the project occurs outside its jurisdiction, the Administrator is authorized to provide, to the greatest extent possible, arrangements for equitable sharing of such assistance.

"(8) Such amounts as may be necessary for direct loans and grants pursuant to this subsection shall be available as provided in annual authorization Acts.

"(9) The Administrator, if appropriate, shall provide assistance in the financing of up to 100 per centum of the costs of the required community development and planning pursuant to this section.

"(10) In carrying out the provisions of this section, the Administrator shall provide that title to any facility receiving financial assistance under this section shall vest in the applicable State, political subdivision, or Indian tribe, as appropriate, and in the case of default by the borrower on a loan guarantee made or committed under subsection (b) of this section, such facility shall not be considered a project asset for the purposes of section 202 of this Act.

"(11) The Administrator shall not use his authority under this subsection to provide Federal assistance unless any Federal funds transferred pursuant to section 9(a) of the Mineral Leasing Act Amendments of 1976 (Public Law 94–377) to the State from the lease of Federal land for or associated with the project have been or, with assurance, will be committed, to the maximum extent allowable under Federal statutes, to financing such essential community development or planning directly resulting from, or necessitated by, a project on leased Federal lands.".

TITLE VII—ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

SEC. 701. (a) Section 7(b)(3) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(b)(3)) is amended by striking out", except that rules promulgated under paragraph (1) shall be amended not later than 6 months prior to the date for contracts specified in subsection (c)(2)".

(b) Section 7(b)(4) of such Act (15 U.S.C. 2506(b)(4)) is amended to read as follows:

"(4) The Administrator shall transmit to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce of the Senate, the performance standards developed under paragraph (1) and all revised performance standards established in connection with the demonstration specified in subsection (c)(2).".

(c) Section 7(c) of such Act (15 U.S.C. 2506(c)) is amended to read as follows:

"(c)(1) The Administrator shall, within 6 months after the date of promulgation of performance standards pursuant to subsection (b)(1), institute the first contracts for the purchase or lease of electric or hybrid

vehicles which satisfy the performance standards set forth under subsection (b)(1). The delivery of such vehicles shall be completed according to the expedited best effort of the administering agency and the selected manufacturer. To the extent practicable, vehicles purchased or leased under such contracts shall represent a cross-section of the available technologies and of actual or potential vehicle use.

"(2) Thereafter, according to a planned schedule, the Administrator shall contract for the purchase or lease of additional electric or hybrid vehicles which satisfy amended performance standards and represent continuing improvements in state-of-the-art. In conducting demonstrations, the Administrator shall consider—

"(A) the need and intent of the Congress to stimulate and encourage private sector production as well as public knowledge, acceptance, and use of electric and hybrid vehicles; and

"(B) demonstration of varying degrees of vehicle operations, management, and control for maximum widespread effectiveness and exposure to public use.

"(3) The demonstration period shall extend through the fiscal year 1986, with purchase or leasing continuing through the fiscal year 1984. During the demonstration period the Administrator shall demonstrate 7,500 to 10,000 electric and hybrid vehicles. In order to allow industry time for advanced planning, the size and nature of projected electric and hybrid vehicle leasing and procurement will be made public by the administering agency. Publications under the preceding sentence (each covering a period of two years) shall be released annually starting at an appropriate time in the fiscal year 1978.

"(4) If the Administrator determines on the basis of his annual review of the program under this Act that—

"(A) at least 200 vehicles cannot be added to the project during the fiscal year 1978, or

"(B) at least 600 vehicles cannot be added to the project during the fiscal year 1979, or

"(C) at least 1,700 vehicles cannot be added to the project during the fiscal year 1980, or

"(D) at least 7,500 vehicles in the aggregate cannot be added to the project during the fiscal years 1981 through 1984,

he shall immediately forward a detailed explanation thereof to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science and Technology of the House of Representatives, and the Committee on Commerce of the Senate.".

SEC. 702. Section 8 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2507) is amended by adding at the end thereof the following new subsections:

"(d) In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 7, the Administrator may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577).

"(e) When contracting and otherwise using Federal funds to conduct demonstrations under this Act, the Administrator shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Administrator may enter into procurement or lease contracts for purposes of carrying out demonstrations under this Act without regard to the provisions of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c).".

SEC. 703. (a)(1) Section 10(e) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2509(e)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the 'fund'), which shall be available to the Administrator for carrying out the loan guarantee and principal and interest assistance program authorized by this Act, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

"(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 16 as the Administrator deems necessary to carry out the purposes of this Act and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

"(C) If at any time the moneys available in the fund are insufficient to enable the Administrator to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Administrator from appropriations or other moneys available under this Act. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transaction of the United States.

"(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Administrator annually upon the completion of the appropriate accounting period.".

(2) Section 10 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

(b) Section 10(g) of such Act (15 U.S.C. 2509(g)) is amended to read as follows:

"(g)(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds—

"(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) that the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payment (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.".

(c) Section 10(h) of such Act (15 U.S.C. 2509(h)) is amended by striking out "the 5-year period" and inserting in lieu thereof "the 7-year period".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6796) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 6796, ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 1811 to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and, without objection, appoints the following conferees: Messrs. TEAGUE, FUQUA, FLOWERS, MCCORMACK, BROWN of California, THORTON, OTTINGER, HARKIN, and AMBRO, Mrs. LLOYD of Tennessee, and Messrs. WATKINS, WYDLER, WINN, FREY, GOLDWATER, and GARY A. MYERS.

AUTHORIZING ENROLLING CLERK TO CONFORM AMENDMENTS AND MAKE CORRECTIONS IN ENROLLMENT OF H.R. 6796, ERDA AUTHORIZATIONS FOR CIVILIAN RESEARCH AND DEVELOPMENT, FISCAL YEAR 1978

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the Enrolling

Clerk may be given permission to conform all amendments to the bill and to correct section numbering, cross-references, punctuation, and spelling, in the enrollment of the bill (H.R. 6796) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE A REPORT

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight to file a report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5101, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1978

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5101) authorizing appropriations for activities of the Environmental Protection Agency for fiscal year 1978, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and without objection, appoints the following conferees: Messrs. BROWN of California, WIRTH, WATKINS, AMBRO, WALKER, and WINN.

CHANGE IN LEGISLATIVE PROGRAM

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, it was the intention of the leadership that House Resolution 70 be brought up this morning. That resolution deals with the Select Committee on Population.

However, because of the urgency of early consideration of H.R. 3, the medicare-medicaid antifraud and abuse amendments, and of H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977, we are postponing the consideration of the Select Committee on Population resolution until early next week.

MEDICARE-MEDICAID ANTIFRAUD AND ABUSE AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes.

The SPEAKER pro tempore (Mr. ROBERTS). The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 3, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on Thursday, September 23, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, the bill is considered as having been read for amendment. No amendments to the bill or to the amendments made in order by House Resolution 743 shall be in order except germane amendments printed in the CONGRESSIONAL RECORD at least 2 legislative days prior to consideration thereof, except that it shall be in order to debate said bill and amendments by the offering of pro forma amendments.

The Clerk will report the first committee amendment jointly recommended by the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment jointly recommended by the Committee on Ways and Means, and the Committee on Interstate and Foreign Commerce.

The Clerk read as follows:

Committee amendment jointly recommended by the committees: On page 1, strike out line 5 and all that follows through line 7 on page 27 and insert in lieu thereof the following:

PROHIBITION AGAINST ASSIGNMENT BY PHYSICIANS AND OTHERS OF CLAIMS FOR SERVICES; CLAIMS PAYMENT PROCEDURES FOR MEDICAID PROGRAM

SEC. 2. (a)(1) Section 1842(b)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "No payment which under the preceding sentence may be made directly to the physician or other person providing the service involved (pursuant to an assignment described in subparagraph (B)(ii) of paragraph (3)) shall be made to anyone else under a reassignment or power of attorney (except to an employer or facility as described in clause (A) or (B) of such sentence); but nothing in this subsection shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the individual to whom the service was provided or a reassignment from the physician or other person providing such service if such assignment or reassignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of the physician or other person providing the service from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such physician or other person under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(2) Section 1815 of such Act is amended by adding at the end thereof the following new subsection:

"(c) No payment which may be made to a provider of services under this title for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such provider under this title is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.".

(3) Section 1902(a)(32) of such Act is amended to read as follows:

"(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

"(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee, for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contract arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service; and

"(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such paypment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any payment;".

(4) The amendments made by this subsection shall apply with respect to care and services furnished on or after the date of the enactment of this Act.

(b)(1) Section 1902(a) of the Social Security Act is amended—

(A) by striking out "and" at the end of paragraph (35);

(B) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and";

(C) by inserting immediately after paragraph (36) the following new paragraph:

"(37) provide for claims payment procedures which (A) ensure that 90 per centum of claims for payment made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 60 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program,"; and

(D) by inserting at the end thereof the following paragraph:

"The requirement of clause (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement.".

(2) Section 1903 of such Act is amended—

(A) by redesignating paragraph (6) of subsection (a) as paragraph (7);

(B) by inserting after paragraph (5) of subsection (a) the following new paragraph:

"(6) subject to subsection (1), an amount equal to 90 per centum of so much of the sums expended during such quarter as are attributable to the arranging and providing of such programs of education and technical assistance (provided through such means, including outreach offices, the media, and telephone hotlines, as the Secretary determines to be appropriate) to health care practitioners who furnish, through individual or group practices or through shared health facilities, services covered under the plan, as the Secretary determines are likely to expedite the filing and payment of claims for payment for such services provided by such practitioners; plus"; and

(C) by inserting after subsection (k) the following new subsection:

"(l)(1) Payment shall not be made under subsection (a)(6) for a quarter ending after September 30, 1980.

"(2) If the aggregate of the amounts of payments to be made in accordance with subsection (a)(6) for any calendar quarter to States exceeds $1,250,000, the amount of the payment to be made under such subsection for the quarter to each such State shall be an amount which bears the same ratio to the amount determined for the quarter under the subsection to the State as $1,250,000 bears to the amount required to make payments for the quarter in accordance with such subsection to all of the States.".

(3)(A) The amendments made by paragraph (1) shall apply to calendar quarters beginning on and after January 1, 1978, with respect to State plans approved under title XIX of the Social Security Act.

(B) The amendments made by paragraph (2) shall apply, with respect to expenditures made, under a State plan approved under title XIX of the Social Security Act, in calendar quarters beginning on and after January 1, 1978.

DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

SEC. 3. (a)(1) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1123 the following new section:

"DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION

"SEC. 1124. (a)(1) The Secretary shall by regulation or by contract provision provide that each disclosing entity (as defined in paragraph (2)) shall—

"(A) as a condition of the disclosing entity's participation in, or certification or recertification under, any of the programs established by titles V, XVIII, and XIX, or

"(B) as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary or the appropriate State agency under any of the programs established under titles V, XVIII and XIX,

supply the Secretary or the appropriate State agency with full and complete information as to the identity of each person with an ownership or control interest (as defined in paragraph (3)) in the entity.

"(2) As used in this section, the term 'disclosing entity' means an entity which is—

"(A) a provider of services (as defined in section 1861(u), other than a fund), an independent clinical laboratory, or a renal disease facility;

"(B) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services with respect to which payment may be claimed by the entity under any plan or program established pursuant to title V or under a State plan approved under title XIX; or

"(C) a carrier or the other agency or organization that is acting as a fiscal intermediary or agent with respect to one or more providers of services (for purposes of part A or part B of title XVIII, or both, or for purposes of a State plan approved under title XIX) pursuant to (i) an agreement under section 1816, (ii) a contract under section 1842, or (iii) an agreement with a single State agency administering or supervising the administration of a State plan approved under title XIX.

"(3) As used in this section, the term 'person with an ownership or control interest' means, with respect to an entity, a person who—

"(A)(i) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or

"(ii) is the owner (in whole or in part) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof; or

"(B) is an officer or director of the entity, if the entity is organized as a corporation; or

"(C) is a partner in the entity, if the entity is organized as a partnership.

"(b) To the extent determined to be feasible under regulations of the Secretary, a disclosing entity shall also include in the information supplied under subsection (a)(1), with respect to each person with an ownership or control interest in the entity, the name of any other disclosing entity with respect to which the person is a person with an ownership or control interest.

"(c) A provider of services (as defined in section 1861(u), other than a fund) shall also include in the information supplied under subsection (a)(1) full and complete information as to the identity of each person with an ownership or control interest in any subcontractor (as defined by the Secretary in regulations) in which the provider directly or indirectly has a 5 per centum or more ownership interest.".

(2) Section 1861(j)(11) of such Act is amended to read as follows:

"(11) complies with the requirements of section 1124;".

(b) Clause (C) of section 1866(b)(2) of such Act is amended by inserting "(i)" after "failed", and by adding after "to verify such information," the following: "or (ii) to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to such provider by the Secretary (I) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such provider has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (II) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such provider and any wholly owned supplier or between such provider and any subcontractor,".

(c)(1) Section 1902(a) of such Act (as amended by section 2(b)(1) of this Act) is amended—

(A) by amending paragraph (35) to read as follows:

"(35) provide that any intermediate care facility receiving payments under such plan complies with the requirements of section 1124;";

(B) by striking out "and" at the end of paragraph (36);

(C) by striking out the period at the end of paragraph (37) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (37) the following new paragraph:

"(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishings of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, respectively, (A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom such entity has had, during the previous twelve months, business transactions in an aggregate amount in excess of $25,000, and (B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between such entity and any wholly owned supplier or between such entity and any subcontractor.".

(2) Section 1903(i)(2) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or by reason of noncompliance with a request made by the Secretary under clause (C)(ii) of such section 1866(b)(2) or under section 1902(a)(38)".

(d) The amendment made by subsection (a)(1) shall apply with respect to certifications and recertifications made (and participation in the programs established by title V, XVIII, and XIX of the Social Security Act pursuant to certifications and recertifications made), and fiscal intermediary or agent agreements or contracts entered into or renewed, on and after the date of the enactment of this Act. The remaining amendments made by this section shall take effect on the date of the enactment of this Act; except that the amendments made by paragraphs (1) and (2) of subsection (c) shall become effective October 1, 1977.

PENALTIES FOR DEFRAUDING MEDICARE AND MEDICAID PROGRAMS

SEC. 4. (a) Section 1877 of the Social Security Act is amended to read as follows:

"PENALTIES

"SEC. 1877. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for

use in determining rights to any such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year or both.

"(b)(1) Whoever solicits or receives any remuneration (including kickbacks, bribes, or rebates, but excluding any amount paid by an employer to an employee for employment in the provision of covered items or services) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) Whoever offers or pays any remuneration (including kickback, bribes, or rebates but excluding any amount paid by an employer to an employee for employment in the provision of covered items or services) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to a discount or other reduction in price obtained by a provider of services or other entity reimbursed under this title on a cost basis, if the reduction in price is properly disclosed and reflected in the costs claimed by the provider or entity as reimbursable under this title.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, or home health agency (as those terms are defined in section 1861), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(b) Section 1909 of such Act is amended to read as follows:

"PENALTIES

"SEC. 1909. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person.

shall (i) in the case of such a statement, representation, concealment, failure, or conversion by any person in connection with the furnishing (by that person) of items or services for which payment is or may be made under this title, be guilty of a felony and upon conviction thereof fined not more than $25,000 or imprisoned for not more than five years or both, or (ii) in the case of such a statement, representation, concealment, failure, or conversion by any other person, be guilty of a misdemeanor and upon conviction thereof fined not more than $10,000 or imprisoned for not more than one year or both. In addition, in any case where an individual who is otherwise eligible for assistance under a State plan approved under this title is convicted of an offense under the preceding provisions of this subsection, the State may at its option (notwithstanding any other provision of this title or of such plan) limit, restrict, or suspend the eligibility of that individual for such period (not exceeding one year) as it deems appropriate; but the imposition of a limitation, restriction, or suspension with respect to the eligibility of any individual under this sentence shall not affect the eligibility of any other person for assistance under the plan, regardless of the relationship between that individual and such other person.

"(b)(1) Whoever solicits or receives any remuneration (including kickbacks, bribes, or rebates, but excluding any amount paid by an employer to an employee for employment in the provision of covered items or services) directly or indirectly, overtly or covertly, in cash or in kind—

"(A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(2) whoever offers or pays any remuneration (including kickbacks, bribes, or rebates, but excluding any amount paid by an employer to an employee for employment in the provision of covered items or services) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person—

"(A) to refer an individual to a person for the furnishing or arranging for the furnishing of items or services for which payment may be made in whole or in part under this title, or

"(B) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering goods, facilities, services, or any item for which payment may be made in whole or in part under this title,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(3) Paragraphs (1) and (2) shall not apply to a discount or other reduction in price obtained by an entity reimbursed under this title on a cost basis if the reduction in price is properly disclosed and reflected in the costs claimed by the entity as reimbursable under this title.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility, intermediate care facility, or home health agency (as those terms are employed in this title) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.".

(c) Section 204(a) of Public Law 94-505 (42 U.S.C. 3524) (relating to annual reports of the Inspector General of the Department of Health, Education, and Welfare) is amended by adding at the end thereof the following sentence: "Such report shall also include an evaluation of the performance of the Attorney General in the investigation and prosecution of criminal violations relating to fraud in the programs of health insurance and medical assistance provided under titles XVIII and XIX of the Social Security Act, and shall include any recommendations with respect to improving the performance of such activities.".

(d) The amendments made by subsections (a) and (b) shall apply with respect to acts occurring and statements or representations made on or after the date of the enactment of this Act.

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 5. (a) Section 1152(e) of the Social Security Act is amended to read as follows:

"(e) Where the Secretary finds a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) to be competent to perform review responsibilities, the review, certification, and similar activities otherwise required pursuant to provisions of this Act (other than this part) shall not be applicable with respect to those providers, suppliers, and practitioners being reviewed by such

Professional Standards Review Organization, except to the extent specified by the Secretary. Nothing in the preceding sentence shall be construed as rendering inapplicable any provision of this Act wherein requirements with respect to conditions for eligibility to or payment of benefits (as distinct from reviews and certifications made with respect to determinations of the kind made pursuant to paragraphs (1) and (2) of section 1155(a)) must be satisfied.".

(b)(1) Section 1154(b) of such Act is amended—

(A) by striking out "(which may not exceed 24 months)" in the first sentence and inserting in lieu thereof "(which may not exceed 48 months except as provided in subsection (c))";

(B) by inserting ", in addition to review of health care services provided by or in institutions," after "perform" in the first sentence; and

(C) by striking out "or ordered by physicians" and all that follows through "and organizations" in the second sentence and inserting in lieu thereof "by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require".

(2) Section 1154 of such Act is further amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) If the Secretary finds that an organization designated under subsection (a) has been unable to perform satisfactorily all of the duties and functions required under this part for reasons beyond the organization's control, he may extend such organization's trial period for an additional period not exceeding twenty-four months.".

(c)(1) Section 1155 of such Act is amended—

(A) by striking out "directly or indirectly involved in" in subsection (a)(6)(A) and inserting in lieu thereof "directly responsible for";

(B) by striking out "any financial" in subsection (a)(6)(B) and inserting in lieu thereof "a significant financial";

(C) by inserting after "to such organization" in subsection (f)(2) the following: ", in a manner similar to that provided for under section 1816(c),"; and

(D) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g)(1) Not later than two years after the date of the enactment of the Medicare-Medicaid Anti-Fraud and Abuse Amendments, the Secretary, through the conduct of demonstration projects or otherwise, shall develop effective ambulatory care review methodologies for use by Professional Standards Review Organizations in performing review responsibility with respect to ambulatory care services.

"(2) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) requests review responsibility with respect to services furnished in shared health facilities, the Secretary must give priority to such request, with the highest priority being assigned to requests from organizations located in areas with substantial numbers of shared health facilities.

"(3) The Secretary shall require any Professional Standards Review Organization which is capable of exercising review responsibility with respect to ambulatory care services to perform review responsibility with respect to such services on and after a date not later than two years after the date the organization has been designated as a Professional Standards Review Organization (other than under section 1154).".

(2) Section 111(a) of such Act is amended by inserting after paragraph (8) the following new paragraph:

"(9) The term 'shared health facility' means any arrangement whereby—

"(A) two or more health care practitioners practice their professions at a common physical location;

"(B) such practitioners share (i) common waiting areas, examining rooms, treatment rooms, or other space, (ii) the services of supporting staff, or (iii) equipment;

"(C) such practitioners have a person (who may himself be a practitioner)—

"(i) who is in charge of, controls, manages, or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by the practitioners to their patients; or

"(ii) who makes available to such practitioners the services of supporting staff who are not employees of such practitioners; and

who is compensated in whole or in part, for the use of such common physical location or support services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location or on any basis clearly unrelated to the value of the services provided by the person; and

"(D) at least one of such practitioners received payments on a fee-for-service basis under titles V, XVIII, and XIX in an amount exceeding $5,000 for any one month during the preceding 12 months, or in an aggregate amount exceeding $40,000 during the preceding 12 months;

except that such term does not include a provider of services (as defined in section 1861(u) of this Act), a health maintenance organization (as defined in section 1301 of the Public Health Service Act), a hospital cooperative shared services organization meeting the requirements of section 501(e) of the Internal Revenue Code of 1954, or any public entity.".

(d)(1) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155(a) in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act, and no reviews with respect to those determinations shall be conducted, for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or single State agencies administering or supervising the administration of State plans approved under title XIX.".

(2)(A) Section 1152(b)(2) of such Act is amended by striking out "submitted to him by the association, agency, or organization" and inserting in lieu thereof "which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h)".

(B) Section 1152 of such Act is further amended by adding at the end thereof the following new subsection:

"(h)(1) During the development and preparation by an organization of its formal plan under subsection (b)(2) or of any modification of such plan to include review of services in skilled nursing facilities (as defined in section 1861(j)) or intermediate care facilities (as defined in section 1905(c)) or review of ambulatory care services, the organization shall consult with the single State agency, responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located.

"(2) Such plan and any such modification shall be submitted to the Governor of such State, at the time of its submission to the Secretary, for his comments.

"(3) The Secretary, before making the findings described in subsection (b)(2) or a finding regarding the organization's capability to perform review of such services (as the case may be), shall consider any such comments submitted to him by such Governor before the end of the thirty-day period beginning on the date of submission of the plan or of any such modification (as the case may be).

"(4) If, after considering such comments, the Secretary intends to make findings which are adverse to such comments, the Secretary shall provide the Governor making such comments with the opportunity to submit additional evidence and comments on such intended findings during a period of not less than thirty days ending before the findings become effective.".

(C) Section 1154 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding after subsection (d) the following new subsection:

"(e) In determining whether an organization designated on a conditional basis as the Professional Standards Review Organization for any area is substantially carrying out its duties in a satisfactory manner and should be considered a qualified organization, the Secretary shall follow the procedures specified in section 1152(h) (concerning the Secretary's consideration of comments of the Governors of the State in which the organization is located).".

(D) Part B of title XI of such Act is amended by adding after section 1170 the following new section:

"MEMORANDUMS OF UNDERSTANDING; FEDERAL-STATE RELATIONS GENERALLY

"SEC. 1171. (a)(1) Except as provided in paragraph (2), no determination made by a Professional Standards Review Organization pursuant to paragraphs (1) and (2) of section 1155(a) in connection with reviews shall constitute conclusive determinations under section 1158(c) for purposes of payment under title XIX, unless such organization has entered into a memorandum of understanding, approved by the Secretary, with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located (hereinafter in this section referred to as the 'State agency') for the purpose of delineating the relationship between the organization and the State agency and of providing for the exchange of data or information, administrative procedures, coordination mechanisms, and modification of the memorandum at any time that additional responsibility for review by the organization is authorized by the Secretary.

"(2) The requirement of paragraph (1) may be waived by the Secretary if (A) the State agency indicates to the Secretary that it does not wish to enter into a memorandum of understanding with the organization involved, or (B) the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the organization involved.

"(b)(1) The State agency may request a Professional Standards Review Organization which is entering into such a memorandum of understanding with the agency to include in the memorandum a specification of review

goals or methods (additional to any such goals or methods contained in the organization's formal plan) for the performance of the organization's duties and functions under this part.

"(2) If the agency and the organization cannot reach agreement regarding the inclusion of any such requested specification, the Secretary shall review such specification and shall require that the specification be included in the memorandum if the Secretary determines that such specification of goals or methods (A) is consistent with the functions of the organization under this part and with the provisions of title XIX and the State's plan approved under such title, and (B) does not seriously impact on the effectiveness and uniformity of the organization's review of health care services paid for under title XVIII and title XIX of this Act.

"(c) Notwithstanding any other provision of this Act, the State agency may contract with any Professional Standards Review Organization located in the State for the performance of review responsibilities in addition to those performed pursuant to this part (and the cost of performance of such additional responsibilities is reimbursable as an expense of the State agency under section 1903(a)) if—

"(1) the State agency formally requests the performance of such additional responsibilities, and

"(2) the performance of such additional responsibilities is not inconsistent with this part and is provided for in an amendment to the State's plan which is approved by the Secretary under title XIX.

"(d)(1) Each State agency may monitor the performance of review responsibilities by Professional Standards Review Organizations located within the State, in accordance with a State monitoring plan which is developed after review and comment by such organizations and is approved by the Secretary. The costs of activities of the State agency under and in accordance with such plan are reimbursable as an expense of the State agency under section 1903(a).

"(2) A monitoring plan developed and approved under paragraph (1) may include a specification of performance criteria for judging the effectiveness of the review performance of the Professional Standards Review Organizations. If the State agency and the Professional Standards Review Organizations cannot reach agreement regarding such criteria, the Secretary shall assist the agency and organizations in resolving the matters in dispute.

"(3)(A) Whenever a State agency monitoring the performance of review responsibilities by a Professional Standards Review Organization under a plan developed and approved under paragraph (1) submits to the Secretary reasonable documentation that the review determinations of such organization have caused an unreasonable and detrimental impact either on total State expenditures under title XIX or on the quality of care received by individuals under the State's plan approved under such title, and requests the Secretary to act, the Secretary shall, within thirty days from the date of receipt of the documentation, temporarily suspend such organization's authority in whole or in part under section 1158(c) to make conclusive determinations for purposes of payment under title XIX (and he may suspend such authority for purposes of payment under title XVIII) pending a reevaluation of such organization's performance of the responsibilities involved and any appropriate action the Secretary may take as a result of such reevaluation.

"(B) The Secretary shall notify the State agency submitting such documentation, and the organization involved, in writing, of his determination, any subsequent actions taken, and the basis thereof, and shall notify the appropriate committees of the United States House of Representatives and the Senate of any such documentation submitted and the actions taken.

"(e)(1) The Secretary shall in a timely manner establish procedures and mechanisms to govern his relationships with State agencies under this part (specifically including his relationships with such agencies in connecting with their respective functions under the preceding provisions of this section). Such mechanisms shall include periodic consultation by the Secretary with State agency representatives and representatives of Professional Standards Review Organizations regarding relationships between such agencies and such organizations (including the appropriate exchange of data and information between such agencies and such organizations) and other problems of mutual concern, and such procedures shall permit the State agency to be represented on any project assessments conducted by the Secretary with respect to a Professional Standards Review Organization located within its State.

"(2) Each Professional Standards Review Organization shall provide to the State agency for the State in which it is located, upon request, data or information which the Secretary requires such organizations to report to him routinely on a periodic basis, and such other data or information as the Secretary authorizes to be disclosed.".

(3)(A) Section 1155(e)(1) of such Act is amended by inserting "(other than a skilled nursing facility, as defined in section 1861(j))" after "the review committees of a hospital or other operating health care facility or organization".

(B) Section 1155(a) of such Act is amended—

(i) by inserting "(except as provided in paragraph (7))" in paragraph (1) after "institutional and noninstitutional providers of health care services"; and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1905(c)) and in public institutions for the mentally retarded (described in section 1905(d)(1) only if the Secretary finds, on the basis of such documentation as he may require from the State, that the single State agency which administers or supervises the administration of the State plan approved under title XIX for that State is not performing effective review of the quality and necessity of health care services provided in such facilities and institutions.".

(e) Section 1160(b)(1) of such Act is amended by striking out "practitioner or provider" each time is appears therein and inserting in lieu thereof "health care practitioner or hospital, or other health care facility, agency, or organization".

(f) Section 1163(a)(2) of such Act is amended to read as follows:

"(2) Members of the Council shall be appointed for a term of three years, except that of the members appointed in 1979, four shall be appointed for a term of only two years, and three for a term of only one year. Members of the Council shall be eligible for reappointment.".

(g) Section 1163 of such Act is amended by striking out subsection (f).

(h) Section 1166 of such Act is amended—

(1) by striking out "or (2)" in subsection (a) and inserting in lieu thereof ", (2)";

(2) by inserting the following immediately before the period at the end of subsection (a): ", or (3) in accordance with subsection (b)";

(3) by redesignating subsection (b) as subsection (c);

(4) by inserting the following new subsection immediately after subsection (a):

"(b) A Professional Standards Review Organization shall provide, in accordance with procedures established by the Secretary, data and information—

"(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by such Organization to such agencies at the request of such agencies at the discretion of such Organization on the basis of its findings with respect to evidence of fraud or abuse;

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such Organization, and shall be in the form of aggregate statistical data (without identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such Organization. The penalty provided in subsection (c) shall not apply to the disclosure of any data and information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such data and information) of any such data and information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the data and information."; and

(5) by inserting after subsection (c) (as so redesignated) the following new subsection:

"(d) No patient record in the possession of a Professional Standards Review Organization, a Statewide Professional Standards Review Council, or the National Professional Standards Review Council shall be subject to subpena or discovery proceedings in a civil action.".

(i) Section 1167 of such Act is amended by adding the following new subsection at the end thereof:

"(d) The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member or employee related to the performance of any duty or function of such organization, member or employee (as described in section 1155).".

(j) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make payments to Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from funds described in the first sentence of this section (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the

performance of duties by such Organizations.".

(k) Part B of title XI of such Act (as amended by subsection (d)(2)(D) of this section) is further amended by adding after section 1171 the following new section:

"ANNUAL REPORTS

"SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and not later than April 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status (conditional or otherwise), and service areas of, and review methodologies employed by, all Professional Standards Review Organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by Professional Standards Review Organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) services determined, in accordance with the provisions of this part, to have been (A) medically unnecessary, (B) furnished in an inappropriate setting, or (C) deficient in quality;

"(4) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(5) the total costs incurred under titles V, XI, XVIII, and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality;

"(6) changes in utilization rates and patterns, and changes in medical procedures and practices, attributable to the activities of Professional Standards Review Organizations;

"(7) the progress being made among Professional Standards Review Organizations in adopting and implementing the ambulatory care review methodologies developed under section 1155(g)(1);

"(8) the results of program evaluation activities, including the operation of data collection systems and the status of Professional Standards Review Organization data policy and implementation;

"(9) the extent to which Professional Standards Review Organizations are performing reviews of services for other governmental or private health insurance programs; and

"(10) recommendations for legislative changes.".

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment jointly recommended by the Committee on Ways and Means and by the Committee on Interstate and Foreign Commerce be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. ROSTENKOWSKI TO THE AMENDMENT JOINTLY RECOMMENDED BY THE COMMITTEES

Mr. ROSTENKOWSKI. Mr. Chairman, I offer an amendment to the amendment jointly recommended by the committees.

The Clerk read as follows:

Amendment offered by Mr. ROSTENKOWSKI to the amendment jointly recommended by the committees: Page 41, line 9, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 11.

Page 42, line 1, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 3.

Page 42, strike out lines 17 through 22 and insert in lieu thereof the following:

"(3) Paragraphs (1) and (2) shall not apply to —

"(A) a discount or other reduction in price obtained by a provider of services or other entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this title; and

"(B) any amount paid by an employer to an employee for employment in the provision of covered items or services.

Page 45, line 9, strike out ", but excluding" and all that follows through "provision of covered items or services on line 11.

Page 46, line 1, strike out ", but excluding" and all that follows through "provision of covered items or services" on line 3.

Page 46, strike out lines 17 through 21 and insert in lieu thereof the following:

"(3) Paragraphs (1) and (2) shall not apply to —

"(A) a discount or other reduction in price obtained by an entity under this title if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the entity under this title; and

"(B) any amount paid by an employer to an employee for employment in the provision of covered items or services.

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair will inquire of the gentleman from Illinois (Mr. ROSTENKOWSKI) whether his amendment is made in order under the rule.

Mr. ROSTENKOWSKI. Yes, it is, Mr. Chairman.

Mr. Chairman, this amendment is a simple, technical clarification of section 4 of the committee bill so as to clarify that lawful discounts received by providers which are passed on under the program in the form of lower costs are to be encouraged.

In addition, this amendment makes a structural drafting change in section 4.

Mr. Chairman, I know of no objection to this amendment. It has been cleared through my colleagues on the other side of the aisle, the gentleman from Tennessee (Mr. DUNCAN) in particular.

Mr. ROGERS. Mr. Chairman, will the gentleman from Illinois yield?

Mr. ROSTENKOWSKI. I am happy to yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, I support the amendment offered by my colleague. It is technical in nature, and merely clarifies that legitimate discount arrangements are not prohibited under the act or considered as kickbacks or bribes, if they are properly disclosed and appropriately reflected in charges or costs claimed.

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Chairman, I too support the amendment offered by the gentleman from Illinois (Mr. ROSTENKOWSKI). The amendment had been cleared with me prior to this time. I believe it is a good amendment.

Mr. ROSTENKOWSKI. I thank the gentleman from Tennessee.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I am happy to yield to the distinguished gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from Illinois (Mr. ROSTENKOWSKI) for yielding to me, and I rise merely to state that I certainly support this amendment. I think it is very helpful.

Mr. ROSTENKOWSKI. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois to the amendment offered jointly by the committees.

The amendment to the committee's amendment was agreed to.

AMENDMENT OFFERED BY MR. PEPPER TO THE AMENDMENT JOINTLY RECOMMENDED BY THE COMMITTEES

Mr. PEPPER. Mr. Chairman, I offer an amendment to the amendment jointly recommended by the committees.

The Clerk read as follows:

Amendment offered by Mr. PEPPER to the amendment jointly recommended by the committees: Page 47, line 8, strike out the quotation marks and the period that follows them.

Page 47, insert after line 8 the following new subsection: "(d) Whoever knowingly and willfully—

"(1) charges, for any services provided to a patient under a State plan approved under this title, money or other consideration at a rate in excess of the rates established by the State, or

"(2) charges, solicits, accepts or receives, in addition to any amount otherwise required to be paid under a State plan approved under this title, any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient)—

"(A) as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility, or

"(B) as a requirement for the patient's continued stay in such a facility, when the cost of the services provided therein to the patient is paid for (in whole or in part) under the State plan,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five year or both.".

The CHAIRMAN. The Chair would inquire whether the gentleman's amendment qualifies under the rule?

Mr. PEPPER. It does, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized in support of his amendment.

Mr. PEPPER. Mr. Chairman, as chairman of the House Select Committee on Aging, I am very pleased to see that the House will be voting on H.R. 3, the medicare-medicaid antifraud and abuse

amendments. This legislation is a major step in restoring integrity and fiscal soundness to the medicare and medicaid programs, and I am hopeful that it will be enacted.

I commend my distinguished colleagues, Representative PAUL ROGERS, chairman of the Subcommittee on Health and the Environment, and Representative DAN ROSTENKOWSKI, chairman of the Ways and Means Subcommittee on Health, for their outstanding work on this matter.

Today I propose an amendment to define as a felony instances where contributions are required as a condition of entry or as a condition of continued stay at a hospital, skilled nursing facility, or intermediate care facility for medicaid-covered services. I am hopeful that my colleagues will share my view that its enactment would end an important area of abuse and they will support it. Violators would be subject to strict penalties—a fine of up to $25,000 and/or a jail sentence of up to 5 years.

This amendment was brought to my attention by a recent General Accounting Office report concerning Federal and State laws and policies relating to the solicitation of contributions by nursing homes from families of medicaid patients. It concluded that there was a "lack of Federal laws or regulations" in this area and that as a result, many nursing homes had exerted various forms of pressure on families of patients to obtain contributions.

As noted in a letter from the Deputy Comptroller General of the United States, that I would like to include in the RECORD following my remarks, GAO has recommended as an amendment to H.R. 3, enactment of a modified version of section 17 of H.R. 92, a bill I introduced with 68 cosponsors. This legislation would amend the Social Security Act to provide a clear statutory basis for criminal prosecution when contributions are solicited as a precondition for admittance of a medicaid patient or as a requirement for the patient's continued stay.

Furthermore, GAO advises that "it is not clear" that the provisions of H.R. 3 which strengthen the penalties for defrauding the medicare and medicaid programs and enlarge the kinds of activities constituting crimes in relation to such programs address this problem of forced contributions. It adds that "Inasmuch as criminal statutes are strictly construed by the courts, we believe clarification is desirable if Congress wishes to make the described behavior a criminal offense."

Unfortunately, examples of these kinds of forced contributions in various investigations related to the medicaid program have been numerous. One need only look at various investigations by the Moreland Commission, the Senate Special Committee on Aging, and the Senate Government Operations Committee to see how widespread this abuse is. My staff has been told of a number of nursing homes which routinely require patients' relatives to make large gifts or donations before the patient can be admitted.

By accepting this amendment the House will be taking steps to punish these individuals who require what they camouflage as gifts. Where the gifts are required, they are in truth not gifts at all but blackmail.

My amendment would not in any way bar patients' families from making purely voluntary good faith contributions. It would also not prohibit relatives from purchasing additional services not provided under the medicaid State plan, a category that might include eyeglasses, hearing aids, dentures, and other items depending on the State plan's provisions. It would not restrict free-will donations by community, religious and/or philanthropic sources. Finally, it would apply only to medicaid-eligible patients.

I would like to add that I am hopeful that the Department of Health, Education, and Welfare will take speedy action on a related matter: The implementation of the section 249 requirement for cost-related reimbursement for these facilities. As the GAO report notes, coerced solicitations have often been condoned by States because of inadequate medicaid reimbursement rates.

I am hopeful that in the Senate's consideration of parallel legislation, an amendment similar to this one will be included. Senate interest in this issue of forced contributions has long been a fact. Two of the persons most involved in this struggle have been former Senator Frank Moss, who introduced the Senate equivalent to H.R. 92 in the 94th Congress, and Mr. Val Halamandaris, Associate Counsel of the Senate Special Committee on Aging, who has provided invaluable assistance on this matter from the time of the original bill's introduction to the present.

As the House begins the important process of eliminating fraud and abuse from Federal health care programs, we must not allow the practice of forced contributions to continue. We owe it to medicaid beneficiaries and their families to take steps to eliminate this type of abuse by enacting this amendment.

The letter from the Comptroller General of the United States is as follows:

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., July 27, 1977.

Hon. CLAUDE PEPPER,
Chairman, Select Committee on Aging.

DEAR MR. CHAIRMAN: As requested by your Committee, we reviewed H.R. 3, 95th Congress, which, if enacted, would be cited as the "Medicare-Medicaid Anti-Fraud and Abuse Amendments," to determine whether it contains provisions serving the same purposes as section 17 of H.R. 92, 95th Congress, which, if enacted, would be cited as the "Nursing Home Reform Act of 1977."

Section 17 of H.R. 92 would amend section 1909 of the Social Security Act, 42 U.S.C. § 1396h (Supp. V, 1975), to specifically authorize criminal prosecution for (1) charging, soliciting, accepting or receiving any money, gift, or consideration over and above the rates established by the State for Medicaid or (2) charging, soliciting, accepting or receiving any gift, money, donation or consideration as a precondition of admitting a Medicaid patient to a long-term care facility. H.R. 3 does not specifically address these matters, although section 4 thereof does strengthen the penalties for defrauding the Medicare and Medicaid programs and does enlarge the kinds of activities constituting crimes in relation to such programs. Although arguably certain portions of subsection 4(b) might be construed as covering the prohibited acts set forth in section 17 of H.R. 92, it is not clear that they do so. Inasmuch as criminal statutes are strictly construed by the courts, we believe that clarification is desirable if Congress wishes to make the described behavior a criminal offense.

We had recommended in a May 26, 1977, letter to the Chairman of the Senate Special Committee on Aging (HRD–77–90, B–164031 (3)), that the Social Security Act be amended to provide a clearer statutory basis for criminal prosecution where contributions are solicited by nursing homes as a precondition for admittance of a Medicaid patient or as a requirement for the patient's continued stay. We also suggested that in one respect H.R. 92 may be too restrictive, because it would not allow the acceptance of good faith donations, such as Christmas gifts and voluntary contributions. We believe a modified version of section 17 of H.R. 92 could be added to section 1909 of the Social Security Act, as it would be amended by section 4 of H.R. 3. It would clearly establish as felonious acts, or under existing law, as misdemeanors, those instances where anyone "knowingly and wilfully charges any money or other consideration over and above the rates established by the State or charges, solicits, accepts, or receives any gift, money, donation, or other consideration as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility or as a requirement for continued stay therein."

The foregoing language was recommended as an amendment to section 1909 of the Social Security Act, affecting Medicaid only, because the review providing the basis for our May 26, 1977, letter to the Chairman of the Senate Special Committee on Aging was limited to long-term care facilities participating in the Medicaid program. We note, however, that subsection 4(a) of H.R. 3 amends section 1877 of the Social Security Act (Medicare), 42 U.S.C. § 1395nn (Supp. V, 1975), while section 4(b) would amend section 1909 (Medicaid), using very similar language for each. Accordingly, if our above recommended language is included in any proposed amendment to subsection 4(b) of H.R. 3, we suggest that your Committee also consider the need for including comparable amendatory language to subsection 4(a) covering Medicare. We caution that we have not reviewed these issues with reference to the Medicare program.

We hope this information is useful to your Committee.

Sincerely yours,
ROBERT F. KELLER,
Deputy Comptroller General
of the United States.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I am happy to yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I merely want to commend the distinguished gentleman from Florida (Mr. PEPPER) upon his continuing vigilance of the proper operation of the medicare-medicaid program.

Mr. Chairman, I know of no objection within the Committee on Ways and Means to the adoption of this amendment and I urge its adoption.

Mr. PEPPER. Mr. Chairman, I thank the gentleman.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the distinguished gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I, too, want to commend the gentleman from Florida (Mr. PEPPER) for the leadership he has rendered in looking after those who are receiving the benefits of medicare-medicaid, and to state that I have no objection to the amendment offered by my colleague from Florida.

The current law requires that a provider who receives medicaid reimbursement for services must agree to accept that payment as payment in full, except for the nominal copayments allowed in medicaid. Additionally, soliciting money to admit or keep a patient is soliciting a bribe. So essentially the current law prohibits these arrangements. His amendment clarifies that prohibition so that there can be no question about the illegality of the actions.

Again, Mr. Chairman, I commend the gentleman from Florida (Mr. PEPPER) and urge support of the gentleman's amendment.

Mr. PEPPER. Mr. Chairman, I thank the gentleman from Florida.

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the distinguished gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Chairman, I too wish to commend the gentleman from Florida (Mr. PEPPER) for offering his excellent amendment. I believe we certainly should have brought this matter up in the committee. It is a good amendment and I support it wholeheartedly.

Mr. PEPPER. Mr. Chairman, I thank the distinguished gentleman from Tennessee (Mr. DUNCAN) very much for his comments.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to my distinguished friend, the able gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman from Florida, (Mr. PEPPER) for yielding to me. I wish to commend the gentleman for offering this particular amendment. I would add that, of course, medicaid beneficiaries by virtue of being covered under the medicaid program have no money or at least very little money because they are already at the poverty level. I believe the institution should accept the normal payments which are made to them, and certainly not charge these individuals or their families any more.

I agree with the amendment and I support the amendment.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the able gentleman from Maine.

Mr. COHEN. I thank the gentleman for yielding.

Mr. Chairman, I wish to commend the gentleman from Florida (Mr. PEPPER) for his continued efforts to improve the medicare and medicaid programs to meet the needs of older Americans. I have had the distinct pleasure of working with my colleague on the Select Committee on Aging, and, I am pleased that the chairman has set the example of excellence in making the oversight functions of the Select Committee on Aging viable components of the legislative process. I would like to ask three clarifying questions concerning the gentleman's amendment. Under the amendment, does the chairman restrict the right of family members to offer freewill contributions to a facility or to purchase additional services not covered under the medicaid State plan?

Mr. PEPPER. It is certainly not my intent to restrict truly freewill contributions or to limit the right of families to purchase additional services not covered under the medicaid State plan. The amendment text should be read in its entirety as a prohibition against forced contributions as a condition of entry or of continued stay.

Mr. COHEN. Could the chairman please specify whether the amendment is intended to interfere with the use of community raised purely voluntary contributions, including contributions from the United Way, religious and/or philanthropic sources, to underwrite supplemental services to medicaid patients?

Mr. PEPPER. Please allow me to allay any concerns that this amendment would interfere with bona fide voluntary donations by community, religious, and/or philanthropic organizations.

Mr. COHEN. Of particular concern to me is whether this amendment infringes upon the practices of life care or continuing care agreements. As the distinguished chairman knows, I have introduced legislation to establish minimum requirements for such contractual arrangements. It is my understanding that nothing in this amendment should be construed as prohibiting such practices.

Mr. PEPPER. The gentleman from Maine is correct in his assumption. I too have introduced legislation to establish Federal minimum standards for such contractual arrangements. However, it is not the intent of this amendment to affect life care agreements.

Mr. COHEN. I rise in support of the amendment offered by the chairman of the House Select Committee on Aging and urge my colleagues to accept this important amendment to restrict coercive solicitations. At the same time, I urge my friend and colleague from Florida to use our Subcommittee on Health and Long-Term Care of the Select Committee on Aging as a forum for considering how this amendment is being implemented if it is passed by the House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. PEPPER) to the amendment jointly recommended by the committees.

The amendment to the committees' amendment was agreed to.

The CHAIRMAN. The question is on the committees' amendment, as amended.

The committees' amendment, as amended, was agreed to.

COMMITTEE AMENDMENT OFFERED BY COMMITTEE ON WAYS AND MEANS

The CHAIRMAN. The clerk will report the second amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment offered by the Committee on Ways and Means: Page 66, strike out line 22 down through and including line 5 on page 70 and insert in lieu thereof:

(1) (1) Part A of title XI of such Act (as amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

"DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE MEDICAL RECORDS

"SEC. 1125. (a) (1) Notwithstanding any other provision of this Act except paragraph (2) of this subsection, no officer, employee, or agent of the United States, or any office, agency, or department thereof, or any Professional Standards Review Organization or any person acting or purporting to act on behalf of such Organization, may inspect, acquire, or require the disclosure of, for any reason whatever, any individually identifiable medical record of a patient, unless the patient has authorized such inspection, acquisition, or disclosure in accordance with subsection (b).

"(2) The prohibition of paragraph (1) shall not apply to the inspection, acquisition, or disclosure of an individually identifiable medical record relating to medical care which is or was paid for (in whole or in part) under title V, XVIII, or XIX of this Act, if such inspection, acquisition, or disclosure (A) is by a Professional Standards Review Organization, or any person acting or purporting to act on behalf of such Organization, for the purpose of performing utilization review under part B of this title with respect to such medical care, or (B) is for the purpose of auditing for, investigating, or prosecuting fraud and abuse in the provision of, or payment for, such medical care.

"(b) A patient authorizes an inspection, acquisition, or disclosure of an individually identifiable medical record for purposes of subsection (a) only if, in a signed and dated statement, he—

"(1) authorizes the inspection, acquisition, or disclosure for a specific period of time;

"(2) identifies the medical records authorized to be inspected, acquired, or disclosed;

"(3) specifies the purposes for which the record may be inspected, acquired, or disclosed; and

"(4) specifies the agencies which may inspect or acquire the record or to which the record may be disclosed.

"(c) Any person who violates subsection (a), upon conviction, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"(d) In addition to any other remedy contained in this Act or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this section.

"(e) The provisions of subsection (a) supersede any other law or regulation of the United States which grants, or appears to grant, power or authority to any person to violate subsection (a), except those statutes which are enacted after the date of enactment of this section and which specifically refer to this section.

"(f) For the purposes of this section, the term 'individually identifiable medical record' means data or information that relates to the medical, dental, or mental condition or treatment of an individual and that is in a form which either identifies the individual or permits identification of the individual

through means (whether direct or indirect) available to the public;

(2) After taking into consideration the recommendations contained in the final report of the Privacy Protection Study Commission (established under section 5 of the Privacy Act of 1974), the Secretary of Health, Education, and Welfare shall prepare and submit, not later than three months after the date such Commission submits its final report, to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and to the Committee on Human Resources and the Committee on Finance of the Senate a report containing specific recommendations (including draft legislation) for the timely development and implementation of appropriate procedures (including use of detailed written consent forms) in order to (A) maintain the confidentiality of individually identifiable medical records (whether they relate to medical care provided directly by, or through the financial assistance of, the Federal Government or not), and (B) prevent the unwarranted inspection by, and disclosure to, Federal officers, employees, and agents and Professional Standards Review Organizations of such records.

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment recommended by the Committee on Ways and Means be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

POINT OF ORDER

Mr. PREYER. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. PREYER. Mr. Chairman, this amendment in its scope would apply far beyond the purpose of the bill and the jurisdiction of the committee. The jurisdiction of the committee and the purpose of the bill is to deal with the Department of Health, Education, and Welfare and increase the Department's ability to investigate and prosecute medicare and medicaid fraud and abuse.

However, the amendment covers not only the Department of Health, Education, and Welfare but all the officers, employees, and agents of the United States. The committee report specifically states, "Under the bill PSRO's and employees or agents of the Federal Government may not inspect, acquire or require the disclosure of individually identifiable medical records." The Ways and Means Committee does not have jurisdiction, for example, over the employees of the Department of Defense, the Veterans' Administration, or the Federal courts.

In addition this amendment clearly conflicts with the Deschler precedent in chapter 28, section 8.1, which states that—

To a bill limited in its application to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane.

Finally, Mr. Chairman, I note the amendment attempts to supersede all other laws and regulations of the United States in conflict with this amendment. This violates the principle of the Deschler precedent in chapter 28, section 29.4, which states that—

To a bill referring to certain provisions of existing law, an amendment repealing a portion of that law was held not germane.

In summary, Mr. Chairman, this amendment should be considered not germane.

The CHAIRMAN. Does the gentleman from Illinois wish to be heard on the point of order?

Mr. ROSTENKOWSKI. Mr. Chairman, this is an amendment which was strongly advocated within the Committee on Ways and Means by its proponents. I yield now to one of those sponsors, the gentleman from Illinois (Mr. CRANE), who I understand wants to be heard in opposition to the point of order.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the point of order. The Ways and Means amendment, set forth as section 5(1) of H.R. 3 as reported by that committee, is clearly germane to the original bill and the bill in its current form.

In the first place, Mr. Chairman, H.R. 3 ostensibly has as its purpose the prevention of fraud and abuse in the medicare and medicaid programs. To achieve that objective, a very complex set of provisions were put into the original bill, including provisions in section 5 that greatly strengthen the investigatory and enforcement roles of professional standards review organizations (PSRO's).

These organizations do not simply acquire and inspect records only of medicare and medicaid patients, or of doctors and other health professionals who treat only those patients. Quite the contrary is true. PSRO's are required to compile statistically valid "profiles" of patients and providers, in order to identify, among other things, patterns of suspected unnecessary services and treatment that does not conform to "appropriate" medical standards. In so doing, they not only may—they must—inspect, acquire, and require the disclosure of the records of private patients and their doctors.

Section 5(h)(4) of the bill under consideration in this committee today was in the bill as originally introduced in substantially the exact form. It was intended to allow PSRO's to assist any other agencies of the Federal Government and State governments to identify and investigate cases and patterns of fraud and abuse, with respect to all patients, not just patients in the medicare and medicaid programs. The original bill was not limited to any particular Federal program, and disclosure could be made to agencies throughout the Federal Government.

If only the medicare and medicaid programs were contemplated, disclosure only to the Secretary of HEW would have been necessary under H.R. 3. But that was not the case.

In other words, the original bill required the PSRD's to provide their acquired data to any agencies that the Secretary may recognize—now or in the future—for such purposes, and other purposes. No limiting standards, or conditions, are imposed on the Secretary, and recent testimony before our committees indicated that an incredibly broad range of agencies claim to have a "need" for such data.

Therefore, the fundamental purpose of the so-called Crane-Stark amendment was to contain the potentially unlimited circulation of patient records, that contain intimate details of their lives, and their doctors' judgments and advice; unless the patient gave his consent. How could such a safeguard provision possibly not be germane to the fundamental purpose of H.R. 3?

Mr. Chairman, I am well aware of the precedents of this body—and I am certain that my colleagues on the Ways and Means Committee are as well—that would not allow section 5(l) of H.R. 3 to be broader in scope than the original bill. The fact is, however, that section 5(h) of the bill now before us clearly extends the specter of unauthorized violations of patients' rights to confidentiality to all patients, by all Federal agencies and departments. There is no way for Congress to know, in advance, precisely who will seek to inspect, acquire or require the disclosure of the data and records gathered by a PSRO and mandated to be shared with others by the original language of H.R. 3. Furthermore, a private patient's medical record can be transformed into a medicare or medicaid patient's record simply by a change in the status of the patient—his becoming eligible, for example, through disability, age, or poverty. The medicare and medicaid programs have much to fear if the kinds of safeguards provided for in the Crane-Stark amendment are not extended to all records of patients and all Federal officials.

The Crane-Stark amendment most certainly relates to the fundamental purpose of H.R. 3, and applies only to those individuals, agencies and departments that are within the scope of the original bill. To decide otherwise would, I respectfully submit, significantly and adversely affect the very patients who are the intended beneficiaries of this important legislation. It would create potential barriers between patient and doctor by inhibiting free communication, since there would be no guarantees that their jobs would be secure or their friends and families would be free from interrogation and investigation by the Federal Government.

Clearly, Mr. Chairman, these were the kinds of considerations the Ways and Means Committee weighed when it adopted the Crane-Stark amendment as a committee amendment to H.R. 3. I therefore respectfully request that the gentleman's point of order not be sustained.

The CHAIRMAN. Does the gentleman from Illinois (Mr. ROSTENKOWSKI) care to be heard on the point of order?

Mr. ROSTENKOWSKI. No, Mr. Chairman.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from North Carolina makes the point of order against the amendment recommended by the Committee on Ways and Means printed on page 66, line 22, through page 70, line 5, on the grounds that it is not germane to the bill H.R. 3.

The bill amends several titles of the Social Security Act to correct fraudulent activities under the medicare and medicaid programs by strengthening penalty sanctions, increasing disclosure of information requirements, improving the professional standards review program, and by proposing certain administrative reforms.

The amendment recommended by the Committee on Ways and Means, while addressing the role of professional standards review organizations in permitting disclosure of confidential medical records of patients under medicare and medicaid programs, goes beyond that issue and encompasses a prohibition against any officer or employee of the Federal Government from disclosing any identifiable medical record absent specific authorization from the patient. As drafted, the amendment would supersede any other provision of law which would otherwise permit Federal officials to disclose medical records, and would appear to affect health programs which are not medicare or medicaid related which do not involve PSRO participation and which are not established under the Social Security Act.

For this reason, the Chair holds that the amendment recommended by the Committee on Ways and Means is not germane to H.R. 3 and sustains the point of order.

The Clerk will report the amendment recommended by the Committee on Interstate and Foreign Commerce now printed on page 70, line 6, through page 72, line 16, of the reported bill.

The Clerk read as follows:

Amendment offered by the Committee on Interstate and Foreign Commerce: Page 66, line 22, strike out all down to and including Page 70, line 5, and insert:

(l)(1) Section 1166 of such Act (as amended by subsection (h)) is further amended by adding after subsection (d) the following new subsection:

"(e)(1) No officer, employee, or agent of a Professional Standards Review Organization may disclose to any officer, emplyoee, or agent of the Federal Government, and no officer, employee, or agent of the Federal Government may inspect (or have access to), any part of an individually identifiable medical record (as defined in paragraph (3)) of a patient which—

"(A) is in the possession of a Professional Standards Review Organization, and

"(B) relates to medical care which is not provided directly by the Federal Government or is not paid for (in whole or in part) under a Federal program or under a program receiving Federal finanical assistance,

unless the patient has authorized such disclosure and inspection in accordance with paragraph (2).

"(2) A patient authorizes disclosure and inspection of a medical record for purposes of paragraph (1) only if, in a signed and dated statement, he—

"(A) authorizes the disclosure and inspection for a specified period of time;

"(B) identifies the medical record authorized to be disclosed and inspected;

"(C) specifies the purposes for which the record may be disclosed and inspected; and

"(D) specifies the agencies which may inspect the record and to which the record may be disclosed.

"(3) For purposes of this subsection:

"(A) The term 'individually identifiable medical record' means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

"(B) The term 'medical care' includes medical, psychiatric, and dental care and treatment.".

(2) After taking into consideration the recommendations contained in the final report of the Privacy Protection Study Commission (established under section 5 of the Privacy Act of 1974), the Secretary of Health, Education, and Welfare shall prepare and submit, not later than three months after the date such Commission submits its final report, to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and to the Committee on Human Resources and the Committee on Finance of the Senate a report containing specific recommendations (including draft legislation) for the timely development and implementation of appropriate procedures (including use of detailed written consent forms) in order to (A) maintain the confidentiality of individually identifiable medical records (whether they relate to medical care provided directly by, or through the financial assistance of, the Federal Government or not), and (B) prevent the unwarranted inspection by, and disclosure to, Federal officers, employees, and agents and Professional Standards Review Organizations of such records.

Mr. ROGERS. Mr. Chairman, since the Ways and Means Committee amendment has been disposed of on a point of order, I have discussed this with Dr. CARTER, and I ask unanimous consent that the substitute amendment by the Committee on Commerce be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. STARK. Mr. Chairman, I reserve the right to object.

Mr. Chairman, the recent history of the privacy provisions of this bill are rather unique, and I am disappointed that there will be no statutory protections contained in the final version of H.R. 3. During the Ways and Means consideration of this bill, I joined with my colleague, Mr. CRANE, in offering an amendment that would restrict access to individually identifiable medical records. The amendment passed in the committee by a vote of 7 to 14, and I felt that we had taken a giant step toward restoring that essential confidentiality of the patient-doctor relationship, which everyones assumes, but which is not the case in practice.

In a subsequent hearing before the health subcommittee, chaired by my friend, the gentleman from Florida (Mr. ROGERS) we learned that our amendment as drafted might pose severe problems for biomedical research disease control, and the study of the relationship of environmental factors to the general health of the population. In short, it was claimed that we had gone too far.

It is hard for me to accept the fact that we can go too far in the area of personal privacy protection, but I am happy to accept the assurances of the committee chairman with jurisdiction over health care programs, and the Department of HEW, that they would move expeditiously to conduct hearings, and enact legislation to impose some basic guidelines for confidentiality.

I have received such commitments from Mr. ROGERS, Mr. Califano, and Mr. ROSTENKOWSKI. I include the text of the letters that I received from HEW, and from Mr. ROGERS. The Privacy Protection Study Commission has published the conclusions and recommendations that were the result of their 2-year assignment. The three main conclusions that the Commissions reached concerning privacy in research, which is the major focus of the issues at hand, point to the need to take action very soon:

First. Research and statistical activities are becoming more dependent on information collected for administrative purposes, a dependence that attenuates the relationship between researcher and subject and weakens the individual's ability to control the way that information about him is collected and used.

Second. While an expectation of confidentiality is, and has been, an integral part of research activities, their growing number raises serious questions about the validity of that expectation.

Third. The use of individually identifiable research records for administrative, regulatory, or law enforcement purposes encourages abuse of the expectation that information will be kept confidential.

In conjunction with these recommendations, Congressman KOCH introduced an omnibus medical records bill, H.R. 8283, which addressed the problems we encountered with our original amendment.

I find solace in the fact that, though we were not successful in enacting protections in this legislation, we have moved HEW, to quick action, and I commend the Secretary for his interest and direction in getting his agency to develop their recommendations in the agreed time period.

The material follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., August 31, 1977.

Hon. FORTNEY H. STARK,
House of Representatives,
Washington, D.C.

DEAR PETE: Thank you for your letter of July 12 on the need to draft legislation on the confidentiality of medical records.

As you point out, this is a vitally important matter. For this reason I have established a Departmental task force to review in detail the pertinent recommendations of the Privacy Protection Study Commission and to provide me with legislative proposals to address this complex issue.

We are committed to finding a proper balance between the need for personal privacy and the exchange of information necessary for the effective administration of Departmental programs. We will have legislative

recommendations for the Congress within the time period specified in H.R. 3.

I appreciate your concern with this important subject and I will continue to give it my personal attention.

Sincerely,

JOSEPH A. CALIFANO, Jr.

WASHINGTON, D.C., *June 20, 1977.*

Hon. FORTNEY H. STARK,
U.S. House of Representatives,
Washington, D.C.

DEAR PETE: I appreciated your joining with members of the Subcommittee on Health and the Environment to hear testimony from various members of the Administration concerning the impact of the amendment to H.R. 3, adopted by the Ways and Means Committee, banning Federal employee access to medical records without specific consent.

I share your deep concern that the privacy of an individual's medical record should be maintained. But I am also concerned that we do not place untenable barriers to the legitimate activities of the Government—to protect the health and safety, to trace epidemics, to research the causes of cancer, to uncover occupational health hazards, to name just a few.

I am convinced that the proper legislative course is to await the Privacy Commission's report on all aspects of this issue, to allow the Administration time to formulate legislation to carry out the Commission's recommendations, and then to hold full legislative hearings before we enact law. It is my intention to invite Chairman Rostenkowski and the Ways and Committee on Health to join members of the Commerce Subcommittee in hearings on this subject before the current legislative year is out. I am committed to proceeding with these hearings within 100 days of the issuance of the Privacy Commission report.

In view of your own interest in protection of privacy of medical records, I look forward to your advice and participation in those deliberations.

Sincerely yours,

PAUL G. ROGERS,
Chairman, Subcommittee on Health and the Environment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. SATTERFIELD. Mr. Chairman, reserving the right to object, I would like to ask the chairman a question.

The CHAIRMAN. Does the gentleman from California wish to be heard?

Mr. STARK. Mr. Chairman, I would be glad to yield to the gentleman from Virginia.

Mr. SATTERFIELD. Mr. Chairman, I thank the gentleman for yielding.

I would like to direct a question to the chairman of the subcommittee on Health and the Environment, in light of the ruling that has just been made on a point of order.

Would it be the intention of the chairman of the subcommittee to exert every effort to seek referral to his subcommittee of that portion of legislation dealing with medical records which might result from the Privacy Commission report?

Mr. ROGERS. Yes; anything that refers to medical records, I would certainly do that.

Mr. STARK. Mr. Chairman, I want to say that while I am disappointed that we were unable to deal with the privacy matters in this legislation today, we have received letters and commitments from the Secretary of HEW, from Chairman ROGERS, Chairman ROSTENKOWSKI, and Chairman PREYER that we will proceed expeditiously. The Privacy Commission has now reported out guidelines. It is my understanding that these guidelines are basically acceptable to HEW.

This is an area where the American public is increasingly concerned. I am very pleased that we could have agreed here that we will begin hearings and move toward seeing that the excellent work of the Privacy Commission and the various chairmen, who have been concerned about privacy, be enacted into legislation. I feel that this legislation will permit medical research and will also give the American public some feeling that they can come forward and freely give their medical histories, knowing that their privacy will be protected in the best interests of both research and their individual rights.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. STARK. I will be glad to yield to the gentleman from Florida.

Mr. ROGERS. I know of the great interest of the gentleman in this subject, and appreciate his interest. The committee, as he said, will try to address this problem expeditiously. We do expect—and I think it is the intent of the Congress—that HEW should submit its report on time, which should be about October 15, on the Privacy Commission recommendations. We would take that as a basis to move into this whole subject matter.

Mr. STARK. I thank the gentleman.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from North Carolina.

Mr. PREYER. I want to assure the gentleman in the well that the Government Information and Individual Rights Subcommittee is going to proceed with hearings and study of the Privacy Commission report immediately. To receive that report, we had a joint meeting of the Senate committee and the House committee to emphasize the importance we attach to it. As the gentleman is aware, Mr. KOCH and Mr. GOLDWATER of the House were members of that committee, and introduced legislation on that score. We intend to follow up on that with all deliberate speed.

Mr. STARK. I thank the distinguished gentleman.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Illinois.

Mr. CRANE. I thank my colleague for yielding to me. I too share his sentiments and the feeling of appreciation that the gentleman from North Carolina, the gentleman from Florida, and my good friend and colleague from Illinois will jointly look into this vital question. I think we have generally recognized the importance of preserving the lawyer-client relationship, the priest-penitent relationship, and to do any abuse to the doctor-patient relationship may put in jeopardy some very fundamental freedoms.

Mr. STARK. I thank the gentleman from Illinois for his cooperation, effort and work in the whole area of privacy.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I certainly agree with everything that has been said here. I will work as closely as possible with the gentleman from Tennessee, my good friend, JOHN DUNCAN, and my colleague from Illinois (Mr. CRANE), and at the earliest possible scheduling date we will try to have hearings and write some law in this area.

Mr. STARK. I want to thank the gentleman from Illinois, the distinguished chairman of the Health Subcommittee of the Committee on Ways and Means. I know that if he is as tenacious in protecting privacy as he is during procedural matters, we will have a good bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida that the Interstate and Foreign Commerce Committee amendment be withdrawn?

There was no objection.

The CHAIRMAN. The Clerk will report the third amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Committee amendment recommended by the Committee on Ways and Means: Page 72, strike the matter beginning on line 17 down through and including line 24, page 80, and insert:

(m) (1) Title X–I of such Act (as amended by subsections (d) (2) (D) and (k) of this section) is further amended by adding after section 1172 the following new section:

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS PROGRAM

"SEC. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

(2) The second sentence of section 1101 (a) (1) of such Act is amended by inserting "and in part B of this title" after "title V".

(n) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under".

(o) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization";

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b) (1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b) (1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsection (b) (1) after "Review Organizations"; and

(6) by inserting " AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDING REVIEW ORGANIZATIONS".

(p)(1) Section 1152(b)(1)(A) of such Act is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (c)(1)".

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding suoparagraph (A).

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B).

ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

SEC. 6. Part A of title XI of the Social Security Act is amended by inserting after section 1125 (added by section 5(1)(1) of this Act) the following new section:

"ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

"SEC. 1126. (a) For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under section 226, titles V, XVIII, or XIX or part B of this title of this Act, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named therein, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

"(b) In case of contumacy by, or refusal to obey a subpena issued pursuant to subsection (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found, or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General may be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(c)(1) Except as provided in paragraph (2), any employee or officer of the General Accounting Office who discloses a personal medical record (defined in paragraph (3)) to any person, other than an employee or officer of such Office whose official duties require disclosure of such information, shall be fined not more than $1,000 or imprisoned for not more than six months, or both, and charged the costs of prosecution.

"(2) An employee or officer of the General Accounting Office who discloses a personal medical record to a Federal or State agency recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse shall not be subject to the penalties of paragraph (1) if the Comptroller General has determined before the disclosure of such record that the record reveals evidence of fraud or abuse.

"(3) For the purposes of this section, the term 'personal medical record' means data or information—

"(A) relating to the medical or mental condition or treatment of any individual;

"(B) acquired by any employee or officer of the General Accounting Office in the course of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under section 226, title V, XVIII, or XIX, or part B of this title of this Act; and

"(C) in a form which can be associated with, or otherwise identify, directly or indirectly, the individual described in subparagraph (A).

"(d) No personal medical record in the possession of the General Accounting Office shall be subject to subpena or discovery proceedings in a civil action.".

SUSPENSION OF PRACTITIONERS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 7. (a) Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after the date of the enactment of this subsection, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the program under this title or the program under title XIX, the Secretary shall suspend such physician or practitioner from participation in the program under this title for such period as he may deem appropriate; and no payment may be made under this title with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) shall apply with respect to determinations made by the Secretary under this subsection.

"(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this title, he shall—

"(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX of the fact, circumstances, and period of such suspension; and

"(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1902(a) of such Act (as amended by sections 2(b) and 3(c) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and "; and

(3) by inserting after paragraph (38) the following new paragraph:

"(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of a State plan approved under title XIX is notified by the Secretary under section 1862(e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in its plan under this title for not less than the period specified in such notice, and no payment may be made under its plan with respect to any items or service furnished by such physician or practitioner during the period of the suspension under this title.".

(c) Section 1902 of such Act is amended by adding after subsection (f) the following new subsection:

"(g) The Secretary may waive suspension under subsection (a)(39) of a physician's or practitioner's participation in a State plan approved under this title and of the prohibition under such subsection of payment for items or services furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of a State plan approved under title XIX such plan submits a request to the Secretary for such waiver and if the Secretary approves such request.".

(d) Section 332(c) of the Public Health Service Act (relating to considerations in the designation of health manpower shortage areas) (as added by section 407 of the Health Professions Educational Assistance Act of 1976) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.".

(e)(1) The amendments made by this section shall apply with respect to determinations and designations made on and after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall become effective on October 1, 1977.

DISCLOSURE OF PROVIDERS OF OWNERS AND CERTAIN OTHER INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

SEC. 8. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1126 (added by section 6 of this Act) the following new section:

"DISCLOSURE BY INSTITUTIONS, ORGANIZATIONS, AND AGENCIES OF OWNERS AND CERTAIN OTHER INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES

"SEC. 1127. (a) As a condition of participation in or certification or recertification under the programs established by titles XVIII, XIX, and XX, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

"(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b)) of such institution, organization, or agency, and

"(2) has been convicted (on or after the date of the enactment of this section, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

"(b) For the purposes of this section, the term 'managing employee' means, with respect to an institution, organization, or

agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.".

(b)(1) Section 1866(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1127(b)) of such provider, is a person described in section 1127(a).".

(2) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1127(a)".

(c) Section 1903 of such Act is amended by adding after subsection (m) the following new subsection:

"(n) The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1127(b)) of such institution, organization, or agency, is a person described in section 1127(a) (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1866 or is subject to a suspension of payment order issued under subsection (j) of this section); and notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1127(a) at the time such contract or agreement was entered into or such approval was given.".

(d) Section 2002(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(15) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this title, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1127(b)) of such provider, is a person described in section 1127(a), and may terminate any such contract, arrangement, or approval if it determines that the provider did not fully and accurately make any disclosure required of it by section 1127(a) at the time the contract or arrangement was entered into or the approval was given.".

(e) The amendments made by this section shall apply with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act.

FEDERAL ACCESS TO RECORDS

SEC. 9. Section 1902(a)(27)(B) of the Social Security Act is amended by inserting "or the Secretary" after "State agency" each place it appears.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 10. (a) Section 1903(a)(3)(B) of the Social Security Act is amended by striking out "notice to each individual who is furnished services covered by the plan of the specific services so covered" and inserting in lieu thereof "notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered".

(b) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after the date of the enactment of this Act.

RESTRICTION OF FEDERAL MEDICAID PAYMENTS

SEC. 11. (a) Section 1903 of the Social Security Act is amended by adding after subsection (n) (added by section 8(c) of this Act) the following new subsection:

"(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.".

(b) The amendment made by subsection (a) shall apply with respect to medical assistance provided under a State plan approved under title XIX of the Social Security Act, on and after January 1, 1978.

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the third amendment recommended by the Committee on Ways and Means be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, the third Ways and Means Committee amendment embodies the provisions contained in section 5(m) through section 19 of the bill as reported by the Ways and Means Committee. The Interstate and Commerce Committee will, I understand, have a substitute amendment relating to these provisions. The substitute amendment differs in one technical respect from our version of the bill.

Had not our committee already reported H.R. 3 when the Interstate and Commerce Committee added this technical improvement in section 17, we would have added it to our version as well.

The CHAIRMAN. The Clerk will report the third amendment recommended by the Committee on Interstate and Foreign Commerce as a substitute for the amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment recommended by the Committee on Interstate and Foreign Commerce as a substitute for the amendment recommended by the Committee on Ways and Means: Page 80, line 25, insert:

(m)(1) Title XI of such Act (as amended by subsections (d)(2)(D) and (k) of this section) is further amended by adding after section 1172 the following new section:

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS PROGRAM

"SEC. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

(2) The second sentence of section 1101(a)(1) of such Act is amended by inserting "and in part B of this title" after "title V".

(n) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under".

(o) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization";

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b)(1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b)(1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsection (b)(1) after "Review Organizations" and

(6) by inserting "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDING REVIEW ORGANIZATIONS".

(p)(1) Section 1152 (b)(1)(A) of such Act is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (c)(1)".

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding subparagraph (A).

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B).

ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

SEC. 6. Part A of title XI of the Social Security Act as amended by inserting after section 1124 (added by section 3(a) of this Act) the following new section:

"ISSUANCE OF SUBPENAS BY COMPTROLLER GENERAL

"SEC. 1125. (a) For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under section 226, titles V, XVIII, or XIX or part B of this title of this Act, the Comptroller General of the United States shall have power to sign and issue subpenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named therein, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

"(b) In case of contumacy by, or refusal to obey a subpena issued pursuant to sub-

section (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found, or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General may be represented by attorneys employed in the General Accounting Office or by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(c)(1) Except as provided in paragraph (2), any employee or officer of the General Accounting Office who discloses a personal medical record (defined in paragraph (3)) to any person, other than an employee or officer of such Office whose official duties require disclosure of such information, shall be fined not more than $1,000 or imprisoned for not more than six months, or both, and charged the costs of prosecution.

"(2) An employee or officer of the General Accounting Office who discloses a personal medical record to a Federal or State agency recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse shall not be subject to the penalties of paragraph (1) if the Comptroller General has determined before the disclosure of such record that the record reveals evidence of fraud or abuse.

"(3) For the purposes of this section, the term 'personal medical record' means data or information—

"(A) relating to the medical or mental condition or treatment of any individual;

"(B) acquired by any employee or officer of the General Accounting Office in the course of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under section 226, title V, XVIII, or XIX, or part B of this title of this Act; and

"(C) in a form which can be associated with, or otherwise identify, directly or indirectly, the individual described in subparagraph (A).

"(d) No personal medical record in the possession of the General Accounting Office shall be subject to subpena or discovery proceedings in a civil action.".

SUSPENSION OF PRACTITIONERS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 7. (a) Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Whenever the Secretary determines that a physician or other individual practitioner has been convicted (on or after the date of the enactment of this subsection, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such physician's or practitioner's involvement in the program under this title or the program under title XIX, the Secretary shall suspend such physician or practitioner from participation in the program under this title for such period as he may deem appropriate; and no payment may be made under this title with respect to any item or service furnished by such physician or practitioner during the period of such suspension. The provisions of paragraphs (2) and (3) of subsection (d) shall apply with respect to determinations made by the Secretary under this subsection.

"(2) In any case where the Secretary under paragraph (1) suspends any physician or other individual practitioner from participation in the program under this title, he shall—

"(A) promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX of the fact, circumstances, and period of such suspension; and

"(B) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such physician or practitioner of the fact and circumstances of such suspension, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health, Education, and Welfare fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1902(a) of such Act (as amended by sections 2(b) and 3(c) of this Act) is amended—

(1) by striking out "and" at the end of paragraph (37);

(2) by striking out the period at the end of paragraph (38) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (38) the following new paragraph:

"(39) provide that, subject to subsection (g), whenever the single State agency which administers or supervises the administration of a State plan approved under title XIX is notified by the Secretary under section 1862(e)(2)(A) that a physician or other individual practitioner has been suspended from participation in the program under title XVIII, the agency shall promptly suspend such physician or practitioner from participation in its plan under this title for not less than the period specified in such notice, and no payment may be made under its plan with respect to any items or service furnished by such physician or practitioner during the period of the suspension under this title.".

(c) Section 1902 of such Act is amended by adding after subsection (f) the following new subsection:

"(g) The Secretary may waive suspension under subsection (a)(39) of a physician's or practitioner's participation in a State plan approved under this title and of the prohibition under such subsection of payment for items or services furnished by him during the period of such suspension, if the single State agency which administers or supervises the administration of a State plan approved under title XIX such plan submits a request to the Secretary for such waiver and if the Secretary approves such request.".

(d) Section 332(c) of the Public Health Service Act (relating to considerations in the designation of health manpower shortage areas) (as added by section 407 of the Health Professions Educational Assistance Act of 1976) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII or XIX of the Social Security Act, cannot obtain such services because of suspension of physicians from the programs under such titles.".

(e)(1) The amendments made by this section shall apply with respect to determinations and designations made on and after the date of enactment of this Act.

(2) The amendment made by subsection (b) shall become effective on October 1, 1977.

DISCLOSURE OF PROVIDERS OF OWNERS AND CERTAIN OTHER INDIVIDUALS CONVICTED OF CERTAIN OFFENSES

SEC. 8. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1125 (added by section 6 of this Act) the following new section:

"DISCLOSURE BY INSTITUTIONS, ORGANIZATIONS, AND AGENCIES OF OWNERS AND CERTAIN OTHER INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN OFFENSES

"SEC. 1126. (a) As a condition of participation in or certification or recertification under the programs established by titles XVIII, XIX, and XX, any hospital, nursing facility, or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

"(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b)) of such institution, organization, or agency, and

"(2) has been convicted (on or after the date of the enactment of this section, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.

The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health, Education, and Welfare of the receipt from any institution, organization, or agency of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

"(b) For the purposes of this section, the term 'managing employee' means, with respect to an institution, organization, or agency, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the institution, organization, or agency, or who directly or indirectly conducts the day-to-day operations of the institution, organization, or agency.".

(b)(1) Section 1866(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a).".

(2) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or (G) that such provider (at the time the agreement was entered into) did not fully and accurately make any disclosure required of it by section 1126(a)".

(c) Section 1903 of such Act is amended by adding after subsection (m) the following new subsection:

"(n) The State agency may refuse to enter into any contract or agreement with a hospital, nursing home, or other institution, organization, or agency for purposes of participation under the State plan, or otherwise to approve an institution, organization, or agency for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such institution, organization, or agency, is

a person described in section 1126(a) (whether or not such institution, organization, or agency has in effect an agreement entered into with the Secretary pursuant to section 1866 or is subject to a suspension of payment order issued under subsection (j) of this section); and notwithstanding any other provision of this section, the State agency may terminate any such contract, agreement, or approval if it determines that the institution, organization, or agency did not fully and accurately make any disclosure required of it by section 1126(a) at the time such contract or agreement was entered into or such approval was given.".

(d) Section 2002(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(15) Any State may refuse to enter into a contract or other arrangement with a provider of services for purposes of participation under the program established by this title, or otherwise to approve a provider for such purposes, if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such provider, is a person described in section 1126(a), and may terminate any such contract, arrangement, or approval if it determines that the provider did not fully and accurately make any disclosure required of it by section 1126(a) at the time the contract or arrangement was entered into or the approval was given.".

(e) The amendments made by this section shall apply with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act.

FEDERAL ACCESS TO RECORDS

SEC. 9. Section 1902(a)(27)(B) of the Social Security Act is amended by inserting "or the Secretary" after "State agency" each place it appears.

CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS FOR MEDICAID PROGRAMS

SEC. 10. (a) Section 1903(a)(3)(B) of the Social Security Act is amended by striking out "notice to each individual who is furnished services covered by the plan of the specific services so covered" and inserting in lieu thereof "notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered".

(b) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after the date of the enactment of this Act.

RESTRICTION OF FEDERAL MEDICAID PAYMENTS

SEC. 11. (a) Section 1903 of the Social Security Act is amended by adding after subsection (n) (added by section 8(c) of this Act) the following new subsection:

"(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.".

(b) The amendment made by subsection (a) shall apply with respect to medical assistance provided under a State plan approved under title XIX of the Social Security Act, on and after January 1, 1978.

STUDY AND REVIEW OF MEDICARE CLAIMS PROCESSING

SEC. 12. The Comptroller General of the United States shall conduct a comprehensive study and review of the administrative structure established for the processing of claims under title XVIII of the Social Security Act, for the purpose of determining whether and to what extent more efficient claims administration under such title could be achieved—

(1) by reducing the number of participating intermediaries and carriers;

(2) by making a single organization responsible for the processing of claims, under both part A and part B of such title, in a particular geographic area;

(3) by providing for the performance of claims processing functions on the basis of a prospective fixed price;

(4) by providing incentive payments for the most efficient organizations; or

(5) by other modifications in such structure and related procedures.

The Comptroller General shall submit to the Congress no later than July 1, 1979, a complete report setting forth the results of such study and review, together with his findings and his recommendations with respect thereto.

ABOLITION OF PROGRAM REVIEW TEAMS UNDER MEDICARE

SEC. 13. (a) Section 1862(d) of the Social Security Act is amended by striking out paragraph (4).

(b)(1) Section 1862(d)(1)(B) of such Act is amended by striking out ", with the concurrence of the appropriate program review team appointed pursuant to paragraph (4),".

(2) Section 1862(d)(1)(C) of such Act is amended to read as follows:

"(C) has furnished services or supplies which are determined by the Secretary, on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title), to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care.".

(3) Clause (F) of section 1866(b)(2) of such Act is amended to read as follows: "(F) that such provider has furnished services or supplies which are determined by the Secretary to be substantially in excess of the needs of individuals or to be of a quality which fails to meet professionally recognized standards of health care".

(4) Section 1157 of such Act is amended by striking out the last sentence.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

AMENDMENTS RELATING TO FISCAL INTERMEDIARIES

SEC. 14. (a) Section 1816 of the Social Security Act is amended—

(1) by inserting "(and to providers assigned to such agency or organization under subsection (e))" in the first sentence of subsection (a) after "to such providers" the second and third times it appears;

(2) by amending subsection (b) to read as follows:

"(b) The Secretary shall not enter into or renew an agreement with any agency or organization under this section unless—

"(1) he finds—

"(A) after applying the standards, criteria, and procedures developed under subsection (f), that to do so is consistent with the effective and efficient administration of this part, and

"(B) that such agency or organization is willing and able to assist the providers to which payments are made through it under this part in the application of safeguards against unnecessary utilization of services furnished by them to individuals entitled to hospital insurance benefits under section 226, and the agreement provides for such assistance; and

"(2) such agency or organization agrees—

"(A) to furnish to the Secretary such of the information acquired by it in carrying out its agreement under this section, and

"(B) to provide the Secretary with access to all such data, information, and claims processing operations,

as the Secretary may find necessary in performing his functions under this part.";

(3) by inserting "after applying the standards, criteria, and procedures developed under subsection (f) and" in subsection (e)(2) before "after reasonable notice";

(4) by redesignating subsections (e), (f), and (g) as subsections (g), (h), and (i), respectively; and

(5) by inserting after subsection (d) the following new subsections:

"(e)(1) Notwithstanding subsections (a) and (d), the Secretary after taking into consideration any preferences of providers of services, may assign or reassign any provider of services to any agency or organization which has entered into an agreement with him under this section, if he determines, after applying the standards, criteria, and procedures developed under subsection (f), that such assignment or reassignment would result in the more effective and efficient administration of this part.

"(2) Notwithstanding subsections (a) and (d), the Secretary may designate a national or regional agency or organization which has entered into an agreement with him under this section to perform functions under the agreement with respect to a class of providers of services in the Nation or region (as the case may be), if he determines, after applying the standards, criteria, and procedures developed under subsection (f), that such designation would result in more effective and efficient administration of this part.

"(3)(A) Before the Secretary makes an assignment or reassignment under paragraph (1) of a provider or services to other than the agency or organization nominated by the provider, he shall furnish (i) the provider and such agency or organization with a full explanation of the reasons for his determination as to the efficiency and effectiveness of the agency or organization to perform the functions required under this part with respect to the provider, and (ii) such agency or organization with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(B) Before the Secretary makes a designation under paragraph (2) with respect to a class of providers of services, he shall furnish (i) such providers and the agencies and organizations adversely affected by such designation with a full explanation of the reasons for his determination as to the efficiency and effectiveness of such agencies and organizations to perform the functions required under this part with respect to such providers, and (ii) the agencies and organizations adversely affected by such designation with opportunity for a hearing, and such determination shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

"(f) In order to determine whether the Secretary should enter into, renew, or terminate an agreement under this section with an agency or organization, whether the Secretary should assign or reassign a provider of services to an agency or organization, and whether the Secretary should designate an agency or organization to perform services with respect to a class of providers of services, the Secretary shall develop standards, criteria, and procedures to evaluate such

agency's or organization's (1) overall performance of claims processing and other related functions required to be performed by such an agency or organization under an agreement entered into under this section, and (2) performance of such functions with respect to specific providers of services.".

(b) The Secretary of Health, Education, and Welfare shall develop the standards, criteria, and procedures described in subsection (f) of section 1816 of the Social Security Act (as added by subsection (a)(5) not later than October 1, 1978).

(c) The amendment made by paragraphs (2) and (3) of subsection (a) to the extent that they require application of standards, criteria, and procedures developed under section 1816(f) of the Social Security Act shall apply to the entering into, renewal, or termination of agreements on and after October 1, 1978.

(d) Except as provided in subsection (c), the amendment made by subsection (a)(2) shall apply to agreements entered into or renewed on or after the date of enactment of this Act.

DISCLOSURE BY PROVIDERS OF THE HIRING OF CERTAIN FORMER EMPLOYEES OF FISCAL INTERMEDIARIES

SEC. 15. (a) Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A and B, or both, of this title) with respect to the provider.".

(b) The amendments made by subsection (a) shall apply with respect to agreements entered into or renewed on and after the date of enactment of this Act.

PAYMENT FOR DURABLE MEDICAL EQUIPMENT

SEC. 16. (a) Section 1833(f) of the Social Security Act is amended to read as follows:

"(f)(1) In the case of durable medical equipment to be furnished an individual as described in section 1861(s)(6), the Secretary shall determine, on the basis of such medical and other evidence as he finds appropriate (including certification by the attending physician with respect to expected duration of need), whether the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly or more practical than rental. If the Secretary determines that such a presumption does exist, he shall require that the equipment be purchased, on a lease-purchase basis or otherwise, and shall make payment in accordance with the lease-purchase agreement (or in a lump sum amount if the equipment is purchased other than on a lease-purchase basis); except that the Secretary may authorize the rental of the equipment notwithstanding such determination if he determines that the purchase of the equipment would be inconsistent with the purposes of this title or would create an undue financial hardship on the individual who will use it.

"(2) With respect to purchases of used durable medical equipment, the Secretary may waive the 20 percent coinsurance amount applicable under subsection (a) whenever the purchase price of the used equipment is at least 25 percent less than the reasonable charge for comparable new equipment.

"(3) For purposes of paragraph (1), the Secretary may, pursuant to agreements made with suppliers of durable medical equipment, establish reimbursement procedures which he finds to be equitable, economical, and feasible.

"(4) The Secretary shall encourage suppliers of durable medical equipment to make their equipment available to individuals entitled to benefits under this title on a lease-purchase basis whenever possible.".

(b) The amendment made by subsection (a) shall apply with respect to durable medical equipment purchased or rented on or after October 1, 1977.

FUNDING OF STATE MEDICAID FRAUD CONTROL UNITS

SEC. 17. (a) Section 1903(a) of the Social Security Act (as amended by section 2(b)(2) of this Act) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) subject to subsection (b)(3), an amount equal to 90 per centum of the sums expended during each quarter beginning on or after October 1, 1977, and ending before October 1, 1980, with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (p)); plus".

(b) Section 1903(b) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subsection (a)(7) may not exceed the higher of—

"(A) $125,000, or

"(B) one-quarter of 1 per centum of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this title.".

(c) Section 1903 of such Act is further amended by inserting after subsection (o), (added by section 11(a) of this Act) the following new subsection:

"(p) For the purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

"(1) The entity either (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, or (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Secretary, which (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions.

"(2) The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title.

"(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the State plan under this title.

"(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments made under the State plan to health care facilities and discovered by the entity in carrying out its activities.

"(6) The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.".

(d)(1) The amendment made by subsection (a) shall apply with respect to calendar quarters beginning after September 30, 1977.

(2) The Secretary of Health, Education, and Welfare shall establish such regulations, not later than ninety days after the date of enactment of this Act, as are necessary to carry out the amendments made by this section.

REPORT ON HOME HEALTH AND OTHER IN-HOME SERVICES

SEC. 18. (a) Not later than one year after the date of enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the appropriate committees of the Congress a report analyzing, evaluating, and making recommendations with respect to, all aspects (including the availability, administration, provision, reimbursement procedures, and cost) of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act.

(b) Such report shall include an evaluation of the coordination of such services provided under different titles, and shall also include recommendations for changes in regulations and legislation with respect to—

(1) the scope and definition of such services provided under such titles;

(2) the requirements for an individual to be eligible to receive such services under such titles;

(3) the standards for certification of providers of such services under such titles and (as appropriate) the uniformity of such standards for the programs under the different titles;

(4) procedures for control of utilization and assurance of quality of such services under such titles, including (as appropriate) the licensing and accreditation of agencies providing such services, a certification of need program with respect to the offering of such services, and the development and use of norms and standards for review of the utilization and quality of such services;

(5) methods of reimbursement for such services, including (A) methods of comparing costs incurred by providers of such services in order to determine the reasonableness of such costs, and (B) methods which provide for more uniform reimbursement procedures under titles XVIII and XIX of the Social Security Act; and

(6) the prevention of fraud and abuse in the delivery of such services under such titles,

the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles.

(c) In developing the report the Secretary shall consult with professional organizations, experts, and individual health professionals in the field of home health and other in-home services and with providers, private insurers, and consumers of such services.

ESTABLISHMENT OF UNIFORM REPORTING SYSTEMS FOR DIFFERENT TYPES OF HEALTH SERVICES FACILITIES AND ORGANIZATIONS; MAKING OF REPORTS UNDER MEDICARE AND MEDICAID PROGRAMS IN ACCORDANCE WITH SUCH SYSTEMS

SEC. 19. (a) Part A of title XI of this Social Security Act is amended by inserting after section 1120 the following new section:

"UNIFORM REPORTING SYSTEMS FOR HEALTH SERVICES FACILITIES AND ORGANIZATIONS

"SEC. 1121. (a) For the purposes of reporting the cost of services provided by, of planning, and of measuring and comparing the efficiency of and effective use of services in, hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, health maintenance organizations, and other types of health services facilities and organizations to which payment may be made under this Act, the Secretary shall establish by regulation, for each such type of health services facility or organization, a uniform system for the reporting by a facility or organization of that type of the following information:

"(1) The aggregate cost of operation and the aggregate volume of services.

"(2) The costs and volume of services for various functional accounts and subaccounts.

"(3) Rates, by category of patient and class of purchaser.

"(4) Capital assets, as defined by the Secretary, including (as appropriate) capital funds, debt service, lease agreements used in lieu of capital funds, and the value of land, facilities, and equipment.

"(5) Discharge and bill data.

The uniform reporting system for a type of health services facility or organization shall provide for appropriate variation in the application of the system to different classes of facilities or organizations within that type and shall be established, to the extent practicable, consistent with the cooperative system for producing comparable and uniform health information and statistics described in section 306(e)(1) of the Public Health Service Act.

"(b) The Secretary shall—

"(1) monitor the operation of the systems established under subsection (a);

"(2) assist with and support demonstrations and evaluations of the effectiveness and cost of the operation of such systems and encourage State adoption of such systems; and

"(3) periodically revise such systems to improve their effectiveness and diminish their cost.

"(c) The Secretary shall provide information obtained through use of the uniform reporting system described in subsection (a) in a useful manner and format to appropriate agencies and organizations, including health systems agencies (designated under section 1515 of the Public Health Service Act) and State health planning and development agencies (designated under section 1521 of such Act), as may be necessary to carry out such agencies' and organizations' functions.".

(b)(1) Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (E) the following new subparagraph:

"(F) Such regulations shall require each provider of services (other than a fund) to make reports to the Secretary of information described in section 1121(a) in accordance with the uniform reporting system (established under such section) for that type of provider.".

(2) Section 1902(a) of such Act (as amended by sections 2(b), 3(c), and 7(b) of this Act) is amended—

(A) by striking out "and" at the end of paragraph (38);

(B) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (39) the following new paragraph:

"(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization.".

(c)(1) The Secretary of Health, Education, and Welfare shall establish the system described in section 1121(a) of the Social Security Act (added by subsection (a) of this section) only after consultation with interested parties and—

(A) for hospitals, skilled nursing facilities, and intermediate care facilities, not later than the end of the one-year period, and

(B) for other types of health services facilities and organizations, not later than the end of the two-year period, beginning on the date of enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply, with respect to operations of a hospital, skilled nursing facility, or intermediate care facility, on and after the first day of its first fiscal year which begins after the end of the six-month period beginning on the date a uniform reporting system is established (under section 1121(a) of the Social Security Act) for that type of health services facility.

(B) The amendments made by subsection (b) shall apply, with respect to the operation of a health services facility or organization which is neither a hosiptal, a skilled nursing facility, nor an intermediate care facility, on and after the first day of its first fiscal year which begins after such date as the Secretary of Health, Education, and Welfare determines to be appropriate for the implementation of the reporting requirement for that type of facility or organization.

(C) Except as provided in subparagraphs (A) and (B), the amendments made by subsection (b)(2) shall apply, with respect to State plans approved under title XIX of the Social Security Act, on and after October 1, 1977.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment recommended by the Committee on Interstate and Foreign Commerce as a substitute for the amendment recommended by the Committee on Ways and Means be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, this really is simply a technical amendment which would allow the three States which have a constitutional amendment prohibiting statewide prosecuting authority to receive the 90-percent Federal incentive payment if they have arrangements satisfactory to the Secretary for referral of medicaid fraud cases for prosecution.

As I say, it is simply technical, and I know of no objection to the amendment.

The CHAIRMAN. The question is on the amendment recommended by the Committee on Interstate and Foreign Commerce as a substitute for the amendment recommended by the Committee on Ways and Means.

The committe amendment offered as a substitute for the committee amendment was agreed to.

The CHAIRMAN. The question is on the third amendment recommended by the Committee on Ways and Means, as amended.

The third committee amendment, as amended, was agreed to.

COMMITTEE AMENDMENT RECOMMENDED BY COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

The CHAIRMAN. The Clerk will read the fourth amendment recommended by the Committee on Interstate and Foreign Commerce.

The Clerk read as follows:

Committee amendment recommended by the Committee on Interstate and Foreign Commerce: Page 113, line 13, insert:

DELAY IN, AND WAIVER OF, IMPOSITION OF REDUCTION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE DUE TO A STATE'S FAILURE TO HAVE AN EFFECTIVE MEDICAID UTILIZATION CONTROL PROGRAM

SEC. 20. (a) Section 1903(g) of the Social Security Act is amended—

(1) by striking out "With respect to" in the first sentence of paragraph (1) and inserting in lieu thereof "Subject to paragraph (3), with respect to";

(2) by inserting "timely" in paragraph (2) before "sample onsite surveys"; and

(3) by adding after paragraph (2) the following new paragraphs:

"(3)(A) No decrease in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) shall take effect—

"(i) before January 1, 1978;

"(ii) unless a notice of such decrease has been provided to the State at least 30 days before the date such decrease takes effect; and

"(iii) due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after September 30, 1977, unless notice of such decrease has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

"(B) The Secretary shall waive application of all or part (as is appropriate) of any decrease in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) because a showing by the State, made under such paragraph with respect to a calendar quarter ending before October 1, 1977, is determined to be either unsatisfactory under such paragraph or invalid under paragraph (2), if the Secretary determines that the State's showing made under paragraph (1) with respect to the calendar quarter ending on December 31, 1977, is satisfactory under such paragraph and is valid under paragraph (2).

"(4)(A) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

"(B) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirement that the State conduct annual onsite inspections in mental hospitals, skilled nursing facilities, and intermediate care facilities under paragraph (26) and (31) of section 1902(a), if the showing demonstrates that the State has conducted such an onsite

inspection during the 12-month period ending on the last date of the calendar quarter—

"(i) in each of not less than 98 per centum of the number of such hospitals and facilities requiring such inspection, and

"(ii) in every such hospital or facility which has 200 or more beds.

and that, with respect to such hospitals and facilities not inspected within such period, the State has exercised good faith and due diligence in attempting to conduct such inspections.

"(5) The Secretary shall submit to Congress, not later than 60 days after the end of each calendar quarter, a report on—

"(A) his determination as to whether or not each showing, made under paragraph (1) by a State with respect to the calendar quarter, has been found to be satisfactory under such paragraph;

"(B) his review (through onsite surveys and otherwise) under paragraph (2) of the validity of showings previously submitted by a State; and

"(C) any reduction in the Federal medical assistance percentage he has imposed on a State because of its submittal under paragraph (1) of an unsatisfactory or invalid showing.".

(b) The amendments made by subsection (a) shall become effective on June 30, 1977, and the Secretary of Health, Education, and Welfare shall promptly adjust payments made to States under section 1903 of the Social Security Act to reflect the changes made by such amendments.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the fourth amendment recommended by the Committee on Interstate and Foreign Commerce be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, this amendment is to provide relief to States from the $250 million in penalties assessed by the Secretary of HEW against 20 States. This will provide those States until the end of the year to meet the requirements of the law. If they do so at that time—and now that they know the law will be enforced, I am sure they will be in compliance—all previous penalties are waived.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, this medicaid amendment is an important one which must be enacted by October 1 to preclude the withholding of funds from the medicaid program. I know of no Ways and Means Committee objection, and I urge my colleagues to support it.

Mr. CARTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the amendment offered by the chairman of the subcommittee. We feel that in the previous amendment the matter referred to something a little different. As I understand the third amendment, there is a technical change in respect to fraud and abuse where the State's constitution prohibits setting up an independent fraud unit in such States as the unit would be set up. Am I correct on that?

Mr. ROGERS. The amendment which we passed is the Commerce Committee amendment.

Mr. CARTER. Yes, sir. No unit would be set if in contravention of a State's constitution.

Mr. ROGERS. It did provide that 90 percent funding could go to a State, even though there might have been a constitutional prohibition of statewide prosecuting authority in the State's constitution.

Mr. CARTER. We were talking about trust territories at that time. Actually, this amendment deals with what we have said, what I mentioned to the gentleman.

Mr. ROGERS. For prosecuting. Yes, for prosecuting.

Mr. CARTER. I thank the gentleman.

The CHAIRMAN. The question is on the fourth amendment recommended by the Committee on Interstate and Foreign Commerce.

The fourth committee amendment was agreed to.

AMENDMENT OFFERED BY MR. COHEN

Mr. COHEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COHEN: Page 116, add after line 23 the following new section:

Patients' Rights in Certain Medical Facilities

SEC. 21. (a) Title XI of the Social Security Act is amended by adding after section 1126 (added by section 8) the following new section:

"DEVELOPMENT AND ENFORCEMENT OF STANDARDS RELATING TO THE RIGHTS OF PATIENTS OF CERTAIN MEDICAL FACILITIES

"SEC. 1127. (a) The Secretary, in prescribing standards under section 1861(c)(9) for hospitals, under section 1861(j)(15) for skilled nursing facilities, and under section 1905(c)(2) for intermediate care facilities, shall require that all such hospitals and facilities to which such sections apply (hereinafter in this section referred to as 'facilities') adopt and make public a statement of the rights and responsibilities of the patients who are receiving inpatient treatment or care in such facilities (hereinafter in this section referred to as 'patients') and deal with such patients in accordance with the provisions of such public statement.

"(b) The Secretary shall require that the statement referred to in subsection (a) include the following:

"(1) A guarantee that the patient's civil and religious liberties (including the right to independent personal decisions and knowledge of available choices) will not be infringed and that the facility will encourage and assist in the fullest possible exercise of these rights.

"(2) A guarantee of the patient's right to have private and unrestricted communications with his physician, his attorney, and any other person.

"(3) A guarantee of a married patient's right to privacy for visits by the patient's spouse, and, if spouses are inpatients of the same facility (other than a hospital) a guarantee of the right of the spouses to share the same room in the facility.

"(4) A guarantee of the right of each patient (and of a staff member of a facility on behalf of any patient) to present grievances for the patient or other patients to the facility's staff or administrator, to governmental officials, or to any other patients or individuals within or outside of the facility to work for improvements in patient care.

"(5) A guarantee of the patient's right to manage his own financial affairs, or to have a periodic accounting of any financial transactions in his behalf should the patient delegate such responsibility to the facility for any period of time.

"(6) A guarantee of the patient's right to receive adequate and appropriate medical, nursing, and supportive care as reimbursed, to be fully informed of his medical condition and proposed treatment, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment and know the consequences of such actions.

"(7) A guarantee of the patient's right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records (in accordance with the provisions of this Act), and security in storing and using personal possessions.

"(8) A guarantee of the patient's right to receive fair and equal treatment and services and a written statement of the services available in the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate or not covered under titles XVIII or XIX of this Act.

"(9) A guarantee of the patient's right to be free from mental and physical abuse and from physical and chemical restraints.

"(10) A guarantee that the patient will not be transferred or discharged from the facility, or transferred from one room to another within the facility, except for medical reasons, for the patient's health and safety or for the health and safety of the other patients; must be accomplished with adequate procedures to protect the physical, psychological, and social well-being of the patient involved, and shall be subject to the remedies and enforcement procedures established by or under subsection (d).

"(11) A statement of the facility's regulations and an explanation of the patient's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients.

"(12) A guarantee that, should the patient be adjudicated incompetent in accordance with State law and not be restored to legal capacity, the above rights and responsibilities shall devolve upon a sponsor or guardian who shall see that the patient is provided with adequate, appropriate, and respectful medical treatment and care and all rights which he is capable of exercising.

"(13) A guarantee of any other patient's rights the Secretary determines to be appropriate.

"(14) The guarantees specified in paragraphs (6) and (9) may be temporarily suspended by a facility with respect to a patient if—

"(A) the physician attending the patient determines that the suspension of such a guarantee for a specified and limited period of time is medically necessary and the physician records such determination (and the reasons therefor) in the patient's permanent medical record; and

"(B) the facility promptly notifies any sponsor or guardian of the patient of such suspension, its duration, and the reasons therefor.

"(c) The Secretary shall also require—

"(1) that each facility make available a copy of the statement, including a description of the remedies and enforcement procedures established by or under subsection (d), to each patient (or to the patient's guardian), as evidenced by the patient's written acknowledgement, at or prior to the time of admission to the facility or at the time of the initiation of the medical relationship between the facility and the patient, and to each member of the facility's staff, and post a copy of such statement in a public place within the facility; and

"(2) that each facility prepare a written plan and provide appropriate staff training to implement each patient's right included in the statement.

"(d) The procedure for enforcing a patient's rights guaranteed under subsection (a) shall be as follows:

"(1) The Secretary shall establish a procedure under which any patient, or any person acting on behalf of a patient, who believes that such patient has been denied any right so guaranteed may submit a complaint, written or oral, with an appropriate State agency in the State in which the patient is situated (hereinafter in this subsection referred to as the 'State agency') which shall investigate the complaint, keeping confidential insofar as possible the identity of the complainant and the name of the patient or patients involved if the complainant is not such a patient), and shall render a written report thereon to the complainant within twenty working days. A copy of the State agency report, including the complaint (with identities of the complainant and any patients deleted), shall be made a permanent part of the file maintained on the facility by the State agency and shall be available to the public.

"(2)(A) If as a result of a State agency investigation conducted under paragraph (1), there is sufficient evidence of a violation, the State agency shall assess against the facility a civil penalty as determined by the Secretary in subparagraph (C) (i) by an order made after notice (provided in accordance with subparagraph (B)) and after opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(B) The written notice referred to in subparagraph (A) shall include notice of the State agency's proposed order and notice of the facility's opportunity to request, within 15 days of the date the notice is received by the facility, a hearing on the proposed order.

"(C)(i) Any facility which violates any right of a patient guaranteed by the facility under this section shall be liable to individual patients (or their heirs) for a civil penalty determined by the Secretary in an amount not to exceed $500 for each such violation unless that is not possible in which case such penalty shall be paid to the State in which the facility involved is located. Each day such a violation continues shall, for purposes of this section, constitute a separate violation.

"(ii) The imposition of a civil penalty under this subsection shall not preclude, and shall be in addition to, any other monetary damages recoverable by patients as a result of the violation.

"(D) Not later than 60 days after an order of assessment of a penalty against a facility becomes final under this paragraph, the facility must either—

"(i) file suit contesting such assessment in an appropriate court of competent jurisdiction and pay the amount of the penalty assessed into an escrow account established by the State agency; or

"(ii) pay the amount of such penalty to the patient whose rights were violated.

"(3) Not later than 60 days after a final decision on such complaint has been made or if the State agency has failed to act within twenty days, the complainant may bring an original action in the appropriate United States District Court or any State court of competent jurisdiction to enforce the guaranteed rights involved under this section. Such court shall have jurisdiction in any such action without regard to the amount in controversy. The complainant may join any additional causes of action which he (or the patient or patients involved) may have against the facility for enforcement or damages arising out of rights guaranteed under this subsection or otherwise. A complainant who prevails in court shall be awarded legal fees and costs, including reasonable attorney's fees, and shall be entitled to immediate release and payment of the statutory damages awarded from any escrow account established under paragraph (2)(D)(3) by the State agency with respect to such complainant and, to the extent not so provided, from the facility.

"(4) If any facility fails to pay, to a patient or into an escrow account, a civil penalty assessed under this subsection within 60 days of the final order of the State agency or the final judgment of a court imposing such assessment (as the case may be), the Attorney General of such State or of the United States shall recover the amount assessed (plus interest at currently prevailing rates from the last day of such 60-day period) in an action brought in any appropriate district court of the United States or any State court of competent jurisdiction. In such an action, the validity, amount, and appropriations of such penalty shall not be subject to review.

"(5) In any case where the patient or facility brings an action under this subsection following a decision of a State agency which is not in favor of the patient or the facility, respectively, and the action is determined to constitute harassment of the facility or patient, respectively, such patient or facility must pay all legal fees and costs (including reasonable attorney's fees) incurred by the State agency in connection with its decision.

"(6) In implementing the procedures established by or under this subsection for the enforcement of the patient's rights, the Secretary (utilizing existing procedures and instrumentalities whenever feasible) shall actively encourage, insofar as is possible depending on local circumstances, the involvement of nursing home patient advocates and ombudsmen (at the option of the patients or complainants involved) as representatives of individual patients.

"(7) The Secretary shall insure that individuals who invoke the enforcement procedures under this subsection, and patients for whom such procedures are initiated by third parties, are protected against retaliation in any form by the facility involved or by any of its employees, agents, or representatives. For this purpose the Secretary shall specifically provide that any act of such retaliation shall be subject to a civil penalty not to exceed $1,000 for each act of retaliation.

"(8) In order to determine whether a facility is adequately protecting its patients' rights, each routine certification survey of the facility shall include a private meeting between patients and survey personnel to discuss patients' experiences within the facility as regards rights under this section and compliance with standards generally.

"(9) The Secretary shall first publish proposed regulations for carrying out this subsection within 6 months after the date of the enactment of this section, and such regulations shall first become final and fully effective no later than nine months after such date.

"(10) Costs incurred by a State agency in carrying out its functions and responsibilities under this subsection shall be considered administrative costs incurred in carrying out functions and responsibilities under title XVIII or under the State's plan approved under title XIX or both (as determined by the Secretary) for purposes of Federal reimbursement.

"(11) Notwithstanding any other provision of law, civil penalties paid to any individual in accordance with this subsection shall not constitute income or resources or otherwise be taken into account (A) for purposes of determining the eligibility of such individual or his or her family or household for assistance under a State plan approved under title XIX, or for aid, assistance, or benefits in any form under any Federal program, or any State or local program financed in whole or in part with Federal funds, which conditions such eligibility to any extent upon the income or resources of such individual, family, or household, or (B) for purposes of determining the amount or extent of such aid, assistance, or benefits.".

(b) Sections 1861(e)(9) and 1861(j)(15) of the Social Security Act are each amended by striking out "health and safety" and inserting in lieu thereof "health, safety, and rights".

Mr. COHEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. ROGERS. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Florida (Mr. ROGERS) reserves a point of order on the amendment.

The Chair recognizes the gentleman from Maine (Mr. COHEN).

Mr. COHEN. Mr. Chairman, I rise to offer an amendment to establish in law a patient's bill of rights and to create a grievance procedure for patients whose rights are abridged during treatment in medical facilities. The medicare and medicaid antifraud and abuse amendments before us today contain provisions for stricter enforcement of current medicare and medicaid regulations, as well as measures which seek to promote active provider participation in producing better care. I have cosponsored and actively supported H.R. 3. This amendment is a modification of legislation I introduced earlier this year with Congressman PEPPER, chairman of the House Select Committee on Aging, which is complimentary to the purposes of H.R. 3. I am convinced that fraud and abuse control must not only originate from administrative bodies such as the Inspector General's office, health practitioners, and/or facilities, but also from the recipients of care themselves.

The enforcement mechanisms in this bill, like our system of Government, are a system of checks and balances. When we underemphasize the role of one component or vest too much authority in another, we run the risk of producing either centralized control and arbitrary regulation, or uninhibited individual action. Both have the potential to produce abuses of our system of rules and waste of our resources. My amendment recognizes that to fully utilize our advantage to control fraud and abuse we must capitalize on the vested interest the patient has in being an active participant in his own care. Together, these amendments we are considering today have the potential to reduce inappropriate medical treatment, control costs, and to guarantee care will be provided when it is needed.

My amendment accomplishes two important tasks. First, it sets forth in law the rights of institutionalized patients. Patients' rights has been under the purview of the Federal Government since the Secretary of HEW implemented pa-

tients' rights regulations for skilled nursing facilities in October of 1974. Since that time regulations have been implemented for intermediate care facilities, and HEW is expected to publish specifications for patients' rights in hospitals. These regulations offer institutionalized patients a wide range of personal and civil liberties. Briefly these important guarantees include:

The right to the fullest possible exercise of civil and religious liberties;

The right to receive appropriate health care as reimbursed, to participate in planning total care and medical treatment unless medically contraindicated by a physician in writing;

The right to refuse medication and treatment and know the consequences of such actions;

The right to be free from chemical or physical restraints, except under a doctor's orders;

The right of privacy for personal needs and records, and security in storing and using personal possessions;

The right to full information in writing concerning services and charges including any charges for services not covered by the facility's basic per diem rate or not covered under the medicare and medicaid programs;

The right to private and unrestricted communications with others;

The right to present grievances without fear of recrimination;

The right to manage one's own financial affairs;

The right that a patient will not be transferred or discharged from a facility solely because he lacks the ability to pay;

And, in the case of nursing homes, the right to privacy with one's spouse.

In return the patient accepts the responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients. If the patient should be adjudicated incompetent in accordance with State law and not be restored to legal capacity, the above rights and responsibilities devolve upon a sponsor or guardian. These rights are in large part a reaffirmation of those patient guarantees set forth in regulations.

Unfortunately enforcement of these rights has been inadequate. At present, the only remedy is a total cutoff of Federal reimbursement. The Federal Government has been reluctant to withdraw its share of dollars from a facility since such action would frequently force the facility to close down. The inadequacy of existing patients' rights guarantees was pointed out recently in a report prepared by the AFL–CIO, entitled "America's Nursing Homes: Profit in Human Misery." Among its many recommendations was a call for a strictly enforced bill of rights for nursing home patients.

As a consequence, the second objective of my amendment is to establish a system of graduated penalties for institutions which are found to violate patients' rights and set up a procedure by which patient complaints can be processed fairly and quickly. Under this new grievance procedure, patients who believe their rights have been abridged, or persons acting in their behalf, can file a complaint with the appropriate State agency. This agency would investigate the complaint and file a report within 20 days. After the investigative report is filed, the facility would have the opportunity for a hearing if requested within 15 days. Proven violations of the bill of rights could lead to the imposition of penalties as determined by the Secretary of HEW of no greater than $500 per instance, except in the case of retaliation against the complainant by the offending facility, in which case the fine could reach $1,000. After these administrative remedies are exhausted, any decision by the State agency could be appealed to the U.S. District Court or a State court of competent jurisdiction within 60 days by either party involved in the complaint. At the time of the request for the hearing, the amount of the fine would be held in escrow until the court reached a verdict.

Final judgment on a violation would result in the release of the penalty to the aggrieved party. Should this reward go to the patient, it would not be counted as income or resources for purposes of determining the eligibility of such individual or his or her family for assistance under the medicaid program, or for aid, assistance or benefits in any form under any Federal program, or any State or local program financed in whole or in part with Federal funds when such income or resources are a condition for eligibility in the respective programs. Furthermore, costs incurred by a State agency in carrying out its functions and responsibilities under this subsection would be considered administrative costs under the medicare and medicaid programs and be approved for purposes of Federal reimbursement.

I have been especially careful to build in administrative and enforcement procedures which provide explicit checks on unwarranted or inappropriate use of the rights guaranteed by either the patient or the provider. In any case where the patient or facility brings an action which is determined to constitute harassment, such patient or facility must pay all legal fees and costs, including reasonable attorney's fees incurred by the State agency in connection with its decision.

Patients are not required to avail themselves of the protections outlined in my amendment when they have a grievance. I believe that these provisions will only be used when there are clear and repeated instances of violation of basic patients' rights recognized in our definition of good care. For it is only when persons are treated anonymously and inhumanely that they feel compelled to take action against those in whom they have entrusted their health and lives. This amendment will in many instances, except those of gross medical malpractice, provide a viable alternative to most costly measures such as malpractice suits. It has been demonstrated that when patients are ill-informed as to their condition and frustrated in their attempts to participate in decisions affecting their lives they are likely to resort to law suits as a last resort to protect their rights. These provisions are designed to provide an alternative to the discovery procedures normally conducted pursuant to law suits and malpractice suits.

The rights of all patients should be assured, irrespective of where that care is received. This amendment begins that process by covering providers of patient medical care participating in the medicare and medicaid programs.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Florida.

Mr. ROGERS. Mr. Chairman, we have discussed this matter with the gentleman from Maine (Mr. COHEN). We are aware of the gentleman's interest and also of the interest of my distinguished colleague, the gentleman from Florida (Mr. PEPPER) in this field. I might say that the committee will try to hold hearings on this subject next year and treat the matter expeditiously.

We do think this should go through a hearing process. That is one of the reasons I raised a point of order on the amendment.

With those assurances, I would hope that the gentleman will agree to withdraw his amendment and allow us to address this matter in hearings.

Mr. COHEN. Mr. Chairman, may I inquire of my good friend, the gentleman from Florida (Mr. ROGERS), whether the hearings might be confined to that matter? I ask that because of the interest of the AFL–CIO and of many of the citizens' groups interested in this matter.

Mr. ROGERS. I would hope that we would confine the hearings to that subject matter, or closely related subject areas.

Mr. COHEN. Mr. Chairman, I thank the gentleman.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Chairman, I concur with the remarks made by the gentleman from Florida (Mr. PEPPER). Mr. Chairman, I commend the gentleman from Maine for his work in this area and I certainly support the goal of his amendment.

This amendment, however, is complex and has far-reaching effects that can be evaluated only with careful examination.

In addition, given the substantial impact this amendment would have on medicare beneficiaries, the program, providers of health care services and others, I believe that it would be more appropriate to afford an opportunity for all those affected to comment on the proposal. I certainly think that the Subcommittee on Health of the Committee on Ways and Means would be willing to consider the problem of assuring patients' rights at the first appropriate opportunity.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I want to commend my distinguished colleague, the gentleman from Maine (Mr. COHEN), who is a distinguished member of the Committee on Aging, for the thoughtful consideration he has given and for his constructive contribution in offering this amendment. I am very pleased to see that the gentleman from Florida (Mr. ROGERS), our distinguished colleague, is going to give consideration to this matter at an appropriate hearing.

Mr. COHEN. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Maine?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Maine (Mr. COHEN) is accordingly withdrawn.

AMENDMENT OFFERED BY MR. VOLKMER TO THE COMMITTEE AMENDMENT

Mr. VOLKMER. Mr. Chairman, I offer an amendment to the third amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER to the third amendment recommended by the Committee on Ways and Means: Page 105, strike out lines 12 through 14, and redesignate succeeding paragraphs accordingly.

Mr. ROGERS. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Florida (Mr. ROGERS) reserves a point of order against the amendment.

Mr. VOLKMER. Mr. Chairman, this amendment goes to the funding of State medicaid fraud control units. Basically it goes to subsection (2) on page 105.

The provisions therein provide under subpart (A) of section (1) beginning on page 104, at the bottom, that either the attorney general or another department has statewide authority to prosecute individuals for criminal violations or (B) the entity is in a State the constitution of which does not provide for criminal prosecution.

Mr. Chairman, the State of Missouri and several other States do not qualify under (B) if they have a State constitution which does not so provide for statewide criminal prosecution in one department, and the State of Missouri is in that category.

Also, Mr. Chairman, under the following provisions, they do not qualify for the 90-percent amount of money.

The problem is with respect to subsection (2), and I would like to relate to the members of the committee that the problem arises not only in the State of Missouri, but we have heard the same thing from other States.

However, Mr. Chairman, it can be cured by the States; and I will explain why and how it can be done, by a very simple procedure. That is going to make this legislation look awfully silly.

In subparagraph (2) it says, "The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title."

Mr. Chairman, in the State of Missouri, the department of social services has been designated as that single State agency to administer the medicaid program. In the State of Missouri we have a fraud unit that was set up several years ago basically or originally for food stamp fraud. As a member of the general assembly at the time, I was one of those helping in setting up the unit. The unit is separate and distinct from the division of family services, which is in the department of social services. The department of social services is the umbrella over both of these divisions and units.

Mr. Chairman, the division of family services administers the medicaid program. It is separate and distinct from the investigative fraud unit; but under this language, since the department under the department director is also the single State agency, they would not qualify for the 90 percent money. Therefore, Mr. Chairman, if this amendment is adopted, they would qualify.

Furthermore, I am prepared to offer a substitute which I would be willing to give to the gentlemen from Florida (Messrs. PEPPER and ROGERS), to either one or both, which I think would even add a little better language, if they wish to do so, in conference, but before that, I would like to finish my statement.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I would like to conclude my statement before I yield.

Mr. Chairman, how do they correct this if this legislation should be passed and signed into law? It would be very simple. The State of Missouri, operating under the reorganization plans that I was also instrumental in formulating, can transfer this investigative unit over—believe it or not—to the Department of Agriculture, to the Department of Mental Health, or to the Division of Vehicle Registration that has nothing to do with social services at all, but they would qualify for 90 percent because they are not under the single State agency administering the medicaid program. Those are not under the Department of Social Services.

That would be asinine. That would be just a complete and silly operation, but that is what this law would require.

Our attorney general cannot prosecute statewide because that office does not have such authority for that in the State of Missouri. So if we take this investigative unit and transfer it over to a nongermane department that has nothing to do with it, nothing at all, then we get 90 percent. But if we leave it where it makes sense, as an independent unit in the same department, operating independently of the medicaid program itself, then we do not get the 90 percent.

That is the purpose of the amendment to correct this so our present independent unit would qualify.

I would also like to tell the members of the committee that I had prepared a substitute amendment for my own amendment that would put in this language, so that we could have some assurances that they are independent units:

Strike out paragraph (2) (that is, lines 12 through 14 on page 105) of proposed subsection (p) of section 1903 of the Social Security Act, and insert in lieu thereof the following: (2) The entity can demonstrate to the satisfaction of the Secretary sufficient independence of operation.

This would mean that the Secretary would then make a determination whether this unit, this investigative fraud unit, was sufficiently independent in order to qualify.

The CHAIRMAN. The time of the gentleman has expired.

POINT OF ORDER

Mr. ROGERS. Mr. Chairman, I must press my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROGERS. First, Mr. Chairman, that the amendment comes too late, we have already passed this section of the bill. Second, the third committee amendment addresses the subject matter and has been adopted, and we cannot now amend the amendment that the committee has already agreed to. Therefore, I make a point of order against the amendment and insist upon the point of order.

The CHAIRMAN. Does the gentleman from Missouri (Mr. VOLKMER) desire to be heard on the point of order?

Mr. VOLKMER. No, I do not, Mr. Chairman.

The CHAIRMAN (Mr. STUDDS). The Chair is ready to rule.

The amendment offered by the gentleman from Missouri (Mr. VOLKMER) is an amendment to the third committee amendment from the Committee on Interstate and Foreign Commerce. That amendment has already been adopted by the committee and is therefore not subject to further amendment and the Chair sustains the point of order.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent that I may be permitted to offer the same amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. ROGERS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MOSS. Mr. Chairman, I rise to commend Congressmen DAN ROSTENKOWSKI and PAUL ROGERS for the excellent demonstration of cooperation displayed by their two subcommittees in working out the medicare and medicaid antifraud and abuse amendments (H.R. 3) before us now. I think this was a good example of an effective, creative partnership between two committees with jurisdiction over related programs. With this bill, we are seeing critical reforms directed at routing out abuse of our most significant Federal health programs and an important precedent for future health care legislation under medicare and medicaid.

We have before us today H.R. 3, the medicare/medicaid antifraud and abuse amendments. This important initiative

will strengthen the Government's ability to detect and take enforcement action against fraudulent and abusive activities by program providers, suppliers, and practitioners. As such, it deserves our strong support.

As chairman of the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, I can report that we have held a series of oversight hearings on matters covered in this bill. I am pleased to note that these investigative hearings have contributed to important provisions of this legislation.

Section 5 of H.R. 3 deals with the confidentiality of medical records. It is exceptionally important that, subject to controls on the undue disclosure of individual medical records, the Federal Government and other organizations engaged in public health studies dependent on population data or medical records not be impeded. The ability to protect the public health would be severely restricted if limitations are placed on access to necessary information.

For example, the evaluation of high toxic or carcinogenic rates in industrial plants would be impossible if restrictions are placed upon legitimate access to medical data. Similarly, both the Center for Disease Control (CDC) and the National Cancer Institute (NCI) would be severely hampered in their study to study diseases such as polio or bladder cancer. Recognizably such research is essential if we are to more effectively treat these diseases in the future.

Though we must take the greatest care not to infringe upon individual rights through unnecessary disclosure of medical records, our concern for the public health—the health of each of us—requires that we protect the ability of government to do necessary evaluations and studies of chronic and acute illnesses. I urge you to support the Commerce Committee substitute to the second committee amendment and oppose all other amendments to this section.

Section 17 encourages States to establish fraud units, separate from the State medicaid agencies. Independent of such agencies, fraud units will be able to more effectively prepare and prosecute cases of suspected fraud in the medicaid program. There is no question that fraud and abuse have reached such major proportions that something must be done to curb the problem. As evidenced by the work of the special prosecutor's office in New York, these units cost far less than they save.

Section 19 will require uniform reporting of cost and other information by hospitals, long-term care facilities, and other health care institutions. The Oversight and Investigations Subcommittee received ample evidence at hearings held in New York, in February of 1976, and again in Washington, in March of this year of the amount of fraud and abuse to be found in this country. Nothing was more descriptive than the testimony of Mr. Charles J. Haynes, special prosecutor for the State of New York on the grossly inflated or totally fake billings found by his office—payments which the taxpayer subsidizes and which take funds away from much needed care. Uniform reporting will aid auditors and State and Federal fraud units to collect accurate data from health care institutions and to evaluate the variance between these institutions. This is an essential first step in providing needed tools for the effective management of the medicaid and medicare programs.

My feeling remains strong that we also need a mandatory system of uniform cost accounting in order to have a firm basis for identifying abusive practices such as over charging. Although this provision is absent from H.R. 3. I am pleased that Chairmen ROGERS and ROSTENKOWSKI will consider such an initiative during the consideration of the hospital cost containment legislation now before their subcommittees.

Section 20 amends the utilization review requirements of section 2903(g). The Subcommittee on Oversight and Investigations needed to request the Comptroller General to begin to take action under the Budget Accounting Act to move former Secretary F. David Mathews to begin to implement the utilization review requirements of existing law. The new provision will remedy the timing problem—the principal difficulty associated with this program. It calls for the timely synchronization of HEW's validations of the States' utilization review activities. This will preclude the situation that arose when the previous administration fell 3 years behind in validating quality of care programs in hospitals and nursing homes. Under section 20, the Secretary of HEW is required to complete validations for 1977 by the end of 1977 and to make his determination of compliance by September 1978.

I strongly urge you to vote for the passage of these provisions. They represent a major step toward curbing fraud and abuse and should aid in achieving the overall goals of maintaining high quality health care without overutilization of services and containing costs.

Mr. COTTER. Mr. Chairman, I wish to take this time to congratulate my two colleagues Representatives DAN ROSTENKOWSKI and PAUL ROGERS, for the closeness with which they worked on the medicare-medicaid antifraud and abuse amendments. The spirit of cooperation with which they and their subcommittees worked throughout the development of this bill exemplifies the finest example of cooperation in the pursuit of effective legislation. I am hopeful it will continue in the future.

Several recent studies have amply demonstrated the prevalence of fradulent and abusive practices in the medicare and medicaid health delivery systems. The practices of so-called medicaid mills are one of the most often cited example of these activities. Medicaid mills are typically unlicensed establishments dedicated primarily to extracting maximum profits by catering to medicaid patients and utilizing illegal or unethical practices when billing the Government.

The most commonly used practices of medicaid mills is to refer one patient from one practitioner to another within the same facility in order to charge multiple fees although no medical reason exists for these referrals. Then the Government is charged for services which were not provided to the patient. Patients are also directed to particular pharmacies with which the practitioner has a kickback scheme, which may charge the patient for medicine not provided, or for medicine which is of no real benefit to the patient.

It has also been demonstrated that these practitioners decide which laboratories will do their test work on the basis of the amount of kickbacks or rebates they will receive. Some nursing homes misrepresent the cost of care to medicare patients in order to bilk the Government.

This bill goes a long way toward reducing the ability of these establishments to defraud the Government. It assails such practices by eliminating some weaknesses in the existing law, and it provides new tools for Government agencies to combat these problems.

H.R. 3 requires all institutions as a condition for providing services under the medicare and medicaid systems to disclose the names of all owners of 5 percent or more of the institution or any of its subcontractors, or any significant transaction between them. It stiffens penalties for defrauding the Government in order to increase the risk of such practices and hopefully deter these activities. The bill classifies more distinctly which types of activities are illegal in order to reduce confusion about the law's provisions. Finally, it permits the States to suspend the eligibility of medicaid recipients convicted of defrauding the program, and makes additional administrative changes for investigators to detect fraud and disclose it to Federal and State law enforcement agencies.

Mr. Chairman, I am concerned with one other issue in this bill. It is an extremely complex and sensitive issue, that of maintaining the confidentiality of medical records. The patient's right to privacy is fundamental, yet this must be balanced with the need for the Government to be able to fully investigate instances of alleged fraud and abuse. A careful line must be drawn between unwarranted invasion of privacy, and investigations of specific allegations of fraud.

This legislation will not end abuse in the medicare and medicaid programs. Only proper program management coupled with increased activity designed to uncover these abuses will significantly reduce abuse and fraud. But this legislation does eliminate whatever legislative encouragement to these activities which may have unintentially been included in the current law.

I am proud to have been a member of the Health Subcommittee of the Ways and Means Committee which drafted portions of this essential legislation. I urge all of my colleagues to join me in supporting this bill.

Mr. DODD. Mr. Chairman, I rise in support of H.R. 3, medicare-medicaid antifraud and abuse amendments, which is currently under consideration of this body.

During recent months the Congress, Federal and State agencies, have devoted

a great deal of time and effort to exposing abuse in the medicaid and medicare programs. The Department of Health, Education, and Welfare estimates that between 5 to 10 percent or $0.9 to $1.8 million of our current medicaid expenditures is lost to fraudulent and abusive practices. I am appalled at the high incidence of abuse occurring in the medicaid and medicare programs.

At the same time, I am concerned that our Federal expenditures for the medicaid and medicare programs have been increasing to the point where in fiscal year 1978 it is estimated that approximately 68 percent of the Federal health budget will be spent on these programs. As representatives of the American people, we have the responsibility of insuring that our medicaid and medicare programs are sound ones. We have the responsibility of seeing that the needs of the poor and the elderly are being met, and that no one is being shortchanged because of fraud or abuse occurring in these programs.

Much has been said about medicaid and medicare abuse. Federal action to curtail these abuses was initiated in the 94th Congress with the creation of the Office of Inspector General within the Department of Health, Education, and Welfare. However, a strong national directive is needed to correct many of the underlying problems which have allowed medicare and medicaid abuse to persist. I feel that H.R. 3 is this directive which will help to alleviate medicare and medicaid abuse. By stiffening the penalties for providers of services who are convicted of defrauding the medicaid and medicare program; by requiring the Comptroller General to conduct a comprehensive review of the administrative structure of the processing of medicare claims; by requiring the Secretary of the Department of Health, Education, and Welfare to establish for each different type of health service institution a uniform system for the reporting of cost of operation, volume of services, rates, capital assets bill data; by providing incentives for the States to establish an office to prepare and prosecute cases of suspected fraud and abuse in the program; and by strengthening and clarifying the role of the PSRO program, I feel that this legislation will go a long way toward achieving this end.

For example, the medicaid program in my home State of Connecticut is one of our Nation's largest. According to a report issued last summer by the Special Committee on Aging of the U.S. Senate, Connecticut ranked 12th in the Nation for medicaid expenditures per inhabitant. The Connecticut General Assembly last fall conducted an investigation on containing medicaid costs in Connecticut, and concluded that medicaid expenditures in Connecticut have risen 575 percent since 1967 to $187.6 million in 1976. Meanwhile, the number of medicaid recipients has grown from less than 90,000 in 1967 to over 180,000 in 1976.

Connecticut has established a fraud and investigations unit within the department of social services, receiving 50 percent Federal administrative matching funds. However, this program is just getting underway, and additional Federal support is needed.

H.R. 3 will make this technical and monetary support available to Connecticut, as well as other States seeking Federal assistance. The committees in formulating this legislation recognized the problems many States have had in establishing a medicaid fraud control unit and in prosecuting medicaid fraud cases, and have authorized 90 percent Federal matching payments for fiscal year 1978–80 for the establishment of State medicaid fraud control units. To be eligible for this increased Federal assistance, the State medicaid fraud control unit must be an entity separate from the agency administering the medicaid program.

I am very hopeful that H.R. 3 will allow the States to establish effective medicaid fraud control units.

Therefore, I urge my colleagues to join me in supporting the medicare-medicaid antifraud and abuse amendments.

Mr. HARKIN. Mr. Chairman, my own State of Iowa presently stands to lose $3 million and possibly $6 million for failure to comply with Federal review regulations for medicaid-medicare long-term care facilities. This is grossly unfair.

Section four of H.R. 3 would give States sufficient time to carry out reviews of long-term care facilities. I support H.R. 3 for several reasons.

Until now, these regulations were never strictly enforced. To require immediate and 100-percent compliance without giving adequate notice is unfair and certainly unrealistic.

Almost all of the long-term care facilities in my State were inspected by the required date. But under this system we will be penalized as if none had been inspected. Clearly, the penalty does not fit the crime.

Denying Iowa these funds will seriously affect the quality of care medicare-medicaid recipients receive in Iowa. Needy persons should not be penalized for our bureaucratic failures. Administrators of the program in Iowa are now acutely aware that this law will be enforced. But it is not the administrators who will suffer. I am confident that my State will comply with this law—to the letter—in the future.

Mr. CARTER. Mr. Chairman, I support this legislation which is designed to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs.

We have worked closely with the Ways and Means Health Subcommittee and full committee on this bill—and have developed a workable and reasonable proposal.

In brief—this bill addresses five major areas:

Strengthened program penalty sanctions;

Increased disclosure of information;

Improvements in the PSRO program;

Administrative reform of medicare and medicaid; and

Some medicaid amendments.

Mr. Chairman, I believe this legislation is needed. In recent years we have learned from numerous hearings, studies, and investigations that there exists fraudulent and abusive practices associated with the provision of health services financed by the medicare and medicaid programs. In fact estimates of the cost of these practices have been as high as several billion dollars.

I deeply regret this situation—because it means that already scarce program dollars are being wasted—and that health care for many beneficiaries of these programs has been compromised. We must do all that we can to remedy this problem.

This legislation includes a number of provisions designed to address the fraud and abuse problem.

For example H.R. 3 modifies the penalty provisions in existing law which relate to those persons providing services under medicare and medicaid. Most fraudulent acts which are now classified as misdemeanors are to become felonies under H.R. 3. In addition—penalties are to be increased to a maximum $25,000 fine—or up to 5 years imprisonment or both.

This legislation also requires increased disclosure of certain ownership interests as a condition of participation in programs under titles 5, 18, and 19. However, Mr. Chairman, these provisions have been substantially modified from earlier bills—and I believe they now reflect a more reasonable approach.

These requirements would apply only to those entities—other than individual practitioners or groups of practitioners—providing services under medicare, medicaid, or the maternal and child health programs—as well as medicare intermediaries and carriers and medicaid fiscal agents. The intent of these disclosure provisions is to prevent the kind of "cozy" relationships and conflict-of-interest situations which have been found to exist in some cases between certain participants in these Federal programs.

There are other provisions in H.R. 3 which are designed to strengthen the Government's ability to detect and prosecute fraudulent practices. However, the committee recognizes that this legislation alone cannot eliminate fraud and abuse.

In addition to the need for improved legislative authority the committee recognizes that improved program management is also necessary to address these problems properly. Specific attention needs to be focused on the fraud and abuse problem as part of the day to day administration of medicare and medicaid. To that end—the newly created Office of Inspector General—established under legislation enacted last year—should play an important role in developing a comprehensive administrative approach to solving these problems.

And now Mr. Chairman, I would like to state my views regarding the important issue of access to—and privacy of—medical records.

At the outset let me assure you that as a physician I am well aware of the

necessity for confidentiality in the relationship between doctor and patient. One of the main reasons for that kind of relationship is to allow the physician to gain access to all possible information about the individual which may be relevant to determining and treating his illness.

On the other hand—I am equally aware of the medical necessity for certain kinds of research which depend on access to individually identifiable medical records. The kind of research which I am referring to can also help save lives and moderate the course of disease. It is essential that it be allowed to continue. Some of these important public health and research activities include:

First. Epidemic investigation—frequently numerous medical records must be reviewed rapidly to help control epidemics and protect the community at large.

Second. Epidemiological research—which includes the studies linking the use of DES in pregnant women to vaginal cancer in their daughters.

Third. Communicable disease control trol—which includes the need to review medical records to identify individuals exposed to venereal disease in order to help prevent its spread.

Fourth. Other important health activities including the monitoring of new-drug research by the Food and drug administration, and certain reimbursement procedures under medicare and medicaid.

Mr. Chairman, in each of these areas I believe there can be legitimate grounds for access to identifiable medical records, and I would not want to see such authority precluded.

In light of these important public health activities I am supporting the Commerce Committee's bill as reported with respect to the issue of confidentiality of medical records.

Basically—our committee decided—after careful consideration of the matter and consultation with various experts—not to mandate any major change in statutory authority requirements on access to medical records at this time. However—our bill does require the Department of HEW to present to Congress within 90 days of the release of the Privacy Commission report—draft legislation to implement the Commission's recommendations relating to medical records. All legislative proposals on this important issue would then receive the benefit of full public discussion and hearing.

Mr. Chairman, I am convinced that the Commerce Committee's approach is the best and most sensible one before the House today.

I hope my colleagues will join me in support of the Commerce Committee's version of H.R. 3.

SUMMARY OF MAJOR PROVISIONS

The following is a summary of the major provisions of H.R. 3 which are aimed at eliminating the opportunities for fraudulent activities and strengthening the ability of the Government to detect and prosecute such activities under the medicare and medicaid programs. Specifically the bill:

First, prohibits "factoring" arrangements in the programs where providers sell collectibles for a percent of value to factoring firms;

Second, requires information on ownership of health care facilities participating in the program, and certain business dealings and financial arrangements with other providers;

Third, increases the criminal penalties for defrauding the programs in most cases to a maximum of $25,000 or up to 5 years imprisonment—or both;

Fourth, clarifies and strengthens the role of Professional Standards Review Organizations in review of activities designed to prevent abuse, and defines the State role in relation to PSRO review of medicaid services;

Fifth, provides the Comptroller General with subpena power;

Sixth, provides for suspension of practitioners under all public health financing programs if convicted of defrauding anyone;

Seventh, requires institutional providers to report any owners who have been convicted of medicare-medicaid related crimes;

Eighth, provides for studies of claims processing arrangements under medicare, and standards for medicare intermediaries, and for reassignment of providers to intermediaries;

Ninth, establishes higher Federal matching to provide incentives for establishment and operation of State medicaid fraud units;

Tenth, requires a special study by the Secretary of HEW on how to assure quality and appropriate utilization of home health care services, and to prevent fraud;

Eleventh, establishes a uniform reporting system for institutional providers in medicare and medicaid; and

Twelfth, provides an additional 6 months for States to meet the requirements of medicaid law concerning review of long-term care institutions without being subject to penalty, and a waiver of past penalties if States are in compliance at the end of the 6-month period.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes pursuant to House Resolution 620, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 362, nays 5, not voting 67, as follows:

[Roll No. 581]

YEAS—362

Abdnor	D'Amours	Hefner
Addabbo	Daniel, Dan	Heftel
Akaka	Daniel, R. W.	Hightower
Allen	Danielson	Hillis
Ambro	Davis	Hollenbeck
Ammerman	de la Garza	Holt
Anderson, Calif.	Delaney	Holtzman
	Dellums	Hubbard
Anderson, Ill.	Derrick	Huckaby
Andrews, N.C.	Devine	Hughes
Annunzio	Dickinson	Hyde
Applegate	Dicks	Ichord
Archer	Diggs	Ireland
Ashbrook	Dingell	Jeffords
Aspin	Dodd	Jenkins
AuCoin	Dornan	Johnson, Colo.
Badham	Downey	Jones, N.C.
Bafalis	Drinan	Jones, Okla.
Baldus	Duncan, Oreg.	Jones, Tenn.
Barnard	Duncan, Tenn.	Jordan
Baucus	Early	Kasten
Bauman	Edwards, Calif.	Kastenmeier
Beard, R.I.	Edwards, Okla.	Kazen
Beard, Tenn.	Eilberg	Kelly
Bedell	Emery	Kemp
Beilenson	English	Ketchum
Benjamin	Erlenborn	Keys
Bennett	Ertel	Kildee
Bevill	Evans, Del.	Kindness
Biaggi	Evans, Ind.	Kostmayer
Bingham	Fary	Krebs
Blanchard	Fascell	Krueger
Blouin	Fenwick	LaFalce
Boggs	Findley	Lagomarsino
Boland	Fish	Latta
Bonior	Fisher	Le Fante
Bonker	Fithian	Leach
Bowen	Flippo	Leggett
Brademas	Flood	Lehman
Breaux	Florio	Levitas
Breckinridge	Flowers	Livingston
Brinkley	Flynt	Lloyd, Calif.
Brodhead	Foley	Lloyd, Tenn.
Broomfield	Ford, Mich.	Long, La.
Brown, Calif.	Ford, Tenn.	Long, Md.
Brown, Mich.	Fountain	Lott
Brown, Ohio	Fowler	Lujan
Broyhill	Fraser	Luken
Buchanan	Fuqua	Lundine
Burgener	Gammage	McClory
Burke, Calif.	Gaydos	McCloskey
Burke, Fla.	Gephardt	McCormack
Burke, Mass.	Giaimo	McEwen
Burleson, Tex.	Gibbons	McFall
Burton, John	Gilman	McHugh
Burton, Phillip	Ginn	McKay
Butler	Glickman	McKinney
Byron	Goodling	Madigan
Caputo	Gore	Maguire
Carr	Gradison	Mahon
Carter	Grassley	Markey
Cavanaugh	Gudger	Marks
Cederberg	Guyer	Marlenee
Chappell	Hagedorn	Marriott
Chisholm	Hall	Martin
Clay	Hamilton	Mathis
Cochran	Hammer-schmidt	Mattox
Cohen		Meeds
Coleman	Hanley	Metcalfe
Collins, Tex.	Hannaford	Meyner
Conable	Hansen	Michel
Conte	Harkin	Mikulski
Corcoran	Harrington	Mikva
Corman	Harris	Milford
Cornell	Harsha	Miller, Calif.
Coughlin	Hawkins	Miller, Ohio
Cunningham	Heckler	Mineta

Minish	Quie	Steed
Mitchell, Md.	Rahall	Steers
Mitchell, N.Y.	Railsback	Stokes
Moakley	Rangel	Stratton
Moffett	Regula	Studds
Mollohan	Reuss	Stump
Montgomery	Rinaldo	Taylor
Moore	Risenhoover	Thompson
Moorhead, Calif.	Roberts	Thone
	Robinson	Trible
Moorhead, Pa.	Rodino	Tsongas
Moss	Roe	Tucker
Mottl	Rogers	Udall
Murphy, Ill.	Roncalio	Ullman
Murphy, Pa.	Rooney	Van Deerlin
Murtha	Rosenthal	Vander Jagt
Myers, Gary	Rostenkowski	Vanik
Myers, John	Roybal	Vento
Myers, Michael	Rudd	Waggonner
Natcher	Russo	Walgren
Neal	Ryan	Walker
Nedzi	Santini	Wampler
Nix	Sarasin	Watkins
Nolan	Satterfield	Waxman
Nowak	Sawyer	Weaver
O'Brien	Schroeder	Weiss
Oakar	Schulze	White
Oberstar	Sebelius	Whitley
Obey	Seiberling	Wiggins
Ottinger	Sharp	Wilson, C. H.
Panetta	Shipley	Wilson, Tex.
Patten	Shuster	Winn
Patterson	Simon	Wirth
Pattison	Sisk	Wolff
Pease	Skelton	Wydler
Pepper	Slack	Wylie
Perkins	Smith, Nebr.	Yates
Pickle	Snyder	Yatron
Pike	Solarz	Young, Alaska
Pressler	Spellman	Young, Fla.
Preyer	Spence	Young, Mo.
Price	St Germain	Young, Tex.
Pritchard	Staggers	Zablocki
Pursell	Stanton	Zeferetti
Quayle	Stark	

NAYS—5

Crane	McDonald	Volkmer
Gonzalez	Symms	

NOT VOTING—67

Alexander	Evans, Colo.	Rhodes
Andrews, N. Dak.	Evans, Ga.	Richmond
	Forsythe	Rose
Armstrong	Frenzel	Rousselot
Ashley	Frey	Runnels
Badillo	Goldwater	Ruppe
Bolling	Holland	Scheuer
Brooks	Horton	Sikes
Burlison, Mo.	Howard	Skubitz
Carney	Jacobs	Smith, Iowa
Clausen, Don H.	Jenrette	Stangeland
	Johnson, Calif.	Steiger
Clawson, Del	Koch	Stockman
Cleveland	Lederer	Teague
Collins, Ill.	Lent	Thornton
Conyers	McDade	Traxler
Cornwell	Mann	Treen
Cotter	Mazzoli	Walsh
Dent	Murphy, N.Y.	Whalen
Derwinski	Nichols	Whitehurst
Eckhardt	Pettis	Whitten
Edgar	Poage	Wilson, Bob
Edwards, Ala.	Quillen	Wright

The Clerk announced the following pairs:

Mr. Wright with Mr. Teague.
Mr. Brooks with Mr. Koch.
Mr. Richmond with Mr. Johnson of California.
Mr. Alexander with Mr. Eckhardt.
Mr. Ashley with Mr. Skubitz.
Mr. Murphy of New York with Mr. Del Clawson.
Mr. Evans of Colorado with Mr. Frey.
Mr. Andrews of North Dakota with Mr. Evans of Georgia.
Mr. Conyers with Mr. Howard.
Mr. Rhodes with Mr. Whalen.
Mr. Scheuer with Mr. Edgar.
Mr. Mazzoli with Mr. Cornwell.
Mr. Treen with Mr. Frenzel.
Mr. Badillo with Mr. Derwinski.
Mr. Nichols with Mr. Don H. Clausen.
Mr. Cleveland with Mr. Goldwater.
Mr. Lent with Mr. Mann.
Mr. Carney with Mr. Edwards of Alabama.
Mr. Cotter with Mr. Rousselot.
Mr. Forsythe with Mr. Lederer.
Mr. Stangeland with Mr. Sikes.
Mr. McDade with Mr. Whitten.
Mr. Jenrette with Mrs. Collins of Illinois.
Mr. Smith of Iowa with Mr. Whitehurst.
Mr. Steiger with Mr. Stockman.
Mr. Dent with Mr. Burlison of Missouri.
Mr. Jacobs with Mr. Rose.
Mr. Walsh with Mr. Ruppe.
Mr. Traxler with Mr. Holland.
Mr. Horton with Mr. Quillen.
Mr. Runnels with Mr. Thornton.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill H.R. 3, the Clerk be authorized to correct section numbers, punctuation, and cross-references to reflect the actions of the House in amending the bill H.R. 3.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 3, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois.

There was no objection.

REVIEW OF AWARD OF VETERANS' BENEFITS

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1307) to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

That (a) section 3103 of title 38, United States Code, is amended by—

(1) inserting "or on the basis of an absence without authority from active duty for a continuous period of at least 180 days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence," after "deserter," in subsection (a), and by inserting a comma and "notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10" before the period at the end of such subsection; and

(2) adding at the end of such section the following new subsection:

"(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Veterans' Administration shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

"(2) Notwithtanding any other provision of law—

"(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

"(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person for such determination, (ii) on its own initiative within one year after the date of enactment of this paragraph in any case where a general or honorable discharge has been awarded on or prior to the date of enactment of this paragraph under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after such enactment date.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of his or her right to such appearance. The Administrator shall, as soon as administratively feasible, notify the appropriate board

of review of the receipt of benefits under laws administered by the Veterans' Administration, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.".

(b)(1) The Secretary of Defense shall fully inform each person awarded a general or honorable discharge under revised standards for the review of discharges referred to in section 3103(e)(2)(A)(i), (ii), or (iii) of title 38, United States Code, as added by subsection (a)(2) of this section, of his or her right to obtain an expedited determination under section 3103(e)(2)(B)(i) of such title and of the implications of the provisions of this Act for each such person.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall inform each person who applies to a board of review under section 1553 of title 10, United States Code, and who appears to have been discharged under circumstances which might constitute a bar to benefits under section 3103(a) of title 38, United States Code, (A) that such person might possibly be administratively found to be entitled to benefits under laws administered by the Veterans' Administration only through the action of a board for the correction of military records under section 1552 of such title 10 or the action of the Administrator of Veterans' Affairs under section 3103 of such title 38, and (B) of the procedures for making application to such section 1552 board for such purpose and to the Administrator of Veterans' Affairs for such purpose (including the right to proceed concurrently under such sections 3103, 1552, and 1553).

SEC. 2. Notwithstanding any other provision of law, the Administrator of Veterans' Affairs shall provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 3103(a) of such title, but shall not provide such health care and related benefits pursuant to this section for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.

SEC. 3. Paragraph (18) of section 101 of title 38, United States Code, is amended to read as follows:

"(18) The term 'discharge or release' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.".

SEC. 4. In promulgating, or making any revisions of or amendments to, regulations governing the standards and procedures by which the Veterans' Administration determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, the Administrator of Veterans' Affairs shall, in keeping with the spirit and intent of this Act, not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans awarded general or honorable discharges under revised standards for the review of discharges described in section 3103(e)(2)(A)(i), (ii), or (iii) of title 38, United States Code, as added by section 1(a)(2) of this Act, or (2) otherwise making any special distinction between such veterans and other veterans.

SEC. 5. This Act shall become effective on the date of its enactment, except that—

(1) section 2 shall become effective on October 1, 1977, or on such enactment date, whichever is later; and

(2) the amendments made by section 1(a) shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, except that, notwithstanding any other provision of law—

(A) with respect to any person who, on such enactment date is receiving benefits under laws administered by the Veterans' Administration, (i) such benefits shall not be terminated under paragraph (2) of section 3103(e) of title 38, United States Code, as added by section 1(a)(2) of this Act, until (I) the day on which a final determination not favorable to the person concerned is made on an expedited basis under paragraph (2) of such section 3103(e), (II) the day following the expiration of 90 days after a preliminary determination not favorable to such person is made under such paragraph, or (III) the day following the expiration of 180 days after such enactment date, whichever day is the earliest, and (ii) the United States shall not make any claim to recover the value of any benefits provided to such person prior to such earliest day;

(B) with respect to any person awarded a general or honorable discharge under revised standards for the review of discharges referred to in clause (A)(i), (ii), or (iii) of such paragraph who has been provided any such benefits prior to such enactment date, the United States shall not make any claim to recover the value of any benefits so provided; and

(C) the amendments made by clause (1) of section 1(a) shall apply (i) retroactively only to persons awarded general or honorable discharges under such revised standards and to persons who, prior to the date of enactment of this Act, had not attained general eligibility for such benefits by virtue of (I) a change in or new issuance of a discharge under section 1553 of title 10, United States Code, or (II) any other provision of law, and (ii) prospectively (on and after such enactment date) to all other persons.

Amend the amendment of the House to the title so as to read: "An Act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.".

Mr. ROBERTS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas to concur in the Senate amendment?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not intend to object, I wonder if the chairman would please explain the new provisions of the bill. I yield to the chairman for that purpose.

Mr. ROBERTS. Mr. Speaker, during the past several months there has been considerable discussion and debate in reference to the payment of veterans' benefits to individuals whose discharges were upgraded under special discharge review standards implemented by former President Ford and President Carter.

Earlier this month, the Senate passed S. 1307 and on September 12, the House passed H.R. 8698. Since that time we have had several discussions with the Senate to iron out the differences between the two bills. We realized we had to give to some degree on at least two major provisions of the House bill and there is no question in my mind that the Senate amendment reflects a sincere desire on both sides to see that no individual is prohibited from getting veterans' benefits if such individual's service warrants such benefits.

The House-passed bill would have barred the payment of veterans' benefits to individuals whose discharge or release from service was for prolonged unauthorized absence from active duty for a continuous period of at least 180 days. During debate on the House bill, there was considerable discussion on the floor with respect to the fact that that provision was an absolute mandate and some of my colleagues questioned the advisability of it being absolute. In responding to the concern expressed by the gentleman from New York (Mr. DOWNEY), I assured the gentleman that in working out an agreement with the other body we would exert every effort to arrive at some way of dealing with cases in which there are sufficient mitigating circumstances to warrant the provision of benefits. I think we have done that.

This legislation would create a "conditional bar as previously passed by the House. Individuals absent without authority from active duty for a continuous period of 180 days or more, discharged under conditions other than honorable, would not be entitled to veterans' benefits unless there are compelling mitigating circumstances to warrant such absence. Individuals as to whom this bar might apply would be afforded the opportunity to demonstrate to the satisfaction of the Administrator of Veterans' Affairs that there are unusual circumstances involved in his or her particular case. If the Administrator is satisfied, the bar does not apply and the individual will be eligible for benefits. In other words, every single individual will have an opportunity to have his or her case reviewed on the whole record.

The second major difference involves the review procedure on upgraded discharges under the special programs prior to the enactment date of the legislation. The House bill required that the discharge review boards make immediate "second" determinations on some 12,000 cases already upgraded under the special programs. The proposed amendment would allow more time for the reviews to take place. If the individual is receiving benefits on the date of enactment, the appropriate discharge review board must make a determination on its own initiative and on an expedited basis

as to whether the individual would have been granted an upgrading under standards applicable to all persons with administrative discharges under other than honorable conditions. If the board, upon a case review of the record, determines that it would not have granted an upgrading except for the special criteria, the individual is to be given the right to personal appearance prior to making any final determination.

The "second" determinations would be made on an expedited basis in the cases of those who received benefits prior to the date of enactment as a result of a special program upgrading and those who make a written request for such a determination. In all other cases in which the individual would, in the absence of this legislation, be entitled to veterans' benefits as a result of upgrading under a special program, the determination would be made on the board's own initiative and within 1 year from the date of enactment. In other words, rather than requiring the discharge review boards to conduct an immediate "second" review of all those upgraded prior to the date of enactment, they will now have 1 year in which to make the "second" determinations.

Mr. Speaker, the only other major substantive change calls for published, uniform standards to be applied uniformly in the future for the upgrading of administrative discharges under other than honorable conditions. This provision takes the place of our "sense of the Congress" provision that others who served prior to the Vietnam period be considered under similar revised criteria. We felt that as a matter of equity other wartime veterans should be judged, if you will, under similar criteria as that proposed by the President for veterans who served in Vietnam. Our bill would have allowed the President and the Secretary of Defense maximum flexibility in initiating any new or similar program for such individuals. Nonetheless, it was determined that S. 1307, as originally passed by the Senate, was more acceptable. That measure would have required the establishment of a new discharge review program, open to all former active-duty personnel who served at any time prior to March 29, 1973, and would have required at least a full year for individuals to apply for upgrading under the new program.

The only changes made in the proposed amendment to that provision are:

First. It would eliminate the cutoff date of March 28, 1973. We felt it unwise to have one set of standards for those who served prior to that date and another possible standard for those with service subsequent to such date.

Second. It would require that the uniform standards be published.

In providing for uniform standards to be promulgated for consideration of all discharge upgradings, it is understood that some leadtime may be required by the Department of Defense. It is not the intention of this proposal to disadvantage any veteran whose character of discharge is reconsidered under standards in effect for all veterans prior to the armed services' full implementation of this provision. We would expect the Veterans' Administration to honor such upgradings that were not issued solely pursuant to a special program. On the other hand, we urge the Department of Defense to proceed to publish new uniform standards at the earliest possible time so that there will be no delay in the process.

Mr. Speaker, there follows a more detailed explanation of the Senate amendment:

S. 1307—SUMMARY OF COMPROMISE AGREEMENT PROVISIONS

The provisions of the compromise agreement on S. 1307 may be sumarized as follows:

NEW UNIFORM DISCHARGE REVIEW REQUIREMENTS

The measure would establish certain requirements for the granting of veterans' benefits as a result of the upgrading of administrative discharges under other than honorable conditions. Under these requirements, a discharge upgraded by a service Discharge Review Board would create an entitlement to benefits only if the upgrading was based on a case-by-case review of all the evidence and factors in the case, under published uniform standards and procedures generally applicable to all persons administratively discharged from active-duty service. In addition, discharge-review standards must, for purposes of veterans' benefits, be historically consistent with criteria for determining honorable service and may not (as did the Ford and Carter special discharge review programs) include any criterion for automatically granting or denying an upgrading. These new requirements would be applicable to all future upgradings by Discharge Review Boards of administrative discharges under other than honorable conditions in order for such upgradings to carry with them entitlement to benefits.

EFFECT ON SPECIAL DISCHARGE REVIEW PROGRAMS

The measure would also preclude the granting of veterans' benefits on the basis of discharge upgradings awarded under (a) President Ford's January 19, 1977, program for certain persons who had applied under his earlier Clemency Program, (b) the Defense Department's April 5, 1977, Special Discharge Review Program, and (c) any subsequent program employing these kinds of revised standards not generally applicable to all persons with administrative discharges under other than honorable conditions. While allowing veterans to keep whatever upgraded discharge "paper" they receive or have received under any such "special" program, the compromise legislation would provide for the granting of veterans' benefits in any such case only upon a "second" determination by the Discharge Review Board concerned—a determination that the individual would have been granted an upgrading under standards meeting the new discharge-review requirements discussed above.

"Second" determinations

In the case of a person whose administrative discharge under other than honorable conditions (Undesirable or Clemency Discharge) has been upgraded under a "special" program and who is receiving benefits on the date of enactment, the legislation provides that the appropriate Discharge Review Board must make a determination on its own initiative and on an expedited basis as to whether the individual would have been granted an upgrading under the new standards applicable to all persons with administrative discharges under other than honorable conditions, and (b) if the board's preliminary determination is unfavorable (that is, if the board, upon reviewing the case record, determines that it would not have granted an upgrading under the new, generally applicable standards), the individual is to be so notified in writing and given the right to personal appearance prior to the making of any final determination. In such cases of persons receiving benefits on the date of enactment, the provision of benefits is not to be terminated during the pendency of a final "second" determination unless 90 days have expired since the making of a preliminary determination or 180 days have expired since the enactment date, whichever is the earlier. If a favorable determination is made, the individual's right to benefits is established and he or she, of course, keeps the benefits received prior to that determination. Even when the final determination (after personal appearance) is not favorable to the individual, the individual would not be required to repay the value of benefits received prior to the making of the unfavorable determination, or the expiration of 90 days after an unfavorable preliminary determination or 180 days after enactment, which ever is the earliest.

These "second" determinations would also be made on an expedited basis in the cases of those who received benefits prior to the date of enactment as a result of a special program upgrading and those who make a written request for such a determination.

To facilitate the making of "second" determinations on an expedited basis when the individual has received or applied for benefits, the VA is required to notify the appropriate board of review, as soon as administratively feasible, of any such application for or receipt of benefits.

In all other cases in which the individual would, in the absence of this legislation, be entitled to veterans' benefits as a result of upgrading under a special program, the determination would be made on the board's own initiative and within one year from the date of enactment.

In the event of any upgrading of administrative discharges under other than honorable conditions under a special program after the date of enactment (occasioned by any delay in the administrative establishment of a new uniform program meeting the new requirements), the "second" determination (as to whether the discharge would be upgraded under the new requirements) must be made at the time the upgraded discharge is awarded.

Notice and hearing procedures

The legislation would also require the Secretary of Defense to fully inform each person administratively discharged under conditions other than honorable whose discharge is upgraded under a special program of his or her right to obtain an expedited "second" determination and of the implications of the provisions of this legislation for him or her.

BAR TO BENEFITS

Review board action not effective to remove bars

This measure also provides that, when an individual has been discharged or released from active duty on grounds which constitute a bar to veterans' benefits under current law (for example, discharge by order of a general court-martial and discharge as a deserter), no subsequent action of a Discharge Review Board will have the effect of avoiding the bar to benefits. Thus, an upgrading of a discharge by a Discharge Review Board would not remove the bar. This provision reverses the present VA interpretation of current law. Recourse to a Board for Correction of Military Records, however, would continue to be available to remove such a bar.

Prolonged absences

In addition, this legislation would create a new conditional statutory bar to benefits—applicable to persons who were absent without authority from active duty for a continuous period of 180 days or more if the individual was discharged under conditions other than honorable. Individuals as to whom this bar might apply, however, are to be afforded the opportunity to demonstrate to the Administrator that there are compelling reasons to warrant such prolonged unauthorized absence. If the administrator is satisfied that such compelling reasons exist, the bar does not apply.

Limited retroactive application

The provisions eliminating the effectiveness of the Discharge Review Board upgradings in avoiding a bar to benefits and creating a new bar to benefits based on prolonged absence apply prospectively only, except that they apply to persons who have been awarded upgradings of their discharges under special programs and persons who, prior to the date of enactment, had not become generally eligible for benefits by virtue of such processes as discharge upgrading and VA character-of-discharge determinations. Thus, for example, when a person was administratively discharged under conditions other than honorable on the grounds of a continuous unauthorized absence of 180 days or more and his or her discharge was upgraded under generally applicable standards (that is, outside a special program) before the date of enactment, he or she would be entitled to veterans' benefits without regard to these provisions. The new conditional bar would apply, however, in connection with the required "second" determination, to a person discharged under identical circumstances whose discharge was upgraded under a special program. This bar provision would also apply to a person so discharged—before or after the date of enactment—who, after the date of enactment, receives from a Discharge Review Board an upgrading of a discharge under other than honorable conditions.

Notification of alternative remedies

To ensure that persons affected by the new conditional bar (as well as anyone who might be affected by any existing bar to benefits under section 3103(a) of title 38) who apply to a Discharge Review Board for an upgrading of their discharges are made aware of the effects of the new provisions, the legislation requires the Secretary of Defense to advise such persons that they might possibly be administratively found to be entitled to veterans' benefits only through the action of a Board for Correction of Military Records or the action of the Administrator of Veterans' Affairs. The Secretary must also advise such persons of the procedures for making application to a Board for Correction of Military Records and the Administrator for such purposes and of their right concurrently to pusue their remedies before a Discharge Review Board (for discharge upgrading), a Board for Correction of Military Records, and the Administrator.

SPECIAL VA CHARACTER-OF-DISCHARGE STANDARDS PRECLUDED

This measure would also preclude the Administrator of Veterans' Affairs, in replacing, revising, or amending regulations governing the standards and procedures by which the Veterans' Administration determines whether an individual with a less than honorable discharge was discharged "under conditions other than dishonorable"—which decision, if favorable, entitles the individual to veterans' benefits—from giving any special advantages, through "character-of-discharge" regulations, to veterans who may have received upgraded discharges under a special program.

HEALTH CARE ENTITLEMENT FOR PERSONS WITH UNDESIRABLE DISCHARGES

A further provision would grant an entitlement, for certain persons with discharges under other than honorable conditions, to health care and related benefits (of the type generally authorized for persons with discharges under honorable conditions) for any disability incurred or aggravated during active-duty service in line of duty. The beneficiaries of the new entitlement would be persons administratively discharged under conditions other than honorable who have disabilities incurred or aggravated during active-duty service in line of duty, but not including persons barred from receiving benefits by section 3103(a) of title 38. Disabilities incurred or aggravated during a period of service from which the individual was discharged by reason of a bad conduct discharge are also excluded from this entitlement.

BENEFITS ELIGIBILITY AFTER RE-UPPING

Finally, a provision identical to section 302 (a) of H.R. 5027 as passed by the Senate on September 9, 1977, regarding "re-upping", eliminates a clear inequity in the law regarding eligibility for veterans' benefits under certain circumstances when an individual, before completing a period of service, agrees to extend his or her period of service. This provision expands the definition of the term "discharge or release" in section 101(18) of title 38, United States Code, in order to assure eligibility for veterans' benefits to one who has satisfactorily completed a period of service when he or she has not received a discharge or release at the completion of that period because of having agreed to extended active-duty service.

Mr. Speaker, the proposed compromise will not please everyone. It has been very, very difficult to reach agreement, because of the strong feelings on the issue. I think the proposal is fair and will assure that everyone who served in the Armed Forces will be considered for upgrading under the same criteria and standard. I want to thank the gentleman from Arkansas (Mr. HAMMERSCHMIDT), the ranking minority member of the committee, for his tremendous cooperation and effort in bringing about this compromise. He and his staff made a major contribution. I am grateful for the help I have received from every member of our committee.

Mr. Speaker, I think we have an equitable agreement and I urge the adoption of the Senate amendment to the House amendment.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation, and I would like to add my concurrence to the chairman's support of the Senate amendments to the bill. I believe it is the strongest legislation we could possibly have obtained, and is equitable to all interests. We have preserved the notion that uniform standards should apply to all veterans who seek to have discharges upgraded, and have called for an expansion of the program that will allow others to come forward. We have asked, for the first time in history, that such standards be published, for the scrutiny of the Congress and the public. We have developed a procedure to deal with discharges upgraded under standards not applicable to all veterans, now or in the future.

With reference to the Carter program itself, we have worked out a method of dealing with those whose discharges have already been upgraded, without penalizing those who originally came forward. A second determination, under traditional standards, must be made in every case where an upgrade was granted under reduced standards. This process must be completed within 1 year. Persons in receipt of benefits will not have them terminated without the opportunity for this second review, and a personal hearing.

Finally, Mr. Speaker, I believe the provision of our legislation that precludes veterans' benefits for those discharged pursuant to an unauthorized absense of more than 180 days is fair and necessary. This legislative "bar" will insure that, no person, now or in the future, will receive veterans' benefits if he or she was discharged following an unauthorized absence of more than 180 days, unless that person can demonstrate to the satisfaction of the Administrator of Veterans' Affairs that there were compelling reasons to justify the period of unauthorized absence. As such, the unfortunate individual with the father dying of cancer, who has been so frequently discussed in our many debates on this subject, would not be precluded from his veterans' entitlement, while the great majority who acted purely out of self-interest will be precluded.

As the chairman himself as indicated, there are no items in this amended legislation that detract from, or weaken, the original bill that was passed by the House. In fact, the new sections would appear to strengthen our intended purposes. As such, I wish to extend my full support to the amended language:

CHANGES IN THE HOUSE VERSION OF S. 1307, THE BILL TO DENY VETERANS BENEFITS TO VETERANS WITH UPGRADED DISCHARGES, AS PROPOSED BY THE SENATE COMMITTEE

1. 180-day "Bar" retained, but muted with a "savings clause" that allows the person to demonstrate to the satisfaction of the Veterans Administrator "compelling circumstances" that justified the unauthorized absence.

2. Calls for published, uniform standards to be applied uniformly in the future (not addressed in our bill). Also eliminates our "sense of Congress" provision regarding the extension of the program, and instead, requires the President to open up the program to all veterans for a period of at least one year.

3. Hospital care extended to bad discharges who suffered *Line* of duty disabilities (rather than *Performance* of duty).

4. Retroactivity of provisions limited—

(a) in its application to the 35 persons now in receipt of benefits—they have up to 180 days to "make their cases" before losing benefits.

(b) in reference to the "180-day deserters," it includes only those in the Ford, Carter, or future programs.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Ohio.

Mr. WYLE. Mr. Speaker, I thank the distinguished gentleman from Arkansas for yielding. I rise in support of the position of the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Texas. As we are all aware the question of the discharge up-

grade was in itself a very emotional issue. It caused a great clamor throughout the land. There were cries of anguish from the major service organizations as well as words of protest from those who felt that President Carter's program did not go far enough. I can say that I was, and am still, standing on the side of those who feel that the Carter automatic upgrade of less than honorable discharges is not fair to those young men and women who served honorably during the Vietnam conflict. Unfortunately, there was little I could do, but protest the upgrade. I do not object to upgraded discharges, but I do object to the blanket program. We have long had a system which looks at discharges and makes the appropriate correction if the individual case warrants it. I feel strongly that it is necessary to protect the integrity of those who have so faithfully and honorably served this Nation in its time of need. That is what this bill does. I think that you will agree with me that veterans' benefits should be provided to those men and women who have honorably served in this Nation's Armed Forces in its times of need. To dilute that significance by awarding those hard-earned benefits to those few who neglected their duty in the spirit of compassion and forgiveness is blasphemous. I think of myself as a compassionate and forgiving man, but I also have principles. That is why I coauthored the bill which would deny veterans' benefits to those who were given automatic upgrades. I sat on the special subcommittee convened to hear the testimony concerning this question. We heard very emotional testimony from men and women who had strong feelings on both sides of the issue. The subcommittee as an entity anguished over the question. Our concerns rested most clearly upon the distinction between honorable and less than honorable discharges. Under the President's program we were being asked to provide the identical benefits awarded to those who did serve honorably to those who did not. We were told it is a matter of equity; this is ludicrous. There is no equity between those who served honorably and those who did not. The veterans' benefit should properly go only to those who served honorably. I believe that this bill with its amendments, which we have before us today, is a good bill. It provides that each individual eligible for an upgraded discharge will receive a case-by-case review of eligibility for veterans' benefits. The bill mandates that all evidence and factors pertaining to the case must be historically consistent and be handled as expeditiously as possible.

When H.R. 8698 first came to the floor of the House, considerable debate ensued concerning section 1(f) and its definition of the term "deserter." Our original bill read as:

2(f). For the purposes of subsection (a), the term "deserter" includes any individual who as a member of the Armed Forces was absent without authority from active duty for a continuous period of at least one hundred eighty days.

As you will recall, several Members objected to this language, because they felt it was discriminatory, because of the arbitrary figure of 180 days, and that the bill did not allow for compelling circumstances. The original language of S. 1307 did not have a similar provision. After discussion, it was agreed that (a) section 3103 of title 38, United States Code, should be amended by inserting language which authorizes the Administrator to take "compelling reasons for prolonged unauthorized absence" into account in individual cases. I believe that this language will alleviate the problems that were raised by the questions of several Members during the original debate on this bill. This will guarantee that benefits are awarded under uniform criteria. If the determination is unfavorable, the applicant has the right of appeal and personal appearance before the Board of Review.

Section 2 of this bill deals in a compassionate manner with a very important issue of the individual who suffered disability before his discharge while in the line of duty. I believe that this individual is in a special category requiring special attention. The bill provides that he will receive the same type of medical benefits that is available to honorably discharged veterans for the treatment of his service connected disability. I feel that section 4 of this bill is very important and truly promotes the feeling of compassion and forgiveness. The administration's program was pointed to only veterans of the Vietnam conflict with less than honorable discharges. We heard many witnesses say that Vietnam was a bad war and those called to fight were faced with very different circumstances. Thus, they received "bad paper" more readily. The findings of our hearings failed to prove the latter contention. All of the figures presented to us showed that in both World War II and Korea there were higher percentages of less than honorable discharges. The proposed amendment says there shall be no special distinction between the veterans of the different eras. I also feel that a couple of other points covered by this legislation are significant and should be mentioned. First, it states that if the Federal Government makes a mistake and pays a veteran's benefit to which he is not entitled the Government has no recourse to collect benefit payments from those who have already received benefits, despite the fact that the veteran was not eligible for the benefits. This provision is designed to protect both the Government and the recipient. Mr. Speaker, I believe that this bill is a good one. It addresses a most emotional situation in a reasonable way. It definitely gives those individuals with "bad paper" discharges the opportunity to request an upgrade. It gives the Veterans' Administration the vehicle to provide veterans' benefits where the facts warrant them, and more importantly, it maintains the concept that veterans' benefits are awarded for service rendered under honorable conditions. I might also add in closing, this bill is not an overnight solution. Much work and long hours from many people went into drafting this legislation which is fair and equitable. I would urge my colleagues to join me in support of Mr. ROBERT'S motion.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, I also rise in support of this legislation.

Mr. Speaker, I concur in the remarks made by the distinguished chairman of the full committee and I want to commend the chairman for his leadership in bringing this legislation about. He and I discussed hearings on this matter immediately upon learning of the President's plan to upgrade bad discharges and I am glad we are today considering passage of this bill.

I am equally pleased to learn that the White House has informed our distinguished chairman that the President will allow this bill to become law. I certainly think it is in the best interest of the country that he do so. During 4 days of hearings in which I participated, it was confirmed that thousands of individuals who would not have qualified to receive veterans' benefits were now eligible to receive such benefits simply because they met one of the automatic criteria for the upgrading of discharges under the President's program. It was disclosed at these same hearings that hundreds of deserters exiled in Sweden and other foreign countries were returning to the United States at the expense of the Federal Government and having their discharges upgraded under the special program. Some of them are now receiving veterans' benefits, because of this. Mr. Speaker, it makes no sense to me to have a double standard and the measure we are passing today will assure that veterans' benefits will not be paid to any individual unless his discharge is upgraded under uniform standards of criteria that are made applicable to any individual who served.

In addition, the bar provision which we insisted on will prohibit the payment of benefits to any individual who was discharged for prolonged unauthorized absence of a continuous period of 180 days or more. This provision is designed to prohibit the payment of benefits to deserters. Under our compromise agreement, unless such individual can satisfy the Administrator of Veterans' Affairs that compelling reasons warranted such unauthorized absence, he is not going to be given veterans' benefits.

Mr. Speaker, you will recall that the bill we originally passed in the House expressed the sense of the Congress that the President should, as a matter of equity, allow veterans of World War II and Korea and those serving during other wartime periods, the opportunity to have their discharges upgraded under similar standards as those proposed for the Vietnam veteran. We did not mandate that he do so, thus allowing the President and the Secretary of Defense maximum flexibility in implementing such a new program; however, administration officials decided that S. 1307, as

originally passed the Senate, is more acceptable, which led us to agree to that provision of the Senate bill which requires the publishing of new uniform standards to be made applicable to all individuals.

Mr. Speaker, the compromise obviously will not be acceptable to everyone. Many people feel that nothing should be done to prohibit the payment of benefits to individuals whose discharges were upgraded under the Ford and Carter special programs. On the other hand, there are many who say that no benefits should be provided to individuals who cannot meet the standard existing prior to the announcement of the new programs. The proposed amendment is offered as a compromise somewhere in between and I intend to support it.

Mr. HAMMERSCHMIDT. Further under my reservation of objection, I would like to ask one more question of the distinguished chairman.

Does the gentleman have any knowledge of what the President's intention is, so far as signing this legislation we are going to send down to the White House?

Mr. ROBERTS. Mr. Speaker, if the gentleman will yield, I have had no direct statement to the effect, but I have been told by the people in the White House that the President would sign the bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for his response, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1307, and that I may be permitted to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SERVICE AS EMPLOYEE OF CONGRESSIONAL CAMPAIGN COMMITTEE CREDITED FOR CIVIL SERVICE RETIREMENT PURPOSES

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 9262) to amend title 5 of the United States Code to provide that an employee may credit service as an employee of a congressional campaign committee for civil service retirement purposes, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill as follows:

H.R. 9262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Upon application to the Civil Service Commission, any individual—

"(A) who is an employee on the date of the enactment of this subsection, and

"(B) who has on such date or thereafter acquires 5 years or more of creditable civilian service under this section (exclusive of service for which credit is allowed under this subsection),

shall be allowed credit as Congressional employee service for service before the date of the enactment of this subsection while employed by the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee, if such employee makes a deposit to the Fund in an amount equal to the amount which would be required under section 8334 (c) of this title if such service were Congressional employee service. The aggregate amount of service for which credit may be allowed to an employee under this subsection may not exceed ten years.

"(2) The Civil Service Commission shall accept the certification of the President of the Senate (or his designee) or the Speaker of the House (or his designee), as the case may be, concerning the service of, and the amount of compensation received by, an employee with respect to which credit is to be sought under this subsection.

"(3) An individual receiving credit for service for any period under this subsection shall not be granted credit for such service under the provisions of the Social Security Act.".

SEC. 2. (a) For purposes of computing the annuity under section 8339 of title 5, United States Code, of any Member resigning on or after October 1, 1978 and before January 3, 1979, the term "final basic pay" shall be substituted for the term "average pay".

(b) Terms used in subsection (a) which are used in subchapter III of chapter 83 of title 5, United States Code, shall have the same meanings as given them under such subchapter.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS OF 1977

Mr. HAWKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. HAWKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 5383, with Mr. BINGHAM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, September 13, 1977, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 5383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Age Discrimination in Employment Act Amendments of 1977".

RESTRICTIONS ON SENIORITY SYSTEMS AND EMPLOYEE BENEFIT PLANS

SEC. 2. (a) Paragraph (2) of section 4(f) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) is amended by inserting after "individual" the following: "and except that the involuntary retirement of any employee shall not be required or permitted by any such seniority system or any such employee benefit plan because of the age of such employee".

(b) The amendment made by subsection (a) shall take effect immediately upon the date of enactment: *Provided,* That in the case of employees covered by a bona fide collective bargaining agreement in effect at least thirty days prior to the date of enactment of this Act, entered into by a labor organization (as defined in section 6(d)(4) of the Fair Labor Standards Act of 1938, as amended), the amendment made by subsection (a) shall take effect in such a case where the provisions of such collectively bargained agreement would otherwise be prohibited as a result of the amendment to section 12(a)(2) of the Age Discrimination in Employment Act of 1967 made by section 4(b) of this Act upon the termination of such agreement or upon the expiration of two years from the date of the enactment of this Act, whichever shall first occur.

REPORT BY SECRETARY OF LABOR

SEC. 3. (a) Section 5 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 624) is amended by inserting "(a)" after "SEC. 5." and by adding at the end thereof the following new sentence: "Such study shall include a determination of the feasibility of eliminating the upper age limitation established in section 12(a) of this Act, and an examination of the effect of any such elimination upon employees and an investigation of actions which employers would be required to undertake in order to comply with the provisions of this Act as a result of any such elimination.".

(b) Section 5 of the Age Discrimination in Employment Act of 1967, as amended in subsection (a), is further amended by adding at the end thereof the following new subsection:

"(b) The report required in subsection (a) of this section shall be transmitted to the President and to the Congress as an interim report no later than one year after the effective date of the Age Discrimination in Employment Act Amendments of 1977 and in final form no later than two years after such effective date.".

APPLICATION OF LIMITATIONS TO FEDERAL EMPLOYEES

SEC. 4. (a) Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by striking out "The" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, the".

(b) Section 12(a) of the Age Discrimination in Employment Act of 1967, as so redesignated in subsection (a), is amended by striking out "but less than sixty-five years of age." and inserting in lieu thereof the following: "but less than—

"(1) sixty-five years of age, for the 180-day period following the date of the enactment of the Age Discrimination in Employment Act Amendments of 1977; and

"(2) seventy years of age, after the close of the period specified in paragraph (1) of this subsection.".

(c) Section 12 of the Age Discrimination in Employment Act of 1967, as amended in subsection (a), is further amended by adding at the end thereof the following new subsection:

"(b) In the case of any personnel action affecting employees or applicants for employment which is subject to the provisions of section 15 of this Act, the prohibitions established in section 15 of this Act shall be limited to individuals who are at least forty years of age.".

FEDERAL GOVERNMENT EMPLOYMENT

SEC. 5. (a) Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended—

(1) by striking out "All" and inserting in lieu thereof "Notwithstanding any other provision of Federal law relating to mandatory retirement requirements or relating to the hiring, discharging, or promoting of employees or applicants for employment, and notwithstanding any other provision of law, all"; and

(2) by inserting "who are at least forty years of age" after "applicants for employment".

(b) The fifth sentence of section 15(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(b)) is amended by inserting before the period at the end thereof the following: ", except that the Commission may not establish any exemption which permits any department, agency, or other entity referred to in subsection (a) of this section to observe the terms of any seniority system or any employee benefit plan such as a retirement, pension, or insurance plan, if such system or plan includes any provisions which require the retirement of any employee because of the age of such employee".

(c) Section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a) is amended by adding at the end thereof the following new subsections:

"(f) Any personnel action of any department, agency, or other entity referred to in subsection (a) of this section shall not be subject to, or affected by, any provision of this Act, other than the provisions of section 12(b) of this Act and the provisions of this section.

"(g)(1) The Civil Service Commission shall undertake a study relating to the effects of the amendments made to section 12 of this Act and to this section by the Age Discrimination in Employment Act Amendments of 1977.

"(2) The Civil Service Commission shall transmit a report to the President and to the Congress containing the findings of the Commission resulting from the study of the Commission under paragraph (1) of this subsection. Such report shall be transmitted no later than January 1, 1979.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. Section 17 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 635) is amended by striking out ", not in excess of $5,000,000 for any fiscal year,".

Mr. HAWKINS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 5383, legislation which would prohibit mandatory retirement for all Federal employees and private workers below age 70.

There is no sound economic, sociological, or biological evidence to support a policy of mandatory retirement at age 65. The policy impairs the health of many individuals whose jobs represent a major source of status, creative satisfaction, social relationships, or societal respect. The AMA notes that enforced idleness deprives persons of opportunities for physical and mental activity and encourages atrophy and decay.

This form of age discrimination has a devastating impact upon the retiree's finances by forcing them to survive on public and private retirement benefits which have failed to keep pace with the soaring cost of living. Retirement cuts an individual's income in half, yet the cost of medical care, food, clothing, and transportation continues to climb.

Ability and knowledge do not automatically end at age 65. If a worker is able to fulfill his duties competently, the difference of 1 day or 1 year should matter very little. At a time when the United States must, as the President has so forcefully warned, conserve all of its natural resources, we continue to neglect one of our most precious human resources—our senior citizens. Their experience and knowledge often make them more, not less, qualified for their jobs.

Moreover, those still employed indirectly shoulder financial burdens caused by forcible retirement. The Labor Department estimates that compulsory retirement costs our Nation over a million labor years annually, and this figure is rising rapidly. This loss in labor reduces our potential output of national goods and services by as much as $10 billion annually, according to Prof. Jerome Pollack.

In addition, the social security payroll tax expenses of the employed increase as more of their older peers are compelled to retire. In 1955 seven workers financed the benefits for every one pension recipient. Within 50 years, experts predict that an individual's benefits will be financed by fewer than two workers. Also, social security taxes might rise to as high as 25 percent of the average income if the retired population continues to grow at its present rate.

Some employers favor mandatory retirement because it provides job opportunities for younger workers and insures a firm base on which to fix or negotiate retirement benefits. But elimination of the procedure would not preclude labor agreements which facilitate or even encourage early retirement to preserve the jobs of younger workers. It would merely prevent the forced retiring of those workers who continue to have the capacity to work and choose to do so.

Businesses also claim that the impersonality of forced retirement relieves the older worker of the final unpleasantness and embarrassment of being told that he, personally, is no longer desired.

Mandatory retirement does not protect anyone from disgrace. Rather, it institutionalizes this inhumane policy and forces many healthy and able-bodied persons to suffer unnecessarily. Further, studies have shown that seniors are willing to take their chances to remain in the labor force, to be judged according to merit as they have in the past.

Employers frequently suggest that mandatory retirement opens up opportunities for promoting younger employees to more responsible positions—usually at a lower salary with fewer benefits. Older workers have skills, knowledge, and experience that their younger counterparts do not have and it is proper that they receive financial compensation for their years of hard work.

I believe the injustice and harmfulness of mandatory retirement compel this Congress to outlaw this practice for all American workers. H.R. 5383 takes us one step closer to this goal.

AMENDMENT OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAWKINS: Page 4, strike out line 9, and insert in lieu thereof the following new section heading:

APPLICATION OF LIMITATIONS

Mr. HAWKINS. Mr. Chairman, this amendment is purely technical in nature. It merely designates the section heading in a more correct way.

This was called to the attention of the committee by the chairman who is now presiding, and for that reason I am offering the amendment. We have the support of the minority to make this technical correction.

Mr. Chairman, I ask that the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HAWKINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. SPELLMAN

Mrs. SPELLMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SPELLMAN: On page 5, strike out subsections (a) and (b) of section 5 of the amendment in the nature of a substitute recommended by the Committee on Education and Labor and insert in lieu thereof the following:

(a) Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by inserting "who are at least forty years of age" after "applicants

for employment" and by inserting "personnel actions" after "except".

(b) (1) Section 3322 of title 5, United States Code, relating to limitations on appointments after age 70, is hereby repealed.

(2) The analysis for chapter 33 of title 5, United States Code, is amended by striking out the item relating to section 3322.

(c) Section 8335 of title 5, United States Code, is amended—

(1) by striking out subsections (a), (b), (c), (d), and (e) thereof;

(2) by redesignating subsections (f) and (g) as subsections (a) and (b), respectively; and

(3) by adding after subsection (b), as redesignated, the following:

"(c) An employee of the Alaska Railroad in Alaska and an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Company or the Canal Zone Government, who becomes 62 years of age and completes 15 years of service in Alaska or on the Isthmus of Panama shall be automatically separated from the service. The separation is effective on the last day of the month in which the employee becomes age 62 or completes 15 years of service in Alaska or on the Isthmus of Panama if then over that age. The employing office shall notify the employee in writing of the date of separation at least 60 days in advance thereof. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.

"(d) The President, by Executive order, may exempt an employee from automatic separation under this section when in his judgment the public interest so requires."

(d) Section 8339(d) of title 5, United States Code, is amended by striking out "section 8335(g)" and inserting in lieu thereof "section 8335(b)".

Redesignate subsection (c) of section 5 of the committee amendment as subsection (e).

Mrs. SPELLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

Mrs. SPELLMAN. Mr. Chairman, this amendment, which I am offering on behalf of the Post Office and Civil Service Committee, results from agreements reached between Chairman NIX of the Post Office and Civil Service Committee, Chairman ZABLOCKI of the International Relations Committee, and Chairmen PERKINS, HAWKINS, and PEPPER.

The primary purpose of this amendment is to continue in effect those mandatory retirement provisions which are applicable to specific civil service occupations such as air traffic controller, law enforcement officer and firefighter.

Also, this amendment will leave intact the existing retirement provisions applicable to Foreign Service personnal and employees of the Central Intelligence Agency.

However, this amendment will permit repeal of the age 70 mandatory retirement provision which applies to approximately 95 percent of the Federal civilian workforce.

I hasten to point out that this amendment does not indicate opposition perse to elimination of mandatory retirement for air traffic controllers, firefighters, and other specific occupations.

However, since most of these mandatory retirement provisions are part of liberalized retirement programs, our committee believes that such provisions should not be repealed until the individual retirement programs have been reexamined.

The amendment will provide the opportunity for review of these retirement programs and their mandatory retirement provisions.

The Subcommittee on Compensation and Employee Benefits, which I chair, already has scheduled hearings for September 27 on this subject.

Mr. Chairman, to avoid the possibility of wholesale error in dealing with erasing mandatory age requirements, I urge the adoption of this amendment.

Mr. ZABLOCKI. Mr. Chairman, will the gentlewoman yield.

Mrs. SPELLMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentlelady from Maryland.

I would like to take this opportunity to thank the distinguished chairman of the Committee on Education and Labor, the chairman of the Subcommittee on Employment Opportunities, and the chairman of the Select Committee on Aging for their cooperation and acceptance of this amendment.

As the gentlelady from Maryland explained, the amendment, in part, exempts Foreign Service personnel from the effect of the bill. The amendment will provide the Committee on International Relations, which has primary jurisdiction over the Foreign Service, an opportunity to review statutory retirement provisions currently applicable to Foreign Service personnel.

As I assured the chairman of the Committee on Education and Labor and the chairman of the subcommittee in our earlier correspondence, the Committtee on International Relations will review the retirement provisions affecting the Foreign Service at the earliest possible date in the second session of this Congress.

I urge the adoption of the amendment.

Mr. PEPPER. Mr. Chairman, I rise in support of the amendment.

As one of the sponsors of this bill, H.R. 5383, I want to say that I believe it is appropriate to adopt the amendment offered by the gentlewoman from Maryland (Mrs. SPELLMAN) on behalf of the Committee on Post Office and Civil Service, and also by the distinguished chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. Chairman, I take this position with the understanding that the Committee on Post Office and Civil Service will hold hearings this year to determine whether those exemptions should be continued in the future or not, and also that the Committee on International Relations will hold hearings to determine whether the exemption accorded to the Foreign Service by this amendment shall be extended into the future.

For the record, Mr. Chairman, I should state what might appear to be obvious: That we in the House, in debating and passing this amendment, are making no judgment whatever on the desirability of retaining the ages now established by the various statutes affected for forced retirement. That judgment, I am sure, will be rendered when the committees involved bring subsequent legislation to the floor. In any event, Mr. Chairman, with those understandings and under those conditions, we think that this amendment is appropriate and I hope it will be agreed to.

Mr. Chairman, I see that my distinguished cosponsor is seeking recognition.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I thank the gentleman for yielding.

As a cosponsor of the bill, I want to express my support for this amendment.

I think it is necessary in order to expedite consideration of this major step forward in eliminating age discrimination.

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered as a committee amendment to H.R. 5383 by Representative SPELLMAN of the Post Office and Civil Service Committee.

Mr. Chairman, subsequent to the Committee on Education and Labor reporting H.R. 5383, the Post Office and Civil Service Committee requested sequential referral of the legislation inasmuch as it has primary jurisdiction over all matters relating to Federal employees. In an effort to expedite consideration of this bill, Congressmen PERKINS, PEPPER, and I agreed with Chairman NIX of the Post Office and Civil Service Committee and Chairman ZABLOCKI of the International Relations Committee to accept substitute language to be offered by our colleague, Representative SPELLMAN, on the mandatory retirement provision applicable to certain specific Federal occupations. The proposed amendment would exempt those mandatory retirement provisions that are applicable to specific civil service positions such as air traffic controllers, law enforcement officials and firefighters. The amendment also exempts Foreign Service personnel and employees of the Isthmus of Panama and Alaskan Railroad.

By this action we are not reaffirming the mandatory retirement ages in the statutes applicable to these positions. The sole purpose of this agreement is to afford the committees the opportunity to review these statutes.

It is my understanding that the Post Office and Civil Service Committee is in the process of developing plans at the present time to review the statute which requires mandatory retirement for certain Federal occupations. I know that the International Relations Committee will also review the exemption for Foreign Service personnel which fall under

its jurisdiction at the earliest opportunity during the 95th Congress.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The amendment was agreed to.

Mr. HILLIS. I move to strike the last word.

Mr. Chairman, I am strongly opposed to the mandatory retirement of individuals who are fully capable of continuing productive employment. Retirement policies which remove the choice from the employee are unfair.

Let me go further to say, that I am just as strongly opposed to compelling the older worker to continue on the job when he or she would prefer to retire. Financial reasons often necessitate that an individual must continue working longer. Others may simply enjoy their work and wish to continue working beyond 65.

We have no right to "put out to pasture" an individual who is fully capable of continuing productive work. Department of Labor and National Council on Aging studies indicate that elderly individuals are able to produce work with the same high quality and quantity levels as those of younger people.

Continued activity helps to stimulate the mind and bring about longer life spans. This is evident when many retirees become disenchanted when faced with reduced income, loss of old friends and the loss of an occupation in which they felt secure.

In conducting the congressional senior citizen intern program for the past 5 years, I have learned that older Americans want to have the choice of retirement left up to them. I concur.

The September issue of the "AARP Newsletter" answers some of the common mandatory retirement myths. I insert this article:

MANDATORY RETIREMENT MYTHS

Our long struggle to end the practice of mandatory retirement in the United States appears near success. When Congress returns from its summer recess, it is expected to vote on legislation which may mark the beginning of the end of age discrimination in employment in the same manner that racial and sexual discrimination is now barred.

Let it be understood that our leadership in this effort in no way implies that we are opposed to retirement. Retirement, we believe, can be one of the most rewarding, satisfying periods of life, for those who want it, can afford it—and freely choose it.

But to deny work to those who want it, need it—and are fully capable of doing it—solely on the basis of age is a denial of a fundamental human right.

While growing public and Congressional support for our position indicates positive action soon, some elements of business and labor remain opposed, using in their campaign of resistance a number of myths and misconceptions about the labor force and the abilities and attitudes of older workers. To set the record straight, here are their key arguments and our responses.

Myth: Mandatory retirement is necessary to open up job opportunities for younger people.

Reality: Forcing 100 skilled, experienced older workers to retire at age 65 does not guarantee 100 jobs for less-skilled younger workers, particularly the unskilled young people who are the greatest victims of unemployment. Nor does an end to mandatory retirement mean that many job opportunities for the young would be lost. Most older people, given a free choice, will still retire at around 65. Rather than accepting this persistent and pernicious myth and playing one age group off against another, we believe our nation should be striving to create enough jobs so that all Americans can continue to be productive for as long as they are able and want to be.

Myth: Mandatory retirement is the easiest, most "humane" way to weed out incompetent older workers.

Reality: It may be easy for personnel managers, since it helps them avoid having to make difficult, case-by-case personnel decisions. But it is certainly not "humane" to force people to give up their livelihoods—with the resultant implied stigma of incompetence and the very real loss of income—merely because they have reached an arbitrary age which has nothing to do with ability or attitude. Managers daily evaluate their employes on the basis of job ability, performance, attitude and attendance. Why is it perfectly proper to judge workers on that basis at age 25, 35, 45, 55, and even 64, but suddenly wrong when they reach their 65th birthday? Older Americans are willing to be evaluated on the same basis as younger employes and are willing to let their performance be a guide as to when they should retire. And that's the way it should be.

Myth: Ending mandatory retirement would create havoc with the nation's private pension plans.

Reality: Since some people would choose not to retire at age 65 if mandatory retirement were ended, there would be less demand on pension funds and continued contributions. This would benefit, rather than damage, the pension plans by making them more solvent. And since a number of major companies without mandatory retirement provisions still manage to maintain good pension plans it is obvious that the stability and solvency of a pension plan does not require a mandatory retirement age.

Myth: Unions should have the right to use a mandatory retirement age as a "bargaining chip" in collective bargaining with management.

Reality: Unions are prohibited from discriminating on the basis of race, religion or sex in collective bargaining. Why should they be allowed to practice age discrimination by bargaining away a person's opportunity to earn a livelihood merely because of age? In recent months several unions—including the United Steelworkers of America—have made important strides toward flexible retirement policies for their members. We hope that their colleagues in organized labor will see the wisdom of this approach.

Beyond the unfair burden mandatory retirement places on those who want and need to work, we believe the practice is a primary source of other forms of "ageism" in our society. Since Congress will be considering several bills on this issue amid continuing efforts by some to sell the myths as realities, it is important for you to express your views now. A brief note to your Congressional representatives can help liberate not only those facing forced retirement in the future, but also all older Americans from the stigma that an arbitrary age defines an end to productivity.

When we in this country strive to end discrimination of all people, it is only natural that we eliminate mandatory retirement. It is criminal that older people are told that they can no longer work when they want to work—and can. Our democracy fails when we deny an individual to make a choice. For those who are healthy and want to work—I say, let us in this Congress give them that opportunity.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to express my support for this legislation as I did during the general debate. There have been several arguments that have been presented to me since that time. One argument is to the effect that this lesigslation is going to deprive minorities, younger people, and women of job opportunities because under the existing law we can summarily force people out of their jobs at age 65 and make room for others.

I think that this existing form of discrimination which deprives people of opportunities to work when they are in good health and want to continue to work, is a kind of discrimination which we should not tolerate. While I am against discriminating against the young, women, or any individual on the basis of race, color, or creed, it does not seem to me that we should perpetuate one form of discrimination while we try to end other forms of discrimination.

Also it is my understanding that opportunities for minorities, women and younger people are not limited because of any such change in the law such as we are considering here, and that they can have those job opportunities without the existing mandatory retirement provision.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

The gentleman is making a very, very good point here in this matter, and I think it points up one of the myths that is being used against this legislation. The idea is that if an older person stays in a job, a younger person is denied that slot. The truth is, I think, that when we retire mandatorily, say, an engineer at 65, this does not mean that some unskilled person down the line gets the engineer's job. It does not mean that if 100 skilled workers retire at 65, then 100 unskilled people get those slots. Many times those jobs are lost, or they are not readily replaced. The manufacturer finds a way to automate them, and that sort of thing. I think there is no relationship between the situation that the gentleman is describing to the House and the role of the unemployed youth in this country.

Mr. McCLORY. I thank the gentleman. This clarification further fortifies the position which I am maintaining in support of this legislation.

Mr. PEPPER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the distinguished chairman of the committee and the principal author of this legislation, the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. I thank the gentleman for yielding.

I want to thank and commend my distinguished friend, the gentleman from

Illinois, for his excellent statement in support of this legislation. In view of his reference to blacks and women, I have before me now communications from the National Caucus on the Black Aged and the National Organization for Women, both, like the distinguished gentleman, supporting this bill. I ask that these communications be included in the RECORD at this point:

NATIONAL ORGANIZATION FOR WOMEN,
September 14, 1977.

STATEMENT ON MANDATORY RETIREMENT

The National Organization for Women (NOW) supports passage of H.R. 5383 (Pepper) as an important step toward elimination of age-related mandatory retirement. H.R. 5383, as reported unanimously by the House Committee on Education and Labor to the House floor on July 14, would ban age-based mandatory retirement in Federal Service, in the private sector to the age of 70, and would assure, with a few exceptions, that those between the ages of 40 and 70 will not be forced to retire because of a retirement age written into a pension plan or seniority system. Chronological age, like sex, is a poor indicator of ability to perform a job.

Women have a special stake in elimination of age-based retirement practices. A majority of women try to return to the labor market after their children are raised. They often have a difficult time finding work, in part because they are too close to the retirement age. If they do find employment, forced retirement limits the years which they can work to build up pension benefits or social security credits.

In addition, one-third of women in their middle years are no longer married. Of persons over 65, less than one-quarter of the men but well over half of the women are without spouses. In this age bracket, there are five times as many widows as widowers. Women alone seek work for economic as well as psychological reasons, and many would continue working if not forced into idleness and loneliness by mandatory retirement rules.

Women have a greater need than men to have the option to continue working, because of their lower economic status and more limited resources on retirement. Eighty percent of female retirees (as compared with 68.6 percent of male) have no pension to supplement social security. In the 55 to 64 age bracket, the median woman's income is about one-third of her male counterpart. But on top of this, earnings replacement rates of retirement income are lower for women than for men. Because more men than women receive pensions in addition to social security, the median income replacement ratio for women is 38 percent as compared with 43 percent for men. According to the Task Force on Social Security Paper prepared for the Senate Special Committee on Aging, "A retirement income crisis now affects millions of aged and aging women and threatens to engulf many more." ("Women and Social Security: Adapting to a New Era"—Special Committee on Aging, U.S. Senate, October 1975) More than two out of every three poor persons 65 or over are women. The average benefit for an aged widow falls $78 below the $2,574 (official) poverty threshold for an elderly single woman, and this $200 a month is too low to live on in decency. Almost three times as many women receive SSI welfare as men.

In part because of mandatory retirement, women tend to retire earlier than men, which aggravates their economic situation. Over 70 percent of eligible women apply for social security before age 65, and by so doing receive lower benefits for life through actuarial reduction. In many cases there is pressure upon women, who tend to be younger than their husbands, to retire early when their spouses reach mandatory retirement age.

Women also have a special stake in the elimination of mandatory retirement because of their greater longevity. Because most women outlive their husbands, and the compounding impact of inflation systematically reduces the value of fixed incomes, more and more women desperately need the opportunity for employment in their middle and late years. Coping with combined age and sex discrimination in employment is bad enough without legally sanctioned restrictions.

While the argument is sometimes made that mandatory retirement opens up more jobs for women, evidence suggests that such jobs are more often phased out or filled by men. Furthermore, in industries where mandatory retirement has been eliminated, the large majority of persons with adequate income choose to retire at 65 or earlier.

NOW supports equal opportunity for all people, and our organization considers discrimination based on age to be as odious as discrimination based on sex or race. By sanctioning mandatory retirement, this nation reinforces the myth that to be old is to be feebleminded and worthless, which then becomes a self-fulfilling prophecy to the detriment of our whole society.

For these reasons, and because we believe that a full employment program to provide jobs for all those willing and able to work is the only solution to a contracting labor market, we urge support of H.R. 5383, and will work for its passage.

THE NATIONAL CAUCUS ON THE BLACK AGED OPPOSES MANDATORY RETIREMENT

The National Caucus on the Black Aged advocates elimination of the several policies in government, industry and business, which force a physically active and productive individual into retirement merely because he or she has reached an arbitarily set chronological age.

Compulsory retirement denies society the benefit of the skills and abilities of the older worker which have been accumulated through years of experience. It strikes especially hard at the Black elderly in their particularly paradoxical situation. Having worked extremely hard at menial physical labor for low pay, all of their lives, over sixty percent of the Black elderly are most deserving of a rest in their senior years, yet they are least able to afford it. So, unlike most of their white counterparts, to whom retirement means feelings of rejection and worthlessness but economic well being, for the Black elderly, retirement too often means abject, grinding poverty, with no respite from pain, loneliness and isolation.

After having attained the age for full Social Security benefits. retirement should be a matter of personal choice. At that point, an individual should be allowed to work until he or she is no longer able to produce at full capacity.

The National Caucus on the Black Aged does not accept the contention that this country, with its trillion dollar gross national product and the multi-billion dollar aggregate income of its industries, cannot maintain productive older workers on their jobs, as well as provide them a decent income in retirement. Social decency demands that we do this. Public opinion will accept nothing less.

Mr. McCLORY. I thank the gentleman.

I might add, Mr. Chairman, that during the general debate I did bring out, and there was legislative history made, that with respect to the removal or dismissal of persons for cause because of physical or mental or psychological or other disability, the law in that respect will not be changed or affected in any way by enactment of this legislation.

Furthermore, I think it is important for us to point out that we are not requiring under this legislation any person to continue working after age 65, but we are making it entirely voluntary whether the person wishes to continue on the job or not.

There is a substantial fallout benefit from this legislation, however. I understand, reliably, that existing private pension programs will be strengthened as a result of this bill. I believe that the Social Security Trust Fund likewise will be strengthened as a result of this legislation, because a number of persons will continue to work voluntarily after age 65, which will reduce the demands on the pension funds and on the social security funds.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, from time to time we in the Congress are confronted with issues in which compelling arguments can be made for both sides. When it comes to such issues each of us has to examine the evidence, weigh it very carefully and then make a decision, realizing that many of our colleagues may look at the same evidence and reach a different conclusion from our own. On such issues the slogans of partisanship and the wisdom of experience offer no sure guidelines.

Such an issue is mandatory retirement. I believe it is wrong for Americans to have to retire at age 65. I believe that Government should play no role in determining for employers and workers just when retirement should come. The power of the Federal Government is out of place in such an area, dealing as it does with the complexities and the subtleties of individual human behavior and performance. It is apparent to me, at least, that the basic question is whether or not the Government has a proper place in determining when retirement should come. Each human being is, by his very individuality, entitled to make such a decision in conjunction with his employer. Government lacks the human touch and that is what is wanted here.

An age of 65 was generally considered a reasonable retirement age when the social security program was established in 1935. In that year, the life expectancy in this country was an average of 61.7 years. The life expectancy in 1976 was 72.5 years, an increase of more than 10 years. Is it unreasonable to raise the mandatory retirement age 5 years to 70.

A Harris poll in 1974 found that 31 percent of those who retire in that year did so because they had to and would have kept working if they had had the opportunity. Another survey in 1976 cited the figure at more than 50 percent, while a poll in the early 1950's indicated that only 11 percent retired unwillingly.

In the best of all possible worlds, I would want such decisions to be left to the individual. But I am willing to see the age limit for mandatory retirement be raised to the age of 70, given the realities of the situation. In areas where union pension plans are already in effect

I believe a two year grace period should apply before the 70 year-old limit becomes mandatory. Insofar as Federal workers are concerned I believe that there should be no age limit. Quite often there are men and women in the Federal Government who contribute unique and all but irreplaceable skills to our national security and the efficient working of our Government. I believe we should allow them to work as long as they want to contribute and the best way to do this is to simply have no mandatory limit. This is a compromise I am willing to make although, as I said, I would like to see Government get out of the controversy altogether.

Now I know there are many who feel we should keep the 65-year-old limit. They say that if you don't keep mandatory retirement at age 65, older Americans will cling to jobs thereby depriving others of a chance to move up. They say pension plans will have to be made more attractive—and therefore more expensive—in order to get older Americans to retire at an earlier age. They say there will be a burden on health plans as older Americans stay on the payroll.

We could go on. There are many fears of what might happen if we stop making Americans retire at age 65. But let us not talk of fears. Let us talk of facts. Let us talk of what is right about letting Americans work past age 65.

It is right to give every American the chance to work to the limit of his or her capabilities. It is wrong to set this arbitrary date of 65, fixed by Government decree, and say, beyond this date you lose your human right to judge your own economic future.

It is right for any society to act toward its older aged citizens in such a way that not only those citizens but the society itself benefits from the way in which the old are treated. In other words, how we look upon the aged says as much about our society as it does about the aged. What kind of a society are we? I hope we are one in which expediency and momentary economic problems do not take precedent over the commonsense wisdom that tells us that, in the words of the popular saying, many people do not get older—they just get better.

A recent article in the Wall Street Journal, September 13, 1977, discussed the question of mandatory retirement. It raised many of the questions that are asked by those who feel retirement at age 65 should be mandatory. But it also pointed out some of the ideas that are being put forth by those of us who are convinced that if we allow the question of retirement at this age to be freely made, many benefits will accrue to the entire Nation. Here is a part of what the Wall Street Journal article reported:

> Yet for those who want to keep working, forced retirement is an outrage. "I think the ultimate insult is to be told you are a different person because you are 65," says Ruth Ellen Lindenberg, a 64 year-old professor in the social services department at Cleveland State University. "It's an indignity to be told that as of April 7, 1978 you're of less use to society than you are now."
>
> Some personnel men sympathize. "I've felt for some time that mandatory retirement is sometimes a terrible waste of our human resources," says George Sherman, vice president of industrial relations and personnel at Midland-Ross Corp., Cleveland. "Some of our best, most experienced people are forced out."

I have heard the arguments of organized labor and big business supporting mandatory retirement at 65. Many of them are quite interesting and persuasive. But others seem to me to be insensitive. The Wall Street Journal reports: "Businessmen see messy personnel situations developing as older workers cling to their jobs." Let me say I do not believe that businessmen in general look upon this question as one in which the legitimate need of an individual to remain economically independent by continuing to work is weighed against some "situation" that might just develop in the personnel office. If there are such businessmen, I only hope that they think this thing through and realize that while there might be—and probably will be—personnel problems, the benefits that will accrue to business by having the talents of older workers available will far outweigh any difficulties involved.

The question really is not one concerning millions of Americans working past age 65. The question is one of freedom: Should they have the opportunity to do so if they so choose? That is the real question. As so often happens, when you get to the bottom of a complicated economic or political problem, the real issue is freedom. And it is here. Yes, removing this mandatory retirement age will cause problems. But to me, living in a free democratic society means always expanding freedom, not necessarily minimizing problems for business and organized labor. We can face these problems. What none of us should want to face is telling our children that this Nation we love determines the fate of its older citizens by some kind of crude bureaucratic tool. No, that is not the right way. Let us try the freedom route. Once we do that, we can in my opinion work out the other problems.

As I said, we cannot always get the perfect solution to a complicated problem. So I am willing to go along with raising the mandatory retirement age to 70, allowing a 2-year grace period for unions with pension plans and allowing Federal workers to go on working as long as they can contribute to our Nation's needs.

Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. As a member of the House Aging Committee, time and time again, I have heard the testimony of gerontologists, experts in the field of aging and the people past the age of 65 who feel the effects of ageism in the employment field. Without question, the one recurring theme in each statement was that people should be allowed to work and even encouraged to stay active and productive at their jobs if they are ready and able to do so.

The House Aging Committee and its able chairman, Mr. PEPPER should be commended for working so closely with the Education and Labor Committee to bring forth this bill which goes a long way toward making equality more than a catch phrase. Far too many people are phased out for no good reason other than they have reached some magical birthday which is interpreted as robbing them of their energy, ability and grasp of subject matter. And, unfortunately, with everyone telling them to leave that they no longer can perform adequately in their jobs, many believe these fairytales and what they heard becomes a self-fulfilling prophecy.

Ability, not age should be the byword. As our life expectancy grows longer, the education level is on the rise for the whole population, and new technologies come closer to finding cures for diseases which cut life short, we have an obligation to allow all our citizens the right to life's greatest privilege—a long, and productive existence. In the words of Thornton Wilder, "there is nothing more dignified than earning a living." Surely, we owe this opportunity to all who wish to use it. With the passage of this legislation, we have acted in the most sensible fashion to make work more than just another four-letter word.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 7, after line 5, add the following new section:

EFFECT ON STATE LAW

SEC. 7. The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended by adding at the end thereof the following new section:

"EFFECT ON STATE LAW

"SEC. 18. The provisions of this Act supersede and preempt any provision of State law which is inconsistent with the provisions of this Act. No State may enact any law or carry out any program or policy relating to age discrimination in employment which makes any variation or other change, or which would result in any variation or other change, in the application of the provisions of this Act.".

Mr. ERLENBORN. Mr. Chairman, this amendment is a preemption of State law amendment. It has been pointed out by some companies that maintain pension plans and other employee benefit plans or seniority plans, and operate in two or more States, that since this subject matter of eliminating age discrimination has become popular, the States are beginning to adopt their own separate nondiscrimination provisions, and they vary in their terms and application.

Since we are now addressing this in a manner that I think is going to be supported by the vast majority of the Members of the House, we ought to preempt State law so that it is not necessary to conform to two or three or five or a dozen or more different State nondiscriminatory provisions that would be conflicting and difficult to comply wtih.

I would hope that the amendment would be agreed to.

Mr. FINDLEY. Mr. Chairman, I rise in opposition to the amendment.

The pending bill, good as it is, is still only a partial step in eliminating age discrimination in employment. It is al-

ready apparent that one or more States will very quickly outlaw age discrimination in employment regardless of what the Federal Government does. The effect of the Erlenborn amendment would be to set aside this broader protection in the States which have the spirit and the drive to banish this form of discrimination on a universal basis more swiftly than the Federal Government does. So for those people the enactment of the Erlenborn amendment would be justice delayed and therefore justice denied.

It would make just as little sense really to adopt the Erlenborn amendment to this bill as it would have been for the Federal Government some years ago to have prohibited the right of women in the State of Montana to vote simply because women throughout the country could not vote. In that case it would have been justice delayed and justice denied. And so it would be in this case too.

I would further add that employers already are accustomed to dealing with differing situations in different States. The large corporations often have union contracts with which to deal in one State and nonunion arrangements in other States. They have differing pension provisions because of that. So employers are accustomed to dealing with differing situations so far as personnel practices go.

So I cannot see any justification to the amendment, but to the contrary I believe it would inflict a great deal of injustice upon many people.

So I urge my colleagues to oppose the amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I concur with the remarks of the gentleman from Illinois. My own State of California just passed a stronger law in this regard than we are proposing for the country. It seems to me there is no reason at all why we should be prohibiting States from enacting their own particular ways of dealing with this which may be different from the Federal way.

I think it would be unacceptable to most of the Members of the House for us to say the States cannot pass civil rights legislation which is stronger than the Federal statutes. It seems inappropriate today for us to say to the States they cannot decide this as they see fit.

There are nine States in addition to Alaska, California, and Montana that have stricter laws than we are proposing, and I see no reason to wipe out their legislation.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding.

I join with the gentleman in opposing this amendment.

The reason we are setting 70 years of age for non-Federal employment is because we are uncertain of the full implication of going beyond that. Some States will go beyond that and remove all age discrimination. From that information we can make a judgment whether we will later amend this act to remove even age 70 as a mandatory retirement age as we have done for most Federal employees in this bill. For that reason I think the amendment would be unwise and we should permit States to continue to have the authority to go even further as they have now.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Kentucky, the chairman of the Education and Labor Committee.

Mr. PERKINS. Mr. Chairman, the gentleman from Illinois (Mr. FINDLEY) has fully explained why this amendment should be defeated. He set forth these reasons eloquently.

Mr. Chairman, I would hope that this amendment would be soundly defeated.

Mr. FINDLEY. Mr. Chairman, I yield to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, let me just make this point. At the present time, say if the State of California should choose age 75 and you have a company that does business in all 50 States and they have a seniority system, they will have to amend their seniority system applicable to all 50 States to conform to the highest age, which in this case would be 75 in California.

In other words, you are going to have to have the company conform in every State in which they do business with the age that is the highest in any one State in which they do business. That is why I do not believe that application is reasonable. Therefore, we ought to have one set of rules to follow in the entire country.

Mr. FINDLEY. Mr. Chairman, I will say to the gentleman that I do not question that this bill will cause some inconvenience to personnel management. Undoubtedly, they will have to make some changes; but the inconvenience that it may cause in a few select cases is a minor issue, a minor concern, contrasted with the injustice which the absence of this legislation inflicts upon so many people.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

I just want to associate myself with all of the statements that have been made by my disinguished colleagues here in opposition to this amendment.

The city of Seattle, for instance, a little bit ago through an executive order by its mayor, eliminated age discrimination for employees of that city.

Reference has been made to the State of California. A while ago they had a referendum in the city of Los Angeles and 58 percent of the people in that city opposed mandatory retirement in the city of Los Angeles. Let us not take away from the cities, the counties, and the States, the opportunity if they desire to do so to improve upon this legislation. We ought to allow protection to those who have the opportunity of protection on a local level.

Mr. Chairman, I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 2, line 16, strike out "(a)".

Page 2, strike out line 23 and all that follows down through page 3, line 12.

Page 4, strike out line 16 and all that follows down through line 23, and insert in lieu thereof the following: amended by striking out "sixty-five" and inserting in lieu thereof "seventy".

Page 6, strike out line 22, and insert in lieu thereof the following: "report shall be transmitted no later than two years after the effective date of the Age Discrimination in Employment Act Amendments of 1977.".

Page 7, after line 5, add the following new section:

EFFECTIVE DATE

SEC. 7. The amendments made by the provisions of this Act shall take effect two years after the date of enactment of this Act.

(Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERENBORN. Mr. Chairman, if the House will note, the bill before us has a title that says it is to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such Act regardless of their age.

This title refers only to Federal employees. We will note the matter stricken out from the bill all the language in the original bill relates to Federal employees.

I am not a member of the subcommittee that had hearings on this bill in the Committee on Education and Labor, but I have been advised there was only 1 day of public hearings. The committee did report the bill, which affects not only Federal employees, by removing the age for mandatory retirement altogether, but it moves into a new area; that is, the application of this bill to the private sector. That was not included in the bill that was originally introduced. In the private sector now under this bill, the age is 65, which is in the Age Discrimination Act, below which there cannot be an application of involuntary retirement; that is raised to age 70 by this bill.

I believe there was rather short notice to the private sector, that the bill I introduced apparently affected only the public sector. In addition, I do not believe there was sufficient hearing to find out what the impact of this legislation might be on the private sector.

I think it is quite obvious that the bill is going to pass. It came out of our committee without a dissenting vote. I voted present, and everyone else there voted for it. The unions, the AFL–CIO, put up some weak argument opposed to the bill—not publicly, but privately. Now, I am advised that their posture is that when you see a steamroller coming down the street, the only smart thing to do is

get out of the way. So, they are not longer engaged in either private or public opposition.

We do not hear much opposition at all, so I think it is quite obvious that the bill is going to pass. But, I think we ought to give some consideration to those who will be affected by the act.

Some of the provisions will take effect immediately upon the signing by the President. Other provisions will take effect within 6 months. Under an amendment adopted in full committee, if one happens to have a union representing his employees he might have as much as 2 years in which to adjust his collectively bargained agreement and seniority system or his employee benefit plan to conform. If one happens not to be so fortunate as to have his employees represented by a union, he has only 6 months to make those changes. I think we need more time to let the private sector anticipate and make those changes necessary to conform to the application of this bill.

I would call the attention of the Members to several letters I received, and that I think other Members have as well. The Association of American Universities has written to me:

In view of widespread concern within the higher education community about the far-reaching implications of changes in mandatory retirement legislation, we strongly urge adoption of the Erlenborn amendment to H.R. 5383. A two year delay would provide needed time to work out difficult problems of implementation. We are particularly concerned about the implications for able younger people, including women and minorities, especially in light of reduced enrollments in the coming decade.

I have similar letters from Loyola University of Chicago, from Stanford University of California, and from the University of Chicago. The university community in particular is concerned about the application of the age 70 rather than 65 to their tenure system for their professors. Other employees in the private sector also support the concept of having this 2-year leadtime to make the necessary changes.

One thing that concerns me is that this House passed just a few years ago the Employee Retirement Income Security Act of 1974.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr ERLENBORN. Hundreds of thousands of employees' benefit plans, have since then been making the changes necessary in employee benefit plans to conform to ERISA. These plans, many of them, provide for mandatory retirement required at age 70. They will now have to be amended again. I know that the Internal Revenue Service has informed my colleague from Illinois (Mr. FINDLEY) that they will handle these expeditiously, but anybody with any familiarity with the way IRS and DOL have implemented ERISA so far knows that there is no such thing as "expeditious" handling of ERISA problems in the Internal Revenue Service and the Department of Labor.

So, it does concern me that we are going to force additional changes on those plans that have just now, in recent months, been able to have their plans approved by the Internal Revenue Service. I would hope that we would have support for this amendment, to allow the bill to become law, but give time, lead time, to those who will be affected to make the conforming changes.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from New York.

Mr. CONABLE. I would like to associate myself with the remarks of the gentleman from Illinois. When we legislate in great haste and pass this kind of measure, it seems to me that we frequently make mistakes.

Mr. Chairman, I must say that I do not have a great deal of sympathy for universities that have hidden behind the automatic retirement rule to protect themselves from any possible change in their tenure procedures, nor do I have much sympathy for corporations who do not want to tell the boss that he has outlived his usefulness because he happens to be a tyrant.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. CONABLE and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. CONABLE. Mr. Chairman, if the gentleman will yield further, for the reasons I have mentioned, I think this law is appropriate and proper. But when we legislate as quickly as we are here, we are going to cause a great deal of disruption, further reducing confidence in Government procedures. People need time to adjust to major changes of this sort, particularly when we are impairing the right to contract and long established procedures in the private sector.

Mr. Chairman, the Erlenborn amendment seems like a reasonable alternative, to me.

Mr. ERLENBORN. I thank the gentleman for his contribution.

Mr. Chairman, I would point out that I also have a letter from the American Hospital Association, part of which reads as follows:

We believe that a 2-year interval is essential for proper implementation of a new mandatory retirement limit, and the American Hospital Association urges your support of such an amendment to H.R. 5383.

Mr. Chairman, I urge the adoption of the amendment.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am sorry that our distinguished friend, the gentleman from Illinois, would ask this House to delay for another 2 years protection against the sort of discrimination of which the elderly people of this country have long past been the victims.

Mr. Chairman, this bill was reported out of the Committee on Education and Labor 33 to 0, and the amendment which was already adopted was cleared by the leadership of the Committee on International Relations and of the Committee on Post Office and Civil Service. It was voted out by the Committee on Rules unanimously.

I have here a letter to me, dated September 13, from 19 senior citizens organizations approving and supporting this bill.

I also have a communication here from the Federal Council on the Aging, which is headed by the gentleman who was the President's Counselor on the Aging, Mr. Nelson Cruikshank, whom we have all known and admired as a leader in this field. I ask that these communications be included in the RECORD at this point:

SEPTEMBER 12, 1977.

Hon. CLAUDE PEPPER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN PEPPER: The undersigned organizations, representing the nation's elderly and those who work in their behalf, urge your support for H.R. 5383, the Age Discrimination in Employment Act (ADEA) Amendments of 1977, as reported by the Committee on Education and Labor on July 14. In 1967 the Congress, recognizing the critical employment problems facing older workers, enacted the ADEA "to promote employment of older persons based on their ability rather than age" and "to prohibit arbitrary age discrimination in employment." Ten years later, you have the opportunity to pass legislation that will greatly strengthen enforcement of the act, and also expand its protections, now granted only to persons age 40 to 65, by removing the upper age limit for Federal workers and raising the age ceiling to age 70 for other covered employees.

H.R. 5383, which was passed unanimously by the committee, is an important step toward ensuring employment opportunities for older citizens by ending mandatory retirement based solely on age. Mandatory retirement represents one of the last vestiges of legally-condoned employment discrimination in our country and must be abolished if the elderly are to enjoy the full civil rights accorded other citizens. Although H.R. 5383 does not eliminate all forms of involuntary retirement at once, it does protect greater numbers of older people from this unjust discrimination and also strengthens enforcement of the ADEA by closing an unintended loophole caused by Section 4(f)(2) of the present law.

Section 4(f)(2) was originally written to encourage the hiring of older workers by permitting employers to exclude them from full coverage under pension and benefit plans. Unfortunately, broad judicial interpretations of this section have permitted employers to forcibly retire workers before age 65 if that condition is a part of an existing pension or employee benefit plan—a situation which Congress clearly did not intend to occur and which you can now remedy.

Some have questioned the need for Federal intervention in this employment issue, but we feel strongly that national leadership is the key to opening employment opportunities to all Americans. As shown by a 1974 Louis Harris survey on public attitudes toward aging, the American public no longer supports the concept of forced retirement: 86 percent of the respondents felt that "nobody should be forced to retire because of age if he wants to continue working and is still able to do a good job." We hope you will follow this mandate and approve HR 5383 so that

older Americans are no longer barred from full participation in our society.

Sincerely,

American Association of Homes for the Aging; American Association of Retired Persons; Association for Gerontology in Higher Education; International Center for Social Gerontology; National Association for Spanish-Speaking Elderly; National Association of Area Agencies on Aging; National Association of Counties; National Association of State Units on Aging; Gerontological Society.

National Association of Retired Federal Employees; National Center on Black Aged; National Council of Senior Citizens; National Council on the Aging, Inc.; National Indian Council on Aging, Inc.; National Retired Teachers Association; Urban Elderly Coalition; The Task Force on Aging of the U.S. Conference of Mayors; Western Gerontological Society.

FEDERAL COUNCIL ON THE AGING,
Washington, D.C.

FEDERAL COUNCIL ON THE AGING POSITION ON PROPOSED RAISING OF THE AGE LIMIT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT

The Federal Council on the Aging recommends increasing the age limit under the Age Discrimination in Employment Act in order to protect the rights of older workers who have the desire and capability of continuing to work after age 65.

Passage of this legislation is a beginning in implementing Section III of the Charter for Older Americans issued by the Council in January 1976—The Right to an Opportunity for Employment Free from Discriminatory Practices Because of Age. Proposed legislation is a start to implementation since it would expand protected employment rights of older workers. However, it does not meet the goal of the Charter since it does not increase employment opportunities for unemployed or under employed older workers or begin to establish a national policy on the right of older workers to employment opportunities.

The Federal Council on the Aging recommends national policies be pursued that will result in an expanding economy and that a part of these policies include comprehensive and flexible programs designed to promote employment opportunities. The Administration's stimulus package and the recently enacted Youth Employment and Demonstration Projects Act of 1977 represent appropriate ways to address unemployment problems without necessitating the exclusion of any one group to make room for another.

Adopted by vote of 10–1—Sept. 16, 1977.

I hold in my hand 14 different volumes of hearings and reports which have been issued on the subject of this bill by the Committee on Aging and the Committee on Education and Labor. This bill has been debated and discussed in the press and by the broadcast media and by people all over this country. It has been gratifying to see the momentum that this bill has acquired from the people of this country.

Mr. Chairman, sometime ago there was a poll on this bill, and I believe it was 68 percent of the people in that poll said they favored this bill.

I had a letter the other day from a man who said, "I am 65 years of age. I have just been mandatorily retired from my job. I cannot get another job on account of my age. I am not getting enough social security for my wife and me to live on."

And he asked me, "What am I going to do?"

He is just one of millions of people in this country in this situation.

The American Medical Association has said that forced retirement is detrimental to the health, it is conducive to the mortality of the people who are mandatorily retired, because obviously their incentive is diminished, their objective in life is largely taken away, they do not have anything else to do.

And just yesterday a man in my office, from the Federal agency on alcohol abuse, who said that, among the elderly, their addiction to alcoholism in so many instances can be attributed to the fact that they did not have anything else to live for, they did not have anything else to do.

Mr. Chairman, I want to take this opportunity to express my deep appreciation to the distinguished gentleman from New York (Mr. SCHEUER), through whose gracious forebearance we were able to bring this important legislation to the floor today. Although his own very vital measure, to create a select committee to study population problems, was scheduled to be considered before H.R. 5383, he volunteered to permit this bill to be brought to the floor before his own measure. I strongly support the gentleman's resolution, and on behalf of all of America's older persons, I reiterate my thanks to him for making this debate possible today.

I also wish to commend the distinguished gentleman from Virginia (Mr. WAMPLER) whose leadership on this bill in his role as ranking minority member of the Select Committee on Aging has been most gratifying. In addition commendations are due to other members of the Aging Committee who are present for this debate—the gentleman from New York (Mr. BIAGGI), the gentleman from California (Mr. BURTON), the gentleman from New York (Mr. DOWNEY), the gentleman from Tennessee (Mr. FORD), the gentleman from New Jersey (Mr. HUGHES), the gentlewoman from Tennessee (Mrs. LLOYD), the gentleman from Indiana (Mr. EVANS), the gentlewoman from New Jersey (Mrs. MEYNER), the gentleman from Maine (Mr. COHEN), the gentleman from Iowa (Mr. GRASSLEY), and of course, the distinguished gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding.

Mr. Chairman, we are today taking a significant step in recognition of the rights of older workers to continue their employment past the expected or customary age of retirement and hopefully signaling the end of all mandatory retirement practices. H.R. 5383 eliminates forced retirement in most all Federal civilian employment and protects older workers in private employment from being mandatorily retired before age 70.

I am proud to serve on the House Select Committee on Aging which has made this issue a top priority in this 95th Congress. I know that with the continued leadership of our esteemed colleague, Congressman CLAUDE PEPPER, the chairman of the Select Committee on Aging, we will push further until the full right of choice in the highly personal decision of when to retire is secured for all workers.

In May of this year I was joined by Congressman PEPPER for a day of hearings on the issue of mandatory retirement in Massachusetts. All of the State legislators who appeared before us asserted the view that enactment of legislation to protect Federal employees from forced retirement would serve as a model and catalyst for the States to enact similar laws of their own. Although there has been some heartening activity on the State and local level the course of change has been slow and spotty at best. Enactment of H.R. 5383 will fuel the movement underway throughout this Nation for elimination of forced retirement in State and local government employment.

Besides providing protection from forced retirement prior to age 70 in private employment this legislation calls for a report from the Secretary of Labor on the feasibility of completely eliminating an upper age limit for protection under the Age Discrimination in Employment Act. Compulsory retirement has become lodged in our way of doing things and many fear that we do not yet have sufficient information on which to judge the impact of eliminating mandatory retirement. The report of the Secretary of Labor will, I hope, augment the growing body of studies and other reports which show that most of the arguments for continued compulsory retirement are more myth than fact.

A significant feature of H.R. 5383 is the clarification of an exemption to compliance with the Age Discrimination in Employment Act "to observe the terms of a bona fide employee benefit plan." In order to avoid placing undue hardship on employers due to the cost of enrolling older workers in pension or group health insurance plans, it was the intent of Congress to permit the hiring of older workers without requiring full inclusion in company employee benefit plans. It is obvious from court decisions on the issue of the exemption that congressional intent was not clear and as a result this exemption has been used as a vehicle to terminate employment prior to age 65 if done pursuant to a bona fide retirement or pension program.

The Supreme Court is scheduled to hear arguments on the question of this exemption this fall. Enactment of H.R. 5383 will make it clear that involuntary retirement at less than the statutory age is prohibited.

Older workers of this Nation are engaged in a struggle for their civil rights and it is our responsibility to provide the protection of law so that discrimination in employment based on age will not be tolerated. We must also keep in mind the

fact that compulsory retirement has brought with it an increase in poverty among the aged and an inequality of income between age groups which continues to widen. A 1972 report on a social security survey noted that even social security, private pensions and savings combined did not match the preretirement income of the average worker. It is cruel to deny older workers who wish to and need to continue their employment the right to do so.

The choice to continue working past age 65 has for the most part been limited to the powerful—corporate executives, labor leaders, celebrated artists, and those in the advantageous position of being self-employed. But for most of the rank and file of American workers there has been no choice. H.R. 5383 will help fulfill a long overdue obligation to older workers of this Nation and I urge its enactment.

Mr. PEPPER. I thank the distinguished gentleman for his remarks.

Mr. Chairman, I want to correct a statement I made. I am informed that the polls not only on this bill, but on the very subject of mandatory retirement, showed 86 percent of the people favored the elimination of mandatory retirement.

We are on the verge of a great step toward accomplishing that for the elderly people of this country by enacting this bill by a big majority in this House today. The other body, I think, will take it up in a few days. I have the assurance that it will be approved by the President.

At long last we will have eliminated age-ism as we have previously eliminated sexism and racism as a basis for discrimination in this country, and we will now be putting a new emphasis on human rights.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have asked Prof. Dan M. McGill, chairman of the Pension Research Council of the Wharton School, for an opinion on this question. Professor McGill concludes that—

> If mandatory retirement ages were to be eliminated, the task of projecting future retirements would obviously be made more difficult. Nevertheless, funding practices and actuarial techniques are flexible enough to adjust to this added complexity. In practice, estimates of retirement ages would probably be made with such a degree of conservation (notwithstanding the mandate of ERISA that assumptions reflect most probable experience) that retirements beyond ages formerly regarded as "normal" would create actuarial gains.

The Department of Labor states that "financial pressure on private pension plans could be alleviated" as a result of this bill.

The minor actuarial adjustments to pension plans required by this legislation should be more than paid for by the savings to pension plans this bill will bring.

Actually, ERISA does not require that pension plan changes be approved. All that is required is that copies of changes in pension plans be sent to the Department of Labor for their records. The law also requires that all employee members of the plan be notified in writing of changes, which certainly seems to be a step conscientious managers would naturally want to take.

Changes in pension plans are important for the income tax status of the plan, of course. But even here changes simply to comply with this bill will not have to be submitted to the Internal Revenue Service. A. D. Field, Chief of Employee Plans at the IRS, has assured me that—

> Plan amendments made solely to comply with this proposed legislation (i.e., to delete any plan reference to a mandatory age below 70) will not affect the tax qualification of a plan.

The IRS also told me that—

> If the proposed legislation is enacted, we would probably inform the public that such amendments would be administratively allowed without submission to the Service.

IRS further stated:

> In general, we feel that the proposed legislation allows adequate time for employers to make the necessary conforming plan amendments.

We have gone over all the available data again and again and can see no reason to delay. The impact will be minimal upon employment, and will actually benefit businessmen by increasing the financial soundness of their pension plans as older workers continue contributing to the plan rather than withdrawing from it.

To delay will only result in the denial to countless millions of Americans who will turn 65 in the next 2 years the basic right to be judged upon their ability, not upon an arbitrarily chosen age. No one suggested delaying implementation of other civil rights legislation for 2 years. No one would suggest postponing for 2 years the right of blacks or women to equal job opportunities to see how it would affect the economy. Nor should anyone suggest postponing the right of capable older Americans to stay on the job.

Mr. HAWKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my colleague from Illinois (Mr. ERLENBORN).

The purpose of the legislation before us today is to promote the employment of older persons based on their ability to perform in the job rather than on age and to clarify the exemption for bona fide retirement and pension plans in the current law.

The amendment offered by Mr. ERLENBORN seeks to delete the amendment adopted in committee to defer the effective date prohibiting mandatory retirement policies at ages 65 through 69 in employee benefit plans contained in collectively bargained agreements in effect 30 days prior to enactment; to change the requirement for transmitting to the Congress and the President the report on the effects of the amendments from January 1, 1979, until 2 years after the effective date of the act, and to delay the effect of the entire act until 2 years after the date of enactment.

Mr. Chairman, I am opposed to Mr. ERLENBORN's amendments for the following reason: There is no justification for delaying the bill's effective date for 2 years. The bill allows for a 180-day delay in raising the upper age limit from 65 years of age to 70 years of age. It was the committee's position that 180 days would prove adequate leadtime to allow companies to bring their policies and employee benefit plans into compliance with the law. Mr. Chairman, may I point out that in implementing the original act of 1967 the delay in the effective date was only 180 days after enactment. Therefore, it is my belief that such an extended delay for an act already in operation is completely unwarranted and unnecessary. Moreover, the committee has received correspondence from the IRS indicating that 180 days is sufficient time for employers to bring pension and retirement plans into compliance.

The purpose of the bill is to reduce the incidence of mandatory retirement for workers in Federal, private, State, and local employment rather than to prolong it. More importantly, the clarification for section 4(f)(2) of the act which prohibits involuntary retirement of an employee before age 65 under a bona fide retirement plan would go into effect immediately upon enactment. Mr. ERLENBORN's amendment would have the effect of delaying this clarification for 2 years. The legislative history in the ADEA shows that the exception served to facilitate the hiring of older workers by permitting their employment without necessarily including such workers in employee benefit plans. The fate of 11 million workers affected by such plans hangs in the balance. Clearly, congressional action appears to be warranted and necessary to clarify this issue without further delay.

With respect to deleting the amendment to delay the effective date for collectively bargained employee benefit plans, the precedent for such a delay was established in the Equal Pay Act of 1963. I would like to quote from the May 23, 1963, CONGRESSIONAL RECORD in which then-Congressman Robert Griffin states:

> . . . it should be the policy of Congress, I think, not to open up collective bargaining agreements in effect if that is not absolutely necessary. We want to encourage industrial peace and stability, and we do not wish unnecessarily to stir up strikes or labor strife.

The committee accepted this amendment in order to provide the maximum deference to contracts negotiated between labor and management. The committee recognized that these contracts were negotiated in good faith with reciprocal agreements and concessions made. All other plans not the result of collectively bargained agreements would be prohibited after 180 days from requiring the retirement of individuals aged 65 through 69.

Mr. Chairman, I urged my colleagues to oppose the amendment as offered by Mr. ERLENBORN.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., September 8, 1977.

Hon. AUGUSTUS F. HAWKINS,
Chairman, Subcommittee on Employment Opportunities, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Department's analysis as to whether there are any potential conflicts between the Employment Retirement Income Security Act of 1974 (ERISA) and the proposed amendments to the Age Discrimination in Employment Act of 1967 (ADEA).

Raising the upper age limit of the ADEA would not create any conflict with ERISA. Those responsible for administering ERISA in the Department of Labor are in complete agreement that the proposed amendments would not interfere with any of the provisions of ERISA.

The following represents the Department's answers to your specific questions:

1. Would an employer be required to credit years of service for purposes of benefit accrual after normal retirement age?

It is our view that nothing in the ADEA or in the proposed amendments would require an employer to credit, for purposes of benefit accrual, those years of service which occur after an employee's normal retirement age. ERISA likewise does not require such accrual. There is a section in ERISA which limits the extent to which a plan may provide for the accrual of benefits at a higher rate during later and presumably higher paid years of service. This provision, Section 204, sets forth three alternative tests, one of which a plan must meet in order to demonstrate that benefits are being accrued properly (29 USC 1054). Two of these tests (the 33⅓% test and the fractional test) explicitly permit a plan to provide that no benefits will accrue after normal retirement age (26 CFR 1.411(b)-1). The third test requires the accrual of benefits after normal retirement age. It should be noted, however, that no employer is required to select the third test, provided that he satisfies one of the two other tests.

2. Would an employer be required to pay the actuarial equivalent of normal retirement benefits to an employee who continues to work beyond the normal retirement age?

No. There will not have to be any adjustment in the size of the periodic payments at the time of actual retirement. This is also the case under ERISA. See the final regulations issued by the Internal Revenue Service under Section 411 of the Code and Section 204 of ERISA which provide that no adjustment to an accrued benefit is required on account of employment after normal retirement age [(26 CFR, Section 1.411(c)-1(f)(2)].

3. If the upper age limit is raised, some employees who choose to work beyond age 65 will be participants in plans which provide for the commencement of retirement benefits at age 65. Could such plans be amended to provide that retirement benefits would commence at the actual date of retirement without violating the ADEA or ERISA?

Generally, pension plans condition the payment of benefits on actual retirement. Thus, it would not be necessary to amend these plans since neither they nor the ADEA nor ERISA require the payment of retirement benefits to employees who continue to work beyond normal retirement age. The requirement in ERISA (Section 206(a)) is that benefits must commence at normal retirement age or on the actual date of retirement, whichever is later (29 USC 1056). Of course, if there are some plans which provide for the payment of pension benefits at a specified age, regardless of actual retirement, such plans could be amended without violating either the ADEA or ERISA.

4. Would an increase in the upper age limit of the ADEA increase the funding costs for private pension plans?

An increase in the upper age limit of the ADEA would not increase the funding costs for private pension plans. As a matter of fact, financial pressure on private pension plans could be alleviated. Requiring an employer to permit a qualified employee to work until the Act's upper age limit, regardless of the pension plan's normal retirement age, would result in cost savings to plans rather than increases. As an actuarial matter, the longer an employee works, the shorter the period retirement payments will have to be made, thus lowering the funding assumptions of the plan. Savings would of course come from the added years of accumulated interest on the fund. Savings would also stem from the fact, as indicated above, a plan need not provide for further accrual of benefits after the participant has reached the plan's normal retirement age, and thus the added years of service do not increase the ultimate retirement benefit or the cost of providing it.

It is possible that certain plans, such as those which provide for the accrual of benefits after normal retirement age, will not experience these savings. However, there will be no significant cost increase to these plans. Any increases in benefits due to such factors as salary increases after employees have attained normal retirement age would generally be offset by factors such as the shorter life expectancy of employees upon retirement after normal retirement age, interest earned on plan assets during the period between normal retirement age and the age at which employees actually retire, and increases in pre-retirement mortality.

5. Assuming that under ERISA a plan need not provide for benefit accruals for an employee who continues to work after the normal retirement age, would an employer's failure to provide for the accrual of benefits for such an employee constitute age discrimination under the ADEA?

In our opinion, a bona fide pension plan that provides that no benefits accrue to a participant who continues service with the employer after attainment of normal retirement age would not violate the ADEA. Under Section 4(f)(2) of the ADEA, it is not unlawful to observe the terms of a bona fide pension plan that is not a subterfuge to evade the purposes of the ADEA. As I noted in my testimony, the legislative history of the ADEA indicates that Section 4(f)(2) was intended to allow age to be considered in funding a plan and in determining the level of benefits to be paid. We believe that it will run counter to the intent of the Act to require a plan to provide for benefit accrual after the plan's normal retirement age.

I might also note that the proposed amendments to the upper age limit in Section 12 of the ADEA would in no manner affect the definition of the term "normal retirement age" in Section 3(24) of ERISA.

I hope these responses to your questions will be helpful to the Subcommittee.

Sincerely,

DONALD ELISBURG,
Assistant Secretary.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first, let me compliment the distinguished chairman of the subcommittee.

I agree wholeheartedly that there is no earthly reason for approving an amendment of this type, delaying the effective date for 2 years.

Mr. Chairman, there are many different effective dates in the bill. We have taken into consideration any hardship cases that may arise. For that reason, we have let the effective date vary in order to take care of our hardship case.

Mr. Chairman, it would be a mistake to approve this amendment. This amendment should be defeated, Mr. Chairman.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr Chairman, I thank the gentleman for yielding.

I worked very closely with the gentleman from California (Mr. HAWKINS) in the subcommittee and in the full committee in developing this legislation. We did consider at that time the concept of delay and whether we could handle this matter in the period of time provided in the bill.

Mr. Chairman, I would think that we could handle it in this period of time, and I therefore join with the gentlemen who have spoken in opposition to the amendment and I urge that we adopt the bill without further amendment.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to pose a question to the gentleman from California (Mr. HAWKINS), or to the gentleman from Florida (Mr. PEPPER), because, as I understand this bill, it provides a 2-year exemption if there is a collective bargaining agreement which has been in effect for 30 days or more. Therefore, while we are urging that this legislation become effective immediately—and I am inclined to support that position—why are we exempting for 2 years those involved in a collective bargaining agreement so that discrimination against such persons may continue for 2 years? Why are we giving preferential treatment to persons who are not covered by a collective bargaining agreement. Under the bill before us we are permitting discrimination to continue for 2 years with respect to those who are covered by a collective bergaining agreement and then giving immediate advantages under the law to all the rest of the population?

Mr. Chairman, that is the part of the legislation which bothers me. It seems to me that some person representing organized labor has come in and importuned the committee to deny the rights under this legislation to our older Americans who want to be released from age discrimination. We are just adhering to or agreeing with that concept, thereby permitting such discrimination to continue.

Mr. Chairman, could either of the gentleman explain that to me?

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, may I say that the precedent for such an exemption was established in the Equal Pay Act.

I do not count it as actually a special privilege, it is a limitation. We did not want to affect existing contracts adversely. We just agreed that this is merely applicable to a contract between management and labor. That is the true justification. There is precedent in the law to establish such an exemption.

Mr. McCLORY. Would the gentleman not agree, though, that we should provide the same benefits in this law to those who are covered by a collective bargaining agreement as we do to the rest of the people, so that we would not be discriminating against them as we eliminate this last vestige of discrimination against our older Americans?

Mr. HAWKINS. We would be getting into a lot of unilateral agreements that may have been reached between employees and employers and to try to cover all of those would be just too cumbersome and unworkable. We are reaching only those that we felt could be covered.

Mr. McCLORY. I thank the gentleman from California for his explanation. I, however, feel that what we have done here is to distinguish between Americans, all of whom I regard equally, with equal rights, and we are denying rights under this legislation to a segment of our society who are covered by collective bargaining agreements. I think that that part of the discrimination should be eliminated also. I am hopeful that in the other body or in conference, or in some way we will take care of that so that we treat everybody alike if we are going to make this measure effective at the time of its enactment and approval.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to my colleague, the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, the gentleman has pointed out the fact that this is a limited step and is not as far as many of us would like to have the legislation go. It is true that it sets apart a certain group of employees under collective bargaining agreements but it also sets apart certain Federal employees and people who are over 70 in the non-Federal sector. So there are other steps that need to be taken in the future to end mandatory retirement and I pledge to get on with those changes next year.

Mr. McCLORY. There are no physical, psychiatric or psychological differences, are there, between those who are covered by collective bargaining agreements and those who are not?

Mr. FINDLEY. Not that I know of.

I regret the fact that this group is not covered by this legislation, but we deal with practicalities, we make whatever progress we can. I think this is a major step forward in which we all should rejoice.

Mr. McCLORY. I thank the gentleman. I think he has pointed out a defect in this legislation.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. HANNAFORD. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from California.

Mr. HANNAFORD. Mr. Chairman, I rise in strong support of the Age Discrimination in Employment Act amendments. This bill will be seen as one of the most progressive, enlightened accomplishments of the 95th Congress. Not only will it eventually do wonders to preserve the viability of our retirement and social security programs, but it will recapture the vitality and wisdom of a growing number of Americans who before faced only premature obsolescence.

I have long shared Lemuel Gulliver's incredulity about society's attitude towards our older citizens. Just as he was shocked that the Struldbruggs—a tribe of people who never died but just grew old—were ostracized rather than respected and sought for advice, so too am I distressed that we should force our older citizens into unproductivity. If life is a learning experience, why should the educational value of 65 years be less than that of 25 years?

There is no good reason to believe that our older workers are not or could not be just as innovative as our younger workers—if society would not be geared to youth and prejudice against the elderly. Numerous studies have in fact demonstrated that the older worker's talent and productivity is often a match for that of their younger counterparts.

Census figures illustrate the fact that Americans are living longer lives, and it is encouraging to see early congressional action to make the law reflect this reality. The House is to be commended for its expeditious reform of our mandatory retirement laws, and our older Americans are to be thanked for their patience and understanding.

Mr. WEISS. Mr. Chairman, as the distinguished chairman of the subcommittee indicated, this legislation is really a combination of three separate bills that were introduced, one by the distinguished gentleman from Florida (Mr. PEPPER), one by the gentleman from Illinois (Mr. FINDLEY), and one by the gentleman from California (Mr. WAXMAN) and myself.

The bill which the gentleman from California (Mr. WAXMAN) and I introduced is the subject matter of the specific discussion at this moment. What we did was to attempt to correct a distortion that had crept into the Age Discrimination in Employment Act that was passed in 1967. That bill, as originally passed, provided for three exceptions. One of them applied to the area of hazardous occupations; the second exception applied to those areas where there was good cause for discharging an employee regardless of age; and the third exception provided that where you have older employees who are looking for employment, so that there would be an inducement to hire them, the employer would not have to provide full seniority and pensions benefit programs for them. It was intended to encourage employment of older workers rather than to authorize their early forced retirement. Instead, what happened was that that particular exception was utilized by management and labor, in many instances to enter into collective bargaining agreements which forced employees to be retired at earlier than the legally permissible mandatory retirement age of 65.

What we have sought to do in the legislation before us was to guarantee that a person's rights could not be bargained away collectively nor imposed upon them unilaterally.

What we did at the same time, in order to meet some of the objections that came in from both management and labor, was to provide that as to those over the age of 65, between 65 and 70, who were covered by existing collective bargaining agreements, this particular exception would not be wiped out until the life of the contract was terminated or 2 years from the date of enactment of this bill, whichever first occurred. The bill further provides that as to those instances where there was a unilateral plan, those would not be wiped out for a period of 6 months from the date of enactment. I think the solution that was arrived at in committee was a perfectly fair and just one.

It should be pointed out that the distinguished gentleman from Illinois (Mr. ERLENBORN) said earlier that we had not given sufficient thought to this matter and that business was not aware of it. The fact of the matter is that when the bills first were introduced this year they provided that there would be no mandatory retirement age at all, even in the private sector. It was at the urging of witnesses representing the business community that ultimately we set the 70-year limit. They argued that before we removed all limits there ought to be some experience with the higher age level as well as with the effect and operation of state legislation and the provisions of this bill regarding federal employees. However we did mandate a Department of Labor study with an interim report in 1 year and a final report in 2 years on total elimination of age as a basis for mandatory retirement.

I think, Mr. Chairman, that we have arrived at a piece of legislation that is fair and responsible. I think that it sets the groundwork for removing every vestige of discrimination on the basis of age.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I will be delighted to yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding. I have just one additional comment that I would make to the gentleman's excellent summary. At issue, as I understand the theory in adopting the exception with regard to collectively negotiated contracts, was that in a collective bargaining agreement there are a number of different issues. The question of retirement is only one of the issues. The theory was to allow those contracts to expire and have all those issues renegotiated. When we have a question of unilateral plans, it is not so complicated. It is a very clear-cut dis-

crimination, which the committee rightfully found to be in violation of the public policy which we wished to state in this act. Therefore, I want to point that out, because it is a reason for the exception. It is not one that I would like to have seen, but it is a rationale that justifies the exception which the committee adopted.

Mr. WEISS. The gentleman is absolutely correct.

Mr. Chairman, in further opposition to the amendment, let me state the following.

I, too, am concerned about the time considerations concerning the enactment of this legislation. As you know, since 1967, the employment opportunities of Americans age 40 to 65 have been protected by the Age Discrimination in Employment Act. Currently, there are three exceptions to the act: First, section 4 (f) (1) exempts workers in hazardous occupations from the protections of the act. Second, section 4(f) (3) states that a worker, although covered by the act, can be discharged for good cause. No one can dispute the intent of these two exceptions.

For 10 years, however, the third exception, section 4(f) (2), has been the subject of much discussion. In its current form it reads as follows:

It shall not be unlawful for an employer, employment agency, or labor organization—

To observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as retirement, pension, or insurance plan which is not a subterfuge to evade the purposes of this act, except that no such employee benefit plan shall excuse the failure to hire any individual;

This provision was designed as an incentive for employers to hire older workers; under section 4(f) (2), employers could hire older workers and benefit from their employment experience without having to incorporate them fully into the terms of employee benefit plans or seniority systems. Since 1967, however, some employers have interpreted this provision as permitting mandated early retirement—prior to age 65—as long as such a provision in incorporated into the terms of a benefit plan and seniority system.

The stated intent of this provision has not changed in 10 years.

In the Senate hearings on this issue held on March 15, 1967, Senator JACOB JAVITS, one of the original authors of the legislation, stated his intention "that a fairly broad exception be provided for bona fide retirement and seniority systems that will facilitate hiring rather than deter it and make it possible for older workers to be employed without the necessity of disrupting those (benefit) systems."

During the Senate debate on this issue, in 1967, Senator Ralph Yarborough, the floor manager of the bill, made the following observation about section 4 (f) (2):

. . . This will not deny any individual employment or prospective employment but will limit his rights to obtain full consideration in the pension, retirement, or insurance plan.

During that same debate, Senator JAVITS further spelled out the meaning of this provision:

. . . An employer will not be compelled under this section to afford to older workers exactly, the same pension, retirement, or insurance benefits which he affords to young workers.

Additionally, both the House and Senate reports which accompanied the original ADEA legislation contained identical language explaining the exception found in section 4 (f) (2):

This exception serves to emphasize the primary purpose of the bill—the hiring of older workers—by permitting employment without necessarily including such workers in employee benefits plans.

The meaning of this exception could not be made any more clear: it was to provide an incentive to create employment opportunities for older Americans.

Yet, we find ourselves, in 1977—10 years later—clarifying section 4 (f) (2); the problem is that while the intent seems clear, this provision has been cited as the vehicle for forced early retirement.

According to the Bureau of Labor Statistics, September 1974 study of "forced retirement provision in basic defined pension plans" some 2 million Americans—10 years after the enactment of the ADEA—are covered by pension or retirement plans which permit employers to retire workers before age 65. Thus, the potential for abuse and misapplication of section 4(F) (2) cannot be ignored any longer.

Mr. Speaker, I would like to remind the Members that the purpose of the bill before us is not only to expand coverage under the ADEA and therefore raise the age of mandatory retirement, but also to protect those under 65. Mr. WAXMAN and I have sought to insure that section 4 (F) (2) which was designed with all workers over 40 in mind cannot be used to force them into early retirement by adding the following language at the end of the provision:

. . . And except that the involuntary retirement of any employee shall not be required or permitted by any such seniority system or any such employee benefit plan because of the age of such employee.

I am pleased that the Committee saw fit to include this clarification language in H.R. 5383; it is 10 years overdue.

One of the arguments cited by the gentleman from Illinois (Mr. ERLENBORN), in favor of his amendment to delay the effective date concerns the difficulty which the gentlemen believes employers will face in complying with the clarification of section 4(F) (2). During the general debate of H.R. 5383, the gentleman made the following statement:

The impact will be precipitous for those who have pension plans and other employee benefit plans, that are not the result of collective bargaining, when the President signs the bill. At that moment, it will become illegal for them to have in those plans a provision calling for retirement prior to age 65. It has the immediate effect of no lead time to prepare to get ready for its effect.

Mr. Chairman, I would suggest to my friend, the gentleman from Illinois, that the lead time on section 4(f) (2) for persons under 65 has been the last 10 years. Provisions in pension plans or retirement systems which call for retirement prior to age 65 are a misapplication of the law; they should not require lead time to correct.

Mr. Chairman, delaying this legislation not only affects those Americans who wish to work beyond age 65, it threatens all Americans age 40 and over who are covered by pension plans which mandate forced retirement prior to age 65. The committee's actions have not been precipitous: it is our responsibility to move without delay when the rights of older workers are jeopardized by a misapplication of the law.

Older Americans have waited 10 years for a clarification of the protections which the original ADEA offers them. Clearly, they have waited long enough.

I urge the defeat of the amendment.

Mr. MCKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have long felt that mandatory retirement is as arbitrary and capricious as discrimination on account of race or sex. It, too, has the tragic result of wasting the talents and abilities, the skills and expertise, and the potential of millions of citizens—in this case, older persons who are willing and able to continue working.

That people are ready to retire at age 65 is in itself a faulty assumption. While many may look forward to retirement, equal numbers do not. Retirement, particularly in these inflationary times, frequently produces unbearable economic hardships, for pensions and annuities typically replace less than one-half the retiree's previous salary. But it is not just the money that is missed. As important as the income are the social relationships, the creative satisfaction, the self-respect that comes from being useful and productive members of society. The legacy of forced retirement is well known: ego damage, psychological malaise, physical impairment, financial deprivation. As a report of the American Medical Association concludes:

. . . enforced idleness robs many of those affected of the will to live full, well-rounded lives, deprives them of opportunities for compelling physical and mental activity, and encourages atrophy and decay.

Sixty-five has been the normally accepted retirement age largely because that is the eligibility age for social security retirement benefits. But it was an historical accident—the economic situation and the manpower needs of the country in the 1930s—that set 65 as the age of eligibility. Age 65 otherwise has no reality as a turning point in the life of the individual. Many workers can continue to work effectively well beyond age 65 and often prove better employees than younger workers because of experience and job commitment. Indeed, chronological age alone is a poor indicator of ability to perform a job. Functional capabil-

ity—not chronological age—should be the determining factor.

I should be noted that mandatory retirement causes increased expense to Government income-maintenance programs such as social security, as well as to social service programs, while causing loss of skills and experience from the work force, thus injuring the national economy. Forcing skilled workers to resign reduces our gross national product by an estimated $10 billion. Mandatory retirement also accelerates the likelihood that a proportionately smaller labor force will be supporting a larger retiree group by 1999.

On the other hand, eliminating mandatory retirement would strengthen the social security and private pension systems, for workers would continue to contribute beyond age 65 instead of drawing benefits. Moreover, the economy would be stimulated as those working past age 65 continue to use their full purchasing power, while adding billions to the GNP through their skills and expertise.

Those who support mandatory retirement at 65 argue that it "makes room for the young" in the employment market. What with our high unemployment, this could constitute an overwhelming argument except that the assertion is dubious. Studies demonstrate that only 30–40 percent of forced retirees have both the ability and desire to continue working; of the total sum of voluntarily retiring male workers, only 7 percent of all retired male workers would be competing on the job market. Moreover, it may not be necessary to "make room for the young" in the coming years since the percentage of young people in the country will continue to decrease. As gerontologists have noted, in the period from the midsixties through the midseventies, some 40–50 percent more jobs for young entrants into the labor market each year had to be found than in any year between 1950 and 1965. The cause was the "baby boom" between 1948 and 1959. However, it is anticipated that from 1978 on there will be 30 percent fewer entrants into the working population each year than in the years between 1967 and 1977. The inescapable conclusion is that the elimination of mandatory retirement will only minimally affect the prospects of younger job seekers.

Under existing law, the so-called Age Discrimination in Employment Act, only workers between 40 and 64 are protected from mandatory retirement, making this law, as Representative CLAUDE PEPPER, the chief sponsor of H.R. 5383, put it, "its own worst offender." The legislation before us today raises from 65 to 70 the minimum age at which workers in private business can be required to retire and would completely eliminate mandatory retirement for Federal workers, thus establishing the Federal Government in the forefront for ending this particular aspect of agism.

The measure also knocks out an exception in the law that allows labor unions and management to negotiate contracts forcing workers to retire before age 65. Moreover, the bill directs the Secretary of Labor to prepare a study within 2 years on the feasibility of eliminating mandatory retirement for workers in the private sector.

As a sponsor of legislation to eliminate mandatory retirement in both the public and private sectors, I support this legislation for I firmly believe we cannot continue our disastrous shortsighted policy whereby a birth certificate determines a person's ability. No nation can ever hope to achieve its full potential if some of its most experienced and talented citizens are not allowed to participate. Older citizens are a valuable resource for the labor market. They are not asking for a handout; they simply want an opportunity to be judged on the basis of their merits. And their desire has widespread support, for a 1975 survey for the National Council on Aging shows that 86 percent of Americans, young and old, believe that "nobody should be forced to retire because of age if he wants to continue working and is still able to do a good job." It is this attitude that must be incorporated into practice, so that our older workers can plan their lives without being chained to inflexible deadlines.

There should be ample opportunity for retirement by older Americans but such retirement should be with dignity. The individual who wants to keep working past 65 and who has the ability should have the option. It is time for the 65-and-out rule to be abolished. Fundamental equity demands we protect every American from any type of employment discrimination.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN), there were—ayes 5, noes 51.

So the amendment was rejected.

Mr. WAMPLER. Mr. Chairman, I am pleased to express my support for H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. I wish to commend the Chairman of the Select Committee on Aging, the distinguished gentleman from Florida (Mr. PEPPER); the Chairman of the Subcommittee on Employment Opportunities, the distinguished gentleman from California (Mr. HAWKINS); and the distinguished gentleman from Illinois (Mr. FINDLEY) for their dedicated efforts in bringing this bill forth. I was pleased to associate myself with their remarks on H.R. 5383 in general debate on September 13 and I congratulate each of these gentlemen for their outstanding statements on behalf of this legislation.

Mr. Chairman, the incidence of mandatory retirement and age discrimination in non-Federal employment will certainly be reduced by the provisions in H.R. 5383 which extend the age of protection for non-Federal employees from 40 to 65 to 40 to 70. This amendment to section 12 of the act will become effective 180 days after enactment.

The intent of extending protection to workers up to age 70 is clarified in H.R. 5383 by preventing bona fide pension plans and seniority systems from containing mandatory retirement ages under section (4) (f) (2) of the act. This provision will be effective immediately upon enactment for those plans which mandate retirement under age 65. Collectively bargained employee benefit plans in effect 30 days prior to enactment, mandating retirement at ages 65 through 69, will be granted an extension of 2 years or the termination of the agreement, whichever occurs first, in order to comply with the upper age limit change of the act. Nonunion employee benefit plans must comply with the provisions on the 181st day of enactment and are not granted this exemption for compliance with the amendment to section 4(f) (2).

With regard to employment in the Federal sector, H.R. 5383 would eliminate mandatory retirement and other incidences of age discrimination by amending section 15(a) of the act, notwithstanding other provisions of the law.

The assumptions which, at one time, lent their support for arbitrary retirement of persons solely on the basis of age are no longer morally justifiable nor economically pragmatic. The limited number of persons subject to mandatory retirement policies, coupled with an increasing trend within this group for early retirement, suggest that the elimination of mandatory retirement policies would have a negligible adverse impact upon present labor and management practices. According to the Social Security Administration, only 30 percent of newly entitled beneficiaries aged 62 to 65 during 1968 and 1969 were subject to compulsory retirement at their present or last place of employment. Moreover, a Bureau of Labor Statistics study of private pension plan coverage in 1974 revealed that only 41 percent of the 21 million persons surveyed were subject to mandatory retirement policies. During fiscal year 1976, only 1,509 employees of the civil service system were mandatorily retired.

Projected changes in demographic factors also warrant revision of our age-related economic policies. Life expectancy at birth has risen from 47 years in 1900 to over 71 years today. As a result, there has been a marked increase in the proportion of persons aged 65 and over in our population. In 1900, those 65 and over accounted for only 4 percent of the population, 5.4 percent in 1930, and, in 1975, the proportion rose to 10.5 percent. These figures represent a rate of increase nearly three times that of the general population, since 1900.

Studies indicate that the age-composition of our population will continue to shift toward a growing segment of elderly persons. The future changes in the age composition of the population will further reduce the ability of the labor force to maintain the fiscal integrity of the social security system. A few years ago, the ratio of workers to social security beneficiaries was 4 to 1. Today, the ratio is 3.2 to 1, and, by the year 2030, the ratio is expected to approach 2 to 1. The long range potential actuarial deficit in social security could be replenished if older persons were extended the opportunity to remain in the work force. It should also be noted that the loss to

the economy as a result of mandatory retirement in 1972 was estimated to be $3.4 billion, or 0.3 percent of the total GNP. In 1976, this figure would translate to approximately $4.5 billion.

I wish to note that the provisions of H.R. 5383 do not attempt to alter, in any manner, the social security system as it presently exists. Unfortunately, some have deduced that proposals to defer benefits to age 68 are coupled with the effort to reduce the incidences of mandatory retirement. During general debate on September 13, cosponsors of H.R. 5383 clarified this issue by emphasizing that it is not the intent of the legislation to alter the date at which full social security benefits are payable. H.R. 5383 was designed to allow older workers the opportunity to remain employed beyond established retirement ages, only if they so choose. Deferring the age of entitlement for full social security benefits is certainly antithetical to the intent of this legislation.

It is most unfortunate that few of the persons forced to retire on fixed incomes are able to enjoy the rewards of financial security during their later years. Retirement income, among those retirees who receive social security benefits, private pension coverage and savings, does not begin to match the preretirement income of the average worker. According to the National Council on Aging, 43 percent of persons 65 and over with incomes below $3,000 who are unemployed desire to continue working. Transcending the economic tragedy of mandatory retirement, the human and social adversities are immeasurable. The Committee on Aging has found that the mortality rate of workers who were in good health when mandatorily retired at age 65 increased 30 percent higher than expected during the third and fourth years following retirement. In addition, the American Medical Association reports that here is ample clinical evidence that physical and emotional problems can be precipitated and exacerbated by denial of employment opportunities. Compulsory retirement impairs the health of many individuals whose job represents a major source of status, creative satisfaction, social relationships or self-respect. Mandatory retirement is a euphemism for the social injustice of ageism and the arbitrary severance of productive persons from the mainstream of American life.

I urge enactment of H.R. 5383 as a step toward equality of opportunity and freedom of choice for those who have built this great Nation through their diligence and utility.

Mr. HAMMERSCHMIDT. Mr. Chairman, as a member of the Select Committee on Aging, I appreciate the opportunity to express my views on the abolition of mandatory retirement.

We are meeting here today to vote on H.R. 5383—a bill to end mandatory retirement in the Federal sector and add 5 years to the working life of an employee in the private sector. I believe, however, that our vote today goes far beyond the specific mandates contained in the legislation. In a broader sense we are reevaluating a national policy that does violence to our sense of dignity, the rejection of capable men and women from the work force based on an arbitrary factor—age. Our own personal experiences force us to reject the thought that a person's judgment, intelligence, and productivity decline on some date on a calendar. Research confirms this viewpoint. Studies undertaken by the Department of Labor and the National Council on Aging demonstrate that older workers can produce "a quality and quantity of work equal or superior to younger workers." Studies also reveal that older workers have as good, and frequently better, attendance records than younger employees.

We live in a society in which work defines not only access to income but also self-esteem, status, and social participation. It would be very hard to exaggerate the importance of work in this country. It has been said that "the shape of American society can be understood through understanding work" and that "every other social problem may have some connection to work and its discontents." By forcing people to retire prematurely, we relegate them to additional, unnecessary years of reduced income. At present, retirement is almost always accompanied by a 50-percent reduction in income. When this reduced income is coupled with increased longevity; that is, more people living 10, 20, and more years beyond their retirement date, we can begin to see the critical problem experienced by many older people. Many who have saved money for their retirement years cannot make these funds stretch over this protracted period of time—particularly with their high rate of inflation. Many older persons have minimal savings and no retirement benefits other than social security. These people, who are prematurely retired, are forced to live on a reduced fixed income long before it is necessary.

There is one argument for forced retirement being put forth which I feel must be addressed. Proponents contend that it is necessary as a means for making room for the influex of young job seekers into the labor force. Before we continue to accept this fact as given, it would be wise to assess the extent to which mandatory retirement does, in fact, make room for the young and to what extent there is an ongoing need for this. First, a number of studies have shown that only about 30 to 40 percent of mandatory retirees have either the physical ability or the desire to continue working beyond the age of 65. Further, there is a distinct trend toward elderly workers retiring before they reach this age. Statistics for Federal employees show that last year only 1,509 elderly employees chose to remain in Government service until the mandatory retirement age. It must also be remembered that should those over retirement age be allowed to continue working, in each successive year there would be some percentage of attrition of the remaining elderly workers. In view of all this, mandatory retirement would not serve to create the number of openings in the job market which its proponents assume.

The premise that there is a pervasive need to make room for young entrants into the ranks of the employed was a product of the inevitable maturation of all those born during the "Baby Boom" years between 1949 and 1959. Since 1960, however, the birth rate has followed a sharp decline. Thus, by the end of the 1970's there will be 30 percent fewer entrants into the working population annually. If we allow mandatory retirement to continue, there will not only be a reduced labor force, but the burden of social security and pension funds will weigh more heavily on the diminished number of younger workers. A few years ago the ratio of workers to beneficiaries of social security was 4 to 1. Today the ratio is 3.2 to 1. Approaching the middle of the next century the ratio will be 2 to 1. I believe this data derived from the Social Security Administration clearly illustrates the dimensions of this problem.

Today's legislation provides us with an opportunity to alter an unjust, injurious social policy that is incompatible with the fundamental beliefs of this Nation—justice and equity of opportunity. We must reaffirm and actualize that belief by making sure that our policies and institutions exist to serve human needs and that no person is treated as superfluous.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 5383 which would abolish mandatory retirement, based on age, in the Federal Government and would extend the Age Discrimination in Employment Act to protect workers up to age 70. It would also eliminate a provision of the Age Discrimination and Employment Act that allows labor unions and management to negotiate contracts forcing workers to retire before age 65. As a member of the Select Committee on Aging, I have carefully reviewed the issue of mandatory retirement and have concluded that there is no social, financial, nor scientific basis to support retiring a person at age 65.

Retirement often means severe financial hardship for the senior citizen. A 1972 report by the Social Security Administration noted that even social security, private pensions, and savings combined, did not match the preretirement income of the average worker. Typically the retiree dropped to less than half of his/her median pre-retirement income. The current economic situation has caused an especial hardship for senior citizens living on fixed incomes and trying to cope with spiraling food prices, rents, utility costs, and medical expenses.

Research has shown that age is not an accurate measure of a person's ability to be a productive worker. In addition, there is no evidence that a person's skills suddenly decline, nor can it be proven that people age at the same rate. We all know people—some of them distinguished members of this body—who have remained in excellent physical and mental condition well beyond the legal retirement age. The loss of these persons' expertise and vast experience, had they been subject to mandatory retirement, would not only have been detrimental to them, but would have created a substantial loss to the rest of society.

Those in favor of mandatory retirement claim that old age brings frailty,

increased sickness, thus accident proneness, increased absenteeism, and actual reduced vigor in job performance. A number of studies have contradicted these assertions by finding that older workers can produce a quality and quantity of work equal or superior to younger workers, that they have as good, and usually better, attendance records as younger workers, that they are as capable of learning new skills and that they are generally more satisfied with their jobs than younger workers.

Mandatory retirement accelerates the aging process and brings on or makes physical and emotional problems worse. Compulsory retirement will impair the health of many individuals whose job represents a major source of status, creative satisfaction, social relationships, or self-respect. The American Medical Association has stated that "arbitrary retirement and denial of opportunity to work is a prime factor in the health deterioration of retired persons". In a study conducted by Dr. Susan Haynes, it was found that the mortality rate of workers who were in good health when mandatorily retired at age 65 was 30 percent higher than expected in the third and fourth years following retirement.

Supporters of mandatory retirement argue that it is necessary in order to give younger workers an opportunity for employment and upward mobility. This argument is based upon the attitude that given a choice between the old and the young, the elderly should bear the burden. However, we may overlook the fact that banning mandatory retirement would not abolish voluntary retirement. Indications are that the actual number of employees who would opt to continue working past age 65 would probably be quite small. Few jobs are actually freed by mandatory retirement. Therefore, the elimination of mandatory retirement would have little impact on the labor supply and the unemployment rate. Further, with the decline of the baby boom in the next few years, there will be fewer young people coming into the labor market to push out older workers.

Finally, there is the question of how long our Nation can endure early mandatory retirement. As the retired elderly population grows in size, the balance between workers and retirees is tilting precariously. While there were seven workers paying social security taxes for every person collecting benefits in 1955, there were only four in 1960, and less than threee in 1975. Within 50 years, there will be less than two Americans working for each social security beneficiary. As older workers are forced or induced to retire, they place an even greater strain on the already overburdened social security system.

In closing, I would like to state that the citizens of Los Angeles on April 5, 1977, approved Charter Amendment No. 1 which abolished the mandatory retirement age of 70 for Los Angeles city employees. This amendment will allow city employees, upon reaching the age of 70 years the option of continuing to work or retire.

As a representative from Los Angeles, I am proud to claim that my city was the first, by voter referendum, to abolish mandatory retirement for city employees. I believe that this is an indication of the way the public feels about this issue. I am hopeful that Congress will follow Los Angeles' lead by enacting H.R. 5383.

Mr. GRASSLEY. Mr. Chairman, I join with my colleagues from the Select Committee on Aging in support of H.R. 5383—legislation to amend the Age Discrimination in Employment Act of 1967 to further protect older Americans from discrimination in employment.

This legislation, designed to prohibit age discribination in employment, presently provides protection for workers aged 40–65. H.R. 5383, in recognition of conspicuous demographic changes; increased economic strains and a growing concern for civil liberties, would expand the current provisions of the Age Discrimination in Employment Act to extend coverage for workers in the non-Federal sector to age 70. This provision is effective 180 days after enactment. In compliance with its intention to provide equal protection for all non-Federal workers to age 70, H.R. 5383 includes a provision to clarify section 4(f)(2) of the Age Discrimination in Employment Act. Presently, this section allows for an exemption from the protections of the Act where bona fide pension plans and seniority systems are existent. H.R. 5383 will correct this injustice by prohibiting the compulsory retirement of persons covered by the Age Discrimination in Employment Act. In recognition of labor and management concerns, collectively bargained agreements, affecting those persons aged 65 through 70, will be permitted to defer mandatory retirement provisions for 2 years or the termination of the agreement, whichever occurs first. In order to qualify for the delay, collectively bargained agreements must be in effect at least 30 days prior to enactment of the legislation. Nonunion employee benefit plans will not, however, be extended a grace period for compliance with amendments to section 4(f)(2).

In addition, H.R. 5385 eliminates mandatory retirement and other age discrimination in Federal employment, including job advancement and hiring. Such provision must be adhered to, not withstanding any other provision of the law.

The forced retirement of an individual based solely on age is a discriminatory policy as prejudicial as discrimination on the basis of race, religion, sex or national origin. Arbitrary retirement policies, based solely on age, deny individual freedom of choice and are in conflict with the objectives of the Bill of Rights. There are almost 23 million persons aged 65 and over in our Nation today. The elderly population is growing at a rate nearly three times that of the general population. If this trend continues, as is expected, the year 2000 will find our Nation with a population of 31 million elderly persons. Several studies and testimony before the Select Committee on Aging indicate that many persons look forward to the day they are able to retire. The Civil Service Commission reports, for instance, that the numbers and percentage of persons retiring before reaching the age 70 limit have risen substantially in recent years. In 1976, the retirement age for such employees was 58.2. Testimony received from large corporations also confirmed the trend towards early retirement. In light of these observations we must be certain to consider the rights of those persons who desire to remain employed beyond the current retirement ages. For many, a job represents a source of self-fulfillment, status, contact with others and mental activity. Indeed, the American Medical Association's Committee on Aging argues that the health of an individual is seriously threatened when retirement is mandated on the basis of age. Enforced idleness, according to the association, robs those affected of the will to live full, well-rounded lives and encourages atrophy and decay.

Financial difficulties for an individual may certainly arise as a result of compulsory retirement. Surveys by the Department of Labor and the Social Security Administration reveal, in fact, that financial benefits provided by the social security system do not begin to approach the income earned by workers prior to retirement. It is estimated that the medium replacement rate for workers with a private pension to supplement their social security benefits was about 50 percent of their total earnings in the three highest paid years. The replacement rate for those receiving social security only would, of course, be substantially lower. The erosive effects of inflation on senior citizens living on fixed incomes is especially strident. In 1976, nearly 16 percent of those aged 65 and over, 3.3 million persons, lived on incomes below the poverty level. Rapidly spiraling costs for medicine and food—for which the elderly spend a greater portion of their income than does the general public—will probably cause an increase in these figures in the future.

In closing, I wish to emphasize that older Americans who continue to contribute their talents to society have demonstrated the potential for this under utilized resource. Let us strive to guarantee them a life of security and independence through equitable employment policies.

Ms. OAKAR. Mr. Chairman, as a member of the Select Committee on Aging, I have had the privilege of attending the extensive hearings that this committee held on age-based mandatory retirement. The physical and social costs of this insidous form of discrimination were well documented in these hearings. We heard testimony from many witnesses about the personal tragedies both their own and those of others, which were directly attributable to mandatory retirement because of age.

One particular witness who testified at the committee's field hearings in Cleveland was most poignant in describing his efforts to fight the mandatory retirement policies of his place of employment. A vigorous, healthy man, fully capable of carrying on his work, was forced to retire. He protested and is still protesting. It is difficult for him to understand why and as we heard his testimony, it was difficult for us to understand why he was forced to retire.

We on the committee view this legislation as a pioneer effort to, not only assist those who want to remain "on the job," but to change the general attitude towards the older worker. We want to eliminate the stereotype of the older worker as someone less than capable of performing his or her job; as someone who is feebleminded and worthless. Most often the older American on the job is creative, industrious and trustworthy.

Another point I would like to emphasize, Mr. Chairman, is that this legislation will not, and I repeat will not, limit an individual's rights to choose an early retirement, if he or she so wishes. The right of an older worker, who is willing and able to work, to continue working regardless of age, is not one that can or must be traded for the right to retire voluntarily. It is very important that everyone understand that this bill gives people the option to remain on the job.

I urge my colleagues to vote for this bill. It is a major step toward ending one of the current forms of discrimination in this country—ageism.

Mr. OTTINGER. Mr. Chairman, I welcome the opportunity to rise in strong support of H.R. 5383, which would go far to eliminate age discrimination and mandatory retirement in the Federal Government and raise the minimum age at which workers in private business can be forced to retire from 65 to 70.

As an original sponsor of earlier and more far-reaching legislation, H.R. 65, I believe we should end mandatory retirement entirely and have supported wholeheartedly this kind of legislation since it was first introduced 3 years ago. The bill before us today is a compromise, but it is an important first step.

The unfortunate consequences of mandatory retirement can be seen everywhere. Forced retirement leads to great financial hardship among many senior citizens. The American Medical Association has said forced retirement is detrimental to the health and life expectancy of those who want to keep working.

Furthermore, forced retirement based on age is inequitable. While some workers are forced to retire, others—including those who make the laws—are not.

About 60,000 workers lose their jobs each year because of policies requiring retirement at age 65. Most of these would voluntarily choose to stop working anyway. But a significant portion would prefer to go on working. Passage of this bill will not force people to continue working at 65, but will give older workers the choice. Instead of forced retirement, Americans will be able to continue to earn a living and hold on to, what for many is, their primary satisfaction in life.

Mr. Chairman, I would just like to reiterate that passage of H.R. 5383 is a first step toward eliminating barriers to employment for older people. I hope other steps will follow, including eliminating mandatory retirement altogether, removing the earnings limitation for social security recipients, and increasing employment opportunities for older workers.

In conclusion, I would like to share with my colleagues and others a recent editorial from the News bulletin of the American Association of Retired Persons which represents more than 10 million Americans over age 55. I believe this article effectively refutes some of the most common arguments offered by those opposing eliminating mandatory retirement.

MANDATORY RETIREMENT MYTHS

Our long struggle to end the practice of mandatory retirement in the United States appears near success. When Congress returns from its summer recess, it is expected to vote on legislation which may mark the beginning of the end of age discrimination in employment in the same manner that racial and sexual discrimination is now barred.

Let it be understood that our leadership in this effort in no way implies that we are opposed to retirement. Retirement, we believe, can be one of the most rewarding, satisfying periods of life, for those who want it, can afford it—and freely choose it.

But to deny work to those who want it, need it—and are fully capable of doing it—solely on the basis of age is a denial of a fundamental human right.

While growing public and Congressional support for our position indicates positive action soon, some elements of business and labor remain opposed, using in their campaign of resistance a number of myths and misconceptions about the labor force and the abilities and attitudes of older workers To set the record straight, here are their key arguments and our responses.

Myth: Mandatory retirement is necessary to open up job opportunities for younger people.

Reality: Forcing 100 skilled, experienced older workers to retire at age 65 does not guarantee 100 jobs for less-skilled younger workers, particularly the unskilled young people who are the greatest victims of unemployment. Nor does an end to mandatory retirement mean that many job opportunities for the young would be lost. Most older people, given a free choice, would still retire at around 65. Rather than accepting this persistent and pernicious myth and playing one age group off against another, we believe our nation should be striving to create enough jobs so that all Americans can continue to be productive for as long as they are able and want to be.

Myth: Mandatory retirement is the easiest, most "humane" way to weed out incompetent older workers.

Reality: It may be easy for personnel managers, since it helps them avoid having to make difficult, case-by-case personnel decisions. But it is certainly not "humane" to force people to give up their livelihoods—with the resultant implied stigma of incompetence and the very real loss of income—merely because they have reached an arbitrary age which has nothing to do with ability or attitude. Managers daily evaluate their employes on the basis of job ability, performance, attitude and attendance. Why is it perfectly proper to judge workers on that basis at age 25, 35, 45, 55, and even 64, but suddenly wrong when they reach their 65th birthday? Older Americans are willing to be evaluated on the same basis as younger employes and are willing to let their performance be a guide as to when they should retire. And that's the way it should be.

Myth: Ending mandatory retirement would create havoc with the nation's private pension plans.

Reality: Since some people would choose not to retire at age 65 if mandatory retirement were ended, there would be less demand on pension funds and continued contributions. This would benefit, rather than damage, the pension plans by making them more solvent. And since a number of major companies without mandatory retirement provisions still manage to maintain good pension plans it is obvious that the stability and solvency of a pension plan does not require a mandatory retirement age.

Myth: Unions should have the right to use a mandatory retirement age as a "bargaining chip" in collective bargaining with management.

Reality: Unions are prohibited from discriminating on the basis of race, religion or sex in collective bargaining. Why should they be allowed to practice age discrimination by bargaining away a person's opportunity to earn a livelihood merely because of age? In recent months several unions—including the United Steelworkers of America—have made important strides toward flexible retirement policies for their members. We hope that their colleagues in organized labor will see the wisdom of this approach.

Beyond the unfair burden mandatory retirement places on those who want and need to work, we believe the practice is a primary source of other forms of "ageism" in our society. Since Congress will be considering several bills on this issue amid continuing efforts by some to sell the myths as realities, it is important for you to express your views now. A brief note to your Congressional representatives can help liberate not only those facing forced retirement in the future, but also all older Americans from the stigma that an arbitrary age defines an end to productivity.

Mr. FRENZEL. Mr. Chairman, H.R. 5383 has been described as a bill to remove mandatory retirement in the public sector and to increase the age limit of mandatory retirement in the private sector. As drafted, the bill was an attempt to reduce age discrimination in both sectors, and certainly none of us is against that.

Unfortunately, whenever we make an abrupt change in the law in the name of economic equity for one group, we frequently cause disruptions in other areas of the economy. In the case of this particular bill, I do not believe the committee has investigated sufficiently the economic disruptions that will occur. This does not mean that the bill should not be passed, but it does mean that it should have been passed with greater care, and probably the effects of this bill should have been phased in over a longer period of time so as to create the very least economic disruption.

Certainly it is a good idea to encourage productive work beyond the age of 65. It is also true that those who still wish to retire at 65 will be able to do so, and perhaps this will be a majority of persons reaching age 65. Our public and private pensions allow most Americans to retire with some dignity. Those who want to work past the age of 65 and are able to do so should, of course, have the opportunity.

However, the affect of mandatory retirement at age 65 has been to give to younger and middle-aged employees, particularly women and minority workers, better chances for better jobs and has allowed them an opportunity to upgrade their positions. The importance of turnover in employment, if we are to provide equal opportunity, cannot be overemphasized.

Invariably when any President suggests a reorganization which will cause a reduction in the total Federal force he says that the reduction will be accomplished through attrition rather than through lay offs. While some attrition is caused by people moving from job to

job, the lion's share comes from retirements. With the retirement age being absolute in Federal employment, attrition is likely to be slowed markedly.

Federal employment may be mentally onerous, but very little of it is physically debilitating, and many of our Federal employees will be able to work past age 65 and will want to work past age 65. Without attrition, not only will reductions be impossible, but new hiring will be very difficult. The same is true in our private sector. Again, many employees will want to retire at 65, but where the work is not physically strenuous, the 65-year-old retirees will be less numerous. Where there are rules of tenure or seniority, and firings for cause are very difficult, and where the industry is not a growth industry, it will be extremely difficult to work new employees into the system, simply because there will be no vacancies.

I suppose the case of higher education is the most dramatic example. I believe there will be very little faculty turnover without mandatory retirement. This means that younger members of the faculty, who are already having difficulties in becoming tenured because of the declining population, will have another obstacle placed in their path. Those who have worked hard to prepare themselves for a career in education are going to find particular difficulties.

Because of the need to furnish employment opportunities on an equal basis, both to the young and to the old, I would have been happier if this bill could have provided for a phase-in of the raising of the retirement age so that our economy would be able to adapt to the changes over a period of years rather than to suffer the immediate dislocation of the full effect of this law.

For example, one company, Sears and Roebuck, basing its assumptions that only one-third of their employees would choose to continue working after age 65, predicts that at the end of the first 5-year period, 20,000 job change opportunities would be lost and the company's new hiring rate would be reduced by 7 percent. They also predict that national job opportunities would be reduced proportionately.

Because I am so concerned about the immediate disruptive effects of this law, I will support Mr. ERLENBORN's amendment to delay its effect for 2 years. In this time period I would hope that Congress could look into this matter more closely and perhaps make important adjustments in the law before its effective date.

Finally, I do support the change of the present mandatory retirement system, because I believe that it is a form of age discrimination. Although I will vote for the bill, I am extremely worried about the abrupt change and the severe economic dislocation it will cause in the first 5 years.

I wish the committee had looked into this problem in greater detail so that we would not be creating a whole new set of problems as we are solving an old set.

Mr. SANTINI. Mr. Chairman, I rise in support of H.R. 5383, the Age Discrimination Act Amendments of 1977.

This bill makes long-overdue changes in the Age Discrimination in Employment Act of 1967, rightfully prohibiting age discrimination in such matters as hiring, job retention, compensation, and privileges of employment.

I am especially supportive of the provision dealing with mandatory retirement.

It has always been my conviction that performance, not age, should be the only criteria for assessing a person's qualifications for continued employment.

Growing old, after all, is a fact of life—something we must all face sooner or later.

Yet, because someone reaches their 65th birthday does not mean they suddenly lose all skills, knowledge, and ambition in their chosen profession. On the contrary, the old pros of many professions are often the most valuable and knowledgeable.

Forcing them to retire is a needless waste of both manpower and brainpower. It robs able-bodied workers of the freedom to pursue their livelihoods and remain as productive members of our society. Worst of all, it does irreparable damage to their dignity and self-esteem.

The fact is we would be doing an economic as well as personal injustice to millions of Americans if we allow mandatory retirement to continue.

Instead of putting down our senior citizens, let us tell them they are appreciated and needed.

Instead of limiting and discouraging our seniors, let us provide them with incentives and encouragement to lead active and productive lives.

And, instead of forcing them to retire, let us give them the chance to prove they can do the job.

Mr. Chairman, H.R. 5383 accomplishes all of this and more. I urge prompt passage of this much-needed legislation.

Mr. DERWINSKI. Mr. Chairman, the amendment offered by my committee colleague who chairs the Subcommittee on Compensation and Employee Benefits cleanly and effectively eliminates mandatory retirement of Federal employees.

While this is the apparent intent of H.R. 5383 as it came from the Committee on Education and Labor, questions were raised about the broad implication of its general language. It is my understanding an agreement has been reached between our two committees on the part of the bill relating to Federal employment which comes under our jurisdiction.

This amendment simply repeals the law which requires the forced retirement of a Federal employee who has reached age 70 with 15 years of Federal service. This is in keeping with the purpose of H.R. 5383.

Mr. Chairman, I have felt for some time that forced retirement based solely on chronological age is an arbitrary and impractical condition of Federal employment. Ability and competency ought to be the controlling criteria for continued employment. Federal managers should be urged to apply these standards to employees at all age levels, and they should not take this legislation as a signal that Congress condones hangers-on and deadwood.

The Civil Service Commission supports this amendment. Testifying before our subcommittee on this subject, Commission Chairman Alan K. Campbell said: "One of the basic principles of the civil service is that employment should be based on merit and be free of discrimination because of race, color, creed, sex, national origin, or age. Repeal of the mandatory age 70 retirement provision would certainly be more in keeping with principles of true merit and equal employment opportunity."

I agree, and will go a step further by cautioning Federal managers against using age as a discriminating factor for entrance into Federal service. It is no secret that agencies often find subtle ways to avoid hiring persons in their 50's or 60's despite their outstanding qualifications. I recommend that Federal hiring practices be closely monitored to insure that type of discrimination does not flourish.

Mr. ROONEY. Mr. Chairman, I rise in strong support of H.R. 5383 and want to associate myself with the remarks of the distinguished chairman of the Select Committee on Aging, the gentleman from Florida, Congressman PEPPER.

As I understand this bill, mandatory retirement on account of age would be eliminated in Federal employment and the upper age limit in the Age Discrimination in Employment Act would be raised from 65 to 70 for all non-Federal employees covered by that act.

We recognize and respect the desire of many Americans to retire at age 65 or to choose retirement at much earlier ages. This bill does not interfere with that option in any way. But I think we must also recognize the psychological, social, and economic importance of work for many older people. It seems incredible to me that while the national costs of maintaining incomes and health care for the retired are rapidly moving upward and the financial strain on the social security system is steadily increasing, many older individuals willing and able to work are subjected to mandatory retirement or are arbitrarily excluded from job opportunities solely on the basis of their chronological age. While many older Americans look forward happily to the day when they may enjoy leisure activities, it is senseless and unfair, in my opinion, to deny work to those older individuals who desire to remain in the active American work force.

While some of the arguments against eliminating mandatory retirement may have merit, particularly in an economy with an unemployment rate of 7.1 percent, I am still convinced that it is grossly unfair either to deny or terminate a person's employment soley on the basis of age, and that this consideration should outweigh all arguments to the contrary. Performance, not age or any other arbitrary classification, must be the sole criterion of a person's ability to do a job.

The Chairman of the Civil Service Commission has testified that repeal of the mandatory retirement age of 70 would have no serious adverse effect on the management of the Federal Government and would certainly be more in keeping with the fundamental principles of merit and equal employment opportunity espoused by the Civil Service

Commission. As far as non-Federal employees are concerned, this bill offers a reasonable compromise between the views of those who believe the upper age limit in the Age Discrimination in Employment Act should be removed completely and those who feel too uncertain of the consequences of change in the present limit of 65.

In today's competitive job market, I believe the Congress has an obligation to insure that all Americans, regardless of age, are on an equal footing. H.R. 5383 is a step in that direction. I strongly support this bill and urge its prompt passage.

Mr. ALEXANDER. Mr. Chairman, I rise in support of H.R. 5383, legislation that will end mandatory retirement based solely on age for most Federal employees and raise the minimum age at which workers in the private sector can be forced to retire from 65 to 70.

As a sponsor of this legislation, I believe the bill will correct an injustice that has long been inflicted on those senior Americans who want to continue working past the age of 65. It is my feeling that competence—not age—should be the criterion when it comes to holding a job.

Specifically, this legislation will end mandatory retirement in most Federal employment, currently at age 70, as well as age discrimination in hiring and advancement. The bill raises from 65 to 70 the upper age limit for retirement in the private sector, thus giving an additional 5 years of protection against mandatory retirement.

The bill further prohibits the use of pension plans for seniority systems to force the retirement of workers in the protected age group. Benefit plans, via collective bargaining, with forced retirement ages between 65 and 70 are given a grace period of up to 2 years to comply. H.R. 5383 also mandates a study, to be presented to the Congress within 2 years, on the impact of involuntary retirement and on the feasibility of eliminating totally the upper age limit for non-Federal workers.

Mandatory retirement not only robs productive Americans of their livelihood, but often drives many elderly persons into poverty and depression. Mandatory retirement deprives us of the talents of our senior citizens. It equates the age of 65 with senility. Mandatory retirement is pure discrimination, discrimination on the basis of age.

I urge my colleagues to support this long overdue legislation.

Mr. LEGGETT. Mr. Chairman, I rise to voice my support for H.R. 5383, legislation to amend the Age Discrimination in Employment Act. This long needed measure would abolish the upper age limit for most Federal employees and extend the upper age limit of protection of the act to non-Federal employees from the current level of age 65 to age 70, as well as accomplish other purposes.

Let me first commend both the Committee on Education and Labor and the Select Committee on Aging for their thorough studies of this issue and the way they have skillfully focused national attention on the evils of our current laws, customs and policies concerning mandatory retirement.

Mandatory retirement represents one of the last vestiges of legally condoned employment discrimination in our country and must be abolished if the elderly are to enjoy the full civil rights accorded other citizens. Mr. Chairman, this discrimination takes place because we force otherwise productive workers to retire at an arbitrarily established age limit. When the Social Security Act was passed in 1935, 65 was established as the age at which pension would become payable. This determination was based in part on the then average life expectancy of 61.7 years. When the Congress enacted the Age Discrimination in Employment Act in 1967, we set the upper limit for protection by the act at 65. The age of 65 was chosen for no better reason than that it was the customary retirement age.

Today, average life expectancy is 72.5 years and many qualified workers want to work beyond 65 but are forced into a life of idleness. For too many older citizens, forced retirement is a traumatic experience. Medical experts tell us that retirement, especially forced retirement, can impair the health of many individuals whose jobs represent a major source of status, creative satisfaction, social relationships, and self-respect. Retirement at too early an age can cause isolation and loneliness, often resulting in depression and many believe can accelerate the aging process. Mr. Chairman, Government policies which lead to such mental, physical, and I believe, spiritual deterioration, cannot be justified and ought clearly to be ended forthwith.

In addition to humanitarian reasons for doing away with forced retirement at an arbitrarily defined age, there are forceful economic reasons for doing so. Many of our older citizens need the income from full- or part-time employment to support themselves and their families. To force them to retire, often is equivalent to forcing them into poverty. Frankly, for many of our older citizens, the right to work is basic to the right to survive.

Mr. Chairman, our social security system is in dire straights and too many privately financed retirement systems are experiencing similar pressures. With declining birth rates, coupled with increasing retirement rates, as well as earlier retirement, fewer workers are supporting more and more retirees. A few years ago, the ratio of workers to social security beneficiaries was 4 to 1; today the ratio is 3.2 to 1; by 2030 the ratio will approach 2 to 1. The abolishment of mandatory retirement would help alleviate this lopsided ratio and help provide a more sound retirement system. Ideally, those persons we now force into idleness should be permitted to continue in the work force, if they wish to do so, paying social security taxes and contributing to retirement plans, rather than being forced to join the retirement ranks collecting cash benefits. Surely, we would all be better off.

There is one other economic factor which the Congress must be cognizant of as we debate this bill, and that is productivity. Needless to say, over the years many private and public employers have conducted studies of the productivity of older employees. Many of these research studies indicate that older workers are as good or better than their younger coworkers with regard to dependability, judgment, work quality, work volume, human relations, and absenteeism; and older workers often have fewer accidents on the job. Many of these studies clearly demonstrate that there is more variation in work ability within the same age group than between age groups, a finding which clearly justifies judging workers on competency, not age. We must, of course, recognize that the capabilities of some workers declines with age, and this varies with the requirements of each job. Nevertheless, it is important that we all recognize that even as the capability of a worker declines with age, this decline in some respects of the individual's ability may be more than compensated for by attributes that often increase with age, for example, experience and judgment. Surely, in a city where George Allen's Washington Redskins are adored, my colleagues will recognize the essential truth of this statement, despite the opening day loss to the New York Giants.

In conclusion, Mr. Chairman, I believe we should allow our older citizens to choose when they wish to stop working. We have no good reason to put an otherwise productive person on the shelf. The time has come for the Congress to end the waste of the valuable national resource our older workers represent.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 5383, the Age Discrimination in Employment Act amendments bill which would abolish any mandatory retirement age for Federal employees. In the 95th Congress, a total of 167 Members have sponsored legislation which eliminates or restricts mandatory retirement and I believe that the actions of the Congress on this issue reflect the mood of the people of America, who, according to a recent opinion poll, are generally opposed to mandatory retirement.

Mandatory retirement may be defined as the involuntary separation of a person from a particular job because of age. Such separation is discriminatory against older workers and is contrary to equal employment opportunity.

Mr. Chairman, I can see no reason why an active, competent adult should be forced into retirement at the arbitrary age of 65. Chronological age is a poor indicator of ability to perform a job. Age also has little to do with variations in individual capabilities. Our older workers bring years of experience and expertise to their professions. I feel that is a human and economic waste to lay off an older worker merely because an employer's pension plan arbitrarily designates 65 as the retirement age. Not only does mandatory retirement often result in a loss of role and income for individuals, but since employment represents a major source of status, creative satisfaction, social relationships, and self-respect for many people, mandatory retirement can deprive or discourage an individual's physical and mental activity.

Mr. Chairman, additionally I would like to discuss the mandatory retirement issue from a black perspective. I repre-

sent a district in Cleveland that is largely poor and black. For this reason I am especially concerned about the impact of mandatory retirement on the black elderly. I assure you that many black seniors are not in the position to contemplate the "luxury" of retirement, especially during this period of skyrocketing inflation. For example, the elderly low income in my district have been devastated by the rapidly rising cost of utilities.

Therefore, mandatory retirement to the black elderly becomes a useless phase when faced with years of idle poverty. Moreover, many black elderly are not in pension and retirement programs. Mr. Speaker, let me emphasize that black senior citizens are primarily concerned about income and survival and will most always choose to continue to work for a full salary, unless poor health or family considerations intervene.

In conclusion, Mr. Chairman, I feel that the mandatory retirement age should be abolished to allow those active senior citizens, who out of necessity or desire, wish to continue employment, the right to do so. I urge my colleagues to join me in supporting this important piece of legislation.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BINGHAM, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to provide that all Federal employees described in section 15 of such act shall be covered under the provisions of such act regardless of their age, pursuant to House Resolution 738, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. FINDLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 359, nays 4, answered "present" 1, not voting 70, as follows:

[Roll No. 582]

YEAS—359

Abdnor	Akaka	Ambro
Addabbo	Allen	Ammerman
Anderson, Calif.	Fithian	Martin
Anderson, Ill.	Flippo	Mathis
Andrews, N.C.	Flood	Mattox
Annunzio	Florio	Meeds
Applegate	Flowers	Metcalfe
Archer	Flynt	Meyner
Ashbrook	Foley	Michel
Aspin	Ford, Mich.	Mikulski
AuCoin	Ford, Tenn.	Mikva
Badham	Fountain	Milford
Badillo	Fowler	Miller, Calif.
Bafalis	Fraser	Miller, Ohio
Baldus	Fuqua	Mineta
Barnard	Gammage	Minish
Bauman	Gaydos	Mitchell, Md.
Beard, R.I.	Giaimo	Mitchell, N.Y.
Beard, Tenn.	Gibbons	Moakley
Bellenson	Gilman	Moffett
Benjamin	Ginn	Mollohan
Bennett	Glickman	Montgomery
Bevill	Gonzalez	Moore
Biaggi	Goodling	Moorhead, Calif.
Bingham	Gore	Moorhead, Pa.
Blanchard	Gradison	Moss
Blouin	Grassley	Mottl
Boggs	Gudger	Murphy, Ill.
Boland	Guyer	Murphy, Pa.
Bonker	Hagedorn	Murtha
Bowen	Hall	Myers, Gary
Brademas	Hamilton	Myers, John
Breaux	Hammer-schmidt	Myers, Michael
Breckinridge	Hanley	Natcher
Brinkley	Hannaford	Neal
Brodhead	Hansen	Nedzi
Broomfield	Harkin	Nix
Brown, Calif.	Harrington	Nolan
Brown, Mich.	Harris	Nowak
Brown, Ohio	Harsha	O'Brien
Broyhill	Hawkins	Oakar
Buchanan	Heckler	Oberstar
Burgener	Hefner	Obey
Burke, Calif.	Heftel	Ottinger
Burke, Fla.	Hillis	Panetta
Burke, Mass.	Hollenbeck	Patten
Burleson, Tex.	Holt	Pease
Burton, John	Holtzman	Pepper
Burton, Phillip	Hubbard	Perkins
Butler	Huckaby	Pickle
Byron	Hughes	Pike
Caputo	Hyde	Pressler
Carr	Ichord	Preyer
Carter	Ireland	Price
Cavanaugh	Jeffords	Pritchard
Cederberg	Jenkins	Pursell
Chappell	Jenrette	Quayle
Chisholm	Johnson, Colo.	Quie
Clay	Jones, N.C.	Rahall
Cochran	Jones, Okla.	Railsback
Cohen	Jordan	Rangel
Coleman	Kasten	Regula
Collins, Ill.	Kastenmeier	Reuss
Collins, Tex.	Kazen	Rinaldo
Conable	Kelly	Risenhoover
Conte	Kemp	Roberts
Corcoran	Ketchum	Robinson
Corman	Keys	Rodino
Cornell	Kildee	Roe
Coughlin	Kindness	Rogers
Crane	Koch	Rooney
Cunningham	Kostmayer	Rosenthal
D'Amours	Krebs	Rostenkowski
Daniel, Dan	Krueger	Roybal
Daniel, R. W.	LaFalce	Rudd
Danielson	Lagomarsino	Ruppe
Davis	Latta	Russo
de la Garza	Le Fante	Ryan
Delaney	Leach	Santini
Dellums	Leggett	Sarasin
Derrick	Lehman	Satterfield
Devine	Levitas	Sawyer
Dickinson	Livingston	Scheuer
Dicks	Lloyd, Calif.	Schroeder
Diggs	Lloyd, Tenn.	Schulze
Dingell	Long, La.	Sebelius
Dodd	Long, Md.	Seiberling
Dornan	Lott	Sharp
Downey	Lujan	Shipley
Drinan	Luken	Shuster
Duncan, Oreg.	Lundine	Simon
Duncan, Tenn.	McClory	Sisk
Early	McCloskey	Skelton
Edwards, Calif.	McCormack	Skubitz
Edwards, Okla.	McDonald	Slack
Eilberg	McEwen	Smith, Nebr.
Emery	McFall	Snyder
English	McHugh	Solarz
Ertel	McKay	Spellman
Evans, Del.	McKinney	Spence
Evans, Ind.	Madigan	Staggers
Fary	Maguire	Stanton
Fascell	Mahon	Steed
Fenwick	Markey	Steers
Findley	Marks	Stokes
Fish	Marlenee	Stratton
Fisher	Marriott	Studds
Stump	Waggonner	Winn
Symms	Walgren	Wirth
Taylor	Walker	Wydler
Thompson	Wampler	Wylie
Thone	Watkins	Yates
Trible	Wayman	Yatron
Tsongas	Weaver	Young, Alaska
Udall	Weiss	Young, Fla.
Van Deerlin	White	Young, Mo.
Vander Jagt	Whitley	Young, Tex.
Vanik	Wiggins	Zablocki
Vento	Wilson, C. H.	Zeferetti
Volkmer	Wilson, Tex.	

NAYS—4

Bedell	Patterson	Pattison
Gephardt		

ANSWERED "PRESENT"—1

Erlenborn

NOT VOTING—70

Alexander	Evans, Ga.	Roncalio
Andrews, N. Dak.	Forsythe	Rose
Armstrong	Frenzel	Rousselot
Ashley	Frey	Runnels
Baucus	Goldwater	Sikes
Bolling	Hightower	Smith, Iowa
Bonior	Holland	St Germain
Brooks	Horton	Stangeland
Burlison, Mo.	Howard	Stark
Carney	Jacobs	Steiger
Clausen, Don H.	Johnson, Calif.	Stockman
Clawson, Del	Jones, Tenn.	Teague
Cleveland	Lederer	Thornton
Conyers	Lent	Traxler
Cornwell	McDade	Treen
Cotter	Mann	Tucker
Dent	Mazzoli	Ullman
Derwinski	Murphy N.,Y.	Walsh
Eckhardt	Nichols	Whalen
Edgar	Pettis	Whitehurst
Edwards, Ala.	Poage	Whitten
Evans, Colo.	Quillen	Wilson, Bob
	Rhodes	Wolff
	Richmond	Wright

The Clerk announced the following pairs:

Mr. Alexander with Mr. Roncalio.
Mr. Teague with Mr. Sikes.
Mr. Richmond with Mr. Hightower.
Mr. Nichols with Mr. Cornwell.
Mr. Ullman with Mr. Del Clawson.
Mr. Brooks with Mr. Rousselot.
Mr. Dent with Mr. Johnson of California.
Mr. St Germain with Mr. Whitten.
Mr. Wolff with Mr. Frenzel.
Mr. Rhodes with Mr. Jones of Tennessee.
Mr. Wright with Mr. Frey.
Mr. Ashley with Mr. Smith of Iowa.
Mr. Conyers with Mr. Edgar.
Mr. Mazzoli with Mr. Whalen.
Mr. Treen with Mr. Goldwater.
Mr. Carney with Mr. Lent.
Mr. Bob Wilson with Mr. Baucus.
Mr. Stangeland with Mr. Derwinski.
Mr. Traxler with Mr. Edwards of Alabama.
Mr. Stockman with Mr. Quillen.
Mr. McDade with Mr. Cleveland.
Mr. Murphy of New York with Mr. Tucker.
Mr. Forsythe with Mr. Don H. Clausen.
Mr. Cotter with Mr. Holland.
Mr. Horton with Mr. Runnels.
Mr. Walsh with Mr. Whitehurst.
Mr. Steiger with Mr. Thornton.
Mr. Andrews of North Dakota with Mr. Mann.
Mr. Lederer with Mr. Bonior.
Mr. Howard with Mr. Burlison of Missouri.
Mr. Jacobs with Mr. Evans of Georgia.
Mr. Eckhardt with Mr. Rose.
Mr. Traxler with Mr. Evans of Colorado.

Mr. BEDELL changed his vote from 'yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

TITLE AMENDMENT

The SPEAKER pro tempore (Mr. NOLAN). The Clerk will report, the title amendment to the bill.

The Clerk read as follows:

Title amendment: Amend the title so as to read: "A bill to amend the Age Discrimination in Employment Act of 1967 to provide that Federal employees who are 40 years of age or older shall be protected by the provisions of section 15 of such Act, and for other purposes.".

AMENDMENT OFFERED BY MR HAWKINS TO THE TITLE AMENDMENT

Mr. HAWKINS. Mr. Speaker, I offer an amendment to the title amendment.

The Clerk read as follows:

Amendment offered by Mr. HAWKINS to the title amendment: Page 7, strike out the matter following line 5 and insert in lieu thereof the following:

Amend the title so as to read as follows: "A bill to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such Act, and for other purposes.".

The amendment to the title amendment was agreed to.

The title amendment, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5383, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time to inquire of the distinguished majority whip if he will give us the program for the balance of the day and the program for next week.

Mr. BRADEMAS. Mr. Speaker, I shall be happy to do so, if the distinguished minority whip will yield.

Mr. MICHEL. I yield to the majority whip.

Mr. BRADEMAS. Mr. Speaker, on Monday of next week the House will meet at noon for the consideration of six bills on the District Calendar, as follows:

H.R. 6536, D.C. Retirement Act;

S. 1060, George Washington University Charter Restatement Act;

H.R. 5813, a bill to revise the annual Federal payment for District water and sewer service;

H.R. 7747, pretrial detention bill;

H.R. 7766, a bill to permit the District of Columbia to agree to joint airspace with the Postal Service; and

H.R. 6530, a bill to provide authority to borrow from the U.S. Treasury.

Following consideration of those bills, on Monday we will take up six bills under suspension of the rules. Votes on suspensions will be postponed until the end of all suspensions. The bills under suspension of the rules are as follows:

H.R. 6693, child abuse amendments;

H.R. 6214, Library of Congress Center for the Book;

H. Con. Res. 60, Martin Luther King bust in Capitol;

S. Con. Res. 25, Ernest Gruening statue in Statuary Hall;

H.R. 7132, establishment of U.S. Postal Service Arbitration Board; and

H. Con. Res. 277, Saturday mail delivery.

Following the votes on the suspensions, the House will consider House Resolution 760, to authorize Assassinations Committee to apply to courts.

On Tuesday, the House will also meet at noon, and 12 bills will be considered under suspension of the rules. Votes on suspensions will be postponed until the end of all suspensions. Those bills considered under suspension of the rules are as follows:

H.R. 5645, Civil Rights Commission Authorization Act of 1977, as amended;

H.R. 7769, authorize admission records for Indochinese refugees;

H. Res. 724, concern for disregard of human rights in Cambodia;

H.J. Res. 386, Bicentennial commemorative medals;

H.R. 2664, Indian Claims Act amendments;

S. 693, Montana Wilderness Act;

H.R. 7744, river and harbor improvements;

H.R. 7691, Federal Grant and Cooperative Agreement Act;

S. 213, to amend Accounting and Auditing Act;

H.R. 6257, Federal Program Information Act;

H.R. 8588, establish Statutory Offices of Inspector General; and

H.R. 4140, extend Fishermen's Protective Act.

Then the House will consider H.R. 8638, Nuclear Antiproliferation Act of 1977, with votes on amendments and the bill.

On Wednesday the House will meet at noon and will take up the following legislation:

House Resolution 70, to establish a Select Committee on Population;

A bill to provide for a temporary increase in the debt limit, subject to a rule being granted; and

H.R. 6566, ERDA authorizations for national security programs for fiscal year 1978, with votes on amendments and the bill.

On Thursday the House will meet at 10 o'clock a.m. and will consider the following bills:

H.R. 7010, compensation for victims of crime, with votes on amendments and the bill; and

H.R. 3816, FTC Amendments of 1977, under an open rule, with 1 hour of debate.

On Friday the House will also meet at 10 a.m. for the consideration of the following bills:

H.R. 2176, Federal Banking Agency Audit Act, with votes on amendments and the bill; and

H.R. 6951, Council on Wage and Price Stability, under an open rule, with 1 hour of debate.

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time, and any further program will be announced later.

Mr. Speaker, I thank my colleague, the distinguished minority whip.

Mr. MICHEL. Mr. Speaker, may I make this further inquiry: For the balance of the day, I understand there are two conference reports that will be brought up?

Mr. BRADEMAS. The gentleman is correct. One is on the Library Services and Construction Act and the other one is on juvenile justice.

Mr. MICHEL. And that will conclude our business for today; is that correct?

Mr. BRADEMAS. The gentleman is correct.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 26, 1977

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON S. 602, LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1977

Mr. BRADEMAS. Mr. Speaker, I call up the conference report of the Senate bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 19, 1977.)

Mr. BRADEMAS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report to the House that after negotiations between the Committee on Human Resources of the other body and the Committee on Education and Labor on S. 602, the Library Services and Construction Act Amendments of 1977, we have reached an agreement which is embodied in the conference report now under consideration.

Mr. Speaker, I want first to express appreciation for the efforts of the members of the committee who have worked and cooperated in bringing this matter to a successful resolution.

In particular, Mr. Speaker, I would like to thank the distinguished chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS) and the distinguished ranking minority member of the Education and Labor Committee (Mr. QUIE) for their important contributions to this bill. Let me also thank the other members of the conference, Mr. BEARD of Rhode Island and Mr. JEFFORDS of Vermont for their important efforts.

Mr. Speaker, I would be remiss if I did not also thank the Members from the other body for their contributions, in particular the major sponsor of the bill there, the distinguished senior Senator from Rhode Island (Mr. PELL) and the distinguished senior Senator from New York (Mr. JAVITS).

Mr. Speaker, let me make these brief observations. The conference report is similar in many respects to the bill passed by the House on March 21, 1977, by a vote of 368 to 1. The House bill was ordered reported by the Subcommittee on Select Education, which I have the honor to chair, by a unanimous bipartisan vote. Further, the bill was reported from the Education and Labor Committee, again by a unanimous vote.

AUTHORIZATIONS

The conference report extends for 5 more years—1 year more than the House bill—the authorizations for the Library Services and Construction Act and provides special assistance for urban libraries.

The total authorization for fiscal year 1978 is $125 million, the same total authorized in the House bill.

Mr. Speaker, let me describe briefly the amounts authorized by the conference agreement for each of the titles under the Library Services and Construction Act.

The authorization of appropriations for title I of the act agreed to by the conferees for fiscal year 1978 is $110 million, the same total authorized by the House bill and, I might add, a figure of $27,150,000 below the amount authorized for the current fiscal year. Slight increases in authorizations during the succeeding fiscal years are provided by the conference agreement, as did the measure passed by the House. The conference report provides $140 million for the 1979 fiscal year with $150 million for each of the fiscal years 1980 through 1982. The House, in its bill, included $130 million for fiscal 1979 and such sums as may be necessary for the remaining fiscal years.

These funds will go for the acquisition of books, materials, and equipment as well as for paying salaries and operating expenses. Under title I, States also receive funds to extend library services to those whose access to them is limited, such as the poor, the handicapped, and people who live in remote areas. In addition, the title strengthens the capacity of State library agencies to provide library services.

Mr. Speaker, title II of the Library Services and Construction Act authorizes grants for public library construction and alteration and remodeling of library buildings. The conference report provides such sums as may be necessary for each of the next 4 fiscal years for this title of the act, as did the bill passed by the House, and $97 million for the 1982 fiscal year.

Mr. Speaker, title II of the act has not been funded in recent years but I would note that a substantial backlog of public library construction projects has developed and that continuation of this provision of the act is needed.

I shall now say a word about the authorizations for title III of the act, which encourages cooperation and coordination among libraries of all types. The authorizations for this title agreed to in conference are $15 million for the 1978 fiscal year, again, the same amount provided in the House bill, as is the authorization set for fiscal year 1979 at $20 million. Twenty million dollars are also authorized for each of fiscal years 1980 through 1982. The House bill set authorizations at "such sums" for the fiscal years after 1979.

Finally, Mr. Speaker, the conference agreement authorizes, as did the House bill, such sums as Congress may deem necessary for title IV of the Library Services and Construction Act, under which grants are authorized for the provision of library services to the elderly. Title IV has not yet been funded but, as pointed out in the report of the committee on this measure, there is a genuine need for a program that is targeted on providing library services to older Americans.

ADMINISTRATIVE COSTS

Mr. Speaker, the House bill extending the Library Services and Construction Act made a particular modification in existing law which has been retained in the conference agreement. I refer to language requiring that the administrative moneys expended by the States in carrying out programs under the act be matched by the States from other than Federal funds.

The provision is intended to encourage greater use of State funds for administrative expenses rather than diverting Federal funds meant for library programs and services.

URBAN LIBRARIES

The conference agreement contains, Mr. Speaker, an amendment to title I of the Library Services and Construction Act, which is not contained in the House bill, an amendment which creates a method for assisting urban libraries. The new section provides that once appropriations for title I of the act exceed $60 million, a portion of the moneys beyond that figure will be reserved for urban libraries.

I would refer at this point, Mr. Speaker, to testimony given earlier this year before the Subcommittee on Select Education in which witnesses spoke of the severe financial straits facing many urban public libraries forcing them to close branches, curtail book purchases and hours of operation and discharge employees.

The conference agreement addresses this situation by providing that, in States with cities of populations of 100,000 or more individuals, where the aggregate population of such cities does not exceed 50 percent of the State's population, the amount reserved from appropriations in excess of $60 million for urban resource library purposes shall bear the same percentage as such urban population bears to the total population of the State. Where such urban population exceeds 50 percent of a State's population, 50 percent of the appropriations in excess of $60 million shall be reserved for urban resource library purposes. If a State has no city with a population of 100,000 or more individuals, it shall not be subject to the provisions of this subsection, and may use its share of the excess funds for the activities authorized by title I.

I would add here, Mr. Speaker, that the conferees on the Library Services and Construction Act Amendments of 1977 urge that the White House Conference on Library and Information Services, to be held in 1979, consider the unique needs of libraries in densely populated areas and isolated rural areas.

LIBRARY CONSTRUCTION

The conference agreement modifies title II of the Library Services and Construction Act for public library construction, by providing two new uses of funds for remodeling. These uses would be: First, to remove architectural barriers to the handicapped, and second, to make library structures more energy efficient. I would point out, Mr. Speaker, in view of the recent promulgation by the Department of Health, Education and Welfare of regulations implementing section 504 of the Rehabilitation Act of 1973 to prohibit discrimination against handicapped individuals in federally assisted programs, and in view of the national interest in conserving energy, the timeliness of these additions, which were not part of the bill passed by the House.

SERVICES TO THE HANDICAPPED

The conferees agreed also to revise the hold harmless base year date regarding library services to the handicapped from the 1971 fiscal year to the second preceding fiscal year for which a determination is made. This modification was accepted by the conferees from the Senate bill.

CONCLUSION

Mr. Speaker, I urge Members of the House to give their strong support to this measure to aid our Nation's public libraries.

Few programs of Federal assistance have won such widespread support as has the Library Services and Construction Act. Let me once more remind Members that the measure before us has enjoyed overwhelming bipartisan support during

consideration of the legislation earlier this year. I trust that there will be equally strong support on both sides of the aisle for the conference report before us.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am happy to yield to the distinguished chairman of the full Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I rise in strong support of the conference report on S. 602, providing for the needed extension of programs carried on under the Library Services and Construction Act.

Through the years, Mr. Speaker, the Committee on Education and Labor has brought many library bills to the floor, and these have consistently enjoyed widespread and bipartisan support. Certainly this is the case with regard to the Conference Report before us today.

I would like at this point to compliment the subcommittee chairman, JOHN BRADEMAS, who has worked diligently to bring to the House effective and expanded programs of assistance for public libraries. At the same time, I wish to commend the ranking minority member of the committee, AL QUIE, and all members of the committee on both sides of the aisle for their work on this legislation.

Mr. Speaker, the Library Services and Construction Act expires in just a few days on September 30. The conference report on S. 602 provides for a 5-year extension of the act, 1 additional year over what was proposed in the House bill. Specific dollar authorizations in the conference report total $892,000,000 over 5-year period.

An important provision in the conference report which was contained in the original House bill provides that States match the Federal funds spent for administrative costs with a like amount of non-Federal funds. This will insure optimum use of Federal moneys for direct library services.

Mr. Speaker, there were a number of provisions in the Senate version of this legislation which would have redirected library moneys in greater proportions to urban areas. Quite frankly, I did not believe there was sufficient evidence that measures as drastic as those proposed in the Senate version were necessary.

It also seemed to me that with the White House Conference on Library and Information Sciences coming up in the near future, it was unwise to make any major revisions in the act at this time.

Accordingly, we as House managers rejected most of the Senate amendments in this regard. The conference report however does contain an amendment to title I which will provide greater emphasis on the utilization of certain title I moneys for urban resource libraries.

Other provisions in the bill as approved in conference revise the hold harmless base year for library services to the handicapped and add additional uses for library construction moneys to include removal of architectural barriers to the handicapped and to make existing library structures more energy efficient.

Mr. Speaker, this is an excellent bill, and builds on the tradition established here in the Congress with respect to library legislation. Some of my colleagues will recall that the original Library Services Act was limited to rural areas of the Nation and it did not authorize assistance for library facilities.

The Committee on Education and Labor has been most attentive to this legislation through the years and to the needs to which it is addressed. Accordingly, a series of amendments have been enacted to broaden, improve and extend the original act.

The act was expanded to reach all areas of the country and funds were authorized to provide desperately needed assistance for the construction of public library facilities. In 1966 we expanded the act to authorize services for the physically handicapped, to enable the States to provide library services in State institutions, and to foster many forms of cooperation among libraries. The act was last amended in 1970.

We now have a 21-year record of limited Federal assistance to libraries under this act with a solid record of benefits derived from the stimulation of Federal grants matched in State and local tax effort. And this occurred without a hint of Federal control or stifling of intellectual freedom. There has been no compulsion or coercion of the Nation's 30,000 libraries. Indeed, this act has expanded freedom, not curtailed it. Some 17 million Americans have gained access to library services for the first time, and another 90,000,000 men, women, and children have benefited from better public libraries.

Mr. Speaker, there have been many accomplishments which have occurred under this act in Kentucky. Much of this success has been due to the admirable and untiring efforts of State and local librarians. For so many years our State was guided in library matters by a good friend and very able individual—Margaret Willis. Her influence is still being felt.

Now the libraries are under the able direction of Mrs. Barbara Williams, a former constituent of mine. I want to compliment all librarians in my home State, including those in public libraries, and in college and school libraries.

Despite our accomplishments, however, we are still far from meeting the needs identified in the existing Library Services Act and in fulfilling the promises of that act. This bill will help in achieving those goals and I urge its approval.

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS OF 1977 (S. 602)

	Fiscal years				
	1978	1979	1980	1981	1982
Title I—Grants for library services	$110,000,000	$140,000,000	$150,000,000	$150,000,000	$150,000,000
Title II—Grants for public library construction	Such sums	Such sums	Such sums	Such sums	97,000,000
Title III—Grants for interlibrary cooperation	15,000,000	20,000,000	20,000,000	20,000,000	20,000,000
Title IV—Older readers services	Such sums	Such sums	Such sums	Such sums	Such sums
Total	125,000,000	160,000,000	170,000,000	170,000,000	267,000,000
Grand total	892,000,000				

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am happy to yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I rise to support the conference report on S. 602, a bill to extend the Library Services and Construction Act through fiscal 1982. The Library Services and Construction Act is the only Federal program providing aid to the thousands of public libraries across the country. Since LSCA was enacted into law in the 84th Congress, there have been dramatic improvements in both the quality and availability of library services in this country. Originally LSCA was directed toward the problems of library services in rural areas and in more recent years, particularly in the 1970 extension of the act, the emphasis has been shifted to include assisting libraries in urban areas and those meeting the special needs of certain clienteles, including the handicapped, the low income, and those with limited English-speaking abilities.

The base of the act rests in title I which provides grants to States for allocation to local libraries for the establishment, extension, and operation of library programs.

Title II of the act, which has not been funded for several years supports public library construction. The demands for this title have become fewer as library services have been expanded and funds have become available through other sources, including revenue sharing and public works construction funds.

Title III provides grants for interlibrary cooperation. Although a small amount of money is allocated for this purpose, it may be the most important title of the bill because of its emphasis on cooperative efforts and the sharing of resources.

Title IV, added in 1973 in Public Law 93–29, provides grants to States for services to older readers. Regrettably, this title has never been funded.

The conference report before us today takes a further step toward recognizing the financial pressures which face major urban resource libraries. These are libraries which provide services to users throughout a major area, sometimes

even an entire State. Most are located in large cities. As the chairman has stated, the agreement adopted by the conferees provides that one-half of the appropriation in excess of $60 million shall be allocated within States for the exclusive use of libraries in those major urban areas. This is a fair compromise and one that does not destroy the interstate formula in the bill.

However, let me emphasize that there is still a great deal of concern on my part as well as by the other conferees with respect to the lack of service in rural areas across the country. For example, during deliberations on this legislation the U.S. Office of Education informed us that there were some 297 counties in the United States which have no library service of any sort. The greatest number of those counties are in the State of South Dakota, 44; however, the States of Indiana, Iowa, Minnesota, Missouri, North Dakota, Texas, and Virginia all have in excess of 20 counties in each State which lack public library services. It would be my expectation that State officials in those States should use funds under the Library Services Act to be certain that services are provided in those unserved areas as well as to assure that attention is given to the needs of major urban resource libraries as defined in S. 602.

States with counties lacking access to Public Library Services in Fiscal Year 1976

States:	*No. of Counties*
Alaska	1
Arkansas	3
Florida	5
Georgia	1
Indiana	42
Iowa	22
Kentucky	14
Minnesota	24
Missouri	36
Montana	1
Nevada	5
North Dakota	30
Oregon	13
South Dakota	44
Texas	21
Utah	2
Virginia	20
Washington	12
Wisconsin	1
Total	297

I would like also to call the attention of my colleagues to the inclusion in this bill of a new section 8 to LSCA which requires that States match on a dollar for dollar basis the amount of funds which are withheld for the purposes of State administration. This provision was in reaction to a recommendation made in an audit by the General Accounting Office and has been suggested as a positive way to assure that funds reach the local level, that State legislatures are adequately informed on the use of Federal funds, and that there is a State commitment to programs like LSCA. The provision in this act is very similar to provisions which have been included in other Federal education laws in recent years, including the Vocational Education Act and the Education of the Handicapped Act.

As Members will note, neither the Education and Labor Committee nor the Senate Human Resources Committee recommended any other major modifications in the Library Services Act other than the two already cited. This is a reflection of the feeling by the committee that the program has been doing a good job and, for the most part, has been administered quite well. I feel that the amendments which have been incorporated in this conference report do meet the major concerns which have been identified and brought to our attention, and will make the program even more effective during the next 5-year period.

I am also helpful that the forthcoming White House Conference on Libraries will further address the unique problems of service in rural and urban areas as well as those related to the information explosion which threatens to envelope us all and bring back to the Congress thoughtful recommendations in all of these areas.

I urge my colleagues to join in support of this conference report.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding. I want to rise in support of this particular conference report. I do have some questions on the next conference report, but I do want to indicate that I believe the conferees did an excellent job on this particular legislation.

Mr. BRADEMAS. I thank my colleague, the gentleman from Ohio (Mr. ASHBROOK).

Mr. JEFFORDS. Mr. Speaker, passage of S. 602, the Library Services and Construction Act Amendments of 1977, will mean the continuation of an essential program which has been helping to provide millions of Americans with informational and educational services through public libraries for over 20 years.

As many of you know, the purpose of the Library Services and Construction Act is to assist the States in the extension and the improvement of public library services, in the improvement of library services for certain groups such as the physically handicapped, in the construction of public libraries, and in promoting interlibrary cooperation among all types of libraries.

Title II of the Library Services and Construction Act authorizes funds for public library construction and renovation, but no funds have been appropriated since fiscal year 1973. S. 602 authorizes such sums as necessary for fiscal year 1978 through fiscal year 1981 and $97 million for fiscal year 1982. I am pleased that the conferees retained an amendment providing for two new uses of title II funds. These are to remove architectural barriers to the handicapped and to make library structures more energy efficient.

The new regulations implementing section 504 of the Rehabilitation Act of 1973 require that all activities and programs be made accessible to the handicapped. Many libraries in older buildings do not have even a single accessible entrance. In Vermont it is estimated that 202 public libraries are inaccessible to the handicapped, and that over $3 million would be required to make them accessible. I have introduced separate legislation to fund implementation of the 504 regulations. I also believe that existing authorities should be utilized to open up public buildings to our handicapped citizens. It is my fervent hope that Congress will fund LSCA title II. The inclusion of an amendment specifically stating that renovations for handicapped accessibility are eligible will make them a high priority under this program.

LSCA has been an unusually successful program. The passage of S. 602 is needed in order to extend LSCA past its present expiration date of September 30, 1977. I urge Congress to approve this bill quickly so that essential library service can continue to be provided to the American people.

Mr. BRADEMAS. Mr. Speaker, I have no further requests for time.

Mr. GOODLING. I have no requests for time.

Mr. BRADEMAS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 6111, JUVENILE JUSTICE AMENDMENTS OF 1977

Mr. ANDREWS of North Carolina. Mr. Speaker, I call up the conference report on the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of July 27, 1977.)

Mr. ANDREWS of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. ANDREWS) and the gentleman from Pennsylvania (Mr. GOODLING) are recognized for 30 minutes each.

The Chair recognizes the gentleman from North Carolina (Mr. ANDREWS).

Mr. ANDREWS of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we consider the conference report to extend and amend the Juvenile Justice and Delinquency Prevention Act of 1974. We have received the complete cooperation of the gentleman from Minnesota (Mr. QUIE), the ranking minority member of the Committee on Education and Labor, and the gentleman from Pennsylvania (Mr. GOODLING), the ranking minority member of the Subcommittee on Economic Opportunity, and I thank them for their wise and thoughtful consideration. I also extend special appreciation to the gentleman from Kentucky (Mr. PERKINS), chairman of the Committee on Education and Labor, for his guidance and support.

Mr. Speaker, H.R. 6111 would authorize the Juvenile Justice and Delinquency Prevention Act of 1974 for an additional 3 years and make certain amendments to improve the implementation of the 1974 act. It is the belief of all conferees that the measure as presented today will strengthen and revitalize this program designed to address the national priority of juvenile crime and its prevention as underscored by President Jimmy Carter and Attorney General Griffin Bell.

One of the singular strengths of this legislation is that it calls for Federal-State-local action and public-private partnerships in confronting the problem of juvenile crime. H.R. 6111 maintains the governmental and private sector relationships established in the 1974 act. These relationships are premised on the identification of crime as primarily a State and local issue and a belief that is at that level that decisions for its prevention can best be made. At the same time, there is a recognition of the need for strong leadership through the coordination of Federal programs and policies at the national level.

The authority for administering the program is lodged within the Office of Juvenile Justice and Delinquency Prevention in the Law Enforcement Assistance Administration. H.R. 6111 incorporates provisions which reaffirm the position of the office and provides for additional delegation of functions to the head of the office, now known as the Associate Administrator, to implement the act. It further enhances the scope of activities performed by the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention and the National Advisory Committee. The former brings together Federal agency heads for the purpose of coordinating national policy in the area; the latter provides citizen expertise and advice from the private sector to the Office of Juvenile Justice.

Important provisions of H.R. 6111 are aimed at assuring more efficient and productive expenditures of assistance to States and localities. The current act allows a State to use up to 15 percent of its formula grant allotment "off the top" to cover the costs of planning and administration. Beginning in fiscal year 1979, expenditures of Federal formula grant money for such purposes will be limited to 7½ percent and will require a dollar for dollar match by State and local governments. In return, no match will be required for action-oriented programs which actually deliver services. It is the hope and belief of conferees that these provisions, when taken together, will result in several advantages. More funds should be available for action programs serving children while support is still provided for needed planning and administration. Effective oversight of programing by State and local governments is strengthened while the exclusion of private nonprofit groups or local governments for lack of cash match for service programs is prevented. With more good potential programs to choose from, the overall quality of programs funded by the act should be raised.

Furthermore, the debate over the advisability of cash versus the so-called in-kind match can be ended. Administrative costs incurred documenting this match will no longer be necessary. In short, more energy, both financial and human, can be directed toward the act's goal of preventing delinquency rather than on its attendant paperwork.

H.R. 6111 also amends provisions of the current law dealing with special emphasis prevention and treatment program. Under the 1974 act, as much as half of the total appropriations for State and local assistance could be spent at the discretion of the Administrator of LEAA. Several public interest groups including the National League of Cities and the U.S. Conference of Mayors, the National Conference of State Criminal Justice Planning Agency Directors, and the National Conference of State Legislatures suggested that, in light of the local and State nature of the problem, allowing as much as half of the funding decisions to be made in Washington provided perhaps too much flexibility. This belief was borne out by the fact that LEAA allows only a flat 15 percent for discretionary Safe Streets Act funding. H.R. 6111 calls for a flat 25 percent discretionary authority. Since this was the percentage spent in fiscal year 1977 for special emphasis programs, the current funding level will not be adversely affected.

The authorized funding level agreed upon by conferees continues to emphasize congressional commitment to the approach of preventing juvenile delinquency. H.R. 6111 calls for a 3-year extension of the program at levels of $150 million, $175 million, and $200 million for fiscal years 1978, 1979, and 1980 respectively. The conferees believe strongly that the most cost-effective way to deal with the problem of crime in this country is to prevent its occurrence in the first place. To do this, we must focus more of our resources on young offenders. With 43 percent of the serious crime in this country committed by youth 18 and under, the investment seems well advised.

Title III of the 1974 act, the Runaway Youth Act, is extended for 3 years at an authorized funding level of $25 million per year. Authority is provided for the President to submit to Congress after April 30, 1978, a plan to transfer the program to either the ACTION Agency or the Office of Juvenile Justice and Delinquency Prevention. This should help maximize congressional oversight of this program and permit assurance that the needs of runaways are retained as a high priority subsequent to proposed interagency reorganization at the Department of Health, Education, and Welfare.

Mr. Speaker, H.R. 6111 is a good bill worthy of the support of my colleagues.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Carolina. I would be most pleased to yield to my illustrious chairman.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, I want to take this opportunity to compliment the distinguished chairman of the subcommittee, the gentleman from North Carolina (Mr. ANDREWS), for one of the most thorough jobs in handling the Juvenile Justice Amendments of 1977 that I have ever witnessed since I have been in the Congress.

Mr. Speaker, I rise in support of the conference report on H.R. 6111—the Juvenile Justice Amendments of 1977.

The bill before us has received virtually unanimous support in committee, and during floor consideration in both the House and the Senate. All of the conferees from both bodies have signed the conference report.

In large part, the overwhelming support for H.R. 6111 is due to the outstanding work of the distinguished chairman of the Subcommittee on Economic Opportunity and my good friend, IKE ANDREWS.

Not only does H.R. 6111 provide for the needed extension of the Juvenile Justice and Delinquency Act, but—more importantly—it makes many improvements in the statute to provide for the more effective and efficient programing at all levels.

Chairman ANDREWS is to be commended for his excellent bill. I would be remiss, however, if I did not also commend the minority for the many contributions they have made. This has been very much a bipartisan effort.

I want to also acknowledge the fine work of our colleague, GEORGE MILLER. Through his efforts this bill focuses attention on a very worthwhile objective. While the conference report does not retain the full and original Miller amendment, it contains a major step in the right direction, and toward the objectives sought by Mr. MILLER.

May I review very briefly the principal provisions in the report. As I have indicated, the Juvenile Justice and Delinquency Prevention Act is extended for an additional 3 years—that is, through fiscal year 1980; $150 million is authorized for fiscal year 1978, $25 million more than proposed in the House bill. For fiscal year 1979 and fiscal year 1980 the House proposed such sums as are necessary. The conference report before us follows the Senate bill which

places a ceiling on the amount which may be appropriated.

Rather than having an open ended authorization, the conference report provides a ceiling of $150 million for fiscal year 1979, and $200 million for fiscal year 1980.

This legislation also extends the Runaway Youth Act for 3 additional years and with a $25 million authorization for each year.

The conference report also—

Reduces the amount of Federal money States may use for planning and administration.

Extends the deadline for complying with statutory prohibitions against placing juveniles who have committed minor offenses in detention or correctional facilities.

Broadens membership eligibility for advisory groups.

Allows for the optional transfer of the runaway youth program from the Department of Health, Education, and Welfare to either ACTION or the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice.

Mr. Speaker, I repeat this is an excellent measure and I urge adoption of the conference report.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION AMENDMENTS OF 1977 (H.R. 6111)

	Fiscal years		
	1978	1979	1980
House version:			
Law Enforcement Assistance Administration	$125,000,000	Such sums	Such sums
Runaway youth program	25,000,000	Such sums	Such sums
Total	150,000,000		
Senate version:			
Law Enforcement Assistance Administration	$150,000,000	$175,000,000	$200,000,000
Runaway youth program	25,000,000	25,000,000	25,000,000
Total	175,000,000	175,000,000	225,000,000
Grand total		575,000,000	

Conference agreement: The conference agreed to the Senate authorization levels.

Mr. ANDREWS of North Carolina. I thank the chairman very sincerely for those words of support.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this conference report.

This bill represents a truly bipartisan effort, and I, as ranking member of the subcommittee, take this opportunity to commend the gentleman from North Carolina (Mr. ANDREWS) for the bill and the manner in which he worked with me in helping to guide it along the legislative trail.

Since the juvenile delinquency prevention program has been in LEAA, it has been working well. Through this bill we strengthen the role of the office that administers it so that it may run even better.

Although there are many features of this bill which will improve the existing program, the outstanding thing we did was to eliminate the "in kind" provision of the matching requirement and require a cash match. Our action in this bill is what I hope the Congress is going to do as it considers other existing laws which contain matching provisions. We must begin to require States and/or locals to match Federal dollars with cash.

Under the existing Juvenile Justice and Delinquency Prevention Act, States may provide buildings, services, or anything else that they care to charge off against a project, and place value on these items which are questionable at best, and outright lies at worst. "In kind" simply does not make any sense and it forces those who receive Federal funds to be less than honest.

Through the requirement of the cash match, we have also simplified the grant-making process by eliminating an awful lot of paperwork. Furthermore, we have put the States in a more responsible role as they administer programs under the act. My feeling is that when a State puts up actual dollars, it will provide much more direction and guidance.

This conference report reflects the basic House bill as the House conferees held firm on all of the major issues. It is a good bill and I ask all of you to support it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to my distinguished colleague, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague from Pennsylvania for yielding.

I admit that, having some questions and qualms about this legislation, I would like to direct a question or two to my friend, the chairman of the subcommittee, the able gentleman from North Carolina (Mr. ANDREWS).

This Member is very concerned about the youth advocacy portion of this bill, and I know that with the highest of motives this is included, but I sometimes feel that youth advocacy can go overboard. We start with encouraging a bill of rights in the high schools and on down the line. Does the leader of the conference committee have any assurance he can give me in this particular area that it will be circumscribed and kept reasonably close to the rules that have been outlined?

Mr. ANDREWS of North Carolina. Mr. Speaker, if the gentleman will yield, yes, I would say that the bill before us backs up rather than goes forward in that regard. This bill eliminates any reference whatever to legal services for those years covered by the bill. The only thing that remains in that bill has to do with youth services but not legal or advocacy services.

Mr. ASHBROOK. I thank my friend for that assurance.

Page 21 of the report says:

The Senate amendment provided special emphasis authority for youth advocacy programs for and protecting the rights of youth impacted by the juvenile justice system.

I suppose "impacted" would mean either incarcerated or under the control or counseling in one way or another of the various juvenile courts in our country.

Can my colleague assure me that youth advocacy will be limited to that very narrow purpose I stated?

Mr. ANDREWS of North Carolina. That is very definitely my understanding with the language, to the effect that the provision of legal services presently in the act is in fact stricken.

Mr. ASHBROOK. I thank my colleague for that assurance.

I would say I still admit to some trepidation on this, because I have sat through the hearings and I know how many in the bureaucracy—and I am talking about the former bureaucracy, not necessarily those at the present time—continually point to the family and say we have to zoom in on the family. We have seen child development bills, and to this Member it looks like one backdoor way of getting into the area for the assessing of the family and assessing the degree to which the family is successful or not successful. I hope my colleague is right. I appreciate the fact that the youth advocacy was limited and I only hope in the implementation of this bill it does not go beyond the stated purposes.

I thank the gentleman for yielding.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. ANDREWS of North Carolina. Mr. Speaker, I yield back the balance of my time.

I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 6111, JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Mr. ANDREWS of North Carolina. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 361) and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 361

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, the

Clerk of the House of Representatives shall make the following corrections:

(1) Insert "and" before "section 250" in section 3(a)(3)(B) of the bill.

(2) Strike out ", and any other place it appears therein" in section 3(a)(3)(B) of the bill.

Mr. ANDREWS of North Carolina. Mr. Speaker, this concurrent resolution is simply to make technical corrections in the enrollment of the bill H.R. 6111.

This has been cleared with the minority. I know of no opposition to the resolution and ask for its approval.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF CONFERENCE OF INTERPARLIAMENTARY UNION IN SOFIA, BULGARIA

The SPEAKER. Pursuant to the provisions of section 204(b), Public Law 94–141, as amended, the Chair appoints as members of the delegation to attend the conference of the Interparliamentary Union held in Sofia, Bulgaria, from September 21–30, 1977, the following Members on the part of the House: Messrs. HAMILTON, PEPPER, DANIELSON, BOWEN, LEHMAN, CAVANAUGH, DERWINSKI, BOB WILSON, MCCLORY, DEL CLAWSON, and CUNNINGHAM.

ESTABLISHMENT OF HOUSE SELECT COMMITTEE ON PROBLEMS OF HANDICAPPED INDIVIDUALS

The SPEAKER pro tempore, Under a previous order of the House, the gentleman from Illinois (Mr. O'BRIEN) is recognized for 30 minutes.

Mr. O'BRIEN. Mr. Speaker, today there are some 26 million Americans with some type of handicap; their type and extent of these handicapped Americans cover a wide spectrum from those that are just minimally handicapped to those individuals who are more extensively handicapped.

My distinguished colleagues, Mr. BURGENER of California and Mr. GILMAN of New York and myself introduced this week legislation that would set up a permanent Select Committee on Problems of Handicapped Individuals.

The select committee would not have legislative jurisdiction but shall have jurisdiction:

First, to study the use of all practicable means and methods of encouraging the development of public and private programs and policies which will assist handicapped individuals in taking a full part in American life and which will encourage the utilization of the knowledge, skills, and special talents of handicapped Americans;

Second, to develop policies that would encourage the coordination of both governmental and private programs designed to deal with problems of the handicapped; and

Third, to review any recommendations made by the President or by the White House Conference on Handicapped Individuals relating to programs or policies affecting handicapped individuals.

The need for this committee has been accentuated in the last few years by the explosion of legislation and regulations regarding the handicapped, including legislation concerning education, transportation, and almost every phase of daily living. Recently HEW issued the regulation to implement section 504, which will hopefully open more doors to handicapped Americans.

It is my hope that this select committee could experience the same type of success in helping to coordinate programs to assist handicapped individuals as another select committee has had in dealing with the problem of aging.

I am sure that every one of my colleagues wants to see the greatest participation of handicapped Americans in the mainstream of the Nation's life, and I believe that this committee would be an important step toward achieving this goal.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. O'BRIEN. I will be happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Sepaker, I commend the gentleman from Illinois for his remarks and leadership. I rise in support of the resolution introduced today by my colleagues, the gentleman from Illinois, Mr. O'BRIEN, and the gentleman from California, Mr. BURGENER, and myself calling for the establishment of a House Select Committee on the Handicapped.

In the past, House Select Committees have met with a great deal of success in coordinating and bringing to public attention the needs and recommendations of a specific group and in helping to solve the problems which plague our Nation. The House Select Committee on Aging and the House Select Committee on Narcotics Abuse and Control are recent examples which come to mind. The work that those committees have done in the short time of their existence merits praise. We feel that the establishment of a Select Committee on the Handicapped would produce the same positive results and would generate the same interest and support as these committees have already done.

Hopefully, the need for a Select Committee on the Handicapped will be as evident to the House as it is to the American public. Particularly with the implementation of section 504, Americans are becoming increasingly aware of the needs and special problems of our handicapped population. Accordingly, it is fitting that we in the Congress attempt to coordinate and centralize the different agencies and committees which have jurisdiction over programs for the handicapped and attempt to provide our colleagues with specific recommendations as to how our handicapped constituents can best be served.

There are approximately 26 million handicapped people in our Nation today. An article appearing earlier this year in "Newsweek" magazine has labeled them as the "new minority." In May of this year, the White House sponsored the White House Conference on Handicapped Individuals, at which time the handicapped from all States traveled to Washington to make their needs known to the President and the Congress.

What is particularly needed at this time is a group of Representatives who will be accountable to the handicapped and who will work with them to insure that their needs are met. Hopefully, with the establishment of a select committee this goal can be accomplished.

Indeed, the handicapped are employing means which have been used successfully in the past by other minorities to make their needs known to their Representatives. Intense lobbying efforts, mass mailings to the Congress and to the Federal agencies administering handicapped programs, public appearances and organized protests indicate to us that the time is ripe for the Congress to show its receptivity and responsiveness to the needs of the handicapped population in America.

Accordingly, I urge my colleagues to support this legislation and to join with us in efforts to provide a coordinating body in the Congress to deal with the fragmentation evident in programs for handicapped individuals.

Mr. O'BRIEN. Mr. Speaker, I thank the gentleman for his comments, and I value his efforts and support for this high-purpose legislation.

GENERAL LEAVE

Mr. O'BRIEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous matter on the subject of my special order for today.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

UNFAIR IMPORT COMPETITION: A THREAT TO SURVIVAL OF WORK GLOVE INDUSTRY

The SPEAKER pro tempore (Mr. FISHER). Under a previous order of the House, the gentleman from Mississippi (Mr. BOWEN) is recognized for 10 minutes.

Mr. BOWEN. Mr. Speaker, a colloquy is planned next week in the House on the work glove import problem and the relationship this import situation has to the multifiber agreement and the multilateral trade negotiations.

I would like very much to participate in this colloquy, but since I will be a member of the House delegation to the Interparliamentary Union Convention, I will be away from the Chamber next week on this official congressional business.

Therefore, I would like to take this opportunity to discuss the import competition which is a threat to the survival of the work glove industry in this country, including those plants located in my own State of Mississippi.

I would like to raise a few points which I believe merit consideration and are

often overlooked in the debate over free trade versus protectionist philosophies.

The United States has long been committed to the view that its national interests can be served best through policies which promote an open world. Basic to this is the philosophy that an expansion of world trade enables the use of resources more efficiently, which helps to stimulate economic growth.

I believe in that philosophy. Expanded trade in agricultural commodities—so vital to the people of my State and to my constituency—rests fundamentally on the concept of open, unfettered world markets.

We in Mississippi have a deep and abiding faith in the benefits of free, private enterprise and in the benefits, as well, of two-way foreign trade. Obviously if nations buy from us, they must also sell to us; but such trade must always be based on principles of equity and respect for the ethical conduct of business on which the American private enterprise system rests. Fair trade means that nations, like businesses, must refrain from predatory pricing practices aimed at the capture of markets. Fair trade means nations will not adopt beggar-thy-neighbor trade policies to export their unemployment to the world and especially to the United States.

It needs to be kept in mind that the United States is relatively unique as one of the few open markets in the world and the mainetnance by other countries of tariff and nontariff restrictions inevitably means that more and more trade is funneled into the U.S. market.

For products that are labor-intensive and come from developing countries, where suppliers have benefits of extremely low wages and low production costs which are often enhanced by outright subsidies bestowed on them under the home government's export incentive programs, the U.S. open market is as much a magnet as is pollen to a bee. In the absence of measures to safeguard domestic industry against such unfair import competition, there can be only one outcome: Plant shutdowns, job losses, and the eventual demise of the domestic industry.

I want to draw attention to one industry, the work glove industry, which has been cruelly buffeted for years by such unfair imports. I do so because this industry has several manufacturing establishments and hundreds of jobs in my home district and which are important to the economies of entire local communities there. Rising imports cloud the future for these firms and workers as they do for firms and workers elsewhere in this embattled industry, which despite its relatively small size is of national importance.

Work gloves provide basic hand protection or product protection in industrial, commercial, or domestic activity. Work gloves of one type or another—that is, fabric, leather or part leather, rubber or plastic coated—are utilized in every domestic industry and, indeed, under the provisions of the Occupational Safety and Health Act (OSHA), the manufacture and utilization of specially designed protective gloves may be subject to regulation and specific requirements. In a real sense, work gloves are a vital, consumable ingredient of the U.S. industrial process. Continuing access to supplies of work gloves is, therefore, essential to the national economy, and it follows that a healthy domestic work glove industry is, thus, directly in the national interest. Aside from its importance in maintaining thousands of jobs for lesser skilled persons, the work glove industry also takes on significance as a consumer of domestic raw materials. For example, the National Cotton Council reports that 123,000 bales of raw cotton went into the production of work gloves during 1975. Unfortunately, this consumption figure is considerably less today as a result of lower output due to imports.

For years this industry has seen a steadily increased share of the domestic market captured by low-wage/cost imports. Between 1970 and 1976, total imports increased by 348 percent, while domestic manufacture decreased by 12 percent. In this period, the overall import penetration rate has more than quadrupled and for certain categories of work gloves, the current rate of import penetration has already exceeded the point where domestic production cannot be sustained for very long. In 1976, foreign gloves of part leather, for example, captured no less than 54 percent of the domestic market.

That the industry is shrinking under the impact of imports is clearly indicated in employment and output data. The 1972 "Census of Manufacturers" showed the glove industry—both dress and work gloves—employed 16,800 persons of whom 15,200 were production workers. In 1975, according to the latest annual "Survey of Manufactures," employment had dropped to 15,800, of which 14,200 were production workers.

Since about 85 percent of all gloves produced in the United States are work gloves, it can be estimated that total work glove employment dropped from 14,300 persons in 1972 to 13,400 persons in 1975 or a drop of 6.7 percent. There is no indication that this bleak employment picture has improved. It should be pointed out that about 80 percent of the work force is female and that a large share of racial and ethnic minorities as well as a high average age also characterize the work glove labor force. These are not people who can easily transfer to other industries.

Similarly, there has been a sharp decrease in the number and output of plants manufacturing work gloves. Domestic work glove production typically is carried on by small-sized firms with plants located throughout the United States, but principally in the Midwestern and Southern States.

The competition from imports at the expense of domestic production and employment is not a response to quality or durability, but primarily is due to price competition, which is based on the advantages of low foreign labor costs and the maintenance by foreign supplying governments of exports incentive programs which already convey great competitive advantages to foreign exports to the U.S. market. Recent import data in respect to fabric gloves are particularly alarming in that they indicate the emergence as a heavy supplier to the U.S. market of the Peoples Republic of China. For such a centrally planned economy, production costs have absolutely no bearing in final export selling prices. These prices, in fact, have been set by mainland China at such low levels that they more than offset the applicable maximum non-MFN rate of duty.

The significance of heavy labor intensiveness and reliance on domestic raw materials is that domestic work glove production costs are substantially above foreign production costs in the major supplying countries. These are overwhelmingly the developing countries where wage rates are maintained at exceedingly low levels and where overall production costs for export markets may benefit from direct or indirect governmental subsidy programs—as has been well substantiated by U.S. Treasury Department affirmative countervailing duty findings for cotton yarn, handbags, shoes, and leather wearing apparel from such countries as Taiwan, Korea, Argentina, Brazil, Colombia, and Uruguay.

A striking feature of the work glove market has been the steady penetration of imports at the expense of domestic output. The fact is that in past years imports have largely captured any growth experienced in the total market. Moreover, in years when domestic output has shown a precipitous decline, imports either held firm or continued to make impressive gains. For example, in 1974, domestic shipments of all work gloves accounted for 33.2 million dozen pairs, while imports amounted to 5.2 million dozen pairs. In 1976, domestic shipments dropped 20 percent in quantity to 26.5 million dozen pairs, while imports increased by 33.5 percent in quantity to 6.8 million dozen pairs. Just during this 3-year period, the import penetration by quantity increased from 13.9 percent to 21.2 percent, an increase of 52.5 percent.

In terms of the total market, consumption has decreased by 12.4 percent since 1974, while imports increased by 33.5 percent. Going back over a longer period of time, from 1970 to 1976, the gap is even more pronounced with domestic consumption increasing by 3.4 percent, while imports rose in this period by 348 percent.

The relentless gains made by imports at the expense of domestic output have been accounted for largely by Far East suppliers in Hong Kong, Taiwan, and Korea, which together rank in that order as major suppliers of work gloves to the U.S. market. In 1976, these three countries accounted for 60 percent by quantity and no less than 77 percent by value of all work gloves.

With the average unit value of imports in 1976—$3.06 per dozen pairs—than one-third that for domestic output—$10.14 per dozen pairs—low-wage Far Eastern suppliers clearly have a great competitive advantage in selling to the

U.S. market. This, however, has not necessarily benefitted the consumer, but mainly resulted in importers taking a high profit mark-up.

Clearly, the work glove industry in America is fighting an uphill battle against injurious imports and its long-term prospects are increasingly clouded without the sympathetic attention of administration officials to means of putting in place effective safeguards against further adverse import impact. Immediately, one small but helpful gesture on the part of the administration would be to recognize the work glove industry's import sensitivity by exempting the products of this industry from the multilateral tariff reduction negotiations being undertaken in Geneva. Work gloves have already been excluded from zero-tariff reductions under the U.S. generalized system of preferences and there can be no justification for any reduction in present U.S. duty rates on work gloves. To do so would be only to enhance the very considerable competitive edge already enjoyed by foreign suppliers in the U.S. market.

But such, negative action will not resolve the work glove import problem. What is needed is direct and positive action by the administration which would place a ceiling against the influx of imports. The 4-year multilateral multifiber arrangement (MFA), which is due to expire at the end of this year and is now being renegotiated, has not been as effective as had been hoped for in preventing market disruption in various textile products, including cotton work gloves. The MFA should be continued; it should be improved; it should be administered more effectively than in the past; and the bilateral agreements negotiated by the United States under the MFA should establish strict ceilings for cotton work gloves from major suppliers. This action is long overdue.

AN EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 20 minutes.

Mr. McKINNEY. Mr. Speaker, during my absence, the House cast a number of important votes on subjects of vital importance to the Fourth District and the Nation. While I was unable to vote on these issues, I have been following the work of the House and ask permission to explain how I would have voted. (This voting record is the second of two parts, the first inserted in the CONGRESSIONAL RECORD of September 8, 1977 (28155–28159).)

Recorded vote number, description, and McKinney vote

403. H.J. Res. 24, National Lupus Week. Motion to suspend the rules and pass the joint resolution to designate the week of September 18–24 as National Lupus Week. Passed 333–54.

Yes. Although 500,000 Americans are afflicted with Lupus, the public is generally unaware of this dread tissue disorder. Passage of this measure will help attract national attention and hopefully spur greater contributions to the research efforts in this field.

404. Motion to suspend the rules and pass H.R. 2960 authorizing the Interior Secretary to establish a memorial in Constitution Gardens on the Mall in Washington, D.C. to honor the 56 signers of the Declaration of Independence. Passed 302–3.

Yes. This memorial, honoring the signers of the Declaration of Independence, represents a fine way to spend the remaining $500,000 from last year's American Revolution Bicentennial Administration budget.

406. A motion to suspend the rules and pass H.R. 7658, to provide assistance to veterans with service connected disabilities to acquire specially adapted housing. Passed 403–0.

Yes. While we can adequately compensate those who suffered disability in defense of our country, we can eliminate, wherever possible, obstacles to a normal lifestyle for these individuals.

407. A motion to suspend the rules and pass H.R. 7345, to provide a 7 percent cost-of-living increase in benefits for veterans and their survivors and to provide for an additional 25 percent increase to eligible widows, age 78 and over, of non-service connected disabled veterans, effective Jan. 1, 1978. Passed 403–0.

Yes. Again consistent with my votes on veterans related issues, I support the much deserved compensation for the sacrfices of veterans and their families in defense of this country.

408. Passage of H.R. 5023, to extend for two years the statute of limitations under which the federal government could litigate on behalf of Indian tribes and individuals' claims for money damages that accrued before July 18, 1966. Passed 331–69.

Yes. Passage of this extension will allow time for the negotiation of potential lawsuits, thus preventing a great influx of cases into the judicial process prior to the July 18 deadline. Such an extension could help relieve the tension between the Indian community and their neighbors.

409. Adoption of the conference report on H.R. 5970, to authorize $36 billion for the Defense Department for weapons procurement, military research and development and civil defense in FY 1978. Adopted 350–40.

Yes. Although the amount of the authorization is high, the conference report represents a reasonable compromise between the two greatly differing bills on many important weapons and personnel decisions.

410. H.R. 4963. Maritime Programs Authorization. McCloskey (R-Calif.) amendment to prohibit use of federal maritime operating subsidies for shipment of U.S. grain to Russia. Rejected 143–251.

No. While I am sympathetic to the legitimate concerns of my colleague, concerning the present state of affairs within the maritime industry, this amendment is not a constructive solution. It would severely restrict U.S. operators from participating in valuable grain trades with the Soviet Union, replacing American ships with Soviet vessels.

411. Final passage of H.R. 4963, to authorize $553,597,000 for fiscal year 1978 maritime programs. Passed 355–40.

Yes. While I recognize very significant deficiencies in the operation of the U.S. maritime fleet, these monies enable our fleet to compete with foreign subsidized vessels.

414. H.R. 2777. National Consumer Cooperative Bank Act. LaFalce (D-N.Y.) amendment in the nature of a substitute establishing an interagency task force to study consumer cooperative banking and providing $20 million for an experimental consumer cooperative loan program. Rejected 170–228.

No.—Consumer cooperative banking is an idea whose time has come. As a member of the Banking Committee, I am convinced that sufficient evidence already exists, without yet another study, to justify extending this innotive lending mechanism.

415. H.R. 2777. National Consumer Cooperative Bank Act. Rousselot (D-Calif.) amendment to terminate the consumer cooperative bank after 1982. Adopted 203–196.

No.—For the same reason that we need no further government studies of the consumer cooperative banking concept, I do not support keeping the cooperative bank on such a "short leash." The concept is needed to expand credit availability and must be given ample time to establish market acceptance. Current bank regulatory agencies should provide the oversight necessary without this legislated death knell.

416. Final passage of H.R. 2777, to authorize $500 million in federal seed money for a bank to make loans to consumer cooperatives and $250 for a Self-Help Development fund to help inner-city residents start cooperatives. Passed 199–198.

Yes.—As I said in my Dear Colleague letter urging passage of the legislation, this bill poses no threat to existing financing institutions but rather meets the needs of urban residents in fighting discriminatory redlining practices and provides another competitive alternative in the urban money market.

417. Passage of H. Res. 658, establishing a permanent House Select Committee on Intelligence. Passed 227–171.

Yes.—Despite a previous announced position against this resolution, I support the establishment of this select committee with legislative and budget authority over the CIA and with shared jurisdiction over the intelligence related activities of other government agencies including the FBI. I originally paired against the resolution to create the House committee in hopes that a proposal would be offered to create a joint committee with the existing Senate Intelligence panel. In that way, the oversight of U.S. intelligence could be coordinated and the security risks minimized. Failing that, this is a necessary first step toward responsible Congressional monitoring of our intelligence community.

420. H.R. 4287. Mine Safety. Amendment by Mr. Gudger (D-N.C.) to the Sarasin substitute amendment to delete provisions transferring authority over mine health and safety standards from the Interior Department to the Labor Department. Rejected 112–227.

No.—The transfer of these regulatory powers from Interior to Labor, which now have conflicting jurisdictions, is necessary in the interest of mine-worker safety.

421. H.R. 4287. Mine Safety. Sarasin (R-Conn.) substitute amendment, for the committee bill, to strengthen health and safety standards for metal and non-metal mines while retaining separate regulatory authority and procedures for coal and non-coal mines. Rejected 151–188.

Yes. I agree with Mr. Sarasin's (R-Conn.) assessment of the effect of administratively "lumping" coal and non-coal mines together. Multiplying the problems associated with mine safety (as documented in House oversight hearing on the (Coal Act) by including the problems of workers in non-coal mines, will only hinder the progress in resolving the inadequacies of mine safety programs.

422. H.R. 4287. Mine Safety. Amendment by Mr. Andrews (D-N.C.) to continue federal/state arrangements that let states develop and enforce their own mine health and safety standards. Rejected 165–169.

No. While I recognize the potential for reducing some of the bureaucratic malaise in mining regulation, the more important goal is to establish minimum uniform standards for mine safety.

423. Final passage of H.R. 4287, to toughen mine health and safety standards and enforcement procedures by applying the same set of regulatory processes to both coal and non-coal mines and transferring administrative authority from the Department of Interior to the Department of Labor. Passed 244–88.

Yes. Although I would have preferred to see the Sarasin (R–Conn.) proposals enacted, I am generally pleased with the provisions contained within this legislation. I am particularly pleased with the transfer of administrative and regulatory jurisdiction from the Interior Department to the Department of Labor.

424. Motion by Mr. Thompson (D–N.J.) to suspend the rules and pass H.R. 6936, to authorize $8.1 million for the FY 1978 operations of the Federal Elections Commission. Passed 383–22.

Yes. The Federal Election Commission performs an invaluable service in the administration of our complex election statutes. The $2 million increase over the fiscal 77 authorization is justified by the Commission's increased workload.

425. A motion by Mr. Lehman (D–Fla.) to suspend the rules and adopt H.J. Res. 372, authorizing the President to proclaim Thanksgiving week as National Family Week. Passed 400–3.

Yes. I wholeheartedly endorse this resolution because it sets a most appropriate time of year, Thanksgiving, to commemorate the family unit, which has provided so much strength to our country.

426. A motion by Mr. Lehman (D–Fla.) to suspend the rules and pass H.R. 7012, to amend the procedures proposed for the Agriculture Census of 1979 by reducing the number of questions by 40 per cent, redefining the term "farm" for census purposes and setting a firm date of publication of census findings. Passed 401–9.

Yes. Appropriations Committee hearings clearly indicated the need for changes in the agricultural census. This measure, while not addressing all of the problems, is a step in the right direction, expanding participation and streamlining the questionnaire to make it realistic in length.

427. A motion to suspend the rules and pass H.R. 2387, to upgrade the positions and salaries of the director and deputy director of the OMB to Cabinet and deputy-secretary level. Rejected 253–158.

Yes. This bill raises the salary of the OMB's two top posts to Cabinet level ($57,500 to $66,000 and $52,500 to $57,500) to reflect their clearly Cabinet level responsibilities. I think the pay should reflect the job, especially in view of the ethical restrictions against outside earnings contained in the executive ethics code.

428. A motion by Mrs. Schroeder (D–Colo.) to suspend the rules and pass H.R. 6974, to increase by 15 the number of GS–16, GS–17, and GS–18 positions in the Administrative Offices of the U.S. Courts. Rejected 189–224.

Yes. This legislation provides a reasonable and responsible approach to the current executive manpower dilemma at the Administrative Office of the U.S. Courts. The 15 supergrade positions created by H.R. 6974 amount to a net increase of 8 positions which are critically needed if the Administrative Courts are to meet their increased duties resulting from Congressional enactment of the Speedy Trial Act of 1974, the Federal Magistrates Act of 1968 and the 1975 Judiciary Appropriations Act.

429. A motion by Mrs. Schroeder (D-Colo.) to suspend the rules and pass H.R. 6975, increasing the number of Civil Services hearing examiners at the GS–16 level to 340, from 240, and to redesignate them as administrative law judges. Passed 284–131.

Yes. This increase will allow the Civil Service Commission to meet the growing demands for hearings requested under the Administrative Procedures Act. Such an increase is needed in part because there has been a net increase of 9 agencies which are now required to hold hearings under this Act since the 240 slots were authorized in 1964.

430. A motion by Mrs. Spellman (D-Md.) to suspend the rules and pass H.R. 4319, to reduce from 12 to five the length of service required of a federal employee to be eligible to retain health and life insurance benefits during retirement. Passed 373–37.

Yes. This bill is identical to one passed in the last Congress and is pursuant to recommendations of the Civil Service Commission made during the 93rd Congress.

431. Adoption of the conference report on H.R. 7557, to appropriate $14 billion dollars—including $6 billion in new budget authority—for the operations of the Transportation Department and related agencies. Passed 397–14.

Yes. I am pleased that the conferees agreed to several important funding provisions contained in the House version, which were significantly lower than both the Senates and the Presidents requests.

432. Adoption of the conference report on H.R. 7556, the State, Justice, Commerce, Judiciary Appropriations. Passed 326–85.

Yes. Overall, I am pleased with the changes made by the conference committee. While the increase for LEAA of $47 million over the House figures is not as large as I would have liked, the extra funds will help in continuing the success of some LEAA-financed programs. I am disappointed, however, in the $12 million reduction for the Legal Services Corporation, which may make difficult the goal of making justice accessible to the disadvantaged.

433. Passage of the conference report on H.R. 7554, to appropriate $69,352,854,000 for FY 1978 operations and programs of the Department of Housing and Urban Development and independent agencies, including the Veterans Administration. Passed 379–30.

Yes. This appropriation is very close to what President Carter requested for housing programs and for operation of the independent agencies. Monies will fund our ongoing housing effort pursuant to the Community Development Act as well as veterans benefit programs.

434. H.R. 7554. HUD, Independent Agencies Appropriations. Motion by Mr. Boland (D-Mass.) to retain the original House position which excluded from the bill funds for a Jupiter Orbiter Probe. Rejected 131–280.

No. The Jupiter Probe is a worthwhile expenditure as part of our ambitious and already-proven NASA exploration program. The House subsequently saw the wisdom in this position and receded in its opposition in favor of the Senate funding level.

435. H.R. 7554. HUD, Independent Agencies Appropriations. Motion by Mr. Boland (D-Mass.) to retain the House position to withhold veterans' benefits to Vietnam-era servicemen who received upgraded discharges under President Carter's review program. Passed 251–160.

No. I am against this type of purse-string legislation whereby we deny the full effort of the Carter pardon to those whose discharges have been upgraded by the review program. Benefits should be made available to all upgraded discharges as part of the healing process begun by the pardon.

436. Adoption of the conference report to H.R. 4088, to authorize $4 billion for the operations and programs of NASA. Passed 370–29.

Yes. The conferees have made practical compromises on the NASA budget, facilitating NASA's continuance of programs such as the Jupiter Orbiter Probe, a space telescope program, and the Space Shuttle program.

437. Adoption of the conference report on S. 1474, to authorize $3.7 billion for new military construction projects of the Defense Department for FY 1978. Passed 370–34.

Yes. Although the amount is significantly more than the House-passed version, this larger figure includes the authorization for the FY 1977 Supplemental Military Construction Authorization Act as well as funding to finance energy conservation and pollution control projects. I am pleased that the legislation provides for a permanent procedure for Congressional review of decisions to close military bases, a provision of particular importance to the Northeast.

438. Adoption of the conference report to H.R. 6138, to authorize a series of new youth employment and training projects. Passed 356–58.

Yes. Youth unemployment, now approximately 18 percent, is a severe and persistent problem. Along with establishing a number of pilot programs, this bill establishes a year-round program to employ young adults (about 35,000) in conservation-related jobs on public lands. These programs should provide the information we need to enact a truly comprehensive approach to the youth unemployment problem.

441. Adoption of the conference report on H.R. 4746, to authorize $21 million for research on national water supply needs and on saline water conversion, and $40 million for four demonstration plants. Passed 401–1.

Yes. As the last few months have made painfully clear, our nation faces the prospect of a severe water crisis. The bill recognizes that we need to better manage the water we have and that our future may depend upon the use of saline water conversion technology.

442. Adoption of the conferees report on H.R. 4975, to extend for one year, through FY 1978, the federal health services, biomedical research and health planning and resource development programs at an authorization level of $3.4 billion. Passed 401–6.

Yes. I fully support the continuation of improvements of health services administration and research into disabling diseases.

444. H.R. 7171. 1977 Farm-Food Bill. Amendment by Mr. Findley (R-Ill.) to limit producers of wheat, feed grains, rice and upland cotton to $20,000 a year in federal farm subsidy payments. Rejected 183–230.

Yes. Payment limitations insure that family farms are provided with the support they need during periods of low commodity prices. To expand the program beyond the $20,000 limit would unjustifiably burden the taxpayer.

445. H.R. 7171. 1977 Farm-Food Bill. Amendment by Mr. Nolan (D-Minn.) to prohibit payment of federal farm subsidy payments to corporations or partnerships in which those holding majority interest were not engaged in farming operations as a sole proprietorship. Rejected 199–207.

No. While I agree that certain types of organizations and entities should be eliminated from the farm subsidy program, this amendment would also affect a number of small farms. We need a solution that will not exclude the small farm operator, and the Agriculture Committee must resolve this complicated problem through further work and a more precisely drafted amendment.

446. H.R. 7933. Defense Department Appropriations, FY 1978. Motion by Mr. Mahon (D-Texas) to close to the public the House-Senate conference committee on the differing versions of the FY 1978 Defense Department appropriations bill at such times as classified national security information was under consideration, pursuant to House Rule 28, but to allow any member of Congress to attend any of the closed sessions. Passed 376–0.

Yes. Although this vote represents a change from open conference meetings which I support, the necessity of closing to the public discussion of classified national security information cannot be denied. I am pleased that the chairman plans to conduct the conference in a segmented fashion, having classified material discussed at one particular time, thereby not requiring closure of the entire conference sessions.

447. Adoption of the conference report on H.R. 6714, to authorize $1.6 billion for FY 1978 for U.S. bilateral development assistance and to make changes in the Food for Peace program. Passed 254–158.

Yes. This authorization provides U.S. assistance programs to the neediest countries in the areas of food and nutrition, population planning, health, education, and human resources and technical assistance. These are worthy programs, reflecting our concern for the world community, and the authorization is both reasonable and appropriate.

448. Adoption of the conference report on H.R. 6884, authorizing $3 billion for fiscal year 1978 for U.S. foreign security and military assistance programs. Passed 262–147.

Yes. The conference report maintains many of the provisions of the security assistance legislation which I supported in late May. Overall, the programs will contribute to the security of the United States and to international peace and economic well-being.

449. H.R. 7171. 1977 Farm-Food Bill. Findley (R-Ill.) substitute amendment, to the Fithian amendment, to set a new limit on annual subsidy payments to sugar producers of $50,000. Rejected 167–241.

Yes. This proposal, once clarified by Rep. Findley's substitute, is far more acceptable than the administration's sugar subsidy proposal. This subsidy ceiling would insure that Federal subsidies go to those truly harmed by adverse conditions while not allowing major producers and processors to unnecessarily finance their operations out of the U.S. Treasury.

450. Adoption of the conference report on H.R. 2 to set environmental performance standards for surface mining of coal, provide for regulation and enforcement, establish an abandoned mine reclamation fund and establish mining and mineral research institutes. Passed 325–68.

Yes. I am generally pleased with the outcome of the conference. The reclamation fund which will pay for the reparation of inadequately restored mines, and the protection provided to surface owners, will insure that resource extraction does not result in irreparable damage to both public and private lands. I was somewhat disappointed by the inclusion of the Senate amendment allowing for a "limited variance" in restoring mined lands to their original contours, but on balance the conferees have retained the most essential provisions of a badly needed piece of legislation.

452. H.R. 7171. 1977 Farm-Food Bill. Amendment by Mr. Rose (D-N.C.) to require a standard of quality for ice cream covering the weight and amount of milk solids and milk fat that must be included before the ice cream could be designated with the Department of Agriculture's seal of approval. Passed 363–11.

Yes. The quality of ice cream has declined in recent years. Either too much air is whipped into it, or casein, a constituant of milk is used as a substitute, much to the financial detriment of our dairy producers. This amendment will mandate better quality food for Americans along with helping our dairy farmers.

453. H.R. 7171. Farm-Food Bill. Harkin (D-Iowa) amendment to the Foley substitute amendment to the Weaver amendment, to require the Agriculture Secretary to establish a grain reserve of up to 35 million tons, dependent upon voluntary farmer participation. Rejected 141–223.

Yes. This year's extreme grain surplus is driving farm prices to a very low level. It is an excellent time for the establishment of a grain reserve, not only to serve as a price mechanism but also to provide a buffer against future food shortages.

454. Adoption of the conference report on H.R. 7553, the Public Works-ERDA Appropriations. Passed 318–61.

Yes. The conference report strikes a reasonable balance between the House and Senate bills, the total appropriation's budget request. I am particularly pleased that funds for 13 water development projects have been deleted or reduced.

456. Passage of the conference report on H.R. 7932, to appropriate $990,067,800 in new budget authority in FY 1978 for the operation of the legislative branch and its related agencies. Passed 252–152.

Yes. The appropriation is less than requested by the President but ample to fund the operations of the Congress, the Library of Congress, the General Accounting Office, the Botanical Garden, the Page School and the Copyright Office.

457. H.R. 7932. Fiscal 1978 Legislative Branch Appropriations. Motion by Mr. Mitchell (D–Md.) that the House recede and concur with the Senate amendment to appropriate $225,000 for the activities of the Joint Committee on Defense Production. Rejected 160–250.

No. The committee in question has had only limited activity in past years and I am convinced that its valuable oversight functions can and will be adequately performed by the standing committees of each house of Congress.

458. H.R. 7171. Farm-Food Bill. Heckler (R–Mass.) amendment to reduce the price support for peanuts grown within a national quota based on weight to $390 per ton for the 1978 crop, $375 per ton for 1979, $460 per ton for 1980 and $345 per ton for 1981 and subsequent years, from the $420 per ton each year recommended in the committee bill. Rejected 207–210.

Yes. The peanut subsidy is one of the most wasteful and expensive government programs. While H.R. 7171 does cut the support program, this amendment further reduces the price support, saving the taxpayer millions of dollars and reducing consumer costs.

459. H.R. 7171. Farm-Food Bill. Whitley (D–N.C.) substitute amendment, to the Johnson (R–Colo.) amendment, to give priority to financing the sale of food and fiber commodities under Title I of the Food for Peace. Passed 260–151.

Yes. This amendment is consistent with the original purpose of PL 480, guaranteeing that nonfood commodities, such as tobacco, will not be exported under Title I of the Food for Peace program at the expense of nations in need of food commodities.

460. Adoption of the conference report on H.R. 7558, to appropriate a total of $13 billion for fiscal 1978 for the operations and programs for the Agriculture Department and related agencies. Passed 377–33.

Yes. While the conference committee has retained several undesirable programs in this appropriations, such as the subsidy payments to sugar producers, the bill strikes a reasonable balance between the need to reduce the federal budget and to help resolve the uncertain future of American agriculture.

462. H.R. 7171. Farm-Food Bill. Amendment by Mr. Symms (R–Idaho) to prohibit use of food stamps to purchase non-nutritional foods as determined by the Food and Nutrition Board of the National Academy of Sciences. Rejected 185–227.

No. While I do not object to the idea of preventing the purchase of "junk foods" with food stamps, such a provision would be virtually impossible to enforce given the wide variations of food products available throughout the United States.

463. H.R. 7171. Farm-Food Bill. Amendment by Mr. Mathis (D-Ga.) to place a ceiling of $5.6 billion on food stamp program expenditures for FY 1978. Rejected 168–248.

No. I oppose the imposition of an authorization ceiling on a statutory program specifically designed to be flexible enough to both expand and contract to meet current—if temporary—needs. This ceiling would require additional authorizing legislation if emergency relief added to program costs—a process that could so delay that relief as to make it useless.

464. H.R. 7171. Farm-Food Bill. Amendments by Mr. Mathis (D-Ga.) to limit food stamp program expenditures in each fiscal year, 1978 through 1981. Passed 242–173.

No. Again, while the proposal to put a ceiling on program costs sounds fiscally responsible, in the context of the food stamp program, such a cap is unrealistic. Unemployment and inflation, two factors which determine food stamp enrollment, are not susceptible to such targets or ceilings. Nor should our major nutritional program, designed to respond to the devastating impacts of those economic trends, be subject to arbitrary limits.

465. H.R. 7171. Farm-Food Bill. Amendmend by Ms. Fenwick (R-N.J.) to the Kelly (R-Fla.) amendment to allow families of strikers with children under 16 to be eligible for food stamps. Rejected 152–266.

Yes. While I oppose any restrictions on food stamp eligibility based solely on union status, I support this amendment as insurance that the children of strikers will be eligible for nutritional assistance if the Kelly amendment passes.

466. H.R. 7171. Farm-Food Bill. Amendment by Ms. Fenwick (R-N.J.) to the Kelly (R-Fla.) amendment to allow families of strikers with children under 16, elderly or disabled dependents, to be eligible for food stamps. Rejected 190–227.

Yes. Again, my vote in support of this amendment is prompted by the thought that "something is far better than nothing".

467. H.R. 7171. Farm-Food Bill. Amendment by Mr. Kelly (R-Fla.) to eliminate from the food stamp program eligibility of any household in which a member is on strike unless the household was eligible before the strike. Rejected 170–249.

No. I am not in favor of this, or any other, categorical denial of food stamp eligibility. The statute was written to be flexible, and strikers represent a small, temporary but necessary part of the food stamp rolls.

468. H.R. 7171. Farm-Food Bill. Amendment by Mr. Symms (R-Idaho) to the committee amendment to require food stamp program participants to pay cash for a portion of their stamp entitlement. Rejected 102–317.

No. The elimination of the purchase requirement is one of the major reforms implemented by this Title in order to reduce fraud and administrative waste in the operation of the food stamp program.

469. H.R. 7171. Farm-Food Bill. Amendment by Mr. Jeffords (R–Vt.) to require that food stamp households with adjusted gross incomes in excess of twice the poverty level return the excess payment, up to the amount of their food stamp allotment, to the government in cash. Rejected 149–262.

No. Sufficient anti-fraud and tightened eligibility provisions are contained in the Committee bill. In addition, the administrative expense and mere appearance of government collectors extracting food stamp overpayments from poor families (twice the official poverty income approximately $10,000 seems hardly worth the effort.

472. H.R. 7171. Farm-Food Bill. Amendment by Mr. Findley (R–Ill.) to permit the Secretary of Agriculture to implement an unlimited number of pilot projects in which work would have to be performed in return for food stamps. Rejected 159–255.

No. The committee amendment provides for a limited number of such "work-fare" pilots. These pilots, if limited and properly distributed throughout the country, can provide invaluable tests as to the administrative feasibility of work-fare.

473. H.R. 7171. Farm-Food Bill. Amendment of the Agriculture Committee offered by Chairman Foley (D–Wash.) substituting the amended text of H.R. 7940 for Title XXI of the bill regarding food stamps. Passed 320–91.

Yes. The bill significantly reforms and improves the food stamp program by tightening and simplifying eligibility criteria, tightening work requirements and preventing fraud and abuse of program benefits.

474. H.R. 7171. Farm-Food Bill. Wolff (D–N.Y.) amendment to delete the provision in the bill to establish a wheat research and education program to be supported by an assessment on wheat processors. Passed 330–109.

Yes. At a time when inflation and excessive governmental intervention are in the minds of all, this program, to be financed by an assessment bread tax, is unwise.

475. H.R. 7171. Farm-Food Bill. De la Garza (D–Texas) amendment to establish a price support program for sugar beet and can producers at a price support level between 55 and 65 per cent of parity. Passed 246–165.

No. The Agriculture Committee, after considering the impact of such a program on the federal treasury, the consumer, and the taxpayer, rejected such an amendment. I concur with their findings and recommendation.

476. H.R. 7171. Farm-Food Bill. Nolan (D–Minn.) amendment to provide support payments of up to 13.5 cents a pound for sugar crops not covered by the sugar subsidy plan approved in the Rep. de la Garza amendment. Rejected 173–238.

No. Since I do not support the creation of this price support program, I certainly do not support a more expanded program.

478. Final passage of H.R. 7171, the 1977 Farm-Food bill. Passed 294–114.

Yes. Considered solely on the basis of its agricultural programs, this measure would not warrant my support for it represents a distinct and very expensive retreat from the progress made over the last eight years. However, the final product contains a responsible reform of the food stamp program, thus assuring my support

481. Adoption of H. Res. 661, to create two positions on the Capitol Police force: a general counsel to the chief of the Capitol Police and a deputy chief of the Capitol Police, and to increase the salary of the House chaplain. Passed 383–2.

Yes. With the role of the Capitol Police becoming increasingly complex, its legal needs and problems need to be handled by a counsel within the force, directly responsible to the Chief and to the Police Board. The establishment of a position of Deputy Chief fills a vacancy and reduces the number of Metropolitan Police officers assigned to Capitol Police. The creation of both police positions will not necessitate additional funding since vacancies in the force due to retirement are not being refilled. The salary of the House chaplain is increased to equalize it with the annual salary of the Senate counterpart.

482. Passage of S.J. Res. 77, to extend until September 30, 1977 the authority of the Secretary of HUD to insure mortgages and set interest rates under certain Federal Housing Administration programs, and for other purposes. Passed 383–2.

Yes. This is a necessary extension of current insurance programs to maintain the continuity of our federal housing and mortgage support efforts until the House-Senate differences over the new Community Development Act are settled and a new authorizing statute for these programs is signed into law.

490. Adoption of the conference report to S. 826, to create a cabinet level Department of Energy by consolidating the functions of the Federal Power Commission, the Federal Energy Administration, the Energy Research and Development Administration and other energy functions scattered throughout the federal government. Passed 353–57.

Yes. The value of consolidating the energy related regulatory authority is obvious. The improved monitoring and management of energy production in this country is especially necessary in light of our ambitious goals for alternate energy development.

491. H.R. 8444. National Energy Policy. Ad hoc amendment to part 1 of Title I of the bill to establish an energy conservation program by requiring states or the Federal Energy Administration to supply residential customers information on qualified home insulation installers and financing arrangements and to allow public utility companies to provide home insulation services. Passed. 217–205.

No. While the concept of providing information, installation and financing of home conservation measures is sound and necessary, the administration of such a program could well dictate its ultimate value. Rather than the Ad Hoc proposal, I support the proposal to prohibit or at least make optional the participation of utility companies in providing financing of the measures. There are many insulation and financing institutions who are better equipped to provide these services. It makes little sense to place undue burdens on local utilities at the expense of existing suppliers.

492. H.R. 8444. National Energy Policy. Ad hoc committee amendment to require a one year study by the Department of Transportation of the energy conservation potential of off-highway recreational vehicles, including airplanes and motorboats used for pleasure riding. Passed 212–210.

No. The very purpose for creating the Department of Energy is to consolidate regulation and research in the energy fields. Projects like this will only perpetuate the duplication of efforts in these matters.

493. H.R. 8444. National Energy Policy. Ad hoc amendment to require a one-year study by the Department of Transportation of the energy conservation potential of bicycle use. Passed 252–166.

Yes. The bicycle, as a non-fuel consuming means of transportation, should be utilized to its fullest extent and any plans or opportunity to make bicycle travel more attractive to the American public should be discovered and implemented.

494. H.R. 8444. National Energy Policy. Amendment by Mr. Ford (D-Mich.) to apply the Davis-Bacon Act to certain provisions so that workers employed in the programs authorized by the bill to insulate schools, hospitals and public buildings be paid no less than wage rates prevailing in their area. Passed 265–161.

Yes. The assurance to workers of a fair wage as determined by the Davis-Bacon Act, should apply to instances involving government ordered projects for insulation of public buildings.

495. H.R. 8444. National Energy Policy. Ad hoc amendment to authorize $65 million through 1979 in federal grants to state and local governments to cover up to half the costs of identifying and installing energy conservation controls in local government buildings. Passed 317–105.

Yes. We cannot expect the states and local communities to assume the full cost of government mandated conservation projects. To insure a timely and successful program of increasing the energy efficiency of government buildings, these funds must be provided.

496. Adoption of the conference report to H.R. 7555, to appropriate a total of $60,168,-561,000 for fiscal 1978 for the operations and programs of the Labor Department and the Department of Health, Education, and Welfare and related agencies. Passed 337–82.

Yes. While in a bill of this magnitude it is impossible to meet the needs of all who are assisted by the programs funded—such as the poor, the minorities, the handicapped and the aged—H.R. 7555 nonetheless represents a viable compromise. I think my colleague, Chairman Flood, summarized my position well when he said the conference report is "a reasonable response to the social needs that exist in this country but at the same time is an attempt to exercise some fiscal restraint in meeting those needs."

497. H.R. 7555. Labor-HEW Appropriations, FY 1978. Motion by Mr. Daniel Flood (D-Pa.) to concur in a Senate-passed amendment relating to abortion with an amendment to bar the use of any funds appropriated in the bill for abortions, except where the life of the mother would be endangered by continuing the pregnancy. Passed 238–182.

No. As I have previously stated, the strength of my personal opposition to the practice of abortion is equalled only by my total opposition to the involvement of the State in the personal moral decisions of individuals throughout the country. To deny women in this country readily available and legal medical service merely because they cannot afford it constitutes an invidious discrimination against the poor—denying them equal protection of the law.

499. H.R. 8444. National Energy Policy. Brown (R-Ohio) amendment to end federal controls on the price of new onshore natural gas retroactive to April 20, 1977, and on new offshore natural gas beginning April 20, 1982, and to extend the emergency Natural Gas Act for three years. Rejected 199–227.

No. I feel the President's proposal allowing the price of newly discovered gas to rise to 1.75/mfc and adjusting that price annually to reflect the higher costs of production provides sufficient incentive to produce the remaining supplies of natural gas in this country. Furthermore, government studies indicate that any additional gas that may be extracted as a result of complete decontrol would be insufficient to justify the increase in price.

500. H.R. 8444. National Energy Policy. Flowers (D-Ala.) amendment to delete provisions in the bill that would have extended anti-trust review to utilities building new facilities. Passed 257–160.

Yes. The utility rate reform provisions of the energy plan and the mandated cooperation between utilities via wheeling and pooling provide adequate protection against any new and unusual market developments in the utility field. Furthermore, present anti-trust statutes will be effective in dealing with claims of anti-competitive practices. Also, the delay in new construction resulting from this provision would hamper the goals of N.E.P.

501. H.R. 8444. National Energy Policy. Horton (R-N.Y.) amendment to delete provisions in the bill authorizing $75 million for purchase of 6,000 vans for a van-pooling program for federal workers. Passed 232–184.

Yes. The funds authorized for this project would not provide adequate energy savings to justify the expenditure. A more worthwhile expenditure of the $75 million would be to develop more conventional mass transit programs which would benefit the entire general public.

503. H.R. 8444. National Energy Policy. Howard (D-N.J.) substitute amendment to the ad hoc committee amendment to increase federal gasoline tax by five cents, effective Jan. 1, 1979, with half the revenues going to support mass transit programs and half toward repair of the nation's bridges and highways. Rejected 82–339.

No. First, it has been adequately proven since 1973 that price increases (almost 100% over three years) serve as no significant deterrent to gasoline use. Therefore, this proposal is simply a veiled revenue raising device coupled with a hastily drafted alloca-

tion plan. Mass transportation as part of our national energy strategy deserves a more thorough and workable approach than this.

504. H.R. 8444. National Energy Policy. Ad hoc committee amendment to increase the federal gasoline tax by four cents, with revenues to support programs for research, mass transit and state highways. Rejected 52–370.

No. Again I am opposed to a gasoline tax for its unfair burden on the poor and on larger families. In addition, these burdens are nowhere matched in this proposal by the benefits of such a tax. Mass transit funding, it has been painfully learned, is a more complex matter than a few cents of additional gas tax.

505. H.R. 8444. National Energy Policy. Amendment by Mr. Jones (D-Okla.) to return oil and gas producers money derived from the proposed crude oil equalization tax in order to provide an incentive for increased energy production. Rejected 198–223.

No. I believe that the tax rebate program of the oil equalization tax should be implemented as proposed, at least for the first year. If the rebate, scheduled for reexamination after one year, proves less than effective in meeting its intended goal, a plowback program may again be considered. Furthermore, with every available drilling rig presently in use, the moneys "plowed back" for additional exploration could not be used until additional rigs were constructed—perhaps a year's time.

506. H.R. 8444. National Energy Policy. Amendment by Mr. Waggonner (D-La.) to use 1978 revenues from the crude oil equalization tax to supplement the Social Security trust fund system rather than for debates to individual taxpayers. Rejected 190–226.

No. In addition to my desire to examine the efficacy of the tax rebate program after its first year, the result of this amendment would misplace the program's benefits. The rebate program is designed to offset the burden to energy consumers created by the increase in the wellhead price of oil. With the revenues going to the Soc. Sec. program, the protection from higher fuel costs would be virtually eliminated for the energy consumer.

507. Passage of H. Res. 729, providing $302,499 for the operations and investigations of the House Permanent Select Intelligence Committee for the remainder of calendar 1977. (Creation of the committee passed on July 14, see RC417.) Passed 342–10.

Yes. This funding will allow the committee to begin its important work this year, rather than waiting for fiscal 1978 funds.

508. H.R. 8444. National Energy Policy. Amendment by Mr. Conable (R-N.Y.) to cut the general income taxes in proportion to 1978 revenue received from the proposed crude oil equalization tax. Rejected 175–232.

No. Again, the rebate program should be allowed to function for its first year.

509. H.R. 8444. National Energy Policy. Ad hoc committee amendment to delete from the bill a provision that automatically exempted new plants from having to pay the proposed oil and gas users tax if such plants were exempted from regulatory orders prohibiting use of those fuels. Passed 221–198.

Yes. Rather than automatic exemptions, I favor the retention of the three categories (mandatory conversion to coal, full payment of users tax by oil and gas burners and partial payment of users tax by oil and gas users with federal authority to reassign a plant from one category to another) as outlined by the bill.

510. H.R. 8444. National Energy Policy. Amendment by Mr. Anderson (R–Ill.) to substitute for the bill a series of energy proposals agreed upon by the Republican members of the Ad Hoc committee on energy. Rejected 147–273.

No. I don't believe that the "Republican substitute" addresses the needs of the country's energy problems as adequately as the package proposed by the Administration.

511. H.R. 8444. National Energy Policy. Amendment by Mr. Horton (R–N.Y.) to reaffirm an earlier vote deleting provisions in the bill authorizing $75 million for the purchase of 6,000 vans for van-pooling for federal workers. Passed 239–180.

Yes. As I stated in the original vote, I support the deletion of these funds for van-pooling.

513. Final passage of H.R. 8444, to establish a comprehensive national energy policy. Passed 244–177.

Yes. Although I am not entirely pleased with some provisions of the bill, it does provide an adequate resolution to many of the energy problems confronting this nation.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on September 16, 1977, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 557: S. 275: Agriculture. The House agreed to the conference report on the measure, "no";

Rollcall No. 558: H.R. 5262: International Financial Institutions. The House rejected the conference report on the measure to provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, "yes"; and

Rollcall No. 559: H.R. 9005: District of Columbia appropriations. The House passed the measure making appropriations for the District of Columbia for the fiscal year ending September 30, 1978, "yes."

PLIGHT OF OUR SCHOOLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 10 minutes.

Mr. MILLER of Ohio. Mr. Speaker, across the country, school districts are facing bare bones budgets, teacher cutbacks, and school closings. The following letter from Mrs. Mary Carson of New Matamoras, Ohio, illustrates the serious situation in Ohio as a result of State and Federal regulations on the local school systems:

State and federal mandates are killing our schools and reducing quality education.

State and federal agencies and the courts are making most of the decisions about financing, personnel and curriculum which is easily borne out in nationwide studies. There is little room for superintendents, boards of education, principals and teachers to use their qualified judgments as to where best to utilize the tax dollars allocated to them because these decisions are already dictated by remote decision makers.

To qualify for many of the various state and federal funds, school boards must spend spiraling amounts of their share of matching funds thus reducing their immediate control over local tax dollars.

Increased spending in education and a lowering in quality of education are among the adverse results in the increasing trend toward the control of our schools by centralized government.

Between 1952 and 1972 enrollment in public schools and colleges almost doubled with the various staffs tripling and funds increasing eight times according to a study by Dr. Roger Freeman.

It is a well-established fact that for the past 10 years college board test scores have been declining sharply.

The Rev. Jesse Jackson recently stated in strong language, "Education is the biggest fraud going on in America today. Many students are being graduated from high school and getting a diploma, but they have no information and they can't read well. When that happens, you better know that you have been robbed."

According to Jerry Gumbert, OSBA management information director, there are 70 school districts in the state of Ohio which face closing this year because of financial difficulties. Frontier Local District is one of these unfortunate districts. Frontier is a victim of state mandates.

The state issues the mandates, the district complies, the state then says it has not the means to provide the promised funding. The Federal Constitution provides that a state cannot be sued without its consent.

Low tax returns because of lack of industry and loss of taxable land taken by the Wayne National Forest, inflation and the aforementioned federally and state mandated programs have eroded Frontier's budget and its board's control over that budget.

To combat the present situation and reverse the trend toward centralized dictates to our schools, the citizens of all school districts should let their voices raised in protest be heard by their representatives in Columbus and Washington. It is they, not the boards of education, who should be the targets of protest: for they are the ones who are calling the shots. They are the ones making promises and providing no means for keeping those promises. They are responsible for the present plight of 70 school districts in Ohio.

MARY A. CARSON,
Board Member,
Frontier Local School District.
NEW MATAMORAS, OHIO.

PEPPER CALLS SEARS' "STUDY" MISLEADING ON MANDATORY RETIREMENT ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

Mr. PEPPER. Mr. Speaker, I wish to call my colleagues' attention to what I consider to be questionable tactics and a last-ditch effort by Sears, Roebuck, Inc., to forestall passage of H.R. 5383, a bill I introduced to extend protections from mandatory retirement in both the public and private sectors.

Recently, Sears, Roebuck, Inc., released a "study" predicting a 0.6-percent increase in unemployment if H.R. 5383 is enacted. An examination of the study, however, reveals that this prediction is based on a large number of false assumptions and misleadingly high statistics.

The Cassandras prophesying doom if this bill is passed remind me of a conversation Chief Justice Holmes, then 90, had

with his wife in the heart of the depression. His wife Annie observed:

We can't possibly employ all these people.

To which Holmes replied:

We've lived to a remarkable age, Annie. We've had many troubles, most of which never happened.

Searching through the assertions to locate the verifiable data in the Sears' study reveals that what at first appears to be a formidable elephant snare is in fact a hastily spun net of cobwebs. The numbers pulled randomly from a tumbler in a game of bingo have as much relation to the impact of H.R. 5383 as do the figures in this Sears' study. If Sears' tools were as carefully constructed as the data in this study, Sears, Roebuck, Inc., would not be a corporate giant today but rather a footnote in the history of the frontier, indexed under, "Use of Sears Catalogs as Fire Fuel."

This legislation will not die of wounds inflicted by groundless assertions. Congress will not be gulled into accepting the argument that we must not change the law until we know what we can only know if we change the law. Congress is not composed of clairvoyants or soothsayers, but of prudent persons who have weighed the evidence of large and small corporations, corporations with and without mandatory retirement, scholars, economists, representatives of labor, and older Americans themselves before commending this legislation, without a single negative vote in any committee, to the House.

This legislation will pass overwhelmingly in both the House and the Senate and the President will sign it because competence, not such extraneous factors as age, race, sex, or religion, ought to determine whether a person is hired, promoted, or retained in a job.

In an effort to dispell any unnecessary concerns or fears which might have been raised by the Sears, Roebuck, Inc., "study," I would like to share with my colleagues an item by item analysis of the Sears' report. This analysis follows:

SEARS' "IMPACT STATEMENT" ON H.R. 5383

Pepper's response to Sears, Roebuck and to "Employment Impact Statement: Increasing the mandatory retirement age to 70" submitted to House Subcommittee on Equal Opportunities, September 8, 1977.

Sears' study statements:

". . . there are 4,158,000 employed workers in age range 60–64."

". . . roughly 2,040,000 normally would be expected to retire by age 65".

Extending mandatory retirement to age 70 would mean a "certain portion" would be expected "to retain their jobs".

If "one-third" remained, "680,000 job openings" would be eliminated.

ASSUMPTIONS

The assertion that 680,000 would be eliminated is based on the assumption:

1. That all 2,040,000 would wait until age 65 to retire.

2. The "one-third" presumed to remain would have to remain alive, be able to do the job and actually work for five full years after 65.

3. All 4,158,000 are assumed to be subject to age based mandatory retirement below the age of 70.

Assumptions not based on facts:

1. Social Security figures and studies indicate that last year almost 90 percent of new retirement benefits were reduced almost exclusively because of retirement before age 65 with 62 the most common age of voluntary retirement. Since the majority of persons retire before 65, even though they can continue until 65 under the present law, it is unlikely that an increase in the age of protection from age-based mandatory retirement from 65 to 70 will cause early retirees to continue working until 70.

2. Absolutely no justification given in Sears' statement for "one-third" figure. Social Security data indicate that mandatory retirement results in as few as 7 percent of retired males who were willing and able to continue working, but were unable to find a job. *If* these chose (and some would not) to stay on their previous job between the ages of 65 and 70, then the figure would be nearly 5 times smaller than that used by Sears, and even that figure is exaggerated because the number and percent of females subject to mandatory retirement are less than the number of men.

Studies by Cordelia Reimers, Professor of Economics at Princeton, indicate that current annual retirement rate for those still employed at 65–70 is 8 percent. This rate, together with the 4 percent mortality rate for that age group, would substantially reduce the impact of H.R. 5383, if any, on the unemployment rate.

3. Social Security studies indicate that 30 percent of newly entitled beneficiaries age 62–65 had a mandatory retirement age in their last or present job. Of these, more than 60 percent retired before the mandatory age. Thus, the impact of H.R. 5383 on the workforce is grossly overstated in the Sears' paper.

Sears' study statement:

". . . of the 24,000,000 people over 60 who are non-participants in the labor force, roughly 8,000,000 are retirees".

". . . if only 5 percent decide to seek jobs" would add 400,000 per year to labor force and thereby increase unemployment rate.

ASSUMPTIONS

1. All 8 million retirees were subjected to mandatory retirement at age 65–69.

2. All 8 million retirees are now between the ages of 65 to 70 (since H.R. 5383 only extends existing protection from 65 to 70).

FACTS

1. As noted earlier most persons are not subject to mandatory retirement.

2. It is improbable that 8 million retirees are 65–69 since the overwhelming majority of Social Security retirees each year are under 65.

Sears' study statement:

Annual average: 3100 full-time non-exempt employees retire from Sears.

⅓ would choose to continue working.

5,100 fewer full-time job openings for new entrants.

Each retirement triggers four promotional opportunities.

ASSUMPTIONS

1. All retirees from Sears are 65.

2. The ⅓ that would presumably choose to continue would live and continue to work for 5 years.

3. That there is no attrition in Sears' work force; all positions are opened by retirement and are then presumably filled.

FACTS

1. Actual retirement age in general population is well below 65; why would Sears be so radically different?

A. The statement undermines its own assumption by stating, on page 5, that the average retirement age for non-exempt employees is "62". It is therefore likely that over one half of the 3,100 retired well before 65.

2. The data do not include adjustment for retirement before 70 or for mortality.

3. The data do not allow that reorganization or consolidation may eliminate the job opened by mandatory retirement.

4. It is difficult to believe that each time a clerk in the toy section or tool section retires, four promotional opportunities arise.

Additionally, I would like to share with my colleagues further information on this matter as contained in a report recently released by the Select Committee on Aging, entitled "Mandatory Retirement: The Social and Human Cost of Enforced Idleness." This material follows:

IMPACT ON LABOR FORCE

To say that ending forced retirement will turn hundreds of thousands of new jobseekers onto the marketplace is grossly misleading.

Only a very small percentage of those who turn 65 in a given year are new potential jobseekers.

Economist James Schultz constructed a chart illustrating this, a chart that appears on page 7 of the Aging Committee's report on mandatory retirement. Here is what the chart depicts so well.

Suppose you have 100 male workers who have "retired" from their jobs.

Of the 100, only 54 of them were subject to any mandatory retirement. Obviously, H.R. 5383 affects only those subject to such rules.

Of the 54, 30 of them retired before reaching the mandatory retirement age. These people would obviously not be affected by a bill raising the mandatory retirement age. That leaves 24.

Of the 24 who retired at the mandatory retirement age, only 14 were "unwilling" to retire.

Of those 14, four were "unable" to work, leaving only ten.

Of those 10 able to work, three were able to find jobs in the existing job market.

Only seven of the original 100 retired male workers who were able to work and seeking it, were unable to find a job and therefore could conceivably be part of the job-seeking force.

Even if all of the 500,000 men and women who reach age 65 in any year were in the work force, that would mean only 35,000 persons. To place that in perspective, the part-time employment program under title IX of the Older Americans Act will provide 45,000 jobs in FY 1978.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS TO HOLD HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

Mr. PREYER. Mr. Speaker, on October 3 and 4, the Government Operations Subcommittee on Government Information and Individual Rights, which I chair, will hold hearings on the fourth exemption of the Freedom of Information Act. That exemption permits the withholding by Government agencies of trade secrets and other commercial or financial information obtained from businesses and individuals which is privileged or confidential. It is the purpose of the hearings to identify any problems presented by this exemption and to explore possible alternatives. We also intend to consider problems resulting from

so-called reverse FOIA lawsuits, which are actions to prevent the release of information by the Government.

These issues should be of great interest to businesses that submit information to the Government and to those who request documents and contractual data under the Freedom of Information Act. Appearing on Monday, October 3 at 10 a.m. will be representatives of the Department of Labor and the Environmental Protection Agency. On Tuesday, October 4, the hearing will start at 9:30 a.m. and witnesses will include representatives from the Food and Drug Administration, the Freedom of Information Clearinghouse, and the Machinery and Allied Products Institute, and Burt Braverman, a Washington attorney. Both hearings will be held in room 2203 of the Rayburn Building.

Written testimony will be accepted for the record from other interested parties. Field hearings outside of Washington are also contemplated during the months of November and December, following adjournment this session. For further information, interested parties are invited to contact Robert Gellman of the subcommittee staff, B-349C Rayburn Building, (202) 225-3741.

EFFECT OF H.R. 3816 ON THE FTC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 5 minutes.

Mr. ECKHARDT. Mr. Speaker, in the last few weeks I have received a number of form letters expressing objections to section 7, the consumer action provision, of H.R. 3816. These letters have been from organizations whose members are apparently afraid that section 7 may require them to refund money they have ripped off consumers in violation of the law. Of course, they don't say this. Instead, they express lofty and altruistic concerns about the effectiveness of the Federal Trade Commission and about the burden that section 7 might place on the FTC. For example, they say that they are afraid enactment of section 7 might lead to inconsistent judicial interpretation of FTC rules and orders, that FTC resources will be drained because it will have to intervene in all private actions, and that section 7 will jeopardize the FTC's ability to obtain consent orders.

While I am sure the FTC appreciates this unselfish concern for its welfare by the unscrupulous business operators, I thought it would be advisable to check with the FTC to see if it shares these concerns. Not surprisingly, I found that the FTC does not. Instead, the FTC believes that the consumer action provisions of section 7 will be of significant benefit both to the consumer and the Commission.

Mr. Speaker, I think it would be useful to the other members of the House if they have an opportunity to see the FTC's responses to the objections raised by opponents of section 7. Therefore, I would like to insert in today's RECORD a copy of FTC Chairman Michael Pertschuk's letter to me commenting on the objections to section 7:

FEDERAL TRADE COMMISSION,
Washington, D.C., July 29, 1977.

Hon. BOB ECKHARDT,
Chairman, Subcommittee on Consumer Protection and Finance, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of July 12, 1977, requesting my comments regarding concerns expressed by opponents of Section 7 of H.R. 3816. As stated in my testimony of May 4, 1977, on S. 1288 before the Senate Commerce Committee, the Commission strongly supports the creation of a private right of action as an essential complement to the Commission's efforts to protect consumers from fraud and deception.

We will deal individually with the concerns which have been expressed:

1. Possibility of Inconsistent Judicial Interpretations of Commission Rules and Orders.

According to your letter, some opponents of Section 7 have expressed concern that to authorize a private right of action could result in inconsistent judicial interpretations of Commission rules and orders, thereby undermining Commission enforcement efforts. It is important to point out in this regard that Section 7 would permit a private redress action only if the Commission has previously found conduct to be in violation of Section 5 of the FTC Act (15 U.S.C. § 45(a)) and has issued a cease-and-desist order or a rule prohibiting such conduct. Thus, the Commission will have had the opportunity to spell out what Section 5 means in the context of a particular act or practice. Only violations of these final cease-and-desist orders and rules would give rise to a private action.

That courts initially may render somewhat inconsistent opinions in determining whether there has been a violation of a Commission rule or order is a potential problem which already exists under current law and one that is simply a consequence of the very nature of the judicial system. Thus, the Commission currently faces this possibility in exercising its authority to bring an action in district court to collect a civil penalty (15 U.S.C. § 45a) or to obtain redress on behalf of injured consumers (15 U.S.C. § 57b). However, I do not believe that the situation presents an intolerable problem under present law and have no reason to believe that inconsistent judicial interpretations of Commission rules and orders would be more likely to increase if consumers were permitted to seek relief on their own behalf.

I should also point out that the class action mechanism contemplated by Section 7 would minimize the risk of conflicting judicial interpretations concerning the same matter by encouraging consumers with similar claims to join together in a single action in a single court.

2. Possibility That Commission Will Be Forced To Intervene in All Private Actions.

You have also referred to a concern expressed by opponents of Section 7 that its enactment would strain Commission resources by forcing it to intervene in all private redress actions in order to safeguard its own enforcement policies.

Section 7 would enable the Commission to intervene in a private redress action when necessary to make known its views and to clarify various questions which might arise with respect to its rules and orders. In most instances, the Commission's position will be clear from the face of the cease-and-desist order or rule which is before the court in the private action, so that the Commission will be able to focus its intervention efforts on cases involving significant issues of first impression. Thus, there is no reason to believe that the Commission would be forced to intervene in every private suit in order to safeguard its enforcement policies.

3. Possibility of Jeopardy To Consent Order Procedure.

Lastly, your letter points out the concern expressed by opponents of Section 7 that its enactment could jeopardize the Commission's ability to obtain consent orders.

As there are a wide variety of factors which bear upon the desirability of entering into a consent order agreement, we are unable to say whether any one factor—such as the existence of a private right of action—would render such an agreement any more or less desirable. While the existence of a private right of action for violation of a Commission cease-and-desist order might dissuade some respondents from entering consent agreements, it is at least as likely that it would encourage other respondents to enter consent negotiations in order to have a voice in preparing and agreeing to the precise language of a Commission order.

Furthermore, Section 7 is subject to a limitation which would restrict the availability of a private right of action to those Commission orders which expressly authorize such a right. This would permit the Commission, in negotiating consent order agreements, to exempt an order—either in whole or in part—from private suits, when desirable. In sum, it is unlikely that the enactment of Section 7 would jeopardize the Commission's ability to obtain consent orders.

As stated in my testimony of May 4, 1977, the Commission believes that the creation of a private right of action for violations of Commission rules and orders would be of significant benefit both to the consumer and the Commission. While the Commission currently has statutory authority, pursuant to Section 19 of the Federal Trade Commission Act (15 U.S.C. § 57b), to bring a redress action on behalf of injured consumers, limits on Commission resources make it difficult to justify such an action for every violation of a rule or order. This problem could become particularly acute with regard to Commission enforcement of both its existing and contemplated trade regulation rules, given their industry-wide character and the Commission's increased activity in this area as a result of the authority recently granted in the Magnuson-Moss Act. The existence of a private enforcement mechanism would substantially reduced the Commission's enforcement burden, thus enabling it to focus its resources on other problem areas where individual injury may not provide an adequate incentive to seek relief.

In addition, Section 7 would give individual citizens a direct right to seek redress of injuries without dependence upon the action of a federal agency. I favor techniques such as Section 7 which decentralize enforcement efforts by augmenting the legal remedies available to individual citizens.

The Commission has endorsed the class action provisions of Section 7 because these provisions are vital if the private right of action is to serve the dual purpose of redress and deterrence. Unfair or deceptive practices prescribed by the Commission typically victimize large numbers of persons, but individual damages are seldom large enough to justify the heavy costs of litigation. The class action mechanism contemplated in Section 7 would provide an effective means whereby similarly aggrieved consumers could join together and seek relief collectively.

Sincerely,

MICHAEL PERTSCHUK,
Chairman.

LEGISLATION TO AMEND CREDIT ELSEWHERE TEST UNDER FARMERS HOME ADMINISTRATION LOAN PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

man from Iowa (Mr. BEDELL) is recognized for 5 minutes.

Mr. BEDELL. Mr. Speaker, I am introducing legislation today which will amend the credit elsewhere test under the Farmers Home Administration (FmHA) housing loan program by exempting a veteran from the provision in current law which requires that he or she first apply to the Veterans' Administration housing program, with its far less favorable interest and repayment terms, before being eligible for consideration under the FmHA loan program. This measure would preserve the FmHA credit elsewhere test requirement for veterans, except for the VA program, and it would maintain the FmHA's mandate as the lender of last resort.

In my view, the possibility of denying an individual consideration for an FmHA housing loan solely because he has served his country and may therefore be eligible for a less desirable VA loan, is ironic and discriminatory, and it should be eliminated. My proposal would do just that.

It is significant to point out that the problem of possible discrimination against veterans in the FmHA housing program was brought to my attention by one of my constituents who was concerned that an individual who happened to be a veteran could not apply directly to the FmHA for a loan. While it is important for the Congress and the administration to address the larger policy issues of our day, I believe that it is equally important that we endeavor to address those issues as they translate in the daily lives of our people and to then respond fairly and with alacrity. I feel that this bill goes far in meeting the latter criterion.

The text of the bill follows:

H.R. —

A bill to provide that housing benefits available to a veteran, under title 38 of the United States Code, shall not be considered in determining, under title 5 of the Housing Act of 1949, whether such veteran is able to obtain credit for housing from sources other than the Farmers Home Administration

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 501(c) of the Housing Act of 1949 is amended by adding the following new sentence at the end thereof: "In addition, if the applicant is eligible for housing assistance under title 38, United States Code, such assistance shall not be taken into consideration in applying clause (3) with respect to such applicant."

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JACOB ARVEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the death of Jacob Arvey leaves a tremendous void in our community.

I knew Jacob Arvey all of my life. As a youngster of 10, I met him at the American Boys' Club in the 24th ward which he so ably represented in the city council of the city of Chicago. He kept in touch with me throughout all of the ensuing years.

In 1948, while I was serving as secretary-treasurer of the Illinois State CIO Political Action Committee, we endorsed the candidacy of Paul Douglas for U.S. Senator and Adlai E. Stevenson for Governor of Illinois. The endorsement by the Congress of Industrial Organizations carried tremendous weight in helping to select these two men who won in 1948 when the political pundits said they could not win. As all of us know, that was the year Harry Truman stumped the experts, and that was the election when Jacob Arvey served as the county chairman of the Cook County Central Committee.

Jacob Arvey's leadership and his dedication to the principles of the Democratic Party inspired our entire Democratic Party, not only in Cook County but throughout the entire State, and we elected Stevenson and Douglas, and carried the State for Harry Truman. The credit for this victory must go to Jacob Arvey, a dedicated, humble, and compassionate man who had a genius for working with people.

Mr. Speaker, at this point in the RECORD I am inserting an article written by Roger Simon about Jacob Arvey which appeared in the Chicago Sun-Times on August 28, 1977. The article follows:

JACOB ARVEY'S MACHINE WAS FUELED BY LOYALTY

(By Roger Simon)

He was a small man who made giants. A common man who made kings.

I met him only once. I had tried to interview him for years and one day he agreed. He sat at the far corner table in a huge dining room, facing a sea of white tablecloths.

I had studied him in college. He was the stuff of lectures. Jacob Arvey, the man who built the greatest political machine in the history of the nation. The man who launched the careers of Adlai Stevenson and Paul Douglas. The man to whom Richard Daley used to say, "Please" and "Thank you."

It was last summer and Jacob Arvey was 81 and ill. The only thing he wanted in life was to be slated as a delegate to the Democratic National Convention. Daley refused. Arvey was hurt, bewildered.

"The organization, a political organization, is built on loyalty," he said. "I have served the Democratic Party since 1914. Naming me a delegate would have been a recognition of that. But I was not slated. Daley would not slate me.

"How can I feel good about this? I'm old, I'm retired. I wouldn't have even gone. My health wouldn't let me. It would have been a gesture."

But the machine that he built did not feel like gesturing. Only after Daley's death was the machine able to reward Arvey by giving him the honorary post of party chairman emeritus.

When Arvey built the machine it was a different world. In an era of American history when public service agencies didn't exist or were just beginning, a political organization was food and clothing and jobs and coal.

"Every night from 7:30 to 10:30, I would have an open house in my office," Arvey said, speaking of the Depression years when he was an alderman.

"They would stand in line to see me. They couldn't pay the light bills, the rent. Sometimes I could do little. But that they could talk to somebody in authority gave them faith.

"Faith. Now they criticize the organization. They say how awful it is. I will tell you something. There was a boy named Phil. A graduate of law school. He came to me. He said there were no legal jobs. He said he would sweep the streets. He said he had no food for his children.

"I got him a job as a laborer. He would check the alleys to see if the garbage was removed. He fed his family. Today he is a lawyer.

"People didn't want unemployment money then. They felt if they could work one hour, they had their self-respect.

"My ward, the 24th Ward, helped a lot of people. It was a family. You moved into my ward and I knew your name. I got others to help. We would hold parties to raise money for those who did not have it. If Smith knew that Jones got the help when Jones needed it, then Smith knew it would be there for him, too."

In return for the jobs, the food, the coal, the machine asked for one thing: loyalty. It did more than ask. It demanded it. Arvey controlled 40,000 patronage jobs. And the holders of those jobs were expected to pay the party back in time and work.

He never apologized for that. He was never ashamed of it. It was the basic tenet of American politics. It was his life.

"A machine is discipline," he said. "A machine is uniformity. A machine is regularity. A precinct captain came to me and said he could not support the party's man. I said, fine, Harry. You're no longer part of the organization.

"And then I went into his precinct personally and I campaigned. And I beat him. That was a lesson. A lesson to all the others."

In 1936, Arvey delivered his ward for the Democratic Party by a vote of 29,000 to 700. Franklin Roosevelt came to Chicago to shake his hand. Loyalty.

"It's a funny thing," Arvey said. "I got into all this by working for an independent. It was 1914 and I was working for a guy named William J. Lindsay and he was an independent. Can you imagine that?

"Did he win? I just told you he ran against the machine. Of course he didn't win. But when I got in, when I advanced in the organization, this man was taken care of.

"This man died a judge." Loyalty.

Marshall Korshak, himself a machine stalwart for 43 years, himself in control once of thousands of patronage jobs, knew, loved and understood Jacob Arvey. "What can I tell you?" said Korshak. "Can I tell you he never even felt the kind of power he had? Can I tell you that nobody in the history of the Democratic Party did what Arvey did? Can I tell you that the party was his life? His life. He lived and breathed it. And no one left it with more friends, no one left it loved by more people."

Arvey left his formal ties with party control in 1972. He continued in private law

practice after that but spent most of his time raising money for various charities.

"I lost a friend once," he told me. "We were at a fund raiser. This man was a big man, a golf partner of mine. He pledged a thousand dollars. He looked around for praise.

"I told him: 'See that waiter. He pledged $50. That fifty means more, is greater than your thousand.' That man never spoke to me again. So I lost a friend."

Arvey shook his head. The interview was over. But Arvey wanted to say one more thing. One more thing to sum up what politics and the organization meant to him.

"I will tell you something," he said. "I am not a strictly religious man, this I know. But my life has been guided by what I learned at a Yom Kippur service.

"No, no. You cannot print it. This is too corny. Not while I'm alive. Wait. Wait until I am gone," he said with a smile.

"You tell them what I learned from Isaiah. That you do not please the Lord by wearing sackcloth and ashes and by showing grief.

"You please the Lord by feeding the hungry and clothing the naked and doing justice to your fellow man. When I am gone, you tell them that this quote explains Jacob Arvey."

Jacob Arvey was buried Friday.

PANAMA CANAL TREATY AND COMMUNIST INFLUENCE IN PANAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in an address in the CONGRESSIONAL RECORD of September 7, 1977, page 28046, I quoted an article by Allan C. Brownfeld, a well informed and perceptive Washington columnist, on the timely subject, "Canal Should Not Be Given away."

Columnist Brownfeld has now followed with another timely article on the growth of Communist influence in Panama and its relation to the proposed new Panama Canal Treaties, citing the chief Panamanian negotiator, Dr. Romulo Escobar Bethancourt. The effect of the article is to warn of the utmost necessity for retention by the United States of its undiluted sovereignty over the Canal Zone.

Because the latest article by Mr. Brownfeld provides useful documentation in the current canal discussions, I quote it as part of my remarks:

THE CANAL TREATY AND THE GROWTH OF COMMUNIST INFLUENCE IN PANAMA

(By Allan C. Brownfeld)

One argument presented by President Carter for ratification of the treaties which would transfer control of the Panama Canal and the Canal Zone to the government of Panama is that if this is not done rioting and guerrilla warfare will ensue—that if it is not done, the Canal will cease to be secure.

The implication, of course, is that if the Senate does ratify the treaties, the Canal will be secure. This, however, is not an obvious by-product of such an action. The unfortunate fact is that the Panamanian government is not only a dictatorship but is, in addition, one in which Communist influence is widespread. This aspect of the debate has thus far been muted. It is time that it took center stage.

A lengthy document prepared by responsible attorneys in the Canal Zone has been submitted to U.S. congressional staff members. This document declares that, "The Panamanian Communist Party . . . is firmly in control of Panama. Transformation to a socialist state is still incomplete. The final steps in the process must await a treaty. The Communists are a little incredulous of their own success. In order to make the revolution truly irreversible, they have to stop up some of the leaks in their control of the news, mails, radio and television, phone calls, meetings of people, etc. This requires that they obtain effective sovereignty over the Canal Zone and that they attempt to eliminate U.S. bases. As long as the Zone bases remain, it is like a sword which threatens their permanency."

According to this document, the chief Panamanian negotiator, of the Canal treaties, Romulo Escobar Bethancourt, is "an avowed Communist . . . Che Guevara was his house guest during a Panama visit. Bethancourt is a personal adviser to Torrijos."

Much of Bethancourt's pro-Communist record is presented in the document submitted to Congress. Included is a newspaper report that Escobar is a great admirer of North Korea's Kim Il Sung. Indeed, when liberal columnist Charles Bartlett traveled to Panama in late February, he returned to write that, "Too many of the regime's key figures, including some principal negotiators, are committed to the hard left. . . . Torrijos' chief adviser, Escobar Bethancourt, turns up in such curious roles as head of the Panama-North Korea Association."

On August 9, the Star and Herald, an English language newspaper in Panama, quoted a newspaper reporter asking General Torrijos whether or not he was a Communist. At that point, Escobar cut off Torrijos and answered for the general. "Look here," said Escobar, "we could answer negatively, but what happens is that we do not like to say no because we do not accept someone to self-appoint himself into an inquisitor into one's personality. . . . Each individual has the right to choose the political ideology he likes and to act in politics as he chooses."

Interestingly, in July, at the very moment when U.S. and Panamanian negotiators were conferring, the Soviet Union—which does not even have diplomatic relations with Panama—was in the process of negotiating a potentially major trade and economic agreement with the Panamanian government. This deal, which involves the Soviet purchase of Panama's surplus crude sugar at a price higher than the world market price, could significantly enhance the Soviet presence not only in Panama but in other Latin American countries as well.

While the Canal treaties give the U.S. the right to maintain its military installations in the Canal Zone until December 31, 1999, there is evidence that once the treaties are ratified, the Panamanians would then begin to move toward immediate expulsion of any U.S. presence. In a speech on August 12 to Panamanian students, Escobar strongly suggested that the Torrijos government would not oppose violent actions by the students to correct what he said were some of the "ugly" features of the new treaties, including the stationing of U.S. military forces in Panama. "There are still theories," Escobar stated, "that we can get more, much more through confrontation. . . . In the past, when we set bombs against our oligarchy, when we challenged the regimes established in our country, we never asked for permission. . . . When one wants confrontation, one puts his knapsack on his back, his bomb at the waist and goes to stage the confrontation. . . . If one triumphs, one wins, and if ones does not triumph, one dies."

Prior to Escobar's speech, Robert Gomez, secretary general of the Federation of Panamanian Students, told his audience that while the treaties "resolve part of the problem . . . much remains to be done to totally eliminate the last symbol of the overwhelming presence of U.S. imperialism . . . Contrary to what many think, the new agreement will not, and cannot, signal the end of the process or of the struggle for national liberation . . ."

Thus, while President Carter tells us the treaties will make the Canal secure, Panamanian voices repeatedly tell us that the treaties are only the beginning. Roger Fontaine, director of Latin American Studies at the Center for Strategic and International Affairs at Georgetown University, expressed the view that when the Panamanian police control the Canal Zone—which will occur within three years of ratification—the Panamanians "will encourage us to leave the Zone as soon as possible."

Communist influence and stated Panamanian desire for the U.S. to leave immediately should cause the Senate to carefully consider the merits of President Carter's arguments in favor of ratification. These arguments, by any objective standard, seem wanting.

OPPOSITION TO KILDEE AMENDMENT TO H.R. 6693

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, I wish to state my reasons for opposing Mr. KILDEE's amendment to H.R. 6693.

Three days ago, the Subcommittee on Crime, which I chair, of the Committee on the Judiciary, completed hearings on a number of bills that would amend title 18 of the United States Code, the Criminal Code, to provide punishments for the use of children in the production of photos, films, and other materials depicting explicit sexual conduct. The subcommittee has scheduled markup on these bills for September 26, and Judiciary Committee action is expected on September 29.

One of the bills we have been considering, H.R. 3913, by Mr. KILDEE, is identical to H.R. 4571, also by Mr. KILDEE, which has been considered by the Select Education Subcommittee of the Education and Labor Committee, except that rather than amending the Criminal Code, that bill would amend the Child Abuse Prevention and Treatment Act by adding criminal sanctions identical to those provided in H.R. 3913.

A modified version of H.R. 4571 is expected to reach the floor of the House next week, possibly as early as Monday, in the form of an amendment by Mr. KILDEE to H.R. 6693, which extends the authorization of the Child Abuse Prevention and Treatment Act. H.R. 6693, which was reported by the Education and Labor Committee on September 19, will probably be considered under a suspension of the rules.

My concerns are twofold. Mr. KILDEE's amendment to H.R. 6693, like H.R. 3913 which my subcommittee has been considering, is, in its entirety, a proposed criminal statute. In the interest of integrity and consistence of our system of codification of our laws, it properly belongs in title 18, the Criminal Code, rather than in the Child Abuse Prevention and Treatment Act. Furthermore, it is my view that such an amendment of our criminal laws should not be approved by the House until the Judiciary Committee has had an opportunity to complete its consideration of the matter. This is particularly true when, as now, Judici-

ary Committee action is imminent. I have discussed this matter with Chairman RODINO, and he shares my view in this regard.

Second, our consideration of H.R. 3913, which, as noted above, is virtually identical to the amendment that Mr. KILDEE has offered to H.R. 6693, raised critical questions concerning the constitutionality of some of the major provisions of the proposal. The legal experts who raised these questions, which included witnesses from the Department of Justice, had serious reservations about the constitutionality of provisions which authorize the prosecution of distributors and sellers of printed materials depicting actual or simulated sexual conduct involving children without a requirement that the materials be proven to be obscene. I might add that it was precisely because of these constitutional questions that the Senate Judiciary Committee decided to delete such provisions from the bill they reported on this subject recently, S. 1585.

Final action on this matter by the Subcommittee on Crime and the Committee on the Judiciary, the appropriate bodies to report to the House on the matter, will be complete in a few days. I urge you to oppose the Kildee amendment to H.R. 6693, so that we may complete our work on this important matter; and, if the House and the Senate approve their respective Judiciary Committee bills, represent the House in conference with the Senate.

INLAND WATERWAY TOLLS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, in the near future, this House will have the opportunity to consider the Navigation Development Act, H.R. 8309. This legislation will have a tremendous impact on the transportation of water-borne commerce of this Nation. For the first time in our history, the Federal Government would be authorized to assess and collect a fuel tax on inland waterway users.

Because I have the privilege of representing the second largest port in the Nation which serves as the crossroads of America's inland waterway system, I am keenly aware of the economic impacts which will accompany the imposition of this tax.

The port of New Orleans, due to its geographical location near the mouth of the Mississippi River and astride the Gulf Intercoastal Waterway, services the great midcontinent region of North America. Historically, it has gathered the products of mid-America and shipped them overseas in deep draft bottoms and in return, distributed the products from overseas to the industries and cities of the midcontinent.

At the very least, we can all agree that the Mississippi River—with its tributaries—is the jugular vein of American commerce. In order to put the Mississippi River system into perspective, let us look at some statistics. The U.S. port industry experienced "gross return on total lion tons of commerce annually. The total tonnage of commerce moved on inland waterways is approximately 600 million tons annually. The net inland traffic on the main channels and all tributaries of the Mississippi, Illinois, Missouri, and Ohio Rivers is 300 million tons annually. Any action that could possibly imperil this vital artery must be approached with the greatest caution.

Last August, the Department of Transportation circulated to congressional offices a "Fact Sheet on Waterway Users Fees." After reviewing this paper, I became concerned that it contained considerable misinformation and omitted several important facts. I asked the National Waterways Conference for an analysis of the DOT statement. The conference is composed of some 500 waterway-related businesses, industries, and related organizations such as waterway carriers, river valley associations, labor unions, port authorities, and various governmental entities. The businesses represented include those involved in the shipping and receiving of agricultural products, coal, fertilizers, chemicals, petroleum, building materials, iron and steel, and other commodities, as well as manufacturers of equipment and consumer goods.

Mr. Speaker, the evaluation prepared by the conference is quite enlightening. So that I may share its contents with my colleagues, I ask unanimous consent to insert it in the RECORD at this point:

AN EVALUATION AND REBUTTAL OF THE DEPARTMENT OF TRANSPORTATION'S "FACT SHEET ON WATERWAY USER FEES"

At the outset, the "fact sheet" asserts that "every Administration since Franklin Roosevelt's has favored imposition of waterway user fees." According to the Congressional Research Service, President Roosevelt's interest in waterway user fees was expressed in statements suggesting user fees not on inland rivers, but on pleasure craft and coastal shipping. Presidents Truman, Eisenhower and Kennedy alluded to the revenue potential of user fees in budget messages, but it was not until the mid-1960s that any President formally recommended waterway user charge legislation—and in that instance it was proposed to levy a 2¢-a-gallon tax on diesel fuel. Not until this year has any Administration contemplated user charges at or near cost-recovery levels.

Numerous other assertions by D.O.T. which should have been based on more objective analysis merit a closer look.

WATERWAY SYSTEM'S USERS "SHOULD PAY THEIR FAIR SHARE OF ITS COST."—D.O.T.

To D.O.T., "fair share" must mean recovery of 100 percent of Federal expenditures for operation and maintenance of the shallow-draft inland waterways system and 50 percent of new construction costs—the equivalent, according to Transportation Secy. Brock Adams, of a 42¢-a-gallon tax on diesel fuel. These waterways were improved for navigation (and other purposes) only after elaborate economic and social well being analyses determined that public benefits would far exceed the cost to the government. Now the long-accepted benefit-cost comparisons would be cast aside. Widespread benefits notwithstanding, institution of cost-recovery user charges would shift waterway costs almost entirely to the industrial and agricultural users of the system. One cannot help but ask how the public benefits so carefully analyzed in pre-construction studies would suddenly become "private gains" to be recouped through user charges.

Nor should it be forgotten that the Federal government provided exclusive rights-of-way and land grants to U.S. railroads totalling 209,849 square miles—and then, years later, accepted the railroads' contention that the grants had been repaid through reduced rates for Government freight. Contrasted with the monopolistic nature of the rail industry, barge and towing operators compete fiercely on the inland waterways. As recently as 1972, barge rates were lower than during World War II. If D.O.T. accepts the railroads' claim that rights-of-way subsidies were repaid, then the case can be made that the Federal investment in waterways rights-of-way has been repaid through reduced rates to everybody.

WATERWAY EXPENDITURES TOTAL "NEARLY $1 BILLION PER YEAR," D.O.T. CLAIMS

In its handout, D.O.T. states that the "Federal government spends nearly $1 billion per year in Corps of Engineers and Coast Guard inland and coastal waterway expenses." This is probably true. But D.O.T. fails to mention that more than one-half of the total Federal waterway expenditures are for the Great Lakes, ocean harbors and deep-draft connecting channels—all of which are exempted from both the pending House and Senate user charge bills—or for the U.S. Coast Guard. And neither bill attempts to recover Coast Guard expenditures.

In fiscal year 1976, the Army Corps of Engineers reported total shallow-draft inland waterway costs of approximately $380 million. Senate-passed H.R. 5885 would recover an estimated $260 million annually when fully implemented. The actual figures pale D.O.T.'s dramatic (but unjustified) use of the $1 billion inland waterway "price tag."

EFFECT OF USER FEES ON COMMODITY PRICES

When cost-recovery user fees are shown as a portion of the total cost per gallon, per bushel, per ton, etc., it appears small. But in the aggregate, it is substantial. D.O.T. has resorted to a kind of it'll-cost-only-pennies-a-day salesmanship that is misleading in import and is inappropriate as economic analysis. Since inland waterways freight is typically bulk or raw materials subject to mutliple manufacturing and distribution stages before consumption, according to an Ernst and Ernst study completed for the U.S. Maritime Administration in January 1977, "total cost to final consumers from the imposition of user charges may exceed the total amount collected by the government because of several pass-through effects."

A significant exception is export grain, which is set at a world price exclusive of farm-to-coast transportation costs borne by the producer and not, as D.O.T. suggests as an example, the Soviet Union.

Overall, agricultural and agriculture-related products account for approximately 11 percent of inland waterway shipments. The importance of inland waterway transportation to the farm economy is especially revealing on the Mississippi River. Approximately 80 percent of all grain moving down the Mississippi is bound for export. And in 1974, soybeans, grain and fertilizer accounted for 48 percent of all traffic moving through Locks and Dam 26. The U.S. Department of Agriculture reports the average length of a grain haul is 1,129.8 miles per ton, compared with 731.9 miles for iron and steel, and 293.7 miles for coal. So the share of user charges apportioned to agriculture, which is probably the most heavily subsidized segment of the American economy, would be substantial.

HOW WOULD USER FEES AFFECT WATERWAY OPERATORS?

D.O.T. asserts that for the years 1973–1975 the inland waterways transportation industry handles approximately 1.8 bil-

capitalization" averaging 15.2 percent. This figure appears arbitrary and is not substantiated in the D.O.T. paper. The only documented earnings reports available are filed with the Interstate Commerce Commission which regulates carriers moving only about 10 percent of inland waterway commerce. The remaining 90 percent of commerce is highly competitive, as reflected by a significant number of bankruptcies annually by smaller operators.

A Congressional Budget Office report of April 14, 1977, confirmed that most bargelines are relatively small. "In 1970, for example, 76 percent of the 1,850 firms had fewer than nine vessels." C.B.O. said it was therefore "likely that the industry is characterized by a workable level of competition" and that this intense competition resulted in "rates reasonably close to costs so that profits would not be excessive."

In a Maritime Administration-sponsored study, A. T. Kearney Management Consultants attempted to show a financial profile of the barge industry. The profile—based on a sample survey of only 16 carriers—showed net earnings of 6.6 percent. Interestingly, a Congressional Research Service report on energy transportation in May 1977 (Publication No. 95–15) recognized that Eastern railroad bankruptcies have distorted rail earnings figures. "Without the Penn Central," the report noted, "the other 14 major coal-carrying railroads would have earned a weighted average net income of 7.6 percent" in 1975.

While railroads continually plead financial distress in their representations to the Congress, that is not the story on Wall Street. Railroads out-performed Standard & Poor's index of 400 industrial stocks in the first half of 1977. And, rail stock has increased 40 percent during the 18-month period in which industrials gained only 10 percent.

EFFECT OF USER FEES ON CONSUMERS

The ripple effect of transportation costs into final consumer prices has already been noted. However, D.O.T. brings in another factor when it describes cost-recovery inland waterway user fees as a panacea for "serious economic dislocations, primarily for other transportation modes." Presumably, D.O.T. refers to the Association of American Railroads' contention that railroads could realize between $500 million and $750 million in additional revenue annually if they could increase rates without the threat of shippers turning to more cost-efficient inland waterway transportation.

D.O.T.'s suggestion that imposition of cost-recovery user fees and the resulting windfall for railroads would lead to lower transportation costs is, to be charitable, too fatuous an assertion to merit rebuttal. Worse yet, to associate imposition of cost-recovery user fees with a corresponding "reduction in the Federal tax burden on taxpayers" (i.e., a tax cut), is a misstatement which reflects no honor on the part of an Administration which professes to be guided by openness and candor.

WHAT DOES THE WATERWAY SYSTEM COST TAXPAYERS?

D.O.T. contends that the cost of "new inland projects finished in the last decade, those under construction, and those authorized and awaiting initiation totals $9.8 billion." This is totally unrealistic, and apparently includes project authorizations dating back to the World War II era, hundreds of which have been halted or deauthorized in recent months. According to the Corps of Engineers, Federal expenditures for operation, maintenance and construction on shallow-draft waterways totals approximately $5 billion—and that's since 1824.

Furthermore, Federal outlays on the shallow-draft waterways have been declining, both as a portion of the Federal budget and in terms of uninflated dollars. For each $10 of Federal expenditure in 1960, 2¼ cents was expended on shallow-draft waterways, whereas in 1975, only 1¼ cents was so expended. Stated in dollars in 1961 purchasing power, the Federal government spent $220 million on the shallow-draft waterways in 1961, but only $183 million in 1975. Meanwhile, reflecting economic expansion, the ton-miles of freight carried on the system more than doubled during the same period.

HOW DO FEDERAL WATERWAY SUBSIDIES COMPARE TO THOSE OF OTHER MODES?

D.O.T. refers to a Congressional Budget Office comparison of Federal subsidies to various transportation modes in which Federal expenditures are shown as a percentage of freight revenues for those modes. Thus, the C.B.O. methodology determined that the inland waterway subsidy is almost 14 times greater than the railroad freight subsidy. Not only did the C.B.O. report exclude vast amounts of direct and indirect aid (tax subsidies, incentives and subsidy-effect programs) to railroads, but the methodology is misleading because it invariably reflects a lower relative subsidy for the more profitable means of transportation and the one that generates the most revenue.

The inadequacy of such reasoning was demonstrated by Sen. John Danforth during Senate debate on H.R. 5885 on June 22, 1977. Sen. Danforth said, "Supposing I have $1 in my pocket and Sen. Stevenson has $20 in his pocket, and the Senator from New Mexico (Sen. Domenici) gives each of us $1. The Senator from New Mexico has given me 100 percent of what I had but is giving Sen. Stevenson 5 percent of what he had."

ENERGY EFFICIENCY

D.O.T.'s fact sheet claims that estimates of barge fuel consumption range from 500 to 700 BTU's per ton-mile while estimates for railroads run from 400 to 700 BTU's per ton-mile. To say the least, D.O.T. has been selective in utilizing available estimates. D.O.T. even overlooked its own study, compiled for the agency by Peat Marwick Mitchell Company in July 1976, showing water transportation requires 272 BTU's per ton-mile while rails consume 687 BTU's. The most recent study, completed by the Aerospace Corporation for the U.S. Energy Research and Development Administration in March 1977, puts the figure at 379 BTU's per ton-mile for inland waterways vs. 687 BTU's rail.

Appropriately enough, D.O.T. notes that rivers don't run in straight lines. But there are no hills or mountains on waterways—and there are a lot of bends in rail lines, too.

BENEFITS OF USER FEES FOR TAXPAYERS

D.O.T. gloats over "waterway overbuilding and gold-plating" without any attempt to substantiate the allegation. What do they know? D.O.T. is a Federal agency concerned almost exclusively with mass transit, highway and rail transportation. Enactment of cost-recovery inland waterway user charges as proposed by Senate-passed H.R. 5885 would give D.O.T. unprecedented authority to arbitrarily assess user charges on a mode which would still have no administrative, promotional, or policy-making representation within the agency. D.O.T., of course, strongly backs the Senate bill.

As a matter of fact, the inland waterway transportation industry does not oppose a low-level tax on diesel fuel used commercially on the shallow-draft waterways. Industry spokesmen have repeatedly voiced concern over attempts, such as the one espoused by D.O.T., to commit future taxation levels to full cost recovery. No other major Federal programs are subjected to such conditions. Waterways spokesmen say they are not only concerned about the impact of cost-recovery user fees or taxes on their own transportation mode, but on national policy considerations of the highest priority as well. These include adequacy and security of energy supply, the solvency and competitive position of U.S. industry and farming in world markets, stability and magnitude of job opportunity, economical access of growing urban populations to the products of distant farms and mines, relief of regional stagnation, and restraint of inflation.

HOW THOROUGHLY HAVE USER FEES BEEN STUDIED?

D.O.T. claims that 15 or more studies of user fees since 1939 have resulted in "practically all" favoring imposition of user fees. Therefore, the reasoning goes, new studies are not needed. However, most of those studies were perfunctory or theoretical—and at least half concluded that any inland waterway user charges imposition should be accompanied by railroad rate reform to prevent selective and predatory rate cutting. Among them was the National Water Commission report of 1973. It stated: "Any legislation requiring the payment of waterway user charges should also authorize and direct the Federal transportation regulatory agencies to regulate rates for all competing modes of transportation in such a way as to encourage the use of the waterways for any traffic that can move by that mode at the least economic cost to the Nation."

A more recent report, prepared by CACI, Incorporated, for the Office of the Chief of Engineers entitled "Potential Impacts of Selected Inland Waterway User Charges," warned of the uncertain impacts of cost-recovery legislation. The report concluded, "Before any user charges is implemented, a comprehensive impact study should examine the complete array of user charges mechanisms, implementation options, and economic impacts. Especially important are sensitivity analyses and estimates of cumulative impacts through time."

In considering H.R. 8309, we must bear in mind that it will impact on both the industrialized and the agricultural regions of America, and that our national economy depends on the continued viability of our basic shipping activity. As a matter of fact, our international trade posture, as well as our domestic economy, is directly affected by our water transportation system. Need I remind anyone that every additional billion dollars realized from export sales generates 50,000 additional jobs here at home?

The future of the Mississippi Valley looks very bright. In mid-America we have the finest river system in the world. We must continue to modernize our waterways and keep our low costs of transportation working to our advantage in order to keep this system viable.

CRUDE OIL PRICING AMENDMENTS OF 1977 (H.R. 9272)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, now that the National Energy Act (H.R. 8444) has been passed by the House, it is appropriate for the House to commence reexamination of U.S. crude oil pricing policy. Experience indicates that this may be a long and difficult process because of the inherently controversial nature of the issue.

For example, development of the Nation's present crude oil pricing system consumed nearly the entirety of the 1st

session of the 94th Congress. I believe it would be advantageous for the House to begin, at an early time, consideration of alternative crude oil pricing policies to replace the present composite price system. Hopefully, modification of the composite price system may then proceed in an atmosphere not clouded by the pressures of imminent expiration of existing controls.

For these reasons, I have today introduced legislation addressing the central issues of crude oil pricing policy. It is my hope that this legislation will help focus the debate regarding crude oil pricing policy. Although at this time no hearings are scheduled on this issue, the early introduction of this legislation should permit interested parties to develop views and recommendations regarding the proposals contained in the legislation prior to commencement of any future hearings in the House on this subject.

The Energy Policy and Conservation Act established a compromise crude oil pricing policy based upon a "composite" price system. The purpose of this compromise was to balance economic and energy concerns—moderating price increases so that economic recovery was not threatened by further energy price shocks after those experienced following the Arab oil embargo of 1973, while providing price certainty and price stability as an incentive to encourage expanded domestic crude oil production. Implementation of the composite price mechanism, however, has been characterized by a series of price freezes and rollbacks. As a result, the composite price system has failed to achieve the energy policy objectives of the Energy Policy and Conservation Act—EPCA. Indeed, neither the expectations of oil producers, nor the intention of the EPCA conferees, have been realized by the composite price system as administered by the Federal Energy Administration.

The legislation I have introduced seeks to bring to crude oil pricing policy the certainty and stability sought by the EPCA conferees while fulfilling the reasonable price expectations of crude oil producers regarding the level of crude oil prices following enactment of EPCA.

There follows a summary section-by-section analysis of the provisions of the bill; and an analysis of price effects of the legislation.

SUMMARY SECTION-BY-SECTION ANALYSIS OF CRUDE OIL PRICING AMENDMENTS OF 1977

Section 2 of the bill reviews the history of crude oil pricing policy since 1975, focusing on implementation of the composite price system established in EPCA. These findings point out the need for legislation to achieve the objectives of EPCA.

Section 3 amends section 8 of the Emergency Petroleum Allocation Act of 1973, the crude oil pricing policy section. The new section 8 sets forth mandatory statutory ceiling prices for "old oil", "new oil", and "newly discovered oil" as a substitute for the composite price system.

Subsection (a) of the new EPAA section 8 requires amendment of EPAA crude oil pricing rules effective the beginning of the second full calendar month following enactment of the legislation.

Subsection (b) sets forth the statutory price ceilings for old oil. The ceiling price is based upon $5.25 per barrel adjusted to reflect inflation, as measured by the GNP deflator, experienced between February 1976 and date of enactment.

Similarly, subsection (c) sets forth the statutory price ceilings for new crude oil. The ceiling price is based upon $11.28 per barrel adjusted to reflect inflation, as measured by the GNP deflator, experienced between February 1976 and date of enactment.

The purposes of these ceiling prices are to implement the reasonable expectations of the Congress when it adopted the composite price system of EPCA.

Subsection (d) assures that these initial ceiling prices will be prospectively adjusted upward at the general rate of inflation, again as measured by the GNP deflator, or at a rate of 6 percent per year, whichever is greater. This mechanism is not subject to the uncertainties presented by the composite price system. The guarantee of a 6 percent minimum annual increase in ceiling prices reflects the policy set forth in ECPA, i.e., real dollar growth is permitted during times of reduced inflation but only real dollar parity is maintained during sensitive periods of increased inflation.

Subsecton (e) sets forth the ceiling prices for "newly discovered oil". These ceilings commence at the initial level of upper tier oil and increase to the world market level over a 36 month period. Thereafter, the price ceilings would not present a constraint on newly discovered oil prices since the ceiling would be at the world market level.

Subsection (f) exempts stripper well production from Federal price ceilings.

Subsection (g) sets forth the definitions of terms used in the section. The terms "old crude oil," "new crude oil", and "stripper well property" are defined by reference to FEA price regulations. The definition of the term "newly discovered crude oil" parallels the definition of the term "new natural gas" in the National Energy Act (H.R. 8444) as passed by the House. The reference to the FEA definition of "old oil" incorporates FEA's crude oil production decline rate. This will result in a gradual phaseout of old oil ceiling prices as the remaining old oil is converted to upper tier production. This result is identical to existing law under FEA regulations.

Section 4 of the legislation amends section 18 of the EPAA. Section 18, as amended, provides for conversion of the mandatory aspects of the EPAA, respecting residual fuel oil and refined petroleum products, to discretionary authority after May 1979. It should be noted that the crude oil pricing requirements of section 8 of the EPAA are not affected by this conversion section. As a result, the pricing policies of section 8 of the EPAA are made permanent law.

Section 5 of the legislation adds a new section to the EPAA. This section sets forth discretionary authority to grant special price relief for high risk and high cost production, including that produced through application of tertiary enhanced recovery techniques. This section permits the establishment of ceiling prices higher than those required by section 8 of the EPAA for old oil, new oil, and newly discovered oil. These higher prices must be necessary to create reasonable incentives for investment in these high cost and high risk categories of crude oil production. In addition, a finding must be made that the higher prices will not significantly add to inflation, create significant additional unemployment, or significantly retard real GNP growth. These findings, supported by detailed analysis, must be transmitted to Congress before the higher prices may become effective. Importantly, this authority is not limited by a composite price limitation. However, the higher prices may not be applied to more than 5 percent of aggregate domestic crude oil production.

Because of the breadth of this special pricing authority, including the absence of any composite price limitation, some political check against abuse is necessary. Therefore, this authority is vested in the Federal Energy Regulatory Commission and the findings are judicially reviewable under a substantial evidence test.

ANALYSIS OF PRICE EFFECTS OF CRUDE OIL PRICING AMENDMENTS OF 1977

BACKGROUND

The Crude Oil Pricing Amendments of 1977 would set the price of upper and lower tier crude oil at levels that would have been realized if FEA had initially established ceiling prices for lower tier and upper tier oil at $5.25/bbl and $11.28/bbl in February 1976, and then escalated those prices at the rate of inflation as measured by increases in the GNP deflator. Lower tier prices have been frozen at $5.17/bbl since July 1976. Upper tier prices were also frozen in July 1976 at $11.60/bbl, and were subsequently rolled back in March 1977 to $10.97/bbl. FEA has, by rule, permitted resumption of crude price increases after determining that excess producer receipts have been fully recovered as of August 1977. Prices are scheduled to increase at the current rate of inflation (7.1% as published on August 20, 1977) during September, October, and November. The starting point for escalation is the price in June 1976, the last month before the period of price freezes and downward adjustments. Prices in June 1976 were $5.17 and $11.60 for lower tier and upper tier crude oil, respectively. To avoid a sudden jump in upper tier prices from $10.99 to $11.60 in September, the adjustment will be phased according to the following schedule: September—$11.23; October—$11.49; November—$11.75.

After November 1977, the upper tier price will increase with inflation.

The attached chart provides year-end prices and estimated volumes of lower tier and upper tier crude oil assuming a continuation of current Administration policy. Prices are in nominal dollars assuming a 6% annual inflation rate.

PROPOSED AMENDMENT

The proposed amendment would result in higher prices for lower tier and upper tier crude oil. Whereas, under the Administration's policy, producers would forego experienced inflation adjustments for the period July 1976 through August 1977, these adjustments would be restored under the proposed amendment. Year-end prices for lower tier and upper tier crude oil are also given in the attached chart, along with average prices. The difference between the two policies is $.52/bbl at year-end 1977. This grows to $.56/bbl at year-end 1978. During calendar year 1978, the increase in producer revenues is approximately $1.35 billion. Increased producer revenues would rise to $1.76 billion in calendar year 1981.

The proposed amendment would raise producer revenues, which are presently approximately $25 billion per year, by 5–7 per cent. Total consumer costs of petroleum products would increase by 1.5% from the current level of about $100 billion per year. The cost of the proposed amendment would be .7 to .8 cents per gallon increase in the price of refined products.

These figures contrast with the cost of decontrol in 1981 of between $12 and $14 billion, which is the estimated level of annual receipts under the Crude Oil Equalization Tax. Hence, the proposed Crude Oil Pricing Amendments of 1977 would increase producer revenues by the equivalent of a 10–11 per cent plowback in the Crude Oil Equalization Tax.

Date	Current administration policy: Lower tier price (per barrel)	Upper tier price	Lower tier fraction	Daily volume [1] (MMBD)	Average price	Proposed pricing policy: Lower tier price	Upper tier price	Lower tier fraction	Daily volume [1]	Average price	Per barrel difference	Annual consumer cost (billions)
Jan. 1, 1978	$5.26	$11.81	0.55	6.72	$8.21	$5.75	$12.38	0.55	6.72	$8.73	$0.52	----------
Dec. 31, 1978	5.58	12.52	.49	6.95	9.12	6.10	13.12	.49	6.95	9.68	.56	$1.35
Dec. 31, 1979	5.91	13.27	.43	7.05	10.11	6.46	13.91	.43	7.05	10.71	.60	1.48
Dec. 31, 1980	6.26	14.07	.37	7.15	11.18	6.85	14.74	.37	7.15	11.82	.64	1.61
Dec. 31, 1981	6.64	14.91	.31	7.25	12.35	7.26	15.63	.31	7.25	13.04	.69	1.76

[1] Upper and lower tier volumes only; excludes stripper, tertiary, Alaskan North Slope, and "new new" oil.

PROBLEMS WITH OFF-BOARD SECURITIES TRADING RULES BEING PROPOSED BY THE SEC

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, I have followed with interest the Securities and Exchange Commission's recently concluded hearings on off-board trading restrictions and am concerned that precipitous action by the SEC on this front might cause irreparable harm to our securities market. I am particularly concerned about the possible impact on the small investor if off-board trading rules are rescinded before a national market system is in place.

The individual is still the backbone of the American capital system. Yet, the SEC's contemplated action would devastate public confidence in our capital markets. The New York Times recently expressed its distress with this situation. So that my colleagues may have the benefit of their comments, I insert the September 19 editorial in its entirety at this point:

PLAYING CHICKEN AMONG THE BULLS AND BEARS

The Securities and Exchange Commission wants to foster a freely competitive national marketplace. It has decreed, therefore, that as of Jan. 1, 1978, members of the New York Stock Exchange do not have to take stock sale and purchase orders to the exchange floor. They can trade stocks in their own offices, on street corners, or anywhere else. The commission hoped, by this action, to induce the various stock exchanges and securities associations to create a national electronic system which would display instantly every offer to buy and sell. The stock exchanges say their progress in setting up such a system is slow because there has been no leadership from the S.E.C. to design the system it wants.

So it is now dawning on all parties that on Jan. 2 the trading of securities is likely to fragment into minimarkets, with some loss of continuity and flexibility. The large, well-capitalized brokerage firms will use their resources to build inventories of stocks, so that they can match buy and sell orders in their offices. The 25 largest New York Stock Exchange firms already possess almost two-thirds of the capital and handle two-thirds of the gross revenues of the 378 member firms. The trend toward merger and concentration would be accelerated by the dispersal of trading, since the larger firms would pick up most of the business that leaves the floor of the exchange. The S.E.C. heard testimony that half of the New York Stock Exchange volume might leave in the first year, 90 percent in the second year, and within three years the exchange might be out of business. Even Merrill Lynch, the largest firm and likely to be the biggest beneficiary of the change, warns that the confusion of fragmented markets could drive small investors and small institutions completely out of the marketplace.

Historically, the securities industry has resisted change, and greeted each reform proposal as a threat to capitalism. But the reformers, in their zeal for pure competition, seem sometimes to forget that the existing system does function efficiently. In its current effort to force greater competition, the S.E.C. has whetted the appetites of the large firms, frightened the small ones, and confused the interested public.

All parties agree that a national electronic marketplace, open to brokers everywhere, is a plausible and workable idea. And Wall Street, by and large, has accepted the end of the quasi-monopoly of its exchanges. But the electronic market does not now exist and is not likely to come into being in the next 90 days. The threat of dispersed and unlimited trading may have been a useful prod by the regulators. But carrying out the threat will risk damaging America's capital markets. Their efficient functioning is too important to the economy to permit this game of "chicken" to persist between the securities industry and its regulators. It is time to get on with the transition to an electronic market system that is both open and orderly.

OUR NONSOLUTION FOR NUCLEAR WASTE

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, Saturday's edition of the Washington Star carried an exceptional article on nuclear waste, written by Richard Strout for the TRB column in the New Republic. The focus of the article is nuclear waste, with the material drawn in large measure from hearings held recently by our colleague, the gentleman from California, LEO RYAN.

As the article aptly points out, our creation of nuclear waste by continued reliance on nuclear power—not to mention the wastes from our atomic weapons program—involves the most cavalier disregard of future generations. Hundreds of thousands of years is required before nature will render our nuclear wastes harmless.

The cost of trying to do something about our existing nuclear waste dumps now has been estimated as likely to cost up to $60 billion, with individual facilities, such as that at West Valley, N.Y., likely to cost more than $600 million to decommission. The latter figure, as the gentleman from California pointed out, means a cost of $1 per gallon of high level nuclear waste.

The answer is not increased reliance on nuclear energy, nor is it breeder reactors, whose promoters are wont to claim that breeders will decrease the amount of waste because of their breeding. They, of course, also create plutonium, that most toxic substance of all.

The answer, instead, lies in a future with serious energy conservation and production of energy from renewable—and benign—resources.

I commend the TRB article to all of my colleagues.

OUR NON-SOLUTION FOR NUCLEAR WASTE

At Grand Junction, Colo., they innocently used the tailings from the uranium mill to build homes, schools and public structures. All right, if you don't mind gamma rays. The federal and state governments are helping out with the costs of cleaning it up.

At West Valley, N.Y., the Atomic Energy Commission in 1963 licensed erection of a nice new nuclear reprocessing plant upon condition that the state assume responsibility for perpetual maintenance of wastes. A year ago the contractor company, a subsidiary of Getty Oil, announced that it was tired of it all, abandoning the plant as uneconomical and wishing to turn 600,000 gallons of toxic liquid wastes over to the state. The General Accounting Office says that disposing of the wastes will cost maybe $560 million. Who pays?

At Clinton, Tenn., the operator of a small nuclear facility just walked away from it in 1971. The federal and state governments are sharing the decontamination cost—around $110,000.

Public authorities have been, and are, incredibly careless about their promotion of the immature nuclear power industry. A disbelieving House subcommittee under Rep. Leo J. Ryan, D-Calif., heard testimony on it while everyone else was watching the Lance affair. It was a good show, too, if you kept your indignation under control.

For example, what's the use of worrying about radioactive nuclear wastes? Experts explained that nature would take care of all that toxicity. All you have to do is wait about 500,000 million years. Solemn-faced partisans of the new industry (and we all are partisans—aren't we?—in the energy crisis) said this was a grossly unfair way to approach the matter.

Yes, plutonium 239 takes a long while to decay, but that isn't what's used in the ordinary water-cooled uranium reactor (of which 64 are now operating in the U.S.); for them the time is vastly shorter.

Such a plant has a useful life of around 40 years, Dr. Clifford V. Smith, executive of the Nuclear Regulatory Commission, explained. Then, of course, when it gives out you have to do something with all those radioactive structures, components and systems.

There are several methods of doing this, with different names: mothballing, decontamination, decommissioning. "The most feasible approach," explained Monte Canfield Jr. of the General Accounting Office, "seems to be a combination wherein the reactor is permitted to 'cool down' for 70 to 110 years and is then dismantled."

That's more manageable! One hundred and ten years; that means if the reactor had been decommissioned at the close of the Civil War it would just about "cooled off" by the Carter administration, experts explain. It would have been padlocked and the public protected against its toxicity by "perpetual surveillance" with occasional radiological surveys. (Does it occur to you, gentle reader, that we live in a queer world?) The costs would have been pretty high.

It's only in the last two years that much thought was given to the problem of disposing of nuclear wastes. When you burn coal you throw the clinkers and ashes down a hole, but the stuff left over from a nuclear plant is radioactive. Our casual attitude toward the problem for 30 years might seem incredibly naive in another country, but to a nation that has ravaged a continent it is just American.

Millions of gallons of wastes are in temporary storage facilities, in tanks and cylinders, waiting. More are stockpiled every day. We don't know what to do with the damn stuff.

The government hasn't even kept track of the places where it had nuclear activities. A worried General Accounting Office got out a report in June. "Cleaning up the remains of nuclear facilities—a multibillion dollar problem."

It suddenly occurred to somebody that the spots might still be dangerous. Thus far about 80 sites have been identified; of these the Energy Research and Development Administration guesses that around 40 may require radiation surveys, "and 10 to 15 sites may require remedial action."

The ERDA doesn't think it will cost much but Canfield, director of the energy division of GAO, told the Ryan subcommittee, "It seems probable that the cost to decommission federally owned nuclear facilities will run into billions of dollars." The unresolved waste disposal problem is, in fact, the single greatest threat to the future of nuclear power as Mr. Carter lays his energy plans.

Here are some statistics, prepared by the Comptroller General in a 70-page report on "Nuclear Energy's Dilemma." The government has 21 million gallons of toxic waste "temporarily" stored at Aiken, S.C., and 50 million more in steel tanks at the Hanford facility at Richland, Wash. There's another 3 million at Idaho Fall, Idaho. Then there's 600,000 gallons of high level waste generated from commercial reprocessing activities (that's the stuff at West Valley, N.Y.). And 13 million cubic feet of radioactive solidified waste buried around in five principal spots. More of it is accumulated every day from commercial plants. If these plants increase, as seems likely, 152 million more gallons will be generated by AD 2000, it's estimated. The United States is a-slosh in toxic waste.

I think congressmen were astonished by some of the things they learned. I admit I was. For example, ERDA is supposed to handle waste disposal but has only just started to get up a "report" on storage facilities and doesn't seem likely to have firm recommendations for a year or so. Meanwhile the Carter administration is preparing to export relatively innocent enriched uranium and to receive back spent fuel, making the United States a kind of garbage dump for our friends.

How can anybody know the true cost of nuclear-generated power until the cost of waste disposal is factored in? Congressmen kept asking that.

The ERDA doesn't have the public's confidence, it says, and it's not likely to. Unless it shows it has solutions for problems like storage, and drops "overly optimistic" claims.

SECTION-BY-SECTION ANALYSIS OF AIR SERVICE IMPROVEMENT ACT OF 1977

(Mr. ANDERSON of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, on August 5, 1977, I and five cosponsors, Mr. JOHNSON of California, Mr. RONCALIO, Mr. ERTEL, Mr. FARY, and Mr. MINETA introduced H.R. 8813, the Air Service Improvement Act of 1977.

To assist interested persons in understanding the rather complicated provisions of this bill and their rationale, I am inserting in the RECORD at this time a section-by-section analysis of the bill.

SECTION-BY-SECTION ANALYSIS OF AIR SERVICE IMPROVEMENT ACT OF 1977

SECTION 1. SHORT TITLE

SECTION 2. DECLARATION OF POLICY (DOMESTIC)

I. Existing law

Section 102 of the Federal Aviation Act sets forth the general policy criteria which guide the Board in all its actions. Several of the criteria emphasize the promotion of the industry, and these criteria have been interpreted by the Board to require it to limit competition in order to protect established carriers and promote industry stability.

II. Need for change

The Declaration of Policy should be modified because it underlies many CAB actions which have inhibited additional competition which could have resulted in lower fares or better service to the public.

A number of specific examples of anticompetitive policies are discussed in the text below.

Recently, the Board has been moving in more of a pro-competitive direction. But unless the Declaration of Policy is changed, there is no assurance that the Board will not revert to anti-competitive policies in the future.

The CAB agrees that the Declaration of Policy needs change. At our hearings on regulatory reform in the last Congress the Board testified as follows:

"The existing declaration of policy, conceived and promulgated in 1938, is a reflection of the times in which it was born. Its orientation is toward the development and protection of an infant industry through public utility-type regulation over entry, exit and pricing.

". . . the Board believes that the time has come for the Congress to change the orientation of the Federal Aviation Act . . . by gradually removing the governmental controls over such fundamental management decisions as where carriers can operate (entry, exit) and at what prices . . .

"If Congress agrees, the Board must be given an unambiguous mandate by the Congress. We recommend that this be in the form of a change in the declaration of policy directing the Board to regulate in a manner which will place primary reliance on competition."

III. Changes made by Air Service Improvement Act

a. The Act eliminates or modifies the major anticompetitive criteria of the Federal Aviation Act and adds the following new procompetitive criteria:

"(2) The availability of a variety of adequate, economic, efficient and low-cost services by air carriers without unjust discriminations, undue preferences or advantages or unfair or deceptive practices; and the need to improve relations among and coordinate transportation by air carriers;

"(3) The placement of maximum reliance on competitive market forces and on actual and potential competition to provide the needed air transportation system and to encourage efficient and well-managed carriers to earn adequate profits and attract capital"

"(4) The encouragement of new air carriers;"

SECTION 2. DECLARATION OF POLICY (INTERNATIONAL)

I. Existing law

Section 102 of the Federal Aviation Act contains no explicit recognition of distinctions between domestic and international transportation.

II. Need for change

With the domestic policy criteria being revised in a more competitive direction, there is a need for statutory recognition of the special features of international air transportation which may make it necessary to follow different policies.

III. Changes made by Air Service Improvement Act

The revised Declaration of Policy requires the Board to consider special factors or circumstances affecting an international market, such as the ownership or support of foreign air carriers by their governments, practices followed by foreign governments which restrict the efficiency of U.S. air carriers, and the role which foreign governments play in determining capacity and fares.

SECTION 3. FEDERAL PREEMPTION

I. Existing law

The existing law contains no explicit recognition of Federal preemption of interstate air transportation which prevents the States from regulating interstate air service and fares. However, preemption is implicit in the present Act, and has been recognized by the courts.

Under existing law as interpreted by the courts, it is reasonably clear that the states have no authority to regulate interstate service and fares. However, some states have asserted jurisdiction to regulate intrastate fares charged by interstate carriers. This has led to difficulties. The interstate carriers frequently provide service between two points in a state (e.g., Philadelphia-Pittsburgh, San Francisco-Los Angeles) as part of longer interstate routes. This means that an interstate carrier may be carrying two types of passengers between points in a single state; intrastate passengers whose entire journey is between these points, and interstate passengers who are traveling between two points in the same state and then stopping over or connecting and continuing their journey. In some cases the CAB and the state have reached different results in regulating the fares charged between a pair of points, and as a result, passengers on the same flight traveling between the same points have been charged different fares. The CAB has asserted jurisdiction to remedy this discriminatory practice, but the Board's decision has been appealed to the courts and the outcome is uncertain.

II. Changes made by Air Service Improvement Act

With the passage of legislation such as the Air Service Improvement Act, loosening Federal regulation of airline service and fares, it is possible that some states will enact their own regulatory legislation, imposing restrictive utility-type regulation on interstate airline service and fares. The Air Service Improvement Act includes a specific statutory provision precluding state interference with interstate service and fares. This is not in-

tended to preempt the exercise of normal proprietary functions by airport operators, such as the establishing of curfews and landing fees which are consistent with other requirements in Federal law and do not unduly burden interstate commerce.

It is also desirable to remove the discrimination which arises from conflicting Federal and state regulations governing interstate and intrastate passengers on the same flight. The Air Service Improvement Act accomplishes this by providing that the states may not regulate the intrastate service or fares of interstate carriers. There is one situation in which state authority over intrastate service and fares is preserved. There are now several large intrastate air carriers in Texas, California, and Florida which have pioneered in providing low fare service. Under the Air Service Improvement Act these carriers will be eligible to enter at least one interstate market per year. For a period of time after the carriers begin entering interstate markets they may remain primarily intrastate carriers and it seems appropriate to preserve the states' authority to regulate their intrastate service and fares. The Act provides that so long as carriers which were exclusively intrastate in August 1977 continue to derive more than 50% of their revenues from intrastate operations, the states will continue to regulate their intrastate service and fares.

SECTIONS 4 AND 25.—PROCEDURAL REFORM

I. Existing law

Section 401(c) of the Act requires the Board to dispose of certificate applications as speedily as possible. This would appear to contemplate that the CAB hold a hearing and issue a decision on all applications. However, the Board has administered its docket so that most applications are never even set down for hearing. The Board selects a limited number of applications for a "priority hearing;" the remaining applications generally do not receive any hearing and are eventually dismissed as "stale".

II. Need for change

Under present law, the Board has abused its discretionary power to decide which applications to set for priority hearing. In the early 1970s the Board imposed a "route moratorium" in which it refused to hold hearings on any new route applications. Because there was never a decision on the merits of these applications, the moratorium policy could not be reviewed in the courts. To prevent a route moratorium in the future, it would be desirable to amend the law to require the Board to issue some sort of decision on all applications.

Another difficulty with CAB procedures is the substantial time taken to decide route cases; most proceedings now take 18 months or more to complete.

III. Changes made by Air Service Improvement Act

The Act would require the Board to decide within three months from the date a route application is filed whether to set the application for hearing or dismiss it on the merits. An order of dismissal could be reviewed by the courts. This provision would insure that the Board would not be able to impose another "route moratorium" which would not be subject to judicial review.

In those route cases which are set for hearing, the Act requires the Administrative Law Judge to issue his decision in 180 days, and the Board to issue its decision 90 days thereafter. These provisions mean that the Board will decide all route cases within one year from the filing of an application. As a sanction to insure that the Board complies with this deadline, the Act provides if the Board fails to decide a case in a year, the ALJ's decision will become final. The Act also provides for deadlines to be extended if applicants fail to meet procedural schedules established by the Board, and provides for a 90-day extension of the decisional deadlines in extraordinary cases.

The Act also establishes procedural deadlines for other types of cases, such as mergers, agreements and exemptions. In these cases the Board is required to issue a final decision in six months if there is no evidentiary hearing, and in one year if a hearing is held.

SECTION 5. PUBLIC CONVENIENCE AND NECESSITY TEST

Under present law before the CAB can authorize new air service it must find that the service "is required by" the public convenience and necessity. To require the Board to follow less protectionist and more competitive policies, the Air Service Improvement Act changes the test to whether proposed new interstate or overseas service "is consistent with" the public convenience and necessity.

SECTION 6. UNUSED AUTHORITY

I. Existing law

Under existing law there is no requirement that certificated carriers provide nonstop service in every market in which they are authorized. The certificates issued by the CAB consist of a series of route segments each of which includes a number of cities; from as few as two to fifty or more. The carriers have authority to provide nonstop service between any two cities on a route segment unless there is a specific restriction prohibiting this service. However, there is no legal requirement that the carriers provide nonstop service between every authorized combination of cities and in many cases it would not be economically practical to do so.[1]

A study conducted by DOT indicated that the domestic carriers are authorized to provide nonstop service in approximately 28,000 markets and that they actually provide nonstop service in 4500 of these markets or about 16 percent. Some of this unused authority is for relatively large markets. There are 13 markets in the top 75 domestic markets in which there is unused nonstop authority. In the top 500 markets, 124 have unused nonstop authority.

II. Need for change

Under existing law there is no means by which the CAB can quickly authorize a new carrier to replace a carrier which holds nonstop authority but is not using it.

If a new carrier wishes to provide service in a market in which there is unused nonstop authority it must obtain a certificate authorizing the new service. Before issuing a certificate, the Board must find that the carrier is "fit" to provide the proposed service and that the service is "required by the public convenience and necessity" (section 401 (d)(1) of the Federal Aviation Act). If the carrier holding unused authority or another carrier object to a grant of new authority, the Board has to hold full-scale evidentiary hearings.

III. Changes made by Air Service Improvement Act

The Act provides that if there is nonstop authority in a market which is not used for at least 180 days during a calendar year, the Board must issue a certificate to any applicant that is "fit" to provide the service. The Board is not required to find that the service is required by the public convenience and necessity.

The number of new authorizations under this section may not exceed the number of unused certificates. If the Board receives more applications than there are unused certificates, the Board must select between applicants, using the Section 102 criteria.

The Act also imposes procedural deadlines upon the Board. If the applicant already holds a certificate and if there is no need to select between competing applicants, the Board need not hold evidentiary hearings and the Board must issue its decision in 30 days. If the applicant does not have a certificate or if the Board is required to select between applicants, the Board must issue its decision in 180 days.

If the Board has issued a new certificate under this section, the Board must institute a proceeding to determine whether to revoke unused authority in the market.

This section is applicable to interstate air transportation and to overseas air transportation involving Puerto Rico or the Virgin Islands. Puerto Rico and the Virgin Islands are similarly included in the provisions of the bill on discretionary entry, subsidy for commuters, and cargo deregulation and fare flexibility.

Puerto Rico and the Virgin Islands need and deserve the same benefits of regulatory reform as the mainland. Puerto Rico and the Virgin Islands are vacation destinations which stand to benefit substantially from increased competition associated with eased entry and fare flexibility. Moreover, Puerto Rico and the Virgin Islands will be at a competitive disadvantage if they are not accorded the same benefits as competing vacation destinations, such as Las Vegas and Miami.

Puerto Rico and the Virgin Islands differ from our Pacific Territories. The latter are less competitive with continental United States resorts, and are either a part or closely related to international air routes.

SECTIONS 7 AND 8.—DISCRETIONARY AUTHORITY AND CERTIFICATION OF NEW APPLICANTS

I. Existing law

Under existing law the Board must go through lengthy proceedings before it can authorize any significant new air service. The Board is required to hold full scale evidentiary hearings at which all interested persons have a right to present evidence and to cross-examine the experts from all other parties. In these proceedings, which may take years to complete, the Board considers whether proposed new service is required by the public convenience and necessity. This requires the Board to consider such questions as the adequacy of existing service in the market, the effect of new service on existing carriers and whether new service would be profitable.

II. Need for change

In recent years, a number of carriers not holding scheduled certificates have shown an interest in entering the interstate system and competing with the established carriers by offering low fare-high load factor service. Examples of these proposals are World Airways proposed transcontinental service at a one-way fare of $99 (compared to the existing coach fare of $196), the proposals of new entrants wishing to serve Midway Airport at substantially reduced fares, and PSA's proposal for low fare service between California and Nevada cities. In the past the CAB has not been receptive to proposals of this nature. More recently the CAB has set down several investigations in which low fare proposals will be considered. But even if we assume that CAB will grant these proposals, the process will be time-consuming and piecemeal. There is a need for a legislative directive requiring systematic and expeditious new entry.

Legislation permitting new entry on a controlled basis will also permit the existing certificated carriers to enter new markets. This should result in improved air service for the public and a revitalization of the existing carriers' route systems. Some of

[1] The only legal requirements governing the service the carriers provide is that they must seek Board permission before total abandonment of a city and that they must provide "adequate" service to a city. However, the latter requirement has not been enforced by the CAB.

these carriers have route systems which contain extreme seasonal variation in traffic. Others have route systems in which the average stage length between markets is too short. Some carriers are too oriented toward business traffic and need opportunities to obtain access to vacation and other pleasure traffic. Adjusting the route systems through the normal CAB procedures would be time consuming, if it could be accomplished at all.

A special problem is posed by the U.S. international carriers who, in many cases, authorized to serve several U.S. cities on an international flight, but, in many cases, are not authorized to carry passengers between those U.S. cities. There is considerable economic inefficiency in allowing those carriers to fly between U.S. cities, with empty seats attributable to their lack of authority to carry local traffic. On the other hand, any grant of "fill-up" authority to the U.S. international carriers must be phased and gradual to avoid an undue impact on the domestic carriers.

III. Changes made by Air Service Improvement Act

The Act gives CAB certificated scheduled and supplemental carriers, operating in excess of 125 million available seat miles for passengers, and intrastate carriers operating in excess of one hundred million available seat miles,[2] the right to enter new markets under the following restrictions:

a. A carrier may select one pair of points in the first year. Thereafter, the number of markets may be increased or decreased by CAB, but the number of markets must always be at least one per carrier per year.

b. If more than one applicant chose a pair of points, the Board is required to select between them (applicants may specify alternate choices).

c. In any three year period the Board may not authorize a new carrier under this section if the Board has previously authorized a new carrier in the market under this provision or other certification provisions.

The Act allows U.S. international carriers to substitute "fill-up" rights (the right to carry traffic between U.S. coterminals on international flights) for basic discretionary authority. In the first year after enactment three fill-up markets may be substituted and in succeeding years two fill-up markets may be substituted. "Fill-up" authority is limited to one combination and one cargo flight a day.

The Act further provides that if the CAB has failed to award a certificate to any new entrants[3] during a year, the Board must award at least one certificate to a fit new entrant during the next year, allowing the new carrier to serve one market of its choice, as set forth above.

This section also includes a "sunset" provision providing that the Section expires in five years. This will permit reexamination of the program at an early date. Such expiration does not impair the effectiveness of any authority granted while the section was in effect.

SECTION 9 REBUTTABLE PRESUMPTION

The act imposes a rebuttable presumption for grant of a route application by a carrier that the CAB finds is fit. The need for such a presumption was set forth by President Carter in his recent letter to members of the Aviation Subcommittee.

"The presumption should be that competition is consistent with the public interest. Anyone who is against new competition should have to show that it would be harmful to the public—not the other way around."

[2] This would include PSA, Southwest, and Air California.

[3] i.e. to persons not holding scheduled or supplemental certificates from the CAB.

SECTION 10. CERTIFICATE TRANSFERS

I. Existing law

Under Section 401(b) of the Federal Aviation Act, the Board may approve a certificate transfer in which a certificate holder receives financial consideration for the certificate.

II. Changes made by Air Service Improvement Act

Certificates are franchises awarded by the public and should not be bought and sold for private gain. There is no necessity to allow the sale of certificates since the CAB can always grant a new certificate when a carrier no longer wishes to exercise its authority.

III. The Air Service Improvement Act

The Air Service Improvement Act limits the Board's power to approve certificate transfers to cases in which such transfers are incidental to the approval of a merger or consolidation of two companies.

SECTIONS 11 AND 19.—SUSPENSION OF SERVICE AND COMMUTER SUBSIDY

I. Existing law

Under Section 401(j) of the Federal Aviation Act, the Board may permit a carrier to suspend service temporarily at a community. This action may be taken without a hearing. The Board also has authority to permit a carrier to terminate its services permanently, but this action requires a hearing if there is objection.

Historically the Board has been liberal in allowing airlines to leave small communities, particularly if the termination of service is conditional upon a commuter airline providing service. Since 1960 the Board has allowed certificated airlines to terminate service at 179 communities.

Under present law, there is no basis for the CAB to subsidize a commuter airline who is willing to replace a certificated carrier at a small community. Section 406 of the Federal Aviation Act, as interpreted by the courts, limits subsidy to airlines holding certificates. Subsidies may not be awarded to a commuter carrier, either directly or indirectly by a "flow-through" agreement with a certificated carrier.

II. Need for change

The Air Service Improvement Act contemplates a more competitive environment in which airline management will have greater freedom to make basic management decisions, such as which communities will be served. As a practical matter airlines have generally had freedom to terminate their services under existing law, although they have sometimes been required to go through time-consuming procedures as a prerequisite to abandonment.

However, if the Act is amended to explicitly recognize the certificated airlines' freedom to terminate their services at small communities, there must be a mechanism to insure continuation of needed air service, particularly at isolated small communities. The best means of achieving this end is through reliance on commuter airlines to serve those communities where certificated carriers choose to terminate their services. Commuters operate small aircraft well suited to the limited traffic at small communities. As a consequence, commuters now serve many small communities without subsidy and if subsidy would be required for commuter service, it would probably be less than would be required for service by a certificated airline.

A Department of Transportation study shows that commuter service at small communities has been quite stable. DOT studied communities receiving service by commuter airlines in 1973 and 1976; more than 90% of the communities which enplaned more than six passengers a day retained commuter air service over this three-year period. DOT estimates that replacement of certificated carriers by commuters at small communities would reduce the annual subsidy bill from the present level of more than $60 million a year to a level of not more than $13.5 million a year.

In authorizing subsidy for commuter airlines, it is desirable that we not impose on commuters the regulatory and economic burdens of certification. The subsidy agreement itself can be used to insure that adequate service will be provided.

III. Changes made by Air Service Improvement Act

Under the Act certificated carriers may terminate air service at a community by giving 90 days notice. The Board may delay termination of service for an additional 270 days to allow arrangements to be made for substitute service. The Act further provides for subsidies to be paid to commuter air carriers in cases in which the Board finds that adequate air service is not likely to be provided without federal financial assistance. The Board is given flexibility in establishing the method of paying subsidy. In deciding whether to award subsidy to a commuter the Board must consider the subsidy cost, the number of persons to be benefitted by the service, and the alternative surface and air transportation available.

To ensure that no communities will lose all air service as a result of regulatory reform, the Act requires CAB to continue air service for 10 years on a subsidized basis if necessary, at all communities presently listed on air carrier certificates.

SECTION 12. SIMPLIFIED PROCEDURES

I. Existing law

Section 401(b) of the Federal Aviation Act requires the Board to set route applications for "a public hearing." The Board has interpreted this provision as requiring full evidentiary hearings. A similar requirement is imposed by Section 402(d) establishing procedures for the grant of permits to foreign air carriers.

II. Need for change

In testimony before the Aviation Subcommittee, the Board described the difficulties of the hearing process as follows:

"The hearing process itself, while undoubtedly appropriate for major competitive route awards having a potentially significant impact on the overall air transportation system, imposes a heavy burden of expense and delay on applicants for new or improved route authority. A typical route case involves the extensive services of lawyers and expert witnesses, consumes anywhere from six months (in an unusually simple case) to two or more years, and costs an applicant many thousands of dollars. Moreover, a typical hearing case consumes so much time of the Board's limited staff resources that the Board has found it necessary to ration strictly the number of route cases which can be set for hearing, giving priority to those which appear to promise the greatest and most urgently needed service improvements for the greatest number of travelers."

In many cases it is doubtful that the oral hearings process produces fairer procedures or better decisions than could be reached through "rulemaking" type procedures in which evidence is submitted in writing and the parties are given opportunities to submit written rebuttal evidence. Under existing law the Board uses procedures of this nature to dispose of many complex and controversial matters, such as the scope of charter authority. Oral cross-examination is frequently unnecessary in airline route cases, since the main issues are not the credibility or the veracity of a witness' sensory perceptions, but the validity of economic and statistical data.

It should be noted that the time consumed by oral evidentiary hearings is not limited to the hearing days before the Administrative Law Judge. These hearing days produce

an extensive record which must be analyzed by all parties and discussed in the briefs of the parties and the decisions of the Law Judge and the Board. All these procedural steps are delayed by oral evidentiary hearings.

The requirement of hearings on applications by foreign air carriers also poses a problem. In most of these cases there are no substantial issues since the foreign carrier has been designated by its government pursuant to a bilateral agreement, and there is a virtually unrebuttable presumption that grant of the application is in the public interest. In these cases, the requirement of a hearing adds to the Board's workload with no corresponding public benefit.

III. Changes made by Air Service Improvement Act

The Act permits the Board to promulgate rules establishing simplified procedures for processing route applications by U.S. and foreign air carriers. The procedures must provide for notice and an opportunity for interested persons to file evidence and argument; however the procedures need not provide for oral evidentiary hearings. The Act also provides criteria for the Board to determine whether to apply for simplified procedures in particular cases.

SECTION 14—MERGERS AND ACQUISITION OF CONTROL

I. Existing law

Under existing law (section 408 of the Federal Aviation Act) prior approval of the Civil Aeronautics Board is required for mergers, acquisition of control and other transactions affecting air carriers, including unregulated carriers such as commuter carriers and air freight forwarders.

Section 408 also contains a provision (the second proviso to section 408(b)) which limits the Board's ability to approve control relationships involving surface carriers and air carriers.

II. Need for change

Under existing law the Board is required to devote significant resources to reviewing transactions involving carriers which are basically unregulated, such as commuters and air freight forwarders. Although in many cases the Board is not required to hold a hearing, it still seems unnecessary for the Board to pass on these transactions if it is not regulating the basic operations of the carriers.

The second proviso to section 408 was adopted at a time when it was feared that large surface transportation companies would dominate the infant air transportation industry. The air transportation industry has now grown to a point where this need not be a strong concern. On the other hand the second proviso now limits the Board's ability to approve acquisitions of control which would permit the efficient integration of air and surface transportation.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act adopts a prior-notification procedure for transactions involving uncertificated carriers.[4] If the Board takes no action on a notice within 45 days, the transaction may be consummated without further Board action. Any such transaction is subject to prosecution if it violates the antitrust laws.

The Air Service Improvement Act also eliminates the second proviso to section 408(b), and imposes new requirements for Board approval of mergers which are inconsistent with antitrust principles. (For a fuller explanation, see Section 14, below.)

[4] Including all-cargo carriers who, after enactment of this bill, will be virtually unregulated domestically, but may hold certificates for international service.

SECTION 15—AGREEMENTS BETWEEN AIR CARRIERS

I. Existing law

Under Section 412 of the Federal Aviation Act, the Board has jurisdiction to approve or disapprove certain agreements between air carriers. In interpreting the scope of its authority to approve agreements which are inconsistent with antitrust principles, the Board follows the test referred to as the "Local Cartage test", i.e.,

"Where an agreement has among its significant aspects elements which are plainly repugnant to established antitrust principles, approval should not be granted unless there is a clear showing that the agreement is required by a serious transportation need, or in order to secure important public benefits."

II. Need for change

The Local Cartage test has not proven sufficient to prevent the Board from approving anti-competitive agreements which would seriously disadvantage the traveling public. In the early 1970's the Board approved agreements in which major airlines mutually agreed to restrict their service in large markets. There was no accompanying reduction in fares. After a full study of these agreements Senator Kennedy's Subcommittee concluded:

On the basis of the evidence submitted to the subcommittee, it is difficult to find justifications for capacity-restricting agreements sufficiently strong to outweigh their undoubted harm. They have injured local communities, travelers and airline employees; they have led to cuts in the level of service on many routes without allowing passengers on those routes a corresponding reduction in fares. Of course, price competition, too, might mean a reduction in service. But, price competition brings with it the increase in demand that flows from lower prices. Thus, to increase competition seems a sounder method than controlling schedules to achieve the objective of lower fares and fuller planes.

III. Changes made by Air Service Improvement Act

To limit and control the Board's authority to approve anticompetitive agreements in the future, the Act requires the Board to make certain findings, based on tests imposed by the Bank Merger Act, as construed by the Courts, before approving agreements which are inconsistent with the antitrust laws. Under the standards imposed in the Air Service Improvement Act, the Board cannot approve an agreement which is inconsistent with antitrust principles unless the Board finds

(1) after considering reasonably available alternative means which would have a materially less anticompetitive effect, the anticompetitive effects of such approval are outweighed by significant and demonstrable benefits to the general public in accordance with section 102 of the Act; and

(2) with respect to determinations made after January 1, 1983, the foregoing benefits cannot be accomplished by reasonable available alternative means having materially less anticompetitive effects.

The test in subparagraph two is delayed until 1983 to give the airlines and the Board a full opportunity to consider alternative approaches which are not inconsistent with antitrust principles.

SECTION 16—ANTITRUST IMMUNITY

I. Existing law

Section 414 of the Federal Aviation Act grants immunity from the antitrust laws and other laws for transactions or relationships that have received Board approval pursuant to other provisions of the Act.

II. Need for change

Existing section 414 has been interpreted to give antitrust immunity far beyond the scope intended by the Board. For example, in Hughes Tool Company v. Trans World Airlines (409 U.S. 363) (1973), the Supreme Court held, despite CAB disclaimers, that a broad course of conduct allegedly violating the antitrust laws had been immunized as a result of CAB orders approving certain limited transactions.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act limits Section 414 immunity in several respects. First, the Act clarifies that Section 414 immunity is limited to the antitrust laws. Second, the Act provides that immunity is granted only insofar as is necessary to permit completion of transactions specifically approved by the Board or transactions necessarily contemplated by a Board order. Third, the Act makes it clear that the Board may define and limit the scope of the immunity granted.

SECTION 17—BOARD'S EXEMPTION POWER

I. Existing law

Section 416(b) of the Federal Aviation Act permits the Board to exempt U.S. air carriers from other provisions of the Act if the Board finds that enforcement of these requirements would be "an undue burden on such air carrier . . . by reason of the limited extent of, or unusual circumstances affecting, the operations of such air carrier . . . and is not in the public interest."

II. Need for change

As it presently reads section 416(b) is too narrow and cannot be used by the Board in many situations in which it would be desirable for the Board to grant an exemption. Exemptions can be granted without evidentiary hearings, and thus the exemption is a useful means for the Board to authorize minor variations in route authority, which would otherwise require a hearing under section 401, minor acquisitions of control, which would otherwise require a hearing under section 408, etc.

Under the existing section 416(b), the Board may only grant exemptions to "air carriers." The Board is not permitted to grant exemptions to persons controlling air carriers or to foreign air carriers. Because of these limitations the Board is sometimes required to hold hearings on very minor matters.

Under existing law it is not clear whether the Board may grant an exemption when the operation to be exempted is of "limited extent" or whether it is necessary that the carrier's entire operations be limited in extent. The meaning of "undue burden" in existing law is also unclear.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act amends section 416(b) to allow the Board to grant exemptions to any persons, including foreign air carriers and persons controlling air carriers. It removes the "undue burden" requirement and allows the Board to grant an exemption in cases in which the activity to be exempted is of limited extent.

SECTION 18—COMMUTER EXEMPTION

I. Existing law

Under section 416(b) of the Federal Aviation Act, the Board has granted an exemption to air taxi operators[5] (part 298 of the Board's Economic Regulations), permitting them to operate aircraft with a capacity of up to 30 seats or 7500 pounds capacity. Such operations may be carried out without a certificate of public convenience and necessity and the commuters are free to enter and exit from markets and to set their fares without CAB authorization.

[5] Commuter carriers are air taxi operators who provide scheduled service.

II. Need for change

In recognition of their important role in the air transport system, the commuters need access to larger equipment. In recent years, the commuters have been replacing the regional carriers at small communities. Between 1970 and 1975, the number of small communities (under 100,000 population) served by regional carriers decreased 13 percent while the number of such communities served by commuters increased 21 percent. The commuters have also been playing an increasingly important role in the all-cargo field.

Aircraft of 40–55 seat capacity, such as the F–27 and Convair 580, may be the most efficient aircraft for some of the markets now served by the commuters.[6] Moreover, some of the regional carriers, which now use F–27's and Convair 580's to serve small and medium-sized communities, may convert to all-jet fleets of 90 seat or greater capacity. If this occurs, the commuters will be called upon to serve additional markets for which 40–50 seat aircraft would be most efficient. An extended exemption would permit commuters to operate 50 seat aircraft now available, and encourage manufacturers to develop new aircraft of this capacity.

III. Changes made by Air Service Improvement Act

The Act grants air taxis an exemption to operate aircraft with a capacity of 56 passengers or 18,000 pounds of property with freedom of entry, exit, and freedom to set fares. The Act further provides that the Board may increase these limits when it finds that the public interest so requires.

The exemption granted by the Act would permit the commuters to operate large non-jet equipment such as the Convair 580 and the F–27. The provision is not intended to authorize operation of jet equipment such as the DC–9–10.

SECTION 2 AND 20—ALL-CARGO AIR SERVICE

I. Existing law

Under existing law service with all-cargo aircraft is regulated in essentially the same manner as is passenger service.

II. Need for change

The regulation of domestic all-cargo service has not produced good results for the industry or for the shipping public. With few exceptions domestic all-cargo service has been unprofitable since 1967. Between 1965 and 1975 freighter operators accumulated $210 million in pre-tax losses.

In the past few years all cargo service has been reduced substantially and cargo has moved on combination aircraft. The schedules of combination aircraft are geared to the needs of passengers who generally want to travel during daylight hours. By contrast shippers of cargo frequently desire overnight service with late evening departures and early morning arrivals.

The failure of regulated service to meet the needs of shippers has been demonstrated by the recent growth in unregulated operations. A commuter carrier, Federal Express, began operating in 1973 and has quickly grown to a $100 million a year operation. A leading air freight forwarder, Emory Air Freight Service, has found scheduled air freight service to be deficient and has contracted for charter service in major markets.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act removes most regulatory restrictions from all-cargo service. Any fit applicant would be issued a license for all-cargo service. The license could not restrict the cities to be served. The level of rates for all-cargo service (and for cargo service on combination flights) would be unregulated, unless the Board found the rates were discriminatory, preferential, prejudicial, or predatory.

The deregulation of all-cargo transportation is phased to give existing operators, who have invested in reliance upon the existing system, an opportunity to adjust their fares and marketing approach to an unregulated system. 105 days after enactment of the Act, the Board is required to issue all-cargo licenses to applicants who have operated all-cargo service as a certificated airline or as a commuter carrying more than 20 million interstate freight revenue ton miles during the past year.

One year after enactment the Board would begin considering applications by applicants who have not been operating all-cargo air service. The Board would be required to issue a decision on these applications in 180 days.

The Act also establishes policy criteria to be applied by the Board in considering applications involving all-cargo air carriers under Section 408 and related sections of the Federal Aviation Act. Under these criteria the Board would be required to encourage the development of expedited cargo service and an integrated transportation system.

SECTIONS 21 AND 22—CIVIL PENALTIES

I. Existing law

Under Section 901 of the Federal Aviation Act, violations of the Act and the requirements imposed thereunder are subject to civil penalties of up to $1,000 for each violation. The procedures for enforcing these penalties involves a two-step process. The Board has authority to hold an administrative proceeding to determine whether there has been unlawful activity. Following a finding of a violation the Board may enter into a compromise agreement with the violator, establishing an agreed-upon civil penalty. However, if no agreement can be reached, it is necessary for the Board to institute a proceeding in the Federal Courts. After a second trial the Federal judge has authority to impose a civil penalty.

II. Need for change

The two-step process for imposing civil penalties is inefficient and appears to be unnecessary. Under the two-stage process, the matter must be fully litigated in two hearings if no agreement can be reached on civil penalties. In the Federal court proceeding, the case is litigated by attorneys for the Department of Justice and the United States Attorney's Office who are frequently unfamiliar with the Federal Aviation Act and the aviation industry.

The two-stage procedure is not necessary to insure due process. In the administrative proceedings violators are given a full hearing before an administrative law judge with review by the Civil Aeronautics Board.

The Administrative Conference of the United States has recommended that administrative agencies be given authority to impose civil penalties. By Recommendation 72–6, adopted on December 14, 1972, the Conference characterized the increased use of civil money penalties as "an important and salutary trend" and urged administrative agencies to consider asking Congress for authority to impose civil money penalties. The Conference observed that this authority would help alleviate the already critical overburdening of the Federal courts by removing controversies which involved little precedential significance and only small sums of money.

III. Changes made by Air Service Improvement Act

The Act gives the CAB power to impose civil penalties after notice and hearing. The Act further provides that the Board's order imposing a penalty is subject to review by the United States Court of Appeals, as provided in Section 1006 of the Act. If the Board is unable to collect a civil penalty which it has imposed, it will be necessary for the Board to institute a collection proceeding in the District Court. However, in this proceeding the violator would not be entitled to a trial de novo.

SECTION 23—PASSENGER FARES

I. Existing law

Under existing law passenger fares are prescribed by the CAB. The Board determines coach fares by a formula which uses the average costs of all carriers and the assumption that a certain percentage of seats will be filled. The formula is designed to provide equal fares for equal distances. The Board gives the carriers some degree of latitude to establish discount and promotional fares which offer reductions from the basic fare.

II. Need for change

The Board's regulatory control of fares under existing law has left carrier management with insufficient flexibility to experiment with fare increases and reductions.

The certificated carriers and some public witnesses who appeared at the hearings believe that the Board hasn't permitted passenger fares to rise quickly enough in response to rising costs. The carriers are particularly disturbed with the Board's adjustments of their costs, such as assuming a load factor which is higher than the actual load factor and assuming that discount fare passengers are paying full fares. As a result of these adjustments, the Board's formula may indicate that a proposed fare increase should be disallowed because it would yield an excessive return of 13 or 14 percent, when, if there were no adjustments in costs, the actual rate of return would be 5 or six percent.[7]

The Administration and other witnesses argued that the CAB's fare setting policies discourage reduction in fares. It is argued that reductions are discouraged because hearings may be demanded by carriers opposing reductions. It is also argued that the CAB's use of a formula requiring that fares be uniformly related to mileage throughout a carrier's system tends to discourage experiments with reduced fares in individual markets.[8]

Recently, the Board has allowed substantial discount fares; Texas International's "peanut" fare offering discounts of about 50 percent for certain under-utilized flights, and American Airlines' "super-saver" fare offering 45 percent discounts on transcontinental flights. The Board has also instituted the World Airways and Midway Airport cases which may result in other low fare service. But there is no assurance that the Board will continue in this direction in the future.

III. Changes made by Air Service Improvement Act

The Air Service Improvement Act would leave the carriers free to adjust their fares, without CAB regulation, within a zone of reasonableness. On the increased side, fares could be increased 10 percent a year without CAB approval. For decreases fares could be reduced 25 percent in the first year, and thereafter to the lesser of 50 percent of the fares in effect on date of enactment or 110 percent of the direct costs of providing the service. Direct costs are the costs which are directly incurred in operating a service and do not include such fixed costs as depreciation, interest, and other overhead expenses.

[6] Commuters now serve 104 markets where traffic exceeds 40 passengers a day.

[7] The CAB defends the adjustments on the grounds they are needed to force the industry to operate efficiently.

[8] The CAB generally disagrees with these contentions and argues that because the carriers have never tried to reduce their basic fares, there has never been a test of whether CAB policy discourages fare reductions.

The CAB would have discretion to approve or disapprove fares outside of the zone of reasonableness.

SECTIONS 13 AND 23—JOINT FARES FOR COMMUTERS

I. Existing law

Under section 404 of the Federal Aviation Act air carriers are required to establish through service and joint fares with other air carriers. Section 1002 of the Act allows the Board to establish joint fares and the division of joint fare revenues between participating air carriers. Acting under these provisions the Board has required certificated carriers to introduce joint fares complying with a Board formula for determining the joint fare and for dividing the revenues between participating carriers. The Board has extended these requirements to commuter carriers who replace certificated carriers at suspended points, but the Board has not established general requirements for joint fares between certificated carriers and commuters.

II. Need for change

Exclusion of commuters from the Board's joint fare program injures both the commuters and the traveling public. Under the CAB's formula, joint fares are lower than the sum of the local fares charged by two carriers involved in providing connecting transportation. The Commuter Airline Association of America estimates that a requirement that the CAB's joint fare program be extended to commuter airlines would save the public $5 to $34 million a year in air fares. The Board's failure to require that certificated airlines establish joint fares with commuters may place the commuters at a competitive disadvantage in markets where they compete with certificated carriers. Moreover, the commuters lose revenues by not participating in the joint fare program. The Commuter Airline Association estimates the CAB's formula for division of revenues would increase commuter airline revenues by approximately $10.5 million. The Commuter Association also estimates that a mandatory joint fare program with reduced fares would generate additional traffic resulting in revenue gains to both certificated and commuter airlines.

On August 26, 1976, the Commuter Airlines Association petitioned the CAB asking them to act under present law to extend the joint fare program to commuters. Thus far, the CAB has not acted on this petition. However, as indicated above, CAB has extended joint fares to commuters involved in substitute service arrangements, and to commuters which have obtained certificates, such as Air New England and Air Midwest.

III. Changes made for Airline Service Improvement Act

The Act amends section 404 to make it clear that certificated carriers have a duty to enter into through service arrangements with commuters. The Act also requires that commuters be included in the CAB's orders establishing a uniform formula generally applicable to establishing joint fares and division of revenues between certificated carriers.

SECTION 24—CIVIL AERONAUTICS BOARD COURT REPRESENTATION

I. Existing law

Section 1007(b) of the Federal Aviation Act prescribes procedures for the institution of Federal court actions for enforcement of the Act, and the Board's Orders, and regulations thereunder. The section provides that such judicial proceedings are to be instituted by the appropriate U.S. Attorney, "under the direction of the Attorney General." Thus, litigation for the enforcement of the Board's regulations is directed by the Department of Justice.

II. Need for change

Very real problems have arisen because of the inability of the Board to direct its own litigation.

Direction of the Board's litigation by the Justice Department is inefficient. The laws and regulations which CAB administers are extremely complex, and, however intelligent and well motivated an assistant U.S. Attorney handling one of the Board's cases may be, a time consuming, learning process must take place when the Board refers a case for prosecution.

Another difficulty is that the Department of Justice on occasion has changed the Board's interpretation of applicable aviation case law or the Board's own regulation. It is troubling that under the current statutes the Executive Branch of the Government views itself as having the ultimate authority to decide the meaning, applicability, and importance of orders, rules and requirements of an independent agency serving as an arm of the Congress.

A final difficulty is that under the present scheme CAB cases get priority in accordance with the needs and work load of the U.S. Attorney's office rather than the needs and work load of the Board. This has led to delays in important CAB cases when the Board's attorneys are ready, willing, and able to represent the Board in court.

III. Changes made by the Airline Service Improvement Act

The Airline Service Improvement Act will permit the Board to represent itself, through its own attorneys, in the Federal courts when the Attorney General fails, within 45 days after written notification from the Board, to institute an enforcement action. This procedure would normally apply to such cases as a civil action to collect monetary penalties under sections 901 and 903 of the Act; or an injunction action under section 1007 of the Act. Where the civil action seeks entry of a temporary restraining order or preliminary injunction, the Board could proceed during the 45 day period.

The Board needs this authority to carry out its legislative mandate, particularly after deregulation. With fewer barriers to entry or exit, with greater price flexibility, and with more competition, the Board will require the tools to move quickly in the federal courts to terminate unlawful activity threatening the public interest. It should be able to do so through its own attorneys who are specialized in this area.

This bill is identical to a segment of the Interim Regulatory Reform Act of 1976 (S. 3308). It embodies authority presently exercised by the Federal Trade Commission, the Securities and Exchange Commission, and the Consumer Products Safety Commission.

SECTION 26—EXTENSION OF LOAN GUARANTEE LEGISLATION

Section 26 of the Act extends and modifies the Aircraft Loan Guarantee Program (Act of September 7, 1957, as amended, 49 U.S.C. 1324) which expires on September 7, 1977. The loan guarantee program is designed to promote the development of local, feeder, and short haul air transportation through government guarantees of aircraft purchase loans by private lenders.

During the 20 years it has been in effect the loan guarantee program has been highly successful. Under the program 40 loans totalling $270 million have been guaranteed for 19 airlines. The loans have permitted financing at reduced interest rates, in some cases as much as 4.75% below the rates ordinarily charged. There have been no defaults of the loans guaranteed and the loan guarantee fees of ¼ of 1 percent of the outstanding balance per year have generated $1.1 million in revenues compared to the estimated administrative expenses of $574,000.

The Air Service Improvement Act extends the loan guarantee program for five years and makes several modifications designed to further the effectiveness of the program.

First the program is extended to commuter airlines. Commuters are now providing a substantial volume of small community air service and inclusion of commuters will help further the objectives of the program. Commuters now serve over 600 communities. Over 70 of these communities have populations of less than 5000, while 193 have populations of less than 25,000. Commuters are the fastest growing segment of the air transportation system, with passengers growing at a rate of 10%, cargo 31% and mail 25% over the last six years. Inclusion of commuters in the guaranteed loan program will enable commuters to improve their service to small communities.

Because commuters are not subject to economic regulation, several safeguards have been written into the legislation. For a commuter carrier to receive the benefits of the program, the Secretary of transportation must be reasonably assured that the applicant is financially sound and will continue operations as a commuter carrier over the routes being operated at the time of the guaranteed loan.

Other changes in the law are designed to take account of changes in aircraft and aircraft financing which have occurred in the 20 years since the legislation was first enacted.

First the term of loans which may be guaranteed has been extended from 10 to 15 years. When the law was first enacted most of the aircraft to be acquired were used with no more than a 10 year life for financing purposes. Modern jet aircraft which are now being acquired have a useful life of 15 years or more and can be financed over this period.

A second change is to extend the amount of loans which may be guaranteed for each carrier from $30 million to $75 million. This is necessary because of the increases in the cost of aircraft. In 1968, a DC-9-30 cost about 3.6 million dollars. Quite apart from inflation modern aircraft have become more expensive as they have become more sophisticated, particularly in terms of electronic equipment. As a practical matter, the increase to $75 million would permit little or no increase in the number of aircraft a company could acquire compared with that envisioned in the original loan guarantee legislation.

SECTION 27. AIRLINE EMPLOYEES PROTECTION

Airline employees may be adversely affected by the new entry authorized under the dormant authority and discretionary entry provisions of the Act. Accordingly, the Act provides that the Secretary of Transportation shall prescribe regulations furnishing protective benefits to such employees. Initial payment of such protective benefits shall be made by the employer of the affected employees who will then be reimbursed from a special account established in the United States Treasury.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. FORSYTHE (at the request of Mr. RHODES), for today, on account of official business.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legisla-

tive program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 5 minutes, today.
Mr. MCKINNEY, for 20 minutes, today.
Mr. SARASIN, for 5 minutes, today.
Mr. MILLER of Ohio, for 10 minutes, today.

(The following Members (at the request of Mr. PEASE) to revise and extend their remarks and to include extraneous material:)

Mr. PEPPER, for 15 minutes, today.
Mr. LE FANTE, for 5 minutes, today.
Mr. PREYER, for 5 minutes today.
Mr. ECKHARDT, for 5 minutes, today.
Mr. BEDELL, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. BAUCUS, for 5 minutes, today.
Mrs. BOGGS, for 5 minutes, today.
Mr. DODD, for 5 minutes, today.
Mr. DINGELL, for 5 minutes, today.
Mr. PICKLE, for 60 minutes, on September 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. OTTINGER, and to include extraneous matter in the debate on the ERDA bill today.

Mr. LUJAN, to revise and extend his remarks immediately following the vote on the McCormack amendment in the Committee of the Whole today.

Mr. MCCORMACK, to revise and extend his remarks preceding the vote on the electric vehicle.

Mr. HILLIS, and to include extraneous material in the remarks he made in the Committee of the Whole today on H.R. 5383.

Mr. ANDERSON of California, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,173.50.

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. ASHBROOK in two instances.
Mr. RINALDO.
Mr. MARTIN in two instances.
Mr. RUDD.
Mr. LUJAN.
Mr. MCCLORY.
Mr. LAGOMARSINO in two instances.
Mr. BURGENER.
Mr. EMERY.
Mr. SNYDER in four instances.
Mr. MCKINNEY.
Mr. CARTER.
Mr. GILMAN.
Mr. SYMMS in three instances.

(The following Members (at the request of Mr. PEASE) and to include extraneous matter):

Mr. THOMPSON.
Mr. HARKIN.
Mr. D'AMOURS.
Mr. KASTENMEIER.
Mr. VANIK in three instances.
Mr. PERKINS.
Mr. WIRTH in 10 instances.
Mr. DRINAN.
Mr. LEHMAN.
Mr. SIMON.
Mr. COTTER in three instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. CARNEY.
Mr. BAUCUS.
Mr. LLOYD of California.
Mr. RISENHOOVER.
Mr. ROSENTHAL.
Mr. ZEFERETTI in two instances.
Mr. MCDONALD in three instances.
Mr. MILFORD.
Mr. PICKLE in five instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1682. An act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes;

H.R. 5262. An act to provide for continued participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes; and

H.R. 6502. An act to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

ADJOURNMENT

Mr. PEASE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Monday, September 26, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2438. A letter from the President of the United States, transmitting a proposed supplemental appropriation for fiscal year 1978 for the Department of Health, Education, and Welfare (refugee assistance) (H. Doc. No. 95–227); to the Committee on Appropriations and ordered to be printed.

2439. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a proposed new system of records for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2440. A letter from the Secretary of the Interior, transmitting a report on the study for inclusion of the Missouri River, Mont., in the Wild and Scenic Rivers System, pursuant to section 5(b) of Public Law 90–542 (H. Doc. No. 95–228); to the Committee on Interior and Insular Affairs and ordered to be printed.

2441. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting notice of a proposed increase of more than 10 percent in the funding level for the Agency's program in Panama, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

2442. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to Section 112 (b) of Public Law 92–403; to the Committee on International Relations.

2443. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to make technical and perfecting amendments to the Federal program of insured loans to graduate students in health professions schools; to the Committee on Interstate and Foreign Commerce.

2444. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a report on the facts in each application for conditional entry of aliens into the United States under section 203(a)(7) of the Immigration and Nationality Act for the period October 1, 1976 through June 30, 1977, pursuant to section 203(f) of the act; to the Committee on the Judiciary.

2445. A letter from the Deputy Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend the Speedy Trial Act of 1974; to the Committee on the Judiciary.

2446. A letter from the Comptroller General of the United States, transmitting a report on the Veterans' Administration's domiciliary program (HRD–77–69, September 21, 1977); jointly to the Committees on Government Operations and Veterans' Affairs.

2447. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement; jointly to the Committees on International Relations, and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. H.R. 5503. A bill to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces, and for other purposes; with amendment (Rept. No. 95–566, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 3813. A bill to amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes; with amendment (Rept. No. 95–581, pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6348. A bill to convey

to the Ely Indian Colony the beneficial interest in certain Federal lands; with amendment (Rept. No. 95–619). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 393. An act to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes (Rept. No. 95–620). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8149. A bill to provide customs procedural reform, and for other purposes; with amendment (Rept. No. 95–621). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7074. A bill to provide improved authority for the administration of certain National Forest System lands in Oregon; with amendment (Rept. No. 95–622). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 7259. A bill to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes; with amendment (Rept. No. 95–623). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 667. An act to declare certain federally owned land held in trust by the United States for the TeMoak Bands of Western Shoshone Indians (Rept. No. 95–624). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 9019. A bill to rescind certain budget authority contained in the message of the President of July 19, 1977 (H. Doc. 95–188), transmitted pursuant to the Impoundment Control Act of 1974 (Rept. No. 95–625). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD of Michigan:

H.R. 9262. A bill to amend title 5 of the United States Code to provide that an employee may credit service as an employee of a congressional campaign committee for civil service retirement purposes, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ALLEN:

H.R. 9263. A bill to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber and for other purposes; to the Committee on the Judiciary.

By Mr. BLANCHARD:

H.R. 9264. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

By Mr. BROYHILL (for himself, Mr. MARTIN, Mr. JONES of North Carolina, Mr. FOUNTAIN, Mr. WHITLEY, Mr. NEAL, Mr. PREYER, Mr. QUILLEN, Mr. DUNCAN of Tennessee, Mr. DAVIS, Mr. MANN, Mr. HOLLAND, Mr. BUTLER, Mr. WAMPLER, and Mr. SPENCE):

H.R. 9265. A bill to authorize a study for the purpose of determining the feasibility and desirability of designating the Overmountain Men Victory Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mrs. BOGGS (for herself, Mr. CARR, Mr. CORRADA, Mr. ICHORD, Mr. MILFORD, Mr. MURPHY of New York, Mr. NEDZI, Mr. YOUNG of Missouri, Mr. ROGERS, and Mr. WEAVER):

H.R. 9266. A bill to provide recognition to the Women's Air Forces Service Pilots for their service to their country during World War II by deeming such service to have been active duty in the Armed Forces of the United States for purposes of laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mrs. BOGGS (for herself, Mr. ALLEN, Mr. KASTEN, and Mr. MOAKLEY):

H.R. 9267. A bill to authorize the Secretary of Health, Education, and Welfare to establish a grant program designed to develop methods of prevention and treatment relating to domestic violence, and for other purposes; jointly, to the Committees on Education and Labor, Interstate and Foreign Commerce, and the Judiciary.

By Mr. BURGENER (for himself, Mr. TREEN, Mr. KETCHUM, Mr. MOORHEAD of California, Mr. LOTT, Mr. RHODES, Mr. HYDE, Mr. ROUSSELOT, Mr. DERWINSKI, Mr. THONE, Mr. RUDD, Mr. LAGOMARSINO, Mr. MONTGOMERY, Mr. BAFALIS, Mr. WINN, Mr. KINDNESS, Mr. WHITEHURST, Mr. DORNAN, Mr. BURKE of Florida, Mr. GUDGER, Mr. EDWARDS of Oklahoma, Mr. BADHAM, Mr. SKELTON, Mrs. HOLT, and Mr. FOUNTAIN):

H.R. 9268. A bill to amend the Immigration and Nationality Act to prevent the illegal entry and employment of aliens in the United States, to facilitate the admission of aliens for temporary employment, to regulate the issuance and use of social security account cards, and for other purposes; jointly, to the Committees on the Judiciary, Education and Labor, and Ways and Means.

By Mr. BUTLER (for himself, Mr. ABDNOR, Mr. BALDUS, Mr. BRECKINRIDGE, Mr. CEDERBERG, Mr. COHEN, Mr. EDWARDS of Oklahoma, Mr. ERTEL, Mr. EVANS of Delaware, Mrs. FENWICK, Mr. GEPHARDT, Mr. GILMAN, Mr. GUDGER, Mr. HAGEDORN, Mr. LOTT, Mr. LUKEN, Mr. MOORHEAD of California, Mr. NEAL, Mr. O'BRIEN, Mr. PEPPER, Mr. QUAYLE, Mr. RAHALL, Mr. ROBINSON, and Mr. SARASIN):

H.R. 9269. A bill to require the preparation of small business impact statements in connection with Federal agency rules, and for other purposes; to the Committee on Small Business.

By Mr. CARTER (for himself, Mr. MILFORD, Mr. LOTT, Mr. BIAGGI, Mr. YATRON, Mr. BOB WILSON, Mr. BAUCUS, Mr. MILLER of Ohio, and Mr. TAYLOR):

H.R. 9270. A bill to establish a program of comprehensive medical, hospital, and dental care as protection against the cost of ordinary and catastrophic illness by requiring employers to make insurance available to each employee and his family, by Federal financing of insurance for persons of low income, in whole or in part according to ability to pay, and by assuring the availability of insurance to all persons regardless of medical history, and on a guaranteed renewable basis; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CORMAN:

H.R. 9271. A bill to amend title XVIII of the Social Security Act to enable certain individuals to enroll in the insurance program established by such title; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. DINGELL:

H.R. 9272. A bill to amend the crude oil pricing provisions of the Emergency Petroleum Allocation Act of 1973, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GAYDOS:

H.R. 9273. A bill to provide for orderly trade in iron and steel products; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 9274. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in higher education; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 9275. A bill to amend section 111 of title 23, United States Code, relating to agreements for the use of and access to the rights-of-way of the Interstate System; to the Committee on Public Works and Transportation.

By Mr. MOTTL (for himself, Mr. VANIK, Mr. STOKES, Ms. OAKAR, Mr. STANTON, Mr. MURPHY of Pennsylvania, Mr. REUSS, Mr. STANGELAND, Mr. KEMP, Mr. ASHLEY, Mr. CARNEY, Mr. EILBERG, Mr. HORTON, Mr. NOWAK, Mr. HARSHA, Mr. MILLER of Ohio, Mr. LUKEN, and Mr. PEASE):

H.R. 9276. A bill expressing the sense of the Congress that the proposed toll increases on the St. Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

Mr. NIX (by request):

H.R. 9277. A bill to amend title 5, United States Code, to provide for retention of grade and pay for certain employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. NIX (for himself, Mr. UDALL, and Mr. DERWINSKI):

H.R. 9278. A bill to amend the act of August 25, 1958, with respect to staff allowances for former Presidents; to the Committee on Post Office and Civil Service.

By Mr. NIX (for himself and Mrs. SPELLMAN):

H.R. 9279. A bill to amend title 5, United States Code, to provide for retention of grade and pay for certain employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MARKEY, Mr. CARTER, and Mr. MADIGAN):

H.R. 9280. A bill to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical school's receiving capitation grants under such act; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI:

H.R. 9281. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of expenses in attending foreign conventions; to the Committee on Ways and Means.

By Mr. SOLARZ (for himself, Mr. FORD of Michigan, Mr. WHALEN, Mr. UDALL, Mr. CHARLES H. WILSON of California, Mr. CLAY, Mr. PEASE, Mr. PATTISON of New York, and Mr. STEERS):

H.R. 9282. A bill to provide that adjustments in the rates of pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which they are approved, and for other purposes; Post Office and Civil Service, and Rules.

By Mr. THOMPSON:

H.R. 9283. A bill to amend the Tariff Schedules of the United States by repeal-

ing item 807 of schedule 8, part 1, subpart B; to the Committee on Ways and Means.

By Mr. THONE:

H.R. 9284. A bill to encourage farmers to establish shelterbelts for the purpose of reducing soil erosion, protecting crops and livestock, and establishing wildlife habitat areas; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 9285. A bill entitled the "National Domestic Development Bank Act"; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WALKER (for himself, Mr. BAUMAN, Mr. COLEMAN, Mr. COLLINS of Texas, Mr. CORCORAN of Illinois, Mr. DORNAN, Mr. GOODLING, Mr. GRADISON, Mr. GUYER, Mr. HYDE, Mr. KELLY, Mr. KINDNESS, Mr. BADHAM, Mr. LEVITAS, Mr. MICHEL, Mr. MILLER of Ohio, Mr. MYERS of Indiana, Mr. QUAYLE, Mr. STANGELAND, Mr. STOCKMAN, Mr. WAXMAN, and Mr. WYDLER):

H.R. 9286. A bill to prevent Federal enforcement of racial quotas; jointly, to the Committees on the Judiciary, and Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANSEN:

H.R. 9287. A bill for the relief of Kenjie Okuma; to the Committee on the Judiciary.

By Mr. LIVINGSTON:

H.R. 9288. A bill for the relief of Dr. Victor T. Cruz; to the Committee on the Judiciary.

By Mr. WALKER:

H. R. 9289. A bill for the relief of Arthur J. Grauf; to the Committee on the Judiciary.

SENATE—*Friday, September 23, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Reverend Edgar J. Mundinger, pastor, Christ Lutheran Church of Washington, Washington, D.C., offered the following prayer:

In the name of the Father and of the Son and of the Holy Spirit, amen, Romans 13: 1b: *"There is no authority except from God, and all authority that exists is established by God."*

O eternal God, Father of the Lord Jesus Christ and our Father, we thank You for the gift of life—our own and our Nation's life. Teach us to treasure, today and always, our dearly won American liberties, especially liberty of conscience and freedom to worship You and give You glory.

Help us to lead in the legislative process and to win and keep the respect of our constituents. Give them a willingness to understand and share in the process and, with us, to show respect for our country's laws and to work with us to preserve the good institutions of our land.

Protect us from subversive forces, but keep us equally alert to those suspicions which blind people to the good intentions and good purposes of those with whom we may not at first agree. Keep our Government from falling prey to selfish interests.

Teach us as a people that You rule the destinies of men and of nations and that the future is in Your good counsel.

Above all, give us that faith in You that leads to our being a salt and a leaven to uphold righteousness, good order, and peace. Help us to stand tall, because we have first knelt and confessed our total dependence upon Your mercies to us and to our country. In the name of Jesus Christ, we ask it. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 23, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Thursday, September 22, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

The ACTING PRESIDENT pro tempore. The Senator from California.

VETERANS' BENEFITS REVIEW

Mr. CRANSTON. Mr. President, I move to reconsider the action taken last night in agreeing to the motion to concur in the House amendments, with amendments of the Senate, to S. 1307.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield such portion of my time as he may require to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. I thank the distinguished majority leader.

HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1978—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 7554, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 12, 1977.)

Mr. PROXMIRE. Mr. President, the report we have before us at this time was originally taken up on July 22 and subsequently laid aside. The contents of the report are discussed in detail on pages 24512 through 24519 of the July 22 CONGRESSIONAL RECORD.

However, I would like at this point to briefly summarize the conference results.

The pending conference report recommends that the Congress provide a total of $69,370,554,000 in new budget authority in fiscal 1978 for the Department of Housing and Urban Development, the Veterans' Administration, the National Aeronautics and Space Administration, the National Science Foundation, the Environmental Protection Agency, the Consumer Product Safety Commission, and a number of other, smaller agencies. The recommended amount is $2,270,790,000 more than the Congress provided in fiscal 1977, due entirely to an increase of $3,500,758,000 over last year for HUD's assisted housing programs. More importantly, the conferees have agreed on a figure that is $1,403,858,000 below the administration's budget request although the recommendations contained in the conference report would add $1,722,063,000 to the funding contained in H.R. 7554 as it passed the Senate.

The conferees could not agree on language cutting off veterans benefits for those whose discharges have been upgraded under a new Presidential program. There will be a vote following adoption of the conference report on a motion to, in effect, insist on striking language denying these benefits and to request a further conference on the issue.

Mr. MATHIAS. Mr. President, our chairman, the able Senator PROXMIRE, has more than adequately explained the items contained in this conference report. I will, therefore, just mention a few that are of particular importance. When we went to conference our bill had the funding for housing for the elderly or handicapped as an "off budget" appropriation as in past years. The House insisted, however, on including these funds in the budget and I can just hope that this change will do no harm to this very valuable and very needed program. Arguments can be made on either side as how to present the $750 million funding for housing for the elderly or handicapped in the budget; my feeling was that these funds do not represent final expenditures of appropriated dollars but rather funds that will be returned to the Treasury with interest and, therefore, they should not be included as a regular "on budget" appropriations item. Be that as it may, I hope that we can be secure that the very value of this program will result in its continuing to be funded at the highest possible level.

I was pleased that the conference committee retained all of the additional personnel that the Senate bill provided for additional staff at EPA research facilities. Senator BELLMON had proposed this increase and I commend him for doing so.

As we know, after going out in disagreement on funding for the Jupiter orbitor probe the House, by a very strong vote, supported the Senate position. I believe this augers well for space exploration and even more importantly it shows support for the many kinds of applied and basic research that NASA conducts, the importance of which we cannot even guess today. I was also pleased that the Senate succeeded in maintaining a high level of funding for research conducted under the direction of the National Science Foundation. Again, we cannot know today all the benefits that will accrue to us from this research, particularly the basic research, conducted by the Foundation.

We were not able to maintain funding in this bill for a replacement hospital facility at Portland/Vancouver, but I believe we will have another opportunity to vote funds for this very necessary replacement hospital. I will just quote the language from the conference report:

> The Committee of Conference agrees that when the House Committee has received and reviewed the recommendations of its investigative staff pertaining to the replacement hospital facility at Portland/Vancouver, consideration will be given to providing construction funds in a supplemental appropriation.

Finally, Mr. President, let me once again say what a pleasure it is to work with our chairman, Senator PROXMIRE, who has extended his usual courtesy and helpfulness to me and the other members of the subcommitee. We stand in admiration of the tremendous job that he does in conducting the lengthy hearings on this bill and guiding us through the markups, floor action and committee on conference.

USE OF GOVERNMENT LIMOUSINES

Mr. BAYH. Mr. President, the chairman of the Subcommittee on Housing and Urban Development and Independent Agencies appropriations, Mr. PROXMIRE, has done the Nation a great service in stopping high Government officials from abusing the privilege of using Government-financed limousines and I support his efforts to prevent the use of Government limousines for personal business.

However, it is my understanding that the intent of the language in H.R. 7554 on this issue is to prevent abuse by Government officials. It does not prevent the Government from providing transportation to employees in special situations. The specific type of instance that I have in mind is that where a secretary is required to work in the late evening hours. Present Government travel regulations permit an agency to pay for the taxi fare home of the secretary in this situation.

There was some discussion on the floor of the Senate on this same issue last year when similar language was part of the Senate HUD appropriations bill for fiscal year 1977. At that time, in a colloquy between the Senator from Maryland (Mr. MATHIAS) and the Senator from Wisconsin (Mr. PROXMIRE), it was agreed that the language covering limousine use in the bill was not intended to apply to cab fare for secretaries or for similar emergency type situations that might arise.

It is my understanding that it is the committee's intention to have the same principle apply to the language in section 410 of H.R. 7554.

Mr. PROXMIRE. That is a correct interpretation of the provision.

Mr. BAYH. I also understand that Government travel regulations allow an employee to use Federal dollars to pay for a cab between home and office on days that he or she is going to take an official trip and leave directly from the office or goes directly to the office after arriving from an official trip. The trips have to involve at least one night's lodging for the cab expenses to be reimbursable. Is it the Senator's understanding that these trips would continue to be allowable and that the language in the bill as agreed upon by the conferees would not apply?

Mr. PROXMIRE. That is my understanding.

Mr. BAYH. Finally I am told by NASA that seven employees at five tracking stations currently use Government cars to get from home to work and back again, although this type of transportation is not provided at eight other tracking stations. Apparently NASA provides this service, because the employees live far from the tracking stations, no public transportation is available, and the laws of the country allow only one car per family to enter the country duty free. As a consequence of this last restriction it costs a great deal of money to own a second car in those countries.

Is it fair to say that the bill language in question is not meant to apply in these highly unusual circumstances?

Mr. PROXMIRE. I would agree that the prohibition in the bill would not apply to travel in the field of this sort, but I would expect that no exceptions would be made at the other eight NASA tracking stations.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the clerk report amendments 28, 45, and 46 en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"That not more than $63,000,000 shall be available for Research Applied to National Needs: *Provided further*,"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

"SEC. 409. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS–18, unless specifically authorized by law."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

"SEC. 410. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitations.

Mr. PROXMIRE. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 28, 45, and 46.

Mr. ABOUREZK. Mr. President, I should like to ask a question of the manager of the conference report. Is one of those amendments the so-called Beard amendment?

Mr. PROXMIRE. No. That amendment is not included. I am going to take up the Beard amendment after we act on these amendments.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. PROXMIRE. Mr. President, the next amendment we will consider today outside the conference concerns an issue that the conferees could not agree on. It is the so-called Beard amendment, first attached to H.R. 7554 on the floor of the House by Congressman BEARD. In essence the amendment would deny veterans benefits to those who have received an upgraded discharge under a special discharge review program implemented by President Carter. The amendment would result in certain inequities because it would deny benefits to those veterans who might have had their discharges upgraded under programs existing prior to the implementation of the new Carter program and thus have been eligible for benefits but have had the misfortune to receive discharge upgradings under the new program. For this reason, and because the Senate has passed compromise legislation which would accomplish the objectives of the Beard amendment yet retain the rights of servicemen as they existed before the special discharge review program was implemented, I am going to make a motion that would request a further conference on this one amendment. I am hopeful that the House will recede to the Senate decision to delete the Beard amendment, in view of the action that has taken place on substitute legislation, and that a new conference will not be necessary.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"No part of the foregoing appropriations shall be used for the adjudication of claims or the payment of benefits for any individual who was discharged from the military under less than honorable conditions, and who received an honorable or general discharge as the result of revised standards for review of discharges as implemented April 5, 1977, by the Department of Defense's special discharge review program."

Mr. PROXMIRE. Mr. President, I move that the Senate disagree to the amendment of the House to the amendment of the Senate numbered 40, request a further conference with the House thereon, and that the Chair be authorized to appoint conferees.

Mr. DOLE. Mr. President, I have one comment. As I understand, this matter has been agreed upon. The measure, S. 1307, was passed last evening by the Senate, and I understand the President has agreed to sign it. It has been passed by the House today. That ends the controversy over the so-called Beard amendment. I think that satisfies the distinguished Senator from South Dakota, and those of us on the other side have been satisfied, I believe, with the passage of S. 1307.

Mr. PROXMIRE. That is my understanding. For that reason, so far as this amendment is concerned, we are holding fast to the original Senate position, and we would expect the House to recede. In fact, if they do not recede, we will have to have a further conference and then come back to the Senate for final action.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to; and the Acting President pro tempore appointed Mr. PROXMIRE, Mr. STENNIS, Mr. BAYH, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. MCCLELLAN, Mr. MATHIAS, Mr. CASE, Mr. BROOKE, Mr. BELLMON, and Mr. YOUNG, conferees on the part of the Senate.

Mr. MATHIAS. Mr. President, I thank the distinguished chairman of the subcommittee, the manager of this bill, for all his courtesies in the long legislative process we have just completed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. ROBERT C. BYRD. I yield back whatever time I have.

Mr. MATHIAS. I yield back my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, under the previous order, the Senator from Missouri (Mr. DANFORTH) is recognized for not to exceed 15 minutes.

THE SPIRIT OF KANSAS CITY

Mr. DANFORTH. Mr. President, on Monday, September 12, 1977, Kansas City, Mo., was devastated by a savage flood. The cause of the floor was a catastrophic 24-hour rainfall which exceeded 16 inches in one small area of eastern Jackson County and exceeded 10 inches in major portions of the greater metropolitan area. The National Weather Service has estimated that such intense rainfall is not like to occur in Kansas City more than once in 1,000 years.

The enormity of what occurred is difficult to comprehend. Twenty-five area residents lost their lives. It is miraculous that many more were not killed. Approximately 1,500 are homeless, and even more thousands are out of work. The most recent estimates of property damage are $100 million in Kansas City, Mo., and $40 million for the surrounding suburban areas. These figures are increasing every day. The human suffering is incalculable; and the total scope of the tragedy is just beginning to reveal itself. There is no escape from the pain and the loss that have been inflicted.

Today I would like to speak not about the tragedy, but about the great spirit of the people of Kansas City. During the darkest hours of the flood the entire metropolitan area mobilized against the common threat. Within hours of the onslaught more than 900 city employees from the departments of public works, parks, and water pollution control were mobilized.

Between 600 and 700 police officers and firefighters were immediately on the scene and remained at their posts around the clock. Deputy fire chief, Louis Hansen, has estimated that more than 140 small privately owned boats were put into rescue service by an army of citizen volunteers numbering more than anyone could count. Heavy contractors provided men and equipment without charge to help with the removal of more than 10,000 tons of debris. Acts of heroism by citizens risking their own lives to save imperiled strangers were frequent. Police Department Col. James Keiter, disaster flood coordinator, told my office:

It was a total community commitment. There was total response and effort. The Police Department was overwhelmed by the public outpouring of assistance. Everybody did what needed to be done.

All of the officials who were charged with the responsibility for conducting the disaster relief operations agree that the spirit of Kansas City prevented additional loss of life and propery. During the long nightmare only two arrests were made for looting. Hundreds of people were saved from injury or even death because the entire community responded.

Periodically we read of emergencies occurring in other communities when some feel they have a license to take advantage of the situation—to steal and to burn. The very opposite was the case in Kansas City. Disaster was not a license to steal. It was a challenge to the people of a great city to show one another and to show the country just how good human nature can be. At a time in history when fundamental values are constantly questioned, Kansas City has been an example to all of us of our highest values—of the best America has to offer.

I am tremendously proud of the people of Kansas City. I am proud to represent them in the U.S. Senate. They have demonstrated to this country what can be accomplished when people act together with courage, selflessness, and compassion. The tragedy remains, but so does the triumph.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized for not to exceed 15 minutes.

Mr. DOLE. Mr. President, first, I concur in the statements just made by the distinguished Senator from Missouri with reference to the tragedy that occurred in the Kansas City area, including parts of eastern Kansas; and, secondly, to indicate, as he has so well, that despite the tragedy the people in that area are looking ahead, and with the spirit they have, I think there is no doubt about their future and the future of that great area.

THE PANAMA CANAL TREATIES

Mr. DOLE. Mr. President, I have asked for this time today to discuss what will be, perhaps next year, perhaps later, a very important issue in the Congress of the United States, and that is the discussion and debate and consideration of the Panama Canal Treaties.

I would like to take this time to define the defects, as the Senator from Kansas sees the defects, in the treaties presented to Congress, and suggest some amendments and some reservations to the treaties so that, perhaps next week, when the Senate Committee on Foreign Relations starts its deliberations these amendments—and certainly there will be others submitted by other Members of the Senate—can be properly considered.

There will be formal consideration starting on Monday, and then the proposals will be considered, although it is my understanding there will be no vote on ratification until early in 1978.

The Panama Canal Treaty issue is certainly one that will demand much of our attention in the weeks ahead. The American people look for and hope for an exchange of views and responsible consideration of our Nation's future security at every stage of debate on the matter.

Now that the pomp and ceremony associated with the treaties is over, and the foreign dignitaries have left, we in the Senate shall consider the proposed treaties in a thoughtful and responsible manner.

An issue such as this which bears so heavily on our national security and economic well-being cannot be passed on casually. I know that each of my colleagues will carefully examine all of the treaty provisions, and reflect carefully on them. The Senate Foreign Relations Committee hearings will contribute in a valuable way to this process. Administration spokesmen, defense establishment leaders, Members of Congress, and a variety of public witnesses will all have an opportunity to testify on the merits of the treaty proposals. I know that the committee will make a genuine effort to listen to all interested parties and make every effort to obtain all points of view on this highly controversial issue. The committee will, in turn, be expected to pass on its own recommendations to the full Senate for final consideration and judgment.

SEEK OUT INFORMATION

All of us have a responsibility to become as well-educated as possible on all aspects of the Panama Canal issue. Now that the treaty drafts are available for inspection, we should actively seek additional information and advice from a variety of sources. A well-informed public can provide guidance during our deliberations, as well as support for our decision once it is made. Because I believe the American people deserve the opportunity to hear the full range of arguments for themselves, I have already suggested to the majority leader that Senate debate on the Panama Canal treaties be televised. Television coverage would place the treaty issues before a far greater number of our citizens, and enable them to better understand and participate in the decisionmaking process.

At all times during the weeks ahead, we, in the Senate, must be attentive to any new developments which may bear upon the treaty issue. I am thinking at this moment of reports last week that surveillance activity may have taken place during the treaty negotiations. The Senate Intelligence Committee, after conducting hearings on the matter, concluded that our treaty negotiators had not been compromised in any way by the disclosures. But I raise this matter to make a point: No matter what our predisposition toward the treaties may be, all of us should remain receptive to updated information on the treaty matter as it becomes available.

During the past several weeks, I have made an active effort to familiarize myself with all points of view on the matter. I have discussed the treaties with President Carter, former President Ford, and Governor Reagan, and I received a detailed briefing on both treaties by the State Department. I have deliberated upon the provisions of both treaties and consulted with respected members of the academic and professional community. Having now had the opportunity to carefully consider the background, the context, and the details of the treaty proposals, I have arrived at certain conclusions. In order to express my observations and concerns about the treaties, I will today introduce several proposals for their modification.

TREATIES UNACCEPTABLE

I cannot support the two Panama Canal Treaties in their present form. Both the basic treaty, and the treaty concerning permanent neutrality contain omissions and defects which make them unacceptable, in my opinion. In order to focus attention upon these weaknesses, particularly for the benefit of forthcoming Senate hearings, I am proposing two reservations and six amendments to the treaty language at this time.

The U.S. Constitution gives this body the power of "advice and consent" over international treaties concluded by the President with foreign heads of government. As such, we have the constitutional obligation to scrutinize these treaties for their impact on our national interest, and to identify the defects or omissions. On 16 occasions in our Nation's history, the U.S. Senate has directly rejected treaty proposals submitted by the President. In 38 other instances, the Senate has attached reservations or amendments which ultimately led to the demise of proposed treaties.

The modifications I propose would, in my opinion, better protect the Nation's vital interests and substantially improve upon these documents. Hopefully, the Senate Foreign Relations Committee will solicit testimony on each of these points, and the full Senate will later have an opportunity to consider them.

NO RESTRICTIONS ON LOCATION OF NEW CANAL

My first amendment will insure that the United States is not committed in advance to refrain from constructing a new sea-level canal, at some point in the future, in a country other than Panama. Article XII of the basic Panama Canal Treaty would, in fact, bind the United States to construct such a canal in Panama if it should be determined that a modernized canal is desirable in Central America. Yet, there is no commitment on the part of Panama to agree to permit construction of the canal; we are only prevented from constructing one elsewhere.

I do not suggest that we rush right down and build a new canal in Central America. That project may or may not be vital to U.S. defense and economic interests at some point in the distant future. The President has been talking a good deal lately about a new sea-level canal, but I suspect that the vast majority of American people will want to know first why we are giving up one canal in order to build another, which I understand may cost as much as $7 billion. This very logical question acquires all the more significance when we talk about building a new canal in the same country that is now demanding possession of the old one.

Whether or not Panama is the best location for construction of a sea-level canal is really not the immediate issue. The central question is whether the United States should bind itself, by this treaty, to foreclose all options with respect to a new canal. We have no idea at this point how cooperative the Panamanian Government will be in observing the provisions of the present treaty. We have no idea what the nature of a future Panamanian Government may be.

Because this is a question that could bear directly on American defense and economic interests, it is vital that it be given careful attention. My amendment will strike that section of article XII which would foreclose our options, and substitute in its place a clause specifically rejecting any restrictions on U.S. negotiations with other countries for the right to construct a new canal somewhere in the Western Hemisphere. In my opinion, it is absolutely necessary that this freedom of choice is maintained.

REDUCE PAYMENTS

Probably no other aspect of these treaties causes as much concern among so many Americans as the payment provisions outlined in article XIII of the basic treaty. This "pay-away" plan is an enigma—are we providing rent, ransom, or "conscience" money?

The United States currently pays the Panamanian Government an annuity of $2.3 million. Article XIII would raise those payments to between $70 and $80 million per year—a windfall by any standard, particularly when we consider the value of real estate and equipment that will be transferred without charge to the Panamanian Government under the treaty terms. In addition, our Government agrees to negotiate an economic loan package amounting to as much as $345 million.

According to calculations by Panama's own economic policy minister, the total amount of anticipated U.S. financial aid may reach as high as $2.26 billion over the next 23 years, amounting yearly to more than 20 percent of Panama's annual national budget.

CUT PAYMENT IN HALF

The amendment I am proposing would reduce the payments provided in article XIII by more than one-half. First, it would reduce Panama's share of the canal's annual operating revenues from 30 cents per net ton to 15 cents per net ton for each vessel transiting the canal. Second, it will eliminate altogether the biennial adjustment of this rate according to changes in the U.S. wholesale price index, which, frankly, I have never totally understood why that was a pro-

vision in any event, but it is mandated in the treaty.

Finally, my amendment will strike that provision supplying Panama with "up to" $10 million per year depending upon revenues. Although this provision is billed as contingent upon the profitability of the canal in any given year, it in fact guarantees payment of the full annuity "from operating surpluses in future years" whenever annual revenues are insufficient.

With implementation of this amendment, the Panamanians are still provided a fixed annual annuity of $10 million, plus an equitable share of canal revenues, plus eventual receipt of U.S. loans and zonal property. No one can seriously dispute the generosity of this arrangement. Yet, it is far more rational and equitable in terms of compensation for our continuing primary role in using and operating the canal until the year 2000.

NO PAYMENT IF CANAL IS CLOSED

In addition, my amendment provides that the fixed annual annuity shall cease during any period in which the canal is inoperable. It would be unfair and irresponsible to continue that payment during a time in which the canal is closed, whether due to natural catastrophe, functional breakdown, or intentional sabotage. We almost certainly would be expected to bear the major economic burden of reopening the canal in any such instance, and it simply does not make sense for us to continue paying Panama for a passage route that is temporarily nonexistent. The present treaty makes no provision for such a contingency, and the United States must be protected on this point.

EXTENSION OF TRANSITION PERIOD FOR JURISDICTIONAL ARRANGEMENTS

In accordance with the intent of article XI of the basic Panama Canal Treaty, to provide for an "orderly transition" of jurisdiction over the Canal Zone, my amendment would extend the period for transfer of certain jurisdictional arrangements.

This treaty is being marketed by the administration as a "23-year" transition document, with the superficial implication the United States will maintain principal control over the Canal Zone and canal until the year 2000. In fact, a careful reading of the treaty provisions suggests that this concept is largely fictional. In effect, this is not a 23-year transition treaty: It is a 30-month transfer of title.

Article XI provides that the Republic of Panama shall regain full jurisdiction over the Canal Zone as soon as the treaty enters into force, and a complete transfer of U.S. judicial, administrative, and regulatory authority will be accomplished within 30 months. After that, U.S. citizens will be subject to Panamanian law, and subject to Panamanian civil and criminal justice as well.

I believe that a transfer of this magnitude in such a short period of time will not constitute "orderly transition." In effect, the provision will tend to drive Americans out of Panama. We may see a mass exodus of U.S. engineers and other canal personnel within the next 2½ years.

In order to provide for a more gradual phaseout of U.S. authority over Americans employed in the area, my amendment would permit the Panama Canal consultative committee to study the issue after the treaty takes effect and, with the benefit of actual experience, make a recommendation as to when the period of transition should formally end. However, in no case will this be prior to January 1, 1990. This date coincides with transfer of the administration of the Panama Canal Commission from United States to Panamanian leadership. It is only logical that primary U.S. authority over both the canal and the Canal Zone should expire at approximately the same time. By the same token, we will allow for a more orderly and gradual phase-out of American employees in the area, and of judicial and administrative control over them.

The amendment would not alter the theoretical return of "sovereignty" over the Canal Zone to Panama on the date the treaty comes into force. However, it would provide for the more practical arrangement of gradually phasing out U.S. jurisdiction over its own citizens in the former Canal Zone area.

HUMAN RIGHTS

For an administration which has made the subject of human rights a basic element of its foreign policy, particularly toward Latin America, the White House has been remarkably silent on the issue with respect to the Panama Canal negotiations. Yet, I believe this is an issue that should not be ignored. In the interest of moral principle, as well as consistent policy, it is important that we address the subject of human rights observance within Panama for both Panamanian and United States citizens.

There are several very important reasons why we have the obligation as a nation to pursue this point. First, U.S. employees will remain for a time in what was formerly the Panama Canal Zone. Under the terms of the treaty proposed by this administration, American citizens will become subject to both civil and criminal jurisdiction of the Panamanian Government at the end of a 30-month transition period. We have a responsibility to see that their basic rights are at all times strictly observed and fully protected. Second, we are effectively expanding the territory under the direct control of Gen. Omar Torrijos and his regime. In ratifying this treaty, we are strengthening the political and economic power of the Torrijos government. As such, I think we have both a responsibility and a right to insist upon a better observance of the basic human rights of Panamanian citizens, as a condition of this treaty. The Carter administration has not hesitated to exercise this condition with regard to aid proposals for Brazil, Argentina, Uruguay, and other Latin American nations to the point of straining diplomatic relations.

The ACTING PRESIDENT pro tempore. The Senator's 15 minutes have expired.

Mr. DOLE. May I have 2 additional minutes?

Mr. ROBERT C. BYRD. Mr. President, who is the next Senator to be recognized under the special order?

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island (Mr. CHAFEE).

Mr. CHAFEE. Mr. President, the Senator from Kansas is certainly entitled to have 2 minutes of my time.

The ACTING PRESIDENT pro tempore. The Senator may proceed for 2 minutes.

Mr. DOLE. I thank the Senator from Rhode Island.

Interestingly enough, the State Department itself has refused to give the Panamanian regime a clean bill of health with regard to the observance of human rights. In a report prepared by the Department and submitted to the Senate Subcommittee on Foreign Assistance in March of this year, the State Department shed light on the repressive conditions in the country. The report notes that "Political opposition is not tolerated. The media are monitored by the Government." We are told Panamanians "generally" are assured of judicial redress where criminal charges are concerned, but "the guarantee of a fair trial might not be observed in a case with important political considerations."

A human rights survey conducted by "Freedom House" in New York is consistent with these observations. On a scale of 1 to 7, with 7 representing the lowest level of observance, the Government of Panama ranks 7 in extent of political rights, and 6 in extent of civil rights. In its comparative survey of freedom issued in January of this year, Freedom House characterizes the nation of Panama as "not free" and indicates the outlook for a change in these repressive conditions is unlikely.

Why, then, have we ignored the human rights issue altogether while confronting the persistent demands of General Torrijos? The Latin American correspondent for the Chicago Daily News recently reported that the response she received to this question by a high ranking State Department official was—

Of course, we are not going to challenge human rights in Panama because we want the treaty.

I am concerned about these authoritative reports of political repression within Panama, as I know many of my colleagues are. I am concerned as well about additional allegations of torture, murder, and severe punishment communicated by concerned groups of Panamanians. My amendment would insist upon Panamanian protection for the human rights of all those living and working in the former Canal Zone.

My reservation would condition treaty ratification on the understanding that the Panamanian Government will make "significant progress" toward observing the human rights of all its citizens during the basic treaty period. Both modifications will also encourage onsite investigations of alleged repression by respected international organizations.

TRANSFER OF CANAL ZONE PROPERTY

My second reservation would reaffirm the constitutional responsibility of the House of Representatives to participate in transfer of ownership of the Canal Zone territory. Article IV, section 3,

paragraph 2 of the U.S. Constitution reads:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or any particular State.

U.S. title to the Canal Zone property has been affirmed on several occasions by the highest courts in our land. In 1907, the Supreme Court, by unanimous decision, confirmed our clear title to the Canal Zone property:

It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation because of the omission of some of the technical terms used in ordinary conveyances of real estate. (Wilson v. Shaw 204 U.S. 24).

That unanimous Supreme Court decision affirming U.S. sovereignty over the Panama Canal Zone still stands as a law of our land, and was reaffirmed by the U.S. Court of Appeals decision in 1971 *United States* v. *Husband R. Roach*, 453 F. 2d 1054, 1057), where the court said:

The Canal Zone is an unincorporated territory of the United States.

Both of these cases clearly reaffirm the fact that the Canal Zone is "territory" of the United States. Consequently, not only two-thirds of the U.S. Senate but a majority of the U.S. House of Representatives must approve the proposed treaties as well.

As a footnote to the issue of whether or not the United States can clearly claim title to the Canal Zone territory, it should be pointed out that our Government actually made payment to individual property owners at the time the original treaty was promulgated. Besides the initial payment of $10 million to the Panamanian Government, the United States paid approximately $4 million for acquisition of property from ownerships that existed in the Canal Zone area. We paid over $300,000 to the French for land rights they already possessed in that region.

So I think there is little question that we currently have clear title to this territory. As such, both Houses of Congress must participate in its transfer, and my second reservation will make this a precondition to enforcement of this treaty.

UNILATERAL U.S. MILITARY INTERVENTION

I propose to amend article IV of the treaty concerning the permanent neutrality and operation of the Panama Canal, by adding a provision specifically guaranteeing our authority to intervene militarily on behalf of the canal whenever we determine its neutrality to be threatened. In my opinion, this amendment is absolutely necessary to the protection of our national security interests. We cannot count on Panamanian concurrence in every instance where we may perceive the operation of the canal to be in jeopardy. For all we know, the Panamanian Government itself may be consciously or unconsciously a part of that threat at some point.

The administration has sought to reassure the American people that this treaty, by implication, assures that the United States can unilaterally intervene in the defense of the canal whenever necessary. I see nothing in article IV or in any other section of the treaty which specifically guarantees that prerogative.

In fact, in a Panamanian radio broadcast on August 24, Panamanian negotiator Escobar Bethancourt maintained just the opposite:

The pact does not establish that the United States has the right to intervene in Panama. This word has discussed and eliminated, and what is stated is that Panama and the United States will maintain the neutrality of the canal. What is the meaning of "will maintain?" In practice, the meaning of "will maintain" is that, if neutrality is ever violated, Panama on one hand and the United States on the other, or the two countries jointly, will determine how they will guard the canal against such a violation. . . . the neutrality pact does not provide that the United States will say when neutrality is violated.

If this is, in fact, what the article says—and I would say that Panamanian interpretation is at least 50 percent of the definition—then this is an unacceptable accord and should be either modified or rejected by the U.S. Senate. Regardless of how the State Department may choose to interpret this or that clause in the treaty, the point is that U.S. authority to intervene should be made crystal clear to the Panamanians within the treaty itself. My amendment would provide the necesary modification.

GUARANTEE U.S. WARSHIPS PRIORITY PASSAGE

This amendment relates to article VI of the treaty concerning the permanent neutrality and operation of the Panama Canal. The article guarantees that United States and Panamanian vessels of war will be entitled to transit the Panama Canal "expeditiously" at all times. At face value, this is a reassuring provision, given the importance of the canal to our national security interests. We can assume that the term was included because our negotiators recognized the vital security implications of the canal and felt it important to imply a special right of passage.

Now, some proponents of the Panama Canal treaty have tried to convince us that the canal is no longer vital to our national security interests. I do not agree with that point of view, and we have certainly seen some persuasive comments from those most knowledgeable about our naval operations that support the canal's continuing importance. It just seems to me that, by including the term "expeditious passage," the treaty drafters admit to an immediate defense interest by our Government. But, it is imperative to get a precise interpretation for that term.

To be more specific, I have to wonder why the treaty negotiators did not use the term "priority" or "privileged" passage for United States and Panamanian warships, if that is in fact what the concept is supposed to be. My skepticism on this point was heightened recently when I became aware of a Panamanian radio broadcast on August 24, in which the Panamanian Minister of Information and chief negotiator, Escobar Bethancourt, gave the Panamanian Government's interpretation of the term. Senor Escobar explained that:

Expeditious passage does not mean privileged passage. As a matter of fact, the concept of privileged passage was rejected . . . if after examining the provision the gringos with their warships say, "I want to go through first," then that is their problem with the other ships waiting there. We cannot go that far."

It is readily apparent, then, that the Panamanians do not understand expeditious passage to mean that U.S. warships would receive priority, even during a period of crisis. In effect, the Panamanians intend to interpret the concept in this way: If there is a line of ships waiting to pass through the canal, the U.S. warships must get in line with the others and wait their turn. I do not believe that America's security can, or should, depend on traffic circumstances on any given day. Our naval defense could be thwarted by a bottleneck.

My amendment would specifically amend article VI to stipulate that, during a period of crisis, American vessels of war and their auxiliary vessels will be entitled to privileged passage through the canal. I believe this is an equitable arrangement, and certainly the only one that our country can accept in consideration of national defense, Latin American defense, and defense of the free world.

POINTS OF CONCERN

The foregoing represents some of my principal concerns about these treaties. Specialists on the subject have identified these aspects as among the greatest weaknesses in the treaty proposals, although there are a number of other deficiencies that can and should be addressed. The forthcoming Senate committee hearings are intended to shed some light on all of these problems. There is no question in my mind but what a number of modifications will eventually be proposed by various members of the Senate, and I may offer additional amendments or reservations myself after further analysis of the treaties has been conducted. Furthermore, the specific concerns expressed by our constituents should be fully represented at every stage of deliberation on the treaties.

NO APOLOGIES

In closing, I want to say that the people of the United States owe Panama no apologies for our involvement with the canal. The generosity of our Government in building the canal, in operating and maintaining it for 65 years, and in thereby enhancing the standard of living for Panamanians, requires no remorse on our part. Free of any implications of guilt, we should proceed to analyze these treaties in an objective and responsible manner.

But the Panamanian Government officials must know that we will never relinquish our presence in the Canal Zone because of veiled threats or direct pressures. They must know that we reserve all rights to intervene when the security of the canal is threatened, and that we expect priority passage for our ships during periods of crisis. And they must be told that we expect to see substantial progress in the area of human rights in which they rate so poorly. Above all, we do not intend to pay exorbitant amounts of money for the purpose of turning over

control of the canal and Canal Zone. My amendments and reservation will effectively communicate these messages, at the same time that we consider the basic merits of the treaties themselves. We should settle for nothing less.

Mr. President, I ask unanimous consent that the texts of my amendments and reservations be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. DOLE. As I say, Mr. President, we have no apologies to make. The United States does not owe Panama or anyone else any apologies for our involvement with the canal. We have been generous; we have operated and maintained the canal for 65 years; and we have enhanced the standard of living of the Panamanians.

Certainly there are areas of agreement and disagreement, and it may be modifications should be made. I just suggest that the amendments and reservations offered by the Senator from Kansas be carefully considered. As indicated, there will be others, but I hope I have responsibly addressed some of the major defects in the treaty submitted to Congress.

I yield back the remainder of my time.

EXHIBIT 1

AMENDMENT NO. 1. (EXEC.) 95–1

Paragraph 2(b) of article XII is amended to read as follows:

(b) During the duration of this Treaty, the United States of America may negotiate with any third State for the right to construct an interoceanic canal through such third State on any other route in the Western Hemisphere.

AMENDMENT NO. 2 (EXEC.) 95–1

In article XIII, paragraph 4, strike out subparagraphs (a), (b), and (c), and insert in lieu thereof the following:

(a) An annual amount to be paid out of Canal operating revenues computed at a rate of fifteen hundredths of a United States dollar ($0.15) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal, after the entry into force of this Treaty, for which tolls are charged.

(b) An annuity of ten million United States dollars ($10,000,000) to be paid out of Canal operating revenues and as an expense of the Panama Canal Commission, except that such sum shall be reduced by the proportion which the number of days during the calendar year the Canal is not navigable bears to the calandar year.

AMENDMENT NO. 3 (EXEC.) 95–1

In the second sentence of the first paragraph of article XI, strike out "for thirty calendar months" and insert in lieu thereof "until such date as is agreed upon by the members of the Panama Canal Consultative Committee, but not before January 1, 1990".

In paragraph 2 of article XI, amend subparagraph (a) to read as follows:

(a) The authorities of the United States of America shall have the primary right to exercise criminal and civil jurisdiction over employees of the Panama Canal Commission who are citizens of the United States and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

In paragraph 2(a)(i) of article XI, strike out "offense committed" and insert in lieu thereof "act or omission".

In paragraph 2(a)(ii) of article XI, strike out "offense committed" and insert in lieu thereof "act or omission".

In the text following clause (ii) of paragraph 2(a) of article XI, strike out "offenses committed" and insert in lieu thereof "acts or omissions".

In the annex entitled "Procedures for the Cessation or Transfer of Activities Carried out by the Panama Canal Company and the Canal Zone Government and Illustrative List of the Functions that may be Performed by the Panama Canal Commission", strike out paragraph 4(b) and insert in lieu thereof the following:

"(b) Upon termination of the transition period provided for under article XI of this Treaty, governmental services such as:

"(i) Police;

"(ii) Courts; and

"(iii) Prison system.".

AMENDMENT NO. 4 (EXEC.) 95–1

At the end thereof, add the following:

ARTICLE XV

HUMAN RIGHTS

1. The United States of America and the Republic of Panama agree on the importance of maintaining and properly observing internationally recognized human rights, including civil and political rights, in the former Canal Zone and commit themselves to maintaining, observing, and protecting such rights during the duration of this Treaty.

2. The Panama Canal Consultative Committee shall report annually to the national legislatures of the two Parties on the maintaining, observing, and protecting of such rights.

3. The two Parties agree to permit unimpeded investigations of alleged violations of internationally recognized human rights, including civil and political rights, by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States.

In article V, strike out the second sentence.

AMENDMENT NO. 5 (EXEC.) 95–1

At the end of article IV, add the following: "Nothing in this Treaty may be construed to prevent the United States of America, in accordance with its constitutional processes, from intervening militarily to maintain such regime of neutrality when determined to be seriously threatened by the President of the United States of America or, through the adoption of a concurrent resolution, by the Congress of the United States of America.".

AMENDMENT NO. 6 (EXEC.) 95–1

Before the period at the end of the first paragraph of article VI, insert a comma and the following: "except that the Republic of Panama shall, upon request, afford privileged passage through the Canal to such vessels of the United States of America during any period in which the United States of America is at war".

RESERVATION NO. 1 (EXEC.) 95–1

Before the period at the end of the resolution of ratification, insert a comma and the following: "and subject to the following reservations:

"(1) that the Republic of Panama demonstrate, during the duration of this Treaty, significant progress toward observing the internationally recognized human rights of its citizens, including the right of free speech and the right to a fair trial; and

"(2) that the Republic of Panama permit unimpeded investigations of alleged violations of internationally recognized human rights by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commisison of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States".

RESERVATION NO. 2 (EXEC.) 95–1

Before the period at the end of the resolution of ratification, insert a comma and the following: "and subject to the reservation that before the date of entry into force of this Treaty, the Congress has adopted appropriate legislation to transfer the Canal Zone to the Republic of Panama, in exercise of the power of Congress under article IV, section 3, clause 2 of the Constitution, relating to the disposal of territory or other property belonging to the United States".

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Rhode Island (Mr. CHAFEE) is recognized for not to exceed 13 minutes.

OIL CARGO PREFERENCE

Mr. CHAFEE. Mr. President, at a time when Congress and the administration are agonizing over important economic decisions, such as how to hold down inflation, how to lower unemployment, how to meet energy demands, and how to give the middle-class citizen of this country of ours a tax break, I must say it astounds me to see the President and some in this Congress going all out to push through a bill which would increase inflation, would increase unemployment, would increase energy costs, and would be a burden on every single consumer.

What is the bill to which I am referring? I am talking about the so-called oil cargo preference bill.

Let us take a look at this consumer-gouging travesty, deceptively titled the "Energy Transportation Security Act."

By 1982, it would require that at least 9.5 percent of all the oil imported to the United States be transported on privately owned U.S.-flag tankers. Currently, only 3.5 percent is carried on U.S. ships because it costs twice as much to build and operate tankers in this country than anywhere else.

Let us look at the overall cost of enacting the Carter oil cargo preference bill. When the price of 9.5 percent of our imported oil rises, it is likely that the average price of all imported oil will increase. And when that happens, it is probable that the cost of domestically produced oil will rise as well. Thus, because of the economics of the oil market, a cargo preference requirement will not just boost the price of 9.5 percent of our imported petroleum.

The cost increase is estimated to be about two-tenths of a cent per gallon. Now multiply that by 55 gallons in a barrel; and multiply that by 18 million barrels we consume each day; and multiply that by 365 days in a year. It is a lot of money.

What will all of this add up to?

There have been two studies. In the past couple of weeks, both the General Accounting Office and the Federal Trade

Commission have come up with rather startling cost figures. Although the results have been well publicized allow me to repeat them for the RECORD—and for the shock value.

In the FTC report prepared for our colleague from Michigan, Senator GRIFFIN, it is estimated that a 9.5-percent oil cargo preference will cost American consumers $240 million per year in higher energy costs. This does not count the probable increase in the price of domestic oil which is included by GAO.

The GAO study, released September 9, concludes that a 9.5-percent cargo preference would cost consumers a minimum of $240 million a year. In fact, if we are importing 10.3 million barrels a day and domestically producing 10.5 million barrels a day as expected by the mid-1980's, a cargo preference requirement is more likely to cost from $550 to $610 million annually. That, my friends is more than five times the President's cost estimate when he announced his support for this legislation.

Who will pay the increased cost?

Not the oil companies. Not the Government. Your $610 million will not be rebated. The truth is that every consumer in the country will pay. It is simple inflation. And I might add that it is of no small consequence that the people of Rhode Island and the citizens of the other overtaxed, underemployed New England States will pay a lion's share of that bill.

Extrapolating from figures in the GAO study, the New England Fuel Institute has estimated that New Englanders will pay $85 to $100 million a year in higher fuel and electric bills. New England's traditional, but unfortunate, dependence on imported residual oil, heating oil, and gasoline already causes us to pay 31 percent more than any other region of the country for energy. We cannot withstand this kind of inflation without suffering significantly higher unemployment and deeper business recession.

Where will these hundreds of millions of dollars go should President Carter's cargo preference bill be enacted?

Not to the U.S. Treasury. Not back into the ground to produce more oil. They will go primarily to the benefit of a relatively small group of U.S. shipbuilders, shipowners, and seamen.

Of course, there are reasons for maintaining a national maritime industry. In no way am I suggesting that we pull the rug out from under them. It's important that we preserve a domestic shipbuilding capacity, and a pool of jobs, skills and technologies that are essential to our ocean-going transportation.

But let us look at the facts. It's not as if American taxpayers are not doing anything for the maritime industry or our Merchant Marine. The U.S. maritime is already subsidized by the Federal Government more than any other industry in the country. This year, we have promised them payments of $233 million to subsidize the construction of ships in the United States. In addition to that, they will receive $352 million in operating subsidies to help them be competitive in world markets.

They already have, as we know, the Jones Act, which requires that all U.S. coastal shipping be moved on U.S.-flag vessels. That is shipping from one U.S. port to another must be done with American ships. With the flow of new Alaskan oil which comes down from Prudhoe to southern Alaska and which has to be shipped by U.S. flagships to U.S. ports, the maritime industry has an added bonus.

Yet, despite this very generous taxpayer assistance, they want more. It is the old story. "You give something, but give us more; what did you do for us yesterday?" So the maritime lobby is running a million dollar ad campaign claiming "Foreign oil tankers threaten our environment, weaken our national defense, and take away U.S. jobs". It is all dressed up in a patriotic suit.

Lets look at these claims point by point.

Foreign oil tankers "threaten our environment." Foreign flag vessels, whether they are actually owned by Americans or not—and many of them are—are subject to the same Federal inspections and can be, and should be, denied entry to U.S. ports if they do not meet safety standards.

Foreign oil tankers "weaken our national defense." Neither the Defense Department nor the State Department believe that use of foreign vessels pose national security risks. They consider our access to foreign oil, rather than the availability of transportation, as the crucial security factor. They cannot foresee any situation in which we could not depend on Panamanian or Liberian or Greek tankers to deliver our oil. In fact, both the Departments of State and Defense oppose oil cargo preference legislation.

Foreign oil tankers "take away U.S. jobs." Would any new tankers be built? Possibly some new tankers would be built—at more than twice the cost of purchasing the same abroad. But even more significant, the current worldwide surplus of oil tankers throws into doubt any long-term job increases in the shipbuilding industry. And what about crew? As we know, automation on big tankers is so far advanced that even the industry estimates an increase of only 2,500 to 3,600 seafaring jobs under cargo preference legislation.

You take these 2,500 or 3,600 jobs and divide them into the cost of this bill and, listen to this: It comes out that it would cost more than $150,000 per job per year under this legislation.

Secretary Blumenthal, of the Treasury Department, submitted, in July, a memorandum to the President. Secretary Blumenthal is also chairman of the White House Economic Policy Group. This is what he said about the legislation:

> . . . the net impact on the economy as a whole would be a decrease in total employment and GNP, would be contrary to the London Summit pledge to reject protectionism, would reverse U.S. policy favoring free competition, could trigger emulation by others, and would violate U.S. treaties with more than 30 countries.

So why are the American people about to be forced into contributing more millions to the U.S. maritime?

I would say the answer is very simple: politics. It is straight politics. It is a way of saying "thank you" for hundreds of thousands of dollars that maritime interests have contributed to the campaign coffers of President Carter and dozens of Congressmen and Senators.

How weak is this industry? Not so weak that they could not still afford to:

Make $996,000 worth of congressional campaign contributions in 1976;

Contribute over $150,000 to the Carter election effort;

Raise nearly $10,000 in off-year campaign contributions for a House committee chairman in the midst of holding hearings on oil cargo preference; and

Wage a million dollar media blitz on behalf of its own special interest legislation.

We have never seen anything like it.

The oil cargo preference proposal has no more merit today than it did when President Ford had the courage to veto a similar bill in 1974. It is not supported by the Departments of Defense, State, or Treasury, the Office of Management and Budget, the Council of Economic Advisers, the National Security Council, or the President's special adviser on energy.

I think this is a scandalous bill.

We have had our "Watergate." We have a "Koreagate." Are we also going to have a "Cargogate?"

Are we going to bill the American consumer more than half a billion dollars a year simply because, as Ambassador Strauss advised the President:

> Politically, something in the way of a cargo preference is going to be very hard to resist?

Are we going to have this bill even though most of the President's advisers recognize it as a "flawed concept?"

I certainly hope not. The bill deserves to be consigned to oblivion. It merits the same description that John Randolph, I believe of Virginia, gave of a colleague on the floor of the House in 1806.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

The PRESIDING OFFICER. I advise the Senator from Rhode Island that his time has expired.

Mr. ROBERT C. BYRD. Mr. President, does either Senator wish time? Did a Senator earlier not utilize all of his time?

The PRESIDING OFFICER. The Senator from Missouri had 8 minutes when he yielded back all his time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have control of the 8 minutes that were yielded back by Mr. DANFORTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Kansas such time as he desires from the 8 minutes.

Mr. DOLE. I thank the majority leader.

First, Mr. President, I commend the distinguished Senator from Rhode Island. I think he has pointed up, sort of told it like it is, that there is a great deal of suspicion about not only the contributions but the investigation of President Ford that happened in the same time frame, about July 19 of last year, and there was not any decision made by the Special Prosecutor until October 14 of last year. It all got into certain donations that may or may not have been made, or contributions, to President Ford's campaign, years and years ago, when he was a Member of Congress. There has been at least some suspicion that this may have been generated by some who now see such great merit in the Cargo Preference Act. I am wondering, based on the excellent statement made by the distinguished Senator from Rhode Island, what he sees as a next step. He has indicated the bill should be consigned to oblivion. Does he have any other recommendations?

Mr. CHAFEE. I thank very much the distinguished Senator from Kansas. It is my hope, Mr. President, that, one, this legislation will be defeated in the House, where it is soon coming, as I understand it; second, that it will not emerge from committee in this body; and third, that if it does emerge from the committee and come to the floor of the Senate, it be soundly defeated.

I very strongly believe that that is in the best interests of the Nation and what should happen to this legislation.

Mr. DOLE. Will the Senator explain to this Senator, I am not totally familiar with what is meant by the quote by Mr. Randolph. I may have missed the full import of that.

Mr. CHAFEE. I will have to ask the distinguished majority leader, who is a historian, about John Randolph.

I believe he came from Virginia, is that not true?

Mr. ROBERT C. BYRD. Yes.

Mr. CHAFEE. Yes, he did.

Mr. ROBERT C. BYRD. JENNINGS RANDOLPH is from West Virginia.

Mr. CHAFEE. But John Randolph, I believe, was a representative, a Congressman.

Mr. ROBERT C. BYRD. That is correct.

Mr. CHAFEE. He came from an era when the language used in this body was a little harsher than now. He described a compatriot, a colleague, in the following terms, and it seems to me this very language should apply to this bill.

In referring to another Congressman, he said:

> He shines and stinks like rotten mackerel by moonlight.

That was language of 170 years ago and that is very harsh, but this current legislation——

The ACTING PRESIDENT pro tempore. The Chair observes that he was a Member of this body and his term started in 1825.

Mr. CHAFEE. He must have been in the House, Mr. President, at this time. This was delivered in 1806.

Did the Chair say 1845?

The ACTING PRESIDENT pro tempore. 1825. December 9, to be exact.

Mr. CHAFEE. Well, he polished things up, Mr. President, by the time he got to the Senate.

I thank the Chair very much.

The ACTING PRESIDENT pro tempore. That just proves something.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Iowa (Mr. CLARK) is recognized for not to exceed 15 minutes.

Mr. CLARK. Mr. President, I suggest the absence of a quorum, taken from my time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CULVER). Without objection, it is so ordered.

Mr. CLARK. Mr. President, how much time remains on my order?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. CLARK. I thank the Chair.

THE DEATH OF STEVE BIKO AND POLITICAL DETENTIONS IN SOUTH AFRICA

Mr. CLARK. Mr. President, on September 13, I made some remarks in this Chamber which reflected my deep shock and sorrow over the death of Steve Biko, one of South Africa's most gifted black leaders whom I met during my trip to Africa last year. The South African Minister of Justice, Mr. Jimmy Kruger, initially announced that Biko had died as a result of a hunger strike which had not been reported to Biko's family, to his lawyer, or to the public prior to his death. When I first heard Kruger's account, I said that this explanation was highly unsatisfactory, as so many of the explanations of previous South African deaths in detention have been. Subsequent events seem to confirm my conclusion.

The first source from which new grounds for suspicion over the cause of Biko's death arose is the Minister of Justice himself. Despite his formal announcement and a further cruel and tasteless comment at a meeting of a party Congress shortly afterward that Biko had the "democratic right" to starve himself to death, Kruger retracted his original explanation and denied that he had ever attributed Biko's death to a hunger strike. The cause of death, he said, had to await the results of the inquest.

At various times over the last few days, Kruger also made other seemingly contradictory remarks: That Biko had been examined five different times by official doctors during the 6 days prior to his death and no physical problem had been found; that Biko had been "medically treated by a district surgeon in Pretoria" on the day of his death for what is still an undisclosed illness, and that Biko had been given intravenous feeding on the day before his death, a treatment which, if true, surely should have saved his life if he were dying from lack of food.

Observers within and without South Africa have been raising other vital questions:

Could a healthy, well-built man of 30 die after only 7 days on a hunger strike? History is full of instances of people of less physical stature surviving much longer fasts.

Why was Biko brought from Port Elizabeth where he was being held since his arrest on August 18 to Pretoria only hours before his death? If it was for medical reasons, why was his family not told and why was he driven to Pretoria, a distance of 750 miles, rather than flown there if he was in need of urgent specialist attention?

Why are there conflicting stories of his death, with the prison authorities reporting that Biko was found dead in his cell—presumably in Port Elizabeth—and the Justice Ministry claiming that Biko died in Pretoria after having been treated for an undisclosed illness?

Well-placed sources have indicated that the preliminary postmortem report establishes that Biko had suffered brain and body injuries, but this is not confirmed. Biko's widow and his close friend, Donald Woods, editor of the English-language Daily Dispatch, reported after seeing the body on September 17 that they saw "quite a bit of swelling around the head" which may have been caused by a beating or by the autopsy.

Presumably, some of the facts will be established during the inquest when the reports of all three pathologists in attendance at the autopsy will submit their findings. But the specific objective of the inquest will be to determine the immediate cause of Biko's death. It will not necessarily determine the responsibility of the authorities who held Biko during the period of his detention; it will not establish the full circumstances surrounding the treatment of Biko prior to his death; and it will not resolve some of the discrepancies and contradictions which have already surfaced.

The statement by Jimmy Kruger admitting the possibility of some police irregularities in this matter and his threat that some "heads may roll" as a consequence introduces more doubts; it certainly provides some assurance that the full facts will be revealed. An internal investigation is not a sufficiently credible examination of the matter. In fact, it may be a means of evading the real issue.

The real issue here is not simply the death of one man—important and outstanding as he was. The real issue here is the South African system of political detention which permits arbitrary arrest and indefinite confinement of any person without the ordinary protection of the law which all freedom-loving nations uphold.

Security legislation over the past 14 years has increasingly restricted individ-

ual liberties and basic civil rights in South Africa. The most significant facts about this legislation are the following:

First. The laws have given more and more extensive arbitrary powers to the executive, beginning in 1963 with the provision of a 90-day detention without trial and ending in 1976 with the Internal Security Amendment Act which gives one-man—the Minister of Justice—the sole discretionary power of ordering indefinite detention.

Second. The laws have taken away more and more rights of the detainee, including denying him the right to see members of his family, the right to an attorney to defend his interests, the right to appeal to any court, and the right to be charged with an offense. Under the Internal Security Amendment Act of 1976, the minister may detain incommunicado and place in solitary confinement any person who in his judgment may "endanger the security of the state or the maintenance of public order." There is no recourse to public, parliamentary or judicial scrutiny. Under the Terrorism Act of 1967, which was used to arrest Steve Biko, the detainee may be held for an unlimited period until he has "replied satisfactorily to all questions at the * * * interrogation." Only the Minister or policemen "shall be entitled to any official information relating to or obtained from any detainee."

Third. This pernicious security legislation has usually been justified in the parliament on the grounds of external threats. Yet the powers inherent in the legislation have been used invariably for internal purposes, most notably during the Soweto disturbances last year and against anti-government groups or persons. As of March 1977, when the latest data are available, the South African Institute of Race Relations reported that 471 persons were believed to be held in detention in South Africa in terms of security legislation.

Fourth. The record of deaths in detention is deplorable. According to the Christian Institute of South Africa, there have been at least 35 known political detainees who have died while in custody from 1963 until February of this year. Other sources report 45 or 50. The Minister of Police said in 1976 that 28 persons died in captivity in 1975 alone, due to suicide or self-inflicted injuries. In the last 18 months, according to the South African Institute of Race Relations, 20 have died in detention including Biko. The numbers vary because of the secrecy surrounding the detentions, and because different sources variously classify those arrested. Minister Kruger, for example, told Parliament in February 1977 that 117 people died in detention last year (1976), but these were "ordinary" detainees confined under laws other than security legislation.

Fifth. All of the political detainees who have died in custody have been black. Often their deaths are attributed to "natural" causes or to "suicide." Not a single member of the security police, or the prisons department has been convicted of an offense related to the death of a political detainee, although some post-mortem reports have confirmed evidence of assault and maltreatment. The government's explanation often includes the assertion that the "suicides" are a result of the black detainees acting on instructions from the Communists who are out to embarrass the authorities.

It is instructive to review some of the official police records, particularly as to the description of the causes of death. Suicide by hanging is the most frequent cause of death cited and this has included, despite police precautions, hanging by scarves, vests, dungarees, belts, shirts, and strips torn from blankets. Others are said to have sustained multiple injuries caused by slipping on soap in a shower, stumbling over a chair, leaping out the window of the police station or falling down the stairs. One prisoner, Wellington Tshazebane, an Oxford graduate arrested December 9, 1976, was reported dead on December 11 and was said to have left a note in which he cleared the police of all blame and admitted suicide.

Others who are reputed to die of "natural causes" are usually said to have had a heart attack or a stroke. One was reported to have died from suffocation due to an epileptic fit. Mr. Samuel Malinga, detained on January 31, 1977, was said to have died on February 22 due to a heart condition. His widow denied that her husband suffered from any heart ailment. The chief government pathologist who conducted the autopsy said after the postmortem:

> Mr. Malinga died of natural causes as a result of a disease process of the heart of fairly longstanding, complemented by the development of changes in his lungs. Pneumonia was a final cause of death. We see a large number of these cases in Africa. His death would not have been hastened by detention. If anything, detention could have prolonged life.

If the Government officials are to be believed, they can be accused, at best, of sloppy or unsophisticated police methods, an accusation that few people who know about South Africa find incredible. At worst, they stand accused of systematic and legalized political assassination. Inasmuch as there has been a steady pattern of deaths in detention whose disclosed causes are not widely believed by the public, there is an overriding need to add credibility to the Government's explanations, particularly in the case of Biko's death. There is no substitute for an independent, impartial board of inquiry not only to get to the bottom of the Biko matter but to examine the entire justification for and application of the country's security legislation which is as authoritarian as any existing in the world today.

I have not gone into the allegations of torture described by released detainees, nor the political trials and banning orders that also emanate from the security legislation that gives the South African Government absolute power to restrict the freedom of South Africans. These too should be examined and exposed.

If the South Africans continue to argue as they do that they are defenders of the Western way of life and allies of the free world, they must uphold some of the fundamental universal principles of human rights shared by the members of that community, the most basic being the right to life and liberty. If the South Africans choose to do otherwise, then they will surely face the consequences of that folly alone, without the United States or other Western nations drawn into the civil conflict that will inevitably result from their intransigence. It is not for us to dictate to anyone how to order their society; our responsibility is merely to point out the realities of the situation as we see it, and the implications those realities have for our foreign policy. South Africa must make up its own mind as to what direction it will now go—in the direction which will enable members of the free world to assist it in transforming itself, or in the direction which will prevent the members of the free world from helping to avert a catastrophe whose consequences are, in the immortal words of the Prime Minister, "too ghastly to contemplate." The restrictive security legislation which, whatever the immediate cause of death, contributed to the martyrdom of Steve Biko, is as good a place as any to start to avoid that catastrophe.

We should—all of us—take note of the words of Biko when he wrote about those who misunderstood or underestimated the march of events in southern Africa:

> There is a role for all of us in the struggle for emancipation. Each one of us has an obligation to be as much a part of the struggle as the situation demands. For those of us who shall have too much to lose when others gain what is rightfully theirs, then let us accept the fact that we constitute part of the problem; a part which will have to be dealt with efficiently, painfully, seemingly cruelly and yet so basically logically.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 5 minutes, with statements therein limited to 1 minute each.

(Routine morning business transacted and additional statements submitted will be printed later in the RECORD.)

CONCLUSION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If there is no further morning business, morning business is closed.

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which the clerk will now report.

The assistant legislative clerk read as follows:

> Calendar No. 395, S. 2104, a bill to establish a comprehensive natural gas policy.

AMENDMENT NO. 889

The PRESIDING OFFICER. The pending question is on amendment No.

889. Under the previous order, the Senator from South Dakota (Mr. McGOVERN) is recognized.

Mr. McGOVERN. Mr. President, just a few brief words on this pending amendment. I think most Members of the Senate are familiar now with the purposes of this amendment which I have referred to as the yardstick amendment. That phrase embodies the meaning of the amendment.

It is designed primarily to provide us an independent source of data concerning what it costs to produce oil and gas in this country. It will also provide us an independent source of information on what quality of reserves we have.

It could also be considered a yardstick in the sense that the Federal Gas and Oil Corp. which would be created by this amendment could conduct experiments in environmental standards which might prove useful for the entire industry.

But, in any event, it should be clear, as I stated previously, this is not an attempt to nationalize the gas and oil industry in this country. Quite the contrary, it is an effort to make the industry perform more efficiently and more effectively.

I see the Federal Gas and Oil Corp. as serving much the same function in the field as the Tennessee Valley Authority has served in the field of electrical rates. No one (despite some original fears about TVA) any longer suggests it has been an unwise investment or that it has damaged the free enterprise system or that it has hurt the American consumer.

TVA has been an enormous success. It has won the admiration not only of our own people but has also been an object of admiration, study and evaluation by experts all over the world.

We are the only country with sizable reserves of oil and gas which has nothing similar to the Federal Oil and Gas Corp. called for in this amendment. I believe the amendment speaks for itself. It is in the public interest. It should become an important part of the natural gas pricing bill now before the Senate. The natural gas pricing bill will involve hundreds of billions of dollars of consumers' income over the next decade. This bill badly needs the yardstick authority which would be created by my amendment.

Mr. President, the junior Senator from South Dakota, my colleague, has asked me to yield to him for some observations. I would be happy to yield to him at this time.

Mr. ABOUREZK. Mr. President, first of all, I ask for a division of the McGovern amendment into the sections in which it is written.

The PRESIDING OFFICER. Will the Senator put that in the form of a unanimous-consent request?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. The Senator has the right to make such a request and it will be so divided into 20 divisions.

Mr. ABOUREZK. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Did the Chair say it was divided into the 20 separate sections?

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. Mr. President, I wonder if I might just address a few questions about this particular amendment to the sponsor, my colleague from South Dakota.

Is this oil and gas corporation intended to be similar to the rural electric systems we are familiar with out in our State? Will it be a semi-public or entirely public corporation that would explore for oil and gas, and provide a measurement by which both private and public gas exploration and development could be compared?

Mr. McGOVERN. It does resemble the REA system to some extent. There would be some obvious difference, however. In the same sense in which the rural electrification system has provided a yardstick to determine the costs of delivering electric power to rural areas, this Federal Gas and Oil Corp. would perform a similar function with regard to the exploration, development, delivery, and marketing of gas and oil.

Mr. ABOUREZK. Is there any limitation on this corporation as to where they can develop, explore, and market and where they cannot do so?

Mr. McGOVERN. Yes. This corporation would be very definitely limited. It would explore available gas and oil reserves on Federal lands only. This gas and oil corporation, under the terms of my amendment—and in this way it is somewhat different from similar legislation considered in the House—would not have the right to engage in exploration and production of oil and gas on State lands, private lands, or in foreign countries.

The corporation's activity would be entirely confined to energy reserves in the Federal domain either on shore or off.

Mr. ABOUREZK. I imagine, speaking in terms of simple logic, there ought not to be any opposition to the concept of developing on Federal lands alone, since those resources happen to belong to the public. There is nothing wrong with the public understanding and knowing what its own resources are and how they can be developed. But if I am correct in my understanding of the opposition, they are totally opposed to that. My guess would be they are opposed to the yardstick concept because they do not want a comparison by the Government of how cheaply oil can be drilled for, developed, produced, and so on.

Mr. McGOVERN. As the Senator is aware, this amendment would limit the Federal Oil and Gas Corp. to not more than 10 percent of the offerings at any given time. In other words, even if this amendment were adopted, 90 percent of the oil and gas reserves on Federal lands would still be available to private developers. It is, therefore, a true yardstick measure.

I do not believe anyone could seriously argue that a public corporation limited to not more than 10 percent of the reserves available only on Federal lands could represent nationalization of the oil industry. Nationalization is an entirely different issue and ought to be debated on its own merits.

A somewhat similar measure introduced several years ago by the Senator from Illinois (Mr. STEVENSON) would have permitted the Federal entity to develop as much as 20 percent of the oil and gas reserves on Federal land. This measure, unlike that one, would limit the corporation to not more than 10 percent. Mine is a modest measure. I would even say it is a conservative measure. It is not designed to replace the private development of oil and gas. It is intended instead to get a more independent source of data by which we can measure the performance of private industry.

Those corporations who can demonstrate they are pricing their product reasonably and are giving accurate estimates on the extent of reserves and on the cost of developing those reserves should welcome this amendment because it is a means of underscoring what they have claimed, that they are not only establishing fair prices for their product, but (if their claims are right) that they might even be justified in increasing the price. One way to answer these questions is to establish an independent publicly authorized body to secure the data we need.

I think everyone in the Senate who has explored this energy question at all knows that one of the major problems is that we simply do not have enough data on what the extent of our reserves are. We do not have enough data on what it costs to develop and market those reserves. We have not explored the various environmental technologies which could be applied to the energy industry. This public corporation is one way, on a limited and modest scale, at very little cost to the American people, to accomplish this. Of course, there would be some initial cost in starting up a corporation of this kind, but in my best judgment the cost would be more than recovered through the sale of the gas and oil this corporation would make available. It is understood that the prices would be set to provide a reasonable profit to the Government corporation. Otherwise, it would not serve as an effective yardstick measure.

Mr. ABOUREZK. I wish to ask my colleague from South Dakota if he is familiar enough with the British Petroleum Co., which is partially owned by the government, to be able to compare that particular structure with the proposal that he has here today.

Mr. McGOVERN. It is my understanding that the British Petroleum Co. goes considerably beyond what is envisioned in this bill. It is not under a similar 10-percent limitation as provided for in this amendment. However, the comparison is close enough so that, if one were trying to get some evidence as to whether it is possible to operate an oil corporation efficiently under public ownership and public direction, I think you could argue that the British Petroleum Co. is one of the most efficiently organized oil enterprises in the world. It has a reputation for efficiency of operation. It further

supports the claim of those who argue that a Federal gas and oil corporation of this kind can be structured in an efficient manner.

Mr. ABOUREZK. I might also say that, with regard to obtaining information on costs of exploration and production, it is virtually impossible to obtain that information from the oil companies themselves. As I understand it, the Federal Power Commission or other energy agencies, have the authority to request information from the oil companies, but I do not know that such information is in a reliable or usable form. I have never seen a compilation of oil reserve information and cost information adequate for us to make policy here in Congress.

But I recall that 2 years ago, the Vice President of Continental Oil Co. testified before the Antitrust Subcommittee which I was chairing at the time. During my questioning of that particular oil company executive I asked him if he would tell the committee exactly what it cost to produce a barrel of oil. The response was that he did not know but he would get the information and send it to me. Over the past 2 years that information has never come through. They said, "It is going to take us a little more time to dig it out and compute it and so on." Finally, their final response to my office was that, "There was just no way we can compute what it costs to produce a barrel of oil."

To be honest, I do not believe that. I believe the oil companies are engaged in the same kind of games that they have played for years. They say anything that they think their listener will tolerate in order to frustrate criticism so as to pursue their own purposes.

For example, on one hand the oil companies say that they have no money, they have no financial reserves which is why they are demanding that we take the cap off gas and oil prices so that they can attract investment capital. Then at a different time, perhaps even minutes later, another oil company or perhaps even the same one will say, "We can't be prohibited from buying coal mines, we can't be prohiibted from developing uranium, because the oil companies are the only groups with the investment capital available to develop those other energy reserves."

I think by now most of us should realize that those companies are in business to maximize their profits. There is nothing wrong with any company in the country making a profit, but we should realize that there is something wrong with people who represent the public, Members of Congress, the administration, if we allow them to profit unduly from the fact that they control an essential resource which is in short supply and which the people we represent cannot live without.

I think that brings us to the question we have before us now, that is, the deregulation of natural gas. The argument is made time and again by supporters of deregulation that there will be no new gas produced, that reserves are going to go down, that we are not going to be able to find gas to satisfy the Nation's needs unless we take the lid off of gas prices.

I submit that that is nothing more than an expression on the part of the oil companies and their supporters that they are voluntarily withholding supplies of natural gas until they can get the price that they want.

To me that is an outrageous statement, one that should not be concurred in by the Senate, the House of Representatives, or the administration. It seems to me that either the people, through their representatives in Congress, are going to run the country or we are going to let the oil and gas companies run the country. I think it is time that we realize this fact, and it is time we made a final decision on that matter. If we want to be controlled and run by the oil industry and the gas industry, that is fine, but I think we should do it openly; we should not make these, what I consider frivolous excuses that, "We need more money in order to develop more gas wells." the gas is there. It is conceded by experts that the gas is there and the companies admit that they are obtaining an adequate profit under regulated prices. They get their cost of production, plus a return of 15 percent. If they wanted to drill for gas, they could produce enough gas to satisfy the efficient needs of the Nation without additional price increases.

However, the issue that we have before us, which is very closely contested in the Senate, as we found out last night on the motion to table, is one that would allow the oil and gas industry to reap the windfall that they have set the scene for over the past 8 years. I have to say to my colleague from South Dakota, and others here, that there was no real problem with regulation of natural gas up until 1969 when the newly constituted Nixon Federal Power Commission began promising, the gas industry as did the Nixon administration, that they would deregulate natural gas prices. Suddenly we found that our reserves, were decreasing, and so was production of natural gas.

It is only natural for a private corporation that sells gas which hears the Government saying such things as "We think you need higher prices to produce gas," to start withholding reserves until the prices go up. And they have done so.

I think what is important now is that the Government make a definite statement to the companies that they will get an adequate profit over and above their cost of production and that is final. I think once the Government makes that statement, we will at least see an end to the withholding of gas from production and an end to the delaying of exploration and nonperformance on contracts until such time as they think they are going to get an increase.

Mr. McGOVERN. Would the Senator agree that there is really no way the Government can make those cost estimates with any certainty without benefit of some kind of Federal yardstick?

Otherwise, we must largely depend upon the cooperation of the private oil companies. These companies have an interest in reflecting as high a cost as possible when they provide us estimates on what their costs are. Beyond that, do we really know we have accurate information on the quantity of our reserves? We have repeatedly heard testimony during the last few years, from some of the top authorities in this field. They indicate we not only know very little about the various cost factors involved, including exploration, production, transportation, and marketing of oil and gas, but that we do not even know the amount of our reserves.

Under the terms of this amendment, the corporation not only serves as a yardstick in giving us some information on what the cost factors are, but it would also have the authority to explore for gas and oil in the Federal domain both on and off-shore and provide us a more accurate picture of our reserves.

We are never going to know down to the last barrel what our reserves are, but certainly a publicly authorized corporation of this kind, which has no other function than to serve the public interest, would provide——

Mr. ABOUREZK. Yes, I would agree.

Mr. McGOVERN. Would it not provide the kind of data that we need, not only with reference to cost factors but also with reference to supply?

Mr. HART. Mr. President, will the Senator from South Dakota yield for a question?

Mr. McGOVERN. I yield to the Senator from Colorado.

Mr. HART. I thank the Senator.

I have been concerned about the structure of the petroleum industry and other concentrated industries, as has the junior Senator from South Dakota. What concerns me about this amendment is that—well, to put it in the nature of a question, would this amendment, in the sponsor's judgment, affect, long term or short term, the structure of the petroleum industry?

What I am concerned about, as far as the Pearson-Bentsen amendment, the administration position, and almost all the other proposals are concerned, is that they affect a concentrated industry, and the Senator's proposal does not seem to affect the concentrated industry where, in the first place, the market mechanisms cannot be trusted to properly value the product involved.

It seems to me that what the advocates of a Federal energy company are doing is also acknowledging the existence of a concentrated industry, and saying the only way to deal with that is not only to continue regulation, but to add another factor in the equation of a Federal energy company.

I am interested as to what the Senator's judgment is of the effect of that on the structure of the industry, if his amendment were adopted.

Mr. McGOVERN. Mr. President, I think the Senator's question is well taken, and the only honest answer I can give him is to say that this amendment is not a cure-all for the overconcentrated nature of the oil industry.

I am aware of the Senator's efforts, not only in regard to the oil industry but throughout the economy, in attempting

to restore a greater measure of competition. I do think it is not only an important way to deal with the pricing problem in gas and oil and in the energy industry generally, but it also goes to the heart of the poorly structured nature of that industry. The industry is too concentrated and places too much power in the hands of too few people.

If we really believe in the concept of democracy, we have to expand the concept sooner or later to the economic field in addition to securing greater and broader participation in the political rights of the country.

I would say that over the years I have become increasingly discouraged about the prospect of antitrust action really succeeding. Sixty or 70 years ago, we broke up the Standard Oil Trust, and that was supposed to introduce the kind of competitive circumstance which would protect the American people.

Actually what has happened is that we no longer have just the Standard Oil Trust, we have about four of them, and they are all so huge that any one of them still leaves us with all the structural problems the Senator is referring to. It is still possible for a handful of people to make decisions on the amount of oil that is going to be developed and the price we are going to be charged for it. They can even decide how much information they are going to give us about what their reserves are, or how they determine pricing.

What this amendment represents to me is a kind of confession on my part. I really do not believe we are going to do very much about the concentration of economic power in this country in terms of antitrust actions. The truth is that these corporations are more powerful than the Department of Justice; they are more powerful than the Antitrust Division; and they are more powerful, at least at this point, than the commitment of the Congress of the United States to changing the antitrust powers of the Government.

I believe this amendment might be one way, not necessarily of yielding to the permanence of the present structure in the oil industry, but at least of recognizing that we are not likely going to be able to break up those major corporations in the near future. Until that time comes, we need to have more information in order to determine what a fair price is. As long as we have some measure of regulatory authority on the books, we should not be issuing regulations in the dark. We should at least know what the supply and cost factors are.

Mr. HART. If the Senator will yield further, I think his latter few sentences get to the heart of my question. I greatly respect the wisdom and experience of the Senator from South Dakota on this issue, and, having just been at it a couple of years, I am beginning to understand the frustrations of trying to guarantee free enterprise, when those who should be most concerned about it really do not seem to be concerned.

I am one of the few Senators, and maybe the only Senator at the present time, who favor both deregulation and divestiture, because I harbor a kind of old-fashioned Jeffersonian notion that we have to fear not only the power of big corporations economically and politically but we also have to fear the power of large Government agencies which have been designed to control them.

I do not necessarily feel that the Government company the Senator is proposing suggests that kind of fear, but it is a kind of adjustment to an inevitable set of circumstances which, as I stated in my earlier appearance here, I am not quite yet willing to accept. I would like to continue to try to see whether there cannot be reasonable restructuring of these concentrated industries.

I know the votes have been running against us. The people who most loudly claim their devotion to free enterprise seem most committed to big enterprise. The concentrated industries which have gotten comfortable with regulation strongly oppose deregulation in many cases, due to the fact that regulating entities and agencies of the Federal Government can be and have been cooperative, in the past, with the people involved in them.

I think it is the concern with bigness that is frustrating a lot of the American people. They think big government is not responsive to their concerns. They know that the big corporations are not responsive. A lot of the frustration the Senator from South Dakota is familiar with flows from this domination of giant industries in our society. I would hate to take any step that reconfirms or confirms the existence of a state of affairs I would like to see Congress grapple with directly.

The Senator will recall that almost exactly 2 years ago this date when Congress first faced up to the issue of restructuring this gas and oil industry, there were 45 votes to do it. There may not be 45 votes today. Because of the power of this industry to propagandize and to influence legislation, there may be those who voted for it then who today would not vote in favor of it.

I think we can acknowledge the weakness of our antitrust laws and still face up to the fact that the Congress of the United States can legislate restructuring. We have in the past. The breaking up of the Standard Oil Trust was a judicial action which was not followed through and perfected by the antitrust elements of our Government. But I know the Congress of the United States has restructured industries in this century on at least four occasions, and I think we can face up to the problem which is the central problem to all this dispute, and that is the structure of the petroleum industry in this country.

I thank the Senator for yielding.

Mr. McGOVERN. I appreciate the Senator's observation. I certainly would not want, in any way, to diminish his efforts on the antitrust front. As the Senator knows, I shall continue to support him in that effort.

By the same token I do not think anyone ought to assume that passage of this amendment will delay that process. This amendment is in that tradition. It introduces another oil-producing corporation to join those already in the field. To be sure, it would be limited to 10 percent of the available oil and gas on Federal lands, but that, in itself, should encourage a greater measure of competition. We would have a public body, publicly disclosing its reserves and its cost factors, with its books wide open for inspection by the Congress or anyone else. It would move us one step closer to a greater measure of competition, even at a time when, and in this I fully agree with the Senator, we need to go even beyond that in terms of antitrust action.

I would also draw attention to our historical experience with the Tennessee Valley Authority. Those who are most frightened of bigness, either in the private sector or in the Government sector, would agree that we have very little to fear from the Tennessee Valley Authority, simply because it has introduced another element of competition. It has introduced an additional element of democracy in the electrical industry in this country. It has actually stimulated both free and private enterprise. I should like to think this oil and gas corporation, operating under the strictures of my amendment, would also become a solid contribution in strengthening our free enterprise system.

Mr. HART. I thank the Senator.

Mr. McGOVERN. Mr. President, did my colleague from South Dakota wish me to yield to him further on this matter?

Mr. ABOUREZK. I have a short statement that I should like to make.

Mr. McGOVERN. I yield to the Senator for the purpose of making a statement on the amendment.

Mr. ABOUREZK. Mr. President, in any issue as complex and controversial as the energy matter we are now considering, the problem of obtaining reliable data stands highlighted. Whether we turn to pricing questions, to supply questions, to anti-trust considerations, to environmental matters, or, really, to any aspect of the energy debate, we face the same problem. We find that data we need is either nonexistent, not available, or is available in such confusing forms and such meaningless breakdowns that every side in the debate uses irrelevant data as if it were the real thing.

Nowhere is this problem more severe than in assessing the various claims of our oil and natural gas industry. Do we have a shortage or do we not? Is there a monopoly or is there not? What does it cost to explore for natural gas? What does it cost to find new oil? How about old oil? What should it cost?

The questions go on and on, yet the data we have to help us decide these crucial questions is not adequate.

The proposal of my colleague from South Dakota (Mr. McGOVERN) to establish a yardstick public corporation with authority to find and develop natural gas and oil on Federal lands would go a very long way toward helping us develop reliable data to make sensitive energy decisions in the 1980's and beyond. It would establish a carefully limited public sector against whose performance the claims of the private sector could be weighed. At little or no cost to the taxpayers, it would permit us to measure the heavily advertised energy company

arguments that they are doing the best possible job in every possible area. If the oil and gas companies believe that the Government is inefficient, let us put that claim to the test. The Government is not represented among the enterprises of our economy only by the post office. It also runs an efficient and safe agency for controlling air traffic, for example.

Personally, I believe that the energy companies are not operating according to the needs of the larger public interest. But whatever one believes on this issue, it seems to me that any responsible government ought to have more than the word of Bob Hope that Texaco does it best.

What we need, and what the McGovern amendment would create, is a yardstick that would permit us to say, "All right, here is what the public corporation has been able to do. Let's see how Texaco and the other oil companies measure up against this standard."

The idea of a public yardstick corporation is neither new nor radical. Respected Senators have proposed this idea and more Senators have voted for it. It has been studied and found feasible by Congressional Research Service; a model exists in the Tennessee Valley Authority.

It will no doubt be opposed, in what has come to be a reliably predictable response, by those raising the bogey of nationalization. These are arguments that are not only fraudulent; they are not worthy of members of this governing body.

The McGovern amendment specifically limits the public corporation to purchase of only 10 percent of any rights offered for sale or lease to other qualified persons.

If private industry is correct in its loud claims that Government is ineffective in such endeavors as this amendment proposes, then they surely have nothing to fear. If they are wrong and this public yardstick corporation proves successful, we shall then have an invaluable tool with which to measure private performance and to help improve it in the future.

To my mind, the idea that nationalization of the American oil industry is a clear and present danger is simply ludicrous. We all know it is not going to happen. What we are talking about here today is whether we are going to meet our responsibility to the American people to insure that our Nation's energy policy brings them the fuel they need at the lowest possible cost with the maximum possible safeguarding of our national security. The McGovern yardstick amendment would provide us with the information we need to do that job. The defeat of that amendment would keep us in the dark and provide yet another demonstration that this Congress and this Government are not willing to stand up to the power of the oil industry, or to attempt new and democratic approaches to problems that the old structures seem unable to solve.

I thank the Senator for yielding for that statement.

Mr. METZENBAUM. Mr. President, will the Senator yield to me?

Mr. McGOVERN. Mr. President, I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to offer my support to the McGovern amendment, which I think is a major step in the right direction. I think there has been, over the years, an effort to obtain adequate information on the entire question of gas availability and gas pricing, but there has been an inability to obtain that information.

Some months ago, Mr. O'Leary testified before our committee that it would take 3 to 4 years before they could obtain the necessary information to advise Congress and the American people with respect to the price impact on gas availability. This morning, Mr. O'Leary again appeared before our committee. Again today, he indicated that the time aspects were of such a nature that it could not be assumed that we would have the necessary information in any immediate future. During the course of that hearing, I pointed out to Mr. O'Leary—whom I consider to be a very capable public official—that if it takes 3 to 4 years until we obtain the necessary information, it is entirely likely that not alone the horse, but all of the barn animals will be out of the barn before we ever get around to determining a national policy.

It is for that reason that I think the McGovern yardstick amendment is such a valuable move in the right direction.

There are those who have talked about nationalization. I do not support the concept of nationalization because I happen to be a free enterprise product and a free enterprise devotee. But I have also felt that the industry itself is its own worst enemy and that, while they have fought back as far as obtaining the necessary information, they have kept the American people wondering as to their credibility. I believe it is fair to say that the oil and natural gas industry, at this point, have totally lost their credibility with the American people. When, in the Exxon case, which was brought by the Federal Trade Commission, Exxon takes 4 years in a delaying procedure to quash the subpenas, the American people say, why are they not willing to make the information available?

Here we are talking about a proposal that would not do anything more than make it possible to determine what are the facts with respect to cost, or what are the facts with respect to the operation of these faciliies that are productive of the Nation's energy resources.

The real question is, what we are talking about under this proposal has to do with the entire question of property that belongs to the American people.

There is no proposal in this that would say that the American Government would go in and take away from the energy companies or the oil companies of this country that which already belongs to them.

We are talking about the lands that belong to the American people, and the proposal would say that it would make it possible to obtain a realistic yardstick based upon actual facts so that the people of this country might understand what the true economic data is over a period of time.

Various committees of this Congress, various agencies of our Government, and various Members of the Congress as individuals in their official capacities, have attempted to obtain the information so needed to establish an appropriate policy.

I remember sitting in a committee hearing one day and saw stretched across the entire wall of that committee hearing room charts indicating how information is made available by oil and natural gas producers to various governmental agencies. But the bottom line with respect to the figures on that chart was that there was no way to assemble all the data and to actually find out how much is available, under what circumstances it can be obtained, and at what price.

Therefore, I cannot understand how anyone could be opposed to this amendment, which is a step in the right direction, making it possible to obtain the needed economic data so that this Nation's policies in the field of energy may be more realistic than they are now, so that they might be based upon actual facts rather than fiction, so that they might be based upon the figures that relate to that which has occurred rather than to the figment of the imagination of the American Gas Association or the American Petroleum Institute.

Those figures have come from somebody's pie in the sky kind of dreams. These figures would be based upon facts.

Although I think it will be difficult to get a majority of the Members of the Senate to vote affirmatively with respect to this amendment, I believe that if the Members of the Senate seriously recognize and realize what the amendment would, indeed, do, that it would gain not only a majority, but almost unanimity.

Mr. President, I urge the Members of the Senate to support this very realistic and very appropriate and very much needed amendment.

Mr. McGOVERN. Mr. President, I have nothing further to say on this amendment at this time. If other Senators want to be heard, they should speak now.

Mr. HANSEN addressed the Chair.

Mr. McGOVERN. Mr. President, I am willing to yield the floor.

Mr. HANSEN. Mr. President, it is not my intention to ask the distinguished Senator from South Dakota to yield the floor. I would like to make an inquiry of him, if he were disposed to grant me that opportunity with the clear understanding that he would not lose his right to the floor.

Mr. McGOVERN. I am happy to.

Mr. HANSEN. Mr. President, I think it has been fairly clearly pointed out what the thrust of the Senator's amendment is.

I think it might not be presumptuous of me to say that I believe most Senators have a fairly clear idea of what the distinguished Senator from South Dakota hopes to accomplish with the amendment.

My question is, would he propose that we might express our feelings individually by voting on it?

Mr. McGOVERN. That would be my first inclination, but I have been advised that there are Senators who want to be heard on it. Therefore I would like to see it discussed further.

The Senator understood me perfectly in what I want. I would like to see a vote.

I think this amendment is a good amendment. I think its purposes are clearly understood.

I realize there is a difference in the Senate as to whether or not it is a wise measure. It seems to me to be a very simple concept. Either we are going to have some kind of a Federal yardstick by which to measure the extent of our reserves and the cost of producing oil or gas, or we are not.

I am prepared to vote any time my distinguished colleagues desire.

Mr. HANSEN. I say to my friend from South Dakota that I applaud him for the expression of his feelings and his sentiments.

I, too, share his conviction. I would be happy to do anything I could, as the floor manager of the bill for the minority, to help him achieve his purpose.

Mr. McGOVERN. Does that include helping me pass the amendment?

Mr. HANSEN. In getting a vote on it.

I am certain the Senator from South Dakota, believing strongly in its merits, would not have any misgivings about favorable action from the Senate.

Would that be presumptuous of me to say that?

Mr. McGOVERN. That is a fair presumption.

I would be even more certain if I had the Senator's support for my amendment.

I am perfectly willing to put it to a test any time the Senate is ready.

Mr. HANSEN. Mr. President, I remind the Senator from South Dakota that almost invariably I am on the losing side and he might be well-advised not to seek my support.

Mr. McGOVERN. Nonetheless, I have noticed on matters pertaining to oil and gas, the Senator usually wins more than I do.

The PRESIDING OFFICER (Mr. GRAVEL). The question recurs on division 1 of the amendment of the Senator from South Dakota. The yeas and nays have been ordered. This will be the first of 20 votes on the Senator's amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

The result was announced—yeas 19, nays 78, as follows:

[Rollcall Vote No. 391]

YEAS—19

Abourezk	Kennedy	Percy
Anderson	Leahy	Riegle
Case	McGovern	Sarbanes
Clark	McIntyre	Sparkman
Cranston	Metzenbaum	Williams
Durkin	Muskie	
Hathaway	Nelson	

NAYS—78

Allen	Glenn	Moynihan
Baker	Goldwater	Nunn
Bartlett	Gravel	Packwood
Bayh	Griffin	Pearson
Bellmon	Hansen	Pell
Bentsen	Hart	Proxmire
Biden	Haskell	Randolph
Brooke	Hatch	Ribicoff
Bumpers	Hatfield	Roth
Burdick	Hayakawa	Sasser
Byrd, Harry F., Jr.	Heinz	Schmitt
	Helms	Schweiker
Byrd, Robert C.	Hollings	Scott
Cannon	Huddleston	Stafford
Chafee	Inouye	Stennis
Chiles	Jackson	Stevens
Church	Javits	Stevenson
Culver	Laxalt	Stone
Curtis	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Wallop
Domenici	Matsunaga	Weicker
Eagleton	McClure	Young
Eastland	Melcher	Zorinsky
Ford	Metcalf	
Garn	Morgan	

NOT VOTING—3

Humphrey	Johnston	McClellan

So division 1 of Mr. McGOVERN's amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to division 2. The yeas and nays were ordered, and the clerk will call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that at the conclusion of all the rollcalls on the pending McGovern amendment I be recognized to offer a substitute.

Mr. BAKER. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, would the Senator withhold his request for just a moment so that we can consider this matter and, in the meantime, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum called be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I move to lay on the table division 2 of the McGovern amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 2 of the McGovern amendment.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 2 of the McGovern amendment.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. McCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 392 Leg.]

YEAS—79

Allen	Glenn	Packwood
Baker	Gravel	Pearson
Bartlett	Griffin	Pell
Bayh	Hansen	Percy
Bellmon	Hart	Proxmire
Bentsen	Haskell	Randolph
Biden	Hatch	Ribicoff
Brooke	Hatfield	Roth
Bumpers	Hayakawa	Sasser
Burdick	Heinz	Schmitt
Byrd, Harry F., Jr.	Helms	Schweiker
	Hollings	Scott
Byrd, Robert C.	Huddleston	Sparkman
Cannon	Inouye	Stafford
Chafee	Jackson	Stennis
Chiles	Javits	Stevens
Church	Laxalt	Stevenson
Culver	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Moynihan	Zorinsky
Garn	Nunn	

NAYS—16

Abourezk	Hathaway	Muskie
Anderson	Kennedy	Nelson
Case	Leahy	Riegle
Clark	McGovern	Sarbanes
Cranston	Metzenbaum	
Durkin	Morgan	

NOT VOTING—5

Goldwater	Johnston	Metcalf
Humphrey	McClellan	

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining divisible portions of the McGovern amendment be considered en bloc.

Mr. ABOUREZK. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, could the distinguished Senator from South Dakota inform the Senate as to whether or not he intends to force the Senate to vote on each of the remaining portions singly? Will he, at any time, be

willing to give his consent to a vote en bloc on the remaining portions?

Mr. ABOUREZK. I shall try to answer the majority leader's question. I do not know if I can do it adequately or not.

There are a couple of reasons why it would be difficult to vote this amendment en bloc. One is, as I told my colleague from South Dakota, that if we vote each section separately, we might have a chance of passing, perhaps, the title or some other section that would not offend too many of the Members with regard to his amendment.

The other is that one of my colleagues on the Republican side said he was gone all week last week and missed some 23 votes, and he was interested in building up his average. So I want to be helpful to him, even though he is on the other side of the aisle.

Mr. ROBERT C. BYRD. Would the Senator be willing to have 10-minute rollcalls on each vote?

Mr. ABOUREZK. No.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that each rollcall vote be limited to 10 minutes.

Mr. ABOUREZK. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, how many divisions remain?

The PRESIDING OFFICER. Eighteen remain to go.

Mr. ROBERT C. BYRD. This would mean that a total of 270 minutes would be required?

The PRESIDING OFFICER. Four and a half hours, approximately, the Chair would determine.

Mr. ROBERT C. BYRD. Let us have another vote and see if the Senator will change his mind about voting en bloc. I hope that he will reconsider his position and not be concerned about a Member on either side who wishes to build up his voting record, and exclude that from his two reasons. Then let him be considerate of the Senate and let us vote en bloc on the divisions of the amendment, which would allow the Senate to register its will on the amendment.

I think, frankly, that the procedure that the distinguished Senator from South Dakota is taking is probably insuring the defeat of Mr. McGOVERN's amendment. Some of us might wish to vote for that amendment. But I doubt that, by voting on it piecemeal, there being 20 pieces, he is going to insure the adoption of the amendment. I hope the Senator will reconsider.

Mr. President, does any Senator wish me to yield to him for the purpose of moving to table the third division of the 20 portions?

Mr. PEARSON. Yes, if the leader will yield and if the Senator from South Dakota is through with his discussion.

Mr. ROBERT C. BYRD. I yield for that purpose only.

Mr. PEARSON. I wish to inquire of the Senator whether he has completed his discussion of the third section?

Mr. ROBERT C. BYRD. I am not yielding for that purpose.

Mr. PEARSON. I am prepared, at the end of the majority leader's inquiry, to move to table at any time.

Mr. ROBERT C. BYRD. If the Senator wishes to do that now, I am yielding to him.

Mr. PEARSON. I think as a matter of courtesy, I wish to know whether the Senator has completed his discussion.

Mr. ROBERT C. BYRD. He has not started his discussion.

Mr. PEARSON. I shall move to table at that time.

Mr. RANDOLPH. Mr. President, I shall move to table.

Mr. ROBERT C. BYRD. My distinguished colleague wishes to move to table.

I ask of the Senator from South Dakota, does he wish to discuss the amendment?

Mr. ABOUREZK. Yes, and I think that, at a little later time during the day, there are other Senators who indicated that they want to come back, sometime later this afternoon, and continue discussion of this.

Mr. ROBERT C. BYRD. Of this third division?

Mr. ABOUREZK. Yes—well, that and related matters.

Mr. ROBERT C. BYRD. Then, what the Senator is saying is that it will be some time this afternoon before the senior Senator from West Virginia could move to table the third section of the amendment?

Mr. ABOUREZK. If the majority leader gave him the floor, he could do it now.

Mr. ROBERT C. BYRD. What I want to do is accord to the Senator from South Dakota the courtesy of his discussing the amendment before that motion is made, if I can get a time limit on such discussion. I should be glad to ask that the Senator have 10 minutes to discuss the amendment and then that the Senator from West Virginia (Mr. RANDOLPH) be recognized to move to table that section of the amendment.

(Mr. HUDDLESTON assumed the chair.)

Mr. ABOUREZK. I would prefer not to agree to a time limit for myself. I cannot speak for anybody else.

Mr. ROBERT C. BYRD. Yes. The Senator understands that I am leaning over backwards in my effort to accord every courtesy to him. As I understand him, he is not willing to agree to a time limit for his discussion on the amendment and then that Mr. RANDOLPH could be recognized to move to table it. Am I correct in that?

Mr. ABOUREZK. Yes.

Mr. ROBERT C. BYRD. Mr. President, I yield to my colleague who has indicated that he will move to table. I will yield to him for that purpose.

Mr. RANDOLPH. Mr. President, I move to table division 3 of the McGovern amendment.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 3 of the McGovern amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. McCLELLAN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

The result was announced—yeas 77, nays 18, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—77

Allen	Glenn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bayh	Griffin	Percy
Bellmon	Hansen	Proxmire
Bentsen	Hart	Randolph
Brooke	Haskell	Ribicoff
Bumpers	Hatch	Roth
Burdick	Hatfield	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schmitt
	Heinz	Schweiker
Byrd, Robert C.	Helms	Scott
Cannon	Hollings	Sparkman
Chafee	Huddleston	Stafford
Chiles	Jackson	Stennis
Church	Javits	Stevens
Culver	Laxalt	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Talmadge
DeConcini	Magnuson	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Eagleton	McIntyre	Weicker
Eastland	Melcher	Williams
Ford	Morgan	Young
Garn	Moynihan	Zorinsky

NAYS—18

Abourezk	Durkin	Metcalf
Anderson	Hathaway	Metzenbaum
Biden	Inouye	Muskie
Case	Leahy	Nelson
Clark	Mathias	Riegle
Cranston	McGovern	Sarbanes

NOT VOTING—5

Humphrey	Kennedy	Pell
Johnston	McClellan	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I should like to inquire of my jovial friend from South Dakota if he would be willing to enter into a time agreement on the pending division 4—say, 10 minutes before the motion to table is made.

Mr. ABOUREZK. I respond to the leader by saying that I, personally, do not want to enter into a time agreement. I would welcome the chance to debate the issue of deregulation of natural gas, without a time restriction.

Mr. ROBERT C. BYRD. I certainly do not want to deprive, by a tabling motion, the Senator's having an opportunity to speak a few words on the pending division 4—say, if he wishes to talk 5 minutes

on it or 10 minutes, I would be willing to await moving to table until that time.

Mr. President, I ask unanimous consent that the Senator from South Dakota be recognized for not to exceed 10 minutes, for a discussion only of the pending division 4; that no amendment thereto be offered during that time; and that I then be recognized for the purpose of moving to table or allowing another Senator to move to table.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, does any Senator wish me to yield only for the purpose of moving to table division 4?

Mr. BAKER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I wonder if there is some possibility that we could expedite these matters further by consolidating the remaining divisions? I know it is a matter of sensitivity, but we have what, 17 more divisions in the McGovern amendment? I wonder if we could have one or two votes of the 17 more, if we could consolidate the vote to count as one vote?

Mr. ROBERT C. BYRD. I like the suggestion. I propounded that suggestion to the distinguished Senator just before the vote occurred. At that time for two reasons he did not feel we ought to vote en bloc on those. But during the vote he may have had a change of mind, keeping in mind his sunny disposition and his desire always to accommodate the Senate.

So the distinguished minority leader and I join in asking unanimous consent that the remaining 17 parts be voted on en bloc.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I would like to, as I have done privately with the distinguished majority leader, say I believe the way out of this impasse would be to offer the provisions of the Bentsen-Pearson amendment as a substitute for division 4, and that would get us back on track where we would be considering the main question and not some ancillary question. So that is the suggestion I would make to get out of this impasse and get back on the main question.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Alabama and I did discuss that approach, but for reasons which I think are substantial enough and, as I indicated to him, I would not want to take that approach at the moment and, therefore, with deference to the Senator and understanding that we will remain friends hereafter——

Mr. ALLEN. I merely offer the suggestion.

Mr. ROBERT C. BYRD. In future——

Mr. ALLEN. If we want to get out of this present situation and get back on the main question—but if we are enjoying what we are doing [Laughter]——

Mr. ROBERT C. BYRD. No, we are not enjoying what we are doing. But I may as well state my reasons.

It may be that a certain Senator will want to offer an amendment to one of the parts, any one of the parts, because that is open to an amendment in the second degree, and it may be that there will be an opportunity at some point for a Senator to offer a certain second degree amendment to one of those parts.

So I would like to either vote on the remaining parts en bloc or we have no recourse but to continue to vote on them separately.

Mr. BARTLETT. Mr. President, will the Senator yield to me so that I might make a motion to table?

Mr. ROBERT C. BYRD. I shall yield gladly to the Senator for that purpose.

Mr. BARTLETT. Mr. President, I move to table the pending division.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays because there is not a quorum——

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. There is not a quorum in the Chamber, and I suggest we cannot conduct any business unless a quorum is present.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 24 Leg.]

Abourezk	Garn	Muskie
Allen	Hart	Pearson
Baker	Hatch	Ribicoff
Bartlett	Huddleston	Schmitt
Brooke	Laxalt	Scott
Byrd, Robert C.	McClure	Weicker
Cannon	Metcalf	Williams
Durkin	Metzenbaum	Young

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of the absentees.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ROBERT C. BYRD. Mr. President, that is impossible now because the Chair has already announced the absence of a quorum.

The PRESIDING OFFICER. The Chair has announced that. It is too late. The absence has been announced.

The clerk will call the roll of the absentees.

The second assistant legislative clerk resumed and concluded the call of the roll and the following Senators entered the Chamber and answered to their names:

Anderson	Chiles	Eastland
Bayh	Church	Ford
Bellmon	Clark	Glenn
Bentsen	Cranston	Goldwater
Biden	Culver	Gravel
Bumpers	Curtis	Hansen
Burdick	Danforth	Haskell
Byrd, Harry F., Jr.	DeConcini	Hatfield
	Dole	Hathaway
Case	Domenici	Hayakawa
Chafee	Eagleton	Heinz
Helms	Melcher	Schweiker
Hollings	Morgan	Sparkman
Inouye	Moynihan	Stafford
Jackson	Nelson	Stennis
Javits	Nunn	Stevens
Kennedy	Packwood	Stevenson
Leahy	Pell	Stone
Long	Percy	Talmadge
Lugar	Proxmire	Thurmond
Magnuson	Randolph	Tower
Mathias	Riegle	Wallop
Matsunaga	Roth	Zorinsky
McGovern	Sarbanes	
McIntyre	Sasser	

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table division 4 of the amendment of the Senator from South Dakota (Mr. McGOVERN). The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ABOUREZK. Mr. President, have the yeas and nays been ordered on the motion to table?

The PRESIDING OFFICER. That is correct.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—81

Abourezk	Glenn	Packwood
Allen	Goldwater	Pearson
Baker	Gravel	Pell
Bartlett	Hansen	Percy
Bayh	Hart	Proxmire
Bellmon	Haskell	Randolph
Bentsen	Hatch	Ribicoff
Biden	Hatfield	Roth
Brooke	Hayakawa	Sasser
Bumpers	Heinz	Schmitt
Burdick	Helms	Schweiker
Byrd, Harry F., Jr.	Hollings	Scott
	Huddleston	Sparkman
Byrd, Robert C.	Inouye	Stafford
Cannon	Jackson	Stennis
Chafee	Javits	Stevens
Chiles	Laxalt	Stevenson
Church	Leahy	Stone
Culver	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Magnuson	Tower
DeConcini	Mathias	Wallop
Dole	Matsunaga	Weicker
Domenici	McClure	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Moynihan	
Garn	Nunn	

NAYS—15

Anderson	Hathaway	Morgan
Case	Kennedy	Muskie
Clark	McGovern	Nelson
Cranston	Metcalf	Riegle
Durkin	Metzenbaum	Sarbanes

NOT VOTING—4

Griffin	Johnston	McClellan
Humphrey		

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which

the motion to lay on the table was rejected.

The PRESIDING OFFICER. The Senator from West Virginia was recognized.

Mr. ROBERT C. BYRD. Mr. President, my lovable, affable, congenial friend from South Dakota knows full well, as the Senate knows, that the purpose of moving to reconsider, in this particular instance, is but to delay the Senate in reaching a final decision on the bill, as well as on the McGovern amendment. My delightful friend from South Dakota also knows of my great personal affection for him and, if the circumstances were otherwise, I should yield to him for the purpose of moving to reconsider the vote. But he also knows that a motion to reconsider the vote would be tabled and that this would merely mean an additional 15 minutes of the Senate's time.

In addition thereto, he knows that I would defend his rights to the floor against an array of angels, if necessary, under circumstances in which I thought there was a real possibility of reconsideration of this vote. Consequently, Mr. President, I merely would like to ask the distinguished Senator if he will allow the Senate now to vote en bloc on the remaining parts of the McGovern amendment.

Mr. ABOUREZK. If the distinguished majority leader, my good friend from West Virginia, would yield, I would be happy to respond.

Mr. ROBERT C. BYRD. I yield for the Senator to respond to my question only, yes.

Mr. ABOUREZK. Speaking for myself, I would not be able to agree to voting en bloc, for the reasons previously stated. I should like to ask a question of the distinguished majority leader, if I may.

Mr. ROBERT C. BYRD. The distinguished Senator knows I cannot yield for anything other than a question, so I am glad to yield for a question.

Mr. ABOUREZK. Does the majority leader intend to allow me or anybody else to speak for a while on some of the issues that are presented to us today?

Mr. ROBERT C. BYRD. Oh, certainly, I should be glad at this point to ask unanimous consent for the distinguished Senator from South Dakota to address his remarks to the next division—is it 4 or 5?

The PRESIDING OFFICER. Division 5.

Mr. ROBERT C. BYRD. I am prepared to ask unanimous consent that he be permitted to speak for 10 minutes on that division, or 5 minutes or, knowing that his eloquence is such that he could perhaps persuade the Senate to his point of view in 15 minutes, I should be glad to make that request, with the understanding that I then be recognized to move to table the division.

Mr. ABOUREZK. I do not want to sound as though I am demeaning the generosity of the distinguished majority leader. However, that particular offer, which carries with it a time limitation, I must respectfully decline because I think, as the rules of the Senate provide, there is an opportunity for unlimited debate on any issue unless a time limitation is agreed to. I certainly do not want to restrict either myself or my colleagues from that particular kind of debate.

As the majority leader knows, this is an extremely important issue to the Nation. The natural gas bill to the consuming public would increase by some $160 billion were the Pearson-Bentsen amendment passed. I think we would be abrogating our responsibilities as Members of the U.S. Senate to let that go through without any kind of protest.

I have nothing but the greatest respect for the distinguished majority leader, and he knows that, except I do find it somewhat startling that he would attempt, by seeking recognition and holding the floor, to prevent my right to speak, or the right of any other Senator to speak, without time restrictions.

So, Mr. President, I ask for the floor at this time, if the Chair would recognize me.

I move to reconsider the vote by which the tabling motion——

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, part 3 of the amendment by the distinguished Senator from South Dakota (Mr. McGOVERN) was the linchpin of the entire amendment and that part has already been laid quietly to rest.

In view of the fact that the most important and basic portion of the amendment has already been tabled, I do not think that the Senate is served any purpose in continuing to vote on the remaining parts.

It reminds me of an old story about the various parts of the body and how they sought to state their importance. The eyes said the body would not be able to do thus-and-so if it were not for the part they played. The feet did the same thing. Finally, it came down to the belly.

When the belly sought to explain the important function that it performed, all of the remaining parts of the body laughed, laughed, laughed it out of court.

So the belly just went on strike. It was not long until all of the other parts began to weaken and to learn, at last, that without that particular important part of the body, the rest of the body really could not function very long.

Now, with part 3 gone and buried quite unceremoniously, the remainder of the bill is really meaningless.

So I would hope that the distinguished Senator would allow the Senate to vote en bloc on the remaining parts of the amendment.

If he would do that, I would be glad to yield the floor, or I would ask unanimous consent that the Senate vote en bloc and happily have him make the request if I yield the floor for that purpose, provided we vote it immediately.

Does the Senator wish to respond?

Mr. ABOUREZK. No.

Mr. ROBERT C. BYRD. Then, Mr. President, I move to table the next part.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, there is not a quorum present in the Chamber and I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted since the last rollcall vote showed there was a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. For a rollcall vote?

The PRESIDING OFFICER. Yes.

The legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, a point of order. Mr. President, there is not a quorum.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted.

Mr. ABOUREZK. The yeas and nays were asked for, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been asked for and the question now occurs on the motion to table.

Mr. ABOUREZK. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The point of order is——

Mr. ROBERT C. BYRD. Mr. President, I ask for the regular order. There has been no business transacted since the last rollcall vote showed the presence of a quorum and I insist on the regular order.

Mr. ABOUREZK. Mr. President, a point of order.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I insist on the regular order.

Mr. ABOUREZK. Mr. President, the yeas and nays have been ordered and that is routine business.

Mr. ROBERT C. BYRD. I insist——

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend. The Senator from South Dakota will state his point of order.

Mr. ABOUREZK. My point of order is that there is not a quorum present in the Chamber. The Senate cannot conduct business while there is not a quorum present and there was business transacted since the last quorum was established. That business was the request for the yeas and nays.

QUORUM CALL

The PRESIDING OFFICER. The Senator's point of order is well taken. The clerk will call the roll to establish a quorum.

Mr. ABOUREZK. Is that a quorum call?

The PRESIDING OFFICER. To establish a quorum.

The second assistant legislative clerk proceeded to call the roll and the following Senators answered to their names:

[Quorum No. 25 Leg.]

Abourezk	Danforth	McGovern
Allen	Dole	Melcher
Baker	Domenici	Metcalf
Bartlett	Durkin	Pearson
Bayh	Ford	Randolph
Byrd, Harry F., Jr.	Hansen	Roth
Byrd, Robert C.	Jackson	Sasser
Case	Laxalt	Scott
Cranston	Leahy	Weicker
Curtis	Magnuson	Young
	Matsunaga	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Such a request is not in order at this point. The quorum must be established.

The second assistant legislative clerk resumed the call of the roll, and the following Senators answered to their names:

Anderson	Hatch	Nunn
Bellmon	Hatfield	Packwood
Bentsen	Hathaway	Pell
Biden	Hayakawa	Percy
Brooke	Heinz	Proxmire
Bumpers	Helms	Ribicoff
Burdick	Hollings	Riegle
Cannon	Huddleston	Sarbanes
Chafee	Inouye	Schmitt
Chiles	Javits	Schweiker
Church	Kennedy	Sparkman
Clark	Long	Stafford
Culver	Lugar	Stennis
DeConcini	Mathias	Stevens
Eagleton	McClellan	Stevenson
Eastland	McClure	Stone
Garn	McIntyre	Talmadge
Glenn	Metzenbaum	Thurmond
Goldwater	Morgan	Tower
Gravel	Moynihan	Wallop
Hart	Muskie	Williams
Haskell	Nelson	Zorinsky

The PRESIDING OFFICER. A quorum is present.

The question now occurs on the motion to table Division 5 of the McGovern amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

The result was announced—yeas 83, nays 14, as follows:

[Rollcall Vote No. 395 Leg.]

YEAS—83

Allen	Curtis	Helms
Baker	Danforth	Hollings
Bartlett	DeConcini	Huddleston
Bayh	Dole	Inouye
Bellmon	Domenici	Jackson
Bentsen	Eagleton	Javits
Biden	Eastland	Laxalt
Brooke	Ford	Leahy
Bumpers	Garn	Long
Burdick	Glenn	Lugar
Byrd, Harry F., Jr.	Goldwater	Magnuson
Byrd, Robert C.	Gravel	Mathias
Cannon	Hansen	Matsunaga
Case	Hart	McClellan
Chafee	Haskell	McClure
Chiles	Hatch	McIntyre
Church	Hatfield	Melcher
Culver	Hayakawa	Morgan
	Heinz	Moynihan
Nunn	Sasser	Stone
Packwood	Schmitt	Talmadge
Pearson	Schweiker	Thurmond
Pell	Scott	Tower
Percy	Sparkman	Wallop
Proxmire	Stafford	Weicker
Randolph	Stennis	Williams
Ribicoff	Stevens	Young
Roth	Stevenson	Zorinsky

NAYS—14

Abourezk	Hathaway	Muskie
Anderson	Kennedy	Nelson
Clark	McGovern	Riegle
Cranston	Metcalf	Sarbanes
Durkin	Metzenbaum	

NOT VOTING—3

Griffin	Humphrey	Johnston

So Mr. ROBERT C. BYRD's motion to lay on the table division 5 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, the Senate is now about to vote on part 6 of the McGovern amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I want Senators to know that I do not now nor do I ever want to abuse the prerogatives of the majority leader in seeking recognition. I think it has been amply indicated, and I say this not to cast any reflection on any Senator, because all Senators have all rights under the rules, and I will be the first to ask that those rights be respected, but last night the amendment by Mr. McGOVERN was the pending question. There was ample time at that time for the distinguished Senator from South Dakota to debate the amendment. As a matter of fact, I indicated to him that I would be willing to stay as long as he desired and to listen to his discussion of that amendment. He indicated that he would be very willing to go over until today and being a rather tired individual at that point I was happy that he was willing to go over until today. But there has been ample time to discuss the amendment.

The Senator has asked for a division of the amendment. It is divisible into 20 parts. There is no way now to have a vote on the remaining 15 parts except by unanimous consent.

I have asked repeatedly if the distinguished Senator from South Dakota (Mr. ABOUREZK) would be willing to vote en bloc on the remaining portions. In each instance he has indicated that he would not be willing to do that.

I hope every Senator realizes, some Senators not having been on the floor perhaps at the time that I have been seeking recognition after each vote in order to move the Senate along and complete action on the 20 parts, I have frequently sought to get consent to vote en bloc. I have frequently indicated my willingness to get consent for the distinguished Senator from South Dakota to address himself and his remarks to the immediate division. In each instance he has indicated he does not want to be confined to 5 minutes, 10 minutes, or 15 minutes which means that he would like to speak longer, and in my judgment it should be obvious to everyone that the purpose is merely to delay final action on the amendment and beyond that perhaps final action on the bill.

I do not believe that the Senate should be under any illusions as to what the purpose of the distinguished Senator from South Dakota is. I say that most respectfully.

But I wanted to explain for the record why I have sought recognition, and it has only been so that it might expedite further action on this amendment which even at best, the way it is going, is going to take quite a long time.

Were the circumstances otherwise I would, of course, not seek recognition.

Mr. BAKER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I followed with great interest the development of the situation on the floor today, especially the comments of the majority leader at this point. Based on that it seems to me that we are probably in for a very long day, indeed, and possibly for tomorrow, if we cannot finish the disposition of the McGovern amendment as it is now divided and presented to us.

Could I inquire of the majority leader if he now has a present judgment on how late we are likely to be today and what the outlook and prospects are for tomorrow?

Mr. ROBERT C. BYRD. I can only say at the rate we were going we are going to be in very late today and very late tomorrow.

Mr. BAKER. I thank the majority leader.

Mr. McGOVERN. Mr. President, will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

May I say this, too, that the distinguished Senator from South Dakota (Mr. McGOVERN) has at all times indicated a willingness and even a desire to get an up and down vote on his amendment.

I know that he does not enjoy this piece-by-piece excruciating surgery of his amendment which piece-by-piece buries the entire amendment without the Senate reaching a considered judgment on the amendment.

I am delighted to yield.

Mr. McGOVERN. Mr. President, I wanted to ask the majority leader and also my colleague from South Dakota, Senator ABOUREZK, if it is practical to think we can obtain an arrangement under which we can get to a vote on the amendment itself. I feel very deeply about the substance of this amendment, without regard to the procedures being used here today. A number of Senators have indicated to me they could support the amendment. There are not enough to agree to it, but a number have indicated that they support its substance. They do not want to engage in 20 separate votes. None of these titles mean anything standing by themselves. I am wondering if we cannot get an agreement to vote on the amendment itself; not simply the remaining 15 sections. I am wondering if this kind of agreement can be worked out.

Mr. ROBERT C. BYRD. Mr. President, I would be perfectly agreeable to presenting a unanimous-consent request that the McGovern amendment be dealt with ab initio and that we proceed to an immediate vote on it or to a vote on it after a reasonable time for debate, say 30 minutes to be equally divided. That

can be done but only by unanimous consent at this point.

I would be happy to present some sort of a request to that end.

Mr. McGOVERN. I wish the majority leader would explore that because a considerable amount of work has gone into this amendment. The concept is not original with me. It is an idea which has been around for some time. The Senator from Illinois, Senator STEVENSON, has been working on a similar concept over a long period of time. I believe the amendment is clearly understood as a yardstick by which we can get a better measure of what the cost factors are in producing oil and gas which is an important part of the overall pricing effort which we are debating here in the bill itself. I hate to see us vote on it section by section like this. It destroys any real meaning. What we are really voting on is a question of tactics rather than the substance of the amendment. I would hope the majority leader would explore whether it is possible to have a unanimous-consent agreement so we can get to a vote on the merits of the amendment itself.

I do not want to simply vote on the remaining 15 sections.

Mr. ROBERT C. BYRD. Surely.

Mr. McGOVERN. On the entire amendment?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that the Senate consider the amendment by the Senator from South Dakota (Mr. McGOVERN) ab initio; and that the Senate proceed to a vote in relation to that amendment within 20 minutes, to be equally divided between Mr. McGOVERN and Mr. HANSEN.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota reserves the right to object.

Mr. ABOUREZK. Would the majority leader also include in his request that on the disposition of the McGovern amendment ab initio, as he has already requested, the Senator from Indiana (Mr. BAYH) be recognized; that the divestiture amendment be laid before the Senate now, and that it become the pending business immediately upon the disposition of the McGovern amendment, and Senator BAYH be recognized to begin debate on the divestiture amendment at that time?

Mr. HANSEN. Mr. President, if the majority leader will yield to me——

Mr. ROBERT C. BYRD. I yield.

Mr. HANSEN. I would have to object to that unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, what the Senate is being asked to do, through my request, is that we simply move, after 20 minutes equally divided for debate, to a decision on the McGovern amendment. What happens after that is up to Senators, with no preconditions laid down.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota reserves the right to object.

Mr. ABOUREZK. I take it there would not be agreement to do that, due to an objection by the Senator from Wyoming (Mr. HANSEN)?

Mr. ROBERT C. BYRD. That is my understanding. The Senator from Wyoming does not object to my request, as I understand.

Mr. HANSEN. That is right.

Mr. ROBERT C. BYRD. He merely objects, at this point, to ordering, as a part of the request, that any particular Senator would be recognized to call up an amendment immediately thereafter.

Mr. ABOUREZK. Mr. President, will the majority leader yield so that I might ask a question of the Senator from Wyoming?

Mr. ROBERT C. BYRD. Yes, I yield for that purpose.

Mr. ABOUREZK. Obviously the divestiture amendment would be brought up at some point, just by virtue of the processes of the Senate. May I ask the Senator from Wyoming why he would object to bringing up the divestiture amendment immediately following the disposition of the McGovern amendment?

Mr. HANSEN. Mr. President, if I may respond to the inquiry of the distinguished Senator from South Dakota——

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Let me say I think we should proceed in an orderly fashion, and it seems to me that the request of the Senator from South Dakota would twist or change things around so as to deny us the opportunity to proceed in what I consider to be an orderly fashion.

The Pearson-Bentsen amendment has been before us. Last night we voted not to table that amendment, and I see no purpose in deviating from what I consider to be a normal procedure—though I do not necessarily imply that this will happen—it is my feeling that it could include an opportunity to get into further questions of aspects or irrelevant issues that I think ought best to be resolved after we conclude with the full resolution of whatever we are going to do on the Pearson-Bentsen substitute.

Those are at least some of my reasons.

Mr. ABOUREZK. Mr. President, if the Senator will yield further——

Mr. ROBERT C. BYRD. If I may, I yield further to the Senator from South Dakota.

Mr. ABOUREZK. I am sure the Senator from Wyoming realizes that no matter what, whether or not the Pearson-Bentsen amendment is still being considered, the divestiture amendment could also be considered; in fact, it would have priority in consideration over the Pearson-Bentsen amendment. I am sure the Senator from Wyoming realizes that.

If we are speaking about orderly procedure, there is nothing more orderly than getting agreement on which amendments can be brought up in which order.

Mr. ROBERT C. BYRD. Mr. President, on that point, would the Senator be willing to enter into an agreement that would not only deal with a divestiture amendment, but with other amendments that are going to be called up, and also on the bill itself, setting a final time for a vote on the bill?

The Senator has mentioned his desire to enter into a time agreement; would he be willing to enter into a full-time agreement that would cover all amendments and the bill itself?

Mr. ABOUREZK. Mr. President, I think the majority leader misunderstood me. I have never expressed an interest in entering into a time agreement at all. I am merely stating that I have an interest in seeing the divestiture amendment brought up in an orderly fashion.

Mr. ROBERT C. BYRD. Would the Senator enter into an agreement on that amendment alone?

Mr. ABOUREZK. No.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. It would occur to me that this is an ideal procedure to try to establish a regular and desirable order for considering all these amendments. As sensitive as this question is, we on this side would be willing to agree to a sequence if we can get an order on all of the amendments and on the bill itself. If there is prospect of reaching an agreement on all the aspects of the bill, I think the Senator would find a high degree of cooperation on this side.

Mr. LONG. Mr. President, will the Senator yield on that point?

Mr. ROBERT C. BYRD. I yield to the Senator from Louisiana.

Mr. LONG. I hope the Senator realizes, and in order to make this a question I ask him if he does not realize, that in the previous Congress, and even before that, some of us on this side of the aisle could very well afford to participate in what amounted to just a complete effort in futility, and we could afford to see nothing of any consequence happen in the energy area, from the political point of view, because usually the people tend to blame the man in the White House and his administration, even though it be a Democratic Congress that kills his program.

But in this Congress, we really do not have that magnificent political possibility available to us. We have a Democrat in the White House and a Democratic Senate, and nothing is going to happen. We can organize a very successful filibuster against one bill because there is something in there someone does not like, and then organize a very successful filibuster against another bill because there is something in it someone does not like, but then nothing happens and we get a cold winter, and we Democrats are not going to be able to explain that we have a Republican in the White House this time.

Mr. ROBERT C. BYRD. Not only will we not have that excuse, but these Senators will be here during that cold winter.

Mr. LONG. We had better be here, and not back home trying to explain it.

Mr. HANSEN. Mr. President, if I may make an observation, I understand the people down at the White House are

more inured to colder temperatures than we here. They have had their thermostats down since last winter. We have not had any opportunity to become that used to cold weather. So I think there is great virtue in the suggestion of my friend from Louisiana. It is colder here than it is down there.

Mr. ROBERT C. BYRD. It may get hotter, in some respects.

Mr. ABOUREZK. Mr. President, I certainly hope that nobody who may be listening to this debate actually believes we will be cold this winter by virtue of either the passage or the nonpassage of the Bentsen-Pearson amendment. If anyone is going to be cold because of that, it will be because they are going to be out of money. They are not going to be able to afford the price of gas, once the Pearson-Bentsen amendment is passed, if it is passed.

I do not believe it has been brought out sufficiently, Mr. President, that the Bentsen-Pearson amendment is the greatest travesty to be worked on the American people for a long time. It is an extremely expensive proposition that will provide no more natural gas to the American people. All it will do is transfer billions of dollars out of the pockets of the consumers and into the pockets of the oil companies. How can anybody say we are going to be cold if that does not occur? If you are cold when you are deprived of your money, that is one thing; but to say that passing this amendment will prevent people from actually being cold is simply untrue.

For my distinguished colleague from Louisiana to say that we are doing nothing and letting the energy program go to pot is to say that we have to pass a bill he agrees with or something terrible is going to happen. I suggest that if we do pass a bill that he agrees with, something terrible will happen. That something is the transfer of billions of dollars from the pockets of the consuming public into the pockets of people who already have too much and who want still more. These people run energy corporations and they have no interest, no concern, with the consuming public—only with their own treasuries.

Mr. ROBERT C. BYRD. Mr. President, I think the Senate has a responsibility to work its will on this bill. I hope that no Senator will seek to impose his own personal will on the Senate to keep it from acting. The bottom line is what comes out of the conference over there. So, if some reasonable middle ground can be found here so that the Senate can act and send the bill to conference, there will have to be further discussions there and undoubtedly, further compromises there. The House has taken a rather strong position on this part of the bill and has so recorded itself.

I hope Senators will not discommode the Senate unduly. We are reaching the point where I think, Mr. President, that that is being done. Let the Senate work its will. Obviously, it is a futile effort on the part of any Senator at this point, even counterproductive, I should think, to insist that Senators run to the floor every 15 minutes to cast a vote which is obviously, with all due respect to my friend, a dilatory tactic. At some point, if we continue, I am going to ask the Chair to rule that it is dilatory and if the Chair does not rule, we shall let the Senate decide.

There is obviously a time coming when Senators, I hope, will agree with me that, regardless of how the vote goes—whether it goes to please me or whether it goes some other way—that the Senate must vote on this bill. We have behind this bill the utility rate reform bill. Behind that bill, we have other important measures. We have the extension of the debt limit, we have to act on the District of Columbia appropriations bill. We have a DOD authorization bill, we have a DOD supplemental appropriations bill, we have various other measures. We have the energy tax bill.

Not only that, we have, right now, in conference several foreign aid issues. Then these five energy bills that will then, hopefully, have been passed and sent over to the House will all have to be gone over in conference and there, again, each House will have to act on the conference report.

Nothing is being served by this delay, this dilatory tactic of dividing a question into 20 parts. If anything were to be served, Mr. President, by that, if the Senate, by doing that, were reaching a final decision on the bill, it would be a different thing. But, obviously, that is not the case. So I hope all Senators will understand what is going on here and the efforts that have been made by the leadership to patiently try to bring sides together and to get final action.

Mr. ABOUREZK. Will the leader yield?

Mr. McGOVERN. Will the Senator yield?

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the distinguished majority leader. As the leader knows, I am not in sympathy with these tactics, but I would like to suggest to the distinguished majority leader that I hope he will not seek to have the Senate declare that these tactics are dilatory, because the distinguished Senator knows better than I that there is nothing in the rules to prevent dilatory tactics unless cloture is invoked. I hope we shall not amend the rules here on the Senate floor by trying that effort, unless cloture has been invoked.

Mr. ROBERT C. BYRD. Mr. President, I share the feeling of the Senator from Alabama about that matter. But let me say that when the Senate feels that it is being arbitrarily prevented from acting, I have seen the Senate react to that in a way which it might later regret. I do not want to see that happen, either.

I think all Senators know that I have steadfastly been opposed to cloture by majority vote. I have steadfastly been opposed to amending the rules at the beginning of a new Congress by a majority vote. But here is a real danger, a real danger.

Mr. ALLEN. Could not cloture be invoked, then, and that effort be made more profitably?

Mr. ROBERT C. BYRD. Oh, surely. The Senator is exactly right. I think I should hesitate before I would proceed in the manner that I have suggested.

Mr. ALLEN. I thank the distinguished Senator, because the Senator from Alabama thinks that, possibly, there might be occasions when he might want to resort to the same thing the Senator from South Dakota is doing.

Mr. ABOUREZK. Will the leader yield?

Mr. ROBERT C. BYRD. Mr. President, I hope that enough has been said.

Mr. McGOVERN. Will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. McGOVERN. I want to make an inquiry of my colleague (Mr. ABOUREZK).

If the Pearson-Bentsen formula is as bad as the Senator says it is, and it may very well be, that is all the more reason why we need to get to a vote on this yardstick amendment. We need some independent measure of the price performance. We do not know whether the Pearson-Bentsen amendment is going to be adopted or not. But, no matter what we do in terms of natural gas pricing, I think it would be helpful to have a reliable measuring stick in regard to pricing.

I repeat the request I made a while ago, that we vote on this. At that time, we can talk about divestiture or whatever the Senator wishes to debate. We have been on this matter for a couple of days now. Why can we not permit the unanimous consent request the majority leader has proposed to go through? Let us have a vote on this one matter and then proceed with the other issues relating to the bill itself?

Mr. ABOUREZK. If I may, I happen to agree with the amendment offered by my colleague from South Dakota. I think it is an excellent proposition, to have a Federal Oil and Gas Corporation that would provide a yardstick to measure exploration and development of oil and gas with respect to the performance by private companies. But whether or not that proposal passes today, I think, is subordinate to the issue of whether or not the Bentsen-Pearson measure might be enacted into law.

The majority leader made a number of comments with regard to dilatory tactics and the fact that we are engaged in a futile gesture. He suggested that he would hate to see one Senator try to impose his will on the entire Senate. First of all, I would say that there were 46 Senators who, just last night, voted in favor of tabling the Pearson-Bentsen amendment.

Mr. ROBERT C. BYRD. Including the majority leader.

Mr. ABOUREZK. Including the distinguished majority leader. We appreciate that vote.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ABOUREZK. Second, I know the leader, as I told him yesterday, does not intend any of those statements—the talk about the necessity of passing the entire energy package—I know he does not intend that to be any kind of pressure, whether it is subtle or direct, on someone who might want to extend the debate a little longer than some Members feel it ought to be extended. But it could be

interpreted as pressure. I know the majority leader does not mean it that way, and I would like to repeat what I told the majority leader yesterday, for the benefit of the Republican Members who were not present.

There are a number of options and alternatives for the majority leader to follow in an effort to move this legislation along. I know that is his interest. One of the options is to use the same approach he did on the Consumer Protection Act, which we tried to bring up earlier this year. We were advised by the majority leader that we did not have enough votes for cloture; therefore, it could not be brought up.

Or he could use a second alternative available to him, which he has used before, on the question of public financing of campaigns. After a week or so of debate and filibuster, if you will, the majority leader decided that was enough for the Senate, so he pulled the bill down.

The third option is available, and which I think the majority leader could offer to the membership of the Senate, is that we vote to table the Pearson-Bentsen amendment and go home.

Those are some of the options that I think the Senate ought to be aware of.

I know the majority leader has talked about discommoding the Senate. But is it not better to discommode those of us here, than it is to discommode 220 million people who are going to have to pay an excessive, extreme, and unnecessary price for their natural gas?

Where are our priorities? Where do they lie? With our personal comfort or with the public interest which we are to discharge and which we are supposed to have the stewardship of?

That is the question we have to answer.

Mr. ALLEN. Will the Senator yield?

Mr. ABOUREZK. I do not have the time.

Mr. ALLEN. Will the Senator let me straighten out one statement?

Mr. ROBERT C. BYRD. Yes. I yield for that purpose.

Mr. ALLEN. The Senator stated the distinguished majority leader called down the public financing bill. Of course, that is not exactly accurate because the bill before the Senate was in two parts and after three cloture votes the Senator from Alabama offered an amendment striking the public financing provision, and the Senate is the body that pulled that amendment down.

I might say, I offered that amendment without any consultation with the distinguished majority leader, or anyone else, for that matter.

Mr. ROBERT C. BYRD. Mr. President, I renew my request.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER (Mr. METZENBAUM). Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I move to table the next division.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ROBERT C. BYRD. Vote! Vote!

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 26 Leg.]

Abourezk	Burdick	Hart
Allen	Byrd, Robert C.	Lugar
Baker	Durkin	McClure
Bartlett	Garn	Metzenbaum

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Anderson	Hansen	Nunn
Bayh	Haskell	Packwood
Bellmon	Hatch	Pearson
Bentsen	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Hayakawa	Proxmire
Bumpers	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Ribicoff
	Hollings	Riegle
Cannon	Huddleston	Roth
Case	Inouye	Sarbanes
Chafee	Jackson	Sasser
Chiles	Javits	Schmitt
Church	Kennedy	Schweiker
Clark	Laxalt	Scott
Cranston	Leahy	Sparkman
Culver	Long	Stafford
Curtis	Magnuson	Stennis
Danforth	Mathias	Stevens
DeConcini	Matsunaga	Stevenson
Dole	McClellan	Stone
Domenici	McGovern	Thurmond
Eagleton	McIntyre	Tower
Eastland	Melcher	Wallop
Ford	Metcalf	Weicker
Glenn	Morgan	Williams
Goldwater	Moynihan	Young
Gravel	Muskie	Zorinsky
Griffin	Nelson	

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, it has been——

Mr. ROBERT C. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. The Chair is in error. A motion to table is pending, and it is not debatable.

The question is on agreeing to the motion to table.

Mr. ABOUREZK. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table division 6 of the McGovern amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

The result was announced—yeas 83, nays 14, as follows:

[Rollcall Vote No. 396 Leg.]

YEAS—83

Allen	Glenn	Moynihan
Baker	Goldwater	Muskie
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hart	Pell
Biden	Haskell	Percy
Brooke	Hatch	Proxmire
Bumpers	Hatfield	Randolph
Burdick	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heinz	Roth
	Helms	Sasser
Byrd, Robert C.	Hollings	Schmitt
Cannon	Huddleston	Schweiker
Case	Inouye	Scott
Chafee	Jackson	Sparkman
Chiles	Javits	Stafford
Church	Laxalt	Stennis
Culver	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Wallop
Eagleton	McClellan	Weicker
Eastland	McClure	Williams
Ford	McIntyre	Young
Garn	Melcher	Zorinsky

NAYS—14

Abourezk	Hathaway	Morgan
Anderson	Kennedy	Nelson
Clark	McGovern	Riegle
Cranston	Metcalf	Sarbanes
Durkin	Metzenbaum	

NOT VOTING—3

Humphrey	Johnston	Talmadge

So the motion to lay on the table division 6 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to table division 7 of Mr. McGOVERN's amendment.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

QUORUM CALL

Mr. ABOUREZK. Mr. President, a quorum is not present. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 27 Leg.]

Abourezk	Byrd, Robert C.	Ford
Anderson	Cannon	Garn
Bentsen	Case	Hollings
Brooke	Clark	Kennedy
Burdick	Cranston	Lugar
Byrd, Harry F., Jr.	Curtis	Matsunaga
	Domenici	McGovern

Melcher	Randolph	Young
Muskie	Sasser	Zorinsky
Pearson	Scott	
Pell	Stafford	

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of the absent Senators.

The second assistant legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

Allen	Hart	Morgan
Baker	Haskell	Moynihan
Bartlett	Hatch	Nelson
Bayh	Hatfield	Nunn
Bellmon	Hathaway	Packwood
Biden	Hayakawa	Percy
Bumpers	Heinz	Proxmire
Chafee	Helms	Ribicoff
Chiles	Huddleston	Riegle
Church	Inouye	Roth
Culver	Jackson	Sarbanes
Danforth	Javits	Schmitt
DeConcini	Laxalt	Schweiker
Dole	Leahy	Sparkman
Durkin	Long	Stevens
Eagleton	Magnuson	Stevenson
Eastland	Mathias	Stone
Glenn	McClellan	Thurmond
Goldwater	McClure	Tower
Gravel	McIntyre	Wallop
Griffin	Metcalf	Weicker
Hansen	Metzenbaum	Williams

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the motion to lay on the table division 7 of the McGovern amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

The result was announced—yeas 83, nays 12, as follows:

[Rollcall Vote No. 397 Leg.]

YEAS—83

Allen	Garn	Morgan
Baker	Glenn	Moynihan
Bartlett	Goldwater	Muskie
Bayh	Gravel	Nunn
Bellmon	Griffin	Packwood
Bentsen	Hansen	Pearson
Biden	Hart	Pell
Brooke	Haskell	Percy
Bumpers	Hatch	Proxmire
Burdick	Hatfield	Randolph
Byrd, Harry F., Jr.	Hayakawa	Ribicoff
	Heinz	Roth
Byrd, Robert C.	Helms	Sasser
Cannon	Hollings	Schmitt
Case	Huddleston	Schweiker
Chafee	Inouye	Scott
Chiles	Jackson	Sparkman
Church	Javits	Stafford
Cranston	Laxalt	Stevens
Culver	Leahy	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Wallop
Domenici	Matsunaga	Weicker
Eagleton	McClure	Williams
Eastland	McIntyre	Young
Ford	Melcher	Zorinsky

NAYS—12

Abourezk	Hathaway	Metzenbaum
Anderson	Kennedy	Nelson
Clark	McGovern	Riegle
Durkin	Metcalf	Sarbanes

NOT VOTING—5

Humphrey	McClellan	Talmadge
Johnston	Stennis	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 10 minutes for debate on the McGovern amendment as originally proposed, to be equally divided between Mr. MCGOVERN and Mr. HANSEN; and that, at the conclusion of the 10 minutes, a vote occur. We are speaking of the McGovern amendment as originally submitted.

The PRESIDING OFFICER. Is there objection?

Mr. MCGOVERN. Mr. President, this, then, is a vote on the substance of the entire amendment, all 20 sections?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The amendment as introduced and modified.

Is there objection?

Mr. ABOUREZK. Reserving the right to object, may I ask, would this vote be up or down or will someone attempt to table it?

Mr. ROBERT C. BYRD. I do not know. This request would preserve the rights of all Senators under the rules.

Mr. ABOUREZK. All I can say is that I hope it will be an up-and-down vote.

Mr. ROBERT C. BYRD. It might very well be. But it does not vitiate any Senator's right——

Mr. ABOUREZK. I understand.

Mr. ROBERT C. BYRD. To move to table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. HANSEN. Mr. President, I ask unanimous consent, without time being charged to either side, that Tom Palmerie and Jack Nutter of Senator DOLE's staff be granted privilege of the floor during any votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCGOVERN. Mr. President, I yield myself 3 minutes time.

I do not think it is necessary to take more than 2 or 3 minutes to summarize.

The PRESIDING OFFICER. Would the Senator from South Dakota suspend until there is order in the Senate?

Will Members of the Senate retire to their seats, please, so that the Senator from South Dakota may be heard?

The Senator may proceed.

Mr. MCGOVERN. Mr. President, I do not think it will take more than a couple of minutes to summarize the issue that is before the Senate.

I want to say, first of all, that I am very grateful we are going to be given an opportunity to vote, for the first time, on the real substance of my amendment.

I appreciate the fact that in the procedure we were following here earlier today there may have been some Senators who were making a judgment on tactics rather than on the merits of my amendment.

Now, for the first time, we have an opportunity to vote this amendment up or down based on the total substance of the amendment rather than a single piece of it.

I think the Federal gas and oil corporation authorized by this amendment is desperately needed. It is needed to explore the Federal domain on which most of the gas and oil reserves of the country exist. It is needed to provide information on the extent of those reserves—both onshore and offshore.

Beyond that, we need an operating public corporation responsible only to the public in order to determine what cost factors amount to in the production of oil and gas.

We need, in short, a reliable, independent yardstick by which we can gage the performance of the private oil and gas industry.

As pointed out so many times, the precedent for this which most clearly suggests itself is the Tennessee Valley Authority. We also have precedents for this corporation in every other country having significant amounts of oil and gas. These nations have some kind of a government entity through which exploration and production can be carried out.

In no way should this amendment be seen as a threat to free enterprise. I believe it will strengthen our free, competitive system of oil and gas exploration and production in this Nation in the same manner the TVA has added to the vitality and strength of our free enterprise system in the production and marketing of electric power.

I hope when the time comes to vote on this amendment that the Senators will put aside the tactical considerations which have guided the votes heretofore and will ask themselves one question: Will this amendment be in the public interest?

I think it will be, and I urge passage of my amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. Mr. President, let me say that the oil and gas industry is far more competitive than are many industries in the United States at the present time. There is not any one company that controls as much as 10 percent of the natural gas supply in the United States.

When we recognize that much of the exploration that is yet to be undertaken will be on Federal lands, we must understand that the Federal corporation would have a definite advantage over private industry in that it would have guaranteed access, as it does now under the law, to at least 10 percent of those Federal leases.

Given that, plus the fact that such a corporation would not pay taxes, would escape many of the problems that private industry has to face, it seems to me that this would not provide the yardstick that the Senator from South Dakota, my good friend, would hope it might offer to the American public.

There is ample evidence, as we compare the oil industry in the United States

with every other governmentally run operation around the rest of the world, that we far and away outstrip them in any part of the operation of the oil business to which we want to make a comparison.

Soviet Russia right now is admitting it lacks the expertise and incentive that has accounted for the fact that Americans have far and away cheaper oil and gas than does any other country in the world today.

I think that this amendment ought to be rejected. I think it is a first step to get the Federal Government in the business that should be restricted to private industry.

If we want to see how well a governmentally run and owned corporation goes, we do not have to go very far, just hop on a trans-Atlantic liner and go over and look at it in England.

I was there a few years ago and someone said as we flew into London at night that it looked for all the world as it did in World War II days when the lights were out.

England knows quite well how unsuccessful is the operation of this kind of an industry or, for that matter, any other industry, when it is run by government.

I hope this amendment will be rejected.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I want to make one observation concerning the Senator's remarks about England.

I am not here to defend England. That nation can speak for itself. This example is cited so many times that I think somebody ought to point out that the major industries in trouble in England are ones that got into that trouble when they were in private industry. The failure of industries to modernize their plants—one thing more notable in the coal industry—is one of the reasons why they were ready to surrender those bankrupt institutions to the government and let it attempt to salvage what it could. Those enterprises had been run into the ground by their management.

I am not suggesting with this amendment that the oil industry is poorly operated in the United States. I am not suggesting there is anything wrong with free enterprise.

I have repeatedly stressed here over the last 2 days that this amendment is not designed to nationalize the oil and gas industry in this country. That is why the corporation created by this amendment is limited to exploration on the Federal domain and is limited to 10 percent of the oil offerings of that domain. The other 90 percent, even though it is all owned by the American people, will remain available for private development and sale under the terms of my amendment.

Precisely the same arguments my good friend from Wyoming has leveled against this amendment were heard in Congress 40 years ago. At that time the Tennessee Valley Authority was proposed. Opponents suggested it would prove to be inefficient, that it could not possibly maintain the standards of privately operated utilities in the marketing of hydroelectric power. All those fears have been proven groundless. The Tennessee Valley Authority is efficient. It has been good for private enterprise. It has stimulated competition in the marketing of power and in general has given us a better power industry. The same thing will happen, in my judgment, with passage of this amendment.

Mr. GRAVEL. Mr. President, will the Senator from Wyoming yield me 3 or 4 minutes?

The PRESIDING OFFICER. The Senator from Wyoming has 2 minutes remaining.

Mr. HANSEN. I will try to yield time to the Senator.

Mr. President, if someone likes the Postal Service, he will love the proposed arrangement. It will work just as well as the Postal Service does.

Furthermore, I heard the chairman or the president of TVA, in Dallas, Tex., a few years ago say that unless these coal companies stopped jacking up the price of coal, the Tennessee Valley Authority was going to have to go into the mining business.

So let us not fool ourselves into thinking that this is a little, innocent operation, that we are not going to get into it more.

I recall well what the chairman or the President of TVA said down there. I suggested to him that before they go into the mining business, they take their board on a trip to England and see how well that operation works.

I yield to the Senator from Alaska whatever time I have remaining.

Mr. GRAVEL. Mr. President, I ask unanimous consent that I may have 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. What is the request?

Mr. GRAVEL. Just 3 minutes, to make some comments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRAVEL. I thank my colleagues.

Mr. President, I had occasion to discuss this amendment with the Senator from South Dakota. I understand his motivation, and I think it is proper in that regard. However, we do have two instances in the United States today where we have the Government operating what would be the equivalent of 10 percent of the leases—certainly in Alaska—and that would be Petroleum Reserve No. 4, which the Navy had. They are already in this. They have been in business for nigh on 10 years, and we have appropriated a large amount of money to them.

Why not have a study to examine what they have done? I assume it has been a mess, what little I can see, because it involves sole-source contracts, uncompetitive, bottle feeding by the Government.

I think my colleague might be surprised that we might seek Government operation and produce costs way up here, to which industry might rise, like an economic umbrella, and that would be disastrous, because we do have elements of competition in industry where we have Government move in and we lack competition. That may be good.

I would be prepared to vote for a million dollars for a special study, to take Elk Hills and to take Petroleum Reserve No. 4. We could get a comparison.

Prudhoe Bay has been developed, and a couple of hundred miles away the Government has been working for years, diddling around with Petroleum Reserve No. 4. We should get a cost analysis, see how efficient it is, get something, and come forward with this study.

I think the Senator would have the best argument or a dead argument—one of the two. I am prepared to put my money where my mouth is and vote for an authorization to do that.

I hope the Senator will change his amendment so that we can have a study of Elk Hills, comparing it with the old people on the west, right next door. There are a lot of places to compare it with in California, and there is a place in Alaska. Let the GAO, or whoever, come back and tell Congress who has been doing the best job; so that if industry has been doing a poor job in comparison, then we should turn the leases over to the Government and let the Government do it.

Mr. McGOVERN. I think the Senator has answered his question. If the Elk Hills reserve and petroleum reserve No. 4 are a mess, as the Senator says——

Mr. GRAVEL. That is my judgment. I could be wrong.

Mr. McGOVERN. If I accept the Senator's analysis, I do not want to use them as a yardstick by which to measure the performance of industry. He would certainly misunderstand me, if he believed I thought everything the Government does is universally good.

I agree with the Senator from Wyoming that the Postal Service is badly managed. I think one of the reasons is that we brought in castoffs from Continental Can—people Continental Can did not know what to do with—to run the Postal Service. They were misfits in private enterprise, and they are misfits in the Government.

If I thought we were going to staff the Federal gas and oil company with people private industry does not want——

Mr. GRAVEL. That is exactly what happened.

Mr. McGOVERN. It does not have to be that way, and this amendment is structured in such a way——

The PRESIDING OFFICER (Mr. DeCONCINI). The time of the Senator has expired.

Mr. STEVENSON. Mr. President, someday the Nation will understand that a national oil and gas corporation is vital. Every other nation with oil and gas resources to develop and produce already has one. I support the creation of such a corporation to assure supplies of energy and that they are produced from the public domain, for the benefit of the public. But I must reluctantly vote against this amendment. I commend the Senator from South Dakota and welcome him as a strong

ally in an effort begun several years ago. But we have not had a chance to examine this amendment. And the bill to which he proposes the amendment is not, in my judgment, a suitable vehicle. The idea is sound. The particulars of his proposal may be. I do not know. But this is not the moment to act.

Mr. HANSEN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. Mr. President, a quorum is not present in the Chamber.

Mr. STENNIS. Regular order, Mr. President.

Mr. ABOUREZK. Mr. President, a quorum is not present in the Chamber. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. SCOTT. Mr. President, reserving the right to object, why is the distinguished Senator taking this action?

Mr. HANSEN. I will be happy to explain.

Mr. President, it is my purpose, if the quorum call is called off, to ask unanimous consent that my motion to table this amendment may be withdrawn and that we may have an up and down vote on the McGovern amendment.

Mr. SCOTT. Mr. President, further reserving the right to object, would that be without further discussion?

Mr. HANSEN. Yes.

Mr. SCOTT. Mr. President, I withdraw my reservation.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that my motion to table the McGovern amendment be withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. McGOVERN. Mr. President, what is the pending vote?

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "Yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is necessarily absent.

The result was announced—yeas 22, nays 72, as follows:

[Rollcall Vote No. 398 Leg.]

YEAS—22

Abourezk	Jackson	Nelson
Anderson	Kennedy	Ribicoff
Byrd, Robert C.	Leahy	Riegle
Case	McGovern	Sarbanes
Cranston	McIntyre	Sparkman
Durkin	Metzenbaum	Williams
Hathaway	Moynihan	
Inouye	Muskie	

NAYS—72

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bayh	Goldwater	Pearson
Bellmon	Griffin	Pell
Bentsen	Hansen	Percy
Biden	Hart	Proxmire
Brooke	Haskell	Randolph
Bumpers	Hatch	Roth
Burdick	Hatfield	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schmitt
	Heinz	Schweiker
Cannon	Helms	Scott
Chafee	Hollings	Stafford
Chiles	Huddleston	Stennis
Church	Javits	Stevens
Clark	Laxalt	Stevenson
Culver	Long	Stone
Curtis	Lugar	Thurmond
Danforth	Magnuson	Tower
DeConcini	Mathias	Wallop
Dole	Matsunaga	Weicker
Domenici	McClure	Young
Eagleton	Melcher	Zorinsky
Eastland	Metcalf	
Ford	Morgan	

NOT VOTING—6

Bartlett	Humphrey	McClellan
Gravel	Johnston	Talmadge

So Mr. MCGOVERN's amendment (No. 889), as modified, was rejected.

Mr. ROBERT C. BYRD addressed the Chair

The PRESIDING OFFICER. The question recurs on amendment No. 862 in the nature of a substitute.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXIII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Bentsen-Pearson substitute, No. 862, to S. 2104, to establish a comprehensive natural gas policy.

Robert C. Byrd, Henry M. Jackson, Daniel P. Moynihan, Warren G. Magnuson, Patrick J. Leahy, Wendell H. Ford, Alan Cranston, Claiborne Pell, Abraham Ribicoff, Charles McC. Mathias

Howard H. Baker, Jr., John Tower, Richard S. Schweiker, Paul Laxalt, S. I. Hayakawa, Daniel K. Inouye, Ted Stevens, Henry Bellmon, Harrison A. Williams, Dennis DeConcini

Mr. BUMPERS. Mr. President, will the Senator yield for a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. JACKSON addressed the Chair.

Mr. ROBERT C. BYRD. I yield for that purpose only.

Mr. BUMPERS. Mr. President, a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Mr. President, in listening to the language of the cloture motion I wish to ask this question.

If a substitute to the Pearson-Bentsen amendment should be adopted by this body at any time subsequent to today would this cloture motion cover such substitute?

Mr. ROBERT C. BYRD. Yes. It will cover anything that is below the Pearson-Bentsen substitute.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. For example, I am now yielding to the Senator from Washington (Mr. JACKSON). He will offer a perfecting amendment to the bill. If cloture is invoked on the Pearson-Bentsen substitute it will include the amendment that he is now offering. In other words, there has to be a vote on his amendment before we get to the Pearson-Bentsen amendment.

I yield to the Senator from Washington.

UP AMENDMENT NO. 845

Purpose: Perfecting amendment to S. 2104.

Mr. JACKSON. Mr. President, I send to the desk a perfecting amendment to S. 2104 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes unprinted amendment No. 845.

Mr. JACKSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

UP AMENDMENT No. 845

Beginning on page 4, line 9, strike all through page 19, line 18 and insert in lieu:

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(1) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2) (A) the surface location of the new well, or

(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discovered reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "Secretary" means the Secretary of the Department of Energy.

(v) The term "United States" includes the Outer Continental Shelf.

CALCULATION OF THE CURRENT BTU RELATED PRICE

SEC. 4. (a) Within 30 days after the date of enactment of this Act and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price.

(b) Such Btu related price shall be computed by dividing—

(1) the upper tier price for domestic crude oil currently in effect and established pursuant to the provisions of Sec. 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. Sec. 757), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

(c) Upon the expiration of oil price controls contained in the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. Sec. 757), the Btu related price shall be computed by multiplying the current Btu related price then in effect by the inflation adjustment.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or (2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977, under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

DEREGULATION OF HIGH COST NATURAL GAS

SEC. 10. (a) Not later than 180 days after the date of enactment of this Act, the Secretary shall by rule exempt the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States, from the price ceiling that otherwise would be applicable to any first sale of new natural gas.

(b)(1) Any person who wishes to sell any high cost natural gas produced in the United States or synthetic gas manufactured in the United States shall file an application with the Secretary requesting certification that the property from which the gas will be produced qualifies for the exemption from the maximum lawful price that would otherwise be applicable.

(2) The Secretary shall review the certificate application and shall grant or deny the request within 180 days after it is completed. Should the application be deficient in any respect, the Secretary shall have the authority to request additional information from the applicant in order to make a final determination. The application shall not be deemed to be complete until all requests for information have been fulfilled.

(c) For purposes of this section the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine;

(4) from Devonian shale; or

(5) occluded gas produced from coal seams.

(d) The Secretary shall have the authority to further define the terms used in this section in a manner consistent with its purpose.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the

amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company,

(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

(C) local distribution companies for resale to low priority users served by such local distribution company, until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

(c) For purposes of this section:

(1) The term "low priority user" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rules or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30 day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance, would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts of practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or other information) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(c) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any

sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

INTRASTATE CONTRACTS AND TRANSACTIONS

SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provision of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price allowed for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15(a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provision of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions; *Provided, however,* That any price for any first sale of natural gas sold pursuant to a certificate granted pursuant to the provisions of section 10 of the Natural Gas Policy Act, shall also be deemed just and reasonable.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions; *Provided, however,* That any price for any first sale or natural gas sold pursuant to a certificate granted pursuant to the provisions of section 10 of the Natural Gas Policy Act, shall also be deemed just and reasonable.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979.".

Mr. JACKSON. Mr. President, I yield for a unanimous-consent request to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Joseph DeGenova, of my staff, be accorded the privilege of the floor during debate on this measure and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mr. NELSON. Mr. President, may we have order so we may hear the Senator?

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Washington.

Mr. JACKSON. Mr. President, after 25 years in the U.S. Senate, I have learned that at some of the most difficult times in the legislative process it is necessary to be pragmatic.

I have spent hours—even days—over the last few weeks talking with my colleagues about the natural gas price issue. They, like the American people, are troubled by this issue.

The memory of last winter's shortage is still fresh in all our minds. The freak winter weather prompted unprecedented curtailments of low priority users of natural gas. In some areas of the country the situation was so bad that factories and schools were closed, causing millions of dollars of damage and loss of hundreds of hours of production so that the most basic needs of people could be met. The prospects for this winter are equally bleak unless Mother Nature is more generous.

We all know that something must be done to improve the long-term supply picture. However, no Member of the Senate wants to cast a vote that will result in his being blamed for causing natural gas shortages. Nor does any Member want to cast a vote that will result in his being blamed for fueling the fires of inflation and the attendant unemployment that would result. It is a classic Catch-22 situation.

Though I would have preferred lower prices, I have supported the President's proposal to establish a comprehensive natural gas policy. But it is obvious to me that a clear majority of my colleagues do not support the President's proposal as presently written and pending before the Senate in S. 2104—even though that vote is very close.

Therefore, after much thought and reflection, I am submitting a compromise amendment which proposes some significant changes in the President's proposal.

The proposed amendment increases the price that will be allowed for new natural gas. The new price is tied to the upper tier price of domestic crude oil. The upper tier price of domestic crude oil will be $11.78 per barrel at the end of the year so the new gas price will start at $2.03 per thousand cubic feet. If inflation continues at 6 percent, the new gas price will be $3.24 for 1985. That is a very generous price. The average intrastate price that we have heard so much about was $1.86 last quarter. This proposal starts at a price above $1.86. It clearly would not roll back intrastate prices so that argument against the President's program can be laid to rest.

The new proposal also deregulates the price of high cost or exotic sources of natural gas. The definition of what constitutes high cost natural gas has been expanded to include gas from Devonian shale and gas from coal seams.

I believe that these two changes constitute very real concessions to those who believe that the President's proposal would not provide sufficient incentives for increased gas production. The new proposal will be expensive. If it were not for the extraordinary circumstances facing us today, I would not be willing to make these concessions.

It is obvious to me the natural gas pricing issue is about to disrupt the Senate's schedule and jeopardize the entire energy package.

Two years ago the Senate passed deregulation by a nine-vote margin. The only available alternative at that time was continued regulation at substantially lower prices than even the President proposed. We were talking then of prices capped at 40 to 60 cents per thousand cubic feet. Today we are talking in the $1.75 to $2.00 range. That is a huge difference. After weeks of deliberation, the House and Senate conferees were unable to resolve the differences between the Senate position and the House position in favor of low prices with a limited exemption for independent producers.

In my view, the prospects for a stalemate in conference would be even greater this year if the Senate passes deregulation in any form. The Speaker of the House of Representatives, Mr. O'NEILL, has made it very clear within the hour that we may not have any kind of a bill if we have deregulation. I believe that even the most casual observer of the dilemma before us will concur in my view that a compromise among parties with strongly held beliefs is the only realistic option available to us. I believe that my proposal is a reasonable compromise. I urge my colleagues to support it.

I ask unanimous consent to have printed in the RECORD at this point a summary of the amendment, and a table showing the new gas price trajectory.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JACKSON SUBSTITUTE AMENDMENT FOR S. 2104

I. The basic text is the Jackson Amendment No. 868 in the nature of a substitute for S. 2104.

A. No. 868 is substantially a technical revision of the President's proposal. It is explained in detail in the CONGRESSIONAL RECORD, Friday, September 16, 1977 on Page 15099.

B. Substantive changes included in No. 868 make it compatible with the new Department of Energy structure, improve the incremental pricing provision, authorize the use of intrastate pipelines for transportation of interstate gas if deemed necessary to do so by the FERC, and deletion of the proposal to put synthetic natural gas plants under the jurisdiction of the FERC.

II. Changes included in the substitute.

A. The new gas price is tied to the upper tier price for crude oil.

The new natural gas price in Amendment No. 868 was derived by dividing the average refiner acquisition cost of domestic crude oil (excluding Alaska crude, excluding entitlements, and excluding the proposed crude oil equalization tax) by 5.8. That new price was projected to be $1.77/mcf in 1978, increasing to $2.11/mcf in 1985 (constant dollars) or $3.23/mcf (current dollars).

The new substitute ties the new gas price to the upper tier crude oil price. That price is projected to be $11.78 per barrel at the end of this year resulting in a gas price of $2.03/mcf instead of $1.77/mcf. If we assume inflation will be 6% annually, the upper tier crude oil price is projected to be $18.78 per barrel in 1985. The new natural gas price would therefore be $3.24/mcf (current dollars).

By starting higher, the substitute exceeds the current instrastate market's average price for new gas, thus eliminating the rollback of intrastate prices. The new gas price would then increase at the rate of inflation. This escalation rate avoids the incentive to withhold supplies that would result from escalating the new gas price faster than 5–8% per year.

B. High cost or exotic gas prices are deregulated. Amendment No. 868 gave the Secretary of Energy authority to establish special prices for high cost natural gas or synthetic gas manufactured in the United States. The new proposal would deregulate those prices altogether and add Devonian shale and gas produced from coal seams.

This change would not have a significant economic effect in the near term, but it will provide the maximum possible economic incentive to produce gas from exotic sources in future years. Even the most optimistic projections of future supplies of natural gas from traditional sources show declining production from those sources over time. Our long-term supply picture is wholly dependent upon successful production from areas that now present extraordinary risks and require substantial capital investments. These sources include gas produced from deeply submerged offshore acreage, very deep wells onshore, and geopressurized brine.

Current Btu related price trajectories

[Current dollars—Assumes 6 percent inflation]

Amendment No. 868:		Substitute
1977	$1.77	$2.03
1978	1.86	2.15
1979	2.02	2.22
1980	2.20	2.42
1981	2.39	2.56
1982	2.58	2.72
1983	2.78	2.88
1984	3.01	3.05
1985	3.23	3.24

JACKSON SUBSTITUTE AMENDMENT FOR S. 2104, NATURAL GAS POLICY ACT

SECTION-BY-SECTION SUMMARY

(This section-by-section summary summarizes the provisions of the Jackson Amendment in the nature of a substitute for the Natural Gas Policy Act.)

Sec. 1. The Act is titled the Natural Gas Policy Act.

Sec. 2. Findings and Purposes.

The Congress finds that the history of natural gas development and regulation have led to the need for a new system of natural gas pricing to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

The purposes of the Act are to balance natural gas supply and demand, to provide fair and equitable revenues to producers, to protect consumers, to deal with short-term natural gas shortage through extension of the allocation provisions of the Emergency Natural Gas Act of 1977, and to provide for natural gas conservation through the price policy mechanism.

Sec. 3. Definitions.

(b) Commission—Federal Energy Regulatory Commission.

(d) Current Btu related price—the most recently published Btu related price calculated pursuant to sec. 4.

(e) Existing contract—any natural gas sale contract entered into on or before April 20, 1977.

(j) New contract—any natural gas sale contract entered into after April 20, 1977 for the sale of natural gas that was not previously subject to contract.

(1) New natural gas—natural gas (1) produced from a new lease on the Outer Continental Shelf; or (2) produced (A) from a new well in a new reservoir which is 2.5 miles or more from any old well or (B) from a new well in a new reservoir which is 1,000 or more feet deeper than any old well which is within 2.5 miles.

(t) Rollover contract—any natural gas sale contract entered into after April 20, 1977, for the sale for natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by that contract.

Sec. 4. Calculation of the Current Btu Related Price.

This section requires the Commission to calculate and publish monthly the current Btu related price. It is to be computed by dividing the average per barrel domestic refiner cost of acquiring crude oil for the most recent calendar quarter (exclusive of entitlement obligation or crude oil equalization tax) by a conversion factor of 5.8.

Sec. 5. Sales of New Natural Gas.

This section limits the maximum lawful price for new natural gas sales to the cur-

rent Btu related price at the time of delivery.

Sec. 6. Sales of Old Natural Gas Under Existing Contracts.

This section limits the maximum lawful price for old natural gas sold under an existing contract. The limit is the product of multiplying (a) the inflation adjustment by (b) the lesser of (1) the FPC's currently applicable price ceiling; or (2) the greater of (A) $0.18 per million Btu's or (B) the contract price.

Sec. 7. Sales of Old Natural Gas From New Wells Under New Contracts.

This section limits the maximum lawful price for old natural gas sold under a new contract to $1.45 per million Btu's times the inflation adjustment.

Sec. 8. Sales of Old Natural Gas Under Rollover Contracts.

This section requires the Commission to prescribe the maximum lawful price for old natural gas sold under a rollover contract. The limit is to be set as follows:

(a) For old natural gas previously committed or dedicated to interstate commerce—May exceed the previous contract price solely to the extent that a higher price is necessary to permit the recovery of increased costs in order to maintain production. In no event may the price exceed $1.45 per million Btu's times the inflation adjustment.

(b) For old natural gas not previously committed or dedicated to interstate commerce—May exceed the previous contract price solely to the extent that a higher price is necessary to permit the recovery of increased costs in order to maintain production. In no event may the price exceed

(1) The inflation adjustment times $1.45 per million Btu's if the contract price was less than or equal to $1.45 per million Btu's; or

(2) The current Btu related price if the contract price was greater than $1.45 per million Btu's.

The date of reference for determining the contract price in each instance is April 20, 1977.

Sec. 9. Effective Dates of Rules With Respect to Maximum Lawful Prices.

The Commission is directed to proscribe rules for Sec. 8 within 60 days after the date of enactment.

Sec. 10. Special Pricing Provisions.

The Commission is authorized to prescribe a maximum lawful special price for the sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. High cost natural gas is defined as that produced from submerged acreage located beneath more than 500 feet of water; from a completion location more than 15,000 feet below the surface location of the well; from geopressurized brine; or under such other conditions as present extraordinary risks or costs.

Sec. 11. Incremental Pricing of Natural Gas.

The Commission is directed to implement a rule within 180 days after the date of enactment to provide for incremental pricing of natural gas. The rule shall provide for allocation to the low priority users of any pipeline company (who thus must pay the increased cost of that gas) that gas whose average cost exceeds the average cost for the year prior to enactment. The allocation will continue until the rates or charges applicable to those low priority users equal their reasonable cost of substitute fuels. Local distribution companies who receive gas for resale to low priority users are to follow the same allocation scheme.

Low priority users are defined as any users other than high priority users. High priority users are defined as any person who uses natural gas in a residence, or who uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day. The section provides a 60 day period for Congressional review of the incremental pricing rule before it can be put into effect.

Sec. 12. Administrative Procedure, Enforcement, and Judicial Review.

This section requires publication of rules of general applicability in the Federal Register; provides for standard periods for comment and public hearings; provides for aggrieved persons to seek redress first from the Commission, then from the United States Court of Appeals for the District of Columbia; makes violations of the Act or rules prescribed pursuant to the Act unlawful; establishes civil penalties and criminal penalties for willful violation; gives the Commission subpoena power and authority to secure information from other Federal agencies unless the disclosure of the information is expressly prohibited by law; gives United States district courts authority to issue orders requiring compliance with subpoenas and Commission orders; gives the Commission authority to issue rules and to further define terms used in the Act.

Sec. 13. Intrastate Contracts and Transactions.

This section prohibits the use of prices determined under the Act for purposes of contract redetermination, renegotiations, or termination clauses. It also voids contract provisions prohibiting commingling of contract gas with gas subject to Natural Gas Act jurisdiction (therefore allowing gas previously sold in intrastate commerce to be moved to the interstate market).

Comment: This subsection will also facilitate use of existing intrastate pipelines for transportation of gas in the interstate market as existing boiler fuel and other industrial uses of natural gas are phased out. It will also enable use of existing intrastate pipelines for delivery of natural gas from Mexico to the interstate market. The decision to allow use of an interstate pipeline for such purposes will be made by the Commission on a case-by-case basis.

Sec. 14. Relationship to the Emergency Natural Gas Act of 1977.

This section makes it clear that nothing in sections 5, 6, 7, 8, or 10 shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

Sec. 15. Jurisdiction of the Commission Under the Natural Gas Act.

This section amends the Natural Gas Act. It makes it clear that the Natural Gas Act will not apply to sales of natural gas to which the provisions of section 5, 7, 8, or 10 of this Act apply.

Sec. 16. Conforming Amendments to the Natural Gas Act.

This section includes technical amendments to the Natural Gas Act. It specifies that any price for any first sale of natural gas, to which the provisions of this Act apply, shall be deemed just and reasonable for purposes of the Natural Gas Act.

Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

This section extends the inter-pipeline allocation authority (Sec. 4) of the Emergency Natural Gas Act of 1977 to April 30, 1979 (a two year extension). It also expands that authority to include allocations from and to intrastate pipelines.

Mr. HANSEN. Mr. President, has the Senator from Washington completed his statement?

Mr. JACKSON. I have completed my statement.

Mr. HANSEN. Mr. President, first let me express my appreciation to the distinguished chairman and my good friend the Senator from Washington for his efforts to bring about a resolution of the problem that faces the Senate. I have listened closely and carefully to what he has said, and though I have not had time to study his proposal, as certainly I shall be doing, I wish to ask him if the figures I have here are in error.

In Senator JACKSON's prepared statement he says:

> The average intrastate price that we have heard so much about was $1.86 last quarter. This proposal starts at a price above $1.86. It clearly would not roll back intrastate prices so that argument against the President's program can be laid to rest.

That is from Senator JACKSON's press release, and I think that was the statement from which he read.

I have in my hand a Federal Power Commission news release dated August 25, 1977, No. 23-359. On page 4 of that Federal Power Commission news release, I see a summary for the months of April to June, by month, of new contracts that have been entered into in the intrastate market; and according to the information I have, the percentage of new volume for new contracts wherein 1,000 cubic feet sold for between $2.01 and $2.50 indicates 30.1 percent of that total volume was within that price bracket.

I note further, on the same page of the report of the Federal Power Commission, for renegotiated or amended contracts, the volume sold between $2.01 a thousand and—Mr. President, may we have order?

The PRESIDING OFFICER. The Sen- will come to order. Senators will please retire to their seats and refrain from discussion on the floor.

The Senator from Wyoming may proceed.

Mr. HANSEN. On renegotiated or amended contracts, the volume of gas sold in a price range between $2.01 a thousand and $2.50 a thousand indicated that 63.8 percent of the total volume in these renegotiated or amended contracts went for those prices.

So my question to my good friend from Washington is: Are the figures of the Federal Power Commission correct, or is his statement correct, when he says:

> It clearly would not roll back intrastate prices so that argument against the President's program can be laid to rest.

Mr. JACKSON. I will say to my good friend, and I appreciate his kind comments, that the figures that I recited were average prices.

Mr. HANSEN. That is right.

Mr. JACKSON. At $1.86 for the intrastate price situation. I think the prices the Senator was referring to were not average prices for the total sales. You know, we had spot prices last winter that hit $2.39, it runs in my mind, some places. It got up to $2.70.

Mr. HANSEN. Yes. My point is, and I think it is an important point, it is my contention and the contention of the Pearson-Bentsen amendment that while the amount of new reserves that have been added to the intrastate gas supply for the last 5 years as compared to the 5 years immediately preceding the last 5 indicates an increase of 60 percent, I contend and submit that increase has come about because the intrastate gas price far exceeded the interstate price;

and while we can talk about averages, and averages are important and I do not mean to depreciate their importance, the point is that when you talk about an average price, if you contend the average price, let us say, would be one that would just be a break-even price, those persons, the 50 percent who are above average would be hurt, if you brought all the prices down to the average.

Those whose sales were below average and, as a consequence of the imposition of an average list, would experience a price increase, would like that. But my contention is and I submit that, when we talk about putting a lid on, as I understand Senator JACKSON's proposal to imply, 63.8 percent of all of the renegotiated or amended contracts have been above that average. They have been between $2.01 and $2.50. That is not going to be any bonanza for them; it is going to mean a price rollback.

As I pointed out earlier, on the new contracts—those contracts that were signed when new gas was discovered and when the gas producer went into the marketplace and found out who was willing to buy that gas—we find that over 30 percent of the new contracts written in the intrastate market exceeded the figure that Senator JACKSON is talking about. So I do not think it is accurate to say that there would not be any price rollbacks. There would be very significant price rollbacks.

Furthermore, the point is that because of the better prices offered in the intrastate market, we have seen this surge of drilling activity that has brought into being a 60-percent increase in either production or reserves—and I have to check my figures on that—in the last 5 years as compared to the 5 years earlier.

That makes me say to Senators, let us study very carefully, as I am certain Senator JACKSON would admonish us also to do, the proposal he has before us so as to make certain that the amendment he offers does not, indeed, add disincentive to those very market forces that have resulted in the greatest surge in drilling activity we have seen in the last 5 years insofar as the search for natural gas goes.

I wonder if Senator JACKSON would care to comment on what I have just said.

Mr. JACKSON. I say to my friend, we can play with these numbers many different ways. I gave the average price for the first quarter of this year, the average price of intrastate gas. I think those figures stand up. The staff has checked them out carefully.

One of the big arguments that has been made, of course, is that where you have total decontrol, you get more reserves. For example, when you look at the intrastate reserves, they had 121.4 trillion in reserves in 1975. In 1976, it went down to 117.7 trillion. As a matter of fact, that is not any better than it was, just slightly better than it was in 1970, when the reserves were 117.1 trillion. So the argument can be properly made that, at a certain point, price was not a factor in the improvement in reserves.

The figures that I gave to the Senate, I think, are accurate figures, basically that the average price in the first quarter of this year for intrastate gas was $1.86. That is the average price. Those are the figures that they gave us and I think they are pretty clear.

Mr. HANSEN. Mr. President, I do not argue at all with my good friend from Washington (Mr. JACKSON) about the average price. I am interested, as well, in his calling attention to the fact that natural gas reserves have declined. Indeed, they have declined. We have been predicting that, with continued governmental control over gas prices, they would keep on declining.

Mr. JACKSON. But I say to my friend, the point is that in intrastate, there are no controls and they have declined.

Mr. HANSEN. No, that is not right.

Mr. JACKSON. Maybe Texas controls or Louisiana controls.

Mr. HANSEN. No, I entered in the RECORD a couple of days ago some breakdowns on those figures. Intrastate reserves have increased. They have gone up about 60 percent, as I recall the figures. Overall, as Senator JACKSON points out, we have not done as well this year as I think he said we had done the year before. That is precisely why we are trying to get the Congress of the United States to decontrol natural gas, as has been called for and would be effected by the Pearson-Bentsen bill. Where there have been no controls, no price controls, there has been a surge in drilling activity, there have been increases. I hope to have those figures very shortly, showing exactly how the intrastate market has responded.

Overall, there has not been a favorable response for the entire United States—the interstate market. That is why we are concerned. But let me call attention to what the situation is. There has also been an absolute supply response to higher prices in the intrastate market. For the 5 years from 1966 through 1971, average annual new supplies in the intrastate markets were 4.9 trillion cubic feet. For the 5 years from 1971 through 1975, the average new supply discovered and developed in the intrastate markets was 7.8 trillion cubic feet per year, or a nearly 60-percent increase in new supplies.

That is the very point I am making. That is the very point that Senators BENTSEN and PEARSON have been making. We have not had price controls on this part of the market.

That statement is simply a summary of the detailed breakdown, year by year, that appears on page 21 of the Natural Gas Supply Committee's report for September 1977.

It is not good enough to talk about what the average prices are, because we lump together the experience that we have had in the marketplace in the intrastate market, on the one hand, with what goes on in the interstate market on the other. To assume that, if you have your head in the refrigerator and your feet in the oven, on the average, you are fairly comfortable, belies the fact that neither end of you feels any too good.

That is why we are here. We can talk about averages and those persons whose costs are below average are going to like it. But the other 50 percent who have entered into contracts, and I have just cited what the figures are here, who have sold gas above that average price are not going to like it. If anyone thinks that we are going to encourage the kind of drilling activity that America needs today on that premise, all they have to do is look at any other part of the market.

I said yesterday, Mr. President, that Government cannot do very much about supply. It can do one thing about it. We have demonstrated, time after time, not only in this country but throughout the world, throughout history, that Government can guarantee shortages. All it has to do to guarantee shortages is put on price controls or put on other restrictions and it can guarantee that there will be a shortage. We have done that, time after time.

We did do something, back in World War II days, to guarantee greater production. Do you know what we did? When we thought there might not be enough wheat to supply the needs of those nations around the world, our allies, who were fighting the war, the Government of the United States put a guaranteed price on wheat.

The farmers of this country had little or no help. Gasoline was high priced, it was hard to get tires, they could not buy new machinery. But the farmers of America, assured that they were guaranteed a profit—this is one of the few times we have done it, but they were assured that they were guaranteed a profit—plowed and planted and harvested wheat like we had never done before. The outpouring of America's farms truly was the marvel of that whole war effort insofar as agriculture goes.

We are not talking about doing that here, we are talking about an average price. I say again, without having had an opportunity to look at the details of Senator JACKSON's plan, let us not delude ourselves that the average price about which he speaks will cause everybody to become more interested in putting money into a drilling effort, because I am afraid that precisely is the opposite of what it will do.

Mr. SCHMITT. Will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. SCHMITT. Mr. President, I think the Senator's remarks are extremely well taken and I hope will be heard and understood by all the Members of this body.

Average pricing of any commodity is foolish as we move toward a deregulated price of new natural gas. As the price increases, it brings on increasingly higher cost gas which, basically and simply, increases supply.

I just very briefly wanted to be sure that the Senator knew I agreed with his remarks, and I commend him for making them.

Mr. HANSEN. Mr. President, I thank my good friend from New Mexico, our in-house geologist, a person of whom I am particularly proud because he has a great background in geology.

He knows perhaps better than most anyone in this Senate of whom I am aware, what the facts are about the po-

tential for gas and oil development throughout the country.

I must consider his kind comments as very high praise, and I thank him.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS

Mr. MOYNIHAN. Mr. President, I rise to make a statement on a situation of great concern to the city of New York, the people of my State, and possibly to the Nation.

Mr. President, I rise in pain and disillusion to address this distinguished body on the debasement of the principle of civil rights at the hands of the Federal bureaucracy. I should like to preface my remarks with a quotation from the front page of this morning's New York Times.

> As 3,500 laid-off New York City schoolteachers were rehired in recent weeks, they dipped into boxes and pulled out their school assignments. Black and Hispanic teachers chose from one box, white teachers from another.
>
> For the first time in the history of the city school system, teachers were officially assigned on the basis of race. Those from minority groups were sent to districts where the proportion of blacks and Hispanics on the teaching staff was less than 10 percent, and white teachers were sent to districts where the proportion of minority teachers was more than 20 percent.
>
> The procedure was set up in an effort to comply with an order from the Federal Office of Civil Rights to equalize the number of minority teachers in the city's 32 school districts and, ultimately, in each of the city's nearly 1,000 schools. . . .

In the name of "civil rights", Mr. President, the Office for Civil Rights of DHEW is mandating practices which would have shocked and appalled us a decade ago, practices which mindlessly violate the most fundamental principles of this Nation as set down in the Constitution.

In the name of "equality," Mr. President, the Federal bureaucracy has required the largest public school system in the Nation to classify its teachers by race, to assign them to schools according to their race, and to be subjected to separate administrative procedures according to their race.

Mankind is all too familiar with such practices. They are commonplace in southern Africa today. They were commonplace in much of Europe between 1935 and 1945. And they were commonplace in large portions of the United States prior to 1964. It is more than ironic that they are being visited upon us again today. It is ominous. For this time their source is the National Government and in particular that portion of it entrusted with the defense of civil rights.

We have been here before. I for one have been here before. In 1965, at a time of all but careless rapture over our national progress in the field of civil rights, at a time when many believed we were finally on the verge of achieving a genuinely color blind society, I put to President Johnson the proposition that black Americans would seek to move beyond equality of opportunity to equality of attainment. I explained that this was a natural and unsurprising development, entirely consistent with the historic patern of other groups striving for full membership in American society. I suggested in the strongest terms that the National Government should undertake to support and sustain black Americans in this quest, as it had succored and encouraged so many other groups in decades past.

It fell to me to turn these ideas into President Johnson's epic commencement address at Howard University on June 4, 1965, which in the last years of his life he described as the finest civil rights speech he ever made. Entitled "To Fulfill These Rights," it forthrightly stated that:

> Freedom is not enough. You do not wipe away the scars of centuries by saying: Now you are free to go where you want, and do as you desire, and choose the leaders you please.
>
> You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, 'you are free to compete with all the others', and still justly believe that you have been completely fair.
>
> Thus it is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates.
>
> This is the next and the more profound stage of the battle for civil rights. We seek not just freedom but opportunity. We seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result.

President Johnson's words echoed the noble theme of the American civil rights movement, as stated most clearly and eloquently by Dr. Martin Luther King: the vision of a society where people would be judged not by the color of their skins but by the content of their characters. Every American would share equally with all other Americans the rights of unqualified citizenship and the benefits of unlimited opportunity.

Mr. President, in the 12 years that have passed since that day, the Federal bureaucracy has brought moral carnage to the civil rights movement in the United States. The events in New York City this month are but the latest and clearest evidence of this.

I attended the public schools of East Harlem and I know them well. Better, I submit, than do the bureaucrats in HEW who now seek to make them over. If the Office for Civil Rights does not know it, Mr. President, I know what it means in the public schools of New York City to order black and Hispanic teachers to stand in one line and "others" in a second line. I know that the others will be Italians, Polish, Irish, and other Catholics, Anglo-Saxons, Scandinavians and other Protestants and particularly—given the demography of New York City—Jews.

Overwhelmingly they are persons whose parents fled persecution elsewhere in the world and came to the United States in search of a society where one's race or religion or parentage did not "categorize" one in the eyes of the Government. For the Jews, the memories are especially vivid. They know only too well what it means to be told to stand in one line, while others stand in a separate queue. I know, and other Members of the Senate know, that such practices evoke one image in our lifetimes above all others: the sorting out of human beings for the death camps of Hitler's Germany. The executive branch may not remember, Mr. President, but we remember.

A better prescription for division and hostility among Americans could not be devised, yet this is precisely what HEW appears to have in mind. And all this is done in the name of assistance to blacks, when it is in fact likely to deliver a mortal blow to the fight for equality. Nothing could more surely impede that struggle, or damage the cause of brotherhood among men, than the establishment by the Government of strict and lasting legal divisions among the races. It took two centuries to eliminate such laws in the South, and it is simply incredible that HEW is now intent on establishing them throughout the land. How much perception does it require, how much knowledge of American history, to see that practices which separate us one from another according to our ancestries are inescapably the source of strife and tragedy.

The events in New York City this autumn purport to carry out a "memorandum of understanding" between HEW's Office for Civil Rights and the New York Board of Education. It was an agreement reached through coercion and signed under duress. If the board of education and the teachers' federation had refused, the Federal Government would have cut off tens of millions of dollars of desperately needed aid to the school system, aid that the fiscally beleaguered city and its schools simply could not afford to sacrifice. It was an agreement that, if reached in the private sector, would never survive the scrutiny of Federal courts, or of public opinion.

In the name of moral sanity, I call upon President Carter to void this wretched contract. Although his signature is not affixed to the piece of paper, the man whose signature does appear there acted in his name. I say to him: Mr. President, you who stood so bravely and acted so boldly to obliterate the vestiges of racial discrimination and the practice of racial classification from your own State, are you prepared to have persons acting in your name now export such practices to my State? Can it be that your administration wants to tell black and Hispanic Americans to line up in one queue, Jewish Americans to line up in another? If this is the policy of your administration, Mr. President, you should so state. For it is now the practice.

In a brilliant column published on Independence Day, 1977, Meg Greenfield wrote in Newsweek of the "Nuremberg-like analysis" to which we are now subjecting individual citizens, and of the official sanction the National Govern-

ment is now giving to Nuremberg-like practices in the name—incredibly—of civil rights and freedoms. Her words bear our close scrutiny, and I will submit her column for the RECORD.

Albert Shanker of the United Federation of Teachers knows better than most what the Federal Government has wrought in New York City this fall. In the New York Times of September 11, he wrote eloquently and passionately of the moral carnage that has beset the schools of that city in the aftermath of this despicable "agreement." He terms it a "nightmarish experience," and suggests that "there is reasonable doubt" as to whether the Office for Civil Rights "is fighting for civil rights or trampling on them." I would state it more strongly, Mr. President: it is explicitly clear that the Office for Civil Rights is abrogating civil rights. I will submit Mr. Shanker's column for the RECORD also.

I ask the Office for Civil Rights and its superiors in the Carter administration to be on notice: Congress has not enacted Nuremberg laws, and the executive branch had better think again before enforcing them.

Mr. President, I ask unanimous consent to have printed in the RECORD the articles to which I have referred.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Newsweek, July 4, 1977]

TEACHING KIDS THE NEW DISCRIMINATION

(By Meg Greenfield)

Out of the mouths of babes come depth charges. It took about a week for a remark my 9-year-old niece made recently to sink into my consciousness . . . and then explode. I was visiting her family out West and, as we drove along one day, making the inevitable visiting-auntie inquiries about the children's schooling. At some point the subject of a popular special art class at a nearby school came up—either Robin or her 7-year-old brother, Adam, mentioned it—and she explained to me in the most matter-of-fact, rancorless way that they couldn't enroll because they were white. But Robin did have a piece of happy information for the group: the children's good friend and neighbor Bobby had just been accepted.

"But he's not black," a puzzled Adam observed.

She *knew* it, Robin said, in that voice in which all 9-year-old girls address their younger brothers. But Bobby *was* "part minority." Oh? Yes. "He can go," she explained "because he's half-Indian."

We all rejoiced at Bobby's good fortune and drifted on to some other topic.

He can go because he's half-Indian—the implication of the children's casual backseat racial chatter didn't strike me until I was back in Washington, listening once more to another kind of racial chatter: the tedious, specious, strained and generally irrelevant nonsense that the guardians of our public well-being have been speaking on the subject lately. U.N. Ambassador Andrew Young was redefining his notion of a racist, when I returned, to include just about everything that moves. On the so-called "reverse discrimination" front, Secretary Califano was caught up in a continuing controversy with the civil-rights establishment and others over what is a "quota" and what is a "goal" and how many goals can dance on the head of a quota.

BLOODLINES

But these were arguments for debating clubs. They seemed to me to have next to nothing to do with the weird and alarming side effect of our drive to achieve racial fairness—of which I had got such a chilling glimpse in the car that day.

That side effect is a preoccupation with bloodlines and race and an acceptance of the idea that these are proper standards for deciding who will be treated how by the state. My informal researches among my friends indicate that the kids in my family are far from unique.

Evidently in many parts of the country where desegregation efforts are under way, the young are now able to discuss the various blessings and penalties that flow from a school chum's racial make-up more or less in the manner of twelfth-century bishops discussing "consanguinity"—which royal cousin might marry which noble half brother without becoming an abomination in the eyes of the church. The school district in which my niece and nephew live in fact provides elaborate listings of different racial *fractions* and *mixtures* which qualify some children for certain programs and disqualify others from taking advantage of them. This too, as I understand it, is now fairly widespread practice.

REDEMPTIVE EFFORTS

Before you say it, I will: but these are benign, positive, downright redemptive efforts to eliminate the effect of years of discrimination against blacks and other racial and ethnic groups. In principle, you are right. As an example, it is worth noting that the purpose of the conditions governing what my own niece and nephew may do is to draw children of different races and backgrounds together. I will concede that I find this an unexceptionable aim. I think it is important, and I devoutly hope it works.

Nor do I think we have to be pure to the point of finickiness in trying not to deal in racial classifications as we work to overcome the injuries that earlier, malign racial classifications brought about. From the moment the cataclysmic civil-rights legislation of the middle 1960s was enacted, it was obvious that we were going to have to let the authorities traffic a bit in race in order to put an end to racially discriminatory practices. If you couldn't count who was in a school by race, you couldn't judge whether that school had desegregated in anything but theory. So there had to be some racial guidelines and bench marks and standards and the rest; informal methods of measuring whether any progress was in fact taking place. And in my judgment, the nation didn't lose anything by somewhat relaxing the rigid posture that had prevented people from realistically taking stock of what was going on within our institutions—and which had raised "color blindness" to the status of an absolute virtue, even when it had been used as a cover for perpetrating racial injustice.

I will make one more concession. It is that, at least in relation to those two children who are special to me, I am not particularly worried by the prospect of the pie's being sliced up in a different way. They will make it all right, reverse discrimination or no; and, stuffy old martinet of an aunt that I am, I calculate that a little challenge and disappointment along the way will only help them. I wouldn't promote that as a social theory applicable to all, since I expect that on a sustained and widespread basis reverse discrimination could lead to some pretty explosive political conditions. But I would say that so far as the children are concerned, who gets what is not the real issue.

The real issue is what we are doing to the values and perspectives of small children throughout the country. By our brazen, clinical insistence on a Nuremberg-like analysis of each child's racial and ethnic background—is he half this or only a quarter that?—we are giving the young to believe that these distinctions are the proper stuff of official decisions. We are distorting their understanding of the system in which we live—and we are doing so in a very fundamental, antidemocratic way.

EXPLAINING CIVIL RIGHTS

My niece and nephew haven't been around very long. They aren't 42 or 85 or 104 like the rest of us. They are post-civil-rights-revolution children who may one day fully understand the meaning of Selma, Ala., and Philadelphia, Miss., and the other bloody battlefields of the movement. But I think it is going to be harder than some people expect to explain to them precisely and profoundly what those battles were all about. And that is because they simply assume—how could they not?—that it is acceptable for the folks who run things to send one person here and another there strictly because of the color of his skin. They think the half-Indianness of their friend down the street is good and sufficient reason for the authorities to decree that he be treated differently.

Is all that so benign? Is it self-evidently something we should accept as the social price of righting old racial wrongs? Should we not be taking stock of how far we have wandered into a morass of new discriminations, which we are teaching the children of this country to view as the normal democratic landscape? I wish the big hitters of our racial politics would get off the platitudes and talk about that.

[From the New York Times, Sept. 11, 1977]

NIGHTMARISH NEGOTIATIONS WITH GOVERNMENT: HEW THREATENS TO MAKE CHILDREN PAY

(By Albert Shanker)

In recent weeks, the New York City public schools had a nightmarish experience with the Office for Civil Rights of the U.S. Department of Health, Education & Welfare—and it couldn't have happened at a worse time. The last two years were rough ones for our schools. Thousands lost their jobs. Class sizes were enlarged. Many services were taken away. The number of hours students spent getting instruction was reduced. Everyone was looking forward to the opening of school this September. Three thousand to 4,000 teachers were to be rehired, and many services were to be restored, along with the full school day. But the Office for Civil Rights came to New York and accused the schools of practicing discrimination. Unless corrective action was taken, federal funds would be cut off before school opened.

What were these charges about? First, OCR charged that minority group teachers were concentrated in schools which have mainly minority group students and, therefore, that such teachers were segregated within the school system. There is no question that this is true, but how did it come about? Was it a deliberate policy of the Board of Education? The de facto segregation of minority teachers is a direct result of the philosophy of community control and the decentralization of the school system. One of the very reasons the schools were decentralized was to allow predominantly minority school districts to employ large numbers of minority teachers. Not long ago both the federal government and private foundations peddled the idea that identification of students with their teachers was the key to improving pupil achievement among minority youth. Black children should have black teachers, they said.

Those who—like the United Federation of Teachers—opposed these ideas because they would lead to segregation were called all kinds of names and accused of being unsympathetic to minorities. Now, a decade later, OCR comes to New York and demands that the community school districts which

hired minority teachers push these teachers out of their districts so that all the city schools can have the same percentage of minority teachers. If this is not done quickly, the schools will lose millions of needed dollars. So the schools are to be punished unless they undo what the government encouraged them to do in the first place!

A second major charge was that by using an examination—a written test—and requiring teachers to demonstrate a minimum level of competency, the schools were discriminating. The charge was based on the fact that a larger percentage of minority applicants fail the examination than do "white" applicants, and there is no demonstrated proof that those who pass will be able to teach successfully while those who fail will not. Of course, in education it is hard to establish scientific proof for almost anything, but does that mean that we should stop using common sense? Shouldn't we find out if a prospective teacher knows the subject he or she is to teach? Is it wrong to give tests that weed out prospective teachers who are illiterate? Is it unreasonable—even though no one can prove its relationship to successful teaching—to demand of a prospective teacher who has been to college for four years the level of competency of the average high school junior in the country?

The New York City Board of Education was forced to negotiate with a gun at its head. Sure, the Board could have demanded an appeal of the OCR decisions through various governmental procedures. And, in the final analysis, the Board could have sued for the funds and gone all the way to the Supreme Court. But apparently the U.S. government is operating with a strange sense of due process—one which would have deprived New York City of millions of needed educational dollars while the appeals were taking place.

In other words, the Board of Education had to agree to do things it believed wrong, or the children of this city would suffer the consequences. It was forced to agree that: (1) by September 1979, the percentage of minority teachers in each district will reflect the "racial-ethnic composition of the system's teacher corps as a whole" within a range of five percent; (2) by September 1980, each school in the system will reflect the racial-ethnic composition of the teachers corps within the same range; (3) by September 1980, the percentage of minority teachers will approximately reflect the racial-ethnic composition of the "relevant qualified labor pool." The purpose of these changes is clearly to establish quotas, although the word is not used.

In addition, the Board and the UFT agreed to seek legislation which would mean that future teachers with higher scores on the teacher examinations would no longer necessarily get job appointments before those who scored much lower. And those who applied for, took and passed a test earlier would not necessarily be selected before those who passed much later. (Even the practice of giving any exams in the future is still under some cloud.)

There can be no doubt that the reason there are fewer minority teachers, doctors, lawyers and other professionals in our city and nation is because of poverty and discriminatory practices, a long, ugly past. Special help should be given to undo the damage. But lowering standards is not the right way. Nor is the imposition of quotas, which merely shifts the unconstitutional discrimination from an individual who is a member of one group to an individual who is a member of another. Nor is it right to force local school districts to do things the way OCR wants them done by taking millions of dollars from children *before* the school district has had its day in court.

We need government agencies to make sure there is an end to discrimination, but there is reasonable doubt as to whether OCR is fighting for civil rights or trampling on them. It's time for the Administration and the Congress to look into the procedures and practices of such agencies and provide protection against the abuse of their power.

Mr. MOYNIHAN. I thank the Chair.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

UP AMENDMENT NO. 846

Mr. ALLEN. Mr. President, I send an amendment to the Jackson amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment No. 846 to the Jackson amendment No. 845.

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted after the words "Sec. 3" on page 1, line 1, insert the following:

"That this Act may be cited as the 'Natural Gas Act Amendments of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

" (2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided*, That such natural gas was not sold or delivered in intrastate commerce for the first time prior to January 1, 1977: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than 15 years or for life of the reservoir from which it is produced if less than 15 years: *Provided, further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases governing such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market, or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas: *Provided*, That old natural gas sold or delivered in instrastate commerce for the first time prior to January 1, 1977 shall, if sold or delivered in interstate commerce for the first time after January 1, 1977, be deemed by the Commission as having been sold or delivered from wells commenced on or after January 1, 1975.

"'(9) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Contential Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12) "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Notwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge

made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(l) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however,* That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following four new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or before January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(1) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(2) the rates and charges necessary to encourage the optimum levels of (A) the exploration for natural gas, (B) the development, production, and gathering of natural gas, and (C) the maintenance of proved reserves of natural gas;

"'(3) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"'(b) The Commission shall monitor the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in subsection (a).

"'(c) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to subsection (a) or the interim ceiling established pursuant to subsection (d) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(d) Pending the establishment of a national ceiling pursuant to subsection (a) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977 and on January first of each year thereafter until such establishment of a national ceiling, the Commission shall establish an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States in effect on the date of enactment of the Natural Gas Act Amendments of 1977 as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to subsection (a) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however,* That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(e) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(f) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(g) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under

subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.'.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. —) is amended as follows:

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certified but for section 1 (c) of such Act';

"(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a) by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1981'; and,

"(g) in section 12(b), by striking out 'October 1, 1977,', and inserting in lieu thereof 'January 1, 1978, and January 1, 1979,' ".

Amend the title so as to read: "A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for consumers, and for other purposes.".

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Washington (Mr. JACKSON).

Mr. ABOUREZK. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is he yielding for more than a question? I make a point of order that he cannot yield for more than a question without losing his right to the floor.

The PRESIDING OFFICER. The Senator may yield only for a question.

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

Mr. ABOUREZK. I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia had the floor.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Jackson, I withdraw his pending amendment and offer, instead, on behalf of Mr. JACKSON and others, the amendment which I now send to the desk as an amendment to the Pearson-Bentsen substitute.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object, Mr. President. I want to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. ABOUREZK. Is it possible for one Senator to withdraw another Senator's amendment?

The PRESIDING OFFICER. That is why the Chair asked if there were objection. It takes unanimous consent.

Mr. ABOUREZK. Does it require unanimous consent?

The PRESIDING OFFICER. It does.

Mr. ABOUREZK. I object and I seek recognition.

Mr. JACKSON. I withdraw my amendment.

The yeas and nays have not been ordered. I withdraw my amendment.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from West Virginia has the floor. Does he yield and, if so, to whom?

Mr. ROBERT C. BYRD. Mr. President, has the Jackson amendment been withdrawn?

The PRESIDING OFFICER. It has not been withdrawn.

Mr. JACKSON and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ABOUREZK. A point of order, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, as I understand it, the Jackson amendment has not been withdrawn.

The PRESIDING OFFICER. That is correct.

Mr. JACKSON. I withdraw my amendment.

Mr. ABOUREZK. I object, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I have the floor, Mr. President.

I yield to Mr. JACKSON for the purpose only of withdrawing his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object. I seek recognition, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Washington.

Mr. ABOUREZK. I object, Mr. President, unless it is for the purpose of a question.

The PRESIDING OFFICER. There can be no objection until the Senator from Washington makes his wish known.

Mr. JACKSON. Mr. President, I withdraw my amendment.

Mr. ABOUREZK. I object and make a point of order, Mr. President.

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. ABOUREZK. I renew my parliamentary inquiry—I make a point of order that the Senator from West Virginia cannot yield the floor for anything but a question.

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, am I recognized?

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I move to table the Allen amendment and the Jackson substitute, or whatever the parliamentary situation is. I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. The motion is not in order.

Mr. ABOUREZK. I move to table the Allen amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAND), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), and

the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Rhode Island (Mr. CHAFEE) are necessarily absent.

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 399 Leg.]

YEAS—90

Abourezk	Goldwater	Muskie
Allen	Gravel	Nelson
Anderson	Griffin	Nunn
Baker	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Hatch	Pell
Bentsen	Hatfield	Percy
Biden	Hathaway	Proxmire
Brooke	Hayakawa	Randolph
Bumpers	Heinz	Ribicoff
Burdick	Helms	Riegle
Byrd, Harry F., Jr.	Hollings	Roth
	Huddleston	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chiles	Kennedy	Scott
Church	Laxalt	Sparkman
Clark	Leahy	Stafford
Cranston	Long	Stevens
Culver	Lugar	Stevenson
Curtis	Magnuson	Stone
Danforth	Mathias	Thurmond
DeConcini	Matsunaga	Tower
Dole	McClure	Wallop
Domenici	McGovern	Weicker
Durkin	McIntyre	Williams
Eagleton	Melcher	Young
Ford	Metzenbaum	Zorinsky
Garn	Morgan	
Glenn	Moynihan	

NAYS—0

NOT VOTING—10

Bartlett	Humphrey	Stennis
Chafee	Johnston	Talmadge
Eastland	McClellan	
Haskell	Metcalf	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table the pending amendment by Mr. JACKSON.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 400 Leg.]

YEAS—88

Abourezk	Glenn	Morgan
Allen	Goldwater	Moynihan
Anderson	Gravel	Muskie
Baker	Griffin	Nelson
Bayh	Hansen	Nunn
Bellmon	Hart	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield	Pell
Brooke	Hathaway	Percy
Bumpers	Hayakawa	Proxmire
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Ribicoff
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Inouye	Sarbanes
Case	Jackson	Sasser
Chiles	Javits	Schmitt
Church	Kennedy	Schweiker
Clark	Laxalt	Sparkman
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Ford	Melcher	Zorinsky
Garn	Metzenbaum	

NAYS—0

NOT VOTING—12

Bartlett	Humphrey	Scott
Chafee	Johnston	Stafford
Eastland	McClellan	Stennis
Haskell	Metcalf	Talmadge

So Mr. ROBERT C. BYRD's motion to lay on the table Mr. JACKSON's amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I am about to offer an amendment on Mr. JACKSON's behalf as a substitute to the amendment by Mr. PEARSON and Mr. BENTSEN.

The Jackson substitute is the same identical amendment which he earlier had pending as a perfecting amendment to the bill.

The amendment which I shall offer on Mr. JACKSON's behalf will be open to amendment.

UP AMENDMENT NO. 847

I send to the desk on behalf of Mr. JACKSON an amendment in the nature of a substitute to amendment No. 862 which is the Pearson-Bentsen amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of the Senator from Washington (Mr. JACKSON), proposes an unprinted amendment No. 847 in the nature of a substitute to amendment No. 862.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by amendment numbered 862 insert the following:

TABLE OF CONTENTS

Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4 Calculation of the current Btu related price.
Sec. 5. Sales of new natural gas.
Sec. 6. Sales of old natural gas under existing contracts.
Sec. 7. Sales of old natural gas from new wells under new contracts.
Sec. 8. Sales of old natural gas under rollover contracts.
Sec. 9. Effective dates of rules with respect to maximum lawful prices.
Sec. 10. Deregulation of high cost natural gas.
Sec. 11. Incremental pricing of natural gas.
Sec. 12. Administrative procedures, enforcement and judicial review.
Sec. 13. Intrastate contracts and transactions.
Sec. 14. Relationship to the Emergency Natural Gas of 1977.
Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 16. Conforming amendments to the Natural Gas Act.
Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) during the last 40 years the market for natural gas has changed considerably, principally because a national distribution system has been built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

(5) the gap between the price of natural gas and the price of crude oil, on a Btu basis, has widened since 1973 due to the continuation of cost-based regulation of natural gas and a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) The purposes of this Act are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and

incentive-based pricing system for new natural gas;

(2) to provide both fair and equitable revenues to producers and to protect consumers;

(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

DEFINITIONS

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2)(A) the surface location of the new well, or

(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national produce as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discovered reservoir" means any reservior which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "Secretary" means the Secretary of the Department of Energy.

(v) The term "United States" includes the Outer Continental Shelf.

CALCULATIONS OF THE CURRENT BTU RELATED PRICE

SEC. 4. (a) Within 30 days after the date of enactment of this Act and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price.

(b) Such Btu related price shall be computed by dividing—

(1) the upper tier price for domestic crude oil currently in effect and established pursuant to the provisions of section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

(c) Upon the expiration of oil price controls contained in the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757), the Btu related price shall be computed by multiplying the current Btu related price then in effect by the inflation adjustment.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or (2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977, under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

DEREGULATION OF HIGH COST NATURAL GAS

SEC. 10. (a) Not later than 180 days after the date of enactment of this Act, the Secretary shall by rule exempt the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States, from the price ceiling that otherwise would be applicable to any first sale of new natural gas.

(b)(1) Any person who wishes to sell any high cost natural gas produced in the United States or synthetic gas manufactured in the United States shall file an application with the Secretary requesting certification that the property from which the gas will be produced qualifies for the exemption from

the maximum lawful price that would otherwise be applicable.

(2) The Secretary shall review the certificate application and shall grant or deny the request within 180 days after it is completed. Should the application be deficient in any respect, the Secretary shall have the authority to request additional information from the applicant in order to make a final determination. The application shall not be deemed to be complete until all requests for information have been fulfilled.

(c) For purposes of this section the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine;

(4) from Devonian shale; or

(5) occluded gas produced from coal seams.

(d) The Secretary shall have the authority to further define the terms used in this section in a manner consistent with its purpose.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company,

(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

(C) local distribution companies for resale to low priority users served by such local distribution company,

until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

(c) For purposes of this section:

(1) The term "low priority user" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggreved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall be unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than 10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts of practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or other information) and such answers shall be made within such reasonable period,

and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

INTRASTATE CONTRACTS AND TRANSACTIONS

SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the any person engaged in the transportation of Natural Gas Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price allowed for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10, of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions: *Provided, however,* That any price for any first sale of natural gas sold pursuant to a certificate granted pursuant to the provisions of section 10 of the Natural Gas Policy Act, shall also be deemed just and reasonable.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions: *Provided, however,* That any price for any first sale of natural gas sold pursuant to a certificate granted pursuant to the provisions of section 10 of the Natural Gas Policy Act, shall also be deemed just and reasonable.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979.".

Mr. ROBERT C. BYRD. Mr. President, I wonder if I could ascertain at this time whether any Senators wish to offer amendments tonight and have them voted on, either amendents to the Jackson substitute to the Pearson-Bentsen substitute, or perfecting amendments to the bill.

Mr. BAKER addressed the Chair.

Mr. ROBERT C. BYRD. If I could finish and then I will yield to my distinguished friend.

What we have now is we have cleared the way for amendments to the bill. If Senators wish to call up divestiture amendments to the biil, the Jackson amendment which was a perfecting amendment is not a roadblock to that. So, Senators who wish to call up amendments tomorrow and offer them as perfecting amendments to the bill may do

so. If they are divestiture amendments, they can get votes on those amendments tomorrow or other perfecting amendments to the Jackson substitute.

If no one wishes to call up an amendment tonight and get it voted on, I am prepared to transact some morning business and recess over until tomorrow morning.

Mr. KENNEDY addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have the floor.

Mr. KENNEDY. I was just going to offer a substitute.

Mr. ROBERT C. BYRD. I beg pardon.

Mr. KENNEDY. I wish to offer a substitute to the Jackson amendment.

Mr. ROBERT C. BYRD. Very well.

I yield the floor for that purpose.

Mr. BAKER. Mr. President, will the Senator yield to me first?

Mr. ROBERT C. BYRD. I yield to the distinguished minority leader first.

Mr. BAKER. I will take but just a moment. I have no desire to interfere with or delay the action by the distinguished Senator from Massachusetts.

I add to what the distinguished majority leader has said that I, too, hope that we can have a fruitful day tomorrow, with amendments either to the bill or to the Pearson-Bentsen amendment in the nature of a substitute or now the Jackson amendment to it.

I also say, as I have discussed with the majority leader, I think it is not likely that we are going to have a final vote on the Jackson proposal or the Pearson proposal on tomorrow.

There is no agreement, of course, in that respect, but I wanted to add to the remarks by the distinguished majority leader that I do not anticipate that test to come on Saturday but rather at some later date.

I would hope that we can get a time certain vote on a motion to table the Jackson amendment and, of course a vote on the Pearson-Bentsen amendment in due course.

Mr. KENNEDY addressed the Chair.

Mr. HART. Mr. President, will the leader yield for a question?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I assured the distinguished Senator from Massachusetts I will yield to him for the moment.

Mr. KENNEDY. Could I get this as a substitute and then I will be glad to yield.

Mr. ROBERT C. BYRD. Is this agreeable?

Mr. HART. Yes.

Mr. ROBERT C. BYRD. Yes, I yield.

UP AMENDMENT NO. 848

Mr. KENNEDY. Mr. President, I send to the desk a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 848 in the nature of a substitute.

Mr. KENNEDY. I am glad to explain it.

Mr. President, I ask unanimous consent to have reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

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Sec. 11. Incremental pricing of natural gas.
Sec. 12. Administrative procedures, enforcement and judicial review.
Sec. 13. Intrastate contracts and transactions.
Sec. 14. Relationship to the Emergency Natural Gas of 1977.
Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 16. Conforming amendments to the Natural Gas Act.
Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a by-product of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) during the last 40 year the market for natural gas has changed considerably, principally because a national distribution system has been built to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

(5) the gap between the price of natural gas and the price of crude oil, on a Btu basis, has widened since 1973 due to the continuation of cost-based regulation of natural gas and a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) The purposes of this Act are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas;

(2) to provide both fair and equitable revenues to producers and to protect consumers;

(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

DEFINITIONS

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2)(A) the surface location of the new well, or

(B) a point directly above or below the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the comparable implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60 degrees Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of Outer Continental Shelf acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discovered reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and premeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "Secretary" means the Secretary of the Department of Energy.

(v) The term "United States" includes the Outer Continental Shelf.

CALCULATION OF THE CURRENT BTU RELATED PRICE

SEC. 4. Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring crude oil during the preceding 3 calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the minimum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b) the lesser of (1) the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or (2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977, under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRACTICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

SPECIAL PRICING PROVISIONS

SEC. 10. (a) The Secretary may, by rule, prescribe one or more maximum lawful special prices, applicable to the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. Such special prices may exceed the applicable maximum lawful price established by section 5, 6, or 7, or prescribed under section 8, to the extent that such special prices are necessary to provide reasonable incentives for the production of high cost natural gas or the manufacture of synthetic gas.

(b) For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extracrdinary risks or costs.

(c) In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of compression, gathering, processing, liquefaction, or transportation of such natural gas, the Secretary may, by rule, provide for an adjustment to the maximum lawful price established by section 5, 6, 7, or prescribed under section 8 or subsection (a) of this section to reflect such cost borne by such seller.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a)(1) Not later than 180 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company.

(B) other pipelines which are customers of such pipeline for ultimate resale to low priority users, and

(C) local distribution companies for resale to low priority users served by such local distribution company, until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under this section shall, to the maximum extent practicable, provide that after the rates and charges to low priority users equal the reasonable cost of substitute fuels to those users, whether served by a pipeline company or a distribution company, further increases in the average cost of natural gas delivered by one pipeline company to another pipeline company or delivered to a distribution company shall be allocated to the rates and charges applicable to sales of natural gas to all customers of such pipeline company or distribution company.

(4) The rates and charges for sales of natural gas by any pipeline company or by any local distribution to all customers of such pipeline company or distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secre-

tary shall certify to the Commission the reasonable cost of substitute fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

(c) For purposes of this section:

(1) The term "low priority user" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(f)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeding day on which both Houses are in session.

(2) The rule shall not go into effect until 60 calendar days after transmission to both Houses of Congress.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the equirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, or no later than 10 days (in the case of a reduction of the comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceeding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provisions for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pursuant to the provisions of chapter 7 of title 5, United States Code.

(c)(1) It shall be unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2)(A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any indiivdual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d)(1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or other infomation) and such answers shall be made within such reasonable period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to another Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

INTRASTATE CONTRACTS AND TRANSACTIONS

SEC. 13. (a) Neither the price of any natural gas determined under this Act or of crude oil or refined products shall be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of the price of any natural gas on the basis of sales of other natural gas, or of crude oil or refined products.

(b)(1) The Commission may, by rule or order, authorize any intrastate pipeline to sell natural gas to, or transport natural gas on behalf of, any interstate pipeline or local distribution company served by any interstate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of making any sale or any transportation of natural gas authorized by the Commission under this subsection.

(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under the Natural Gas Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under the Natural Gas Act.

(c) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas authorized by the Commission under subsection (b) and with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price allowed for the sale of natural gas under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act;

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply, or to any sale or transportation of natural gas authorized by the Commission under section 13(b) of such Act.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under such provisions.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979.".

Mr. KENNEDY. I am glad to yield to the Senator.

Mr. HART. I wish to ask the majority leader a question.

Mr. ROBERT C. BYRD. Yes.

Mr. HART. With regard to the Jackson amendment; is there a time certain when there will be final disposition of the Jackson amendment? Has that been agreed to?

Mr. ROBERT C. BYRD. At the present time there is not any agreement on that point.

Mr. President, may I inquire of the Chair as to what is the nature of Mr. KENNEDY'S amendment?

The PRESIDING OFFICER. This is a substitute for the substitute for the substitute.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is the amendment that has just been offered by Mr. KENNEDY the Pearson-Bentsen language?

Mr. KENNEDY. The answer to that question is no.

The PRESIDING OFFICER. No, it is not.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield for a parliamentary inquiry?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. So we will all know what we are doing here, first, is the amendment of the Senator from Washington in the nature of a substitute a substitute for Pearson-Bentsen?

Mr. JACKSON. The Senator is correct.

Mr. BUMPERS. Then the Pearson-Bentsen amendment was a substitute for the bill, the amendment of the Senator from Washington is a substitute for the Pearson-Bentsen amendment, and would it not then be the case that only perfecting amendments to the amendment of the Senator from Washington would be in order?

Mr. JACKSON. The Chair will have to answer that, but I would say the answer is no.

The PRESIDING OFFICER. At this point, the amendment of the Senator from Washington is amendable in one degree. The amendment of the Senator from Kansas and the Senator from Texas is amendable in two degrees, and the bill itself is amendable in two degrees.

It should have been stated in the reverse order from that in which the Chair just stated it.

Mr. BUMPERS. I certainly appreciate the clarification.

[Laughter.]

Mr. ROBERT C. BYRD. One further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. I believe I am correct in saying, in order that the whole picture may be complete, that the amendment by Mr. KENNEDY is not open to amendment.

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. As I understand it, the Pearson-Bentsen amendment is a substitute for the bill. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. The Jackson amendment is a substitute for Pearson-Bentsen?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. And the Kennedy amendment is a substitute for Jackson?

The PRESIDING OFFICER. That is also correct.

Mr. BUMPERS. And we are not down to a third-degree amendment?

The PRESIDING OFFICER. Under the precedents of the Senate, the first full substitute for the bill does not kill a degree. It is a freebie.

[Laughter.]

Mr. KENNEDY. Mr. President, as I understand, my amendment is the pending business; am I correct?

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am prepared to vote on that.

Mr. ALLEN. Mr. President, will the Senator be kind enough to explain what his amendment is?

Mr. KENNEDY. It is basically the administration's proposal, that was initiated by the Senator from Washington. I think we could resolve all of our problems, Mr. Leader, by having a yea or nay vote on it. If we get a final vote, this will resolve the whole issue, and we can get on to some other business on Monday.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I wonder if we should vote this amendment at this moment, about which most of us know little or nothing.

Of course, a motion to table would be in order. I do not propose to make that, but if the Senator would take a little time to explain his amendment, that is certainly agreeable with me.

Mr. KENNEDY. We are prepared to move to a final conclusion of this whole issue, which the Senate has been debating a long time, in order to reach an early disposition of it.

Mr. BENTSEN. Mr. President, I will be prepared to discuss it at some length, so we will be sure to understand the whole issue.

[Laughter.]

Mr. KENNEDY. We will see you on Monday, then, Mr. Leader.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the proposed substitute.

The PRESIDING OFFICER. Is there a sufficient second. These is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, this basically is the administration program that was going to be offered by the Senator from Washington. It is a program that has been thought out well, and considered within the committee. The issues have been well debated. It is really no new idea or new suggestion; the issues are well known, and it seems to me it is a reasonable resolution to the dilemma that we find ourselves in. There are a few details of it that I think the Senator from Washington and the members of the committee can comment on, or I will be glad to do so, but basically it is the previous Jackson proposal. We can spend whatever time is necessary, but I think it is important to know that we are prepared to get to an early vote on it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, simply stated, the amendment offered by the distinguished Senator from Massachusetts, is basically amendment No. 868, the amendment which I introduced to the bill (S. 2104), which was reported out of the committee after we had a tie vote on the basic subject of the Pearson-Bentsent amendment in the committee.

Mr. President, the amendment, in effect, takes the administration's recommendation to Congress, which was introduced as S. 2104. Certain changes were made in it to clean it up, so to speak, from a technical standpoint, but it is in fact the administration's position on natural gas pricing, with those perfecting amendments I have referred to.

I think that is a good summary. Everyone can get a copy of it; it is amendment No. 868.

Mr. ROBERT C. BYRD. Mr. President, I do not care to hold the floor any longer. Whatever the wishes of the Senate are.

SEVERAL SENATORS. Vote! Vote!

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes and for the purpose of transacting some business that has nothing to do with the pending matter. I assure all Senators that no unanimous-consent request will be entered into that will have any impact whatsoever on the pending bill or amendments thereto.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. After the morning business is ended, and I do not expect any rollcall votes in that period, we shall recess over until 9 a.m.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

ORDER OF BUSINESS TOMORROW

Mr. METZENBAUM. Is it reasonable for us to assume that we shall have an opportunity to vote on the Kennedy substitute tomorrow?

Mr. ROBERT C. BYRD. I do not know at this time how to answer that question, I say most respectfully. It may be that someone in the morning will want to move to table it.

Mr. METZENBAUM. I meant either a tabling motion or up or down.

Mr. ROBERT C. BYRD. It is perfectly reasonable to asume that that could happen. Every Senator will retain his rights. Nothing will be changed by virtue of our going into morning business now. A Senator could, at this time, if he got the floor, move to table it now and still have that right in the morning.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. PROXMIRE and Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. BAKER. Will the Senator yield to me for a moment?

Mr. PROXMIRE. I ask unanimous consent that I may yield to the minority leader without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. May I have the attention of the majority leader?

I ask if we may consider one other possibility. We are coming in at 9 in the morning. I know of no special-order speeches.

Mr. HART. Mr. President, may we have order?

The PRESIDING OFFICER. The Senators will please refrain from their conversations.

Mr. BAKER. In order to accommodate some Senators on this side who have commitments, particularly travel arrangements and have to adjust their schedules to arrive here, I wonder if it would be possible to set a time before which we shall not have votes—say at 10 a.m.

Mr. ROBERT C. BYRD. I would agree to that.

ORDER FOR NO VOTES BEFORE 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no votes occur tomorrow morning before the hour of 10:30 a.m., except in the instance of a vote which might be necessary to establish a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the majority leader.

I thank the distinguished Senator from Wisconsin.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED RESCISSION—PM 115

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and the Judiciary:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $2.7 million in general criminal justice and corrections grant funds appropriated to the Department of Justice.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 23, 1977.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:45 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1862. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes.

H.R. 5262. An act to provide for continued participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes.

H.R. 6502. An act to amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

The enrolled bills were subsequently signed by the President pro tempore.

At 1:18 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 5101) to authorize appropriations for activities of the Environmental Protection Agency, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BROWN of California, Mr. WIRTH, Mr. WATKINS, Mr. AMBRO, Mr. WALKER, and Mr. WINN were appointed managers of the conference on the part of the House.

The House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 9262. An act to amend title 5 of the United States Code to provide that an employee may credit service as an employee of a congressional campaign committee for civil service retirement purposes, and for other purposes.

At 3:10 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that:

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 602) to extend and revise the Library Services and Construction Act, and for other purposes.

The House agrees to the amendment of the Senate to the amendment of the House to the text of the bill (S. 1307) to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service, and for other purposes; and that the House agrees to the amendment of the Senate to the amendment of the House to the title of the bill.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

The Speaker has appointed as members of the delegation to attend the Conference of the Interparliamentary Union held in Sofia, Bulgaria, from September 21 to 30, 1977, the following Members on the part of the House: Mr. HAMILTON, chairman; Mr. PEPPER, vice chairman; Mr. DANIELSON, Mr. BOWEN, Mr. LEHMAN, Mr. CAVANAUGH, Mr. DERWINSKI, Mr. BOB WILSON, Mr. MCCLORY, Mr. DEL CLAWSON, and Mr. CUNNINGHAM.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs: With an amendment:

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes (Rept. No. 95-450).

ORDER FOR STAR PRINT OF S. 1630

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Senator HUMPHREY requesting a star print of a bill he introduced be printed in the RECORD along with the text of the bill. I further ask unanimous consent that his request for a star print be ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

NATIONAL RURAL DEVELOPMENT BANK

Mr. HUMPHREY. A number of errors were made in the printing of S. 1630, a bill that I introduced last June 7, which would establish a National Rural Development Bank. I ask that a star print of the correct text of this bill be made. I further ask that this bill text be printed in the RECORD.

The bill (S. 1630) reads as follows:

S. 1630

A bill to amend the Rural Development Act of 1972 (Public Law 92-419) and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Rural Development Act of 1972 (Public Law 92-419) is amended by adding at the end thereof the following:

"TITLE VII—RURAL DEVELOPMENT ACT AMENDMENTS OF 1977

"SUBTITLE A—FINDINGS, PURPOSES, AND DEFINITIONS

"SEC. 701. TITLE AND FINDINGS AND PURPOSE.—(a) This title may be cited as the "Rural Development Act Amendments of 1977."

"(b) The Congress hereby finds that—

"(1) farming and forestry form the backbone of the rural economy; yet the community services and facilities and the income earning opportunities needed by farm and forestry people to increase their incomes and raise their quality of life are shared with all other residents living in rural areas and rural communities who must also participate in their financial support.

"(2) adequately to raise farm family and forestry income and increase the accessibility to farm and rural residents of high-quality community facilities and services requires all the resources in local rural communities to be used at maximum effectiveness and efficiency;

"(3) the conduct of industry, business, and commerce, as well as farming and forestry, contributes to the jobs and income earning opportunities needed to provide the tax base to establish and maintain adequate rural facilities and services; the same circumstances are essential to expanding the service loads and hence the ability of rural electrification and telephone systems to pay overhead costs for service for farmers and other rural residents and repay indebtedness on Government and Government-insured and guaranteed loans;

"(4) prosperous, productive, and attractive rural communities are essential to the well-being of farm and other rural families and of a free nation because a more general, better balanced geographic distribution of the Nation's population is essential to the prosperity, general welfare, and domestic tranquillity of the urban as well as the rural communities of the United States;

"(5) to attain a more general, better balanced geographic distribution of the Nation's population requires a reversal of the long-term trend of migration from rural to urban areas;

"(6) to reverse the flow of population from rural to urban areas and achieve a more general, better balanced geographic distribution of the Nation's population, it is necessary to attain a more general, better balanced geographic distribution of profitable private economic enterprises, income earning opportunities, and high-quality public community facilities, services, and public works;

"(7) additional capital investment and financial resources in rural areas are essential to the establishment and operation of the private economic enterprises, public works, and community facilities and services necessary to achieve a more uniform geographic distribution of economic enterprises, jobs, and increased rural income;

"(8) much of the needed investment must come from outside of rural areas and communities;

"(9) much of the outside investment and credit needed by rural areas will be made available by the Nation's existing network of commercial and investment banks, the Farm Credit System, and other local rural financial institutions, and by other private enterprise and local and State governments buttressed and supplemented by the direct, insured, and guaranteed loans, technical assistance, and grants provided by the Consolidated Farm and Rural Development Act and other titles of the Rural Development Act of 1972;

"(10) however, because the size of investment or credit required by the sponsors of significant rural development project often exceeds the regulated lending limits and investment standards of existing local rural financial institutions and individuals even when a part of the loan is insured or guaranteed under the Consolidated Farm and Rural Development Act, existing arrangements do not fully provide to local rural investors and financial institutions the liquidity, flexibility, and usable financial resources they require to be fully responsive to expanding rural development investment and credit needs;

"(11) moreover, the individual potential investor, public or private, who wishes to construct and operate a significant rural development project does not have an independent access to investment funds and capital, if these are not currently available from existing credit and investment individuals and institutions.

"(c) It is the policy of Congress to meet this need by establishing a local-lender-and-borrower-owned facility that will provide equity-participation investment funds to sponsors of rural development projects and

financial assistance to local lenders and to those with whom loans extended by local lenders are refinanced, discounted, rediscounted, or to whom such loans are sold.

"(d) It is therefore the purpose of this Act to provide for a permanent rural development investment and financial institution that will organize and make available a stable, continuous, and dependable source of financial resources that will provide equity-participation investment, loans, and the discounting, rediscounting, refinancing, and purchase of loans extended by local rural financial institutions to the residents of rural areas, rural corporations, agricultural producer organizations and other cooperatives (except where able to obtain needed credit from the banks for cooperatives under the Farm Credit Act of 1971), rural industrial, and business enterprises, quasi-public bodies in rural areas, rural counties, and municipalities, Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, and other units of rural local general and special purpose government that will establish, construct, and operate private and public facilities, works, and services in rural areas and will provide remunerative employment to increasing numbers of rural residents.

"SEC. 702. DEFINITIONS.—As used in this title—

"(a) The term 'rural area' means all the territory of a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam that (1) is not within the outer boundary of any standard metropolitan statistical area, as designated by the Office of Management and Budget and (2) in addition, all territory within any such standard metropolitan statistical area that is also within counties, towns, plantations (in Maine), and townships having a population density of less than two hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

"(b) The term 'rural development purpose' means any project undertaken by any private industrial or business enterprise or by any multistate region, State, multijurisdictional general purpose planning and development district, or local government or instrumentality thereof, that contributes or will contribute to giving highest priority to attainment of the objectives of the revitalization and development of rural areas as provided in section 901(a) of the Agricultural Act of 1970 (Public Law 91-524), or the enhancement of any rural community or rural area as a place to live and make a living. Such term specifically includes, but is not limited to, projects that provide increased employment or income for or directly benefit rural residents and that—

"(1) establish or improve public works or community services, or facilities;

"(2) encourage private investment in, or promote the establishment and expansion of, industrial or commercial enterprises, including but not limited to, investor-owned and cooperative marketing and other service associations and enterprises;

"(3) provide manpower development and training;

"(4) improve the quality and accessibility of rural community facilities and services;

"(5) promote the conservation, development and proper utilization of natural resources;

"(6) establish and improve public educational facilities, including but not limited to community and junior colleges, vocational and technical schools, and other institutions of higher education, and encourage the development of improved educational methods;

"(7) establish and improve land, water, and air transportation systems and services for goods and passengers;

"(8) assist in the solution of problems related to law enforcement activities;

"(9) establish decent, safe, sanitary, and comfortable housing;

"(10) establish and improve health care and preventative practice facilities and services, including but not limited to, facilities for vocational rehabilitation, and generally promote improved health and nutrition of residents of rural areas;

"(11) provide direct financial incentives to industry to create jobs in rural areas; and

"(12) establish and improve facilities and services that will enhance the quality of the environment and provide abatement and control of pollution.

"(c) The term 'rural development project' means an organized proposal or activity with an identifiable legal sponsor that will or does contribute to the attainment of one or more rural development purposes.

"(d) The term 'local general government' means the government of a municipality, county, town, or township as such terms are defined and used by the United States Bureau of the Census.

"(e) The term 'regional office', when used in connection with the Bank, means the office that serves the rural part of the geographical area located within a uniform region established by the President of the United States for coordination of Federal agencies.

"(f) The term 'Board' means the National Rural Development Bank Board established under subtitle B of this title.

"(g) The term 'Bank' means the National Rural Development Bank established under subtitle C of this title.

"(h) The term 'Participant' means any local rural bank or other local rural financial institution designated as a Participating Rural Development Financial Institution under subtitle D of this title.

"(i) The term 'Supporting financial institution' means any person or financial institution within the United States that has purchased, discounted, rediscounted, or refinanced all or part of a rural development loan extended to an eligible sponsor by a Participant.

"(j) The term 'rural development loan' means an identifiable unit of credit or other financial assistance extended to an eligible sponsor to construct and operate a rural development project.

"(k) The term 'Governor' means the executive officer of the Bank.

"(l) The term 'financial assistance' means (1) the purchase of legal obligations and the discount, rediscount, and refinancing of any note, draft, or other obligation and similar legal instruments evidencing and securing the repayment of a secured rural development loan advanced by a local rural financial institution for the establishment or operation of any project required to attain a rural development purpose, irrespective of whether such loan is insured or guaranteed in whole or in part by an instrumentality of the Federal Government; (2) the providing of funds for joint-venture equity investment in rural development projects; and (3) the extending of loans to sponsors of rural development projects who are unable to obtain needed credit from other existing financial institutions.

"(m) The term 'joint-venture equity investment' means the investment of funds jointly with another private or public rural development project sponsor to establish and operate a rural development project.

"(n) The term 'eligible sponsor' means—

"(1) any of the following who propose to or are engaged in establishing or operating a rural development project:

"(A) public and quasi-public bodies;

"(B) cooperative associations as defined in the Agricultural Marketing Act (42 Stat. 388; 12 U.S.C. 1141j(a)), if such associations are unable to borrow from the banks for cooperatives;

"(C) other cooperatives;

"(D) corporations;

"(E) partnerships;

"(F) individual proprietors;

'(G) multijurisdictional general purpose areawide planning and development substate districts established by the legislature or Governor of a State;

"(H) persons and firms;

"(I) owners or potential owners of rural homes;

"(J) municipalities;

"(K) resource conservation and development project sponsors under title II of the Bankhead-Jones Farm Tenant Act;

"(L) sponsoring associations carrying out projects under the Watershed Protection and Flood Prevention Act;

"(M) corporate entities established by sponsors of concerted education and training service projects carried out jointly by the Department of Agriculture, the Department of Health, Education, and Welfare, and the Department of Labor;

"(N) cooperative associations furnishing to farmers and rural residents services and facilities for harvesting, storing, processing (including preservation or preparation of edible products for market), transporting or marketing agricultural commodities or products, consumer purchasing services, or the processing or marketing of other products of farmers or rural residents, or other cooperatives or self-help enterprises;

"(O) councils of government established under State law if rural areas are included within their jurisdiction;

"(P) private associations;

"(Q) local development districts organized under the Appalachian Development Act;

"(R) Economic Development Districts organized under the Economic Development Act of 1965;

"(S) technical vocational schools; and

"(T) Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups; and

"(2) whose proposed or operating project is declared eligible based upon—

"(A) review of the proposed project by the governing body of the multijurisdictional, areawide, general purpose planning and development district, if any, established by the legislature or Governor of the State concerned and a certification by such body that the proposed private or public facility, work or service is not inconsistent with the current areawide general purpose development plan, if any, for the multijurisdictional district;

"(B) determination that the private or public facility, work, or service provided by the project will be located in and operate primarily in a rural area to increase the employment of or for the benefit of rural residents and that the proposed project promises to make a net increase in the number of jobs, quality of life, or median family income in the rural area served;

"(C) determination that the proposed undertaking is not inconsistent with the Federal, State, or local laws or regulations relating to protecting the quality of the environment.

"(o) The term 'voting stockholders' means any Participant, any borrower, and any Joint-venture-cosponsor who has purchased and owns voting stock in the Bank.

"(p) The term 'Joint-venture-cosponsor' is an eligible sponsor who joins with the Bank in making a joint-venture equity investment in a rural development project under provision of Subtitle E.

"SUBTITLE B—NATIONAL RURAL DEVELOPMENT BANK BOARD

"SEC. 801. THE NATIONAL RURAL DEVELOPMENT BANK BOARD; NOMINATION AND APPOINTMENT OF MEMBERS; ORGANIZATION AND

COMPENSATION.—(a) There is hereby established a National Rural Development Bank Board (hereinafter referred to as the 'Board') composed of eleven appointed, three ex officio and ten elected members. The appointed members shall be appointed by the President, by and with the advice and consent of the Senate, not more than six of whom shall be from the same political party nor more than one of whom shall be from any State. In making appointments to the Board the President shall select persons who are especially qualified to serve on the Board because of their education, training, and experience, shall attempt to provide a fair representation on the Board of the different geographic regions of the United States and the several economic interests in rural development-farming, labor, business, banking, cooperatives, local government, and private economic enterprise both profit and not for profit. The representative of the Secretary of Agriculture on the Farm Credit Board, the Governor of the Farm Credit Administration and the Governor of the Bank shall be ex officio members of the Board and shall not be eligible to vote. One elected member shall be chosen by voting stockholders of the rural area served by each regional office of the Bank.

"(b) All members of the Board shall be citizens of the United States and not less than seventeen members, exclusive of ex officio members, shall be legal residents of rural areas in which the Bank is authorized by this Act to extend financial assistance for projects to carry out rural development purposes.

"(c) The Board shall elect a chairman and vice chairman from among its appointed and elected members. The Board shall elect a Secretary from among its members or from outside its membership. Such officers shall be elected for terms of one year and shall hold office until their successors have been elected.

"(d) No member of the Board, other than the ex officio members shall, while serving as a member of the Board, be an officer or employee of the United States or of the Bank or of the Farm Credit System.

"(e) Appointed and elected members of the Board shall serve for terms of six years, except that (1) a person appointed to fill an unexpired term shall serve only for the remainder of the term for which his predecessor was appointed, and (2) with respect to the first members appointed and elected to such Board, four shall be appointed and four elected for terms of six years, four shall be appointed and four elected for terms of four years, and three shall be appointed and two elected for terms of two years. A vacancy on the Board shall not affect the power of such Board to act and shall be filled in the same manner as originally filled. Members shall serve until their successors are duly appointed and qualified.

"(f) The Board is authorized to establish its own rules of procedure for conducting its business, except that a majority of all members of such Board shall constitute a quorum for the transaction of its business.

"(g) Each appointed and elected member of the Board shall receive $200 a day for not more than one hundred days of meetings each year and all members shall be reimbursed for travel and reasonable expenses incurred in attending meetings of such Board and in discharge of their official duties without regard to laws with respect to allowances which may be made on account of travel and subsistence expenses of officers and employed personnel of the United States. Nothing in the preceding sentence shall be construed to limit the number of days of meeting each year to one hundred days.

"(h) The Board shall hold at least six regularly scheduled meetings a year and such additional meetings at such times and places as it may determine. Special meetings shall be held at any time at the call of the chairman or by any three members of such Board.

"SEC. 802. POWERS OF THE BOARD.—The Board shall establish the general policy for the guidance of the Bank in carrying out this Act; may require such reports as it deems necessary from the Bank; and provide for the examination of the condition of and general supervision over the performance of the powers, functions, and duties vested in the Bank and in Participants, which, in the judgment of the Board, relate to matters of broad and general supervisory, advisory, or policy nature. The Board shall function as a unit without delegating any of its functions to individual members, but may appoint committees and subcommittees for studies and reports for consideration by such Board. It shall not operate in an administrative capacity.

"SEC. 803. The Board shall make an annual report to the Congress on the condition of the Bank, including analytical program evaluation and cost effectiveness studies, and recommendations it deems necessary to improve the operation of the Bank in providing supplementary investment required to attain rural development purposes of this Act.

"SUBTITLE C—NATIONAL RURAL DEVELOPMENT BANK

"SEC. 901. ESTABLISHMENT; TITLE.—There is established a National Rural Development Bank (herein called Bank) as a federally chartered instrumentality of the United States subject to policies of the Board. Its charter may be modified from time to time by the Board in any manner not inconsistent with the provisions of this Act as may be necessary or expedient to implement this Act.

"SEC. 902. CORPORATE EXISTENCE; GENERAL CORPORATE POWERS.—The Bank shall be a body corporate, subject to the supervision of the Board and shall have power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Acts of Congress;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal, tangible and intangible property necessary or convenient for its business;

"(6) operate under the policy direction of the Board;

"(7) prepare and disseminate information to the general public on use, organization, and functions of the Bank and to investors on merits of its securities;

"(8) require appropriate bonds or other provision for protection of the assets of the Bank against losses occasioned by employees;

"(9) prescribe rules and regulations necessary or appropriate for carrying out the provisions of this Act;

"(10) prescribe its bylaws, subject to approval of the National Board, and provide in such bylaws for—

"(A) the classes of its stocks and the manner in which such stock shall be issued, transferred, and retired;

"(B) the election or appointment of its officers and executive employees;

"(C) property acquired, held, or transferred;

"(D) the conduct of its general business;

"(E) the exercise and enjoyment of the privileges granted to it by law;

"(11) deposit its securities and its current funds with any member bank of the Federal Reserve System, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, upon such regulations as may be prescribed by the Secretary; may be employed as fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under provisions of this subsection shall be invested in loans or bonds or other obligations of the bank;

"(12) buy and sell obligations of or insured or guaranteed by the United States or of any agency thereof, or securities backed by the full faith and credit of such agency, and make such other investments as may be authorized by the Board;

"(13) delegate to Participants and Joint-venture-cosponsors such functions vested in or delegated to the Bank, as it may determine appropriate;

"(14) exercise by its authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry out the business of the Bank;

"(15) purchase, refinance, or discount rural development loans and participations in such loans made by local rural financial institutions from such institutions and from other financial institutions that have purchased discounted, or refinanced such loans; and

"(16) make joint-venture equity investment in rural development projects.

"SEC. 903. APPOINTMENT OF GOVERNOR; SALARY AND EXPENSE ALLOWANCE.—(a) The Governor shall be appointed by, and serve at the pleasure of, the Board.

"(b) The compensation of the Governor shall be at the rate prescribed for positions in level IV of the Executive Schedule provided for under Section 5315 of title 5, United States Code. The Federal Board shall fix the allowance for his necessary travel and subsistence expenses or per diem in lieu thereof.

"SEC. 904. COMPLIANCE WITH BOARD ORDERS.—The Governor shall be responsible, subject to the supervision and control of the Board, for carrying out the functions of the Bank and the policies of such Board. He shall carry out all orders and directives received by him from the Board. All acts of the Governor shall be conclusively presumed to be in compliance with the orders and directives of such Board.

"SEC. 905. RURAL DEVELOPMENT BANK ORGANIZATION.—The Governor is authorized, in carrying out the powers and duties now or hereafter vested in him by this Act and Acts supplementary thereto, to establish and to fix the powers and duties of such officer to serve within regions, divisions, and instrumentalities as he may deem necessary to insure the proper and efficient administration of the functions of the Bank. The Governor shall have authority to appoint and employ such personnel as may be necessary to carry out the functions of the Bank, including the appointment with the approval of the Board of a Deputy Governor who shall receive compensation at the rate prescribed for positions in level V of the Executive Schedule provided for under Section 5316 of title 5, United States Code. The powers of the Governor may be exercised by him through such officers and employees of the Bank as he may designate. The Governor shall provide on a reimbursable basis such administrative management services, other than public information, for the Board as shall be mutually agreed upon.

"SEC. 906. ADMINISTRATIVE EXPENSES.—The Bank may, within the limits of funds available therefor, make necessary expenditures for personnel, services, and rent at the seat of Government and elsewhere; contract stenographic reporting services; purchase and exchange of law books, books of reference, periodicals, and newspapers; expenses of attendance at meetings and conferences; purchase, operation, and maintenance at the seat of Government and elsewhere of motor-propelled passenger-carrying vehicles and other vehicles; printing and binding; and such other facilities and services, including temporary employment by contract or otherwise, as it may from time to time find necessary for the proper administration of the provisions of this Act.

"SEC. 907. ENUMERATED POWERS.—The Bank shall, in addition to the corporate powers enumerated in section 902, have the following powers, functions, and responsibilities in connection with the provision of financial assistance to Participants, to Joint-venture-cosponsors, and to those who have purchased, discounted, or refinanced rural development loans extended by Participants:

"(a) Make studies of rural lending and investment needs, the need for better geographic distribution of population and economic opportunity, appraisal and credit standards, and credit requirements of rural industrial and commercial enterprise;

"(b) develop acceptable national and regional standards, procedures, and appraisal forms; and

"(c) prescribe price and cost levels to be used in such standards, joint venture investment, appraisals, and lending.

"SEC. 908. GOVERNANCE OF POLICIES, PROGRAMS, AND PROCEDURES OF THE BANK.—(a) The Board shall establish and promulgate policies and regulations, not inconsistent with provisions of this Act, to govern the policies, programs, and procedures of the Bank. The Bank and its Governor shall be conclusively presumed to be acting in accordance with such policies and regulations in all their actions and decisions.

"(b) The policies of the Bank, for so long as the Secretary of the Treasury holds stock in such Bank for the United States shall be subject to prior approval by the Secretary of the Treasury.

"SEC. 909. FINANCIAL AND OTHER SUPERVISION.—The Bank, Participants, and Joint-venture-cosponsors shall be subject to the supervision of the Farm Credit Administration with respect to all procedures relating to financial examinations, including audits. The Board shall arrange with the Federal Farm Credit Board to utilize the services of the Farm Credit Administration examiners for investigative, accounting, and administrative auditing of the work of the Bank in an orderly, efficient, and effective manner. The Farm Credit Administration is authorized to provide such services on a mutually agreeable reimbursable basis.

"SEC. 910. EXAMINATIONS AND REPORTS; AUDITS.—(a) Except as provided in this title, each office and division of the Bank, Participants, and Joint-venture-cosponsors, at such times as the Board may determine, shall be examined and audited by examiners of the Farm Credit Administration on a reimbursable basis but in no event shall any such institution be examined and audited less frequently than once a year. If the Board determines it to be necessary or appropriate, the required examinations and audits may be made by independent certified public accountants, certified by a regulatory authority of a State, in accordance with generally accepted auditing standards. Upon request of the Governor of the Bank, credit examiners shall also make examinations of any organization other than a national bank, to which, or with which, the Bank contemplates extending financial assistance or delegating authority under this title. For the purposes of this title, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act, the Federal Reserve Act, the Federal Deposit Insurance Act, and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law. A report of each audit of the Bank or other institution for any fiscal year shall be made by the Farm Credit Administration through the Board to the President of the United States and to the Congress not later than six months following the close of such fiscal year. The Farm Credit Administration shall be reimbursed by the Bank for the cost of performing such audits.

"(b) The Bank, Participants, and Joint-venture-cosponsors shall be subject to audit by the General Accounting Office at such times and to such extent as the Comptroller General shall determine.

"SEC. 911. CONDITIONS OF OTHER BANKS AND LENDING INSTITUTIONS.—The Comptroller of the Currency is authorized and directed, upon request of the Farm Credit Administration, to furnish for the exclusive and confidential use of the Board such reports, records, and other information as he may have available relating to the financial condition of national banks through, for, or with which the Bank has made or contemplates making discounts, loans, or delegations of power.

"SEC. 912. CONSENT TO THE AVAILABILITY OF REPORTS AND TO EXAMINATIONS.—Any organization other than State banks, trust companies, and savings associations shall, as condition precedent to security discount privileges or delegated powers with the Bank for the exclusive and confidential use of the Bank, file with such Bank its written consent to examination by Farm Credit Administration examiners as may be directed by the Farm Credit Administration; and State banks, trust companies, and savings associations may be required in like manner to file a written consent that reports of their examination by constituted State authorities may be furnished by such authorities upon the request of the Farm Credit Administration.

"SEC. 913. REPORTS OF CONDITIONS OF INSTITUTIONS RECEIVING LOANS OR DEPOSITS OR REDELEGATED POWERS.—The executive departments, boards, commissions, and independent establishments of the Government of the United States, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve banks are severally authorized under such conditions as they may prescribe, upon request of the Farm Credit Administration, to make available to the Bank in confidence all reports, records, or other information relating to the condition of any Participant or Joint-venture-cosponsor to which the Bank has or is contemplating extending financial assistance or for which it has or contemplates using as a custodian of securities or other credit instruments, or which it is using as or contemplates using as a depository, or to which it has or contemplates delegating powers under this Act. The Federal Reserve banks in their capacity as depositories, agents, and custodians for bonds, debentures, and other obligations issued by the Bank or book entries thereof are also authorized and directed, upon request of the Board to make available for audit all appropriate books, accounts, financial records, files, and other papers.

"SEC. 914. JURISDICTION.—The Bank, Participants, and Joint-venture-cosponsor shall for the purposes of jurisdiction be deemed to be a citizen of the State, commonwealth, or District of Columbia in which its principal office is located. No district court of the United States shall have jurisdiction of any action or suit by or against any private financial institution exercising delegated powers under this title, upon the ground that it was incorporated under this title or that the United States owns any stock thereof, nor shall any district court of the United States have jurisdiction, by removal or otherwise, of any suit by or against such institution except in cases by or against the United States or by or against any officer of the United States and except in cases by or against any receiver or conservator of any such institution appointed in accordance with the provisions of this Act.

"SEC. 915. STOCK ISSUANCE; RETIREMENT; FRANCHISE TAX.—(a) The Bank shall issue stock which shall be purchased by the Secretary of the Treasury on behalf of the United States as an initial investment in the stock of such Bank to help such Bank to inaugurate financial assistance operations. During the time such stock is outstanding, the pertinent provisions of the Government Corporation Control Act shall be applicable to the Bank. Notwithstanding the requirements for annual audits and annual reports to the Congress contained in sections 202 and 203 of the Government Corporation Control Act the operations of the Bank shall also be subject to audit by the General Accounting Office at such times and to such extent as the Comptroller General shall determine.

"(b) For any year or part thereof, in which the Secretary of the Treasury holds any stock in the Bank, such Bank, before declaring any dividends, shall pay to the United States as a franchise tax a sum equal to the lower of (1) 25 per centum of its net earnings for the year, or (2) a rate of return on such investment calculated at a rate determined by the Secretary of the Treasury equal to the average annual rate of interest on all public issues of debt obligations of the United States issued during the fiscal year ending next before such tax is due, multiplied by the percentage that the number of days such stock is outstanding is of three hundred and sixty-five days. Such payments shall be deposited in the miscellaneous receipts of the Treasury.

"SEC. 916. SUBSCRIPTION BY THE UNITED STATES OF CAPITAL.—The Secretary of the Treasury shall purchase stock of the Bank on behalf of the United States to the extent of appropriations made pursuant to section 1204.

"SEC. 917. CAPITALIZATION OF THE BANK.—Subject to the provisions of this Act, and approval of the Board, the Governor is authorized to issue from time to time and to have outstanding voting and nonvoting capital stock of an aggregate par value of not to exceed the par value of stock purchased by the Secretary of the Treasury plus not to exceed 2 per centum of the amount of outstanding financial assistance and joint-venture equity investment.

"SEC. 918. BANK STOCK; VALUE; SHARES; VOTING; DIVIDENDS.—(a) The capital stock of the Bank shall be divided into shares of par value of $5 each and may be of such classes as may be determined by the Board.

"(b) Voting stock of the Bank shall be held only by such Participants as obtain financial assistance from the Bank and Joint-venture-cosponsors, which stock shall not be transferred, pledged, or hypothecated except as authorized pursuant to this Act. Any Participant or Joint-venture-cosponsor may elect to receive nonvoting stock in lieu of voting stock.

"(c) Nonvoting stock may be issued to the Secretary of the Treasury and may also be issued to Participants. When a Participant reduces its total outstanding indebtedness to the Bank, or when a Joint-venture-cosponsor has retired the Bank's investment, its voting stock may be converted at par value, or such greater value as the Bank may from time to time determine, into nonvoting stock, or may be redeemed in cash or as a credit to extinguish final indebtedness at such value as the Bank may from time to time determine. Nonvoting stock or other evidences of indebtedness of the Bank held by the Secretary of the Treasury may be retired at any time, subject to approval of the Board, and shall be retired each year to the extent of the availability of earnings in accordance with the provisions of this Act.

"(d) The earnings of the Bank shall be determined in accordance with approved accounting principles and practices, as established by the Board subject to examination under policies of the General Accounting Office. Earnings shall be distributed as follows:

"First, not less than 10 per centum of net earnings for the year shall be paid into the reserve fund of the Bank until said reserve

fund shall equal 150 per centum of outstanding stock.

"Second, not less than 10 per centum of net earnings for the year shall be paid into the capital surplus fund of the Bank.

"Third, the franchise tax shall be paid as required by section 915(b) for any year in which any stock is held by the Secretary of the Treasury.

"Fourth, not less than 10 per centum of net earnings shall be used for retirement of nonvoting stock and other evidences of indebtedness of the Bank held by the Secretary of the Treasury.

"Fifth, dividends shall be paid on nonvoting stock held by investors other than the Secretary of the Treasury at a rate not exceeding the average cost to the Bank of funds obtained through issuance of bonds, debentures, and other evidences of indebtedness in its funding operations.

"Sixth, dividends shall be paid on voting stock of the Bank as determined by the Board.

"(e) Dividends shall not be payable on any stock held by the Secretary of the Treasury.

"SEC. 919. POWER TO BORROW, ISSUE NOTES, BONDS, DEBENTURES, AND OTHER OBLIGATIONS.—The Bank, subject to supervision of the Board, shall have power to issue its own notes, bonds, debentures, or other similar obligations, fully collateralized by the notes, mortgages, joint-venture equities and security instruments it holds in the performance of its functions under this Act in such sums, maturities, rate of interest, and terms and conditions of each issue as it may determine.

"SEC. 920. AGGREGATE OF OBLIGATIONS; SECURITY.—(a) No issues of long-term notes, bonds, debentures, or other obligations by the Bank shall be approved in an amount which, when added to the amount of other bonds debentures, long-term notes, or other similar obligations issued and outstanding exceeds twenty times the capital and surplus of the Bank, or such lesser amount as the Board shall establish by regulation.

"(b) The Bank shall have on hand at the time of issuance of any long-term notes, bonds, debentures, or other similar obligations, and shall at all times thereafter maintain, free from any lien or other pledge, notes, and other obligations representing rural development loans made, refinanced, rediscounted, or purchased under the authority of this Act equities in joint-venture equity investments, obligations of the United States or any agency thereof direct or fully guaranteed, other readily marketable securities approved by the Board, or cash, in an aggregate value equal to the total amount of long-term notes, bonds, debentures, or other similar obligations outstanding for which the Bank is primarily liable.

"SEC. 921. LIABILITY OF THE BANK.—(a) The Bank shall be fully liable on notes, bonds, debentures, or other obligations issued by it.

"(b) The United States shall not be liable or assume any liability directly or indirectly thereon.

"SEC. 922. BONDS AS INVESTMENTS.—The bonds and other similar obligations issued under the authority of this Act shall be lawful investments for all fiduciary and trust funds and may be accepted as security for all public deposits. Any obligation issued by the Bank pursuant to this Act shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations guaranteed as to principal or interest by the United States.

"SEC. 923. PURCHASE AND SALE BY FEDERAL RESERVE SYSTEM.—Any member of the Federal Reserve System may buy and sell bonds, debentures, or other similar obligations issued under the authority of this Act, and any Federal Reserve bank may buy and sell such obligations to the same extent and subject to the same limitations placed upon the purchase and sale by said banks of State, county, district and municipal bonds under section 14(b) of the Federal Reserve Act (12 U.S.C. 355).

"SEC. 924. PURCHASE AND SALE OF OBLIGATIONS.—The Bank may purchase its own obligations and may provide for the sale of obligations issued by it, through a fiscal agent or agents, by negotiation, offer, bid, or syndicate sale, and to deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

"SEC. 925. INVESTMENTS AND GUARANTEES.—The Bank is authorized to—

"(1) buy and sell securities it has guaranteed or whose mortgages it has insured or in which it has invested;

"(2) invest funds not needed in its financing operations in such property and obligations as it may determine;

"(3) guarantee securities in which it has invested for the purpose of facilitating their sale; and

"(4) guarantee and insure rural development loans made by other lenders.

"SEC. 926. VOLUNTARY LIQUIDATION; INSOLVENCY; RECEIVERSHIPS; AND CONSERVATORS.—(a) The Bank shall not go into voluntary liquidation without the consent of the Board and with such consent may liquidate only in accordance with regulations prescribed by the Board.

"(b) Upon default of any obligation by the Bank such Bank may be declared insolvent and placed in the hands of a conservator or a receiver appointed by the Board and the proceedings thereon shall be in accordance with regulations of the Board regarding such insolvencies.

"SEC. 927. FINANCIAL ASSISTANCE PROVIDED.—(a) The Bank is authorized to extend financial assistance to eligible sponsors, Participants, and such financial institutions as have extended financial assistance to Participants in accordance with provisions of this Act.

"(b) The Bank is authorized to invest its funds in joint-venture equity investments in rural development projects.

"(c) The Bank shall develop criteria to assure that projects assisted by it are not inconsistent with the comprehensive planning, if any, for the development of the substate multijurisdictional general purpose planning and development districts in which such projects are proposed to be located, and to assure that such projects will not be disruptive of Federal programs which authorize assistance for the development of like or similar projects in the same rural area.

"(d) Financial assistance extended under this section may not exceed the total capital cost of the project to be financed.

"(e) In any case in which the Bank undertakes to provide assistance to a State or local government under subsection (a) for the construction of a project for which any other department or agency of the Federal Government (under another law of the United States) will also provide funds—

"(1) the assistance provided by the Bank under subsection (a) may be in the full amount needed by the State or local government to finance such project (including the amount of the funds which will be provided by such other department or agency), but the funds to be provided by such other department or agency with respect to such project shall become payable (notwithstanding any contrary provision in the law under which they are payable) to the Bank in lieu of being paid directly to such government; and

"(2) the Bank may accept in return (A) an obligation or obligations of such State or local government covering only the difference between such full amount and the amount of the funds which are payable with respect to such project by such other department or agency, plus (B) a commitment from such other department or agency to pay the funds which are to be provided by it and are payable to the Bank as described in paragraph (1), in order to insure that such State or local government will not have to include within its debt limit that portion of the indebtedness incurred for the financing of such construction which is attributable to funds provided by such other department or agency.

"SEC. 928. INTEREST RATES AND OTHER CHARGES.—Financial assistance provided by the Bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the Board from time to time. In setting rates and charges, it shall be the objective to provide the types of financial assistance needed on a sound business basis at the lowest reasonable cost, taking into account the cost of money to the Bank, the necessary reserves, capital surplus, and expenses of the Bank, and the orderly retirement of the capital subscriptions of the United States. The security documents may provide for the interest rate or rates to vary from time to time during the period of the assistance in accordance with the rate or rates currently being charged by the Bank.

"SEC. 929. SECURITY.—Financial assistance extended by Regional Banks shall be secured by all of the best available security owned or to be acquired by the beneficiary as may be required adequately to secure the obligation.

"SEC. 930. DELEGATION OF DUTIES AND POWERS TO PARTICIPANTS AND JOINT-VENTURE-COSPONSORS.—The Bank is authorized, by order, rule, or regulation to delegate to any Participant, Joint-venture-cosponsor, or Supporting financial institutions who extend financial assistance to any Participant such of the duties, powers, and authority of the Bank with respect to such Participant or the officers and employees thereof, in the rural area wherein such Participant is located, as may be determined to be in the interest of effective administration. Any Participant, or other person to which any such duties, powers, or authority may be delegated, is authorized and empowered to accept, perform, and exercise such duties, powers, and authority as may be so delegated to it.

"SEC. 931. AGREEMENTS FOR SHARING LOSSES.—The Bank may enter into agreements with Participants, Joint-venture-cosponsors, and eligible sponsors for sharing the gains and losses on financial assistance extended and joint-venture equity investments made under this Act.

"SEC. 932. NATURE OF OBLIGATIONS.—(a) All obligations issued by the Bank shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or of any officer or employee thereof.

"SEC. 933. TAX STATUS.—The Bank shall be subject to Federal, State, and local taxes as provided in this section.

"(a) The real property and tangible personal property of such Bank shall be subject to Federal, State, and local taxation to the same extent, according to its value, as other similar property held by other persons is taxed.

"(b) The income of the Bank and from any obligations purchased by such Bank from any Federal, State, or local governmental or quasi-governmental body, and any obligation issued by such Bank shall be subject to Federal, State, and local taxation to the same extent as the income of obligations of private corporations are taxed.

"(c) The Bank shall be liable for the franchise tax as provided by section 915.

"(d) Notwithstanding the foregoing provisions of this section, the Bank shall not be subject to Federal, State, or local income taxes for any period in which capital stock in such Bank is held by the Secretary of the Treasury for the United States.

"SUBTITLE D—PARTICIPATING RURAL DEVEOLPMENT FINANCIAL INSTITUTIONS

"SEC. 1001. DESIGNATION.—Any National or State bank, savings institution, credit union, or other financial institution making loans in rural areas for rural development purposes, shall, upon application, be considered for designation as a Participating Rural Development Financial Institution, referred to in this Act as a "Participant".

"SEC. 1002. FUNCTIONS OF PARTICIPANTS.—Any Participant and any Supporting financial institution, is authorized, subject to provisions of this Act, to obtain financial assistance from the Bank and to issue obligations for purchase by the Bank and to perform such other duties as the Bank may delegate and the Participant or Supporting financial institution agrees to undertake.

"SEC. 1003. PURCHASE OF CAPITAL STOCK.—(a) Any Participant may purchase voting capital stock in the National Bank in an amount (at par value) equal to not less than 1 per centum and not more than 10 per centum of the amount of the financial assistance received from the Bank.

"(b) Participants are authorized to purchase voting stock of the Bank.

"(c) Any of the institutions listed in section 1002 may purchase nonvoting stock in the Bank equal to at least 1 per centum and not more than 10 per centum of the financial assistance received.

"SEC. 1004. GOVERNANCE OF PARTICIPANTS.—With respect to all evidence of financial assistance and other obligations which a Participant shall present to the Bank the policies, rules, regulations, and procedures followed shall be in accordance with the rules and regulations established by the Board. The designation of any institution as a Participant may be canceled by the Bank. Any Participant whose designation has been canceled under this section may appeal the cancellation to the Board. The decision of the Board shall be final. The Board shall establish appropriate rules and regulations and review bodies to implement expeditious, orderly, and fair consideration of appeals filed by the Participants objecting to canceled designations or other matters related to their relationship to the Bank.

"SEC. 1005. TERMS AND CONDITIONS.—The terms and conditions under which financial assistance may be made available to Participants, directly or through other financial institutions, shall be established by the Board. Such terms and conditions may vary depending on the rural development purpose for which such assistance is to be used and the practices of the supporting regional financial institutions involved.

"SEC. 1006. A Participant, as a condition of eligibility for financial assistance with respect to any rural development loan it has extended, shall require the deposit by the borrower of such loan of 5 per centum of the amount of that part of the loan for which the financial assistance of the Bank is requested. Such amount shall be utilized by the Participant to purchase on behalf of the borrower voting capital stock of the Bank and shall transmit such stock to the borrower.

"SUBTITLE E—JOINT-VENTURE EQUITY INVESTMENT IN RURAL DEVELOPMENT PROJECTS

"SEC. 1101. JOINT-VENTURE-COSPONSORS; INVESTMENT IN JOINT-VENTURES WITH ELIGIBLE SPONSORS.—(a) The Bank is authorized, subject to regulations approved by the Board, to make investments in rural development projects proposed or established by Joint-venture-cosponsors directly, or through a Participant.

"(b) The Board shall establish standards and criteria to govern the making of investments in joint-ventures with Joint-venture-cosponsors.

"SEC. 1102. The Bank and the Joint-venture-cosponsor with whom the Bank has entered into a joint-equity investment in a rural development project shall share in the profits of the project in the same ratio as the amounts of their several investments.

"SEC. 1103. Such joint-venture rural development projects shall be subject to all Federal, State, and local taxes.

"SEC. 1104. No rural development project shall be eligible for joint-venture investment by the Bank if the project can otherwise obtain necessary credit or investment for the full amount of the investment from any other source on reasonable terms.

"SEC. 1105. The investment made by the Bank in joint-venture projects shall not exceed the extent to which the total cost of the project exceed the amount that can be obtained elsewhere on reasonable terms.

"SEC. 1106. The joint-venture agreement between a Joint-venture-cosponsor and the Bank shall provide—

"(1) that such Cosponsor will, as soon as financially able, purchase the investment of the Bank, and

"(2) the control over the joint-venture shall be apportioned between the Bank and the eligible sponsor in accordance with the relative amounts of investment of each in the project.

"SEC. 1107. A Joint-venture-cosponsor may purchase not less than 1 per centum and not more than 10 per centum of the Bank investment in a joint-venture of voting capital stock of the Bank.

"SUBTITLE F—GENERAL

"SEC. 1201. AMENDMENTS TO OTHER LAWS.—(a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"'(95) Governor of the National Rural Development Bank.'

"(b) Section 5316 of title 5, United States Code is amended by adding at the end thereof the following:

"'(132) Deputy Governor of the National Rural Development Bank.'

"(c) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof a new sentence as follows: 'Notwithstanding any other provision in this paragraph, the association may purchase the stock, bonds, or other obligations of the National Rural Development Bank created pursuant to the authority of the Rural Development Act Amendments of 1977."

"SEC. 1202. SEPARABILITY.—If any provision of this Act, or the application thereof to any person or in any circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or in other circumstances shall not be affected thereby.

"SEC 1203. RESERVATION OF RIGHT TO AMEND OR REPEAL.—The right to alter, amend, or repeal any provision or all of this Act is expressly reserved.

"SEC. 1204. APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury not to exceed $200,000,000 annually for not to exceed ten years for the purchase of capital stock of the National Bank."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. EAGLETON (for himself and Mr. JAVITS):

S. 2132. A bill to amend title I of the Higher Education Act of 1965 to establish a system of grants for urban universities; to the Committee on Human Resources.

By Mr. METCALF (by request):

S. 2133. A bill to reform the mining law, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STAFFORD (for himself, Mr. LEAHY, and Mr. KENNEDY):

S. 2134. A bill to amend the Federal Property and Administrative Services Act of 1949 with respect to excess personal property for the use of community action agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McINTYRE (for himself, Mr. BAYH, Mr. DURKIN, Mr. HATHAWAY, Mr. MUSKIE, and Mr. NELSON):

S. 2135. A bill to regulate commerce by providing franchisors and franchisees with certain remedies to assure fairness and to protect against overreaching, unjust enrichment, and unjustifiable termination, and for other purposes; sequentially, by unanimous consent, to the Select Committee on Small Business; and, if and when reported, to the Committee on Commerce, Science, and Transportation.

By Mr. MATSUNAGA:

S. 2136. A bill for the relief of Keiko Miyanaga; to the Committee on the Judiciary.

By Mr. PELL (for himself and Mr. JAVITS):

S.J. Res. 83. A joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON (for himself and Mr. JAVITS):

S. 2132. A bill to amend title I of the Higher Education Act of 1965 to establish a system of grants for urban universities; to the Committee on Human Resources.

URBAN GRANT UNIVERSITY ACT OF 1977

Mr. EAGLETON. Mr. President, in the early development of higher education in our country, campuses were located in small towns and rural areas, often existing in educational isolation. The one exception to this was establishment of the land grant institutions, first given Federal support in 1890. These institutions were specifically charged with developing instruction in agriculture. In my view, they would never have been of any measurable assistance to the residents of rural America if they had not developed the network of agricultural extension service units which still exists today.

It is only in relatively recent times that colleges and universities have become urban institutions, and have begun to devote their time and energies to the problems of the cities.

In 1973, the Carnegie Commission on Higher Education, in its report, "The University and the City," identified fundamental areas in which colleges could and should be involved with urban, community, and minority-group problems:

The college or university can become an educatior of different types of people—primarily those who in the past have not met the "normal standards" for admission. The open admissions program of the City University of New York is an example of this.

The college or university can provide a different and more relevant type of education to prepare people to live in cities and to deal with urban problems. This type of education may include student volunteer work in the community,

programs that send students out into the community for part of their educational experience, and black studies programs.

The college or university can provide education for public officials and technologists who will work in cities. Fels Institute at the University of Pennsylvania and the New School's Institute in New York City are in the forefront here.

The college or university can provide continuing or extension education.

The college or university can play a role in educating paraprofessionals, new careerists, and the hardcore unemployed.

Although some efforts have been made in these directions, traditionally colleges and universities have focused their efforts to deal with urban problems on research. The importance of research has not diminished, but it has become increasingly important in my view that urban institutions become more active as educators, and service providers.

They can and should profit from the experience of the agriculture extension program, and begin to translate it into programs to deal directly with the very real needs of our urban areas.

The bill which I am introducing today attempts to do just that by providing authority for the U.S. Commissioner of Education to make grants to urban universities to develop their capacity to help find answers to urban problems and to aid them in making their educational research and service capabilities more readily and effectively available to the urban communities in which they are located.

Although the Senate Education Subcommitte will not be contemplating extension of higher education legislation for over a year, I am hopeful that this bill will serve as a focal point from which we can build. I look forward to suggestions from educators, the Urban Coalition, the Urban Institute, the Urban Observatories throughout the country, and all interested parties which will improve this bill. It will not be an easy task to define what role the urban universities should play, but it is clear that they can and should respond to the urban dilemma.

Mr. JAVITS. Mr. President, today I join with my colleague, Senator EAGLETON, in introducing the Urban Grant University Act of 1977 to establish a system of grants for urban universities.

This measure would insure the continued vitality of our urban universities and give them a new opportunity to provide services to the communities in which they reside. Our purpose in introducing this bill is to give the education community the opportunity to comment on the best form for legislation to assist these urban universities. Urban universities throughout the Nation have joined together in an association to pursue common goals and to work cooperatively to solve common problems. I believe Congress must seriously consider their suggestions for a new program to assist them. While I am not committed to every provision of the bill being introduced today, I believe that the best thinking of the education community and other interested parties can shape this legislation.

Earlier this year I consulted with Dr. Robert E. Marshak, president of the City College of the City University of New York. Dr. Marshak has joined with over 20 university presidents from across the Nation to advocate this bill. In a recent publication discussing urban universities, Dr. Marshak made an eloquent statement regarding their unique role:

The problems of urban America command sustained attention. Widespread poverty and unemployment, inadequate health and legal services, deteriorated housing, outmoded transportation systems, rising crime and violence, and hazardous air and water pollution threaten the well-being and survival of our great metropolitan centers. The crisis of New York City reflects a deepening crisis for cities everywhere.

The urban public university cannot ignore these problems, for the fates of our cities and of the colleges located within them are inextricably entwined. In order for the urban public university to fulfill its responsibilities, it must respond to the urgent needs of a citizenry that looks to it for leadership and skills. It must provide a sound educational foundation and career opportunities to the thousands of students who come to it each year. And it must marshal its many assets—its scholarship and erudition, its heritage of humanistic values, and its capacity for creative research—and bring them to bear on the momentous problems of American society.

Mr. President, I believe these words of a leading educator summarize the necessity for the Congress to review this matter. I trust that my colleagues will give this proposal every consideration.

By Mr. METCALF (by request):

S. 2133. A bill to reform the mining law, and for other purposes; to the Committee on Energy and Natural Resources.

THE MINING LAW OF 1977

Mr. METCALF. Mr. President, on April 6, 1977, I introduced for myself and the chairman of the Energy and Natural Resources Committee (Mr. JACKSON) S. 1248, a bill to reform the mining law of 1872. At that time I expressed dismay that, despite the numerous statements over the years by prestigious and knowledgeable institutions and persons concerning the need for revisions in the mining law, the Government's response has been desultory. During the last few years, congressional committees have held a few days of hearings but have not marked up a single bill. I expressed the hope that, this Congress, mining law reform would receive the attention it deserves.

Accordingly I am happy to introduce today a proposal by the administration to revise the 1872 mining law. On May 23, 1977, the President announced in his message to the Congress on the environment that he would submit a legislative proposal concerning mining and set forth the following concepts which were to be embodied in the measure. Those concepts were:

First, a leasing system for publicly owned hardrock minerals;

Second, explicit Federal discretionary authority over mineral exploration and development on the public lands;

Third, strict standards for environmental protection and for reclamation of mined areas;

Fourth, a requirement for approval of operation and reclamation plans before mining can begin;

Fifth royalties for use of public lands and mineral resources; and

Sixth, the integration of mining into land use plans being developed for the public lands.

The bill I introduce today on behalf of the administration contains those concepts—concepts with which I concur.

At the request of the Secretary of the Interior, Cecil Andrus, I agreed to delay scheduling hearings until completion of the President's proposal. With the proposal's submission to the Congress, we can now begin with the hearing process. I hope to schedule hearings in my Subcommittee on Public Lands and Resources later this year between the two sessions.

Mr. President, I ask unanimous consent that the bill, Secretary Andrus' letter of transmittal, and a summary of the proposal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2133

DECLARATION OF POLICY

SEC. 1. It is hereby declared to be the policy of Congress—

(a) to regulate the exploration, development, and production of hardrock mineral resources in the leasable Federal lands in a manner compatible with the use of the same lands for other purposes;

(b) to promote and encourage the timely production of hardrock minerals to meet the Nation's needs;

(c) to prevent waste and promote the conservation of hardrock mineral resources;

(d) to require that the exploration, development and production of hardrock mineral resources in the leasable Federal lands be conducted in a manner which will minimize to the maximum extent feasible, taking into account environmental and economic costs, their adverse environmental effects;

(e) to assure the reclamation of all leasable Federal lands disturbed as a result of hardrock mineral exploration, development and production;

(f) to insure the public a fair return from the disposition of its hardrock mineral resources;

(g) to promote competition and discourage monopolies;

(h) to assure that the system for disposition of hardrock mineral resources in the leasable Federal lands operates in a practical, workable manner so that well-conducted mineral activities may go forward efficiently;

(i) to provide procedures to insure meaningful public participation in the promulgation of regulations governing exploration and production of hardrock mineral resources in the leasable Federal lands;

(j) to preserve to the fullest extent feasible the traditional role of the small miner in the exploration, development and production of hardrock mineral resources in the leasable Federal lands;

(k) to pre-empt the laws and regulations of the States and mining districts respecting the location and maintenance of mining claims affecting federally owned hardrock mineral resources.

SEC. 2. DEFINITIONS. As used in this Act the term—

(a) "Secretary" means the Secretary of the Interior or the Secretary of the Interior's designee;

(b) "Leasable Lands" means all lands owned by the United States, including mineral deposits owned by the United States in

lands the surface of which is in other ownership, except:

(1) Lands in the National Park System, the National Wildlife Refuge System, the Wild and Scenic River System and the National Wilderness Preservation System, except to the extent those lands are open to mineral entry and location under the Mining Law of 1872, and related Acts, upon the effective date of passage of this Act;

(2) Lands held by the United States in trust or for the use of Indians or Indian tribes;

(3) Lands on the Outer Continental Shelf;

(4) Lands and mineral interests entrusted to or managed by the Tennessee Valley Authority; and

(5) Lands specifically excluded from mining pursuant to Acts of Congress.

(c) "hardrock" means a deposit of mineral of a kind which on January 1, 1977, was subject to location under the Mining Law of 1872 (Revised Statutes 2318–2352), as amended.

(d) "person" means a citizen of the United States, a corporation organized under the laws of the United States or of one of the States, or the District of Columbia, or an association or partnership of such citizens or corporations or of both, unless more than 10 percent of the stock of such corporation is held by citizens of or corporations incorporated in countries the laws, customs or regulations of which deny to United States citizens equivalent rights and privileges;

(e) "prospecting" means the preliminary search for and identification of hardrock mineral resources which causes only minimal disturbance to the environment;

(f) "prospecting permit" means a permit issued pursuant to this Act;

(g) "permittee" means a person who holds a prospecting permit issued by the Secretary under this Act;

(h) "explore" means to utilize methods and techniques which cause more than minimal disturbance to the environment for the determination of the characteristics of a potential hardrock mineral deposit;

(i) "license" means an exploration license issuec pursuant to this Act;

(j) "licensee" means a person who holds an exploration license issued by the Secretary under this Act;

(k) "Licensed area" means the area encompassed within an exploration license;

(l) "exploration plan" means a plan for the exploration of mineral deposits in the leasable Federal lands and the associated reclamation of such lands, approved by the Secretary pursuant to this Act;

(m) "a lease" means a lease issued pursuant to this Act;

(n) "lessee" means a person who holds a lease issued by the Secretary under this Act;

(o) "leased area" means the area encompassed within a lease;

(p) "mining plan" means a plan for the development and production of mineral deposits in the leasable Federal lands and the reclamation of such lands, approved by the Secretary pursuant to this Act;

(q) "lands classified as suitable for competitive bidding" means any leasable land for which the Secretary determines that the geology, nearby discoveries, or other indications would engender the belief in persons who are experienced in the subject matter that the prospects for extraction of hardrock minerals warrant expenditure to explore and develop a deposit, or where there is competitive interest in the area;

(r) "logical mining unit" means an area of land in which mineral deposits can be explored for or developed in an efficient, economical, and orderly manner as a unit with due regard to conservation. A logical mining unit may consist of one or more licensed or leased areas or unpatented mining claims, and may include intervening or adjacent lands in which the United States does not own the mineral resources, but all the lands in a logical mining unit must be under the effective control of a single operator, and be able to be explored, developed and operated as a single operation

(s) "associated or related minerals" means any minerals, other than the mineral covered by a lease, which are (1) so intermingled with the deposits of the mineral for which the lease issued that separate development is, in the opinion of the Secretary, not warranted or (2) of such poor quality and in such small quantity thant separate development is, in the opinion of the Secretary, undesirable;

(t) "maximum recovery" means the greatest quantity of the hardrock mineral deposit or associated deposits which can be economically recovered in accordance with the best mineral conservation and sound environmental practices;

(u) "reclamation" means the process of restoring a licensed or leased area affected by an exploration or a mining operation to its pre-exploration or pre-mining or other similarly appropriate condition, considering past and possible future uses of the area and the surrounding topography and taking into account environmental, economic, and social conditions;

(v) "minimal disturbance to the environment" means those activities which do not cause more than minor, short-term alteration of the environment or the destruction of important recreational, scenic, or other values. Activities which cause more than minimal disturbance to the environment may include destruction of trees, drilling, trenching, bulldozing, blasting, roadbuilding, and similar activities.

DISPOSITION OF MINERAL DEPOSITS

SEC. 101. (a) The Secretary may authorize the prospecting, exploration and development of hardrock mineral deposits in leasable lands in accordance with this Act; Except, that no permit, license, or lease shall be issued on lands within the National Park System, the National Wildlife Refuge System, the Wild and Scenic River System or the National Wilderness Preservation System, which are open to mineral entry and location under the Mining Law of 1872, and related Acts, upon the effective date of passage of this Act, unless the Secretary determines: (1) that exploration, development, and production may be conducted in a manner consistent with the purpose for which such system was established, and (2) that any surface disturbance can be restored to its original or other similarly appropriate condition consistent with the purpose for which such system was established.

(b) Lands withdrawn from mineral entry under the Mining Law of 1872, and related Acts, 30 U.S.C. 2, 12A, 16 and section 161–162, except as provided in section 102(d)(2) of this Act, shall not be subject to the application of this Act unless the Secretary revokes the withdrawal.

PROSPECTING

SEC. 102. (a) Except as provided in subsection (d) of this section, no permit shall be required for prospecting on leasable lands.

(b) All prospecting shall be conducted in accordance with regulations issued by the Secretary.

(c) Any person who conducts prospecting activities in violation of the Secretary's regulations: (1) shall be subject to the penalties in section 120 of this Act; (2) may be barred by the Secretary from obtaining an exploration license or lease for a period not to exceed five years; and, (3) shall be required to disclose to the Secretary, who may make publicly available, all mineral resource data obtained as a result of such prospecting.

(d) The Secretary shall require a person to obtain a permit for the ground prospecting for hardrock minerals on:

(1) leasable lands within the National Park System, the National Wildlife Refuge System, the Wild and Scenic River System or the National Wilderness Preservation System, which are open to mineral entry and location under the Mining Law of 1872, and related Acts, upon the effective date of passage of this Act;

(2) lands withdrawn from mineral entry under the Mining Law of 1872, and related Acts, unless the Secretary revokes the withdrawal;

(3) leasable lands where the United States owns the mineral estate but not the surface estate and the surface owner has not given consent;

(4) leasable lands designated as "areas of critical environmental concern" pursuant to the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1217), or lands similarly designated in land management plans prepared pursuant to the Forest and Range Land Renewable Resources Planning Act of 1974, as amended (88 Stat. 476, 16 U.S.C. 1601–1610);

(5) urbanized areas and lands designated for military use;

(6) areas included in any license or lease issued under this Act, *Except*, that the Secretary shall not allow prospecting on such areas if prospecting would present a financial or serious physical impediment to the licensee or lessee; and

(7) acquired lands.

(e) A permittee shall furnish the Secretary with copies of all data obtained pursuant to permits issued under subsection 102(d) (1) and (2) of this section.

(f) Subject to the provisions of this section, on the ground prospecting is permitted on all leasable lands except those which have been closed to prospecting, as required by section 302(b) of the Federal Land Policy and Management Act, to prevent unnecessary or undue degradation.

ISSUANCE OF LICENSES

SEC. 103. (a) The Secretary may, under such regulations as may be prescribed issue to any qualified person an exclusive license to explore for one or more hardrock minerals in a designated area of leasable lands not otherwise withdrawn or excluded from exploration as provided in subsection (e) of this section. No person may conduct exploration for hardrock minerals in the leasable lands without such a license. For leasable lands classified as suitable for competitive bidding, the Secretary may issue licenses only after competitive bidding. For all other leasable lands, the Secretary may issue exploration licenses noncompetitively.

(b) The Secretary shall post notice of all license applications one month prior to issuance. The Secretary shall review all comments received pursuant to such posting prior to approval of an exploration plan.

(c) A licensee shall have a right of first refusal, as provided for in section 106(d) of this Act, to obtain a lease for those lands applied for.

(d) After appropriate notice and hearing, the Secretary may (1) revoke a license after determining that the licensee has violated the terms and conditions of the license or applicable laws or regulations, or (2) seek penalties as authorized by section 121 of this Act. The Secretary may suspend the term of the license pending completion of the appropriate hearing and adjudication procedures.

(e) Exploration is permitted on all leasable lands except those which have been: (1) withdrawn from mineral entry under the Mining Law of 1872, and related Acts, if the withdrawal remains in effect; or (2) included in any exploration license or lease issued under this Act if the exploration would conflict with such license or lease.

(f) No person shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, licenses on an aggregate of more than 5,120 acres in any one State.

LICENSE TERMS

SEC. 104(a) All licenses shall require that exploration and associated reclamation of hardrock mineral deposits be carried out in accordance with an approved exploration plan pursuant to Section 110 of this Act. The licensee shall submit the plan within one year from the effective date of the license issuance, and shall commence operations within three months after approval, Except, that the time to commence operations may be extended if weather or other conditions beyond the effective control of the licensee prevent operations. If the licensee fails to submit a plan within the specified time, the license shall automatically terminate on the day following the first anniversary date of the license.

(b) Each license shall be for a term of not more than five years.

(c) A license shall be conditioned upon advance payment each year of a rental of not less than five dollars per acre.

(d) Each license shall contain conditions to insure the protection of the environment, and shall establish, should the license mature into a lease, the royalty rate required until readjustment of the lease at the end of the first twenty years. The license may authorize the holder to conduct activities which cause more than minimal disturbance to the environment. The license may authorize the holder to remove a reasonable amount of the licensed minerals for analysis, study and testing, but the licensee may not remove any mineral for sale.

(e) The Secretary may require the licensee to furnish copies of data obtained during exploration. Notwithstanding the provisions of the Freedom of Information Act, 5 U.S.C. § 552, the Secretary shall not disclose data obtained under a license without the consent of the licensee: *Provided*, That the Secretary shall disclose all data obtained under a license upon expiration of the term of the license including any extension thereof.

EXTENSION OF EXPLORATION LICENSES

SEC. 105(a) The Secretary is authorized, under such regulations as may be prescribed, to extend a license for a period of not more than five years beyond the original five-year period.

(b) The holder of a license issued under Section 103 of this Act which has never been extended shall have the right to apply for an extension of that license at any time during the period the license is valid. The application for a license extension shall show why the licensee has been unable to gather the information required by section 106(b) of this Act. The Secretary shall grant the application for extension after determining:

(1) that the licensee has diligently conducted exploration in accordance with the exploration plan for that license; or, that due to circumstances beyond its control the licensee has been prevented from diligently conducting exploration in accordance with the exploration plan for that license; and

(2) that additional exploration is likely to develop the information required by Section 106(b) of this Act.

(c) Each extended license shall be conditioned upon advance payment each year of an annual rental of not less than $5 per acre.

(d) An extended license shall be canceled unless the licensee submits a revised exploration plan and commences operations within the times required by Section 104(a).

ISSUANCE OF LEASES

SEC. 106(a) The Secretary may, under such regulations as may be prescribed issue to the holder of a license a lease for any leasable lands included within such license for the development and production of one or more hardrock minerals. Except as provided in Section 130 of this Act, no person may develop or produce hardrock minerals in the leasable lands without such a lease.

(b) An application for a lease shall contain sufficient information and data to enable the Secretary to estimate the probable extent of the mineral deposit, the probable mining, milling and transportation methods, the probable environmental and socio-economic impacts of development of the mineral deposit and any other information required by regulations issued by the Secretary. An application shall be filed no later than sixty days after the expiration of the license. Failure to submit an application on or before such time shall terminate any right to the issuance of a lease. If an application does not contain information required by the Secretary, the applicant shall be given a reasonable opportunity to submit such information. If the information is not submitted within the time prescribed by the Secretary, the Secretary shall reject the application.

(c) The Secretary shall issue a lease, under the terms and conditions in section 109, to an applicant for all lands in the application that are likely to contribute to mineral development, if the Secretary determines that the proposed operation:

(i) is compatible with the land-use plan for the area, as provided in Section 108 of this Act;

(ii) will not violate any applicable laws and regulations; and

(iii) will have an overall value which, in the Secretary's judgment, exceeds its overall costs. In making this judgment, the Secretary shall take account of environmental costs, the value of mineral production expected, the value of foregone surface uses and other relevant considerations.

(d) If the Secretary rejects a lease application because the criteria in subsection (c) of this section have not been met, the Secretary shall inform the applicant of the reasons for the rejection. A licensee whose application has been rejected shall retain a right of first refusal to obtain a lease, in the event the Secretary determines that changed circumstances permit the lands to be leased, for ten years from the date of rejection. The licensee shall also have the right at any time during the ten years following the date of rejection, to submit a new application, if the licensee believes that due to revisions in the application or changed circumstances the new application will meet the criteria of subsection (c) of this section. Rejection by the Secretary of such a new application shall not extend the time period during which the licensee has a right of first refusal.

(e) No person shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, leases on an aggregate of more than 51,200 acres in the United States.

(f) No lease may be issued until the Secretary has given the public an opportunity for a public meeting on the proposed lease issuance; or, until data obtained during exploration under Section 104(e) of this Act has been publicly disclosed for a period of 30 days.

CONSENT OF OTHER FEDERAL AGENCIES

SEC. 107. Licenses and leases covering leasable lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior shall be issued only upon consent of the other Federal agency and upon those conditions it may prescribe with respect to the use and protection of the nonmineral interests in the leasable lands.

LAND USE PLANS

SEC. 108. (a) No licenses or leases shall be issued under this Act unless the lands contained in the licenses or lease shall have been included in Federal land-use plan prepared by the Secretary, or in the case of lands within the National Forest System, the Secretary of Agriculture, and license or lease issuance is compatible with the plan; *Provided*, that if such lands have not been included in a Federal land-use plan, or if a Federal land-use plan for those lands is incomplete, the Secretary may issue a license or lease after considering, or in the case or lands within the National Forest System after the Secretary of Agriculture considers, existing land uses and potential land uses.

LEASE TERMS

SEC. 109 (a) A lease shall require diligent development and continued operations. In addition, the Secretary may require advance royalties, production goals, financial expenditures, or any other appropriate requirements to encourage timely development of mineral deposits. In defining these terms, the Secretary shall consider the cyclical nature of hardrock mining operations.

(b) A lease shall be for a period of twenty years and as long thereafter as the lessee conducts continued operations on the leased area or on other lands subject to a lease embraced in the same logical mining unit, as approved by the Secretary; *Provided*, that if on the 10th anniversary date the issuance of the lease there is no production under the lease or any other lease in the same approved logical mining unit, the lease shall automatically terminate. All terms and conditions of a lease shall be subject to readjustment at the end of the first twenty years and at the end of each ten-year period thereafter.

(c) A lease shall be conditioned upon advance payment each year of an annual rental of not less than twenty-five dollars per acre and such royalty and other financial terms as the Secretary may prescribe. In no lease issued under this title shall the royalty required be less than two per centum of the gross value, as determined by the Secretary, of the output of the mine or a comparable sum under other systems of payment. Rentals paid for any one year shall be credited against royalties accruing for that year.

(d) The lease shall contain such other terms and conditions as the Secretary may require, and shall require the lessee to comply with all applicable terms, conditions and regulations issued pursuant to this Act and other applicable law.

PLANS

SEC. 110. (a) Prior to taking any action which causes or may cause more than minimal surface disturbance under an exploration license or a lease issued under this Act, the licensee or lessee shall submit, as appropriate, either an exploration plan or a mining plan to the Secretary for approval pursuant to this section. As promptly as possible thereafter, the Secretary shall review and either approve or disapprove such plan or require that it be modified. Where the surface management of the land involved is under the jurisdiction of another Federal agency, that agency must consent to the terms of such approval.

(b) An exploration or mining plan, as appropriate, may apply to more than one license or more than one lease, and shall set forth such information in such detail as required by regulations issued by the Secretary.

(c) The Secretary or his designee is authorized to review exploration and mining plans approved under this section. If this review indicates that the exploration or mining plan should be revised to meet the requirements of this Act or other applicable law, the Secretary shall require such revision; or, in the case where a revision of an approved exploration or mining plan is proposed by a licensee or lessee, the Secretary may approve such revision after determin-

ing that such revision is appropriate and consistent with the provisions of this Act and other applicable law.

(d) Except as provided in section 104(a) of this Act, whenever a licensee or lessee fails to submit a plan in accordance with regulations issued under this section or fails to comply with an approved plan, the license or lease may, after notice of such failure and after an opportunity for a hearing, be canceled without compensation, subject to the right of judicial review in accordance with the provisions of section 120 of this Act.

SMALL MINERS

SEC. 111. (a) A small miner is an individual engaged in mineral prospecting, exploration, or development operations alone or as part of a partnership composed of not more than three individuals, at the time rights are received under this Act. No corporation may qualify as a small miner or as a partner.

(b) No operation conducted on a licensed or leased area by a small miner shall involve the labor of more than three people at any time, except that up to seven people may be temporarily employed for drilling.

(c)(1) A small miner shall obtain prospecting permits, licenses, and leases as required by this Act before prospecting, exploration, or development and production may occur.

(2) Small miners shall meet all the requirements and responsibilities imposed on permittees, licensees, and lessees under this Act, except that, notwithstanding other provisions of this Act, a small miner need only submit to, and obtain approval from the Secretary of, an abbreviated exploration or mining plan before commencing exploration or development and production. Where the land involved is under the jurisdiction of another Federal agency, that agency must consent to the terms of such approval. These abbreviated plans shall briefly describe the type of operation planned, the period of operation, the equipment to be used, the amount and degree of surface disturbance involved, and the location of surface disturbing activities. Departmental personnel shall assist the small miner in every reasonable way in preparing this plan, and shall consult with and advise the small miner regarding how best to carry out mining activities in such a way as to comply with the regulations promulgated by the Secretary in accordance with subsection (e), below. The Secretary shall approve or reject the small miner's exploration or mining plan within 45 days of its submission to him.

(d) A person who initially qualifies as a small miner but subsequently ceases to remain qualified as a small miner, shall be required to comply in the same manner as any other person conducting operations under this Act, and shall be required to submit, within 30 days of the date upon which the person no longer qualifies, either an exploration or mining plan, as appropriate, required by section 110 of this Act, or cease operations thereafter until such plan is submitted. The Secretary shall either approve or disapprove the plan within 90 days of the date the plan is submitted.

(e) The Secretary is directed to develop regulations governing the issuance of permits, licenses, and leases to, and the exploration and development operations of, small miners. In formulating these regulations, the Secretary shall make such allowances, including adjustment of lease terms and royalty rates, as he deems necessary to prevent the small miner from being unfairly penalized or restricted: *Provided, however,* That the Secretary shall not relax any environmental protection, bonding requirements or penalty provisions applicable to all mining under this Act for the benefit of the small miner.

(f) Upon a determination that the small miner has violated any standard established in the subsection (e) of this section, the Secretary shall require the small miner to file and, after approval, to follow exploration and mining plans, as appropriate, and otherwise fully comply with the Act as if the person were not a small miner.

MULTIPLE LICENSES AND LEASES

SEC. 112. The issuance of a license or lease for a particular mineral shall not preclude the issuance of a license or lease covering other minerals under this or other Acts for the same lands, where the Secretary determines that such other minerals are separately mineable or extractable and that operations with respect to such other minerals will not unreasonably interfere with the licensee or leasee who has prior rights.

ASSOCIATED OR RELATED MINERAL DEPOSITS

SEC. 113. The Secretary is authorized to allow or, where the Secretary determines it is economically feasible to require that a person holding a lease issued pursuant to this Act or the Mineral Leasing Act of 1920, as amended, Act of February 25, 1920, 41 Stat. 437, 30 U.S.C. § 181 et seq. extract and dispose of associated or related minerals other than the mineral deposit for which that person's lease has been issued upon such royalty as the Secretary may prescribe for each type of associated or related mineral: *Provided,* That those associated or related minerals are not already subject to another lease issued pursuant to this Act or the Mineral Leasing Act of 1920, as amended, to a different lessee. Failure to extract associated or related minerals under this section may result in penalties under section 121.

UNITIZATION

SEC. 114 (a) The Secretary, upon determining that economic recovery of the hardrock mineral deposits on the leasable lands will be served, may approve or require the consolidation of licenses or leases into a logical mining unit.

(b) After the Secretary has approved the establishment of a logical mining unit, any mining plan approved for that unit must require diligent exploration and development and continued operation of the reserves of the entire unit.

(c) In approving a logical mining unit, the Secretary may provide, among other things, that (i) diligent exploration development, continuous operation, and production on any Federal lease or non-Federal land in the logical mining unit shall be construed as occurring on all Federal leases in that logical mining unit, and (ii) the rentals and royalties for all Federal leases in a logical mining unit may be combined, and advance royalties paid for any lease within a logical mining unit may be credited against such combined royalties.

(d) If a logical mining unit is approved at the request of a licensee or leasee the Secretary may amend the provisions of any lease included in a logical mining unit so that mining under that license or lease will be consistent with the requirements imposed on that logical mining unit.

SURFACE USE

SEC. 115. (a) A lease shall provide for the use of so much of the surface of the leased area as may be reasonably required for the actual extraction, removal and processing of the mineral or minerals subject to the lease upon such terms and conditions as the Secretary, may require.

(b) The Secretary, pursuant to Federal Land Policy and Management Act, and the head of any Federal surface managing agency under other applicable law, may lease other lands not included in a lease issued under this Act which are required to extract or process the leased mineral or minerals, upon payment of fair market value and upon such terms and conditions as may be prescribed.

(c) This section shall not affect the authority to regulate source material contained in section 11(z) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2014(2), or the authority of the States to regulate source material under an agreement entered pursuant to section 274 of that Act, 42 U.S.C. § 2021. The Secretary shall consult with the Nuclear Regulatory Commission or the State agency with respect to any lease for a mill to process source material.

ENVIRONMENTAL PROTECTION AND CONSERVATION

SEC. 116. (a) The Secretary shall issue regulations to insure that all prospecting, exploration, development and production authorized by this Act are conducted in a manner that minimizes to the maximum extent feasible, taking into account environmental and economic costs, environmental damage. These regulations shall contain requirements designed to insure that operations conducted under this Act:

(1) will comply with standards promulgated under the Federal Water Pollution Control Act, as amended, and the Clean Air Act, as amended, and other applicable Federal law. In promulgating regulations under this section, the Secretary shall consult with the Administrator of Environmental Protection Agency with respect to those regulations which relate to the authorities of the Administration.

(2) will minimize or prevent erosion, flooding, release of toxic substances, rock slides, and fires;

(3) will minimize damage to fish and wildlife or their habitat; and

(4) will not endanger public health or safety.

(b) The Secretary shall require that an appropriate reclamation plan be prepared and approved in advance of more than minimal disturbance to the surface; that all license and lease areas be reclaimed as contemporaneously as practicable; and, that reclamation work be completed in accordance with applicable performance standards within reasonably prescribed time limits.

(c) The Secretary shall require the filing, updating, and permanent retention of engineering maps of all active surface and underground operations for which engineering or other maps are available.

(d) The Secretary shall regularly review and, as necessary, revise regulations promulgated under this section after notice and opportunity for public comment.

(e) The Secretary shall by regulation adopt performance standards for the reclamation of areas affected by open pit or other surface mining, taking into consideration the unique nature of such operations. Those performance standards shall, to the maximum extent feasible, taking into account environmental and economic costs, insure, among other things: (i) that new mined areas shall be returned to approximately their original contour or to a contour similarly appropriate considering the surrounding topography and possible future uses of the area, (ii) that there will be no permanent deposition of spoil material on undisturbed or natural surfaces within or adjacent to the mined areas, (iii) that throughout the license or lease area, soil conditions will be stabilized, surface disturbance minimized and water management conducted, such that landslides and erosions will be prevented, and pollution of water, including that in water impoundments created by the mining operation, by siltation and by acid, highly mineralized and toxic material drainage will be prevented, and, (iv) that original type or similarly appropriate type vegetation will be re-established on the disturbed land areas.

(f) The Secretary shall by regulation adopt performance standards for reclamation of areas affected by underground mining operations in order to prevent to the maximum extent feasible, taking into account environmental and economic costs, environmental

harm, including subsidence and the continuing discharge of acid, mineralized and toxic material drainage.

(g) The Secretary shall by regulation adopt performance standards for the construction of dams by mining companies for the impoundment of tailings from the ore beneficiation process. Those performance standards shall to the maximum extent feasible, taking into account environmental and economic costs, insure, among other things: (i) the safety and durability of the structure for as long as it presents a threat to the ecosystem; (ii) the prevention of seepage or overflow from the tailings impoundment; (iii) the vegetation of the face of the impoundment dam, insofar as is practicable, is maintained during and after its active use; and (iv) for revegetation for the surface of the impounded area after use has been discontinued and the impoundment area has dried sufficiently for such purpose. The Secretary shall also make rules and provide standards for the diversion of any natural stream flows into the impoundment area away from the tailings pond after use of the pond has been discontinued; and standards for the construction of such facilities as may be necessary, including settling ponds, to insure that the water that is returned to the natural watershed from the impoundment dam does not significantly lower the quality of the water in that watershed.

(h) The Secretary shall regularly review and, as necessary, revise performance standards set under this section.

(i) In developing environmental regulations and performance standards, the Secretary shall solicit full paritcipation of all interested Federal Departments and agencies, State agencies, local governments, and other interested bodies and groups.

(j) The regulations issued or revised under this section shall be applicable to all licenses and leases issued under this Act.

(k) The Secretary may adopt State environmental regulations and standards which are as strict as or stricter than the applicable Federal environmental regulations or standards; and, may also enter into cooperative agreements with States to enforce environmental regulations and standards after determining that the State has the capability of carrying out such responsibilities.

(l) The Secretary may delegate to the land administering agency, the authority to enforce the regulations issued under this section; except that the Secretary of Agriculture is authorized to enforce regulations issued under this section on lands within the National Forest System.

SURFACE OWNER RIGHTS

SEC. 117. (a) When the surface of an area otherwise open for prospecting, exploration, or leasing under this Act is owned privately, the Secretary shall consult with the surface owner prior to issuing a permit, license or lease for those lands.

(b) If the Secretary issues a license or lease for lands the surface of which is privately owned, the Secretary shall require the licensee or lessee to compensate the surface owner for damages resulting from such license or lease activities. The compensation shall include:

(1) loss of income to the surface owner during the conduct of license or lease activities;

(2) cost to the surface owner for relocation during the license or lease activities;

(3) cost to the surface owner for loss of livestock, crops, water, or other improvements resulting from license or lease activities;

(4) any other damage reasonably incident to operations conducted on the license or lease.

CITIZENS SUITS

SEC. 118. (a) Except as provided in subsection (c) of this section, any person having an interest which is or may be adversely affected may commence a civil action on his own behalf:

(1) against the Secretary or head of any other Federal agency which is alleged to be in violation of the provisions of this Act or of any rule, regulation, order or permit issued pursuant thereto, or against any other person who is alleged to be in violation of any rule, regulation, order or permit issued to this title; or

(2) against the Secretary or head of any other Federal agency where there is alleged failure of the Secretary or other Federal agency to perform any act or duty under this Act which is not discretionary with the Secretary or with the appropriate Federal official.

(b) The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties.

(c) No action may be commenced:

(1) under subsection (a)(1) of this section;

(A) prior to sixty days after the plaintiff has given notice in writing of the violation (i) to the Secretary, (ii) to the other Federal agency, and (iii) to any alleged violator; or

(B) if the Secretary or other Federal agency has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the provisions of this Act, or any rule, regulation, order, or permit issued pursuant to this Act, but any person having an interest which is or may be adversely affected may intervene as a matter of right in that civil action; or

(2) Under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice in writing of such action to the Secretary and to any other agency head, in such manner as the Secretary shall by regulation prescribe, except that such action may be brought immediately after such notification in the case where the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.

(d)(1) Any action respecting a violation of this Act or the regulations thereunder may be brought only in the judicial district in which the action complained of is located.

(2) In such action under this section, the Secretary, or other Federal agency, if not a party, may intervene as a matter of right.

(e) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

(f) Nothing in this section shall restrict any right which any person (or class of persons) may have under this or any statute or common law to seek enforcement of any of the provisions of this Act and the regulations thereunder, or to seek any other relief, except that this section shall be the sole basis or jurisdiction for suits under subsection (a)(2) of this section and failure to comply with the notice requirement of subsection (c)(2) shall require dismissal of the action.

ENFORCEMENT

SEC. 119. (a) Whenever, on the basis of available information including receipt of information from any person the Secretary has reason to believe that any person is in violation of any requirement of this Act or any permit, license or lease term or regulation, the Secretary shall immediately order inspection of the permit, license or lease area at which the alleged violation is occurring unless the information available to the Secretary is a result of a previous Federal inspection of permit, license or lease. When the Federal inspections results from information provided to the Secretary by any person, the Secretary may notify such person when the Federal inspection is proposed to be carried out and such person shall be allowed to accompany the inspector during the inspection.

(b) When, on the basis of any inspection, the Secretary determines that any condition or practices exist, or any permittee, licensee or lessee is in violation of any requirement of this Act or any permit, license or lease term or regulation, which condition, prac lce, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the Secretary shall immediately order a cessation of operations or the portion thereof relevant to the condition, practice, or violation. Such cessation order shall remain in effect until the Secretary determines that the condition, practice, or violation has been abated, or until the order has been modified, vacated, or terminated by the Secretary pursuant to paragraph (d) of this section. Where the ordered cessation of operations, or any portion thereof, will not completely abate the imminent danger to health and safety of the public or the significant environmental harm to land, air, or water resources, the Secretary shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the Secretary deems necessary to abate the imminent danger or the significant environmental harm.

(c) When, on the basis of inspection, the Secretary determines that any permittee, licensee or lessee is in violation, other than as described in paragraph (b) of this section, of any requirement of this Act or any permit, license or lease condition or regulation, the Secretary shall issue a notice to the permittee, licensee or lessee or his agent fixing a reasonable time for the abatement of the violation. If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown and upon written findings that the violation has not been abated, the Secretary shall immediately order a cessation of operations or the portion thereof relevant to the violation. Such cessation order shall remain in effect until the Secretary determines that the violation has been abated, or until modified, vacated, or terminated by the Secretary, pursuant to subsection (d) of this section.

(d) Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the operation to which the notice order applies. Each notice or order issued under this section shall be given promptly to the permittee, licensee, or lessee or his agent, and all such notices and orders may be made orally and shall be confirmed in writing and shall be signed by such authorized representatives. Any notice or order issued pursuant to this section may be modified, vacated, or terminated by the Secretary. Any notice or order issued pursuant to this section which requires cessation of mining shall expire within twenty days unless the Secretary gives the affected person an opportunity for a hearing on the alledged violation.

JUDICIAL REVIEW

SEC. 120. (a)(1) Any action by the Secretary promulgating general standards under this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia. A petition for

review of such action shall be filed in the Court of Appeals within sixty days from the date of such action, or after such date if the petition is based solely on grounds arising after the sixtieth day. Any such application may be made by any person who participated in the administrative proceedings and who is aggrieved by the action of the Secretary.

(2) All other orders or decisions issued by the Secretary pursuant to this Act shall be subject to judicial review only in the United States district court for the locality in which the lease, license or other action is located. Such review shall be in accordance with the Federal Rules of Civil Procedure. In the case of a proceeding to review an order or decision issued by the Secretary under the penalty section of this Act, the court shall have jurisdiction to enter an order requiring payment of any civil penalty assessment enforced by its judgment. The availability of review established in this subsection shall not be construed to limit the operation of the rights established in section 118.

(b) The court shall hear such petition or complaint solely on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the Secretary under this Act, for cessation of operations, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings; if:

(1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(2) the person requesting such relief shows that there is a substantial likelihood of prevailing on the merits on final determination of the proceedings; and

(3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(d) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the action, order or decision of the Secretary.

REMEDIES AND PENALTIES

SEC. 121. (a) At the request of the Secretary, the Attorney General may institute a civil action in a district court of the United States for an injunction or other appropriate order (1) to prevent operations in violation of this Act, including violations of regulations, permits, licenses and leases or orders issued under this Act; (2) to prevent any licensee or lessee from placing in commerce the minerals produced in violation of such regulations or to enforce a cessation order; (3) to enforce a warrant; (4) to collect a penalty under this section; or (5) to insure compliance with this Act. The district court of the United States for the district in which such person resides or is doing business shall have jurisdiction to issue such injunction or order.

(b)(1) Any person who conducts exploration for hardrock mineral deposits in the leasable lands for commercial purposes without an exploration license or lease issued hereunder shall be subject to a fine of not more than $1,000 for each day of violation and may be barred from receiving a license or lease under this Act for up to 10 years. All data collected by said person on any Federal lands as a result of such violation shall be made immediately available to the Secretary, who shall make the data available to the public as soon as it is practicable.

(2) If any person fails to comply with any regulations issued under this Act the person shall be liable for a civil penalty of not more than $1,000 for each day of continuance of the violations.

(3) If any person willfully and knowingly violates any regulation issued pursuant to this Act, the person shall, upon conviction, be punished by a fine not exceeding $10,000 or by imprisonment not exceeding one year or both. The penalties prescribed in this section shall be in addition to any other remedies afforded by this Act or by any other law or regulation.

(4) In addition to other penalties provided under this Act the Secretary may suspend or revoke any license or lease granted under this Act for failure of the licensee or lessee to perform any duty under that license or lease or applicable regulations.

(5) No penalty under this section shall be assessed unless the Secretary gives the person notice and an opportunity for a hearing.

BONDS

SEC. 122. (a) The Secretary may require a surety bond to enforce any of the requirements of this Act or regulations issued hereunder.

(b) The Secretary shall require posting of performance bonds, based on estimated actual cost, in amounts at all times sufficient to insure reclamation in the event that the regulations or performance standards are not complied with or that reclamation is not completed in accordance with the appropriate exploration or mining plan.

ASSIGNMENTS OF LICENSES AND LEASES

SEC. 123. (a) Any license or lease issued under this Act may be assigned, subject to final approval of the Secretary, as to all or part of the acreage included therein and as to either a divided or undivided interest therein, to any person qualified to hold a license or lease under this Act.

(b) Any license or lease assigned in whole shall be taken subject to any approved plan, and any license or lease assigned in part shall be taken subject to all applicable portions of such plans.

(c) An assignment of part of the acreage subject to a license or lease shall segregate the assigned and retained portions into separate licenses or leases and such segregated licenses or leases shall continue for the term of the original license or lease.

SUSPENSION OF OPERATION OR PRODUCTION

SEC. 124. In the interest of conservation of natural resources, promoting development, or protecting the environmental or public health, or where operations are prevented by circumstances neither caused by nor attributable to the licensee or leasee, the Secretary may suspend operations or production, or both, on any license or lease.

SUSPENSION, WAIVER, OR REDUCTIONS OF RENTS OR ROYALTIES

SEC. 125. (a) The Secretary may suspend, waive, or reduce the rental or royalty on an entire license or lease area, or on any tract or portion thereof segregated for royalty purposes, whenever the Secretary determines it is either necessary to do so in order to promote development or that the licenses or leases cannot be successfully operated under the terms provided therein.

(b) In the event that the Secretary directs the suspension of operations or production, or both, under any license or lease issued under this Act, any payment of rental or royalty prescribed by that license or lease shall be likewise suspended during such period of suspension and the terms of such license or lease shall be extended by a period equal to the time of suspension.

SURRENDER, CANCELLATION, AND TERMINATION OF LICENSES AND LEASES

SEC. 126. (a) Any license or lease issued under this Act may be surrendered at any time, but such a surrender will neither relieve the licensee or lessee of any liability, including liability for reclamation which has accrued under the license or lease prior to the surrender nor entitle the licensee or lessee to the return of any rental or other moneys already paid.

(b) The Secretary is authorized to cancel any permit, license or lease or the regulations issued under this Act, immediately in the event of a breach of its terms or conditions. Such cancellation shall be without compensation.

(c) In addition to the authority granted to cancel leases in paragraph (b) of this section, the Secretary may cancel a lease at any time upon determining, after proper notice and hearing, that: (1) continued activity under the lease would cause serious harm or damage or endanger life, property, or other resources or the environment, or threaten national security; (2) application of available technology cannot eliminate the serious harm or damage or endangerment; (3) the threat of harm or damage or endangerment will not abate or decrease to an acceptable extent within a reasonable period of time and, (4) the advantages of cancelling the lease outweigh the advantages of continued development and production.

(d) Cancellations under subsection (c) of this section shall entitle the lessee to receive such compensation as the Secretary determines to be equal to the lesser of (1) the fair value of the lessee's rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues from the lease (including interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (including interest on such consideration and such expenditures from date of payments to date of reimbursement).

TERMINATION OF A LICENSE OR LEASE FOR DEFAULT IN PAYMENT OF RENTAL: REINSTATEMENT

SEC. 127. (a) Upon failure of a licensee or lessee to pay the rental due on or before the anniversary date of a license or lease the license or lease shall terminate by operation of law.

(b) Where the rental is paid or is tendered within twenty days after the due date, the licensee or lessee may, within that period, file with the Secretary a petition for reinstatement of the lease. If it is shown to the satisfaction of the Secretary that the default in payment of the rental was not due to a lack of reasonable diligence on the licensee or lessee's part, and if no valid license or lease covering the same land has been issued prior to the filing of the petition, the Secretary may reinstate the license or lease upon such terms and condition as he may prescribe. Upon reinstatement of a license or lease, the Secretary may extend it for a period of time not in excess of that between the date of termination and the date of reinstatement, if the Secretary deems such an extension justifiable.

(c) If rental in a deficient amount was paid on time but was deficient in amount and the deficiency is nominal as determined by the Secretary in regulations, or if the rental was calculated in accordance with the acreage figure in the license or lease and that figure is found to be incorrect, the license or lease shall not be terminated automatically. The Secretary shall notify the licensee or lessee of the deficiency and require payment within the period prescribed by him. Upon failure of the licensee or lessee to pay the

deficiency within the time allowed, the license or lease shall terminate on the date specified by the Secretary in the notice, and shall not be subject to reinstatement.

DISPOSITION OF RECEIPTS

SEC. 128. All receipts derived from licenses and leases issued under this Act shall be paid into the Treasury of the United States. Fifty per centum of such receipts shall be paid by the Secretary of the Treasury as soon as practicable after September 30, and March 31 of each year to the State in which the leased lands are located. The balance of fifty per centum of such receipts shall be credited to miscellaneous receipts.

UNLAWFUL TRUSTS: FORFEITURE

SEC. 129. Except as otherwise provided in this Act, if any lands or deposits subject to the provisions of this Act shall be assigned, trusted, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form a part of or are in anyway controlled by any combination in the form of an unlawful trust, with the consent of the licensee or the lessee, or form the subject of any contract or conspiracy in restraint of trade in the exploration, mining or selling of any leasable mineral entered into by the licensee of lessee or any agreement or understanding written, verbal, or otherwise, to which such lessee or licensee shall be a party, or which its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control in excess of the amounts of lands provided in this Act the lease or license shall be forfeited by appropriate court proceedings. This section shall not be construed as a defense to any actions arising under other laws regarding unlawful trust, restraints of trade or other antitrust matters.

EXISTING RIGHTS

SEC. 130. (a) After the effective date of this Act, no new mining claims may be located under the Mining Law of 1872, and related Acts (30 U.S.C. chapters 2, 12A, 16 and sections 161–162).

(b)(1) Within 2 years of the effective date of this Act, the holder of a mining claim recorded under section 314 of the Federal Land Policy and Management Act shall file an application for either a license (or in the case of a millsite, a surface lease pursuant to section 115) or a a patent; *Provided*, that upon a showing that a mineral survey cannot be completed within such period, the filing of an application for a mineral survey, which states on its face that it was filed for the purpose of proceeding to patent, shall be acceptable in place of the patent application required by this section, if the applicant prosecutes diligently such application for patent.

(2) The Secretary shall grant the patent applications for all valid claims, and shall declare void any claims for which the patent application is rejected.

(3) The Secretary shall grant a license or surface lease as appropriate, to the owner of a claim or millsite for which a timely license or surface lease application is filed. Conflicts between owners of mining claims shall be resolved under applicable laws governing possession of mining claims.

(c) Any mining claim for which an application is not timely filed under subsection (b) of this section shall be void.

(d) The holder of a mining claim for which an application is timely filed under subsection (b) of this section may continue to conduct operations on the claim until the Secretary takes final action on the application. All operations authorized by this subsection shall comply with environmental regulations and performance standards issued under this or other Acts.

EXISTING LAWS

SEC. 131. (a) On the effective date of this Act, no person may initiate a claim under the Mining Law of 1872, as amended and supplemented and related Act (30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162). Laws governing issuance of leases for hardrock minerals on acquired lands are repealed except as necessary to protect valid existing rights. Nothing in this Act shall affect the authority of the United States under any other statute, to sell, exchange, or withdraw lands or interests therein.

(b) Nothing in this Act shall be deemed to modify or amend the Territorial Submerged Lands Act of 1963 (48 U.S.C. 1701–1704), and nothing in this Act shall prohibit the disposal by the General Services Administration of minerals as part of a full fee title to property covered by the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471–535), or disposals by the Secretary pursuant to § 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1719).

REGULATIONS

SEC. 132. (a) The Secretary is authorized to issue and revise as appropriate any regulations necessary or desirable to carry out the provisions and purposes of this Act.

(b) The Secretary is authorized to make such inspections and investigations necessary or appropriate to develop or enforce Federal regulations, or otherwise to carry out the purposes of this Act, and for such purposes authorized representatives of the Secretary shall have the right of entry to any area covered by any lease. In order to enforce the right of entry into a specific area the Secretary may obtain a warrant from the appropriate district court to authorize such entry.

SEVERABILITY

SEC. 133. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 14, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To reform the mining law, and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted.

For more than a century, the development of hardrock minerals on the public lands has been governed by the Mining Law of 1872. This law once served an important purpose: encouraging settlement of the West and rapid development of the mineral wealth there. But it is now outdated and inadequate.

Among the most serious and widely recognized deficiencies of the Mining Law are its:

Incompatibility with Congressional policy relating to the Federal lands as expressed in many Acts of Congress, particularly with respect to retention of Federal lands in public ownership, multiple use, sustained yield and other well established land management concepts;

Increasing legal uncertainties and confusion resulting from lack of specific Congressional guidance and significant social and economic change in the last 105 years;

Lack of any directions for insuring necessary environmental protection, including preservation or minimization of losses to the land or other resources or to rehabilitate damaged lands or other resources;

Creation of pressure to withdraw large areas of public land from mining as the only means of environmental protection;

Creation of uncertainty and confusion over the status of mining claims and mineral tenure generally, inhibiting exploration and other uses of public lands;

Lack of a fair return to the treasury for exploitation of publicly owned resources;

Lack of adequate diligence mechanisms. The public loses when access to mineral resources by willing and able enterprises is blocked by large holding of Federal lands with a minimum of activity;

Lack of mechanisms for fair, strict and uniform enforcement; and

Easy exploitability for fraud and abuse. The nondiscretionary procedures of the mining law have been used to acquire title to agricultural lands, timber lands, water services, and prime recreational areas for such nonmining purposes as social clubs, vacation homes, residential subdivisions and for real estate speculation.

These deficiencies and their resulting costs have created a broad consenus that revision of the law is needed. Over the last 100 years, a number of groups have recommended revisions, among them: the 1879 Public Lands Commission; the Commissioner of the General Land Office in 1942 and 1943; the Bureau of Land Management in 1968; Stuart Udall, former Secretary of the Interior, in 1969; the Natural Resources Council of America in 1969; the Public Land Law Review Commission in 1970; the American Mining Congress in 1971, 1975, and 1977; the Secretary of the Interior in 1971 and 1973; Members of Congress in 1975 and 1977; and the Federal-State Land Use Planning Commission for Alaska in 1975.

In May of this year the President directed me to prepare, for submission to the Congress, legislation to replace the Mining Law of 1872 with one more suited to contemporary needs. The President specified that its provisions should include: (1) a leasing system for publicly owned hardrock minerals; (2) explicit Federal discretionary authority over mineral exploration and development on the public lands; (3) strict standards for environmental protection and for reclamation of mined areas; (4) a requirement for approval of operation and reclamation plans before mining can begin; (5) royalties for use of public lands and mineral resources; and (6) the integration of mining into land use plans being developed for the public lands.

The draft bill meets the President's requirements and provides a positive measure for correcting the deficiencies and for ameliorating the social, environmental and economic problems associated with the Mining Law of 1872.

We also recognize the need for and importance of a healthy and productive mining industry to this Nation's economic welfare. We believe that the draft bill provides the necessary incentives to induce people to take the risks inherent in the search for and ultimate production of these minerals. These include:

Noncompetitive as well as competitive procedures for acquiring mining rights;

Access to all lands subject to the bill's application;

The preferred right of holders of exploration licenses to development and production leases and a right of first refusal to such a lease for 10 years after exploration;

A right to produce on a lease as long as there are continuous operations;

Statutory recognition of the role and contribution of the small miner, along with the positive obligation of the Federal Government to provide direct technical assistance to the small miner in meeting the regulatory requirements and to minimize regulatory requirements for their operation;

Assurance through acreage limitations and diligence requirements, that larger com-

panies with greater assets will not be able to monopolize the exploration of Federal lands;

Sufficient time to explore for and develop mineral deposits through guaranteed tenure and provisions that recognize the special circumstances of hardrock mining;

Procedures for acquiring the necessary land, both on and off lease, for processing facilities without need to resort to land exchange and acquisition processes.

Reform of the Mining Law is long overdue and needed. Evidence of the damages of earlier mining is in some cases dramatic. The days of serious impacts are not over. Unless there is a change, there is real potential for even greater disturbance and confusion. For these reasons, I urge serious and prompt consideration of the draft bill. As always, I look forward to working closely with the Congress in this effort.

We are preparing an environmental evaluation of this proposal which we will forward to Congress shortly.

The Office of Management and Budget has advised that the presentation of this legislative proposal is in accord with the President's program.

Sincerely,

CECIL D. ANDRUS,
Secretary.

SUMMARY

1. Scope:

All lands would be open to hardrock mineral prospecting exploration, and development, *except*: National Park System, National Wildlife Refuge System, Wild and Scenic Rivers and the National Wilderness Preservation System lands, except to the extent those lands are open to mineral entry and location under the Mining Law of 1872 on the effective date of passage of the Act; Indian lands; Outer Continental Shelf; lands entrusted to or managed by the Tennessee Valley Authority; lands specifically excluded from mining pursuant to any other acts of Congress; and lands, other than those listed above, which were previously withdrawn from entry and location under the Mining Law of 1872, unless the Secretary revokes the withdrawal.

2. Prospecting:

a. Could cause only minimal disturbance to the environment.

b. A permit would be required only:

In National Parks, Refuges, Wilderness Preserves, and Wild and Scenic Rivers open to entry and location under the Mining Law of 1872 on the effective date of passage of the Act;

On lands previously withdrawn from mineral entry and location under the Mining Law of 1872;

On lands where United States does not own surface;

On lands designated as areas of critical environmental concern;

In urbanized areas or lands designated for military use;

On already licensed or leased areas unless prospecting would cause a financial or serious physical impediment to the licensee or lessee; and

On acquired lands.

c. Permit issuance would be discretionary.

d. Violators, in accordance with regulations, would be subject to:

Penalties;

5 year bar from exploration or leasing;

Disclosure of information

3. Exploration licenses:

a. Could cause more than minimal disturbance pursuant to an approved exploration and reclamation plan.

b. No exploration without a license.

c. Would be issued under two procedures:

Competitively in areas classified as suitable for competitive bidding;

Noncompetitively in all other areas.

d. License issuance would be discretionary.

e. Licensees making application for a lease would get a 10 year qualified right to a development and production lease.

f. Could not remove any minerals for sale.

g. License term: 5 yrs./not less than $5 per acre/exploration plan/conditions.

h. Aggregate acreage limitation for licenses: 5,120 acres per State.

i. License extensions: 5 years. (upon a satisfactory showing of diligence)/not less than $5 per acre/exploration plan revision.

4. Leases:

a. Operations would be subject to approval of a mining plan.

b. No development or production without a lease.

c. Lease issuance would be discretionary, but if Secretary decided not to issue a lease the applying licensee would retain a qualified right to a lease for 10 years.

d. Secretary to issue leases for lands likely to contribute to mineral development where:

Compatible with land use plans or with a Secretarial determination of the values for the area;

Would not violate any applicable law or regulations;

Would have an overall value which exceeds its overall costs.

e. Would require diligence and continued operation, and may require advance royalties, production goals, financial expenditures, or other appropriate requirements to encourage timely development.

f. Lease term: 20 years initially, lease terms renegotiated every 10 years thereafter.

g. Production requirement: within 10 years.

h. Broad suspension authority for taking into account the special circumstances of hardrock mining.

i. Lease rentals for minerals and for surface use: not less than $25 per acre.

j. Lease minimum royalties: 2% of gross value of the output of the mine, or a comparable figure under another system of payment.

k. Lease size: limited to actual operations.

l. Aggregate acreage limitations for leases: 51,200 acres nationwide.

5. Small Miners:

a. Small miner: an individual or partnership of no more than three persons, no corporations.

b. Could involve the labor of no more than three persons, or the temporary employment of seven persons for drilling, on the licensed or leased area at any one time.

c. Would be obliged to obtain proper permits, licenses and leases before prospecting, exploration, development and production.

d. Need only submit an abbreviated exploration or mining plan before commencing work.

e. Would require a positive duty for the Federal Government to provide direct technical assistance in preparing plans and carrying out operations.

f. Loss of status of small miner would necessitate approval of a regularly required exploration or mining plans.

g. Secretary is directed to develop regulations establishing standards for small miners, except Secretary is not authorized to relax any environmental requirements.

6. Authority for multiple licenses and leases.

7. Authority for leasing associated and related deposits.

8. Authority for unitization.

9. Surface Use:

a. For the actual extraction, removal and processing of the mineral.

b. On lease not less than $25 per acre (see 4.i above).

c. Fair market value off lease.

10. Formal Public Participation: would be required before lease issuance.

11. Federal Surface Managing Agency Consent: would be required for license and lease issuance, and for approval of terms to exploration and mining plans.

12. Surface owner protection: would require the Secretary to consult with the surface owner, and would also require compensation for the surface owner, if the Government decided to lease, for damages associated with exploration and mining activities.

13. Environmental Protection:

a. Secretary would issue regulations designed to insure, to the maximum extent feasible, taking into account environmental and economic costs, against environmental damage; including provisions to insure against:

Violations of the Federal Water Pollution Control Act, the Clean Air Act or other applicable Federal law (and also requiring consultation with EPA);

Erosion, flooding, release of toxics, subsidence, and fires;

Damage to fish and wildlife and their habitats;

Public health or safety.

b. Would require reclamation plans and contemporaneous reclamation.

c. Would require filing, updating and retention of engineering maps.

d. Would require the Secretary specifically to adopt performance standards with regard to open pit and underground mining and dams constructed for the impoundment of tailings.

e. While this bill would preempt State hardrock mining law, it would permit adoption of State reclamation standards as Federal law where State law was as strict as the Federal standards; and, it would permit the Federal Government to make agreements with the State's allowing those States to enforce those standards.

f. Would require regular review and revision, as necessary of regulations, after notice and opportunity for public comment.

14. Would authorize citizen suits.

15. Would provide remedies and penalties.

16. Would specify forums for judicial review.

17. Would provide enforcement authority.

18. Would authorize the posting of bonds.

19. Would authorize the assignment of licenses and leases.

20. Would authorize the suspension, waiver, or reduction of rents or royalties.

21. Would authorize the surrender, cancellation, or termination of licenses and leases.

22. Would authorize termination of licenses and leases for default in payment of rentals and also authorize their reinstatement.

23. Would authorize 50% of the gross receipts derived be shared with the States.

24. Would provide general restriction against unlawful trusts.

25. Would provide general authority for regulations.

26. Existing Rights: would allow all persons with valid claims to apply for a patent within 2 years of the date of enactment and would allow all other claimants within the same 2 years to convert their claims into exploration licenses.

27. Would not provide statutory authority for extralateral rights.

28. Would disallow future location or patenting under Mining Law of 1872 and would repeal the laws governing the issuance leases for hardrock minerals on acquired lands.

29. Would provide for severability.

By Mr. STAFFORD (for himself, Mr. LEAHY, and Mr. KENNEDY):

S. 2134. A bill to amend the Federal Property and Administrative Services Act of 1949 with respect to excess personal property for the use of community action agencies, and for other purposes;

to the Committee on Governmental Affairs.

Mr. STAFFORD. Mr. President, I am introducing along with Senators LEAHY and KENNEDY, a bill to amend the Federal Property and Administrative Services Act of 1949 with respect to excess personal property for the use of community action agencies. The purpose of this bill is to exempt the Community Services Administration from the harmful effects of Public Law 94–519.

Regardless of the intent of Public Law 94–519, it poses a direct threat to the work of community action agencies with the poor and will result in millions of dollars of additional administrative cost that will be taken away from programs that directly assist the poor. At a time when the Community Services Administration is just beginning to recover from the impact of inflation, it is unfortunate that this law is enacted in such a form that will take away an advance in CAA funding.

Mr. President, I ask unanimous consent that a series of letters relating to the impact of Public Law 94–519 be printed in the RECORD to illustrate the concern for the adverse impact that this law will have on our poverty programs.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 19, 1977.

Re: CSA Position on Public Law 94–519.

Honorable JAY SOLOMON,
Director, General Services Administration, Washington, D.C.

DEAR MR. SOLOMON: As you may recall, you indicated to me prior to our being sworn in at the Rose Garden of the White House, that if I ever need your assistance, I should not hesitate to contact you. It is for this reason that I am requesting your assistance in obtaining an exemption from P.L. 94–519 (effective October 17, 1977) for the programs funded by the Community Services Administration (CSA), formerly Office of Economic Opportunity.

CSA plays a unique role in this Administration as a smaller, more flexible agency whose task is to maximize the flow of government and private resources towards an effort to eliminate poverty. Most of the Agency's technical and financial assistance is provided to poor and low-income areas across the country. It is for this reason that I am greatly concerned about the possible adverse effect that P.L. 94–519 will have on CSA programs and ultimately the poor community.

In essence, P.L. 94–519 will minimize rather than maximize government resources, eliminating literally millions of dollars of property and service now available to low-income areas, directly threatening the success of our programs.

Please consider the attached position paper on the subject. I strongly urge that your office reconsider the consequences of P.L. 94–519 on CSA programs and assist this Agency in obtaining an exemption to its implementation.

Your help regarding this matter, would be greatly appreciated.

Sincerely,

GRACIELA (GRACE) OLIVAREZ,
Director.

PUBLIC LAW 94–519: THE EFFECT ON CSA AND ITS GRANTEES

Public Law 94–519 effective October 17, 1977, will bring about significant changes in the furnishing of excess and surplus Government personal property to grantees of the Community Services Administration (CSA), formerly the Office of Economic Opportunity. This new law amends the Federal Property and Administrative Services Act of 1949 to permit the donation of Federal surplus personal property at the state and local organizations for public purposes.

BACKGROUND

In the past, CSA grantees have been permitted to acquire excess personal property for their use in the operation of CSA funded programs without cost other than for screening and transportation. Title has remained with the Federal Government. In other words, grantees have been treated as an extension of CSA and have had the same rights to excess property as the Agency. Additionally, property determined to be surplus to the Government's needs was made available to the DHEW Federal Property Assistance Program for donation to Health, Education, and Civil Defense Programs within the various states.

PROVISIONS OF PUBLIC LAW 94–519

Generally, under the provisions of the new law, CSA grantees will be permitted to acquire excess personal property for use in connection with their grants but CSA will be required to pay 25% of the original acquisition cost of the property. Title to the property will be vested in the grantee with requirements for accounting and disposal the same as those which apply to property purchased with grant funds. Also under the new law, GSA will have significant control over the surplus disposal organizations within each of the states.

Specifically, the provisions of the new law may be described as follows:

(1) That the Administrator of the General Services Administration (GSA) may transfer surplus personal property received from any executive agency to the respective State agency in order that such property may be fairly and equitably distributed through donation;

(2) That the Administrator shall allocate surplus property among the States in a fair and equitable basis and transfer to the State agency property selected by it for distribution through donation within the State to any public agency for use in carrying out or promoting public purposes (i.e., conservation, economic development, education, parks and recreation, etc.) and to nonprofit educational or public health institutions or organizations (i.e. medical institutions, hospitals, schools, etc.). Such provision does not specifically include community action agency type enterprises as eligible donees;

(3) That States shall adopt plans that provide for the fair and equitable distribution of property based on relative needs and resources of interested public agencies;

(4) That Federal agencies are prohibited from obtaining excess personal property for purposes of furnishing said property to grantees of the respective agencies, except under such regulations as the Administrator of GSA may prescribe; however, any Federal agency may obtain such excess personal property and furnish it to any institution which is a public or nonprofit agency exempt from taxation under Section 501 of the IRS Code and which is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination. This provision is applicable provided that (a) such property is furnished for use in connection with the grant and (b) the sponsoring Federal agency pays an amount equal to 25 per centum of the original acquisition cost of the excess property furnished. Title to such excess property shall vest in the grantees; and

(5) That excess personal property acquired by a Federal agency and held by a grantee of such agency shall be regarded as surplus property. The Administrator shall transfer title of the property to the grantee or to an appropriate State agency for distribution.

ADVERSE EFFECT ON CSA

CSA's appropriations have decreased over the years thereby limiting the Agency's ability to provide the additional funding needed for worthwhile programs. Moreover, inflation has limited the spending powers of the monies received by our grantees as well as monies received by the Agency. In essence, CSA simply cannot afford to pay for acquisition costs and increase monies provided to our grantees for the operational costs for which they will be liable. Note the following:

(1) Since excess personal property is presently obtained at no cost, the implementation of this new law would mean additional expense to CSA which could only come out of funds appropriated for grants for our community action agencies and economic development enterprises.

(2) In order for CSA to furnish excess personal property to its grantees, CSA must now pay to the Treasury an amount equal to 25% of the original acquisition cost of the excess property furnished. This cost may amount to 100% of the property's present value.

(3) Since grantees will now obtain title to the excess property obtained, the grantees will be liable for additional costs, such as registration, license, inspection, certification, property replacement and maintenance costs.

(4) Although the new law provides that distribution of surplus property within each State will be governed by a State plan which fairly and equitably distributes property based on the needs and resources of the interested recipients, CSA has no assurances that its programs will receive a "fair and equitable" share of the property distributed. Moreover, equitable distribution to the states is not synonymous with equitable distribution to the poor.

(5) P.L. 94–519 does not specifically enumerate community action agencies as donees eligible to receive surplus property that will be transferred to the State Agencies. Moreover, the new law does not name many of the types of programs funded by this Agency (i.e. energy, housing, food and nutrition, etc.). This omission may raise questions as to the eligibility of certain CSA grantees to receive surplus property.

A rough survey based on estimates provided by the Agency's Property Administrator reveals that the implementation of P.L. 94–519 will cost our grantees approximately six million dollars annually. This figure is based upon the anticipated grantee expenditures for property replacement costs and vehicle registration, license, inspection, certification, and maintenance costs. A case in point is the Vermont Community Action Agency (CAA). This grantee has informed us that P.L. 94–519 will mean a budget drain of more than $91,000 for Vermont State registrations and an additional $22,000 for State inspection repairs and certification for a total of $113,000 for one year. Subsequent yearly requirements will increase with increases in repair costs to meet inspection requirements. The Vermont CAA predicts that a more accurate yearly amount to cover contingencies will be $125,000 and over a three year period such expenditures will total $375,000.

As the above clearly illustrates, federal excess personal property has played as important role in CSA's financial assistance to grant operations. It has allowed our grantees an additional opportunity to stretch their limited funds to carry out the anti-poverty mission of their programs. The elimination of this valuable source of assistance to CSA programs will be detrimental to the objectives of our Act, since funds which were otherwise utilized to support programs for the poor will have to be diverted to pay for property previously obtainable at no cost.

It is because of CSA's mission to combat poverty, in our view of the highest priority, that we desire an exemption from P.L. 94–519 for all CSA funded programs. Such an exemption would reaffirm this Administration's commitment to the eradication of poverty throughout the Nation.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C. August 9, 1977.

Honorable GRACIELA (GRACE) OLIVAREZ,
Director, Community Services Administration, Washington, D.C.

DEAR DR. OLIVAREZ: Thank you for your letter of July 19, 1977, requesting an exemption from the provisions of Public Law 94–519 which require all Federal agencies having Project Grant Programs to pay 25 percent of the original acquisition cost of excess personal property furnished to grantees as a requirement charge.

We have carefully reviewed Public Law 94–519 and the legislative history in light of your request. Although project grantees of Federal agencies may continue to receive excess personal property under the new law, Congress has made the requirement that the sponsoring agency pay the 25 percent reimbursement charge a pre-condition to the transfer of the property by the General Services Administration (GSA). Unfortunately, the law has not given me the authority to grant exemptions from this express statutory requirement, and unless the law is amended, I am unable to act favorably on your request.

However, Public Law 94–519 does provide for a greatly enlarged donation program through which Community Services Administration (CSA) grantees, who qualify, may be able to acquire Federal surplus personal property (as distinguished from excess personal property) without payment of the reimbursement charge which applies to excess property. Under current law, surplus personal property can only be donated to certain organizations specified by statute and only for education, public health, and civil defense purposes. The new legislation, on the other hand, expands the present categories of eligible donees to permit donations to any public agency for one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety, and to non-profit educational or public health institutions. It is therefore possible that CSA grantees who previously could not obtain surplus property may now be eligible under the new donation program without having to pay the reimbursement charge.

I am enclosing a list of State Agencies for Surplus Property through which all property transferred to the States will be distributed to eligible donees under Public Law 94–519. Each State is preparing a plan of operation to provide for the fair and equitable distribution of property within the State. The requirement for a fair and equitable distribution of property applies not only to property allocated among the States by GSA, but the State agencies are similarly bound to make a fair and equitable distribution of property to eligible donees within their respective States. You may wish to inform CSA grantees to contact their respective State agencies to determine their eligibility so that these organizations may be given full consideration in acquiring surplus property.

I would also like to mention that the new law requires GSA to give consideration to special "expressions of need and interest" on the part of eligible donees and requests for specific items of property transmitted through the State agencies. For example, if an eligible donee has a special need or interest in a specific item of personal property, such donee would transmit its request to GSA through the appropriate State agency. We intend to give such requests full consideration in making distribution of property among the States so that, to the maximum extent feasible, property specifically needed or desired by a donee can be made available to it.

I hope that the new law does provide sufficient opportunity for a number of your own grantees to acquire property at the surplus level under the donation program. If you have further questions regarding the status of your various constituent organizations or would like more details on the administration of the donation program, I and members of my staff will be more than happy to meet with you to discuss these matters. I sincerely regret that the law precludes my acting favorably on your specific request, but trust that the foregoing review and explanation will be helpful to you.

Sincerely,

JOEL W. SOLOMON,
Administrator.

COMMUNITY SERVICES ADMINISTRATION,
Washington, D.C., April 1, 1977.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: Thank you for your letter of March 11 on behalf of Mr. Benjamin Collins concerning the Community Services Administration's early implementation of P.L. 94–519 amending the Federal Property Act.

We are well aware of the hardship the implementation of this law will cause our grantees. Nevertheless, we must impose a moratorium on their acquisition of Federal excess property in order to be in a position to comply with the General Services Administration requirements for an inventory of all Federal excess property held by grantees. These requirements are stated in GSA Bulletin FPMR H–28 (copy enclosed); we have determined that it would be impossible to complete an accurate and up-to-date inventory if grantees were acquiring new Federal excess property during the progress of the inventory.

However, the moratorium provisions of the memorandum to which Mr. Collins refers have been withdrawn and a revised version has been published in the Federal Register (copy enclosed). This version has a new effective date, April 1, 1977—which may slightly mitigate our grantees' problems.

Nevertheless, CSA agrees with Mr. Collins that either liberalization or outright repeal of P.L. 94–519 is needed, since the law as presently written will have the effect of significantly reducing the resources available for CSA programs. Our grantees will have three vehicles and other items of excess property needed in their programs, purchasing them from commercial sources, or having CSA pay twenty-five percent of the original acquisition price to the Treasury (which may be more than the present value of such excess property). Both the second and third alternatives will require significant amounts of cash which, realistically, can only come out of CSA grant funds. The alternative of doing without will be entirely impracticable in many cases and very burdensome in most others.

If CSA can be of any further assistance to you in making suggestions for or commenting on proposed legislation to amend P.L. 94–519, or otherwise, please do not hesitate to contact us.

Sincerely,

ROBERT C. CHASE,
Acting Director.

Enclosures.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 17, 1976.

To: Heads of Federal agencies.

Subject: Reporting excess personal property in the possession of Federal agency grantees.

1. Purpose. This bulletin provides information regarding the statutory requirements for Federal agencies to report to the General Services Administration on personal property items acquired from excess sources in the possession of their grantees.

2. Expiration date. This bulletin expires on September 30, 1977.

3. General. Section 3 of Pub. L. 94–519, enacted on October 17, 1976, amended section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) by adding a new subsection (d) which limits the ability of Federal agencies to transfer excess personal property to grantees, effective as of October 17, 1977. Transitional requirements affecting excess personal property transferred to grantees prior to October 17, 1977, are stated in section 5 of Pub. L. 94–519, as follows:

"SEC. 5. Notwithstanding any other provision of law, and except as the Administrator of General Services may otherwise provide on recommendation of the head of an affected Federal agency, excess personal property acquired by a Federal agency pursuant to the authority of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) and furnished to and held by a grantee of such agency prior to the effective date of this Act . . . under grants made pursuant to programs established by law shall be regarded as surplus property. The Administrator of General Services upon receipt of a certification by the head of an agency that the property is being used by the grantee for the purposes for which it was furnished shall transfer title to the property to the grantee. The grantor agency shall survey Federal property acquired from excess sources in the possession of its grantees and shall notify the Administrator of General Services, not later than two hundred and forty days from the date of enactment of this Act, of those items of property which are being used by each grantee for the purpose for which it was furnished, and those items which are not being used by each grantee. If the property is not being so used, the Administrator shall transfer such property to an appropriate State agency, upon its request, for distribution in accordance with subsection 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)). Property not so transferred shall be otherwise disposed of pursuant to the provisions of that Act."

4. Agency action. Under the provisions of Pub. L. 94–519, the notifications to the Administrator of General Services required by section 5 must be submitted prior to June 14, 1977 (240 days from the date of enactment). Those notifications should identify each grantee and provide a description of the items of property furnished to the grantee together with the original acquisition cost of each item. When an agency notifies GSA that items of excess property furnished to a grantee prior to June 14, 1977, are being used for the purposes for which they are furnished and the head of the granting agency so certifies, the Administrator upon receipt of the certification will take appropriate action to effect the vesting of title to the property in the grantee. When an agency notifies GSA that the items of excess property furnished to a grantee prior to June 14, 1977, are not being used for the purposes for which they were furnished, the Administrator will take appropriate action to donate or otherwise dispose of the property. Agencies are urged to initiate necessary procedures in order to be in compliance with the requirements set forth in the Act.

5. GSA assistance. Additional information pertaining to GSA implementation of Pub. L. 94–519 may be obtained from the General Services Administration (FW), Washington, DC 20406; or by calling the Office of Personal Property Disposal (FW), Federal Supply Service, telephone (703) 557–1756.

WALLACE H. ROBINSON, Jr.,
Commissioner, Federal Supply Service.

Mr. STAFFORD. The documents starting with Mr. Chase's letter of March 11, 1977 and followed by Ms. Olivarez's letter of July 19, 1977 demonstrate the concern of two administrators of the Community Services Administration about the negative impact this law is going to have on the community action program. Based on the August 9, 1977 response of Mr. Solomon to the concerns of the Community Services Administration, the only course of action left is the introduction of my bill. Because if we do not act, we will severely damage our efforts to regain the initiative in our fight to eliminate poverty in this country.

As an example of the negative impact of this law, Mr. President, if the Vermont Community Action Agencies are forced to pay 25 percent of the original acquisition price of vehicles and other equipment needed in the CSA weatherization program, they would be forced to severely limit this program. To further illustrate, the Central Vermont Community Action Council, located in rural northern New England, is deeply involved in an effective and expanding home weatherization conservation effort. Much of the equipment and most of the vehicles they are using in this project as well as in others is excess Federal property. This little agency, which has basic CSA administrative and outreach funding of $85,000, is operating more than 40 vehicles in carrying out its function. If it has to license these vehicles, it will cripple its weatherization program. Also, the central Vermont programs in rural transportation, and community food and nutrition will be similarly threatened if this law is allowed to go into effect on October 17, 1977.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(d)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)(2)) is amended by striking out the "or" at the end of clause (C), by redesignating clause (D) of such section as clause (E), and by inserting immediately after clause (C) the following new clause:

"(D) property furnished under section 602(f) of the Economic Opportunity Act of 1964 (42 U.S.C. 2942(f)); or"

By Mr. McINTYRE (for himself, Mr. BAYH, Mr. DURKIN, Mr. HATHAWAY, Mr. MUSKIE, and Mr. NELSON):

S. 2135. A bill to regulate commerce by providing franchisors and franchisees with certain remedies to assure fairness and to protect against overreaching, unjust enrichment, and unjustifiable termination, and for other purposes; sequentially, by unanimous consent, to the Select Committee on Small Business; and, if and when reported, to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF THE FRANCHISE PRACTICES ACT

Mr. McINTYRE. Mr. President, I am introducing, this evening with my colleagues—Senators BAYH, DURKIN, HATHAWAY, MUSKIE, and NELSON, a bill to establish and define the obligations and rights of both franchisors and franchisees in the areas of termination and nonrenewal of franchise relationships.

Mr. President, I would like to point out that this is a somewhat unique referral which I am requesting. The Select Committee on Small Business does not have legislative authority over the matters contained in the bill, however, we do have considerable oversight authority over these matters. The chairman of the Committee on Commerce, Science, and Transportation and the ranking minority member, have agreed to this sequential referral inasmuch as the select committee does have a significant interest. I would point out that this referral should not have any precedential significance, and if it were not for the unanimous-consent request, it would not go to the select committee at all. But the request has been cleared by the chairman and the ranking member of the Commerce Committee, with the understanding that the request be sequential, set to precedent, and have no time limitation.

During the past several years the franchise method of business has expanded into a major marketing and distribution operation providing hundreds of thousands of small businessmen with the opportunity to participate in this country's free enterprise system. Franchising opportunities span our entire economy.

The products and services offered to the public through a franchise relationship not only benefit consumers but provide small businessmen with needed training, technical assistance and often financing.

This tremendous growth in franchising, however, has also posed numerous problems which do not lend themselves readily to resolution by normal contract law or litigation. Franchising, as a business system, and its rapid expansion raise a number of questions regarding the rights and duties of both parties to the franchise relationship. Two areas which cause continuing friction between franchisors and franchisees are termination and failure to renew the franchise relationship. The purpose of the proposed Franchise Practices Act is to define the rights and obligations of both parties when either decides to conclude the relationship.

Congressional activity and Federal agency regulatory proceedings in the last few years indicate that franchisors as well as franchisees recognize that clearly defined ground rules on the limits and responsibilities of such agreements would be beneficial to both parties. While I do not claim that the bill I am proposing today will solve each and every problem posed by very complex business relationships, I do hope that the legislation will provide the opportunity for all parties concerned to develop the basic rules in franchise terminations. The purpose of the Franchise Practices Act is to provide an environment in which all parties to a franchise treat each other in a fair and equitable manner.

This bill would provide definitions to the franchise arrangement and would require franchisors to notify franchisees of any election to terminate or failure to renew a franchise relationship. Termination and failure to renew a franchise would be allowed only for those reasons specified in the legislation and the franchisor would be required to compensate a franchisee if a failure to renew is for other than good cause.

The bill, in addition to requiring reasonable notice to franchisees of possible cancellation or termination of the franchise relationship, would establish legal and equitable relief for arbitrary acts by franchisors. The legislation would also encourage the use of arbitration as a means of settling disputes. Most importantly, the bill would require franchisors to treat all franchisees equally and thus eliminate discrimination in charges for royalties, goods, services, and other business dealings on the part of franchisors.

Similar legislation was introduced in the Senate last Congress and hearings were held by the Commerce Committee April 7 and 8, 1976. I recognize that questions were raised during those hearings regarding the vagueness of some definitions in the bill. The Department of Justice commented that without clear standards a substantial burden could be placed on the courts to determine what constitutes "good cause."

I believe these problems can be resolved during the hearings, however, if both franchisors and franchisees are willing to aid Congress in establishing some fair ground rules. While expressing difficulty with some definitional terms it should be made clear that the Department of Justice stated sympathy with the primary purpose of this bill. The bill I am introducing today also contains significant definitional changes which conform substantially to terms used in franchise legislation passed by several State legislatures.

The Franchise Practices Act contains 13 sections.

Section 2 contains congressional finding and purposes. These are basically that franchising is beneficial to the economy, enhances commerce and competition, and is a recognized and useful business relationship. The findings also recognize that the franchise form of business is still relatively new and evolving.

Section 3 contains several definitional terms. The franchise relationship covered by the bill is defined in a manner that makes it clear that the legislation deals only with those franchises whose annual gross volume exceeds $25,000. The key definitional terms are "good cause" and "marketing area withdrawal." The term "good cause" is defined with respect to termination as failure by the franchisee to substantially comply with reasonable and essential requirements of the

franchise agreement or bad-faith conduct or failure to act by the franchisee. Marketing area withdrawal would be a termination of the franchise agreement by the franchisor for the purposes of discontinuing business in a multi-State region, a State or a SMSA for at least 5 years and requires the franchisor to either compensate the franchisee for the value of his business, including goodwill, or provide another franchise in a different marketing area.

Section 4 requires the franchisor to provide written notice 90 days prior to termination of the franchise except if the termination is to protect against an imminent danger to public health or safety, insolvency or bankruptcy by the franchisee, or abandonment of the business by the franchisee.

Section 5 states that a franchisor can terminate or cancel a franchise for good cause or market area withdrawal.

Section 6 states that a franchisor can fail to renew a prior existing franchise for good cause, or a market area withdrawal. Section 6 differs from section 5, however, by providing that the franchisor would be required to pay reasonable compensation to the franchisee for the value of his business, including goodwill, if the decision not to renew is made without good cause.

Section 7 of the bill establishes civil remedies in U.S. district courts for violations of this act, and provides that the burden of proof shall be on the franchisor in any suit brought by the franchisee. Both punitive damages and reasonable attorney's fees are possible if the suit is successful.

Section 8 provides that with the exception of certain agreements to seek binding arbitration, a franchisee may not be required to waive his rights under this act as a condition to obtaining a franchise.

Section 9 provides that a franchisor may not discriminate between franchisees in business dealings unless it can be shown to be reasonable.

Section 10 makes clear that this act does not affect or supersede the antitrust laws.

Section 11 provides that this act does not restrict any franchisee rights under State law.

Section 12 assures severability of the provisions of this act.

Section 13 provides an effective date as of date of enactment of this act.

Mr. President, as the declaration of policy states, the purpose of this legislation is to enhance franchising as a business activity by providing clear standards of the rights and obligations of franchisors and franchisees, to assure fair dealing, to protect against inequitable practices, and guarantee to consumers the benefit of franchising in general.

Mr. President, I ask unanimous consent that after my colleagues' statements in support of the legislation are completed that the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. And, Mr. President, I also ask unanimous consent that the bill be referred sequentially to the Select Committee on Small Business, and, if and when reported, to the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, we are introducing today the Franchise Practices Act which if enacted will assure the fair treatment of some 450,000 small businessmen in New Hampshire and throughout the country who have entered into franchise agreements.

The franchise relationship, where the franchisor agrees to grant the franchisee the right to sell goods or services, is relatively new in American commerce and the applicable law has not evolved sufficiently to protect the parties involved. Abuses in the franchisor-franchisee relationship have been well documented in court cases and congressional hearings over the last several years. The worst abuses arise from the power of the franchisor to terminate the agreement regardless of the efficiency or success of the franchise.

The company granting the franchise can end the agreement without notice and without compensating the franchisee for the time and money spent in building up his business. Unless the termination violates the antitrust laws, the small businessman has no legal recourse. Even in cases of antitrust violations, the small businessman, with minimal financial resources available to him, must prove that he was actually threatened with termination if he did not go along with the franchisor's suggested prices, products, et cetera.

Recently an automotive parts dealer, who had a terminate-at-will contract with his supplier, was asked to participate in two new buying programs. He refused and his contract was terminated immediately. Example after example of unjustified franchise terminations such as this have been cited, yet few reform measures have been taken. Only strong national standards can remedy the injustices in franchising and adequately protect the competent, successful small businessman.

The legislation we are proposing only covers terminations for other than good cause. It will not protect inefficient franchises, but it will protect small businessmen by giving them the right to make basic business decisions without fear of losing their businesses.

The purpose of the bill is to correct inequities in certain franchise practices, to provide franchisors and franchisees with evenhanded protection from unfair practices, and to provide consumers with the benefits resulting from competition in franchised industries. The act prohibits the termination or nonrenewal of franchises unless the franchisee fails to substantially comply with reasonable and essential requirements of the franchise agreement. The franchisor could also terminate a franchise if he is withdrawing all of his business from a specific geographic area.

Written notice of intent to terminate would have to be given to the small businessman and, in the event of an illegal failure to renew an agreement, the franchisor would be required to pay reasonable compensation for the value of the business.

Prompt action on this legislation is necessary to assure that small businessmen are granted full protection of the law. It is necessary to equalize the bargaining positions of franchisees and franchisors. And most importantly, it is necessary to protect people who have spent lifetimes building up businesses against losing them without notice or compensation.

Mr. BAYH. Mr. President, it is a pleasure to join with Senator McINTYRE in introducing the Franchise Practices Act.

Mr. President, while all of us remember when franchising was a novel business technique, it has now become a dominant force in our economy. The franchising industry has now grown to $200 billion, and there are nearly 40,000 franchises in the United States.

There is no question, Mr. President, that franchising has brought many benefits to the American people. A large variety of quality goods and services have been provided in a reliable manner across the country. From fast foods to gas stations, from business services to real estate, franchised operations are in place servicing millions of our citizens.

Despite its benefits franchising does present some difficult public policy problems, however, and the growth of the industry makes it imperative that those problems be addressed. Particularly, we must examine the relative inequality between a franchisor and a franchisee once a franchise relationship has been established.

The franchisee, usually a small businessman who invests a sizable sum in purchasing a franchise, is constantly under the threat that his contract will be cancelled or not renewed. If such an event occurs his investment and the product of his efforts is irretrievably lost. His business simply ceases to exist.

The legislation we introduce today is directed to this problem. It will make certain that there will be fairness in the franchise relationship and that franchises are not arbitrarily cancelled. Specifically, the bill will:

First, define the franchise relationship;

Second, require notice to franchisees if a franchisor determines to terminate or not renew a franchise contract;

Third, set conditions for the termination or refusal to renew a franchise relationship;

Fourth, require a franchisor to compensate a franchisee if he fails to renew for other than good cause;

Fifth, establish civil remedies in U.S. district courts for violations of the bill;

Sixth, encourage arbitration of disputes regarding franchise relationships; and

Seventh, prohibit a franchisor from discriminating unreasonably between franchisees.

I believe that this bill would solve the most pressing problems facing the franchise system. I hope, Mr. President, that my colleagues will join with me in pressing for its prompt passage. We simply cannot permit over 400,000 small businesses to live in danger of arbitrary actions by their franchisors.

S. 2135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Franchise Practices Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) A substantial amount of useful business activity in and affecting interstate commerce is today carried on and conducted pursuant to franchise agreements or relationships between franchisors and franchisees.

(2) Such agreements and relationships are beneficial to the economy, the enhancement of commerce, and the promotion of competition because they provide a means for combining centralized planning, direction, and standard-setting on the part of the franchisor with local decision making, initiative, and capital formation on the part of the francnisee, in a way that appears to be as effective or more effective than commercial arrangements based on principal and agent relationships.

(3) Because the franchise relationship in its present form is a relatively new one the law applicable thereto has not evolved sufficiently to protect adequately the parties thereto and to insure against overreaching, unjust enrichment, and unjustifiable termination. The law applicable to franchise agreements and relationships should not be traditional agency and contract law doctrines to the extent that such doctrines permit inequities to occur and fail to provide sufficient remedies for conduct that should, in this context, be characterized as wrongdoing.

(b) PURPOSES.—It is therefore declared to be the intent of Congress in this Act to provide certain remedies to franchisors and franchisees to assure fair dealing, to protect franchisees from inequitable practices, and to guarantee to consumers the greater benefits that would flow from more equitable franchise agreements and relationships.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "antitrust laws" means the Sherman Act (15 U.S.C. 1 et seq.); the Clayton Act (15 U.S.C. 12 et seq.); the Federal Trade Commission Act (15 U.S.C. 41 et seq.); the Wilson Tariff Act (15 U.S.C. 8 and 9); and the Act of June 19, 1936, ch. 592 (15 U.S.C. 13, 13a, and 212), as amended;

(2) "franchise" means a relationship in or affecting interstate commerce—

(A) that is established and maintained by contract, agreement, lease, or any other written or oral, express or implied, arrangement or understanding between the parties thereto;

(B) pursuant to which one party (the franchisor) grants, and a second party (the franchisee) receives, the right to, or permission, to sell, to offer to sell, to provide, or to distribute in commerce certain goods or services in return for the performance of certain obligations and on certain terms and conditions;

(C) that is characterized by such franchisee substantially associating its business with that of such franchisor through the use of the latter's trademarks, service marks, trade names, commercial symbols, standards, and/or advertising; or that involves a representation by such franchisor that it will extend more than nominal assistance to the franchisee with respect to such franchisee's business organization, management, promotional activities, marketing, operational plans and methods, and/or the resolution of other business problems; and

(D) in which the annual gross volume of the franchisee is equal to or more than $25,000.

Such term includes any such relationship pursuant to which the franchisee is granted the right, or permission, to sell or to negotiate, on behalf of or in the name of the franchisor, the sale of additional such franchises. The term does not include any commercial relationship under which a person is granted the right or is permitted to offer, sell, or distribute, on a commission or consignment basis, goods or commodities manufactured, processed, or distributed by another person and bearing the trademark, service mark, trade name, or other identifying symbol or name owned or controlled by such other person.

(3) "good cause", with respect to the termination, attempted termination, or failure to renew a franchise by a franchisor, means—

(A) a failure by the franchisee involved to substantially comply with those requirements imposed by a franchise which provisions are both essential and reasonable;

(B) bad-faith conduct or unjustified and unreasonable failure to act, by the franchisee involved with respect to the carrying out of the terms of such franchise;

(4) "market area" means the geographic zone or area within which a franchisee is granted exclusive or special rights to sell or distribute any goods or services covered by the applicable franchise;

(5) "marketing areas withdrawal" means a cancellation, failure to renew, or other termination of a franchise by a franchisor for the purpose of enabling such franchisor to withdraw entirely from the business of granting, organizing, supplying, or directing franchises within a multi-State region, a State or a standard metropolitan statistical area. There is good cause for such a withdrawal or termination if—

(A) it is not in violation of any of the antitrust laws;

(B) there is no subsequent commercial reentry by such franchisor into such region, State, or area within five years thereafter; and

(C) such franchisor pays such franchisee a reasonable compensation for the value of the latter's business (including, but not limited to, goodwill) or provides such franchisee, with the latter's consent, with a new and equivalent franchise for a different market area; and

(6) "State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

REQUIREMENT OF NOTICE

SEC. 4. (a) Except as otherwise provided in subsection (b) of this section, no franchisor who is doing business in or affecting interstate commerce, shall cancel, fail to renew, or otherwise terminate a franchise unless he furnished prior notice thereof to each franchisee affected thereby, pursuant to this subsection. Such notification shall be in writing and shall be sent to each such franchisee by certified mail not less than ninety days prior to the date on which such franchise will be so terminated. Such notice shall contain a statement of intent, together with the reason thereof; the date on which such action shall take effect; and a statement of the remedy or remedies available to such franchisee under this Act, including a summary of the applicable provisions of this Act.

(b) Notwithstanding the provisions of subsection (a) of this section, a franchisor may cancel, fail to renew, or otherwise terminate a franchise at any time—

(1) in order to protect against an imminent danger to public health or safety;

(2) in the event of insolvency, bankruptcy, or receivership proceedings involving such franchisee; or

(3) in the event of voluntary abandonment by the franchisee of the franchise business.

TERMINATION

SEC. 5. (a) A franchisor who is doing business in or affecting interstate commerce shall not terminate, cancel, or substantially change the competitive circumstances of a franchise relationship unless—

(1) such franchisor has good cause for such termination, cancellation or change; or

(2) such franchisor is affecting a marketing area withdrawal.

The provisions of this subsection are not applicable to a termination by failure to renew a franchise, in accordance with the terms thereof.

FAILURE TO RENEW

SEC. 6. (a) A franchisor who is doing business in or affecting interstate commerce shall not terminate a franchise by failure to renew unless—

(1) such franchisor has good cause for such failure to renew; or

(2) such franchisor is effecting a marketing area withdrawal upon the expiration of the terms of the franchises outstanding in the area involved.

(b) A franchisor who fails to renew without good cause shall pay to the franchisee involved a reasonable compensation for the value to the latter's business, including, but not limited to, goodwill.

JUDICIAL REMEDIES AND BURDEN OF PROOF

SEC. 7. (a) If a franchisor engages in conduct prohibited under this Act, a franchisee may maintain a civil action against such franchisor.

(b) The court shall grant such equitable relief as is necessary to remedy the effects of conduct which it finds to exist and which is prohibited under this Act, including declaratory judgment, mandatory or prohibitive injunctive relief, and interim equitable relief. The court may, unless required by this Act, award damages, including the value of goodwill. The court shall, if such suit is successful, direct that costs, including reasonable attorney and expert witness fees, be paid by the franchisor. The court shall, if it finds that the franchisor has acted in bad faith in invoking the termination provisions of section 4(b) of this Act, award actual and punitive damages, as well as costs, as provided in this subsection.

(c) A civil action under this section may be brought, without regard to the amount in controversy, in the district court of the United States for any judicial district in which the franchisor against whom such suit is maintained resides, is found, or is doing business. No such action shall be maintained unless commenced within two years after the cancellation, failure to renew, or other termination of the franchise, unless the franchisor has allegedy re-entered the marketing area after having effected a marketing area withdrawal, in which case no such suit shall be maintained unless commenced within two years of such alleged re-entry.

(d) In any civil action brought pursuant to section 4(b) or sections 5 or 6 of this Act, the burden of proof shall be upon the franchisor.

PROHIBITION ON WAIVER OF RIGHTS AND ARBITRATION

SEC. 8. (a) Except as provided in subsection (b) of this section, any condition, stipulation, provision, or term of any franchise agreement waiving any rights granted under this Act or relieving any person from liability imposed by this Act shall be void and unenforceable.

(b) Nothing contained in this Act shall limit the right of a franchisor and franchisee to agree to binding arbitration of disputes, if—

(1) the standards applied in such arbitration are no less than the requirements specified in this Act; and

(2) any arbitrator employed in such arbitration is chosen from a list of impartial

arbitrators supplied by the American Arbitration Association or other impartial third parties designated after the occurrence of the dispute.

RELATIONSHIP BETWEEN PARTIES

SEC. 9. A franchisor may not discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless, and then only to the extent that, any classification of, or discrimination between, franchisees is reasonable, is based on franchises granted at materially different times, and is reasonably related to such difference in time or is based on other proper and justifiable distinctions considering the purposes of this Act, and is not arbitrary.

ANTITRUST LAWS

SEC. 10. No provision of this Act shall repeal, modify, or supersede, directly or indirectly, any provision of the antitrust laws. This Act is and shall be deemed to be supplementary to, but not a part of, the antitrust laws.

EFFECT ON STATE LAW

SEC. 11. Nothing in this Act shall invalidate or restrict any right or remedy of any franchisee under the law of any State.

SEVERABILITY CLAUSE

SEC. 12. If any provision of this Act, or the application of any provision of this Act to any person or circumstances, is held invalid, the remainder of this Act, or the application of such provision to persons and circumstances other than those to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 13. This Act shall apply to any cancellation of, failure to renew, or other termination of any franchise occurring after the date of enactment of this Act.

By Mr. PELL (for himself and Mr. JAVITS):

S.J. Res. 83. A joint resolution to authorize the President to call a White House conference on the arts; to the Committee on Human Resources.

Mr. PELL. Mr. President, I am pleased to introduce today a joint resolution calling for a White House conference on the Arts.

I am very pleased that Senator JAVITS is a cosponsor of this resolution. He and I have worked together for so many years to help develop our Nation's cultural well-being. I am also pleased that our distinguished colleague in the House of Representatives, the majority whip, JOHN BRADEMAS, has taken the initiative of introducing this legislation in the other body.

A particular feature of this resolution is that it envisions State conferences preliminary to the White House conference. I believe that through this resolution we can increase participation by all who are concerned with our cultural life and focus on major issues involved.

The purpose of the resolution involves the further development of a cultural climate in which the arts can flourish, and I look forward to the implementation of the resolution.

As chairman of the Senate Subcommittee on Education, Arts and Humanities, as Senate sponsor of the original legislation which created the National Endowment for the Arts 12 years ago, and as one deeply concerned with the healthy and strong growth of the arts in our country, I believe this conference can have many beneficial results, as we seek to further develop the very highest quality in all the arts and in their great variety, and thus to enrich the quality of life for all of us.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 83

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that this Joint Resolution may be cited as the "1979 White House Conference on the Arts Act."

FINDINGS AND PURPOSES

SEC. 2. The Congress hereby finds and declares—

(1) that the development and encouragement of arts activity in the United States are of the utmost importance to the nation's life and heritage;

(2) that concern for the quality of life in the United States requires constant dedication, planning, and reflection on the state of the arts in the Nation;

(3) that the arts have an increasingly significant impact on the economic sector of our society;

(4) that it is appropriate to encourage maximum participation by artists, knowledgeable citizens, state and local government arts representatives, representatives of labor, industry, and business, arts educators, and experts in all fields of the arts in the process of insuring needed support for the arts among all parties concerned at Federal, state, and local levels; and

(5) that in order to implement these findings, it is desirable to call a White House Conference on the Arts.

WHITE HOUSE CONFERENCE ON THE ARTS

SEC. 3. (a) The President shall call a White House Conference on the Arts to be held no later than December 31, 1979. The purpose of the conference shall be to help develop a climate in which the arts can flourish, and recommendations to formulate an assessment of problems and issues relating to the arts, and to develop recommendations relating to the appropriate growth of the arts in all parts of the nation.

(b) The conference shall be planned and conducted under the direction of a Presidentially appointed National Conference Planning Council on the Arts headed by a Chairman (appointed by the President) from among the members of the Council. Each department and agency of the Federal Government shall provide such cooperation and assistance to the Council, including the assignment of personnel as may reasonably be required by the Council.

NATIONAL CONFERENCE PLANNING COUNCIL ON THE ARTS

SEC. 4. (a) There is hereby established a National Conference Planning Council on the Arts. The Council shall be composed of 15 members appointed by the President. The Council shall provide guidance and planning for the conference.

(b) (1) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to compensation received in his regular employment.

(2) Members of the Council, other than any member referred to in paragraph (1), shall receive pay at rates not to exceed the daily rate in effect for GS–18 in section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties (including time engaged in travel). While so serving away from their homes or regular places of business, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized in section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) The Council shall cease to exist 180 days, unless extended by the President, but in no event a period not to exceed one year, after the submission of the report required in section 4.

REPORT

SEC. 5. A report of the conference shall be submitted by the Council to the President and to the Congress no later than 180 days following the date on which the conference is called and shall include recommendations for any legislative action necessary to implement the recommendations in the required report. The Report shall immediately be made available to the public.

ADMINISTRATIVE PROVISIONS

SEC. 6. In carrying out the provisions of this joint resolution, the Council and the Chairman shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting the arts;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduce conferences on the arts before the conference;

(3) prepare and make available necessary background materials for the use of delegates to the conference;

(4) prepare and distribute such interim reports of the conference as may be appropriate; and

(5) appoint such individuals as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS–18 in section 5332 of such title.

GRANTS

SEC. 7. (a) From any sums appropriated under section 8, the Chairman with the approval of the Council, may make a grant to each state, upon application by the state arts agency of the state, provided that broad public participation is assured by such arts agency, in order to assist in defraying the costs of the state in participating in the conference program, including the conduct of at least one conference within the state.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.

DEFINITIONS

SEC. 9. For purposes of this joint resolution—

(1) the term "Chairman" means the Chairman for the National Conference Planning Council on the Arts;

(2) the term "conference" means the White House Conference on the Arts;

(3) the term "Council" means the National Conference Planning Council on the Arts; and

(4) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(5) the term "arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, and the arts re-

lated to the presentation, performance, execution of such major art forms.

Mr. JAVITS. Mr. President, today I join with our distinguished colleague, Senator PELL, to introduce a joint resolution calling upon the President to carry out a White House Conference on the Arts.

We have all heard that arts in this country are in a state of financial crisis. It is certainly true that many artistic organizations have critical financial problems. However, I think it is important to distinguish that this financial crisis is, in simple economic terms, a matter of rapidly growing demand outstripping supply. Cultural activities in this country do not have trouble, because no one cares about them. On the contrary, artistic activities face financial problems, because rapidly growing numbers of people want more and still more. Our finest performing arts companies could solve their financial problems if they were able to perform 1,000 evenings in a single year. Special exhibitions like the Chinese exhibit and the Treasures of Tutankhamen found potential viewers literally waiting for hours for an opportunity at a brief viewing. Local artistic activity, folk art, and other popular art forms are experiencing similar explosions of interest. Thus there are serious problems in cultural policy in spite of a broad based and rapidly increasing interest of the public.

I believe a White House conference is a unique way thoroughly to examine the issues facing the arts in the last quarter of the century. By inducing participation by artists, State, and local governments, representatives of labor and business, experts in artistic fields, and the general public, a White House Conference on the Arts can advise the Congress and the President on important policy issues.

Our joint resolution also calls for preceding conferences in each State, under the direction of State art agencies. Thus the national conference can benefit from a State-by-State review of the resources and needs of the arts in each State. Cooperating arrangements with Federal agencies with interest in the arts is also mandated by our resolution. This will assure that all interested Federal agencies play a role in this White House conference.

Mr. President, I believe this joint resolution is worthy of the support of our colleagues. The Human Resources Committee will expect to hold hearings to give this matter full consideration. I am hopeful that following this consideration, the committee and the Senate will endorse this important opportunity for a national review of our policy in the arts.

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 76, a bill to amend title XVIII of the Social Security Act to authorize a payment under the medicare program for certain services performed by chiropractors.

S. 201

At the request of Mr. BURDICK, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 201, to amend title 39 of the United States Code.

S. 1556

At the request of Mr. HANSEN, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1556, relating to the maintenance of veterans' cemeteries.

S. 1585

At the request of Mr. CULVER, the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Kansas (Mr. DOLE), the Senator from New Hampshire (Mr. DURKIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1585, the Protection of Children Against Sexual Exploitation Act.

S. 1821

At the request of Mr. ROBERT C. BYRD (for Mr. HUMPHREY), the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1821, the Athletic Opportunities Assistance Act.

S. 1868

At the request of Mr. MELCHER, the Senators from Nevada (Mr. CANNON and Mr. LAXALT) and the Senators from Utah (Mr. GARN and Mr. HATCH) were added as cosponsors of S. 1868, to expedite issuance of Federal permits.

S. 1919

At the request of Mr. GRAVEL, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1919, to amend the Headstart-Follow Through Act.

S. 2009

At the request of Mr. DOMENICI, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2009, the home care services bill.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Utah (Mr. GARN), the Senator from North Carolina (Mr. HELMS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

AMENDMENT NO. 986

At the request of Mr. PERCY, the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. HELMS), the Senator from Indiana (Mr. LUGAR), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of amendment No. 986, intended to be proposed to H.R. 8444, to establish a comprehensive energy policy.

AMENDMENT NO. 988

At the request of Mr. FORD, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of amendment No. 988, intended to be proposed to amendment No. 862 to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENTS SUBMITTED FOR PRINTING

DISTRICT OF COLUMBIA APPROPRIATIONS, 1978—H.R. 9005

AMENDMENT NO. 1005

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (H.R. 9005) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1978, and for other purposes.

AMENDMENT NO. 1024

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. MAGNUSON, Mr. NUNN, Mr. WEICKER, Mr. TALMADGE, Mr. STONE, Mr. SPARKMAN, Mr. EASTLAND, Mr. RANDOLPH, Mr. THURMOND, Mr. CHILES, and Mr. ALLEN) submitted an amendment intended to be proposed to the bill (H.R. 9005), supra.

INCREASED MINIMUM WAGE—S. 1871

AMENDMENT NO. 1018

(Ordered to be printed and to lie on the table.)

Purpose: To provide for an increased minimum wage at a fixed hourly rate.

Mr. WILLIAMS. Mr. President, the amendment which I am submittting today, on behalf of myself and Senator JAVITS would amend S. 1871, the proposed minimum wage bill. S. 1871 as reported includes an automatic "indexing" mechanism for adjusting the minimum wage in future years. This indexing mechanism is one which, I believe, offers our best hope of insuring our minimum wage workers some measure of security and fairness in the wages they receive for their labors.

Nevertheless, we have received numerous expressions of concern about this provision, because it would operate automatically and might make it more difficult to alter the course of minimum wage changes in the future. These are issues which deserve careful consideration—consideration which they have been given by the Human Resources Committee.

However, during the consideration of his proposed legislation by the House of Representatives, the indexing provision was deleted from the bill. It is also obvious that there is considerable sentiment in this body for the House approach. In recognition of this sentiment and of the concerns expressed by many reputable business leaders as well as by others, I am now proposing with this amendment to delete the indexing provisions from S. 1871.

The initial minimum wage increase is the same increase which would take effect under the bill as it now stands, that is $2.65 per hour effective January 1, 1978. Thereafter, the minimum wage would be increased to $2.90 per hour effective January 1, 1979; to $3.15 per hour

effective January 1, 1980; and to $3.40 per hour effective January 1, 1981.

It is my strong conviction that these increases are the very least which we must do to provide fairness and security for our low-wage workers. They are modest increases, which may not bring full-time, year-round minimum wage workers up to the poverty level.

By Department of Labor estimates the poverty-level income for a nonfarm family of four in 1978 will be $6,417. The $2.65 minimum wage, however, will yield an income of only $5,512. Looking ahead to the benefits which will be provided by this bill, the cost of maintaining even a poverty-level standard of living might well outstrip the increases which we are proposing today. By 1981, when we propose to establish a minimum wage of $3.40, it is expected that the poverty-level income will be $7,429 per year. The $3.40 minimum wage will yield approximately $400 less than that amount.

Our great Nation should be able to provide a decent standard of living and decent wages for our full-time, year-round workers. We are striving to do just this with this legislation.

Mr. JAVITS. Mr. President, I am pleased that once again the chairman of the Human Resources Committee, Senator HARRISON A. WILLIAMS and I have been able to collaborate in our long-term effort to improve working conditions for all Americans. The amendment we have proposed today constitutes a fair and equitable increase over the next 4 years in the Federal wage floor established by the Fair Labor Standards Act. We have long shared this common objective and have only differed as to the means of achieving it—Senator WILLIAMS having been an advocate of indexing the minimum wage. I hope that the agreement we have reached as expressed in this amendment effectively will bring an end to the months of controversy over the indexing issue.

Although I am well aware of some risk to low-wage workers of legislative statutory increases, I concluded after careful study that indexing the minimum wage would be highly undesirable for U.S. workers and the U.S. economy as a whole.

Mr. President, I ask unanimous consent that the text of my individual views expressed in the report of the Human Resources Committee on S. 1871 be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATOR JAVITS

INDEXING THE MINIMUM WAGE

After careful consideration of the arguments put forth on both sides of the issue, I have concluded that it would be a serious mistake for the Congress to abandon periodic review of the statutory minimum wage rates in manufacturing. In my judgment the claimed benefits of indexing the minimum wage do not outweigh the serious risks to which our economy—and therefore all working Americans—would be exposed.

At the same time, I firmly believe that the minimum wage must be substantially increased. Unless the Congress promptly enacts a new series of increases to follow those enacted in the 1974 Amendments to the Fair Labor Standards Act, low wage workers will suffer a significant erosion of income and purchasing power in comparison to the present level of $2.30 per hour.

Accordingly, during consideration of S. 1871 in the Committee on Human Resources, I proposed, as an alternative to indexing, an increase in the minimum wage for all covered workers next year to $2.65 per hour, $3 an hour in 1979, and to $3.25 an hour in 1980. This schedule of annual increases is consistent with previous FLSA amendments and would provide even greater amounts than expected under indexing as proposed in the bill as reported by the committee: the same amount ($2.65 an hour) for the next year, but only $2.90 in 1979, and $3.15 in 1980.

In my judgment, the 40-year commitment of the Congress in the Fair Labor Standards Act to "the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers" compels us to regularly review the appropriate floor of wages in the U.S. economy, but by no means compels us to forgo this responsibility in favor of establishing a perpetually fixed relationship between the minimum wage and any particular indexing instrument. Indeed, even if indexing were sound conceptually, there is no cogent basis for selecting the average hourly wages of production workers in manufacturing as the sole basis for gauging future increases. Total reliance on this wage indicator ignores the relationship of the minimum wage to increases in the cost of living and the maintenance of purchasing power, the traditional argument for minimum wage increases. An effective solution clearly requires further study.

I believe our economy has entered upon a very sensitive and delicate stage in its recovery from the 1974–75 recession, during which inflationary expectations easily may be rekindled and a new wage-price spiral unleashed upon our country. If, indeed, our economy has entered a watershed in its evolutionary process, we will witness over the next two or three years either a return to stable, long-term noninflationary economic growth or a recurrence of erratic spasms of inflation and recession. There is ample evidence on hand to suggest that considerable inflationary potential is building up in the economy and that we must be vigilant in avoiding actions that might intensify these pressures.

In contrast with our experience in comparable postwar periods, this recovery has not yet become self-sustaining and has even shown recent signs of decelerating prematurely. The growth of employment this summer has slowed considerably relative to the earlier months of 1977; unemployment has remained around 7 percent and may increase in the coming months; the leading indicators have declined for three consecutive months, perhaps foretelling an upcoming pause; productivity in the private business sector actually declined in the second quarter, and at an annual rate of 1.4 percent; and unit labor costs—the principal indicator of the nation's underlying rate of inflation—rose to an annual growth rate of 7.7 percent in the second quarter.

Of all these dangers, the most serious threat, in my judgment, would come from the inflationary expectations that would be raised as a result of indexation. Recent Bureau of Labor Statistics data show that hourly compensation has begun to outpace productivity improvement by so wide a margin as to cause an unacceptable rate of increase in unit labor costs. The data show also that, for the first time since 1975, inflation has begun to erode gains in nominal dollar compensation.

PRODUCTIVITY AND COSTS: PERCENT CHANGE AT ANNUAL RATE (1ST QUARTER 1977 TO 2D QUARTER 1977)

Sector	Productivity	Hourly compensation	Unit labor cost	Real hour compensation
Private business	−1.4	6.2	7.7	−2.5
Nonfarm business	.4	7.4	6.9	−1.4
Manufacturing	3.0	6.7	3.6	−1.9

Clearly, unit labor costs are threatening once again to accelerate to a rate that could lead inexorably to rapid inflation, reduced purchasing power and recission.

In this context, I have concluded that indexation of the minimum wage could have serious adverse consequences for our economy. These effects would result directly from the rapidity with which gains in manufacturing wages and, implicitly, production costs, would be translated, in lock-step fashion, into increases in minimum wages and associated costs. While it is true that in some instances productivity gains might absorb manufacturing wage increases, the "spillover effect" of indexing in elevating unit labor costs in those industries characterized by lower productivity could be considerable.

Furthermore, the minimum wage is relied upon as a "floor" in some collective bargaining situations. In such circumstances, indexation of the minimum wage could create a mutually reinforcing cycle of interconnected wage increases unrelated to productivity improvements.

An equally important consideration is that the indexation of the minimum wage would be inconsistent with the firmly held position of the U.S. against indexing in international discussions. During the Paris Conference on International Economic Cooperation, the so-called North-South dialogue, to which I was a delegate, we took great risks in our relations with the developing countries when we successfully opposed the concept of indexation.

We opposed the demand of the developing countries for the indexation of the prices of the commodities and minerals they produce and export to the industrialized countries to those of the industrialized goods they import from the West. We particularly opposed the call of the OPEC countries for the indexation of the price of their oil exports to the price of the industrial goods they import.

Rather than preserving LDC purchasing power in real terms, indexation contributes to the continued inflationary spiral by institutionalizing price increases. The experience of many developing countries which have sought to link the various parts of their economies through indexation (e.g. wages and interest rates to prices, unrelated to productivity) has shown that it is almost always very difficult—if not impossible—to break these linkages when deflationary policies become necessary.

On the basis of these considerations, I am unable to support the provisions of this bill that would index the minimum wage to the average hourly wage in manufacturing. Congress needs to have the opportunity to examine from time to time the appropriateness of the Federal minimum wage level from the standpoints of equity and the economy. Where an increase is called for, as in the present situation, Congress can and should act accordingly.

AMENDMENT NO. 1019

Purpose: To eliminate lower gross volume of sales with regard to coverage of enterprises.

AMENDMENT NO. 1020

Purpose: To establish a fixed hourly minimum wage.

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted two amendments intended to be proposed by him to the bill (S. 1871), supra.

NATURAL GAS POLICY—S. 2104

AMENDMENT NO. 1006

(Ordered to be printed and to lie on the table.)

Purpose: To encourage voluntary conversion from natural gas to heavy petroleum fuel oils by electric powerplants.

Mr. JOHNSTON. Mr. President, today I am submitting for printing, amendment No. 1006 to the Pearson-Bentsen natural gas substitute. This amendment is intended to serve three important functions: first, release much needed additional natural gas into commerce; second, provide a market for the heavy, high sulfur crudes which are becoming prevalent domestically; and, third, provide incentives for refiners to retrofit existing capacity and to build additional capacity for refining heavy fuel oil from heavy, high sulfur domestic crudes.

All of us are aware of the present shortage of natural gas. During the winter of 1977, we witnessed school and factory closings all across our Nation. Hardest hit were the consuming States of the Midwest which are dependent upon the interstate pipelines for supply. According to the American Gas Association, curtailments of 27 major interstate pipelines during the first quarter of 1977 totaled 936.4 billion cubic feet of natural gas. Previous levels of curtailments had been 833.7 billion cubic feet in the last quarter of 1976 and 695 billion cubic feet in the last quarter of 1975. A study by H. Zinder & Associates prepared for the Federal Power Commission concluded that 1975 curtailments alone cost the Nation's consumers $4 billion.

In August 1977, the first barrels of relatively heavy, high sulfur Alaskan crude oil arrived in the continental United States. Unfortunately, under present U.S. policy, over 500,000 barrels per day of that crude oil cannot be delivered, refined and consumed domestically. In addition, heavy, high sulfur crudes are being left in the ground in California due to the lack of a market for that quality crude. Heavy, sour crudes in West Texas are suffering a similar fate. The glut of heavy crude on the West coast and the fate of the California and west Texas crudes is indicative of an important phenomenon which has not been addressed in the President's energy package. Domestic supply of sweet, light crude is being rapidly depleted. In short the future domestic supply of crude oil will tend to be heavy, sour crude. Heavy, sour crudes are uniquely suited for the production of heavy fuel oils. Refinery experts indicate that a barrel of Alaskan crude will yield 55 percent heavy oils from the bottom of the crude fractionator, while west Texas Intermediate crude will yield 26.3 percent residual fuel oil from a barrel of Alaskan crude as compared to a yield of 6.7 percent residual fuel oil from south Louisiana crude and California light crude. Simply stated then, heavy, sour crudes are most efficiently used to produce heavy fuel oils.

Yet, in spite of the increasing availability of heavy, sour crudes, two-thirds of our domestic refinery capacity cannot refine such crudes. Although retrofitting refineries with desulfurization equipment is a costly proposition, the cost of desulfurizing crude oil to an environmentally safe level is much less than the present cost of scrubbers for desulfurizing coal emissions. Unless a market is created for heavy fuel oils, no refiners can be expected to install the equipment necessary to refine our Alaskan crude.

A potential market for heavy fuel oil exists in the Southwest—a market whose potential can be realized almost immediately. According to a recent survey, major electric utilities in Texas, Louisiana, New Mexico, and Oklahoma now have 12,663.9 MW of capacity that can continuously burn heavy fuel oils—No. 5 and No. 6 fuel. An additional 4,289.5 MW can utilize 50 percent gas and 50 percent No. 5 or No. 6 fuel oil. I should also point out that the total capacity of these utilities is only 60,000 MW. Thus, almost 20 percent of the generating capacity of these States can use heavy fuel oil in their existing facilities.

This amendment proposes a rather simple, straightforward approach to the problems of natural gas shortage and unused domestic crude oil. Electric powerplants and major fuel burning installations which presently have natural gas supplies under contract and which presently have the ability to use heavy fuel oils will be allowed to sell voluntarily their natural gas supplies for the replacement cost of such heavy fuel oils. A recent study indicates that as much as 1.3 trillion cubic feet of natural gas could be released yearly under this amendment—an amount which is more than sufficient to compensate for the 936.4 billion cubic feet of curtailments which were suffered in the winter of 1977. This proposal would be fair to the customers of these utilities, because the utility, if it chose to sell natural gas under this provision, would be allowed to recover the full replacement cost of its gas. This proposal would be fair to the person who chose to buy such natural gas, because the cost of the gas—estimated to be less than $4 per thousand cubic feet—would be less than the price of SNG or LNG, the two alternate fuels. It should be noted that a capital outlay of over $3 trillion would be needed to produce 1 trillion cubic feet of SNG and the operating expense of such facilities would approach $3 million per day.

This proposal will not impede the administration's goal of coal conversion. Only existing powerplants with the ability to use heavy fuel oils could participate and the entire program would cease in 1989, a year before the mandatory date for coal conversion under S. 977. The proposal will not take domestic residual fuel oil from the east coast market. Rather, refining capacity in the Southwest and Midwest would be used for the heavy fuel oil production—refiners who find it uneconomic to ship their heavy fuel oil to the east coast market.

Mr. President, I urge my colleagues to take a close look at this proposal. I believe it offers a real opportunity to move much needed natural gas into commerce and to create an efficient use for our presently unusable glut of heavy, sour crude oils. I ask unanimous consent that the text of the amendment and the attached section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 9, line 17, strike the word "four" and insert in lieu thereof the word "five".

On page 16, add the following new section:

"To encourage voluntary conversion from natural gas to heavy petroleum fuel oils in major fuel burning installations and electric powerplants.

"Section 28. (a) In order to assure that electric powerplants and major fuel burning installations which voluntarily convert from natural gas to more plentiful heavy petroleum fuel oils are provided a market and receive just compensation for the owned and contracted for natural gas which is made available for other use by virtue of such conversion, the Commission shall, not later than ninety (90) days after the date of enactment of this Act, promulgate regulations which:

(1) encourage, where practical, the utilization of domestic heavy petroleum fuel oils in lieu of imported fuel oils where the existing electric powerplant or major fuel burning installation is already burning or using fuel oils, voluntarily, in order to make available such natural gas for other use;

(2) provide, for a period of not to exceed five (5) years and in no event beyond December 31, 1989, in cases in which the person owning or operating an electric powerplant or major fuel burning installation, existing as of the date of enactment of this Act, voluntarily burns or uses heavy petroleum fuel oils in existing boilers, combusters or other existing consumption facilities in order to make available such natural gas, for the purchase of such natural gas by a pipeline company for just compensation to all parties involved in the sale and transportation of such natural gas. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to,

(A) the cost of heavy petroleum fuel oil substituted for natural gas,

(B) the cost of fuel transportation, handling and storage,

(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however,* That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles, made in connection with conversion from natural gas to heavy petroleum fuel oil capability: *Provided further,* That, in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service; and

(3) provide that—

(A) such person voluntarily burning or using such heavy petroleum fuel oils and selling such natural gas to a pipeline, or

(B) any intrastate pipeline or producer supplier selling or transporting natural gas directly or indirectly to such person,

shall not be subject to regulation under the Natural Gas Act or as a common carrier un-

der any provision of Federal or State law by reason of making any sale or engaging in any transportation of natural gas under this section.

(b) the rules required to be promulgated under subsection (a) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(c) In order to implement this section only, any contractural provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas provided for by a Commission rule promulgated under subsection (a) of this section.

(d) For purposes of this section—

(1) the term "heavy petroleum fuel oil" includes No. 4, 5, or 6 fuel oil, petroleum pitch and other similar heavy petroleum refined products.

(2) the term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(3) the term "pipeline company" means any person engaged in the transportation of natural gas in commerce.

SECTION-BY-SECTION ANALYSIS

Subsection (a) states that the purpose of the amendment is to encourage the voluntary substitution of heavy petroleum fuel oils for natural gas as boiler fuel in electric powerplants and major fuel burning installations by providing owners or operators thereof with a market and replacement price for their natural gas. The section designates a method of implementing the purpose by providing Federal Energy Regulation Commission regulations which:

Paragraph (1) encourage the utilization of domestic heavy petroleum fuel oils wherever practical;

Paragraph (2) provides, for a period not to exceed five years, for the purchase of such natural gas at a price providing just compensation to the seller. Just compensation is defined to include the cost of the substituted heavy petroleum fuel oil; the costs associated with storing, transporting and handling it; compensation for the increased operating and maintenance costs and the losses of efficiency resulting from the fuel oil substitution; and a pro rata charge to compensate the seller for the average gas system costs involved in making the natural gas available for purchase. All intrastate pipelines involved in transporting such natural gas would also receive just compensation, defined to be their current ordinary transportation charges.

In order to avoid delays by the utilities and major fuel burning installations in converting to coal and in order to prevent dual conversions (gas to oil to coal), the paragraph limits this provision to existing installations and provides that the capital costs associated with substituting fuel oil may not be included in the computation of just compensation.

Paragraph (3) requires that no Commission action pursuant to this amendment shall subject intrastate producers, suppliers, and pipelines as well as any seller from regulation under the Natural Gas Act or as a common carrier under any provision of state or federal law.

Paragraph (4) provides for incremental pricing of such natural gas to low priority users.

Subsection (c) provides protection to the sellers of the natural gas against contractual provisions which prohibit such natural gas from being sold into or used in interstate commerce or to be commingled with gas which is sold or used in interstate commerce.

Subsection (d) defines the terms "heavy petroleum fuel oil", "local distribution company" and "pipeline company".

The just compensation provisions in this amendment present no conflict with Section 307 of S. 977, the coal conversion bill recently adopted by the Senate. Section 307 of S. 977 provides methods for compensating persons whose contracts are legally invalidated and disrupted under coal conversion orders issued pursuant to S. 977, including those situations in which persons are required to undergo considerable capital expenses to achieve such conversion.

AMENDMENT NO. 1007

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENTS NOS. 1008 THROUGH 1015

(Ordered to be printed and to lie on the table.)

Mr. PEARSON submitted eight amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1016 AND 1017

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1021

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGING, COMMITTEE ON HUMAN RESOURCES

Mr. EAGLETON. Mr. President, on Tuesday, October 4, 1977, beginning at 9:30 a.m. in room 1224, Dirksen Senate Office Building, the Senate Subcommittee on Aging will convene in order to receive public testimony on S. 1282—a bill to amend the Older American Act of 1965 to provide assistance for legal services projects for the elderly. Mr. President, the subcommittee wishes to inform those individuals and/or organizations interested in submitting written testimony to the subcommittee to contact Ms. Marcia McCord, (202–224–7653), staff director of the Subcommittee on Aging, no later than Monday, October 3, 1977.

REGULATORY FLEXIBILITY ACT

Mr. ABOUREZK. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee will hold a hearing on Senate bill 1974, the Regulatory Flexibility Act on October 7, 9:30 a.m., in the Russell Building, room 424.

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Tuesday, October 4, 1977, at 10 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Nicholas J. Bua, of Illinois, to be U.S. district judge for the northern district of Illinois, vice William J. Lynch, deceased.

Stanley J. Roszkowski, of Illinois, to be U.S. district judge for the northern District of Illinois, vice Richard W. McLaren, deceased.

Any person desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

COMMITTEE ON HUMAN RESOURCES

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Wednesday, October 5 and Thursday, October 6, 1977, on the cost, management, and utilization of human resource program evaluation.

In the course of the hearing the committee will oversee Federal expenditures for evaluative research applied to human resources programs. Of special interest will be the scope and nature of such research and the return to Federal agencies and the Congress for investments made over the past several years. Special attention will be paid to the utilization made of such research efforts by program managers and policymakers.

Persons wishing to testify or submit statements, please contact: Franklin Zweig of the committee staff, 224–9285.

ADDITIONAL STATEMENTS

AGING AMERICA

Mr. EAGLETON. Mr. President, despite a substantially increased Federal commitment to improving the lives of older Americans, there remains a pervasive, sometimes subtle, discrimination against the elderly. It is a discrimination of attitude.

When I assumed the chairmanship of the Senate Subcommittee on Aging almost 7 years ago, the Older Americans Act consisted largely of a program of grants to States, under which about $15 million was distributed among all the States and territories. Divided 56 ways, $15 million was a woefully inadequate sum.

Since that time, the total funding for programs under the Older Americans Act has increased about 47 fold—to $700 million in the coming fiscal year. But funding alone is not the answer. We must also strive to erase the stereotype

of the unproductive, slightly senile older person.

Never has it been more important to address this problem. At the turn of the century there were 3 million Americans aged 65 or older, comprising 4 percent of the total population. That proportion has now more than doubled, and more than 10 of every 100 Americans are aged 65 or older. Although the proportion is not expected to rise significantly in the coming decades, the absolute numbers of the elderly will continue to increase, and the projection is for about 30 million persons aged 65 or older by the beginning of the next century.

We must be increasingly concerned about the population structure of our society, and the effects of extension of life in our country and around the world.

Only recently have we begun to systematically study just what is the biological process of aging and what are the implications of extending life. We must also ask, what will be the relationship of older people to the rest of society? Will they be isolated in a barren existence, or will they be integrated into society?

Important as answers to these questions are, they cannot insure a change of attitude in our youth-worshipping society. That requires a sustained educational program. As a first step in that process I commend to my colleagues an article appearing in yesterday's Washington Post, "Aging America."

I believe that we must and can take the lead in insuring that the country will echo the words of Robert Browning's Rabbi Ben Ezra, "Grow old along with me, the best is yet to be."

Mr. President, I ask unanimous consent that the Washington Post article, "Aging America" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AGING AMERICA, ADAPTING OUR SOCIETY TO AN ERA OF LONG LIFE

(By Ken Ringle)

In Soviet Georgia, where people not uncommonly live more than a century, no one speaks of these people as "old" or "aged." The Russians refer to them as "long-living"—an emotionally neutral phrase from which Americans might profit.

For more and more we are a nation of relatively long livers ourselves—a culture from which medical technology has largely banished hunger and childhood disease and made possible the longest average life expectancy of any country in the world.

An American child born today can expect to live at least 71.3 years—24.3 years longer than a child born in 1900. Statistically, his chances of reaching age 94 are about the same—almost negligible. But what has changed dramatically is his chance of reaching 65—an age attained by only about 1 out of every 25 Americans at the turn of the century. Today 1 out of 10 Americans reach 65, and the average continues to inch upward.

By the year 2000, nearly 1 in every 5 people will be 65 or older. Their numbers will total close to 40 million people, more than twice the 1970 population of New York state or California.

Those numbers are about to wreak a profound change in our nation. What we are facing is what George L. Maddox, head of Duke University's Center for the Study of Aging and Human Development, calls "an emerging mismatch between our institutional arrangements in this country and that demographic fact—a mismatch we have not yet begun to come to terms with."

The ingredients and extent of the mismatch are staggering.

Born as a place of adventure, subdued by action rather than thought, the United States has always been a country of the young. In contrast to countries like China and Japan which showed great reverence for old people, even the native traditions here were less than supportive: Those too old to contribute to and follow the migrating Indian tribes were expected to wander off alone to starve.

Our medical philosophy has been geared toward keeping people alive (but not necessarily productive), our social institutions have been geared toward custodial rather than preventive care, our educational institutions have been geared toward vocational and professional training rather than lifetime learning, our transportation system has been geared to private vehicles rather than the public facilities on which the elderly must inevitably depend. Our suburban housing patterns have effectively shut the elderly out of our own lives and the lives of our children and our culture shuts them out of our minds by focusing on the immediate and the transient rather than that which endures.

Underlying our national life, in brief, has been the unstated assumption that old people weren't very important, they couldn't cope very well, and while we might owe them something in the way of social care, we didn't owe them much because there weren't very many of them and anyway they wouldn't be around too long.

The end of that assumption has been slow in coming. More than 10 years ago thoughtful economists were prophesying the impending bankruptcy of the social security system because of the growing number of old people. Most Americans who heard of the debate came away with the fuzzy notion that it somehow had to do with inflation. What it had to do with, of course, was the day when, thanks to the pill-born stabilization of our national birth rate, proportionately more people would be taking money out of the social security system than would be paying into it. Without major changes in the system, that day is not far off.

That threatened economic crunch, more than any other single factor, has been the moving force behind the current efforts to end mandatory retirement at 65.

It has also been the major force behind recent interest in the study of old age itself. For astonishing as it seems, though millions of man-hours have been devoted over the years to the study of how life begins, almost nothing had been done prior to 1950 on the study of how people change as it continues into the later years. What research was being done was almost entirely confined to the institutionalized aged—who, current studies show startlingly enough, amount to only about 6 per cent of all those over 65.

The reason for the lack was largely rooted in the notion that "life is a terminal disease" and that anyone past the age of about 60 was, in fact, in the process of dying.

Old people were stereotyped as feeble and sickly, senile and sexless—stereotypes that have become even sharper with many Americans in the age-segregated 1970s.

A year-long study of 180 school children by the University of Maryland's Center on Aging found that the children 3 to 11 typically viewed elderly people as "sick, sad, tired, dirty and ugly," and insisted that they themselves would never be old.

The stereotypes, the study found, were based on myths of aging centuries old, augmented in many cases by the treatment of old people in contemporary children's literature.

The most damaging thing about the aging myths is not, however, that they were believed by children but that in many cases they were and are believed by old people themselves.

"They are being told it's all downhill financially, it's all downhill sexually, it's all downhill intellectually," said Edward F. Ansello, associate director of the Maryland center, in making public the study last year. "They have this expectation of inevitable decline: If you live long enough you're going to be senile."

STRENGTH AND RESOURCEFULNESS

A growing body of research, however, continues to find no evidence that old age necessarily limits intellectual capacity, sexual activity or meaningful work.

The largest body of research has come from a longitudinal study of more than 200 elderly people performed over the past 20 years by the Duke University Center.

The study showed that far from meeting any depressing stereotype of decline, the vast majority of old people remained in good health, socially and sexually active, with reasonable financial security and good mental acuity until the final weeks of their life.

"The characteristics they seem to suffer most from," said Duke Center director Maddox, "is the tendency of society to treat them as though they are all alike."

Old people in fact are extraordinarily varied. The evidence suggests that rather than becoming more alike as they grow older, old people become, if anything, more varied. But basically, when studied over a long period, as they were in Duke's study, old people show remarkable continuity of character: If a person is a healthy, happy person at 50, he will probably be a relatively healthy, happy person at 80.

Many old people, of course, do undergo serious illness and other painful crises associated with old age, from forced retirement to the loss of a spouse.

But more significant than the crises, according to Maddox, is the extraordinary strength and resourcefulness they exhibit in meeting these challenges of later life. This is the true "wisdom of age"; the fruit of a lifetime of problem-solving and learning to deal with loss.

What negative changes are associated with age, the research shows, are primarily associated with speed and perception: Eyesight and hearing dim, and physical and mental reflexes slow down appreciably, making some tasks like driving unwise for the very old.

But most oldsters also demonstrate greater patience with tedious tasks, less tendency to boredom and an impressive ability to compensate for many of those qualities that have been diminished by age.

In contrast to a frequent stereotype, old people actually tend to be sick less frequently than younger people, possibly because of a lifetime accumulation of immunity to various illnesses.

When they are sick, however, the illness tends to be more serious and they take longer to recover.

As for senility, the Duke study indicates only about 15 per cent of all old people ever become senile, and the larger portion of those due to an ailment called Alzheimer's disease which pebbles the brain with bits of hardened tissue and neurofibulatory tangles. Senility, the research shows, is not the result of age itself, but one symptom associated with several different diseases.

"MEDICAL PESSIMISM"

The portrait of old age that emerges from the Duke research and that of other gerontologists around the country is that of a huge portion of the American population composed of immensely varied individuals with an enormous store of unused potential for contributing to contemporary society.

It is this portrait that has provided much

of the moral force behind current efforts to end mandatory retirement at age 65.

Beyond the retirement issue, however, lies an even more crying need—a need to rethink the very nature of our social institutions in the light of what we now know about the prospective numbers, the obvious needs and the demonstrated abilities of our growing population of old people.

Our national health care system, for example, is going to have to be radically changed, not because it would be a good idea, or because the traditional system hasn't worked, but because we can no longer afford to maintain even the inadequate system we have now.

In the process of concentrating our vast medical technology on conquering acute illnesses with dramatic impact, we have largely ignored the treatment of long-term, chronic illnesses and the concept of preventive care.

It makes a great deal more sense for the government to spend $5,000 on an individual over the course of his lifetime in preventing a chronic late-life illness than to spend $100,000 at the end of his life trying to pick up the pieces.

The Duke study and others demonstrate that much of the physical dysfunctioning usually associated with old age is actually the result of organic ailments which doctors won't take the time to diagnose and treat.

Gerontologist Robert N. Butler refers to this as "medical pessimism" toward the elderly—an inclination to treat any complaint as the inevitable concomitant of old age.

Part of this is due to physicians' natural fascination with "quick return" medicine. Old people's ailments are often more difficult and time-consuming to diagnose, and oldsters respond to treatment less quickly than the young.

But part of it may also be due, some gerontologists believe, to inadequate knowledge by the average physician about the metabolism of old people and how it functions. Too little is known about what constitutes "normal" aging.

There is some indication, for example, that some high blood pressure in old people may actually be needed to force blood through the less elastic vessels of the aged. When physicians prescribe medication to lower blood pressure, they may actually be restricting the blood flow to the brain, thereby bringing on senility.

As for senility itself, many of the mental aberrations attributed to it may be reversible symptoms brought on by a wide range of factors ranging from infection to malnutrition.

CHANGING INSTITUTIONS

It is obvious that a wider body of knowledge on the physiology of aging is needed. But needed even more is a national program of health care designed to carry that knowledge and the medical care it inspires to the people who need it most. Most gerontologists believe this can be done with a program of preventive care that keeps old people out of institutions and active in the community.

Twenty-eight years ago New York's Montefiore Hospital launched a program of home care for the elderly which featured regular visits to the homebound by doctors, physical therapists and social workers. In the years since, some 100 other hospitals in the nation have set up similar programs. Two years ago, Montefiore helped set up a day hospital program offering custodial care to elderly patients who have no one at home to look after them during the day.

Such programs could be encouraged by state and federal legislation as a more human and more successful alternative to Medicare-subsidized nursing homes, at less than half the cost.

Similar imagination is needed in a program of income maintenance in the face of inflation that is eroding fixed social security incomes to close to the poverty level. Many experts recommend placing a floor under retirement incomes, pegged to the actual cost of living, financed either by increased social security taxes or other state and federal funds.

Housing is another area which helps make it hard to grow old. When America was an agrarian nation, houses were larger and designed for an extended family of three or more generations. Old people never really retired, but contributed to the family unit and received from it as their abilities and needs warranted. The advent of social security and the FHA brought with it more familiar freedom and mobility but also spawned a proliferation of houses and a suburban lifestyle seldom conducive to home-based care of the elderly.

Many gerontologists, however, see a return to the extended family as an inevitable consequence of the aging of America. Some 80 per cent of the old people surveyed in Duke's 20-year study had at least one child living within a 30-minute driving time and most had significant interaction with their families.

Duke psychologist Daniel G. Blazer sees federal encouragement for program of family care as a natural outgrowth of the determined emphasis on family life in the current Carter administration. Such a program might take many forms, including rent, mortgage or construction subsidies for families caring for older relatives and tax incentive programs for home-based care of the elderly.

Such a concept, he said, would help end the sense of social isolation felt by many institutionalized old people and permit a return to the fruitful contact between young children and older relatives which has become increasingly a casualty of our age-segregated society.

Other institutions will also have to change. Legislators wavering in their support of public mass transit systems might contemplate what life will be like when thousands of their constituents—and they themselves—are too old to drive.

The educational community will have to rethink its long-term emphasis on youth and provide more in the way of creative, unstructured lifetime learning programs for people of all ages. Britain's "open classroom" program, which utilizes television and community learning centers as well as home programs, has been a model in this regard.

SIGNS OF PROGRESS

Much, of course, is being done. Included in this year's Labor-HEW appropriations bill is an unprecedented $500 million for spending under the Older Americans Act, chief vehicle for research, community services and nutrition programs for the elderly.

In addition to the main HEW appropriation, up $75 million from last year, funds are flowing toward the elderly along other routes. Among them:

Jobs: Two measures of Carter's economic stimulus package, signed into law last spring, are designed to help older workers find jobs. The total federal outlay: $160.5 million.

Housing: $82.5 million will be spent by the Community Services Administration to weatherize homes belonging to the poor, elderly and handicapped. Some $200 million will go to help low-income people pay for last winter's fuel bills and $100 million for continuation of a loan authority program for housing for the elderly.

Education: Some $2.7 million is going toward further development of "Over Easy," a public television series designed to inform, educate and entertain the elderly.

Research: $2 million has been appropriated for the Center for Studies of Mental Health of the Aging. The National Institute on Aging will probably get $39 million, an increase of $5 million from last year's funding.

This is hardly a complete list of the various federal appropriations aimed at the elderly but it is indicative of government expenditures in the area. Add on the enormous cost of Medicaid and Medicare benefits, Supplemental Security Income, food stamps and the like and the true cost of old age to our society begins to become apparent.

Then there is the organizational attack: the President's Council on Aging, HEW's Administration on Aging, a Federal Council on Aging, a House Select Committee on Aging and a Senate Special Committee on Aging.

But more crucial than the dollars and the committees and the institutional changes to the future of aging in America, gerontologists believe, is an attitudinal change on the part of the American public: an awakening to the realization that "ageism," like racism and sexism, endures through the sort of dull, insensitive thinking that debases both youth and old, and a challenge to make the increasing years of later life not only possible but enriching for every American.

It is the most brutal sort of self-interest for today's decision-makers to help do so. For the old people who will have to live with what we do or don't do today will include most of those reading this article.

ECONOMIC INDICATORS POINT TO CRISIS IN CARTER ECONOMIC POLICIES AND ECONOMIC TEAM

Mr. DOLE. Mr. President, I read yesterday, that the U.S. balance of payments set a record $4.6 billion deficit in the second quarter—the fourth deficit in a row—that the U.S. dollar fell to an alltime low for the second time in 2 days against the Swiss franc, and that the dollar declined against all major West European currencies. The Washington Post reported:

> The dollar is beset by what is regarded as America's disappointing economic performance lately.

The Dow Jones average of 30 industrials Wednesday fell 10.82 to 840.96 setting a 21-month low for the second time this week. Several other leading market indicators also reached their lowest levels in more than a year and a half.

CRISIS OF ECONOMIC LEADERSHIP

These events cause me serious concern and alarm. They come at a time when there is an apparent crisis of economic leadership in the administration's economic policies and economic team.

There is yet, after 8 months, little evidence or appearance of any long run economic policy or the creation of a stable economic team to develop such policies. President Carter's economic advisers are floundering through a patchwork of economic policies that are old, shopworn economic ideas tried and proven wrong in the 1960's.

Treasury Secretary W. Michael Blumenthal has been saying he is not concerned about the large deficit in the balance of payments. I wonder if Secretary Blumenthal still is not worried?

ECONOMY AT CROSSROADS

The U.S. economy is now at the crossroads. The correct actions now could lead us to a stable, noninflationary economy. Wrong policies now could lead us into trouble in the future and put our economy in rough shape by 1979 and 1980. How much longer must we wait before the President decides on an economic team and an economic policy?

LARGE TRADE DEFICITS

The large trade deficits and the floundering administration economic policies can only:

First, cause the American dollar to continue to fall in value against foreign currencies. Our dollar will weaken and depreciate in value, which is inflationary.

Second, cause an increase in the amount of American dollars held by foreign countries and foreign nationals through flooding the world with dollars.

Third, cause an increase in foreign investments in the United States.

Fourth, cause an immediate increase in the inflationary fires in the United States. As all our imports, including oil, cost American consumers more because of the declining value of the dollar.

Fifth, cause interest rates in the United States to go up in order to encourage foreign central banks, nationals and foreign central banks, nationals and foreign governments to hold dollars.

Sixth, cause eventually another serious round of worldwide inflation and instability. The entire world economy could be put in a precarious position.

The recent small increases in the Consumer Price Index I believe are only an illusion, the calm before the storm, created by a depressed farm economy.

The trade deficits could be reduced if the administration would adopt a more aggressive farm commodity export policy. I have urged Secretary Bergland on repeated occasions to implement programs at his disposal to increase agricultural exports through increased funding of Public Law 480, and a more aggressive export program under Commodity Credit Corporation credit.

The economic signals are pointing to a severe crisis in the American economy both at home and abroad.

The U.S. economy stands at the crossroads.

TRIBUTE TO LEO P. LEMIEUX

Mr. PELL. Mr. President, I am delighted today to bring to the attention of my colleagues the accomplishments of Mr. Leo P. Lemieux of Woonsocket, R.I., who was named "Humanitarian of the Year" by the Ancient and Mystical Order Rosae Crucis (AMORC) earlier this month.

Mr. Lemieux, founder and president of the Blackstone Valley Association for the Blind, was presented this international service organization's award because of his outstanding service and dedication to the handicapped and elderly of northern Rhode Island.

Mr. Lemieux began his organization, the Blackstone Valley Association for the Blind, in January 1975 as a special "self-help" group to integrate handicapped citizens into the life of their communities and inspire visually impaired persons to become active members of the community. All the officers, directors and trustees of BVAB were themselves blind.

He has also been the chief mover in bringing about a recreation center for the elderly and handicapped which opened in March of this year. The center was opened on a 1-day-a-week basis and served 10 residents of Woonsocket providing social activities, lunch, and door-to-door transportation. In August I was delighted to hear from Mr. Lemieux that the center is now open 4 days a week, soon to be 5, and is serving 400 persons per month from 6 different communities.

Mr. Lemieux is truly a remarkable man of unflagging spirit. Blind since 1969, he has been a leading voice in Rhode Island advocating ramps and safety devices to make public buildings accessible to handicapped people and street corners safe for blind pedestrians.

I can think of no one who has done more for or been more faithful to the handicapped and elderly of northern Rhode Island, and it gives me great pleasure to pay tribute to Leo Lemieux today.

I ask unanimous consent that an article appearing in the Woonsocket Call concerning Mr. Lemieux and his achievements be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEMIEUX NAMED HUMANITARIAN

A 42-year-old Woonsocket man, who has fought the image that handicapped people are "helpless," will be presented an humanitarian award tonight by a local representative of an international service organization.

Named "Humanitarian of the Year" by the Ancient and Mystical Order Rosae Crucis (AMORC) Leo P. Lemieux of 232 College Ave., will receive the citation at 7 p.m. at the Blackstone Valley Association of the Blind (BVAB) headquarters, 17 Federal St., in the basement of the First Methodist Church.

More than 100 people, including representatives of the BVAB and members of the Roger Williams Chapter, AMORC, the local branch of the California-based organization, are expected to be on hand for the ceremonies, according to Lawrence J. Keefe of 86 Arnold St., an AMORC member, who will present the award.

Lemieux, founder and president of the BVAB, was nominated for the award by the local chapter because of his work for handicapped and elderly people in the Blackstone Valley area, Keefe said.

Blind since 1969, Lemieux is an active local lobbyist for ramps and traffic safety devices to make public buildings accessible to handicapped people and street corners safe for blind pedestrians.

He calls many of the city's street corners "nightmares" and recently appeared before the city council asking that a ringing device be installed at the corners to signal safe walking times for people unable to read crosswalk signals. One of the most hazardous intersections in the city for handicapped people is located at Depot Square, which he refers to as "Nightmare Square."

Lemieux, the husband of the former Madeleine Richards of Woonsocket, has also been a principal mover in the renovation of the Federal Street headquarters into a recreation center for handicapped people. When the recreation center opened in March on a once-a-week basis only 10 people were being served by the center, Lemieux said. He estimated that with the recent expansion into Pawtucket, his hometown, and the Massachusetts area some 500 people will be reached through the center, which is now open five days a week.

"I have a happy, tired feeling at the end of the day," said Lemieux, who overcame his own visual handicap. A former career Army man, he lost vision in his left eye during the Korean War. The blindness then spread to his right eye through a disease, which eventually left him blind. He was discharged from the service in September of 1966 and has lived in Woonsocket since then.

WOONSOCKET SALE

Mr. and Mrs. Walter Nikolyszn of Pawtucket have purchased from Mr. and Mrs. Antonio Rosario a six-room ranch home, and 11,136 square feet of land, at 106 Grandview Ave., through the Richard Palreiro Agency.

FORMER SECRETARY OF STATE HENRY A. KISSINGER SPEAKS ON CONTINUITY AND CHANGE IN AMERICAN FOREIGN POLICY

Mr. GOLDWATER. Mr. President, on Monday, September 19, former U.S. Secretary of State Henry A. Kissinger delivered The Arthur K. Salomon Lecture at New York University. This was the occasion for a major address by Dr. Kissinger on the pertinent subject of "Continuity and Change in American Foreign Policy."

As Dr. Kissinger explained it, he did not attempt to appraise the current foreign policy of President Carter and Secretary of State Vance, but rather chose to speak "about some of the philosophical underpinnings from which tactical decisions derive." In his words, these include: "the nature and purpose of bipartisanship in our democracy; the challenge of pursuing our moral values, especially human rights, in a complex world; and the relationship of issues such as human rights to others, the so-called problem of linkage."

On the issue of human rights, Dr. Kissinger stresses our defense of human rights is not simply a humanitarian program, but "has in itself a political and even strategic significance" because it is an essential component of our competition with totalitarian systems.

Dr. Kissinger further reminds us: "In the contemporary world, it is the totalitarian systems which have managed the most systematic and massive repression of the rights of men."

From this, he recommends: "We must therefore maintain the moral distinction between agressive totalitarianism and other governments which, with all their imperfections, are trying to resist foreign pressures and which thereby help preserve the balance of power in behalf of all free peoples."

Mr. President, I know that many of my colleagues will be interested in the profound thoughts expressed by Dr. Kissinger and for this reason I ask unanimous consent that the entire text of his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

CONTINUITY AND CHANGE IN AMERICAN FOREIGN POLICY

Distinguished guests, ladies and gentlemen: Your request that I deliver a "major appraisal" of current American foreign policy presents me with a dilemma—a difficult choice between your interest in the subject on the one hand and the imperatives of responsibility on the other. Despite my notorious humility, it would be tempting for me to speculate with you about how I might have dealt with this or that tactical situation if I had been in office these past eight months. But those who have borne the responsibility of high office know too well the complexities, the ambiguities and the anguish of charting

our nation's course in a turbulent period. The new Administration deserves the opportunity to develop its policies without harassment or second-guessing. Eight months is after all but an instant in the life of nations.

President Carter and Secretary of State Vance are on the verge of several weeks of delicate and important negotiations—with the Soviet Union on strategic arms limitation, with the Middle East foreign ministers on peace in that crucial area, and with other leaders attending the United Nations General Assembly on a variety of complex issues. The hopes of all Americans go with them. The success of the Administration in promoting peace and progress will be a success for the nation. Any setbacks of the Administration would affect the lives and prosperity of all Americans. When a performer is taking careful and complicated steps on a high wire, it is profoundly inappropriate, not to say dangerous, for a spectator in a seat far below to shout at him that he is putting his toe in the wrong place.

So I would like to speak to you today about some of the philosophical underpinnings from which tactical decisions derive: the nature and purpose of bipartisanship in our democracy; the challenge of pursuing our moral values, especially human rights, in a complex world; and the relationship of issues such as human rights to others, the so-called problem of linkage.

THE NATURE OF BIPARTISANSHIP

The world marvels at America's extraordinary rebound from the agony of Vietnam and the constitutional crisis of Watergate. We have emerged from these traumas with our democratic institutions flourishing, our public debates vigorous, our economy expanding, our pride in our country intact. Our friends around the world were heartened by this, for they know better perhaps even than we do how vital a stake they have in America's confident leadership.

That leadership is not—nor should it be—the esoteric concern of specialists; it is the means by which the nation serves its interests and pursues its highest goals and it affects all other nations. For thirty years the world balance of power, the cohesion of the democracies, the health of the world economy, the prospects for growth in Africa, Asia and Latin America, and the hopes for freedom everywhere have been sustained by the United States.

We have learned through many crises that upheavals thousands of miles away can threaten American lives or jeopardize American prosperity. The 1973 Middle East war ultimately forced us into a military alert. The oil embargo, lasting six months, cost half a million jobs and ten billion dollars in national output; it set the stage for a serious recession, in this country and worldwide. And the abrupt quadrupling of oil prices which followed added at least five percentage points to the price index, contributing to our worst inflation since World War II. We have not yet returned to the high growth rate and relatively low inflation which we enjoyed before 1973.

Now that the bitter passions of the foreign policy debate of the last ten years are hopefully behind us, it is time for thoughtful deliberation on what are, or should be, our basic premises about the world in which we find ourselves today.

Our foreign policy difficulties are often described as the legacy of Vietnam. But the Vietnam ordeal was not a cause but a symptom. The late 1960's, coinciding with Vietnam, marked the end of the period when America was overwhelmingly more powerful than any other nation, when we could assault problems alone and entirely with our own resources, when American initiatives were accepted without serious debate, when we could believe that our own domestic experiences, like the New Deal, were the automatic blueprint for economic development and political progress abroad. It marked above all the end of the era when we could imagine that any problem could be resolved once and for all and that solutions once achieved would permit us to end our international exertions.

Vietnam was a catharsis. It taught us that our power while great is finite, that our influence though crucial can be effective only if we understand our priorities and the world in which we live.

For a century and a half geography and resources combined to give us the luxury of waiting until threats became almost overwhelming before we committed ourselves. We always had the opportunity to compensate for our tardy involvement by the massive deployment of physical power. We could largely leave to others the burden of the day-to-day decisions that over time spelled war or peace, security or fear, for the global system and even for ourselves. We were spared the continuing agony of inescapable decisions that other nations always faced to assure their survival and their values. More than any other nation in history, we could avoid the dilemma of reconciling the ideal with the practical, of accommodating to limited means and contingent ends.

The post-World War II era was a remarkably creative period of American foreign policy. But our initiatives were explicitly justified as temporary measures to restore an underlying equilibrium. The Marshall Plan, our alliance commitments overseas, our international economic programs were all conceived as dealing with temporary emergencies which once overcome would excuse us from permanent direct involvement abroad.

The world of today is not the world of a generation ago. Geography no longer assures security. The American nuclear monopoly has given way to nuclear balance and to proliferating weapons capabilities. The United States is now as vulnerable as any other nation; indeed nuclear weapons confront all peoples everywhere with a threat to their survival unknown to any previous generation.

The world economy has become interdependent; our prosperity is to some extent hostage to the decisions on raw materials, prices and investment in distant countries whose purposes are not necessarily compatible with ours.

And the structure of relations between nations has fundamentally altered. In 1945, fifty-one nations joined to create the United Nations; today it comprises nearly 150 nations—many ideologically hostile. Just as two world wars shattered the Europe-oriented order of the last two centuries, so the postwar system of Cold War bipolarity has come apart—and a new pattern of world order must be shaped to take its place.

An increasing responsibility has fallen upon the United States. Without our commitment to international security, there can be no stable peace; without our constructive participation in the world economy there can be no hope for economic progress; without our dedication to human liberty the prospect of freedom in the world is dim indeed.

For the first time in American history we can neither dominate the world nor escape from it. Henceforth this country will be engaged in world affairs by reality and not by choice. America must now learn to conduct foreign policy as other nations have had to conduct it—with patience, subtlety, imagination, and perseverance.

The most fundamental challenge is thus not to our physical resources but to our constancy of purpose and our philosophical perception. Precisely because we can no longer wait for dangers to become overwhelming, they will appear ambiguous when they are still manageable. The case for ratifying the Panama Canal Treaties, for example, is not an immediate present danger in Panama but the need to forestall a united front of all the countries of Latin America against what they consider an American attempt to maintain inequity by force. The issue in Angola two years ago was not a direct threat to our security, but the long-term danger of allowing Soviet surrogate forces to intervene globally to tip the scales in local conflicts. The argument for a forthcoming American attitude in the North-South Dialogue is not to yield to the admittedly limited strength of the less-developed nations but to prevent the polarization of the world into a small minority of the rich isolated in an ocean of poverty and resentment.

It is a paradox of the contemporary world that if we wait until these dangers become realities we will lose the chance to do anything about them. At the moment when we still have great scope for creativity the facts are likely to be unclear or ambiguous. When we know all the facts, it is often too late to act. This is the dilemma of statesmanship of a country that is irrevocably engaged in world affairs—and particularly of one that seeks to lead.

America, therefore, can no longer afford the luxury of oscillating as it once did between brooding isolation and crusading intervention. Our biggest foreign policy challenge is to shape a concept of our international role that the American people will support over the long term; we must avoid dramatic swings between exuberance and abdication. Our responsibility is unending; our accomplishments are likely to be ever-tenuous. We must change our approach to international affairs from the episodic to the permanent; from the belief in final answers to the realization that each "solution" is only an admission ticket to a new set of problems.

In such an environment the conduct of foreign policy requires a fine balance between continuity and change. This is not easy for our democracy. Our two-party system, our consititutionally mandated balancing and separation of powers, our open political process create temptations for the simplified answer, the nostalgic withdrawal, or the moralistic sense of superiority.

Yet this free and open political process is also our greatest source of strength. The alternation of parties in office by free elections guarantees constant renewal, the infusion of fresh ideas and new blood into our national life. It presents a striking contrast with the gerontocracies that run the Communist world. These systems have no lawful regular process for replacing leaders; it is no coincidence that the stagnation of their ageing leadership goes hand in hand with plodding bureaucracy and intellectual sterility, punctuated by periodic crises over succession.

The problem which our society faces is on the whole a far happier one. Insuring continuity amidst the constant process of renewal turns bipartisanship from a slogan into an imperative.

To be sure, all Administrations sooner or later appeal to the spirit of bipartisanship. This is partly because they come to share much the same perception of the nation's permanent interests as their predecessors and partly because bipartisanship can be a useful shield against excessive criticism. There is a natural tendency for the party in power to consider any criticism as excessive. I know these tendencies from experience, having indulged them myself. But the fact that there are also tactical benefits to the appeal to bipartisanship does not change the reality that to the world at large we are one nation which can have only one government.

And we are not just any nation. Our country cannot uproot its whole foreign policy every four or eight years—or imply that it is doing so—or else America will itself become a major factor of instability in the

world. We must understand that foreign leaders who design their programs around our policies are staking their domestic positions on our constancy. Radical shifts in our course inevitably affect the stability of especially friendly governments. If these changes are seen to occur largely for domestic effect, if our elections come to determine as well the stability of foreign governments, no nation that has a choice will readily cooperate with us.

Of course a foreign policy that stresses continuity above all else would be stultifying and would in time be overwhelmed by events. A new Administration is obviously not elected to carry out all the policies of its predecessor. But change in our policy should be seen as reflecting new circumstances and not change for its own sake. By the same token, critics have an obligation to see to it that our foreign policy debates reflect disagreements on major substance, not a quest for partisan advantage or tactical second-guessing.

If our foreign policy is well conceived, it must reflect fundamental national purposes and not personal idiosyncrasy. Neither the Administration nor the opposition should nurture differences to score debating points. Both have an obligation to make clear that our foreign policy is a shared national enterprise. I might add parenthetically that bipartisanship would come easier if each new Administration resisted the quadrennial temptation of implying that conceptual insight, creativity and moral awareness begin anew every four years on January 20. Nor should history be rewritten in ways more suitable to faculty debates than to serious national dialogue.

The Administration, when it pursues the national interest, is entitled to the full measure of support from all who cherish the future of the country. For its challenges are great. The new Administration assumed responsibility when hopeful progress was being made in most areas of foreign policy—the Middle East, SALT, relations with both the industrialized and the developing world. But it faces a tremendous task in each, and in continuing to shape the new international order. We are on a journey no single Administration can possibly complete, whose beginning is an understanding of reality and whose goal is a better and more peaceful life for future generations.

MORALITY AND PRAGMATISM IN AMERICAN FOREIGN POLICY

In this spirit, I would now like to turn to one of the basic challenges of foreign policy, the perennial tension between morality and pragmatism. Whenever it has been forced to wield its great power, America has also been driven to search its conscience: How does our foreign policy serve moral ends? How can America carry out its role as humane example and champion of justice in a world in which power is still often the final arbiter? How do we reconcile ends and means, principle and survival? How do we keep secure both our existence *and* our values? These have been the moral and intellectual dilemmas of the United States for 200 years.

From the time of the Declaration of our Independence, Americans have believed that this country has a moral significance for the world. The United States was created as a conscious act by men and women dedicated to a set of political and ethical principles they held to be of universal meaning. Small wonder, then, that Santayana declared that "being an American is, of itself, almost a moral condition."

At the same time, since Tocqueville, it has been observed that we are a pragmatic people, commonsensical, undogmatic, undoctrinaire—a nation with a permanent bent to the practical and an instinct for what works. We have defined our basic goals—justice, freedom, equally, and progress—in open and libertarian terms, seeking to enlarge opportunity and the human spirit rather than to coerce a uniform standard of behavior or a common code of doctrine and belief.

This duality of our nature is not at war with reality. For in international politics, our morality and power should not be antithetical. Any serious foreign policy must begin with the need for survival. And survival has its practical necessities. A nation does not willingly delegate control over its future. For a great power to remit its security to the mercy of others is an abdication of foreign policy. All serious foreign policy therefore begins with maintaining a balance of power—a scope for action, a capacity to affect events and conditions. Without that capacity a nation is reduced to striking empty poses.

But equally, our nation cannot rest its policy on power alone. Our tradition and the values of our people ensure that a policy that seeks only to manipulate force would lack all conviction, consistency, and public support.

This is why America has been most successful in our relations with the world when we combined our idealism and our pragmatism—from the days when our Founding Fathers manipulated the monarchical rivalries of Europe to secure our independence and launch the great democratic experiment to the creative American initiatives after the Second World War such as the Marshall Plan. Our modern efforts to achieve strategic arms limitation, peace in the Middle East and Southern Africa, the opening to China, recasting international economic relations based on the principle of interdependence—have also served both moral and practical ends and can be sustained only by a combination of moral conviction and practical wisdom.

THE ISSUE OF HUMAN RIGHTS

These considerations come to bear powerfully on the question of the relationship between human rights and foreign policy. The world needs to know what this country stands for. But we cannot rest on this; we must know how to implement our convictions and achieve an enhancement of human rights together with other national objectives.

Neither the issue nor the concern are new:

It was under the two previous Administrations that Jewish emigration from the Soviet Union was raised from 400 a year in 1968 to 35,000 by 1973. This resulted from a deliberate policy, as a concomitant to the process of improving U.S.-Soviet relations.

The release of the courageous Soviet dissident Bukovsky in exchange for the Chilean Communist leader imprisoned in Chile was arranged in 1976 through American intercession. It was but one of many such acts which were not publicized in order to be able to continue to assist hardship cases.

American diplomatic action in the same period brought about the release of hundreds of prisoners from jails all over the world.

American foreign policy of the past decade helped enshrine basic principles of human rights in the Final Act of the Helsinki Conference on Security and Cooperation in Europe—providing the indispensable political and legal basis for pursuing the issue of human rights in East-West relations.

We also worked to improve the efforts of the United Nations Human Rights Commission; to upgrade the Commission on Human Rights of the Organization of American States. Common human rights policies were forged with the other democracies, and steps were taken to improve the institutional response of the international system to the challenge of human rights.

The accomplishment of the new Administration is not that it originated the concern with human rights but that free of the legacy of Vietnam and Watergate it has seized the opportunity to endow the policy with a more explicit formulation. The aim of the Carter Administration has been to give the American people, after the traumas of Vietnam and Watergate, a renewed sense of the basic decency of this country, so that they may continue to have the pride and self-confidence to remain actively involved in the world.

Having had to conduct American foreign policy in a period of national division and self-flagellation, I applaud and support this objective. The President has tapped a wellspring of American patriotism, idealism, unity, and commitment which are vital to our country and to the world. He has focused public concern on one of the greatest blights of our time.

The modern age has brought undreamt-of-benefits to mankind—in medicine, in scientific and technological advance, and in communication. But the modern age has also spawned new tools of oppression and of civil strife. Terrorism and bitter ideological contention have weakened bonds of social cohesion; the yearning for order even at the expense of liberty has resulted all too often in the violation of fundamental standards of human decency.

The central moral problem of government has always been to strike a just and effective balance between freedom and authority. When freedom degenerates into anarchy, the human personality becomes subject to arbitrary, brutal, and capricious forces—witness aberrations of terrorism in even the most humane societies. Yet when the demand for order overrides all other considerations, man becomes a means and not an end, a tool of impersonal machinery. Human rights are the very essence of a meaningful life, and human dignity is the ultimate purpose of civil government. Respect for the rights of man is written into the founding documents of almost every nation of the world. It has long been part of the common speech and daily lives of our citizens.

The obscene and atrocious acts systematically employed to devalue, debase, and destroy man during World War II vividly and ineradicably impressed on the world the enormity of the challenge to human rights. It was to end such abuses and to provide moral authority in international affairs that new institutions and legal standards were forged after that war—globally in the United Nations and in this hemisphere in a strengthened inter-American system.

The fact remains that continuing practices of intimidation, terror, and brutality, fostered sometimes from outside national territories and sometimes from inside, mark the distance yet to be traveled before the community of nations can claim that it is truly civilized. This is why the distinguished junior Senator from New York, Senator Moynihan, is surely right in stressing that human rights should be not simply a humanitarian program but a political component of American foreign policy.

For the difference between freedom and totalitarianism is not transient or incidental; it is a moral conflict, of fundamental historical proportions, which gives the modern age its special meaning and peril. Our defense of human rights reminds us of the fundamental reason that our competition with totalitarian systems is vital to the cause of mankind. There is no reason for us to accept the hypocritical double standard increasingly prevalent in the United Nations where petty tyrannies berate us for our alleged moral shortcomings. On this issue we are not—and have no reason to be—on the defensive. "The cause of human liberty," the poet Archibald MacLeish has written, "is now the one great revolutionary cause . . ."

And yet, while human rights must be an essential component of our foreign policy, to

pursue it effectively over the long term we must take the measure of the dangers and dilemmas along the way.

First, any foreign policy must ultimately be judged by its operational results. "In foreign relations, " Walter Lippmann once wrote, "as in all other relations, a policy has been formed only when commitments and power have been brought into balance."

To be sure, the advocacy of human rights has in itself a political and even strategic significance. But in the final reckoning more than advocacy will be counted. If we universalize our human rights policy, applying it undiscriminatingly and literally to all countries, we run the risk of becoming the world's policeman—an objective the American people may not support. At a minimum we will have to answer what may be the question for several friendly governments: How and to what extent we will support them if they get into difficulties by following our maxims. And we will have to indicate what sanctions we will apply to less well-disposed governments which challenge the very precepts of our policy.

If, on the other hand, we confine ourselves to proclaiming objectives that are not translated into concrete actions and specific results, we run the risk of demonstrating that we are impotent and of evoking a sense of betrayal among those our human rights policy seeks to help. Such a course could tempt unfriendly governments to crack down all the harder on their dissidents, in order to demonstrate the futility of our proclamations this indeed has already happened to some extent in the Soviet Union.

Nor can we escape from the dilemma by asserting that there is no connection between human rights behavior and our attitude on other foreign policy problems—by "unlinking," as the technical phrase goes, human rights from other issues. For this implies that there is no cost or consequence to the violation of human rights, turning our proclamation of human rights into a liturgical theme—decoupled, unenforced, and compromised. Or else we will insist on our values only against weaker countries, in Latin America or Asia, many of which may even be conducting foreign policies supportive of our own. This would lead to the paradox that the weaker the nation and the less its importance on the international scene, the firmer and more uncompromising would be our human rights posture.

Second, precisely because human rights advocacy is a powerful political weapon we must be careful that in its application we do not erode all moral dividing lines. We must understand the difference between governments making universal ideological claims and countries which do not observe all democratic practices—either because of domestic turmoil, foreign danger, or national traditions—but which make no claim to historical permanence or universal relevance. In the contemporary world it is the totalitarian systems which have managed the most systematic and massive repression of the rights of men.

In recent decades, no totalitarian regime has even evolved into a democracy. Several authoritarian regimes—such as Spain, Greece and Portugal—have done so. We must therefore maintain the moral distinction between aggressive totalitarianism and other governments which with all their imperfections are trying to resist foreign pressures or subversion and which thereby help preserve the balance of power in behalf of all free peoples. Our human rights policy owes special consideration to the particular international and domestic setting of governments important to our security and supportive of free world security interests. There are, of course, some transgressions of human rights which no necessity—real or imagined—can justify. But there are also realities in the threats nations face, either from terrorism at home such as in Argentina or aggression across borders such as Iran or Korea. And we must keep in mind that the alternative to some governments that resist totalitarianism with authoritarian methods may not be greater democracy and an enhancement of human rights but the advent of even more repression, more brutality, more suffering. The ultimate irony would be a posture of resignation towards totalitarian states and harassment of those who would be our friends and who have every prospect of evolving in a more humane direction.

We must take care, finally, that our affirmation of human rights is not manipulated by our political adversaries to isolate countries whose security is important for the future of freedom, even if their domestic practices fall short of our maxims. The membership of the UN Human Rights Commission, composed as it is of a number of nations with extremely dubious human rights practices, does not augur well for an objective approach to this issue in the United Nations. Cuba and other Communist governments as well as the more repressive regimes of the less developed world have no moral standing to bring other nations to international account. We should not hesitate to say so.

Third, there is the ominous prospect that the issue of human rights if not handled with great wisdom could unleash new forces of American isolationism. This could defeat the Administration's goal of using it to mobilize support for continued American involvement in world affairs. That the human rights issue could develop a life of its own, regardless of the Administration's prudent sense of its aims and limits, is already evident from some developments in the Congress.

A distorted or misunderstood human rights policy can become the basis and justification of a modern isolationism. What appeals to many as a useful impetus to resistance to the Communist challenge can be used by others to erase all the distinctions between totalitarians and those that resist them, to induce indifference to European Communist Parties' accession to power, or to disrupt security relationships which are essential to maintaining the geopolitical balance. Excuses can be found to deny help to almost any friendly country at the precise moment when it faces its most serious external challenge. If conservatives succeed in unravelling ties with nations on the left and liberals block relations with nations on the right, we could find ourselves with no constructive foreign relations at all, except with a handful of industrial democracies. The end result ironically could be the irrelevance of the United States to other nations of the world. A policy of moral advocacy that led to American abdication would surely condemn countless millions to greater suffering, danger or despair.

Fourth and most fundamentally, we should never forget that the key to successful foreign policy is a sense of proportion. Some of the most serious errors of our foreign policy, both of overcommitment and withdrawal, have occurred when we lost the sense of balance between our interests and our ideals. It was under the banners of moralistic slogans a decade and a half ago that we launched adventures that divided our country and undermined our international position. A few years later young people were parading in front of the White House carrying coffins and candles and accusing their government of loving war; the national leadership was denounced as excessively, indeed imperialistically, involved in the internal affairs of other nations. A few years later still, the government was attacked for sacrificing our ethical values on the altar of detente and being insufficiently concerned with the domestic behavior of other nations. Neither we nor the rest of the world can any longer afford such extreme fluctuations.

Human rights policy in this period of American responsibility must strengthen the steady purpose and responsible involvement of the American people. It can do so only if it is presented in the context of a realistic assessment of world affairs and not as the magic cure for the difficulties and shortcomings of mankind's contemporary experience.

The Administration is surely right in insisting that human rights is a legitimate and recognized subject of international discourse; it is an object of international legal standards—importantly as a result of American initiatives by Administrations of both parties. At the same time we must recognize that we serve the cause of freedom also by strengthening international security and maintaining ties with other countries defending their independence against external aggression and struggling to overcome poverty, even if their internal structures differ from ours.

We cannot afford to subordinate either concern to the other. Morality without security is ineffectual; security without morality is empty. To establish the relationship and proportion between these goals is perhaps the most profound challenge before our government and our nation.

There is every indication that within the Administration rhetoric and capacity for action are being brought increasingly into balance. In an important speech in Athens, Georgia on April 30, 1977, Secretary Vance has wisely pointed out that "a decision whether and how to act in the cause of human rights is a matter for informed and careful judgment. No mechanistic formula produces an automatic answer."

THE LINKAGE OF FOREIGN ISSUES

The inescapable relationship of our human rights objectives with other foreign policy goals is an example of a broader, virtually universal phenomenon of our contemporary world. Foreign policy issues are interrelated—"linked"—as never before. A consistent, coherent and moral foreign policy must be grounded in an understanding of the world in which we pursue our goals.

The concept of linkage—the suggestion that we should design and manage our policy with a clear understanding of how changes in one part of the international system affect other parts—was first put forth in 1969 in the context of US-Soviet affairs. We proceeded from the premise that to separate issues into distinct compartments would encourage the Soviet leaders to believe that they could reap the benefits of cooperation in one area, using it as a safety valve, while striving for unilateral advantages elsewhere. We considered this a formula for disaster.

So strong is the pragmatic tradition of American political thought that linkage was widely debated as if it were an idosyncracy of a particular group of policy makers who chose this approach by an act of will.

But linkage comes in two forms: first, when policymakers relate two separate objectives in negotiation, using one as pressure on the other; or by virtue of reality, because in an interdependent world the actions of a major power are inevitably interrelated and have consequences beyond the issue or region immediately concerned.

Of these two concepts of linkage, the latter is by far the more important. It says, in effect, that significant changes of policy or behavior in one region or on one issue inevitably affect other and wider concerns.

Our policy towards the Soviet Union cannot be treated in isolation from our relations with China; our relations with China, in turn, cannot be effective except to the extent that we maintain the geopolitical balance around the world, by which the People's Republic of China measures our ultimate relevance. Displays of American impotence in one

part of the world, such as Southeast Asia or Africa, have a direct effect on our credibility in other parts of the world, such as the Middle East. Our policy toward Rhodesia and Namibia will inevitably determine the prospects of a peaceful evolution in South Africa, and vice versa. Our posture toward Korea cannot be separated from our interests in Japan and China, and the measures we adopt for one inevitably affect the other. The decision on the B–1 bomber resulted from complex and painful budgetary and technical considerations. I am not here arguing the merits of these considerations, but in the context of the Strategic Arms Limitation talks, the B–1 bomber decision did represent a unilateral unreciprocated concession. Finally, either our human rights policy has relevance to other areas of national policy—or it has no meaning at all.

Perception of linkage is, in short, synonymous with an overall strategic view. We ignore it only at our peril. It is inherent in the real world. The interrelationship of our interests, across issues and boundaries, exists regardless of the accidents of time or personality; it is not a matter of decision or will but of reality. And it cannot be ended by an act of policy. If we are to have a permanent conception of American foreign policy there must be an appreciation of the fact that merits of individual actions can be judged only on a wider canvas.

As you know I strongly support President Carter in his fight for ratification of the Panama Canal Treaties. I do so on their merits but also because of the profound consequences of a failure to ratify far beyond Panama. A defeat of the treaties would weaken the President's international authority at the beginning of his term. It would suggest to friends and foes around the world that the United States could not deliver on an agreement negotiated by four Presidents of both political parties over a period of thirteen years, that it could not perceive its own interests in Western Hemisphere cooperation, and that shifting emotions and institutional stalemates produced erratic behavior in the most powerful country in the world.

Linkage is not a natural concept for Americans, who have traditionally perceived foreign policy as an episodic enterprise. Our bureaucratic organization, divided into regional and functional bureaus, and indeed our academic tradition of specialization, compound this tendency to compartmentalization. And American pragmatism produces a penchant for examining issues separately: to deal with issues individually as if they existed as abstractions without the patience, timing, or sense of political complexity which are so often vital to their achievement; to display our morality in the proclamation of objectives rather than in a commitment to the operational consequences of our actions in an inherently ambiguous environment.

A recognition of the importance of linkage—of the significance and role of the strategic vision to our future foreign policy—thus brings us back to where we began—to the need for patience, continuity, and, above all, for national unity in the conduct of international affairs. This responsibility must be shared by the Administration, the opposition, and the public. Modern foreign policy, by its very complexity, does not lend itself to instant successes. In domestic affairs the timeframe of new departures is defined by the legislative process; dramatic initiatives may be the only way to launch a new program. In foreign policy the most important initiatives require painstaking preparation; results may be months and years in becoming apparent.

Therefore, we should not demand of the new Administration instant results or an unbroken string of early successes; nor should the Administration seek such goals if it wishes to avoid a series of stalemates or worse. Foreign policy, if it is to be truly an architectural endeavor, is the art of building for the long term, the careful nurturing of relationships, the elaboration of policies that enhance our options and constrain those of potential opponents. It requires the coherence that can only come from national unity, a strong leadership and a political process that reflects the recognition that we are all—the Administration as well as its opponents—part of a permanent national endeavor.

This country has no greater contribution to make in the service of its ideals than to help the world find its way from an area of fear into a time of hope. With our old idealism and our new maturity, we have the opportunity to fulfill the hopes as well as the necessities of a peaceful world. A century ago, Abraham Lincoln proclaimed that no nation could long endure "half slave and half free" and stirred the conscience of the nation. With a combination of lofty idealism and tough pragmatism, he saved the freedom of this nation. With a similar dedication—in a world that is "half slave and half free"—we in this era can be the champion and defender of the cause of liberty.

HUMAN RIGHTS IN THAILAND

Mr. PELL. Mr. President, this past July and August, Mr. Philip Kunstadt of the American Friends Service Committee wrote a series of very perceptive articles for the Providence Journal and Evening Bulletin detailing how human rights violations in Thailand and the government's neglect of rural needs threaten to strengthen the appeal of Communist and other insurgents. While the human rights violations in Thailand have by no means reached the shocking proportions of those in neighboring Communist Cambodia, they are nevertheless serious.

Mr. Kunstadt draws a parallel with Ngo Dinh Diem's policies in Vietnam and those of Thailand's Prime Minister Thanin Kravixien who came to power in a military coup in October 1976. Mr. Kunstadt also warns that just as in Vietnam, where the United States kept pouring in military and economic aid to support an unpopular regime, there is a growing danger of increased American military involvment in Thailand.

So far, there has been little press attention given to the situation in Thailand, and Mr. Kunstadt's articles shed much valuable light on events in a country that bears careful watching and prudent actions by the United States.

Mr. President, I commend Mr. Kunstadt's articles to my colleagues and ask unanimous consent that they be printed in full in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Providence Journal, Aug. 1, 1977]

THE DISMAL STATE OF HUMAN RIGHTS IN THAILAND

(By P. Kunstadt)

BANGKOK.—"It is as if the President of the United States were a member of the John Birch Society and every member of his Cabinet were a member of the Ku Klux Klan." The speaker was a former college professor who served as governor of three separate provinces in Thailand between 1973 and 1976, the brief period of Thai democracy. He had taken his Ph.D. in the United States and clearly was familiar with the American political idiom.

His comments summed up neatly the present human rights situation in Thailand. "If Jimmy Carter were in Thailand today, he would be in jail," the former governor continued. "The government would surely have branded him as a Communist because of his concern with human rights."

Human rights in a wide range of areas have suffered badly since the military coup in October, 1976, which toppled the three-year-old democratic government and installed a right-wing dictatorship in its place. "The present government is morbidly anti-Communist," is how one college administrator—who is generally supportive of the government—described the situation. "It is not just a belief in human rights that will cause the government to brand someone as a Communist," said the ex-governor. "Talking about social justice or even a belief in parliamentary democracy is often enough to get people into serious trouble."

One abridgement of civil liberties which is immediately apparent to a visitor to Thailand is the freedom of the press. Radio Thailand is now run by the Prime Minister's office, and all 200 of the other radio stations in the country are operated by the military. Of the four television stations in Thailand, two are run by the Army and one is run by a civilian government department. Although the fourth is partly in private hands, the government owns a controlling share.

Thai newspapers are still in private hands but news dissemination is tightly controlled. All newspapers and reporters are required to register with the government, and there are strict penalties for violating censorship codes. Last week, the widely-read newspaper *Siam Rath* was closed down for the second time. Its offense was a relatively innocuous one by American standards: it had printed an editorial criticizing the Interior Minister who had taken an expensive and unnecessary junket abroad. Other newspapers that have had publication suspended for similarly innocuous transgressions include the *Daily News*, *Chao Thai*, *Dao Siam*, and *Siang Paungchan*.

Because of their key role during the brief period of democratic rule, university students, professors and other intellectuals are viewed by the present government with particular fear and distrust. Following the coup last year thousands of books, representing approximately 100 different titles were burned by the government. Bookstores were raided and objectionable books were confiscated. In one incident a soldier destroyed a large stock of poetry books that had a red cover on them. The book was by a right-wing poet but the soldier, who was not able to read, assumed that the volume must contain Communist literature because of the color of the cover.

In colleges and universities, course outlines were changed following the coup to suit the new government, and professors report that they have to be very careful about what they say in class. As one political science professor at Chulalongkorn University said sadly, "I have become alienated from my work and students since Oct. 6; my teaching has become almost meaningless under the present constraints."

Probably the most serious breach of human rights in Thailand today is the existence of literally thousands of political prisoners. According to one Western missionary who has worked here for many years and has studied the situation in depth, there are six distinct categories of political prisoners in Thailand. The best known of these outside the country are the 111 students arrested at Thamasat University on Oct. 6, 1976, the day of the coup. Another important category is the approximately 8,000 people arrested on the broad charge of "endangering society."

About 20 percent of these are political prisoners, according to the missionary. Prisoners arrested for "endangering society" are generally not charged with any specific offense and are never brought to trial. They can be held indefinitely, and present indications are that the government intends to do just that with many of them.

The largest single category of political prisoners are those arrested not by the national government in Bangkok but by province or district military or police personnel on "suspicion of being a Communist" or "suspicion of being a Communist sympathizer." The missionary knows of several districts with as many as 50 or 60 such prisoners: since there are 600 districts in Thailand, he concludes that the total number of detainees in this category must be many thousands.

The government has been making increasing use in recent months of Article 21 of the Thai Constitution which empowers the Prime Minister to pass sentence summarily on anyone he chooses. Such prisoners are never charged or tried for any offense; they are merely sentenced. Six people have recently been executed under Article 21, including one suspected drug trafficker, who was shot when U.S. presidential envoy Peter Bourne was in Bangkok, as a demonstration to the United States of the seriousness of Thailand's efforts to stop the drug trade.

Following the execution, President Carter sent a special mesage to Thai Prime Minister Thanin saying, "I want to express my special thanks and admiration for the deep commitment you have made to deal with the narcotics problem . . . the entire world community joins in applauding your efforts." Meanwhile in Bangkok, widespread speculation that the executed man had in fact been innocent has been fueled by the lack of trial or due process.

One of the most discouraging aspects of the present human rights situation in Thailand is the targeting of political moderates, nonviolent activists, and non-Communist intellectuals as enemies of the state. The case of Dr. Puey Ungphakorn is a graphic illustration of the problems faced today by thousands of Thai moderates and intellectuals. Dr. Puey is one of Thailand's best-known economists and served as governor of the Bank of Thailand from 1959 to 1971. Because he was rector of Thamasat University last October, he had to flee the country after the coup. Interviewed recently in London, Dr. Puey said, "I believe in achieving parliamentary democracy through nonviolent means. If nonviolent tactics fail 100 times, it is then our responsibility to use nonviolence 101 times."

By undercutting the position of moderates and liberals, the Thai government is bringing about an increasingly polarized situation in which many non-Communists feel driven to join the insurgents. As insurgency and government repression both increase, many observers fear that the left and the right are on a collision course.

The human rights situation in Thailand should be of concern to Americans because of the considerable amounts of military and economic aid which we provide that country. Last year, the U.S. provided $541.1 million in direct and indirect military and economic aid to Thailand, of which over $80 million was in direct military assistance. We provide bombers and helicopters to the Thai Air Force and many top Thai police officers involved in the "suppression of Communism" received training at the International Police Academy in Washington, D.C.

Today, the U.S. provides more military aid to Thailand than to any other Southeast Asian country except South Korea. Thus, the concern for human rights in Thailand is one which should touch every American.

[From the Providence Bulletin, Aug. 10, 1977]

THAILAND—A SECOND VIETNAM?

(By P. Kunstadt)

BANGKOK.—Many striking parallels exist between events in Vietnam in the 1950's and 60's and the present situation in Thailand. Americans who were concerned about American actions in Vietnam would do well to consider these similarities.

The most obvious parallel is that Vietnam was and Thailand is ruled by anti-democratic dictators who came to power by dubious means, relying heavily on American military and economic support. In the case of Vietnam, the 1954 Geneva agreement provided for free elections in a unified Vietnam no later than 1956. The *Pentagon Papers* reveal, however, that the Eisenhower Administration feared a landslide victory for Ho Chi Minh if free elections were allowed. As a result, the U.S. prevented those elections from being held and established Ngo Dinh Diem—a Catholic who had been living in New Jersey at the time—as head of a separate government in Saigon. When Diem, and later his successors Nguyen Cao Ky and Nguyen Van Thieu, faced increasing opposition, the U.S. had to send more and more military "assistance" to its Saigon ally.

Thailand's Prime Minister Thanin Kravixien came to power in October, 1976, following a bloody military coup which many Thais believe may have been assisted by the CIA. As one long-time former CIA employee said in Bangkok, "I cannot prove that the CIA was involved in the events of last October, but based on my years of service with the agency I can say that this looks exactly like their handiwork." Some Thais even see parallels between the politics and personalities of Diem and Thanin. One Bangkok journalist said, "Both Diem and Thanin use anti-Communism as a ruse for getting more American aid. Like Diem, Thanin is given to blind, unthinking actions that turn many people against him. And like Diem, he is a rigid, inflexible man, a man of black or white, yes or no."

In Vietnam in the early 1960's, Diem faced increasing opposition, not primarily from North Vietnam but from the indigenous South Vietnamese National Liberation Front in rural areas and the non-Communist Third Force (largely Buddhist) in urban areas. Similarly, Thanin faces an ever-increasing insurgency in Thailand's rural northern provinces. As in Vietnam, much of the opposition is not philosophically committed to Communism. As the former governor of one province with an especially severe insurgency problem said, "Most of the so-called Communists have never read Marx or Lenin or Mao. But many have studied in the United States and have read Jefferson and Lincoln. These insurgents are not Communists but Jeffersonian democrats." Thanin does not yet face a strong urban opposition as Diem did—one of the important differences between the two situations—but he does have the additional problem of a strong Muslim insurgency in the southern part of the country, near the border with Muslim Malaysia.

In Vietnam, Diem and his successors were heavily dependent on American military and economic support in order to stay in power, just as Thanin is today. By the end of the war, the U.S. was paying 86.3 percent of the costs of the Saigon government; at its height, the war cost the U.S. upwards of $30 billion annually. American aid figures for Thailand today are not nearly as high as they were for Vietnam—we provide $541 million a year in aid of which $81 million is military aid. But American corporations have additional tens of millions of dollars invested in Thailand and view the country's growing urban sector as an increasingly important market for American commodities.

In Vietnam, the concept of strategic hamlets was at the center of the U.S.'s military strategy. This involved the forced relocation of villagers living in rural areas believed to be "insecure" into resettlement camps—often similar to prisons or concentration camps—where they would be "safe." Thailand has already adopted the strategic hamlet concept in its counter-insurgency war. In areas of suspected Communist activity, villagers are being forcibly removed to resettlement camps where they are kept safe behind barbed wire. Their former villages are declared "free-fire zones" where anything that moves is shot. Food is scarce in the resettlement camps and there is no land for farming. Last autumn, when several villages were cleared just prior to the harvest, several villagers attempted to sneak back to their fields to rescue some of their crop. They were killed by the Thai Air Force, flying missions in American helicopters.

In Vietnam, the question of the Saigon government's 200,000 political prisoners became an important issue after American journalist Don Luce revealed to the Western press in 1970 the existence of the "tiger cages" on Con Son island. Many people feared that by attempting to neutralize the non-Communist opposition by imprisonment, President Thieu was actually prolonging Vietnam's agony and reducing the possibility of a political rather than a military solution. Thailand does not yet have 200,000 political prisoners, but it does have many thousands. As in Vietnam, many of the prisoners are political moderates who could be crucial in facilitating a reconciliation between Thailand's polarized left and right. By attempting to silence such middle-of-the-roaders Thanin is creating an increasingly explosive situation.

During the Vietnam war, Americans grew accustomed to daily headlines describing bombing raids and giving body counts. The news of the fighting in Thailand has not yet become a staple of the American press, probably because Americans are not actually engaged in combat, but Thai news headlines are increasingly taken up with such news. The headlines here have a familiar ring to an American visitor: "Ten Communists Killed in Bombing Raid," or "100 Reds Trapped in Rubber Estate."

Following the end of the Vietnam war on April 30, 1975, many Americans resolved that the U.S. should never again become involved in a similar war. Responding to that sentiment, the U.S. Congress in February, 1976, quickly blocked President Ford and Secretary Kissinger from committing the United States to direct military intervention in the Angolan conflict. Like Angola, Thailand has the potential danger of a growing American military involvement.

[From the Providence Evening Bulletin, July 27, 1977]

BEYOND BRIGHT LIGHTS OF BANGKOK, THE REAL FACE OF THAILAND

(By P. Kunstadt)

BANGKOK, THAILAND.—If one judges an entire nation by its capital city, one could easily conclude that Thailand is a thoroughly Westernized country. Everywhere in Bangkok one sees neon lights, huge billboards for Coke and Pepsi, women in tight miniskirts and high-heeled shoes, juke boxes blaring American rock and roll, bars, nightclubs, discotheques, and brothels.

Bangkok's streets were designed for a city with fewer than one million people who primarily used oxcarts for transportation. But today Bangkok has over 4 million people and the streets are teeming with motorcycles, scooters, cars, and buses. The traffic jams are worse, it seems, than in any Amercian city—it can take a Thai businessman two hours

to drive 6 miles to work—and the air pollution index routinely soars to 40 times the level considered "unacceptable" in American cities.

These examples reflect the development choices which have been made, in large measure, by the Thai government. Yet one cannot grasp just how lopsided these choices are without spending time in rural Thailand, in the tiny, rice-growing villages where 85% of the population lives. The villages of Chainat Province, about 175 kilometers north of Bangkok, are just such villages.

Chainat Province is fortunate. It has a large dam and an extensive irrigation system which allow the double-cropping of rice. Rice, of course, is the mainstay of the diet of the rural population in Southeast Asia. Fish farmed from the irrigation canals add protein to the diet of the people of Chainat. A few wealthy families may raise one pig per year; the farmers have learned not to raise chickens for chickens cost far too much to feed.

Children in the villages of Chainat Province generally go to school for four years but the education they receive is largely irrelevant to their lives. Rather than learning about agriculture or simple home remedies for common diseases, the students learn reading and English. But there are no libraries in the villages and books, newspapers, and periodicals are simply unavailable. Once they leave school at the age of 10, the children quickly forget how to read. And those who continue to live in the village, as most do, may never use English in their entire lives.

Chainat had one doctor and one nurse until 1973. The doctor would travel from village to village, much like the circuit-riding judges in the early days of the United States. The doctor would try to spend part of one day each week in each village he covered. But the doctor was old and getting increasingly feeble. He retired four years ago and the nurse retired one year later. Since then, the people in the districts they had served have not seen a doctor or a nurse. Many rural farmers in Thailand never see a doctor during their entire lives.

Travelling north from Chainat one realizes how relatively wealthy even a poor province like Chainat is. Chainat has the benefit of an irrigation system, so rice-growing can continue even in times of drought. All across Southeast Asia this year the monsoon rains are extremely late; unless the rains come immediately, there is the likelihood of serious rice shortages and even famine in many countries. In the provinces surrounding Chainat, for example, one can already see the heart-breaking sight of the new rice shoots turning from green to yellow to brown and the fields which should now be flooded for rice transplanting lying parched and cracking in the sun.

The development needs of the Thai people are simple and obvious. They include medical care, relevant education, and dams and irrigation systems. In the face of such basic human needs, the government has chosen a very different path to development. According to a recent forecast, the present 5-Year Plan for Thailand's economic development stresses increased production and sales of such items as cosmetics (projected growth this year: 5.5%); carbonated soft drinks such as Coke, Pepsi, and 7-Up (projected growth this year: 7%); and rugs and wall-to-wall carpeting (projected growth this year: 30%).

The matter of medical care provides an interesting example of the irony which the government faces with regard to development and its other chief concern: the suppression of a growing Communist insurgency in the northern part of the country. Students are an important force in Thai politics and are watched very closely by the government. In 1973, student demonstrations succeeded in toppling the military dictatorship of Thanom Kittikachorn. This ushered in a three-year period of democracy unique in Thai history. And, in 1976, it was student demonstrations which gave the military the excuse to end the experiment in democracy in a bloody coup which they said was necessary to restore order.

Since the coup, students, writers, and other intellectuals have been viewed with deep suspicion by the new government. Many have fled the country and thousands of others are in jail without benefit of trials. Additional numbers—no one knows just how many—have fled to the jungles to join the insurgents. Approximately 1,000 doctors and medical students are believed to have fled to the jungle since the coup eight months ago. These doctors are not Communists but feel forced to join the insurgents by the increasingly repressive actions of the government. This has meant that many rural villagers, who have never in their lives seen a doctor, are now receiving medical care for the first time.

It is easy to imagine how the government's "search and destroy" missions aimed at the Communist insurgents must look to these villagers. The villagers may be largely apolitical, but they do see that for the first time in their lives they are receiving medical attention. And they see the government sending soldiers into the jungles and villages to find and kill the doctors. They see that the government, instead of providing doctors for the common people, encourages the production of cosmetics and soft drinks for the urban elite. Bearing this in mind, it is easy to understand the observation of one western, long-time observer of the scene in Thailand and Southeast Asia when he said recently, "The threat of Communism frequently looks very different to a rural Asian peasant than it does to a well-to-do American."

CARGO PREFERENCE

Mr. LUGAR. Mr. President, the public outcry against cargo preference legislation is beginning to be heard.

The proponents of this legislation have tried to foist it off on the public as a measure that will benefit all taxpayers. The naked truth, however, is that cargo preference is a blatant political payoff. And the taxpayer is being asked to foot the unnecessary bill.

Last year the maritime lobby made generous campaign contributions to more than two dozen members of the House Merchant Marine Committee. That same committee has now approved the cargo preference bill by an overwhelming majority. Skeptical observers have a right to ask some hard questions about a possible cause-effect relationship between those contributions and those votes.

President Carter, who also champions the cargo preference bill, is indebted to the maritime lobby, too. Last year he accepted campaign contributions from the industry estimated at up to $500,000. Now, against the advice of his own economic advisers, the President is promoting legislation that would benefit that very industry, at taxpayers' expense.

The Evansville Press, one of Indiana's finest newspapers, has contributed to the public debate on this crucial issue by publishing an editorial entitled "The Smell of Maritime Money." To call this excellent editorial to the attention of my colleagues in the House and Senate, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE SMELL OF MARITIME MONEY

The well-financed drive by maritime interests, their friendly congressmen and the Carter administration to boost the cost of imported oil is beginning to smell like a shipful of spoiled mackerel.

For readers who may have been watching football on TV and are not briefed on this latest attempt to pick their pockets, perhaps some instant replay will be useful:

Today only about 4 per cent of our oil imports come in tankers flying the American flag. The reason is that they have priced themselves out of the market, mostly because of high crew costs and featherbedding.

To get more business, the maritime industry thought up the idea of "cargo preference." This means a fixed percentage of imported oil must arrive in tankers of American registry, even though it makes no economic sense.

As they traditionally do, shipbuilders, ship operators and maritime unions greased the ways for cargo preference with large contributions to key congressmen. And they remembered to kick in $250,000 to Jimmy Carter's 1976 campaign.

Lo and behold, a bill to guarantee the industry 9.5 per cent of imported oil by 1982 began sliding through Congress. The White House backs it—despite warnings by its economic advisers that the measure would decrease employment and the gross national product.

The Commerce Department sent an official (who at the time was negotiating for a $100,000 a year shipping-industry job) to testify that the bill would boost the nation's fuel costs by "only" $100 million annually.

A few congressmen asked for a more disinterested witness. The White House refused. Meanwhile, the respected General Accounting Office, the investigative arm of Congress, calculated that cargo preference would cost $240 million a year and perhaps much more.

The accounting report went to Rep. John M. Murphy, D-N.Y., and did not become known until after his Merchant Marine and Fisheries Committee rubber-stamped the industry-White House measure. Funny.

Also funny is what Murphy did while his committee was considering the bill. He attended a cocktail party with maritime industry and union officials at which they gave him $9950. (Last fall they gave him $16,200.)

Now Murphy may view the $9950 and its timing as a normal campaign contribution. But those who do not believe in the tooth fairy, will have a less charitable interpretation.

At this stage President Carter would be well advised to withdraw his support from the sleazy bill—before the smell of maritime lobby money sticks to his White House, which was going to be oh so pure.

LIQUID NATURAL GAS AND PRUDENCE ISLAND, R.I.

Mr. PELL. Mr. President, earlier this month, the Federal Power Commission announced its preference for the southern tip of Prudence Island in Narragansett Bay, R.I., as the best of three sites for the location of a huge liquified natural gas tanker terminal facility—a site of approximately 640 acres on the island that would contain four huge storage tanks, each with a capacity of 600,000 barrels of LNG.

Prior to that determination, the Federal Power Commission had under con-

sideration an application submitted by Tenneco, Inc., to build a LNG terminal in St. John, New Brunswick, Canada, with the intention of then installing 495 miles of pipeline from New Brunswick to carry the gas through Maine, New Hampshire, Massachusetts, and New York to Pennsylvania. Tenneco, at the time of application, had expressed no interest in Prudence Island as an alternative site. In fact, since the Federal Power Commission's decision, a high Tenneco official indicated this week before the Federal Power Commission that his firm would continue to press strongly for its original proposal in New Brunswick.

Mr. President, I am bringing this Federal Power Commission action to the attention of the Senate because it is a matter involving energy facility siting procedures which could have an impact upon every State in the Nation. What is involved is the right of citizens and State officials in each State to have some say in the determination of energy facility sites. I believe we should all be concerned at the possibility that a Federal agency could arbitrarily impose upon a State a major decision on energy siting without full consultation with appropriate State officials.

Mr. President, the State of Rhode Island is not opposed to energy development. Our State recognizes the national and regional need for new energy sources. The State of Rhode Island, under the vigorous leadership of former Gov. Philip W. Noel and Gov. J. Joseph Garrahy, has promoted the use of Rhode Island surplus Navy lands in Quonset and Davisville to support domestic oil and gas development in both the Georges Banks and Baltimore Canyon areas of the Atlantic.

When the Federal Power Commission announced its decision earlier this month, the Commission pointed out in its report that it found Prudence Island to be environmentally, economically, and climatically superior to either of the other potential sites on Sears Island, Maine; or St. Johns, New Brunswick. The agency further remarked that the Prudence Island site would pose the highest risk to the public among the three options, but maintained that the risk would apply to only a small number of people in the vicinity of Newport.

Most significantly, the Federal Power Commission, and only this past week, Mr. Allan Anderson, chief counsel for the Federal Power Commission staff, raised the claim that if the FPC ultimately decided that the LNG is needed and that it should reach consumers through a terminal on Prudence Island, there is little the State of Rhode Island could do to resist the proposal. Mr. Anderson said also that if the FPC gives Tenneco the authority, the company could simply take the southern end of Prudence Island by eminent domain. That, I believe, is a questionable claim since Prudence Island is still under Federal control, in which case, I am advised, the right of eminent domain does not apply.

This broad Federal Power Commission authority, if it exists, is most troubling, and I believe should be equally disturbing to my fellow colleagues in relation to energy siting in their States. The attitude expressed by the Federal Power Commission, coupled with the unwarranted and extremely limited time period of barely a week available for the State of Rhode Island to respond to the FPC report, shows an extreme and appalling insensitivity and disregard for the State's interests.

The concern of Rhode Island citizens and State officials regarding this decision is not unfounded, nor is it as mentioned earlier an attitude of obstructionism toward energy development. There is legitimate concern over the public risk factor which the Federal Power Commission acknowledges in its report. The LNG transit to Prudence Island would require passage through Narragansett Bay of as many as 140 LNG tankers a year—an average of one LNG tanker every 2 to 2.5 days through the east passage of Narragansett Bay. That area of east passage by Newport and Middletown, in addition to being subject to extensive fog conditions, is densely populated and has very limited emergency evacuation routes available in the event of a severe LNG accident. Furthermore, the presence of LNG tankers in this passage would also cause additional concern for public safety because the passage is extensively utilized by both recreational and oil tanker traffic to the Port of Providence. The LNG traffic would not only have the potential for disrupting the approximately 1,800 tanker trips up and down Narragansett Bay every year, but could also have a devastating effect upon the recreational use of the bay as well as on tourism, which has been so vital to Rhode Island's economic recovery since the massive Navy pullouts in 1973–74.

Lastly, to address the possible Federal Power Commission's argument that the Prudence Island site is in the public interest in view of LNG requirements nationally, I would again emphasize the vigorous efforts by the State to encourage the use of the surplus Quonset/Davisville Navy lands for support activities in the exploration and development of oil and gas in the Georges Bank and Baltimore Canyon areas. In my view, any effort that would frustrate this urgently needed OCS development is unconscionable. Our national and public interest would be far better served through the domestic development of oil and gas on the outer continental shelf, than by the continued importation of Algerian LNG. I would readily acknowledge, however, that the imported LNG available to New England last year, and in years past, was of immense importance in keeping our industries open and consumers warm; but surely it is possible to site an LNG terminal where it will not pose potential conflict with off-shore oil and gas development.

Mr. President, in view of many legal questions associated with this LNG siting, especially the question of whether the LNG terminal can be constructed on Prudence Island over the opposition of State and local governments. I have requested the American Law Division of the Congressional Research Service to examine several of the key legal issues in an effort to assist the Governor and other State officials in their presentation to the Federal Power Commission. In addition, I am reviewing the adequacy of legislation relating to both LNG safety and siting to determine whether new legislation such as giving State governments the right of approval over LNG siting, is necessary to protect the public and States against arbitrary actions of Federal agencies such as that proposed by the Federal Power Commission. I hope my colleagues will examine this issue closely, as it may have far-reaching implications on energy siting in all States in the future.

DON'T RETREAT ON NOISE LEVELS

Mr. CASE. Mr. President, I would like to briefly comment on the decision made by the present administration concerning the British-French Concorde. For some time, I have been concerned with the introduction of the Concorde into commerical service in the United States. As my colleagues are well aware, the issue of the Concorde has caused serious debate concerning its environmental impact. Basically, this plane, as pointed out by GAO in its September 15 report, is "counter to the thrust of the national noise abatement effort." Those of us who are from highly populated areas are very familiar with the already existing high noise levels. To allow the Concorde to add to this already overwhelming noise burden would be inexcusable.

It is well documented that the Concorde is twice as noisy as our noisiest commercial jets—707's and DC–8's—and four times as noisy as our newer jumbo jets. The Federal Aviation Administration has deceptively disguised the noise impact of the Concorde by relating it to the expected levels presented in the environmental impact statement. Granted, the Concorde's performance is as noisy as expected in the environmental impact statement, however, these EIS estimates represent the unacceptable noise levels I have previously noted.

To date, at Dulles Airport over 1,300 citizen complaints about the Concorde have been reported. We should remember when discussing this issue that Dulles is in a sense a "rural" air facility. Trying to introduce this noisy plane at JFK or other urban airports will be a disaster.

I do not believe that it is appropriate for us to retreat from our commitment to reducing the noise level in our urban areas. The slight reduction in travel time for the few affluent travelers cannot justify degrading the environment for thousands of residents around metropolitan airports.

RURAL HEALTH CLINIC BILL

Mr. EAGLETON. Mr. President, as a cosponsor of S. 708, I was particularly pleased when H.R. 422—H.R. 422 was amended to include the provisions contained in S. 708—was approved by the Senate on Friday, September 16, 1977.

Mr. President, H.R. 422 effectively responds to a very serious problem that exists primarily in rual America—namely, the shortage of physicians. Many rural communities have responded to this crisis by establishing rural health clinics and staffing these clinics with specially trained nurse-practitioners and/or physician assistants. On many occasions, these health care professionals provide the only medical services available to residents living in a rural setting. Needless to say, these men and women—under the indirect supervision of a doctor—provide a very necessary service to their constituency. However, because of an inequity in the reimbursement policy of the medicare program many of these clinics were being forced to close their doors because of money problems.

The present medicare regulation requires a doctor to directly supervise the practice of a nonphysician health care professional in order for the nonphysician to be reimbursed by medicare. Mr. President, I submit that this is a "catch-22" situation. As I stated earlier, nonphysician assistants are utilized precisely because of the unavailability of physicians, but yet medicare does not reimburse services unless they are directly supervised by a physician. Residents in rural areas suffer doubly—they do not have access to doctors and they cannot receive medicare reimbursement at their local clinics which necessarily forces them to pay health insurance premiums even though they may be eligible to receive medicare benefits.

I am happy to say that H.R. 422 solves this problem by providing medicare and medicaid reimbursement for services provided by nurse-practitioners and physician assistants at rural health care clinics. I commend Senators CLARK and LEAHY for their leadership on this issue and I think all of my colleagues will agree that the passage of this legislation is a positive step in making sure that all Americans have access to and are able to receive quality health care no matter where a person might live.

UNITED NATIONS ISSUES

Mr. SPARKMAN. Mr. President, Kurt Waldheim, Secretary General of the United Nations, appeared on "Issues and Answers" on September 18 to discuss issues likely to come before the U.N. General Assembly this fall. I believe that his comments on these issues will be of interest to the public and readers of the RECORD, and I ask unanimous consent that a transcript of the program be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

[From Issues and Answers, Sept. 18, 1977]

INTERVIEW OF KURT WALDHEIM, SECRETARY GENERAL, THE UNITED NATIONS

(Interviewed by: Bob Clark, Issues and Answers Chief Correspondent and Lou Cioffi, ABC News United Nations Correspondent.)

Mr. CLARK. Mr. Secretary General, welcome back to Issues and Answers. As the General Assembly convenes this week, it will begin by facing troublesome problems in the Middle East. Arab countries want a formal debate over Israel's policy, establishing Jewish settlement on the West Bank of the Jordan, and they also want a resolution condemning that policy.

In your view, would such a resolution be helpful, or would it only aggravate the situation.

Secretary General WALDHEIM. You are right. This is one of the main issues which will come before the next General Assembly, and it is evident that it will create a rather heated debate. I think you cannot avoid it. The opinions are very divided. You know the Israeli position in this regard and the Arab positions. They are completely different, opposing each other and therefore I am afraid it will be a rather explosive debate. No doubt about this.

Mr. CLARK. I know you cannot take a position favoring either side on this, but can you say in a general way whether you feel such a resolution condemning the Jewish settlements will be helpful or only troublesome?

Secretary General WALDHEIM. I have said in the past, in fact, as it has been stated by Washington, that the legalization of the settlement are legal or illegal and it does not really help the negotiating process. We are trying very hard, the U.S. Government is trying very hard to move forward in the negotiating process to get us out of this actual stalemate, and therefore decisions of this kind are not helpful, but they have been made, and you can't avoid these things discussed in the United Nations, and I tell you quite frankly we should not be too afraid about this. It is sometimes better to discuss the matter, problems of this kind, in all frankness, and maybe we can find a solution.

Mr. CLARK. How do you get the two sides to Geneva to the Geneva talks?

Secretary General WALDHEIM. That is a good question. Until now we haven't been able to achieve this. The American efforts have not really produced a solution of this important procedural problem. The efforts are to be continued. We, too, do our best within the United Nations to help, to contribute to solving this problem. During the presence of the foreign ministers of the countries concerned, in New York we will have the opportunity to discuss that with them, and, as you know, President Carter will discuss the situation in the Middle East with them as well as Cyrus Vance, so I think this is another chance to overcome the difficulties. Whether it will work, I don't know. All in all, I am rather skeptical about the situation because the positions are still far apart.

Mr. CLARK. Mr. Waldheim, when you last appeared on this program last January, you felt it was critical to make progress this year toward a settlement in the Middle East. If I may quote what you said then, you said you feared there would be another Middle East war in two years if there weren't a breakthrough this year in negotiations. There has been no breakthrough, no appreciable progress toward the settlement. Do you remain as pessimistic about the future?

Secretary General WALDHEIM. I wish I were wrong with my statement, but I must say that nothing has really changed.

The situation has not improved and therefore I am still very much preoccupied with this development and I am indeed afraid if no breakthrough will be achieved this year that the situation next year will be deteriorating dramatically. That doesn't mean we will have immediately another military confrontation, but we must be aware that the situation will deteriorate and could lead to a very serious situation again.

Mr. CLARK. And the United States, the Carter administration has had very little success so far in regaining the momentum toward Middle East progress that Henry Kissinger appeared to have going for a time. Is the moment nearing where the United Nations should take a more active role instead of leaving it to the United States?

Secretary General WALDHEIM. Well, as far as the United Nations is concerned, we remain besieged with this problem, but we do appreciate the efforts made by individual member states or by groups of countries. We do appreciate, we highly appreciate the efforts undertaken by the United States in order to overcome the difficulties, but I wouldn't be surprised that if no progress were made that things will come back to the United Nations in a more practical way.

Mr. CLARK. Do you have specific thoughts about what more active role the United Nations might play?

Secretary General WALDHEIM. I think it is premature to give you a clearcut answer to this. You will remember some years ago we had Mr. Jaring as special representative for this question. We did not succeed, as many others—in fact nobody until now has really succeeded. Partial agreements were signed, but they didn't really solve the Middle East problem, so I wouldn't be surprised if one day the matter is coming back directly to the United Nations. Don't forget there was another chairman of the Geneva Conference, the Soviet Union, and they, too, of course, are interested in remaining in the picture in one way or the other I discussed this recently during my visit in Moscow.

Mr. CIOFFI. Could you tell us about your discussions with Mr. Brezhnev on this?

Secretary General WALDHEIM. Mr. Brezhnev told me clearly that they are supporting the Palestinians in their request for self-determination and for a homeland. They wish the full participation of the PLO in the Geneva Conference. In one way or the other, this has to be decided by the Arabs themselves, whether a Pan-Arab delegation or separate delegation, etc., but they insist very much that the PLO is participating.

Mr. CIOFFI. Do the Soviets share your fears that if there is no solution this year, the situation could gravely deteriorate?

Secretary General WALDHEIM. They consider the situation very serious, very dangerous, and they are of the opinion if nothing happens we have to be aware of the great danger of another confrontation.

Mr. CIOFFI. I started to ask you before, in spite of the fact that the United States and the Soviet Union are involved, they still come to you in this trouble. Recently the continued fighting in Southern Lebanon; I think the Palestine Liberation Organization complained to you the other day that this was Israeli aggression. Have you been following that?

Secretary General WALDHEIM. Oh, yes, very much so. There was this complaint. I, of course, tried immediately to verify the situation through our several posts we have there; we have our people in the area. What happened is there was indeed a very serious military confrontation again between the Christians in Lebanon, and the Christian military forces and the Palestinians.

I don't know how much the Israeli Air Force was involved. There are statements in this regard especially by the Palestinians. We have no proof of this but as far as land war is concerned in these last days, we have no indication, no proof of a direct Israeli involvement.

Mr. CLARK. We want to talk to you, Mr. Waldheim, about another trouble spot in the world and that is Rhodesia. The United States and Britain have proposed a plan for transferring the Rhodesian Government to black majority rule. That plan would include a United Nations peacekeeping force and it has been called the last hope for peace in

Rhodesia. Does the situation there look that grim to you?

Secretary General WALDHEIM. Yes. The situation is very grim, very dangerous, explosive. I have discussed the British plan, which is fully supported by the United States, with Prime Minister Callahan recently in London and with Foreign Secretary Dave Owen. I discussed it also with the Soviet Government recently in Moscow, because the plan foresees the appointment of a special representative of the Secretary General of the United Nations who should cooperate with the British Resident Commissioner, sort of cabinet general officer—still administered in power, which is Great Britain and, in addition, the signing of a peacekeeping force for the transition period to maintain law and order.

Now, this is something which has to be decided by the Security Council and, of course, it can only be done if the Council makes a positive decision in this regard. So the United Nations can only be involved directly in this matter if the Security Council decides in such a way.

Mr. CIOFFI. Mr. Secretary General, in just a couple of days now you will be addressing the 32d General Assembly from that podium right up here. What are you going to tell the delegates about your fears of the African situation and the fact that it might deteriorate unless something is happening? What are you going to tell them?

Secretary General WALDHEIM. Well, what I have to tell them is that the situation is very serious. I had already mentioned in my annual report to the General Assembly, and if no negotiated settlement can be found or worked out in regard to Rhodesia or Namibia, that we have to expect a further deterioration of the situation, a further continuation of the military confrontation between the forces of South Africa, on the one hand, and liberation movements on the other. As far as Namibia is concerned, and the forces of the Smith regime which is an illegal regime, as you know, and the patriotic front which is fighting that regime.

Mr. CIOFFI. Well, you obviously have been kept informed of what is going on. The British and the Americans, when they came back from Africa, said they were going to go to the Security Council quickly. They have not gone to the Security Council quickly to get authorization for your special representative and the peace-keeping forces. Why?

Secretary General WALDHEIM. Well, my impression is that they want first to get agreement from the parties concerned, and I consider this a very important approach. It is right. I even advised them to do so because you shouldn't go to the Security Council and then risk to get a rebuff by one or the other powers, especially those who have the veto in the Council. It seems to me very important to clarify the matter, to get agreement from the parties concerned, the front-line states in Africa and those of the liberation movements who are supported by one or the other side, as you are fully aware. Therefore, the reason for the delay is simply, in my opinion—I can't speak for them, but, in my opinion, on the basis of my information, that they rightly want first to clarify the situation, to get agreement from the parties concerned and then go to the Council.

Mr. CLARK. The proposed peace-keeping forces were to rely heavily on Nigerian soldiers. They would be sort of a mainstay of the U.N. force. Rhodesia's Prime Minister, Ian Smith, hasn't totally rejected the plan, but he has said, in effect, it doesn't make any sense. Would it make more sense to involve more countries in the peace-keeping force to give greater assurance to Rhodesian whites that their lives and their rights would be protected?

Secretary General WALDHEIM. Well, this is the idea. Quite frankly, there was never the idea that only one country should be involved as far as the peace-keeping aspect is concerned; we never do that. We always have several countries involved. It is true Nigeria—I discussed this with the head of state of Nigeria recently in Lagos. He is interested and is showing great interest in a solution of this problem and also interested in participating in such a force. But if we reach that point, it will be a force composed of several, mostly smaller, countries.

Mr. CLARK. And United Nations' sanctions against Rhodesia and chiefly restrictions on trading with Rhodesia have been in effect for 11 years, but they have had very little effect on Rhodesia except for weakening its economy to some degree. It is time for the United States to consider stronger action, stronger sanctions of some sort against Rhodesia?

Secretary General WALDHEIM. The United States has changed its attitude in this regard. The new administration has already supported the sanctions, but, of course, we are now hoping that progress will be made in the negotiating process, and if we reach a positive result, then the sanction aspect will lose its—

Mr. CLARK. But if you do not reach a positive result, is the United States prepared, or should it be prepared, to get tougher with Rhodesia?

Secretary General WALDHEIM. It should. There can be no doubt in my mind about this, and I think it is willing to do so.

Mr. CIOFFI. Mr. Secretary General, to get back to the Security Council, certainly getting permission for a U.N. peace-keeping force would have to have Security Council sanction. However, why can you not appoint a special representative on your own to simply investigate the possibilities of whether this plan is feasible or it is not feasible? Why do we have to wait for the Security Council action on that? Why can't you do it?

Secretary General WALDHEIM. It is not the question whether this plan—to find out through a special representative whether this plan is feasible or not. The question here is to cooperate with a British administrator of the country during the interim period. Now as far as Namibia is concerned, we have a clear mandate. There are numerous resolutions of the United Nations establishing clearly the responsibility of the United Nations in Namibia, whereas Rhodesia is a matter for the British Government because they are still the administrating power. You can call it the colonial power. And there is a illegal regime of Mr. Smith's who is opposing this British attitude. But it is evident that I cannot appoint a special representative to supervise the transition period and the actions of the British administrator without having a mandate from the Security Council, because if I were to do that, it would mean that I, too, already accept this approach, that I do involve directly the United Nations in this process which until now has not been the case. And rightly so, because it is a matter for the British Government to settle. They have to make sure, and they tried this, and we appreciate it; they tried to settle the matter through the appointment of such an administrator and free elections and then a new government based on majority rule.

Mr. CIOFFI. Also, the British are obviously anxious to have the Americans behind and the United Nations out front. Are you reluctant to be out front?

Secretary General WALDHEIM. I am not reluctant to help in this effort because I think it has made a very serious effort to solve the problem, but we have our rules in the United Nations, and the Secretary General cannot deviate from these rules. Therefore, I think the procedure envisaged is right, to clarify the situation with the parties directly concerned and then to go to the Security Council and get a mandate from the Council for the two actions which have to be taken.

Mr. CLARK. At the recent conference of Black African countries, Mr. Secretary General, you spoke out strongly against apartheid, the enforced legal separation of the races in South Africa. Would you favor some tough U.N. sanctions against South Africa?

Secretary General WALDHEIM. There can be no doubt the policy of apartheid is against the charter of the United Nations; it is against the human rights covenants; it is against everything we are standing for in the United Nations. Therefore, I consider it high time to respect these covenants on human rights, to get away with racial discrimination and I can tell you that if that is not done in the near future, we have to expect strong action by the General Assembly and the competent organs of the United Nations.

Mr. CLARK. You would favor something similar to the economic boycott of Rhodesia applied against South Africa?

Secretary General WALDHEIM. It is not for me to prejudge the actions of the General Assembly and the Security Council. These are the organs which have to decide on these matters and we have already seen serious signs in the General Assembly, you will remember, a few years ago, and that continues to take drastic action against this policy.

Mr. CLARK. So you think the moment is approaching where the General Assembly will be giving serious thought to applying economic sanctions against South Africa?

Secretary General WALDHEIM. I wouldn't exclude that but, again, I cannot speak for the sovereign member states of the United Nations.

Mr. CIOFFI. Well, also within the United Nations you have a Security Council that you have been critical of in the sense that you think it does not have enough power. You have made that remark several times. How do you think the Security Council should be changed in order to be a more powerful and more effective organization for solving all these problems in the world?

Secretary General WALDHEIM. May I tell you something in this connection? I think it is not so much the aspect of whether or not the Security Council is powerful. In general the Council tries very hard to make decisions and to contribute to solutions, but the real problem is that some of the governments are just not respecting the resolutions of the United Nations; they are ignoring them, and this then leads to a situation where you have a resolution of the United Nations legally adopted, but not implemented by those concerned, and this is the real problem we have. But, on the other hand, the Council has no power to force a government to respect its resolutions. This is the great problem for the future.

Mr. CIOFFI. Could I speak to you of one individual in this General Assembly who will be sitting here with you who is a highly controversial figure, Ambassador Andrew Young? When he first arrived, a lot of your people said he couldn't last because the spoken word here was dissected for all its meanings and Mr. Young sometimes speaks out. Has he been a help to this organization or a hindrance?

Secretary General WALDHEIM. Yes, he has been a great help to this organization. I know that there was great publicity about his completely new approach to the work of the United Nations and especially the attitude of the U.S. delegation, but I can tell you from my experience here at headquarters, as well as from my experience in the different parts of the world, that he is highly respected; especially in Africa. There is new confidence in the sincerity of the United States' efforts and I am happy to say that

Andrew Young has made a very important contribution to the United Nations.

Mr. CLARK. After your recent visit to Moscow, Mr. Secretary General, and your talks with Mr. Brezhnev and other Soviet leaders, you said you were more optimistic about Soviet-American relations and specifically about prospects for a new agreement limiting strategic arms. What makes you so optimistic?

Secretary General WALDHEIM. I think the press has perhaps over-emphasized my statement after the meeting with Mr. Brezhnev in this regard. It is indeed true I am more optimistic than I was before because Mr. Brezhnev has clearly expressed to me the wish, the sincere wish of the Soviet Government, to solve the problem of the SALT negotiations, to make every effort to overcome the difficulties and to come to a new agreement, although he said it does not depend on us alone, but also on the other side, the United States. But he, as well as Gromyko, repeatedly told me, "We want a new agreement based on Vladivostok. We know there are openings, but still we are ready to solve the problem."

Mr. CLARK. I am sorry to have to cut you off at this point. We are out of time.

Thank you very much for being with us on "Issues and Answers."

E. F. SCHUMACHER, AUTHOR OF "SMALL IS BEAUTIFUL"

Mr. PELL. Mr. President, I am saddened at the recent death of Dr. Ernest Frederick Schumacher, innovative and forward-thinking economist and author of "Small Is Beautiful." Dr. Schumacher's presence, impetus, and contributions will be sorely missed around the world. His intermediate technology development group has already made significant contributions in Third World countries by providing cheap, simple, and appropriate designs and technologies to aid the total development of the people of these nations. Dr. Schumacher's ideas are also influencing our own State and Federal Governments as seen in the development of "appropriate technology" programs across the country.

Dr. Schumacher proposed a technology scaled to the human needs of any given community, utilizing local resources to enhance the health, beauty, ecology, and well-being of the entire community and environment. He believed we must acquire a new lifestyle based on spiritual and more humane ideals, one which would require modes of production and consumption to obtain the maximum of well-being with the minimum of consumption. He was of the belief that we must develop a democratic technology in which labor could be freely chosen, nonexploitive, have creative value, and allow individuals to maintain a decent standard of living. His vehicle for this is an orientation toward the organic, nonviolent and nondestructive, cheap and accessible to virtually all, and simple science and technology with minimal demands on capital and nonrenewable environment and energy resources.

During a Washington visit during Dr. Schumacher's 1977 spring tour of the United States, he stressed three points which he believed we should concentrate on regarding new directions for our societies. His No. 1 priority was to funnel capital, research, and development into solar energy to be used in combination with organic farming on intermediate scales. Furthermore, he believed it necessary to get the point of production and the point of consumption closer together, creating more jobs, reducing product expense to the consumer, and by changing the pattern of settlement alleviating the problems of big city living. Third, he said we must strive for efficient, simple, small-scale equipment.

I think it would behoove us all to consider the four questions that Dr. Schumacher raised regarding any new technology being launched:

First. What is its relevance to the energy problem?

Second. What is its relevance to environmental quality?

Third. What is its relevance to poverty? Does it help or hinder?

Fourth. How does it relate to the spiritual and mental health of the people?

I urge my colleagues to keep in mind Dr. Schumacher's main message that small is not only beautiful, but it is usually cheaper, and more humanly satisfying.

Mr. President, I ask unanimous consent that the article on Dr. Schumacher's death from the Washington Post, September 7, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

E. F. SCHUMACHER, AUTHOR OF "SMALL IS BEAUTIFUL"

(By Martin Weil)

E. F. Schumacher, 66, a British economist and the author of "Small Is Beautiful," whose unorthodox advocacy of small scale technology has won a wide range of adherents, died Sunday at a hospital in Switzerland.

Dr. Schumacher, who had been visiting in Switzerland, was on his way to Zurich by train when he became ill and was taken to a hospital in Fribourg Canton, where he was pronounced dead on arrival. The cause of death was not immediately reported.

Dr. Schumacher's emphasis on the values of small-scale technology has become increasingly influential both in underdeveloped nations and among ecologists and advocates of decentralization in the more developed countries.

With the apparent decline in availability of the cheap fuel and labor upon which many great industrial enterprises were founded, and with the growing disillusionment with the effects of big technology, Dr. Schumacher's specific proposals for technology on a smaller and more human scale, once ridiculed, have found an expanding audience.

His book, first published in 1973, became a best-seller in paperback, and made him something of a folk hero. Its success has been ascribed to its similarity to Eastern philosophies. It is subtitled "A study of economics as if people mattered." The book, which has been translated into many languages, both urges human fulfillment and suggests means of reaching that goal.

Dr. Schumacher was born in Germany and studied at Oxford as a Rhodes scholar and at Columbia University in New York.

After coming to Britain he spent 20 years, from 1950 to 1970 as economic adviser to the National Coal Board. He also spent time as a consultant in Asia where he refined many of his own ideas for fostering economic progress in less developed areas.

His essential idea was to encourage the establishment of small production facilities in rural regions and to use local resources to meet local needs.

"All you need is simple materials," he said, adding in the aphoristic style for which he was known, "The Taj Mahal wasn't built with Portland cement."

In 1966 he established the Intermediate Technology Development Group in London. Intermediate technology, he once explained, is on a level between the hoe and the tractor. It was designed to meet the needs of developing countries by seeking out suitable technology, devising it when it did not exist and publishing instruction manuals for simple, low cost systems and industries.

His first wife died in 1960, and he remarried in 1962. He had eight children.

FEEDBACK EFFECTS OF FISCAL POLICY CHANGES

Mr. HATCH. Mr. President, on September 9 during debate over amendments to the second budget resolution fiscal year 1978 a dispute arose between myself and Senators MUSKIE and BELLMON. The dispute concerned whether the CBO's estimates of the effects on tax revenues of tax rate reductions take into account the supply-side feedback effects on the tax base of the increased incentives. I maintained that these feedback effects are not taken into account by the econometric models used by CBO, and Mr. MUSKIE maintained that they are taken into account.

Our dispute was noticed by Mr. ROUSSELOT, a member of the Budget Committee in the House of Representatives, who earlier this year addressed this question to CBO and to OMB. Mr. ROUSSELOT'S remarks in the House on September 20 clearly indicate that CBO, OMB, and Chase Econometrics have all stated that the supply-side feedback effects are not taken into account. I ask unanimous consent to print Mr. ROUSSELOT'S remarks in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

FEEDBACK EFFECTS OF FISCAL POLICY CHANGES

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, on September 9 a dispute arose on the floor of the Senate in the course of some tax reduction amendments to the second budget resolution, fiscal year 1978. The dispute concerned whether the Congressional Budget Office's estimates of the budgetary effects—that is, the effects on the deficit—of tax rate reductions include the feedback effects of the increased incentives on the tax base.

On February 25, 1977, I addressed this question to Dr. Alice Rivlin, the Director of CBO, and on March 3, 1977, I asked Bert Lance, the Director of the Office of Management and Budget if the econometric models upon which the Government relies for forecasts and economic policy stimulations take into account the feedback effects on tax revenues of the increased incentives that result from tax rate reduction.

The answer is: No, they do not. In her reply of March 11, 1977, Dr. Rivlin stated that—

"The models do tend to neglect the influence of tax rates and other incentives on aggregate supply and capital formation."

OMB's reply under cover of Mr. Lance's letter of March 22, 1977, stated that the Chase, DRI, and Wharton models—

"* * * do not include any relative price effects from an individual income tax rate reduction—no incentives to work longer, to work harder, to save more, to take greater risk, to be more innovative, etc. Disposable

income is increased, which raises consumption, and that is the only direct effect."

The fact is that the supply side feedback effects of tax rate reductions or increases are not taken into account, and this fact is not in dispute. The only feedback effect of tax rate reductions on the tax base and on tax revenues that CBO estimates for changes in personal income tax rates is the effect on disposable income and spending—that is, on demand.

In June 1977 Chase Econometrics themselves stated that—

"These models, which are now used by virtually all economic policymakers are constructed in a way such that they are much better able to simulate the effects of tax policies on aggregate demand than on aggregate supply. Thus the use of these models may have directed policymakers toward those policies which had visible short-term effects on aggregate demand without considering their likely intermediate and long-term effects on productive capacity."

Mr. Speaker, those of us who have been complaining about the policy bias in the budget resolutions that the Congress has been passing do, after all, know what we are talking about. The country is more likely to prosper if all the members of the House and Senate Budget Committees and the committee staff also become aware of the defects in the tools that they are using to shape the economic policy aspects of the budget resolutions that they bring to the floor

Mr. HATCH. Mr. President, I do not take any pleasure in the fact that my distinguished colleagues, Mr. MUSKIE and Mr. BELLMON, were in error. To the contrary, it concerns me a great deal. We live in an economy that is based on incentives. Yet, we make economic policy without regard to the effects it has on incentives. That is like a doctor prescribing medicine without any regard to its effect on the patient. I do not believe it is safe to continue to make fiscal policy without regard to the effect on the economy's level of aggregate supply.

Therefore, I hope the distinguished chairman of the Senate Budget Committee and the distinguished ranking minority member of the committee will interpret my remarks here today as a good will plea that we learn to understand better the effects of policy alternatives on the economy. It is not our dispute that is important, but our cooperation in forging an economic policy that makes possible high levels of employment, a stable price level, adequate tax revenues for legitimate public expenditures, and prosperity for all Americans.

THE AMTRAK BUDGET CUTS

Mr. PELL. Mr. President, recently the National Railroad Passenger Corporation (Amtrak) announced cutbacks in service along with fare increases in order to meet the congressionally mandated reduction of $50 million in Amtrak's fiscal year 1978 budget. While I realize that cutbacks must be made throughout the system, there is clearly an inordinate number of cuts from one region of the country—the Northeast.

Cutting back the availability of rail passenger service in the Northeast is the kind of short-sighted action that has done such a disservice to rail passenger service in the past. At a time when Amtrak is trying to attract riders, particularly in areas with high potential such as the Northeast corridor, the Corporation should not be cutting back rail service except where clearly justified. Rather service should be enhanced.

I realize that because of executive and congressional budget cuts, Amtrak must find places to pare its operations. However, the Northeast corridor, where 59 percent of all Amtrak passengers ride—even though it comprises only 456 of Amtrak's 26,000 miles—is the most cost-efficient segment of Amtrak's routes, and should not be the place to absorb the lion's share of cutbacks.

Mr. President, in the Nation's most highly populated area, where train service has generated the most revenues for Amtrak and been the least costly to the taxpayers, Amtrak is going to cut 153 trains per week, at a time when the President is calling on all Americans to reduce fuel consumption drastically.

Likewise, in the heavily traveled Chicago-Milwaukee corridor, Amtrak is cutting back service by eliminating two trains daily and four on Sunday. I realize that the Amtrak board has voted to seek a supplemental appropriation to restore service, but the damage may already have been done.

Mr. President, in the highly populated corridors of this country lies the future of rail transportation. Although the Northeast corridor—Megalopolis—is this Nation's largest area of population concentration, there are high density corridors all over the country. For example, we have already seen dramatic passenger increases on San Diego-Los Angeles trains. Chicago-St. Louis, Dallas-Fort Worth, the east coast of Florida, upstate New York, Los Angeles-San Francisco, Seattle-San Francisco are where trains can provide an enormous service and be heavily traveled. By the end of this century we will see that happen in those areas and others.

Yet now, Amtrak is not looking to the future. It is chugging along in the present with an eye to the past. I know that part of the reason is that Congress only appropriated $488.5 million rather than the $534.7 million sought by Amtrak or the $500 million administration request.

But we must keep in mind that Amtrak's Federal subsidy has grown tremendously since its inception in 1971. Amtrak also has another source of money—passenger revenues, and the extent of these revenues will in large part determine its future. Amtrak will benefit from the $1.6 billion federally sponsored Northeast corridor project, improving the route over which Amtrak trains will ride in the corridor and serving as an impetus for increased train usage in the area.

But to put any less than the highest priority toward improving rail passenger service in this country, as the cool winds of autumn start to remind us of our ever-present energy crisis, is sheer folly.

While I agree that increasing the Amtrak budget will not by itself save the country from its energy crisis, I am positive that the policy of cutting back rail service can only lead to disaster. A recent column by Tom Wicker of the New York Times shows how important this battle over Amtrak funding is in the overall debate and public awareness of the seriousness of our energy crisis. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks which, incidentally, were intended for release yesterday.

Mr. President, I support the Amtrak request for a supplemental appropriation for fiscal year 1978 and I urge my colleagues to likewise support a move so clearly in the national interest.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENERGY OFF THE RAILS

(By Tom Wicker)

When the Senate gets back to work after its summer recess, it will take up an Administration energy program that the American people apparently do not believe is necessary. That's the sad conclusion to be drawn from a New York Times/CBS poll in which 57 percent of the respondents said they did not believe the energy situation was as bad as President Carter said it was, and 49 percent suggested that the "crisis" was only a plot to get higher prices for oil and gas companies.

So much wishful thinking suggests that neither Mr. Carter's leadership nor the program he has put forward has as yet made the kind of demands on the citizenry that would force them to realize the seriousness of the energy situation.

He did call the other day for enforcement of the 55-m.p.h. speed limit as a gasoline-saving measure. Combined with the gradual elimination of gas-guzzlers, that would make a considerable difference in the nation's profligate consumption of gasoline in private automobiles.

But the Carter energy program offers no incentives or penalties designed to get people out of automobiles altogether and into mass transit or longer-haul rail facilities. To top this failure, Amtrak—the quasi-governmental National Rail Passenger Corporation, which runs such intercity trains as there are—has announced extensive cuts in service and a rise in fares. Obviously, the left hand knoweth not what the right hand doeth.

Cutting service and raising fares is the classic pattern by which ridership on any transit system is inevitably reduced. Those were the steps the private railroad companies took when they were trying to kill off passenger service, an effort in which they mostly succeeded; so it's ironic in the extreme to see Amtrak, which Congress established to rescue passenger service, embarking on the same course.

It's even more ironic in the midst of the energy crisis—which so many erroneously believe is not a crisis at all—that this energy-saving mode of transportation is being cut back instead of extended. Why should anyone believe the crisis is real when such contradictions are permitted?

Worse, Amtrak has not been failing; in fact, it has been extending its passenger train network, improving its equipment and schedules, and attracting increased ridership (up from 16.6 to 18.6 million annually). But the revenues do not as yet cover expenses, making Federal subsidy necessary. And for fiscal 1978, beginning next month, Congress inexplicably reduced Amtrak's fund request from $534.1 to $488.5 million.

Since Amtrak had added major routes this year, the 1978 fiscal year appropriation is, in effect, a cut from the $482.6 million subsidy for 1977. How the deep thinkers in Congress reconcile that with the new taxes and re-

strictions that will be decreed in the energy program will be painful to watch.

The announced service cuts will affect 26 states but appear to be concentrated on the Boston-Washington line, along which to complete the absurdity, the Federal Government is spending hundreds of millions to rebuild the so-called Northeast Corridor roadbed. These cuts "may well destroy what's left" of Connecticut's passenger service, Gov. Ella Grasso said; they will also reduce weekend runs on one of Amtrak's most successful projects, the Metroliner between New York and Washington.

Even so, the announced cutbacks will account for only $28 million of the shortfall in subsidies and revenues that Amtrak faces for 1978. Other cuts may have to be made and Amtrak says a prime candidate is the Floridian, which now provides service—albeit not very good—between Chicago and Miami.

The Floridian loses about $9.5 million a year, illustrating another of Amtrak's problems—the private railroads. The train could pick up major additional ridership and revenue if it were routed through Atlanta, the traditional Southern transportation hub. But the Louisville & Nashville won't let Amtrak use its line from Chattanooga to Atlanta, owing to heavy freight traffic, and the Southern Railway would permit the use of tracks it controls only if Amtrak puts about $20 million into upgrading the line. Amtrak obviously doesn't have the money.

In the West, for another example, Amtrak may sue the Missouri Pacific Railroad to force decent service and schedules on the Inter-American, which Mo-Pac runs on much of the important route from Chicago through St. Louis and north-south across Texas to Laredo on the Mexican border. Mo-Pac operation has made the Inter-American legendary for lateness, slowness and surliness.

On top of such problems, the reduced Federal subsidy, forcing service cuts and fare increases, is nothing less than weird. How do Mr. Carter and Congress expect ever to convince the public that there's an energy crisis—much less that they know how to cope with it?

SUPPORT FOR THE GENOCIDE TREATY: THE ENDLESS LIST

Mr. PROXMIRE. Mr. President, there is no human rights treaty that has ever been subjected to more detailed scrutiny than the Genocide Convention. Every line, every phrase, every syllable has been studied over and over since it was first introduced over 28 years ago. As a result of this, the list of individuals, groups, and organizations who support the treaty has grown. I would like to recount this support for the benefit of my colleagues.

President Truman supported it in the strongest possible terms. Subsequent administrations, Republican and Democratic alike, have renewed that endorsement. The Genocide Convention is an important part of the human rights policy of the present administration. As President Carter said in a recent message to the Senate:

The Convention protects the most fundamental of all human rights—the right to live . . .

Two important nongovernmental groups have scrutinized and subsequently endorsed this treaty. The American Civil Liberties Union is one. It has carefully reviewed allegations of threats to civil liberties posed by this treaty and concluded that these fears are unwarranted.

The American Bar Association is the other. The recent support of the ABA is of cardinal importance for it reflects the judgment of the leading professional association of attorneys in the United States.

The general counsel of the Department of Defense, the judge advocate general for the Army, Air Force, and Navy have all endorsed the treaty. They have recognized that the Genocide Convention posed absolutely no threat to the United States and that ratification would be a "positive step in the national interest of our country."

Virtually every major organization in the United States has expressed its support of the Genocide Convention. I sincerely hope that soon, through ratification of the treaty, the Senate can join the world community in its effort to combat genocide.

DISPLACED HOMEMAKER'S BILL

Mr. RIBICOFF. Mr. President, the Subcommittee on Employment, Poverty, and Migratory Labor of the Human Resources Committee has just completed hearings on S. 418, the Displaced Homemaker Equal Opportunity Act. As a cosponsor of this bill, I was pleased to see an excellent explanation of the problem by Ellen Goodman in the Washington Post this morning. I would like to share this column with my colleagues. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

DISPLACED, REPLACED, MISPLACED

(By Ellen Goodman)

BOSTON.—They were talking about Mrs. Adams in the Senate recently. They were talking about her and Mrs. Hill in the hearing room of the subcommittee on employment, poverty and migratory labor.

Now Mrs. Hill and Mrs. Adams were never the sort of women to be talked about in public. Years ago they made their decisions to have private careers. They had children and raised them; they made homes and acquired all the skills of that job.

If all had gone according to plan, according to their expectations, we might never have heard about them at all.

But, a few years ago, Sen. Birch Bayh explained to the subcommittee, both of these middle-aged women lost their only "employer." Mrs. Hill's husband died, and, at 53, she was without work experience or income. She had a mortgage to pay and seven years to survive until she was eligible for Social Security. Mrs. Adams was divorced by her husband after 19 years of marriage. She was among the minority—some 14 per cent—who are awarded any alimony at all. But like half of those women, she was never able to collect it on a regular basis.

In short, these two middle-class, middle-aged women with grown children became part of that vast subgroup that Susan Catania, a state legislator from Illinois, described as the "new poor." They were now in the category known in the Senate bill as "Displaced Homemakers."

Displaced, replaced or misplaced, there are somewhere between two million and seven million American women who were forced emigrants out of a lifestyle that was destroyed by death or divorce.

Women like Mrs. Adams and Mrs. Hill were perhaps the last generation to go into homemaking as a life-long career. When they were married 20 and 30 years ago, they believed that they had wed security.

Independence wasn't something they chose. It's something that happened to them and they called it insecurity. It came into their lives with empty nests and empty pocketbooks; it left them uncovered by social policies and triply discriminated against in the work field: by age, sex and inexperience.

It left them in need of some help. Of course, the expression "Displaced Homemaker" brings forth a vision of armies of middle-aged women camped on the banks of the Potomac behind barbed wire waiting for the soup line to open. But it is also a term of transition, and the bill that is winding its way slowly through Congress is really a Relocation Act.

It offers not a soup kitchen, but supports for a difficult time. The funds would set up what Laurie Shield, the head of the Alliance of Displaced Homemakers, likes to think of as "experimental laboratories"—one for each state—where women could be aided through the transition, where they could find legal, emotional and job counseling. They would be "recycle stations" to outfit the homemakers' skills to fit the work force and find new jobs to fill both the public needs and theirs.

Basically it would support middleaged women through the time zone from desertion to self-sufficiency. And from the expectations of one decade to the realities of another.

In some crucial ways, the Displaced Homemakers bill is a stopgap measure: stopping the gap between the generations.

Joanne Maxey, a state senator from Nebraska, told the Senate hearing: "We are not going to have the problem 10 or 15 years from now, because today's young women are preparing themselves." She is fundamentally right. The young homemaker now has had some tough "role models," and most of them plan their "second careers."

But women like Mrs. Adams and Mrs. Hill planned a lifetime of mothering and wifing, caring for others, making a home. They slipped on their commitments and fell into the cracks of society. They were misplaced, replaced, displaced.

And, at the very least they deserve a chance to relocate, with a small buffer zone of caring in return.

COFFEE SHOP FERTILE GROUND FOR DAKOTA MEALS PROGRAM SITE

Mr. BURDICK. Mr. President, the Administration on Aging magazine, Aging, recently included an article describing a successful meals program for the elderly that clears more than $200 in profit each month.

The program, located in Bismarck, N. Dak., is run by the Burleigh County senior adults program. Their profits have not only paid for decor in the new Senior Citizens Center in Bismarck, but it has also provided the local matching money for a title VII grant. It is a fine example of local initiative and cooperation making life better for our senior citizens.

I ask unanimous consent that the article describing the Burleigh County program be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COFFEE SHOP FERTILE GROUND FOR DAKOTA MEALS SITE

First, it was coffee and a place to rest.

Next, it was toast, rolls, donuts, and milk or tea for those who didn't want coffee.

Next, it was a whole meal.

DONUTS TO DOLLARS

"One thing sort of led to another," is the way Jack Minton, project coordinator of the Burleigh County, N.D. Senior Adults program, explains how a coffee shop became an 80-meal-a-day dinner site for the elderly.

And he, his secretary Dianne Blevens, and Burleigh County Housing Authority director Gene Sandwick whose agency sponsors the program, couldn't be happier.

With 40 or 50 snackers a day, coffee shop tills are yielding better than $200 a month, reports Ms. Blevens.

That $200, plus profits from day-old bread sales at Bismarck's three meal sites and a Bazaar, have provided funds for additions to a Senior Citizens Center opened in April.

These additions include wall and floor coverings, furniture for the arts and crafts room in the $650,000 structure, and other furnishings.

In April, 1976, the managers of Bismarck Super Valu stores offered their day-old bread to the county adults program. "Super Valu gives us the bread," says Mr. Minton. "We sell it to the senior citizens who come to our three meal sites for one-third of its retail value."

That venture has been bringing in $500 monthly and has provided the local portion toward a $30,000 Federal Title VII grant to supply the kitchen for the new center. The meal grants are administered by Aging Services of the Social Service Board of North Dakota.

ELDERLY ORIGINATED IDEA

The idea for the coffee shop originated last summer with the country's elderly bus riders. An average of 40 persons from smaller communities and farms come to Bismarck each week for doctor and beauty appointments or for shopping, on a bus operated by the program. Another 250 elderly persons from Bismarck ride the program's town buses.

"The rural riders in particular wanted a place to rest and have coffee after the bus came in," says Mr. Minton. Because the Patterson Hotel is centrally located, Mr. Minton asked Robert Therren, manager, about putting a coffee urn in the lobby for them. Mr. Therren suggested they use the coffee shop, which the hotel recently closed.

Mr. Minton continues, "There are a lot of people who have apartments in the hotel who want to have coffee. We decided to buy rolls, donuts and snacks to serve customers."

The coffee shop was opened last August. A month later, Mr. Minton and his staff began using it to serve noon meals to the elderly as well. "To give you an idea of the success of the centrally-located meal site, we usually serve 17 meals at the Hillside Park Center location," says Mr. Minton. "When we closed that and started serving at the hotel's coffee shop, we averaged 80 meals daily."

SEATING FOR 250

All the food for Bismarck's meals program is prepared at Crescent Manor, also a meal site. The other site is Senior Inn. "When the new Senior Citizens Center is finished," says Mr. Sandwick, "all the meals—an average of 250 each day—will be prepared there."

INADEQUATE TRUCKING SAFETY: A THREAT TO THE NATION'S HIGHWAYS

Mr. PERCY. Mr. President, the important area of trucking safety was recently the subject of an in-depth investigation and report by the Chicago Tribune. The Tribune Task Force consisted of William Gaines, Frederick Lowe, both veteran investigative and police reporters, and Howard A. Tyner, former UPI correspondent in Moscow. Their superb exposé found that "despite Federal and State laws on minimum safety requirements for commercial carriers, numerous trucks on the road are in shockingly bad repair and pose a threat to other motorists."

According to the report, the Department of Transportation's Bureau of Motor Carrier Safety found in 1974 and 1975 that more than a third of the 54,800 trucks it had inspected were unsafe and were ordered off the road until repaired. Since that time, the task force reports that the situation has worsened.

One flagrant area of abuse is the deliberate violation of the 55-mile-per-hour speed limit. The Bureau of Motor Carrier Safety presently requires (49 C.F.R. 392.6) that no trucking run shall take more than 10 hours to complete. But, because of the inadequate enforcement of speed limits, many motor carrier firms and independent truckers schedule runs which require truckers to far exceed the legal speed limit to complete their runs within this 10-hour limit. The Tribune investigation found that two out of every three trucks driven during its surveillance were exceeding 55 miles per hour—frequently going more than 70 miles per hour.

One result of such speeding is that truckers frequently tailgate automobiles. This has terrorized drivers and resulted in many accidents, some fatal. If we are to maintain safety on the Nation's roadways, then commercial carriers must be made to conform to the legal speed limit. The 55-mile-per-hour speed limit both conserves energy and saves lives. All Americans must be encouraged to obey it. Those who do obey the law should not be terrorized or hounded off the road by the actions of those who do not.

The Tribune reporters found that some truckers regulary evade State operated roadside truck scales, where they might be ticketed for driving a dangerously overloaded or mechanically unfit vehicle. During one recent test period near Chicago, the investigative staff witnessed an average of one out of every two trucks using an access road to bypass an official weight station.

The task force also discovered that truckers are often too tired to work safely. Long distance truckers told the Tribune that they regularly drive more than the 70 hours a week maximum permitted by Federal law. This often amounts to over 12 hours of driving each day.

Last, the task force report found that truck safety and health laws are simply inadequately enforced or not enforced at all. The Bureau of Motor Carrier Safety has only one inspector for every 32,500 vehicles. At this rate, it would take 15 to 20 years for the Bureau to check every truck in the country.

I am deeply concerned about these findings. The Nation's extensive highway system was constructed for the safe use and enjoyment of all Americans. The existence of 37-ton trucks tailgating motorists, operated by fatigued drivers, and in shabby condition is a threat to every motorist and conscientious driver. The situation must be corrected!

I have written Secretary of Transportation, Brock Adams, concerning one specific area of truck safety abuse—the willful violation of legal speed limits. In the very near future, I plan to introduce legislation aimed at increasing trucking safety.

In order to bring special attention to this important problem, I ask unanimous consent that the incisive and well-documented Tribune task force report, along with my letter to Secretary Brock Adams, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., Sept. 17, 1977.

Hon. BROCK ADAMS,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: I am disturbed to learn that the Department of Transportation's Bureau of Motor Carrier Safety (BMCS) is failing to adequately enforce a critical provision of the Motor Carrier Safety Regulations (49 C.F.R. 392.6). The regulation specifically provides that "No motor carrier shall schedule a run . . . between points in such period of time as would necessitate the vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the vehicle is being operated."

The Bureau has determined that no run may be scheduled which cannot be completed in ten hours without exceeding the legal 55 miles per hour speed limit. However, the BMCS has not effectively enforced that provision. As a result, many motor carrier firms and independent truckers are instituting runs that cannot possibly be completed at legal speeds within the ten hours. Drivers frequently have no choice but to speed in order to complete the excessively long and resultingly illegal runs which they have been assigned.

Inadequate enforcement of this regulation has created other unsafe conditions on our nation's highways. Excessive speed by truckers forces them to tailgate other vehicles. And the chance for tire and brake failures, and more serious accidents and injury, is also greater at such higher speeds.

At a time when the Congress and the Department of Transportation are making serious attempts to correct many of the maladies of our national transportation system, the alarming existence of unsafe and illegal trucking practices must be dealt with forthrightly. I strongly urge that you personally, and the Department, consider the following recommendations:

Criteria should be established to make D.O.T. test runs more realistic in ascertaining the time necessary to complete a specific trip. The truck should be of the same quality as that normally used on the run and should be loaded in the usual manner. Such conditions as routing, weather, terrain, and

urban driving congestion should be taken into consideration when assessing compliance with the ten-hour limit. Further, a company should be required to certify prior to a test that all test standards have been met; in this way, the BMCS would have less trouble meeting the legal requirements of proof of a company's knowing or willful violation of the law.

Runs greater than 450 or 475 miles should be prohibited. I am reliably informed that this is the maximum distance a trucker can safely and legally negotiate in under ten hours.

Companies should be required to post notice of the Bureau's findings after an investigation. Drivers would then be alerted to possible violations of the law and would be better able to protect themselves from possible employer intimidation.

A conference with representatives of trucking fleets and independents should be convened promptly in order to seek greater voluntary compliance with the law. As you know, the speeding problem is of such proportions that merely increasing enforcement against violators would be insufficient in effecting a remedy.

An exceptionally well-documented task force investigation and report (attached) on trucking safety, by the staff of the Chicago Tribune, just last week revealed frightening abuses of federal and state laws. These abuses have resulted in countless deaths and serious injuries. Motorists who obey such laws as the 55 mile per hour speed limit should not be hounded off the road or harassed simply because they are law-abiding citizens; nor should truckers be compelled to willfully break the law in order to avoid confrontations with company management, thereby risking their jobs. BMCS has within its power the authority to correct these violations. I urge that the law and related regulations be vigorously enforced.

I look forward to receiving from you a timely report on the specific measures that the Department of Transportation proposes to take in dealing with this issue.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

[From the Chicago Tribune, Sept. 11, 1977]

BIG TRUCKS: TAILGATING TERROR

Settled with 11 other students in the rear of an old farm pickup, Dennis Lay watched the road unfold behind them and thought about the day of field work ahead.

A lumbering semitrailer truck was following them, its blue and white markings clear in the morning air. Lay watched it come down the road, closing quickly as the pickup slowed to turn right.

The big truck was coming on fast. Too fast, it seemed.

As the rig loomed larger, Lay told himself it would swing out to pass. But it didn't swing out.

A girl in the pickup truck looked up and screamed. Lay threw himself sideways toward the ground. The pickup swerved, but too late. Dust, debris, the screech of metal on metal.

"All I could see was that big grille," Lay remembers of the crash. "I didn't even see the other driver."

One youth died, a second suffered critical injuries, and 10 others were hurt in that July 22 smashup near Bloomington, Ill. The driver of the semi escaped with no injuries.

An unusual highway tragedy? Not really.

A two-month investigation by The Tribune's Task Force found that such accidents frequently involve speeding, unsafe, or overweight trucks. Their drivers often are dangerously tired or unqualified. Among the findings:

Too many trucks are driven too fast. In 11 hours of speed tests on highways throughout the Chicago area, the Task Force found that two of every three trucks were exceeding the 55 mile-an-hour speed limit, frequently going more than 70 m.p.h.

Many trucks are too unsafe to be on the road. Task Force reporters working with police along two heavily traveled Chicago-area commercial routes inspected two dozen large trucks chosen at random and found a total of 54 safety-related violations such as bad tires, no lights, and no turn signals.

Truckers regularly evade state-manned roadside truck scales, where they might be ticketed for driving a dangerously overloaded or mechanically unfit vehicle. During one test period on Int. Hwy. 55 southwest of the city, reporters saw an average of one truck every two minutes use an access road to bypass an open scale.

Truck drivers often are too tired to work safely. Long-distance truckers told reporters they regularly drive more than the 70 hours a week permitted by federal law. The driver of a truck that killed two motorists in a fatigue-related accident said his weekly average was 85 to 90 hours behind the wheel.

Truck safety laws are often poorly enforced or not enforced at all. The Bureau of Motor Carrier Safety, charged with regulating interstate trucks, has one inspector for every 32,500 vehicles. It estimates it would need "15 or 20 years" for its staff to check every interstate truck in the country.

Reporters found trucks that were bristling with safety violations, yet bearing a State of Illinois safety sticker issued only a few weeks before by an authorized inspection station.

Last year, Illinois took in $126 million from truck license fees, but it assigns only 110 persons statewide to examine trucks for safety on the highway. These are civilian weight inspectors, empowered to issue citations for weight violations but without authority to make arrests when they find mechanical defects.

Chicago has no truck inspection program at all to show for the $3.2 million the city receives annually in truck fees.

"Companies have become very arrogant because the federal and state governments simply are not enforcing the laws," said Susan Zinsburg, a traffic expert for PROD, a Washington-based professional drivers organization concerned with truck safety.

The $6 billion-a-year trucking industry is one of the fastest-growing commercial fields in the nation. In 1970 there were 15.3 million trucks on the roads. By 1975 the figure had jumped 68 percent to 25.7 million. Trucks now haul more goods in the United States than all other types of transport combined.

With the growth has come increasing concern among highway safety experts about the industry's road record.

"I hate to sound like a zealot," said Richard Peet, president of Citizens for Highway Safety, a consumer lobbying group. "But there are just too many truck drivers not getting enough sleep, speeding, and pushing other motorists too far, increasing the risk factor."

According to the National Safety Council, there were 45,000 traffic fatalities in 1975; one-fifth of them involved truck or bus accidents.

Although heavy trucks comprised just 0.8 per cent of the Nation's total number of vehicles in 1974, they were involved in 2.6 percent of all accidents and 3 percent of all fatal accidents.

A steadily worsening record is reported in Chicago, which, according to the American Trucking Association, has the heaviest truck traffic of any city in the Nation.

Illinois Department of Transportation statistics shows smashups involving semitrailer rigs and other large trucks on Chicago-area expressways jumped 17.5 per cent from 1975 to 1976; passenger-car accidents in the same period went up only 6 per cent.

Experts say the introduction of the 55-m.p.h. speed limit three years ago has proved a prime factor in boosting awareness of the need for truck safety.

Previously, passenger cars were permitted to travel 65 or 70 m.p.h. and could pull safely away from slower commercial vehicles. Today they all run together, though not necessarily at less than the speed limit.

"It used to be that cars ran into the rear of slow-moving trucks," said Kenneth Pierson of the Federal Highway Administration. "Now it is the reverse."

Tailgating by heavy trucks at high speed has become terrifyingly commonplace. Few motorists escaped the chilling experience of having a huge semi sweep up to within a few feet behind them before pulling over to pass.

"It scares the hell out of me when I can't see anything but the radiator grille of a Kenworth [one of the largest makes of truck tractors] in my back window," said Dewey Campbell, a loss-control specialist for the American Mutual Insurance Alliance.

"If something upsets the equilibrium, somebody is going to get squashed—and it isn't going to be the truck."

According to William Johns, director of safety for the American Trucking Associations, ATA members have been asked to adhere to the 55 m.p.h. speed limit. The organization also asked Congress to boost the limit for cars to 60 to try to end dangerous tailgating.

Too often the result of tailgating is an accident such as that near Bloomington seven weeks ago.

The pickup truck was taking the students to nearby fields to do experimental work on corn pollination; the semi driver, Terrence C. Turner, 34, of Streator, was returning to his terminal after an early morning delivery.

Turner told police he was traveling at 45 to 50 m.p.h. at the time of the accident and was preparing to pass when he glanced down at the dashboard to check his tachometer.

When he looked up, he said, it was too late even to apply the brakes.

The impact sent the pickup hurtling more than 100 feet down the road, spewing its occupants out "like a load of gravel," according to State Trooper James H. Cooper.

One youth, 16-year-old Todd Skolek from nearby El Paso, suffered severe head injuries and died two days later in a Peoria hospital. A companion, Brian Bauer, 18, lay unconscious for more than a month. Others just have mental scars.

"I get real scared when I see one of those trucks now," said Katie McKay, 17.

Truck driver Turner, unhurt, was charged with failure to reduce speed to avoid an accident. If he pleads guilty when the case comes to court, the sentence is an automatic $25 fine, plus costs.

The chances of a fatality occurring when a truck is involved in an accident are 10 times greater than in a collision between cars only, according to the U.S. Federal Highway Administration.

But the trucker, in his cocoon of heavy metal, stands a better chance of survival than the motorist. Transportation Department statistics show that only one truck driver dies in traffic accidents for every 30 other persons.

And authorities seem unable to clear the highways of persistent violators of truck safety laws, as illustrated by a car-truck accident in August, 1976, in which two persons died and seven others were injured.

A semitrailer rig owned by a Virginia electrical firm slipped onto the right shoulder of U.S. Hwy. 20 near Lexington, Va., then lurched back onto the two-lane road and plowed into a small van and a car coming from the opposite direction.

The van driver and a passenger in the car were killed. The injured included the truck driver, Charles V. Allen, who told po-

lice his rig had been forced off the road by an oncoming car.

Witnesses said they had seen no such car. Police charged Allen with reckless driving, saying he had fallen asleep at the wheel.

Then investigators discovered that Allen had been convicted of speeding 12 times in the previous eight years. In the same period, he also had nine convictions for other offenses, three license revocations, and two other accidents.

At the time of the collision, an inquiry found, he had driven 75 hours in the previous seven days—in violation of the 70-hour limit—and twice in that week had driven 18½ hours in a single day, violations of the 10-hour maximum in a 24-hour period.

When the crash occurred, Allen already had put in 10½ hours for the day and had 60 miles more to drive to get back to his terminal.

In all, 11 violations of federal motor-carrier safety regulations by Allen and the trucking company were discovered.

In interstate trucking, however, ignorance apparently is a valid excuse. The Interstate Commerce Act requires prosecutors to prove in court that violators of regulations knew they were breaking the law.

The truck's owners told authorities they did not know the law governing operation of their trucks; their penalty was to receive a copy of the Federal Motor Carrier Safety Regulations. Nothing else.

"Some companies will take that book and read it," said Robert Mick, sole representative of the feledal Bureau of Motor Carrier Safety for the 36 counties around the Roanoke, Va., area—where 1,000 trucking firms are based.

"Others will lay it on a desk and watch it gather dust."

Mick told the Task Force he runs routine safety checks on local trucking companies "as time permits," but added that it might be years before he can return to a company for a second look.

Truck driver Allen, 40, is recuperating from a fractured leg suffered in the Virginia accident and is hoping to get back on the road. It looks as though he'll get his wish.

Charges against him were reduced from reckless to improper driving and then dropped altogether on appeal.

"The company has told me that once I get well I can go back on the job," he told The Tribune from his home.

"FREE-WHEELING" FOR SPEEDY TRUCKS

Traffic was heavy, and the speed readings blinked in rapid succession on the back of the radar gun . . . 68 . . . 72 . . . 69 . . . 69 . . . 67.

The site was the westbound lanes of the Northwest Tollway near Belvidere, and Task Force reporters were conducting one of a series of roadside tests around Chicago to monitor truck speeds.

In 11 hours of speed checks at nine locations, they found that two out of three trucks were exceeding the 55 m.p.h. speed limit.

They concluded that heavy trucks generally traveled as fast as the traffic would permit.

Equipped with CB radios and other electronic equipment used to foil speed traps, trucks weighing 30 tons or more regularly blistered the pavement at 70 m.p.h.

The ponderous vehicles often were able to cover 50-mile stretches of highway, buzzing with traffic, sometimes congested by construction, and patrolled by state troopers, at speeds that averaged 10 m.p.h. over the legal limit.

In its testing, the Task Force used two methods of speed detection. One employed a police-type, hand-held radar gun that gives instant speed readings on either approaching or departing vehicles up to half a mile away.

The other method was to station reporters at both ends of a stretch of highway where they recorded the passage of each truck, identified by various vehicle numbers.

Comparing the two lists later showed how long it took each truck to cover the distance, and from that information the average speed was calculated.

Reporters found the fastest-moving trucks were on the Indiana Toll Road between La Porte, Ind., and the tollgate near the Illinois state line. Rigs there were recorded hitting speeds in the high 60s and low 70s.

One, an empty chemical tanker operated by the Thiem Corp. of Milwaukee, streaked through the 36.5-mile test stretch in 31 minutes for an average speed of 70.7 m.p.h.

Two other trucks—one a cumbersome Cities Service rig hauling two trailers in tandem—averaged fractionally more than 67 m.ph. on the stretch even though an Indiana state trooper was patrolling the area and had stopped a car along the shoulder.

The most heavily traveled road in the test series was Int. Hwy. 94 from the Illinois-Wisconsin state line north to Milwaukee's southern city limits. Conditions appeared to be unfavorable, if not impossible for speeding on the day the Task Force was there.

Northbound traffic was particularly thick. Also, a police radar trap had been set up midway along the route and at least four police cars were seen patrolling the road. Furthermore, traffic should have been slowing for highway construction just south of Milwaukee.

Yet reporters found that 47 of the 55 Milwaukee-bound trucks they clocked were speeding over much of the 27-mile stretch. More than half the speeders averaged 60 m.p.h. or faster.

Tests on the Northwest Tollway, Int. Hwy. 57 and I–80 produced similar results. A tractor-trailer operated by Quad City Food Service of Rock Island, Ill., raced from Peru, Ill., along I–80 to the intersection with I–55 near Joliet at an average speed of 62.5 m.p.h.—on pavement that was slick from heavy morning rain.

Nor did darkness do much to restrain the hurrying truckers. Task Force radar clockings at 11 p.m. again showed that two of every three heavy rigs were speeding as they headed south on Edens Expressway at Dundee Road. And every other big truck leaving Chicago on the Calumet Expressway in late evening was exceeding the 55 m.p.h. speed limit at the 130th Street underpass.

During the checks, reporters listened on a CB monitor to conversations between truckers. It quickly became clear how drivers were able to elude police speed checks.

At frequent intervals, a driver would come onto the air with a drawled request for a "smokey report" on the road ahead. Fellow truckers traveling in the opposite direction would then sing out the precise location of stationary or cruising "smokeys"—the CB term for highway patrolmen.

"There's a smokey in a plain brown wrapper [unmarked car] takin' pictures [using radar] at the 47-mile marker," crackled a typical warning that went out to all receivers along the Northwest Tollway.

"Ten-four and thanks, good buddy," came a grateful reply. "I'll give him a nice big smile as I go by."

By the time he reached the patrol car, that driver—like others in the area—had cut his speed to the legal limit.

[From the Chicago Tribune, Sept. 12, 1977]

HOW TRUCKERS EVADE STATE WEIGHT AND SAFETY LAWS

"Two smokeys are going into that northbound chickencoop,"

The alert crackled out on CB radio waves from truck to heavy truck, back and forth across the median strip of an interstate highway near Chicago.

"I'm passing him right now, he ain't gonna get me," came one trucker's reply moments later.

"You better quit while you're ahead," drawled the first man. "That be twice today you got away from that coop."

In CB radio vocabulary, a "smokey" is a state trooper and a "chickencoop" is a state-run roadside weigh station.

What concerned the two drivers was that the "smokeys" were about to open the "chickencoop" for business, requiring all large trucks to pull in for inspection.

This worried them because of the key role roadside weigh stations have in efforts to keep U.S. highways free of unsafe trucks and unsafe truckers.

It is there that rigs are weighed to determine whether they are dangerously overloaded.

It is there that federal and state inspectors have the opportunity to carry out spot checks for mechanical defects.

It is there that logbooks, required by law to be carried in every interstate truck, can be examined to determine whether long-distance drivers have exceeded the number of hours they are allowed to be behind the wheel in a week or a day.

The Tribune's Task Force found during a two-month investigation of truck safety that hulking commercial vehicles regularly and systematically evade Illinois weigh stations simply by driving around them—sometimes in full view of state employes manning the scales.

Reporters observed semitrailer trucks traveling even long distances out of their way to avoid stopping at a scale.

They monitored CB radio conversations in which truckers alerted one another as to whether a particular weigh station was open and discussed routes to get around it.

The most flagrant examples were found at the weigh station on the southbound lane of Int. Hwy. 55 near Bolingbrook, southwest of Chicago.

On a busy day there, Task Force reporters determined that an average of one truck every two minutes was leaving the highway to bypass the scale.

There could be no doubt about the truckers' intentions. Rigs turned right, off I–55 at Joliet Road, approximately half a mile before the station. They proceeded south along the frontage road, which, after approximately 400 yards, crosses beneath I–55.

The trucks then picked up the frontage road on the opposite side of the highway, following it south approximately two miles to the intersection with Ill. Hwy. 53, where they turned right to cross back under I–55.

Then a left turn off Ill. 53 put them onto an access ramp—and back to the southbound lanes of I–55.

The maneuver took only about five minutes, and trucks using the bypass could be seen easily by the staff operating the southbound scale.

This was not an isolated case. Drivers told the Task Force it is commonplace at truck terminals to speak of "scenic" or "B" or "C" alternate routes to get around a weigh station with an overweight or unsafe truck.

According to the drivers, Milwaukee-bound truckers leaving the Chicago area on U.S. Hwy. 41 easily bypass scales situated on both sides of the Illinois-Wisconsin state line by turning east to Green Bay Road, west of Zion.

At another weigh station, on Int. Hwy. 80 south of Chicago, a reporter followed an apparently overloaded tank truck as it pulled off the highway and drove along a parallel road to slip past undetected.

Moreover, not all major roads even have weigh stations. There are none on tollroads in Illinois and none on Chicago expressways.

The locations of the 31 weigh stations in Illinois supposedly are secret. A spokesman at state police headquarters in Springfield refused to give them to a reporter.

But several days later, at a truck stop on the Northwest Tollway, a reporter purchased a book called "U.S.A. Truckers Guide," which gives a state-by-state listing of every permanent road scale in the United States.

Police told reporters that they have found some safety-conscious drivers, most of them employed by large trucking firms, who actually wanted their vehicle weighed and inspected.

One of the drivers' main concerns is the amount of weight exerted on the front axle of a truck by the load the vehicle is carrying. Too much weight on this axle makes the truck dangerously difficult to steer and stop, they say.

Yet state law makes no distinctions regarding the amount of weight permitted on a truck's various axles. The maximum for any of them is 18,000 pounds.

So, drivers told the Task Force, although manufacturers' specifications usually call for no more than 10,000 or 12,000 pounds on the crucial front axle, trucks often are sent onto the road carrying considerably more.

"You just can't handle a rig with 12–13,000 pounds up front," said Robert McNall, a driver for Strickland Transportation.

"When you get such weight up there, the driver gets tossed all over," added Robert Klein, who drives for Yellow Freight Lines. "He can lose control."

Though there are drivers who want to work by the rules, however, the Task Force found that consistent enforcement of truck-safety laws was virtually nonexistent at the federal, state, and local levels.

Congress established the Bureau of Motor Carrier Safety in 1966 to enforce safety standards on trucks and buses that operate across state lines.

But a recent, highly critical report by the U.S. General Accounting Office charged that the bureau is undermanned, overworked and in many ways ineffective.

The bureau has fewer than 200 inspectors nationwide to check more than 4 million interstate vehicles. The Chicago metropolitan area is the busiest trucking center in the nation, yet only three federal inspectors are assigned here.

Some drivers told the Task Force they had gone five years without ever encountering a Bureau of Motor Carrier Safety inspection on the road. Others said they had never been checked.

When bureau inspectors are checking trucks on the road, they usually work out of weigh stations because they are not empowered to stop a moving vehicle. But Donald Whitlow, the state police sergeant in charge of Illinois scales, said he could not remember the last time a bureau representative was at a scale.

When bureau inspectors do find violations of federal safety laws, they cannot be sure the remedies they order will be carried out.

In one case, the bureau filed three suits against a trucking company in a year and fined the firm a total of $8,000 for safety-related violations.

Two years later, a Bureau survey found more than 200 safety infractions by the same company; a fourth suit had to be filed to try to bring it into compliance.

The GAO report issued last May, called for widespread changes in the bureau's operations to improve truck safety. The Department of Transportation conceded in reply that it "recognized the need to upgrade enforcement."

At the state level, the situation is only marginally better. Illinois state police leave the task of inspecting commercial vehicles and issuing safety stickers to authorized garages rather than state employes.

State troopers who stop a truck simply inspect it to see if it has a safety sticker, instead of checking to determine whether the vehicle is roadworthy.

"We have to assume that if a truck went through a safety lane that it is safe to drive," said Lt. Col. Robert H. Klemm, deputy superintendent of the Illinois State Police.

The problem is complicated by a shortage of state police manpower.

Klemm said the force has been 154 men short of its authorized strength of 1,600, with little hope of hiring additional troopers.

The Task Force also found that the state had too few weigh stations in relation to the amount of truck traffic and that the scales it does have don't to an adequate job.

All 31 of Illinois' weight stations are at permanent locations. Other states, with less traffic, have far more scales and make extensive use of portable scales, which can be hauled around for spot checks and are much more difficult to evade.

California, for example, operates 46 fixed stations and 292 portable scales. In one year authorities there checked four million trucks and issued 48,000 citations for weight violations.

In that same year, Illinois monitored five million trucks at its scales but gave out only 23,542 tickets.

Klemm said the manpower shortage prevents the operation of scales on weekends or at night, when many trucks take to the road.

The state is considering introducing portable scales to the enforcement program and police currently are testing four $10,000 models.

But at the same time, Illinois is building two more permanent weigh stations—one near Springfield, costing $1 million.

Evading weigh stations, according to Klemm, is "a game of trying to outsmart one another" between police and truckers. To help authorities, he said, CB radios are being installed in state police cars so officers can monitor truckers' conversation and counter "alert" messages.

Patrol cars also are under orders to do "flip-flops" at regular intervals on interstate highways by crossing the median strip and heading in the opposite direction to foil CB reports on their whereabouts.

Chicago has virtually no enforcement program at all.

Just four of the city's 15,000 policemen are assigned to a truck enforcement unit—one man each to the Dan Ryan, the Eisenhower, the Stevenson, and the combined Kennedy-Edens expressways.

Six other officers belong to a separate truck weight section.

According to Capt. James Riordan, deputy chief of traffic for the city, Chicago police are concerned primarily with moving violations rather than safety of vehicles.

"If we see obvious violations like no rear lights, we will write up the driver for that," he said. "But we don't have the equipment or authority to inspect trucks."

He acknowledged that the large number of tickets handed out by city police to truckers in a two-year crackdown against moving violations has not reduced the number of accidents involving commercial vehicles.

Statistics confirmed that the number of expressway accidents involving heavy trucks jumped 17.5 per cent from 1975 to 1976, a period in which car accidents went up just 6 per cent.

[From the Chicago Tribune, Sept. 13, 1977]

DESPITE SAFETY LAWS, BATTERED TRUCKS THREATEN OTHER DRIVERS

The battered old red semi was caked with mud. Its stack coughed greasy black smoke, and the trailer listed like a barge about to sink.

Patrolman John Below, of the Roselle Police Department sounded his siren and pulled the truck over. It had, he found, no brake lights, no signal lights, and no mud flaps at the back of the trailer.

Five of the rig's tires were worn smooth or pocked with grooves. A sixth, on the trailer's rear axle, was flat.

Only one thing on the truck was new: a shiny Illinois safety sticker on the windshield. It had been issued, the driver said, just three weeks earlier.

The truck was one of dozens inspected by Tribune reporters working with police in three Chicago suburbs as part of a two-month Task Force investigation into truck safety.

Reporters found that despite federal and state laws on minimum safety requirements for commercial carriers, numerous trucks on the road are in shockingly bad repair and pose a threat to other motorists.

During one day of inspecting trucks chosen at random on two Chicago-area commercial routes, only three of 24 vehicles were found to be without safety violations.

On average, there were two safety-related violations for every truck checked, ranging from faulty tires to improper lighting or overloads, which can make the huge, 18-wheel rigs difficult to control.

The results of the survey confirmed nationwide statistics compiled by the U.S. Department of Transportation.

In 1973, the department's Bureau of Motor Carrier Safety carried out roadside checks on 22,644 interstate trucks and their drivers and turned up more than 40,000 infractions of safety laws.

In the following two years, the bureau found that more than a third of the 54,800 trucks it inspected were unsafe and ordered them off the road until repaired.

"Companies will throw anything on the road, just as long as it rolls," said James Linane, a truck safety expert and policeman in Carol Stream.

Some companies budget funds to pay for violations by their trucks, he said, "so they don't get too upset about being stopped. They figure that for every so many trucks, one or two are going to be stopped."

A catastrophe can occur when a defective truck weighing 35 tons or more is turned loose on the highway. One such case resulted in the nation's worst traffic accident of 1976.

It took place in Valley View, Ohio, five miles south of Cleveland, at dusk on Aug. 20. An out-of-state semitrailer carrying a full load of 36,000 pounds of hairspray swept down a steep grade and plowed at full speed into the rear of a line of 10 cars waiting at a stop light.

Cars were knocked left and right like tenpins hit by a bowling ball. One was flipped diagonally across the intersection and into a water-filled canal. The truck trailer tipped over on another and squashed it. Other cars burst into flame, trapping their occupants inside.

Eight persons died.

The truck driver James W. Harris of Detroit, told police his brakes had failed. But a federal Department of Transportation memo on the disaster said investigators learned that the brake pads on the tractor apparently had been loosened—to save wear and the cost of buying new ones.

Experts found, in addition, that the trailer was so old its owners had designated it for the scrap heap. It had only one operative brake and "looked like an accident ready to happen," said Valley View City Atty. Jules Koach.

So the rig, in effect, had no brakes at all.

Slightly injured in the accident, driver Harris spent six months in jail on negligence charges. His employers were sued by survivors of the victims but escaped criminal charges because Ohio has no law that holds a company responsible for putting defective equipment on the road.

How difficult is it to find a truck in violation of safety laws?

"Not hard at all," says Policeman Below of Roselle. "Just stop any big truck. Any one. It's almost bound to have a violation."

Task Force reporters confirmed that when they inspected trucks on U.S. Highway 19 and 20 with Below, Linand and Patrolman Roger Mabbitt of Glendale Heights.

All experts on truck safety, the three policemen have spearheaded a drive during the last 15 months to bring commercial carriers operating in their communities into compliance with safety laws.

They have conducted instructional courses on truck law enforcement for local police from Cook and Du Page counties and twice have organized "enforcement days," on which hundreds of trucks in large sections of the two counties were stopped for inspection.

"Trucks run scared through here now" Mabbitt said.

Reporters found that 15 of the 24 heavy trucks they inspected with Below, Linane, and Mabbitt had faulty tires—in some cases as bad as those on the ancient red semi with the new safety sticker.

One semitrailer belonging to Mulvihill Bros., Inc., of Chicago was cruising down U.S. 20 with six bad tires. Two were worn down to the cords, three had large chunks of tread missing, and another was cut through the tread from side to side.

"They didn't have any other tires in the terminal," driver Edward Cizowski explained.

Bald, grooved, or out-of-balance tires can cause a driver to lose control of his vehicle even on dry pavement, according to the policemen. Blowouts can cause jackknifing. Pieces of recapped tires can break off and be hurled in all directions.

"Some of these recaps will just fly off," Linane said. "You see them all over the road. They come off and hit somebody else's windshield."

It was a blowout of the left front tire that caused a Tucker Freight Lines semi to cross the median strip on Int. Hwy. 55 west of Joliet last June 24 and slam into an oncoming car.

The truck driver and four members of a Chicago family riding in the car died in that accident.

According to the Bureau of Motor Carrier Safety, bad tires are the biggest single factor—accounting for 26 per cent of the cases—in interstate truck accidents in which defective equipment is identified as the cause.

Malfunctioning brakes are the second most common cause, the bureau said.

One of every three trucks checked by the Task Force had faulty brake lights, and one of five had improper turn signals. Others were without emergency flares or mudflaps.

Still others had no state safety inspection sticker, for what it is worth. At times that isn't much. Illinois leaves it up to certified garages to conduct truck inspections. John Burke of the Department of Transportation said the state must depend on the honesty of the owners of these garages in issuing safety stickers.

Detecting many of the most severe mechanical faults on a truck—such as loose steering, defective shock absorbers or springs, or improper coupling between tractor and trailer—requires an involved inspection by a trained mechanic.

But the Highway Safety Research Institute of the University of Michigan found that such detailed examinations are not necessary to detect the hazards that cause the most accidents.

Seventy per cent of all commercial truck accidents the institute monitored in a government-sponsored study involved brake, tire, and wheel failures—"all defects that can be seen easily from outside the vehicle," the study's author, Thomas McDole, told the Task Force.

McDole found that less than a third of trucking firms he checked had a policy of formally inspecting every truck before it goes on the road.

"Maintenance programs exist," he said, "but adequate detection of vehicle defects often is lacking."

Industry representatives defend their maintenance policies. They say statistics about safety violations are unfairly weighted.

"They are taking nothing but the rags," said Burny Melton, manager of the Illinois Truckers Association. "They spot the ones they think have defects and examine those.

"But the larger number of trucks that are in good repair are not stopped and thus not included in the studies."

As for routine governmental inspections, they're few and far between. The burden of enforcing compliance with truck safety laws in the huge interstate trucking industry falls to the Bureau of Motor Carrier Safety.

It has only about 200 inspectors nationwide making the ratio of inspectors to the number of trucks they are supposed to monitor one to 32,500.

"For that reason there are many, many violations," said Robert Purcell, manager of the National Safety Council. "Because with 200 inspectors, the chances of being caught are . . ."

Purcell formed a zero with his fingers and peered through the hole.

[From the Chicago Tribune, Sept. 14, 1977]

TRUCKERS: DRINK, FATIGUE MENACE

The two women in the smashed car were almost hysterical when East Alton, Ill., policeman Shannon Hobbs arrived in answer to a late night accident call.

A huge truck, they sobbed, had suddenly veered into their lane, slammed their compact car into a school playground, and then lurched on down the road. Hobbs looked around him in the darkness.

A hundred feet farther along was the rear of a truck trailer, protruding from the front of a small frame house. The truck's cab was entirely inside the building.

It had smashed through the room where Melissa Tolbert, 8, was sleeping and crushed her to death against a wall.

Also in the rubble of the house, still at the wheel of his truck, sat driver David Weber, 24. He was dazed but unhurt—and too drunk to know where he was, police said.

Investigators later learned that:

In the previous six years, Weber's driving license had been suspended twice; he had been arrested three times for speeding and six times for negligent driving.

In the four months since going to work for Thunderbird Freight Lines of South Roxana, Ill., he had not once prepared a mechanical report on his truck or kept a daily record of his hours behind the wheel, as required by federal law.

Weber's mandatory medical certificate was out of date and he had had, he said, no sleep in the 48 hours before the accident.

Melissa Tolbert was killed Aug. 11, 1976, the victim of an incompetent and negligent truck driver. A court subsequently sentenced Weber to one to three years in prison.

Truck drivers are blamed as the "principal factor" in 90 per cent of all accidents caused by trucks and investigated by the federal Bureau of Motor Carrier Safety.

Dozing at the wheel is the truckers' most common failing, the bureau found. Drinking before driving is second.

A more recent example occurred last week in Cairo, Ill., when a tank truck went out of control on a curve, rolled over, and dumped several hundred gallons of gasoline into the city's sewers.

The driver, Daniel True, 27, of Sikeston, Mo., was "so drunk he thought he was in California," according to Cairo Police Chief William Bowers.

Incidents like that have prompted some traffic experts, among them Dr. Robert K. Dusinberre of Physicians for Auto Safety, a lobby group of medical doctors, to label truck drivers "the most dangerous persons on the highway."

The Tribune Task Force found in a two-month investigation of truck safety that too many truck drivers speed, operate unsafe vehicles, and evade government-run weigh stations, where they could be ticketed for safety violations.

Task Force reporters also found that the structure of the trucking industry often encourages unsafe highway practices and that federal, state, and local law-enforcement bodies are unable to do anything about it.

Many truckers are given a financial incentive to speed. Independent drivers who own their rigs, for instance, are paid for loads delivered; the faster they can get rid of one, the sooner they can pick up the next.

"Independent drivers are forced into speeding to make money," said Mike Parkhurst, spokesman for the Independent Truckers Association. "The 55 m.p.h. speed limit is unrealistic."

Reporters found company-employed truckers speeding as well. They are paid by the mile; in many cases, the quicker they can complete a run, the sooner they can go home or be off on another run.

Company drivers told the Task Force of grueling work weeks, sometimes with only eight hours' rest between 15-hour days.

Fatigue is a critical factor. Bureau of Motor Carrier Safety statistics show the risk that an interstate truck driver will be involved in a fatal accident is greater if he has been on the road 10 hours or more.

Bureau figures also suggest that at any given minute, as many as 100,000 interstate commercial drivers may be on the road in violation of the federal laws limiting driving time to 10 hours in one day and 70 hours in one week.

Many interstate drivers, like David Weber, keep no log of their driving time at all. According to a U.S. General Accounting Office study of the Bureau of Motor Carrier Safety and its practices, many truckers believe they are better off without carrying a log.

The reason, according to the study, is that bureau inspectors apparently consider it a more serious offense to be in possession of a log showing excessive hours. In such cases, drivers are ordered off the road immediately for the mandatory eight hours or more of rest.

But drivers with an improperly kept log or none at all are simply warned and allowed to continue their journeys, the study said.

The Task Force found that many drivers are anxious to comply with federal laws aimed at keeping them well-rested. They complained about the strenuous hours demanded of them by some trucking firms.

Many companies require long-distance truckers to be on two-hour notice to go out at all times, day or night. Persistent failure to answer calls can mean warnings, then dismissal.

The system operates on the assumption that a driver is rested but doesn't permit him a routine that assures it. Driver Charles Pickrell of Chicago-based Spector Freight System explained:

"We get no regular dispatch orders. We might get called at 2 or 4 in the morning and have two hours to show up.

"But you also might get up after eight hours' sleep one day and not get a call. You might wait by the phone all day. By the time they finally call, you're ready to go to bed.

"Then, if you fall asleep and go into a ditch, you are charged with an accident. But if you're caught pulling off the road and sleeping so you won't have an accident, you

get a letter of warning for delaying the freight."

A company employed over-the-road driver under a Teamster contract receives 23 cents per mile and can have an income of $600 to $700 a week. That kind of money attracts younger drivers in particular, experts say.

"A young driver tries to run as much as he can to buy a home and get some of the better things," said John Sikorski, director of PROD, a safety-oriented drivers organization. "Then when he gets to be 30 or 35 years old and doesn't recognize his kids, he understands he can't keep it up."

Company drivers are under at least some supervision by their firms. Officials complain more about the independents.

It is the independents who are more likely to operate the most expensive rigs—such as giant Kenworths or Peterbilts, costing $40,000 or more. Again, economics may prompt a driver to go too fast for too long.

"That guy's got to pay maybe $1,000 a month on his truck and another $1,000 for the insurance, so he has got to roll," said Capt. Robert McGinnis of the Indiana State Police, that state's chief of truck inspection. "He'll take anything anywhere, anytime."

Industry officials admit that trucks speed, but they deny that the companies are responsible.

"I'd be a fool to tell you our drivers don't speed," said Spector President Robert L. Lalich, "I don't know why they do. It may be the herd instinct. But there is nothing in our operation that encourages speeding."

A driver who arrives early at a terminal with his load is paid no more than a driver who arrives on time, Lalich said. He displayed a letter sent by Spector last June to all its drivers, complaining about speeding.

"There is no way to make up lost time by speed," the letter told drivers. "When your meal-time stop or any other time break is up, don't just hang around playing the pinball machine, talking to your buddies, or otherwise killing time."

Burney Melton, manager of the Illinois Trucking Association, echoed some of McGinnis' statements, suggesting that the less-regulated independents are more likely than company drivers to drive dangerously long hours and fail to keep proper records.

"Who even knows where to go to find an independent to inspect his logs?" Melton asked. "But a company can be inspected easily because all of its logs and maintenance records are in one place—at the terminals."

John Ebeling, a vice president of Consolidated Freightways, said his firm's drivers can make good money without breaking the law.

"It is not unusual for our drivers to make over $25,000—some make over $30,000—by adhering to schedules and not speeding," he said.

Consolidated—in terms of gross revenue, the nation's third-largest trucking firm in 1976—has 27 supervisors patrolling the road. They use radar and "will pull a driver off the road and terminate (fire) him if he is caught speeding," Ebeling said.

He said he thinks speeding truckers are "guys trying to pick up time they lost in a coffee shop, or guys wanting to do something at the other end, or, maybe just guys who like to speed."

MORE ON POETS IN SCHOOLS

Mr. MATHIAS. Mr. President, on August 2, I put in the RECORD a tribute to Maryland's poets-in-the-schools program. In that tribute, I mentioned the names of the dedicated men and women who have participated in these poetry-writing workshops and I included some of their poems and some poems written by the children in the program.

Unfortunately, I find that two of the poets who participated in the program last year were not mentioned in my tribute. I would like to rectify that oversight now.

They are Alan Britt of Owings Mills, Md., who teaches at Eastern Shore Community College; and Gilbert Byron of Talbot County, Md., who noticed the error and called it to my attention.

Mr. Byron reports:

On October 6th, next, I will visit my first school as Poet in Residence for the schools of Talbot County for the 1977–1978 school year. I have been working on the program since it started on the Eastern Shore. This coming year will be my sixth year in the Talbot Schools as Poet in Residence.

I regret my earlier omission, but thanks to it, I am happy to be able now to salute the poets-in-the-schools participants who are about to embark on another year of the program. To give my colleagues a taste of the caliber of the poets in this program, I ask unanimous consent to have printed in the RECORD poems by Mr. Britt and Mr. Byron.

There being no objection, the poems were ordered to be printed in the RECORD, as follows:

POET IN THE SCHOOLS

(By Alan Britt)

Three starlings
gather bread crumbs
from the cold ground.
The black telephone wires
stretch across the frozen air,
they chatter and sing
their tiny beaks
filled with snow.

CRAB TALK

(By Gilbert Byron)

Mama sent me
To get the crabs
From old Benny,
Down on the creek
Where the shanty men seek
Happiness.
He was mending eel pots,
Tar and twine,
And deft seine needle;
Chewing tobacco,
Spitting fine,
Whistling softly.
He couldn't even see,
Little boys like me.
I heard them scratching
In a covered basket.
Shyly I whispered,
Scared almost to death,
"Are those the crabs, Captain Ben?"
Rolling an eye, he grunted,
"Them's them,"
That's all he said,
"Them's them."

THE PANAMA CANAL TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, the able syndicate columnist, Henry J. Taylor, a former U. S. Ambassador to Switzerland, raised some serious charges concerning Cuban intervention into Panama and the possibility of guerrilla infiltration from Costa Rica and Colombia.

I have no way of knowing if these charges are accurate, but I believe that they should be thoroughly investigated during the Senate hearings which will soon be held on the matter of the proposed Panama Canal treaties.

I ask unanimous consent that excerpts from Mr. Taylor's column be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

COMMUNISTS WELCOME PANAMA CANAL TREATY

(By Henry J. Taylor)

President Carter has foolishly laid his prestige on the line for ratification of the new Panama Canal treaty. This blunder may not be as great as, say, Hitler attacking Russia, but it will do for openers.

The real question is not the surrender of U.S. control of the Canal versus Communist control. The real question is U.S. control versus Communist control.

It should be debated on that basis—for this is the stark reality.

The global strategic importance of the Panama Canal in U.S. hands is self-evident. Our Joint Chiefs of Staff, beholden to President Carter, have been corralled behind the proposed treaty. But six former Chiefs of Naval Operations [the No. 1 men in our Navy] publicly oppose this give-away.

As for Latin America, a full 80 percent of Peru's and Chile's imports and exports pass through it. The dependency is equivalent along the entire Pacific side of the South American continent . . .

The Latin American Communists welcome President Carter's new treaty with the forebearance of a hungry shark. Fidel Castro's guerrilla fleet is moving armed fighters into Panama from La Colma, Cuba. Air deliveries are from a heavily guarded air base at San Julian, 90 miles southeast of Havana. The progaganda support is sparked from Castro's powerful Russian-built radio station on Cuba's Kay peninsula.

Costa Rica borders on Panama. Castro has installed there Havana-based Costa Rican Communist Julio Sunol. And Castro's resident agent in Panama itself is Communist Thelma King.

She won her spurs in 1964 when four U.S. soldiers were killed in the riot in our Canal Zone. Thelma King herself led the rioters into the U.S. Canal Zone and boasts of killing these U.S. soldiers.

Nicaragua except for the U.S. 10-mile-wide Zone, is the only zone of stability in the entire area. President Anastasio Somoza Debalye told me that Castro has made 22 armed attempts to invade Nicaragua.

Moreover, the Republic of Panama is directly threatened on its two frontiers by Communist guerrillas.

How can President Carter ignore the fact that Panama borders on chaotic Costa Rica and Colombia? Is it news to President Carter that imported Red guerrillas are active in nearby El Salvador? Can he forget the Red-instigated insurrections in neighboring Guatemala and Honduras?

The Republic of Panama itself is a political jungle. Demagogues' tirades light a contrived fuse under Panamanian emotions and serve to distract the Panamanians from so much that should be done.

Panama is blessed with an amazing amount of rich, arable land—as rich as Iowa's best farmland. But less than half is under cultivation. Panama's true need is for better agriculture, animal husbandry and light industry.

It's easy for nearly any politician to roar against the United States. "Yankee Imperialism," "The Yankee Dollar," etc.—and bite the only hand that feeds Panama.

SMALL POWER PRODUCER AMENDMENT TO THE NATIONAL ENERGY PLAN

Mr. PERCY. Mr. President, on August 1 after extensive research including conferences with Dr. David Lillienthal—

former chairman of the Atomic Energy Commission and Mr. E. F. Schumacher—Small is Beautiful and Appropriate Technology—I introduced an amendment to the national energy plan to encourage small electric power producers. Senator HEINZ and Senator BIDEN have since joined me as cosponsors. I ask unanimous consent that testimony I submitted to the Subcommittee on Conservation and Regulation in support of my amendment be printed at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, I was pleased to note that Senator DURKIN had an amendment similar to mine added to the electric rate legislation, S. 2114, this week. By his action, windmills, small hydroelectric facilities, and biomass generators will be free from the threat of antitrust prosecution under Federal utility laws. In addition, the Secretary of Energy will establish guidelines for rate structures for small producers.

Unfortunately, in order to be sure of winning Energy Committee acceptance. Senator DURKIN felt obliged to strike from my amendment the right of the Secretary to prescribe rules relating to rates charged to small producers.

However, I feel this is important. I, therefore, will offer a perfecting amendment to S. 2114 which will restore language similar to that in my original amendment concerning the rates charged small producers.

EXHIBIT 1

TESTIMONY OF SENATOR CHARLES H. PERCY BEFORE THE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE ON CONSERVATION AND REGULATION, CONCERNING THE SMALL POWER PRODUCER AMENDMENT TO THE NATIONAL ENERGY PLAN

Mr. Chairman, I thank the Energy Committee for this opportunity to testify. Members of this panel have contributed a great deal of time in the past few months to the evaluation of many energy issues. The Senate and the country owe you a great debt for your work and dedication.

The complexity of even the one part of the Administration's package now before the Energy Committee—electric utility rate reform—is evident from the number and diversity of those testifying before this Subcommittee. Mr. Chairman, I wish to speak on behalf of one problem area which S. 1469 does not address: small hydroelectric facilities and other small electric power producers.

The economics of electric power generation have changed dramatically in this decade. Electric rate reform would not be an important issue here today if not for the rapid rise in power costs. Technological innovation provides one of the few means of relief from ever-higher electric bills.

Fortunately, a new range of intermediate technologies holds promise of soon being cost-competitive. For example, the Federal Power Commission states that small hydroelecrtic facilities at 48,000 existing factories and abandoned dams could add several percent to our electric supplies. Demonstration projects for this technology are underway in New Jersey and Idaho, and feasibility studies are being conducted in several other states, including Vermont and New York. Several dozen wind generators are in operation. Photovolatic solar cells may soon be economical in some applications.

All of these systems are small compared to today's electric power plants. All would reverse the trend toward central generating stations. They would produce electricity at dispersed sites, primarily for on-site use.

Mr. Chairman, the attitude of electric companies is crucial to the success of small producers because almost all of these small-scale technologies can work economically only if they operate in conjunction with a central electric system. The cost of energy storage sufficient to allow operation without utility backup is prohibitive.

To date, the number of cases involving interaction of utilities and small producers is limited. Many electric companies have been willing to interconnect with small producers on an experimental basis. I commend these companies for their foresight.

There have, however, been some disturbing problems. The Public Service Commission in New York City had to order the local electric company to provide backup power and to purchase electricity from a small windmill. A utility in Montana denied any service to a home after the homeowner hooked up a six kilowatt hydroelectric service. A few total energy systems, which provide both heat and electricity to housing and commercial developments, now exist in New Jersey and New York. The local electric companies charged such costly rates for backup power that the New York systems had to buy their own inefficient backup generators, and operate independently of the utility.

Many electric companies have been willing to interconnect with small producers, but offer unfair rates. For example, one manufacturer of interconnect equipment reports seventy windmills, hydro systems, and photovoltaic arrays use its machinery to connect with electric utilities. The company reports that in two-thirds of these cases, the electric company will accept power from small producers but does not pay for it. Other companies have offered to pay only very low rates—less than the cost of fuel to their least costly generating plants. This is certainly less than the electricity is worth. An ERDA official reports that utilities whose industrial customers produce power generally refuse to purchase surplus power.

Mr. Chairman, I do not want possibly unfair actions of electric utility companies to stifle the blossoming of these frontier electric technologies. I have therefore introduced an amendment, co-sponsored by Senator Heinz, to protect the interests of small producers while also guaranteeing a fair deal for electric companies.

The legislation before this Committee, S. 1469, would provide certain protections for one type of small technology: cogeneration of industrial process steam and electricity. The Administration's bill would require electric companies to connect with cogenerators. Utilities would have to provide backup power, purchase surplus power, and transmit electricity for cogenerators. The Secretary of Energy could also prescribe regulations which give exemptions for cogenerators from Federal utility laws and from regulation as public utilities by states. These exemptions would remove the burden of unwarranted paperwork and the fear of antitrust prosecution.

My amendment expands these protections to include not only cogenerators but also all other small power producers—hydroelectric dams, solar, wind, municipal trash-to-electricity systems and others. It would make certain that reluctance on the part of electric companies to interconnect will not prevent the growth of these technologies.

The Secretary of Energy will issue regulations to determine which systems will qualify and what exemptions will pertain to each class and site. States could then continue to handle hookups of small producers on a case-by-case basis.

My amendment also guards electric company interests. It would be wrong to subsidize small producers at the expense of other customers. Therefore, all rates which utilities or state commissions set would be based upon the cost to the utility of providing service.

The technical reliability of small systems is a major consideration. Power sold to electric companies must be delivered at a prescribed voltage and frequency to prevent damage to utility systems. Today's technology appears fully adequate to this task: the coupling units have for years been used in many elevators to generate small amounts of electricity. The Office of Technology Assessment expects technical obstacles to be minimal. However, my amendment provides that the Secretary of Energy shall issue technical standards for producers to qualify for hookups with their local electric companies.

Mr. Chairman, I note that the House, as part of its Energy Plan legislation, H.R. 8444, has adopted a section which addresses part of the problem of small producers. It forbids discrimination against solar and wind systems. However, the House version does not cover other small systems, especially hydroelectric dams. It leaves unanswered whether electric companies may base rates on cost of service. Electric companies are worried that the House provision might allow rates unfair to them. I have discussed my amendment with Illinois Power Company officials, and they approve of it. The House version also fails to address the problems which state and Federal public utility regulation create. For these reasons, I urge adoption of this amendment as a substitute for the House amendment.

The problems which my amendment addresses may not appear significant to some critics today. But the problem could become acute in the next few years as cities, industry and individuals develop alternate sources of power. Let us not stifle the smaller producer. These individuals could contribute in a major way towards meeting our energy needs in the 1980's.

FINANCIAL STATEMENT OF SENATOR DOMENICI

Mr. DOMENICI. Mr. President, every year since my election to this distinguished body, I have released information through the RECORD concerning my personal financial holdings and my income taxes for the previous year.

I do so once again today, hoping that this voluntary step will aid in some small way in restoring faith in Government on the part of the public.

I would note, Mr. President, that I engaged in only one transaction last year, selling land in Albuquerque that my family has held for about a decade. I have not entered into any business ventures and, at the time of my election, severed my relationship with my old law firm in my home State entirely.

I ask unanimous consent, Mr. President, that my personal financial statement and income tax information be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERSONAL NET WORTH STATEMENT

Gross assets: Cash on hand, $48,862.61; cash value of life insurance, $6,400; securities, $22.621 (Bank of America, $621; Edith Land Company, $22,000); household goods, $8,000; 1973 Plymouth and 1971 Oldsmobile, $3,500; real estate and family trust holdings, $214,990 (family home, Rockville, Maryland, $110,000; 1/10th interest in Kent Investment

Company, real estate and Rio Puerco, New Mexico, $35,000; D & V Partnership (a family holding), $24,423; Domenici, et al, holdings at Navajo Lake, New Mexico, $7,500; mausoleum crypt, $1,490; interest in the trust of the will of C. Domenici, my late father, $37,456).

Liabilities: Real estate mortgage on my Rockville, Maryland, home (through the District of Columbia National Bank) of $63,100; debt to Albuquerque National Bank, $22,500; approximate tax liability attributable to a cash capital asset sale, $16,000; for a total of $101,600.

Net Worth: $202,773.61.

Since entering the Senate, I have conducted six business transactions—sale of my home in Albuquerque, the sale of four lots in that city, sale of a parcel of land in that city, the purchase of my Rockville, Maryland, home, and sale of land at Montgomery and Pennsylvania in Albuquerque in 1975 and 1976.

PERSONAL FINANCIAL STATEMENT

Federal Income Tax Information for the year 1976.

Earned Income: $57,641.72 (Senate salary of $44,600; rental income of $1,418.82; Senate Campaign Committee account, $1,297.90; honoraria, $5,400; and Domenici Senate Associates, $4,925—an organization of small contributors established under Standing Rules of the Senate Rule No. 42, filed under Senate Procedures, 12–31–74, to help defray additional Senate expenses, including printing, mailing, and photographic expenses).

Proceeds from sale of property: Land at Pennsylvania and Montgomery, Albuquerque, $59,175.21.

Federal income taxes paid of $22,522.32. New Mexico income and property taxes of $8,264.49. Interest payments of $6,582.80.

Standard dependent deductions of $7,500 for Domenici, his wife, Nancy, and their eight children, all of whom live at home.

Payment of $30,786,81 in federal, state, and local taxes, income and property.

As has been the case since my election, I have completely disassociated myself from my previous law practice and all other business ventures requiring my active participation.

A RESOLUTION OF THE CITY COUNCIL OF YUMA, ARIZ., RELATIVE TO SOCIAL SECURITY FINANCING

Mr. GOLDWATER. Mr. President, I have just received a well-reasoned resolution by the city council of Yuma, Ariz., concerning alternative proposals for restoring fiscal stability to the social security system.

The Yuma City Council opposes the use of general revenues on a major scale as a method of financing the system since it would abandon the present contribution method by which the worker—and his employer—contribute to his benefits and he thereby obtains an earned right to those benefits.

The city council also opposes dropping the entire burden of additional payroll taxes on the employer as an inequitable approach.

Finally, the Yuma City Council endorses a proposal called for by the National Chamber of Commerce which calls for a moderate rise in payroll taxes equally on employee and employer, with a "decoulpling" of benefits from both wages and the Consumer Price Index to wage levels alone.

Mr. President, the city council of Yuma has addressed one of the most crucial of current issues. The plan endorsed by the city council deserves our careful attention along with others that have been presented.

It is even possible, in my opinion, that a restructuring of the system may be drafted that does not require any sizable tax increases at all.

Everyone would agree it is essential that Congress tackle this problem in a responsible and diligent manner, and in the interest of contributing to our consideration of the issue, I ask unanimous consent that the resolution adopted by the Yuma City Council may be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 2028

A resolution of the city council of the city of Yuma, Arizona, opposing U.S. Senate bill 1902 and House bill 8218 and Senator Russell Long's proposal relating to proposed legislation to increase social security tax revenues; and supporting the proposal of the National Chamber of Commerce

The City Council of the City of Yuma, Arizona, do resolve as follows:

Whereas, the Social Security System is facing a severe economic crisis as a result of benefit payments exceeding tax revenues received, and prospects of unfunded liabilities totalling over $5 trillion, and with the threat of bankruptcy which could occur within a very few years; and

Whereas, the City Council recognizes that the Congress of the United States must take some legislative action to solve the problems now facing the system; and

Whereas, two alternative proposals are before Congressional committees for consideration in solving the impending crisis, and which proposals the City Council opposes; and

Whereas, Senate Bill 1902 and House Bill No. 8218, a proposal put forth by the Carter Administration, proposes to:

a. Institute a "counter-cyclical" system of financing the Social Security system from general treasury revenues to make up for revenues lost as a result of unemployment over 6%.

b. Remove the taxable earnings base on the amount of wages on which the empolyer's tax is computed.

c. Raise the earings base for employees by $600 in 1979, 1981, 1983 and 1985 over and above scheduled automatic adjustments.

it is therefore the opinion of the City Council that Senate Bill 1902 and House Bill 8218 should be opposed for the reasons that:

a. General Treasury revenue funds should not be used to subsidize the Social Security system as this would abandon the equal employer-employee contribution formula and would place an undue burden on an employer.

b. With an unlimited empolyer wage base, employers would pay more taxes without gaining a corresponding increase in benefits for their employees.

c. Financially hard-pressed State and local governments will be further encouraged to opt out of the system.

; and

Whereas, the proposal set forth by Senator Russel Long proposes to:

a. Tax employers only on full salary beginning in January 1978, while keeping a taxable earnings limit on employees.

b. Provides for mandatory coverage for all local government employees

it is the opinion of the City Council that the Long proposal should be opposed for the reason that:

a. This proposal destroys the traditional concept of equal employer-employee sharing in the cost of Social Security.

b. The estimate of additional cost to the City of Yuma to provide 100% of taxable wage base of its employees is $67,612 for the calendar year 1978.

c. Local government employees who have chosen not to participate in the Social Security would be forced to participate.

and

Whereas, a proposal has been offered by the National Chamber of Commerce which is, in the opinion of the City Council, a fairer and more moderate approach to financing the Social Security system, which calls for:

a. An increase in payroll taxes of 3% in 1978.

b. Raising the tax rate on the self-employed, returning it to the traditional level of 1½ times that of the employee in 1978.

c. Modification of benefit formula to reduce the anticipated deficit.

it is therefore the opinion of the City Council that support should be given to the National Chamber of Commerce proposal for the reasons that:

a. While raising of payroll taxes is not desirable, it is necessary and the National Chamber of Commerce proposal is the most moderate, with approximately an increase of $1.00 per month for everyone.

b. A team approach to financing the system has been successful in underwriting the program for 40 years.

c. To solve the long-range deficit problem, something more than moderate increases in Social Security taxes must be done, and the National Chamber of Commerce's plan to modify the benefit formula by "decoupling" or tying future retirees' initial benefits to wage levels alone, rather than wages and Consumer Price Index will help in reducing the anticipated long-term deficit of the system.

Now therefore, the City Council of the City of Yuma goes on record as opposing Senate Bill 1902 and House Bill 8218 and the proposal of Senator Russel Long, and offers its support of the proposal as set forth by the National Chamber of Commerce and directs that members of the Senate Finance Committee and House Ways and Means Committee, Senator Dennis DeConcini, Senator Barry Goldwater and Representative Robert Stump be notified of this action, and urge their cooperation in opposition to the Senate Bill 1902 and House Bill 8218 and the Long Proposal, and ask for their support of the proposal of the National Chamber of Commerce.

GRASSROOTS ENERGY PLANNING

Mr. PERCY. Mr. President, highly innovative and effective efforts by State, municipal, and local governments are presently underway to develop and implement energy conservation programs of their own. Across the Nation, grassroots energy plans to encourage better home and office insulation, and to promote solar, wind, water, and wood power have been devised. These programs have successfully tapped local energy resources and have stimulated new concepts in energy conservation. In so doing, localities have assumed the lead in helping to solve the Nation's energy crisis. Grassroots energy planning is proving that, given adequate Federal support, local government can successfully develop and

implement energy conservation programs of a significant nature.

The Federal Government cannot succeed in its energy conservation goals without the cooperation of States and cities. Not only should the Federal Government continue to give its full support to grassroots energy planning, but, in many instances, should follow the lead of State and local governments in energy conservation. Each local community has the potential for developing energy resources and/or conservation measures that are uniquely suited to that area. No Federal energy plan could ever be sufficiently comprehensive to allow for the differing energy needs of each region.

Federal funding is the key to the success of local energy conservation programs. The major impetus thus far to these programs has come from the Energy Policy and Conservation Act of 1975 and the Energy Conservation and Production Act of 1976. Both acts provide grants to State governments to assist them in developing State conservation programs. State governments are encouraged to develop whatever energy saving programs they deem necessary to cut the projected 1980 energy use by 5 percent.

The Center for Science in the Public Interest has taken a national lead in the promotion of appropriate technology and local conservation initiatives. The Center recently published a summary of State and local energy programs, entitled, "Grassroots Energy Planning." It outlines some of the more important and innovative programs underway today, as well as various steps that the Center for Science in the Public Interest hopes to see taken in the near future to stimulate grassroots energy planning. Mr. President, I ask unanimous consent to have excerpts from "Grassroots Energy Planning," by Ken Bossong printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM "GRASSROOTS ENERGY PLANNING"

(By Ken Bossong)

The 1973 Arab Oil Embargo prompted most states to establish state energy offices. While initially concerned primarily with fuel allocation policies, these offices have broadened their programs to include a wide range of conservation and alternative energy projects. Assisted in many instances by citizen advisory committees, these offices have used office newsletters, workshops, public meetings, and classroom sessions to promote their energy awareness messages. Virtually all of these offices have sponsored broad consumer-education projects usually aimed at residential and transportation conservation measures. Many have launched energy audits in state schools, hospitals, penal institutions, and other public buildings. In cooperation with their education offices, the majority of the states have prepared curriculum guides for introducing energy studies in the classroom from kindergarten through college grades. Moreover, beyond these basic approaches, dozens of states have launched innovative projects to tap locally available energy resources and to stimulate new concepts in energy conservation.

For example, Colorado is planning to develop a state-wide bikeway construction program as well as to institute staggered work hours and possibly four-day work weeks in metropolitan areas. Maine's EPCA plan includes public education programs, energy audits for buildings, workshops for business and industry, revision of the state's motor vehicle inspection provisions to include an exhaust gas analysis program to identify improperly-tuned automobile engines, a local energy management program, and a proposal to institute a load management study with the state's public utility company. In New York, Governor Cary has called for a ban on pilot lights in gas furnaces and stoves and for a requirement that a seller furnish a home-buyer with both a copy of the previous year's fuel bills and an assessment of the building's energy efficiency. California contemplates a study of waste-heat recovery in industry with an emphasis on preheating and superheating of boilers.

Massachusetts will add strict energy conservation requirements to the state building code for all new construction after fall 1977. The new building code is one of many programs contained in the state's energy conservation plan aimed at saving a total of $400 million in fuel costs by 1980. A review of the code indicates an annual energy savings ranging from 9–15% in a single-family house and savings of 30–40% for commercial buildings without adding to the cost of construction or reducing the buildings' safety or comfort.

Similarly in California, the state's recently enacted Warren-Alquist Act requires that state-wide energy efficiency standards for new buildings be adopted by state government and implemented by local building departments. The state Energy Resource and Development Commission has adopted a code for new non-residential buildings designed to save 20–25% of the energy that would otherwise be used; savings of 18% are projected for new residential buildings.

California, Pennsylvania, Massachusetts and most other states are planning major expansions of energy audit services; in some states these services are administered by the local electric and gas utilities; in others they are sponsored by Project Conserve programs administered directly by the states' energy offices. Other states such as North Carolina are also proposing prohibitions on the use of master meters for electricity and natural gas useage in new multi-unit residential buildings.

Natural gas conservation is a primary target of many states; the Minnesota legislature, for example, enacted a bill last year which directs the state's utilities to terminate the use of decorative gas lamps and to provide their customers with information on how to convert such lamps to electricity. One of the optional measures proposed in the California state conservation plan is turning off gas pilot lights in furnaces in early summer and then on again in early winter; approximately 5–10% of California's residential gas usage would thereby be saved.

In addition to curbing fossil fuel consumption, many state plans envision utilizing indigenous energy resources. West Virginia's Fuel & Energy Office, for example, is sponsoring a program in which methane gas from gassy coal mines is tapped for home heating use in nearby communities. New Jersey is coordinating research efforts with Princeton University to assess the potential for heat co-generation in the state. Vermont has prepared a series of studies to evaluate the potential of its wood resources to meet energy needs; its wood-energy program has already prompted an increase in reliance on this resource: between 1970 and 1976, wood use for home heating has jumped from 1% to 6.7%.

Idaho is on the verge of what its energy office describes as a program that may become the largest geothermal space & water heating project in the Western Hemisphere. The city of Boise already serves some 200 customers with geothermal hot water but a recent study concludes that 38 large buildings or the equivalent of 4,000 average homes could be heated from a nearby geothermal field for a cost of $5 million. Plans are already underway to heat three state buildings from the geothermal wells for about half the price of a conventional natural gas system. California is another state moving to accelerate geothermal development. The State Bureau of Reclamation recently announced that it will study the Susanville & North Honey Lake Valley areas to determine the feasibility of developing geothermal sources there. The State Lands Commission is also seeking to acquire federally-owned geothermal sites within the state with an eye upon future development.

While solar legislation languishes in the Congress, the states are moving rapidly to implement measures that encourage rapid commercialization. To date, more than 23 states have enacted statutes which offer such incentives as tax credits & deductions, exemptions from property & sales taxes for solar units, and low-interest loans. Arkansas allows a home-owner to deduct the entire cost of solar & other energy saving equipment from gross income in the year of installation. In New Hampshire and Vermont, cities and towns may adopt property tax exemptions for solar systems. Massachusetts authorizes banks and credit unions to lend money with extended pay-back periods and has increased the maximum amount which may be lent for solar and other alternative energy systems. Hawaii currently offers a 10% tax credit to those installing solar collectors or other alternative energy devices; it further has a bill in its state legislature that would increase the credit to 50%; another bill would outlaw the heating of swimming pools by fossil fuels—thus compelling owners to go solar.

North Dakota's legislature this year passed a law that provides procedures for the creation of voluntary solar easements similar to Colorado legislation put into effect two years ago. In Oregon, a two-year old law adds solar energy considerations to comprehensive planning; it allows city and county planners to recommend ordinances governing building height for solar purposes.

Nebraska Governor J. James Exon has directed that all building plans for the state be reviewed so as to "plug in solar energy if at all possible. The new penal complexes, the state energy office building in Omaha, as well as all capital construction projects authorized by this legislative session should be planned for solar energy for space heating and hot water usage." Life cycle energy costing estimates (i.e. figuring the cost of a building in terms of what it will cost during its entire lifetime instead of simply its first-year capital cost) will be made for all public buildings to be constructed by state and municipal governments in Massachusetts under a bill signed last fall by Governor Michael Dukakis: "Further, the bill requires that solar and other alternative energy sources must be specifically considered in the bidding process."

Public buildings powered by solar energy are in the works all over New Mexico. And one of the major builders is state government—mandated by the 1975 legislature to consider alternative energy systems for all state construction. The state already has financed two solar buildings recently opened at New Mexico State University and expects to shortly solarize several other major complexes now under construction.

The Arizona Solar Energy Research Commission was created in May 1975 by the state's legislature to promote the development and use of solar energy within the

state and to provide solar energy information to Arizona's citizens. The legislature authorized a budget of $640,200 for the Commission for 1976–1977. Of this, nearly $500,000 was for solar projects conducted within the state to install demonstration solar units and carry out R&D programs.

The state of Florida is establishing a consumer clearinghouse that would provide information on the state's 100+ solar manufacturers and to serve as a center for registering consumer complaints. The state has produced a number of manuals on how to construct, install, and evaluate solar home heating units. In addition, at least 14 solar energy bills are being considered presently in the Florida legislature.

Illinois has promoted a solar development program earmarked by the creation of a series of solar design manuals and the sponsorship of solar courses at four of the state's universities. It has also published a Solar Manufacturers & Consultants Directory and a Homeowners Guide to Solar Energy.

A solar energy research and development expenditure of $1 billion was recently requested by the California State Energy Commission in its state budget application. The entire budget for fiscal year 1976–77 was only $12.8 million but the agency felt that solar's time has come and submitted its "shake-up" budget in a report in October 1976.

To further promote the commercialization of solar and other alternative energy technologies, four states have launched "mini-grant" programs to aid individual homeowners, small communities, and businesses. In Iowa, for example, the state's Energy Policy Council combined $150,000 from general revenues and an additional $80,000 from the Federal Energy Administration to provide a funding pool for small-scale energy projects; in its first round of grants, twenty projects requesting $250,000 were approved. Similarly, Minnesota has a fund of $200,000 for small-scale research; program guidelines indicate that hardware-oriented projects with the potential for creating new industry in the state in the near future are preferred.

The Maine Office of Energy Resources has awarded R&D grants to ten organizations and individuals; wood and wind had been earlier earmarked as priority areas along with energy conservation. The availability of approximately $30,000 in grant monies had been announced in October 1976; the guidelines for proposals required that they be (1) directly related to the needs of Maine consumers of industry, (2) expected to yield results within 18 months, (3) of practical rather than theoretical nature, and (4) of a dimension and complexity compatible with Maine research facilities.

Montana's Renewable Energy Alternative Program selected 31 projects out of 93 proposals to award grants totalling $500,000 too. The money for the program comes from a 2.5% levy on the state's 35% coal tax; by 1979, the fund hopes to have $1.5 million available. Of the first round of grants, twenty were for solar heat, three for wind and wood each, and one each year for water, geothermal and biomass. The two main criteria for the awards were that projects be aimed at developing small-scale technologies and at benefitting low-income persons; the advisory committee has resisted giving grants for research and monitoring projects. In its second round of grants, the Program awarded 48 grants totaling approximately $600,000; the largest grant was $50,000 for the Horizon Lodge in Conrad, MT to install solar hot water heaters for an 84-unit, low-income apartment complex. The smallest grant recommended was $500 for a wood project. Included in the approved grants were a wood-coal fireplace for domestic heating, solar heating for a mobile home, and $44,800 for the New Western Energy Show (a traveling show that promotes alternative energy technologies). There were a total of 126 applicants from which the 48 grantees were chosen.

In California, a program analogous to the mini-grant projects of Minnesota, Iowa, Maine and Montana is the Office of Appropriate Technology (OAT). California's OAT is a small operation housed in the Governor's Office of Planning and Research. Its purpose is to assist and advise the Governor and to encourage state agencies to develop and implement less costly and less energy intensive technologies and programs in the areas of recycling, waste disposal, agriculture, building design, and energy and water conservation. Its programs include broad distribution of literature on "appropriate technologies" (i.e. small-scale, low-cost, suited to local needs and resources), providing bicycles to state workers in Sacramento as an alternative to automobiles, training unemployed persons to design, build and install solar hot-water systems in state-owned houses and apartment buildings, and assisting in the design of new state buildings that use only one-fourth the energy of conventional buildings.

The long-range goals of these and other state energy planning programs are often quite ambitious. The New York State Assembly, for example, has endorsed an energy policy goal of meeting 50% of its energy needs from solar energy, wind power, and solid wastes from within the state; presently New York must import 90% of its energy. South Dakota is planning to reduce its historic per capita energy growth rate of 3.85% to at least .68% by 1980 and to 0% by 1985. A study is nearing completion in Montana to make the state energy self-sufficient. That report follows the thinking of Amory Lovins (i.e. reliance on conservation and decentralized, alternative energy technologies) and is probably the first serious effort by any state to explore energy independence through "soft technologies". A spate of bills to implement the reports anticipated recommendations is now being readied for the Montana legislature.

Regional and county energy planning efforts are supplementing those of the state governments. Many counties have developed energy programs utilizing the services of community organizations, energy offices, the National Guard, welfare departments, and Civil Defense. At least two Michigan counties, for example, (Alger and Ingham) have initiated energy programs to study the counties' energy consumption patterns to determine whether energy may be conserved and where renewable resources may be substituted for fossil fuels. The recently-approved Montgomery County (MD) Energy Conservation Plan directs the county government to become actively involved in providing homeowners with information on residential energy audits and retrofitting through its Home Energy Savers' Program; other key elements of the county plan include continuation of programs demanding energy efficiency in existing county facilities and pursuit of a solar energy demonstration project.

In King County (WA), as part of an energy conservation program first proposed in October 1976, a few hundred low-income residents received warmer homes and lower heating bills this past winter; there a $40,000 "winterization" program was designed to reduce energy consumption and the heating costs of low-income elderly; the savings were estimated to be 30%. The Corporation for Ohio Appalachian Development's Energy Crisis Program encompasses 27 predominantly Appalachian counties in southeastern Ohio and is operated by 16 Community Action Agencies. The program, which began operating in February 1975, has accomplished partial or complete weatherization services on approximately 2,500 homes and has granted crisis intervention assistance to 1,500 households (that entails giving one-time-only cash grants or fuel supplies to individuals who are having difficulty paying their utility bills).

Ocean County (NJ) is the first locality to form a Youth Energy Conservation Corps. Under the program being coordinated by the Ocean County Energy Council, local teachers are being trained in energy conservation strategies. Energy conservation clubs, in addition, are being formed for grammar school students; student coordinators are being appointed in high schools to monitor such areas as lighting, air conditioning usage. There are also solar demonstration projects in shop classes and other conservation projects in science classes.

On January 31, 1977, a new planning and zoning code went into effect in Los Alamos County (NM) which includes a solar rights ordinance. The homeowner's right to solar energy is clearly specified and protected; the location of vegetation or accessory structures on a lot is prohibited if these additions will block the access of an already-installed solar collection system to the sun. Coweta County (GA), the site of the huge new solar-heated Shenandoah Community Center, has established a local option that exempts solar systems and directly-related equipment from property taxes until July 1, 1986.

The Small Farm Project of Cedar County (NE) is currently planning various energy-saving programs for the Project's 25 cooperating farms. Design and costing of specific energy innovations are now in process with assistance from several consultants; they include solar heating of homes and farm buildings, wind generation of electricity, wind-water pumping, improved insulation, and use of methane fuels. Actual construction is slated to begin in fall 1977.

Many of the nation's regional councils have designed programs to address their own local energy needs. For example, the Comprehensive Planning Organization of San Diego began work in November 1976 on a regional energy plan that will promote energy conservation measures and the development of alternative energy sources feasible in the San Diego region. The Organization already publishes a monthly "shopping list" outlining steps local residents and businesses can take to get more efficient use from home appliances, cooling systems, etc.

The Toledo Metropolitan Area Council of Governments disseminates tips on weatherization of homes and offices to both elected officials and the public. The San Luis Valley Council of Governments (alamosa, CO) is conducting workshops emphasizing techniques for utilizing solar energy, energy conservation, and natural building design. The Southwest Georgia Area Planning and Development Commission is conducting energy audits of office buildings and schools and recommending steps that might be taken to eliminate problem areas.

Hundreds of towns and cities have undertaken energy planning efforts to promote energy conservation and to tap locally-available, renewable energy resources. These efforts have been very diverse ranging from broad comprehensive programs to small tentative ones. At one end of the spectrum are the many simple conservation programs initiated by local governments that call for very basic measures such as turning down the thermostat and reducing air conditioning in government buildings, reducing lighting, and tuning up the cars in the city fleet. On the other end are the highly ambitious efforts such as that underway in Winona (MN). With a plan devised by the University

of Minnesota Design Studio, Winona proposes to become energy self-sufficient by the year 2000 through a three-phase process: conservation, use of solar, wind and other alternative energy sources, and finally evolvement of new social patterns (e.g. labor-intensive rather than energy-intensive industries).

One of the best comprehensive energy conservation programs is being run by Davis, California, a small city 12 miles outside of Sacramento. Almost four years ago, Davis' City Council convened a committee of architects, meteorologists, planners, and citizens to survey energy use in the city and to make recommendations for reducing fuel consumed in space heating and cooling by 50%. The group drafted a new ordinance controlling building design elements such as window area and orientation (it requires that houses have limited window area on the north, west and east exposures), amount of insulation, building heat storage capacity, and building orientation so as to take maximum advantage of natural heating and cooling. The final ordinance was accepted by the city planning commission and ultimately approved by the City Council. The changes have already reduced the city's electrical consumption by 10% and conforming households are netting monthly savings of $10–15 on utility bills.

Davis' experience with its building ordinance prompted it to implement a broader energy conservation program; the city contracted a group called Living Systems to draft a comprehensive energy conservation plan. The Living Systems plan, completed in June 1976, touches on land use, solar energy utilization, city procurement policies, and transportation. Maximum use of bicycles and walking is encouraged. Zoning will be altered to make it possible for buildings to take best advantage of south-facing windows and thus optimize the effects of natural heating. The plan calls for extensive planting of trees along streets and parking lots to create a natural cooling effect in summer. The city itself will switch to small energy-saving vehicles for its fleet. The Davis plan will also guarantee "sun rights" in new residential developments so that owners of solar equipment need not fear that their systems will be shaded by neighboring buildings in the future. The city now expects to reach its goal of a 50% energy use reduction within ten years.

Other significant alternative energy development projects are underway elsewhere. Eight cities and a rural electric cooperative in northern California have joined forces to develop geothermal energy. The cities have already leased 1,525 acres of land in the "Geysers" region of Lake Council (CA) and are moving ahead with plans to build a geothermal powered electric plant. They ultimately hope to get 165,000 kilowatts of electricity out of the field—enough electricity for 165,000 people.

More recently, the city of Santa Clara (CA) was the high bidder in the first competitive lease sale ever held by the California State Lands Commission for development of state-owned geothermal energy resources. In the Mammoth Lakes Valley region of Mono County (CA), work has begun on a geothermal heating system that is projected to save up to 50,000 barrels of oil/year by 1980 and 120,000 barrels/year by 1990.

Springfield (VT), a small city of 10,000 people, is developing a local hydroelectric site to supply the bulk of its electricity and several other Vermont towns will likely follow suit. Likewise, the city of Idaho Falls, in cooperation with the Federal Energy Research & Development Administration, is jointly funding a "low-dam" hydro-electric study aimed at upgrading the city's hydroelectric system: the community owns three low-dam hydro plants on the Snake River which were once capable of generating up to 6,000 kilowatts. In Ithaca (NY), Cornell University is considering reactivating a power plant on Fall Creek Gorge that may eventually supply 500 kilowatts or 3% of the university's total electrical needs. There are over 3,000 such little used mill-town dams scattered throughout the country which could provide the energy needs of 40 million people at costs lower than other electricity generating sources.

On Block Island, off the coast of Rhode Island, a 15-kilowatt windmill was dedicated last September to provide power for the New England Telephone Company; it is expected to generate 22,000 kwh/year and excess electricity generated will be put into the grid of the Block Island Power Company. The community of Gosnoldoon the island of Cuttyhunk off the Massachusetts coast will soon have the world's largest commercial windpower system: a 200-kilowatt, three-blade windmill, each blade 40 feet long. The system should supply about half the island's electric needs—approximately 400,000 kilowatts of electricity per year; future plans include a storage system to provide complete independence from fossil fuels. Buffalo (NY) is investigating the use of wind to meet its energy needs, also. Daily wind speed for that city is about 12.3 miles an hour making it one of the three regions of the country with consistently high wind density (the other two being the New England coast and the Great Plains). Wind-power projects now under consideration in the Buffalo area include a six-mile light rail transit system through the city, a waterfront naval museum complex, and the replacement of gasoline and diesel power in the grape-cultivation & harvesting industries south of the city.

Communities are also investigating and implementing ways to recover the energy inherent in solid wastes. City officials in Pratt (KS) are hoping to burn wheat straw to generate electricity for the local citizenry at the municipal power plant: the plant would use 20% straw and 20% coal. A plant in Saugus (MA) collects and processes the garbage of ten surrounding towns and sells the by-product steam in bulk to a nearby industrial plant. New York City, San Francisco, and Colchester (VT), among other cities are drilling wells in sanitary landfills to extract methane. During its first year of operation, the Ames (IA) solid waste recovery system processed 40,936 tons of refuse and delivered only 7% of the city's mini-landfill. The balance was converted to useful & salable products. Trash & garbage were processed to produce a low-sulfur fuel for use in a municipally-owned electric generating plant to supplement coal; about 84% of the solid wastes were converted to this type of fuel.

In some communities, the impetus for local energy programs have come from private citizens. One of the most successful waste oil recycling programs in the nation was started by Sunnyvale-Cupertino's (CA) chapter of the American Association of University Women. The four women convinced the City Council to designate 14 service stations, four fire stations, and the Sunnyvale Recycling Center as collection points. They also arranged for a nearby re-refinery to pick up the used oil from the collection points. As a result of their efforts, numerous other communities have been awakened to the conservation potential of recycling the 1.1 billion gallons of used oil generated annually in the U.S.; similar waste oil recovery projects have been launched in Minneapolis-St. Paul & Duluth (MN), Cincinnati (OH), and Chittenden County (VT).

Solar efforts are perhaps finding their greatest supporters at the community level. Both Santa Clara (CA) and Ocala (FL) are purchasing solar water heaters and leasing them to homeowners. In April 1976, Los Angeles Mayor Tom Bradley announced the "Solar City" program—a broad-based effort by his administration to encourage the development of a solar industry in L.A. With the assistance of a Solar Energy Advisory Committee, more than 90 permits have been granted for solar installations in the city. "Solar energy ombudsmen" have been designated in a number of city agencies to serve as central contacts for people with solar problems. A number of demonstration projects have been launched including a solar hot water heating system to be installed in a new fire station and another in a new city government building. Discussions are also underway to use solar heating for the city's swimming pools.

Palm Springs (CA) recently published a study "Solar Ark Palm Springs"; it is in essence a game plan for the orderly transition of the entire community from a fossil fuel to a solar-energized future. They have appointed a Solar Energy Development Institute which will guide the city to its solar development. In Cleveland (OH), NASA's Lewis Research Center has begun supplying local news media with daily readings of the total solar energy available for use in the city. A 79-unit apartment complex in Minneapolis (MN) will soon be built with the solar energy providing one-third of the new building's energy needs. In southern California's San Luis Valley, an area where 40% of the people earn less than $5,000/year, several dozen families have used scrap materials and their own labor to build a working solar system. And in New York City, a group of tenants have installed a solar system to heat their water and a windmill to provide their electricity needs.

Other local energy projects have been instigated by the nation's Community Action Programs (CAP). About 700 CAPs across the country participate in some form of weatherization program, repairing and insulating the homes of low-income families. In Cranston (RI), the local CAP created a small business to construct and install solar water heating units in the homes of poor people. The SKV Community Action Program in Augusta (ME) scavenges 50-gallon oil drums and converts them into wood-burning stoves. Community Action of Laramie County (WY) is building solar greenhouses. Many of these small projects are being expanded and incorporated into more comprehensive local energy plans.

Other cities are also actively pursuing energy conservation projects. At the time of the 1973 Arab Oil Embargo, Los Angeles enacted an emergency energy curtailment ordinance; it achieved a 17% reduction in electricity within a few weeks without major adverse impacts upon employment of the economy. A similarly successful conservation project was launched at the same time in Burbank (CA); the efforts of the city's municipal utility, which included the elimination of promotional rate structures, cut power use by 20% in 1974.

The city of Tulsa (OK) currently provides a daily report, a monthly summary, and an annual evaluation of fuel consumption & conservation efforts as part of its overall conservation program. The town of Worchester (MA) launched a community-wide insulation co-op in which 25 families joined together and purchased 24,039 square feet of insulation at a discount of 25%—a

savings of approximately $52 per family. Minneapolis, Sioux City, Cleveland and Springfield (IL) are only a few of the communities which have used over-head thermographs; householders, businessmen, and others have thus been able to view these special aerial pictures of their homes, schools, stores, and factories to find out whether poor insulation is wasting energy and costing them money. The city of Hartford (CT) is establishing a program to winterize both public buildings and private homes through a non-profit city corporation using an assortment of federal funding programs. Property owners will be billed through the municipal water utility; the city's pension funds have been suggested as a funding source to provide the initial starting capital for the project. With CETA funds, poor people will be trained, first on the municipal buildings which do not require competitive bidding and then on the homes of the poor themselves.

The success of these and other community energy conservation programs prompted the Seattle City Council last July to vote against participating in the financing of two nuclear power plants on the Columbia River. Based on a year-long study, the city concluded that conservation made much better sense than nuclear power; based on insulation and other energy-saving measures, the city expects to save 160 megawatts by 1990. A special Seattle energy office now reviews city codes to encourage conservation, develops strategies to cope with shortages and works to get businesses and homeowners to think of conservation. Solar & wind energy alternatives are being studied as well.

This kind of intense city effort to deal with local energy problems is becoming the pattern and not the exception. Recognizing that trend, the Vermont legislature last year passed a law (Act 226) enabling towns to appoint town energy coordinators who "shall coordinate existing energy resources in the town and cooperate with the municipal planning commission and with those federal, state, and regional agencies of government which are responsible for energy matters." More than 40 towns have appointed energy coordinators so far with many of the coordinators being assisted by energy committees composed of a cross-section of the towns' residents. The coordinators and committees are examining insulation standards, exploring ways to exploit wood, water, wind, solar & organic energy sources; advising homeowners on purchasing solar units, wood stoves, and windmills; and investigating whether local sanitary landfills are suitable for methane production. For example, Burlington is conducting a feasibility study on a new electric generating plant to be powered by wood, wood waste, and municipal refuse.

Similarly, a program is now being jointly developed by the Idaho Office of Energy and the Association of Idaho Cities to assist city and town officials throughout the state to develop energy conservation plans. The city of Berkeley (CA) has set up an Alternative Energy Commission to develop a city-wide energy plan that includes soft-technology approaches. To raise funds to support and implement its own city energy policies, Long Beach (CA) has a surcharge on all oil refined within the city. In Lansing (MI), the Lansing Energy Affairs Network (LEAN) has been formed in conjunction with the town's Mayor's Committee on Energy Affairs to coordinate the efforts of town officials and citizen groups working on energy conservation, alternative energy resource development, and related energy projects. Working with local citizen groups, the city of Santa Barbara (CA) is developing a city-wide energy plan which, when fully implemented, will have among its accomplishments the reduction of energy costs to the city by up to 25%.

Elsewhere, new towns and communities within existing cities are being planned on the basis of conservation and renewable energy resources. Sixty solar energy homes are planned for a new subdivision—Sunglade—in Raleigh, (NC). The homes will use roof-mounted collectors to heat water for heating & domestic use. The builder has applied to Carolina Power & Light Company to have the homes participate in the peak-load pricing experiment in which electricity will be expensive in periods of high demand and cheap in periods of low demand. To hold down the electric bills, the homes will have automatic clocks to control devices such as hot water heaters so they will only come on during the low-cost periods. The solar collectors will supply 75% of the hot water needs.

In Grassy Brook Village, a subdivision of Brookline (VT), 216 solar panels have been installed to provide the first ten-unit development in this new community with about 4,500 square feet of collector surface. This marks the first time in the U.S. that an independent solar heating system will be used for cluster housing.

Twenty miles south of Eugene (OR) in Cottage Grove, there is a group of people who have been working for the past few years towards building the new town of Cerro Gordo. A maximum population of 2,500 has been planned for the community as well as a ban on automobiles. Transportation will rely on trolleys, bicycles, walking, and horseback. Sources of energy will be the sun, water, wind, and bio-fuel whenever possible. A detailed base-plan has been drawn up to lay out guidelines for incorporating these principles into the town's development.

In spite of the breadth and variety of local and state energy activities, major impediments to such planning efforts remain—primarily lack of information and a lack of money. Only a small number of cities are aware of the wide range of activities that can be conducted on the local level. Although some literature exists on local conservation programs, there is an acute shortage of information on the possibilities of local alternative energy development. This problem will be addressed in limited fashion when ERDA launches its Small Grants Program and its Energy Extension Service later this year to assist state & local governments to pinpoint the technical & financial resources they need. The problem is also being alleviated somewhat through the efforts of the recently opened National Center for Appropriate Technology in Butte (MT) which will be assisting in the promotional of local applications of appropriate energy technology systems. However, beyond a few scattered federal programs with limited funding, federal financial support for local/state energy planning remains largely non-existent. The Carter National Energy Plan makes little provision for aiding the state & municipal sectors even though the bulk of the responsibility for meeting the proposed federal solar, wind, & conservation goals are to be placed on the shoulders of local energy planners.

To address this oversight, the Center for Science in the Public Interest launched its local Energy Action Program (LEAP) a year ago. LEAP has endorsed the position that creation of a federally-supported local energy program offers the best hope for catalyzing the popularization of local energy planning. The federal program would have to accomplish several tasks. First, it would have to stimulate research & writing in the field of local energy planning in order to create a comprehensive literature. Emphasis would have to be placed on publication and dissemination of practical "how-to-do-it" manuals on all aspects of local energy planning and programs. Second, the federal program must issue planning grants to communities so they will be able to create and implement their local energy plans. This could be accomplished by enacting legislation modeled on the EPCA/ECPA statutes—that is, award the states grants to develop state & local energy plans relying upon renewable energy resources & conservation strategies; the federal government would establish broad goals for such plans (i.e. meeting a certain percentage of energy needs with renewable energy reosurces by a certain date) and the state/local governments could determine what mix of technologies are most appropriate to meet their particular needs & resources.

Ultimately, the success of national efforts to pull the U.S. out of its energy crisis will be determined within the communities across the country and not in Washington, D.C. Community energy programs could provide the vital service of not only making the technological information available but also of assisting in its implementation. Each community has the potential for developing energy resources and/or conservation measures that are uniquely suited to that area. No federal energy plan could ever be comprehensive enough to allow for the differing energy needs of each region of the country.

Nonetheless, the potential for local energy planning and development has hardly been scratched. Only a small fraction of the communities which should be involved in local energy activities have active programs. Dozens of new and innovative techniques, projects and programs will likely evolve as more communities engage in local energy planning. The paradox is that the future of local energy planning is tied tightly to the actions of the federal government. In order to reach greater energy self-reliance, many communities will need federal assistance, both technical & financial. If this kind of support is forthcoming in the near future, local energy planning could become standard practice in a very short time.

CONFERENCE REPORT—EXPORT-IMPORT BANK ACT AMENDMENTS

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 6415, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD.)

Mr. PROXMIRE. Mr. President, the House and the Senate were in agreement on the need to extend the Export-Import Bank Act of 1945, as amended, from June 30, 1978 to September 30, 1978. This 3-month extension would make the Bank's authority coincide with the fiscal year.

The House and Senate were in disagreement on House provisions concerning human rights, antinuclear proliferation policy, and international export credit competition. The conferees reached a compromise with respect to those provisions. The House language was clarified and improved in several respects. The agreed version of the bill would insure that Export-Import Bank loans and guarantees are consistent with U.S. policy on human rights and nuclear proliferation, and that the Bank increases its efforts to achieve reciprocal international reductions in Government-supported export financing.

Mr. President, I ask for immediate action on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. HEINZ. Mr. President, will the Senator yield.

Mr. PROXMIRE. Yes, I yield.

Mr. HEINZ. As a conferee on this matter and as a member of the committee and participant in the debate that worked its will, on behalf of our colleagues, I simply want to associate myself with the remarks of the Senator from Wisconsin, the chairman of our committee, who has worked very cooperatively with all members of the committee to bring this conference report to the Senate. I concur in the Senator's desire for immediate action on the conference report.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Pennsylvania. He is a ranking Republican member of the committee. It was through his work and the work of Senator STEVENSON that this compromise was reached.

Mr. STEVENSON. Mr. President, the conferees appointed by the Senate and the House with respect to H.R. 6415, a bill to extend and amend the Export-Import Bank Act of 1945, have submitted their report. The report includes an explanatory statement of the compromise reached between the two versions of the bill.

The main purpose of H.R. 6415 is to extend the Export-Import Bank Act of 1945, as amended, from June 30, 1978, to September 30, 1978, in order to bring the Bank's statutory operating authority into line with the fiscal year. When the Export-Import Bank Act was last extended, fiscal years ended on June 30. Fiscal years now end on September 30; the expiration date of the Export-Import Bank Act must be changed accordingly The House and the Senate were in agreement on the need for this 3-month extension of the Bank's authority.

The difference between the House and the Senate arose from the inclusion by the House in this extension bill of substantive amendments concerning human rights, international export financing competition and antinuclear proliferation policy. The Senate deleted those provisions from H.R. 6415 on the grounds that such amendments could more appropriately be considered when a bill to approve a multiyear extension of the Eximbank is before Congress. The House refused to give up its amendments and a conference was called.

The House conferees have agreed to modifications and clarifications of the House amendments which I believe render the bill acceptable as an interim measure pending a complete review of the Bank's activities and authority. That review will include thorough hearings in the Banking Committee within the next few months. Every provision of the Export-Import Bank Act will be reconsidered, including the changes made by H.R. 6415.

Specifically, the conferees agreed to the following changes: First, the House provision concerning human rights was altered to make clear that the Bank should rely upon the State Department for advice on whether proposed Bank credits are consistent with this country's human rights policy. The Bank has already begun to act in accordance with the intent of this amendment. The Department of State reviews proposed Bank credits from a U.S. foreign policy perspective, including human rights considerations. H.R. 6415 insures that Eximbank actions will continue to be consonant with U.S. human rights policy.

Second, the provision concerning international competition in export financing was revised to mandate the Bank to cooperate with other U.S. Government agencies in international negotiations directed toward reciprocal reduction of Government financing for exports. The Bank is already engaged in negotiations toward reducing international competition in export financing. The compromise provision in H.R. 6415 adds a directive to the Bank to strive for reduced levels of financing as well, that is, to reduce competition by rounding down the general level of Government support rather than reducing competition by raising financing support to a higher level. The conferees deleted language which could have been misconducted to imply a desire for unilateral reduction in U.S. export financing.

Third, the conferees accepted all but one of several provisions concerning nuclear exports and U.S. antiproliferation policy contained in the original House bill. The House bill would have required a complex, perhaps unworkable, consultative procedure between Congress, the Secretary of State and the Director of the Arms Control and Disarmament Agency to be followed in every proposed nuclear export financing by Eximbank. The conferees agreed that thorough consultations could be conducted without prescribing the procedures in the statute. The administration agreed to conduct such consultations upon request by the appropriate committees or subcommittees of the Congress. Letters to that effect are appended to the conference report. Accordingly the provision in the House bill which specified the nature and procedure for such consultation has been deleted from the bill.

The administration, including the Export-Import Bank, supports this bill. The Bank has already begun to act in accordance with the provisions concerning human rights, international export credit competition, and antiproliferation policy. There will be an opportunity to review the effectiveness of these provisions next year when Congress considers a multiyear authorization for the Eximbank. I urge the Senate to accept the conference report on H.R. 6415.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The conference report was agreed to.

Mr. McINTYRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT—S. 1585

Mr. ROBERT C. BYRD. Mr. President, there are some clerical errors, I understand, in the printed report on S. 1585, Protection Of Children Against Sexual Exploitation Act of 1977, and I ask unanimous consent that there be a star print of that committee report with such errors corrected therein, and that 500 copies of the report be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I assume that had been cleared on this side?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

EARTHQUAKE HAZARDS REDUCTION ACT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STEVENSON, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 126.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate the amendment of the House of Representatives to the bill (S. 126) to reduce the hazards of earthquakes, and for other purposes.

(The amendment of the House is printed in the House proceedings of the RECORD of Sept. 9, 1977.)

Mr. STEVENSON. Mr. President, on September 9, the House of Representatives took up and approved S. 126, the Earthquake Hazards Reduction Act, by a vote of 229 to 125. Passages of S. 126 by the House now clears the way for action by the Senate. The Senate originally passed S. 126 on May 12.

After almost 5 years of effort by the Senate, it appears we now will have a program to reduce the risks to life and property from earthquakes. I commend particularly my colleague from the State of California, Senator CRANSTON, for his leadership in this endeavor.

The bill that the House transmitted to the Senate is almost identical to the bill the Senate approved unanimously. The first difference involves language in the House bill to provide for greater involvement by public members in the national earthquake hazards reduction program. Non-Federal members will participate in the review of the national program plan, and non-Federal members will assist in the effort to develop and evaluate an earthquake prediction and validation capability. The House language, though not actually calling for the establishment of an advisory committee, indicates a desire to have more widespread review of the national program.

The second difference deals with the general authorization section under S. 126. A general authorization section is provided in the bill for all agencies other than the U.S. Geological Survey and the National Science Foundation. The Senate provided an open general authorization, since authorization levels for other agencies could not be determined. The House placed limits of $1 million, $2 million, and $2 million for fiscal years 1978, 1979, and 1980, respectively.

Mr. CRANSTON. I wish to ask Senator STEVENSON a question regarding the House amendments. The House bill adopts a ceiling under the general authorization section while the Senate version provides for an open authorization. What was the understanding of the Committee on Commerce, Science and Transportation in reporting a bill with an open authorization section?

Mr. STEVENSON. It is my understanding that the open authorization section was included to enable agencies other than the U.S. Geological Survey and the National Science Foundation to participate in the national program. Specific authorization amounts were not provided since specific figures could not be determined and would be subject to the implementation plan to be produced under the act.

Mr. CRANSTON. I have reviewed the House amendments and believe their language is consistent with the Senate intent.

Mr. STEVENSON. Yes; I agree. While the House limits funds authorized in the general authorization to $1 million, $2 million, and $2 million for fiscal years 1978, 1979, and 1980, its language indicates that these funds are "in addition to any authorizations for similar purposes included in other acts." I interpret this to mean that the House does not wish to impose limitations on other agencies to be involved in the national earthquake hazards reduction program.

Mr. President, I have reviewed the House changes and believe that they do not conflict with the intent of the Senate. It is my understanding that the administration is anxious to receive this legislation and is ready to begin implementing the act. There is no reason to delay and go to conference over these differences. Therefore, I urge my colleagues to accept and support the House amendments so that we can forward this legislation to the President for signature.

Mr. CRANSTON. Mr. President, I am especially pleased that the Senate today is considering approval of the House-passed amendments to S. 126, the Earthquake Hazards Reduction Act of 1977.

S. 126 passed the Senate unanimously on May 12, 1977. Two House committees—the Science and Technology Committee, and the Interior and Insular Affairs Committee—worked to develop a final product that is very similar to the Senate bill. The House of Representatives approved this bill (H.R. 6683) by a record vote of 229 to 125 on September 9. If approved by the Senate today, as I fully expect it will be, we will send to the President a bill which is the culmination of 5 years of effort to improve and strengthen our Federal earthquake programs.

In 1972, during the 92d Congress, I introduced the first of my legislative proposals to expand the Federal earthquake program, particularly to focus on the question of whether a reliable earthquake prediction capability could be developed and implemented, as well as to study ways of constructing earthquake resistant structures. In every subsequent Congress I have advocated legislation for these purposes. In the 94th Congress, S. 1174, a bill similar to S. 126, was approved by the Senate but in the House failed to get the necessary two-thirds vote to waive the rule and pass by consent.

Today, I am delighted and pleased to participate in this final congressional approval of S. 126, the Earthquake Hazards Reduction Act of 1977.

This bill is designed to reduce the risks to life and property from future earthquakes in the United States through the establishment of an effective and coordinated Federal earthquake hazards reduction program. Presently, the Federal effort on earthquake-related problems is fractured among a number of Federal agencies. The bill directs the President to designate a lead agency to be the central coordinating body for all earthquake activities. The two Federal agencies now principally involved—the National Science Foundation and the U.S. Geological Survey—will retain their major responsibilities under S. 126.

The bill provides that within 30 days of enactment the President shall designate the Federal agency responsible for the development of an implementation plan. This plan is to establish year-by-year targets for implementing an effective earthquake hazards reduction program and shall specify the roles for Federal agencies, State and local units of government and for individuals and private entities. Within 210 days of enactment, the implementation plan must be submitted to the authorizing committees in Congress. It will become effective 30 days later.

The program has several specified objectives: First, the development of technologically and economically feasible design and construction methods to make new and existing structures earthquake resistant; second, the development and implementation of a system to predict earthquakes in areas of high or moderate seismic risk; third, the development of model codes and other means to make information about seismic risk available for consideration in local land-use and building decisions; fourth, the education of the public about how to best mitigate earthquake hazards for themselves and their communities; fifth, research for the development of improved application of scientific and engineering knowledge; sixth, improved understanding of the social, economic, legal, and political issues that could result from an earthquake prediction capability; seventh, a study of how to make earthquake insurance or some functional substitute available; and eighth, an investigation of the feasibility of methods of earthquake control.

Mr. President, it is important to recognize that, despite a considerable seismic history, the United States has been extraordinarily lucky. Less than 1,200 people have lost their lives in U.S. earthquakes so far. Compare this to the more than 650,000 who died on July 28, 1976, in the devastating Chinese earthquake in Tangshan Province. Throughout history somewhere in the neighborhood of 74 million people have died in earthquakes. Last year alone, 700,000 people lost their lives in major earthquakes in Guatemala, China, Turkey, and Italy.

Second, the threat of future destructive earthquakes is a national problem. Certainly, the Pacific Coast States—principally Alaska and California—are especially vulnerable to earthquakes and related disasters. Yet nearly every State in the Nation faces some degree of risk from future earthquakes, and some 70 million people live in the 39 States that are wholly or partly in areas facing a risk of moderate to major damage from future earthquakes. Earthquakes have occurred in our history all over the United States, with major earthquakes in Charleston, S. C. (1886), New Madrid, Mo. (1811–12), Cape Ann, Mass. (1775), Seattle, Wash. (1949), Hebgen Lake, Mont. (1959), and the terrible "Good Friday" earthquake in Alaska (1964).

Finally, the United States today faces the greatest potential danger from earthquakes that we have ever faced before. It is only in the last decade or so that our population has become concentrated in major cities and along our coastal regions, and major construction has occurred on land-fill and other unstable soils. Thus, it is only recently that the potential for great earthquake destruction in this country has existed. Indeed, if the San Andreas Fault were to give us an encore of the 1906 San Francisco earthquake, the deaths could number in the tens of thousands and the property damage could exceed $20 billion. On top of this, we must consider the incalculable losses resulting from the loss of economic and social functioning. Such an earthquake would have a major impact on our national economy and our national psyche.

In 1974, according to the Bureau of the Census, the value of new construction put in place in the United States totaled $134.8 billion. Approximately one-third of this new construction occurred in the high and moderate earthquake risk regions of the United States. Thus, new construction valued at approximately $45 billion in 1974 was put in place in areas with a high expectation of future earthquake damage. The annual expenditure authorized by this legislation is but a small price to pay to protect our massive annual expenditure on new construction.

Mr. President, I am delighted to take this final step in congressional approval of the Earthquake Hazards Reduction Act, and I urge my colleagues to join me in approving S. 126.

Mr. DOMENICI. Mr. President, I understand this has been cleared with our side and I have no objection.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. STEVENSON, I move that the Senate concur in the amendment.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

TIME LIMITATION AGREEMENT—S. 1871

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1871, a bill to amend the Fair Labor Standards Act of 1938, is made the pending business before the Senate—and this has been cleared with the minority leader—that there be a time agreement thereon of 4 hours on the bill, to be equally divided between Mr. WILLIAMS and Mr. JAVITS; that there be a time limitation on any amendment thereto of 2 hours; that there be a time limitation on any amendment in the second degree of 1 hour; that there be a time limitation on any debatable motion, or appeal, or point of order, if such is submitted to the Senate for discussion, of 30 minutes; that there be a time limitation of 2 hours on any amendment dealing with indexing; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The agreement reads as follows:

UNANIMOUS CONSENT AGREEMENT

Ordered, That when the Senate proceeds to the consideration of S. 1871 (Order No. 400), a bill to amend the Fair Labor Standards Act of 1938, debate on any amendment in the first degree shall be limited to 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill, provided that any amendment dealing with indexing be limited to 2 hours, any amendment in the second degree be limited to 1 hour, and that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the aid bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 9262 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House of Representatives on H.R. 9262 be held at the desk pending further action.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators that have been entered for tomorrow?

The PRESIDING OFFICER. No, there are not.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW; CONSIDERATION OF S. 2104

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, there be a period for the transaction of routine morning business, not to extend beyond the hour of 9:30 a.m., and that no resolutions come over under the rule, and that immediately following the routine morning business the Senate resume consideration of the natural gas pricing bill, and that there be a limitation on speeches by any Senators during that period for the transaction of routine morning business of 3 minutes each.

The PRESIDING OFFICER. Without objection—

Mr. ABOUREZK. Reserving the right to object, Mr. President, may I ask the majority leader the reason for including one provision, that no resolutions come over under the rule?

Would it be possible to permit that, or is that—

Mr. ROBERT C. BYRD. That is all right with me.

Mr. President, I ask unanimous consent that on tomorrow there be a period for the transaction of routine morning business, after the two leaders have been recognized, not to extend beyond 9:30 a.m., with statements therein limited to 3 minutes each; that immediately upon the conclusion of routine morning business, the Senate resume consideration of the natural gas pricing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I expect rollcall votes tomorrow. As we have seen from today's experience, anything can happen, and it can happen at any time. Tabling motions can be made, amendments may be voted upon up or down, live quorums can occur, points of order can be made. Appeals from the rulings of the Chair, of course, always can be a possibility.

So I urge all Senators to be prepared for rollcall votes tomorrow.

I hope we can conclude our work tomorrow, even though our work may not be completed on the bill. But I hope we can be out by 5:30 or 6 o'clock tomorrow.

That is about the best I can offer as a way of painting a broad-brush picture.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and at 7:11 p.m. the Senate recessed until tomorrow, Saturday, September 24, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the the Senate on September 23, 1977:

DEPARTMENT OF STATE

Diego C. Asencio, of New Jersey, a Foreign Service Officer of class one, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

DEPARTMENT OF JUSTICE

Robert D. Kingsland, of Missouri, to be U.S. Attorney for the Eastern District of Missouri for the term of 4 years, vice Donald J. Stohr, resigned.

Edward G. Warin, of Nebraska, to be U.S. Attorney for the District of Nebraska for the term of 4 years, vice Daniel E. Wherry.

Willie D. Durham, Sr., of Tennessee, to be U.S. Marshal for the Western District of Tennessee for the term of 4 years, vice Richard N. Moore.

Richard D. Dutremble, of Maine, to be U.S. Marshal for the District of Maine for the term of 4 years, vice Charles J. Pooler.

REHABILITATION SERVICES ADMINISTRATION

Robert R. Humphreys, of Virginia, to be Commissioner of the Rehabilitation Services Administration (new position).

DEPARTMENT OF ENERGY

Phillip Samuel Hughes, of Maryland, to be an Assistant Secretary of Energy (Intergovernmental and Institutional Relations) (new position).

Lynn R. Coleman, of the District of Columbia, to be General Counsel of the Department of Energy, (new position).

Matthew Holden, Jr., of Wisconsin, to be a member of the Federal Energy Regulatory Commission for a term of 4 years (new position).

RAILROAD RETIREMENT BOARD

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1979, vice Neil P. Speirs, resigned.

EXTENSIONS OF REMARKS

MILWAUKEE: BE OF GOOD CHEER

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. REUSS. Mr. Speaker, on Monday, September 19, I participated in the conference on Milwaukee's economy, held at the Wingspread Conference Center in Racine, Wis., and jointly sponsored by the Urban Research Center of the University of Wisconsin-Milwaukee, the Johnson Foundation, and the Federal Reserve Bank of Chicago. The text of my comments follows:

MILWAUKEE: BE OF GOOD CHEER

I am happy to participate in this symposium on Milwaukee's economy. Since Milwaukee is my favorite city, and economics my favorite sort-of science, happiness is obviously what I should be feeling.

Much gratitude for their sponsorship goes to the University of Wisconsin-Milwaukee, the Federal Reserve Bank of Chicago, and the Johnson Foundation. I thank the Urban Research Center of the UW-M, a great urban university of which we are all justly proud, and its distinguished Chancellor, Dr. Werner Baum, who brings the learning of the depths of the sea to the deeper depths of the urban crisis.

I thank the Federal Reserve, which has brought its research to bear so perceptively on our regional problems. To those of my populist friends who may raise an eyebrow at this strange new alliance between me and the Fed, I reply with the old slogan: if you can't lick 'em, join 'em.

Finally, I thank the Johnson Foundation, which once again has magnificently brought together—if you'll pardon the expression—the whole ball of wax.

The challenge before us is that Milwaukee, like so many of our great cities, is becoming a loser: losing population to the suburbs, the exurbs and the Sunbelt, losing jobs, losing fiscal solvency, losing the experience of neighborhood and community, losing the convenience, safety, and attractiveness which are the reasons for a city's existence in the first place. In constitutional terms, we are being short-changed on justice, on tranquility, and on the general welfare.

As with so many other cities, as our affluent middle-class and skilled blue-collar workers have moved from the city, the population left behind is increasingly a dependent one, with little ability to finance the city's public service needs. The decline of public education, and the increased fear of crime, have reinforced and accelerated the movement outward.

On top of this, lower labor costs, cheap energy, and more attractive climates have drawn businesses toward the sunbelt states and away from the northeast and midwest, including Milwaukee.

Like other cities, Milwaukee has suffered from a shrinking revenue base while expenditures have risen substantially. The demand for city services has increased, reflecting both the greater needs of an increasingly dependent population, and the greater propensity of various segments of that population to articulate those needs.

Meanwhile, the cost to the city and its residents of providing public services has increased. Inflation has far outstripped increases in the city's tax base. And not all the overhead costs of city government have decreased with the decline in the city's population. Once our road, sewer and water network has been constructed, the costs of maintaining them do not decline as the population shrinks. The city's labor force, including police and fire services, tends to become a fixed overhead item, whose costs must be spread over fewer and fewer taxpayers.

Beset on right and left by decreasing revenues and increasing costs, what are we to do? Should we toss in the sponge, and demand that the federal government take over our problems in some vast and undefined new Marshall Plan? Or are we to embrace the inhuman doctrine of triage, which some heavy social thinkers are currently advocating, and nominate ourselves candidates to be tossed to the sharks?

No—let us rather demonstrate to the nation that Milwaukee, however old and cold, can find its way back to municipal health. It is not enough that Milwaukee be the economic center and cultural cornucopia that have always been the rationale for a city.

The Age of Scarcity may lie ahead, in some ways has already begun. I propose that Milwaukee become the Great Conservator of energy, of land, of neighborhoods, of existing homes and structures, and above all, of the human spirit. This is what I see as the new role for America's cities in the decades ahead.

How can Milwaukee be restored to health? Having ruled out a vast new federal Marshall Plan, there *are* some things that Milwaukee can justifiably ask of Uncle Sam.

* * * * *

A great deal of the help we ought to get from Washington is not having it start doing expensive new things for us, but simply stop doing expensive new things *for* us, but simply stop doing expensive old and wrong things *to* us.

In a sense, America has had an unconscious national urban policy that has led to our present plight.

If the federal government will stop helping to create the unemployment and the inflation which have dogged our cities; if it will forget about urban renewal programs and urban expressways which chew up neighborhoods without compensating gains; if it will revise its tax laws so as to terminate incentives for landlords to milk their properties, and for plants to move out of the central city; if it will think of job-hungry cities as the site for some of the decentralizable federal establishment; if it will stop rewarding know-nothing state governments for neglecting the waste of local land the decay of local fiscal capacity; if it will concentrate its aid programs on the needy, instead of scattering largess almost everywhere—Milwaukee and the rest of the nation could be off to a good start.

The four goals have to be jobs, restructured federal programs, neighborhoods, and a vitalized state government.

* * * * *

I. JOBS

There is one way, more than any other, whereby the federal government could help all our cities, including Milwaukee. The latest figures show unemployment rising again, most ferociously in the case of blacks and teenagers. Half of our 8 million unemployed now live near our city centers, and many are minorities and youths.

These millions are trapped in the central cities by poverty, race, or undereducation. The leading economic activities available to them are bootleg activities—drug-pushing, prostitution, gambling, robbery.

We should start tomorrow to move remorselessly against the structural unemployment which is the city's single most important problem:

1. Blue-collar jobs. For the first time in many years, vacant land is now once again available within the city, with sewer, water, streets and utilities already in place. Small, human-scale, in-city plants, preferably extensions of existing industries, are once again feasible. Employing 50 or 100 or 200 workers, these plants let you walk to work rather than take expensive and energy-wasting commutes.

Milwaukee, to its credit, is now assembling land into industrial parks, and the effort is beginning to bear fruit.

Federal tax policy could help by revising the present expensive tax-free municipal industrial revenue bonds, which encourage firms to build costly new plant and equipment in areas with no unemployment problems, rather than in central cities that may have a 30 percent jobless rate. Tax-free municipal industrial revenue bonds ought to be restricted to areas of high unemployment.

2. White-collar jobs. These, too, ought to be tied to the central city's unemployed. Many of these white-collar jobs—in education, government, finance, commerce, health, retail trade—will continue to be located downtown, within range of the high-unemployment area. Central city high schools and vocational schools ought to reorient their teaching, particularly of the three Rs, to prepare young people for these jobs.

More agencies of the federal government ought to decentralize out of the Washington area, and in so doing provide white-collar job opportunities in areas that need help. After many years of trying, we finally got a Federal Reserve Office opened in Milwaukee a couple of years ago. Today a large part of its check-clearing operations are conducted by people who live in the nearby city neighborhood. But this is a mere drop in the bucket, and there should be much, much more decentralization.

3. Mass transit. Providing jobs within walking distance of homes is surely the best way to conserve energy. But a good mass transit system is also needed. Subways, which are proving prohibitively expensive from San Francisco to Washington, are not for Milwaukee. But mass transit, whether by bus or "light rail" (you remember the old and delightful trolley?) can and must provide an adequate means of getting workers to and from their jobs in Milwaukee and its suburbs.

4. Housing. Many of the jobs have migrated to the suburbs and beyond in recent years, and they will not be coming back. It, therefore, becomes vital that suburbs not zone out housing for low-income workers, as so many under one pretext or another have done. HUD has plenty of muscle, in its community development block grants and similar programs, to make such exclusionary zoning unprofitable. Secretary Harris shows commendable signs of being willing to exercise this muscle.

5. Inter-regional moves. At present there is no national employment placement system worthy of the name. The U.S. Employment Service should develop an effective national computerized service, matching job openings with the skills and interests of available and interested workers. Beyond this, the federal government should provide personalized retraining and relocation programs, similar to those which many European countries are using with great success. When you look at the relocation efforts we have expended in recent years on refugees from Cuba and Vietnam, it would surely seem that we could do as much for our own citizens.

6. National service jobs. Until the disadvantaged have acquired skills and self-confidence sufficient to find private jobs, the federal government will have to provide national service jobs which combine a living wage, training, and imparting to young people a sense of cooperative purpose. These national service jobs could be out in the country, like FDR's Civilian Conservation Corps, or in the city itself—improving railroad roadbeds, rehabilitating and insulating homes, recycling waste, renewing neighborhoods, staffing day care centers and food programs. You'll note that many of these jobs require capital—tools and equipment—as well as labor; so let capital be provided. Milwaukee city and county are both ready to respond to such a federal initiative.

* * * * *

An exciting approach to jobs and redevelopment in Milwaukee is now beginning to emerge from City Hall, with the help of some private movers and shakers. Three related projects can materially ease our Milwaukee central city unemployment:

Downtown revitalization

A new federal office building, and a new hotel, can give the necessary spark to a turn-around in the presently deteriorating downtown area west of the Milwaukee River. These downtown white-collar jobs can be very helpful for close-in residential areas.

Park Freeway West

Turned down by two successive Secretaries of Transportation, Park Freeway West is now 3.2 miles and 150 acres of discouraging rubble. The Park West Task Force is proposing to use this wasteland for multi-income housing, for parks and open space, for revitalization of the North Avenue-Fond du Lac Avenue commercial strip, for an industrial park.

The City's Menomonee Valley restoration is now moving ahead. Already in place are new streets and access roads, and the sparkling new American Can Company trash and garbage disposal center.

With innovative new manpower training programs engrafted on these close-to-downtown programs, there can be a renewed demonstration that development, jobs, and energy-saving go together.

* * * * *

II. RESTRUCTURING FEDERAL PROGRAMS

Beyond jobs, the federal government could help localities like Milwaukee by restructuring its programs. Specifically,

1. Reform the welfare system, and thus reduce disparities in cash income between various parts of the country;

2. Adopt national health insurance, with special emphasis on prevention of illness, thus reducing the locality's health costs;

3. Equalize the real value of federal cash transfer payments, such as social security and veterans' benefits, so that recipients in the higher-cost older cities are not discriminated against;

4. Reexamine federal grant formulas, such as that for community development block grants, which will shortly reflect more attention to the needs of older and problem-prone cities;

5. Rethink city-oriented federal tax subsidies, so as to discourage unnecessary suburban sprawl and waste of land.

* * * * *

III. REJUVENATING NEIGHBORHOODS

A human-scale neighborhood is surely a basic unit in the revitalization of the American city. Fortunately, Milwaukee is out in front in its neighborhoods. To mention a few:

Sherman Park, where admirable experiments in cooperative rehabbing of homes, and easing the bumps of school integration, are going on;

Brady Street, where the first neighborhood credit union in the state is meeting the need of neighborhood consumers and businesses for a neighborhood-controlled financial institution;

Park Freeway West, where a task force has worked with a half dozen neighborhood groups to plan a new-town-in-town for that rubble-strewn area;

Upper East Side, where neighborhood organizations focus on everything from stopping highrise apartments to university parking problems to food cooperatives;

Upper Third Street, where despite tremendous problems the business and neighborhood community are determined to revitalize this strip area;

Milwaukee's Mayor Henry Maier, in grouping Park West and the Menomonee Valley with the downtown shopping area revitalization project, wisely avoids a mistake which I believe Detroit and Atlanta have recently made. There the city fathers have put huge amounts of capital into monumental building projects in their downtown, with the hope that a rebuilt downtown will automatically put the rest of the city back on its feet.

There are already indications that this approach won't work. Surrounding the Renaissance Center in Detroit and the Omni Center in Atlanta are blocks of rubble, commercial buildings with rentals too high for anything but "adult" book stores, and deteriorating residental neighborhoods.

Milwaukee's City Hall is rightly recognizing that if all the money and effort went into the downtown rehabilitation there would be none left over for nearby neighborhoods, where the people live. The resulting frustration and bitterness could isolate the new downtown.

This dual approach—downtown *plus* neighborhoods—is mutually reinforcing. Downtown revival can best occur if the surrounding neighborhoods are simultaneously upgraded: otherwise, the cancer of slums can stifle the renascent downtown. And the neighborhoods have much to gain from a revived downtown: jobs, culture, shopping, a contribution to the tax base.

* * * * *

Reshuffling affluent people, usually singles or older people, back from the suburbs to the central city, is becoming the "in" thing in Milwaukee as it is in Boston, Brooklyn, Philadelphia, Washington and many other cities. Run-down townhouses are modernized, streets become safer and quieter, living near the job saves energy and exasperation.

The trend is a worthy one, but the sharp edges of the new middle-class incursion into inner city neighborhoods must somehow be gentled. For one thing, the city must insure that decent alternative homes at affordable costs are made available to the displaced. Ideally, the metropolitan area or the state should assume this responsibility, since many of the displaced will want to live in the older and closer-in suburbs. Above all, these transitional neighborhoods, aided by state and local governments, must do some planning, so as to insure that the neighborhood stays multi-income, and that the transition is not so speedy as to overwhelm the neighborhood.

* * * * *

IV. ANIMATING STATE GOVERNMENT

In the end, whether Milwaukee can make it depends very much on the attitude displayed by its sovereign, the State of Wisconsin. There is so much the state could do, if it would.

Like Hawaii, Wisconsin could assume state responsibility for paying the cost of locally administered schools, and thus lift the burden off the back of the home owner.

Like Minnesota, Wisconsin could help solve the problem of metropolitan financial burden-sharing by providing that increases in local taxable values in the entire metropolitan region should be fairly shared, rather than siphoned off to the more prosperous communities.

Like Indiana, Florida and Tennessee, Wisconsin could encourage true metropolitan area governments, or city-county consolidations which have much the same effect.

Like Texas, Wisconsin could have helped Milwaukee to escape confinement behind the iron ring of suburbs by giving it in the beginning truly broad annexation powers.

Despite some progress in recent years, the State of Wisconsin has still confined metropolitan Milwaukee to fragmented, ineffective and not very democratic local government—too many jurisdictions and officials, hopeless disparities in revenues between richer and poorer areas, hybrid sewerage commissions and X-way commissions and planning commissions where responsibility is difficult to fix and the buck is easy to pass.

One of these days, in my judgment, the federal government may decide that the $2-plus billion every year which it pays the states through general revenue-sharing is not very cost-effective for the federal government. In fact, in the 1976 presidential campaign, candidate Jimmy Carter declared himself opposed to revenue-sharing with the states. It may well be, therefore, that future revenue-sharing with the states will be conditioned on their at last coming to grips with the problems of local finance, local governmental reorganization, local land use planning.

By turning its attention to these problems now, the State of Wisconsin could have itself from being caught asleep at the switch if this happens down the road a year or two.

* * * * *

So runs the scenario for Milwaukee's—and the American city's—role as the Great Conservator. Let energy be conserved by cogeneration, by advanced waste disposal and recovery, by neighborhood use of wind and sun for energy. Let land be conserved by joining living habitat with work, worship, and recreation places; by land-conserving forms for homes and work-places; by mass transit rather than endless expressways. Let neighborhoods be conserved by devolving some of the powers of government down to Thomas Jefferson's "ward republics". Let existing capital—homes and buildings—be conserved by substituting rehabilitation and renewal for the bulldozer of destruction. Let the human spirit be conserved by enabling all to be creative by working at a meaningful job.

Milwaukee's problem, and its opportunity, is conservation.

SPECIALTY STEEL

HON. THOMAS F. EAGLETON

OF MISSOURI

IN THE SENATE OF THE UNITED STATES

Friday, September 23, 1977

Mr. EAGLETON. Mr. President, I would like to take this opportunity to draw the attention of my colleagues to the specialty steel industry.

As you know, in June 1976, President Ford imposed import quotas on five types of specialty steel as a result of an escape clause petition filed with the International Trade Commission. These controls do not expire until June 1979. In May of this year, President Carter asked the International Trade Commission to conduct an investigation of the effect on the domestic specialty steel industry of reducing or terminating import relief.

The fact that the President has asked for an inquiry does not mean that he will take any action at all; he may decide to allow the import controls to continue unchanged until they expire in 1979. However, I do feel strongly that under the Trade Act of 1974 the Senate has the responsibility of following these trade issues closely. Lloyd McBride, the new president of the United Steelworkers of America, is a native of St. Louis, and in the few months he has headed the Steelworkers National Union he has displayed the leadership qualities with which his fellow Missourians have been familiar for many years.

I ask that the following summary of Lloyd McBride's testimony at the U.S. International Trade Commission hearing on the review of the specialty steel quotas be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

STEELWORKERS' MCBRIDE URGES PRESIDENT TO KEEP SPECIALTY STEEL IMPORT QUOTAS

WASHINGTON, D.C., September 7.—Workers in the American Specialty Steel Industry "have been seriously injured by imports and continue to be seriously injured," President Lloyd McBride of the United Steelworkers of America (USWA) said today in urging the Carter Administration to keep restraints on specialty steel imports.

Mr. McBride made his plea for continued quotas on such imports in testimony before the U.S. International Trade Commission (ITC). The ITC, at President Carter's request, is reviewing the restraints imposed on June 14, 1976, for a three-year period by President Ford.

The USWA President urged the ITC to allow the import restraint program "to work, and thereby keep our members at work." There are some 65,000 workers employed in the Specialty Steel Industry.

"If the quotas are relaxed now, imports will once again flood the American market as foreign producers export their unemployment along with specialty steel," Mr. McBride stated. "Thousands of American jobs will be lost."

Through an intricate set of quotas and an orderly marketing agreement with Japan, the U.S. controls the rate of shipments of stainless and tool steel products from Japan, western Europe, Sweden and a number of other nations. The controls were imposed after the industry and the USWA had shown that they were being adversely affected by such imports. The Trade Act of 1974 provides for such safeguards to protect a domestic industry and its workers against injurious imports.

Mr. McBride recalled that unemployment in the Specialty Steel Industry in the Pittsburgh area ranged from 10 to 35 per cent during the first part of 1975 and that today, even with the restraints in effect, "this industry has not yet fully recuperated from the unremitting assault of imports."

He pointed out that "even if adjustments for productivity gains are taken into account, the employment statistics of this industry still reflect the serious erosion incurred as a result of imports."

He said proof that workers in the Specialty Steel Industry continue to be injured by imports is shown by the record of trade adjustment assistance since the ITC recommended the import restraints. He cited the fact that from January, 1976 through June, 1977, the Labor Department acted on petitions affecting 9,594 workers and that 76 per cent of them were certified as eligible for assistance because imports had contributed importantly to the loss of their jobs.

"The report you issue will determine whether there will be work performed and paychecks received," he noted. "Moreover, it will affect not only the men and women who work in specialty steel plants but perhaps equally significant the communities where they live. For without employment, there will be no one to spend money in the grocery and clothing stores which are dependent on their customers for their livelihood."

The USWA and the industry petitioned the ITC on July 16, 1975, for import relief as provided in the Trade Act of 1974. Subsequently, the ITC found that the industry was seriously injured because of increased imports and recommended restraints for a five-year period. The U.S. Government negotiated an orderly marketing agreement with Japan and President Ford imposed restrictions on the other foreign producers for a three-year period.

THE JOHNSTOWN FLOOD OF 1977—PART IV

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. MURTHA. Mr. Speaker, the rebuilding of Johnstown following the devastating floods of July has been a major job. At the center of that effort has been the spirit of Johnstown and the surrounding communities. That spirit is explored in part IV of this series on the Johnstown flood as outlined by Pittsburgh Post-Gazette reporters Dave Leherr and Stuart Brown:

THE JOHNSTOWN FLOOD

"We'll come back. We came back after 1889. We came back after 1936. And we'll come back again."

Virtually everyone you talk to in Johnstown today says the same thing. But to the outsider, listening and looking at the havoc that has been wrought, the words lean more towards hope than confidence.

Damage in Johnstown alone is reaching the $130 million estimate—well over $200 million in the entire seven-county area. Road and bridge damage is estimated at $35 million.

Some 50,000 people have had their homes affected, at least 7,000 have seen their homes completely wiped out.

"Thousands of public buildings—apartments, offices, schools and the like—will have to be inspected to determine whether they are safe," says Paul J. Smith, state labor and industry secretary.

Road and bridge damage has been estimated at $35 million. The Pennsylvania Department of Transportation has listed 131 bridges as being affected, including 23 that are still unuseable and 971 miles of road in various stages of damage.

Only now is telephone service being restored.

But for the young people of Johnstown, the key to whether they stay or go apparently lies with the future of the sprawling Bethlehem Steel Company plant—a plant that until Tuesday, July 19, employed close to 12,000 area residents.

Even as Johnstown digs out of the mud and debris, the rumors are that Bethlehem will not reopen at all, or will only reopen part of its mill and shut down other shops.

The rumor is unconfirmed. The firm says only that the reopening of some facilities will be held up pending determination of the full extent of the loss.

But the town fathers and town officials are nervous and concerned. Efforts are already under way in Washington by Congressman Murtha to release emergency aid funds and develop programs to keep Bethlehem Steel alive in Johnstown.

"I don't know whether I'll leave or not, I keep see-sawing back and forth, but it seems like a dead-end street here for me," says steelworker Ronald P. Weaver, 26, as he rides the Johnstown Incline up to Westmont to apply for unemployment compensation at one of the federal disaster centers.

"Maybe it all depends on whether the plant reopens, I don't know. Morale has been high over the last couple of days. We even find ourselves laughing and joking. But it's only beginning to hit us now. The people are going to be living in this mud for years."

Sandy Goldman, manager of Olbum's Furniture Store on Main Street, says the company will try to rebuild "but there's a lot of ifs."

John Mavrodis, a Greek imigrant who owns Johnnie's Restaurant and the Mission Inn next door, shrugs. He hopes to reopen Johnnie's. He says he will abandon the Mission Inn. Last Monday, Mavrodis received the first loss payment issued as a result of the flood. It is a $10,000 check from the National Flood Insurance Program in partial payment for damages sustained by the resturant. He says he needs $200,000 at least to get back on his feet.

Before the flood, the Johnstown economy was on the upswing. Unemployment was at a low 4.7 percent in June, well below the national average. The day before the flood, the state Bureau of Employment Security was reporting just 3,500 existing claims for unemployment compensation.

As of this week, that figure had more than tripled.

Seven area coal mines were also flooded and could remain closed for four to six months. The timing was lousy.

The disaster came as the federal government talked about a revival of the coal industry as one of the answers to the energy crisis.

TRIBUTE TO CONGRESSMAN BILL HULL

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. ROYBAL. Mr. Speaker, as the House pauses today to honor the memory of a most distinguished former member, I would like to express the deep loss shared by all those who had the privilege to know William R. Hull, Jr. He was a dedicated and effective legislator who served the people of Missouri's Sixth Congressional District faithfully for 18 years preceding his retirement in 1972.

His capable representation earned him the great respect of his colleagues and the people of Missouri. Further, his service as a member of the Appropriations Committee has been of significant importance to the Congress and the Nation. I consider it my good fortune to have served with Bill both on the Appropriations Committee and in the House of Representatives.

It is, indeed, with great sadness that we now mark the passing of this fine legislator, colleague, and friend, who worked so hard to create a better life for all Americans. My sincerest sympathy is extended to his family.

NO CASE FOR THE NEUTRON BOMB

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. DRINAN. Mr. Speaker, a vote on the authorization of funds for the neutron bomb is imminent. When the ERDA authorizations for national security programs (H.R. 6566) comes before the House, I will join with nine of my colleagues in introducing an amendment to delete all funding for the neutron bomb.

The fact is that, to date, no persuasive case has been made in favor of the need to introduce at this time a nuclear warhead which could have serious negative effects. Among these are an increased likelihood that conventional war could cross over the nuclear threshold and a strong probability that the introduction of this weapon by the United States would be matched, at some point in the near future, by the Soviet Union.

Many of our allies in West Germany, whom the neutron bomb is designed to "protect," have voiced sharp opposition to the deployment of these weapons on their soil. They are justifiably skeptical about the argument that this weapon will increase the deterrent effect of our arsenal. Once the Soviets aquire this weapon, how significant will it be? Given our ability to totally destroy Soviet society, how necessary is this weapon? Given the official Soviet policy that any use of nuclear weapons, whether labeled "tactical" or "strategic," would inevitably bring about strategic nuclear war, will the neutron bomb add to our security or detract from it?

To date, these questions have not been answered. The neutron bomb technology has been around for many years. There is simply no persuasive reason to use this technology now.

Mr. Pat Holt, former chief of staff of the Senate Foreign Relations Committee, has addressed the basic issues underlying the debate on the neutron bomb in the Christian Science Monitor on September 21, 1977. Mr. Holt cogently summarizes the absence of any real need for the introduction of this type of weapon. I commend his essay, entitled "No Case for the Neutron Bomb," to my colleagues:

NO CASE FOR THE NEUTRON BOMB

(By Pat Holt)

More than most weapons, the neutron bomb has a curious Dr. Strangelove quality to it: it kills people without destroying property.

This would present an attractive temptation to a government with a Dr. Strangelove mentality. It could wipe out a defending army along with so much of the resident population as seemed necessary and then move in to take over the enemy's farms and factories intact.

One of the arguments made for the bomb, though not carried to this extreme, is precisely that because the bomb is more discriminatory, the inhibitions against using it in the heat of combat would be less, and therefore the credibility of the bomb would be greater. This argument is made with particular reference to Central Europe, but it would apply also in Korea, Taiwan, and the Middle East.

The argument is based on the premise that NATO is outmanned and outgunned in conventional weapons by the European forces of the Warsaw Pact. Therefore, the argument goes, the Soviet Union, if it were of a mind to do so, could overrun Western Europe unless NATO resorted to tactical weapons, of which there are about 7,000 in the area. But these are so destructive that the President of the United States (the only person who can legally give the order to fire them) would be reluctant to use them; or at least the Soviets are sufficiently dubious of his determination to use them that they lose their deterrent effect.

The people who make this argument go on to conclude that what is needed is a smaller, neater, less destructive weapon the potential use of which the Soviets would find credible—in a word, the neutron bomb.

This is the same argument that was made a number of years ago in favor of developing tactical nuclear weapons in the first place. It was said then that the big strategic bombs on intercontinental ballistic missiles were so destructive that they would be useless in a ground war in Central Europe. And so they would unless it were decided to use them to blow up the Soviet Union—an option which ought not to be ruled out and which must certainly give the Soviets pause.

Anyway, a great deal of effort went into developing smaller nuclear weapons, but even these are now found by proponents of the neutron bomb to be too destructive. One might take some perverse comfort in this apparent turning around of the arms race—instead of seeking bigger weapons we are seeking smaller ones (could we possibly be on the road back to bows and arrows?)—if it were not aimed at making small nuclear wars not only conceivable but credible. This is a highly dubious policy. Further, it overlooks two crucial facts:

1. Sooner or later, and usually sooner rather than later, the Soviets can build any weapon the U.S. can build. So what happens to the extra deterrent the neutron bomb is supposed to give NATO when the Warsaw Pact has it, too?

2. NATO does not now have, and never has had, a military doctrine for the use of nuclear weapons. The closest thing to such a doctrine is the unspoken assumption that NATO will fight with conventional weapons until it is losing and then it will fight with tactical nuclear weapons until it is losing and then it will blow up the world. One may be pardoned some skepticism—indeed, one should not be pardoned the naivete—that the introduction of a new kind of nuclear weapon would advance the thinking of NATO's military planners in this regard.

But, it is argued, the Soviets may develop the neutron bomb even if the U.S. doesn't, and then where will it be? Well, it will be right where it is now—with enough power to blow the Soviets (and everybody else) off the face of the earth. That ought to be enough.

None of this is to argue that the U.S. ought to close its mind to the neutron bomb for ever and ever. It is only to argue that a persuasive case for it has not yet been made. After all, the idea for such a bomb has been kicking around in some of the more esoteric scientific circles for a good 20 years. The need for it seems no more urgent now than it was then.

Although the new bomb is sometimes presented as a mere refinement of weapons already in the American inventory, it would in fact be a fairly radical departure. Before the U.S. absentmindedly backs into such a departure, its implications, particularly for U.S. nonproliferation policy, ought to be considered more fully than they have been thus far.

COMMENTS ON THE NEUTRON BOMB

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. WIRTH. Mr. Speaker, I have recently received a letter from one of my constituents, David Lamb, inclosing the following persuasive comments on the neutron bomb. I would hope that my colleagues would take the trouble to read them, and for that reason, I include them in the RECORD:

COMMENTS ON THE NEUTRON BOMB

(By Sir Rudolf Peierls, Emeritus Professor, University of Oxford, presently Professor of Physics, University of Washington)

1. The "neutron bomb" is claimed to be suitable for warfare on friendly territory, such as a war in Europe in which there might be fighting in NATO countries. In such a situation some destruction of property and some civilian casualties are unavoidable, the idea is to minimize them. The neutron bomb might cause less blast and fire damage than other tactical nuclear weapons of comparable military value (though the range of destruction is still considerable) but, speaking as a European, I would be more concerned with the people killed or injured than with property destroyed. The neutron bomb could minimize the number of civilian casualties and hurt mainly enemy soldiers—if enemy troops are concentrated and not widely dispersed amongst civilians, and if their location is accurately known, and if in the hectic conditions of local fighting, one could rely on precision in the targeting decisions and in the evaluation of the presence of civilians and friendly troops within the very large area of lethal or harmful neutron radiation. Those of us who remember the "precision bombing" in World War II, which, with highly sophisticated bomb sights, on occasions hit the wrong city, or friendly troops, will have doubts particularly about the last condition.

2. For any tactical nuclear weapon, including the neutron bomb, the possible use, or threat of use, depends on seeing a dividing line between tactical and strategic nuclear weapons, giving confidence that the use of one would not bring retaliation by the other. The Soviet Union has never accepted a fundamental distinction between the two, and this makes it very questionable whether tactical weapons would ever be used, and whether they could be a credible deterrent against non-nuclear adventures. At the very least they would invite retaliation by the enemy's tactical nuclear weapons, and if these are not neutron bombs, one would still end up with large areas of destruction.

3. Recent descriptions of the effects of neutrons have made such a weapon appear much more horrible than other weapons of war. One can understand this fear of its "insidious" invisible radiation, but in itself radiation is not more cruel or inhumane than other methods of killing people. If I was given a choice whether to be killed by blast, shell fragments, napalm, or other "conventional" killers, or by radiation, I would not care much either way. However, the descriptions suggest that, outside the central zone, in which neutrons would kill almost immediately, there is a large area in which the radiation dose will cause a very slow and lingering death, or lasting injury. If it is true that the neutron bomb causes substantially more protracted suffering than other weapons of war, it is indeed a cruel weapon. It is another question whether its use would violate

the 1925 Geneva Protocol which prohibits the use in war of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices". This is for the lawyers to argue about.

4. The decision to develop the neutron bomb will no doubt lead to further tests of this weapon, and this will have a very bad effect on the negotiations for a comprehensive test ban. Underground tests of a weapon with a yield as low as 1 kilaton (the stated yield of a neutron bomb) cannot be identified by the earth shocks they cause at large distance, and thus violations of a test ban treaty on this scale could not be detected. The hope of reaching agreement rested on the belief that tests of such low-yield weapons were of no great military significance. Once such a weapon acquires an important place in the United States arsenal, it is hard to see how one can reach agreement on a treaty.

To sum up, I regard all tactical nuclear weapons as overrated in importance (section 2 above). Amongst them the neutron bomb may be particularly inhumane, not because it relies on radiation, but because it may cause a much greater number of cases of protracted suffering (section 3). Its reputed advantages are very questionable (section 1). One specific disadvantage is its adverse effect on the chances of reaching agreement on a complete test ban, which would help to slow down the arms race.

THE "NEUTRON BOMB"

(By R. L. Prosterman, Professor of Law, University of Washington)

Every so often, a weapon comes along that is so horrifying to consider that it makes us wake up to the real implications, and the mutually-reinforced insanity, of the arms-race. The "neutron bomb" is such a weapon.

The neutron bomb is, of course, another in a long series of weapons-building initiatives taken by either the U.S. or the Soviets over the past twenty years, each inviting its response from the other, each, paradoxically, tending to strengthen the hand of the most distrustful "super-hawks" on the other side. It is, however, particularly dramatic in its avowed relegation of human life to "second place" and its bizarre rationalization that it will save buildings while "merely" killing people; it is horrifying, too, in the hours or days of agony that it would acceptingly inflict on the majority of those within its range, before their death; and it is extremely disquieting in its tendency to dismantle the psychological and political "firebreak" that has existed in the policy-makers' minds between nuclear and non-nuclear warfare. But there are other very negative aspects, as well, of the deployment of this weapon that have not been sufficiently aired in the current public debate, and that needs to be, before a fully-informed decision can be made.

First, its use may very well be contrary to existing international treaties to which the United States is a party—and the development of such an "illegal weapon" can then only serve to detract from the force of law in international relations and from the moral imperative that underlies the entire series of arms-control treaties which we have striven to negotiate. In particular, the 1925 Geneva Protocol prohibits both biological warfare and the use in war of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices". Unlike conventional nuclear weapons, the neutron bomb would not take its toll initially or principally as an explosive device, but chiefly as a kind of "death ray" uncomfortably analogous, indeed, to the horrifying poison gases used in World War I and successfully banned by the 1925 treaty (and, unlike our "nerve gas", which we have solemnly undertaken never to use first, the entire tactical idea underlying the "neutron bomb" is that we would avow our willingness to use it first, before the other side had used any similar device).

If the 1925 treaty did not raise enough problems, the 1907 Hague Convention on the rules of land warfare prohibits (in Article 23 of the Annex) the employment in war of "materials calculated to cause unnecessary suffering" and also of "poison or poisoned weapons."

The deployment of the neutron bomb, in a so-called "deterrent" role which depends on our avowed readiness to use it first, sails very close to the wind under both of these treaties. Many would, I believe, be likely to conclude on the basis of these long-accepted treaties, that the first use of such a weapon would be a war crime, and that no commander in the field could issue a lawful order to engage in such use.

Secondly, and closely related, is the fact that this weapon tends to undercut our position with the 145-odd other nations of the world that they should not develop biological weapons precisely because such weapons are repugnant, are inhumane, and are likely to cause great suffering. No doubt there are many Pentagon lawyers ready and willing to make the argument that a slow and horrible death from neutrons is different than a slow and horrible death from rabies, plague, or cholera: I suspect that many in other nations will regard such arguments as wholly unpersuasive and self-serving and that our willingness to deploy such an obnoxious device may trigger their willingness in several cases, to reconsider the biological weapons "option."

If our decision on the neutron bomb led only two or three small countries to develop a basic biological weapon capability, we would have lost a hundred times as much "security" on this planet as the neutron bomb could ever remotely have hoped to gain. What we must learn is that our weapons decisions do not occur in a vacuum—that they have consequences, including consequences for the deadly problem of weapons-proliferation, and that those consequences can often be far worse than anything "gained" by our initial decision to deploy.

Thirdly, is simply the fact that the neutron bomb comes as another escalatory initiative (immediately on the heels of our go-ahead with the cruise missile) at a moment when there is a desperate need for the new Administration to find the means to begin a de-escalation of the arms-race into which, despite SALT I, we are still mutually locked with the Soviet Union. What is needed, as an alternative means to increase our "security," is the articulation of a strategy of gradual, de-escalatory initiatives—each to be reciprocated by the Soviet Union before another was announced; for example, instead of the neutron bomb, a total nuclear test ban announced by us as a policy we would adhere to so long as the Soviets reciprocated with similar forebearance (a ban, incidentally, which would foreclose any additional testing of the neutron bomb); instead of the cruise missile, a sharp limit to the number of annual rocket tests announced by us as a policy we would adhere to until and unless the Soviets exceeded that number, putting a halt to the accuracy-upgrading which each side perceives as a threat to its land-based ICBM's.

What is needed is a little constructive imagination, not more horrors out of the testtube.

EXPLANATION OF MISSED VOTES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. CONYERS. Mr. Speaker, today I have been chairing the meeting of the congressional Black Caucus legislative workshop of criminal justice. People from all over the Nation interested in criminal justice matters have come to Washington to hear various experts including Justice Department officials discuss related legislation and issues, and as chairman of the workshop, I was forced to be absent from the floor.

Had I been present, I would have voted "yea" on the final passage votes on H.R. 6796, the ERDA civilian R. & D. authorization; H.R. 3, legislation to curb abuses of the medicaid and medicare programs; and H.R. 5383, Age Discrimination in Employment Act amendments. I would like the record to reflect my support of these important bills.

LATIN LEADERS REFUSE TO ENDORSE NEW PANAMA CANAL TREATIES

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SNYDER. Mr. Speaker, Virginia Prewett is one of our country's most astute and experienced reporters on Latin American affairs. She has top-level contacts throughout the Americas, and publishes Hemisphere Hotline Report.

Her report for the week of September 16, below, demolishes President Carter's claim that Latin America is gung-ho for the new Panama Canal Treaties:

[From the Hemisphere Hotline Report, Sept. 16, 1977]

LATIN LEADERS REFUSE TO ENDORSE TREATIES

WASHINGTON, D.C.—Amid the hoopla of the U.S. capital's "Week of Panama", the chief point Carter sought to make by inviting the hemisphere's heads of state to his Panama Canal treaty-signing was thoroughly killed by the visiting heads themselves.

The visitors flatly refused to sign his accompanying "Declaration of Washington" until the text was watered down to uselessness for Carter's principal purpose—that of using the declaration to convince the Senate that it should ratify the new Canal pacts.

While much of the U.S. press was ooh-ing and aah-ing, as intended, over how many Presidents and dictators were coming, a tense diplomatic struggle behind the scenes was lost by Carter.

As first drafted, the Declaration of Washington implied the blessing of U.S. hemispere neighbors on points in the U.S.-Panama treaties themselves, including provisions that say the U.S. can intervene militarily at need to defend the Canal after Panama fully takes over. Carter needed, and thought he could get, a collateral signed statement to this effect from the chiefs of state and other representatives invited to the main treaty signing. For this purpose, the U.S. President invited some of these at great political cost to himself.

Getting such a written commitment from other governments was essential to Carter because many moderates in the Senate well may decide for or against the Canal treaties depending on whether Latin America mostly accedes to—or opposes—treaty provisions supposed to protect U.S. economic and military interests.

Because he saw this need as so great, Carter overrode his own New Left-McGovernite appointees when he invited to Washington seven hemisphere government heads that he

and the New Left have placed on the U.S. human-rights blacklist.

Early on, the White House dropped mention of the proposed Declaration of Washington, and the invitees were not told they would be asked to sign a paper—one that would have plucked Carter's treaty chestnuts out of the fire with at least some thoughtful Senators. Heads of state were asked, by the Organization of American States in the name of the U.S. and Panama, only "to be present" at the Sept. 7 treaty-signing.

The Declaration of Washington, a short statement, said in the first version that the signatories "endorsed" the treaties. While some visitors were actually enroute, like process-servers, White House messengers handed Latin American embassies in Washington the declaration text. "The action is without precedent in the history of diplomacy," said one irate hemisphere diplomat. The countries concerned were given the main treaty texts at about the same time.

Then Jimmy Carter began to learn something about Latin America. What ensued should have taught him something also about the unwisdom of the people who advised him to call the hemisphere summit—advisors whose knowledge of Latin Americans is apparently skin-deep. For the treaties Carter expected to get "endorsed" involve one of the touchiest issues, and one of the oldest, in Latin American relations versus the U.S. That issue is intervention.

Not surprisingly, the political kingpin of the four Latin American countries actively backing Panama's demand for the new treaties, Mexico, announced in advance that it would never sign such an endorsement. Even Canada balked.

OPERATION ARMTWIST

Carter aides began hasty re-writes of the Declaration of Washington, and at least three revised versions were debated behind the scenes right up through the day of the Canal treaty signing ceremony. Several Latin American Presidents told Virginia Prewett they hadn't had time to study either the treaties or the Declaration of Washington. Another said the English term "endorse" has no adequate Spanish equivalent. (This was a polite stall.)

What had to be done to get the chiefs of state to sign was a complete gutting of the Declaration of Washington. As finally watered down (and signed by all but little Barbados), the document merely required the visiting government heads to "record our profound satisfaction at the signature by the President of the U.S. and the Chief of Government of Panama" of the treaties, with no commitment whatsoever on the nature or content of the pacts.

In keeping with the scale of this defeat for Carter, it was arranged that the visitors quietly sign the gutted Declaration in an OAS anteroom as they arrived. And not one word was said about this in the televised festivities as Carter and Torrijos signed the Panama Canal agreements.

How much arm-twisting the U.S. had to do to get even with this watered-down declaration, which all the Latin Americans agreed among themselves means absolutely nothing, no doubt will leak out gradually. Indications are that the U.S. arm-twisting was harsh, especially with Mexico. If so, the U.S. will pay for it in future, and probably pay high.

The Canal treaty spectacular raises questions about Carter that only time can answer. Did he go all-out for the Panama treaties, far from a crisis issue in U.S. foreign policy, out of sheer ignorance of what he was getting into? Or out of sheer bullheadedness?

For Carter has stirred some hornet's nests that were quiescent. The Panama treaty issue had been lying around for at least 14 years. Carter could easily have said the U.S. refused to negotiate under threat, thus setting a healthy precedent for our times. He could as easily have refused to negotiate with Panama's Torrijos due to his human-rights abuses.

Instead, Carter has entirely vitiated his human-rights credibility. We have seen a U.S. President accuse, condemn, chide and penalize seven Latin American governments on "human rights" and then, when in political need of their supoprt, embrace them at the White House. No matter how Carterites may claim that the seven (all anti-Marxists) have "improved" on human rights in six months, this is bald expediency for all the world to see.

The world, if not the U.S. public, also knows that Panama's Torrijos, made a Third World hero by Carter's actions, grossly violates his people's human rights, that he tortures and murders political prisoners, has "family" ties with organized narcotics, and rules Panama with his jackbooted National Guard, a body with Castroite officers in top positions.

WHAT CARTER HATH WROUGHT

Virginia Prewett asked a left-to-right spectrum of Latin American Presidents whether (as the pro-treaty U.S. press insists) Latin Americans hemisphere-wide will attack U.S. property and U.S. nationals if the Canal treaties are not ratified. Responding with a resounding "No"; Argentina's Videla, Bolivia's Banzer, Chile's Pinochet, Honduras's Melgar Castro, Guatemala's Laugerud, Colombia's López Michelsen, and Costa Rica's Oduber. An editor of Bolivia's El Diario added, "Not unless some pinkos and Communists rig the attacks."

BERT COLTER—ARIZONA PIONEER

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. RUDD. Mr. Speaker, the major community newspaper in Apache County, Ariz., the White Mountain Independent, recently featured Bert Colter of Springerville as a unique personality.

I want to join in paying tribute to Bert Colter. This great 91-year-old Arizona pioneer still leads an active life in northeastern Arizona, where he has been a cowboy, rancher, land investment manager, deputy sheriff, county supervisor, State senator, and devoted family man.

Since his retirement from the Arizona State Senate in 1951, where he served five terms, Mr. Colter has mapped Apache and Navajo Counties for the State legislature, and has been involved in ranching and numerous private land transactions.

Bert Colter and his family have made a tremendous impact on Arizona's growth and development. Mr. Colter managed his brother Fred's large cattle operation at the Cross-Bar Ranch during the time that Fred Colter, also a State senator, was involved in the development of the State's vital reclamation efforts that brought water to Arizona. The Colters were instrumental in the construction of the five major dams on the Colorado River.

Bert Colter has seen Arizona grow from a wild territory of less than 35,000 people without a foot of railroad, to one of the fastest growing, most desirable States of the Union in which to live.

He is undoubtedly one of the most knowledgeable men in cattle, ranching, and land matters in the entire State of Arizona. And today, thanks in large part to the encouragement and companionship of his wife Phyllis, who teaches third grade at Springerville Elementary School, Bert Colter continues to be an active businessman and civic leader in Arizona's White Mountain country.

Mr. Speaker, it is a privilege and an honor to know great Americans like Bert Colter, and to represent them in the U.S. Congress.

NO-FAULT MESS JUST KEEPS ON GETTING DEEPER

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. RINALDO. Mr. Speaker, as a member of the Consumer Protection and Finance Subcommittee in the House, I have been working actively on the no-fault issue. The subcommittee has held numerous hearings on the subject, both in Washington and in no-fault States, and one State which has drawn particular attention is my own State of New Jersey.

This attention has largely come through a series of articles published in the Newark Star-Ledger by Mr. Herb Jaffe, one of the finest reporters in the State. If there is to be reform by the New Jersey State Legislature, much of the credit must go to the Star-Ledger and Mr. Jaffe.

Moreover, their work has continued and recently resulted in the recision of $82,000 in nonbid contracts that were to be issued by the State Insurance Commission.

I would like to insert one of the most recent articles into the RECORD so that my colleagues will be able to see firsthand the outstanding caliber of work of Mr. Jaffe and the Star-Ledger.

The article follows:

[From the Newark (N.J.) Star-Ledger, Aug. 2, 1977]

NO-FAULT MESS JUST KEEPS ON GETTING DEEPER

(By Herb Jaffe)

The insurance mess in New Jersey is a far cry from just being "the worst no-fault law in the nation," as it has been characterized by many in and out of the state. Nor is it confined to constantly rising rates, or the constricted availability market, or the outrageous cost of unregulated auto repairs.

Certainly there is a "mess" of sorts when the state insurance commissioner, James Sheeran, recommends that Blue Cross and Blue Shield—both of whom operate in the red—become the exclusive providers of no-fault auto insurance in New Jersey in an effort to bring down the cost of the coverage to the public.

And this proposal comes after the same commissioners, only a short time ago, utilized the most negative language publicly possible to characterize the capability and status of the two nonprofit organizations.

Certainly there is a "mess" when insurance rates are frozen by Sheeran, "in the public interest," and as a result companies refuse to make insurance available.

This has resulted in more drivers than ever being thrown into the assigned risk status at potentially higher rates—including a good percentage who never had an accident or driving summons.

And the "mess" is accelerated when the State Insurance Department, a high-caliber revenue producer for the state, does not have any semblance of a staff capable of examining insurance companies properly to determine objectively whether the rates they seek are adequate or prohibitive.

The "mess" is compounded when the Assembly Insurance Committee capitulates to a trial lawyer lobby, as it did last May, and removes no-fault reform bills from a possible floor vote.

But the "mess" continues. Gov. Brendan Byrne last summer appointed his own "personal insurance consultant," former Assemblyman Herbert Klein, to conduct an insurance investigation and report his findings directly to the Governor.

Eight months after Klein said the report was presented, everyone connected to its contents, including Byrne, says only "we're evaluating the report."

This is by no means the end of the "mess." The Legislature finally approved a resolution that was almost 1½ years old to establish a no-fault study commission. The commission has a legislative mandate "to go beyond just no-fault" and look into the controversial state rate regulatory system.

But the commission of eight members includes five lawyers, and without demeaning the integrity of the commission, lawyers—whether they be trial lawyers or not—generally are average to changes in a no-fault law that has the lowest threshold of any of the 16 no-fault states. The threshold is the level of medical bills above which accident victims can sue for "pain and suffering."

And the "mess" becomes more confusing when Gov. Byrne makes the statement, as he did publicly last March in Princeton, that he strongly favors a "verbal threshold," similar to one now being considered in Congress, to replace the $200 threshold in New Jersey's law, as a major no-fault reform.

Byrne said legislation would be submitted by the administration to provide such a reform. But the legislation was never submitted by the administration, and if Byrne agrees with his insurance commissioner, who has been publicly opposed to anything other than a dollar threshold, it never will be submitted.

Moreover, there is a terrible "mess" when everyone—including Byrne—agrees there should be a ceiling on the no-fault law, meaning that an industry-sponsored fund, rather than insurers individually, would be responsible for paying no-fault medical and hospital costs to individual claimants that are in excess of $75,000.

The bill cleared both houses of the Legislature unanimously on April 28, but Byrne has never signed it, nor will he even say whether he will sign the bill.

Perhaps the grand-daddy insurance "mess" is the most recent revelation by The Star-Ledger that the State Insurance Department, two weeks after the Legislature finally established its no-fault study commission, quietly contracted with a New York firm that operates out of one man's home for a $42,000 study of many of the same problems that are being studied by the commission.

Sen. Alexander J. Menza (D-Union), who is not running for reelection and has no political axes to grind, expressed surprise that the Insurance Department would have such a study made without making it public knowledge.

In addition, Menza was concerned over the Insurance Department's lack of cooperation with his commission, which is composed of two senators, two assemblymen and four lay persons.

During a commission hearing last Thursday, while Sheeran was testifying, Menza questioned whether the commission could expect full cooperation from the department, especially after the commission had failed on two occasions to obtain the testimony of the department's only property and casualty actuary, Philipp Stern.

Oddly, the New York firm retained for the study has no address or telephone listing. Its study was kept confidential for almost two months because no bids were advertised for such services under a waiver of bid practice that exists for certain types of specialty services that are not commonly available.

In this case, Public Affairs Research Organization (PARO) was given the contract because, according to the firm's president, Richard Morris, he has done other work in the past for Sheeran on a non-payment basis. Morris stated:

"New Jersey, under Commissioner Sheeran, has been taking a pioneering role in seeking alternate systems of rating. I have worked for about 2½ years on a nonpayment basis with Commissioner Sheeran, analyzing data and pioneering new systems."

In a five-page proposal submitted by the Insurance Department to obtain the non-bid contract for PARO, the purpose of the study involves highly technical research, dealing with analyses of rate-making and other insurance complexities.

By his own admission, neither Morris nor anyone else on the PARO staff of four has an educational background in insurance, nor has the firm been employed by any other governmental entity other than work Morris says the firm did several weeks ago for the New York Assembly, in its efforts to reform that state's no-fault law.

LETTER FROM ROTARIANS OF TAIWAN

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SYMMS. Mr. Speaker, when visiting my home Rotary Club in Idaho during the recent congressional recess, the following letter from our fellow Rotarians in Taiwan was brought to our attention. I would encourage all my colleagues to read it and consider seriously the fate facing Taiwan should the United States continue down the road of normalization of relations with Red China.

The many voluntary activities we take for granted in this country, such as the Rotary Club, are outlawed in Communist countries. I would hope that Rotarians in the United States will pay heed to what is happening with regard to our relations with Red China and what it will cost us in our efforts to foster freedom and humanitarianism in the world.

ROTARY CLUBS OF TAIPEI,
Taipei, Taiwan, August 10, 1977.

DEAR ROTARIAN: We have all witnessed at the last Rotary International Convention held in San Francisco in June 1977 a dramatic and emotional moment to welcome the return of the delegates from Rotary Club of Madrid after their absence of more than 40 years.

We, Rotarians in Taiwan, Republic of China, feel that the similar misfortune may fall upon us if President Carter should normalize the relationship between the United States and "People's Republic of China." As you are aware, Rotary activities are not permitted in totalitarian states. And we are sure that once Taiwan is to be ruled by Communists, we Rotarians will definitely face the similar destiny as experienced by our fellow Rotarians in Spain.

It is, therefore, our request that you should communicate with your President Carter and to impress upon him that his methods in normalizing diplomatic relations between the United States and "People's Republic of China" are not to the advantage of the majority of the mankind living in the democratic system. We urge you to use your influence on President Carter by sending him your views on the so-called normalization of diplomatic relations between the United States and "People's Republic of China."

The statements made by your Secretary of State Cyrus Vance before New York's Asia Society on June 29 and those by President Carter at the press conference the following day not only disappoint the 16 million free Chinese in Taiwan but also sadden the 800 million Chinese fighting for human rights under the Communist-ruled mainland China.

Fellow Rotarians, we are pleading our case to the leaders of US society and we sincerely hope that you will lend us your helping hands in the spirit of Rotary brotherhood.

Sincerely yours,

Thomas S. Chou, President, Rotary Club of Taipei; Chi-hwa Lu, President, Rotary Club of Taipei Northwest; Wilson T. H. Lin, President, Rotary Club of Taipei Shilin; Shu-san Hwu, President, Rotary Club of Taipei Yenping; Fu-yu Chen, President, Rotary Club of Taipei West; and Jackson J. S. Chen, President, Rotary Club of Taipei East.

C. W. Chang, President, Rotary Club of Taipei Yangming; Thomas Chien, President, Rotary Club of Taipei Southeast; C. G. Tsao, President, Rotary Club of Taipei North; Conway K. H. Hsu, President, Rotary Club of Taipei South; Yu-fu Lin, President, Rotary Club of Taipei Shihmen; and Paul Young, President, Rotary Club of Taipei Chingmei.

A BIRTHDAY TRIBUTE TO WILLIAM HOLMES McGUFFEY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. ASHBROOK. Mr. Speaker, William Holmes McGuffey, author of "McGuffey's Readers," was born on September 23, 1800. While he was born in Pennsylvania and died in Virginia, he spent 20 years in Ohio, and the company which first published his "Readers" was Truman and Smith in Cincinnati. It is an association of which every Ohioan has reason to be proud.

During his 10 years—from 1826—on the faculty of Miami University, Oxford, Ohio, McGuffey took great interest in public education and assisted the teachers of the local elementary schools. In his own home he established a model school for neighborhood children.

McGuffey's name and work is synonymous with basic education and old-fashioned American values. His "Readers" taught children how to read but also contained lessons to be drawn, each of them aimed at teaching children not to lie, to work hard, and other values which were considered out of date in our recent period of disastrous educational experimentation.

A tribute to William McGuffey is particularly appropriate this year, because it is a time in which the tradition of education which "McGuffey's Readers" represent seems to be vindicated at last in all but the most intransigent circles. This year even the Washington Post and the New York Times, not to mention the Wirtz Panel, have admitted that the tragic failure of American education over the last decade and a half has been due primarily to educational experimentation and laxness of the kind McGuffey fought against.

We are now in the 15th consecutive year of decline in the scholastic aptitude tests (SAT) scores of students entering college. For our national well-being, it is crucial that we remember and rededicate ourselves to the educational principles of William Holmes McGuffey.

HUMAN RIGHTS IN PANAMA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the January-February 1977 publication of the journal "Freedom at Issue" and "Comparative Survey of Freedom" that it contains. The survey is published by Freedom House, a national organization whose board of trustees includes such persons as Zbigniew Brzezinski, National Security Advisor to President Carter, Gale McGee, the U.S. Representative to the Organization of American States, and the two distinguished Senators from New York, JACOB K. JAVITS and DANIEL P. MOYNIHAN.

Freedom House has conducted country-by-country comparative surveys of the status of freedom in the world since 1972 as a complement to its more generalized yearly surveys. I believe that the results of this survey are extremely important in light of the strong stand President Carter has taken on human rights and the possible ratification of the recently signed treaties with the Republic of Panama.

Judgment of countries was based on four categories: political rights, civil rights, status of freedom, and future outlook. Freedom, according to the survey's authors, is defined as "the extent to which the people of a country are able to play an active and critical role in choosing their leaders, and thus ultimately in determining the laws and means of enforcement under which they will live." Also, freedom refers to the "extent to which people openly express opinion without fear, and are protected against arbitrary actions by an independent judiciary." In the survey, a free state is designated by the symbol "F," A partly free state by "PF", and a not free state by "NF."

The levels of political and civil rights are judged on a scale of 1–7, with 1 being the highest and 7 the lowest. A plus or minus following a rating indicates an improvement or decline in the rating since the last survey. A rating marked with a period has been changed since the last survey due to a reevaluation by the author. This, however, does not imply any change in the country. Thus, to achieve a one (1) ranking in political rights, a country must have the critical rights provided by "a fully operative electoral procedure, generally including an electoral confrontation of multiple parties with a significant opposition vote, and those elected must receive the great preponderance of political power."

A state ranked one (1) will also be strong in subsidiary indicators, such as a recent change of government from one party to another, lack of foreign domination, decentralized power, or a broad informal consensus that allows all segments of society de facto power. On the other hand, in a state given a rating of seven (7), political competition is narrowly restricted to in-fighting within party hierarchies, and all other attempts to influence policy or personnel are considered illegitimate.

Similiar standards are applied to the area of civil rights where the following criteria were examined: Freedom from political censorship, open public discussion, the maintenance of a rule of law, freedom from government terror, economic independence of the media from government, and freedom of individuals to move about, choose among educational systems and occupations, obtain private property, operate in the market freely, or organize and join private organizations of choice.

Finally, the symbols in the "outlook" column should be interpreted as follows: "A positive outlook for freedom is indicated by a plus sign, and relative stability of ratings by a zero." "The outlook for freedom is based on the problems the country is facing, the way government and people are reacting to these problems, and the longer run political traditions of society. A judgment of outlook may also reflect imminent change, such as the expected adoption of a meaningful new Constitution."

Mr. Speaker, I am presenting this survey to my colleagues because it draws attention to the state of political rights, civil rights, and freedom in Panama. In fact, the seven, six, and not free (NF) ratings for the above-mentioned categories place Panama on the same level as the Soviet Union and Cuba. The question of human rights violations has been a leading plank in President Carter's foreign policy platform. It should not be abandoned as we examine the issue of Panama and the Canal Zone.

THE COMPARATIVE SURVEY OF FREEDOM

TABLE OF NATIONS

	Political rights [1]	Civil rights [1]	Status of freedom [2]	Outlook [3]
Afghanistan	7	6	NF	0
Albania	7	7	NF	0
Algeria	•6	6	NF	0
Andorra	4	4	PF	0
Angola	6	6	NF	0
Argentina	6–	5–	NF–	+
Australia	1	1	F	0
Austria	1	1	F	0
Bahamas	1	2	F	0
Bahrain	6	4	PF	0
Bangladesh	7	4?	PF+	0
Barbados	1	1	F	0
Belgium	1	1	F	0
Benin [4]	7	7	NF	0
Bhutan	4	4	PF	0
Bolivia	6	•4	PF•	0
Botswana	2	3	F	0
Brazil	4	5	PF	0
Brunci	6	5	NF	0
Bulgaria	•7	7	NF	0
Burma	6	6	NF	0
Burundi	7	6	NF	0
Cambodia [4]	7	7	NF	0
Cameroon	•7	•5	NF•	0
Canada	1	1	F	0
Cape Verde Islands	•6	•6	NF•	0
Central African Republic	7	7	NF	+
Chad	7	6	NF	0
Chile	7	5	NF	+
China (Communist)	7	7	NF	0
China (Nationalist)	•5	5	PF•	0
Colombia	2	3	F	0
Comoro Islands	5	•3	PF	0
Congo Republic	5	6	PF	0
Costa Rica	1	1	F	0
Cuba	7	•6	NF	+
Cyprus	3+	4	PF	0
Czechoslovakia	7	6	NF	0
Denmark	1	1	F	0
Dominican Republic	4	•3	PF	0
Ecuador	•6	4	PF	0
Egypt	5+	4	PF	+
El Salvador	3–	3	PF–	0
Equatorial Guinea	6	7	NF	0
Ethiopia	7	6	NF	0
Fiji	2	2	F	0
Finland	2	2	F	0
France	1	•1	F	0
Gabon	6	6	NF	0
Gambia	2	2	F	0
Germany (East)	7	7	NF	+
Germany (West)	1	1	F	0
Ghana	7	5	NF	0
Greece	2	2	F	0
Grenada	2	4	PF	0
Guatemala	4	3	PF	0
Guinea	7	7	NF	0
Guinea-Bissau	6	6	NF	0
Guyana	3+	3	PF	0
Haiti	6	6	NF	0
Honduras	6	3	PF	0
Hungary	6	6	NF	0
Iceland	1	1	F	0
India	3	5	PF	0
Indonesia	5	5	PF	0
Iran	6	6	NF	0
Iraq	7	7	NF	0
Ireland	1	•1	F	0
Israel	2	3	F	0
Italy	•2	•1	F	0
Ivory Coast	6	5	NF	0
Jamaica	1	3–	F	0
Japan	2	1	F	0
Jordan	6	6	NF	0
Kenya	5	5	PF	0
Korea (North)	7	7	NF	0
Korea (South)	5	6–	PF?	0
Kuwait	6–	5–	NF–	0
Laos	7–	7–	NF–	0
Lebanon	4	4	PF	0
Lesotho	5	4	PF	0
Liberia	6	4	PF	0
Libya	7	6	NF	0
Liechtenstein	4	2	PF	0
Luxembourg	2	1	F	0
Malagasy Republic	6–	5	NF–	0
Malawi	7	6	NF	0
Malaysia	3	4	PF	0
Maldives	4	4	PF	0
Mali	7	7	NF	0
Malta	1	2–	F	0
Mauritania	6	6	NF	0
Mauritius	3	2	F	0
Mexico	4	4–	PF	0
Monaco	4	2	PF	0
Mongolia	7	7	NF	0
Morocco	5	5	PF	+
Mozambique	7–	7–	NF	0

	Political rights [1]	Civil rights [1]	Status of freedom [2]	Outlook [3]
Nauru	2	2	F	0
Nepal	6	5	NF	0
Netherlands	1	1	F	0
New Zealand	1	1	F	0
Nicaragua	5	*5	PF	0
Niger	7	6	NF	0
Nigeria	6	*4	PF	+
Norway	1	1	F	0
Oman	*6	6	NF	0
Pakistan	*4	5	PF	0
Panama	7	6	NF	0
Papua-New Guinea	*2	2	F*	0
Paraguay	5	6–	NF–	0
Peru	6	4	PF	+
Philippines	5	5	PF	0
Poland	6	6	NF	+
Portugal	2+	2+	F+	0
Qatar	*5	5	PF*	0
Rhodesia	6	5	NF	0
Romania	7	6	NF	+
Rwanda	7	5	NF	0
San Marino	2	2	F	0
Sao Tome and Principe	5	5	PF?	0
Saudi Arabia	6	6	NF	0
Senegal	6	4	PF	+
Seychelles	1+	2	F	0
Sierra Leone	6	5	PF	0
Singapore	5	5	PF	0
Somalia	7	*7	NF	0
South Africa	4	5	PF	+
Spain	5	3+	PF	+
Sri Lanka	2	*3	F*	0
Sudan	6	6	NF	0
Surinam	2	2	F	0
Swaziland	6	4	PF	0
Sweden	1+	1	F	0
Switzerland	1	1	F	0
Syria	6	*6	NF	0
Tanzania	6	6	NF	0
Thailand	6–	6–	NF–	+
Togo	7	6	NF	0
Tonga	5	3	PF	0
Transkei	6	5	NF?	0
Trinidad and Tobago	2	2	F	+
Tunisia	6	5	NF	0
Turkey	2	3	F	0
Uganda	7	7	NF	0
U.S.S.R.	7	6	NF	0
United Arab Emirates	*5	5	PF*	0
United Kingdom	1	1	F	0
United States	1	1	F	0
Upper Volta	5+	5–	PF	+
Uruguay	6–	*6–	NF–	+
Venezuela	*1	2	F	0
Vietnam	7	7	NF	0
Western Samoa	4	2	PF	+
Yemen (North)	6	5	NF	0
Yemen (South)	7	7	NF	0
Yugoslavia	6	6	NF	0
Zaire	7	6+	NF	0
Zambia	5	5	PF	0

[1] The scales use the numbers 1–7, with 1 comparatively offering the highest level of political or civil rights, and 7 the lowest. A plus or minus following a rating indicates an improvement or decline in the rating since the last survey. A rating marked with an asterisk (*) has been changed since the last survey due to reevaluation by the author. This does not imply any change in the country. For further information on the scale and survey see Freedom at Issue, January–February 1973, p. 2ff.

[2] A free state is designated by F, a partly free state by PF, and a not free state by NF.

[3] A positive outlook for freedom is indicated by a plus sign, a negative outlook, by a minus, and relative stability of ratings by a zero. The outlook for freedom is based on the problems the country is facing, the way the government and people are reacting to these problems, and the longer run political traditions of the society. A judgment of outlook may also reflect an imminent change, such as the expected adoption of a meaningful new constitution.

[4] The name of Dahomey has been changed to Benin. Cambodia is now officially Kampachea.

RANKING OF NATIONS BY POLITICAL RIGHTS

[NOTE: Ranked on scale of 1 (most free) to 7 (least free).]

1
Australia
Austria
Bahamas
Barbados
Belgium
Canada
Costa Rica
Denmark
France
Germany (W)
Iceland
Ireland
Jamaica
Malta
Netherlands
New Zealand
Norway
Seychelles
Sweden
Switzerland
United Kingdom
U.S.A.
Venezuela

2
Botswana
Colombia
Fiji
Finland
Gambia
Greece
Grenada
Israel
Italy
Japan
Luxembourg
Nauru
Papua-New Guinea
Portugal
San Marino
Sri Lanka
Surinam
Trinidad & Tobago
Turkey

3
Cyprus
El Salvador
Guyana
India
Malaysia
Mauritius

4
Andorra
Bhutan
Brazil
Dominican Rep.
Guatemala
Lebanon
Liechtenstein
Maldives
Mexico
Monaco
Pakistan
South Africa
W. Samoa

5
China (Nat.)
Comoro Is.
Congo Rep.
Egypt
Indonesia
Kenya
Korea (S)
Lesotho
Morocco
Nicaragua
Paraguay
Philippines
Qatar
Sao Tome & Principe
Singapore
Spain
Tonga
United Arab Emirates
Upper Volta
Zambia

6
Algeria
Angola
Argentina
Bahrain
Bangladesh
Bolivia
Burma
Cape Verde Is.
Ecuador
Equatorial Guinea
Gabon
Guinea-Bissau
Haiti
Honduras
Hungary
Iran
Ivory Coast
Jordan
Kuwait
Liberia
Malagasy Rep.
Mauritania
Nepal
Nigeria
Oman
Peru
Poland
Rhodesia
Saudi Arabia
Senegal
Sierra Leone
Sudan
Swaziland
Syria
Tanzania
Thailand
Transkei
Tunisia
Uruguay
Yemen (N)
Yugoslavia

7
Afghanistan
Albania
Benin
Brunei
Bulgaria
Burundi
Cambodia
Cameroon
Central Afr. Rep.
Chad
Chile
China (Com.)
Cuba
Czechoslovakia
Ethiopia
Germany (E)
Ghana
Guinea
Iraq
Korea (N)
Laos
Libya
Malawi
Mali
Mongolia
Mozambique
Niger
Panama
Rumania
Rwanda
Somalia
Togo
Uganda
USSR
Vietnam
Yemen (S)
Zaire

RANKING OF NATIONS BY CIVIL RIGHTS

[NOTE: Ranked on scale of 1 (most free) to 7 (least free).]

1
Australia
Austria
Barbados
Belgium
Canada
Costa Rica
Denmark
France
Germany (W)
Iceland
Ireland
Italy
Japan
Luxembourg
Netherlands
New Zealand
Norway
Sweden
Switzerland
United Kingdom
U.S.A.

2
Bahamas
Fiji

Finland
Gambia
Greece
Liechtenstein
Malta
Mauritius
Monaco
Nauru
Papua-New Guinea
Portugal
San Marino
Seychelles
Surinam
Trinidad & Tobago
Venezuela
W. Samoa

3

Botswana
Colombia
Comoro Is.
Dominican Rep.
El Salvador
Guatemala
Guyana
Honduras
Israel
Jamaica
Spain
Sri Lanka
Tonga
Turkey

4

Andorra
Bahrain
Bangladesh
Bhutan
Bolivia
Cyprus
Ecuador
Egypt
Grenada
Lebanon
Lesotho
Liberia
Malaysia
Maldives
Mexico
Nigeria
Peru
Senegal
Swaziland

5

Argentina
Brazil
Brunei
Cameroon
Chile
China (Nat.)
Ghana
India
Indonesia
Ivory Coast
Kenya
Kuwait
Malagasy Rep.
Morocco
Nepal
Nicaragua
Pakistan
Philippines
Qatar
Rhodesia
Rwanda
Sao Tome & Principe
Sierra Leone
Singapore
South Africa
Transkei
Tunisia
United Arab Emirates
Upper Volta
Yemen (N)
Zambia

6

Afghanistan
Algeria
Angola
Burma
Burundi
Cape Verde Is.
Chad
Congo Rep.
Cuba
Czechoslovakia
Ethiopia
Gabon
Guinea-Bissau
Haiti
Hungary
Iran
Jordan
Korea (S)
Libya
Malawi
Mauritania
Niger
Oman
Panama
Paraguay
Poland
Rumania
Saudi Arabia
Sudan
Syria
Tanzania
Thailand
Togo
USSR
Uruguay
Yugoslavia

7

Albania
Benin
Bulgaria
Cambodia
Central Afr. Rep.
China (Com.)
Equatorial Guinea
Germany (E)
Guinea
Iraq
Korea (N)
Laos
Mali
Mongolia
Mozambique
Somalia
Uganda
Vietnam
Yemen (S)
Zaire

PANAMA STAR AND HERALD NOTES: ENVIRONMENT ISSUE RAISED BY SNYDER

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SNYDER. Mr. Speaker, I was pleased that a news item about my August 9 exposure of the failure of the State Department regarding the requirements of the National Environmental Policy Act, was published on the front page of the Panama Star and Herald for August 10. The news story was as follows:

ENVIRONMENT ISSUE RAISED BY SNYDER

WASHINGTON.—Mentioning the possible spread of foot-and-mouth disease among other things, Rep. Gene Snyder said Tuesday he has asked the State Department to issue a statement on the environmental impact among the possible consequence of a new Panama Canal treaty.

Snyder said such a statement is required by law but he is sure that no serious effort was made to put it into effect until he wrote to the State Department on June 9.

He said he received a reply dated July 22 saying the Department had not defined whether a statement is needed, but it was preparing an analysis of the environmental implications of a treaty.

Snyder said Panama wants to extend the City of Panama into the Canal Zone and he asked if that could result in the erosion of the banks of the canal.

He said the Madden forest reserves, vegetable and animal life and especially many species of birds in the area are matters of environmental concern.

Snyder also said the possibility of a sea level canal suggests possible grave dangers could occur . . . as a result of the mixing of the biological systems, now separated by the Caribbean Sea and the Pacific ocean.

PICKING AND CHOOSING HUMAN RIGHTS VIOLATORS

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. MARTIN. Mr. Speaker, as a people living in a free and humane society, we are justifiably shocked to hear of cases of torture, "disappearances," secret trials, and other violations of generally accepted human rights. Historically, we have been a haven for those who are forced by events to flee their own homes to avoid such abuses, and worse. We are even today welcoming to our shores more refugees from Southeast Asia, the "boat people" who fled the intellectual genocide of Vietnam—politically termed "re-education"—and have been seeking landing spots nearby to no avail. Amazingly, as we welcomed these newest victims of human rights abuse, our distinguished Ambassador to the United Nations effused an unnecessary welcome to their late oppressors as they took their new seats at the United Nations, rejoicing at the contribution of the 94th Congress in cutting off aid to South Vietnam so that North Vietnam could wreak its destiny.

As we survey the generally sorry state of human rights around the world, it may be appropriate to question just how even-handed we have been. We do not refrain from criticizing our allies' excesses. We should not. At least, with them we have some influence. We have begun criticizing the Soviet bloc, as is deserved. But, we have had a tendency to overlook abuses in the Third World in an almost patronizing way, either as if their victims count less than Europeans or as if their governmental immaturity is somehow expected, and is therefore tolerated. Neither notion is justifiable; now is the two-faced policy.

The freedom not to be dynamited is, I suggest, a rather basic human right, one that we can more or less agree upon, even for citizens of a socialistic country with no exceptions for students, please. This rather efficient method of disposing of people is being employed against groups who, on the surface, are guilty only of being educated. Our Government must find words to condemn its practitioners.

For further understanding, I commend to this body's attention the following article by Patrick Buchanan:

[From the Chicago Tribune, July 5, 1977]

SOME ATROCITIES GET LITTLE NOTICE

(By Patrick J. Buchanan)

WASHINGTON.—Working my way through the dense foliage of the Sunday New York

Times, my attention was riveted by a seemingly insignificant item, half-buried on page 36. A single-column, six-paragraph piece that ran thus:

Stockholm, June 23 [Reuters]—A Swedish aid official who recently returned from Addis Ababa said Ethiopia's military rulers were so short of ammunition earlier this year that they used dynamite for executions.

For the same reason, another common method of execution is cutting throats, said Stefan de Vylder, who had served as an economist at the Addis Ababa office of the Swedish International Development Authority.

"In mid-March some 120 students were collected in a field outside Addis Ababa and dynamited," Mr. de Vylder said.

"Most of the 655 youth officially admitted to having been executed in May were found with their throats cut. This is now a common method of execution."

The story's closing paragraphs said simply that Swedish aid was being diverted to military purposes, and that de Vylder had confirmed all the above in a telephone talk with the correspondent.

The thought occurred, where would the New York Times' editor have placed that story had those 120 students been dynamited to death outside Soweto Township?

Suppose those soldiers, short of ammunition, who cut, the throats of 655 people, had been white Afrikaners instead of black Ethiopians? Would the report have been given the same cursory, ho-hum treatment it everywhere received?

From experience we know better. South Africa, probably without dissent in the United Nations, would have been declared an outlaw regime, whose military overthrow must be the first order of business of the world community. Andy Young would have, by now, been strait jacket material.

Yet, here we have a premeditated atrocity, committed on a scale that dwarfs My Lai. While My Lai is burned forever in the memory of man, those massacred students are already forgotten.

How do you explain this common phenomenon? The late Gen. Franco orders a go-ahead on the execution of five convicted murderers, and all Europe is ablaze with the cry of "Franco, Assassin!" Yet, the monthly reports of fleeing refugees shot in the back by soldiers of the Soviet bloc do not merit the space of yesterday's box scores.

Last Thursday, the Department of State, by denying loans to Chilean farmers, tried to force feed the Pinochet government Carter's diet of "human rights." The same day, however, Andy Young led the Security Council in a unanimous vote for material assistance to Mozambique, an anti-American, racist, repressive Marxist regime whose guerrillas have performed magnificently against unarmed missionaries—but who have experienced some difficulty whenever they crossed paths with the Rhodesian special forces.

How do you understand all this?

Partial explanation lies in the altered character, more exactly, the corruption, of what we call "world opinion." A quarter century back, world opinion ruled in favor of military force to halt aggression in Korea, and responded with outrage to the Soviet rape of Hungary.

By 1977, however, that once fair young maiden, "world opinion," had matured into a nasty, racist, anti-Western hooker, in whose diseased mind any atrocity perpetrated against human rights can be condoned as long as it is carried out in the name of "revolutionary justice."

Unlike yesterday, the United States has no business courting this trollop, world opinion. And since she regularly works out of the UN complex on East 42d Street, Mayor Beame ought to order the place padlocked as a "public nuisance."

NATIONAL ENERGY ACT

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. CARTER. Mr. Speaker, the findings and statement of purpose, section 2(a)(4), of the National Energy Act as passed by the House states that,

Consistent with all Federal, State, and local environmental requirements, the United States must promptly develop renewable and essentially inexhaustible energy sources and convert the Nation's economy to greater utilization of coal, biomass, and other domestic alternative fuel resources in order to ensure sustained, long-term economic growth, protect the public health and welfare, and preserve national security.

In part VI, subpart A, section 601(a)—Conversion From Natural Gas And Petroleum To Coal And Other Fuel Resources, it states that,

The Congress finds that the protection of public health and welfare, the preservation of national security, and the regulation of interstate commerce require the establishment of a program for the expanded use, with applicable environmental requirements, of coal and other fuels as primary energy sources for existing and new electric powerplants and major fuel-burning installations.

Mr. Speaker, these two statements of purpose from the text of the National Energy Act, along with the energy projections in the plan, that there will be an increase in annual coal production to at least 400 million tons of coal above 1976 production levels make it clear that our national effort will be directed to the increased use of coal.

Mr. Speaker, I heartily endorse this. I believe that "King Coal" is our energy future. But at the same time, I believe that we need to work on new ways to use that coal. The increased demand for the use of coal as directed by the act, make it vital for this Nation to investigate improved technology for the direct utilization of coal. It is imperative for us to find cleaner, more efficient methods of burning it.

At ERDA, there is promising work being done on a new process of burning coal which has good prospects for providing clean energy at lower costs. This process is known as the fluidized bed combustion system. I would like to insert into the RECORD some information on this promising technology that the Energy Research and Development Administration has supplied me with. Once again, Mr. Speaker, if we are going to burn coal we must learn a better way to do it.

CLEAN ENERGY FROM COAL

The Clean Air Act directs the Environmental Protection Agency (EPA) to set air quality standards at levels which will protect the health and welfare of the American people. Primary air quality standards are those designed to protect human health. Secondary standards—those relating to the public's welfare—are to be achieved in a reasonable period of time. In addition, there are uniform Federal emission regulations which apply to all new power plants.

Each state has submitted its plans to EPA for achieving these standards. These implementation plans have two extremely important characteristics. First, many states have decided that they should meet in a "reasonable time" the more stringent secondary standards. Secondly, numerous states have imposed uniform state-wide regulations that ignore any difference in air quality between regions within the state.

The states have responded fully to the spirit of the Act. Yet, ironically, their collective response creates a situation which imperils timely attainment of our highest goal—healthy air for all Americans.

As a result of this timely collective response, our gas and low-sulfur fuel oil utilization shifted to such an extent that some high priority areas will not be able to get low sulfur fuels or stack gas cleaning equipment needed to meet primary standards, because they are being siphoned off to meet secondary standards elsewhere.

A number of alternatives are available to meet objectives of the Clean Air Act.

One alternative is to burn low-sulfur coal. There are large supplies of relatively low sulfur, low Btu coal available in the western states, coal that could be burned without sulfur removal equipment in specially designed boilers. Mining these coal supplies, however, carries its own environmental price tag. This low sulfur coal must be strip mined, with its inherent pollution problems, and since over 80 percent of the coal presently burned is in plants east of the Mississippi River, this low Btu western coal carries a heavy freight cost disadvantage.

Other alternatives are offered through research programs which would use coal to produce clean energy. Among these processes are coal gasification, liquefaction, coal solvent refining and the direct burning of coal in a bed of fluidized limestone in atmospheric fluidized-bed boilers.

These are promising processes and merit expanded support from Government and the private sector. However, with the exception of the atmospheric fluidized bed burning of coal, none of the other technologies seem likely to be available for commercial application on an economical basis, in time to have any significant effect on this country's diminishing oil and gas reserves at least to the end of this decade. The only other technology which seems to be available during this first phase of the Clean Air Act is stack gas cleaning. However, stack gas cleaning systems add a very serious owning and operating cost disadvantage, and supplies of these systems on a large scale and with proven reliable performance will be limited through 1977–1980.

Unquestionably our vast coal reserves must be the lifeblood of America's energy production for the next century and, in conjunction with nuclear energy, the backbone of our electricity generation. While the recent oil embargo may result in the short term relaxation of sulfur oxide emission standards, in the long run, utility and industrial power plants will have to comply with the Clean Air Standards which presently limit sulfur content in coal to 0.7 percent. It is estimated that less than 10 percent of our vast coal reserves are suitable for present markets, because of Federal emission standards and production and transportation problems. With almost limitless supply of medium sulfur coal, this country must develop large and economical boilers that can burn medium sulfur coals (1–3.5% S) within acceptable Clean Air Standards.

Relying on the above alternative ways of solving our sulfur problem, the question remains: "Will there be sufficient supplies of clean fuels or sulfur removal equipment to meet state regulations after 1977?" And the answer is: "Without full utilization of the atmospheric fluidized-bed burning of coal, No." This position is not ours alone. Secretary of the Interior, Rogers C. B. Morton, in

a February 15, 1974 letter to President Nixon, said: "We believe the fluidized-bed combustion boilers offer the best prospects for providing large volumes of clean energy from coal at an early date. Current pollution controls allow only limited use of high-sulfur coal in conventional boilers. The early demonstration of a low-cost, pollution-free combustion technique would help alleviate this undesirable situation and stimulate the production and utilization of Eastern coals."

Replacement of the conventional boilers with atmospheric fluidized bed steam generators is a radical departure from the existing methods of fossil fuel firing and will require additional refinement.

FLUIDIZED BED BOILERS

Fluidized beds have been used for many years in the chemical industry to enhance reaction rates, but their use in steam generators is a relatively new concept. More recent is the development of the fluidized bed combustion technique to produce utility boilers at a fraction of their present size. Such boilers would burn almost any fuel, including low quality coals such as lignite. Two general approaches are being taken in development work and in construction and operation of such boilers. In France and Czechoslovakia, fluidized bed furnaces have been developed for steam generators in which there is no direct contact between the inert fluidized particles and the heat transfer surfaces (boiler tubes).

Work involving direct contact heat exchange has been actively pursued in England and in the United States. In the boilers without direct contact, the hot off gases generate all the steam in conventional fashion, and no appreciable size or cost advantages are attained.

Basic design for direct contact heat transfer involves inert granular material supported by air from a distribution grid containing immersed heat exchange surface. Combustion within the fluidized bed is very intense.

Limestone or ash serves as the heat granular material, and very high volumetric heat release and heat transfer rates are obtained. As a result, there is no need for a large space wasting furnace, and the amount of surface required is reduced.

WHAT IS AN ATMOSPHERIC FLUIDIZED BED BOILER?

A fluidized bed is simply a mass of granular particles held in dense suspension by an upward current of air. The mixture of air and particles exhibit the properties of a fluid.

An atmospheric fluidized bed boiler consists of a water-cooled Monowall furnace enclosure containing horizontal boiler tubes immersed in the fluidized bed. The enclosure non-sifting tuyeres through which the combustion air is blown. The velocity of the upward air flow causes the solid bed particles to become suspended in the balanced draft (atmospheric) furnace, thus forming the fluidized bed. Coarsely crushed coal added to this bed burns very rapidly as the products of combustion are scrubbed away. The heat released by the burning coal is immediately transferred to the inert bed particles and in turn to the boiler tubes in contact with the turbulent bed.

PAST DEVELOPMENT

Although the basic principles of fluidized bed combustion of coal have been known for 50 years, little progress has been made on a commercial design. Active development work on atmospheric fluidized bed boilers began in 1965 by Pope, Evans and Robbins Incorporated (PER) using a unit capable of burning 100 pounds of coal per hour. In 1967, a small boiler (5,000 pounds of steam generation per hour at 300 psig) was built by PER under contract to the Office of Coal Research (OCR) for development of the startup technique, turndown method and pollution control. By the end of 1973, about 5,000 hours of test operation was performed by PER on this unit, using crushed limestone as bed material for sulfur capture. Combustion intensity of 1.2 million Btu per hr. per sq. ft. bed surface was achieved, equivalent to 480,000 Btu per hr. per cu. ft. within the oxidizing fluidized bed.

The atmospheric fluidized bed boiler compares favorably with other advanced concepts. It is potentially desirable that combustion of coal be carried out in a way that permits the subsequent recovery of minerals from flyash, alumina and iron for example. Fluidized bed combustion does not fuse the ash minerals together as a slag.

Pope, Evans and Robbins Incorporated has developed a basic design concept that uses repeating elements or cells to make up a large atmospheric fluidized bed boiler. It was the invention of the cell which makes a commercial boiler design possible. Currently, PER under a contract with the Office of Coal Research and with the cooperation of Monongahela Power Company is installing a 300,000 pounds per hour capacity unit in the utility's Rivesville, West Virginia power station. The boiler was designed and is being fabricated by Foster Wheeler Corporation, to operate at 1300 psig outlet pressure with 925°F steam temperature, to match existing turbine requirements at Rivesville.

The atmospheric fluidized bed boiler is seen as the necessary first step on a long path toward better use of coal, this country's only major fossil fuel resource. Based on the successful performance of this first 30 Megawatt$_e$ unit, scheduled to be operational by mid 1975, it is expected that several utilities will commit to the installation of atmospheric fluidized bed boilers in the 200 MW$_e$—800MW$_e$ capacity range. To further the activities in the combustion of solid fuels in fluidized bed boilers the Fluidized Bed Combustion Company (FBC) has been formed by Foster Wheeler Corporation and Pope, Evans and Robbins Incorporated.

OPERATION

Startup of an atmospheric fluidized bed boiler requires heating a portion of the bed to 800°F, hot enough to ignite bituminous coal. After coal ignition, the temperature of the bed rises rapidly until the system achieves thermal equilibrium (the energy released in the bed equals the energy absorbed by the boiler tubes, plus the energy contained in the hot gases leaving the bed). The desired bed temperature is obtained by setting the proper ratio of heat-transfer-surface to heat-release-volume. Operating characteristics of the bed dictate an optimum design temperature range of 1500°F–1600°F, with excess oxygen at about 3 percent. At these conditions, about 50 percent of the heat released by the burning coal is absorbed in the immersed tubes.

Turndown is achieved by reducing coal and air flow, as in any other boiler. However, in the atmospheric fluidized bed boiler, the burner is the bed itself, not a separate piece of equipment. Combustion and heat removal are so interrelated that the amount of contacted heat transfer surface must be reduced as the combustion rate is reduced, or the fire will go out. The amount of active heat transfer surface is naturally reduced because the bed depth decreases as the air flow is reduced. The bed acts like a pot of boiling water; cut down the heat, and the level drops. Also, the larger bed particles sink to the grate and build up against the boiler tubes, preventing the active particles from touching them. Thus the heat-transfer-surface to heat-release-volume ratio is kept constant as firing rate is reduced.

Coal burns rapidly in a fluidized bed, even at 1500° F. The rate is so high that at any point in time the bed is composed almost entirely of the inert particles that were added before combustion began. Typically, a sample of bed material would analyze at less than 1 percent carbon. Based on bed volume, the heat release is 300,000 to 400,000 Btu/hr. per cubic foot. Counting the open furnace space above the bed, the rate is 100,000 to 200,000 Btu/hr. per cubic foot. The wide range in this overall furnace release rate follows from the fact that the furnace volume is set by design considerations other than heat release, i.e., tube arrangement, access for maintenance, water circulation. Either way of calculating, the heat release rate is much higher, as much as a factor of 10, than the release rate in conventional coal fired furnaces.

The heat transfer coefficient is also higher, 50–60 Btu/hr/ft^2/F. But the important advantage is in the uniformity of the heat flux. The peak and average fluxes are equal and there is no danger of burnout as long as the feedwater treatment is intelligently handled. A typical riser has a heat flux of 50,000 Btu/hr/ft^2.

Tubing length is reduced because most of the steam is generated in tubes that are heated on both sides. Actually, Effective Projected Radiant Surface (EPRS); is a concept not used in designing an atmospheric fluidized bed boiler. Superheater surface requirements are also reduced because of the high heat transfer coefficient and the fact that fireside deposits do not form. Fireside corrosion is also avoided, apparently because the sodium, potassium and vanadium in the coal are not released, or if released, are picked up by the bed particles instead of the tubes. The ratio of bed particles-surface area to heat-transfer-surface area is about 15 to 1. Condensing vapors are thus more likely to deposit on a bed particle than a tube.

COAL TYPES ARE UNLIMITED

Unlike a pulverized coal fired boiler, ash properties are not significant to the design of an atmospheric fluidized bed boiler. The same basic design applies for all coals. The bed temperature is too low for the ash to soften or change chemically in any detrimental way. All fuels are burned at a heat release rate equivalent to 110,000 Btu/hr. per square foot of EPRS. In a pulverized coal fired unit, this value may be as low as 40,000 with a high alkali coal.

The boiler designed and developed to date could not be used if the coal were very fine and dry, since fine coal is difficult to feed uniformly and successful operation depends on even fuel distribution. With current mining and transport methods, a ¼ to ¾ inch top size is easy to get. If transport of coal as a slurry were desirable, the slurry would be fed as a wet filter cake without drying so as to delay combustion until the coal is mixed with the bed.

FLYASH CONTROL

Disposal of flyash, a major solid waste problem, can be economically handled where fluidized bed combustion is used. Flyash is reinjected to a specially designed boiler region (Carbon Burnup Cell), with a low heat-transfer-surface to heat-release-volume ratio, operating at 2050°F to 2250°F with more than 3 percent excess oxygen. At and above 2100°F, most of the ash sinters, and round pellets are produced. This material could be useful as fill or aggregate material.

POLLUTION CONTROL

The coal fed to a fluidized bed boiler is crushed to a ¼ inch or ¾ inch top size, not pulverized. A good fraction of the ash stays in the fluidized bed, or if carried out with the products of combustion, is separable in a low pressure drop cyclone dust collector. Little, if any, metal oxide or sulfate fume is formed, and the quantity of very fine particulate is relatively low. Sulfur trioxide has also not been detected when limestone is used as the bed material. Plume opacity and particulate emissions may be low from a fluidized bed boiler without a precipitator. However, due to current EPA regulations,

provisions for electrostatic precipitator are recommended.

Sulfur dioxide in the fluidized bed is actually controlled by the use of limestone as bed material. The limestone is kept reactive either by the addition of fresh limestone, in a once through system, by regeneration to recover sulfur dioxide in useful concentrations, or by adding a low-cost catalyst (common salt) with the coal. Current material balances indicate that for 2,000 pounds (1 ton) of 5.6 percent sulfur coal, 400 pounds of limestone is required to remove over 90 percent of the sulfur.

Studies are now being undertaken by EPA to develop alternate plans for calcium sulfate disposal. Since the temperature in the fluidized bed boiler is relatively low, NO_x emissions is considerably below the value that EPA's rules would allow.

A clear stack is readily achievable, since there are relatively few micron sized particles and virtually no sulfuric acid mist even at exhaust temperatures of 250°F.

Tests performed recently by the Bureau of mines, Department of the Interior, on the Pope, Evans and Robbins' unit in the Alexandria, Virginia laboratory established that both NO_x and SO_2 emissions were held below EPA emission standards for new coal fired plants. The conclusion reached by the Pittsburgh Energy Research Center of the Bureau of Mines indicates that "Test data obtained during the two 4 hour tests on the fluidized bed boiler showed emissions of 0.80 to 1.20 pounds SO_2 per 10^6 Btu and 0.11 to 0.17 pound NO_x (calculated as NO_2) per 10^6 Btu, compared with EPA Standards of 1.20 pound SO_2 per 10^6 Btu and 0.70 pound NO_2 per 10^6 Btu for new coal-fired plants", while burning coal with 4.5—4.8 percent sulfur content.

REGENERATION ALTERNATIVES

A variety of alternatives are available, depending on local conditions, to regenerate the sulfated lime. In one design arrangement, a separate small section of the boiler, called the regenerator, has a lower heat-transfer-surface to heat-release-volume ratio and a higher than average coal rate. With the bed material at 1850°F to 2000°F, and 0.5 percent oxygen in the off gas, calcium sulfate (formed in the bed) combines with carbon monoxide to form lime, sulfur dioxide and carbon dioxide. The SO_2 concentration is high enough for recovery of sulfur. The lime (CaO) released by this regenerator flows back into the main part of the boiler operating at 1500°F–1600°F and reacts again with sulfur dioxide to form calcium sulfate.

30 MWE BOILER TEST PROGRAM

The objective of the current Office of Coal Research 30 MWe program is to design, construct and test a 300,000 pounds per hour capacity "Multicell Fluidized Bed Boiler" (MFB), as a pollution-free method of burning high sulfur content or slagging coals without excessive maintenance problems, under practical electrical utility conditions. Steam pressure, temperature and circuitry of the boiler, therefore, were designed to meet requirements of the selected Monongahela Power Company (Allegheny Power Systems) Rivesville, West Virginia power station.

The multicell concept in the atmospheric fluidized bed boiler design involves building very large boilers as a set of relatively small repeating elements. The 300,000 pounds per hour capacity unit under this program represents such an element to boilers ranging from 60 to 800 Megawatte capacity.

For proper design development of the 300,000 pounds per hour unit, a concept for an 800 Megawatte fluidized bed steam generator was developed by Foster Wheeler Corporation, consisting of four (4) modules, each containing seven (7) vertically stacked fluidized beds, called cells, of the 30 Megawatte size developed for Rivesville.

During the latter part of 1973, the 300,000 pounds per hour capacity unit was released for fabrication, based on competitive price bidding, to the Foster Wheeler Corporation. Final dimensions of the boiler were selected to be 12 feet wide, 25 feet high and 38 feet long, in order to maximize factory assembly.

The following benefits are expected to be demonstrated by the fabrication and operation of this atmospheric MFB unit:

Because of low combustion temperature, low quality, high sulfur content coals can be burned without danger of slagging.

Air pollution regulations can be met without massive and expensive add-on flue gas cleaning equipment.

Less heat-transfer surfaces (boiler tubes) are needed because of the better heat transfer qualities of this type of boiler.

Increased steam generation efficiency by reducing low temperature air-heater corrosion thereby permitting lower stack gas temperatures.

Successful operation of the 30 MWe Rivesville, West Virginia demonstration unit will establish the design and construction features of large capacity utility boilers (200 MW_e–800MW_e).

BENEFITS TO ELECTRIC UTILITIES

Atmospheric fluidized bed combustion will make it possible to build electric utility boilers within the next several years that will produce the following benefits:

Coals of mid and high sulfur content can be efficiently and economically burned, meeting EPA clean air criteria, without the use of stack gas cleanup systems. Sulfur dioxide emissions are reduced by the limestone bed and NO_x emissions are reduced by low combustion temperatures.

Smaller in size and lower in cost than presently available boiler types capable of burning high sulfur coals within EPA standards. The technical factors that make this possible are the higher heat release rates and higher heat transfer rates.

Utility plant space and construction time savings, due to shop fabrication of the component cell sections with expected increase in fabrication quality.

Coals of higher ash content may be economically used, since crushing is limited to ¼ inch to ¾ inch top size.

Requirements for pulverizers are eliminated since it is not necessary to reduce the size of the coal below ¼ inch to ¾ inch top size.

Slagging problems are eliminated since the combustion temperature is maintained below the ash fusion temperature.

Independently controlled multiple modules will result in high operational availability and the ability to "stay-on-line" of a mechanical failure occurs in a module.

Modular boiler design minimizes capacity scale-up problems.

REINTRODUCTION OF H.R. 3321, TO GRANT VETERAN STATUS TO FORMER MEMBERS OF THE WOMEN AIR FORCES SERVICE PILOTS (WASP) OF WORLD WAR II

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mrs. BOGGS. Mr. Speaker, this week I was privileged to testify before the House Committee on Veterans' Affairs in behalf of my bill, H.R. 3321, to grant veteran status to former members of the Women Air Forces Service Pilots (WASP) of World War II.

The hearing was well attended by WASP's from all over the country—many of them wearing the uniforms they donned as women pilots for the Army Air Corps. Also present to testify was Col. William Bruce Arnold, USAF, retired, the son of Gen. H. R. "Hap" Arnold, who initiated the WASP program during the war.

Since the bill was originally introduced early this year, over 100 of our colleagues in the House have cosponsored the bill. I rise today to reintroduce H.R. 3321 with additional cosponsors. I appreciate the strong, bipartisan support the WASP bill has received and I am hopeful that the committee will approve the bill so that the measure will be eligible for floor action during the 95th Congress.

MODIFICATION OF THE TAX REFORM ACT OF 1976

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. ROSTENKOWSKI. Mr. Speaker, my colleagues, today I am introducing legislation which modifies and refines provisions of the Tax Reform Act of 1976 dealing with tax treatment of expenses in attending foreign conventions.

In a attempt to deal with abuses under the prior law with respect to allowable deductions for individuals attending conventions, seminars or similar meetings, the Tax Reform Act of 1976 included strict but complex requirements. These requirements were made applicable to attendance at conventions outside the United States. The effect of the law thus far has been to greatly reduce the number of conventions planned by U.S. organizations in our neighbor countries to the north and south. I believe this was an unfortunate and largely unintended side-effect of the act and my measure seeks to reaffirm the friendliness and sense of mutuality which characterizes this Nation's true feeling toward our neighbors.

My bill redefines the area of coverage of subsection (h) of section 274 of the Internal Revenue Code of 1954 as amended by the Tax Reform Act of 1976 to exclude Canada, Mexico, and Bermuda.

In addition, my bill woud greatly simplify the complex reporting requirements affecting convention attendees in areas not exempted. It does this by substituting a "more reasonable than not" test to determine whether deductions for attendance will be allowed. The test would require that a showing be made by the taxpayer that attendance at the meeting is related to the active conduct of his trade or business, and that given the purpose of the meeting, the purpose and activities of the sponsoring organization or group, and the location or residences of its members it is more reasonable for

the meeting to be held outside the North American area than within the North American area.

I believe this measure will clarify and simplify the decisionmaking process on the part of individuals and organizations as to locating meetings, at least insofar as the applicable tax law is concerned. It removes onerous reporting requirements while at the same time providing a very effective and stringent test to avoid manipulation of the code by those who would claim deductions for what amount to vacation excursions.

I urge the adoption of this important legislation.

THREE HUNDREDTH ANNIVERSARY OF THE CONCESSIONS AND AGREEMENTS

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. THOMPSON. Mr. Speaker, September 24, 1977, marks the 300th anniversary of one of the most remarkable documents in New Jersey and American history. The Concessions and Agreements of the Proprietors, Freeholders and Inhabitants of the Province of West Jersey formed the basis for the original government of South New Jersey. More significantly, the document represents a pioneering effort by the original Quaker settlers of New Jersey to insure democratic government and individual liberty.

Richard P. McCormick, university professor of history and dean at Rutgers College has written an excellent article on the concessions and agreements which I am inserting for the benefit of my colleagues. In addition, I would like to take this opportunity to insert a resolution by the New Jersey State Assembly designating September 24, 1977, for the commemoration of the 300th anniversay of the West Jersey Concessions and Agreements.

THE WEST JERSEY CONCESSIONS AND AGREEMENTS

The "Concessions and Agreements of the Proprietors, Freeholders, and Inhabitants of the Province of West New Jersey in America"—commonly known as the West Jersey Concessions—occupy a conspicuous, if not a unique place, in the history of political and civil liberty. No seventeenth century charter was more advanced in its provisions for democratic government and for guarantees of personal freedom. Indeed, the Concessions can be viewed as representing the culmination of a political tradition that stemmed from the Levellers and Republicans of earlier generations and from the centuries-long struggles for personal freedom in England. What gave them their special character, however, was the peculiar zeal of the Quakers for human rights, a zeal that was inspired both by their religious principles and by their own harsh experiences with persecution because of their beliefs. The idealistic aspirations of the Quaker colonizers were well expressed in their statement: ". . . there we lay a foundation for after ages that they may not be brought in bondage, but by their own consent, for we put the power in the people . . ."

The Concessions were drafted in England late in 1676 and were formally approved and signed by the chief participants in the colonizing enterprise on March 7, 1677. The principal author, it would appear, was Edward Byllynge, who was responsible for the purchase of what was to become West Jersey from John, Lord Berkeley, in March, 1674. But during the months that the document was in preparation, Byllynge no doubt shared the authorship with William Penn and other influential Quakers who were deeply involved in the project.

It should be noted that the Concessions represented an agreement among the "Proprietors, Freeholders and Inhabitants" of the colony, that it was consented to and affirmed by the scores of men who signed the document both in London and in West Jersey, and that it embodied the principle of "government by consent of the governed."

The frame of government outlined in the Concessions was democratic in the extreme. Almost unlimited power was vested in an assembly elected by the proprietors, freeholders, and inhabitants. Elections were to be held annually by secret ballot, and there were no property or religious requirements to restrict the suffrage. There were stringent safeguards against bribery or other corrupt influences in elections. When the province had been divided into tenths, there would be ten delegates from each subdivision, or a total of one hundred in the assembly. The inhabitants were guaranteed the right to present their grievances or requests to the assembly, and all official proceedings in courts and legislative bodies were to be open to the public. Public officials judged guilty of fraud were disqualified for life. There was no provision for an upper house, for a governor, nor for a veto power by the proprietors. In order that the people might understand their privileges, the Concessions were to be "writt in fair tables" in every court in the colony and be read "in a solemn manner" four times each year by one of the magistrates.

No less remarkable than the provisions for democratic participation in the government were the extensive and detailed guarantees of personal freedoms. Declaring that "no men nor number of Men upon Earth hath power or Authority to rule over men's consciences in religious matters," the Concessions assured full religious liberty to all. No person was to be deprived of life, liberty, or property without a trial before a jury of twelve good men of his neighborhood.

There could be no prosecutions without formal indictment, no proof of crime without the testimony of two honest and reputable witnesses. An accused person could serve as his own attorney. Trials were to be held in public, in order that nothing would be done "in a corner nor in any covert manner."

Debtors were liable only for their total estates; they were not to be imprisoned if their liabilities exceeded their assets. Thieves could make two-fold restitution out of their own property instead of being placed in jeopardy of life or limb. No taxes could be imposed except by the authority of the assembly. The estates of suicides were not to be forfeited but were to descend to the rightful heirs. In order to do justice to Indians accused of crimes, juries in such cases were to be composed of six Indians and six white men of the neighborhood. To insure that these fundamental rights laid down in the Concessions would not be violated by the assembly, it was specified that if any assemblyman, in the judgment of seven honest and reputable persons, acted contrary to the Concessions, he could be proceeded against as a traitor to the government.

It would be difficult to conceive of a freer, more democratic policy than that contemplated by the Concessions. In later years, even after New Jersey had been transformed into a royal colony, the spirit of the Concessions and the expectations that they had created of a government that deprived from and safeguarded the rights of the people, remained vivid and influential.

Because of the complex circumstances associated with the conferral of the government by James II on Edward Byllynge, rather than on the whole body of proprietors and inhabitants, in 1680, the Concessions did not become fully operative in every detail. Nevertheless, at the insistence of the residents and after lengthy disputes and negotiations, the substance of the Concessions, and particularly the guarantees of personal liberty, remained in effect.

Surely the West Jersey Concessions merit attention and admiration, along with Magna Carta, the Petition of Right, the Declaration of Independence, and the Bill of Rights as statements of the finest aspirations in our democratic tradition. Infused with Quaker idealism, based firmly on the historic quest for human freedom, they are even today a source of inspiration to those who cherish the cause of liberty and justice for all.

RICHARD P. MCCORMICK.

August 11, 1976.

ASSEMBLY RESOLUTION

Whereas, "The Concessions and Agreements of the Proprietors, Freeholders and Inhabitants of the Province of West-Jersey in America" was adopted as the constitution of the Western Division of New Jersey on March 3, 1676/77; and,

Whereas, The document based upon the principles of the English Society of Friends, ensured self-government through popularly elected assembly, established complete freedom of religious belief and practice, and limited the government's powers of taxation, imprisonment and trial; and,

Whereas, The Concessions and Agreements is imbued with the same principles of self-government by a free people as are found in the constitutions of the United States of America and the State of New Jersey; and,

Whereas, The Council of Proprietors of the Western Division of New Jersey, organized in 1688 to conduct the business of the proprietors, has continued in existence to this day, headquartered in the City of Burlington, New Jersey; and,

Whereas, The City of Burlington celebrates the Three-hundredth anniversary of its founding in 1977; and,

Whereas, The Three-hundredth anniversary of the Concessions and Agreements will be commemorated at Burlington on Saturday, September 24, 1977; now, therefore,

Be it resolved by the General Assembly of the State of New Jersey:

That this House hereby designates and sets aside Saturday, September 24, 1977 for the purposes of commemorating the Three-Hundredth Anniversary of the West Jersey Concessions and Agreements, and that the citizens of this State are hereby requested to take heed and make proper recognition of and participate in the events and purposes commemorated therein;

But it further resolved, That a duly authenticated copy of this resolution signed by the Speaker and attested by the Clerk, be transmitted to the Council of Proprietors of the Western Division of New Jersey.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LEHMAN. Mr. Speaker, this week, I was necessarily absent from the House

floor during three recorded votes and a recorded quorum call, and I would like to take a moment to state what my votes would have been.

On Wednesday morning, as chairman of the Subcommittee on Census and Population, I attended a meeting at the White House on the 1980 decennial census and missed two votes. Had I been present on the floor of the House, I would have voted for both resolutions, House Resolution 743, the rule for the medicare-medicaid antifraud and abuse amendments, and House Resolution 767, the rule for the Nuclear Antiproliferation Act.

On Thursday, in observance of Yom Kippur, I did not come to the House floor, and I missed a vote and a recorded quorum call. Had I been present, I would have voted to approve Wednesday's Journal.

FEDERAL AGENCIES INFRINGING UPON THE LIVES OF THE INDIVIDUAL

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LUJAN. Mr. Speaker, my opposition to the creation of the Consumer Protection Agency is well known. There are already too many giant Federal agencies infringing upon the lives of the individual and this will simply add to the list.

In opposing this bureaucratic monster and the continuing outrageous growth of the Federal Government, I am not only following my own best instincts, I am taking into account the desires of the people back home. They are telling me in no uncertain terms that do not want another "Big Brother" looking down on them.

So that my colleagues can understand the across-the-board opposition the business people of New Mexico have to the creation of such an agency, I am listing the names of some of the business people who have written me detailing their feelings on the matter. I can assure you that, to a man, everyone of these people, be they small business oriented or in major corporations, oppose the creation of a Consumer Protection Agency.

The list follows:

Robert R. Farrell, Mid-Valley Insurance Agency, Inc., Belen, New Mexico.

Howard Kercheual, Valencia County News-Bulletin, Belen, New Mexico.

C. A. Nicholson, Belen Butane Supply, Inc., Belen, New Mexico.

Birdye Abraham, Abraham Service, Grants, New Mexico.

Richard G. Baille, President, Grants, Milan, West Valencia County C of C, Grants, New Mexico.

James B. Barber, Grants Daily Beacon, Grants, New Mexico.

Frank B. Hackney, L & H Steel Products, Inc., Grants, New Mexico.

Maric Olson, Sports Shop, Grants, New Mexico.

Garland D. Taylor, Jr., Grants State Bank, Grants, New Mexico.

Larry Sparks, Village 7-11 & Liquor, Albuquerque, New Mexico.

J. B. Bell, Bell Company, Inc., Albuquerque, New Mexico.

E. W. Gray, President, Equipment Sales & Mfg. Co., Albuquerque, New Mexico.

George S. Jenks, Chairman & CEO, Albuquerque, New Mexico.

Jack R. Alexander, Albuquerque Gravel Products Co., Albuquerque, New Mexico.

Ben A. Lanford, Jr., State Distributors, Inc., Albuquerque, New Mexico.

Bates Lumber Co., Albuquerque, New Mexico.

George C. Banghart, Builders-Materials, Inc., Albuquerque, New Mexico.

Allen O. & Ruby M. Hughes, Huges Meat Company, Inc., Albuquerque, New Mexico.

William L. Beale, Control & Equip. Co., Albuquerque, New Mexico.

Raymond M. King, Gibson Products Co. of Farmington, Inc., Albuquerque, New Mexico.

Don W. McLeod, Albuquerque Phoenix Express, Inc., Albuquerque, New Mexico.

Peter T. Mocho, Onate Feed Company, Albuquerque, New Mexico.

Randy S. Self, Westside Distributors, Inc., Aubuquerque, New Mexico.

Jim Stafford, Prefection Truss Company, Albuquerque, New Mexico.

Stuart C. Hill, Stuart C. Hill, Gen. Contractor, Albuquerque, New Mexico.

Earl Crist, Plateau Supply, Inc., Albuquerque, New Mexico.

Robert J. Darrow, Creamland Dairies, Inc., Albuquerque, New Mexico.

Willis E. Garrett, Rust Tractor Co., Albuquerque, New Mexico.

Robert H. Allan, Jr., President, First State Bank At Gallup, Gallup, New Mexico.

Frank Burke, Real Estate, Insurance, Gallup, New Mexico.

Jack B. Cahpman, Gallup Broadcasting Co., Gallup, New Mexico.

Joe Di Gregorio, California Superama, Inc., Gallup, New Mexico.

Franc E. Rici, President, The Merchants Bank, Gallup, New Mexico.

Rodney Heath, Olman Heath Co., Farmington, New Mexico.

Martin Pierce, Citizens Bank, Farmington, New Mexico.

Elmo L. Poteet, Poteet Engineering Co., Farmington, New Mexico.

John H. Dendahl, President, Eberline Instrument Corp., Santa Fe, New Mexico.

T. H. McElvain, T. H. McElvain Oil & Gas Prop., Santa Fe, New Mexico.

Philip Naumburg, Colony Materials, Santa Fe, New Mexico.

David F. Polson, President, Polson-Mercer, Inc., Taos, New Mexico.

John A. Randall, Randall Lbr. Co., Inc., Taos, New Mexico.

Murray A. Kugler, Stephens-Irish Agency, Inc., Las Vegas, New Mexico.

Louis E. Lyster, Louis Lyster Gen. Contractor, Inc., Las Vegas, New Mexico.

R. L. Williams, New Mexico Mill & Lumber Co., Las Vegas, New Mexico.

Joe Anaya, Anaya's Auto Center, Las Cruces, New Mexico.

Casper U. Lutz, American Linen Supply of N.M., Inc., Las Cruces, New Mexico.

Robert L. Stryxer, Stryxer Realty, Inc., Las Cruces, New Mexico.

Claud Tharp, Rountree Cotton Co., Inc., Las Cruces, New Mexico.

James Hamilton, President, James Hamilton Construction Co., Silver City, New Mexico.

Harry E. Gray, Jr., Clovis Oil & Butane Co., Clovis, New Mexico.

C. E. Jordan, Cal. Jordan Imp., Co., Clovis, New Mexico.

Marcus Sellars, Pioneer Inn, Clovis, New Mexico.

R. W. Wilson, Electronic Parts Co., Clovis, New Mexico.

Rogers Aston, Self-Employed, Roswell, New Mexico.

Robert L. Chewning, Chewning Footwear, Roswell, New Mexico.

John Hall, John Hall Associates, Roswell, New Mexico.

Raymond Harris, Chr. of the Bd., Glover, Inc., Roswell, New Mexico.

Charles A. Joplin, Security National Bank, Roswell, New Mexico.

Harold R. Base, Artesia Chamber of Commerce, Artesia, New Mexico.

F. M. Houston, Owner, Bryan Printer & Stationers, Artesia, New Mexico.

Charles K. Johnson, President, First National Bank, Artesia, New Mexico.

Bert M. Jones, H & J Food Baskets & Minit Mart, Artesia, New Mexico.

J. S. Ward, J. S. Ward & Son, Inc., Artesia, New Mexico.

S. P. Yates, Yates Petroleum Corp., Artesia, New Mexico

George W. Crump, The Cavern Supply Co., Inc., Carlsbad, New Mexico.

Kenneth M. Nelson, Ken Nelson, Realtor, Carlsbad, New Mexico.

Prentiss G. O'Neal, O'Neal Motors, Inc., Carlsbad, New Mexico.

Bill Queen, Queen Oil & Gas Co., Carlsbad, New Mexico.

Ben Alexander, D,A & S Oil Well Servicing, Inc., Hobbs, New Mexico.

A. W. Arnold, Al's Inc., Hobbs, New Mexico.

O. Belt, Badger Bit & Speciality Co. & Hobbs Ind., Inc., Hobbs, New Mexico.

Cecil L. Brown, President, United Chemical Corp. of N.M., Hobbs, New Mexico.

M. G. Burnam, Clarke Oil Well Servicing, Inc., Hobbs, New Mexico.

Rodger Gray, Permian Ford, Hobbs, New Mexico.

W. H. Kolins, Climax Chemical Company, Hobbs, New Mexico.

Ray D. Little, Jr., Superior Printing Service, Inc., Hobbs, New Mexico.

James R. Miller, Johnson, Miller & Co., Hobbs, New Mexico.

Bob Moran, Moranco, Hobbs, New Mexico.

James M. Murray, Jr., Me-Tex & Assoc. Co.'s, Hobbs, New Mexico.

August A. Peters, Jr., A.A. Oilfield Service, Inc., Hobbs, New Mexico.

William A. Slater, Southern Union Refining Co., Hobbs, New Mexico.

Wm. E. Thomson, Bill's Welding Supply Co., Inc., Hobbs, New Mexico.

Zearl Young, Western Auto Stores, Hobbs, New Mexico.

Jerry Clayton, Lovington, New Mexico.

Gooch Tank & Mfg. Co., Tatum, New Mexico.

Monte Vallejo Realty, Inc., Alamogordo, New Mexico.

BILL HULL

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. BEVILL. Mr. Speaker, I want to take this opportunity to join my colleagues in paying tribute to former Congressman William R. Hull, who died this past August 15.

A Member of Congress for 18 years, Bill will be remembered both by the people he served and by his colleagues in Washington as a person who represented the views of the people of Missouri's Sixth District in outstanding fashion.

Bill came to Washington from the northern Missouri community of Weston, where he was the owner of a large

tobacco business. Before his election to Congress, he was active in numerous civic affairs in his hometown and also served as mayor of Weston.

Following his election to the 85th Congress in 1954, Bill served nine consecutive terms, retiring at the end of the 92d Congress in 1972.

During that time, he served on three House committees: Public Works and Transportation, Interstate and Foreign Commerce, and Appropriations.

I had the privilege to serve with Bill on the Appropriations Committee and my service with him will be remembered with the highest regard.

My sympathy goes out to his family with the thought that Bill Hull will be remembered both in Washington and in his native Missouri as an outstanding public servant in every sense of the word.

PANAMA AUDUBON SOCIETY CONCERNED ABOUT ENVIRONMENTAL IMPACT OF NEW TREATIES

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SNYDER. Mr. Speaker the following letter that Ms. Carolyn Lowe, vice president of the Panama Audubon Society, wrote to me August 15, speaks for itself.

I hope my colleagues take careful note of the concern she expresses as they consider the proposed new treaties with Panama.

The letter follows:

BALBOA, CANAL ZONE, *August 15, 1977.*

Hon. GENE SNYDER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SNYDER: It was very encouraging to read your statements, which appeared recently in the local press, regarding the environmental impact of a new Panama Canal treaty. This is a matter which has caused great concern on the part of many of us here in the Canal Zone as we have watched the treaty negotiations move toward conclusion. And our concern has been augmented by the fact that neither the U.S. nor the Panamian negotiators have appeared to give any consideration to the environmental implications of the proposed treaty.

As you are well aware, the ecological resources of the Canal Zone are of tremendous importance. The Zone's extensive tropical rain forests harbor one of the world's most valuable treasures of tropical bird, animal and plant species. The accessibility of these forested areas makes them a great outdoor laboratory for the scientists who come from all over the world to do research in every aspect of tropical biology. Their loss would be a loss to mankind.

We hope you will continue to put pressure on the State Department to prepare a complete and accurate Environmental Impact Statement on the effects of a new treaty on the Canal Zone's natural resources, and also to insist that strong provisions for environmental protection be included in such a treaty. Otherwise, the Canal Zone faces an ecological disaster. This would have grave consequences not only for the wildlife and biological resources, but for the viability of the Canal itself, the operation of which would be seriously undermined by the destruction of the forests protecting the watersheds. Considering the widespread destruction of forests throughout the Republic of Panama, the threat to Canal Zone forests is a real one.

Thank you for your concern and for your positive action on this vital matter.

Sincerely,

CAROLYN LOWE,
Vice-President,
Panama Audubon Society.

WHY WE MUST KEEP AMERICA'S CANAL IN AMERICAN HANDS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SYMMS. Mr. Speaker, Gov. Meldrim Thomson of New Hampshire, a prominent leader of the conservative movement in America, addressed a council dinner of the John Birch Society in New York City on September 10, 1977. Governor Thomson discussed the Panama Canal Treaty recently signed by President Carter and explained why it is imperative that the Senate reject the treaty.

I would like to point out, Mr. Speaker, that Governor Thomson has remained steadfast in his principles of limited government. New Hampshire is the only State that has neither an income tax nor a sales tax. Consequently, it has strong economy, a healthy business climate and very low unemployment rates. It should serve as a model to the rest of the States in this regard.

I would like at this time to submit Governor Thomson's remarks to my colleagues in Congress:

WHY WE MUST KEEP AMERICA'S CANAL IN AMERICAN HANDS

(By Meldrim Thomson, Jr.)

If our giveaway boys in the Department of State and the Carter Administration have their way, the American Canal in Panama might well become America's waterway to destruction. The result of the Roman Circus staged by the Administration in Washington this week to sign a Panama Canal Treaty might best be described by paraphrasing Rudyard Kipling's Recessional: "The tumult and the signing dies,/The leaders and the aides depart;/Still stands America's sacrifice,/A great Canal; our Flag a part!"

I find it abhorrent, in the twilight of a great Bicentennial celebration, to witness an American President rushing to surrender the sovereign territory of the United States; in this case to the Communist-trained Panamanian dictator, Omar Torrijos! It is certainly a shameful way to begin the third century of our once-glorious national history.

PREVENTING NATIONAL SUICIDE

Patriots wonder what has happened in this land of the brave and the home of the free. For almost two centuries, whenever American troops went forth to battle it was to win as quickly and decisively as possible. That zest for victory was captured in the inspiring words attributed to Colonel William Barret Travis at the battle for the Alamo in 1836—words written on the wall of the fortress either by candle or in blood, and found after Travis and his 187 men had all been killed in battle or massacred by the enemy.

"I am besieged by a thousand or more of the Mexicans under Santa Anna," Travis said. "The enemy have demanded a surrender at discretion: otherwise the garrison is to be put to the sword if the place is taken. I have answered the summons with a cannon shot, and our flag still waves proudly from the walls." Then Colonel Travis added: "I shall never surrender or retreat!"

How different was the cowardly appeasement of those politicians and diplomats who committed more than 100,000 young Americans to death unnecessarily in the no-win wars of Korea and Vietnam! And now the Carter Administration, by its proposed giveaway treaty, would commit America to an even lower level of disgrace by surrendering without a whimper a territory and facility essential to the very existence of our nation.

What is even worse is that for the first time in our history American taxpayers will be asked to pay millions in indemnity to make our surrender acceptable to Panama.

Oh, that we might have 34 courageous U.S. Senators who, in the fateful hour of ratification of this noxious giveaway treaty, will say with Colonel Travis in strong clear voices: "We shall never vote to surrender or retreat!" How wonderful it would be if those same 34 or more Senators would give answer to the President in the great words of Charles Cotesworth Pinckney, who in 1797 told a French Minister: "Millions for defense, but not a damned penny for tribute."

One must wonder whether in the haste to give away our American Canal, to make accommodation with Red Cuba, to harass and desert such loyal allies as the Republic of China and Israel . . . whether Carter is bent on national suicide. Take heed, my fellow Americans, to the sage warning of young Abe Lincoln to a lyceum audience at Springfield, Illinois, in January 1838:

"All the armies of Europe, Asia and Africa combined, with all the treasure of the earth (our own excepted) in their military chest; with a Bonaparte for a commander, could not by force take a drink from the Ohio, or make a track on the Blue Ridge, in a trial of a thousand years. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide."

I tell you, friends, this giveaway treaty smells to high heaven of national suicide!

PATRIOTISM IS EMOTIONAL

Recently the U.S. treaty negotiator, Sol Linowitz, said that the opposition to the Canal giveaway treaty is one of emtionalism. Well I can tell you that, in my own case on this issue, I am glad that the reasoning of my head is fortified by the emotion of my heart.

As you may know, last Tuesday I issued a proclamation in New Hampshire, declaring September 7, 1977, to be America's Second Day of Infamy. To alert our citizens of the tragic charade being performed by the Presidents, dictators, and Generalissimos of 26 countries of the Western Hemisphere who participated in or witnessed the signing ceremony of the treaty in Washington on that day, I caused the national and state Flags to be flown at half-mast. Then, for doing what I considered a solemn and patriotic act, I was excoriated and condemned by the American Civil Liberties Union. When I was given an opportunity to reply to their challenge in a radio interview, I said:

"Why is it that the A.C.L.U. is not concerned about the mainstream of American citizens? Have you ever heard of this fuzzy-headed, fringe-oriented organization going to bat for our jobless, our burdened taxpayers, or for the Christian schools of our nation? No. You will find them working the social sewers of America, helping the fellow travelers of Communism, the Nazi hoodlums of Chicago, the homosexuals, the

pornographers, and the desecraters of Old Glory. I am not aware that the A.C.L.U. ever whispered so much as a tiny protest against the numerous desecrations of the American Flag by the Panamanians, or against the tearings, burnings, and spittings upon Old Glory that were all instigated by the Torrijos regime now being honored in Washington by a cowardly Carter Administration.

"On several occasions, as Governor, I have lowered our Flags to half-mast on state buildings when I felt that some solemn matter should be brought to the attention of New Hampshire citizens. For example, I lowered our Flags when the fine, innocent, and free athletes of the Republic of China were denied participation in the world Olympics by Canada because of her commercial ties to Red China, and again when President Carter declared amnesty for war evaders.

"As Governor I have the right to direct the official flying of the Flags in our state, and I shall continue to do so. As for the A.C.L.U., its leaders obviously know nothing about the great patriotic traditions of America. If they did, they would not be running around thumping their shallow breasts like a band of Benedict Arnolds."

Yes, Sol Linowitz is correct! The issue of the American Canal on the Isthmus of Panama is an emotional one if a person has so much as one red corpuscle of patriotism in his bloodstream!

That is probably why, when I received several days ago an invitation from General Omar Torrijos to attend a reception in honor of Vice President Walter Mondale, I fired back the following reply:

"It would be impossible for Governor Thomson 'to honor' a member of an Administration that gave amnesty to war evaders, that scuttled the B–1 bomber, and that would violate its campaign promise to the American people by surrendering the American Canal in Panama.

"When General Torrijos serves your people by reason of a free election, has restored basic rights and freedoms in Panama, has rejected Communism, and has demonstrated common decency for the Flag of the American taxpayers who provide his nation with the highest per capita foreign aid of any nation in the world, then Governor Thomson would be pleased to meet General Torrijos as the duly elected 'Chief of Government' of the free people of Panama."

SOME CANAL FACTS

Let us keep in mind a few basic facts about the ownership, construction, and use of our Canal. Consider:

Under the terms of the Hay-Bunau-Varilla Treaty of 1903, the 51-mile-long and roughly 10-mile-wide Canal, consisting of 553 square miles, was given "in perpetuity" to the United States by the Republic of Panama. Article III of the treaty granted to the United States all rights, powers, and authority within the Zone, *"to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."*

By the decision of the United States Supreme Court in *Wilson* v. *Shaw*, our title to the Canal Zone was confirmed in the following language: "It is hypercritical to contend that the title of the United States is imperfect and that the (Canal Zone) does not belong to this nation because of the omission of some of the technical terms used in ordinary conveyances of real estate."

The fact is that our sovereign right to the Canal was never seriously questioned until 1974 when Henry Kissinger, that great designer of no-win diplomacy, in a brief airport stop, agreed with Panama Foreign Minister Juan Tack that the United States did not have sovereignty over the Canal Zone. Kissinger was wrong then, and Carter is wrong now.

For four centuries men dreamed and schemed of a canal across the isthmus that would in one short link eliminate the 7,000-mile voyage around the Horn. The French under Ferdinand de Lesseps, the builder of the Suez Canal, tried for two decades to build a sea-level canal. When the French failed, President Theodore Roosevelt led Americans in an engineering and managerial feat that was the moon shot of the beginning of this century.

To Panama we paid $10 million to obtain the U.S. Zone in perpetuity. That was more than we paid for either Florida or Alaska. To the bankrupt French Canal Company we paid $40 million for its rights and properties in the canal. And to Colombia we paid $25 million in 1922, much to the disgust of Teddy Roosevelt.

We built a 51-mile Canal with three sets of locks at each end capable of raising and lowering ships 85 feet. The chamber of each lock is 110 feet wide and 1,000 feet long. The gates to each lock are 7 feet thick and 10 stories high. Each filling of a lock requires 52 million gallons of water and takes 8 minutes to fill by gravity. In the building of the Canal, enough earth was moved to fill a ditch 10 feet deep and 50 feet wide, stretching from New York to Los Angeles. After an expenditure of almost $400 million, the building of the world's largest earth dam and the creation of the largest man-made lake, the Canal was ready to transit its first ship, the *S.S. Ancon*, on August 15, 1914.

Since building the Canal the United States has spent about $7 billion in improvements, maintenance, and investments. The tolls have been reasonable and uniform. Only twice in 63 years of operation have we raised them; once in 1973 from 90 cents per ton to $1.08, and again in 1975 from $1.08 to $1.29. Since we have lost about $27 million on the operation of the Canal from 1973 through 1976, we must consider what would happen to the tolls if Torrijos were to gain control and raise them drastically to produce the $40 to $70 million in annual payments out of Canal revenues called for by the proposed giveaway treaty.

Two months ago I partially transited the American Canal on a Danish container vessel carrying a payload of 13,000 tons. She was 690 feet long and 100 feet wide. Her toll charge was $26.000. But she saved a quarter of a million dollars by avoiding the extra 10-day journey around the Horn. You see the economic point. And the American Canal *is* important to our economic growth. Last year about 13,000 ships transited our Canal. This is almost twice the number that used it the year after World War II.

And do not forget that our Canal can handle 96 percent of the world's shipping. This has been of great economic value to the consumers of America. For example, 42 percent of all cargo going through the Canal originates in the United States and 21 percent of its cargoes are destined for our nation. Approximately 30 percent of all physical commodities transiting the American Canal are energy related, such as petroleum, coal, and coke. Next month it is anticipated that three large tankers a day will transit our Canal bearing Alaskan oil from Prudhoe Bay to the energy-hungry eastern seaboard. It is not only our Canal but we have never needed it more than we do right now.

CONSIDER HUMAN RIGHTS

President Carter has raised a hullabaloo in international circles about human rights. In his Inaugural Address last January, Carter said: "Our moral sense dictates a clearcut preference for those societies which share with us an abiding respect for individual human rights." In his address to the United Nations last March, Carter said: "The search for peace and justice means also respect for human dignity. * * * No member of the United Nations can claim that mistreatment of its citizens is solely its own business. Equally, no member can avoid its responsibilities to review and to speak when torture or unwarranted deprivation of freedom occurs in any part of the world."

These are beautiful, brave words which, based upon President Carter's action in embracing the Torrijos regime, make a mockery of the whole issue of human rights. Certainly there are no human rights in Panama today.

Omar Torrijos catapulted to absolute power in October 1968, when a military coup ousted the duly-elected President, Dr. Arnulfo Arias, after only 11 days in office. Since then, there have been no free elections in Panama. There is no free press and no right to habeas corpus. Torture, exile, and expropriation of property are common responses of the Torrijos Administration to those who oppose the dictator's regime.

Specific documentation of such occurrences are set forth in a three-volume work of the "Panamanian Committee for Human Rights," a work which has only provoked the scorn and ridicule of our State Department.

Consider the story of Anthony Keith Pooré, an Argentine-born British subject who was arrested by the Torrijos secret police in January 1976 at a rally held to protest the deportation of his employer. Pooré, an honorably discharged six-year veteran of the U.S. Army, said in an affidavit given in Miami last September:

"I was handcuffed and taken to the G–2 Section for questioning. I immediately requested the right to communicate with my attorney—this was denied. I was later to find out I had no rights at all. There were two heavily armed guards who kept making threats and referring to me as a 'Yankee Pig' and 'Imperialist.' I was also informed by them I was to be executed."

Mr. Pooré described how he was clubbed on the shoulders, back and head. While he was blindfolded a pistol was placed to his temple and he heard the hammer click into firing position. He was subjected to several such mock executions, each interspersed with beatings and screamed threats that he must recant and tell the truth, followed by further beatings on the head. He was held incommunicado and without food or water for hours awaiting deportation to Argentina. Then . . .

But let Anthony Pooré continue the tale of his torture. "I was to find out that my ordeal had just begun," he said. "I was to undergo electrical shock which was administered on several occasions. This consisted of a 12-volt car battery and two cables. I was prodded under the arms, on my nipples and in the groin and crotch area. Faces became blurred and I remembered little else."

After reading the Pooré affidavit in detail I called Mr. David Wagner on the Panamanian Desk in the State Department. Mr. Wagner confirmed that the Department had a file on Pooré, that he had been in Miami, and that they did not know where he was now.

I asked about the allegations of torture. These were dismissed by Mr. Wagner, who said the British Consul in Panama had seen Pooré after part of the beatings and had found no incriminating marks on his body. After much searching I located Anthony Pooré in a foreign country and talked with him last week. He recalled meeting the Consul, as he had indeed described in his affidavit, but explained that they had agreed not to ask for medical help lest it provoke further abuse. And Mr. Pooré told me the persecutions continued even after leaving Panama.

The bureaucrat, Mr. Wagner of the State Department, may not believe Anthony Pooré. I have good reason to do so.

The State Department, during this sensitive period of its attempt to frighten Senators into ratifying the Canal treaty, quite obviously plans to keep the lid on the gross

torturings and violations of human rights that go on almost daily in Panama. But, for further confirmation of the truth that they occur, I cite to you the case of David Mendelson of Mobile, Alabama, a 37-year-old American citizen who was beaten last April by the dictator's National Guard in Panama and deported to Miami.

Mendelson was held incommunicado for 12 hours. His credit cards and money were taken and a substantial bank account was closed without giving him credit. He has documentation to prove that his kidneys were injured shortly before he was deported to Miami. So here is an American citizen who was brutally beaten by officials of Panama, and whose property was taken by them. Mendelson has repeatedly asked bureaucrat Wagner for help. What has the State Department done for him thus far?

Nothing!

Absolutely nothing!

Remember, President Carter said in his U.N. talk on human rights that no member of the U.N.—and I take that to mean the United States also—"can avoid its responsibilities to review and to speak when torture or unwarranted deprivation of freedom occurs in any part of the world." Have you heard Wagner or his bosses Cyrus Vance and Jimmy Carter speak out about the tortures of Pooré and Mendelson? I have not heard a word and do not expect that I shall!

But in the weeks ahead I am confident that we shall hear the giveaway boys of the State Department, whose actions surely qualify that body as the most un-American institution in all of our government, plugging hard for a treaty that would throw ever more American citizens to the torture chambers of the Panamanian dictator Omar Torrijos.

THE TREATY ITSELF

We cannot possibly review the terms of the sellout treaty in less than a book. However, if you have not done so, I hope that you will get a copy of the treaty at once and study it carefully yourself.

This treaty indicates that police, fire protection, street maintenance, and garbage collection in the Zone will be done by Panama. The United States, through the new Panama Canal Commission, would pay Panama $10 million a year for this. It is a good bet these municipal services for which we are to pay by terms of the treaty are now being rendered by the Canal Zone government for a good deal less. But there is a much greater issue here. Consider: As an American citizen, what real protection do you think you could get from Panamanian police in view of the brutal beatings they gratuitiously administered to Pooré and Mendelson?

Also, under our sovereign operation of the Canal it has always been available for use by all nations of the world *except our enemies in time of war*. It is therefore important to note that under the terms of Article II of the proposed neutrality treaty: "Both in time of peace and in time of war (the Canal) shall remain secure and open to peaceful transit by the vessels of *all* nations on terms of entire equality." This means that in any future war in which we might be engaged our enemy would have the same access to the Canal that we would have—a right that did not exist in World Wars I and II.

I believe that one of the worst provisions in the proposed treaty is the requirement in Article IV, Section 3, for the creation of a board to be comprised of an equal number of senior military representatives of the two countries. This board is charged with the responsibility of preparing contingency plans for the protection and defense of the Canal, for the conduct of combined military exercises, and for the conduct of combined military operations with respect to the protection and defense of the Canal.

What a beautiful way to insure that Russia or any other potential enemy of the United States will know in advance of action what our plans might be! Only diplomatic nuts bent upon destroying America would agree to a provision so dangerous to our national security. It almost reads like America's own suicide note.

What are the prospects of dictator Torrijos violating the treaty if by some unfortunate quirk of fate the U.S. Senate should ratify it? The chances of a Panamanian violation are excellent. Since November of 1975 the Torrijos Government has violated its treaties or agreements with the United States 11 times. The latest violation was in June of this year. Thus, her rate of violations is better than one every two months.

Should there be any doubt in anyone's mind that the proposed treaty gives everything to Panama and does not even leave us the opportunity silently to steal away, I cite for them Article VII, Section 1, which states that all of the land now owned by the United States in Panama "shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor." Thus, we not only surrender our sovereign territory and agree to pay an indemnity which in 23 years will amount to about $2 billion, but we must suffer the humiliation and insult of having Old Glory take second place to the Flag of Panama!

The wonder is that there would be a single vote in the United States Senate to support such a treaty.

VITAL TO OUR SECURITY

The Canal is essential to our national security. Remember that we do not have a two-ocean Navy. In naval preparedness we are rapidly achieving second place to Russia. Thus the Canal is vital to America for the movement of naval vessels from one ocean to another—and the Canal can handle 98 percent of all of our naval vessels, including our nuclear submarines. Only our large aircraft carriers cannot make the transit.

How important is this? Several weeks ago four former Chiefs of Naval Operations, Admirals Burke, Moorer, Carney, and Anderson told the President that "loss of the Panama Canal which would be a serious setback in war would contribute to the encirclement of the United States by hostile naval forces and threaten our ability to survive."

I find the testimony of those four respected admirals far more convincing on the question of the importance of the Canal to America's future safety than anything that might be said by Linowitz, Kissinger, Ford, or Carter!

Last July, in a little fishing village on the coast of Panama, 8 Panamanians and 4 Russians carefully examined the terrain and surrounding waters to test its suitability as a future naval base for Russia. The four former Chiefs of Naval Operations know what that means, and so should every American. The proposed giveaway of the American Canal on the Isthmus of Panama marks the high point of success thus far achieved by Communism in the Caribbean.

Either we make the Big Ditch our last-ditch stand against the encroachments of Communism in this Hemisphere or prepare for an inundation by world Communism on our southern doorstep. I say the Canal surrender treaty must be rejected! I say, Live Free, Or Die fighting in the cause of freedom. But never, never, let us sink so low and forget so completely our great heritage as voluntarily to lower the Stars and Stripes in the U.S. Canal Zone.

THE CARGO SECURITY ACT

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. RISENHOOVER. Mr. Speaker, thefts from cargo is a $5 billion deadweight on the Nation's economy which deserves strong congressional challenge.

Our respected colleague, Mr. PICKLE, has introduced the Cargo Security Act (H.R. 1157) and I am a cosponsor. We believe this is an important weapon against this form of crime in America.

The distinguished gentleman from Texas, on September 15, addressed the National Cargo Security Conference in Chicago. I am including his remarks in the RECORD:

SPEECH BY CONGRESSMAN J. J. PICKLE

In 1976, the Department of Transportation estimated $1 billion in direct cargo theft losses. The American Trucking Association said that direct costs should be multiplied 5 to 7 times to get the total costs to the consumer and industry—so the 1976 figure should be at least $5 billion in direct and indirect costs as compared to the $1 billion quoted.

There is new leadership at DOT, and the other agencies concerned with cargo security.

There is some evidence that the new Administration is willing to listen to those who work on the cargo security problem daily.

I cite three examples where lack of a strong program and forceful leadership by DOT is hurting our efforts.

First, the ICC has refused to require freight forwarders to report losses from theft. The main reason is the fact that DOT did not go to the ICC and argue for such reporting. . . .

Next, the CAB has lowered reporting requirements for the airlines. The new CAB rules call for a general form to be filed twice yearly instead of the more detailed statistics now being received four times a year.

Finally, I will report that the rumor out of the ICC is that the ICC will soon do for the trucks and railroads what the CAB did for the airlines.

These recent developments, which I lay at the feet of DOT as much as I do the regulatory agencies, will take us right back to the pre-1970 dark ages of knowledge about cargo losses.

My bill lays the ground work for a broad based program that will:

(1) Allow the Department of Transportation to set up limited regulations in the following areas:

(a) Packaging.

(b) Documentation and labelling.

(c) Cargo loss reporting.

(d) Personnel identification.

(2) Attack the jurisdictional dispute between DOT and the Department of the Treasury,

(3) Get the Federal Maritime Commission into action by making ships report losses.

(4) Establish legislatively the Office of Cargo Security, which exists now only by the grace of the Office of Management and Budget, and

(5) Create the Inter-Agency Council on Cargo Security.

My bill requires packaging, documentation and labelling, reporting, and personnel identification.

Three out of four sections do not put a burden on industry but rather on the manu-

facturer or shipper. Only reporting would cause you any inconvenience, and that would only be to report the truth. So, if you fall back on that old criticism that this bill is harmful to industry—that is a falsification.

I have read your analysis, "Cargo Security: A Record of Progress," put out by the Transportation Association of America and most of that analysis is pure baloney.

Four years ago nearly everyone in DOT was against any kind of legislation. Now, DOT is split down the middle—and many within DOT are waiting for a signal. Seven out of twelve of the governmental agencies who were asked their opinion of the pending bill said they favored some kind of legislation or approved of the principle of the bill. Those who know the problem best favor affirmative action.

My final message today to the industry and DOT is "don't be timid." A strong approach can mean many bucks in your shareholders' pockets, and can mean a government program that really helps our consumers.

A BIG DAY

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. EMERY. Mr. Speaker, on September 11, 1977, it was my privilege to speak in the town of Bristol, Maine, at the dedication ceremony of their new Teenage Memorial Association building.

Tragic events in 1967 indicated a clear need for viable recreational alternatives for the region's youth. In typical Yankee fashion, the Bristol area responded with human and economic resources from within the community, without requesting State or Federal assistance.

The project nearly faltered in 1970. A renewed effort, however, in the mid-seventies reemphasized Bristol's concern for its youth and saw completion of the association's dream. A small town of only 2,000 residents, Bristol stands as a proud example of the independence and resourcefulness of the people of Maine.

Below is a clipping from the Portland Press Herald published September 10, 1977. It clearly demonstrates the enthusiasm and effort which has gone into this worthwhile project:

A BIG DAY

Tomorrow will be a big day at Bristol.

It will be a big day not just because of the formal exercises attending the dedication of a new building, but because once again it is being demonstrated that a small town can do a big job when the people are determined and dedicated.

The Bristol people were all that because tomorrow's exercises climax a project that began in 1967, faltered, and then surged ahead again until the goal was reached. The goal is the new building of the Bristol Area Teenage Memorial Association.

In tomorrow's ceremonies, a few thousand well chosen words will be offered by a corps of speakers which will include a congressman, two state representatives, a state senator, a former director of the Maine Bureau of Corrections, and others.

But ringing louder than the most eloquent oratory will be the action of the people of Bristol and their neighbors.

When two auto accidents claimed the lives of five Bristol teenagers in 1967, the people decided it was time to stop talking about a recreation center and do something about it.

By 1970 their efforts had produced a foundation and frame built on 36 acres of donated land. But the project ran out of money and the fund raisers ran out of steam.

Three years later the Association was revived and the fund raising renewed. Now there is a fine new building with an estimated construction cost of $50,000.

Bristol is a small town in a small county. Its 1970 population was placed at 1,721. But it has accomplished a big thing.

So tomorrow will be a big day at Bristol. We hope teenagers of today and tomorrow will fully appreciate just how much love and labor the new recreation center represents.

THE CUBAN CONNECTION

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. BAUMAN. Mr. Speaker, despite the Carter administration's love affair with Fidel Castro, Cuba remains one of the most active Communist powers working to carve up Africa. Ambassador Andrew Young first described the Cuban military presence in Africa as "stabilizing," and other administration spokesmen have subsequently played down the connection between African revolutionary upheaval and the Cuban military adventurism on that continent.

A revealing and persuasive study has just been released by the Education and Research Institute of the American Conservative Union. ERI policy analysts, Fred Mann and Dan Humbert, describe the origins of the Communist campaign to win hegemony in Africa and what it all means to the United States. I bring it to the attention of my colleagues:

CUBA IN AFRICA

The success of the Cuban intervention in Angola is now a matter of historical fact. The Castro regime's massive shipment of both men and materiel to Agostinho Neto's MPLA has been well-documented. Not nearly so well-investigated and reported, however, is Cuba's effort—backed by the Soviet Union—to infiltrate virtually every other part of Africa. Only gradually is a more complete picture of Cuban military initiatives beginning to emerge.

Although it is certain large numbers of Cuban troops, "technicians," and "advisers" operate within many African countries, observers of the African situation find it difficult to determine the exact—or even approximate—number of Cubans within these countries. In the interest of objectivity, most observers list the lowest estimated figures for Cuban operatives in Africa.

Even though Cuba has brought about the ascendancy of the MPLA faction in Angola through massive military assistance, it appears Cuban involvement in that country will not end quickly. Bayard Rustin, national chairman of the Social Democrats, USA, writes that "there are 25,000 Cubans in Angola, which is close to 10 percent of the Cuban army and more than were present during the height of the civil war."[1] British journalist Robert Moss explains the reason for the continuing presence of the large number of Cuban forces in Angola. He notes that three anti-Cuban guerrilla movements—UNITA in the southern and central part of the country, the FNLA in the North, and the FLEC in the Cabinda enclave—have refused to concede control of Angola to the MPLA and are continuing the struggle.

The British newsman adds that "Angola today cannot be objectively described as an independent country. Control of its armed forces, its secret police, its economy, its civil administration, and its educational system is in the hands of Russians, Cubans and East Europeans. . . ."[2]

Castro's aggressive efforts in Angola have required the presence of Cubans in other African countries to support the intervention. Congo-Brazzaville is one of these countries. James Nelson Goodsell, Latin American correspondent for the *Christian Science Monitor*, notes that "ever since the Angola buildup began in October 1975, the Congo has been used as a staging area for Cubans and as a replacement depot for material."[3] Approximately 1,000 Cubans remain in Congo-Brazzaville, though their number may actually be closer to 1,500. An article in *Westwatch*, the quarterly publication of the Council for Inter-American Security, points out that Cubans stationed in Congo-Brazzaville serve an additional role: to prop up the fragile Marxist-Leninist regime in that country.[4]

In addition to Congo-Brazzaville, Guinea-Bissau and Equatorial Guinea have also served as transshipment points for Cuban supplies, equipment, and troops going to Angola. According to Goodsell, a force of approximately 300 Cubans remain in Guinea-Bissau. Senator Jake Garn of Utah contends there are 3,000–4,000 Cuban troops remaining in Equatorial Guinea. The Cubans are very active in this country, where President Macias presides over one of the most repressive regimes on the continent. Bayard Rustin notes that "Fifty thousand people have been killed without trial or charges, and Macias has reportedly introduced a system of slavery."[5]

Angola, in turn, is obviously viewed as a base for continued aggression. Thus two prisoners captured from the invading Katangan forces said that Cuban and Soviet military advisers had trained them in Angola and led them in the invasion of Zaire.[6] Columnists Rowland Evans and Robert Novak comment on the goal of the Cuban and Soviet-incited invasion: "The fall of the Shaba province to the Communist-backed Katangans would surround Zambia, the only Western-leaning black state in southern Africa, with black states that all lean heavily toward Moscow, away from Washington: Angola, Tanzania, and Mozambique."[7]

TWO, THREE, MANY ANGOLAS

The Cubans are substantially involved in areas of Africa not directly related to Angola. Other countries where Cubans are present in significant numbers and wield considerable influence include:

Uganda

The Washington *Post* reported in March, "for the past month, Cuban advisers and technicians have been trickling into Uganda to help train President Idi Amin's undisciplined army and to prop up his shattered economy. . . ." The *Post* said Amin made similar requests for assistance to several other nations (both Western and non-Western) and was adamantly refused by all, "on the basis that Ugandan weapons are being used exclusively for the purpose of killing other Ugandans."[8]

Mozambique

Robert Moss reports that there are as many as 1,000 Cuban "advisers" and "technicians" in Mozambique training Mozambican and Rhodesian terrorists for guerrilla operations

Footnotes at end of article.

in Rhodesia. South African sources indicate that the Cubans are manning tanks and piloting Soviet MiG–21 aircraft. The Cubans are also responsible for the personal protection of Marxist dictator Samora Machel.[9]

Tanzania

James Goodsell notes that this country is another site where Cuban civilians are training black Rhodesians for guerrilla operations in Rhodesia. The number of Cuban advisers in Tanzania is estimated at 200–600.[10]

Namibia

Westwatch indicates Cuban military instructors are providing both weapons and training to the Marxist organization SWAPO (Southwest African People's Organization) for the purpose of extending Soviet-Cuban influence to the Orange River.[11]

Somalia

Cuba's largest buildup of troops and advisers outside Angola is located in this country. Approximately 1,500 Cubans are stationed in Somalia. The regular Somalian army is trained and equipped mostly by the Soviets, but Cuban troops and instructors are training Somalian guerrillas operating in French Djibouti, the only remaining western-controlled port on the Red Sea. Philip Clarke in his study "Cuba: Island of Terror" estimates "at least 650 Cuban troops, pilots, and artillery technicians are busy helping enlarge a giant Soviet missile complex at Berbera, Somalia, where they work with 2,500 Russians." [12]

Ethiopia

200 Cuban commandos are training the Ethiopian army to fight against the secessionist Eritrean rebels.

Western Sahara

Cuban instructors are training guerrillas of the Polisario Front, who are fighting in the Western Sahara and Mauritania.

Ghana

A Cuban military force is now in Ghana, after having been expelled from that country eight years ago.

Libya

African observers suspect Cuban military involvement also in Libya, aimed at supporting the Qaddafi regime.

Sierra Leone

Cuban military advisers are assisting in the training of Sierra Leone's security force.

In sum, Cuban involvement in Africa is very substantial indeed. Cuba has stationed troops, "advisers," and "technicians" in at least 16 African countries, with a total force of probably well over 30,000 men involved.

THE MOSCOW CONNECTION

The effectiveness of the Cuban venture in Africa depends on financial and logistical support from the Soviet Union. It is apparent, indeed, that the Cubans are acting expressly as proxies for the Soviets.

Walter Hahn and Alvin Cottrell, specialists in foreign affairs at Tufts University and Georgetown University respectively, explain the Soviet-Cuban alliance and its role in the African imbroglio in their monograph Soviet Shadow Over Africa: "The fact is the Cuban intervention in Angola could not have been staged without the encouragement and more important, without the logistic and material support—of the Soviet Union. It is doubtful whether Castro paid for the expedition out of Cuba's hard-pressed treasury: chances are that the Cubans have been handsomely rewarded by the Soviets. . . ." [13]

Robert Moss reports that in addition to the Soviets' $1 million per day subsidy to bolster Cuba's domestic economy, the Soviets spent more than $500 million for the Angola campaign. Soviet subsidies are continuing to the MPLA to enable them to repel the attacks of the rival guerrilla factions which remain in the country.[14]

The extent of Soviet support of the Cuban mission in Angola is evidenced also by the diverse menu of weaponry that the Soviets have shipped to that country. James Dornan, Chairman of the Department of Politics at Catholic University, writes that "the weapons which the MPLA received included heavy and light machine guns, AK–47 rifles, 82mm mortars, 75mm recoilless rifles, large quantities of Katuyshin rockets, 107mm and 122mm ground-to-ground rockets, T–34, T–54 and PT–76 tanks, helicopter gunships, and SAM–7 anti-aircraft missiles. The 122mm rockets have been credited by some observers with initially halting the anti-Soviet offensive and ultimately turning the military tide " [15]

Other African regimes have also received sizeable quantities of Soviet military aid. The Soviets have increased their influence in Mozambique by aiding the FRELIMO regime in its efforts to undermine the government of Rhodesia. Mozambique has received "T–34 and T–54 Russian tanks, truck-mounted rocket launchers and SAM–7 shoulder-fired anti-aircraft missiles, as well as ground-to-ground rockets." [16] Soviet rifles are found in abundance in Mozambique's army. Russian AK–47 rifles were used to gun down seven Catholic missionaries in Rhodesia on February 6, 1977.

Dornan describes further the ever-increasing scope of Soviet military aid to support Cuban forces elsewhere in Africa: "The transfer of sophisticated military equipment to third world nations and revolutionary movements . . . has reached unprecedented levels since 1972. Impoverished indeed is the guerrilla group without an ample supply of SAM–7s; Uganda and Somalia have recently received MiG–21s; MiG–23s and possibly MiG–25s have operated from Syria, the former flown by Syrian pilots; and no less than a squadron of TU–22 bombers have been supplied to Iraq. During the past eighteen months Libya has received more than 200 T–62s, several squadrons of MiG–23s and a number of TU–23 Blinder supersonic medium bombers." [17]

THE STRATEGIC STAKES

The Soviets undoubtedly expect to achieve some of their most important foreign policy objectives through the expenditure of billions of dollars to support Cuba's military ventures in Africa. The willingness of the Soviets to invest these large sums is understandable considering that Africa—especially southern Africa—is a critically important source of essential materials.

The Soviet newspaper Pravda shows an acute understanding of the significance of these resources to the United States: "In U.S. imports, the share of strategic raw materials imported from Africa amounts to 100 per cent of industrial diamonds, 58 per cent of the uranium, 44 per cent of the manganese, which is used in the steel smelting industry, 36 per cent of the cobalt, essential for aircraft engines and high strength alloys, 33 per cent of its oil and 23 per cent of its chromium, used in the manufacture of armor, aircraft engines, and gun barrels." [18]

South Africa alone is rich in natural resources essential to the security of the West. This country holds the world's largest reserves of platinum group metals, manganese, vanadium, and chrome. South Africa's deposits of uranium, asbestos, high-grade iron ore, antimony, vermiculite, and fluorospar are among the largest in the world. Large reserves of copper and coal are also present. In all, over 50 different minerals are mined on a large scale in South Africa.[19]

African countries bordering on the Indian and Atlantic Oceans are also important geostrategically because of their proximity to vital sea lanes. Currently 2,300 vessels pass around the Cape of Good Hope every month. 600 of these vessels are oil tankers. Only a small percentage of oil tankers can pass through the Suez Canal because the canal is not deep enough to accommodate most of them. Maintaining open sea lanes around the Cape is thus imperative for the West to survive, if only for the energy supplies shipped by the Cape route: 20 per cent of U.S. oil requirements and 57 per cent of Europe's needs travel by this route.

According to the classical Leninist theory of imperialism, the capitalist industrial states will eventually come to be surrounded and strangled by being denied access to their markets and raw materials. It appears that the Soviet-Cuban intervention in Africa is an attempt to lay the groundwork for such a scenario.

To this end, the Soviets, with the assistance of Cuban manpower, have already progressed significantly towards securing under the Soviet yoke the strategic regions neighboring the Suez Canal and the Red Sea. Since a Marxist military coup overthrew the government of Haile Selassie, the United States has cut off its military assistance to Ethiopia, only to be replaced by Soviet aid. Senator Garn predicts that "as Ethiopia's ties to the West weaken, and are replaced by cooperation with the Soviet Union, the Soviets will use Cubans to orchestrate the switch, rather than doing it directly." [20] Exercising control over Ethiopia is particularly important to the Cubans and the Soviets because of the growing power of the secessionist Eritrean rebels. If the Soviets and Cuban communists gain firm control over Eritrea, in addition to South Yemen and Somalia—which are already linked to the Soviet Union—the Moscow-Havana axis would in fact control all access to the Red Sea and the Suez Canal.

THE ATTACK ON RHODESIA

The country in southern Africa that presently is carrying the brunt of Cuban and Soviet-sponsored aggression is Rhodesia. Extensive guerrilla operations in Rhodesia have been conducted by an uneasy alliance of Robert Mugabe's ZANU (Zimbabwe African National Union) and Joshua Nkomo's ZAPU (Zimbabwe African People's Union). These terrorist leaders launch their raids from the "front-line" countries, where their forces are trained and equipped by the Cubans and the Soviets. Mugabe and Nkomo promise to continue fighting until the government of Rhodesia is destroyed, and so-called "black majority rule" can be instituted.

The Soviets will, without doubt, continue support for these terrorist activities. An indication of this trend is that the Soviet Union signed a 20 year agreement with Mozambique in April 1977. In this pact, the two countries pledged to wage "the African struggle against the forces of imperialism for the final elimination of colonialism, neocolonialism, racism, and apartheid on the continent." [21] The treaty also implies assistance to Mozambique in case of war with Rhodesia or South Africa.

The extent of Soviet and other Communist assistance for the terrorists waging warfare against Rhodesia has been spelled out by John J. Tierney, former head of the Department of Politics at Catholic University. "Without the weapons and training received from the Communists," Tierney observes, "neither of the Rhodesian terrorist groups would be able to operate for more than a short time. Communist involvement is not only decisive, it is massive. Terrorists have undergone paramilitary and sabotage training primarily in the Soviet Union, but also in North Korea and China. They have been housed in special compounds near the capital city of each country and have been trained by the respective uniformed officers of each army.

"In addition to training, the typical Communist ideological schooling also takes place.

Footnotes at end of article.

Many terrorists, for example, have been found with Mao Tse-tung's famous red book of quotations, printed and distributed in Peking, on their persons . . . . In addition, almost all of the equipment to sustain the war originates from Communist countries. The USSR and PRC individually supply weapons, ammuntion, explosives, uniforms, money, and food . . . Direct aid is also shipped by other Communist states, principally East Germany, Poland, Bulgaria, Hungary, and North Korea." [22]

As for the outlook of the Rhodesian guerrilla forces themselves, the Washington weekly *Human Events* reports: "While the various Rhodesian 'liberation' groups who provide the cover for the terrorist raids are touted as African 'nationalists,' it is noteworthy that both the Zimbabwe African Nationalist Union (ZANU) and the Zimbabwe African People's Union (ZAPU) have declared themselves as Maxist-Leninists.

"A ZANU manifesto states, for example: 'ZANU is guided by the principles of Marxism-Leninism.' A ZAPU spokesman puts it: '. . . it is no secret that we base our work on the principles of Marxism-Leninism and that our ideological position is rooted in the masses. The struggle to create a new society such as we are striving for must be based on the principles of scientific socialism.' " [23]

That the Cubans and the Soviets have centered their attention on undermining the government of Rhodesia is understandable, considering that a victory for the radical factions would firmly entrench Soviet influence in eastern and southern Africa, and thus enable the Soviet-Cuban axis to isolate South Africa.

Clearly, the Cubans and the Soviets realize the crucial geopolitical significance of the African continent. The degree of Cuban commitment to dominating Africa is reflected in the boast of Gabriel Garcia Marquez, a Colombian communist writer, who claims that "there is not a single African 'liberation movement' that has not counted on the solidarity of Cuba, sometimes in the form of arms and materiel and other times in the form of training for military and civilian technicians and specialists." [24]

In short, it appears that Angola was merely the first of many dominoes to fall in the face of continuing aggression engineered by Moscow and adroitly carried out by its Cuban proxies.—By Dan Humbert, Policy Research Staff, and Fred Mann.

FOOTNOTES

[1] *New America*, June 1977.
[2] London *Sunday Telegraph*, February 20, 1977.
[3] *Christian Science Monitor*, February 23, 1977.
[4] *Westwatch*, May 1977.
[5] *Congressional Record*, May 20, 1977.
[6] New York *News World*, April 21, 1977.
[7] Washington *Post*, March 21, 1977.
[8] Washington *Post*, March 4, 1977.
[9] London *Sunday Telegraph*, February 20, 1977. *Westwatch*, May 1977.
[10] *Christian Science Monitor*, February 23, 1977.
[11] *Westwatch*, May 1977.
[12] "Cuba: Island of Terror," America's Future.
[13] *Soviet Shadow Over Africa*, Center for Advanced International Studies, University of Miami, 1976.
[14] London *Sunday Telegraph*, February 20, 1977.
[15] "Rhodesia and the Soviet Offensive in the Third World," *Rhodesia Alone*, Council on American Affairs, 1977.
[16] *Ibid.*
[17] *Ibid.*
[18] L. Valentinin, "Imperialism is the Enemy of the People." August 14, 1976.
[19] P. C. Roberts, *South Africa—The Vital Link*, Council on American Affairs.
[20] *Congressional Record*, May 20, 1977.
[21] *Rhodesia Alone, op. cit.*
[22] *Ibid.*
[23] *Human Events*, August 20, 1977.
[24] "Cuba: Island of Terror," *loc. cit.*

WASHINGTON POST ARTICLE PAYS TRIBUTE TO REPRESENTATIVE PARREN MITCHELL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SIMON. Mr. Speaker, today's Washington Post has a feature story about one of our finest Members, Representative PARREN MITCHELL.

It has been my privilege to see his righteous wrath in action on the Budget Committee, where he has eloquently spoken to the most fundamental need this Nation has—to guarantee jobs to all Americans.

PARREN MITCHELL is one of the finest Members of Congress by whatever standard you make the judgment, but most important is his humanitarian thrust. He recognizes that Government is here to serve the needs of people, and that those whose interests must be watched with the greatest care are not the rich and powerful but those who are politically inarticulate, who buy no $100-a-plate dinners for political gatherings, who may not even know that Congress is in session or who their representative in Congress is. To those people we must give hope, and that is what PARREN MITCHELL stands for.

History's test of whether we are a civilized society is not likely to be whether we made enough nuclear warheads, but whether we responded to the needs of the hungry, and PARREN MITCHELL understands that. In only one respect would I have a disagreement with the article. The article speaks about his shyness. I have not detected shyness, but I have not had the opportunity to know him as well as others. "Gentleness" would be a word I would use, rather than shyness. He is a gentleman, in every sense of that word, but he understands that courtesy and courage are not incompatible, that respect for others cannot be limited to morning greetings, but must also include giving all people an opportunity to enrich their lives, and the lives of their community and Nation. It is a pleasure to insert the Post article:

"ONE OF GOD'S ANGRY MEN"—HE IS PARREN MITCHELL, BLACK CAUCUS CHIEF

(By Jacqueline Trescott)

"Mr. President, when you are wrong I will criticize you," Parren Mitchell told Jimmy Carter one recent morning at the White House. The President looked around at the grim faces of the all-Democratic Congressional Black Caucus, nodded to Mitchell on his right, and replied, smiling, "I know."

Outside, the press corps seized Mitchell, chairman of the 16-member caucus, who has unhesitantly aimed his own verbal arrows of "neglect" at the White House. "Were you promised a domestic policy," they asked. "What about full employment, what about jobs?"

"No, we weren't," said Mitchell, looking past the notepads and news clippings of polls indicating a waning confidence of blacks in an administration they earlier had put great faith in.

"But we were promised a hard look," said Mitchell, adding, in a deliberately wry tone, "and we have to assume that the President wouldn't lie to the Black Caucus."

On occasion Parren Mitchell, a Maryland congressman since 1970, is the guarded politician, stepping gently but still jabbing. A more frequently heard Mitchell is the unhappy warrior, the man who for months has claimed that the nation is entering a "Second Reconstruction," as he sees the hard-won gains of the civil rights era chipping away.

"Well, black folks are going down the drain again," said Mitchell, whirling into his Capitol Hill office and thumping a Pall Mall on his desk. Though he spoke calmly, he looked worn, his pugged face smoldered with frustration. It's not only a political viewpoint, a subject for fiery rhetoric on the speaking circuit but a personal setback, because that century-long fight for social equality has motivated Mitchell, a member of a pre-eminent civil-rights family, from the cradle to Congress.

And, curiously, while many have seen a worsening national picture for minorities, the star of Parren Mitchell has steadily risen.

In other years, Mitchell grabbed the headlines only for interceding dramatically in prison disturbances, and last year, for running up an overdue phone bill. Now he's becoming increasingly influential as he leads discussions with Carter and Cabinet officers.

Today and Saturday the Black Caucus is holding its annual two-day summit of political and economic workshops and social events. Mitchell will be the host to Jimmy and Rosalynn Carter and 3,000 other guests at the group's fund-raiser Saturday evening. He will make his first appearance on "Meet The Press" the next morning.

Yet he's snarling. "Yes, I'm pessimistic. There's a new mood in America that's anti-black. It's painful," said Mitchell, his words bouncing off the photographs of those milestones in black progress, the signing of the civil-rights bills of the '60s.

Ironically, these warnings come as the new Democratic administration settles in. After his initial meeting (shortly after the Inauguration) with Carter, the first Democratic President the Black Caucus has had to talk to since its formation in 1970, Mitchell said, "We are not losing any ground." After a second meeting Aug. 31, he asked, "Has the status of black folks substantially changed since the President got into office, and answered himself, "No."

"Each of our meetings has been cordial and pleasant," said Mitchell. "He has responded to the criticism of his programs by blacks. I would like to believe that the President is a decent human being. The question is, is his game plan more important than the immediate issues? In a way I understand the long-range view. He's a technician, he's part scientist, and that's the way their minds work."

He turned to the telephone, excused himself, and placed a call to the White House. He's the practical politician, keeping the lines open, especially when you've had to use the back door for so long.

SHARING THE SPOTLIGHT

"All right, let's huddle," Mitchell ordered his caucus colleagues before a press conference. They huddled. And when Mitchell finished discussing the Bakke Case on reverse discrimination for the media, all the caucus members sat down. That's Parren Mitchell, 55 years old, a trim, 5 feet 5, who's nicknamed "The Little General" because he's quick on his feet, organizes his forces well and barks out of his own impatience with trivia.

He's not a limelight grabber, says Cardiss Collins, a caucus member from Chicago, explaining, "Parren works hard to make sure each person gets his share of spotlight. He's forging the caucus forward because now we are acting rather than reacting."

In looking at Parren Mitchell, a man who has not only been a participant but a test in Maryland civil rights activities, who has been criticized as a superficial renegade but now is generally respected as a bright and hard-working legislator, there are many sides, some paradoxes.

Well-known is the outspoken crusader, part of a leadership reserve—the Mitchell and Jackson families—active for generations in Baltimore. Parren's older brother, Clarence, chief lobbyist for the NAACP, is a respected force on Capitol Hill; one nephew is a Maryland state senator, another a member of the Baltimore City Council.

Also, there's Mitchell the recipient of a Purple Heart in World War II, who is now a pacifist and votes against all military aide, a position his Jewish constituency loathed in his early terms. Also, there is the sometimes-acid orator who lovingly cares for the roses and grapevines in his backyard. And there's the Episcopalian who's a lay reader in his church but receives "more of a religious experience," according to a friend, from hearing black kids sing spirituals or attending a senior citizens' play.

He's the liberal colleague who helped remove Rep. Robert Sikes (D-Fla.) from a powerful subcommittee chairmanship on a conflict of interest question and the liberal voice who called very early for Richard Nixon's resignation and who sued Nixon over the bombing in Cambodia—yet who admires John H. Rousselot (R-Calif.), former national publicity director of the John Birch Society, for his grasp of details. The staffs of their two mutual committees call Mitchell and Rousselot "The Bookends." Said Rousselot, "I certainly would call Mitchell a strong advocate of his view. He is more active than a lot of other members of the committee. We do differ but we get on fine."

Timidness? Not before presidents, but a former female staff member commented, "Parren is essentially very shy. He will walk up to you and say, 'Hey, baby doll,' or 'Devil,' that's his other pet name, but if you tease him like that, he gets embarrassed, stammers and walks away."

Only one group has drawn his rancor: the drug pushers. "Essentially I'm a liberal but I can't take a public stand on the de-criminalization of marijuana," he explained.

"As a probation officer I saw guys coming off drugs cold turkey. They would be moving in their own feces, their faces would be all bloody from banging their heads against the wall. Those people, the drug traffickers, cause me to be less than a liberal."

Over the last 18 years Walter Orlinsky, the president of the Baltimore City Council and a candidate for governor, has worked with and watched Parren Mitchell. Mitchell has changed, in Orlinsky's view, from an integrationist to a man who only saw the black side of issues to a bridge builder.

"I wouldn't go as far as to say a conciliator. But the Parren Mitchell who has less of a tendency to get involved on the black side of a black-and-white issue is a better person for the city. The only time he strays is when he gets too angry on a peripheral issue."

SEETHING ANGER

Yet, his anger, a stinging backhand to any form of injustice, keeps Parren Mitchell *keep on keepin' on.*

His anger can erupt. When then Gov. Spiro Agnew called together a group of black leaders after riots in several Maryland cities, and then berated them, Mitchell stormed out. Another time, he exchanged sharp words with then-Secretary of Housing and Urban Development George Romney at a 1971 meeting with Richard Nixon that the Black Caucus had waited 14 months to have.

His anger can seethe. After two nights watching "Roots," Mitchell turned off the series and said publicly, "If I had met any of my white friends I would have lashed out at them from a vortex of primeval anger." Said his sister-in-law, Juanita Mitchell, an activist attorney, "Parren's emotion is the emotion of a Patrick Henry. He didn't say give me liberty later. Parren is just one of God's angry men."

"I know I get emotional. But it's been more than 20 years from 1954 (the year of the Supreme Court decision on the school desegregation, the beginnings of the modern civil-rights movement). How many people have been jailed, lost, and now you see those gains unraveling," said Mitchell.

"When I get angry I take 30 minutes by myself to think, quietly, just thinking. I'm not ashamed of my anger. I had a very close friend, Walter Carter, who had taken his beatings, trying to change the laws. We were ready to work on the next level, forming the laws from inside the system. Then one night Walter died, just died at a public meeting. I have never gotten over it, that's why I'm angry, so lives like Walter's wouldn't be wasted."

FAMILY VOICES

So, in many ways, Parren Mitchell grew up enraged, hearing the fatigued but never hopeless voices of his family plan the next boycott. Elsie and Clarence Mitchell gave their sons time for the boyhood games of "King of the Mountain," but also gave them a picket sign.

With his older brother, Clarence, Parren Mitchell marched outside the department stores, the amusement-park gates, the theater box offices. Now many of those businessmen are Mitchell's constituents in a district that includes part of downtown Baltimore, Coppin State College, middle-income neighborhoods and housing projects.

As a youngster Mitchell worked as an elevator operator and delivery boy, graduated from Douglass High School in 1940, served in Italy during the war and then earned a degree in sociology from Morgan State College.

He had to sue to enroll at the University of Maryland graduate school in 1952. "You never did things because you were a Mitchell, there wasn't that kind of pressure, you did things because it was right," said Mitchell. For the next few years, Mitchell worked as a probation officer, then supervisor of the city's probation department, as executive director of the State Human Relations Commission, and then he headed the Baltimore anti-poverty program.

"The experience showed Parren's foresightedness," says the Rev. Vernon Dobson of Baltimore, a friend. "He knew the programs wouldn't last, so he insisted that upward mobility would be more than a sociological term. He made sure that the people not only get a job with the agency but also continue their education. He wanted the people to have something when the program was over."

In the late '60s Mitchell turned to teaching, at Morgan's Urban Studies Institute, and to elected politics. In 1968 he organized a primary drive in six weeks and lost by less than 5,000 votes to an 18-year incumbent. Mitchell won the next election, a pattern that hasn't been broken yet.

"One of P's biggest frustrations when he ran the anti-poverty agency," said Judge Joseph Howard, an associate judge on the Supreme Bench of Baltimore, "was that he knew what needed to be done but he would be hamstrung by others making the decisions, others designing the budgets. He wanted power, the power to change, and he has a little more now, but he still hasn't slowed down."

BACK IN BALTIMORE

Each evening, except in rare, emergency circumstances, Mitchell and a staff aide get in his 1976 Granada and drive back to Baltimore where he lives. Often the congressman hops out a few blocks away from his house, stopping in the grocery stores and the neighborhood bars, checking on happenings.

When he gets to his own modest three-story brick rowhouse, distinguished only be a spiral staircase in the dining room, Mitchell, who is a bachelor, cooks, tends to his house plants and talks to his constitutents on the phone. "He subjects himself to his constitutency in a manner that's almost unfair to him," said one staff member, Clarence Bishop.

One Saturday night, when Mitchell had several appearances scheduled, the phone rang and a young girl told him it was her mother's birthday. She said her mother idolized Mitchell and could the congressman stop by her birthday party. Mitchell said it was impossible, but he would talk to her mother on the phone. The girl hung up. A few minutes later her brother called, apologized for the request and told Mitchell he knew the congressman didn't have time for birthday parties. Before the evening was over, Mitchell surprised the family by showing up.

Once Mitchell toyed with the idea of running for mayor of Baltimore but now thinks Congress fits his game plan. "It is clear that this is where the damage is going to be," he says.

TRIBUTE TO JUDGE LLOYD R. HAYNES OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. CARNEY. Mr. Speaker, on October 9, 1977, a testimonial dinner will be held in honor of Judge Lloyd R. Haynes of Youngstown, Ohio.

Judge Haynes is one of the outstanding judges in the State of Ohio. He earned his B.A., L.L.B., and Juris Doctorate degrees from Youngstown State University. He also took law courses at Northwestern University School of Law and at the University of Miami.

Judge Haynes began his career as a member of the Youngstown Police Department. He served on the police force for 25 years—9 years as a patrolman, and 16 years as a detective. He left the police force to become assistant Mahoning County prosecutor, a post he held for 4 years. Later, he served as a special counsel in the office of the attorney general of Ohio. Presently, he is serving his fourth year as judge of the Youngstown Municipal Court.

A recognized expert in the field of law, Judge Haynes is licensed to practice before the State courts of Ohio, the U.S. district courts, and the Supreme Court of the United States.

Mr. Speaker, Judge Haynes has done an outstanding job in the performance of his duties. His balanced and fair interpretation of the laws is deserving of the highest praise. It is fitting and proper that the citizens of Youngstown express their appreciation of this good and decent man. I would like to take this opportunity to express my personal congratulations to Judge Haynes on his distinguished career. He has made a great contribution to our community. When his many friends join in honoring him, I hope to be there.

PANAMA CANAL TREATY ISSUE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the testimony of my distinguished colleague from New York, the Honorable SAMUEL S. STRATTON, on the Panama Canal Treaty issue before the House Committee on International Relations. I believe the Congressman's reservations about certain provisions in the recently signed treaties are certainly valid and deserve very close examination.

The testimony follows:

TESTIMONY OF CONGRESSMAN SAMUEL S. STRATTON ON THE PANAMA CANAL TREATY ISSUE BEFORE THE HOUSE COMMITTEE ON INTERNATIONAL RELATIONS

Mr. Chairman: I appear here this morning in opposition to the Panama Canal treaties—not to the treaties in toto, let me make clear, but, as we say here in the House, I am opposed to them "in their present form." Which means that if I were in the Senate or was to pass along any advice to the Members of the Senate, I would be supporting several major "reservations" or amendments to these treaties which I believe must be incorporated in them before they will properly reflect and protect the national interest and thus be suitable for ratification.

To this extent I believe you will find that my position differs to some extent from that of other treaty opponents who have previously testified before you. I am not opposed to some adjustment in the existing treaty that governs our position in the canal. I have been to Panama. I have seen the glaring economic disparities there between those who live in the Zone and those who live outside. I recognize the potentialities for civil disturbance and even guerrilla warfare that have all been heavily stressed by those who have negotiated these two new treaties. I would agree that we should take steps to eliminate many of these glaring inequities that are more appropriate to an earlier age. We ought to turn over more and more of the operation of the canal to the Panamanians, and we ought to make available to them a greater share of the financial benefits of the canal—if, indeed, at this point there are any net financial benefits still left for those who operate and manage the canal.

So I do not quarrel with this general thrust of the major treaty. What disturbs me, though, is that these treaties go much too far. They clearly throw out the baby with the bath.

The Panama Canal is a valuable American asset. It is important to our sea-borne commerce. That's why we built it, and why we have paid heavily to maintain it over the years. One might argue, as it has indeed been argued, that the canal is not quite as valuable to us today as it was 30 or 40 years ago. That may well be true. But it is still valuable and it will continue to be valuable into the future, especially, as now seems likely, we soon begin to ship our new oil supplies from the North Slope of Alaska around to the East Coast.

Therefore, whatever changes may be made in the operation or financing of the canal, it is absolutely essential that the canal remain available to us and that control of it be denied to our enemies into the indefinite future—which certainly means well beyond the next 22 years. That is why throughout all these negotiations the question of the defense of the canal has been a key issue in the minds of Congress and the American people. The main treaty specifically spells out, in Article IV, the right of the United States to defend the canal until the year 2000. In addition all of the press statements made by the negotiators themselves, and by Administration spokesmen, have asserted that the second treaty, the so-called neutrality treaty, also gives the United States the right to defend the canal after the year 2000.

Unfortunately, these assertions are simply not true. This alleged right is supposed to be implicit in the text of Article IV of the neutrality treaty. But the word "defense" does not even appear there! All that Article IV says is:

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral . . ."

But this doesn't say a word about defense. It only mentions neutrality. And how do you get "defense" out of "neutrality"?

In his original press conference on the treaty, President Carter, commenting on this Article, said "we will have an assurance in perpetuity following the year 2000 that the Panama Canal will be neutral, that our ships will have unlimited access to the canal, along with the ships of other nations; we have no constraints on the action that we can take as a nation to guarantee that neutrality."

But, Mr. Chairman, there is a world of difference between a clearly defined "right" of defense, and "no constraints" placed on the action we can take to preserve neutrality!

Indeed the Panamanian Foreign Minster, Dr. Romulo Escobar Bethancourt, declared in a news conference in Panama City on August 24th that "The treaty does not establish that the United States has the right to intervene in Panama."

So how meaningful is this supposed right when one of the high contracting parties already denies that the treaty assures it?

If we leave this wording as it is we will have to go to the World Court for an interpretation, presumably, before we know whether we can legally resist an attack on the canal by aggressive forces.

So, Mr. Chairman, the only possible conclusion is that these treaties are in fact seriously deficient in protecting America's vital interests. They have been presented to the American people under false and misleading colors as containing what they do not in fact contain.

So here is my first reservation to these treaties: they must specifically spell out the right of the United States, after the year 2000, to defend the canal from any aggression or hostile action that might close off the waterway to United States ships or render the canal itself inoperable. In these critical days, with possible threats that might arise from Soviet or Cuban action in the Caribbean, we cannot possibly rest our national interest on some abstruse interpretation of vague and ambiguous language in the treaty that has already been repudiated by a leading official of the other signatory power even before the document is signed.

Secondly, Mr. Chairman, there must be no doubt that this defense right is expressly incorporated in the basic treaty itself. As long as there are two treaties, one before 2000 and the other after, there will always be disputes as to which is the real treaty and which ultimately prevails. On this crucial point of defense we can afford no such ambiguity. Therefore, I would propose as my second reservation that this U.S. defense right after the year 2000 be incorporated in the basic treaty. Only in this way can we make the treaty a legal binding contract which gives certain rights and privileges in consideration of other privileges given up on the other side. We must make it perfectly clear in this treaty that what we are agreeing to do up to the year 2000 is in direct return for the explicit rights that are being guaranteed to us in Panama after the year 2000. Otherwise, the treaty process becomes a mockery, just a one-sided give-away.

Finally, Mr. Chairman, I have one third reservation to propose. If this right of defense which I propose that Panama must concede to us after the year 2000 is to be meaningful—and not just mere rhetoric to assuage the American people—then it is absolutely essential that we also have on the spot in Panama itself the means to exercise that right.

In the present treaties as now drafted we not only have no such explicit right, but for all intents and purposes we are expressly barred from exercising it because Article V of the Neutrality Treaty forbids us to "maintain military forces, defense sites and military installations" within the Republic of Panama.

Clearly, if we are to deter or successfully oppose any effort to capture the canal and close it down we can only exercise that right effectively from a military base located in the vicinity of the canal. Without such a base our "defense" would be limited to trying to destroy or recapture the canal from Florida, Texas, or Guantanamo after an initial assault had already been made on the canal—perhaps by paratroopers or amphibious landing. Such an attack could well come from Cuba. If the Cubans can operate in force in Angola, then certainly they can mount a surprise assault on the Panama Canal. And once they take over physical possession of the canal, our defense "right" would have largely disappeared.

Once the Cubans were in possession of the canal, would America really be prepared to retake it in a contested amphibious landing? I wonder. But if our forces are already in place, if our defensive radar is working and our patrol planes are on station out of an American air base near Panama City, then we can almost certainly deter any possibility of such an attack well into the future, or, if it did come, wipe it out.

So I would propose, again in the main treaty, that we require that our right to defend the canal involve at least one United States military base in Panama, including an airfield. We have 13 or 14 in the Zone already. There is no reason under the sun, if the treaty really does give us the right of defense, why we should not retain at least one U.S. defense base. It would not be American soil, of course; it would be Panamanian soil. And we would be there under treaty to aid in the canal's defense. So the Panamanian flag could fly over the field, just as the Spanish flag now flies over our Torrejon base in Madrid. But anything less than that would make a sham and a mockery of the whole pretense of American defense rights.

I realize, Mr. Chairman, that these reservations would require reopening the negotiations. But let me point out that this would never have been necessary had the negotiators made a serious effort to listen to the American people and the Congress before they began their negotiations rather than after they had concluded them.

With these reservations the treaty is of course not quite as generous to the Panamanians as in its present form. But after all, we are promising to give them not only the canal, but to pay them generously, perhaps too generously, for taking it away. Surely in return for all these sweeping and expensive concessions, it is little enough to ask that we have a realistic and meaningful right to protect and defend something we built and have kept in operation. The American people were led to believe that that right

was actually contained in these treaties. But somehow it just never managed to get written in.

It is up to the Senate and the House to see that these serious omissions are corrected.

NEW WORLD LIBERATION FRONT: CALIFORNIA TERRORISTS EXPAND TO COLORADO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. McDONALD. Mr. Speaker, with the explosion of a bomb at San Francisco's War Memorial Opera House shortly after midnight on September 9, 1977, the New World Liberation Front—NWLF—which is composed of fugitive members and supporters of the Symbionese Liberation Army—SLA—continued its "bomb-a-week" program of revolutionary terrorism in California.

Phone calls to television station KTVU and to the Associated Press in San Francisco shortly after the explosion directed news reporters to copies of yet another communique, this time from the NWLF Tom Hicks unit. Apparently unaware of the fact that cultural activities are enjoyed by people from a wide range of economic sectors or that opera houses and concert halls have large numbers of inexpensive seats, the communique was in the NWLF's broad ranging "popular struggle style" which attempts to link the terrorism to key radical causes in the area.

Directing the opera house bombing against "the ruling rich," the communique stated in part:

As long as poor people are forced to live in unsafe, unhealthy housing, ruling class social sections will be threatened. * * * This country was built by our labor, yet the rich without a callous [sic] on their hands were and are the ones who reap the profits. We don't need these rich parasites controlling and stealing our labor. We know there won't be this mass suffering, this gross injustice when the rich are removed from power by force and the American people are in control; in control of production, control of all the lives.

The terrorist message continued:

We must take steps to prepare to fight these rich vampires and get their greedy fangs from our throats. Basic human rights will not be given by these blood suckers but rather must be taken by force.

After more rhetoric in the archaic revolutionary style now used only by such Maoist groups as the Revolutionary Communist Party, the NWLF Central Command then threatened to "escalate" its terrorist actions unless its three broadly stated demands were met:

1. An end to the kicking out of all poor elderly people from their homes and communities to serve the interest of big business and their blood money.

2. Bring all sub-standard housing up to fire health and safety codes without an increase in rent.

3. Bring the International Hotel up to code—the tenants to return home without a rent increase.

As a note of explanation, the "International Hotel" is a decaying building in San Francisco whose owners, the Four Seas Corp. of Thailand, have evicted the former tenants. The eviction resistance, which took many months of court disputes, also included rent strikes, sit-ins and rowdy confrontations with police in which many San Francisco Bay area radical and revolutionary groups participated.

California leads the Nation in terrorist incidents, with 378 bombings during 1976. A large proportion of the terrorist bombings in California have been claimed or attributed to the NWLF which has generally made one major bombing attempt each week.

The New World Liberation Front of the Symbionese Liberation Army generally uses a high power plastic explosive called "Tovex." Some 2,000 pounds of Tovex explosive were stolen in 1975 from a quarry in Felton, Calif. More than three quarters of that amount is still unaccounted for.

The NWLF terrorists received national attention on September for its placement of a massive dynamite and Tovex bomb at the Pacific Union Club on Nob Hill in San Francisco across the street from the Fairmont Hotel. Had the device fully detonated, there would doubtlessly have been extensive structural damage to the club and hotel with a high probability of loss of life and personal injury. Also on September 1st, a small bomb exploded in a rest room at the private Olympic Club, but caused only minimal damage. The NWLF's Lucio Cabanes Unit, named after a Mexican Marxist-Leninist terrorist killed in 1974, stated in its communique that it had attacked hotels that "cater to the rich." The terrorist group then called on its supporters to also engage in acts of sabotage and disruption: none followed.

On August 29, the city of Sausalito was plunged into darkness when three NWLF pipe bombs destroyed the Pacific Gas & Electric substation serving that area. The explosions combined with a prolonged heat wave in northern California produced continuing brownouts. The NWLF's Eugene Kuhn Unit demanded in its communique that the PG&E utility "stop bleeding the poor."

Just before midnight on August 24, the NWLF partially detonated a large bomb in the driveway of the home of the former owner of the International Hotel, Walter Shorenstein. This explosion marked the NWLF's return to "community issues" such as the International Hotel, while the group's July and August bombings had generally been targeted against the Coors Beer Co.'s distributors in California. These bombings included the following:

August 23—a dynamite and plastic explosive bomb partially detonated on a boxcar on a siding at what the NWLF thought was the Coors distributor in Hollister. However, the distributor had moved a week earlier and the NWLF did not claim the explosion since the mistake showed the allegedly "infallible" terrorists had "bad intelligence."

August 17—a bomb thrown over a fence exploded at the Coors distributor in Auburn, Calif., with little damage; a second bomb placed by the Lucio Cabanes Unit of the NWLF at the Nevada City Coors distributor misfired.

August 7—a typical NWLF bomb exploded at the Coors distributor in Aurora, Colo. It is interesting that the communique concerned local Colorado issues and was dryly intellectual after the style of October League—Communist Party, Marxist-Leninist—pronouncements on labor disputes concerning the Coors brewery. The bombing was claimed by the NWLF's previously unknown Ludlow Unit, named after the 1914 Ludlow massacre that developed from a labor dispute between a Rockefeller-owned company and the United Mineworkers of America.

July 27—an attempted bombing of the Coors distributor in Susun City, north of San Francisco. This time the NWLF's primitive fuse failed.

July 14—the NWLF Lucio Cabanes Unit detonated a pipe bomb taped to a 350 gallon propane tank at the Coors distributor in San Jose, Calif. Blown off its cradle, the ruptured tank careened about the parking lot destroying parked cars and smashing tiles off the building's walls. Providentially none of the employees were injured.

The New World Liberation Front is an example of a U.S. revolutionary terrorist group whose members could have been apprehended had law enforcement intelligence units on the local and Federal level been able to develop the appropriate informants among the overtly revolutionary groups that preceeded the NWLF/SLA like the Venceremos Organization and the local Vietnam veterans against the war group, as well as among the groups recruiting violence-prone prison inmates to revolutionary causes.

NATIONAL LUPUS WEEK

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. LLOYD of California. Mr. Speaker, we are concluding the first National Lupus Week today, and I would like to share the comments of Dr. Alfred Steinberg of the National Institutes of Health.

Dr. Steinberg is among the leading researchers into lupus. He recently stated:

Advances in immunology allow us to better investigate the mechanism by which different factors interact so as to predispose persons to lupus. However, additional research efforts are necessary to better understand the disease so that we can prevent it and, in the meantime, develop a more comprehensive and effective approach to the care of patients.

Systemic lupus is a chronic, multisystem disease involving the kidney, lung, heart, or brain, which is disabling and often fatal.

Only $1 million of the $175 million budget of the Institute of Arthritis, Metabolism, and Digestive Diseases at NIH is allocated to lupus research. Additional moneys allocated to lupus at

other institutes raise Federal spending to $3 million in this field, or $6 per known lupus victim per year. Considering the prohibitive costs of lupus medications and the loss of productivity in persons suffering from lupus, this expenditure is insignificant.

The goals of Lupus Week are to focus attention on the problems and needs of lupus victims and to create an increased awareness of the disease.

UNICEF—CORRECTION PLEASE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. McDONALD. Mr. Speaker, as the time for the approach of the Halloween goblins grows nearer, it is well once again to take critical notice of the defects of UNICEF as opposed to the propaganda that is given our schoolchildren each year. An item that appeared in the Review of the News on September 14, 1977, does this very well and I include it for the thoughtful consideration of my colleagues.

The article follows:

CORRECTION, PLEASE!

Knocking the United Nations is an effortless indoor sport. The jobbery, the inefficiency in which posts are filled on a ratio of national origin and the once-in-, impossible-to-fire, practice are all too evident in the U.N. But what this ignores, in the opinion of one observer, is the work of the U.N.'s related agencies. Some of these agencies have been bogged down in Third World politics. There is one, however, that has set a high and consistent goal and has become a shining light in all the dark places in the earth. It is the United Nations International Children's Emergency Fund (UNICEF).

Correction: Mr. Childs ignores a venal flaw in U.N.I.C.E.F. which more balanced observers have pointed out repeatedly.

Fifteen years ago a number of Roman Catholic leaders stopped supporting U.N.I.C.E.F. Their position was ably stated by Msgr. Edward J. Goebel of Milwaukee: "Our opposition to the UNICEF program was based on the protest of several of our former Catholic Army chaplains who maintain that UNICEF proceeds were not contributed to youth in need, but rather that they were taken up by the Communists in the [Communist-controlled] countries." What this means, as any refugee from a Communist dictatorship will tell you, is that food and aid are so controlled that one either submits to his Communist masters or he starves! The Reds use food and medicine as weapons.

A letter criticizing U.N.I.C.E.F., by an informed and irate woman named Harriet Rubin, appeared in the New York Times for November 27, 1975. Mrs. Rubin wrote: "India has been one of the chief beneficiaries of UNICEF funds. While the children of that country continue to starve in the streets of their cities and villages, India uses its meager resources to develop and build an atomic arsenal. Another nation receiving UNICEF funds, Cuba, prefers to use its resources to export revolution to Angola, where it has sent a 3,000-man force in support of a Soviet-backed army. This was reported in the Times of November 21. North Vietnam continues to be one of the chief beneficiaries of UNICEF funds. However, that nation has always put such restrictions on the monitoring of how the funds are spent that no one outside of that country really knows if the children there benefit at all . . . From the evidence it would seem that those who contribute to UNICEF actually allow many of the receiving states to divert their resources from helping their own children to military and aggressive ends."

The truth of Mrs. Rubin's criticisms have been confirmed by no less an authority than U.N. Secretary-General Kurt Waldheim. Here are excerpts from a story released by the Religious News Service in April 1975: "In a Rome interview with the New York Times, Waldheim appeared to confirm reports that the Communist administrators in Vietnam are interested in U.N. assistance, but that they would insist on controlling the distribution of food, medicine, shelter, and other assistance the United Nations is now gathering from available stockpiles for transport when arrangements are made. In all other situations, UNICEF, the refugee agency, and all other UN organizations have always insisted on controlling the situation on the ground.

"UNICEF officials in New York acknowledge that this has not been the case in their dealings with the Vietcong, North Vietnam, or the Khmer Rouge rebel forces in Cambodia. In these areas UNICEF merely arranges for the types of material requested by those authorities to be shipped to Hanoi. From there on, the goods go into the field without any further UNICEF control over it." Keep this in mind the next time you hear U.N.I.C.E.F. propagandists claim that it carefully monitors the use of its funds.

Reports continue to come out of the newly enslaved countries of Indochina describing the mass murders and atrocities by Communist overlords, yet U.N.I.C.E.F. callously supports the slavemasters. In fact, a 1976 U.N. report recommended giving millions more to "resettle" eight million persons, more than one-third the population of conquered South Vietnam. What this amounts to is the support of terrible atrocities. The whole world now knows that "resettlement" in Cambodia, for instance, involved forcing millions of persons, including all the hospital patients, from the capital city of Phnom Penh into the countryside to die of thirst and starvation while they were being worked to death.

Congressman Don Clausen (R.-California) expressed the total disgust felt by many Americans at U.N.I.C.E.F.'s schemes to finance the Communist butchers in Indochina. As he puts it: "Such gratuity on the part of the UN is absolutely ludicrous . . . . What we are witnessing, as I see it, is a world body rewarding aggression, rewarding the killing and torture of . . . civilians and prisoners of war, and rewarding the kind of UN lunacy in which the Communists rejoice."

Trick or treat for U.N.I.C.E.F.? Celebrate the birth of Christ by using U.N.I.C.E.F. greeting cards? No thanks, not me. I can imagine few actions that would be more immoral.—W.E.D.

OMAR AND FIDEL: FRIENDS TO THE END

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. DORNAN. Mr. Speaker, these days there is a lot of propaganda emanating from the State Department in regard to the Carter-Torrijos canal treaties. One of the more ludicrous assertions of the State Department is that Panamanian strongman, Omar Torrijos, is not really alined closely with Cuban dictator, Fidel Castro.

I quote from a State Department memorandum of September 19 which recently arrived in my office:

Panama's relations with Cuba and the communist countries are not close; neither the Soviet Union nor China maintains embassies in Panama.

I suppose that the State Department thinks that the Congress and the American people are not aware of the vast size of the Cuban diplomatic delegation in Panama City—larger by far than any other delegation. I suppose that the State Department thinks that the Congress and the American people are not aware of the recent signing of economic treaties between Panama and Cuba's patron and banker, the Soviet Union.

Be that as it may, the State Department will be hard put to warp its propaganda around the latest bit of information about Torrijos' true attitude toward Castro.

This information is not from some mere "reliable source" close to Torrijos—it comes straight from the man himself. And that is why I think the State Department will have a hard time explaining away this little embarrassment.

No sooner had Panama's military strongman, Omar Torrijos, left the United States after signing the treaties and hugging President Carter, than his thoughts turned to his friend and ally, Fidel Castro. While Torrijos' plane was enroute from Washington to Panama, he and Castro exchanged cordial telegrams. Diario Las Americas reported Torrijos' message to Castro as follows:

As I return to my homeland and am flying over the sky of Cuba I salute you with everlasting friendship. It is my desire that the Cuban people, under your certain direction, will continue their upward march toward progress.

In Latin America your name is associated with sentiments of dignity that have been channeled toward the termination of all vestiges of shameful colonialism.

OMAR TORRIJOS.

Within minutes, Torrijos is reported to have received a cordial reply from Castro, the text of which was not made public.

Now, I do not know how much this telegram lost in Library of Congress translation, but it must have been a heck of a lot if it reflects the State Department's opinion of what is not a "close relationship." I look forward to the next bout of State Department verbal contortions when it tries to explain away the two telegrams.

OUR GAME OF RUSSIAN ROULETTE

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. MILFORD. Mr. Speaker, I think everyone knows how to play the game of "Russian Roulette." One simply loads up the cylinder of a revolver with deadly bullets in all cartridge holes except one.

You then spin the cylinder and, without peeking, point the pistol to your own head and pull the trigger.

If you are lucky, this is a fun game. However, only idiots participate. Rational people know that deadly weapons should be used only for protection and furthermore, they are used only when one is forced into using them.

Any professionally trained protector, whether a soldier or a policeman, will tell you that when you are forced into a fight you must use every weapon possible and with enough force to insure success. One would never use a pistol loaded for a game of Russian Roulette in a real fight. The professional soldier or policeman would not only want all bullets in the gun, but also all possible types of guns that might be needed.

This Nation may be entering into a game of "Russian Roulette" in carrying out our national defense policies. One of the bullets in our defense gun is being withdrawn—the manned bomber.

I am deeply and increasingly concerned over the current trend which seems to downgrade and, in fact, at times ignores the vital role that our strategic bomber force plays in preventing the Soviets and others from involving us in armed conflict.

One big reason people do not understand our strategic defense needs is that we have gotten tangled up and confused by focusing on such high sounding words and concepts as TRIAD, throw weights, megatons, and by bean counting warheads, ICBMS, SLBMS, MIRV'S or what have you. This fancy numbers and exotic word game serves only to obscure the very real need this Nation has for a modern strategic bomber force.

What must be brought out loud and clear and reiterated, is the very simple, yet most important, effects the bomber fleet has in keeping the Soviets from gaining an overwhelming, upper hand over us.

To understand this, we need first to consider the nature of the Soviet people. This is more important than many people realize. Unlike us, the Soviet nation has been brutally invaded on many, many occasions throughout history. The Poles, the French and—twice in this century—the Germans, among others, have invaded Russia. The Russians have, and understandably so, developed a strong national inclination to prepare against any kind of military force that can deliver the fight to their homeland. In contrast, we in the United States do not have this same preoccupation for strong defensive forces. Quite the opposite—our view is essentially that the best defense is a strong offense. Carrying a bigger bat than the other guy has worked so well for us that we spend very little, for example, on air defense forces. Meanwhile, the Soviets ring their boundaries and cities with SAMs, radars, and a huge fighter interceptor force.

In the past we have always maintained and planned a sizable manned bomber force that could strike anywhere in the Soviet Union. It was this bomber force strategy which forced the Russians, by nature and necessity, to direct massive resources to defend their air space. They dreaded the thought of an aerial invasion just as much as they feared a land assault. Their historical experience drives them to prepare and pay heavily for strong defenses against this potential invader.

We need to fully appreciate and understand what this means to us today, and, second, why it is vitally important that we continue to have a strong, modern manned bomber fleet.

The Soviet Air Defense Force has over 550,000 military personnel—about the size of our entire Air Force—580,000. Their strategic air defense includes over 12,000 expensive surface to air missiles—we have none; they have bought and must man 6,000 radar sites, and they have over 2,000 strategic air defense interceptors. The cost to develop, deploy, and update these forces—devoted solely for home turf—has been and continues to cost the Soviets billions.

If we do away with or deemphasize the strategic manned bomber, we will then allow the Soviets to divert these huge resources from homeland defense to building and expanding their offensive systems—their submarines, warships, armoured vehicles, intercontinental bombers and missiles.

We could come full cycle: From being unquestionably superior; past our present day, so-called equal situation; to a complete reversal—with the United States not able to negotiate on an equal basis with the Soviets.

Obviously, then, it is vitally important that we force the Russians to continue using large parts of their military budget for defensive purposes instead of having all their rubles go to offensive weapons.

A second factor in the Soviet makeup that we need to take into account is that the Russians respect size and strength. This factor is especially valuable if you can make it highly visible and impressive when the going gets tough. Our ICBMs are underground. They are out of sight as are our underwater based submarine launched ballistic missiles. These missiles are, therefore, most important but they are not very visible—at least not until after they are fired out of their silos and tubes.

The manned strategic bomber, in contrast, lends itself to reflecting national resolve and intent short of going to war. We have in the past flexed our strategic bomber muscles—and most successfully. When the Strategic Air Command took to the air in round-the-clock airborne alert during the Cuban crisis, the Soviets got the message. They backed down.

The same thing happened during the Israeli crisis when the number of strategic bombers on alert was rapidly and dramatically increased. A hard message of seriousness of purpose and resolve on our part was heard around the world. Again, the Soviet bear looked at this very visible, very credible bomber force and pulled his claws in. He knew we had our ICBM's and submarine missiles but it was the bombers that delivered the message.

Our Strategic Air Command has about 450 bombers: 60 of them are relatively new FB–111's. The vast majority have seen 16 to 19 years of service; the older ones have been around for over 23 years. The B–52 fleet is clearly aged in time and technology and is obsolete.

True, we are going to deploy the new air launched cruise missile—the ALCM—but we need to understand and the American people have a right to know that the ALCM, as good as it is, can never be a substitute for the manned bomber.

The ALCM can certainly hit the targets it is programed against but it cannot be recalled once launched; it cannot report the damage it has done to a target; and the ALCM cannot withhold on a high-priority target that may have already been hit by an earlier weapon.

Likewise, the ALCM cannot be reused; cannot conduct search and destroy missions against targets that may have avoided prior detection; nor can the ALCM, with its range of 1,500 nautical miles—and that is optimistic—strike all targets in Russia. Finally, the ALCM is not combat tested as have been our bomber crews and aircraft. Do not forget that our bombers have never been turned back from striking any target by any enemy; and the Soviets know that.

If we let the ALCM take preeminence over the strategic bomber—and we are headed that way—we are disrupting the balance of land-based ICBM's, sea-launched ballistic missiles, and manned strategic bombers. This mix of forces has proven entirely successful for the last three decades and we need to be very hesitant when we tamper with it.

Worst yet, we are playing right into the Soviets' hands. With no new bombers in sight, the Soviets can concentrate solely on missile defense against the ICBM's, submarine missiles and cruise missiles. Technological breakthroughs could decrease or eliminate the worth of all missile-oriented offense force.

Likewise with their defense proposition simplified—no new bomber to think about—the billions of rubles that have been spent to improve, expand, and modify air defenses could now be directed to expanding their offensive forces. The Soviets could easily and rapidly overshadow us in the manned bomber arena which has, until now, been the one place we had a decisive, powerful edge.

We also need to recognize that missiles—ICBM's, SLBM's, and ALCM's—can only be brought to bear in a nuclear exchange. This is not so for the bombers. One reason we must have a modernized bomber fleet is to give us solid strength for confrontations short of a nuclear war. Bombers can be used in the so-called "brush wars."

We do not know what nonnuclear actions the Soviets or their satellites might contemplate. We do know from experience they will push and shove anytime they have an advantage. A modern bomber force which can deliver concentrated loads of conventional, nonnuclear ordinance provides a healthy incentive for the Soviets and their associates to limit their pushing and shoving to the negotiating table and not take to the firing line.

Rightfully or wrongfully, the B–1 is down the tubes and the B–52 cannot go

on into the 1980's and the 1990's as a viable weapons system in today's high technology air defense systems. We must, therefore, for the safety of the Nation and in the interest of peace for the world move forward, without delay, to fill in the ever-widening gap.

Three years ago, I suggested a stretch version of the FB–111 as a possible, and less expensive alternate to the B–1. The Air Force was not very interested because the B–1 looked better than before cost increases and delays drove it out of sight. In today's changed circumstances I believe we should reexamine the less costly FB–111. I submit that we need to get a reasonable program underway to verify without undue delay whether or not a stretch version of the FB–111 can meet our needs. If so, let us get it. If not, let us move out to find an airplane that will, for we simply cannot afford to let the strategic bomber force deteriorate.

The very well-being of the Nation is at stake—ICBM's, SLMB's, ALCM's, and all other alphabet soup missiles are fine but they cannot replace the strategic manned bomber. A new bomber can and must be brought into our strategic inventory. Otherwise the Soviets are going to be in a position to club us into going their way—and they have been known to do just that. Ask Czechoslovakia, Hungary, Poland, and a few others.

I reiterate; a strong, modern manned bomber force is a vital cornerstone to our Nation's safety and a new manned strategic bomber is needed to keep that strength. We must remember and understand that it is that weapons system—the bomber—which forces the Soviets to divert their arms spending to defensive systems; lets us demonstrate our seriousness of purpose and resolve; and gives us options and capabilities, nuclear and nonnuclear, that no missile can provide. The strategic bomber is indeed the kingpin to deterrence and the prevention of war. We need it now and in the future.

Mr. Speaker, as stated earlier, "Russian roulette" is a game played by idiots. I hope we will not become a player.

SENATE—*Saturday, September 24, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

The PRESIDING OFFICER. Our prayer this morning will be offered by the Reverend JOHN C. DANFORTH, a Senator from Missouri.

PRAYER

The Reverend JOHN C. DANFORTH, a Senator from the State of Missouri, offered the following prayer:

Let us pray:

O God of history, throughout the centuries You have made Your presence known in the events of Your creation. In the fullness of time You came into the world You made to be with us and to redeem us. To each of us You have given our allotted time on this Earth, and You have entrusted us with responsibility for the faithful discharge of Your stewardship. Be with us now in all our actions that our days may be wisely spent in Your service, and that our time on Earth, not squandered in useless folly, may be dedicated to Your honor and glory, so that at the last day, when we must answer for our actions, we may be found worthy of Your eternal kingdom. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 24, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Friday, September 23, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO SENATOR DANFORTH

Mr. ROBERT C. BYRD. Mr. President, I personally want to commend our colleague, Senator DANFORTH, on his delivery of the prayer this morning. It was a very appropriate prayer, and I think that we, his colleagues, can be exceedingly proud that Senator DANFORTH performed so nobly in the offering of this prayer.

Mr. BAKER. Mr. President, I join with the majority leader in commending our colleague, Senator DANFORTH, for his opening prayer.

I was struck by the appropriateness and the uniqueness in the reference of the introduction by the distinguished Presiding Officer to Rev. JOHN DANFORTH, the Senator from Missouri. He serves with distinction in both capacities.

I have no further need for my time under the standing order, and I yield it back.

LIGHTING IN THE CHAMBER

Mr. ROBERT C. BYRD. Mr. President, I like the additional light that comes from above at this moment, and I hope there will be no cessation of this light throughout the day. [Laughter.]

Mr. BAKER. Mr. President, if the majority leader will yield, it was not providential but rather my request to the distinguished Sergeant at Arms to demonstrate this new facility to some of our colleagues who have not yet seen it and noticed it.

While I first related it to the benediction offered by our colleague, Senator DANFORTH, I see from the smiling countenance of the Sergeant at Arms that he instead claims full credit. [Laughter.]

Mr. ROBERT C. BYRD. Well, now, Mr. President, I think I would have to say that I am not entirely persuaded by my distinguished colleague and friend, the minority leader. God works in mysterious ways his wonders to perform.

Mr. BAKER. We are off to some start. [Laughter.]

Mr. TOWER. Mr. President, if the Senator will yield, I hope the Sergeant at Arms will be instructed to keep the rheostat up higher today.

Mr. ROBERT C. BYRD. I yield back my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business to not extend beyond 9:30 a.m. with statements limited therein to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed subsequently in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no desire to proceed at this moment other than to try to clarify the situation for the day and to see how we might proceed.

I ask the Chair to state the pending business.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2104, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, I take the floor only to see if we can get some insight into how the day may progress.

Will the Chair now state for me the pending question?

AMENDMENT NO. 1023

(FORMERLY UP AMENDMENT NO. 848)

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. BAKER. I believe I am correct that that there is no time limitation or other unanimous-consent order affecting the disposition of this amendment. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr BAKER. Mr. President, I ask my colleague and friend, the majority leader, if he can give us any advice on how he would expect the day to proceed.

Mr. ROBERT C. BYRD. Mr. President, this is one of those very unpredictable days, as any Saturday can be, when the Senate is not operating under a unanimous-consent agreement or under cloture.

Tabling motions are in order at any time. There could be a motion to table the Kennedy amendment. There can be votes. There can be motions to reconsider the votes, there can be points of order, and there can be appeals, any of which can result in rollcall votes. If the Kennedy amendment were to be disposed of, there could be a tabling motion on the Jackson amendment or there could be a vote up and down on these amendments. There can be perfecting amendments offered to the bill and votes can be had on those amendments in the second and first degrees.

So there are all kinds of possibilities for rollcall votes today.

On yesterday there was considerable discussion to the effect that some divestiture amendments might be offered, and the bill is open to such amendments at this point.

I hope that the Senate today will seriously consider those amendments and other serious amendments to the bill. I hope that is a good possibility.

In sum, I simply say that there is a good possibility that the Senate can make progress today. Progress may be slow. Rollcall votes are very likely. I expect them.

I hope that the Senate can make progress until the hour of 5, 5:30, or 6 p.m.

Mr. BAKER. Mr. President, I thank the majority leader.

Mr. President, I have no debate at this point, and no amendment or other motion to offer.

I understand the distinguished Senator from New Mexico wishes the floor. I yield the floor at this point.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, as we enter into this unusual Saturday session, it is important that we continue to be sure that we examine the basic foundation of energy supply upon which this country stands and which it will take well-considered policy to tap.

It is safe to say that the basic facts are that in the short term this country will be absolutely dependent on supplies of oil and natural gas to run its very broad and multifaceted economy.

If we did everything right and by the wisdom of this Congress and the wisdom of the executive branch we determined a method by which we maximize the supply available to this great country at the minimum possible price and then established policy to bring on other forms of energy as rapidly as possible, we would still find ourselves greatly dependent on oil and natural gas to run our economy for many years to come, very probably sufficiently dependent until the end of the century, so that we could not afford major interruptions of supply if, in fact, our dependency on foreign supply remains as it is today or even at a fraction of what it is today.

If I had my way and the ideal world could be established, we would see in the short term as rapid an increase in the availability of domestic natural gas and domestic crude oil as is humanly possible, we would see in the intermediate term a rapid increase in our utilization in environmentally sound ways of this Nation's vast reserves of coal, and we would see in that same time frame an increased utilization of geothermal energy, particularly in the Western United States, and an increased utilization of dispersed solar energy for the heating and cooling of homes and for the supplying of processed heat for agriculture and other comparable industries.

We would then see in the long term, through research and development, established data, and accelerating as rapidly as our human and financial resources make possible, the creation of inexhaustible sources of energy. Those sources, I believe, are going to be largely in the areas of fusion power, concentrated use of solar energy to produce electricity, and high temperature thermal energy.

At the same time, through research and development, we must create an ultimate substitute for the portable fuels, oil, and natural gas, that we use today; and that substitute almost certainly will be the gas hydrogen. Based on everything that is known to the engineering and science of today, hydrogen appears to be the portable fuel of the future, the fuel that will drive our automobiles and our airplanes, will fuel our homes, will provide means by which we take energy from one point of creation to another point of use.

But that bright time in the future—sometime early in the next century, if we do everything right—is not yet with us. It is going to take decisions in this Congress and in the next, wise decisions, hard decisions, just to establsh the framework and the time schedule by which fusion, solar energy, and hydrogen become available to the future generations of Americans.

In the meantime, we are faced with the decisions of how to buy time so that we can survive as an economy and as a nation into the next century, through the use of coal, geothermal and dispersed solar energy, and conservation. Immediately, we must find a way to survive the present. It is on this point that this debate on natural gas is focused. It is focused on the question of how to relieve our dependence on foreign supplies of crude oil and prevent our becoming dependent on foreign supplies of liquefied natural gas.

It has been the contention of the opponents of the deregulation of new natural gas that the most rapid way to produce new supplies of natural gas at minimum or zero increase in cost to the consumer is to deregulate the price of new natural gas. In doing so, the incentive is given to the vast resource of American ingenuity and industry that we have available to us to go out, study, explore, drill, and produce new gas. At the same time, the impact of the increase in price of that new gas is minimized, because we retain the control of prices on old natural gas, and as the new gas comes on line, it is, in real effect, diluted in its impact by the existence of vast amounts of old gas now flowing in the pipelines.

Individual judgments and economic models differ on just what the effect of deregulation will be. But I think it is clear that that effect will be temporary, if the history of mineral economics has anything to tell us, because, as the price of new natural gas rises and an increased supply comes on line, two things will happen: One is that other sources of energy will begin to become more and more competitive with natural gas, and conservation of natural gas will result. The other is that the supply will increase and reincrease, and the producers and sellers of natural gas will find that demand for larger and larger supplies becomes less and less, and they will be forced, as they have been in Texas already, in an uncontrolled intrastate market, to contract at lower and lower prices,

the most recent prices in Texas being about $1.60 per Mcf and going down.

Mr. President, that is the way mineral economics in all areas of a reasonably free economy have worked in the past, both domestically and, in the last 50 years or so, internationally. It is the way that the proponents of deregulation believe it will operate in the case of natural gas. There is no known reason why it would not work that way, and all historical precedents demonstrate that it will.

The opponents of deregulation contend that there will be a very large increase in price very rapidly, and that the consumers of natural gas will have to bear an unreasonable burden as a consequence of that increase in price.

As I said before, the rate of increase in price, the rates at which it will impact the consumer, and the degree to which it impacts the consumer, are matters of judgment and economic models.

Those economic models for which I have most respect, including the MIT group, the Gas Committee, and others, suggest that that impact will be very small. Others that the opponents of deregulation have great respect for suggest the impact will be very large. It is in the judgment of this body that the American people now must put their faith.

The vote we had the other day on the motion to lay on the table the Pearson-Bentsen deregulation amendment suggests that the judgment of this body will be to provide deregulation. How that judgment will fare in the negotiations in conference with the House of Representatives is still an open question. However, it is this Senator's belief that at the very least we will reach a compromise with the House, as we must, because the Nation needs this energy legislation, and some form of, possibly, scheduled deregulation of new gas may be the final answer. But at this time the Senator from New Mexico, a natural gas producing State, believes that a strong Senate position on deregulation is absolutely necessary.

Mr. President, one issue that, for some reason, has been consistently deemphasized on this floor by the opponents of deregulation is the issue of the environment. Natural gas is undoubtedly among the presently economic energy sources, the most environmentally acceptable that is known to mankind. It is clean, it burns with very low waste. That waste can be made almost zero if it is used in fuel cells, a new technology developed by the space program. However you look at it, natural gas is one of the most desirable of environmental fuels. It is strange to this Senator that those who have consistently and, I think, for the most part correctly, championed the views of environmentalists are, today, found on the opposite side of the question. They are found on the side of the question that would minimize our ability to increase our utilization of natural gas until other environmentally acceptable energy sources are available, such as solar infusion and hydrogen. They are found on the side that would, by so limiting our use of natural gas, increase the use of coal, increase the use of crude oil, decrease the incentives for conservation.

In the use of coal, we shall find increased need for strip mining, increased need for polluting the atmosphere, because, even with the vast increases in environmental technology over the last decade, coal still is not a clean fuel. Hopefully, it will be before the end of this century, but it is not yet. Crude oil, although not as bad as coal, still provides a great deal of environmental damage. So, I do find it strange and inconsistent if not hardly in the national interest, to find the opponents of deregulation arguing basically against an increase in supply of the most environmentally acceptable of fuels, natural gas.

Mr. President, there are many fallacies, from this geologist's point of view, in the discussions that we have had to date. Certainly, one of the most onerous of these fallacies is the statement that there is no natural gas to be found through deregulation. Once again, Mr. President, I submit that that is just not so. Study after study has indicated that it is not so. Just simple logic should convince the opponents of deregulation that it is not so. There are tremendous areas of geologically favorable rock, tremendous volumes of this rock, that have yet to be explored, have yet to be examined as sources of natural gas; tremendously favorable areas, not just offshore, where we have hardly begun to look for natural gas and crude oil, but onshore, in basins that have not yet proved economic to drill; in the deep zones of basins where we have already found natural gas, where the present price on the interstate market does not permit drilling to the depths required.

Mr. President, there are some new events occurring in the geological profession, both in the science of and the research for natural gas. These new ideas involve the science of what is called stratographic traps and the technology of what is called "bright spot" seismic geophysics. Neither one of those expressions, probably, means very much to this body or to the people that will consider what we say here today and subsequently on this measure. But let me see if I can explain those two things—stratographic traps and "bright spot" seismic geophysics.

The stratographic trap represents a new idea in the last decade of how one traps natural gas within rock. To clarify this issue, let me begin by talking a little bit about the origin of natural gas and the origin of concentrations of that fuel in rocks beneath the earth's crust. Natural gas, like petroleum, is derived from the decomposition of organic matter, plants and animals, that are buried in the rocks gradually, through time, as geologic evolution of the Earth takes place. Trees, bacteria, and everything in between are buried as layer upon layer of rock is laid down through millions of years of time by the actions of water and wind.

As gas is evolved from the decay of this material, it migrates through the porous and permeable rocks that we have, not as rivers of gas or rivers of oil, but just as very slow movement of molecule after molecule, until it comes upon a barrier, an impermeable barrier of some kind. Historically, these barriers, the ones that we know about, were what are called structural traps. That is, these layers of rocks, like a stack of cards, through the motions of the Earth's crust, have bent into domes, for example. Within those domes, one of the layers may have been particularly impermeable, such as a shale or slate horizon, that most people are familiar with—very, very tight rock. Very little gas can migrate through those rocks.

When it encounters these layers through the dome, the gas begins to accumulate. Again, though, it accumulates in porous rock—not as a pool or river, but as gas dispersed throughout the rock.

At some subsequent time, a geologist, understanding the relationship of the trapping of gas beneath a shale dome, convinces his employer that it is worth the risk of capital and time and equipment and, in some cases, human life, to punch a hole through this shale horizon to see if there is any gas under it.

All of that costs money, and the deeper you go and the more uncertain the geologic judgment, the higher the cost and the greater the risk. Nine out of ten times, that hole is what is called a dry hole. They go through this favorable structure. They get beneath it, and nothing; at least, nothing economic. But on that tenth try, statistically speaking, a gas reservoir is discovered and the gas begins to flow into the well and eventually into the pipelines and eventually into the homes and businesses of America.

That was the traditional way. That was the way in which natural gas became the fantastically and, 25 years ago, the unbelievably cheap and abundant fuel that it was. Unfortunately, 25 years ago, the Government decided to hold it at a low price and not let the free market operate with respect to gas pricing. It became less and less profitable for the stockholders of various industries to drill for natural gas and produce more, and the reserves of natural gas began to decrease—particularly began to decrease in the early sixties.

Every one we produced, because of its cheap price, more and more increased use. The amount of reserves available to produce has decreased ever since.

Now, this new idea of stratographic traps appeared. This has to do with a systematically layered set of rocks without any domes, but where one of the layers, the shale horizon again, the layer of impermeable rock, overlies another layer of impermeable rock that has gradually pinched out, stopped, until one layer of impermeable rock has another that comes up to it and stops.

So that between those two layers there is another trap, one which cannot be seen as a structural trap, but nonetheless is just as real and is just as favorable for the production of natural gas.

Those stratographic traps are much more difficult to interpret and find, be-

cause the geologist must look through the three-dimensional layers of thousands of feet of rock, using his mind and his training to decide where that drill-hole should be put in order to discover the gas.

It is a very difficult problem and one of the reasons that only 1 out of 10 holes is successful in drilling for oil and natural gas.

However, enter technology and the other idea I mentioned earlier, that is the bright spot, seismic geophysics.

But to explain this I have to talk about one of my favorite subjects, the space program.

When NASA sent spacecraft to Mars with television cameras designed to send back pictures of that new frontier in space, we were faced with a problem. We were faced with a problem of a tremendous amount of noise in the signal coming back. That is, the pictures we got were extremely hard to interpret. There was so much clutter, electronic clutter, and noise, that not a great deal could be learned from those pictures.

A technique was developed to process those pictures using computers and digital computer technology so that one could clean up the pictures, that one could, by a process called amplitude enhancement, gradually pull out the real picture from this morass of noise.

The pictures we saw finally in the newspaper and in the books and on television of Mars in those early days were the pictures that have been produced by this technique called amplitude enhancement.

Also in the space program, because we needed extremely reliable electronics, we pushed the technology of electronics to the point where there was very low noise, very high precision in the development of signals by various components in the systems.

This technology of low noise electronics was adapted by the geophysics industry, as was the technique of amplitude enhancement. When these technologies were applied to the search for deposits. or for the structures that might trap oil and gas, it was discovered that by computer processing of the signals that one receives when an explosive charge is detonated at the surface, sounds from which travel through the Earth and are then received at a geophone somewhere else, that the processing of that signal could not only determine the differences between layers of rock, but could determine the differences between water, between gas, and between oil.

We could, in some favorable conditions, start to actually see, in an electronic sense, the existence of oil and gas trapped in rocks deep beneath the Earth's surface.

This has not been universally successful as yet, but it shows what technology is doing in increasing the size of the available reserves of natural gas and crude oil to this country.

If we in this country are willing to do what we do so well, use our technology and our science in order to solve a particular problem, then we have nothing to fear from the future. We can have large supplies of natural gas when we need them. We can have large supplies of clean burning coal when we need them. We can have inexhaustible energy sources in the next century when we need them.

The only thing we must do is be willing to apply ourselves and our technology to those ends. I have no doubt that we will eventually do this.

Whether we will take one of the major, but necessary, steps to do it today or next week with respect to the natural gas issue, I cannot say. I do not know whether we will do that. I hope very much that we will.

If we do deregulate new natural gas so the vast potential of American science and technology can be released to find an increased supply to avoid the crisis of supply experienced by consuming States last winter, then I hope we will also take another step in consideration of the next energy bill that we will consider. I hope that we will remember with compassion the mistakes our Government has made and the consensus of those mistakes.

The mistake was ever regulating natural gas, because when we regulated the price of natural gas at an artificially low level, people all over this country became dependent on this cheap, clean fuel.

They became dependent because it was cheaper than any other energy source that they could purchase. They were encouraged by Government and by public service companies throughout this country to use natural gas, because it was cheaper and cleaner than other fuel.

So, through no fault of their own, through the last 25 years the American people were led to believe there would always be vast reserves of cheap natural gas, all the while that those reserves were being depleted more and more, fewer and fewer new reserves being discovered, until we reached the point today where there is less than 10 years' supply of natural gas available at the consumption rate in 1976. Of course, as the consumption rate rises, that reserve would last us less and less time.

So the American people have been done a great disservice and with them the United States, as a country, and, with the United States, the world, in which we are the only protector of systems of freedom.

As we take the step which I hope very much we will, to deregulate natural gas so that supply will increase, and increase rapidly, so that the crises of last winter and the almost certain crisis of this winter will begin to disappear and within a few years not occur, I hope we also will realize with compassion that there are many people in this country, many consumers of gas, employees of industries that depend on gas, who cannot afford at this time to see an increase in price beyond what already has occurred. In many cases, it already has gone too far for them to afford it.

We must find a way in which, while we recover from our mistakes in the past that have destroyed our supply of natural gas, while we recover and create a new supply, those consumers who, through no fault of their own will have to pay higher prices, will have time for transition, either to new energy sources that are cheaper than gas or to a time when oversupply of natural gas once again has driven the price down to where they can afford it. I am not sure what that mechanism of relief for the American consumer is, but I feel that, as the Senate, we must find such a mechanism. It is the price that the country must pay for having made 25 years of mistakes.

Although it is in a different context—it is in an intrastate market—this morning's newspaper carries the story of Crystal City, Tex., which illustrates, more than any other story could, exactly what has happened to the American gas consumer. It illustrates why, with the compassion for which Americans are noted, we must find not only the means of increasing the supply of natural gas for the country as a whole, but also must find the means by which the consumer who cannot afford higher gas prices finds his way out of the morass that overregulation of the price of gas has caused.

Mr. President, I ask unanimous consent to have printed in the RECORD the article on Crystal City, Tex., which appeared in this morning's Washington Post.

There being no objection, the article was ordered to be printed in the RECORD as follows:

BIRTHPLACE OF RAZA UNIDA FINDS GAS SUPPLY CUT OFF

(By Bill Curry)

CRYSTAL CITY, TEX., September 23.—After more than two years of threats, court fights and a rigid refusal to pay higher rates Crystal City lost its natural gas today.

At 9:26 a.m. a remote-controlled valve, activated by reduced pressure and an $800,000 debt for back charges, closed itself and ended the flow of gas to this poor and predominantly Hispanic city of 8,107 in south Texas.

But so severe is the poverty here and so spare are the lives of many of those dwelling in it—and in whose name city officials refuse to pay increased gas rates—that even the cutoff of such a necessity had minimal immediate impact.

Along the rutted and unpaved roads that divide one family's shack from another's shanty. Carlos Lopez pointed to the front-yard faucet and garden hose that serves him and his wife with water and said, "I don't have hot water anyway. That's all I've got."

And for many of the elderly, living alone in their immaculately kept public housing duplexes, the loss of their gas was merely a return to the years of denial they experienced as field workers. "Long years ago we cooked outside, and when we went north they did not give us stoves either," said Benigna Aldava, 77, a former picker of grapes, cotton, celery and tomatoes. "We are used to it."

City officials reported no disruptions of municipal services, the schools had converted to electric stoves, there is no hospital here and the area's biggest employer, a Del Monte canning factory, has an independent gas supply.

So on a day with temperatures in the 90s and with the prospect of winter seemingly far away, city officials continued to blame their gas supplier, Lo-Vaca Gathering Co. of Houston, and the state government in Austin for their plight. Meanwhile, the mayor, the

city manager and a councilman met in Washington to seek help.

"A lot of the people still feel it's political," said Councilman Rudy Espinosa, who answered "definitely" when asked if his La Raza Unida party had alienated state officials and thus been unable to get state help.

For this area was the birthplace of the party, whose name roughly means "people together." In 1972, the party's gubernatorial candidate drew off enough traditional Democratic votes to nearly deny election to Democratic Dolph Briscoe who sits in the governor's office today.

Efforts to reach the governor's office for comment were unsuccessful.

Still, at the heart of today's cutoff was the nation's sharply increased energy costs and their impact on those of limited income. While the poor and the elderly have been strapped by those costs across America, it was here that the La Raza Unida-dominated city council drew the line and said no.

"We just don't have the means," said Espinosa. "We prefer balanced lives to balanced budgets. We had people who came in here and put down their welfare checks and still couldn't cover the gas bill," said Espinosa, referring to a brief period when the city did pass on the higher gas costs.

Lo-Vaca, which buys $100 million worth of gas a month for distribution to municipalities, industries and farmers in virtually the entire state, had contracted to supply Crystal City with gas at 36 cents for each 1,000 cubic feet. When costs incurred in obtaining gas rose, Lo-Vaca was granted higher rates by the Texas Railroad Commission, the state body that regulates common carriers, including gas pipelines. The rate is now more than $2 a thousand, and since early 1975 Crystal City has refused to pay.

By now the debt has risen to $800,000—$100 for every man, woman and child in one of Texas' lowest income areas. Per capita income is $1,616 a year, about half of what it is statewide.

Many residents here still pay $10 summertime gas bills and usually $20 in the winter. If the city were passing on the full cost of the gas those bills would be more like $50 and $100. Such bills would rival the monthly income of many of those living here.

It is generally agreed that without outside help the city has virtually no chance of ever paying off the debt. (Three other Texas cities also pleaded the hardship of poverty when rates were raised, but unlike Crystal City they put in escrow the difference between the old rate and the new, and their escrows now total $2.5 million.)

Many of the workers are migrant farm laborers, and the tilting one-room homes up on cinder blocks here makes this city look like an underdeveloped country. More fortunate are those able to get houses in the city's public housing complex.

There, residents were given an opportunity to buy electric hotplates for $25. But those people, who live on either fixed pensions or low wages, will thus face increased electric bills.

Pura Martinez, 27, and the mother of six, says she does not know what she will do about cooking for her children, ranging in age from 8 years to 2 months. Her double hotplate is clearly inadequate, and there is no oven. As a result, she expects to switch the children from meat, tortillas, beans and potatoes to "baloney sandwiches." Her husband, Raoul, is a migrant field worker now in Wyoming. Their income is about $5,000 a year, and they pay $48 a month rent on their four-bedroom public housing duplex.

Mrs. Martinez blames local officials for the gas cutoff, even though she does not know how she would pay higher costs.

Benigna Aldava takes an opposite view. She blames Lo-Vaca and state officials and says "Lo-Vaca should rot with its millions." And as a group of visitors leaves her tiny home, she calls out, "Viva Crystal City! Always! Arriva!"

Mr. SCHMITT. Mr. President, the situation in Crystal City is not entirely analogous to the situation we face in the country as a whole, but it does represent what can happen when people become dependent on supplies of a commodity at a price that is far below the true value of that commodity.

I do not know what it is going to take for this country eventually to recognize that we live in a world of resource economics, whether it has to do with agriculture or with mining or with oil and gas production. However, we must very soon wake up to some fundamental economic facts, the most fundamental of which, in the context of our discussions on natural gas, is that you cannot forever have a free lunch, you cannot forever pay less than the worth of a product. If we do not learn that lesson, then the petroleum and natural gas crises will just be the first of many crises that we will face. We, as a Nation and as a world, will be buffeted by crises of commodity supply.

At the present time, it probably is not known to most Americans that, in addition to being dependent on foreign sources for 50 percent of our oil supply, we are dependent on imports of a large number of metals essential to our modern civilization, to our modern way of life, and those metals come largely from abroad: manganese, cobalt, nickel, copper. It is a very long list.

I am afraid that unless we find a way to deal with this type of issue, both through the encouragement of the identification and availability of domestic supply, where that is possible, and the encouragement of international institutions, so that all people have assured supplies of these important elements and commodities, we will find the final breakdown of our civilization.

I am not a pessimist, Mr. President. I have seen us work out these kind of problems in the past, by reading history and to some degree experiencing them myself; but we can never tire of it at this time. We must always be looking at our national dependency with an eye toward surviving threats or actual embargoes of commodities, but never forgetting that we also must look to the rest of the world, with which we must live, for ways of insuring cooperation and mutual interdependence, so that perhaps someday, some brighter time, the people of the world will not have to worry about threats of embargoes and blackmail and dependence, which prevent the human race from realizing peace and prosperity and compassion, without the threat of war.

Mr. President, very often, when we spend a great deal of time debating the individual nuances and details of a question such as natural gas deregulation, we lose the perspective of the overall issue of energy supply and conservation. I hope that in the remarks I have made this morning, some of that perspective becomes a little more obvious: That the issue of natural gas will pass, either because we completely destroy the incentive to produce it and none is available and some other major crisis takes its place, or because we deregulate natural gas, new supplies of gas, and we have a tentative supply available, so that we can concentrate on the longer term picture of energy supply.

Whatever we do we will find new questions to debate. On the one hand, we will debate those questions in an atmosphere of continuing prices if we do not deregulate. On the other hand, we will be able to concentrate on other problems if we do deregulate.

I hope this illustrious body will at least try to remember in the course of its deliberations that it is much better to solve a crisis than it is to postpone that solution and allow the crisis to get worse.

As a final reminder to my colleagues, I hope they will remember that even at the prices that some of the most pessimistic estimates have indicated new natural gas would rise to, we are still dealing with prices that are less than the cost of imported petroleum, imported oil; less than the cost of imported liquefied natural gas, and less than the cost of producing and using electricity.

This is an extremely important point to remember in these deliberations because it is the consumer who eventually must bear the burden of not having natural gas and of having to use alternative energy sources.

If they must switch to coal, then they must pay the price not only of coal but of the environmental degradation that comes with it.

If they switch to oil, they will be switching to utilizing foreign supplies of oil at prices two and three times the cost of even deregulated natural gas.

If they switch to electricity they must pay up to five times the cost of deregulated natural gas.

That is why I have said on previous occasions, and will continue to say so, that the real consumer legislation is the Pearson-Bentsen legislation. It is the consumer who is going to benefit not only by having assured supplies of natural gas within a few years but also by not having to pay more for other forms of energy, bar none.

So I hope that as this debate continues it will become clearer and clearer to the consumer that the opponents of deregulation are asking them to bear an ever-increasing burden, an ever-increasing economic burden, and an ever-increasing burden of uncertainty of energy supply if those opponents of deregulation are successful in defeating the Pearson-Bentsen substitute for this energy bill.

Mr. President, I see our distinguished minority leader is on the floor. Does he desire recognition at this time?

Mr. BAKER. Mr. President, I thank the Senator. If he would yield to me just for a moment without losing his right to the floor.

Mr. SCHMITT. I will be happy to yield to the Senator without losing my right.

Mr. BAKER. Mr. President, I understand the distinguished Senator from Wyoming (Mr. HANSEN) wished the floor at this point, but I do not see him on the floor at the moment. In that event then, if the distinguished Senator from New Mexico wishes to speak a little further, I will see if I can locate him.

Mr. SCHMITT. I thank the Senator, and I will continue.

I see the Senator from Wyoming is now on the floor. Does he desire to speak?

Mr. HANSEN. Mr. President, shortly before recess last evening the Senator from Washington, the distinguished chairman of the Committee on Energy and Natural Resources, offered an amendment that I understand is in the nature of a substitute which, I think, being a rather voluminous amendment, left everyone uncertain as to precisely what it contained. I think, as a consequence, when another amendment was offered by the distinguished Senator from Massachusetts (Mr. KENNEDY), the wisdom of the majority leader in moving toward recess last night was indicated because, obviously, if we are to legislate wisely here, I think we need to know the thrust of what is contained in the various proposals before us.

I do not know how many Senators may have had a chance to read the RECORD in order to be informed as to what is contained in those two amendments, but I suspect we are better prepared this morning than was the case prior to the recess last evening.

It is my understanding, Mr. President, that the distinguished Senator from Arizona (Mr. GOLDWATER) wishes to be recognized in order that he might make some comments about a concern he has here within the District and, if I may, I would like to yield the floor at this time in order that he might be recognized.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. GOLDWATER. I thank my friend from Wyoming.

I would like to make a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GOLDWATER. It is permissible to speak on any subject at this time, is it not?

The ACTING PRESIDENT pro tempore. Rule VIII, paragraph 3, requires that debate be germane during the first 3 hours of each calendar day after the "conclusion of the morning hour or after the unfinished business or pending business has first been laid before the Senate." The time has not expired.

Mr. GOLDWATER. Does that imply we are not operating under cloture?

I ask unanimous consent that I may proceed out of order. I have been waiting for some time, many days, to say a few words about a subject I feel rather keenly about.

Mr. JACKSON. Mr. President, will the Senator yield? For how long would it be?

Mr. GOLDWATER. Not too long.

Mr. JACKSON. I mean could we have an understanding as to a time limitation? I want to accommodate the Senator if he has something he wants to say, but I think there ought to be a time limitation.

Mr. GOLDWATER. Maybe 10 minutes at the most.

Mr. ABOUREZK. Mr. President, reserving the right to object, do I understand the request to mean that the Senator be allowed to speak on a nongermane issue?

Mr. JACKSON. To speak out of order.

The ACTING PRESIDENT pro tempore. The Senator is correct. That was the request.

Mr. JACKSON. For a specified limited period of time.

The ACTING PRESIDENT pro tempore. For a period of 10 minutes. Without objection, it is so ordered.

A WASHINGTON, D.C., CIVIC CENTER

Mr. GOLDWATER. I thank my friends on the other side and then I may get germane. You never can tell. So if I get germane the 10 minute rule does not apply.

Mr. President, the local government of Washington, D.C., is very anxious to build a civic and convention center, and so far our Appropriations Committee has not found it wise to approve funds for the construction of this facility.

Mr. President, I live in a community that is one of the largest convention cities in the United States, and I have lived through the pains of developing a civic center. Our problem there was similar to the problem here, namely, people don't live in downtown Washington, they live out of the city. Also, we had a little different problem in my hometown in that the city as it became the fastest-growing city in the United States, sort of spread out. The hotels left the downtown and the downtown became just the financial and legal end of town, and in between there was sort of a nothingness of shopping centers, and so forth.

So we undertook to build a civic center and many thought that it would be unwise and expensive to operate.

But, Mr. President, since the construction of this civic center, we have brought new construction to downtown Phoenix. We have been able to attract large conventions where before we were pretty much like Washington, where the size of the convention to be attracted to this city was pretty well controlled by what the large hotels could handle. And with all due respect to the wonderful hotels in this city, about 3,000 would be the largest number that could be handled at any one time, while we have many conventions in this country that will total 15,000 whenever they can find the proper facility.

Now, I know there are arguments against a civic center. Looking at the history of some centers economically, they have not been immediately successful around the country. It may take some time, but eventually they do become successful and not only repay their initial cost but bring many, many people into the city who would not normally be able to come here. We have to remember that this is the Nation's Capital and every American wants to come here.

With all due respect and respect to my own hometown and other convention centers like Las Vegas, Los Angeles, and Chicago, I think Americans, given the chance to come to Washington, even though it would be a very large convention, would come here.

Also, we must recognize that no subsidy is involved. The funds will be borrowed and repaid with interest.

They are proposing to build a downtown civic center for Washington at a total cost of about $110 million, and this has been approved by Mayor Washington and the District of Columbia Council for funding as part of the capital works program.

The civic center in the vicinity of Mount Vernon Square South would be convenient to Metro, the downtown shopping area, the monumental core, important Government buildings and a number of potential downtown development sites.

If approved by Congress the center will be built on a nearly 10-acre site bounded on the north by New York Avenue, on the west by 11th Street Northwest, on the south by 8th Street Northeast, and on the east by 9th Street Northwest. Funds for site acquisition will be available by October 1, 1977, with actual construction to start early in 1979 and completion scheduled for sometime in 1981.

Mayor Washington, in transmitting the formal budget request for the civic center, wrote Council Chairman Sterling Tucker that the long-discussed center would offer the city substantial economic benefits. He said:

> It is an endeavor whose time has come. Increased private investment in the downtown area in consort with what the much needed facilities in the center will provide will assist us in moving toward our joint objective of economic revitalization of our city.

Councilman Tucker, Chairman of the Council, said:

> This is our opportunity. The risk is in failing to move forward, not in moving forward. We are trying to create a new body of resources to provide some funds so that there can be services to provide some income so that there can be jobs and to provide a stimulation to this economy. The center will attract new visitors and taxpayers from other areas who come to our city to buy goods, who come to our city to buy services and have come to our city to contribute to the welfare costs and the cost of the capital city that we are bearing alone.

Mr. President, just to conclude this brief portion of my nongermane remarks, we have seen in the last 2 days the approval of the President in giving the District of Columbia almost the status of a State, and if this ever comes about, then there is going to be a change in the tax status of the District as it becomes a State-type organization. This body, I believe, will have no further responsibility.

Therefore, they will immediately have to have other and larger sources of income. I cannot think of a better or easier way to raise money or to bring money into this Capital than by having a civic center large enough to accommodate conventions.

For example, it might be wise to hold the Democratic and Republican conventions in this city. Being close to the Capitol, maybe the delegates will have a better idea of the responsibilities of our Government than if they held the conventions, say, in Las Vegas, San Francisco, or some other community.

So. Mr. President, I have put my name as a cosponsor on an amendment that will be offered at the proper time by Senators EAGLETON and WEICKER to restore those funds unless the Appropriations Committee sees fit to include this in its report.

I thank my friends for allowing me to go as I did on a subject that is not particularly close to energy. But I might now get over into the subject of energy very briefly because we are on this subject of natural gas.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. GOLDWATER. Mr. President, one of the amazing things to me about this whole debate is that we find Senators from the Eastern States, the Northeastern States, who really need natural gas, voting against one sure way to get natural gas.

I have heard time and time again on this floor the recitation that, if we allow the wellhead price to go up and the wellhead price to become deregulated or unregulated, that would cause people in the eastern part of the country, the northeastern part of the country, to have to go without heat because of the cost increase.

Mr. President, my State probably depends upon natural gas as much as any State for energy. We produce 52 percent of the copper produced in this country, and our smelters are fired by natural gas and our homes when we need heat, which is not too often in that delightful climate of Arizona, are heated by gas.

I ran a checkout on the cost of gas to me in my home. If the wellhead price were increased 15 percent, and I think, as I listened to the debate, that that is pretty roughly what we are talking about—something between 13 and 20 percent, depending on the argument—it would cause an increase in my gas bill of about 3 percent and that would mean about $1.80 a month.

I do not think $1.80 a month is going to run anyone in this country out of heat. I think we should stop trying to fool the American people with accusations that billions of dollars would pour into the pockets of the large oil companies of this country and the large natural gas companies if we allow this deregulation. The most important thing, Mr. President, every Member, regardless of the State that he is from, should keep in mind is that we have to have more natural gas just as we have to have more gasoline, more diesel fuel, and more petroleum.

I have to say this, in all honesty, to those who have been advocating the President's package: We have not done anything yet to put more fuel into the hands of the American people. Americans are not going to conserve. If you doubt that statement, drive your car on the highway any day, and you will see more cars driving today at faster speeds than at any time in our history, and more four- five- and six-passenger cars with one person in them.

We cannot expect the American people to conserve, and that should not be the purpose of the legislation. The legislation we pass should have as its only purpose that of finding new sources of fuel and energy.

I can say this, Mr. President: The owner of a gas well, say, in the panhandle of Texas or in Oklahoma, is not about to ship gas to Ohio or Pennsylvania or New Jersey if he is selling that gas at a cost per unit less than it costs him to get it out of the ground. All he has to do, and it is perfectly legal, is just turn that big valve a little bit to the right, and a little bit less gas goes out.

I recall watching an interesting debate last year between the Governor of Oklahoma and the Governor of Pennsylvania. Both of those States are petroleum States, and Oklahoma, of course, is a natural gas State. The Governor of Oklahoma happens to be in the natural gas business. But he was speaking with a lot of sense.

He reminded the Governor of Pennsylvania that he was selling gas at, I forget the price, I believe it was at $1.65, or something like that, per unit, under contract to an interstate pipeline to Pennsylvania, when it was costing him more than that per unit to get it out of the ground.

He said to the Governor of Pennsylvania, "I don't have to deliver gas to you." He said, "If I want to, I can cut that valve off altogether, because I can sell that gas in the State of Oklahoma at a price at which I can not only break even but make a profit."

I know that is a dirty word in this body, but when we stop and realize we are not going to find any new wells drilled without profit, then I think it becomes even more important that we deregulate the wellhead price and allow more money to be made and more consumption of the fuel, so that the people who want to take the risks, who have earned the money in this business, can drill holes in the ground and find what comes out. If nothing comes out, that is their problem, it is not ours.

We have, in all of this debate—and I have sat here throughout most of it—talked about the wrong thing. We have talked about how to conserve fuel, how to use other forms of fuel. That is fine. But I cannot understand the environmentalists of this country, who tell a group in my hometown that it will take 3 years to determine the environmental impact of building a football field for a professional team—I cannot imagine those people standing still for the idea that we are going to use coal to drive the plants of the East and wherever coal can be used, because there is no way you can clean coal up.

I remember Pittsburgh during the early days of World War II, when I was serving in the East. When you would ask how to get to Pittsburgh, you would be told, "Just keep flying until you see a big black spot, and don't try to land, because you can't see through it."

Pittsburgh has done a fine job trying to clean up its coal, but the spot is still there; you can still see it.

We are having a little argument with our Navaho Indians about the fact that we do have emissions at a place called Four Corners—which, incidentally, is the only place in the Nation where four States come together. We have a rather large coal burning electric plant up there, where we merely scratch off the surface with a bulldozer, push the coal in the plant, and that is it.

We have cleaned those stacks up to the point where we have eliminated about 97 percent of the smoke that comes out, but that 3 percent we have left weighs more than 200 tons every day. We have not cleaned up that pollution, and yet, as we stand here on this floor, I am rather amazed to hear some of my friends use the environmental argument day after day. When you have to have an environmental report on everything but the Lord's Prayer, it amazes me to hear them advocating the use of coal. You cannot remove all the residue from coal. Some fuels you can, but not coal.

Natural gas is the best source of energy that we have, and while I am not a geologist, I depend on my friends who know something about geology, and they tell me that if we would work offshore on both coasts, if we would develop the fields we already have to a greater extent, there is practically an unlimited amount of natural gas available for the people of this country. And by the time that becomes exhausted, I can assure my colleagues, because of my work with NASA and in the general field of science that when that time comes we will have developed new sources of energy that will make coal, petroleum, and natural gas useless.

But in the meantime, we have to live. So I would suggest, Mr. President, that the wise thing to do would be to allow this deregulation, to take the shackles off the producers of our country and let them produce, so that we do not have to see the city of Buffalo suffering under 20 feet of snow with no heat; so that we do not have to see great cities in Ohio, upon which we depend for much of our material things in this country, suffer through another cold winter.

While I certainly have no divining rod that I can forecast the weather with, I am somewhat of an amateur meteorologist, and I think we are going to have as

bad a winter this year as we had last. In fact, I think we are going to have a long series of bad winters.

So I would hope that sometime today or sometime Monday we can say to the American people, "Yes, your natural gas may cost you a little more, maybe 3 percent, maybe 5 percent, but you will have it."

I think my gas bill in my apartment here in Washington is $3 a month. That is very easy to explain, because my wife does not live here and I have to do the cooking, so I do not eat much, and I think it is probably burned up by the pilot light.

But 3 or 5 percent is not going to raise havoc with the people of this country. It will guarantee them adequate gas, but more than that, it will entice and interest people who have made money in this field, who know something about the field, into exploring for gas in our country, offshore and on shore, so that we can, not slowly but very quickly, overcome our dependence upon the OPEC countries.

I think the happiest day of my life will be that day when we can literally thumb our noses at those countries who now, pretty much, have our future in their hands.

We read of the billions of dollars—not their dollars, but our dollars—that they have collected. It rather frightens me to think what can happen if we continue to place all of our dependence on getting fuel from countries that have not always been friendly with us but, I think, are today and can be. I do not like for the United States to depend on anybody when we have the means here.

So, Mr. President, I do hope that in the hours today and the hours coming up Monday, after a good Sunday, when we can stay home or play golf or play with our grandchildren, and we can think of all the things we have to do without listening to nongermane speeches and things like that, we can come back here and really get at this whole thing.

I thank the Chair for his patience and I thank my colleagues for the same.

QUORUM CALL

Mr. BAKER. Mr. President, I intend, in just a moment to suggest the absence of a quorum. I might say that there is a good prospect that that call will be permitted to go live. I inquire of the Chair, is there a unanimous-consent order down that there be no votes today before the hour of 10:30 a.m.?

The ACTING PRESIDENT pro tempore. Before the hour of 10:30 is correct.

Mr. BAKER. I thank the Chair. There is a possibility that there will be a vote shortly after this quorum call.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 28 Leg.]

Abourezk	Goldwater	Pearson
Allen	Hansen	Percy
Baker	Hatch	Ribicoff
Bayh	Hayakawa	Sarbanes
Bellmon	Heinz	Sasser
Burdick	Helms	Schmitt
Byrd, Harry F., Jr.	Huddleston	Schweiker
Byrd, Robert C.	Jackson	Sparkman
Chiles	Kennedy	Tower
Clark	Lugar	Young
Domenici	McGovern	Zorinsky
Garn	Melcher	
	Metzenbaum	

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to request the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I also announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 75, nays 0, as follows:

[Rollcall Vote No. 401 Leg.]

YEAS—75

Abourezk	Baker	Bentsen
Allen	Bayh	Brooke
Anderson	Bellmon	Bumpers
Burdick	Hatfield	Packwood
Byrd, Harry F., Jr.	Hathaway	Pearson
Byrd, Robert C.	Hayakawa	Percy
Cannon	Heinz	Proxmire
Case	Helms	Randolph
Chafee	Hollings	Ribicoff
Chiles	Huddleston	Riegle
Church	Inouye	Roth
Clark	Jackson	Sarbanes
Cranston	Javits	Sasser
Curtis	Kennedy	Schmitt
Danforth	Laxalt	Schweiker
DeConcini	Lugar	Sparkman
Dole	Magnuson	Stevens
Domenici	McClure	Stevenson
Eagleton	McGovern	Stone
Ford	McIntyre	Thurmond
Garn	Melcher	Tower
Glenn	Metzenbaum	Wallop
Goldwater	Moynihan	Young
Hansen	Muskie	Zorinsky
Hatch	Nelson	
	Nunn	

NAYS—0

NOT VOTING—25

Bartlett	Humphrey	Pell
Biden	Johnston	Scott
Culver	Leahy	Stafford
Durkin	Long	Stennis
Eastland	Mathias	Talmadge
Gravel	Matsunaga	Weicker
Griffin	McClellan	Williams
Hart	Metcalf	
Haskell	Morgan	

The ACTING PRESIDENT pro tempore. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. BENTSEN addressed the Chair.

Mr. MELCHER. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BENTSEN. I yield.

Mr. MELCHER. Mr. President, I ask unanimous consent that Bill Whitsitt, Van Straum, and Janine Volsky be granted the privileges of the floor during the consideration of this bill and all amendments and votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, during the past several days it has become apparent that there is strong disagreement in this Chamber on how we should price our natural gas resources. On several points, however, I think it is possible for both proponents and opponents of continued regulation to agree.

We can agree that it would be to our national advantage to produce more natural gas domestically and to import less energy from foreign sources. No one argues over that one.

We can agree that there is the imminent prospect of widespread curtailments this winter; curtailments that will cost our economy dearly and inconvenience millions of American citizens.

We can agree, and the administration tacitly acknowledges, that the current regulated price of natural gas is artificially low; it discourages new exploration and new drilling.

Finally, I think we can agree that the basic reason we are here on a Saturday

morning is to seek a formula that will provide an incentive to producers, that will increase our domestic production of natural gas, while at the same time protecting the American consumer from any dramatic rise in his fuel bill.

Mr. President, the Kennedy amendment, which is in fact the original administration proposal on natural gas pricing, does not do the trick. Let me explain why it is an inadequate response to the natural gas dilemma in this country, and why it should be defeated.

Mr. RANDOLPH. Mr. President, I call attention to the fact that the Senate is not in order. This is an important speech, an analysis of a pending amendment, and I would appreciate it if we could have order.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is entirely correct. The Senate is not in order. Will the Senators carrying on conversations please retire to the cloakroom for their conversations, and those remaining please give attention to the statement in progress by the Senator from Texas.

The Senator from Texas.

Mr. BENTSEN. Let me give you one of the prime reasons why the Kennedy amendment should be defeated. First, it provides virtually no incentive for the increased production of natural gas. The definition of new natural gas, under the Kennedy amendment, is so narrowly drawn as to exclude 94 percent of gas produced from exploratory wells from new gas prices. That means it provides virtually no incentive for the increased production of natural gas. Since gas produced from exploratory wells accounts for only 4½ percent of all gas produced, under the terms of the Kennedy amendment, only three-tenths of 1 percent of all gas produced in this country would qualify for new gas prices. Remember that, only three-tenths of 1 percent of all gas produced in this country would qualify for new gas prices under the Kennedy amendment, and that is virtually the administration's proposal.

In determining what constitutes a "new well" in the above formulation, I have used the criteria used by State regulatory boards when they are charged with the responsibility of protecting the property rights of producers.

Second, Mr. President, despite all the rhetoric to the contrary, a $1.75 new price is not guaranteed for any new gas.

But even if $1.75 was to become the regulated price of new gas, this figure would still be below, well below, the average price for new gas in the intrastate market. Accordingly, the Carter-Kennedy language would have the effect of rolling back the prices for some flowing gas that was developed in response to higher, unregulated prices, in response to the mechanics of the free market.

Recent increases in onshore drilling activity have been largely in response to higher unregulated prices in the intrastate market. Reserve additions in the intrastate market averaged 7.8 Tcf during the period 1971–75 inclusive.

The average proposal included in the administration bill could cripple increased natural gas drilling activity, slash the reserve additions of the intrastate market, and eliminate the one source of additional gas that has kept this country running during recent winters.

The administration proposal will not be an incentive to increased production of natural gas. Whom am I quoting on that one? I am quoting the Brookings Institution study, and it strongly suggests that it will lead to a decrease in current production levels, compounding the curtailments of this winter. I quote from that study:

> In short, these proposals will not eliminate the gas shortage; they will partially disguise it and extend it to the markets that are uncontrolled. In addition, they will remove the market test for supplemental gas supplies and encourage investment in uneconomic facilities and processes . . . If the Carter proposal is enacted, procedures would probably explore for and produce less gas than they do now; almost certainly they would produce less than if prices were decontrolled. (The 1978 Budget: Setting Historical Priorities—The Brookings Institute)

Mr. STONE. Mr. President, will the Senator yield for two or three questions?

Mr. BENTSEN. I would be delighted to yield to the distinguished Senator from Florida.

Mr. STONE. Will the Senator from Texas explain what is the rationale for capping domestic oil supply prices at a time that the Federal Government proposes to license the importation of Mexican gas supplies at between $2.50 and $2.75? What is the rationale there?

Mr. BENTSEN. I fail to understand it, frankly. This is the only product I know of where we are willing to pay foreigners more than we are willing to pay our own people, where we are willing to give more incentives to producers in Canada or Mexico, our neighbors in this hemisphere; where we say, "Come on, we are going to encourage you to drill for your reserves and help us take care of our curtailments, help us have a supply of gas." But then we say to our domestic producers, "Well, not you. That does not mean you." It means if we are manufacturing shoes in this country, we are always saying, "Let us be sure that our domestic producers get as good price," or if we are talking about shirts as good a price "as these products we are importing." But, no, not on gas.

Mr. STONE. Will the Senator explain the rationale by which the Federal Government caps domestic natural gas and yet proposes to set a price for liquefied natural gas, a considerably more risky type of commodity in terms of safety, in terms of explosions and the rest, at $3.37 per Mcf coming from Algeria. Is Algeria known as one of those reliable sources that we can count on during thick and thin?

Mr. BENTSEN. The Senator is asking me questions I just do not know the answers to because I do not see the rationale in it. I do not see any reason why we should continue to get down on our knees to these countries that have not been a stable supply for us, that embargoed us, and then at the same time not encourage our domestic production and pay them substantially less.

Mr. STONE. I thank the Senator.

Mr. BUMPERS. Mr. President, will the Senator yield for an additional question?

Mr. BENTSEN. I am delighted to yield to the distinguished Senator from Arkansas for a question.

Mr. BUMPERS. Let us take Mexico, for example, from which the United States currently is buying gas. Does the Senator know what the consumer in Mexico is charged for gas as compared to what they charge for gas to other countries?

Mr. BENTSEN. I know that we are talking about a consortium going down there and buying that gas for the U.S. consumers and that is who I am most concerned about, the U.S. consumer and the U.S. producer, and they are talking about prices as high as $3.10.

Mr. BUMPERS. First of all, of course, Pemex, which is the oil exploration company in Mexico, is a Government-owned company, and is is the only oil company in Mexico, is that correct?

Mr. BENTSEN. That is correct. I also understand that under those kinds of conditions we have a country in very dire economic circumstances.

Mr. BUMPERS. But the point I want to make is what Mexico sells gas across their border for and what Canada sells gas across their border for or even what the Algerians and the Iranians and all the rest of them sell their oil and gas for has no relevance to what they charge their own people for gas; does it?

Mr. BENTSEN. It has a great deal of relevance as to what we are willing to pay in the way of incentives to try to see that we cut down on an imbalance of trade that will be approximately $25 billion this year on an importation of oil and gas that will amount to almost $45 billion this year. It makes no sense at all to me that we are willing to pay those foreign producers and contribute to their balance of trade and have the disastrous consequence to our own.

Mr. BUMPERS. The point I make is that if the United States were in the same position, if we were exporting gas, which is a finite resource and which we are going to run out of that we find the oil in the next 10 or 20 years, the point I make is that if I were in this position in this body today——

Mr. BENTSEN. Is this part of the Senator's question?

Mr. BUMPERS. Yes. I would filibuster against selling gas, for example, to Mexico or anyone else at any less than what I consider an exorbitant price because we need it, and I think that is what the Canadians and Mexicans are doing, but I do not think that is relative to what the fair return is to oil and gas companies in this country.

Mr. STONE. Mr. President, will the Senator yield for a comment on that point?

Mr. BENTSEN. I yielded to the Senator from Arkansas for a question, and it sounds to me like a speech.

Mr. STONE. Will the Senator yield for comments in the form of a question?

Mr. BENTSEN. Yes, I am delighted to yield.

Mr. STONE. Is that not exactly the point? If some of these producer coun-

tries abroad charge their own people considerably less or whatever they want to charge than they want to charge us, what does that say about the reliability of our supply from those countries in terms of our ability to keep our people at work, our people heated in the wintertime, and our people using natural gas as a fuel?

Mr. BENTSEN. I think the Senator makes a very valid point. We get to the question that was being debated some last night about a national oil and gas company and the reference being made to Mexico, a country that has tried some of those things and has had as a result, I think, some very dire economic consequences from which they have not recovered.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. BENTSEN. I am delighted to yield for a question.

Mr. DOMENICI. If I understand what my good Senator from Texas is saying, he is saying that if the Brookings Institution is right in its analysis of the Kennedy bill, which is the President's proposal, we will produce less natural gas than we did before we put this new incentive-laden schedule on. Is that not what the Senator is saying?

Mr. BENTSEN. That is exactly right. That is what it does.

Mr. DOMENICI. If we are saying that, then the question of the good Senator from Arkansas makes little or no sense because it is that extra gas that we are willing to pay more to foreign countries for that this particular proposal will not let us produce for our people through our private sector. Is that not correct?

Mr. BENTSEN. That is correct.

Mr. DOMENICI. I thank the Senator.

Mr. BENTSEN. If I may finally conclude, I will then yield further.

Mr. BUMPERS. Mr. President, will the Senator yield for one question?

Mr. BENTSEN. Will the Senator let me continue my talk, and then I am delighted to yield to him again. I have already yielded several times.

The study goes on to say, in addition, they will remove the market test for supplemental gas supplies and encourage investment in uneconomic facilities and processes.

If the Carter proposal is enacted—and again I am quoting the Brookings Institute, which is not exactly owned by the oil companies, as I understand it; it is not considered a bastion of conservatism. If the Carter proposal is enacted, producers would probably explore for and produce less gas than they do now.

That is what the Senator from New Mexico was making reference to.

Almost certainly they would produce less than if the prices were decontrolled.

The administration proposal on natural gas pricing continues our bankrupt, discredited policy of the past two decades; it is simply more stiffling regulation at a higher peg. It will not work. As Robert Samuelson recently pointed out in the National Journal—

> Economic logic sometimes works slowly, but, in the end, it usually works. That is worth remembering, because Congress and the Carter Administration seem determined to repeat the mistake of 1954. In the name of consumer protection, they seek to control gas prices . . . One almost certainly consequence of holding down prices would be to fan demand for foreign fuel.

Mr. President, I hardly need point out that that demand is already in evidence; it is causing serious problems in our balance of trade. In the second quarter of 1976, on an annualized basis, our balance of trade account has a set surplus of $10.2 billion. That was this the second quarter of 1976. In the second quarter of 1977, the balance of trade account showed a net deficit of $9.8 billion. This represents a net deflationary swing of $20 billion, which has the same affect on the economy as a $20 billion tax increase; $20 billion in purchasing power has been drained from the American economy.

This year the United States will spend over $45 billion on imported sources of energy, while we permit vitally needed natural gas reserves to remain underground because they cannot be exploited at regulated prices.

People talk about oil and gas being a finite resource. That is true. But so is time in the lifetime of people, and that is what we are trying to buy. We are trying to buy some time by increasing the exploration for oil and gas in this country. But will we ever have enough? No, I do not think so. I have seen some reports that say we would be awash with gas and have a great surplus. I question that. But I think we need to buy time and increase those supplies substantially as we go to the alternative sources such as coal from the State of West Virginia, of the distinguished Senator from West Virginia, where we go to coal gasification, coal liquefaction, geothermal, nuclear, solar.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. BENTSEN. I am delighted to yield to the distinguished Senator.

Mr. RANDOLPH. I hesitate to break the continuity of the cogent argument of the Senator from Texas (Mr. BENTSEN). But when he speaks of buying time, that is what the American people are doing today. I think mistakenly, but it has to be done, we spent $12.5 billion stockpiling petroleum products when that money, I say to my colleagues, could have been expended on a synthetic liquefied fuels program giving us billions of barrels of synthetic fuels for a period of 20 years. That is what the Senator is really saying here today about buying time in one way or another. But here is an expenditure that frankly we have to make, I realize. It is insurance against another embargo or whatnot. But how important it was to have had the incentive which should have been built into our programing. That is what the Senator is asking for, is that not right, in connection with natural gas?

Mr. BENTSEN. That is certainly right.

I say to the distinguished Senator from West Virginia, the Senator from Texas is a member of the Finance Committee, and this week I voted to put in effect a 20 percent premium or subsidy on bringing about the conversion of coal by gasification, or liquefaction, and this is the Senator from Texas who is supposed to be from an oil and gas producing State. But I think it is in the Nation's interest to develop these alternative sources and in the meantime we buy that time by trying to encourage the exploration for oil and gas. Give us time to get over to coal and the other alternative sources.

If we are going to turn this trade deficit around, if we are going to avoid a serious slowdown in the economy's growth rate, we must increase the supply of domestic energy. But we are confronted with an administration proposal that will actually reduce the availability of domestically produced natural gas.

We confront an administration proposal that ignores the special circumstances surrounding agricultural use of natural gas, a proposal that allows no priority for natural gas used by farmers. The administration proposal treats agricultural users as if they were industrial users under incremental pricing.

Finally, at a time when we are all concerned about a proliferating bureaucracy and stifling red tape, the administration has offered up an administrative nightmare. Let us consider, for example, the practical problems involved in determining whether the "completion location" of a new well is 2.5 miles away or 1,000 feet deeper than the completion location of any well which prior to April 20, 1977, produced or was capable of producing oil or gas. The problems are enormous.

First, many producers do not have the well data on all the wells of nearby operators and their predecessors to determine where the completion location actually is. In many cases, this is proprietary information that would not be released.

Where is the completion location if a well was directionally drilled?

If a well was abandoned or produced a small amount of oil or gas in a test, was it in fact capable of producing crude oil or natural gas?

Does it make any sense to tie the definition of "new gas" to a well that previously produced oil?

These are just a few of the problems inherent in administering the definition of new gas under the Kennedy amendment.

In summary, Mr. President, the Kennedy administration proposal will not serve as an incentive to the production of new gas; it may well be a disincentive. It will serve the consumer only by increasing the probability of curtailments. It will virtually guarantee increased imports of foreign energy sources at a time we should be exploiting domestic reserves to the maximum possible extent. And, if enacted, it will be extremely difficult and cumbersome to administer. It is totally inconsistent with the energy problems and requirements of this Nation, and it should be defeated.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Independent producers in West Virginia are concerned that the Kennedy amendment will drastically reduce dril-

ling incentives in our State. How does your amendment, which I support, encourage drilling in areas with special problems such as West Virginia?

Mr. BENTSEN. By tying the Pearson-Bentsen bill new gas definition to geological fact, we will encourage drilling in the very unique West Virginia producing area. Producing areas in West Virginia are characterized by geological formations that yield low volumes of gas, at higher costs, with closer spacings and in tighter formations. The Kennedy bill by arbitrarily defining new gas, does not anticipate this situation. As I stated earlier, 94 percent of the gas produced in the United States would be excluded under the Kennedy language. In West Virginia this percentage could even be higher.

Mr. RANDOLPH. We are agreed that your amendment would encourage exploration by producers and would not cause consumer prices to rise drastically.

Mr. KENNEDY. Mr. President, I have listened with great interest to my friend from Texas talking about the cost of the LNG program, and how we will have to import this product, and, therefore, it is necessary for the consumers to pay the additional prices.

You know, that argument can be turned on its head, Mr. President. In fact, most of the firms that are involved in producing foreign LNG are American firms. They made the foreign investment, and now they are the ones who are going to be the principal beneficiaries of deregulation. They made the investment abroad, and now they want the domestic price to go high enough to justify the high priced imports. The consumers are the ones who are going to be caught in the middle.

Mr. President, when we talk about this argument, about going down on your knees to foreign countries in terms of the importation of various gas products from other countries, the fact of the matter is that we are probably more generous to the gas and oil companies in this country than any other country in the world. As I understand, OPEC permits only a 22-cents-per-barrel return on the oil produced in OPEC countries. Under OPEC agreements, that is the margin permitted to the American companies; the rest of it goes to the OPEC countries themselves.

I would be interested if the Senator from Texas or Senators from any of the other oil-producing States can possibly provide evidence here that the prices that they are receiving here in the United States are not 2, 3, 5, or 30 times higher than that.

So, Mr. President, I think that the governmental policy and the market system of this country has worked very strongly in favor of the oil producers and those companies.

Finally, Mr. President, I saw this morning in the Washington Post an article showing the impact of high gas prices on citizens of this country. In this case, they happen to live in Texas. I think it is appropriate that we put this article in the RECORD.

On the front page of this morning's Washington Post there is a story about a low-income community in Texas which yesterday lost its natural gas supply because its residents could not pay their bills. The community is Crystal City, Tex. The average per capita income there is $1,616 a year, about half of the statewide average.

The gas is purchased from a Houston utility company, Lo-Vaca Gathering Co. The article states:

Lo-Vaca, which buys $100 million worth of gas a month for distribution to municipalities, industries and farmers in virtually the entire state, had contracted to supply Crystal City with gas at 36 cents for each 1,000 cubic feet. When costs incurred in obtaining gas rose, Lo-Vaca was granted higher rates by the Texas Railroad Commission, the state body that regulates common carriers, including gas pipelines. The rate is now more than $2 a thousand.

That is a sixfold increase in a little more than 2 years. I point out that what we are talking about in Texas is virtually an unregulated market. This is the ideal which Pearson-Bentsen would have us adopt, an example of free enterprise at work. The fact is that the $2 price which Crystal City could not pay, under a deregulated price, would go above $2, perhaps much higher.

So I think this article is a dramatic illustration of the impact on consumers of the Pearson-Bentsen amendment and those who are arguing in behalf of deregulation.

Make no mistake about it, Mr. President: We are talking about, I believe, thousands of small communities all over the country which will run into similar kinds of situations to that which Crystal City has seen in the period of the last 36 hours.

It is for that reason that I believe that the amendment which I have put forward, which is basically the Jackson amendment, is a reasonable adjustment. As far as I am concerned, I think the price, as I debated a few days ago, is excessively high in any event. But that is a reasonable position for the Senate to assume.

Mr. President, I ask unanimous consent that this morning's Washington Post article about Crystal City, Tex., be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIRTHPLACE OF RAZA UNIDA FINDS GAS SUPPLY CUT OFF

(By Bill Curry)

CRYSTAL CITY, TEX., Sept. 23—After more than two years of threats, court fights and a rigid refusal to pay higher rates, Crystal City lost its natural gas today.

At 9:26 a.m. a remote-controlled valve, activated by reduced pressure and an $800,000 debt for back charges, closed itself and ended the flow of gas to this poor and predominantly Hispanic city of 8,107 in south Texas.

But so severe is the poverty here and so spare are the lives of many of those dwelling in it—and in whose name city officials refuse to pay increased gas rates—that even the cutoff of such a necessity had minimal immediate impact.

Along the rutted and unpaved roads that divide one family's shack from another's shanty, Carlos Lopez pointed to the front-yard faucet and garden hose that serves him and his wife with water and said, "I don't have hot water anyway. That's all I've got."

And for many of the elderly, living alone in their immaculately kept public housing duplexes, the loss of their gas was merely a return to the years of denial they experienced as field workers. "Long years ago we cooked outside, and when we went north they did not give us stoves either," said Benigna Aldava, 77, a former picker of grapes, cotton, celery and tomatoes. "We are used to it."

City officials reported no disruptions of municipal services, the schools had converted to electric stoves, there is no hospital here and the area's biggest employer, a Del Monte canning factory, has an independent gas supply. So on a day with temperatures in the 90s and with the prospect of winter seemingly far away, city officials continued to blame their gas supplier, Lo-Vaca Gathering Co. of Houston, and the state government, in Austin for their plight. Meanwhile, the mayor, the city manager and a councilman met in Washington to seek help.

"A lot of the people still feel it's political," said Councilman Rudy Espinosa, who answered "definitely" when asked if his La Raza Unida party had alienated state officials and thus been unable to get state help.

For this area was the birthplace of the party, whose name roughly means "people together." In 1972, the party's gubernatorial candidate drew off enough traditional Democratic votes to nearly deny election to Democratic Dolph Briscoe who sits in the governor's office today.

Efforts to reach the governor's office for comment were unsuccessful.

Still, at the heart of today's cutoff was the nation's sharply increased energy costs and their impact on those of limited income. While the poor and the elderly have been strapped by those costs across America, it was here that the La Raza Unida-dominated city council drew the line and said no.

"We just don't have the means," said Espinosa. "We prefer balanced lives to balanced budgets. We had people who came in here and put down their welfare checks and still couldn't cover the gas bill," said Espinosa, referring to a brief period when the city did pass on the higher gas costs.

Lo-Vaca, which buys $100 million worth of gas a month for distribution to municipalities, industries and farmers in virtually the entire state, had contracted to supply Crystal City with gas at 36 cents for each 1,000 cubic feet. When costs incurred in obtaining gas rose, Lo-Vaca was granted higher rates by the Texas Railroad Commission, the state body that regulates common carriers, including gas pipelines. The rate is now more than $2 a thousand, and since early 1975 Crystal City has refused to pay.

By now the debt has risen to $800,000—$100 for every man, woman and child in one of Texas' lowest income areas. Per capita income is $1,616 a year, about half of what it is statewide.

Many residents here still pay $10 summertime gas bills and usually $20 in the winter. If the city were passing on the full cost of the gas those bills would be more like $50 and $100. Such bills would rival the monthly income of many of those living here.

It is generally agreed that without outside help the city has virtually no chance of ever paying off the debt. (Three other Texas cities also pleaded the hardship of poverty when rates were raised, but unlike Crystal City they put in escrow the difference between the old rate and the new, and their escrows now total $2.5 million.)

Many of the workers are migrant farm laborers, and the tilting one-room homes up on cinder blocks here makes this city look like an underdeveloped country. More fortunate are those able to get houses in the city's public housing complex.

There, residents were given an opportunity to buy electric hotplates for $25. But those people, who live on either fixed pensions or low wages, will thus face increased electric bills.

Pura Martinez, 27 and the mother of six, says she does not know what she will do about cooking for her children, ranging in age from 8 years to 2 months. Her double hotplate is clearly inadequate, and there is no oven. As a result, she expects to switch the children from meat, tortillas, beans and potatoes to "baloney sandwiches." Her husband, Raoul, is a migrant field worker now in Wyoming. Their income is about $5,000 a year, and they pay $48 a month rent on their four-bedroom public housing duplex.

Mrs. Martinez blames local officials for the gas cutoff, even though she does not know how she would pay higher costs.

Benigna Aldava takes an opposite view. She blames Lo-Vaca and state officials and says, "Lo-Vaca should rot with its millions." And as a group of visitors leaves her tiny home, she calls out, "Viva Crystal City! Always! Arriva!"

Mr. SCHMITT. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. SCHMITT. The Senator from Massachusetts has brought to the attention of the Senate the article that I brought to our attention earlier. I was wondering if the Senator has researched the circumstances surrounding this particular community's difficulties to the point where he can be assured that there are not some other factors involved here, besides the cost he has mentioned.

Mr. KENNEDY. The one factor that I think probably does not need much research, though perhaps the Senator has additional information, is that these people are poor and they cannot afford it. I think that is the underlying bottom line of this particular article. If there are other points on which the Senator wants to comment, about the cure for that poverty, or the reason for that poverty, or other factors which influence that poverty, I would be glad to hear him; but the bottom line is that these are poor people who cannot afford the dramatic increase. I think that is the bottom line of that story. If the Senator has other conclusions he draws from it, I would be interested.

Mr. SCHMITT. As this Senator discussed earlier today, I think it is important in our consideration of other aspects of the bill that, in any instance where, for whatever reasons they may occur, energy prices increase because of an artificial leveling of prices for many, many years, as we have had in the case of natural gas, we must provide for those individuals who cannot afford the rapid increase in energy price or those industries who cannot afford a rapid increase in energy price, should that increase occur. I do not think it will. I think the evidence is clear that it will not. However, if it does occur, communities such as Crystal City should have some form of relief on a national scale from that price increase.

The importance of this is certainly obvious to those on fixed and low incomes and to industries, such as parts of agriculture and other processing industries, that are dependent on the existence of artificially cheap natural gas. It is no fault of theirs that they have become dependent upon it.

This country, for 25 years, has held the price of natural gas at artificially low levels, encouraging people in many ways—both federally and at the State level and in the private sector—to use cheap natural gas and, for some period of time, now, there is going to have to be a transition to where we increase our supply of natural gas and other energy sources so that reasonably priced energy is, once again, available, energy that is priced at its true replacement cost.

I also think it is important for the Senator to realize that if we do not increase the supply of natural gas on a national scale, if we do not provide the incentives to the private sector that will allow that increase to occur, there are not only going to be small towns like Crystal City and other towns in my home State of New Mexico who are going to have difficulties of this kind and require assistance; but the large cities and whole, entire consuming States are going to require assistance. Last winter proved that it is not just a problem confined to Crystal City, Tex. It is a problem applicable also to the Senator's State, to New York, to many other States in this Union that are consuming natural gas.

It is extremely important that this body, with the Senator's help, I hope, take steps that will assure supply. We are reaching a point where there is not going to be a supply of natural gas in this country at any price, not to mention the prices that have been experienced in Texas or anywhere else in the country.

I thank the Senator for yielding.

Mr. ABOUREZK. Will the Senator yield?

Mr. KENNEDY. I shall yield in just a second, after I respond.

I am interested in the remarks of the Senator from New Mexico because he comes from a State which, as I understand it, had a virtually deregulated industry in terms of intrastate gas up to fairly recently, with the last year or year and a half. When was that, specifically?

Mr. SCHMITT. In the last legislature, they chose, against the advice of much counsel, including my own, to regulate the price of natural gas at $1.44.

Mr. KENNEDY. I see. The State the Senator comes from had made the decision that it should not be deregulated, or continue to be deregulated, and regulated it. I think that is an interesting comment by the people of that State.

I do not know what else, besides poverty was involved in the gas cut of Crystal City—I am informed that this community was the home community of La Raza Unida, which is an extremely controversial political movement generally throughout the Southwest. I certainly hope that that did not have anything to do with the termination of gas there.

Mr. DOMENICI. Will the Senator yield?

Mr. KENNEDY. I want to let my associates get the floor, but I am glad to yield to the Senator from New Mexico for a comment.

Mr. DOMENICI. I want to take 1 minute to say something to my friend from Massachusetts, since he raised the issue, with reference to New Mexico. I want to assure him that the reason for regulating natural gas in the State of New Mexico has nothing whatsoever to do with the price of new natural gas; nothing.

New Mexico is burdened with a contract clause in natural gas contracts called a most-favored nation clause. What it means is that all gas used by our consumers could reach the price of the highest new natural gas by operation of contracts. So we have 25 and 30 cent old gas, as the Senator does in Massachusetts. They continue to get it even if we deregulate, because we are only letting at new rates. Our contract clauses make the whole pool of natural gas, old and new, reach the new price.

I do not intend to have a debate with the Senator from Massachusetts on it. I hope he will believe me that that is a peculiar contract provision with reference to the producers in the State of New Mexico that, 25 years ago, was good for the people. They have made a turnabout now and we have reached the highest price of new gas even for our old. I just give that to the Senator so he will understand.

Mr. KENNEDY. I appreciate that and I thank the Senator from New Mexico.

Will the Senator tell me how much the price of intrastate gas has risen in New Mexico in the last 2 years?

Mr. DOMENICI. I do not have the exact figures, but new natural gas is the only thing that has risen, as the Senator knows, to any appreciable amount.

Mr. KENNEDY. In just general figures, as I understand it, it has about quadrupled. I would be interested in what that has meant in terms of new production of natural gas in New Mexico in the last 2 years.

Mr. DOMENICI. New Mexico's new natural gas production is flowing at about the rate that it is in the other States; not as fast.

Mr. KENNEDY. That means it is going down.

Mr. DOMENICI. I do not understand. Our production is going down?

Mr. KENNEDY. If the Senator says it is going at the rate of the other States, it is basically going down. If the Senator is comparing it to Texas, for example, it would be going down.

Mr. DOMENICI. Then I do not understand the question.

Mr. KENNEDY. The question is a simple one: What has been the new production of natural gas in the last 2 years in respond to the quadrupling of rates in New Mexico? Those that support Pearson-Bentsen say deregulate it, and we are going to get all the gas we need. Many of us who oppose it say that is not going to be the case, because recent indications are that it has not been so. There has been approximately a quadrupling of price in New Mexico. I am asking a sim-

ple question: How is that reflected in terms of increased production of new gas?

Mr. DOMENICI. I shall supply the figures for the record, but I will say that it is substantially up, as is the entire intrastate production. I shall put the figures in the RECORD.

Mr. METZENBAUM. Will the Senator from Massachusetts yield?

Mr. BENTSEN. Will the Senator yield for a comment?

Mr. KENNEDY. I yield, for a comment on the statement of the Senator from New Mexico, to the Senator from Texas.

Mr. BENTSEN. I want to comment on the question the Senator from Massachusetts posed.

Drilling activity has increased substantially in the last 3 years in Texas. It is not nearly up to what it was in 1956. One of the problems that we run into is that, under the situation today, where we do not know what the Federal Government and Congress are going to do, a lot of the producers have been unwilling to drill into the deep reservoirs. We find that about 10 percent of the exploratory wells—only 10 percent of them—are being drilled in those deep and expensive formations that, it is anticipated, hold about 70 percent of the reserves that can be brought onstream.

With this kind of policy that has been as unstable as it has, and with the threats of rolling back prices, we have not seen that kind of drilling take place. I will say, though, that we have ended up with a modest surplus of gas in Texas and the additional drilling has brought a reduction in price.

Mr. ABOUREZK. Would that not be—I understand that drilling has increased, but what about production? Has that increased?

Mr. BENTSEN. That is the very question I was answering.

Mr. ABOUREZK. I did not hear the answer, then.

Mr. KENNEDY. Will the Senator state it in terms of Texas? Could the Senator tell us what parts of Texas, for example, have not been drilled, in terms of deep drilling?

Mr. BENTSEN. I think it will be found particularly true in South Texas, that we have not seen the deep drilling activity, where they anticipate a great amount of reserves will be found.

Mr. KENNEDY. I shall just say, then yield, that the provisions of the Jackson amendment provide a kind of discretion for the Secretary in terms of pricing in these areas which would be more expensive.

Mr. President, I am glad to yield the floor.

Mr. ABOUREZK. Will the Senator yield to me?

Mr. METZENBAUM. Just for a minute. I would like to get away.

Mr. ABOUREZK. I only want to make a response to the Senator from New Mexico.

When Senator KENNEDY brought up a point that Crystal City, Tex., had its gas shut off because they could not afford to pay their bills, the response was from the Senator from New Mexico—

Well, we have to figure out some way so we can provide money for these people to be able to pay their gas bill.

Is that going to be the response to the question, that we will put people on welfare, and have to, because we have to deregulate natural gas and make sure they get all the money they want? That is the response to the question?

It is the people on the other side who are generally the most vocal in denouncing welfare and putting people on welfare. I think those people would pay those bills if the prices were reasonable, but it is obvious they are unreasonable.

Mr. BENTSEN. I might as well specifically speak on that because the Senator raises the point.

Mr. METZENBAUM. Well, briefly, because I have been yielding to everybody.

Mr. BENTSEN. I understand.

Mr. METZENBAUM. All right.

Mr. BENTSEN. Let me say, I arranged with those people to meet with EDA yesterday afternoon to see if we could arrange a loan, not welfare.

Some other citizens with the same problem held that money in a trust fund as they collected it from the people in their cities, and they have now met that bill.

This particular city chose not to do that, and that did put them in a tough spot.

I have been trying to see if they could not borrow the funds from EDA, and I hope they will be able to do that, because I am concerned.

Mr. KENNEDY. If the Senator will yield for 30 seconds, I will have printed in the RECORD, since we are talking about production, Library of Congress figures that show that production of gas since 1973 has been decreasing in the United States, at the time when we had the explosion in terms of cost.

Mr. President, I ask unanimous consent that that be printed in the RECORD, since we were talking about it earlier with Senators.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESERVES AND PRODUCTION

	Reserves		Production	
	Total United States [1]	Intra [2]	Total United States [1]	Intra [2]
1966	289	94.2	17.5	6.3
1967	293	94.8	18.4	6.6
1968	287	92.3	19.3	7.1
1969	275	87.5	20.7	7.6
1970	290	117.1	22.0	8.2
1971	279	117.4	22.1	7.8
1972	266	119.2	22.5	8.6
1973	250	115.7	22.6	8.6
1974	237	116.6	21.3	8.4
1975	228	121.4	19.7	7.7
1976	216	117.7	19.3	8.1

[1] AGA, Gas Facts.

[2] Total U.S. Reserves and Production, compiled by AGA, minus FPC figures (form 15) for interstate reserves and production. Compiled by Congressional Research Service, Library of Congress.

*Texas and New Mexico gross natural gas production**

	Mmcf
New Mexico:	
1970	1,141,889
1974	1,246,006
1975	1,219,072
Texas:	
1970	9,398,526
1974	8,859,044
1975	7,988,713

*Gas facts, table 17.

*Proved reserves at year-end for Texas**

	Mmcf
1967	125.4
1976	64.6

*API Reserves Data Book.

Mr. SCHMITT. Will the Senator yield on that point?

Mr. METZENBAUM. Mr. President, I think I have been the most yielding Senator Senator on the floor today, so I think I would like to offer a few comments of my own.

The fact is that in Texas where prices have been decontrolled and deregulated and the price of intrastate gas has gone up 10 times, the production has gone down.

The evidence is not clear that price is going to have any impact whatsoever as far as producing additional natural gas. It has not done it throughout the country, and it has not done it in those States where there are deregulated gas prices.

One of the reasons they will not get any more gas if we increase the price comes about by reason of the fact that there are 2,300 rigs that are presently available for the producing and production of gas—2,066 of them are in use, according to the Federal Energy Administration, and 250 of them are in transit or repair.

Mr. President, I think the issue before the Senate has to do with the subject of whether we are going to get an energy bill, because all I have been hearing the last several days is that we need an energy bill and if we do not do something about this, we will not get an energy bill, and what a terrible travesty that will be because we will not have an energy bill.

If we do not want an energy bill, then pass Pearson-Bentsen out of this Senate, because that is what the Speaker of the House of Representatives has said—the statement by Speaker THOMAS P. O'NEILL, JR., on natural gas pricing policy, released yesterday.

I read, as follows:

The course of action in the Senate on natural gas pricing policy poses a serious threat to the President's energy program.

It is abundantly clear to me that the House will not accept deregulation of new natural gas. Specifically, the so-called Pearson-Bentsen amendment now before the Senate is totally unacceptable to the House.

The American consumer will pay dearly for deregulation. There is absolutely no guarantee that deregulation will produce more supplies: what it will produce is economic devastation.

The Congressional Budget Office after careful study, has concluded that the President's natural gas program would produce 95 percent of the gas we would secure through deregulation in 1985. To deregulate for that extra 5% would cost consumers an average of $10 billion a year between now and 1985.

The House, in acting on the President's plan, has approved a tough and effective program. But the House has been unwilling to impose economic hardships on the American public for minimal energy gains. The

House has rejected deregulation for this reason before and it will do so again.

Mr. President, the issue is quite clear. There are many of us who recognize what will happen to this Nation if Pearson-Bentsen becomes the law of the land. It will strike at the economic health of our country. It will add to the inflationary spiral. It will help increase unemployment. It will be a deterrent to increasing the gross national product.

Just within the last day or so, the Congressional Research Service came forth with a report on the whole question of Pearson-Bentsen against the President's bill. I will read just a couple of paragraphs from it. It is dated September 22, 1977, as follows:

This memorandum responds to your request, received this morning, for an analysis of the Pearson-Bentsen and Administration proposals for natural gas pricing reform. Given the time available for our response, we must caution that the analysis is not as complete or comprehensive as it could otherwise be, and consequently should not be relied upon for more than a general indication of probable differential impacts and results of the two subject proposals.

The essence of the policy dispute between the Administration approach to natural gas pricing and the Pearson-Bentsen approach is two-fold: (1) the mechanism by which incentive prices are set for "new natural gas", the Administration opting for an artificial ceiling, and Pearson-Bentsen advocates preferring market forces; and (2) what is meant by "new gas."

That is where the new definition is contained in Pearson-Bentsen.

At the conclusion of that report, it states, "The results of this analysis are as follows:" and they go on. But the concluding paragraph is, to me, the salient one:

In short, using these sources and this methodology—oversimplified to an extreme—the net cost of the Pearson-Bentsen approach over the Administration approach between 1978 and 1985 would range from a low of $33.3 billion to a high of $69.1 billion.

Mr. President, I ask unanimous consent that the report be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PRELIMINARY COMPARISON OF PEARSON-BENTSEN AND ADMINISTRATION NATURAL GAS PRICING PROPOSALS

This memorandum responds to your request, received this morning, for an analysis of the Pearson-Bentsen and Administration proposals for natural gas pricing reform. Given the time available for our response, we must caution that the analysis is not as complete or comprehensive as it could otherwise be, and consequently should not be relied upon for more than a general indication of probable differential impacts and results of the two subject proposals.

The essence of the policy dispute between the Administration approach to natural gas pricing and the Pearson-Bentsen approach is two-fold: (1) the mechanism by which incentive prices are set for "new natural gas", the Administration opting for an artificial ceiling, and Pearson-Bentsen advocates preferring market forces; and (2) what is meant by "new gas."

The first dispute revolves around such factors as: (a) the ability of the depleting natural gas resource base to respond to higher prices with additional supplies, the Administration pessimistic and Pearson-Bentsen advocates optimistic; (b) the incremental effort to discover and produce natural gas that producers could or would expend in response to higher prices, the Administration anticipating a small incremental effort because of structural problems in the industry and equipment limitations, and the Pearson-Bentsen advocates confident of a large incremental effort; (c) the amount and productivity of the wealth transferred from consumers to producers, which the Administration estimates would be high in amount and low in productivity, and Pearson-Bentsen advocates believe would be relatively low in amount and high in productivity; and (d) the overall impact on the economy of this transfer, which in accordance with the Administration's postulates would be harmful, and according to the Pearson-Bentsen advocates' assumption would be beneficial.

The second dispute, the definition of "new gas", can be refined to a disagreement about the time value of gas production. The Pearson-Bentsen bill appears to assume that production now (short and midterms) is preferable to production later. Hence, Pearson-Bentsen extends "new gas" pricing to new wells drilled in extension of existing reservoirs as well as wildcat wells. Under this proposal, well drilling into known reservoirs should accelerate, as well as drilling into undiscovered reservoirs. It should be noted that the Pearson-Bentsen amendment to S. 2104 excludes development or "infill" wells from "new gas" treatment, although gas from such wells would have received the incentive price under S. 256, the Pearson-Bentsen bill introduced earlier in this Congress.

The Administration proposal assumes that, insofar as known reservoirs are concerned, it is counterproductive to devote limited drilling equipment and capital to stimulate their rate of production now because their production will have equally great, or perhaps even greater, value later. Hence, the Administration would maintain old gas prices for gas in known reservoirs, whether from a known point of production in the reservoir or an undiscovered extension of the reservoir. The Administration definition of "new gas" puts the premium on increases in the reserve base, roughly defined as the gas that will be produced from existing wells. Pearson-Bentsen puts the premium on increased production of gas, awarding incentive rates to gas that would theoretically be eventually produced by existing wells, but would be produced sooner if the discovered reservoirs were more rapidly extended. The Pearson-Bentsen Amendment would not grant "new gas" incentive prices to increased production from existing reservoirs caused by adding compression to existing wells, producing existing wells faster or drilling "infill" wells (unlike the original Pearson-Bentsen bill), but would grant "new gas" prices to a similar increase in production from that reservoir if it resulted from a new well being drilled in extension of the reservoir.

In allowing higher market prices for "new gas," 55 Pearson-Bentsen advocates claim that drilling would increase enough above the drilling levels that would be achieved under the Administration proposal that the rate of new reservoir discoveries will be greater, in addition to faster extension of known reserves. Advocates of the Administration position, on the other hand, see practical limits to the drilling effort which can be mounted at any price, and expect the President's price to prompt as great an effort as a higher price. They would thus assert that under Pearson-Bentsen, a higher portion of the wells drilled will be into existing reservoirs identifying extensions; the number of wells drilled in search of new reservoirs would actually be lower under Pearson-Bentsen than under the Administration plan if their assumption that total drilling will be maximized under either proposal is correct.

This difference between the proposals in the focus of additional drilling would probably be observed in more early production under Pearson-Bentsen than under the Administration plan, because the risks of extension drilling, which the Pearson-Bentsen proposal encourages and the Administration proposal does not, are much lower than those of rank wildcats, and the chances of additional gas production commensurately greater. This amount of gas would be presumably produced under the Administration plan later during the time period, either from existing wells or from those extension wells which are drilled at the "old gas" price. Hence our conclusion that the "new gas" definition dispute essentially comes down to a matter of the timing of production from known reservoirs.

The economic impact of the difference in timing of production is related to the value of the alternative fuels that would be required under the Administration proposal to make up any early shortfall of needed energy that could not occur under Pearson-Bentsen. This cost should be offset by the value of the alternate fuels that will be required later when this gas in known reservoirs would be depleted under Pearson-Bentsen but would still be flowing under the Administration approach.

Thus, one basic policy issue is whether alternative fuels will be a better buy now or a better buy later. Now, and for the short and midterms, these alternative fuels will be imported oil and gas plus coal and electricity. Later, in the long term, they may be supplemented by synthetic fuels from coal, oil from shale, solar, and others now in R & D.

Many factors impinge on the question of whether alternative fuels will be a better buy now or later. One such factor is near-term import dependence, another the rate of technological development of alternative fuels technologies. The world's resource base and the U.S. gas resource base are also involved.

ECONOMIC IMPACTS

Calculation of the differential economic impacts of the Pearson-Bentsen plan versus the Administration plan should be carried to lengths of sophistication and detail which time does not permit us. For that reason, we must make the following assumptions:

(1) We assume that under both Pearson-Bentsen, which leaves regulation of old interstate gas with the Federal Power Commission, but does not control intrastate prices, and under the Administration, which permits the President to set prices of old gas contracts upon renewal at prices up to $1.45 and does control intrastate prices at the new gas price, the total national impact of old gas prices would be the same. The difference in impacts thus relates solely to new natural gas quantities and prices.

(2) We assume that the natural gas production rate experienced in 1977 would fall off at a rate of 7% per year in the absence of production from new reservoirs (in new or old fields) or extensions of existing reservoirs.

(3) 60% of the reserves added during the last eight years, and 59% of the reserves added during the last five years have come from extensions of existing reservoirs, and 40% of the reserves added have come from new field and reservoir discoveries, disregarding revisions or reestimates of old reservoirs.

We assume that of the production in excess of the declining base of last year's production, the same ratio of gas produced

from extensions of old reservoirs to gas produced from new reservoirs will apply as has applied to these recent years' reserve additions. However, rather than 60% of this increment being produced from extensions under the Administration plan, we assume that only 50% of the new production is derived from additions to reserves which are extensions. This is because the Administration plan focusses the incentive price on "new reservoirs," and may reduce the relative proportion of drilling for extensions in favor of drilling for new reservoirs.

(4) All prices are in 1977 dollars.

(5) OCS gas is treated as onshore gas. This biases the price impacts of Pearson-Bentsen upward, but simplifies the calculations greatly.

METHODOLOGY

Calculations of the differential impacts are based on two primary sources: the Congressional Budget Office report of September 6, 1977, and the American Gas Association's report of May 19, 1977. From these two documents are drawn: (1) CBO and AGA projections of the price path of new gas under the Administration approach and under new gas deregulation, assumed to be equivalent to Pearson-Bentsen; and (2) CBO and AGA projections of the total production of natural gas, onshore and offshore, resulting from the Administration and deregulation, again assumed to equate to Pearson-Bentsen.

The production of 1977 (estimated at 19.2 Tcf), reduced by 7% per year, is then subtracted from both CBO's and AGA's production expectations under both the Administration and Pearson-Bentsen approaches. If last year's production rate should be declined at more than 7% per year, the difference between the two proposals would be increased; if at less, decreased.

The difference between the 1977 production base and both CBO's and AGA's projections of total production under deregulation is then multiplied in full by the price anticipated by CBO and AGO for deregulated new gas: the entire increment is assumed to qualify under the Pearson-Bentsen "New gas" definition. Only half, however, of the difference between the 1977 production base and the total production predicted under the Administration's plan by CBO and AGO is multiplied by the new gas prices anticipated by the two studies under the Administration plan, because half of this incremental production is assumed to come from extensions of existing fields, and as much is not eligible for "new gas" incentive prices under the Administration plan. This half is instead priced at $1.45, the maximum old gas price permitted under the Administration plan.

The annual totals are then added.

From the total calculated costs of cumulative production of the two approaches, we then substract the cost of the amount of alternate fuel at $3.00 per Mcf equivalent required to make up the gap CBO and AGA calculate between production under the Administration plan and production under Pearson-Bentsen. We did not attempt to quantify the cost of the extra alternate fuel that would be required in years after the relevant period if indeed Pearson-Bentsen causes the faster depletion of existing reserves.

CONCLUSIONS

The results of this analysis are as follows:

(a) Under the CBO production projections and CBO price path, the incremental production between 1978 and 1985 would cost $129.8 billion under Pearson-Bentsen and $66.9 billion under the Administration plan.

The difference of $62.9 billion would be diminished by $13.8 billion dollars in alternate fuel costs required to equalize the production estimates for a net cost of Person-Bentsen over the Administration plan's cost of $49.1 billion.

(b) Under the CBO production projection and AGA price path, the cumulative incremental production would cost $149.8 billion under Pearson-Bentsen and $66.9 billion under the Administration plan. The difference of $82.9 billion would be offset by $13.8 billion in alternate fuels cost for a total difference in cost impact of $69.1 billion

(c) Under the AGA production projections and AGA price path, the incremental production over the period would cost $157.2 billion under Pearson-Bentsen and $46.4 billion under the Administration plan. The $110.8 billion difference would be reduced by $57.6 billion in alternate fuel requirements to make up the supply discrepancy projected by AGA, for a total impact of $53.2 billion.

(d) Under the AGA production projections and CBO price path, the Pearson-Bentsen amendment would lead to $137.3 billion in costs for the incremental production over the base production, compared to $46 4 for the administration plan's incremental production. The difference of $90.9 billion, minus the cost of alternate fuels of $57.5 billion under this scenario, would yield a net cost of Pearson-Bensen over the Administration plan of $33.3 billion dollars.

In short, using these sources and this methodology—oversimplified to an extreme—the net cost of the Pearson-Bentsen approach over the Administration approach between 1978 and 1985 would range from a low of $33.3 billion to a high of $69.1 billion.

Mr. METZENBAUM. Mr. President, there are those who would argue that under Pearson-Bentsen there would be more natural gas available for some of the States that now look to interstate gas for their supply. But the fact is that the provisions of the Pearson-Bentsen bill are not the same as they were when it was passed on the floor of the Senate in 1975, and there are provisions in the Pearson-Bentsen bill which will make it possible for those States that are using the intrastate gas to hold back that intrastate gas from the interstate market.

At a later point in this debate I will be prepared to address myself to that subject in detail.

In substance, if we want an energy package—and I want an energy package as much as any Member of this Senate or any Member of Congress—then we cannot pass the Pearson-Bentsen amendment. Then we have to find some way to resolve this issue, and the President's bill certainly seems to go far enough.

It goes from $1.46 to $1.75. It gives that increase that is unwarranted, in my opinion, but still provides it.

The Kennedy amendment would make it possible for Members of the Senate to vote on an affirmative basis for a proposal that would help those who, in my opinion, need no help, the oil companies and the natural gas producers, to the extent of the difference between $1.46 and $1.75, plus additional relief. That is a reasonable approach, at least.

However, the Pearson-Bentsen proposal really means that we are going to take the lid off and have a negative impact upon this economy which the Nation can ill afford.

I believe that those who feel that President Carter is trying to do a job for this country and is trying to do something in the whole energy field must vote for the Kennedy proposal, which is indeed the administration proposal. To vote it down is to indicate that somehow, some way, we have more confidence in the representations of the oil companies and the natural gas producers than we do in the representations and the facts as presented to us in impartial studies by the Carter administration.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. RANDOLPH. I know the position taken by the Senator from Ohio and other Senators. I ask him this, as one of the active proponents of the Kennedy amendment: Would it not be advisable to vote on that amendment, vote it up or down? I am not interested in tabling.

Mr. METZENBAUM. I am aware of the fact that the Senator from Massachusetts, as early as last night, at the time he presented his amendment, said, "We are ready to vote on it." I think he speaks for all of us who are opposed to deregulation. The Senator from West Virginia indicates that he is ready for the vote, I know that he speaks for me, for the author, and for Senator ABOUREZK. If the other Senators are prepared, we are ready to vote. Let us go.

Mr. KENNEDY. Let us vote.

Mr. RANDOLPH. I cannot speak for any other Senator, but I feel that it would be in the interest of the procedure of the Senate and would be welcomed by the American people—not just the result one way or the other—and would show that the Senate is an action body on these matters which have been debated for weeks and weeks.

Mr. METZENBAUM. We are ready to vote. I hope that those who are opposed to the Kennedy proposal will not see fit to filibuster the matter.

Mr. RANDOLPH. I would like to vote on the Kennedy proposal.

Mr. KENNEDY. Let us vote.

Mr. BENTSEN. I say to the distinguished Senator from Ohio that what has been proposed is a very important and far-reaching amendment and deserves the same kind of consideration that we gave and the Senator's side gave to the question of tabling Pearson-Bentsen. That is when all Members can have an opportunity to be heard. The Senator from Ohio knows that.

I think they are having a good time, and I understand that.

However, a great number of Senators who are not here—on Saturday—had an understanding that things of this substantive nature would not be voted on today; that we will try to arrive at a time when all forces can be represented to cast their lot, and I will be delighted to see a vote at a time such as that.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I do not mean to attempt to say that the distinguished Senator from Texas is wrong in his understanding that Senators may have been told there would be no vote today on the Kennedy amendment. I know of no such understanding.

Mr. BENTSEN. That is perhaps because I look on the administration's measure as a highly substantive measure. I do not know of any agreement, and I must say that, if I left that impression, but I think many felt there would not be a vote today on the administration's measure. Perhaps that impression was wrong. I know there is no such formula. I do not mean to say that.

Mr. ROBERT C. BYRD. So far as I am concerned, a vote can occur at any time today on any amendment to this bill and on the bill itself. I know there are Senators who would not want to see a vote occur today, let us say, on the Jackson substitute, but there is no understanding that there will not be, no understanding that tabling motions will not be offered.

Senators were well aware days ago that there would be a Saturday session if the bill was not disposed of or if an agreement had not been reached whereby final time and date were agreed upon for a vote on passage.

I hope the distinguished Senator from Texas will not feel that I am in any way challenging his understanding. I am merely stating to Senators that everyone expected votes to occur—no holds barred. We have a good attendance. Seventy-five answered the call. I happen to know that there are others around who have come in since that time, and they have expected votes today.

I hope there will be votes today. Amendments can be called up, whether they are divestiture amendments or whether they are motions to recommit with instructions or tabling motions on amendments that are now pending. There is no reason why we cannot have decision on some of these matters today.

I think it would be a mistake for us to be in today, not have substantive votes, and be under any misunderstanding that there is any tacit agreement or otherwise that we are not going to vote on certain issues.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. METZENBAUM. I believe I still have the floor. I will say one word and then sit down.

Those of us who support the Kennedy amendment are prepared to vote at 5 minutes to 12 on Saturday—now.

Mr. TOWER. I should like to reinforce what my distinguished colleague from Texas has said.

Many of us know that there was a great deal of talk yesterday afternoon about votes today on divestiture. There was some indication that amendments relating to horizontal divestiture of the major oil companies would be brought up today and would be considered and that there was little likelihood that any votes would occur today on oil pricing and policy.

I think the proposal of the amendment by the Senator from Massachusetts last night caught a number of people by surprise. After all, this discussion had taken place previously, and I think some Members left with the understanding that the high probability was that there would be no votes today on oil pricing.

So I think the Senator from Texas is absolutely right, because I believe when many people left here last evening they thought if there were any votes today, they would be on the issue of divestiture.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Don Chamblee of the staff of Senator PROXMIRE be permitted access to the floor during the debate on this measure and the votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Kip Hawley of the staff of Senator CHAFEE be accorded the privileges of the floor during the debate on this matter and the votes thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

(Mr. BURDICK assumed the chair.)

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ABOUREZK. Mr. President, I yield briefly to the Senator from West Virginia.

Mr. ROBERT C. BYRD. No. The Chair recognized me. When the Senator made his request, he lost the floor.

I merely want the floor in order to ascertain what action we can expect.

Mr. ABOUREZK. That is all I was going to ask.

Mr. ROBERT C. BYRD. Seventy-five Senators answered the rollcall on the motion to instruct the Sergeant at Arms. I understand that 7, 8, or 10 Senators who were around missed the rollcall.

The Senate is here to do business, and I do not want to move to table any amendment because I do not want to show partiality one way or the other at this point on any amendment. But I am interested in getting the Senate to take some action. If a tabling motion is made and it fails, then the amendment stays in its status quo position. If a tabling motion succeeds, that amendment can be offered on some other part of the bill or offered to one of the substitutes.

I hope that we will have some action. I understood there might be some divestiture amendments voted on today, and there will be motions to recommit with instructions, so I simply hope that the Senate will act soon on something and let us get some movement going.

Mr. President, of course, everyone on this side who I have heard said they are ready to vote on the Kennedy amendment, and there were a couple of objections voiced from the other side under the pretense ostensibly because they say there was some informal agreement not to vote on anything substantive today. I personally had not heard any such agreement made either informally, formally or whatever. I think it puts the Senate in a kind of precarious position. On the one hand, we have a cloture motion filed on the debate on the Bentsen-Pearson amendment. Yet now with the Kennedy amendment up, and that being filibustered by the other side, there is no cloture motion filed on that.

I wonder if we could kind of equalize this, to put a cloture motion on both or remove the one off the Bentsen-Pearson amendment and withdraw it.

It seems to me that would be the fair thing to do.

Mr. TOWER. Mr. President, there is a lot of sanctimonious talk going on here and in fact there were a number of principals in this debate who met last evening and made a good faith effort in my view, or at least my view at the time, to arrive at some basis of agreement so that Senators would be informed approximately when we would vote on what kind of issues.

There was a great deal of discussion on the matter of divestiture and suggestion that divestiture votes would be forthcoming today, and also the strong suggestion that any votes on gas pricing, particularly the Jackson amendment, would probably be voted on on Monday. And some participants in that discussion gave no indication at all that there would be an attempt to force a gas pricing vote today. As a matter of fact, late last evening one of the participants, Mr. KENNEDY, did offer this amendment on gas pricing.

Now the fact of the matter is that Senators were not expecting votes on that

issue today. No, there was no agreement, of course not.

But the Senator from Texas, however slow he might be, has been around here long enough to recognize a parliamentary maneuver when he sees one.

For my part, Mr. President, I do not think it would be proper for us at this point ot undertake to vote on a gas pricing proposal because I think many Senators, who did act with some understanding or some thought that yesterday's meeting was a good-faith meeting and everyone involved was airing what they could air at the time, expressing whatever intents they had, left in good faith.

So I hope we will not vote on the gas pricing provision and will proceed to consider matters that many thought we would consider today, and that is the question of divestiture.

Certainly it is an issue of very great substance. So I hope that Senators who have divestiture amendments will bring those up and let us vote on them.

Mr. BENTSEN addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

UP AMENDMENT NO. 849

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment No. 849 to amendment No. 862 to S. 2104.

"'SEC. 28. (a)(1) Not later than 180 days after the date of enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered after date of enactment to any pipeline company or local distribution company which directly serves boiler fuel users exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be allocated to the rates and charges of any such company applicable to direct sales of natural gas for boiler fuel use until the rates or charges applicable to any such use served by such pipeline company or such local distribution company, equal 120 percent of the average retail cost of No. 6 residual fuels to such boiler fuel users.

"'(2) The rule required to be prescribed under paragraph (1) shall provide that after the rates and charges—

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed reading the amendment as follows:

—of a pipeline company or local distribution company applicable to sales of natural gas to boiler fuel users served by such company, equal 120% of the average retail cost of No. 6 residual fuels to such boiler fuel users, served by such company, further increases in the average cost of natural gas delivered to such company shall be allocated to the rates and charges of such company applicable in accordance with the orders and directions of the Commission with respect to any such pipeline company and in accordance with the orders and directions of the state or local regulatory agency by which such local distribution company is regulated.

"'(3) The rates and charges for sales of natural gas by any pipeline company or by any local distribution company to all customers of such pipeline company or local distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

"'(b) Not later than 90 days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the average retail cost of No. 6 residual fuels in each region of the country (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

"'(c) For purposes of this section:

(1) The term "boiler fuel" means natural gas used as a fuel for the generation of steam or electricity, including the utilization of gas turbines for the generation of electricity, whether or not alternate fuel capability has been installed in an amount greater—

Mr. BENTSEN. Mr. President, the substance of the amendment having been stated, I now join the Senator in asking unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hearing none, it is so ordered.

The amendment is as follows:

On page 15, after line 22, insert the following:

"INCREMENTAL PRICING OF NEW NATURAL GAS

"'SEC. 28. (a)(1) Not later than 180 days after the date of enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered after date of enactment to any pipeline company or local distribution company which directly serves boiler fuel users exceeds the product of the average cost of natural gas delivered to such company during the twelve-calendar-month period ending immediately before the date of the enactment of this Act multiplied by the inflation adjustment, shall be allocated to the rates and charges of any such company applicable to direct sales of natural gas for boiler fuel use until the rates or charges applicable to any such use served by such pipeline company or such local distribution company, equal 120 per centum of the average retail No. 6 residual fuels to such boiler fuel users.

"'(2) The rule required to be prescribed under paragraph (1) shall provide that after the rates and charges of a pipeline company or local distribution company applicable to sales of natural gas to boiler fuel users served by such company equal 120 per centum of the average retail cost of No. 6 residual fuels to such boiler fuel users served by such company further increases in the average cost of natural gas delivered to such company shall be allocated to the rates and charges of such company applicable in accordance with the orders and directions of the Commission with respect to any such pipeline company and in accordance with the orders and directions of the State or local regulatory agency by which such local distribution company is regulated.

"'(3) The rates and charges for sales of natural gas by any pipeline company or by any local distribution company to all customers of such pipeline company or local distribution company shall be increased in accordance with the provisions of this section—

(A) notwithstanding any contractual provision and

(B) whether or not such rates and charges are otherwise subject to regulation by the Commission.

"'(b) Not later than ninety days after the date of enactment of this Act and at intervals of three calendar months thereafter the Secretary shall certify to the Commission the average retail cost of No. 6 residual fuels in each region of the county (as determined by the Secretary), which cost shall be adopted by the Commission for developing the rule required by this section.

"'(c) For purposes of this section:

(1) The term "boiler fuel" means natural gas used as a fuel for the generation of steam or electricity, including the utilization of gas turbines for the generation of electricity, whether or not alternate fuel capability has been installed, in an amount greater than 1,500 Mcf on a peak day.

(2) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(3) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

"'(d)(1) The rule required by this section shall be transmitted by the Commission to both Houses of Congress on the same day. If both Houses are not in session on the date the rule is received by the appropriate officers of each House, the rule shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(2) The rule shall not go into effect until sixty calendar days after transmission to both Houses of Congress.'."

Mr. ABOUREZK. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

Mr. BENTSEN. Mr. President, I had not lost the floor.

Mr. ABOUREZK. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator lost the floor by offering the amendment.

Mr. HANSEN. We cannot hear the Chair.

The PRESIDING OFFICER. The Senator lost the floor by offering the amendment.

Mr. BENTSEN. I did not lose the floor by making the unanimous-consent request, as I understand it.

The PRESIDING OFFICER. The Parliamentarian tells me that the Senator lost the floor when he offered the amendment.

Several Senators addressed the Chair.

Mr. BENTSEN. I did not lose the floor my asking unanimous consent that the reading of the amendment be dispensed with.

Mr. ABOUREZK. Regular order, Mr President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. BAKER. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I was on the floor when this occurred. The Senator from Texas offered his amendment, and then began his presentation of his remarks. This clearly was recognition by the Chair, and to me amounts to the regular order.

Mr. ABOUREZK. Regular order, Mr. President. A motion to table is not debatable.

Mr. BENTSEN. Of course it is not debatable, but I had not lost the floor. Mr. President, I asked unanimous consent that further reading of the amendment be dispensed with.

Mr. BAKER. Mr. President, my parliamentary inquiry——

Mr. ABOUREZK. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The answer to the inquiry of the Senator from Tennessee is that at the time the Senator from Texas asked unanimous consent that the further reading of the amendment be dispensed with, at that time, the Parliamentarian tells me, the Senator from Texas lost the floor.

Mr. ABOUREZK. Regular order, Mr. President. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New Mexico (Mr. SCHMITT), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The vote was announced—yeas 17, nays 59, as follows:

[Rollcall Vote No 402 Leg.]

YEAS—17

Bumpers	Jackson	Proxmire
Clark	Javits	Ribicoff
Cranston	McGovern	Riegle
Glenn	McIntyre	Sarbanes
Hollings	Moynihan	Williams
Inouye	Nelson	

NAYS—59

Abourezk	Durkin	Melcher
Allen	Eagleton	Morgan
Anderson	Ford	Muskie
Baker	Garn	Nunn
Bayh	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Hansen	Pell
Brooke	Hatch	Percy
Burdick	Hatfield	Randolph
Byrd, Harry F., Jr.	Hathaway	Roth
	Hayakawa	Sasser
Byrd, Robert C.	Helms	Schweiker
Cannon	Huddleston	Sparkman
Case	Kennedy	Stevens
Chafee	Laxalt	Stevenson
Chiles	Lugar	Stone
Church	Magnuson	Thurmond
Curtis	Mathias	Tower
Danforth	Matsunaga	Wallop
DeConcini	McClure	Zorinsky

NOT VOTING—24

Bartlett	Haskell	Metzenbaum
Biden	Heinz	Schmitt
Culver	Humphrey	Scott
Dole	Johnston	Stafford
Domenici	Leahy	Stennis
Eastland	Long	Talmadge
Griffin	McClellan	Weicker
Hart	Metcalf	Young

So the motion to lay Mr. BENTSEN's UP amendment No. 849 on the table was rejected.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, as I was about to say—looking at the tabling motion maybe I should not give any further explanation of it—my concern and the concern of many others is what happens in the price of natural gas to the homeowner as we deregulate on new natural gas.

The effect of this amendment is really to shift more of that cost over to industry and to try to protect the homeowner, to give the homeowner the benefit of the old contracts and the older prices and still have the incentives out there to find the new gas and to bring it on stream.

That, in effect, in the simplest of terms is incremental pricing. We have heard a great deal about the impending curtailments of natural gas this winter and we certainly have heard some legitimate concerns and complaints of constituents about their utility bills.

We have a clear obligation to help assure that available natural gas in this country is put to its most efficient and its most practical use.

We have a clear obligation to do everything we can to try to hold down the price of that energy to the homeowner as we try to bring on additional supplies.

My proposal for incremental pricing for large boiler fuel users—those who consume more than 1,500 Mcf—will help meet both of these concerns.

Under the terms of my amendment, large boiler fuel users will be required to pay the average cost of new and artificial gas supplies until that cost reaches the level of 120 percent of the cost of No. 6 residual fuel oil.

Larger boiler fuel users, in other words, will be called upon to absorb the impact of higher priced, new gas before the homeowners or the small businesses have to pay for it.

I think there is a general agreement in this Chamber that the use of natural gas as a boiler fuel is a wasteful use of that kind of a finite resource.

In 1976, over 2 trillion cubic feet of natural gas was burned by industrial boilers.

It is important to understand, Mr. President, that most utility and industrial boilers, and the users thereof, can switch to oil or to coal. They continue to burn desperately needed natural gas because it is cheaper than alternative sources of energy.

Incremental pricing will help encourage the conversion by industrial users. They will then face that economic decision.

The homeowner cannot put in a coal chute these days, and he is not going to do it. We know that that homeowner who is using natural gas wants to be assured he has a supply, but he cannot afford the conversion costs. But most of industry can and that is where the conversion should be made.

I recognize that incremental pricing is a complex subject. But perhaps it can be best explained by this kind of an example.

Many pipelines in this country have two categories of customers—residential, and then on the other side, industrial and utility customers.

With deregulation, new supplies of natural gas will become available on the market and the best estimate is that it will be a 4- to 10-percent increase in the first year of deregulation.

New gas, of course, will cost more than old and regulated gas.

Under the terms of my amendment, if the pipeline in question purchases new gas to meet its combined industrial and residential demand, it would be required to sell the new and more expensive product to the industrial consumer who uses gas as a boiler fuel and has the ready option of conversion.

Mr. President, I am delighted to yield to the distinguished Senator from West Virginia for a question.

Mr. RANDOLPH. Mr. President, I thank the knowledgeable Senator from Texas who addresses himself to this subject matter.

I think we should all recognize whether we are for or against the so-called Bentsen-Pearson amendment, or the Pearson-Bentsen amendment, that this is an amendment that helps the residential user of natural gas.

Am I correct in that?

Mr. BENTSEN. That is correct.

Mr. RANDOLPH. I think the membership should recognize that that is the thrust of the amendment.

We should not try to just tie it to other subject matter in the proposals, three in number, that are pending—the so-called Kennedy proposal, the Jackson proposal, and the proposal sponsored by the Senator from Texas which has already had the support of this Senate by a margin of six votes.

I say this in good humor and good purpose. If we will look at this amendment just on its own merits and not connected with any of the other three proposals, as it is offered here, and very naturally here, I hope Members will study the amendment because it does give a preferential treatment to the consumer, that is, in this instance, the residential user.

Is that correct?

Mr. BENTSEN. It certainly does.

I say to the distinguished Senator from West Virginia that he has eminent knowledge of this and is a long-time student of this subject.

Mr. RANDOLPH. I appreciate supporting the amendment proposed.

Mr. BENTSEN. I thank the Senator.

What it really does, it penalizes the industrial consumer when he indulges in wasteful use of natural gas. It means if he is going to continue to try to do that, he is going to have to pay for that privilege.

It will try to discourage him in an economic way and push him into a conversion into coal for an alternative source of energy.

Now, this would remain in effect until they reached, as I say, 120 percent of the cost of No. 6 residual fuel oil.

If that level is attained, the Federal Power Commission would be free to allocate all or part of the excess of other customers.

Simply stated, my amendment would provide a strong economic incentive for industrial gas users to shift to alternative sources of energy. It will free up additional supplies for the residential user; and it will insulate the homeowner from higher fuel costs.

If there are no large boiler fuel users on a pipeline, the incremental pricing provision would not be needed, and, under my amendment, would not be applicable.

In summary, Mr. President, incremental pricing of new natural gas to large boilers will mitigate the economic impact on homeowners and high priority users while discouraging pipelines with boiler fuel loads from acquiring new supplies for wasteful purposes.

It will encourage and enable pipelines with large residential fuel loads to acquire new gas supplies that might otherwise be dumped under boilers at cheap prices but at a high cost of our economy and supplies.

Mr. President, I think the amendment makes eminent good sense. I hope the Senate will adopt it as a perfecting amendment to the Pearson-Bentsen bill.

Mr. ROBERT C. BYRD. Vote!

Mr. RANDOLPH. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, would the Senator from Texas yield for some questions on his amendment?

Mr. BENTSEN. I am pleased to yield to the distinguished Senator.

Mr. ABOUREZK. Does the Senator's amendment protect industrial users who use natural gas for processing? By that I mean processing where the flame actually touches the product being processed, such as painting cars, and so forth?

Mr. BENTSEN. Since those users are not boiler fuel users, they would not be penalized.

Mr. ABOUREZK. Under the Senator's amendment, they are protected if they have no substitute?

Mr. BENTSEN. That is right—if they have no place else to go. Otherwise, what you are doing is costing American jobs.

Mr. ABOUREZK. What about protection for industrial users who use natural gas for feedstocks?

Mr. BENTSEN. What we have done, I say to the Senator, is that we have put a limited application here in the way of a definition to the very largest boiler fuel user, to try to keep it as simple as we could.

Mr. ABOUREZK. So the Senator's answer is "No"?

Mr. BENTSEN. It depends on the size of the boiler fuel user.

Mr. ABOUREZK. But the Senator, in his amendment, does not protect users who have use for feedstock and have no alternative fuel?

Mr. BENTSEN. We do not penalize them in that situation.

Mr. ABOUREZK. The amendment would not penalize them but it would not protect them?

Mr. BENTSEN. The boiler fuel user is the one we penalize. No, no protection beyond that.

Mr. ABOUREZK. The Senator is saying it is only the boiler fuel user who would be affected?

Mr. BENTSEN. That is right.

Mr. ABOUREZK. When we talk about natural gas for processing, that is just about it; there are no real alternatives. If you have to use natural gas in a process, what alternative could you use?

Mr. BENTSEN. I am sorry, I did not hear the Senator.

Mr. ABOUREZK. In using natural gas for manufacturing processes where you have to use a flame with gas, what other alternatives do you have? There are none. I wonder whether the Senator would comment on that.

Mr. BENTSEN. Again, we are speaking about the boiler fuel user, and that is the limitation we put on it—the boiler fuel user.

Mr. ABOUREZK. So no protection is provided for processors?

Mr. BENTSEN. No, but we do not charge him with the incremental price.

Mr. ABOUREZK. Would residential and small commercial users be better protected by the Jackson incremental pricing provision?

Mr. BENTSEN. I do not have that kind of detailed study. We would be delighted to try to develop that information, in a comparison with the amendment of the Senator from Washington.

Mr. ABOUREZK. When could we do that? I think it is important to determine whether small commercial users are protected in the Senator's amendment.

Mr. BENTSEN. Small commercial users are protected, because we are talking about 1,500 Mcf per day with respect to the application of this.

Mr. ABOUREZK. Does the Senator mean that this amendment applies to people who use more than 1,500 Mcf?

Mr. BENTSEN. That is right. So the small one is protected in that kind of situation.

Mr. ABOUREZK. Let me ask another question in line with that. Does the Senator apply this amendment to the use of natural gas in refineries?

Mr. BENTSEN. No. We get clearly to boiler fuel users, which is thought to be the most wasteful utilization of natural gas, and that is where we put on the incremental cost.

Mr. ABOUREZK. Refinery use is perhaps as wasteful or more wasteful than boiler fuel use. In fact, there is a tremendous amount of natural gas burned in refineries. That is a perfect example of a place where you could use alternative fuels. You could use heating oil in refineries.

Mr. BENTSEN. We are talking about a great amount of gas here. We are talking about 2 trillion feet that is involved, that is under boiler fuel use. So it is making very substantial progress.

Mr. ABOUREZK. But the Senator does not extend it to refiners; he is leaving out refineries. Therefore, he is not requiring incremental prices for one of the major uses of natural gas, one of the major wasters of natural gas. Is that correct?

Mr. BENTSEN. No, that is not correct, if we compare it to what we are putting it on, when we talk about 2 trillion feet. We are talking about 25 percent of the oil in interstate pipelines going into boiler fuel. We have applied it to that; that is the major application.

Mr. ABOUREZK. Is there a reason for not applying it to refineries. That is a major application.

Mr. BENTSEN. We can go into great complexities, if we wish. This is a simple approach to it that gets to the biggest offenders. I think it is a major step forward in trying to protect the homeowner.

Mr. ABOUREZK. The Jackson Incremental pricing provision includes all major industries, including refineries, which would cover a great deal of natural gas that qualifies as a wasteful use. It is surprising to me that the Senator from Texas limits his prohibition to boiler use and leaves out refinery use of natural

gas, which is very wasteful, and for which there are alternatives.

Mr. BENTSEN. I say to the Senator from South Dakota, with respect to the Jackson amendment, that I am concerned because incremental pricing is attached to some of the agricultural use. I do not agree with that. I think we should have a protection there.

Mr. ABOUREZK. But we are not talking about that part.

Mr. BENTSEN. I am talking about that part. The Senator from South Dakota threw it into the dispute—the question as to the Jackson amendment compared with this amendment.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield for a question.

Mr. MAGNUSON. Does the Senator's amendment exempt agricultural use of gas?

Mr. BENTSEN. Yes, it would. The incremental pricing is on the boiler fuel use at more than 1,500 Mcf. With the Jackson amendment, as I understand it, the incremental pricing would go to some of the agricultural usage, and I do not agree with that.

Mr. MAGNUSON. Some of my fruit growers use natural gas for protection against frost and things of that nature.

Mr. BENTSEN. But that would not be using it as a boiler use to the extent of 1,500 Mcf.

Mr. ABOUREZK. That would not come under the boiler fuel section?

Mr. BENTSEN. It would not be applicable to them.

Mr. ABOUREZK. Because that is not boiler fuel. Is that what the Senator means?

Mr. BENTSEN. Yes.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. GLENN, I do not know whether I misunderstood something earlier or not, but I think the Senator from Texas is trying to prevent boiler fuel use. Would that not also apply to refineries?

Mr. BENTSEN. If it is used as boiler fuel. Absolutely.

Mr. GLENN. Is the Senator talking about processes?

Mr. ABOUREZK. I am talking about use of natural gas other than boiler use in refineries, which amounts to about one-twentieth of all natural gas use in the country—5 percent. That is a substantial portion.

Mr. GLENN. Other than boiler use?

Mr. ABOUREZK. Other than boiler use. We concede that he applies it to only boiler use, but he exempts too many important aspects.

Would the Senator be willing to apply incremental pricing to all utilities that provide electrical power?

Mr. BENTSEN. This amendment applies to all boiler fuel users. If the natural gas expense gets too large these utilities can switch to other fuels without any significant cost to the consumer. Also, they would never pay more than 120 percent of the cost of No. 6 residual fuel.

Mr. ABOUREZK. What does that mean, that they can readily convert? They all can readily convert.

Mr. BENTSEN. No, I am afraid that is not the case.

The Senator from New York has made his point, and made it in the hearings the other day with Dr. Schlesinger, whereby we are running into some serious environmental problems in New York with respect to EPA regulations and a violation of the oxidant standards. He made a valid point that they were running into a serious health problem on the conversion. You run into a number of instances such as that.

Mr. ABOUREZK. Does the Senator's amendment specifically state what the alternative fuel should be, or is that left up to the Federal Power Commission?

Mr. BENTSEN. No, I do not think that by Government fiat we should be trying to determine in each instance what is economically best and what is more viable for each user that converts. That is the sort of regulation I hope we can avoid. I know the Senator apparently feels to the contrary, that it should be dictated.

Mr. ABOUREZK. How would the Senator's amendment be enforced then? How does it state that the alternative fuel should be decided?

Mr. BENTSEN. It is just a total placing of incremental price on boiler fuel usage.

Mr. ABOUREZK. In other words, there is no statement in there as to which alternative fuel should be used?

Mr. BENTSEN. No, certainly not. I do not think we should be in that position.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Texas has the floor.

Mr. BENTSEN. I yield.

Mr. GLENN. I was questioning the one-twentieth of our use. Is it considered boiler fuel only if it is a water boiler, and if you are heating crude and getting a distillate process going, that is not considered boiler use? Is that correct?

Mr. ABOUREZK. I do not know whether it is or not.

Mr. GLENN. What would the one-twentieth of our total use be for in refineries, then? I thought boiler use applied not only to water but to whatever else was being heated in a boiler-type operation. Perhaps I do not understand the refinery business well enough.

Could someone clarify that for me? I am a little surprised at this one-twentieth of our total gas use going to other than boiler functions in a refinery.

Mr. ABOUREZK. That is right. Those are the figures I have, and I think probably the Senator agrees with me.

Mr. GLENN. Is the definition of boiler use only where it is water, and if we are heating crude for distillate purposes that would not be considered boiler use; is that correct? How do we define boiler use is what I am asking.

Mr. ABOUREZK. If you are heating something aside from water that would not be boiler use.

Mr. GLENN. Why could it not be?

Mr. ABOUREZK. Well, it is a standard term. Boiler use is when you heat water to create steam; that is it.

Mr. BENTSEN. I do not have it. There is a standard definition of the use of boiler fuel, and I do not have it available. I am told the Federal Power Commission has such a definition but I do not have it before me.

Mr. GLENN. I thank the Senator.

Mr. ABOUREZK. If I could get back to incremental pricing being applied to all utilities, the Senator responded a minute ago by saying he would require it only if where there was an alternative source of fuel. How does the Senator's amendment determine whether or not utilities can readily convert to some other source of fuel?

Mr. BENTSEN. What they could do, obviously, is they could pay the incremental price or it would be dictated by economics if they switched to another fuel.

Mr. ABOUREZK. I am asking under the Senator's amendment, what happens to utilities? It gives them the total option to declare on their own whether they will convert or whether they can convert?

Mr. BENTSEN. They have an economic determination to make.

Mr. ABOUREZK. Pardon?

Mr. BENTSEN. They have an economic determination to make because if they utilize more than that in boiler fuel usage, they would pay the incremental price and they would have to decide whether or not they would use coal or oil.

Mr. ABOUREZK. Well, the determination is left up to them?

Mr. BENTSEN. Sure.

Mr. ABOUREZK. They can either pay the incremental price and stay with natural gas or they can convert.

Mr. BENTSEN. That is right. You would find that the economic pressure would be on them obviously to switch to an alternative source of energy.

Mr. ABOUREZK. But the Senator's amendment does bring all utilities under the incremental pricing provision?

Mr. BENTSEN. Will the Senator state his question again?

Mr. ABOUREZK. Yes. The Senator's amendment does bring all utilities under the incremental price provision?

Mr. BENTSEN. If they use more than that capacity in boiler fuel, that is correct.

Mr. ABOUREZK. What capacity?

Mr. BENTSEN. 1,500 Mcf.

Mr. ABOUREZK. Any utility would use much more astronomical sums?

Mr. BENTSEN. That is right. It is a wasteful use of natural gas.

Mr. ABOUREZK. But the Senator does bring all utilities under it.

Mr. BENTSEN. That is right. They would have the economic pressure on them then to convert.

Mr. ABOUREZK. Do we have a copy of the Senator's amendment printed?

Mr. BENTSEN. It is at the desk.

Mr. STONE. Mr. President, will the Senator yield for one question?

Mr. BENTSEN. I would be delighted to yield.

Mr. STONE. This then is an amendment directed strictly and directly in favor of homeowners for the use of gas; is that right?

Mr. BENTSEN. What it does in effect is it helps protect the homeowner and the small business user for the old price of natural gas. It helps shift the burden of finding new gas to the large industrial users.

Mr. STONE. Is it not the case that the highest priority assigned by everybody in ranking priorities, the President's ranking and everyone else, is the homeowner and the small business user, chiefly the homeowner?

Mr. BENTSEN. Yes.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BENTSEN. I would be glad to yield.

Mr. DECONCINI. In line with the Senator from Florida's question to the Senator is it primarily for the benefit of the homeowner? Based on the wording of the Senator's amendment you could not come to that conclusion. Would it not be better to spell it out with some wording that would indicate that the companies file separate tariffs and that old gas be distributed by the industry or utilities based on residential use, the cost of that gas? I submitted a copy of a suggested substitute amendment that would spell it out for the homeowner.

Mr. BENTSEN. Well, let me say the Senator from Texas voted for an amendment that did part of what the Senator is saying in the fall of 1975.

Mr. DECONCINI. Yes.

Mr. BENTSEN. And I would be favorable to a further expansion of it, this amendment. This is a major step forward as I have proposed it.

Mr. DECONCINI. Indeed it is.

Mr. BENTSEN. And I proposed in the most basic and simple terms the relief where it would be as easy as any way I know to administer. But I am fulfilling my commitment that I made on Thursday to this body that I would introduce this amendment with the specific provisions. That is not to say I would not be amenable to a further change to spell out more the homeowner.

Mr. DECONCINI. Mr. President, will the Senator yield for another question?

Mr. BENTSEN. Yes.

Mr. DECONCINI. Would the Senator be agreeable to accepting really what his former amendment was in 1975? I have submitted a copy of it to the Senator's staff as a substitute amendment.

Mr. BENTSEN. May I look at it?

Mr. DECONCINI. Yes.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. Mr. President, I would say to the distinguished Senator that, yes, this is, in effect, the amendment I agreed to in the fall of 1975, and if the Senator is proposing it, yes, I would accept it as a substitute for my amendment.

Mr. DECONCINI. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. It would take unanimous consent for the Senator to so modify his amendment because the yeas and nays have been ordered.

Mr. ABOUREZK. Mr. President, reserving the right to object, these amendments are flying around so fast I would like to get a chance to look at them. This is the first chance I have had to see the Bentsen amendment, and he is already abandoning it.

Mr. BENTSEN. It is not a question of abandoning it. I am fulfilling a commitment I made, as I stated on Thursday, and I have Senator DECONCINI who has proposed a modification of it.

Mr. ABOUREZK. Let us take a little time to see what it is.

Mr. BENTSEN. It is very interesting to see the Senator from South Dakota now asking to take time to study amendments, because, as I recall, just a few minutes ago when I proposed an amendment he moved to table it before I had any opportunity to explain it. So I am delighted to see his change of heart in the situation.

Mr. ABOUREZK. I only found out after I moved to table the reason why the Senator did not discuss it.

Mr. BENTSEN. I would be pleased to accept this, considering the parliamentary situation, either as an amendment or whatever the Parliamentarian says.

Mr. ABOUREZK. Reserving the right to object——

Mr. BENTSEN. I am asking the Parliamentarian for his advice.

The ACTING PRESIDENT pro tempore. The Senator from Arizona has the right to substitute his amendment when he is recognized.

Mr. BENTSEN. I yield to the Senator from Arizona.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. BENTSEN. I do not yield for that purpose, and I understand that——

The ACTING PRESIDENT pro tempore. The Senator from Texas.

UP AMENDMENT NO. 850

Mr. BENTSEN. I offer this as a substitute for my amendment.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) for Mr. DECONCINI proposes unprinted amendment No. 850 as a substitute for UP amendment No. 849.

Mr. BENTSEN. I offer this on behalf of the Senator from Arizona.

Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by UP-849, insert the following:

"RESIDENTIAL AND OTHER SMALL USERS

"SEC. 25. General.—The Commission shall—

"(a) Require all pipelines to file separate tariffs with respect to (1) old natural gas and (2) new natural gas (including synthetic or liquefied natural gas) in such form and manner as to reflect the price and average annual volumes of each which enter such pipeline.

"(b) Require all pipelines to give first priority for sales of transfers under the applicable tariff for old natural gas to natural gas distributing companies, to the extent such old natural gas is available, to meet the requirements of each such company's residential users and small users.

"(c) Promulgate rules to govern sales, exchanges, or transfers among pipelines and sales, exchanges, or transfers to natural gas distributing companies served by multiple pipelines, to the extent necessary to achieve the purpose of this section.

"(d) For the purposes of this section, persons using natural gas for essential agricultural purposes not to exceed 50 Mcf on an average day, shall be deemed small users."

Mr. BENTSEN. Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. I yield for a question to the Senator from Arizona.

Mr. DECONCINI. My question is to the Senator from South Dakota who has indicated he may object to unanimous consent. Is it my understanding that the Senator from South Dakota wants to consider this?

Mr. ABOUREZK. The only thing I would like to do is to just find out what these amendments are saying before we make any disposition of them. I think that is only fair.

Mr. DECONCINI. Yes, I think it is only fair, too.

The substitute now that the Senator from Texas had offered to his own amendment sets up——

Mr. BENTSEN. It was offered in the name of the Senator from Arizona.

Mr. DECONCINI. In the name of the Senator from Arizona.

It sets up, as the Senator will see in paragraph (a) there, two separate tariffs, one for old gas and one for new natural gas. Under (b) it requires that all pipelines give first priority for sales to transfer under applicable tariff for old natural gas to natural gas distributing companies to the extent that such old natural gas is available to meet the requirements of each such company's residential users and small users.

In essence, as I interpret this and as the history relates from 1975 where really this came from, it means that the utility companies will first deliver old natural gas at the old natural gas price, whatever that may be, to residential users first, and get away from just a reference to boiler fuel use.

I think that is more advantageous.

Mr. ABOUREZK. What would this substitute do to give some kind of a financial incentive for large boiler users, refineries, to switch to an alternative fuel? Does it have an incentive?

Mr. DECONCINI. No; it does not have an incentive. That is not the purpose of it. The sole purpose of it is to insist that

the lowest price of old natural gas goes to residential users. It would take another amendment to do what the Senator is suggesting, which I think is a very good idea.

But this only addressed the problem of residential users getting the lowest price of old natural gas.

Mr. ABOUREZK. What about new natural gas?

Mr. DECONCINI. New natural gas would then be distributed at whatever that price is now to the users of old natural gas. In other words, there would not be an average of the two costs to charge the residential user now who is using old natural gas.

Mr. ABOUREZK. For example, if the distribution company in an area had to buy gas under a new contract which would be termed new gas, they would pass that cost on to the small homeowner; is that right?

Mr. DECONCINI. Yes, after they had exhausted the use and the charge for old natural gas, that is correct.

Mr. ABOUREZK. I do not think the substitute provides anything more than what the new energy department already has the power to do. Is that correct?

Mr. DECONCINI. I am not sure they do. I cannot debate with the Senator from South Dakota whether or not the Energy Department has that.

Mr. ABOUREZK. And the Senator is offering that as a total substitute to the Bentsen amendment?

Mr. DECONCINI. The Senator from Texas has offered this in my name as a substitute. I presume that is a total substitute to the Senator's original amendment. Is that correct?

Mr. BENTSEN. That is correct.

Mr. ABOUREZK. What happened to the commitment the Senator from Texas was so strong on a few minutes ago on his own amendment? He gave in pretty easily, I thought. This is a totally different amendment.

Mr. BENTSEN. When I find someone has an interesting idea, I really do not worry about the pride of authorship I am delighted to defer to my distinguished friend.

Mr. DECONCINI. If I may answer that, the original amendment of the Senator from Texas goes to the boiler use and can be interpreted that that will be of benefit to the residential user who is now getting old gas, and I believe that is the intent and the hope of the Senator from Texas in offering that, based on his commitment on the floor, I believe, yesterday. This goes further and says that they shall have two tariffs, and, as I explained, the old gas shall be going first to residential users, and so, in essence, you are protecting, if you want to use that word, or insuring the residential user that he is going to get the total consumptive use of old gas at the cheapest price before he gets charged for new gas. The original amendment of the Senator from Texas originally did not go that far. It gave the cutoff use to boiler use primarily and then, assuming that that is where it would go, this perfecting or substitute amendment says it must do that.

I think it is a great improvement.

Mr. ABOUREZK. But the Senator's substitute apparently wipes out all of his language. If I understand correctly, that is what the substitute is.

Mr. DECONCINI. That is correct.

Mr. BENTSEN. I have no objection to that.

Mr. ABOUREZK. Right. I know he has no objection to it. But, what has happened here is that you provide no incentive whatsoever to stop the waste of natural gas by industrial users. There was very little of it in the Bentsen amendment, and the Senator has taken even that little out now.

Mr. DECONCINI. To answer the Senator's question, if he has a suggestion that he would like to include part of what is in the original Bentsen amendment as relating to natural gas for boiler users, I have no objection. That would be up to the Senator from Texas.

Mr. ABOUREZK. What I will do then, if the Senator has no objection, is to offer the Jackson amendment as a perfecting amendment to Senator BENTSEN's amendment, in order to take care of everyone's concerns.

Mr. BENTSEN. No, it does not take care of my concerns, obviously, because you have, in effect, incremental pricing to agriculture, and I do not agree with that at all.

Mr. ABOUREZK. Mr. President. I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. What is the amendment to?

Mr. ABOUREZK. It is a perfecting amendment to the Bentsen amendment.

The ACTING PRESIDENT pro tempore. That is not in order at this particular time. There already is a perfecting amendment before the Senate.

Mr. ABOUREZK. No, I do not mean the Bentsen-Pearson amendment. To the Bentsen amendment.

Mr. BENTSEN. Substitute by Mr. DECONCINI.

Mr. TOWER. Point of order, Mr. President.

Mr. ABOUREZK. To the Bentsen amendment that was just offered just a few minutes ago.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Arizona is the pending amendment in the second degree.

Mr. ABOUREZK. Parliamentary inquiry. Mr. President.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ABOUREZK. Is the Chair saying that the DeConcini amendment is in the second degree? I thought it was a substitute.

Mr. TOWER. Parliamentary inquiry, Mr. President.

Mr. ABOUREZK. I thought the original amendment could be perfected.

Mr. BENTSEN. My original amendment is a perfecting amendment to the Pearson amendment.

The ACTING PRESIDENT pro tempore. It inserts other language, language in lieu of the language of the Senator from Texas but it is in the second degree; therefore, it is not in order.

Mr. ABOUREZK. I ask the Senator from Arizona if he would be willing to withdraw his substitute so I can offer this as a substitute. It takes care of his concerns.

Mr. DECONCINI. No. I realize that the interest of the Senator from South Dakota is to adopt what has been floating around and known as the Jackson amendment.

Mr. ABOUREZK. Yes.

Mr. DECONCINI. But I am not prepared to accept that at this time. What I am prepared to do is in my opinion move in a little stronger position in behalf of the residential user, and the Senator from Texas has also indicated a willingness to do that. I think it makes very good sense to take one step at a time. Now that this my amendment is before us if we can vote on that, get that approved, then I certainly will consider the Jackson amendment. But I do not want to adopt it as this. I would like to see this amendment agreed to.

Mr. ABOUREZK. The Senator did not have an objection to the Jackson amendment as such, but rather as a substitute for his amendment?

Mr. DECONCINI. I said I would consider the Jackson amendment. My prime interest is getting this adopted now and approved, and I do not want to take the Jackson amendment as a substitute to this. This is what I would like to see enacted.

Mr. ABOUREZK. I have to say that I do not have any objection to the Senator's amendment except it does not go far enough. It is very innocuous in its form. I would be willing to join his amendment with the Jackson amendment and make them as one so as to make it effective.

Mr. DECONCINI. That is acceptable to me.

Then I ask the Senator from South Dakota why he does not offer the Jackson amendment again?

Mr. ABOUREZK. I just tried.

Mr. DECONCINI. No, I mean at a later time.

Mr. ABOUREZK. If I might——

Mr. BENTSEN. Who has the floor?

Mr. ABOUREZK. Mr. President, I had the floor. The Senator sat down and then got up again. But I had the floor for several minutes.

Mr. BENTSEN. I sat down to rest a bit.

The ACTING PRESIDENT pro tempore. No one else has been recognized.

Mr. ABOUREZK. I sought recognition.

Mr. BENTSEN. As I understood I had yielded for a question and I ended up with a speech.

The ACTING PRESIDENT pro tempore. The Senator from Texas was recognized, and the Senator from Texas does have the floor.

Mr. BENTSEN. I still have the floor, and I would be delighted to yield to the Senator from South Dakota for a further question if he desires.

Mr. ABOUREZK. I just want to make a summary of this before we vote on it. I will be happy to wait.

Mr. BENTSEN. Under those conditions, I am very pleased to yield the floor if that is the purpose of the Senator from South Dakota.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, what has happened here in the last few minutes, if I can try to recap it—and I may be wrong because it happened so fast that I am not sure that my observations are going to be accurate—was that Senator BENTSEN from Texas offered what he called an incremental pricing amendment that left out everyone except boiler fuel users. He left out a lot of the waste of natural gas in this country and is going to allow all utilities and all refineries to continue to use natural gas. That is fine if that is what the Senate wants to do. If the Senate is interested in just pretending it is attacking the problem, then the Bentsen amendment would be the proper thing to do. If the Senate really wants to do something about the waste of natural gas, the amendment should include all industries that waste natural gas, and those are industries that have an alternative source of fuel they could convert to.

While we debated that amendment, suddenly the Senator from Arizona got up and offered a substitute for it, which was readily accepted by Senator BENTSEN, and which does nothing but say we have a commitment for old natural gas to be used for homeowners first. It says that contracts shall remain in force for residential users, but it does not say anything about protecting small owners, farmers, and people who are forced to use gas, who have no alternative source for heating, for industrial processes, or whatever; it does not protect them at all from bearing the burden of new natural gas prices. It does not prevent boiler users, refineries, utilities, or any other industrial user from wasting large quantities of natural gas.

If that is what the Senate wants to do, that is fine. If we want to pretend we are attacking the problem, and then not do it, I think Senators ought to know that. I think they ought to know that these two amendments together do very little toward preventing the waste of natural gas, and I would submit, Mr. President, before we vote on it—and I am ready to vote any time—that I think that Senators ought to be well aware of what is being done.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. ABOUREZK. For a question?

Mr. DECONCINI. No, to ask for the yeas and nays on the substitute amendment.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, just to make a comment, when the statement was made that this amendment does not really go very far, the amendment of the Senator from Arizona as now structured provides for incremental pricing for everyone using more than 50 Mcf a day. That is a very far-reaching amendment indeed. So the statement that we are only pretending to attack the problem is an incorrect statement.

I urge the adoption of the amendment.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Pearson-Bentsen substitute, No. 862, to S. 2104, to establish a comprehensive natural gas policy.

Robert C. Byrd, Clifford P. Hansen, Walter D. Huddleston, Jennings Randolph, Abraham Ribicoff, Henry M. Jackson, Jacob K. Javits, Warren G. Magnuson, Gaylord Nelson, Alan Cranston, Howard Baker, Barry Goldwater, Thomas F. Eagleton, William Proxmire, Richard Stone, Spark M. Matsunaga, Wendell H. Ford, John Glenn, Daniel K. Inouye, Ted Stevens, and Charles H. Percy.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Arizona. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), the Senator from New York (Mr. MOYNIHAN), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 17—as follows:

[Rollcall Vote No. 403 Leg.]

YEAS—61

Abourezk	Goldwater	Pearson
Allen	Gravel	Pell
Anderson	Hansen	Percy
Baker	Hatch	Proxmire
Bayh	Hatfield	Randolph
Bellmon	Hathaway	Ribicoff
Bentsen	Hayakawa	Riegle
Bumpers	Helms	Roth
Burdick	Hollings	Sarbanes
Cannon	Kennedy	Sasser
Chafee	Laxalt	Schmitt
Church	Lugar	Schweiker
Clark	Mathias	Sparkman
Curtis	Matsunaga	Stevens
Danforth	McClure	Stevenson
DeConcini	Melcher	Thurmond
Dole	Metzenbaum	Tower
Domenici	Morgan	Wallop
Durkin	Muskie	Zorinsky
Ford	Nunn	
Garn	Packwood	

NAYS—17

Brooke	Cranston	Magnuson
Byrd, Harry F., Jr.	Eagleton	McGovern
Byrd, Robert C.	Glenn	McIntyre
Case	Huddleston	Nelson
Chiles	Inouye	Stone
	Jackson	Williams

NOT VOTING—22

Bartlett	Humphrey	Scott
Biden	Javits	Stafford
Culver	Johnston	Stennis
Eastland	Leahy	Talmadge
Griffin	Long	Weicker
Hart	McClellan	Young
Haskell	Metcalf	
Heinz	Moynihan	

So Mr. DECONCINI's amendment (No. 850) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Senator RANDOLPH be added as a sponsor of this substitute amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 881

Mr. FORD. Mr. President, as a point of information, I have an amendment that would deregulate the so-called small gas wells as we did the stripper oil wells.

I would like to know at what position we are now that I might introduce that amendment, and what is the parliamentary procedure on which that amendment could be recognized?

The ACTING PRESIDENT pro tempore. The question recurs on the Bentsen amendment, as amended, which is not amendable. After this is disposed of, the Senator could offer an amendment to the Pearson-Bentsen

substitute, the bill itself, or the Jackson substitute.

Mr. FORD. Mr. President, I would like to send an amendment to the desk and ask that the Pearson-Bentsen substitute—or amendment—be amended for the stripper well.

I want to get to this amendment, if I can. Everybody seems to be for it. I would like to get something through today and have a lot of camaraderie here.

The ACTING PRESIDENT pro tempore. To what is the Senator adding his amendment, to the Bentsen amendment?

Mr. FORD. If I can.

The ACTING PRESIDENT pro tempore. It would take unanimous consent.

Mr. FORD. Mr. President, I ask unanimous consent that my amendment be——

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. FORD. Mr. President, I offer it to the bill.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

Mr. FORD. To make it correct.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes amendment No. 881.

The amendment is as follows:

At the appropriate place insert a new section to read as follows:

SEC. . Notwithstanding any other provision of this Act or other law, there shall be no limit to the maximum lawful price for natural gas produced from any well in quantities of less than 100 Mcf per day on a yearly average.

Mr. FORD. I thank the Chair.

Mr. President, this is just a little amendment that helps little folks. I am sure everybody wants to help little folks.

This amendment deregulates natural gas wells that produce 100,000 cubic feet or less per day.

Several weeks or several months ago, we deregulated the so-called stripper wells. That stripper well said that any oil well producing less than 10 barrels a day would be deregulated.

This stimulated a great deal of activity among those small wells that were producing less than 10 barrels. Some of the small wells that had been capped were uncapped and that oil began to flow into the veins of the American economy.

In my travels around Kentucky, in the discussion with many of those that have an interest in the natural gas legislation, many of those who are interested in this piece of legislation as I suggested it were very agreeable.

One of the areas in which this will be tremendously helpful is in the area of Appalachia. Certain parts of the Midwest would be helped.

These small wells have been referred to in the language of grocery stores as the mom and pop wells.

It would encourage getting the gas into the interstate pipelines. It would uncap old wells, cause new efforts to increase the flow from active wells, and would send at least some gas to the Northeast and the mid-Atlantic States.

There are many of these small wells, but the output per well is low. Many of them call these wells low deliverability wells, that once they make a find that there is natural gas, it does not have sufficient pressure to make is economically feasible at present prices to attempt to extract this gas from this reservoir.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. FORD. I am delighted to yield without losing my right to the floor to the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Is it not a fact that the pending amendment, which I believe my colleague has been good enough to include me as a cosponsor, is helpful to a State like West Virginia?

Mr. FORD. This amendment would be helpful to the total area of Appalachia.

Mr. RANDOLPH. Due to the low productivity of West Virginia wells and the high cost of drilling and laying pipeline and operating wells in rugged, mountainous terrain a price limit high enough to attract drilling capital in most of the United States would not be sufficient to attract drilling capital to West Virginia. It will provide substantial relief to West Virginia if gas wells that produce less than 100,000 cubic feet per day are assured deregulated prices.

Over 95 percent of the more than 1,450 gas wells producing into one intrastate system in West Virginia produce less than 60,000 cubic feet per day.

Mr. FORD. Mr. President, I ask that the record show that this amendment is submitted for myself, Mr. MORGAN, Mr. RANDOLPH, Mr. BENTSEN, and Mr. HELMS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. FORD. I yield for a question, without losing my right to the floor.

Mr. METZENBAUM. Are we talking about the Senator's amendment No. 881?

Mr. FORD. Or it could be 988 or it could be one of the others. I filed this amendment so that it would apply to any of those areas, in any of the substitutes that might come up.

Mr. METZENBAUM. So that we may know what we are voting on, would the Senator be good enough to read us the amendment we are about to vote on?

The ACTING PRESIDENT pro tempore. The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the appropriate place insert a new section to read as follows:

SEC. . Notwithstanding any other provision of this Act or other law, there shall be no limit to the maximum lawful price for natural gas produced from any well in quantities of less than 100 Mcf per day on a yearly average.

Mr. METZENBAUM. I thank the Senator.

Mr. FORD. I think the Senator understands that he has filed several amendments that are identical in language but to different areas. This language is identical, and I filed it to the bill.

Mr. METZENBAUM. I am not arguing with the Senator. I was merely trying to get clarification.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. FORD. I yield, without losing my right to the floor.

Mr. NELSON. What percentage of national production would this exemption cover?

Mr. FORD. I do not have the figures.

Mr. NELSON. I am interested in the Senator's amendment, but it would be helpful to get a reasonable estimate about the amount of production that is covered, before we vote.

Mr. FORD. I would be glad to recite something here while the staff looks it up, so that I will not lose my right to the floor.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question?

Mr. FORD. I yield for a question, without losing my right to the floor.

Mr. ABOUREZK. Is there a special reason for deregulating natural gas from any well?

Mr. FORD. Was there a special reason for deregulating oil from a special well? We did that.

Mr. ABOUREZK. Yes.

Mr. FORD. We were saying to that small well of three, four, or five barrels a day, which was capped, "You can open it up now because it would be economically feasible."

There are small natural gas wells that are not being used because it is not economically feasible to uncap them or to try to extricate the gas from a reservoir that does not have the pressure.

All we are trying to do is to say to those with a small capacity, "We want you to try to get it out and get it into the economic structure of this country."

Mr. ABOUREZK. I say to the Senator from Kentucky that I think there is a tremendous difference between small stripper oil wells and a mom and pop gas well.

Mr. FORD. There is very little.

Mr. ABOUREZK. May I finish?

With oil, you have to apply some very specific recovery techniques to get oil out of stripper wells, as the Senator from Kentucky knows better than I do. But with these gas wells, no matter how small or how big they are, gas escapes by pressure. It is there. You already have discovered it. You have a tube in it, and your gas begins to come out. Why do you need more money for that? The work is already done; the expense has been incurred.

Mr. FORD. It is coming out very slowly. There is no pressure. You have to extract it. The cost of getting it out and the slow process make it too expensive to fool with.

What I am saying is that if they have an opportunity to get a better price for it, they should uncap these wells, bring out the natural gas, and it will at least help us in this emergency, however slight it might be.

Mr. ABOUREZK. Will the Senator be willing to modify his amendment to make it apply to wells that have been capped for the past 3 years and not to operating wells?

Mr. FORD. No. I think what we need to do is to give some incentive to those that might be drilling, new exploration, for the small operator who might hit a small well which would not be economically feasible under the present price structure but at a price that he can sell it for which would give him some remuneration.

Mr. ABOUREZK. The Senator does not know how much gas we are talking about or how many wells?

Mr. FORD. That is true. And we did not know how many stripper oil wells were capped.

Mr. ABOUREZK. Yes, we did.

Mr. FORD. We were after whatever little oil we could get to help keep this country independent as it related to energy.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. FORD. Two or three Senators want me to yield. I yield to the chairman, without losing my right to the floor.

Mr. JACKSON. A point of clarification: The Senator refers to the "mom and pop" wells. Is this amendment confined to independent producers? It just says a well, and you can have wells owned by the large international oil companies that do not produce more than 100,000 cubic feet per day on a yearly average. There are a lot of those wells around.

Mr. FORD. Are they producing? Are they putting them into the pipeline?

Mr. JACKSON. This is addressed to wells.

Mr. FORD. That is true.

Mr. JACKSON. It does not make any difference whether it is an independent or a large oil company. I am talking about incentives.

Mr. FORD. That is what I am talking about.

Mr. JACKSON. The point is that gas from an oil well is gas that you produce, in any event, without extra cost.

We do not have the figures here. I would like to know to what extent the Senator is really talking about small, independent producers. Who are the beneficiaries of this? Frequently, gas is a by-product of oil well operations. This is wide open, the way the amendment is drafted. I understand it was to be a "mom and pop" operation.

Mr. FORD. It primarily is.

Mr. JACKSON. I raise the question as to whether it is.

Mr. FORD. There are thousands of these small wells in Appalachia, for example. I do not know whether they are owned by big oil companies or small independents. I know they are capped and they are not helping anybody. I think we should encourage more exploration by the small independents.

Mr. TOWER. The major producer sells off that stripper production when it gets to that point.

Mr. JACKSON. The bulk of the gas is discovered by independents. But 20 or 40 companies own 75 percent of the natural gas. They buy them up. That is the way this thing operates. The independents do not continue to operate gas wells. They do a lot of discovering, a majority of it, and they sell out to the large international companies.

Mr. FORD. I yield to the intelligence and the long experience of the Senator from Washington, but I also know my personal experience. I know from traveling the back roads of my State. I also look at those independents that are struggling, trying to find new exploration, for new finds. I believe they should have a little nudge or a little help.

If the Senator is going to try to hit my amendment by saying that it applies to all big oil companies, he will have to admit that practically every new find that is made is by a so-called wildcatter or independent. We cannot prevent them from selling a new find. We cannot prevent a wildcatter from selling to anybody. We cannot say to all these well owners, "You have to be very careful. You can't do this to this one or don't let this one get too big." The only thing I am trying to do is to bring as much new natural gas into the pipeline as humanly possible.

I think the decision of the Senate was a wise one when we deregulated the so-called small oil well, referred to as a stripper well. I cannot understand why we have to always throw big business at the little fellow.

Mr. JACKSON. There are amendments pending here to help the independents.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. FORD. I am going to yield, without losing my right to the floor, to the Senator from Ohio. He has been waiting patiently.

Mr. GLENN. I thank the Senator from Kentucky.

A moment ago, the Senator from South Dakota said this gas is leaking out at this time. I submit that there are enhancement techniques today which are not being used that could be used on many of these smaller wells which this might encourage.

I am for what the Senator from Kentucky is trying to do.

I wonder if the big producers could have their first 100,000 feet out of this.

Mr. FORD. No.

Mr. GLENN. We should have legislative history on that. When we are talking about 200,000, we are talking about $200,000, and it is going to mean very little to a big producer—practically nothing. I can guarantee that in my part of the country, the area I grew up in, there are a lot of old capped wells. If people thought they were going to get $200 a day, they would do something about it.

Mr. FORD. It would encourage them to uncap it and bring it into the pipeline.

Mr. GLENN. It may be needed to bring in so that we do not have the great big producers getting an extra windfall on this. I do have concern here, but I am very much for what the Senator is trying to do, and I hope we can agree to it.

Mr. ABOUREZK. Mr. President, will the Senator——

Mr. FORD. Wait, just a minute. I have the floor, and I am going to yield to the Senator from Texas (Mr. BENTSEN) without losing my right to the floor.

Mr. BENTSEN. I say to the distinguished Senator from Kentucky that I certainly support his amendment. One of the points made earlier, you know, is that the big companies have most of the old oil and old gas, and that is a legitimate statement.

I agree with the Senator from Washington that they have most of it, and the independents often sell off that so they can go ahead and have some more money to drill some more wells.

But the other side of it is also true that as these fields play out and as you get marginal wells, be they gas or oil, they then turn around and sell those to the small producer, and they sell those to the independent who has a lower cost of administration to try to keep those things on stream, and it is becoming more and more difficult for that small producer and small manager to manage these wells that are marginal wells.

I believe this will keep a number of them from being closed down, and I think it is a productive amendment.

Mr. FORD. I might say to the Senator from Texas I was encouraged by the activity that was taking place in my State during the August recess for the small stripper wells, that this was encouragement and there was some excitement that they could now take a 3-, 4-, 5-, or 6-barrel well per day, and it would be worth something to them to make the effort to bring it out of the ground and to sell it and get it into the pipeline.

What I am trying to do with this amendment is exactly the same thing: one, I agree with the Senator from Washington they do sell so they can have money to go and explore.

I also understand when it becomes marginally profitable they sell it back or they want to get rid of it, and it is sitting there and, hopefully, we can encourage the small operator or independent to keep going and put it into the economic system of this country.

I yield to the Senator from Ohio without losing my right to the floor.

Mr. METZENBAUM. I think there are two questions that are relevant in this amendment: one is you have used the words, "new gas" or "new wells," and one of my questions pertains to the matter of whether or not you would accept an amendment which would limit it only to new wells.

Mr. FORD. I cannot do that, Senator, because the capped wells would then not be uncapped.

Mr. METZENBAUM. Would you accept an amendment——

Mr. FORD. No, I would not accept any amendment. I think it just ought to go ahead and paint with the broad brush so we can treat everybody equally.

Mr. METZENBAUM. That includes even those that are the big producers, and that you would give them these extra dollars as well?

Mr. FORD. The Senator keeps throwing "big" to me all the time. What I am trying to do is to help the small, little fellow. I want to keep them out from big Government now. I want to keep these people out from big Government, and keep big Government off their backs, and give them a chance, and, therefore, I want to be sure that I do not take any chances that I do anything to that small fellow out there who has an opportunity

to uncap this well, and has a new find that is not producing much, but we can encourage him to go ahead and put it into the pipeline.

Mr. METZENBAUM. But there is no intention on the Senator's part to help the big petroleum producers, because the Senator agrees the big oil companies do not need any help.

Mr. FORD. Well, the Senator just heard the Senator from Texas, who should have as much knowledge of this area as anyone, when he said it is true when an independent or wildcatter makes a find he wants to sell it. That is the reason he went out for his exploration. The fellow who buys it normally is the big oil company, but once it gets down to a marginal profitable area, then he is trying to find somebody to handle it, an independent, small operator, with less overhead who can probably do it. I just want to encourage every place I can to see that natural gas comes on.

So if the Senator is talking about big oil companies, I want to keep big government out of them.

Mr. METZENBAUM. There is another man on the floor, another Senator, who is very well informed and who has an objective point of view, and he is the chairman of the Committee on Energy and Natural Resources.

Mr. FORD. The Senator has not always agreed with him, so he is taking his side when he agrees with him.

Mr. METZENBAUM. And he indicated concern as to whether the amendment would cover the natural gas produced by the large oil companies, and I gather the Senator is not——

Mr. FORD. I say to the Senator all I want to do is to keep the small wells producing, and the small wells that are capped I would like for them to uncap them and get them into the mainstream so you cannot have your troubles in Ohio this winter like you had last winter. I want to be helpful not harmful.

All you want to do is to put big government into the little fellow's business, and I do not like that.

Mr. GLENN. Mr. President, will the Senator yield for a further question?

Mr. FORD. Without losing my right to the floor.

Mr. GLENN. I would ask the Senator from Kentucky would this apply to low-production new wells?

Mr. FORD. Yes.

Mr. GLENN. OK, because that could be very, very important for Ohio. We have all this Devonian shale which underlies Ohio, West Virginia, and Kentucky. It is low-production stuff, and it hardly pays to sink a hole into it. It is low-production, and I think what the Senator wanted to do, although he did not present it as a new field, low-flow field, was to encourage its production, and I think it might have that effect, and it might have a very, very major impact as to how much drilling we can get in Ohio into the Devonian structure, very low production, low flow.

Mr. FORD. It is my understanding you would see a great deal of exploration drilling in your State. You would see a great deal of additional exploration in Appalachia, in the mountains of Kentucky, West Virginia, and Pennsylvania and other places.

Insofar as these wells are concerned, they are hopeful that there are reservoirs under the rock of the mountains and that they can hit some of those, and we can. But there is no need of fooling ourselves that most of the wells are low production, very low deliverability.

Mr. ABOUREZK. Mr. President, will the Sentator yield for a question?

Mr. FORD. I yield without losing my right to the floor.

Mr. ABOUREZK. That is all right.

I wonder if the Senator is trying to amend with his amendment S. 2104?

Mr. FORD. I am just adding a new section.

Mr. ABOUREZK. That is right, just adding a new section.

If I could direct the Senator's attention to page 12 of that bill.

Mr. FORD. Is this the new one they have put on the desks or the one they have taken off the desks this morning for a technical change?

Mr. ABOUREZK. This is the original bill.

Mr. FORD. They were taking them off the desks this morning for a technical change. I do not know whether it is the earlier one or the one they brought back and directed——

Mr. ABOUREZK. September 23 is the date I have. Is that the same one?

Mr. FORD. I do not know. That is the same one I have on the desk here.

Mr. ABOUREZK. Section 10 called special pricing provisions. It says—

> The Secretary may, by rule, prescribe one or more lawful special prices applicable to the first sale of high cost natural gas produced in the United States,

And then line 22 applies it "under such other conditions as present extraordinary risks of costs."

So the very bill you are trying to amend includes a provision which allows the Secretary to raise the price, or deregulate if he sees fit, a well that presents high costs.

Why would the Senator want to exempt everybody, every single well, that produces 100,000 cubic feet per day or less? Why would he want to exempt every well even if it is already pumping, even if that well is costing—because it might have been drilled some time ago—5 cents per thousand cubic foot?

Mr. FORD. What if it is costing 50 cents?

Mr. ABOUREZK. Under deregulation he may get $4 or $5 per thousand cubic feet. Is that fair?

Mr. FORD. He might get 50 cents. It is selling for 71 cents in my State right now, new find. You start in throwing $5 and $6 at me, and——

Mr. METZENBAUM. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. FORD. I yield, without losing the floor.

Mr. METZENBAUM. I ask unanimous consent that Miss Juanita Powe be accorded the privileges of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. I thank the Chair.

Mr. ABOUREZK. What the Senator is creating is a loophole so wide we do not know who is going to drive through it.

Mr. FORD. The Senator said he was going to leave everything up to the Secretary, and we do not know what he is going to do, do we?

Mr. ABOUREZK. We have a much better chance.

Mr. FORD. You mandated it for small stripper oil wells.

Mr. ABOUREZK. There is a reason.

Mr. FORD. There is a reason for this.

Mr. ABOUREZK. Hardly any.

Mr. FORD. That is in the Senator's estimation. I think others will agree with me.

Mr. ABOUREZK. Let me ask you how many of these are capped and how many are not capped? How many are producing?

Mr. FORD. I really do not know, but I can give you an estimate. The Senator did not ask that same question when we went to stripper oil wells. It did not seem to make any difference.

Mr. ABOUREZK. Yes, I did.

Mr. FORD. Did you?

Mr. ABOUREZK. Yes, I did.

Mr. FORD. How many did you find out there were?

Mr. ABOUREZK. I do not have the figures in my head, but I did ask the question.

Mr. FORD. Help him there right quick, as we say, "He'p him."

[Laughter.]

Mr. GLENN. What is important about how many? If we are getting any gas flow out of this, it seems to me that would be good because it is gas that is not produced now. It is gas that is going to be produced unless something like this is done, and if we get only five wells out of the whole country that are opened up as a result of this, it seems to me we are stepping in the right direction.

Mr. ABOUREZK. Mr. President, I will be happy to respond to that.

The Senator asks what is wrong with doing it this way. What is wrong is that you do not know what kind of loophole you are creating. There could be thousands or trillions of cubic feet of gas producing today, under a regulated price, that you are going to open wide for deregulation. It is not going to cost those companies another cent for their producing wells. Why should they collect whatever the market will bear?

Mr. GLENN. The Senator keeps talking about the big companies all the time, and the intent has been spelled out by the Senator from Kentucky, and I am not for making any new windfall profits for the big companies. That is the reason I asked whether the first 100,000 would apply to large companies, which he said it would not. So the intent of this is good.

I think if this opens up some of the small wells and low-producing wells in the shale area, for instance, that is good for the whole country.

Mr. ABOUREZK. I think he said for the company, but for each well the company owns this will apply.

Mr. GLENN. No, that is not it. This would not.

Mr. ABOUREZK. Let me ask.

Mr. GLENN. A major producing company bringing in a new well would not be exempt on his first 100,000 feet per day.

Mr. FORD. No. If it is over 100,000 cubic feet per day, he is exempt.

Mr. ABOUREZK. It is the well, not the company. It is the well.

Mr. FORD. That is correct.

Mr. ABOUREZK. All right. That is the answer.

If the company has hundreds of wells and each produces 99,000 cubic feet every day, each and every one of those would be exempt under his amendment.

Mr. GLENN. I cannot imagine any company staying in business long going out and drilling to that point. What he is talking about are 100,000 cubic feet a day, and that would apply to the small producers who would be encouraged by that to come in, enhancing their techniques of water pumping techniques, and a lot of things that will help activate the old wells.

Mr. ABOUREZK. I am saying that is already in the bill. If that case exists the Secretary will deregulate or raise the price, whatever they might need.

Mr. FORD. He will not.

Mr. ABOUREZK. There is no reason for creating a big loophole in the bill with this amendment.

Mr. GLENN. I guess the difference is we do not see it as being a loophole. I do not see it as a loophole, but the Senator does.

Mr. FORD. I do not either. They would have to go to the Federal Power Commission.

Mr. ABOUREZK. Pardon me.

Mr. GLENN. The Department of Energy?

Mr. FORD. Yes; to get a new rate, probably. But it takes 2 or 3 years.

What we are trying to do is to expedite production.

Mr. ABOUREZK. I know what the Senator is trying to do. [Laughter.]

Mr. FORD. That is in his opinion and the innuendo is wrong.

Mr. ABOUREZK. I did not say it.

Mr. FORD. But the way the Senator said it, that is the way it came out, and the other people laughed, and they took it the same way I did.

Mr. TOWER and Mr. KENNEDY addressed the Chair.

Mr. FORD. Mr. President, I had not yielded the floor.

I yield to the Senator from Texas without losing my right to the floor.

Mr. TOWER. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. TOWER. It is my understanding that the Bentsen amendment, as amended by DeConcini, has not yet been acted on. Is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. TOWER. And that the amendment of the Senator from Kentucky takes precedence. Is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. TOWER. I thank the Chair.

Mr. FORD. Mr. President, I ask unanimous consent to add the distinguished Senator from New Mexico (Mr. DOMENICI) as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. A point of information, Mr. President. Could I correct my amendment to eliminate one word without losing my right to the floor?

The ACTING PRESIDENT pro tempore. The Senator has the right to modify his amendment.

Mr. FORD. Mr. President, I ask unanimous consent to add the distinguished Senator from Texas (Mr. TOWER) and the distinguished Senator from Wyoming (Mr. HANSEN) as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Are there any other questions, or may we go to a vote on my amendment?

Mr. ABOUREZK. We do not have the figures. How can we?

Mr. KENNEDY. Mr. President, may I be recognized possibly so we can speak on it?

The ACTING PRESIDENT pro tempore. Will the Senator from Kentucky state what the modification was?

Mr. FORD. Mr. President, I asked if I could. I did not say that I wanted to modify my amendment. I just asked if I could. The Chair has told the Senator from Kentucky he can modify it, and I appreciate the Chair's indulgence.

I will yield to the Senator from Massachusetts without losing my right to the floor.

Mr. KENNEDY. Mr. President, I just wish to indicate that I will seek recognition in my own right to make comments on the amendment when the Senator from Kentucky finishes.

Mr. METZENBAUM. Mr. President, I expect to call up two amendments to the amendment of the Senator from Kentucky before the matter is brought to a conclusion.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. FORD and Mr. KENNEDY addressed the Chair.

Mr. FORD. Mr. President, I wish to withdraw my amendment.

Mr. KENNEDY. There are two comments I wish to make on the amendment of the Senator from Kentucky. It seems to me, Mr. President, that on this particular——

Mr. FORD. Mr. President, a parliamentary inquiry.

Mr. KENNEDY. Question, Mr. President, that what the Senator from Kentucky is attempting to do——

Mr. FORD. A parliamentary inquiry.

Mr. KENNEDY. Is——

Mr. HANSEN. Mr. President, who has the floor?

Mr. KENNEDY. Mr. President, as I was saying about the amendment of the Senator from Kentucky——

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts was recognized.

Mr. HANSEN. Who has the floor, Mr. President?

Mr. FORD. Mr. President, will the Senator allow me to make a motion so I might withdraw my amendment?

Mr. KENNEDY. I wish to make brief comments, and then I will be glad to entertain a question.

Mr. FORD. What is "brief"?

Mr. KENNEDY. I doubt if I take as long as the Senator from Kentucky took.

Mr. FORD. That is fine. I know what to do then.

Mr. KENNEDY. Mr. President, basically there are, I think, some important concepts which are within the amendment of the Senator from Kentucky, and this is the first one. The amendment would give an incentive to drill more and produce less.

That is basically what the amendment of the Senator from Kentucky will result in. The other results we do not know—how much additional gas will be produced or where the benefits will go and which companies the benefits will go to. We are finding out operating expenses basically are a minimal aspect of natural gas production. But we do know that this amendment will encourage a series of wells to be put into various reserviors to meet the particular requirements of his amendment, they will produce less than 100 Mcf's a day and they will effectively be deregulated.

So we are going to get more wells that are going to be drilled which are going to be more costly, more expensive, and that expense will be eventually turned on to the consumers, without producing more gas, and the incentive will also be to operate well so as to produce right up to the 100 Mcf but not above it because then they will reach the controlled price.

That is, at least, I think a reasonable interpretation of the amendment of the Senator from Kentucky, without having additional information as to what the estimates would be in terms of the additional production or about where the benefits from these particular wells will go, whether they are going to the individuals, the mom and pop companies of this industry, or whether they are going to the major companies.

So, Mr. President, it just seems to me, as the Senator from South Dakota pointed out, within the initial Jackson bill, and within the revised Jackson amendment, there are the provisions to give the flexibility to the Secretary to make exceptions where there is natural gas that would be unduly costly to produce.

So the flexibility is there in terms of for new production and achieving the goal without going through this particular process.

I hope that the amendment of the Senator from Kentucky will be at least amended along the lines, as I understand the Senator from Ohio, that would limit it to the mom and pop aspect of the gas industry, through whatever criteria the Senator from Ohio wants to devise, to make sure that the benefit, if we are going to go this route, which I hope we will not, would truly go to the smaller independents.

I am interested in whether the Senator from Ohio, as he has studied this amendment, would not agree with me in terms

of production and in terms of where the benefits to be reaped from this particular amendment would end up.

Mr. METZENBAUM. I totally agree with the Senator from Massachusetts that when you have broad-based broad-brush amendments of this kind, it is going to result in nothing more than just playing into the hands of the major oil producers of this country, no matter how you slice it.

It is true that there are some independent producers; I have some in my State, and I have a concern about them, but I feel very strongly they would be very receptive to accepting the two amendments to the pending amendment which I have at the desk, one of which would limit this amendment of the Senator from Kentucky to only new wells, and eliminate the old wells, uncapped wells, or oil wells; and I see no objection to that, because there are no additional costs to come about.

But in addition, I am proposing an amendment to his amendment which would provide an exception for natural gas produced by companies whose volumes exceed 100 million mcf annually, as determined by the Commission.

When we talk about an amendment of this kind, we cannot just say it is momma and poppa. The facts just do not bear that out. We are talking about an amendment that has a tremendous impact upon the cost of energy in this country. We do not have any backup information on it. Although I think we are all concerned about mom and pop, mom and pop stores, mom and pop gas stations, and everything else we have heard about in connection with this amendment, somehow every time the momma and poppa amendments are adopted, and we look at them a couple of years later, it seems the ones who have the most are the ones who gain the most, and momma and poppa get left behind somewhere, perhaps at the wellhead.

Mr. KENNEDY. If the Senator's question is do I agree with him, I do agree with him.

Mr. METZENBAUM. I thank the Senator.

Mr. KENNEDY. I think one of the failures of the Senator's amendment is that it is not limited in terms of reservoirs. I think if the Senator had a limitation in terms of the reservoirs, which would effectively preclude multi-drilling of wells to be an effective escape from the mandate of the legislation, and we could be sure it was going to go to small firms and we could be more sure about the volumes of gas, and the tie-ins with various pipelines, and other factors, and if we would have some kind of sense as to whether it was going to cause new gas to be produced, then I think we could have some basis to give it a degree of support.

But I would think that without those kinds of limitations, the amendment, at least from my point of view, fails to meet the basic criteria necessary.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. KENNEDY. The Senator from Kentucky had asked me to yield earlier. I do not intend to keep the floor. Otherwise, I would yield to the Senator from Ohio.

Mr. FORD. Mr. President, as soon as I get the floor in my own right I intend to withdraw my amendment. I think we can arrive at an agreement to do what I want to accomplish without the amendment, that I think would probably be agreeable to the Senate. So as soon as the Senator from Massachusetts and the Senator from Ohio have finished their colloquy, if the Senator will yield to me, I will withdraw the amendment.

Mr. KENNEDY. I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, this is an amendment to the basic administration bill, so I think it is proper, in providing some of the same benefits the Senator from Massachusetts points out are in some of the other substitute amendments here.

Mr. KENNEDY. The only point I would make on that is that I understand the Secretary has that discretion under the original bill.

Mr. GLENN. To make an exception.

Mr. KENNEDY. To make an exception. I think that is the point the Senator from South Dakota was making, and I believe that all has been carried through in terms of the initial bill and in the Jackson substitute.

Mr. GLENN. It was my understanding that was in the original bill in the same form.

As far as major producers are concerned, and all this worry about whether this is a mom and pop amendment. I would submit to my colleagues that the issue is not whether it is mom or pop or not. What disturbs me is that we have plenty of gas under Ohio right now, in old wells that are capped, hundreds of them in the area where I grew up in southeastern Ohio, that are not producing now, that could be producing. I do not know whether we would need to alter the language of the Senator from Kentucky or not. He says he is going to withdraw his amendment. I am sorry he is, because I thought that this would be an opportunity to get at that problem. There are hundreds of wells there that are sitting there capped, and I would like to see them brought back onstream again. I thought this was a way of beginning to accomplish some of that, so that we would not have to go through all the problems we went through in Ohio last winter, with at least 500,000 unemployed.

Several Senators addressed the Chair.

Mr. METZENBAUM. Will my senior colleague yield for a question?

Mr. GLENN. Surely.

Mr. KENNEDY. I have the floor; I am glad to yield to the Senator for that purpose.

Mr. METZENBAUM. Without this amendment, the gas producers in Ohio would be able, under the administration bill, to get $1.75 for a thousand cubic feet, plus an inflation factor. How much is enough? How much do they have to get in order to uncap their wells? They were getting only 17 cents a few years ago.

Mr. GLENN. The Senator asks me a question I cannot answer. I have no idea what is necessary. I would ask the Senator the same question; what does he think is necessary?

With those very small production wells, I do not know how much it is going to require to get them where they will pay. Perhaps some enhancement techniques, water or steam pressure, or maybe just to open them up and let them flow, or in some cases to put in a mile or so of pipeline, which with a sufficient price they might be encouraged to do. I have no figures on that. I have not consulted with the Senator from Kentucky; I simply heard him explaining his amendment when I came on the floor, and thought it was an excellent one, and would apply particularly to our area of Ohio and Kentucky that has been so particularly hard hit.

Mr. HANSEN. Mr. President, will the Senator from Massachusetts yield to me to address a question to the Senator from Ohio?

Mr. KENNEDY. I am going to yield the floor in a moment, but before doing so, I might inquire of the Senator from Ohio whether those fields in Ohio are tied up to pipelines now.

Mr. GLENN. Some are and some are not. Some of them have been abandoned. There might be additional pipelines required to be put in. Some of the pipelines have been taken up; some are still in place and not being used. They are very low production wells, that have been capped over a long period of time. I thought perhaps this was a way to get them activated by providing additional incentives. There was no intention, at least on my part, to allow great windfall profits, and I would be glad to see some language to limit that in some way.

Mr. KENNEDY. That is an additional problem.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. KENNEDY. Does the Senator want me to yield the floor?

Mr. RANDOLPH. No, I would like to answer something that the Senator asked for earlier. May I?

Mr. KENNEDY. I would welcome the comments of the Senator from West Virginia.

Mr. RANDOLPH. The Senator from Massachusetts (Mr. KENNEDY), as well as the Senator from South Dakota (Mr. ABOUREZK), as I recall, asked a question of the Senator from Kentucky (Mr. FORD) about the amount of stripper well gas that moves in interstate commerce. Information provided to me seems to indicate that of all the gas moving in interstate commerce, about 2 to 3 percent is derived from stripper wells.

Now, as I understand it, the Senator from Kentucky did not have that information.

Mr. FORD. The Senator is correct.

Mr. KENNEDY. What does the Senator expect it will be increased? Can he tell us that?

Mr. RANDOLPH. I cannot tell the Senator, naturally, but it might triple.

Mr. KENNEDY. Did the Senator say considerable?

Mr. RANDOLPH. The words may not sound alike, but I used the word "triple."

Mr. METZENBAUM. Triple what? Does the Senator mean triple $1.75?

Mr. FORD. No, we are talking about tripling the production.

Mr. RANDOLPH. I am talking about increasing the 2 to 3 percent.

Mr. METZENBAUM. I understand now.

Mr. HANSEN. Mr. President, if I may, I want to join with my good friend, the junior Senator from Ohio, in doing a little crystal ball gazing. He asked the question, how high might this gas go? Let me tell what the facts are. This information is contained in a letter in a statement made by the chairman of the Federal Power Commission, Mr. Dunham.

I cannot answer or try to respond to the query by my good friend from Ohio as to how high in price this gas from stripper wells might go, but I can say that here are some of the parameters that I think ought to be understood. Here is what we are paying today. This is not speculative, it is what we are paying today for imports of natural gas from Canada: $1.94 a thousand. By September 23, 1977—that was yesterday—that price goes to $2.28 per thousand.

LNG to be imported by Trunkline. Commission-approved, is $3.37 a thousand. In the Pacific Indonesia case, the judges approved a rate of $3.59 per thousand cubic feet. Tapco has an application on file for its Atlantic importation, which would be $4.57.

We can talk all we want to and try to say how high this gas is going to go in price, and I cannot say. But I can say one thing: Here is what we are paying for it now.

I think I can safely say something else: We are not going to pay more for domestically produced gas from stripper wells than we can buy it from these other sources for. You can bet your last dime that that is the cap.

I join with the senior Senator from Ohio in saying this makes awfully good sense. It makes good sense because, first of all, it offers the promise of additional gas that is not now being produced. Let us understand that this old bugaboo about people capping a well and saying they are not going to produce it is a bunch of hokum. Here are the facts about what we have been doing since 1964: Offshore gas discovered in the Gulf of Mexico for 1964 shows that 39.6 percent of that gas was not being produced. I can read through all the figures, but I shall not. I shall ask that they be printed in the RECORD.

Come down to 1974, and that has dropped down from 39.6 percent of the gas that was discovered but not being produced offshore in the Gulf of Mexico in 1964, down to 31.1 in 1974.

Mr. President, I ask unanimous consent to have these figures printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED INITIAL COSTS AND VOLUMES OF FOREIGN LNG

Project	Docket No.	Price (cost per million cubic feet) Base price f.o.b. Algeria	F.o.b. United States [1]	U.S. terminal tailgate [1]	Volumes annually (billion cubic feet)
Approved:					
Distrigas	CP70-196	0.345	0.68	1.04-1.38	15
El Paso I	CP71-68	.305	1.23	[2] 1.66	365
			1.30	[3] 1.71	
Trunkline LNG	CP74-138	1.30	2.74	3.37	179
Pending:					
Distrigas	CP77-216	1.30	2.10	2.70	46
Eascogas	CP73-47	1.30	2.43	2.90	237
Pac Indonesia	CP74-160	1.25	2.83	3.16	196
El Paso II	CP73-258	1.30	2.85	3.23	365
Tapco	CP77-100	1.30	[4] 3.67	4.57	240

[1] Includes escalations.
[2] Maryland.
[3] Georgia.
[4] Estimated delivered price to terminal in New Brunswick, Canada.

TABLE 2.—COMPARISON OF NONPRODUCING AND TOTAL DEDICATED GAS RESERVES IN OFFSHORE GULF OF MEXICO 1964 THROUGH 1974

[All volumes in MMcf at 14.73 p.s.i.a. and 60° F]

Year	Nonproducing	Total offshore	Percent nonproducing of total
1964	7,626,515	19,245,080	39.6
1965	7,561,439	22,184,289	34.1
1966	9,364,551	24,871,199	37.7
1967	9,364,070	27,234,977	34.4
1968	9,857,167	29,254,458	33.7
1969	10,389,937	33,062,086	31.4
1970	8,269,031	34,009,872	24.3
1971	7,247,039	32,380,630	22.4
1972	9,008,658	32,461,534	27.8
1973	7,914,728	30,461,836	26.0
1974	[1] 8,526,533	[1] 27,428,681	31.1

[1] Preliminary data. The nonproducing reserves for 1974 were determined by staff from company form 15 reports but have not been verified by staff in the pipeline company offices nor have the total remaining recoverable reserves been checked for compliance with form 15 reporting procedures.

Source: FPC form 15.

Mr. HANSEN. There are two basic reasons why gas is known to exist and is not being produced. No. 1, and the most important one, is that there is no way to get it from the well into a transportation distribution system. My good friend, the Senator from West Virginia (Mr. RANDOLPH) knows that. My good friend, the senior Senator from Ohio, knows that. I think most people know it. That is why it does not get into the line. It takes a while to build pipelines.

The second reason, and the important reason that I think the Senator from Kentucky is addressing in his amendment, is simply this: It is uneconomic. You can find gas and when an estimate has been made of the extent of the reserve, the person who has discovered that gas must then make the hard decision: Should he make the investment necessary to get that gas from the well into a distribution system so it can be sold? I could not agree more with my friend from Kentucky that this makes good sense.

Let me summarize by saying these things: If gas can be produced and sold at a profit, it will be. It is not all being done now for two principal reasons: No. 1, there are not pipelines that can bring it from the well into a distribution system; and the important reason, that is addressed by the amendment of the Senator from Kentucky, is that this will give that added incentive, because of the possibility of profitability, to make the investment to get the job done.

I think the amendment is good. We can be sure that we are not going to pay more for any of this gas than we would have to pay for an alternate source of supply.

Mr. MATSUNAGA. Will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. MATSUNAGA. As I understand it, the Senator from Kentucky will withdraw his amendment as soon as he can get the floor.

Mr. FORD. I want to correct that. I have talked to the principals that want to amend it and I think we have just decided that we are going to leave the amendment on the floor. If they want to amend it, we can do that and the Senate can go about doing its will.

Mr. MATSUNAGA. I thank the Senator from Wyoming for yielding.

Mr. DOMENICI. Is the Senator from Wyoming finished?

Mr. HANSEN. Yes, I have finished.

Mr. DOMENICI. Mr. President, I shall not take much time, but I wanted to direct two remarks to my good friend (Mr. METZENBAUM) as to what we are going to call here a stripper exemption for natural gas. I think he knows what I am talking about and I know what I am talking about.

I would like to offer an explanation to Senator METZENBAUM with reference to the argument that he has made here today. I am going to give an example which, I think, offers some credibility to the position that Senator FORD was taking.

In my State, in spite of our being a producing State, we have 11 cities that are on curtailment. Eleven of our cities, much like the Senator's, are on curtailment, which means they cannot grow today. They cannot add any substantial new residential development. They have to be very concerned when a new industry wants to move into town. That is in a producing State.

Now, to show the Senator that it is not the gas companies or the developers that are asking for this, I say that those 11 cities formally, in their own name, have asked me to see if there is some

way to get an exemption for a low-yield natural gas well so that they might have a chance to put together a proposal which would get that low-yield wellhead natural gas delivered to them as a possibility, because it is not being delivered anywhere now. They want to take the chance of getting some of that unregulated versus the curtailment problem we have.

So it appears to me that if we look at that on a national basis, it is a net plus to take natural gas that probably will not be delivered anywhere because of the small wellhead yield characteristic—some are already in that posture, I say to my good friend from Ohio. Some are not capped because of the accusations the Senator has made and the investigations he has properly inquired of, for holding it off the market. Some are shut in because low-wellhead-yield natural gas wells are just uneconomic.

I did not know the Senator from Kentucky was going to use the definition, but that is what comes to me from my State, from the cities and the experts, that that size well is probably uneconomical for the regular system today. To make it economical is to take the lid off and then it will get mixed in the intrastate and interstate system. The Senator's State will have more and my 11 cities that are on curtailment will have a shot for a little bit more.

I do not think it is only the developers, the big oil companies or the natural gas companies, that have an interest. As the Senator has indicated here, the communities that are getting strangled are saying, let us have a chance at a little bit more gas from those uneconomic wells that turn out not to yield enough at the wellhead to justify being hooked onto an intrastate or interstate system.

The Senator from Massachusetts would say we are going to entice people to produce that. The point is, if it comes out to be that small a well in terms of quantity coming out of the ground, it has defined itself as being noneconomic. The fellow that drilled for it had a loser. He did not go out looking for a wellhead that would yield that small amount. That just happened to him. No one is going to spend a lot of money drilling to get a well that produces this small amount.

I do not think we have to worry about enticing people to go and look for a low-yield well so he can get a big price for it. He would be much more pleased to get one that yields eight times as much and without the risk with regulation and deregulation. It falls on him that it does not yield very much.

I think the fact that cities ask for it is indicative that it has some broad-based consumer values, not singularly the kind of values the Senator is worried about in terms of the oil companies.

I thank the Senator for his attention.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. I yield to the Senator from South Dakota.

Mr. ABOUREZK. I have just been discussing with Senator RANDOLPH the figure he used of 2 to 3 percent of the natural gas production to fall in this. We have gone over the House debate, the documentation Senator RANDOLPH had, with the figures as it came from the Bureau of Mines.

On closer examination there is not any figure except from a Congressman during debate. There is no substantiation.

Senator RANDOLPH and I agreed that if it had to be documented we ought to correct the record in that regard because it is not documented beyond that.

Mr. RANDOLPH. Following the comment of Senator ABOUREZK on this matter, I am going to pursue the source for the figure that I gave because I have reason to believe that is probably right, but I may be wrong and I would not want the Members to have a quotation from me of 2 or 3 percent when, in fact, that is not true based on official figures.

Mr. METZENBAUM. I very much appreciate the clarification of the Senator from West Virginia.

Mr. JACKSON. Will the Senator yield?

Mr. METZENBAUM. Without losing my right to the floor, I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I think one of the real problems in trying to understand the implications of the Ford amendment is the lack of data available to us.

I have just called Mr. John O'Leary, the head of the FEA, and I read the amendment to him. He informs me that he will have to check this out and we will have some data on Monday.

However, it is his offhand judgment that it would exempt a lot of natural gas in the United States.

For example, in the production of oil throughout the country we have natural gas as a byproduct. The question that the Senate would have to decide is, Would it be wise to turn around and simply increase the price of gas from the current average price of 60 cents per thousand cubic feet to $3.50 per thousand cubic feet where they are producing the gas, in any event?

It has nothing to do with an added incentive.

So I think our trouble here, if I may say so, is that we do not have, at least I do not have, sufficient accurate data to make a judgment on the course of action that we should follow.

Mr. President, that information will be sent up to us, and we will have it Monday noon, so that a judgment can be made.

I would support proper incentives. They are provided for in the substitute, by the way, that I introduced and sponsored. It provides for the Department of Energy to grant exemptions in connection with those situations where we can demonstrate that with adequate pricing in special situations where the costs are high, that price adjustments can be made accordingly.

Mr. FORD. Will the Senator yield for a question at that point?

Mr. JACKSON. Yes.

Mr. FORD. Has the Senator ever talked to anyone that ever applied for a price adjustment on how long it takes to get that price adjustment through the Commission?

Mr. JACKSON. No, I have not.

Mr. FORD. Two years.

I made a speech some time ago about the Federal Power Commission not even giving rates, and they were pumping natural gas back in the hole, off the Louisiana coast, we could not even get it through the Commission. Now the Senator says they have the authority——

Mr. JACKSON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio has the floor.

Mr. HANSEN. Mr. President, a parliamentary inquiry. I thought the Senator from Ohio was seated.

Mr. METZENBAUM. I welcome——

Mr. JACKSON. The Senator from Ohio yielded, and I ask unanimous consent——

Mr. HANSEN. I am glad to see him.

Mr. METZENBAUM. This is a bad enough day because Ohio is losing 17 to 0 to Senator PEARSON.

[Laughter.]

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Kentucky be given the opportunity to speak at this point without the Senator from Ohio losing his right to the floor.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. FORD. Mr. President, can he make a motion since he does not have the floor?

Mr. METZENBAUM. He has the floor for that purpose.

Mr. FORD. The only thing I was trying to point out is, have the right to go and get an increase in price now, and it is almost impossible, almost impossible to get a request through. Eighteen months, 2 years.

Why can we not go on, make a decision for a small well, 100,000 cubic feet per day?

Even States like Louisiana, for instance, have a tax credit, 250 Mcf, a severance tax.

Mr. JACKSON. We are trying to get more data.

A large operator may be a typical case. He is producing oil and he is producing gas as a byproduct, which is less than 100 Mcf. This is the data I am seeking.

Mr. GLENN. Will the Senator yield?

Mr. JACKSON. Now, Mr. O'Leary tells me there is a tremendous amount of gas in that category. Why does the Senator give that an unwarranted profit?

Mr. FORD. Let me ask the Senator a question.

Mr. JACKSON. Let me finish my sentence, and then I will continue.

Currently, the average price is, roughly, 60 cents per thousand cubic feet.

The Senator from Kentucky under his amendment as it is before the Senate would give to that operator $3.50 per thousand cubic feet.

Mr. FORD. If he can get it.

Mr. JACKSON. Wait a minute. I am saying, is the purpose of the Senator just to grant a windfall?

Mr. GLENN. Will the Senator yield?

Mr. JACKSON. Or is it for the purpose of trying to provide incentives?

He cannot produce any more than that, so the Senator just gives him, hand him, in effect, $3.50 for his gas, whereas other operators, a small independent who is 101 Mcf per day——

Mr. FORD. I wish to ask the Senator a question.

Mr. JACKSON. He gets the price of 60 cents.

How does the Senator explain that?

Mr. FORD. Let me ask this question.

Mr. JACKSON. I am talking about the Senator's language.

Mr. FORD. Would the Senator agree that we just talk about gas wells?

Mr. JACKSON. Well, no. I think we have to look at the whole picture.

Mr. FORD. The Senator just said his biggest problem was the big oil companies in getting some gas off an oil well.

If that is all that is bothering the Senator, we will take the oil wells out.

Mr. JACKSON. I want an amendment addressing the incentives.

I am just saying, on the face of it, it is obvious we need the data and the facts. We will have that up here at noon on Monday.

Mr. GLENN. Will the Senator yield?

Mr. JACKSON. Yes.

Mr. GLENN. It was my intent to encourage just gas production on this. I discussed this with the Senator from Kentucky. I think probably he would be amenable once the statistics are gathered on this, as the Senator from Washington suggested, to make this applicable to gas only and not where there is coproduction of oil and gas.

Mr. JACKSON. I will be glad to cooperate.

Mr. GLENN. If this is a situation where there is crude being produced as the main purpose of the well and this would give an excess profit only to that gas coming out, anyway, and for which the well was not drilled in the first place, I would agree.

My intent in backing the proposal was getting some of these wells uncapped that are capped now. Low production wells not producing any crude would be a means of getting gas production.

If there is coproduction I agree, because we really would not have any call for any price relief under this.

I do agree with the Senator from Kentucky that I think it is better to lock this in in whatever legislation we pass here, so we do not have to go through all that exemption process.

The Secretary will have it because, as in the past, it has been a long, consuming process, and while he does have that discretionary authority to get on his own, there is no guarantee he would be able to do this.

I think this can be a very important source of gas, so we could separate it out.

Mr. METZENBAUM. I think I still have the floor.

Mr. JACKSON. Yes.

I say to the senior Senator from Ohio that I agree with his objectives. I am just pointing out that the amendment needs to be gone over carefully. We will have the data here so we can determine what is the best course of action to follow to provide the incentives and the inducement to get that low-production gas to which the Senator has referred.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. METZENBAUM. Mr. President, without losing my right to the floor, I yield to the Senator from South Dakota and the Senator from Texas.

Mr. ABOUREZK. One more point: Perhaps the Senator from Kentucky can respond to this. This amendment does not take into account the gas company or oil company that has a well that is producing 200,000 cubic feet and it decides to tighten the valve down to 100,000 feet, to obtain the deregulated price.

Mr. FORD. I think it is very easy. If he were producing 200,000 cubic feet last year and then he turned the spigot down, he would be caught.

Mr. ABOUREZK. Where does it say in the amendment that he cannot do that?

Mr. FORD. I suspect that the Secretary of the Interior will be able to take care of all these things, if we have a problem there.

Mr. ABOUREZK. Not if we mandate it in the law. We do not require any action of the Secretary. Where does it say in the amendment that the gas company cannot do that?

Mr. METZENBAUM. It does not.

Mr. FORD. It is always a question of how people are going to do things—expect everybody to do something wrong. My daddy told me, when I was a little boy, that 97 percent of the people were honest. I am beginning to think there are a lot of 3-percenters around, listening to people say everybody is going to be crooked.

I am really concerned about these things thrown at me: These people are going to turn it down; they want to stop the cheaters. I take a man on face value. I take his word as his bond until he does something to me; then I will take a second look. We are always worried about cheaters. I do not think that is going to happen here.

Mr. METZENBAUM. Is the Senator from South Dakota perhaps concerned about the fact that there have been $40 billion in overcharges by the oil companies?

Mr. ABOUREZK. I do not want to lay anything off on the oil companies. I know there was a House study that showed that they withheld significant reserves.

Why does the Senator call it cheating? If a law is passed giving them the right to do that, it is not cheating.

Mr. FORD. I am not giving them the right to do that.

Mr. ABOUREZK. The Senator is.

Mr. FORD. We can add 100,000 Mcf on a yearly average in any calendar year. It is simple to take care of.

Mr. ABOUREZK. What if they drilled another hole close to it?

Mr. GLENN. Mr. President, will the Senator yield?

Mr. METZENBAUM. I think I have the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio has the floor.

Mr. BENTSEN. I think we are all trying to achieve the same objective. I counsel Senators, however, not to say that it should be exclusively gas. They should talk about the combination and try to get to an economic value of the product, to keep the marginal well in production.

I understand what the Senator is talking about. If there is a little oil well with a little gas, he does not want to give them an exemption. It should be the combination of those economic products coming out of it.

Mr. METZENBAUM. Mr. President, I yield to the Senator from Ohio.

Mr. GLENN. I have one other point, to be on the side of the Senator from South Dakota.

Another point that should be tightened up in the final language is that you do not have a well brought in late in the year, a yearly average, which is the way this reads now, to put it in the category of getting this until the first of the following year. I do not think it is the intent of the Senator from Kentucky to give a windfall. It would not come out under the average provided in the amendment.

Mr. ABOUREZK. That is an excellent point. The point is that we do not know anything about the effect of this amendment. We have not gone through it. In this debate today, it has been pretty well picked apart. I think it would be a mistake even to act on it.

Mr. FORD. I say to the Senator that Senators offer amendments on which they do not want discussion, on which they want to vote immediately, or amendments are submitted and Senators automatically move to table them, without discussion. Whatever shoe fits is the one the Senator wants to wear.

Mr. METZENBAUM. Will the Senator from Kentucky agree to a unanimous-consent agreement to lay aside his amendment until some time Monday afternoon so that we may obtain adequate information? Perhaps during the interim, the Senator from Kentucky will see fit to consider the amendments I have suggested, as well as the proposal of the senior Senator from Ohio and the proposal of the Senator from Washington.

Mr. FORD. I cannot agree to that now, Mr. President—not for the time being, anyhow. I cannot agree to set it aside until Monday.

This amendment was one of the first amendments filed. It is not a new amendment. Anybody who wanted to read the amendment or had any concern with it could have read the amendment. It has been here for almost a week, so it is not something new. I am not in the mood right now to allow it to be set aside.

Mr. METZENBAUM. Mr. President, the matter to which the Senator from Kentucky addresses himself is interesting, and a number of us actually share some of his concerns. However, a number of suggestions and observations have been expressed on the floor of the Senate as to how the amendment would have to be amended if it were to be acceptable at least to a substantial number of Members of this body. I think that might be possible to achieve.

When the Senator from Washington, the chairman of the Energy Committee, pointed out that there will be available information on this subject which may be pertinent to the matter we are presently discussing, it seemed to me to be logical and reasonable to lay the amendment aside temporarily and come back to it on Monday. Inasmuch as the Senator from Kentucky is not agreeable to that procedure, I move to table the amendment.

Mr. FORD. I ask for the yeas and nays, Mr. President.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 28, nays 46, as follows:

[Rollcall Vote No. 404 Leg.]

YEAS—28

Abourezk	Hathaway	Pell
Anderson	Hollings	Proxmire
Bayh	Inouye	Ribicoff
Brooke	Jackson	Riegle
Bumpers	Kennedy	Sarbanes
Case	Magnuson	Stevenson
Church	Matsunaga	Williams
Clark	McGovern	Zorinsky
Cranston	Metzenbaum	
Durkin	Muskie	

NAYS—46

Allen	Ford	Nunn
Baker	Garn	Packwood
Bellmon	Glenn	Pearson
Bentsen	Goldwater	Percy
Burdick	Gravel	Randolph
Byrd, Harry F., Jr.	Hansen	Roth
	Hatch	Sasser
Byrd, Robert C.	Hatfield	Schmitt
Cannon	Hayakawa	Schweiker
Chafee	Helms	Sparkman
Chiles	Huddleston	Stevens
Curtis	Laxalt	Stone
Danforth	Lugar	Thurmond
DeConcini	Mathias	Tower
Dole	Melcher	Wallop
Domenici	Morgan	

NOT VOTING—26

Bartlett	Humphrey	Moynihan
Biden	Javits	Nelson
Culver	Johnston	Scott
Eagleton	Leahy	Stafford
Eastland	Long	Stennis
Griffin	McClellan	Talmadge
Hart	McClure	Weicker
Haskell	McIntyre	Young
Heinz	Metcalf	

So, Mr. METZENBAUM's motion to lay on the table Mr. FORD's amendment (No. 881) was rejected.

UP AMENDMENT NO. 851

Mr. METZENBAUM. Mr. President, I call up an unprinted amendment which I have at the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes unprinted amendment No. 851 to the Ford amendment No. 881.

On line 3 after the word "any" add the word "new."

Mr. FORD. Mr. President, will the Senator from Ohio yield for a question not related to the amendment, but only a question?

Mr. METZENBAUM. I yield.

Mr. FORD. How soon will the Senator from Ohio be willing to go to a vote on his amendment?

Mr. METZENBAUM. In about 3½ minutes.

Mr. FORD. Does the Senator from Ohio have other amendments then beyond this one?

Mr. METZENBAUM. I do.

Mr. FORD. About how many?

Mr. METZENBAUM. I have one other.

Mr. FORD. One other?

Mr. METZENBAUM. Yes.

Mr. FORD. Will there be any other amendment to this amendment? The Senator from Ohio says in 3½ minutes he will be ready to go to a vote on this amendment, that he has one other amendment, and then we could get this amendment out of the way.

The Senator from Arizona has an amendment, is that correct?

Mr. DECONCINI. Is this an amendment to the amendment of the Senator from Kentucky?

Mr. FORD. Yes.

Mr. DECONCINI. No.

Mr. FORD. It is just an amendment to my amendment that is at the desk. The tabling motion has just failed. The Senator from Ohio says he has an amendment to my amendment which will take 3½ minutes and he has one additional amendment, which will take how long?

Mr. METZENBAUM. I am not certain how long the second amendment will take, but I should point out to the Senator from Kentucky that if the second amendment is not agreed to then it is entirely likely I would draft a third amendment which would cover a portion of that which would attempt to be covered by the second amendment.

Mr. FORD. If that one fails, how far will the Senator from Ohio go after that?

Mr. METZENBAUM. I am not in position to advise the Senator from Kentucky as to the number of amendments I have nor what my plans are. I have indicated previously that in view of the fact that there will be information available to the chairman of the Energy Committee as of Monday noon and the chairman of the Energy Committee has indicated he felt it would be appropriate to vote on this subject on Monday, I suggest a unanimous-consent agreement be that we put the matter aside until Monday.

Mr. FORD. I have to object to that.

Mr. METZENBAUM. I only suggested that; I did not make it as a motion.

Mr. FORD. I said I will object if the Senator makes it.

Mr. METZENBAUM. I only say that I think the Senate should not be asked to vote upon this matter without knowing its full implications, and the chairman of the Energy Committee has indicated that he is attempting to obtain that information, that the information will be available around noon on Monday. I think that the Senator from Kentucky in presenting his amendment indicated he did not know how many wells would be affected, how much new gas might be involved, and actually indicated that there was no statistical data available for the Senate to use in considering the full impact of this amendment.

Mr. FORD. The Senator has the floor, and I will not try to impose on his time but, as I said earlier, just which shoe fits? Earlier he wanted to table an amendment that had just been introduced and moved to table, and I wanted to go ahead and introduce an amendment and get a vote on it without explaining it. Now the Senator is opposed to an amendment and is using those kinds of tactics. So if he is ready I hope he will present his amendment and in 3½ minutes we would vote on it.

Mr. METZENBAUM. Let me say to the Senator from Kentucky that I think his choice of words is a bit inappropriate about tactics. His amendment is a major amendment which would eliminate from control a vast body of natural gas in this country, much of which is owned by the major oil and gas companies of this country, and I think that before the Senate is expected to act on it we are entitled to know the information and what the impact of that amendment will be. The chairman of the Energy Committee is attempting to obtain that information and the Senator who proposes an amendment indicated he did not have the information available and when the Senator from West Virginia offered us some information on it it was helpful but the Senator from West Virginia, the gentleman that he is, came forth and said he is not certain that that information was

correct and it had only been used by a Congressman on the floor of the House of Representatives and had no more basis for it than that.

Now when we are talking about tactics, let us talk about the fact that the Senator from Massachusetts has an amendment pending on this floor and indicated he was prepared to vote on it last night. I stood on this floor and said that I was prepared to vote on it today, and others of us who were opposed to deregulation were prepared to vote on Senator KENNEDY's amendment today at any time. I have not heard any indication, except an offering of a number of amendments. So I think that the shoe fits both ways, and I do not think it is appropriate to be talking about tactics when apparently the Senator from Kentucky, plus some others, are involved in somewhat of a procedure which he can describe in any manner that he wants but some may call it dilatory and some may have some other kind of name for it.

Mr. FORD. The Senator smiled when he said that.

Mr. METZENBAUM. Having said that, I wish to say that the proposal and reason for this amendment being offered by the Senator from Kentucky is that it will help bring forth natural gas that is now not coming out of the ground, that there are people who cannot afford to produce it, that only if we deregulate these natural gas wells that produce less than 100,000 Mcf's per day will we be able to bring forth this natural gas.

All that my amendment does, and it is a very simple amendment, it says, OK, maybe the Senator has a point, but it says where the natural gas is presently flowing, where it is coming up the pipe, there is not any reason to deregulate the price of that. There is not any reason to provide a windfall. There is no reason whatsoever to deregulate the price of all natural gas that is coming from wells that are producing less than 100,000 Mcf's per day.

All I am saying by this amendment is add the word "new," and if the Senator wants to deregulate the price of natural gas that is coming from new wells, these small new wells, then at least he can make a credible argument for it. After that I do not think he can make a credible argument.

Mr. BENTSEN. Mr. President, will the Senator yield for 30 seconds?

Mr. METZENBAUM. I yield for the purposes of a question.

Mr. BENTSEN. Mr. President, I am sure the Senator did not mean to say 100,000 Mcf a day. It is 100 Mcf.

Mr. METZENBAUM. The Senator from Texas is correct. It is 100 Mcf. That reads 100,000 cf, cubic feet. The Senator is correct. It is 100 Mcf. That is the figure that is used in the amendment.

I yield the floor.

Mr. FORD. Mr. President, we have in the past attempted to do those things that would generate support and help by this country as it relates to our energy problem. If we accept the amendment of the Senator from Ohio, then it will only be new wells. Somehow there has to be an incentive to explore.

There has to be an incentive to uncap those wells that have been uneconomical. We need new procedures, new ways—and expensive ways—of bringing this natural gas out of the ground. I want to get at that which is already there, and that we know is there.

The Senator is talking about new wells. New wells, I think, are only part of the problem. They would be very helpful, but I say to my colleagues that I oppose this amendment by the Senator from Ohio. I suspect the proper way to dispose of it is to make a motion to table, which I shall not do at this time. He made a motion to table my amendment. I think that is the proper way, and we can go up and down on tabling motions, but I do not wish to preclude any of my colleagues from making any statements they wish.

Mr. TOWER and Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to make a general statement about both amendments, and then ask the Senator from Kentucky a question.

I would like to say, first of all, that there are indeed a lot of small gas wells in this country that produce 100,000 to 500,000 cubic feet. When gas was first discovered in my home county back about 30 years ago, it was not uncommon for the gas companies to cap and to leave idle wells with less than 1 million cubic fee a day, because they were small by comparison. Nowadays, of course, with natural gas in such short supply, that would not occur. I know that in southern Arkansas and northern Louisiana it is not uncommon for people seeking oil to hit small gas wells of 100,000, 200,000, or 300,000 cubic feet. I also know that it is not easy for me, knowing that I have a lot of constituents who have wells of that size, to vote against that amendment of the Senate from Kentucky.

I like the perfecting amendment of the Senator from Ohio. One of the questions that arises in my mind is, first of all, there are no lifting costs if it is a pure gas well. Whether it is 100,000 cubic feet or a million cubic feet, or whatever it is, there are no lifting costs; the gas comes out by pressure, and that contrasts from a lot of the oil, which is pumped out.

Second, 100,000 cubic feet or 100 Mcf a day is a highly arbitrary figure. The truth of the matter is that any well that produces less than 500,000 cubic feet a day has in the past been a highly marginal operation.

What we are doing here is opening up so many problems—let us assume you have a well that produces 150,000 square feet a day.

Mr. TOWER. Cubic feet.

Mr. BUMPERS. 150,000 cubic feet a day. My chairman takes care of my syntax.

Say you have a well producing 150,000 cubic feet a day. You can put a choke on it to choke it back to 100,000 cubic feet, and come within this qualification. There is not any point in inviting people to perpetrate a fraud when it is not necessary.

Third, there are a lot of oil wells in this country that produce quite a bit of oil, but, as Senators know, gas is always found with oil, and those wells also produce gas. So you may have a very substantial oil producer with 100,000 cubic feet or less of gas associated with it. Of course, this oil might belong to a major oil company, or it might belong to an independent. But I have a couple of thoughts about the matter.

First, I think the Senator from Ohio is right in limiting it to new wells, but it occurs to me that it would be infinitely better if it were new wells owned by independent operators who produce less than a certain amount annually, and I think it would probably be better if we limited it to gas wells only, and not gas found in association with oil.

I may vote for the amendment of the Senator from Ohio simply because I think it is an improvement over the present one, but I do not think either one of them are flawless.

Mr. METZENBAUM. Mr. President, will the Senator from Arkansas yield?

Mr. BUMPERS. Yes.

Mr. METZENBAUM. My second amendment, I think, covers the point with respect to the size of the producer. It does not cover the point about it being joint production with oil. If the second amendment does not prevail, I would offer that as a third amendment. Because I thought it should be separated, and that each of the issues were somewhat different, I had originally taken it to the desk and suggested they be combined, but I have a feeling perhaps these issues are separate, whether they are new wells and whether they are owned by majors or smaller producers, so I separated them. But I totally agree with the Senator from Arkansas that we have to cover not only both those aspects but probably the third one as well.

Mr. HANSEN. Mr. President, will the Senator from Arkansas yield for a question?

Mr. BUMPERS. Surely.

Mr. HANSEN. Would it be the Senator's conviction that a producer above a certain size, by virtue of that fact alone, would go ahead and install the necessary pipeline or make the added investment necessary to produce gas if it were still uneconomic?

Mr. BUMPERS. I think the question almost answers itself. I do not think anyone is going to do anything that is not economic.

Mr. HANSEN. Then why would the Senator want to impose a restriction on the application of this amendment according to the size of the natural gas producer?

Mr. BUMPERS. Well, No. 1, if there is anyone who is a marginal operator it is that small operator.

Let me say this: I do not like the idea of the amendment, because, first, it is a highly arbitrary figure. There are a lot of very wealthy people who are going to make it just fine at $1.75 for natural gas, and if we adopt this amendment, of

course, they are just going to make it that much better.

Mr. HANSEN. But are they going to go ahead and produce from a well that is uneconomic? It seems to me that if you cannot answer that question affirmatively, I find it difficult to see the rationale that——

Mr. BUMPERS. I think the Senator assumes that anything less than 100,000 cubic feet is uneconomic.

Mr. HANSEN. No, I am not assuming that at all. I just understood the Senator's amendment, when he was explaining it, wherein he says he would deny the beneficial treatment of the Ford amendment to those producers exceeding a certain amount. Was that what the Senator was saying?

Mr. BUMPERS. Well, we are talking about two things. First, we are talking about——

Mr. HANSEN. I am trying to understand what the Senator is talking about.

Mr. BUMPERS. Well, I am saying, No. 1, I think the amendment ought to be limited to gas wells, and not oil and gas. Second, I think it ought to be limited to those producers who produce less than a certain amount annually, because they need it to continue drilling. The major companies are going to continue drilling anyway.

Mr. HANSEN. But will they produce a minor well that does not make a profit?

Mr. BUMPERS. I will say that if they cannot make a profit at $1.75, it is probably too small to produce.

Mr. HANSEN. Of course, this is precisely the thrust of the Ford amendment, to make them economic to produce.

Mr. BUMPERS. I do not know of any 100,000 cubic foot wells in this country right now that are shut in at $1.45, so I would not expect a rash of wells to be shut in at $1.75, or $2.20 or any other figure.

Mr. FORD. I might just bring to the attention of the Senator from Arkansas a cutoff recognized by Congress in the tax laws and by the FPC in pricing regulations, "whose average production per well is less than 100,000 cubic feet per day, or 36.5 million cubic feet per year." It seems to me that not only is 100 Mcf recognized by the tax laws, but also by FPC itself in its jurisdiction, at the present time.

Mr. President, I have nothing more to say.

Mr. GLENN. Will the Senator yield?

Mr. FORD. I am glad to yield.

Mr. GLENN. I have a question for my colleague from Ohio.

It seems to me that the thrust of the amendment of my colleague would thwart the original intent of what the Senator from Kentucky is trying to do; that is, get increased production out of old facilities. The amendment offered by my colleague from Ohio would indicate that there would have to be new drilling before the new pricing would apply. I wonder if, in defining new gas—I know there are FPC designations of this, but at least for purposes of this amendment, I wonder if the Senator from Ohio would agree to defining new gas as increased production from what it has been over the last couple of years or 3 years, or some definite time period.

The objective is to get these people, whether it has been a capped-in well or a well at low production which could be enhanced, and have additional production; that is what we are after. If it were a new well, as the Senator proposed in his amendment to the amendment, that, too, would bring new gas flowing. That is really what we are trying to do, take these old fields or low-production fields and make them more productive.

If the definition of new gas for purposes of this amendment could be increased production where there was low production before, or increased production from a capped well that has not been used for the last 3 years or some time period we could negotiate, or new drilling, then it would seem we would be accomplishing the best of what we are all trying to do, bring more gas onstream and use this pricing mechanism for doing it.

I would be interested in the observation of my colleague.

Mr. METZENBAUM. I share the concerns expressed by the senior Senator from Ohio. I point out that the language of the amendment talks about new wells to distinguish from new gas. I think, on the point he makes with reference to uncapping of old wells, I have indicated to the Senator from Kentucky that that would not concern me if an amendment were offered to that effect to take care of the capped wells and, if they were uncapped, to release them from price restraints.

Mr. GLENN. How about low-production wells?

Mr. METZENBAUM. If I may finish, when we get into the question of low-production wells and then increasing that production, we now get into an area where it becomes very difficult to bring a piece of legislation that is going to cover that subject.

Are we going to say 1 percent, 5 percent, 10 percent, 50 percent, 100 percent? Who is going to make that determination?

I frankly admit, I would not know how to write that legislatively. I canont see myself accepting that concept unless I were certain that it could be done. Then I would be glad to consider that.

In connection with the matter of an exemption for capped wells that are to be uncapped, provided it were written appropriately, I would not oppose that as part of my amendment.

Mr. GLENN. If the Senator will yield further, right now, the way his amendment to the amendment of the Senator from Kentucky is stated, it would not provide any price increase unless this were a brand new well.

Mr. METZENBAUM. The Senator from Ohio is correct.

Mr. GLENN. I thank the Senator.

Mr. DOMENICI. Mr. President, may I have a chance to question the Senator from Ohio?

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Do I understand what he is saying to the senior Senator from Ohio is that his amendment would include legally capped wells that are not presently yielding to the inter- or intrastate market?

Mr. METZENBAUM. I am sorry if my response led the Senator to that conclusion. What I actually said was that I had earlier indicated to the Senator from Kentucky that I would accept an amendment which would cover the question of uncapping presently capped wells and excluding that from price controls; in other words, deregulating the old, presently capped wells.

Mr. DOMENICI. But for purposes of his intention with his amendment, unless it is amended, his definition of "new" does not include that situation? Is that correct?

Mr. METZENBAUM. The Senator from New Mexico is correct.

Mr. DOMENICI. I thank the Senator.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. The objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

The assistant legislative clerk continued the call of the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

UP AMENDMENT NO. 851 (AS MODIFIED)

Mr. METZENBAUM. Mr. President, in the pending amendment that is at the desk, I modify the amendment by adding, after the word "new," "all presently capped wells" and strike the word "well."

The ACTING PRESIDENT pro tempore. The amendment is so modified.

Mr. FORD. Would the clerk read that? If we strike "wells," I do not think we have anything.

Mr. METZENBAUM. No, I took out "well" and put in "wells."

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 1, line 3, strike the word "well" and insert in lieu thereof "new or presently capped wells".

Mr. FORD. Is all time yielded back?

The ACTING PRESIDENT pro tempore. There is no time limitation.

Mr. FORD. Mr. President, I move to lay on the table the amendment of the Senator from Ohio, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. NUNN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I also announce that the Senator from Georgia (Mr. TALMADGE), is absent on official business.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Vermont (Mr. LEAHY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT) the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 41, nays 31, as follows:

[Rollcall Vote No. 405 Leg.]

YEAS—41

Baker	Ford	Melcher
Bellmon	Garn	Morgan
Bentsen	Glenn	Packwood
Burdick	Goldwater	Pearson
Byrd, Harry F., Jr.	Gravel	Percy
	Hansen	Randolph
Byrd, Robert C.	Hatch	Roth
Chafee	Hatfield	Schmitt
Chiles	Hayakawa	Schweiker
Curtis	Helms	Stevens
Danforth	Huddleston	Stone
DeConcini	Laxalt	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Wallop

NAYS—31

Abourezk	Church	Kennedy
Allen	Clark	Magnuson
Anderson	Cranston	Matsunaga
Bayh	Durkin	McGovern
Brooke	Hathaway	Metzenbaum
Bumpers	Hollings	Muskie
Cannon	Inouye	Pell
Case	Jackson	Proxmire
Ribicoff	Sasser	Zorinsky
Riegle	Sparkman	
Sarbanes	Stevenson	

NOT VOTING—28

Bartlett	Javits	Nunn
Biden	Johnston	Scott
Culver	Leahy	Stafford
Eagleton	Long	Stennis
Eastland	McClellan	Talmadge
Griffin	McClure	Weicker
Hart	McIntyre	Williams
Haskell	Metcalf	Young
Heinz	Moynihan	
Humphrey	Nelson	

So the motion to lay Mr. METZENBAUM's UP amendment No. 851, as modified, on the table was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The question recurs on the amendment of the Senator from Kentucky.

UP AMENDMENT NO. 852

Mr. METZENBAUM. Mr. President, I call up an unprinted amendment at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment No. 852 to the Ford amendment No. 881:

On line 4, before the period insert the following: "except for natural gas produced by independent companies whose sales exceed 100 billion cubic feet annually as determined by the Commission."

Mr. METZENBAUM. Mr. President, this amendment really strikes at the very heart of the question: For whose purpose is the amendment offered by the Senator from Kentucky being offered?

The question is: Are we talking about the mom and pop wells, or are we talking about wells that are owned by the major natural gas producers?

The figure that I set is not a very high one, talking about natural gas produced by independent companies whose sales exceed 100 billion cubic feet annually as determined by the Commission.

If we really feel, as has been indicated in the debate, that we are concerned about those little individuals throughout our various States who have some natural gas coming out of their facilities, and we want to see to it that the price of their gas is decontrolled, then we can very well afford to vote for this amendment because this amendment only strikes at the major natural gas and oil producers of this country.

This amendment says it will be limited only to the very smallest, only truly the independents, only the mom-and-pop operators, and I believe if Members of the Senate want to decontrol the price of natural gas for these smaller operations, then the smaller operations we are talking about ought to be those that are owned by individuals not by anyone other than the independents whose sales do not include 100 billion cubic feet annually.

Mr. FORD. Mr. President, I have to ask my colleagues not to support this amendment by the Senator from Ohio. One thing that strikes me through the thread of his amendments to my amendments is that he is more interested in who rather than in what. He is interested in who does it, and limits it to who does it rather than trying to get this natural gas into the pipeline and get it to the customers, to the industrial operations, and those people who need it.

I believe that small wells should be developed by whoever can develop such small well. Here we are again seeing an amendment that would limit, restrict, our ability and our effort to try to secure additional natural gas to make our country independent of foreign countries. We are willing to see that this big payment goes to other countries but we are not willing to pay our own people, give our own people jobs.

Therefore, Mr. President, if no one has any other debate on this amendment, I——

Mr. KENNEDY. I would like to ask questions of the Senator from Kentucky. One of the questions I would like to ask is whether he can tell us on the basis of his information how many companies would be included and how many would be excluded as a result of this amendment. Does the Senator from Kentucky have that information?

Mr. FORD. No. It is no easier for me to explain that this afternoon, Senator, than to tell you where to go to drill for gas or oil.

Mr. KENNEDY. The Senator could certainly tell us at least at the present time how many fall within that category; can he not?

Mr. FORD. I would suggest that the Senator ask the Senator from Ohio. He is opposing my amendment, and apparently he is opposing it for certain reasons, and maybe he has the figures separating it from the independents.

Mr. KENNEDY. I mean, the Senator must understand, as the proposer of the amendment, how many companies would be affected, and that it would be simply a matter of the application of a mathematical formula that we could reach that.

Could the Senator tell us how many—he cannot tell us then how many would be affected or excluded by this particular amendment?

Mr. FORD. No, and I would like for the Senator from Ohio to answer the Senator's question of how many will be excluded or included in his amendment. He is putting an amendment to my amendment, an amendment that would limit it, and I think the Senator should pose his question to him and let him give the Senator the figures.

Mr. KENNEDY. The reason I asked it is because I was here during the earlier period of the day when the Senator from Kentucky was selling his amendment as help to the "mom and pop" part of the gas industry, and making a very persuasive argument along those lines.

Mr. FORD. Not good enough.

Mr. KENNEDY. Now we find out the argument has switched in saying that the Senator does not really care who is going to benefit. It is just the results of the product.

Mr. FORD. I think that is what the American people want from us, I say to

the Senator, results, and that is what I am trying to see that we get.

Mr. KENNEDY. To what extent will the Senator's amendment limit the results?

Mr. FORD. I do not know, and the Senator from Ohio cannot tell you either.

Mr. KENNEDY. Is it also true that the Senator cannot tell us about who will benefit under the existing situation—not about anything prospective but under the existing situation; is that true as well?

Mr. FORD. I can only gage my interest in this amendment by the amendment that this body passed earlier in deregulating so-called stripper oil wells.

I have seen a great deal of excitement and interest in trying to find wells or to uncap wells or to get those wells into production because they were not economically feasible before that time.

So the only thing I am trying to do here is to produce new natural gas, that is not in the pipeline, from those small operations that have not been economical up to now, to give them an opportunity to reconstruct their wells, to put new pressure operations on them, to bring that gas out.

So I do not believe any of us, when we are freezing, worry about who except, number one, they want some new gas, they want gas in their pipeline, and they want to have the assurance this winter that they will not be jeopardized.

Mr. KENNEDY. We do not have any accurate information or even an estimate about how much new gas will be brought on by this amendment, and the Senator from Kentucky is unable to give us that information or estimate, so I think before the Senator from Kentucky's amendment is accepted that we ought to realize that even the proponent of the amendment is unable to indicate either the number of firms that would be or what additional gas will be produced from capped wells.

I am not asking what he thinks might be produced with the new discoveries. We are asking what is capped and if current production would be affected by this. But the Senator is unable to respond to that particular question.

Will the Senator tell us whether the multinational corporations are going to benefit, whether Exxon, Mobil Oil, with all the profits they have experienced are going to profit—and Texaco and the rest of the major oil companies, will they also be eligible—if they meet the particular requirements of this amendment?

Mr. FORD. I go back to what I said a moment ago: I am not particularly worried about who. I am worried about what, how do we get this natural gas out of the ground; how do we get it into the pipeline; how do we get it out from intrastate into interstate; how do we send it to the Northeast and the Midwest; how do we get this natural gas to those people who are there. We might do something to get it out.

Now, I think, and I should go back and point out again, that no one really knew, no one could give any kind of an estimate, what would happen as a result of deregulating oil wells that produce less than 10 barrels a day. I have seen the excitement, as I have referred to it, the interest in those small stripper wells that were not economically feasible before we passed that legislation, and I am just hopeful that this amendment will generate the same type of interest as the deregulation of the small stripper oil wells.

Mr. KENNEDY. Does the Senator have any information about how much oil is available at the present time and is not being developed because the prices are too low, and any estimates, any projections, that if we get up to, say, $1.50, given the known reserves now, and the wells that are in place and capped, we will get Y amount of gas, and if we increase so much, does the Senator have any kind of information along those lines?

Mr. FORD. I would say the Senator from Massachusetts said "oil," and I am sure he was meaning natural gas.

Mr. KENNEDY. Gas.

Mr. FORD. I would like to yield to the Senator from Wyoming who indicates he might have some detailed information for the Senator's question.

Mr. HANSEN. Mr. President, I thank my friend from Kentucky.

Let me say again, although I have said it earlier this afternoon, that the concern of the American people ought to be what we can do to get the production of gas that will not otherwise be produced. We have gone through the whole argument, and the amendment is basically no different from the ones we voted on earlier.

Therefore, I move that we table the amendment, and I ask for the yeas and nays.

Mr. KENNEDY. Mr. President, who has the floor?

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has the floor.

Mr. KENNEDY. Regular order, Mr. President. Mr. President——

Mr. HANSEN. Mr. President, who has the floor?

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has the floor.

Mr. KENNEDY. He yielded the floor, Mr. President.

Mr. FORD. No, I did not except for him to answer the question.

Mr. KENNEDY. Mr. President, did he not yield the floor?

Mr. FORD. No, I did not, Mr. President. I yielded—the Senator from Massachusetts was asking me a question, and I yielded to the Senator from Wyoming who might have an answer.

Mr. KENNEDY. Did he yield it for the Senator from Wyoming to make such a motion?

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has the floor.

Does he yield for a parliamentary inquiry?

Mr. FORD. I would yield for a parliamentary inquiry only as long as I retain my right to the floor.

Mr. KENNEDY. Mr. President, is it appropriate for the Senator from Wyoming to make such a motion if he has not the floor and has been yielded to only for a question?

The ACTING PRESIDENT pro tempore. The Senator was yielded to for the purpose of answering a question and was not yielded to for the purpose of making a motion.

The Senator from Kentucky.

Mr. FORD. Mr. President, since I think all of the nervousness is over now and no one else is interested, I move——

Mr. METZENBAUM addressed the Chair.

Mr. FORD. I move to table the amendment of the Senator from Ohio, and ask for the yeas and nays.

Mr. HANSEN. Yeas and nays, Mr. President.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. KENNEDY. Mr. President, I object.

Mr. METZENBAUM. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The clerk will proceed to call the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MELCHER assumed the chair.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senators from Colorado (Mr. HART and Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. NUNN), the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I also announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. HUMPHREY), would each vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Michigan (Mr. GRIFFIN), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from New York (Mr. JAVITS), the Senator from Indiana (Mr. LUGAR), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 42, nays 27, as follows:

[Rollcall Vote No. 406 Leg.]

YEAS—42

Allen	Domenici	Packwood
Baker	Ford	Pearson
Bellmon	Garn	Percy
Bentsen	Glenn	Randolph
Burdick	Goldwater	Roth
Byrd, Harry F., Jr.	Gravel	Schmitt
	Hansen	Schweiker
Byrd, Robert C.	Hatch	Sparkman
Cannon	Hatfield	Stevens
Chafee	Hayakawa	Stone
Chiles	Huddleston	Thurmond
Curtis	Laxalt	Tower
Danforth	Mathias	Wallop
DeConcini	Melcher	
Dole	Morgan	

NAYS—27

Abourezk	Durkin	Metzenbaum
Anderson	Hathaway	Muskie
Bayh	Hollings	Pell
Brooke	Inouye	Proxmire
Bumpers	Jackson	Ribicoff
Case	Kennedy	Sarbanes
Church	Magnuson	Sasser
Clark	Matsunaga	Stevenson
Cranston	McGovern	Zorinsky

NOT VOTING—31

Bartlett	Javits	Nunn
Biden	Johnston	Riegle
Culver	Leahy	Scott
Eagleton	Long	Stafford
Eastland	Lugar	Stennis
Griffin	McClellan	Talmadge
Hart	McClure	Weicker
Haskell	McIntyre	Williams
Heinz	Metcalf	Young
Helms	Moynihan	
Humphrey	Nelson	

So the motion to lay Mr. METZENBAUM's UP amendment No. 852 on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of my colleagues, I yield for the purpose of a motion to reconsider the vote.

Mr. FORD. I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. SCHMITT. Is my understanding correct that gas which was sold under an emergency or short term or limited term arrangement or a direct sale before January 1, 1977, would be classified as new gas under the definition of new gas in the Pearson/Bentsen bill, amendment 862?

Mr. PEARSON. Yes, Senator, your understanding is correct. Amendment 862 defines new natural gas as including gas sold or delivered in interstate commerce for the first time on or after January 1, 1977, and gas sold under the arrangements permitted under sections 2.79, 2.70(b)(3), 157.29, and 2.68 of the Commission's Regulations and General Policy and Interpretations is not considered to have been previously committed to interstate commerce. Further, although the Emergency Natural Gas Act amendments were not passed until after January 1, 1977, and any deliveries thereunder were made after that date, if the January 1, 1977, date is changed to a more recent date such as April 20, 1977, the natural gas sold under the Emergency Natural Gas Act would still be new gas.

Mr. CLARK. Mr. President, I have been very much disappointed by the extent of Senate support for deregulation of natural gas prices. I can understand that many people are dissatisfied with the present pricing system—I share that dissatisfaction. But I think the President's proposal does a good job of balancing the need for increased incentives against the fragile state of the economy. Let me explain why:

First, the Carter plan does provide substantially increased prices which should result in increased incentives to explore for new gas supplies. In addition, by providing a firm program with gradual and predictable increases each year, it discourages producers from holding back supplies in hopes of higher prices.

Second, it protects the consumer by keeping a lid on prices. The Congressional Budget Office report, which has been quoted so frequently during this debate is very convincing. It indicates that deregulation would cost consumers $10 billion per year more than the administration plan between now and 1985. That's billion, not million. Further, it indicates that a January 1985 heating bill that would be $70 under deregulation would only be $47 under the President's plan. Twenty-three dollars per month may not sound like much in the Senate where we talk about budgets of millions and billions, but it means a lot to me when I pay my heating bills and it means a lot to my constituents—especially in a State like Iowa, where winters are frigid.

Third, the Carter plan further protects the individual consumer by placing most of the burden of increased prices on industry. Right now, home consumers pay much more for natural gas than industrial consumers and they have much less flexibility to switch to other fuels.

Fourth, it protects the economy from the severe inflation which would be triggered by deregulation. The CBO study estimates that deregulation of new natural gas prices would increase inflation by five-tenths of a percent per year in 1977 and 1978—and that is hardly an insignificant increase. The President's plan will have an inflationary effect, too, of course—but the predictions are that the entire Carter plan will have no more inflationary effect than that predicted for deregulation alone.

By way of explanation, I voted against tabling the Kennedy amendment which would have kept prices at their present level because I was advised at the time that Senator KENNEDY was amending the Bartlett amendment. However, I understand that the Kennedy amendment was to the bill itself, and, under those circumstances, I would not be able to support it.

To sum up my position—we need more natural gas supplies but we do not need prices so high that both individuals and the economy suffer unnecessarily. In the last 8 years, natural gas prices—regulated prices in the interstate market—have gone up more than 600 percent. Even in the intrastate market, where prices have gone up 1,200 percent, supplies have not substantially increased over-all. These high prices have provided no magic answer to our natural gas problem. The Carter plan is no magic answer either, but I think it will get the job done in the best possible way.

STATEMENT OF POSITION ON CLOTURE VOTE

Mr. PERCY. Mr. President, I will not be able to be present for the cloture vote on Monday, September 26, as I am meeting with the Board of Directors of the State AFL–CIO for luncheon in Peoria, Illinois, and addressing their annual convention that afternoon.

In the event cloture is not obtained, I will vote for cloture on the next vote, inasmuch as I support the Pearson-Bentsen amendment and the issue of gradual deregulation of natural gas has been debated in this Chamber for several years, and my position has been made clear on many occasions.

COMPREHENSIVE NATURAL GAS POLICY

THE STATUS QUO

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of my colleagues, here is the status quo: At the moment, the only amendment that is presently open to amendment is the amendment by the distinguished Senator from Kentucky (Mr. FORD). In other words, the amendment by Mr. KENNEDY is not open to amendment at this point; the substitute amendment by Mr. JACKSON is not open to amendment; and the Pearson-Bentsen substitute is not open to amendment. The Bentsen amendment as amended—which is still hanging out there—is not open to amendment until final action is taken on the Ford amendment, which is a perfecting amendment to the bill. Obviously, the Senate can continue to offer and dispose of amendments to the Ford amendment today. If it is the will of the Senate to do so, it can dispose of the Ford amendment today. But until the Ford amendment is disposed of, that amendment is the only amendment that is open to amendment. I should like to ascertain whether or not

the Senate, today, wants to proceed to dispose of the Ford amendment.

I yield to Senator JACKSON.

Mr. JACKSON. Mr. President, I have asked the Department of Energy to get us the data that we need in connection with the Ford amendment. I would be prepared, first thing on Monday, to offer a substitute, in light of that information, to deal with this special problem of providing incentives for those gas producers who do have gas that can be made available but, because of high costs, or low flow rates, cannot do so. I have asked for that information. It will not be available until noon on Monday. I should like to offer an amendment at that time, which would be to the Ford amendment, which is the only amendment that can be amended.

Mr. RANDOLPH. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. I appreciate the situation that is correctly outlined as the majority leader set forth. I have listened to the able Senator from Washington.

I believe that Senator METZENBAUM has indicated—I want to be correct in this matter—I believe he has indicated, and I hope that if I am wrong, he will correct me, that he will continue to offer amendments to the Ford amendment. He said that during debate—I thought he said it.

Mr. ROBERT C. BYRD. I yield to Senator Metzenbaum for a response.

Mr. METZENBAUM. I am not certain I heard the question of my good friend from West Virginia.

Mr. RANDOLPH. What I am trying to say is, I think if we continue on the Ford amendment this evening, we shall just continue and continue, because I believe the Senator from Ohio said earlier in the afternoon that he would continue to offer amendments to the Ford amendment.

Mr. METZENBAUM. What I said, I think—I am sure, as a matter of fact—is that until we receive the information that the chairman of the committee indicated would be forthcoming on Monday morning, I did not think it would be appropriate to have a final vote on the Ford amendment.

I also have indicated, and I want to reiterate it at this moment, that I am prepared to vote on the Kennedy amendment, and the author of that amendment is prepared to vote on it, this afternoon. In fact, we would appreciate having the opportunity to vote on it at this point. I think that it is of such major moment that it might be very appropriate to proceed to a vote on that issue.

Mr. RANDOLPH. Will Senator BYRD yield to me further?

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. I am modifying my understanding now to including that Senator METZENBAUM indicated that he would await information from Senator JACKSON on Monday.

Mr. ROBERT C. BYRD. Yes.

Mr. RANDOLPH. So it is the same situation, because Senator JACKSON has just said he could not have this information until Monday. That means that the Senator from Ohio is, naturally, going to continue to offer amendments. I feel that the Senate today has worked its will. I congratulate the leader and now, with 6 votes passed and having come in at 9, I hope we shall be reasonable and go over until Monday.

Mr. ROBERT C. BYRD. Let me proceed a little further before we do that. I thank my distinguished colleague, because he has helped clarify the situation for me.

Mr. METZENBAUM has indicated that he and Mr. KENNEDY and others would like to vote this afternoon on the Kennedy substitute to the Jackson substitute to the Pearson-Bentsen substitute to the bill. I am perfectly willing to do that, but to do that, we would have to have unanimous consent. It would require unanimous consent that the pending Ford perfecting amendment to the bill be temporarily laid aside and that we proceed to vote on the amendment by Mr. KENNEDY.

Mr. TOWER. I would object to that, I think, stringently.

Mr. ROBERT C. BYRD. All right, I think that closes off the only other possibility—

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes; I yield to the distinguished minority leader.

Mr. BAKER. I wish only to add to what the distinguished Senator from Texas said that we would not object from the point of obstructionism. I have recently taken a head count, and at this hour on Saturday, my members begin to drift away. In fairness to them, I think it is imperative that we save this vote until Monday. I join with the distinguished Senator from Texas in saying that it is unlikely that we will do much with it this afternoon.

Mr. PERCY. Mr. President, I first would like to say that I think we have made progress today. I commend the leadership on having us in here today, and all the Senators for the attentive consideration they have given to this matter, to the amendments offered, and I commend the floor managers for the workmanlike way they have handled this. I hope we shall continue as diligently as possible for the next hour or hour and a half, because many of us have definite commitments that we have to get back to our States for engagements tomorrow and we do not have reason to cancel and we shall not be able to get planes after a while. Could we have a definite time certain beyond which there will be no votes? I would suggest, respectfully, 6 p.m.

Mr. ROBERT C. BYRD. If the Senator will allow me, we may go home pretty soon. Let me continue to pursue this.

There is one other possibility, and that will require unanimous consent. It is possible, by unanimous consent, to set aside the perfecting amendment by Mr. FORD and vote on the Bentsen amendment, as amended by the amendment of the distinguished Senator from Arizona (Mr. DECONCINI). That would require unanimous consent, however. Is there a disposition on the part of the Senate to give unanimous consent to vote on the Bentsen amendment?

Mr. METZENBAUM. I would object, because if we are going to vote on anything by unanimous consent, I want us to vote on the Kennedy amendment. Therefore, I would object to bringing up anything else.

Mr. HANSEN. If I may express my personal pleasure, I would prefer to vote on the Metzenbaum amendments.

Mr. TOWER. If the Senator would yield, I think we would very much like to accommodate the distinguished Senator from Ohio tonight and vote on his amendments. Since that is the normal sequence of things at this moment, I suggest that we go ahead and vote on his amendments.

Mr. METZENBAUM. Let the Senator suggest his way and I shall suggest my way.

Mr. TOWER. If he does not wish to offer them, why would we not go ahead and dispose of the Ford amendment tonight?

Mr. FORD. Does the Senator from Ohio not wish to withdraw any amendments to my amendment and go ahead——

Mr. METZENBAUM. As a matter of fact, I do not think I have any amendment pending to the Ford amendment. I said I was seriously considering offering additional amendments if we were going to take up the Senator's amendment before we receive the information that the chairman of the committee has indicated will be forthcoming from the Energy Department.

Mr. FORD. Mr. Leader, if we were to go out tonight, what would be the legislative procedure, then, on Monday? What position would my amendment be in on Monday and what position would the other amendments be in?

Mr. ROBERT C. BYRD. The Senator's amendment would be in the same position on Monday, identically, that it is right now.

Mr. FORD. It would be the pending business when the Senate goes into session?

Mr. ROBERT C. BYRD. It would be the pending amendment and it would be subject to amendment.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I wonder if this might possibly be a way out of the impasse? This evening, vote on the Ford amendment, followed by the vote on the Bentsen-DeConcini amendment, followed on Monday by a vote on the Kennedy substitute at a definite time.

Mr. ROBERT C. BYRD. That would be the natural order of succession if Senators want to proceed in that manner.

Mr. ALLEN. This evening set a definite time for Monday.

Mr. JACKSON. I have an amendment to the Ford amendment.

Mr. ROBERT C. BYRD. The Senator wants to offer an amendment to the Ford amendment and he is not prepared to do that until Monday because he is awaiting some information.

Mr. JACKSON. That is right.

Mr. BAKER. Mr. President, I must say, while I share with the Senator from Alabama the desire to see us arrange the schedule so we can proceed not only

this afternoon, but Monday, it appears to me the best thing to do is let nature take its course.

There are certain things now ahead of us that have to be taken into account under the rules that would require unanimous consent to offer.

For instance, after the time to convene is established, even by an operation of the rules by consent, then proceed to have a cloture vote on Monday, and that will occur, I assume, 1 hour after we convene.

The Executive Calendar on Monday will have one treaty on it that I am prepared to clear for action during that ensuing hour from the time we convene until the cloture vote occurs.

After the cloture vote, then the legislative schedule would be, I believe, exactly as the Senator from Alabama has described it unless there is an intervening amendment from the Senator from Washington.

So it seems to me the most we can do and, probably the least we ought to do, is agree on a time to come in.

I am willing to establish a time to vote on the treaty and know in advance when we will vote on cloture and then let nature take its course.

Mr. ROBERT C. BYRD. Mr. President, I think I have established here by my questions, and also with the aid of my distinguished senior colleague (Mr. RANDOLPH) and others, by their questions and their comments—someone scored.

[Laughter.]

Mr. RANDOLPH. I want to say that scoring comes because of the excellence of the ringmaster, Senator ROBERT C. BYRD.

Mr. ALLEN. Will the Senator yield for a suggestion?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I might point out to the distinguished Senator from Washington who wishes to offer a substitute to the Ford amendment later, actually, the Ford amendment, in the nature of things, is meaningless because this amendment to the bill is going to be wiped out anyhow unless it is offered as an amendment to one of these substitutes

So he would have an opportunity later to offer his substitute. It really would not be prejudiced because this amendment would fall as soon as one of those substitutes is adopted and inevitably will be.

Mr. FORD. May I say to the distinguished Senator from Alabama, I think we are getting an indication how strong this amendment might be at a later date. I would hate to give up on the momentum.

Mr. ALLEN. I am suggesting a vote on it.

Mr. FORD. I am, too.

Let me ask, if I can help the leader in asking a question, after the distinguished Senator from Washington gets his information on Monday morning, is there a possibility that those who oppose my amendment might get with him and develop the substitute, and then we can have a vote, time certain on Monday. Would that help the leader?

I would be willing to get in that kind of position. It gets me out of the way and can move on to other things.

Mr. METZENBAUM. That possibility exists, but I would not want to get the Senator out of the way.

Mr. FORD. I am delighted to. I would like to.

I am about the only thing out here that can be amended. I am beginning to swing a little, but so far, I like it.

Mr. KENNEDY addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think the Senator from Kentucky makes a good point. I think if we could get an agreement to vote on the Senator from Kentucky's amendment, and then an oil divestiture amendment, we could package those together. I think maybe we could make this——

Mr. FORD. I will not accept being put in that position, I can guarantee.

Mr. ROBERT C. BYRD. Mr. President, I think I pretty clearly sense the mood of the Senate at this point.

Mr. SPARKMAN. Will the Senator yield to me for about 30 seconds?

Mr. ROBERT C. BYRD. Yes.

Mr. SPARKMAN. I say with reference to the treaty, I think we can dispose of it within 10, nor more than 15, minutes.

Mr. ROBERT C. BYRD. Would the Senator need any debate on it or could we just proceed?

Mr. SPARKMAN. Nothing more than making a statement. At least Senator CASE has indicated that to me.

Mr. ROBERT C. BYRD. Would the Senator and Senator CASE wish to put their statements in the RECORD or do they want to make them orally?

Mr. SPARKMAN. It will not be more than a couple of minutes each.

EXECUTIVE SESSION—PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of calling up the Protocol to the Convention on International Civil Aviation, Executive A, 95th Congress, first session.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senate, as in Committee of the Whole, proceeded to consider Executive A, 95th Congress, 1st session, the Protocol to the Convention on International Civil Aviation, which with its annex was read the second time, as follows:

PROTOCOL RELATING TO AN AMENDMENT TO ARTICLE 50(A) OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION, SIGNED AT MONTREAL, ON 16 OCTOBER 1974

THE ASSEMBLY OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Having met in its Twenty-first Session, at Montreal on 14 October 1974.

Having noted that it is the general desire of Contracting States to enlarge the membership of the Council,

Having considered it proper to provide for three additional seats in the Council, and accordingly to increase the membership from thirty to thirty-three, in order to permit an increase in the representation of States elected in the second, and particularly the third, part of the election, and

Having considered it necessary to amend, for the purpose aforesaid, the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

(1) Approved, in accordance with the provisions of Article 94(a) of the Convention aforesaid, the following proposed amendment to the said Convention:

In Article 50(a) of the Convention the second sentence shall be amended by replacing "thirty" by "thirty-three".

(2) Specified, pursuant to the provisions of the said Article 94(a) of the said Convention, eighty-six as the number of Contracting States upon whose ratification the proposed amendment aforesaid shall come into force, and

(3) Resolved that the Secretary General of the International Civil Aviation Organization draw up a Protocol, in the English, French and Spanish languages, each of which shall be of equal authenticity, embodying the proposed amendment above-mentioned and the matter hereinafter appearing:

(a) The Protocol shall be signed by the President of the Assembly and its Secretary General.

(b) The Protocol shall be open to ratification by any State which has ratified or adhered to the said Convention on International Civil Aviation.

(c) The instruments of ratification shall be deposited with the International Civil Aviation Organization.

(d) The Protocol shall come into force in respect of the States which have ratified it on the date on which the eighty-sixth instrument of ratification is so deposited.

(e) The Secretary General shall immediately notify all Contracting States of the date of deposit of each ratification of the Protocol.

(f) The Secretary General shall immediately notify all States parties to the said Convention of the date on which the Protocol comes into force.

(g) With respect to any Contracting State ratifying the Protocol after the date aforesaid, the Protocol shall come into force upon deposit of its instrument of ratification with the International Civil Aviation Organization.

Consequently, pursuant to the aforesaid action of the Assembly,

This Protocol has been drawn up by the Secretary of the Organization;

In witness whereof. The President and the Secretary General of the Twenty-first Session of the Assembly of the International Civil Aviation Organization, being authorized thereto by the Assembly, sign this Protocol.

Done at Montreal on the sixteenth day of October of the year one thousand nine hundred and seventy-four, in a single document in the English, French and Spanish languages, each of which shall be of equal authenticity. This Protocol shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Secretary General of the Organization to all States parties to the Convention on International Civil Aviation done at Chicago on the seventh day of December 1944.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that excerpts from the report of the Committee on Foreign Relations on this agreement be printed at this point in the RECORD.

There being no objection, the excerpts from the committee report (Ex. 95–11) were ordered to be printed in the RECORD, as follows:

PURPOSE

This Protocol, signed in Montreal October 16, 1974, amends article 50(a) of the Convention on International Civil Aviation to increase the membership of the Council of the International Civil Aviation Organization (ICAO) from 30 to 33 Contracting States.

BACKGROUND

The ICAO, a specialized agency of the United Nations, develops principles and techniques of international air navigation and fosters the planning and development of international civil aviation transportation in order to insure its safe and orderly growth.

The ICAO conducts its work through an Assembly in which every Contracting State is entitled to representation. The Assembly elects every 3 years representatives to the ICAO Council as per article 50. The Council is ICAO's governing body and also administers ICAO's finances and collects, examines and publishes data about air services, safety regulations, et cetera.

Since 1947 when the Convention came into force, ICAO's membership has greatly expanded; from 26 to 86 by 1961, when the Council's membership was first augmented to 27. By 1972 the ICAO had 119 members and Belgium proposed that Council membership be increased to 30. The United States at first abstained, but finally joined in order that the Assembly resolution could be passed unanimously. In 1974, ICAO had 129 Contracting States and Belgium again proposed adding between three to six members to the Council. A three-member increase was carried 91 to 1 (and one abstention) with the United States casting the only negative vote because it felt further expansion unnecessary so soon. Now it appears that it will come into force anwyay so the United States considers it in its own best interest to ratify the Protocol.

PRINCIPAL PROVISIONS

1. ICAO Council membership will be increased from 30 to 33.

2. The proposed amendment will enter into force when 86 Contracting States have ratified it.

COMMITTEE ACTION

The Protocol was submitted to the Senate and referred to the Committee on Foreign Relations on January 12, 1977.

On July 26, 1977, the committee held a public hearing on the Protocol, receiving the testimony of the Honorable Herbert J. Hansell, Legal Adviser of the Department of State. In expressing the position of the Department of State, Mr. Hansell said:

"The United States was the one nation which voted against the amendment. However, 52 [of the necessary 86] governments have ratified the amendment, and it is clear that it will enter into force in the near future. In this circumstance, we would like to ratify the amendment."

Mr. Hansell also stated, in response to questioning, that there would be no additional costs to the United States as a result of ratification and there was no opposition to U.S. ratification.

The committee met on September 20, 1977, and ordered the Protocol reported favorably to the Senate for its advice and consent.

COMMITTEE COMMENTS

Although the committee has determined that for reasons of effective U.S. participation and good relations in the International Civil Aviation Organization the Protocol should be ratified, the committee would encourage resistance to future increases in the Council of the Organization. Should the membership of the Council become too large, the body could become unwieldly and the worthwhile work of the organization hampered.

BUDGETARY IMPACT STATEMENT AND COST ESTIMATE

The Protocol will have no budgetary impact and ratification will not require the authorization or appropriation of any additional funds. The dues and other payments of the United States to the International Civil Aviation Organization will not be affected by the Protocol.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, the committee reports that article 50(a) of the Convention on International Civil Aviation signed in Chicago on December 7, 1944, would be amended to read as follows:

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of [thirty] *thirty-three* contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

EVALUATION OF REGULATORY IMPACT

As required by rule XXIX of the Standing Rules of the Senate, the committee has evaluated the regulatory impact of the Protocol and has determined that there would be no impact as a result of ratification.

TEXT OF RESOLUTION OF RATIFICATION PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol Signed at Montreal October 16, 1974, Relating to an Amendment to Article 50(a) of the Convention on International Civil Aviation (Ex. A, 95–1) without reservation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Treaty Number Executive A, 95th Congress, 1st session, Protocol to the Convention on International Civil Aviation, be considered as having passed through the various parliamentary stages up to and including presentation of the resolution of ratification.

The ACTING PRESIDENT pro tempore. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification which the clerk will state.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol Signed at Montreal October 16, 1974, Relating to an Amendment to Article 50(a) of the Convention on International Civil Aviation (Ex. A, 95–1) without reservation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order, as in executive session, to order the yeas and nays on Executive A, 95th Congress, first session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the resolution of ratification.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. ROBERT C. BYRD. Mr. President, I have two other questions to ask of my colleagues, after which, based on the answers, I will then be in a position to determine what time we come in on Monday and what time the cloture vote will occur.

Could we get unanimous consent to vote on Monday before the cloture vote? Could we get unanimous consent to vote on the Ford amendment, the Bentsen amendment as amended, the Kennedy substitute to the Jackson substitute, and the Jackson substitute to the Pearson-Bentsen substitute?

Mr. BAKER. Mr. President, reserving the right to object, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Is the distinguished majority leader seeking or exploring the possibility of a unanimous-consent request to vote in that sequence?

Mr. ROBERT C. BYRD. Yes, in that sequence, before we have the cloture vote.

Mr. BAKER. Does the Senator still anticipate the cloture vote would come an hour after we convene?

Mr. ROBERT C. BYRD. No. If we got consent to vote on those four, I think we should have some time for debating, and by unanimous consent we could establish that time and the time for the cloture vote.

Mr. METZENBAUM. Will the Senator repeat that again?

Mr. BAKER. If the Senator will yield again——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. The problem I see with such a request, if such is made, is that after we get past the impasse of a restriction on amendments to Jackson, for instance, let us assume the Ford amendment is adopted or rejected, and let us assume——

Mr. ROBERT C. BYRD. Next would be the Bentsen amendment.

Mr. BAKER. We move next to the Bentsen amendment. We make no provision—or does the Senator plan to make some provision for amendments to Ford or Bentsen?

Mr. ROBERT C. BYRD. Yes. I was wondering if there is a disposition to dispose of those amendments, suggesting time for amendments to such amendments as are amendable, and vote on them then as amended, if amended, and then for the cloture vote.

Mr. BAKER. If the Senator will yield further for just a moment, as far as I am concerned, and I have not checked with everybody on this side, I would favor the idea of regularizing the procedures so

there is a time limit on each of those measures, with the time provision for amendments to those measures, and amendments to amendments, if they are in order.

I do not have times in mind at the moment, but if the majority leader wants to pursue that, we will consider it.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I have not made any request yet.

Mr. KENNEDY. I say to the leader that I would object to that unless there was provision also to include the Bayh vertical divestiture amendment. If that were included, I would not object. Unless there was going to be an opportunity to vote on that up or down——

Mr. ROBERT C. BYRD. Would anyone object to including the Bayh divestiture amendment in this grouping, and we can work out the times? I am merely trying to ascertain whether or not there is a possibility of getting such agreement.

Mr. HUDDLESTON. Is the Senator going to attempt to set a time certain for the cloture vote?

Mr. ROBERT C. BYRD. No. What I am trying to find out at the moment is whether or not there is an inclination on the part of the Senate to stack these votes up, with adequate times for debate, and then vote on cloture. But if there is a single objection to this procedure, regardless of the times that may be involved for debate or any one or more of the amendments, then that answers my next question, and we would simply come in at 12 o'clock and have the cloture vote at 1:15.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I would have no objection to a regularized procedure, but it seems to me that it might be appropriate to establish some time for the cloture vote, setting aside whatever else might be pending; because unless the Senator is able to get a hard and fast time agreement on amendments and amendments to amendments, it is going to be very uncertain as to when a cloture vote might occur. It might be 7, 8, 9, or 10 o'clock.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I will yield on this side first.

Mr. THURMOND. I object to including the divestiture amendment.

Mr. ROBERT C. BYRD. I think that answers my question. Mr. President. The Senator from South Carolina said he would object to including the divestiture amendment in that.

Mr. KENNEDY. I want to indicate clearly that I think most of us would have no objection to the leadership's request if we were able to get a vote on the divestiture issue with a reasonable time limitation. It seems to me to be a constructive proposition.

Mr. ROBERT C. BYRD. I thank all Senators. I do not think there is any possibility of working out this kind of agreement.

We have had a good day. We have had the best constant attendance on the floor and the most serious debate of any day this week.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–2058. A letter from the Secretary of Commerce transmitting, pursuant to law, a report entitled "The Molluscan Shellfish Industries and Water Quality—Problems and Opportunities" (with an accompanying report); to the Committee on Commerce, Science, and Transportation; and the Committee on Environment and Public Works, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Commerce relative to molluscan shellfish industries and water quality be referred jointly to the Committees on Commerce, Science, and Transportation; and Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Maj. Gen. Robert Creel Marshall, [redacted] U.S. Army, to be a member and president of the Mississippi River Commission.

Marvin B. Durning, of Washington, to be an Assistant Administrator of the Environmental Protection Agency.

David G. Hawkins, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

Brig. Gen. William Edgar Read, [redacted] U.S. Army, to be a member of the Mississippi River Commission.

Col. Donald Michael O'Shei, Corps of Engineers, to be a member of the California Debris Commission.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PELL:

S. 2137. A bill to provide that social security benefit increases occurring after December 1977 shall not be considered as income or resources for the purposes of determining the eligibility for or amount of assistance which any individual or family is provided under certain Federal housing laws; to the Committee on Finance.

By Mr. ANDERSON:

S. 2138. A bill to provide Federal assistance for State programs which provide payments on behalf of senior citizen homeowners for the purpose of paying real property tax; to the Committee on Banking, Housing, Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 2137. A bill to provide that social security benefit increases occurring after December 1977, shall not be considered as income or resources for the purposes of determining the eligibility for or amount of assistance which any individual or family is provided under certain Federal housing laws; to the Committee on Finance.

Mr. PELL. Mr. President, I am today introducing legislation that would ease the burden now placed on the nearly one-half million social security recipients living in subsidized Federal housing. This bill, which was approved by the House of Representatives during debate on H.R. 12945 in the 94th Congress, did not receive approval by the conference at that time. I am introducing it now so that the Senate will have an opportunity once again to consider its merits, and this time act favorably.

Mr. President, this bill would prevent social security cost-of-living increases from being treated as income for Federal housing eligibility or rent determination purposes, beginning January 1, 1978.

As the overwhelming vote of the House of Representatives last term indicated, this legislation is urgently needed. Each time social security recipients who live in Federal housing receive cost-of-living increases, their rents go up automatically. According to Federal housing policy, Federal housing tenants should be required to pay no more than 25 percent of their income for rent. Yet this is not always the case. For example, in section 236 housing, low income tenants, including the elderly, last year paid an average rent of $125.82 per month which amounts to 38.9 percent of their income. The intent of the law is not being uniformly carried out and those suffering, as usual, are least equipped to afford high rents. Even those who are only paying 25 percent of their income for rent are unable to afford other necessities.

Statistics show that 43 percent of public housing units nationwide are occupied by senior citizens. In my own State of Rhode Island over 3,000 elderly occupants of Federal housing suffer rent hikes every time they receive social security increases, the most nominal of income increments. The proof of their need has been documented to me in letters, cards, and calls from elderly constituents as well as in the many personal encounters I have had with individuals and senior citizens groups. I know their plight and I know how important this legislation is to them. I urge its most serious consideration by the Senate.

I ask unanimous consent that the text of bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, social security benefit increases occurring after December, 1977 shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the United States Housing Act of 1937, the National Housing Act, the Housing and Urban Development Act of 1965, or the Housing Act of 1949. For purposes of this paragraph, the term "social security benefit increases occurring after December, 1977" means any part of a monthly benefit payable to an individual under the insurance program established under Title II of the Social Security Act which results from (and would not be payable but for) a cost-of-living increase in benefits under such program occurring after December, 1977 pursuant to section 215(1) of such Act or any other increase in benefits under such program, enacted after December, 1977, which constitutes a general benefit increase within the meaning of section 215(1) (3) of such Act.

By Mr. ANDERSON:

S. 2138. A bill to provide Federal assistance for State programs which provide payments on behalf of senior citizen homeowners for the purpose of paying real property tax; to the Committee on Banking, Housing, and Urban Affairs.

SENIOR CITIZENS' PROPERTY TAX RELIEF ACT OF 1977

Mr. ANDERSON. Mr. President, today I am introducing S. 2138, the Senior Citizens' Property Tax Relief Act of 1977.

The heavy burden of property taxes on the homes of the senior citizens of this country has become a critical problem in the last several decades because of rapid increases of local property taxes. Increases in property taxes are not welcomed by any homeowner. But it is particularly difficult for senior citizens to bear property tax increases.

When a person retires, he finds that several things happen. Retirement income is less than income when working, and is often more fixed and less able to respond to inflation. Usually the total taxes paid by the typical retiree go down. Total income tax will fall because total income is less, income tax laws provide additional credits and deductions for the elderly, and, often, part of one's retirement income, such as social security benefits, is exempt from taxation.

One major tax facing the majority of this country's senior citizens, however, does not go down as they approach and enter retirement. Local property taxes not only do not go down, they often escalate every year at a rate in excess of any increases in income the senior citizen may receive. This makes it more difficult for senior citizens to remain in the homes in which they have lived, in most cases, for many years before retirement. Often a couple may spend a lifetime obtaining ownership of a home and then find in retirement that the taxes on that house are such that they must give up the home. A home in which they hoped to spend their retirement years, in a familiar neighborhood, and among friends.

Mr. President, I strenuously object to the situations around this country where rising property taxes drive senior citizens out of the homes in which they wish to remain. I know there may be some who believe it is not contrary to the public interest to drive the elderly out of their homes. These individuals object to property tax relief on the grounds that senior citizens take up too much room or should be forced through taxation to sell their homes to younger couples with families. I find this philosophy disgusting. My hope is that the advocates of such a philosophy will some day retire and find themselves forced out of the home they love by high property taxes. Perhaps then they will see the error of their ways.

Mr. President, I do not believe in forcing people out of their homes as a result of the imposition of higher and higher taxes on a fixed income. If a senior citizen wishes to leave a home to move to an apartment or other residence for reasons of preference or convenience, that should be a free choice. My concern is with the thousands of Americans who yearly approach the supposed rewards of retirement only to find that they cannot afford to live in the home they own and have lived in for many years.

Dealing with the problem of high property taxes on the retired is not easy at either the State or Federal level. The complex problems of overlapping levels of local government that all levy property taxes, rapid increases in home values, divided budgeting authority between local and State governments, and the multitude of special problems in different geographic areas of this country making solving this problem difficult.

The States are increasingly playing a major role in reducing the burden of local property taxes on senior citizens. In Minnesota, State government has taken a variety of steps over the past decade to deal with the problem of high property taxes. In 1967, a very limited program was instituted that used State general revenue to reduce the disproportionate burden of property taxes on very low income senior citizens, homeowners, and renters. This provision has been expanded several times since 1967. As Governor of Minnesota, I recommended to the legislature and the legislature enacted a law to provide for senior citizens a State-financed freeze of local property taxes and an expanded income-related property tax relief system. Since that legislation was passed in 1973, this statute has been expanded into a very generous income-related property tax relief program. Current Minnesota law provides for any senior citizen household with an income below $36,000, that the State will pay any property taxes that exceed a certain percentage of income, with certain maximum payments.

For example, a Minnesota senior citizen household with an income of $3,300 and a property tax of $460 pays 0.6 percent of their income in taxes, or $20. The State pays the rest of the local property taxes. At $10,000 and a property tax of $900, the couple pays 1.8 percent or $177 and the State pays $723. At $16,000, and a property tax of $1,300, the household pays $500 or 3.1 percent and the State picks up the remaining $800.

Mr. President, this program in my State, in my judgment, is an excellent one. Minnesota has made a significant commitment to providing property tax relief for its senior citizens. But even our Minnesota program has some problems. Some senior citizens find it difficult to even pay the property tax that remains, even after the State credit is applied. Also, the program cannot be easily transferred to other States. While some States have similar property tax relief laws, other States that depend more heavily on property taxes as a source of tax revenue for local government than is the case in Minnesota, are much harder pressed to finance such a system.

Because of the wide variety of State and local tax systems, it is difficult to design Federal law that would provide some measure of relief to our senior citizens and do justice to all areas of the Nation. State governments must, in the end, design the basic system that fits their own local governments.

Mr. President, there is one method, however, in which I believe the Federal Government can be helpful, that would be of assistance to senior citizen homeowners. It is the system that is established in the Senior Citizens' Property Tax Relief Act of 1977, which I am introducing today.

This system is not a replacement for a properly designed "circuit breaker" property tax relief statute such as the State of Minnesota has enacted. But it would provide a good supplement to such a law and, more importantly, would be of real assistance in those States that have not adopted any property tax relief program for senior citizens. Very importantly, this system would be strictly voluntary.

The concept of the Senior Citizens' Property Tax Relief Act is quite simple. All senior citizen homeowners have at least one major asset. This is their home. Often, it is the only sizable asset they possess. This home has, in most areas of the Nation, and will continue to experience a rapid increase in market value.

But this increase in the assessed value of a home is usually of little use, and sometimes of great harm, to the senior citizen homeowner. If a senior citizen or couple desire to live in the house, the increase in market value brings no realized gain. The inflation in the assessed value of the house does not mean the house has physically changed. It has not grown a new room, nor added a better roof.

So, in most cases the increase in home value is a problem, not a boon, because the local tax assessor then increases the value for tax purposes and thus increases the property taxes on the home. This situation, and increases in the prop-

erty tax rate, frequently makes it difficult for the senior citizen homeowner, usually on a fixed income, to stay in the home.

The inflated value of a home in this case can only be realized by doing the one thing the senior citizen often does not wish to do: sell the home and move out—move away from old friends and relatives to more modest accommodations. If the home is not sold, the increased property taxes may force the sale, when no other recourse is possible.

S. 2138 is an attempt to provide senior citizen homeowners a method, on a strictly voluntary basis to, first, take advantage of the inflated value of their homes; second, remain living in them, and third, continue to hold full legal title to the home, with all of the security and confidence that homeownership provides.

The Senior Citizens' Property Tax Relief Act of 1977 authorizes Federal funds for State governments to pay, on behalf of any qualified senior citizen homeowner, the real property taxes on a home in which the homeowner lives to the appropriate local government unit. Such payments would be repaid interest free to the State administering agency at such time when the senior citizen homeowner dies or voluntarily sells the home. The senior citizen would use the value of his home as security or collateral for the deferred payments but would retain full legal title to it.

The system authorized pursuant to S. 2138 would work as follows. At his option, a senior citizen would apply to a designated State agency to have the agency pay annually the property taxes on his home for him. The payment to the appropriate local government unit would be for the total amount of taxes owed. S. 2138 does provide that a State can set a certain maximum payment to prevent any abuse of the program by those with extremely expensive homes.

In return for the payment of his property taxes, the senior citizen would sign a contract with the State administrative agency. In this contract the homeowner would agree to do several things. First, to keep the home in repair so as to prevent its deterioration. Second, that if the homeowner sells the home, he will immediately repay to the State without interest, the property tax payments the State agency has made on his behalf. Third, the homeowner must maintain insurance on the home, so to guarantee if the home were destroyed that the agency would be repaid its outlays.

The State agency would continue to pay the property taxes of the senior citizen for as long as the senior citizen wished the agency to do so and as long as the total amount of payments did not exceed 90 percent of the unmortgaged market value of the home. Considering the inflation in home values at present throughout this country, the likely effect of this program is that most participating senior citizens would never again pay property taxes.

If the senior citizen dies, the contract would then become due and the State agency would be repaid from the estate of the homeowner, again without interest.

Mr. President, let me briefly illustrate how the program envisioned under S. 2138 can compensate for the injurious effects of increasing property taxes on a senior citizen homeowner.

Take a case of a senior citizen with a home with a market value of $45,000, an equity in the home of $35,000 and a property tax of $1,500 a year. This would be a very high tax for a home of that value in Minnesota, but assuming a high property tax illustrates the advantages of the Senior Citizens' Property Tax Relief Act very well. If property taxes escalated at a rate of 10 percent a year over 10 years, not an uncommon increase at present in many areas of this country, the property tax would more than double and result in a considerable problem for those retired on incomes that are fixed or semi-fixed.

However, if we assume this home is increasing in value at the rate of 10 percent a year, a normal situation in most of Minnesota and in many areas of this country, the annual increase in equity exceeds the increase in taxes. With the sort of program provided in S. 2138, the senior citizen homeowner would never again pay property taxes, and, would not even bear a reduction in the equity in the home.

The implementation of the bill remains impressive if we make more adverse assumptions. If we assume that taxes rise at 10 percent a year, but that the increase in the market value was only half that rate, 5 percent, the results are still attractive. Under these assumptions, after 10 years the senior citizen homeowner has paid no property taxes, and has not yet borne any loss in equity. After 15 years, the senior citizen would have paid no property taxes over that entire period and would still maintain an equity of over $30,000 of the original $35,000 figure. Even after 20 years, with the assumption of an annual increase of property taxes of 10 percent a year that would have increased the annual tax bill up to $10,088, the senior citizen would have paid no property taxes for the entire period and still retain an equity of over $14,000 on his home.

Thus in the end the State and Federal Governments would be repaid every dollar it advanced for the senior citizens' property tax payments. The only cost to the Government would be the administrative costs of the program and the implicit loss of interest on the money advanced until it is repaid. I believe this cost is small compared to the option it would provide many senior citizen homeowners to free themselves of a fixed, heavy tax burden and make use of a large asset, their home, without selling, moving out, or losing title to it, and, the benefits to our society of permitting senior citizens to remain in the homes they love for as long as they like.

S. 2138 requires that an eligible homeowner include a senior citizen owner, the spouse of a senior citizen, or the spouse of a qualified homeowner who remains in the home after the death of the qualified homeowner. The bill covers single family homes, duplexes, and triplexes.

The plan authorized in S. 2138 is strictly voluntary. No senior citizen need participate if the program does not fit his needs. A senior citizen may join the program at any time after reaching the age of 65 and may leave it at any time after repaying the taxes the State had paid in his behalf.

The program is also voluntary so far as State participation is concerned. No State is obligated to create a program. If the State desires to do so, it will administer the payment program and assume the administrative costs of the program. The Federal Government would pay, for its part, two-thirds of the cost of the interest-free loans provided by the State agency. The State would pay the remaining one-third. The Federal Government would also receive two-thirds of the repayments from program participants. States could pay their share of the property tax payment loans either through direct appropriations or by issuing bonds specifically for this purpose. The Federal Government would pay its share in cash and would guarantee two-thirds of the principal and interest of the bonds, if the State should choose to utilize bonds to participate in the program.

S. 2138 is drafted so to give the States, with their differing circumstances concerning property taxes and property law, the ability to adjust this property tax relief program to fit their needs. Only minimum Federal requirements are imposed in the legislation.

Mr. President, let me emphasize again what this bill is. It is one method for State governments, with the assistance of the Federal Government, to relieve senior citizen homeowners from the increasing burden of local property taxes. It is not a substitute for the types of direct relief programs enacted in Minnesota and some other States. In those States, this program would be an excellent supplement to eliminate the remaining burden of property taxes and to fill in some gaps that the direct property tax relief laws cannot cover. In those States without such programs it will provide a great measure of relief, until those States enact a direct relief law. Also, this program is not an excuse for governments at all levels not to control spending so as to control property tax increases.

I wish also to call the attention of the Senate to the simplicity of S. 2138. It does not create a new Federal bureaucracy. The State agency's involvement would be minimal. The program is easy to administer. There are no income tests or needs tests to qualify. In many States, agencies which already exist could easily assume the administrative tasks.

The program does not require a huge outlay of funds. Every loan dollar advanced under this program will be repaid. The only loss to the government is the implicit loss of interest on the funds advanced and for administering the payment system. As I stated earlier, those costs are minimal compared to the potential benefits of the program.

I also wish to note that a few States already have programs similar to the one provided in S. 2138. Several other States have this type of program under consideration. The one that has been in operation the longest, the program of the State of Oregon, has had only limited use by senior citizens to date. The principal reason for the limited use is the interest charges on the deferred taxes. It is for that reason that S. 2138 provides the repayment of taxes shall be free of interest charges.

Mr. President, I ask unanimous consent that a section-by-section summary of S. 2138, the Senior Citizens' Property Tax Relief Act of 1977, be printed in the RECORD, together with the text of S. 2138.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Senior Citizens' Property Tax Relief Act of 1977".

PURPOSE

SEC. 2. It is the purpose of this Act to provide Federal assistance for State programs which provide interest free payments on behalf of any qualified senior citizen homeowner for the purpose of paying real property tax on the home in which he lives. Such payments shall be repaid to the State agency at the time when such senior citizen homeowner dies or sells such home.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "qualified senior citizen homeowner" means a person who—

(A) is 65 years of age or over and owns (wholly or in part) and lives in, as his principal residence, within the meaning of section 1034 of the Internal Revenue Code of 1954, a home which is a single dwelling unit or a separately owned dwelling unit within a multi-unit structure (including a condominium unit), or is a multi-unit structure containing not more than three dwelling units; or

(B) owns (wholly or in part) and lives in, as his principal residence, within the meaning of section 1034 of the Internal Revenue Code of 1954, such a home, and is the spouse of, and lives in such home with, a person who is 65 years of age or over; or

(C) is the surviving spouse of a qualified senior citizen homeowner and lives in, as his principal residence, within the meaning of section 1034 of the Internal Revenue Code of 1954, the same such home in which the deceased homeowner lived, if such surviving spouse chooses to succeed the deceased spouse as a party to any contract for payment of real property tax between such deceased spouse and the State agency and to assume all the rights and obligations of such deceased spouse under such contract;

(2) the term "real property tax" means a tax of general application levied by any taxing authority based upon the value of real property, but shall not include charges for utilities, special assessments, or fees for public improvements;

(3) the term "qualified real property" means, with respect to any qualified senior citizen homeowner, that part of, or interest in, the home (the ownership of which enables him to meet the requirements of subsection (a)) and contiguous land not to exceed ten acres and not occupied by any other dwelling unit, with respect to which such homeowner is responsible to pay the real property tax;

(4) the term "State" means the fifty States and the District of Columbia;

(5) the term "Secretary" means the Secretary of Housing and Urban Development; and

(6) the term "State agency" means the agency or instrumentality designated by or established by the State pursuant to section 5(1).

APPROPRIATIONS

SEC. 4. For the purpose of carrying out the provisions of this Act there are authorized to be appropriated such sums as are necessary. The sums made available under this section shall be used to make payments to States which have submitted a State plan for real property tax relief for senior citizens, as required by section 5, which has been approved by the Secretary.

STATE PLAN FOR REAL PROPERTY TAX RELIEF FOR SENIOR CITIZENS

SEC. 5. A State plan for real property tax relief for senior citizens shall—

(1) designate a single State agency to administer the plan throughout the State;

(2) provide assurances that the State agency will pay from non-Federal sources, the non-Federal share of the costs of carrying out the State plan;

(3) provide that the State agency be authorized to issue bonds to finance activities in furtherance of the purposes of this Act, subject to the conditions in section 7(b);

(4) provide that the State will guarantee the value of the bonds issued by the State agency which are not guaranteed by the United States under section 7(b);

(5) provide that the State will pay all administrative costs of carrying out the State plan;

(6) provide that (subject to any limitations on payment contained in this Act) payment shall be made on behalf of any qualified senior citizen homeowner who has entered into a contract with the State agency which meets the requirements of section 6, for the purpose of paying his real property tax;

(7) provide a uniform, Statewide ceiling on the amount which may be paid in any year on behalf of any qualified senior citizen homeowner;

(8) provide that the State, or any subdivision thereof, shall not treat property owned by qualified senior citizen homeowners in a manner which is less advantageous to the homeowner than the manner in which the State or subdivision treats other similar real property for purposes of assessment, property tax or the imposition of any property related fee;

(9) provide that the State agency shall make such reports, in such form and containing such information, as the Secretary may require, and comply with such provisions as the Secretary may find necessary to assure the correctness and verification of such reports;

(10) provide for prompt payment to the Secretary of an amount equal to 66⅔ percent of the repayments collected by the State agency, as required by section 8; and

(11) provide that contracts entered into under this Act are recorded (in accordance with local law) in such a manner so as to properly notify subsequent purchasers of real property of the existence of any such contract.

CONTRACT FOR PAYMENT OF REAL PROPERTY TAX

SEC. 6. In order for a State to qualify for Federal payments and guarantees under this Act, each contract between the State agency and a qualified senior citizen homeowner shall contain provisions to assure that—

(1) the State agency will pay, on behalf of the qualified senior citizen homeowner, the real property tax which is levied upon his qualified real property (as defined in section 3(3)), subject to any limitations on payment required under this Act;

(2) no interest will be charged on such payments;

(3) repayment by such homeowner need not be made for so long as he remains a qualified senior citizen homeowner;

(4) such homeowner will maintain such property in a state of repair which is sufficient so as to prevent any significant depreciation in the value of such property.

(5) such homeowner will maintain insurance on such property, with the State agency as the beneficiary, in an amount sufficient to repay to the State agency the total amount which such homeowner has received under the contract from the State agency in the event that the property is destroyed or damaged;

(6) the amount paid by the State agency in any one calendar year will not exceed the statewide ceiling specified in section 5(7) with respect to such homeowner;

(7) the total amount paid by the State agency on behalf of such homeowner will not exceed a sum equal to 90 percent of the value (as determined by the State agency) of the unmortgaged portion of the qualified real property;

(8) in the event that such homeowner at any time ceases to be a qualified senior citizen homeowner, sells the qualified property, or breaches any contractual obligation, the total amount which has been paid on behalf of such homeowner by the State agency under the contract will become due to the State agency and the amount due, together with additional costs which result from such breach, will be in a lien in favor of the State agency upon the real property with regard to which the payment was made by the State agency, such lien having the same priority as a lien for the payment of real property tax under local law;

(9) upon the death of such homeowner (unless survived by a spouse who continues to qualify as specified under section 3(1)(C)) the total amount of payments which have been made on behalf of such homeowner by the State agency under the contract will become due to the State agency and will be in a lien in favor of the State agency upon the real property with regard to which payment was made by the State agency, such lien having the same priority as a lien for the payment of real property tax under local law; but will further provide that the State agency will not execute any judgment against such property until the ownership of such property has been settled under local law; and

(10) such homeowner may cancel the contract at any time by paying to the State agency the total amount which has been paid on behalf of such homeowner by the State agency under the contract.

FEDERAL PAYMENTS AND GUARANTEES

SEC. 7. (a) The Secretary shall pay to each State having an approved plan under section 5, an amount equal to 66⅔ percent of the amount of the payments made by the State agency on behalf of senior citizen homeowners for the purpose of paying real property tax. Such payments shall be made on a quarterly basis upon verification of the payments made by the State agency, to the satisfaction of the Secretary.

(b)(1) The Secretary is authorized to guarantee 66⅔ percent of the value of bonds issued by the State agency not to exceed a total amount which the Secretary determines to be financially reasonable for such State.

(2) The Secretary shall take such steps as he considers reasonable to assure that bonds guaranteed under paragraph (1) will—

(A) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(B) bear interest at a rate satisfactory to the Secretary;

(C) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(D) contain or be subject to provisions satisfactory to the Secretary with respect to the protection of the security interests of the United States, including provisions relating to subrogation, liens and releases of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

(3) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section.

STATE PAYMENTS OF REPAID SUMS

SEC. 8. The State shall promptly pay to the United States an amount equal to 66⅔ percent of the amount which is repaid to the State agency or collected by the State agency under the provisions of this Act. Such payments shall be made on a quarterly basis.

SECTION-BY-SECTION SUMMARY—SENIOR CITIZENS' PROPERTY TAX RELIEF ACT OF 1977

Section 1: Short Title: "Senior Citizens' Property Tax Relief Act of 1977."

Section 2: Purpose: To provide federal assistance for State programs which provide payments on behalf of any qualified senior citizen homeowner, for the purpose of postponing the homeowner's property tax burden until such time as the home is voluntarily sold or the homeowner dies.

Section 3: Definitions:

(1) "qualified senior citizen homeowner"—

(A) over 65, living in a home as a principal residence, whether a single dwelling or a multi-unit of less than 4 units; or

(B) lives in a qualifying home and is the spouse of a person 65 or older; or

(C) is a surviving spouse of a qualified senior citizen homeowner and lives in a residence, the same home where the deceased owner lived.

(2) "real property tax"—general property tax levied by a taxing authority based on the value of real property (not including charges for utilities, special assessments, or fees for public improvements).

(3) "qualified real property"—qualified homeowners' part of, or interest in, home and contiguous land.

(4) "State"—all states and the District of Columbia.

(5) "Secretary"—Secretary of the Department of Housing and Urban Development, the responsible federal official.

(6) "State agency"—Agency designated or established by a participating state to administer the program.

Section 4: Appropriations: Authorizes such sums as are necessary for the property tax relief loan payment system. Sums may only be used for paying states which submit implementation plans, pursuant to Section 5, and that are approved by the Secretary.

Section 5: State Plan for Real Property Tax Relief for Senior Citizens:

The state plan for property tax relief shall include:

(1) A designated single state agency to administer the plan throughout the state.

(2) Assured payment of non-federal share of costs from non-federal sources.

(3) An authorization for the state agency to issue bonds to finance the program subject to 7(b).

(4) Provide for a state guarantee of the value of the bonds where not guaranteed by the U.S. under section 7(b).

(5) Provide for state payment of all administrative costs.

(6) Provide procedure for the payment of a qualified senior citizen's property tax.

(7) Provide a uniform, statewide ceiling on the amount that may be paid in any year on behalf of any qualified homeowner.

(8) Provide that a state will not treat a homeowner's property less advantageously than any similar real estate for purposes of assessment.

(9) Provide for state agency reports.

(10) Provide for prompt payment to Secretary of 66⅔ of repayments collected by the state agency.

(11) Provide for recording of contracts with homeowners made under the Act to give notice to subequent purchasers of the property.

Section 6: Contract for Payment of Real Property Tax:

In order for a state to qualify for federal payments and guarantees under the Act, each contract between the state agency and a homeowner must include the following provisions:

(1) The state agency to pay on behalf of a homeowner the real property tax levied on his property.

(2) No interest charged on payments.

(3) No repayment by homeowner so long as he remains a qualified homeowner.

(4) The property is to be maintained to prevent significant depreciation.

(5) The homeowner is to have insurance, the state agency as beneficiary, if the property is destroyed or damaged.

(6) The amount paid by a state in any one calendar year will not exceed a statewide ceiling specified in Section 5(7).

(7) The total amount paid by the state agency on behalf of a homeowner will not exceed a sum equal to 90 percent of the value (as determined by the state agency) of the unmortgaged portion of the qualified property.

(8) Where a homeowner at any time ceases to be qualified or sells the property, or breaches any contractual obligation, the total amount paid by the state agency becomes due and will be a lien in favor of the state agency upon the property.

(9) Same as (3), if a homeowner dies (unless spouse qualifies under Section 3(1)(C)) except state agency cannot execute judgment against property until ownership settled under local law.

(10) A homeowner may cancel contract at any time by paying to state agency the total amount on behalf of a homeowner under contract by the agency.

Section 7: Federal Payments and Guarantees:

(a) On a quarterly basis and subject to verification of agency payments, the Secretary to pay the state 66⅔% of the value of the bonds issued by the agency, not to exceed a total amount which the Secretary determines to be financially reasonable for the state.

(b)(2) The Secretary is to take the steps he feels are reasonable to assure the bond program is properly administered.

(b)(3) The full faith and credit of the U.S. is pledged to all guarantees paid under this section.

Section 8: State Payments of Repaid Sums:

State to promptly repay on a quarterly basis 66⅔% of amount repaid to or collected by state agency under the provisions of the Act.

ADDITIONAL COSPONSOR

S. 1501

At the request of Mr. GARN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1501, to amend the Truth in Lending Act.

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY CONSERVATION IN PUBLIC UTILITY SYSTEMS—S. 2114

AMENDMENT NO. 1025

Purpose: To authorize the Secretary of Energy to prescribe certain rules to protect certain cogenerator and small power producers concerning purchases and sales of electric energy.

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

COMPREHENSIVE NATURAL GAS POLICY—S. 2104

AMENDMENT NO. 1026

Purpose: Makes certain changes in crude oil policy.

AMENDMENT NO. 1027

Purpose: Provides for extension of Emergency Natural Gas Act.

AMENDMENT NO. 1028

Purpose: Exempts State-owned natural gas from price controls.

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted three amendments intended to be proposed by him to the bill (S. 2104) to establish a comprehensive natural gas policy.

AMENDMENTS NOS. 1032 THROUGH 1036

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted five amendments intended to be proposed by him to the bill (S. 2104), supra.

DIAGNOSIS AND TREATMENT PROGRAMS—S. 1392

AMENDMENTS NOS. 1029, 1030, AND 1031

(Ordered to be printed and referred to the Committee on Finance.)

CHILDREN'S MEDICAID AMENDMENTS

Mr. CHILES. Mr. President, I am today submitting several amendments to S. 1392, the improvements to medicaid for children which were introduced for the administration by Senators RIBICOFF, HATHAWAY, and KENNEDY.

The administration proposal would make several desirable improvements in the current EPSDT—early and periodic screening, diagnosis, and treatment—program. However, in several critical areas, the bill does not go far enough to really achieve its purposes.

For the last 2 years I have been investigating Federal child health programs at health mission budget hearings of the Labor-HEW Appropriations Subcommittee. We have found four major barriers to achieving our goals in child health services:

First, there is a lack of coordination among Federal programs, particularly between medicaid and the grant programs.

Second, the financial incentives to provide medical care for children are not as attractive as those for treating adults, so the mere availability of medicaid financing has not stimulated growth of enough provider capacity to meet service needs.

Third, many States do not provide coverage for basic medical services. The most glaring emission is dental care, which has the highest incidence of disease and lowest rate of treatment for poor children.

Fourth, many medically indigent children fall through the cracks of medicaid eligibility as their families go on and off welfare or because they are just a little above medicaid income levels.

This set of amendments is designed to improve the administration proposal in ways designed to overcome these barriers.

SUMMARY OF AMENDMENTS

The first amendment creates a planning and coordinating structure to meet the fundamental goal of tying screening and treatment resources into an operating network, with case referral, monitoring and followup. The amendment provides full flexibility to the States to determine who can best perform this role in each local area. This flexibility will also allow the system to operate without adding a new layer of bureaucracy and redtape.

The second amendment requires a study of minimum fee schedules and capitation arrangements as answers to the problem of financial disincentives. Unfortunately, there is little available data about fees for basic services in the various States. Action without such a study would entail unknown costs for the Federal Government and the States.

The third part of the package makes basic dental care a mandatory service for children through age 17. Cosmetic orthodontia is excluded to minimize the cost. Ages 4 through 17 is the period of greatest risk, and where a child cannot be expected to have other resources for dental care.

As I stated before, we have found these problems in the existing child health programs by introducing a mission budget approach for the Department of Health, Education, and Welfare.

Mr. President, I ask unanimous consent that to insert at this point in the RECORD a table showing the fiscal year 1977 budget for the child health mission.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I—*HEW Mission Budget, Fiscal Year 1977: Child Health Mission*

Funds for direct medical services to children and adolescents

	Million
Community Health Centers	$80
Maternal and child health grants	214
Hemophilia program	3
Family planning	19
Federal hospitals and clinics	16
Community Mental Health Centers	59
Drug Abuse programs	18
Alcohol programs	8
Medicaid (including EPSDT of 136)	3,710
Cuban refugee assistance	13
Indochinese refugee assistance	14
Medicare	12
Indian health	128
Program support and other	28
Total HEW	4,322

Mr. CHILES. Mr. President, we thus see that while medicaid makes the largest dollar contribution to child health services, it is only 1 of at least 13 Federal programs providing direct medical care to children. The $137 million expenditure for EDSDT is only 3 percent of the total budget for this mission. In addition, we have other programs for preventive services, training, and research.

It is necessary to look at all of these programs together in order to see the best way to meet the deficiencies.

The administration bill seeks to improve coordination by better tying screening to treatment and requiring coordination between medicaid and community health centers. I am pleased that the bill has moved to a more flexible approach than the original proposal, allowing contractual relationships among screening and treatment facilities. We must create clusters of specialized providers in each community if we are going to take full advantage of resources such as school health programs, county and municipal health departments.

At this point HEW data does not even have data to show which communities have none, one or all Federal child health programs operating simultaneously.

LEAD AGENGY FOR CHILD HEALTH COORDINATION

My first amendment is, therefore, a State plan requirement for title V of the Social Security Act, which authorizes maternal and child health services funded under formula grants. Title V contains the broadest mandate and is thus appropriate for a plan that comprehends both medicaid services and grant programs.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

The being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Amendment No. 1029

a. Page 5, line 20, delete, "and ending September 30, 1980,"

b. Page 5, line 25, replace "may" with "shall"

c. Page 6, line 2, delete all words following "pursuant to clause (B)" through line 8, and insert, "if the State certifies that local conditions are such that service can best be provided by a network of providers under a contractual arrangement approved by the local agency for child health;"

d. At the end of the bill, add the following new section:

AMENDMENTS TO TITLE V OF THE SOCIAL SECURITY ACT

SEC. 9. (a) Section 505(a) of the Social Security Act is amended—

(1) in paragraph (2), by—

(A) inserting "(A)" immediately after "(2)", and

(B) adding after and below such paragraph the following new subparagraph:

"(B) provides that the State agency shall designate, for each county (or comparable political subdivision) of the State or (at the option of the State) for each health service area (established pursuant to section 1511 of the Public Health Service Act) within the State, a lead agency, which shall be an agency described in subsection (c)(1) and which shall have the responsibilities described in subsection (c)(2);", and

(2) in paragraph (4), by—

(A) inserting "(A)" immediately after "State agency will", and

(B) inserting immediately before the semicolon at the end thereof the following: ", and (B) submit, not later than the December 31 next following the close of each fiscal year (commencing with the fiscal year ending September 30, 1978), a report with respect to such fiscal year which identifies, within each area with respect to which the lead agency is required to be designated pursuant to paragraph (2)(B), each provider of maternal and child health services which received (directly or through State or local governmental agencies) Federal funds during each year, the amount of such funds received by each such provider, the number of individuals receiving maternal and child health services from such provider, and the per centum which such Federal funds constituted of the entire cost of those services."

(b) Section 505 of such Act is further amended by adding at the end thereof the following new subsection:

"(c)(1) A lead agency, as required to be designated pursuant to paragraph (2)(B), may be a city or county (or comparable political subdivision) health department, a community health center, a health care provider having in effect an agreement entered into pursuant to section 1912(b), a consortium of health service providers, or any other appropriate agency as determined under regulations of the Secretary.

"(2) Each lead agency shall have the following responsibilities:

"(A) to develop a comprehensive maternal and child health treatment system to be composed of maternal and child health centers, migrant health programs, National Health Service Corps providers, school health agencies, clinics, hospitals, and other service providers in the area with respect to which the lead agency is designated,

"(B) to assure that written agreements among providers of screening, diagnostic, treatment and preventive services include adequate provisions for referral, follow-up and case-management, and certify contractual arrangements for purposes of Section 1912(b),

"(C) to develop and implement a program for immunization against childhood diseases, which program shall draw upon all service providers referred to in the preceding provisions of this paragraph, and shall draw upon volunteer services and communications media to stimulate public participation in the program.".

(c) The amendments made by this section shall take effect on October 1, 1977.

Mr. CHILES. Mr. President, the amendment we are proposing drops the 1980 limit in the administration bill on contractual arrangements for service in areas where the State certifies that a contractual network is most suitable for local conditions. We are sympathetic to the desire to tie screening and treatment together and have services provided in a comprehensive way. Unfortunately, in many areas, particularly rural areas, comprehensive care is not likely to be available due to lack of personnel, not just lack of funds. Many valuable screening, diagnostic, and treatment services are provided by local

health departments or clinics. We ought to help them continue their work if they can develop contractual arrangements for the missing service components. In large cities, there are often a variety of specialized services available from clinics, hospitals, and private practitioners. It would be more efficient to add a case-referral and followup component and tie the specialized services into a network by contract, rather than to amalgamate them or duplicate their work with a comprehensive treatment center.

We are aware that to be successful, such service networks must be carefully designed at the local level. It is for this reason that we require the designation of a local lead agency for child health in our amendment. The lead agency would be responsible for developing adequate service networks and certifying their qualification for reimbursement under CHAP. We have 10 or 15 years' experience with the various Federal grant programs for physical and mental health, for alcohol and drug abuse, and social services, to show that comprehensive service providers do not just spring up in the community. They come about as a result of strenuous organizational work by committed individuals on the local scene. We believe that the Federal statute must be flexible and allow each State to decide who is capable of performing that role in each community and designate them as responsible. The ability to obtain the high rate of Federal matching funds for service under the CHAP bill should be a sufficient inducement for local agencies or providers to make the effort.

Mr. President, I believe that this can be the first step in giving the State a flexible method to begin integrating the fragmented set of child health services we have created through our categorical grant system. We are not creating another level of bureaucratic review. Rather, we are giving whichever of the various programs which is best developed in a particular area the wherewithal to become comprehensive through contractual arrangements with other providers, including other Federal programs. I do not believe there is any single nationwide best model for delivering child health service. The best model will vary within States and among States. Our amendment recognizes that diversity and encourages it.

I am very sensitive to the burden created by adding paperwork and reporting requirements to the States. The core of the amendment is to draw programs together and begin to reduce the redtape. However, one single requirement is necessary to begin the process. A lead agency clearly cannot develop comprehensive care network unless it has available an inventory of child health services. In many areas these are being compiled by health systems agencies. Such an inventory is not just a report to the Federal Government, it is a basic tool in the local coordination of services. Without it, there could not be adequate referral or followup as required by the basic CHAP proposal. All we are asking is that these local inventories be collected by the State and transmitted to HEW.

The 13 or more Federal child health programs which I listed above have an unknown degree of overlap. Several are designed to reach underserved areas; several provide special services; several are aimed at particular population groups like poor children or Indians. No one can tell us which are serving the same or different communities. No one can show us where the gaps in coverage are. Perhaps one reason the children's share of Federal health dollars is declining is that no one has documented their needs in a way that will allow us to direct our attention and funds to the gaps in service.

FINANCIAL INCENTIVES STUDY

My second amendment is aimed at the lack of financial incentives to provide child health service under medicaid. It requires the Secretary of Health, Education, and Welfare to report to Congress on the costs and benefits of instituting a schedule of minimum fees for a defined set of basic medical services for children which all States would have to provide. Many States set medicaid reimbursement fees at levels well below actual cost, so that private physicians and clinics cannot afford to provide treatment.

We can see the effects of these disincentives in the declining share of public funding going to children's health services. The percent of public health spending going to the 0–19-age group dropped from 12.8 percent in 1967 to 9.7 percent in 1976. Since this age group represents 33 percent of the population, they are clearly underfunded. This declining percent of public funds going to children is not just due to the increase in hospital costs for the adults and elderly. The percent of Federal funds for physicians' services going to children dropped from 11 percent in 1967 to 9 percent in 1974. Similarly, the children's share of Federal payments for dentists dropped from 39 to 34 percent.

It is clear that just putting out the promise of medicaid funding does not cause the service capacity to increase. I have successfully sponsored amendments to health grant programs to increase appropriations for child health services. To keep a balanced approach, we must also straighten out the financial incentives in medicaid. There are lots of areas already served by hospital clinics and private physicians where it would not make any sense to use a grant to create a new clinic. Rather, we want to set medicaid fees high enough to allow existing providers to serve poor children.

The administration bill seeks to remedy these disincentives by increasing the rate of Federal matching. I have several objections to this approach.

First, States which are inclined to save money by cutting services are likely to absorb the increased Federal share as fiscal relief, rather than raising fee schedules. Second, when Federal matching gets as high as 90 percent, the States lose their incentive to closely monitor the cost and adequacy of service. Finally, the extra match only become available for care in comprehensive treatment settings. Many services can be provided more efficiently in noncomprehensive settings, such as a dentist's office.

I would envisage a set of minimum fees only for a defined set of basic children's medical services with differentiations by region and for rural versus urban areas. This would keep the system from spreading medical price inflation from one area to another.

I would like to see this provision take effect immediately. Unfortunately, the data on fees currently available is so minimal that neither HEW nor the Congressional Budget Office have been able to develop an estimate of what this provision would cost the various States and the Federal Government. I have therefore written it as a requirement that HEW gather the appropriate data and submit a full analysis of the costs and service benefits of setting such a fee schedule or of instituting a capitation approach, which some people have suggested as the most cost-effective method.

I must note, Mr. President, that I have been disappointed to learn how few hard numbers are available about medicaid fees. Here the Federal Government is spending 57 percent of a $21 billion program, and HEW does not even have a survey of how much various States are paying for basic medical services. We need this data for cost containment and for national health insurance planning, even if we were not interested in financial incentives for children's care.

Mr. President, I ask unanimous consent that the text of my second amendment appear in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1030

Add at the appropriate place: "Minimum Fee Schedule Study"

SEC. 9. By March 1, 1978, the Secretary of H.E.W. shall submit to Congress an analysis of the costs to the federal government and the States and of the service benefits to be derived, from setting a schedule of minimum fees or capitation payments for basic medical services to children and adolescents. Such schedule shall include differentiations of cost by region and by urban versus rural areas. For the purpose of this amendment, basic medical services shall include:

1. Screening and diagnosis for physical or mental impairments;

2. Outpatient treatment at hospitals or free-standing clinics;

3. Physicians services, including inoculation;

4. Dental care necessary for the relief of pain and infection and for restoration of teeth; cosmetic orthodontia is not included;

5. Inpatient hospital treatment for acute disorders.

DENTAL CARE AMENDMENT

Mr. CHILES. Mr. President, the third amendment I am offering is a requirement that the States provide medicaid coverage for routine dental care for eligible children through age 17. I was shocked to find that only 34 of the 50 States reimburse for dental care. The only reason for this limitation is cost, particularly the massive costs of orthodontia. Dental care for children is clearly

a medical service. Untreated dental problems produce not just pain but also permanent physical impairment. Many poor children sit in school distracted from their studies by pain caused by dental problems. Speech impairment often results. Nowhere are the benefits of preventive services more clearly apparent. When we fail to provide routine dental care at early ages we end up paying much greater costs later on for the complications and impairment that result. Every study of children's medicaid that I have seen has reported two consistent findings: Dental problems have the highest incidence of any disorder among poor children, ranging from 75 to 90 percent, of all reported disorders; dental problems have the lowest rate of treatment. It seems clear to me that modification of the Federal law is required.

The intent of the medicaid law is that poor children should be entitled to the basic medical services enjoyed by others. Dental care is one of these basic services. No one has been able to tell me a medical reason why dental disease is any less debilitating than other diseases. Its exclusion from coverage is an arbitrary attempt to save money that undermines the whole central intent of medicaid.

To limit the costs, the amendment limits the requirement to eligible children through age 17, and excludes cosmetic orthodontia. By linking this amendment to the availability of increased Federal matching under the administration bill, the increased costs to the States will be held to a minimal level. HEW estimates that for the first full year, this amendment would cost $197 million, based upon an average of 2.5 dentist hours per child at $60 per dentist hour, or $150 per child per year. Other analysts feel that the average cost could be held to $45 per hour, reducing the annual cost to $150 million. Dental care for children under medicaid in California has cost only $77 per child, or half the HEW estimate. Since there will only be about one-quarter fiscal year effect until the law is passed, regulations are written and services actually provided, fiscal year 1978 costs will be in the range of $25 to $50 million. This money has been assumed in the second budget resolution, so there is no budget problem.

Mr. President, I ask unanimous consent that the text of this third amendment appear at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1031

a. Page 3, line 12, delete "and (ii) dental care when not for the treatment of conditions discovered during an assessment."

b. page 3, line 18, before the quotation marks insert: "and (H) for payment at reasonable cost of routine dental care for all persons up to and including age 17 who are otherwise eligible under the state plan. For the purposes of this paragraph, routine dental care shall include dental care necessary for the relief of pain, for the prevention and treatment of infection and for restorative dentistry; it shall include replacement of teeth or orthodontia only for conditions causing major physical handicap, not for cosmetic purposes. The Secretary shall define by regulation which procedures are appropriate for different age groups and conditions, to insure that services covered are nonduplicative and cost-effective."

c. page 8, line 20, delete "dental and".

Mr. CHILES. Mr. President, I believe that with the addition of these three amendments to the administration bill we will have a package that substantially corrects the defects in the current medicaid program for children at a minimal cost. It has become commonplace to talk about the desirability of providing incentives for prevention and early intervention in medical care. This is a situation where we have a concrete opportunity to see that it is done. Dental care for children is a classic case of where relatively small expenditures early on can prevent large expenditures for later infection or surgery. The benefits are rapid and certain.

I commend President Carter and Secretary Califano for the high priority they have assigned child health by making the basic proposals, and I commend Senators RIBICOFF, HATHAWAY, and KENNEDY for introducing the administration bill. The bill, with these amendments, remains a limited but significant improvement in medicaid for children. It does not attempt to tackle all the problems in child health care, nor to go halfway to national health insurance. We have examined in great detail the barriers to success in the existing program and drawn specific provisions to overcome those barriers. Some improvements can only be achieved by better administration at Federal, State, and local levels. We have not attempted to write administrative procedures into the law. Rather, we have tried to give administrators sufficient resources and a workable structure so that they can respond to local conditions. I hope my colleagues will join me in supporting a full package of coordinated child medical services.

ADDITIONAL STATEMENTS

LET US HEAR THE OTHER SIDE OF THE RHODESIAN STORY

Mr. HARRY F. BYRD, JR. Mr. President, a group of moderate black Rhodesian leaders, including two members of the Rhodesian Parliament, desires to come to the United States to meet with veterans' groups and other organizations.

The group got as far as Bonn, West Germany, at which point the American State Department denied the black Rhodesians visas for entry into the United States.

As a result of the State Department action, the senior Senator from New Jersey (Mr. CASE) and the senior Senator from Virginia, sent the following telegram to Secretary of State Cyrus Vance:

We are advised that a group of moderate black Rhodesian leaders, including two members of the Rhodesian Parliament, now en route to Washington, is being delayed at Bonn, West Germany, and that your Department is denying visas for the entry of these black leaders into the United States. The Rhodesian group is scheduled to meet with veterans groups and other organizations and with the press. We strongly urge the issuance of the requisite visas. Failure to admit these black Rhodesian leaders would seriously affect U.S. support for the tradition of freedom of speech and exchange of ideas.

CLIFFORD P. CASE,
U.S. Senator.
HARRY F. BYRD, JR.,
U.S. Senator.

In reply to the telegram, the State Department this morning informed my office that it is contrary to State Department policy to permit officials of the Rhodesian Government, even though they be black members of the Rhodesian Parliament, to enter the United States.

To me it is obvious that the State Department does not want the American people to learn the other side of the Rhodesian story. The State Department has its own biased approach to the problems of Rhodesia.

It has been unwilling to permit the Prime Minister of Rhodesia, Mr. Ian Smith, to come to the United States so that he might present his viewpoint—and now it is not even willing to permit black Rhodesian leaders who have a different point of view from both the State Department and Mr. Smith to come to the United States to present such views.

So the American people are permitted to learn only the extremist views of a small group in the State Department who are attempting to force their own solution to the many problems now existing in Southern Africa.

Ever since the days of Thomas Jefferson, the United States has had a tradition of freedom of speech. Most Americans feel that a free exchange of ideas is desirable, even though a majority may not agree with such ideas.

It is unfortunate that the State Department does not adhere to such a basic American principle.

THE CITY OF BURLINGTON, N.C., HAS HAD ENOUGH OF THE PROBLEMS CAUSED BY PUBLIC HOUSING

Mr. HELMS. Mr. President, I recently received a letter from Joe Barbour, Jr., mayor pro tem of the city of Burlington, N.C. He indicates to me that the Burlington City Council is in the process of requesting that the Department of Housing and Urban Development not approve any more apartment units for the city of Burlington.

The mismanagement of these units has become a headache to the city, and especially to the police department. Further, as Mr. Barbour put it:

The builders make money on these projects, and they leave town and the city has to provide all the usual city services for the occupants, which means that our city taxpayers end up subsidizing these people . . . We do try to provide equal services to every resident of the city, but we don't want to attract any more people who will just be a drain on our economy.

This is just one more example, Mr. President, of the chronic difficulties caused by Federal housing programs. I know Mr. Barbour and the people of Burlington. They are good and magnanimous people, and desire nothing but the

best for all residents of Burlington, rich or poor. But they realize in a firsthand way—a way the Washington bureaucrats cannot understand and frankly do not care to understand—that these Government plans and schemes work little more than havoc.

The Federal housing program will surely go down in history as the ultimate Government absurdity. Presumably, the major objective, the raison d'etre, of a housing program is to build houses. So what do we have? For instance, from 1950–68 the Government demolished 1,646,000 houses, while it built 559,000 public housing units. The Federal housing program has given us 1,087,000 fewer houses.

Some will reply that even though more houses were destroyed than were built, substandard houses were destroyed while good houses were built. Perhaps so. But who is living in these new houses? Or more to the point: How have the poor fared who lived in the substandard housing? The answer is not very well. The situation has been brilliantly described by Richard Craswell in his excellent study, "The Failure of Federal Housing." Mr. Craswell discusses the plight of the poor in the urban renewal program:

To begin with, it is necessary to consider a few features of the problem the program was aimed at. In these blighted areas, the houses and buildings were not dilapidated because the people enjoyed living in substandard housing. The main reason these areas were in such condition was that this was the best the inhabitants could afford: either they were unwilling to spend money improving their homes because they preferred to save it for other things, or (much more commonly) they simply didn't have the extra money to spend. Given these people's incomes, substandard housing was the best they were able to afford.

When the urban renewal plan was put into effect, then, what happened to the supply of substandard housing? The only justification a councilman or commissioner could offer to his constituents for having spent hugh sums of money over a seven year period was to be able to point to fine new buildings where a slum once stood and be able to say, "But for government and urban renewal, this would not have been possible." It would have been patently absurd to replace an existing slum with yet another slum, so the land was cleared. The substandard housing was destroyed, and in its place were built high-rise apartments, office buildings, and schools (many of which would have been built anyway but were shunted to the renewal area so the federal government would bear part of the cost), an occasional civic center or park: in general, impressive new buildings which would make the area a respectable part of the city.

But what of the residents of the former "blighted areas"? They could not move back into the renewed area; while two-thirds of all substandard housing units rented for less than $50 per month (and 97 percent for less than $100), the median monthly rent in renovated areas was $187 in 1967. Some public housing units were built in the area, but by June 1971 this came to a grand total of only 28,230 units—as opposed to over 400,000 housing units destroyed to clear the land for these projects.

These people were already living in the best housing they could afford: the effect of the program was simply to force them into other areas of the city where they had to accept even poorer housing. Furthermore, the destruction of low income housing and the dumping of the inhabitants into an already scarce housing market, increased the demand for the remaining low rent housing, the cost of that housing went up, and the quality of housing the people could afford was reduced even further. While the program may have eliminated one slum, it did so only by expanding five others.

One could go down the rest of the list of housing schemes—rent controls, public housing projects, rent subsidies, rehabilitation programs—and the same story could be told time and time again. Fortunately, private enterprise continues to provide housing. Otherwise, the situation might evolve into a castrophe. Because of private endeavor, between 1950 and 1970, the proportion of American houses rated "standard" rose from 66 percent in 1950 to 94 percent in 1970. Private industry contributed 32.4 million units, or 97.1 percent while the Government, despite all the billion spent, provided only 1 million units, or 2.9 percent. Further, since the 1 million units credited directly or indirectly to the Federal Government are in considerable measure canceled by the net destruction of 1 million housing units, one could say that the Federal Government has contributed nothing at all, except perhaps for keeping thousands of bureaucrats well clothed and well fed, and presumably in very good housing.

The same mentality that argues that Federal housing, despite overwhelming evidence to the contrary, is the housing cure-all, is the same mentality that favors price controls, the forced busing of schoolchildren, and subsidized public transportation. It is the mentality that believes it is possible to decree happiness by Government edict, and to create wealth and a "great society" by more programs and more money.

Of course, even a schoolchild can understand, although apparently some politicians cannot, that Government cannot create wealth. Only the productive efforts of individual citizens and businesses create wealth. All Government can do is redistribute the wealth. If it gives to one group of people, it must take from another. It may take through taxes or through inflation, but take it will.

And the worst part of it is that the group that supposedly is to benefit is always shortchanged, because long before they ever receive the money taken from the donor group, a huge bureaucratic rakeoff is taken out. Further, the money taken from the working taxpayers and given to the recipient group is often spent on things the recipient group does not want or need. So everybody ends up much poorer.

This is precisely what is happening in Burlington. The occupants of the public housing projects cannot pay the full cost of their occupancy. So the other citizens of Burlington must subsidize this project. Not only must they pay their taxes to the Federal Government to subsidize the HUD bureaucrats' salaries, but they must pay more taxes to the city of Burlington.

This means there is less money available for other things. Among those other things is capital for private housing and money for more jobs. How many Burlington residents are unemployed because funds are being siphoned off by Government? As a result of their unemployment they receive yet another subsidy in the form of welfare, and yet more money is siphoned off.

If anyone doubts the futility of the Federal Government's involvement in housing, let him ask himself just one question. If he had $50,000 with which to build a new house, whom would he rather hire to build it—a private builder, or a special HUD construction team? The answer is obvious. If the relatively well-off person would not want the Government building his home, why inflict the Government on the poor? So much better to have some of that money going to Washington, and use it to create jobs and other economic opportunities for the lower economic classes, so that they can have the means to move out of slum housing and into something better.

The well-situated and comfortable Federal bureaucrats may sneer and cackle, but is this not what the "American dream" is all about? A person is no friend of a poor man if he relegates him to a lifetime of marginal subsidized housing. If a man is hungry, the easy way to express concern is to give him a fish. But it takes real care and love to take the trouble to teach him how to fish.

Of course the bureaucrats, with all their self-proclaimed wisdom, cannot understand this. Because I mentioned "fish," they will probably refer these comments to their section on maritime housing for further review. But people like Joe Barbour and the people of Burlington do understand. It is always a blessing to know that there are some folks back home with some good, commonsense.

WOMEN IN COMBAT

Mr. PROXMIRE. Mr. President, on September 1, 1977, the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee held the second in a series of hearings on the role of women in the military. At that hearing representatives of several women's groups and two high ranking women military officers scoffed at the services' timid use of women and agreed unanimously that there was no reason why women should not be deployed in combat.

The services—through legislation, regulation, and tradition—have excluded women from a large number of broadly defined "combat" jobs including long-range missile launch officers, missile repairmen, aircraft load masters, inflight refueling operators, and ground surveillance radar crewmen. As of today no Navy women may serve on any Navy ship, except for hospital ships and transports, of which there are none. The irony of this regulation is that Army and Air Force women may serve on board Navy ships, but trained female Navy personnel—including Naval Academy students—may not. To its credit the Navy is pushing legislation to open up shipboard opportunities for women on ships in peacetime.

There is no reason why a woman could not fulfill the duties of the jobs mentioned above. Excluding women from

these jobs not only unfairly limits promotion opportunities for women but also weakens our defense effort by keeping qualified personnel from serving.

Army nurses in the Pacific, the WACS in Europe in World War II and the WASPs—Women's Air Force Service Pilots—have proved that women can significantly add to the war effort. Women have given their lives for this country and are ready to serve in peacetime as in war.

Some critics have expressed reservations about women's lack of strength in direct combat. It may be that women as a group are not so strong as men, but I believe that soldiers should qualify for combat on an individual basis and should not be disqualified by gender. Some male soldiers are not physically capable of combat, either. Besides, in modern warfare it is estimated that less than 8 percent of the total Armed Forces would be combat infantry in time of war.

Women have traditionally been used as infantry support behind combat lines, and they are being trained in defensive combat since the support units also come under enemy attack.

The Philadelphia Evening Bulletin of September 16 offered a succinct editorial view of this matter.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

COMBAT READY

Major General Jeanne M. Holm, Retired, former chief of women in the air force, says Congress ought to repeal laws prohibiting the use of women on Navy combat ships and air crews on combat missions. So does Colonel Mary A. Hallaren, Retired, former director of the Women's Army Corps.

When WAC's served in London under buzz-bomb attack, Colonel Hallaren reminds us, "no one ever asked for transfer to a safe billet". Working with men and women over the past 50 years in and out of the army has convinced Colonel Hallaren that "it is the individual and not the gender that determines a person's strength under pressure".

Well, it doesn't take the general and the colonel to convince us that modern women are combat ready. They can be very tough indeed and they live longer than men, too. In this technological age it could be an easy step from the electric kitchen to electronic missiles control.

TRAINING OF SCHOOL CAFETERIA WORKERS

Mr. DOLE. Mr. President, the need to provide more and better opportunities for school cafeteria personnel to upgrade their knowledge and skills in managing a food service operation has long been recognized. Personnel training is a must if we are ever going to increase the quality, as well as the safety of meals served in schools. It is a goal of all persons concerned with improving the nutritional integrity of school meals.

It is also reassuring to the American taxpayers who are aware of the financial "investment" being made in child nutrition programs—with a fiscal year 1977 budget of over $2.8 billion and a fiscal year 1978 budget of over $3.1 billion.

I understand there are more than 350,000 school cafeteria employees in the Nation, and many have the desire to upgrade their performance in cooking and serving good meals. One State is well on the road to helping them achieve this. North Carolina is the first of all States to require a certification program for school cafeteria workers. As of June 2 of this year, school food service employees will have to meet established minimum standards in order to work in the State of North Carolina. More than 13,000 food service employees will be affected by this new State policy.

Mr. President, I would like to share this achievement with my colleagues, and I ask unanimous consent to have printed in the RECORD the following passage from the September 1977 issue of the American School Food Service Association Journal. At the same time I would like to extend my congratulations to Ms. Carolyn Coble, president of the North Carolina School Foodservice Association and her membership. And wish them well as they go forward to effectively implement this certification program.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATE CERTIFICATION PROGRAM PASSED

RALEIGH, N.C.—North Carolina's State Board of Education passed a proposal providing for a certification program for all state school foodservice employees. In passing the measure, North Carolina became the first state to offer this type of program.

"Certification," says Frances Carr Parker, R.D., certification committee chairman and 1976–77 North Carolina SFSA president, "is not a new idea. It has been in the mind and in the work of North Carolina's School Food Service Association for the past 23 years. The certification committee," she continues, "had been in limbo for years. Everyone wanted certification but no one seemed to really want to push it. It took Lib McPherson (NCSFSA past president and 1977–78 ASFSA southeast regional director) to buttonhole SDPI (State Department of Public Instruction) and start the action rolling."

Comments Dr. Jay Caton, ASFSA director of education, "The North Carolina achievement represents a significant step for child nutrition professionals all over the country. . . . With thirty five states implementing or planning to implement the ASFSA program, North Carolina has set a worthy goal."

As of June 2, 1977, North Carolina school foodservice employees will have to meet established minimum standards in order to work in the state.

Certification had received a shot in the arm back in November 1972 when the U.S. Department of Agriculture (USDA) provided a grant to SDPI-School Food Service Division for a project on the campus of the University of North Carolina in Greensboro (UNC–G). These funds covered two summers' worth of classroom instruction.

This project was entitled "Operation Improvement—Child Nutrition Programs." During the summers of 1973 and 1974, employees representing 100 counties across the state were selected to attend a week of intensive classes designed to upgrade foodservice skills.

Classes were assigned on an interest/need basis. Topics offered were (1) nutrition/child growth and development, (2) menu planning, (3) quantity food production, (4) equipment care and use, (5) sanitation and safety, (6) organization through management, (7) procurement, and (8) nutrition education and merchandising.

Classes were so much in demand that a third year was offered at UNC–G (summer 1975). In addition, classes were offered at Appalachian State and Western Carolina Universities. "If they couldn't come to us, we went to them," says Mrs. Parker. "We also offered a couple courses to UNC–G graduate students."

Says Mrs. Parker emphatically, "This positive attitude towards the classes points in one major direction. North Carolina school foodservice employees, on all levels, are willing to get, on their own time, any training and education offered them."

After many long, dedicated hours, the certification committee, Mrs. Parker, and numerous others were rewarded this past summer with the passage of the certification program by the State Board of Education.

More than 13,000 North Carolina foodservice employees will be affected by this new state policy. Says Mrs. Parker, "This procedure can only make for better programs, better meals, better fed children, and healthier children in our state."

KREMLIN SILENCES DISSIDENTS BEFORE BELGRADE MEETING

Mr. CASE. Mr. President, I would like to draw the attention of my colleagues to an article which appeared in the Washington Post on September 22, 1977. The article is consistent with the description I gave in the Senate this past Monday—CONGRESSIONAL RECORD, September 19, 1977 page 29811. In this piece, entitled, "Kremlin Silences Dissidents Before Belgrade Meeting," Kevin Klose outlines the many repressive actions which have been taken by the Soviet authorities against their domestic critics. On the eve of the Belgrade meeting, this article provides a useful overview of the present situation in the U.S.S.R. including the Soviet claims that all dissident activities are criminal and have paid connections to Western intelligence organizations.

In the interest of accuracy, I note the observation in the Washington Post article that the Helsinki accords "includes provisions in its third segment, or "basket," for freedom from political imprisonment." It is a common misapprehension that all human rights provisions are included under basket three. In fact, the broadest statement of human rights is under principle VII under basket one, and it is there that affirmations of the rights of freedom of conscience, belief, and religion are contained.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KREMLIN SILENCES DISSIDENTS BEFORE BELGRADE MEETING

(By Kevin Klose)

Moscow.—With just a few weeks before the opening in Belgrade of what may be a major east-west debate on human rights, the Kremlin—through arrests, threats and deportation—has all but throttled the tiny, vocal group of human-right activists whose inquires and reports could form an important part of the allegations that may be discussed at the conference.

While achieving their goal of virtually silencing critics, the Soviet leaders have:

Sharply criticized President Carter's public shows of support for the dissidents.

Warned their East European allies about the dangers of dissidence.

Told the rising Communist parties in the West that the new Soviet constitution, now pending, shows individual freedoms to be at an all-time high.

"As a damage-limitation policy, they've succeeded," commented one well-informed Western diplomatic observer. "They have nearly broken the link between the dissidents and the Western press. . . . There is a lack right now of dissident figures who can attract questions from the West."

Concern among diplomats here is shifting to what many say will be the next phase of the repression of dissenters; a public show trial of a jailed human-rights activist.

Recent history shows the Kremlin capable of disregarding outcries in the West and proceeding efficiently at stoppering dissent. Of 10 original members of a citizens' group formed last year to monitor Soviet compliance with the human-rights provisions of the Helsinki agreement on European security, four have been arrested, three sent abroad, and one is in Siberian exile. Two others, including Elena Bonner, wife of Andrei Sakharov, have not been subject to formal action.

Two Ukrainian activists have been tried, convicted and sentenced to long terms of hard labor for their attempts to file reports about human-rights troubles there.

Numerous others who were active in dissident circles have been given exit visas to Israel whether they initially sought them or not. One in that category is Valentin F. Turchin, 56, a computer expert who was given permission to leave last week. Earlier this year, Turchin said he did not choose to leave the Soviet Union. Since then, he has been subjected to questioning, threats and isolation and has had to consider what becomes the final, grim choice here of so many like him: Leave the country or go to jail.

As the summer waned, Western diplomats speculated on the future of a possible trial of a dissident, with some guessing it could take place well in advance of the Belgrade reviews of the Helsinki accords so the Soviets could, in the words of one source, "get things cleaned up in time for Belgrade."

Now, most informed observers here think any trial could be put off until after Belgrade, giving the Soviets time to bargain whatever they can at the conference without having to worry about the possible consequences of a blitz of bad publicity which could be sparked by any trial.

The United States and Soviet Union are clearly heading for a clash in Belgrade on the issue of human rights, with each side accusing the other of gross violations of the so-called "basket three" provisions of the agreement that was signed by 35 nations in Helsinki in 1975. That accord sets forth basic principles of European security and cooperation and includes provisions in its third segment, or "basket," for freedom from political imprisonment, and easing the bars to emigration and reunification of families.

Foremost in the minds of most Western sources here when talk turns to a possible trial is Anatoly Scharansky, who reportedly faces charges of treason, a capital crime. Scharansky, a young computer technician, was a member of the Moscow group that sought to monitor Soviet compliance with the Helsinki agreement. He signed several of the nearly two dozen reports they issued during 1976 and early 1977 on alleged abuses of individual freedoms.

Scharansky, a Jew, is a "refusednik," a person who has been refused permission to emigrate. As such, he was a member of a community of Soviet citizens scorned and vilified by officialdom and almost invariably sacked from their jobs within a short time of applying to emigrate.

The two other prominent jailed dissidents are Yuri Orlov, founder of the Moscow branch of the Helsinki monitoring group, and Alexander Ginzburg, who was a monitor and also administrator of a fund for political prisoners and their families financed by royalties from the works of Alexander Solzhenitsyn, the expelled Nobel laureate writer.

The causes of the three men has been widely publicized in the West and their plight taken up by various groups in America and Western Europe. One source here speculated that "if they put Scharansky on trial, the American Jewish groups are truly going to raise hell. They are a real political force and have clout in the U.S. They can pressure American firms not to trade with the Soviets, demonstrate at Soviet fairs and embassies, and there may even be new legislation in the Congress that would be a rebuff for staging a Scharansky trial."

The Soviets have tried to paint all the dissenters as akin to common criminals and, by doing so, to clear the way for whatever fate the state may find their due. The head of the KGB, the Soviet secret police, recently spent about a third of a lengthy televised speech denouncing dissidents as "an isolated band of renegades." Yuri Andropov described them as "a few people who have cut themselves off from our society . . . on a course of anti-Soviet activity," who "violate our laws, supply the West with slanderous information, spread false rumors and try to organize various anti-social provocations."

He said the dissidents exist "only because the enemies of socialism brought into the business the Western press, diplomatic and intelligence as well as other special services," he said, adding that dissidents are "generously paid" in hard currency.

Andropov also said that there are fewer persons in prison now for anti-Soviet activities than at any time since the 1917 revolution, a statement clearly intended for the ears of West European Communists, some of whom have criticized the Soviet Union for its handling of the dissidents.

The KGB chief's speech was followed in a few days by a series of unusual scenes at the Moscow international book fair, where a number of dissident writers appeared daily, including Vladimir Voinovich and Lev Kopelev. Voinovich later told reporters that he had been subjected to close "tailing" by several security men. Western sources commented that the apparent free travels of the writers was "an important ingredient to the Soviets in their attempt to look good at Belgrade," as one source put it. "They know the American publishers are deeply committed to questions of freedom to publish, and that the Americans also have things . . . the Soviets want to do business with them and so they were careful not to interfere. But it signals no real change in attitudes at the top."

As for the future of the dissident community, a person who has observed it for some time and has close ties to it said recently, "There are a number of people who want no contact with Western diplomats or reporters. They are part of a secondary group that lends support to the public dissidents, but is unknown to Westerns. They are falling back a little, just now, but they are there. It may be that in time, they will be heard from themselves."

THE GENOCIDE CONVENTION: TIME FOR RATIFICATION IS NOW

Mr. PROXMIRE. Mr. President, in May of this year, extensive hearings were held on the Genocide Treaty. Support was voiced, and the standard objections were once again refuted. However, to this day, the treaty remains as it was 28 years ago, pending Senate approval. As a result of this delay, a new objection has emerged: Why should we act favorably on the Genocide Convention now—after all these years?

During those hearings, the Honorable Arthur J. Goldberg, on behalf of the Ad Hoc Committee on the Human Rights and Genocide Treaties, made a statement summarizing the need for ratification now.

Mr. President, for the benefit of my colleagues, I quote Mr. Goldberg:

The answer, it seems to me, has three parts:

First, the Genocide Convention outlaws action that is repugnant to the Amercan people. We should not decline to affirm our support for principles of international law and morality which we believe in. Our country was founded out of a passionate concern for human liberty reflected by the Bill of Rights and the Constitution. I believe that concern is very much alive today, as is reflected by the report of the Foreign Relations Committee supporting this Convention at the last session of Congress. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder.

Second, our failure to adhere to this Convention is an unnecessary diplomatic embarrassment. Seventy-five countries have now ratified the Convention. We are the most prominent United Nations member that has not. When I was United States Ambassador to the United Nations, I was often asked to explain our failure to ratify the Genocide Convention. Frankly, I never found a convincing answer. I doubt that anyone can. At a time when our commitment to human rights is being questioned by some of our own people and by others overseas. it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose. A continuing dedication and reaffirmation of the humane principles of our Bill of Rights and Constitution is very much in order.

Third, our adherence to the Genocide Convention can make a practical contribution to the long and difficult process of building a structure of international law based on principles of human dignity. It will put us in a better position to protest acts of Genocide in other parts of the world and will enhance our influence in United Nations efforts to draft satisfactory human rights principles. I do not say that our adherence to this Convention will work miracles. It may not bring very dramatic benefits in the short run. Let us remember, however, that none of the great documents of human civilization produced instant morality—not even Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run. I believe the same may be true of the Genocide Convention, if we only give it a chance.

I echo Mr. Goldberg's call for action and urge the Senate to realize and rectify the fact that ratification is long overdue.

TRIBUTE TO FORMER SENATOR HAYDEN

Mr. GOLDWATER. Mr. President, on October 2 of this year we will reach that point of the 100th anniversary of the birth of Senator Carl Hayden of Arizona. It was not just my honor to have served many years in the Senate with this fine gentleman, it was my greater honor, I believe, to have known him literally all of my life. And before that the lives of his family and mine were entwined throughout the entire develop-

ment of the territory and State of Arizona. There probably will never be another man in the history of our country who will serve as long as Carl served in our Congress, nor can there ever be one who will serve as well. Thanks to the efforts of Dr. Donald A. Ritchie, associate Senate historian, there is available a sketch of Senator Hayden's career, and I ask unanimous consent that this sketch be printed in the RECORD.

There being no objection, the sketch was ordered to be printed in the RECORD, as follows:

CARL TRUMBULL HAYDEN (OCTOBER 2, 1877–JANUARY 25, 1972)

Of all the men and women who have served in the United States Congress, none has equaled the record set by Carl T. Hayden. He arrived as the first Representative of the new state of Arizona in 1912, at the age of 34, and retired as the state's senior Senator in 1969, at the age of 91. Hayden spent 56 consecutive years in Congress, with an unprecedented 42 years in the Senate.

Carl T. Hayden was born in the frontier territory of Arizona in 1877, at Hayden's Ferry (now Tempe). After attending Stanford University, he returned to take charge of his family's general store and flour milling business. Active in local politics, and a delegate to the 1904 Democratic Convention, Hayden first rose to prominence as sheriff of Maricopa County. Driving his Apperson Jackrabbit automobile, he overtook and captured, without a shot, a band of train robbers who had held up the Phoenix train. That exploit helped him win his first election to Congress when Arizona became a state in 1912.

Less than a month after he reached Washington he made his first speech on the floor of the House, supporting larger appropriations for fire-fighting in the national forests. When Hayden sat down he was berated by Representative Fred Talbott of Maryland, an old Confederate Army veteran. "You just couldn't hold it in, could you?" said Talbott. "You had to make a speech. Everything you said was taken down by the clerk and it will go into the Congressional Record, and you can't ever take it out. If you want to get ahead here, you have to be a workhorse and not a showhorse." Hayden took the advice seriously, shunned speechmaking, and made himself a "workhorse."

In the House, Hayden concerned himself with water and transportation projects for Arizona. He was floor manager of the bill to establish the Grand Canyon National Park, and also sponsored the 19th Amendment to the Constitution for Women's Suffrage. By 1926, Senator Henry F. Ashurst described Representative Hayden as "the most popular man in Arizona." That year Hayden won election to the United States Senate. He immediately joined Senator Ashurst in a six-week filibuster against the Boulder Dam bill until it was amended to provide more equitable treatment for Arizona.

The filibuster was highly uncharacteristic for Hayden. He did not make another formal speech on the Senate floor for twenty years. Known as the "silent Senator," who "works hard, speaks little," he concentrated his attention on the committee room and the cloakroom. "When you've got the votes," he explained, "you don't have to talk."

Franklin D. Roosevelt once asked Hayden why he always discussed roads when he came to the White House. "Because," replied Hayden, "Arizona has two things people will drive thousands of miles to see—the Grand Canyon and the Petrified Forest. They can't get there without roads." In 1934, as chairman of a subcommittee on post roads, he sponsored legislation authorizing federal funding of a national highway system. Hayden urged the President to make $400 million in highway construction funds available to the states without requiring them to match the money, as a way of putting the unemployed back to work. When Roosevelt asked how he had arrived at that figure, Hayden explained that he had telegraphed all the state highway departments and asked how much they could spend. Delighted with his approach, FDR told him, "Go tell Bob Wagner to put it in the relief bill."

Irrigation projects also concerned the Senator from an arid state. "To Carl Hayden, water was more important than oil," said Senator Mike Mansfield, "because water is the lifeblood of the Western states." President John F. Kennedy remarked that "every Federal Program which has contributed to Western irrigation, power, and reclamation bears Carl Hayden's mark." The Gila River Project, the San Carlos Project, the Salt River Project were all testament to his work, but his greatest monument was the Central Arizona Project to harness the waters of the Lower Colorado River Basin. Hayden first proposed the project in the 1920's, and fought for its approval through the state legislature, the Congress, and the Supreme Court, until it at last became law in 1968. "Carl Hayden, more than any other man," wrote the editor of the Arizona Republic, "created what America knows today as Arizona."

Throughout his five decades of service, Hayden held many influential posts: chairman of the Senate Rules Committee; chairman of the Democratic Patronage Committee; chairman of the Appropriations Committee; and, after 1957, President Pro Tempore of the Senate. Following the death of President Kennedy in 1963, Hayden became second in line of succession to the presidency. For fourteen years he chaired the Appropriations Committee, becoming an expert in federal budgetary matters. In the House-Senate conferences over appropriations bills, Gerald Ford called Hayden "a master at the art of constructive compromise." Lyndon Johnson credited him as the "third Senator" from every state.

In 1968, at the end of his seventh term he announced, "Arizona's foundation includes fast highways, adequate power and abundant water, and these foundations have been laid. It is time now for a new building crew to report, so I decided to retire from office at the close of my term this year . . . There is a time of war and a time of peace, a time to keep and a time to cast away, a time to weep and a time to laugh, a time to stand and a time to stand aside."

ARTHUR BURNS AND NOW ACCOUNTS

Mr. McINTYRE. Mr. President, I wish to call to the Senate's attention a recent speech by Arthur Burns, Chairman of the Federal Reserve Board, regarding S. 2055, a bill recently reported by the Banking Committee, pertaining primarily to nationwide NOW accounts and the Federal Reserve membership problem. Inasmuch as S. 2055 is currently pending on the Senate calendar, Chairman Burns' comments are particularly timely.

I ask unanimous consent that Chairman Burns' comments be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

VITAL ISSUES OF BANKING LEGISLATION

(By Arthur F. Burns)

It is a great pleasure for me to be here today and to have the privilege of addressing this gathering.

I thought I might usefully speak to you about some of the legislation pending in the 95th Congress. This is a busy season for banking legislation. Bills under consideration deal with such diverse subjects as nationwide NOW accounts, the financial burden of Federal Reserve membership, the operation of foreign banks in this country, the restructuring of bank supervisory and regulatory authority, and revision of the Truth in Lending statute. There are, moreover, various proposals in the Congressional hopper that aim in one way or another at circumscribing the Federal Reserve's scope for independent judgment and decision.

I cannot, of course, cover this morning all the banking legislation that is now pending. But I welcome this opportunity to comment on some of the major bills that have been introduced, and also to indicate why we at the Board are so deeply concerned about the character of numerous proposals that keep being advanced under the banner of "reform."

Let me say something first about S. 2055—the legislative package that combines authority for nationwide NOW accounts with measures to lighten the burden of Federal Reserve membership. As you know, this bill was voted out of the Senate Banking Committee in early August and may soon be debated on the Senate floor.

I am well aware that some of you have serious reservations about this bill. Indeed, I have heard from many bankers around the country who object to some of its key provisions—particularly the contemplated extension of NOW-account authority—and who urge the Federal Reserve to withdraw its support of the measure. The impact on earnings of paying interest on transactions balances is obviously of concern—and properly so—to commercial banks, especially those for which the checking accounts of individuals make up a large portion of total deposits.

Let me assure you that we at the Federal Reserve Board recognize the importance of good bank earnings. We well know that unless earnings are reasonably satisfactory, commercial banks, will not be able to serve their communities or the national economy in an effective manner. We also believe that bank earnings will be adversely affected for a time during the transition to a NOW-account environment. That has certainly been the experience with NOW accounts in New England.

Why, then, it may fairly be asked, does the Federal Reserve support nationwide NOW-account authority?

The reason essentially is that we think it is important to bring a sense of order to a development that has the look of inevitability about it but which to date has proceeded in haphazard fashion. The simple fact is that by one means or another depositors have been increasingly successful in earning interest or its equivalent on their transactions balances. Such interest is implicit in the banking services that are provided bank customers without charge or below cost.

Beyond this, and on a growing scale, many customers of financial institutions are already receiving interest in cash on transactions balances—not only in the New England states where NOW's are authorized, but throughout the country. This is the consequence, as you well know, of recent financial innovations that enable individuals as well as corporations to move funds readily between interest-bearing accounts and checking deposits or between money market instruments and checking deposits. Congressional inaction will not stop the spread of interest payments on what are in effect transactions balances; it would simply mean that the movement will go forward without guidance at the national level, attended by inefficiency and competitive distortion. My colleagues and I thus see S. 2055 as a vehicle or guiding this development in a gradual and

orderly fashion while limiting the adverse effects on bank earnings.

I well understand the displeasure that commercial bankers feel over the fact that S. 2055 would in effect confer checking-account authority on thrift institutions while leaving intact their ability to pay savings depositors a higher rate of interest than can commercial banks. To be sure, all depository institutions that decide to offer NOW accounts under the new authority would do so on the same terms, so that the troublesome interest-rate differential would be eliminated for that category of deposits. However, since NOW accounts would expand the powers of thrift institutions to a point where they could offer depositors the attractions of "one stop banking," the extension of parity should not be limited to newly created NOW accounts. Both logic and equity suggest that thrift institutions should enjoy either NOW-account authority or the interest-rate differential—but hardly both.

The difficulty of overcoming opposition to any modification of the differential must not, however, be underestimated. This was evidenced by the failure of the Senate Banking Committee to accept an amendment by Senator Lugar, which would have restored the power that bank agencies had until late 1975 to adjust the differential without ratifying action by the Congress. I have indicated to Senator McIntyre, the distinguished sponsor of the NOW-account legislative package, the desirability of removing the ratification requirement because it constitutes an impediment to timely adjustment of deposit interest-rate ceilings as circumstances change. Even though Senator Lugar's amendment failed in Committee, this moderate step toward less rigidity with regard to the differential deserves sympathetic consideration by the Congress at large. Senator McIntyre's support of the amendment was particularly encouraging. I hope that interested parties will continue to press the issue.

In your continuing assessment of S. 2055, I would urge that you weigh carefully the point I have made about the disadvantages inherent in letting interest payments on what are essentially transactions balances continue to spread in haphazard, piecemeal fashion. Neither individual bankers, nor their non-bank competitors, nor State legislatures, nor bank regulators, nor the Congress itself are likely to stand still. On the contrary, actions that serve to expand the payment of interest on transactions balances by all types of depository institutions will continue to multiply. It is my strong conviction that ultimately both the general interests of the Nation and the particular interests of commercial banks will be poorly served if the changes we have been witnessing are not subjected to orderly direction.

The transitional problems faced by financial institutions in adapting to NOW accounts will not be easy, but they ought to be less troublesome in most parts of the country than they have been in New England. I say this in part because the New England experience is available as a guide. It surely should be possible to avoid repeating some of the mistakes—particularly the mistakes in pricing—that were made by various institutions in that region. Indeed, it seems clear from the statistical evidence that depository institutions in Connecticut, Maine, Rhode Island, and Vermont have generally been able to profit from the earlier NOW-account experience in Massachusetts and New Hampshire. Banks and thrift institutions in the New England states that were relative latecomers to the NOW experiment have tended to pursue more cautious marketing and pricing strategies, and their earnings have consequently stood up better.

There are also other reasons for thinking that New England's experience is not likely to be repeated in other regions. For one thing, competition between commercial banks and thrift institutions appears to be somewhat more vigorous in New England than in most parts of the country. Then, too, S. 2055 is deliberately structured to minimize transition costs and protect bank earnings. It limits eligibilty for NOW accounts to individuals. It gives regulatory agencies discretion to set a lower interest rate ceiling for NOW's than currently prevails in New England. It authorizes the payment of interest on reserve balances held at the Federal Reserve, including reserves against the NOW accounts. It anticipates lower reserve requirements on NOW accounts than on demand deposits. It allows more room for reductions in the reserves required of member banks, especially the smaller banks. And it delays the effective date of nationwide NOW-account authority for one year after the enactment of legislation.

These things in combination make it seem likely that depository institutions across the country will be able to maintain their earnings reasonably well as they move to NOW accounts. I would note especially that the one-year waiting period will afford banks time for rational planning of their operational systems and marketing strategies for NOW accounts. Without this array of provisions designed to maintain earnings strength, the Federal Reserve Board, I assure you, would not be willing to support the NOW-account proposal.

That there will nevertheless be some net cost to many commercial banks in making the transition to NOW's also seems clear. That is why we at the Board have been at such pains to keep this cost down and that is also why we have been so insistent on combining the NOW-account proposal with action to lighten the financial burden of Federal Reserve membership.

Member banks are already very sensitive to the cost disadvantage they suffer vis-a-vis nonmembers because of the more onerous reserve requirements they have to meet. This has resulted in recent years in a significant erosion of membership—particularly on the part of smaller banks. There is no question at all in my mind that this membership erosion would accelerate if we were to go forward with nationwide NOW's without taking simultaneous action to lighten the burden of membership. That is the reason, of course, the Board has worked so intensely to obtain authority to pay interest on reserve balances and to be in a position to lower reserve requirements—particularly for the smaller banks.

A healthy, effective central bank is not a matter of parochial concern—of importance only to Federal Reserve officials and member banks. The Federal Reserve serves the entire financial community and indeed the Nation at large. It would be in no one's interest to see its vitality sapped. Unless the erosion of membership is arrested, a steadily diminishing portion of commercial bank deposits will be lodged with members and the execution of monetary policy will therefore become less and less precise. Other things trouble me still more. Provision of lender-of-last-resort facilities was a critical reason for establishing the Federal Reserve System. I do not like to contemplate the ultimate consequences for the soundness of our banking structure if fewer and fewer banks enjoy ready access to the System's discount window.

Declining membership could also threaten the insulation of the Federal Reserve System from day-to-day political pressures. The System's independence from such pressures will remain sustainable, I believe, only as long as the System continues to have balanced representation of membership among all sizes of banks across the country. But membership attrition has been most acute among smaller banks—those with deposits of less than $100 million. If the exodus continues and the remaining members are only the larger banks, the Federal Reserve will then be perceived by the public as a big banker's bank. This would almost certainly generate disenchantment with the System. In time, the Federal Reserve's independence—which enables it to base monetary policy on long-range considerations as well as those related to the short term—would diminish if not entirely end.

I hope that these comments on key provisions of S. 2055 may suffice to show why we at the Board view the bill on balance as a constructive and desirable piece of legislation. I said before that I know many of you have reservations about it, and I understand the reasons for those reservations. I nevertheless believe that it would be the better part of wisdom to retain an open mind toward this legislative effort and seek to improve it rather than scuttle it.

Let me now turn to other items in the legislative mill. I noted earlier that the banking bills under consideration this year include the usual array of measures to "reform" the Federal Reserve System. The Federal Reserve Reform Act of 1977 recently cleared the House Banking Committee in a form greatly different from the measure originally proposed. Fortunately, the most troublesome features of the bill were eliminated during the Committee markup and this is an encouraging fact. One of the defeated provisions—that dealing with so-called lobbying communications—would have placed very broad restrictions on the right of Federal Reserve officials to communicate with bankers about legislative matters. Indeed, were it ever to become law, there would be a serious question whether I or any of my colleagues would be able to address an assemblage such as this in the manner I am doing. Other rejected provisions would have required the Federal Reserve to publicize at quarterly intervals numeral forecasts of interest rates and other sensitive financial variables. Forecasts of interest rates by the Nation's central bank may seem harmless at first blush, but any such pronouncement by the Federal Reserve would in practice carry implications for debt markets that could generate wide and unsettling swings in security prices.

The wish to have us make such pronouncements is somewhat puzzling. My best guess is that preoccupation with interest rates—particularly with trying to influence the Federal Reserve to keep interest rates down—often tends to blur judgment. Populist emphasis on low interest rates appears to be a key reason for the steady stream of proposals that in one way or another would enlarge opportunities for exerting political influence upon monetary policy. A less independent Federal Reserve—particularly one that would be less concerned about inflation and thus more generously accommodative of credit demands—clearly remains an objective of many people.

A perennial favorite for the past quarter century of those who would like to see the Federal Reserve enjoy less independence is the proposal to subject the System to audit by the General Accouting Office. Indeed, a bill giving the GAO sweeping authority to audit the Federal Reserve—as well as the Federal Deposit Insurance Corporation and the Comptroller of the Currency—was introduced in the House last January. In the course of the recent markup by the House Government Operations Committee, a number of provisions were wisely incorporated in the bill with a view to affording some protection against disclosure of confidential information. Even so, the measure retains major deficiencies and ambiguities, and we thus feel compelled to oppose it. Incidentally, the bill is expected to be on the calendar for floor action very soon, possibly this week or next.

The bill raises serious questions of public policy. The Federal Reserve Banks have never been subject to GAO audit. The exempted status of the Board dates back to the Bank-

ing Act of 1933. The complete exemption of the Federal Reserve System from GAO audit since 1933 thus complements the original exemption of the Federal Reserve from the appropriations process. These exemptions have conferred on the Federal Reserve a heavy responsibility to conduct its affairs with the highest standards of probity; they have also enabled the System to determine its internal management free from political pressures. Exemption from GAO audit is one of the main pillars of Federal Reserve independence.

In exempting the Federal Reserve from customary appropriations and auditing procedures, the Congress has recognized the special political vulnerability that a central bank tends to develop if it in fact comports itself as it should in carrying out its monetary function. It is simply a fact of life that whenever a central bank imposes monetary discipline, it almost always generates a good deal of opposition. Those displeased with Federal Reserve performance would surely have greater leverage in their efforts to get monetary policy changed if the System were subject to customary appropriations and auditing procedures. I do not mean to suggest that our stewardship should be beyond examination. Accountability by the Federal Reserve is obviously essential, and we believe that the arrangements Congress has fashioned across the decades achieve thorough accountability within a framework of safeguards that take account of the special vulnerability to which central banks are everywhere subject.

What concerns the Board most about proposals for a GAO audit is that such auditing may become a device through which pressure is brought to bear directly on the formulation of monetary policy. To be sure, the pending GAO audit bill excludes a broad range of monetary policy deliberations and transactions from the proposed audit, but it does not flatly and unambiguously exclude all monetary policy matters. For example, the Committee Report indicates that the GAO would have authority to audit and evaluate discount-window transactions to the extent that such transactions are related to the supervisory function of the System—as distinct from its monetary policy function. This is an extremely fuzzy distinction, and it could easily become a vehicle for GAO intrusion into monitoring monetary policy—an area in which that venerable institution has neither experience nor expertise, to say nothing of responsibility.

It is to the credit of the pending bill that it recognizes the need to protect sensitive and confidential information concerning private parties. But I am by no means satisfied that the bill's provisions in this regard are adequate. Except for records pertaining to monetary policy, the GAO would be given access to "all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by the entities being audited, including reports of examination of banks or bank holding companies . . . together with workpapers and correspondence relating to such reports . . ."

These materials obviously include a great deal of sensitive information. And while the bill prohibits the GAO from identifying individuals and institutions in its public reports to Congress, all such information could still be made available to Congressional committees sitting in executive session. Experience suggests that this limitation is scant guarantee that sensitive and confidential information about banks and their customers would not find its way into the public domain. Great damage could thus be caused to banks, individuals, and business enterprises. In self-protection bankers might soon become less forthcoming to examiners, while their work in turn might become infected either by timidity or by zealotry because of the potential for disclosure. The integrity of the entire bank examination process could therefore be undermined.

Ultimately, as I have tried to suggest, the exemption of the Federal Reserve from GAO audit can be properly understood only in the context of the importance that Congressional shapers of the Federal Reserve System have attached to insulating this Nation's central bank from day-to-day political pressures. That present audit arrangements for both the Board and the Federal Reserve Banks are thorough and effective has, I believe, been demonstrated by Federal Reserve officials in public testimony time and time again. It is a fact, moreover, that besides the auditing reports that go to the Congress each year, a great deal of detailed information about Federal Reserve activities and operations is supplied to Congressional committees in response to a steady stream of inquiries. When one also takes into account the scope of the public oversight hearings conducted by the House and Senate Banking Committees, the need for a GAO oversight role is doubtful at best. If the Congress should nevertheless want to go to the considerable expense of an additional audit by the GAO, I certainly hope that such legislation would not allow the GAO to involve itself in any way with monetary policy procedures or deliberations, and that it would also fully protect sensitive and confidential information concerning banks and their customers.

I am mindful that my remarks have been lengthy, particularly for the opening session of a working convention. Even so, there is much in the field of banking legislation on which I have not commented. For example, the Senate Banking Committee will soon consider a proposal to establish a Federal Bank Commission that would assume responsibility for the supervisory and regulatory work now carried on by the three banking agencies. In the Board's considered judgment, removal of the Federal Reserve's supervisory and regulatory responsibilities would at times seriously lessen the effectiveness with which monetary policy is carried out, and that is one basic reason—among others—why we are opposed to it. I regret that I cannot discuss this bill fully today, but I hope that you and other bankers in our country will make the effort to familiarize yourselves with the issues surrounding it.

In closing, I would like to touch on one more matter. In recent weeks, banking practices have become prominent in the general news, and as a result are coming under special Congressional scrutiny. Chairman St Germain's subcommittee, for example, has already embarked on hearings dealing with a range of banking practices—among them, correspondent bank relations, bank policies relating to loan collateral, and bank policies relating to overdraft facilities. Chairman Proxmire has scheduled hearings on similar topics toward the end of this month. Specific legislation directed at some of the banking practices that have recently received public attention will soon be considered.

I deem it premature to make any kind of judgment as to how sustained the legislative interest in such matters will be or to what specific ends it will be directed. My hope is that a sense of calm deliberation and balance will be maintained—difficult though this may be at present. We cannot remind ourselves too often that haste can easily make for bad legislation.

For several years, the Federal Reserve has been in the forefront of efforts to obtain added enforcement authority for Federal banking agencies. Our efforts in that direction in no sense imply an unfavorable view of banking. Like other industries, banking is not free of problems, but it is my judgment that generally high standards of behavior prevail in banking. The Federal Reserve's long-standing interest in greater enforcement authority simply reflects our belief that some gaps in supervisory authority exist and that improved enforcement powers are appropriate.

The 94th Congress did not give much attention to our initiative. This year, however, after full and calm deliberation, the Senate passed S. 71—a regulatory and supervisory bill that embodies more stringent rules on insider loans, strengthens cease-and-desist as well as officer-removal powers, and provides a range of cash penalties for violations of banking law or regulation. At present, the absence of an effective range of penalties at times causes undue restraint on the enforcement procedures of bank regulators.

Perhaps legislative remedies beyond those contained in S. 71 are needed. I certainly have an open mind on this question. But I would urge full deliberation before wider legislative remedies are enacted. The banking legislation that I have reviewed with you or alluded to this morning is quite enough for the Congress to handle in the remainder of this year.

I have talked a long time and I certainly dare not burden you with anything else. May I just express my appreciation once more for the privilege of visiting with you.

"PLANNED GENOCIDE" AGAINST AMERICAN INDIANS?

Mr. HATFIELD. Mr. President, I was very disappointed at the comments of Mr. Russell Means at the Conference on Discrimination Against Indigenous Populations of the Americas in Geneva. According to the Washington Post, Mr. Means has accused the U.S. Government of conducting "planned genocide" against American Indians. Not only is this patently false, it misleads the American public and the world at large, hindering progress being made by responsible Native American leaders in improving the life of their people.

It is a sad fact of history, Mr. President, that the U.S. Government has been grossly negligent, and brutal at times, in its treatment of Indians. As someone who has been actively involved in Indian affairs for the past several years, I personally know this to be true. I also know, however, that significant progress has been made. The American Indian Policy Review Commission has completed its 2-year study and presented to Congress its recommendations, made by the Indian people themselves, for the reform of Federal Indian policy. Indian tribes are being granted more self-governing authority and the funds to stimulate necessary economic development. The misguided policy of termination has been expressly repudiated by Congress and the administration. These are important steps.

This progress is no cause for complacency, for there is still much to be done, and I look forward to the continuing work of the Select Committee on Indian Affairs and the leadership of the new Assistant Secretary of the Interior for Indian Affairs, Mr. Forrest Gerard. I expect we will be receiving recommendations for new policy directions after the National Congress of American Indians concludes its annual meeting in Dallas this week.

This progress, however, can only be impeded by Mr. Means irresponsible and inaccurate remarks, which may further polarize sentiment in areas where the

pursuit of Indian rights has already caused considerable ill feeling between Indian and non-Indian.

Mr. President, I firmly reject Mr. Means' contention, and sincerely hope his remarks will not be regarded as accurately representing Federal Indian policy.

PROPOSAL FOR JOINT UNITED STATES-MEXICO DEVELOPMENT FUND

Mr. BENTSEN. Mr. President, last week speaking at the 50th Anniversary Commemoration of the University of Houston, I addressed the issue of U.S.-Mexican relations and proposed the creation of a $2 billion United States-Mexico Joint Development Fund to help establish labor-intensive industries in Mexico.

My proposal is consistent with the President's illegal alien program; it should meet legitimate Mexican concerns about direct foreign assistance; it should help create employment opportunities in Mexico and decrease pressures for illegal immigration to this country; it involves both the private and public sectors; it is an example of how Mexico and the United States can work together, on a basis of friendship and mutual respect, to address problems of concern to both nations.

I fully intend to follow-up on this proposal with concerned Members of Congress and executive branch agencies. I would, therefore, ask that the revelant portions of my Houston address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Today I would ask you to extend the parameters of your involvement even farther, some four hundred miles to the Southwest, to encompass the border with Mexico. A border that extends for 1800 miles and is crossed every year by millions of people and billions of dollars in trade.

We in this country devote a great deal of time, effort, and scarce resources to the subject of international relations. We tend to concentrate our concern on potential adversaries, like the Soviet Union and China, or on the industrialized democracies of Western Europe and Japan.

We tend to overlook the fact that immediately to the South of us lies a dynamic nation of over 60 million people, with some of the toughest problems and one of the highest rates of population increase in the world. If present trends continue, the population of Mexico will double every 19 years. Some of the students here today may live to see a time when Mexico is more populous than the United States.

Half of the population of Mexico is under seventeen years of age; productive employment will soon have to be found for millions of Mexicans in an economy where unemployment and underemployment already runs at the rate of about 40%.

The existence of these problems, and their potential consequences, does not alter the fact that Mexico and the United States have no choice but to share this continent as neighbors. Historically, economically, and geographically, our destinies are irrevocably linked one to the other. We cannot build a wall between the United States and Mexico, just as this University cannot, and should not, attempt to isolate itself from its surrounding environment.

The people of Mexico are directly affected by what happens in this country; by our trade policy, our immigration policy, our agricultural policy, and our policies on tax and investment. Matters that are generally considered domestic concerns.

But let us not lose sight of the fact that we, in this country, are also influenced by what happens, and what could happen, in Mexico. We have a vital national interest in a stable, prosperous, Democratic Mexico well disposed toward the United States of America.

There is one aspect of Mexican American relations that is well known, highly controversial, and touches on the daily lives of many people here in Texas and throughout the nation. I am talking about the issue of illegal aliens, or undocumented workers, who enter this country in violation of our laws, frequently across the Rio Grande, seeking employment and opportunity.

I sympathize with the Mexican, or Jamaican, or Asian who comes to this country, even illegally, in search of a better life. He or she is driven by the same impulse that brought millions of immigrants to our shores throughout our history. The same impulse that has made ours the most prosperous, powerful, and compassionate nation in the world. The same impulse that compelled many of you to attend this university.

But the fact of the matter is that in the latter half of the Twentieth Century, the United States of America can no longer accept wholesale, uncontrolled illegal immigration.

We cannot afford it economically, in a period of high domestic unemployment. We cannot accept the underclass it creates. We cannot condone a situation in which we have millions of people in this country illegally, unaccounted for, and responsible to no one. No other nation of the world would tolerate 6 to 12 million illegal aliens within its boundaries.

While acknowledging that many areas of the Southwest have traditionally relied and prospered on cheap Mexican labor, I would suggest that we are rapidly approaching the point where the United States can no longer provide a market for the wholesale export of Mexico's population and employment problems.

There is no issue more difficult, more fundamental to the future of our relations with Mexico, than the dilemma of the illegal alien.

President Carter has taken an important first step. He has impressed the American public and the government of Mexico with the urgency of the illegal alien problem and our determination to do something about it.

The President has proposed specific remedies: amnesty for aliens here before 1970, a non-deportable status for those who came illegally between 1970 and 1976; and civil penalties against employers who knowingly hire illegal workers.

The President's proposals, like the problem itself, are inherently controversial and deserve our best efforts at careful, compassionate, and thorough analysis. I believe that much of it must be enacted into law.

There is, however, one aspect of the President's program that has received minimal public attention to date, particularly as it relates to Mexico. I refer to our cooperation with the sending, or source countries.

One means to cut back on the incidence of illegal immigration is to create additional employment opportunities in the sending states. People come to this country to work. They will be less likely to come here if they find a job at home that pays a decent wage.

If we are to deal effectively with the problem of illegal immigration, the United States must be prepared to assist sending countries, such as Mexico, in their economic development efforts. To the extent that we can help Mexico establish labor intensive industries in the areas that are the source of most illegal immigration, we will succeed in treating the root causes, rather than merely the symptoms, of this problem.

As many of you are aware, Mexico for sound historical reasons does not accept unilateral assistance. They are not looking for any handouts and I'm not proposing such. It is a matter of pride with the Mexican people, and I commend them for this attitude.

However, this does not mean that the potential for assistance is non-existent. It merely implies that we must come up with a formula that meets the legitimate requirements of the Mexican people and, at the same time, serves our common objectives.

I would like to take this occasion, here at this influential institution and before a group of opinion makers, to propose the creation of a joint United States-Mexico Development Fund, a Fund to which the United States and Mexico would invest an equal share, perhaps 1 billion dollars each in the first instance.

The Fund would finance the development of labor incentive industry in Mexico, concentrating on areas traditionally the source of illegal immigration. Project financing would be on a fifty-fifty basis with private lending institutions. The Fund would put up half the money, private banks the remainder. The Fund would lend at concessional rates and on a long term basis; private funding would be at commercial rates and terms.

My proposal is consistent with the President's program. I believe it will meet the legitimate requirements of the Mexican government and people. I do not pretend that it will eradicate illegal immigration overnight. It will not. But I am convinced that my proposal for a joint U.S. Mexican Development Fund is an essential ingredient in any comprehensive, long-term strategy to combat illegal immigration into this country. It is in the best interests of both Mexico and the United States. It is entirely in keeping with the spirit of friendship, cooperation, and mutual respect that governs our relations.

I intend to discuss this proposal with the White House, the State Department, and the concerned Mexican authorities. If the reaction is favorable, I am prepared to sponsor the appropirate legislation to see that it is enacted into law.

As the University of Houston begins its second fifty years of service, you are keenly aware of your past accomplishments and your obligation to the future.

As students, faculty, and alumni, you are dedicated to the pursuit of truth and wisdom. At this particular university you are also committed to using this knowledge in the service of the community that surrounds you.

There are few future issues with the dimension and complexity of our relations with Mexico,and particularly the illegal alien aspect of this relationship. There are few future issues that are directly relevant to our state and our region.

JOHN THOMAS WALKER SIXTH BISHOP OF WASHINGTON

Mr. MATHIAS. Mr. President, earlier today I had the privilege of attending the installation of the Right Reverend John Thomas Walker as sixth bishop of Washington. The service was held in the National Cathedral on Mount St. Alban which is more formally known as the Cathedral Church of St. Peter and St. Paul.

The participants in the ceremony included the Right Reverend John Maury Allin, the presiding bishop of the Epis-

copal Church in the United States, the Right Reverend William Forman Creighton, the fifth bishop of Washington and the Very Reverend Francis B. Sayre, Jr., the dean of the cathedral. The remarkable and moving music was under the direction of Richard W. Dirksen, precentor and choirmaster and Dr. Paul Callaway, organist-emeritus.

It was a happy occasion and the spirit of the day was well expressed by the words of Isaiah which were read:

Isaiah 61: 1–4

The spirit of the Lord God is upon me
because the Lord has anointed me;
he has sent me to bring good news to the humble,
to bind up the broken-hearted,

to proclaim liberty to captives
and release to those in prison;

to proclaim a year of the Lord's favour
and a day of the vengeance of our God;
to comfort all who mourn,

to give them garlands instead of ashes,
oil of gladness instead of mourners' tears,
a garment of splendour for the heavy heart.

They shall be called Trees of Righteousness,
planted by the Lord for his glory.

Ancient ruins shall be rebuilt
and sites long desolate restored;
they shall repair the ruined cities

and restore what has long lain desolate.

It is interesting to note that Bishop Walker took the oath with his right hand upon the Book of Common Prayer that had belonged to Bishop Thomas John Claggett, first bishop of Maryland. The prayer book was open to the page where are written words that are as appropriate to quote in the Senate as in the cathedral.

Whosoever will be great among you, let him be your minister; and whosoever will be chief among you, let him be your servant: even as the Son of Man came not to be ministered unto but to minister, and to give his life a ransom for many.

Bishop Walker has today entered not only an historic church, but also an historic ministry. The bishop of Washington has traditionally been a participant in the community life of Washington. Bishop Walker comes to this ministry at a time of great change and great stress. He is well prepared to meet these challenges and we wish him well as he takes his place at the head of his diocese and among the religious and social leaders of the Nation's Capital.

A SALUTE TO COLSTON A. LEWIS

Mr. DOLE. Mr. President, on Wednesday of this week I had an opportunity to participate in a special luncheon tribute to Commissioner Colston A. Lewis, sponsored by his many friends and acquaintances.

Colston A. Lewis is one of a large group of outstanding black public servants who has helped shape national policy in this country. A former Commissioner of the Equal Employment Opportunity Commission (EEOC), Mr. Lewis' term expired on June 30, 1977.

To this experienced senior member of the Commission, thanks and appreciation are expressed for his long tenure defending the rights of others.

I would like to share with this congressional body the following tribute to my friend and political colleague, "Choke" Lewis, and ask unanimous consent to have it printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

ESPECIALLY FOR SOMEONE WHO MAKES THESE WORDS RING WITH REALITY, "CHOKE," "THE GREAT GAMBINI"

Thank you, God, for little things that often come our way—
The things we take for granted but don't mention when we pray—

The unexpected courtesy, the thoughtful, kindly deed—
A hand reached out to help us in the time of sudden need—

Oh make us more aware, dear God, of little daily graces—
That come to us with "sweet surprises" from never-dreamed-of places.

Colston A. Lewis, the only black commissioner at the Equal Employment Opportunity Commission when his term expired on June 30, 1977, served longer than any other member on this Bi-Partisan Commission.

As the most experienced senior member of the Commission, he fought hard to eliminate discrimination in employment on the basis of race, color, national origin, religion, and sex as provided in Title VII of the Civil Rights Act of 1972. As one of the original "Title Seven Lawyers", his experience was valuable to the Commission and it was in this vein that groups, organizations and even the Governor of Virginia urged President Carter to reappoint him for another term.

As a commissioner, his was the only "voice in the wilderness" raised in defense of the rights of black complainants who were seeking equal opportunity.

He was said to be the only champion of the rights of all employees of EEOC who were (and possibly yet) suffering the results of shabby in-house mismanagement and objectionable treatment by the very officials sworn to protect their rights.

He voted against the Consent Decree in the steel cases because it did *not* provide the proper relief to female employees of all races.

He was the first black Presidential appointee at sub-cabinet level from the South. During his service on the Commission he never lost touch with the average citizen.

He is a life member of the NAACP; the Trustee Board of the Second Baptist Church of Richmond, Va.; a thirty second degree Mason; an Elk; a member of the Old Dominion Bar Association; National Bar Association; Richmond Chamber of Commerce; Richmond Republican Committee; Virginia Trial Lawyers; and Black Athletes Hall of Fame, to name a few.

He is married and has one son who is a senior at Gonzaga College High School in Washington, D.C.

Commissioner Lewis has received national and international recognition. Colston A. Lewis, your friends in "Saluting you", also thank you for standing tall for what you believe in and mostly for your efforts to protect the rights of all Americans in the field of Equal Employment while at the Commission.

AFL–CIO SPEECH IN PEORIA ON INDEXING MINIMUM WAGE

Mr. PERCY. Mr. President, as I said earlier today, I will be in Peoria, Ill., on Monday, September 26, addressing the 20th Annual Convention of the Illinois State AFL–CIO in the afternoon, and having luncheon with its distinguished board of directors and officers.

Because in the course of my remarks I intend to discuss a subject that is expected to be debated on the floor of the Senate next week, namely indexing the minimum wage, I ask unanimous consent that the text of the address I will be delivering on Monday, together with a list of the members of the executive board of the Illinois State AFL–CIO, be printed in the RECORD.

There being no objection, the list and address were ordered to be printed in the RECORD, as follows:

STATE FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS LUNCHEON, SEPTEMBER 26, 1977

EXECUTIVE BOARD AFL-CIO ATTENDEES

Stanley Johnson, President.
Robert G. Gibson, Secretary Treasurer.
Charles Hayes, Vice President.
Henry Anderson, Vice President.
Richard Reinke, Vice President.
Wilbur W. Freitag, Vice President.
Thomas Nayder, Vice President.
Edward C. Pope, Vice President.
Morrie D. Wishnick, Vice President.
John E. Desmond, Vice President.
Harold W. Schwartz, Vice President.
J. B. Boose, Vice President.
Wesley Isaacson, Vice President.
Vernon W. Rehmstedt, Vice President.
Dorothy Dufour, Vice President.
Alphonse E. Soudan, Vice President.
Eugene P. Moats, Vice President.
Buddy W. Davis, Vice President.
Noble B. Cain, Vice President.
Thomas J. Duggan, Vice President.
Lawrence E. Reinold, Vice President.

ADDRESS BY SENATOR CHARLES H. PERCY, 20TH ANNUAL CONVENTION, ILLINOIS STATE AFL–CIO, SEPTEMBER 26, 1977

It is a pleasure to again attend the annual State convention of the AFL–CIO and to help celebrate the convention's 20th anniversary.

I was just in Peoria a little over three weeks ago when new information was being uncovered about Bert Lance and his banking affairs. I talked to banking, labor and business leaders in this area, all of whom thought Mr. Lance should resign.

There was such mounting evidence against Mr. Lance's dealings with the Georgia banks that I called him the day I was in Peoria, just before Labor Day, to tell him what I had heard.

He said he had no intention to resign and reported to me that he had overwhelming support from his fellow Georgians. I told him that I didn't know what the sentiment was in Georgia, but I was in the heart of the midwest and I knew how the matter was playing in Peoria.

It is a special privilege to be here again today at an Illinois AFL/CIO annual convention, a privilege not accorded to a Republican Senator for 30 years prior to your first invitation to me several years ago. It is proof of your openness that you now welcome elected officials from both political parties. Labor should never be in the position of being taken for granted by one party and ignored by the other.

In the past when I have been with you, we have faced serious challenges and choices. In 1972, Americans were still fighting in Vietnam. In the fall of 1975, we were in the first months of economic recovery following the worst bout with both inflation and recession since the Great Depression. And last year, the first presidential debate was about to occur as the nation was headed toward economic recovery.

Today, we face many serious problems and important issues. When they are dealt with, they will affect us all.

I think many of the issues foremost in your minds and which I support—a new minimum wage, food stamp reform, catastrophic health insurance and job safety—are legitimate concerns that business management and Republicans should be more sensitive to. After all, these are means of strengthening the position of the American worker and at the same time the nation.

MINIMUM WAGE LEVELS AND INDEXING

Our current minimum wage level is too low. It has left too many Americans on the tightrope of life, balanced between survival and poverty and the choices for people who go to work every day should be greater than that.

There is before the Senate now legislation providing not only for an increase in the legal minimum wage paid American workers, but also calling for a change in the method by which minimum wage increases are determined.

Senate Bill 1871 stipulates that increases in the minimum wage be calculated as a percentage of the average hourly rate being paid to American manufacturing workers at any given time. I understand how attractive such a proposal is perceived by some and I understand also why such a method would be perceived to give some assurance that minimum wage level workers would receive increases at reasonable intervals without having to cope with the effects of conflicting political pressures on the Congress.

The minimum wage was originally devised to establish a floor for wages for the under educated and the unskilled. My fear is, that by indexing, we will be frustrating this original purpose by possibly putting a ceiling on wages as well as wages for the well educated and highly skilled. There will be a reluctance on the part of management to negotiate greater wage increases for production workers at all levels simply because they know it will precipitate a broad ranging series of increases throughout the economy.

In addition, I feel that the possible inflationary effect of indexing would impose another penalty on the worker in the form of higher living costs. Recent Bureau of Labor statistics data indicates that the level of increases in hourly wages in this country have begun to outdistance the increases in productivity so much that the rate of increase in unit labor costs are beginning to be a cause for concern. If these fears are well founded, unit labor costs could once again accelerate to a rate that could lead to rapid inflation, reduced purchasing power and recession. Certainly, this situation is something all of us know we do not want to live through again.

Viewed from a broader perspective, I have reservations about writing an indexing provision into law that is diametrically opposed to and inconsistent with the U.S. position against indexing in international negotiations. We have opposed the demand of developing countries for the indexing of the prices of the commodities and minerals they produce and export in relation to the prices of the goods they import from us. We particularly opposed—and I spoke to the Shah of Iran about this and the heads of other oil producing countries—the proposal of the OPEC countries to index the price of their oil exports to the price of the industrial goods they import. We cannot tell the rest of the world this is no good and then turn around and index wages for the American worker.

The federal government has adopted very few indexing proposals, and even then with great deliberation. Increases in the social security retirement benefits, as you may know, are indexed to the cost of living. This was done especially for the elderly who frequently have no where else to turn and for whom it is often too late in life to be looking for new sources of income. Such increases have no effect on the salaries of the average worker. Federal employee salaries also are indexed, to a certain degree, but they are adjusted to be comparable to salaries in the private sector—again they react to private sector salaries but have no effect on them nationwide.

The type of indexing proposed in the minimum wage bill is entirely different. Rather than preserving purchasing power in what we call "real" economic terms, indexing contributes to the continued inflationary spiral by practically guaranteeing wage and price increases. Experience in observing developing countries who have tried a variety of indexing proposals shows us that it is always difficult, if not impossible to discontinue these relationships when *de*-flationary policy becomes necessary.

Instead of indexing, my colleague Senator Javits of New York will offer, with my support what we think is a fair and reasonable alternative. It will be proposed on the Senate floor this week and I consider it to have a good chance of passage.

Our proposal authorizes a new minimum wage of $3.40 an hour, to be achieved in four steps: in 1978—$2.65; in 1979—$2.90; in 1980—$3.15; in 1981—$3.40. In each year the increase in the minmum wage should equal or exceed the level that would have been achieved with indexing. Yet at the same time, we retain to ourselves in the Congress the responsibility of periodically reviewing the minimum wage—and I do think we have the responsibility of reviewing it more often than we have in the past—in the context of changing economic conditions.

This alternative provides justifiable increases in the minimum wage without locking us into a new system that may be as unwise as it is untried.

NATIONAL HEALTH CARE

The people who are affected the most by the minimum wage increase are equally concerned about unexpected expensive health care. There is a need for a more efficient, cost effective and comprehensive health delivery system because health care for inner city and rural communities is woefully lacking. The soaring costs of health care in recent years has caused undue hardship for many middle-income families and has made it imperative that low-income families receive substantial government assistance.

The fact is particularly true when families are faced with catastrophic illnesses which require long and costly hospital stays or expensive outpatient treatment.

For these reasons, I support comprehensive health insurance in the form of the Long-Ribicoff Catastrophic Health Insurance Medical Assistance Reform Act. That bill is a three-part program which would gradually provide comprehensive health care for all low and middle-income Americans.

NUTRITION FOR AMERICANS

Another subject foremost in your minds should be Food Stamp reform. I do support the food stamp reform revisions in the Senate and House approved Food and Agriculture Act of 1977. The controversial requirement that recipients buy a portion of their stamp allotment was eliminated, as was the complicated deduction system which had been blamed for numerous errors and fraud. These major changes should curtail fraud in the program and insure that a higher proportion of the needy receive food stamps without any delay.

I fully support also a strengthened senior citizen nutrition program—both group luncheon and meals on wheels programs.

Every American should be more aware of these vital issues because American labor is the backbone of this country.

THE ECONOMY

Currently, the U.S. is still battling with economic pauses and slowdowns and is watching carefully for signs of any slippage in recovery efforts.

Although the index of leading economic indicators declined for the third straight month in July, this decline represented no more than six-tenths of one per cent over the three month period.

Unemployment continues to plague us despite moderate stimulative efforts on the part of the Federal government. But compared to the national average, Illinois has shown signs of improvement. In August, for example, the Illinois unemployment rate was 4.7 per cent, compared to 7.1 per cent nationwide.

This is a cautious but good sign of steady economic improvement. Nevertheless, unemployment continues to remain highest among our black urban youth and other minorities. Nationwide, unemployment among black urban youth between the ages of 16–24 tops 40 per cent.

That is absolutely staggering when we consider the hundreds of programs which have been created and the billions or dollars spent over the years to ease this unemployment burden among the less fortunate or our nation.

Despite the bumps on the economic road ahead, however, longer range prospects for overall economic growth look promising. It is hard, however, for a person out of work today to take cheer in the prospect for long term recovery.

Over the next 18 months, we can expect real growth approaching five per cent a year in our Gross National Product, which is just enough to sustain the economic recovery which began in early 1976.

REGULATORY REFORM

But as economic conditions improve, we must come to grips with yet another problem which is costing the American economy—including government, business, labor and consumers—more than $20 billion a year. The thieves, which pick every American's pocket, are the burden of rules and the mountain of paperwork forced on every one of us by the Federal regulators in Washington.

The Federal bureaucracy that cranks out these rules and paperwork is like a giant balloon constantly being filled by bureaucrats with more and more hot air. The balloon has been expanding to accommodate the air, but we cannot afford to stand by and watch it grow. I say we must deal with growing government regulation now, because if the balloon continues to expand, we will pay a greater price in higher inflation and lost jobs.

Reforming the growth of Federal regulatory agencies will not only affect the people in the executive suites, but it will also have a profound impact on the working man. Because this reform will save businesses money in the longrun, new doors for bargaining should open. Instead of so much money going to feed the Federal dinosaur, it allows employers more leeway for themselves and for you, through such things as better pension plans and health care benefits.

Presently, it costs unions at least $75 million a year to provide the information and reports required by Federal agencies. That comes to about $3 a year for each union member—and nearly twice the amount of per capita affiliates pay to the AFL–CIO.

Very few things we do in our daily lives are unaffected by Federal rules and regulations. The food we eat, the clothes we wear, the cars we drive and thousands of other products we use are heavily regulated by the Federal government.

At times, these Federal regulations weigh so heavily on businesses and deplete such large portions of the profits that many businesses are forced to close. For example, in the past four years approximately 350 foundries closed because they could not meet Federal regulatory requirements.

There is nothing inherently wrong with regulation if it is soundly based and responsibly exercised. As Lao-Tze, an old Chinese philosopher, once said: "Govern a great nation as you would cook a small fish—don't overdue it."

The Federal government's use of regulation as a tool designed to direct the nation towards certain social and economic goals dates back to the earliest days of American history.

George Washington established a Federal agency to regulate the payment of pension benefits to Revolutionary War veterans.

That was the beginning. In 1887 Congress established the first independent regulatory commission, the Interstate Commerce Commission.

Ninety years and over 70 regulatory agencies later, we are still creating new agencies and regulations while continuing to subsidize all of the old ones, some of which are tattered, threadbare and useless. Each time we establish a new regulatory agency, we add to the Federal budget, displace certain scarce resources and constrict a few more of our freedoms.

At a total of between $60 to $120 billion a year, the cost of Federal regulation averages out to a little less than $1,000 per family, or $275–550 for each individual in this room. This staggering figure makes it obvious that specific regulations are frequently made without consideration of the relative costs and benefits involved.

A handful of regulatory agencies are effective, but most resemble long-toothed, prehistoric monsters. Yet, they are far from extinct.

Few would disagree that government has a proper role in assuring the safety of such things as food, drugs and nuclear power plants. Some government regulation is necessary to police the competitive market and to defend consumers. Experts must be allowed to make judgments consumers are unable to make when they lack the requisite training or technical information.

But many regulatory agencies attempt to do what the free market can do better.

Economists long ago discovered that, other things being equal, the free market is the most efficient and fairest price setter around. It automatically accounts for costs of production, fair return on capital, expected shortages, buyer preferences and a host of other variables.

Not only is there an economic loss by wasting government enforcement dollars and industry compliance dollars, but there is also a loss of freedom. Some regulatory agencies seem determined to pick the last nit out of American industry.

Without question, people in and out of government are clamoring for reform of Federal regulation. Consumers, liberals and conservatives, Republicans and Democrats, businessmen *and* organized labor alike agree that Federal regulation is in need of continuing review and overhaul in order to make it more responsive to the needs of those it is intended to serve.

I am co-author of the Regulatory Reform Act of 1977 along with Majority Leader Bob Byrd and Chairman of Governmental Affairs Committee Abe Ribicoff. This bill takes a hard look at all Federal regulatory agencies and makes Federal regulators justify their existence and especially their paycheck.

The assumption behind this approach is that we should look at the purpose of regulation. This way, we can determine whether we need the regulatory agency in the first place, and if we do, how much and at what cost.

The bill sets an eight-year mandatory timetable for reform that requires the President to submit reform legislation to Congress every two years dealing with specific sectors of the economy. All regulatory agencies would be reformed or scrapped during the eight year period.

The legislation groups those agencies for review. For example, during one such two-year period, agencies to be examined deal with energy, the environment, housing and occupational health and safety. Other review periods would consider transportation and communication; banking, finance and international trade; and food, consumer health and safety and economic trade practices.

If no action is taken in the allotted time which the bill sets out, the agency is abolished. So, even inaction causes action—a rare phenomenon in the nation's capital. The "sunset" mechanism will force a hard look at the growth of Federal regulation and hopefully will save taxpayers millions of dollars. And it will once again make Federal regulatory agencies aware of who they are serving.

In this Age of Regulation, reform will be no easy task. Few things of this magnitude are. It will cause some uncertainty while the system is being revamped, but if we overcome the short-sighted objections of certain self-interested groups, the rewards should be substantial. As we shake off the shackles of needless regulation, we will regain the dynamism which made America the richest and most powerful nation in the world.

We must begin now to let some of the air out of the giant Federal regulatory balloon so that fighting inflation and creating jobs become our top priorities.

Thank you.

THE FACTS ON UNDERGRADUATE HELICOPTER PILOT TRAINING (UHPT) CONSOLIDATION

Mr. CHILES. Mr. President, during the recent Senate discussion of the consolidation of the Navy undergraduate helicopter pilot training with the Army program, at Fort Rucker, Ala., one of the central issues in debate was a response by the Department of Defense to data brought out in a letter from Senators STONE, GARN, TOWER, and myself. This DOD response was rebutted in another document which presents the cost analysis factors in a much more factual light, I ask unanimous consent that this rebuttal of the DOD position be printed in the RECORD so that all individuals can more readily understand the issues and the facts of the proposed consolidation; consolidation which has twice been rejected by the Congress despite intense pressure from the Department of Defense.

There being no objection, the rebuttal was ordered to be printed in the RECORD, as follows:

UNDERGRADUATE HELICOPTER PILOT TRAINING (UHPT) CONSOLIDATION

Subject: Key points regarding the position taken by Senators Chiles, Stone, Garn and Tower in opposing UHPT consolidation

A. VALIDITY OF THE COST SAVINGS

Issue 1. If UHPT is consolidated no additional Army aircraft need be bought, and operating costs were included in the OSD study.

Rebuttal: The OSD study charged as a cost of Navy helicopter training the projected FY79 budget request of $23 million for T–34C fixed wing trainers utilized in the first 91 flight hours of the Navy UHPT program. The OSD study did not include the investment recovery costs for Army H–1 helicopters that would be taken out of their current operating inventory for use in training Naval flight students in a UHPT program at Fort Rucker as a result of the proposed consolidation.

In testimony before the House it was stated by the Deputy Commander at Fort Rucker that a UHPT program for Navy which included 195 flight hours (145 hours of which would be flown in the H–1 helicopter) would require only 32 H–1 helos in addition to the 72 H–1's utilized by the Navy for their current UHPT program; or a total of only 104 H–1 helicopters. Navy calculations of H–1 requirements indicate that the Army number is greatly understated.

The Army stated further that if Navy UHPT was conducted at Fort Rucker, the additional H–1's required would be taken from lower priority missions, precluding the need for purchase of new training aircraft. Low priority missions imply a potential cost recovery for expensive aircraft being so utilized. On this basis the Army could have long ago recovered the cost of these excess aircraft and eliminated their operating expense through sale and/or inactivation. For the purpose of training cost comparability, then, the investment cost of training aircraft should be included for both services, either as a procurement cost or a cost recovery as a result of sale.

The calculations to determine H–1's required and their cost follow:

H–1 HELICOPTER

145.0	syllabus flight hours
8.0	hours for incomplete flights and extra time (5.5%)
6.7	hours for Navy instructor pilot training & standardization (4.6%)
5.8	hours flown on attrited students (4.0%)
12.2	maintenance test flights, weather recon., and misc. (8.4%)
177.7	H–1 aircraft hours flown per completed student
×550	graduates per year (509 USN/USMC, 31 USCG, 10 foreign)
=97,735	H–1 flight hours required per year
÷800	hours per year H–1 (aircraft utilization factor used by Army)
=122	operating H–1's required for Navy training
−72	Navy H–1's available for transfer to Army (see note 2)
50	Army H–1's required from other sources (see note 1)
×800	hours per year (Army utilization)
=40,000	excess Army flight hours flown per year
×240	dollars per H–1 flight hour (see note 3)
$9.6M	Army cost per year for excess flight hours
×5	years
=$48.0M	operating savings over a five-year period
$50.0M	value of surplus Army H–1 helicopters (see note 1)
=$98.0M	total savings FY78 through FY82

The savings generated through elimination of excess Army flying and disposition of surplus Army helicopters exceed savings predicted through consolidation.

NOTE 1.—Army sold 10 UH–1's to Pakistan in FY77. They were new, stripped-down models comparable to the H–1 training configuration. Unit costs were:

Flyaway	$768,150
Support and spares	282,000
Total	1,050,150

It is reasonable to assume that if Army were to give up these low priority mission helicopters, they could also dispose of equivalent support. Therefore $1.0M is a reasonable value for each H–1 surrendered if Navy helicopter training is not assumed by the Army.

NOTE 2.—Navy's flight training system concentrates 126 hours of flight time in aircraft that cost an average of $81 per hour to operate, and only 65 hours of flight time in the H–1 helicopter for UHPT students that costs $240 per hour to operate. Under the OSD consolidation plan, Navy, Marine and Coast Guard students would receive only 50 flight hours in relatively inexpensive aircraft and 145 hours in the H–1 helicopter at the higher hourly operating cost of $240. It is the difference in H–1 flight time between the two systems that accounts for the variation in H–1 aircraft requirements.

NOTE 3.—Differences in accounting systems make it impossible to compare Navy & Army costs directly. The figure of $240 per H–1 flight hour comes from Navy cost sheets on the airplane and includes fuel, maintenance, spare parts, etc.

Issues 2 & 3. The manpower savings calculated by OSD as a result of UHPT consolidation were limited to only those involved in the helicopter training line. Also, OSD properly accounted for savings resulting from Navy's introduction of the T–34C into its UHPT system. ($46 Million)

Rebuttal: The OSD study makes the following statement on page V–A–15: "In the absence of Navy outyear data, funding and manpower estimates were straight-lined from FY 1978."

Such extrapolation of FY 1978 data implicitly assumes that resources committed to UHPT are basically the same in Fiscal Years 1978 through 1982. This methodology ignores the significant reduction in operating costs and manpower requirements which were already programmed to occur in FY79 and FY80 as the T–34C aircraft was introduced into the Navy's undergraduate pilot training system. In effect the OSD analysis assumes that the Navy continues to operate the more expensive T–28 aircraft at the FY 1978 level into the indefinite future even though it will have been completely replaced by the end of FY 1980. No correction is ever applied to the data to rectify this error.

Navy resources programmed for Undergraduate Pilot Training were based upon efficiencies inherent in the new Navy Integrated Flight Training System. They were arbitrarily reduced as a consequence of this OSD methodology which derived inflated savings by a refusal to accept out-year data from Navy even though such data was included in their own Five Year Defense Plan. Since the resources deleted were in excess of those allocated to the training of helicopter pilots the effect was to eliminate resources required to train other than helicopter pilots, that is fixed-wing student aviators.

While the OSD study obtained its baseline by straight-lining Navy costs for UHPT into the outyears, it accepted Army estimates for this training in the outyears without question. The GAO May 5, 1977 review of the OSD study attests to this, stating on page two, "As a starting point to assess savings, the Defense study used the Army's estimate of costs to assume Navy's training loads and the Navy's budget estimate for conducting a separate program during fiscal year 1978."

Issue 4. Reimbursable cost by foreign governments for training their students was included in Navy costs to ensure comparability between the Navy flight training system and the OSD/Army UHPT consolidation plan.

Rebuttal: System cost comparability is also addressed in Issue I above and its rebuttal. The cost of training foreign students is reimbursed by their governments and, in fact, lowers the unit cost of flight training in any program. The OSD study, had it been truly objective, should have removed any such cost from the Army total rather than add it to Navy's.

However, under Navy's resource management system, reimbursable costs are readily attainable since they are attributed to the end product, i.e. the trained pilot. Under Army's system where end product unit training costs are not as clearly defined, there is probably no way to remove foreign student training costs from a specific program.

Three points are clearly evident:

(a) There is no valid comparison of service costs unless costing systems are standardized.

(b) In an effort to justify the claimed savings, comparability was used by OSD where it added to Navy costs (Reimbursables) and omitted when it added to Army costs (Aircraft Investment).

(c) If reimbursable payments offset training expense it makes no difference if total reimbursements go either up or down, as long as they compensate equally for the out-of-pocket expense of training foreign students.

Issue 5. OSD costing data for UHPT consolidation is reliable since it is based on official Army estimates.

Rebuttal: The OSD study report contains no source documentation, nor any justification for statements of fact made in the body of the report itself.

No opportunity was provided during the course of the report's preparation for Navy flight training experts to challenge either OSD estimates or data from another Service. There is no record of study proceedings that will substantiate OSD challenges to Army data, no record that details Army justification for their cost estimates, nor any record of a thorough audit of Army's current expenses in its UHPT system.

Issue 6. The Defense Department was willing to release its "Economic Adjustment" report for the Whiting Field area upon senatorial request. In any event the report itself does not identify significant additional costs to the government.

Rebuttal: The OSD paper is carefully phrased to omit the fact that several senatorial and congressional key staff members requested the report in behalf of their patrons, and it was not forthcoming. However, the issue of the report's availability begs the question. What is germane is that identifiable costs of the UHPT consolidation were not included in the study, and were not made available to the Congress in spite of extensive hearings a month following the date of the report itself.

On page 14 of the subject report $2.6 million in total grant and loan adjustment resources for the Milton, Florida area (Whiting Field) are identified. In addition, on page 7 of the report the following paragraph appears at the bottom of the page:

"Rental costs in Milton are very reasonable with a moderate income home renting for about $175 monthly. We agree with the local judgment that the UHPT consolidation 'would stall the local housing market.' It would undoubtedly be necessary to institute the DoD Homeowners Assistance Program—which guarantees the individual DoD civilian or military homeowner will receive up to 90–95 percent of the preannouncement value for his home."

The population of Milton, Florida is about 7,000. This represents, conservatively, about one quarter of the total urban population of Santa Rosa County. The homes affected by elimination of UHPT at Whiting Field are:

Military off base housing	916
Civilian off base housing	298
Total homes affected	1,214

Real estate appraisers for the area estimate the average unit drop that would occur in home value below the 90–95 percent current price following announcement of UHPT consolidation would be $8,750. They also agreed that having upwards of 20 percent of the available homes in the area for sale would stall the market for an extended period. Under the DoD Homeowners Assistance Program then, the Department of Defense would be liable for a minimum of: $8,750 times 11,214 homes equals $10.6 million.

The $10.6 million, which would come out of Defense funds, is in addition to any grant and loan adjustment, of which the $2.6 million is admittedly a preliminary estimate.

B. OBJECTIVITY OF THE STUDY

Issue 1. Naval flight training experts were given adequate opportunity to participate during the course of the OSD UHPT consolidation study.

Rebuttal: The word "consulted" implies a free and open exchange of views and ideas which was absent in OSD contracts with Navy during the course of the study. Other than by indirect inference responsible Navy staff personnel had no idea of the matters of fact, analytic techniques, or tentative conclusions being reached as the study progressed. They were "tasked" to provide voluminous data and a number of briefings but had no inkling of the interpretation being placed on the data until the draft study report was received for comment in late April 1977.

Issue 2. Key Navy officials were given adequate time to comment on UHPT consolidation study conclusions prior to a final decision on implementation.

Rebuttal: Those "portions" of the draft report provided several weeks before it was submitted officially for comment did not include key sections on base realignment and costing. Since most of the major disagreements which subsequently developed were over cost/savings issues, the Navy time to respond was effectively limited to the five days available from the point when the draft report was received.

Issue 3. Despite the wording of the OSD internal memorandum on UHPT consolidation the evidence introduced into the public record substantiates complete objectivity on the part of OSD analysts.

Rebuttal: The basic memorandum along with the covering comments speaks for itself. It may be interpreted, by any reasonable man, as a "game plan" designed to bring about UHPT consolidation through arbitrary and biased data collection, denial of Navy participation where the interests of professional balance could have been served, and colluding with the General Accounting Office to ensure their perfunctory approval of a final report.

The memorandum, in its entirety, is reprinted on pages 494–495 of the record of hearings on Department of Defense appropriations for 1978 before the Defense Subcommittee of the Committee on Appropriations, House of Representatives, Ninety-fifth Congress, First Session, Part 6, "Consolidation of Undergraduate Helicopter Pilot Training."

Issue 4. The experience of GAO personnel as professional critics of UHPT training programs was adequate, and consistent with GAO practice in other fields.

Rebuttal: The statement that the GAO people who reviewed the OSD report on UHPT consolidation lacked experience in aviation or flight training from a professional standpoint is correct, and still stands. Further, there is no record of GAO personnel interviewing or questioning Navy flight training experts during the course of their review.

It is customary for the General Accounting Office to seek outside consultant support when reviewing professional programs that require some expertise beyond that available in-house. In a recent study in depth of the Service Academies the GAO used such a distinguished expert as a West Point graduate and former Army Chief of Staff to head its study group of equally capable colleagues. In a Service such as the Navy, where flight training has always been an equivalent program to the Naval Academy in providing a foundation for a lifetime career, the services of no less an expert in the profession than a former high ranking Naval aviator could have been utilized on the same basis.

Issue 5. The GAO review was the result of a satisfactory audit of both Army and Navy cost data. Further, the Army would have no reason to understate their costs since they would form the basis of their budget for such training.

Rebuttal: The statement that the GAO did not verify the accuracy of each service's cost estimates is their own. It appears in their May 5, 1977 review, and needs no further amplification.

The statement that the Army has no reason to understate the resources required to support the UHPT consolidation program ignores a current fact of life. The Deputy Commander at Fort Rucker testified before the House Defense Appropriations Subcommitte that their UHPT training capacity with their present facilities is 2,400 pilots annually. They are now training only 821 helicopter pilots a year (1977) under the Army program. This represents a facility utilization of only 34 percent. Obviously it is worth the risk for Army training sponsors to acquire a higher base utilization through the subsidization of Navy training, and plan to reprogram as required once the decision to consolidate has been made. To do other than this leaves the high overhead at Fort Rucker open to serious challnge in future budget cycles.

Issue 6. The Service Chiefs of Navy and Marine Corps have expressed their opinions on UHPT consolidation freely.

Comment: The Chief of Naval Operation's statement on UHPT consolidation appears on page 203 of the record of Hearings, and the statement of the Assistant Commandant of the Marine Corps on the same subject follows that of the CNO on page 203 extending to page 204 of the hearings before the Defense Subcommittee of the Committee on Appropriations, House of Representatives, 95th Congress, 1st Session, Part 6.

Both statements speak for themselves.

C. QUALITY OF INSTRUMENT TRAINING

Issue 1. The Air Force is completely satisfied with the instrument training given to its trainees at Fort Rucker.

Rebuttal: The O-in-C of the Air Force Detachment at Fort Rucker expressed himself on this subject at length in an official communication on April 13, 1977. This letter begins:

"1. Air Force is not satisfied with the instrument training provided its undergraduate helicopter pilots in the IERW course. Our combat crew training school user Commands have identified weaknesses in the IERW graduates' instrument flying ability which hinder transition to larger, more complex helicopters and, ultimate conversion to high performance fixed-wing aircraft.

"2. The weaknesses noted are primarily attributable to differing service philosophies toward instrument flying and are not recent developments, but have surfaced repeatedly in the past . . ."

The communication appears in its entirety on pages 300 and 301 of the hearings on UHPT consolidation before the Defense Appropriations Subcommittee of the House.

Issue 2. An all-helicopter instrument training program is superior to Navy's current mix of fixed-wing/rotary training. Further, Army simulators are superior and 50 flight hours of service-unique training are available under the Army syllabus for instrument training.

Rebuttal: A statement on training effectiveness by Mr. D. N. Mealy, the deputy plans and programs officer for the Chief of Naval Air Training at Corpus Christi, Texas, and a professional expert in all phases of Navy flight training, appears on page 354 of the hearings on UHPT consolidation before the Defense Appropriations Subcommittee. It is quoted in part as follows:

". . . the fixed-wing aircraft is more stable, it is a better medium for initial instruction to incorporate all the regimes of training. Fixed-wing aircraft are better to teach instrument flying. Fixed-wing aircraft are better to teach instrument flying, because the student pilot flying can devote more time to the scan of the instruments and the instrument procedures rather than to concentrate on the actual control of the aircraft. Therefore, he can learn the instrument procedures much easier and have the same instrument training transfer applied to a helicopter. It is better to start the student in fixed-wing . . ."

The hearings also clearly document that the 2B24 simulator needed by Navy at Whiting Field for its own UHPT program is available for transfer from the Army without harm to their UHPT program through extension of their work week and assigning remaining 2B24 simulator capacity to low priority users on weekends. This would be at no cost to Defense, merely a transfer of funds ($3M) from one service budget to another, and is only a variation of the alternative proposed by Army for 2B24 simulator utilization should Navy UHPT be consolidated at Fort Rucker. (See page 410 of the hearings on UHPT consolidation.)

Under Navy's current UHPT program a student pilot, prior to designation as a Naval Aviator, receives 76 hours of instrument flight time, in addition to the service-unique time provided for within the 191 hour Navy syllabus. It would not be of advantage to Navy to sacrifice any of its service-unique time when it is already achieving adequate instrument time under its present system.

ORDER FOR RECESS UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 o'clock noon Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REMOVAL OF HOLD ON H.R. 9262

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the hold on H.R. 9262, which is at the desk, be released.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this means that H.R. 9262 automatically would be referred to the Committee on Governmental Affairs.

The ACTING PRESIDENT pro tempore. That is correct.

ORDER FOR RECOGNITION OF SENATOR ALLEN NEXT WEEK

Mr. ROBERT C. BYRD. Let me state that again. I ask that the request be vitiated, and I will restate it.

Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order, which is at the opening of each daily session, on Tuesday, Wednesday, and Thursday next week Mr. ALLEN be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REFERRAL OF A RESOLUTION CONCERNING TELEVISION AND RADIO COVERAGE OF THE PANAMA CANAL TREATIES DEBATE

Mr. ROBERT C. BYRD. Mr. President, I offer a resolution on behalf of the distinguished minority leader and myself, and I ask simply that it be stated and referred in the normal course of things, and printed.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

S. RES. 268

Resolved, That the Committee on Rules and Administration be and is hereby authorized and directed to provide for radio and television coverage (including the making of videotapes) of proceedings in the Senate Chamber during consideration of the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, both signed at Washington, D.C., on September 7, 1977. Such coverage shall be provided for continuously at all times while the Senate is considering the Treaties, except for any time when a meeting with closed doors is ordered.

SEC. 2. The radio and television coverage of proceedings in the Senate Chamber, and the videotapes of such coverage, provided for in the first section shall be made available to public and commercial radio and television broadcasting stations and networks under such terms and conditions as the Committee on Rules and Administration may prescribe.

SEC. 3. The radio and television coverage of proceedings in the Senate Chamber under this resolution shall be carried out in such manner as the Committee on Rules and Administration shall prescribe.

Mr. ROBERT C. BYRD. Mr. President, we recently witnessed an historic occasion upon the signing of the Panama Canal Treaties by President Carter, on behalf of the United States, and President Torrijos, on behalf of the Republic of Panama.

After 74 continuous years, these treaties would cause a significant change in that status. This is certainly a major change in the relationship of the United States and Panama and in the event the treaties are ratified, and it would be one that would have generated widespread interest among the citizens.

Over the course of the next several weeks, the President and the administration will make major efforts to advise the public on the results and the ramifications of the treaties, if ratified.

I compliment the President for the effort he will expend in this regard, and I say this without implying what position I may take or how I may vote.

Certainly, however, one of the most crucial needs we in the Congress will have in making our determination—we in the Senate will have in making our determination—is to know how our individual constituencies and the American public as a whole feel about the treaties. Only if the public is fully informed in this regard will they be able to impart the benefit of their wisdom to us.

In order to continue the process of imparting information on both sides of the issue, the pubic should be informed of the deliberations that will take place in the Senate.

Woodrow Wilson said that one of the most important functions of the Senate was the informing function, and that is one of the reasons why I believe the hearings of the Committee on Foreign Relations should be televised, and it is my understanding that they will be televised.

It is also important that, following the hearings, which will begin shortly, and the record which will be made therefrom, we in the Senate can have access to that record of hearings and begin to base our own conclusions on the facts that are adduced in the course of those hearings.

I personally want to go to Panama, after the Senate adjourns, and see with my own eyes and hear with my own ears what is to be seen and heard in the interest of making my own decision in that regard.

I have today, as I have said, introduced this resolution, and the distinguished minority leader and I have joined in sponsoring it and calling for television and radio coverage of the deliberations and voting which will take place in the Chamber of the Senate of the United States.

I hope this resolution can be considered and approved by the committee to which it has been referred in due time, and if it is approved, preparation then can go forward for such televising and other publication by the media to the American people.

Mr. BAKER. Mr. President, I congratulate the majority leader for proposing this resolution and for his statement in support of it. I am pleased to cosponsor it with him.

There are few issues that have come before the Senate in the almost 11 years that I have served here that are of greater consequence and of more importance, not only to the people of the United States, but, in fact, to much of the world.

It is important that we proceed carefully in our deliberations and judgment, in our exercise of the coordinate jurisdictional authority granted to the Senate by the Constitution in matters of foreign policy, particularly the ratification of treaties.

I, too, have not made up my mind on how I will vote on the treaties or what action I may take in respect to them. I am a member of the Committee on Foreign Relations, and I intend to participate fully in those hearings, and energetically I intend to try to develop a record and to contribute to it according to whatever talents I may possess, to test the testimony of witnesses as that may be appropriate or desirable. But mostly, I intend to function in my capacity and under my responsibility as a Senator exercising the unique and special responsibilities the Senate has in foreign policy. But in doing so I want, indeed I need and I greatly desire, the advice and consent of the country because I am mindful, as I have said on other occasions, that America has been remarkably right in her major decisions, not because she has had great leaders always, although she has had more than her share, but because the people of the United States in their collective judgment and wisdom have been remarkably right in their judgments and determinations.

It is the very essence of the congressional system that the public is informed, that it has access to and is aware of our deliberations and proceedings.

In this age of electronic media, of instantaneous communication, I believe it is our responsibility to broaden, to extend, and to elaborate the access of the public to our deliberations.

So, Mr. President, I think the time has come in having something of a significant departure from the past, and that is to present these deliberations in this body through the electronic media, as well as the writing press, as we proceed to make a judgment of such fundamental importance that we dare not do less than our best.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader for his comments and for his joining with me in the introduction of this resolution.

Mr. THURMOND. Mr. President, will the distinguished Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. THURMOND. As I understand it, the resolution that has been introduced would provide for television in the Senate Chamber; is that correct?

Mr. ROBERT C. BYRD. Yes. Television and radio coverage.

Mr. THURMOND. The distinguished Senator referred to the Foreign Relations Committee. Does this resolution cover the Foreign Relations Committee hearings, also?

Mr. ROBERT C. BYRD. The resolution only covers the Senate debate in the Chamber.

Mr. THURMOND. That is what I was thinking.

I guess that would be left to each committee chairman as to TV in the committees, would it not?

Mr. ROBERT C. BYRD. Yes.

Mr. THURMOND. The Armed Services Committee, I believe, is planning some hearings, also, and I would think that probably if the Foreign Relations Committee is going to have TV the Armed Services Committee may want TV also.

I have no objection to the resolution. I think it is a fine idea.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Carolina.

Mr. President, I ask unanimous consent that any Senators who may wish to join the distinguished minority leader and me in cosponsoring the resolution to which we have just alluded may have the privilege of doing so before the resolution is printed, so I would ask that they have until 3 p.m. on Monday to add their names.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I wish to be added as a cosponsor.

Mr. THURMOND. Mr. President, I wish to have my name added as a cosponsor.

Mr. HUDDLESTON. I wish to have my name added as a cosponsor to the resolution.

Mr. ROBERT C. BYRD. I thank the distinguished Senators.

Mr. President, I ask unanimous consent that Mr. ABOUREZK, Mr. THURMOND, and Mr. HUDDLESTON be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday, the Senate go into executive session to consider Executive A, 95th Congress, 1st session; that there be 5 minutes for Mr. SPARKMAN and 5 minutes for Mr. CASE, after which the vote occur on the treaty, after which the Senate resume legislative session.

Mr. ABOUREZK. Mr. President, reserving the right to object, does the leader contemplate providing a full hour for debate on the cloture motion, or would this eat into the hour?

Mr. ROBERT C. BYRD. This would eat into the hour.

Mr. ABOUREZK. Would the leader consent to just setting a certain amount of time for the recognition of the two leaders and the disposition of the treaty and then make it 1 hour for the cloture vote.

Mr. ROBERT C. BYRD. Yes.

Mr. President, let me add to my unanimous-consent request: With the further proviso that when the Senate resumes legislative session immediately after the disposition of the resolution of ratification, the 1 hour under the cloture rule begin running.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the foregoing agreement means that at approximately 12:20 or 12:25 p.m. on Monday we would go into executive session and immediately vote on the treaty. The first vote, let us say, would occur at 12:30, so that everyone will understand.

After the 15 minutes have expired for that rollcall vote, the Senate will immediately go back into legislative session.

That would be around 12:45. The 1 hour then would begin running under the cloture rule. So about 1:45, the clerk would call the roll to establish a quorum. This would mean that about 2 p.m. or 2:05 or 2:10—whatever time is required for the establishment of a quorum—the vote on the cloture motion would occur, and that is automatic.

Mr. President, for the information of the Senate, I shall state the amendments that are presently pending and the order of precedence in which they would be normally voted on:

The amendment by Mr. FORD, which is a perfecting amendment to the bill S. 2104, and which is open to amendment in one further degree;

The Bentsen amendment, as amended, to the Pearson-Bentsen substitute;

The Kennedy substitute to the Jackson substitute to the Pearson-Bentsen substitute to the bill S. 2104.

If cloture is invoked on the Pearson-Bentsen substitute to the bill S. 2104, then that Pearson-Bentsen substitute will be the business before the Senate to the exclusion of all other business until it is disposed of one way or another, except by unanimous consent.

In the event cloture is invoked I would expect a great number of rollcall votes beginning on Monday and lasting daily until the matter is disposed of. Each Senator is accorded 1 hour under the rule and only those amendments which are germane and which are in writing at the desk at the time the vote occurs will be eligible to be called up.

So, I urge my colleagues to be prepared to cancel all other appointments and engagements until this matter is disposed of.

Unless it is disposed of by the close of business next Friday the Senate will be in session on Saturday, and I must also say to my colleagues that if it is necessary the Senate will be in early and stay late in order for the business of the Senate to be expedited.

Mr. President, I wish to thank all Senators for their indulgence and for the attendance today, and I think the Senate has had a good day.

RECESS UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 12 noon on Monday.

The motion was agreed to; and at 5:18 p.m. the Senate recessed until Monday, September 26, 1977, at 12 noon.

EXTENSIONS OF REMARKS

THE AMERICAN DIET

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. RICHMOND. Mr. Speaker, I would like to share with my colleagues the last in a series of Wall Street Journal articles on food and nutrition in the United States. Next Tuesday, the Agriculture Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, which I chair, will begin a long-term probe into Federal nutrition education programs. I hope my colleagues will share the subcommittee's concern for a healthy America:

THE WAY WE EAT—TOO FAT? THIN? TIRED? FAD DIETS ARE PUSHED AS CURES FOR OUR ILLS

(By Joseph M. Winski)

Over here, seated before a dish of mashed lentils and corn bread, we find Nellie Shriver. The gentle-voiced Miss Shriver is the vegetarian movement's chief lobbyist. She wants everybody in the world to be a vegetarian.

And over here, sitting down to a thick steak oozing blood-red juices, we find David Stroud. He is president of the National Live Stock and Meat Board, an organization striving to preserve meat's good name and sales. "She goes around telling everybody, 'don't eat meat, meat is killing you,' and that's hogwash," Mr. Stroud says. "That's all there is to it."

We seem to have a slight disagreement here. But considering the subject, that isn't surprising. Besieged by claims about the value of this food or the harm of that one, many Americans these days are taking a hard second look at what they have been eating. In a Gallup poll conducted for Redbook magazine last year, 88% of those surveyed said they wanted to know more about nutrition. A Harris poll earlier this year for Chicago's Mount Sinai Hospital found that only 14% of those questioned thought Americans ate properly.

No doubt some of this skepticism stems from the frequent disagreements on nutritional matters among the "experts" themselves: The science of determining food's relationship to health is still, it seems, an evolving one. In any case, many people now feel free to follow the dietary advice of their own choosing, seeking that combination of foods that will reduce weight, nourish the psyche as well as the body, or cure everything from impotence to cancer.

Catering to this market for alternatives to conventional eating habits is a multi-billion dollar industry that includes book publishers, health food emporiums and fasting clinics. Leading the way are the specialty-diet advocates themselves. "For millions of Americans," says Dr. Frederick J. Stare of Harvard University's School of Public Health, "the road to utopia is paved with fad diets."

There is, for example. Adelle Davis, who believed that no one who drank a quart of milk daily ever got cancer. Miss Davis, author of books such as "Let's Get Well," died of bone cancer in 1974. There are the folks of Rodale Press Inc. who through their Organic Gardening and Farming magazine and other publications have persuaded thousands to eat only "organic" foods—even though many food scientists say there's no evidence that foods grown with chemical fertilizers are made dangerous or less nutritious than "organically grown" foods.

SARDINES VS. WRINKLES

Among the newcomers to the field is Dr. David Reuben, who a few years ago told us everything we wanted to know about sex. Now, in a book entitled "The Save-Your-Life Diet," Dr. Reuben advises that many of the "dread diseases of civilization" can be prevented by eating more fibrous foods and having large and easy bowel movements. Another physician, Dr. Benjamin Frank, in a book called "Dr. Frank's No-Aging Diet," suggests that sardines and other foods high in nucleic-acid content can erase wrinkles.

Vegetarianism is a more traditional alternative-eating philosophy, based both on the belief that meat is harmful to health and the personal conviction that animal life, including that of cattle and hogs, is sacred. As Nellie Shriver sometimes tells followers, "We must never rest. Every day the slaughterhouse grind out their victims. Every day people die of cancer."

The 34-year-old Miss Shriver heads American Vegetarians Inc., a group she helped form and which now devotes its efforts to lobbying politicians on behalf of the vegetarians cause. "The movement is exploding," Miss Shriver says. She estimates there may be as many as 15 million vegetarians in the U.S. today, compared to less than five million a decade ago. (The Meat Board's Mr. Stroud says those figures are greatly exaggerated.)

BOOM IN DIET BOOKS

Being a vegetarian is also supposed to help one lose weight. Others, however, offer easier ways to reduce, usually in both paperback and hardcover editions. These are the diet books, a phenomenon that probably began with the 1961 publication of Dr. Herman Taller's "Calories Don't Count."

Dr. Taller's book, which advocated heavy doses of polyunsaturated fats, sold two million copies. It also earned him the nearly universal disapproval of the medical establishment (calories do count, many doctors say) and a 1967 mail-fraud conviction in a Brooklyn federal district court for promoting a safflower product that was among the fats that the diet recommended. Other weight-loss books, offering different prescriptions from their authors, followed. One of them, Dr. Irwin Stillman's "The Doctor's Quick Weight Loss Diet," describe 63 quick-loss diets; it's now in its 42nd printing.

There are a number of diets that stress foods that, because of the enzymes in them, supposedly burn up more calories than they contain. The food usually called for is grapefruit, with eggs added for nutrition's sake. Fifty-one grapefruit-and-eggs diets were turned up in a 1973 Senate committee hearing on fad diets. These regimens often circulate as "mayo" diets. The reason isn't clear, but keeps the prestigious Mayo Clinic busy denying there is a connection.

Nutritionists say a lot of the popular diets do work, at least for a while. But they also warn that because many of these diets often require either too much or too little of the foods that the human body needs, otherwise healthy individuals can't—and shouldn't—stick to them for long.

Others suspect that diet-book promoters time the publication of books purporting to reveal new nutritional "finds" to coincide with the waning popularity of the previously published "discovery." One who does is Philip A. White, director of the American Medical Association's Department of Foods and Nutrition, which keeps up with new diets and alerts the public to the ones it believes are dangerous. "We can't get involved with every diet that comes along," he adds, "or we'd do nothing else."

The AMA did take issue with "Dr. Atkins' Diet Revolution," a book that has become a publishing-industry legend. It didn't appear until October, 1972, but it still made the Publisher's Weekly annual best-seller list both, for that year and for 1973. Demand at one point was so great that five printers were involved: nearly a million hardcover

editions were sold, and another four million paperback copies have been printed thus far.

In the book, Dr. Robert C. Atkins wrote he had developed a diet that lets "you eat as much as you want, as often as you want," including "heavy cream, butter, mayonnaise, cheese, meats, fish, fowl." Such claims prompted the AMA to issue a press release calling the diet " a bizarre regimen" that was "neither new nor revolutionary" and "without scientific merit."

Dr. Atkins says he is "chagrined" by the "savage" attacks from his peers. (He successfully sued the New York County Medical Society when it tried to censure him for "self-laudation.") And he disagrees with physicians who say he has made a fortune in the diet-book business.

DISCOVERING THREE CHINS

"I would say I made, at most, two hundred and some thousand on that book," Dr. Atkins says. A cardiologist by training, he explains he became interested in diet when he saw a picture of himself and realized, apparently for the first time, that he had three chins. Indeed, undaunted by the criticism his first book provoked, Dr. Atkins has written a second, "The Superenergy Diet," which advocates eating to gain energy (though one who follows it can supposedly lose weight, too) and advises megavitamin therapy, or the regular consumption of large doses of vitamins.

Joan Lappin, Dr. Atkins' assistant, is a believer in the "superenergy" diet. She takes five vitamin pills a day, each of which contains, among other ingredients, 1,388 percent of the recommended daily allowance of vitamin B6. She says this has given her not only a lot more energy, but also a "phenomenal memory" and resulted in "not a stretch mark on my body." (Physicians who eschew megavitamin therapy say it may be harmful to internal organs such as the kidneys.)

One thing neither "Diet Revolution" nor "The Superenergy Diet" promises is nirvana. The so-called Zen Macrobiotics diet literally does. First popular among food cultists in the early 1960s, Zen Macrobiotics calls for gradually reducing one's daily diet to brown rice, supposedly the "perfect" food.

In addition to leading the user to progressively higher stages of mental serenity, this diet also has been touted as a cure for cancer. "No illness is more simple to cure than cancer," George Ohsawa, developer of the diet, wrote. "Simply return to the most elementary and natural eating and drinking," as called for in one of the Zen Macrobiotic diets.

According to the AMA, at least three people have starved to death on the Zen Macrobiotics diet. One was a 24-year-old New Jersey woman who died in November, 1965, of what the official autopsy report said was "emaciation due to starvation." Even today, nutritionists say, this diet is attracting devotees, some of whom urge the diet on their children. Last March, the American Academy of Pediatrics listed the diet among "the recent increase in nutritional practices that are potentially hazardous to the health of children."

Sandy Goldberg never tried Zen Macrobiotics, but she concedes she tried dozens of other diets before finding one that, she says, really works. Here she is in a meeting room of Chicago's Palmer House Hotel, telling about 100 people, mostly large women, about her discovery:

"My name is Sandy Goldberg, and I am a member of the Weight Watchers organization. I lost 115 pounds on the Weight Watchers program, and that was four years, one month, two days and 37 minutes ago." Loud applause follows.

Miss Goldberg is a "lecturer" for Weight Watchers International Inc., a publicly held company that earned more than $2 million last year by conducting thousands of weekly meetings like this one. What Weight Watchers sells, nutritionists say, is a good low-fat diet (it calls for a lot of fish) packaged in the tenets of group motivation pioneered by Alcoholics Anonymous.

CLAPPING FOR ROSEANN

The highlight of Miss Goldberg's presentation is what she calls "cards," the reading from index cards of the name and weekly program of each student. "Eileen . . . five and a quarter pounds lost last week! Let's all clap for Eileen." But Roseann has gained two pounds. "What happened, Roseann?" "My daughter baked me a surprise birthday cake." "Let's all clap for encouragement for Roseann!" They do.

Weight Watchers says it has registered nine million students in its 13 years of existence. Many of them have shed pounds, although Dr. William Sebrell, the company's medical director, concedes, "You simply can't get anybody to lose weight if they aren't really motivated to." An example of motivation, Dr. Sebrell says, is the man who joined the program after having trouble getting out of a telephone booth.

There are, of course, many people who don't adhere to anyone's diet except their own. One is Bonnie Swearingen. Right now, she tells a visitor to her Chicago apartment, she is fasting on tea and honey to correct recent "excesses." More typically, Mrs. Swearingen simply makes substitutions in her diet, using fresh lemon juice as a flavoring instead of salt, whole-grained bread instead of white, and "absolutely no sugar." Occasionally, she also substitutes champagne for hard liquor and low-calorie caviar for red meat. (The caviar comes from Iran, "where my husband's company has a plant." Her husband is John E. Swearingen, chairman of Standard Oil Co. of Indiana.)

These habits, Mrs. Swearingen says, have given her good health. "But vanity comes before the health considerations," she adds. "I eat the way I do because I am too vain to let myself go." Chicago society columnists frequently assure the 43-year-old willowy blond that she hasn't let herself go.

Although some of Mrs. Swearingen's alternative foods may be only for the well-to-do, others, such as honey, have long been popular among health-food buffs everywhere. There's also Korean ginseng, whose rumored aphrodisiac qualities have helped boost U.S. imports to $3.5 million last year from only $67,000 in 1971. Yogurt continues to sell well, and bee pollen has become popular among athletes because it supposedly increases endurance. Nobody knows what tomorrow's big sellers will be, but some health-food advocates are predicting a welcome reception for the yucca plant.

THE UNITED STATES MUST STAND BY TAIWAN

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. McCLORY. Mr. Speaker, as our Government is expressing its ongoing concern for human rights at home and abroad we should be equally solicitous of the rights of nations, large or small.

Many people are fearful that the United States may be preparing to withdraw its recognition of the Republic of Taiwan, a nation with a demonstrably responsible government which has done nothing to deserve any such proposed action. Withdrawal of recognition of the Republic of China on Taiwan would dishonor us in the eyes of the entire world as the recent newspaper column by George Will so clearly points out.

George Will's article follows:

THE UNITED STATES MUST STAND BY TAIWAN OR LOSE FACE

(By George Will)

A state is, as De Gaulle said, a cold monster. Every nation commits cold-blooded acts that it rationalizes, and occasionally justifies, by "reasons of state." But rarely does a nation commit a cold-blooded act that is as opional, even pointless as the one the United States is being urged to commit against Taiwan.

Although there is no visible calamity to be forestalled, and no substantial gain to be achieved, the U.S. government is being urged, from within and without, to "normalize" relations with China on China's severe terms. This would involve withdrawing recognition from Taiwan, and nullifying the defense treaty with Taiwan. This would be the first time a friendly nation had been denied U.S. recognition.

U.S. policy toward China is, and since the 1972 Shanghai agreement has been, a policy of appeasement. To apply that description tc a policy is not necessarily to denounce the policy. It has been said that the worst consequence of Neville Chamberlain's policy was that appeasement was discredited as an aim of diplomacy.

But there is no need for the United States to appease China. There is no evidence that China, if unappeased, will turn its policy inside out and seek rapproachement with the Soviet Union. Either China needs close relations with the United States to counter the Soviet threat, or it doesn't. If it does, it needs those relations more than it needs to humiliate the United States over Taiwan. If China doesn't need close relations with the United States, the United States can't purchase close relations with China by abasing itself and sacrificing a small nation.

To "de-recognize" Taiwan would be to accept China's contention that Taiwan is just an unfinished chapter in China's civil war. As China's Premier Hua puts it, "We are determined to liberate Taiwan. When and how is entirely China's internal affair."

It is intolerable for senior U.S. officials to suggest (as they reportedly have) that, in exchange for "derecognition," China might declare that it has no immediate intention to exercise its "right" to use military force against Taiwan. It is grotesque for U.S. officials to ask if China might tolerate a U.S. statement declaring a U.S. "interest" in a peaceful settlement of the issue.

Surely the U.S. government realizes that any "assurances" it gives to Taiwan in conjunction with "derecognition" will be incredible because of their context. Similarly, any "interest" the United States expresses to China about a peaceful settlement will seem reckless because it will be expressed as part of a retreat from defense obligations.

The U.S. defense treaty with Taiwan is, like all treaties, part of the supreme law of the land. There is a lawful method (formal abrogation) to abolish it.

But some people favor a method more in keeping with the spirit of their appeasement policy. The United States could crawl away from its commitment by announcing "derecognition," and then asserting that because Taiwan has ceased to exist, so have treaties with Taiwan.

Currently the U.S govenment is inviting Americans to think well of the new treaty that cedes control of the Panama Canal to Panama The government says the treaty is not an act of weakness, but rather expresses the confident magnanimity of a large nation toward small nations

Simultaneously the government is contemplating sacrificing a small nation to sat-

isfy the appetite of a large nation. That would be a message to small nations, and especially to Israel.

Today the U.S. government is inviting Israel to take grave risks for the possibility of peace. But if the United States turns its back on Taiwan, it will be apparent to Israel that the gravest risk a small nation can take is to rest its security on U.S. commitments.

The U.S. government is being urged to win China's affection by means of a policy that will earn China's contempt. Of course there are always "realists" who argue that no quaint principle of honor should inhabit a nation's pursuit of advantage. But "realists" have yet to demonstrate the advantage to the United States in such a unilateral, dictated sacrifice of honor.

It often is true that, as William James said, people do not run because they are scared, but are scared because they run. Certainly if the United States runs from its commitment to 16 million Taiwanese, Americans should be scared.

FORESIGHT ON COAL

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. HARKIN. Mr. Speaker, the importance of increased coal production to the emerging national energy strategy has become apparent in recent months. For this reason, I am pleased to note in a recent editorial in the Des Moines Register that the State of Iowa has signed a long-term contract that will double the State's coal production.

This contract underscores the wisdom of the State's decision in 1974 to invest in coal research. In that year $3 million was awarded to the Energy and Mineral Resources Research Institute at Iowa State University to undertake the Iowa coal project. It was the research at an experimental coal washing facility operated by the Iowa coal project which established that the sulfur content of Iowa coal could be reduced to meet Federal and State air pollution standards. This development removed the last remaining obstacle to burning Iowa coal in the State.

I would also point out to my colleagues that the Energy and Mineral Resources Research Institute has achieved lead laboratory status in restoration research on prime agricultural land. Iowa State has become perhaps the only university in the country to operate its own strip mine, using faculty, students, and private contractors. A coal beneficiation plant which produces about 70 tons of coal per hour has been built on campus. I visited the plant earlier this year and I was most impressed with the research being conducted there.

Mr. Speaker, I am proud of the initiative taken by Iowa and especially the work being conducted at Iowa State in the area of coal research. I want to share with my colleagues the editorial in the Des Moines Register which further elaborates on the work of the Iowa coal project:

FORESIGHT ON COAL

Iowa's moribund coal-mining industry made an impressive turnaround recently when a major electric utility signed a long-term contract that will double the state's coal production. Iowa Electric Light & Power Co. of Cedar Rapids will pay $108 million over the next 10 years for an annual 500,000 to 800,000 tons of Iowa coal.

Last January several of the biggest of the state's remaining handful of mines closed, and some industry officials predicted that coal-mining in Iowa might come to an end within six months. Iowa coal has too high a sulfur content to meet federal and state air-pollution standards. It has been burned by a few utilities and public institutions in mixture with large amounts of low-sulfur western coal.

A month after the doleful predictions of January, plans were announced for a 300,000-ton annual capacity coal-washing plant to handle the production of several mines. (Coal-washing is a mechanical process in which coal is passed through water and the sulfur separated out by the difference in specific gravity between coal and sulfur.)

An experimental washing facility operated for the Iowa Coal Research Project by Iowa State University showed that the sulfur content of Iowa coal could be brought near the four per cent allowed by air-quality regulations (three per cent in 10 eastern counties).

Although Iowa coal and low-sulfur Wyoming coal both cost about $20 a ton at the mine, rail freight to Iowa Electric's generating plants from Wyoming is $15 and from Marion, Mahaska or Monroe counties only about $6. The Iowa coal produces more heat than Wyoming coal (but even though washed, it still must be mixed with western coal about six tons to one to meet air-quality standards).

National energy policy requires utilities to rely more on abundant coal and less on oil or gas. To the extent that Iowa coal can be used in Iowa, the benefit to the state's economy is obvious. Iowa Electric's long-term contract is a heartening expression of confidence and underscores the wisdom of the state's decision to invest in coal research.

MIHAIL KOZANEVICH'S RIGHTS DENIED

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. D'AMOURS. Mr. Speaker, I am deeply disturbed by the continuing disdain the Soviet government shows for the rights of its citizens. The hypocrisy of the Soviets' daily violation of the 1975 Helsinki Accords has been dramatically brought home to me by Mrs. Gladys Margolis of Manchester, N.H. She has brought to my attention the case of Mihail Kozanevich.

Mihail is a Jewish dissident and activist who lives in Leningrad. His plight is a classic example of what happens to a Soviet citizen who tries to exercise the freedoms which are supposed to be guaranteed him by Soviet law and the various international human rights agreements to which the Soviet Union is a party.

Mihail and his family first applied for permission to emigrate to Israel 4 years ago. They have repeatedly been denied exit visas, despite the fact that the Soviet Union signed the Helsinki Accords which guarantee the citizens of signatory nations the right to emigrate. Upon signing the Accords, Lenoid Brezhnev said they should be "put to practical use and made a law of international life not to be breached by anyone."

Mr. Brezhnev's words have proven to be a hollow mockery in the case of Mihail Kozanevich and the cases of 140,000 other Soviet Jews who are still refused permission to leave the Soviet Union. It is clear the Soviets fear that emigration of any kind from their nation will stand as proof to the entire world that the Soviet system is not working all that well.

In the case of Mihail Kozanevich, however, persecution by the Soviet government does not stem only from his desire to emigrate. Mihail's role in founding a Jewish club in Leningrad has earned him an even greater torrent of harassment and abuse than he had already experienced because of his application for exit visas.

When the club was first established last year, agents of the KGB confiscated all of the group's materials and the members were forced to start over again.

In December of 1976 the club was forced to cancel its Chanukka celebration when Soviet authorities began harassing participants as they arrived outside the apartment where the nightly observances were being held.

Mihail has repeatedly been threatened with imprisonment or confinement in an insane asylum. These threats often come from security agents who pound on Mihail's door in the early morning hours. During one period this winter, authorities paid threatening nighttime visits on Mihail on seven consecutive nights. Never do these police have the written warrants required by Soviet law.

In January Mihail was accused of being a "parasite" because he did not hold a job. Many a dissident has been trapped by this Soviet Catch-22. Since it is a crime not to hold a job, those who apply for exit visas immediately lose their jobs and find it nearly impossible to find new employment.

A telephone call was abruptly disconnected as Mihail was describing KGB harassment to my constituent, Mrs. Margolis. Mihail's phone was subsequently removed.

All of my letters to Soviet authorities on Mihail's behalf have gone unanswered and unacknowledged. It is difficult to get word to or from Mihail. Letters often go undelivered or the contents are removed.

The only favorable news recently came via the Soviet Jewry Council in Philadelphia, which reports that many of Mihail's friends in Leningrad have finally been granted permission to emigrate. It is my hope that Mihail and his family will soon receive similar good news.

I urge my colleagues to take part in the movement to keep a spotlight on the continuing repression of Soviet citizens by their government. Jews who have emigrated have expressed the belief that in many cases it has only been attention and concern from the free world that has prevented Soviet authorities from throwing dissidents into jails or asylums.

The denial of basic human rights to Mihail Kozanevich should be of concern to all freedom loving Americans.

ADMINISTRATION AND AGENCY SUPPORT FOR THE FEDERAL BANKING AGENCY AUDIT ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. ROSENTHAL. Mr. Speaker, the House will soon vote on the Federal Banking Agency Audit Act (H.R. 2176). This legislation authorizes the GAO to audit the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the nonmonetary policy activities of the Federal Reserve System. Though opinions differ on various technical aspects of the act, this legislation is broadly supported by the administration and all affected agencies with the exception of the Federal Reserve.

In a recent letter Treasury Secretary Michael Blumenthal expressed the position of the administration, the Department of the Treasury, and the Office of the Comptroller of the Currency. Secretary Blumenthal wrote:

> While the Administration generally supports H.R. 2176, we continue to have some technical reservations. Since the purpose of the GAO audit is to review the operations of the regulators, rather than the members of the industries regulated, we find persuasive the arguments in favor of maintaining the confidentiality of information concerning banks and bank customers.

Though the bill has extensive privacy safeguards, the administration has reservations about paragraph (5)(d) which authorizes the GAO to disclose the full details of its audits to Congress, if Congress feels it is absolutely necessary, but only when sitting in closed executive session. The administration believes that details identifying an open bank or bank customer might be "disclosed" by the staff or Members of Congress and, for this reason, it feels the confidentiality safeguards are not airtight.

The FDIC, on the other hand, feels the confidentiality safeguards are completely adequate. In a recent letter FDIC Chairman George LeMaistre affirmed his support of the Federal Banking Agency Audit Act and acknowledged that all of the FDIC's recommended privacy safeguards were incorporated in the bill. Chairman LeMaistre went on to say that the FDIC has no objection to authorizing the GAO to discuss the details of its investigations in hearings which are closed to the public.

FDIC Chairman LeMaistre clearly recognizes that it would be unwise to limit the information-gathering powers of Congress, and absurd to require Congress to accept GAO findings without the ability to evaluate the facts underlying them, if necessary.

The Federal Reserve opposes enactment of H.R. 2176. Their opposition is based, as it has been for the past 25 years, on the belief that GAO audits will lead to a reduction in Federal Reserve independence. In my judgment the Federal Reserve's fears are not justified. The GAO has not reduced the independent effectiveness of any of the agencies it audits, and it will not impair the independence of the Federal Reserve either.

The Federal Reserve is particularly concerned about the GAO auditing Federal Reserve "discount window" loans to commercial banks. The Federal Reserve is afraid such audit authority may become a device for putting political pressure on monetary policy formulation. This fear is also unjustified. During the floor debate on this legislation and in the legislative report, it has been clearly established that a "discount window" loan transaction is not subject to GAO audit, if the purpose of the loan is to implement monetary policy.

The GAO supports H.R. 2176 but feels it should be allowed to audit without comment monetary policy transactions of the Federal Reserve. Because of a desire not to involve the GAO in Federal Reserve monetary policy, the GAO is not authorized to audit or even comment on such transactions.

It is impossible to satisfy fully the wishes of each agency. Some of their desires are impossible to reconcile—for example, the GAO's desire to audit monetary policy transactions and the Federal Reserve's opposition to such audit. Nevertheless, the bill meets the concerns of the banking agencies to the fullest extent possible without restricting the oversight powers of Congress and the audit capabilities of the GAO. The bill's privacy safeguards are extensive and the monetary policy exclusion is complete. In its present form, the Federal Banking Agency Audit Act is supported by the administration, the Department of Treasury, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the General Accounting Office.

MEDICARE-MEDICAID ANTI-FRAUD AND ABUSE AMENDMENTS

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. ZEFERETTI. Mr. Speaker, this week the House of Representatives will consider a most important piece of legislation, the medicare-medicaid anti-fraud and abuse amendments. I wish to rise in support of this bill and to urge my colleagues to do the same.

Presently, the United States spends over $116 billion or nearly 8.3 percent of the gross national product to provide sufficient health care to our poor and elderly. In New York alone, the medicaid program accounts for an expenditure of well over $3 billion—or 20 cents of every medicaid dollar—which indeed makes it the largest medicaid program in the country. Similarly, medicare outlays for fiscal year 1977 in the United States are expected to reach $22 billion.

Along with the ever-increasing costs of these programs, one must also realize the constantly expanding size of this plan. Currently, medicare reaches almost 20 million persons in the United States, and State operated and administered medicaid programs insure that thousands more are promised adequate health care.

Inevitably, the sheer magnitude of the medicare and medicaid programs increase the potential for fraud and abuse. During the past few years, we have heard of waste and inefficiency, of erroneous expenditures and of excessive payments involved in the system; and the age, physical condition, and socioeconomic dependency of the beneficiaries of both programs certainly compounds these already severe problems.

Fraud in these health care financing programs adversely affects all Americans. It cheats taxpayers who ultimately must bear the financial burden of the misuse of the funds in the Government-sponsored programs. In addition, these abuses drain valuable program dollars and deprive the elderly and the poor of the needed unrestricted quality health care they deserve. It is up to us, as responsible Members of Congress, to no longer accept waste and inefficiency as unavoidable side effects of the medicare and medicaid programs.

As a cosponsor of this important piece of legislation, I feel that H.R. 3 is a giant step in insuring the financial integrity of these policies. This bill would certainly provide the much needed reforms in the accountability of our health programs. In enacting this bill into law we would be able to closely scrutinize this system, which, indeed, adds to the financial plight of our cities and States. We would also strengthen the capability of the Government to detect, prosecute, and punish fraudulent practices and activities under the present programs. We would be able to increase program efficiency and most importantly, according to a GAO report, "no increase in cost is expected to occur." In addition to this, HEW's Office of Legislative Liaison has informed me that the expected costs incurred by such program would be "offset by the savings involved."

Aside from the "savings involved," this bill would provide:

Authorization for an increase in the Federal matching rate for the medicaid program;

Ninety percent of the Federal matching for State expenditures to support programs of educational and technical assistance to expedite the filing and payment of claims; and

Ninety percent of Federal matching for expenditures to establish and operate State medicaid fraud control units.

The time has come to enact this long overdue piece of legislation and I respectfully urge my colleagues to join in passing this vital measure.

SOUTHERN CALIFORNIA IMPACT

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. BURGENER. Mr. Speaker, in California, we see the emerging technology of coal gasification as a way to provide a major new energy supply both to our State and to the Nation. In

southern California it would help relieve a crippling shortage of natural gas forecast for the early 1980's. But this pioneering venture cannot proceed unless Congress enacts legislation authorizing assistance for development of the Nation's initial coal gasification facilities. These first coal gasification plants can be developed by private industry but they must have the backing of Federal loan guarantees. The alternative to this minimum involvement by the Federal Government if the coal gasification industry is to go forward is to have the Government build the plants without involving private industry, in which case the nonbenefiting taxpayer, rather than the consumer, would have to carry the full economic burden.

The facility, which would supply synthetic gas—SNG—from coal to the southern California area, would be constructed in northwest New Mexico and would be designed to produce 250 million cubic feet per day of pipeline quality gas which is enough to satisfy the needs of over 800,000 residential gas consumers. Two facilities are planned for this site for a total productive capacity of 500 million cubic feet of SNG per day. Production at this latter rate would equal in a single year more than one-fourth of all the energy generated by nuclear power in the United States during 1976.

The timing, however, is critical in the construction of this project. Natural gas currently provides nearly half of all the nontransportation energy used in southern California but available supplies have been declining sharply for several years, 1976 deliveries were 27 percent less than those of 1970. With no new supplies, we project that energy available to the people in southern California through natural gas supplies in 1980–81 will be only half that of 1970. Gas deliveries have been cut back to large industrial customers forcing them to switch to more costly and less environmentally acceptable fuels. By the early 1980's gas service will be in jeopardy to the 190,000 smaller business and industrial customers in southern California who have no alternate fuel capability—a prospect which would have a severe impact on southern California employment. Just the first wave of layoffs induced by gas curtailments could total 700,000 workers. As supplies continue to decline, cutbacks would begin to the more than 3 million residences served by the gas company. This coal gasification project was designed to supplement declining gas deliveries, thereby making economical use of what is now idle pipeline capacity. It was not envisioned that gasified coal would displace another fuel or expand an existing market.

But financing is the major problem facing development of coal gasification, and these projects cannot be built by private industry without Federal financial assistance. Due in large part to inflationary pressures and delays in the regulatory process, the estimated cost of this project has increased from initial estimates of less than $500 million to about $1.3 billion in January 1977 dollars. Each day of further delay adds another $290,000 to construction costs, an amount which must eventually be borne by the gas consumer.

A Federal loan guarantee program would facilitate the development of a coal gasification industry through private investment, thereby limiting direct tax supported Government financial participation. A Federal loan guarantee also would permit lower project financing costs and therefore lower costs to consumers. The projects will be under the jurisdiction of Federal and State regulatory agencies and Federal guarantees will not result in excessive profits.

One of the most significant statements that can be made in favor of early action on coal gasification is that a large network of gas transmission pipelines and utility distribution systems representing a national investment of $50 billion is in place now and available for use. It is a very efficient transportation system and it is not being fully used, because of the progressively worsening curtailments of domestic natural gas supplies. The idle capacity of this system becomes a real bargain when it can be put to use transporting an interchangeable gas from a new source.

Other parties have suggested that a Federal loan guarantee program is not required to proceed. But do these other parties have viable ready-to-go alternate energy supply programs? In particular, do they offer any program for utilizing coal in environmentally superior ways to produce premium energy supplies for homes and small businesses at lower costs in the amounts and on the same early delivery schedule as proposed through coal gasification? I think not. Further, none of those parties stated that they found investors willing to provide capital for this type of venture without a Federal loan guarantee, nor did they say they were willing to provide the necessary capital themselves. The question is not what might be desirable if the Nation changed its way of regulation, taxation and so forth, or of what could be done in an abstract theoretical study. The question is what can we accomplish now with the resources and technology at hand to produce a needed commercial product.

Limited support from the Federal Government is a key concept for the early plants, because this is the only way these plants will be built by the private sector. I submit that we should move forward now with a loan guarantee program in scope and size necessary to move this industry forward to commercial production at the earliest possible date.

CARGO PREFERENCE A BAD DEAL FOR THE COUNTRY

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. KASTENMEIER. Mr. Speaker, the House will be considering in the near future H.R. 1037, the Energy Transportation Security Act of 1977, more commonly known as the Cargo Preference bill.

This is a bad bill. Bad for consumers who will end up paying an estimated $610 million more for oil per year by 1985 as a result of the legislation. Bad for the economy because of its inflationary impact. Bad for our international trade relations because it flies in the face of our longstanding commitment to promoting a free trade policy.

Mr. Speaker, newspapers from Texarkana, Ark. to Shawnee, Okla.; from Fairbanks, Alaska to Honolulu, Hawaii, have editorially condemned this piece of legislation. I have sifted through the numerous editorial comments on this bill and chosen merely a few which highlight the serious problems with this bill. I take this opportunity to share some of this editorial opinion with my colleagues:

[From the Dayton Daily News, Aug. 15, 1977]

THE BIG PAYOFF

The maritime industry aims at retaining its position at the government's golden trough.

The maritime industry gave President Carter's early primary campaigns some $200,000, and they probably will get their reward to the tune of $7 billion.

Congress also has been heavily involved in this sordid little game since the big payoff has come from the House Merchant Marine Committee in the form of a cargo-preference bill. This would require that, initially, 4.5 per cent of all oil be shipped in the most expensive American-flag ships; after five years, 9.5 per cent of the shipments would be in American ships. Bad as it is, the maritime industries wanted more than 30 per cent of the oil shipped by American tankers, and the Carter administration bargained for this lesser, but still expensive, amount as a compromise.

Ships are subsidized by the government in the first place. The *Wall Street Journal* notes that a $63 million ship was recently built with $9 million in equity; the government threw in $27 million and insured the mortgage on the rest of the loan. That ship will gross $30 million in three years.

Because American ships cost four to five times more to use than foreign tankers, with seamen averaging more than $24,000 a year, the "cargo preference" rule, if made law, even in its compromised form, will hit American taxpayers for that extra $7 billion. This from a government supposedly concerned about fuel costs.

This scalping by Congress is thoroughly unjustified. And though a few Republicans made noises about it, this tradition of buying off the flaccid, uncompetitive maritime industry with the public treasury has been a crime in which recent Republican presidents also have indulged. In this business, a savior party is hard to come by, and even the compromises are exorbitant.

[From the Birmingham Post-Herald, June 8, 1977]

A THREATENED SHIPPING RIP-OFF

A powerful lobby made up of shipbuilders, ship operators and maritime unions is waging a well-financed struggle for President Carter's mind and, to be blunt about it, we hope they lose.

Their weapons are a vast advertising campaign and a bill in the House of Representatives that would require up to 30 per cent of imported oil to be carried in 1980 in privately owned tankers flying the American flag.

Sounds innocent enough, but the implications are bad and extremely costly for the U.S. taxpayers and consumers.

First, to meet the bill's goals some $13 billion in new U.S.-built tankers would be needed over the next few years.

Unfortunately it costs twice as much to construct a tanker in America as abroad. Now nobody in his right mind would order a tanker from a U.S. shipyard—unless of course the taxpayers subsidize the cost, which is what the maritime lobby plans.

Second, it costs far more to operate an American-flag vessel, U.S. crews being paid almost four times more than foreign ones. Since there is no free lunch, the tankers would need operating subsidies or would have to charge a lot to bring in the oil.

Simply put, this means that every gallon of gasoline and heating oil would cost more because of the shipping industry's bill. How much more is in dispute, but some estimates are that the nation's oil bill would be $38.3 billion higher by 1985. (Inflation, anyone?)

Third, there is a worldwide glut of tankers. Almost every nation has tankers laid up without cargoes for them. It is sheer economic madness for this country to build costly tankers when, if needed, they could be bought cheaply from surplus fleets.

The lobby is using a scare argument about "national defense," claiming that American flag tankers would be an asset in an emergency. In point of fact, vast tonnage of American-owned tankers is registered under foreign "flags of convenience," like Liberia's. In wartime they would go where their owners (and the U.S. government) told them, not where anyone else said.

In 1974, the maritime lobby, which contributes lavishly to political campaigns, got a similar bill through Congress. Fortunately for the public purse, President Ford had the wisdom and courage to veto it.

We wish we could say Carter would do the same. However, maritime interests kicked in early and often to his primary campaign. As an ex-naval officer he is sympathetic to their arguments about a strong merchant marine. And the lobby has cleverly hired the ad agency of Gerald Rafshoon, who did Carter's campaign publicity, to handle its $500,000 propaganda drive.

All in all, the public is in grave danger of a multibillion dollar shipping rip-off.

[From the Evening Bulletin, Aug. 4, 1977]

CARGO PREFERENCE LAWS—U.S. SHIPPING ASKS TOO MUCH

American-flag ships have the Alaskan pipeline crude oil all to themselves under a U.S. law that says no foreign tanker can haul between two American ports. And now with the scent of more business, the maritime industry is going after an even bigger catch—legislation that will guarantee it nearly 10 percent of all foreign oil imports.

In this case, what's good business for the shipping companies and maritime unions could send American family budgets into another tailspin as the costs of oil and the products it helps produce go even higher.

The cargo preference legislation, as it's called, already has sent political tremors through Washington. President Carter's support of the bill clearly fulfills a campaign promise, and some influential Republican leaders in Congress think that's the only purpose it serves.

Maritime interests are said to have pumped $100,000 into Mr. Carter's election effort, but a lot more Americans invested their trust when Candidate Carter promised he owed his soul to no special interest group.

Any of the estimates on the cost of this cargo preference bill are frightening. They range from $110 million to more than $800 million a year by 1985. We doubt costs of that size can be considered in the "national interest," as the White House claims.

It's no surprise that the U.S. maritime industry now carries just 3.5 percent of the foreign oil brought to ports like the busy one in Philadelphia. Oil shippers say it costs between $1.5 million and $3 million more to run up the American flag, what with labor, shipbuilding costs and safety regulations. And that's why the shipping industry sought the wide range of government incentives it now enjoys—things like $33 million toward the purchase of an $81 million tanker.

Although we have new restrictions on imports of Japanese television sets and footwear from Korea and Taiwan, President Carter can still prove his sincerity on open trade—providing he sees the harm and needless expense the cargo preference bill would bring.

Some members of Congress are out to convince the President of that, but they shouldn't rely on a presidential veto of this bill. It comes to their chambers first for approval.

[From the Willingboro (N.J.) Times, Aug. 6, 1977]

CARGO PREFERENCE CERTAINLY NOT OURS

A new "cargo preference" bill is working its way through Congress and heading for the President's desk. The President has promised to sign the bill if it gets that far.

We hope it gets waylaid.

The bill will line the pockets of a few at the expense of the many.

It's true that the few—the people who build and own and man American ships—helped Jimmy Carter get elected with generous campaign contributions. But that is not sufficient reason to add billions of dollars to the average American's fuel bills, which is just what the cargo preference bill will do.

The cargo preference bill would require that 4.5 per cent of all oil imported into the U.S. be carried in U.S. flag vessels. The percentage is to be upped to 9.5 per cent in steps over the next five years.

The reason that U.S. shipping interests need this requirement is that they can't or don't choose to compete with other shippers, charging oil companies four and five times the amount foreign firms charge to transport their oil. The U.S. ships are able to charge the higher rates and still keep busy because of cargo preference regulations already on the books requiring U.S. coastal shipping to be done by U.S. flag ships. With the additional demand for their services the new regulations will bring, the rates are expected to rise even higher.

The Wall Street Journal estimates that the average American seaman earns $24,300 per year. The paper also estimates that the cargo preference bill will add $7 billion in fuel costs to consumers over the next five years.

Much of that collective burden, furthermore, will fall on the residents of the East Coast, who depend heavily on imported oil for heating.

Mr. Carter may lose the seaman vote and forfeit contributions from the powerful maritime industry if he vetoes the cargo preference bill, but he stands to lose a much greater bloc of support if he doesn't.

[From the Cleveland Press, July 11, 1977]

CARTER AND THE MARITIME RAID

In perhaps his worst decision since entering the White House, President Carter has gone along with the maritime lobby in its selfish raid on the consumer's pocketbook.

What Carter has done is to accept the notorious idea of "cargo preference." Under his and the lobby's plan, at least 9.5 percent of imported oil would have to be hauled in tankers flying the American flag.

At present oil importers can hire any vessels they want. U.S. flag tankers have only about three per cent of the market because our vessels are costly to build and expensive to operate with their featherbedded crews.

Unable to compete fairly, the heavily subsidized shipbuilders, ship operators and maritime unions have turned to Congress for protection. President Ford vetoed a cargo preference bill in 1974, but this time, with Carter in camp, the lobby is expected to win.

It has been estimated that cargo preference will cost the public $7.25 billion over five years. What it really is, of course, is a sneaky and hidden tax on everyone who buys gasoline and heating oil.

Moreover, the effect of higher shipping costs is worse than Carter's proposed gasoline tax that Congress has rejected. At least that tax would have been rebated to consumers. The proceeds of this one will go to a small industry that already is lavishly subsidized.

In buying the lobby's line, Carter went against the advice of the Treasury and State Departments and his own homilies against protectionism in foreign trade.

Treasury opposed the plan because it is inflationary. State because of bad international repercussions. Ten friendly maritime nations already have protested. They are angry because they all have laid up tankers without cargoes, and here comes Washington to freeze them out of existing business.

In all likelihood other countries will retaliate against our blatant protectionism. Which would mean that as protected shipbuilders and unions grow fat, other Americans in export industries could lose jobs.

The maritime lobby started working on Carter early last year before he had his nomination in hand. In May he wrote to Jesse Calhoon, head of the Maritime Engineers Beneficial Assn., hinting he was for cargo preference.

Calhoon promptly helped raise some $200,000 from maritime unions and employers for Carter's campaign. That guaranteed the lobby a respectful hearing for its views, and now its investment is about to pay off handsomely.

The industry's multibillion-dollar ripoff bill is not through Congress yet, and there still is time for Carter to change his mind. Unfortunately for the public, there is no sign of such a switch to economic good sense.

[From the Christian Science Monitor, Sept. 14, 1977]

SINK THE CARGO BILL

The cargo preference bill being pushed through Congress by the Carter administration appears to be heading into troubled political waters—as well it should. There is little doubt that the bill itself amounts to a political payoff by the administration to maritime interests for their support of Mr. Carter during his presidential campaign.

The U.S. General Accounting Office, in a long anticipated report, estimated this week that enactment of the bill—which would require that 9.5 percent of imported oil be transported in U.S. carriers—would boost the cost of oil for American consumers at least $240 million a year. The nation's total fuel bill could be hiked as much as $550 million to $610 million by the proposal, the GAO warns.

This is only the latest of several warnings—many from within his own ranks of economic advisers—that the President thus far has chosen to ignore. Mr. Carter reportedly is locked in to supporting the bill by promises he made to maritime unions and shipping companies during the campaign.

We sympathize with the flagging U.S. maritime industry which has veered into hard economic straits, unable to compete effectively against the cheaper labor and lower shipping costs of foreign flagships. U.S. ships carry only 3.5 percent of the oil brought into the country today. However, the price of the cargo preference bill is far too high for the relatively small number of jobs that would be created by it—2,500 shipboard jobs, 2,100 shipyard jobs, and 15,000 additional jobs in the supply industries.

Such a stark protectionist move would be a dangerous precedent to set. The bill already has stirred strong critical comment in Eu-

rope, which supplies many of the ships importing oil to the U.S. Nations can be expected to retaliate with trade restrictions of their own if the cargo preference bill becomes law.

Even the Department of Defense pumps holes in the argument that the bill is needed to bolster national security. Getting oil, not tankers, would be the major difficulty in time of war, defense strategists argue.

President Carter has pledged to other nations the firm United States support of open trade policies. The cargo preference bill not only would violate treaties with more than 30 nations, but would certainly cause U.S. trading partners to question the integrity of the Carter commitments to open trading.

Although U.S. shipping already is among the most highly subsidized of any U.S. industry, the government and consumers have a stake in retaining the declining merchant marine fleet, which has dwindled to 231 tankers with a carrying capacity of 9 million deadweight tons—only a small fraction of that of other fleets.

The Federal Trade Commission suggests one less expensive way of expanding the U.S. fleet would be to purchase ships on the world market, currently glutted with hundreds of vessels standing idle. The FTC estimates the U.S. could save $200 million a year by buying oil tankers, rather than subsidizing their construction.

The cargo preference bill has nothing going for it but politics. We urge Congress to reject it and look for other approaches to buoying America's merchant marine fleet.

[From the Beaver (Pa.) Times, Aug. 30, 1977]

U.S. STEERS TOWARD NEW TRADE POLICY

(By John Dillin)

WASHINGTON, D.C.—President Carter and Congress, prodded by maritime interests, are steering the United States toward a revolutionary change in trade policy.

Under the innocuous label of "cargo preference," the administration is steaming full speed toward some of the most strongly protectionist legislation in history.

Implications for U.S. consumers include somewhat higher prices for gasoline made from imported oil. Some White House advisers also warn the move could set a precedent leading to higher prices for other imported goods.

Focus of the current drive is HR–1037, a bill introduced by Rep. John M. Murphy (D) of New York, chairman of the House Committee on Merchant Marine and Fisheries. The Murphy bill, given good chances of passage, has the President's support. It eventually would require that 9½ percent of all the oil being imported into the United States be carried in American tankers.

Such a requirement for civilian cargoes would be a first for this country.

Top White House economists have fought the bill. They told the President it would lead to higher prices, add to unemployment, and reduce the nation's total output of goods and services.

One high-level source, however, says the President's options were limited. He was locked in by old campaign promises to maritime interests, and could find no way out.

"Carter was in a tough campaign in '76. He made certain promises. This is what elections are all about," said one government source.

The Murphy bill is nothing new. Congress passed similar legislation three years ago, only to have it pocket-vetoed by former President Ford. But this time, there appears to be little resistance to the measure in either the House, the Senate, or the Oval Office.

The protectionist drive reflects, in part, a growing concern in some quarters about the American merchant fleet.

Following World War II, the United States had the biggest and best merchant fleet in the world. But the years since have seen a precipitous decline, with the U.S. slipping to 10th place behind Liberia, Japan, Britain, Norway, Greece, Panama, the Soviet Union, France, and Italy.

Today the U.S. tanker fleet has fallen to 231 ships. Many of these ships are aging and inefficient. Their total carrying capacity is 9 million deadweight tons, or just a fraction of the capacity of the fleets of several other nations.

U.S. tankers carry only 3½ percent of America's oil imports at a time when the nation has become more dependent than ever on petroleum from the Middle East.

The Carter-backed bill would require that 4½ percent of America's imported oil be carried by U.S.-flag tankers next year. That would increase to 9½ percent by 1982 or 1983.

Over the long term, supporters of the bill argue, this mandated requirement would lead to a larger U.S. fleet, which would be an important adjunct to America's national security capabilities.

Ironically, the Department of Defense has argued against the bill. The difficulties in wartime would be access to oil—not the getting of enough tankers, Defense officials have said.

The Murphy bill already has stirred critical comment in Europe, whose ships share heavily in the U.S. oil trade. Eleven nations, led by Norway, have protested any move toward protectionism in shipping in a series of notes to the State Department.

Further complicating the international picture are 34 treaties of "friendship, commerce, and navigation" which could be breached by such a measure. There is concern among some top members of the administration that protectionist moves by the United States could be quickly emulated by other nations—with unhappy consequences for U.S. foreign trade.

Finally, there is concern that once they have tasted the fruits of protection from foreign competition, U.S. maritime interests could unleash a campaign for more and more of the same.

[From the Wilmington (Del.) Journal, August 20, 1977]

SINK THE CARGO BILL

The United States may be on the verge of violating treaties of "friendship, commerce and navigation" with 34 nations in the world.

Sounds impossible? Unfortunately, it is possible and even likely.

A cargo preference bill is making its way swiftly through Congress—the powerful House Merchant Marine and Fisheries Committe reported the bill out by a generous 31 to 5 margin—and President Carter has made his support for the bill abundantly clear.

The cargo preference bill would require that next year 4½ per cent of our imported oil be transported in U.S. flag tankers; by 1982, the requisite percentage would be 9½. For comparison, currently a little over 3 per cent of imported oil gets brought to the United States in U.S. flag tankers.

That such a law would be a boon to American shipping interests need hardly be stated. But those are about the only interests that would profit.

For the rest of us, such a bill would be a disaster. The proposed law's first effect would be to add to the cost of imported oil. At present, it costs more than twice as much to operate a U.S. flag tanker than one flying under a foreign flag. That discrepancy would grow as American shippers can afford to be less competitive because they know that by law they are entitled to a certain share of the business.

The latest estimate from the General Accounting Office is that the cargo preference law would immediately add $240 million to the nation's oil cost. That may not seem like a huge amount in an era when money talk is often in billions, but any dollar spent unnecessarily is a dollar wasted.

There is little indication that the shipping industry needs the kind of shot in the arm that the cargo preference bill would assure. The federal government is already subsidizing shipping interests to the tune of almost $800 million a year for ship construction and ship operation. Furthermore, U.S. flag vessels are also profiting from another law, the Jones Act, which specifies that all U.S. coastal shipping must move in U.S. flag vessels. Alaskan oil is giving U.S. tankers quite a boost in that respect.

Nor is there much validity to the argument made by proponents of the cargo preference bill that the U.S. must enlarge its tanker fleet for security reasons. For one thing, it is unlikely that a war would find us pitted against Liberia, Panama, Greece and other seafaring nations that transport oil to U.S. shores. For another, the greater problem in case of war would be access to the oil, not its transportation.

Requiring 9½ per cent of imported oil (and possibly even more after 1982) to be shipped on American tankers would be contrary to trade treaties we have with numerous nations, as stated at the outset. In instances where there is no treaty, this preferential cargo law would breach the principles of free trade that President Carter has been proclaiming so earnestly.

Why then is the Carter Administration endorsing this legislation? Incidentally, this is not the first time that shipping lobbies have tried to get such a bill enacted into law; this is a perennial project that almost succeeded in 1974 when former President Ford used the pocket veto to kill it. The only explanation that can be offered for President Carter's support is that he is making good on a campaign promise that brought presidential aspirant Jimmy Carter over $100 billion in contributions from maritime interests during the primaries. With many members of Congress also having been frequent recipients of maritime generosity, there is no reluctance in Congress to go along with the President.

It is difficult to stop such a presidential-congressional alliance. But it is not impossible. A good dosage of public indignation about this piece of preferential legislation can sink this measure.

[From the Washington Post, Aug. 2, 1977]

THE MARITIME LOBBY'S TRIUMPH

The maritime lobby, with its money bags, has scored a great political triumph. The costs will be borne over coming years by everyone who buys oil products. It's another defeat for the enlightened trade policy that President Carter keeps proclaiming but never quite manages to put into practice.

The maritime interests—ship builders, ship operators and unions together—already enjoy more different kinds of subsidy than any other American industry. Despite this torrent of aid, they have worked their freight rates up so high that nobody uses American-flag shipping unless the law requires it. The maritime lobby has now obtained President Carter's misguided support for its perennial bill to force part of this country's oil imports into those American-flag tankers. The proportion of imports affected will be small at first, but it will rise steadily.

It's called a cargo preference bill, and it is 200-proof protectionism. It would violate American treaties with other nations. It would be inflationary. It would add still another layer of subsidy, this time paid directly by consumers in the form of higher oil prices. As national policy, it's got absolutely nothing

going for it but the lobbying muscle and the extensive campaign contributions of the people who wanted it. But that turned out to be enough to get the President's support.

Mr. Carter's whole trade policy is rapidly deteriorating. He keeps talking in terms of the most high-minded commitments to open trade and international competition but, unfortunately, the actual record points the other way. There have been three major cases so far, and three times the administration has caved in to the protectionists.

In the case of the color television sets from Japan, Mr. Carter resorted to an Orderly Marketing Agreement. That term is a euphemism for an agreement by the exporting country to limit shipments. In the shoe case, the administration imposed another couple of Orderly Marketing Agreements on Korea and Taiwan. They will save some jobs in American shoe factories; they will also cost some jobs in American retail stores as well as increase prices to American consumers. But at least an Orderly Marketing Agreement is limited in duration and is a legal procedure under the general trade rules that this country has bound itself to. The cargo preference bill is neither.

It's a strange performance for an administration that foresaw trade troubles and staffed itself with people to meet them constructively. Those people, led by Treasury Secretary Michael Blumenthal and Under Secretary of State Richard Cooper, have been walloped in each successive test. The President has been mainly following the advice of Robert S. Strauss, currently his special trade representative and formerly chairman of the Democratic Party. Like most party managers, Mr. Strauss thinks in terms of constituencies and grievances: a factory here, a union there. He apparently does not work in terms of broader concerns, like consumer interests in general, or American productivity, or the future of the highly competitive American industries whose overseas markets are now threatened by foreign retaliation.

If Mr. Carter will not resist protectionist pressure, he cannot expect the fragile governments of Western Europe to do better. He may get heat from aggrieved unions—but unlike, for example, the president of France, he does not face an election next year that might bring the Communists to power. In May, at the London summit conference, Mr. Carter joined in a pledge to support firmly the principle of open trade and a growing world economy. The people who heard him must wonder what he had in mind when they now read the cargo preference bill that he has promised to support.

INFLATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. McDONALD. Mr. Speaker, inflation has become like the weather, everyone talks about it, but no one does anything about it. Everyone would like prices of the things he or she purchases to stop rising, but few people in the political world want to attack the root cause—the great imbalance of the Federal budget. Government programs, once started, always develop a constituency and are hard to stop. Given the number and variety of programs now operated out of Washington, D.C., it is safe to say that the United States is well on its way to becoming a welfare state, and the welfare state feeds on inflation. Great Britain is a recent example of this phenomena, even though she may temporarily stave off disaster by virtue of the wealth created by the North Sea oil. Dr. Hans F. Sennholz, in a recent article that appeared in the August 1977 issue of Private Practice outlined succinctly how inflation destroys freedom and our way of life. I commend this article to the attention of my colleagues:

INFLATION

(By Hans F. Sennholz, Ph. D.)

Few policies are more calculated to destroy the existing basis of a free society than the debauchery of its currency. And few tasks, if any, are more important to the champion of freedom than the securing of a sound monetary system.

Throughout the history of civilization, governments have been the chief cause of monetary depreciation. Especially since the rise of the welfare state, governments all over the world have embarked upon an unprecedented inflationary trend, the disastrous effects of which can only be surmised.

The welfare state breeds and in turn feeds on inflation. It breeds inflation because "expansionism" forms an integral part of its redistributive program. In fact, every one of its chief features encourages inflation. The large number of spending programs lays a heavy financial burden on the public treasury. Without income of its own, the government may at first derive its benefits from the income and property of wealthy producers. But this very convenient and popular method of "redistribution" is soon exhausted while the demands on the state go unabated or even increase. As the raising of taxes on the masses of people is unpopular, and therefore politically inexpedient, the welfare state is tempted to provide the promised benefits through deficit financing. It resorts to deficit and currency expansion as the least painful and most deceitful method of fund-raising.

The disastrous effects of monetary depreciation then strengthen the demand for welfare state measures. In fact, the ill effects of inflation provide social planners with the chief arguments for an extension of government functions and powers.

Inflation causes displacements in the distribution of income and property. As lenders and borrowers, most people usually do not take into account variations in the purchasing power of money. When the value of money declines, the lenders are bound to suffer losses in purchasing power while the borrowers gain a corresponding amount. There are long-term contracts that do not have to be fulfilled until later points in time. There are long-term employment contracts or contracts for the supply of materials, all of which involve money payments over time, that entail inflationary risks.

It is a popular fallacy that inflation affects only wealthy individuals because they are said to be the money lenders. This may have been true during the Middle Ages when economic wealth was concentrated with a few wealthy noblemen and merchants while the majority of people were struggling for mere suvival. Today, a great number of middle-class people are able to save some part of their incomes. There are the millions of creditors of life insurance companies, pension funds, savings banks, and similar institutions. Millions own government savings bonds and other money assets. They may have charge accounts and other consumer debt. But in most cases their savings exceed their obligations.

While most individuals mainly save in the form of money or claims to money, and thus are liable to be victimized by inflation, wealthy industrialists and merchants usually are debtors on net balance. They may be indebted to bondholders, banks, and other financial institutions. Many recognize the disastrous nature of inflation and, therefore, are hedging against it by avoiding investments in money or claims to money.

The disastrous nature of inflation becomes clear when we contemplate the magnitude of the losses inflation is inflicting on millions of American creditors every year. Even at the modest rate of ten percent annual depreciation, the annual losses to creditors and gains to debtors amount to more than $300 billion a year. The impact of this silent transfer of savings and wealth on millions of individual lives surpasses all imagination.

Considering such staggering losses on the part of the thrifty and provident, the rising clamor for welfare state measures is not surprising. Inflation losses strengthen the demand for social security, socialized medicine, and governmental controls over prices and rents. They foster federal aid and subsidies, and otherwise provide the chief arguments for an extension of government power.

Sooner or later inflation must come to an end. When the people finally begin to realize that inflation is no Act of God, but a willful policy of government, they may react by reducing their cash-holdings, savings, and claims to money, and by increasing their purchases of goods and services. This reaction accelerates the rise of goods prices and the depreciation of the currency. Of course, the very authorities that inflated the currency then blame the people for the depreciation and urge them to "hold the line on prices and wages." They may urge the citizenry to buy more savings bonds, or may raise income taxes in order to reduce the people's spending power. Unfortunately, all these measures must be futile because they aim at symptoms rather than causes. They enhance the spending power of the government, and concomitantly reduce the freedom of the people.

Individual freedom is further curtailed through tax progression. When our dollar incomes rise on account of inflation, we are lifted into progressively higher income brackets. Inflation together with the feature of tax progression allows government to absorb an ever-larger share of the people's earnings. In short, inflation gradually pushes us all towards the top rate of income taxation.

Business income is badly affected by monetary depreciation. When prices rise, a distortion in profits takes place. They are made to appear far larger than they actually are. Inflation lifts the costs of replacing plant and equipment far above the original costs. But for tax purposes, government recognizes only the original costs, and permits business to deduct only them as costs. Thus it forces business to overstate its actual earnings, and pay income taxes on "profits," which in reality merely are inflationary costs of replacement. These effects and other harmful consequences of inflation readily explain why the stock market, which is a clear mirror of the profitability of business, performs so poorly in times of rampant inflation.

Inflation is a dreadful disease of the body politic. It leads to massive transfers of unearned income and wealth, which breeds social conflict and strife. It destroys the middle class, which tends to invest its savings in money or claims to money. It disrupts economic production and exchange and causes upheavals and crises. It bestows vast power and great wealth on government while it abridges the freedom and wellbeing of the people. It is a fatal disease of a free society.

SENATE—*Monday, September 26, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. JAMES ABOUREZK, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father:

"Thy love divine hath led us in the past;
In this free land by Thee our lot is cast;
Be Thou Ruler, Guardian, Guide, and Stay;
Thy word our law, Thy paths our chosen Way."

—Daniel C. Roberts, 1876.

O Lord, watch over us this new week. Guard our speech. Control our lips. Sharpen our minds. Protect our hearts from evil that our service may be pure and holy.

For Thine is the kingdom and the power and the glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 26, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES ABOUREZK, a Senator from the State of South Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ABOUREZK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Saturday, September 24, 1977, be approved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS THROUGHOUT THE WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the CONGRESSIONAL RECORD daily throughout the week be open for the usual transaction of routine morning business.

The PRESIDING OFFICER (Mr. NUNN). Is there objection? Without objection, it is so ordered.

STATEMENT ON COSPONSORSHIP OF SENATE RESOLUTION 268

Mr. ROBERT C. BYRD. Mr. President, on Saturday, September 24, on behalf of the distinguished minority leader and myself, I offered Senate Resolution 268 concerning television and radio coverage of the Panama Canal Treaties debate in the Senate.

At that time, I asked unanimous consent that any Senators who may wish to join in cosponsoring the resolution may have the privilege of doing so before the resolution is printed, until 3 p.m. on Monday, September 26, today. I wish to state that this request to hold the resolution, however, is not to be considered a precedent. I feel it necessary to make this statement now, because I realize that the practice of holding bills and resolutions for cosponsors by unanimous consent, if permitted, will soon prove objectionable.

Senators have often spoken out against cosponsoring bills and resolutions generally, with efforts being made through submission of resolutions and amendments to amend the Senate rules prohibiting the practice with certain exceptions.

To date, such efforts have been unsuccessful, but the prohibition against holding the printing of measures for cosponsors has been enforced by objection on every occasion when such requests were made. These objections date back to February 16, 1967, when the late great distinguished Senator Everett Dirksen, from Illinois—incidentally the father-in-law of the distinguished minority leader—attempted by amendment to the Legislative Reorganization Act of 1967 to generally prohibit cosponshorship.

His effort failed, but after the vote rejecting his amendment was over, he made the following statement:

Mr. DIRKSEN. Mr. President, if I may have the attention of the Senate, I want to let the Senators know that this is not the last they will hear of dual sponsorship. There will be objection on every occasion when a bill is left on that table for sponsors. I hope that Senators will take heed and respect the notice. If I am not present on the floor, Senators may take advantage of me by leaving bills at the desk if they want to do so.

I will see that the floor is monitored and there will be no more bills left on the desk to plague the clerks of the Senate by leaving bills there for days and weeks to get sponsors and thus make every Senator a target for these outside pressures.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Committee and the Finance Committee be authorized to meet daily during the days of this week.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

SENATE STATESMANSHIP AND THE PANAMA CANAL TREATIES

Mr. CRANSTON. Mr. President, John Averill, veteran Capitol Hill reporter for the Los Angeles Times, wrote an excellent article over the weekend about Senate prospects for the Panama Canal Treaties, which also appeared in the Sunday Washington Post.

I want to say that despite the excellence of the article, I emphatically disagree with an unidentified Senate aide whom he quotes as saying:

I fear we won't see many statesmen around here when the vote comes.

If correctly quoted, that unidentified Senate aide did a disservice to the Senate and a disservice to the advise-and-consent process of the Senate in connection with the Panama Canal Treaties. I have no desire to ascertain who that person may be. He may remain anonymous as far as I am concerned.

I have, as my colleagues know, been working hard over the past several months to help steer the treaties through the Senate.

I have probably talked, at one time or another, with well over two-thirds of the Senate about the treaties. So I think I talk from intimate, firsthand knowledge when I say that Mr. Averill's anonymous Senate aide is way, way off base.

I do not believe I have ever seen in my years in the Senate such serious, careful deliberation on one issue by so many Senators.

All are very much aware of the heavy crush of mail they are getting opposing the treaty, even though much of the mail is obviously the result of an organized campaign rather than a spontaneous outpouring from their constituents.

Nonetheless, Senator after Senator I have talked with is clearly determined to find out all he can about pros and cons of the treaties and to make his final decision on the merits of the case.

That is one of the reasons for the delay in the treaties coming to the floor.

Most Senators have been following carefully the course of the debate so far—in the press and on the floor of the Senate.

They will be following perhaps even more carefully the Foreign Affairs Committee hearings that begin today.

They want time to read and to reflect on this vital national issue. They very correctly don't want to be rushed into a decision. And they will not be.

Most of my colleagues know by now how strongly I feel about the treaties. The treaties are—in my view—essential to our Nation's national security interests in Latin America.

But that is my view. Other Senators may disagree; some already do. But I have never had cause to question their motives or their sincerity. The burden is on those of us who favor the treaties to prove our case.

This much I am already convinced of: That when the final vote for ratification comes, every Senator will be voting his conscience—and his sincere view of the national interest—and not his mail.

It may be a hard vote for some. While I see the merits of the case overwhelmingly in favor of the treaties, others may see it as rather a close call, one way or another. I respect that view.

But win or lose, I am convinced the decision will be a decision of statesmen, of Senators who make up their own minds about right and wrong and who are not swayed—in a matter as vital as this—by outside pressures and fears about the next election.

Indeed, they know that so-called conventional wisdom is often wrong, and that the voters are far more likely to reward courage, integrity, and the strength of a man's conviction.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CRANSTON. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, I subscribe completely to what the distinguished majority whip has just said. I also want to say that I have very high regard for John Averill and the same high regard for the Los Angeles Times.

Now and then statements of aides are allowed to color the stories in all publications. I want to say that the Senate has never been devoid of statesmanship, and it has never been devoid of courageous men. Whatever our viewpoints are, when the time comes for the Senate to show down on the issue, I have faith in the courage and the integrity of every Senator who will cast his decision.

There will be those who will vote against, and there will be those who will vote for. I myself am keeping a completely open mind. I am determined that the Senate have an opportunity at some point to reach its decision, and I think that we owe it to the President and we owe it to the country, in the meantime, to have enough time to get over the emotional hump, lay out the facts, let Senators and the American people take a good look at those facts, and let Senators make their decisions on the basis of the facts that have been adduced.

Now, there may be some Senators who have already decided one way or the other. I do not question their judgment, their integrity, their courage, or their dedication as being just as good and high as mine. But this business of basing a story on a Senate aide's observations, I think, is a rather bad way to go about reaching a judgment as to what the Senate will do. We have to have our aides; we could not do without them. They perform a very important service to Senators and the Senate.

But as far as I know, Senators are accessible to the press. The leadership on both sides of the aisle is very accessible to the press, and any time the press wishes to speak with the leadership or any Senator to get their viewpoints, we are accessible, and the press knows that.

I would just hope that in a matter of such vital importance, either way one views it, if one is for the treaties or if one is against them, nevertheless it is a subject of such moment, such far-reaching significance, and such importance that Senators ought to be able to make up their own minds and have time to do so. I think they are capable of expressing their sentiments, they are capable of being statesmen, and they are capable of showing courage where courage is required. I have no doubt that the Senate will reach one of its finest moments when the time comes.

I am glad that the distinguished majority whip took the floor and the occasion to say what he said. I subscribe to it thoroughly. Let us be done with this business of Senate aides prognosticating and predicting what the outcome will be and how little courage there will be, and how devoid of backbone 100 Members of the Senate may be. I have absolute faith, confidence, and trust that this Senate will make the right decision when it is made, and I do not doubt any Senator's courage and dedication when it comes to the point of putting his country's interest first.

All of us are politicians; there is no question about that. We all get heavy mail, many times on many subjects. In connection with some subjects more than with others, I think, a degree of statesmanship is called for. But when it comes to something like the Panama Canal Treaty, watch the Senate. I dare say there will be many Senators who will cast votes that will cost them, politically, insofar as their constituents' support back home is concerned.

We reach issues from time to time when, any way one votes, one is going to disappoint some constituents. I cannot satisfy all my constituents without voting two ways on the treaties—one for and one against. But each of us has only one vote and we all realize that. When the time comes to cast that vote, I believe that every Senator is going to cast his vote in what he sees as the best interests of the Nation. Partisanship should have no part in this matter, in my judgment, whether we are Democrats or Republicans, whether we are for or against.

I hope that that, may I say to my friend from California, will help to supplement his fine statement.

Mr. CRANSTON. That is a superb statement. I welcome it. I agree with every bit of it. I want to stress, as the majority leader did, my recognition of the right of the press and my respect for the ability of the press to cover our doings and what is said and done by the Senate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. I shall be happy to yield a portion of our time to the Senator.

Mr. CRANSTON. I specifically admire John Averill for ferreting out the Senate aide who gave him that quote to spice his article, along with all else he wrote. I do not admire the wisdom of that Senate aide at that particular moment.

Mr. ALLEN. Will the Senator yield?

Mr. STEVENS. Yes, I yield some time.

Mr. ALLEN. I commend the majority leaders for their statements. I, too, feel that there will be statesmanship shown by Members of the Senate on this issue. I might stress, too, that the side that the Senator votes on does not necessarily indicate whether he is a statesman or not. I think statesmen will appear on both sides of the isuue.

Mr. CRANSTON. Of course.

Mr. ALLEN. I think there are pressures from many, many quarters that will be evident as this debate goes on. But I do not feel that only those who vote "aye" on the treaties will be regarded as statesmen. I think those who feel that it is in the best interests of the country to vote "nay" can, equally well, be regarded as statesmen.

Then, too, I commend both leaders on stating that this matter will be allowed to be debated at length here in the Senate so that Senators can be fully informed and so that the Nation can be informed as to these issues.

Speaking for myself, I assure the leaders that there will be no filibuster, as such, on this treaty. As soon as legitimate arguments have been made, and legitimate amendments to the treaties and the reservations have had an opportunity to be considered here, in the Senate, I shall certainly be ready to vote.

I do feel that the treaty needs to be amended at a number of points, and there need to be reservations where amendments are not regarded as being a proper vehicle. But it should be debated at length and I am confident that there will be no obstructionist tactics used in connection with the treaty.

While the debate will be extended, it will not rise to be a filibuster. I think that is the sentiment on both sides.

Mr. CRANSTON. Will the Senator yield me 30 seconds?

Mr. STEVENS. Yes.

Mr. CRANSTON. I want to say that I welcome the statement of the Senator from Alabama, and I assure him that, of course, I recognize that there are and will be statesmen on both sides of this issue.

Mr. ALLEN. I might state that I plan to offer an amendment to the treaty that will leave the present treaty in full force and effect except as to the increase in the amount of annuity paid to Panama. If that amendment is adopted, that being the sole provision of the treaty, then I should be willing to support the treaty. But I think that is what we need to do here in the Senate. An amendment will be offered along that line, to raise the annuity, but let that be the only change in the treaties.

Mr. CRANSTON. I look forward to statesmanlike debates on the merits of this case on another occasion.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting

minority leader for his courtesy in yielding to us on this side.

Mr. STEVENS. I thank the majority leader. I am happy to cooperate. If the minority leader were here, I am sure he would echo the sentiments of the majority leader.

For myself, I state again that this is no time for haste. I commend the majority leader for indicating that time will be taken to explore thoroughly all of the ramifications of these treaties and that the Senators will be given an opportunity to return to their homes to discuss the issues involved and to be part of the process of national education which must take place if these treaties are to be voted upon by an informed Senate.

I even believe that it ought to be a duty of each Member of the Senate to go to Panama, to see what we are talking about, and to be fully informed of the total consequences of the approval of these treaties. That, in and of itself, will take time. If that time is taken, I think the final judgment of the Senate will be the proper one.

If we have any further time, Mr. President, I yield it back.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Rhode Island (Mr. PELL), I ask unanimous consent that Mr. Robert Faust of his staff be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE CONCURRENT RESOLUTION 361 AND H.R. 3 ORDERED HELD AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when H. Con. Res. 361 and H.R. 3 are received from the House, that they be ordered held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION—PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider Executive A, with 5 minutes each to the Senator from Alabama and the Senator from New Jersey, with vote thereon to occur immediately thereafter.

The clerk will state the resolution of ratification.

The resolution of ratification was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol Signed at Montreal October 16, 1974, Relating to an Amendment to Article 50(a) of the Convention on International Civil Aviation (Ex. A, 95–1) without reservation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that was allotted to Mr. SPARKMAN and Mr. CASE be given to the distinguished acting Republican leader and myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ALLOCATION OF TIME—S. 2104

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in legislative session, that the one hour under rule XXII be under the control of the majority and minority leaders or their designees, and be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, may I just ask the majority leader if the understanding is that those of us who are opposed to the cloture motion will be accorded an opportunity on that matter?

Mr. ROBERT C. BYRD. Yes, no question about it. My purpose in getting this consent was to avoid a situation where one Senator might be foreclosed.

Mr. METZENBAUM. I thank the Senator.

Mr. MATHIAS addressed the chair.

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. The Senator from Maryland has asked to be recognized.

Mr. MATHIAS. Mr. President, further reserving the right to object, I just wondered if under the procedure that the majority leader has outlined he could predict what time the vote on cloture would occur.

Mr. ROBERT C. BYRD. Let us approach it like this, the vote on the treaty would begin circa 12:30 p.m. today—it might be 12:35. The vote would extend about 15 minutes. After that vote, the 1 hour under the cloture rule would begin running, which would mean it would be about 10 till 1, perhaps.

About 10 till 2, give or take a little bit, there is a necessity for the establishment of a quorum under the rule which might take 15 minutes and put us over until 5 or 10 after 2, and then the cloture vote would occur.

Mr. MATHIAS. I thank the Senator.

Mr. ABOUREZK. Mr. President, reserving the right to object, was the request by the majority leader for division of time on the cloture debate?

Mr. ROBERT C. BYRD. No, on the hour.

Mr. ABOUREZK. On the hour.

Mr. ROBERT C. BYRD. That precedes.

Mr. ABOUREZK. Yes.

I do not know if it is a rule or a tradition, would the majority leader be willing to agree that half of the time be for the opponents for cloture for debate, a unanimous-consent request to share?

Mr. ROBERT C. BYRD. If the Senator will allow me, I will assure the Senator that, from the 30 minutes I will have under my control, the opponents will have half of it.

Mr. ABOUREZK. We will have 30 minutes that he will designate us?

Mr. ROBERT C. BYRD. I will assure the Senator he will have 15 minutes of my 30.

I assume the distinguished assistant Republican leader will say for his leader and himself that the opponents will be given half of that time.

Mr. STEVENS. I think basic fairness would require each side be given an equal opportunity. The majority leader's request is a normal one, that this time be equally divided.

Mr. ROBERT C. BYRD. That will not make any difference.

Mr. ABOUREZK. Traditionally, when both majority and minority floor managers of the bill are for the bill, the other part of the time, at least half, or could be under the time agreement, is accorded the opponents—even if they are not floor managers.

If the Senator could guarantee us half of the time, that is all we are asking.

Mr. ROBERT C. BYRD. If the Senator will accept my word, he may end up getting more than that.

Mr. ABOUREZK. I thank the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONSIDERATION OF NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, without the time being charged against either side on the treaty, I ask unanimous consent that the Senate, while it is in executive session right now, proceed to the consideration of nominations on the calendar which all have been cleared.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. The nominations will be stated.

MISSISSIPPI RIVER COMMISSION

The second assistant legislative clerk read the nomination of Maj. Gen. Robert Creel Marshall to be a member and president of the Mississippi River Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Brig. Gen. William Edgar Read to be a member of the Mississippi River Commission

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENVIRONMENTAL PROTECTION AGENCY

The second assistant legislative clerk read the nomination of Marvin B. Durning, of Washington, to be an assistant administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of David G. Hawkins of the District of Columbia to be an Assistant Administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CALIFORNIA DEBRIS COMMISSION

The second assistant legislative clerk read the nomination of Col. Donald Michael O'Shei to be a Member of the California Debris Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

The Senate continued with the consideration of Ex. A (95–1).

Mr. ROBERT C. BYRD. Mr. President, I have a statement by Senator SPARKMAN which I shall read. I ask unanimous consent that the record show the statement as having been read by Mr. SPARKMAN. It is an explanation of the protocol on which the Senate is about to vote. The reason Senator SPARKMAN cannot be here to deliver this statement himself is a very simple one. He is conducting the foreign relations hearings at this very moment on the Panama Canal Treaty.

For that reason, I am sure everyone will understand the fact that he cannot be in both places at once and they will understand where he is that he is conducting the business of the Senate on a very important matter. For that reason, I ask that the record show Mr. SPARKMAN as having delivered this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, this protocol resulted from a 1974 proposal to the Assembly of the International Civil Aviation Organization to increase the membership of the Council of the Organization from 30 to 33. The Council is the administrative and financial agency of the ICAO. The United States was the only State to vote against the proposal. The membership of the Council had been increased from 27 to 30 in 1972, and the United States felt the increase to 33 was not desirable so soon after the 1972 increase.

The State Department and the Committee on Foreign Relations now feel that the United States should ratify the protocol. Fifty-two of the necessary 86 States have ratified the protocol and it is expected that the protocol will become effective in any event. The Department of State feels that U.S. relations with the Organization will be best served by ratification. There is no current opposition to ratification.

The committee has prepared a report detailing the protocol and its history, and I ask unanimous consent to have this report printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PROTOCOL TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION

The Committee on Foreign Relations, to which was referred the Protocol, signed at Montreal October 16, 1974, relating to an amendment to Article 50(a) of the Convention on International Civil Aviation (Ex. A., 95–1), having considered the same, reports favorably thereon without reservation and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

This Protocol, signed in Montreal October 16, 1974, amends Article 50(a) of the Convention on International Civil Aviation to increase the membership of the Council of the International Civil Aviation Organization (ICAO) from 30 to 33 Contracting States.

BACKGROUND

The ICAO, a specialized agency of the U.N. develops principles and techniques of international air navigation and fosters the planning and development of international civil aviation transportation in order to insure its safe and orderly growth.

The ICAO conducts its work through an Assembly in which every Contracting State is entitled to representation. The Assembly elects every three years representatives to the ICAO Council as per Article 50. The Council is ICAO's governing body and also administers ICAO's finances and collects, examines and publishes data about air services, safety, regulations, et cetera.

Since 1947 when the Convention came into force, ICAO's membership has greatly expanded; from 26 to 86 by 1961, when the Council's membership was first augmented to 27. By 1972 the ICAO had 119 members and Belgium proposed that Council membership be increased to 30. The U.S. at first abstained, but finally joined in order that the Assembly Resolution could be passed unanimously. In 1974, ICAO had 129 Contracting States and Belgium again proposed adding between 3 to 6 members to the Council. A 3-member increase was carried 91–1 (and one abstention) with the U.S. casting the only negative vote because it felt further expansion unnecessary so soon. Now it appears that it will come into force anyway so the U.S. considers it in its own best interest to ratify the Protocol.

PRINCIPAL PROVISIONS

1. ICAO Council membership will be increased from 30 to 33. 2. The Proposed Amendment will enter into force when 86 Contracting States have ratified it (See (3) (d) of the Protocol).

COMMITTEE ACTION

The Protocol was submitted to the Senate and referred to the Committee on Foreign Relations on January 12, 1977.

On July 26, 1977, the Committee held a public hearing on the Protocol, receiving the testimony of the Honorable Herbert J. Hansell, Legal Adviser of the Department of State. In expressing the position of the Department of State, Mr. Hansell said:

"The United States was the one nation which voted against the Amendment. However, 52 [of the necessary 86] governments have ratified the amendment, and it is clear that it will enter into force in the near future. In this circumstance, we would like to ratify the amendment."

Mr. Hansell also stated, in response to questioning, that there would be no additional costs to the United States as a result of ratification and there was no opposition to U.S. ratification.

The Committee met on September 13, 1977, and ordered the Protocol to be reported favorably to the Senate for its advice and consent.

COMMITTEE COMMENTS

Although the Committee has determined that for reasons of effective U.S. participation and good relations in the International Civil Aviation Organization the Protocol should be ratified, the Committee would encourage resistance to future increases in the Council of the Organization. Should the Council be enlarged to too great a membership, it could become unwieldly and the very worthwhile work of the Organization accordingly be hampered.

BUDGETARY IMPACT STATEMENT AND COST ESTIMATE

The Protocol will have no budgetary impact and ratification will not require the authorization or appropriation of any additional funds. The dues and other payments of the United States to the International Civil Aviation Organization will not be affected by the Protocol.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of Rule XXIX of the Standing Rules of the Senate, the Committee reports that Article 50(a) of the Convention on International Civil Aviation signed in Chicago on December 7, 1944, would be amended to read as follows:

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of [thirty] *thirty-three* contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election.

EVALUATION OF REGULATORY IMPACT

As required by Rule XXIX of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the Proto-

col and has determined that there would be no impact as a result of ratification.

Mr. STEVENS. Mr. President, I ask unanimous consent that if there are further statements submitted by members of the Foreign Relations Committee or other interested Senators that they be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum with the time charged to both sides on the treaty.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make this request because there are some extenuating circumstances which I do not wish to explain here.

I ask unanimous consent that the rollcall vote on the protocol be a 20-minute rollcall vote, with the warning bell to be sounded 7½ minutes from the end of the vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification on Executive A, 95th Congress, 1st session, Protocol to the Convention on International Civil Aviation?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from West Virgiana (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The yeas and nays resulted—yeas 90, nays 0, as follows:

[Rollcall Vote No. 407 Ex.]

YEAS—90

Abourezk	Glenn	Moynihan
Allen	Goldwater	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Proxmire
Brooke	Hatfield	Ribicoff
Bumpers	Hayakawa	Riegle
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
	Huddleston	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Jackson	Schweiker
Case	Javits	Scott
Chafee	Johnston	Sparkman
Chiles	Kennedy	Stennis
Church	Laxalt	Stevens
Clark	Leahy	Stevenson
Cranston	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Morgan	

NAYS—0

NOT VOTING—10

Bayh	Humphrey	Randolph
Culver	McClellan	Stafford
Hathaway	Metcalf	
Helms	Percy	

The ACTING PRESIDENT pro tempore. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to the consideration of legislative business.

COMPREHENSIVE NATURAL GAS POLICY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business S. 2104, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The 1 hour provided for under rule XXII will now begin.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, does the Senator from South Dakota (Mr. ABOUREZK) wish to be recognized at this moment? Does he wish time?

Mr. ABOUREZK. Yes.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator such time as he may desire up to a maximum of 15 minutes with the understanding that he may be allowed to utilize that 15 minutes by farming it out to other Senators if he wishes.

Mr. President, I further ask unanimous consent that the 15 minutes be divided equally between the Republican leader and myself at this point.

Mr. ABOUREZK. Does the majority leader mean the remainder of the 15 minutes of his time?

Mr. ROBERT C. BYRD. No; I am saying the Senator will have 15 minutes now to farm out as he wishes and that that 15 minutes will be charged equally against the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I thank the majority leader.

Mr. President, in about an hour from now there will be a vote on cloture. I think the issue really goes beyond the cloture vote itself. The issue now consists of statements made over the weekend by President Carter that he would veto a deregulation bill if it came to him, combined with the statement by the Speaker of the House of Representatives the other day and, of course, the action of the House of Representatives in rejecting deregulation 2 years in a row. I see it now as a total act of futility for the forces of deregulation of natural gas to continue to press the various amendments, the Ford and Pearson-Bentsen amendments, that deal with deregulation of natural gas in any form.

Whether or not the Senate votes cloture today, I think it should be made clear that those of us who oppose deregulation of natural gas are interested in seeing those deregulation amendments tabled, and once they are tabled I think we can get on to the Senate dealing with whatever gas legislation that the Senate might wish to work its will on, keeping in mind that deregulation will get absolutely nowhere.

So I remind the Members that it goes beyond the issue of cloture. If the Senate does not see fit to table or recommit the deregulation amendments, I suspect that we still will be here for quite a long time even if cloture is voted, and I urge on the Members a vote not specifically on cloture at this time but a vote to reject the deregulation amendments for the reasons I have stated.

Does the Senator from Ohio wish to speak at this point?

Mr. METZENBAUM. Not at this point.

Mr. ABOUREZK. Mr. President, I reserve the remainder of the time designated to our side by the majority leader and if the other side wants to speak we will just let them go.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, if there be no request for time, I suggest the ab-

sence of a quorum and ask unanimous consent that it be charged against both sides equally.

Mr. ABOUREZK. Did the minority leader ask that it be charged against both sides equally?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is ordered.

ERDA AUTHORIZATION ACT OF 1978

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1811, the ERDA Authorization Act of 1978.

This morning, the House of Representatives completed action on legislation to authorize appropriations for fiscal year 1978 to the Energy Research and Development Administration. In July of this year the Senate passed S. 1811 which authorized appropriations for ERDA. There are a great many differences between the measure passed by the House and Senate, and consequently, the House has already asked for a conference with the Senate.

Mr. President, I move that the Senate insist on its amendment to S. 1811 and agree to the conference asked for by the House.

The PRESIDING OFFICER. I am advised that the message the Senator referred to has not been received by the desk.

Mr. JACKSON. Maybe we can get the carrier pigeon to go over and find it.

I withdraw my request at this time.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I ask that the time consumed by the Senator from Washington be charged equally to both sides. I suggest the absence of a quorum.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum, the time to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. METZENBAUM. Mr. President, objection.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, I yield myself 5 minutes. The majority leader has control of the time.

Mr. STEVENS. Mr. President, we have yielded 15 minutes to the control of the Senator from South Dakota.

The PRESIDING OFFICER. The Chair is advised that the Senator from South Dakota has the time.

Mr. STEVENS. The opponents' time of 15 minutes has been yielded to the Senator from South Dakota for allocation amongst those who want to speak against the motion.

Mr. METZENBAUM. Is it not correct that there will be an additional 15 minutes available?

Mr. STEVENS. If it is requested by opponents of cloture after the time yielded to the Senator from South Dakota is exhausted, I am sure we will carry out our original intent to yield time.

Mr. METZENBAUM. I thank the Senator.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with consideration of S. 2104.

Mr. METZENBAUM. Mr. President, I have been examining the record with respect to the use of the so-called filibuster, or extended debate, procedure. I have gone back a number of years into the records of the Senate to determine on which occasions and under what circumstances this procedure has been utilized. Almost with no exception, the extended debate rights provided by the Senate rules have been used by those who have opposed consumer interests, by those who have opposed civil rights legislation, by those who have opposed District of Columbia home rule legislation, by those who have fought against the repeal of the right-to-work law, or 14(b) which authorizes it.

It has been used on occasions when the present Vice President, then Senator MONDALE and Senator Dirksen, the leader of the Republican side at that time, attempted to bring to a conclusion the vote with respect to open housing. It has been used with respect to the Equal Employment Opportunity Act. It has been used time and time again with respect to the Consumer Protection Agency, a piece of legislation directly concerned with the rights and needs of the consumers of this country and their ability to be represented in an advocacy position at the administrative level. In fact, in 1972, on three separate occasions, there was an attempt to terminate that debate and, on three separate occasions, that failed. Therefore, the bill failed.

It has been used against the voter registration bill in 1972 and 1973. It has been used against the legal services bill in 1973. In 1974, it was again used. On four separate occasions, there was an effort to bring debate to a close and there was an inability to do so, and the Consumer Protection Act again failed.

It has been used to attempt to defeat supplemental appropriations with respect to a school rider measure. It was used again in 1975 against the Consumer Protection Act. It was used in 1976 against the Antitrust Improvements Act, when, on two separate occasions, one beginning on May 27 and ending on June 10, there was extended debate; the second beginning on August 31 and ending on September 8.

What is so terrible about the same procedure being used in behalf of the consumers of this country? This is a piece of legislation that will cost the American people $10 billion a year. I am not certain that I thought in the past that that right of extended debate should be used to defeat legislation. But if the right is to be used to defeat legislation that inures to the benefit of the consumers and the people of this country, then maybe the time has come when those of us who recognize the havoc that would be caused by the Pearson-Bentsen amendment, or total deregulation, ought to use this free right of debate in order to bring to the attention of the people of this country what the impact will be.

If we deregulate natural gas prices, the Speaker of the House has indicated that the House will not accept the bill. If we deregulate natural gas prices, the President of the United States has indicated he will veto the legislation.

There are those who argue that it is time that we have an energy bill. I subscribe to that concept, but I believe it ought to be an energy bill that reflects the concerns of all of the people of this country and not just the concerns of those who are worried about the economic welfare of the oil companies and the utility companies of this Nation.

Therefore, Mr. President, I say now that I do, indeed, expect to debate this issue and offer those amendments that I think will improve a bad bill, with bad amendments. If that does, indeed, take some time, then I do not think the time will be lost.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. METZENBAUM. I yield myself 1 additional minute.

I think it is time that we recognize that this procedure does not belong to just a select few, that the procedure of extended debate and amendments to pending legislation should be used for all of the people of this country. I declare, Mr. President, that I am prepared to offer such amendments and bring up such amendments for a vote as may be necessary in order that the Nation may be made aware of what will occur to the economy of this country if we enact this legislation as presently suggested and as indicated in the Pearson-Bentsen amendment.

Mr. STEVENS. Mr. President, I yield to the Senator from Texas (Mr. TOWER) 10 minutes of the time allocated to the minority leader.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, we have heard during this debate on the natural gas pricing bill a great deal of strident talk about the allegedly "huge" and "obscene" profits of the major oil companies. Clearly, the facts do not support the conclusion that oil company profits are excessive but those facts are generally ignored or forgotten during debates on energy legislation in this Chamber.

The oil and gas industry has made great efforts to present an accurate picture of oil company finances. Financial institutions such as the Chase Manhat-

tan Bank and studies by major universities have made similar efforts. For the most part, however, those studies which have concluded that oil industry profits are not excessive have generally been received with a great deal of skepticism.

I have obtained a study of oil industry finances which can hardly be criticized as having a pro-industry bias. The study was prepared in June of this year by the Federal Energy Administration. The study is entitled "A Summary of Aggregate Financial Data and Key Composite Annual Comparisons of 40 Major Oil Companies." It is, essentially, a financial profile of the 40 largest oil companies and it has been prepared under the auspices of an administration which often talks of "excessive" and "windfall" profits by the major oil companies. Put quite simply, this FEA study finds that oil company profits are not excessive. To the contrary, it suggests that higher profits are necessary.

I became aware of the possible existence of this report several weeks ago. I asked the FEA Administrator to confirm the existence of this important report and to provide me with a copy. FEA has done neither.

In the meantime, a copy of the draft FEA report has been made available to me from other sources. I call upon the Carter administration to make this important report available to the public now. In the meantime, I intend to make it available to the Senate.

I have prepared a summary of some of the key findings and conclusions of the FEA report. I ask unanimous consent that this summary, together with the report itself, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOME KEY FINDINGS AND CONCLUSIONS OF THE (DRAFT) SUMMARY OF AGGREGATE FINANCIAL DATA AND KEY COMPOSITE ANNUAL COMPARISONS OF 40 MAJOR OIL COMPANIES PREPARED BY FEA, JUNE 1977

"Net income (lines 1 and 2 of Table I). Prior to the 1973 oil embargo, net income had been almost flat since 1967. Extraordinarily large profit increases in 1973 and 1974 were due primarily to nonrecurring inventory earnings caused by major increases in OPEC crude prices. By contrast, the sharp 1975 profit decline was caused by lower world demand due to economic recession, an abnormally warm winter and disappearing inventory profits. The 1976 rebound was due in large part to the U.S. economic upturn which increased demand, plus higher prices in certain cases." (Page 4)

"It should be noted that energy company profits cannot be accurately viewed in a vacuum but rather must be studied in relation to capital expenditures for energy development (lines 7 and 8), returns to stockholders (lines 9, 10, and 11), return on stockholders equity (lines 18 and 19), and outside borrowing and debt ratios (lines 13, 14, 15, and 16)." (Page 4)

"Cash flow (lines 5 and 6). Cash flow, the sum of net earnings and depreciation, generally represents total internally generated funds for financing energy development (capital expenditures) and rewards to stockholders (dividends) for risking their capital. Any shortfall (line 12) in cash flow below capital expenditures must be made up by borrowing (lines 13, 14, 15, and 16). *The consistent monetary shortfall noted in line 12 has resulted in steady increases in debt ratios (line 15).*" (Emphasis added) (Page 5)

"Capital and exploratory expenses (lines 7 and 8). These are the funds expended to develop new energy resources (except for scattered investments in non-energy fields). These expenditures, unadjusted for inflation, (line 7) have increased markedly since the 1973 embargo. Group capital expenditures for the post embargo years (1973–6 inclusive) amounted to $102.7 billion compared to $57.9 billion for the immediate pre-embargo years (1969–72 inclusive). During the post embargo years, dividends increased from $4 billion to $5.28 billion, while the pre-embargo years dividends increased from $3.65 to $3.78 billion. Historically, the oil industry has financed exploration and expansion mostly from internally generated cash flow (line 1), but *the particularly heavy and increasing expenditures in 1973, 1974, 1975 and 1976 (line 7) have forced heavy outside borrowing (lines 13 and 14) and an accelerating increase in debt ratios* (lines 15 and 16)." (Pages 5–6) (Emphasis added)

"Dividends paid and dividend payout ratio (line 9, 10 and 11) represent reward to the stockholder for risking his money. Gradually increasing dividends are necessary to attract new capital. Historically, the payout ratio has amounted to about 50 percent of net income (profits) (line 11) with the other 50 percent being plowed back into the business. Line 11 indicates that since the 1973 embargo, a significantly lesser share has gone to the investor with an increasing share of profits being plowed back into the business (line 7)." (Page 6)

"Long term debt and debt ratios (lines 13, 14, 15 and 16). Previous references (paragraphs 3 and 4) have been made to the accelerated rate of debt accumulation as petroleum companies borrowed heavily to support increasing capital expenditures amounting to more than available funds from internally generated profits and depreciation/depletion. It is significant to note that the sample group long term debt has tripled (line 13) during the 1967–1976 period and long term debt ratio has moved upward from 17.2 percent to 26.4 percent (line 15). The maximum long term debt ratio sustainable without impairing credit rating and causing consequent difficulty and expense in raising debt capital will vary for different companies. . . . *However, unattributed but probably informed comments from the investment community have indicated a belief that debt ratios about 30 percent have become dangerously close to the maximum attainable without impairment of credit standings. Many smaller companies have already exceeded their maximum 'safe' ratio.*" (*Page 7*) (*Emphasis added*)

* * * *"Based on these data, it appears that a choice may have to be made between allowing higher profits or probably seeing lower capital expenditures for privately financed energy development efforts. The alternative will be increased Federal participation in energy development by subsidy or direct operational participation.*" (Pages 7–8) (Emphasis added)

"Return on average total capital (line 17). This ratio is a measure of return on total capital employed in the business and mainly consists of equity (net worth) plus long and short term debt. With the exception of the abnormally profitable years of 1973 and 1974 when returns were 12.0 percent and 14.8 percent respectively, 10 year returns have been in the 8 percent–10 percent range." (Page 8)

"Return on average common equity (lines 18, 19, and 20). Increases in the return on equity, coupled with earnings increases, are the key to investor expectation of future dividends and are a prime ingredient in common stock prices. Higher stock prices lower the costs of raising equity capital in the public capital markets.*** *In general, returns for the oil companies corresponded fairly closely with those of the non-oil company manufacturing group,* the prime exception being the year 1974, which coincided with the non-recurring oil inventory profits referred to in paragraph 1." (Pages 8–9) (Emphasis added)

1976 versus 1975—"A sample of 44 representative oil companies showed a 19.4 percent net income (profit) increase over 1975 results, compared to a 25.4 percent decline in 1975 profits from record 1974 profit levels, due in large part to non-recurring inventory profits." (Page 9) *Capital and exploration expenditures increased 7.1 percent to $28.8 billion, more than the $28.6 billion cash flow from profits plus depreciation.* (Page 11) (Emphasis added)

"To finance the cash flow shortfall, long term debt for the 44 company group was expanded 10.9 percent by outside borrowing, thereby increasing the debt to total capital ratio to 26.4 percent, a historical high. *The degree to which such large outside borrowing can continue to be obtained without lowered credit ratings (resulting in higher interest charges on debt and probable increased expense in raising additional equity capital), is uncertain.*" (Page 11) (Emphasis added)

"Return on average common equity was 14.3 percent in 1976, less than the 15.0 percent return earned by an approximate 2,000 group of non-petroleum manufacturing companies." (Page 11)

CONCLUSIONS

"While the purpose of this paper is not to present conclusions, the data suggest:

"Return on oil company stockholder equity is not excessive compared to other manufacturing industries, with the exception of 1974, which was an abnormal year.

"Oil companies have consistently been making capital expenditures in excess of available internally generated funds (consisting mainly of profits and depreciation/depletion).

"Profits have increased sharply since 1973 but are not excessive in relation to capital expenditures.

"Outside borrowing and long term debt ratios are increasing and may be approaching the limit beyond which credit ratings are impaired and more expensive financing results.

"Returns to stockholders (dividends) have increased only modestly compared to capital expenditures; dividend payments as a percent of earnings have been declining since 1973. The exception to this trend is 1975, a year of declining profits." (Pages 17–18)

SUMMARY OF AGGREGATE FINANCIAL DATA AND KEY COMPOSITE ANNUAL COMPARISONS OF 40 MAJOR OIL COMPANIES

INTRODUCTION

This brief study represents an attempt to present a balanced and factual summary of the key financial relationships governing the financial operation of an energy business over a sufficiently meaningful time period to provide perspective. It is intended to:

Provide a basic understanding of the significant interrelationships between expenditures for new energy supply, profits and cash flow, outside borrowings, and the necessity to provide sufficient stockholder return (dividends) to provide risk capital and borrowed money at reasonable rates.

Provide a reference source for answering many of the questions originating from variout governmental sources concerning oil company financial relationships.

Our basic data source is C. H. Pforzheimer & Co., New York City, for many a respected source of financial and investment related petroleum company statistics. Pforzheimer has made its data available as a service to the government.

In addition to basic individual company statistics, Pforzheimer has also maintained composite income statements and balance sheets of approximately 40 of the largest petroleum companies and has compiled historical key financial ratios and comparisons for the same companies. Table 1, "Selected Aggregate Financial Data for Approximately 40 Largest Petroleum Companies", includes many of these ratios supplemented by ERD calculations.

Net income

Depreciation-depletion

Capital and exploratory expenditures

Dividends

Dividend payout ratios (Dividends as a percent of net income)

Long term debt

Long term debt ratios (LTD as a percent of total long term capitalization)

Return on average invested capital

Return on equity (common stock)

This paper also presents selected key financial data for 25 major petroleum companies for the 10 year period including 1967–1976 (Table 2). Annual data included:

Net income

Percent annual change in net income

Earnings per share

DOMESTIC ENERGY SUPPLY AND DEMAND

Domestic consumption of energy has increased steadily while domestic supply has decreased. The May 1977 FEA Monthly Energy Review summarizes the supply and demand situation:

	1976	1975	1974	1973	1972
Total domestic consumption*	74.21	70.55	72.60	74.55	71.89
Total domestic production*	59.83	60.13	61.14	62.37	62.94
Foreign crude and product imports†	7.29	6.06	6.11	6.25	4.74
Domestic crude production†	8.12	8.38	8.77	9.21	9.44
Domestic marketed gas production‡	19.9	20.1	21.6	22.6	22.5

* Quadrillion (10^{15}) Btu.
† Million barrels per day.
‡ Trillion cubic feet.

To date, 1977 trends indicate increasing domestic energy demand and decreasing domestic supply of oil and gas. The deficit is supplied by increasing imports from 33.4 percent of domestic crude production plus foreign crude and product imports in 1972 to 47.3 percent in 1976 with a continuing 1977 upward trend.

DISCUSSION OF AGGREGATE FINANCIAL DATA

The aggregate financial data shown in Table 1 was selected from approximately forty of the largest petroleum companies, the actual number and identity of which vary somewhat from year to year. However, these variations are considered minor, and the ratios are believed to accurately reflect the financial status of the industry mainstream.

A brief discussion of key ratios and comparisons follows:

1. *Net income* (lines 1 and 2 of Table I). Prior to the 1973 oil embargo, net income had been almost flat since 1967. Extraordinarily large profit increases in 1973 and 1974 were due primarily to nonrecurring inventory earnings caused by major increases in OPEC crude prices. By contrast, the sharp 1975 profit decline was caused by lower world demand due to economic recession, an abnormally warm winter and disappearing inventory profits. The 1976 rebound was due in large part to the U.S. economic upturn which increased demand, plus higher prices in certain cases.

It should be noted that energy company profits cannot be accurately viewed in a vacuum but rather must be studied in relation to capital expenditures for energy development (lines 7 and 8), returns to stockholders (lines 9, 10 and 11), return on stockholders equity (lines 18 and 19) and outside borrowing and debt ratios (lnes 13, 14, 15 and 16).

2. *Depreciation-depletion etc.* (lines 3 and 4). This figure normally increases annually in an expanding business and generally represents capital recovery from past expenditures. The 1975 dip was an extraordinary item in "etc." and resulted chiefly from lesser dividends than equity in earnings in Aramco.

(It should be noted that considerable discussion regarding effects of inflation is occurring in business, accounting, and government circles regarding adequacy of depreciation allowances to allow rebuilding of obsolete plants in *all* manufacturing endeavors, including petroleum).

3. *Cash flow* (lines 5 and 6). Cash flow, the sum of net earnings and depreciation, generally represents total internally generated funds for financing energy development (capital expenditures) and rewards to stockholders (dividends) for risking their capital. Any shortfall (line 12) in cash flow below capital expenditures must be made up by borrowing (lines 13, 14, 15 and 16). The consistent monetary shortfall noted in line 12 has resulted in steady increases in debt ratios (line 15).

4. *Capital and exploratory expenses* (lines 7 and 8). These are the funds expended to develop new energy resources (except for scattered investments in non energy fields). These expenditures, unadjusted for inflation, (line 7) have increased markedly since the 1973 embargo. Group capital expenditures for the 4 post embargo years (1973–6 inclusive) amounted to $102.7 billion compared to $57.9 billion for the immediate pre-embargo years (1960–72 inclusive). During the post embargo years dividends increased from $4 billion to $5.28 billion, while in the pre-embargo years dividends increased from $3.65 to $3.78 billion. Historically, the oil industry has financed exploration and expansion mostly from internally generated cash flow (line 9), but the particularly heavy and increasing expenditures in 1973, 1974, 1975 and 1976 (line 7) have forced heavy outside borrowing (lines 13 and 14) and an accelerating increase in debt ratios (lines 15 and 16). (While our data does not include short term debt, a private communication from the petroleum economics department of the First National Bank of New York indicates corresponding increase in short term debt.)

5. *Dividends paid and dividend payout ratio* (lines 9, 10 and) represent reward to the stockholder for risking his money. Gradually increasing dividends are necessary to attract new capital. Historically, the payout ratio has amounted to about 50 percent of net income (profits) (line 11) with the other 50 percent being plowed back into the business. Line 11 indicates that since the 1973 embargo, a significantly lesser share has gone to the investor with an increasing share of profits being plowed back into the business (line 7). During the post embargo years, dividends increased from $4 billion to $5.28 billion while in the 4 preceding pre-embargo years dividends increased from $3.65 to $3.78 billion. Lines 2 and 10 show the post embargo lag in dividend increases compared to earnings increases.

6. *Excess of expenditures over cash income* (line 12) has been previously discussed, paragraphs 3 and 4.

7. *Long term debt and debt ratios* (lines 13, 14, 15 and 16). Previous references (paragraphs 3 and 4) have been made to the accelerated rate of debt accumulation as petroleum companies borrowed heavily to support increasing capital expenditures amounting to more than available funds from internally generated profits and depreciation/depletion. It is significant to note that the sample group long term debt has tripled (line 13) during the 1967–1976 period and long term debt ratio has moved upward from 17.2 percent to 26.4 percent (line 15). The maximum long term debt ratio sustainable without impairing credit rating and causing consequent difficulty and expense in raising debt capital will vary for different companies would probably be imprecise. However, unattributed but probably informed comments from the investment community have indicated a belief that debt ratios about 30 percent have become dangerously close to the maximum attainable without impairment of credit standings. Many smaller companies have already exceeded their maximum "safe" ratio.

Based on these data, it appears that a choice may have to be made between allowing higher profits or probably seeing lower capital expenditures for privately financed energy development efforts. The alternative will be increased Federal participation in energy development by subsidy or direct operational participation.

8. *Return on average total capital* (line 17). This ratio is a measure of return on total capital employed in the business and mainly consists of equity (net worth) plus long and short term debt. With the exception of the abnormally profitable years of 1973 and 1974 when returns were 12.0 percent and 14.8 percent respectively, 10 year returns have been in the 80 percent-10 percent range.

9. *Return on average common equity* (lines 18, 19 and 20). Increases in the return on equity, coupled with earnings increases, are the key to investor expectation of future dividends and are prime ingredients in common stock prices. Higher stock prices lower the costs of raising equity capital in the public capital markets.

Line 18 represents equity return for the approximate 40 oil company group sampled and line 19 represents equity return for about 2,000 manufacturing companies (excluding oil companies) as compiled by the First National City Bank of New York. In general, returns for the oil companies corresponded fairly closely with those of the non-oil company manufacturing group, the prime exception being the year 1974, which coincided with the non-recurring oil inventory profits referred to in paragraph 1. Chart 1 is a graphical comparison of oil company returns to manufacturing returns for a 10 year period. In years above the trend line the sample group oil company profits exceeded those of the manufacturing group, while manufacturing profits exceeded oil profits in the years below the trend line.

KEY COMPOSITE COMPARISONS—TABLE 1

Group comparisons—1976 versus 1975:

1. A sample of 44 representative oil companies group showed a 19.4 percent net income (profit) increase over 1975 results, compared to a 25.4 percent decline in 1975 profits from record 1974 profit levels, due in large part to nonrecurring inventory profits.

2. The 1975 profit rebound from 1975 was due primarily to the United States economic upturn which caused domestic petroleum demand to increase by 6.1 percent to 17.3 million barrels per day. Motor gasoline, distillate and fuel oil sales increased by 4.4 percent, 9.4 percent and 12.1 percent respectively. Profit margins widened slightly as government regulations allowed quicker recouping of some costs than in the previous year.

3. Gross revenues for 1976 rose by 17.2 percent from 1975 for the reasons stated in 2.

4. Capital and exploration expenditures increased 7.1 percent to $28.8 billion, more than the $28.6 billion cash flow from profits plus depreciation. Cash dividend payments increased by 11.4 percent to provide support for outside financing. The dividend payout rate of 38.3 percent of profits was less than the 41 percent 1975 payout rate and considerably lower than the approximate 50 percent payout rate average which prevailed before the embargo.

To finance the cash flow shortfall, long term debt for the 44 company group was expended 10.9 percent by outside borrowing, thereby increasing the debt to total capital ratio to 26.4 percent, a historical high. The degree to which such large outside borrowing can continue to be obtained without lowered credit ratings, (resulting in higher interest charges on debt and probable increased expense in raising additional equity capital) is uncertain.

5. Return on average common equity was 14.3 percent in 1976, les than the 15.0 percent return earned by an approximate 2,000 group of non-petroleum manufacturing companies.

Group comparisons—1975 versus 1974:

1. A 43 oil company group reported an aggregate 25.4 percent decline in net income from 1974 to 1975.

2. Decreased aggregate earnings resulted from lower world petroleum demand due to warmer-than-normal winter, a worldwide recession, disappearing inventory profits and higher taxes.

3. A 4-percent increase in gross revenue was insufficient to offset virtual loss of the depletion allowance and other provisions of the Tax Reduction Act of 1975.

4. Direct comparisons with 1974 profits are hampered by:

a. A change in accounting rules which modified the method of translating foreign earnings into dollars and rules covering insurance and contingency reserves in foreign operations.

b. Some companies opted to restate downwards certain past year profits in accordance with an accounting rule change regarding tax deferrals necessitated by decrease in percentage depletion.

5. Capital and exploration expenditures increased 4.6 percent despite decreased earnings to $26.9 billion versus $11.6 billion in earnings and $22.8 billion cash flow in 1975.

Group comparisons—1974 versus 1973:

1. A 43 company group reported an aggregate 35.0-percent net income increase compared with 1973 results.

2. Reported earnings were higher due in large part to nonrecurring inventory profits caused by substantial increases in crude oil prices, following a trend that began in 1973. These inventory profits were offset to a degree by some companies switching to "last in, first out" (LIFO) inventory accounting. These nonrecurring inventory claims also declined sharply during the fourth quarter of 1974. Petrochemical profits were sharply up from previously depressed levels.

3. Gross revenues increased 69 percent and taxes showed an appreciable jump.

4. Capital and exploratory expenses increased 57.7 percent compared to the 35.0-percent earnings increased. Actual aggregate capital expenditures amounted to $25.7 billion versus $15.9 billion net income and $28.9 billion cash flow.

Group comparisons—1973 versus 1972:

1. In 1973 a 43 company group reported a 73.2-percent net income increase over 1972.

2. U.S. earnings increased about 20 percent, slightly more than the percentage increase in domestic revenues. Major factors contributing to the increase included:

a. Increased volumes of oil production and product sales;

b. Higher prices;

c. Fuller utilization of plant capacity;

d. Improving tanker and chemical profits; and

e. Increased foreign income due to the U.S. dollar devaluation and some inventory profits.

3. The strong 1973 profit showing compares with the 1968–72 period when group earnings showed little increase despite heavy capital investment programs.

4. Gross revenues increased 25.5 percent.

5. Capital and exploration expenses increased 14.0 percent to $16.3 billion compared to $11.8 billion net income and $22.3 billion in cash flow.

Group comparisons—1972 versus 1971:

1. A 41 company group reported decreased aggregate 1972 earnings of 5.4 percent compared with 1971. However, results were mixed; 27 of the companies showed increases in 1972 net income, while a combined decline of three international companies resulted in the profit decline for the group as a whole.

2. Higher taxes and operating costs and early year weak product markets caused the earnings weakness.

3. Gross revenues increased 9.3 percent.

4. Capital and exploratory expenses increased 1.2 percent to $14.3 billion compared to aggregate net income of $6.8 billion and cash flow of $15.9 billion.

Group comparisons—1971 versus 1970:

1. A 39 company group reported an aggregate 1971 net income increase of 5.1 percent over 1970. Twenty-five organizations reported profit increases while 14 showed declining earnings.

2. The overall earnings improvement was due to international operations. U.S. earnings were depressed by several factors, including depressed gasoline and chemical prices. U.S. demand increased 2.7 percent, compared to a 6.4 percent foreign demand increase. U.S. crude production decreased 1.1 percent.

3. Gross revenues increased by 12.7 percent.

4. The 39 company group increased capital and exploratory expenses by 6.6 percent to $14.1 billion, compared to $7.2 billion net income and total cash flow of $15.1 billion.

Group comparisons—1970 versus 1969:

1. A 37 oil company group reported a 0.3-percent increase 1970 net income compared to the previous year. Eighteen of the companies reported higher 1970 net income while 19 reported declining earnings.

2. Fourth quarter earnings improvement prevented an aggregate net income decrease as some prices improved. Starting in November the domestic industry began to benefit from a 25 cents per barrel crude price increase and a 7 cents per gallon gasoline price increase.

3. Gross revenues increased 9.0 percent.

4. Capital and exploratory expenses increased by 3 percent over 1969 to $13.3 billion, compared to $6.8 billion net income and cash flow of $14.2 billion.

Group comparisons—1969 versus 1968:

1. A 36 oil company group reported a 1.2-percent gain in 1969 net income compared to 1968 results. Twenty-two firms reported earnings increases; 14 reported declines.

2. The earnings growth was retarded by increased costs of materials, labor and debt service, plus higher dry hole costs. These increased costs were not recovered in the marketplace where selling prices were generally weak.

3. Aggregate gross revenues increased by 8.3 percent as U.S. product demand increased by 5.5 percent, while total free world demand increased 8.2 percent over 1968.

4. Aggregate capital and exploratory expenditures for the year were $12.87 billion, an increase of 3.8 percent. Aggregate group net income was $6.8 billion, while cash flow amounted to $12.6 billion.

Group comparisons—1968 versus 1967:

1. A 37 oil company group reported an aggregate net income increase of 9.4 percent compared with 1967.

2. The 10.5 percent earnings increase resulted mostly from a 9.3 percent gain in aggregate free world demand. U.S. demand increased 6.3 percent.

3. Aggregate gross revenues increased 9.6 percent, slightly more than the 9.3 percent increase in free world demand.

4. Capital and exploratory expenditures increased 14.3 percent over 1967 to $12.4 billion compared to $6.8 billion net income and $11.9 billion cash flow.

The annual key financial data for 25 major oil companies included in Table 2 are provided primarily as an easily accessible data source to answer many of the commonly asked questions regarding major oil company financial results. It may also be utilized to compare individual oil company results with the industry composite results shown in Table 1.

CONCLUSIONS

While the purpose of this paper is not to present definite conclusions, the data suggest:

Return on oil company stockholder equity is not excessive compared to other manufacturing industries, with the exception of 1974, which was an abnormal year.

Oil companies have consistently been making capital expenditures in excess of available internally generated fund (consisting mainly of profits and depreciation/depletion).

Profits have increased sharply since 1973 but are not excessive in relation to capital expenditures.

Outside borrowing and long term debt ratios are increasing and may be approaching the limit beyond which credit ratings are impaired and more expensive financing results.

Returns to stockholders (dividends) have increased only modestly compared to capital expenditures; dividend payments as a percent of earnings have been declining since 1973. The exception to this trend is 1975, a year of declining profits.

(No copy of table No. 2 is available.)

TABLE 1.—SELECTED AGGREGATE FINANCIAL DATA FOR APPROXIMATELY 40 LARGEST PETROLEUM COMPANIES

	1976	1975	1974	1973	1972	1971	1970	1969	1968	1967
(1) Net income (billions of dollars)	13.80	11.56	15.94	11.80	6.81	7.20	6.85	6.83	6.75	6.17
(2) Percent change	19.4	−25.4	35.0	73.2	−5.4	5.1	0.3	1.2	9.4	
(3) Depreciation-depletion (billions of dollars)	14.82	11.26	13.00	10.54	9.11	7.95	7.38	5.74	5.16	4.85
(4) Percent change	31.6	13.4	23.3	15.7	14.6	9.8	28.6	11.2	6.4	
(5) Cash flow (billions of dollars (3+1)	28.62	22.82	28.94	22.34	15.92	15.15	14.23	12.57	11.91	11.02
(6) Percent change	25.4	−21.1	29.5	40.3	5.1	6.5	13.2	5.5	8.1	
(7) Capital and exploratory expenditures (billions of dollars)	28.83	26.93	25.75	16.33	14.32	14.15	13.27	12.87	12.40	10.85
(8) Percent change	7.1	4.6	57.7	14.0	1.2	6.6	3.0	3.8	14.3	
(9) Dividends paid (billions of dollars)	5.28	4.74	4.48	4.00	3.78	3.79	3.75	3.65	3.33	3.06
(10) Percent change	11.4	5.8	12.0	5.8	−0.3	1.1	2.7	9.6	8.8	
(11) Dividend payout ratio (percent)	38.3	41.0	28.1	33.9	55.5	53.3	55.2	53.1	48.8	49.5
(12) Excess of expenditures over cash income (7+9−5) (billions of dollars)	5.49	8.85	1.29	−2.01	2.18	2.79	2.79	3.95	3.82	2.89
(13) Long-term debt (billions of dollars)	36.37	28.89	25.04	22.48	21.78	20.78	18.52	16.35	14.6	11.5
(14) Percent change	25.9	15.4	11.4	3.2	4.8	12.2	14.0	11.3	27.0	
(15) Long-term debt ratio	26.4	23.8	22.2	22.0	23.3	23.0	21.9	20.6	19.9	17.2
(16) Percent change	10.9	7.2	.9	−5.6	1.3	5.0	6.3	3.5	15.7	
(17) Return on total average capital (percent)	10.7	10.0	14.8	12.0	7.4	8.2	8.3	9.0	9.7	9.6
(18) Return on average common equity (percent)	14.3	13.1	19.0	15.6	9.7	10.8	10.7	11.4	12.0	11.6
(19) Return on equity (manufacturing group ex petroleum) (percent)	15.0	12.2	13.9	14.7	12.5	10.7	9.8	12.6	13.4	12.6
(20) Ratio oil return/manufacturing group return (percent) (16/19)	95.3	107.4	136.7	106.1	77.6	100.9	109.2	90.5	90.0	92.1

Note: The ratios represent approximate rather than actual year-to-year comparisons because of changes in the make-up of the group due to mergers and other corporate changes. The year-to-year distortions in the comparisons are considered minor.

Source: Pforzheimer and FEA (PIR).

Mr. TOWER. Mr. President, this is what the FEA report that has been suppressed concludes. This is in the language of the FEA report prepared by this administration, but which they will not release because they had some preconceived notions and this report does not support them.

This is the administration's own report, prepared last June, suppressed until now, and it is going in the RECORD at this point.

Here is what it concludes, it says:

While the purpose of this paper is not to present definite conclusions, the data suggest:

Return on oil company stockholder equity is not excessive compared to other manufacturing industries, with the exception of 1974, which was an abnormal year.

Oil companies have consistently been asking capital expenditures in excess of available internally generated funds (consisting mainly of profits and depreciation/depletion).

Profits have increased sharply since 1973 but are not excessive in relation to capital expenditures.

Outside borrowing and long term debt ratios are increasing and may be approaching the limit beyond which credit ratings are impaired and more expensive financing results.

Returns to stockholders (dividends) have increased only modestly compared to capital expenditures; dividend payments as a percent of earnings have been declining since 1973. The exception to this trend is 1975, a year of declining profits.

Mr. President, there is one particularly ominous suggestion in this report. It says:

Based on these data, it appears that a choice may have to be made between allowing higher profits or probably seeing lower capital expenditures for privately financed energy development efforts. The alternative will be increased Federal participation in energy development by subsidy or direct operational participation.

Mr. President, this report, suppressed by FEA, was prepared by their direction. They will not even acknowledge its existence, much less pass out copies of it. But here it is.

The FEA–ERD, Office of Oil and Gas, a Summary of Aggregate Financial Data and Key Composite Annual Comparisons of 40 Major Oil Companies.

Either profits have to go higher, says this report, or they will have to go in with a Federal subsidy or Federal operation to get an adequate amount of capital investment in the energy industry in this country.

The suppression of this report leads me to believe that perhaps there are those in this administration who would like to see the energy industry in this country nationalized.

Perhaps our debate should focus on the desirability of the nationalization of oil and gas in this country.

The debt ratios are too high right now. Informed comments from the investment community have indicated a belief that debt ratios of about 30 percent have become dangerously close to the maximum attainable without impairment of credit standings. Many smaller companies already exceed their maximum safe ratio.

Mr. President, the administration's own report, prepared under its direction, says that the administration position is wrong.

I think the question is, why was this report suppressed, and I call on the President, consistent with his idea of having an open administration, to order FEA to release this report to the public, which I now have placed in the RECORD.

This report lets a very ugly cat out of the bag, indeed, Mr. President.

I still suspect that what we are hearing is an effort to so restrict and proscribe the production of energy by the private sector in this country that somebody will come to the conclusion that nationalization is the only solution.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, the Senator from South Dakota still has 4 minutes of time that was yielded to him earlier which, when used, will make a total of 15.

I am ready to yield him an additional 8 minutes from my side, if the minority will yield him 7 minutes from their side, which will make a total of 30 minutes which the opponents were promised.

Mr. PEARSON. I think we have only 7 minutes left, if I am correct. I do not know of anyone who wants any time on my side.

Mr. ROBERT C. BYRD. I yield to him at this point.

The PRESIDING OFFICER. The Senator from Kansas has 13½ minutes under his control.

Mr. ROBERT C. BYRD. I will yield 8 minutes to him and the minority 7 minutes, and that will assure him he has had his full time.

Mr. PEARSON. Yes.

Mr. ABOUREZK. If we have 8 more minutes, does that mean we have a full 30?

Mr. ROBERT C. BYRD. My 8, and 7, the Senator has had 15, 4 of which still remain.

Mr. ABOUREZK. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. I yield myself 4 minutes.

Mr. President, I want to repeat something I said earlier in this particular hour's debate. I want to advise the Members of the Senate, and particularly the distinguished majority leader, that there are some 200 or 300 perfecting amendments to various portions of the bill that we are considering, and there are substitutes.

If cloture is invoked, each and every one of those amendments, which we think will perfect the bill, will be voted on. We will have up and down votes on each and every one of those, plus others. Perhaps votes as people try to get too stringent on procedure. I am sure we would have to vote on that, as well.

I see no reason for the Senate to be put through this, because it is going to mean long hours, early morning and late at night. I see no reason why, when the President has threatened a veto, when the Speaker of the House and the House itself, have said consistently that no deregulation bill is going to get through the House——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. ROBERT C. BYRD. In my judgment, the Senate will exercise its own independent will, entirely aside from what comments may be made from the outside.

Mr. ABOUREZK. Getting back to what I was saying, it is entirely futile—it is a futile gesture—to try to continue with any kind of deregulation measure when we know that it is not going to get anywhere, in the first place, and when we know that it is going to be weeks before we get to a vote on any deregulation measure, if we do get to a vote.

I think it is going to be a lot easier for the Members of the Senate if we do not vote cloture than if we do vote cloture; because I think we can come to some kind of reasonable resolution of deregulation amendments, preferably by tabling or recommitting them, so that we can get on with passing on the Carter bill or the Jackson substitute or whatever—something that is reasonable and not something that is unreasonable, such as deregulation.

I reserve the remainder of my time.

Mr. BELLMON. Mr. Prcsident, will the Senator yield me 3 minutes?

Mr. PEARSON. I yield.

Mr. BELLMON. Mr. President, apparently there is a great deal of concern and interest here today in the statement which is attributed to President Carter, in which he is supposed to have said that he would veto a bill that deregulates natural gas.

I have before me a letter written to Gov. David Boren, of Oklahoma, dated October 19, 1976, about 2 weeks before the election, which I should like to read for the enlightenment particularly of my friend from South Dakota and others who may wonder where the President stands.

The letter reads:

The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation—

I particularly emphasize the next phrase.

our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4% per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35% prior to the embargo to over 40% today.

To increase our domestic production, I have proposed three important steps.

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas.

So here is Jimmy Carter, candidate, saying that he wants to deregulate new natural gas, and now we have him saying that he may veto a bill.

I submit that the President is at least confused and uncertain on this issue and that his statements should not come into consideration as the Senate decides on this matter; because if he has changed his mind once, I submit that he might change it again.

Mr. President, I ask unanimous consent that the full text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 19, 1976.

GOV. DAVID BOREN,
State Capital Building,
Oklahoma City, Okla.

DEAR GOVERNOR BOREN: The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation, our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4% per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35% prior to the embargo to over 40% today.

To increase our domestic production, I have proposed three important steps.

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital. Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Second, I believe we should act to encourage enhanced recovery from wells already in production. As you well know, an average of 60% of our oil remains in the ground after standard recovery methods have been exhausted. It is estimated that up to 60 billion barrels of crude could be added to our supply if enhanced recovery techniques are used. Since the environmental costs have already been largely paid on these resources, both consumers and producers alike benefit from development of this resource.

Third, I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediately begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute. Our present demand for coal is limited by two important factors. First, we have geared our technological growth to oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process. A Carter Administration will provide this leadership.

I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Sincerely,

JIMMY CARTER.

Mr. ABOUREZK. Mr. President, will the Senator yield to me briefly?

Mr. BELLMON. On the Senator's time.

Mr. ABOUREZK. If the Senator from Oklahoma is giving me a choice as to which statement to accept, I will take the one the President made Saturday.

Mr. BELLMON. I am not giving the Senator a choice. I am simply suggesting that the President is confused on the issue. He said one thing last October and something different now.

I suggest that the Senate should make its decision on what we know is best for the country, and let the President make his decision when the bill gets to his desk.

Mr. ABOUREZK. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in a very few moments, we will be voting on cloture, in spite of the fact that the issue that is before the Senate is one on which the proponents are prepared to vote, and to vote now.

I cannot recall a time during my service in the Senate, almost 15 years, when we have been asked to vote on a cloture motion which would cut off debate for those who want to perfect the measure before the Senate, at a time when the supporters of that measure are prepared to go to an up-and-down vote. That is where we are at the present time.

Beyond this, Mr. President, I believe that during these past few days we have had a very good and enlightened debate on a number of the important issues which are raised in the proposed legislation. I think the most important is the relationship of price to supply, because that is at the heart of the whole issue we are considering on the floor of the Senate.

We have to recognize that if we go to cloture, the opportunity to work out any particular adjustment on the basis of information and the debate we have heard over the past few days is virtually eliminated. It seems to me to be unwise from that point of view.

The President has made his statement; the Speaker has made his statement. The Senate has indicated, by previous votes, that it is virtually evenly divided on this issue. It seems to me to

be unwise for the Senate to put itself into a straitjacket at this particular time, on this issue, when the interests are so divergent, and to preclude the opportunity for any kind of reasonable adjustment on the issue before us.

Third, Mr. President, it seems to me that, in the final moments, we are hearing about the regulation of an industry and what a disservice it is going to be in terms of the new capital formation, new exploration, in future years, if we are not going to deregulate that industry. Many of these arguments were explored during the time that Congress put a limitation and a cap on the processing of old oil. We heard many of the same voices that speak today say that if we put a limitation on old oil and we put a limitation on new oil, this is virtually going to end the opportunity for the oil industry to survive in this country.

Nonetheless, we did put on such a limitation, and we have seen the increase in the profits of oil companies, some $2.6 billion in the past years—billions of dollars that have come out of the pocketbooks of the consumers of this Nation.

It is quite clear that with the type of deregulation program that is suggested in the Bentsen-Pearson proposal, it is going to mean tens and tens of billions of dollars out of the pocketbooks of the consumers of this country and into the bank accounts of these major companies—with all the implications of equity and fairness, let alone the welfare of millions of Americans who are dependent upon heating their homes with natural gas. I think this is an enormous disservice to those people.

Mr. President, I think that the broad economic implications of the proposal we are considering today—in terms of our national well-being and national economy—are proved. The studies which have been done by the Joint Economic Committee clearly underline that fact.

We have seen, during recent periods of time, that the significant increase in the cost of petroleum products has virtually extended us into the longest periodic economic stagnation that we have seen since the earliest days of this country, including the depressing days of the early part of the thirties.

We still have not recovered. I daresay that the proposal we are facing here today on the Pearson-Bentsen proposal I believe would have a similar adverse impact and effect on an already faltering economy. It may very well be just that additional push that will put us right back into the kind of severe unemployment, galloping inflation, and the kind of stagflation which we have seen in recent times.

For all of these reasons, Mr. President, it seems to me to be unwise for the Senate to move ahead to a period of cloture which will effectively cut off the opportunities for the serious kind of discussions we have seen over the period of these past few days.

For these reasons, Mr. President, and the reasons we outlined in previous debate and discussion, I am very hopeful that this particular measure will fail.

I reserve the remainder of my time.

Mr. ABOUREZK. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. No—let us wait and see if someone wishes to speak.

Mr. President, just permit me to say that I want Mr. ABOUREZK to be protected in his utilization of the 30 minutes which have been allotted.

As I understand, this would leave me about 7 minutes?

The PRESIDING OFFICER. The Senator from West Virginia has 7½ minutes. The Senator from South Dakota has 10 minutes remaining.

Mr. ROBERT C. BYRD. How much would remain on the other side?

The PRESIDING OFFICER. One and a half minutes to the Senator from Wyoming.

Mr. ROBERT C. BYRD. I would hope the Senator from South Dakota would be able to utilize some of his time now because a quorum call would eat into my remaining 7 minutes which I would like to reserve.

Mr. HANSEN. May I ask the distinguished majority leader, Mr. President, if it is not true that our side yielded time to the Senator from South Dakota as well——

Mr. ROBERT C. BYRD. Both sides did. So if the Senator could use some of his time——

Mr. ABOUREZK. Mr. President, I will ask for a quorum—how about if we divide the time equally?

Mr. ROBERT C. BYRD. The problem is it eats into my own 7 minutes, which is all the time I have left.

Mr. ABOUREZK. Mr. President, can we divide the remaining time between us and call a quorum based on that?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that of the time remaining the Senator from West Virginia have half and I have half, and that a quorum call be called with time equally charged.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The time will be so divided.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum on those conditions.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. ROBERT C. BYRD. Mr. President, the Senate is about to vote on whether debate should be brought to a close on the Pearson-Bentsen substitute to S. 2104 the Natural Gas Policy Act.

I shall take only a few minutes of the Senate's time to explain why I feel cloture should be invoked on this measure, and to urge all of my colleagues as strongly as I possibly can—Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Senate, please? Those who are talking will please retire to the cloakroom. May we have those talking please be quiet or retire to the cloakroom?

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I shall take only a few minutes of the Senate's time to explain why I feel that cloture should be invoked on this measure and to urge my colleagues, as strongly as I possibly can, to support this effort to allow the Senate to come to a final determination on this very crucial matter.

First, may I say that I am proud of the dispatch with which the Senate has considered the administration's energy proposals. The President's energy message was delivered to the Senate on April 20. Senators will recall that because of the Senate's own reorganization involving among other things the Senate's committee structure, we were off to a very large start in consideration of our legislative agenda. In spite of that, and in spite of the extremely heavy flow of nonenergy legislation and energy-related legislation that was submitted by the new administration, the Senate and its Energy Committee worked diligently for long hours to put together the pieces of the energy package.

Because of that diligence on the part of the members and because of the dedication and unusual degree of cooperation on behalf of all Senators, both on the Majority and Minority side, we have made rapid progress toward the priority goal we set for ourselves early in this session, namely, to deliver to the American people a comprehensive energy program formulated by the new administration and designed to meet the Nation's energy needs in the years directly ahead.

We have already passed three major portions of the six-part energy program. We completed action on the Emergency Educational Assistance Act, S. 701, on July 20. We concluded our consideration of the Natural Gas and Petroleum Conservation and Coal Utilization Policy Act, H.R. 5146, on September 8. Shortly thereafter, on September 13, we sent to the House of Representatives the National Energy Conservation Policy Act. We are now about to take a vote which will hopefully enable us to conclude our deliberation ultimately on natural gas policy. When that is done, we can turn immediately to the consideration of the final measure from the Committee on Energy, the utility rate reform bill, and dispose of it in a reasonable time.

When we finally conclude our action on the utility rate reform bill, the Senate should be ready to turn to consideration of the heart of the administration's energy recommendations, the energy tax provisions to be reported by the Finance Committee of the Senate.

In the meantime we have other legis-

lation which is considered to be very important, and the Senate will have to work its will thereon.

Mr. President, I turn now to our present situation. We have just concluded on last Saturday evening, 1 full week—a long 6-day week—of deliberation and debate on the natural gas bill. We have had full and I think adequate debate on the many aspects of the measure. I believe the deliberations of last week have been good for the Senate, good for the administration, good for the affected industries, good for the consuming public, and have been essential to the legislative process. These deliberations are, as a matter of fact, the very sine qua non of the process, and I believe the Senate is performing at its very best as the unique legislative entity it is, when it performs as it has in the past few days. Last Saturday's session provided, in my view, some of the best debate we have heard on the very difficult and extremely complex questions we are addressing in this bill and, Mr. President, may I again say that I am proud of the membership and of the performance of the Senate in this instance.

As I have stated, we are past the halfway mark with respect to the consideration of the energy bills. But we have now come to a very crucial point in our deliberations. The alternative courses on natural gas policy have been thoroughly aired.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me 2 minutes?

Mr. ABOUREZK. I yield 2 minutes to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Dakota for his courtesy.

The time has come for the Senate to halt its deliberations and decide. Deciding, as well as deliberating, is our duty. There is a point beyond which deliberation is fruitless. The alternatives are before the Senate. They have been thoughtfully presented, defended, and attacked. Compromise positions remain as alternatives but the time has been reached when further unlimited debate must be stopped and the focus of the Senate centered on choosing among the various alternatives. The invocation of cloture today is necessary to force that decision, and decide we must. This is not legislation that can wait for another time. It is crucial legislation. We face critical choices within this bill as we will in the energy tax bill which still remains to be considered by the Senate. But the time to begin to make these critical decisions is here and now. I urge each of my colleagues—whatever their substantive views may be concerning this bill—to vote to invoke cloture, to make the hard decisions, and to turn to the other pressing issues before the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. ABOUREZK. Mr. President, do I have 3 minutes remaining?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. ABOUREZK. Mr. President, in attempting to obtain cloture, as Senator KENNEDY said, what the leadership is doing is trying to shut off what even the leadership admitted was constructive debate, for example, on last Saturday. Now there is no way that there is going to be some sort of an ideal compromise unless we are allowed to debate these things openly and freely. Cloture shuts off that open and free debate because each of us then after cloture has only an hour's time, except that I promise that there will be many efforts made to amend and to perfect the legislation that is before us if cloture is invoked. If that is what the Senate wants to go through, that is up to the Senate.

I submit, Mr. President, that there is one of the greatest economic issues of this century at stake today. It goes well beyond the $160 billion that this particular bill will cost in direct gas prices alone to consumers, to industry, and to those people who buy from industry. The inflationary impact of this will be staggering; the devastation to low-income people will be staggering. But there is one other factor that has not been debated very much during this discussion on the deregulation proposal.

And that is, if deregulation is allowed to take effect, it will give those oil companies and those energy conglomerates who want to go into synthetic gas production the pricing structure necessary to do that, and that is exactly and precisely what they are after. They are trying to get the price of gas up high enough not only to make an exorbitant profit directly out of the gas pricing structure but they want to go into the synthetic production of natural gas out of the other fossil fuel resources we have in this country. When they get to that then they are going to come to Congress and they are going to say let us take the Rockefeller proposal under which the Government will give $100 billion, which is the proposal, in loans and grants to the already overflowing coffers of the oil companies in order to "research and produce synthetic gas resources."

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Bentsen-Pearson substitute, No. 862, to S. 2104, to establish a comprehensive natural gas policy.

Robert C. Byrd, Henry M. Jackson, Daniel P. Moynihan, Warren G. Magnuson, Patrick J. Leahy, Wendell H. Ford, Alan Cranston, Claiborne Pell, Abraham Ribicoff, Charles McC. Mathias.

Howard H. Baker, Jr., John Tower, Richard S. Schweiker, Paul Laxalt, S. I. Hayakawa, Daniel K. Inouye, Ted Stevens, Henry Bellmon, Harrison A. Williams, Dennis DeConcini.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 29 Leg.]

Abourezk	Garn	Morgan
Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Hollings	Roth
	Huddleston	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Chiles	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
DeConcini	Matsunaga	Tower
Dole	McClellan	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The Senate will be in order, please.

The question is, Is it the sense of the Senate that debate on the Pearson-Bentsen substitute, amendment No. 862 to S. 2104, to establish a comprehensive natural gas policy, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON of California. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. HATHAWAY), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The yeas and nays resulted—yeas 77, nays 17, as follows:

[Rollcall Vote No. 408 Leg.]

YEAS—77

Baker	Case	Eagleton
Bartlett	Chafee	Eastland
Bellmon	Chiles	Ford
Bentsen	Church	Garn
Biden	Clark	Glenn
Brooke	Cranston	Goldwater
Bumpers	Curtis	Gravel
Burdick	Danforth	Griffin
Byrd, Harry F., Jr.	DeConcini	Hansen
	Dole	Haskell
Byrd, Robert C.	Domenici	Hatch

Hatfield	McClure	Schmitt
Hayakawa	McIntyre	Schweiker
Heinz	Melcher	Scott
Huddleston	Moynihan	Sparkman
Inouye	Muskie	Stennis
Jackson	Nelson	Stevens
Javits	Nunn	Stevenson
Johnston	Packwood	Stone
Laxalt	Pearson	Talmadge
Leahy	Pell	Tower
Long	Proxmire	Wallop
Lugar	Randolph	Weicker
Magnuson	Ribicoff	Williams
Mathias	Roth	Young
Matsunaga	Sasser	Zorinsky

NAYS—17

Abourezk	Durkin	Metzenbaum
Allen	Hart	Morgan
Anderson	Hollings	Riegle
Bayh	Kennedy	Sarbanes
Cannon	McClellan	Thurmond
Culver	McGovern	

NOT VOTING—6

Hathaway	Humphrey	Percy
Helms	Metcalf	Stafford

The PRESIDING OFFICER (Mr. SARBANES). On this vote, the yeas are 77, the nays are 17. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. Each Senator is now limited to 1 hour for debate purposes.

COMPREHENSIVE NATURAL GAS POLICY

Several Senators addressed the chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, the Senate has indicated very clearly that it wants to bring to a close the unlimited debate and reach a conclusion on the matter before it.

The Chair has already stated that each Senator is allotted 1 hour. That 1 hour is not transferable, except by unanimous consent.

I am informed that there are more than 500 amendments at the desk. These amendments may be called up as long as they are germane and are properly drawn and as long as no other points of order can be made against them.

Points of order under cloture are not debatable. Appeals are not debatable.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will Members please take their seats?

Mr. ROBERT C. BYRD. As Senators are very well aware, in back of this bill, once a conclusion has been reached thereon, there is the next and last energy bill out of the Energy Committee—one which has to do with utility rate reform.

Then there is also the final energy bill, which is the energy tax measure, coming out of Senator LONG's Committee on Finance. There are other measures which will have to be disposed of before the Senate adjourns for the year.

I hope that Senators understand that we are in a very difficult situation, that it will take a considerable amount of time—in my judgment, at this point, at least—to finish the work on this bill.

There will be many, many rollcall votes, if I understand the situation, as I believe I do, after having discussed it with Senators on both sides of the question.

So I urge Senators to cancel all appointments and engagements, if it is possible for them to do so, beginning with today—whether those engagements and appointments are in the city or outside the city.

What I am saying is that there will have to be late sessions, there will have to be early sessions, and it may get to the point where we will just have one rollcall vote after another, one rollcall vote after another; and this also means that if the Senate has not completed action on this bill by Saturday, a Saturday session will be absolutely necessary. Even if the Senate completes this business before Saturday, it may be that, because of the press of other business, it still would be necessary to have a Saturday session.

So I say again there will be rollcall votes daily, very early and until late, very late. I do not know how late tonight as a starter, but I hope Senators will understand that if they leave the city or leave the Senate, they will be leaving with the understanding that they may miss a great number of rollcall votes.

If we do not complete the bill on Saturday, we will be continuing on Monday. But after a little while, the votes are going to come more often. I think there is a good possibility that there could be at least half as many rollcall votes on this bill as we have had in this entire session. That is easily possible.

Having said that, I think I have stressed the importance of our being here at all times. We can shorten the time for action on this bill, lengthy though it may be, if Senators will stay on the floor as much as they possibly can, so that when there are quorum calls, they will be completed as soon as possible and not be strung out.

Mr. BAKER. Mr. President——

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BAKER. Mr. President, I rise simply to ask the Chair to state the pending business.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Kentucky (Mr. FORD) amendment No. 881, to the bill itself.

Mr. BAKER. I thank the Chair.

UP AMENDMENT NO. 853

Mr. ABOUREZK. Mr. President, I call up an unprinted amendment, lettered A, and I demand a division of the amendment.

The PRESIDING OFFICER. If the Senator will defer the request for a division, the clerk will report the amendment.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an unprinted amendment numbered 853 to amendment numbered 881 by Mr. FORD.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator request a division?

Mr. ABOUREZK. I request a division, and I ask that the amendment be read.

Mr. LONG. I object.

The PRESIDING OFFICER. The Senator from South Dakota has offered the amendment, and he has both the right to have the amendment read and to ask for a division of the amendment.

The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. FORD. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. Mr. President——

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Chair informs the Senator that unanimous consent is required to interrupt the reading of the amendment.

Mr. FORD. I ask unanimous consent that the reading of the amendment be interrupted, for the purpose of a parliamentary inquiry.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to read the amendment.

Mr. FORD. A point of information——

The legislative clerk resumed the reading of the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue with the reading of the amendment.

The legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

In lieu of the language proposed to be inserted by the Senator from Kentucky, insert the following:

TABLE OF CONTENTS

Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Calculation of the current Btu related price.
Sec. 5. Sales of new natural gas.
Sec. 6. Sales of old natural gas under existing contracts.
Sec. 7. Sales of old natural gas from new wells under new contracts.
Sec. 8. Sales of old natural gas under rollover contracts.
Sec. 9. Effective dates of rules with respect to maximum lawful prices.
Sec. 10. Special pricing provisions.
Sec. 11. Incremental pricing of natural gas.
Sec. 12. Administrative procedure, enforcement and judicial review.
Sec. 13. Unenforceable contract provisions.
Sec. 14. Relationship to the Emergency Natural Gas Act of 1977.
Sec. 15. Jurisdiction of the Commission under the Natural Gas Act.
Sec. 16. Conforming amendments to the Natural Gas Act.
Sec. 17. Extension of the Emergency Natural Gas Act of 1977.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) during the early history of this Nation's petroleum industry, natural gas was a byproduct of the production of crude oil, was not readily marketable, and was often treated as waste and flared;

(2) during the last 40 years the natural gas market has changed dramatically as a national distribution system has been built

to deliver natural gas to commercial and industrial consumers throughout the Nation;

(3) the Congress enacted the Natural Gas Act in 1938 to protect consumers and to provide a regulatory structure through which interstate pipelines and natural gas producers could be assured an opportunity to earn a fair rate of return;

(4) in 1954, the Supreme Court held that the Natural Gas Act applied to the wellhead sale of natural gas in interstate commerce thereby subjecting producers selling natural gas in interstate commerce, but not those selling natural gas in intrastate commerce, to a regulatory standard based upon a determination of historic production costs;

(5) the gap between the price of natural gas and the price of crude oil, on a Btu basis, has widened since 1973 with the continuation of cost-based regulation for natural gas and with a fourfold increase in world oil prices;

(6) estimates of the proven reserves of natural gas have declined while demand for this premium and relatively inexpensive fuel has increased;

(7) while proven reserves have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market; and

(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas.

(b) The purposes of this Act are—

(1) to bring the natural gas market into better balance by reducing the demand for natural gas and increasing the supply through the establishment of a uniform and incentive-based pricing system for new natural gas;

(2) to provide both fair and equitable revenues to producers and to protect consumers:

(3) to deal with short-term shortages of natural gas through extension of the allocation provisions of the Emergency Natural Gas Act of 1977; and

(4) to provide for the conservation of natural gas by pricing natural gas to low priority users at a level that will provide incentives for conservation and conversion to other, more plentiful, fuels.

DEFINITIONS

SEC. 3. As used in this Act:

(a) The term "Btu" means British thermal unit.

(b) The term "Commission" means the Federal Power Commission.

(c) The term "completion location" means the subsurface location from which natural gas is or has been produced from a reservoir.

(d) The term "current Btu related price" means the most recently published Btu related price calculated pursuant to section 4.

(e) The term "existing contract" means any contract for the sale of natural gas entered into on or before April 20, 1977.

(f) The term "horizontal distance" means the shortest distance, measured horizontally and without regard to topography, between—

(1) the surface location of the old well, and

(2) (A) the surface location of the new well, or

(B) a point directly above the completion location of the new well at the same elevation as the surface location of the old well.

(g) The term "inflation adjustment" means the amount that results from dividing—

(1) the first revision of the implicit price deflator, for the calendar quarter which immediately precedes such calendar quarter, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce; by

(2) the implicit price deflator, for the first calendar quarter of 1977, seasonally adjusted, for the gross national product as computed and published by the Department of Commerce.

(h) The term "Mcf" means 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds (avoirdupois) per square inch and at a temperature of 60° Fahrenheit.

(i) The term "natural gas" has the same meaning as it has under section 2(5) of the Natural Gas Act.

(j) The term "new contract" means any contract entered into after April 20, 1977, for the sale of natural gas that was not previously subject to an existing contract.

(k) The term "new lease" means a lease, entered into on or after April 20, 1977, of submerged acreage—

(1) which was not leased before April 20, 1977; or

(2) which was leased before such date, under a lease which terminated or was abandoned before such date, and was not in effect on such date.

(l) The term "new natural gas" means natural gas—

(1) which is produced from a new lease on the Outer Continental Shelf; or

(2) which is produced (other than from a new lease on the Outer Continental Shelf)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir.

(m) The term "new well" means a well the surface drilling of which was begun after April 20, 1977.

(n) The term "newly discovered reservoir" means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

(o) The term "old natural gas" means natural gas other than new natural gas.

(p) The term "old well" means any well other than a new well.

(q) The term "Outer Continental Shelf" has the same meaning as such term has in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(r) The term "person" includes the United States and any State, and any political subdivision, agency, or instrumentality of either.

(s) The term "reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

(t) The term "rollover contract" means any contract, entered into after April 20, 1977, for the sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term specified by such existing contract.

(u) The term "United States" includes the Outer Continental Shelf.

CALCULATION OF THE CURRENT BTU RELATED PRICE

SEC. 4. Within 30 days after the date of the enactment of this Act, and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price. Such Btu related price shall be computed by dividing—

(1) the average per barrel domestic refiner cost of acquiring crude oil during the preceding 3 calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), by

(2) a Btu conversion factor of 5.8 million Btu's per barrel.

SALES OF NEW NATURAL GAS

SEC. 5. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries.

SALES OF OLD NATURAL GAS UNDER EXISTING CONTRACTS

SEC. 6. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced in the United States and sold under an existing contract shall be the product of multiplying—

(a) the inflation adjustment, by

(b)(1) the lesser of the just and reasonable price established by the Commission and applicable to sales of natural gas under such contract on April 20, 1977 (without regard to the outcome of any appeal of such price determination pending on April 20, 1977), if applicable; or

(2) the greater of—

(A) $0.18 per million Btu's, or

(B) the price applicable on April 20, 1977 under such existing contract.

SALES OF OLD NATURAL GAS FROM NEW WELLS UNDER NEW CONTRACTS

SEC. 7. Except as provided in sections 10 and 14, the maximum lawful price for any first sale of old natural gas produced from a new well in the United States and sold under a new contract shall be $1.45 per million Btu's multiplied by the inflation adjustment.

SALES OF OLD NATURAL GAS UNDER ROLLOVER CONTRACTS

SEC. 8. (a) Except as provided in sections 10 and 14, and subject to the limitations of subsection (b), the Commission shall, by rule, prescribe the maximum lawful price for any first sale of old natural gas produced in the United States and sold under a rollover contract.

(b)(1) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under the previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed $1.45 per million Btu's multiplied by the inflation adjustment.

(2) In the case of any first sale of old natural gas to which the provisions of this section apply, if such old natural gas was not committed or dedicated to interstate commerce on April 20, 1977, the maximum lawful price prescribed by the Commission under this section may exceed the maximum lawful prices permitted under previous existing contracts solely to the extent that such prices are necessary to permit the recovery of increased costs in order to maintain production of such natural gas, but in no event may any such price exceed—

(A) The product of multiplying the inflation adjustment by $1.45 per million Btu's, if the contract price applicable on April 20, 1977, was less than or equal to $1.45 per million Btu's; or

(B) The current Btu related price, if the contract price applicable on April 20, 1977, was greater than $1.45 per million Btu's.

(c) For purposes of this section, the term "committed or dedicated to interstate commerce" shall not be construed as applicable to any old natural gas which was sold under a limited term certificate of 5 years or less, a temporary emergency contract pursuant to section 7(c) of the Natural Gas Act, or a contract authorized by section 6 of the Emergency Natural Gas Act of 1977.

EFFECTIVE DATES OF RULES WITH RESPECT TO MAXIMUM LAWFUL PRICES

SEC. 9. The Commission shall promulgate and make effective rules required to be prescribed under section 8 within 60 days after the date of the enactment of this Act. Such rules shall apply to deliveries of natural gas with respect to the first sale of which section 8 applies and which occur on or after such date of enactment.

SPECIAL PRICING PROVISIONS

SEC. 10. (a) The Commission may, by rule, prescribe a maximum lawful special price, applicable to the first sale of high cost natural gas produced in the United States or synthetic natural gas manufactured in the United States. Such special price may exceed the applicable maximum lawful price established by section 5, 6, or 7, or prescribed under section 8, to the extent that such special price is necessary to provide reasonable incentives for the production of high cost natural gas or the manufacture of synthetic gas.

(b) For purposes of this section, the term "high cost natural gas" means natural gas produced—

(1) from submerged acreage located beneath more than 500 feet of water;

(2) from a completion location more than 15,000 feet (true vertical depth) below the surface location of the well;

(3) from geopressurized brine; or

(4) under such other conditions as present extraordinary risks or costs.

(c) In the case of a first sale of natural gas with respect to which the seller bears all or part of the cost of gathering, processing, liquefaction, or transportation of such natural gas, the Commission may, by rule, provide for an adjustment to the maximum lawful price established by section 5, 6, 7, or prescribed under section 8 or subsection (a) of this section to reflect such cost borne by such seller.

INCREMENTAL PRICING OF NATURAL GAS

SEC. 11. (a) (1) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule, provide that, to the maximum extent practicable, the amount by which the average cost of natural gas delivered to any pipeline company after the date of enactment exceeds the product of the average cost of natural gas delivered to such company during the 12-calendar-month period ending immediately before the date of the enactment of this Act, multiplied by the inflation adjustment, shall be initially allocated to the rates and charges of such pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline company, and

(B) local distribution companies for resale to low priority users served by such local distribution company,

until the rates or charges applicable to such low priority users, served by such pipeline company or such local distribution company, equal to the reasonable cost of substitute fuels (as determined by the Commission) to such low priority users.

(2) Not later than 90 days after the date of the enactment of this Act, the Commission shall, by rule provide that, to the maximum extent practicable, the dollar amounts allocated to any local distribution company pursuant to subparagraph (B) of paragraph (1) shall be allocated by such local distribution company to the rates and charges of such company applicable to sales of natural gas to low priority users.

(3) The rule required to be prescribed under paragraph (1) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low priority users served by such pipeline, and

(B) local distribution companies for resale to low priority users served by such local distribution company, equal the reasonable cost of substitute fuels (as determined by the Commission), to low priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(b) For purposes of this section:

(1) The term "low priority user" means any user other than a high priority user.

(2) The term "high priority user" means any person who—

(A) uses natural gas in a residence, or

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any persons engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

ADMINISTRATIVE PROCEDURE, ENFORCEMENT, AND JUDICIAL REVIEW

SEC. 12. (a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued under this Act.

(2) Notice of any proposed rule or order described in paragraph (1) which is substantive and of general applicability shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of 30 days following the date of such publication and prior to effective date of the rule shall be provided for opportunity to comment; except that the 30-day period for opportunity to comment prior to the effective date of the rule may be reduced to no less than 10 days if the Commission finds that strict compliance would seriously impair the operation of the program to which such rule or order relates and such findings are set out in such rule or order.

(3) In addition to the requirements of paragraph (2) and to the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments shall be afforded prior to the effective date of such rule or order. In all cases such opportunity shall be afforded no later than 45 days, and no later than 10 days (in the case of a waiver of the entire comment period under paragraph (2)), after the date of publication in the Federal Register pursuant to paragraph (2). A transcript shall be made of any oral presentation.

(4) Any officer or agency authorized to issue rules, regulations, or orders described in pargaraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act as may be necessary to prevent special hardship, inequity, or an unfair distribution of burdens. The rules shall establish procedures which are available to any person for the purposes of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, by rule, establish appropriate procedures, including provision for a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) Any person aggrieved by any rule prescribed, or order issued, by the Commission under this Act may obtain judicial review of such rule or order in the United States Court of Appeals for the District of Columbia Circuit pusuant to the provisions of chapter 7 of title 5, United States Code.

(c) (1) It shall be unlawful for any person—

(A) to violate any provision of this Act; or

(B) to violate any rule prescribed, or any order issued, under this Act.

(2) (A) Whoever violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to a civil penalty, which may be assessed by the Commission—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, of not more than $20,000 for each violation; and

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, of not more than $2,500 for each violation.

(B) Whoever willfully violates any provision of this Act or any provision of any rule prescribed, or order issued, under this Act, shall be imprisoned not more than one year for each violation, or—

(i) with respect to any activity relating to the production, gathering, sale, transportation, or distribution of natural gas, shall be fined not more than $40,000 for each violation;

(ii) with respect to any activity not referred to in clause (i) of this subparagraph, shall be fined not more than $10,000 for each violation;

or both such imprisonment and fine.

(3) For purposes of this subsection each day of violation shall be treated as a separate offense.

(4) Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts of practices constituting in whole or in part a violation of any provision of this Act or any provision of any rule prescribed, or order issued, under this Act shall be subject to penalties under this subsection without regard to any penalties to which that corporation may be subject under paragraph (2), except that no such individual director, officer, or agent shall be subject to imprisonment under paragraph (2) unless he also has knowledge, or reasonably should have knowledge, of notice of noncompliance received by the corporation from the Commission.

(d) (1) In order to obtain information to carry out its authority under this Act and to enforce compliance with the requirements of this Act, the Commission may—

(A) sign and issue subpenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories (including requests for reports or for other information) and such answers shall be made within such reason-

able period, and under oath or otherwise, as the Commission may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The Commission may not exercise authority under subparagraph (C) with respect to information, in the possession of a Federal agency, the disclosure of which to answer Federal agency is expressly prohibited by law.

(e) In the case of any refusal to obey a subpena, or to obey an order of the Commission issued under subsection (d), the appropriate United States district court may, upon petition of the Commission, issue an order requiring compliance with such subpena or order of the Commission. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(f)(1) The Commission shall have power to issue procedural rules in enforcing compliance with the provisions of this Act and rules prescribed and orders issued under this Act.

(2) The Commission shall have power to further define terms used in this Act consistent with the definitions set forth in, and the purposes of, this Act.

(3) The Commission shall have power to prescribe rules, applicable to any first sale to which the provisions of section 5, 7, 8, or 10 apply, relating to contract terms other than price, including contract duration, conditions of termination, and delivery obligations.

(g)(1) Except as provided in paragraph (2), the Commission may, by rule, prescribe a maximum lawful price applicable to any sale of natural gas other than sales to which the provisions of sections 5, 6, 7, 8, and 10 apply if it determines such maximum lawful price is necessary to prevent circumvention of any provision of such sections.

(2) Paragraph (1) shall not apply to any sale for resale of natural gas if such sale is subject to the provisions of the Natural Gas Act.

UNENFORCEABLE CONTRACT PROVISIONS

SEC. 13. (a) The price of any natural gas determined under this Act shall not be taken into account for purposes of any contractual provision which determines, terminates, or permits renegotiation of, the price of any natural gas on the basis fo sales of other natural gas.

(b) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to the first sale of any natural gas to which the provisions of section 5, 7, 8, or 10 apply.

RELATIONSHIP TO THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 14. Nothing in section 5, 6, 7, 8, or 10 shall apply to any price for the sale of natural gas which is allowed under section 4 of the Emergency Natural Gas Act of 1977.

JURISDICTION OF THE COMMISSION UNDER THE NATURAL GAS ACT

SEC. 15. (a)(1) Section 1 of the Natural Gas Act (15 U.S.C. 717(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use and to natural-gas companies engaged in such transportation or sale.

"(2) The provisions of this Act shall not apply—

"(A) to any other transportation or sale of natural gas;

"(B) to the local distribution of natural gas;

"(C) to the facilities used for such distribution;

"(D) to the production or gathering of natural gas;

"(E) to any first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply; or

"(F) to any person to the extent to which such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by striking out subsection (6) and inserting in lieu thereof the following:

"(6) 'Natural-gas company' means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale, but does not include any person to the extent that such person makes a first sale of natural gas to which the provisions of section 5, 7, 8, or 10 of the Natural Gas Policy Act apply.".

(b) Section 1(b) of the Natural Gas Act, as amended by subsection (a), is further amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the provisions of this Act shall apply to—

"(i) any facility owned or operated, in whole or in part, by a natural-gas company or an affiliate thereof for the manufacture of pipeline-quality gas for the purposes of transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption,

"(ii) the transportation in interstate commerce or sale in interstate commerce for resale for ultimate public consumption of pipeline quality gas, and

"(iii) any natural-gas company, companies or their affiliates engaged in such manufacture, transportation, or sale.

"(B) The provisions of this Act shall not apply to the mining, production, transportation, sale, delivery, or any other activity related to the furnishing of hydrocarbon-containing material (other than natural gas) to a natural-gas company or its affiliate for the manufacture of such pipeline-quality gas.

"(C)(i) If, before the date of the enactment of this paragraph, any natural-gas company or its affiliate was engaged in the manufacture of pipeline-quality gas from hydrocarbon-containing material, the Commission shall issue a certificate for such manufacture of such pipeline-quality gas without requiring further proof that the public convenience and necessity will be served by such manufacture, and without further proceedings pursuant to this Act or any other provision of law.

"(ii) If, before the date of enactment of this paragraph, a certificate of public convenience and necessity has been issued by the Commission authorizing the transportation in interstate commerce of pipeline-quality gas manufactured from hydrocarbon-containing material or the sale in interstate commerce for resale for ultimate consumption of such pipeline-quality gas, the Commission shall issue a certificate for such transportation or sale for resale without requiring further proof that the public convenience and necessity will be served by such transportation or sale for resale and without further proceedings pursuant to this Act or any other provision of law.

"(iii) Application for such a certificate shall be made to the Commission by such natural-gas company or its affiliate within 90 days after such date of enactment. Pending the determination of any such application, the continuance of such manufacture, transportation, or sale for resale, shall be lawful.

"(D) For purposes of this subsection, the term 'pipeline-quality gas' shall mean a mixture of hydrocarbons in a gaseous state (i) the principal ingredient of which is methane and (ii) that is interchangeable and compatible with natural gas as determined, by rule, by the Commission.".

CONFORMING AMENDMENTS TO THE NATURAL GAS ACT

SEC. 16. (a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, shall be deemed just and reasonable if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

(c) Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding at the end of the first paragraph thereof the following new sentence: "The Commission may not deny a certificate of public convenience and necessity under this section solely on the basis of the price for any first sale of natural gas, to which the provisions of the Natural Gas Policy Act apply, if such price does not exceed the maximum lawful price established in, or prescribed under, such provisions.".

EXTENSION OF THE EMERGENCY NATURAL GAS ACT OF 1977

SEC. 17. The Emergency Natural Gas Act of 1977 is amended—

(1) in section 2, by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'pipeline' means any person engaged in the transportation of natural gas.";

(2) in section 2, by redesignating paragraphs (5), (6), and (7) thereof as (3), (4), and (5), respectively;

(3) in section 4(a)(1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) any pipeline to make emergency deliveries of, or to transport, natural gas to any other pipeline or to any local distribution company for purposes of meeting such requirements; or";

(4) in section 4(a)(1), by redesignating subparagraph (C) thereof as subparagraph (B);

(5) in section 4(a)(1), by striking out "April 30, 1977" and inserting in lieu thereof "April 30, 1979";

(6) in section 4(a)(2), by striking out "interstate" wherever it appears;

(7) in section 4(a)(3), by striking out "interstate";

(8) in section 4(d), by striking out "interstate pipeline, intrastate";

(9) in section 4(f)(2)(A), by striking out "by August 1, 1977, to the maximum extent practicable" and inserting in lieu thereof "as expeditiously as practicable,";

(10) in section 7, by striking out "interstate" wherever it appears;

(11) in section 9(c), by striking out "August 1, 1977" and inserting in lieu thereof "April 30, 1979"; and

(12) in section 12(b), after "October 1, 1977,", by inserting "October 1, 1978, and June 1, 1979.".

Mr. ROBERT C. BYRD. Mr. President, with the understanding of Mr. FORD, I move that the amendment by Mr. FORD be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. DECONCINI). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum. There is not a quorum present.

The PRESIDING OFFICER. No response to the rollcall on the vote having been heard, the clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. Objection.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 30 Leg.]

Abourezk	Bumpers	Hathaway
Baker	Cannon	Muskie
Bentsen	DeConcini	

The PRESIDING OFFICER. A quorum is not present.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. On a Sergeant at Arms vote, you do not have to have 11.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. How many Senators do we need for a sufficient second?

The PRESIDING OFFICER. There needs to be one-fifth of those Senators responding to order the yeas and nays.

The clerk will continue to call the names of the absentees.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Business is not in order during the absence of a quorum.

Mr. METZENBAUM. A parliamentary inquiry.

The PRESIDING OFFICER. That is not in order either.

Mr. ABOUREZK. Mr. President, I move to adjourn. There is obviously not a quorum here.

I move that the Senate adjourn.

Mr. DURKIN. Mr. President, that would be out of order while a quorum call is in progress.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn.

Mr. PEARSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to adjourn. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 0, nays 93, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—0

NAYS—93

Abourezk	Garn	Morgan
Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Church	Kennedy	Stevens
Clark	Laxalt	Stevenson
Cranston	Leahy	Stone
Culver	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Magnuson	Tower
DeConcini	Mathias	Wallop
Dole	Matsunaga	Weicker
Domenici	McClure	Williams
Durkin	McGovern	Young
Eagleton	McIntyre	Zorinsky
Eastland	Melcher	
Ford	Metzenbaum	

NOT VOTING—7

Helms	Metcalf	Stennis
Humphrey	Percy	
McClellan	Stafford	

So the motion to adjourn was rejected.

The PRESIDING OFFICER (Mr. ZORINSKY). A quorum is present.

Mr. ROBERT C. BYRD. Vote!

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 92, nays 1, as follows:

[Rollcall Vote No. 410 Leg.]

YEAS—92

Abourezk	Ford	Morgan
Allen	Garn	Moynihan
Anderson	Glenn	Muskie
Baker	Goldwater	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hart	Pell
Biden	Haskell	Proxmire
Brooke	Hatch	Randolph
Bumpers	Hatfield	Ribicoff
Burdick	Hathaway	Riegle
Byrd, Harry F., Jr.	Hayakawa	Roth
	Heinz	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Chiles	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
DeConcini	Matsunaga	Tower
Dole	McClure	Wallop
Domenici	McGovern	Weicker
Durkin	McIntyre	Williams
Eagleton	Melcher	Young
Eastland	Metzenbaum	Zorinsky

NAYS—1

Hollings

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

The motion to lay Mr. FORD's amendment (No. 881) on the table was agreed to.

Mr. HART and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. The Senate now being under cloture, does the cloture time limitation apply only to amendments to the pending amendment or to amendments to the bill itself as well?

The PRESIDING OFFICER. It applies to amendments to the bill itself and to the first two substitute amendments. The third one by Mr. KENNEDY would not be amendable.

Mr. HART. I thank the Chair.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Kentucky was agreed to.

I ask for the yeas and nays.

Mr. ROBERT C. BYRD. I move to lay that motion on the table and I ask for the yeas and nays on the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the

table the amendment of the Senator from Kentucky was agreed to.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Kentucky was agreed to.

On this motion the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ANDERSON assumed the chair.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 92, nays 1, as follows:

[Rollcall Vote No. 411 Leg.]

YEAS—92

Abourezk	Ford	Morgan
Allen	Garn	Moynihan
Anderson	Glenn	Muskie
Baker	Goldwater	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hart	Pell
Biden	Haskell	Proxmire
Brooke	Hatch	Randolph
Bumpers	Hatfield	Ribicoff
Burdick	Hathaway	Riegle
Byrd, Harry F., Jr.	Hayakawa	Roth
	Heinz	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Chiles	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
DeConcini	Matsunaga	Tower
Dole	McClure	Wallop
Domenici	McGovern	Weicker
Durkin	McIntyre	Williams
Eagleton	Melcher	Young
Eastland	Metzenbaum	Zorinsky

NAYS—1

Hollings

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the motion to lay on the table was agreed to.

AMENDMENT NO. 1037 (FORMERLY UP AMENDMENT NO. 849)

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Texas, as amended, to the substitute 862. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The Chair said that the question occurs on the amendment by the Senator from Texas. Which amendment is that? He has several amendments pending.

The PRESIDING OFFICER. It is the Bentsen amendment, as amended by the Senator from Arizona's amendment No. 1037, to the amendment No. 862. The yeas and nays have been ordered.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 90, nays 3, as follows:

[Rollcall Vote No. 412 Leg.]

YEAS—90

Abourezk	Glenn	Moynihan
Allen	Goldwater	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Proxmire
Brooke	Hatfield	Randolph
Bumpers	Hathaway	Ribicoff
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Hollings	Sarbanes
Byrd, Robert C.	Inouye	Sasser
Cannon	Jackson	Schmitt
Case	Javits	Schweiker
Chafee	Johnston	Scott
Church	Kennedy	Sparkman
Clark	Laxalt	Stennis
Cranston	Leahy	Stevens
Culver	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Morgan	

NAYS—3

Bartlett	Chiles	Tower

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So Mr. BENTSEN's amendment (No. 1037) was agreed to.

AMENDMENT NO. 1023

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 1022, offered by the Senator from Massachusetts (Mr. KENNEDY).

Mr. BAKER. I move to table amendment No. 1022, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, a parliamentary inquiry. No one has answered the rollcall.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry. We cannot hear in the rear of the Chamber.

The PRESIDING OFFICER. The Senator from Tennessee (Mr. BAKER).

Mr. BAKER. I asked the Chair to state the pending amendment before the Senate, and I understood the Chair to say "1022." Is it 1022 or 1023?

The PRESIDING OFFICER. It is 1023.

Mr. BAKER. My motion to table was against the pending amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Is it clear that we are voting on amendment 1023?

Mr. ROBERT C. BYRD. Which is the Kennedy substitute to the Jackson substitute to the Pearson-Bentsen substitute. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ABOUREZK. Mr. President, a point of order.

The PRESIDING OFFICER. A point of order is not in order.

Mr. ABOUREZK. The rollcall started, and debate is not in order. I make a point of order against it.

The PRESIDING OFFICER. Debate is not in order.

The call of the roll was concluded.

Mr. STENNIS (when his name was called). Mr. President, as I understand the situation, this is a matter that comes within the purview of the agreement I had with the Senator from Minnesota (Mr. HUMPHREY) regarding the Bentsen-Pearson amendment. If the Senator from Minnesota (Mr. HUMPHREY) were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF), are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. HUDDLESTON), would vote "nay."

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS), and the Senator from Illinois (Mr. PERCY), are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

The result was announced—yeas 53, nays 39, as follows:

[Rollcall Vote No. 413 Leg.]

YEAS—53

Abourezk	Ford	Metzenbaum
Allen	Garn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Burdick	Hart	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
	Hatfield	Scott
Cannon	Hayakawa	Sparkman
Chafee	Heinz	Stevens
Chiles	Johnston	Stone
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
DeConcini	Lugar	Wallop
Dole	Mathias	Weicker
Domenici	McClure	Young
Eastland	Melcher	Zorinsky

NAYS—39

Anderson	Glenn	Morgan
Bayh	Haskell	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Stevenson
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stennis, for.

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the motion to table amendment No. 1023 was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STONE. I move to lay that motion on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. STONE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Massachusetts was agreed to.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STENNIS (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 36, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—56

Abourezk	Ford	Morgan
Allen	Garn	Moynihan
Baker	Glenn	Nunn
Bartlett	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Randolph
Burdick	Hansen	Roth
Byrd, Harry F., Jr.	Hart	Schmitt
	Hatch	Schweiker
Byrd, Robert C.	Hatfield	Scott
Cannon	Hayakawa	Sparkman
Chafee	Heinz	Stevens
Chiles	Johnston	Stone
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
DeConcini	Lugar	Wallop
Dole	Mathias	Weicker
Domenici	McClure	Young
Eastland	Melcher	Zorinsky

NAYS—36

Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Stevenson
Durkin	McGovern	Talmadge
Eagleton	McIntyre	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stennis, against

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the motion to lay on the table the motion to reconsider the vote by which the motion to table Mr. KENNEDY'S amendment (No. 1023) was agreed to.

AMENDMENT NO. 918

Mr. METZENBAUM. Mr. President, I call up my amendment No. 918.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is this amendment divisible?

The PRESIDING OFFICER. The amendment has not been stated. It is divisible.

Mr. ROBERT C. BYRD. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is this an amendment to the bill?

The PRESIDING OFFICER. It is an amendment to the bill.

Mr. ROBERT C. BYRD. Mr. President, if it is an amendment to the bill, in my judgment it is futile for the Senate to proceed to consider it. I do not know anything about the amendment except that it is to the bill and it is divisible.

The cloture motion goes to the Pearson-Bentsen substitute. The amendments below that, or above it, whichever way one wants to describe it, are included in the cloture motion. The last thing the Senate votes on will be the Pearson-Bentsen substitute.

If that is voted up, the ball game is over. No further amendments to the bill are in order.

I thought I should make that statement so that if Senators feel that they want to take the time to consider amendments to the bill, that is up to the Senate, but inasmuch as the Pearson-Bentsen substitute is going to be voted on finally, as amended if amended, then, in reality, I think Senators will want to think twice as to whether or not they want to take the time of the Senate to consider amendments that go to the bill, No. 1.

In the second place, if the Senate wants to consider this amendment, I would ask whether or not the Senator who is offering it would be willing to vote on the amendment without its being divided.

Mr. METZENBAUM. The answer is "No."

Mr. ROBERT C. BYRD. In other words, the Senator would want it divided?

Mr. METZENBAUM. That is correct.

Mr. ROBERT C. BYRD. All right. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Into how many parts is the amendment divisible?

The PRESIDING OFFICER. The amendment is divisible into three parts.

Mr. ROBERT C. BYRD. Three parts. Mr. President, I personally do not want to deprive the author of any amendment of a vote on his amendment. I am very willing to enter into a unanimous-consent agreement at any time, personally, to vote on the amendment up or down or to table it, but without dividing it, without voting on the divisions.

What I am saying is that instead of having three votes we could have one vote, and I would be very happy to have one vote on the Senator's amendment.

As I say, I do not want to deprive him of a vote on his amendment. But if he is going to insist on its being divided, then I should think that if any Senator wishes to table that amendment, that motion to table had better be made before it is presented to the Senate; in other words, before the clerk states it.

Mr. METZENBAUM. Mr. President——

Mr. ROBERT C. BYRD. And I still have the floor.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The normal procedure would be that the amendment would first be reported, and then no one would have the floor except under recognition by the Chair.

Mr. ROBERT C. BYRD. That is right; but I am trying to explore what the situation is. Once that amendment is reported, unless a Senator moves to table it immediately, the Senator can ask for its division. Once the Senator asks for its division, the motion to table that amendment is out.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. METZENBAUM. Mr. President, I am certain the Senator from West Vir-

ginia would not want to deprive the Senator from Ohio of my rights under the rules of the Senate. The amendment as offered really has three separate parts to it: One part has to do with data, one part has to do with plowback, and one part is the effectuating part of the amendment.

I believe I have a right, under the rules, to divide the amendment. Therefore, I would like to have the amendment read at the desk.

Mr. ROBERT C. BYRD. I still have the floor at the moment.

I certainly do not want to deprive the Senator of his right to have his amendment voted on.

However, I wish to apprise the Senate of two things: First, that the amendment is an amendment to the bill; and, second, that the author of the amendment intends to ask that it be divided.

If any Senator wishes to move to table, the Senator has that right, once the clerk states it.

But that motion to table has to be made before the request for the division is made, or else there will be several votes instead of one vote.

I am going to yield the floor shortly, but I just wanted the Senate to know what is about to happen.

Mr. HART. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. HART. A parliamentary inquiry Mr. President.

The PRESIDING OFFICER. First the clerk will state the amendment. Then I shall recognize the distinguished Senator from Colorado.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment:

On page 8, line 19, after "delivery)." add: *Provided*, That—

"(a) The natural gas producer reports for the past five years on an annual basis the following information:

"(1) exploration, development, and production expenditures;

"(2) new reserve additions from extension, revisions, and new well discoveries, including any negative revisions;

"(3) the cost of producing gas and the net income (or loss) including the rate of return earned on gas operations (or loss); and

"(4) interstate and intrastate sales and revenues of natural gas.

"(b) Any producer receiving this price increases exploration and development expenditures outlays by 50 per centum of the revenue increase resulting from the price increase above the highest level of exploration and development expenditures in the past five years.

"(c) For any producer not complying with the provisions of this section, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be $1.45 plus the inflation adjustment.".

Mr. HANSEN, Mr. METZENBAUM, and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized for a parliamentary inquiry.

Mr. HART. Mr. President, in response to a question of the Senator from Colorado earlier, the Chair ruled, I believe, that the cloture motion applies not only to all amendments to the bill but to the bill itself. I believe the Senator from West Virginia has just stated in his parliamentary inquiry that the bill itself is not covered by the cloture motion. Which is correct?

The PRESIDING OFFICER. The Senator from West Virginia is correct. The bill is not covered by the cloture vote.

Mr. ABOUREZK, Mr. METZENBAUM, and Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair has been asked to respond to a parliamentary inquiry. The Chair previously stated that the Pearson-Bentsen substitute, on which cloture was invoked, and all amendments thereto or the bill, are subject to cloture, but not the bill itself.

Mr. ABOUREZK, Mr. METZENBAUM, and Mr. BUMPERS addressed the Chair.

Mr. BUMPERS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for a parliamentary inquiry.

Mr. BUMPERS. Mr. President, this amendment by the Senator from Ohio, whether it is divisible or not, if it is adopted to the original bill, and Pearson-Bentsen is subsequently tabled or voted down, then the original bill, with the amendments that had been adopted to that bill, will be the pending business. Is that correct?

The PRESIDING OFFICER. The question would then be on the bill as amended, if amended.

Mr. ABOUREZK. Mr. President, I demand a division of the amendment.

The PRESIDING OFFICER. The division is demanded. The amendment will be divided.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second .

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. Mr. President, point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. ABOUREZK. Mr. President, regular order.

Mr. LONG. Mr. President, at this point, I make a point of order that this is a dilatory procedure. There is obviously a quorum present and there was on the last vote.

The PRESIDING OFFICER. The Chair will say that the Senator made the request for the point of order prior to the response for the rollcall. The Senator from Louisiana may state his point of order.

Mr. LONG. The point of order is that a quorum call at this point is dilatory. There is clearly a quorum here and there was at the last vote and no business has been transacted. It is purely dilatory.

Mr. METZENBAUM. The yeas and nays have been ordered.

The PRESIDING OFFICER. Under rule XXII, dilatory motions and amendments are not in order. Since this is a case of first impression, the Chair, under the rule, would submit the question to the Senate for a vote.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. BARTLETT. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARTLETT. It is my understanding that it takes one-fifth of those here to properly second the yea and nay request. I did not count 11. I question the number that the Chair counted.

Mr. METZENBAUM. The yeas and nays have been ordered, Mr President.

Mr. ROBERT C. BYRD. Mr. President, what question is the Chair submitting to the Senate?

The PRESIDING OFFICER. May the Chair respond to the Senator from Oklahoma?

The point of order on the question of the yeas and nays comes too late to be considered.

The Chair is submitting to the Senate the question as to whether, at this point, a request for a quorum call is dilatory.

Mr. ABOUREZK. Yeas and nays, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, under the rule, the Chair has the authority to say whether or not quorum calls, under cloture, are dilatory. I ask the Chair to state. That was the point of order that the distinguished Senator from Louisiana made. The Chair has that authority.

The PRESIDING OFFICER. The Chair is aware of that point raised by the Senator from West Virginia, but, since this is a case of first impression, it seemed appropriate to let the Senate make that decision.

Mr. LONG addressed the Chair.

Mr. ABOUREZK. Yeas and nays, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I would like to speak to my point of order for just one moment, because I do not want this precedent to be misunderstood. I am speaking of a situation where a quorum is obviously present, which there is. At that point, under cloture, it is dilatory, with a quorum obviously present and with a previous rollcall identifying that a quorum is present, for one to suggest the absence of a quorum when a point of order is——

Mr. BUMPERS. Mr. President, is a point of order debatable?

The PRESIDING OFFICER. Under the cloture rule, points of order are not debatable.

Mr. LONG. Mr. President, a parliamentary inquiry.

On a vote to sustain the point of order that this is a dilatory motion, would that be a yea vote or a nay vote?

The PRESIDING OFFICER. The question is, Is the point of order well taken that a quorum call would be dilatory?

Mr. McGOVERN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McGOVERN. Mr President, if you agreed with the substantive position of the Senator from South Dakota but wanted to establish a principle that there is such a thing as dilatory tactics, would you vote "aye"?

The PRESIDING OFFICER. The Senator from South Dakota will have to make that decision for himself.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

Mr. BAKER. Mr. President, point of order.

The PRESIDING OFFICER. The question is, Is the point of order——

Mr. BAKER. Mr. President, I do not want to prolong this. This is not in the nature of a debate. May I inquire as to the point of order?

As I understand it, the Chair ruled that he observes that a quorum is present and that he submits the question to the Senate on whether or not a call for a quorum call under those circumstances is dilatory.

Mr. METZENBAUM. Mr. President, I have not heard the President make that ruling.

The PRESIDING OFFICER. The Chair itself cannot make that observation. It would depend on a quorum call establishing a quorum.

Mr. METZENBAUM. I am sorry, I could not hear the Chair.

The PRESIDING OFFICER. It would require a live quorum call or a rollcall vote to establish the fact that a quorum is present.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Chair itself could not make that observation.

Mr. BAKER. A further point of order.

This is a terribly important precedent. It is my personal preference at this time that we declare this a dilatory tactic and to support the Chair, or to support this proposition. But to guard against the unfavorable consequences and unfair consequences in the future, I would hope the Chair would observe and state for the RECORD that it is his opinion that a majority of the Senate, or more than 20 Senators were present, or that a quorum is present, because otherwise we would have submitted to the Senate the question of whether or not a quorum is present.

Mr. LONG. Mr. President, a point of order.

Mr. BAKER. I would call on the Chair to state whether or not in his opinion there is a quorum present.

The PRESIDING OFFICER. The Chair reiterates that it will submit this question to the Senate for its consideration.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. It is a question for the yeas and nays.

Mr. LONG. Point or order, Mr. President.

In view of the fact that we are going to have a rollcall vote, the rollcall will establish whether there are 51 Senators here.

Mr. CHILES. If the Senator will yield, why are we going to have a rollcall here? There has not been a sufficient second to have a rollcall vote?

The PRESIDING OFFICER. Is there a sufficient second?

Is there a sufficient second?

There is not a sufficient second.

SEVERAL SENATORS. Vote! Vote!

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question is, is the point of order well taken? (Putting the question.)

So the point of order was sustained.

Mr. ABOUREZK. Mr. President, I have been seeking recognition——

The PRESIDING OFFICER. A point of order——

Mr. ABOUREZK (continuing). Before the vote was announced.

I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Am I recognized, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. ABOUREZK. Mr. President, since there are not enough Senators to second a rollcall vote, it would seem to me there is not a quorum present and I suggest the absence of a quorum at this time.

Mr. LONG. That is dilatory.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senate just made that decision and the Chair rules, as a result of the Senate vote, that the suggestion of the absence of a quorum is a dilatory tactic at this point.

The question is on agreeing to division 1 of the amendment offered by the Senator from Ohio.

Mr. METZENBAUM. The yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. They have been ordered, have they not, Mr. President?

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 40, nays 53, as follows:

[Rollcall Vote No. 415 Leg.]

YEAS—40

Anderson	Haskell	Moynihan
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Burdick	Javits	Ribicoff
Case	Kennedy	Riegle
Church	Leahy	Sarbanes
Clark	Magnuson	Sasser
Cranston	Mathias	Stevenson
Culver	McGovern	Williams
DeConcini	McIntyre	Zorinsky
Durkin	Melcher	
Hart	Metzenbaum	

NAYS—53

Abourezk	Ford	Nunn
Allen	Garn	Packwood
Baker	Glenn	Pearson
Bartlett	Goldwater	Randolph
Bellmon	Gravel	Roth
Bentsen	Griffin	Schmitt
Byrd, Harry F., Jr.	Hansen	Schweiker
Byrd, Robert C.	Hatch	Scott
Cannon	Hatfield	Sparkman
Chafee	Hayakawa	Stennis
Chiles	Heinz	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Talmadge
Dole	Long	Thurmond
Domenici	Lugar	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Weicker
	Morgan	Young

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So division 1 of Mr. METZENBAUM'S amendment was rejected.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which division 1 was rejected.

Mr. HANSEN. Mr. President, I move to reconsider the vote by which division 1 was rejected.

Mr. ABOUREZK. I move to lay that motion on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion to lay on the table the motion to reconsider.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LONG. Point of order, Mr. President. The suggestion is dilatory.

The PRESIDING OFFICER. The Chair would say he does not regard this as a dilatory tactic. The Senator asked for the yeas and nays, and they were not forthcoming. The Chair would state that the Chair feels the Senator has a right to proceed to get a quorum to seek the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all remaining rollcall votes today be 10-minute rollcalls.

Mr. ABOUREZK. Objection.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. A point of order, Mr. President. I was going to make a point of order and I would have appealed the ruling of the Chair. I have counted the attendance and I have my doubts that there are 50 Senators.

Mr. BAYH. Mr. President, the yeas and nays are requested one more time.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second. The Clerk will call the roll.

Mr. BARTLETT. Point of order, Mr. President, let us have a vote. A vote is called for, Mr. President.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 31 Leg.]

Abourezk	Chiles	McClure
Anderson	DeConcini	
Bartlett	Durkin	
Byrd, Harry F., Jr.	Ford	
	Hayakawa	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ABOUREZK. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Allen	Griffin	Nunn
Baker	Hansen	Packwood
Bartlett	Hart	Pearson
Bayh	Haskell	Pell
Bellmon	Hatch	Proxmire
Bentsen	Hatfield	Randolph
Biden	Hathaway	Ribicoff
Brooke	Heinz	Riegle
Bumpers	Hollings	Roth
Burdick	Inouye	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Javits	Schmitt
Case	Johnston	Schweiker
Chafee	Kennedy	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McGovern	Wallop
Eagleton	McIntyre	Weicker
Eastland	Metzenbaum	Williams
Garn	Morgan	Young
Glenn	Moynihan	Zorinsky
Goldwater	Muskie	
Gravel	Nelson	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which division 1 of the amendment of the Senator from Ohio (Mr. METZENBAUM) was rejected.

Mr. ABOUREZK. Mr. President, have the yeas and nays been ordered on that?

The PRESIDING OFFICER. No; they have not been.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second .

Mr. ABOUREZK and Mr. METZENBAUM addressed the Chair.

Mr. ABOUREZK. Mr. President, there is not a quorum present.

Mr. WALLOP. Mr. President, a point of order.

The PRESIDING OFFICER. The Chair has announced that there is a quorum present.

Mr. ABOUREZK. I do not see one here on the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. Mr. President, there is not a quorum present. That is why there was not a sufficient second.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. I conclude from the statement just made by the Senator from South Dakota that despite the personal preference of Members to agree to a record vote or to withhold their request for a record vote seems to establish the presence or the absence of a quorum. I would think that that does not necessarily follow.

I submit, and my question is, cannot a quorum be present and yet Senators still fail to demand the yeas and nays as was just indicated?

The PRESIDING OFFICER. That is very possible.

Mr. HANSEN. I thank the Presiding Officer.

Mr. ABOUREZK. Mr. President, will the Chair look around and tell me if there are 51 Members present?

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which division 1 of the amendment of the Senator from Ohio was rejected.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 33, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—59

Allen	Ford	Morgan
Baker	Garn	Nunn
Bartlett	Glenn	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Pell
Biden	Hansen	Randolph
Byrd, Harry F., Jr.	Hart	Roth
	Hatch	Schmitt
Byrd, Robert C.	Hatfield	Schweiker
Cannon	Hayakawa	Scott
Chafee	Heinz	Sparkman
Chiles	Inouye	Stennis
Church	Johnston	Stevens
Curtis	Laxalt	Stone
Danforth	Leahy	Talmadge
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durkin	Matsunaga	Wallop
Eagleton	McClure	Weicker
Eastland	Melcher	Young

NAYS—33

Abourezk	Haskell	Moynihan
Anderson	Hathaway	Muskie
Bayh	Hollings	Nelson
Brooke	Jackson	Proxmire
Bumpers	Javits	Ribicoff
Burdick	Kennedy	Riegle
Case	Magnuson	Sarbanes
Clark	Mathias	Sasser
Cranston	McGovern	Stevenson
Culver	McIntyre	Williams
DeConcini	Metzenbaum	Zorinsky

NOT VOTING—8

Goldwater	Humphrey	Percy
Helms	McClellan	Stafford
Huddleston	Metcalf	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER (Mr. BAYH). The Senator from West Virginia.

Mr. ROBERT C. BYRD. I would like to ask a question of the distinguished Senator from Ohio as to whether or not he will be willing to agree to a unanimous-consent request that the Senate vote en bloc on the remaining two divisions of his amendment.

Mr. METZENBAUM. I shall be very happy to accommodate the Senator, on the assumption that the yeas and nays will be asked for and we shall have a rollcall vote.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that the remaining two divisions be voted on en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to divisions 2 and 3. The yeas and nays have been requested.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that Mr. Tom Connaughton and Mr. Mack, aides to Senator BAYH, be accorded the privilege of the floor while this matter is being debated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all rollcall votes for the remainder of today be limited to 10 minutes.

Mr. ABOUREZK. Objection.

Mr. ROBERT C. BYRD. I ask unanimous consent that the pending rollcall vote be limited to 10 minutes,

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. PELL. Mr. President, I ask just to clarify it in my own mind, what is the objective, what is the reason for objecting? Is that an improper question? Is the intent to avoid having passage of this legislation in any way whatsoever? If that is the objective, OK. But why object to a 10-minute rollcall?

Mr. ABOUREZK. I say to my colleague from Rhode Island that it is the right of the Senate to have a 15-minute rollcall. We do not want anybody to miss a rollcall by calling for a 10-minute rollcall. I think that, in order to protect our colleagues who are not nearby, we ought to maintain the 15-minute rollcalls.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 27, nays 66, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—27

Anderson	Hathaway	Pell
Bayh	Hollings	Proxmire
Bumpers	Jackson	Ribicoff
Case	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Williams
Culver	McGovern	Zorinsky
DeConcini	McIntyre	
Durkin	Muskie	
Haskell	Nelson	

NAYS—66

Abourezk	Garn	Moynihan
Allen	Glenn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Biden	Hart	Sasser
Brooke	Hatch	Schmitt
Burdick	Hatfield	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
	Heinz	Sparkman
Byrd, Robert C.	Inouye	Stennis
Cannon	Javits	Stevens
Chafee	Johnston	Stevenson
Chiles	Laxalt	Stone
Church	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Eagleton	Melcher	Young
Eastland	Metzenbaum	
Ford	Morgan	

NOT VOTING—7

Helms	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the remaining divisions of Mr. METZENBAUM's amendment were rejected.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which parts 2 and 3 of the amendment were rejected.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. The yeas and nays have been requested. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BARTLETT. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARTLETT. My point is that this is a dilatory tactic.

Mr. METZENBAUM. Mr. President, there is not a sufficient second available.

The PRESIDING OFFICER. The Senate has established the present precedent no further back than about 2 hours or an hour ago, that when the yeas and nays were requested, then there are not sufficient Senators to grant that request, that the Senator is certainly within his rights and the rules of the Senate to request a quorum so that he can get the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BARTLETT. A point of order.

Mr. METZENBAUM. I yield——

Mr. ROBERT C. BYRD. Mr. President, I wonder if the Senator from Ohio——

The PRESIDING OFFICER. The Senator from Ohio has the floor and yielded to the Senator from West Virginia.

Mr. METZENBAUM. Without losing my right to the floor.

Mr. ROBERT C. BYRD. In view of the fact that the first part of the Senator's amendment was rejected, and obviously the first part having been rejected the second and third parts are really without legs to stand on, and they both having now been rejected, would the Senator allow us to vote on a motion to reconsider by voice vote?

Mr. METZENBAUM. I would prefer to have a rollcall vote, although I would like to accommodate my friend from West Virginia. In this instance, I would like to have a rollcall vote and I think that it is not inappropriate for me to ask that at this time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield further?

Mr. METZENBAUM. I yield to the Senator from West Virginia without losing my right to the floor.

Mr. ROBERT C. BYRD. I like the very warm and gracious smile the Senator is wearing.

Would he not admit that the first section having been voted down, and now that the second and third sections have been voted down, and the motion to table the motion to reconsider the vote by which the first section was voted down having been carried, this is really a dilatory action? Would the Senator continue to look at me and continue to smile?

[Laughter.]

Mr. METZENBAUM. I just want to ask on whose time this is.

Mr. ROBERT C. BYRD. It is on the Senator's time.

The PRESIDING OFFICER. The Senator speaking is the one for whom the clock is ticking.

[Laughter.]

Mr. METZENBAUM. Does that mean the Senator from West Virginia?

The PRESIDING OFFICER. The Senator from Ohio is now speaking.

Mr. ROBERT C. BYRD. The Senator yielded.

Mr. METZENBAUM. But when the Senator from West Virginia is speaking, is it on his time?

The PRESIDING OFFICER. If the Senator from Ohio is kind-hearted enough to yield to a brother Senator, the clock is ticking for him.

Mr. METZENBAUM. That being the case, I can no longer yield, and I give the floor to the Senator from West Virginia, and then I can keep my smile.

Mr. ROBERT C. BYRD. Mr. President, it is a dilatory motion, I say with the greatest of respect. I am not going to make any point of it. Is the motion to reconsider or the motion to table before the Senate?

The PRESIDING OFFICER. The yeas and nays were requested on the motion to reconsider. There was not a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, in order to bring this to a close, I move to table the motion to reconsider, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, a point of order. This goes back to the point of order I made before.

Mr. ABOUREZK. Regular order.

Mr. BARTLETT. This is a point of order. I understand that the Chair grants the right to a Senator to establish a quorum or to establish a quorum for his request for the yeas and nays. I do not question that. But I question that it is dilatory to grant it, and it was not answered in that way.

The PRESIDING OFFICER. The Senator will state his point of order and not debate.

Mr. BARTLETT. My point of order is that the rules do not require, if dilatory tactics are taking place, that in this case the rollcall be granted. It can be requested. He has the right to request the yeas and nays, but it does not have to be granted if the tactics are dilatory.

The PRESIDING OFFICER. The Chair suggests to the Senator from Oklahoma that the yeas and the nays have been requested and already granted, so it seems to the Chair that the point of order of the Senator from Oklahoma is a little late.

Mr. BARTLETT. I had the floor. I was trying to retain the floor, to follow up on the point of order, and I want a point of order on this question. I think it is very unfair to count me out because I am not recognized.

The PRESIDING OFFICER. The Chair recognized the Senator from Oklahoma on the point of order and then recognized the Senator from Ohio, who yielded to the Senator from West Virginia.

Mr. BARTLETT. With due respect to the Chair, he did not answer my point of order, and I am asking it again.

The PRESIDING OFFICER. The Chair, with all respect, tells the Senator from Oklahoma that his point of order is not apropos to the situation which presently confronts the Senate, where there has been a sufficient second to the tabling motion of the Senator from West Virginia.

The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 70, nays 22, as follows:

[Rollcall Vote No. 418 Leg.]

YEAS—70

Allen	Ford	Moynihan
Baker	Garn	Muskie
Bartlett	Glenn	Nunn
Bellmon	Goldwater	Packwood
Bentsen	Gravel	Pearson
Biden	Hansen	Pell
Brooke	Hart	Randolph
Burdick	Hatch	Roth
Byrd, Harry F., Jr.	Hatfield	Sasser
	Hayakawa	Schmitt
Byrd, Robert C.	Heinz	Schweiker
Cannon	Inouye	Scott
Chafee	Jackson	Sparkman
Chiles	Javits	Stennis
Church	Johnston	Stevens
Cranston	Laxalt	Stevenson
Curtis	Leahy	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Wallop
Durkin	McClure	Weicker
Eagleton	Melcher	Young
Eastland	Morgan	

NAYS—22

Abourezk	Hathaway	Proxmire
Anderson	Hollings	Ribicoff
Bayh	Kennedy	Riegle
Bumpers	Magnuson	Sarbanes
Case	McGovern	Williams
Clark	McIntyre	Zorinsky
Culver	Metzenbaum	
Haskell	Nelson	

NOT VOTING—8

Griffin	Humphrey	Percy
Helms	McClellan	Stafford
Huddleston	Metcalf	

So the motion to lay on the table the motion to reconsider was agreed to.

UP AMENDMENT NO. 854

Mr. KENNEDY. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 854 to amendment No. 862.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 9, strike lines 19 through 24, and strike all of pages 10 through 12, and on page 13, strike lines 1 through 5, and insert the following:

SEC. 24. (a) Notwithstanding any other provision of law, all rates and charges made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas sold or delivered from offshore Federal lands shall be subject to the regulation of the Commission and shall be just and reasonable, and any such rate or charge that is not just and reasonable is declared to be unlawful.

(b) Each such rate of charge made, demanded, or received by any natural-gas company, for or in connection with, the purchase or sale of natural gas sold or delivered from offshore Federal land, found by the Commission to be just and reasonable shall be deemed, for purposes of this Act, to be a national ceiling for rates or charges.

Mr. RIEGLE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield.

Mr. RIEGLE. Mr. President, I ask unanimous consent that two members of my staff, Bill Humphreys and Susan Poor be accorded the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank the Senator.

Mr. KENNEDY. Mr. President, this is a very simple straightforward, and important amendment. What it basically does is it excludes the Outer Continental Shelf lands from the Pearson-Bentsen amendment.

We recognized during the debate on Pearson-Bentsen some 2 years ago that there should be a different consideration than would be given to the gas product on the Outer Continental Shelf from that that would be on the land in the United States. It is recognized in the price mechanism.

Just very briefly, Mr. President, unquestionably there is a large supply of natural gas on the Outer Continental Shelf which I think is generally recognized by the gas companies and by most oil and gas people.

Second, to lift that gas off the Continental Shelf because of the facility of moving pipelines offshore, it is done a good deal more cheaply than it would be if it is brought onstream on land where you have to acquire rights of way and build pipelines.

Third, and I think most importantly, is that the gas which is in the Outer Continental Shelf basically belongs to the American people and it is of common value to all Americans, and no provision of the Pearson-Bentsen amendment should permit that the profiteering from that particular resource be attributed to the gas companies.

So, Mr. President, I hope that the Senate will accept this amendment which would exclude the Outer Continental Shelf gas from the Pearson-Bentsen amendment and would continue the price mechanism which is the boilerplate price mechanism, what is just and what is reasonable, and that we would maintain the cost controls on that particular gas.

That is basically the description of the amendment.

I reserve the remainder of my time.

I am glad to get into a greater explanation of it. Otherwise, I wish to have a rollcall vote on that particular amendment.

So if either Mr. PEARSON or Mr. BENTSEN want to debate this amendment, I am glad to debate it for a short time. Otherwise, I wish to have a rollcall vote on that, Mr. President.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.

The rollcall was resumed and concluded.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The call of the roll was resumed.

Mr. PEARSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. Objection.

The PRESIDING OFFICER (Mr. ZORINSKY). The request is not in order, the lack of a quorum having already been announced. The clerk will continue.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 32 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Proxmire
Biden	Hatfield	Randolph
Brooke	Hathaway	Ribicoff
Bumpers	Hayakawa	Riegle
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Sarbanes
	Hollings	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Jackson	Schweiker
Case	Javits	Scott
Chafee	Johnston	Sparkman
Chiles	Kennedy	Stennis
Church	Laxalt	Stevens
Clark	Leahy	Stevenson
Cranston	Long	Stone
Culver	Lugar	Talmadge
Curtis	Magnuson	Thurmond
Danforth	Mathias	Tower
DeConcini	Matsunaga	Wallop
Dole	McClure	Weicker
Domenici	McGovern	Williams
Durkin	McIntyre	Young
Eagleton	Melcher	Zorinsky
Eastland	Metzenbaum	
Ford	Morgan	

The PRESIDING OFFICER. A quorum is present.

Mr. McCLURE. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to

lay on the table the amendment of the Senator from Massachusetts (Mr. KENNEDY). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. METCALF), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 50, nays 43, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—50

Abourezk	Glenn	Packwood
Allen	Goldwater	Pearson
Baker	Gravel	Randolph
Bartlett	Hansen	Roth
Bellmon	Haskell	Schmitt
Bentsen	Hatch	Schweiker
Byrd, Harry F., Jr.	Hatfield	Scott
	Hayakawa	Stennis
Chafee	Heinz	Stevens
Chiles	Helms	Stone
Curtis	Johnston	Talmadge
Danforth	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Eastland	Mathias	Weicker
Ford	McClure	Young
Garn	Nunn	Zorinsky

NAYS—43

Anderson	Eagleton	Morgan
Bayh	Hart	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Javits	Ribicoff
Cannon	Kennedy	Riegle
Case	Leahy	Sarbanes
Church	Magnuson	Sasser
Clark	Matsunaga	Sparkman
Cranston	McGovern	Stevenson
Culver	McIntyre	Williams
DeConcini	Melcher	
Durkin	Metzenbaum	

NOT VOTING—7

Griffin	McClellan	Stafford
Huddleston	Metcalf	
Humphrey	Percy	

So the motion to lay on the table Mr. KENNEDY's unprinted amendment No. 854 was agreed to.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Several Senators addressed the Chair.

Mr. MCCLURE. I move to lay that motion on the table.

Mr. BUMPERS. Mr. President, I sought recognition first.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I thank the Chair.

Mr. President, I will only take 3 or 4 minutes of my 1 hour to point out something to the Members of this body present here.

When the momentum gets going on a bill such as this and there is a certain mind set, the votes have a tendency to solidify on one side or the other with no real debate. Everybody is most anxious not to use up any portion of his 1 hour, because he wants this to go as long as possible.

But I simply want to point out that the amendment which we have just voted to table by a vote of 49 to 44 would only require three changed votes to reconsider. I personally think it is worthwhile, and I am willing to use up some of my time to tell the Senate why.

This is a very simple amendment. It simply excludes offshore gas from deregulation.

The first thing that somebody might say who takes issue with this is, offshore drilling costs a lot more money than onshore drilling, so why should it not be deregulated?

But what we are talking about here is production from the public domain.

This is not to say that the price of offshore gas might not bring more money than deregulated gas onshore. The case could be made before the new Federal regulatory energy commission and, if justified, the price could bring whatever the statistics indicated, based on the cost of drilling, the cost of capital investment, and so on.

So I simply want to say that I hope we will vote and have an honest-to-God vote to reconsider this, and that the Senators, some of them, will reconsider the way they just voted, because it is much too serious to allow an amendment of this magnitude to go down in that rote fashion that all the rest are going through, because we are dealing with public property now. We are not dealing with landowners who lease their land to some driller who, in turn, is going to sell it to an interstate pipeline, or whatever he wants to do with it.

We are talking about gas that actually belongs to the people of the United States next winter, or whenever, and they are entitled to know that their interest is not being jeopardized by a routine, formalized vote in the U.S. Senate.

So, Mr. President, the motion to reconsider is a very serious one. I seriously hope the Senate will, indeed, reconsider the vote.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MCCLURE addressed the Chair.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCLURE. Mr. President, I move to lay on the table the motion to reconsider.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 47, nays 44, as follows:

[Rollcall Vote No. 420 Leg.]

YEAS—47

Allen	Glenn	Morgan
Baker	Goldwater	Nunn
Bartlett	Gravel	Packwood
Bellmon	Hansen	Pearson
Bentsen	Haskell	Randolph
Byrd, Harry F., Jr.	Hatch	Roth
	Hatfield	Schmitt
Chafee	Hayakawa	Schweiker
Chiles	Heinz	Scott
Curtis	Helms	Stevens
Danforth	Johnston	Stone
Dole	Laxalt	Thurmond
Domenici	Long	Tower
Eastland	Lugar	Wallop
Ford	Mathias	Weicker
Garn	McClure	Young

NAYS—44

Abourezk	Durkin	Moynihan
Anderson	Eagleton	Muskie
Bayh	Hart	Nelson
Biden	Hathaway	Pell
Brooke	Hollings	Proxmire
Bumpers	Inouye	Ribicoff
Burdick	Jackson	Riegle
Byrd, Robert C.	Kennedy	Sarbanes
Cannon	Leahy	Sasser
Case	Magnuson	Sparkman
Church	Matsunaga	Stevenson
Clark	McGovern	Talmadge
Cranston	McIntyre	Williams
Culver	Melcher	Zorinsky
DeConcini	Metzenbaum	

NOT VOTING—9

Griffin	Javits	Percy
Huddleston	McClellan	Stafford
Humphrey	Metcalf	Stennis

So the motion to table the motion to reconsider was agreed to.

AMENDMENT NO. 997

Mr. KENNEDY. Mr. President, I have at the desk——

Mr. ROBERT C. BYRD. Mr. President, may we have order so the Senator from Massachusetts may be heard?

The PRESIDING OFFICER. Senators will please clear the well. Senators will please cease their conversation and take their seats.

The Senator from Massachusetts.

Mr. KENNEDY. I call up my amendment 997 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 997.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, between lines 2 and 3, insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—THE OIL AND GAS COMPETITION

"SEC. 201. This title may be cited as the 'Oil and Gas Competition Act'.

"FINDINGS AND PURPOSE

"SEC. 202. (a) FINDINGS.—The Congress finds and declares that—

"(1) this Nation is committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents undue concentration of economic, social, and political power, and helps preserve a domestic society;

"(2) vigorous and effective enforcement of the antitrust laws and reduction of monopoly and oligopoly power in the economy can contribute significantly to reducing prices, unemployment, and inflation;

"(3) existing antitrust laws have been inadequate to maintain and restore effective competition in the oil and gas industry; and

"(4) the extraordinary dimensions of the remedy required by this Act necessitate expenditure judicial supervision of the divestitures and attendant actions required by this Act.

"(b) PURPOSE.—It is the purpose of the Congress in this Act to facilitate the creation and maintenance of competition in the petroleum industry, and to require the most expeditious and equitable separation and divestment of assets and interests of vertically integrated major petroleum companies.

"DEFINITIONS

"SEC. 203. As used in this title—

"(a) 'person' means an individual person or a corporation, partnership, joint stock company, trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated, and whether or not domiciled or incorporated within the United States. It does not include any authority of the United States or of the several States;

"(b) 'control' means a direct or indirect legal or beneficial interest in or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates of officers, or contractual relations which substantially impair the independent business behavior of another person;

"(c) 'affiliate' means a person controlled by, controlling, or under or subject to common control with respect to any other person;

"(d) 'asset' means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation;

"(e) 'commerce' means commerce among the several States, with the Indian tribes, or with foreign nations; or commerce in any State which affects commerce among or between a State and a foreign nation;

"(f) 'energy resource' means crude oil, natural gas liquids, and condensate;

"(g) 'redefine' means to change by any operation the physical or chemical characteristics of petroleum or petroleum products in order to create a derivative product for resale, exclusive of the operations of passing petroleum through a separator to remove gas, placing petroleum in settling tanks to remove basic sediment and water, dehydrating petroleum and generally cleaning and purifying petroleum;

"(h) 'refined product' means any product, whether liquid or gas, which is produced by a refinery asset;

"(i) 'marketing asset' means any asset used in the sale and distribution of gasoline or fuel oil, including diesel and distillate, to ultimate consumers at a retail motor fuel outlet, other than the initial sale with transfer of ownership to customers at the refinery;

"(j) 'production asset' means—

"(A) natural deposits of crude oil, or condensate and natural gas liquids;

"(B) any asset used primarily in the exploration for, development of, or production of an energy resource including, but not limited to, an interest in real property, whether or not such real property is developed or undeveloped; and

"(C) geological and geophysical information;

"(k) 'refinery asset' means any asset used in the refining of an energy resource;

"(l) 'transportation asset' means any asset used in the transportation within the United States by pipeline or gathering line of crude oil or refined product;

"(m) 'major producer' means any person which, during the calendar year 1974 or in any subsequent calendar year, alone or with affiliates, produced within the United States either a total of thirty-six million five hundred thousand barrels of crude oil, condensate and natural gas liquids, or whose interest in crude oil, condensate and natural gas liquid production totaled thirty-six million five hundred thousand barrels;

"(n) 'Outer Continental Shelf' means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (67 Stat. 29) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

"(o) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, and the Outer Continental Shelf;

"(p) 'Commission' means the Federal Trade Commission; and

"(q) 'prohibited asset' means any marketing asset, refining asset, or transportation asset, the retention of which is prohibited by section 204 of this Act.

"UNLAWFUL RETENTION

"SEC. 204. Notwithstanding any other provision of law, five years after the date of enactment of this Act, it shall be unlawful for any major producer to own, or control, any interest in any refinery asset, transportation asset, or marketing asset.

"SEC. 205. In order to facilitate the purposes of this title, the Commission is authorized to exempt any corporation formed or reorganized as a result of compliance with this section from the prohibitions contained in section 8 of the Act of October 5, 1914 (38 Stat. 732; 15 U.S.C. 19) for a period not to exceed one year.

"PROHIBITION ON SOLICITATION

"SEC. 206. It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding any security of a corporation subject to the requirements of section 204 or a subsidiary corporation thereof in contravention of such rules.

"REPORTS

"SEC. 207. Not later than thirty days after the date of enactment of this Act, each person subject to the requirements of section 204 shall file with the Commission a report listing its interests in its prohibited assets. The Commission may order such persons to file additional reports and may order any other person to file reports as it deems necessary to carry out the purposes of this Act. Not later than five days after any order of the Commission issued as provided in this section has been served, persons upon whom such an order has been served may bring an action for judicial review of such order in the court referred to in section 8(c) of this Act in accordance with the provisions of chapter 7 of title 5, United States Code. Such court shall take final action with respect to such order not later than ten days after such action is brought.

"ENFORCEMENT

"SEC. 208. (a)(1) The Commission, in accordance with such rules, regulations, or orders, as it deems appropriate to carry out the purposes of this Act, shall require each person subject to section 204 to submit to the Commission, not later than six months after the date of enactment of this Act, a plan for the divestment of its prohibited assets.

"(2) Such plan shall—

"(A) be developed in consultation with the officers and employees of the Commission and the Securities and Exchange Commission pursuant to guidelines which the Commission shall issue after consultation with the Securities and Exchange Commission;

"(B) be fair and equitable to all persons affected by such plan; and

"(C) provide for the substantial accomplishment of the required divestiture not later than three years after the date of enactment of this Act.

"(3) After each such plan is submitted to the Commission, the Commission shall provide the major petroleum producer submitting such plan the opportunity for a hearing on the record in accordance with the provisions of chapter 5 of title 5, United States Code, to resolve disputes of law and fact among all persons affected by such plan, the Commission, and the Securities and Exchange Commission. Prior to any such hearing, the Commission shall give notice of such hearing to all persons affected by such plan.

"(b)(1) In the administration of the provisions of this section, the Commission shall have primary oversight jurisdiction and responsibility for the preparation and final approval of the required divestiture plans.

"(2) The Securities and Exchange Commission and the Attorney General of the United States shall—

"(A) advise and file comments with the Commission as to the conformity of each such plan with general standards of fairness and equity with respect to the interests of the holders of debt and equity interests in corporations affected by the provisions of section 5; and

"(B) have the right to participate, including by intervention, in any proceeding with respect to any such plan.

"(c)(1) Not later than six months after the submission of any plan as provided in subsection (a), the Commission shall issue a final order with respect to such plan.

"(2) Not later than thirty days after such order is issued, such order may be appealed to a court of three judges of the United States District Court for the District of Columbia who shall be designated by the chief judge of the United States Court of Appeals for the District of Columbia. The filing of an appeal under this section shall automatically stay all related proceedings in State courts or Federal courts and such proceedings shall

be transferred to such court of three judges. The hearing of such appeal shall be given precedence and held at the earliest practicable date.

"(3) Such court of three judges shall have the power to modify the plan which is the subject of such final order.

"(4) The provisions of section 2284 of title 28, United States Code, shall not apply to such court of three judges.

"(5) The judicial panel on multidistrict litigation established by section 1407 of title 28, United States Code, shall not exercise any power or perform any functions with respect to such court of three judges or any matter before such court.

"(d) The Commission may institute suits or actions (1) only in the court referred to in subsection (c), and (2) for such relief as is appropriate to assure compliance by any person with this Act, including, but not limited to, orders of divestiture, declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, the appointment of temporary or permanent receivers or trustees, civil penalties, and punitive damages for willful failure to comply with lawful orders of the court.

"(e) In carrying out the provisions of this Act, the Commission shall have all powers, including the power to enforce, conferred upon the Securities and Exchange Commission by any other provision of law, and the Securities and Exchange Commission shall have all powers, including the power to enforce, conferred upon the Commission by any other provision of law.

"SANCTIONS

"SEC. 209. (a) Any person, or any officer, director, or partner thereof, who violates any provision of this Act shall be subject to a civil penalty of not more than $100,000, in the case of an individual, or not more than $1,000,000, in the case of a corporation. Such penalties shall accrue to the United States and may be recovered in a civil action brought by the Commission. Failure to obey any order of the court of three judges referred to in section 8 shall be punishable by such court as a contempt of court.

"(b) Any person, or any officer, director or partner thereof, who violates a lawful order of the Commission issued pursuant to this Act shall be subject to a civil penalty for each violation of not more than $100,000 which shall accrue to the United States and may be recovered in a civil action brought by the Commission. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey an order of the Commission, each day that such failure or neglect continues shall be deemed a separate offense.".

Mr. KENNEDY. Mr. President, I will not delay the Senate very long. This is a vertical divestiture amendment. It seems to me it is absolutely relevant to this particular bill.

What we are talking about in terms of the Pearson-Bentsen amendment is the question of what the effect of price will be on the increase in supply. We want to insure that the price will reflect free market forces.

Since we are moving towards such an extraordinary conclusion involving deregulation, it seems only appropriate that we consider other steps to increase competition in the oil and gas industry. This amendment addresses that issue in a very detailed way that is modeled on the proposal that was reported from the Committee on the Judiciary last year after very extensive hearings and very long periods of markup before that committee.

Mr. President, the Committee on the Judiciary reviewed the history of the various joint ventures within the oil and gas industry, the various exchange agreements that exist within the industry, the farmout provisions, the interrelationship between pipelines and those interrelated aspects of the industry involving production and refining and marketing. The committee also did a very extensive review of concentration in the industry, focusing as well on the international activities of the oil and gas industry.

So this kind of amendment has had very extensive hearings. It will, I believe, be extremely important as part of the Pearson-Bentsen amendment because it will insure, in the words of the proponents of that amendment, sufficiency of supply at competitive prices. That can only be achieved with my amendment.

It seems to me it is entirely relevant and germane to this proposal, and I would hope the Senate is prepared to accept this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I raise the point that the amendment of the Senator from Massachusetts is not germane and, therefore, is not in order and, therefore, a point of order should lie against the amendment of the Senator from Massachusetts, and I ask the Chair to rule.

The PRESIDING OFFICER. Once cloture is invoked amendments must be germane under the rule. There is nothing in the nature of the amendment in the nature of a substitute that this is introduced to or the original bill dealing with divestiture.

Mr. KENNEDY. I will withdraw that amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 855

Mr. KENNEDY. I call up my second amendment.

The PRESIDING OFFICER. The clerk will report the next amendment.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 855:

Insert at the appropriate place a new section to read as follows:

SEC. . The Commission shall promulgate such rules and regulations as it finds appropriate to prohibit the ownership or control of natural deposits of coal or uranium by natural gas companies which produced during the calendar year 1976, or in any subsequent year within the United States one hundred billion cubic feet of natural gas, or whose interest in natural gas production during calendar year 1976, or in any subsequent calendar year, within the United States totaled one hundred billion cubic feet. In no case shall the rules or regulations permit the retention of the prohibited assets for more than five years from the date of enactment of this Act.

Mr. KENNEDY addressed the Chair.

Mr. SCOTT. Mr. President, point of order.

Mr. ABOUREZK. Regular order.

Mr. SCOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, if there is more than one subject matter in this amendment, is the amendment in order based upon that point?

The PRESIDING OFFICER. Is the Senator's point of order that this amendment offers new subject matter?

Mr. SCOTT. It addresses itself to more than one subject matter. As I understand, once cloture is invoked an amendment should only have one item.

The PRESIDING OFFICER. No, this inserts a new section. So the Senator would be wrong on his assumption.

Mr. SCOTT. I appreciate the Chair's response.

Mr. KENNEDY. Mr. President, this basically is targeted at the same objective as the previous amendment, but it adds powers to the commission which is dealt with in the Pearson-Bentsen amendment. In the Pearson-Bentsen amendment the energy regulatory commission is contemplated as having powers: Hearings, rulemaking, and setting the price for old gas. This adds to the commission's power one more function, relating to the control of various levels of activities by major oil and gas companies.

So, this will be good news to the Members of the Senate who wanted to vote on the divestiture amendment earlier, because now they will have that opportunity to do so.

Mr. President, I am prepared to have a vote on my amendment at this time.

Mr. TOWER. Mr. President, I raise the point of order that the amendment is not germane and, therefore, a point of order should lie against it, and I ask the Chair to rule.

The PRESIDING OFFICER. This amendment is not as clear as the previous amendment, but the Chair feels that it does deal with divestiture and therefore will sustain a point of order.

Mr. TOWER. I thank the Chair.

Mr. KENNEDY. Mr. President, because I do believe that it is related on the question of competitive aspects which are fundamental to this legislation in terms of the supply and price; therefore, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the

Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 60, nays 31, as follows:

[Rollcall Vote No. 421 Leg.]

YEAS—60

Abourezk	Glenn	Pearson
Allen	Goldwater	Pell
Baker	Gravel	Randolph
Bartlett	Hansen	Roth
Bellmon	Hatch	Schmitt
Bentsen	Hatfield	Schweiker
Burdick	Hayakawa	Scott
Byrd, Harry F., Jr.	Heinz	Sparkman
	Helms	Stevens
Byrd, Robert C.	Inouye	Stevenson
Cannon	Johnston	Stone
Chafee	Laxalt	Talmadge
Chiles	Long	Thurmond
Curtis	Lugar	Tower
Danforth	Matsunaga	Wallop
DeConcini	McClure	Weicker
Dole	Melcher	Williams
Domenici	Morgan	Young
Eastland	Moynihan	Zorinsky
Ford	Nunn	
Garn	Packwood	

NAYS—31

Anderson	Eagleton	McIntyre
Bayh	Hart	Metzenbaum
Biden	Haskell	Muskie
Brooke	Hathaway	Nelson
Bumpers	Hollings	Proxmire
Case	Jackson	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	
Durkin	McGovern	

NOT VOTING—9

Griffin	Javits	Percy
Huddleston	McClellan	Stafford
Humphrey	Metcalf	Stennis

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the ruling of the Chair was sustained.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not press that request. The vote is very one-sided, 60 to 31. Obviously the Senate is not going to vote now to reconsider that vote. The Chair has been sustained. I hope the Senator will not press for a rollcall vote on that.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the motion.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the motion is dilatory, and I ask the Chair to so rule.

The PRESIDING OFFICER. The Chair rules that the motion is dilatory. The bill is open to further amendment.

Mr. ABOUREZK. I appeal from the ruling of the Chair, and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the appeal is dilatory. It comes right on the heels of a motion that has been ruled dilatory by the Chair.

The PRESIDING OFFICER. The Chair rules that the appeal is dilatory. The bill is open to further amendment.

The point of order is well taken. The bill is open for amendment.

The Senator from Colorado is recognized.

AMENDMENT NO. 991

Mr. HASKELL. Mr. President, I call up amendment No. 991 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes amendment No. 991.

Mr. HASKELL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, strike line 24.

On page 5, strike all through line 7.

On page 6, strike all after line 13.

On page 7, strike line 1.

On page 6, after line 13, insert the following: "lease) from a newly discovered reservoir."

On page 7, after line 16 insert the following:

"(s) The term 'qualified geologist' means a person who meets requirements of technical competence and expertise to be specified by rule of the Commission.".

On page 21, after line 14 insert the following:

"(3) The Commission shall determine if gas produced from a new well qualifies as new natural gas under section 3(1)(2). In order to qualify as new natural gas the Commission shall have received the findings and certification of a qualified geologist and shall have determined based on accurate geological information that such gas was produced from a newly discovered reservoir. The Commission shall prescribe such rules as necessary governing the information and findings which will be required to make such a determination. The Commission shall have 90 days from the receipt of such findings and certification to review and render its decision.".

Mr. STONE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HASKELL. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that Paul Laudicina of Senator BIDEN's staff may have the privilege of the floor during consideration of this measure.

Mr. GLENN. Mr. President, I ask unanimous consent that Len Bickwit of my staff have the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, this amendment is quite simple. It changes the definition of new gas. The amendment in the administration's bill and, as I understand it, the amendment in the substitute bill defines new gas by a certain number of miles from the existing well and a certain number of feet below the existing producing horizon. All my amendment does is basically eliminate this metes and bounds description and say that new gas is that gas determined to be new by geological opinion. Obviously, the Secretary would first rule and then the decision of the Secretary could be appealed and must be decided within 90 days by the regulatory agency set up.

I grant that the metes and bounds description is easier of administration. It is certainly bureaucratically easier. However, I suggest, Mr. President, to the Senate that my amendment is more realistic. New gas, in fact, is a geological determination, not a determination of a strict number of miles or number of feet. Therefore, Mr. President, based upon the realism of the situation, I hope that the Senate can adopt my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 72, nays 16, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—72

Allen	Garn	Moynihan
Baker	Glenn	Muskie
Bartlett	Goldwater	Nelson
Bayh	Gravel	Nunn
Bellmon	Hansen	Packwood
Bentsen	Hart	Pearson
Bumpers	Haskell	Pell
Burdick	Hatch	Randolph
Byrd, Harry F., Jr.	Hatfield	Ribicoff
	Hathaway	Roth
Byrd, Robert C.	Hayakawa	Sarbanes
Cannon	Heinz	Schmitt
Chafee	Helms	Schweiker
Church	Hollings	Stevens
Clark	Inouye	Stone
Cranston	Johnston	Talmadge
Culver	Kennedy	Thurmond
Curtis	Laxalt	Tower
Danforth	Leahy	Wallop
Dole	Lugar	Weicker
Domenici	Magnuson	Williams
Durkin	Matsunaga	Young
Eagleton	McClure	Zorinsky
Eastland	McIntyre	
Ford	Melcher	

NAYS—16

Abourezk	DeConcini	Riegle
Anderson	Jackson	Sasser
Biden	Mathias	Sparkman
Brooke	McGovern	Stevenson
Case	Metzenbaum	
Chiles	Proxmire	

NOT VOTING—12

Griffin	Long	Percy
Huddleston	McClellan	Scott
Humphrey	Metcalf	Stafford
Javits	Morgan	Stennis

So Mr. HASKELL's amendment was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

The Senator from Ohio.

AMENDMENT NO. 955

Mr. METZENBAUM. Mr. President, I call up amendment No. 955.

The PRESIDING OFFICER. The amendment will be stated.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HASKELL. I move to lay that motion on the table.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, that vote was so lopsided that there is no need to reconsider the vote.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. METZENBAUM. Mr. President, I have the floor, and I have an amendment pending at the desk, and I do not believe any other motion is in order.

The PRESIDING OFFICER. The Senator is correct. The motion to reconsider is not in order.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 955:

On page 10, line 10, insert after "gas" the following: "associated with incurred cost and a fair rate of return not to exceed eighteen percent on equity".

Mr. METZENBAUM. Mr. President, this is a very simple amendment. It provides that if you want to give a fair return on the equity of the investment, this provides for an 18 percent return. It should be a noncontroversial amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, if this is a noncontroversial amendment, why do we not vote by voice?

Mr. METZENBAUM. Only if I had some assurance from the other side that it was indeed noncontroversial.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, let us not have the yeas and nays. Let us have a voice vote.

Mr. ABOUREZK. Mr. President, can we get the yeas and nays or not?

Mr. ROBERT C. BYRD. Mr. President, may I explain to my dear friend from South Dakota? Let us try a voice vote. If it carries, he does not need the yeas and nays.

Mr. DURKIN. Mr. President, let us try a motion to table.

The PRESIDING OFFICER. The Senator makes a motion to table.

Mr. ABOUREZK. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I realize that a quorum call is underway. I ask unanimous consent, with the understanding that the yeas and nays will be given, that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 28, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—61

Allen	Eastland	McClure
Baker	Ford	Melcher
Bartlett	Garn	Morgan
Bellmon	Glenn	Moynihan
Bentsen	Goldwater	Nunn
Bumpers	Gravel	Packwood
Burdick	Hansen	Pearson
Byrd, Harry F., Jr.	Hart	Pell
Byrd, Robert C.	Haskell	Randolph
Cannon	Hatch	Roth
Chafee	Hayakawa	Sasser
Chiles	Heinz	Schmitt
Curtis	Helms	Schweiker
Danforth	Johnston	Sparkman
DeConcini	Laxalt	Stevens
Dole	Leahy	Stevenson
Domenici	Lugar	Stone
Eagleton	Magnuson	Talmadge
Tower	Matsunaga	Thurmond
Wallop	Weicker	
	Young	Zorinsky

NAYS—28

Abourezk	Durkin	Metzenbaum
Anderson	Hatfield	Muskie
Bayh	Hathaway	Nelson
Biden	Hollings	Proxmire
Brooke	Inouye	Ribicoff
Case	Jackson	Riegle
Church	Kennedy	Sarbanes
Clark	Mathias	Williams
Cranston	McGovern	
Culver	McIntyre	

NOT VOTING—11

Griffin	Long	Scott
Huddleston	McClellan	Stafford
Humphrey	Metcalf	Stennis
Javits	Percy	

So Mr. DURKIN's motion to lay on the table Mr. METZENBAUM's amendment was agreed to.

Mr. HANSEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table the amendment of the Senator from Ohio was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. DURKIN. Mr. President, that motion is dilatory.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The point of order is well taken.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. I did not make the motion. All I ask for is the yeas and nays on a motion by the Senator from Wyoming. If the Chair wishes to rule him dilatory that is fine. But asking for the yeas and nays was not dilatory.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. DURKIN. Mr. President, I move that that is dilatory.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. That point of order is well taken.

Mr. ABOUREZK. I suggest the absence of a quorum. There is obviously not a quorum present in the Chamber.

The PRESIDING OFFICER. The point of order is well taken.

Mr. DURKIN. No business has been transacted, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire.

The motion was agreed to.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The bill is open to further amendment.

The Senator from South Dakota.

AMENDMENT NO. 868

Mr. ABOUREZK. Mr. President, I call up amendment No. 868.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 868.

Mr. DURKIN. Mr. President, that action is dilatory and that is the amendment of Senator JACKSON that has been tabled.

Mr. ABOUREZK. Regular order, Mr. President. The amendment has not been reported yet.

Mr. DURKIN. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

Mr. DURKIN. Point of order, Mr. President. That amendment has been tabled.

Mr. ABOUREZK. Regular order, Mr. President. The amendment has not yet been reported.

The PRESIDING OFFICER. The amendment has been tabled, and in addition, the amendment seeks to be a substitute for the bill at a time when there is a substitute for the bill pending, and therefore is not in order.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

Mr. DURKIN addressed the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. This amendment to the bill S. 2104 has not been tabled. It has been tabled as an amendment, and it was in a different form. It has not yet been called up in the original bill.

I ask for the regular order.

Mr. DURKIN. Point of order, Mr. President.

Mr. ABOUREZK. The amendment has not been reported, Mr. President, and I am entitled to have it reported.

Mr. DURKIN. Point of order, Mr. President.

The PRESIDING OFFICER. The amendment has been tabled by the Senate and was not in order.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

Mr. DURKIN. Point of order, Mr. President.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

Mr. DURKIN. I move that the action of the Senator from South Dakota is dilatory on its face.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I just walked in the door. What does he want?

Mr. DURKIN. The Senator is just in time.

Mr. ABOUREZK. I am trying to get the yeas and nays.

Mr. ROBERT C. BYRD. On what?

Mr. ABOUREZK. On appealing the ruling of the Chair. The Chair ruled that the amendment had been tabled.

Mr. ROBERT C. BYRD. What was the vote?

Mr. ABOUREZK. I suggest the absence of a quorum, Mr. President.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I just walked in. What is the question before the Senate.

The PRESIDING OFFICER. Whether an amendment has been read and tabled. Whether it is in order to be called up again and offered again.

Mr. ROBERT C. BYRD. The amendment was called up and was tabled. The question is whether or not it can be called up again?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. How did the Chair rule?

The PRESIDING OFFICER. That it was not in order.

Mr. ROBERT C. BYRD. The Chair is right. [Laughter.]

Mr. President, I would hope that the Senator would not appeal the ruling of the Chair.

Mr. ABOUREZK. Mr. President, if I could use the Senator's time, I do not want to use my time in this debate, but I have asked for a ruling.

The PRESIDING OFFICER. It would take unanimous consent.

Mr. DURKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on the appeal.

Mr. ROBERT C. BYRD. Let us give him the yeas and nays so we will not have a quorum on appealing the ruling of the Chair.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. What is the question that is going to be put?

The PRESIDING OFFICER. Shall the decision of the Chair stand as the judgment of the Senate.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 86, nays 3, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—86

Allen	Byrd,	Curtis
Anderson	Harry F., Jr.	Danforth
Baker	Byrd, Robert C.	DeConcini
Bartlett	Cannon	Dole
Bayh	Case	Domenici
Bellmon	Chafee	Durkin
Bentsen	Chiles	Eagleton
Biden	Church	Eastland
Brooke	Clark	Ford
Bumpers	Cranston	Garn
Burdick	Culver	Glenn
Goldwater	Lugar	Ribicoff
Gravel	Magnuson	Roth
Hansen	Mathias	Sarbanes
Hart	Matsunaga	Sasser
Haskell	McClure	Schmitt
Hatch	McGovern	Schweiker
Hatfield	McIntyre	Sparkman
Hathaway	Melcher	Stevens
Hayakawa	Morgan	Stevenson
Heinz	Moynihan	Stone
Helms	Muskie	Talmadge
Hollings	Nelson	Thurmond
Inouye	Nunn	Tower
Jackson	Packwood	Wallop
Johnston	Pearson	Weicker
Kennedy	Pell	Williams
Laxalt	Proxmire	Young
Leahy	Randolph	Zorinsky

NAYS—3

Abourezk	Metzenbaum	Riegle

NOT VOTING—11

Griffin	Long	Scott
Huddleston	McClellan	Stafford
Humphrey	Metcalf	Stennis
Javits	Percy	

So the ruling of the Chair was sustained as the judgment of the Senate.

AMENDMENT NO. 953

Mr. ABOUREZK. Mr. President, I call up amendment No. 953 and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I make a parliamentary inquiry. Is this amendment divisible?

The PRESIDING OFFICER. The amendment will be stated first.

Mr. ROBERT C. BYRD. Why can I not have my question answered first?

The PRESIDING OFFICER. When a Senator offers an amendment, it should be stated first.

Mr. ROBERT C. BYRD. Does the Chair mean I cannot ask if it is divisible if it is not reported?

Mr. ABOUREZK. I ask for regular order, Mr. President.

The PRESIDING OFFICER. It is clearly divisible. It hits the bill in more than one place.

Mr. ROBERT C. BYRD. I thank the Chair doubly.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) for Mr. METZENBAUM proposes an amendment:

On page 7, strike out all in lines 7 through 18 and redesignate the clauses in section 3 accordingly.

On page 8, beginning with line 7, strike out all through line 11 and insert in lieu thereof:

"COST BASED NATIONAL CEILING PRICES

"SEC. 4. (a) Not later than the first day of the sixth full calendar month following the effective date of this Act the Commission shall establish a maximum ceiling price which shall be applicable to new natural gas produced in the United States and delivered on or after such date. Such price shall be promulgated in proceedings made on the record after opportunity for hearing in accordance with sections 553, 556, and 557 of title 5 of the United States Code, and may be adjusted thereafter in accordance with this section as the Commisison determines necessary.

"(b) In establishing such national ceiling price, the Commission shall—

"(1) provide for the recovery of all costs on the basis of costs during the immediately

preceding period of not less than five calendar years;

"(2) provide for the recovery only of the actual amounts of tax under the Internal Revenue Code of 1954 paid or incurred by the producer;

"(3) provide for a reasonable rate of return (not to exceed 18 per centum of equity employed in the discovery, development, and production (at the wellhead) of natural gas);

"(4) if appropriate, take into account productivity determined on the basis of the average of annual average additions to reserves of natural gas during the immediately preceding twelve calendar years (excluding negative revisions of reserves not associated with such years); and

"(5) associate the reserve additions for any year with the drilling costs of the preceding year.

"(c) The Commission shall prescribe procedures for expediting determinations under this section.

"(d) Any price for the sale of natural gas shall not be considered as exceeding the ceiling price established under this section if such price is necessary to obtain an average rate of return of 18 per centum on equity employed in the discovery, development, and production (at the wellhead) of natural gas. The preceding sentence shall only apply if—

"(1) an appropriate petition for its application has been filed which contains such information as the Commission determines appropriate, and

"(2) within ninety days after such filing, the Commission has not determined that, from the information submitted in, or in connection with, such petition that such price is not necessary for the seller to obtain such rate of return.

"(e)(1) The Commission may establish a higher ceiling price in excess of the ceiling price established under this section in the case of a sale of high-cost natural gas if the Commission finds that such higher ceiling is necessary to provide reasonable incentives for the production of high-cost natural gas as defined in section 10.".

Redesignate the following sections of the bill accordingly.

On page 22, line 19, strike out "5", and insert in lieu thereof "4".

Mr. DURKIN and Mr. ABOUREZK addressed the Chair.

Mr. DURKIN. Point of order.

Mr. ABOUREZK. I demand the division of the amendment.

The PRESIDING OFFICER. The Senator from New Hampshire has been recognized.

Mr. DURKIN. I make a point of order that the amendment is not in order, inasmuch as it touches the bill in more than one place.

Mr. ABOUREZK. I demand a division.

The PRESIDING OFFICER. The Senator is correct. The point of order is well taken.

Mr. METZENBAUM. I appeal the decision of the Chair.

Mr. ROBERT C. BYRD. Mr. President, the point of order is well taken and it is well substantiated by numerous precedents. I therefore make a point of order that the appeal from the ruling of the Chair is dilatory.

Mr. ABOUREZK. Regular order. It is not debatable. Mr. President.

The PRESIDING OFFICER. In this context, the point of order is well substantiated.

Mr. METZENBAUM. What was the ruling?

Mr. DURKIN. My point of order was well taken.

The PRESIDING OFFICER. The Chair feels that the Senate has a right to speak to the question itself. Therefore, the Chair rules that the appeal is not dilatory.

Mr. METZENBAUM. Is not what?

The PRESIDING OFFICER. Not dilatory.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. The last precedent being in 1972.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

Mr. ROBERT C. BYRD. The last precedent was in 1972?

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The Chair hears the objection.

The second assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 33 Leg.]

Abourezk	Danforth	Melcher
Baker	Dole	Metzenbaum
Bartlett	Domenici	Muskie
Byrd, Harry F., Jr.	Durkin	Nunn
	Hansen	Ribicoff
Byrd, Robert C.	Hatch	Schmitt
Chafee	Hatfield	Stone
Chiles	Lugar	Zorinsky
Clark	Magnuson	
Curtis	McClure	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators .

The second assistant legislative clerk resumed the call of the roll.

Bayh	Haskell	Packwood
Biden	Hathaway	Pearson
Brooke	Heinz	Pell
Bumpers	Hollings	Proxmire
Case	Inouye	Roth
Church	Jackson	Sarbanes
Culver	Johnston	Schweiker
Eagleton	Laxalt	Stevens
Glenn	Mathias	Thurmond
Goldwater	McGovern	Wallop
Gravel	McIntyre	Weicker
Hart	Morgan	Young

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President——

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, if Senators will turn to page 76, I will read from the book of precedents as follows:

An amendment consisting of two provisions amending a bill at different points is in fact two amendments and cannot be offered together if the question is raised, except by unanimous consent.

The Senator from New Hampshire made the point of order that the amendment was not in order, based on this precedent in the RECORD. The footnotes indicate that that precedent has been sustained at least twice and as recently as April 1972. The book was printed in 1974, and I know for a fact that there have been at least two or three situations in which that precedent has been sustained since the book was published. There is no precedent to the contrary.

In view of that history of several sustained precedents, I think that the appeal of the ruling of the Chair in a cloture situation, such as we are in now, is clearly dilatory, and I make the point of order that the appeal is dilatory.

The PRESIDING OFFICER. Having had more time to think it over, and in light of the total consistency of the more recent precedents, the last two in 1975, the Chair is now inclined to rule the motion dilatory.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

APPROVAL OF BILL

A message from the President of the United States announced that on September 24, 1977, he approved and signed the enrolled bill (S. 1752) to extend certain programs under the Elementary and Secondary Education Act of 1965 for 1 year, and for other purposes.

NATURAL GAS PIPELINE REPORT—PM–116

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

I herewith transmit the Ninth Annual Report on the administration of the Natural Gas Pipeline Safety Act of 1968. This report has been prepared in accordance with section 14 of the Act and covers the activities for calendar year 1976, prior to the time I became President.

JIMMY CARTER.

THE WHITE HOUSE, *September 26, 1977.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bill and agreed to the following concurrent resolution in which it requests the concurrence of the Senate:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes; and

H. Con. Res. 361. A concurrent resolution authorizing certain corrections to be made in the enrollment of H.R. 6111.

At 3:50 p.m., a message from the House of Representatives delivered by Mr. Berry announced that—

The House has passed without amendment the bill (S. 1322) to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

The House insists upon its amendment to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TEAGUE, Mr. FUQUA, Mr. FLOWERS, Mr. MCCORMACK, Mr. BROWN of California, Mr. THORNTON, Mr. OTTINGER, Mr. HARKIN, Mr. AMBRO, Mrs LLOYD, Mr. WATKINS, Mr. WYDLER, Mr. WINN, Mr. FREY, Mr. GOLDWATER, and Mr. GARY A. MYERS were appointed managers of the conference on the part of the House.

The House has passed the bill (H.R. 3) to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes, in which it requests the concurrence of the Senate.

At 5:45 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 25) providing for the acceptance of a statue of the late Senator Ernest Gruening presented by the State of Alaska for the National Statuary Hall collection, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 126. An act to reduce the hazards of earthquakes, and for other purposes.

S. 602. An act to extend and revise the Library Services and Construction Act, and for other purposes.

S. 1307. An act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–2059. A letter from the Director of Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, money being appropriated through the apportionment process to the Board for International Broadcasting for the purpose of providing a grant to Radio Free Europe/Radio Liberty, Inc.; to the Committee on Appropriations.

EC–2060. A letter from the Executive Secretary of the Public Service Commission of the District of Columbia transmitting, pursuant to law, the 63d annual report of the Public Service Commission of the District of Columbia for the calendar year 1975 (with an accompanying report); to the Committee on Appropriations.

EC–2061. A letter from the Acting Secretary, Interstate Commerce Commission, reporting, pursuant to law, the Commission's determination to extend the time period for acting upon the appeal pending before the agency in Ex Parte No. 331; to the Committee on Commerce, Science, and Transportation.

EC–2062. A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "Applicability of Federal Motor Vehicle Safety Standards and Regulations to Electric and Hybird Vehicles" (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2063. A letter from the Secretary of the Federal Trade Commission transmitting, pursuant to law, the third report of the FTC concerning the impact on competition and on small business of the development and implementation of voluntary agreements and plans of action to carry out provisions of the international energy program (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2064. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on sales of refined petroleum products for June, 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2065. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report on gasoline service station market shares for June, 1977 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC–2066. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Social Security Act to expand the availability of emergency assistance under title IV in the case of natural disaster or other occurrence of regional or national significance beyond a State's control (with accompanying papers); to the Committee on Finance.

EC–2067. A letter from the Assistant Administrator for Legislative Affairs for the Agency for International Development, Department of State, transmitting, pursuant to law, notice of an increase in the funding level of the proposed fiscal year 1977 program in Panama (with accompanying papers); to the Committee on Foreign Relations.

EC–2068. A letter from the Administrator of the Agency for International Development, Department of State, transmitting, pursuant to law, an interim report covering the organizational arrangements, responsibilities, and administrative budget costs for a minority business section (with accompanying papers); to the Committee on Foreign Relations.

EC–2069. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United Sates within the past 60 days (with accompanying papers); to the Committee on Foreign Relations.

EC–2070. A letter from the Chairman of the Commission on Federal Paperwork transmitting, pursuant to law, a report with recommendations concerning paperwork burdens imposed upon the education community (with an accompanying report); to the Committee on Governmental Affairs.

EC–2071. A letter from the general counsel of the Commodity Futures Trading Commission transmitting, pursuant to law, a report on the establishment of two new systems of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–2072. A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on a Navy proposal on a new system of records, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–2073. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "U.S. Coal Development—Promises, Uncertainties" (EMD–77–43, September 22, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2074. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Office of Education's Basic Grant Program Can Be Improved" (HRD–77–91, September 21, 1977) (with an accompanying report); to the Committee on Government Affairs.

EC–2075. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Operational and Planning Improvements Needed in the Veterans' Administration 'Domiciliary' Program for the Needy and Disabled" (HRD–77–69, September 21, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2076. A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to make technical and perfecting amendments to the Federal program of insured loans to graduate students in health professions schools (with accompanying papers); to the Committee on Human Resources.

EC–2077. A letter from the Director of the Labor-Management Services Administration transmitting, for the information of the Senate, the "Register of Reporting Labor Organizations 1977" (with an accompanying report); to the Committee on Human Resources.

EC–2078. A letter from the Deputy Director of the Administrative Office of the U.S. Courts transmitting a draft of proposed legislation to amend the Speedy Trial Act of 1974 (with accompanying papers); to the Committee on the Judiciary.

EC–2079. A letter from the Chairman of the Board of Directors of the Future Farmers of America transmitting, pursuant to law, a report of the audit of the accounts of the FFA for the fiscal year ended June 30, 1977 (with an accompanying report); to the Committee on the Judiciary.

EC–2080. A secret communication from the Comptroller General of the United States transmitting, pursuant to law, a report re-

evaluating the U.S. policy toward lethal chemical munitions (PSAD–77–84), September 21, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. 2052. A bill to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment (Rept. No. 95–451).

S. Res. 269. An original resolution authorizing supplemental expenditures by the Committee on Rules and Administration (Rept. No. 95–452).

By Mr. LONG, from the Committee on Finance:

With an amendment:

S. 143. A bill to strengthen the capability of the Government to detect, prosecute, and punish fraudulent activities under the medicare and medicaid programs, and for other purposes (Rept. No. 95–453).

HOUSE BILL REFERRED

The following bill was read twice by title and referred to the Committee on Human Resources:

H.R. 5383. An act to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIEGLE (for himself, Mr. RANDOLPH, Mr. WILLIAMS, and Mr. JAVITS):

S. 2139. A bill to reestablish the Advisory Committee on Sheltered Workshops to the Department of Labor; to the Committee on Human Resources.

By Mr. MELCHER:

S. 2140. A bill for the relief of Loretto B. Fitzgerald; to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S. 2141. A bill to facilitate the naturalization of applicants who are 50 years old and have lived in the United States for 20 years; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. ALLEN, Mr. ANDERSON, Mr. BENTSEN, Mr. CANNON, Mr. CURTIS, Mr. DANFORTH, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURKIN, Mr. GARN, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HATCH, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. JOHNSTON, Mr. LAXALT, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. MELCHER, Mr. NELSON, Mr. PEARSON, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. ZORINSKY):

S. 2142. A bill to amend the Internal Revnue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Finance.

By Mr. INOUYE:

S. 2143. A bill for the relief of Mrs. Sun Ok Kim; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. THURMOND, Mr. PELL, Mr. HATHAWAY, Mr. CLARK, Mr. MAGNUSON, Mr. CULVER, and Mr. METZENBAUM):

S. 2144. A bill to establish a program of drug benefits for the aged; to establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of such program; and to require the conducting of certain studies and experiments, to enhance the capability of the Secretary of Health, Education, and Welfare to administer such program, and for other purposes; to the Committee on Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself, Mr. RANDOLPH, Mr. WILLIAMS, and Mr. JAVITS):

S. 2139. A bill to reestablish the Advisory Committee on Sheltered Workshops to the Department of Labor; to the Committee on Human Resources.

Mr. RIEGLE. Mr. President, I rise at this time to introduce, along with Senators RANDOLPH, WILLIAMS, JAVITS, and STAFFORD, a short and simple bill that would restore to the Department of Labor an exceptionally effective advisory committee that has until recently been of great service not only to the Department and the Federal Government, but also to the many handicapped citizens who are contributing to the economic health of the Nation through work in sheltered workshops. This advisory committee, which has done an excellent job of funneling citizen participaton into the Labor Department and also of avoiding unnecessary friction with employers and employees in the private sector, recently fell victim to the initial administration efforts at reorganization.

I am distressed that efforts at restructuring the executive branch—a process that should open Government up to the people, not close it off—has destroyed the Advisory Committee on Sheltered Workshops. I believe the decision to abolish the committee was unwise, and my bill would reverse that decision.

I am particularly proud that Senators RANDOLPH, WILLIAMS, JAVITS, and STAFFORD have joined in introducing this bill. Senator RANDOLPH, chairman of the Subcommittee on the Handicapped, is deservedly known as an outspoken advocate of sheltered workshops and other effective programs designed to enable handicapped individuals to play their full role in American society. Senator JAVITS is also known for his support for sheltered workshops, and as ranking minority member of the Human Resources Committee he has worked with Chairman WILLIAMS to encourage effective programs for handicapped individuals, programs that make every effort to encourage and depend upon participation by members of affected groups.

By Mr. SCHWEIKER:

S. 2141. A bill to facilitate the naturalization of applicants who are 50 years old and have lived in the United States for 20 years; to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, I am pleased to introduce today a bill to make possible U.S. citizenship for applicants who are more than 50 years old and have lived in the United States for at least 20 years, but cannot read and write English—one of the requirements for obtaining naturalization. I have received many letters from constituents regarding the inability of family members to pass the English reading and writing examination which is a prerequisite to becoming a naturalized American citizen. Many former immigrants have simply never had a need in their every-day affairs to read and write in the English language even though they have been in the United States for years, adhering tightly to the work ethic, raising families, and contributing to their communities. Their children have served in the Armed Forces and have been productive citizens.

Because many of these former immigrants are advanced in years or have been away from an academic setting for so long, attending school to learn to read and write English is often highly impractical. As a result, many are frustrated by current law in their long-held ambition to obtain the honor of American citizenship.

We are a nation of immigrants. In communities throughout our Nation, names of Americans sound an echo from every corner of the world. This ethnic diversity has traditionally been a great source of vitality and strength, and represents a key element of our national heritage. I believe this bill is in the spirit of this great tradition. We should welcome into full American citizenship this group of people.

In recent years, U.S. immigration policy seems to have gotten out of kilter. By most reasonable estimates, illegal immigration greatly exceeds legal immigration. Yet President Carter has proposed recently that millions of illegal aliens be granted amnesty and allowed to remain in the United States. In May, I introduced legislation to deal with the problem of illegal aliens by making it unlawful to knowingly employ illegal aliens and imposing stiff fines on employers who choose to violate the law. That bill, S. 1601, and the one I introduce today share the objective of returning to the proposition that our immigration policy should benefit law abiders, not law breakers. Rather than rewarding aliens with special benefits, we should be granting American citizenship to those legal immigrants who have led good lives within the law for many years and have earned the right to become full partners in American society.

For these reasons, I propose that the English reading and writing requirements be waived for applicants who are more than 50 years old and who have resided in the United States at least 20 years.

There is precedent for this measure. When the current provisions of law, including the English reading and writing requirements, were enacted in 1952, an

exemption was established for permanent resident aliens who at that time were more than 50 years old and who had resided in the United States for at least 20 years. This bill simply applies that same standard to all applicants, rather than just those who met the criteria in 1952. Although I am aware of no statistics on the question, my own experience leads me to conclude that the beneficiaries of the 1952 exemption have been competent and knowledgeable participants in public affairs. It is also noteworthy that this bill leaves unaffected all other naturalization requirements, including the requirement that applicants demonstrate a knowledge and understanding of the fundamentals of the history, and of the principles and form of government of the United States. Moreover, the requirement that all applicants for immigrant visas be literate in their native language remains unchanged.

Mr. President, I hope my colleagues will join in opening the doors of U.S. citizenship to these people who have earned the honor. I ask unanimous consent that this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and by inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334 of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years".

By Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. ALLEN, Mr. ANDERSON, Mr. BENTSEN, Mr. CANNON, Mr. CURTIS, Mr. DANFORTH, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. DURKIN, Mr. GARN, Mr. GOLDWATER, Mr. GRAVEL, Mr. GRIFFIN, Mr. HANSEN, Mr. HATCH, Mr. HATHAWAY, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUMPHREY, Mr. JOHNSTON, Mr. LAXALT, Mr. LEAHY, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. MELCHER, Mr. NELSON, Mr. PEARSON, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHMITT, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. STEVENS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, Mr. YOUNG, and Mr. ZORINSKY):

S. 2142. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Finance.

READIN' AND 'RITIN' AND REASON

Mr. PACKWOOD. Mr. President, I am introducing today the Packwood-Moynihan Tuition Tax Credit Act of 1977 to provide a tax credit for an individual's tuition expenses or those of a spouse or dependents. The amount is 50 percent of tuition payments up to a total credit of $500 per student. The credit will be subtracted directly from the amount of taxes owed, and it will be refundable if the credit is greater than the tax liability.

To be eligible for the credit, an individual can be a part-time or full-time student at an elementary or secondary school, a vocational school, a college or university. Included are business and trade schools which meet the basic accrediting requirements of the Office of Education.

Forty-two of my colleagues from both sides of the aisle and every section of the country cosponsor this measure. This diversity of support reflects the diversity of educational opportunity this bill will help preserve and promote.

Our educational system is a vast supermarket with a variety of educational programs and possibilities, but if too few people can educate themselves or their children, then the strength of the system itself is in danger. From the elementary level to the university, the excruciating cost squeeze of inflation is preventing too many middle class Americans from supporting our pluralistic approach. Without their support, the danger increases of our moving toward a public education monopoly.

Escalating tuition costs at the college level are hitting middle and lower income students hard. The College Entrance Examination Board reports that between the 1970–71 school year and the 1976–77 year the average tuition and fees at private 4-year institutions rose 54 percent, at public 4-year by 57 percent, at private 2-year by 52 percent, and at public 2-year by 130 percent. The Center for the Study of Higher Education at Penn State found tuition the major factor in enrollment decisions.

These costs impact directly on the lives of millions of Americans—parents who are educating their children, young Americans who are educating themselves, and older Americans who continue their education parttime. The profile of a college student has changed, and many are no longer June high school graduates who go directly to college in the fall. Many students, both young and older, are working and attending college at the same time. Much too little has been done to help these people who are working to educate themselves. They would be given encouragement for their efforts by a tuition tax credit, and many who may be forced to drop out because of these continuing cost increases might be able to continue their education.

We must stop thinking in educational cliches and realize our changing educational needs and traditions. The fluid labor market, different lifestyles, economic pressures, and new types of jobs all influence the educational needs of Americans. Retraining and continuing education have become an economic necessity for many. Other Americans begin or return to college in mid-life to refocus their lives or to prepare for a career. Many of these returning students are women working to reenter the job market, and many of these women are single heads of households supporting children.

College attendance among people 35 and older increased 50 percent between 1973 and 1975. These career adjustments or re-entry efforts directly affect our national employment picture; yet these Americans who are trying to help themselves through education receive limited support.

The higher educational picture is not limited to colleges and universities. Community colleges, vocational, trade, and technical schools, and other training institutions offer educational programs that must be accessible to people. The same problems of tuition increases and reduced income for education affects parents supporting students in these institutions as well as those students educating themselves.

Our multifaceted educational system cannot be sustained without enough educational consumers. This bill assists these consumers to make educational choices based upon individual needs in a most cost-effective approach. The tax credit method encourages individual decisions, and these personal choices are infinitely preferable to national planning. Freedom of choice is an important value to be nourished for many reasons. This very diversity of the system depends upon the availability of choices to all citizens.

The contributions of private educational institutions in America past and present have been well documented. At every educational level, private schools offer an alternative to our public system. No value judgments on either are needed or implied, because the two systems complement each other. Private institutions without the strictures of public governmental pressures sometimes speak to more select needs and interests than public institutions. A smaller constituency affords the opportunity for more specialized interests. By meeting these special needs, private institutions fulfill an important and vital function in the educational process.

In some areas, private schools at the elementary and secondary levels offer substantial financial relief for taxpayers because these schools carry a portion of the educational burden. In Boston, Chicago, Milwaukee, New Orleans, New York, and San Francisco, private schools educate approximately one-fourth of all students. In Cleveland and Philadelphia, that figure climbs to over 30 percent. To carry this share of the educational load of these cities, private schools depend upon these individuals willing to pay both taxes for public schools and tuition for private schools. I believe these individuals need help with this double burden.

Private elementary and secondary schools play a very useful role in educating our children. They offer parents an educational choice about the instruction

of their children. Often these schools give parents a greater voice in the educational process and a higher degree of accountability. Without these schools, America would have an educational monopoly with limited competition and less room for different ideas. The balance of power toward governmental control and away from individual choices would be even more lopsided than now without private institutions.

Enrollment at private elementary and secondary schools has declined substantially since 1966. U.S. Commerce Department statistics indicate that private elementary schools have lost 35 percent of their enrollment in the last 10 years. Private high school enrollment also dropped 13 percent even though total secondary enrollment around the country rose by 18 percent. Although there have been some hopeful signs that this enrollment decline has "bottomed out," it is clear that any further erosion of the private school system would seriously weaken our educational picture.

Private schools primarily educate lower and middle income students; in fact 51 percent of private school students come from families with incomes below $15,000. These middle and lower income Americans need help if private education is going to continue to be accessible to their children.

Whether private elementary and secondary schools or higher education, both public and private, or vocational education, lower- and middle-income Americans need the tax relief of the measure I propose. At the college level, the American Association of State Colleges and Universities estimate lower and middle income student participation in higher education has dropped approximately 20 percent since 1969. That assessment however, defines the upper limit of the middle income group as below $15,000, a very narrow definition. The hope of a college education for their children is a rapidly receding dream for millions of Americans.

Often the middle income students are financially locked out by having too much income to qualify for Federal aid and too little to afford education beyond high school without help. The American Council on Education found that students with adjusted family incomes of less than $7,500 receive about four-fifths of all basic educational opportunity grants, about two-thirds of all college work study awards, about half of the national direct student loans and about one-third of all guaranteed student loans. Obviously, lower income students need this assistance, but we must not overlook the needs of middle income students either. This legislation boosts the opportunities of lower- and middle-income families to finance their educational choices while at the same time reduces administrative costs and, equally important, puts the decisionmaking power in the hands of educational consumers.

The word "credit" in this legislation not only describes the tax procedure, but should also remind us of the credit due those Americans, especially in the middle class, who continue to work to educate themselves despite the pressures of taxes and inflation. Newsweek recently described the plight of what it calls the "middle class poor," those who have watched any income boosts eaten up by inflation and higher taxes. A new home and education lead the list of hopes now priced beyond many middle class taxpayers. The numbers can be tabulated easily. They show the distressing fact that a family of four with a 1970 gross income of $12,000, which now makes $18,000, actually has less disposable income than 7 years ago.

What cannot be figured as precisely, however, are how seriously the erosion of expectations affects the values of those whose hard work and faith keep the country going. Maybe we have talked so long and so often about inflation and its impact on people's lives that we fail to put the numbers with the facts and the names. Higher and higher price tags at colleges and universities are putting many students out of the classroom. Despite changing needs and expectations about a college education, the decision about college should be made on grounds other than it is too expensive.

The very rich, the very poor, and the very brilliant will be the only Americans with realistic prospects of college in a few years if the present situation continues. Those categories are too narrow to support and sustain our system of higher education. The product without the consumer is meaningless in the area of education. This legislation by providing tuition credits for each student in the family will also ease the burden of a family forced to choose which child will receive more education.

Self-help is a concept too often enshrined in our rhetoric, but absent from our legislative philosophy. The Tuition Tax Credit Act encourages self-help, and it will affect the lives of millions of students directly and in a more meaningful way than moneys that are administered and controlled by those unaccountable to all of us.

To put the cost of this proposal in perspective, the $4.7 billion price tag should be compared to an estimated fiscal year 1980 budget of $550 billion. That means this legislation is less than 1 percent of that projection. The tax credit approach also is only 4 percent of what the Nation's taxpayers spend every year for public education at the local, State, and Federal levels. If the 7.7 million students now enrolled in private elementary, secondary schools, or institutions of higher education were enrolled in tax-supported schools, the bill would be an additional $17 billion every year.

One of the most interesting arguments against the tax credit approach for education is that it takes control out of the hands of educational experts. That just may possibly be the best byproduct of tax credits. The educational consumer is also an expert from a more practical standpoint. Parents who want to direct their children's education and students tailoring their educational decisions to their own interests and local job markets are making personal choices on a personal level. I believe they are the people who should be making these decisions, and I believe they should have the opportunity of different options.

This tuition tax credit proposal concerns millions of Americans and their personal choices about education. It will help make colleages and universities more financially feasible for middle- and lower-income students. A college degree whether obtained in mid life or at 21 should be a reachable goal for all Americans willing to work for it. This proposal would help make that degree a reasonable hope.

Retraining or continuing education at any accredited institution will be more accessible to more Americans under this legislation. It specifically includes part-time schooling, because of those who work and study at the same time. Our present tax laws which give tax benefits to companies that provide educational opportunities for employees overlook the initiative and enterprise of individual Americans who seek further education.

Students at vocational schools, community colleges, and in continuing education have become a growing factor in education. As our job market continues to change, educational alternatives to the traditional 4-year college must be nourished. At a time when we need more types of educational experiences, we should be supportive of all aspects of our educational marketplace.

This bill is about preserving the variety of educational choices which individuals should be able to make. The parent who bears the dual burden of taxes and private school tuition, the 18-year-old who wants to go to a State university like his two older sisters, the single head of a household with three dependents who needs more education to get a job or the 35-year-old whose skills are outdated—these are the people this legislation can help. Do not multiply those examples by any numbers, but fill in the names of your friends and neighbors. When you read this legislation, think of individuals and their educational needs and consider how much impact these tax credits could have on their lives.

Mr. MOYNIHAN. Mr. President, I am today joining with Senator BOB PACKWOOD and 41 cosponsors in introducing the Tuition Tax Credit Act of 1977. This is an event of some significance, not simply because of the widespread and bipartisan interest in this measure that is already evident, but also because of the public policy implications of our proposal.

The legislation we offer is at once uncomplicated and far reaching. It is intended, in the first instance, to lighten the financial burden that is borne by individuals paying tuition to schools and colleges, and by parents paying the tuition of their children. In so doing, it will widen educational opportunity for lower and middle income families, and will broaden the range of school and college choices available to those without great personal wealth.

I wish to be clear that the primary purpose of this initiative is to assist individuals and families, particularly those in the financially beleaguered middle class who are seldom eligible for grant

and scholarship programs but who find it increasingly difficult to pay the spiraling cost of education without assistance.

But we have a secondary purpose as well, and one I wish to make explicit. The United States today boasts the world's most variegated and pluralistic educational system, not just because its governance is divided amongst 50 States and thousands of localities but also because of our splendid array of non-public schools and colleges.

In the main, these institutions do not receive subsidies from local, State, or Federal tax funds, save that contributions to them may ordinarily be deducted from the income tax return of the donor. Indeed, it may be said that one of their defining characteristics, the source of much of their cherished independence, is their freedom from the taut strings that are commonly attached to direct public subsidies.

It follows that these private institutions—some 14,000 grammar schools, 3,700 high schools, and 1,500 colleges and universities—are heavily reliant on tuition as their principal source of income, and that their very existence thus depends on the ability of those who would like to attend them to pay the associated costs. Without funds, the students will vanish. Without students, the schools will vanish. Without these schools, a large measure of the diversity and excellence that we associate with American education will vanish.

I take pluralism to be a valuable characteristic of education, as of much else in our society. In "Beyond the Melting Pot," Nathan Glazer and I wrote of the persistence of pluralism in American life, and of its values. We are many peoples and our social arrangements reflect this disinclination to submerge our inherited distinctiveness in a homogeneous whole.

At the college and university level, we tend to take for granted that diversity is a good thing, that estimable private educational institutions should coexist with the massive public universities as a valuable source of education with qualities that no public institution can supply. My own State of New York is in the vanguard of States that have begun to recognize this value—and the dull and costly fate that would befall us if we failed to assist such institutions to survive—and has developed an imaginative and creative set of measures to provide public resources to private colleges and their students. Federal policy is beginning to recognize—albeit inadequately and only at the level of higher education—the distinctive needs and contributions of private colleges and universities, and to tailor its programs to them as well as to their public sector counterparts.

Precisely the same values inhere in our private elementary and secondary schools, although public policy has been less ready to embrace them. They provide diversity to the society, choices to students and their parents, and a rich array of distinctive educational offerings that even the finest of public institutions find difficult to supply, not least because they are public, and must embody generalized values.

Diversity. Pluralism. Variety. These are values, too, and perhaps nowhere more valuable than in the experiences that our children have in their early years, when their beliefs and attitudes are formed, their minds awakened, and their friendships formed. I cherish these values, and I do not believe it excessive to ask that they be embodied in our national policies for the betterment of American education.

As we look to the future, two facts are fundamental. Tuitions in private schools and colleges continue to soar—as of course do tuitions and fees in State colleges and universities. And the number of persons in the school and college-going population continues to diminish.

Public policy can do little about these underlying conditions. As the costs of providing a quality education keep rising, so must school and college revenues. Whereas public schools and colleges can turn to public sources for those additional funds, private institutions have little recourse but to pass these increased costs through to their "customers" in the form of increased tuitions. As for the population, it is simply the fact that from a peak of 4.3 million live births in 1961, we declined to fewer than 3.2 million in recent years. This shrinkage in the infant population may be translated directly into school enrollments: our elementary schools enrolled 1 million fewer students in 1975 than they did 10 years earlier.

There is little to be done about the birth rate, or its impact on total school populations. But those who value diversity, pluralism, and choice in American education must be sensitive to the fact that our private schools are bearing a grossly disappropriate share of this contraction. Indeed, as the following table shows, our non-public schools have absorbed virtually the entire net student loss at the grammar school level during the past 10 years.

Day school enrollments, K–8, by institutional control

[In thousands]

	1965	1970	1975	Net loss
Public	30,563	32,577	30,545	−18
Nonpublic	4,900	4,100	3,900	−1,000
Total	35,463	36,677	34,445	−1,018

Source: National Center for Education Statistics, DHEW.

Many explanations may be offered, but one stands out: While everyone pays taxes in support of schools, virtually none of that tax money makes its way into nonpublic schools. They derive their support primarily from tuition, but those who must pay that tuition—taxpayers all—derive little or no assistance from their local, State, or Federal governments.

At the college level, the situation is somewhat different. Although the traditional college-going age group is also on the brink of an historic decline, it remains the case that many persons do not attend college at all. No one knows with certainty how many more millions of Americans are eager to continue their educations, if only they could afford to do so. What we do know is that as the "tuition gap" between public and private colleges has widened, the proportion of college students choosing private campuses has steadily shrunk: from 50 percent in the early 1950's to less than 25 percent today. As we begin to contemplate the effects of an overall decline in college enrollments in the next 10 years, we must aso entertain the gloomy possibility that our private institutions will once again bear more than their share of this decline.

Joseph Schumpeter warned years ago that the end of liberal society would not come about through some Marxian convulsion but rather by what he described as the slow but steady "conquest of the private sector by the public sector".

In education today, we still have a strong and vital nonpublic sector. But can it last, given rising costs, dwindling enrollments, and mounting competition for students, without a revision of social policies that today favor only public institutions and that erect sizable barriers to individuals whose educational needs might best be served in nonpublic ones?

It is widely known that the great majority of our private schools, and about half our private colleges and universities, are affiliated with or sponsored by various religious denominations. It is perhaps less widely known that in the early days of this Nation, there was no sharp line of demarcation between "public" and "private" schools, that education was largely a church function, and that our social policies were supportive of such institutions.

In 1961, about to leave for Washington to join the Kennedy administration, I published in the Reporter magazine an article recounting the history of our existing arrangements, a history largely played out in my own State of New York. In the earliest days of the Republic, schools in New York, as elsewhere, were largely church run, and received public support. When public schools were first established, they were in fact, given the background of those who ran them, Protestant schools, and the growing Catholic community of the early 19th century reacted predictably by establishing its own schools. As one commentator has written:

> Catholics (had) their parochial schools and the Protestants (had) the public schools.

Thus there arose the patterns of a dual school system which exists to this day.

And thus there arose the question of whether these Catholic schools would continue to receive public support, or all the available funds be given to the public schools only.

It must be understood that throughout most of our history, the answer to this question was thought to be "Yes"; yes, that is, that nonpublic schools may receive public assistance. In New York, for example, Governor Seward proposed to the legislature in 1840 that Catholic schools receive State aid:

I do not hesitate . . . to recommend the establishment of schools in which they (the children of immigrants) may be instructed by teachers speaking the same language with themselves and professing the same faith.

The next year, Seward's Secretary of State, John Spencer, issued a report once again assuming the justice of the Catholic position:

It can scarcely be necessary to say that the founders of these schools, and those who wish to establish others, have absolute rights to the benefits of a common burden, and that any system which deprives them of their just share in the application of a common and public fund must be justified, if at all, by a necessity which demands the sacrifice of individual rights, for the accomplishment of a social benefit of paramount importance. It is presumed no such necessity can be urged in the present instance.

As the Catholic population grew, and as bigotry against it grew, the issue of public support for private schools came to the center of national attention. Beginning at mid century with the Know Nothing Party, anti-Catholicism became what can only be described as a political movement. In the election of 1876, President Grant took the measure of anti-Catholicism and did not scruple to appeal to it, and his party's platform for that year proposed a constitutional amendment prohibiting aid to Catholic schools. The platform states:

The public schools system of the several states is the bulwark of the American republic; and, with a view to its security and permanence, we recommend an amendment to the constitution of the United States, forbidding the application of any public funds or property for the benefit of any school or institution under sectarian control.

Nothing is clearer from this proposal than the understanding that without such an amendment the Constitution did allow aid to Catholic schools—a proposition accepted even by bitter critics at the time.

Yet, today, how many of us genuinely believe that the Constitution allows aid to church-related schools?

In a line of cases beginning only in 1947, and culminating in 1973 and 1975 with two decisions which take what can only be called an extremist position on constitutional interpretation, the Court, in my view, has rewritten the history of the first amendment. Many have recognized that the Court goes much further than constitutional history allows, and further than the Constitution itself instructs, and some of these are the dissenting Justices on the Court itself. And yet, am I entirely wrong to detect—among those of us deeply concerned about private education in America, and among those of us deeply concerned about Catholic education in America—a loss of conviction? Am I wrong to detect a growing sense, not simply that the Court is persuaded, but that the Court is persuasive, that the Court is right?

The bill we are introducing today calls for tax credits for parents who send their children to public and nonpublic schools and colleges alike. It is a simple proposition, and one supported by both the Republican and Democratic platforms in 1976. Chief Justice Burger has stated, in a dissent to the decision which declared a similar New York State statute unconstitutional, some of the bill's rationale:

It is beyond dispute that the parents of public school children . . . presently receive the 'benefit' of having their children educated totally at state expense; the statutes . . . at issue here merely attempt to equalize that 'benefit' by giving to parents of private school children, in the form of dollars or tax deductions, what the parents of public school children receive in kind. It is no more than simple equity to grant partial relief to parents who support the public schools they do not use.

Now I would say to you that this bill is constitutional, by which I do not mean that I predict the Court tomorrow would hold it so. I mean instead that a fair reading of our Nation's history demonstrates that the first amendment was never meant—and until recently never understood—to bar the sort of aid which we propose.

Consider the text of the first amendment, in relevant part:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Now, as I had occasion to remark in my Reporter article in 1961, there can be only one explanation of why it is thought that these words prevent public aid to nonpublic schools:

It is only because most Americans no longer have the foggiest idea what an established religion is that they can be persuaded that the words of the First Amendment mean more than they say.

Consider several earlier versions of the first amendment—"Congress shall make no law establishing religion . . ."; "The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established . . ."; "No religion shall be established by law . . ."

In the debate in the House of Representatives on the amendment, on August 15, 1789, Madison said "he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law . . ." When one representative objected that the language then in question—"no religion shall be established by law"—would aid irreligion. The Annals of Congress tell us that "Mr. Madison thought, if the word national was inserted before religion, it would satisfy the minds of honorable gentlemen."

This, I believe, is precisely the history the Court now forgets. It is true that there is, in our history, an extreme separationist tradition, represented by the views of Madison and to some extent, Jefferson. On this tradition, the Court almost exclusively relies, and thereby we are justified in asking why it does not rely instead on the words and history of the first amendment itself.

One of our greatest constitutional scholars, Edwin S. Corwin, gave us the following definition:

The historical record shows beyond peradventure that the core idea of "an establishment of religion" comprises the idea of preference; and that any act of public authority favorable to religion in general cannot, without manifest falsification of history, be brought under the ban of that phrase.

This view echoes the conclusions of constitutional experts down through our history. Cooley, writing in his classic General Principles of Constitutional Law in the United States in 1898, told us that:

By establishment of religion is meant the setting up or recognition of a state church, or at least conferring upon one church of special favors and advantages which are denied to others . . .

Yet, as Walter Berns sadly notes in his recent book, The First Amendment and the Future of American Democracy:

One looks almost in vain for references in the Court's opinions to what the great commentators—Story, Kent, and Cooley, for example—have written on freedom of speech and religion, or to what the Founders intended with the First Amendment.

It would go too far to say that the intent of the first amendment is undisputed, yet it does not, I think, go too far to suggest that the Supreme Court's present interpretation of that intent is wrong. Let us remember what Justice Story wrote, in 1833, when the intentions of the Founders were easily within the memory of living men: the purpose of the first amendment was "to exclude all rivalry among Christian sects and to prevent any national ecclesiastical establishment which should give to any hierarchy the exclusive patronage of the national government." This, I believe, is what our history teaches us.

But I would offer the thought that even as this history has become more clear, our public policies have grown ever murkier to the point of darkness on the subject of nonpublic education. Increasingly, at the State and Federal levels, we have lapsed into a pattern of avoidance with respect to those institutions not under immediate government control.

I was struck by this a few weeks back at a conference at the Woodrow Wilson International Center for Scholars convened on the subject of "the role of the Federal Government in American education during the last quarter of the 20th Century." The Office of Education had put up the money to engage the energies of five former United States Commissioners of Education to prepare materials, and lead discussions that would lead to a statement on this subject. This is a familiar process in Washington: the Government purchasing the advice it desires to receive. I had a hand in founding the Wilson Center, and served as vice chairman of its board and accepted an invitation to be present. I arrived as the guests assembled for dinner in the splendid great hall of the

castle, as we refer to Renwick's great Smithsonian Building on the Mall. In the glow of the candlelight and the Crozes-Hermitage, 1974, I inquired if in the proceedings so far any mention had been made of the Federal role in nonpublic education. None. Later in the evening at my suggestion one question was asked, but it was not answered. I looked at the guest lists. Not a single representative of Catholic education was present, and as I learned none had been invited. As for the Commissioners' draft document, nonpublic schooling simply does not exist.

Now these are serious men, and I have known each of them in office. They have served under Presidents of both parties, parties which openly discuss this matter in their national platforms. Indeed one of the Commissioners present was the one with whom I negotiated the language of the 1964 Democratic platform, which the Catholic bishops took to be an undertaking to provide their schools a measure of Federal aid. As I have said, the bishops kept their word: The Federal Government did not keep its word, not really.

We now have another opportunity. Secretary Califano assures me that his Department is "interested in any legislative proposals which seek to expand opportunities for aid to education for children enrolled in public or nonpublic schools". We shall eagerly await his testimony on the Packwood-Moynihan bill in January and look forward to administration support for this measure, although it is necessary to acknowledge that such support has not been forthcoming with respect to previous tuition tax credit proposals. Certainly the bill we are introducing today provides all three branches of Government with a fresh opportunity to demonstrate their commitment to the quality and well-being of all our schools, private as well as public, as well as to the broadening of educational opportunity in the United States.

Our proposal would provide modest-sized tax credits to individuals and families paying tuition to nonpublic elementary and secondary schools. But it would also do much more. It would extend those credits to the college level as well, both because we are persuaded that college costs are outstripping the ability of most Americans to pay them, and because we believe that the widest possible range of post-secondary educational opportunities should be available to every citizen with the capacity and the desire to make good use of them.

These opportunities—and their denial—are not confined to the private sector, and most certainly not to sectarian institutions. Fully half our nonpublic colleges and universities have no religious affiliation. And virtually all our State institutions charge tuition and fees now averaging $600 a year. When the costs of room, board, and other necessaries are added, the student matriculating at a public college must anticipate out-of-pocket expenses that average some $2,700 every year, or nearly $11,000 in the course of a 4-year bachelor's degree. How many families can afford such sums for each of their children? How many can afford the additional $1,800 per year that must be found if the child enrolls on a private campus?

The tax credit we are proposing today would not obliterate those difficulties. But it would ease them. Five hundred dollars per student per year, the maximum credit available under our plan, is not an enormous sum in light of contemporary educational costs. But for millions of American families, particularly those teetering on the brink of a decision about sending a child to college, or trying to identify the school best suited to that child's educational and personal needs, it could provide the critical margin of difference.

Tuition tax credits are not a new idea. Similar measures have passed the Senate several times in recent years, although none has yet reached the floor of the House of Representatives. It is an idea with a distinguished lineage in the Senate; long championed by Senator RIBICOFF, kindred measures have recently also been introduced by Senators SCHWEIKER, ROTH, and others. Indeed, I introduced a more limited version of such a bill several months ago, before deciding to combine my own efforts with those of Senator PACKWOOD and the many cosponsors of the present proposal.

But tuition relief is not yet a universally accepted idea. And it is to that end that we intend the hearings on this bill to be wide-ranging, comprehensive, and thorough. Educational policy, fiscal policy, tax policy, and Constitutional interpretation are all involved. For we intend to make certain that by the time the legislative process is completed, we will have crafted a sound and responsible measure that will cause the Supreme Court to take another look.

The proposal we are offering today would aid students and their parents, whether the educational institution to which they pay tuition is public or private, whether it is a grammar school, a high school, a college, or a graduate school. It is broadly based. Yet is remarkably uncomplicated in its constructions. Its sponsors are open to suggestions for modifying and improving it, and look forward to the careful consideration that it will receive as it moves through the Congress.

Mr. CURTIS. Mr. President, I would like to thank and offer support to my colleagues on the Committee on Finance for introducing the Tuition Tax Credit Act.

This legislation which will provide a refundable tax credit for tuition expenses paid up to a total of $500 per student is vitally needed today. For example, I have been informed that the cost of a private college education rose 119 percent between 1964 and 1975. Fees at public universities have risen 98 percent during the same period. While these figures are staggering, their impact has more significance when we learn that those hardest hit by the increase are families with middle-level incomes. They are unable to pay college costs, and yet they do not qualify for Federal financial aid. This bill is a step toward lightening this financial burden and making it possible for higher education to continue to be available to middle-income families.

Mr. President, the role of education in our democratic society cannot be disputed. Well informed and educated citizens form the foundation of our national institutions and the basis of self-government. In addition, as our society becomes increasingly complex, education becomes a vital necessity in the marketplace. One estimate places the difference between a high school diploma and a college degree at approximately $280,000. Thus, education is a good investment for individuals and for society. The individual learns new knowledge and skills that make him more productive and society benefits from the improved skills and ability of its members.

Mr. President, many of my colleagues recognize and support the need for tuition assistance but argue that direct grants or assistance to individuals and educational institutions should be made by the Federal Government. They oppose the use of the tax system to aid a particular segment of the economy and label credits and deductions as "tax expenditures." The theory of tax expenditures is predicated on the assumption that the Federal Government owns all resources except what they choose to rebate to individuals.

Mr. President, it should be observed that mismanaged Government fiscal policy resulting in double digit inflation is a major contributor to the rising costs of education. Further, our so-called progressive tax structure hits hardest at middle-income families and makes it increasingly difficult to educate their children. It is time to recognize and solve this problem through our tax system.

Direct grants, and financial assistance to students and institutions have a surface appeal but one must always keep in mind that Federal regulations closely follow Federal financial assistance. As evidence, look at the many institutions of higher education that are now complaining about Federal interference in the educational process. Further, many schools are now refusing Federal assistance rather than submit to such regulation and direction.

Mr. President, I think we can all agree that there is a need for tuition assistance and that a tax credit is the most simple and direct method of solving what has become a national educational crisis.

Again, Mr. President, I am pleased to be a cosponsor of this legislation and thank my colleagues Senators PACKWOOD and MOYNIHAN for taking the initiative in this vital area.

Mr. DANFORTH. Mr. President, I wish to offer my strong support for this legislation to provide tax credits to Americans who pay tuition for education.

The United States enjoys by far the greatest education system in the world. People everywhere envy our excellent public school system and the rights to free education guaranteed to every American. Our many nonpublic educational institutions supplement the public school system in a combination which encourages quality and—more important—freedom of choice.

In recent years, the Federal Government has significantly increased its direct role in underwriting the costs of public education. But very little has been done to encourage and preserve nonpublic educational alternatives.

It is estimated that in the past 5 years education costs at both public and private colleges and universities have increased more than 50 percent. The well-to-do can absorb these increases; and the availability of public scholarship, loan, and work-study funds for the poor permits many financially disadvantaged people to have access to private higher education. But there has been no relief for the middle-income family. They pay the taxes but are unable to afford the tuition, and their income exceeds the cutoff point for financial assistance.

This proposal takes a major step in helping such families to fulfill their dream of giving their children the best education possible.

The beauty of the proposal is that it maximizes the role of individual choice, and minimizes the intrusion of Government into the education process. Our education system is one of our most valuable national assets. This proposal will help to assure that this resource thrives well into the future.

Mr. DECONCINI. Mr. President, I am pleased to cosponsor the Tuition Tax Credit Act of 1977, introduced today by my good friends and distinguished colleagues, Senators PACKWOOD and MOYNIHAN.

Perhaps no other nation in the history of the world has placed such great emphasis on unimpeded access to educational opportunity for all its citizenry as has the United States. From the earliest colonial settlements, Americans have recognized, albeit imperfectly at times, that the advantages of education could not be confined to a privileged elite, if the ideals of liberty, equality, and individualism were to have anything more than symbolic significance. For a democratic order presupposes that each person has a right to pursue his aspirations and to fulfill his potentialities free of the artificial constraints of tradition, class, or caste. The key to translating this vision of man and his proper relation to society into practical reality has been and continues to be meaningful access to a suitable education. Indeed, the history of this country, and in fact of the Western World, amply demonstrates the indissoluble link between the dispersion of educational opportunity to ever wider segments of the population and the growth and vitality of democratic political and social institutions.

This process of expanding the mass base of the educational system, Mr. President, has been accompanied by an equally salutary diversification of organizational forms and curricular contents. At every level, American education is characterized by remarkable heterogeneity. Thus private preparatory schools have coexisted with both public and parochial institutions in providing elementary and secondary instruction to the Nation's children. And postsecondary education is, if anything, even more richly variegated—ranging from 2-year vocational and technical schools through small State colleges and private liberal arts institutions to world-renowned centers of advanced learning, some of which are maintained by private endowment and some by public funds.

This diversity, Mr. President, is one of the major strengths of the American approach to education; it both reflects and reinforces the social and cultural pluralism from which our country draws so much of its dynamism and vitality and makes it possible for those of varying tastes, interests, and needs to find the kind of institution and/or curricular offering that best meets their particular requirements.

Unfortunately, recent developments threaten to reverse the historic trend toward both wider accessibility and diversity in American education. The crux of the problem is quite simple: Schools and colleges across the country—public and private—are facing a devastating combination of declining enrollment and sharply escalating costs. Moreover, increasing numbers of families are finding it impossible to afford the sort of education they desire for their children. The measure I am cosponsoring today with my good friends from Oregon and New York is by no means a panacea for financial ills of American education. It is, though, a significant step in the right direction. This bill provides a tax credit, subtracted directly from the amount of taxes owed, for tuition expenses paid by an individual for himself, his spouse, or his dependents. The amount of this credit will be 50 percent of tuition payments up to a total credit of $500 per student. Of particular importance to low income taxpayers is that the credit will be refundable—if the taxpayer is entitled to a credit greater than the amount of his tax liability, the difference will be refunded to him in cash.

This approach provides simple and direct financial relief to students of all levels of education without the further expansion of the already massive Federal bureaucracy. More importantly, tax credits will help provide freedom of choice to the educational consumer.

Mr. HATHAWAY. Mr. President, I am pleased to join a number of my distinguished colleagues in introducing the Tuition Tax Credit Act of 1977.

It is particularly gratifying to be joining Senators PACKWOOD and MOYNIHAN and a substantial number of my colleagues on the Committee on Finance in this initiative, and as a member of this committee I look forward to participating in hearings to examine this proposal and to push for its prompt enactment into law.

THE TUITION TAX CREDIT PROPOSAL

The bill introduced today would provide for a tax credit of 50 percent of tuition paid by an individual for himself or herself, or in behalf of any dependent, up to a total credit of $500 annually per student. To be eligible, the tuition payment involved may be to any public or private educational institution, whether elementary or secondary, or post-secondary, including vocational and technical schools.

I am especially pleased to lend my support to this measure as a tax credit rather than a deduction. A credit, by being a direct dollar for dollar offset against the tax liability otherwise owed, serves to benefit all taxpayers equally without regard to their tax bracket. A deduction, on the other hand, inevitably benefits high-income taxpayers to a greater degree, and often gives no benefit whatsoever to those with lower income.

For example, a $100 charitable contribution yields a wealthy taxpayer in the 70 percent bracket a $70 tax saving. The same contribution by a taxpayer in the 20 percent bracket only saves him $20. And a taxpayer taking the standard deduction gets no direct benefit whatsoever. Charitable contributions would continue to be encouraged, but in a more equitable fashion, if a credit mechanism were substituted, or available as an alternative.

Further, and of particular benefit to low-income families, the tuition tax credit would be refundable. That is, if an individual taxpayer is entitled to a credit greater than his or her tax liability in the year in question, a refund from the Treasury in the amount of the excess credit would be forthcoming.

NEED FOR THIS LEGISLATION

This bill will provide a vitally needed boost to our Nation's educational system, which historically has relied heavily on both public and private institutions. This bill will be of special benefit to low- and middle-income families who, without such assistance, might be squeezed out of the educational marketplace. Our society as a whole, and our democratic system of government, is founded on equality of opportunity with special emphasis on equal opportunity through education to pursue any occupation or activity for which an individual is qualified. This notion is at the heart of the so-called American dream.

But without swift and decisive action by Congress this dream will become only a dream, with no realistic possibility of fulfillment. And for many of our citizens it could become a nightmare, holding out false promise and futile hope.

The rising costs of public and private institutions of post-secondary education are well-documented and if help is not forthcoming it will mean doors will be increasingly closed to students from low- and middle-income families. The College Board has shown that over the past 5 years tuition and fees at private 4-year institutions have increased by 54 percent, at public 4-year institutions by 57 percent. At private 2-year institutions the costs have gone up 52 percent, and at public 2-year institutions the increase has been a staggering 130 percent.

Accompanying these increased costs has been a steady decline in participation in postsecondary education by students from lower and middle income families—a decline amounting to 20 percent according to one source.

IMPACT ON PRIVATE ELEMENTARY AND SECONDARY SCHOOLS

These same phenomena are at work with regard to our Nation's private elementary and secondary school system. Approximately 10 percent of our Nation's

school children attend these schools on the basis of free choice and considerable family sacrifice. These schools which in many parts of the country form an integral part of community cultural, religious, and ethnic traditions are in grave financial trouble.

Though in many minds the idea of a private school conjures up images of exclusivity and elitism, the facts by and large do not fit this image.

In fact, in many instances the so-called private school plays a very large public role, and the distinctions to be drawn between public and private schools are blurred in many communities, with private schools serving as critically important and open resources utilized by the surrounding communities.

In this regard I refer my colleagues to the excellent study prepared by the New England Association of Schools and Colleges, entitled "A Study of the New England Academy, a Private School in a Public Role." Examples of these sorts of educational institutions which over many years have played a key role in meeting the educational needs of students from surrounding communities are Foxcroft Academy in Dover-Foxcroft, Maine; Fryeburg Academy in Fryeburg, Maine; George Stevens Academy in Blue Hill, Maine; Lee Academy in Lee, Maine; Lincoln Academy in Lincoln, Maine; Maine Central Institute in Pittsfield, Maine; Oak Grove-Coburn, in Vassalboro, Maine; Thornton Academy in Saco, Maine; North Yarmouth Academy in Yarmouth, Maine; and Washington Academy in East Machias, Maine, to name just a few. Over time some of these schools have become fully a part of the public school system. But others have valued and retained their independence, but in so doing have been no less important to meeting the needs of all their community's citizens.

Overall, private schools offer a more economical education. In 1974, the last year for which complete data is available, private elementary and secondary school students were educated at a per pupil cost of $1,191 versus $1,281 at public schools.

At parochial schools the difference in cost was more sharply drawn. In 1973, the per pupil cost of elementary parochial education was $310, and in secondary parochial schools it was $700.

The continued existence and vitality of these schools contributes toward increased accountability on the part of our public school system. And when sought out by families who must at the same time shoulder the burdens of rising property taxes and rising State and Federal taxes which in combination provide approximately $100 billion in aid to public educational institutions, these private schools stand as a strong example of pluralistic independence and quality.

In the last 10 years, though, enrollment at private schools has declined by 35 percent at the elementary school level, and by 13 percent at the secondary school level. This latter figure is particularly disturbing when viewed alongside a nationwide increase in secondary enrollment of 18 percent.

These declining enrollments are clearly a symptom of overly strained family budgets, which find it increasingly difficult despite preferences and traditions to endure outlays for elementary and secondary tuition payments with public schools available as an economical alternative.

But individual families who are increasingly forced to make this agonizing decision on economic grounds may in the long run create even greater economic problems for every taxpayer.

If the 7.7 million students who are currently enrolled in private elementary, secondary, and postsecondary institutions were to instead enroll in tax supported schools, the increased education bill to the taxpayer would be $17 billion every year.

COST OF PROPOSAL TUITION TAX CREDIT

The bill I am sponsoring would create a revenue loss of $4.7 billion per year, which in any context is an extremely large sum. But when compared with the $100 billion in public funds currently devoted to the support of public education, and when weighed against the potential additional cost of $17 billion per year if all our private educational institutions were to close their doors, the cost of the tuition tax credit seems most reasonable and justifiable.

FREE CHOICE

This tax credit proposal will provide a much needed boost to families, particularly lower and middle income families to provide for the educational needs of their children. It will not solve family budgetary problems nor will it offer an instant panacea to the financial difficulties of all our private schools.

But it will stand as an example of commitment on the part of our Federal Government to provide much needed assistance in this vital area, while at the same time preserving the fundamental values of independence and free choice.

THE TIME FOR TUITION TAX RELIEF IS NOW

Mr. HELMS. Mr. President, I am very pleased to join with my distinguished colleagues, ROBERT PACKWOOD and DANIEL MOYNIHAN, in introducing the "Tuition Tax Credit Act of 1977," to provide tax credits to almost every American who has to pay education tuition. Earlier this year, I was equally pleased to join the Senator from Pennsylvania (Mr. SCHWEIKER) in sponsoring the "Tuition Tax Relief Act of 1977." The substantial difference between these two proposals is that S. 834 provides an alternative of a tax credit up to $250 or a tax deduction up to $1,000, while the legislation we are introducing today provides a tax credit of up to $500.

If enacted, either of these bills would provide freedom of choice for the working, middle class taxpayer who up until now has been shut out of many educational opportunities by the increasing cost of tuition. Today, too many hard-working Americans are simply caught in the middle. They cannot afford increasing tuition costs and yet they do not qualify for Federal financial assistance.

As the Federal tax code is now structured, freedom of choice is available only for those wealthy enough to pay the cost of both public education through taxes and private education through tuition. The legislation we are proposing today will go far to remedy this situation.

During the last 5 years we have witnessed an increase in the cost of college tuition of over 50 percent. A major cause of this tremendous increase in the cost of education is the Federal Government itself. In my own State of North Carolina, for example, a recent survey showed that at Duke University the cost per student of implementing federally mandated social programs has increased from $58 per year in 1968 to $451 in 1975.

Congress could provide every student in the United States with a direct and substantial tuition rebate simply by reducing these federally imposed regulations and their accompanying costs. The millions of dollars now spent implementing Federal regulations could be spent providing thousands of low-income students with a college education and reducing the cost of education for everyone else.

I believe that a reform of the Federal tax laws to provide a tax credit for tuition is an equitable and fair method in dealing with the spiraling cost of education, however for it to provide a long-term, effective solution it must be part of a new effort by Congress to reduce education costs and Federal regulation of our colleges and schools.

Mr. LUGAR. Mr. President, I am pleased to join 42 of my colleagues in cosponsoring the Tuition Tax Credit Act of 1977. Enactment of this legislation would bring financial relief to families with students currently enrolled in school and hope to families who look forward to years of costly education.

The rapid increase in the cost of education provides another example of the devastating effect of recurring inflation. The average tuition and fees at private 4-year institutions have risen by 54 percent during the past 5 years and by 57 percent at public 4-year institutions. Costs at private 2-year institutions have increased 52 percent and public 2-year institutions have risen by a dramatic 130 percent during the same 5-year period.

What all of this means for individuals is that the middle-class taxpayers are being forced out of the public and private higher education system. Education costs are so exorbitant that only the poor who qualify for substantial financial assistance and the wealthy can afford to attend many schools.

What this means for the Nation is that in the long term the educational level of the average American will probably decline. The vast pools of well-educated people our Nation needs to compete in a sophisticated world will not continue to be available.

I believe the Congress must address promptly this deteriorating situation. The legislation introduced today represents a sound approach to the financial problems facing families with students or prospective students. The use of a tax credit allows maximum flexibility for individual choice and avoids additional

government interference in the education market.

I urge my colleagues to take early favorable action on this legislation.

Mr. SPARKMAN. Mr. President, I am pleased to join in the cosponsorship of the Tuition Tax Credit Act of 1977.

This is a legislative remedy that is long overdue. With spiraling educational costs and inflation in nearly every sector of our economy, some relief must be provided to parents laboring under the strain of supporting one or more children in school with all other costs adding to that load.

The bill being introduced today seeks to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such a credit is in certain instances refundable. This credit would be available in an institution of higher education, a vocational school, a secondary school and an elementary school.

Soaring educational costs make enactment of this bill imperative. I am informed that the average annual student cost of private education in institutions of higher learning has increased 52 percent over the past 5 years. For public colleges or universities this cost has increased over 55 percent during the same period.

I am particularly pleased that this bill provides a tax credit rather than a tax deduction. A tax credit is subtracted directly from the amount of tax owed, rather than, as in the case of a deduction, subtracted from overall income. This bill goes one admirable step further. If the taxpayer owes no tax, the credit is actually refunded. I hope we can pass this bill soon.

Mr. STEVENS. Mr. President, I am very pleased today to join with Senators PACKWOOD and MOYNIHAN in cosponsoring the Tuition Tax Credit Act. This legislation is an embodiment of congressional efforts dating back to the 88th Congress to provide relief for taxpayers overburdened with the high cost of tuition. This type of legislation has increasingly received support and I believe that its time for passage in both Houses of Congress has finally come.

I have been concerned with the ever fewer number of families able to take advantage of our country's educational opportunities due to the skyrocketing costs. Escalating tuition fees are prohibiting many capable people from participating in our vast educational programs on grounds of economics. I am confident that this tax credit will assure that families of all income levels can benefit and thus encourage a broadening of the financial backgrounds of those desiring to choose between the educational options available.

One of the major arguments surrounding the tuition tax credit is raised by those favoring direct Federal grant and loan programs. It is argued that tuition cost relief should be targeted specifically to those families in need. The Packwood-Moynihan legislation provides tax relief for those with all levels of income and is, in my opinion, a much better means for easing tuition cost burdens. First, by providing a blanket tax credit, this bill would allow for freedom of choice to the educational consumer. He or she could keep a larger portion of his or her earnings which would otherwise go to taxes and apply the tax credit toward paying the tuition bill. This appears preferable to the demeaning process of applying for Federal aid in which one must plead poverty and fill out detailed forms just to receive a portion of the money he has already paid in taxes. Second, by providing a blanket tax credit, all income levels can benefit. This is justified by the fact that the benefits of education are enjoyed not only by the individual that is educated, but by society as a whole.

It has been estimated that this legislation would cost the Treasury $4.7 billion in revenue loss. This loss is, however, relatively insignificant when viewed over the long term. The tuition tax credit is no more than an investment in the future; an investment that will be returned in better job opportunities, higher earnings, and higher Federal tax revenues. I am proud to be supporting this future investment and am confident that the already long list of cosponsors of this legislation will continue to grow with the addition of other Members wishing to do the same.

Mr. TOWER. Mr. President, last year I joined with Senator Buckley of New York in an amendment to the "Tax Reform Act of 1976" which was similar to the measure offered here today by Senators PACKWOOD and MOYNIHAN. I am pleased therefore to join them as a cosponsor of the "Tuition Tax Credit Act of 1977."

The bill provides a tax credit, subtracted directly from the amount of taxes owed, for tuition expenses paid by an individual for himself, his spouse, or his dependents. The amount of this credit will be 50 percent of his tuition payments up to a total credit of $500 per student. For the long-forgotten middle income taxpayer, who is too affluent to qualify for educational loans yet is severely strapped by rising educational expenses, the bill will bring welcome and deserved relief.

A major—and to my mind, crucial—part of this bill is that it will apply to all education from first grade to graduate school. Surely, college expenses have increased dramatically; and the bill would deal with that problem simply and generously. But costs have skyrocketed at all levels of education. There has been no assistance to the millions of families who, through their sacrifice and hard work, are keeping alive the independent schools which provide diversity to this country's education. Of importance to low-income taxpayers is that the credit will be refundable. This means that if the taxpayer is entitled to a credit greater than the amount of his tax liability, the difference will be refunded to him in cash.

Affluent Americans have always been able to exercise their parental right to guide the education of their children. But for middle-income families and for the poor, that has been a hollow right. It has been the right to pay twice for schooling, once through taxes to support the public schools and again for tuition to secure the education they prefer for their youngsters. This bill would reduce the financial hardships associated with the parents' right to guide the intellectual and moral development of their own children.

Because the bill addresses the financial problems of education at all levels, because it applies to tuition paid to both public and private schools, and because it provides tax relief to individuals rather than to institutions, I believe it would be equitable, constitutional, and easily administered. It is also long overdue, and I urge my colleagues who have not done so to join Senators PACKWOOD, MOYNIHAN, myself, and 40 other cosponsors in support of this legislation.

Mr. ZORINSKY. Mr. President, I am happy to join a large number of my colleagues in cosponsoring the Tuition Tax Credit Act of 1977.

This legislation is designed to address the increasing costs of education in this country and the burden those costs have imposed on the Nation's vast majority of middle income families and individuals. At the least, the escalating costs of education curtail the freedom to choose among educational institutions, placing strains on public and private sectors alike and threatening the diversity of our educational system. The view toward the future indicates the growing possibility of an educational system accessible only to the relatively poor and rich. It is part of what is becoming a usual refrain in this country: Taxes and inflation combining to erode the standard of living enjoyed by the middle class, the backbone of our society. This legislation is an opportunity—a chance for the Congress to begin to redress that grievance and to establish a policy for the future.

The remedy proposed is simple and fair. The bill provides a tax credit, subtracted directly from the amount of taxes owed, for tuition expenses of an individual or those of a spouse or dependents. The proposal applies to all levels of education: elementary, secondary and vocational schools, colleges and universities.

The Tuition Tax Credit Act of 1977 provides effective relief to overburdened taxpayers without enlarging an overgrown Federal bureaucracy. It allows our citizens to retain the freedom to seek educational services best-suited to individual needs and recognizes the importance of education to all members of our society. The proposed legislation is a sound answer to a problem of national scope, and I strongly urge its early consideration and adoption.

By Mr. KENNEDY (for himself, Mr. THURMOND, Mr. PELL, Mr. HATHAWAY, Mr. CLARK, Mr. MAGNUSON, Mr. CULVER, and Mr. METZENBAUM):

S. 2144. A bill to establish a program of drug benefits for the aged; to establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of such program; and to require the conducting of certain studies and experiments, to enhance the capability of the

Secretary of Health, Education, and Welfare to administer such program, and for other purposes; to the Committee on Human Resources.

THE DRUG BENEFITS FOR THE AGED ACT OF 1977

Mr. KENNEDY. Mr. President, a serious problem has existed in our country for many years. Rather than improving, it has grown steadily worse. Without immediate remedial action by Government, it will inevitably continue to worsen.

The problem I refer to is the terrible burden of high prescription drug costs that has been placed upon many of our citizens 65 years of age and over. Because of the nature of the problem, it is obvious to all that its consequences are not simply economic but include lack of adequate preventive therapy, poor health, hospitalization which might have been avoided, suffering, and demoralization, even death.

THE PROBLEM

The circumstances of the problem are these:

Since 1965 medicare has been helpful to older Americans with their hospital, physician and in-hospital drug costs. Medicare does not, however, provide any assistance to the elderly with their often large out-of-hospital drug expenses.

Accordingly, on the average the elderly are expending some 25 cents out of each of their health dollars for the drugs and drug sundries they require to sustain health or mitigate illness. Payments for drugs represent their second highest health care expenditure.

Of the amount they spend on these drugs and drug sundries, over 80 percent is paid out-of-pocket.

The median personal income of elderly males was $4,961 in 1975. For females it was $2,642. The incomes of fully one-fourth of all persons 65 years of age and over were below the near-poverty level classification of an Administration on Aging survey in early 1976.

The National Center for Health Statistics says that the aged spend $72 per person per year on drugs, in contrast with $30 per person per year for all age groups, and only $22 per person per year for the age group 17 to 44. The unfortunate aspect of this statistic is its failure to reflect the extraordinary out-of-pocket expenditures for drugs by those aged who are chronically ill and the perhaps surprising fact that average individual prescription drug expenses in the two lowest classifications of family income—less than $2,000 and $2,000 to $4,999—are substantially more than those of elderly individuals in higher family income brackets. Of the total expenditures for drugs by the aged, only 13 percent are covered by public programs; 87 percent must now be paid out-of-pocket. In other words, just being old greatly increases one's drug expenditures. But being old plus having a low income and/or suffering from serious chronic illness is synergistically worse. The problems fall very unevenly on the elderly. A retired disabled veteran from Virginia reports that his income is only $2,600 per year. He says:

I have a wife and small child. I spend over $1,200 a year in drugs. And I really can't keep up like this.

Consequently, the elderly, while comprising less than 11 percent of the national population, account for one-fourth of the total annual prescription drug utilization.

CHRONIC ILLNESS

Chronic illness is clearly many times more prevalent and disabling among the aged than among younger age groups. Over 40 percent of the elderly suffer from some form of chronic illness which limits their activity. That is twice the incidence of chronic illness among those in their middle years and over five times greater than younger persons.

Among 2,000 respondents to a survey of members of the American Association of Retired Persons and National Retired Teachers Association during 1973–74, most reported spending from $200 to over $1,000 annually on prescription drugs, representing from 10 percent to as much as 45 percent of their incomes.

Mr. President, the concept of an outpatient prescription drug benefit under medicare is not new. It has enjoyed the support of national, State, and local associations of older Americans, of the HEW Task Force on Prescription Drugs, the 1971 White House Conference on Aging, a Presidential Task Force on Aging, and the Social Security Advisory Council. Proposals have been introduced regularly and frequently in the Senate and House since the advent of the medicare program. Indeed, the Senate passed such legislation in 1967, 1972, and 1973, only to see the proposals fail to be sustained in conferences with the House.

I have today introduced the Drug Benefits Program for the Aged Act of 1977, a major bill to provide prescription drug coverage to every American and eligible aliens 65 years of age and older. I am pleased to have Senator THURMOND, the ranking minority member of the Subcommittee on Antitrust and Monopoly, join with me in cosponsoring this bill along with Senator PELL, Senator HATHAWAY, Senator CLARK, Senator MAGNUSON, Senator CULVER, and Senator METZENBAUM.

Our bill is a completely new proposal with workable controls on costs, with an effective and efficient means of administration, and with an adequate timetable for starting up the program, phasing in medications for chronic illness and, finally, providing comprehensive coverage of all necessary drugs for the elderly. It is a planned program that takes its time, not for the sake of delay or parsimony, but to insure that older Americans receive the highest quality drug products in the best therapeutic regimens at the most economical costs to the Government.

The drug benefits program for the aged is being introduced at a time when Congress is devoting much time and attention to the rising costs, the inflationary impact, the problems of access, and the claims of fraud and abuse in our health care system generally and the medicaid, medicare, and private insurance programs specifically. These serious matters have not deterred us from introducing a new health care program. But, they have made us even more aware of the vital necessity to design a drug benefit program that will prevent or avoid similar problems.

Unlike the 1960's when prescription prices declined, between 1970 and 1976, the prescription price component of the Consumer Price Index increased by 13.8 percent. Rising prescription prices have also contributed in part to the 125 percent increase in the cost of providing drug benefits under medicare and medicaid according to testimony of Robert A. Derzon, Administrator of Health Care Financing Administration, when he testified before joint hearings in July before the two subcommittees I chair on Health and Scientific Research and Antitrust and Monopoly. Retail drug prices vary by several hundreds of percent, yet some pharmacists are absorbing part of their cost increases and are experiencing a profit squeeze. Consumers are forced to pay more for products over which their health and prudence permit them no power of discretion. As always, those most aggrieved are the elderly, the poor, and the chronically ill.

The essential provisions of this legislation are these:

COVERAGE

The Drug Benefits for the Aged Act of 1977 covers all of the approximately 24 million residents of the United States, including aliens with at least 5 years residence, who are age 65 or over. The program is not restricted only to those now eligible for social security, medicare, or any other program for the aged.

Those persons 65 years of age or older now receiving prescription drugs under medicaid will, after full implementation of this act, receives their drugs under this new program. This means that this program will totally fund prescription drugs for medicaid beneficiaries, providing a savings to the States of the approximately $200 million they are now expending as their one-half contribution to a drug benefit under medicaid.

Elderly beneficiaries of this drug program will not be obligated to pay any amount for the approved drugs dispensed to them. There is no copayment, no coinsurance, and no deductible.

Cost-sharing proposals inevitably fall inequitably upon the elderly poor, whose past drug needs and expenditures have been shown to be nearly one-third higher than the nonpoor elderly. We also reject a means test for determining financial need because it can be arbitrary and capricious in its determination of assets from wages, savings, pensions, homesteads, et cetera, and because studies have shown that administration costs associated with imposing deductibles in such programs can amount to over $1 per claim. That would double the administrative cost of 50 cents per claim we have budgeted for this program.

ELDERLY RIGHT

Neither do we intend or desire this program to be relegated to the category of welfare for the aged. We consider this program to be in the best general health

and economic interests of our Nation. It is properly a right of older Americans which we acknowledge they have earned throughout their working years.

Senator Thurmond has explained—

Our bill is not one that gives something for nothing. Our bill is a bill which helps those who have worked hard for many years and have earned the right to a full measure of security and hope for the future.

I fully concur.

ADMINISTRATION

Efficient and effective supervision of the drug benefits program for the aged requires it to be administered by a new unit in the Department of Health, Education, and Welfare.

The Secretary of HEW will appoint a Drug Benefits Council whose chairman will be the Assistant Secretary of Health. The Commissioner of the Food and Drug Administration will serve on the Council as well as six members from the fields of medicine, pharmacology, public health and pharmacy, and three members representative of the eligible consumers of the services of the program.

The Council will advise and assist the Secretary with Administrative policy and long-term plans for the program. It will recommend the drugs for approval on the benefits list as well as the reimbursable costs for those drugs.

DATA PROCESSING

A centralized, automatic data processing system is essential for this program in order to handle an estimated claims volume of almost 300 million prescriptions. That is nearly five times the current claims volume under medicare and explains in part why this program should not be tied to medicare or its system of fiscal agents and carriers.

Another important reason why a single, separate and centralized system is vital to this program is the necessity of monitoring the prescriptions for purposes of drug utilization and prescribing review.

The final reason for preserving the integrity of a drug benefits system is the flexibility, experience and continuity that it provides for easily making it a part of whatever form of national health insurance is enacted by Congress. The preparation of uniform accounting and reporting systems, required by this legislation, will provide an information base readily transferable to a prescription drug program under national health insurance.

The Secretary is empowered, however, to contract with and reimburse State agencies to assist with various aspects of program administration.

BENEFITS

The ultimate goal of the Drug Benefits for the Aged Act is to provide comprehensive coverage of all necessary prescription drugs, insulin and a few approved nonprescription drugs for the elderly. The bill will begin this comprehensive coverage in the 6th year following enactment.

The first and second years after passage of the bill constitute the start-up period for the drug benefits for the aged program. This amount of time is needed to establish the Drug Benefits Council and staff, set up the electronic data processing system, determine the approved drugs and their reimbursement prices, contract with participating pharmacies, establish dispensing charges in each State, and get underway drug utilization review, information and education programs. Estimated costs for the first and second years are $100 million and $300 million.

When the program begins operation in the third year, a drug benefits list will be published consisting of the approved drug products arranged by therapeutic categories necessary for treating serious, chronic illness. This list of maintenance or long-term therapy medications is expected to cover about 70 percent of the total prescription drug costs of the elderly.

Coverage of psychotherapy drugs, including tranquilizers, is intended to assist programs aimed at keeping out and getting out the elderly from mental hospitals and other long-term care institutions.

DRUG CATEGORIES

The full list of therapeutic categories of prescription drugs which will be covered during the third, fourth and fifth years of the drug benefits for the elderly program are:

Prescription drugs: Adrenocorticoids, antianginals, antiarrhythmics, anticoagulants, anticonvulsants, antidepressives, antihypertensives, antineoplastics, anti-Parkinsonism agents, antipsychotics, antirheumatics, bronchodilators, cariotonics, cholinesterase inhibitors, diuretics, gout suppressants, hypoglycemics, miotics, sedatives, thyroid hormones, tuberculostatics.

Nonprescription drugs: Insulin.

Program costs for coverage of these drugs for chronic illness are estimated as follows: third year: $2 billion; fourth year: $2.2 billion; fifth year: $2.4 billion.

With comprehensive coverage of all necessary drugs for the elderly in the sixth year, the estimated cost is $3.4 billion.

Financing will be from general revenues with annual appropriations made as necessary.

The primary intent of this legislation is to provide necessary prescription drugs to the elderly. But in achieving this rightful aim, we have sought—and succeeded, we believe—to be fair to all other essential elements of the drug delivery system: The taxpayers, the practitioners, the pharmacists, and the manufacturers.

Taxpayers are protected from rapidly escalating program costs by provisions which will exert a downward pressure on wholesale drug prices, stimulate price competition among equivalent drug products, provide financial incentives to pharmacists to select lower cost products and put a hold on drug prices for 6-month periods, while permitting manufacturers the opportunity to justify and obtain legitimate price hikes to cover increased costs, when necessary.

The bill stipulates that the initial wholesale prices of drug products, reimbursable when the program begins, will be limited to no more than the 80th percentile of the actual costs of acquisition of the products based on surveys of invoices to pharmacies as of July 1, 1977. The provision will help protect projected program costs from being driven up by any large-scale price increases by manufacturers before the drug benefits program can get underway.

Pharmacies agreeing to participate under the terms of the program will be paid for dispensing approved prescriptions at guaranteed and equitable levels of reimbursement. The allowable payment to the pharmacy consists of two parts: First, cost of the drug product dispensed; and second, the dispensing charge.

MAC AND EAC

Reimbursement for the cost of the drug product is an amount equal to either the maximum allowable cost (MAC) if appropriate, or the estimated acquisition cost (EAC). In the case of multiple source drug products, which are determined to be therapeutically equivalent and interchangeable, the Secretary of Health, Education, and Welfare shall establish the MAC as the lowest cost at which the drug is widely and consistently available to pharmacies. Each approved drug is assigned an EAC which is the actual acquisition cost at which 60 percent of the participating pharmacies can obtain the drug product in a commonly ordered package size, as determined by the Secretary based on surveys of invoices for drug products received by participating pharmacies in the immediately preceding 6-month period.

Only those approved drug products and their EAC's and MAC's, where applicable, whose formulators or labelers have agreed to supply participating pharmacies for the purposes of the program at no more than their designated EAC's for 6 months, will be listed in the formulary of approved drug products published twice yearly and be reimbursed by the program.

Reimbursement for the dispensing charge will be established by the Secretary on a State-by-State basis and will be variable among participating pharmacies according to their geographical location—urban or rural, for example—and volume of prescriptions. The Secretary will establish the dispensing charge in each State after negotiation with representatives of participating pharmacies. The dispensing charge will be equivalent to the average cost of filling a prescription in each State, including but not limited to costs of pharmaceutical services and personnel, direct prescription and store expenses, overhead.

Equitable and realistic EAC's and dispensing charges will limit the amount of appropriations from general revenues requisite to funding the costs of the program. Set at levels adequate to cover the average and normal costs of pharmaceutical purchasing, services and profit, they will provide additional profit rewards for pharmacies which buy wisely and operate efficiently while limiting both the program's costs and the pharmacies' profitability for inefficient operations and imprudent buying.

HEALTH CARE COSTS

Costs of health care in this country have skyrocketed beyond belief and

probably, necessity. Their precipitous climb has evoked widespread demand for countermeasures. If and when adequate remedies are able to correct this intolerable situation, considerable needless personnel and financial tragedies will already have occurred.

This legislation intends to prevent these errors of omission from occurring in a pharmaceutical benefit program. The elderly need a prescription drug benefit. But Congress needs to insist that the program they get effectively, efficiently and comprehensively regulates costs at both wholesale and retail levels. This legislation will accomplish this aim.

A reimbursement policy for pharmacies and a price policy for manufacturers are just two ways in which our bill will constrain costs. In many ways, drug utilization review programs, required to be established by the Secretary, could prove to be even more important to controlling costs and, particularly, to raising the quality and propriety of prescribing and utilization. Because the state of the art in controlling prescription drug use is rudimentary and usually limited to closed systems such as hospitals and health maintenance organizations, this legislation mandates the Secretary of HEW to develop a variety of experimental drug utilization review methods and to adopt one or more which prove most efficient and effective.

The Secretary is also required to conduct such information and education programs directed at beneficiaries, participating pharmacies, and physicians as may be useful to assure appropriate use of the program and its benefits, adequate and proper product selection, and rational prescribing.

PHYSICIANS' RIGHTS

Physicians' prescribing responsibilities remain substantially the same under the provisions of the drug benefit program for the elderly. They retain the right either to insist that patients receive a particular brand of drug when medically necessary or permit the pharmacist to select the drug product from the program's approved formulary of therapeutically equivalent and interchangeable drugs. This provision coincides with current pharmacy law in 32 States which generally requires or permits drug product selection by pharmacists except when the prescriber or patient disallows substitution.

We believe that our bill addresses these problems which I have raised in a realistic, comprehensive and manageable manner. We feel that the passage of such critically needed legislation for our elderly is essential.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Benefits for the Aged Act of 1977".

SEC. 2. The Public Health Service Act (42 U.S.C. 201) is amended by adding at the end thereof the following new title:

"TITLE XVIII—DRUG BENEFITS PROGRAM FOR THE AGED

"TABLE OF CONTENTS

"Sec.
"1801. Definitions.
"1802. Establishment and entitlement of the Program.
"1803. Drug Benefits List.
"1804. Substitution of therapeutic equivalents.
"1805. Drug Benefits Council.
"1806. Payment.
"1807. Conditions of participation for pharmacies.
"1808. Administration of the Program.
"1809. Exceptions.
"1810. Hearings and appeals.
"1811. Penalties.
"1812. Authorization for appropriations.
"1813. Separability provision.

"DEFINITIONS

"Sec. 1801. (a) For the purposes of this title the term—

"(1) 'drug' shall have the same meaning as in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act and each dosage form and strength of a drug is a separate drug;

"(2) 'drug product' means a drug manufactured, packaged, or distributed by one or more specific formulators or labelers;

"(3) 'qualified drug' means a drug product which has been or approved and determined by the Secretary to be qualified to be marketed in compliance with applicable provisions of the Federal Food, Drug, and Cosmetic Act, and which is listed by the Secretary on the Drug Benefits list;

"(4) 'single source product' means a drug marketed or sold by only a single formulator or labeler;

"(5) 'multiple source product' means a drug marketed or sold by two or more formulators or labelers or a drug marketed or sold by the same formulator or labeler under two or more different brand names or both under a brand name and without such name;

"(6) 'generic name' means the established, official, on nonbrand name by which a drug is known, irrespective of its formulator or labeler, as assigned by the United States Adopted Names Council and accepted by the Federal Food and Drug Administration;

"(7) 'brand name' means the registered trademark or trade name given to a specific drug product by its formulator or labeler;

"(8) 'therapautic equivalent' means a drug product which when administered in the same amount will provide essentially the same therapeutic effect or rate of absorbtion as an appropriate reference product containing the same active ingredients in the same dosage form as certified by the Secretary;

"(9) 'estimated acquisition cost' means an approximated cost expressed in price per metric unit measure of the acquisition cost at which 60 per centum of the participating pharmacies can obtain a drug product in the most frequently purchased package size, as determined by in the most frequently purchased package size, as determined by the Secretary based on surveys of invoices for drug products purchased by participating pharmacies and published at least twice annually by the Secretary;

"(10) 'maximum allowable cost' means the lowest price per metric unit measure but not higher than the estimated acquisition cost at which a multiple source drug product is widely and consistently available from any formulator or labeler in a specific package size, as determined by the Secretary;

"(11) 'United States' shall have the same meaning as the term 'State' in section 2(f) of this Act;

"(12) 'hospital' shall have the same meaning as in section 1861(e) of the Social Security Act;

"(13) 'full pharmaceutical services' shall means the provision by a participating pharmacy of a range of services, as defined by the Secretary, to physicians and aged individuals, under the Program, including individual patient profiles, patient counseling with respect to drug utilization, delivery services, and other services designed to improve the use of benefits under the Program;

"(14) 'aged individual' means one who has attained the age of sixty-five or more years who is a resident of the United States, and is either (1) a United States citizen or (2) an alien who has been lawfully admitted for permanent residence who has resided in the United States continuously during the five years immediately preceding the month in which he or she applies for benefits under this title;

"(15) 'participating pharmacy' means any pharmacy establishment (including the outpatient department of a hospital), a clinic or other ambulatory care facility, including health maintenance organizations as defined in section 1301 (excluding dispensing physicians except as provided in section 1806(h) of this title, and Federal facilities), providing pharmaceutical services, which is licensed as such, under the laws of the State in which it is located or in which it otherwise lawfully provides pharmaceutical services and dispenses any qualified drug to a beneficiary of the Program and in accordance with the conditions of participation in section 1807 of this title;

"(18) 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he or she performs such function or action;

"(17) 'nonlegend drug' means a drug which does not require a prescription in order to be lawfully dispensed and which is not required by section 503(b)(f) of the Federal Food, Drug, and Cosmetic Act, to contain the warning against dispensing without prescription as part of its labeling;

"(18) 'prescription' means a written direction or order for the preparation and administration of a qualified drug by a physician, as defined herein, which specifies the name of the drug to be given, the amount of the drug to be dispensed (in accordance with the minimum and maximum quantities as determined by the Secretary), and the directions necessary for the patient to use the drug.

"(19) 'prescription drug' means a drug available to the public only upon prescription.

"ESTABLISHMENT AND ENTITLEMENT OF THE PROGRAM

"SEC. 1802. The Secretary shall establish within 24 months after the date of enactment of this title a Drug Benefit Program for the Aged (hereinafter referred to as 'Program') by which an aged individual is entitled to payment on his or her behalf made from funds appropriated under this title to a participating pharmacy for the purchase of qualified drugs dispensed to the aged individual for his or her health and well-being.

"DRUG BENEFITS LIST

"SEC. 1803. (a) The Secretary, after consultation with the Drug Benefits Council, established under section 1805, and after notice and an opportunity for hearing on the record, shall establish the Drug Benefits List within 24 months after the date of enactment of this title. The Drug Benefits List shall include prescription and nonlegend qualified drugs which the Secretary deems

appropriate for the treatment of conditions, illnesses, or injuries to the person or well-being of aged individuals. In determining the drugs to be included in the Drug Benefits List, the Secretary shall take into account—

"(1) the extent to which the benefits provided by the drug can help meet a serious health need of aged individuals, and

"(2) the relative benefits, risks, and costs of the drug as compared with other drugs available for the same health conditions, diseases, or indications.

"(b)(1) The Drug Benefits List shall contain a listing organized alphabetically by pharmacological therapeutic classification and subclassification of qualified drugs, and

"(2) Within each classification, the Secretary shall, as he deems necessary, include in the Drug Benefits List, either as a separate part (or parts) thereof or as a supplement (or supplements) thereto, any or all of the following information for each qualified drug listed:

"(i) the established or generic name;

"(ii) the name of the formulators or labelers who have agreed to charge for a drug product a price no greater than the estimated acquisition cost or the maximum allowable cost to participating pharmacies for drug products and the brand name, if any, under which such drug products are sold;

"(iii) the estimated acquisition cost and the maximum allowable cost, where applicable, for the listed drug products;

"(iv) the therapeutic equivalents;

"(v) such other information as the Secretary deems appropriate in the interest of the health and well-being of aged individuals.

"(c) The Secretary may promulgate such limits on minimum and maximum quantities that may be dispensed for each prescription for which payment under the Program may be made, as he deems appropriate.

"(d) Notwithstanding paragraphs (a) and (b) of this section, for the period beginning 24 months after the date of enactment of this title until 60 months after the date of enactment of this title, the Drug Benefits List shall be limited to qualified drugs within the following pharmacological therapeutic categories:

"Andrenocorticoids;
"Anti-anginals;
"Anti-arrythmics;
"Anti-coagulants;
"Anti-depressives;
"Anti-hypertensives;
"Anti-neoplastics;
"Anti-Parkinsonism agents;
"Anti-psychotics;
"Anti-rheumatics;
"Insulin;
"Bronchodilators;
"Cardiotonics;
"Cholinesterase inhibitors;
"Diuretics;
"Gout suppressants;
"Hypoglycemics;
"Miotics;
"Sedatives;
"Thyroid Hormones; and
"Tuberculostatics.

"SUBSTITUTION OF THERAPEUTIC EQUIVALENTS

"SEC. 1804. (a) In filling prescriptions for multiple source qualified drugs, participating pharmacies may substitute such lower cost, therapeutic equivalents as are designated in the Drug Benefits List in accordance with the following conditions:

"(1) the drug product to be substituted is a qualified drug and a therapeutic equivalent, indicated on the Drug Benefits List, of the drug product identified in the prescription;

"(2) the label affixed to the immediate container by the pharmacist contains the generic name of the drug product, the brand name of the drug product, and the name of the formulator and labeler of the drug product, unless the prescribing physician has specifically requested that this information not be provided; and

"(3) the prescription kept by the pharmacist contains the brand name and the manufacturer and labeler of the drug product dispensed.

"(b) The participating pharmacy shall not substitute a lower cost therapeutic equivalent under the Program when the prescribing physician has indicated, in his own handwriting, that the qualified drug prescribed is medically necessary for the patient.

"(c)(1) Notwithstanding any State law, no State shall enforce any law which prevents, impairs, or prohibits, a participating pharmacy from substituting a lower cost therapeutically equivalent drug product to an aged individual in accordance with the conditions of this section.

"(2) A participating pharmacy shall not be subject to any fine or civil or criminal penalty for substituting a lower cost, therapeutically equivalent drug product to an aged individual in accordance with the provisions of this section.

"(3) No civil action may be brought against any participating pharmacy, or pharmacist actually dispensing qualified drugs in behalf of a participating pharmacy, or dispensing physician pursuant to section 1806, for damages arising out of the proper substitution of a lower cost, therapeutic equivalent in accordance with the conditions of this section.

"DRUG BENEFITS COUNCIL

"SEC. 1805. (a) (1) There is established a Drug Benefits Council (hereinafter referred to as the 'Council') which shall consist of the Assistant Secretary of Health, who shall serve as the Chairman of the Council, a designee of the Secretary and nine members appointed by the Secretary.

"(2) The Secretary shall appoint six members, not otherwise in the employ of the United States, without regard to the provisions of title 5, United States Code, who shall be especially qualified to serve on the Council by virtue of their training, experience, or background and are of recognized professional standing and distinction in the fields of medicine, pharmacology, public health, or pharmacy.

"(3) The Secretary shall appoint three members not otherwise in the employ of the United States Government without regard to the provisions of title 5, United States Code, who are representatives of the eligible consumers of the services of the Program and who are not engaged in, and have no financial interest in, the furnishing of health services, who are familiar with the needs of the eligible population for drug benefits and pharmaceutical services and are experienced in dealings with problems associated with the furnishing of such services.

"(4) Each appointed member shall hold office for a term of four years, except that (i) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (ii) the terms of the members first taking office shall expire, as designated by the Secretary at the time of appointment, two at the end of the first year, two at the end of the second year, two at the end of the third year, and three at the end of the fourth year after the date of the enactment of this Act. No appointed member may serve for a period greater than eight years.

"(5) The Council shall be called to meet by the Chairman of the Council, a majority of its members, or the Secretary. The Council shall meet as frequently as it deems necessary, but not less than four times a year.

"(6) The Secretary shall provide such secretarial, clerical, professional, technical, or other assistance as may be required by the Council to carry out its functions.

"(7) Appointed members of the Council while serving on business of the Council (inclusive of traveltime) shall receive compensation at rates fixed by the Secretary but not in excess of the daily rate paid under GS–18 of the General Schedule under section 5332 of title 5, United States Code; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(6) It shall be the function of the Drug Benefits Council to make recommendations to the Secretary on matters of the content and format of the drug benefits list, and to advise the Secretary, as he or she deems necessary, on such matters of general policy in the administration of this title, including the formulation of regulations, and the operation of this title and the utilization of drug benefits under it, and to recommend any changes in the administration of the title or its provisions which may appear desirable.

"PAYMENT

"SEC. 1806. (a) For the purposes of payment under this title, the Secretary shall reimburse participating pharmacies the amount payable for each qualified drug dispensed to an aged individual under the Program as follows:

"(1) The amount payable for a prescription drug shall be the drug product cost multiplied times the units of drugs dispensed, plus a dispensing charge:

"(A) The drug product cost shall be either the maximum allowable cost, if applicable, or when the maximum allowable cost is not established, the estimated acquisition cost.

"(B) The dispensing charge shall be the average cost per prescription as established in each State of providing pharmaceutical services, including but not limited to personnel costs, direct prescription expenses, direct store expenses and overhead expenses, as defined by the Secretary.

"(2) The amount payable for a nonlegend drug (such as insulin) shall be the seventy-fifth percentile of the usual and customary charges to the general public of the pharmacies in the State for these drug products in the standard package sizes.

"(b) Notwithstanding subparagraph (a)(1)(A), beginning with the period 24 months and ending with the period 30 months after the date of enactment of this title, the drug product cost for a prescription drug shall be the maximum allowable cost, if established, or when the maximum allowable cost is not established, the eightieth percentile of the costs of acquisition of the drug products (based on surveys of invoices for drug products by participating pharmacies) that prevailed as of July 1, 1977.

"(c)(1) Notwithstanding subparagraph (a)(1)(A), where the prescribing physician has indicated in his own handwriting that a specific brand name drug product is medically necessary for the patient, and notwithstanding its availability as a generic drug from multiple sources, the drug product cost shall be the estimated acquisition cost of the brand name drug.

"(2) Beginning with the period of 24 months and ending with the period 30 months after the date of enactment of this title, the drug product cost for drugs under subparagraph (c)(1) of this section shall be the eightieth percentile of the costs of acquisition of the drug products (based on surveys of invoices for drug products by participating pharmacies) that prevailed as of July 1, 1977.

"(d) In establishing a dispensing charge,

as defined in subparagraph (a)(1)(B), the Secretary shall—

"(1) develop such dispensing charge on a State-by-State basis after consultation with representatives of the participating pharmacies; and

"(2) vary, as he deems appropriate, such dispensing charge within a State taking into account the pharmacy's volume of total prescriptions (not only prescriptions under the Program), the location of the pharmacies in rural or urban areas, and the provision of full pharmaceutical services by the pharmacy.

"(e) The Secretary shall make no payment under this section for a separate dispensing fee when the participating pharmacy is compensated for dispensing drugs as some other amount payable to a provider of services under titles XVIII of XIX of the Social Security Act.

"(f) Payment for pharmaceutical services furnished an aged individual may be made only to participating pharmacies if—

"(1) a claim is filed for such payments in such form and in such manner as the Secretary may by regulation require, no later than the close of the period of one calendar year following the year in which the services were furnished; and

"(2) with respect to drugs furnished pursuant to and requiring a physician's prescription, such drugs are qualified drugs and the participating pharmacy has such prescription in its possession or some other record (in the case of non-legend drugs) that is satisfactory to the Secretary.

"(g) Any formulator or labeler of a drug product may request of the Secretary that the drug product cost as outlined in section (a) and (b) be increased if such request is accompanied by a written justification of the basis for the requested increase, and if the Secretary, after consultation and review by the Drug Benefits Council, agrees that such an increase in the estimated acquisition cost is reasonable and justified, he shall grant such increase.

"(h) Payment may be made under this section for qualified drugs only when such drugs are dispensed by a participating pharmacy; except that payment under this section may be made for qualified drugs dispensed by a physician where the Secretary determines, in accordance with regulations, that such qualified drugs were required in an emergency and that there was no participating pharmacy available in the locale, in which case the physician (under regulations prescribed by the Secretary) shall be regarded as a participating pharmacy for the purposes of this section with respect to the dispensing of such qualified drugs.

"(i) Within three years after the date of enactment of this title, the Secretary shall report to the Congress his recommendations for inaugurating an improved method of determining and assuring an appropriate allowable drug product acquisition price, including methods for negotiating such price directly with drug product formulators and labelers. Prior to his making his recommendations, the Secretary shall study how the sales of individual products relate to: (a) the maintenance of industry research and developmental activities, (b) the advertising, marketing, and promotion of industry products; and (c) the profitability of the product in question.

"CONDITIONS OF PARTICIPATION FOR PHARMACIES

"SEC. 1807. (a) As a condition of participation in the Program participating pharmacies shall execute a written agreement with the Secretary and therein shall agree to—

"(1) submit bills or other payment requests under the Program in such form, manner and frequency as the Secretary may require;

"(2) make available to the Secretary or his designee, and permits access by the Secretary or his designee, to such relevant information and records for the purposes of audit as the Secretary may require;

"(3) keep such records of the dispensing of drugs as may be required by the Secretary; and

"(4) post in a manner prescribed by the Secretary—

"(i) notice that the pharmacy or establishment providing pharmaceutical services is a participating pharmacy in the Drug Benefits Program for the Aged;

"(ii) lists of prices charged to the general public for a selected list of the most commonly prescribed drug products promulgated by the Secretary; and

"(iii) a list of therapeutically equivalent drugs, as certified by the Secretary.

"(5) dispense qualified drugs listed on the Drug Benefits List within such limitation in minimum and maximum quantities as may be prescribed by the Secretary;

"(6) prepare and affix to the immediate container for all prescriptions filled under the Program labels which contain the generic name and brand name, the strength of the drug product, the name of formulator or labeler of the drug product, and the quantity of the drug product unless the prescribing physician specifically states otherwise in the written prescription;

"(7) submit to the Secretary, in such form, manner, and frequency as the Secretary may specify, copies of invoices associated with the acquisition of the drug products contained in the Drug Benefits List,

"(8) accept as payment in full, the amount payable determined by the Secretary to be reasonable in accordance with section 1806, and

"(9) meet such other conditions of participation relative to quality of pharmaceutical services, accessibility of such services, and financial accounting practices as the Secretary may deem necessary to assure the health and safety of the aged individuals and the fiscal soundness of the Program.

"(b) Notwithstanding subsection (a) of this section, the Secretary is authorized to vary by regulation, as he deems necessary, certain conditions of participation of pharmacies to insure that pharmaceutical services under this Program shall be available to aid aged individuals in all geographical regions and localities of the United States.

"ADMINISTRATION OF THE PROGRAM

"SEC. 1808. (a) In carrying out the administration of the Program the Secretary shall—

"(1) establish effective and appropriate methods of—

"(A) determining initial and continuing eligibility under the Program, utilizing for the purposes of verification of age, eligibility by virtue of age in existing Federal programs, including eligibility under titles XVI, XVIII, and XIX of the Social Security Act, as prima facie evidence of age for the purposes of this Program;

"(B) informing those eligible or potentially eligible for the Program of its availability;

"(C) providing such information as will assist aged individuals to easily understand and comprehend the benefits available under the Program and how to obtain such benefits; and

"(D) issuing identification cards to aged individuals which uniquely identify the aged individual and which cannot be readily transferred from person to person;

"(2) establish and manage effective systems for the processing of claims under the Program in order to assure prompt payment to participating pharmacies;

"(3) establish, after experimentation with a variety of methods, such controls directed at assuring appropriate utilization and quality of services under the Program as the Secretary may find effective and efficient;

"(4) conduct such information and education programs directed at beneficiaries, participating pharmacies, and physicians as may be useful to assure appropriate use of the Program and its benefits, adequate and appropriate product selection, and rational prescribing;

"(5) develop, establish, and utilize methods of classification, identification, and coding of the drug products on the drug benefits list as will be most efficient in the administration and control of the Program;

"(6) develop and establish such methods as may be necessary to control abuse of the Program and possible fraud associated with use of Program benefits, including establishment of methods for suspending participating pharmacies or prescribing physicians, and for denying benefits, in whole or in part, to offending aged individuals; and

"(7) develop and establish appropriate grievance mechanisms and methods to appeal adverse decisions;

"(b) In carrying out this section, the Secretary shall consult with appropriate professional and consumer organizations, and with representatives of the pharmaceutical industry, and with appropriate State agencies.

"(c)(1) In carrying out the administration of this title, the Secretary may contract with appropriate State agencies to carry out any necessary determinations that participating pharmacies meet the conditions of participation, as established, to conduct or monitor utilization review and quality control mechanism, to conduct informational and educational programs, or for other purposes under the Act.

"(2) In carrying out the administration of contracts authorized under paragraph (1), the Secretary is authorized to make advance payments or to reimburse appropriate State agencies for services rendered.

"(d) The Secretary shall investigate the feasibility of utilizing (and if feasible shall install) uniform claims forms for benefits under the Program, automatic data entry systems, and such other systems as may improve the efficient and economical operation of the Program.

"EXCEPTIONS

"SEC. 1809. (a) Notwithtanding any other provision of this title, no payment shall be made by the Secretary under the Program if the Secretary determines that—

"(1) such payment is not reasonable and necessary for the treatment of illness or injury or to improve the functioning of a malformed body member of an aged individual;

"(2) the aged individual receiving the pharmaceutical services or drug products has no legal obligation to pay for the provision of such services or drug product, and for which no other person has such a legal obligation to provide or to pay;

"(3) the pharmaceutical services or drug products were not provided within the United States; or

"(4) the pharmaceutical services or drug products are furnished or administered to an aged individual while in a hospital or while the aged individual is a patient in a skilled nursing facility, as defined in section 1861(j) of the Social Security Act.

"(b) No payment shall be made by the Secretary under the Program with respect to any pharmaceutical services or drug products to the extent that payment for such services or products is covered, or that payment has been made, under a worker's compensation law or plan of a State, or of the United States, as determined by the Secretary.

"HEARINGS AND APPEALS

"SEC. 1810. (a)(1). Any individual adversely affected with any determination under this title as to—

"(A) whether an individual is entitled to benefits under section 1802, or

"(B) whether a participating pharmacy is eligible or has complied with the conditions of participation under section 1807 or requirements of payment under section 1806, or

"(C) whether the amount payable should be increased under section 1806, or

"(D) whether a drug should be listed on the Drug Benefits Lists, under section 1803, or

"(E) the reasonableness or applicability of a regulation promulgated by the Secretary pursuant this title, shall be entitled to a hearing thereon by the Secretary to be conducted in accordance with chapter 5, title 5 of the United States Code, and to judicial review of the Secretary's final decision after such hearing, as is provided in subparagraph b(2) of this section.

"(2) Notwithstanding the provisions of paragraph (1), a hearing shall not be available to an individual by reason of such paragraph if the amount in controversy is less than $100; nor shall judicial review be available to any individual by reason of such paragraph if the amount in controversy is less than $1,000.

"(b) (1) Any order or decision issued by the Secretary under this title (other than an order or decision excluded under paragraph (2) of subsection (a)) shall be subject to judicial review by the United States court of appeals for the circuit in which the affected party is located, or the United States of Appeals for the District of Columbia Circuit, upon the filing in such court within 30 days from the date of such order or decision of a petition by any person aggrieved by the order or decision praying that the order or decision be modified or set aside in whole or in part, except that the court shall not consider such petition unless such person has exhausted the administrative remedies available under this title. A copy of the petition shall forthwith be sent by registered or certified mail to the other party and to the Secretary, and thereupon the Secretary shall certify and file in such court the record upon which the order or decision complained of was issued, as provided in section 2112 of title 28, United States Code.

"(2) The court shall hear such petition on the record made before the Secretary. The findings of the Secretary if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"PENALTIES

"SEC. 1811. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title;

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title;

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment;

"(3) having knowledge of the occurrence of any event affecting—

"(A) his initial or continued right to any such benefit or payment, or

"(B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when of such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it knowingly and willfully converts such benefit or any part thereof to a use other than for the use and benefit of such other person, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b) Whoever furnishes items or services to an individual for which payment is or may be made under this title and who solicits, offers or receives any—

"(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

"(2) rebates of any fee or charge for referring any such individual to another person for the furnishing of such items or services, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to dispensing or purchase of a qualified drug for which payment is made under this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1812. (a) There are authorized to be appropriated to establish the administration of the Program, $100,000,000 for the fiscal year ending September 30, 1978, and $300,000,000 for the fiscal year ending September 30, 1979.

"(b) There are authorized to be appropriated to administer and to provide the benefits of the Program, for the fiscal year ending September 30, 1980, and each year thereafter, such sums as are necessary.

"(c) The Secretary is authorized to set aside an amount not to exceed 5 per centum of the funds appropriated in any year under this title for the purposes of—

"(1) evaluation of the program performance;

"(2) experimentation with efficient methods of administration;

"(3) demonstration of effective utilization review procedures;

"(4) demonstration of effective consumer, physician, and pharmacist education programs;

"(5) demonstration of incentive reimbursement methods; and

"(6) and other demonstration, research, or experimentation programs, including review of foreign studies and programs, designed to improve the administration, effectiveness, and efficiency of the Drug Benefits Program for the Aged.

"SEPARABILITY PROVISION

"SEC. 1813. If any provision of this title is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the title or the applicability thereof to other persons and circumstances shall not be affected thereby.".

Mr. THURMOND. Mr. President, for sometime I have viewed with great concern the plight of our senior citizens. Many retired some years ago on modest, fixed incomes. Many depend only on social security payments to live. They have seen their dreams of a comfortable retirement go up in the smoke of inflation. I believe it is my duty to do my best to prevent the aspirations and hopes of our senior citizens from becoming a bitter illusion.

Recently, the Senate held a joint hearing before the Antitrust and Monopoly Subcommittee and the Health Subcommittee on drug pricing. The spiraling costs of health care has put adequate medical services beyond the financial reach of many Americans, particularly the elderly. It is in the years after 65 that people are most vulnerable to chronic and disabling illnesses. Many must take prescription drugs regularly. Testimony has indicated that some senior citizens spend between 10 and 45 percent of their income on medication. Others, unable to afford such an expenditure, take less than the prescribed amount of medication, or go without necessary drugs, often with disastrous consequences to their health.

I have always been a fiscal conservative. I believe that before taxpayers' dollars are spent several important questions must be addressed. Any Federal program must answer a need that the private sector is not now meeting or not meeting well. In many cases the Federal Government spends money in areas which would be better handled by the private sector and which simply replace the private sector. But the testimony which I heard on drug prices and their effects on the elderly demonstrated clearly that this is a serious situation and one which will not improve without our immediate attention. The policies of Government have had much to do with the inflation we have all been experiencing. I think it is the responsibility of those in Government to at least offer some assistance to those groups hardest hit by inflation.

Medicare currently covers prescription drugs for beneficiaries only on an inpatient basis. Senator KENNEDY and I are proposing this bill to provide free prescription drugs to all senior citizens over the age of 65 on an outpatient basis. Through the passage of this legislation the elderly will be provided the drugs which they must have to stay out of hospitals and skilled nursing homes.

Twenty-four million Americans, including 750,000 who are not eligible for medicare, would qualify for drug benefits under this program. It would begin by providing 70 percent of all prescription drugs, and would gradually be expanded to include the other 30 percent. The cost of the program, after a phase-in period of 18 months, is estimated at $2 billion for the first full year. This is a small amount to pay to assure better health to a sizable portion of our population.

Some question has been raised on the point that this program will make free medication available to those who do not actually need financial assistance. I have been informed that considerable research has been done on the cost of administering a means test in Federal programs. Evidence obtained indicates that the cost of determining the financial eligibility of elderly citizens would probably cost more than providing the drugs to all persons over 65.

This program is not one which gives something for nothing. This legislation will help those who have worked hard for many years and have earned the right to a full measure of security and hope for the future.

Mr. CLARK. Mr. President, I am very pleased to be an original cosponsor of the Drug Benefits for the Aged Act of 1977. This bill addresses a problem for which I have long been concerned—the way high medical costs drain the incomes of older Americans. I promise my full support for this effort, because it will clearly be of great benefit for the 24 million elderly persons in our Nation who must now pay for prescription drugs out of their own pockets.

In recent years, the medicare program has paid only about $4 of every $10 in health care expenditures of the elderly. In fact, today the elderly must pay $390 per person each year for medical care, as compared to 1965—prior to the introduction of medicare—when they paid just $240.

One of the major noncovered health expenses is prescription drugs that are used outside of institutions. Fully one-quarter of the total private health bill of the elderly goes to pay for these drugs, and only the out-of-pocket cost of nursing home care exceeds that amount.

This problem is especially acute for those who are chronically ill and those who have low-fixed incomes. A recent survey by the American Association of Retired Persons/National Retired Teachers Association found that older persons who fall into these categories pay as much as half of their incomes on prescription drugs alone. This clearly represents a gigantic burden, one that will be remedied through this bill.

The major elements of the bill are the following:

First, all 24 million older Americans will be covered by the program, not just those who are medicare beneficiaries;

Second, the program will use efficient administrative procedures, involving centralized data processing, so that the expected load of 300 million prescriptions per year can be accommodated;

Third, this will be a comprehensive program with coverage for all necessary drugs for the elderly. It will be phased in over 5 years, covering drugs for chronic illnesses as the initial step;

Fourth, the program includes a set of controls for quality, utilization, and cost; and

Fifth, the Federal Government will assume the total cost of the program. The elderly would no longer be forced to pay any portion of their bills for these drugs. Nor would States that now cover prescription drugs under medicaid—including my home State of Iowa—have to pay for the prescriptions of elderly medicaid participants. This will save the State of Iowa $2 million a year.

I consider this bill as just one more step in the long process toward implementing a program of national health insurance. The drug bill has all the components that are necessary for the successful operation of such a program—it is comprehensive, it is efficient, and it has cost controls.

Arthur E. Hess, former Deputy Commissioner of the Social Security Administration, cited the prescription drug program as a idea whose time has come. In his 1975 paper entitled "Next Steps in Medicare," he wrote:

> There are several reasons for starting with such a limited drug program. First, since there are many serious administrative problems associated with the introduction of a drug benefit, a controlled beginning with a controlled population would provide a base of experience for developing processing techniques and for assessing administrative costs. Second, program costs would be limited and manageable. Third, the cost of prescription drugs associated with chronic illness represents a known need which is an appreciable portion of the out-of-pocket drug costs of the aged and the disabled. Finally, it would make a significant contribution in the direction of meeting costs of catastrophic illness.

I have every expectation that Congress will give its close attention to this legislation, as it goes to the root of the inflation problem that is so burdensome for our elderly citizens.

Mr. HATHAWAY. Mr. President, I am pleased to join with my distinguished colleagues in introducing a bill to establish a program of outpatient drug benefits for older Americans. The bill would also establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of the program, and would require the conduct of certain studies and experiments to enhance the capability of the Secretary of HEW to administer such a program.

The Drug Benefits for the Aged Act of 1977 would provide for drug benefits for the 24 million residents of our Nation who are 65 years old or older, relieving the burden which has been placed on many of our senior citizens.

Chronic illness plagues more than 40 percent of our elderly. This amounts to twice the number of middle-aged persons affected by chronic illness and more than five times the number of younger persons so affected.

Of all the drugs dispensed in the United States, our senior citizens consume a very substantial proportion. This group now pays 80 percent of its costs for all prescription drugs out of pocket. For many of our senior citizens this absorbs a major portion of their already overstretched incomes. This is largely because medicare does not pay for any outpatient drugs.

The drug benefits bill would remedy this unfortunate situation by providing coverage to all senior citizens 65 years of age or older regardless of eligibility for medicare or social security. It would impose no cost-sharing requirement, thus putting the poor on an equal footing with the wealthier elderly. With a long-range goal of comprehensive coverage of all necessary drugs for the elderly, the bill would in its first year cover about 70 percent of all drug costs by paying for certain designated drugs needed for treatment of chronic diseases. After the first 5 years of the program, 100 percent of the drugs costs of older Americans would be covered.

The drug benefits bill is designed to develop cost control and efficient administration through demonstrations of drug utilization review. In addition, the bill promotes quality and cost control to keep costs down and insure quality of service. Unlike previous proposals, this bill will not be connected with the administrative mechanisms of medicare. It provides for centralized automatic processing; capable of processing claims for the anticipated 300 million prescriptions per year. The bill would cost approximately $2 billion in its first full year of operation, and $3.4 billion annually when fully implemented.

But its benefits would provide ample justification for these costs. The bill would insure that no senior citizen would be deprived of necessary drug therapy. This would promote home health care, and should result in a decreased need for institutionalization in long-term care facilities. It would enhance the dignity of our senior citizens by allowing many of them to stay out of hospitals and nursing homes, and maintain their independence and quality of life in their home environments. At the same time it would foster cost-savings in medicare and medicaid by promoting more timely and appropriate care.

A substantial number of all hospitalizations are due to the misprescribing of drugs. With the centralized data processing mechanism mandated by the bill, controls could be built in to insure correct prescribing practices and prevent overprescription of drugs. If this drug bill can result in reduced admissions to hospitals, it may well pay for itself.

Our senior citizens deserve the assistance which this bill provides. They have worked hard and contributed much to our country. We must not neglect them now when their need is great and their ability to respond to that need is limited. I shall look forward to considering this legislation as it comes before the Health Subcommittee on which I serve.

ADDITIONAL COSPONSORS

S. 247

At the request of Mr. GOLDWATER, the Senator from Montana (Mr. MELCHER)

was added as a cosponsor of S. 247, to provide recognition to the Women's Air Forces Service Pilots.

S. 1243

At the request of Mr. CHURCH, the Senator from Iowa (Mr. CLARK), the Senator from Rhode Island (Mr. PELL), the Senator from Vermont (Mr. STAFFORD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Oregon (Mr. HATFIELD), the Senator from Michigan (Mr. RIEGLE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Mississippi (Mr. EASTLAND), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Arkansas (Mr. BUMPERS), the Senator from Montana (Mr. MELCHER), the Senator from Vermont (Mr. LEAHY), the Senator from Nevada (Mr. CANNON), the Senator from Minnesota (Mr. ANDERSON), the Senator from Massachusetts (Mr. BROOKE), the Senator from South Carolina (Mr. THURMOND), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. WEICKER), the Senator from Maryland (Mr. SARBANES), the Senator from Arizona (Mr. DECONCINI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Florida (Mr. CHILES), the Senator from New Jersey (Mr. CASE), and the Senator from Washington (Mr. JACKSON) were added as cosponsors of S. 1243, to amend title II of the Social Security Act.

S. 1426

At the request of Mr. WILLIAMS, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1426, the Urban Trees Act.

S. 1868

At the request of Mr. MELCHER, the Senator from Kansas (Mr. PEARSON) and the Senator from Nebraska (Mr. CURTIS) were added as cosponsors of S. 1868, to expedite issuance of Federal permits.

S. 1974

At the request of Mr. NELSON, the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. HAYAKAWA), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 1974, the Regulatory Flexibility Act.

S. 2099

At the request of Mr. WEICKER, the Senator from Pennsylvania (Mr. HEINZ) and the Senators from New York (Mr. JAVITS and Mr. MOYNIHAN) were added as cosponsors of S. 2099, relating to payment of real property tax obligations owed by a railroad in reorganization.

S. 2130

At the request of Mr. PACKWOOD, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2130, to amend the Internal Revenue Code.

SENATE RESOLUTION 219

At the request of Mr. ROTH, the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of Senate Resolution 219, establishing a senior citizen internship program in the Senate.

SENATE RESOLUTION 269—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 269

Resolved, That section 2 of Senate Resolution 189, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$399,300" and inserting in lieu thereof "$437,700".

AMENDMENTS SUBMITTED FOR PRINTING

MINIMUM WAGE INCREASE—S. 1871

AMENDMENT NO. 1038

(Ordered to be printed and to lie on the table.)

Mr. DECONCINI. Mr. President, I am submitting an amendment to S. 1871, the bill which would increase the existing minimum wage. My amendment would modify section 14 of the Fair Labor Standards Act regarding the payment of a lower minimum wage to full-time students.

Section 14 of the Fair Labor Standards Act permits employers to pay full-time students at the rate of 85 percent of the prevailing minimum wage providing the employer adheres to certain restrictions. Contained in these provisions is a requirement which restricts the number of full-time students an employer may hire. An employer may receive certification to hire up to 4 full-time students without excessive or time-consuming paperwork. However, if an employer wishes to employ more than four full-time students, he is restricted to a certain proportion of the total hours of employment of all employees in his establishment.

This amendment would revise these provisions by: First. Reducing from 85 percent to 74 percent of the minimum wage the amount which an employer must pay a full-time student; second, Expanding from four to six the number of full-time students an employer may hire without having to enter into extensive computations regarding hours of employment of all employees in his establishment; and, third. Exempting employers from the limitations as to the number of full-time students he may hire, providing the employer can show that such an exemption would not have an adverse effect upon full-time employment.

The rationale for establishing 74 percent as the full-time student differential minimum wage is to maintain the wage at its present dollar amount, which is approximately $1.96, when the minimum wage is increased to $2.65. Of course, the dollar amount would increase as the minimum wage increased beyond the $2.65 level.

I am aware of the fact that businesses have not made extensive use of the current provisions in section 14 regarding the employment of students at a subminimum wage. However, reducing the student differential, along with increasing the number of students an establishment could hire, would, in my judgment, provide additional incentives for employers to hire more full-time students.

A recently completed survey tends to support the need for some type of youth differential. Almost three-fourths of the small businesses who responded to the survey indicated that a youth differential would have a moderate-to-major effect on their decisions to hire young people in the future.

Mr. President, my amendment does not go to the extremes that some are advocating—a differential for all youth under a certain age. It is my opinion that such a youth differential, one permitting all under a particular age to receive a subminimum wage, might lead to teenagers dropping out of school to engage in full-time employment, especially among border-line students. My amendment modifies existing law to encourage the employment of students on a part-time basis during the school year with the possibility of full-time employment during periods of vacation. Thus, my amendment would create a situation in which a student could remain in school, gaining the necessary education for future full-time employment, and also work part time, allowing him or her to receive the work experience that will be beneficial in later years.

Further, it has been my experience that many students, mainly college students, are not able to complete school without the financial assistance provided by a part-time job. I believe the concept embedded in existing law is a step in the right direction, assisting those students in financial need; but, I also believe that broadening the concept—as my amendment does—would greatly improve the opportunities for full-time students.

Not only will my amendment help students, it will also prove beneficial to business. In Arizona, as in many other States, many jobs, because of the tourist industry, are seasonal or require quite a few part-time employees. Restaurants, hotels, recreational businesses are but a few of the businesses requiring employees of this nature. With the adoption of my amendment, these establishments will be able to maintain and possibly expand their services.

I hope, Mr. President, that my colleagues will give serious consideration to this amendment which, I believe, is worthy of their support.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1038

On page 12, insert between lines 17 and 18, the following:

LEARNERS, APPRENTICES, STUDENTS AND HANDICAPPED WORKERS

SEC. 5. (a) Section 14 is amended by striking "85 per centum" each place it appears and substituting "74 per centum".

(b) Section 15 (b)(4)(B) is amended by striking "four" each time it appears and substituting "six".

(c) Section 14(c) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may by regulation or order provide for an exemption from the limitations imposed under subsection (b)(4)(B) upon a showing by the employer that such an exemption would not have an adverse effect upon full-time employment.".

On page 12, line 19, strike "Sec. 5," and substitute "Sec. 6.".

On page 12, after line 25, add the following:

(c) The amendments made by section 5 shall take effect on January 1, 1978.

AMENDMENT NO. 1393

(Ordered to be printed and to lie on the table.)

Mr. HATHAWAY. Mr. President, although European settlements were established in what is today the State of Maine as early as the first years of the 17th century, most settlements did not come until much later.

Indeed, it surprises many people today to learn that vast areas of Maine have never been settled, have no roads or inhabitants. For example, Aroostook County, which is larger than Connecticut and Rhode Island combined, is to this day mostly unbroken forestland which supplies pulp and saw logs to Maine's forest products industries.

Aroostook County's 100,000 inhabitants live on a narrow strip of cleared land which runs north-south along the border with New Brunswick, then west, over the top of the State, to where the fields cease and Maine's border with the Province of Quebec begins.

This area was the last frontier in New England and was first inhabited by white men in the 1820's and 1830's. The bulk of settlement was made just before and after the Civil War, by farmers from southern Maine, New Hampshire, and Massachusetts who sought cheap land.

In the 1890's, the railroad was extended to the southern part of Aroostook, and, at about the same time, a farmer in Houlton invented a structure which enabled farmers to store potatoes through the winter. This combination of events opened up to Maine potato farmers the rich Boston and New York markets, 250 and 500 miles, respectively, to the south.

For at least the last 75 years, the potato has been the most important crop in this part of the United States. It is the foundation for the region's economy and, because everyone has a stake in it, nearly everyone participates in the potato harvest at one time or another.

The schools in Aroostook County start in August—a month early—in order to close for "Harvest Recess" from mid-September to mid-October. Thus, it is safe to say that everyone in that part of Maine has worked in the harvest. It is an event which ties people together in their culture as well as their economy.

The Maine potato harvest has never been part of the stream of migrant labor which traverses other parts of the United States. Until the advent of mechanical harvesters 20 years ago, thousands of people from Canada came over to help in the harvest. Nowadays, the mechanical harvesters bring in about half the crop and only a few hundred people from Canada come over.

When the 1974 amendments to the Fair Labor Standards Act passed Congress, they included provisions which prohibited children under 12 from picking potatoes. This change was greeted with astonishment, then anger, in Maine. It was almost as though the Federal Government was telling the people of Aroostook County how to raise their children.

Over the years, the need for child labor has diminished. And fewer people have been able to justify the practice. We all know why this is. Too many children, especially those of migrant workers, worked year round, under terrible conditions, without benefit of schooling, and with a very dim future in front of them. No one, least of all I, wants to encourage or maintain such abuses. To the extent that the 1974 amendments did away with these abuses, I applaud them.

But we live, Mr. President, in a pluralistic society. And as I hope I have made clear, the situation in Maine's potato harvest is not, and was not, the abuse which our legislation sought to remedy. But we were affected by that legislation, nevertheless.

Families that picked together can no longer do so. They have to leave children under 12 at home. Thus, a babysitter must be found—quite an achievement during the one time of year when every pair of hands can be employed in the fields—or one of the parents must stay home with the child. In turn, this makes it harder for the farmer to bring in his crop and he is forced to consider the purchase of an expensive mechanical harvester.

Thus, a process which threatens the culture of a region is set in motion. People who depended upon one another no longer are allowed to do so.

In November of 1975, Senator PACKWOOD and I held a hearing in Presque Isle, Maine, on the economic problems of small business in the Northeast United States. Laura Parker, of Washburn, Maine, testified about the effects of the child labor amendment and I ask unanimous consent that a portion of her testimony be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ON CHILD LABOR LAW—MRS. LAURA PARKER, WASHBURN, MAINE

MRS. PARKER. Senator Hathaway, Senator Packwood, citizens of Aroostook County, my name is Laura Parker and I reside in Washburn, Maine.

I am grateful to Senators Hathaway and Packwood for relinquishing their time that I might come before you and let you know who I am and what I am dong. I am also indeed grateful for the encouragement that I have received from personal contact with people of Aroostook County.

As you know, through the media of radio, television, and newspapers, a few housewives, not content with being told by the Government what is good and what is not good for our children, have organized a campaign to bring about a change to the child labor law, to make it equitable to areas and conditions as they apply.

In reviewing the hearing before the Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, 94th Congress, an examination of the provisions of the Fair Labor Standards Act against exploitation of child labor in agriculture, one cannot help but ask oneself, "Could this have taken place in America?"

Not one assertion by Jeffrey Newman, executive director, or Cassanadra Stockburger, director, National Committee on the Education of Migrant Children, is substantiated in their statements. Their testimony is one born of irresponsible conjecture, and with no sincere forethought or consideration of the principles involved; namely, the citizens and farmers of Aroostook County.

Are we going to sit back and let a few unconcerned politicians stagnate the economy of Aroostook County and the State of Maine without speaking out? I say, not until Washington is renamed "the Kremlin."

This fall a demonstration was held here in Presque Isle in front of the Maine Employment Security Commission. The purpose of this meeting was to determine the feelings of other housewives and mothers of the area. The response was so unanimous a decision was reached in favor of a drive to attempt to change this legislation. As a result of this decision, a petition drive was undertaken in northern Aroostock County to petition the elected State and Federal officeholders to work to change the Federal law so that children under 12 years of age may work in the potato harvest. Here again, the support of the people of Aroostook County has been tremendous. In 2 weeks' time, over 6,000 signatures were solicited. As a result of the huge success of this petition locally, it is our intent to expand our outreach to the areas of southern Maine, where the blueberry harvest was so affected by this law. If the reception is as strong there as it has been here, we will reach out further to other agricultural areas of this great land of ours, working hand in hand with people in those areas to gain support of their representatives to amend this law.

We received numerous calls in support of what we are doing. People say to us, "Please do not give up now." They ask, "Can we help?" My answer to you all is, "As long as I have the support of the citizens of this county and this State, which is our home, I will fight for the heritage which is born of us all."

We in Aroostook who work in the potato harvest are not considered as migrants. I defy anyone to statistically prove neglect as regard to the ill effects they claim working in the harvest has on our children's education, health, and mental capacity. I say let them come forward with responsible evi-

dence or let us determine for ourselves how we raise our children.

What we are after is to have this law amended and we want freedom of choice for our own children. We are American citizens and we want to be treated as citizens and see if you can do something for us.

Thank you.

Mr. HATHAWAY. In order to meet the needs of areas like Aroostook County, I intend to propose an amendment to S. 1871 which would give the Secretary of Labor the discretion to grant a waiver of the child labor prohibition when certain strict criteria are met. Through these restrictions, no child could be employed in an unhealthy job nor be allowed to miss school. My amendment, which has already passed the house, would benefit those few areas in the United States where local people traditionally participated to handharvest the crops of their neighbors.

I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

AMENDMENT NO. 1393

On page 12, between lines 17 and 18, insert the following new section:

AGRICULTURAL HAND HARVEST LABORERS

SEC. 5. Section 13 (29 U.S.C. 213) is amended by adding at the end thereof the following new subsection:

"(i)(1) The minimum wage and overtime exemption provided by subsection (a)(6) of this section shall apply according to its terms to hand harvest laborers described in this subsection but an employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment of individuals, who are less than twelve years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may grant such a waiver only if he finds that—

"(A) the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

"(B) the employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being; and

"(C) the industry of such employer or group of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age.

"(2) Any waiver granted by the Secretary under paragraph (1) shall require that—

"(A) the individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

"(B) such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

"(C) such individuals be employed under such waiver (i) for not more than thirteen weeks between June 1 and October 15 of any calendar year, and (ii) in accordance with such other terms and conditions as the Secretary shall prescribe for such individual's protection.".

On page 12, line 19, substitute "Sec. 6." for "Sec. 5.".

On page 12, after line 25, add the following new subsection:

(c) The amendment made by section 5 shall take effect on the date of enactment of this Act.

NATURAL GAS POLICY—S. 2104

AMENDMENTS NOS. 1039 THROUGH 1042

(Ordered to be printed and to lie on the table.)

Mr. PEARSON (for himself and Mr. BENTSEN) submitted four amendments intended to be proposed by them to the bill (S. 2104), to establish a comprehensive natural gas policy.

AMENDMENTS NOS. 1043 THROUGH 1049

(Ordered to be printed and to lie on the table.)

Mr. PEARSON submitted seven amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1050 THROUGH 1055

(Ordered to be printed and to lie on the table.)

Mr. NUNN submitted six amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1056

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1057 AND 1058

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1059 THROUGH 1063

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted five amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1064

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1065 THROUGH 1070

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted six amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1071

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1072 THROUGH 1283

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted 112 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1284

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI (for himself and Mr. DOLE) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENTS NOS. 1285 THROUGH 1310

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted 26 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1311 THROUGH 1316

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted six amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1317

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1318

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1319

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1320 AND 1321

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1322

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. MORGAN, and Mr. HELMS) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1323

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1324

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. RANDOLPH, Mr. HELMS, Mr. BENTSEN, Mr. HANSEN, Mr. DOMENICI, and Mr. TOWER) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1325

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1326

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. JOHNSTON, Mr. TOWER, Mr. DOMENICI, Mr. BARTLETT, Mr. HELMS, Mr. HUDDLESTON, and Mr. CHURCH) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1327 AND 1328

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1329

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. JOHNSTON, Mr. TOWER, Mr. HUDDLESTON, Mr.

DOMENICI, Mr. HELMS, Mr. BARTLETT, and Mr. CHURCH) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1330

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. RANDOLPH, Mr. HELMS, Mr. BENTSEN, Mr. HANSEN, Mr. DOMENICI, and Mr. TOWER) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENTS NOS. 1331 THROUGH 1337

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted two amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1338 THROUGH 1345

(Ordered to be printed and to lie on the table.)

Mr. HANSEN submitted eight amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1346 THROUGH 1349

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted four amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1350 THROUGH 1356

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted seven amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1357 THROUGH 1358

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself and Mr. ABOUREZK) submitted two amendments intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENTS NOS. 1359 THROUGH 1363

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted five amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1364

(Ordered to be printed and to lie on the table.)

Mr. RIEGLE submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1365 AND 1366

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted two amendments intended intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENTS NOS. 1367 THROUGH 1380

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK submitted 14 amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1381

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1382

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. BAYH, Mr. BROOKE, Mr. MATSUNAGA, Mr. MCINTYRE, and Mr. RIEGLE) submitted an amendment intended to be proposed by them to the bill (S. 2104), supra.

AMENDMENT NO. 1383

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1384

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for Mr. HATHAWAY) submitted an amendment intended to be proposed to the bill (S. 2104), supra.

AMENDMENTS NOS. 1385 THROUGH 1390

(Ordered to be printed and to lie on the table.)

Mr. HART submitted six amendments intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1391

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

AMENDMENT NO. 1392

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to the bill (S. 2104), supra.

NOTICE OF HEARINGS

AGRICULTURAL RESEARCH PROCEDURES

Mr. ABOUREZK. Mr. President, the Administrative Practice and Procedure Subcommittee of the Judiciary Committee will hold oversight hearings on agricultural research decisionmaking procedures of the Department of Agriculture on October 19 and 20 of this year. The hearing will be concerned with the manner in which the Department sets its priorities for doing and supporting agricultural research. Particular focus will be given whether the Department is giving sufficient attention to small farm research and to research into farming techniques that do not rely on heavy chemical, energy, or capital inputs. Persons wishing to present testimony to the committee should contact the subcommittee staff.

The hearings will be held in room 2228 of the Dirksen Senate Office Building at 9:30 a.m. each day.

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs, will hold oversight hearings on October 6 and 7, 1977, on alternative mortgage instruments.

The hearings each day will begin at 10 a.m. and will be held in room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, 202–224–7391.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold oversight hearings on distressed multifamily housing projects, insured by the Federal Housing Administration under the National Housing Act. The hearings, which were originally scheduled for Thursday, October 13 and Friday October 14, will be held instead on Friday, October 14 and Monday, October 17, 1977. The hearings will take place in room 5302 of the Dirksen Senate Office Building, and will commence at 10 a.m.

ADDITIONAL STATEMENTS

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL–CIO) ON UNION POLL

Mr. THURMOND. Mr. President, the importance of early and favorable action of S. 274, a bill to bar unions in the military, is amply illustrated by a press release issued recently by the American Federation of Government Employees.

Although the members of AFGE soundly rejected the proposal by the union's management to organize the military, the interest of that union in this goal was not dimmed.

On September 7, 1977, in a press release announcing the union vote, AFGE President Kenneth Blaylock made the following statement:

> The overwhelming numbers of military personnel who have contacted this union for assistance is sufficient evidence that the idea of unionized military will not soon be laid to rest.

Mr. President, other statements in this news release such as "it will do no good for Congress to ban unionization" and "the results of our poll do not indicate a concession to the clamor of anti-union voices" merely stress the need to press forward with my bill, S. 274.

This bill, passed by a 72 to 3 vote in the Senate, is now under consideration in the House.

For the benefit of my House colleagues and others in Congress I ask unanimous consent that the September 7 press release issued by AFGE be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

AFGE MEMBERSHIP POLL REJECTS MILITARY ORGANIZATION; BLAYLOCK PLEDGES POLICIES WILL REFLECT THAT DECISION

American Federation of Government Employees (AFL–CIO) Local unions have rejected the concept of organizing military personnel into the Federation by a margin of 80 percent against, 20 percent in favor.

The poll was in the form of a mail ballot sent to each one of AFGE's 1,556 Local unions. More than 60 percent of the union's membership was represented by the poll results, which were: 151,582—no (approximately 80 percent of those responding); 38,764—yes (approximately 20 percent of those responding).

The poll was mailed to the chief officer of each Local in May with instructions that the issue be placed before the next available membership meeting of the Local

union. When the membership voted, the results were registered on the ballot and returned to the AFGE National Office. The response of each Local union was weighted by the actual voting membership of the Local union.

The Poll question: "Should the national President of AFGE be directed to commence organizing and representing members of the uniformed military service?"

In announcing the results of the survey, AFGE National President Kenneth T. Blaylock said:

"It is my intention to live by this decision. Press speculation to the contrary, we will not be acting to organize military personnel now, nor at any time in the foreseeable future.

"However, the poll results should not be misconstrued as a rejection of the idea that military personnel need representation. I personally believe that they do. I believe that eroding conditions for military personnel—cutbacks in pay, medical benefits, subsistence and many others—will force military personnel into a more militant posture. The overwhelming numbers of military personnel who have contacted this union for assistance is sufficient evidence that the idea of unionized military will not soon be laid to rest.

"In fact, the rejection vote seems to be based on the perception by AFGE members that we should first organize a larger percentage of the Federal civilian workforce. Along those lines, we have begun a year-long worldwide membership campaign to accommodate that feeling.

"The spinoff of this two and one-half years of debate is that Congress, the Pentagon and the American people have been forced to confront the ugly results of ill-advised austerity programs and neglect of the people—the men and women—who are expected to defend this nation at all costs.

"So too, the military associations, who have for years purported to represent the interests of military personnel, must evaluate the shortcomings of their soft policies and adopt more responsive positions.

"It will do no good for the Congress to ban unionization and proceed headlong ignoring the obvious signals being sent by rank and file military personnel that they will not stand still for cutbacks in pay and benefits. Injustice and inequity generate automatic responses which cannot be outlawed. It makes far more sense to identify the causes of damaged morale and attempt to remedy them.

"Finally, the results of our poll do not indicate a concession to the clamor of anti-union voices who have dominated the decision of the Senate Armed Forces Committee to propose an absolute ban on organization by military personnel. This union is discussing the ramifications of the bill (S. 274) with the American Civil Liberties Union to make certain that such unwarranted legislation, if enacted, will not go unchallenged in the courts."

AFGE represents 725,000 Federal civilian employees.

For further information, contact: Greg Kenefick, Director, Public Relations, 1325 Massachusetts Ave., N.W., Washington, D.C. 20005, (202) 737–8700.

WOMEN ALLOWED TO SERVE AS STRATEGIC MISSILE SILO CREWS

Mr. PROXMIRE. Mr. President, I would like to recognize and praise the belated Air Force decision to allow women to serve as strategic missile launch crews. It is long overdue and much remains to be accomplished before discrimination barriers are eliminated for women in the military, but it is a solid step forward.

On July 22 the Air Force testified before the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee that women were precluded from serving as missile launch control officers because it was a "combat" job. They said that the military leaders and Congress were "uncomfortable about imposing this responsibility on women."

What nonsense. It was a simple case of discrimination, and they knew it. At least they had the good sense to change their minds.

The Air Force informs me that 15 women officers and 25 enlisted women will start training for Titan II ICBM missile silo duty early in 1978. The officers will undergo a 19-week course of instruction, and the enlisted women will have 23 weeks of training.

Eventually they will be assigned to Titan II sites at Davis-Monthan Air Force Base, Ariz.; Little Rock Air Force Base, Ark.; and McConnell Air Force Base, Kans. They will serve side by side with men in these units.

The decision was made by the Secretary of the Air Force and the Chief of Staff of the Air Force.

My advice to the Air Force is "Don't stop there." Look for other job classifications that can be opened to women. Ask for repeal of the legislation that prohibits women from flying or navigating aircraft that might be used in combat. Open up all Air Force jobs on the basis of individual qualifications and who can accomplish the task—not sex. And start promoting women on an equal basis with men.

The Navy has already requested changes in legislation to allow women to serve on board combat ships and in combat aircraft during peacetime. The Air Force should seek the same relief.

And the Army, which has no legal barriers to women serving in any capacity, should scrap their outdated "policy regulation" and open up all jobs to women who want to serve.

HAROLD LINDSELL OF "CHRISTIANITY TODAY" REPORTS ASTONISHING PROGRESS IN TAIWAN

Mr. GOLDWATER. Mr. President, I often have pointed to the relationship between our Nation's long-standing commitment to human rights around the globe and our resolve to maintain diplomatic and defense ties with the Republic of China on Taiwan. Moreover, I have time and again reminded my fellow Americans of the moral posture involved in keeping our friendship with the free Chinese on Taiwan in view of their open enjoyment of religious rights compared with the total annihilation of religious freedom on mainland China.

The Chinese Communists have transformed churches into stables and government meeting halls. They have banned religious schools and hospitals. They bar entry to missionaries and prohibit religious broadcasts.

Yet, off the southeastern coast of the Chinese mainland, on Taiwan and the other islands governed by the Republic of China, freedom of religion is flourishing. For example, more than 2,500 Buddhist temples are in active use and are attended by nearly 7,500 monks and nuns. There is a mosque in Taiwan used by some 20,000 followers of Islam.

In addition, there are over 800 Catholic churches with a membership of nearly 300,000 persons and 2,000 Protestant churches with more than 500,000 members. Christian religions operate 20 theological seminaries, several Bible schools, 35 hospitals, 3 universities, 7 colleges. and at least 35 high schools.

How our Nation's leaders could ever consider the possibility of abandoning our diplomatic and defense relations with a government that guarantees and provides religious freedom in practice for a government that is openly atheistic and destructive of religious worship is bevond me. Yet, from time to time, it is speculated that this is exactly what some officials in our Government are considering.

Mr. President, in this connection, I have recently read a thoughtful report on conditions in Taiwan by the editor of one of this country's best known religious magazines, "Christianity Today." The article is by Dr. Harold Lindsell, who visited Taiwan for almost 4 weeks of intensive investigation this summer.

His article makes the point that it would contradict the most fundamental of God's laws for a nation of religious people, as the United States is, to break their word to another people. Thus, Dr. Lindsell urges President Jimmy Carter "to issue a resounding endorsement" of our relations with the Republic of China and the rejection of the immoral and unethical proposal that we break relations with Taiwan.

Mr. President, I believe it would well serve each Member of Congress to read this excellent report by an objective and truthful observer who had freedom to journey wherever he wished in Taiwan, and so I ask unanimous consent that the article by Harold Lindsell be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Christianity Today, Aug. 26, 1977]

HAROLD LINDSELL REPORTS FROM TAIWAN

I recently returned from a fascinating and instructive trip to Taiwan, the Chinese bastion of freedom in the Far East. After almost four weeks of intensive investigation I have formed impressions and had opinions solidified about the state of affairs *visa a vis* the Republic of China in relation to Red China, to the United States, and its position in the struggle for freedom.

Taiwan is certainly not a paradise. It has slums, its educational opportunities are limited, its people work long hours, it has a lower standard of living than the industrial nations of the world, and its medical facilities appear sub-standard when compared with the United States. Sanitation facilities are somewhat primitive in suburban areas and the restrooms at some of the bus stops resemble those of Turkey. But the same things could be said about many other nations around the world. The media in the United States have treated Taiwan unfairly and it's time someone pointed out the positive and constructive aspects of a small na-

tion that has made astonishing progress in a few decades.

During my journey I talked to various groups in Taiwan. Just about all of them said the same things. I spoke to Taiwanese and mainlander pastors, to university students (Christian and non-Christian), to missionaries, to representatives of the media from the United States including Time, the New York Times, NBC, and the Wall Street Journal, and to government leaders. I talked with a staff member from Senator Goldwater's office who did research for Mr. Goldwater's strong statement to the press about the responsibility of the United States to the Republic of China (ROC).

The picture I saw is quite different from that commonly bruited about by religious agencies such as the World Council of Churches, which in its Fifth Assembly in Nairobi spanked Taiwan for lack of human freedoms, and the United Presbyterian Church whose General Assembly adopted a resolution that included an erroneous statement about the lack of freedoms in Taiwan.

The ROC constitution (Religion Article 13) guarantees religious freedom. Unlike a similar guarantee in the Soviet constitution (and none in the constitution of Red China), the people of Taiwan are genuinely free from religious oppression. There are more than eight thousand churches and temples in Taiwan, including 1,246 Buddhist and 3,746 Taoist places of worship. There are 832 Catholic churches and 2,102 Protestant houses of worship. There is a church or temple for every 2,000 people. Billy Graham recently conducted an effective evangelistic crusade in Taiwan. This he could not do in Red China.

On an island slightly larger than New Jersey, there is a population of more than sixteen million people of whom three million came from mainland China since World War II. In 1975 Taiwan ranked ninth in the world in the sale of Bibles. Last year more than six million Bibles were sold. There are 1,000 missionaries representing thirty different nationalities. I met and talked with a Finnish physician and his wife. And one acquaintance landed up in a hospital that had been built by World Vision and is providing high grade medical care not far from Sun Moon Lake, a spectacular resort area on the small island.

Not only do the ROC people have religious freedom; they also enjoy freedom of speech. It is not unlimited freedom of speech anymore than Americans have such freedom. Radio and TV broadcasts do not feature those who might advocate the overthrow of the government. But neither do the networks in America. I talked with two top men who control radio and television outlets that cover the island. They started from scratch and under free enterprise have built media outlets with approximately two thousand employees. There are virtually no houses in Taiwan that do not have television. Television aerials, in fact, are omnipresent and their existence makes it clear that electricity is to be found everywhere.

Taiwan has a mixed economic situation in which privately owned shops abound. And private industry is found everywhere. One of the truly revolutionary developments on Taiwan involved land redistribution. Interesting land reform was brought about without revolution. Approximately 38 per cent of the economic activity of Taiwan is devoted to agriculture. The farmers own their own land and work that land intensively; they produce three rice crops a year. Mechanization is gathering momentum, though the farmers do back-breaking work. Latin America would do well to follow the pattern set by Taiwan.

The island has virtually no industrial resources. Iron and coke, as well as tin, copper, and aluminium must be imported. The ROC has lifted itself up by its own boot straps and produced an industrial society from what was almost exclusively an agrarian civilization. One of the world's shipyards has been constructed. I saw a 445,000-ton tanker that had just come down the ways. The keel for another one of the same size has been laid. I visited a major steel plant equal to anything found in the West. I visited an export center where I saw the wide variety of products manufactured for sale abroad. The ROC is fiscally prudent and enjoys a favorable balance of trade. One of the great dangers faced by this tiny nation is the possibility of economic strangulation if its sources of raw materials are cut off.

Socially, Taiwan is a mobile nation. Its main means of transportation include a good railroad system (which operates on time), a network of buses, and what seems to Westerners an almost unlimited number of bicycles and motorcycles. Automobiles are expensive and are heavily taxed. But motorcycles are the choice of the masses. I saw hundreds of motorcycles loaded with mom, pop, and/or a young child. Taipei, Kaohsiung and Taichung are the three major urban cities with a combined population of almost four million inhabitants. Air pollution is found in these cities as in any other modern metropolis. The temperature in the summertime rises above ninety degrees almost every day and the humidity keeps pace with the thermometer. The houses are built to let the breezes blow through, and air conditioning among the masses is limited.

Citizens and foreigners are relatively unrestricted in their travel. There are no closed areas except for military installations. I was free to roam as I pleased—by air, by bus, by railroad, or on foot. The ever-present language barrier exists for the foreigner. The written language is a baffler and makes most Westerners distrait. This is also true for the Chinese themselves. Mandarin and Taiwanese are the two major languages. I was interpreted in either of the two languages depending on the groups to which I spoke. I preached in the largest church on the island on a very hot day. It was a Taiwanese language group. I spoke on two different nights to enthusiastic audiences who sweltered under the heat. When the invitation was given at one of these two meetings a dozen people came forward; most of them were young. In a college-age conference a number of non-Christians made decisions for Christ. In Taipei, Dr. Paul Han, the president of a medical school (they have five on the island), interpreted for me at a Sunday worship service. He has a Ph.D. and an M.B.; he worked under and with Dr. John Brobeck, a Wheaton College alumnus who teaches at the University of Pennsylvania School of Medicine. Dr. Han is a second-generation believer whose father is a member of the Gideons. He has an excellent understanding of the Bible. The family fled from mainland China when the communists took over.

The political aspect of Taiwan's life is its most complicated problem and its persistent nightmare. This is true internally as well as externally. Externally its freedom is at stake, and it wants to wrest control of mainland China from the hands of its communist foes. The communist menace is fully understood by the ROC's governing officials and their hatred of the system is unalloyed. The perennial threat of an invasion of Taiwan by the communists exists and one military spokesman declared that if the communists were willing to pay a frightful price in the loss of life an invasion might occur.

Internally the problem of national democratic elections persists. President Chiang Kai-Shek brought his office with him when he fled the mainland and held it until his death. National elections have not been held because to do so without participation by the mainland Chinese would contradict the foremost ROC claim. The government based on Taiwan claims to be the only legal government of *all* China. The situation for local government is different: most of the mayors of the cities, including the three largest, are native Taiwanese. A few Taiwanese nationalists make much of this difficulty and complain abroad about mainlander rule. But most Taiwanese seem to accept the present situation. Increasingly the mainlanders are elevating Taiwanese into the national government; obviously it is desirable that this trend continue.

While I was in Taiwan two important events took place. The first was the speech given by Secretary of State Cyrus Vance, a speech that alarmed the government and brought forth a spate of statements designed to keep the Carter administration from deserting Taiwan as the U.S. pursues normalization of relations with the People's Republic of China. Vance's failure to give any assurances to the ROC even as he opened the door wide to "normalization of relations" with Red China could only be interpreted as a drastic change in policy. The second event was the desertion of the MIG 19 jet pilot who brought his plane to Taiwan amid the plaudits of millions. It gave the nation a psychological shot in the arm at a time when the Vance speech brought dismay and an impending sense of isolation.

The ROC officials seem to be genuinely puzzled by Jimmy Carter. From their perception of America's role in the world they see no possible gain for the nation to break diplomatic relations with the ROC and establish them with Red China. They think it incredible that Red China should make demands that the United States must first fulfill if diplomatic relations are to be established. Rather, they feel the United States should set up conditions that the Red Chinese should meet, not the least of which is to grant the people human rights, religious and political freedom. Some high officials expressed dismay about Mr. Carter's policy for some very specific reasons.

Mr. Carter refused to grant an audience to Ambassador Shen in Washington despite a request to speak face to face with the President. The ROC takes this refusal to mean that Carter does not wish to hear both sides of the story and without the ROC's story they think he is in no position to make a fair decision. Moreover, they feel that this approach is an inconsistent application of his Christian principles. One official, who has a Ph. D. from the United States, went even further. He expressed how unreasonable it seems to him that Mr. Carter should excoriate the Soviet Union on human rights while he has never said a word about the absence of human as well as religious rights on mainland China. He feels that this failure casts doubt on the President's Christian profession. He said America's enemies seem to get preferential treatment over America's friends. The implication was plain—if you assault America and write the worst things about it and demean it as an enemy you get better treatment than if you act as its friend.

The ROC sincerely believes that the United States has a treaty with it that can be broken only at great loss to the United States. The pledged word of America would then mean less and less to other nations with whom it has treaties. They regard their treaty with the United States as sacrosanct and for a Christian to abrogate it would be eminently unfair from Mr. Carter's own Christian perspective. Moreover, they believe normalization of relations with Red China will desta-

bilize the Far Eastern situation whereas the status quo will at least prevent aggression in the area. They believe the Japanese will probably obtain nuclear arms if the United States breaches its treaty with Taiwan. And they do not think normalization of relations with mainland China will help the United States in its relations with the Soviet Union. They know the Red Chinese hate the Russians and hotly dispute the ownership of vast tracts of land they share as border neighbors. And while Taiwan has no use for the Russions, it is theoretically conceivab'e that if the United States were to break diplomatic relations with them Taiwan might be forced into some kind of rapprochement with the Soviets.

The ROC people believe that they are true representatives of the free world and particularly of free Asia. Certainly they have shown the world and Red China what can be done by a hardworking, energetic people who feel themselves to be politically, economically, and religiously free, and who are willing to suffer and die for their freedom. Neither Mr. Carter nor the American people should for one moment suppose that Taiwan will capitulate or let down its guard. The ROC will endure any hardships and make any sacrifices necessary to maintain its independence and keep its freedoms. The ROC is a militant nation and the people in high places make clear they are at war with mainland China and want to resume control of it as soon as possible.

Taiwan wants no part of two Chinas any more than the Red Chinese want it. Both Red China and the ROC claim to be the real government of the whole of China. There is little sympathy in Taiwan for United States recognition of both Chinas as in the case of West and East Germany. Since the People's Republic of China is a de facto government this fact does not seem to alleviate a sort of intransigence when it comes to the two Chinas' situation from Taiwan's standpoint.

Some Taiwan officials think Mr. Carter is well meaning but not fully instructed on international matters. They hope he will see the dangers of communism more clearly and keep the ROC as a linch pin in the Far Eastern policy of the nation as it finds itself facing the worldwide communist threat to all democracies. If the United States were to break relations with Taiwan and acknowledge the People's Republic of China as the *de jure* and only real government of all China it would create a situation that could have catastrophic consequences. If mainland China were to invade Taiwan it would be virtually impossible for the United States to help Taiwan. It would be an internal Chinese affair in which aid to Taiwan would be considered an act of war against mainland China. And it is easy to imagine what the Third World countries would have to say about Yankee imperialism.

I think the Taiwanese have a good case. I think Senator Goldwater expressed the sentiments of the American people when he recently argued that the United States must keep its treaty agreements with the ROC. We can be sure that if Taiwan goes down the rest of the Far East likely will go down as well. And the Japanese situation will be compromised almost beyond repair. If the Christian faith has any part in molding foreign policy the least it must do is to create the understanding that morality and ethics are essential components of any national policy. It must also make clear that nations that break their word shall in their turn be broken by God's natural laws and their impartial application by the Supreme Ruler of the universe.

It will be a sad day if President Carter carries out what seems to have been implied in Mr. Vance's speech. The best thing he can do for the nation and for his administration is to issue a resounding endorsement of the existing Taiwanese policy that goes back several decades and has been recognized by Democrats and Republicans alike, and has proved to be a successful foil to communist desires to take over all of the Far East.

PROFESSOR THUROW ON THE ECONOMY

Mr. McGOVERN. Mr. President, it is becoming increasingly clear that the traditional techniques for dampening inflationary pressures—namely, tight monetary policy and slackness in the economy—are not having their desired impact. The rate of inflation continues to hover in the 6-percent range, while unemployment remains in excess of 7 percent. A credible explanation for this anomaly is offered by Prof. Lester C. Thurow in the September 12 issue of the Wall Street Journal. Mr. Thurow, a professor of economics and management at Massachusetts Institute of Technology, cogently argues that the resistance of inflation to traditional remedies is due to indexing which is spreading throughout our economy. Mr. Thurow correctly points out that while indexing prevents the rate of inflation from falling, it does not prevent it from rising. Then what can be done? Of three possible policy options, Mr. Thurow sees only one as viable: an income policy. While admitting that such a policy is not particularly attractive, Professor Thurow correctly concludes—

To maintain the current level of idle resources in the face of their demonstrated impotence to reduce the rate of inflation is simply an exercise in national masochism.

I heartily draw my colleagues' attention to Mr. Thurow's article and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OPTIONS FOR DEALING WITH INFLATION

(By Lester C. Thurow)

Despite the quick denials, it is quite likely that incomes policies are being discussed in the back rooms of the Carter administration. Incomes policies are being discussed for a very simple reason. Tight monetary and fiscal policies simply are not reducing the U.S. rate of inflation.

After the first impacts of the price shocks administered by the OPEC oil cartel, the dollar devaluation and the weather-induced surge in grain prices had passed through the economy, the U.S. rate of inflation quickly fell from the double digit rates of 1974 to the 6% range in early 1975. Since then, however, there has been little or no change in the rate of inflation.

Over that 2½-year period, conventional macroeconomic tools have been vigorously used to reduce inflation. The money supply (M1) has grown less than one-half as fast as the nominal GNP. Long-term corporate bond rates have subsided only slightly from 1974 credit-crunch levels. The full employment surplus of federal, state and local governments (the difference between revenue expenditures if the unemployment rate had been only 4.9%) has been large, ranging from $15 billion to $31 billion.

It's true, of course, that the federal government in fact has continued to run a large deficit and that other measures of the money supply continue to show substantial increases by historical standards. And doubtless this newspaper's editorial writers, among others, would argue that monetary and fiscal policies simply haven't been tight enough.

Yet the fact remains that we already have been given a stiff dose of the old time religion—and that the chief effect has been to create a huge reserve of idle productive resources without making a dent in inflation. Unemployment has ranged between 7% and 9%. Over the same period of time, from 17% to 29% of the manufacturing capacity has been idle, according to the Federal Reserve's index of capacity utilization.

Since one percentage point of unemployment represents about $60 billion in output lost annually, a very expensive war against inflation is being fought with little or no payoff. Nor is there any sign of the "light at the end of the tunnel." If one looks at forecasts, the optimists predict the rate of inflation will remain in the 6% range for the rest of the decade (no one predicts much further into the future), and the pessimists predict an acceleration of inflation. Almost no one is predicting that the current war against inflation will be won. Why?

INDEXING PHENOMENON

If one seriously asks why idle resources are not reducing the rate of inflation, the answer is not hard to find. It lies in the phenomenon of "indexing." Since 1974 and the scare of double-digit inflation, labor, business and government have sought to protect themselves from the uncertainties of future inflation by adding cost of living indexes to all their future commitments. By putting cost of living escalators in all their price and wage contracts, labor and business prevent themselves from being hurt by future increases in the rate of inflation. Adding cost of living escalators to private contracts is a perfectly rational response to inflation on the part of both business and labor, but it fundamentally alters the nature of the economy and the effectiveness of monetary and fiscal policies.

This is most clearly seen if we imagine an economy that has been legally indexed. In an indexed economy all contracts are signed in current dollars, but every contract also contains a legally mandated cost of living clause. If the cost of living goes up 15% from the time the contract is signed until the product or labor is delivered, then the buyer or the employer must pay the amount agreed upon plus 15%. The basic objection to legal indexation is that it prevents monetary or fiscal policies from reducing the rate of inflation.

The reasons for this are easy to see. Imagine that the inflation rate has been running at 6% per year. If the inflation rate of the past year was 6%, then every price and wage will go up by 6% this year due to the legally mandated price and wage increases. But the legally mandated increases lead to a 6% rate of inflation this year. Hence with escalators the rate of increase will also be 6% next year. Tight monetary and fiscal policies can reduce demand and increase the quantity of idle resources, but they cannot reduce the rate of inflation. With a legally indexed economy, only external events (such as an appreciation in the exchange rate or a reduction in the price of oil or grain on international markets) can reduce the rate of inflation.

What is even more troublesome is that indexing leads to an upward ratchet effect on the inflation rate. Indexing prevents the rate of inflation from falling, but it does not prevent the rate of inflation from rising. Suppose some policy—let's say President Carter's proposal to raise the price of domes-

tic energy to world levels—raises the rate of inflation to 7%. Once a 7% rate happens indexing will prevent it from falling. As a result, every piece of bad luck or price raising policy leads to higher and higher rates of inflation.

The U.S. economy is not 100% legally indexed, but it has rapidly become heavily indexed since 1974 with the introduction of *de jure* and *de facto* escalators by government, industry, and labor. Cost of living escalators are increasingly being built into government programs and wages.

Nonunion workers don't have legal cost of living escalators, but companies that provide cost of living protection to their unionized workers almost always grant the same increases to their nonunionized workers. Similarly, nonunion employers in fact index their wages to prevent their best employees from gradually leaving for employers who do index and to keep labor unions out of their plants.

While indexing is growing because of private actions rather than formal government actions, the effect is exactly the same as if the government had legally installed indexing. Monetary and fiscal policies no longer have any capacity to lower the rate of inflation. Because of indexing the 6% rate of inflation has become a structural problem that can be solved only by structural means.

THREE OPTIONS

Basically there are three policy options. Policymakers could attempt to crack the current system of private indexation by creating truly enormous quantities of idle resoures. If policymakers were willing to re-create the Great Depression they might be able to destroy the current system of private indexing, but this would require an enormous price in terms of lost output and human suffering. The second option is simply to sit back and admit that there is nothing that can be done about the inflation rate. Since the economy is almost completely indexed informally, the indexing might as well be made formal to cover those small parts of the economy that are not now protected by cost of living clauses. After all, with indexing inflation does not hurt anyone—or so the argument goes.

If neither of these solutions is acceptable, the only remaining solution is "incomes policies." What the incomes policies have to do is clear. How to do it is much less clear. Assume an indexed economy with a 6% inflation rate. Inflation will go down only if everyone agrees to a cost of living raise less than the previous year's rate of inflation. If everyone agrees to raise his or her wage or price by only 4%, even though inflation has been running at a 6% rate, then this year's inflation rate can be reduced to 4% instead of 6%. But the essence of such a policy is an economy where people are willing to accept something less than the full protection afforded by their escalator clauses.

The trick, however, is not what to do, but how to get the agreement that wages and prices go up only 4% rather than 6%. This agreement is the essence of any incomes policy, but with our current system of private indexing such an agreement is virtually impossible to get. Converting the current system into a legally indexed system would give the government a handle to reduce the allowable index adjustment below the previous year's rate of inflation, but enforcing such a reduced escalator would be equivalent to wage and price controls.

Unfortunately, in an indexed economy there are no other solutions. None of the three alternatives is particularly attractive, but one of the three, or some combination of the three, must be chosen. Our current choice is to tolerate a level of idle resources which is high enough to cause enormous losses in output and wasted human opportunities but not high enough to crack indexing and lower the inflation rate. To maintain the current level of idle resources in the face of their demonstrated impotence to reduce the rate of inflation is simply an exercise in national masochism.

LAW AND THE REAL PUBLIC INTEREST

Mr. GARN. Mr. President, since I entered public life, I have heard a great deal about "the public interest" and far more than I care to from those who claim to know what it is, and worse yet, to speak for it. Indeed, a great deal of the time spent in taking testimony before the Banking Committee is spent in listening to those who claim to be anointed to translate the public will into legislation for our benefit.

Of course, the genius of this country, Mr. President, lies in the fact that its founders recognized the impossibility of any one person discovering the "popular will," and our Government was designed to act as a broker, or harmonizer, of the thousands of special interests that make up our country.

We are all consumers, and thus it is in our interest to have low cost, high quality goods. At the same time, we are all taxpayers, and if governmental regulation designed to produce those low cost, high quality goods costs more than the goods are worth, who can say that the public interest is served? At a further remove, we are all wage-earners, and the goal of low-cost goods conflicts with the maximum salaries we would like to have. Virtually all of us are stockholders, either directly, or through the pension funds we contribute to. The goal of maximum return on our investment conflicts again with the goal of low costs.

These and many more conflicts exist in a free society. We can eliminate them, but only at the cost of our freedoms, a cost that I, for one, am unwilling to pay The genius of the market system is that it permits the resolution of these conflicts in ways of the greatest benefit to society as a whole. Thus the "public interest," whatever it is, can be said to be served. But I would not be egotistical enough to say that I know what it is. Certainly there are "externalities," effects of the markets operation which impose costs on innocent third parties, and these must be mitigated through governmental action. Such are the effects of the pollution that result from treating air, water, and land as "free goods." In mitigating this pollution, government must play a role, though I would argue that even there the market mechanism can play a greater role than it traditionally has in our history.

But to return to those who claim to speak for the public interest. By and large, these individuals, the "consumer advocates," "public service lawvers," and so on, do not represent the public. They have stood for no election, have no mandate from society, and represent, in fact, a narrow-minded group, the intellectuals of the land who think they know better than the people themselves what is good for the Nation. For too long now, they have been unchallenged in their assertions. They have been free to enter lawsuits on the side of the trees, and consumer disputes on the side of "motherhood." The results have not been an unmixed blessing. In many cases costs have been driven up, and the range of choices available to consumers have been restricted. Lawsuits against the Government have forced the Government to act in cases where the Congress did not want it to go, and where bureaucracy knew it had no business.

A few years ago, there was a heartening development. The founding of the National Legal Center in the Public Interest indicated that the monopoly of the so-called public service lawyers was about to be broken. The National Legal Center in the Public Interest, despite its title, does not know what the public interest is any more than Ralph Nader does. Its organizers and lawyers do know that there is a broader public interest than that suspected by Ralph Nader. They know that the public is not served by bigger government, by higher costs imposed by unwise and costly business practices unrelated to the safety and protection of the worker or the environment. While the NLCPI is not directly connected with the Pacific Legal Foundation, though there is cooperation between the two, and they have similar aims.

The purpose of my taking this time today is to call to the attention of my colleagues a conference on the philosophical issues underlying the formation of the NLCPI. The center is sponsoring this weekend a national conference on "The Role of the Judiciary in a Democratic Society." It will be held at the Georgetown University Law Center Friday and Saturday of this week. Let me list a few of the participants, and I think the Senate will see the importance of this conference. There will be presentations from Prof. Nathan Glazer, Department of Sociology of Harvard University; Prof. Ralph Winter, Yale University School of Law; Robert Bork, former Solicitor General of the United States; Prof. Walter Berns, Department of Political Science, University of Toronto; the Honorable Charles Renfrew, U.S. district judge for the northern district of California; Hon. Wilbur Pell, U.S. Court of Appeals, Seventh Circuit; Hon. Malcolm Wilkey, U.S. Court of Appeals for the District of Columbia; Hon. Richard P. Conaboy, judge of the court of common pleas, Lackawanna County, Pa. and Hon. Myron H. Bright, U.S. Court of Appeals for the Eighth Circuit.

It is especially appropriate that this conference be called at this time, when the unelected and potentially unrepresentative nature of the Federal judiciary is being examined as never before in the history of the Nation.

Throughout most of our history the people as a whole have been content to ignore the fundamentally undemocratic nature of our Federal judicial system. That is because until very recently, the

judiciary has exercised restraint. It has refused to interject itself into disputes which are fundamentally political, where the efforts of a court to impose a solution of one kind or another would have to provoke attacks on its actions.

Thus we see today a nation which decisively rejects the ideas of busing for school integration, and yet children are bused; we see a nation which wants prayer in its schools, and yet prayers are forbidden; we see a nation which wants filth and perversion taken off its newsstands, and yet anything goes; the Nation rejects abortion on demand, yet the killing goes on. In these and dozens of other instances there is strong evidence that the Federal judiciary is out of step with the majority in the country, and out of step with those that the majority has elected to its legislatures. In light of that lack of agreement, it is being brought home to people that the Federal judiciary is unelected. It is accountable to no one; it has a life tenure.

The result is predictable: Bills in the Legislature restricting the scope of the courts, limiting the tenure of judges, providing for periodic reconfirmation, or for review of Federal decisions by panels of State judges. We can expect more.

In light of these developments, the NLCPI conference is especially timely, and I think Senators and their staffs would be well advised to attend it, and to participate in the discussions it will generate. If we do not now give some attention to this controversy, we will shortly find that it has passed us by while we were wondering what has happened.

Mr. President, I ask unanimous consent that a press release issued by the National Legal Center for the Public Interest be printed in the RECORD, along with the complete program for the conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESS RELEASE

WASHINGTON, D.C., September 26.—Dr. Ernest Van Den Haag, the noted author, educator and sociologist, will be the feature speaker at the Friday evening dinner during the two-day conference on the "The Role of the Judiciary In A Democratic Society" on September 30–October 1 in Washington, D.C.

Sponsored by the National Legal Center for the Public Interest, the Conference is the first ever convened to examine the unique role of the judiciary in the American political system. Outstanding jurists, academicians, journalists, lawyers and scholars will be in attendance.

Dr. Van Den Haag will address participants on the topic: "The Judiciary and the Protection of Society."

Dr. Van Den Haag has been a teacher and lecturer at City College and Brooklyn College in New York; at the Universities of Colorado and Minnesota. He has lectured at the University of California-Berkeley, Columbia, Yale and Harvard. He is currently Adjunct Professor of Social Philosophy at New York University and Visiting Professor of Political Science at Queens College of the City University of New York.

A well-known author, Dr. Van Den Haag has written in a wide variety of fields, and his works include: "The Fabric of Society" (1957); "Passion and Social Constraint" (1963); "Political Violence and Civil Disobedience" (1972).

The NLCPI Conference is at the Georgetown University Law Center, 600 New Jersey Ave., NW.

CONFERENCE SCHEDULE

Friday, September 30, 1977

REGISTRATION

Welcoming Remarks: J. Robert Fluor, Chairman, NLCPI; Chairman, Fluor Corporation.

Introduction: Leonard J. Theberge, President, NLCPI.

Panel I

Moderator: Charles F. Barber, Chairman, ASARCO, Incorporated.

Speaker: Professor Walter Berns, Department of Political Science, University of Toronto, "The Least Dangerous Branch, But Only If . . ."

Commentators: Robert Goldwin, American Enterprise Institute; Rita Hauser, Esquire, Stroock & Stroock & Lavan, New York; Professor Philip Kurland, University of Chicago School of Law; and Hon. Charles Renfrew, United States District Court, Northern District of California.

LUNCH

Panel II

Moderator: Hon. Wilbur F. Pell, Jr., U.S. Court of Appeals, Seventh Circuit.

Speakers: Professor Nathan Glazer, Department of Sociology, Harvard University, "The Judiciary and Social Policy"; Professor Ralph Winter, Yale University School of Law. "The Growth of Judicial Power."

Commentators: Professor Kent Greenawalt, Columbia University School of Law, Max M. Kampelman, Esquire, Fried, Frank Harris, Shriver & Kampelman, Washington, D.C.; Professor Herbert Storing, Department of Political Science, University of Chicago; Professor Robert G Dixon, Jr., Washington University School of Law.

OPEN DISCUSSION

Reception—Dinner

Dinner Speaker: Dr. Ernest Van Der Haag.

Saturday, October 1, 1977

Panel III

Moderator: Hon. Malcolm Wilkey, U.S. Court of Appeals, District of Columbia.

Speakers: John W. Finley, Jr., Esquire, Brashich & Finley, New York, "The Courts and Affirmative Action"; Michael Uhlmann, Esquire, former Assistant Attorney General, U.S. Department of Justice, "The Judiciary and Political Representation."

Commentators: Robert Bork, Esquire, American Enterprise Institute, former U.S. Solicitor General; Professor Steven Schlesinger, Department of Political Science, Rutgers University; Professor Jan Vetter, University of California, Berkeley School of Law.

LUNCH

Panel IV

Moderator: Frank H. Morison, Esquire, Holland and Hart, Denver.

Speakers: Edith Efron, author and columnist, "The Law and Product Bans"; L. Manning Muntzing, Esquire, Doub, Purcell, Muntzing & Hansen, Washington, D.C., "The Courts and Energy Policy"; Arch Puddington, Executive Director, League for Industrial Democracy, "The Economic Impact of Recent Judicial Decisions."

Commentators: James G. O'Hara(Esquire, Patton, Boggs & Blow, Washington, D.C.; Suzanne Weaver, Editorial Writer, The Wall Street Journal; Hon. Myron H. Bright, U.S. Court of Appeals, Eighth District.

NATIONAL WATER POLICY

Mr. McGOVERN. Mr. President, in his environmental message of May 23, the President called for the creation of a "national water resources management policy."

To accomplish that goal, the Water Resources Council, the Office of Management and Budget and the Council on Environmental Quality were directed to review existing water resource policy and recommend reforms within 6 months.

Field hearings have been held and the Policy Committee of the Water Resources Council will shortly begin their deliberations to finalize the recommendations to be submitted to the President.

Issue and option papers on the dimensions of the President's proposal appeared in the Federal Register of July 15 and July 25, 1977. In my view there has been insufficient time for public comment on what realistically amounts to a major change in national water policy.

Hopefully, through the Congress next year there will be a full and fair opportunity for everyone to be heard.

I believe it is important that every citizen who is concerned on water development and policy participate in this national discussion.

Mr. President, I ask unanimous consent that my statement to the Water Resources Council be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR GEORGE MCGOVERN

I am pleased to have this opportunity to respond to the invitation of the Water Resources Council—acting in concert with the Office of Management and Budget and the Council on Environmental Quality—to provide comments under the Presidential directive to develop a "national water resources management policy".

My comments, while submitted directly to WRC, should be made a part of the record submitted by the Missouri River Basin Commission States and principally involve water related issues that are present in the MRBC area.

It has been instructive to note the "Issue and Option Papers" appearing in the Federal Register of July 15th and 25th, 1977, as well as the various public comments by the President, Secretary of Interior and others on the basic challenge for water resource planning.

While I welcome this Administration's strong focus on revision of our National water policy, a case can be made that the timeframe for these hearings and comment from the public and private sectors is unnecessarily abbreviated, allowing insufficient time for studied response. I believe, however, this problem can be overcome once the President presents his proposals, based on this review, to the Congress for a more thorough review. Organizations in both the public and private sector should have an additional opportunity for comment on the final proposals through the Congressional hearing process—and through their own Members of Congress.

If similar, more studied local reviews take place upon Congressional initiative, I believe the Congress can present the President with the full-range of comment I believe he wants and his proposals need. I am confident that together the President and the Congress can carry out the great task this Administration has begun. It is a welcome and overdue task we are beginning together.

It is logical to require that plans for the use of water resources be prepared, kept up-to-date and implemented. However, I find

three primary faults in Federal planning to date. First, they are excessively detailed and rigid. As a result we have a second problem, the plans are either not implemented or are put into action so slowly that they are obsolete by the time the plans come off the shelf. Finally, the agencies involved are often at odds with one another in their approaches to particular plans. It becomes very difficult to resolve these problems and differences on the local level and to implement a particular plan. Hopefully, a comprehensive approach to water resource management to meet today's and future standards will help overcome these problems.

To avoid these difficulties, the longer range comprehensive water use policy should focus to a maximum degree on administrative policies and intergovernmental procedures, including guidelines on the sharing of costs; on the general shape of planned programs; and on a "bank" of proposed alternative actions. This includes structural management measures, which may be drawn upon as needs arise. Such a broad flexible plan should be accompanied by a specific "program" drawn up for a short-term period of years, stating specifics of the projects and measures to be undertaken during that period and in approximate time priority. Such a program could well be reviewed annually.

There will still be an on-going requirement for a substantive amount of conceptual development, organization and education in both the public and private sector. In general, the public is still regrettably uninformed on the various essential aspects of water resources development and water utilization.

The Executive agencies involved in carrying out water resource development are fragmented in their responsibilities. In working with my constituents, it is all we can do to assist them in winding their way through the maze involved in attempting to implement water resource developments, no matter what their scope.

It is incumbent upon these same Executive agencies to work more cooperatively with one another, first, and then to conduct closer liaison not only with Congress, but with states, local people, and regional entities as well. Whether the agencies are the actual architects of a particular type of development or agencies which will affect those developments, they must convey information to those affected in order for them to evolve local developments efficiently and comprehensively.

With these factors in mind, I would like to comment on the five areas surfaced by WRC which will serve as the basis for the Policy Committee's review:

1. *Revision of Water Resources Planning and Evaluation Criteria and Procedures:*

The growth of the western United States has been predicated to a large degree on the availability of water. Concentrations of population have not, however, necessarily developed in direct adjacency to natural river courses or subsurface water resources. It has been the practice in the past—and the Colorado River is perhaps a prime national example—to move water to the people, rather than to encourage the people to settle near the water.

The structural response to these water requirements is everywhere in evidence in the far West; based on early plans and development shortly after the turn of the century.

It is certainly true, that the impoundment, channelization and transfer of water does not increase the net total of water available, but it does bring it to the point of need, rather than permitting it to flow unused to its terminal or merger point.

It is not necessary here to recite the complex array of economic, political, social, and related pressures that have been brought to bear on water development; but it is sufficient to note that it has been a complicated procedure at best that has not developed in accordance with any realization that water would be in short supply.

Unlike specific energy sources where some alternatives may be available, there is no substitute for water.

In order to meet these perceived needs for water transferral, the U.S. Army Corps of Engineers and the Bureau of Reclamation, in cooperation with the Congress, evolved a system of study and Congressional review of various developmental opportunities. As a criteria for determining the "merit" of a given proposal, the benefit/cost (b/c) ratio was conceived. The b/c ratio standard, however, is not a precise measurement and is susceptible to unwarranted tinkering by assigning a greater weight to secondary values or peripheral benefits when the agency wants to construct a given project, or the downgrading of primary benefits in relation to cost when the agency is disposed against a particular water development proposal. This has created a substantial inter-play between and among Federal agencies, and Congress, state and local interest, environmental groups and others on individual projects. The b/c ratio standard, if continued, needs to be substantively revised with specific guidelines and criteria than can be universally applied and checked by others than those who initiate and promote a specific project.

In light of this Administration's review of water projects, the failure of Teton Dam, and the influence of the environmental movement's activism, I believe two more elements suggest themselves for weighing by the Congress before authorization of any future project. These elements are environmental impact and safety.

These two elements are not easily quantified using mathematical formulas, but I believe the need for some sort of quantification exists for review purposes.

As things stand, the Congress is portrayed as insensitive when it authorizes projects according to economic criteria and local support alone. These authorized projects are often later held up because of litigation dealing with environmental and safety questions. We must devise a method of bringing these increasingly important criteria to the front of the authorization process.

I do not propose that a full environmental and safety analysis be prepared. That analysis should come on the heels of preparation of definite plans as it does now. But if enough of a plan exists prior to authorization to allow economic analysis, then enough plan exists to allow some degree of environmental and safety analysis. All three factors can then be weighed during the congressional review process.

The most recent example in the Upper Missouri Basin that underscores these multiple problems is the consideration this year of the Public Works Appropriations Bill for FY/78.

Under the Pick/Sloan (Flood Control) of 1944, the Oahe Irrigation Project in South Dakota and the Garrison Diversion Unit in North Dakota were conceived together as part of the benefit that these up-stream water storage states would derive from the utilization of substantial amounts of land for the Missouri River impoundments. These dams and their associated reservoirs were basically cosntructed to provide flood control for down-stream states, assure a year-round source of navigational water, and to provide hydro-electric power generation. The first phase of that Act has been completed, but up-stream development remains.

There are few projects that are as similar as Oahe and Garrison. Despite this similarity, however, the Congress funded, and the President approved, only Garrison for FY/78, leaving Oahe with no appropriated monies. If there is substance to the argument that projects should proceed on their merits, then it is difficult to square that view with the position taken by the Administration and the Congress in relation to 1977 action on these two projects. This certainly brings into sharp focus the need for more definite and certain policy on project development.

The troubles the Garrison and Oahe projects face when they are discussed in Washington are due to local opposition, either by local farming interests or environmental interests on a local or national scale. The story we hear in Washington is that the operating Federal agency, the Bureau of Reclamation, appear inflexible concerning project design and construction, and in adequately addressing environmental concerns. While I believe the Bureau is making an effort to be flexible in both areas, there is an obvious need for improvement. However, I believe part of the problem is time.

Both projects indicate the absolute necessity of faster implementation once projects of this nature are authorized. How can we expect projects designed 25 years prior to the start of construction to meet today's standards? How can these designs incorporate sufficient flexibility to allow them to conform to changing standards not even envisioned at the time of their planning? If these problems are to be avoided with similar projects in the future, then we must incorporate the new standards I have suggested in the Congressional review process.

These two projects problems are sympathetic of the frustrating nature of today's problems in water resource development. In their way, these projects point the direction we must take in the future as we review our National water policies and standards.

Beyond this, however, there is a need to bring water resources planning under control and relate it to not only state and local requirements, but also coordinate it with river basin and inter-basin systems. The 'first in time—first in line' idea of water utilization needs to be reviewed. Subsequently, identified water needs may well take precedence over earlier water withdrawal patterns. Unfortunately, much of this has been locked into state and federal law and will be difficult to change in the absence of a well defined national consensus to do so.

2. *Cost Sharing for Federal Projects:*

The present policy envisions federal financing for major water development with pay-back features projected into the future predicated on project use. Revenues from hydro-electric power generation, irrigation contracts and assigned "values" for municipal and industrial water along with fish and wildlife benefits are factored into a complex formula that—over time—envisions a return of the federal investment.

Had such a policy not been in place, it is unlikely that most of the existing and operating projects—such as the great dams on the Missouri River—could have been built.

In an inflationary period, this procedure has not been as satisfactory as one might hope. Even as basic project costs are revised upward as a result of inflation so too are the payback provisions benefitted by return inflated dollars to the treasury to replace earlier expenditures of "higher cost" dollars.

A case can be made for more state and local financial participation in a project during its construction and early operational phases. It should be noted, however, that such a procedure will, in a sense, transfer indebtedness from the Federal government to State government and its subdivisions. While this may be desirable from a Federal budgetary viewpoint, it is certainly open to question on the merits in terms of the already heavy obligations carried by most states, municipalities and re-

lated entities. This is especially true when one notes the relatively limited tax base available for this kind of development in a local or state context as compared with the Federal government. It is difficult, also, to envision a firm national policy on this matter which would be equitable for all sections of the country. As noted previously, the structural response to water supply needs in many states has been completed, but in other areas, such as South Dakota, we have yet to maximize our utilization of the Missouri River or other water sources to the extent that is necessary to meet in-state requirements.

A mandatory policy of substantive state and local financial participation before a project becomes operational would probably preclude any further water development in South Dakota and certain other states of the kind that circumstances require.

Cost sharing, while acceptable in the abstract, must be based on a policy that takes into account the financial resources available in a given jurisdiction. Flexibility must be the key factor in any adjustment in the present program.

3. *Institutions and Institutional Arrangements:*

The multiplicity of Federal, regional, state and local entities involved in water policy planning, project development and related water uses almost defies description—and certainly is not understandable to anyone other than professional water planners. No one seriously suggests that the present situation can be allowed to continue if we are to have a truly national policy on water utilization and development that is responsive to current and future needs.

It would be an error, in my view, to attempt to find a way through existing institutional and administrative arrangements to implement any new water plan. Instead, the Administration should develop a 'uniform water code' which can be adopted by the several states under the well defined Federal guidelines.

Such a code should be sensitive to the over-all thrust of national policy on water utilization, but permit substantive latitude within individual states and river basins. Water development should have its beginning locally, as it does now in many cases, and not be dictated by those frequently far removed from local problems and conditions.

Water planning should be simplified and structured to respond to local interests so that a proposal, once conceived, can be promptly evaluated and an early decision reached. The specific and total water needs of a given area should be factored into water availability. Non-structural alternatives should be considered where feasible and the full utilization of other projects should be evaluated in meeting needs outside the immediate project area. The governmental and administrative mechanisms to accomplish the desired goals should be flexible enough to meet any perceived needs, but definite enough to provide an easily understood conduit for information and a timetable for the decision process at each stage of the project consideration.

It should be as flexible as possible to permit on-going changes in any development as needs change during the construction life of the project.

The failure of our present institutional arrangements to evolve a workable and pragmatic approach to problems of water supply is nowhere in more evidence than it is in the application of existing law and regulation to the efforts by smaller communities to bring themselves into compliance with environmental concerns on water quality.

Let me cite the experience we have had in South Dakota, where small towns, some of only 100 or several hundred people, have been told by EPA to upgrade their waste-water treatment and/or discharge practices. Yet these towns have been frustrated at every turn in locating sites which are environmentally sound and yet financially possible.

One very small town in northeastern South Dakota was discharging sewage into a wildlife refuge lake. In 1966, they began the long journey toward modernizing their system. That project, just completed this summer, hit every bureaucratic snag conceivable. The climax occurred when the site they chose for a small 6-acre stabilization pond was challenged by the Fish and Wildlife Service as a wetland and therefore untouchable for this purpose.

This was a gravity flow system—certainly what a town of 200 people would choose. There were 10 other wetlands in the same square mile, 571 in the township and 6,574 in the county. The 120-acre wildlife refuge lake which they were polluting was near the six-acre site. They were told by personnel of the Fish and Wildlife Service that they should go across the road on a hill and dig their pond. The townspeople rightfully saw this as ludicrous. It would have taken productive farmland, it would have required a lift station and fulltime maintenance, would have increased the cost of the project by 25% plus the cost of the land and, what they all knew, the six-acres in the wetland did not have a high record of attracting wildlife.

Regulations on the National Environmental Policy Act of 1969 stated that if an EPA action (grants for sewer projects) may affect wetlands, the responsible official shall consult with the appropriate offices of the Department of Interior and Corps of Engineers during the environmental review to determine the probable impact of the action on the pertinent fish and wildlife resources and land use of these areas.

Also, an environmental impact statement will be prepared when any major part of the treatment works will be located on productive wetlands or will have significant adverse effects on wetlands, including secondary effects.

We also have Executive Orders which instruct all agencies of the federal government to evaluate their actions to strive for minimum energy needs and minimum inflation features.

All these were violated in the attempt to prevent this small town from using the six-acre wetland.

Had this been the only instance of an agency wearing blinders, it still would have been a remarkable case. However, small towns across our state are running into this attitude that it is sufficient to identify a wetland not necessary to evaluate it in terms of the surrounding environment and against the existing pollution.

Our experience with EPA has been that most often they have been willing to evaluate a situation from all perspectives—what is the town's problem? What environmental damage are they currently causing? What risk to the health of their citizens are they currently taking? What are the relative merits—financial and environmental—of each proposed site? What can this town afford to do which will cause the least environmental damage?

Fish and Wildlife most often says: "We will tolerate no environmental damage and we don't care what that leaves you."

I am not environmentally insensitive and fully support the concept that treatment facilities should not be built on locations which degrade the environment. But any responsible person must then ask: What environmental damage are they causing now? And how much can they and the federal government afford to get out of it?

The environment includes people too. Any agency which has the power to block needed development and interprets its mandate in a narrow and self-serving manner, is not acting in the public interest.

All federal programs should enhance the possibilities for people to have basic services to improve the quality of life in rural and urban areas. But when it takes a small town ten years to finance and construct a basically simple sewer project it makes us wonder just how helpful the federal government really is.

The language in the 1969 National Environmental Policy Act is still valid. The Act seeks to maintain conditions under which man and nature can exist in productive harmony and fulfill the social economic and other needs of present and future generations. In many respects, the spirit of that Act and the Congressional Intent evident in its enactment have been frustrated by federal agencies who have interpreted their responsibilities under the Act to mean representation of a specific and identified constituency. This practice all too often leaves the public interest far behind.

4. *Indian Water Rights and Federal-Reserved Water Rights:*

The water rights of Indian people, both as individuals and as tribal entities, have not been handled in a way that reflects credit on the federal government or other water policy planners.

Indian water utilization has suffered from the general lack of economic activity on the Reservations. In the interim, other water users have, to some extent obligated water that might, under a more equitable policy, have been reserved for Indian use.

Some effort has been made to quantify Indian water rights, but this has met with opposition from some Indian leaders and others who make the case the Indians should be allowed to withdraw water on the basis of present and future needs; rather than on some predetermined formula.

It is not my purpose here to set out a finalized Indian water rights policy, but rather to suggest that more discussion and consultation is needed if this matter is to be settled in a mutually satisfactory way. The elements of compromise of the difficult and interlocking legal and supply problems do not appear to be present at this time. But it certainly must be the policy of the Federal government to vigorously pursue the options that may be available.

It is clear that the Federal Government has proceeded in the past on the basis of its 'title' to waters impounded as a result of federal projects and/or waters that develop on public lands. The Memorandum of Understanding, between the Secretaries of Army and Interior relative to marketing of reservoir waters in the upper Missouri Basin left little doubt as to 'whose water' is involved. There needs to be a more exact definition of Federal waters, and, to the extent possible, these need to be quantified as to availability so that state and regional water planners can determine what withdrawal rates can be requested without doing violence to overall River Basin demands for water utilization. I would favor returning to the Regions and the States as much control over water stored and generated within their respective boundaries as possible and in keeping with over-all national water guidelines as to withdrawal and use. There needs to be a more closely defined use pattern of Federal waters to determine what uses can be met and still return water into the system. As an example, hydroelectric power is a non-consumptive use; whereas removal of water from a given water course for irrigation, municipal or industrial use makes varying demands on total water availability within a given river system. The Federal interest should be maintained within the framework of the identified national interest, but to the extent that may be excess to demand, control should be returned to regional and state jurisdiction.

5. *Water Conservation:*

At the present time, the value of water is negligible. The price of water at the irrigation head gate, the power plant or the faucet is realistically no more than the cost of the storage and distribution system required to bring it to the point of use.

As demand for water exceeds the supply, however, it is apparent that consumptive use—and conservation—can only be achieved by the assignment of an economic value to the water itself.

In addition, of course, the concept that a heavy water user qualifies for a lower rate must be reversed. Manufacturers of water related appliances and fixtures must be encouraged or required to provide built-in devices to minimize the amount of water utilized.

Estimates vary, but it is safe to say that upwards of 30% of the total water used in this country is wasted based on outdated technologies, ignorance about the finiteness of our usable water supply and a general insensitivity to our individual and collective impact on total water availability. A great deal more needs to be done to educate the public on the dimensions of water supplies. In some water-short areas of the west, for example, public understanding of limited water supplies can result in substantive savings.

More attention must be given to recycled water use. We are presently using an irrational water flow principle rather than a natural water recycling concept that could ultimately increase the actual amount of water that is available.

I am encouraged to believe that with more public awareness of the need for conservation and the problems involved—that individually and collectively we can substantially improve our water supply situation.

Conclusion:

Water is an essential part of our life support system. We have not always used it wisely or well in the past, but circumstances demand that we do so in the future.

We can no longer regard water as a limitless resource. As is the case with energy, water is becoming in shorter supply and the distribution mechanisms are becoming more expensive.

We cannot continue as we are now in terms of water development, but neither can we afford to remain in a static position in terms of transferral systems to move water from storage points to areas of need. Some accommodation will be required and all parties of interest will find the need to compromise on their original views and conclusions. This is not an easy task in view of the historic perception of water utilization, but it is vitally necessary if this country is to continue to grow and prosper.

I am convinced that a national water policy can be developed to meet our needs and to insure that there is water available for everyone. This may ultimately require some adjustment in population growth patterns and some aspects of our individual life styles. The realization of the limitation of water supplies is an important ingredient in our overall understanding of resource policy and the need to deal with the realities of our nation's present and future.

THE SOUTHWEST MINNESOTA LAKE IMPROVEMENT ASSOCIATION

Mr. ANDERSON. Mr. President, one of the more important sections of the Clean Water Act of 1977 that the Senate passed on August 4, 1977, was the amendments to section 314, the clean lakes program. The Senate provided additional direction to EPA on the implementation of lake restoration projects around this country and authorized an additional $500 million for the program.

I believe the language of the Environment and Public Works Committee report on the clean lakes program is particularly appropriate to recall at this time and I ask unanimous consent that that section of report 95–370 be printed in the RECORD at this point.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

CLEAN LAKES

SUMMARY

This section amends section 314 by requiring the Administrator to provide financial assistance to the States to prepare surveys to identify and classify freshwater lakes and to issue biannually information to the States on methods and procedures to restore and enhance freshwater lakes. Section 314 is further amended to authorize $450 million for fiscal years 1978, 1979, and 1980 for the ocean lakes program.

DISCUSSION

The 1972 act recognized the urgent need for a lake improvement program to restore the significant number of the Nation's 95,000 freshwater lakes that were in eutrophic and deteriorated conditions. The clean lakes program was conceived to respond to this problem: $100 million was authorized for lake pollution research; $350 million for grants for restoration and improvement projects on lakes throughout the country.

In the 5 years since Public Law 92–500 went into effect, lake restoration programs essentially have not even begun. Only 15 percent of the 95,000 freshwater lakes in this country have been investigated pursuant to section 314. The EPA has not requested any of the research funds authorized for lake pollution. Previous administrations never once requested funds for the clean lakes program. Only $40.3 million has been appropriated since fiscal 1975. Even of those inadequate funds appropriated through fiscal year 1977, the EPA has allocated only $19 million. With tens of thousands of lakes warranting the use of clean lakes project grants, the EPA has only funded 54 projects to date.

The committee hearing record clearly demonstrates that there is a great interest in lake areas in the restoration and preservation of degraded freshwater lakes, that the clean lakes grants that have been made have had some impact and that additional research and demonstration efforts are necessary so as to successfully implement clean lakes projects, especially in urban areas.

The committee believes that the basic structure of 314 is adequate. The amendments are technical in nature and intended to correct two inadequacies of the program. First, the Administrator is directed to provide the States with financial assistance to survey lakes to determine their condition. The lake surveys are the first step to a successful lake restoration program. Pursuant to this amendment and funds available therefrom to the States, all States should have the capability to initiate lake surveys to determine the priority lakes for restoration projects.

Second, the Administrator is directed to biannually issue to the States information on the state of the art of lake restoration techniques and practices. The committee believes publication of this material is necessary on a regular basis and this amendment so provides.

The provision authorizes $450 million for the clean lakes program for fiscal years 1978–80. The committee believes this authorization represents a level of effort that reflects the expectations of the Congress for this program, recognizing that the problem of lake eutrophication and deterioration nationwide far exceeds even this authorization level.

The committee is hopeful that the new administration will act to make lake restoration a key element of the EPA's water pollution control program contrary to the EPA's implementation of this section to date.

Finally, the committee intends in subsequent legislation to be reported to the Senate to provide additional authorizations for lake pollution research.

Mr. ANDERSON. Mr. President, examples of freshwater lakes in need of restoration are continually brought to my attention. On September 16, 1977, the Minneapolis Tribune reported on the efforts of Mr. Pete Kooiman of Slayton, Minn., and other members of the Southwest Minnesota Lake Improvement Association to fight lake pollution in the Southeastern part of my State. With the relatively small number of lakes in that area of Minnesota, the restoration of polluted and eutrophied shallow lakes is particularly important to provide recreational opportunities for the citizens of the area.

Mr. President, the Tribune article, "Wading Back Into Swamps May Cut Lake Pollution," is a very informative commentary on the problems of lake pollution, that the clean lakes program of the Clean Water Act is designed to combat. I am hopeful that the expanded clean lakes program authorized in S. 1952, will be accepted by the House of Representatives and be then available to help Mr. Kooiman and his friends as they work to restore Lakes Shetek, Heron, Wilson, Maria, and Long Lake for the future enjoyment of themselves, their friends, and their children and grandchildren.

Mr. President, I ask unanimous consent that the article by Minneapolis Tribune Reporter Tom Hamburger of September 16, 1977, "Wading Back Into Swamps May Cut Lake Pollution," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WADING BACK INTO SWAMPS MAY CUT LAKE POLLUTION

(By Tom Hamburger)

SLAYTON, MINN.—Pete Kooiman, a farmer and drainage contractor, has spent much of his life draining swamp and wetland areas in southwest Minnesota. Now he's pushing to create marshes.

Kooiman is part of an organization looking at the redevelopment of marshes in southwestern Minnesota to halt lake pollution. And he's urging the organization to get farmers and feedlot operators to change their land-management practices to prevent nutrients and soil runoff from flowing into the area's dying lakes.

Lakes in southwest Minnesota have needed help for some time. But until early this year when Kooiman and a dozen others got together, there never was an organization to protect them.

That organization was formed none too soon.

Several lakes in the area have already died. Their bottoms have filled with farm soil. The fertilizer, soil and human and animal wastes that flowed into them caused a boom in the growth of algae and other aquatic plants. Shallow fishing lakes like Heron, Wilson, Maria and others have become unsuitable for humans and most fish in recent decades, according to Michael Sobota, regional planner with the Southwest

Regional Development Commission. Only the carp population is booming.

When 3,600-acre Lake Shetek, the largest in southwest Minnesota, showed signs that it too might die, action began. Shetek is the most important recreation center of southwest Minnesota, the region of the state with the fewest lakes and the fewest areas left in their natural condition.

"Southwest Minnesota has only 1.9 percent of natural environment land while there is 19.3 per cent in the Twin Cities," said Sobota. Naturally, the lake is an important recreation area, drawing tourists from several states.

Precisely because of its location, it is in danger of being destroyed.

Shetek's watershed has one of the highest feedlot concentrations in the state, according to Sobota, and it is surrounded by agricultural land. The effects of farming, combined with heavy recreational use, have created serious problems.

The shallow lake—it's only 10.5 feet at its deepest point—is getting shallower at the rate of .4 of an inch a year as the area's unusually fine soil flows from the farmland into the lake.

As the lake gets shallower, it warms up, encouraging algae growth already spurred by the high nutrient content from cattle manure fertilizer and human waste. Swimming has never been restricted at Shetek, but residents became alarmed that if conditions persisted, it could be.

As the lake was becoming increasingly gummy from algae growth in the summers, folks who made their money from the lake, and those who enjoyed it, began talking last year about the need for action.

Lake improvement is a touchy subject in the rolling, rich prairie farm land. Farmers and feedlot operators don't want to change their farming practices. Attempts to discuss restrictions on their activities in the past have met with angry refusals.

But the Southwest Minnesota Lake Improvement Association is having some success. It's finding support from a cross section of the region's population, including farmers, probably because the organization has skirted the issues of runoff and feedlot control.

It has concentrated on a novel approach that everyone can endorse: The development of marshes to control pollution.

The organization has hired a contractor to study the idea and is preparing an educational package to present to county commissioners.

The creation of marshes, or sediment basins, at key locations around the lake would provide a natural filtering system for water feeding into the lake, according to Sobota.

The marsh would catch pollutants before they enter the lake. It would use up the large supply of nutrients that is causing the algal bloom, which turns lakes like Shetek green and smelly by midsummer.

The marshes would slow the water running into the lake enough so that soil, manure and chemical pollutants could settle out before the water reached the lake. The nutrients would be absorbed by the heavy marsh plant growth.

One of the areas being considered for development of a marsh to protect Lake Shetek is Long Lake, a small lake that flows directly into Shetek. Long Lake has already suffered eutrophication (becoming too rich in nutrients). It is surrounded by grazing land and cattle can often be seen standing in the lake.

Sobota said the association will likely recommend that Long Lake be drained, permitting cattails and other reeds to develop. The lake would then be refilled and the marsh filtration process could begin.

In recent years scientists have begun to realize the importance of marshland in controlling sedimentation and pollution of area lakes. Minnesota tightened its regulations controlling destruction of marshland in 1973, and experiments with creation of marshes are beginning across the country.

Officials of the state Department of Natural Resources say the Lake Shetek proposal is probably the most extensive in the state's history. The idea has also caught the interest of DNR employees interested in establishing wildlife management areas on the newly created marshes.

Where the money for the marsh project will come from is uncertain, Sobota said. The association hopes to apply for federal funds when an engineers' report on the project is complete. No cost estimate for the project was available, Sobota said. He said he hopes the DNR might come up with funds.

"DNR people are interested in establishing wildlife management areas here, where agricultural management practices have depleted most natural vegetation," Sobota said. "DNR is looking at areas like Long Lake that would increase vegetation. It's a bald lake now."

The association is interested in expanding from Lake Shetek to other lakes, the members say. "We decided to concentrate efforts on Shetek," Sobota said, "because there were studies done on the lake and because it's such an important regional resource."

Kooiman thinks that ideas like the marshland proposal will instruct farmers and others that efforts to clean up the lake need not threaten their livelihoods.

If we can show farmers how easy it is to eliminate the problem," he said, "I think we can solve this."

"STARLAWS AND SPACELAWYERS"—REMARKS BY SENATOR HARRISON SCHMITT

Mr. STEVENSON. Mr. President, my distinguished colleague Senator HARRISSON SCHMITT, who serves as ranking minority member of the Subcommittee on Science, Technology and Space, recently presented a speech to the American Bar Association, entitled "Starlaw and the Enterprise." In his speech, Senator SCHMITT emphasized the need for "starlaws" to meet demands of future exploration of our space environment and the space resources that will soon become available to us. He envisions numerous legal and regulatory problems arising from our continued space exploration which must be dealt with by spacelawyers and a judicial system geared to our interactions in a changing space environment. I commend him for his forsight in probing this dimension of the space frontier. I urge my colleagues to read and ponder Senator SCHMITT's remarks.

I ask unanimous consent that the text of Senator SCHMITT's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STARLAW AND THE ENTERPRISE

(By Senator Harrison Schmitt)

The Space Shuttle Enterprise flies alone in a few days; the first major milestone in our leap from Apollo to Star Trek. The explorers of the near frontier of Earth have passed; the pioneers have arrived; civilization and "starlaw" will soon follow.

Compressed into one decade of activity in space, history has seen the equivalent of two centuries of exploration of the great American West. History is not in the habit of waiting for us to proceed further; history is proceeding with or without us in a rather impersonal way. Nations traditionally have some difficulty in recognzing or remembering this fact until events suddenly indicate, in no uncertain way, that it is time to move or be left behind.

We have been more than just part of history during the past decade; we have been part of evolution. By the use of his mind, man has made evolution through technology historically equivalent to biological evolution. By constructing a shield for life around himself, man has made the universe an accessible part of his environment.

The evolution of man into space has opened new opportunities for us and for all men. There are now new resources, in the broadest sense of that word, which never before have been available to mankind. These resources are available for research, for manufacturing, and possibly most importantly, for service to our fellow man. One of the major questions before the nation, as I see it, is whether or not we of this generation will continue to develop our technological capability to use these new resources. The answers to this question lie within the limits of our imagination. The first movements into space, which culminated in Apollo, catalyzed our imagination. Skylab gave direction to our imagination. The Space Shuttle now gives license to our imagination.

The Space Shuttle is the first major step in a positive answer to the question of our space future. Once the Space Shuttle exists, that is, when we have relatively economical and convenient access to the near-Earth space environment, then imaginative use of that environment becomes possible. To evaluate the benefits of the Space Shuttle to this and future generations, let us look first at the nature of our new space resources.

The resources of near-Earth space are basically three in number: 1) instantaneous and continuous view of the Earth, the sun, and of deep space; 2) an infinite quantity of clean; ultrahigh vacuum; and 3) a weightless environment, that is, an environment free of gravitational stress.

An instantaneous and continuous view of the Earth and its total environment makes possible a wide spectrum of space activities. Observatories become possible from which research and services in meteorology, oceanography, geology, and environment can be conducted and from which broad-scale explorations for new terrestrial resources can be carried out. Man's application of his eyes and mind to the direction of old and new remote sensing systems has presently unlimited potential.

Starlawyers must quickly come to grips with the implications of this new view of Earth. Litigation involving a wide variety of problems concerning weather, ocean, land and environment will have increasingly new and potentially definitive evidence with which to deal. Knowledge of the distribution of earth and ocean resources will become general knowledge with increased complexity for international and anti-trust litigation.

The sun remains the major contributor to the stability and the changes of our magnetic atmospheric, oceanic, and biological environments. However, our knowledge of how the sun's energy and magnetism influence changes in our environment is extremely limited. A continuous view of the sun outside the shielding effects of the Earth's atmosphere first will allow attempts at understanding processes taking place on and in the sun and the nature of their interactions with the Earth. Then, even-

tually this view will allow efforts to forecast and protect against, or take advantage of, the effects of these interactions.

As our understanding of the detailed nature of the interaction between Sun and Earth increases, so will our ability to monitor and assign blame or credit for changes in that interaction. As we work to expand the limits within which mankind can survive and prosper on Earth, so must we develop the technical and legal means to monitor the global effects of this expansion. For a case in point, we need look only as far as the controversy over the effect of fluorocarbons on the ozone in the ionosphere and in turn, its effects on the incidence of skin cancer.

The continuous view of the sun from near-Earth space offers another potentially great resource. Our short-term energy problem is that of producing more fossil fuel, whereas our long-term problem is the conversion of a society dependent on fossil fuels to one where fossil fuels are a minor source of energy. Solar power stations in space are some of many potentially feasible alternatives to fossil fuels, alternatives that we as a nation must develop soon.

There are numerous legal and regulatory questions that arise when one contemplates solar power systems in synchonous orbit around the Earth. How do we establish national and/or international rates for the power generated and transmitted to receiving points on Earth? As more and more men and women work in space stations like this, what laws and judicial system will govern their inter-relationships?

One of man's greatest sources of intellectual strength and scientific vitality is in his continued observations of the universe and his attempts to understand the stars and interstellar space. The greatest discoveries of the future probably lie in investigations of stellar and interstellar phenomena. The nature of gravity; the origin of planets; the limits on our ability to manipulate matter, energy, and time; and our future as explorers of the universe are all issues at stake.

One of the major limitations to experimentation and manufacturing in many areas of physics and chemistry is the difficulty in creating and maintaining clean, ultrahigh vacuums in large volumes. The existence and accessibility of such a vacuum and high pumping rates in near-Earth space open new dimensions to the study and use of physical and chemical theory.

The continuous absence of gravitational stress, that is, weightlessness, provides a unique experimental and practical environment heretofore unavailable to man. Extensive experimentation and manufacturing never before have been possible where convection does not exist, where containers for fluids are not required, and where unconstrained crystal or biological growth can occur.

Possibly the most urgent area of Starlaw that requires attention is the extension of medical, corporate and patent law to cover the infinite range of treatment, research and industrial activities that will soon begin in space. Precedents are being set which may not be in the right direction either with respect to the interests of business, the interests of future consumers, or the interests of our country.

In spite of the obvious limitations on our ability to have all that would be useful all at once, the Space Shuttle will allow us to bring the benefits of our new space resources to more and more of mankind. Our obligation to the present and to the future is to move with all deliberate speed into the new era and into the Earth's frontier now open before us. Now is the time for Starlaw to be born and take its permanent place in the history of society. As we consider our national and international priorities, I hope that we find the compassion and wisdom to survive the present, but I also hope that we find the imagination and wisdom to see the future.

THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, today the Committee on Foreign Relations began an extension series of hearings to consider the Panama Canal treaties. Today the committee heard testimony from Secretary of State Cyrus Vance and our two negotiators for the treaties, Ambassador Ellsworth Bunker and Mr. Sol M. Linowitz.

I ask unanimous consent that the statements of each be printed in the RECORD. I believe that these statements will be of interest to my colleagues and other readers of the RECORD, in view of the intense interest in the treaties.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY SECRETARY OF STATE CYRUS R. VANCE ON THE PANAMA CANAL TREATIES

Mr. Chairman, Members of the Committee:

Today I seek your support for new treaties governing the Panama Canal.

First, these treaties protect and advance the national interests of both the United States and Panama.

Second, they provide for an open, neutral, secure and efficiently operated Canal for this hemisphere, and for other nations throughout the world.

And third, they will promote constructive and positive relationships between the United States and other nations in this hemisphere.

These treaties, in my judgment, will gain us respect among other nations of the world—both large and small—because of the responsible way they resolve complex and emotional issues which have been with us for most of this century.

The treaties are the culmination of 13 years' work by four American Presidents of both major political parties, and their Secretaries of State.

They are the outcome of patient and skillful negotiation since 1964 by a number of dedicated political leaders, diplomats, and military men. They have been achieved because of valuable counsel and support offered by members of this Committee and by representatives of American business and labor who have seen these new treaties as being in their own interest and in the larger national interest.

They are, above all, a triumph for the principle of the peaceful and constructive settlement of disputes between nations. That is a principle we seek to apply in all aspects of American foreign policy.

It is quite proper that this Committee, the Senate, and the American people should consider carefully the content and implications of these treaties. For they should not at some later time be made the subject of partisan or divisive debate. In my opinion, they should be beyond partisanship.

They should now be examined in detail by this Committee, and by the nation. Basic questions are being asked—and should be asked—about them.

These questions express the same concerns and goals that have been on our minds during the negotiations.

Do these treaties safeguard our national security interest in the Canal?

Do they establish a long-term basis for open and effective operation of the Canal?

Do they enhance our relationships with nations of this Hemisphere?

Do they place any new burden on the American taxpayer?

Do American workers in the Canal Zone get a fair shake?

And, without the treaties, what might happen?

I am satisfied in my own mind that these questions have been properly answered, thanks to the skilled and hard bargaining by our negotiators. I will discuss these questions briefly this morning.

LONG-TERM OPERATION OF THE CANAL

The United States will control canal operations through a new U.S. government agency—the Panama Canal Commission—to be supervised by a board composed of five Americans and four Panamanians. The Commission will operate the Canal until the end of this century. The present Panama Canal Company will be discontinued.

The United States will maintain responsibility for managing the canal, setting tolls, and enforcing rules of passage until the year 2000. Until the year 2000 the U.S. will also maintain primary responsibility for the defense of the Canal. After that, the United States will have responsibility to maintain the permanent neutrality of the Canal to assure that it will remain open to our ships, and those of all other nations on a nondiscriminatory basis.

The treaties further allow for the modernization of the Canal through construction of a third lane of locks and foresee the possibility of construction in Panama of a new, sea-level canal. This would provide access for many modern super-tankers and warships too large to pass through the present Canal.

HEMISPHERIC RELATIONS

I believe the ratification and implementation of these treaties will be the single most positive action to be undertaken in recent years in our relations with Latin America.

Only last month, in Bogota, the democratic governments of Venezuela, Costa Rica, Colombia, Mexico and Jamaica issued a joint communique urging the United States and Panama to conclude the new treaties rapidly. For years, Latin American peoples and governments have viewed our negotiations with Panama over the Canal as a litmus test of our intentions toward their countries.

The treaties, as negotiated, represent a fair and balanced reconciliation of the interests of the U.S. and Panama. They create a partnership under which our two countries can join in the peaceful and efficient operation of the Canal. They symbolize our intentions toward the Hemisphere. And they prove, once and for all, the falsity of the tired charges that we are imperialistic exploiters bent only on extracting Latin American raw materials and using the continent for our own economic interests.

NATIONAL SECURITY ASPECTS

Representatives of the Joint Chiefs of Staff worked closely with the treaty negotiators on the security provisions, and played a major role in drafting the neutrality treaty. The United States will retain all military bases and facilities—all the lands and waters—that we require for the Canal's defense until the year 2000. We may keep the same force levels we now maintain in the zone—about 9300—and can increase them if necessary.

After the year 2000, as I indicated earlier, the United States will have a permanent right to maintain the Canal's neutrality, including the right to defend the Canal if necessary. Our warships are given the right to use the Canal expeditiously.

Article IV of the Neutrality Treaty says:

"The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two contracting parties."

This means there is no limit under the Treaty on the freedom of the U.S. to assure permanently the Canal's neutrality.

THE ECONOMICS

Under the treaties, Panama will receive payments which more fairly reflect the fact that it is making available its major national resource—its territory. But the treaties require no new appropriations, nor do they add to the burdens of the American taxpayer.

The treaties provide that Panama will receive 30 cents per Canal ton for traffic transiting the Canal; a fixed annuity of $10 million per year; and an additional $10 million per year provided canal revenues permit. Panama would initially receive about $60 million per year under this formula, which will apply until the year 2000. All of these payments are to be made from Canal revenues. Panama will thus have a strong interest in insuring unimpeded and efficient use of the canal.

We have agreed, outside the treaty, to certain arrangements which will assist the general economic development of Panama and enhance its stability. We have formally told the Panama Government that we are prepared to develop a program of loans, loan guarantees and credits to Panama—including up to $200 million in Export-Import Bank credits over a five-year period; up to $75 million in AID housing investment guarantees over the same period; and a loan guarantee of up to $20 million from the Overseas Private Investment Corporation. All the loans concerned require repayment. There are no grants. In addition, over a 10-year period, Panama will receive up to $50 million in foreign military sales repayment guarantees, so that its armed forces can be better prepared to help defend the Canal. Most of this assistance will be used to purchase American equipment. These programs would be subject to all relevant U.S. legal requirements and program criteria.

AMERICAN WORKERS IN THE ZONE

Some 3,500 American employees of the Canal enterprise and their dependents live in the Canal Zone. Some have spent all their working lives there; most of these American workers will continue to be employees of the U.S. Government until their retirement. The treaties protect their basic conditions of employment. If they remain they will be free to continue living in government housing and to use the American schools and hospitals in the areas. Until the year 2000, the treaties guarantee American employees and their dependents basic civil rights, similar to those that apply in the U.S., in Panamanian courts, and other benefits and protections similar to those enjoyed by other U.S. Government employees overseas. The AFL–CIO, which represents both Panamanian and U.S. workers in the Canal Zone, supports these treaties.

WHAT IF THE TREATIES ARE REJECTED?

It would be all too easy for me to emphasize today that if 13 years of effort were lost, and these treaties rejected, our relations with Panama would be shattered; our standing in Latin America damaged immeasurably; and the security of the Canal itself placed in jeopardy.

Indeed, all of these things could and might happen if these treaties were not ratified. But that is not the major reason for supporting them.

They deserve support because they are in our interest, as well as the interest of Panama.

For the people and government of Panama, there is the knowledge that they, eventually, will assume full jurisdiction over their own territory. There are also the economic benefits to be gained from canal revenues, and from the guarantees, loans and credits—not grants—we have pledged to consider on their behalf. Panama, as a result, will be a more stable and prosperous country.

For us, there is our knowledge that the Canal will be open, neutral, secure and efficiently operated, for our benefit and that of other nations in the world. We are not appropriating American taxpayers' money to accomplish this. And we will have gained respect throughout Latin America and the world for addressing this issue peacefully and constructively.

It is our interests, not foreign pressures, that led us to these treaties.

OTHER QUESTIONS

Let me address, very briefly, some doubts about the treaties that have been raised, but can be dispelled as the facts become better known.

We are asked whether the new treaties may encourage Panama to nationalize the Canal. But our new treaty rights would be no less binding than our rights under the existing treaty. Moreover, a Panama which is cooperating with us in canal management and will eventually exercise full management responsibility has no reason to seize or obstruct the Canal. Any Panamanian government will have an interest in preserving the treaties because the treaties are in the interest of Panama—as well as ourselves. These treaties reduce the chance of such an event.

It has been suggested that the new treaties could diminish our ability to maintain the neutrality and security of the canal. But, in fact, the Joint Chiefs of Staff are satisfied that the treaties enable us to keep the canal open indefinitely.

It has been suggested that we are "paying the Panamanians to take the canal away from us." But payments to Panama will come from canal revenues, not from American taxpayers.

Finally, let me address briefly another question which has been raised: human rights in Panama.

The Panamanian government has in the past been charged with abusing the civil and political rights of some of its citizens. And we have discussed this issue with that government. The closer relations between our two countries that will grow out of the new treaties will provide a more positive context in which to express such concerns, should it be necessary in the future.

Already, there are encouraging signs. On September 13 Panama invited the Inter-American Human Rights Commission to send a team to investigate human rights conditions in Panama. In addition, it has invited the United Nations to send observers to its plebiscite on the new treaties next month.

At the same time, the Panamanian government has made continuing and real commitments to the economic and social rights of its citizens. Its economic development plans give priority to upgrading the housing, nutrition, health care and education of the ordinary Panamanian citizen.

How we respond to an issue such as these Panama Canal treaties will help set the tone for our relations with the rest of the world for some time to come.

Both we, and others, are under considerable pressure in our domestic economies. There is a tendency toward economic protectionism. And there is question about the most appropriate ways to use our power in a world grown so complex.

Panama is a small country. It would be all too easy for us to lash out, in impatience and frustration, to tell Panama and Latin America—and other countries around the world—that we intended both to speak loudly and carry a big stick and to turn away from the treaties four Presidents have sought over so long a time.

But that, in my judgment, would not be conduct appropriate to a responsible world power or consonant with the character and ideals of the American people.

Any nation's foreign policy is based, in the end, not just upon its interests—and, in Panama, our interests are clear and apparent. It also is based upon the nature and will of its people.

I believe the American people want to live in peace with their neighbors . . . want to be strong, but to use their strength with restraint . . . want all peoples, everywhere, to have their own chance to better themselves and to live in self-respect.

That is all a part of our American tradition.

And that is why I am convinced that after the national debate they deserve, these treaties will be approved without reservations by the Senate, with the strong support of the American people.

STATEMENT BY HON. SOL M. LINOWITZ

Mr. Chairman and Members of the Committee: Although I have not been involved in Panama Canal diplomacy for as many years as Secretary Vance and Ambassador Ellsworth Bunker, I have for a long time been deeply concerned about the Panama Canal issue and its implications for our whole relationship with Latin America.

For three years prior to my designation as Co-Negotiator of the new Canal treaties, I served as Chairman of the Commission on United States-Latin American Relations.

In the Report which our Commission issued on December 20, 1976 we said: "The most urgent issue the new Administration will face in the Western Hemisphere in 1977 is unquestionably the smoldering dispute with Panama." We went on to say: "1977 will be a crucial year for resolving the volatile Panama issue; if negotiations do not produce an equitable solution during this coming year, deepened hostility seems inevitable." We urged the new President "to exercise prompt, vigorous and decisive leadership in negotiating an acceptable compromise with the Panamanian Government while serving our own interest in the Canal. Such an action will also indicate our desire to address the issues which concern the United States and Latin America in a more cooperative and mutually respectful atmosphere."

Our recommendation was: "The new Administration should promptly negotiate a new canal treaty with Panama; it should involve members of both parties and both Houses of Congress in the negotiations; and it should make clear to the American public why a new and equitable treaty with Panama is not only desirable, but urgently required."

Mr. Chairman, the treaties which we have negotiated and which are now before you in large measure follow that prescription. We have negotiated treaties which are, we believe, fair and equitable and which fully preserve our interest in the canal while taking into account Panamanian aspirations. In the course of the negotiations, we have involved members of both parties and both Houses of Congress. And the terms we have agreed upon clearly reveal a more cooperative and mutually respectful atmosphere in hemispheric relations.

There are, I believe, three basic facts which must be understood about the Panama Canal issue.

First, it is an issue which involves far more than relations between the United States and Panama. For it is an issue which affects all United States-Latin American relations. In the eyes of our Latin American neighbors, the Panama Canal runs not just through the center of Panama, but through the center of the Western Hemisphere. All the countries of the hemisphere have made common cause in looking upon our position in the canal as the last vestige of a colonial past which evokes bitter memories and deep animosities. So in going forward with these new treaties with Panama, the United States will be improving its position with virtually all the countries of this hemisphere whose attitude towards us as a nation will be importantly

influenced by how we conduct ourselves on the Panama Canal issue.

Second, our primary interest in the Canal is, and always has been, to assure that it remains secure and open, on a neutral, nondiscriminatory basis. Viewed in this light, it is unmistakably clear that the greatest threat to the operation and security of the Canal would be to try to insist upon retention of the present outmoded treaty and its anachronistic provisions—provisions which have in the past, and can so easily again in the future, trigger hostility and violence. The simple fact is that if we do not agree upon treaties which are mutually agreeable and acceptable, the time may come when we may find ourselves in the position of having to defend the Canal by force against a hostile population and in the face of widespread condemnation by the countries of Latin America and even the rest of the world.

Third, it is, therefore, clear that the best way to preserve an open, accessible and secure canal and to maintain its permanent neutrality would be to substitute for the 1903 Panama Canal Treaty a new arrangement which will be mutually fair, which will properly provide for Panama's just aspirations, and which will take into full account our own national needs. Putting it another way, a new treaty arrangement is the most practical means for protecting the very interests we are seeking to preserve in the Canal.

We believe that the new treaties meet this test by preserving for the nation the important interest it has in assuring that the Canal remains secure, accessible and open on a nondiscriminatory basis—and in a manner which will both advance our national security interests and further our hemispheric objectives.

With your indulgence I would like to recall a few words of history about how we got where we are in the Panama Canal.

During the middle of the 1800's we were, as a young nation, interested in the possibility of constructing a canal across the isthmus in order to connect the Atlantic and Pacific Oceans. This need was dramatically underlined when, during the Spanish American War, it took the battleship *Oregon* 67 days to get from the Pacific coast to its Atlantic battle station.

At the end of the 1800's the French Canal Company had undertaken to construct a canal through the Province of Colombia known as Panama. By the end of the century it acknowledged failure—failure because of disease, because of technological and scientific problems which seemed unsurmountable, because of lack of financing, and finally because of lack of spirit and morale.

At that time an engineer, Phillippe Bunau Varilla, who had worked for the French Canal Company, spurred an effort for the United States to take over the French company's assets and enter into a treaty with Colombia for the completion of the canal. Such a treaty was rejected by the Colombian Senate.

At that point it was suggested that the Province of Panama might undertake to declare its independence from Colombia and then enter into a satisfactory treaty with the United States. On November 4, 1903 a revolution occurred in Panama and a few days later the United States recognized Panama's independence. Thereupon a treaty was entered into known as the Hay-Bunau-Varilla treaty.

The treaty granted the United States rights "in perpetuity" to construct a canal within a zone 10 miles wide over which the United States would exercise the "rights, powers and authority" it would have if "it were the sovereign." Secretary of State Hay candidly wrote to a leading Senator that the treaty was "very satisfactory, vastly advantageous to the United States and, we must confess with what face we can muster, not so advantageous for Panama." The treaty was ratified in 1904 and construction of the canal was begun immediately. It was completed in 1914 after a brilliant engineering and scientific performance by American engineers, doctors, scientists and builders who were determined to conquer the unconquerable and make the canal a reality.

Today the Panama Canal stands as an engineering marvel, as one of this country's greatest accomplishments. In a very real sense it was our moon shot of the early 1900's. Any American must view with pride this highly complex, integrated hydraulic system of locks, dams and artificial bodies of water designed to move ships over the uplands of the isthmus for 50 miles from ocean to ocean.

And we can also point with pride to the way we have operated the Canal. For 62 years it has been run as a public service for the nations of the world rather than as a business. Tolls have been set as low as compatible with meeting costs and providing a modest return, and world commerce has been a major beneficiary of the Canal operation. The toll rate when the Canal opened in 1914 was $1.20 per Panama Canal ton; today it is $1.29.

But while the Canal has been a source of deep pride to the United States, it has been a troubling and festering presence in Panama. Under the treaty the United States exercises jurisdiction over the Canal Zone courts. It has established the Zone's schools, jails and its police force. It has set up what the Panamanians have regarded as a colonial enclave splitting their country in two and using 550 square miles of their territory. And the Panamanians have made known their resentment at the United States doing so pursuant to a treaty which was not even signed by a Panamanian.

It is against this backdrop that these new treaties must be evaluated.

Several arguments have been widely advanced against a new treaty arrangement with Panama. Secretary Vance has already discussed the sovereignty issue, and I would like to touch upon several other major concerns which have been asserted in connection with the new treaties.

First, will the new treaties in any manner prejudice our national security? Your Committee will have the benefit of the testimony of our foremost defense authorities on this score; but it is important to stress that in all of our negotiations we have worked closely with the Department of Defense and the Joint Chiefs of Staff to assure that our national security interests would not in any respect be prejudiced under the new treaty arrangements. And we have been assured by them that the treaties we have agreed upon will not only preserve but indeed enhance our national security interests.

Second, will the new treaties seriously affect United States commercial interests? The new treaties, we believe, are the best protection of our commercial interest in the Canal. The simple fact is that the commercial value of the Canal has diminished considerably as world commerce patterns and technologies of shipping have changed. Today supertankers and other larger vessels cannot use the Canal. In percentage terms the Canal is much more important to the various countries of Latin America than it is to us. Today approximately 7 percent of total United States international maritime trade passes through the Canal each year. About 4 percent of the trade between the East and West coasts traverses the Canal. It is, therefore, clear that though the Canal is still important, it has, to a substantial extent become economically obsolescent.

Third, is the present Government of Panama the one with whom we should be negotiating these new treaties? For over 13 years we have been engaged in negotiations for a new Panama Canal treaty. The present Chief of Government, General Omar Torrijos, who has been in power for almost 9 years, has been committed to trying to work out a new treaty with the United States and in doing so he is supported by the people of his country and is following in the footsteps of every Panamanian Head of State since 1903—irrespective of ideological differences. Moreover, pursuant to the Panamanian Constitution, the treaties will now have to be submitted to a plebiscite in Panama next month so that the Panamanian people will be able to express their judgment with respect to these treaties.

Secretary Vance and Ambassador Bunker have already described to you the major terms of the new Panama Canal treaty, and I would like to focus my remarks on the neutrality treaty. This treaty commits the United States and Panama to maintain a regime of permanent neutrality for the canal. Under the rules of neutrality set forth in this treaty, the Canal is to be open to merchant and naval vessels of all nations at all times without discrimination as to conditions or charges of transit. A special provision authorizes United States and Panamanian warships to transit the Canal expeditiously in both peace and war without being subject to any restriction as regards means of propulsion, armament or cargo.

Under this provision no question can be raised about the right of U.S. naval vessels to transit the Canal with all their weapons nor can any restriction be placed on the type of cargo they may carry. Further, we are assured of a preferential right to expeditious transit of our naval vessels whenever we consider this necessary.

Under the treaty the United States is in a position to assure that the Canal's permanent neutrality is maintained and there is no limitation on our ability to take such action as we may deem necessary in the event the Canal's neutrality is threatened or violated from any source.

The precise type of response we might determine to make would of course depend upon all the political, military, legal, economic and other factors involved in a particular situtation. But the key point is that it is for the United States to make the determination as to how we should respond and how we should defend our rights under the Canal's regime of permanent neutrality. Thus the treaty provides for the United States maximum freedom to determine how to carry out its responsibility for Canal neutrality. We are under no obligation to consult with or seek approval from any other nation or international body before acting to maintain the neutrality of the canal nor does the treaty in any other way limit our ability to act.

This permanent neutrality treaty will also apply to any other international waterway that may be built in Panama in the future. In short, the neutrality treaty provides a firm foundation for assuring that our long-term interest in the maintenance of an open, accessible, secure, efficient Canal is preserved—now and in the future.

In order to emphasize the importance of the regime of neutrality to world shipping there is a protocol to the neutrality treaty which will be open to accession by all the countries of the world. The signatories to this protocol will, in effect, endorse the neutrality treaty by specifically associating themselves with its objectives and by agreeing to respect the regime of permanent neutrality of the Canal both in time of war and in time of peace. The Instruments of Accession will be deposited with the Secretary-General of the Organization of American States.

The lasting and deeply significant implications of this treaty have been fully recognized by the Panamanians. In signing the

treaties at the Pan American Union here in Washington on September 7, 1977, General Torrijos clearly told the people of Panama, the people of the hemisphere, and the people of the world: "We have agreed upon a neutrality treaty that places us under the protective umbrella of the Pentagon. This pact could, if not administered judiciously by future generations, become an instrument of permanent intervention."

Both countries recognize that this treaty is designed not only to assure that our own interests will be fully preserved but to assure the other countries of the world that the United States will be in a position to do whatever may be required in the future to preserve the openness, security and accessibility of the Canal.

It is vitally important that the American people study these new treaties carefully and open-mindedly and recognize what is at stake. The issues involved are far too complex and significant to be compressed into a slogan or reduced to the size of a poster. In these agreements we believe we have a rare opportunity to demonstrate to the world how a large nation and a small nation can settle their differences amicably and with mutual respect and enter into a lasting partnership of which future generations will be proud. They will bear witness to our intentions to build a balanced, constructive, and lasting relationship among the countries of this hemisphere.

Theodore Roosevelt put it very well:

"We have no choice as to whether or not we shall play a great part in the world. That has been determined for us by fate. The only question is whether we will play that part well or badly."

STATEMENT BY AMBASSADOR ELLSWORTH BUNKER

With the opening today of these hearings, the resolution of one of our nation's most difficult and pressing foreign policy problems enters a new stage. You have before you two new treaties designed to assure our interest in a secure and efficient Panama Canal.

Those of us who have participated in the negotiations have completed our task. It is now up to the Senate to examine the agreements and to make a judgment on them.

My first involvement with Panama Canal diplomacy came in 1964, when I was serving as Ambassador to the Organization of American States. From that vantage point it was possible to see at firsthand how urgent was the need for the United States to modernize its relationship with Panama and how important such a step forward was for our position in the Hemisphere.

My direct association with the Canal negotiations began in 1973. At that time the two sides began working out a set of principles to serve as a guide in preparing new treaties. These principles—which have guided the subsequent negotiations—were embodied in the Joint United States-Panamanian Statement signed at Panama City in February 1974. In January of this year these principles were reaffirmed by Secretary Vance on behalf of the Carter Administration. This action followed a thorough policy review in which the incoming Administration established its positions on the principal issues at stake in the negotiations.

The fundamental concept in the 1974 principles is that of United States-Panamanian partnership. Throughout the discussions of the past three years, our objective has been to shape a close and enduring partnership between the United States and Panama in maintaining an open and efficiently operated canal. That is the concept which underlies the treaties you have before you today.

The partnership envisioned in the new treaties has three aspects:

The United States and Panama will be partners in the operation of the Canal through the end of this century. During this period the United States will continue to shoulder the responsibility of managing the canal enterprise, building on a tradition of safety and reliability developed in over sixty years of experience. At the same time, we will be preparing Panamanians to carry on this tradition after the year 2000.

The United States and Panama will also be partners in protecting the Canal. For the duration of the Panama Canal Treaty, the United States will have the primary responsibility for defense of the waterway and will retain bases and troops in Panama for that purpose. Panama will also contribute forces to canal defense. While the forces of the two countries will work in coordination, they will retain their separate lines of command. We will be able to act unilaterally to maintain canal security if need be.

Finally, the United States and Panama will share a long-term responsibility for maintaining the Canal's neutrality. The United States role in assuring neutrality will continue for as long as the Canal remains in operation—even after management of the waterway passes to Panama.

Let me now explain more specifically how the United States-Panamanian partnership in operation of the Canal will function.

The Panama Canal Treaty provides for the creation of the Panama Canal Commission, which will manage and operate the Canal through December 31, 1999. The Commission, which will replace the existing Panama Canal Company, will be a United States Government agency constituted in accordance with legislation to be sought from the Congress.

The Commission will be supervised by a nine-man Board consisting of five Americans and four Panamanians. The Commission's executive officers will be an Administrator and a Deputy Administrator. Until 1990 the Administrator will be an American and the Deputy Administrator a Panamanian. After that time, the Administrator will be Panamanian and the Deputy, American.

The United States will appoint all officials of the Commission, including the Administrator, Deputy Administrator, and the nine Board members—Panamanian as well as American. The Panamanian appointees will, however, be proposed by Panama.

United States control of Canal operations throughout the treaty period is fully assured. The United States will have a majority on the Commission Board; it will appoint Commission officers; it can remove the Commission executive officers at will. Most importantly, the Commission will operate in accordance with United States law.

At the same time, the participation of Panamanians at the highest levels in the Canal enterprise—both as Board members and executive officers—will permit Panama to attain the managerial expertise to operate the Canal after the year 2000. When Panama assumes responsibility for canal operation, Panamanians will have had the benefit of twenty years of involvement in the direction of the Canal enterprise.

The Treaty grants to the United States the rights needed to carry out its responsibility for operating the Canal. These include the authority to establish and collect tolls, make and enforce rules pertaining to navigation and marine traffic control, and regulate planning relations with employees. The Treaty also grants the United States the use of all lands, waters and facilities required for Canal operation. The areas and facilities reserved for this use and specifically identified. They include the Canal itself and related installations.

The Panama Treaty encourages continuity and quality in the Canal work force. The provisions governing employees are designed to encourage experienced personnel to remain with the Canal under the new Commission. Salary levels, and the terms and conditions of employment, will remain generally as favorable as they are now.

An important difference for employees will be the change from United States to Panamanian jurisdiction in what is now the Canal Zone. For the United States employees—most of whom reside in the Canal Zone and who will therefore be most deeply affected by the shift—the treaties provide special guarantees which commit Panama to apply specified procedural standards in criminal cases involving United States citizen employees. In addition, an agreed minute provides that Panama, as a matter of general policy, will, in such cases, transfer jurisdiction to the United States at the latter's request.

As with management, there is provision for development of a qualified Panamanian work force to man the Canal enterprise. In hiring new employees the Panama Canal Commission will give preference to qualified Panamanians. The Commission will also provide training programs to develop Panamanian workers with all the requisite skills needed by the Canal enterprise. During the more than two decades of the Treaty period, it should therefore be possible to build up a fully qualified Panamanian work force. We, of course, start from a strong base. Seventy-four percent of current Canal employees are Panamanian.

A sound financial structure is also important to the success of the Canal enterprise. We have kept this objective very much in mind in working out the economic arrangements under the new Treaty.

At the start of these negotiations—in the 1974 Kissinger-Tack Joint Statement of Principles—both countries agreed that Panama should receive "a just and equitable share of the benefits derived from the operation of the Canal in its territory". In line with this principle the United States consistently maintained during the negotiations that payments to Panama for its contributions to the Canal enterprise should be drawn entirely from Canal revenues—that is, that the payments should reflect the Canal's economic value as measured by its revenue-generating capacity. Panama initially sought much larger payments, which far exceeded what could be financed by Canal earnings.

The United States concept has been followed in establishing the payments to be made to Panama under the Panama Canal treaty. These payments—as Secretary Vance explained—will come entirely from Canal revenues. The amounts established are based on what we consider sound and realistic projections of the Canal's earning capacity.

The economic and military assistance—of up to $345 million, which—as Secretary Vance has stated—we have undertaken to provide Panama, has been kept entirely separate from the Canal treaty and from Canal operations. This aid is not linked in any way to our rights and obligations under the new Canal treaties and will not be a burden on the Canal operation. At the same time, it will, we believe, enhance the successful implementation of the new treaties by contributing to Panama's economic development and thereby helping to foster a climate of stability conducive to efficient and secure Canal operation.

We are confident that the economic arrangements worked out will contribute to the success of the United States-Panamanian partnership. The payments Panama will received from Canal revenues will give it a stake in the success of the Canal enterprise.

At the same time, they are set at a level within the Canal's projected earning capacity. And the economic assistance to be provided outside the Treaty—while in no way tied to Canal operations—will contribute to the success of the new arrangements.

I am confident that the Treaties provide the basis for efficient operation of the Canal under United States stewardship until the end of the century and with Panamanian management thereafter. They build on effective operating procedures already established. They provide for an orderly shift to Panamanian operation. They ensure that over the long term the Canal will have an effective management, qualified work force and a sound financial base—three of the essential elements for any successful industrial enterprise.

I am also confident that the United States and Panama can work together effectively in carrying out all aspects of the new relationship which these Treaties envision.

In our preoccupation with differences over the Canal, both Americans and Panamanian tend to overlook the many positive elements in our long association. The United States and Panama have been working together for three-quarters of a century. It is fair to say that there is no other nation with which Panama maintains a closer relaionship than the United States. This relationship has centered on the Canal, but it has not been limited to that. Important ties of trade and investment link our two countries. For thirty years the United States and Panama have also been allies under a mutual defense treaty—the Rio Pact. And on a personal level, thousands of Panamanians have attended schools and universities in the United States.

The United States and Panama are well prepared to enter on an area of closer cooperation in the Canal enterprise. They begin from a solid foundation of mutual understanding and concrete accomplishment. Without that, these Treaties would never have been concluded. That is why I am convinced that the partnership envisioned in these Treaties will be productive and successful.

GREAT PLAINS CONSERVATION PROGRAM

Mr. McGOVERN. Mr. President, on Wednesday, the Senate agreed to my amendment which makes the Great Plains conservation program permanent, and I would like to thank the majority leader, Senator BYRD, and the minority leader, Senator BAKER, for their efficient handling of this amendment. It is a great pleasure to realize that such early action has been taken to extend a valuable conservation program that would otherwise have been terminated in 1981, without reaching its original goal to treat 16,000,000 acres of fragile and erodible plains area. Now, with the Great Plains conservation program a permanent part of the current effort to extend to individuals the opportunity to develop soil protection plans that require technical assistance from trained conservationists, it is possible for destructive droughts, winds and floods to be significantly controlled. The support that I received for this amendment from South Dakotans is also appreciated. The provided statistics showing that, in spite of extreme drought conditions in the State last year, Great Plains program participants were in much better financial and production condition than those who were outside the program. It is my hope that the extension that has been approved and the limitation of the total appropriations available for the program will significantly ease future climatic hazards.

Now that the Western States have been included in this program under related legislation also passed Wednesday, there is a good chance that the original acreage goals will be increased by several thousands. Also, the inclusion for formerly ineligible counties not classified as semiarid will make the program more realistic because few counties have been untouched by the lack of rainfall in the years since 1956 when legislative authority for the Great Plains conservation program was enacted.

Again, I would like to thank both leaders of the Senate for their cooperation in securing approval for S. 896, and Senator TOWER and METCALF for their cosponsorship and support. I hope that the other House concurs with Wednesday's action by moving quickly for approval.

GENOCIDE: THE CASE OF MELOS

Mr. PROXMIRE. Mr. President, for over a decade now I have attempted to keep the issue of ratification of the Genocide Convention before the Senate and the American people. This convention was an important human rights document when it was first drafted and it remains just as important today.

Quite frankly, one of the most pervasive problems that the supporters of this convention, and similar ones, face is apathy. Genocide is viewed as a remote and isolated experience of the Second World War. Tragically, this is a total misconception. I offer a notable historic example to you; that of the destruction of the people of Melos in fifth century B.C.

Fifth century Athens is associated with culture; Plato, Socrates, Aristotle, and many others lived in Athens around 500 B.C. Athens was also noted for its democracy and civilizing influence on the world. Yet despite this, in 416 B.C., Athens carried out genocide on the peaceful people of Melos because the people of Melos refused to pay a nominal tribute to Athens. For this "crime" Athens decided to make an example of Melos and killed the adult male population and sold all the women and children into slavery. The controversy in Athens and the Greek world at the time was over the excessive use of force employed rather than implications of genocide as Athenians preferred to think of Melos as part of its domain and hence not a separate people. Yet the people of Melos considered themselves a separate people and by strict definitions of genocide this destruction of a people does constitute genocide.

Genocide can occur anytime, anywhere. Even countries and peoples considered to be civilized have been known to commit genocide. We must not think that we can afford to ever relax our vigilance in forestalling this crime against humanity. For this reason I urge my fellow colleagues to give their support to ratify the genocide treaty.

CONSERVATIVES SUPPORT THE PANAMA TREATIES, TOO

Mr. CRANSTON. Mr. President, the national debate over the Panama Canal Treaties sometimes gives the impression that this is a liberals versus conservatives dispute, with so-called liberals favoring the treaties and so-called conservatives opposing them.

That is an erroneous perception, as a column by Emmett B. Ford, Jr., who calls himself a card-carrying conservative, makes eloquently clear.

Mr. Ford, who supports the treaties, writes a weekly column for the Charlottesville, Va., Daily Progress. One of his columns was reprinted in today's Washington Post.

In it, he accurately points out that there is "a considerable body of conservatives in good standing," that also supports the treaties.

The reason, as he puts it, is simple:

In the final analysis . . . it really does not matter whether we bought the canal, paid for it, built it or stole it. That is all in the past.

In deciding whether or not to ratify the Panama treaty, the Senate . . . must very simply decide which future course is in the best interests of the United States.

The course offered by the new treaty can serve only to enhance the international prestige and moral authority of the United States. By neutralizing a potential hot spot and cutting down on the numbers of those hostile to us abroad, it effectively strengthens our overall defense posture.

How can an avowed conservative object to that?

Mr. President, I ask unanimous consent that Mr. Ford's article, as it appeared in the September 26, 1977, issue of the Washington Post, be printed in the RECORD—except for one sentence, which I have deleted, because I do not want to give wider audience to some critical remarks about some Members of the Senate and their supporters.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 26, 1977]

CONSERVATION SUPPORT

(By Emmett B. Ford, Jr.)

Everyone seems to asume of late that all Americans on the conservative end of the political spectrum are united in their opposition to the recently signed treaty giving Panama unrestricted sovereignty over the Canal Zone.

* * * * *

There remains a considerable body of conservatives in good standing, including Gerald Ford, Bill Buckley and Henry Kissinger, who firmly support the Panama treaty. And, as a card-carrying conservative, I support it myself.

I support it because it corrects a gross injustice that we perpetrated against Panama, Colombia and indeed all of Latin America three-quarters of a century ago. (Is the perception of injustice and inequality reserved only for liberals?)

I support it because it slowly and subtly phases out an anachronistic colonial arrangement that has increasingly soured our relations not only with Panama, but with all of our neighbors to the south.

I find that I can, in good conscience, support it because I am persuaded absolutely

that our vital security interests in the canal are safeguarded. A Panama with which we have concluded a mutually satisfactory agreement is far less likely to create difficulties for us over the use of the canal than would a Panama with a permanent 10-mile-wide strip of foreign occupation right through its middle.

Moreover, under the terms of a separate treaty to be signed later by every country in the Western Hemisphere, the United States will guaranee the neutrality of the canal and its accessibility to world shipping (that is, we will have the right to intervene militarily).

Opposition to the treaty seems to be based more on nostalgia for the late 19th-century era of "manifest destiny" than anything else. One can almost hear Ronald Regan saying (to paraphrase Winston Churchill): "I did not become Mr. Conservative in order to preside over the liquidation of the American Empire."

What Regan actually did say about the canal during the election campaign last year has gradually become the rallying cry of the opposition: "We bought it, we paid for it, we built it. And we are going to keep it." We are going to keep it, he said, because it is ours, and to cede anything that is ours constitutes ignominious retreat.

But there is a good deal of loose rhetoric in this position. Certainly there is more emotion than fact in his arguments.

To begin with, the Canal Zone is not "ours" and never has been. Even in 1903, when we could have dictated any terms we wished to impose upon the newly created Panamanian state, we did not choose to acquire full and sovereign rights to the territory.

According to the treaty of that date, Panama granted to the United States, in perpetuity, "all the rights, power, and authority . . . which [it] would possess and exercise if [repeat, if] it were the sovereign" of the zone. Thus, as we confirmed in a subsequent agreement with the Republic of Panama, that country has always retained legal sovereignty over the Canal Zone, despite the fact that we exercise full control in perpetuity over it.

Similarly, we may have paid out enormous sums as rent, construction costs and bribes, but we have never "bought" the Canal Zone from anyone. A few years after we had successfully separated the Republic of Colombia from its province of Panama, we paid Colombia the sum of $25 million as "a gesture of goodwill." And, of course, we spent over $350 million to build the canal itself.

None of these expenditures, however, can be (or is) legally regarded as the purchase price of the property. The Canal Zone was never purchased outright for a specific sum of money as was the case with Louisiana, Alaska or the Gadsden strip. Panama, in effect, still has the deed, while the United States plays the role of an unwanted tenant with a very long-term lease.

That lease is the 1903 treaty, upon which all rights exercised by the United States in the Canal Zone are based. It is historically of enormous significance to the Panamanians that no Panamanian had anything to do with drawing up the document that rented out part of their country forever.

The 1903 treaty was negotiated in Washington between Philippe Bunau-Varilla, a French businessman serving as Panama's envoy to the United States, and John Hay, the American Secretary of State.

It was approved by the U.S. Senate before the arrival of the official Panamanian delegation and ratified later by the Panamanian provisional government under threat of the withdrawal of American military protection. A thoroughly sneaky and discreditable performance.

But if we could not be proud of the manner in which we acquired the right-of-way for the canal, we covered ourselves with glory in the building of it.

By the time it was completed, Dr. William Gorgas had conquered yellow fever, and Maj. Gen. George W. Goethals had overcome the incredible engineering problem of cutting through the mountains of a continental divide. It was—as many have already noted—the moon shot of its day.

In the final analysis, however, it really does not matter whether we bought the canal, paid for it, built it or stole it. That is all in the past. In deciding whether or not to ratify the Panama treaty, the Senate, which will begin hearings this week on approval of the treaty, must very simply decide which future course is in the best interests of the United States.

The course offered by the new treaty can serve only to enhance the international prestige and moral authority of the United States. By neutralizing a potential hot spot and cutting down on the numbers of those hostile to us abroad, it effectively strengthens our overall defense posture. How can an avowed conservative object to that?

IN OPPOSITION TO THE WASHINGTON, D.C., CONVENTION CENTER

Mr. PROXMIRE. The convention center that we have all been hearing so much about from the Washington business community requires a $110 million loan from the U.S. Treasury. While these funds would be paid back by the city government over a 30-year period, it should be noted that part of the funds the city would use to pay back the U.S. Treasury would also be Federal funds that come to the city in the form of the Federal payment. At the present time the Federal payment represents 34 percent of local revenues. It can be seen, therefore, that the convention center involves a great deal of Federal money from taxpayers all over the country. This is not just a local project to be paid for by the local community.

The downtown business community in Washington which stands to profit from the convention center wants the convention center a great deal. They have not, however, been willing to help pay for the construction of the center. If the business community were willing to help finance the convention center in the amount of $20 to $30 million or more, I as one U.S. Senator would feel differently about this proposal. Currently, as proposed, all of the risks of the project are being borne by the U.S. taxpayers and from what I have been able to learn from the many letters and visits to my office, the citizens in Washington, D.C., are not willing to pay for a project that would not benefit them directly and would likely result in an increase in their taxes.

The proponents of this convention center have cast their arguments in the terms of a home rule debate. Current law requires the Congress to enact a budget for the District of Columbia. The current arrangement between the city and the Congress is a partnership arrangement. It would not be fair to ask one partner's role to be limited only to helping pay the bills. There is no city in the United States that could expect to have a unilateral voice in the decision of whether or not the U.S. Treasury would loan it $110 million. While the home rule argument has emotional appeal, in this case it has a hollow ring.

I do not oppose the concept of a convention center for the District of Columbia. For example, I would not oppose a convention center that had been approved by a referendum vote by the citizens of the District of Columbia. This convention center has not been put to such a test. I would not oppose a convention center that would be funded in part by the business community which would benefit from such a proposal. This convention center has no financial contributions going to it from the business community. I would not oppose a convention center that cost 30 or 40 percent less than the one currently being proposed by the city. The city clearly could build a convention center for $60 to $70 million by putting the convention center on land already owned by the city or the Federal Government.

CONGRESS SHOULD BLOCK AIR BAG ORDER

Mr. GRIFFIN. Mr. President, on June 30 of this year, Secretary of Transportation Brock Adams issued an order mandating air bags (or "passive restraints") in new American automobiles.

As I commented on the day the order was issued, "Secretary Adams' decision will put Big Brother in the front seat of every American automobile—so it's both ironic and appropriate that his target year to finish the job is 1984."

I think air bags should be available to those who want them. However, I strongly oppose a Government mandate which forces air bags on all car buyers in the absence of more extensive field testing.

Secretary Adams' order will become effective October 10 unless overturned by both Houses of Congress.

Accordingly, I have introduced a Senate concurrent resolution (S. Con. Res. 31) disapproving the Adams directive.

This resolution of disapproval is now before the Senate Commerce Committee. Hearings have been held, and I have urgently requested the full committee, through Chairman MAGNUSON, to act as quickly as possible and report the resolution to the Senate floor for a vote.

Whatever the outcome, I believe the Senate and the House owe the American people an up-or-down vote on the merits of this important issue.

In my judgment, Secretary Adams' rule is premature and unwarranted, for the following reasons:

First. Cost. A well respected independent research firm, Economics & Science Planning, Inc. (ESP), has estimated that air bags, including installation, replacement, insurance, and fuel costs due to increased weight, will cost consumers a net $25 billion over the next 20 years.

Second. Air bag relative ineffectiveness. ESP also calculates, based on the limited field data accumulated so far by the Department of Transportation (DOT), that air bags have been less ef-

fective than seatbelts—and not much better than no restraint at all.

Third. More information is needed. DOT admits, in its own statement of justification for Secretary Adams' rule, that there is "substantial room for uncertainty and argument as to the true observed effectiveness of the various restraining systems." In particular, there is hardly any information on (a) inadvertent deployments—estimated by DOT to occur at the rate of 7,000 per year once bags are installed in all cars—and (b) accidents where bags do not inflate.

Fourth. Loss of choice. The person who currently uses his belt will be forced to spend an estimated $200 for a product which is demonstrably less effective in preventing injury or death than the product he already uses.

This is not the first Senate challenge to the bureaucratic intrusions of DOT's super-regulators. In September 1974, the Senate voted 64–21 to overturn the DOT seatbelt interlock requirement.

Although the air bag—unlike the seatbelt interlock—is a passive instrument, the DOT air bag rule is more troublesome to me because (a) it is far more costly and (b) its relative effectiveness is, at the very least, open to serious question.

Premature Government action to mandate air bags may turn out to be very costly in terms of both dollars and lives. Unlike the seatbelt interlock decision, the air bag decision—once implemented—will be difficult, if not impossible, to reverse.

Alternatives—such as additional field testing of the air bags and other restraint systems, and intensive campaigns to increase the use of seatbelts—need to be pursued, and quickly. If the air bag decision becomes final due to congressional inaction, those alternatives may be lost.

Therefore, Mr. President, it is particularly important that all Senators weigh this issue on its merits—carefully—and quickly.

Congress has less than 2 weeks left to act, and the consequences of our action—or inaction—will be far reaching.

I ask unanimous consent that a number of editorials and articles which have appeared in leading newspapers around the country be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Muskegon, (Mich.) Chronicle, July 24, 1977]

AIR BAGS TOO COSTLY, RELATIVELY INEFFECTIVE

The Automobile Club of Michigan, a number of auto safety experts and the U.S. Department of Transportation's own researchers have bolstered arguments against the federal order that every car buyer must pay extra for a set of air bags or other "passive restraint" system by 1984.

The Ralph Nader forces whose lobbying prompted the mandatory bags-or-belting order made much of the argument that the bags would reduce auto insurance costs.

The truth, according to the Auto Club's statistics, is the opposite.

The organization said that while air bags might reduce the average insured's personal injury premium 30 percent ($13) rates on collision coverage would jump 39 percent ($45).

The projection was based on a $700 cost for replacing a deployed air bag system, a cost that would be above other damage caused by an auto accident.

Once an air bag has been inflated in a collision (at 12 miles an hour or more), or by accident (Congressman Bud Schuster of Pennsylvania predicts 30,000 accidental deployments a year if all cars are air bag equipped) it must be replaced.

The Auto Club, whose Insurance Group is Michigan's largest, said that while collision costs would rise with a mandatory air bag system, there is no certainty of reduced medical premiums since insurers now granting a 30 percent reduction in medical provisions have too little experience to determine whether it is justified.

What evidence there is from the limited testing of cars equipped with air bags indicates the personal injury rate would be much higher than for cars equipped with the shoulder harness.

There have been only 143 accidents involving air bag-equipped cars, including four deaths and 21 serious injuries, and 12 deployments of bags when they should not have deployed.

That rate is far higher than for harness-equipped cars, even averaging in accidents in which the shoulder harness was not in use.

The Wall Street Journal quotes Dr. Howard Goldmuntz, who has been conducting auto safety research under federal contracts for six years, as saying that harnesses were in use 44.2 percent of the time in 1975 cars involved in tow-away accidents, and that "even at the 1975 voluntary usage rates, 30 percent more lives would be saved with harnesses than by mandating the air bag.

"For those of us who use the harness," he added, "requiring that we use the less safe air bag is a cruel and unwarranted imposition."

The superior safety afforded by the harness is evident from the DOT's own research and there is very little crash data on the only passive restraint seat belt now in use—in the Volkwagen Rabbit.

The Journal reports that this system pulls a strap across the driver and passenger when the car door is closed and utilizes "knee bolsters" to prevent driver and passenger from sliding under the strap.

We haven't seen this system, but we have a feeling the public will respond to it the same way it did to being forced to belt-up with the starter-interlock seat belt system—with outraged defiance.

That system forced you to buckle up in order to start the car. The public found ways to bypass it, and was so vocal about its dislike for it that Congress was forced to scrap it.

The same thing could easily happen again.

There are other problems, cost among them.

DOT Secretary Brock Adams said air bags "could" cost an added $100 or $200. The Journal reports the lowest estimate by a major automaker is GM's $193. Ford's cost $235 and Chrysler estimates it at $250.

They also add up to 60 pounds to the weight of the car, require maintenance—the bag can be dangerous if its deceleration sensor is mishandled by a mechanic—and, as noted, once inflated they have to be replaced.

The Auto Club, which opposes federally mandated air bags, paid one accident claim involving an air bag-equipped car, shelling out $629 to replace the system, including $126 for labor.

A General Motors study, as well as one by Dr. Goldmuntz, shows that auto occupants are safer with the current lap-shoulder belt system at the current far-too-low 20 per cent usage than they would be if all cars had air bags.

So that's it. We're to be made to accept a safety system that costs a ton and is not as effective as the lap-shoulder system.

We don't like it, and in that we're not alone.

Apart from many other objections, we don't like the Big Brother implications of Brock's bureaucratic mandate.

The papa-knows-best bureaucracy not only knows what is good for us, it is going to make us be good.

We've sacrificed too much freedom already to bureaucrats bent on protecting us from ourselves. Let the car buyer decide himself how much safety he wants. Let him decide himself whether he wants to be safe or sorry.

Government has no mandate to protect an individual from what it considers his own foolishness.

Whether the air bags and passive restraint belts are effective or not, they should be offered as optional equipment; made available after adequate testing, yes, but optional.

Congress has about six weeks left to review Adams' plan, and unless it objects, the plan becomes law. It should object—loudly—and reject it.

We think Congress will—if enough of us write and urge the members to scrap the mandatory bag-and-belt plan, leaving us the choice as to how safe we want to be.

The addresses are:

Sen. Robert P. Griffin, 353 Russell Office Building, Washington, D.C. 20515, Sen. Donald W. Riegle, Jr., 1207 Dirksen Office Building, Washington, D.C. 20515, and Rep. Guy M. Vander Jagt, House of Representatives, Washington, D.C. 20515.

Please write soon!

[From the Grand Rapids Press, July 6, 1977]

AIR BAGS MANDATED

U.S. Transportation Secretary Brock Adams has jumped deep inside the car safety thicket, and like his predecessor, he has hounds baying relentlessly on all sides.

Mr. Adams last week ordered automakers to install front-seat passive restraints in all cars by 1984.

The only such restraints now in use or in the experimental stage are air bags and a belt system that opens and closes with the doors. The order will go into effect unless it is rejected by Congress within 60 days.

As in their debates on other issues directly related to public health and welfare, many friends and foes of Secretary Adams' order are for and or against the mandated system for the wrong reasons. Chrysler and American Motors oppose the ruling—they're fighting for a larger share of the market and will be hurt by price hikes; General Motors is neutral—it has a long lead in air bag technology; Ralph Nader is opposed—he wants the order to take immediate effect, and one might wonder whether Mr. Nader isn't hoping that higher car prices might someday force Americans to rely on them less; some major insurance companies support the order—passive restraints will help to trim the size of the claims. (But will premiums go down? No, because the resulting higher prices for cars, and the more complex equipment in them, will boost the cost of insurance to car owners, and especially for the low-risk drivers.')

Ordinarily, Mr. Adams' order wouldn't have a chance of standing up in Congress, but recent support from UAW President Douglas Fraser (more jobs, more union members) indicates that the issue will be closely fought before lawmakers start their vacation on Aug. 6.

There is no question but that government has a proper role to play in reducing the number of highway deaths and serious injury. Design and engineering can contribute to a product's safety or its hazard—there is even more need for cars to be built for safe use than, say, home appliances to be free of electrical faults, or that amusement park rides be inspected regularly.

And car safety no longer is a matter of "protecting us from ourselves." Mandatory insurance laws, the high cost of highway safety features, economic deprivation of survivors or the care of those permanently injured—in fact the enormous impact of the motor vehicle industry on the nation's economy—make car safety a public, not private, matter.

One trouble with Mr. Adams' passive restraint order is that it is so expensive and so obnoxious to so many drivers that its implementation may be in doubt.

Passive restraints are expected to cost the car buyer from $100 to $300. The price is high enough to be a valid objection to the Adams order. But the issue would vanish if the states and members of Congress would acquire the gumption to move aggressively toward reliance on seat and shoulder belts.

The seat belt interlock, which prevented the car from starting unless belts were buckled, was foolishly abandoned by Congress several years ago because the system was a petty annoyance to drivers. At the time The Press noted—accurately, as it turned out—that rescinding the interlock order would speed the day when the more expensive, and possibly even less effective, air bags would become mandatory.

No one can contend that laws and car design can assure 100 per cent seat belt use, but they can go a long way toward encouraging a good habit—which is what wearing belts is all about.

The refusal of states—including Michigan—to require seat belt use has the effect of suggesting that the system isn't important, and that is a serious act of omission. It is ironic that the state can require drivers to carry certain types of insurance but will do nothing to encourage the use of seat belts.

Experience in Canadian provinces and other foreign countries indicates that mandatory seat belt laws increase their use significantly, thus reducing highway deaths and serious injury accordingly.

Blithely ignoring the possibility of a similar reduction in this country is simply shirked responsibility on the part of lawmakers.

[From the Detroit News, July 13, 1977]

NEW AIR BAG ISSUE—U.S. URGED TO CHECK CLAIM OF HIGHER INSURANCE RATES

Will the consumer suffer a substantial increase in auto insurance rates when—and if—air bags are installed in cars?

The Automobile Club of Michigan says that although the car owner will probably get a $13 decrease in premiums for medical protection on an "air bag" car, this cut will be more than offset by a $45 increase in property damage rates to protect against the cost of reinstalling an air bag system that has been deployed.

The AAA says the bill for air bag reinstallation will be $700. General Motors Corp., which has sold a fleet of 11,000 cars equipped with air bags, uses the same figure. Since GM is the only company with extensive experience, it ought to know the cost of replacement.

This raises a serious question that ought to be answered before Congress decides what to do about the order of Transportation Secretary Brock Adams that all cars must have passive restraint systems beginning in model year 1982.

Adams offered a choice, either the air bags or a belt system like that of Volkswagen which locks automatically when the driver and front seat passenger close their doors.

The public will be suspicious of the AAA and GM claims on costs of restoring an air bag system because of their self interest. The AAA is in the auto insurance business and is vehemently against air bags. Is the club overstating its opposition? GM is similarly resistant to air bags, especially their effect on the price of cars. Is GM going a little too far in fighting them?

Now that the claims have been made about the higher insurance costs, the Department of Transportation ought to address itself to the issue. If it thinks the figure is wrong, the DOT should say so. Either way, the DOT should deal with this matter quickly to aid Congress and inform the consumer.

The $700 repair figure is even more upsetting than the original installation cost. Units sold in limited numbers by GM cost more than $500 per car and were installed at a loss by the company. Currently, the industry estimates the cost of the bag system on a mass production basis at about $200, although the Department of Transportation uses a $100 figure.

This brings us back to the other option offered by Adams—the VW belt system sold in West Germany as a $40 option. The installation cost is reasonable. There is no reinstallation cost.

But, say the car makers, the VW system would knock out the six-passenger car, since the reels for these belts must go between split front seats.

Do we really make use of the "six passenger" car? Is the use of the extra passenger space worth $100 to $200 for bags and another $700 for reinstallation if you have an accident?

The whole issue of passive restraint systems turns on cost. Already embattled by inflation, the consumer surely will resist a federal mandate which in effect threatens him with a $700 repair bill.

If that figure is wrong, Brock Adams ought to say so. And if he is silent, surely air bags are condemned.

[From the Lansing (Mich.) State Journal, July 28, 1977]

AIR BAG MOVE PREMATURE

The U.S. Department of Transportation climbed out on a limb a few years ago when it ordered a seat belt interlock system which killed the ignition if you didn't lock your seat belt.

The public outcry was so great that Congress repealed the action less than two years later.

Now Transportation Secretary Brock Adams has taken up the cause again by ordering the auto industry to install either air bags or passive restraint systems for new cars starting in 1982. Adams provided an option with the passive restraint plan—a seat belt harness that automatically covers passenger and driver when they get in the car.

No one is lobbying hard for this device which has had only limited testing. The major lobbying thrust is for air bags, the devices which inflate on front end collisions to protect driver and passengers.

The problem with the Adams decision, in spite of all the hoopla, is that air bags have not yet been proven more effective than the existing seat belts and shoulder straps.

Congressman Bud Shuster, R-Pa., is leading the opposition to air bags. He charged that Adams glossed over findings of his own transportation department showing that air bags do not provide the overall protection of seat belts and straps.

Automakers insist that air bags will cost anywhere from $200 to $300 per vehicle for the installation, and once the bag inflates, by accident or in a crash, the replacement cost will be more than the original factory installation.

In other words the program will sharply increase the cost of owning a new car with the safety factors gained still highly questionable.

Shuster also ripped claims by air bag proponents that the devices will reduce insurance premiums by as much as 30 per cent. Shuster said his studies found the average saving would be closer to one percent.

At the heart of the debate is the issue of whether people can be forced to take sensible steps to protect themselves from death and injury on the highways.

Shuster stresses that the existing seat belts and shoulder straps are more effective in saving lives. But the problem as always is that a large percentage of American motorists won't use them.

So the alternative is mandatory federal government action despite reports that car buyers have shown little interest in cars with air bags offered as an option on some models.

A proposal for a federal law making use of seat belts mandatory would be difficult to enforce although it might spur citizens to buckle up to avoid a ticket. Congress so far had shown little enthusiasm for the idea.

Adams has chosen to risk the public wrath in his order which will stand unless Congress vetoes it.

Congress should take that step now and demand that DOT provide more comprehensive evidence of the air bag usefulness before foisting this costly system on the public.

Efforts to reduce the Nation's disgraceful highway death toll are needed and must be pursued. But it is important that devices like air bags prove their worth over existing equipment like seat belts and shoulder straps before they are made mandatory equipment.

[From the Detroit Free Press, July 21, 1977]

AIRBAGS AND OTHER IMPOSITIONS

(By James J. Kilpatrick)

WASHINGTON.—President Carter endorsed no-fault automobile insurance the other day. At about the same time, Transportation Secretary Adams mandated the installation of air bags. And up on the Hill, a number of small bakers were protesting some labeling requirements. The stories are unrelated, but they have a common theme. That theme is the needless exercise of federal power.

Our masters in Washington increasingly take the view that they know what is good for us, and willy-nilly, they will impose their superior wisdom upon the states and on the people.

No-fault insurance is a case in point. The idea has been kicking around for 10 years or more. Under the no-fault approach, the element of responsibility is largely removed from the settlement of automobile accident claims. The driver surrenders his right to sue, except in the most serious instances, but he is assured of prompt compensation for his injuries. It makes no difference who was to blame. By eliminating tedious investigation and litigation, a reduction in insurance premiums can be achieved.

Massachusetts pioneered with no-fault in 1970. Subsequently, 15 other states decided to give the idea a whirl. Another eight states began experiments with no-fault offshoots. The results have not been remarkably impressive. The states are still tinkering with different versions.

Under these circumstances, common sense should dictate that Congress back off. The need for a national no-fault law has not been demonstrated. The states ought to be left free to perform their function under federalism. But the Senate and the Carter administration are bent on imposing their supposed wisdom anyhow.

Secretary Adams' air bag edict stems from the same Potomac fever. By September of 1983, unless Congress overrules his mandate, all new cars will have to be equipped with this expensive and complex device (or with passive safety belts), whether car buyers want the protection or not.

Real world experience indicates that air bags work. The successful results have been widely publicized. But whenever manufacturers have offered air bags as optional

equipment, the customers have shunned them. In the judgment of the marketplace, the risk does not justify the cost. In a voluntary society, such judgments ought to be respected, but Secretary Adams has no faith in a voluntary society.

The bakers appeared before the House Small Business Committee to complain bitterly at some new labeling requirements laid down by the Food and Drug Administration. Starting January 1, packaged foods must list the chemical names of the ingredients. The idea is to let the purchaser know what he is getting, and there is nothing wrong with that idea.

But one result is that instead of "baking powder," a label might have to indicate "sodium aluminum pyrophosphate, gluconodeltalactone." What is the sense in this? Such requirements do not clarify; they obscure. And in the case of the small bakers, the expense of frequent label changes, as ingredients are modified, could be ruinous. To these complaints, the FDA is deaf.

And so it goes. In each of these instances, the intentions are good—to simplify insurance settlements, to save lives, to disclose precisely what is in the food we eat. The trouble lies in the clumsy use of power, and in the steady erosion of the principles of a free society.

Left alone, the states will enact the no-fault laws their own people want. Left alone, prudent motorists will buy air bags as they please. Left alone, competitive bakers will attract customers by giving them clear information. Our busy masters, sad to say, simply do not work that way.

[From the Detroit News, Mar. 28, 1977]

AIR BAGS STILL OF DOUBTFUL VALUE

Transportation Secretary Brock Adams will reopen the issue of whether air bags ought to be required on U.S. cars in a new hearing April 27. In doing so, he acts in unseemly haste and appears to be prejudging the issue. He admits he is leaning heavily toward mandatory requirement of the bags.

Adams criticized the decision of his predecessor, William T. Coleman, who did not order installation but instead arranged an agreement for massive test installations at enormous cost to the auto industry.

Coleman wasn't sold on the bags, which inflate when a car is struck with an impact greater than 12-miles-per-hour. In our view, the former secretary's doubts were justified. Coleman also had reached his conclusion after a long and careful series of hearings.

The deliberate process is not for Adams. He leaps in with both feet. He says he can't understand how his predecessor failed to mandate a safety device which, Adams says, would save 9,000 lives a year.

That statement is unfair.

The Coleman report says air bags would save 12,100 lives in traffic accidents annually and also prevent tens of thousands of injuries. But Coleman didn't stop there. He said air bags are not superior to lap and shoulder belts already installed in cars.

The belts, Coleman said, would save even more lives than air bags if they were buckled up in all cars all the time.

Washington is seeking a "passive restraint" system which protects a driver without his doing anything on his own. Air bags have their appeal because, in theory, they deploy automatically in a crash and throw a cushion in front of the driver.

But the air bag system is not the only "passive" equipment available. It is the most costly—and that is its distinction.

Inflating car prices by $500 a unit is no small matter. Some people can remember when one could buy a whole car for that amount. Adding that much to the price would remove thousands of people from the car market and create serious unemployment.

[From the Mining Journal, Marquette (Mich.), July 15, 1977]

CONSUMER RIPOFF

When it comes to consumer ripoffs, the effort by Transportation Secretary Brock Adams to require mandatory automatic crash protection on all cars ranks as a new North American record.

Adams has told Congress that passive restraints—either air bags that inflate in a crash or a safety belt that automatically wraps itself around the driver and front seat passengers—must be installed on automobiles starting with the 1982 model year.

What will these safety bags cost the car buyer? Adams estimates the price at something between $100 and $300. Automobile manufacturers say it could be as much as $600. Nobody is saying how much it will cost to reinstall the bags after they have inflated.

What will the bags acomplish? They are designed to inflate in a crash of 12 miles per hour or greater, cushioning front seat riders. They are not intended to provide protection from side impact nor will they keep a person within the structure of the car in a rollover accident.

Our opposition to the Adams order requiring the automatic safety equipment is based on a number of factors. First, we do not believe the government should be in the business of protecting people from hurting themselves without regard to the cost. The next thing you know, we'll be breaking the law if we don't brush our teeth or jog in place 15 minutes every morning.

Next, we don't even know if the air bags will do what they're supposed to do. There are only about 11,000 cars equipped with the bags in operation today and there have been only about 200 crashes in which they inflated. There have been three cases in which air bags have inflated accidentally. If you project that figure to all of the autos in the country, you get some 30,000 accidental inflations each year and who knows how many accidents caused by the malfunctions.

Finally, we already have safety devices which are more efficient and foolproof than air bags. They're called seat belts, and all you have to do is hook them up. Experts agree that 19,000 lives could be saved each year if all motorists wore seat belts.

Sen. Robert Griffin, R-Michigan, calls Adams' order a "$20 billion consumer ripoff." We agree.

[From the Memphis (Tenn.) Press-Scimitar, July 13, 1977]

VOTE NO ON AIR BAGS

If it has any respect for public sentiment, Congress will veto a government requirement that all new cars be equipped with air bag safety systems by the fall of 1983.

As near as we can tell, there is little popular demand for a costly balloon-like cushion of air that automatically pops out of the dashboard to protect front-seat passengers during head-on collisions.

The Ford administration had the right idea back in December when it asked the auto companies to voluntarily install up to 500,000 air bags in new cars on a trial basis, beginning in 1979.

But now the new secretary of transportation, Brock Adams, has gone from optional to mandatory by insisting that new standard-size cars be equipped with air bags in the fall of 1981, new intermediates and compacts in the fall of 1982 and new smaller cars in the fall of 1983.

The order will go into effect unless both houses of Congress veto it within 60 working days—which is why citizens who have doubts about the air bag should be urging their congressmen to vote against it.

The air bag will add several hundred dollars to the already inflated cost of a new car. But beyond the cost factor, there is not much evidence that air bags would save 9,000 lives a year, as Adams contends.

What evidence there is seems to show that air bags would be considerably less effective than seat belts at preventing serious injuries in auto accidents.

Let's give the air bag a fair trial as an optional piece of equipment. But let's not force new car buyers to accept (and pay for) a debatable safety device that most of them might prefer to do without.

[From the Boston (Mass.) Herald American, July 11, 1977]

THE AIR BAG DECREE

By the Big Brother proclamation of Transportation Secretary Brock Adams, all 1984-model automobiles put on sale in the United States will have to be equipped either with those highly-controversial air bags—which cost buyers up to $300 each—or the alternative nuisance of lap and shoulder restraints which wrap around occupants automatically when car doors are shut.

The bureaucratic fiat, which will take effect unless vetoed by Congress in the next 60 session days, was a long-sought goal of consumer activist Ralph Nader and others convinced that the public needs more protection from its own lack of responsibility. Making the safety devices mandatory, they claim, will save up to 10,000 lives a year.

Maybe so—and maybe not. The effectiveness of the expensive and cumbersome automatic restraints has not been proven in practice. What has been proven in fact is that the public, in general, is at the very least unenthusiastic about them. Indeed, it has been shown in no uncertain fashion that a likely majority of motorists is indignantly opposed.

Seat belts, for example, have been tolerated and increasingly used because their use is voluntary. When they were made mandatory in the safety belt interlock system, the ensuing public outcry caused Congress to scuttle the system in 1974. Lap and shoulder harnesses that automatically clutch car riders at the closing of a door are not likely to be any more acceptable than the buzzing interlocks were.

Similarly, the mere idea of air bags under a dashboard which are triggered to inflate instantly in your face by an impact bump has been enough to spook many front-seat riders even more than the fear of collisions. Only about 10,000 such units were sold when General Motors, in a test of public demand, offered them as optional equipment several years ago.

Former Transportation Secretary William Coleman, in weighing all aspects of the car rider interior safety problem, concluded that the sensible and responsible position for the government to take was to encourage voluntary acceptance of automatic restraints—not to try forcing them on the public for its own good.

If Congress fails to recognize the wisdom of the Coleman solution in the next several months and does not veto the arbitrary decree of his successor, it is virtually certain that an uncooperative and resentful public will compel such recognition later.

The 1984 envisioned by novelist George Orwell as the time for total Big Brother dictatorship by government bureaucracies everywhere is still far from being realized in this country. Up to now, that is.

[From the Wall Street Journal, July 20, 1977]

THE HALF-SAFE CAR

We've been wondering why Brock Adams, in his "air bag decision," seeks to force the nation's motorists to accept an auto safety device that is both expensive and relatively ineffective.

The most charitable answer is that the Transportation Secretary felt compelled by the rigidities of the Motor Vehicle Safety Act to go with available technology, however flawed. If so, he should read the act again.

Less charitably, but more plausibly, we could guess he fell victim to the air bag lobby—such voices as Allstate Insurance, Ralph Nader and Joan Claybrook, a Nader protege who has risen to become Mr. Adams' highway safety chieftess. These early advocates of the air bag trouble their minds little with recent data demonstratiing its inadequacies.

Least charitably of all, we might think the Secretary himself has come down with that virulent Washington disease, paternalism. Whatever the reason, it was a bad decision.

We should note at the outset that the Secretary did not commit himself unequivocally to the air bag. His order merely requires that beginning in 1981 and by 1984 all new cars be equipped with "automatic crash protection—air bags or passive seat belts."

But no one is lobbying very hard for the passive seat belt. Reliable crash data still are sketchy on the one such device in general use, on the Volkswagen Rabbit, which pulls a strap across the passenger when he closes the car door and utilizes "knee bolsters" to prevent his sliding under the strap in a crash. Given the DOT's biases, it is not misleading to call the Secretary's action, at this stage at least, an "air bag" decision.

But the DOT's own research shows lap and shoulder harnesses, with which cars sold in the U.S. already are equipped, far more effective than air bags in protecting passengers. In tow-away accidents involving the approximately 11,000 cars equipped with air bags from 1973 through 1976, there have been four fatalities (five if you count one delayed death) and 23 serious injuries. That rate is far higher than for shoulder harness equipped cars, even averaging in accidents in which the shoulder harness was not in use.

Dr. Howard Goldmuntz, who has been conducting auto safety research under federal contracts for six years and who favors laws requiring motorists to use their shoulder harnesses, notes that harnesses were in use 44.2% of the time in 1975 car involved in tow-away accidents. "Even at the 1975 voluntary usage rates, 80% more lives would be saved with harnesses than by mandating the air bag," he contends. "For those of us who use the harness, requiring that we use the less safe air bag is a cruel and unwarranted imposition."

Indeed it would seem so. In order to argue that the air bag would save lives it was necessary for DOT to hold, on the basis of observations in shopping center parking lots, that motorists buckle their harnesses only 20% of the time. Even at 20% harness usage, Dr. Goldmuntz doubts that the air bag would be superior.

It doesn't help the Secretary's case when costs are thrown into the balance. His argument that air bags "could" cost an added $100 to $200 is so optimistic as to border on the fraudulent. The lowest estimate by a major auto maker is GM's $193. Ford puts the cost at $235. Chrysler estimates it at $250 or more.

That doesn't include consideration of the air bag's 40 to 50 pounds extra weight, which calls for costly additional engine power. It doesn't include maintenance costs; the air bag can be dangerous if its deceleration sensor is mishandled by a mechanic. And it doesn't take account of replacing the bag and repairing the damage to the passenger compartment if the air bag bangs out through malfunction or a minor accident. The bill here runs $500 to $600. Congressman Bud Shuster of Pennsylvania predicts 30,000 accidental deployments a year if all cars are air bag equipped and puts the bag's cost to the average motorist during his driving life at $2,000. Claims that the air bag would lower insurance costs look implausible in the face of these numbers.

It should be obvious by now that there is something other than logic propelling the drive for "passive restraint." There is. Passive restraint is a part of the theology of those who distrust individual choice and judgment. The Secretary's brief for the air bag holds that "the automobile's characteristics must reflect broadly defined societal goals as well as those advanced by the individual car owner." In case you haven't heard, "societal goals" are set in Washington.

Secretary Adams decided to mandate air bags after discovering that "public acceptance or rejection of passive restraints is not one of the statutory criteria which the department is charged by law to apply in establishing standards." Maybe not, but Congress might want to give some thought to public reaction in deciding over the next two months whether to let the Secretary's decision stand. It has only been three years since Congress was forced by public outrage to scrap the interlock, which made it impossible to start a car without first buckling the seat belt. Public preferences may not look very important to Secretary Adams but we have the feeling they still count for something in the American political process.

[From the Los Angeles Times, July 4, 1977]

COSTLIER BUT INFERIOR—NOT BETTER

Few Americans are likely to disagree with the desire of Transportation Secretary Brock Adams to avoid 9,000 traffic fatalities a year through improved protection for automobile occupants. But the way he has chosen to aim at that goal is the most expensive means available, and far from the most effective.

Adams has ruled, subject to congressional veto, that air bags or automatically self-fastening safety belts must be put in the front seats of new cars starting on a phased schedule in the 1982, 1983 and 1984 model years. The air bags will inflate automatically when the front bumper feels an impact of a certain strength. The seat belts will be anchored on one end to the doors; they will envelop and protect occupants without any human action.

The basic problem is plain enough, and frightful enough. Highway carnage snuffs out almost 50,000 lives a year in the United States. Some 70% of people riding in cars today decline to fasten their belts. People who die because they neglected to use belts impose not only grief on their families but great costs on others.

Yet the bags and the automatic belts won't do the same job that today's ordinary belt systems do. The bags are good in front-end collisions, almost useless when a car is bashed on the side. To avoid pinning people inside a wreck, they must deflate almost as quickly as they expand. That means that occupants are unprotected against the subsequent ricochets that are common in the worst accidents.

The door-mounted belts are dangerous, too. They can lock an occupant inside the car if the door is damaged.

These flawed systems will add at least $1 billion a year to America's expenditure on automobiles. The cost is extravagant, considering that regular lap-and-shoulder belt systems when well designed—and when used—are both cheaper and better.

Canada's province of Ontario has shown a dramatic drop in fatalities and injuries recently by requiring people to buckle their belts. Adams should be exploring ways of paralleling that success. And Congress in the meantime should scuttle the transportation secretary's plans to make mandatory the costlier and less-effective alternatives.

[From the Detroit News, July 21, 1977]

AIR BAG TEST JUST A GIMMICK?

(By John E. Peterson)

Some of Detroit's best automotive engineers are seething over the national exposure given photos that allegedly showed an air bag about to cushion a small girl during a demonstration on Capitol Hill of the controversial safety device.

The photos were sent out by Associated Press and United Press International, who both covered the July 5th press conference.

The conference was called by a pro-air bag coalition, and the deployment demonstration was designed to show doubting congressmen and newsmen that air bags will effectively protect small children in auto crashes.

You probably remember the picture. Three-year-old Shelby Sutcliffe, the daughter of coalition attorney S. Lynn Sutcliffe, was perched in the driver's seat of an auto compartment mockup with Ralph Nader looking on.

Suddenly the air bag shot out of the steering wheel, planted a soft "lovepat" on Shelby's blond locks and forehead and collapsed.

Strobe lights flashed and cameras whirred. The episode made the nightly television news and the photo was splashed on the front page of dozens of newspapers across the country.

The remarkably successful publicity gimmick probably would have gone unquestioned, if several automotive engineers with years of air bag testing experience hadn't been in the watching chowd.

They noted that the air bag didn't go bang with the explosive force it is supposed to, it seemed to deploy a bit more slowly and the little girl was not in a position to be protected if she were in a real life crash.

Armed with growing doubts, the automotive engineers videotaped the air bag demonstration off that night's network news. Then they time it. Not once, but numerous times.

They discovered some interesting facts. The demonstration air bag took 300 milliseconds to reach Shelby Sutcliffe's head. In a real crash situation, air bags must balloon out to front-seat occupants in only 30 milliseconds to provide effective protection.

The demonstration air bag barely touched Shelby Sutcliffe. In a real crash situation, it all but enshrouds the occupant, then collapses instantly to prevent suffocation.

The engineers called Allstate, which owns the demonstration model, and asked for an explanation. They said Allstate disputed that the bag had deployed at only a tenth of its real speed, but conceded that deployment was one/half to one/third slower.

Allstate, they said, contended that the demonstrator only simulates air bag deployments, so people can see how the air bag works.

"They didn't bother to explain that to the press or any of the lawmakers who attended the demonstration," said one of the automotive engineers who witnessed the test.

"They let all of those people walk out of there believing they had seen an actual air bag deployment," he said. "If the auto makers had pulled a stunt like that they would have been crucified by the press."

The Detroit News placed two phone calls to Allstate's public relations office in Northbrook, Ill., yesterday seeking a fuller explanation of the incident. They were not returned.

The company is careful to term the air bag demonstrations as "simulated," however.

Photo editors at both AP and UPI said they pointed out that the demonstration was a simulation in captions accompanying the picture.

Nevertheless, many newspapers apparently deleted the word "simulate" from the captions they ran with the photos—leaving their readers with the impression that the demon-

stration was the equivalent of an actual air bag explosion.

THE COMMON SENSE OF THE PUBLIC SPEAKS OUT—KEEP OUR TIES WITH THE REPUBLIC OF CHINA

Mr. GOLDWATER. Mr. President, on several occasions during the Presidential campaign last year, then candidate and now President Jimmy Carter repeatedly stated his desire to tap the good commonsense of the American public on foreign policy issues. In pursuit of that expressed goal and willingness, Betty Field, an American temporary resident in Taipei, Republic of China, has written an open letter to President Carter presenting the deep feelings of most Americans who know there is something badly wrong with a Government policy which would ignore our friends on Taiwan and cater to the totalitarian rulers of mainland China.

Contrary to the remarks of some apologists for looting which occurred in New York City during its most recent blackout, Betty Field points out that this social phenomenon does not occur universally throughout the world. She writes that Americans can take a lesson from the Chinese on Taiwan who suffered the great devastation caused by typhoon Vera.

In Taipei, and other cities on the island, where there were blackouts lasting for a 24-hour period from the storm, there was no looting, no disruption and no need for police control. Instead, local citizens joined together voluntarily in relief efforts serving the welfare of the many.

Mr. President, this episode spotlights the decency of our friends on Taiwan and emphasizes the value of keeping our friendship with them.

Mr. President, so that this eloquent letter may be read in full by my colleagues, I ask unanimous consent that the letter to President Carter from Betty Field be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the China Post, Aug. 26, 1977]

LETTER TO PRESIDENT CARTER

President JIMMY CARTER
The White House
Washington, D.C.

DEAR MR. PRESIDENT: "Open Door Policy" if in word only, means little or nothing. I do not profess to be a politician, the fact is, I abhor "double talk" which is what this letter is all about. This is my second attempt to contact you. The first time back in 1976, after a one month delay, I was informed the matter would be handled by the State Department and that I would hear from them—the only problem is, they forgot to mention which decade.

Our State Department is staffed with fine, well educated men and women. Unfortunately, like in the horse and buggy days, they seem for the most part to have blinds on their eyes so that they can see in only one direction. This remark will offend their sensibilities true but it is time that they took their heads out of the sand and looked at their surroundings. Our foreign policy has always left a lot to be desired. A few great men build an image which the rest manage to tear down through sheer stupidity.

Take for instance U.S. Secretary of State Cyrus Vance's comments on the Republic of China versus Communist China. Do you see anyone fleeing from the Republic of China? Have you as an individual seen Taiwan for yourself? Do you realize that there are over 16 million free people in the Republic of China working hard to become a developed nation and doing so by leaps and bounds. The U.S. has a lot to learn from this beautiful but struggling island. For example, the recent blackout in New York City due to a power failure and the havoc that followed. There was a blackout in large sections of heavily populated Taipei where not only electricity but water as well was affected for a 24-hour period due to typhoon Vera. No, there was no looting, no disruption and no need for police control. This alone should tell you something.

Your intention to "normalize" relations with Communist China is the biggest mistake of your career. Knowing the lion is hungry, would you deliberately put your hand into his mouth? I think not! Yet, with apparent closed eye policy, you are willing to damage U.S. prestige all over the world by showing that our words of friendship are just that "words". Do business if you will with the Communist Chinese but not at the expense of a friendship of long standing. You expound on human rights and yet you close your eyes to reality. Empty words do serious harm.

I am not just talking about one country, two or three but the whole world. Our actions speak much louder than words. The State Department is adept at using an excellent range of vocabulary but when it boils down to the simple vernacular, they have lost the game.

Americans are warm people ready to help those in less fortunate circumstances. They take out of their own pockets although now they are more heavily taxed than ever, to help others. This becomes apparent in any crisis. The most recent was when they opened their hearts and their homes to the Indo china refugees. Yet these same Americans are being duped by their own government. Few Americans have access or really are knowledgeable to read for instance the "Foreign Policy" monthly or quarterly booklet. Yet, this small publication is a jewel of information. Don't you think the American Public would be shocked to learn that the food we sent to Bangledish was used as a political tool knowingly and that the millions of destitute never received its benefits? The powers that be in Washington, D.C. are well aware of this situation and I imagine many similar, but this is what we call "political strategy". Filthy as it might be, it works to our advantage so why worry about a few million illiterate souls . . . let them die . . . life is cheap. If the shoe were on the other foot, you would find the pinch unbearable!

No one can tell you how to run the country. It is a rather thankless job but a big political plum. You speak of making changes—many are needed at home and abroad.

Our Senators and Congressmen who go abroad, barely see the country they are in but "know it all", make rash judgments and need badly to be reeducated. How wonderful to travel at the taxpayers' expense and then expound strongly on subjects they have little knowledge of. They see only a narrow picture of any country they visit. There is the language barrier which I admit can be formidable. This restricts their movement, their contacts, etc. but the good Lord has given them their senses. They can move about a country and see for themselves. It is not necessary to rely on a prepared stereo type response as being the gospel truth.

Yes, Mr. President, we are in need of radical changes. Get the U.S.A. off welfare, effect a "PA system" if necessary. Pay for a performance done. Change our foul foreign policy outlook. The world is watching closely. If we ourselves are to remain a free country, then we must work at it. Right now, we are taxing the middle class who are the very backbone of the country, out of existence. You can push people just so far and then the clever doctrine of the Communists will gain a foothold. Years ago Khrushchev stated that Communism would take over without a shot fired. Do we have to close our eyes to what is happening?

The Communists harbor contempt, hatred and hostility towards the U.S. yet we choose to welcome them with open arms. We see that "human rights" do not exist in these countries and that the very word is a sham for there are no human rights.

Are the Russians free people? Can they discuss politics freely or for that matter, move about freely? The Chinese Communists have made great strides at progress but do the people have freedom? Recently a Chinese pilot, Fan Yuan-yen fled to Taiwan seeking freedom. Yet what were the comments in the U.S.A. . . . he only brought a MIG–19 with him. No so called secrets but the biggest secret of all was exposed! He sought freedom at a huge price. He was forced to leave his family behind hoping one day to be reunited with his loved ones. People flee a country because oppression gets to be too much. Must we continually close our eyes to the basic truth?

My letter has covered a wide range of cancerous ills. It is not meant to win any Pulitzer Prize. I am known for my directness. It's just that like many Americans, I see the filth and underhandedness within our own government. The corruptness which is allowed to exist. You are aware of it yourself but will you be able to dent the surface in attempting to correct that which is wrong?

With the sincere wish that this letter passes eventually to your hands, I remain,

Very respectfully yours,

BETTY FIELD,
Taipei.

ADMISSION OF COMMUNIST VIETNAM TO THE U.N.

Mr. THURMOND. Mr. President, on September 20, the 1977 session of the United Nations General Assembly began. The occasion was marked by the customary pious oratory about working for peace and the expansion of human rights. This year, however, this oratory rang a little more hollow than usual, for this year a new nation was added to the membership rolls—Communist Vietnam.

It would be hard to imagine a government that has done less to achieve the goals of the United Nations over the last decade than that of Vietnam. The hands of the Vietnamese leaders are still red with the blood of the countrymen that were slain in their brutal invasion of South Vietnam in the spring of 1975. Their U.N. representatives leave at home an ongoing program to stamp out every vestige of the civil and political rights once enjoyed in the southern part of their country. Yet here, at the U.N., the speeches of welcome resound with praise and congratulation.

This hypocritical spectacle comes as no surprise, but I cannot refrain from recording my outrage. It pains me to think that the United States has not only helped to write the script for this ludicrous play, but is also furnishing the stage on which it is being enacted. Others, too, are disgusted. A thought-

provoking editorial on the subject recently appeared in the State newspaper of Columbia, S.C., and in order that my colleagues may have the benefit of hearing more on this subject, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PEACE-LOVING VIETNAM JOINS UNITED NATIONS

The opening of this year's session of the United Nations General Assembly clearly reveals the world organization as a pious perversion of what ostensibly is a world family of "peace-loving states."

We deliberately put "peace-loving" in quotation marks, not only because the term is lifted directly from the U.N. Charter but because its application is more artificial than real when applied to nations such as Vietnam. The point is pertinent because that forcibly reunited Asian nation was admitted to the United Nations Tuesday as its 149th member.

At this juncture, it would be well to remember that another premise upon which the United Nations stands is that of self-determination of peoples. Who on the scene is naive enough to believe that the non-Communist people of South Vietnam have exercised self-determination in becoming subjects of their Communist masters of the North? But the argument for self-determination currently seems reserved for the castigation of such anti-Communist nations as Rhodesia and South Africa. Let us return, however, to Southeast Asia.

Vietnam's entry into the U.N. fold was made possible by the withdrawal of former objections (within the Security Council) by the United States. It was two months ago that the United States backed away from its opposition, succumbing to pressures of dozens of other countries which apparently see no inconsistency in accepting belligerent nations into an organization dedicated (as least on paper) to the "maintenance of international peace."

As an element of that professed dedication to peace, the United Nations gives lip service to "the suppression of acts of aggression."

But by any definition of the word, whether taken from a dictionary or the 1975 U.N. resolution specifically defining aggression, North Vietnam's invasion and subjection of South Vietnam must rank as the rankest sort of aggression.

Yet, here we are today ("we" being the United States) consenting if not conniving in the admission of this blood-stained aggressor to the United Nations.

Perhaps there is a lesson here which illustrates mankind's ability to rationalize practical actions which run counter to the very principles which supposedly govern men's affairs. We are reminded of the profound observation uttered more than three centuries ago by Sir John Harrington:

> Treason doth never prosper,
> what's the reason?
> For if it prosper, none dare
> call it treason.

So it seems with aggression. If it succeeds, who dares call it aggression? Certainly not those members of the United Nations whose own national standing stems from the forceful elimination of obstacles, organizations, and individuals standing in their way.

Finally, there is the business of human rights, another listed concern of the United Nations charter. But that high-flown phrase took a beating back in 1971 when the U.N. General Assembly ousted the National Chinese republic on Taiwan in favor of Communist (mainland) China.

The line forms to the right (perhaps "left" would be more appropriate) for those who believe the United Nations as constituted today has any real interest in self-determination, human rights, or the suppression of aggression if such interest would offend its Communist clientele.

UNITED STATES/UNITED KINGDOM TAX TREATY

Mr. GRAVEL. Mr. President, there is pending before the Senate a tax treaty which the U.S. Treasury negotiated with the United Kingdom. One provision of this treaty, article 9, section 4, is unprecedented and is of grave concern to the States. In this provision, the Treasury has bargained away the ability of the States to effectively enforce their tax laws against multinational corporations based in Great Britain. If the Senate approves article 9, section 4, it will become a precedent for our dealings with other countries, and the loss to the States in potential revenues will be hundreds of millions of dollars. My own State of Alaska stands to lose up to $50 million per year from the United Kingdom Treaty alone.

Not only do such revenue losses shift more of the tax burden to small taxpayers, they also give the large multinationals a still greater competitive advantage over small in-State businesses, which do not have foreign subsidiaries in which to hide their income from State tax collectors.

In defending this indefensible provision, the Treasury has cast unqualified aspersions upon the particular technique for auditing multinationals that the United Kingdom Treaty would ban. This technique, called the "unitary" or "whole business" method, takes the corporation's worldwide income and divides it up among the respective States and countries according to the percentage of the corporation's worldwide business that is done in each. This approach prevents the multinationals from juggling their income into subsidiaries in other parts of the world.

There has come to my attention, a study by Treasury's International Economist, George Carlson, of methods used by the States to determine the taxable income of multinational corporations. This study takes a much more balanced view of the "unitary" or "whole business" method than Treasury has presented to the Senate. In fact, the study cites several advantages which the unitary method has over the alternatives.

Since some of my colleagues may have based their position on article 9, section 4, upon Treasury's statements to the Foreign Relations Committee, I ask unanimous consent that the relevant portions of this indepth study be printed in the RECORD for my colleagues to review.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE TAXATION OF CORPORATE INCOME FROM FOREIGN SOURCES

(By George Carlson)

III. ANALYSIS

State taxation of foreign source income, as defined by Federal law, creates the possibility of double or extraterritorial taxation; it can reduce the Federal tax base; and in some circumstances it may raise significant administrative problems. These aspects are examined as they arise under the specific allocation method, formula apportionment, and the unitary system. To the extent states exclude foreign source income from taxation, the problems do not arise.

1. Specific allocation method. The 46 states with corporate income taxes allocate certain items of nonbusiness income to a specific geographic source, usually on the basis of the situs of the property, the extent of its use, or the taxpayer's commercial domicile, and divide business income between jurisdictions on the basis of apportionment formulas (see Table 2). The states differ, of course, in how they define nonbusiness and business income. Income that might be allocated by one state could be apportioned by another. Delaware, Florida, New Hampshire, Georgia, and Ohio exempt some items of foreign source income, and are the only states to provide special rules for the tax treatment of foreign source income.

In the remaining 41 states, any taxation of foreign source income results from the application of the general rules for taxing a multistate corporation. Based on these rules, the following items of foreign source nonbusiness income are included in the tax base of a significant number of states: dividends; interest; capital gains from intangible personal property; and rents and royalties from personal property.

(a) Double taxation. Double taxation, defined in its broadest terms, occurs when the same income is taxed by two or more jurisdictions. In this sense, double taxation regularly occurs between the states and the Federal government, although the Federal deduction for state taxes ameliorates the extent of double taxation. It also occurs between states when their methods of dividing the income of a multistate corporation do not mesh. Double taxation between the Federal and foreign governments is addressed by the foreign tax credit provisions of Federal law.

For present purposes, double taxation is defined more narrowly to occur whenever two or more jurisdictions tax the same income in such a manner that the taxpayer has a total tax burden that exceeds the higher of the tax burden levied by all jurisdictions within the geographic source of his income or the tax burden levied by all jurisdictions within the taxpayer's own place of residence.

Thus, if the combined taxes of states, the Federal government, and foreign governments on foreign source income exceed on the one hand the tax burden imposed by states and the Federal government on domestic source income, and on the other hand the tax burden imposed by foreign government alone on foreign source income, double taxation may be said to occur. This narrow type of double taxation is illustrated in Case IA of Table 4. Similarly, this narrow type of double taxation also exists between the states if the combined taxes levied by the Federal government and the states exceed the combined Federal and state taxes that would be levied if the corporation opperated in only one state.

In the context of state taxation of foreign income, the operation of specific allocation rules creates the possibility of two similar kinds of double taxation. In the first place when the domiciliary state provides no credit for foreign taxes, foreign source income may be taxed at a higher rate than in either the source or residence jurisdictions. In the second place, the income might be taxed both in the domiciliary state under specific allocation rules and in some other state under formula apportionment or a unitary system.

For example, since Illinois allocates foreign source nonsubsidiary dividends, port-

folio interest, and some capital gains to Illinois when received by a corporation whose commercial domicile is in Illinois, double taxation may arise if this income also is taxed at its foreign source. Foreign source income also may be taxed by two or more states. For example, Illinois apportions foreign source subsidiary dividends as business income, but Indiana allocates them entirely to that state if the recipient corporation has its commercial domicile in Indiana. Therefore, a corporation domiciled in Indiana, but also doing business in Illinois, would find that any subsidiary dividends it received from foreign sources would be taxable in full in Indiana and a portion of the dividends would again be subject to tax in Illinois.

These examples are not unique. Double taxation regularly occurs because the states do not provide a credit for foreign taxes paid in excess of the amount creditable under Federal law.[1] Double taxation also occurs because states do not have a uniform system for allocating and apportioning income among them, and, with the exception of Alabama, do not provide a credit for taxes paid other states. Thus, a multistate corporation will be subject to double taxation whether or not it has foreign operations.

Fifteen states allow the dividend received deduction provided by Federal law. This deduction applies mainly to dividends from domestic corporations; dividends from foreign corporations are eligible only if received from a corporation with significant gross income effectively connected to a U.S. trade or business. Several more states exempt intercorporate dividends from corporations taxable in the state where the payee is domiciled. Thus, in these states, intercorporate dividends from foreign sources will be included in the state's tax base to a greater extent than if the dividends were received from corporations operating mainly within the United States.

(b) Reduction of the Federal tax base. Whenever foreign income is taxed by a state, a deduction is created which may be claimed in computing Federal taxable income. Again, in this respect, there is no difference between state taxation of domestic income and state taxation of foreign income. Any state or local tax reduces the Federal tax base.

The new issue raised by state taxation of foreign income is whether this tax base should be reserved to the Federal Government. It might be argued that to the extent foreign source income is taxed at all, it should be taxed for the benefit of a particular state. The income is earned abroad, and does not depend upon, or benefit from, state protection or expenditures.

On the other hand, the United States taxes its residents on their worldwide income. By analogy, it can be argued that the individual states should be permitted to tax their residents on worldwide income. Under this view, it makes no difference whether states tax foreign income deliberately through a specific allocation procedure or inadvertently through a malfunctioning formula apportionment. In both cases, states should be permitted to tax foreign income.

(c) Administrative problems. The specific allocation method does not create substantial administrative problems for the corporate taxpayer. The income is either entirely allocated to the state, or entirely allocated to another jurisdiction. However, with any specific allocation method, state tax administrators must be concerned about erosion of the tax base, and consequent loss of revenue, through artificial transfer pricing.

2. Formula apportionment. In taxing a multistate corporation or a multinational corporation, each state faces the problem of assigning a "reasonable" proportion of the corporation's total taxable income to the state. A "reasonable" proportion generally means that the state will seek to tax only that part of a corporation's income that is generated within its borders. The United States faces a similar problem in taxing multinational corporations. Thus, the Internal Revenue Code sets forth detailed source rules and arm's length pricing procedures. Such an approach would strain the administrative capability of many states. A frequently used device at the state level, therefore, is to apportion business income in relation to the corporation's activities in the particular state. The question raised by formula apportionment is whether in addition to serving as a convenient measuring device, it has the side effect of enabling the states to tax foreign source income, as defined by Federal law.

(a) Double taxation. As shown in Table 2, each of the 46 states which levies a corporate income tax subjects at least some of the following items of business income to formula apportionment: dividends, interest, capital gains, rents, and royalties. With few exceptions, this treatment applies uniformly to income from foreign and domestic sources.

While state apportionment formulas are not uniform, it is fairly typical to use a 3-factor formula involving payroll, property, and sales, with each factor having a weight of one-third. Assume that the ABC corporation, which is taxable in New Jersey, has New Jersey payroll, property, and sales of $100,000, $200,000 and $500,000, respectively, and total payroll, property, and sales of $300,000, $600,000 and $1,500,000, respectively. Thus the apportionment factor would be:

$$\frac{\frac{\text{New Jersey payroll}}{\text{Total payroll}} + \frac{\text{New Jersey property}}{\text{Total property}} + \frac{\text{New Jersey sales}}{\text{Total sales}}}{3}$$

$$\frac{\frac{100,000}{300,0000} + \frac{200,000}{600,000} + \frac{500,000}{1,500,000}}{3}$$

$=\frac{1}{3}$=apportionment factor

If the corporation received $100,000 in royalties from either a domestic or foreign subsidiary, one third of that, or $33,333 would be apportioned to and taxable in New Jersey. Thus royalty income from a foreign subsidiary would be taxed both in New Jersey and abroad, but royalties from a domestic subsidiary might also be taxed both in a sister state, and in New Jersey. This form of double taxation occurs regularly because the state apportionment formulas, except in the case of branch income and except under a unitary system, do not give recognition to the subsidiary payroll, property, and sales that generate business income in the form of capital gains, dividends, interest, rents, and royalties.

Some states do include selected items of business income in the denominator of the apportionment formula. This has the effect of reducing the size of the apportionment factor. Such an approach mitigates, but does not eliminate double taxation. Moreover, it is difficult to find a logical reason for this particular adjustment. An apportionment formula seeks to divide income, usually, on the basis of a corporation's payroll, property, and sales inside and outside the taxing jurisdiction. It thus seems inappropriate to include an income item in the denominator of the formula.

Formula apportionment does not always create double taxation. It may reduce a state's tax base. This is particularly true of branch income. Virtually all states applying formula apportionment include the income and relevant apportionment factors of both foreign and domestic branches in the apportionment calculation for the parent.[2]

Continue the example of the ABC corporation which had an apportionment factor of one-third. If the corporation had taxable income of $300,000, then $100,000 of that would be apportioned to New Jersey. Now assume that the ABC corporation opens a new branch, either foreign or domestic, but outside New Jersey, that earns $60,000 in taxable income and has payroll, property, and sales of $100,000, $200,000, and $500,000, respectively. The ABC corporation's apportionment formula would then be:

$$\frac{\frac{100,000}{300,000+100,000} + \frac{200,000}{600,000+200,000} + \frac{500,000}{1,500,000+500,000}}{3}$$

$=\frac{1}{4}$=apportionment factor with new branch

The ABC corporation now has $360,000 of taxable income that is subject to apportionment, the original $300,000 plus the $60,000 from the branch. It also has a smaller apportionment factor, ¼, rather than ⅓, since the formula recognizes the activities of the new branch. The taxable income which the ABC corporation actually apportions to New Jersey is:

$$\$360,000 \times \tfrac{1}{4} = \$90,000.$$

In this example, the branch earnings, whether foreign or domestic, serve to reduce the New Jersey tax base. This result is produced by a special assumption; namely, that the new branch's ratio of its taxable income to its payroll, property, and sales is less than the ratio of the rest of the ABC corporation's taxable income to its payroll, property, and sales. Of course, if branch operations are more profitable than the corporation's other operations, the ratio of branch income to its payroll, property, and sales would be greater than the corresponding ratio for the rest of the corporation and some branch income would be apportioned to and taxable in New Jersey. The ultimate result depends on how profitable branch operations are relative to the rest of the corporation. Formula apportionment applied to branch operations may thus increase or decrease a state's tax base.

Formula apportionment can also lead to double taxation between states (or a reduction of the states' tax base) because of the failure of state apportionment formulas to mesh properly. Foreign or domestic source income will then be victim to the lack of uniformity in apportionment formulae. Assume that a corporation has foreign subsidiary dividend income of $100,000; that the corporation is engaged in business both in state A and state B; and that the income is apportioned by each of the states. Assume further, to keep the example simple, that the two states use only a property factor in the apportionment formula. State A values property at cost, while state B at cost less depreciation. The property values for the corporation are:

[In millions]

	State A	State B	Total
Cost	$10	$15	$25
Cost less depreciation	$5	$15	$20

The property in state B has just been put into service and has therefore incurred no depreciation.

The $100,000 in foreign subsidiary dividend income is apportioned as follows:

STATE A

(Property valued at cost)

$10/25 \times \$100,000 = \$40,000$

STATE B

(Property valued at cost less depreciation)

$15/20 \times \$100,000 = \$75,000$

Total apportioned:

Foreign dividend income: $115,000.

Because of differing apportionment formulas, the two states apportion more than

Footnotes at end of article.

the $100,000 in foreign subsidiary dividend income. Clearly, the two states are subjecting some of the foreign subsidiary dividend income to double taxation, in the sense that it bears a higher tax burden than if it had been allocated to one of the two states rather than apportioned between them. This type of double taxation results from differences in the state apportionment formulas. It can and does occur with respect to many items of income from both foreign and domestic sources.

(b) Reduction of the Federal tax base. The apportionment of domestic and foreign investment income (dividends, capital gains, interest, rents, royalties) usually leads to additional taxation at the state level. This happens because the apportionment factor reflects only the activities of the receiving corporation and does not reflect the activities of the paying corporation.[3] Since state taxes are a deductible expense, the Federal tax base is correspondingly reduced.

The apportionment of domestic and foreign branch income may either increase or reduce taxation at the state level. An increase in state taxation would diminish the Federal tax base; a decrease in state taxation would enlarge the Federal tax base. *On average, it seems likely that foreign branches are as profitable as domestic investments. Thus, apportionment of foreign branch income probably does not lead to a substantial net increase or decrease in the Federal tax base.*

(c) Administrative problems. Formula apportionment was initially devised to bypass the difficulties of a source rule approach. It resolves many transfer pricing questions which would otherwise concern state tax administrators. But by comparison with a specific allocation method, formula apportionment may be more complicated for taxpayers.

3. Unitary system. Under a unitary system, the total domestic and foreign business income of the controlled corporate group is apportioned for tax purposes. Unlike other methods, the unitary system apportions the undistributed income of a foreign subsidiary corporation, the income of a foreign parent corporation and the income of foreign brother-sister corporations.

The unitary system evolved from the application of formula apportionment to the activities of a single, multistate corporation. Formula apportionment was upheld by the United States Supreme Court in *Underwood Typewriter Co.* v. *Chamberlain*, 254 U.S. 113 (1920). In discussing the taxpayer's appeal the Supreme Court said:

> The profits of the corporation were largely earned by a series of transactions beginning with manufacture in Connecticut and ending with sales in other states. In this it was typical of a large part of the manufacturing business conducted in the state. The legislature, in attempting to put upon this business its fair share of the burden of taxation, was faced with the impossibility of allocating specifically the profits earned by the processes conducted within its borders. It, therefore, adopted a method of apportionment which, for all that appears in this record, reached, and was meant to reach only the profits earned within the state."[4] (Emphasis added.)

In sustaining formula apportionment, the Court was clearly aware of the difficulty of separately accounting for the profit earned in the various stages of an integrated manufacturing and distributing operation.

The Franchise Tax Board of the state of California contends that, since it may be similarly impossible to separately identify the profits earned by individual corporations in a unitary group, the unitary method is justified:

> "The use of a combined report (unitary method) for determining income is not based upon the concept that members of a unitary group have not acted at arm's length. It is used because separate accounting, regardless of its mathematical accuracy, does not properly reflect the income of a unitary business. For example, assume one corporation manufactures an item which is sold by another wholly owned corporation and that the combined net income is $1 million. In such cases, should it matter if separate accounting records reflect that one corporation earned $3 million and that the other corporation lost $2 million?[5]

Similarly, the California Supreme Court, in unanimously approving the combined report procedures, stressed the interdependence of a unitary business and questioned the relevance of separate accounting:

> "[W]hen the business is not separate, and is an integral part of a larger and unitary system, the separate accounting is inadequate and unsatisfactory in ascertaining the true result of the activities and values attributable to that business."[6]

Other commentators, such as Frank M. Keesling, former Counsel for the California Franchise Tax Commissioner, have argued that the combined report is necessary to confront the loss of tax revenue resulting from unrealistic transfer pricing.[7]

(a) *Double taxation.* The unitary system may either increase or decrease a state's tax base compared to separate accounting between corporations and formula apportionment applied to the activities of a single corporation. It may result in either higher or lower taxation of a corporation compared to what the corporation's taxable income would be if it was not a member of a combined group.

Consider the earlier example where U.S. parent corporation A and wholly owned subsidaries B and C are engaged in the business of manufacturing and selling lathes (Section II(3)(g) above). Corporation A would have a taxable income of $72 under the unitary method, but $50 under separate accounting. In this instance, the inclusion of corporation B (a domestic subsidiary) and corporation C (a foreign subsidiary) in corporation A's combined report serves to increase corporation A's California tax liability.[8]

It could be argued that, since California is taxing more than corporation A's total income, it is necessarily taxing income earned outside its borders and that double taxation may consequently arise. Alternatively, it could be argued that there is no realistic way to separate corporation A's taxable income from that of its wholly owned subsidiaries, corporations B and C, which also manufacture and sell lathes, and that the combined report provides a reasonable method of assigning an appropriate percentage of the corporate group's total earnings to California. The crux of the debate over the unitary system is whether it systematically increases the state's tax base in the face of more reasonable alternatives.

In *Edison California Stores* v. *McColgan*, 183 P.2d 16 (1947), the California Supreme Court was faced with the question of whether formula apportionment could be applied to an entire corporate group. The parent corporation, which was incorporated in Delaware with headquarters in St. Louis, Missouri, provided centralized purchasing, distribution, advertising, and management for its 15 wholly owned subsidiary retail stores operating in various states. The only activities in California were carried on by the taxpayer corporation, a wholly owned subsidiary which operated retail stores within the state. In approving the application of formula apportionment to the corporate group as a reasonable means of determining the instate income of the California subsidiary, the court found the same operational interdependence which it found earlier in *Butler Brothers* vs. *McColgan* 111 P.2d 334 at 336 (1941):

> "It is only if its business within this state is truly separate and distinct from its business without this state, so that the segregation of income may be made clearly and accurately, that the separate accounting method may properly be used. Where, however, interstate operations are carried on and that portion of the corporation's business done within the state cannot be clearly segregated from that done outside the state, the unit rule of assessment is employed as a device for allocating to the state for taxation its fair share of the taxable values of the taxpayer."[9]

Thus, when the parts of a multicorporate group are interrelated, the court found it reasonable to assume all parts are equally profitable and to apply formula apportionment to the entire group.

Some commentators, however, contend that in recent years the California courts have broadened the definition of unitary operations.[10] For example, in Chase Brass and Copper Company v. Franchise Tax Board 95 Cal. Rptr. 805 (1970) the California Court of Appeals approved the state's attempt to combine Kennecott Copper Corporation with its wholly owned subsidiary Chase Brass. Kennecott mined copper in Utah, Nevada, Arizona, and New Mexico, but did no manufacturing in California and had no contacts of its own in the state. The court relied on such factors as: Chase Brass purchased about 20 percent of Kennecott's copper output at an arm's length price for use in its manufacturing operations; Kennecott made a large loan to Chase, at the prime rate, to rebuild its plant; and Chase executives reported to the President of Kennecott on major policy matters. The application of unintary reporting increased Chase Brass' California taxable income by thirteen times.

Leo Brockett, in analyzing the court's decision in *Chase Brass*, contends that, although the court based its findings on a unity of ownership, operation, and use, the factors leading to a unitary determination in the case would be present in almost any parent-subsidiary relation. Similarly, John Nolan has observed that "while unity of use and operation, or dependency of contribution between in-state and out-state business is thoretically required, California in fact seems to require little more than the normal attributes of common ownership".[11]

(b) Reduction of the Federal tax base. To the extent that the unitary system results in higher state taxation of foreign or domestic source income, the Federal tax base will be diminished. On the other hand, to the extent that the unitary system results in lower taxation by the state of foreign or domestic income, the Federal tax base will be enlarged.

(c) Administrative problems. A frequently voiced criticism of the unitary system is the administrative burden which it imposes on taxpayers, particularly when it is applied to a corporation organized in a foreign country. This criticism is sharpest when the activities of a foreign controlled group are brought within the unitary system because it has a subsidiary in a unitary state, such as California, but the activities of the subsidiaries are a relatively small portion of the foreign group's total activities.

A combined report necessitates the computation of a taxable income figure, as defined by state law, for each corporation in the group. Each corporation must provide data on its payroll, property, and sales, with intercompany sales eliminated. Critics contend that, because of differences in accounting period and practices, this information requires a completely new set of calculations and imposes a substantial administrative burden on foreign corporations. Indeed, it is argued that a corporation operating within the United States, but outside a unitary state such as California, may also have administrative problems because of differences in how the states define net income. Finally, some observers have questioned the wisdom of applying the 3-factor

Footnotes at end of article.

formula to a foreign corporation since differences that exist between states with respect to the ratio of income to the three factors are likely to be magnified when a foreign country is included in the apportionment.

The essence of the administrative burden argument is that, while formula apportionment may be a useful tool with respect to one corporation, it is not useful with respect to a corporate group. When applied to a single multistate corporation, formula apportionment avoids the need to construct separate sets of accounts for the corporation's activities in each state. But, with two or more corporations the separate accounts already exist; therefore, continues the argument, the rationale for formula apportionment no longer exists. If the corporate accounts do not accurately reflect income, the solution, it is urged, is through reallocating income and expenses, as provided by Section 482 of the Internal Revenue Code, rather than through formula apportionment.

Proponents of the unitary system disagree strongly. They feel it is difficult to enforce a transfer pricing statute, particularly at the state level, because of an inability to obtain the information needed to assess the transactions of a corporate group with operations in many states and countries. Moreover, they question the underlying meaning of separate accounts within a corporate group, preferring instead to assume that each member of the corporate group earns, or should earn, the same rate of return. Thus, the advocates of the unitary system feel it is sound both administratively and conceptually.

(d) Treaty implications. A basic tax treaty position of the United States and other developed countries is that an enterprise should be taxable in a country on its business profits only if it carries on business in that country through a branch or similar permanent establishment. This principle is enunciated in Article 7 of the Model Income Tax Treaty of the Organization for Economic Cooperation and Development as well as the income tax treaties of the United States.

The worldwide application of the unitary system may be inconsistent with this principle. This is particularly true when it is applied to the multinational activities of a foreign parent having a subsidiary in a unitary state, such as California. Combining the parent and its other subsidiaries with the California subsidiary can be viewed as taxing enterprises that have no permanent establishment in the United States.

"Taxation by a state based on income of a foreign nonresident parent company from outside the U.S. which is owned and controlled by non-U.S. shareholders living outside the U.S. is beyond accepted bounds of jurisdiction." [12]

State taxation of foreign source income under the unitary system would be restricted by an income tax treaty between the United States and the United Kingdom which was signed December 31, 1975, and amended May 3, 1976. Article 9, Paragraph 4 of the treaty, which must still be approved by the United States Senate and the United Kingdom House of Commons, provides that a state which is assessing the income of an enterprise doing business in that state may not take into account any income or expenses of a related company which is a resident of the United Kingdom or any other foreign members of the same corporate group.

However, this restrictive rule will apply only if certain restrictive conditions are met.

First, the enterprise doing business in, for example, California must be either a resident of the United Kingdom (i.e., a branch of a United Kingdom company operating in California) or be controlled, directly or indirectly by a United Kingdom resident (i.e., a United States corporation which is a subsidiary of a United Kingdom corporation).

Second, where the United Kingdom resident is a corporation, such corporation must be neither controlled by a United States corporation nor by a corporation which is a resident of a third state.

Third, no United Kingdom or third country enterprise which is related to a United States subsidiary doing business in California would be excluded from California unitary apportionment calculations under the treaty if that enterprise is controlled by the United States subsidiary.

A few examples may clarify how the rule would operate.

If a subsidiary of a United Kingdom corporation is doing business in California, and that United Kingdom parent corporation has subsidiaries in France and Germany, California would be prohibited from including in its unitary apportionment base the income or expenses of the United Kingdom parent or its subsidiary corporations in France or Germany.

However, if the United Kingdom corporation is itself controlled by, say, a New York corporation, or by a Dutch corporation, California may take into account the income and expenses of the entire group—the United Kingdom corporation, the French and German subsidiaries and the Dutch or New York parent.

44. Revenue estimates. Table 3 presents rough estimates of the 1972 revenue impact of state taxation of foreign source income. Based on present law in the 46 states with a corporate income tax, an attempt was made to estimate the amount of various types of foreign source income presently included in state taxable income. It was assumed that, on average, the unitary systems do not result in the inclusion of foreign income in the state tax base. The net inclusion or exclusion will, however, differ from company to company.[13] It was also assumed that the apportionment of foreign branch income does not, on average, affect the state tax base.

According to the estimates in Table 3, approximately $3,450 million of foreign income was included in the 1972 tax base of all states. State taxes derived from this income were approximately $190 million. The deduction claimed for state taxes would have reduced Federal tax revenue by about $90 million. A rough extrapolation to 1976 suggests that state revenues on foreign income were approximately $410 million, and that the consequent reduction in Federal revenue was about $200 million.

TABLE 3.—REVENUE IMPACT OF STATE TAXATION OF FOREIGN INCOME [1]

[In millions of dollars]

Types of foreign income	Total	Included in tax base of States [2]
1972 estimates:		
Subsidiary dividends	$4,400	$2,200
Portfolio dividends	680	520
Interest	360	350
Rents and royalties	830	380
Total	6,270	3,450
Impact on State tax revenue [3]		190
Impact on U.S. tax revenue [4]		−90
1976 estimates:		
Impact on State tax revenue [3]		410
Impact on U.S. tax revenue [4]		200

[1] With the exception of subsidiary dividends, these figures are gross of foreign and Federal taxes because States typically do not allow a deduction for these taxes. Three-fourths of the gross-up for the underlying corporate tax on foreign subsidiary dividends is eliminated because approximately ¾ the States allow it as a deduction.

[2] The amount actually included in the taxable income of corporations domiciled in a given State depended on the State's tax law.

[3] Based on State corporate income tax rates for 1975.

[4] Based on the U.S. statutory rate of 48 percent.

Sources: Joint Committee on Internal Revenue Taxation, Taxation of Foreign Source Income: Statistical Data Sept. 30, 1975, table C-2. Advisory Commission on Intergovernmental Relations, Federal-State-Local Finances: Significant Features of Fiscal Federalism, November 1975, table 23; Statistical Abstract of the United States, U.S. Department of Commerce, Bureau of the Census, p. 267.

FOOTNOTES

[1] A state credit for excess foreign taxes would, of course, be limited by the combined rate of state and Federal taxes on foreign source income. While no such credit is provided, as shown in Table 1, most states do allow a deduction for at least some foreign income taxes.

[2] The exception is Florida which apparently exempts foreign branch income.

[3] Except under a unitary system.

[4] 254 U.S. at 120–121.

[5] "Staff Observations Regarding Income Tax Provisions of Legislative Proposals," California State Franchise Tax Board, State Taxation of Interstate Commerce, Hearings before the Subcommittee on State Taxation of Interstate Commerce of the Committee on Finance, United States Senate, 1973, p. 299.

[6] Edison California Stores v. McColgan, 183 P. 2d 16 at 21 (1947).

[7] Frank M. Keesling, "A Current Look at the Combined Report and Uniformity in Allocation Practices", Journal of Taxation, February, 1975, pp. 106–110.

[8] Corporation B's taxable income in California is decreased by the combined report requirement; it would be 25 under separate accounting; 24 under the combined report.

[9] 183 P. 2d at 20.

[10] See, for example, Leo Brockett, "Chase Brass and Copper Co. v. Franchise Tax Board Intercorporate Unity and State Income Taxation", California Western Law Review, Spring 1971, pp. 508–521 and John S. Nolan, "Extension of the California Unitary Business Concept", in State Taxation of Interstate Commerce, 1973, pp. 433–437.

[11] Nolan, Op. cit., p. 434.

[12] Nolan, Op. cit., p. 435.

[13] According to California tax authorities, the worldwide application of the unitary system produces about $125 million in state tax revenue. The basis of this estimate is unknown, and the estimate itself appears to conflict with the California claim that the purpose of the unitary system is to measure California income, and not to tax foreign source income as defined for Federal tax purposes.

Mr. GRAVEL. Mr. President, this study strongly suggests that the "unitary" method is at least as valid as the other methods available to the States, and that it may offer several advantages. Certainly there is no persuasive case that the Federal Government should intervene in this area of State law—especially through the treaty process, which circumvents the normal legislative process and deprives the States of a timely and adequate opportunity to present their arguments.

Of the points presented by Mr. Carlson, two stand out: First. Despite Treasury's allegations in Senate testimony that the unitary method often results in double taxation, the Carlson study observes that, in fact, the use of this method can reduce as well as increase the amount of income that is taxable in a particular State. This observation is consistent with the trust of the matter, that the unitary method is not a device for taxing foreign income, as Treasury alleges, but rather a method of determining what income is in fact foreign, and how much is legitimately taxable by the States.

Second. Despite Treasury's allegations that the unitary method is complicated and administratively burdensome, Carlson's study points out that the alternatives, and in particular the "arms length"

method which Treasury would have the States use, are also complicated. Carlson observes that the "arms length" method would strain the administrative capability of many States. In this connection, I should point out that the Joint Committee on Taxation staff testified before the Foreign Relations Committee that the "arms length" method had proven inadequate in 40 percent of the IRS cases in which transfers between subsidiaries were at issue. And yet, this is the method which Treasury would force upon the States by treaty.

And so, I would encourage my colleagues to consider the provisions of this Treaty carefully, especially article 9, section 4. Treasury is using the treaty process to affect State tax laws which have not been fairly tested by the congressional process. State taxing powers have been negotiated away by Treasury with no prior input from those States. Treasury has attacked the fairness of the unitary method before the Foreign Relations Committee, but can offer the States nothing better. I hope that my colleagues will join me requiring that Treasury face up to the issue of whether or not the unitary method is a legitimate method of taxation. The Carlson study, done by Treasury itself, suggests that it is not a bad method. The study demonstrates that we must take cautiously Treasury's arguments on this treaty.

I hope that my fellow Senators will join me in acting to reserve this provision of the United States/United Kingdom Tax Treaty.

WELFARE REFORM IS A HIGH NATIONAL AND REGIONAL PRIORITY

Mr. PELL. Mr. President, very few legislative issues draw such widespread and deserved support as do efforts at welfare reform. Our National and State welfare systems are chronically unwell. They do not work as we intend them to, they do not really help many people in the long run, and they are expensive. At present, our Nation's programs constitute a chronic example of Government by patchwork, chewing gum, and bailing wire. Examples of bureaucratic duplication exist side by side with gaping holes in important programs. Clearly, if ever there was a subject which calls for debate, cooperation, and reform, a change in our welfare programs and welfare services is that subject.

President Carter called for comprehensive welfare reform during his campaign last year and promised that his administration would work to improve the current situation, both nationally and on the State level. On March 9 I wrote to Secretary of Health, Education, and Welfare Califano spelling out what I believe should be four general principles of welfare reform at this time and urging their adoption.

Later, on March 29, these four themes were presented at a Welfare Reform Forum conducted by the Department of Health, Education, and Welfare at the Bishop McVinney Memorial Auditorium in Providence at a meeting conducted especially to get the views of community social welfare specialists and welfare recipients on this complex subject.

Basically, I believe that welfare reform legislation ought to encompass four major principles in order to assure its success and its fairness to the beneficiary and taxpayer alike.

First, Federal welfare benefit levels should be designed in conjunction with a revised and improved cost-of-living index which takes into full account the difference that a cold climate makes in determining the cost of living in some regions of the country.

A recent study conducted by the Library of Congress shows that because of higher energy, clothing, transportation, and food costs, the minimal cost for a minimum standard of living for an average four-person family in so-called cold weather cities was about $2200 more per year than in warm-weather cities. Certainly, in order for welfare benefits to be equitable, we must insure that benefits can allow recipients to purchase equal services, housing, and food, despite regional differences in cost.

Second, the welfare system should be uniform and Federal in its character so that a consistency in program intent and coverage is achieved. At the same time, we should encourage a full level of State participation in planning and administration with Federal assistance to the States to relieve some of the cost burden from State bureaucracies.

Third, the new welfare system should be consolidated in nature and should embrace the strongest possible and practicable work-incentive and an employment acceptance requirement. I think that the best possible consolidation would embrace at least our present food stamps, aid to families with dependent children, supplemental security income, unemployment compensation for some individuals who have suffered from extended unemployment, workers compensation for some workers, and social security title II disability programs.

Finally, the new system should combine administrative simplicity with full and fair due process for beneficiaries' claims so that beneficiaries are treated as individuals, not as numbers or computer cards.

I outlined these four principles in a letter to Secretary Califano in early March. I ask unanimous consent that that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MARCH 9, 1977.

Hon. JOSEPH CALIFANO,
Office of the Secretary, Department of Health, Education, and Welfare, Independence Avenue SW., Washington, D.C.

DEAR MR. SECRETARY: Thank you for your letter seeking my thoughts on the subject of welfare reform. I am delighted to participate in this important effort, and I commend you and President Carter for undertaking such a difficult task.

Today, there is no substantial agreement in our nation on exactly what "welfare" means and consequently "welfare reform" has been a vague and elusive phrase. Some observers would define it narrowly, applying primarily to programs for unemployable persons, while others would consider it more broadly, to embrace all income maintenance or income supplement programs, including "in-kind" non-cash subsidies.

My personal thought is that it would be most valuable to consider "welfare reform" as a comprehensive reorganization of federal income maintenance and social service related programs, as well as a fresh and unfettered assessment of our goals, as a nation, with respect to supporting the family structure to the greatest possible extent as a vital central element of American life.

It is in this context that I am responding to your letter, and offering my suggestions. I believe that our primary goal should be to provide a decent living standard for each American, utilizing and encouraging to the greatest extent possible private sector employment, and family life.

At the same time, we must be mindful of the cost of the program we construct, and direct our funds in such a way as to maximize their impact, avoid wasteful duplication, excessive and costly administration, and eliminate fraud on the part of both service providers and beneficiaries.

First, we must redefine the poverty level, by acknowledging that differences in climate play a substantial role in determining the cost of living in different parts of our country. The Department of Health, Education and Welfare has recently published a study, *The Measure of Poverty*, as a result of language I included in Section 823 of the Education Act Amendments of 1974. Unfortunately, although the language in Section 823 explicitly mentioned "climate" as a variable to be studied, the resultant study, more than 1800 pages long, contains only a dozen scant references to climate as a factor in cost of living measurements, and contains no proposals for including climate related expenses in an index to poverty. However, as we in New England know from hard experience, energy costs, fuel costs, and the equally expensive necessities of winter clothing, high calorie food, and insulation make living in a cold climate considerably more expensive than living in a temperate climate. This study failed to answer a primary question it was supposed to address, and cannot be considered useable in its present form.

Second, we should design a system which is federal in character, with the uniformity of basic programs and inherent administrative efficiency this would bring, but which retains a level of state participation in planning, financing, evaluation, and experimentation. For example, I believe that Medicaid and SSI should be phased out and replaced by national health insurance and a national relief floor. However, states should be required to pay into this program, with contributions scaled according to a formula which takes into account a states ability to pay state rates of unemployment, population, and the current state level of support for income-replacement services.

Third, we should consolidate 6 of our income replacement and income maintenance programs into a national relief floor, with an employment-acceptance requirement for those who are able to work (except single heads of households containing children, or where the other household member is disabled or over age 62). This would replace the present programs for Food Stamps, Aid to Families with Dependent Children, Supplemental Security Income, Unemployment Compensation, Workers Compensation, and Title II Disability Insurance.

In relation to this floor, most other social service programs, such as health services, Title XX Social Services, and most importantly education and job training services, should not be considered as income or assets, for purposes of computing monthly benefits. Subsidized housing, however, should be considered as an asset.

One major improvement under this unified benefit program would be that the Disability Insurance program would cover gradations of disability.

Fourth, we must insure that the administrative functions within this system are per-

formed promptly and fairly, and that the individuals who apply for and who receive benefits under a reorganized income maintenance program, are treated as individuals, and not as numbers or computer cards. The principles I have drafted into the Social Security Recipients Fairness Act should be extended to all recipients of income maintenance benefits; these principles are full due process in the application for benefits, full administrative and judicial appeal of adverse administrative decisions, prompt service in the event of a delay in the delivery of due benefits, and individual consideration of a beneficiaries repayment schedule should an accidental overpayment occur.

I hope that these suggestions are helpful to you, and I look forward to continuing to work together on this subject.

Warm regards.

Sincerely,

CLAIBORNE PELL.

Mr. PELL. Mr. President, on August 6, President Carter made public his proposal for welfare reform, and I am pleased to note that it matched a number of my proposals and suggestions for comprehensive change.

Unfortunately, there is not as yet any provision for the welfare benefits to reflect the increased cost of living associated with cold climate regions. It still seems to me that this is a necessary component of a workable system. I would strongly support such a measure and plan to offer some legislation to that effect myself if it is not forthcoming from the administration.

I am very happy to note the strong work-related tone of the current proposal. This must be coupled with as complete as possible a program to find jobs in the private sector for willing individuals and with a public jobs program to fill in the difference between private jobs and job-seekers.

We in Congress have the opportunity now to make a historic change in the course of welfare programs. The key to the matter is practicality—to make the programs work, to insure a decent and fair level of income and supportive social services for every recipient—and accountability—to assure the taxpayer that the public funds are well spent. I certainly look forward to working with the administration and the appropriate committees in the Senate to construct and support an excellent bill.

DIRECT POPULAR ELECTION OF THE PRESIDENT

Mr. THURMOND. Mr. President, recently the Judiciary Committee gave its approval, by a margin of one vote and over my strong objection, to a constitutional amendment that would provide for direct popular election of the President. This unwise proposal would cancel, at least as far as the Presidency is concerned, the historic compromise among the States that brought the Federal Government into being. It would allow big States to dictate the choice of the Nation's Chief Executive, and so would assure that the interests of the little States would be neglected. It would crudely disrupt the delicate system of checks and balances that our forefathers labored so painstakingly to create.

Fortunately, this amendment, if approved by majorities of two-thirds in both Houses of Congress, must then be approved by three-fourths of the States. Sentiment in the States is very different from that in the Judiciary Committee. There recently appeared in the State newspaper of Columbia, S.C., an editorial on the proposed amendment expressing adamant opposition. This editorial is concise and cogent, and I believe that it reflects the feelings of the overwhelming majority of the citizens of my State. In order that my colleagues may have access to it, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Columbia (S.C.) State, Sept. 24, 1977]

SMALL STATES' VOTES THREATENED ONCE MORE

Popular election of the President of the United States, that hardy perennial of anti-federal zealots in and out of Congress, has reared its head again in Congress.

As usual, it takes the form of a proposal by Indiana's liberal Sen. Birch Bayh to scrap the electoral college procedure for Presidential elections which is imbedded in the Constitution. In its stead, Senator Bayh and his colleagues would substitute direct election in which the total popular vote nationwide would determine the outcome.

Proponents of the plan argue, including President Carter that it simply reflects the American tradition of majority rule. What they don't acknowledge is that its adoption would gut another valued political tradition historically linked with the United States—federalism.

At present, each of the states of the union has a number of Presidential electors corresponding with its members of Congress. That means that every state has two electors (for its two U.S. senators) and as many additional electors as its population entitles it to have representatives in the House. This pattern reflects the great compromise embodied in the composition of the Congress itself, that is, variable numerical representation reflecting population plus fixed representation which reflects the status of states as states.

Thus, the present system tends to give weight to the smaller and lesser populated states of the union beyond that which they would have in a direct election hinging on numbers alone. Not only does this system incorporate the essence of federalism, it has the political benefit of insuring that Presidential candidates concern themselves with the voters in all states, not just those in the teeming population centers.

That point was raised recently when the Senate Judiciary Committee gave the Bayh bill a 9 to 8 favorable vote, thereby setting it up for debate in the 1978 session. Sen. Malcolm Wallop, speaking for the lightly populated western state of Wyoming, told his colleagues that the "vast majority" of Americans would never see a Presidential candidate, since they would limit their campaigning to big cities and industrial concentrations.

There are, to be sure, shortcomings in the electoral college system as now constituted. For one thing, the "winner-take-all" feature means that the candidate who carries a state by as little as 51 per cent of the popular vote is awarded 100 per cent of the electoral vote. For another, there is an awkwardness in the business of actually naming persons as Presidential electors without assurance, in some instances, that they will vote as their constituents wished.

These weaknesses can be readily corrected by adoption of one of several plans by which a state's electoral vote (not electors) is apportioned among the Presidential candidates according to the candidates' relative showing in that state's popular balloting. Senator Thurmond has sponsored such a move.

The proportional approach would give weight to voting strength in all states, but it also would preserve the federal feature which gives weight to the states themselves. And it would preserve a system of representation which the U.S. Supreme Court has described as being "ingrained in our Constitution, as part of the law of the land. It is one conceived out of compromise and concession indispensable to the establishment of our federal republic."

SUPPORT OF THE PASSIVE RESTRAINT RULE

Mr. KENNEDY. Mr. President, the carnage on our Nation's highways is staggering. Each year, automobile accidents claim more lives than were lost in the entire Vietnam war. Approximately 27,000 of these are occupants of motor vehicles. While steps have been taken to improve the safety of automobiles, like safety glass, collapsible steering columns, rollover protection, and turn signals, the tremendous loss of life continues.

The strain resulting from highway accidents on our medical facilities is enormous, not to mention the tremendous cost in terms of human suffering and anguish. For example, one-sixth of the persons admitted to hospital emergency rooms are victims of automobile accidents. Persons who are killed or incapacitated in auto accidents leave societal costs that affect all of us. Welfare and social security costs must support many of the families of deceased or incapacitated auto crash victims. Public investment in education of auto crash victims is frequently lost. Retraining costs for seriously injured automotive accident victims are large, as is the depletion of the tax base due to the loss of earning power.

On January 30, Secretary of Transportation Brock Adams promulgated a rule which could have profound effects on the health and safety of the driving public in this country. The rule would require that automatic crash protection devices be installed in all new automobiles under a phased schedule beginning in model year 1982.

The decision of the Secretary of Transportation to require that automobiles have the latest in occupant crash protection should reduce substantially the number of deaths and injuries occuring on the Nation's highways. The Department of Transportation has estimated that 9,000 lives could be saved and 100,000 severe injuries prevented if all vehicles were equipped with these kinds of automatic crash protection.

There are few things that the Federal Government may do that would have this kind of life-saving potential. In fact, I am confident that there would be little or no hesitency on the part of the Congress to impose rigorous strictures on the chemical or drug industry or any other facet of business if the effect would be to save 9,000 lives and 100,000 severe injuries.

The consumer will be the winner if Secretary Adams' decision goes into ef-

fect. Not only will lives be saved and injuries avoided, but insurance costs will go down if passive restraints are included in every automobile. In fact, if air cushions are installed, consumers will be repaid through insurance savings in approximately 5 years—about one-half the useful life of an automobile.

The alternative to mandatory passive restraint equipment is vastly increased use of existing belt systems in automobiles. While effectiveness equal to that of passive restraints is possible by the 70 to 80 percent of seatbelts, it is clear that there is no way to achieve that kind of usage short of mandatory requirements for belt use, punishable by fines or even jail terms. An intensive media campaign in Grand Rapids, Mich., financed by the auto industry has resulted in virtually no increase in seatbelt usage. Moreover, a national survey completed by the National Highway Traffic Safety Administration of the Department of Transportation indicates that seatbelt use is gradually going downhill in recent years. Currently, less than 20 percent of automobile occupants nationwide use seatbelts.

There is widespread support for the Secretary's decision. A coalition formed for the express purpose of insuring that the Secretary's decision is upheld, the National Committee for Automobile Crash Protection, contains the American Academy of Pediatrics; the American Congress of Rehabilitation Medicine; the American Nurse Association, Division of Medical Surgical Practice; the Epilepsy Foundation of America; the Physician's National Housestaff Association; and the Mid-Atlantic Emergency Services, Inc. Other groups, including the American Automobile Association, the International Association of Chiefs of Police, the United Auto Workers, and the American Public Health Association, likewise support the decision. I ask unanimous consent that a "Dear Colleague" letter listing groups in support of the decision sent to Members of the Senate by the distinguished senior Senator from Washington, chairman of the Committee on Commerce, Science, and Transportation, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, I applaud the efforts of the Secretary of Transportation to insure that American consumers are offered inherently safe automobiles. To delay that objective now can only postpone what should have been done long ago. I urge my colleagues to support the Secretary's decision.

EXHIBIT NO. 1

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C., September 9, 1977.

DEAR COLLEAGUE: As you know, Secretary of Transportation Brock Adams recently promulgated a rule requiring that new automobiles be equipped with automatic crash protection devices, the so-called "passive restraints." Passive restraints would be required in all new automobiles under a phased schedule beginning in model year 1982 and completed in model year 1984.

Under the terms of the National Traffic and Motor Vehicle Safety Act, Congress has an opportunity, for 60 calendar days, excluding recesses of greater than 3 days, to overturn the decision. Assuming no further recesses of greater than 3 days, the 60-day period will expire on October 9. Secretary Adams' decision has broad support. In fact, an organization has been formed, the National Committee for Automobile Crash Protection, for the sole purpose of supporting the Secretary's decision. The membership of the organization is broad, including not only individuals, but such diverse organizations as the bulk of the insurance industry, medical groups, organized labor, and many others.

So that members of the Senate may be aware of those groups which are supporting Secretary Adams' decision, the following list contains members of the National Committee for Automobile Crash Protection, plus additional individuals and organizations who have supported the Secretary's decision.

NATIONAL COMMITTEE FOR AUTOMOBILE CRASH PROTECTION

United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW).
American Academy of Pediatrics.
Aetna Life and Casualty Insurance Company.
Alliance of American Insurers.
Allstate Insurance Companies.
American Congress of Rehabilitation Medicine.
American Insurance Association.
American Nurse Association, Division on Medical-Surgical Practice.
Automobile Club of Missouri.
Automobile Owners Action Council.
Susan P. Baker, Associate Professor, Johns Hopkins School of Hygiene and Public Health.
Center for Auto Safety
Center for Concerned Engineering.
Consumer Action Now.
Epilepsy Foundation of America.
Farmers Insurance Exchange.
Dr. Hal Fenner, Jr.
Oscar P. Hampton, Jr., M.D., F.A.C.S.
Independent Insurance Agents of America.
Mid-Atlantic Emergency Medical Services, Inc.
Ralph Nader, Attorney.
National Association of Independent Insurers.
National Association of Mutual Insurance Companies.
Nationwide Insurance Companies.
Physicians' National Housestaff Association.
Prudential Insurance Company of America.
Prudential Property and Casualty Insurance Company.
Safeco Insurance Company of America.
State Farm Insurance Companies.
Travelers Insurance Companies.

OTHER GROUPS AND INDIVIDUALS SUPPORTING THE SECRETARY'S DECISION

American Automobile Association (AAA),
International Association of Chiefs of Police.
American Public Health Association.
Citizens for Highway Safety.
Consumer Federation of America.
Consumers Union.
Council on Wage and Price Stability.
John Delorean, President, John Z. Delorean Corporation.
Eaton Corporation.
Insurance Institute for Highway Safety.
Kemper Insurance Companies.
Hartford Life and Accident Insurance Companies.
Maryland Association of Women Highway Safety Leaders.
Maryland Department of Transportation.
Maryland Transportation Commission.
Mid-Atlantic Emergency Medical Services Council.
Mississippi Safety Council.
National Conference of Governors' Highway Safety Representatives.
National Motor Vehicle Safety Advisory Council.
National Transportation Safety Board.
New York Consumer Assembly.
Physicians for Auto Safety.
State of Maine Department of Transportation.
Talley Industries, Inc.
Thiokol Corporation.
Transportation and Traffic Safety Committee of the Maryland Medical and Chirurgical Faculty.
West Virginia Safety Council.

With best wishes.

Sincerely yours,

WARREN G. MAGNUSON,
Chairman, Committee on Commerce, Science and Transportation.

S. 2104

Mr. PEARSON. Mr. President, the substitute amendment to S. 2104, the natural gas pricing bill, offered by Senator JACKSON is not a compromise. I urge the Senate to reject the Jackson substitute in favor of the Pearson-Bentsen amendment to S. 2104.

Mr. President, the debate of this last week illustrates the obvious disagreement in the Senate over how this country should price its natural gas resources. On several points, however, I think it is possible for both proponents and opponents of continued regulation to agree.

We can all agree that it would be to our advantage to produce more natural gas domestically at a fair price to the consumer. The Jackson substitute will not encourage production. In fact, it would work a virtual shut down of exploratory drilling nationwide. The definition of new gas under the Jackson substitute is so rigidly drawn as to exclude 94 percent of gas produced from new exploratory wells. Since only about 4½ percent of our total current production comes from exploratory wells, approximately three-tenths of 1 percent of the gas produced in this country would be eligible for new gas prices under the formula proposed by Senator JACKSON. This is hardly a compromise.

We can all agree that substantial curtailments of natural gas are likely this winter, and we should do everything possible to ameliorate the expected shortages. The Federal Power Commission has projected curtailments for this winter to reach more than 1.6 trillion cubic feet. Senator JACKSON's substitute would exacerbate these curtailments in this and coming winters. It will actually roll back prices in the intrastate market, the sole source of additional gas that has kept this country running during recent winters. Since under the Jackson substitute only a small percentage of exploratory wells would qualify, most new gas would not receive the $2.03 price advertised, but rather the old regulated price of $1.46 per Mcf.

We can agree that it would be to our national advantage to decrease our dependence on foreign imports. This year our bill for foreign energy will be in ex-

cess of $45 billion. Senator JACKSON's substitute amendment continues the discredited policy or regulation. It will do little to stimulate domestic production or lessen our demand for foreign energy.

Mr. President, the Pearson-Bentsen amendment, which effectively deregulates the price of new natural gas, will increase production in a time of shortage; and it will decrease our dependence on imported energy. Contrary to the claims of its opponents, the Pearson-Bentsen amendment will not lead to a precipitous price increase to the residential consumer since we are proposing the deregulation of only new gas and because the wellhead price is a minor, perhaps 25 percent factor, in the average homeowner's gas bill.

In order to further insulate the small consumer from the increased cost of new gas, today we have agreed to a number of changes in the Pearson-Bentsen proposal.

First, we have agreed to residential price protection through the incremental pricing of new, deregulated gas. Industrial users will bear the full cost of new gas while residential, small commercial, human needs, and agricultural users continue to receive old gas prices for as long as old gas remains available.

Second, we also have agreed to a 24-month fail-safe cap on deregulated sales of natural gas. While incremental pricing and the laws of supply and demand should prevent new gas prices from exceeding those of equivalent fuels, we shall accept a "failsafe cap" to provide added protection to the consumer. The cap will prevent market aberrations during the period immediately following deregulation while at the same time providing the American producer a fair price for new natural gas. This cap may not exceed the price allowed for new natural gas imported from Mexico.

Third, there are certain instances in which gas may rightfully be withheld from production, such as when discoveries are made in remote areas not served by existing pipelines and the cost of building a pipeline to the gas cannot be justified, or a new discovery may not be economical because the cost of producing a marginal gas reserve can exceed prevailing prices. However, to guard against the possibility of withholding gas in anticipation of expedited price increases, we will add a provision that empowers the Federal Energy Regulatory Commission to deny deregulated prices to any gas found to have been wrongfully withheld.

Fourth, we will accept an amendment already proposed by Senators STONE and CHILES to allow interstate pipelines to compete freely for gas in the intrastate market.

Mr. President, the total Pearson-Bentsen proposal, the changes that I have just outlined together with the basic provisions of Pearson-Bentsen—which deregulate only new gas and provide an agricultural priority for all gas—represents a truly comprehensive natural gas policy which will provide for increased supplies of natural gas for the American people at a fair price.

DEREGULATION

Mr. STONE. Mr. President, most economists agree that Federal price controls of natural gas have discouraged domestic exploration and production of this important energy source. It is absolutely certain that unless our energy policy provides greater incentives for domestic natural gas production, America will have little choice but to import increasing amounts of oil and natural gas.

The Pearson-Bentsen bill, of which I am a cosponsor, provides the necessary incentives for greater domestic natural gas production. An editorial in the Orlando Sentinel Star underlines this point. I ask unanimous consent to print this editorial in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLITICS AND FAILURE TO DEREGULATE

In 1954 U.S. Supreme Court Justice William O. Douglas prophesied "years of confusion" if the Federal Power Commission attempted to regulate thousands of natural gas producers, all with different costs bases and methods.

Two years later President Eisenhower warned that the continued regulation of natural gas "will discourage individual initiative and incentive to explore for and develop new reserves of gas."

Despite the accuracy of these and later warnings, the FPC has retained its regulatory authority over interstate gas pricing and transmission. Last week the House extended that control to sale of in-state gas which previously was unregulated.

House action was pegged to internal politics staged by Speaker Thomas P. O'Neill of Massachusetts and Majority Leader James Wright of Texas. True, they threw a bone to the industry by raising the price of newly discovered natural gas from $1.45 per 1,000 cubic feet to $1.75, but the defeat of deregulation, however narrow, was a clear victory for President Carter and fulfillment of another of his campaign pledges.

Consumers of natural gas haven't long to wait—January at the latest—to balance wintry weather against limited supplies of gas and ponder the ways of their representative government.

The shortage of natural gas is the direct result of artificially imposed price ceilings. The alternative to doing without is to switch to fuel oil which is more expensive. The price of old crude, still regulated, is about $5.25 a barrel. New domestic and foreign crude is almost $12 a barrel. An equivalent amount of natural gas today sells for $3.

And yet, there are more known reserves of natural gas on and offshore continental United States than there are of oil. The barrier to drilling is the inflated cost of exploration and government's continued intervention.

Ironically, we are increasing our consumption of foreign oil that costs up to four times what we are willing to offer a domestic industry and asking that it also invest in speculative exploration.

NOTICE OF INTENTION TO SUSPEND THE RULES

Mr. ROBERT C. BYRD. Mr. President, I submit the following notice in writing: "In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 1 of rule XXI for the purpose of moving to waive the reading of proposed amendments to S. 2104, without debate."

NOTICE OF INTENTION TO SUSPEND THE RULES

Mr. ROBERT C. BYRD. Mr. President, I submit the following notice in writing: "In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 1 of rule XXII, to wit the phrase, "To amend," to permit a motion to call up amendments to S. 2104 en bloc."

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 994

Mr. ABOUREZK. I call up amendment 994. I ask the clerk to report it.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 994.

The second legislative clerk proceeded to read the amendment.

Mr. DURKIN. Mr. President——

Mr. HANSEN. Mr. President——

Mr. ABOUREZK. Regular order, Mr. President.

Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. The clerk will finish reading the amendment.

The second assistant legislative clerk continued to read the amendment.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The second assistant legislative clerk continued to read the amendment.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HANSEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the reading of the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

On the first page between lines 2 and 3 insert the following:

"TITLE I—NATURAL GAS".

At the end of the bill, add the following new title:

"TITLE II—PETROLEUM INDUSTRY COMPETITION

"SEC. 201. This Act may be cited as the 'Petroleum Industry Competition Act of 1977'.

"FINDINGS AND PURPOSE

"SEC. 202. (a) FINDINGS.—The Congress finds and declares that—

"(1) this Nation is committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents undue concentration of economic, social, and political power, and helps preserve a democratic society;

"(2) vigorous and effective enforcement of the antitrust laws and reduction of monopoly and oligopoly power in the economy can contribute significantly to reducing prices, unemployment, and inflation;

"(3) existing antitrust laws have been inadequate to maintain and restore effective competition in the petroleum industry; and

"(4) the extraordinary dimensions of the remedy required by this Act necessitate expenditure judicial supervision of the divestitures and attendant actions required by this Act.

"(b) PURPOSE.—It is the purpose of the Congress in this Act to facilitate the creation and maintenance of competition in the petroleum industry, and to require the most expeditious and equitable separation and divestment of assets and interests of vertically integrated major petroleum companies.

"DEFINITIONS

"SEC. 203. As used in this title—

"(a) 'person' means an individual person or a corporation, partnership, joint stock company, trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated, and whether or not domiciled or incorporated within the United States. It does not include any authority of the United States or of the several States;

"(b) 'control' means a direct or indirect legal or beneficial interest in or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates of officers, or contractual relations which substantially impair the independent business behavior of another person;

"(c) 'affiliate' means a person controlled by, controlling, or under or subject to common control with respect to any other person;

"(d) 'asset' means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation;

"(e) 'commerce' means commerce among the several States, with the Indian tribes, or with foreign nations; or commerce in any State which affects commerce among or between a State and a foreign nation;

"(f) 'energy resource' means crude oil, natural gas liquids and condensate;

"(g) 'refine' means to change by any operation the physical or chemical characteristics of petroleum or petroleum products in order to create a derivative product for resale, exclusive of the operations of passing petroleum through a separator to remove gas, placing petroleum in settling tanks to remove basic sediment and water, dehydrating petroleum and generally cleaning and purifying petroleum;

"(h) 'refined product' means any product, whether liquid or gas, which is produced by a refinery asset;

"(i) 'marketing asset' means any asset used in the sale and distribution of gasoline or fuel oil, including diesel and distillate, to ultimate consumers at a retail motor fuel outlet, other than the initial sale with transfer of ownership to customers at the refinery;

"(j) 'operate' means engaging in the business of selling gasoline and diesel, directly or indirectly, or through any agent who receives any commission, compensation, or payment because of the sale of such product;

"(k) 'production asset' means—

"(A) natural deposits of crude oil, or condensate and natural gas liquids;

"(B) any asset used primarily in the exploration for, development of, or production of an energy resource including, but not limited to, an interest in real property, whether or not such real property is developed or undeveloped; and

"(C) geological and geophysical information;

"(l) 'refinery asset' means any asset used in the refining of an energy resource;

"(m) 'transportation asset' means any asset used in the transportation within the United States by pipeline or gathering line of crude oil or refined product;

"(n) 'major marketer' means any person which, during the calendar year 1974 or in any subsequent year, alone or with affiliates, marketed or distributed one hundred and ten million barrels of refined product within the United States;

"(o) 'major producer' means any person which, during the calendar year 1974 or in any subsequent calendar year, alone or with affiliates, produced within the United States either a total of thirty-six million five hundred thousand barrels of crude oil, condensate, and natural gas liquid production during the calendar year 1974 or in any subsequent calendar year totaled thirty-six million five hundred thousand barrels;

"(p) 'major refiner' means any person which, during the calendar year 1974 or in any subsequent calendar year, alone or with affiliates, refined within the United States one hundred and ten million barrels of refined product, including that refined by another refiner under a processing agreement;

"(q) 'petroleum transporter' means any person which transports an energy resource or refined product by pipeline in commerce within the United States;

"(r) 'Outer Continental Shelf' means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (67 Stat. 29) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

"(s) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands and the Outer Continental Shelf;

"(t) 'Commission' means the Federal Trade Commission; and

"(u) 'prohibited asset' means any marketing asset, production asset, refining asset, or transportation asset, the retention of which is prohibited by section 102 of this Act.

"UNLAWFUL RETENTION

"SEC. 204. Notwithstanding any other provision of law, five years after the date of enactment of this Act, it shall be unlawful—

"(a)(1) for any major producer to own, or control, any interest in any refinery asset, transportation asset, or marketing asset;

"(2) for any petroleum transporter to own or control any interest in any production asset, refinery asset, or marketing asset;

"(3) for any major refiner or major marketer to own or control any interest in any production asset or transportation asset;

"(b) for any person who owns any refining asset, production asset, or marketing asset to transport any energy resource or refined product in which he has any interest, by means of any transportation asset in which he has any interest.

"UNLAWFUL OPERATION

"SEC. 205. Upon enactment of this Act, it shall be unlawful for any major refiner to operate, either directly or indirectly, any marketing asset which it did not operate prior to January 1, 1977.

"EXEMPTIONS

"SEC. 206. (a) The Commission may, upon application by any person required to divest interests in assets under section 102 or prohibited from using assets by section 102 (b), exempt any major producer, petroleum transporter, major refiner, major marketer, or any other person from the operation of section 102 with respect to any transportation asset upon a finding—

"(1) that such transportation assets are so integral a part of other assets, the retention or use of which is not prohibited under section 102, that no public purpose would be served by the divestment of or prohibition of the use of any such transportation asset; and

"(2) that the retention or use of any such transportation asset will not tend to injure competition or otherwise subvert the purposes of this Act.

"(b) In order to facilitate the purposes of this section, the Commission is authorized to exempt any corporation formed or reorganized as a result of compliance with this section from the prohibitions contained in section 8 of the Act of October 5, 1914 (38 Stat. 732; 15 U.S.C. 19) for a period not to exceed one year.

"REPORTS

"SEC. 207. Each person subject to section 102 or 103 shall, within thirty days from the date of enactment of this Act, file with the Commission a report listing their prohibited assets. The Commission may order subsequent reports from persons subject to section 102 or 103 and may order reports from such other persons as it requires. Appeals from an order of the Commission issued under this section must be filed with the court within five days after the order has been served and the court must grant or deny the appeal, or modify the order as it deems proper within ten days.

"PROHIBITION ON SOLICITATION

"SEC. 208. It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding any security of a corportation subject to the requirements of sections 102 or 103 or a subsidiary corporation thereof in contravention of such rules.

"ENFORCEMENT

"SEC. 209. (a) The Commission, in accordance with such rules, regulations, or orders as it deems appropriate to carry out the purposes of this Act, shall require each person subject to the provisions of sections 102 or 103 to submit to the Commission within 18 months of the date of enactment of this Act, a plan or plans for the divestment of the prohibited assets. Such plan must—

"(1) be fair and equitable to all affected persons; and

"(2) substantially accomplish the required divestiture within 5 years of the date of enactment of this Act.

The Commission, within one hundred and twenty days after the submission of the plan or plans by the persons subject to sections 102 and 103, shall file its plans with the court; except that no plan shall be filed which will not substantially accomplish divestment of prohibited assets on or before five years the date of enactment of this Act. Failure of any person or persons to file a plan or plans shall not relieve the Commission of its duty to file its plan or plans for the divestiture of the prohibited assets of that person or persons.

"(b) The plan required under subsection (a) of this section shall be devised by each

person subject to the provisions of this Act with respect to their own interests only, in consultation with the officers and employees of the Commission, and the Securities and Exchange Commission under guidelines which the Commission, with the advice and counsel of the Securities and Exchange Commission, shall promulgate.

"(c) The Commission shall institute suits or actions only in the court established under title II of this Act for such relief as is appropriate to assure compliance by any person with this Act, including, but not limited to, orders of divestiture, declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, the appointment of temporary or permanent receivers or trustees, civil penalties, and punitive damages for willful failure to comply with lawful orders of the court.

"(d)(1) In the administration of the provisions of this section, the Commission shall have primary oversight jurisdiction and responsibility for the preparation and final approval of the required divestiture plans.

"(2) The Securities and Exchange Commission shall advise the Commission as to the conformity of each such plan with general standards of fairness and equity with respect to the interests of the holders of debt and equity interests in corporations affected by the operation of section 102 or 103.

"(e) In carrying out the provisions of this Act, the Commission and the Securities and Exchange Commission are each authorized to utilize all powers conferred upon them separately, and all sanctions associated therewith, by any other provision of law.

"(f) The Commission and the Securities and Exchange Commission shall serve as advisers to the court in any reorganization proceeding related to the operation or enforcement of the provisions of section 102 or 103 of this Act.

"FAIR AND EQUITABLE

"SEC. 210. Simultaneously with the filing of the Commission's plan with the court, the Securities and Exchange Commission shall file separately and independently an analysis of the conformity of such plan with general standard of fairness and equity with respect to the holders of debt and equity interests of any corporation affected by the provisions of section 102 or 103.

"STATEMENT OF DIFFERENCES

"SEC. 211. Any person subject to the provisions of section 102 or 103, not later than sixty days after the date on which the Securities and Exchange Commission and the Commission have filed the reports pursuant to the requirements of section 107, shall be entitled, as a matter of right, to file with the court a statement of differences with the proposed plans.

"JUDICIAL DISPOSITION

"SEC. 212. After the filing of the plans by the Commission, the court shall—

"(a) give notice to all persons affected by the plans;

"(b) permit the intervention by all persons having legally cognizable rights affected by the final disposition of the plans;

"(c) resolve in hearings on the record such disputes of law and fact as may arise between and among the affected persons, the Commission, and the Securities and Exchange Commission regarding the disposition of the plans for divestiture of the prohibited assets;

"(d) prior to entering a final order regarding the implementation of the plans, give an opportunity to all interested persons to file written comments on the plans; and

"(e) no later than two years from the filing by the Commission of its plans, issue orders causing the implementation of the plans in such a manner as will accomplish the purposes of the Act within five years of its enactment and be fair and equitable to all persons affected.

"The court shall have the power to modify the plans as it deems necessary.

"Notwithstanding any other provisions of law, the Attorney General of the United States may intervene in any matter before the court as a matter of right. The court may seek the advice of the Attorney General concerning any matter before it.

"ADMINISTRATIVE SUPPORT

"SEC. 213. Notwithstanding any other provision of law, the Commission and the Securities and Exchange Commission may contract for the services of such persons including lawyers, economists, accountants, appraisers, securities analysts, neutral experts, and such other personnel as may be necessary to expeditiously carry out the responsibilities vested in each of them respectively by the provisions of this Act.

"SANCTIONS

"SEC. 214. (a) Any person or any officer, director, or partners thereof, who violates any provision of this Act shall forfeit and pay to the United States a civil penalty of not more than $100,000 in the case of an individual, or not more than $1,000,000 in the case of a corporation. Such penalties shall accrue to the United States and may be recovered in a civil action brought by the Commission. Failure to obey any order of a court pursuant to this Act shall be punishable by such court as a contempt of court.

"(b) Any person or any officer, director or partner thereof, who violates a lawful order of the Commission issued pursuant to this Act shall forfeit and pay to the United States, for each violation, a civil penalty of not more than $100,000 which shall accrue to the United States and may be recovered in a civil action brought by the Commission. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey an order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense.

"SALE OF SECURITIES

"SEC. 215. (a) The Commission shall promulgate such rules, regulations, and orders as it deems necessary to require that any plan or plans for divestment of the prohibited assets shall provide for the maintenance of competitive conditions in capital markets for the sale of notes, securities, or assets pursuant to such plan or plans.

"(b) To this end, the Commission shall require that the size, timing, and other conditions of sale for such notes, securities, or assets shall be such as to encourage broad participation by underwriters and potential purchasers.

"(c) The Commission shall promulgate such rules, regulations, and orders as it deems necessary to assure that competitive conditions are maintained in capital markets when loans, leases, and other financings are entered into by persons required to submit a plan or plans required pursuant to this section during the pendency or in conjunction with such plan or plans.

"ESTABLISHMENT

"SEC. 216. There is hereby created a court of the United States to be known as the Temporary Petroleum Industry Divestiture Court (hereinafter referred to in this title as the "court") which shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The court shall be dissolved by order of the Chief Justice of the Supreme Court upon a determination that its purposes have been accomplished and at such time its power, jurisdiction, and any unfinished business shall be transferred to the United States District Court for the District of Columbia.

"JUDGES

"SEC. 217. The Chief Justice of the United States shall designate one of such judges as chief judge of the court and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members and any such division may render judgment as the judgment of the court.

"REFERENCE JURISDICTION

"SEC. 218. The court shall have the powers of a district court with respect to the jurisdiction conferred on it by this Act. The court or a panel thereof may, at any stage of a proceeding under this Act, refer the proceeding or any part thereof or any issue therein to a referee in bankruptcy to hear and determine any and all matters not reserved to the court or panel by this Act, or to referee as a special master, to hear and report generally or upon specified matters, or to a special master for such action with respect thereto as the court or a part thereof may direct.

"TRANSFER JURISDICTION

"SEC. 219. (a) A single judge or panel of the court may exercise all functions of the Judicial Panel on Multidistrict Litigation as provided under section 1407 of title 28, United States Code, with respect to any matter before the court.

"(b) The Judicial Panel on Multidistrict Litigation shall exercise no function with respect to any matter before the court.

"GENERAL JURISDICTION

"SEC. 220. The court shall have exclusive jurisdiction, without appeal, except as otherwise provided in this Act, of all plans, actions, and suits brought under this Act or which relate to any matter affected by the operation of this Act and the resolution of which is necessary to the expeditious implementation of any provision of this Act or of any divestiture required by this Act. The jurisdiction of the court shall not include any action brought by the Department of Justice or the Commission under the antitrust laws or the Federal Trade Commission Act.

"COMPULSORY PROCESS

"SEC. 221. Notwithstanding any other provision of law in the execution of its responsibilities and powers under this title the court may issue its process to any person and service thereof may be had in any district where such person resides, transacts business, or many otherwise be found. The court, in aid of the execution of this provision, may issue such writs as may be provided under section 1651 of title 28, United States Code.

"RULES

"SEC. 222. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases of which it has jurisdiction under this Act.

"APPEAL

"SEC. 223. The court may fix and establish a table of costs and fees to be approved by the Supreme Court of the United States, but the costs and fees so fixed shall not exceed with respect to any item the costs and fees charged in the Supreme Court of the United States. Within thirty days after entry of a judgment or order, interlocutory or final, by the court a petition of a writ of certiorari

may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a circuit court of appeals of the United States. No interlocutory appeal may be filed without certification of the court. The Supreme Court shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this section. The court and the Supreme Court upon review of judgments and orders of the court shall have exclusive jurisdiction. Except as provided in this section, no court, Federal, State, or territorial, shall have jurisdiction or power to consider any appeal involving any action or suit brought under this Act or any matter affected by the operation of this Act and the resolution of which is necessary to the expeditious implementation of any provision of this Act or any divestiture required by this Act.

"CLERK AND EMPLOYEES

"SEC. 224. (a) The court may appoint a clerk who shall be subject to removal by the court. The court may appoint or authorize the appointment of such other officers and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

"(b) The officers and employees of the court shall be subject to the removal by the court or, if the court so determines, by the clerk or other officer who appointed them, with the approval of the court.

"(c) Referees and special masters appointed under section 203 shall be compensated as provided under section 40 of the Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States', approved July 1, 1898 (30 Stat. 544, 556), as amended (11 U.S.C. 68).

"(d) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him and make returns thereof to the Director of the Administrative Office of the United States Courts.

"LAW CLERKS AND SECRETARIES

"SEC. 225. The judges of the court may appoint such law clerks and secretaries as may be necessary.

"LIBRARIAN, MARSHAL, AND BAILIFFS

"SEC. 226. (a) The court may appoint a librarian and necessary library assistants who shall be subject to removal by the court.

"(b) The court may appoint a marshal, who shall attend the court at its sessions, be custodian of its courthouse or chambers and offices, have supervision over its custodial employees, take charge of all property of the United States used by the court or its employees, and perform such other duties as the court may direct. The marshal shall be subject to removal by the court. The marshal, with the approval of the court, may employ necessary bailiffs. Such bailiffs shall attend the court, preserve order, and perform such other necessary duties as the court or marshal may direct. The bailiffs shall receive the same compensation as bailiffs employed for the district courts of the United States.

"SEAT

"SEC. 227. The principal seat of the court shall be in the District of Columbia. The court may sit at such times and places within the United States as the court may designate.

"SEAL

"SEC. 228. The court shall have a seal which shall be judicially noticed.

"SESSIONS

"SEC. 229. The time and place of the sessions of the court shall be prescribed by the chief judge pursuant to rule of the court.

"CONFLICTS

"SEC. 230. No judge of the court, receiver in bankruptcy, or special master shall hear or determine any matter in which he has a conflict of interest.

"APPROPRIATIONS

"SEC. 231. There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act.".

Mr. HANSEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. HANSEN. This amendment, in the first place, should be ruled out of order because it is nongermane. It deals with divestiture which is not before the Senate at this time. Second, it would seek to amend the bill in two different places.

I appeal to the Chair to rule it out of order.

The PRESIDING OFFICER. The Chair sustains the point of order on both counts.

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow.

Mr. ABOUREZK. I object.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate now stand in recess until the hour of 9 a.m. tomorrow.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

The question is on agreeing to the motion of the Senator from West Virginia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 87, nays 1, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—87

Abourezk	Byrd,	DeConcini
Allen	Harry F., Jr.	Dole
Anderson	Byrd, Robert C.	Domenici
Baker	Cannon	Durkin
Bartlett	Chafee	Eagleton
Bayh	Chiles	Eastland
Bellmon	Church	Ford
Bentsen	Clark	Garn
Biden	Cranston	Glenn
Brooke	Culver	Goldwater
Bumpers	Curtis	Gravel
Burdick	Danforth	Hansen
Hart	Mathias	Riegle
Haskell	Matsunaga	Roth
Hatch	McClure	Sarbanes
Hatfield	McGovern	Sasser
Hathaway	McIntyre	Schmitt
Hayakawa	Melcher	Schweiker
Heinz	Metzenbaum	Sparkman
Helms	Morgan	Stevens
Hollings	Moynihan	Stevenson
Inouye	Muskie	Stone
Jackson	Nelson	Talmadge
Javits	Nunn	Thurmond
Johnston	Packwood	Tower
Kennedy	Pearson	Wallop
Laxalt	Pell	Williams
Leahy	Proxmire	Zorinsky
Lugar	Randolph	
Magnuson	Ribicoff	

NAYS—1

Weicker

NOT VOTING—12

Case	Long	Scott
Griffin	McClellan	Stafford
Huddleston	Metcalf	Stennis
Humphrey	Percy	Young

RECESS UNTIL 9:00 A.M. TOMORROW

The motion was agreed to; and at 10:14 p.m., the Senate recessed until tomorrow, Tuesday, September 27, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 26, 1977:

DEPARTMENT OF LABOR

Julius Shiskin, of Maryland, to be Commissioner of Labor Statistics, U.S. Department of Labor, for a term of 4 years (reappointment).

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066 in grade as follows:

To be lieutenant general

Maj. Gen. John Raymond Kelly, Jr., [redacted] U.S. Air Force.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 26, 1977:

MISSISSIPPI RIVER COMMISSION

Maj. Gen. Robert Creel Marshall, [redacted] U.S. Army, to be a member and president of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved June 28, 1879 (21 Stat. 37) (33 U.S.C. 642).

Brig. Gen. William Edgar Read, [redacted] U.S. Army, to be a member of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved June 28, 1879 (21 Stat. 37) (33 U.S.C. 642).

ENVIRONMENTAL PROTECTION AGENCY

Marvin B. Durning, of Washington, to be an Assistant Administrator of the Environmental Protection Agency.

David G. Hawkins, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

CALIFORNIA DEBRIS COMMISSION

Col. Donald Michael O'Shei, Corps of Engineers, to be a member of the California Debris Commission, under the provisions of section 1 of the act of Congress approved March 1, 1893 (27 Stat. 507) (33 U.S.C. 661).

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—Monday, September 26, 1977

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He hath showed thee, O man, what is good; and what doth the Lord require of thee but to do justly, and to love mercy, and to walk humbly with thy God? Micah 6: 8.

O God, our Father, eternal source of wisdom, power, and love, whose mercy is over all Thy works and whose will is ever directed to Thy children's good, help us with increasing faith to come to Thee for light upon our way, for strength in our way, and for love along our way, that we may now and always do justly, love mercy, and walk humbly with Thee.

As we face the tasks of this day and this week, grant us faith and fortitude that we may make our decisions wisely, plan our work thoughtfully, and develop our policies prayerfully for the good of all. Laboring this day and every day, keep our minds clear, our hearts clean, and our spirits courageous that we may become a stronger nation living in a better world.

In the spirit of Him who is the Way, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 126. An act to reduce the hazards of earthquakes, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6415) entitled "An act to extend and amend the Export-Import Bank Act of 1945."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7554) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes and that the Senate agreed to the House amendments to the Senate amendments numbered 28, 45, and 46.

The message further announced that the Senate disagreed to the amendment of the House to the amendment of the Senate numbered 40 and requested a further conference with the House thereon and appointed Mr. PROXMIRE, Mr. STENNIS, Mr. BAYH, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. MCCLELLAN, Mr. MATHIAS, Mr. CASE, Mr. BROOKE, Mr. BELLMON, and Mr. YOUNG to be conferees on the part of the Senate to the foregoing bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3373. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarns of silk.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 81. Joint resolution to express the sense of the Congress that, in the light of history, the third Thursday in December 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and respectfully to request that the President, under the provisions of Public Law 82-324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977."

INCREASING RETIREMENT BENEFITS FOR RETIRING MEMBERS OF CONGRESS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, last Friday, a bill was brought up to increase retirement benefits for Members of Congress retiring at the end of this term. This bill was brought up by unanimous consent which permits routine handling of noncontroversial, purely technical matters. By calling up H.R. 9262 on that calendar, its purpose was seriously abused in a manner which I find intolerable. It is unbelievable that the leadership permitted this to happen.

When a bill will enrich a select few Members of this body—or any other for that matter—at the expense of American taxpayers, I just cannot understand how it can be called either "noncontroversial" or "technical." And when the House handles expensive, self-serving legislation, the same day as it was introduced, with no committee consideration, with no prior official notice to the membership, and without a vote, I can understand all too well why public confidence in this body has eroded so severely.

News of this legislation was on the front page of the Wichita Eagle this Saturday morning, but we in the House had no prior notice. I am shocked, as I am sure many Americans are, to think that this expensive provision was approved in such a devious manner.

While our colleague, Representative OBEY, has been striving to secure approval of ethics proposals designed to rebuild public confidence in Congress, the handling of this one bill could seriously undercut his efforts.

We are playing a dangerous parliamentary game. The issue of congressional perks is most assuredly controversial. And well it should be. If I cannot appeal to your sense of decency, then may I appeal to your sense of politics. If this body continues to vote itself more and more and to listen less and less to the urgings of the people for Congress to stop making backdoor deals on our own behalf, then we will see others in our places in the 96th Congress.

Noncontroversial? Not in my district and I have grave doubts that it is in your district either.

NINTH ANNUAL REPORT ON ADMINISTRATION OF NATURAL GAS PIPELINE SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I herewith transmit the Ninth Annual Report on the administration of the Natural Gas Pipeline Safety Act of 1968. This report has been prepared in accordance with section 14 of the Act and covers the activities for calendar year 1976, prior to the time I became President.

JIMMY CARTER.

THE WHITE HOUSE, *September 26, 1977.*

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 6655, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1977

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6655) to amend certain Federal laws pertaining to community development, housing, and related programs.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits and ask unanimous consent that the bill

be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

Sec. 101. Findings and purpose.
Sec. 102. Definitions.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

Sec. 121. District of Columbia Retirement Board.
Sec. 122. District of Columbia Policemen and Firemen's Retirement Fund.
Sec. 123. District of Columbia Teachers' Retirement Fund.
Sec. 124. District of Columbia Judges' Retirement Fund.
Sec. 125. Management of Retirement Funds.
Sec. 126. Payments from Funds.

PART C—FINANCING OF RETIREMENT BENEFITS

Sec. 141. Limitation on investment of Retirement Funds.
Sec. 142. Determination of Federal and District of Columbia payments to the Funds.
Sec. 143. Information about retirement programs.
Sec. 144. Federal and District of Columbia payments to the Funds.
Sec. 145. Conforming amendments.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

Sec. 161. Personal financial disclosure by Board members.
Sec. 162. Annual reports.
Sec. 163. Retirement program summary description.
Sec. 164. Filing reports and furnishing information to participants.
Sec. 165. Reporting of participants' benefit rights.
Sec. 166. Public information.
Sec. 167. Retention of records.
Sec. 168. Additional information.
Sec. 169. Criminal penalties.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

Sec. 181. Fiduciary responsibility.
Sec. 182. Liability for breach of fiduciary duty.
Sec. 183. Exculpatory provisions; insurance.
Sec. 184. Prohibition against certain persons holding certain positions.
Sec. 185. Bonding.
Sec. 186. Limitation of actions.
Sec. 187. Civil enforcement.
Sec. 188. Claims procedure.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICEMEN AND FIREMEN RETIREMENT BENEFITS

Sec. 201. Salary base period for computation of annuity.
Sec. 202. Creditable service for full-time officials of employee organizations.
Sec. 203. Requirements for optional retirement.
Sec. 204. Disability retirement.
Sec. 205. Recovery from disability.
Sec. 206. Survivor's annuities.
Sec. 207. Deferred annuity.
Sec. 208. Interest on refunds and on deposits for prior service credit.
Sec. 209. Cost-of-living adjustments of annuities.
Sec. 210. Authority to waive collection of overpayments.
Sec. 211. Commencing date of payment of annuities.
Sec. 212. Payment of annuities to minors and mental incompetents.

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

Sec. 251. Cost-of-living adjustments of teachers' annuities.
Sec. 252. Cost-of-living adjustments of judges' annuities.
Sec. 253. Interest on teachers' refunds and deposits.
Sec. 254. Interest on judges' redeposits.
Sec. 255. Restoration of teachers' annuities in the event of predeceased beneficiaries.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the policemen, firemen, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for policemen and firemen, is predicted to exceed the cost of salaries for active policemen and firemen by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for policemen and firemen, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired policemen, firemen, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal amortization payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. As used in this title—

(1) the term "Mayor" means the Mayor of the District of Columbia;

(2) the term "Council" means the Council of the District of Columbia;

(3) the term "Speaker" means the Speaker of the House of Representatives;

(4) the term "President pro tempore" means the President pro tempore of the Senate;

(5) the term "Board" means the District of Columbia Retirement Board established by section 121 of this Act;

(6) the term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by title I, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's Order Numbered 72–80, April 5, 1972 (D.C. Code, title 1—Appendix));

(7) the term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title II of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia;

(8) the term "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone;

(9) the term "party in interest" means—

(A) any person (including members of the Board) having fiduciary responsibilities under title I,

(B) any person providing services to a Fund,

(C) the government of the District of Columbia,

(D) an employee organization, and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant, of any individual described in subparagraph (A) or (B);

(10) the term "Fund" means the District of Columbia Policemen and Firemen's Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124;

(11) the term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination;

(12) the term "qualified public accountant" means a person who is a certified public accountant, certified by a regulatory authority of a State;

(13) the term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974;

(14) the term "security" means a security as defined in section 2(1) of the Securities Act of 1933;

(15) the term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program;

(16) the term "teacher" means a teacher as defined in section 13 of the Act entitled

"An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–733);

(17) the term "judge" means a judge as defined in section 11–1561(1) of title 11 of the District of Columbia Code; and

(18) the term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, to whom the Policemen and Firemen's Retirement and Disability Act applies; and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b)(1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Columbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor.

A vacancy on the Board shall be filled in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3)(A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years, as determined by lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) If any member of the Board who was selected under subparagraph (A), (C), or (E) of paragraph (1) ceases to be a member or officer of the Metropolitan Police force, a member or officer of the Fire Department, or a teacher, as the case may be, he may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 184.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, but shall not vote, shall not be eligible to be elected chairman of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefor, members of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d)(1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) Any six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, actions of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title, and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f)(1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activities of the Board.

(g)(1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries, to the extent designated by the Board, with respect to services rendered to the Board. Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it deems necessary to enable it to carry out its responsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance with subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the funds established by this title.

DISTRICT OF COLUMBIA POLICEMEN AND FIREMEN'S RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Policemen and Firemen's Retirement Fund into which shall be deposited the following which shall constitute the assets of the Fund:

(1) Any amount which is paid to the Custodian of Retirement Funds pursuant to the last sentence of subsection (d)(1) or to subsection (c)(5) of the Policemen and Firemen's Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount which is appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

After September 30, 1977, or after the end of the thirty-day period beginning on the date on which funds are first appropriated under either section 144(a)(1)(A) or (b)(1)(A), whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park

Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member).

(b)(1) The last sentence of subsection (d)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524(1)) is amended by striking out "Such" and inserting in lieu thereof "In the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such".

(2) Subsection (c)(5) of such Act (D.C. Code, sec. 4–523(5)) is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a)(1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum with the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act. All other members shall deposit such sum with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in equal monthly installments not exceeding twenty-four.".

(3) The proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4–502), is amended by inserting immediately before the period ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act".

(4) The Act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4–504a), is amended by inserting "or the District of Columbia Policemen and Firemen's Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first time it appears.

(c) The amendments made by paragraphs (1) through (3) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (4) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount which is paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any amount which is appropriated for such Fund under part C of this title.

(3) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended and thereafter shall be paid from the District of Columbia Teachers' Retirement Fund.

(b)(1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 31–721)—

(i) by adding the following new sentence at the end of the first paragraph: "After the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.", and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columbia," and inserting in lieu thereof "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31–722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31–725(b)(1)(ii)) by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31–729(a)) by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,";

(E) in clause (ii) of section 9(b)(1) (D.C. Code, sec. 31–729(b)(1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31–737) by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31–744), is amended by inserting immediately before the period at the end of the first sentence "until such time as all amounts in such fund have been expended and thereafter from the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu thereof "payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act). for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,".

(c) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is established a fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount which is deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any amount which is appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

(b)(1) Section 11–1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11–1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11–1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the fund".

(3) Section 11–1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11–1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement

salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by strking out "fund" the second time it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "(including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

(c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirement Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments) and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bill, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in—

(1) interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as to the payment of both principal and interest by the United States Government; or

(2) interest-bearing certificates of deposit issued by national, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to determine, in accordance with generally accepted actuarial practice—

(A) at the times specified in paragraph (2), the level percentage of payroll, as a percentage of payroll, required to be deposited in each Fund annually in perpetuity in order to meet the cost of annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable in perpetuity from such Fund less the amount of employee contributions to such Fund for such year expressed as a percentage of payroll;

(B) in years before the fiscal year 2004 and at the times specified in paragraph (2), the base level percentage of payroll, as a percentage of payroll, required to be deposited in each Fund annually in perpetuity in order to meet the cost of annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable in perpetuity from such Fund less the amount of employee contributions to such Fund for such year expressed as a percentage of payroll, as if the benefits payable from such Fund and the noneconomic actuarial assumptions relating to such Fund were those in effect at the end of the ninety-day period begining on the date of enactment of this Act; and

(C) each year, not later than sixty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the amount (hereafter in this title referred to as the "net pay-as-you-go-cost") required, in addition to employee contributions to each Fund for the next fiscal year, to meet the obligations of such Fund during such fiscal year for payment of annuities and other retirement and disability benefits (including refunds and lump-sum payments).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A) and (B) of such paragraph at the following times:

(A) Not later than December 31, 1977.

(B) Upon a request of the Board or of the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the third fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made pursuant to paragraph (1), the enrolled actuary shall certify to the Board, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net pay-as-you-go-cost.

(B) The net level percentage cost, which shall be computed as the product of the percentage determined pursuant to paragraph (1)(A) and an estimate by the enrolled actuary of current active duty payroll.

(C) With respect to each fiscal year before the fiscal year 2004, the base net level percentage cost, which shall be computed as the product of the percentage determined pursuant to paragraph (1)(B) and an estimate by the enrolled actuary of current active duty payroll.

(4) On the basis of the most recent certification submitted by the enrolled actuary pursuant to paragraph (3), the Board shall determine the Federal amortization payment for the next fiscal year for each Fund and the District of Columbia payment for the next fiscal year for each Fund, which payments shall be determined as follows:

(A) If the net pay-as-you-go cost is greater than or equal to the greater of the base net level percentage cost and the net level percentage cost, then the amount of the Federal amortization payment shall be zero and the amount of the District of Columbia payment shall be the amount of the net level percentage cost.

(B) If the net pay-as-you-go cost is less than the greater of the base net level percentage cost and the net level percentage cost, then—

(i) if the net pay-as-you-go cost is greater than or equal to the lesser of the net level percentage cost and the base net level percentage cost, then the amount of the District of Columbia payment shall be the net level percentage cost less the amount, if any, by which the base net level percentage cost exceeds the net pay-as-you-go costs, and the amount of the Federal amortization payment shall be the amount, if any, by which the base net level percentage cost exceeds the net pay-as-you-go cost; or

(ii) if the net pay-as-you-go costs is less than the lesser of the net level percentage cost and the base net level percentage cost, then the amount of the Federal amortization payment shall be the difference between the base net level cost and the net pay-as-you-go cost, and the amount of the District of Columbia payment shall be—

(I) the net pay-as-you-go cost less the amount by which the base net level percentage cost exceeds the net level percentage cost, if the base net level percentage cost is greater than or equal to the net level percentage cost; or

(II) the net pay-as-you-go cost plus the amount by which the net level percentage cost exceeds the base net level percentage cost, if the net level percentage cost is greater than the base net level percentage cost.

(5) If with respect to any fiscal year the Federal amortization payment computed pursuant to paragraph (4) is greater than the amount authorized for the Federal amortization payment for such fiscal year under section 144(a), then the amount of the District of Columbia payment for such fiscal year shall be increased by the difference between the amount of the Federal amortization payment computed pursuant to paragraph (4) and the amount authorized for the Federal amortization payment for such fiscal year, and the amount of the Federal amortization payment computed pursuant to such paragraph shall be reduced by such difference.

(b)(1) On the basis of the most recent determinations made pursuant to subsection (a)(4), the Board shall—

(A) not later than March 15 of each year through the calendar year 2002, submit to the President and to the Congress a request for appropriation of the Federal amortization payment for the next fiscal year for each Fund; and

(B) not less than thirty days prior to the date on which the Mayor is required to sub-

mit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District of Columbia payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget the full amount certified by the Board, pursuant to paragraph (1)(B), as being the amount of the District of Columbia payment for the next fiscal year for each Fund.

(c) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), to estimate the effect of such change in benefits over the next five fiscal years on (1) the net pay-as-you-go cost with respect to the retirement program, (2) the net level percentage cost with respect to the retirement program, and (3) the level of the Federal amortization payments and the District of Columbia payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits shall not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(d) The representatives of the General Accounting Office shall have access to all book, accounts, records, reports, files, and all other papers necessary to carry out the responsibilities of the Comptroller General under section 736(a) of the District of Columbia Self-Government and Governmental Reorganization Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to the retirement programs to which this title applies as the Board deems necessary to enable it to carry out its responsibilities under this title (including the responsibilities of the enrolled actuary under section 142).

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144. (a)(1) There is authorized to be appropriated from the revenues of the United States as the Federal amortization payment—

(A) to the District of Columbia Policemen and Firemen's Retirement Fund, $27,200,000 for the fiscal year 1978;

(B) to the District of Columbia Teachers' Retirement Fund, $11,100,000 for the fiscal year 1978; and

(C) to the District of Columbia Judges' Retirement Fund, $1,100,000 for the fiscal year 1978.

(2) For the fiscal years 1979 through 2003, there is authorized to be appropriated from the revenues of the United States as the Federal amortization payment to the Funds established by this title, the amount requested by the Board in accordance with section 142(b)(1)(A) with respect to such Fund for such fiscal year or the amount specified in the following table, whichever is less:

Fiscal year	Policemen and firemen's fund	Teachers' fund	Judges' fund
1979	$26,900,000	$19,600,000	$1,100,000
1980	26,600,000	19,900,000	1,000,000
1981	26,300,000	20,100,000	900,000
1982	25,700,000	20,300,000	900,000
1983	24,900,000	20,400,000	900,000
1984	23,800,000	20,600,000	800,000
1985	22,400,000	20,800,000	800,000
1986	20,600,000	21,100,000	700,000
1987	18,400,000	21,400,000	700,000
1988	15,600,000	21,600,000	700,000
1989	12,400,000	21,800,000	700,000
1990	8,700,000	21,800,000	700,000
1991	4,500,000	21,600,000	700,000
1992	0	21,200,000	700,000
1993	0	20,900,000	600,000
1994	0	20,400,000	500,000
1995	0	19,700,000	300,000
1996	0	18,800,000	200,000
1997	0	17,700,000	0
1998	0	16,400,000	0
1999	0	14,700,000	0
2000	0	12,500,000	0
2001	0	9,800,000	0
2002	0	6,400,000	0
2003	0	2,000,000	0

(b)(1) Amounts appropriated as a Federal amortization payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments, the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments become available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of section 142(b)(2) with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

CONFORMING AMENDMENTS

SEC. 145. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–727), is repealed.

(2) Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31–734), is amended—

(A) in the third sentence, by striking out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31–735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31–716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31–707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31–715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31–716), is repealed.

PART D—REPORTING AND DISCLOSURE REQUIREMENTS

PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore a personal financial disclosure statement with respect to the preceding calendar year in such form as the Council may by regulation require and containing such information, in addition to the following, as the Council may by regulation require with respect to the member's financial condition:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identiy and category of value of each liability owed, directly or indirectly, which exceeds $2,500 as of the last day of the year (excluding any mortgage which secures real property which is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income which has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property which is the principal residence of such member or which is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount or value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000,

(2) Greater than $5,000 but not more than $15,000,

(3) Greater than $15,000 but not more than $50,000,

(4) Greater than $50,000 but not more than $100,000,

(5) Greater than $100,000.

ANNUAL REPORTS

SEC. 162. (a)(1)(A) An annual report for each fiscal year (beginning with fiscal year 1978) shall be published by the Board with respect to each retirement program to which this title applies and the Fund for such retirement program. Such report shall be filed

with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164(a) and shall be made available and furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and where applicable, subsection (f), and shall also include—

(i) a financial statement and opinion, as required by paragraph (3) of this subsection, and

(ii) an actuarial statement and opinion, as required by paragraph (4) of this subsection.

(2) If some or all of the information necessary to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account,

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account, or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act), such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3) (A) Except as provided in subparagraph (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the account to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(2) of this section and the summary material required under section 164(b)(2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountant shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(2)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4) (A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectations; and

(ii) represent his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he so states his reliance.

(b)(1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: a description of the retirement program including any significant changes in the retirement program made during the period and the impact of such changes on benefits; the funding policy (including policy with respect to prior service cost), and any changes in such policies during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest, and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) a statement of the assets and liabilities of the Fund aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) a statement of receipts in and disbursements from the Fund during the preceding twelve-month period aggregated by general source and application;

(C) a schedule of all assets held for investment purposes aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value;

(D) a schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction;

(E) a schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof;

(F) a list of all leases which were in default or were classified during the year as uncollectable; and the following information with respect to each lease on such schedule (including a notation as to whether parties involved are known to be parties in interest); the type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property), the identity of the lessor or lessee from or to whom the Fund is leasing, the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost, the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

(G) the most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all of the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate trust, such other information as may be required by the Board in order to comply with this subsection; and

(H) a schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party if such transaction is—

(A) a transaction involving an amount in excess of 3 percent of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceeds 3 percent of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 percent of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction

with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including but not limited to, any consultant, broker, trustee, accountant, insurance carrier, actuary, administrator, investment counsel or custodian who rendered services to the Board or who had transactions with the Board) who received directly or indirectly compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government, or any employee organization, and any other office, position, or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of accountant, insurance carrier, enrolled actuary, or investment counsel.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed: the amounts determined under section 142(a)(1), the accrued liabilities, an identification of benefits not included in the calculation, a statement of the other facts and actuarial assumptions and methods used to determine costs, and a justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) The current value of the assets accumulated in the Fund.

(6) A certification of the payments to the Fund necessary to reduce the accumulated fundings deficiency to zero.

(7) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(8) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(9) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(10) A copy of the opinion required by subsection (a)(4).

(11) Such other information regarding the plan as the Council may by regulation require.

(12) Such other information as the enrolled actuary may determine is necessary to fully and fairly disclose the actuarial position of the Fund.

Such actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assests of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year which have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement from such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subscription charge and the total premium or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose. If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include in lieu of the information required by the foregoing provisions of this paragraph (A) a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and (B) if such company, service, or organization incurs specific costs in connection with the acquisition or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

SEC. 163. (a) A summary retirement program description of any retirement program to which the provisions of this Act apply shall be furnished to participants and beneficiaries as provided in section 164(b). The summary retirement program description shall include the information described in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program. A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b) shall be written in a manner calculated to be understood by the average participant and shall be furnished in accordance with section 164(b)(1).

(b) The summary retirement program description shall contain the following information: the name and type of administration of the retirement program; the name and address of the chairman of the Board who shall be the agent of the Board for the service of legal process; names, titles, and addresses of all members of the Board; a description of the relevant provisions of any applicable collective bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program and the remedies available under the retirement program for the redress of claims which are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) The Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) each annual report for a fiscal year within two hundred and ten days after the close of such year;

(B) a copy of each summary retirement program description within one year after the enactment of this Act; and

(C) a revised summary retirement program description, incorporating any material modification in the terms of the retirement program, within sixty days after such modification is adopted or occurs, as the case may be. The Mayor shall make copies of such summary retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request, any documents relating to the retirement program or the Fund, including but not limited to the bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council deems it in the best interest of the participants, then the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If either House of Congress rejects a

report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal amortization payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph a filing is unacceptable if, within thirty days of its submission, either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description, and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant, or (in the case of a beneficiary) within ninety days after he first receives benefits. The Board shall furnish to each participant, and each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished not later than two hundred and ten days after the end of the fiscal year in which the change is adopted to each participant and to each beneficiary who is receiving benefits under the retirement program.

(2) The Board shall make copies of the latest annual report and any bargaining agreement, contract, or other instruments under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may prescribe by regulations).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162(b)(2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such complete copies. The Council may by regulation prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

(c) The Council may by regulation require that the Board furnish to each participant and to each beneficiary receiving benefits under the retirement program a statement of the rights of participants and beneficiaries under this title.

REPORTING OF PARTICIPANT'S BENEFIT RIGHTS

SEC. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) In no case shall a participant or beneficiary be entitled under this section to receive more than one report described in subsection (a) during any one twelve-month period.

PUBLIC INFORMATION

SEC. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore pursuant to this part shall be public information and the Mayor, the Council, the Speaker, and the President pro tempore shall each make any such information and data available for inspection in an appropriate location. The Mayor, the Council, the Speaker, and the President pro tempore may use the information and data for statistical and research purposes, and may compile and publish such studies, analyses, reports, and surveys based thereon as may be deemed appropriate.

(b) Information described in section 165(a) with respect to a particular or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

SEC. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 136(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

SEC. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

SEC. 169. Any person who willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall upon conviction be fined not more than $5,000 or imprisoned not more than one year, or both; except that in the case of such violation by a person not an individual, the fine imposed upon such person shall be a fine not exceeding $100,000.

PART E—FIDUCIARY RESPONSIBILITY; CIVIL SANCTIONS

FIDUCIARY RESPONSIBILITIES

SEC. 181. (a)(1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with respect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that such documents and instruments are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such other fiduciary to commit a breach; or

(3) if he has knowledge of a breach by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension

of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangements with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund, and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Mayor after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of the retirement program.

Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and (A) a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or (B) a pooled investment fund of an insurance company qualified to do business in a State, if—

(i) the transaction is a sale or purchase of an interest in the Fund.

(ii) the bank, trust company, or insurance company receives not more than reasonable compensation, and

(iii) such transaction is expressly permitted by the Board, or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries; or

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach, and to restore to such Fund any profits of such fiduciary which have been made through use of assets of the Fund by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnaping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes in an element, shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title, or

(2) as a consultant to any Fund established by this title,

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee, of any Fund established by this title, or as a consultant to any fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section—

(1) a person shall be deemed to have been "convicted" and under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event;

(2) the term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund; and

(3) a period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a) Every fiduciary of a Fund established by this title and every person who handles funds or other property of such a Fund (hereafter in this section referred to as "Fund official") shall be bonded as provided in this section; except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(1) is a corporation organized and doing business under the laws of the United States or of any State;

(2) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(3) is subject to supervision or examination by Federal or State authority; and

(4) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000. This paragraph shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation, only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

The amount of such bond shall be fixed at the beginning of each fiscal year. Such amount shall be not less than 10 per centum of the amount of funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Mayor, after due notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10 per centum limitation of the preceding sentence. For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations of the Council. Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund, without being bonded as required by subsection (a) and it shall be unlawful for any Fund official of such Fund, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Fund official, with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund, to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violation, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion, be liable to such participant or beneficiary in the amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it deems proper.

(c) The Board may sue or be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with regulations of the Council, the Mayor shall—

(1) provide adequate notice in writing to any participant or beneficiary whose claim for benefits under a retirement program to which this title applies has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant or beneficiary; and

(2) afford a reasonable opportunity to any participant or beneficiary whose claim for benefits has been denied for a full and fair review by the appropriate named official of the decision denying the claim.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICEMEN AND FIREMEN RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–521 (17)) is amended—

(1) by striking out "twelve consecutive months of police or fire service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service in the case of any other member,"; and

(2) by inserting "or thirty-six consecutive months, as the case may be," immediately after "twelve consecutive months" the second time it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C)(i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102 (c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the pension of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time he entered on such leave.

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Policemen and Firemen's Retirement Fund established by section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost

of the pension of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time he entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act.

REQUIREMENTS FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528(1)) is amended by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and who completes twenty-five years of police or fire service and attains the age of fifty years, and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service,".

(b)(1) Paragraph (2) of subsection (h) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–528) is amended by striking out "in subsection (h)," and inserting in lieu thereof "under".

(2) Paragraph (3) of such subsection is amended by striking out "of this subsection (h)".

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–527) is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph:

"(4) A member who is an officer or member of the Metropolitan Police Force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of any injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4–526) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine the percentage of disability for such member giving due regard to—

"(I) the nature of injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i),

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement,

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity to his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph (1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retirement under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

SEC. 205. (a)(1) Subsection (j)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired,

"(B) one year from the date of the medical examination showing such recovery,

"(C) one year from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement,

whichever is earliest.".

(2)(A) Such subsection (j)(1) is amended in the second sentence by striking out "in each of two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an

annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, receives income from wages or self-employment, or both, in any calendar year in an amount in excess of the difference between the current annual salary for the position which such annuitant held immediately prior to his retirement and the amount of annuity paid to such annuitant held immediately prior to his retirement and the amount of annuity paid to such annuitant during such year under such subsection, then (except as provided in subparagraph (B)) the annuity of such annuitant shall be reduced as follows:

"(i) For each $1.00 of excess income received during such year, $0.75 shall be withheld from the annuity paid to such annuitant.

"(ii) Such withholding shall be prorated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(iii) The twelve-month period during which withholding occurs shall begin as soon after the end of the calendar year during which such excess income was received as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(B) Notwithstanding the requirements of subparagraph (A), in any case to which the provisions of such subparagraph apply in which the Mayor of the District of Columbia determines that the level of excess income of an annuitant whose annuity would otherwise be reduced in accordance with such subparagraph has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in clause (i) of such subparagraph as he deems appropriate or he may waive the requirements of subparagraph (A) completely if he finds that circumstances justify such waiver.

"(C)(i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully fails to comply with the requirements of such clause, or who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause, shall forfeit all rights to his disability annuity, but any such forfeiture shall not affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant.".

(b) Subsection (m) (2) of such Act (D.C. Code, sec. 4–533 (2)) is amended—

(1) by inserting "(A)" before "If a member;

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires or the medical examination of such member after he reaches the age of fifty."; and

(3) by adding at the end of such subsection the following new subparagraph:

"(B) In addition to any medical examination required under subparagraph (A), any retired member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia (regardless of whether such retired member is reemployed) shall, until he reaches the age of fifty, undergo an annual medical examination by the Board of Police and Fire Surgeons or by a physician designated by the Board. The disability annuity of any such member who fails to comply with the annual medical examination requirement of this subparagraph shall be suspended until such member complies with such requirement unless the Board determines that such failure to comply was due to circumstances beyond the control of such member, but any such suspension shall not affect any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2)(B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received in calendar year 1978 or any calendar year thereafter.

SURVIVOR'S ANNUITIES

SEC. 206. (a)(1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second time it appears, and

(ii) by striking out "computed," and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who dies after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code, sec. 4–521) is amended—

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage."; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum) in the Consumer Price Index (all items—United States city average), published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policemen and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after the end of the 90-day period beginning on the date of enactment of this Act.

DEFERRED ANNUITY

SEC. 207. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l)(1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the

Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computed in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed 60 monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2)(B)(i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Policemen and Firemen's Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" the first time it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second time it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may",

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence,

(iii) by striking out "the retired annuitant's" in the first sentence and inserting in lieu thereof "such member's",

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such",

(v) by striking out "retiring" in the second and fourth sentences,

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

INTEREST ON REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a)(1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) Any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division,"; and

(ii) by inserting the following new subparagraph at the end of such paragraph:

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (1)(3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph, by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto".

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5)), as amended by section 122(b)(2) of this Act, is further amended—

(A) by inserting "(A)" immediately after "(5)";

(B) in the second sentence, by inserting ", plus interest computed in accordance with subparagraph (B)," immediately after "such sum";

(C) in the fourth sentence—

(i) by striking out "equal", and

(ii) by inserting before the period ", except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, such monthly installments shall be of equal amounts"; and

(D) by adding the following new subparagraph at the end of the paragraph:

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Policemen and Firemen's Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day

of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The amendments made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such 90-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207(a)(1)(A) of this Act, as subsections (n) through (t), respectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a)(1)(B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m)(1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k)(7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(3) If in any year the per centum change determined under either paragraph (2)(A) or (2)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described, in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.".

(2) Subsection (m)(2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1)(B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by subsection (b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k)(7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4–518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (o) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(c) of this Act and redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act (D.C. Code, sec. 4–534), is amended by inserting after "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENTS OF ANNUITIES TO MINORS AND MENTAL INCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a)(1)(A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4–534), is amended by redesignating paragraphs (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a)(1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(b)) is amended to read as follows:

"(b)(1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2)(A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2)(B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth

of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739 a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as of the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b)(2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGE'S ANNUITIES

SEC. 252. (a) Section 11–1571(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either" immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253. (a)(1) The first section of this Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–721) is amended—

(1) in the first paragraph by inserting "or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the proviso in the second sentence; and

(2) in the second paragraph—

(A) in the first sentence—

(i) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "computed in accordance with section 24(a) of this Act", and

(ii) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(B) in the second sentence, by inserting "to the date of such death or separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code, sec. 31–721a(b)) is amended by striking out "with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31–728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof

"(1) the accumulated contributions", and

(ii) by inserting immediately before the colon at the end of such proviso ", and (2) insert thereon computed in accordance with section 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31–729 (a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of enactment of the District of Columia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24(c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C. Code, sec. 31–730(f)(3)) is amended by inserting after "interest" in the first time it appears ", earned prior to the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act,".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods:

"(1) Prior to the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1980, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1980, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

"(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the mid-point of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest or interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first

month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31–745), is amended—

(A) by striking out "and interest"; and

(B) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of the District of Columbia Code is amended—

(1) in section 11–1161—

(A) in paragraph (9)(C) by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier", and

(B) in paragraph (10)(C) by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and

(2) in section 11–1569(c) by inserting "or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11–1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)";

(2) by amending section 11–1564(d)(2) to read as follows:

"(2) Interest on deposits under this subsection and section 11–1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(i) for so much of any period which occurs between the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the 90-day period begining on the date of enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited. Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11–1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11–1564(d)(2)".

(c) The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia" approved August 7, 1946 (D.C. Code, sec. 31–725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1977, or at the end of the ninety-day period beginning on the date of enactament of this Act, whichever is later.

The SPEAKER. The gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the purposes of the bill (H.R. 6536), as set forth in the committee report (H. Rept. 95–335), are first, to establish, with Federal financial assistance, separate retirement funds for policemen and firemen, teachers, and judges of the District of Columbia in order to liquidate the Federal responsibility for the unfunded liability of the pensions as transferred to the District's home rule government on January 2, 1975; second, to establish a Retirement Board to manage the funds; third, to provide actuarially sound management to protect the benefits of participants and beneficiaries under the plans; fourth, to require the Retirement Board to comply with reporting and disclosure requirements similar to those found in the Employee Retirement Income Security Act of 1974 (ERISA) (Public Law 93–406, 88 Stat. 829); and fifth, to provide Federal assistance to the District of Columbia to finance the unfunded pension liabilities incurred before the establishment of self-government for the District. The bill does not affect active or retired members of the U.S. Park Police, Executive Protective Service, or Secret Service.

NEED FOR THE LEGISLATION

The committee finds that Congress established the District of Columbia police and firemen's, teachers', and judges' pension plans and granted benefits, but failed to provide for adequate funding of these plans prior to granting home rule to the District in 1975. In addition, Congress mandated that the city hire an additional 2,000 policemen during the 1960's, for a total authorization of 5,100, a force substantially larger than that for cities of equivalent size.

As the result, in October 1976, the unfunded liability of the police and firemen's retirement system was $1.4 billion, teachers' $635.6 million, and judges' $9.5 million, making a total accrued unfunded liability of $2.03 billion.

The police and firemen's pensions are paid out of general revenues of the District of Columbia on a pay-as-you-go basis. The teachers' fund—congressionally mandated to be maintained at $61.5 million—is so inadequate as to be considered unfunded. The same can be said of the judges' $1.3 million fund.

Pension payments for police and firemen are currently 52 percent of the payroll, and are estimated by the U.S. Treasury to be 105 percent of payroll by the year 2020. If funding commences in fiscal 1978 at the level percentage determined by the U.S. Treasury actuary, the costs, less employee contributions, for police and firemen can be held at 72.5 percent of payroll in perpetuity. The level percentage required to fund the teachers' pension is 25.3 percent and judges' 51.6 percent of payroll. The Federal amount needed for the three funds in fiscal 1978 is $47.7 million.

The committee believes that pension funds should be established now to commence earning interest, since it is clear that unless these pension plans are funded the District will not be able to meet future pension because each year's delay adds $714 million to the current $2.03 billion in unfunded liability.

Since 1950 the city's population declined from 802,000 to 701,000, and, according to U.S. Census estimates, the District will continue to lose 5,000 persons per year until 1980, resulting in a steadily decreasing tax base. Thirty percent of District revenues are budgeted for debt service, welfare payments, and federally mandated programs, and these budget items are rising at the rate of 4 percent per year.

To lower pension costs, the committee bill reduced several benefits after studying comparative data on retirement benefits in other cities—see appendix B. If the cost of the pension program is expressed as a percentage of the current active payroll that must be contributed to the fund to keep it actuarially sound the committee found that the benefit reductions in H.R. 6536 reduced pension costs by 16.6 percent over current law.

MAJOR PROVISIONS OF THE BILL

First. Establishes separate retirement funds for police and firemen, teachers, and judges, but allows moneys to be commingled for investment purposes.

Second. Establishes an 11-member Retirement Board to manage the funds. Five appointed by city, six elected by active and retired employees.

Third. Requires that these funds be managed on an actuarially sound basis to provide proper financing of benefits.

Fourth. Prohibits investment of funds in District of Columbia, Maryland, and Virginia bonds, real estate, and agencies.

Fifth. Gives the Retirement Board fiduciary responsibility over the funds.

Sixth. Requires the Retirement Board to comply with reporting and disclosure requirements similar to those imposed by the Employee Retirement Income Security Act of 1974 (ERISA).

Seventh. Provides for Federal payments into each fund to help finance, in part, liabilities for retirement benefits enacted and administered by Congress prior to home rule.

Eighth. Makes certain changes in benefits.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker and members of the committee, public awareness of fiscal problems that occur when public pension plans are underfunded or, as in the case of the District of Columbia police and firemen, completely unfunded, has only surfaced in recent years.

According to a recent study by the Advisory Council on Intergovernmental Relations, one of the major fiscal problems facing cities today is the existence of underfunded locally administered retirement systems. While very few cities have systems which are funded on actuarial principles, even fewer have current actuarial valuations of their unfunded liabilities.

There are many factors that work against adequate funding of public plans, especially those of police and firemen. Because of their hazardous work police and firemen are usually granted more generous benefits than other employees, and they tend to retire at an earlier age. Under current law, a District of Columbia police or firemen may retire at 50 percent of pay after 20 years service. Assuming he joins the department in his early twenties, it is not inconceivable that he will spend more time on the retirement rolls than in active service.

A more important factor, applying to all public employees, is the tendency to grant overly generous benefits because there is no immediate impact on a city's budget. The problem of paying for the benefits comes at a later time to a different group of elected officials than those who granted the benefits.

Cities across the country are now confronted with funding astronomically large pension liabilities. The day of reckoning is here and cities must either meet the problem squarely or face financial disaster.

But the District of Columbia is unique. While their pension problems are not unlike those in many other cities, the circumstances that led to them are different. Prior to home rule Congress established the retirement plans. Congress set the benefit levels. But Congress failed to provide funding. In addition, Congress mandated that the District hire an additional 2,000 policemen during the 1960's, making the force substantially larger than that for cities of equivalent size.

As the result, in October 1976, the unfunded liability of the police and firemen's retirement system was $1.4 billion, teachers' $635.6 million, and judges' $9.5 million, making a total accrued unfunded liability of $2.03 billion.

The police and firemen's pensions are paid out of general revenues of the District of Columbia on a pay-as-you-go basis. The teachers' fund—congressionally mandated to be maintained at $61.5 million—is so inadequate as to be considered unfunded. The same can be said of the judges' $1.3 million fund.

Pension payments for police and firemen are currently 52 percent of active payroll, and are estimated by the U.S. Treasury to be 105 percent of payroll by the year 2020.

The committee believes that pension funds should be established now to commence earning interest, since it is clear that unless these retirement plans are funded, the District will not be able to meet future pension costs, because the average amount for each years delay costs $189 million in addition to the current $2.03 billion in unfunded liability.

Since 1950 the city's population declined from 802,000 to 701,000 and, according to U.S. Census estimates, the District will continue to lose 5,000 persons per year until 1980, resulting in a steadily decreasing tax base. Thirty percent of District revenues are budgeted for debt service, welfare payments, and federally mandated programs, and these budget items are rising at the rate of 4 percent per year.

Because of the role Congress played in establishing pension benefits prior to home rule, the responsibility to fund these plans clearly lies with Congress.

H.R. 6536 had its genesis in 1974 when the report of the Organization of the Government of the District of Columbia—the Nelsen Commission—expressed grave concern for the District's unsound pension financing. As a result of that report, the prehome rule Government requested the Treasury Department to develop several methods of funding to put the pension plans on an actuarially sound basis.

That report, entitled "Financing Alternatives for the Police and Fire Retirement System," April 25, 1974, proposed three financing options:

Option A—The prior unfunded liability is amortized over the first 30 years of funding and financed by the Federal Government.

Option B—Similar to Option A, but financed by both the Federal and District governments.

Option C—A level percentage of payroll is actuarially determined that would pay pension costs as they are earned—the normal cost—and amortize the prior unfunded liability over the life of the funds. Contributions are financed by both the District and Federal governments.

Using the "Alternatives" report as a basis for funding, former Congressman Thomas M. Rees introduced pension legislation in 1974 and 1976. The bill before us, introduced by Mr. MAZZOLI, is similar to the one reported by the committee last Congress.

During the three sets of hearings held by the committee, testimony was taken from Members of Congress, expert witnesses, the city, and employee groups, both active and retired. The legislation before us today is a result of cooperation and compromise by all who are affected by it.

Title I of H.R. 6536 has five purposes:

First. To establish separate funds for the police and firemen's, teachers, and judges' retirement systems;

Second. To establish a Retirement Board to manage the funds;

Third. To provide actuarially sound management to protect the benefits of participants and beneficiaries under the plans;

Fourth. To require the Retirement Board to comply with reporting and disclosure requirements similar to those found in the Employee Retirement Income Security Act of 1974 (ERISA); and

Fifth. To provide Federal assistance to the District of Columbia to finance the unfunded pension liabilities incurred before the establishment of self-government for the District.

The Retirement Board is composed of 11 members—6 elected by active and retired police, firefighters, and teachers and 5—2 of whom must have financial experience—appointed by the city. The judges asked not to be named to the board, because of possible conflicts of interest should board actions become subject of litigation. The Director of the Office of Budget and Financial Management is an ex officio nonvoting member for additional financial expertise. The chairman is elected from among the board members, but may not be the Mayor's budget officer.

The board is the fiduciary of the funds, but may enter into a written agreement with an investment counsel or counsels who then assumes fiduciary responsibility. The three funds are managed separately since benefits vary, but assets may be commingled for investment purposes.

The managers of the funds may not invest the funds' assets in District of Columbia, Maryland, or Virginia bonds, real estate, mortgages, or agencies. This restriction was adopted to avoid the temptation for the board to invest in low yielding local bonds or to "prop up" local projects. The restrictions were expanded including Maryland and Virginia to avoid sweetheart deals to buy each others' bond issues.

Parts D and E of title I are based on reporting and disclosure requirements of ERISA. These sections were developed with the assistance of the pension task

force of the Committee on Education and Labor.

Requirements include:

(a) Personal financial disclosure statements from Board members.

(b) Annual report detailing all transactions.

(c) Annual actuarial report.

(d) Retirement plan information for each Fund.

(e) Strict fiduciary standards making Board members liable under a "prudent man" standard for investment.

(f) Civil penalties to allow interested parties to bring suit to recover losses.

(g) Criminal penalties for willful misuse of the Funds.

Title II changes certain benefits, mainly for police and firemen hired after enactment, and tightens requirements for disability retirements.

Of the total number of retirements in 1969, 99 percent of the firemen and 98 percent of the police were retired on disability. Disability retirement requirements were tightened in the 93d Congress, and yet the rate has fallen only to 60 percent. This remains an unacceptable rate compared with New York's 31 percent and Los Angeles' 15 percent.

Two major factors influence the abuse of disability retirement in the District of Columbia:

First. A tax free annuity of 66 percent of average pay compared to normal retirement taxable pay of 50 percent after 20 years.

Second. The ease of retiring under the so-called "aggravation clause." If a member "aggravates" an off-duty injury while on duty, he may retire on a full disability annuity.

To further reduce disability retirements, the bill institutes a system of percentage of disability based on the percentage of impairment.

The following changes outline the reforms of title II:

FOR PRESENT EMPLOYEES

First. Provides vesting in 5 years with the right to a deferred annuity at age 55. There is currently no vesting.

Second. Provides cost-of-living adjustments on March 1 and September 1 as in the civil service retirement system. They are currently at the same time and same percent as active members pay increases. Since salaries do not always keep up with the rate of inflation, this keeps annuities on par with the Consumer Price Index. This does not apply to current retirees at their request.

Third. Eliminates the aggravation clause for off-duty injuries and requires more strict accounting for aggravation claims for on-duty injuries. Currently a member can receive disability retirement if his duty aggravates an injury incurred off duty.

Fourth. Conforms the timing of cost-of-living adjustments to those of Federal retirees—March 1 and September 1 of each year. An annuitant who retires after the adjustment would receive no less than if he had retired prior to the adjustment. Currently an annuitant does not benefit from an increase if he retires immeditely after an adjustment.

Fifth. Increases survivor annuities to conform with current civil service and social security practices.

FOR NEW HIRES

First. Bases pensions on 3 years' average pay. The pension base is currently the final year's average pay.

Second. Changes minimum eligibility for normal retirement to age 50 with 25 years service. Normal retirement is currently 20 years service with no age limit.

Third. Disability retirements. There are currently no comparable provisions:

(a) The Board of Surgeons will determine the percentage of impairment.

(b) The Retirement Board will determine the percentage of disability taking into account:

(1) Percentage of impairment.

(2) Position held prior to injury.

(3) Nature of injury.

(4) Age of member.

(5) Other factors which may affect capacity to earn in disabled condition.

(c) An annuitant may earn the difference between his annuity and the amount he would be earning in the position he held prior to retiring. For every dollar over that amount, his annuity will be reduced by $.75. Every retiree must provide the Mayor a notarized statement of earnings or lose his annuity.

(d) A yearly medical statement by the Board of Surgeons or a doctor designated by them is mandatory. If a retiree fails to provide this information, his annuity will be suspended until he fulfills this requirement.

(e) No annuitant injured on duty will receive less than 40% of basic pay, and no annuitant injured off-duty will receive less than 30% of basic pay.

(f) The medical and current earning statements shall be required for current retirees.

These changes result in a new entrant cost savings of 26.3 percent over current law.

FOR TEACHERS AND JUDGES

One. Repeals the 1-percent "kicker" on annuity adjustments and provides for cost-of-living adjustments on March 1 and September 1 as in the civil service retirement system.

Two. Restores a retired teacher's full annuity—if teacher has elected to receive a reduced amount in order to increase survivor's annuity—if the beneficiary dies before the teacher. This conforms to recent civil service changes.

Mr. Speaker, at this point I want to correct an error in the committee report. On page 23 in the section-by-section analysis of title II, we state that section 204, to establish a system of percentage disability, applies to all who become disabled 90 days after enactment. It should read that it applies to all who are hired after enactment.

The funding method used by the committee in H.R. 6536 is the "level percentage" approach. A constant percentage of payroll is actuarially determined that will pay normal costs as they accrue and amortize the unfunded liability over the life of the fund. The percentage of payroll remains constant as long as benefits and actuarial and economic assumptions remain constant. Any change in benefits is reflected by an increase or decrease in the level percentage.

H.R. 6536 mandates that any pension benefit negotiated by the mayor must be costed out actuarially before it is approved to determine what change it will make to the fund's level percentage.

The committee chose the level percentage funding method for the following reasons:

First. The initial outlay is less than the normal cost approach, thereby reducing the fiscal impact on both the Federal and District governments in the early years of funding.

Second. It is equitable. The cost burden falls equally on the taxpayer today and the taxpayer 30 years from now.

Third. Any changes in benefits or actuarial assumptions are immediately evident, because the level percentage changes. The warning should lessen the tendency to grant overly generous benefits, because the administration that grants the benefits must begin to pay for them.

Fourth. Level percentage is more easily understood than normal cost by those who administer the benefits and invest the funds. The Mayor, the Chairman of the City Council, and U.S. Treasury actuary have all testified that this method of funding was acceptable to them.

The bill requires that an enrolled actuary redetermine the level percentage for each fund every 3 years. However, the Federal contribution cannot be higher than the amount authorized by the bill. Any increase must be borne by the District.

But if the District, through prudent management, reduces the level percentage, the savings reduces the District contribution to the funds.

It is important to note that interest earned by the funds is used to pay retirement benefits and not to lower the Federal or District contribution to the funds.

The annual amounts for each fund are received from three sources: First, the District of Columbia; second, the Federal Government; and third, the employee.

The District share is the pay-as-you-go amount the city would pay under the present system. Instead of paying beneficiaries directly as it does now, the city will make two payments yearly into the funds.

The Federal share is the difference between the District share—plus employee contributions—and the level percentage amount determined for each fund.

When the District pay-as-you-go amount exceeds the level percentage, the Federal payments will cease and the plan will be considered funded. From that time on the District will pay only the level percentage in perpetuity.

The net level percentage—less employee contributions—determined by the U.S. Treasury actuary for the police and firefighters fund is 72.5 percent of payroll, for teachers 25.3 percent and for judges 51.6 percent if funding begins in fiscal 1978.

The Federal amount needed for the three funds in fiscal 1978 is $47.7 million. The total Federal authorization is $768.9 million through the year 2003.

Mr. Speaker, this amount may seem large, but we must not lose sight of the fact that for every $1 the Federal Government pays into the funds, the District and the employees contribute $4.

And, more importantly, if we were to pay off the accrued unfunded liability in 40 years—as mandated by ERISA for private pension plans—the total cost would exceed $6 billion for the three retirement plans.

It we were to be completely fair to the District, we would pay off the unfunded liability that accrued prior to the passage of home rule. But we are all politicians, and politics is the art of the possible. H.R. 6536, then, strikes a balance between what is practical and what is fair.

The fiscal health of the District of Columbia depends on the financial assistance contained in this bill. We must see our duty and act before it is too late.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of H.R. 6536, the District of Columbia Retirement Reform Act. This is landmark legislation for the District of Columbia and may well prove to be a model for State and municipal pension funding across the country.

I want to congratulate the leadership shown by my colleagues, Mr. DIGGS, Mr. DELLUMS, and Mr. MAZZOLI in bringing this legislation to the floor. Credit is also due our former colleague, Mr. Rees of California for his contributions to earlier drafts of this legislation in the previous Congress.

We in the Congress have a special responsibility to act favorably on H.R. 6536. Congress established the pension systems for the District's police, firefighters, teachers, and judges. Congress granted the liberal benefits these employees enjoy and established the basic employee levels in their departments. Indeed in the 1960's, Congress added 2,000 men to the police and fire departments. Furthermore, in 1970, Congress approved a shift away from funding in the teacher's pension system. I believe it is now incumbent upon us to expeditiously redress the problems created by our own actions.

The District Committee has reported a responsible and fiscally sound bill which will lead to the liquidation of the nearly $2.03 billion in unfunded liabilities created by congressional neglect. The funding method used in H.R. 6536 places a cap on increasing pension costs and moves these pension plans into a funded position by 2003. Without funding, pension benefits will cost the District more than its total payroll by that time.

The funding mechanism adopted requires a Federal contribution of $768.9 million over a 25-year period. Over the course of the next 5 years, the Federal contribution will approximate $47 million annually. This is a relatively small amount of the total contribution to the funds, representing a share of only 13 percent. The District government and the employees, on the other hand, will provide over $6 billion or 87 percent as their share.

The District committee adopted a level of Federal contributions far more modest than those originally suggested to the committee. Additionally, through the modifications in the benefits for new employees included in title II of the bill, District police and firefighters pension costs will be reduced by 26.3 percent representing a total savings of approximately $568.1 million to the Federal Government.

I am particularly pleased that title II addresses a longstanding problem regarding disability retirements in the police and fire departments. Due to the ease of qualifying for disability retirements and the lucrative benefits provided disability retirees currently, these provisions have been subject to abuse. In 1969, disability retirements ran at 99 percent and 98 percent of all retirements in the fire and police departments respectively. Due to tighter administration and the advent of the "20 year and out" normal retirement in the early 1970's, this figure has decreased to around 60 percent in the last several years. However, this percentage is almost twice as large as that found in New York City and four times as large as that found in Los Angeles.

H.R. 6536 provides for disability retirement which is equitable and yet discourages abuse. Instead of every disability retiree receiving a full annuity, which is tax free, based on 66⅔ percent of his final salary, a board of police and fire surgeons would make a determination of the extent or percentage of disability suffered. This percentage of disability would be the basis for the annuity award. There is a disability floor of 40 percent of salary for duty-related injuries and 30 percent for nonduty related injuries to provide comparability with other District employees. Additionally, a more stringent outside earnings limitation is applied to those hired after the enactment of H.R. 6536 to discourage the double dipping phenomenon we are all familiar with in the Federal retirement system.

Delaying the funding of these pension programs poses grave dangers for the District of Columbia. Every year of delay adds $174 million to the total unfunded liability. Since the inception of Home Rule in 1975 alone, this liability had increased by over $600 million. The seriousness of this situation prompted the Arthur Andersen firm, in its report to the District of Columbia Committee of the other body last year, to state:

> Failure to resolve this . . . could possibly result in a recorded liability . . . so large that the District's financial stability would be questioned.

Mr. Brenton Harries, president of Standard and Poor's municipal rating service wrote during subcommittee hearings that the investing public and the financial community have become more aware of the danger of unfunded pension liabilities and "all else being equal, the community without an unfunded pension liability is a stronger credit than the one with such liability." So the continued lack of funding will have a serious effect on the District's ability to borrow in the capital markets and, thereby derive any savings from lower interest rates.

In a recent report issued through the task force on the District of Columbia, the Carter administration has recognized the responsibility of the Federal Government in sharing the costs of funding these pensions with the District—a recognition not made by previous administrations. The Office of Management and Budget supports the method of funding adopted in H.R. 6536, although it disagrees on the amount of Federal contribution.

It is important to realize that the funding shares included in H.R. 6536 were arrived at through long discussions with all parties involved—the District Government, the affected employees, pension experts, the Treasury Department—and I believe these amounts are justified and supportable.

We have before us an opportunity to take the most constructive step in the relationship between the District of Columbia and the Federal Government since the passage of the Home Rule Act in 1973. We should not forsake this opportunity, and for this reason I urge your support for H.R. 6536.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to take this moment to pay public tribute to my colleagues on the committee; to my chairman, the gentleman from California (Mr. DELLUMS); to the chairman of our full committee, the gentleman from Michigan (Mr. DIGGS); and to my colleague on the committee, the gentleman from Connecticut (Mr. MCKINNEY), for all the hard work which they have done on this bill.

Mr. Speaker, I rise to speak in favor of H.R. 6536, the District of Columbia Retirement Reform Act, which I have sponsored along with 20 of my colleagues.

First, I would like to acknowledge the outstanding work done on this bill by my distinguished colleagues, Mr. DELLUMS and Mr. DIGGS. Their prompt scheduling of hearings and expeditious conduct of markup have brought this bill to the floor in its current form.

H.R. 6536—a product of 3 years of resarch and hearings—is designed to relieve the pressure that spiraling pension costs will place on the District's budget. With a declining population and a dwindling tax base, the District—and most other major cities—cannot afford the rapidly escalating pay-as-you-go costs of public pension plans.

At present, police and firemen's pension costs are $50 for every $100 of active payroll. By the early 2000's pension payments will exceed payroll. Each year's delay in setting up proper funding for the District's employee-retirement pension plans adds $170 million to the unfunded liability and brings closer the day when the District government will be unable to meet these costs.

Who is responsible for this delimma? Who set the costly level of current benefits? Who failed to provide adequate funding for these benefits? Who decided to allow tomorrow's taxpayers to pay for today's services? Unfortunately, Mr. Speaker, we made those decisions—the Congress of the United States.

The current pension system was put in place during the years before home rule was granted to the District of Columbia. All of the benefits and the type of funding system employed in the District were adopted by the Congress based on the recommendations of Presidentially appointed commissioners.

It is because of this Federal responsibility that we are here today to consider this bill—H.R. 6536.

The actuarially sound funding method in this bill is one of three proposed by the District government and the U.S. Treasury in their 1974 study of pension funding alternatives.

Under this method—the "level percentage" method—a fixed percentage of payroll is contributed annually to the retirement funds that will be sufficient, along with interest earned on investments, to pay all pension costs. The Federal share is the difference between the District's current pay-as-you-go amount—what is needed yearly to pay benefits owed to retirees—and the level percentage.

The Federal contribution to all three funds—police, fire, teachers, and judges—will cease in the year 2003.

This method will cost about $47 million in Federal funds per year in each of the first 5 years of the program, and a total of $768 million over the life of the program.

Under this level percentage method, the Federal Government pays about 20 percent of the cost of funding and the District of Columbia about 80 percent.

By way of comparison, the most expensive method proposed to cure these pension problems would have cost $6.03 billion in Federal funds over the life of the program—over $150 million per year. This plan would have shifted 100 percent of the cost of funding to the Federal Government.

In addition to its lower costs, the level-percentage funding method in H.R. 6536 has the advantage of equity. It places an equal burden on present and future taxpayers since the percentage of payroll paid into the fund remains constant so long as benefits do not change.

Another feature of this funding method is that, when benefits are increased, the increased cost is reflected immediately by an increase in the size of the District's contribution needed to keep the fund actuarially sound. Because the District must—under the provisions of this bill—pay the full amount of any such increase, I believe that this provides an incentive to the District to control pension costs by limiting future benefit increases.

The Mayor of the District testified during hearings held last Congress that this funding method was a "reasonable approach for building actuarially sound retirement funds over a realistic time period." Even though the District would contribute over $4 for every $1 of Federal aid, the Mayor stated that the District would support this plan. Actuaries and pension experts consulted during the development of this bill agreed that this was an acceptable method of funding.

This legislation has also been carefully drafted to prohibit conflict of interest in the management of the pension funds. To guard against political pressure to invest in potentially risky local ventures, the bill provides that no funds may be invested in bonds or real estate of the District of Columbia, Maryland, or Virginia. These provisions were endorsed by pension management experts as a necessary safeguard.

Further, the bill creates an independent Board of Trustees composed of five members appointed by the District government and six members elected by active and retired employees. Pension plan participants and beneficiaries have a voting majority on the board to further insure that the funds will not be used to prop up falling projects of the District of Columbia government.

This pension board operates under strict reporting and disclosure and fiduciary standards similar to those contained in ERISA for private sector pension plans. These restrictions should insure that the pension funds will be managed only in the best interests of the retired employees.

Finally, the bill makes a number of changes in benefits for employees. For present police and fire employees, the bill provides vesting after 5 years, and tightens up disability retirement rules.

The primary reason for the runaway costs of the District's pension plans is the inordinate number of disability retirements. During 1969 disability retirements were 98 percent of total retirements. These rates have dropped to around 60 percent, but are still exorbitant compared to other cities including New York. I believe that the disability retirement changes in this bill will largely solve this problem.

For new police and fire employees the bill changes the current 20 years of service rule for optional retirement to a rule of age 50 and 25 years of service. Also, these new employees will be eligible for disability retirements on a percentage of disability system. This means that the disability annuity that they receive will be proportional to the extent of their injuries.

These changes have helped us hold down the cost of this bill. Also, these changes in benefits were worked out in close consultation with the District government and representatives of the respective employee groups. All of these groups now support the bill as reported by the committee.

All in all, Mr. Speaker, I believe that this is a good bill and I urge my colleagues to support it.

Mr. FAUNTROY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of H.R. 6536, a bill to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia. There is an urgent need for passage of this measure now. If no action toward establishing pension funds is taken, by the year 2000, the cost to the District to support the retirement plan for policemen and firemen alone will exceed the salaries of active employees covered by the plan.

Prior to granting home rule to the District in 1975, Congress established the various pension plans and granted benefits, but failed to provide for adequate funding of these plans. Further, Congress, during the 1960's mandated that the city hire an additional 2,000 policemen, for a total authorization of 5,100, a force substantially larger than that for cities of equivalent size.

Consequently, in October 1976, the accrued, unfunded liability for all of the pension plans totaled $2.03 billion.

In the face of a decreasing tax base, and an increasing revenue-expenditure gap, we must act now to provide relief to the city. Congress created the problem, and Congress must provide the solution.

It has been my position throughout the discussions and debate on this matter, that the congressional obligation was greater than that which H.R. 6536 provides for. The bill is well drafted and has been carefully thought out, and I would hope that this House does not shrink from its responsibility and pass this admittedly watered-down, but necessary measure.

Mr. BAUMAN. Mr. Speaker, I rise in support of H.R. 6536, the D.C Retirement Reform Act. Originally recommended in 1972 by our former colleague from Minnesota, Representative Ancher Nelsen, this legislation is a responsible approach to the most serious financial problem currently facing the District of Columbia.

The pension plans of the District's police, firemen, teachers, and judges are in serious difficulty due to the existence of unfunded liabilities of approximately $2.03 billion. Partly due to this, the costs of police and fire protection in the District are abnormally high. The District Government is paying more than 50 percent of its annual payroll in pension benefits and this will increase to 105 percent of the current payroll by the year 2003 unless action to fund these pensions is taken now.

The funding method adopted by H.R. 6536 provides for a "cap" or "ceiling" on increasing pension costs by creating a fund which pays for the benefits of current police and firemen as they accrue every year and amortizes the unfunded liability over the life of the fund. This will be a major improvement over the current "pay-as-you-go" system which burdens tomorrow's taxpayers with today's pension debts.

The total Federal contributions to the fund would be $768.9 million which amounts to about 13 percent of total contributions to the fund. The rest of the contributions come from the District Government and the District employees. I would also add that this amount is much more modest than the alternative funding proposal considered and rejected by the District Committee which would have increased the Federal share to as much as $6.2 billion.

H.R. 6536 also makes efforts to curb future pension costs by making several modifications in the benefits available primarily to police and firemen hired after the adoption of this legislation. These modifications reduce total new

entrant costs by 26.3 percent and reduce total Federal costs by $63.5 million. Had New York City attempted to do as much it might not be in its current unenviable position.

I have long sought to reduce Federal spending whenever and wherever possible. This is an instance where I believe the Federal Government has a clear responsibility to provide a contribution so as to assure those past retirees and current public servants who protect the Nation's Capital that the money to pay for their retirement will be available when they retire.

I urge your support for this fiscally sound legislation.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to revise and extend their remarks on the bill H.R. 6536.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 21, not voting 65, as follows:

[Roll No. 583]

YEAS—348

Abdnor	Brademas	Conable
Addabbo	Breaux	Conte
Ambro	Breckinridge	Conyers
Ammerman	Brinkley	Corcoran
Anderson, Calif.	Brodhead	Cornell
	Broomfield	Cornwell
Anderson, Ill.	Brown, Calif.	Coughlin
Andrews, N.C.	Brown, Mich.	Crane
Andrews, N. Dak.	Brown, Ohio	D'Amours
	Broyhill	Daniel, Dan
Annunzio	Buchanan	Daniel, R. W.
Applegate	Burgener	Danielson
Archer	Burke, Calif.	Davis
Armstrong	Burke, Fla.	de la Garza
Ashley	Burke, Mass.	Delaney
Aspin	Burleson, Tex.	Dellums
AuCoin	Burlison, Mo.	Derrick
Badham	Burton, John	Derwinski
Bafalis	Burton, Phillip	Devine
Baldus	Butler	Dickinson
Barnard	Byron	Dicks
Baucus	Caputo	Diggs
Bauman	Carney	Dodd
Beard, Tenn.	Carr	Downey
Bellenson	Carter	Drinan
Benjamin	Cavanaugh	Duncan, Oreg.
Bennett	Cederberg	Duncan, Tenn.
Bevill	Chisholm	Early
Bingham	Clausen, Don H.	Edgar
Blanchard		Edwards, Ala.
Blouin	Cochran	Edwards, Calif.
Boggs	Cohen	Edwards, Okla.
Bonior	Coleman	Eilberg
Bonker	Collins, Ill.	Emery
Erlenborn	Lloyd, Calif.	Rogers
Ertel	Lloyd, Tenn.	Rooney
Evans, Colo.	Long, La.	Rose
Evans, Del.	Long, Md.	Rosenthal
Evans, Ga.	Lott	Rostenkowski
Evans, Ind.	Lujan	Rousselot
Fary	Lundine	Roybal
Fascell	McCormack	Rudd
Fenwick	McDade	Runnels
Findley	McEwen	Russo
Fish	McFall	Santini
Fisher	McHugh	Sarasin
Fithian	McKay	Satterfield
Flippo	McKinney	Sawyer
Flood	Madigan	Scheuer
Florio	Maguire	Schroeder
Flowers	Mahon	Schulze
Flynt	Markey	Sebelius
Foley	Marks	Seiberling
Ford, Tenn.	Marlenee	Sharp
Forsythe	Marriott	Shipley
Fountain	Martin	Shuster
Fowler	Mathis	Sikes
Fraser	Mattox	Simon
Frenzel	Mazzoli	Sisk
Frey	Meeds	Skelton
Fuqua	Metcalfe	Skubitz
Gammage	Meyner	Slack
Gephardt	Mikulski	Smith, Iowa
Giaimo	Mikva	Smith, Nebr.
Gilman	Miller, Calif.	Snyder
Ginn	Mineta	Solarz
Goodling	Mitchell, Md.	Spellman
Gore	Mitchell, N.Y.	Spence
Gradison	Moakley	Staggers
Grassley	Moffett	Stangeland
Guyer	Mollohan	Stanton
Hagedorn	Moore	Stark
Hamilton	Moorhead, Calif.	Steed
Hanley		Steers
Hannaford	Moorhead, Pa.	Steiger
Harkin	Murphy, Ill.	Stockman
Harris	Murphy, N.Y.	Stokes
Harsha	Murphy, Pa.	Stratton
Hawkins	Murtha	Studds
Hefner	Myers, John	Symms
Heftel	Myers, Michael	Taylor
Hightower	Natcher	Thompson
Hollenbeck	Neal	Thone
Holt	Nedzi	Traxler
Holtzman	Nichols	Treen
Horton	Nix	Trible
Hubbard	Nolan	Tsongas
Huckaby	Nowak	Tucker
Hughes	O'Brien	Udall
Hyde	Oakar	Ullman
Ichord	Oberstar	Van Deerlin
Ireland	Obey	Vanik
Jacobs	Ottinger	Vento
Jeffords	Panetta	Volkmer
Jenrette	Patten	Walgren
Johnson, Colo.	Pattison	Walker
Jones, N.C.	Pease	Walsh
Jones, Tenn.	Perkins	Watkins
Jordan	Pickle	Waxman
Kasten	Pike	Weaver
Kastenmeier	Poage	Weiss
Kemp	Pressler	White
Ketchum	Preyer	Whitehurst
Keys	Price	Whitley
Kildee	Pritchard	Whitten
Kindness	Quayle	Wiggins
Kostmayer	Quie	Wilson, C. H.
Krebs	Quillen	Wilson, Tex.
Krueger	Rahall	Wirth
LaFalce	Railsback	Wright
Lagomarsino	Rangel	Wylie
Latta	Regula	Yates
Le Fante	Rhodes	Young, Alaska
Lederer	Richmond	Young, Fla.
Leggett	Rinaldo	Young, Mo.
Lent	Risenhoover	Zablocki
Levitas	Robinson	
Livingston	Roe	

NAYS—21

Ashbrook	Hansen	Stump
Chappell	Jenkins	Waggonner
Cleveland	Jones, Okla.	Winn
Collins, Tex.	Kelly	Wydler
Dingell	Miller, Ohio	
English	Montgomery	
Glickman	Mottl	
Hammer-schmidt	Myers, Gary	
	Ryan	

NOT VOTING—65

Akaka	Bowen	Eckhardt
Alexander	Brooks	Ford, Mich.
Allen	Clawson, Del	Gaydos
Badillo	Clay	Gibbons
Beard, R.I.	Corman	Goldwater
Bedell	Cotter	Gonzalez
Biaggi	Cunningham	Gudger
Boland	Dent	Hall
Boiling	Dornan	Harrington
Heckler	Mann	Ruppe
Hillis	Michel	St Germain
Holland	Milford	Teague
Howard	Minish	Thornton
Johnson, Calif.	Moss	Vander Jagt
Kazen	Patterson	Wampler
Koch	Pepper	Whalen
Leach	Pettis	Wilson, Bob
Lehman	Pursell	Wolff
Luken	Reuss	Yatron
McClory	Roberts	Young, Tex.
McCloskey	Rodino	Zeferetti
McDonald	Roncalio	

The Clerk announced the following pairs:

Mr. Zeferetti with Mr. Bedell.
Mr. Cotter with Mr. Del Clawson.
Mr. Corman with Mr. Boland.
Mr. Luken with Mr. Dornan.
Mr. Dent with Mr. Gibbons.
Mr. Akaka with Mr. Gonzalez.
Mr. Wolff with Mr. Kazen.
Mr. Harrington with Mr. Clay.
Mr. Allen with Mr. Holland.
Mr. Badillo with Mr. Hall.
Mr. McDonald with Mr. Mann.
Mr. Eckhardt with Mr. Cunningham.
Mr. Rodino with Mr. Patterson of California.
Mr. Pepper with Mr. Goldwater.
Mr. Johnson of California with Mr. McClory.
Mr. Howard with Mr. Michel.
Mr. Biaggi with Mr. Gudger.
Mr. Bowen with Mr. Yatron.
Mr. Brooks with Mr. Lehman.
Mr. Koch with Mr. Whalen.
Mr. Milford with Mrs. Heckler.
Mr. Minish with Mrs. Pettis.
Mr. Thornton with Mr. Bob Wilson.
Mr. Teague with Mr. Reuss.
Mr. St Germain with Mr. Hillis.
Mr. Roberts with Mr. Roncalio.
Mr. Beard of Rhode Island with Mr. McCloskey.
Mr. Alexander with Mr. Ruppe.
Mr. Ford of Michigan with Mr. Wampler.
Mr. Gaydos with Mr. Pursell.
Mr. Moss with Mr. Vander Jagt.

Mr. CHAPPELL changed his vote from "yea" to "nay."

Mr. EDWARDS of Oklahoma changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GEORGE WASHINGTON UNIVERSITY CHARTER RESTATEMENT ACT

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the Senate bill (S. 1060) to amend the Act of February 9, 1821, to restate the charter of The George Washington University, and ask unanimous consent that the Senate bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore (Mr. EVANS of Colorado). Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That "An Act to incorporate the Columbia College in the District of Columbia", approved February 9, 1821 (6 Stat. 255), as amended and supplemented, is amended to read as follows:

"ESTABLISHMENT

"SECTION 1. There is established in the District of Columbia The George Washington University (hereinafter in this Act referred to as the 'university') as a university and a body corporate which shall have perpetual succession.

"PURPOSES

"SEC. 2. The purposes of the university are—

"(1) to educate individuals in liberal arts, languages, sciences, learned professions, and other courses and subjects of study,

"(2) to conduct scholarly research and publish the findings of such research,

"(3) to operate hospital and medical facilities, and

"(4) to engage in any activity incidental to the foregoing purposes.

Such purposes shall be accomplished without regard to the race, color, creed, sex, or national origin of any individual.

"POWERS

"SEC. 3. In order to carry out the purposes of the university, the university may—

"(1) grant or confer academic and honorary degrees, diplomas, and certificates under the seal of the university,

"(2) establish any school, division, or department of learning to become a part of the university,

"(3) receive, invest, and administer any gift or endowment of money or real or personal property,

"(4) borrow money, with or without any security for repayment, at rates of interest determined by the board of trustees of the university without regard to the restrictions of any usury law, but may not plead any usury law as a defense in any action,

"(5) enter into any agreement with any institution of learning for the purpose of providing to students registered at such institution the educational facilities of the university and the facilities of any agency of the United States available to the university,

"(6) exercise all powers described in section 5 of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29 1005) on the date of the enactment of The George Washington University Charter Restatement Act and not inconsistent with the purposes of the university, and

"(7) exercise all powers necessary, incidental, or convenient to the conduct of the purposes, business, and affairs of the university.

"BOARD OF TRUSTEES

"SEC. 4. (a) The management, direction, and government of the university shall be vested in a board of trustees (hereafter in this Act referred to as the "board"). The bylaws of the university shall provide for the election, number, term of office, residency requirements, qualifications, manner of election, filling of vacancies, and removal of members of the board. The bylaws may provide that members of the board be elected to terms of office commencing on different dates. The bylaws shall provide for appointment of an executive committee and other committees composed of members of the board with any power and authority, including any power and authority of the board, provided for in the bylaws of the university.

"(b) Each individual who is a member of the board on the date of enactment of The George Washington University Charter Restatement Act shall continue to serve as a member until the membership termination date applicable to such individual.

"(c) No bylaw of the university which establishes qualifications for membership on the board may permit any individual (except the president of the university) to serve as a member of the board during the period in which the individual is serving as an officer, professor, lecturer, teacher, tutor, or employee of the university.

"AUTHORITY OF THE BOARD OF TRUSTEES

"SEC. 5. (a) The board shall be responsible for the exercise of all powers and the discharge of all duties of the university in a manner consistent with this Act, shall have full authority over all personnel and activities of the university, and may appoint or elect any person to serve as an officer, professor, lecturer, teacher, tutor, agent, or employee of the university. Any person so appointed or elected may be removed by the board.

"(b) The board may, by a vote of two-thirds of the individuals then serving as members of the board, adopt, amend, or repeal any bylaw of the university for—

"(1) the conduct of the purposes, business, and affairs of the university, or

"(2) the regulation of the internal government of the university.

"(c) The board may, by a vote of two-thirds of the individuals then serving as members of the board, vote to merge with any other nonprofit organization.".

SEC. 2. The amendments made by the first section of this Act constitute a complete restatement of the charter of the university and supersede all prior charter provisions contained in the Act of February 9, 1821 (6 Stat. 255) and all amendments and supplements thereto prior to the date of the enactment of this Act, without disturbing the present and continuing corporate status of the university.

SEC. 3. This Act may be cited as "The George Washington University Charter Restatement Act.".

With the following committee amendment:

Strike out all after the enacting clause and insert:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The George Washington University Charter Restatement Act".

SEC. 2. The Act entitled "An Act to incorporate the Columbia College in the District of Columbia", approved February 9, 1821 (6 Stat. 255), is amended to read as follows:

"ESTABLISHMENT

"SECTION 1. There is established in the District of Columbia a university and a body corporate which shall be known as The George Washington University (hereinafter in this Act referred to as the 'University') and which shall have perpetual succession.

"PURPOSES

"SEC. 2. The purposes of the University are—

"(1) to educate individuals in liberal arts, languages, sciences, learned professions, and other courses and subjects of study,

"(2) to conduct scholarly research and publish the findings of such research,

"(3) to operate hospital and medical facilities, and

"(4) to engage in any activity incidental to the foregoing purposes.

Such purposes shall be accomplished without regard to the race, color, creed, sex, or national origin of any individual.

"POWERS

"SEC. 3. In order to carry out the purposes of the University, the University may—

"(1) grant or confer academic and honorary degrees, diplomas, and certificates under the seal of the University,

"(2) establish any school, division, or department of learning to become a part of the University,

"(3) receive, invest, and administer any gift or endowment of money or real or personal property,

"(4) borrow money, with or without any security for repayment, at rates of interest determined by the board of trustees of the University without regard to the restrictions of any usury law, but may not plead any usury law as a defense in any action,

"(5) enter into any agreement with any institution of learning for the purpose of providing to students registered at such institution the educational facilities of the University and the facilities of any agency of the United States available to the University,

"(6) exercise all powers described in section 5 of the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–1005) on the date of the enactment of The George Washington University Charter Restatement Act and not inconsistent with the purposes of the University, and

"(7) exercise all powers necessary, incidental, or convenient to the conduct of the purposes, business, and affairs of the University.

"BOARD OF TRUSTEES

"SEC. 4. (a) The management, direction, and government of the University shall be vested in a board of trustees (hereinafter in this Act referred to as the 'board'). The bylaws of the University shall provide for the election, number, term of office, residency requirements, qualifications, manner of election, filling of vacancies, and removal of members of the board. The bylaws may provide that members of the board be elected to terms of office commencing on different dates. The bylaws shall provide for appointment of an executive committee and other committees composed of members of the board with any power and authority, including any power and authority of the board, provided for in the bylaws of the University.

"(b) No bylaw of the University which establishes qualifications for membership on the board may permit any individual (except the president of the University) to serve as a member of the board during the period in which the individual is serving as an officer, professor, lecturer, teacher, tutor, or employee of the University.

"AUTHORITY OF THE BOARD OF TRUSTEES

"SEC. 5. (a) The board shall be responsible for the exercise of all powers and the discharge of all duties of the University in a manner consistent with this Act, shall have full authority over all personnel and activities of the University, and may appoint or elect any person to serve as an officer, professor, lecturer, teacher, tutor, agent, or employee of the University. Any person so appointed or elected may be removed by the board.

"(b) The board may, by a vote of two-thirds of the individuals then serving as members of the board, adopt, amend, or repeal any bylaw of the University for—

"(1) the conduct of the purposes, business, and affairs of the University, or

"(2) the regulation of the internal government of the University.

"(c) The board may, by a vote of two-thirds of the individuals then serving as members of the board, vote to merge the University with any other nonprofit organization.".

SEC. 3. (a) The amendment made by section 2 constitutes a complete restatement of the charter of The George Washington University without disturbing the present and continuing corporate status of The George Washington University and supersedes all prior charter provisions of The George Washington University contained in the Act of February 9, 1821 (6 Stat. 255), and all amendments and supplements thereto.

(b) Each individual who is a member of the board of trustees of The George Washington University on the date of the enactment of this Act shall continue to serve as a member until the membership termination date applicable to such individual.

Mr. DIGGS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate bill and committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this legislation has as its objective, as stated in the Committee report (H. Rept. 95–612), the complete restatement of the George Washington University Charter so as to provide the university with a more adequate and flexible modern corporate charter.

The original charter and all amendments are consolidated in S. 1060 into a single, simple document which will provide sufficient flexibility so that the university's normal processes of change may be accomplished without any forseeable need for future legislative action.

The primary purpose of the reported bill is to confer upon the governing body of the university a modern comprehensive charter. For example, the present charter requires that the majority of the members of the board of trustees be residents of the District of Columbia. It is the position of the university that the best qualified trustees be elected without regard to their place of residence. Section 4(a) of the bill provides in part that the bylaws of the university shall provide for residency requirements of trustees. The proposed change is consistent with general corporate laws, including that of the District of Columbia, which do not require trustees of nonprofit corporations to be residents of any particular jurisdiction (D.C. Code, title 29, sec. 1018 (1973 ed.)).

The university's students (over 15,000) are recruited from the entire United States and from many foreign countries as well. Testimony of the university officials before this committee was that between 60 percent and 70 percent of the alumni now reside outside the District of Columbia, and many are concentrated in the large urban centers, including New York, Boston, Chicago, Los Angeles, Seattle, Miami, Houston and the like. It is from such diverse alumni that the university is desirous of recruiting members to serve on its board of trustees.

BACKGROUND

The Congress of the United States on February 9, 1821, enacted the initial charter statute, which created a national educational institution in the Nation's Capital, known as "Columbia College." Its name was changed in 1904 to "The George Washington University."

The original charter was amended eight times—1871, 1873, 1878, 1893, 1898, 1904, 1905, and 1970. The original act and subsequent amendments, which are superseded by the reported bill, are shown in full in the Ramseyer which is a part hereof.

A brief historical sketch of the University, as presented to the committee at its hearing on this legislation, is appended hereto.

The reported bill is similar to legislation passed by the Senate in 1976 and also approved by the Judiciary Subcommitee of this committee, but not considered by the House before adjournment of the 94th Congress.

SECTION-BY-SECTION ANALYSIS OF REPORTED BILL

Section 1 sets forth the title of the act as "The George Washington University Charter Restatement Act".

Section 2 amends the 1821 act, as follows:

Section 1. Establishes the university (as did the original 1821 act) as a corporate entity with perpetual succession.

Section 2. Specifically sets forth the purposes of the university which are generally provided for in the present charter. The purposes of the university are stated as:

(1) To educate in liberal arts, languages, sciences, etc.

(2) To conduct scholarly research and publish the findings thereof.

(3) To operate hospital and medical facilities.

(4) To engage in any activity incidental to the above purposes.

The section inserts new language into the charter by providing that the purposes of the university shall be accomplished without regard to race, color, creed, sex, or national origin.

Section 3. The section lists the powers of the university to include the power to:

(1) Confer academic and honorary degrees.

(2) Establish schools and divisions within the university.

(3) Receive, invest and administer gifts (in the form of money, real or personal property).

(4) Borrow money without regard to the restrictions of usury laws.

(5) Enter into agreements with other educational institutions.

(6) Exercise all powers delegated to other nonprofit corporations incorporated under the District of Columbia Nonprofit Corporation Act.

(7) Exercise incidental powers.

Section 4. Vests management of the school in a board of trustees and provides that the bylaws of the university shall provide for the election, number, term of office, residency requirements, qualifications, and so forth, of board members. This bill does not require that a majority of the trustees be residents of the District as is required by the present charter.

Provides for the appointment of an executive committee and prevents employees of the university from serving on the board.

Section 5. Grants the board full authority over all the personnel and activities of the university. Requires two-thirds vote of board to amend or repeal bylaws. Gives the board, by two-thirds vote, the power to merge with any other nonprofit organization.

Section 3 of the bill provides that this bill shall constitute a complete restatement of the charter and supersedes the present charter and all amendments thereto.

HEARING

The Subcommittee on Judiciary held a hearing on H.R. 2700, the earlier bill, on May 3, 1977, at which representatives of The George Washington University testified; and at a markup session a clean bill was ordered favorably reported (with technical amendments) to the full committee (See H.R. 7300).

COMMITTEE VOTE

On September 19, 1977, the full committee approved S. 1060, amended to contain the provisions of H.R. 7300, and by voice vote ordered the same reported to the House.

SUMMARY

The objective of S. 1060, requested by the administration of the George Washington University, is to restate completely the school's charter, substituting a more adequate, flexible, and modern document for the cumbersome and now-antiquated original granted in 1821.

Congressional action is required to effect the change, as it was by means of a statute enacted by Congress that the institution was established as a Federally-chartered university.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, on September 19, 1977, the District of Columbia Committee by unanimous voice vote reported out S. 1060, a bill which restates the charter of the George Washington University.

The primary purpose of this bill is to confer upon the governing body of the university a modern comprehensive charter. This original charter, adopted in 1821, has been amended eight times—the last time being in 1970. This bill consolidates the original charter and all the amendments into a single, simple document and will provide sufficient flexibility so that the university's normal processes of change may be accomplished without any foreseeable need for future legislative action.

The desired flexibility has been incorporated into S. 1060 by drawing extensively upon generally accepted principles of corporate law which grant the university's trustees discretion in policy making and all matters concerning governance of the university. However, the trustees may not exercise such discretion in a manner inconsistent with the purposes of the university set forth in the bill—those purposes are the same as set forth in the present charter, as amended.

A specific change from the existing charter is contained in section 4(a) which states that the bylaws shall provide for the residency requirements of the members of the board of trustees, as opposed to the act of 1898 which required the majority of the trustees to be residents of the District of Columbia. This change is to reflect the national charac-

ter of the university and to avoid unduly restrictive limitations on those persons who may serve it. Moreover, the change is consistent with the District of Columbia Non-Profit Corporation Act which does not require directors or trustees of nonprofit corporations to be residents of the District.

Mr. Speaker, I urge all of my colleagues to vote for this bill.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, ever since the Columbian College in the District of Columbia was first granted its charter in 1821, it has been constantly growing and undergoing the changes necessary to keep up with America's educational demands. Since 1904, when it changed its name to the George Washington University, this facility has rapidly moved to the forefront of higher education in this country. Today, George Washington is a university encompassing 12 colleges, schools, and divisions. With more than 15,000 students, George Washington University can boast of not only a national, but an international student body. It is the need to serve these students, and the ever-expanding alumni, that we bring this bill to the floor today.

In reinstating the George Washington University charter, we will provide the university with an up-dated, flexible document, and can hopefully forego the need for continued legislation in this area. In effect, since there has not been a major revision of the university's charter since 1905, it might be said that we are bringing the charter in tune with the 20th century so that the university officials can best plan for the next century.

Mr. Speaker, I am sure that those of us in this Congress, which in itself is an ever-changing institution, can well recognize the need for the legislation before us today. I hope that my colleagues will join me in supporting S. 1060.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Mr. Speaker, I want to rise in support of this legislation. I subscribe to the gentleman's remarks. I think it is very important for us to pass this bill.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the bill to restate the charter of the George Washington University. This is a simple matter and it ought to be passed unanimously because it has as its only purpose the modernization of the governing instruments of this very fine national institution of higher education.

George Washington University's 12 colleges have students from all of the 50 States and many foreign countries. Its graduates have held many positions in the service of this Nation and, it as an institution contributes much to this city through its law and medical schools and hospital.

The history of this university dates to the time of the passing of our first President, George Washington. It is fitting that so fine a university of national reputation and national service be accorded its charter by the Congress and that it be continued to be of interest and concern by this Congress.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with respect to the pending bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 363, nays 4, not voting 67, as follows:

[Roll No. 584]

YEAS—363

Abdnor	Breaux	Conte
Addabbo	Breckinridge	Conyers
Ammerman	Brinkley	Corcoran
Anderson, Calif.	Brodhead	Cornell
	Broomfield	Cornwell
Anderson, Ill.	Brown, Calif.	Coughlin
Andrews, N.C.	Brown, Mich.	Crane
Andrews, N. Dak.	Brown, Ohio	D'Amours
	Broyhill	Daniel, Dan
Annunzio	Buchanan	Daniel, R. W.
Applegate	Burgener	Danielson
Archer	Burke, Calif.	Davis
Armstrong	Burke, Fla.	de la Garza
Ashbrook	Burke, Mass.	Delaney
Ashley	Burleson, Tex.	Dellums
Aspin	Burlison, Mo.	Derrick
AuCoin	Burton, Phillip	Derwinski
Badham	Butler	Devine
Bafalis	Byron	Dickinson
Baldus	Caputo	Dicks
Barnard	Carney	Diggs
Baucus	Carr	Dingell
Bauman	Carter	Dodd
Beard, Tenn.	Cavanaugh	Downey
Bedell	Cederberg	Drinan
Beilenson	Chappell	Duncan, Oreg.
Benjamin	Chisholm	Duncan, Tenn.
Bennett	Clausen, Don H.	Early
Bevill		Edgar
Bingham	Cleveland	Edwards, Ala.
Blanchard	Cochran	Edwards, Calif.
Blouin	Cohen	Edwards, Okla.
Boggs	Coleman	Eilberg
Bonior	Collins, Ill.	Emery
Bonker	Collins, Tex.	English
Brademas	Conable	Erlenborn
Ertel	Latta	Richmond
Evans, Colo.	Le Fante	Rinaldo
Evans, Del.	Lederer	Risenhoover
Evans, Ga.	Lent	Robinson
Evans, Ind.	Levitas	Roe
Fary	Livingston	Rogers
Fascell	Lloyd, Calif.	Rooney
Fenwick	Lloyd, Tenn.	Rose
Findley	Long, La.	Rosenthal
Fish	Long, Md.	Rostenkowski
Fisher	Lott	Rousselot
Fithian	Lujan	Roybal
Flippo	Lundine	Rudd
Flood	McDade	Runnels
Florio	McEwen	Russo
Flowers	McFall	Ryan
Flynt	McHugh	Santini
Foley	McKay	Sarasin
Ford, Tenn.	McKinney	Satterfield
Forsythe	Madigan	Sawyer
Fountain	Maguire	Scheuer
Fowler	Mahon	Schroeder
Fraser	Markey	Schulze
Frenzel	Marks	Sebelius
Frey	Marlenee	Seiberling
Fuqua	Marriott	Sharp
Gammage	Martin	Shipley
Gaydos	Mathis	Sikes
Gephardt	Mattox	Sisk
Giaimo	Mazzoli	Skelton
Gilman	Meeds	Slack
Ginn	Metcalfe	Smith, Iowa
Glickman	Meyner	Smith, Nebr.
Gonzalez	Mikulski	Snyder
Goodling	Mikva	Solarz
Gore	Milford	Spellman
Gradison	Miller, Ohio	Spence
Grassley	Mineta	Stangeland
Guyer	Mitchell, Md.	Stanton
Hagedorn	Mitchell, N.Y.	Steed
Hall	Moakley	Steers
Hamilton	Moffett	Steiger
Hammer-schmidt	Mollohan	Stockman
	Montgomery	Stokes
Hanley	Moore	Stratton
Hannaford	Moorhead, Calif.	Studds
Hansen		Stump
Harkin	Moorhead, Pa.	Symms
Harris	Mottl	Taylor
Harsha	Murphy, Ill.	Thompson
Hawkins	Murphy, N.Y.	Thone
Hefner	Murphy, Pa.	Traxler
Heftel	Murtha	Treen
Hightower	Myers, Gary	Trible
Hollenbeck	Myers, John	Tsongas
Holt	Myers, Michael	Tucker
Holtzman	Natcher	Udall
Horton	Neal	Ullman
Hubbard	Nedzi	Van Deerlin
Huckaby	Nichols	Vanik
Hughes	Nix	Vento
Hyde	Nolan	Volkmer
Ichord	Nowak	Waggonner
Ireland	O'Brien	Walgren
Jacobs	Oakar	Walker
Jeffords	Oberstar	Walsh
Jenkins	Ottinger	Watkins
Jenrette	Panetta	Waxman
Johnson, Colo.	Patten	Weaver
Jones, N.C.	Pattison	Weiss
Jones, Okla.	Pease	White
Jones, Tenn.	Perkins	Whitehurst
Jordan	Pickle	Whitley
Kasten	Pike	Whitten
Kastenmeier	Poage	Wiggins
Kazen	Pressler	Wilson, C. H.
Kelly	Preyer	Wilson, Tex.
Kemp	Price	Winn
Ketchum	Pritchard	Wirth
Keys	Quayle	Wright
Kildee	Quie	Wylie
Kindness	Quillen	Yates
Kostmayer	Rahall	Young, Alaska
Krebs	Railsback	Young, Fla.
Krueger	Rangel	Young, Mo.
LaFalce	Regula	Zablocki
Lagomarsino	Rhodes	

NAYS—4

Burton, John	Stark	Wydler
Miller, Calif.		

NOT VOTING—67

Akaka	Brooks	Gibbons
Alexander	Clawson, Del	Goldwater
Allen	Clay	Gudger
Ambro	Corman	Harrington
Badillo	Cotter	Heckler
Beard, R.I.	Cunningham	Hillis
Biaggi	Dent	Holland
Boland	Dornan	Howard
Bolling	Eckhardt	Johnson, Calif.
Bowen	Ford, Mich.	Koch

Leach	Patterson	Staggers
Leggett	Pepper	Teague
Lehman	Pettis	Thornton
Luken	Pursell	Vander Jagt
McClory	Reuss	Wampler
McCloskey	Roberts	Whalen
McCormack	Rodino	Wilson, Bob
McDonald	Roncalio	Wolff
Mann	Ruppe	Yatron
Michel	Shuster	Young, Tex.
Minish	Simon	Zeferetti
Moss	Skubitz	
Obey	St Germain	

The Clerk announced the following pairs:

Mr. Akaka with Mr. Bob Wilson.
Mr. Zeferetti with Mr. Ruppe.
Mr. Corman with Mr. Hillis.
Mr. Luken with Mr. Del Clawson.
Mr. Pepper with Mr. Whalen.
Mr. Dent with Mr. Shuster.
Mr. Wolff with Mr. Roncalio.
Mr. Harrington with Mrs. Heckler.
Mr. Allen with Mr. Pursell.
Mr. McDonald with Mr. McClory.
Mr. Eckhardt with Mrs. Pettis.
Mr. Johnson of California with Mr. Wampler.
Mr. Koch with Mr. Leggett.
Mr. Badillo with Mr. McCormack.
Mr. Beard of Rhode Island with Mr. Minish.
Mr. Moss with Mr. McCloskey.
Mr. Biaggi with Mr. Lehman.
Mr. Boland with Mr. Vander Jagt.
Mr. Rodino with Mr. Gibbons.
Mr. St Germain with Mr. Cunningham.
Mr. Teague with Mr. Michel.
Mr. Staggers with Mr. Mann.
Mr. Yatron with Mr. Goldwater.
Mr. Holland with Mr. Alexander.
Mr. Howard with Mr. Gudger.
Mr. Ambro with Mr. Dornan.
Mr. Bowen with Mr. Obey.
Mr. Brooks with Mr. Patterson of California.
Mr. Clay with Mr. Reuss.
Mr. Eckhardt with Mr. Simon.
Mr. Ford of Michigan with Mr. Roberts.
Mr. Cotter with Mr. Thornton.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 5813) to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore (Mr. EVANS of Colorado). Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Public Works Act of 1954, approved May 18, 1954, is amended as follows:

(1) Section 160(b) of such Act (D.C. Code, sec. 43–1541(b)), is amended to read as follows:

"(b) For the purpose of effectuating the provisions of subsection (a) of this section, there shall be included annually in the budget estimates of the Mayor (beginning with the budget estimates for the fiscal year beginning October 1, 1977) the estimated value, as determined by the Mayor, of the water and water services to be furnished to the United States during the fiscal year for which the budget estimates are prepared, based on the rates for water and water services that will be in effect during such fiscal year. There shall be appropriated annually to the District, subject to subsequent adjustment within two fiscal years, out of any money in the Treasury not otherwise appropriated, a sum corresponding to the estimated value of water and water services to be furnished to the United States: *Provided,* That nothing contained in this subsection shall be deemed to relieve the United States of its obligation to make payments to the District for water and water services furnished prior to October 1, 1977: *Provided further,* That, notwithstanding any other provision of law, outstanding payments for water and water services furnished by the District prior to October 1, 1977, shall be advanced and paid, subject to subsequent adjustment within two fiscal years, to the District by the United States on October 1, 1977.".

(2) Section 212(b) of such Act (D.C. Code, sec. 43–1611(b)), is amended to read as follows:

"(b) For the purpose of effectuating the provisions of subsection (a) of this section, there shall be included annually in the budget estimates of the Mayor (beginning with the budget estimates for the fiscal year beginning October 1, 1977) the estimated value, as determined by the Mayor, of the sanitary sewer services to be furnished to the United States during the fiscal year for which the budget estimates are prepared, based on the rates for sanitary sewer services that will be in effect during such fiscal year. There shall be appropriated annually to the District, subject to subsequent adjustment within two fiscal years, out of any money in the Treasury not otherwise appropriated, a sum corresponding to the estimated value of sanitary sewer services to be furnished to the United States: *Provided,* That nothing contained in this subsection shall be deemed to relieve the United States of its obligation to make payments to the District for sanitary sewer services furnished prior to October 1, 1977: *Provided further,* That notwithstanding any other provisions of law, outstanding payments for sanitary sewer services furnished by the District prior to October 1, 1977, shall be advanced and paid, subject to subsequent adjustment within two fiscal years, to the District by the United States on October 1, 1977.".

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members be permitted to revise and extend their remarks on the bill H.R. 5813.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the purposes of the bill, H.R. 5813, as set forth in the Committee report (H. Rept. 95–247), (which was requested by the Government of the District of Columbia), are first, to cause the Mayor to include in his annual budget estimate an amount based on the water and sewer services expected to be provided to the Federal Government during the fiscal year beginning October 1, 1977, based on rates to be in effect for that fiscal year; second, to authorize an appropriation of that amount with an adjustment for actual use to take place over the next 2 fiscal years; and third, to authorize the appropriation of an amount equal to the charges owed to the District Government for services furnished prior to October 1, 1977.

BACKGROUND AND NEED FOR LEGISLATION

Special Federal payments to the District of Columbia's Water and Sanitary Sewage Works Fund, in lieu of charges for water and water services and sanitary sewage services, were authorized by the District of Columbia Public Works Act of 1954 (68 Stat. 101: District of Columbia Code, title 43, section 1601).

The District Government provides such services to numerous Federal facilities in the city and in surrounding jurisdictions. The Federal Government is charged on the basis of actual consumption, at the rates in effect for other users of the services.

Present law requires the city to base its annual budget estimates for the Federal payments on the actual amount of services furnished during the most recent fiscal year for which actual usage can be determined.

Because of that requirement as it relates to the requirements of the appropriations process, the Federal payment for water and sewer services appropriated to the District of Columbia for a given fiscal year is for services provided approximately 2 years earlier and is not related to the actual cost of providing services to Federal facilities in the year in which the appropriation is made.

For example, the Federal payment for such services appropriated for the current fiscal year is based on actual services provided to Federal facilities during fiscal year 1975, at the rates then in effect.

The delay in receipt of the Federal payment, together with the rising costs of providing water and sewer services, has produced higher rates for other users than would be in effect if the Federal Government paid as prescribed in the reported legislation (H.R. 5813).

Water and sewer services are set to cover the budgeted costs of furnishing services to all users in a given year. The Federal payment appropriated for that year, however, does not cover the current costs of services because it is based on services furnished 2 years earlier.

Therefore, water and sewer rates are set high enough not only to cover budgeted costs for non-Federal users, but also to cover that part of the cost attributed to services to Federal facilities that are not covered by the Federal payment appropriation.

As a result, in fiscal years 1973, 1974, District residents paid approximately $730,000 more each year than they would have been required to pay if the Federal payments had been current. District residents paid about $1.9 million more in 1976 and $640,000 more to date in 1977.

Another cost to District residents is the loss of the interest that could be earned if the Federal payments for water and sewer services were made on time. If the $20 million owed by the Federal Government were available to the District for investment, the District could have earned $1 million in interest annually.

The District's financial plan for fiscal year 1978 assumes that the transition to the current payment method will be made with the 1978 appropriation.

PROVISIONS OF H.R. 5813

H.R. 5813 amends the District of Columbia Public Works Act of 1954 to provide for a revised system for the billing and collection of charges incurred by the Federal Government for the consumption of water and sewer services provided by the District of Columbia.

Section 1 of the bill amends section 106(b) of such act (District of Columbia Code, title 43, section 1541 (b) to require the Mayor of the District of Columbia to include in his annual budget estimate, beginning with budget estimate for the fiscal year beginning October 1, 1977, an amount based on the water services expected to be provided to the Federal Government in the coming fiscal year. This amount shall be based on the rates to be in effect to all customers for that fiscal year.

The section also authorizes an annual appropriation of the estimated amount, subject to adjustment over the following 2 fiscal years, for actual use as determined by the District of Columbia.

The bill would not relieve the Federal Government of any obligations for water services owed to the District of Columbia Government prior to October 1, 1977. The bill would further require the Federal Government to make all outstanding payments for water services delivered by the District prior to October 1, 1977, on that date.

Section 2 of the bill amends section 212(b) of the 1954 act (District of Columbia Code, title 43, section 1611(b)) to provide for payment by the Federal Government of sanitary sewer service charges in the same manner.

DEPARTMENTAL VIEWS

The Office of Management and Budget submitted the following letter to the committee expressing strong support of H.R. 5813. Mr. James M. Frey, Assistant Director for Legislative Reference, said in part, "We believe that a shift to a 'current services' billing practice for the Federal Establishment is both practical and consistent with acceptable municipal accounting practices, which should be encouraged."

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., April 19, 1977.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for the views of the Office of Management and Budget on H.R. 5813, a bill to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

H.R. 5813, which is identical to the proposal transmitted by Mayor Washington on March 28, 1977, would advance to a current-year basis the schedule for appropriation and payment of Federal water and sewer service charges due to the District of Columbia from the Federal Government.

The purpose of this bill is to insure that Federal service payments are made on the same basis as those of other system users in the District of Columbia. The present "late" payment scheme seems to have been instituted for administrative convenience and to fit the Federal appropriations process schedule. We believe that a shift to a "current services" billing practice for the Federal establishment is both practical and consistent with acceptable municipal accounting practices which should be encouraged.

We support the provisions of H.R. 5813, and urge its prompt enactment.

Sincerely,

JAMES M. FREY,
Assistant Director for Legislative Reference.

HEARING

Mr. Speaker, on Wednesday, April 20, 1977, the Subcommittee on Economic Development and Regional Affairs heard testimony on H.R. 5813 and reported same to the full committee. Witnesses heard were Comer S. Coppie, Special Assistant to the Mayor for Budget and Management Systems; William R. Krause, Deputy Director for Financial Operations of the Office of Budget and Management Systems; and Herbert L. Tucker, Director of Environmental Services, all of the District of Columbia Government.

It was the assertion of the District Government officials that because of the existing requirement that the annual budget estimates of the Federal payment for water and sewer services be based on the actual amount of services furnished the United States during the most recent fiscal year for which such value can be determined, payment to the District government may lag up to 2 years from the time the services are rendered and the time payment is received. It was the contention of the District witness that as a result of the current method of payment, other customers must pay artificially higher prices to balance the water and sewer budgets in any given year. The final result is that those consumers must subsidize the operation of the Federal Government.

No opposition to the legislation was then expressed nor has since been received by the committee.

A subcommittee staff survey of the primary water and sewer service suppliers in the Washington metropolitan area follows:

SUBCOMMITTEE COMPARISON OF CHARGES AND PAYMENT CYCLE FOR SERVICES TO FEDERAL FACILITIES IN WMA

Washington Suburban Sanitary Commission: 130 Federal accounts; estimated total charges for water and sewage—$3.1 million annually; payment cycle is monthly with some paying quarterly.

Fairfax County Water Authority: Total number of Federal accounts not available; Fort Belvoir $700,000 per year; USGS $100,000 per year; payment cycle is quarterly.

Arlington County: 38 Federal accounts; estimated total charges—$120–$130,000 per year; payment cycle is monthly.

Alexandria/Virginia American Water Co.: Four major accounts: Cameron Station, Jones Point, Hoffman Complex, DOD; estimated total charges—$100,000 per year; payment cycle is monthly.

District of Columbia: Estimated total charges—$10.2 million; payment cycle annually with 2-year lapse between payment and rendering service.

COSTS

The enactment of this proposed legislation will involve no added costs to the District of Columbia Government nor to the Federal Government.

However, it should be noted that the enactment of the proposed legislation will provide for payment by the Federal Government of water and sewer charges at the beginning of the fiscal year in which the services will be delivered with an adjustment for actual services used over the next 2 fiscal years. The proposed legislation also authorizes a balloon payment to the District Government of all unpaid Federal water and sewer obligations incurred prior to the fiscal year beginning October 1, 1977.

Mr. HARRIS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of H.R. 5813 is to cause Uncle Sam to pay his water and sewer bill on a current basis just as everyone else does. At the present time, the Federal Government pays its bill 1 to 2 years after the fact. In 1977 it pays for what it consumed in 1975 at rates that were in effect in 1975. Currently the Federal Government consumes nearly 20 percent of the city's water.

The impact of the city's largest single customer delaying a $10 million payment for 1 to 2 years while costs and consumptions are increasing is to cause other D.C. customers to pay higher rates.

For instance, during fiscal years 1973 and 1974, District residents paid approximately $730,000 more each year than they would have if Federal payments were current.

At the same time, if the 2 years of back payments—$20 million—were available to the District for investment, it would earn $1 million in interest annually.

The Office of Management and Budget summarized the justification for H.R. 5813 with this comment from their letter endorsing the legislation. Quote: "We believe that a shift to a 'current services' billing practice for the Federal establishment is both practical and consistent with acceptable accounting practices, which should be encouraged.

We support the provisions of H.R. 5813, and urge its prompt enactment." End of quote.

The budget that the President submitted for the city in January for fiscal year 1978 reflects this anticipated change in accounting practices.

At the present time, the Federal Government is charged for water and sewer services on the basis of actual consumption at the rates in effect for other users of the services.

The District of Columbia Public Works Act of 1954, however, authorized special Federal payments in lieu of changing individual agencies for water and sewage services.

Present law requires the city to base its estimate for Federal payments on the most recent fiscal year for which actual usage can be determined.

Because of that requirement as it relates to the requirements of the appropriations process, the Federal payment for water and sewer services appropriated to the District of Columbia for a given fiscal year is for services provided approximately 2 years earlier and is not related to the actual cost of providing services to Federal facilities in the year in which the appropriation is made.

The purpose of the bill, H.R. 5813, which was requested by the government of the District of Columbia, are first, to cause the Mayor to include in his annual budget estimate an amount based on the water and sewer services expected to be provided to the Federal Government during the fiscal year beginning October 1, 1977, based on rates to be in effect for that fiscal year; second, to authorize an appropriation of that amount with an adjustment for actual use to take place over the next 2 fiscal years; and third, to authorize the appropriation of an amount equal to the charges owed to the District government for services furnished prior to October 1, 1977.

The enactment of this proposed legislation will involve no added costs to the District of Columbia government nor to the Federal Government.

However, it should be noted that the enactment of the proposed legislation will provide for payment by the Federal Government of water and sewer charges at the beginning of the fiscal year in which the services will be delivered with an adjustment for actual services used over the next 2 fiscal years. The proposed legislation also authorizes a catch-up payment to the District government of all unpaid Federal water and sewer obligations incurred prior to the fiscal year beginning October 1, 1977.

To make the transition from the current appropriations procedure to that provided for in H.R. 5813, the Federal Government will make payments in the 1978 fiscal year for water and sewer services furnished by the District in fiscal years 1976, 1977, and 1978.

On the basis of actual services provided during the 1976 fiscal year and estimates of services to be provided during the 1977 and 1978 fiscal years, the payment to be appropriated for fiscal year 1978 is $28,116,000.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I rise in support of H.R. 5813, a bill to put on a current basis the Federal Government's payments for water and sewer services furnished by the District of Columbia to the Federal agencies in this area.

The District government provides these services to the various Federal agencies at the rates in effect for all of its customers, including the residents of the District. However, the present law requires the city base its annual congressional budget estimates for the Federal payments on the actual amount of water and sewer services furnished during the most recent fiscal year for which actual consumption can be determined.

This bill would eliminate a 2-year lag in the Federal payments by amending the District of Columbia Public Works Act of 1954 to require the Mayor first, to include in his annual budget estimate for the congressional appropriations an amount based on water and sewer services expected to be provided the Federal Government in the ensuing year and second, authorize an annual appropriation of the estimated amount, subject to later adjustment for the services actually delivered. This new procedure would begin with the current budget estimate for the fiscal year beginning October 1, 1977, and would also authorize inclusion in the appropriation an amount to cover the charges for such services delivered by the District prior to October 1, 1977.

Mr. Speaker, like any good customer and citizen, the Federal Government should meet its obligations on a current and timely basis. Indeed, this legislation, introduced at the request of the District of Columbia government, has the strong support of the Office of Management and Budget. Our favorite action today will eliminate the present inequity and restore to the District the present use of funds to which it is entitled.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 5813, a bill to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

The purpose of the bill is to establish a system whereby the Federal Government will pay its water bill to the District of Columbia on time. To achieve this end, the bill requires the Mayor to include in his annual budget estimate and amount based on the water and sewer services expected to be provided to the Federal Government during the fiscal year beginning October 1, 1977, based on rates to be in effect for that fiscal year. It also authorizes an appropriation of that budget estimate with an adjustment for actual use to take place over the next 2 fiscal years. The bill further authorized the appropriation of an amount equal to the charges owed to the District government for services furnished prior to October 1, 1977.

Presently, the Federal Government's payment to the District of Columbia for water and sewer services is for services provided approximately 2 years earlier and is not related to the actual cost of providing services to Federal facilities in the year in which the appropriation is made.

The delay in receipt of the Federal payment, together with the rising costs of providing water and sewer services, has produced higher rates for other users than would be in effect if the Federal Government paid as prescribed in the legislation (H.R. 5813). As a result, in fiscal years 1973, 1974, District residents paid approximately $730,000 more each year than they would have been required to pay if the Federal payments had been current. District residents paid about $1.9 million more in 1976 and $640,000 more to date in 1977.

Another cost to District residents is the loss of the interest that could be earned if the Federal payments for water and sewer services were made on time. If the $20 million owed by the Federal Government were available to the District for investment, the District could have earned $1 million in interest annually.

The District's financial plan for fiscal year 1978 assumes that the transition to the current payment method will be made with the 1978 appropriation.

Thus, Mr. Speaker, I submit that fairness, equity and, indeed, efficiency demands that we pass this legislation.

Mr. DIGGS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 375, nays 1, not voting 58, as follows:

[Roll No. 585]

YEAS—375

Abdnor	Blouin	Chisholm
Addabbo	Boggs	Clausen, Don H.
Alexander	Boland	Cleveland
Ambro	Bonior	Cochran
Ammerman	Bonker	Cohen
Anderson, Calif.	Brademas	Coleman
Anderson, Ill.	Breaux	Collins, Ill.
Andrews, N.C.	Breckinridge	Collins, Tex.
Andrews, N. Dak.	Brinkley	Conable
Annunzio	Brodhead	Conte
Applegate	Broomfield	Conyers
Archer	Brown, Calif.	Corcoran
Armstrong	Brown, Mich.	Cornell
Ashbrook	Brown, Ohio	Cornwell
Ashley	Broyhill	Coughlin
Aspin	Buchanan	Crane
AuCoin	Burgener	D'Amours
Badham	Burke, Calif.	Daniel, Dan
Bafalis	Burke, Fla.	Daniel, R. W.
Baldus	Burke, Mass.	Danielson
Barnard	Burleson, Tex.	Davis
Baucus	Burlison, Mo.	de la Garza
Bauman	Burton, John	Delaney
Beard, Tenn.	Burton, Phillip	Dellums
Bedell	Butler	Derrick
Beilenson	Byron	Derwinski
Benjamin	Caputo	Devine
Bennett	Carney	Dickinson
Bevill	Carr	Dicks
Bingham	Carter	Diggs
Blanchard	Cavanaugh	Dingell
	Cederberg	Dodd
	Chappell	

Downey	Keys	Rahall
Drinan	Kildee	Rangel
Duncan, Oreg.	Kindness	Regula
Duncan, Tenn.	Kostmayer	Rhodes
Edgar	Krebs	Richmond
Edwards, Ala.	Krueger	Rinaldo
Edwards, Calif.	LaFalce	Risenhoover
Edwards, Okla.	Lagomarsino	Robinson
Eilberg	Latta	Rodino
Emery	Le Fante	Roe
English	Lederer	Rogers
Erlenborn	Lent	Rooney
Ertel	Levitas	Rose
Evans, Colo.	Livingston	Rosenthal
Evans, Del.	Lloyd, Calif.	Rostenkowski
Evans, Ga.	Lloyd, Tenn.	Rousselot
Evans, Ind.	Long, La.	Roybal
Fary	Long, Md.	Rudd
Fascell	Lott	Runnels
Fenwick	Lujan	Russo
Findley	Lundine	Ryan
Fish	McDade	Santini
Fisher	McEwen	Sarasin
Fithian	McFall	Satterfield
Flippo	McHugh	Sawyer
Flood	McKay	Scheuer
Florio	McKinney	Schroeder
Flowers	Madigan	Schulze
Flynt	Maguire	Sebelius
Foley	Mahon	Seiberling
Ford, Tenn.	Markey	Sharp
Forsythe	Marks	Shipley
Fountain	Marlenee	Shuster
Fowler	Marriott	Sikes
Fraser	Martin	Simon
Frenzel	Mathis	Sisk
Frey	Mattox	Skelton
Fuqua	Mazzoli	Skubitz
Gammage	Meeds	Slack
Gaydos	Metcalfe	Smith, Iowa
Gephardt	Meyner	Smith, Nebr.
Giaimo	Mikulski	Snyder
Gibbons	Mikva	Solarz
Gilman	Milford	Spellman
Ginn	Miller, Calif.	Spence
Glickman	Miller, Ohio	Staggers
Gonzalez	Mineta	Stangeland
Goodling	Minish	Stanton
Gore	Mitchell, Md.	Stark
Gradison	Mitchell, N.Y.	Steed
Grassley	Moakley	Steers
Gudger	Moffett	Stockman
Guyer	Mollohan	Stokes
Hagedorn	Montgomery	Stratton
Hall	Moore	Studds
Hamilton	Moorhead, Calif.	Stump
Hammer-schmidt	Moorhead, Pa.	Symms
Hanley	Moss	Taylor
Hannaford	Mottl	Thompson
Hansen	Murphy, Ill.	Thone
Harkin	Murphy, N.Y.	Traxler
Harris	Murphy, Pa.	Treen
Harsha	Murtha	Trible
Hawkins	Myers, Gary	Tsongas
Heckler	Myers, John	Tucker
Hefner	Myers, Michael	Ullman
Heftel	Natcher	Van Deerlin
Hightower	Neal	Vanik
Hillis	Nedzi	Vento
Hollenbeck	Nichols	Volkmer
Holt	Nix	Waggonner
Holtzman	Nolan	Walgren
Horton	Nowak	Walker
Hubbard	O'Brien	Walsh
Huckaby	Oakar	Watkins
Hughes	Oberstar	Waxman
Hyde	Obey	Weaver
Ichord	Ottinger	Weiss
Jacobs	Panetta	White
Jeffords	Patten	Whitehurst
Jenkins	Pattison	Whitley
Jenrette	Pease	Wiggins
Johnson, Colo.	Perkins	Wilson, C. H.
Jones, N.C.	Pickle	Winn
Jones, Okla.	Pike	Wirth
Jones, Tenn.	Poage	Wright
Jordan	Pressler	Wydler
Kasten	Preyer	Wylie
Kastenmeier	Price	Yates
Kazen	Pritchard	Young, Alaska
Kelly	Quayle	Young, Fla.
Kemp	Quie	Young, Mo.
Ketchum	Quillen	Zablocki

NAYS—1

Early

NOT VOTING—58

Akaka	Bolling	Corman
Allen	Bowen	Cotter
Badillo	Brooks	Cunningham
Beard, R.I.	Clawson, Del	Dent
Biaggi	Clay	Dornan
Eckhardt	McCormack	Teague
Ford, Mich.	McDonald	Thornton
Goldwater	Mann	Udall
Harrington	Michel	Vander Jagt
Holland	Patterson	Wampler
Howard	Pepper	Whalen
Ireland	Pettis	Whitten
Johnson, Calif.	Pursell	Wilson, Bob
Koch	Railsback	Wilson, Tex.
Leach	Reuss	Wolff
Leggett	Roberts	Yatron
Lehman	Roncalio	Young, Tex.
Luken	Ruppe	Zeferetti
McClory	St Germain	
McCloskey	Steiger	

The Clerk announced the following pairs:

Mr. Ford of Michigan with Mr. Goldwater.
Mr. Zeferetti with Mr. Ruppe.
Mr. Akaka with Mr. Leggett.
Mr. Luken with Mr. Del Clawson.
Mr. Corman with Mr. Michel.
Mr. Dent with Mr. Roncalio.
Mr. Wolff with Mr. Lehman.
Mr. Harrington with Mr. Pursell.
Mr. Allen with Mr. McClory.
Mr. McDonald with Mrs. Pettis.
Mr. Eckhardt with Mr. Wampler.
Mr. Johnson of California with Mr. McCloskey.
Mr. Koch with Mr. Vander Jagt.
Mr. Badillo with Mr. Cunningham.
Mr. Beard of Rhode Island with Mr. Pepper.
Mr. Ireland with Mr. Dornan.
Mr. Biaggi with Mr. Railsback.
Mr. Mann with Mr. Steiger.
Mr. Cotter with Mr. Udall.
Mr. Teague with Mr. Whalen.
Mr. Yatron with Mr. Bob Wilson.
Mr. Holland with Mr. McCormack.
Mr. Howard with Mr. Whitten.
Mr. Bowen with Mr. Patterson of California.
Mr. Brooks with Mr. Reuss.
Mr. Clay with Mr. Thornton.
Mr. St Germain with Mr. Charles Wilson of Texas.
Mr. Roberts with Mr. Leach.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DIGGS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1322), to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the District of Columbia Public Works Act of 1954, approved May 18, 1954, is amended as follows:

(1) Section 106(b) of such Act (D.C. Code, sec. 43–1541(b)), is amended to read as follows:

"(b) For the purpose of effectuating the provisions of subsection (a) of this section, there shall be included annually in the budget estimates of the Mayor (beginning with the budget estimates for the fiscal year beginning October 1, 1977) the estimated value, as determined by the Mayor, of the water and water services to be furnished to the United States during the fiscal year for which the budget estimates are prepared, based on the rates for water and water services that will be in effect during such fiscal year. There shall be appropriated annually to the District, subject to subsequent adjustment within two fiscal years, out of any money in the Treasury not otherwise appropriated, a sum corresponding to the estimated value of water and water services to be furnished to the United States: *Provided,* That nothing contained in this subsection shall be deemed to relieve the United States of its obligation to make payments to the District for water and water services furnished prior to October 1, 1977: *Provided further,* That, notwithstanding any other provision of law, outstanding payments for water and water services furnished by the District prior to October 1, 1977, shall be advanced and paid, subject to subsequent adjustment within two fiscal years, to the District by the United States on October 1, 1977."

(2) Section 212(b) of such Act (D.C. Code, sec. 43–1611(b)), is amended to read as follows:

"(b) For the purpose of effectuating the provisions of subsection (a) of this section, there shall be included annually in the budget estimates of the Mayor (beginning with the budget estimates for the fiscal year beginning October 1, 1977) the estimated value, as determined by the Mayor, of the sanitary sewer services to be furnished to the United States during the fiscal year for which the budget estimates are prepared, based on the rates for sanitary sewer services that will be in effect during such fiscal year. There shall be appropriated annually to the District, subject to subsequent adjustment within two fiscal years, out of any money in the Treasury not otherwise appropriated, a sum corresponding to the estimated value of sanitary sewer services to be furnished to the United States: *Provided,* That nothing contained in this subsection shall be deemed to relieve the United States of its obligation to make payments to the District for sanitary sewer services furnished prior to October 1, 1977: *Provided further,* That, notwithstanding any other provisions of law, outstanding payments for sanitary sewer services furnished by the District prior to October 1, 1977, shall be advanced and paid, subject to subsequent adjustment within two fiscal years, to the District by the United States on October 1, 1977.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5813) was laid on the table.

AIRSPACE USE

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 7766) to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mayor of the District of Columbia may enter into an agreement with the United States Postal Service to enable the United States Postal Service to construct a conveyor bridge over First Street Northeast between Union Station Terminal and the City Post Office located at North Capitol Street and Massachusetts Avenue Northeast. Any such agreement shall provide that such construction, and the use of such bridge, shall not be inconsistent with the use, operation, and maintenance of any street or alley and shall not deprive any real property not owned by the United States and administered by the United States Postal Service of easements of light, air, and access.

Mr. DIGGS (during the reading). Mr. Speaker, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the purpose of the bill, H.R. 7766, as stated in the committee report (H. Rept. 95–611)—which was requested by the U.S. Postal Service—is to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service that will enable the Postal Service to construct a conveyor bridge across First Street NE., in the District of Columbia for the purpose of transporting mail from the District of Columbia Post Office located at North Capitol Street and Massachusetts Avenue NE., to the Union Station Terminal.

BACKGROUND AND NEED FOR LEGISLATION

From 1914 until recently, mail has been transferred between the Washington City Post Office and the Union Station by means of bridges which connected the two buildings. These bridges spanned the air space over First Street NE.

The National Visitors Center, which was created by the act of Congress (Public Law 90–264), has been built on the location of the former Union Station, and the station activities were transferred to a new building under construction immediately behind the station. This construction necessitated the demolition of the bridges and requires the construction of a single new bridge to reconnect the post office with the Union Station. In addition, demolition of the bridges was an aid in the construction of the new subway in the area.

The District of Columbia Space Utilization Act (approved October 17, 1968, 82 Stat. 1116; D.C. Code, title 7, section 953) allows the utilization of the space over streets in the District of Columbia except in a defined area in the vicinity of the Capitol Building. This bridge would be constructed in that area. Accordingly, congressional approval is required before the project can proceed.

All other necessary legal requirements have been met, including approval of the National Capital Planning Commission, the Joint Committee on Landmarks of the National Capital, the Advisory Council on Historic Preservation, the Commission of Fine Arts, the Architect of the Capitol and the Mayor of the District of Columbia.

The Washington Post Office transports a daily average of 14,833 pieces of mail between the post office and Union Station. On an annual basis this volume is 5,399,000 pieces, consisting primarily of sacks and parcels. The work hours and associated dollar cost of transporting this mail between Union Station and the post office have been substantially increased since the bridge conveyance system went out of operation in August 1975.

COSTS

Since then the Washington Post Office has been forced to use the present costly method of trucking this mail to and from Union Station. The cost of constructing the proposed bridge would be approximately $550,000. Cost comparison shows the total cost of that construction would be completely offset in less than 1 year by the reduced costs in transporting the mail by the post office. Primarily, the savings would materialize from the much reduced labor cost made possible by the construction of the bridge.

The bridge conveyance system would provide an estimated annual dollar savings of $697,000 in operating costs to the Washington, D.C., Post Office. The present method of transporting mails to and from Union Station costs approximately $2,779,000 annually, while the bridge conveyance method would cost approximately $2,082,000 annually.

BENEFITS OF THE PROJECT

Besides cost savings, there would be other benefits from the construction of the proposed bridge conveyance system. The consumption of approximately 2,300 gallons of gasoline would be eliminated on an annual basis. This would aid us in our current energy program.

The orderly and timely movement of mails in and through the Washington Post Office would be enhanced tremendously with the bridge conveyance capability. At present, the mail is trucked by circuitous routes, with associated problems in traffic. Also, the construction of this bridge conveyance system molds very well with other actions and programs already scheduled for the Washington, D.C., Post Office.

The present design and configuration of the post office building requires that extensive mail processing functions be conducted on five floor levels. Over the years, the transportation of mails between floors for various stages of processing has not only proven to be very costly in terms of manpower and equipment but has impeded the rapid and efficient handling of mails.

Within the next few months an extensive renovation program will be initiated and will provide a complete redesign of the mail processing areas. One of the most significant benefits derived will be that mail processing functions will be condensed to only two floor levels, with the majority of the functions confined to only one floor. A part of this redesign will call for installation of modern conveyance systems to replace the present wheeled conveyance methods. The bridge conveyance system would fit well with this renovation.

Construction of the bridge conveyance would also greatly alleviate the traffic congestion on First Street between the post office and Union Station. This street is one way, running north to south. During peak traffic periods, early morning and late evening, the postal vehicles transporting mails across the street contribute to congestion as well as creating a safety hazard unless we observe very, very strict precautions all day. The traffic congestion problem is particularly acute on weekdays. The present method of transporting the mails to and from Union Station requires vehicles to cross the entire breadth of First Street numerous times during the day.

PROVISIONS OF H.R. 7766

H.R. 7766 authorizes the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service for construction of the aforementioned bridge and stipulates that such agreement shall provide that the construction and use of the bridge shall not be inconsistent with the use, operation and maintenance of any street or alley and shall not deprive any real property not owned by the United States and administered by the U.S. Postal Service of easements of light, air and access.

HEARING

The Subcommittee on Economic Development and Regional Affairs held a hearing on this proposed legislation on July 26, 1977, after which it reported same favorably to the full committee.

Representatives of the U.S. Postal Service—which requested enactment of this legislation by the Congress—and of the District Government testified in support of the legislation. No opposition to H.R. 7766 was then expressed nor has any since been received by the committee.

COMMITTEE VOTE

On September 19, 1977, the full committee approved H.R. 7766 by voice vote and ordered the bill reported favorably to the House.

Mr. HARRIS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, the purposes of the bill, H.R. 7766—which was requested by the U.S. Postal Service—is to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service that will enable the Postal Service to construct a conveyor bridge across First Street, NE., in the District of Columbia for the purpose of transporting mail from the District of Columbia Post Office located at North Capitol Street and Massachusetts Avenue Northeast to the Union Station Terminal.

The District of Columbia Space Utilization Act (approved October 17, 1968, 82 Stat. 1116; D.C. Code, title 7, section 953) allows the utilization of the space

over the streets in the District of Columbia except in a defined area in the vicinity of the Capitol Building. This bridge would be constructed in that area. Accordingly, congressional approval is required before the project can proceed.

All other necessary legal requirements have been met, including approval of the National Capital Planning Commission, the Joint Committee on Landmarks of the National Capital, the Advisory Council on Historic Preservation, the Commission of Fine Arts, the Architect of the Capitol and the Mayor of the District of Columbia.

This bill does not involve any authorization of funds by the U.S. Congress.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, a number of years ago, a bill came before the House seeking to transform Union Station into a national visitors center and to construct a new railroad station behind the present building. During the past few years, we have all witnessed the transformation of the once dark and dank building into a national showplace which combines the beauty and gracefulness of the past with the everchanging needs of the present. While many of us lament the fact that this center has yet to realize its potential as being the first stop for visitors to our Capitol City, I am a firm believer that it will eventually emerge as a positive asset to the city.

In constructing the National Visitors Center and rebuilding the rail station, it was necessary for much of the surrounding area to undergo substantial adjustment and perhaps no facility was more affected by this construction than the neighboring U.S. Post Office. As many of us are aware, the Postal Service has undergone many changes during the past few years, and while some may believe that the majority of the mail travels by air or truck these days, there is still quite a bit of mail which is conveyed by train. Thus, there is a definite need for a new bridge between the new station and the post office to replace those demolished during the construction phase. Without such a bridge, the Post Office must resort to the use of trucks, at great expense, to transport the mail several hundred feet between the train station and the Post Office.

In light of the savings to be gained by the construction of this bridge, both in terms of dollars and wasted gasoline, I am sure my colleagues will join me in support of this bill.

Mr. HARRIS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed, and a motion to reconsider was laid on the table.

BORROWING AUTHORITY FOR DISTRICT OF COLUMBIA

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 6530) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 723 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–241 note) is amended—

(1) in subsection (a) by striking out "the effective date of title IV" in the first sentence and inserting in lieu thereof "October 1, 1979"; and

(2) by adding at the end thereof the following new subsection:

"(d) The authority contained in this section to make loans shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

SEC. 8. Section 448(4) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–226(4)) is amended by striking out "November 1" and inserting in lieu thereof "February 1".

SEC. 3. (a) Section 431(e)(1)(C) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, title 11 App. 431(e)(1)(C)) is amended—

(1) by striking out "202" and inserting in lieu thereof "102"; and

(2) by striking out "subsection (b)(4)(D)" and inserting in lieu thereof "paragraph (3)(E)".

(b) Section 434(b)(1)(C) of such Act (D.C. Code, title 11 App. 434(b)(1)(C) is amended—

(1) by striking out "202" and inserting in lieu thereof "102"; and

(2) by striking out "subsection (b)(4)(D)" and inserting in lieu thereof "paragraph (4)(E)".

SEC. 4. Section 490 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47–254) is amended by adding at the end thereof the following new subsection:

"(f) Payments authorized or required to be made by or pursuant to any act authorizing the issuance of revenue bonds, notes, or other obligations under this section shall be made without further authorization or approval.".

SEC. 5. Section 743 of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(1) by striking out "60 Stat. 195" in subsection (b) and inserting in lieu thereof "64 Stat. 195";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

"(e) Section 4 of the Act entitled 'An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system', approved June 12, 1960 (74 Stat. 211; D.C. Code, sec. 43–1623), is repealed.".

With the following committee amendments:

Page 2, strike out line 22 and all that follows through line 4 on page 3.

Page 3, line 5, strike out "Sec. 5." and insert "Sec. 4.".

The committee amendments were agreed to.

GENERAL LEAVE

Mr. DIGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending bill, H.R. 6530.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DIGGS. Mr. Speaker, I move to strike the requisite number of words. I now yield to the gentleman from California (Mr. DELLUMS) for further explanation of this measure.

Mr. DELLUMS. Mr. Speaker, H.R. 6530 is a bill to amend the Home Rule Act with respect to the borrowing authority of the District of Columbia, and for other purposes. This bill was requested of the Congress by the District government for the following four reasons: First, provide the District of Columbia government with temporary authority to borrow from the U.S. Treasury until it can finance its capital works projects via general obligation bond issues, or other sources of revenue; second, require the Mayor of the District of Columbia to submit to the Council of the District of Columbia a complete financial statement and report by February 1, instead of November 1, for the District's preceding fiscal year—which now corresponds with the changed date of the Federal fiscal year, October 1 to September 30; third, make technical and clerical corrections in Public Law 93–198—the Home Rule Act—with regard to the qualifications for appointment to the Commission on Judicial Disabilities and Tenure and to the Judicial Nomination Commission; and fourth, repeal the authority to the District to borrow from the Treasury with respect to a sewer connection to Dulles International Airport, since the project is now complete.

BACKGROUND AND NEED FOR LEGISLATION

The District remains presently without any means to finance its capital works and related projects. However, the Home Rule Act terminated the District government's authority to borrow from the treasury and authorized the Treasury to loan the District only those sums required to complete capital projects for which construction and construction service funds were authorized or appropriated "prior to the effective date," January 2, 1975.

Because of unexpected delays in the development and implementation of the District's own bonding authority, the extension proposed by H.R. 6530 of the period for which Treasury loans may be made is necessary; outherwise, vital ongoing improvement efforts will be halted and new projects may be delayed.

H.R. 6530 is similar to legislation passed by the House during the 94th Congress. The Senate then added a non-

germane amendment, and it was not possible to call up the bill again in the House before adjournment.

The District's repayment record with the Treasury is "very good" according to the Department's testimony. No opposition was expressed at the committee's hearing or since to this grant of interim authority, which is, in effect, a continuation of the District's right—authorized and approved before home rule—to borrow from the U.S. Treasury.

Enactment of this legislation was requested of the Speaker by the Mayor, supported by the Council, of the District of Columbia.

The enactment of this proposed legislation will involve no added costs to the District of Columbia government nor to the Federal Government. I urge adoption of this bill.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of H.R. 6530 which amends the Home Rule Act by extending the borrowing authority of the District of Columbia until fiscal year 1980. This bill is similar to legislation passed by the House in the 94th Congress.

Unless this borrowing authority is extended, financing of needed capital improvements in the next 4 fiscal years such as modernization and roof and boiler repairs at several city schools, water and sewer main repair, city street and bridge maintenance, and replacement of worn-out fire department equipment, would be seriously impeded.

Both the District government and the Department of the Treasury support this bill. A Treasury official testified before the committee that the District government's repayment record was "very good" and given the District's inability to market its obligations, a grant of interim authority similar to the proposed legislation would be necessary.

It is indeed unfortunate that the District Government has been delayed from utilizing its bonding authority provided under the home rule charter. Not only would it have established Washington, D.C., as an independent and fully functioning financial unit, but it would have afforded the District an opportunity to save on interest payments as the rates available in the private market are significantly lower than those available from the Treasury. However, in view of the District's inability to enter the bond market until 1979, the District's long established authority for borrowing for its capital needs from the Treasury should be temporarily extended.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FAUNTROY. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in support of the bill, H.R. 6530, which would amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to extending the time by which the government of the District of Columbia may continue to borrow from the U.S. Treasury to finance its capital works programs until it is able to borrow on the private money markets.

This bill is vitally necessary to assure the continued efficient operation and management of the various capital projects which are underway or which are planned in the city. The home rule legislation, which was passed by the Congress, provided for an interim period by which the city would continue to borrow from the Treasury until it was ready to enter the municipal bond markets; but, as you know from the House report (H. Rept. 95–248) the required financial statements which the Congress directed the city to prepare and which may not be complete for some yet number of months, means that it is unlikely that the city can enter the municipal bond market except at great costs. In the meantime, the interim period provided in the Home Rule Act has expired.

Among the projects which are underway and which would have to be halted are capital improvements in the schools, water and sewer construction, road and bridge repairs and modernization, and replacement of fire department engine equipment. Additionally, unless there is assurance, evidenced most directly by the passage of this bill, that the city will be able to borrow to finance its capital projects, those which would be included in the prospective fiscal years—fiscal years 1977, 1978, 1979, and 1980—might be delayed or the payments be late which would be most unfortunate for continued effective management of the city.

This bill, Mr. Speaker, has the support of the Treasury and does not authorize any expenditures by the city. It is merely legislation which would facilitate the ability of the city to carry out its established obligations at the least possible costs.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise to speak in support of the committee amendment which would strike out section 4 of this bill.

I offered this amendment at the full committee markup and the committee unanimously adopted the amendment at that time.

This amendment is very simple. Section 4 of the bill would allow the District of Columbia City Council to authorize, without congressional approval, the issuance and payment of revenue bonds or notes. The amendment would strike out section 4 of the bill and thereby allow Congress to retain its current authority to approve or disapprove—through the appropriations process—of the payment of principal and interest on revenue bonds.

The committee opposed section 4 for a number of reasons. First, the committee opposes eliminating from the congressional appropriations process the payment of debt service on revenue bonds. Under the current law, revenue bonds technically are not the obligation of the District of Columbia. However, what has all too often happened is that the facilities financed by the revenue bond issue fail to provide enough revenue to pay off the principal and debt service on the bonds.

Then the District government has to pay off the defaulted bonds. The end result of all this is that the burden of paying off these revenue bonds falls on the Federal Government and every taxpayer of this country.

The revenue bonds which were issued to finance the construction of the R. F. K. Stadium are a case in point. In 1960 the Armory Board sold $19.8 million of revenue bonds which will fall due in December of next year. Nothing has been paid on the principal and the facility does not produce enough revenue to cover interest payments. As a result, the city has had to borrow from the U.S. Treasury to meet annual interest payments of $831,600.

Since the Federal Government is likely to be the ultimate guarantor of any revenue bonds issued in the District of Columbia, it appears to be necessary and appropriate to retain congressional oversight on the whole process of issuance of revenue bonds.

Second, there is some question as to whether or not our committee has jurisdiction to remove revenue bonds from the congressional appropriations process.

Based on these factors, the committee voted to strike section 4 from the bill. It is for these reasons that we ask the House to adopt the committee's amendment to this bill.

Mr. BAUMAN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, this legislation is considerably more potentially complex and expensive than any of the previous speakers have indicated. It is not just a routine measure to allow the District of Columbia to borrow from the Federal Government.

In the first place, when home rule was enacted by the Congress in 1973, we were told that by 1975 this Federal borrowing authority which was given to the District of Columbia government on an interim basis, would no longer be necessary. Unfortunately, through a combination of circumstances, not the least of which has been the gross mismanagement of the fiscal policy of the District of Columbia government, that government has never been able to use public borrowing authority by the issuance of general revenue bonds, as had been projected by the proponents of home rule.

So what do we have? We have the District government having been given full measure of rule over their own affairs, but still wishing to come to the Federal Treasury to pay their expenses.

Now, the specific issue which arises is that this bill, if passed and signed into law, will enable the beginning of the so-called Civic or Convention Center, since a $27 million down payment on that project was contained in the appropriation bill passed here the week before last.

At the appropriate time I shall offer an amendment which will deal with the Civic Center, but in the larger context,

I think we ought to think twice in the Congress, where we retain the constitutional right to veto any measure dealing with the laws of the District or any appropriation. If you support this bill you are, in effect, once again bailing out the District of Columbia and approving its fiscal mismanagement.

Granted, this borrowing is on a limited basis until October 1979; but we are doing for the District what many other cities would like to have done. We are doing for the District what the city of New York had to have when it was in extremis, that is, bailing it out of its fiscal mismanagement, rewarding its profligacy.

Mr. Speaker, I yield back the balance of my time.

Mr. DIGGS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, while we await the formal presentation of the gentleman's amendment, I would just simply remind the House that this is the same bill that passed in the last Congress session 2 to 1. I think there has been very little change in the membership since that time.

I further would remind the House that this bonding authority includes authorization for the city to deal with all of the capital projects, hospitals, public buildings, educational facilities and all the rest.

I just wanted to put this measure in its proper perspective of significance, and further to remind the House of its previous action.

Mr. McKINNEY. Mr. Speaker, will the chairman yield?

Mr. DIGGS. I am happy to yield to the ranking minority Member.

Mr. McKINNEY. Mr. Speaker, I would just like to remind my colleagues that one of the reasons the city is not out in the public market is because of a decision made by you and I, when we said that we would have an audit of District of Columbia affairs before we would let them go through. It has been suggested in the Congress, on both sides of the aisle, that they not go into the public market until this audit we have appropriated money for, and which is presently going on, is finished.

Historically, the District has borrowed from the Treasury. They would like to go outside and borrow from the public market. In fact, we have expert testimony that tells us that the District would get a rate that would allow it to borrow cheaper on the outside, in the public market, than it is now borrowing from the Treasury.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 1, line 8, strike out "October 1, 1979," and insert in lieu thereof:

"October 1, 1979; provided that no loans authorized by this section shall be used for the acquisition of site or the construction of a Washington, D.C. civic or convention center, without the prior legislative authorization of the Congress of the United States."; and".

Mr. BAUMAN. Mr. Speaker, this amendment simply says that the borrowing authority granted in this bill may not be used for purchasing any land in the District of Columbia for construction of a civic or convention center unless—and I emphasize the word "unless"—the District of Columbia government comes back to the Congress of the United States and its appropriate committees and presents to us plans for such a center; and then the Congress subsequently, in both Houses and by a majority vote, approves of the construction of such a center. I think that is an eminently reasonable restriction to place upon this project, which has been estimated to cost at least $110 million, and could cost as much as—by another estimate—up to $250 million.

The history of these types of facilities all over the United States in the last 10 years is that they are losing propositions. Despite the fact that the District government provided through its auditor a glowing and rosy prediction of what this center would mean, the General Accounting Office faulted that study in many instances and pointed out that the project could lose money and could saddle the taxpayers of all the United States and of the District with an immense liability.

Why must we have this amendment adopted now despite this bill expiring October 1, 1979? Because the convention center downpayment already is contained in the 1978 appropriation bill. I think Congress has been generous with the District of Columbia in many instances, such as the $300 million for the Pennsylvania Avenue redevelopment plan. Why cannot private enterprise finance such a project? Already, we have seen a plan of $100 million for a project located on the site of the National Press Building through private funding, which will compete with the convention center.

What we are being asked to do with this particular proposal for a convention center is to pay the freight for private business interests, such as hotels, restaurants, and so forth, that ought to more properly finance this kind of facility with their own resources or, at the very least, the resources of the District of Columbia rather than the Federal taxpayers.

This amendment would do nothing more than to say that no convention center could be built without congressional approval. It does not interfere with the planning, and funds could possibly be borrowed or used if they are authorized by other means for the planning—but it does say that once a feasible plan, and not the one justified by this faulty Gladstone report, but once a feasible plan is presented by the District government, Congress would consider its full funding, with a full estimate of the cost, and we would vote on that. That, I think, is an eminently sensible safeguard.

I think we ought to retain this control because, mark my words, otherwise the taxpayers all across this Nation will ultimately be saddled with a project which will cost more than the Kennedy Center, more than the Metro, more than a great many other expensive projects, based on the track record of the District government.

Mr. Speaker, I ask for approval of this amendment, and I hope we will be able to obtain a rollcall on it.

Mr. NATCHER. Mr. Speaker, I move to strike the last word.

Mr. Speaker, in 1973, when we passed the home rule legislation, as the Members will recall, one provision of that bill provided that the Mayor and the elected city officials would have the right to issue bonds for all capital outlay projects.

In 1975 the other body passed a resolution denying that right to the city of Washington, D.C. So, therefore, Mr. Speaker, we are back here today asking for a continuation of the loan authority which we have had all down through the years since 1958.

Mr. Speaker, in the regular appropriation bill for fiscal year 1978 we have 30 capital outlay projects. One of these projects is the civic center. Mr. Speaker, the Mayor wants it, 10 of the 13 city council members want it, the newspapers in Washington want it, the people who live in the neighborhood want it, and I could go on down the list. For a period, now, Mr. Speaker, of over 8 years $1 million has been expended to make the necessary surveys and studies as to this civic center. Not one dollar of Federal money will be required to build the civic center. The Mayor and the elected city council here in the city of Washington want this center. They are elected by the people of this city. They seek to borrow out of the Federal Treasury $27 million with every dollar of that to be refunded and paid by the District of Columbia government over a period of 30 years, at the going rate of interest.

Mr. Speaker, for a number of years here in the city of Washington we have refused in this House to give the elected officials in this city the right to bring in industry. We say, "'You are not going to bring any smokestacks into this city, no industry." If we let them build the civic center that they want to build with their own money in the downtown section, which needs help, Mr. Speaker, according to the studies which have been made, millions of dollars will go on the tax rolls. We will have over 300,000 more visitors in our city of Washington.

Mr. Speaker, as I pointed out, it is their money they want to spend. All down through the years they came in each time, as provided by law, and they said to the House of Representatives, "These are capital outlay projects. We are going to spend our own money for them." And now the gentleman comes in here and says, "You cannot do it."

Mr. Speaker, the city of Washington today would be issuing bonds if it had not been for the resolution on the other side. We had to pass a resolution in the 94th Congress extending the loan authorization. This bill that the distinguished gentleman from Michigan (Mr. DIGGS) and his committee comes in today with is an extension of this loan authorization.

I say to the Members, Mr. Speaker, that it is an awful easy thing for us to sit in this House and say to the District

of Columbia: "It is your money. Your elected Mayor, your City Council, the business people, the banks, the media, and everybody in the City of Washington who are interested in the capital city wants it, but one man does not want it or two men do not want it so it must not be constructed."

I say to the Members, Mr. Speaker, that this amendment should be defeated. We should say to the elected city Mayor and to the city council, elected by the people, "Certainly, you have home rule, you come in and you want to spend your own money so this center should be constructed."

In 1973, Mr. Speaker, as we will recall, the committee brought in a bill providing for a civic center. I was 100 percent against it, and most of the Members were against it. They were asking, in the end, for a Federal subsidy. They knew they could not build it; they knew it would not be built downtown by a consortium or by a group of contractors and returned to the city.

Now the distinguished gentleman from Michigan (Mr. DIGGS) and his committee which worked so hard on this legislation for the city have come in and said to the Congress, "It is their money. Their Mayor and their council want it. Why should we refuse it?"

Mr. Speaker, the District of Columbia needs this civic center.

We have such a center in my State. When it was built, they spent over $50 million on it, and it does not pay a dime, but the spinoff from the additional taxes that have gone on the tax rolls will pay for it time and again.

Mr. Speaker, I say to the Members in all frankness that this amendment, ought to be rejected.

Mr. WRIGHT. Mr. Speaker, I rise in opposition to the amendment.

There is little that can be added and probably nothing that needs to be added to the very excellent statement which has been made by the gentleman from Kentucky (Mr. NATCHER). I take this time merely to emphasize the hope of the leadership that the Members will reject this amendment.

Washington, D.C. is the Capital of our Nation. We have granted the city home rule, and now in pursuit of governing the city under home rule, the elected spokesmen for the city of Washington have determined that they want to build a convention center.

Numerous studies have been made. The General Accounting Office has attested that those studies have been well carried out. A sound cost-benefit ratio has been established, and it is estimated that this convention center will bring needed business and revenue into the city of Washington in the sum of approximately $100 million annually. Part of that will help provide needed work for Washington citizens. Part of it will inure to the city treasury in taxes. The city will assume full responsibility for retiring the bonds, without any Federal subsidization.

The Bauman amendment, therefore, would simply deny to the city of Washington the right to spend its own money to develop its own city in the manner in which its elected officials have decided to do.

So long as we deny to the citizens of Washington voting representation in this Congress, then it seems to me that each of us has some special responsibility, if not to assist the city of Washington, then at least not to throw rocks in its path.

The amendment that has been offered would deny the use of any of these loans to the city—and they are repayable loans, I remind the Members—for the acquisition of site or construction of a civic or convention center without the specific future legislative authorization of Congress.

We have given that authorization in the past. We gave that authorization in the loan legislation itself. We do not require this procedure for any of the other items being contemplated by the city of Washington. So it would seem to me petty and petulant for this House to interpose its judgment against that of the elected officials of this city and to deny them the privilege of spending their money to build that which the city manifestly needs and which—according to all the studies of reputable intent—will not only pay for itself but yield rich dividends to the city and to its treasury over the next few years.

So, Mr. Speaker, I ask for a "no" vote on the amendment.

Mr. McKINNEY. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Speaker, it is impossible for me to match the eloquence of the gentleman from Kentucky (Mr. NATCHER), the chairman of the subcommittee on District of Columbia appropriations, a Member who has in his long history in this House shown an interest in the affairs of the District. It is likewise impossible for me to match the eloquence of the majority leader on this subject. We are talking about a subject that is very important to me, and that is the right of the people of the District of Columbia to run their own affairs.

Moreover, Mr. Speaker, there are a few things we should mention just to clarify the record. The Treasury Department, No. 1, tells us that the District has an absolutely excellent record of repaying its loans. We have had a GAO report, by the way, which says that the District does a great deal better than the Federal Government in building projects on time and within the budget.

In fact, Mr. Speaker, I would suggest that we just look down the street at something that used to be called Union Station to see how well we in the Federal Government do our work as opposed to how well the District has done some of its work in the past. Those are two points which are technical, but very important.

Mr. Speaker, why are we in this situation? We are in this situation because of our own activities. The city council and the Mayor have always had the right to come to the Treasury. The other body, in its wisdom, said, "You will continue to go to the Treasury until we receive back an audit."

This project, Mr. Speaker, is not going to cost the Federal taxpayer one solitary dime. In fact, what we are doing is that we are socking the city for 8 percent interest out of the Treasury when the city could go into the public market and pay 5 to 5½ percent interest. Therefore, if anything, the Federal Government is making money that it should not be making with respect to this project.

Some of the things which we think will happen with respect to this matter is that we will have an addition in real property taxes, from hotels alone, in a tax revenue range of $1.7 to $2.3 million; and we will have an addition in hotel occupancy taxes from $3.4 million to $4 million. We will have an addition in retail sales taxes which we expect to go from $3.4 million to $4.1 million.

Mr. Speaker, this center will mean 4,000 permanent jobs with corresponding salaries and taxes for the city of Washington.

It seems to me, Mr. Speaker, that the city has come forth with a plan, a plan that they need. We have left them with no alternative except tourism. That is all they have, tourism, real estate taxes, and income taxes.

Mr. Speaker, if we do not allow them to expand their tourism, we are going to have to change our thinking and perhaps turn this metropolis into an industrial city. We have to do something to give them a broader tax base. This is now their decision. They elected their government, their representatives. We told them to do it. We told them to run the city, and now we stand here today and say, "Do not do this. Do not build a building."

I think, Mr. Speaker, that that is grossly unfair. Please vote against the amendment.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words.

I would, Mr. Speaker, indicate now that it is my intention to vote against the amendment offered by the gentleman from Maryland; but I would to have the attention of the gentleman from Kentucky and perhaps his counsel. Having listened to the gentleman's very eloquent statement today, Mr. Speaker, I have been persuaded even more that our commmittee bill is a good bill.

However, I would ask the chairman, in view of the fact that I was the movant in striking section 4 of this bill, which would have, by law, permitted the District of Columbia to issue revenue bonds without going through the appropriation authority of the gentleman's committee, I feel that there ought to be some opportunity for the Congress, which represents the people who pay the bills, to have something to say and to have some input in this system.

Therefore, Mr. Speaker, I ask the gentleman from Kentucky (Mr. NATCHER), the chairman of the committee, is there an opportunity that the chairman will have to help this House and to help these Members so that they can be able to talk to their constituents straight up and say, "No money is being wasted.

This project is being brought in on time and at cost"?

Could the gentleman perhaps help me in that respect?

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, my friend, the distinguished gentleman from Kentucky (Mr. MAZZOLI), was here at the time we passed the home rule bill. As the gentleman will recall, that bill provided that the budget for the District of Columbia should be sent to the Congress. Further, all reprograming requests had to be approved by the Committees on Appropriations in the House and Senate.

In addition to that, under the bill which authorized the issuance of bonds, every capital outlay project for which bonds would be issued has to be approved by the Congress.

It has to be in the budget. It has to come back to the Congress for approval. That is in direct answer to the gentleman's question as to the people throughout the United States, as to whether or not these projects are away from the Congress, they are in the budget regardless of whether bonds are issued or whether the loan authorization is continued, every project has to be approved by the Congress.

Mr. MAZZOLI. If the gentleman will permit me to ask one further question, does the gentleman from Kentucky (Mr. NATCHER) then have contact with further activities leading to the eventual construction of this civic center? Would the gentleman be consulted by the city council? Would the gentleman's subcommittee be consulted? And will the gentleman and his committee have some periodic oversight of that program?

Mr. NATCHER. They will be consulted, and I will assure the gentleman at this time that that certainly will happen.

Mr. MAZZOLI. One other thing: The gentleman from Kentucky is aware of the recommendations of the task force of the District of Columbia which has recommendations to phase out congressional control of the budgeting apparatus by 1981. Does the gentleman say that his subcommittee will have a contact between now and 1981 and thereafter? Would the gentleman to able to advise me on that?

Mr. NATCHER. The gentleman is absolutely correct that oversight of the projects will be submitted and the committee will move along at all times on proposals of the District of Columbia government.

Mr. MAZZOLI. I thank the gentleman for his assurances. The gentleman's talented leadership of the subcommittee has helped persuade me that the amendment offered by the gentleman from Maryland (Mr. BAUMAN) should be defeated.

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, I move to strike the requisite number of words.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I do not know how the gentleman from Kentucky drew the conclusion, as much as I respect his judgment, that the convention center is not going to cost the Federal taxpayers a dollar. The entire $110 million comes right out of the pockets of the taxpayers in the form of a loan that the District government will borrow from the Treasury of the United States, and that may or may not be paid back over 30 years. If the track record of New York City and the recent experience of the District of Columbia are any examples, then we have no guarantee that this money will ever be paid back. Further, if it is repaid it will probably come out of funds Congress appropriates to D.C. and in any case your taxpayers will foot the bill.

The gentleman from New York (Mr. KEMP) and the gentleman from Utah (Mr. MCKAY) in their minority views on the 1978 D.C. appropriation point out the dubious nature of this project. Do not take the gentleman from Maryland now speaking as any authority, and many of you would not—but look at the General Accounting Office report which says that the District has overestimated the number of visitors who might come to this center. The GAO questions the very accuracy of the $110 million estimate of the cost which they point out would probably escalate considerably over the next few years. They even question the ability of the District of Columbia government to effectively manage this particular project once it is built and they note that in other cities that have built similar centers management is the key to success.

Already this project has been turned down by the Subcommittee on District of Columbia Appropriations and by the full Committee on Appropriations of the other body.

The project has been opposed or seriously questioned by a number of civic groups in this city, including the District of Columbia Federation of Civic Associations—and I could go on through the whole list who have had questions about this particular project.

Unless we adopt this amendment you will go right ahead and authorize this civic center without any further look at it by the Congress of the United States. We will not be given the opportunity to exercise our judgment on behalf of the people we represent regarding one of the most potentially costly projects that this city has ever built.

Take a look at Metro, with the water pouring in from the Potomac River; take a look at that white elephant, the R. F. Kennedy Stadium that no longer has a baseball team; take a look at the leaky roof of the Kennedy Center, and in each one of those instances we had all of the assurances that these projects, when they came before us, would not cost the taxpayers and would not come out of the Treasury of the United States. The history is replete. Congress should be able to make the decision on this civic center.

I urge your support of my amendment. At this point I include a statement of the Senator from Vermont (Mr. LEAHY).

[From the Washington Post, Sept. 22, 1977]

THE CONVENTION CENTER IS NOT NEEDED

(By U.S. Senator Patrick Leahy)

An important debate has developed in the District of Columbia and in Congress over the need for the city government to build and operate a convention center. The $110 million proposal represents the largest capital-expenditure item ever proposed by the city as a single jurisdiction. A proposal to spend that much of the *taxpayers'* money needs to be carefully considered, and, therefore, I believe the current debate is a healthy sign of good government.

The Senate Appropriations subcommittee on the District of Columbia held two days of special hearings on this topic alone and heard from over 30 witnesses. The subcommittee had two evaluations of the economic feasibility of the proposal, one done by the General Accounting Office and the other by the D.C. city auditor. Additional economic analysis was submitted by civic associations and by the city government. On the basis of the hearings and of study and review of the analysis, I believe that the proposed center is too expensive and will result in a net revenue loss to the city. The center is not needed to maintain and permit growth in the city's current position in the tourist and convention market.

And while I support the objective of revitalizing downtown, I believe the convention center is not needed to meet that objective, nor could the convention center alone guarantee it. Moreover, several projects are already under way to meet this objective and several other projects are on the horizon:

Metro, with a cost over $5 billion, will crisscross the downtown area with seven subway stops. This considerably increases the economic development potential of the downtown area and will help make it more accessible to the entire metropolitan area.

Over $300 million in federal funds has been authorized for the Pennsylvania Avenue redevelopment plan. This plan will focus on the redevelopment of the north side of Pennsylvania Avenue extending as much as four blocks into the downtown area. Plans for a major $100 million complex of hotels, offices and shops to be included in the Pennsylvania Avenue redevelopment area were announced recently by the National Press Club and Atlanta architect and developer John C. Portman Jr. This proposal itself includes convention facilities and will be financed primarily with private funds.

A second project in this area, proposed by the Quadrangle Development Corporation and approved by the Pennsylvania Avenue Redevelopment Corporation, provides for an office building with two levels of retail stores, a pedestrian arcade and offices.

The city has a proposal from the Hines Corporation of Dallas to build a 1-million-square-foot building complex at 12th and G streets NW. This complex would be located atop a new subway station. The Hines Corporation is interested in having the city support this project by agreeing to lease approximately 300,000 square feet of the proposed office space. The Senate Appropriations Committee has chosen to leave the decision on this matter to the city, and the city, which *does* need that office space, could bring this project (or others like it) to the downtown area simply by exercising its leasing powers.

At $110 million, the proposed convention center is one of the most expensive ever proposed in the United States. Centers recently built in St. Louis and Atlanta cost approximately $36 million. One of the reasons that these other centers were less expensive is that they were built on donated land. I asked the mayor, in a letter last month, to consider an alternative site for the convention center, a site already owned by the city

or the federal government, as this would save over $25 million and considerably increase the economic feasibility of the proposed convention center. The city and the federal government own over 45 per cent of the land in the District, and numerous sites are available. On Sept. 1, the city responded by rejecting further consideration of alternative sites.

One fact not well known is that the District of Columbia is already the third largest convention city in the United States even without having a major, government-owned, convention facility. Additionally, the Sheraton Park Corporation is making a $60-million expansion of its facility, which will then be able to accommodate 80 percent of the conventions that would come here.

Economic feasibility for the proposed center hinges on estimates of the net additional delegates that it would bring to Washington. The city's estimate of 390,000 net additional delegates appears to be greatly inflated when compared with the track record of other cities that have built convention centers. If Washington's performance in terms of attracting additional delegates to the city were equal to the average performance of other cities, the center would attract 100,000 to 150,000 new delegates. The fact that the District already is the third largest convention city makes the chances for a great amount of rapid growth in its market share.

The bottom line of our analysis is that the convention center would lose between $4 million and $9 million a year in tax revenue to the city, including all the tax benefits from projected spinoff developments. It is still true that the convention center would bring profits to some business interests, and understandably the business community has been pushing hard for the convention center. While it would benefit a segment of that community, it would represent a net drain on the city's resources, taking revenue away from the needs of the more traditional city functions and activities. This would come at a time when the city appears to be making great progress on two of its more vital functions: schools and police protection.

Washington already has the highest per capita expenditure level of any city in its population range, the highest per capita debt load of any city in the United States and, according to the city, the largest tax burden of any jurisdiction in the metropolitan area. The convention center would only aggravate these negative trends and only put further upward pressure on local taxes. On the basis of the testimony of witnesses that appeared before the subcommitee, on letters and on a petition by 85 percent of the civic associations in the District, the citizens of the District do not appear agreeable to having their taxes increased to fund a convention center. Many of the citizens who have testified and written to me believe that a center would bring no direct benefit to themselves while they, the citizens, would be asked to pay for it.

Proponents have cast this debate in terms of a test of home rule for the District. So there can be no misunderstanding, let me point out several facts. I have often stated my support for full home rule as well as full voting representation in both the House and Senate. However, that does not change the reality of this situation. Until it can be changed, the law requires the Congress to enact a budget for the District of Columbia. As chairman of the Senate's D.C. appropriations subcommittee, I cannot abdicate my responsibility to evaluate the city's proposals, particularly with millions of federal tax dollars involved.

In this instance, the city's proposal to build a downtown convention center simply is not, in my opinion, financially feasible.

Mr. DELLUMS. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, as the subcommittee chairman holding hearings on this legislation, I would simply like to remind my colleagues that we are moving away from the issue that is at hand here. The basis for the legislation is the need to extend the borrowing authority to the government of the District of Columbia. It is needed because of prior action on the part of the House and the Senate in the last Congress, so the need is there.

The second question is, can the District of Columbia in fact pay its bills? The U.S. Treasury says that the District of Columbia has a good record in paying its bills. The General Accounting Office says that the District of Columbia has not only a good record in paying its bills but it has the financial wherewithal to do it.

Now I would like simply to conclude by speaking briefly to the appropriateness of this amendment. Within the framework of the rules that guide the House of Representatives, I would suggest to my colleagues that this amendment is appropriate, so we did not offer an effort to challenge this amendment. But the question is whether it is appropriate within the framework of the law that we passed called the Home Rule Act, or the spirit and intent of that law.

With respect to the question of law, I would suggest that this amendment thwarts the city council's prior right—to legislate. We have 30 days in this body and 30 days in the other body to act if we do not agree with the actions taken by the District government. But I believe that this amendment knocks out that prior right, so within the framework of the law known as the Home Rule Act, I think this amendment is wholly inappropriate.

With respect to the spirit of the law, I would simply like to quote very briefly from an article that is in today's Washington Star written by two of our colleagues from the other body, Senator EAGLETON and Senator WEICKER. It states very briefly as follows:

> It is time Congress gave meaning to home rule for the District of Columbia and removed the yoke of second-guessing that prevents the city from building greater financial independence and stability. Home rule was enacted in the conviction that the District no longer should be indentured to Congress, but should have greater freedom to exercise its own initiative.

That is the issue that is at hand with respect to this amendment. It is appropriate within the rules of this House, but in terms of the spirit of the Home Rule Act, it is wholly and totally inappropriate. The citizens of the District of Columbia are not our slaves. They should not be indentured to us. We should be giving them much broader freedom, not narrowing the freedom. With the suggestion of that statement, I would hope that our colleagues would strike down this amendment.

Mr. Speaker, I yield back the remainder of my time.

Mr. FRASER. Mr. Speaker, the House should support H.R. 6530 to extend until October 1, 1979, the authority of the District of Columbia government to finance capital construction projects from Treasury loans, rather than seeking funds from the municipal bond market.

This bill passed the Senate last June 13, as S. 1061. It passed both the House and Senate in the last Congress, but got caught in the adjournment rush last October.

The capital projects which will be financed are part of the fiscal year 1978 D.C. budget which has had to be approved by the Mayor and city council and then be approved by the Office of Management and Budget for submission by President Carter to Congress.

The one project which is the subject of this amendment—the civic center—was approved by the Mayor and council. The city is not being careless and irresponsible in building this civic center. The council has given preliminary approval to a tax bill especially for financing the civic center. Council bill 2–169, is a hotel occupancy tax and other business taxes for a 3-year period totalling $16 million to cover the start up costs of the civic center. The business community has agreed to this tax package.

The amendment should be defeated and H.R. 6530 should be passed by the House.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 187, nays 196, not voting 51, as follows:

[Roll No. 586]

YEAS—187

Abdnor	Duncan, Tenn.	Ireland
Anderson, Ill.	Edwards, Ala.	Jacobs
Andrews, N.C.	Edwards, Okla.	Jeffords
Andrews, N. Dak.	Emery	Jenkins
	English	Johnson, Colo.
Annunzio	Ertel	Jones, Okla.
Applegate	Evans, Del.	Kazen
Archer	Evans, Ind.	Kelly
Armstrong	Fary	Kemp
Ashbrook	Findley	Ketchum
Badham	Fish	Kindness
Bafalis	Fithian	LaFalce
Bauman	Florio	Lagomarsino
Beard, Tenn.	Flowers	Latta
Bennett	Flynt	Lent
Breaux	Forsythe	Livingston
Broomfield	Frey	Lott
Brown, Mich.	Gammage	Lujan
Brown, Ohio	Gaydos	McCormack
Broyhill	Gephardt	McDade
Burke, Fla.	Gibbons	McEwen
Burleson, Tex.	Gilman	McKay
Byron	Glickman	Mahon
Caputo	Gonzalez	Marlenee
Clausen, Don H.	Goodling	Marriott
	Gradison	Mathis
Cleveland	Grassley	Mikulski
Cohen	Guyer	Mikva
Coleman	Hagedorn	Milford
Collins, Tex.	Hall	Miller, Ohio
Conable	Hamilton	Mitchell, N.Y.
Corcoran	Hammer-schmidt	Mollohan
Cornell		Montgomery
Cornwell	Hansen	Moore
Coughlin	Harsha	Moorhead, Calif.
Crane	Heftel	
D'Amours	Hightower	Moss
Daniel, Dan	Hillis	Mottl
Daniel, R. W.	Hollenbeck	Murphy, Pa.
de la Garza	Holt	Myers, Gary
Derwinski	Hubbard	Myers, John
Devine	Hughes	Neal
Dickinson	Hyde	Nichols
Dingell	Ichord	O'Brien

Oberstar	Satterfield	Trible
Poage	Sawyer	Tucker
Pressler	Schulze	Vander Jagt
Pritchard	Shuster	Vanik
Quayle	Skubitz	Volkmer
Quie	Slack	Waggonner
Quillen	Smith, Nebr.	Walker
Rahall	Snyder	Walsh
Railsback	Spellman	Watkins
Regula	Spence	Weaver
Robinson	Stangeland	White
Rogers	Stark	Whitehurst
Rostenkowski	Steed	Whitten
Rousselot	Stockman	Wiggins
Rudd	Stratton	Wilson, C. H.
Runnels	Stump	Wydler
Russo	Symms	Yates
Ryan	Taylor	Young, Alaska
Santini	Thone	Young, Fla.
Sarasin	Treen	

NAYS—196

Addabbo	Fascell	Murphy, N.Y.
Alexander	Fenwick	Murtha
Ambro	Fisher	Myers, Michael
Ammerman	Flippo	Natcher
Anderson, Calif.	Flood	Nedzi
	Foley	Nix
Ashley	Ford, Tenn.	Nolan
Aspin	Fountain	Nowak
AuCoin	Fowler	Oakar
Baldus	Fraser	Obey
Barnard	Frenzel	Ottinger
Baucus	Fuqua	Panetta
Bedell	Giaimo	Patten
Beilenson	Ginn	Pattison
Benjamin	Gore	Pease
Bevill	Gudger	Perkins
Biaggi	Hanley	Pickle
Bingham	Hannaford	Pike
Blanchard	Harkin	Preyer
Blouin	Harris	Price
Boggs	Hawkins	Rangel
Boland	Heckler	Rhodes
Bonior	Hefner	Richmond
Bonker	Holland	Rinaldo
Brademas	Holtzman	Risenhoover
Breckinridge	Horton	Rodino
Brinkley	Huckaby	Roe
Brodhead	Jenrette	Rooney
Brown, Calif.	Jones, N.C.	Rose
Buchanan	Jones, Tenn.	Rosenthal
Burgener	Jordan	Roybal
Burke, Calif.	Kasten	Scheuer
Burke, Mass.	Kastenmeier	Schroeder
Burlison, Mo.	Keys	Sebelius
Burton, John	Kildee	Seiberling
Burton, Phillip	Kostmayer	Sharp
Butler	Krebs	Shipley
Carney	Krueger	Sikes
Carr	Le Fante	Simon
Carter	Lederer	Sisk
Cavanaugh	Leggett	Skelton
Cederberg	Levitas	Smith, Iowa
Chappell	Lloyd, Calif.	Solarz
Chisholm	Lloyd, Tenn.	Staggers
Cochran	Long, La.	Stanton
Collins, Ill.	Long, Md.	Steers
Conte	Lundine	Steiger
Conyers	McFall	Stokes
Danielson	McHugh	Studds
Davis	McKinney	Thompson
Delaney	Maguire	Traxler
Dellums	Markey	Udall
Derrick	Marks	Ullman
Dicks	Martin	Van Deerlin
Diggs	Mattox	Vento
Dodd	Mazzoli	Walgren
Downey	Meeds	Waxman
Drinan	Metcalfe	Weiss
Duncan, Oreg.	Meyner	Whitley
Early	Miller, Calif.	Winn
Edgar	Mineta	Wirth
Edwards, Calif.	Minish	Wright
Eilberg	Moakley	Wylie
Erlenborn	Moffett	Young, Mo.
Evans, Colo.	Moorhead, Pa.	Zablocki
Evans, Ga.	Murphy, Ill.	

NOT VOTING—51

Akaka	Eckhardt	Mann
Allen	Ford, Mich.	Michel
Badillo	Goldwater	Mitchell, Md.
Beard, R.I.	Harrington	Patterson
Bolling	Howard	Pepper
Bowen	Johnson, Calif.	Pettis
Brooks	Koch	Pursell
Clawson, Del	Leach	Reuss
Clay	Lehman	Roberts
Corman	Luken	Roncalio
Cotter	McClory	Ruppe
Cunningham	McCloskey	St Germain
Dent	McDonald	Teague
Dornan	Madigan	Thornton
Tsongas	Wilson, Bob	Yatron
Wampler	Wilson, Tex.	Young, Tex.
Whalen	Wolff	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Zeferetti against.
Mr. McDonald for, with Mr. Wolff against.
Mr. Del Clawson for, with Mr. Whalen against.
Mr. Dornan for, with Mr. Akaka against.
Mr. Goldwater for, with Mr. Dent against.
Mr. Michel for, with Mr. Pepper against.
Mr. Wampler for, with Mr. Cotter against.

Until further notice:

Mr. Koch with Mrs. Pettis.
Mr. Clay with Mr. Bowen.
Mr. Corman with Mr. McClory.
Mr. Yatron with Mr. Mann.
Mr. Mitchell of Maryland with Mr. Reuss.
Mr. Brooks with Mr. Madigan.
Mr. Beard of Rhode Island with Mr. Johnson of California.
Mr. Badillo with Mr. McCloskey.
Mr. Eckhardt with Mr. Cunningham.
Mr. Ford of Michigan with Mr. Patterson of California.
Mr. Luken with Mr. Pursell.
Mr. Lehman with Mr. Thornton.
Mr. Howard with Mr. Tsongas.
Mr. Harrington with Mr. Bob Wilson.
Mr. Allen with Mr. Charles Wilson of Texas.
Mr. St Germain with Mr. Ruppe.
Mr. Roberts with Mr. Roncalio.

Messrs. BONKER, LEVITAS, and CARNEY changed their vote from "yea" to "nay."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DIGGS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed, read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 266, nays 119, answered "present" 1, not voting 48, as follows:

[Roll No. 587]

YEAS—266

Addabbo	Blouin	Carter
Alexander	Boggs	Cederberg
Ambro	Boland	Chisholm
Ammerman	Bonior	Cleveland
Anderson, Calif.	Bonker	Cohen
	Brademas	Collins, Ill.
Anderson, Ill.	Breaux	Conte
Andrews, N.C.	Breckinridge	Conyers
Andrews, N. Dak.	Brinkley	Cornwell
	Brodhead	Coughlin
Annunzio	Brown, Calif.	D'Amours
Applegate	Brown, Mich.	Daniel, Dan
Ashley	Buchanan	Danielson
Aspin	Burgener	Davis
AuCoin	Burke, Calif.	Delaney
Baldus	Burke, Fla.	Dellums
Barnard	Burke, Mass.	Derrick
Baucus	Burlison, Mo.	Dickinson
Bedell	Burton, John	Dicks
Beilenson	Burton, Phillip	Diggs
Benjamin	Butler	Dodd
Bevill	Byron	Downey
Biaggi	Caputo	Drinan
Bingham	Carney	Duncan, Oreg.
Blanchard	Carr	Duncan, Tenn.
Edgar	Le Fante	Rangel
Edwards, Ala.	Lederer	Regula
Edwards, Calif.	Leggett	Rhodes
Eilberg	Levitas	Richmond
Emery	Lloyd, Calif.	Rinaldo
Erlenborn	Lloyd, Tenn.	Risenhoover
Evans, Colo.	Long, La.	Rodino
Evans, Ga.	Long, Md.	Roe
Fary	Lundine	Rogers
Fascell	McCormack	Rooney
Fenwick	McDade	Rose
Findley	McEwen	Rosenthal
Fish	McFall	Rostenkowski
Fisher	McHugh	Roybal
Flippo	McKay	Ryan
Flood	McKinney	Santini
Florio	Madigan	Sarasin
Flowers	Maguire	Sawyer
Foley	Mahon	Scheuer
Ford, Tenn.	Markey	Schroeder
Fountain	Marks	Sebelius
Fowler	Mathis	Seiberling
Fraser	Mattox	Sharp
Frenzel	Mazzoli	Shipley
Fuqua	Meeds	Sikes
Gammage	Metcalfe	Simon
Gaydos	Meyner	Sisk
Gephardt	Mikulski	Skelton
Giaimo	Mikva	Slack
Gilman	Miller, Calif.	Smith, Iowa
Ginn	Mineta	Solarz
Gore	Minish	Spellman
Gudger	Mitchell, N.Y.	Staggers
Guyer	Moakley	Stanton
Hamilton	Moffett	Stark
Hanley	Moorhead, Pa.	Steers
Hannaford	Moss	Steiger
Harkin	Murphy, Ill.	Stokes
Harris	Murphy, N.Y.	Studds
Hawkins	Murphy, Pa.	Thompson
Heckler	Myers, Michael	Traxler
Hefner	Natcher	Treen
Heftel	Neal	Tucker
Hillis	Nedzi	Udall
Holland	Nichols	Ullman
Holtzman	Nix	Van Deerlin
Horton	Nolan	Vanik
Hubbard	Nowak	Vento
Huckaby	O'Brien	Volkmer
Hyde	Oakar	Walgren
Ireland	Oberstar	Walsh
Jacobs	Obey	Waxman
Jeffords	Ottinger	Weiss
Jenkins	Patten	White
Jenrette	Pattison	Whitley
Johnson, Colo.	Pease	Whitten
Jones, N.C.	Perkins	Wilson, Tex.
Jones, Tenn.	Pickle	Wirth
Jordan	Pike	Wright
Kastenmeier	Preyer	Wylie
Keys	Price	Yates
Kildee	Pritchard	Young, Mo.
Kostmayer	Quie	Zablocki
Krebs	Rahall	
Krueger	Railsback	

NAYS—119

Abdnor	Forsythe	Miller, Ohio
Archer	Frey	Mollohan
Armstrong	Gibbons	Montgomery
Ashbrook	Glickman	Moore
Badham	Gonzalez	Moorhead, Calif.
Bafalis	Goodling	
Bauman	Gradison	Mottl
Beard, Tenn.	Grassley	Murtha
Bennett	Hagedorn	Myers, Gary
Broomfield	Hall	Myers, John
Brown, Ohio	Hammer-schmidt	Panetta
Broyhill		Poage
Burleson, Tex.	Hansen	Pressler
Cavanaugh	Harsha	Quayle
Chappell	Hightower	Quillen
Clausen, Don H.	Hollenbeck	Robinson
	Hughes	Rousselot
Cochran	Ichord	Rudd
Coleman	Jones, Okla.	Runnels
Collins, Tex.	Kasten	Russo
Conable	Kazen	Satterfield
Corcoran	Kelly	Schulze
Cornell	Kemp	Shuster
Crane	Ketchum	Skubitz
Daniel, R. W.	Kindness	Smith, Nebr.
de la Garza	LaFalce	Snyder
Derwinski	Lagomarsino	Spence
Devine	Latta	Stangeland
Dingell	Lent	Steed
Early	Livingston	Stockman
Edwards, Okla.	Lott	Stratton
English	Lujan	Stump
Ertel	McDonald	Symms
Evans, Del.	Marlenee	Taylor
Evans, Ind.	Marriott	Thone
Fithian	Martin	Trible
Flynt	Milford	Vander Jagt

Waggonner	Whitehurst	Wydler
Walker	Wiggins	Young, Alaska
Watkins	Wilson, C. H.	Young, Fla.
Weaver	Winn	

ANSWERED "PRESENT"—1

Mitchell, Md.

NOT VOTING—48

Akaka	Goldwater	Pursell
Allen	Harrington	Reuss
Badillo	Holt	Roberts
Beard, R.I.	Howard	Roncalio
Bolling	Johnson, Calif.	Ruppe
Bowen	Koch	St Germain
Brooks	Leach	Teague
Clawson, Del	Lehman	Thornton
Clay	Luken	Tsongas
Corman	McClory	Wampler
Cotter	McCloskey	Whalen
Cunningham	Mann	Wilson, Bob
Dent	Michel	Wolff
Dornan	Patterson	Yatron
Eckhardt	Pepper	Young, Tex.
Ford, Mich.	Pettis	Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Zeferetti for, with Mr. Teague against.

Until further notice:

Mr. Akaka with Mr. Bowen.
Mr. Wolff with Mr. Goldwater.
Mr. Badillo with Mrs. Holt.
Mr. Cotter with Mr. McClory.
Mr. Koch with Mrs. Pettis.
Mr. Dent with Mr. Whalen.
Mr. Ford of Michigan with Mr. Del Clawson.
Mr. Luken with Mr. Dornan.
Mr. Mann with Mr. McCloskey.
Mr. Pepper with Mr. Eckhardt.
Mr. St Germain with Mr. Wampler.
Mr. Beard of Rhode Island with Mr. Cunningham.
Mr. Brooks with Mr. Patterson of California.
Mr. Johnson of California with Mr. Michel.
Mr. Howard with Mr. Bob Wilson.
Mr. Allen with Mr. Tsongas.
Mr. Clay with Mr. Ruppe.
Mr. Corman with Mr. Roncalio.
Mr. Yatron with Mr. Pursell.
Mr. Roberts with Mr. Reuss.
Mr. Lehman with Mr. Leach.
Mr. Harrington with Mr. Thornton.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DIGGS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1061) to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PRETRIAL RELEASE OR DETENTION

Mr. DIGGS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 7747) to amend title 23 of the District of Columbia Code with respect to the release or detention prior to trial of persons charged with certain violent or dangerous crimes, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 23–1321 of title 23 of the District of Columbia Code is amended—

(1) in subsection (a), by striking out "an offense punishable by death" in the first sentence and inserting in lieu thereof "murder in the first degree or forcible rape"; and

(2) in the section heading, by striking out "non-capital" and inserting in lieu thereof "other than first degree murder or forcible rape".

(b) Section 23–1325 of such title is amended—

(1) in subsection (a)—

(A) by striking out "an offense punishable by death" in the first sentence and inserting in lieu thereof "murder in the first degree or forcible rape"; and

(B) by striking out the second sentence and inserting in lieu thereof "If after a pretrial detention hearing the judicial officer finds on the basis of information presented by proffer or otherwise (1) that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community, and (2) that there is a substantial probability that the person committed the offense for which he is charged, the person may be ordered detained. The procedures specified in section 23–1322(c) shall apply to pretrial detention hearings held pursuant to this subsection, and the provisions of section 23–1322(d) shall be applicable to persons detained pursuant to this subsection."; and

(2) in the section heading, by striking out "capital" and inserting in lieu thereof "first degree murder or forcible rape".

(c)(1) Section 23–1322(c) of such title is amended by inserting "or section 23–1325(a)" after "pursuant to this section" in the matter preceding paragraph (1).

(2) Section 23–1322(d) of such title is amended by inserting "or section 23–1325(a)" after "pursuant to this section" in the matter preceding paragraph (1).

(d) The chapter analysis for chapter 13 of such title is amended—

(1) in the item relating to section 23–1321, by striking out "noncapital" and inserting in lieu thereof "other than first degree murder or forcible rape"; and

(2) in the item relating to section 23–1325, by striking out "capital" and inserting in lieu thereof "first degree murder or forcible rape".

SEC. 2. (a) Section 23–1322(c)(1) of title 23 of the District of Columbia Code is amended by inserting "or by the judicial officer sua sponte" immediately before the period at the end thereof.

(b) Section 23–1322(c)(2) of such title is amended by inserting the following new sentence immediately after the first sentence: "Such a pretrial detention hearing may also be initiated by the judicial officer sua sponte.".

SEC. 3. (a) Subsection (e) of section 23–1322 of title 23 of the District of Columbia Code is amended to read as follows:

"(e) The judicial officer may detain for a period not to exceed ten calendar days a person who comes before him for a bail determination charged with any offense, if it appears that such person is presently, and was at the time of the offense with which such person is charged, on bail or other release for a felony offense under State or Federal law or that such person is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law and that such person may flee or pose a danger to any other person or the community if released. During the ten-day period, the United States attorney or the Corporation Counsel for the District of Columbia shall notify the appropriate State or Federal court, probation, or parole officials. If such officials fail or decline to take the person into custody during such period, the judicial officer shall, on the next court day after the end of such period, hold a pretrial detention hearing pursuant to this section to determine whether to detain the person pending trial. The person may be detained pending the hearing. At the conclusion of the hearing, the judicial officer may, subject to the provisions of this section, order the person detained pending trial. If the person is subsequently convicted of the offense charged, he shall receive credit toward service of sentence for the time he was detained pursuant to this subsection.".

(b) Subsection (b) of such section is amended—

(1) in the matter preceding paragraph (1), by inserting ", and no person described in subsection (e) of this section who appropriate State or Federal officials have failed or declined to take into custody during the ten-day period provided in such subsection," after "subsection (a) of this section";

(2) in paragraph (2)(A), by inserting "or in subsection (e) of this section" after "subsection (a) of this section";

(3) in paragraph (2)(B)(i), by inserting "or a person described in subsection (e)" after "paragraph (1) of subsection (a)"; and

(4) in paragraph (2)(B)(ii), by striking out "such subsection" and inserting in lieu thereof "subsection (a)".

(c) Subsection (c) of such section (as amended by subsection (c)(1) of the first section of this Act) is amended by inserting "(except that paragraphs (1) and (2) shall not apply to pretrial detention hearings required by subsection (e))" immediately before the colon at the end of the material preceding paragraph (1).

SEC. 4. Section 23–1322(d)(2)(A) of title 23 of the District of Columbia Code, is amended by striking out "sixty" and inserting in lieu thereof "ninety".

SEC. 5. The amendments made by this Act shall apply with respect to any person charged with an offense on or after the date of enactment of this Act.

With the following committee amendment:

Page 3, strike out lines 6 through 8 and insert in lieu thereof the following:

(2) Section 23–1322(d) of such title is amended—

(A) by inserting "or section 23–1325(a)" after "pursuant to this section" in the matter preceding paragraph (1); and

(B) by striking out "in accordance with section 23–1321 in paragraph (2) and inserting in lieu thereof "in accordance with the procedures specified in section 23–1321".

Mr. DIGGS. Mr. Speaker, I move to strike the requisite number of words, and I yield to the gentleman from Kentucky (MR. MAZZOLI), chairman of the Subcommittee on the Judiciary.

Mr. MAZZOLI. Mr. Speaker, this is a technical amendment which simply makes abundantly clear in the bill that any individual who has been charged with first-degree murder or forcible rape, and on that basis has been detained prior

to trial, can stay no longer than 90 days in jail unless the trial has begun. If the trial has not begun within that 90-day period, that individual must come under the control of 1321 which mandates the release of that prisoner on either personal recognizance or some form of third-party custody release.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

Is that true even if the delay is occasioned by the defendant's actions?

Mr. MAZZOLI. This would be true. Yes, it would be, but, of course, what we have in this whole bill is a revamping, a speeding up of the procedure to allow the district attorney to prepare his case so that there could be no dilatory tactics on the part of the defendant; there could be no matter brought to the court's attention which could persuade the court that there has been less than full action on the part of the prosecuting attorney.

If the prosecuting attorney senses that there is a tactic being employed on the part of the defendant which would have the net result of extending beyond the 90 days, then there are, of course, motions which could be made, which could be brought to the court's attention, and this 90-day period would be inoperative. But if there is no effort to delay on the part of the defendant, and if the U.S. attorney's office is, however, delayed in preparing his case, that individual cannot be kept beyond 90 days. He has to be put under 1321 which has a whole series of bail remedies, including recognizance, but also including third-party custody, custody to the parents, if that be the case.

Mr. JOHNSON of Colorado. If the gentleman will yield further, this does not remove the judge's discretion to refuse to give somebody personal recognizance who cannot meet the bonding requirement; does it?

Mr. MAZZOLI. It does not. It does not.

Mr. JOHNSON of Colorado. I thank the gentleman.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. DRINAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill, H.R. 7747, is described in the report as a measure "not designed to make broad changes in the basic requirements of the main pretrial detention section of existing law. * * *"

I am certain, however, that it makes very basic changes, and I am opposed to its enactment. This bill does not apply exclusively to repeaters, as the report seems to suggest. It also applies to those who are out on personal recognizance.

In the hearing which I have read, the strongest testimony was given by the American Civil Liberties Union against this bill. Testimony at great length was also given by the Friends Committee on National Legislation in very strong opposition to this bill. Likewise, the Washington pretrial justice program of the American Friends Service Committee presented excellent testimony showing why this bill is unwise and unjust.

The Bail Reform Act of 1966 for the District of Columbia provided for a presumption of release. In 1970 that law was changed to authorize for the first time pretrial detention. But that pretrial detention was rarely requested by the U.S. attorney. Then there were apparently illegal acts by some judges in the District in that they required excessive bail.

In reaction to this situation the committee of the House on the District of Columbia has recommended that we modify and restrict and even eliminate some of the provisions of bail.

Mr. Speaker, let me mention some of the provisions which are the most objectionable. This bill dispenses with the requirement that the United States District Attorney initiate pretrial detention hearings. This bill allows the judge to be the prosecutor. The judge on his own initiative can send this person to jail.

Secondly, the 5 days hold now in the law as the maximum period is increased to 10 days. That might not be too objectionable perhaps, but the category of people for whom bail can be denied is expanded to include not merely those who are being rearrested but also those on pre-trial release.

Furthermore, if during these 10 days the probation officials fail to act, the judge "may detain the defendant without bail or trial." The period, moreover, during which a defendant can be in prison without bail prior to trial is enlarged from 60 to 90 days.

Mr. Speaker, this bill very seriously compromises the presumption of innocence. What the committee should do is enact a bill similar to that introduced by our able colleague, the Delegate from the District of Columbia, Mr. FAUNTROY, a bill which would establish speedy trials in the District of Columbia. Mr. FAUNTROY's bill is designed or modeled after the 1975 Speedy Trial Act which was enacted by the Congress and which already is bringing about very desirable developments in the federal system.

Mr. Speaker, I am opposed to this bill. It is ill-advised, ill-considered, and is opposed by civil libertarians. I hope my colleagues will vote "no."

Mr. MAZZOLI. Mr. Speaker, I rise in support of the bill and I move to strike the requisite number of words.

Mr. Speaker, I will address my comments with some direction to the gentleman from Massachusetts in due course, but I would like just generally to describe this bill to the Members of the House, because I certainly realize the gentleman from Massachusetts speaks from personal persuasion, a persuasion I do not share, but nonetheless from his heart, and I do not think the bill is quite as reprehensible as he seems to think it is.

This is the same bill, but with two changes the gentleman from Massachusetts would approve of, that was passed by a voice by this Congress last year, in the 94th Congress. Those improving changes limited the amount of time that ordinarily one can be detained pending trial and also improved the type of hearing required at each stage.

The reason we are here today is because of the problem of recidivism in the District of Columbia, the problem of those who repeatedly commit new crimes. In 1974, nearly 5,000 defendants who were released on some form of pretrial release, probation or parole were rearrested and charged with at least one new crime in the District of Columbia. Of all those defendants arrested and charged in the Superior Court in 1975, approximately 30 percent were on some kind of pretrial release, probation or parole when rearrested on the new charge. Even more alarming is the fact that a mere 7 percent of all defendants arrested are responsible for approximately 25 percent of all of the crime committed in the District of Columbia.

Within the past year, the U.S. Attorney's Office and the Metropolitan Police Department under the guidance and leadership of the Superior Court have implemented a program called "Operation Doorstop." This is designed to investigate crimes committed by repeat offenders and to prevent the release of these persons pending trial.

This program has been successful in securing the detention of 95 percent of those repeat offenders who have been assigned to the career criminal unit.

Ninety-four percent of these defendants have been prosecuted and have been convicted, so we are prosecuting and we are not netting the innocent in order to try to get the few that are guilty. The ones that come within the purview of the program are the guilty people.

This bill makes four basic changes in the present law of the District of Columbia. First, the bill authorizes the pretrial detention of defendants charged with first-degree murder or forcible rape only after such defendant is given a hearing before a court. This provision applies only to first offenders in the crimes of first-degree murder and forcible rape. Under this provision, the defendant is accorded certain due process safeguards in the hearing, such as the right to counsel, the opportunity to present evidence, and the right to be tried within 90 days, or the right to be released. This gives the authorities the opportunity to detain defendants charged with first-degree murder or forcible rape who have no prior record. Current law does not so provide.

Second, this bill authorizes judges to move for pretrial detention hearings when a defendant has been charged with a dangerous crime or a crime of violence. Present law simply authorizes the United States Attorney to initiate this procedure.

Third, H.R. 7747 extends from 5 to 10 calendar days the current hold period for defendants who are rearrested and charged with a new offense while on probation, parole, or a pretrial or posttrial release program. To hold such a defendant for these 10 days, the court must find that such persons may

flee or pose a danger to the community if released.

If by the end of the 10-day period the appropriate parole or probation authorities have not acted to initiate action to revoke the parole or probation, the judge must make a determination as to whether to detain the defendant pending trial.

Again the House should remember, there is always a hearing, never a summary procedure.

I must suggest parenthetically that last year we voted a bill out of this House which did provide for summary detentions with respect to the crimes of murder or forcible rape. This bill has been improved in part because of the observations of the American Civil Liberties Union and others to be sure that there is a hearing, not a summary detention, even for the crimes of murder in the first degree or forcible rape and also that there is a hearing at every stage.

The last change this bill makes is authorizing that a defendant's trial must be in progress within 90 days after the judge orders him detained. Otherwise, the defendant must be conditionally released pending trial, under section 1321.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for an additional 3 minutes.)

Mr. MAZZOLI. Mr. Speaker, as the gentleman from Massachusetts has said, this bill does not attempt to completely overhaul the current bail laws, but is aimed at plugging certain loopholes which have been found to exist in the current law.

The gentleman from the District of Columbia, our distinguished colleague (Mr. FAUNTROY), has suggested, and the gentleman made a very eloquent plea in the committee that we move toward having a speedy trial law for the District of Columbia, and I agree with the gentleman. Part of our effort does go to speedy trial within 90 days, no longer; but I also agree that hearings on the bill shall take place in the near future in order that we have a fuller exposition of these ideas.

I am prepared to answer any questions. I would simply say, I believe the committee has studied the bill. It has studied it long and hard. It has by reason of making these changes answered one of the problems brought up by the gentleman from Massachusetts. It has eliminated money bail. One of the ruses and subterfuges the local judges have adopted as a means to keep people detained pending trial is to assign an unconscionable high money bond and money bail. This is wrong. This bill of ours will no longer permit that to happen, because it sets up clear-cut procedures. This idea of in a sense unequal justice because of a person's inability to pay will no longer be the law in the District of Columbia.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, when the bill came before this House last year I was in opposition. The bill is practically the same as it was with the exception that the gentleman from Kentucky mentioned; is that correct?

Mr. MAZZOLI. The genleman is correct. It is the same bill that was passed last year, with the only change being limited to pretrial detention. It is now 90 days and cannot be exceeded.

Also, by making sure as to first offenders charged with first degree murder and forcible rape that there has to be a hearing to precede their pretrial detention.

Mr. EDWARDS of California. Now, in the 1970 District of Columbia crime bill, in the section regarding pretrial detention for up to 60 days, there are safeguards, due process safeguards. For example, the defendant has the right to counsel, he has the right to present witnesses, the right to cross-examine witnesses, the right to see a written reason for the detention; and lastly, the right to the court's finding that there is a substantial probability that the defendant actually committed the crime. Now, it is my understanding that the gentleman has in this bill lessened that due process, and now the judge only has to make one finding.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(By unanimous consent Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

Mr. EDWARDS of California. I have found what I was looking for. The finding the judge must make is that the defendant committed the offense for which he is brought before the judge, is that correct?

Mr. MAZZOLI. The gentleman is partly correct. The finding additionally must be that the judge finds, first of all, that there is a substantial probability that the individual charged has indeed committed the crime; but also, in order to be detained, as to first offenders for murder in the first degree and rape, there has to be an additional finding that that person's release under the conditions of 1321, which would be personal recognizance or third-party custody—that is in the disjunctive—would be a danger to the community or, if the person were released, he or she would flee. So that there is an additional finding beyond the substantial probability.

We had quite extensive hearings on this, and as far as the protections of due process, that of course was one of the foremost aspects before us; that is, to be sure the individual has full notice, full opportunity to be represented.

Mr. EDWARDS of California. I thank the gentleman. I would like to ask the gentleman from Kentucky about the last part on page 4 of the report, where it says:

> Unlike the current law, this bill gives the court the authority to detain defendants charged with first degree murder or forcible rape who have no prior record.

Does that mean they can have no prior criminal record, and if someone is charged with rape, still could be detained up to 90 days without trial?

Mr. MAZZOLI. They do not have to be detained. They are only detained if the judge makes the finding that there is a substantial probability that the person committed the offense. And furthermore, that if release of that individual, either on recognizance or third-party custody, would be a danger to the community or would allow the person to flee. For those first offenders we, of course, have severely limited detention to those charged with the very heinous and grievous and outrageous crimes of first degree murder and forcible rape. Of course, the committee is under a certain amount of pressure to expand that field, and of course is under pressure to reduce it.

As the gentleman knows, the current reading of 1325 calls for crimes punishable by death. These are added to the act to be sure that there are no more crimes punishable by death. We feel that the whole study is in a state of flux, so we have redefined that classical definition. Indeed, first offenders would be detainable, but not necessarily detained.

Mr. EDWARDS of California. I understand that, and I thank the gentleman. Now, a person accused of forcible rape—a most reprehensible and violent crime, as everyone in this room would agree—still can be held for up to 90 days without trial, which I am sure the gentleman will agree is rather extensive pretrial punishment.

Being locked up for 90 days plus 10 days is punishment, regardless of whether or not one is guilty or not guilty. However, did it come out in the hearings that in Washington only one out of five alleged rapists charged are found guilty by a jury? How does one resolve that? We are locking up people, and yet chances are that 1 out of 5 will be convicted and 4 out of 5 will be released.

Mr. MAZZOLI. I, of course, supported many bills, some of which have been introduced by our colleague, the gentlewoman from New York (Ms. HOLTZMAN), to try to revamp the whole program of rape laws in order that the individual who has been raped is not subject to the kind of ridicule and the kind of public torment which really deters women from actually becoming active in the prosecution of cases. I would be willing to say that probably part of that 1-out-of-5 statistic is due to the fact that the state of the law today discourages women from prosecuting their claims.

Second, as the gentleman well knows—and the gentleman sought very much to overcome the problem—there is this delay tactic which can be used, sometimes as an offensive weapon, sometimes as a defensive weapon. That, of course, means the witnesses get tired, the witnesses leave, the information and the evidence gets cold. And I think that might account for some of it. But, obviously, the law is imperfect. Although we can seek the millennium, we are not always going to arrest only those who are guilty. But I think the gentleman has

brought up the $64,000 question. That is: How do we balance society's right to live, with reasonable security, against the right of the individual.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(On request of Ms. HOLTZMAN and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding, and I appreciate the gentleman's reference to my pending legislation on the question of rape. If we change our evidentiary laws with respect to rape, I believe we will find that women would be more willing to prosecute and report these crimes.

Mr. MAZZOLI. I hope so.

Ms. HOLTZMAN. With reference to the bill before us, I have some serious questions. First, what does the language "danger to a person or to a community" mean? Are we talking about physical danger, or are we talking about some other kind of danger?

Mr. MAZZOLI. I would suggest physical danger. I do not know if that is a word of art. That, of course, is in the current D.C. law, and I am sure it has been interpreted in cases. But I would think physical danger.

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for that clarification.

If the gentleman will yield further, I am also concerned with that section 3. As I understand the section—I hope the gentleman will correct me if I am wrong—under this bill a person who has committed any offense under State law may be detained for a period not to exceed 10 calendar days if he is charged with any offense in the District of Columbia.

Mr. MAZZOLI. I think the gentlewoman is incorrect, but it might be because I imperfectly described the bill.

Ms. HOLTZMAN. That is how I would read it. Let me give an example.

Somebody charged in the State of New York with a traffic offense, who has been released on probation or parole, and who is rearrested in the District of Columbia for a traffic offense could be subject to a 10-calendar-day detention.

Mr. MAZZOLI. The way I understand the bill—and we did this both last year and this year—the 10 calendar days in the current bill affects those individuals who are rearrested on any offense and who are out on probation or parole. The third category this bill seeks to add is the additional one of pretrial release. We would add a third category, bail, probation or parole, and then have 10 days to allow the probation or the parole or the bail authorities to examine the records and decide for themselves if there is a substantial probability this individual committed the crime.

If indeed that crime automatically constitutes a revocation, after a breach of the terms of parole or of a conditional release, then that makes the revocation the basis for an order by the judge, and then that person continues to serve the time under the original sentence before release.

Ms. HOLTZMAN. Mr. Speaker, if the gentleman would yield further, I would say to the gentleman that may have been the intention of the committee, but the language I see on page 4, from line 21 down through 25, refers to a person who "is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law."

There is nothing in here that refers to any violent crime; there is nothing in here that refers to any felony.

That, it seems to me, would jeopardize persons in the District of Columbia who had been sentenced for gambling offenses or shoplifting or for some minor traffic infraction. That is what I am concerned about.

Mr. MAZZOLI. Mr. Speaker, I would certainly concur that should be the gentlewoman's concern, but when we use the example of a traffic infraction, I do not believe that New York State would—and I am very sure that very few jurisdictions would—put a person literally in jail for such an offense so that that person would have to be paroled or put on probation.

As far as shoplifting or gambling is concerned, I am not convinced that does not constitute a kind of moral offense or a specific kind of attitude that is preconditioned., and perhaps they might consider such a person would come under this provision providing for the 10 days in jail.

Ms. HOLTZMAN. So the gentleman would concede that this bill would authorize pretrial detention for persons who had not committed any violent crime?

Mr. MAZZOLI. That is the case in the District of Columbia. If the gentlewoman's clients would come in from New York, I do not know what the situation would be, but as far as the District of Columbia is concerned, it is primarily concerned with a person who is out on probation or parole and is rearrested for the commission of some dangerous or violent crime, not a person who is rearrested on another traffic charge.

Ms. HOLTZMAN. But it is not confined to a felony; is that correct?

Mr. MAZZOLI. That is a very good point, but I am sure the rearrest would not be on a traffic charge or for gambling. The rearrest would probably not be for shoplifting, but I am not sure of that. The rearrest should be for the commission of a violent or dangerous crime before the 10-day provision would come into play.

Ms. HOLTZMAN. Mr. Speaker, I think the gentleman has tried to clarify that point, but the original arrest, if I understand the language in the bill, for which the person is on parole or on mandatory release or the like, does not have to be on a major charge.

Mr. MAZZOLI. That is true, but the rearrest should be for the commission of a dangerous or violent crime.

Ms. HOLTZMAN. Mr. Chairman, with all due respect to my distinguished colleague, the explanation is inadequate. No matter what views one holds on the issue of preventive detention, surely no one would contend that a person should be subject to automatic imprisonment before trial for a minor traffic violation. But that is what this bill does.

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Connecticut.

Mr. DODD. Mr. Speaker, I rise in support of H.R. 7747, a bill providing for the pretrial detention of certain persons in the District of Columbia.

The bill empowers judges to order pretrial detention hearings in certain well-defined cases—cases in which a person is accused of either first degree murder or forcible rape, and in cases in which those who are free on pretrial or posttrial release are charged with the commission of a dangerous crime.

This bill is similar to one which I sponsored last year and I urge it's support for a couple of reasons.

First, ultimate passage of this bill will allow members of State legislatures to observe what happens here in the District of Columbia with the possibility in mind of passing similar legislation at the State level.

Second, passage of this bill shows that we are willing to take a cautious step toward making our streets more safe.

The rights of the accused are in no way jeopardized under this legislation. The accused is to be given a hearing before a judge with full legal safeguards and right to counsel.

The important point here, Mr. Speaker, is that, after taking great pains in the hearing process not to violate anyone's rights, we have an opportunity to respond to the sincere wishes of our law enforcement officials. I cannot imagine that there is a Member of Congress who has not heard the desire of local law officials for assistance in helping them to keep dangerous criminals off the streets after the police spend their time in trying to bring them in. There is nothing more disheartening to those who serve on "the thin blue line" than to see someone they arrested released, only to commit another serious crime. We cannot blame our police for asking themselves in those instances, "what's the use?"

I believe, Mr. Speaker, that experience has shown that in some cases it is most wise to deal with an arrested person leniently—to give them a break. But there are no absolutes in law enforcement and we should show judges, attorneys, and police that we appreciate this fact by allowing them the opportunity to deal forthrightly with cases in which leniency is not at all appropriate.

I believe it is entirely appropriate to allow a judge the discretion to deny release after a pretrial hearing has shown

that the accused poses a clear and serious threat to the well-being of others or may flee.

I look forward to Senate passage.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman's yielding.

I wish to make reference to page 4 of the report, and I know the gentleman has a copy of that with him.

Mr. MAZZOLI. I have the report, but if the gentleman will read the portion to which he is referring, I will appreciate it.

Mr. WEISS. Mr. Speaker, on page 4, in the third paragraph of the report, the language reads as follows:

> The time has come to strike a balance between the competing concerns of protecting law-abiding citizens from the criminal acts of dangerous lawbreakers who are already awaiting trial on substantial charges, and of guaranteeing to those lawbreakers all the legal safeguards to which they are entitled under the Constitution.

Is it the position of the committee that this legislation in fact deprives these so-called dangerous lawbreakers of their constitutional rights?

Mr. MAZZOLI. Mr. Speaker, I cannot speak on behalf of the committee, but I believe the general consensus was that—and I can make this statement because this is the third year in which we have worked on this bill—this bill does not abridge the constitutional rights of either a person accused of two offenses or a first offender, such as one accused of murder in the first degree or rape, and that includes a second offender.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman's stating that, because, regardless of my vote on this bill, I think the gentleman will agree that that particular sentence is perhaps infelicitously phrased, because it seems to imply that in order to protect society we are in fact striking a balance and taking away some of the constitutional guarantees that are otherwise provided.

Mr. MAZZOLI. The gentleman makes a valid point. Unfortunately, words are imprecise, and sometimes in our zeal to get reports finished we may fail to look at the nuances. But that is a very good point.

It was certainly not the committee's intention to unlawfully abridge anyone's rights, but it was the committee's feeling that there should be some strong consideration given to the rights of society, the rights of communities, and even the rights of victims, and that the rights of the accused should be protected very jealously, but in a framework that is within the context of the total social situation.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. MAZZOLI) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 30 additional seconds.)

Mr. WEISS. Mr. Speaker, will the gentleman yield further?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, the gentleman agrees, then, that he would not support legislation which would in fact deprive anyone of his constitutional guarantees?

Mr. MAZZOLI. I certainly would not, I will say to the gentleman from New York. I believe my record over these years has been such as to indicate I would not support such legislation.

Mr. WEISS. Mr. Speaker, I appreciate that. That is why I asked the question, so the gentleman could make that assertion.

Mr. COLEMAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I would like to commend the gentleman from Michigan (Mr. DIGGS), chairman of the Committee on the District of Columbia, for his efforts, and I would also like to commend my colleague, the gentleman from Kentucky (Mr. MAZZOLI), who is the chairman of the Subcommittee on the Judiciary, for bringing this bill to the floor.

I think it does give a balance and does strike the proper balance between those concerns of protecting the public from criminal activity and at the same time protecting the constitutional rights and safeguards of those people who have been arrested and accused of a crime.

Mr. Speaker, we have referred to statistics already this afternoon, and I would like to add a few more. One is that 32 percent of those people who commit crimes in the District of Columbia are repeat offenders. Of course, this reflects the number of crimes actually reported. It does not reflect the number of crimes by persons who have committed a first crime in the District of Columbia and then may go to Northern Virginia or to Maryland or to other States to commit a second crime. Consequently, at least one-third of all those arrested commit another crime.

As far as the constitutional rights and legal safeguards of the accused are concerned, the President's Commission on Crime and the District of Columbia and the American Bar Association both have passed on this particular bill and support it.

Mr. Speaker, I think we have to stand up for the law-abiding citizen. If we cannot get the hardened criminals rehabilitated, we can at least get them off the streets. I think this bill goes a long way toward that end.

However, Mr. Speaker, I do feel that the bill can be improved because I think we need to enlarge the scope of this particular piece of legislation. With that in mind, I think we ought to add to the bill those suspects arrested for committing armed robbery in this legal classification for pretrial detention.

AMENDMENT OFFERED BY MR. COLEMAN

Mr. COLEMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN: Page 2, beginning on line 1, strike out "murder in the first degree or forcible rape" and insert in lieu thereof "murder in the first degree, forcible rape, or armed robbery".

Page 2, beginning on line 4, strike out "first degree murder or forcible rape" and insert in lieu thereop "first degree murder, forcible rape, or armed robbery".

Page 2, beginning on line 10, strike out "murder in the first degree or forcible rape" and insert in lieu thereof "murder in the first degree, forcible rape, or armed robbery".

Page 3, beginning on line 4, strike out "first degree murder or forcible rape" and insert in lieu thereof "first degree murder, forcible rape, or armed robbery".

Page 3, line 24, strike out "first degree murder or forcible rape" and insert in lieu thereof "first degree murder, forcible rape, or armed robbery".

Page 4, beginning on line 2, strike out "first degree murder or forcible rape" and insert in lieu thereof "first degree murder, forcible rape, or armed robbery".

Mr. COLEMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COLEMAN. Mr. Speaker, as the bill is reported, the pretrial detention will cover only two crimes: first-degree murder and forcible rape.

My amendment attempts to put in a third crime—armed robbery.

Mr. Speaker, a recent study indicated that in the District of Columbia well over 44 percent of those first-time offenders who commit robbery are rearrested and recharged for the commission of a second crime. This was a study done by the LEAA. The highest classification of repeat offenders that we have in any category, including murders, rapists, or anything else, is robbers. They are our repeat offenders. Almost one-half of those repeat offenders go out and commit a violent crime, the very violent crimes we are talking about, first-degree murder or forcible rape. The person will start as a robber and end up committing other violent crimes.

Mr. Speaker, what this statistic boils down to is this: If we are really interested in getting tough with the criminal element, if we want pretrial detention, let us get the people who are actually out committing violent crimes the second go-around. They are the very people we are trying to keep off the streets, and those are the armed robbers, because armed robbery is just one step from murder.

Mr. Speaker, I think these people need to be singled out for special treatment, just as we single out those accused of murder and forcible rape.

Mr. Speaker, we should be concerned with this problem more than we are about other subjects before the Committee on the District of Columbia, upon

which we have voted on today. They really do not affect our districts.

Mr. Speaker, I think that when we talk about crime, we are talking about our own well-being and the well-being of the people who work in the District of Columbia, in this metropolitan area, people who live and who work here and who visit us, as well as people from other States, in the territory surrounding the metropolitan area. The people who may commit crimes in the District of Columbia on a first-offense basis may be out in the neighborhoods where other persons live and work, in the Northern Virginia suburbs and in the Maryland suburbs. There they commit a second offense.

Mr. Speaker, the chances are one out of two that that second offense is going to be a violent crime.

For all those reasons, Mr. Speaker, I urge adoption of my amendment.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, the amendment offered by the gentleman from Missouri (Mr. COLEMAN) is a very interesting amendment. I was wondering whether the gentleman would consider extending it even further to, say, child abuse, which is a very violent kind of crime, it is also repetitive in nature? Would the gentleman want to in lude that also?

Mr. COLEMAN. As the gentleman from Kentucky mentioned, there is much support for extending the concept. I think it is important that we determine where to draw the line and I believe that should be where the statistics bear out the facts that a person will go out and commit another violent crime. I do not, by saying that, approve of the people who perform such violent crimes such as child abuse but I do believe there has to be a cutoff somewhere and the logical cutoff I believe has to be determined where the statistics show a person will also commit a violent crime of rape or murder.

Mr. MITCHELL of Maryland. If the gentleman will yield further, it seems to me that those persons who are pushers of heroin are doing great violence to people, physical and psychological violence and, in essence, that is a violent crime. Why did you draw the line to preclude that? Why not include the pushers of heroin?

Mr. COLEMAN. Let me say this, that a person who does commit armed robbery puts directly into mortal fear the people he is robbing. Under the bill as written, a person could go into a grocery store or into a drug store and rob the individual there, shoot him but not kill him so that that individual could be maimed for life, or he could have been stabbed multiple times, and under the terms of the bill as it is written now that armed robber could be a first offender and not come under the pretrial detention.

However, Mr. Speaker, I prefer to talk about the substantive aspects of my amendment and not get off on to other items.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I certainly deplore crime in general, and do not really want to get into a discussion of other crimes that we could all agree on as being bad in nature, but I would say that the gentleman from Maryland (Mr. MITCHELL), makes such an eminently good suggestion why does the gentleman not draft such an amendment?

Mr. MITCHELL of Maryland. Mr. Speaker, if the gentleman will yield, I will reply to my distinguished colleague, the gentleman from Maryland (Mr. BAUMAN).

Will the gentleman from Missouri yield?

Mr. COLEMAN. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. The purpose of this colloquy is to show the illogic in what the gentleman is attempting to do.

You cannot be logical when you start to separate the degrees of violence because once you start the procedure under the amendment the gentleman is offering, then you will have to continue it ad infinitum.

Mr. COLEMAN. Mr. Speaker, if I may reclaim part of my time. I assume the gentleman would also be opposed to having forcible rape come under the terms of the bill, and, if you are, then I suppose you would vote against the bill.

Mr. MITCHELL of Maryland. I intend to.

Mr. MAZZOLI. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Missouri (Mr. COLEMAN).

Mr. Speaker, let me first extend my thanks to the gentleman from Missouri (Mr. COLEMAN), who has been a very productive and dependable member of our committee. He has been extremely active and has put a great deal of input into the work and I want to thank the gentleman for his efforts. However, my personal fondness for the gentleman and admiration for his work will not quite get me over the hump of being in favor of his amendment. But I do appreciate his efforts. As a first termer he has done a good job.

Mr. Speaker, my reasons for opposing the amendment parallel the arguments made by my colleague, the gentleman from Maryland, Mr. PARREN MITCHELL, in saying that there is no real logical formula where you have got to stop it, because you have to draw the line somewhere. Our committee was faced with a difficult task when we tried to draw the line in trying to redefine crimes punishable by death. We had a lot of advice for crimes punishable by death. Capital crimes were historically those of first-degree murder and forceful rape, therefore, we limited redefinition to those two crimes, in providing for detention of first offenders.

There was also in our minds the fact that, as the gentleman already pointed out, roughly two-thirds of all the people who are charged and arrested for armed robbery are probably repeat offenders, so that there are a great number of people who will be taken care of in the second provision of the bill which does have a 10-day hold provision for those who have already somehow run afoul of the law and are out on some type of pretrial release.

The District of Columbia Law Revision Commission is underway and its mandate and charge is to totally rewrite the laws of the District of Columbia.

As the gentleman knows, one of the matters before that Law Revision Commission will be this law and any amendments thereto and there is the possibility that they might wish to extend or even possibly, I guess, contract these provisions after careful review.

Lastly, the U.S. attorney's office, who, of course, is anxious to have a bill which will serve the purposes of law enforcement and crime control, does not urge the extension of this definition to include armed robbery.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

The gentleman mentioned that a large percent of those people who commit armed robbery then commit other crimes. The gentleman said two-thirds.

Mr. MAZZOLI. That is right.

Mr. COLEMAN. Yes. We can handle those in the second part of the bill, but only after they commit their second offense, only after they go out and rape and murder. I am only trying to keep these people from committing the second offense. Is that right?

Mr. MAZZOLI. I understand the gentleman's position. The gentleman brought his amendment up in the subcommittee and lost and in the full committee and lost. He made an eloquent plea at both stages. Perhaps if our committee were going back and rewriting the bill, it might be included; I do not know. But our effort, which was in part built upon our bill in the 94th Congress, however supplemented by further hearings this year, led us to start from a certain point, and that point was largely to stick to the classical redefinition of what a crime punishable by death actually is.

Mr. COLEMAN. If the gentleman will yield further, my only suggestion, without being presumptuous as a first-term Congressman, is that we might build upon past mistakes and make this even better in the 95th Congress.

Mr. MAZZOLI. The gentleman is entirely correct. I hope that the House rejects the gentleman's amendment.

Mr. WIGGINS. Mr. Speaker, I rise in support of the amendment.

Mr. Speaker, many of my distinguished colleagues oppose preventive detention on conceptual grounds. They made their arguments in 1970 and last year. Their arguments are premised upon a belief

that preventive detention is violative of due process. It is a constitutional argument.

I am the first to admit that there is a certain strain upon constitutional values by any preventive detention statute; but I am convinced, after reading a great deal on the subject, that such a statute does not go beyond the constitutional pale and that it is within our authority to enact some type of a preventive detention measure.

So I am going to put that preliminary question behind me for a moment and address myself only to the amendment, which is the policy question of how far the statute should go and what its coverage should be.

The argument has been made that it is difficult to draw a commonsense line beyond rape and first-degree murder. But, Mr. Speaker, frankly, it is much easier to start with armed robbery than it is with first-degree murder or with forcible rape. Statistically, robbery is the offense which poses the greatest harm to the community, and not the murderer or the rapist.

Even in this city, most murders are family offenses in which the murderer often poses a minimal risk to society as a whole. The same might be said with respect to rape. Rapes, of course, are notorious, and get much publicity in the newspaper, but by comparison to robbery, they are a minuscule problem in the District of Columbia.

Society in the District is threatened primarily by robbers, not by murderers and not by rapists. Indeed, many murderers are a consequence of an attempted or completed robbery. It seems to me that if we are going to have a preventive detention statute at all—and I endorse it—we ought to cover at least robbery. Whether we include murder and rape is largely immaterial to me, because that is not the substance of the iceberg; it is only its tip. It is a deficiency in this bill that it does not extend its coverage to armed robbery. For that reason I endorse the gentleman's amendment and urge its adoption.

Mr. FAUNTROY. Mr. Speaker, I am delighted to learn that Mr. MAZZOLI is agreeable to conducting hearings and making an assessment of the need for and the value of a speedy trial system for the District of Columbia. During the subcommittee and full committee work on this measure, I stated my opposition to a further expansion of the use of preventive detention in the prosecution of criminal matters in the District of Columbia. My opposition was based, in large part, on my belief, and the belief of many others, that the best way to get the repeat, violent criminal off the street is through a system of swift and sure justice. I expressed the concern that dragnet style pretrial detention could have the net effect of unjustly punishing the innocent and thereby encouraging criminality.

I am, however, encouraged by the prospect of a speedy trial measure for the District, and I am, therefore, less apprehensive about H.R. 7747. I, too, want the dangerous and violent career criminal off the streets of Washington, D.C. I, too, want the possibility of recidivism to be minimized. A system of mandatory speedy trials coupled with preventive detention may be a useful approach to the problem which all of us want to solve.

Mr. BINGHAM. Mr. Speaker, I oppose the Coleman amendment for the reasons offered by the chairman of the subcommittee, Mr. MAZZOLI. The principal purpose of this bill is to prevent repeat offenders from being able to obtain quick release—the so-called revolving door system. Armed robbers, as well as other criminals, could be held under these provisions.

I do, however, support H.R. 7747 as a whole. It provides additional protection for society in the District of Columbia from dangerous criminals, as well as additional assurance that the procedural rights of defendants will be protected.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. COLEMAN).

The question was taken; and on a division (demanded by Mr. MAZZOLI) there were—ayes 39, noes 13.

Mr. MAZZOLI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 43, not voting 45, as follows:

[Roll No. 588]

YEAS—346

Abdnor	Broomfield	Derwinski
Addabbo	Brown, Calif.	Devine
Alexander	Brown, Mich.	Dickinson
Ambro	Brown, Ohio	Dicks
Ammerman	Broyhill	Diggs
Anderson, Calif.	Buchanan	Dingell
	Burgener	Dodd
Anderson, Ill.	Burke, Calif.	Downey
Andrews, N.C.	Burke, Fla.	Duncan, Oreg.
Andrews, N. Dak.	Burke, Mass.	Duncan, Tenn.
	Burleson, Tex.	Early
Annunzio	Butler	Edwards, Ala.
Applegate	Byron	Edwards, Okla.
Archer	Caputo	Eilberg
Armstrong	Carney	Emery
Ashbrook	Carter	English
Ashley	Cavanaugh	Erlenborn
Aspin	Cederberg	Ertel
AuCoin	Chappell	Evans, Colo.
Badham	Chisholm	Evans, Del.
Bafalis	Clausen, Don H.	Evans, Ga.
Baldus		Evans, Ind.
Barnard	Cleveland	Fary
Baucus	Cochran	Fenwick
Bauman	Cohen	Findley
Beard, R.I.	Coleman	Fish
Beard, Tenn.	Collins, Ill.	Fisher
Bedell	Collins, Tex.	Fithian
Benjamin	Conable	Flippo
Bennett	Conte	Flood
Bevill	Corcoran	Florio
Biaggi	Cornell	Flowers
Blanchard	Cornwell	Flynt
Blouin	Coughlin	Foley
Boggs	Crane	Ford, Mich.
Boland	D'Amours	Ford, Tenn.
Bonior	Daniel, Dan	Forsythe
Bonker	Daniel, R. W.	Fountain
Brademas	Danielson	Fowler
Breaux	Davis	Frey
Breckinridge	de la Garza	Fuqua
Brinkley	Delaney	Gammage
Brodhead	Derrick	Gaydos
Gephardt	McDade	Rostenkowski
Giaimo	McDonald	Rousselot
Gibbons	McEwen	Rudd
Gilman	McKay	Runnels
Ginn	McKinney	Russo
Glickman	Madigan	Ryan
Gonzalez	Mahon	Santini
Goodling	Markey	Sarasin
Gradison	Marks	Satterfield
Grassley	Marlenee	Sawyer
Gudger	Marriott	Scheuer
Guyer	Martin	Schroeder
Hagedorn	Mathis	Schulze
Hall	Mattox	Sebelius
Hamilton	Meeds	Sharp
Hammer-schmidt	Meyner	Shipley
	Mikulski	Shuster
Hanley	Milford	Sikes
Hannaford	Miller, Calif.	Sisk
Hansen	Miller, Ohio	Skelton
Harkin	Mineta	Skubitz
Harris	Minish	Slack
Harsha	Mitchell, N.Y.	Smith, Iowa
Heckler	Moakley	Smith, Nebr.
Hefner	Moffett	Snyder
Heftel	Mollohan	Solarz
Hightower	Montgomery	Spellman
Hillis	Moore	Spence
Holland	Moorhead, Calif.	Staggers
Hollenbeck		Stangeland
Holt	Moorhead, Pa.	Stanton
Horton	Moss	Steed
Hubbard	Mottl	Steers
Huckaby	Murphy, Ill.	Steiger
Hughes	Murphy, N.Y.	Stockman
Hyde	Murphy, Pa.	Stratton
Ichord	Murtha	Studds
Ireland	Myers, Gary	Stump
Jeffords	Myers, John	Symms
Jenkins	Myers, Michael	Taylor
Jenrette	Neal	Thone
Johnson, Colo.	Nedzi	Traxler
Jones, N.C.	Nichols	Treen
Jones, Okla.	Nowak	Trible
Jones, Tenn.	O'Brien	Tucker
Jordan	Oakar	Udall
Kasten	Oberstar	Ullman
Kastenmeier	Obey	Van Deerlin
Kazen	Panetta	Vander Jagt
Kelly	Patten	Vanik
Kemp	Pattison	Volkmer
Ketchum	Perkins	Waggonner
Keys	Pickle	Walgren
Kildee	Pike	Walker
Kindness	Poage	Walsh
Kostmayer	Pressler	Watkins
Krebs	Preyer	Waxman
Krueger	Price	White
LaFalce	Pritchard	Whitehurst
Lagomarsino	Quayle	Whitley
Latta	Quie	Whitten
Le Fante	Quillen	Wiggins
Lederer	Rahall	Wilson, C. H.
Leggett	Railsback	Wilson, Tex.
Lent	Rangel	Winn
Levitas	Regula	Wirth
Livingston	Rhodes	Wright
Lloyd, Calif.	Rinaldo	Wydler
Lloyd, Tenn.	Risenhoover	Wylie
Long, La.	Robinson	Yates
Long, Md.	Roe	Young, Alaska
Lott	Rogers	Young, Fla.
Lujan	Rooney	Young, Mo.
McCormack	Rose	Zablocki

NAYS—43

Beilenson	Hawkins	Pease
Bingham	Holtzman	Richmond
Burlison, Mo.	Jacobs	Rodino
Burton, John	Lundine	Rosenthal
Burton, Phillip	McFall	Roybal
Carr	McHugh	Seiberling
Conyers	Maguire	Simon
Dellums	Mazzoli	Stark
Drinan	Metcalfe	Stokes
Edgar	Mikva	Thompson
Edwards, Calif.	Mitchell, Md.	Vento
Fascell	Natcher	Weaver
Fraser	Nix	Weiss
Frenzel	Nolan	
Gore	Ottinger	

NOT VOTING—45

Akaka	Cotter	Koch
Allen	Cunningham	Leach
Badillo	Dent	Lehman
Bolling	Dornan	Luken
Bowen	Eckhardt	McClory
Brooks	Goldwater	McCloskey
Clawson, Del	Harrington	Mann
Clay	Howard	Michel
Corman	Johnson, Calif.	Patterson

Pepper	Ruppe	Whalen
Pettis	St Germain	Wilson, Bob
Pursell	Teague	Wolff
Reuss	Thornton	Yatron
Roberts	Tsongas	Young, Tex.
Roncalio	Wampler	Zeferetti

Mr. YATES changed his vote from "nay" to "yea."

Mr. STOKES changed his vote from "yea" to "nay."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DIGGS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7797, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1978

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight or midnight tomorrow night to file a conference report on the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

CONFERENCE REPORT ON H.R. 6415, EXPORT-IMPORT BANK ACT EXTENSION, 1978

Mr. NEAL submitted the following conference report and statement on the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945:

CONFERENCE REPORT (H. REPT. NO. 627)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6415) to extend and amend the Export-Import Bank Act of 1945, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede fom its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 is amended by inserting before the period at the end of the third sentence the following: "and shall, in cooperation with other appropriate United States government agencies, seek to reach international agreements to reduce government subsidized export financing".

SEC. 2. The last sentence of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by inserting before the period at the end thereof the following: ", and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the export supported by a loan or financial guarantee and the effect such exports may have on human rights in such country".

SEC. 3. (a) The first sentence of section 2(b)(3) of the Export-Import Bank Act of 1945 is amended—

(1) by inserting "(i)" immediately after "No loan or financial guarantee or combination thereof";

(2) by striking out "shall be finally approved by the Board of Directors of the Bank, and no loan or financial guarantee or combination thereof" and inserting in lieu thereof ", (ii) in an amount"; and

(3) by inserting immediately after "Union of Soviet Socialist Republics" the following: ", or (iii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities,".

(b) Section 2(b) of the Export-Import Bank Act of 1945 is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting immediately after paragraph (3) the following new paragraph:

"(4) The Secretary of State shall report to the appropriate committees of Congress and to the Board of Directors of the Export-Import Bank if he determines that any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after the date of enactment of this paragraph, such safeguards or that any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after the date of enactment of this paragraph, any guarantee or other undertaking to the United States made in such agreement or that any country that is not a nuclear-weapons state (as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons) detonates, after the date of enactment of this paragraph, a nuclear explosive device. The Secretary shall specify which country or countries he has determined to have so acted, and the Board shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to such country unless the President determines that it is in the national interest for the Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to such country and such determination has been reported to the Congress not less than twenty-five days of continuous session of the Congress prior to the date of such approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the twenty-five-day period referred to in such sentence.".

(c) The first sentence of section 2(b)(5) of the Export-Import Bank Act of 1945, as redesignated by subsection (b), is amended—

(1) by striking out "or" immediately after "the United States,"; and

(2) by inserting before the period at the end thereof the following: ", or (C) the purchase of any liquid metal fast breeder nuclear reactor or any nuclear fuel reprocessing facility"

Sec. 4. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "June 30" and inserting in lieu thereof "September 30".

And the Senate agree to the same.

HENRY S. REUSS,
STEVE NEAL,
PAUL TSONGAS,
JOHN J. CAVANAUGH,
MARK W. HANNAFORD,
DAVE EVANS,
BRUCE F. VENTO,
J. W. STANTON,
HENRY J. HYDE,
MILLICENT FENWICK,
Managers on the Part of the House.

WILLIAM PROXMIRE,
ADLAI E. STEVENSON,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF THE CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6415) to amend the Export-Import Bank Act of 1945 in order to extend the authorities of that Act and to add or strengthen provisions pertaining to human rights, international export financing competition, and nuclear proliferation, submit the following joint statement to the House and the Senate in explanation of the action agreed upon by the managers of the conference and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause, except for the final clause, which changes the expiration date for the Export-Import Bank Act from June 30, 1978 to September 30, 1978.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill. The differences between the House bill and the amendment which is a substitute for the House bill are noted below.

SECTION 1. HUMAN RIGHTS

The House bill required the Export-Import Bank to take into account "all available information" concerning human rights conditions in the country to receive exports supported by a loan or financial guarantee from the Bank. The amendment would delete the reference to "all available information". It is the intent of the conferees that the Bank obtain advice principally from the Secretary of State as to the observance of human rights in a given country and the effect the proposed exports might have on such observance.

The amendment also deletes the reference to "fundamental freedoms." The conferees believe that such freedoms are encompassed within the term "human rights".

The amendment replaces the word "will" with the word "may" in reference to the relationship between the proposed exports and the human rights situation in the country to receive the exports. The conferees recognize that the effect of the exports on human rights cannot be predicted with certainty and precision, and therefore, prefer language which reflects such indeterminancy.

The amended language of section 1 is intended by the conferees to enable the Bank to continue to facilitate U.S. exports while acting in consonance with U.S. human rights policy.

SECTION 2. INTERNATIONAL NEGOTIATIONS ON EXPORT FINANCING

The House bill required the Bank to cooperate with "other appropriate government agencies" in an attempt to reach "agreement on ways of reducing and eventually eliminating the use of all forms of government supported export financing."

The conferees agreed to amend the language to clarify the mandate to the Bank. The amendment directs the Bank to cooperate with other United States government agencies in international negotiations directed toward mutual reduction of government subsidized export financing. It is the intention of the conferees that the Bank, in such negotiations, seek the reciprocal elimination of export financing subsidies where feasible, but that the Bank avoid unilateral concessions which would place U.S. exports at a disadvantage versus foreign competition. The conferees are equally concerned with other forms of government export subsidies, in addition to export financing, and urge the appropriate agencies of the U.S. government to move more aggressively to negotiate reciprocal reductions of such subsidies as well.

SECTION 3. FINANCING FOR NUCLEAR RELATED EXPORTS

The conferees agreed to delete from the House bill Section 3(a)(2) which specified in detail the nature of consultations to be held between Congress and the executive branch concerning proposed nuclear-related exports during the prescribed 25-day notification period. The Department of State and the Arms Control and Disarmament Agency have indicated their willingness to provide the information in question to the appropriate committees of Congress upon request. Letters to that effect are appended to this report.

The conference accepted the House version of the other portions of section 3 of the bill.

SECTION 4. EXTENSION OF EXPIRATION DATE

The House and the Senate were in agreement on this provision.

Hon. STEPHEN NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives.

THE DEPUTY SECRETARY OF STATE,
Washington, September 7, 1977.

DEAR MR. CHAIRMAN: I am writing to confirm that the Secretary of State or his designee would be fully prepared to consult with the appropriate committees or subcommittees of Congress concerned with foreign loans, financial guarantees or combinations thereof under proposed section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, at their request, within the twenty-five day period contemplated by section 2(b)(3) of the Act.

At the discretion of the committee or subcommittees involved, these consultations would include discussion of the prospect that U.S. nuclear exports might further the development of the foreign country's nuclear explosive capability and of the adequacy of safeguards, guarantees, peaceful use assurances, conditions of supply, and other control mechanisms agreed to in connection with the projected United States export which is to be supported by the Bank's loan or financial guarantee or combination thereof.

Sincerely,

WARREN CHRISTOPHER.

UNDER SECRETARY OF
STATE FOR SECURITY ASSISTANCE,
Washington, D.C., September 9, 1977.

Hon. STEPHEN NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to a question by the staff of your Subcommittee on International Trade, Investment and Monetary Policy of the House Committee on Banking, Finance and Urban Affairs, we would like to clarify that we would be ready to discuss the adequacy of safeguards guarantees, peaceful use assurances, conditions of supply, and other control mechanisms to which the country that receives the U.S. export under the Bank's loan or financial guarantee or combination thereof has agreed in any treaties or agreements.

Sincerely,

JOSEPH S. NYE,
Deputy to the Under Secretary.

U.S. ARMS CONTROL
AND DISARMAMENT AGENCY,
Washington, D.C., September 14, 1977.

Hon. STEPHEN NEAL,
Chairman, Subcommittee on International Trade, Investment and Monetary Policy, Committee on Banking, Finance and Urban Affairs, House of Representatives.

DEAR MR. CHAIRMAN: I am writing to confirm that the Director of the United States Arms Control and Disarmament Agency or his designee would be fully prepared to consult with the appropriate committees or subcommittees of Congress concerned with foreign loans, financial guarantees or combinations thereof under proposed section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, at their request, within the twenty-five day period contemplated in section 2(b)(3) of the Act.

At the discretion of the committees or subcommittees involved, these consultations would include discussion of the prospect that the U.S. nuclear exports involved could further the development of the foreign country's nuclear explosive capability and of the adequacy of safeguards, guarantees, peaceful use assurances, conditions of supply, and other control mechanisms to which the country that will receive the U.S. exports to be supported by the Bank's loan or financial guarantee or combination thereof, has agreed in any treaties or agreements.

Sincerely,

SPURGEON M. KEENY, Jr.,
Deputy Director.

HENRY S. REUSS,
STEVE NEAL,
PAUL TSONGAS,
JOHN J. CAVANAUGH,
MARK W. HANNAFORD,
DAVE EVANS,
BRUCE F. VENTO,
J. W. STANTON,
HENRY J. HYDE,
MILLICENT FENWICK,
Managers on the Part of the House.

WILLIAM PROXMIRE,
ADLAI E. STEVENSON,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS OF 1977

Mr. BRADEMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6693) to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, as amended.

The Clerk read as follows:

H.R. 6693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Child Abuse Prevention and Treatment Amendments of 1977".

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 2 (a) Section 2(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(b)) is amended—

(1) in paragraph (1) thereof, by striking out "and publish" and inserting in lieu thereof "publish, and disseminate";

(2) in paragraph (3) thereof, by striking out "and publish" and inserting in lieu thereof ", publish, and disseminate"; and

(3) by adding at the end thereof the following new sentence: "The Secretary shall establish research priorities for making grants or contracts under paragraph (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.".

(b) Section 2(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101(c)) is amended by adding at the end thereof the following new sentences: "Grants may be made under subsection (b)(5) for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.".

(c) Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall make available to the Center such staff and resources as may be necessary for the Center to carry out effectively its functions under this Act.".

DEFINITION

SEC. 3. (a) Section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended by inserting "or exploitation" after "sexual abuse".

(b) Section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended by inserting "or exploitation" after "sexual abuse".

(b) Section 3 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102), as amended by subsection (a), is further amended by inserting "(a)" after "SEC. 3." and by adding at the end thereof the following new subsection:

"(b) For purposes of this Act, the failure by any parent or guardian to provide, or arrange for the provision of, specified medical treatment for any child of such parent or guardian, solely as a result of the legitimate practicing by such parent or guardian of his religious beliefs, shall not be considered to be child abuse or neglect. The provisions of this subsection shall not be construed to affect the authority of any court to order or otherwise require the provision of medical treatment for any child.".

SERVICE OR DEMONSTRATION PROGRAMS AND PROJECTS

SEC. 4. (a) (1) The first sentence of section 4(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103(a)) is amended by inserting "service or" before "demonstration programs".

(2) Section 4(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103(a)(1)) is amended by striking out "the development and establishment of".

(b) Section 4(b)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103(b)(1)) is amended—

(1) by striking out "5 per centum and not more than 20 per centum may" and inserting in lieu thereof "30 per centum shall";

(2) by inserting "(through the Center)" after "Secretary"; and

(3) by striking out "for the payment of reasonable and necessary expenses".

(c) The heading for section 4 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103) is amended to read as follows:

"SERVICE OR DEMONSTRATION PROGRAMS AND PROJECTS".

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. Section 5 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104) is amended by striking out "and" after "1975," and by inserting before the period at the end thereof the following: ", $25,000,000 for the fiscal year ending September 30, 1978, $27,500,000 for the fiscal year ending September 30, 1979, and $30,000,000 for the fiscal year ending September 30, 1980, and for each of the next two succeeding fiscal years".

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

SEC. 6. (a) Section 6(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended by striking out "(a)" after "SEC. 6.".

(b) Section 6 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended by striking out subsection (b) and subsection (s) thereof.

SEXUAL EXPLOITATION OF CHILDREN

SEC. 7. (a) The Congress finds that—

(1) the use of children as subjects in the production of pornographic materials is very harmful to both the children and to society as a whole;

(2) the production and sale of such pornographic materials represent many millions of dollars in annual revenue, and the sale and distribution of such materials are carried on to a substanital extent through interstate and foreign commerce and through the means and instrumentalities of such commerce; and

(3) existing Federal laws dealing with the interstate distribution of pornographic materials do not protect against the use of children in the production of such materials, and specific legislation in this area is both advisable and needed.

(b) The Child Abuse Prevention and Treatment Act (Public Law 93-247; 88 Stat. 4) is amended by adding at the end thereof the following new sections:

"SEXUAL EXPLOITATION OF CHILDREN

"SEC. 8. (a) Any person who causes or willfully permits a child to engage in a prohibited sexual act or in the simulation of such an act shall be punished as provided under subsection (c) if such person knows, has reason to know, or intends—

"(1) that such act will be photographed, filmed, or electronically reproduced; and

"(2) that any photograph, printed material containing such photograph, film, or electronic visual image depicting such act will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of any such materials.

"(b) Any person who photographs, films, or produces an electronic visual image of a child engaging in a prohibited sexual act or in the simulation of such an act shall be punished as provided under subsection (c) if such person knows, has reason to know, or intends that any photograph, printed matter containing such photograph, film, or electronic visual image made by such person depicting such an act will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale of any such materials.

"(c) Any person who violates subsection (a) or (b) shall be fined not less than $5,000 nor more than $50,000, or imprisoned not more than 20 years, or both.

"REPRODUCTION, TRANSPORTATION, AND DISSEMINATION OF CERTAIN PHOTOGRAPHS, FILMS, AND ELECTRONIC VISUAL IMAGES

"SEC. 9. (a) Any person who—

"(1) manufactures, reproduces, or duplicates any photograph, film, or electronic visual image depicting a child engaging in a prohibited sexual act or in the simulation of such an act, and who knows, has reason to know, or intends that the product resulting from such manufacture, reproduction, or duplication will be transported or shipped through interstate commerce or foreign commerce for purposes of sale or resale, will be made available for sale or resale in a manner which will affect interstate commerce or foreign commerce, or will be mailed in connection with the sale or resale or such materials;

"(2) knowingly transports or ships through, or in such manner as to affect, interstate commerce or foreign commerce or knowingly mails any photograph, printed matter containing such photograph, film, or electronic visual image depicting a child engaging in a prohibited sexual act or in the simulation of such an act, for the purpose of sale or resale;

"(3) knowingly receives for the purpose of selling or knowingly sells any photograph, printed matter containing such photograph, film, or electronic visual image which has been shipped or transported through, or in such manner as to affect, interstate commerce or foreign commerce or has been mailed, and which depicts a child engaging in a prohibited sexual act or in the simulation of such an act; or

"(4) uses for profit, or makes available for profit, in any public showing any film or electronic visual image which has been transported or shipped through, in such a manner as to effect, interstate commerce or foreign commerce or which has been mailed, and which depicts a child engaging in a prohibited sexual act or in the simulation of such an act, shall be punished as provided in subsection (b).

"(b) Any person who violates subsection (a) shall be fined not more than $25,000, or imprisoned not more than 15 years, or both.

"ENFORCEMENT AUTHORITY

"SEC. 10. Enforcement authority for the provisions of sections 8 and 9 shall be vested in the Attorney General of the United States.

DEFINITIONS

"SEC. 11. For the purposes of sections 8 and 9—

"(1) the term 'child' means any individual who has not attained age 16;

"(2) the term 'prohibited sexual act' means sexual intercourse, anal intercourse, masturbation, fellatio, cunnilingus, sexually oriented sadomasochistic abuse, sexual bestiality, or a lewd exhibition of the genitals in the context of any sexual activity;

"(3) the term 'public showing' means any showing which is accessible to the general public for the payment of any direct or indirect fee or other consideration and includes any membership organization for which the qualifications are established for the primary purpose of making any individual who qualifies as a member eligible to attend such a showing; and

"(4) the term 'simulation' means the depiction of the genitals in explicit sexual activity which gives the appearance of the performance of any prohibited sexual act.".

CENTERS FOR TREATMENT OF SEXUALLY ABUSED CHILDREN

SEC. 8. The Child Abuse Prevention and Treatment Act, as amended in section 7(b), is further amended by adding at the end thereof the following new section:

"CENTERS FOR TREATMENT OF SEXUALLY ABUSED CHILDREN

"SEC. 12. (a) The Secretary, through the Center, is authorized to make grants to private nonprofit organizations under this section for the support of at least five centers for the provision of treatment and other services to sexually abused children and to persons who have committed acts of sexual abuse against children.

"(b) Any private nonprofit organization which desires to receive any grant from the Secretary under this section may transmit an application to the Secretary. Any such application shall be in such form, and shall be transmitted in accordance with such procedures, as the Secretary may reasonably require. Such application shall—

"(1) include a plan developed by the private nonprofit organization involved which—

"(A) contains a detailed statement of the manner in which such organization will provide treatment and other services to sexually abused children and to persons who have committed acts of sexual abuse against children; and

"(B) includes a program for the training of such personnel as may be necessary to enable such organization to provide such treatment and other services;

"(2) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to such organization under this section; and

"(3) includes such other information as the Secretary may reasonably require.

"(c) The Secretary shall not approve any application transmitted by a private nonprofit organization under this section until the Secretary has made specific findings as to the compliance of such application with the requirements of this section, and the Secretary is satisfied that adequate procedures are set forth to ensure that the assurances and provisions contained in such application will be carried out.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

The SPEAKER pro tempore. Is a second demanded?

Mr. JEFFORDS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. BRADEMAS) will be recognized for 20 minutes, and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 6693, extends the Child Abuse Prevention and Treatment Act for 5 additional years, that is, through fiscal year 1982, and amends the present law to strengthen the protective and treatment services available to abused children and their families.

Mr. Speaker, the child abuse legislation was signed into law early in 1974 after congressional hearings demonstrated that existing efforts to treat child neglect and abuse in the United States were inadequate.

Funds appropriated since the enactment of the Child Abuse Prevention and Treatment Act, Public Law 93–247, have made possible programs for research on child abuse problems as well as programs for local prevention and treatment of child abuse. With the passage of this measure the Federal Government pledged its resources as a participant in dealing with the problems of child abuse and neglect. This law focused the Federal effort on improving the prevention and treatment of child abuse and neglect by assisting State and local programs that help abused children. The bill under consideration would continue support for these important activities.

PURPOSE OF PUBLIC LAW 93–247

Let me, Mr. Speaker, describe briefly the purpose of the Child Abuse Prevention and Treatment Act. Public Law 93–247 was enacted on January 31, 1974, to provide Federal financial assistance for promising efforts to prevent, identify, and treat child abuse and neglect. In addition, the law is intended to provide technical assistance and other resources needed to increase and expand programs for the prevention, identification, and treatment of child abuse and neglect. Assistance is available under the act through the demonstration grant program and the State grant program.

Funds available through the demonstration program may go to a wide variety of individuals, institutions, and State or local agencies such as hospitals, police or welfare departments, universities, and parent organizations.

Mr. Speaker, 26 demonstration treatment centers have been established with funds from the National Center on Child Abuse and Neglect since the enactment of Public Law 93–247. The projects serve as agencies to protect children and provide treatment for abused and neglected children and their families. Certain projects are focused on types of families which are not often reached by existing services such as native American, military, rural, and migrant families.

Requirements for eligibility under the State grant program include a child abuse reporting law with immunity for persons making reports of instances of child abuse and neglect, an investigation procedure, and procedures and resources for working with affected families. The States are also required to give preference in funding to parental organizations combating child abuse and neglect.

During 1974, the first year of enactment of Public Law 93–247, only two States qualified for grants authorized by the law to strengthen their prevention and treatment programs. In the 1978 fiscal year, it is projected that over 40 States will be eligible to take advantage of these funds, making use of the full allocation provided by the law for State programs.

EXTENSION OF THE ACT

Mr. Speaker, in testimony given before the subcommittee on the Child Abuse Act, witnesses indicated virtually unanimous support for extension of the program. While various witnesses suggested an amendment to the law to help facilitate the achievement of the original goals of combating child abuse and neglect, no witnesses suggested that the program should be terminated.

The testimony received at the hearings further indicated that while the program—now only 3 years old—had begun to address some of the critical problems in the area of child abuse and neglect, enormous challenges remain to be met in dealing with this serious problem. Witnesses testified to the need for continued and expanded research into the basic causes and treatment of child abuse and neglect. Other witnesses expressed the nationwide need for resources for providing vitally needed services to children and families faced with child abuse problems.

Representatives from the Department of Health, Education, and Welfare testified regarding the various programs launched and achievements under the act and the desire of the department to have the act extended.

In light of the testimony received in support of renewal of the act, Mr. Speaker, the committee decided to extend the authorization of appropriation for 5 additional years.

AUTHORIZATIONS

Funds authorized by H.R. 6693, Mr. Speaker, would extend assistance to the Federal child abuse effort in line with current expectations for appropriations and provide for some modest increases over the next 5 years for which this bill would extend the act.

The bill carries an authorization of $25 million for the 1978 fiscal year, identical to the amount of funds authorized by the present law for the current fiscal year. In addition, H.R. 6693 makes slight increases in authorizations for the succeeding years, with $27.5 million in fiscal year 1979, and $30 million in fiscal year 1980 as well as in fiscal years 1981 and 1982.

ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Let me now, Mr. Speaker, describe the changes that would be made by H.R. 6693 to strengthen and expand the programs of research and the prevention and treatment of child abuse supported by the act.

Dissemination would be added to the responsibilities of the National Center for materials that it compiles and publishes on research on child abuse and on training for personnel engaged in child abuse prevention and treatment. This addition to the law would assure that the National Center fulfill its role as a source of information and technical assistance on the subject of child abuse.

Further, Mr. Speaker, the Secretary of Health, Education, and Welfare would be required to establish research priorities for the child abuse effort and to review the quality of research in progress. H.R. 6693 also provides that funds be made available to research projects for 3-year periods. This would allow the National Center to fund quality, long-term research projects that are necessary to develop the base of information required for effective programs to prevent and treat child abuse.

In addition, the Secretary would be required to review research grants annually by a peer review mechanism to further insure the quality of research funded by the National Center. Because the committee is concerned about the ability of the National Center to carry out its functions effectively with a limited staff, the Secretary would be required to furnish necessary staff and resources to the National Center to perform its responsibilities competently.

Several witnesses at hearings before the Subcommittee on Select Education were critical of the research activities sponsored by the National Center. Because grants for research comprise a large share of the Federal funds available for child abuse projects, the committee believes that responsible oversight of this activity within the administrative branch is necessary.

DEFINITION OF CHILD ABUSE

At this point, Mr. Speaker, let me speak of the problem of sexual exploitation of children which has gained national attention in recent months. We are all aware of the shocking use of children, including those very young, in pornographic films and publications. Although the sexual exploitation of children is not a recent development, and includes such other sexually abusive forms of mistreatment of children as prostitution and incest, the Federal effort to prevent and treat child abuse has not reached deeply into this area.

The Subcommittee on Select Education held hearings in Los Angeles and New York, and jointly in Washington with the Judiciary Committee's Subcommittee on Crime, at which we received testimony about the severity and extent of the sexual abuse of children.

H.R. 6693 would, Mr. Speaker, expand the definition of child abuse in the act to include "sexual exploitation," underscoring the need to provide treatment to children who have been sexually abused and to seek to prevent this pernicious form of abuse.

Further on this matter, Mr. Speaker, the gentleman from Michigan (Mr. KILDEE), a member of the Subcommittee on Select Education, will speak to his amendment which seeks to curb the use of children in pornography by imposing criminal penalties on individuals involved in the production of pornographic films and publications depicting children.

The Subcommittee on Select Education held hearings on the issue of the sexual exploitation of children on May 27 and 28 in Los Angeles and on May 31 in New York City. In addition, a hearing was held in Washington on June 10 jointly with the Subcommittee on Crime of the Committee on the Judiciary.

Let me say, too, Mr. Speaker, that the gentleman from California (Mr. MILLER), also a member of the subcommittee, will speak on the amendment to H.R. 6693 which adds a new authorization to support centers for the treatment of sexually abused children, providing services to sexually abused children and to parents and other adults who have abused children sexually.

Mr. Speaker, one additional change made to H.R. 6693 is addressed to protecting individuals against charges of neglect, such as Christian Scientists, who may rely on a nonmedical system of healing for their children.

SERVICE OR DEMONSTRATION PROGRAMS AND PROJECTS

H.R. 6693 would also amend, Mr. Speaker, that section of Public Law 93–247 which directly supports programs and projects designed to prevent, identify and treat child abuse and neglect. The bill would allow the funding of direct, ongoing programs in child abuse prevention and treatment rather than restricting the funds, as the act now does, only to demonstration programs.

GRANTS TO THE STATES

Let me now, Mr. Speaker, briefly describe the change proposed by H.R. 6693 in the program of grants to the States for child abuse projects.

The level of funds which is allocated to the States for assisting child abuse prevention and treatment programs is set now by the act at a maximum of 20 percent of the appropriated funds. H.R. 6693 would raise this level to a minimum of 30 percent of the funds.

Funding to the States under Public Law 93–247 has enabled the States to move to a more responsive approach in the development of protective services for children. By increasing the share of funds for State programs, the States should be able to better respond to the problem of child abuse and neglect by offering innovative services to families and children.

Mr. Speaker, at this point I would like to thank all of the members of the Committee on Education and Labor for their support of this bill. In particular, I would like to thank the distinguished chairman of the Education and Labor Committee, Mr. PERKINS, and the distinguished ranking minority member, Mr. QUIE, for their help in bringing this measure before you today. Let me also thank Mr. BIAGGI, Mr. MILLER, and Mr. KILDEE for their major contributions to the formulation of H.R. 6693. I also would like particularly to thank the ranking member of the Subcommittee on Select Education (Mr. JEFFORDS) as well as all the other members of the subcommittee for their efforts on this bill.

This show of bipartisan support demonstrates the commitment of our committee to the continued support of the Federal effort to assist in the prevention and treatment of child abuse.

Mr. Speaker, I urge this same demonstration of support by all the members of the House of Representatives today.

Mr. KILDEE. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am glad to yield to the gentleman from Michigan (Mr. KILDEE), whom I want to warmly commend for his constructive leadership in this matter.

Mr. KILDEE. Mr. Speaker, this amendment is basically the same as the bill which I introduced on February 23 with Mr. MURPHY of New York as chief cosponsor to prevent the sexual abuse of children in pornographic materials. One hundred and twenty-four other Members of the House have joined us in sponsoring this legislation.

Extensive hearings have been held on this legislation both here in Washington and in other cities. These hearings have pointed out the seriousness of the problem. We have heard testimony that literally thousands of both boys and girls are the victims of this industry. We have heard that such activities may result in severe psychological traumatization. Both testimony and psychological studies have pointed out that sexual abuse can cause severe sexual dysfunctions later in life. These dysfunctions can be at either extreme of normal sexual activity. Such action can encourage promiscuity. One sociological study of prostitutes pointed out that almost three-quarters of those that they interviewed had been sexually abused as children. At the opposite extreme, such activity may cause such severe psychological problems that the individual is unable to have a sexual life at all. In studies done of parents who abuse their children, there has been a statistically significant number who were themselves abused as children.

The final version of the legislation incorporates the suggestions of many expert witnesses and the thoughtful contributions of many of the Members of the House. I would like to thank both those witnesses and my colleagues for their input.

I feel that this amendment is a very responsible response to a tragic situation. Briefly, this amendment would amend the Child Abuse Prevention and Treatment Act by adding four new sections.

The new section 8 would provide maximum penalties of 20 years imprisonment and a fine of $50,000 for those who cause, participate in, or photograph an act of sexual abuse of a child who has not attained the age of 16 if that act is photographed, filmed, or electronically reproduced, and the product enters into interstate or foreign commerce or is mailed.

The new section 9 treats the materials which are produced as contraband on the assumption that they are the fruits of an illegal activity and on the assumption that those who profit from the sexual abuse of a child are, in fact, contributing to that abuse. It would provide maximum penalties of 15 years imprisonment and a fine of $25,000 for the entire stream of interstate and foreign commerce after an act of the sexual abuse of a child. It would cover: knowingly reproducing such photographs, films, or videotapes; knowingly transporting or mailing such materials; knowingly receiving for the purpose of sale or selling such materials; or publicly showing such materials in a setting where there is a fee or admission charge.

The new section 10 places enforcement authority in the Department of Justice.

The new section 11 provides: a definition of child; a list of sexual activities, the performance of which, or simulation of which, in the context of the preceding sections would be prohibited; a definition of public showing; and a definition of simulation.

Since some people have made inquiries as to the objectives this amendment will achieve, I would like to reiterate the purpose of the gentleman from New York (Mr. MURPHY) and I in introducing this legislation.

As offensive as we personally find obscene materials, our overriding concern from the beginning has been to protect children from being sexually abused by commercial exploiters, not to introduce a new piece of obscenity legislation.

As a matter of fact, one of the first things which the gentleman from New York and I investigated in the preparation of the legislation was the possibility of amending the Child Labor Act. We feel that the amendment before you should be viewed in this light; that is, that it was intended as a protective measure, not as a censorship measure. This amendment is focused on a reprehensible type of conduct and only as a corollary expression itself.

I do not find it rational to argue that those who profit from the abuse of children are not in some way contributing to that abuse. If there were no profit, fewer children would be commercially sexually abused. By limiting the ability to market such materials, we are also limiting the possibility of such profit.

In essence, those who distribute and sell these pornographic materials are accessories after the fact. The Congress has previously recognized, in the Child Labor Act, that the fruits of an illegal activity are contraband and that anyone who distributes or sells such materials is materially contributing to the original action.

In Oklahoma Press Publishing Co. against Walling the Supreme Court specifically held that protective legislation could be passed which would limit the publishing industry and not violate the

first amendment. In this light, this amendment falls well within the confines of constitutional authority.

Mr. Speaker, in the early part of this century, our illustrious predecessors in this body took action to regulate the conditions of the employment of children because of the atrocious working conditions that existed. I feel that just as pernicious as the sweatshops which left physical scars are the modern day conditions which leave psychic scars.

We in America have always valued our children. They are truly our link to the future. Any abuse of a child is ultimately a crime against ourselves and society. Coldhearted abuse in the pursuit of profit is a particularly heinous crime. These children are not capable of caring for themselves. They need our nurture and protection.

I do not believe that any right-thinking person or fair-minded Federal judge would conclude that the Constitution protects the right to abuse children or to profit from that abuse as an accessory.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER).

The SPEAKER pro tempore. The gentleman from California (Mr. MILLER) is recognized for 2 minutes.

Mr. MILLER of California. Mr. Speaker, first of all, I would like to congratulate my chairman, the gentleman from Indiana, Mr. JOHN BRADEMAS, for the work he has done in bringing this measure to the floor and for the new direction that it will give the National Center on Child Abuse; but I would also like to refer to the provision in this bill which will provide moneys to set up a limited number of centers, not more than five centers cross this country to deal with the problem of sexual abuse of children.

Mr. Speaker, the purpose of this amendment is for the Congress to take advantage of evidence that was uncovered by the Subcommittee on Select Education during its field hearings in California.

During those hearings the committee heard from witnesses representing the child sexual abuse treatment program from Santa Clara, Calif. This program has been in existence for 6 years and during that time the caseload of the program has increased from 30 families to 800 families a year.

The program deals with the trauma and tension that occur in the family as a result of the sexual abuse of one of the members of the family. The Santa Clara project has demonstrated that in spite of the high trauma and destructive nature of incest the family can be saved and children can return home.

The program has also showed us that in order to bring about such positive results, extensive training is necessary and the full cooperation between the local law enforcement agency and the program is absolutely necessary.

It is the purpose of this amendment to cause the Federal Government to focus its attention on this dramatic and severe problem of the sexual abuse of children within the family. It is hoped that by the establishment and support of at least five centers, we will be developing workable programs that can help interested communities in establishing such programs. It is the committee's intention that in the establishment of these programs the HEW draws on the experience and knowledge of the people at the child sexual abuse treatment program at Santa Clara, Calif., as a resource center for the necessary training guidance for replication and expansion of this very successful program. It is not the intent of the committee that HEW start from scratch but rather that they draw on the experience and knowledge of those who have already been successful such as the Santa Clara project.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I strongly support an extension of the child abuse prevention and treatment program for an additional 5 years, particularly with the addition of the term "sexual exploitation" to the definition of child abuse.

I am a cosponsor of similar legislation, and feel it is vitally important that this Congress address itself, immediately, to a problem that is increasing in magnitude.

I question the wisdom, however, of an amendment to be offered to the bill before us today.

The Judiciary Subcommittee on Crime is today marking up sexual abuse legislation, with full committee action tentatively scheduled for September 29. Complex first amendment issues are involved, and I believe the wisest course would permit full consideration by the House Judiciary Committee before being brought before the full House.

Among the shortcomings, the amendment to be offered does not contain language amending the Mann Act, to apply its coverage to male as well as female children under 18 years of age.

The amendment does not include conspirators, and consequently, does not include parents, advertisers, financiers, and distributors.

The amendment before us does not make clear whether or not the child engaged in the prohibited sexual act would have to testify in court for a conviction.

Mr. Speaker, it seems to me that in our well-intentioned desire to attack the revolting crime of child abuse, we have let our zeal overcome our judgment. Certainly the child abuse prevention and treatment program should be extended—providing more dollars for services to stimulate State and local efforts. Nearly 1 million children suffer abuse and neglect each year, and we must reach out to them and help them survive the severe psychological horrors they will inevitably face.

But in our desire to attack the problem head-on, let us not, in our haste, so muddy the waters that the crime itself becomes unprosecutable, or we will be trying to undo our errors next year when the ineffectiveness of this proposal leads to continuing abuses and increased public outrage.

I do not attempt to belittle my esteemed colleague's efforts to bring an immediate halt to this despicable crime. I share his disgust at the perversion that entices young children into erotic conduct to stimulate sick minds. Surely there is no human behavior more disgusting, and the gentleman from Michigan is to be commended for his legislative endeavors.

Let us pass the bill before us today as it was reported out by the committee on April 27 without the amendment. Let us not raise constitutional questions that will bog this issue down in the courts.

Let us take the issue of child pornography and deal with it effectively with the legislation the Judiciary Committee is acting upon this very week.

The distinguished Chairman of our Judiciary Committee has said that child sexual abuse legislation is a priority item in our committee. The Senate Judiciary Committee has already reported legislation to outlaw the production of obscene material which uses children.

Sexual abuse of children continues unabated because effective laws have not been legislated. Moral cripples, perverted, and avaricious minds have seized upon the inadequacies in State and Federal laws, claiming the first amendment to the Constitution gives them the inalienable right to peddle pornography as long as there is a dollar to be made.

Let us pass the bill before us today, without the amendment, and expedite consideration of the Judiciary Committee bill, now nearing completion, which properly addresses the complex legal definitions of the crimes and provides for severe criminal penalties under the Federal Criminal Code.

The need is for this Congress to protect our children. The issue is whether the grossest sort of perversion can find any constitutional protection. It is our responsibility to set forth in clear, unmistakable terms, the legal definitions that will protect our children, and that will withstand constitutional attack. The Judiciary Committee, I am confident, is doing so now.

Despite my reservations, however, should the amendment remain in the legislation before us today, I will support it.

But I caution my colleagues: Do not think you have done all that needs to be done. Do not think you have put adequate laws on the books to correct this evil.

To those who believe the first amendment protects obscenity, I want to quote the late Prof. Alexander M. Bickel, an eminent constitutional authority:

> There comes a time, and I believe we have reached it, when society is threatened by unbridled obscenity. Societies polluted by moral stench are not likely to survive.
>
> Like all civilized societies we have long had many rules which attempt to set moral standards and regulate sexual conduct. Regulation of pornography is no different. It is more than coincidence that societies that have decayed and collapsed—the Roman Empire is a perfect example—have generally done so in an atmosphere of steeply declining moral standards.

In the 95th Congress we have an opportunity to protect our children from such abuse. They cannot protect themselves. They do not have the power; they do not have a citizens' lobby. They deserve our best efforts and the sooner the better.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to speak in favor of this bill. I would first like to commend the chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS), for the time he has put in to this bill and for coming up with a bill that I think properly addresses the serious problem of child abuse, and for giving consideration to the difficult area of sexual abuse.

I also want to commend the gentleman from California (Mr. MILLER) for his work along with that of the gentleman from Michigan (Mr. KILDEE) in bringing forth a bill which does get into the very sensitive and critical area of sexual abuse.

Before I go on with that, Mr. Speaker, I would like to mention that this bill does mark I believe, a cornerstone in approaches toward handling these problems. We have moved, in this bill, away from purely direct grants and moneys for experimental programs and research programs. The emphasis now is to put money out where it can be better used in preventing this serious problem. With respect to sexual abuse, which the committee looked into, at length, the bill has taken the approach of moving into those areas of sexually abused children through pornographic use, and sexual abuse at home. I believe the bill is a good bill. And I commend the gentleman from Michigan who introduced the bill, now an amendment which sets up some reasonable answers. I believe this amendment can be upheld in the courts. Now let me return to the issue of child abuse.

Mr. Speaker, when we think of babies we think of cute, happy, cuddly little persons. We think of our children as extensions of ourselves as we watch them grow and develop. Most of us take pride in them and devote our lives to helping them learn and hopefully become strong, functioning members of our community. This is the way, I am sure that most of us view our children and reflects to a great extent the image we have of children in America.

There is another picture of children in America—a disgusting and horrifying one. There are children who are abused and neglected by parents and guardians. This committee over the years has seen or had described grotesque examples of what some parents do to their children. Believe me it is not pleasant.

You might ask, just what is child abuse and neglect? What are we talking about here today. Child abuse are children who have been beaten, bitten, dipped in scalding hot water, burned; children with broken arms, legs, and fractured skulls; infants who have been burned with cigarettes; those who are scarred as a result of having been placed on electric burners. There are babies who have not been fed who looked like skeletons with skin, and a child who is 6 weeks old and had not been washed and still has afterbirth on parts of its body. There are children who slept in urine and excrement and because they are never washed have the matter caked on their bodies. Some children live in such filthy conditions that they have maggots crawling over them. There was a child who had crawled between the mattress and springs of a bed apparently playing and was crushed to death by its mother who was high on drugs.

While there are no accurate statistics, it is estimated that there are hundreds of thousands of children who are abused and neglected each year. The legislation we are extending today has established programs designed to assist States enact laws and bring about enforcement of their own laws, and at the same time assist in research and prevention efforts. The legislation in its first few years has done some good and some of the changes that the chairman described that we made this year, I am confident, will go far in making the program better.

The committee entered into a new area this year, one which goes beyond abuse and neglect to the sexual exploitation of children. You would think that the examples I have listed above could not be matched in their ability to shock and disgust. They can be matched in the area of child pornography or "kid porn." Can you imagine a magazine featuring preteen girls showing off their genitals in the style popularized by the so-called adult magazines? There was also a farm for wayward teens where the director of the camp staged homosexual orgies with boys and mailed the pictures of activities to donors around the country. There was a social worker sent to jail for allowing his three foster sons to perform sex acts before a camera for $150 each. Another case involves a couple selling their 12-year-old son for sexual purposes to a man for $3,000. The list of known cases is almost endless. This perversity is just coming to light, how many cases are there that have not been found out? It is ridiculous that men and women would force children to do these things and make a profit from them.

When the gentleman from Michigan (Mr. KILDEE) introduced this bill I had several concerns about it. Certainly not because of the intent, I agreed with that, but because I thought it was unenforceable and created possible first amendment problems. Congressman KILDEE, Congresman MILLER, and I worked together to develop this amendment which is being offered today. I think that it will withstand any constitutional test. Most important, I believe that it can be the vehicle to stamp out this repulsive sexual exploitation of children.

Finally, as a result of the hearings held by the subcommittee, Congressman MILLER and I developed an amendment which will provide money for treatment and rehabilitation of children and their parents who have been involved in child abuse and neglect. When the subcommittee was in California, we heard potent testimony, and possibly the most dramatic came from a panel of workers, lawyers, policemen, a parent who had sexually abused his child and a child who had been sexually abused. This group deals with parents and children who have been involved in incestuous relationships and works with both parties as well as the rest of the family. They claim that sexual abuse in families is far more extensive than the number of children who are used in pornographic materials. The claim that "25 percent of the women in America have been sexually molested as children, and over one-half of them by family members or close family friends. Although the statistics are not complete, we have reason to believe that an equal number of men were also molested as children."

Tom Warren, who is the vice president of Parents United told the committee that he had an affair with his daughter 5 years ago. He said that because he and his wife worked different hours that they did not see much of each other and he had "the need to be wanted and loved." He said that h· loved his daughter and "it just happened." He served 9 months in jail and then became involved with Parents United, where he explained in a very touching way that the center helped him understand himself and his family. He indicated that he never had any desire to seek a relationship with a prostitute or anyone other than his wife.

Debbie Rome was sexually abused by her stepfather between the ages of 9 and 15. She is 19 today and appeared to be thoroughly accepting of her experiences as well as the world around her. She now works with Daughters United, who help girls who have been in situations similar to hers. What was significant about Parents United was that of the 800 families who have been served by the program, not one of the females who had been sexually abused became a prostitute or became involved with drugs of any sort. Even more significant is that out of the 800 families served, only two were involved in any way with pornographic films. The Jeffords-Miller amendment will provide authority and hopefully dollars to establish at least five more centers throughout the country like this one. I think such centers are going a long way toward helping both parents and children to correct experiences that they would both prefer to forget.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BIAGGI), a member of the committee.

Mr. BLANCHARD. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

I simply want to echo the earlier remarks made by my colleague, the gentleman from Michigan (Mr. KILDEE), and commend him for his work on this important matter relating to sexual abuse and commercial exploitation of children.

Mr. BIAGGI. Mr. Speaker, I would like to take this occasion to commend the chairman of the subcommittee, the gentleman from Indiana (Mr. BRADEMAS), for his leadership.

Mr. Speaker, on May 26, 1969, my first year in Congress, I introduced H.R. 11615, the National Child Abuse Act. It was the first major piece of legislation offered on child abuse. In each of the succeeding Congresses I reintroduced versions of the measure. Finally, on January 31, 1974, we achieved fruition when the Child Abuse Prevention and Treatment Act was signed into law.

I am proud today to again rise as a cosponsor of H.R. 6693, a bill to extend the act for 5 years. This critically important measure will permit the legislative mandate of the act to be accomplished.

This Nation is still maligned by the scandal known as child abuse. It is currently estimated that almost 1 million children are abused and neglected each year. Of these, an estimated 2,000 die each year from the effects. Obviously these figures underscore the severity of the problem. They present us with a most compelling reason to extend the Child Abuse Prevention Act for an additional 5 years.

I am especially proud to have sponsored a key amendment to this legislation. My amendment broadens the definition of "child abuse" to include sexual exploitation. This amendment was prompted by the shocking proliferation of child pornography in this Nation. The Select Education Subcommittee, on which I am privileged to sit, has conducted extensive hearings on this national problem. At one hearing which I chaired in New York City, it was disclosed that children as young as 3 years of age have been victimized by pornographers. Overall, some 200,000 children nationally have been affected.

Passage of this bill with my amendment will represent the first substantive action taken by the full House on the child pornography issue. Appropriately, our initial attention will focus on the helpless victims. I am confident that later, we will crack down on the perpetrators of these crimes. I have sponsored a version of such legislation, H.R. 5522, to impose strict penalties on those persons procuring children for pornography or prostitution.

I cannot say with all honesty, that I am totally satisfied with the record of the Child Abuse Act. During hearings earlier this year, I criticized certain research projects which were funded by the National Center on Child Abuse and Neglect. The new Assistant Secretary for human development at DHEW advised the subcommittee that she would undertake a full review of the Center's questionable priorities and report back to us in the future.

I am very pleased that a greater concentration of funds under the act will go to direct treatment and other ongoing service programs. We are effectively lifting the somewhat restrictive provision which limited funds to demonstration programs. The problem of child abuse is real and frightening. Research should be limited to that which will result in improved services and outreach programs to identify victims.

H.R. 6693 makes one other substantive improvement. It increases from 20 to 30 percent, the level of funds allocated to the States for assisting child abuse prevention and treatment programs. As a result, no State will lose any funds under the act, all told, the revisions contained in H.R. 6693 will make the act considerably more responsive to the victims of child abuse and neglect.

I came to Congress after a 23-year career with the New York City police department. As an officer, I witnessed hundreds of appalling child abuse cases. When I entered Congress, I was committed to seeing to it that the problem would be addressed by the Federal Government. The leadership or our distinguished colleagues, Mr. BRADEMAS, as well as the former Senator from Minnesota, Vice President MONDALE, permitted this commitment to be realized.

We are now back to expand and improve upon the act. Our objective is to reduce the incidences of child abuse—reduce the number of victimized children. We have no higher calling than to protect our most valuable resource—our children. Support for this bill should be overwhelming.

I wish to pay tribute again to the chairman, Mr. BRADEMAS, as well as to the leaders in the medical profession who are so deeply involved in working for the eradication of child abuse. I can think of no one more committed or dedicated to this goal than Dr. Vincent Fontana, director of the New York Foundling Hospital. He was one of the leading forces behind the initial enactment of this law and continues to be deeply involved in assuring that the act achieve its mandate. I salute him and the hundreds of professionals and volunteers active in the fight against child abuse. It is a battle which must be won and passage of this legislation is an important step.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. CONYERS), the chairman of the Subcommittee on Crime of the House Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I rise in opposition to H.R. 6693, the Child Abuse Prevention and Treatment Act because of the committee amendment proposed to be added to it by Congressman KILDEE.

I personally have no quarrel with the aims and goals of the bill, which extends the authorization of the Child Abuse Prevention and Treatment Act. But since it has been brought up under a suspension of rules, I must oppose it in order to confront an amendment dealing with the sexual exploitation of children, which will be automatically passed if the bill passes.

Just last week, on September 20, 1977, the Subcommittee on Crime, which I chair, of the Committee on the Judiciary, completed hearings on a number of bills that would amend title 18 of the United States Code, the Criminal Code, to provide punishments for the use of children in the production of photographs, films, and other materials depicting explicit sexual conduct. The subcommittee has marked up these bills today, September 26, and the Judiciary Committee action is expected on September 29.

One of the bills we have considered, H.R. 3913, by Mr. KILDEE, is identical to H.R. 4571, also by Mr. KILDEE, which has been considered by the Select Education Subcommittee of the Education and Labor Committee, except rather than amending the Criminal Code, that bill would amend the Child Abuse Prevention and Treatment Act by adding criminal sanctions identical to those provided in H.R. 3913.

A modified version of H.R. 4571 is what we have before us on the floor today. It would be attached to the Child Abuse Prevention and Treatment Act, and I fear would make that bill unconstitutional.

My concerns are twofold. Mr. KILDEE's amendment to H.R. 6693, like H.R. 3913 which my subcommittee has been considering, is, in its entirety, a proposed criminal statute. In the interest of integrity and consistence of our system of codification of our laws, it properly belongs in title 18, the Criminal Code, rather than in the Child Abuse Prevention and Treatment Act. Furthermore, it is my view that such an amendment of our criminal laws should not be approved by the House until the Judiciary Committee has had an opportunity to complete its consideration of the matter. This is particulary true when, as now, Judiciary Committee action is imminent. I have discussed this matter with Chairman RODINO, and he shares my view in this regard.

This concern has been echoed in the Senate where the proposed bills were jointly referred to the Senate Judiciary Committee and the Senate Human Resources Committee. The Human Resources Committee, recognizing that the bill provided criminal penalties for the activity sought to be regulated, adopted a resolution urging the Judiciary Committee to hold hearings on the matter. In the Senate, the Judiciary Committee has reported a bill and has been solely responsible for this matter with the encouragement and approval of the other committee involved.

Second, our consideraiton of H.R. 3913, which, as noted above, is virtually identical to the amendment that Mr. KILDEE has offered to H.R. 6693, raised critical questions concerning the constitutionality of some of the major provisions of the proposal. The legal experts who raised these questions, which included witnesses from the Department of Justice, had serious reservations about the constitutionality of provisions which authorize the prosecution of distributors and sellers of printed materials depicting actual or simulated sexual conduct involving children without a requirement that the materials be proven to be obscene. I might add that it was precisely because of these constitutional questions that the Senate Judiciary Committee decided to delete such provisions from the bill they reported on this subject recently, S. 1585.

Final action on this matter by the Subcommittee on Crime and the Committee on the Judiciary, the appropriate bodies to report to the House on the matter, will be complete in a few days. I urge you to oppose the Kildee amendment to H.R. 6693, so that we may complete our work on this important matter; and, if the House and the Senate approve their respective Judiciary Committee bills, represent the House in conference with the Senate.

I must reaffirm my belief that no one is for child pornography. I and other members of the Subcommittee on Crime are horrified by the instances of adults physically and sexually abusing children. We have heard of parents who sell their children to pederasts for prosti-

tution purposes. We have been shown lewd photographs of children and adults engaging in sexual activity. The subcommittee staff has received hundreds of letters from the public expressing disgust at the revelations in the press accounts, television reports, and witnesses' statements before the House and Senate subcommittees investigating the matter. Surely, in this country, a survey of the "community standard" for freedom of expression would not allow for child pornography.

We on the Judiciary Committee will report a bill in a few days which we hope will rid the country of this activity, and will overcome all of the constitutional problems we see in Mr. KILDEE's attempt.

Mr. Speaker, on behalf of a number of members of the Committee on the Judiciary, and especially of the Subcommittee on Crime which I chair I rise in opposition to the act.

We have held a number of hearings—some of them joined with the subcommittee now presenting the Kildee amendment—it is with a great deal of reluctance that I must point out to the Members that we in this body cannot by statute amend the Constitution of the United States. In attempting to do so, we are going to have the curious and ironic effect of setting free those pornographers and abusers of children. There is no question that this House to a man and a woman are in great anger and high emotion about this issue. Let me be very specific about the constitutional question that is involved here that makes it something of a travesty to bring up under suspension of the rules an amendment that involves such a grave question.

The Department of Justice in the person of Deputy Assistant Attorney General of the Criminal Division, John Keeney, testified before both subcommittees that this amendment was defective, and it has not yet been corrected, for the simple reason that when we talk about punishing those who are engaged in the transportation, shipping, receiving or showing of pornographic materials that involve youngsters; namely, section 9(a) of this amendment, we are running contrary to the first amendment of the U.S. Constitution that says the Congress shall make no law abridging freedom of speech or of the press, and contrary to several cases decided by the U.S. Supreme Court which elaborate that cherished provision of our Constitution. There is another way to do it.

Mr. BRADEMAS. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I believe that what the gentleman from Michigan has just recited is something we should consider rather seriously before we support this bill without due deliberation. I was one of the early supporters of legislation that would prevent sexual exploitation. We ran into serious problems however as the Subcommittee on Crime, which is part of the Committee on the Judiciary, considered this matter over a period of time.

The question of considering this matter without considering what the constitutional problems are, is I believe not in keeping with the wisdom of this body.

The Committee on the Judiciary and the Subcommittee on Crime is dealing with this particular section, the subcommittee met today and reported out a bill which will be considered by the full Judiciary Committee this Thursday.

I agree with the stated purposes and the many provisions of the Child Abuse Prevention and Treatment Amendment of 1977, at the same time I am troubled by the constitutional questions raised by this particular committee amendment.

Mr. JEFFORDS. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, first I want to commend the gentleman from Indiana (Mr. BRADEMAS) for offering the bill under a suspension of the rules and including the amendment that was addressed by the gentleman from Michigan (Mr. KILDEE) and commend the gentleman from Michigan (Mr. KILDEE) for his persuasive work on this legislation.

I realize that in the Judiciary Committee we may have some constitutional questions. I believe that our committee addressed them and came up with an amendment which is within the Constitution.

I must point out that our committee had many days of hearings and spent a long time considering this matter. We looked at child abuse and beating of children, but when it came to sexual abuse and the filming of these sexual abuses, it was impossible for me to believe that human beings could or would do such things.

Let me put this subject in perspective.

A year ago who had ever heard of child pornography or even imagined that children were being abused in this manner? Child abuse meant that someone was beating up a child—the matter of sexual abuse, if it was ever mentioned, brought to mind the molesting of little girls in the park. But it was rarely mentioned and almost never discussed. Pornography was the lurid publications or pictures that someone else had in the back of drawers or under mattresses or the stag movies that were shown at smokers. The subjects of these publications, pictures, or movies were never thought of as people but as objects who had fallen below degradation. The fact that they were adults was never questioned, and certainly it never occurred to anyone that children may be involved.

All of a sudden there it was. In newspapers, in Time magazine, on television, and, inevitably, on the House floor. The revelations were shocking and disgusting. Children, ages 3 to 16, being used, sold, traded, photographed for sexual purposes. It just could not be true. But it was, and is.

If there is anyone here today who has not read the testimony the Education and Labor Committee received or the many articles on this subject, let me tell you what child pornography is. It is the use of a 10-year-old girl and her 8-year-old brother in a film engaged in intercourse. It is a film showing a bike gang raping six little girls at their First Communion. It is an 11-year-old boy whose father began sexually abusing him at 6 years old, then sold him as a sex slave, and put him in films, pictures, magazines, and swap clubs. At age 11 he had 5 years of experiences that, if you stop and think about them, just boggle the mind. Child pornography is case after case of children being picked up in the streets, drafted out of day camps, boys ages 11 to 15 from a Boy Scout troop being used for sex and photographs and films; and maybe they are from the family next door to you.

What is child pornography or "kiddie porn"? It is books that advise child molesters how to pick up children from playgrounds and what to do with them sexually. It is books and films which describe for parents how to have incest with their children, or books that describe the joys of sexual gratification that come from beating children. These all, of course, are complete with explicit pictures.

The amendment before us today to provide criminal penalties for those involved in the sexual exploitation of children is the result of many hours, days and months of hard work intended to do one thing—stop this perversity. It is specific as to what it prohibits and it is specific as to the penalties to be imposed on anyone connected with the sexual exploitation of children.

How big the problem is may never be known. It has been estimated that there are 30,000 children involved in Los Angeles alone. I do not know if there are 30,000 or 3,000 who are being sexually exploited, I do know that if it were only 3, it would be 3 too many.

Through this legislation I hope that those involved in this national disgrace will be caught and prosecuted. I hope that it will scare those involved on the edges of the industry enough for them to get out of this business. Most of all, I hope that it will protect all children in the future, and I ask you, in the name of those children, to support this legislation.

I believe it is necessary for us to pass this legislation and to adopt it to this bill now. I hope the Members will support the motion offered by the gentleman from Indiana so that we can at least begin to get at one of the most perverse problems that has ever come to my attention as a legislator.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my friend for yielding.

I certainly agree with everything my good friend and leader of our committee has indicated. There are several problems here.

I think those who addressed this subject as members of the Committee on the Judiciary are not making the point they make because they have any less interest in curbing this traffic, in curbing this terrible travesty, than any other Member of this body. It is just that we do honestly recognize some of the constitutional problems which cannot be swept away. If I were to reduce the problem to a somewhat simplistic portrayal, it would be basically this. Everyone agrees we can

pass laws to prohibit the horrendous sexual acts which involve children and the abuse of children. However, if you do not catch them in the act and this action is reduced to a picture, if it is in a magazine, if it is in a film, at that point it becomes an entirely different constitutional problem. I do not like this. I wish it were not that way, but that basically is the problem as the Supreme Court has looked at it. Once it becomes something that is on film, at that point the ability of the legislator to circumscribe that activity, like it or not, and I do not like it, has been severely handicapped by court decision. When on a film and distributed in interstate commerce, the court looks at these sexual activities in a different light.

I am a member of both committees, the Committee on Education and Labor and the Committee on the Judiciary. I am in total sympathy with what the gentleman from Michigan is trying to do. I have a similar bill equally as tough as the gentleman's bill; however, I can say very categorically after having testimony, after having hearings, this is not an area where we can have a simple answer. I would honestly say to each Member that it is an area we cannot legislate by unanimous consent or suspension of the rules. This is an area where we must have more legislative attention. This is an area where, indeed, the main thrust of the Kildee and Ashbrook approach which probably will run into trouble is the area that deals with transportation in interstate commerce, the sale of pictures, the sale of newspapers, because that is tied, like it or not, to free speech.

Again, I think most of us speaking against this particular way of legislating are not saying this because we have any less ardor in stemming this traffic, any less enthusiasm for striking a blow at this child pornography. It is simply because, like it or not, those constitutional problems are there. I do not think these constitutional problems will go away simply because of suspending the rules, as we are today.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I am happy to yield to the distinguished gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I want to commend the gentleman from Ohio, whom I happen to know, having looked at the legislation just this morning, would go very far and in quite the same direction, but who appreciates the constitutional question involved.

I would like to remind my colleagues that the criminal penalties in this legislation, in the Child Abuse and Treatment Act, will amend title XIII (42) of the United States Code instead of title XVIII of the Criminal Code of the United States. This is what the Department of Justice argued before both subcommittees would be inappropriate. Title 18 should be amended to facilitate prosecution rather than title 42.

What I fear is that we are going to be doing exactly what is the reverse of the intention of every man and woman in this Chamber. We are going to be furnishing an obvious out to any lawyer who has read the string of decisions on obscenity and child pornography. He will be able to allude specifically to the legislative history knowing we have stated time and again that obscenity cannot be defined by statute and unless that test is made in that or other court cases, we are not able to get around it.

This morning our Subcommittee on Crime has reported out legislation that the full committee chairman of the Committee on the Judiciary has agreed that he will bring before the full committee on Thursday. I suggest our bill adequately disposes of the constitutional questions which have arisen.

In the United States Senate the gentleman from Iowa (Mr. CULVER) has already produced a Judiciary Committee bill that would meet ours. So, because the bill is under suspension of the rules we cannot amend this as an amendment. Instead we urge that the thoughtful Members of this body join us in unfortunately rejecting the Kildee amendment and therefore the bill.

Mr. ASHBROOK. I thank my colleague for his contribution.

Mr. JEFFORDS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I would like to voice my support for Mr. CONYER'S opposition to the present structure of H.R. 6693, specifically that portion which relates to the Kildee amendment and the sexual exploitation of children. My opposition results in part by the questionable constitutionality of portions of the bill, as well as my belief that it is inappropriate for consideration by the full House at this time. We should await action by the Judiciary Committee.

To begin with, proposed section 9 of this bill would, as I understand it, add a new section to title 42, providing that any person who "receives for the purpose of selling or knowingly sells" films or photographs of children under the age of 16 engaged in certain specified sexual acts will be punished by fines up to $25,000 and terms of imprisonment up to 15 years, or both. While I do not fault the intent behind this language, I am deeply concerned about the first amendment problems which abound from it.

The Judiciary Subcommittee on Crime, of which I am a member, has met on several occasions in an attempt to study this very matter, our most recent hearing having occurred last Tuesday. We have heard from witness after witness who have indicated serious concern for the constitutionality of this portion of the legislation.

Mr. Speaker, the law is clear with the Supreme Court's pronouncement that "obscenity" is not protected by the first amendment. But the leading case on the subject, Miller against California, requires that that material must be evaluated as a whole in determining whether it is obscene. This bill would outlaw the distribution of a film containing one brief scene depicting actual or simulated prohibited conduct. It would, for example, probably apply to the "The Exorcist" and the more recently released "Taxi Driver," among others.

In short, it might apply to films we may not generally consider as obscene. If the conduct we are talking about is therefore not obscene within the Miller definition, we are infringing on the first amendments freedom of expression, in this case photographic of cinematographic expression. Along this line, the Supreme Court, as recently as 1975, has reiterated that a criminal statute which reaches protected speech as well as obscenity is unconstitutionally overbroad. (See *Erznoznik* v. *City of Jacksonville*, 422 U.S. 205).

Whether we like what is produced or not isn't the question; if it is not obscene or does not create a "clear and present danger" in connection with its publication, we cannot prohibit its distributon.

The constitutional problems I have discussed should rightfully be considered and resolved in the Judiciary Committee, not here today. As I noted, we have been conducting hearings in an attempt to take a responsible look at a serious problem. This morning we began markup of a child pornography bill which we believe can be accepted by the Senate, whose Judiciary Committee, incidentally, reported legislation without a distribution penalty a week or so ago. We expect that the full Judiciary Committee will pass on the bill within the week and we will have the opportunity once more to vote on a bill which is more properly located in title 18, where criminal laws are supposed to reside.

Mr. JEFFORDS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I would like to speak to the issue of constitutionality, because it bothered me very, very seriously, when the original bill was introduced. I discussed this with the members of the Committee on the Judiciary and I expressed to them my concern. I discussed it with the committee, and I went to the legislative resources we have with us in order to look into this problem. The questions which have been raised have been answered. The problems have been removed from this bill. It no longer raises any serious constitutional questions, although I can maybe imagine one in the section on transportation, on the definition of "knowingly" which I will discuss later. Here, first, we are not talking about obscenity. This is important. We are talking about abuse of children. We are talking about problems of taking advantage of children and taking their pictures and showing them around the country. It is not just lurid pictures of adults. It is child abuse.

That raises different questions, standards which have not been tested regarding constitutional questions, standards which give us an opportunity in this area to make the law more specific and to take care of problems which might not be possible under the more general law with respect to pornography. This bill is another standard for controlling abusive child labor, a sound constitutional base.

Even if pornographic-type questions are raised, the usual problems have been cured as this law is more specific. It takes care of the problems which have been discussed here. The words are precisely defined. Much of the language came from the Senate bill. We borrowed

that language because we thought it was good and realistic and legally sound. For instance, the exorcist problem is no longer in this bill. It was before. The author of this amendment readily agreed some of these problems ought to be removed because we want an enforcible statute. We have one now.

It is true that regarding the problem of transportation the definition ought to be clear. We are talking about people knowing that it is the kind of stuff we are talking about, not knowing they are just transportating a piece of material. It is intended that they have knowledge of the type of material being transported, that it contains the type of material proscribed by this bill.

The legislative history should be clear on that so as to remove any chance it will lead into constitutional problems.

Mr. Speaker, I advised my own State legislature, as the attorney general of the State, on this type of problems. It is a legal area I have been close to for years. I am aware that when we get into this area it presents tough problems because we are running up against possible first amendment problems. Any time we infringe on those rights we are getting into trouble, and rightfully so. But I want to emphasize again, that this is not the usual pornographic problem.

We are talking here primarily about abuse of children. We are talking about abusing those children and profiting by it, child exploitations of the worst form. Something, like the limited Senate bill, which does not prevent these things from being shown for profit would not be a good bill. This is the only way we are going to stop it. The most effective way to stop this horrible abuse is to destroy the market. This is what this committee did in the child labor laws, regarding physical abuse of children. This is what we seek to do here, to prevent this abusive exploitation of children too young to fully understand the actions they are forced or asked to do.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. MURPHY of New York. Mr. Speaker, I would like to thank the gentleman for clarifying as much as he possibly can the constitutional question. This bill is specifically directed to anyone who is the cause of or participates in, dealer or processor of such materials which depict the sexual abuse of a child and which thereby contributes to the destruction of that child's life. It is quite narrowly drawn to that point. It does not go to first amendment questions at all. The transportation issues were covered very carefully through the joint hearings of both the Judiciary Subcommittee and the Education and Labor Subcommittee.

Mr. Speaker, I would like to compliment the chairman, the gentleman from Indiana (Mr. BRADEMAS) for his detailed hearings he went through, and the great contribution the gentleman from Vermont is making to this debate.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding.

Just for the purpose of legislative history, we ought to understand that if the gentleman is asserting to me that the obscenity test that is required by the United States Supreme Court decisions in Miller against California, and others, which precludes transportation and shipping and receiving of printed matter as found in this bill, without first defining obscenity, I must disagree. I would like to point out to the gentleman section 9(a)(1) specifically fails to meet the most obvious and elementary constitutional requirement. Any law student looking at these series of cases for the first time will tell us what the Department of Justice and attorneys who testified before both of our committees have said.

We want to find these pornographers guilty, but if we give them a law which will be overturned on its first test, that is going to result in exactly the opposite kind of an occurrence.

The SPEAKER pro tempore. All time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

The gentleman from Indiana (Mr. BRADEMAS) has 3 minutes remaining.

Mr. BRADEMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to join my colleagues on the Committee on the Judiciary who have made the point over and over again that we feel as strongly as anybody else about the issue of child abuse and about the need for the Federal Government to do what it can to stop it.

However, just addressing ourselves to child abuse in a statute and saying it is horrible does not mean that it will be an effective statute or provide an effective way to fight child pornography.

This statute, in my judgment, is probably unconstitutional, and if it is unconstitutional, instead of stopping child pornography, it is going to provide sanctuary to those people who engage in it.

I regret that this bill has come up under suspension of the rules. The parliamentary procedure means we cannot amend the bill to make it work. I think the issues posed here are serious, and we should be concerned about whether we are just writing words on the wind or doing something effective. I do not think we are doing anything effective if we adopt legislation that is unconstitutional.

Mr. BRADEMAS. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I would like to associate myself with the remarks of my colleague who spoke before me and clarified the point that this is not a first amendment issue.

I do not believe that Alexander Hamilton and Tom Jefferson went to all the trouble of writing a Constitution so that 9-year-olds could be used as models in sexually exploitive films. If we take a look at the way this legislation has been approached, I feel that, just as we protect 9-year-olds from working in sweat shops, this legislation will help them and prevent them from working in "smut" shops. We are not tampering with the Constitution. We are prohibiting parents from photographically pimping for their children.

I urge adoption of the legislation.

Mr. BRADEMAS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me say, first of all, that I am well aware of the point that was made with respect to section 9(a)(1), and I could only observe, as the gentleman from Vermont (Mr. JEFFORDS) has suggested to me, that if that part should be found unconstitutional, the rest of the statute would stand. Let me state, however, Mr. Speaker that our subcommittee took some pains to assure ourselves we were writing a bill that is constitutional.

Second, I want to assure my colleagues on the Committee on the Judiciary that we stand willing to work with them in as cooperative a manner as possible. We want to write a statute that will stand the test of constitutionality while at the same time addressing itself to the narrower issue which is the focus of the amendment offered by the gentleman from Michigan (Mr. KILDEE) involving the exploitation for pornographic purposes of young children.

Therefore, Mr. Speaker, I hope very much that the Members of this body on both sides of the aisle will give their support to the bill being considered under suspension which includes the amendment that has been the subject of so much of the debate this afternoon.

Mr. MURPHY of New York. Mr. Speaker, I shall be brief in my remarks about this important legislation. Mr. KILDEE has thoroughly and expertly explained all of the provisions of the amendments which we have proposed with the support of 126 sponsors on our bill, and another 20 sponsors of various similar versions. I believe the point has already been made that the legislation before us now is necessary, is a reasonable approach, and most important, will be effective in curbing what is certainly one of the most abhorrent abuses of children imaginable.

I would like to expand on one point, however, which has apparently been a cause for concern among some of our colleagues. In essence, it has been a concern that we do not rush into a situation where legislation is unnecessary, or where the cure might be worse than the disease. In the bill before us, nothing could possibly be further from reality.

While the proposals have enjoyed expeditious travel through the legislative process, they are far from hastily conceived. These amendments have been subjected to hearings before two different subcommittees, including unprecedented joint hearings between both the Crime and Select Education Subcommittees, as well as field hearings outside Washington, in Los Angeles, and New York, where we heard from community leaders and from various medical and professional experts on both the causes and effects of such abuse of children, as well as on suggested approaches to State and Federal legislation designed to stop the abuses.

We have heard from police department specialists, psychologists, welfare

workers, newspaper investigative reporters, attorneys, legislators, district attorneys, and even from pornographers themselves. Virtually every conceptual approach to the problem has been studied in considerable detail, and carefully molded into the amendments before us today.

Our hearings determined two things: First, that existing legislation simply did not cover the problem, except in a few rather nebulous interpretations; and second, the approach we have created here is a rational, reasonable, and workable attack on a serious problem.

The original version admittedly had a few technical and language problems which we had not foreseen early in the drafting process. But that is the strength of the legislative process: We heard experts in virtually every relevant field discuss the pros and cons of this bill; we had a multitude of suggestions, some good. some bad, which helped to strengthen our bill. We carefully dissected the bill, word by word, and restructured some of the language in at least a dozen instances, so that there could be no doubt whatsoever that the Congress is serious about the cessation of the sexual abuse of children.

Not only did we carefully determine who would be affected by this legislation, we also made quite certain to protect those who should not be subject to its provisions. The bill quite clearly focuses on the pornographers, and protects, for example, the truck driver who has no knowledge or control over the magazines which he delivers. But we have very definitely directed the legislation at anyone who is a cause of, or a participant in, dealer or processor of, such materials which depict, according to the definitions in the bill, the sexual abuse of a child, and which thereby contribute to the destruction of that child's life.

I cannot overemphasize how carefully this legislation has been considered; how extensively the proponents and opponents of its various provisions have been heard and closely examined; how the details of its language and nuances have been scrutinized to leave no room for error—and most important, how vital its passage is to not just curb an industry which feeds on the blood of children, but to protect those children from a lifetime of degradation and mental agony brought about through their abuse, both sexual, physical. and mental, in pornographic materials.

Mr. DERWINSKI. Mr. Speaker, as a cosponsor of this bill, which prohibits the sexual exploitation of children, I am pleased that it is being considered by the House today.

The legislation, which provides for the continued funding of existing programs under the Child Abuse Prevention and Treatment Act. has 126 cosponsors. and deserves support to protect the children of America.

Child pornography is hardly new, and the use of young children is startingly common. For example, in my own State of Illinois, State's Attorney Bernard Carey says porno pictures of children as young as 5 and 6 are now generally available throughout the Chicago area, and according to a State's attorney investigator they are spreading to the suburbs. Illinois, as well as many other states battling against child pornography view their efforts as a last stand against the tide of pornography. To most of them it is a reflection of the social and spiritual morality of this nation. They believe that if there is to be any reversal in the trend, the place to start is child pornography.

The language of this bill has been strengthened as a result of many days of hearings and input from a large number of expert witnesses. It would make any proven involvement with the production and sale of explicit sex pictures of children a felony. It is clearly enough directed toward child abuse so that the first amendment should not arise—it defines child pornography as a form of abuse, rather than a form of obscenity.

I strongly urge Members to vote in support of this important legislation to protect the children of America.

Mr. PERKINS. Mr. Speaker, I rise in support of H.R. 6693, a bill to extend for 5 years the Child Abuse Prevention and Treatment Act.

Initially, I want to compliment the distinguished chairman of the Subcommittee on Select Education—our colleague, JOHN BRADEMAS. The child abuse prevention and treatment program was enacted in 1974, largely through the untiring efforts of JOHN BRADEMAS.

His continuing and thoughtful attention to the program since that time has produced this important legislation to improve and extend the act.

I want to compliment also the ranking minority member of the committee, Mr. QUIE, and members of the committee on both sides of the aisle, for their work on this bill.

I would be remiss if I did not pay particular tribute to our able coleague from Michigan, DALE KILDEE, for his yeoman work in connection with the amendment to prohibit the sexual exploitation of children. Congressman KILDEE's persistent and determined efforts to end this shocking and unconscionable activity merits not only the commendation of this House but the gratitude of parents throughout the country as well.

Mr. Speaker, the Child Abuse Prevention and Treatment Act expires in just a matter of days. H.R. 6693 proposes a 5-year extension of the act. A modest authorization of $25,000,000 is proposed for fiscal year 1978, with modest increases added for the subsequent 4-year period. Presently an appropriation level of $18,928,000 is being provided for these programs.

Other significant amendments in the bill provide for—

First, dissemination of materials dealing with child abuse;

Second, the setting of priorities in research on this subject;

Third, funding of ongoing child abuse prevention and treatment service programs; and

Fourth, an increase in the reservation of moneys for state-assisted programs of child abuse prevention and treatment.

Finally, as I have mentioned, Mr. Speaker, the Kildee amendment will prohibit any sexual exploitation of children and the transportation and dissemination of photographs or films depicting such exploitation. I believe this amendment will be an effective instrument in drastically curtailing—if not totally eliminating—activities such as this, which we all abhor.

Mr. Speaker, I know of no opposition to H.R. 6633, and I urge its overwhelming approval.

Mr. YOUNG of Missouri. Mr. Speaker, I strongly support the provisions of the child abuse prevention bill that deal with child pornography.

It is clear that the American public is outraged by the widespread abuse of children in pornographic materials. We have read about this problem in newspapers, we have seen television reports, we have listened to testimony at congressional hearings—and now it is time for the Congress to act to stop this abuse.

It is fitting that these measures to fight child exploitation are connected with other child abuse amendments. For I do not think there is any doubt that this sexual exploitation is child abuse.

We are talking about the abuse of small children, many of them so young that they have little or no sexual awareness. These children are recruited by adults—sometimes even their parents—and exploited for money.

The fact that there is a demand for such material is a distressing example of moral decay in American society. But the horrifying factor is the effects that the pornography has on the children who are forced to engage in these activities.

Strong measures are needed to stop this—and they are needed soon.

The provisions of this bill that deal with child exploitation would provide these strong penalties—child pornographers, photographers, and other responsible parties would be subject to maximum penalties of 20 years' imprisonment or a $50,000 fine if these provisions become law.

Persons who transport, receive, or sell such materials would be subject to 2 years imprisonment, a $25,000 fine, or both.

I believe those would be just penalties for persons whose motivation for abusing children is greed and profit.

I strongly support these amendments, as well as the other provisions of this legislation that expand the Child Abuse Prevention and Treatment Act. And I urge you to vote for these amendments.

Ms. OAKAR. Mr. Speaker, I want to state my wholeheated support for this bill and to ask my colleagues to lend their support to it.

We are being flooded with all kinds of matter which degrades and exploits the human mind and body. What is even more shocking is the spread of sexual exploitation to our children. Our colleague JOHN MURPHY held hearings earlier this year which revealed the extent of this exploitation. It was and still is shocking to consider that children, and I emphasize the word children, are being used in the making of pornographic materials.

Those who are engaged in such deplorable practices must be stopped, and H.R. 6693 gives us the opportunity to stop them. H.R. 6693 would make sexual abuse of children a felony punishable by 20 years imprisonment or a $50,000 fine or

both, if this abuse is photographed, printed, and shipped through interstate or foreign commerce for sale or resale.

We have a responsibility to protect those who are being exploited, even more so when the victims are innocent children. I cannot think of a more heinous crime than that which involves sexual abuse of our children. Let us vote for H.R. 6693. It is a major step toward fulfulling this responsibility.

Mr. ZEFERETTI. Mr. Speaker, most of us are now aware of the horror stories involving the sickening sexual exploitation of children by adult pornographers. On city streets across the Nation one can buy films and magazines that demean and use children, aged 3 to 16, who have been coerced into performing sexual acts for photographers.

Recent investigations have uncovered a highly sophisticated and organized pornography industry operating Nationwide. It has become a multimillion-dollar enterprise, involving thousands of children. In addition, profits from pornography are one of the main sources of funds used to back drugs, prostitution and other forms of organized crime in America.

Certainly the children are not to blame. Many of these victims are runaways who have escaped parental abuse and broken homes. These helpless children then trade themselves for food, shelter, or money. Some are coerced into pornography through drugs. We have also learned that some parents hidiously rent their children to photographers for pornographic purposes. The result is that many of them become the victims of sexual abuse and eventually turn to crime as their only alternative means of surviving the street life they are forced to live.

Clearly the time has come to put an end to this obscene practice. Current Federal law does not deal with this type of child pornography, and only a handful of States have such statutes. For this reason I have joined in cosponsoring H.R. 4631, which is being offered as an amendment to the Child Abuse Prevention and Treatment Act. This amendment would make it unlawful to photograph or film a child under age 16 in any of a number of prohibited sexual acts or their simulation if there is reason to believe the pictures are to be moved in interstate or foreign commerce. Violators may be fined up to $50,000 and/or serve a prison sentence for as much as 20 years. This same penalty also applies to vendors who knowingly sell such materials to the public.

I strongly support this amendment and I can think of no legitimate reason why anyone would be opposed to putting an end to this disgusting business. It is time to put some teeth into Criminal Code and put the smut peddlers out of business.

Mr. KOCH. Mr. Speaker, I regret that I was unable to be present for the vote today on H.R. 6693, which amends and extends the provisions of the Child Abuse, Prevention and Treatment Act. Had I been present I would have voted for this important legislation, both because of the improvements recommended in the bill as originally reported by the Education and Labor Committee and because of the amendment accepted by Chairman JOHN BRADEMAS which will explicitly outlaw the use of children under 16 years of age in any pornographic film, videotape, or photograph. This latter amendment was proposed by Congressmen JOHN M. MURPHY of New York and DALE E. KILDEE of Michigan. It will provide a fine of up to $50,000, but not less than $5,000 and a jail sentence of up to 20 years to any person found guilty of causing or permitting a child under 16 years to participate in explicit pornographic scenes for movies, photographs, or videotapes that are shipped in interstate commerce, affect interstate commerce, or are transported by mail.

I was one of those who introduced legislation earlier this year to prohibit the use of children in sexually explicit, pornographic scenes. I introduced H.R. 7468, which would make it a crime for any adult to produce, distribute, or sell material employing children in such sexually explicit scenes. Congressmen MURPHY of New York and KILDEE also introduced legislation to outlaw the use of children in pornographic scenes and they obtained over 100 cosponsors for their legislation.

I am pleased that Congressman KILDEE and Congressman MURPHY have pursued this legislation with such commendable vigor, and that the distinguished chairman of the Select Education Subcommittee, JOHN BRADEMAS, has accepted their proposal. As one of those who favored such legislation and introduced a proposal to deal with the shocking problem of children sexually abused for commercial purposes, I am particularly pleased that the House of Representatives has voted to approve these amendments to the Child Abuse, Prevention, and Treatment Act.

For those who think that this legislation is not needed, I would suggest taking a tour of one of the "adult entertainment" areas found in many cities. I made such a tour in my own city of New York last winter, and I was dismayed to discover that many of these "adult" emporiums were showing movies of children engaged in explicit sexual acts. I believe that consenting adults have the right to participate in the filming of explicit scenes, where only adults are involved, but I do not think that the government must stand back, when children are placed in explicit sexual scenes. For this reason, I am pleased that these amendments have been adopted and I look forward to their acceptance by the other body and their adoption as low.

Mr. GRASSLEY. Mr. Speaker, the bill H.R. 6693 (Child Abuse Prevention and Treatment Amendments of 1977) warrants rapid passage by the Congress of the United States. Of special concern to me are those sections of the legislation which attempt to end the sexual abuse and exploitation of children.

This entire matter has received considerable attention since the first of the year when the dimensions of the child pornography industry were first made public. On March 8, 1977, I cosponsored a bill, H.R. 4630, which contains language similar to that now before the House of Representatives. More than 100 Members have become actively involved in this effort. Legislation has been introduced. We have contacted our colleagues who sit on the committees which have jurisdiction over the subject matter of this legislative initiative. We have also written President Carter seeking to enlist the administration's support in our drive to eliminate this type of pornography.

Now we have a chance to vote in favor of legislation which, within the guideline of the Constitution's commerce clause, provides a possible penalty of 20 years imprisonment together with a $50,000 fine for persons convicted of actively participating in or photographing the sexual abuse of a child under 16 years of age. Those that distribute, sell or otherwise purvey the illegal materials—these merchants of smut—can also be prosecuted. Here the maximum penalties would be a $25,000 fine and 15 years incarceration.

Some argue that we in the Congress should wait and not take any sort of precipitous action. Without in any way questioning their motives, I can only respond that we, and the American people, have waited long enough. We should move ahead right now and pass a law that will enable law enforcement agencies and officials to put the creeps and perverts behind bars where they belong.

You will have to excuse me if I appear to be more concerned with protecting the children of our country than the alleged first amendment rights of those that prey upon the young. But that is the way I feel. This is good legislation which can make things better—not worse—and I am proud to support it.

Mrs. COLLINS of Illinois. Mr. Speaker, I wish to express my support for H.R. 6693, the child abuse prevention and treatment amendments, which the House passed or September 26 under suspension of the rules.

I support this bill because it extends and strengthens the Federal role in protecting our children from various forms of neglect, abuse and brutality.

Since the enactment of the Child Abuse Prevention and Treatment Act nearly 4 years ago, Federal funds have made possible programs for research on child abuse problems as well as service programs of prevention and treatment. More significantly, the passage of this act has resulted in an increased public concern for this tragic circumstance.

This bill extends the authorization of the Child Abuse Prevention and Treatment Act for 5 years, through fiscal year 1982 at a level of $25 million for fiscal year 1978, $27.5 million for fiscal year 1979 and $30 million each for fiscal year 1980 and fiscal year 1982. The necessity for this funding should be clear to anyone with an interest in the basic causes and treatment of child abuse and neglect.

A notable feature of this bill is that it expands the definition of child abuse to include sexual exploitation, the shocking use of children—some as young as 3 years old—in pornographic films and magazines, and contains an amendment to punish such activity. This amendment

which I cosponsored when it was first introduced by Congressmen KILDEE and MURPHY as H.R. 4572 calls for up to 20 years' imprisonment and/or a $50,000 fine for the production of pornography involving children and a sentence of up to 15 years and/or a $25,000 fine for shipping or selling such materials.

I am pleased to see that the majority of my colleagues join me in support of this much needed legislation.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. All time has expired.

PARLIAMENTARY INQUIRY

Mr. RAILSBACK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. RAILSBACK. Mr. Speaker, may I just inquire as to how the Kildee amendment was accepted? I am just curious about the procedure. By what procedure was the Kildee amendment, which I understand was not part of the bill, accepted in the bill that was reported out?

The SPEAKER pro tempore. The motion that was offered was to suspend the rules and pass the bill, as amended.

Mr. RAILSBACK. Mr. Speaker, I understand that, but by what procedure was the amendment adopted?

The SPEAKER pro tempore. The amendment is part of the motion, and the amendment is at the desk as a part thereof.

Mr. RAILSBACK. Therefore, Mr. Speaker, this will be tantamount to the approval of the amendment; there has been no previous action on the Kildee amendment, is that right?

The SPEAKER pro tempore. The Chair will state that the gentleman is correct.

Mr. RAILSBACK. I thank the Chair.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill H.R. 6693, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

ESTABLISHMENT OF A CENTER FOR THE BOOK IN THE LIBRARY OF CONGRESS

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6214) to provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes.

The Clerk read as follows:

H.R. 6214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF FINDINGS AND PURPOSE

SECTION 1. The Congress hereby finds and declares—

(1) that the Congress of the United States on April 24, 1800, established for itself a library of the Congress;

(2) that in 1815, the Congress purchased the personal library of the third President of the United States which contained materials on every science known to man and described such a collection as a "substratum of a great national library";

(3) that the Congress of the United States in recognition of the importance of printing and its impact on America purchased the Gutenberg Bible in 1930 for the Nation for placement in the Library of Congress;

(4) that the Congress of the United States has through statute and appropriations made this library accessible to any member of the public;

(5) that this collection of books and other library materials has now become one of the greatest libraries in civilization;

(6) that the book and the printed word have had the most profound influence on American civilization and learning and have been the very foundation on which our democratic principles have survived through our two hundred-year history;

(7) that in the year 1977, the Congress of the United States assembled hereby declares its reaffirmation of the importance of the printed word and the book and recognizes the importance of a Center for the Book to the continued study and development of written record as central to our understanding of ourselves and our world. It is therefore the purpose of this Act to establish a Center for the Book in the Library of Congress to provide a program for the investigation of the transmission of human knowledge and to heighten public interest in the role of books and printing in the diffusion of this knowledge.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term Center means the Center for the Book;

(2) the term Librarian means the Librarian of Congress.

ESTABLISHMENT OF THE CENTER

SEC. 3. There is hereby established in the Library of Congress a Center for the Book.

The Center shall be under the direction of the Librarian of Congress.

FUNCTION OF THE CENTER

SEC. 4. The Librarian through the Center shall stimulate public interest and research in the role of the book in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities.

ADMINISTRATIVE PROVISIONS

SEC. 5. The Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purposes of carrying out the Center's functions, without reference to Federal disposal statutes; and

(3) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6214 would establish a Center for the Book in the Library of Congress. The Center, under the direction of the Librarian, would serve to promote both scholarly research and public interest in books. Obviously, the Library of Congress, with its unrivaled collections and its location in the Nation's Capital is well suited to house such a Center. The Center for the Book will find a unique need because at present no research program has the book as its principal object of study. There is still much to learn about the book, although we take it for granted, and the Center will shed important light on such topics as the role of the book in the transmission of human knowledge; the book in social, intellectual, and political history; and the book in art as art. Through activties such as lectures, exhibits and publications, the Center will share this information with the public.

H.R. 6212 is intended to show specific congressional approval for such a Center at the Library, and to provide flexibility in the use of donated money and property by the Library of Congress in the operation of the Center.

No Federal funds are authorized for the project. The Library of Congress is given the authority to use money acquired by gift, grant, or bequest for the Center, and to provide administrative and clerical support services for the Center using existing personnel.

I have no further requests for time, Mr. Speaker, on this side.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Speaker, I support the bill and wish to associate myself with the remarks of the gentleman from Michigan (Mr. NEDZI), the distinguished chairman of the subcommittee; and I wish to stress again that this bill does not authorize any additional Federal funds. It is a way to facilitate more effective use of donations and private contributions made to the Library.

Mr. Speaker, I urge adoption of this bill by the House.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

I only asked for the second because I thought that the Library of Congress already was a Center for the Book.

Mr. Speaker, I perused the legislation, and I do remember the Folklife and Folklore Center at the Library which cost the taxpayers some additional funds.

I would like to have the assurance of my friend, the gentleman from Michi-

gan, that indeed this bill will not cost the Government more money or add employees.

Mr. NEDZI. If the gentleman will yield, Mr. Speaker, it is not contemplated that any additional moneys will be acquired by the Library of Congress for the purpose of carrying out the provisions of this act.

I might add that the Library can create such a Center for the Book without this legislation. However, it was felt that the congressional imprimatur would assist it in securing the necessary gifts from private sources.

Again, it is not intended that any Federal funds will be involved.

Mr. BAUMAN. May I also ask whether or not this has anything to do with individual Members of Congress creating their own private centers for the book. I have been reading various stories in the newspapers regarding such private collections.

Mr. NEDZI. If the gentleman will yield further, Mr. Speaker, no such information has come to the attention of the committee.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and pass the bill H.R. 6214.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. NEDZI. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1331) to provide for the establishment of a Center for Books in the Library of Congress.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS, DECLARATION, AND PURPOSE

SECTION 1. (a) The Congress hereby finds that—

(1) the Congress of the United States, on April 24, 1800, establish for itself a library of the Congress;

(2) in 1815, the Congress purchased the personal library of the third President of the United States which contained materials on every science known to man and described such a collection as a "substratum of a great national library";

(3) in recognition of the importance of printing and its impact on America, the Congress purchased the Gutenberg Bible in 1930 for the Nation for placement in the Library of Congress;

(4) the Congress has through statute and appropriations made this library accessible to any member of the public;

(5) this collection of books and other library materials has now become one of the greatest libraries in civilization; and

(6) the book and the printed word have had the most profound influence on American civilization and learning and have been the very foundation on which our democratic principles have survived through our two-hundred-year history.

(b) The Congress declares its reaffirmation of the importance of the printed word and books and recognizes the importance of a Center for Books to the continued study and development of written record as central to our understanding of our world.

(c) It is the purpose of this Act to establish a Center for Books in the Library of Congress to provide a program for the investigation of the transmission of human knowledge and to heighten public interest in the role of books and printing in the diffusion of this knowledge.

ESTABLISHMENT OF THE CENTER

SEC. 2. There is hereby established in the Library of Congress a Center for Books (hereafter in this Act referred to as the "Center"). The Center shall be under the direction of the Librarian of Congress.

FUNCTION OF THE CENTER

SEC. 3. The Librarian of Congress through the Center shall stimulate public interest and research in the role of books in the diffusion of knowledge through such activities as a visiting scholar program accompanied by lectures, exhibits, publications, and any other related activities.

ADMINISTRATIVE PROVISION

SEC. 4. The Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purposes of carrying out the Center's functions, without regard to any other law; and

(3) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

AMENDMENT OFFERED BY MR. NEDZI

Mr. NEDZI. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NEDZI: Strike out all after the enacting clause of S. 1331 and insert in lieu thereof the provisions of the bill H.R. 6214, as passed by the House.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To provide for the establishment of a Center for the Book in the Library of Congress, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 6214, was laid on the table.

AUTHORIZING A BUST OR STATUE OF MARTIN LUTHER KING, JR., TO BE PLACED IN THE CAPITOL

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 60) authorizing a bust or statue of Martin Luther King, Junior, to be placed in the Capitol.

The Clerk read as follows:

H. CON. RES. 60

Resolved by the House of Representatives (the Senate concurring), That the Joint Committee on the Library is authorized and directed to procure a bust or statue of Martin Luther King, Junior, and to cause such sculpture to be placed in a suitable location in the Capitol as determined by the Joint Committee on the Library.

SEC. 2. Expenses incurred by the Joint Committee on the Library in carrying out this concurrent resolution, which shall not exceed $25,000, shall be paid out of the contingent fund of the House on vouchers approved by the chairman of the joint committee.

The SPEAKER pro tempore. Is a second demanded?

Mr. ASHBROOK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) and the gentleman from Ohio (Mr. ASHBROOK) are recognized for 20 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Dr. Martin Luther King, Jr. sought through nonviolent protest to bring racial and economic justice to all Americans. It is appropriate to recognize his leadership in moving Americans toward their birthright and our Nation's central goals of "liberty and justice for all" by honoring Dr. King with a bust or statue in the U.S. Capitol. House Concurrent Resolution 60 authorizes the Joint Committee on the Library to procure the memorial, using $25,000 from the contingent fund of the House. Design and plans are to be carried out by the Architect of the Capitol, who has suggested that the memorial be placed on the first floor in the House wing, south of the crypt.

Mr. Speaker, it might be noted that, despite the many rich contributions of black Americans to the culture, science, history, and politics of the Nation, the statue of Dr. King is the first memorial to a black American to be placed in the Capitol.

This is not the first time the House has considered this legislation. Similar bills were passed by both the House and the Senate during the 94th Congress, but because Senate passage was immediately prior to adjournment, the House was unable to consider the resolution as amended in the Senate.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from New York (Mr. BINGHAM), one of the prime movers of this legislation.

Mr. BINGHAM. Mr. Speaker, the resolution before us, House Concurrent Resolution 60, authorizes the placement of a bust or statue of Dr. Martin Luther King, Jr., in the Capitol, at a cost not to exceed $25,000.

I would like to express my appreciation to the gentleman from Michigan (Mr. NEDZI), chairman of the House Administration Subcommittee on Libraries and Memorials, the gentleman from New

Jersey (Mr. THOMPSON), chairman of the House Administration Committee, and to the members of the committee for bringing this resolution before us today.

House Concurrent Resolution 60, which I introduced on January 17, 1977, and which I first introduced in 1972, has a total of 168 cosponsors, including members of both political parties and all the members of the Congressional black Caucus. Their names are appended at the end of this statement.

It is altogether fitting that we honor Dr. King, for he has done much to further the struggle for equal justice, equal opportunity, and indeed for basic rights.

In 1955 Mrs. Rosa Parks, a seamstress with tired feet, was arrested for refusing to give up her seat on a local bus to a white man. Her arrest triggered the first great civil rights test of power, and launched Dr. King's quest for equality. Dr. King, then an unknown minister from Alabama, led the Montgomery black community that year. Mrs. Park's arrest ended 382 days later with the capitulation of the Montgomery bus line to the doctrine of racial equality. Dr. King had begun his march.

In the years that followed, Dr. King's influence grew. He set out to correct specific injustices, but also to educate our country and win the hearts and minds of our people. His marches awakened our country and aroused our sympathy.

Indelibly impressed in our minds is that horrible spectacle in 1963 when Dr. King and his marchers, dressed in their Sunday clothes, met fire hoses, truncheons, and police dogs in Birmingham. A few months later, in his famous "I have a dream" speech, Dr. King addressed thousands of people gathered at the Lincoln Memorial, and said,

> When we let freedom ring, we will speed the day when all God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing the words of the old Negro spiritual: "Free at last/Free at last/Thank God Almighty, we're free at last."

In 1964 Dr. King became the 14th American and the youngest man ever to win the Nobel peace prize.

I had the great privilege of meeting Dr. King personally in Selma, Ala., at the time of his release from jail there, and on other occasions. I was one of those from this House who attended his funeral in Atlanta in 1968.

A firm believer in Christian ideals and Gandhi's principle of peaceful nonviolent protest, Dr. King set out to fulfill a dream, to give life to this country's highest ideals. He spoke for the present and the future, of "getting to the mountaintop" and "reaching the Promised Land." He was indeed one of the truly great figures of our American history.

But there are other reasons why this memorial should be authorized in the Capitol.

Is it not shocking that, of all the black Americans who have contributed to this Nation's greatness, not one is honored among the 681 works of art in the Halls of the Capitol? Is it any wonder that, in the absence of any such recognition, so few black families are to be seen among the millions of tourists who flock to our Capitol Building each year? Is it not distressing that a nation, striving to set right the wrongs of the past, has blotted out, here at the very seat of our Government, any recognition of the role of black people in building this great country?

This memorial to Dr. King presents a perfect opportunity to begin to correct that injustice. This civil rights leader deserves to receive official recognition and appreciation by his Government.

I appreciate the action of the Speaker in placing this resolution on the suspension calendar so that the House may act on it with dispatch and send it to the Senate for prompt action. As many of you know, this resolution passed both the House and Senate in the last Congress. However, there were minor differences between the bills and Congress recessed before they could be resolved in conference.

Although Dr. King's violent death is a tragic blot on our recent history, his life was a shining example for us all. For over a decade, his hopes and his dreams guided the Nation in the struggle for equal justice, equal opportunity, and basic rights. He carried that struggle as far as any man or woman in this century.

A permanent memorial to Dr. King in the Capitol would remind America and the rest of the world over the years to come of the inspiring leadership of this great man.

The list of cosponsors follows:

COSPONSORS OF HOUSE CONCURRENT RESOLUTION 60 AND IDENTICAL RESOLUTIONS

1. Mr. Addabbo.
2. Mr. Akaka.
3. Mr. Ammerman.
4. Mr. Anderson of California.
5. Mr. Anderson of Illinois.
6. Mr. Ashley.
7. Mr. Badillo.
8. Mr. Baldus.
9. Mr. Baucus.
10. Mr. Beard of Rhode Island.
11. Mr. Bedell.
12. Mr. Benjamin.
13. Mr. Biaggi.
14. Mr. Blouin.
15. Ms. Boggs.
16. Mr. Boland.
17. Mr. Bolling.
18. Mr. Bonior.
19. Mr. Bonker.
20. Mr. Brademas.
21. Mr. Brodhead.
22. Mr. Brown of Ohio.
23. Mr. Brown of Michigan.
24. Mr. Brown of California.
25. Mr. Buchanan.
26. Ms. Burke of California.
27. Mr. John L. Burton.
28. Mr. Phillip Burton.
29. Mr. Carney.
30. Mr. Cavanaugh.
31. Ms. Chisholm.
32. Mr. Clay.
33. Mr. Cohen.
34. Ms. Collins of Illinois.
35. Mr. Conte.
36. Mr. Conyers.
37. Mr. Corman.
38. Mr. Cornwell.
39. Mr. Corrada.
40. Mr. Cotter.
41. Mr. Coughlin.
42. Mr. Dellums.
43. Mr. de Lugo.
44. Mr. Dicks.
45. Mr. Diggs.
46. Mr. Downey.
47. Mr. Drinan.
48. Mr. Duncan of Tennessee.
49. Mr. Duncan of Oregon.
50. Mr. Eckhardt.
51. Mr. Edgar.
52. Mr. Edwards.
53. Mr. Eilberg.
54. Mr. Ertel.
55. Mr. Evans.
56. Mr. Fascell.
57. Mr. Fauntroy.
58. Ms. Fenwick.
59. Mr. Findley.
60. Mr. Fish.
61. Mr. Fisher.
62. Mr. Flood.
63. Mr. Foley.
64. Mr. Ford.
65. Mr. Fraser.
66. Mr. Frenzel.
67. Mr. Gammage.
68. Mr. Gibbons.
69. Mr. Gilman.
70. Mr. Glickman.
71. Mr. Gore.
72. Mr. Harrington.
73. Mr. Harris.
74. Mr. Hawkins.
75. Ms. Holt.
76. Ms. Holtzman.
77. Mr. Horton.
78. Mr. Howard.
79. Mr. Hughes.
80. Mr. Jacobs.
81. Mr. Jenrette.
82. Mr. Johnson.
83. Ms. Jordan.
84. Mr. Kastenmeier.
85. Ms. Keys.
86. Mr. Kildee.
87. Mr. Koch.
88. Mr. Kostmayer.
89. Mr. Lederer.
90. Mr. Le Fante.
91. Mr. Leggett.
92. Mr. Long of Maryland.
93. Mr. Long of Louisiana.
94. Mr. Luken.
95. Mr. Markey.
96. Mr. Mazzoli.
97. Mr. McCloskey.
98. Mr. McHugh.
99. Mr. McKinney.
100. Mr. Meeds.
101. Mr. Metcalfe.
102. Ms. Meyner.
103. Ms. Mikulski.
104. Mr. Mikva.
105. Mr. Miller of California.
106. Mr. Mineta.
107. Mr. Mitchell of New York.
108. Mr. Mitchell of Maryland.
109. Mr. Moffett.
110. Mr. Moorhead.
111. Mr. Moss.
112. Mr. Murphy of New York.
113. Mr. Murphy of Illinois.
114. Mr. Myers of Pennsylvania.
115. Mr. Neal.
116. Mr. Nix.
117. Mr. Nolan.
118. Mr. Nowak.
119. Mr. O'Brien.
120. Mr. Ottinger.
121. Mr. Panetta.
122. Mr. Pattison.
123. Mr. Pepper.
124. Mr. Price.
125. Mr. Pritchard.
126 Mr. Rahall.
127. Mr. Rangel.
128. Mr. Reuss.
129. Mr. Richmond.
130. Mr. Rodino.
131. Mr. Roe.
132. Mr. Rosenthal.
133. Mr. Roybal.
134. Mr. Santini.
135. Mr. Scheuer.
136. Mr. Seiberling.
137. Mr. Sharp.
138. Mr. Simon.
139. Mr. Sisk.
140. Mr. Solarz.

141. Ms. Spellman.
142. Mr. Stanton.
143. Mr. Stark.
144. Mr. Steers.
145. Mr. Stockman.
146. Mr. Stokes.
147. Mr. Studds.
148. Mr. Thompson.
149. Mr. Traxler.
150. Mr. Trible.
151. Mr. Tsongas.
152. Mr. Tucker.
153. Mr. Udall.
154. Mr. Van Deerlin.
155. Mr. Vento.
156. Mr. Volkmer.
157. Mr. Walgren.
158. Mr. Waxman.
159. Mr. Weiss.
160. Mr. Whalen.
161. Mr. Wilson of Texas.
162. Mr. Wilson of California.
163. Mr. Wolff.
164. Mr. Won Pat.
165. Mr. Wydler.
166. Mr. Yates.
167. Mr. Yatron.
168. Mr. Zeferetti.

Mr. NEDZI. Mr. Speaker, I would like to say further that the resolution was unanimously reported by the committee.

I have no further requests for time.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this resolution. I understand it will go through without any trouble, but I think it represents a rather interesting sidelight on how history is written.

Almost every significant character in American history has been reviled by contemporary historians except for Mr. King. George Washington and Lincoln have not escaped. The media would have us believe that Mr. Nixon is a crook, John F. Kennedy was a ladies' man, and J. Edgar Hoover was a tryant but strangely enough, when it comes to Martin Luther King, Jr., very little is said. As a matter of fact, there is absolute silence regarding his shortcomings of which there were many. I merely want the record to show that at least one Member of this body does not believe that Dr. King should have his bust memorialized in our Halls, at least not until we have some debate on his particular contributions.

Unlike most of the Members, I have read very carefully the statements of Dr. King over his lifetime. I have closely chronicled his activities, and I say for the record that I do not believe that he deserves this particular honor.

After saying that, Mr. Speaker, I yield back the remainder of my time. I merely want to have history show that one person did not think this action was appropriate.

Mr. TUCKER. Mr. Speaker, I was pleased to cosponsor House Concurrent Resolution 60 to place a bust of the late Dr. Martin Luther King in the Capitol and urge my colleagues to support the measure.

Dr. King inspired all of us, black and white, Christian and Jew, Northerner and Southerner, to reach for the American dream—to feed our hungry, to educate our children, to shelter our poor and to provide the opportunity of a job for all our citizens.

Langston Hughes asked:

What happens to a dream deferred?
Does it dry up like a raisin in the sun?
Maybe it just sags like a heavy load. Or does it explode?

Dr. King's dream exploded but in an unexpected way—in a wave of nonviolence, pacificism and brotherly love. He taught us that the crises that divide us are not nearly as important as the qualities that unite us. He taught us in Birmingham, Salem, and Washington. His leadership in the struggle for equal justice, equal opportunities and equal rights rekindled the spirit of peace and righteousness which won him the Nobel peace prize in 1964. For a generation of young Americans—and, particularly, a generation of young Southerners—he shaped our conscience and opened our view of the past—our vision of the future.

It is written in Genesis 37:19:

And they said one to another, behold the dreamer cometh. Come now, therefore, and let us slay him, and cast him into some pit * * * and we shall see what will become of his dreams.

Martin Luther King's dream gave us a better country and guides us, even now, when our vision dims. His dream will not die; his words must not go unheeded. With this token we offer a small commemoration to the enduring legacy of a great American.

Mr. STOKES. Mr. Speaker, I rise in support of House Concurrent Resolution 60 which would authorize a bust of Dr. Rev. Martin Luther King, Jr., in Statuary Hall of the U.S. Capitol.

The Capitol is a monument that symbolizes the unification of all the 50 States and citizens of those States under one flag and one country, the United States of America. The Capitol is filled with figures of those who have contributed to the construction of this country. However, no black man is represented in neither bust nor statue form.

Mr. Speaker, I feel it is appropriate that we pass this resolution authorizing a bust of Dr. King in the Capitol. Such a tribute to his leadership and contribution to this country is fitting not only for black Americans, but indeed for all Americans and all people.

An avid integrationist civil rights leader, Dr. King won many victories on many battlefields: The Montgomery bus boycott, public accommodations, voting rights, and equal employment opportunity. And despite the fact that he was arrested on more than 15 occasions, was jailed, often assaulted, and continually threatened. Dr. King won all battles with the use of nonviolence, which has been one of the most effective weapons in the black man's fight for justice in the United States. His beleaguered efforts as a civil rights leader won him the Nobel Peace Prize in 1964. He was the third black man, and at the age of 35, the youngest man to be awarded the prize.

Dr. King, additionally, was an orator, a prolific writer, and a scholar. During an incarceration he wrote a "letter from the Birmingham jail" which was his now classic reply to those white religious leaders of all denominations who criticized him for his leadership. The March on Washington on April 28, 1963, in support of pending civil rights legislation, was the largest civil rights demonstration in the history of the United States. The highlight of the march was Dr. King's "I Have a Dream" speech which echoed the Bible, the Constitution, and the National Anthem. Many around the world continue to share his dream that one day "sons of former slaves and sons of former slave owners will be able to sit down at the table of brotherhood."

Mr. Speaker, I ask my colleagues to join me in supporting this resolution authorizing a bust of Dr. King, a man who represents not only the courage, sacrifice, and suffering of the black man in America, but a man who has inspired the world through his sermon of love and hope.

I hope this bust of Dr. King reaffirms our own commitment to the brotherhood of man and serves as a reminder for us to rededicate ourselves to his dream for America.

Mr. WHALEN. Mr. Speaker, for several years, I have supported a congressional initiative to commission a statue or bust of Dr. Martin Luther King, Jr., to be placed in the Capitol. The measure we are now considering, House Concurrent Resolution 60, authorizing $25,000 from the House contingency fund for this purpose, merits the immediate endorsement of this Congress.

At present there is not a single statue or portrait of a black American in the Capitol. Such a commemoration will memorialize a great man—a man who shared a dream with America and with the world. A man who not only symbolized, but who personified the very principles for which he sacrified his life: nonviolence, love and respect for humanity, and the advancement of peace and civilization throughout the world.

This fall, I have the distinct honor and privilege of working at the United Nations alongside Martin Luther King's widow, Mrs. Coretta Scott King. Mrs. King is a Public Member of the United States Delegation to the United Nations 32d General Assembly. I find it fitting that she is representing our Nation as a Public Member, and I can think of no one more worthy than Mrs. King for carrying on the crusade for peace and equality that Martin Luther King advanced so far. As an extension of Dr. King's struggle for equality and justice for all, Mrs. King remains, striving for the same principles her husband died for.

As we remember Dr. Martin Luther King, Jr., let us praise his contributions not only to America, but to civilization as a whole. And further, let us be thankful that people such as Coretta Scott King carry on the struggle for human dignity and peace. As Dr. King himself once stated, let us "not be satisfied until justice rolls down like water and righteousness like a mighty stream."

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 60).

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution was ageed to.

A motion to reconsider was laid on the table.

ERNEST GRUENING STATUE IN STATUARY HALL

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 25) providing for the acceptance of a statue of the late Senator Ernest Gruening presented by the State of Alaska for the National Statuary Hall collection, and for other purposes.

The Clerk read as follows:

S. CON. RES. 25

Resolved by the Senate (the House of Representatives concurring), That the statue of the late Senator Ernest Gruening, presented by the State of Alaska for the National Statuary Hall collection, is accepted in the name of the United States, and the thanks of the Congress are tendered to the State of Alaska for the contribution of the statue of one of its most eminent personages, illustrious for his distinguished civil service.

SEC. 2. The State of Alaska is authorized to place temporarily in the rotunda of the Capitol the statue of the late Senator Ernest Gruening referred to in first section of this concurrent resolution, and to hold ceremonies in the rotunda on that occasion. The Architect of the Capitol is authorized to make the necessary arrangements therefor.

SEC. 3. (a) The proceedings in the rotunda of the Capitol at the presentation by the State of Alaska of the statue of the late Senator Ernest Gruening for the National Statuary Hall collection, together with appropriate illustrations and other pertinent matter, shall be printed as a Senate document. The copy for such document shall be prepared under the direction of the Joint Committee on Printing.

(b) There shall be printed five thousand additional copies of such document which shall be bound in such style as the Joint Committee on Printing shall direct, of which one hundred and three copies shall be for use of the Senate and three thousand copies shall be for the use of the Members of the Senate from the State of Alaska, and four hundred and thirty-nine copies shall be for the use of the House of Representatives, and one thousand four hundred and fifty-eight copies shall be for the use of the Member of the House of Representatives from the State of Alaska.

SEC. 4. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the Governor of Alaska.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. NEDZI) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan, Mr. NEDZI.

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, by statute, each State is privileged to contribute not more than two statues commemorating distinguished citizens of the State to the Statuary Hall collection in the Capitol. Senate Concurrent Resolution 25 authorizes the acceptance of a statue of the late Senator Ernest Gruening presented by the State of Alaska. The statue of Senator Gruening will be placed temporarily in the rotunda of the Capitol, where the State of Alaska will hold the unveiling ceremony. The resolution also provides for the printing of the rotunda ceremony for use of Members of the House and Senate.

There is no cost to the Congress for the statue, or for its installation in either the temporary or permanent locations.

Mr. Speaker, I have no further request for time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and concur in the Senate Concurrent Resolution 25.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6214, House Congressional Resolution 60, and Senate Congressional Resolution 25.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SATURDAY MAIL DELIVERY

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 277) expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service.

The Clerk read as follows:

H. CON. RES. 277

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States Postal Service should not reduce the frequency of mail delivery service for any user of the mails below the frequency of such service which was in effect for such user on June 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CHARLES H. WILSON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we have an opportunity to go on record in opposition to further reductions in the level of Postal Service.

House Concurrent Resolution 277 specifically states that it is the sense of the Congress that 6-day home mail delivery service shall be maintained despite the past statements of Postmaster General Bailar and others that a cut to 5-day delivery would be desirable as a cost-cutting device.

It is my belief that any such reduction in service would not be in the public interest, and I have been gratified that 226 Members have now joined me to cosponsor this resolution.

Saturday mail service is an historical public service of the American postal system. Simply put, it should not be discontinued without careful consultation with the Congress and an accurate estimate of the impact of such a change in service upon public opinion and postal operations. No evidence has been submitted to demonstrate what impact upon service this change would have. One immediate consequence would be the elimination of a delivery system for thousands of rural newspapers which are delivered on Saturday. Also, unless all mail were delivered on Friday, the backlog of mail to be delivered on Monday and Tuesday would be greatly increased. When one of the six "Monday holidays" occurs, the entire mail schedule can be seriously disrupted.

I hope that you will join me in support of this simple but important measure.

Mr. Speaker, I reserve the remainder of my time.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it makes no sense to tilt with windmills, since it is a time consuming and fruitless exercise. With more important matters awaiting decisions, it makes little sense to waste the valuable time of this body with empty proposals such as House Concurrent Resolution 277. It will have about as much impact as a piece of Kleenex dropped from the top of the Washington Monument.

This body, in the very near future, will have the opportunity to vote on legislation which will require the Postmaster General to submit all proposed national service changes in service to Congress. Clearly, that legislation would cover any Postal Service plan to reduce mail delivery from 6 days to 5 days. I think it also is worth noting that the legislation, H.R. 8978, has virtually 100 percent bipartisan support from members of the Post Office and Civil Service Committee.

This bill is designed to back up words with actions which will give Congress a direct voice on the type of mail service to be provided by the Postal Service, in contrast to the resolution before us.

The fate of House Concurrent Resolution 277 is irrelevant to improving or maintaining current mail delivery standards.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I rise in strong support of House Concur-

rent Resolution 277. This resolution expresses congressional opposition to further reductions in the level of postal service, particularly the proposal to cut delivery from 6 to 5 days a week.

The operations of the semi-independent Postal Service have been a disaster. It is bad enough that rates have skyrocketed. Now the Postal Service management is thinking about doing away with Saturday mail delivery as a cost-cutting measure. Such a move would be a serious mistake.

Saturday mail is an important public service. Americans depend on the mail for business and for pleasure. For many, such as those receiving social security, the mail carries the check they need to eat and pay their bills.

A reduction in service would disrupt these valuable functions. Important information and transactions would be delayed, to the detriment of our citizens. The delay would be especially severe on the Monday holiday weekends, when no mail would be delivered from Friday until the following Tuesday.

Why must Americans be punished for the ineptitude of Postal Service management? Saturday mail delivery is a historical public service of the post office and it should not be discontinued.

I urge the adoption of this resolution.

Mr. DERWINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois for yielding.

I, too, rise in support of this worthy legislation.

Mr. Speaker, I rise in support of House Concurrent Resolution 277, which expresses in no uncertain terms the sense of the Congress not to reduce mail service from 6 to 5 days a week, eliminating probably, though not certainly, Saturday mail service.

That this resolution is necessary at all only serves to demonstrate what I can only describe as the "obtuseness" of the Postal Service in reading the will of the American people as expressed by their Representatives here in Congress.

As a Member of the Post Office and Civil Service Committee, and the ranking minority member of the Subcommittee on Postal Operations and Services, I have been present at innumerable, at what can only be described as, confrontations with Postal Service management over a variety of service issues not the least including 6-day-a-week delivery service.

If the service cutback is actually permitted to go into effect, and Saturday service is indeed eliminated, the consequence will be the elimination of rural newspaper and parcel post delivery, mounting backlogs of mail to be delivered on Monday and Tuesday, and a serious disruption of the Nation's mail schedule when a national holiday on Monday occurs.

As a cosponsor of House Concurrent Resolution 277, I urge my colleagues to vote to suspend the rules and to pass this most sensible legislation.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the measure before us which expresses the sense of Congress that the Postal Service should not eliminate Saturday mail delivery.

Saturday mail service is an historic public service of the American postal system and, as a service, simply curtailing operations is not the proper approach to dealing with postal financial difficulties. I have been told by my colleagues on the Post Office and Civil Service Committee that the elimination of Saturday delivery would save less than 1 cent on the cost of a first-class stamp and any substantive cost-savings would not be realized for at least 2 years.

In my district the discontinuation of Saturday service would completely disrupt the Saturday delivery of our weekly newspapers. It would hit especially hard our small businesses which depend on a reliable mail service and it could add at least one more day's delay to those older citizens waiting for a social security compensation check. On Monday the backlog of mail in our small post offices would be mammoth and, it is unlikely that the entire three day buildup of mail could be processed in just 1 day. Letters that should be delivered on Monday may well have to wait until Tuesday or even Wednesday. And, when one of the six "Monday holidays" occur the entire mail schedule could be disrupted for the entire week.

This measure only expresses our concern that the Postal Service not reduce mail service and that prior to recommending a reduction they should consult with the Congress and submit an impact appraisal. I believe this simple, but important, measure deserves our wholehearted support.

Mr. HEFNER. Mr. Speaker, I rise in support of House Concurrent Resolution 277. This resolution should make it clear to the management of the Postal Service that Congress will not tolerate reductions in postal services until we, speaking for the people, have had a chance to come up with some better solutions to the problems of our mail system.

I have been very concerned that the Postal Service has been planning to go ahead on its own selectively to adopt and ignore some of the recommendations of the Commission on Postal Service. The Commission did a good job. I do not agree with all it recommended, but its report should be read and studied by all of us here in the House and by the officials of the Postal Service. More importantly, major postal reforms should not be taken lightly and without full consideration. Without proper caution, more harm than good can be done. The Postal Service acting on its own could make changes which would be hard to undo if we, the public and the Congress, decide later against such changes.

Take the proposal for eliminating Saturday mail deliveries for example. The Postal Commission based its recommendation on a public opinion survey showing that 80 percent of the people would accept reduction in mail deliveries if necessary to hold down future rate increases or public service subsidies. That 80 percent of the people has been mighty quiet, and from my mail, I have to conclude that only a small handful live in my district. The public has commented on the 5-day delivery proposal and they have said "no." The resolution before us today will show that we are listening to them.

Too much is not known about the effect of reducing mail deliveries. Despite the Commission's survey, we do not know just how many people really would accept 5-day mail delivery. Neither do we know how much postage rates might have to increase just to continue 6-day deliveries. But we do know that cutting out Saturday deliveries will not prevent future rate increases—the Postal Service's request to the Postal Rate Commission for an increase clearly shows this. And we do know that 5-day delivery will have an adverse impact on rural areas that depend on the mail for delivery of newspapers and other essential information. And I think we can all imagine what might happen over a long holiday weekend when the mail would back up from Friday to Tuesday. Weighing what we do know against what we do not, I think we had better keep 6-day delivery for the time being.

There was a recommendation of the Commission I agree with. The Commission proposed to put limitations on the closing of post offices so that the Postal Service could not eliminate a small post office just to save money. Limitations are needed.

We all know of the plans last year by the Postmaster General to close about 12,000 small third and fourth-class post offices. That announcement alone probably did more than any other circumstance to secure passage of the legislation creating the Commission on Postal Service and establishing a moratorium on rate increases or post office closings. This moratorium has expired and I fear that we will see the Postal Service moving ahead with similar plans to close small rural post offices. Postal officials say they can phase out many of these offices and provide local residents with better services through rural carriers than they now receive. Maybe so, but I do not think it is up to the Postal Service alone to decide what is better service. The local residents themselves should be given a voice in this decision. The Postal Service may find out, as I suspect it would, that what it considers to be "better service" by closing a community's post office would not be thought to be so by that community.

The Commission found that the public in general would support some reductions in certain postal services in order to hold down future rate increases. But it also found that Americans from small towns and rural areas strongly opposed the closing of the post offices which play such an important part in the life of their communities. Just as the Postal Service seems intent on following the advice of the Commission on 5-day delivery, it seems equally determined to ignore the Commission's recommendations on post office closings. I believe the Postal Service ought to hold off here.

Mr. Speaker, I introduced a concurrent resolution similar to House Concurrent Resolution 277 earlier this year.

Like House Concurrent Resolution 277, it called for a suspension of any plans to reduce the frequency of mail deliveries. But it also called for a new moratorium on post office closings until March 1978, 1 year from the date of the Postal Commission's report. This would give us time to study the problem and come up with a better idea. I support House Concurrent Resolution 277, but I urge the distinguished chairman of the committee reporting this resolution to consider also the problem of our small post offices—another endangered species.

Mr. THONE. Mr. Speaker, I rise in support of House Concurrent Resolution 277, expressing the sense of Congress that 6-day mail delivery service be maintained.

The nonservice oriented Washington management of the U.S. Postal Service is driving away some of its most profitable business by its policies of less and less performance accompanied by more and more costs to its customers.

The U.S. Postal Service is antirural America in its attitudes. One illustration of these attitudes is the Postal Service's persistent attempts to close post offices in small towns. The proposal to eliminate Saturday delivery of mail also will hit harder on rural America than in the Nation's urban centers.

Many mail order businesses are conducted in small communities. These firms will be hard hit if the Postal Service were to be allowed to eliminate service on Saturday. Considerable time would be added to span between a customer mailing an order and it being filled if Saturday mail service were eliminated. This elimination, combined with many Monday holidays, would often mean that 3 days would go by before mail could be delivered.

The proposed halting of Saturday delivery would have a disastrous effect on small daily newspapers.

In my home State of Nebraska, some newspapers deliver 80 percent of their circulation through the mail. Even the newspaper with the largest circulation in Nebraska, the Omaha World-Herald, is terribly dependent upon 6-day-per-week mail service. Nebraska is about 500 miles long. The World-Herald is one of the great unifying forces for our State. It reaches every corner of Cornhuskerland. And 13 percent of that circulation is delivered by mail.

Mr. Speaker, I have given only a couple of many reasons why continuance of 6-day-per-week mail delivery is essential to the well-being of rural America. I urge adoption of this resolution.

Mr. HILLIS. Mr. Speaker, I rise in support of the resolution (H. Con. Res. 277). For a number of years the American people have been asked to pay higher postal rates while experiencing inferior mail delivery. Attempts have been made to resolve this situation; however, it appears that most of these attempts have been directed at reducing the quality of mail delivery instead of addressing the more complex and difficult management problems which plague the Postal Service.

Elimination of Saturday mail delivery was suggested by the Postal Service Commission in an attempt to reduce the overhead of the USPS. However, as in the past, it will be the American public who will suffer the most due to the mismanagement of the Postal Service. Millions of Americans continue to rely on Saturday delivery for personal and business reasons. Little consideration of the adverse effects of eliminating Saturday mail delivery was given before this suggestion was made.

In attempting to justify the suggestion that Saturday mail delivery be discontinued, the Postal Service Commission quoted a survey which showed that 79 percent of the American people polled would prefer that Saturday mail delivery be discontinued as opposed to increasing postal rates. However, it is obvious if one studies the recent history of the Postal Service, that postal rates will not remain steady for very long even if Saturday delivery is discontinued.

I oppose the elimination of Saturday mail delivery for a number of reasons. To begin with, this decision should be made by the Congress, not by a group of bureaucrats. Too much power has been given to the bureaucrats in the past while the Congress has become increasingly less involved in major policy decision.

Second, I do not feel that enough consideration has been given to the adverse effects which might result with the discontinuance of Saturday mail delivery. Before an intelligent decision on this matter can be reached, it is vital that the effects of increased workloads on Fridays and Mondays be evaluated completely. Further, it is not clear what effects the discontinuance of Saturday mail would have on many small businesses which depend on this service. Third, more efforts should be made to eliminate poor policy decisions and mismanagement within the Postal Service before any reductions in mail delivery are made. Last, and perhaps most importantly, the American people simply do not want Saturday mail delivery discontinued.

I strongly urge my colleagues to support House Concurrent Resolution 277. We cannot allow the administration to continue to make important policy decisions without enough consideration as to the effects of these decisions, and without sufficient congressional input. Congress should make its position on the issue clear in order that our constituents can judge us accordingly.

Mr. BEDELL. Mr. Speaker, I rise in support of the resolution to halt the Postal Service's plans to terminate 6-day postal delivery.

This ill-conceived proposal by the Commission on Postal Service, which has subsequently been endorsed by Postmaster General Bailar, deserves to be lost in the dead letter office. Rather than save money as its advocates claim, I fear the idea will simply fuel the flight to private carriers by first-class customers, and unfairly penalize rural residents and small town weekly newspapers.

While on the one hand bemoaning the loss of volume to private carriers, the management of the Postal Service seems bent upon doing all it can to further reduce volume by raising rates and curtailing service. As a lifelong small businessman who believes that customer service bring success, I am continually astounded at the logic which dominates management philosophy.

Because I believe in getting out among the people who are carrying out Government programs, I have made a regular practice of making impromptu unannounced "snoop" visits to different Federal agencies.

Recently, I found myself talking with workers at the Postal Service's L'Enfant Plaze headquarters to find out firsthand some of the ills plaguing that agency. If what I found is duplicated in other offices around the country, I am not surprised that mismanagement exists.

Of all the departments I have visited, I have never seen one where the problem of keeping people at their desks was so bad that a sign-in, sign-out book at the front entrance was required. I was told by a top official that this policy was introduced because of the problem of keeping people at work for a full 8-hour day. Extra long coffee breaks and early departure times as well as other personnel problems were discussed openly and freely with me by workers during my 5-hour visit. Indeed, I was so concerned with what I heard that I broke my policy of not talking to top management on these visits to discuss my findings with the Deputy Postmaster General right there on the spot.

It may be that a substantial amount of money now being spent on salaries at L'Enfant Plaza could be saved if there is not enough work to keep these people busy, or that they could be asked to help out with the sorting and delivery tasks around the country. If the workload does not justify present staff levels, I cannot understand why more attention is not being paid to this problem.

When the top management of the Postal Service, without consulting Congress, announces to the public that by sacrificing 6-day delivery some $412 million can be saved annually, I have a very hard time sympathizing. Knowing what I do of headquarters conditions, I cannot justify asking my constituents to forego Saturday delivery.

Where are the studies on the impact of such a service cutback on rural residents? Do we know how this action will be felt by rural customers who would have to travel many miles to the nearest post office to get their Saturday mail, or what the impact would be upon commerce of 3-day weekends without any postal delivery? These studies have not been done, yet we are going ahead with the termination of service.

It seems to me that the Postal Service has developed many of the faults of both the private corporation and the governmental bureaucracy. Like many bureaucracies, it has grown insensitive to the pleas of individual Americans for better service, and will listen only when bludgeoned over the head by congressional resolutions such as the one we consider today. Like many corporations, it is trying to improve its balance sheet by cutting services without concern for its public duties. However, unlike other govern-

mental agencies it is not directly responsible to Congress, and unlike private corporations it gets Federal subsidies to the tune of nearly $1 billion yearly.

The time has come to put this operation in order, and in that vein I strongly support the legislation recently introduced by Mr. WILSON of California and Mr. HANLEY of New York to return the Postal Service to congressional control. But first, let us put a stop to this attempt to halt 6-day delivery.

Mr. VAN DEERLIN. Mr. Speaker, I am especially pleased to rise in support of House Concurrent Resolution 277, to put Congress on record in favor of the continuance of 6-day home delivery mail service.

Some public services are essential and must be maintained even if a public investment is required. A lot of people depend on buses for essential transportation, so we do not cut back on bus schedules when a line loses money—we provide funds to keep the service going in the public interest.

Nearly everyone is dependent on the Postal Service, and the public commitment to full maintenance of this service is or should be even more compelling than is the case with transit systems.

Even a 1-day delay in receipt of certain mail can be a devastating blow to many individuals—people waiting for checks, for example. If we permit the abolishment of Saturday service, the 1-day delay stretches into 2, as patrons must stand by until Monday to receive mail that otherwise would have been delivered on Saturday.

I do not believe our constituents will stand for a reduction in home mail delivery service from 6 to 5 days a week. We should not either, and resounding approval of the pending resolution will put the House back on the right track toward reasserting its authority in this critical area of Government service to our citizens.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

Mr. CHARLES H. WILSON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 277).

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

ESTABLISHMENT OF U.S. POSTAL SERVICE ARBITRATION BOARD

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7132) to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service, as amended.

The Clerk read as follows:

H.R. 7132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1004 of title 39, United States Code, is amended by adding at the end thereof the following subsections:

"(c)(1) If the Postal Service and an organization of supervisors and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to agree, within 60 days after the organization submits a written notice to the Postal Service, upon a program for consultation or a plan to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters), either party shall have the right to refer the matter to an arbitration board established under the provisions of subsection (d) of this section.

"(2) If the Postal Service and an organization of supervisors and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to agree with respect to pay policies and schedules, fringe benefit programs, and other programs related to such employees, which affect all or a substantial portion of such personnel on a long-term or permanent basis, after participating directly in the planning and development thereof, either party, upon a 30-day written notice, may refer the dispute to an arbitration board established under the provisions of subsection (d) of this section.

"(3) If the Postal Service and an organization of supervisors and other managerial employees (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to reach an agreement as to whether or not a particular issue is subject to consultation or direct participation under this section, either party, upon a 30-day written notice, may refer the issue to an arbitration board established under the provisions of subsection (d) of this section.

"(4) If an agreement as contemplated under this subsection is in effect, no party to such an agreement shall terminate or modify the agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 60 days prior to the expiration date of the agreement, or not less than 60 days prior to the time it is proposed to make such termination or modification. If the parties fail to reach agreement or to adopt a procedure providing for binding resolution of a dispute by the date of the expiration of the agreement or the date of the proposed termination or modification, as appropriate, either party shall have the right to refer the dispute to an arbitration board established under the provisions of subsection (d) of this section. The provisions of this paragraph shall not apply to the terms of an agreement which were decided by an arbitration board and which were in effect for less than 1 year.

"(5) An organization of supervisors and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section, shall have the exclusive right to invoke the arbitration provisions of subsection (d) of this section on behalf of such employees.

"(d)(1) An arbitration board shall be established to consider and decide a dispute arising under subsection (c) of this section and shall consist of three members, one of whom shall be selected by the Postal Service one by the recognized organization, and the third by the two thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made by the Director of the Federal Mediation and Conciliation Service.

"(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may elect. Decisions by the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

"(3) Costs of the arbitration board shall be shared equally by the Postal Service and the recognized organization.".

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CHARLES H. WILSON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7132 is a bill sponsored by my good friend and colleague, BILL CLAY. This legislation, which would establish arbitration rights for postal supervisors is not controversial; indeed, it is virtually identical to a bill which I sponsored in the last Congress which was approved by voice vote of the House—no Senate action was taken.

This is a bill which will allow the over 40,000 postal supervisors across the country to have a role in the development of policies which directly affect them, a concept which was intended by Congress in the 1970 Postal Reorganization Act, but subsequently ignored by postal management.

As chairman of the Postal Personnel and Modernization Subcommittee, I have become deeply concerned about top management's failure to acknowledge the important role supervisors play in postal operations.

For several years we have been told by postal management that the difficulties and friction with supervisors could all be worked out without this legislation.

Unfortunately, however, it has become clear with various continuing legal action brought against the Postal Service by the National Association of Postal Supervisors that, if anything, the relationship between postal management and supervisors has deteriorated since the House approved this concept in the last Congress.

After careful study of the situation, it is obvious that the Postal Reorganiza-

tion Act should be amended with respect to supervisory rights.

This bill accomplishes that goal through its arbitration procedures, and reaffirms the belief which Congress expressed in the Postal Reorganization Act of 1970 that, while postal supervisors are a part of management, they still have certain rights as employees because of their unique position, which differs substantially from most supervisory personnel in private industry.

This legislation insures that the current law providing for consultation and participation rights will be respected by postal management and that the kind of capricious management decision we have seen in recent years will be prevented from recurring.

It should be emphasized that the arbitration provisions of this bill do not in any way create a form of collective bargaining similar to that for rank-and-file postal employees, and does not allow supervisors to join rank-and-file unions.

Not only will the establishment of such an arbitration board render fair and impartial decisions in disputes, but also the existence of the board will encourage more cooperation and consultation between the supervisory organization and the U.S. Postal Service.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

When a ballpayer, in a single season, leads the league in hitting, runs batted in and homeruns it is a mark of distinction because it is a comparative rarity. In Congress, every session seems to produce a triple crown winner. This session, H.R. 7132 is in a class all by itself in three categories. It is ill-conceived, illogical, and it ignores time-tested labor-management relations practices in Government and private industry.

With the U.S. Postal Service under heavy attack from the mail-using public and the White House still in search of a postal policy position, this is not the time to drive a stake into the heart of postal management. The Postal Service needs all the assistance it can muster, if it is to provide the type of service the public demands and expects. Instead, H.R. 7132 guarantees divisiveness by creating the legal machinery which will make the Postmaster General and a large segment of his managers adversaries.

When Congress passed the 1970 Postal Reorganization Act, it preserved an established principle in the public and private sectors of the economy by making it clear postal supervisors were part of the management team. The functions and responsibilities of supervisors likewise disprove the argument they are managers in name only. Supervisors schedule mail operations, determine whether different segments of the line work force are performing the proper jobs at the proper times, maintain discipline, handle grievances, and implement safety programs. Clearly, such duties and responsibilities are management prerogatives.

In passing the Labor-Management Relations Act of 1947, Congress removed supervisory employees from the compulsory bargaining provisions of the 1935 National Labor Relations Act. That provision has governed supervisory employees in the private sector for nearly 30 years.

Based on my own personal experience, I am convinced that the vast majority of supervisors identify with management. Unfortunately, they have been misled by a small group of labor leaders whose only interest is self-preservation.

In providing for binding arbitration, H.R. 7132 would place responsibility for policy decisions in the hands of someone not accountable to the public, Congress, or the Postal Service.

H.R. 7132 can only divide, disrupt, and demoralize the Postal Service. It is a triple crown winner without distinction.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in support of H.R. 7132, to establish a three-member board of arbitration to consider disputes arising between the U.S. Postal Service and an organization of supervisors and other managerial personnel. The bill grants the postal supervisors a right to consult with the Postal Service through a binding arbitration process. Areas subject to this process would be planning and development pay policies and schedules, fringe benefit programs, and programs relating to supervisory employees.

Under the Postal Reorganization Act of 1970, the supervisors' national organization is "entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees." However, experience has demonstrated that the U.S. Postal Service is unwilling or unable to follow either the letter or the intent of the law.

This refusal by management to comply with section 1004 of title 39 forced the supervisors to seek relief in the courts in March 1972. As a result, an agreement was reached between the Postal Service and the supervisors in March of 1974. This agreement was intended to formalize a program of consultation and should have solved the problems which were seriously impairing the operations of the Postal Service.

Apparently, however, the U.S. Postal Service has consistently failed to perform satisfactorily in this regard. It appears necessary, therefore, for the Congress to formalize the consultive procedures which are contained in H.R. 7132. This legislation would provide a means of resolving disputes concerning major personnel policy issues. The bill would provide for arbitration only of those disputes concerning policies which affect all or a substantial portion of supervisory personnel on a long-term or permanent basis. Such arbitration would motivate the Postal Service to permit supervisors direct participation in the planning and development of personnel policies which is already required by statute. I urge my colleagues to support H.R. 7132 and vote for its passage today.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I would be glad to yield, although I know my colleague, the gentleman from Illinois, would yield, too.

Mr. GILMAN. Mr. Speaker, as a very proud cosponsor again this Congress of H.R. 7132, I rise in support of this legislation, sponsored by my distinguished colleague from Missouri (Mr. CLAY).

H.R. 7132 establishes an arbitration board to settle disputes between organizations of postal supervisors and other managerial personnel and the U.S. Postal Service. The arbitration board consists of three members—one selected by the U.S. Postal Service, one by the recognized supervisory organization, and the third by the two thus selected or by the Director of the Federal Mediation and Conciliation Service if the parties fail to agree.

Several of my colleagues have expressed concern over the scope of the board's jurisdiction indicating a misunderstanding both of the intent of this legislation and the limited nature of the board's jurisdiction.

First, the National Association of Postal Supervisors (NAPS) seeks no bargaining rights but a strengthened and enforceable consultation process through arbitration under H.R. 7132. This binding arbitration by a third party on postal policies already is established through the national agreement. Second, the arbitration board is only authorized to settle disputes concerning: Procedures for consultation or participation in developing pay policies, fringe benefits, and other programs relating to supervisory employees; the policies and programs themselves; and whether a particular issue is subject to consultation or direct participation.

Some members have posed the reasonable question of the need for this legislation as the 1970 Postal Reorganization Act already provides that the Postal Service must "consult" with recognized organizations of postal supervisors, in lieu of collective bargaining. Unfortunately, this provision has been observed more in the breach than in fact.

The Post Office and Civil Service Committee, of which I am a member, maintains that the U.S. Postal Service has not consulted with NAPS, except to inform them ex post facto of the decisions of the Postal Service, causing a "policy of confrontation," not a "policy of consultation," as required by law.

Further serving to underscore the seriousness of this problem, NAPS has successfully taken the Postal Service to court three times since 1970 at a tremendous cost of money to NAPS and with a commensurate rise in ill will directed at the Postal Service by postal supervisors.

Mr. Speaker, this intolerable state of affairs should not continue. The chaotic conditions currently existing at the Postal Service, producing such ill-conceived operations as the bulk mail system, the job evaluation program, rural post office closings, and 5-day-a-week delivery service, can only be compounded by midlevel management at odds with top management.

I urge my colleagues to endorse H.R. 7132 and vote to suspend the rules and pass this legislation.

Mr. DERWINSKI. Mr. Speaker, with

two powerhouses like the gentleman from New York (Mr. GILMAN) and the gentleman from California (Mr. CHARLES H. WILSON), handling this at this time, I am overwhelmed.

Mr. Speaker, I yield to the young man from Illinois (Mr. CORCORAN).

Mr. CORCORAN of Illinois. Mr. Speaker, I find myself in an unusual position in opposition to the senior members on the committee.

I join with the ranking members in opposing this measure.

Mr. Speaker, the late Vince Lombardi always instructed his backs to "run to daylight." After months of indecision on how best to come to grips with postal problems, the White House has devised a "run-for-cover" strategy. That strategy was enunciated clearly by an administration spokesman when he testified last week before our two postal subcommittees.

With the White House advocating a business as usual approach which conveniently sidesteps tough policy decisions, Congress cannot afford to embrace legislation, no matter how well intentioned, which will complicate rather than streamline postal management practices. That is why I oppose H.R. 7132. This is legislation which will disrupt and conceivably paralyze postal management.

While I am opposed to this bill, I do find myself in sympathy with our dedicated, hard-working front line supervisors who clearly identify with postal management and want to be treated accordingly. Something is radically wrong when these supervisors are forced to go into court in an effort to be consulted about and involved in management decisions. The 1970 Postal Reorganization Act clearly recognized supervisors as part of management and accorded them treatment in keeping with that status. It should not require much time or effort on the part of top postal management to determine whether it is living up to the letter of the law.

Instead of accentuating the need for cohesiveness in the ranks of postal management, H.R. 7132 offers more confusion and chaos. In addition, it turns back the clock on three decades of accepted labor-management practices in the public and private sectors whereby supervisors have been recognized and regarded as an integral part of management

Mr. ANDERSON of Illinois. Mr. Speaker, in light of the continuing deterioration in the relationship between the Postal Service and the National Association of Postal Supervisors, the House today passed a bill to establish an arbitration board between these two bodies. I was pleased to support this action which would amend the Postal Reorganization Act with respect to supervisory rights by establishing set arbitration procedures.

In view of the Postal Service's failure to consult with postal supervisors in the past, I believe this legislation will result in the direct participation by supervisors in planning, development and implementation of programs pertaining to their salaries and other benefits. It will insure that current law providing for consultation and participation rights will be respected by postal management. I would also like to emphasize my belief that the arbitration procedures of the bill do not create a form of collective bargaining similar to that for rank and file postal employees. Moreover, the establishment of such an arbitration board will not only render fair and impartial decisions in disputes, but will encourage greater cooperation and consultation between the organization of supervisory personnel and the Postal Service.

Mr. HILLIS. Mr. Speaker, I rise in support of the measure, H.R. 7132. This bill would establish an arbitration board for postal supervisors. This is not the first time this body has addressed this issue. In the 94th Congress, a similar bill was passed by voice vote. However, the Senate failed to consider it before adjournment.

Although the administration opposes enactment of this legislation, it is obvious that the postal supervisors have not been treated fairly in recent years by the management of the Postal Service. While the Postal Service might consult with the National Association of Postal Supervisors on policy decisions, there is no guarantee that the supervisors' position will be given due consideration before a decision is made. H.R. 7132 would alter that situation so that the National Association of Postal Supervisors could submit their position during a dispute to an arbitration board and receive an unbiased verdict.

While other unions in the Postal Service have had arbitration rights for a number of years, the postal supervisors have had to resort to lawsuits in order to protect their rights. These lawsuits, all of which have been decided in favor of the supervisors, would not have been necessary if an arbitration board had been available to resolve the particular issues involved.

H.R. 7132 established an equitable procedure to resolve any disputes between the Postal Service and the postal supervisors. Decisions of the arbitration will be binding. Such a procedure is a much better method of handling policy disagreements than having the Postal Service sued by the postal supervisors.

Inasmuch as the House has already proven its support for this legislation, I urge my colleagues to support passage of H.R. 7132 in order that the Senate can have ample time to consider the merits of the issues involved and hopefully join with the House in supporting arbitration rights for postal supervisors.

Mr. CORRADA. Mr. Speaker, in recent weeks, after conversations with postal workers, postmasters, postal supervisors, and others, I have become increasingly aware of the overly broad discretion exercised by top level individuals at the U.S. Postal Service with regard to matters directly affecting supervisory and other managerial postal personnel.

Section 1004(b) of title 39, United States Code states in pertinent part:

The Postal Service *shall* provide a program for *consultation* with recognized organizations of supervisory and other managerial personnel who are not subject to collective bargaining agreements under chapter 12 of this Title.

Despite the mandatory language contained in this provision the term "consultation" has apparently been taken very lightly by the Postal Service. As a result postal supervisors have been placed in a position affording them little or no influence over decisions affecting their wages and benefits. It is my understanding that in some cases a promotion to supervisor status has meant a reduction in pay and/or benefits. This has created an anomalous, unjust, and somewhat embarrassing situation for the supervisors.

If the Postal Service will not comply with insomuch as the spirit of section 1004, the supervisors have no way to enforce their rights to "consultation" other than to resort to the courts. The problem is that resorting to the courts should be a remedy of last recourse, not only of sole recourse. Although the supervisors have been consistently successful in their court battles with the Postal Service, the patent injustice of the situation dictates that new legislation be enacted providing supervisors and other managerial personnel with an adequate and binding prejudicial remedy. H.R. 7132, a bill to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service, provides just such a remedy.

Arbitration would provide objective assessment, by a competent body, of both the supervisors' position and the position of the Postal Service. The conclusions of the arbitration board would be binding on both parties. I believe it is time that the Postal Service recognized its obligation to have the views and needs of its nonunion managerial personnel play a role in the determination of matters affecting them.

It is important to note that under H.R. 7132 arbitration would not be automatic. Rather, it would provide an equitable nonjudicial remedy only in the case of disputes which could not be settled between the Postal Service and its nonunion managerial personnel within a specified time period.

It is for all the above reasons that I fully support H.R. 7132.

Mr. DOWNEY. Mr. Speaker, today the House will consider H.R. 7132, a bill to establish a U.S. Postal Service Arbitration Board. It is an important bill which deserves our support.

H.R. 7132 reaffirms the congressional intent of the 1970 Postal Reorganization Act which, in section 1004, provides for a "program for consultation" between Postal Service management and supervisory personnel. The spirit of this provision has not been followed by the Postal Service in many instances, and H.R. 7132 will insure that postal supervisors can seek effective relief from arbitrary management decisions. By institutionalizing the "program of consultation" called for in the 1970 law, the Congress will take a major step in remedying a major problem in the Postal Service management-labor relations system.

I think the supervisors are more than justified in seeking this legislation, because of their unique status in the labor-management continuum. They do not seek bargaining rights associated with labor unions; rather, they seek the right to arbitrate differences with Postal Service administrators.

On four different occasions the Postal Supervisors Association has taken the U.S. Postal Service to court for violations of section 1004. On three occasions the court has upheld the claims of the supervisors. It should be noted that the estimated costs of arbitration as listed in the H.R. 7132 committee report—less than $100,000 in the next 3 years—will be far more cost-effective than the current series of judicial proceedings and subsequent antagonisms that have occurred under section 1004.

This legislation would not be necessary had the Postal Service adhered to the clearly stated "consultation clause" of the 1970 Reorganization Act. Because Postal Service compliance in the past 7 years has been, at best, uneven, I fully support the arbitration remedy of H.R. 7132. As it did in 1970, the Congress must recognize that, although postal supervisors are basically treated as management personnel, the administrative structure of the Postal Service requires that they be given a voice in the contract proceedings that affect them.

Mr. STOCKMAN. Mr. Speaker, I rise to urge my colleagues to give their support to H.R. 7132, a bill to authorize arbitration of disputes between the Postal Service and organizations representing postal supervisors.

This legislation has been made necessary only by the continued refusal of the Postal Service to comply with the mandate for "consultation with recognized organizations of supervisory personnel" contained in the Postal Reorganization Act of 1970. Although the Congress clearly intended to give the postal supervisors a key role in the development of policy at the Postal Service, the senior management has shunted the claims of the supervisors' organizations aside.

These organizations have had to go to the courts to uphold their right to participation in the decisionmaking process. On three separate occasions, the courts have upheld the rights of the supervisors. H.R. 7132 would obviate the need for such costly and time-consuming litigation. The real beneficiaries would be the customers of the Postal Service, because the wisdom and experience of middle-management would be given a greater role.

A final solution to the ills of the Postal Service can come only from a comprehensive reform package. I have introduced such a bill, H.R. 8306. I hope that it and other similar pieces of legislation will be given a full and prompt hearing before the relevant committees. But until we have the opportunity for major reform, we must close the gaps in the present structure. One of these gaps is the lack of communication between senior management and the postal supervisors. H.R. 7132 will fill this need by acting as a deterrent to arbitrary and capricious decisions by top management at the Postal Service.

For these reasons, Mr. Speaker, I urge the House to adopt this bill.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON) that the House suspend the rules and pass the bill, H.R. 7132, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

Mr. ASHBROOK. Mr. Speaker, I do not withdraw the point of order.

The SPEAKER pro tempore. It is so considered. Under rule XV, clause 6(e) there is no question now being put to a vote.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ASHBROOK. Mr. Speaker, my understanding is that there is a question pending.

The SPEAKER pro tempore. Under the rule, further proceedings on the motion to suspend the rules are postponed. There is no longer a question pending.

Mr. ASHBROOK. Mr. Speaker, I insist on my point of order.

The SPEAKER pro tempore. There is no question pending, however, and the Chair cannot now recognize the gentleman to make his point of order.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 6693, House Concurrent Resolution 277, and H.R. 7132.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 8309, NAVIGATION DEVELOPMENT ACT

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95–631) on the resolution (H. Res. 776), providing for the consideration of the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2329, FISH AND WILDLIFE IMPROVEMENT ACT OF 1977

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95–630), on the resolution (H. Res. 775) providing for the consideration of H.R. 2329, to improve the administration of fish and wildlife programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1037, ENERGY TRANSPORTATION SECURITY ACT OF 1977

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Rept. No. 95–629), on the resolution (H. Res. 774) providing for the consideration of H.R. 1037 to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 277 and H.R. 7132.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS OF 1977

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6693, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BRADEMAS) that the House suspend the rules and pass the bill H.R. 6693, as amended on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 375, nays 12, not voting 47, as follows:

[Roll No. 589]

YEAS—375

Abdnor	Applegate	Beard, Tenn.
Addabbo	Archer	Bedell
Alexander	Ashley	Beilenson
Ambro	Aspin	Bennett
Ammerman	AuCoin	Bevill
Anderson, Calif.	Badham	Biaggi
	Bafalis	Bingham
Anderson, Ill.	Baldus	Blanchard
Andrews, N.C.	Barnard	Blouin
Andrews, N. Dak.	Baucus	Boggs
	Bauman	Boland
Annunzio	Beard, R.I.	Bonior

Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Cornwell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thone
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wright
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—12

Armstrong
Ashbrook
Benjamin
Conyers
Crane
Edwards, Calif.
McDonald
Moss
Quayle
Railsback
Rudd
Symms

NOT VOTING—47

Akaka
Allen
Badillo
Bolling
Bowen
Brooks
Clawson, Del
Clay
Corman
Cotter
Cunningham
Dent
Dornan
Eckhardt
Evans, Ga.
Goldwater
Goodling
Harrington
Johnson, Calif.
Koch
Leach
Lehman
Luken
McClory
McCloskey
Mann
Martin
Michel
Patterson
Pepper
Pettis
Pursell
Roberts
Rogers
Roncalio
Ruppe
St Germain
Teague
Thornton
Tsongas
Wampler
Whalen
Wilson, Bob
Wolff
Yatron
Young, Tex.
Zeferetti

The Clerk announced the following pairs:

Mr. Dent with Mr. Goldwater.
Mr. Zeferetti with Mr. McClory.
Mr. Akaka with Mrs. Pettis.
Mr. Luken with Mr. Whalen.
Mr. Teague with Mr. Del Clawson.
Mr. Wolff with Mr. Dornan.
Mr. Badillo with Mr. McCloskey.
Mr. Koch with Mr. Wampler.
Mr. Cotter with Mr. Cunningham.
Mr. Pepper with Mr. Michel.
Mr. Brooks with Mr. Bob Wilson.
Mr. Johnson of California with Mr. Ruppe.
Mr. Allen with Mr. Pursell.
Mr. Corman with Mr. Leach.
Mr. Yatron with Mr. Goodling.
Mr. Harrington with Mr. Martin.
Mr. Bowen with Mr. Clay.
Mr. St Germain with Mr. Roncalio.
Mr. Rogers with Mr. Tsongas.
Mr. Roberts with Mr. Lehman.
Mr. Mann with Mr. Evans of Georgia.
Mr. Patterson of California with Mr. Eckhardt.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such Act, and for other purposes.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SATURDAY MAIL DELIVERY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 277).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 277), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 377, nays 9, not voting 48, as follows:

[Roll No. 590]

YEAS—377

Abdnor
Addabbo
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cochran
Cohen
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Colo.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Grassley
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.

Murphy, Pa.	Rooney	Studds
Murtha	Rose	Stump
Myers, John	Rosenthal	Symms
Myers, Michael	Rostenkowski	Taylor
Natcher	Rousse.ot	Thompson
Neal	Roybal	Thone
Nedzi	Rudd	Traxler
Nichols	Runnels	Treen
Nix	Russo	Trible
Nolan	Ryan	Tucker
Nowak	Santini	Udall
O'Brien	Sarasin	Ullman
Oakar	Satterfield	Van Deerlin
Oberstar	Sawyer	Vander Jagt
Obey	Scheuer	Vanik
Ottinger	Schroeder	Vento
Panetta	Schulze	Volkmer
Patten	Sebelius	Waggonner
Pattison	Selberling	Walgren
Pease	Sharp	Walker
Perkins	Shipley	Walsh
Pickle	Sikes	Watkins
Pike	Simon	Waxman
Poage	Sisk	Weaver
Pressler	Skelton	Weiss
Preyer	Skubitz	White
Price	Slack	Whitehurst
Pritchard	Smith, Iowa	Whitley
Quayle	Smith, Nebr.	Whitten
Quie	Snyder	Wilson, C. H.
Quillen	Solarz	Wilson, Tex.
Rahall	Spellman	Winn
Railsback	Spence	Wirth
Rangel	Staggers	Wright
Regula	Stangeland	Wydler
Reuss	Stanton	Wylie
Rhodes	Stark	Yates
Richmond	Steed	Young, Alaska
Rinaldo	Steers	Young, Fla.
Risenhoover	Steiger	Young, Mo.
Robinson	Stockman	Zablocki
Rodino	Stokes	
Roe	Stratton	

NAYS—9

Cleveland	Duncan, Oreg.	Myers, Gary
Collins, Tex.	Erlenborn	Shuster
Derwinski	Gradison	Wiggins

NOT VOTING—48

Akaka	Goldwater	Pursell
Allen	Goodling	Roberts
Badillo	Harrington	Rogers
Bolling	Johnson, Calif.	Roncalio
Bowen	Koch	Ruppe
Brooks	Leach	St Germain
Carney	Lehman	Teague
Clawson, Del	Luken	Thornton
Clay	McClory	Tsongas
Corman	McCloskey	Wampler
Cotter	Mann	Whalen
Cunningham	Martin	Wilson, Bob
Dent	Michel	Wolff
Dornan	Patterson	Yatron
Eckhardt	Pepper	Young, Tex.
Evans, Ga.	Pettis	Zeferetti

The Clerk announced the following pairs:

Mr. Wolff with Mr. Del Clawson.
Mr. Zeferetti with Mr. Goldwater.
Mr. Akaka with Mr. Martin.
Mr. Badillo with Mr. Michel.
Mr. Teague with Mr. Cunningham.
Mr. Thornton with Mr. McClory.
Mr. St Germain with Mrs. Pettis.
Mr. Cotter with Mr. Whalen.
Mr. Tsongas with Mr. Dornan.
Mr. Dent with Mr. Ruppe.
Mr. Bowen with Mr. McCloskey.
Mr. Allen with Mr. Goodling.
Mr. Brooks with Mr. Pursell.
Mr. Carney with Mr. Wampler.
Mr. Clay with Mr. Pepper.
Mr. Corman with Mr. Roberts.
Mr. Harrington with Mr. Rogers.
Mr. Koch with Mr. Lehman.
Mr. Luken with Mr. Roncalio.
Mr. Mann with Mr. Eckhardt.
Mr. Patterson of California with Mr. Evans of Georgia.
Mr. Yatron with Mr. Johnson of California.
Mr. Bob Wilson with Mr. Leach.

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ESTABLISHMENT OF U.S. POSTAL SERVICE ARBITRATION BOARD

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 7132, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON) that the House suspend the rules and pass the bill H.R. 7132, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF ADDITION TO LEGISLATIVE PROGRAM

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to proceed out of order for 2 minutes in order to make an announcement with respect to tomorrow's schedule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Speaker, I take this time to advise the Members that it is the intention of the leadership to call up one or perhaps two additional suspensions tomorrow. One will be H.R. 9278 dealing with staffing for former Presidents; and perhaps a second resolution may be called up dealing with the Labor-HEW conference.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. WRIGHT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

In reference to the latter bill the gentleman mentioned, is there any certainty that the Labor-HEW conference report will be voted on?

Mr. WRIGHT. There is no certainty at this moment, but the leadership wanted the Members to know that there is a possibility that it may come up tomorrow for a vote in the House.

Mr. BAUMAN. And that might involve a vote on the Hyde amendment?

Mr. WRIGHT. Yes; I would say to the gentleman it quite conceivably could.

Mr. BAUMAN. I thank the gentleman.

GENERAL LEAVE

Mr. PICKLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. (Mr. HARKIN). Is there objection to the request of the gentleman from Texas?

There was no objection.

OPPOSITION TO THE IRS PLAN TO TAX FRINGE BENEFITS CONTINUES TO GROW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, on August 4 I told the House that the Internal Revenue Service was moving forward with a plan to tax employee fringe benefits—such as free parking spaces, store discounts for retail employees, travel passes for airline and rail employees day care centers for women et cetera—as regular income.

I pointed out that no clear line divides compensation of this kind from conditions of work, that widespread taxation of fringe benefits would increase the tax burden on the American people, and that the implementation of such a plan would be enormously disruptive to labor/management relations.

In order to forestall this IRS action—which had been revealed by Commissioner of Internal Revenue Jerome Kurtz in an interview—I introduced House Resolution 740, which declares that it is the sense of Congress that the IRS ought not to change its longstanding practices toward the taxation of fringe benefits without consultation with Congress. This resolution was also introduced in the Senate by Senator ORRIN HATCH, and has the following cosponsors in the House:

LIST OF COSPONSORS

Mr. Conable.
Mr. Martin.
Mr. Stockman.
Mr. Broyhill.
Mr. Brown of Ohio.
Mr. Jacobs.
Mrs. Keys.
Mr. Waggonner.
Mr. Devine.
Mr. Rousselot.
Mr. Abdnor.
Mr. Archer.
Mr. Bafalis.
Mr. Blouin.
Mr. Buchanan.
Mr. Crane.
Mr. Dan Daniel.
Mr. Delaney.
Mr. Downey.
Mr. Duncan of Tennessee.
Mr. Eilberg.
Mr. Frey.
Mr. Goldwater.
Mr. Ketchum.
Mr. Lagomarsino.
Mr. Leach.
Mr. Lederer.
Mr. Lott.
Mrs. Lloyd of Tennessee.
Mr. McClory.
Mr. Moorhead of California.
Mr. Preyer.
Mr. Rinaldo.
Mr. Santini.
Mr. Whitehurst.
Mrs. Holt.
Mr. Quie.
Mr. Hughes.
Mr. Forsythe.
Mr. Burgener.
Mr. Kindness.
Mr. Collins of Texas.
Mr. Hyde.
Mr. Heftel.
Mr. Goodling.
Mr. Badham.
Mr. John T. Myers.
Mr. Steers.

Recently the Brookings Institution issued a new study called Comprehensive Income Taxation, in which the idea of taxing all fringe benefits as ordinary income is endorsed. Brookings argues that this will increase Federal tax receipts by roughly $20 billion per year. Although the proposal also says that this money should be returned to the people in the form of tax reduction, I strongly submit that the vast majority of people would be worse off as a result because that which the politicians get their hands on, they will not let go.

I believe that Congress should move ahead on this issue and make its feelings known to the President, the Treasury, and the IRS by endorsing our resolution before it becomes necessary to prepare legislation to protect the American people from IRS higher taxes.

We should be lowering taxes not seeking ways of raising taxes.

ANTI-MANDATORY RETIREMENT BILL'S HOUSE PASSAGE A DECLARATION OF INDEPENDENCE FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, since at least early in the 93d Congress, legislation to amend the Age Discrimination in Employment Act by eliminating the upper age limit of 65 has been gaining strength in both the number of bills and the number of cosponsors. I am proud to have been one of the initiators of these efforts and to have my bill, H.R. 5383, approved on the floor of the House on Friday by the overwhelming vote of 359 to 4.

I am pleased that the Senate Human Resources Committee, chaired by Hon. HARRISON WILLIAMS, has scheduled action on the bill this week. I am confident the full Senate will also take prompt action and that the President will sign the bill shortly thereafter. I am hopeful that the bill will become law in this session of Congress.

The speed with which the bill has moved in this session of Congress is testimony to recognition by the Congress that we must eliminate ageism as a means of arbitrary discrimination against people in our society, as we have previously made great strides toward eliminating racism and sexism.

I want to give a special thanks to my colleague from California (Mr. HAWKINS)—himself an initiator of this legislation—for his untiring efforts to move this legislation through his Subcommittee on Employment Opportunities and the Committee on Education and Labor to the floor of the House. I am happy that the Select Committee on Aging has been able to assist the Education and Labor Committee in this matter by holding 10 days of hearings over the last 18 months on the subjects of age discrimination and mandatory retirement. During these hearings we heard from corporations with and without mandatory retirement age policies, representatives of labor unions, economists and legal experts in the area of retirement age policies, the Department of Labor, representatives of senior organizations, and senior citizens themselves.

Our report on these hearings, entitled "Mandatory Retirement: The Social and Human Cost of Enforced Idleness", was issued last month.

Mandatory retirement is just a euphemism masking the cruelty of age discrimination and forced unemployment. It severs productive persons from a livelihood, squanders their talents, scars their health, strains an overburdened social security system, drains social welfare programs, and drives many of the elderly into despair.

For those driven into poverty by it, age-based retirement is a particularly perverse birthday present.

The end of mandatory retirement will mean a declaration of independence for many of the senior citizens of our Nation.

Opponents of my bill to limit mandatory retirement worry that, if they are banned, doddering older workers will clog the employment channels, closing off job opportunities for the young and forestalling upward mobility for women and minorities. This is questionable, especially if one looks to the example provided by a number of employees who have no mandatory retirement age and are doing quite well.

During World War II it was necessary to employ retired older workers in the aircraft plants of southern California. A study found that older workers "had greater stability on the job, fewer accidents and less time lost from work than did younger employes."

The study concluded that it was "unfair to judge workers on terms of their chronological age." Studies by the Department of Labor and the National Council on Aging, among others, have since established that older workers are able to produce work qualitatively and quantitatively equal or superior to that of younger workers. The Labor Department also found that there is more variation in work ability within the same age group than between age groups.

Some persons dodder at 30, some at 80 and some pass through life without doddering at all.

Elderly persons who have managed to evade mandatory retirement provide dramatic evidence that age 65 does not signal senility. Who would tell Margaret Mead, 75, that her contributions to the study of anthropology ended at age 65? Who would tell Arthur Fiedler, 83, or Leopold Stokowski, 94, that those over 65 cannot contribute meaningfully to the appreciation of music?

There is ample evidence that the older American brings valuable skills to the labor force. Annie Jones is a 72-year-old correspondent for the Bangor Daily News. At 68, Lillian Carter served as a nurse in the Peace Corps. At 78, she helped elect a president. And Arthur Rubinstein celebrated his 90th birthday with a nationally televised virtuoso performance.

If one assumes that persons become inflexible and senile at 65, then perhaps Justice Brandeis, who retired at 82, or Justice Holmes, who retired at 90, should have been driven from the bench at 65.

The real tragedy of mandatory retirement is found in the lives of senior citizens whose unrealized contributions to society could have been as significant as the contributions of Margaret Mead or Justice Brandeis had they not been arbitrarily exiled from the labor force.

A full employment economy ultimately will nullify the contention that jobs must be stolen from the old to give to the young. In the interim, the proponents of mandatory retirement advocate changing the age of the victim rather than remedying the problem.

I see no social or ethical grounds for arguing that a young person has any more right to a job than an older person. By exchanging jobs through mandatory retirement, grandchildren simply are spared the realization that they are shoving their own grandparents from the labor force. The assumption that mandatory retirement opens jobs for the young is itself suspect.

In periods of economic expansion, technological advances render the jobs typically held by older workers obsolete while creating jobs based on new technology for young workers. In periods of economic contraction, older workers are eased out of the labor force and not replaced.

Stretched to its extreme, the argument would become one for universal mandatory retirement at an age younger than 65. The absurdity of that proposal is that if you follow the premises to their conclusion you would lower the age of mandatory retirement until every jobless young person has stolen an older person's job.

The employment crisis caused by young workers will soon ease. Peter Drucker, a labor-management expert, notes that, "from 1978 on, we will have each year up to 30 percent fewer entrants into the working population than we had in the 10 years from 1966 to 1977."

Proponents argue that banning mandatory retirement would produce a decline in promotional opportunities for younger workers. A younger worker whose upward mobility has been purchased at the price of an older person's job has entered into a Faustian contract with the proponents of mandatory retirement. When that young worker, still competent, productive and eager to work, reaches the arbitrary age of retirement, he or she will find that the right to cry "age discrimination" has been bartered away.

The argument that we ought to rob jobs from the old to give to the young reminds me of a Grimm Brothers story.

A farmer forces his elderly father to eat from a wooden trough apart from the family. One day the farmer notices that his son is constructing a trough.

"What are you doing?" asks the father.

"I'm preparing for your old age," replies the son.

The father dismantles both troughs.

Those who attempt to turn women and minorities against the cause of the elderly by promising promotions in ex-

change for support of mandatory retirement apparently forget that elderly women, elderly minorities and elderly minority women suffer the double or triple burden of age, race and sex discrimination. Attempting to transform natural allies into enemies is a tactic commonly used by those opposing social change. Following the Civil War and again in the 1960's those championing women's rights were told that they would hurt the cause of blacks. Now women and minorities are told that it is in their self-interest to inflict discrimination on another abused group. Equal opportunity and age discrimination cannot coexist.

Proponents of mandatory retirement contend that a ban would break down in operation, since supervisors are ill equipped to evaluate the performance of older workers. They argue, moreover, that many in the over-65 group would ultimately have to be fired for incompetency, and thus be stigmatized unnecessarily.

But why should not capable, compassionate supervisors be able to evaluate older workers as readily as they judge the younger ones? Even now tools exist for detecting workers no longer able to perform adequately—regardless of age. With support from the National Council on Aging, Dr. Leon Koyl of York Central Hospital in Richmond, Ontario, has developed techniques to determine job competency that have been successfully applied in both government and industry. Again, the testimony of companies without mandatory retirement age policies indicates that such a policy is administratively feasible.

In fact, the "administrative difficulties" cited by proponents of mandatory retirement would better be termed "administrative laziness." Experience to date shows that abandoning mandatory retirement does not stigmatize older workers, demoralize younger employees, traumatize supervisors, clot the promotional channels with doddering incompetents, reduce productivity or jeopardize the financial security of retirees.

The claim that mandatory retirement imposes suffering is not exaggerated. A survey of new social security beneficiaries found that, even when combined, social security, private pension benefits and savings did not begin to match the preretirement income of the average worker. Typically, the retiree dropped to less than half of his or her median pre-retirement income.

Those favoring mandatory retirement ought to ask themselves whether they could live in dignity on less than half of their current income. Increased life expectancy coupled with a trend toward later marriage exacerbate the financial crisis by increasing the likelihood that a worker at 65 will be supporting both an elderly parent and college-age children.

Both the Social Security System and private pension plans confront the same socio-demographic trends. The Census Bureau projects that the percentage of the population over 65 will rise from 10.7 percent in 1976 to 12.9 percent in 2000, an increase of 9-million persons. As those born in the postwar baby boom reach 65, the ranks of the elderly will surge from 32 million at the beginning of the next century to almost 55 million in 2030.

As older workers are forced to retire, they tax an already strained social security system. Not long ago, the ratio of workers to social security beneficiaries was 4 to 1; today the ratio is 3.2 to 1; by the year 2030, the ratio will approach 2 to 1. By 1982 or 1983, the Congressional Budget Office estimates, the balances in social security will be depleted. As fewer workers support more Social Security and private pension-plan beneficiaries, we must ask whether the economy and the country would not be better served if older workers who want to work and are able to work were permitted to remain in their jobs.

Mandatory retirement drains social security and private pension plans and jeopardizes the financial well-being of some older workers. In addition, by depriving the older worker of the meaning and companionship which work often provides, mandatory retirement can scar the health of the retiree, resulting in a needless drain on social welfare programs.

Banning mandatory retirement does not bar or discourage voluntary retirement. In no way is my bill tied to Commerce Secretary Kreps' proposal to delay Social Security benefits. Her proposal constituted a callous breach of faith with those who have paid into social security for decades on the assumption that they would receive full benefits at 65, and I vigorously opposed it. Secretary Kreps has assured me that her discussion of a delay in Social Security benefits represented her personal view and that the administration "is not considering any proposal to alter the existing arrangement for retirement with full benefits at age 65."

Banning mandatory retirement clearly makes sense in a society that seeks to root out all forms of discrimination against its members. Already at least one union and many firms are trying out plans that allow competent workers to choose for themselves when they want to quit. The United Steelworkers of America has no mandatory retirement age in its contracts with the steel, can, and aluminum industries. Bankers Life and Casualty, the Paddock newspapers, Cartier Jewelers, and recently Connecticut General and Aetna insurance companies are some of the firms that have eliminated mandatory retirement based on age for all or almost all their employees.

Thirteen individual State governments have banned various forms of age-based forced retirement. The voters of the city of Los Angeles overwhelmingly passed a referendum last April that ended mandatory retirement for city employees. Just last week, California Governor Jerry Brown signed bills which abolish all mandatory retirement for employees in both the public and private sector in his State, which has 10 percent of the Nation's citizens over 65. The Mayor of Seattle signed an executive order in May to eliminate the practice of mandatory retirement for municipal employees. A number of State legislatures are presently considering legislation to end or greatly reduce age-based mandatory retirement.

The crusade against mandatory retirement is bipartisan. The 1976 Republican National Platform declared:

> We favor the abolition of arbitrary age levels for mandatory retirement.

During the 1976 campaign, President Carter said,

> We need to change the laws and policies that force retirement of older persons who are willing and able to work.

Last month he told me that he supports "in principle" my bill banning mandatory retirement in the Federal sector and extending protection from mandatory retirement in the private sector to 70. The results of this legislation will assuage the fears of those who predict that cataclysm would follow a total ban on age discrimination in employment.

The abolition of mandatory retirement has been endorsed by the Federal Council on Aging, which is the President's advisory committee on issues concerning the elderly; the American Medical Association; the National Caucus on the Black Aged, and the National Organization for Women. The American Federation of Government Employees of the AFL–CIO testified in favor of the Federal sector provisions of the bill.

In addition, 18 leading national senior citizens organizations have endorsed H.R. 5383: American Association of Homes for the Aging; American Association of Retired Persons; Association for Gerontology in Higher Education; International Center for Social Gerontology; National Association for Spanish-Speaking Elderly; National Association of Area Agencies on Aging; National Association of Counties; National Association of State Units on Aging; Gerontological Society; National Association of Retired Federal Employees; National Center on Black Aged; National Council of Senior Citizens; National Council on the Aging, Inc., National Indian Council on Aging, Inc.; National Retired Teachers Association; Urban Elderly Coalition; the Task Force on Aging of the U.S. Conference of Mayors; Western Gerontological Society.

I want to emphasize that this bill is an interim step toward abolition of all age-based mandatory retirement. Tolerating mandatory retirement of capable persons when they reach an arbitrary age, whether 65 or 70, makes us accomplices in discrimination. The choice of age 70 for the non-Federal sector was a compromise to meet the concerns of business and unions. I am confident that the report of the Secretary of Labor due in 2 years will demonstrate that the fears of opponents of this bill were unfounded and that a complete uncapping of the upper age limit is warranted.

The principle involved is clear. Competence, not such extraneous factors as race, sex, religion, or age, should determine whether a worker is hired, retained, and promoted.

By tolerating mandatory retirement, we become accomplices in an anomalous form of discrimination that punishes the

victim for the most unavoidable of all human experiences—simply growing older.

I urge the Senate and the President to act as quickly as possible.

HUMAN RIGHTS, CAPTIVE NATIONS, AND NEW DIRECTIONS IN FOREIGN POLICY FEATURED IN 1977 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the basic value of the annual Captive Nations Week observance has been to focus on issues most critical to our national security interest. This was well demonstrated again in the recent 19th observance of the week. A lingering myth surrounding this national annual event is that our citizens' concern is solely concentrated on Eastern Europe, erroneously interpreted as captive territory up to the western borders of the Soviet Union. As shown in the original congressional resolution itself, the fact is that most of the captive nations are in the Soviet Union itself. And Soviet Russian imperiocolonialism is today our only real threat, none other.

These and other themes were clearly brought out in the nationwide publicity given to the week. I commend the reading of my colleagues items selected in a further report of the week—the Illinois House of Representatives resolution on the 1977 week and articles and editorials in the Anderson, Ind., Herald, St. Louis Globe-Democrat, Sioux Falls Argus-Leader, Gary, Ind., Post-Tribune, the Tujouga, Calif., Record-Leader, the Marion Forum broadcast, the Los Angeles Times, the Christian Science Monitor, the Boston Herald American, and the Muncie, Ind., Star:

[State of Illinois House of Representatives]

HOUSE RESOLUTION No. 353

Whereas, The plight of those nations subjugated by the forces of Communism is a cause of great concern to all free people; and

Whereas, The national independence of Lithuania, Latvia, Estonia, Hungary, Poland, Bilearus, Rumania, Ukraine, Slovakia, Serbia, Czechoslovakia, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, North Korea, Croatia, Idel-Urai, Viet Nam, Georgia, Albania, Tibet, Cossakia, Solvenia, Turkestan and other nations has been suppressed by their Communist masters; and

Whereas, Since 1959 when President Dwight D. Eisenhower and the Congress of the United States first designated the third week in July as Captive Nations week, each President and each Congress has observed the occasion in order to focus world attention on the plight of those nations who have lost their national independence as the result of direct and indirect aggression of world Communism; and

Whereas, 1977 is the 19th anniversary of Captive Nations week, and the observances which are to be held throughout the United States and Canada will include a parade and banquet in the City of Chicago; therefore, be it

Resolved, by the House of Representatives of the Eightieth General Assembly of the State of Illinois, That we support the aims and aspirations of all people who desire freedom and the right of self-determination; and that we commend the Captive Nations Committee for its valiant efforts in behalf of the restoration of freedom and democracy in Communist dominated countries; and, be it further

Resolved, That a copy of this preamble and resolution be forwarded to Mr. Viktors Viksnins, Chairman of the Captive Nations Committee.

Adopted by the House of Representatives on June 20, 1977.

[From the Anderson (Ind.) Herald, Aug. 12, 1977]

CAPTIVE NATION'S WEEK

Captive Nation's Week began July 17. The Carter White House, claiming to be big on human rights, ignored it until July 20 and issued a proclamation then only under pressure from ethnic groups.

That proclamation has been described as the weakest in the 19-year history of the observance. It did not mention communism or fascism. It did not refer to the capitive nations of eastern Europe or enslaved people elsewhere.

It merely called on the "people of the United States to observe this week with appropriate ceremonies and activities, demonstrating America's support for those who seek independence, liberty and human rights."

If there had been no protest it appears likely that Carter would not have issued a proclamation. On July 15, Lee Edwards, executive director of the National Captive Nations Committe, was told by Craig Traverton of the National Security Council that because of Carter's "well-known" stand on human rights there was "no requirement" for a proclamation.

Communists everywhere agreed.

[From the St. Louis Globe-Democrat, Aug. 6, 1977]

THE CAPTIVE NATIONS WEEK

(By Walter E. Orthwein)

Where are they now? Persons, places and things make headlines for months or years, then fade away, but often are remembered. For instance, what ever happened to . . .

Captive Nations Week, designated by Congress in 1959 as an annual observance to focus attention on the fate of hundreds of millions enslaved by Communist tyranny?

Once highlighted from coast to coast by parades of refugees, candlelight processions and commemorative services during the third week in July, the event has been virtually forgotten.

This year, President Carter became the nation's first chief executive to fail to proclaim Captive Nations Week since it was instituted 18 years ago.

Two years after President Eisenhower signed the congressional declaration into law, President John F. Kennedy said in his 1961 inaugural address:

"Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of liberty . . ."

Mr. Carter's failure to follow the example of his five predecessors in the White House has been denounced as a new low in U.S. foreign policy by the head of the National Captive Nations Week Committee, Dr. Lev Dobriansky.

Dobriansky, professor of economics at Georgetown University, Washington, D.C., wrote the President.

"Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad.

"Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction and certainly will weigh it accordingly.

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet.

"Instead, for the first time since 1959 and in strange contrast to your five predecessors, you chose to ignore this traditional annual observance of Captive Nations Week that has consistently given coherent expression to human rights on the scale of over 27 nations held in Communist captivity.

"Your indifference to this concrete issue reflects not only Poor judgment but also casts heavy clouds of doubt over the substance and directions of your human rights advocacy."

The Georgetown professor said he and his colleagues are appalled by what he calls "a new low in the basic barometer of our foreign policy course toward the imperiototalitarian part of the world."

One of the biggest public observances of Captive Nations Week here was in 1962, when refugees from Hungary, Romania, Cuba, Czechoslovakia and China marched in two downtown parades.

They carried signs and banners reading: "All Commies Are Killers"; "Tito Murdered a Million Croats"; Cuba—Communism 90 Miles from U.S."; "We Are Our Brothers Keeper" and "Thanks, America! We're Not Captive But Our Parents Are!"

In a 1971 service at the Old Cathedral, the Rev. Dr. Martin Scharlemann of Concordia Seminary preached a Captive Nations Week sermon. The Rev. Richard Wurmbrand, a Romanian pastor jailed by the Communists for 14 years, spoke on the Old Post Office steps.

This week, Dr. Scharlemann told The Globe-Democrat:

"There appears to be abundant evidence for a failure of nerve and a lack of will on the part of the American government and its people to stand up to the threats to its own liberties.

"Under such conditions, observance of Captive Nations Week seems to be a hollow mockery."

[From the Sioux Falls (S. Dak.) Argus-Leader, Aug. 5, 1977]

WHY DID CARTER LET PROCLAMATION SLIDE?

To the Editor:

Each year since 1959 the third week of July has been officially designated as Captive Nations Week to memorialize those nations held captive by Communist dictators and to give hope to their oppressed peoples by declaring that they have the support of America for recovery of their freedom. And each year for the past 18 years, in response to a Joint Resolution of Congress codified as Public Law 86–90, the President of the United States has issued the Captive Nations Week proclamation long in advance. That is until this year when President Carter issued it with half of Captive Nations Week already gone. He did it only after Rep. Larry McDonald (D-Ga.) began a campaign of exposure.

President Carter claims to support human rights. Why did he block release of the Captive Nations Week proclamation? It appears that the issue of human rights is now being used by the Carter administration to harass our anti-Communist allies. While this truth is never even mentioned: where Communists rule, human rights are simply nonexistent.

KAREN KWASNIEWSKI.

Webster, S. Dak.

[From the Gary (Ind.) Post-Tribune, Aug. 4, 1977]

RAPS CARTER STAND ON CAPTIVE NATIONS WEEK

How many times have you read or heard the word human rights lately? If our President is so sincere about the issue why did he hesitate to proclaim Captive Nations Week?

It took some concerted action by patriotic and concerned congressmen to make a White House reversal, so Captive Nations Week wasn't completely ignored as planned by the Carter Administration.

What about human rights for the one million political prisoners in slave labor camps in the Soviet Union? What about some recognition for the Czechoslovakian people? It has been nine years since they last sought human rights. This year, hundreds of Czechs signed a manifesto called Charter 77 to remind the West that human rights supposedly guaranteed by the Helsinki Accord have not been extended to those ruled by the Soviet Union. In response, the secret police arrested 100 prominent signers and began to assault Western journalists in the streets.

What about human rights for East German people? They have been waiting for 32 years to throw off their shackles.

Human rights are simply nonexistent wherever the Communists rule. But Jimmy Carter sought to avoid even to offer hope to the enslaved peoples by declaring Captive Nations Week. On the first undeclared day of Captive Nations Week—Monday, July 18, 1977—the sellout of the oppressed people of Romania was gaining momentum with Rep. Charles A. Vanik, D-Ohio, and Republican Rep. William A. Steiger of Wisconsin, who delivered a unanimous vote to extend "most favored nation" treatment to the Communist dictatorship in Bucharest.

Concerned Americans who wish to ask Mr. Carter why it was he sought to become the first president in 18 years not to declare Captive Nations Week can write or wire him at the White House, 1600 Pennsylvania Ave. N.W., Washington, D.C. 20500. It isn't much to ask that you at least protest this attempted betrayal of millions.

—MARIE HORAK.

VALPARAISO.

[From the Tujunga (Calif.) Record-Ledger, Aug. 11, 1977]

VIEWPOINT

(By Karl Nelson)

In 1959 Public Law 86-90 designated the third week of July as Captive Nations Week. This was done to recall to mind that there are nations held captive by Communism and to give those oppressed peoples hope by declaring that they have the support of America for recovery of their freedom.

For the last 18 years every President has responded to Public Law 86-90 by issuing the Captive Nations proclamation in advance of the third week of July.

We should remember that: Over one billion people are now enslaved by Communism; there are millions in the Soviet slave-labor camps and the forced-labor camps of Red China, Vietnam, Cambodia, Laos, Cuba, etc.; and, millions of human beings have been murdered to advance and enforce Communism.

Just what does Public Law 86-90 say? It starts out by saying, "Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of friendship between the people of the United States and other peoples; and . . ." It continues by stating that one of the best hopes for a just and lasting peace and a powerful deterrent to war lies in the fact that most of the enslaved peoples want liberty and independence. We must let them know we are with them in their desire to be free.

This year our President did not sign this proclamation before the start of Captive Nations Week. Why? According to Congressman Lawrence P. McDonald, one Greg Treverton of the National Security Council said that as the President's position on human rights was well known, it was unnecessary for him to honor the tradition of Captive Nations Week. Designated Assistant Secretary of State Patricia Derian added that she was not overly concerned that the President was not planning to honor it.

Why would our President, who has publicly expressed concern for human rights, not sign a document in furtherance of that claim?

Congressman McDonald spoke out on this issue on July 19 in Congress in order to expose it and force a White House reversal. On July 20 he and other congressmen were going to take the matter to the House floor. Before that could happen the White House press office advised that, with half of Captive Nations Week gone, the President had changed his mind and signed the document.

It is beginning to appear that to the present administration human rights are not an issue in Communist countries—maybe because human rights are nonexistent under Communism. However, human rights are certainly the administration's concern when it comes to anti-communist countries—like Brazil, Chile, Argentina, South Africa, Rhodesia, Taiwan or South Korea. Those countries are criticized for daring to jail communist terrorists who are out to overthrow those anti-communist governments by force and violence.

Why would our government use the issue of human rights to harass our anti-communist allies and to ignore the plight of millions of enslaved people?

In the long run the human rights issue is being used to help obtain ratification of the United Nations Genocide Treaty which, in reality, would deny rights while claiming to protect them. This Treaty has been discussed in this column before and it should be remembered that the Senate Foreign Relations Committee has recently approved it. It needs only to be ratified by the Senate. If the Treaty were to be ratified there would have to be a way to enforce it. On June 23, 1977, Congressman Peter Rodino introduced H.R. 7986 which is designed to implement the provisions of the treaty once it is ratified.

Somebody expects it to be ratified!

If Americans are really concerned about human rights they should make it their business to find out what is really going on and then help to expose and reverse that trend.

[From the Manion Forum Broadcast, Aug. 7, 1977]

THE BELATED CAPTIVE NATIONS PROCLAMATION

DEAN MANION. Our 1977 Captive Nations Week has come and gone. Three days of it had already passed before President Carter was finally persuaded to proclaim it as all Presidents of the United States are requested to do by a unanimous resolution of Congress passed on July 17, 1959.

President Eisenhower proclaimed the first Captive Nations Week on the same day. Here are some excerpts from the lengthy Eisenhower proclamation: "Many nations of the world have been made captive by the imperialistic and aggressive policies of Soviet Communism. The peoples of the Soviet dominated nations have been deprived of their national independence and their individual liberties. . . .

"Since the citizens of the United States are linked by bonds of family and principle to those who love freedom and justice on every continent, it is appropriate to manifest to the people of the captive nations the support of the government and people of the United States for their just aspirations for freedom and national independence, and since Congress, by joint resolution passed this day, requested the President to designate the third week of July, 1959, as Captive Nations Week and to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world—I now do so—and I urge the people of the United States to study the plight of the Soviet dominated nations and re-commit themselves to the support of their just aspirations for freedom and independence."

President Carter's belated proclamation made on Wednesday, July 20, mentions neither the "Soviet Union" nor "Communism" at both of which the Congressional resolution was expressly aimed. But President Carter does reiterate his interest in human rights. Ask the White House Press Secretary to send you a copy of the Carter Proclamation—and note how our foreign policy has changed since 1959.

[From the Los Angeles Times, Aug. 14, 1977]

CAPTIVE NATIONS

There are no other areas of the world where the denials of human rights are more prevalent than in captive nations under the yoke of the Soviet Union. But for some unknown reasons President Carter, the very first President since the enactment of public law 86-90 in 1959, had planned to ignore the Captive Nations Week.

The week, which concluded July 24, was not proclaimed by the President until July 20, and that only after a strong pressure of the various organizations and the members of Congress.

The Belgrade Conference this year should place the issue of human rights and national self-determination squarely before the international community. The right of captive nations to choose their destiny should receive top priority by our negotiators at the conference.

VINCENT KAZLAS.

[From the Christian Science Monitor, Aug. 16, 1977]

SUPPORT CAPTIVE NATIONS

Recent events in the Soviet Union show that dissidents are active in the Ukraine and Lithuania. Repressive measures of the puppet governments of Czechoslovakia, Poland, East Germany, and Romania against dissidents likewise show that nationalism is growing in Eastern Europe. Events in Eastern Europe show that observers familiar with the problems of the non-Russian peoples were correct when they predicted a few years ago an explosion of nationalism in the Soviet Union within a decade.

The captive nations of Eastern Europe are reliable allies of the United States. The U.S. should encourage and support this growing nationalism of the captive peoples.

FARMVILLE, VA.

ALEXANDER V. BERKIS.

[From the Boston Herald American, Aug. 2, 1977]

CAPTIVE NATIONS WEEK

July 17-23 was observed nationally as "Captive Nations Week" in accordance with Public Law 86-90, passed by Congress in 1959. President Carter and Governor Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine and others continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief;" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of UN Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric, bor-

dering on outright ethnocide and genocide. Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guaranteed of the Helsinki Accords, which it signed. Recently two Ukrainian dissidents, Mykola Rudenko and Olesiy Tykhy, members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. In Soviet jails and concentration camps are: Valentyn Moroz, a Ukrainian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, the Rev. Vasyl Romaniuk, Yuriy Shukhevych, Ivan Svitlychnyi, Sviatislav Karavanski, Stefania Shabatura, Nina Strokata-Karanaska, Ivan Hel, Vyacheslav Chornovil—just a few of hundreds of Ukrainian political prisoners.

This year's Captive Nations Week was observed at the time of the Belgrade conference, at which 33 nations are reviewing the implementation of the Helsinki Accords of 1975. However, the captive nations in the Russian Communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations Week served as an appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive peoples under the Russian Communist domination to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress, Committee of America, Boston Chapter.

[From the Muncie (Ind.) Star, Aug. 25, 1977]

HUMAN RIGHTS

How many times have you read or heard the word "human rights" lately? If President Carter is so sincere about the issue why did he hesitate to proclaim Captive Nations Week? It took some concerted action by patriotic and concerned congressmen to make a White House reversal, so Captive Nations Week wasn't completely ignored as planned by the Carter administration.

What about human rights for the one million political prisoners in slave labor camps in the Soviet Union? What about some recognition for Czechoslovakian people? It has been nine years since they last sought human rights. This year hundreds of Czechs signed a manifesto called Charter 77 to remind the West that human rights supposedly guaranteed by the Helsinki Accord have not been extended to those ruled by the Soviet Union. In response, the secret police arrested 100 prominent signers and began to assult Western journalists in the streets.

What about human rights for East Germany that has been waiting for 22 years to throw off its shackles?

Human rights are simply nonexistent wherever Communists rule. But President Carter sought to avoid even offering hope for the enslaved peoples by declaring Captive Nations Week.

FLOTILLA OF SHIPS HONOR PETER RODINO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. LE FANTE) is recognized for 10 minutes.

Mr. LE FANTE. Mr. Speaker, last Sunday on September 18, the New York-New Jersey Harbor witnessed an early celebration of Columbus Day.

Columbus Afloat 77, a parade of more than 40 vessels, ranging from antique yachts to luxury sailing crafts, embarked from Richmond Marina in Edgewater, N.J., in honor of Christopher Columbus and all Italians who immigrated to our shores. The event, sponsored by the Hudson County based American Maritime Academy, was highlighted by the presentation of the "Statesman of the Year Award," to Representative PETER W. RODINO in recognition of his status as "the most prominent Italian-American in the country."

Needless to say, the Columbus Afloat Committee of the American Maritime Academy could not have decided upon a more fitting recipient for the honor of statesman of the year than our own PETER RODINO. The Nation is amply aware of his outstanding ability and his dedicated commitment to insuring that our citizens are accorded the superior public service that they so duly deserve.

PETER RODINO's tenure as the chairman of the House Judiciary Committee has brought him the notoriety and global admiration which he so immanently merits. He has served both his district and our Nation with distinction throughout his years in Congress, and I am proud that I was chosen, along with Mr. William R. DeNoble, the general chairman of the Columbus Afloat Pageant, to present this latest honor to PETER W. RODINO, JR. in a nautical ceremony aboard the 118-foot yacht *Imperator*.

Mr. Speaker, I would like to commend the American Maritime Academy, and especially Rear Adm. Richard Knight Lukerman and Grand Marshal Arthur E. Imperatore, for sponsoring Columbus Afloat 77 and for awarding Mr. RODINO his well deserved accolade. In addition, I know that this entire Chamber joins me in publicly congratulating our colleague from Newark on receiving this distinguished honor from this praiseworthy seafaring civic organization.

THE SOCIAL SECURITY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 10 minutes.

Mr. LEVITAS. Mr. Speaker, I rise to address the House at this time in connection with the actions of the Subcommittee on Social Security in reporting out certain changes in our present social security law. I think that the Subcommittee on Social Security is to be commended not only because of their concern about meeting the immediate problem of the shortfall in revenue which, in a very few years, will lead to an exhaustion of the present trust funds, but that they have gone further and dealt with other matters of concern over inequities and problems in this most important area of our law.

There is no doubt that the social security system in this country is becoming a matter of great concern on the part of many of the elderly and retired citizens who are fearful that the benefits, which are presently meager, may not be there, and on the part of a growing number of younger people coming into the work force who are concerned at the amount of their pay check being taken to pay into the social security system.

I think it is absolutely essential that this Congress make it very clear to all concerned that the ironclad commitment that this Nation has to its social security system will be met and it will not be defaulted. I do not think there is any question, but that we must make that fully clear but, by the same token, I think it is essential that for the young people who are coming into the work force today and who are paying this most regressive of all taxes that we give them the hope that the type of social security system which they will be contributing to and looking to for benefits in the future, is one that will not become exorbitantly expensive and one which will be able to meet our needs for disability, retirement, and survivorship benefits.

I think it would be a travesty if the Committee on Ways and Means and this Congress, at a time when we are asking the American public again to pay more and more taxes into the same system, which is riddled with problems, does not at the same time provide a mechanism by which the problems and inequities of the social security system can be addressed from a long-rage vantage point.

The social security system, which was designed in the 1930's, may or may not be the same type of system necessary to meet the needs of the latter part of this century and on into the next century. The financial problems, the different social and economic circumstances of our society, the increased longevity of the American public are all factors which have created problems and which must be looked at and cannot be looked at on a piecemeal, short-term basis. I think it would be a shame if we again went with a Band-Aid-and-Mercurochrome approach and just pumped more money into the same old system without providing any hope for a comprehensive, long-term view of this situation.

Therefore, Mr. Speaker, it was for that reason that in January of this year I reintroduced a bill which would create a National Commission on Social Security, a national commission which would not be simply a house counsel of the type that the existing advisory committees of social security are, and would not just exist for the 2 years that each Congress exists, but which would be composed of men and women independently appointed by the executive and legislative branches of the Government for 4 years, to travel around the country, and not just sit in offices in Baltimore, Md., and try to figure out what is good for the American people, but talk to housewives, talk to retired people, disabled people, employers, actuaries across America, and make recommendations—imaginative and bold and creative recommendations—for a system which direly needs change and scrutiny if it is to work—not for tomorrow or the next day, but for the next 50 years.

I would hope that the Committee on Ways and Means when it considers this legislation in its full committee markup will see the merit in adopting the suggestion for having a national commission which would be in existence for 4 years, and which would make annual reports culminating in a fourth annual report, making long-term, imaginative, creative, bold recommendations to the effect of whether the present system is the type we need for the future, whether there need to be changes, whether we need to look at general revenues, whether we need to bring the private sector insurance companies more into the system, whether we need to create an optional form of retirement disability and survivorship insurance with mandatory Federal standards, but with an option to go into the private sector. We need to ask the hard and difficult long-range questions which have not been asked. We do not need any more aspirin, and we do not need any more Mercurochrome, and we do not need any more Band-Aids. But if we are going to ask the American taxpayer again to pump up this system, we have got to give them something else to look forward to. We have got to give them the hope that this system for the future will make sense.

I submit, Mr. Speaker, to the Members of the House that with all of the good work the Social Security Subcommittee has done, it has not addressed the long-term question, and that would be addressed by a National Commission on Social Security.

I predict if that decision is not made now as we consider this legislation which will meet the short-term financial problems, that the problem we think will be solved for the time being, we will stop worrying about and consequently we will do nothing about it long term.

Therefore, Mr. Speaker, I urge the Social Security Subcommittee to give serious consideration to this and I will hope that such action will be taken. If not, Mr. Speaker, it is my intention to go before the Rules Committee and ask for a rule which will make it in order for the House itself to have an opportunity to vote on long-term solutions at the same time we are being asked to give a quick fix to the problem.

Mr. Speaker, I ask unanimous consent at this point to insert in the RECORD a copy of the amendment which incorporates the National Commission on Social Security proposal, which I hope will be offered and adopted in the Ways and Means Committee markup of this measure, and, if not, which I will endeavor to have the Rules Committee make in order for full consideration by the House when this measure comes before this body.

The SPEAKER pro tempore (Mr. HARKIN). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Speaker, the amendment is as follows:

NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. . (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(2)(a) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) two members to be appointed by the Speaker of the House of Representatives; and

(iii) two members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for a term of four years.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(B) the scope of coverage, the adequacy of benefits, and the conditions of qualification for benefits provided by such programs;

(C) the impact of such programs on, and their relation to, public assistance programs, nongovernmental pension and insurance programs, other governmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(D) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administrative practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured or otherwise eligible for benefits under such programs, including inequities and inequalities arising out of marital status, sex, or similar classifications or categories; and

(E) possible alternatives to the current Federal programs or particular aspects thereof, including but not limited to (i) a phasing out of the payroll tax, with the financing of such programs being accomplished instead from general revenues or in some other manner, (ii) the establishment of a system providing for mandatory participation by covered individuals in a private insurance program as an alternative to participation in any or all of the Federal programs, and (iii) the establishment of a system permitting covered individuals a choice of public or private programs or both.

(3) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission, in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c)(1) No later than six months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) At or before the close of each of the first four years after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress an annual report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. The fourth such report shall constitute the final report of the Commission on such study, investigation, and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist.

(d)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly

from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(h) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

STATEMENT OF CHAIRMAN AL ULLMAN CONCERNING PUBLICATION OF AMENDMENTS TO DEBT CEILING BILL (H.R. 9290)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

Mr. ULLMAN. Mr. Speaker, the Committee on Ways and Means has today ordered reported another bill (H.R. 9290) extending the temporary debt ceiling. The committee has requested a rule on the bill that would require that any amendments be germane and requires that such amendments be printed in the CONGRESSIONAL RECORD at least 24 hours prior to the time the bill is considered on the floor of the House of Representatives. Since the leadership has scheduled the bill for floor action on Wednesday, it will be necessary that any proposed amendments be printed in the RECORD not later than tomorrow, September 27, so that they will be in print in the RECORD received Wednesday morning. This means that any proposed amendments have to be submitted for printing either today or tomorrow.

MEETING THE CHALLENGE OF POPULATION GROWTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

Mr. NEAL. Mr. Speaker, as a cosponsor of House Resolution 70, which would establish a Select Committee on Population, I have occasionally inserted into the RECORD articles which have described how population-related problems touch every aspect of our lives.

On Sunday, September 25, the Washington Post printed "A Race Against Time: Meeting the Challenge of Population Growth," by Warner Fornos, director of the population information program at George Washington University Medical Center's department of medicine and public affairs.

This analysis is an excellent summary of how unprecedented and unplanned population growth and distribution have had a tremendous impact on every citizen of the world.

Enrique Penalosa, secretary general of the 1976 U.N. Habitat Conference, is quoted in the article as noting that answers to these problems will not come easily. Mr. Penalosa observed:

Even right decisions carry penalties, and we can ill afford mistakes. But there is one factor that can steel our resolve. We cannot go on as we are today.

I also believe we should not continue on the path we are now following. This essay outlines many of the problems we face and I commend it to the attention of my colleagues:

A RACE AGAINST TIME: MEETING THE CHALLENGE OF POPULATION GROWTH

(By Werner Fornos)

Within the next 45 years, if current trends continue, there would be more people in Mexico than there are in the United States. Similarly, Indonesia would have 1.78 billion people in a century, nearly half of the present world population.

These scenarios are unlikely to occur. Populations of that magnitude—added in such short periods of time—cannot be accommodated by the political or social structures of these countries. Political leaders in some nations have begun to grasp this reality, and their countries have been making notable progress in holding down birth rates. But much more needs to be done if the world is not to be overwhelmed by the immense strains resulting from population problems.

World population growth, gathering momentum during the late 19th and early 20th Centuries, reached crisis proportions after World War II when death rates fell precipitously throughout the world while birth rates in developing countries continued at traditional high levels.

The peak rate of population growth of approximately 2 per cent was reached about 1965, when world population totaled roughly 3.3 billion, and the peak annual increase in numbers of people, roughly 70 million, occurred about 1970. Sometime in 1976, the world population passed the 4 billion mark, and 62 million have been added during the past year.

The addition each year of a population greater than West Germany, Great Britain or Mexico to the world total—mainly in the poorest continents and countries—inescapably has profound implications for the adequacy of food and fuel supplies, housing, education, health services and every social structure.

The implications of rapid population growth are most clearly seen with respect to food supplies. Although recent harvests indicate a food surplus in the United States this year, food production has barely matched population growth in the developing countries—creating a precarious balance which could mean disaster for the world's poor.

In the words of Norman Borlaug, father of the Green Revolution in world agriculture, "If a crop failure occurs in any of the large grain-producing areas of the world, tens of millions would die in an international disaster and little could be done to prevent it."

Future climatic conditions will greatly determine how well the world will be able to feed itself. Some experts, such as Reid Bryson of the University of Wisconsin, have concluded that the climate of the past 50 years has been unusually good and that we may face a return to the more normal—that is, poorer—conditions which existed for centuries before.

Although both the population growth rate and the annual increment of population have fallen since their peaks, the addition of more than 60 million people this year (170,000 new mouths each day) places great stress upon the world food system in the developing world—where, excluding China, 80 per cent of the population growth is occurring and where only 20 per cent of the world's food is being produced.

The ironic paradox of this autumn of 1977 is the superabundance of American grain harvests, exceeding storage capacities and piled on streets in the Midwest, while hundreds of millions suffer from severe malnutrition and starvation in Africa, Asia and Latin America.

And no longer can we, in good conscience, solve this U.S. grain surplus problem as we did in the 1950s and 1960s, by shipping our surpluses to the developing countries on concessional terms. Such action may appeal to American farmers and farm state legislators, but it can now be seen as often a long-term disservice to the developing countries.

Such "Food for Peace" aid to India, Pakistan and many other countries in the 1950s and 1960s enabled them to delay self-help actions to curb population increases and raise local food production—a delay which compounded and enlarged their basic problem of too rapid population growth.

UNICEF estimates at least a billion people—one-quarter of the world's population—suffer from malnutrition. The U.N. Food and Agriculture Organization predicts that this number could increase by 50 per cent in 8 to 10 years, even without any major droughts or crop failures.

Obviously the relationship between population growth and food production is a dynamic one—with important food production gains from new seeds, more fertilizer and irrigation repeatedly being rapidly overtaken by burgeoning populations.

Vigorous action to increase agricultural production in developing countries through water management, road building, insect control, fertilizers and improved seeds and crop management will, of course, continue, but unless more than matched by actions to curb human fertility in those countries, these efforts to improve the human condition must necessarily fail.

At present it takes about .40 hectares per person to produce a minimally adequate diet. There are now only about .35 hectares of usable land per person in the world. Moreover, the total amount of prime agricultural land is shrinking due to soil erosion, climatic change and salination. These problems will probably increase as more marginal land is brought into production. Also, millions of acres are taken over each year by expanding needs for homes and other nonagricultural uses.

Yields on current acreage per family can be increased, perhaps doubled or tripled in developing countries, by using better seeds, double cropping and general modernization of agricultural techniques adapted to tropical conditions. But the major inputs needed to increase yields, such as fertilizer, fuel for irrigation and mechanization have increased dramatically in price, limiting their availability in most of the poorest countries.

In theory, consumption patterns could also be changed. Millions of tons of grains and legumes now fed to livestock every year and suitable for human use could be made available to feed the world's hungry. But even if people in affluent countries immediately cut meat consumption by 20 per cent, grain supplies for human use would increase by only 24 million tons or about 3.4 per cent of annual consumption. If population increases each year at the current rate, this one-time reduction in meat consumption would have little permanent impact on world per capita food supplies.

Some progress can, and indeed must, be made in all of these directions, especially in increasing per-acre yield, but unless population growth is checked as well, none of these increases will be sufficient to avert disaster within the next generation.

BURGEONING "MISEROPOLI"

While food is the most obvious need of burgeoning population, the whole spectrum of human needs is under stress. The imbalance of supply and demand is often most acute and apparent at the periphery of sprawling urban slums which surround all of the Third World's major cities. Today these shantytowns or, in Barbara Ward's words, "Miseropoli," account for 30 to 70 per cent of major city populations. Moreover, they are expanding faster than any other form of human settlement. The World Bank estimates shantytown growth rates to be as high as 20 per cent a year in many major cities—meaning a doubling of populations there in less than four years.

Housing shortages, traffic congestion, crime and pollution are urban ills suffered by rich and poor countries alike. But the accumulation of these problems is most acute in the developing countries, where city populations could quadruple in 20 years.

And as Enrique Penalosa, secretary general of the 1976 U.N. Habitat Conference, stated: "Answers won't come easily. Even right decisions carry penalties and we can ill afford mistakes. But there is one factor that can steel our resolve. We cannot go on as we are today."

The real question is time. If human settlements continue to expand so rapidly, the magnitude and cost of resolving these problems may well overwhelm human ingenuity and resources.

Whatever the other causes, rapid urban growth in developing countries continues to be fed by population growth. Unlike urbanization in developed countries, urbanization in developing countries produces no decline in the rural population. Thus, while urban populations may double by the end of the century—from 1 to 2 billion—rural populations will also mushroom—from 2 to 3 billion—thereby supplying a continuous pool of new urban migrants.

THE EMPLOYMENT GAP

Pushed out of rural areas by land shortages and lack of alternative economic opportunities, new urban immigrants add to surplus labor and unemployment problems in the cities. The growth of surplus labor and joblessness, while related directly to underdevelopment, is also obviously tied to population growth—with a lag time of about 15 years.

In many countries, unemployment is growing proportionately faster than employment. Between 1960 and 1975, economic growth in developing countries created over 150 million new jobs, but the labor force grew by almost 170 million. Jobless rates of 15 to 30 per cent (highest among youth) combined with underemployment rates of perhaps 35 per cent or more are turning some Third World countries into urban powder kegs. Measures to discourage migration into cities and greater emphasis on rural development may help, but eventually there must be a better balance between economic growth and population growth.

Half the population in the less developed world is under 19. In many poor countries, more than 40 per cent is under 15. In Nigeria and Peru, 45 per cent of the population is under 15; in Pakistan, 46 per cent. These young people are bound to swell the ranks of the unemployed since in most poor countries there already is significant unemployment.

In the United States, fertility has dropped substantially in the past decade. Yet population pressures from developing nations cause an estimated 800,000 illegal immigrants to be added to our population each year. U.S. population growth is itself still a cause for concern because we alone consume about one-third of the world's annual production of non-renewable resource and energy.

GLIMMERS OF HOPE

The magnitude and urgency of the world population problem were recognized by U.S. leaders in the 1950s and 1960s and led to key changes in U.S. policy and population program action beginning in 1965. By the end of the current fiscal year next Friday, the United States, through the population program of the Agency for International Development, will have provided $1 billion toward resolution of the world population crisis.

This $1 billion, representing 60 per cent of all international population program assistance during the past decade, has been the foremost source of contraceptives, training and assistance for family planning programs throughout the developing world. It also has spurred the population programs of many developing countries and of multilateral organizations, such as the U.N. Fund for Population Activities and the International Planned Parenthood Federation.

Hard lessons have been learned, and attempts to limit population growth are beginning to bear fruit. At least 40 of the world's most populous developing countries—nearly 80 per cent of the Third World population—are supporting some kind of family planning program as part of an official policy to reduce population growth. A handful now have population stabilization targets. Conversely, only about 15 of the world's countries (seven of them developed countries) provide no support at all for family planning programs.

In those countries where national leaders speak out, action is taking place, whether for the purpose of population stabilization or for the improvement of public health.

More and more national leaders have begun to speak forcefully about the need for such action. Mwai Kibaki, Kenya's minister of finance, addressing an outdoor meeting in the province of Vihiga, said, "Family planning is an integral part of development planning . . . you cannot hope to plan other forms of production if you cannot plan the production of the main resource, human beings."

Even in India, where popular resentment against coercive sterilization programs contributed to the fall of Prime Minister Indira Gandhi's government, the new leadership appears fully committed to stemming runaway population growth.

Parents around the world are becoming increasingly aware of the cost of raising children. "Even among farm families in less developed countries, children cost more to care for until they reach 15 than they contribute by their work," Thomas J. Espenshade, an economist at Florida State University, reports in "The Value and Cost of Children." Studies show "parents vastly underestimate the expenses involved in childbearing. Foreknowledge might affect fertility," he believes; "knowing what one child will cost them would well cause couples to pause before embarking on parenthood."

While the availability of family planning to the world's couples is still grossly inadequate, especially in rural areas, pilot programs have shown surprising acceptance of modern contraceptive methods when concentrated efforts are made. In Indonesia, where wholesalers have been distributing contraceptives to nearly 50,000 local retailers, and where government pressure for small families is strong, 1.5 million new contraceptive users were attracted in one year's time. In Egypt, several rural pilot projects served 30 per cent of the reproductive age couples in the area in just five months. In Colombia, family planning volunteer workers cooperating with the Coffee Growers Association attracted up to 50 per cent participation in the households they visited.

In a recent article on U.S. population program assistance overseas, Dr. R. T. Ravenholt, AID's population program director, wrote: "The most notable discovery of recent years is that poor and illiterate peasants use effective means of fertility control to approximately the same extent as literate urban residents when these means are made fully available in rural areas."

Another barrier slowly falling concerns the status of women. In most developing countries, women have fewer rights and opportunities than men, resulting in both less control of their reproduction lives and fewer alternatives to childbearing. Increased education for women and participation in a country's economic life would contribute toward smaller families.

Religion is frequently given as the immovable force preventing progress in adopting family planning. Yet, as the Rev. Rodney Shaw, president of the Population Institute, has pointed out, "there is no doctrine contained in the world's major religions that is so inflexible that it cannot be understood to favor responsible parenthood and birth control in the face of present human realities." Often the people are changing traditional social patterns even before their leadership. In the United States, middle-income Catholics use birth control to the same extent as Protestants; internationally, some of the major success stories are found in heavily Catholic Latin American nations such as Colombia and Costa Rica.

Global experience during the last decade has amply demonstrated that the problem in implementing family planning programs is not mainly with the people, but with the policymakers. If the political leaders of a country are truly dedicated to solving this problem, it can be done with remarkable speed, even in large, poor countries.

FALLING BIRTH RATES

With an undertaking of such massive global dimensions, operating in a most sensitive area of human activity, it necessarily takes some years before the impact on fertility can be measured.

But sufficient time has now elapsed so that demographic changes in many countries can be related to program operations.

Birth rates are falling in almost all countries of Asia and Latin America, especially in nations with vigorous family planning programs. But in Africa, where such programs have lagged, little change in fertility has occurred during the past decade.

China, generally credited with having implemented the most powerful fertility control program during the past decade, has emphasized delay of marriage, full availability of all effective means of fertility control and intense social pressure for reduced child-bearing.

Among the countries assisted by AID, Korea, Indonesia, Thailand, Colombia and Tunisia are family planning leaders, with birth rates decreasing from 17 to 33 per cent during the last decade.

Many other countries receiving population program assistance from the United States and other donors have also achieved substantial declines in average completed family size: Costa Rica, from 6.8 children in 1965 to 3.9 children in 1975; Dominican Republic, from 7.4 to 4.8; Chile, from 4.9 to 3.3; Taiwan, from 6.0 to 3.0; Mauritius, from 6.0 to 3.5, and Sri Lanka, from 4.8 to 3.6.

Rapid fertility decreases in developing countries are becoming a general phenomenon in this decade, analogous to the rapid mortality decreases of the 1950s and 1960s. Data for 25 less developed countries indicate an average reduction of more than one birth per woman during a span of less than a decade. A dozen other countries have experienced a decline of more than 1.5 births per woman.

ACTIONS REQUIRED

Future actions toward solution of the world population crisis should include intensified

efforts by the United States, other developed countries, and the developing countries themselves. The impact of rapid population growth is no longer just a health or family planning matter. It requires concerted action at all levels of social concern.

In addition to making fertility control services and information fully available to all couples in developing countries, there is need to gear development assistance programs to this effort. For example, increased literacy and improved educational opportunities for all people—but especially for women who have received less than their fair share—will aid the population effort as well as being basic to human development in general.

Agrarian reform—giving people a more meaningful stake in their own production and a greater share of the benefits of society—can combine with population control to increase the net gain of each person in all human amenities.

In addition, there is a need in all countries for political leaders to make careful analyses of the impact any proposed action would have on population growth.

Many of the most crucial contributions toward a solution of population problems during the last decade were made by private individuals and organizations. Expanded action by individual donors, foundations and corporations, to the extent of at least $1 billion, is needed during the next decade. Multinational corporations, such as Exxon, with $3.1 billion net profits in 1976, and General Motors, with $1 billion, should find it in their own self-interest to contribute to this effort in a responsible and substantial way.

The dynamics of population growth require that, to achieve desired changes in the future, action must be taken now. A total of $10–12 billion in combined government and private funds during the next decade would accomplish more than hundreds of billions of dollars several decades later.

One reason for optimism is that it is greatly in the self-interest of individuals and families to determine the number and spacing of their offspring. For poor women, it is often a matter of life or death.

A peasant woman in Bangladesh, without family planning services, faces more than a 10 percent chance of dying from complications of unlimited pregnancies. Surely she will choose to live and care for her existing children if given the opportunity.

RESOLUTION TO INSTRUCT CONFEREES TO RECEDE FROM HOUSE AMENDMENT TO SENATE AMENDMENT 82 ON H.R. 7555, MAKING APPROPRIATIONS FOR DEPARTMENTS OF LABOR AND HEW—HYDE AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, I rise at this time to announce to the House that late this afternoon I introduced a resolution in the House which I understand will probably come up under the Suspension Calendar on tomorrow. The resolution, Mr. Speaker, reads as follows:

H. RES. —

Resolved, That upon the adoption of this resolution the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to Senate amendment numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes, be, and they are hereby instructed to recede from the House amendment to Senate amendment numbered 82 and to agree to the Senate amendment.

Mr. Speaker, I have been requested to file this resolution with the House, the request having been made by the chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON), and the chairman of the Labor-HEW Appropriations Subcommittee, the gentleman from Pennsylvania (Mr. FLOOD), and the Speaker of the House.

The purpose of the introduction of this resolution is so that we may attempt to resolve an impasse which has taken place between the House and the Senate conferees over the Labor-HEW bill which has been passed by both bodies.

As the Members know, for some 2 or 3 months now we have been in conference off and on attempting to resolve the matter of the Hyde amendment which was passed by the House. In that vein we have agreed upon all of the money items in the bill and now for the past couple of months we have been attempting to resolve the Hyde amendment. We have not been able to do so.

We have been requested by the Senate conferees to present the Senate language to the House and to have a vote on that language. The Senate conferees insist that until such time as the House conferees have presented the Senate language to the House either for adoption or rejection, that we will be unable to have any further dialog in conference. So as a consequence of it, I have filed this resolution with the House so that the House can work its will as it relates to the Hyde amendment.

I might say that the Senate language which we will be asked to vote upon tomorrow is as follows:

None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term or for the treatment of rape or incest victims. This section does not prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

Mr. Speaker, you will recall that when we took the Labor-HEW bill to conference it contained the Hyde amendment in its purest form. Subsequently, we came back to the House, at which time the House did offer the Senate compromise language. We passed section 209 on August 21, which reads as follows:

None of the funds in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Subsequently this language was presented by the Senate conferees to the other body. That language was rejected by the other body. As a consequence of that when we last met the posture of the Senate conferees was that until such time as the Senate language had been presented to the House for either adoption or rejection that they would not have further dialog or conference with your conferees.

I say that at the request of the Speaker and at the request of my chairman, the distinguished gentleman from Texas, and also the distinguished subcommittee chairman, the gentleman from Pennsylvania (Mr. FLOOD), that I have introduced this resolution with the House which will be acted upon tomorrow.

I would like my position to be patently clear. That is, the Senate language is not my language. I would have preferred no language. In fact, that has been my consistent posture on this matter; but in an effort to try to resolve this matter and afford the House an opportunity to resolve the question so that we might be able to enter into more meaningful dialog in conference and get this legislation out before we find ourselves forced into a continuing resolution or some other legal or parliamentary position, I have filed this resolution in the House.

My own position is that if we have to have language in this bill, then I, of course, would prefer the Senate language to that which the House now has in its bill.

I intend during the course of debate tomorrow to try to elaborate much further upon this entire situation parliamentarily.

I hope that when the House ultimately takes the vote, we will have accepted the Senate language.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

(At the request of Mr. ASHBROOK, and by unanimous consent, Mr. STOKES was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the distinguished gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I compliment my colleague for his position which I think is accurate. I think in particular the gentleman has painted the picture exactly as it is.

One thing I did not understand is the parliamentary situation. Did my colleague indicate he had filed such a report earlier?

Mr. STOKES. I filed the resolution late this afternoon.

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman.

Mr. STOKES. Mr. Speaker, I thank the gentleman for his very kind remarks.

SADAT OR WAR

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, in the Middle East an uncertain peace has been made more fragile by the policies of the Begin government in Israel. Prior to Mr. Begin's election, there had been at least an indication of essential concessions from both Israelis and Arabs. The Israelis have wanted for years to achieve public recognition by the Arabs of the State of Israel with agreement to negotiate from this standpoint. The Arabs have insisted on a return of captured territories plus an agreement in principle that a Palestinian State would be established on soil now held by Israel. There were hints from both sides which pointed to progress toward these goals.

The hard line policies of Mr. Begin dimmed concessions from either side which could lead to meaningful negotia-

tions. These policies provided a new irritant for the Arabs whose patience already was wearing thin. The Arabs, who sometimes are a volatile people, had raised new questions about the ability of the Americans to establish a workable base for meaningful negotiations. This resulted in growing uneasiness about the future of peace in the area.

This situation has created a double dilemma for the United States because we have been leaning more and more on President Sadat and on other friendly Arab States, both to ease the threat of war and to counter the rapidly growing Russian presence in Africa.

Now, after several months of stalemate, the Palestinian Liberation Organization has offered a degree of acceptance of the recognition of the State of Israel. In return, Israel's Foreign Minister Dayan, has made statements which could open doors for discussion on the question of the creation of a Palestinian State on the west bank of the Jordan River. Presumably it would be on land taken from Jordan in the 1967 war. The fate of the Palestinians, many of whom have continued to exist under wretched conditions for more than a generation in concentration camps, largely in Lebanon, is still undecided. The world knows there will be no permanent peace in the Middle East until a Palestinian state is established.

The United States has prodded the Israelis, more or less gently, toward acceptance of the requirement for the creation of a separate homeland for the Palestinians. We have now passed the stage of gentle prodding. Results will have to be shown or another war appears inevitable. Another Kissinger is needed and the Carter administration would be well advised to consider asking Mr. Kissinger to accept this very important assignment, one with which he is intimately familiar.

In all of this, the essentiality of one man continues to be demonstrated. Hopes for a preservation of peace in the Middle East have in large measure been kept alive by the work of President Sadat of Egypt. He is still probably the only person who enjovs sufficient prestige and respect in both Western and Arab worlds to obtain the time needed for successful negotiations. If he cannot do the job, it is doubtful that anyone else can. President Sadat is a man of vision and ability, and his accomplishments in maintaining a tenuous peace during recent years are monumental. He is the key to Arab participation and not war. Obviously, he alone cannot bring a lasting peace. The United States must offer leadership which is clear and equally strong to bring the Israelis to the peace table.

Mr. Sadat has serious problems at home. His country has economic difficulties which are increasingly serious. He must maintain a sufficiently strong position at home to insure the continued acceptance of his leadership in the Arab world. If there should be a weakening of Mr. Sadat's position in Egypt or in the Arab world, it is the Israelis and the Western World which have the most to lose because war could follow quickly. Regardless of the outcome, another war in the Middle East would be highly destructive to the participants, and would have serious adverse effects in the Western World. To be considered are the costs of assisting Israel's defense and the effects of another oil embargo; the loss of standing by the United States and inevitable gains by Russia in the Arab world.

TO PROVIDE LAND FOR A PERMANENT HOME FOR AIR FORCE ENLISTED MEN'S WIDOWS AND DEPENDENTS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, I am today reintroducing a bill to provide property on which to construct and develop permanent facilities for Air Force enlisted men's widows and dependents. This legislation will authorize the Secretary of the Air Force to convey certain real property for use as a permanent site for the Air Force Enlisted Men's Widows and Dependents Home. The proposed development is to be similar to the Air Force Foundation for Retired Air Force Officers' Widows in San Antonio, Tex., and the Army Distaff Home in Washington, D.C. A nominal fee will be paid for the property.

The Enlisted Men's Widows and Dependents Home Foundation, Inc. is a nonprofit, charitable organization formed for the purpose of establishing a residence for elderly widows and widowers of Air Force enlisted retired personnel, and Air Force enlisted retired couples aged 62 years and above. Younger widows of active duty enlisted men and their dependent children needing the Foundation's help may be accepted on a temporary basis immediately upon the death of a husband. Any elderly widow or widower whose spouse was a retired Air Force enlisted person, Regular, Reserve, or Air National Guard, is eligible to apply for residence.

The policy of the Foundation is to assist those persons whose earnings are insufficient to pay the fair market value for rentals and continue to meet their personal needs and obligations. As a general rule, the cost for rent does not exceed 30 percent of the resident's annual income. The top monthly rent is $170 for a two-bedroom unit and $150 for a one-bedroom unit. This price is paid by anyone with a total income in excess of $6,500 per year. Total income includes pensions and social security. At the other end of the spectrum, the bottom is open. This means there are many residents who cannot afford to pay the fair market value; however, these persons are provided a subsidy for their rent.

Much of the ability of the Foundation in assisting these persons is dependent upon donations. The main source of the funds is derived from an annual Air Force assistance campaign which, in 1977, brought $615,000 to the Foundation; however, funds were also obtained from the Air Force Association, Air Force Sergeants Association, officers and NCO wives clubs, and other service oriented organizations. In 1977, the Eglin Chapter of the Air Force Association sponsored a Bob Hope benefit show which provided over $26,000 for the Foundation.

A survey of Air Force installations indicated that Eglin Air Force Base would be an ideal site for the home. The excellent climate and economic environment were major contributing factors in the site selection. Eglin AFB is an area of 722 square miles or 460,575 acres. These boundaries in several locations are uneven and a recent Executive order survey indicated a need for adjustment of base boundaries.

The selected site is on the perimeter of the reservation and in a locale suitable from the standpoint of its proximity to a hospital, a commissary, and other field facilities. It is not required for any foreseeable Air Force or defense need. The site is adjacent to State Highway 85, is elevated and dry and has all county utilities. The tract consists of 79 acres which is considered necessary for current building plans and to accommodate future growth. To obtain a loan for actual construction, it will be essential for the Foundation to have title to the property. The Air Force is holding the land in abeyance pending congressional action.

Present plans call for a 200-unit complex, including efficiences and 1- and 2-bedroom apartments, a community center, and recreational facilities; a chapel, a library, and an on premises infirmary and related treatment center.

Action was not completed on the bills I introduced earlier for this purpose. The Foundation was in the process of development and was unable at that time to provide the necessary proof of occupancy and financing. The picture has now changed. The Foundation has made tremendous progress since purchasing a temporary facility in Fort Walton Beach, Fla., in 1975. This project, which contains 100 units consisting of 84 two-bedroom apartments and 16 one-bedroom apartments, is now fully occupied and there is a waiting list of prospective tenants.

I am hopeful this legislation will be favorably considered at an early date. Action is needed now. The Foundation has proven its ability to successfully operate the temporary facility, and the additional units to be provided by this legislation are needed to accommodate those now waiting for homes. I urge support for this meritorious project.

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MIKVA. Mr. Speaker, on Friday, September 16, I missed rollcall No. 559, the District of Columbia appropriations bill, because I was required to be in my district. Had I been present, I would have voted "yes."

The holiday on Thursday, September 22 prevented me from voting on rollcall No. 577, approval of Wednesday's Journal. Had I been present at that time, I would have cast a "yes" vote.

THE TEMPORARY HELP EMPLOYEE PROTECTION ACT OF 1977

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, today I am introducing the Temporary Help Employee Protection Act of 1977. This bill provides for the licensing of temporary help supply firms, and the creation and enforcement of standards for their operation. The bill also provides for certain basic benefits available to all other workers and prohibits restrictive hiring practices and the hiring of temporary help employees as strikebreakers.

The temporary help industry is estimated to employ between 2 and 3 million people during an average year. This represents approximately 2 percent of the American work force. For the agencies, temporary help is big business—earning millions of dollars each year and growing by about 20 percent annually. Unfortunately, the lack of more precise data has contributed to apathy surrounding temporary help employees.

Temporary help workers are at the bottom of the economic barrel. They are generally uneducated, unskilled, and unrepresented in the normal employer-employee relationship. All of these factors make the temporary help employee ripe for exploitation. They have to spend much of their days waiting for assignments or traveling to and from assignments without compensation. Many temporary help agencies obtain agreements from employers not to hire any day laborer on a permanent basis for at least 3 months following assignment from the temporary agency. This practice virtually insures that temporary help employees will not be permanently hired.

Temporary help employees are also denied many of the basic rights enjoyed by all others. The Temporary Help Employee Protection Act will bring day laborers into the mainstream of working life by requiring the Secretary of Labor to license temporary help agencies, and requiring as a condition of licensing that the Social Security Act, the Fair Labor Standards Act, the Civil Rights Act, and the Labor Management Relations Act apply to temporary employment.

The bill will not affect the reputable temporary help service agencies. Rather, it is directed toward the marginal operators—those businesses which depend on exploiting workers to succeed. I do not believe that requiring decency and fair treatment from temporary help agencies will reduce the number of jobs for temporary help employees. This country decided long ago that no one is entitled to make a living by abusing others. There is no justification in this country for letting people work under unsafe conditions for subminimum wages. This legislation will bring us closer to realizing that goal, and I ask my colleagues to join me in supporting it.

The text of the bill follows:

H.R. 9298

A bill to protect the rights of temporary help employees, to require temporary help agencies to obtain licenses issued by the Secretary of Labor, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Temporary Help Employee Protection Act".

PURPOSES

SEC. 2. It is the purpose of this Act to—

(a) prohibit doing business as a temporary help agency except as licensed by the Secretary of Labor;

(b) authorize the Secretary of Labor to set standards and regulations for the licensing of temporary help agencies, and to enforce such standards and regulations;

(c) make applicable to temporary help employees certain benefits in order to protect their health and welfare;

(d) remove obstacles to permanent employment of temporary help service employees, such as restrictive hiring clauses; and

(e) insure fair labor practices in the temporary help service industry.

DEFINITION

SEC. 3. As used in this Act, the following definitions apply:

(a) "Temporary help agency" (hereinafter referred to as "employer" or "agency") means any individual proprietor, partnership, corporation, or any other form of business organization, engaging in the business of placing temporary help agency employees at the disposal of clients on a temporary basis, in return for a fee or other compensation from the client.

(b) "Temporary help employee" (hereinafter referred to as "employee" or "worker") means any person paid by a temporary help agency to perform services for, or under the direction of, a client on a temporary basis.

(c) "Client" means an individual proprietor, partnership, corporation, other form of business organization, or person, to or for whom, or under whose direction, services are rendered by the worker, on a temporary basis.

(d) "Secretary" means the Secretary of Labor.

(e) "Department" means the Department of Labor.

EXCEPTIONS

SEC. 4. This Act shall not apply to agencies solely engaged in supplying skilled laborers or professional employees. Secretarial and clerical employees are not skilled laborers or professional employees for the purposes of this Act.

LICENSING

SEC. 5. It shall be unlawful to operate a temporary help agency unless a license is obtained from the Secretary or his designee.

MINIMUM STANDARDS

SEC. 6. (a) The Secretary is authorized to set standards and issue regulations, to licenso agencies meeting such standards and complying with such regulations, and to enforce compliance with such standards and regulations. In addition to any standards set by the Secretary, no agency shall be licensed unless its employees are provided with coverage and benefits under the following:

(1) the Social Security Act, where applicable;

(2) the Fair Labor Standards Act, regardless of the dollar volume of the agency: *Provided,* That for purposes of computing pay under that Act, hourly rate of pay shall be determined by dividing the gross amount paid by the number of hours worked, and the number of hours worked shall include travel-time between the jobsite and the agency, time spent at the jobsite, and one-half the time spent awaiting assignment at the agency prior to being sent to a jobsite;

(3) the Occupational Safety and Health Act;

(4) an adequate workmen's compensation plan: *Provided,* That participation in the workmen's compensation program of the State in which the agency is located shall be deemed prima facie compliance with this requirement;

(5) the Civil Rights Act of 1964; and

(6) the Labor-Management Relations Act of 1947.

(b) The Secretary or his designee may refuse to issue, revoke, or suspend any license granted to an agency when he finds the agency has failed to meet any of the standards or regulations.

RESTRICTIONS AND PROHIBITIONS

SEC. 7. (a) No agency shall engage in any practice which operates to restrict the right of any employee to accept a permanent position with a client to whom he is referred for temporary work, or to restrict the right of such a client to offer such employment to an employee of an agency.

(b) No agency shall demand or directly or indirectly receive from any employee any fee for the placement of the employee's services at the disposal of a client.

(c) No agency shall demand or directly or indirectly receive from any employee any fee for transportation.

(d) No employee of a temporary help agency shall be employed as a strikebreaker where a legitimate labor dispute is in progress.

REPORT BY SECRETARY

SEC. 8. Within one year of the date of enactment of this Act, the Secretary shall submit to Congress a report on the implementation of this Act, including his recommendation for extending unemployment insurance benefits to employees of temporary help agencies.

ENFORCEMENT—PRIVATE RIGHT OF ACTION

SEC. 9. (a) Whoever willfully violates the provisions of this Act shall, upon conviction thereof, be subject to a fine of not more than $10,000, or to imprisonment for not more than six months, or both. No person shall be imprisoned under this section except for an offense committed after the conviction of such person having a prior offense under this section.

(b) Any person injured by violation of any provision of this Act shall be entitled to bring an action for damages or such other relief as the court deems proper.

REPORTS BY AGENCIES

SEC. 10. Once every twelve months, on a date as established by the Secretary, each licensed agency shall furnish the Department with the following data:

(a) the number of workers employed during the year;

(b) the number of individual assignments, by industry, including:

(1) office;

(2) industrial;

(3) technical;

(4) domestic service;

(5) chauffeur; and

(6) any other categories established by the Secretary;

(c) the number of clients serviced;

(d) the number of days each worker was assigned; and

(e) other information the Secretary may require.

INVESTIGATIONS

SEC. 11. The Secretary or his designee may investigate and gather data regarding the conditions and practices of employment in any agency subject to this Act, and may enter and inspect such places and such records (and make such transcriptions

thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of the provisions of this Act.

RELATION TO OTHER LAWS

SEC. 12. No provision of this Act or any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing standards or requirements higher than or otherwise not inconsistent with those established under this Act.

CONFERENCE REPORT ON H.R. 6655

Mr. ASHLEY submitted the following conference report and statement on the bill (H.R. 6655) to amend certain Federal laws pertaining to community development, housing, and related programs.

CONFERENCE REPORT (H. REPT. NO. 634)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6655) to amend certain Federal Laws pertaining to community development, housing, and related programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing and Community Development Act of 1977".

TITLE I—COMMUNITY DEVELOPMENT

OBJECTIVES AND PURPOSES OF COMMUNITY DEVELOPMENT ACTIVITIES

SEC. 101. (a) Section 101(c) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof ": and"; and

(3) by adding the following new paragraph after paragraph (7):

"(8) the alleviation of physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base."

(b) Section 101(d)(4) of such Act is amended by inserting the following before the period at the end thereof: "by Federal agencies and programs as well as by communities".

DEFINITIONS

SEC. 102. (a) Section 102(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "the Trust Territory of the Pacific Islands; and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, and Eskimos, of the United States" in paragraph (1) and inserting in lieu thereof "and the Trust Territory of the Pacific Islands";

(2) by inserting before the period at the end of paragraph (4) the following: "; except that any city which has been classified as a metropolitan city under clause (B) of this paragraph shall continue to be so classified until the decennial census indicates that the population of such city is less than fifty thousand";

(3) by inserting the following before the period at the end of paragraph (5): "which have not entered into cooperation agreements with such town or township to undertake or to assist in the underaking of essential community development and housing assistance activities";

(4) by inserting in paragraph (6) "either" before "(B)" and by inserting before the period at the end thereof the following: "or (C) has a population in excess of one hundred thousand, a population density of at least five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of Census";

(5) by redesignating paragraphs (10), (11), (12), and (13) as paragraphs (17), (18), (19), and (20), respectively; and

(6) by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'age of housing' means the number of existing housing units constructed in 1939 or earlier based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

"(11) The term 'extent of growth lag' means the number of persons who would have been residents in a metropolitan city or urban county, in excess of the current population of such metropolitan city or urban county, if such metropolitan city or urban county had had a population growth rate between 1960 and the date of the most recent population count referable to the same point or period in time equal to the population growth rate for such period of all metropolitan cities.

"(12) The term 'housing stock' means the number of existing housing units based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

"(13) The term 'adjustment factor' means the ratio between the age of housing in the metropolitan city or urban county and the predicted age of housing in such city or county.

"(14) The term 'predicted age of housing' means the arithmetic product of the housing stock in the metropolitan city or urban county multiplied times the ratio between the age of housing in all metropolitan areas and the housing stock in all metropolitan areas.

"(15) The term 'adjusted age of housing' means the arithmetic product of the age of housing in the metropolitan city or urban county multiplied times the adjustment factor.

"(16) The term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512).".

(b) Section 102 of such Act is amended by adding the following new subsection at the end thereof:

"(d) An urban county designated under subsection (a)(6)(B)(i) of this section shall notify, prior to a date set by the Secretary for each year, all incorporated units of general local government the populations of which are included in the population of such urban county for purposes of this section of their opportunity to exclude their population from such urban county. Any unit of general local government which has not elected to have its population so excluded shall have its population included within the population of such urban county for purposes of this section until it, on its own initiative, elects to exclude its population by notifying the urban county on or before a date set by the Secretary.".

AUTHORIZATIONS

SEC. 103. (a) The first sentence of section 103(a)(1) of the Housing and Community Development Act of 1974 is amended by inserting "and Indian tribes" after "units of general local government".

(b) Section 103(a)(1) of such Act is amended by striking out everything after the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated for these purposes not to exceed $3,500,000,000 for the fiscal year 1978, not to exceed $3,650,000,000 for the fiscal year 1979, and not to exceed $3,800,000,000 for the fiscal year 1980. Any amount authorized for any fiscal year under this section but not appropriated for such year may be appropriated for any succeeding fiscal year.".

(c) Section 103(a)(2) of such Act is amended to read as follows:

"(2) Of the amounts approved in appropriations Acts pursuant to paragraph (1), $50,000,000 for each of the fiscal years 1975 and 1976, $200,000,000 for the fiscal year 1977 (not more than 50 per centum of which amount may be used under section 106(d)(1)), $350,000,000 for the fiscal year 1978 (of which not more than $175,000,000 may be used under such section), $265,000,000 for the fiscal year 1979 (of which not more than $25,000,000 may be used under such section), and $250,000,000 for the fiscal year 1980 (none of which may be used under such section) shall be added to the amount available for allocation under section 106(d) and shall not be subject to the provisions of section 107."

(d) Section 103(b) of such Act is amended—

(1) by striking out "for the fiscal year 1977," and inserting in lieu thereof "for each of the fiscal years 1977, 1978, 1979, and 1980,";

(2) by striking out "to units of general local government having urgent community development needs which cannot be met" and inserting in lieu thereof "for the financial settlement and, to the extent feasible, the completion of projects and programs assisted under the categorical programs terminated in section 116(a), primarily urban renewal projects assisted under the Housing Act of 1949, to units of general local government which require supplemental assistance which cannot be provided"; and

(3) by adding at the end thereof the following new sentence: "No funds shall be made available under this subsection (1) for fiscal year 1978 unless the amount appropriated under subsection (a) for fiscal year 1978 is at least $3,500,000,000; (2) for fiscal year 1979 unless the amount appropriated under subsection (a) for fiscal year 1979 is at least $3,650,000,000; or (3) for fiscal year 1980 unless the amount appropriated under subsection (a) for fiscal year 1980 is at least $3,800,000,000.".

(e) Section 103 of such Act is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by adding the following new subsection after subsection (b):

"(c) There is authorized to be appropriated a sum not in excess of $400,000,000 for supplemental grant assistance under section 119 for each of the fiscal years 1978, 1979, and 1980, except that no funds shall be made available for such purpose (1) for fiscal year 1978 unless the amount appropriated under subsections (a) and (b) for fiscal year 1978 is at least $3,600,000,000; (2) for fiscal year 1979 unless the amount appropriated under subsections (a) and (b) for fiscal year 1979 is at least $3,750,000,000; or (3) for fiscal year 1980 unless the amount appropriated under subsections (a) and (b) for fiscal year 1980 is at least $3,900,000,000.".

APPLICATION REQUIREMENTS

SEC. 104. (a) Section 104(a) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "and housing" in paragraph (1) after "which identifies community development";

(2) by inserting after "needs" in paragraph (2)(B) the following: ", including activities designed to revitalize neighborhoods for the benefit of low- and moderate-income persons.";

(3) by striking out "and" at the end of paragraph (3)(A); by striking out the semicolon at the end of paragraph (3)(B) and inserting in lieu thereof "and in a manner to insure fully opportunity for participation by, and benefits to, the handicapped; and"; and by inserting the following new subparagraph after paragraph (3)(B):

"(C) improve conditions for low- and moderate-income persons residing in or expected to reside in the community and foster neighborhood development in order to induce higher-income persons to remain in, or return to, the community;";

(4) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) submits a housing assistance plan which—

"(A) accurately surveys the condition of the housing stock in the community and assesses the housing assistance needs of lower-income persons (including elderly and handicapped persons, large families, and persons displaced or to be displaced) residing in or expected to reside in the community and identifies housing stock which is in a deteriorated condition,

"(B) specifies a realistic annual goal for the number of dwelling units or lower-income persons to be assisted, including (i) the relative proportion of new, rehabilitated, and existing dwelling units, (ii) the sizes and types of housing projects and assistance best suited to the needs of lower-income persons in the community, and (iii) in the case of subsidized rehabilitation, adequate provisions to assure that a preponderance of persons assisted should be of low- and moderate-income, and

"(C) indicates the general locations of proposed housing for lower-income persons, with the objective of (i) furthering the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provision of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood, (ii) promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons, and (iii) assuring the availability of public facilities and services adequate to serve proposed housing projects;"; and

(5) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) provides satisfactory assurances that, prior to submission of its application, it has (A) prepared and followed a written citizen participation plan which provides citizens an opportunity to participate in the development of the application, encourages the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low- and moderate-income, provides for timely responses to the proposals submitted, and schedules hearings at times and locations which permit broad participation; (B) provided citizens with adequate information concerning the amount of funds available for proposed community development activities and housing activities, the range of activities that may be undertaken, and other important requirements; (C) held public hearings to obtain the views of citizens on community development and housing needs; and (D) provided citizens with an opportunity to submit comments concerning the community development performance of the applicant; but nothing in this paragraph shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its community development program.".

(b) Section 104(b)(2) of such Act is amended—

(1) by striking out "low- or moderate-income" in the first sentence and inserting in lieu thereof "low- and moderate-income"; and

(2) by striking out all after "urgency" in the second sentence and inserting in lieu thereof "because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.".

(c) Section 104(b)(3) of such Act is amended—

(1) by striking out clauses (B) and (C) and inserting in lieu thereof "(B) the application does not involve a comprehensive community development program, as determined by the Secretary, and"; and

(2) by redesignating clause (D) as clause (C).

(d) Section 104(c)(3) of such Act is amended by inserting after "the requirements of this title" the following: ", with specific regard to the primary purposes of principally benefiting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight or meeting other community development needs having a particular urgency,".

(e) Section 104(d) of such Act is amended—

(1) by inserting after the first sentence the following: "The performance report shall include any citizen comments submitted pursuant to subsection (a)(6)(D) and the Secretary shall consider such comments, together with the views of other citizens and such other information as may be available, in carrying out the provisions of this subsection."; and

(2) by adding at the end thereof the following: "With respect to grants made pursuant to sections 106(d)(2) and 106(f)(1)(B), the Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with such reviews and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the receipient.".

(f) Section 104(e) of such Act is amended by adding the following new sentence at the end thereof: "In addition, the Secretary may provide an opportunity for the State, in which a grant is to be made to a unit of general local government under section 106(d)(2) or 106(f)(1)(B), to participate in the selection process for funding such grants. Such participation may include, as determined practicable by the Secretary, the incorporation of State growth and resource coordination policies in funding decisions on such grants, or such other arrangements, excluding administration of the grants referred to in the preceding sentence, as the Secretary deems appropriate.".

(g) Section 104 of such Act is amended by adding the following new subsection at the end thereof:

"(i)(1) The Secretary shall, in making funds available to the recipients of grants under this title, permit any such recipient to receive funds, in one payment, in an amount not to exceed the total amount designated in the recipient's application, and approved by the Secretary pursuant to this section, for use by the recipient for establishing a revolving loan fund which is to be established in a private financial institution and which is to be used to finance rehabilitation activities that are part of the recipient's community development program. The Secretary may, as a condition of making such payment, require that the revolving loan fund be utilized for the making of loans to finance rehabilitation activities in a manner consistent with this title. Rehabilitation activities authorized under this section shall begin within forty-five days after the Secretary has made such payment.

"(2) The Secretary shall establish standards for such cash payments which will insure that the deposits result in appropriate benefits in support of the recipient's rehabilitation program. These standards shall be designed to assure that the benefits to be derived from the local program include, at a minimum, one or more of the following elements, or such other criteria as determined by the Secretary—

"(A) leverage of community development block grant funds so that participating financial institutions commit private funds for loans in the rehabilitation program in amounts substantially in excess of deposit of community development funds;

"(B) commitment of private funds for rehabilitation loans at below-market interest rates or with repayment periods lengthened or at higher risk than would normally be taken;

"(C) provision of administrative services in support of the rehabilitation program by the participating lending institutions; and

"(D) interest earned on such cash deposits shall be used in a manner which supports the community rehabilitation program.

At the time of application, the Secretary shall review and approve all agreements with lending institutions which receive funds for community rehabilitation programs. Such approval shall be made on a case-by-case basis, and upon a determination by the Secretary that the agreement with the lending institution meets minimum benefit standards as listed in this paragraph.".

ELIGIBLE ACTIVITIES

SEC. 105. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended by inserting the following after "under this title" the first time it appears therein: "shall consist of activities which assist in carrying out a comprehensive strategy for meeting the community development and housing needs and priorities identified pursuant to section 104, giving primary attention to activities benefiting low- and moderate-income persons and neighborhoods, aiding in the prevention or elimination of slums or blight, or meeting other community development needs having a particular urgency. These activities".

(b) The parenthetical expression in section 105(a)(4) of such Act is amended to read as follows: "(including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties)".

(c) Section 105(a)(8) of such Act is amended by striking out "economic development,", and by inserting before the semicolon at the end thereof the following: ", and if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of the twelve-month period immediately preceding the date of application submission for funds which are to be made available under this title, and which are to be utilized for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the applicant".

(d) Section 105(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(14) activities which are carried out by public or private nonprofit entities when such activities are necessary or appropriate to meeting the needs and objectives of the community development plan described in section 104(a)(1), including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities, site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning; and

"(15) grants to neighborhood-based nonprofit organizations, local development corporations, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development project in furtherance of the objectives of section 101(c).".

ALLOCATION AND DISTRIBUTION OF FUNDS

SEC. 106. (a) Section 106(a) of the Housing and Communty Development Act of 1974 is amended by striking out "(2) or (3)" in the second sentence and inserting in lieu thereof "(1) or (2)".

(b) Section 106(b) of such Act is amended by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(b)(1) The Secretary shall determine the amount to be allocated to each metropolitan city which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

"(A) the average of the ratios between—

"(i) the population of that city and the population of all metropolitan areas;

"(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

"(iii) the extent of housing overcrowding in that city and the extent of housing overcrowding in all metropolitan areas; or

"(B) the average of the ratios between—

"(i) the extent of growth lag in that city and the extent of growth lag in all metropolitan cities;

"(ii) the extent of poverty in that city and the extent of poverty in all metropolitan areas; and

"(iii) the age of housing in that city and the age of housing in all metropolitan areas.

"(2) The Secretary shall determine the amount to be allocated to each urban county, which shall be the greater of an amount that bears the same ratio to the allocation for all metropolitan areas as either—

"(A) the average of the ratios between—

"(i) the population of that urban county and the population of all metropolitan areas;

"(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

"(iii) the extent of housing overcrowding in that urban county and the extent of housing overcrowding in all metropolitan areas; or

"(B) the average of the ratios between—

"(i) the extent of growth lag in that urban county and the extent of growth lag in all metropolitan cities and urban counties;

"(ii) the extent of poverty in that urban county and the extent of poverty in all metropolitan areas; and

"(iii) the age of housing in that urban county and the age of housing in all metropolitan areas.

"(3) In determining the average of ratios under paragraphs (1)(A) and (2)(A), the ratio involving the extent of poverty shall be counted twice, and each of the other ratios shall be counted once; and in determining the average of ratios under paragraphs (1)(B) and (2)(B), the ratio involving the extent of growth lag shall be counted once, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving the age of housing shall be counted two and one-half times.".

(c) Section 106(b)(5) of such Act is amended—

(1) by striking out "(5)" and inserting in lieu thereof "(4)"; and

(2) by striking out "receive" and inserting in lieu thereof "are entitled to".

(d) Section 106(c) of such Act is amended—

(1) by striking out "During the first three years for which funds are approved for distribution to a metropolitan city or urban county under this section" in the first sentence and inserting in lieu thereof "With respect to funds approved for distribution to a metropolitan city or urban county under this section during fiscal years 1975, 1976, and 1977"; and

(2) by inserting "only for such funds approved for distribution in fiscal years 1975, 1976, and 1977" after "adjusted" in the first sentence.

(e) Section 106(d) of such Act is amended to read as follows:

"(d)(1) Any portion of the amount allocated to metropolitan areas under the first sentence of subsection (a) which remains after the allocation of grants to metropolitan cities and urban counties in accordance with subsection (b) and any amounts added in accordance with the provisions of section 103(a)(2) shall be allocated by the Secretary, first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h), and, second, in accordance with the provisions of paragraph (2).

"(2) Any portion of such amounts which remains after applying the provisions of paragraph (1) shall be utilized by the Secretary for grants to units of general local government within metropolitan areas (other than metropolitan cities and urban counties), and States for use within metropolitan areas, allocating for the metropolitan areas of each State the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this paragraph as either—

"(A) the average of the ratios between—

"(i) the population of the metropolitan areas in that State and the population of the metropolitan areas of all States;

"(ii) the extent of poverty in the metropolitan areas in that State and the extent of poverty in the metropolitan areas of all States; and

"(iii) the extent of housing overcrowding in the metropolitan areas in that State and the extent of housing overcrowding in the metropolitan areas of all States; or

"(B) the average of the ratios between—

"(i) the age of housing in the metropolitan areas in that State and the age of housing in the metropolitan areas of all States;

"(ii) the extent of poverty in the metropolitan areas in that State and the extent of poverty in the metropolitan areas of all States; and

"(iii) the population of the metropolitan areas in that State and the population of the metropolitan areas of all States.

In determining the average of the ratios under subparagraph (A), the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining the average of the ratios under subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under this paragraph and the total of the amounts available under such paragraph, make a pro rata reduction of each amount allocated to the metropolitan areas in each State under such paragraph so that the metropolitan areas in each State will receive an amount which represents the same percentage of the total amount available under such paragraph as the percentage which the metropolitan areas of the same State would have received under such paragraph if the total amount available under that paragraph had equaled the total amount which was allocated under that paragraph.

"(3) If the Secretary approves a grant under paragraph (2) to a unit of general local government which has a comprehensive community development program with provision for lower-income housing, the Secretary may make a multi-year commitment, up to three years, to any such unit of general local government for specified grant amounts, subject to the availability of appropriations. In determining whether to make such a commitment to a unit of general local government, the Secretary shall give special consideration to those communities presently carrying out comprehensive community development programs, which are subject to the provisions of subsection (h)(2), before making new commitments. In making grants under paragraph (2), the Secretary shall establish for each participating unit of general local government an annual grant at an amount meaningful to the size of the unit and the program identified, and shall consider such factors as the unit's engaging in economic redevelopment activities, past performance of the unit in community development activities, prior and present funding levels under this title, the function of the unit as a regional center of economic development and activity, impact on the unit's growth of national policy or direct Federal program decisions, the potential for having increased employment within such unit as a result of community development activity, the physical and economic deterioration within the unit, the age of housing stock and the extent of poverty within the unit, the extent to which the unit's activity or program of activities is necessary to alleviate a serious threat to health or safety, the capacity of the unit to carry out such programs, and any other factors deemed, by the Secretary, to be relevant to carrying out the purposes of this title. The Secretary shall make grants under paragraph (2) in such a manner as to insure that a reasonable proportion of grants is available to applicants which are not seeking funding for comprehensive community development programs. The Secretary may accept and approve commitments for annual grants based on comprehensive community development programs commencing in future fiscal years subject only to the availability of appropriations. In computing amounts under paragraph (2), there shall be excluded metropolitan cities, urban counties, Indian tribes, and units of general local government which are entitled to hold-harmless grants pursuant to subsection (h).".

(f) Section 106(e) of such Act is amended—

(1) by striking out "during such program period" in the first sentence and inserting in lieu thereof "within a reasonable time"; and

(2) by striking out "during the same period" in the first sentence.

(g) Section 106(f) of such Act is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(f)(1) Of the amount approved in an appropriation Act under section 103(a) for grants in any year (excluding the amount provided for use in accordance with sections 103(a)(2) and 107), 20 per centum shall be allocated by the Secretary—

"(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h), and

"(B) second, any portion of such amount which remains after applying the provisions of subparagraph (A) shall be utilized by the Secretary for grants to units of general local government outside of metropolitan areas and States for use outside the metropolitan areas, allocating for the nonmetropolitan areas of each State the greater of an amount that bears the same ratio to the allocation for such areas of all States available under this subparagraph as either—

"(i) the average of the ratios between—

"(I) the population of the nonmetropolitan areas in that State and the population of the nonmetropolitan areas of all States;

"(II) the extent of poverty in the nonmetropolitan areas in that State and the extent of poverty in the nonmetropolitan areas of all States; and

"(III) the extent of housing overcrowding in the nonmetropolitan areas in that State and the extent of housing overcrowding in the nonmetropolitan areas of all States; or

"(ii) the average of the ratios between—

"(I) the age of housing in the nonmetropolitan areas in that State and the age of housing in the nonmetropolitan areas of all States;

"(II) the extent of poverty in the nonmetropolitan areas in that State and the extent of poverty in the nonmetropolitan areas of all States; and

"(III) the population of the nonmetropolitan areas in that State and the population of the nonmetropolitan areas of all States.

In determining the average of the ratios under clause (i) of subparagraph (B) the ratio involving the extent of poverty shall be counted twice and each of the other ratios shall be counted once; and in determining the average of the ratios under clause (ii) of subparagraph (B), the ratio involving the age of housing shall be counted two and one-half times, the ratio involving the extent of poverty shall be counted one and one-half times, and the ratio involving population shall be counted once. The Secretary shall, in order to compensate for the discrepancy between the total of the amounts to be allocated under subparagraph (B) and the total of the amounts available under such subparagraph, make a pro rata reduction of each amount allocated to the nonmetropolitan areas in each State under such subparagraph so that the nonmetropolitan areas in each State will receive an amount which represents the same percentage of the total amount available under such subparagraph as the percentage which the nonmetropolitan areas of the same State would have received under such subparagraph if the total amount available under such subparagraph had equaled the total amount which was allocated under such subparagraph.

"(2) If the Secretary approves a grant under paragraph (1)(B) to a unit of general local government which has a comprehensive community development program with provision for lower-income housing, the Secretary may make a multiyear commitment, up to three years, to any such unit of general local government for specified grant amounts, subject to the availability of appropriations. In determining whether to make such a commitment to a unit of general local government, the Secretary shall give special consideration to those communities presently carrying out comprehensive community development programs, which are subject to the provisions of subsection (h)(2), before making new commitments. In making grants under paragraph (1)(B), the Secretary shall establish for each participating unit of general local government an annual grant at an amount meaningful to the size of the unit and the program identified, and shall consider such factors as the unit's engaging in economic redevelopment activities, past performance of the unit in community development activities, prior and present funding levels under this title, the function of the unit as a regional center of economic development and activity, impact on the unit's growth of national policy or direct Federal program decisions, the potential for having increased employment within such unit as a result of community development activity, the physical and economic deterioration within the unit, the age of housing stock and the extent of poverty within the unit, the extent to which the unit's activity or program activities is necessary to alleviate a serious threat to health or safety, the capacity of the unit to carry out such programs, and any other factors deemed, by the Secretary, to be relevant to carrying out the purposes of this title. The Secretary shall make grants under paragraph (1)(B) in such a manner as to insure that a reasonable proportion of grants is available to applicants which are not seeking funding for comprehensive community development programs. The Secretary may accept and approve commitments for annual grants based on comprehensive community development programs commencing in future fiscal years subject only to the availability of appropriations. In computing amounts under paragraph (1)(B), there shall be excluded units of general local government which are entitled to hold-harless grants pursuant to subsection (h) and Indian tribes.";

(2) by redesignating paragraph (2) as paragraph (3);

(3) by striking out "during such period" in paragraph (3), as redesignated, and inserting in lieu thereof within a reasonable time"; and

(4) by striking "during the same period" in such paragraph.

(h) Section 106(g)(2) of such Act is amended—

(1) by striking out "(b) (2) or (3)" and inserting in lieu thereof "(b) (1) (A) or (B), or (2) (A) or (B)"; and

(2) by inserting ", as computed under subsection (b) (1) (A) or (B), or (2) (A) or (B)," immediately before "shall" in clauses (i) and (ii).

(i) Section 106(i) of such Act is amended—

(1) by striking out "population, poverty, and housing overcrowding";

(2) by striking out "receive" and inserting in lieu thereof "are entitled to"; and

(3) by striking out "(b)(5)" and inserting in lieu thereof "(b)(4)".

(j) Section 106(j) of such Act is amended—

(1) by striking out "not later than thirty days prior to the beginning of any program period" in the first sentence and inserting in lieu thereof "by such date as the Secretary shall determine";

(2) by inserting "for a hold-harmless grant for a single year" after "eligibility" in the first sentence; and

(3) by striking out "(b)(5)" in the second sentence and inserting in lieu thereof "(b)(4)".

(k) Section 106(l) of such Act is amended to read as follows:

"(l) Not later than September 30, 1978, the Secretary shall report to the Congress with respect to the adequacy, effectiveness, and equity of the formula used for allocation of funds under this title, with specific analysis and recommendation as to the feasibility of utilizing factors of impaction (such as adjusted age of housing and extent of poverty) as a measurement consideration, and the feasibility of utilizing a single formula based on the current factors or others, including regional or area differences in income and cost of living. As used in this subsection, the term 'impaction' means the intensity, measured in terms of absolute numbers and proportions of each need factor.".

(l) Section 106 of such Act is amended by adding the following new subsection at the end thereof:

"(m) In the event that the total amount available for distribution under this section in fiscal year 1978 or fiscal year 1979 is insufficient to meet all basic grant and hold-harmless entitlement needs as provided pursuant to this section, and funds are not otherwise appropriated to meet such deficiency, the Secretary shall meet the deficiency through a pro rata reduction of (1) all basic grant and hold-harmless entitlement amounts, and (2) funds available under section 106(d)(2) (including amounts provided for use under section 103(a)(2)) and section 106(f)(1)(B).".

DISCRETIONARY FUND

SEC. 107. Section 107 of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and 1977," in subsection (a) and inserting in lieu thereof "1977, 1978, 1979, and 1980,";

(2) by striking out "2 per centum" in subsection (a) and inserting in lieu thereof "3 per centum";

(3) by striking out "and units of general local government" in subsection (a)(5) and inserting in lieu thereof ", units of general local government, and Indian tribes";

(4) by striking out "and" at the end of subsection (a)(5), by striking out the period at the end of subsection (a)(6) and inserting in lieu thereof a semicolon, and by adding the following after subsection (a)(6):

"(7) to Indian tribes; and

"(8) to States, units of general local government, Indian tribes, or areawide planning organizations for the purpose of providing technical assistance in planning, developing, and administering assistance under this title. The Secretary may also provide such technical assistance under this paragraph directly or through contracts.";

(5) by striking out "one-fourth" in subsection (b) and inserting in lieu thereof "15 per centum"; and

(6) by adding the following new subsection at the end thereof:

"(d) No grant may be made to an Indian tribe unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with such grants, the provisions of section 109 and section 110."

GUARANTEE OF LOANS FOR ACQUISITION OF PROPERTY

SEC. 108. Section 108 of the Housing and Community Development Act of 1974 is amended—

(1) by striking out subsections (a) and (b);

(2) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (f), (g), (h), (i), and (j), respectively;

(3) by inserting before subsection (f), as redesignated, the following:

"(a) The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee the notes or other obligations issued by units of general local government, or by public agencies designated by such units of general local government, for the purposes of financing acquisition of real property or the rehabilitation of real property owned by the unit of general local government (including such related expenses as the Secretary may permit by regulation). Notes or other obligations guaranteed pursuant to this section shall be in such form and denominations, have such maturities, and be subject to such conditions as

may be prescribed by regulations issued by the Secretary.

"(b) No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes or obligations guaranteed under this section would thereby exceed an amount equal to three times the amount of the grant approval for the issuer pursuant to section 106.

"(c) Notwithstanding any other provision of this title, grants allocated to an issuer pursuant to this title (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on the notes or other obligations guaranteed pursuant to this section.

"(d) To assure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving such guarantees, the Secretary shall require the issuer to—

"(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

"(2) pledge any grant approved or for which the issuer may become eligible under this title; and

"(3) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this title or dispositions proceeds from the sale of land or rehabilitated property.

"(e) The Secretary is authorized, notwithstanding any other provision of this title, to apply grants pledged pursuant to subsection (d)(2) to any repayments due the United States as a result of such guarantees.";

(4) by striking out, in the first sentence of subsection (h), as redesignated, the following: "may, at the option of the issuing unit of general local government or designated agency," and inserting in lieu thereof "shall";

(5) by striking out, in the second sentence of subsection (h), as redesignated, the following: "In the event that taxable obligations are issued and guaranteed, the Secretary is authorized to make, and to contract to make, grants" and inserting in lieu thereof "The Secretary is authorized to make, and to contract to make, grants, in such amounts as may be approved in appropriations Acts,";

(6) by striking out "such unit or agency has elected to issue as a taxable obligation pursuant to subsection (e) of" in subsection (j), as redesignated, and inserting in lieu thereof "is guaranteed pursuant to"; and

(7) by adding at the end thereof the following:

"(k) Notwithstanding any other provision of this section, the total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (a) shall not at any time exceed $3,500,000,000 or such higher amount as may be authorized to be appropriated for sections 106 and 107 for any fiscal year.".

REPORTING REQUIREMENTS

SEC. 109. Section 113(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof: "; and "; and

(3) by adding the following new paragraph after paragraph (2):

"(3) with respect to the action grants authorized under section 119, a listing of each unit of general local government receiving funds and the amount of such grants, as well as a brief summary of the projects funded for each such unit, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during the previous fiscal year.".

URBAN DEVELOPMENT ACTION GRANTS

SEC. 110. (a) Section 104(a) of the Housing and Community Development Act of 1974 is amended by inserting "or section 119" after "106".

(b) Title I of such Act is amended by adding the following new section at the end thereof:

"URBAN DEVELOPMENT ACTION GRANTS

"SEC. 119. (a) In order to promote the primary objective of this title of the development of viable urban communities, of the total amount of authority approved in appropriation Acts under section 103(c), the Secretary is authorized to make urban development action grants to severely distressed cities and urban counties to help alleviate physical and economic deterioration through reclamation of neighborhoods having excessive housing abandonment or deterioration, and through community revitalization in areas with population outmigration or a stagnating or declining tax base. Grants made under this section shall be for the support of severely distressed cities and urban counties that require increased public and private assistance in addition to the assistance otherwise made available under this title and other forms of Federal assistance.

"(b) Urban development action grants shall be made only to cities and urban counties that have, in the determination of the Secretary, demonstrate results in providing housing for persons of low- and moderate-income and in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. The Secretary shall issue regulations establishing criteria in accordance with the preceding sentence and setting forth minimum standards for determining the level of physical and economic distress of cities and urban counties for eligibility for such grants, which standards shall take into account factors such as the age and condition of housing stock, including residential abandonment; average income; population outmigration; and stagnating or declining tax base.

"(c) Applications for assistance under this section shall—

"(1) include documentation of eligibility for grants in accordance with the standards described in subsection (b);

"(2) describe a concentrated urban development action program setting forth a comprehensive action plan and strategy to alleviate physical and economic distress through systematic change, which program shall be consistent with the community development program described in section 104(a)(2) and the housing assistance plan described in section 104(a)(4), and, where it exists and is in effect, the overall economic development plan as provided for in section 202(b)(10) of the Public Works and Economic Development Act of 1965, but only in the event and after such time as such plans are required by law or administrative action to be consistent with community development programs. Such program shall be developed as to take advantage of unique opportunities to attract private investment, stimulate investment in restoration of deteriorated or abandoned housing stock, or solve critical problems resulting from population outmigration or a stagnating or declining tax base;

"(3) include the activities to be undertaken in the urban development action program, together with the estimated costs and general locations of such activities;

"(4) indicate public and private resources which are expected to be made available toward achieving the action plan and strategy described in paragraph (2); and

"(5) provide satisfactory assurances that, prior to submission of its application, it has (A) prepared and followed a written citizen participation plan, which plan provides the opportunity for citizens to participate in the development of the application, with special attention to measures to encourage the statement of views and the submission of proposals by low- and moderate-income people and residents of blighted neighborhoods, and to scheduling hearings at times and locations which are convenient to all citizens, (B) provided citizens with adequate information concerning the amount of funds available for proposed activities under this section, the range of activities that may be undertaken, and other important program requirements, and (C) held public hearings to obtain the views of citizens on needs which may be dealt with under this section.

"(d) To the extent that the application requirements of section 104(a)(4) have been satisfied in connection with a grant made pursuant to section 106, such requirements shall be determined to have been met for purposes of this section.

"(e) In establishing criteria for the purpose of making grants under this section the Secretary shall establish selection criteria which must include (1) as the primary criterion, the comparative degree of physical and economic distress among applicants, as measured (in the case of a metropolitan city or urban county) by the differences in the extent of growth lag, the extent of poverty, and the adjusted age of housing in the metropolitan city or urban county; (2) other factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economic deterioration in cities and urban counties; and (3) at least the following other criteria: demonstrated performance of the city or urban county in housing and community development programs; impact of the proposed urban development action program on the special problems of low- and moderate-income persons and minorities; extent of financial participation by other public or by private entities; extent of assistance to be made available by the State; impact on the physical, fiscal, or economic deterioration of the city or urban county; extent to which the program describes activities representing a special or unique opportunity to meet local priority needs or the objectives of this title; and feasibility of accomplishing the program in a timely fashion within the grant amount available.

"(f) In addition to activities authorized under section 105(a), an urban development action program may also include such additional community development and neighborhood development and conservation activities as the Secretary may determine to be consistent with the purposes of this section.

"(g) No assistance shall be provided for business loans or industrial development under this section unless the Secretary shall first consult with and coordinate such assistance with other Federal agencies which make available funds for similar activities.

"(h) The Secretary shall, at least on an annual basis, make reviews and audits of recipients of grants pursuant to this section as necessary to determine the progress made in carrying out activities substantially in accordance with approved plans and timetables. The Secretary may adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with the findings of such review and audits, except that funds already expended on eligible activities under this title shall not be recaptured or deducted from future grants made to the recipient.

"(i) No assistance may be provided under this section for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the unemployment or economic base of the area from which such industrial or commercial plant or facility is to be relocated

"(j) The Secretary shall allocate the amounts available for grants under this section in a manner which achieves a reasonable balance among programs that are designed primarily (1) to restore seriously deteriorated neighborhoods, (2) to reclaim for industrial purposes underutilized real property, and (3) to renew commercial employment centers.

"(k) Not less than 25 per centum of the funds made available for grants under this section shall be used for cities under fifty thousand population which are not central cities of a standard metropolitan statistical area.".

REHABILITATION LOANS

SEC. 111. (a) Section 312(c)(4)(A) of the Housing Act of 1964 is amended—

(1) by striking out "the amount of a loan which could be insured by the Secretary of Housing and Urban Development under section 220(h) of the National Housing Act" and inserting in lieu therof "$27,000 per dwelling unit"; and

(2) by striking out "under such section".

(b) Section 312(d) of such Act is amended by striking out "and not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976" and inserting in lieu thereof "not to exceed $100,000,000 for the fiscal year beginning on October 1, 1976, and not to exceed $60,000,000 for the fiscal year beginning on October 1. 1977".

(c) Section 312(h) of such Act is amended by striking out "1977" each place it appears and inserting in lieu thereof "1979".

COMPREHENSIVE PLANNING

SEC. 112. The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking "and not to exceed $100,000,000 for the fiscal year 1977" and inserting in lieu thereof "not to exceed $100,000,000 for the fiscal year 1977, and not to exceed $75,000,000 for the fiscal year 1978".

STUDY ON SMALL CITIES

SEC. 113. The Secretary of Housing and Urban Development shall conduct a study and, not later than one year after the date of enactment of this Act, report to the President and to the Congress recommendations on the formation of a national policy on the developmental needs of small cities. In carrying out such study, the Secretary shall (1) take steps to improve the data available about small cities, (2) suggest means of reducing the duplication in government programs in jurisdictions which affect small cities, and (3) consider all of the relevant differences and similarities between small and large cities, particularly in the areas of housing, growth, development patterns, infrastructure, education, energy needs, and social development. In addition, the Secretary shall include in the report alternative verifiable formulae to be used in the distribution of discretionary balance funds available for allocation to small cities under title I of the Housing and Community Development Act of 1974.

EFFECTIVE DATE

SEC. 114. The amendments made by this title shall become effective October 1, 1977.

TITLE II—HOUSING ASSISTANCE AND RELATED PROGRAMS

LOW-INCOME HOUSING

SEC. 201. (a) The first sentence of section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately following "July 1, 1975," the first time it appears; and

(2) by inserting immediately after "on October 1, 1976," the following: "and by $1,159,995,000 on October 1, 1977,".

(b) Section 5(c) of such Act is amended by inserting after the third sentence the following: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1977, and approved in appropriation Act, the Secretary shall make available not less than $42,500,000 for modernization of low-income housing projects, not less than $197,139,200 for low-income housing projects permanently financed by loans from State housing finance or State development agencies, as defined in section 802(b)(2)(A) of the Housing and Community Development Act of 1974, and not less than $120,000,000 for low-income housing projects permanently financed by loans pursuant to section 202 of the Housing Act of 1959."

(c) Section 8(c)(1) of such Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this section, after the date of enactment of the Housing and Community Development Act of 1977, the Secretary shall prohibit high-rise elevator projects for families with children unless there is no practical alternative.".

(d) Section 8(c)(4) of such Act is amended by striking out the following: "(i) if the unoccupied unit is in a project insured under the National Housing Act, except pursuant to section 244 of such Act, or (ii)".

(e)(1) Section 8(d) of such Act is amended by adding the following new paragraph at the end thereof:

"(3) Notwithstanding any other provision of law, with the approval of the Secretary the public housing agency administering a contract under this section with respect to existing housing units may exercise all management and maintenance responsibilities with respect to those units pursuant to a contract between such agency and the owner of such units.".

(2) Section 8(e)(2) of such Act is amended by adding the following new sentence at the end thereof: "In approving any public housing agency to assume all the management and maintenance responsibilities of any dwelling unit under the preceding sentence, the Secretary may do so without regard to whether such agency administers the housing assistance payment contract for that unit.".

(f) Secion 9(c) of such Act is amended—

(1) by striking out "and" immediately following "on or after July 1, 1976,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $685,000,000 on or after October 1, 1977".

(g) The Secretary of Housing and Urban Development shall conduct a study of payments in lieu of taxes made under section 6(d) of the United States Housing Act of 1937 and report to the Congress on the status and adequacy of such payments not later than twelve months after the date of enactment of this section.

(h) Section 208 of the Housing and Community Development Act of 1974 is amended by inserting ", including the right to renewal of such lease to the maximum term permitted by law," after "United States Housing Act of 1937".

SECTION 202 HOUSING FOR THE ELDERLY

SEC. 202. (a) Section 202(d)(3) of the Housing Act of 1959 is amended by inserting the following before the period at the end thereof: ", which cost shall be determined without regard to mortgage limits applicable to housing projects subject to mortgages insured under section 231 of the National Housing Act".

(b) Section 202 of such Act is amended by adding at the end thereof the following new subsection:

"(g) In carrying out the provisions of this section and section 8 of the United States Housing Act of 1937, the Secretary shall issue and implement regulations, as soon as practicable after the date of enactment of Housing and Community Development Act of 1977, which shall provide that the processing of any application for a loan for a project under this section and the processing of any application for assistance under such section 8 with respect to housing units in the same such project shall be coordinated in an economical and efficient manner.".

URBAN HOMESTEADING DEMONSTRATION

SEC. 203. Section 810(g) of the Housing and Community Development Act of 1974 is amended by striking out "and not to exceed $5,000,000 for the fiscal year 1978" and inserting in lieu thereof "and not to exceed $15,000,000 for the fiscal year 1978".

RESEARCH AUTHORIZATION

SEC. 204. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by inserting before the period at the end thereof the following: ", and not to exceed $60,000,000 for the fiscal year 1978".

SECTION 235 ASSISTANCE FOR COOPERATIVES

SEC. 205. Section 235(b)(2)(A) of the National Housing Act is amended by inserting "or section 212(d)(3)" immediately after "financed with a mortgage insured under section 213".

SECTION 236 OPERATING SUBSIDIES

SEC. 206. (a) Section 236(f)(3) of the National Housing Act is amended by striking out the second and third sentences and inserting in lieu thereof the following: "The Secretary is authorized to make, and shall contract to make to the extent of the moneys in the reserve fund established under subsection (g) and to the further extent of funds authorized in appropriation Acts, an additional monthly assistance payment to the project owner up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level. Such payment shall be used by the project owner solely to effect, and there shall be, a reduction in the basic rental charges established for the project. Any contract to make additional monthly assistance payments shall be for a one-year period and shall be adjusted periodically to provide, to the extent approved in appropriation Acts, for continuation of the payments and for an appropriate adjustment in the amount of the assistance payments.".

(b) Section 236(f)(3) of such Act is further amended by striking out "only if the Secretary finds that the increase in the cost of utilities or local property taxes is reasonable and is" in the last sentence and inserting in lieu thereof "unless the Secretary finds that the increase in the cost of utilities or local property taxes is not reasonable or not".

(c) Section 236(g) of such Act is amended by striking out "1974" in the fourth sentence and inserting in lieu thereof "1977".

(d) The amendments made by this section shall become effective on October 1, 1977, and shall apply to assistance payments pursuant to section 236(f)(3) of the National Housing Act with respect only to periods commencing on or after such date.

HOUSING ASSISTANCE PLANS

SEC. 207. Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by inserting after the first sentence the following new sentence: "The Secretary shall assure, to the maximum extent practicable in carrying out the national housing and community development objectives, that funds available for each housing assistance program referred to in subsection (a) shall

be allocated or reserved in accordance with goals described in local, State, or other housing assistance plans approved by the Secretary pursuant to section 104, and shall be utilized to meet needs reflected in data referred to in the preceeding sentence.".

NEW COMMUNITIES

SEC. 208. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

TREASURY DRAW AUTHORITY

SEC. 209. Section 14(b) of the Federal Reserve Act is amended by striking out "November 1, 1978" and inserting in lieu thereof "October 1, 1977"; and by striking out "October 31, 1978" and inserting in lieu thereof "September 30, 1977".

TITLE III—FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AND RELATED PROGRAMS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1977" in the first sentence and inserting in lieu thereof "October 1, 1978".

(b) Section 217 of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1977" in the fifth sentence and inserting in lieu thereof "September 30, 1978".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1977" and ininserting in lieu thereof "September 30, 1978".

(f) Section 244(d) of such Act is amended—

(1) by striking out September 30, 1977" in the first sentence and inserting in lieu thereof "September 30, 1978"; and

(2) by striking out "October 1, 1977" in the second sentence and inserting in lieu thereof "October 1, 1978".

(g) Section 245 of such Act is amended by striking out "September 30, 1977" where it appears and inserting in lieu thereof "September 30, 1978".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1977" in the second sentence and inserting in lieu thereof "September 30, 1978".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1977" in the second sentence and inserting in lieu thereof "September 30, 1978".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1977" in the second sentence and inserting in lieu thereof September 30, 1978".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1977" in the second sentence and inserting in lieu thereof "September 30, 1978".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709–1), is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

INCREASE IN MAXIMUM MORTGAGE AMOUNTS UNDER FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 303. (a) Section 203(b)(2) of the National Housing Act is amended by striking out "$45,000", "$48,750", and "$56,000" wherever they appear and inserting in lieu therof, "$60,000", "$65,000", and "$75,000", respectively.

(b) Section 220(d)(3)(A) of such Act is amended by striking out "$45,000", "$48,750", and "$56,000" wherever they appear and inserting in lieu thereof "$60,000", "$65,000", and "$75,000", respectively.

(c) Section 221(d)(2)(A) of such Act is amended by—

(1) striking out "$25,000", "$29,000", and "$33,000" each place they appear and inserting in lieu thereof "$31,000", "$36,000", and "$42,000", respectively; and

(2) striking out "$28,000", "$38,880", "$47,520", "$36,000", "$46,080", and "$54,720", and inserting in lieu thereof "$35,000", "$48,600"; "$59,400", "$45,000", "$57,600", and "$68,400", respectively.

(d) Section 222(b)(2) of such Act is amended by striking out "$45,000" and inserting in lieu thereof "$60,000".

(e) Clause (A) of the third sentence of section 234(c) of such Act is amended by striking out "$45,000" and inserting in lieu thereof "$60,000".

(f) Section 235 of such Act is amended—

(1) by striking out, in the last proviso in subsection (b)(2), "$25,000", "$29,000", "$29,000", and "$33,000" and inserting in lieu thereof "$32,000", "$38,000", "$38,000", and "$44,000", respectively;

(2) by striking out, in subsection (i)(3)(B) "$25,000", "$29,000", "$29,000", and "$33,000" and inserting in lieu thereof "$32,000", "$38,000", "$38,000", and "$44,000", respectively;

(3) by striking out "and" at the end of subparagraph (B) of subsection (i)(3);

(4) by redesignating subparagraph (C) of subsection (i)(3) as subparagraph (E) and inserting immediately following subparagraph (B) the following new subparagraphs:

"(C) involve, in the case of a dwelling unit other than a condominium or cooperative unit, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $32,000 ($38,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $38,000 and $44,000, respectively;

"(D) involve, in the case of a two-family dwelling, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $44,000 ($49,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require); and"; and

(5) by adding the following new subsection at the end thereof:

"(n) No mortgage may be insured under this section on a unit in a subdivision, after the effective date of enactment of this subsection, which, when added to any other mortgages insured under this section in that subdivision after such date, represents more than 40 per centum of the total number of units in the subdivision, except that the preceding limitation shall not apply with regard to any rehabilitated unit, or to any unit or subdivision located or to be located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community sponsored overall redevelopment plan, as determined by the Secretary.".

(g) Section 203(i) of such Act is amended by striking out "$16,200" and inserting in lieu thereof "75 per centum of the limit on the principal obligation applicable to a one-family residence under subsection (b) of this section".

DECREASE IN DOWNPAYMENT REQUIREMENTS

SEC. 304. (a) Section 203(b)(2) of the National Housing Act is amended—

(1) by striking out, in clause (i) of the first sentence, all the parenthetical language which begins "(but, in any case";

(2) by striking out clauses (ii) and (iii) in the first and second sentences and inserting in lieu thereof in each sentence "and (ii) 95 per centum of such value in excess of $25,000."; and

(3) by inserting immediately after the second sentence the following: "Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction.".

(b) Section 220(d)(3)(A)(i) of such Act is amended—

(1) by striking out the comma at the end of clause (1) and all of clauses (2) and (3) in the matter preceding the first proviso and inserting in lieu thereof "and (2) 95 per centum of such value in excess of $25,000"; and

(2) by striking out in the second proviso the comma at the end of clause (1) and all of clauses (2) and (3) and inserting in lieu thereof "and (2) 95 percentum of such value in excess of $25,000".

(c) Section 222(b)(3) of such Act is amended by striking out clauses (ii) and (iii) and inserting in lieu thereof "and (ii) 95 per centum of such value in excess of $25,000;".

(d) The third sentence of section 234(c) of such Act is amended by striking out clauses (A)(ii) and (A)(iii) and inserting in lieu thereof "and (ii) 95 percentum of such value in excess of $25,000,".

AUTHORITY TO INCREASE MORTGAGE INSURANCE PREMIUM FOR SECTION 203 (n)

SEC. 305. Section 203(c) of the National Housing Act is amended by inserting the following before the colon preceding the first proviso: "Provided, That premium charges fixed for insurance under subsection (n) is not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) exceed 1 percentum per annum".

MAXIMUM MORTGAGE AMOUNT AND MATURITY UNDER TITLE I OF THE NATIONAL HOUSING ACT

SEC. 306. (a) The first sentence of section 2(b) of the National Housing Act is amended—

(1) by striking out "$10,000" the first time it appears in clause (1) and inserting in lieu thereof "$15,000"; and

(2) by striking out "twelve years" in clause (2) and inserting in lieu thereof "fifteen years".

(b) Section 2(b) of such Act is amended by striking out "$12,500 ($20,000" in clause (1) and inserting in lieu thereof "$16,000 ($24,000"; and by inserting the following before the semicolon at the end of the proviso in clause (2): "(twenty-three years and thirty-two days in the case of a mobile home composed of two or more modules)".

(c) Subparagraph (B) of the second paragraph of section 2(b) of such Act and subparagraph (B) of the third paragraph of such section 2(b) are each amended by striking out "twenty years" and inserting in lieu thereof in each case "twenty-three years".

(d) Section 2(b) of such Act is amended by adding at the end thereof the following new undesignated paragraph:

"Because of prevailing higher costs, the Secretary may, by regulation, in Alaska, Guam, or Hawaii, increase any dollar amount limitation on mobile homes or mobile home lot loans contained in this subsection by not to exceed 40 per centum.".

SECTION 203 INSURANCE IN CERTAIN COMMUNITIES

SEC. 307. Section 203 of the National Housing Act is amended by adding at the end thereof the following:

"(o)(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation may prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

"(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or Nation;

"(B) such ownership claims are reasonably likely to be settled, by court action or otherwise;

"(C) as a direct result of the community's temporarily impaired economic condition, owner occupants of homes in the community have been involuntarily unemployed or underemployed and have thus incurred substantial reductions in income which significantly impair their ability to continue timely payment of their mortgages;

"(D) as a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

"(E) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, or Nation.

"(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this title relating to a mortgagor's reasonable ability to pay, economic soundness, marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner occupant of a home in a community specified in paragraph (1) who, as a direct result of the community's temporarily impaired economic condition, has been involuntarily unemployed or underemployed and has thus incurred a substantial reduction in income which significantly impairs the owner's ability to continue timely payment of the mortgage. The Secretary is authorized to encourage or afford directly to or on behalf of mortgagors whose mortgages are insured under subsection (b) as modified by this subsection forebearance, assignment of mortgages to the Secretary, or such other relief as the Secretary deems appropriate and consistent with the purpose of this subsection. This Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 202 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 238 of this title.".

MISCELLANEOUS MORTGAGE INSURANCE

SEC. 308. (a) Sections 232(d)(4) and 242(d)(4) of the National Housing Act are amended by inserting "or section 1521" after "section 604(a)(1)".

(b) Section 242(c) of such Act is amended by adding the following sentence at the end thereof: "No mortgage insurance premium shall be charged with respect to the amount of principal and interest guaranteed by the Department of Health, Education, and Welfare under title VII of the Public Health Service Act.".

MORTGAGE INSURANCE IN MILITARY IMPACTED AREAS

SEC. 309. Section 238(c) of the National Housing Act is amended to read as follows:

"(c)(1) Notwithstanding the provisions of this or any other Act, and without regard to limitations upon eligibility contained in any section of this title, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this title a mortgage executed in connection with the construction, repair, rehabilitation, or purchase of property located near any installation of the Armed Forces of the United States in federally impacted areas in which the conditions are such that one or more of the eligibility requirements applicable to the section under which insurance is sought could not be met, if (A) the Secretary finds that the benefits to be derived from such use outweigh the risk of probable cost to the Government, and (B) the Secretary of Defense certifies that there is no intention insofar as can reasonably be foreseen to curtail substantially the personnel assigned or to be assigned to such installation. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

"(2) The Secretary is authorized (A) to establish such premiums and other charges as may be necessary to assure that the mortgage insurance program pursuant to this subsection is made available on a basis which, in the Secretary's judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (B) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are to the maximum extent possible, consistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits.".

EXPERIMENTAL FINANCING

SEC. 310. (a) Section 245 of the National Housing Act is amended—

(1) by striking out "on an experimental basis" in the first sentence;

(2) by striking out the second sentence and inserting in lieu thereof the following: "Notwithstanding any other provision of this title the principal obligation (including all interest to be deferred and added to principal) of a mortgage insured pursuant to this section may not exceed 97 per centum of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance, or if the mortgagor is a veteran and the mortgage is to be insured in accordance with the provisions of section 203 of this title, such higher percentage of appraised value as is provided for purposes of determining the maximum mortgage amount eligible for insurance under section 203(b)(2) in the case of veterans."; and

(3) by adding at the end thereof the following new sentence: "Any mortgage or loan insured pursuant to this section which contains or sets forth any graduated mortgage provisions (including but not limited to provisions for adding deferred interest to principal) which are authorized under this section and applicable regulations, or which have been insured on the basis of their being so authorized, shall not be subject to any State constitution, statute, court decree, common law, or rule or public policy limiting the amount of interest which may be charged, taken, received, or reserved, or the manner of calculating such interest (including but not limited to prohibitions against the charging of interest on interest), if such statute, court decree, common law, or rule would not apply to the mortgage or loan in the absence of such graduated payment mortgage provisions.".

(b) The caption of section 245 of such Act is amended to read as follows:

"GRADUATED PAYMENT MORTGAGES"

TITLE IV—LENDING POWERS OF FEDERAL SAVINGS AND LOAN ASSOCIATIONS; SECONDARY MARKET AUTHORITIES

CONSTRUCTION LOANS

SEC. 401. The twenty-first undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking out "3 per centum" and inserting in lieu thereof "5 per centum".

SINGLE FAMILY DWELLING LIMITATIONS

SEC. 402. The first undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking out "$55,000" and inserting in lieu thereof "$90,000", and by inserting "but of said 20 per centum the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under provisions of this sentence (other than this exception) or under the next following sentence shall be only the outstanding amount of such excess." immediately after "improved real estate without regard to the foregoing limitations,".

LENDING AUTHORITY

SEC. 403. The twenty-second undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 is amended by inserting "or farm" immediately after "residential."

PROPERTY IMPROVEMENT LOANS

SEC. 404. The second and third undesignated paragraphs of section 5(c) of the Home Owners' Loan Act of 1933 are amended by striking out "$10,000" and inserting in lieu thereof "$15,000".

MULTIFAMILY DWELLING LIMITATIONS

SEC. 405. The first sentence of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking out ", and the Board shall by regulation limit to not more than 20 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association under the foregoing provisions of this sentence on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property".

CONFORMING AMENDMENT TO FEDERAL HOME LOAN BANK ACT

SEC. 406. Section 10(b) of the Federal Home Loan Bank Act is amended by striking out "$55,000 (except that with respect to dwellings in Alaska, Guam, and Hawaii the foregoing limitations may, by regulation of the Board be increased by not to exceed 50 per centum)" and inserting in lieu thereof the following: "the dollar limitation under the first proviso of the first sentence of section 5(c) of the Home Owners' Loan Act of 1933, as amended,".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION HOME PURCHASE ASSISTANCE

SEC. 407. (a) Section 313(a)(1) of the National Housing Act is amended by adding at the end thereof the following: To the extent feasible and consistent with the primary purpose of this section to stabilize housing production, the Secretary may direct the exercise of the authority conferred by this section to promote homeownership opportunities for moderate-income families.".

(b) Section 313(a) of such Act is amended by adding at the end thereof the following:

"(3) In carrying out the authority conferred by this section, the Secretary may require the Association to utilize a part of the authority to purchase mortgages under this section for the purchase of mortgages executed to finance the rehabilitation or acquisition and rehabilitation of housing in older or declining neighborhoods to the extent such action is feasible and consistent with the primary purpose of this section, and for the purpose of this paragraph, the Secretary is authorized to prescribe such regulations as may be appropriate.".

(c)(1) Section 313(b)(B) of such Act is amended by inserting after "$42,000" the following: "($49,000 in the case of any property with respect to which assistance payments pursuant to section 8 of the United States Housing Act of 1937 are being or will be made and which is located in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require)".

(2) Section 313(b)(D) of such Act is amended by inserting after "Secretary" the following: and $55,000 in the case of any property with respect to which assistance payments pursuant to section 8 of the United States Housing Act of 1937 are being or will be made and which is located in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require".

(d) Section 313(g) of such Act is amended by adding at the end thereof the following: "The Association's purchases and commitments under this section during fiscal year 1978 may not exceed $7,500,000,000.".

(e) Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978".

LIMIT ON AMOUNT OF A CONVENTIONAL MORTGAGE WHICH MAY BE PURCHASED BY FEDERAL NATIONAL MORTGAGE ASSOCIATION OR FEDERAL HOME LOAN MORTGAGE CORPORATION

SEC. 408. (a) The last sentence of section 302(b)(2) of the National Housing Act is amended by inserting "by more than 25 per centum" after "exceed".

(b) The last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by inserting "by more than 25 per centum" after "exceed".

(c) Section 309(h) of the National Housing Act is amended by inserting at the end thereof the following: "Pursuant to the authority provided in this subsection, the Secretary shall conduct a review of the financial operations of the corporation and undertake a study of the extent to which the activities of the corporation meet the purposes of this title. Such review and study shall be completed and transmitted to the Congress on or before July 1, 1978.".

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "September 30, 1977" in clauses (b), (c), and (d), and inserting in lieu thereof "September 30, 1978"; and

(2) by striking out "$80,000,000" in clauses (b) and (c) and inserting in lieu thereof "$105,000,000".

(b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(d) Section 523(f) of such Act is amended—

(1) by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1978"; and

(2) by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

CHANGES IN THE GUARANTEED HOUSING LOAN PROGRAM

SEC. 502. (a) Section 502(b)(3) of the Housing Act of 1949 is amended by inserting "except for guaranteed loans," after "(3)".

(b) Section 517(e) of such Act is amended by inserting after the first sentence the following new sentence: "The guaranteed loan program under this title shall be operated separately from the insured loan program operated under this title and no funds designated for one program may be transferred to another program.".

(c) Section 517 of such Act is amended by adding the following new subsection at the end thereof:

"(n) Loans guaranteed under this section shall be made only to borrowers with above-moderate incomes.".

(d) Section 521(a)(1) of such Act is amended by adding at the end thereof the following: "Any loan guaranteed under this title shall bear interest at such rate as may be agreed upon by the borrower and the lender.".

PREPAYMENT OF TAXES AND SIMILAR ITEMS BY FARMERS HOME ADMINISTRATION BORROWERS

SEC. 503. Section 501(e) of the Housing Act of 1949 is amended by striking out the second sentence and inserting in lieu thereof the following: "Such payments shall be disbursed by the Secretary at the appropriate time or times for the purposes for which such payments are made, and after October 1, 1977, if the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay these costs in full, which advances shall be charged to the account of the borrower and bear interest and be payable in a timely fashion not to exceed two years, as determined by the Secretary.".

COMPENSATION FOR CONSTRUCTION DEFECTS

SEC. 504. Section 509 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsections:

"(c) The Secretary is authorized, after October 1, 1977, with respect to any unit or dwelling newly constructed during the period beginning eighteen months prior to the date of enactment of the Housing and Community Development Act of 1977 and purchased with financial assistance authorized by this title which he finds to have structural defects to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property, if such assistance is requested by the owner of the property within eighteen months after financial assistance under this title is rendered to the owner of the property or, in the case of property with respect to which assistance was made available within eighteen months prior to the date of enactment of the Housing and Community Development Act of 1977, within eighteen months after such date of enactment. Expenditures pursuant to this subsection may be paid from the Rural Housing Insurance Fund. Decisions by the Secretary regarding such expenditures or payments under this subsection, and the terms and conditions under which the same are approved or disapproved, shall not be subject to judicial review.

"(d) The Secretary shall, by regulation, prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section.".

FARM LABOR HOUSING LOANS AND GRANTS IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 505. Section 514(f)(3) of the Housing Act of 1949 is amended to read as follows:

"(3) the term 'domestic farm labor' means persons who receive a substantial portion (as determined by the Secretary) of their income as laborers on farms situated in the United States, Puerto Rico, or the Virgin Islands and either (A) are citizens of the United States, or (B) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence therein.".

PURPOSES FOR WHICH FUNDS FROM THE RURAL HOUSING INSURANCE FUND MAY BE USED

SEC. 506. Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(5) after October 1, 1977, and as approved in appropriations Acts, to make advances authorized by section 501(e); and

"(6) after October 1, 1977, and as approved in appropriations Acts, to make the expenditures authorized by section 509(c).".

HOUSING FOR THE ELDERLY AND HANDICAPPED

SEC. 507. (a) Title V of the Housing Act of 1949 is amended—

(1) by striking out "elderly persons" in section 501(a)(3) and inserting in lieu thereof "elderly or handicapped persons or families";

(2) by striking out "that he is an elderly person in a rural area without an adequate dwelling or related facilities for his own use," in section 501(c)(1) and inserting in lieu thereof "that the applicant is an elderly or handicapped person or family in a rural area without an adequate dwelling or related facility for its own use,";

(3) by striking out "elderly persons and elderly families" in subsections (a) and (b) of section 515 and inserting in lieu thereof "elderly or handicapped person or families";

(4) by striking out "elderly persons and elderly families" in section 521(a)(1) and inserting in lieu thereof "elderly or handicapped persons or families"; and

(5) by inserting "or handicapped" after "elderly" in clause (1) of the last sentence of section 521(a)(2)(A).

(b) Section 501(b)(3) of such Act is amended to read as follows:

"(3) For the purposes of this title, the term 'elderly or handicapped persons or families' means families which consist of two or more persons, the head of which (or his or her spouse) is at least sixty-two years of age or is handicapped. Such term also means a single person who is at least sixty-two years of age or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions, or if such person is a developmentally disabled individual as defined in section 102(7) of the Developmental Disabilities Services and Facilities Construcction Act. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, eligibility of families and persons

for admission to and occupancy of housing constructed with assistance under this title. Notwithstanding the preceding provisions of this paragraph, such term also includes two or more elderly (sixty-two years of age or over) or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to the care or well-being of such persons, and the surviving member or members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this title, with the deceased member of the family at the time of his or her death.".

CONGREGATE HOUSING FOR ELDERLY AND HANDICAPPED FAMILIES

SEC. 508. (a) Section 515(c) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "However, specifically designed equipment required by elderly or handicapped persons or families shall not be considered elaborate or extravagant.".

(b) Section 515(d)(1) of such Act is amended by adding at the end thereof the following: "; and such term also means congregate housing facilities for elderly or handicapped persons or families who require some supervision and central services but are otherwise able to care for themselves; such housing for the handicapped may be utilized in conjunction with educational and training facilities;".

(c) Section 515(d)(3) of such Act is amended to read as follows:

"(3) the term 'congregate housing' means housing in which (A) some of the units may not have kitchen facilities, and (B) there is a central dining facility to provide wholesome and economic meals for elderly or handicapped persons or families.".

PROVISION FOR A DIVISION OF INSURED RURAL HOUSING LOANS

SEC. 509. Section 517 of the Housing Act of 1949 (as amended by section 502(c)) is amended by adding at the end thereof the following new subsection:

"(o) At least 60 per centum of the amount of loans made pursuant to sections 502 and 515 shall benefit persons of low income.".

RURAL HOUSING RESEARCH

SEC. 510. Section 506(d) of the Housing Act of 1949 "is amended to read as follows:

"(d) In order to carry out this section, the Secretary shall establish a research capacity within the Farmers Home Administration which shall have authority to undertake, or to contract with any public or private body to undertake, research authorized by this section.".

RURAL RENTAL ASSISTANCE

SEC. 511. Section 521(a)(2)(A) of the Housing Act of 1949 is amended by striking out "may" wherever it appears, except in clause (i), and inserting in lieu thereof "shall".

TAXATION OF FARMERS HOME ADMINISTRATION-HELD PROPERTY

SEC. 512. (a) Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"SEC. 528. All property subject to a lien held by the United States or the title to which is acquired or held by the Secretary under this title other than property used for administrative purposes shall be subject to taxation by a State, Commonwealth, territory, possession, district, and local political subdivisions in the same manner and to the same extent as other property is taxed: *Provided*, That no tax shall be imposed or collected on or with respect to any instrument if the tax is based on—

"(1) the value of any notes or mortgages or other lien instruments held by or transferred to the Secretary;

"(2) any notes or lien instruments administered under this title which are made, assigned, or held by a person otherwise liable for such tax; or

"(3) the value of any property conveyed or transferred to the Secretary, whether as a tax on the instrument, the privilege of conveying or transferring, or the recordation thereof; nor shall the failure to pay or collect any such tax be a ground for refusal to record or file such instruments, or for failure to impart notice, or prevent the enforcement of its provisions in any State or Federal court.".

(b) Notwithstanding any other provision of law, no State, Commonwealth, territory, possession, district, or local political subdivision which has received, prior to the date of enactment of his Act, tax payments from the Department of Agriculture based on property held by the Farmers Home Administration shall be liable for, or be obligated to refund, the amount of any such payment, which, if it had been made after the date of enactment of this Act, would have been authorized by the provisions of section 528 of the Housing Act of 1949, and no officer or employee of the United States shall incur or be under any liability by reason of having made or authorized any such payments.

(c) The amendment made by subsection (a) shall become effective as of January 1, 1977.

TITLE VI—NATIONAL URBAN POLICY

SEC. 601. (a) Section 701 of the Urban Growth and New Community Development Act of 1970 is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) This title may be cited as the 'National Urban Policy and New Community Development Act of 1970'.";

(2) by striking out "growth" the first time it appears in subsection (b);

(3) by inserting "energy and" before "our natural resources" in subsection (b);

(4) by inserting "and their residents" before "of adequate tax base," in subsection (b); and

(5) by inserting "good housing in" before "well-balanced neighborhoods" in subsection (b).

(b) Section 702 of such Act is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Congress finds that rapid changes in patterns of urban settlement, including change in population distribution and economic bases of urban areas, have created an imbalance between the Nation's needs and resources and seriously threaten our physical and social environment, and the financial viability of our cities, and that the economic and social development of the Nation, the proper conservation of our energy and other natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.";

(2) by inserting "and redevelopment" before "which adversely affect" in subsection (b), by striking out "our" in subsection (b) and inserting in lieu thereof "energy and other", and by striking out "growth" the last time it appears in subsection (b);

(3) by inserting "energy and other" before "natural resources," in the first sentence of subsection (c), by striking out "growth" in the first sentence of subsection (c), by striking out "growth" the first time it appears in the second sentence of subsection (c) and inserting in lieu thereof "development and redevelopment", and by striking out "growth and stabilization" in the second sentence of subsection (c) and inserting in lieu thereof "urban";

(4) by striking out "growth" the first time it appears in subsection (d);

(5) by striking out "help reverse trends of migration and physical growth which reinforce" in paragraph (3) of subsection (d) and inserting in lieu thereof "encourage patterns of development and redevelopment which minimize"; and

(6) by striking out "growth and stabilization," in paragraph (8) of subsection (d) and inserting in lieu thereof "development and redevelopment, encourage", by inserting "energy and other" before "natural resources" in such paragraph (8), and by striking out "the protection" in such paragraph (8) and inserting in lieu thereof "protect".

(c) Section 703 of such Act is amended—

(1) by striking out the section heading and the material preceding paragraph (1) of subsection (a) and inserting in lieu thereof the following:

"NATIONAL URBAN POLICY REPORT

"SEC. 703. (a) The President shall transmit to the Congress during February 1978, and during February of every even-numbered year thereafter, a Report on National Urban Policy which shall contribute to the formulation of such a policy, and in addition shall include—";

(2) by striking out "and statistics, describing characteristics of urban growth and stabilization and identifying significant trends and developments" in paragraph (1) of subsection (a) and inserting in lieu thereof ", statistics, and significant trends relating to the pattern of urban development for the preceding two years";

(3) by striking out "growth" in paragraph (2) of subsection (a), and by inserting "affecting the well-being of urban areas" before the semicolon at the end of such paragraph;

(4) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(5) by inserting after paragraph (2) the following:

"(3) an examination of the housing and related community development problems experienced by cities undergoing a growth rate which equals or exceeds the national average;";

(6) by striking out "growth" in paragraph (4) of subsection (a), as redesignated;

(7) by striking out "growth" in subsection (b) and inserting in lieu thereof "policy"; and

(8) by striking out "Report on Urban Growth" in subsection (c) and inserting in lieu thereof "National Urban Policy Report" and by striking out "growth" in such subsection and inserting in lieu thereof "areas".

(d) The title heading for such Act is amended by striking out "URBAN GROWTH" and inserting in lieu thereof "NATIONAL URBAN POLICY".

(e) The part heading for part A of such Act is amended by striking out "GROWTH".

TITLE VII—FLOOD AND RIOT INSURANCE

EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM

SEC. 701. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

FLOOD INSURANCE STUDIES

SEC. 702. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by inserting the following before the period at the end thereof: "and not to exceed $108,000,000 for the fiscal year 1978".

SANCTIONS

SEC. 703. (a) Section 202(b) of the Flood Disaster Protection Act of 1973 is amended to read as follows:

"(b) In addition to the requirements of section 1364 of the National Flood Insurance Act of 1968, each Federal instrumentality described in such section shall by regulation require the institutions described in such section to notify (as a condition of making, increasing, extending, or renewing any loan secured by property described in such section) the purchaser or lessee of such property of whether, in the event of a disaster caused by flood to such property, Federal disaster relief assistance will be available to such property.".

(b) Section 3(a)(4) of such Act is amended by striking out all after "mortgages or mortgage loans" and inserting in lieu thereof the following: "but shall exclude assistance pursuant to the Disaster Relief Act of 1974 (other than assistance under such Act in connection with a flood);".

FLOOD INSURANCE PROGRAM IMPROVEMENTS

SEC. 704. (a) Section 1306(b) of the National Flood Insurance Act of 1968 is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable such insured or applicant to receive coverage up to an amount of $150,000 under the provisions of this clause;

"(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to an amount of $50,000 under the provisions of this clause;

"(4) in the case of business property owned, leased, or operated by small business concerns for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraph (B) of paragraph (1) shall be made available to every such owner, lessee, or operator in respect to any single structure, including any contents thereof, related to premises of small business occupants (as that term is defined by the Secretary), up to an amount equal to (i) $250,000 plus (ii) $200,000 multiplied by the number of such occupants which coverage shall be allocated among such occupants (or among the occupant or occupants and the owner) in accordance with the regulations prescribed by the Secretary pursuant to such subparagraph (B), except that the aggregate liability for the structure itself may in no case exceed $250,000;

"(5) any flood insurance coverage which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 1038 which are not less than the estimated premium rates under section 1307(a)(1), and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable; and

"(6) the flood insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973, do not apply to the additional flood insurance limits made available in excess of twice the limits made available under paragraph (1).".

(b) Section 1362 of such Act is amended—

(1) by inserting "(a)" after "SEC. 1362.";

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) incurred significant flood damage on not less than three previous occasions over a five-year period of time and on each occasion the cost of repair, on the average, equaled or exceeded 25 per centum of the value of the structure at the time of each flood event or was damaged substantially beyond repair by flood while so covered,"; and

(3) by adding at the end thereof the following:

"(b) When any real property referred to in paragraphs (1) and (2) of subsection (a) has sustained damage as a result of a single casualty of any nature under such circumstances that a statute, ordinance or regulation precludes its repair or restoration or permits repair or restoration only at a significantly increased construction cost, the Secretary may enter into negotiations with the owner of the property or interest therein for the purchase of such property for the uses and purposes of this section.

"(c) Whenever, as a result of damage from any casualty, the repair, reconstruction, or substantial improvement of any single-family dwelling structure located within a regulatory floodway and insured under the flood insurance program is deemed by the Secretary to be made more effective from the standpoint of prudent flood plain management by elevation of the structure so it will not interfere with the flow of water from the base flood within such regulatory floodway, the Secretary is authorized to make a low-interest loan at a rate of interest of 2 per centum per annum, repayable in ten years, to the owner of any such structure for the purpose of so elevating the structure. There is authorized to be appropriated for purposes of implementing this subsection not to exceed $4,500,000.

"(d) The Secretary is authorized to issue such regulations as may be necessary to carry out the purposes of this section.".

(c) Section 1363 of such Act is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) When, incident to any appeal under subsection (b) or (c), the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Secretary shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Secretary in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection, not to exceed $250,000.".

(d) Section 201 of the Flood Disaster Protection Act of 1973 is amended by adding at the end thereof the following:

"(e) The Secretary is authorized to establish administrative procedures whereby the identification under this section of one or more areas in the community as having special flood hazards may be appealed to the Secretary by the community or any owner or lessee of real property within the community who believes his property has been inadvertently included in a special flood hazard area by the identification. When, incident to any appeal under this subsection, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Secretary shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Secretary in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection not to exceed $250,000.".

TITLE VIII—COMMUNITY REINVESTMENT

SEC. 801. This title may be cited as the "Community Reinvestment Act of 1977".

SEC. 802. (a) The Congress finds that—

(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;

(2) the convenience and needs of communities include the need for credit services as well as deposit services; and

(3) regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

SEC. 803. For the purposes of this title—

(1) the term "appropriate Federal financial supervisory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board of Governors of the Federal Reserve System with respect to State chartered banks which are members of the Federal Reserve System and bank holding companies;

(C) the Federal Deposit Insurance Corporation with respect to State chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Corporation; and

(D) the Federal Home Loan Bank Board with respect to institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation and to savings and loan holding companies;

(2) the term "regulated financial institution" means an insured bank as defined in section 3 of the Federal Deposit Insurance Act or an insured institution as defined in section 401 of the National Housing Act; and

(3) the term "application for a deposit facility" means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

(A) a charter for a national bank or Federal savings and loan association;

(B) deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association or similar institution;

(C) the establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

(D) the relocation of the home office or a branch office of a regulated financial institution;

(E) the merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a regulated financial

institution requiring approval under section 18(c) of the Federal Deposit Insurance Act or under regulations issued under the authority of title IV of the National Housing Act; or

(F) the acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 408(e) of the National Housing Act.

SEC 804. In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall—

(1) assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and

(2) take such record into account in its evaluation of an application for a deposit facility by such institution.

SEC. 805. Each appropriate Federal financial supervisory agency shall include in its annual report to the Congress a section outlining the actions it has taken to carry out its responsibilities under this title.

SEC 806. Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than 390 days after the date of enactment of this title.

TITLE IX—MISCELLANEOUS

INDIAN AND ALASKA NATIVE HOUSING AND COMMUNITY DEVELOPMENT

SEC. 901. Section 4 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following:

"(d)(1) There shall be in the Department a Special Assistant for Indian and Alaska Native Programs, who shall be responsible for coordinating all programs of the Department relating to Indian and Alaska Native housing and community development. The Special Assistant for Indian and Alaska Native Programs shall be designated by the Secretary not later than 60 days after the date of enactment of this subsection.

"(2) The Secretary shall, not later than December 1 of each year, submit to Congress an annual report which shall include—

"(A) a description of his actions during the current year and a projection of his activities during the succeeding years;

"(B) estimates of the cost of the projected activities for succeeding fiscal years;

"(C) a statistical report on the conditions of Indian and Alaska Native housing; and

"(D) recommendations for such legislative, administrative, and other actions, as he deems appropriate.".

MOBILE HOME SAFETY

SEC. 902. (a) Section 604 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(h) The Secretary shall exclude from the coverage of this title any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

"(1) designed only for erection or installation on a site-built permanent foundation;

"(2) not designed to be moved once so erected or installed;

"(3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act; and

"(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.".

(b) Section 610(a) of such Act is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) issue a certification pursuant to subsection (h) of section 604, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.".

HOMEOWNERSHIP COUNSELING

SEC. 903. Section 106(a)(2) of the Housing and Urban Development Act of 1968 is amended by inserting the following immediately before the period at the end of the first sentence thereof: "and may provide such services for other owners of single family dwelling units insured under title II of the National Housing Act".

PROTOTYPE COSTS

SEC. 904. (a) Beginning in calendar year 1979, the Secretary of Housing and Urban Development shall prepare and publish annually prototype housing costs for one- to four-family dwelling units for each housing market area in the United States, as determined by the Secretary. Prototype housing costs for an area shall be determined on the basis of the Secretary's identification and estimate of reasonable construction and other costs (including reasonable allowances for the cost of land and site improvements) for that area of various types and sizes of new one- to four-family dwelling units designed for various segments of the housing market of the area, as determined by the Secretary. In determining prototype housing costs, the Secretary is authorized to take into account the need for durability required for economic maintenance of housing, the need for amenities suitable to assure a safe and healthy family life and neighborhood environment, the application of good design and quality in architecture, and the need for maximum conservation of energy, as well as the advice and recommendations of local housing producers.

(b) The Secretary is authorized to take such action as may be necessary to develop, aggregate, and evaluate data and other information required for the timely development, implementation, and maintenance of the prototype housing cost system referred to in subsection (a).

And the Senate agree to the same.

HENRY S. REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY B. GONZALEZ,
PARREN J. MITCHELL,
LES AUCOIN,
JAMES J. BLANCHARD,
STANLEY LUNDINE,
GARRY BROWN,
WILLIAM STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON A. WILLIAMS,
THOMAS J. MCINTYRE,
ALAN CRANSTON,
ADLAI E. STEVENSON,
JOHN TOWER,
JAKE GARN,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6655) to extend the authorization and modify the community development block grant program, to extend the authorization for annual contributions under the United States Housing Act of 1937, to extend certain housing programs under the Housing Act of 1964, the National Housing Act, the Housing Act of 1949 and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, and the Senate amendment, and the substitute agreed to in conference and noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

OBJECTIVES

The House bill contained provisions, not in the Senate amendment, adding an objective to and clarifying a purpose of the block grant program. It added an objective of alleviating physical and economic distress through the stimulation of private investment and community revitalization in areas with population outmigration or a stagnating or declining tax base. A program purpose of fostering coordinated and mutually supportive housing and community development activities by Federal agencies and programs, as well as by communities, was also added. The conference report contains the House provisions.

DEFINITIONS

The House bill contained a provision not in the Senate amendment which permitted a town or township to be deemed a city if all incorporated places within its boundaries entered into agreements with it to undertake or assist in undertaking essential community development and housing assistance activities. The conference report contains the House provision.

The Senate amendment contained several definitions not in the House bill. The term "housing stock" was defined to mean the number of existing housing units based on U.S. Bureau of the Census data which is referable for all jurisdictions to the same point in time. The term "predicted age of housing" meant the arithmetic product of a metropolitan city's or urban county's housing stock and the ratio between age of housing and the housing stock in all metropolitan areas. The "adjustment factor" was defined as the ratio between a metropolitan city's or urban county's age of housing and predicted age of housing. And the "adjusted age of housing" was defined as the arithmetic product of the age of housing in a metropolitan city or urban county and its adjustment factor. The conference report contains each of these definitions.

The Senate amendment also contained a definition for "allocation amount" which was not in the House bill. It was defined as the greater of an amount which bears the same ratio to the allocation for all SMSAs as either the ratio determined under the dual formula or the Senate proposed third formula. The conference report does not contain this definition.

URBAN COUNTY DETREMINATION

The House bill contained a provision not in the Senate amendment requiring urban counties to notify, by December 1 of each year, any incorporated unit of government whose population is included in the urban county population of the opportunity to

have its population excluded and, after December 1, 1977, the population that is included could be excluded only if the unit of local government notified the urban county of its election on or before December 1 of any year. The conference report contains the House provision modified to maintain the flexibility found in existing law which gives the HUD Secretary authority to set the date by which urban counties are to issue notification. The incorporated unit of government is to notify the urban county of its election to be excluded within 30 days of the urban county's notification.

BASIC BLOCK GRANT AUTHORIZATION

The House bill authorized appropriations for the basic Community Development Block Grant and Urban Development Action Grant programs of not to exceed $3.9 billion, $4.05 billion and $4.2 billion for fiscal years 1978, 1979, and 1980, respectively. The Senate amendment authorized appropriations for the basic Community Development Block Grant program of not to exceed $3.5 billion, $3.65 billion and $3.8 billion. The conference report contains the Senate provision.

FINANCIAL SETTLEMENT FUND AUTHORIZATION

The House bill authorized appropriations of $100 million for each of the fiscal years 1978, 1979, and 1980 for the financial settlement of projects and programs assisted under the categorical programs. The Senate amendment authorized appropriations of $100 million for each of fiscal years 1978, 1979, and 1980 for the financial settlement and to the extent feasible the completion of projects and programs assisted under the categorical programs. The conference report contains the Senate provision. The conference committee wishes to emphasize its intent that in making grants for financial settlement, HUD should facilitate not only the closeout of ongoing projects, but their completion as planned. However, this intent should not be construed to include the completion of as yet unstarted projects.

URBAN DEVELOPMENT ACTION GRANT AUTHORIZATION

The House bill provided that $400 million for each of the fiscal years 1978, 1979, and 1980 be made available out of the basic block grant authorization in each of those years for the Urban Development Action Grant program. The Senate amendment authorized appropriations of $400 million for each of the fiscal years 1978, 1979, and 1980 to fund the Urban Development Action Grant program and, to the extent necessary, the proposed Senate third formula. The conference report contains the Senate provision modified to provide that only urban development action grants may be funded under this authorization.

FUNDING PRIORITIES

The House bill set priorities on funding the basic grant program, the Financial Settlement Fund and the Urban Development Action Grant program. It provided that if amounts appropriated are less than the total amounts authorized for these programs,the sums available will first be used to fund, up to the full authorized level in any fiscal year, the basic program, then the Financial Settlement Fund and last the Urban Development Action Grant program. The Senate amendment provided that if funds made available for the basic grant program were less than the authorized level, the difference would be made up by the funds available for the Senate proposed third formula and the Urban Development Action Grant program. Additionally, the Senate amendment provided that if the funds appropriated for the third formula and the Urban Development Action Grant program were insufficient to meet the funding requirements of the third formula, the grant to each third formula recipient would be ratably reduced. The conference report contains the House provision.

COMMUNITY DEVELOPMENT PLAN SUMMARY

The House bill contained a provision not in the Senate amendment requiring the summary of the 3-year community development plan included in block grant applications to identify housing as well as community development needs. The conference report contains the House provision.

PROGRAM DESCRIPTION

The House bill contained a provision not in the Senate amendment which required that an application for block grant funds describe a program to improve conditions for low- and moderate-income persons residing or expected to reside in the community and to foster neighborhood development in order to induce higher income individuals to remain in or return to the community. The conference report adopted the House provision.

The conference committee believes that a strategy for community development should take into account the needs of all income groups, and, particularly in older distressed cities, the need to encourage higher income persons to remain in or return to the community. The committee, however, does not intend that this amendment change the requirement that community development grant funds must, to the maximum extent feasible, be used for activities primarily benefitting low and moderate income persons or aiding in the prevention or elimination of slums and blight.

CITIZEN PARTICIPATION PLAN

The House bill required a block grant applicant to provide satisfactory assurance, prior to submission of an application, that it has (a) prepared and followed, through public hearings, a written citizen participation plan, which provides the opportunity for citizens, particularly low- and moderate-income people, and residents of blighted neighborhoods to submit proposals and comment on the plans and includes the scheduling of hearings at locations and times which are convenient to all citizens; (b) provided citizens with adequate information concerning important program requirements, including the range of activities that may be undertaken and the amount of funds available for proposed block grant and housing activities; (c) prepared and will follow a plan providing citizens an opportunity to participate in monitoring and evaluating the implementation of the community development program. The Senate provision was similar to the House bill but did not require assurances that the applicant has followed a written citizen participation plan and did not require that citizens have an opportunity to participate in monitoring and implementing the program. The Senate provision required in addition that the plan provide for a timely response by the applicant to proposals submitted by citizens and reiterated existing law that nothing in the citizen participation requirements restricts the responsibility and authority of the applicant to develop and execute its community development program. The conference report contains the Senate provision, amended to require (a) a written citizen participation plan, (b) that citizens have an opportunity to submit comments concerning the community development performance of the applicant, and (c) that citizens' comments on the community development performance of the applicant be included in the performance report prepared by the department and that the Secretary shall take those comments into consideration in reviewing that report.

WAIVER OF REQUIREMENTS

The House bill contained a provision not in the Senate amendment which permitted the Secretary to waive certain block grant requirements in the case of small communities where the application does not involve a comprehensive community development program, as determined by the Secretary. The conference report contains the House provision.

ADJUSTMENT TO DISCRETIONARY GRANT AMOUNTS

The House bill contained a provision not in the Senate amendment which authorized the Secretary to adjust, reduce, or withdraw grants made from the metropolitan and nonmetropolitan discretionary balances or take other action with respect to such grants as appropriate in accordance with the reviews and audits conducted under section 104(d), except that funds already expended on eligible community development activities could not be recaptured or deducted from future grants made to the recipient. The conference report contains the House provision.

STATE ROLE IN DISCRETIONARY GRANT SELECTION PROCESS

The House bill authorized the Secretary to provide an opportunity for a State to participate in the selection process for funding discretionary grants to localities within the State. Such participation could include, as determined practicable by the Secretary, the incorporation of State growth and resource coordination policies in funding decisions on such grants, or such other arrangements, excluding the administration of discretionary grants, as the Secretary deemed appropriate. The Senate amendment contained no similar provision. The conference report contains the House provision. The committee wishes to emphasize that the role of the State may be only consultative, and that a State may not exercise a veto power over selection of discretionary grant recipients.

GRANT DRAWDOWN FOR REHABILITATION PROGRAMS

The House bill contained a provision which required HUD, on a case by case basis, to permit grant recipients to drawdown in one payment amounts designated in the community development application and approved by the Secretary for the establishment in a private financial institution of a revolving loan fund to finance rehabilitation activities which would have to begin within 45 days of payment by HUD. The Senate amendment was similar except the Secretary was authorized instead of required to permit the drawdown. The conference report contains the House provision.

The term "revolving loan fund" is employed to make clear that a locality may establish a revolving fund with a lump sum drawdown and then reuse repayments for additional loans without securing further approval from the Department of Housing and Urban Development. The term is not intended to narrowly restrict the kinds of financing techniques which may be used with lump sum drawdown by localities. In writing regulations to establish the appropriate benefits which localities should gain from lump sum drawdown of CDBG funds, the Department should emphasize particularly quantifiable benefits such as payment of interest.

HOUSING ASSISTANDE PLAN

The Senate amendment contained a provision not included in the House bill which required housing assistance plans to (1) identify housing stock which is deteriorated or likely to deteriorate and to provide for the reclamation of such housing where feasible through the use, by local government, the private sector, or community organizations, of a broad range of housing restoration techniques, including acquisition and rehabilitation; (2) include adequate provision to insure that the preponderance of families benefiting from subsidized housing rehabilitation is of low and moderate income, and that a reasonable proportion of rehabilitated

units is set aside to give tenants displaced as a result of the rehabilitation efforts an opportunity to be relocated in their immediate neighborhood; and (3) designate, to the maximum extent practicable, one or more areas where housing rehabilitation and neighborhood revitalization will be concentrated. The conference report contains the Senate provision amended to provide that the HAP should include (1) an identification of the housing stock in a deteriorated condition, (2) adequate provision that families of low- an moderate-income are assured that a preponderance of subsidized rehabilitated housing will be made available to them, and (3) provisions requiring that in indicating the location of proposed housing for lower income persons additional objectives should be the reclamation of the housing stock where feasible through a broad range of techniques by local government, the private sector or community organizations, and to provide for a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood.

The conference committee wishes to make clear its intent that a community in outlining a rehabilitation program pursuant to its HAP should, except where it has been demonstrated to the Secretary that it is necessary to assist in low and moderate income housing deconcentration, to meet immediate relocation needs, or to eliminate conditions detrimental to public health and safety, concentrate its efforts in contiguous neighborhood areas. The conference committee believes that a concentrated rehabilitation program is far more desirable and effective than a scattered rehabilitation program.

INCOME GROUPS TO BE BENEFITED

The Senate amendment contained a provision not in the House bill which changed the income groups which should benefit from Community Development activities from 'low or moderate income families' to 'low and moderate income families'. The conference report includes the Senate provision.

URGENT NEEDS

The Senate amendment required that an application setting forth community development needs having a particular urgency have such urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available. No similar provision was contained in the House bill. The conference report contains the Senate provision.

APPLICATION DISAPPROVAL

The Senate amendment contained a provision not included in the House bill which provided for the disapproval of block grant applications which do not comply with the requirements of the block grant program and specifically with the primary purpose that the program principally benefit persons of low- and moderate-income. The conference report contains the Senate provision amended to specifically incorporate the present law requirements that no application be approved unless it: (1) aids in the prevention or elimination of slums and blight, (2) principally benefits persons of low- and moderate-income, or (3) meets a need of particular urgency.

NEIGHBORHOOD REVITALIZATION ACTIVITIES

The Senate amendment contained a provision not included in the House bill which required block grant applicants, to specifically identify those resources, other than block grant funds, to be used for activities designed to revitalize neighborhoods for the benefit of low- and moderate-income persons. The conference report includes the Senate provisions.

Eligible activities

ECONOMIC DEVELOPMENT

The House bill contained a provision which made economic development an eligible activity when carried out by public or private nonprofit entities or by minority enterprises small business investment companies (MESBIC'S) and when necessary and appropriate to meet the needs of the recipient's community development plan. The economic development activities included but were not limited to: (1) the acquisition of real property; (2) the acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities, site improvements and utilities, and (ii) commercial or industrial buildings; (3) planning; and (4) assistance to local development corporations meeting criteria established by the Secretary. The Senate amendment contained a provision similar to the House bill except that for public and private nonprofit entities eligible activities were limited to those listed. Neighborhood based nonprofit organizations and MESBICS were not limited to those listed activities. Also, no HUD criteria were specified for local development corporations. The conference report contains the Senate provision amended to provide, as in the House bill that local development corporation activities are not limited to those listed.

PUBLIC SERVICES

The House bill contained a provision not included in the Senate amendment which prohibited the use of block grants for public services if such services were provided by the unit of government within 12 months preceding the community development application unless HUD found that their discontinuation was due to events not within the applicant's control. The conference report contains the House provision.

COMPREHENSIVE STRATEGY REQUIREMENT

The Senate amendment contained a provision not included in the House bill which required that to be eligible for funds, block grant activities must carry out a comprehensive strategy for meeting the community development and housing needs and priorities identified in the application, giving primary attention to activities benefiting low- and moderate-income persons and neighborhoods. The conference report contains the Senate provision amended to specifically incorporate existing law that the comprehensive strategy be directed toward principally benefitting persons of low- and moderate-income or aiding in the preventing or elimination of slums and blight. The amended provision also makes clear that the CD activities are required only to assist in carrying out the comprehensive strategy.

Basic Grant Determinations

DUAL AND THREE FORMULA APPROACHES

The House bill provided, with regard to the allocation of funds in the basic program, that metropolitan cities and urban counties are entitled to receive the greater of amounts calculated under present law (current formula or hold harmless, whichever is greater) or a second formula employing the following factors: growth lag (weighted .2), poverty (weighted .3), and age of housing (weighted .5). The Senate amendment included this second formula and added a third formula using factors of growth lag, poverty and adjusted age of housing, weighted .2, .3 and .5 respectively. This third formula was to be phased in during fiscal years 1978 and 1979. Each community would be entitled to the greater of the amount calculated by the first two formuli plus 50 percent in fiscal year 1978 and 75 percent in fiscal year 1979 of the differences between that amount and the amount calculated under the third formula. The conference report contains the House provision.

EXCLUSION OF HOLD HARMLESS LOCALITIES FROM GRANT DETERMINATIONS

The House bill required the exclusion of units of general local government which are entitled to hold harmless grants from computations to determine urban county basic grant amounts and discretionary grant allocations for metropolitan and non-metropolitan areas. The Senate amendment provided similar exclusions except that communities which receive grants from the metropolitan discretionary balance for comprehensive community development programs would also be excluded from urban county grant determinations and Indian tribes entitled to hold harmless grants would be excluded from calculations for discretionary grant allocations. The conference report contains the House provision.

Phase down of hold harmless

The House bill provided that the phase down of hold harmless grant entitlements for metropolitan cities and urban counties, as required under current law, be calculated against the higher of the amounts computed under the present or the new second formula. The Senate amendment retained the present law method of computing the phase down of hold harmless entitlements of these communities except that no such community could receive less than 80 percent of the previous year's aggregate grant amount. The Senate amendment also provided that if the appropriations were insufficient to meet this requirement, 60 percent of the needed funds (up to $15 million) would be transferred from funds set aside for metropolitan discretionary grants and 40 percent (up to $10 million) would be transferred from the non-metropolitan discretionary balances. The conference report contains the House provision.

Small Communities

DISCRETIONARY BALANCE ALLOCATION

The House bill contained a provision which allocated the discretionary balance for metropolitan and non-SMSA areas on a State-by-State basis. Another House provision required that the allocations be made in accordance with the higher of amounts determined under two formulas: the existing formula or a second formula using as factors age of housing (counted 2½ times), extent of poverty (1½ times) and population (once). The Secretary was required to make pro rata reductions of allocations to compensate for the difference between the total to be allocated and the total amounts available. The Senate provision was similar, but gave grants for comprehensive community development programs the same funding priority as hold harmless with the remainder available for formula allocation. The Senate version also added Indian tribes as specific hold harmless recipients. The conference report contains the House provision.

COMPREHENSIVE COMMUNITY DEVELOPMENT PROGRAM

The House bill provided for three-year grant commitments for localities having a comprehensive community development program which provided for lower-income housing. In making such commitments, the Secretary was required to give special consideration to smaller, hold-harmless communities presently carrying out comprehensive community development programs and to consider such factors as economic redevelopment activities, past community development performance, function as a regional center of economic development and activity, potential for having increased employment as a result of community development activity, physical and economic deterioration, impact of national policy or direct Federal program decisions on the locality's growth, extent to which the locality's program is necessary to alleviate a serious threat to health or safety, and any other

factors deemed by HUD to be relevant to carrying out the purposes of the block grant programs. The House provision also required the Secretary to distribute discretionary funds to insure that a reasonable proportion of grants is available to localities not seeking funds for comprehensive community development programs.

The Senate amendment provided for multiyear instead of three-year commitments, subject only to the availability of appropriations. In making commitments, the Secretary was required to give due consideration to past and present performance and to fund smaller hold-harmless communities with comprehensive community development programs before making new commitments. For participating communities, the Secretary was required to establish an annual entitlement amount which was meaningful in relation to the community's size, proposed program, capacity, past and present block grant funding levels, age of housing, poverty and impact of national policy or direct Federal program decisions. Commitment amounts for hold-harmless communities were to include hold-harmless entitlement amounts.

The conference report contains the House provision amended to permit multiyear commitments of up to three years duration and to require that the Secretary give special consideration to communities presently carrying out a comprehensive community development program and presently receiving hold harmless grants before making new commitments. The amended provision also requires that the Secretary establish for each participating community an annual grant amount meaningful to the size of the community and the comprehensive program identified by the community.

Reporting Requirements

FORMULA ALLOCATION

The House bill contained a provision not in the Senate amendment which required the Secretary of HUD to report, not later than March 31, 1979, to Congress with respect to the adequacy, effectiveness and equity of the formula used for block grant fund allocations with analysis and recommendations as to the feasibility of using impaction as a measurement consideration and of using a single formula. The term impaction was defined as the intensity measured in absolute numbers and proportions of each needs factor. The conference report contains the House provision amended to change the reporting date to September 30, 1978, and to identify adjusted age of housing and poverty as factors of impaction which should be considered in addition to factors identified by the Secretary. The conferees expect the Secretary to make use of sources outside the Department in making the recommendations required in this report.

URBAN DEVELOPMENT ACTION GRANT

The House bill contained a provision not included in the Senate amendment which required that the annual report on the community development program submitted to Congress also contain a list of each local government unit receiving, and the amounts of, urban development action grants, as well as a brief summary of the projects funded, the extent of financial participation by other public or private entities, and the impact on employment and economic activity of such projects during the previous fiscal year. The conference report contains the House provision.

SMALL CITIES TASK FORCE

The Senate amendment contained a provision not included in the House bill which required HUD to establish and chair a Task Force on Small Cities to study and report with legislative recommendations within one year on the developmental needs of small cities, i.e. cities which have a population of less than 50,000 and are not central cities of metropolitan areas. The task force was required to: (1) take steps to improve the data available about small cities; (2) suggest means of reducing the duplication in government programs in jurisdictions which affect small cities; and (3) consider all of the relevant differences and similarities between small and large cities, particularly in the areas of housing, growth, development patterns, infrastructure, education, energy needs and social development. In addition, the task force was to include in its report alternative, verifiable formulae to be used in the distribution of discretionary balance funds available for allocation under the block grant program.

The conference report contains the Senate provision amended to delete the establishment of the task force but to require the Secretary to conduct the specified study. The conference committee directs the Secretary to involve representatives of small cities in the development of the study and the legislative recommendations.

URBAN FISCAL CRISIS REPORT

The Senate amendment contained a provision not included in the House bill which required HUD, in consultation with the Treasury, to send to Congress by March 1, 1978, a report analyzing the urban fiscal crisis, including, but not limited to: (1) the number and characteristics of cities presently suffering from or nearing fiscal stress; (2) the causes of fiscal stress; and (3) specific recommendations and options which are or should be available to the Federal, State, and local governments for preventing and/or reversing fiscal stress. The conference report does not contain the Senate provision. However, it is the intent of the conferees that the National Urban Policy Report as authorized in title VI should include an analysis of the urban fiscal crisis as outlined in this Senate provision.

Miscellaneous

DEFICIENCY IN GRANT AMOUNTS

The House bill contained a provision not included in the Senate amendment which required that if the total amount available in fiscal years 1978 and 1979 for distribution under section 106 is insufficient to meet all basic grant and hold-harmless needs, and funds are not otherwise appropriated to meet the deficiency, the Secretary will make up the shortfall through a pro rata reduction in all entitlements and discretionary amounts. The conference report includes the House provision.

SECRETARY'S DISCRETIONARY FUND

The House bill contained a provision not included in the Senate amendment which made States, units of local government, Indian tribes, and areawide planning organizations eligible for grants from the discretionary fund for the purpose of providing, directly or through contracts, technical assistance in planning, developing, and administering block grant assistance. The conference report contains the House provision.

The conference report includes a provision included in both the Senate and House bills which established a separate funding mechanism for Indian tribes by authorizing grants to tribes out of the Secretary's Discretionary Fund. The Secretary's Discretionary Fund was increased from 2% to 3% of the total amount available for basic community development block grants to accommodate this change. It is anticipated that this approach will result each year in a level of funding for Indian tribes which is commensurate with the level of tribal needs as based on the elements of the original block grant formula.

The House bill contained a provision not included in the Senate amendment which reduced from 25 percent to 15 percent the amounts set aside in the discretionary fund for each year which may be used for grants to meet emergency community development needs caused by federally recognized disasters. The conference report contains this provision.

LOAN GUARANTEE

The House bill contained a provision requiring that guaranteed indebtedness could only cover acquisition of real property while the Senate amendment provided that guaranteed indebtedness could cover either the acquisition or the rehabilitation of real property. The conference report contains the Senate provision amended to limit the use of guaranteed indebtedness to the acquisition of real property and the rehabilitation of publicly owned real property.

A House provision not included in the Senate amendment eliminated the present requirement that the real property to be acquired serve or be used in carrying out eligible block grant activities identified in the community development application. The conference report contains the House provision.

The House bill contained another provision which replaced present conditions for making a guarantee with requirements that (a) the total outstanding obligations guaranteed not exceed three times the grant amount approved under section 106(b) for the same program period and (b) the recipient pledge, to assure repayment of obligations and charges incurred, present and future block grants and such other security determined by the Secretary, including increments in local tax receipts generated by block grant assisted activities. The Senate amendment contained a similar provision except that the total guaranteed amount could not exceed three times the grant amount approved under section 106. HUD would also be required to enter into a contract with the recipient calling for repayment of the guaranteed obligation over a six-year period. The recipient was also specifically permitted to pledge the disposition proceeds from the sale of land or rehabilitated property to assure repayment of obligations incurred.

The conference report contains the Senate provision amended to eliminate the requirement of a six-year repayment period. The conferees do not intend, by removing the six-year requirement, to imply that it would be generally appropriate to authorize a repayment period longer than the six-years. However, the conferees, by permitting greater flexibility as to repayment period, expect the department to critically appraise each project and to authorize a repayment period longer than six years only where necessary to achieve the purposes of the community development program.

The Senate amendment contained a further provision, not included in the House bill, requiring all securities guaranteed under these provisions to be subject to taxation and requiring that an interest rate subsidy of 30 percent be provided by the Federal Government to compensate the locality for the higher interest costs associated with taxable securities. The conference report contains the Senate provision amended so that the amounts available for the subsidy are subject to appropriations.

The Senate amendment contained another provision, not included in the House bill, which limited the total amount of outstanding obligations guaranteed on a cumulative basis to $3.5 billion or such higher amount as may be authorized to be appropriated pursuant to sections 106 and 107 for any fiscal year. The conference report contains the Senate provision.

URBAN DEVELOPMENT ACTION GRANTS

The House bill provided for an Urban Development Action Grant (UDAG) program and required that the applicant's plan

for the use of the grant be consistent with, where it exists and is in effect, the overall economic development plan provided for in the Public Works and Economic Development Act of 1965 but only in the event and after such time as the overall economic development plan is required to be consistent with the community development program. The Senate amendment contained a similar provision without tying the requirement of consistency to the event and time when the overall economic development plan is required to be consistent with the community development program. The conference report contains the House provision.

The House bill contained another provision which detailed the UDAG selection criteria, made them mandatory, and included as one of the criteria the extent of assistance to be made available by the State. The Senate amendment contained the same criteria with the exception of the extent of assistance by the State; however, it did not require the use of the listed criteria. The conference report contains the House provision amended to make the primary selection criteria the comparative degree of physical and economic distress as principally determined (for metropolitan cities and urban counties) through the differences in extent of growth lag, poverty, and the adjusted age of housing.

The conference report provides that the primary criterion for the selection of UDAG recipients would be the comparative degree of physical and economic distress among applicants, as measured by the factors in the Senate's impaction formula—the extent of growth lag, the extent of poverty, and the adjusted age of housing. By defining the principal selection criterion for UDAG recipients in this manner, the Conferees endorse the concept of impaction as an important means of measuring the relative economic and physical distress among the nation's cities. Moreover, the conferees intend that UDAG funding be assured to the cities and urban counties in greatest distress as determined according to the Senate's weighted impaction formula factors, recognizing that those communities must also propose feasible and effective projects.

The conference report also requires the Secretary to include among the selection criteria other factors relevant to the assessment of comparative degrees of physical and economic distress among UDAG applicants. The conferees wish to make clear that those additional factors would be secondary in importance to those of the Senate's impaction formula. The conferees have also recognized that in the case of small (non-entitlement) cities, data for each of the elements of the Senate's impaction formula, particularly growth lag, may not be available. The conferees, therefore, intend that if the comparative degree of distress among non-entitlement applicants cannot be measured using each of the elements of the Senate's impaction formula, then the Secretary shall substitute other relevant and comparable measurements of such distress.

The Senate amendment contained a provision not included in the House bill which required the Secretary to allocate UDAGs in order to achieve a reasonable balance among programs designed primarily to: (1) restore seriously deteriorated neighborhoods; (2) reclaim underutilized real property for industrial purposes; and (3) renew commercial employment centers. The conference report contains the Senate provision.

The House bill contained a requirement that, before UDAGs are made for business loans or industrial development, HUD consult with and coordinate such assistance with other Federal agencies which make funds available for similar activities. The Senate amendment required that UDAGs not be used for business loans or industrial development unless the Secretary of HUD determined such assistance is not available under the Public Works and Economic Development Act of 1965. The conference report contains the House provision.

The House bill contained a provision not found in the Senate amendment which required the Secretary, at least on an annual basis, to review and audit UDAG recipients to determine the progress made in carrying out activities substantially in accord with approved plans and timetables; HUD could adjust grants and take other appropriate action based on reviews and audits, except that funds spent on eligible activities could not be recaptured or deducted from future grants. The conference report contains the House provisions.

The House bill contained a further provision not included in the Senate amendment which prohibited UDAGs for projects intended to facilitate the relocation of industrial or commercial plants or facilities unless HUD found that the relocation would not significantly and adversely affect the unemployment or economic base of the area from which the relocation was proposed. The conference report contains the House provisions.

The House bill contained another provision not included in the Senate amendment which required UDAG applicants to meet citizen participation requirements comparable to those proposed for block grant applicants. The conference report contains the House provision.

Other Community Development Programs

Section 312 rehabilitation program

The House bill and the Senate amendment extended the section 312 rehabilitation program for two years and authorized $60 million for fiscal year 1978. In addition, the Senate amendment increased the maximum 312 loan amount for residences to $27,000 per dwelling unit. The conference report contains the Senate provision. In extending authorization for the section 312 rehabilitation loan program, the conferees expect that the Secretary will take all steps necessary for assuring that the repairs and improvements undertaken through this loan assistance will be done in a professional manner and in accordance with high standards of workmanship. By increasing the maximum amount of loans in this program, the conferees intend to establish more realistic loan limits so as to enable substantial rehabilitation where it is required to adequately improve properties for future use.

Comprehensive planning

The House bill authorized an appropriation of $80 million for fiscal year 1978 and required that not less than 20 percent of the appropriations for fiscal year 1978 and for succeeding fiscal years be made available for planning grants to cities (including the District of Columbia) with populations of at least 50,000 and urban counties, as defined in the block grant program. The Senate amendment authorized an appropriation of $75 million for fiscal year 1978 and did not contain a 20 percent set aside. The conference report contains the Senate provision.

Effective date

The House bill contained a provision, not included in the Senate amendment, which established that the amendments made in title I of the bill would not become effective before October 1, 1977. The conference report contains this provision.

TITLE II—HOUSING ASSISTANCE AND RELATED PROGRAMS

Housing Authorizations

Increased contract authority for annual contributions

The House bill provided $1,232,120,000 of additional annual contributions contract authority under section 5(c) of the United States Housing Act of 1937 (hereinafter the "USHA") to become available in fiscal year 1978 in amounts approved in appropriation acts. The Senate amendment provided $1,116,620,000 of such additional annual contributions contract authority. The conference report contains the House provision amended to provide a total of $1,159,995,000 in such additional annual contributions contract authority.

Traditional public housing

The House bill limited the amount of the total additional authorization for annual contributions contracts which could be used to assist housing units other than under section 8 of the USHA to no more than $198,200,000. The Senate amendment did not limit the amount of total funds allocated to assist housing units other than under section 8, but did contain a provision to require not less than $42,500,000 of such additional contract authority be available for modernization of traditional public housing projects. The conference report contains the Senate provision.

Housing for the elderly or handicapped

The Senate amendment contained a provision not included in the House bill which set aside not less than $120,000,000 of the total additional low-income housing contract authority for projects for the elderly or handicapped receiving loan assistance under section 202 of the Housing Act of 1959. The conference report contains the Senate provision.

Loan management

The Senate amendment contained a provision not included in the House bill which limited the amount of the total additional low-income housing contract authority which could be used for housing units in projects held by or assigned to the Secretary or insured under Title II of the National Housing Act which are threatened with foreclosure to no more than $136,000,000. The conference report does not contain the Senate amendment. However, the conferees wish to make clear the serious concern they have that a disproportionate amount of increased contract authority might be used in projects held by or assigned to the Secretary and threatened with foreclosure. Therefore, the conferees expect that the Secretary will limit the use of these increased funds to the number of housing units under the existing loan management category as contained in HUD's adjusted budget estimates—approximately 55,000 housing units. The conferees also expect that the Secretary in the future authorization requests will specifically identify that portion of the total authorization requested which she anticipates will be used for loan management purposes.

Notification to Congress

The House bill contained a provision not included in the Senate amendment which prohibited the Secretary of HUD and public housing agencies, after the date of enactment of the Housing and Community Development Act of 1977, from agreeing to enter into an annual contributions contract under section 8 of the USHA, before giving 30 days notice to the Representative and Senators in whose district or State the assisted housing is or will be located. The notice was to include location, number and type of units, number and age or income group of occupants, person with whom the agreement will be entered into, and date for commencement of any rehabilitation or construction. The conference report does not contain this provision.

Cost and high-rise limitations on section 8

The House bill contained a provision not included in the Senate amendment which prohibited the Secretary from entering into

contracts under section 8 for assistance to units in which debt service plus any FHA insurance premium exceed $100 per month per room. The conference report does not contain this provision, however, the conferees urge the Secretary to make every effort to hold down costs consistent with the need to provide shelter in high cost areas.

The House bill contained a provision not included in the Senate amendment requiring the Secretary to prohibit the use of section 8 for assistance to units in high-rise elevator projects for families with children unless there was no practical alternative. This prohibition would not apply in the case of units in projects to be located in Alaska or Hawaii. The conference report contains this provision.

Prohibitions regarding occupied units

The Senate amendment contained a provision not in the House bill which prohibited the Secretary from providing section 8 housing assistance payments for occupied dwelling units where families continued in occupancy, unless the local public housing agency certified that special circumstances, including but not limited to, size and composition of families, age of occupants, and cost and availability of alternate housing, made such utilization of these dwelling units appropriate. This provision is not contained in the conference report.

The conferees are concerned that too little attention has been paid to utilizing section 8 housing assistance as a means of upgrading the housing stock, which is one of the major objectives of the section 8 housing assistance program. The conferees recognize that there is merit in using section 8 housing assistance payments in occupied dwellings. Such use of this assistance can aid in stabilizing and maintaining viable neighborhoods and often can meet the special housing needs of large size families and elderly or handicapped families. Therefore, the conferees direct the Secretary to establish procedures which will assure that in utilizing section 8 assistance, adequate attention is given to improving the housing stock, in addition to meeting the special needs of lower income families, and stabilizing and revitalizing neighborhoods.

PRIORITY IN SECTION 8 ASSISTANCE

The Senate amendment contained a provision not included in the House bill which directed the Secretary in providing assistance under section 8, to give priority to the utilization of new or substantially rehabilitated housing in communities having a less than adequate rental vacancy rate for non-seasonal and available rental units suitable for low- and moderate-income persons, including large families, and in other communities to give priority to the utilization of the existing housing stock. The conference report does not contain this provision.

The conferees are concerned that existing section 8 regulations by emphasizing overall vacancy rates, fail to consider adequately the needs for new construction in some communities. Therefore, the conferees expect the Secretary to re-examine and to revise the section 8 regulations accordingly.

ACCESSIBILITY TO THE HANDICAPPED

The House bill contained a provision not found in the Senate amendment which directed the Secretary to issue and implement regulations to insure that an adequate number of new or substantially rehabilitated section 8 units be designed to afford ready access to and use by physically handicapped persons. This provision is not contained in the conference report because the conferees believe that the Secretary is already taking steps to meet this objective. The conferees commend the Secretary for her actions in assuring that section 8 housing assistance will be available for housing designed to accommodate the special needs of physically handicapped persons. These actions will insure that a portion of all authorized section 8 housing assistance will be available for the special housing needs of these persons in accordance with the conferees' intent.

OPERATING SUBSIDIES

The House bill authorized appropriations for operating subsidies under section 9(c) of the USHA in an amount not to exceed $665,000,000 in fiscal year 1978. The amount authorized in the Senate amendment for these subsidies was not to exceed $708,100,000 for the same fiscal year. The conference report contains the House provision amended to authorize appropriations for these subsidies in a total amount of not to exceed $685,000,000 in fiscal year 1978.

PAYMENTS IN LIEU OF TAXES

The Senate amendment contained a provision not found in the House bill directing the Secretary to conduct a study of payments made in lieu of taxes which are authorized under section 6(d) of the USHA and to report to the Congress on the status and adequacy of such payments not later than 12 months after the date of enactment of this Act. The conference report contains this provision.

SECTION 202 PROCESSING REQUIREMENTS

The House bill contained a provision not included in the Senate amendment that directed the Secretary to issue regulations, as soon as practicable after enactment, requiring processing of section 202 projects which also involve subsidy assistance under section 8 to be coordinated in an economical and efficient manner. The conference report includes the House provision.

RESEARCH AUTHORIZATIONS

The House bill contained a provision authorizing appropriations for research and development activities under title V of the Housing and Urban Development Act of 1970 of an amount not to exceed $65 million for fiscal year 1978. The Senate amendment contained a provision authorizing appropriations of an amount not to exceed $60 million for research and development in fiscal year 1978. The conference report contains the Senate provision.

SECTION 235 ELIGIBILITY

The Senate amendment contained a provision not in the House bill which permitted assistance payments made pursuant to section 235 of the National Housing Act to be used in cooperative housing developments financed with a mortgage insured under section 221(d)(3) of the National Housing Act. The conference report includes the Senate provision. In permitting section 235 assistance payments to be used in cooperative housing developments, however, the conferees expect that such assistance will be limited to townhouse developments and not be permitted for use in high-rise developments.

SECTION 236 OPERATIOG SUBSIDIES

The House bill contained a provision to amend section 236(f) of the National Housing Act to require the Secretary to make, to the extent approved in appropriations acts, section 236 operating subsidy payments. It also specified that non-insured projects assisted under a State or local program providing assistance through loans, loan insurance, or tax abatement, are eligible for operating subsidies provided under section 236. It also expanded the subsidy coverage to include increases in all operating and maintenance expenses payable by the project owner, rather than only the cost of utilities and local property taxes as under existing law. The period used for establishing the initial operating expense level for a project was changed to the 12-month period following the date on which a project first achieves 50-percent occupancy, and a project became eligible for operating subsidies within 90 days of establishment of the initial operating expense level but not prior to October 1, 1977. It provided that all projects with contracts entered into prior to the enactment of this Act would have their initial operating expense level established within 180 days of the enactment date of this Act. It also authorized contracts to be amended periodically for appropriate adjustments. The Senate amendment also contained provisions to amend sections 236(f). It required the Secretary to make, to the extent of moneys in the reserve fund established under section 236(g) and to the further extent of funds authorized in appropriation acts, operating subsidy payments for increases in the cost of utilities and local property taxes above the initial operating expense level established at the time the project became fully occupied. It deleted a provision in existing law basing determination of the amount of subsidy on a percentage of a tenant's income payable for rent for each unit, and required instead that payments be used to reduce basic rental charges established for the project. It also deleted the existing provisions authorizing periodic adjustments in the amount of subsidy payments and required instead single year contracts for payments, with renewals and appropriate adjustments annually to the extent approved in appropriation acts. An existing provision which authorizes payments only if Secretary determines that cost increases are reasonable and comparable to increases affecting other rental projects was amended to authorize payments unless the Secretary found that such cost increases were not reasonable and comparable.

The conference report contains the House provision, amended to: (1) direct the Secretary to make additional section 236 operating subsidy payments to cover increases in utility and local property tax costs in excess of initial operating expenses to the extent of funds in the reserve fund and to the further extent of funds authorized in appropriation acts; (2) provide that such payments shall be used to reduce the basic rental charges established in the project; (3) require that contracts for additional monthly assistance payments be made for a one-year period and adjusted annually to the extent approved in appropriation acts; (4) provide that such payments be made unless the Secretary finds such increases to be unreasonable; (5) require the Secretary to establish an initial operating expense level for projects with contracts entered into prior to the enactment of the Housing and Community Development Act of 1977 not later than 180 days after enactment; and (6) provide that the amendments made by these provisions shall be effective on October 1, 1977, and to clarify that they shall be applicable to all assistance payments made with respect to any period commencing after that date.

The conferees intend by these amendments that the Department of Housing and Urban Development make operating subsidy payments from the reserve fund established under Section 236(g), as well as from monies approved in appropriation Acts. The reserve fund is to remain fully available for the payment of such operating subsidies as approved in appropriations acts. The conferees are further aware that HUD has asserted in litigation that it does not have sufficient contract authority to make such payments to the full extent of monies in the reserve fund. These amendments are intended to clarify that while the Secretary is authorized to enter into contracts with project owners to make such payments, no contract authority is needed to spend the reserve funds for operating subsidies.

It is expected that the Secretary in making single year contracts for operating subsidy payments will ensure that the contracts con-

tain adequate provisions for all anticipated cost increases over the term of the contract.

The conferees intend that these amendments shall not prejudice the rights or liabilities of any party presently before the courts seeking operating subsidy payments pursuant to Sections 236(f)(3) and 236(g). The conferees do intend, however, that any relief awarded shall be used by the project owner solely to effect a reduction in the basic rental charges established for the project and actually charged to the tenants of such projects. In addition, while the amendments agreed to give the Department 180 days from the enactment of this Act to establish initial operating expense levels for projects financed under Section 236; it is the intent of the conferees that additional monthly assistance payments authorized by these amendments shall be made prospectively as of the effective date of these amendments to Section 236.

REFLECTION OF HAP'S IN HOUSING SUBSIDY FUND ALLOCATION

The Senate amendment contained a provision not included in the House bill which amended section 213(d) of the Housing and Community Development Act of 1974 to direct the Secretary to assure, to the maximum extent practicable, that funds available for all HUD housing assistance programs shall be allocated or reserved and shall be utilized in accordance with needs and goals described under subsection 213(d) and goals described in local, State or other housing assistance plans approved by the Secretary under section 104 of the Housing and Community Development Act of 1974. The conference report contains the Senate provision.

EXTENSION OF NEW COMMUNITIES SPECIAL PLANNING GRANT AUTHORITY

The House bill contained a provision which extended through September 30, 1978, the Secretary's authority to make special planning assistance grants under section 720 of the HUD Act of 1970 to private new community developers and state land development agencies. The Senate amendment did not contain such a provision. The conference report incorporates the House provision.

EXTENSION OF TREASURY DRAW AUTHORITY

The House bill contained a provision, not in the Senate amendment, which amended section 14(b) of the Federal Reserve Act to reinstitute and extend until October 1, 1977, tne Treasury Department's draw authority on the Federal Reserve Banks and to reinstitute and extend until September 30, 1977, the authority of the Federal Reserve Banks to purchase U.S. obligations directly from the Treasury up to a limit of $5 billion outstanding at any one time. The conference report contains the House provision.

TITLE III—EXTENSION OF HUD PROGRAMS

FHA Mortgage Insurance

EXTENSION OF FHA MORTGAGE INSURANCE AUTHORITIES

The House bill contained a provision not in the Senate amendment which extended the authority of the Secretary to insure mortgages under section 221(d)(2) of the National Housing Act, through September 30, 1978. The conference report contains this provision.

SECTION 235

The House bill contained provisions for increasing the section 235 mortgage limits for single family units from $25,000 to $31,000 (and $29,000 to $36,000 for families of five or more persons); in high cost areas, limits were increased from $29,000 to $36,000 (and from $33,000 to $42,000 for five or more persons). The Senate amendment increased section 235 limits for single family units from $25,000 to $34,000 and from $29,000 to $40,000 for families of five or more persons. In high cost areas, these section 235 limits were increased from $29,000 to $40,000 and from $33,000 to $46,000 for families of five or more persons. Section 235 limits were also increased for two-family units from $28,000 to $46,000 and from $36,000 to $54,000 in high cost areas. The conference report contains the House provision amended to increase section 235 single family limits from $25,000 to $32,000 and from $29,000 to $38,000 for families of five or more persons. In high cost areas, these section 235 limits would be increased from $33,000 to $44,000. In the case of two-family units the limits are increased from $28,000 to $44,000 and in high cost areas from $36,000 to $49,000.

The House bill also contained provisions limiting the number of units with mortgages insured under section 235 in any specific subdivision to 40 percent of all units in such subdivision. The Senate amendment did not restrict the concentration of section 235 units in any specific subdivision. The conference report retains the 40 percent limitation with the exception that it shall not apply in the case of rehabilitated units or to units or subdivisions in urban neighborhoods or areas for which the Secretary determines that there is a sound proposal supporting the concentration of subsidized units beyond the limitation provided, and that an aggregation of such subsidized units is essential to a community's overall redevelopment plan.

INCREASE IN OTHER MORTGAGE LIMITS

The House bill contained a provision which was not included in the Senate amendment increasing section 220(d)(3)(A) limits from $45,000 to $60,000 for single-family units, from $48,750 to $65,000 for two- and three-family units, and from $56,000 to $75,000 for four-family units. The conference report contains the House provision.

The House bill contained a provision which was not included in the Senate amendment increasing section 221(d)(2) limits for single-family units from $25,000 to $31,000 (and from $29,000 to $36,000 for families of five or more persons); in high cost areas limits were increased from $29,000 to $36,000 (and from $33,000 to $42,000 for families of five or more persons). Section 221(d)(2) limits for two-family units were increased from $28,000 to $35,000 (and from $36,000 to $45,000 in high cost areas); for three-family units from $38,880 to $48,600 (and from $46,080 to $57,600 in high cost areas); and for four-family units from $47,520 to $59,400 (and from $54,720 to $68,400 in high cost areas). The conference report contains the House provision.

The House bill also contained a provision which was not included in the Senate amendment decreasing downpayment requirements under section 220(d)(3)(A) to conform to other FHA downpayment decreases. The conference report contains the House provision.

TITLE I HOME IMPROVEMENT LOANS AND MOBILE HOME LOANS

The House bill contained a provision to increase the loan ceiling for title I mobile home loans from $12,500 to $15,000 (and from $20,000 to $23,000 for mobile homes composed of two or more modules). The Senate amendment increased the loan ceiling for title I mobile home loans to $16,000 ($24,000 for mobile homes composed of two or more modules). The conference report contains the Senate provision.

The House bill, also, contained a provision not contained in the Senate amendment to increase the ceiling for title I home improvement loans (other than for mobile home loans) from $10,000 to $15,000. The conference report contains the House provision.

The House bill contains a provision not contained in the Senate amendment to increase the maximum term of maturity for title I loans (other than mobile home loans) from 12 years and 32 days to 15 years and 32 days. The maximum term was increased, in the case of a loan for a mobile home composed of two or more modules from 15 years and 32 days to 23 years and 32 days, and from 20 years and 32 days to 23 years and 32 days in the case of a loan to finance the purchase of a mobile home and an undeveloped lot for the home. The conference report contains the House provision. With respect to extending the maximum term to 23 years, the conferees wish to emphasize that the Secretary is expected to establish a shorter maturity period for these loans if she finds it necessary in order to maintain the actuarial soundness of the program at reasonable insurance premium costs to the borrowers.

Also, the Senate amendment contained a provision not included in the House bill authorizing the Secretary, because of prevailing higher costs, to increase, by regulation, mobile home title I loan ceilings by not to exceed 50 percent in Alaska, Guam, or Hawaii. The conference report contains this provision amended to authorize the Secretary to increase by not to exceed 40 percent the title I mobile home loan ceiling. In permitting the Secretary to increase the maximum loan amount insurable under title I by 40 percent, the conferees expect that the limits will be increased only to the extent of the actual cost differentials.

SECTION 203 MORTGAGE INSURANCE IN COMMUNITIES AFFECTED BY INDIAN CLAIMS

The House bill added a new subsection (o) to section 203 of the National Housing Act authorizing the Secretary, notwithstanding any other provision of title II of the Act, to insure under section 203(b) mortgages in communities where widespread foreclosures or distress sales are likely to result from temporarily adverse economic conditions due to Indian land claims which are expected to be settled during calendar year 1977. The Senate amendment was similar to the House provision except that (1) did not require likely settlement of the Indian land claims by the end of calendar year 1977, and (2) it contained the requirement that 50 or more individual homeowners had been joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to land in the community by an American Indian tribe, band, or nation. The conference report contains the Senate provision.

MORTGAGE INSURANCE FOR HOSPITALS AND NURSING HOMES

The Senate amendment contained a provision not included in the House bill which amended section 223(f) of the National Housing Act to authorize the Secretary to insure a mortgage executed in connection with the purchase or refinancing of an existing hospital which was subject to a mortgage insured under section 242. The conference report does not contain this provision.

The Senate amendment contained three other provisions not included in the House bill. First, existing requirements under section 223(f) with respect to refinancing of property located in older declining areas were applicable only in the case of refinancing multifamily housing projects. This provision is not included in the conference report. Second, sections 232(d) and 242(d) of the National Housing Act were amended to specify that certification required with respect to HUD insurance of a mortgage covering a nursing home or other facility under section 232 or a hospital under section 242 may be from a State agency designated under section 1521 of the Public Health Service Act, as well as from those designated under section 604(a)(1) of that Act. The conference report includes this provision. Finally, the Senate amendment provided that no mortgage insurance premium would be charged, in connection with a hospital mortgage insured under section 242 of the National Housing Act, on any amount of principal

and interest guaranteed by HEW under title VII of the Public Health Service Act (assistance for nonprofit teaching facilities hospitals). The conference report contains this provision.

VETERANS' HOUSING—CONDOMINIUM CONVERSIONS

The Senate amendment contained a provision not included in the House bill which amended section 1810(a) of 38 United States Code to authorize the Veterans Administration to guarantee loans for the purchase of single-family units in condominiums approved by the Administrator of the Veterans Administration. The conference report does not contain the Senate provision.

MORTGAGE INSURANCE IN MILITARY IMPACTED AREAS

The Senate amendment contained a provision not included in the House bill which authorized the Secretary of HUD to insure, under any section of the National Housing Act, a mortgage covering property located near military installations where conditions prevent mortgage insurance eligibility requirements from being met where (1) the Secretary of HUD determines that the benefits involved outweigh the risk of probable cost to the Government and (2) the Secretary of Defense certifies that there is no foreseeable intention to curtail substantially the assignment of personnel to the installation. The conference report contains the Senate provision.

EXPERIMENTAL FINANCING

The House bill contained a provision limiting the principal obligation (including deferred interest added to principal) of mortgages insured under section 245 of the National Housing Act to 97 percent of appraised value. The Senate amendment contained a similar provision except that it limited the outstanding principal balance to 97 percent of appraised value. The Senate amendment also required a mortgage or loan eligible for insurance pursuant to section 245: (1) to be executed by a mortgagor or borrower who has paid on account of the property at least 10 percent of the Secretary's estimate of the acquisition cost, (2) to have a maturity of not more than 30 years, and (3) to meet the requirements of section 203 of the National Housing Act except as modified by section 245. The conference report contains the House provision.

TITLE IV—LENDING POWERS TO FEDERAL SAVINGS AND LOAN ASSOCIATIONS

LENDING POWERS

The House bill contained the following provisions not in the Senate amendment:

(1) it permitted Federal savings and loan associations to make line of credit construction loans in amounts not exceeding the greater of the sum of their surplus, undivided profits, and reserves, or 5 percent of their assets (rather than 3 percent of assets as under existing law):

(2) it authorized Federal savings and loan associations to make loans for farm purposes, as part of the 5 percent of assets category currently allowed for nonconforming loans:

(3) it deleted the 20 percent of assets limitation with respect to the aggregate amount of investments which could be made by Federal savings and loan associations on the security of property having more than 4 dwelling units or nonresidential property, but only to the extent of the mortgage limits set by section 207 of the National Housing Act; and

(4) it increased the loan limits on property improvement loans made by Federal savings and loan associations from $10,000 to $15,000.

The conference report contains these House provisions.

The House bill also contained a provision which increased from $55,000 to $60,000 the limitations on real estate loans for single-family dwellings which could be made by Federal savings and loan associations and provided that only the excess over $60,000 (rather than the entire amount of such loan, as presently required) be counted against the 80 percent of assets limitation. The Senate amendment contained a provision which increased from $55,000 to $65,000 the limitation on residential real estate loans for single-family dwellings which could be made by Federal savings and loan associations. The conference report contains the House provision.

GNMA INTERIM MORTGAGE PURCHASE AUTHORITY

PROMOTION OF HOMEOWNERSHIP BY LOW- AND MODERATE-INCOME FAMILIES

The Senate amendment contained a provision not in the House bill that authorized the Secretary, to the extent feasible and consistent with the purpose of stabilizing housing production, to direct GNMA to exercise its mortgage purchase authority under section 313 of the National Housing Act so as to promote homeownership opportunities for low- and moderate-income families. The conference report contains the Senate provision amended to limit the GNMA mortgage purchase authority to the promotion of homeownership opportunities for moderate-income families.

HOUSING IN OLDER OR DECLINING NEIGHBORHOODS

The Senate amendment contained a provision not included in the House bill that authorized the Secretary to require GNMA to utilize a part of its mortgage purchasing authority under section 313 of the National Housing Act to purchase mortgages executed to finance rehabilitation or acquisition and rehabilitation of housing in older or declining neighborhoods, to the extent feasible and consistent with the primary purpose of section 313, and to prescribe appropriate regulations in this regard, and directed the Secretary to allocate mortgage purchasing authority under section 313 on the basis of a formula which took into account unemployment and housing needs of the housing market areas of the Nation. The conference report contains the Senate provision amended so that the Secretary is not required to allocate mortgage purchase authority on the basis of a formula.

While the conferees agreed to delete any statutory direction to the Secretary to take account of unemployment and housing needs by market areas, the conferees believe that such factors ought to be considered by the Secretary when purchasing or making commitments to purchase mortgages under the "Brooke-Cranston" emergency tandem plan, authorized by Section 313 of the National Housing Act.

INCREASES IN PER-UNIT LIMITS FOR SECTION 8 HOUSING

The Senate amendment contained a provision not in the House bill which authorized GNMA to purchase a mortgage under section 313 involving an original principal obligation of not to exceed $49,000 per dwelling unit in the case of properties assisted under section 8 located in high cost areas. The conference report contains this provision.

Also, the Senate amendment contained a provision which authorized GNMA to purchase a mortgage under section 313 involving a principal residence having a sales price of not to exceed $55,000 in the case of properties assisted under section 8 located in high cost areas. This provision was not in the House bill. The conference report contains the Senate provision.

In increasing the maximum amount of section 8 assisted mortgages for GNMA purchase, the conferees recognize the special needs of areas in the nation in which normal section 8 mortgage limits are simply too low and result in discouraging the use of this much needed housing assistance program. But the conferees are concerned that these new mortgage limits might be viewed as the rule rather than the exception without regard to the variances in cost structures among the high cost areas in the nation. Not all section 8 assisted housing in high cost areas should be constructed to the new maximum and the conferees expect that the higher maximum mortgage limits will be scaled down to reflect the actual economic conditions in the particular market area in which this assistance is provided.

LIMITATION ON TOTAL AMOUNT OF PURCHASES AND COMMITMENTS

The Senate amendment contained a provision not included in the House bill which, during the 1978 fiscal year, limited the purchases and commitments under section 313 of the National Housing Act to $7.5 billion. The conference report contains this provision.

FNMA OR FHLMC PURCHASE OF CONVENTIONAL MORTGAGES

The House bill contained a provision not in the Senate amendment which provided that conventional mortgages eligible for purchase by FNMA or by FHLMC would have a principal amount no greater than 25 percent above the mortgage limits set under section 5(c) of the Homeowners' Loan Act for savings and loan institutions. The conference report contains the House provision. In raising the mortgage limits for the Federal Home Loan Mortgage Corporation, the conferees would like to note the following: The Congress in the 1974 Housing and Community Development Act expressly provided HUD-approved mortgagees the authority to service mortgages eligible for purchase by FHLMC. The managers of the conference report of the 1974 Act stated that the authority clarified the intent of Congress in this regard. The conferees understand that present FHLMC regulations are inconsistent with that intent. The conferees wish to reaffirm that the legislative intent of the Congress should not be circumvented.

REVIEW OF FNMA OPERATIONS

The House bill contained a provision not included in the Senate amendment which directed the Secretary of HUD to undertake a review of FNMA financial operations, to study the extent to which FNMA activities meet the purposes of title III of the National Housing Act and to submit a completed study to Congress by July 1, 1978. The conference report contains this provision. The conferees wish to stress, however, that adoption of the House provision is not intended to preclude consideration by the Senate of legislation, currently pending before the Senate Committee on Banking, Housing and Urban Affairs, which would make amendatory changes to Title III of the National Housing Act, creating and prescribing the powers and organization of the Federal National Mortgage Association.

EXCEPTION TO REFINANCING REQUIREMENT

The House bill contained a provision not included in the Senate amendment which excepted guaranteed loans from the graduation provision under existing law which requires the borrower to refinance his FmHA loan from private credit sources if future increases in his income are sufficient for him to do so. The conference report contains the House provision.

INCOME REQUIREMENTS FOR GUARANTEED LOANS

The Senate amendment contained a provision not included in the House bill which required that loans guaranteed under section 517 of the Act be made only to above mod-

erate-income borrowers. The Senate provision is included in the conference report.

In restricting the FmHA guarantee program to above moderate income borrowers, the conferees wish to emphasize that their intent is to continue the low and moderate income insured loan program at its current program level. The guaranteed program should be used for those who can afford the extra costs associated with guaranteed loans—downpayments, points, fees and related costs—but who cannot obtain private credit without the federal loan guarantee.

In defining eligibility for the guaranteed loan program, the conferees intend that FmHA establish an interim income ceiling of no more than $20,000 annual income. Until FmHA is able to simplify the procedures for guaranteed loans, as the VA guaranteed loan program for supervised lenders has done, the conferees are concerned that an unlimited guaranteed loan program would overly tax FmHA's staff resources.

The conferees expect FmHA to conduct a general evaluation of the income limits for the moderate income and low income insured loan program, and to consider lowering those income limits on a county or other basis which more closely reflects income and cost differences in various parts of the country.

COMPENSATION FOR CONSTRUCTION DEFECTS

The House bill authorized expenditures, after October 1, 1977, to (1) correct defects, (2) pay owner's claims arising from defects, or (3) acquire title to a property, where a newly constructed unit purchased with financial assistance from FmHA is found by the Secretary of Agriculture to have structural defects. All properties purchased within 18 months prior to the enactment of this bill, as well as all properties purchased after enactment are eligible for assistance. It also provided that decisions made by the Secretary regarding expenditures or payments and terms or conditions of approval or disapproval are not subject to judicial review. The Senate amendment was similar except that it specified that eligible defects are structural or other conditions not in conformance with standards prescribed by the Secretary of Agriculture. In addition, the Senate amendment did not exempt the decisions of the Secretary of Agriculture from judicial review. The conference report contains the House provisions. The conferees intend, however, that the term "structural" should be broadly construed by the Secretary to include those defects which though serious, do not necessarily threaten the integrity of the unit—but would significantly reduce the useful life or habitability of the unit.

TAXATION OF FMHA ACQUIRED PROPERTY

The House bill contained a requirement that, effective January 1, of the year of enactment. FmHA-held or acquired property other than property used for administrative purposes be subject to State and local taxes. The Senate amendment was similar to the House provision except that any jurisdiction which has received, prior to enactment of this bill, tax payments from the Department of Agriculture shall not be liable for, or be obligated to refund, such payments. The conference report contains the Senate provision.

DEFINITION OF RURAL AREA

The Senate amendment contained a provision not found in the House bill which amended the definition of "rural" and "rural area" under section 520 of the Housing Act of 1949 to delete the requirement that an area with a population between 10,000 and 20,000 may not be considered a rural area if it is contained within an SMSA, and provided that the amended definition applies to any application for technical assistance filed after January 1, 1975. The conference report does not adopt the Senate provision.

DEFINITION OF DEVELOPMENTALLY DISABLED PERSON

The House bill defined a developmentally disabled person as one meeting the criteria of section 102(a)(5) of the Developmental Disability Services and Facilities Construction Amendments of 1970. The Senate amendment defined such a person as one meeting the criteria of section 102(7)(A)(1) of the Development Disabilities Services and Facilities Construction Act. The conference report includes the House provision amended to include the Senate definition.

TITLE VI—NATIONAL URBAN POLICY

The House bill contained several provisions not included in the Senate amendment which (1) changed the short title of the "Urban Growth and New Community Development Act of 1970" to the "National Urban Policy and New Community Development Act of 1970", (2) changed the statement of purpose to include as purposes of the Act the development of a national urban policy, the encouragement of the conservation of energy and the support of development to assure good housing, (3) amended the findings of the Act to emphasize the changes in patterns of urban settlement and in population distribution, economic distribution and economic bases of urban areas (energy is specified as one of the natural resources affecting these patterns) (4) changed the existing policy of reversing and stabilizing growth trends or patterns of growth to one of encouraging desirable patterns of development and redevelopment. The conference report contains the House provisions.

The House bill provided that the report required under existing law focus on national urban policy rather than on national urban growth policy. The Senate amendment required the report to include an examination of the housing and related community development problems experienced by cities undergoing a growth rate which equals or exceeds the national average. The committee report includes both provisions. The conferees intend that the National Urban Policy Report include an analysis of the urban fiscal crisis.

TITLE VII—FEDERAL INSURANCE ADMINISTRATION

Land-use requirements under the National Flood Insurance Program.—The House bill contained a provision not included in the Senate amendment which permitted the repair, improvement, or reconstruction of property, located in flood-prone communities where such costs do not exceed 80 percent of the market value of the structure prior to the repairs, improvements, reconstruction or damage. The conference report does not contain the House provision.

Limits of coverage under the National Flood Insurance Program.—The Senate amendment contained provisions not included in the House bill which increased (1) the ceiling of optional insurance coverage, at actuarial rates, up to $70,000 for any single family dwelling and up to $150,000 for any residential structure containing more than one dwelling unit, (2) the coverage of contents from $10,000 to $50,000, and (3) the optional structure and content coverage for small business properties at actuarial rates from $100,000 (plus $100,000 for each small business occupying the property) to $250,000 (plus $200,000 for each small business occupant). Coverage for small business occupants would be allocated among such occupants according to rules prescribed by the Secretary and total coverage for the structure, itself, could not exceed $250,000. Flood insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973 (prohibition of Federal assistance and Federal mortgage insurance and guarantees for failure to purchase flood insurance in flood-prone areas) were not applied to the additional coverage described above. The conference report contains these Senate provisions.

Secretarial purchase of certain flood-damaged properties.—The Senate amendment contained a provision not in the House bill which retained the existing authority of the HUD Secretary to purchase property covered by flood insurance where the insured property is damaged substantially beyond repair by a flood, and additionally authorized such purchases where property either:

(1) incurred significant flood damage on at least 3 occasions over a 5-year period and on each occasion the cost of repair, on the average, equalled or exceeded 25 percent of the value of the structure at the time of each flood event; or

(2) has sustained damage as a result of a single casualty of any nature under circumstances such that a statute, ordinance or regulation precludes its repair or restoration or permits repair or restoration only at a significantly increased construction cost.

The conference report contains this Senate provision.

TITLE VII—FEDERAL INSURANCE ADMINISTRATION

LAND-USE REQUIREMENTS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM

The House bill contained a provision not included in the Senate amendment which permitted the repair, improvement, or reconstruction of property, located in flood-prone communities where such costs do not exceed 80 percent of the market value of the structure prior to the repair, improvement, reconstruction or damage. The conference report does not contain the House provision.

LIMITS OF COVERAGE UNDER THE NATIONAL FLOOD INSURANCE PROGRAM

The Senate amendment contained provisions not included in the House bill which increased (1) the ceiling of optional insurance coverage, at actuarial rates, up to $150,000 for any residential structure; (2) the coverage of contents from $10,000 to $50,000, and (3) the optional structure and content coverage for small business properties at actuarial rates from $100,000 (plus $100,000 for each small business occuping the property) to $250,000 (plus $200,000 for each small business occupant). Coverage for small business occupants would be allocated among such occupants according to rules prescribed by the Secretary and total coverage for the structure, itself, could not exceed $250,000. Flood insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973 (prohibition of Federal assistance and Federal mortgage insurance and guarantees for failure to purchase flood insurance in flood-prone areas) were not applied to the additional coverage described above. The conference report contains these Senate provisions.

SECRETARIAL PURCHASE OF CERTAIN FLOOD-DAMAGED PROPERTIES

The Senate amendment contained a provision not in the House bill which retained the existing authority of the HUD Secretary to purchase property covered by flood insurance where the insured property is damaged substantially beyond repair by a flood, and additionally authorized such purchases where property either: (1) incurred significant flood damage on at least 3 occasions over a 5-year period and on each occasion the cost of repair, on the average, equalled or exceeded 25 percent of the value of the structure at the time of each flood event; or (2) has sustained damage as a result of a single casualty of any nature under circumstances such that a statute, ordinance or regulation precludes its repair or restoration or permits repair or restoration only at a significantly increased construction cost. The conference report contains this Senate provision.

LOW-INTEREST LOANS FOR ELEVATION OF CERTAIN DAMAGED PROPERTY

The Senate amendment contained a provision not in the House bill which authorized the HUD Secretary to make two percent loans for the purchase of elevating the structure to owners whose single-family dwellings are located in a "regulatory floodway" (most severe flood area of a flood-prone community) and are insured under the flood insurance program. Loans would be authorized in cases where such a property has suffered damage from any casualty and the Secretary deems that the repair, reconstruction or improvement is made more effective from the standpoint of flood plain management by elevation of the structure. This provision authorized the appropriation of not to exceed $4,500,000 for the purpose of implementing the provision. The conference report contains the Senate provision.

APPEALS OF DETERMINATIONS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM

The Senate amendment contained a provision not in the House bill which directed the HUD Secretary to reimburse individuals or communities for expenses of surveying, engineering or similar services (excluding legal services and contingent fees or payments) in connection with wholly or partially successful appeals of the Secretary's proposed determinations of flood elevations or identification of flood-prone communities. This provision authorized the reimbursement of that portion of the reasonable value of all such services which reflected the ratio of the successful portion of the appeal to the entire appeal. This provision authorized not to exceed $250,000 for the appeals of flood elevation levels.

This provision also authorized the HUD Secretary to establish administrative procedures for appeal of the Secretary's determination of a flood-prone community under section 201(a) of the Flood Disaster Protection Act of 1973 by the community or by the owner or lessee of real property within the community who believes such property to have been inadvertently included in a special flood hazard area. This provision authorized not to exceed $250,000 for the appeals of flood-prone community designations. The conference report contains the Senate provision.

FAIR PLAN REQUIREMENTS UNDER RIOT REINSURANCE PROGRAM

The House bill contained a provision not in the Senate amendment which required all State FAIR plans to include a provision prohibiting insurance of any risk within the plan at a rate higher than the advisory rates set by State licensed rating organizations for essential property insurance in the voluntary market, except that the HUD Secretary may allow a rate up to 30 percent higher upon showing of extraordinary need. The conference report does not contain the House provision.

The conferees, however, are concerned that the administration of FAIR plans in certain states has raised the cost of insurance coverage to the point that many lower income property owners are preempted from receiving adequate property insurance coverage. Because this situation merits thorough examination and immediate action, the conferees direct the Secretary to undertake a study of the conduct of states in administering the program and the effects and potential effects of that administration on the availability and affordability of insurance coverage and to report to the Congress with recommendations for appropriate legislative action no later than January 15, 1978. The responsible committees have agreed, upon receipt of this report, to promptly convene hearing and to undertake the appropriate legislative action to remedy this situation.

Low-interest loans for elevation of certain damaged property.—The Senate amendment contained a provision not in the House bill which authorized the HUD Secretary to make two percent loans for the purchase of elevating the structure to owners whose single-family dwellings are located in a "regulatory floodway" (most severe flood area of a flood-prone community) and are insured under the flood insurance program. Loans would be authorized in cases where such a property has suffered damage from any casualty and the Secretary deems that the repair, reconstruction, or improvement is made more effective from the standpoint of flood plain management by elevation of the structure. This provision authorized the appropriation of not to exceed $4,500,000 for the purpose of implementing the provision. The conference report contains the Senate provision.

Appeals of determinations under the National Flood Insurance Program.—The Senate amendment contained a provision not in the House bill which directed the HUD Secretary to reimburse individuals or communities for expenses of surveying, engineering or similar services (excluding legal services and contingent fees or payments) in connection with wholly or partially successful appeals of the Secretary's proposed determinations of flood elevations or identification of flood-prone communities. This provision authorized the reimbursement of that portion of the reasonable value of all such services which reflected the ratio of the successful portion of the appeal to the entire appeal. This provision authorized not to exceed $250,000 for the appeals of flood elevation levels.

This provision also authorized the HUD Secretary to establish administrative procedures for appeal of the Secretary's determination of a flood-prone community under section 201(a) of the Flood Disaster Protection Act of 1973 by the community or by the owner or lessee of real property within the community who believes such property to have been inadvertently included in a special flood hazard area. This provision authorized not to exceed $250,000 for the appeals of flood-prone community designations. The conference report contains the Senate provision.

FAIR plan requirements under riot reinsurance program.—The House bill contained a provision not in the Senate amendment which required all State FAIR plans to include a provision prohibiting insurance of any risk within the plan at a rate higher than the advisory rates set by State licensed rating organizations for essential property insurance in the voluntary market, except that the HUD Secretary may allow a rate up to 30 percent higher upon showing of extraordinary need.

[Action of conferees to be supplied later]

TITLE VIII—COMMUNITY REINVESTMENT

The Senate amendment contained provisions not in the House bill which required the appropriate federal financial supervisory agency to assess a financial institution's record of meeting the credit needs of its primary service area, consistent with safe and sound operation; to take this record into account in its evaluation of an application by the institution; to prepare regulations no later than 180 days after enactment, and to report annually to the Congress.

The Senate provisions were agreed to with two amendments. The first would substitute consideration of the credit needs of "the entire community, including its low and moderate income neighborhoods" for the credit needs of its "primary service area." The second amendment would defer implementation of the title for 390 days instead of 180 days.

In adopting the Senate provision the conferees recognize the vital interconnection between successful community and housing development and local private investment activities. The effectiveness of the community development program, the housing assistance programs, and the mortgage insurance programs, as amended by this conference report depend in large part upon the availability of private capital, particularly as made available through local lending and financial institutions. This title and other amendments contained in this bill are designed to encourage more coordinated efforts between private investment and federal grants and insurance in order to increase the viability of our urban communities.

[to be supplied]

TITLE IX—MISCELLANEOUS

INDIAN AND ALASKAN NATIVE HOUSING AND COMMUNITY DEVELOPMENT

The Senate amendment contained a provision not included in the House bill which provided that title VI of the amendment would be cited as the "Indian and Alaska Native Housing and Community Development Act." The conference report does not contain this Senate provision.

The Senate amendment contained a second provision not included in the House bill which created in HUD an Office of Indian and Alaska Native Programs to carry out functions relating to Indian and Alaska native housing and community development. The Office was to administer all HUD programs that affect Indians and Alaskan Natives and to assure delivery of these programs in coordination with other appropriate Federal agencies. The Secretary within 120 days after enactment and annually thereafter, was to submit a report to Congress which included a description of the actions taken toward, and a specific timetable for and cost of, achieving the goals of these provisions, and legislative or administrative recommendations in support thereof. Quarterly reports on the actions of the Director of the Office were also required. The appropriation of such sums as may be necessary to carry out these provisions was authorized.

The conference report contains the Senate provision amended so that no new office is created in HUD, but a Special Assistant to the Secretary is to be designated by the Secretary to coordinate the HUD programs affecting Indians and Alaska Natives. By December 1 of each year, the Secretary is to submit to Congress a report which follows the same guidelines established in the Senate provision. No appropriation is authorized.

The conferees are aware of the administrative problems which have impeded HUD's efforts to meet the very serious housing and community development needs of Indians and Alaska Natives. The conferees believe that one reason for that impediment is the current diffusion of responsibility for delivery of services to Indians and Alaska Natives among various program offices within HUD. Moreover, there is evidence that those charged with responsibility for Indian housing programs are also assigned other totally unrelated Departmental functions. The conferees believe that only by concentrating these operations in one person, responsible only to the Secretary, can there be any reasonable likelihood that Indian and Alaska Native problems can be more fully addressed.

The conferees intend that the Special Assistant should be appointed within 60 days after enactment of the section and should have as his exclusive responsibility the coordination of the Department's programs in this area. The conferees also believe that the Special Assistant should be assigned sufficient support staff to perform his duties in as effective and efficient a manner as possible.

EXCLUSION OF MODULAR HOMES FROM MOBILE HOME STANDARDS

The Senate amendment contained a provision not included in the House bill which exempted from coverage under the National Mobile Home Construction and Safety Standards Act of 1974 structures certified by the manufacturer to be designed only for installation on a site-built permanent foundation and manufactured to comply with a nationally recognized or equivalent local model building code, with a State or local modular building code equivalent to site-built housing codes, or with FHA minimum property standards.

As part of the certification, the Secretary could require manufacturers to secure written assurances from purchasers that the structure would be permanently attached to site-built foundation.

The provision also added to acts prohibited under the Mobile Home Safety Standards Act the knowing issuance of a materially false or misleading certification in connection with an exemption of a modular home.

The conference report contains the Senate provision amended so that a manufacturer may not be required to secure written assurances from the purchasers of such structures that the structure will be permanently attached to a site-built foundation but will be required to certify that, to the manufacturer's knowledge, the structure is not intended to be used other than on a site-built permanent foundation.

HOMEOWNERSHIP COUNSELING

The House bill contained a provision not included in the Senate amendment which explicitly stated that under section 106(a) of the HUD Act of 1968, the Secretary of HUD could provide counseling and advisory services to homeowners assisted under section 235 and to other owners of single-family units insured under title II of the National Housing Act. The conference report contains this provision.

PROTOTYPE HOUSING COSTS

The Senate amendment contained a provision not included in the House bill which directed the Secretary, beginning in calendar year 1979, to prepare and publish annually, prototype housing costs for one- to four-family dwelling units for each housing market area in the United States. Such prototype costs were to be determined on the basis of the Secretary's identification and estimate of reasonable construction and other costs (including costs of land and site improvements) for the area of various types and sizes of new one- to four-family dwelling units designed for various segments of the area's housing market, and authorized the Secretary in determining such costs to take into account the need for durability, amenities and energy conservation, application of good design and quality in architecture, and advice and recommendations of local housing producers. The amendment authorized the Secretary to take such action as necessary to develop, aggregate, and evaluate data and other information required for timely development, implementation and maintenance of a prototype cost system. The conference report contains the Senate provision.

HENRY S. REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY B. GONZALEZ,
PARREN J. MITCHELL,
LES AUCOIN,
JAMES J. BLANCHARD,
STANLEY LUNDINE,
GARRY BROWN,
WILLIAM STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
HARRISON A. WILLIAMS,
THOMAS J. MCINTYRE,
ALAN CRANSTON,
ADLAI E. STEVENSON,
JOHN TOWER,
JAKE GARN,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 7797

Mr. LONG of Maryland submitted the following conference report and statement on the bill (H.R. 7797) making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95-633)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797) "making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 16, 28, 48, and 50.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 8, 9, 10, 18, 23, 25, 30, 32, 35, 38, 39, 40, 41, 43, 44, 52, 55, 56, 58, 60, 62, 63, 65, 67, 68, 69, 70, 71, 75, 76, and 78, and agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$76,000,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$231,250,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$115,000,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$23,750,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$213,000,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$82,900,000"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$217,500,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 11, 13, 15, 20, 21, 22, 24, 26, 27, 29, 31, 33, 36, 37, 42, 45, 46, 47, 49, 54, 57, 59, 61, 64, 66, 72, 73, 74, 77, 79, 80, 81, 82, 83, and 84.

CLARENCE D. LONG,
EDWARD I. KOCH,
CHARLES WILSON,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
LOUIS STOKES
(except amendments Nos. 37, 42, 45, 46, 47, 72, 73, 74, 77 and 79),
ELFORD A. CEDERBERG,
Managers on the Part of the House.

DANIEL K. INOUYE,
LAWTON CHILES,
J. BENNETT JOHNSTON, Jr.,
PATRICK J. LEAHY,
DENNIS DECONCINI,
RICHARD S. SCHWEIKER,
EDWARD W. BROOKE,
MARK HATFIELD,
CHARLES MATHIAS, Jr.,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797), making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—FOREIGN ASSISTANCE ACT ACTIVITIES

FUNDS APPROPRIATED TO THE PRESIDENT

ECONOMIC ASSISTANCE

Amendment No. 1: Food and nutrition, Development Assistance: Appropriates $515,000,000 as proposed by the Senate instead of $535,000,000 as proposed by the House.

Amendment No. 2: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 3: Population planning, Development Assistance: Appropriates $155,000,000 as proposed by the Senate instead of $160,600,000 as proposed by the House.

Amendment No. 4: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 5; Health, Development Assistance: Appropriates $95,000,000 as proposed by the Senate instead of $100,000,000 as proposed by the House.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

": *Provided*, That $2,000,000 shall be available for the World Health Organization Onchocerciasis Control Program"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 7: Education and human resources development, Development Assistance: Appropriates $76,000,000 instead of $80,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Amendment No. 8: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 9: Technical assistance, energy, research, reconstruction, and selected development problems, Development Assistance: Appropriates $90,000,000 as proposed by the Senate instead of $95,000,000 as proposed by the House.

Amendment No. 10: Deletes language proposed by the House which would have allowed funds provided for loans to remain available until expended.

Amendment No. 11: Loan allocation, Development Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount made available for loans, $75,000,000 shall be available for loans repayable within forty years, $87,000,000 shall be available for loans repayable within thirty years and $148,500,000 shall be available for loans repayable within twenty years.

Amendment No. 12: International organizations and programs: Appropriates $231,250,000 instead of $257,000,000 as proposed by the House and $224,750,000 as proposed by the Senate.

The amount provided for International Organizations and Programs includes $115,000,000 for the United Nations Development Program. The managers agree, however, that future appropriations for this activity will depend on whether or not the specialized agencies of the United Nations continue to finance technical assistance programs for developing countries through their assessed budgets.

The conferees concur with and support the position adopted by the conferees on the State, Justice, and Commerce, the Judiciary and related agencies Appropriation Bill for FY 1978 on this subject. In addition, the conferees intend by this language to instruct the Administration that as long as this dual method of financing technical assistance programs of the United Nations development system continues, we will find it difficult to fully support future U.N.D.P. budget estimates. In fact, it may be expected that in considering future appropriations for United States contributions to U.N.D.P., assessed contributions for technical assistance will be balanced against requests for U.N.D.P.

The Appropriations Committees are not alone in their criticism of the way U.N. development programs are financed. Five different GAO reports and a report by the Senate Committee of Government Operations also criticize this practice. Ironically, official United States policy itself is in agreement with the Committees' position. We intend to put an end to the current practice.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks international organizations and program funds for several Organization of American States' programs ($500,000 for the Special Cultural Account, $500,000 for the Special Development Assistance Fund, and $1,500,000 for the Special Multilateral Fund).

The managers have considered the President's request (transmitted in Senate Document 95–60) for an additional United States contribution to the voluntary funds of the Organization of American States for cultural and educational activities. In response to the Administration's concern that the United States contribute to the cultural and educational activities of the Organization of American States, the managers have agreed to an earmarking of a total of $2,500,000 specifically for this purpose. The managers have not, however, increased the amount to be provided to the OAS from the appropriations account "International Organizations and Programs".

Amendment No. 14: Places a limitation of $115,000,000 on funds to be available for the United Nations Development Program instead of $120,000,000 as proposed by the House and $110,000,000 as proposed by the Senate.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the United States from making a contribution to the United Nations University.

Amendment No. 16: Places a limitation of $3,000,000 on funds to be available for the United Nations Decade for Women as proposed by the House instead of $1,500,000 as proposed by the Senate.

Amendment No. 17: American schools and hospitals abroad: Appropriates $23,750,000 instead of $25,000,000 as proposed by the House and $19,800,000 as proposed by the Senate.

The managers are concerned that funds appropriated in this account continue to be expended for institutions such as the American Hospital of Paris, the American Library in Paris, the American Hospital in Rome and the American University of Beirut. It is apparent that in many cases the host country or other interested countries are now financially capable of providing the total support for such institutions. While the managers fully understand that the purpose of these expenditures is to demonstrate United States interest in the countries where the institutions are located, it would seem that in many cases the United States interest has more than adequately been demonstrated and, therefore, additional allocations of funds are not required to accomplish that purpose.

The managers instruct the Director of the Office of American Schools and Hospitals Abroad of the Agency for International Development to provide a full report to the Appropriations Committees of both Houses justifying the expenditure of funds for the above named institutions and indicating if continued expenditures to these institutions are presently contemplated.

Amendment No. 18: American schools and hospitals abroad (foreign currency program): Deletes language proposed by the House which would have provided for the appropriation of $7,000,000 in excess foreign currencies.

Amendment No. 19: Italy relief and rehabilitation assistance: Appropriates $25,000,000 instead of $20,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Amendment No. 20: Sahel development program: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

": *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 21: International narcotics control: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following:

"$37,100,000"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $37,100,000 instead of $39,000,000 as proposed by the House and $38,000,000 as proposed by the Senate.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that not to exceed $3,000,000 shall be for the United Nations Fund for Drug Abuse Control and that $12,475,000 shall be available only for programs in Mexico from the funds appropriated for international narcotics control.

Amendment No. 23: Deletes language proposed by the House which dealt with the availability of unobligated balances.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the availability of unobligated balances to the same appropriation account as originally provided for in the appropriation Acts and under the same terms, conditions and limitations as originally prevailed.

Amendment No. 25: Retains language proposed by the Senate which deals with the deobligation of funds.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which restricts the availability of deobligated funds to the same appropriation account as originally provided for in appropriation Acts and under the same terms, conditions and limitations as originally prevailed. The Senate language also provides that the Appropriations Committees of both Houses shall be notified fifteen days in advance before these funds may be obligated for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified for fiscal year 1978.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof, effective as of October 1, 1977."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 28: Restores language proposed by the House which requires that the various agencies and departments funded in this bill notify the Appropriations Committees of both Houses fifteen days prior to the obligation of reprogramed funds.

The managers on the part of the Senate and the managers on the part of the House have agreed to this action with the firm expectation that the Executive Branch will follow the historical pattern of honoring objections to the obligation of funds for activities, programs, projects, type of materiel assistance, countries or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligations under any of the specific headings mentioned in this section.

The managers agree that any activity, program, project, type of materiel assistance, or other operation specifically set forth by recipient or country and by amount to be ob-

ligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed to have been justified and the Committees informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to have been justified and the Committees informed.

Any activity, program, project, type of materiel assistance, or other operation not specifically set forth by recipient or country and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed not to have been justified and the Committees not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to not have been justified and the Committees not informed.

MIDDLE EAST SPECIAL REQUIREMENTS FUND

Amendment No. 29. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which prohibits the funding of the Sinai support mission from this account. Funding for the mission is provided under the security supporting assistance account.

SECURITY SUPPORTING ASSISTANCE

Amendment No. 30: Changes the reference section numbers to conform with the authorizing legislation as proposed by the Senate.

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the funding of the Sinai support mission under this account.

Amendment No. 32: Appropriates $2,202,-200,000 as proposed by the Senate instead of $2,214,700,000 as proposed by the House.

Amendment No. 33: Loan Allocation, Security Supporting Assistance: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that of the amount appropriated for security supporting assistance, not to exceed $856,800,000 shall be available for grants and of the amounts available for loans, not to exceed $865,400,-000 shall be available for loans with maturities in excess of thirty years but not to exceed forty years.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Amendment No. 34: Appropriates $213,-000,000 instead of $215,200,000 as proposed by the House and $210,200,000 as proposed by the Senate.

Amendment No. 35: Deletes the word "appropriated" as proposed by the Senate.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That not to exceed $125,000 of the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 37: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits funds appropriated for international military education and training for Argentina.

General provisions

Amendment No. 38: Section 101: Deletes language proposed by the House and retains language proposed by the Senate which updates the reference used to establish the standards and criteria for water or related land resource projects financed from funds in this Act.

Amendment No. 39: Section 102: Deletes language proposed by the House and retains language proposed by the Senate which exempts the United States Emergency Refugee and Migration Assistance Fund from the restriction that not more than 20 percent of the funds made available can be obligated during the last month of availability and excludes appropriations used for loans from this exemption.

Amendment No. 40: Changes the word "title" to "Act".

Amendment No. 41: Strikes out "and/".

Amendment No. 42: Section 107: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits any indirect assistance to Uganda, Cambodia, Laos or Vietnam.

Amendment No. 43: Section 109: Places a limitation on the entertainment expenses of the Agency for International Development of $15,000 as proposed by the Senate instead of $20,000 as proposed by the House.

Amendment No. 44: Section 113: Deletes the language "or likely to have the effect of aiding" and the word "indirectly" which was proposed by the House. This provision deals with the prohibition on providing security assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of its population.

Amendments Nos. 45, 46, and 47: Section 114: Reported in disagreement. The managers in the part of the House will offer a motion to insist on the House position which prohibits any indirect assistance to Mozambique and Angola.

Amendment No. 48: Deletes language proposed by the Senate which would have provided that all the salaries and related benefits of full-time Agency for International Development employees in permanent positions be funded out of operating expenses. The managers on the part of the Senate and the managers on the part of the House are in agreement that the salaries and related benefits of all full-time AID employees should be financed only by funds made available under the appropriation account entitled Operating Expenses of the Agency for International Development. While this requirement has not been incorporated into the language of the bill this year, the conferees direct that the Agency for International Development include in the budget estimate for Operating Expenses of the Agency for International Development for fiscal year 1979 all salaries and related benefits for all AID full-time employees.

Amendment No. 49: Section 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Sec. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE II—FOREIGN MILITARY CREDIT SALES

FOREIGN MILITARY CREDIT SALES

Amendment No. 50: Appropriates $675,850,-000 as proposed by the House instead of $677,000,000 as proposed by the Senate.

TITLE III—FOREIGN ASSISTANCE (OTHER)

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

Amendment No. 51: Appropriates $82,900,-000 instead of $81,000,000 as proposed by the House and $84,800,000 as proposed by the Senate.

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

Amendment No. 52: Changes the appropriation title as proposed by the Senate.

Amendment No. 53: Appropriates $217,-500,000 instead of $200,000,000 as proposed by the House and $235,000,000 as proposed by the Senate.

The managers agree that these funds should be allocated as follows: Paid-in capital—$16,799,000, Callable capital—$151,189,-000, and the Asian Development Fund—$49,512,000.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

It is not the purpose of this provision to include within the $50,000 compensation limitation of the Executive Director of the Asian Development Bank, allowances and benefits ordinarily paid to U.S. Government officials posted overseas. The excluded allowances are as follows: housing allowance, travel allowance, education allowance, representation allowance, official residence expense allowance, transfer allowance, temporary lodging allowance, shipment of automobile and limited household effects allowance, cost of living allowance and post differential allowance.

It is also not the intent of this provision to include within the $47,500 compensation limitation such allowances paid to the Alternate Director.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way

in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

Amendment No. 55: Changes the appropriation title as proposed by the Senate.

The managers point out that even though the budget authority figure of $523,000,000 appears in the Inter-American Development Bank paragraph, the actual budget authority level provided in this Act for the Bank is $480,000,000. The provision providing this level of funding appears in Title V—General Provisions. It was necessary to draft the general provision and establish the budget authority level in this manner because of the effects of the House general provision providing for an overall five percent reduction in total budget authority.

The managers agree that the $480,000,000 budget authority level appropriated to the Inter-American Development Bank in this Act should be allocated as follows: Interregional paid-in capital—$36,711,000, Callable capital—$182,639,000, Interregional callable capital—$145,927,000, and the Fund for Special Operations—$114,723,000.

Amendment No. 56: Deletes language dealing with the authorization reference title as proposed by the Senate.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 58: Changes the appropriation title as proposed by the Senate.

The managers point out that even though the budget authority figure of $400,000,000 appears in the International Bank for Reconstruction and Development paragraph, the actual budget authority level provided in this Act for the Bank is $380,000,000. The provision providing this level of funding appears in Title V—General Provisions. It was necessary to draft the general provision and establish the budget authority level in this manner because of the effects of the House general provision providing for an overall five percent reduction in total budget authority.

The managers agree that the $380,000,000 budget authority level appropriated to the International Bank for Reconstruction and Development in this Act should be allocated as follows: Paid-in capital—$38,000,000 and Callable capital—$342,000,000.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the Bank to not to exceed the rate of compensation paid to U.S. executive schedule levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States has led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

Amendment No. 60: Changes the appropriation title as proposed by the Senate.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following:

"$38,000,000"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $38,000,000 instead of $40,000,000 as proposed by the House and $42,000,000 as proposed by the Senate.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Amendment No. 62: Changes the appropriation title as proposed by the Senate.

Amendment No. 63: Appropriates $800,000,000 as proposed by the Senate instead of $950,000,000 as proposed by the House.

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits the compensation provided to the United States Executive and alternate Executive Directors of the World Bank to not to exceed the rate of compensation paid to U.S. executive levels IV and V, respectively.

The managers on the part of the Senate and the managers on the part of the House are in accord on this provision. Our actions in agreeing on this specific restriction on salary levels are not intended to be punitive towards the Executive and Alternate Directors of the United States to the international development banks. Our intention is, simply, to restore principles of reason to the processes of establishing appropriate salary schedules in these banks.

The managers are aware of the fact that, as a result of this provision, U.S. Executive and Alternate Directors will receive less pay than the Directors of other nations. It is our hope that this action on the part of the United States will bring about a public awareness of the clearly excessive salaries paid to the officials and professional staffs of the international development banks. We are confident that as this public awareness spreads to other nations they too will support further U.S. initiatives to correct abuses in the personnel practices of these institutions. As the United States had led the way in contributions to the development banks, so too it can lead them back to the fundamental principles which guided their creation as institutions dedicated to the economic and social enrichment of the poor of the world.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

Amendment No. 65: Changes the appropriation title as proposed by the Senate.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes a sense of the Senate provision stating that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed certain specific percentages.

TITLE IV—EXPORT-IMPORT BANK OF THE UNITED STATES

Amendments Nos. 67 and 68: Retain language proposed by the Senate and delete language proposed by the House which denies financing for the export of nuclear equipment, fuel, or technology to any non-nuclear weapons state eligible to receive economic or military assistance under this Act which detonates a nuclear explosive after the date of enactment of this Act.

TITLE V—GENERAL PROVISIONS

Amendment No. 69: Deletes language proposed by the House which would have prohibited funding for the Inspector General, Foreign Assistance, unless the Office of the Inspector General responded to requests for information submitted by Congress or the General Accounting Office within a thirty-five day period or the President certified that he had forbidden the release of such information.

Amendments Nos. 70 and 71: Change section numbers.

Amendment No. 72: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits the funding of military assistance, international military educaton and training and foreign military credit sales to Ethiopia and Uruguay.

Amendment No. 73: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits the funding of foreign military credit sales to Argentina, Brazil, El Salvador, and Guatemala.

Amendment No. 74: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which reduces military assistance by $3,000,000, foreign military credit sales by $300,000 and international military education and training by $200,000 to the Philippines.

Amendment No. 75: Section 504: Retains language proposed by the Senate which pro-

hibits funds appropriated by this Act from being available for the Office of the Inspector General of Foreign Assistance.

Amendment No. 76: Changes section number.

Amendment No. 77: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits funds appropriated or made available to the International Financial Institutions from being used by those institutions for the purpose of establishing or expanding production of palm oil, sugar, or citrus crops if the United States is a producer of the same, similar, or competing agricultural commodity.

Amendment No. 78: Changes section number.

Amendment No. 79: Reported in disagreement. The managers on the part of the House will offer a motion to insist on the House position which prohibits the use of any funds for indirect aid or trade to Cuba.

Amendment No. 80: Section 507: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes a sense of the Congress provision stating that the United States representatives to the International Financial Institutions should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental human rights, where other means have proven ineffective and except when the President determines that the cause of human rights would be better served by not voting against such assistance or the assistance is directed at the impoverished majority in such country.

Amendment No. 81: Section 508: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

"SEC. 508. Notwithstanding the budget authority levels of $523,000,000 for the Inter-American Development Bank and $400,000,000 for the International Bank for Reconstruction and Development provided elsewhere in this Act, not more than $480,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the Inter-American Development Bank and not more than $380,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the International Bank for Reconstruction and Development: *Provided*, That this section shall apply only to the establishment of budget authority levels for the aforementioned Banks and shall not alter limitations, restrictions or other language provisions elsewhere in this Act."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The effect of this provision is only to reduce the budget authority level from $523,000,000 reflected in the Inter-American Development Bank paragraph to $480,000,000 and reduce the budget authority level from $400,000,000 reflected in the International Bank for Reconstruction and Development paragraph to $380,000,000, and nothing more. This procedure is made possible by the general effect of the House provision requiring an overall five percent reduction in budget authority for payments not required by law.

While the managers have agreed to delete the general five percent reduction provision, it should be pointed out that, in fact, the House managers considered the effect of this provision in dealing with each of the specific appropriation accounts. This is reflected by the fact that the final conference amount totals $6,772,654,000 which is a level lying between $6,851,854,000 as recommended by the Senate and $6,694,131,300 as recommended by the House including the provision requiring a general five percent reduction.

Amendment No. 82: Section 509: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Sec. 509. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 83: Section 510: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Sec. 510. It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE VI—ROMANIAN RELIEF AND REHABILITATION

Amendment No. 84: Section 601: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $13,000,000 for fiscal year 1977 for Romanian relief and rehabilitation assistance.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 amount, the fiscal year 1978 budget estimates, and the House and Senate bills for fiscal year 1978 follow:

New budget (obligational) authority, fiscal year 1977	$5,596,497,000
Budget estimates of new (obligational) authority, fiscal year 1978	[1] 7,601,461,136
House bill, fiscal year 1978	6,694,131,300
Senate bill, fiscal year 1978	6,851,854,000
Conference agreement	[2] 6,772,654,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1977	+1,176,157,000
Budget estimates of new (obligational) authority, fiscal year 1978	−828,807,136
House bill, fiscal year 1978	+78,522,700
Senate bill, fiscal year 1978	−79,200,000

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1977 budget estimates, and the House and Senate bills for fiscal year 1977 follow:

Budget estimates of new (obligational) authority, fiscal year 1977	[3] 13,000,000
House bill, fiscal year 1977	
Senate bill, fiscal year 1977	13,000,000
Conference agreement	13,000,000
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1977	
House bill, fiscal year 1977	+13,000,000
Senate bill, fiscal year 1977	

[1] Includes $2,500,000 of budget estimates not considered by the House.
[2] Estimated conference total.
[3] Not considered by the House.

CLARENCE D. LONG,
EDWARD I. KOCH,
CHARLES WILSON,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
LOUIS STOKES
(except amendments Nos. 37, 42, 45, 46, 47, 72, 73, 74, 77 and 79),
ELFORD A. CEDERBERG,
Managers on the Part of the House.

DANIEL K. INOUYE,
LAWTON CHILES,
J. BENNETT JOHNSTON, Jr.,
PATRICK J. LEAHY,
DENNIS DECONCINI,
RICHARD S. SCHWEIKER,
EDWARD W. BROOKE,
MARK O. HATFIELD,
CHARLES MCC. MATHIAS, Jr.,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AKAKA (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. BOWEN (at the request of Mr. WRIGHT), for September 26 through September 30, on account of official business (64th Inter-Parliamentarian Conference).

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. LEHMAN (at the request of Mr. WRIGHT), for September 23 through September 30, on account of official business (64th Inter-Parliamentarian Conference.)

Mr. CUNNINGHAM (at the request of Mr. RHODES), for today and the balance of the week, on account of official business.

Mr. DORNAN (at the request of Mr. RHODES), for today, on account of official business.

Mr. MCCLORY (at the request of Mr. RHODES), for today and the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KINDNESS) to revise and extend their remarks and include extraneous material:)

Mr. JEFFORDS, for 15 minutes, September 27, 1977.

Mr. QUIE, for 5 minutes, today.

Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. JENKINS) to revise and extend their remarks and include extraneous material:)

Mr. PEPPER, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. DODD, for 15 minutes, today.

Mr. LE FANTE, for 10 minutes, today.

Mr. LEVITAS, for 10 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. ULLMAN, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. MANN, for 60 minutes, September 27.

Mr. NICHOLS, for 60 minutes, September 27.

Mr. EDWARDS, of California for 60 minutes, September 27.

Mr. STOKES, for 5 minutes, today; and to revise and extend his remarks and include extraneous matter.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PERKINS.

(The following Members (at the request of Mr. KINDNESS) and to include extraneous material.)

Mr. MCKINNEY.

Mr. KASTEN.

Mr. HAGEDORN.

Mr. LAGOMARSINO.

Mr. STEERS, in two instances.

Mr. WHITEHURST.

Mr. KETCHUM.

Mr. STOCKMAN.

Mr. PRESSLER.

Mr. STEIGER.

Mr. ABDNOR in four instances.

(The following Members (at the request of Mr. JENKINS) and to include extraneous matter:)

Mr. RODINO.

Mr. IRELAND.

Mr. CLAY.

Mr. TEAGUE.

Mr. BAUCUS in two instances.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. DELANEY.

Mr. ROYBAL.

Mrs. BURKE of California.

Mr. ZEFERETTI.

Mrs. SCHROEDER.

Mr. METCALFE.

Mr. MURTHA in three instances.

Mr. MAZZOLI.

Mr. VANIK.

Mr. MATHIS.

Mr. PHILLIP BURTON.

Mr. JOHN BURTON.

Mr. LEVITAS.

Mr. MCHUGH.

Mr. RICHMOND.

Mr. LUNDINE.

Mr. MINETA.

Mr. MCDONALD in four instances.

Mr. KOCH in two instances.

Mr. EDGAR.

Mr. HEFNER.

Mr. CHAPPELL.

Mr. BRECKINRIDGE.

Mr. MILFORD.

Mr. WEISS.

Mr. PRICE.

SENATE JOINT RESOLUTIONS REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 81. Joint resolution to express the sense of the Congress that, in the light of history, the third Thursday in December 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977", and respectfully to request that the President, under the provisions of Public Law 82–324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 126. An act to reduce the hazards of earthquakes, and for other purposes.

S. 602. An act to extend and revise the Library Services and Construction Act, and for other purposes; and

S. 1307. An act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 29 minutes p.m.), the House adjourned until Tuesday, September 27, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2454. A letter from the Comptroller General of the United States, transmitting a report on the United Kingdom's development of its North Sea oil and gas reserves (ID–77–51, September 23, 1977); jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

2453. A letter from the Comptroller General of the United States, transmitting a report on improving the Navy's intermediate ship maintenance program (LCD–77–412); jointly, to the Committees on Government Operations, and Armed Services.

2452. A letter from the Deputy Assistant Secretary of the Army (Civil Works), transmitting the annual report on the status of cooperation agreements on water resource projects, pursuant to section 221(e) of Public Law 91–611; to the Committee on Public Works and Transportation.

2451. A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to implement article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; to the Committee on the Judiciary.

2450. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of May 1977, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2449. A letter from the Acting Secretary, Interstate Commerce Commission, transmitting notification of the Commission's extension of the statutory time period for acting upon the section 5b application No. 8, Railroads Per Diem and Mileage Rates for Trailers and Containers—Agreement, pursuant to section 17(9)(f) of the Interstate Commerce Act, as amended (90 Stat. 49); to the Committee on Interstate and Foreign Commerce.

2448. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of various construction projects to be undertaken by the Air Force Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee of conference. Conference report on H.R. 6415 (Rept. No. 95–627). Ordered to be printed.

Mr. FOLEY: Committee on Agriculture. H.R. 9143. A bill to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1977 in certain disaster areas in South Carolina; with amendment (Rept. No. 95–628). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 774. Resolution providing for the consideration of H.R. 1037. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels (Rept. 95–629). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 775. Resolution providing for the consideration of H.R. 2329. A bill to improve the administration of fish and wildlife programs, and for other purposes (Rept. No. 95–630). Referred to the House Calendar.

Mr. SISK: Committee on Rules. House Resolution 776. Resolution providing for the consideration of H.R. 8309. A bill authorizing certain public works on rivers for navigation, and for other purposes (Rept. No. 95–631). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9290. A bill to increase the temporary debt limit, and for other purposes. (Rept. No. 95–632) Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Maryland: Committee of conference. Conference report on H.R. 7797 (Rept. No. 95–633). Ordered to be printed.

Mr. REUSS: Committee of conference. Conference report on H.R. 6655 (Rept. No. 95–634). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. TEAGUE: Committee on Science and Technology. S. 1617. An act to establish a program of ocean pollution research and monitoring, and for other purposes; with amendments (Rept. No. 95–626, Pt. I). Referred to the Committee on Merchant Marine and Fisheries for a period ending not later than October 17, 1977 for consideration of such provisions of the bill as fall within the jurisdiction of that committee under clause 1(n), rule X, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN:

H.R. 9290. A bill to increase the temporary debt limit, and for other purposes; to the Committee on Ways and Means.

By Mrs. BOGGS (for herself and Mr. WINN):

H.R. 9291. A bill to amend the Endangered Species Act of 1973 to exempt antique articles composed in whole or in part of endangered species or threatened species from the importation prohibitions in such act; to the Committee on Merchant Marine and Fisheries.

By Mr. PHILLIP BURTON:

H.R. 9292. A bill to reform the mining law, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DUNCAN of Tennessee:

H.R. 9293. A bill to amend the Railroad Retirement Act of 1974 to provide spouses' and widows' benefits for certain divorced persons; to the Committee on Interstate and Foreign Commerce.

By Mr. DUNCAN of Tennessee (for himself and Mr. BRODHEAD):

H.R. 9294. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for occupational therapy services, whether furnished as part of home health services or otherwise; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. HAGEDORN (for himself, Mr. BOWEN, and Mr. MCDONALD):

H.R. 9295. A bill to amend the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

By Mr. HAGEDORN (for himself, Mr. DAN DANIEL, Mr. JEFFORDS, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. STANGELAND, Mr. TREEN, Mr. WHITEHURST, Mr. GOODLING, and Mr. QUAYLE):

H.R. 9296. A bill to amend the Congressional Budget Act of 1974 to limit increases in levels of total budget outlays and total new budget authority established in concurrent budget resolutions; to the Committee on Rules.

By Mr. LEVITAS:

H.R. 9297. A bill to amend the Federal Aviation Act of 1958 to assure increasing reliance upon competition in the provision of air transportation services, to insure use of dormant air transportation authority, to provide air carrier management with increased pricing flexibility, to recognize the high national priority placed upon the conservation of energy, to insure administration expedition, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MIKVA:

H.R. 9298. A bill to protect the rights of temporary help employees, to require temporary help agencies to obtain licenses issued by the Secretary of Labor, and for other purposes; to the Committee on Education and Labor.

By Mr. MIKVA (for himself, Mr. AKAKA, Mr. ANDREWS of North Dakota, Mr. BAUMAN, Mr. BEDELL, Mr. BLOUIN, Mr. BONIOR, Mr. CARR, Mr. DOWNEY, Mr. EILBERG, Mr. FRASER, Mr. HARRINGTON, Ms. KEYS, Mr. LEHMAN, Mr. MCCLORY, Mr. MOAKLEY, Mr. MOFFETT, Mr. MURPHY of Pennsylvania, Mr. NEDZI, Mr. PEPPER, Mr. RAHALL, Mr. ROE, Mr. ROSENTHAL, Ms. SPELLMAN, and Mr. VENTO):

H.R. 9299. A bill to amend title XVIII of the Social Security Act for the purpose of including outpatient rehabilitation services among the benefits of the medicare program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MITCHELL of Maryland (for himself, and Mr. ROBERT W. DANIEL, JR.):

H.R. 9300. A bill relating to collective bargaining representation of postal employees; to the Committee on Post Office and Civil Service.

By Mr. MOORHEAD of California:

H.R. 9301. A bill to provide for State and local determination concerning inclusions in the National Register, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. OAKAR (for herself, Mr. BOLAND, Mr. ROSENTHAL, Mr. HARRINGTON, and Mr. WEISS):

H.R. 9302. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize the Secretary of Transportation to guarantee notes issued to State and local taxing authorities to secure payment of tax obligations owed by a railroad in reorganization; to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN:

H.R. 9303. A bill to amend section 553 of title 5, United States Code, to improve Federal rulemaking practice by creating procedures for regulatory issuance in two or more parts; to the Committee on the Judiciary.

By Mr. SIKES:

H.R. 9304. A bill to authorize the Secretary of the Air Force to convey certain real property for use as a permanent site for the Air Force Enlisted Men's Widows and Dependents Home; to the Committee on Armed Services.

By Mr. SNYDER (by request):

H.R. 9305. A bill to amend the Interstate Commerce Act, the Rail Passenger Service Act, and the Harter Act in order to provide for expeditious claim-settling procedures to facilitate the flow of freight in interstate commerce, to provide shippers with greater security against monetary loss, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

By Mr. THONE:

H.R. 9306. A bill to amend the Bail Reform Act of 1966 to authorize consideration of danger to the community in setting conditions of release, to authorize revocation of pretrial release for persons who violate their release conditions, intimidate witnesses or jurors, or commit new offenses, and for other purposes; to the Committee on the Judiciary.

H.R. 9307. A bill to amend title 18, United States Code, so as to establish certain guidelines for sentencing, establish a U.S. Commission on Sentencing, and for other purposes; to the Committee on the Judiciary.

H.R. 9308. A bill to provide for a reduction in general diversity of citizenship jurisdiction, and for other purposes; to the Committee on the Judiciary.

H.R. 9309. A bill to provide for additional sentences for commission of a felony with use of a firearm; to the Committee on the Judiciary.

By Mr. WATKINS:

H.R. 9310. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of future agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. WON PAT:

H.R. 9311. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance, and for other purposes; to the Committee on the Judiciary.

By Mr. BEDELL (for himself, Mr. D'AMOURS and Mr. MAZZOLI):

H.R. 9312. A bill to amend chapter 35 of title 44, United States Code, to require an annual justification for the continued use of any form used to solicit information from private persons and State and local government agencies; to the Committee on Government Operations.

By Mr. BRECKINRIDGE:

H.R. 9313. A bill to establish a transitional system of hospital cost containment by providing for incentives and restraints to contain the rate of increase in hospital revenues, to establish a system of capital allocation designed to encourage communities to avoid the creation of unneeded and duplicative hospital facilities and services, to provide for the publication and disclosure of information useful to the public in making decisions about health care, to provide for the development of permanent reforms in hospital reimbursement designed to provide incentives for the efficient and effective use of hospital resources, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BRODHEAD:

H.R. 9314. A bill to include power-operated wheelchairs as a type of durable medical equipment for which payment may be made under title XVIII of the Social Security Act; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. KEMP (for himself, Mr. COLEMAN, Mr. CRANE, Mr. LAGOMARSINO, Mr. MCEWEN and Mr. MARKS):

H.R. 9315. A bill to provide for permanent tax rate reduction for individuals and businesses; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. BADHAM, Mr. BEVILL, Mr. BUCHANAN, Mr. BUTLER, Mr. COUGHLIN, Mr. CRANE, Mr. DENT, Mr. EWARDS of Oklahoma, Mr. EILBERG, Mr. HYDE, Mr. KETCHUM, Mr. KINDNESS, Mr. MCKAY, Mr. MADIGAN, Mr. MARKS, Mr. MURPHY of Pennsylvania, Mr. MURTHA, Mr. NOWAK, Mr. O'BRIEN, Mr. PERKINS, Mr. QUAYLE, Mr. CHARLES WILSON of Texas, and Mr. YATRON):

H.R. 9316. A bill to provide for an alternative amortization period for pollution control facilities; to the Committee on ways and means.

By Mr. LAGOMARSINO:

H.R. 9317. A bill to amend section 7422 of title 10, United States Code, relating to rates of petroleum production and use of excess pipeline capacity with respect to Naval Petroleum Reserve No. 1; jointly to the Com-

mittees on Armed Services and Interior and Insular Affairs.

H.R. 9318. A bill to amend the Social Security Act to provide for a demonstration program for the transfer of individual entitlements to medical assistance under the medicare and medicaid programs to similar entitlements under a qualified State health insurance program; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MARLENEE (for himself, Mr. GEPHARDT, Mr. EDGAR, and Mr. NOLAN):

H.R. 9319. A bill to expedite issuance of Federal permits and developments of a transportation system to move Alaskan crude oil to Northern Tier and other inland States, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. MURPHY of New York:

H.R. 9320. A bill to establish a national policy for the preservation of historic, architectural, archeological, and cultural resources, to establish a coordinated national historic preservation program, to establish a maritime heritage preservation program, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. DRINAN (for himself, Mr. BADILLO, Mr. BEDELL, and Mr. REUSS):

H.R. 9321. A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States; to the Committee on Small Business.

By Mr. BRADEMAS (for himself, Mr. THOMPSON, Mr. JEFFORDS, Mr. PERKINS, and Mr. QUIE):

H.J. Res. 600. Joint resolution to authorize the President to call a White House Conference on the Arts; to the Committee on Education and Labor.

By Mr. DERWINSKI (for himself, Mr. FISHER, Mr. ANDERSON of California):

H.J. Res. 601. Joint resolution to authorize the construction and maintenance of a monument to Gen. Draza Mihailovich in the District of Columbia, in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II; to the Committee on House Administration.

By Mr. SAWYER:

H.J. Res. 602. Joint resolution proposing an amendment to the Constitution to provide that except in time of war or economic emergency declared by the Congress, expenditures of the Government may not exceed the revenues of the Government during any fiscal year; to the Committee on the Judiciary.

By Mr. KEMP (for himself, Mr. LAFALCE, and Mr. NOWAK):

H.J. Res. 603. Joint resolution designating the first Sunday of October in every year as National Choir Recognition Day; to the Committee on Post Office and Civil Service.

[Omitted from the Record of Sept. 23, 1977]

By Mr. MOTTL (for himself, Mr. VANIK, Mr. STOKES, Ms. OAKAR, Mr. STANTON, Mr. MURPHY of Pennsylvania, Mr. REUSS, Mr. STANGELAND, Mr. KEMP, Mr. ASHLEY, Mr. CARNEY, Mr. EILBERG, Mr. HORTON, Mr. NOWAK, Mr. HARSHA, Mr. MILLER of Ohio, Mr. LUKEN, and Mr. PEASE):

H. Con. Res. 362. Concurrent resolution expressing the sense of the Congress that the proposed toll increases on the St. Lawrence Seaway are excessive and should not be adopted; to the Committee on Public Works and Transportation.

[Introduced Sept. 26, 1977]

By Mr. MAGUIRE:

H. Con. Res. 363. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Post Office and Civil Service.

By Mr. MARKEY (for himself, Mr. DOWNEY, and Mr. MAGUIRE):

H. Con. Res. 364. Concurrent resolution declares that it is the sense of Congress that the circumstances surrounding the death of Steven Biko be investigated; to the Committee on International Relations.

By Mr. HAGEDORN (for himself, Mr. ABDNOR, Mr. DEL CLAWSON, Mr. DAN DANIEL, Mr. KINDNESS, Mr. MCDONALD, Mr. STANGELAND, Mr. SPENCE, Mr. TREEN, and Mr. GOODLING):

H. Res. 777. Resolution to amend the Rules of the House of Representatives to require that each introduced bill and resolution contain a statement of the constitutional basis of authority for the bill; to the Committee on Rules.

Mr. KETCHUM:

H. Res. 778. Resolution providing for an increase in the compensation for positions under the Doorkeeper of the House of Representatives; to the Committee on House Administration.

By Mr. STEIGER (for himself and Mr. TUCKER):

H. Res. 779. Resolution to require that the CONGRESSIONAL RECORD contain a verbatim account of remarks actually delivered on the floor, and for other purposes; to the Committee on Rules.

By Mr. STOKES (for himself and Mr. ROYBAL):

H. Res. 780. Resolution to instruct the conferees on H.R. 7555; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred to as follows:

By Mr. MARLENEE:

H.R. 9322. A bill for the relief of Lawrence Youngman; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland:

H.R. 9323. A bill for the relief of Habib Haddad; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII.

254. The SPEAKER presented a petition of the New York Department of Jewish War Veterans, U.S.A., relative to recognition of the late Haym Salomon; which was referred to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3816

By Mr. LEVITAS:

Page 45, after line 8, insert the following new section:

CONGRESSIONAL REVIEW OF PROPOSED RULES

SEC. 10. (a) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (i), the".

(b) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, simultaneously with prescribing any rule under this Act, the Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule prescribed by the Federal Trade Commission dealing with the matter of , which rule was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date on which a rule is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rules may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 36, 60, and 90 calendar days of continuous session of Congress.".

And redesignate the following sections accordingly.

H.R. 6951

By Mr. LEVITAS:

On page 3, immediately after line 5, insert the following new section:

SEC. 6. The President is authorized and directed to present a plan to Congress before March 30, 1978, to transfer, effective September 30, 1979, the functions of the Council on Wage and Price Stability to appropriate agencies of the United States. When presenting the plan to Congress, the President shall inform Congress of any functions of the Council on Wage and Price Stability which other agencies of the United States have the power to carry out without any such transfer.

EXTENSIONS OF REMARKS

WILD AND SCENIC RIVER DESIGNATION

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. BAUCUS. Mr. Speaker, in his environmental message of May 22, 1977, President Carter recommended the inclusion of portions of the Madison and Yellowstone Rivers in Montana into the National Wild and Scenic Rivers System. Over the past few months, many Montanans have requested information about the Wild and Scenic Rivers System. Many landowners have had questions regarding the effects, if any, that a Wild and Scenic River designation would have on their property.

Personally, I have taken no position yet on either of the President's proposals. I suspect they will be submitted soon in bill form as formal legislative proposals. When that happens, an intensive deliberative process will ensue in which I and may constituents will undoubtedly play a lively role.

In anticipation of that event, and because of certain experiences I had last year with similar legislation, I asked the U.S. Department of the Interior to prepare for me some explanatory materials. Before offering these materials to my colleagues, let me tell you of the experiences I had which prompted me to ask for this information.

Last year portions of the Flathead and Missouri Rivers in Montana were included in the National Wild and Scenic River System. During the course of Congressional consideration of those proposals, a great deal of erroneous and conflicting information regarding Wild and Scenic River designation was disseminated.

The Bureau of Outdoor Recreation, Department of the Interior, prepared at my request the following short summary of pertinent Wild and Scenic River questions and answers. I have found this summary to be very helpful, and I trust my colleagues will also:

WILD AND SCENIC RIVER STUDIES—QUESTIONS AND ANSWERS

1. Q. What are the criteria used in determining whether or not a river should be included in the national wild and scenic rivers system?

A. Generally, rivers included in the system must be free-flowing streams which have outstanding remarkable scenic, recreational, geological, fish and wildlife, historic, cultural or other similar values. They must also be long enough (generally 25 miles or more) to provide a meaningful recreation experience, have sufficient volume of water, and have high or restorable water quality.

Rivers included in the national wild and scenic rivers system are classified, designated and administered as either wild, scenic or recreational river areas.

2. Q. If a river was to be recommended for inclusion in the national wild and scenic rivers system, would the entire river be under one classification, or is it possible to have a combination of river classifications?

A. It is possible to have portions of a river classified as either wild, scenic or recreational depending on the character of each river section.

3. Q. Could less than the entire river be included?

A. Yes, but generally a river segment would have to be at least 25 miles long. A shorter stretch that has outstanding qualifications might, however, be included in the national wild and scenic rivers system.

4. Q. How may a river be included into the national wild and scenic rivers system?

A. Two ways are possible. First, a river designated for potential addition to the system would be studied and found to be worthy of inclusion. An *Act of Congress* would be required to place the river into the system. Secondly, the Governor of the State in which a river lies may petition the Secretary of the Interior to include the river into the national system. Under this arrangement, the river under consideration must first be designated and administered by the State or one of its political subdivisions as a wild, scenic or recreational river and meet the criteria established for components of the national wild and scenic rivers system. If the river qualifies for inclusion into the national system, it would be designated by the Secretary of the Interior but would continue to be administered by the State or one of its political subdivisions without expense to the Federal Government.

5. Q. Who may administer a national wild and scenic river?

A. Streams designated to the system by an Act of Congress will normally be at least partially administered by a Federal agency. Secretarial approved rivers (those rivers protected by States and included in the national system by administrative action) *must* be administered by the State or one of its political subdivisions at no cost to the Federal Government. However, any State agency or political subdivision may become involved in administration of a Federal river through cooperative agreements with a Federal agency.

6. Q. What are the boundary limitations of a national wild and scenic river?

A. The National Wild and Scenic Rivers Act states that not more than an *average* of 100 acres per mile on both sides of the river (50 acres on each side) may be acquired in fee title. This applies both to those rivers designated as "instant" components of the system and to any river which may be later added to the system by an Act of Congress unless Congress specifies otherwise. Also, the Act limits the boundary of the instant rivers to an average of not more than 320 acres per mile on both sides of the river (160 acres on each side). This total includes the 100 acres in fee title plus an additional 220 acres acquired in less-than-fee, such as by scenic easement.

In the event that a river is added to the national system by application of a State governor to the Secretary of the Interior, the State should, as a minimum, have as much control of that river as would be required should the same area be managed as a Federal component within the system. All land purchases in this instance would be a State responsibility.

7. Q. What does purchase in fee title mean exactly?

A. Within a recommended boundary for a wild and scenic river, all property rights are acquired to some lands in order to provide protection of the natural scene and to accommodate the existing and permissible levels of recreational use. Generally, fee acquisition would be confined to land needed to provide access and facilities to the general public and to protect the river and resource values which would otherwise be in jeopardy from less-than-fee control. The remainder of the land within the boundary could be controlled by scenic easements and, when acceptable to the Secretary of the Interior, by adequately enforced local zoning regulations.

8. Q. How do scenic easements work?

A. Scenic easements are essentially agreements between the Federal Government and the landowner in which the Federal Government buys the right to certain uses on selected portions of the owner's land. For a national wild, scenic or recreational river the Federal Government would purchase an owner's right to cut timber or shrubbery, to put up buildings, or any use which would detract from the scenic beauty of the river. The landowner would retain all other rights to this land except those purchased by the Federal Government, and he may sell or leave them to his heirs, etc., as would be the case for any other property he owns. The rights purchased by the Federal Government, and only those rights, remain with the land in any transaction the owner may have. This applies only to that land for which the scenic easement is negotiated.

Such easements would require detailed investigation before the advisability and degree of protection to be contained in the easement can be determined.

9. Q. Is it possible to provide acceptable land-use control through the use of zoning?

A. Under the Wild and Scenic Rivers Act, land cannot be acquired through condemnation if such lands are located within any incorporated city or town which has in force valid zoning ordinances that fulfill the purposes of the Act and are acceptable to the Secretary of the Interior.

10. Q. May condemnation be used to acquire fee title and easement?

A. Yes, however, this method is used only as a last resort. It is preferred to conduct purchases through negotiations with landowners and this is the manner in which most purchases are made.

The condemnation authority is, however, subject to restrictions. Lands located within any incorporated city or town which has in force a valid zoning ordinance and which conforms with the purposes of the Act cannot be condemned. Furthermore, where 50 percent or more of the total acreage within a federally administered river is owned by the United States, a State or a political subdivision, the Act prohibits acquisition by condemnation altogether.

11. Q. Do limitations on Federal condemnation and purchase of land apply to rivers in the national wild and scenic rivers system under State administration?

A. No, these are not applicable to rivers under State administration.

12. Q. Suppose I own a home and property which lie inside the proposed river area boundaries. Could I sell my land to the Federal Government and continue to live in my home?

A. Yes, an owner of improved property (a detached, one-family dwelling) whose property is acquired by the Federal Government may retain for himself and his successors the right of use and occupancy for a period of his choice not to exceed 25 years, or the owner may instead choose a right of use and occupancy for the remainder of his life and that of his spouse.

13. Q. Would landowners be compensated for their lands?

A. Yes, of course. The value of all lands and improvements obtained in fee title and all rights purchased under easement would be determined and purchased at their fair market value. There is no provision, however, under which the Federal Government may reimburse a landowner for rights foregone as a result of zoning instituted by a non-Federal unit of government.

14. Q. May the right of use and occupancy be terminated before the term expires?

A. Yes, the Secretary of the administering Federal department (the Secretary of the Interior or the Secretary of Agriculture) may terminate the right of use and occupancy whenever this right is being exercised in a manner which conflicts with the purposes of the Wild and Scenic Rivers Act. An example might be commercial use of the property.

15. Q. How is the boundary of a wild, scenic or recreational river determined?

A. A "visual corridor" serves as the basis for determining appropriate boundaries. The visual corridor is essentially that zone or adjacent land which has a visual impact on the river user and which, therefore, should be protected from adverse use and development if the natural and scenic appeal of the river-way is to be maintained. The width of the visual corridor varies depending on the height and angle of slope of adjacent river-banks and bluffs and on the amount of vegetative cover near the river's edge. Where canyon walls lie near the river, the land area subject to control would usually be to the canyon rim. Where the river valley is broader and streamside vegetation determines the river user's perception of the corridor, only a narrow strip of land adjacent to the river would be included in the visual corridor.

In this manner the boundary of a river area may vary in width according to the topography and vegetative cover along its length. Based on experience, the maximum allowable average acreage as provided in the Act may not be needed in all cases to preserve the natural character of a river.

16. Q. To what extent does the Act regard rights-of-way to prevent intrustions of highways into or across wild or scenic river areas?

A. The Secretary of the Interior or the Secretary of Agriculture has the power to prevent any encroachment if he feels it would detract from the river scene. Roads are permitted on rivers classified as recreational but are more restricted in river areas classified as wild or scenic.

Mr. Speaker, I would also like to include two more items that relate to the wild and scenic rivers issue. Listed below are more specifics on the Madison and Yellowstone proposals. These two descriptions were prepared by the Department of the Interior and submitted to me at my request.

As I mentioned earlier, I have taken no position yet on either of these proposals. I offer them now simply to shed more light on this issue.

MADISON RIVER, MONTANA

(Main stem from Earthquake Lake to Ennis Lake)

1. Significant Values:

Excellent fishing opportunities are possible along this segment of the Madison River, which attracts anglers from across the Nation. The Madison also is one of Montana's most popular floating and canoeing streams, especially that portion from McAtee Bridge (22 miles south of Ennis) to Ennis Lake. The float through Beartrap Canyon is probably the most hazardous of any rivers in southwestern Montana. Below the canyon, the river meanders slowly and affords few obstacles to floating.

2. Threats and Probability of their Occurrence:

Streamside subdivision of lands for recreation homesite and related developments is the most immediate threat to the river. Such development has been occurring for a number of years and is likely to continue due to a lack of control over uses on private lands that border the river.

Concerning potential water resource development projects, the only one that is proposed in the river segment discussed here is the Cameron Bench Unit. A small diversion dam (no storage) would be located about 25 miles below Earthquake Lake that would provide water for the irrigation of about 20,700 acres (3,400 acres of supplemental water).

3. Relationship to Other Studies:

Due to severe reductions in fish populations in the past few years, certain parts of the upper Madison River are closed to fishing as part of an effort to determine the cause. A study is currently underway by the Montana Department of Fish and Game to ascertain whether there is any relation between angling pressure and the decrease in fish populations.

4. Land Ownership and Use:

At its upstream end, the Madison River flows through a portion of the Gallatin National Forest for a distance of about 8 or 9 miles. Between the forest boundary and Ennis Lake, most of the land bordering the river (about 95 percent), is in private ownership except for small scattered tracts of public domain and state-owned lands. Much of the private land is either devoted to agriculture or being developed for private homesites.

YELLOWSTONE RIVER, WYOMING AND MONTANA

(Main stem from Yellowstone Lake to Pompey's Pillar)

1. Significant Values:

The Yellowstone River, which stretches from its source at Yellowstone Lake in Wyoming to its confluence with the Missouri River in extreme northwestern North Dakota, is one of our nation's last large, essentially free-flowing rivers. The initial segment of the river within the boundaries of Yellowstone National Park encompass the gamut of wilderness values. Downstream, fish and wildlife, recreation, and historical values are significant. The Montana Stream Classification Committee determined that 153 of the 225 miles of river between Gardiner (at the northern boundary of Yellowstone National Park) and Pompey's Pillar are of nationwide or statewide trout-fishing significance. That same stretch of river in recent years has been managed by the Montana Fish and Game Commission as a free-flowing recreation waterway. Two trails of historic significance and potential additions to the National Trails System, either follow or cross the river segment—the Lewis and Clark and Nez Perce Trails.

2. Threats and Probability of their Occurrence:

Numerous water projects either exist or have been proposed along the length of the Yellowstone. The Allenspur Dam and Power Plant and the Billings Water Supply Unit are the two which would have the greatest effect on the river.

The Allenspur Unit, located 2.5 miles above Livingston, is a Bureau of Reclamation proposal. The earth and rock fill dam would stretch about 2,700 feet across a narrow canyon, creating a 31-mile long reservoir in the Paradise Valley area between Livingston and Gardiner. The Bureau of Reclamation concluded in 1964 that no need or justification existed at that time for the dam, and subsequent reviews have upheld that conclusion. The project is considered inactive at this time.

It is felt that the Billings Water Supply Unit would not, by itself, alter the Yellowstone's eligibility for inclusion in the National Wild and Scenic Rivers System. This determination was based on the fact that the required structures would be located on a side channel and the additional withdrawal of 320 cfs would not have a significant impact on river resources during most years.

Other water resource proposals, such as SCS watershed irrigation projects, were not considered to have serious direct impacts upon the study reach of the Yellowstone. The Whitehorse Bench Unit and the Cove Unit in the vicinity of Laurel, and the Huntley South Unit at the extreme end of the study segment, are three irrigation project proposals which would deplete river flow to some exent. The Whitehorse Bench is considered to be economically feasible but there is no active interest at present. The Cove Unit is not considered to be economically feasible, but it may be pursued by the privately owned Cove Ditch Company. The Huntley South Unit is considered to be marginal.

Certain nonwater projects may also have adverse effects on the river corridor. Three of the alternates for a 12-miles construction project on U.S. Highways 310 and 212 south of Laurel would require a new highway right-of-way and bridge site across the Yellowstone River. Another example is the application by the Montana Power Company to cross the river with a 2,400-volt transmission line in the vicinity of Livingston.

3. Relationship to Other Studies:

The Missouri River Basin Commission is presently in the process of conducting a study of water-related resources in the Yellowstone River Basin and adjacent coal area. This study includes the entire segment of the river from its source to Pompey's Pillar except for that portion within Yellowstone National Park. The Bureau of Outdoor Recreation is participating in this study.

The river segment from the Yellowstone National Park boundary to Pompey's Pillar was included in a previous list of potential wild or scenic rivers, pursuant to Section 5 (d) of the Wild and Scenic Rivers Act. A BOR-led study team in a 1975 report (copy of which is attached made a preliminary determination that segments of the river qualified for inclusion in the National Wild and Scenic Rivers System.

4. Land Ownership and Use:

Nearly all of the lands in the immediate vicinity of the river are in private ownership. Even within the Gallatin National Forest near Gardiner, the major portion of the lands fronting the river is privately owned. Thus, the primary land use is for agriculture and homesite development.

The upper portion of the river, from Yellowstone Lake to Gardiner, is within the national park and is entirely within Federal ownership. The segment of the river from Gardiner to Pompey's Pillar traverses five counties in Montana. Of these lands, Federal ownership comprises about 29 percent, State ownership about 3.4 percent, and private or local ownership the balance. Lands which are immediately adjacent to the river have an even greater percentage of private ownership than is reflected in the county-wide figures.

AN EXPLANATION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. EDGAR. Mr. Speaker, last Friday, September 23, 1977, I had several important commitments in Pennsylvania that required my missing several important votes. Early Friday I spoke

to a conference at the Franklin Institute on the National Energy Plan: Regional Implications. Later, I met with Mr. Manuel S. Whitman, executive director of economic development for Delaware County. I also had a public forum that day. On Friday there were four recorded votes. Had I been there I would have voted as follows:

Roll No. 579 to approve the Journal from Thursday. Passed 332 to 14, I would have voted "yes."

Roll No. 580 H.R. 6796 ERDA civilian research and development authorization. Passed 317 to 47—2 present. I would have voted "yes."

Roll No. 581 H.R. 3 medicare-medicaid antifraud and abuse. Passed 362 to 5. I would have voted "yes."

Roll No. 582 H.R. 5383 Age Discrimination in Employment Act Amendments. Passed 359 to 4—1 present. I would have voted "yes."

CONGRESSMAN DANIELSON SUPPORTS JAPANESE AMERICAN INTERNEE BILL

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MINETA. Mr. Speaker, the Subcommittee on Compensation and Employee Benefits of the Committee on Post Office and Civil Service—chaired by Congresswoman GLADYS N. SPELLMAN—held hearings on September 12, 1977, on H.R. 6412. This is a bill I introduced that would allow credit under the Federal civil service retirement system for any Japanese American civil servants who were forced to live in an internment camp during World War II because of their Japanese ancestry.

My colleague, Congressman GEORGE E. DANIELSON, California, is a cosponsor of that legislation and joined in urging the subcommittee to act favorably on the bill. Last week, on September 12, he appeared before the subcommittee which is considering my bill and made a strong statement in support of it. His statement follows:

STATEMENT OF CONGRESSMAN GEORGE E. DANIELSON

Madam Chairman, I appreciate this opportunity to add my support for the bill H.R. 6412, a bill authorizing retirement credit for civil service employees of Japanese American extraction who were forced to relocate to and spend time in detention camps during World War II.

This bill, if enacted, would eliminate the arbitrary prerequisite of having to have been a civil service employee before July 16, 1952, in order to qualify for retirement credit as provided under present law. All detainees who joined the civil service would be able to receive the credit.

I believe that this is a fair and overdue improvement of the present law. Time spent in the detention camps would be counted as if the detainee had been employed in a civil service job.

The important point is that the retirement credit should be given to these former detainees without regard to when they later joined the civil service.

Although relatively few individuals—probably less than 1,000—may be affected by the operation of this bill, it is the obligation of the American people to recognize our debt to those unjustly deprived of liberty.

I note that retirement credit would be granted without regard to the age of the civil service employee at the time of his or her detention. Without a specific age provision, the civil service would, in some cases, be giving retirement credit to some individuals who were below the minimum working age at the time of their detention. The subcommittee may wish to consider this fact.

I commend the members of this distinguished subcommittee for their attention to this matter. I am certain that enactment of this bill into law would be welcome news to many in my home State of California.

AIRLINE REGULATORY REFORM—A NEW APPROACH

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. LEVITAS. Mr. Speaker, the United States has the finest and safest aviation system in the world. It has generally performed outstanding service for the American traveling and shipping public and has received a high vote of public confidence recently in a public opinion poll.

Nevertheless, in recent years the airline industry overall has encountered serious financial problems, even though fares have continued to increase at a rate which has become a major concern to many consumers.

Although the airline industry has a good record, that does not mean there is no room for improvement. Obviously, there is room for improvement. Part of the problems which now exist, and therefore part of the opportunity for improvement, is the existing restrictive, snail-paced regulatory system under which the aviation industry operates.

Consumers, passengers, present and past administrations, economists, and even leaders in the industry itself have called for changes in the present Civil Aeronautics Board system of regulation. I agree. Change and reform are needed to benefit the public and the industry alike. Proposals for change in the existing system have generally been labeled "de-regulation." The fact of the matter is that most of these present proposals for change are not "de-regulation" but are rather a variety of proposals for "re-regulation"—a reordering of the regulatory system for more ease of entry, fares, rates, and the like, to be achieved mainly by a series or arbitrary, untested numerical formulas; but these proposals generally do not call for an orderly, rational de-regulation of the restrictive and uneconomic system which now exists.

For over 2 years now, I have been carefully studying this important issue. As a member of the House Aviation Subcommittee, I have participated in weeks and weeks of testimonial hearings, read mounds and mounds of documents, and listened to hundreds of people address all aspects of this question. I have studied the variety of pending bills and have concluded that, in the process of considering aviation regulatory reform, a new, alternative approach to such reform should be placed before the Congress and considered as the House proceeds with its work on these important measures. Therefore, I am today introducing a bill to enact the National Air Transportation Act of 1978, which I submit for study, analysis, comment, and consideration by the Congress and the public.

The major argument about the need for aviation "de-regulation," or "re-regulation," is that there are many people who are not flying because fares are too high. This is called market elasticity. The argument continues that fares are too high because there is no real competition between the carriers because of CAB restrictions and protectionist policies; that deregulation will lead to more carriers, more competition on routes, lower fares and, therefore, more passengers and higher profits. If all of these results would occur, then I assume that everyone would favor deregulation. But, because we do not really know what will occur in the event of deregulation, many people are worried that the results of some of the present proposals will result in breaking up the industry like Humpty-Dumpty, with the result that we will not be able to put it back together again.

Nevertheless, something needs to be done, and my bill is a possible alternative and new approach to an orderly and rational effort to bring about regulatory reform in the aviation industry, for its benefit and most importantly for the benefit of the public.

Dr. Alfred E. Kahn, the new Chairman of the CAB, has said that if more competition in the airline industry is needed, then CAB needs a new charter, new instructions from the Congress. He has also said that with a proper new charter, he believes that, under his leadership, CAB could lead the industry into a new period of healthy and profitable competition. One aspect of my bill is just that: To provide CAB with a new charter which will let it do the job; and, if it works, to move toward deregulation in a real sense. Now let us turn to the bill itself.

The major purpose of the National Air Transportation Act of 1978 is to provide the Civil Aeronautics Board with a new congressional mandate to guide the Board in moving this Nation's domestic air transportation system toward an even more competitive status than that which now exists, and in improving the U.S.-flag international air transportation system.

This new set of instructions is primarily contained in five areas of the act: First, in a wholly new policy statement (section 2 of the bill) for the Board's guidance, which emphasizes competition in the industry much more strongly than does the present Federal Aviation Act of 1958, coupled with replacement of the present specification that new or additional services must be "required" by the public convenience and necessity, with a specification that they merely be found to be "consistent with" those elements (section 4(c)); second, in a section (sec-

tion 17 of the bill), not contained in the present Federal Aviation Act, requiring the Board to act in a most expeditious manner on new and competitive route applications, and on other regulatory matters; third, in a provision (section 16) granting carriers increased pricing flexibility which, together with the emphasis on expedited grant of competitive route applications, should result in additional price competition within the industry; fourth, in provisions (sections 4(c) and 16) immediately deregulating all-cargo air transportation; and, fifth, in provisions for replacement of carriers not using existing nonstop authority with other carriers willing to do so, and for transfer of authority between carriers and from carriers to new entrants into the industry, where that is appropriate for full utilization of certificated authority.

These various provisions in combination, together with section 406 of the present act which would be carried forward, will assure continuation of essential small community service.

In addition, the act would provide for total deregulation 7 years hence, through a complete "sunset" provision applicable to the board and its functions. The act calls for a comprehensive review of the CAB's implementation of the act's provisions, and of their impact on the industry and the traveling and shipping public, to be submitted at the end of 5 years in order to permit congressional review prior to the slated 7-year expiration date.

While thus providing for eventual, full deregulation, and for a continued transition to increased route and pricing competition, the act would in the meantime leave the CAB with general control over both the continued development of the national air route structure and industry pricing. In this manner, increased industry route and price competition can be explored, but a control mechanism will remain to prevent undesirable, unforeseen consequences pending the review 5 years hence.

As an additional, general matter, the proposed act, unlike other current regulatory proposals, takes due note of the high priority which this Nation must place on energy conservation, both now and in the future.

Mr. Speaker, I commend this bill to the attention of the Congress, the administration, the industry, and the public.

PERSONA PLAYERS PROVIDE CULTURAL ENRICHMENT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. CLAY. Mr. Speaker, the cultural community of St. Louis has been most fortunate these past 10 years. During this period the Persona Players have provided a means of cultural enrichment for our metropolitan area. The Players have offered an outlet for the theatrically inclined citizens of our city.

This year marks the occasion of the 10th anniversary of this energetic group. I was pleased that I could be on hand with my administrative assistant, Jerome Williams, to help celebrate this milestone. Mr. Williams was, incidentally, a charter member of the group.

Among the many successful productions put on by this group are "Dark of the Moon," their first, "Black Girl," "John Brown's Body," "Silver Whistle," "Day of Absence," "Happy Ending," and the 10th anniversary production, "Pearlie."

Special mention should be made of Mrs. Sally Forth, their first president, and Mrs. Willette Carter, who spawned the idea for this black cultural group.

The Persona Players were a long-time affiliate of the Page-Park YMCA. They have recently added a new dimension to their activities by establishing a Jean Q. Washington Scholarship Fund.

This effort is in commemoration of a former Persona member. It awards financial assistance to deserving high school graduates who wish to pursue a degree in the arts.

The scholarship fund was initiated in the memory of a prominent St. Louis educator and beloved charter member, the late Jean Quinones Washington. The scholarship committee is charged with the responsibility of selecting a student from one of the area schools to become the recipient of the award.

I wish to take this opportunity to commend the Persona Players for having served as a inspiration to the St. Louis community.

FAMILY FARMERS/RANCHERS ARE LIVING ON FALSE PAPER EQUITY

HON. LARRY PRESSLER

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. PRESSLER. Mr. Speaker, nearly one-third of all South Dakota farmers who have debts are refinancing them rather than paying them this year, according to a recent bankers' study.

About one-third of all the farmers in the upper Midwest including South Dakota, and as many as one-half of Kansas' farmers will have to refinance their debts rather than pay them this year because of low farm prices.

The only thing that is keeping farmers and ranchers on the land is that the paper value of their land is increasing. This allows them to refinance existing credit.

But this cannot go on much longer. Such refinancing is artificial since it is based on the value of land which a farmer does not intend to sell except in destitution.

We are on the absolute last generation of family farmers and ranchers unless this Congress does something about farm prices, about the glut of foreign beef imports and about the totally unaggressive policy regarding the equal treatment of agricultural and industrial products in our international trade policy.

Many Congressmen are unaware of the bad financial situation in which many farmers and ranchers find themselves. This is because of the ability to refinance debts based on the paper value of increased land values is keeping some farmers and ranchers in business for another year or two.

I sincerely hope that this study will help change this misconception regarding the financial situation of many farmers and ranchers, and encourage reforms in our Nation's farm policy.

THE NEED TO PROTECT OUR WETLANDS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. STEERS. Mr. Speaker, on April 6, 1977, I explained why I voted against the Water Pollution Control Act Amendments of 1977. I felt that the House had gone too far in H.R. 3199 to relieve the problem of "redtape." It had gone so far that we may have imperiled our very valuable wetlands. The Senate has passed a very different version of the amendments and therefore a conference committee is necessary.

I have no way of knowing how that committee will resolve the differences that separate the two houses on this issue. I still believe that we can balance the need for our State and local governments to be free of Federal Government "redtape" and protect our inland wetlands.

In the Baltimore Sun of September 24, 1977, the Chairman of the President's Council on Environmental Quality commented on the protection necessary for our wet lands. I think it would be wise for all of our colleagues to read this short article as the Congress attempts to find a solution to this thorny problem:

WETLANDS IN LEGISLATIVE PERIL

Sir: Congress will soon decide how many billions should be spent to clean up the nation's waters. Ironically, the same clean water legislation may lead to widespread destruction of our nation's wetlands, a natural resource of immense environmental value. If they are destroyed we lose one of the richest habitats on earth for fish and wildlife, natural capacity to filter pollutants from water and buffers against storms and floods.

The 1972 Federal Water Pollution Control Act established protection of these wetlands as an integral part of our national water system. Congress is now considering amendments to this act which would remove federal protection from 75 to 80 per cent of the country's remaining wetlands. President Carter and a majority of the Senate are opposed to the change to this House approved amendment. Their differences will be resolved in a conference committee.

Wetlands, better known by such names as swamps, bogs, marshes, potholes, wet meadows and river outflow land, are important areas where water and land come together. Their vital natural functions, and their subtle beauties, are not immediately obvious to everyone. A seaside salt marsh with its mud and coarse grass may lack the appeal of a rocky shore or sand beach; and a freshwater marsh edged with cattails is perhaps less dramatic than a forested mountain slope.

Many people have an understandable urge

to put these places to some "good use" by dredging or filling them for housing tracts, shopping centers, pipelines, pastureland, marinas or navigable waterways. Yet this view is blind to the fact that wetlands play essential roles in natural systems.

They absorb impurities and act as giant filtration systems. They remove pollutants such as nitrates from the water. By retarding high waters, they reduce the impacts of floods, oceans storms and hurricanes. They stabilize water flows and help control floods. They provide essential habitat in the life cycle of many birds and fish.

They are enormously important to the production of plant life and in turn provide food for marine and freshwater animals. It is estimated that 50 per cent of all commercial marine fishes and invertebrates rely on estuaries or wetlands at some point in their life cycle.

Sea estuaries adjacent to wetlands support two-thirds of the fish species in the Atlantic and the Gulf of Mexico. Oysters, clams and mussels live out their lives in tidal waters and shrimp and crab depend upon them for nurture of their young.

Many birds depend upon tidal areas for food and nesting places. Migratory fowl winter there. Plant life in the marshes and swamps takes nutrients washed from upstream and converts them into food for inhabitants. About half of the food that these plants produce is washed out into estuaries to support more creatures there.

Unfortunately, experience has proven that without protection many of these critical wetland areas are destroyed. We don't have complete records on what has happened to wetlands originally found in the United States but the best estimates are that scarcely more than half remain. For example, South Florida has lost 25 per cent of its wetlands in the last 20 years alone. Arkansas has lost about 50 per cent. Louisiana's wetlands are decreasing rapidly. California's wetlands are mostly destroyed.

There can be wetlands protection without excessive bureaucracy and red tape. The bill recommended by President Carter exempted from permitting requirements most farming. logging and ranching practices which cause little environmental damage. It directed the Army Corps of Engineers to speed up review of necessary permits. It also allowed states to assume major responsibility for wetlands protection in lieu of any federal agency.

The Senate passed a bill along these lines. In contrast, the House measure carves out vast wetland acreage to be immune from federal review. In unprotected areas, a developer could fill a wetland for a shopping center as easily as a farmer could plant rice there. This insensitive approach could lead to vast destruction of wetlands in the name of cutting red tape.

Important wetlands should be protected by sensible regulation. It would be an ironic and tragic waste if Congress, while spending billions on many necessary man-made structures for pollution and flood control, paved the way for the destruction of one of the most productive and protective of natural systems.

CHARLES WARREN.

INSTITUTE FOR POLICY STUDIES HOLDS KOREA CONFERENCE TO FACILITATE A COMMUNIST "REUNIFICATION"

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. McDONALD. Mr. Speaker, the Institute for Policy Studies (IPS) held a "Conference of Japanese and U.S. Parliamentarians on Korean Problems" in the Cannon caucus room on Monday and Tuesday, September 19–20, 1977. Organized by IPS's staff of dedicated full-time propagandists for Asian Communist terrorist regimes and movements, the conference sessions were ostensibly designed to allow United States and Japanese legislators to discuss the problem of South Korea. But in fact the conference was designed to facilitate the destabilization of South Korea in preparation for military conquest by the North Korean Communist regime by laying the groundwork for U.S. economic, military, and strategic abandonment of South Korea.

The Institute for Policy Studies is a consortium of Marxist New Leftists organizing for a "new economic and political world order" and an America neutralized as a world power through a variety of tactics. Among these tactics have been an organized attempt to dismantle and cripple the U.S. foreign and domestic intelligence capability; organizing violent street demonstrations such as the 1971 Mayday riots in Washington, D.C., to shut down the Government ment in support of the Vietcong; organizing an alternative program for State and local public officials which places them in contact with their counterparts in foreign Communist governments and parties; and a sort of direct lobbying or subversion from the top in which IPS attempts to gain influence in Congress and the administration through seminars for staffers and direct contacts with officials and lawmakers.

The Institute for Policy Studies and its international subsidiary project, the Transnational Institute (TNI), have compiled considerable public records of activity on behalf of Soviet and Cuban-supported terrorist groups and of ties to the Cuban and Soviet intelligence agencies. IPS/TNI staff has included leaders of the Weather Underground, the Algerian FLN, the Trotskyite terrorist Fourth International and the current so-called patriotic front of Rhodesia. Last year IPS, which has maintained ties with and a support apparatus for the Palestine Liberation Organization terrorists for nearly 10 years, enticed several officials of American Jewish organizations to meet privately and without publicity with two PLO terrorists. IPS then publicized the meetings as a propaganda victory for the PLO.

In May of this year, Hilversun's Aktua TV in the Netherlands reported that the Amsterdam office of IPS Transnational Institute was instrumental in obtaining Dutch residency for CIA defector Philip Agee, deported from Great Britain for his continuing association with hostile intelligence service personnel and terrorist revolutionaries. Agee, who has been spotted in Moscow doubtless obtaining additional "research" for his destabilization drives against the United States and free world countries, has not only admitted contacts with Cuban intelligence officers, but has given credit to members of the Cuban Communist Party and Cuban Government agencies for supplying him with material for his anti-CIA diatribes.

Orlando Letelier, exposed after his death a year ago as a KGB agent working with a Cuban DGI case officer, went on the IPS payroll shortly after he returned to this country in 1974. Letelier was head of the IPS/TNI program at the time of his death. Letelier was receiving money from an international Soviet front, the World Peace Council, and from Cuba to pay the expenses of U.S. Congressmen and others to participate in international Communist-front activities. In light of Letelier's well-financed activities on behalf of the Soviet and Cuban spy agencies, it is particularly inappropriate for IPS to escalate an anti-South Korean campaign at a time when this body is actively investigating charges of South Korean influence-peddling and corruption. Perhaps Orlando Letelier's replacement as head of the IPS/TNI, admitted Castroite propagandist Saul Landau who appears to have open access to the pages of the Washington Post and New York Times, and IPS codirectors Barnet and Raskin feel the Letelier exposure was merely a passing embarrassment to their complex apparatus.

On August 16, IPS codirector Richard J. Barnet sent invitations to a number of Members of the House and Senators requesting their participation in the IPS Korea conference. Barnet stated the objectives of the conference were:

> Examining in depth the political, economic and military situation in North and South Korea, and of exploring the possibilities of easing tensions and moving toward peace and the restoration of human rights in both countries.

Despite the nonpartisan phraseology, in fact the only speaker at the conference who expressed concern for the absolute repression of human rights under the North Korean totalitarian regime as well as for real and alleged abuses in South Korea and who apparently understood the difference between a totalitarian system and an authoritarian government was Harvard Law School Associate Dean Jerome A. Cohen.

Organized from the IPS/TNI annex offices on the third floor at 1506 19th Street NW., Washington, D.C. (202/234–0550), IPS staffers Jeff Seabright, Jeff Stein, and Gareth Porter were responsible for conference arrangements. Porter, associated with IPS for over 13 years, has been the principal propagandist whitewashing the systematic massacre of civilians by the Communist forces at Hue during the 1968 Tet offensive.

With Richard Barnet serving as master of ceremonies, the conference's opening address was delivered by the sartorially resplendent former Presidential candidate from South Dakota, Senator GEORGE MCGOVERN.

As listed in the conference program, the "specialists," Japanese parliamentarians and "American Congressional Delegation" included:

INSTITUTE FOR POLICY STUDIES,
Washington, D.C.,
September 19 and 20, 1977.

CONFERENCE OF JAPANESE AND U.S. PARLIAMENTARIANS ON KOREAN PROBLEMS

JAPANESE PARLIAMENTARY DELEGATION

Yoshikata Asoo, Independent's Club, is a member of the House of Representatives from the First District of Tokyo; he has been returned four times. A member of the Democratic Socialist Party from 1960 until 1972,

he served as Deputy Secretary General of that party, Secretary General of the Democratic Socialists' League, and as Deputy Chairman of the Diet Policy Committee, Democratic Socialist Party.

Usaburo Chizaki, Liberal Democratic Party, is a member of the House of Representatives for the First District of Hokkaido; he has been returned five times. He is Chairman of the Standing Committee on Communications. He has served as President of the Social Welfare Federation, Hokkaido; Chairman, Sapporo Branch, Liberal Democratic Party; Vice-Chairman, Hokkaido Federation, Liberal Democratic Party.

Hideo Den, Japan Socialist Party, is a member of the House of Councillors for the National Constituency. He has been returned twice, both times receiving the highest number of votes in the House of Councillors' election. He is Director of the International Bureau of the Japan Socialist Party.

Mrs. Takako Doi, Japan Socialist Party, is a member of the House of Representatives for the Second District of Hyogo Prefecture; she has been returned three times. She is Director, Standing Committee on Foreign Affairs, Special Committee on Environment, a member of the Standing Committee on Local Administration, and a member of the Standing Committee on the Cabinet.

Kunio Hatoyama, Independents' Club, is a member of the House of Representatives for the Eighth District of Tokyo; he was returned in December, 1976. He is a member of the Standing Committee on Judicial Affairs, and had served as Secretary to the Prime Minister.

Susumu Kobayashi, Japan Socialist Party, is a member of the House of Representatives for the Third District of Niigata Prefecture; he has been returned eight times. He is Vice-Chairman of the Diet Policy Committee and of the General Policy Committee, Japan Socialist Party, and Chairman of the Social Security Committee. He also is Permanent Director of the Japan-China Parliamentary League.

Kosuke Ito, House of Councillors, Liberal Democratic Party.

Yohei Kono, is the Leader of the New Liberal Club and a member of the House of Representatives for the Fifth District of Kanagawa Prefecture; he has been returned four times. He was the popular choice for future Prime Minister in a recent poll.

Akira Kuroyanagi, Komeito (Clean Party), is a member of the House of Councillors for the Tokyo District; he has been returned twice He is Director, International Bureau, Komeito; Chairman, Tokyo Headquarters, Komeito. He has visited the Democratic Peoples' Republic of Korea.

Senpachi Oishi, Liberal Democratic Party, is a member of the House of Representatives for the First District of Shizuoka Prefecture; he has been returned twice.

Mrs. Yoshiko Otaka, Liberal Democratic Party, is a member of the House of Councillors for the National Constituency; she was returned in 1974. She is a member of the Standing Committee on Foreign Affairs, Liberal Democratic Party and Deputy Secretary General of the Liberal Democratic Party's Afro-Asian Problem Study Group.

Misoji Sakamoto, Liberal Democratic Party, is a member of the House of Representatives for the Second District of Ishikawa Prefecture; he has been returned four times. He is a member of the Liberal Democratic Party Executive Council and Director of the General Organization Bureau. He is Chairman of the Foreign Policy Study Board, Liberal Democratic Party.

Naozo Shibuya, Liberal Democratic Party, is a member of the House of Representatives for the Second District of Fukushima Prefecture; he has been returned six times. He is actively involved in labor problems, and has served as Deputy Director, Labor Division of the Policy Affairs Research Council. He is also a member of the Policy Board of the Policy Affairs Research Council, Liberal Democratic Party.

Kazuo Shionoya, Liberal Democratic Party, is a member of the House of Representatives for the Third District of Shizuoka Prefecture; he has been returned four times. He is Vice-Chairman of the Diet Policy Committee, Liberal Democratic Party, and Secretary General of the Afro-Asian Problems Study Council, Liberal Democratic Party. He is also Permanent Director of the Japan-China Parliamentary League and the Japan-North Korea Parliamentary League.

Reiichi Takeuchi, Liberal Democratic Party, is a member of the House of Representatives; he has been returned five times. He is Chairman of the Standing Committee on Foreign Affairs and has served as Parliamentary Vice-Minister of the Ministry of Foreign Affairs and as Vice-Director General of the Economic Planning Agency.

Tokuma Utsunomiya, Independents Club, is a member of the House of Representatives from the Second District, Tokyo; he has been returned ten times. He was instrumental in founding the Liberal Party, predecessor to the Liberal Democratic Party. He has served as a member of the House Committee on Foreign Affairs, Leader of the Liberal Democratic Partys Afro-Asian Problem Study Group, and as Vice-Chairman of the Policy Affairs Research Council, Liberal Democratic Party. He has visited the Democratic Peoples' Republic of Korea.

Toshio Yamaguchi, New Liberal Club, is a member of the House of Representatives for the Second District of the Saitama Prefecture; he has been returned four times. He is Chairman of the Diet Policy Committee of the New Liberal Club.

JAPANESE SPECIALISTS

Eiichi Imagawa, is a senior Researcher at the Institute of Developing Economies, Tokyo; he was Guest Researcher at the Brookings Institution, 1973–1975. His books include "China's Great Cultural Revolution" and "The Vietnam War" (co-author, 1968), "Modern History of Southeast Asia," (1972), and "U.S. Internal and Foreign Affairs," 1973–1975. (1975)

Hiroharu Seki, is Director of the Institute for Peace Science, Hiroshima University, and is Professor of Political Science at Tokyo University. He is the author of many books, including "Search for Peace" (1975) and "International Relations for the 1970s" (1975).

Mikio Sumiya is Professor Emeritus, University of Tokyo. He was formerly Dean of the Economics Department at the University of Tokyo. His publications include "History of Wage Labor in Japan," "Analysis of Japan's Coal Industry," and the "South Korean Economy."

AMERICAN CONGRESSIONAL DELEGATION

Alan Cranston, Democratic Senator from Oregon, is the Senate Majority Whip. Now in his second term, he is a member of the Budget Committee, the Banking, Housing and Urban Affairs Committee, and the Human Resources Committee. He is Chairman of the Veterans' Affairs Committee.

Mark Hatfield, Republican Senator from Oregon, is a member of the Appropriations Committee, the Energy and Natural Resources Committee, the Rules and Administration Committee and the Select Committee on Indian Affairs. He is now in his second term.

Edward Kennedy, Democratic Senator from Massachusetts, was first elected to the U.S. Senate in 1962. He is a member of the Human Resources Committee, the Judiciary Committee, the Joint Economic Committee, and the Select Committee on Nutrition and Human Needs.

George McGovern, Democratic Senator from South Dakota, was the Democratic Party candidate for President in 1972. Now in his third term, he is a member of the Foreign Relations Committee and the Agriculture, Nutrition, and Forestry Committee. He is Chairman of the Select Committee on Nutrition and Human Needs.

John Anderson, Republican, represents the 16th District of Illinois in the House of Representative. He is now serving his ninth term in Congress and his fifth term as Chairman of the House Republican Conference. He is also a member of the House Rules Committee.

Anthony Beilenson, Democrat, represents the 23rd District of California in the House of Representatives; he was elected to his first term in 1976. He is a member of the International Relations Committee, the Committee on the Judiciary, and the Committee on Science and Technology.

Donald Bonker, Democrat, represents the Third District of Washington in the House of Representatives. He is now serving his second term. He is a member of the International Relations Committee and the Committee on Merchant Marine and Fisheries.

Bruce Caputo, Republican, represents the 23rd District of New York in the House of Representatives. Now serving his first term, Rep. Caputo is a member of the Committee on Standards of Official Conduct and the Committee on Banking, Finance and Urban Affairs.

Donald Fraser, Democrat, has represented the Fifth District of Minnesota in the House of Representatives for eight terms. He is a member of the International Relations Committee and Chairman of the Subcommittee investigating United States-South Korean relations.

Thomas Harkin, Democrat, represents the Fifth District of Iowa in the House of Representatives. He is now serving his second term. He is a member of the Committee on Agriculture and the Committee on Science and Technology.

Michael Harrington, Democrat, represents the Sixth District of Massachusetts in the House of Representatives. He is now serving his fourth term. He is a member of the International Relations Committee and the Committee on Government Operations.

Robert Kastenmeier, Democrat, represents the Second District of Wisconsin in the House of Representatives. He is now serving his tenth term. He is a member of the Committee on the Judiciary, the Committee on Interior and Insular Affairs and the Select Committee on Ethics.

Paul McCloskey, Republican, represents the 12th District of California in the House of Representatives He is now serving his fifth term. He is a member of the Committee on Government Operations.

Helen Meyner, Democrat, represents the 13th District of New Jersey in the House of Representatives. She is now serving her second term. She is a member of the International Relations Committee.

Leo Ryan, Democrat, represents the 11th District of California in the House of Representatives. He is now serving his third term. He is a member of the International Relations Committee.

Stephen Solarz, Democrat, represents the 13th District of New York in the House of Representatives. He is now serving his second term. He is a member of the International Relations Committeee, the Subcommittee on European and Middle Eastern Affairs and the Subcommittee on African Affairs.

Morris Udall, Democrat, represents the Second District of Arizona in the House of Representatives. He is now serving his ninth term. He is Chairman of the House Committee on Interior and Insular Affairs, and is a member of the Select Committee on Ethics.

Lester Wolff, Democrat, represents, the Sixth District of New York in the House of Representatives. He is now serving his seventh term. He is a member of the International Relations Committee, Chairman of the Subcommittee on the the Far East and

the Pacific, Chairman of the Subcommittee on Future Foreign Policy, and a member of the Subcommittee on International Operations.

Clement Zablocki, Democrat, represents the Fourth District of Wisconsin in the House of Representatives. He is now serving his fifteenth term. He is Chairman of the International Relations Committtee.

Additional "American Paliamentarians" participating included Representatives Berkley Bedell of Iowa; George Brown of California; Ronald Dellums of California; and Edward Pattison of New York.

AMERICAN SPECIALISTS

Professor Jerome Cohen is Director of East Asian Legal Studies and Associate Dean at Harvard Law School. He has contributed over 40 articles and reviews to professional journals and is the author of several books, most recently "China Today and Her Ancient Treasures" (with Joan Lebold Cohen). He has also served as consultant to the U.S. Senate Committee on Foreign Relations.

Professor Bruce Cummings is Associate Professor of Political Science at the University of Washington, He is Secretary of the Committee on Korean Studies, Association of Asian Studies. He is the author of several articles on Korea, and is now preparing a book on the origins of the Korean War.

Professor Richard Falk is the Albert C. Milbank Professor of International Law and Practice at Princeton University. He is a Senior fellow at the Institute for World Order and Faculty Associate at the Center for International Studies. He is the author of "Future Worlds, The Vietnam War and International Law: The Concluding Phase" (4 Volumes), "A Study of Future Worlds," and "The Future of the International Legal Order" (With Professor Cyril Black).

Selig S. Harrison is a Senior associate at the Carnegie Endowment for International Peace. As Northeast Asia Bureau Chief for the Washington Post from 1968–1972, he was one of two American journalists to have visited the D.P.R.K. He has served as Senior Fellow in charge of Asian Studies at the Brookings Institution and as Professorial Lecturer in Asia Studies at the John Hopkins School of Advanced International Studies. He is the author of "The Widening Gulf: Asian Nationalism and American Policy" (The Free Press, forthcoming) and The Carnegie Endowment study, "China, Oil and Asia: Conflict Ahead?" (Columbia University Press, forthcoming)

Professor Gregory Henderson is on the faculty of the Fletcher School of Law and Diplomacy, Tufts University. He was a Foreign Service Officer from 1947 to 1964, serving as Political Officer and Chief Cultural Officer in Seoul, 1958–1963. He is a Research Associate at Harvard University, and has served as a Research Officer at the United Nations. He is the author of "Korea: Politics of the Vortex" (Harvard, 1963), and "Political Change" (Praeger, 1973), "Divided Nations in a Divided World" (McKay, 1974), and many articles.

Gareth Porter is an Associate Fellow at the Institute for Policy Studies. He received his Ph. D. from the Southeast Asia Program, Cornell University. He was Research Associate in the Cornell University International Relations of East Asia Project from 1972 to 1974, and was Co-Director of the Indochina Resource Center, Washington, D.C. from 1974 to 1976. He is the author of "A Peace Denied: The U.S., Vietnam, and the Paris Agreement," and "Cambodia: Starvation and Revolution."

Earl C. Ravenal is a Fellow of the Institute for Policy Studies and Professor of American Foreign Policy at the Georgetown School of Foreign Service and The Johns Hopkins School of Advanced International Studies. While a Defense Department Officer, he was Director of the Inter-Agency Task Force Study on Korea for the N.S.C. in 1969, and Director of the Asian Division of the Office of Systems Analysis. His books include "Peace with China? U.S. Decisions for Asia" (co-author and editor) and "Never Again: Learning from America's Foreign Policy Failures" (forthcoming), and "Foreign Policy in an Uncontrollable World" (forthcoming).

Rinn-Sup Shinn is a Senior Research Scientist, The American University. He has participated in numerous conferences on Korea and often serves as a consultant and lecturer on the Koreas. His articles have appeared in Problems of Communism, and he is the coauthor of the "Area Handbook" for North Korea (1969, 1976), South Korea (1975), Peoples Republic of China (1971), and Japan (1974).

Jeffrey Hall Stein, an Associate of the Institute for Policy Studies, holds an M.A. degree in Asian Studies from the University of California, Berkeley. He was a U.S. Army Intelligence Officer in Viet Nam, 1968–1969. He has contributed to the Nation, the Progressive, the Christian Science Monitor, Far East Economic Review, and National Public Radio, primarily on questions concerning U.S. policy towards the Far East.

The "First Working Session" of the meetings was based on discussion of four prepared papers, Selig Harrison's "U.S. Force Reductions and North Korean Policy;" Gregory Henderson's "Arms, Intentions and Misperceptions" (titled in the conference program "The Danger of a New Arms Race in the Korean Peninsula"); Eiichi Imagawa's "Japan's Peaceful Coexistence Policy in Relation to Korea;" and IPS fellow Earl Ravenal's "Troop Withdrawal and U.S. Policy Options in Korea."

Selig S. Harrison, a Senior Associate at the Carnegie Endowment for International Peace, based his analysis of Korean affairs on information he received during his 5-week visit to Pyongyang and interview with the North Korean Communist dictator, Kim Il-sung, in 1972. Making the best possible interpretation of North Korean intentions and motives, Harrison called for reduced defense spending by South Korea to "enable Pyongyang to address growing popular economic demands more effectively without upsetting its existing economic and political foundations." Stripped of euphemisms, this proposes that if North Korea doesn't intend a military venture against South Korea, it might free up enough of its economy to provide some additional consumer goods and undercut internal tension which could possibly result in a popular uprising and overthrow of the totalitarian government and its stringent economy.

Harrison also proposed with a straight face that South Korea might "launch a military unification adventure" against North Korea which is backed by extensive Soviet and Red Chinese troop forces concentrated in Northeastern Asia. Admitting that his focus was primarily on how North Korea sees the situation, Harrison propounded that "there will be a continuing danger of a military explosion in Korea" until Korea moved "in the direction of confederation and ultimate unification,"

Harrison promoted a North Korean proposal for a "confederation" of South Korea with North Korea setting the legal framework for a Communist "reunification." Wielding euphemisms with the skill of a Madision Avenue publicist, Harrison justified the North Korean dictator's continued aggression and subversion campaign against South Korea by saying that Kim "could not abandon, or appear to abandon, the unification goal without seriously tarnishing his leadership image." And he praised the Pyongyang dictatorship's "settled society with a strong sense of achievement and unity."

At the beginning of his exposition of the North Korean position, Harrison noted in passing that his knowledge was derived from his 1972 visit to North Korea and his interviews with Kim Il-sung and other North Korean functionaries. In the printed text of his position paper, Harrison writes of "my contacts since 1972 with North Koreans based outside the country" who have provided him with the view that "Pyongyang is prepared to adapt its bargaining posture to changing American and Japanese policies." The "North Koreans based outside the country" are virtually without exception either embassy personnel and or agents of the North Korean espionage apparatus. How convenient for Pyongyang that Mr. Harrison has been able to convey their political message to an informal gathering of Japanese and American legislators in such sympathetic tones. According to the U.S. Department of Justice, Mr. Harrison is not a registered foreign agent for North Korea.

Another proponent of conciliatory policies toward North Korea and a harsh U.S. and Japanese policy toward South Korea was Earl C. Ravenal, a long-time IPS associate whose speciality is promoting fast military withdrawal of the U.S. as a world power. Ravenal has worked on anti-U.S. defense projects for the Center for International Policy (CIP), a project sponsored by the Fund for Peace and staffed principally by IPS associates; in which Letelier took a leading role and the lobbying group called the Coalition for a New Foreign and Military Policy (CNFMP) which like the Fund for Peace cooperates closely with the Soviet World Peace Council that promotes U.S. disarmament while providing logistical support to Soviet-backed terrorist movements.

Ravenal presented a considerable amount of material previously developed by Donald L. Ranard, Center for International Policy director and former State Department Korea desk officer who also argues that the U.S. has no strategic interest in aiding South Korea. Ravenal argued that the "developing world system" required an unconditional withdrawal of U.S. troops from South Korea with only limited military aid as a replacement. Continued U.S. guarantees of South Korea sovereignty might "unhinge the international order," said Ravenal.

The second session was based on a series of seven papers, Richard Falk's "Human Rights and U.S. Policy Toward Korea;" Jerome Cohen's "The Human Rights Situation in South Korea;" Bruce Cumings' "Political Repression and Economic Development Strategy in South Korea;" "Need for a New Direction in Japan's Korean Policy" by Kazu Shionoya and Hajime Ishii; and three separate papers on human rights in South Korea submitted by Japanese participants.

The consensus of panelists averred that repression of human rights under the authoritarian government in South Korea was far worse than the total suppression of human rights and individuality of thought and expression under the Communists in the north because the United States is allied with South Korea but has no ties with North Korea. (Throughout the conference many panelists called for America to open relations with North Korea and develop an "even-handed" policy toward North and South Korea).

Of the "human rights" panelists, perhaps the most vocal supporter of the "enormous success" of the Communist regime in North Korea was Richard Falk, a professor of international law long associated with IPS co-director Dick Barnet. Falk and Barnet were among twenty "peace activists" who signed an ad in the New York Times in January defending the Vietnamese Communist regime's campaign of repression and state terror against the Vietnamese people and saying "The present government of Vietnam should be hailed for its moderation and for its extraordinary effort to achieve reconciliation among all its people." Humanitarians Falk and Barnet in the ad cited as an example of the Communists' "moderation" the fact that

only tens of thousands of persons who had "collaborated" with the previous anti-communist government of South Vietnam were in concentration camps, rather than the hundreds of thousands "guilty" of collaboration."

However, his credentials as a human rights activist were not challenged by either other panelists or by the press.

The third session of the conference was devoted to "Prospects for Tension Reduction and Political Accommodation in Korea." Papers submitted by IPS's Gareth Porter, Rinn-Sup Shinn, Tokuma Utsunomiya, Hiroharu Seki and Hideo Den urged conciliation with North Korea and for U.S. military and economic pressure to be applied to South Korea in order to force South Korea to enter negotiations with the North "on matters which are vitally important to defusing the North-South military and political conflict and establishing an atmosphere of peace."

As Porter and the Institute for Policy Studies leaders are well aware, "peace" to the Marxist-Leninists is what comes with the end of the class war and the overthrow of capitalism.

At the beginning of September, the official Soviet "new agency" TASS denounced the economic arrangements among South Korea, Japan and the United States and the increasing importance of South Korea and Japan to U.S. defense after the fall of Southeast Asia to the Communists. North Korea's propagandists picked up the refrain only days before the IPS Capitol Hill conference, attacking the economic and political alliance of the U.S., Japan and South Korea as "a source of tension in this region."

The fourth and final "working session" of the IPS conference examined what use could be made of the "Koreagate" investigations into improper influence peddling and possible bribery of Congressional figures by South Korean agents. This issue, which is now under investigation by the Ethics Committee, was felt to have been virtually made to order for the anti-South Korea campaign. Some expressed the feeling that any legislator who in the future went on record in support of military assistance to South Korea could be smeared with "Koreagate" charges.

The "Koreagate" affair also provided IPS's Jeff Stein with the occasion to launch another broad smear attack on Western intelligence agencies charging that corruption is innate in the "tapestry of Cold War ideology and the clandestine bureaucracies which are built in the name of anticommunism." Japanese Socialist Party official Susumi Kobayashi concurred with Stein in the suggestion that corruption was the only and real motivation behind anticommunist sentiments in Japan and America. Stein held that "Koreagate" would finally be the level to cause the repudiation of South Korea by the U.S. Government. Stein's tawdry attack, matching his other opportunistic propaganda smears against the intelligence community in recent months, provided a fitting end to these unseemly proceedings.

The neo-Marxist influence peddlers of the Institute for Policy Studies who have repeatedly demonstrated their loyalty to Communist causes and movements are now working to consolidate the contacts made and alliances formed during the conference and the legislative nuclei in the U.S. and Japanese legislatures produced by their Korea conference.

Sources involved in the IPS Korea project report that the organization expects to see a radical change in U.S.-Korean relations by next spring's appropriations.

It is our responsibility to see that our deliberations and investigations are conducted free from outside influence mongers whose operations themselves might provide a fertile field for Congressional investigation.

I would further note that even as the academic leftists of IPS targeted elected officials for cooptation into the anti-South Korea campaign, the street level activists in the Soviet and Cuban sectors of the U.S. left consolidated their anti-Korean campaign earlier this year. And I will provide future reports on that lower level of pressure.

DANGEROUS TILT TO THE STRATEGIC BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. BRECKINRIDGE. Mr. Speaker, I wish to interrupt, temporarily, my ongoing "Balance(s) of Power" series to alert the Congress and the American people to a thought-provoking and ominous article by Senior Specialist John Collins of the Library of Congress. Mr. Collins' article appeared in the Baltimore Sun of September 21, 1977, and summarizes the shift in the balance of power between the Soviet Union and the United States. John Collins clearly states the implications for America and the free world of the declining U.S. power. In concise terms, John Collins points out that "America's security is now at a crucial crossroad," and it is up to each and every one of my colleagues and the American public to address this national security issue. Mr. Collins' article follows:

DANGEROUS TILT TO THE STRATEGIC BALANCE

(By John Collins)

WASHINGTON.—The balance of U.S. and Soviet military strength is clearly shifting across the board in the Kremlin's favor. That is not an inflammatory statement. It is a straightforward fact.

Fifteen short years ago, at the time of the Cuban missile crisis, America's armed services reigned supreme in almost every respect. We were the world's sole military superpower. Moscow's machine was mainly second class. Since then, U.S. forces have registered many improvements, but their relative decline has been dramatic compared with Soviet counterparts.

Mutual vulnerability, this country's nuclear deterrent mainstay, is much less mutual than it was in the 1960's.

Moscow's monster ICBMs, with added accuracy and many large MIRVs, threaten the survival of U.S. second-strike Minutemen, which are sitting ducks in undefended silos. Our missiles may still serve as effective deterrents for some extended period, but the question no longer is whether the Soviets eventually could crush them. The only question is when.

America's leaders lately have all but scuttled strategic defense, leaving this nation naked to nuclear salvos. The Soviets, in contrast, are taking strong, cumulative steps to protect their population and production base. Assertions that their defensive shield could soon neutralize U.S. retaliatory strikes probably are premature, but a Soviet ABM breakthrough, coupled with existing air and civil defenses, could discredit U.S. strategy, which banks heavily on abilities to destroy aggressors if they assault the United States.

U.S. conventional capabilities have also slumped in comparison.

American armed services, assisted by allies in some cases, must deter or, if need be, deal decisively with Soviet challenges, while retaining sufficient strength in reserve to safeguard U.S. interests overseas against possible threats by lesser powers. Many experts doubt they could do it.

Active U.S. ground combat forces, for example, include just 16 Army divisions. Half of those are committed to current missions in Asia and Europe, or act as NATO reserves. Six in the United States should serve as a rotation base for troops stationed abroad. Only two, along with U.S. Marines, are free to contend with contingencies. Conversely, the Soviets maintain a mammoth Army, which has been much modernized since the mid-1960's. Its superior abilities to absorb combat casualties are apparent, and its strength in Central Europe completely overshadows our own.

America's tactical air combat assets in the aggregate afford flexibility not available to any competitor. Our side still enjoys a clear qualitative edge. Small size, however, creates an Achilles heel. The several U.S. services found it physically impossible to satisfy requirements during the recent showdown in Southeast Asia without significantly undercutting capabilities in Europe. They still are spread too thin.

U.S. surface fleets are in danger of destruction by Soviet air-and-sea-launched antiship cruise missiles, which could trigger huge surprise attacks, some from point-blank defense or comparable capability.

Other U.S. naval problems pertain to comparable numbers.

Admiral Thomas H. Moorer, when he was chairman of the Joint Chiefs of Staff, used to quip that U.S. policy had compelled him to "sink" more American ships than any combination of enemy admirals in our history. The intent was to create a smaller force with greater capabilities than its predecessors, but size was cut more quickly than strength could increase.

U.S. attack submarines, whose primary purpose is to counter enemy counterparts, now are outnumbered three-to-one by Soviet wolf packs. Our abilities would be better if the ratio were reversed. As it stands, that balance bodes badly for the U.S. Merchant Marine, whose few ships are marginally sufficient for small-scale operations. Even modest attrition from Soviet submarine attacks could impinge inimically on every aspect of U.S. security, by restricting the transoceanic flow of imperative reinforcements, resupplies, and critical raw materials.

The implications of such developments are subject to dispute. Some seers predict disaster, others disagree. But liberals and conservatives alike seem to concur on one point: neither U.S. principles nor programs of any sort could prosper in peacetime or persevere in war if the balance tipped too far toward the Soviets.

Declining U.S. power already relegates reciprocal arms control accords to a salient position in American plans. This country's security quite literally depends to a high degree on cooperation by a shrewd competitor whose incentives to collaborate are less intense than our own.

Declining U.S. power already weakens America's alliance system, whose political cracks in several cases can be traced to lack of confidence in U.S. capabilities.

Declining U.S. power already degrades our diplomacy. If the present course continues, we could be quite hard put to convince the Kremlin that compromise is preferable to one-sided deals that serve Soviet ends at U.S. expense.

The pity of it is we are letting ourselves be outclassed militarily by a plodding, pedestrian opponent whose path is mainly predictable. Most of our wounds are self-inflicted, caused by questionable concepts that reduce this country's stature and reinforce the Russians.

Item: We disband armed forces after every war. The Kremlin continues its buildup.

Item: We stress quality at the expense of quantity, while the Soviets strive for both.

Item: We feature firepower instead of manpower. The Soviets feature both.

America's security is now at a crucial crossroad as a direct result of those and similar dubious policies. We have the potential to turn trends around, but problems will prevail if U.S. decision-makers bank on bigger budgets to cure defense ills, instead of better strategy. Procuring unnecessary or unusable accoutrements simply to achieve apparent parity (a strong argument for some U.S. weapons systems) seems a poor way to shore up sagging capabilities or to influence perceptions among enemies, allies, or uncommitted countries. Practical power would pay greater dividends.

In short, we can drain the Treasury dry without improving security, unless U.S. leaders match meaningful ends with measured means in ways that minimize risks and reinforce weak spots. David didn't drop Goliath with "more of the same." He used a slingshot instead of a sword, and changed the name of the game.

INTERNATIONAL WOMEN'S YEAR—IWY—ORLANDO, FLA. CONFERENCE

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. CHAPPELL. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Over the past few months, there has been considerable controversy generated as a result of various International Women's Year conferences held at the State level. Certainly, my own State of Florida was no exception in this regard. The Orlando, Fla. conference held in July has caused much unrest among the women of Florida's Fourth District and, I believe, warrants special consideration.

Based on information I have received, examples of which follow, it appears that the Orlando meeting of the IWY was conducted in a manner which violated the spirit and intent of House Concurrent Resolution 309 which authorized these State level meetings and H.R. 9924 which provided the funds. Specifically, my constituents who attended the State meeting in Orlando believe that the IWY is a cover for ERA lobbying activities contrary to and prohibited by congressional mandate. It is my fear that what we have done in this instance is to authorize funds for political activity. If this is the case, and keeping in mind the fact that Congress has authorized $5 million of the taxpayer's money, I feel that we must convey a need for more clearly defined objectives if such conferences are to fulfill their purpose in the future. Furthermore, it is my feeling that delegates elected as representatives at the Orlando conference were not chosen on the basis of guidelines established by Public Law 94-167. In effect, this thwarted the will of the majority and casts doubt as to the real purposes of these IWY operations. Due to the controversial aspects of the Orlando, Fla. meeting, I have asked the General Accounting Office to investigate the manner and tone of the Orlando conference to ensure that it follows congressional mandate.

Mr. Speaker, I want to share with my colleagues two letters sent to me by two of my constituents, Mrs. Joan Mathias and Mrs. Jackie Grant of Ocala, Fla., as I believe they are representative of the frustrations and disappointment experienced by many who attended the Orlando IWY conference. It is my hope that in the future IWY conferences will be more representative of the majority views and held strictly accountable for the use of taxpayer's dollars.

The text of the two letters follows:

JULY 22, 1977.

President JIMMY CARTER,
The White House,
1600 Pennyslvania Avenue,
Washington, D.C.

DEAR PRESIDENT CARTER: The following occurrences at the International Woman's year (I.W.Y.) Florida Conference, which were contrary to all proper parliamentary procedures, cause me to doubt the integrity of all 56 I.W.Y. Conferences.

Write-in candidates were disallowed by the chair. Roberts Rules of Order Newly Revised (R.O.N.R.), Pg. 361 states ". . . each member is free to vote for any eligible person, whether he has been nominated or not."

It is my understanding the purpose of the I.W.Y. Conferences was to discover how women all over the country felt about such issues as ERA, abortion and other subjects pertaining to women. In such a case, "those present" should constitute a quorum. The Chair for the Florida IWY declared the meeting adjourned on the day these issues were to be decided, when in fact only those interested enough to attend should be able to have any effect on the outcome. To allow those so disinterested as to not attend, to stop those attending from voting, is of course a miscarriage of justice.

The chair also closed the nominations after one hour. R.O.N.R. clearly states, pg. 366, that "when it appears no one else wishes to make a nomination, the chair should again ask if there are any further nominations, and if there is no response, he may normally declare the nominations . . . are closed . . ."

It is further stated on pg. 241-2 (R.O.N.R) in Motions Relating to Nominations, "7. require a majority vote, except a motion to close nominations, which requires a two-thirds vote because (a) its adoption deprives members of a basic right—to nominate; and (b) the assembly must be protected against attempted abuse of power to close nominations by a temporary majority." Page 364 states "After the nominating committee has presented its report and before voting . . . takes place, the chair must call for nominations from the floor."

In regards to "Mass Meetings", R.O.N.R. on page 455 states . . . "in any event, a mass meeting is convened—and those who attend are admitted—upon implied understanding that the sponsors . . . have the right to have the proceedings confined to the overall object they have announced; but that the entire assembly (which is made up of persons whose help the sponsors are seeking) has the right to determine the action to be taken in pursuit of the stated object."

The rules as sent to the Federal Registry prior to the Florida I.W.Y. meeting included the one-hour limit on floor nominations. This plus the refusal of the chair to allow write-ins and the refusal to allow voting on workshop issues using the excuse "lack of a forum", all are incorrect actions and therefore invalidate all actions taken at the forum, in my opinion. I come to this conclusion because any rule which "deprives members of a basic right" must be agreed upon by a ⅔ vote in the affirmative by the assembly.

Further evidence to support my feelings includes the fact that the top 13 vote-getters of the 40 nominees to attend the Houston Conference were from the "conservative slate" (anti-ERA) and were nominations from the floor. The voting went as follows:

Total vote, 1,671.

(A) W. LeFils (top conservative vote-getter), 1,032.

(B) G. Cherry (top pro-ERA vote-getter), 632.

(C) M. Mosher (lowest conservative vote-getter), 949.

(D) R. Cacciola (lowest pro-ERA vote-getter), 504.

A little simple math suggests a bleak picture of the violations of the majority rights of those attending the Conference.

By subtracting the number of votes for LeFils (1,031) from the total voting (1,671), then only 639 women at the conference were pro-ERA. OR, by subtracting G. Cherry votes (632) from total voting (1,671) then 1,039 were conservative, or anti-ERA. It takes little imagination to see that if floor nominations had continued the conservatives could have won all 40 delegate spots. I re-emphasize, the top pro-ERA candidate had 317 FEWER votes than the lowest conservative vote getter.

This proves to me that at the Florida IWY Conference (and perhaps at most or all the conferences) the wishes of the majority were ignored. As Henry M. Robert stated "Where there is no law, but every man does what is right in his own eyes, there is the least of real liberty."

I suggest the officials (or outside observers if necessary) of the IWY Conference in Houston examine each of the delegations sent (and the procedures of all 55 Conferences) and ascertain that such blatant violations of Parliamentary Law did not occur and that such violations be sufficient evidence to exclude those delegates from the Houston Meeting.

I further suggest that the viewpoints of Florida women were not fairly exhibited by the 27 pro-ERA delegates elected, and therefore I ask that none of those 27 be allowed to attend, much less vote at, the Houston Meeting. The only proper place for them would be participating in the submission of a minority report, which of course would allow them, even as a minority, to have their say.

Very Sincerely,

JOAN T. MATHIS,
Ocala, Fla.

OCALA, FLA.,
August 3, 1977.

Representative BILL CHAPPELL,
207 N.W. 2nd Street,
Ocala, Fla.

DEAR MR. CHAPPELL: I am aware of your deep and growing concern for our country, and wish to call to your attention (as I know countless others have) a very serious matter concerning the blatant misuse of our tax money for the so-called International Women's Year. They have five million of our tax dollars, and now they want three million more. If you could have been with us in Orlando at the meeting several weeks ago, you would have thought you were in Russia, instead. It was absolutely frightening.

I have an appointment to see you next Wednesday morning, but wish to give some preliminary thoughts of my impression of the conference. I am sure that Shirley Correl, Rani Davidson, and others have already informed you of the unfair voting and nominating procedures for Houston delegates, though they do not live in this district; and I know for certain that Joan Mathis, who is somewhat of an expert on parliamentary procedure, has written you concerning the details of the nominations down there. Suffice it to say that it was rigged and manip-

ulated from the word go, by the Federally Appointed committee, which was by far slanted toward the left, liberal, pro-ERA, pro-abortion, pro-lesbian side of the ledger.

The resolutions they drew up, which were never approved by the convention but which those hussies say, in their news releases, that they are going to take to Houston, are frightening. Some of the things they propose are rights for lesbian mothers and all lesbians, homosexual adoption, sex education in the schools, an international slant instead of pro-American nationalism, etc. I will bring my copy when I come next week.

The sad thing is, the pro-family, anti-abortion, anti-ERA, pro-God women were in the majority at the conference. Our thirteen received the highest number of votes; in fact, our lowest received 317 more votes than their highest vote-getting delegate, Gwen Cherry. It is strange, too, that 22 of the 27 they elected were also members of the committee who planned the whole fiasco. At any rate, we did disrupt the conference; we had to, as our rights were being trampled on in such a thoroughly un-American way. It made my blood boil.

The "other" side consisted of several types: slick, professional feminists like Cherry, Athanasakos, and Wilson; and, what I would call rabble. Many were there in sloppy blue jeans and tee shirts with feminist sogans; many were obviously and admittedly lesbians; many were obviously and admittedly socialists. It was sickening.

And yet, this weird crowd proposed to speak for the women of Florida. You can bet we didn't let them get away with it, though "officially" they elected more delegates. We are in the process, now, of trying to get an injunction against the whole slate of delegates and the resolutions—declare the whole convention illegal, which in fact it was.

Apparently, the Florida convention was not the only one which was dominated, as carefully planned beforehand, by the weird feminists; it was not until the later conventions that the women woke up to what was going on, so the majority at Houston will, presumably, be the non-typical women of the type I have just described.

It was sickening, the way they shouted and cursed and booed when anyone on our side mentioned God, the Bible, or quoted Scripture.

Just how far these creeps will go, is evidenced on the fact that they had a pornographic art show in connection with the Orlando meeting, which was so bad it had to be taken down. Some of our women saw it, and it was raw. In one of the sex workshops at the Pennsylvania meeting, according to "The Wanderer," "bestiality and necrophilia were promoted as normal forms of sexual expression. 'Alice Loves Mary' buttons were prominent as were photos of homosexual and lesbian acts in the student union center on Duquesne's Catholic campus." "The Mindszenty Report" tells of Communist literature being distributed at the Minnesota meeting; Colorado's meeting had lesbian workshops and one on atheism (though neither the American flag, National Anthem, nor prayers were permitted); and in Virginia, self-proclaimed witches had a workshop on witchcraft. And in Minnesota, where one participant suggests opening with prayer and pledge to the flag, she was hissed, shouted down, and voted out of order. In Wisconsin, radical feminists marched from the state capitol shouting "Two-four-six-eight, Smash the Family, Smash the State."

And so it has gone, in state after state, Florida being no exception. I saw radical literature being distributed that could be called nothing short of Communist. I had a long conversation with two lesbians manning the Socialist Worker's Party booth. Pro-abortion literature was rampant, and it was sickening. Thank goodness, the good people were there; the pro-lifers had a booth, as well as several others. But though we were in the clear majority, the leftists who were leading the convention had already sewed things up so that officially, anyhow, they "won".

But in "winning", they actually lost; for they have gone too far this time. They have so incensed the decent women of Florida and the nation, that we will not be kept down, we will not be silent.

And so, I will be looking forward to seeing you. I am certain you will be sympathetic to our cause.

Sincerely,

JACKIE GRANT.

JOHNSTOWN AND METROPOLITAN LIFE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MURTHA. Mr. Speaker, Metropolitan Life Insurance Co. recently located its mideastern head office in Johnstown, Pa. I want to insert in the CONGRESSIONAL RECORD an article which lists the work done by Metropolitan during the flood of 1977 and I commend them for their help:

MET'S DISASTER RELIEF PROGRAM HAS GIVEN AID FOR 60 YEARS

Metropolitan employees who suffered loss of property in the Johnstown flood were eligible for financial assistance under the Company's Disaster Relief Program. In charge of the program's administration is Vic Emerson, Manager, Authenticating Division under Senior Vice-President and Controller Paul Knies.

"This program goes back in Metropolitan history to 1917," says Mr. Emerson, "It's designed to help the employee restore some of the essentials of life—common household utensils, clothing, things of that sort.

"When there is a disaster like the one in Johnstown, we send a representative from this department—either myself or, in this case, Walter Zdeb—right to the scene. We interview people individually. In Johnstown we worked at the head office where there are checkwriting facilities and we were able to disburse some money right on the spot.

"Authorizations for the payments are made by someone at the site. It was Joe Guiffre (Vice-President in charge of the Mideastern Head Office) who authorized these last grants."

Metropolitan also has another emergency assistance program for employees, the Hegeman Memorial Fund for Employees' Welfare, but it is not related to the Disaster Relief Program.

"The Hegeman Fund," says Mr. Emerson, "is used more in the nature of personal problems which might develop. The Disaster Relief Fund is used strictly in disaster situations. Money is provided for the disaster program by an annual appropriation by the Board of Directors."

GUIFFRE, BARKER OPTIMISTIC

When the flood struck Johnstown, Metropolitan was very fortunate to have two unusually dedicated people in charge of its offices there—Joseph Guiffre, Vice-President at the Mideastern Head Office, and Edwin Barker, Johnstown's District Sales Manager.

Both offices escaped damage, and operations are now almost back to normal. Home Office Edition spoke to Mr. Guiffre and Mr. Barker about the recovery efforts.

MR. GUIFFRE

Q. Did the flood cause the head office to be closed any days?

A. Part of one day only—Wednesday, July 20. At about 10:15 we decided to call a halt to operations because the electric power and the telephones were very erratic. That was the only time we were totally closed.

Q. How many of your people were able to make it in that first day?

A. About 55. After that they began drifting back in larger numbers each day.

Q. Is everything back to normal now?

A. Yes, there's no question about it. Our work is being brought up to date. There were some electronics problems between here and Scranton and between here and Wichita that contributed to our backlog of work, but we are caught up now.

Q. What would you say was the mood of the employees?

A. They had a positive attitude throughout the whole thing, really. Understandably several were in a kind of shock. That's what I discerned in talking with them, particularly those who had severe damage to their homes. But overall I think we were extremely fortunate, and when you consider the number of people we employ, we had relatively few losses. While we had several people who lost their homes, we didn't lose a life, and that's quite fortunate when you consider the total damage done.

Q. What financial help has Metropolitan Salvation Army?

A. Many grants have been made and are still being made to employees who have suffered property damage. Also, by going through normal channels at the home office, it was arranged to contribute $15,000 to the American Red Cross and $10,000 to The Salvation Army.

Q. Were those contributions used for any specific purpose?

A. Appropriately, it was earmarked only for Johnstown. We requested it be used for food, clothing or shelter for the local victims.

Q. At one point, all but a few employees had been accounted for. What was it like waiting to hear about them?

A. Most of us have had tragic experiences in our lifetimes, but you can't get used to these experiences. You feel a great deal of remorse, a great deal of concern, and you try to address yourself to other things so that you don't get morbid or morose about it. When you're visible, as I am, you can't indulge yourself in that way. It doesn't help the people around you. You feel deeply, but you must do it inwardly. In addition, your main responsibility is to provide leadership to almost 2,000 other sales and sales management people and to service approximately four million policyholders in the State of Pennsylvania. So you can't let the whole thing fall apart, notwithstanding the tragedy that we experienced.

Q. What expectations do you now have from the Johnstown area?

A. While the situation was extremely bad in terms of property damage and loss of life, normalcy is returning quickly. Of course, the flood will have its effect for some time to come. But I think the thing the people of Johnstown have going for them—and this is aside from the layoffs at Bethlehem Steel—is their good morale and resilient attitude. They will do whatever is necessary to put the flood behind them. They'll work harder and longer. That's what it boils down to.

MR. BARKER

Q. What's the situation now in Johnstown? Do the people have faith in their slogan, "We Will Rebuild Together"?

A. The town will rebuild together. I don't know if it's the background of the people in Johnstown, what they've been through—this is the city's third flood in 88 years—but the people will rebuild Johnstown. It'll

take awhile. Especially among the people who suffered the greatest losses. And they also have to fight the depressed mood that accompanies disasters like this. But you can already see the difference in the town, the progress the town has made. You might look out now and say it's still in a hell of a mess, and I'd agree with you. But it looks like a fairyland compared to what it looked like a few weeks ago. And that's because of the people, including the business community, the Red Cross and the Salvation Army, who dug in and dug out and helped each other.

Q. How about this district office? What's going to happen here?

A. A lot of people may have written us off in terms of production for this year but we've had a pretty good record for the past several years. And in talking to my people I can sense that we haven't given up. We know we're going to have another good year. We have a good, proud organization, and the people in Johnstown whom we service need life insurance just as much now, or maybe more than they did prior to the flood. I think many of them are more cognizant of the need for life insurance now than they ever were before. Take a look at the end of the year. See where Johnstown District is. We're determined not to finish poorly in 1977.

Q. When you got back together for the first time with all the sales people, what did you tell them? Did you have some kind of general plan in mind on how to operate?

A. Not really. They rallied on their own. It was remarkable. Everyone was just happy and thankful that we didn't lose anyone, that no one lost anybody from their family, that no one was wiped out financially. We had some people who lost things, but no major catastrophes. And the first few times we got together, we were still talking about the flood. We all just went back to trying to get our work done. We could feel the spirit, and we're kind of proud of the district starting right then to come back together.

Q. How about yourself? Have you been able to recover from the emotional impact of everything that happened?

A. It depends on what I'm doing. If I get involved with someone who was hit hard by the flood, I have to be very careful not to let my emotions take over. It was very disheartening to me to see our city in the condition that it was in. At the same time, I'm very proud to see the way people are coming back, the way the city is cleaning up and businesses are rebuilding. But the faces of some of the people still tell the tragic story, particularly among some of the elderly people who were wiped out and who don't have the heart to start over again; their plight reaches out to you. You just have to be careful that you don't let your emotions take over. Most of the time you have a good feeling about the way the people are responding and about their overall good attitudes.

RESOLUTION INTRODUCED TO INCREASE COMPENSATION FOR POSITIONS IN OFFICE OF DOORKEEPER OF THE HOUSE OF REPRESENTATIVES

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. KETCHUM. Mr. Speaker, today I have introduced a resolution which seeks to increase the compensation for positions under the Doorkeeper of the House of Representatives.

In 1974 the Subcommittee on Personnel and Police of the House Administration Committee recommended that all doormen be reclassified from level 3 to level 2 within the House Wage Schedule. What this did was to reduce the salary of newly appointed doormen as well as to reduce the level of pay increases to currently employed doormen.

It certainly is a poor state of affairs to find that doormen of the House of Representatives were subject to salary schedule reductions by the very Members whom they have so ably served. The office of Doorkeeper has evolved into an integral part of the legislative structure of the House, and it is only fitting that the Members reinstate the doormen to the classification that they properly deserve.

HUD HOUSING POLICIES

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. LUNDINE. Mr. Speaker, I would like to bring to the attention of my colleagues the following speech delivered by Jay Janis, Under Secretary of the Department of Housing and Urban Development, to the annual convention of the National Association of Real Estate Brokers in Atlanta, Ga., on August 15, 1977.

Although in the past I have sometimes been critical of the policies of the Department of Housing and Urban Development, I am encouraged by the renewed vigor with which the Carter administration is addressing our Nation's housing problems. HUD is beginning to demonstrate tangible signs of their commitment to solving the chronic maladies which have afflicted our cities for so long.

Not only has HUD begun to address the problems of our urban centers more vigorously, but they are becoming increasingly responsive to the problems of small cities and rural communities. It is the unique problems of these nonurban areas with which I have become especially involved, particularly during deliberations on the Housing and Community Development Act of 1977. With the cooperation of HUD, we were successful in securing revisions in our major housing programs that will more adequately address the community development needs of these areas.

The specific efforts of the Carter administration and the Department of Housing and Urban Development, under the leadership of Secretary Patricia Roberts Harris, to more actively address our Nation's housing and community development needs are clearly outlined in the speech presented by HUD Under Secretary, Jay Janis.

REMARKS BY JAY JANIS, UNDER SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Before I begin, I have a special message for you. President Carter has asked that I give you his best wishes for a productive and rewarding conference. He is very much aware of the good things this group is doing, especially under the strong leadership of John Thompson, whom he recently appointed to the FNMA Board.

I bring you also very special greetings from Secretary Patricia Harris. She wanted very much to be here on the occasion of your annual meeting and she regrets that her schedule would not allow her to join you. She has been devoting her full energies to the job of turning HUD around—to make it effective and efficient again. And believe me, she has been succeeding. More important, she has carved out new policy directions regarding this Nation's urban concerns—and it is these new policies that I will be discussing later. Her new urban initiatives and her leadership—not only within HUD but within the Executive Branch itself—have been central to shaping the emerging Carter Administration policy for our cities and for those who are ill-housed. The impact she has made in her first eight months has been enormous and I am personally proud to be a part of her team.

It has been a little more than a month now since the night of the blackout in New York City—and the looting that followed. A great deal of anger was generated across the land by the scenes on the Nation's television sets. Small businesses were destroyed and those without insurance may never recover. This was a human tragedy of sizeable proportions which no one denies.

In the days that followed, editorial passions calmed and cooler heads began to assess the tragedy in terms of cause and effect. Yes, they said, the summer heat could have been a factor in the violence that erupted on the city's streets. And unemployment, especially among the city's younger population.

Unemployment? The New York Times, in a story that appeared August 2nd, three weeks later, reported that 86 percent of ethnic/minority teenagers in New York City, and 74 percent of white teenagers, were unemployed. The Times survey showed that in a population of more than 515,000 between the ages of 16 and 19, only 113,000 had jobs.

Those, in themselves, are frightening statistics. When you add to them the compendium of ills that weigh down the poor in our older cities—the impaction in the ghettos, the lack of decent housing, inadequate health care and educational opportunities, and all the rest—you get a clearer picture of "why" and "how" that night of agony came about.

This is another type of human tragedy perhaps of even greater significance to the future of American democracy.

The night of July 13 reminds us of the need to renew our commitment for a single national policy, meshing our housing and urban development programs to form a coordinated new design for urban America.

During the past eight years of the Nixon-Ford Administrations, we abandoned our national commitment against the continued existence of two societies—one black and one white, separate and unequal. And we abandoned our national goal of a decent home in a suitable environment for every American.

The Carter Administration will not allow those commitments and goals—enunciated as far back as 1949—to be forgotten. We are committed to a new vision for America.

The road is not an easy one, but let me recite some of the initiatives we have already taken to preserve our cities and serve the housing-deprived in this country.

The Community Development Block Grant program will be reauthorized for three years, at $3.5 billion in Fiscal 1978, $3.65 billion in Fiscal 1979, and $3.8 billion in Fiscal 1980.

We will be using a formula that will target more funds to older distressed cities. New York City stands to gain $75 million, Chicago $60 million and Detroit $35 million in 1980 under this method of funding.

We are initiating a multi-million dollar Urban Development Action Grant program to meet the unique development needs of urban America, and to give local government leaders a flexible tool for urban revitalization.

We are expanding program activities under block grants to encourage local economic development.

Let me interject a word here on the way we plan to carry out the Community Development Block Grant program. Under the previous Administration very little was done in the way of monitoring the more than $3 billion in funds going out to some 1,500 communities. That procedure—or lack of it—has been changed. We have made it clear that we will enforce the requirement that the funds be used for projects that help low and moderate income neighborhoods, eliminate slums and blight, or meet other urgent needs.

And we have informed the participating communities that we will strictly enforce the requirements for low and moderate income housing when that type of housing is demonstrated to be necessary.

We have shown the communities that we mean what we say. No longer will they be eligible for these funds unless they accept their fair share of low and moderate income housing.

In the area of housing, we have proposed:

An increase for Fiscal 1978 to 381,000 units of assisted housing—164,000 units of existing Section 8 housing, 136,000 units of new and rehab Section 8 housing and 81,000 units of public housing, including 6,000 for Indian housing.

Expanding the Urban Homesteading program to 39 cities, with $6 million in property and rehabilitation loans from HUD. The cities estimate that this extra $6 million will generate $25 million in public and private investment in the designated urban neighborhoods.

Raising mortgage limits in our FHA insured programs. The basic single-family mortgage limit (Section 203(b)) will increase from $45,000 to $60,000. The basic 235 home-ownership assistance program mortgage limits will increase from $25,000 to $32,500 and from $29,000 to $38,000.

Decreasing the minimum downpayment requirements in our single-family programs. For instance, on a $48,000 house, the current minimum downpayment required is $4,350 or approximately 9 percent. Under the new rule, the minimum downpayment would be $1,900 or approximately 4 percent.

Expanding the Graduated Payment Mortgage plan to broaden ownership opportunities for younger families. This allows young families to make lower monthly payments now, when their incomes are low, and slightly higher payments later when their incomes have increased.

We have also established new procedures for using the Section 8 subsidized housing rehabilitation program for neighborhood conservation. We have set aside 20,000 units for this purpose, to provide subsidized housing in areas being revitalized, so that the poor will not be displaced by higher income families moving back into the central cities. Finding solutions to the negative aspects of such displacement will be given the highest priority over the coming months.

Processing time has been radically reduced in the Section 8 program. We are speeding up our program, not to improve our statistics, but because we want to serve the poor more effectively. For example, as of March 1, only 12,688 Section 8 units were under reservation and less than 13,000 had been started. By July 30, 160,773 units were reserved, and 65,672 were started. During 1976, only 40,000 units were started; in 1977 we expect to start 100,000.

In the four-month period ending May 31, FHA insured 116,000 single family units—nearly half of the total volume for Fiscal 1976—and 30,000 multifamily units, 66 percent of the 1976 volume.

We have not stopped there. We are now in the process of evaluating new ways to improve our present programs and evaluating new initiatives to meet our responsibilities. We are discussing:

How the CDBG program and Urban Development Action Grants can contribute to the preservation and revitalization of cities.

Coordinating public and private investments in the inner cities, in particular, leveraging public dollars to boost private investment.

Expanding housing counseling assistance to help low income families become homeowners.

And we are examining how our mortgage insurance programs can be used to increase the supply of housing in the inner city, to include more middle income families to return to the cities, as well as provide assistance to low and moderate income families who are living in the cities and would like to stay there.

Why are we so concerned about housing, you might ask. Let me tell you why. Our latest figures indicate that while 80 percent of American households are reasonably well housed, there are at least 14 million households that suffer from some sort of housing deprivation. Approximately 5 million of them live in substandard housing, with the remainder paying an excessive portion of their income for rent, which we define as more than 25 percent of income. Without assistance these families would have to spend 40 to 50 percent of their income for decent housing. Compare this to an overall American average of 19 percent, which in itself exceeds the percentage of income spent on housing in many European countries, e.g., Sweden—15 percent; West Germany—13 percent.

If we are to have a national housing policy in this country, it must turn on whether or not we accept as a national commitment the Congressional goal of a decent home in a suitable environment for all Americans, first expressed in the 1949 Housing Act. I believe that acceptance is essential. We must meet this Nation's need for shelter, in particular, for those whose needs cannot be met by the private market without some form of subsidy.

The needs of these families must be addressed by active, ongoing housing assistance programs, not by fits and starts as it has been for the last eight years, but at predictable, noncyclical levels. It is folly to expect much from an industry that is, at first, persuaded to gear up to produce subsidized housing and then is told that the programs may be stopped. Given the long lead times required in putting a project into the ground—along with the cash investment necessary up front—most builders will look for other less risky ways to spend their time. Builders of low and moderate income housing cannot be turned on and off like a faucet. They simply won't be there the next time we need them.

The need for new single and multifamily housing can be easily quantified—based on calculations of the increase in households every year, losses from the housing stock as older units are destroyed or placed into some other use, and the elimination of substandard housing units. A number of people have made estimates of those needs, and I have seen figures ranging anywhere from 18 million to 30 million units over the next 10 years. We believe the need to be approximately 25 million dwelling units, of which between 4.5 and 5.5 million units will require a subsidy of one form or another. This is an extraordinary number of dwellings, and unless we have active supply-side housing programs we could never hope to meet those needs.

From the point of view of national housing policy, we have made a deliberate choice on housing policy to emphasize supply programs to meet household growth requirements, replacing unusable housing and providing a sizeable number of units for poor families directly. There are other possible housing strategies besides supply-side subsidies—for instance, housing allowance payments, income assistance, or building for the top segment of the market and hoping the housing "filters down." None of these alternatives, however, seems to us to be a particularly sensible or productive way to go about meeting the housing needs of the American people.

But there are also other good reasons for having active housing subsidy programs.

First, new, rehab and existing housing programs can, if used properly, contribute to neighborhood preservation and rehabilitation. One of the key goals of HUD is to help cities bring about revitalization of their inner cores. Many local governments have taken the lead, with the help of private investment and neighborhood participation, to plan and carry out reinvestment and revitalization strategies. A key ingredient in their plan is housing subsidies specifically targeted to certain neighborhoods for purposes of preservation, renovation, relocation, new construction—or whatever else may be necessary as part of their urban revitalization plan.

Second, many of our housing subsidy programs address the needs of special groups—the elderly, the disabled and the handicapped, for instance. By itself, the private sector has not and probably will not supply adequate housing for these groups, even if everyone in these groups had the income to pay for decent housing, which they do not. Housing for the handicapped is a good example. Housing for handicapped people requires special equipment—grab bars, ramps, special warning systems. Without Federal intervention or inducement, this housing will just not get built. The same is true of housing for the elderly, or for Indians, or for large poor families.

Third, active housing subsidy programs are necessary to generate the private investment to maintain the existing housing stock. One of our most valuable assets is our housing stock and recent experience has taught us that a subsidy incentive is necessary if private investors are to overcome their fears about putting money into urban areas to preserve the housing stock.

Fourth, housing subsidy programs serve to promote upward mobility among families, thereby increasing equity. Housing programs have been criticized because they don't serve all the families who are eligible for and need the assistance. I would like to differ with that statement. For one thing, the only reason we are not able to serve 100 percent of the need is a matter of budget priorities, not program design. For another, housing assistance programs are not permanent, they are temporary. In other words, a public housing family is not always a public housing family. They move into public housing and receive the benefits, but once their economic situation has improved, they are able to afford decent housing without assistance. It allows families to leave the ghetto and start a new, better life. It is difficult to argue that this is not equitable.

With further regard to the question of equity, while this Nation's housing subsidy programs currently serve only about 20 or 25 percent of those eligible for assistance, this may be true only for any given period of time. That statistic does not take into consideration the total number of families that have lived in a single subsidized housing unit. When looked at in that way, a far larger number has been served. This is because a subsidized housing unit is a durable good which adds to the housing stock

and can be used and reused over and over again by successive families.

Fifth, a strong housing subsidy program provides more than shelter. One of the problems economists often have with housing, and housing subsidies, is their belief that housing is simply a commodity like any other and therefore, in a free market economy, should not receive any special treatment. What they forget are the "externalities"—to adopt the economist's own jargon—that is, the benefits of providing housing beyond just shelter itself. Clearly, housing subsidies generate benefits to groups other than those directly assisted. Employment increases of course, because every housing start generates approximately two person-years in the labor force. Thus, 400,000 units of subsidized housing would generate close to 800,000 new jobs in the economy. In addition, each assisted unit generates $4,610 in Federal revenues, $460 in State revenues and $960 in local revenues for a total of $6.030 which totals over $2.4 billion for 400,000 units. Subsidized housing programs also help promote racial and economic integration. They promote better land use and they are located in environmentally suitable areas. As mentioned before, they provide mayors with the tools they need to revitalize their cities.

Sixth, an effect that not many observers notice is that subsidized housing programs have a beneficial impact on the unsubsidized market. An active assisted housing program contributes to the housing supply, which helps to ameliorate some of the upward pressure on costs for all families. Increasing the supply of rental housing, in particular, is absolutely essential since we currently are in the tightest rental market in our history. Vacancy rates are at an all time low of 5.3 percent. Unless supply is increased, there will be continuing upward pressure on rents. Those people who advocate cutting down or eliminating housing assistance programs don't, I think, appreciate this last point.

For all of these reasons, this Nation needs strong housing subsidy programs designed to meet the needs of the housing deprived and to help cities in their long, up-hill battle to fiscal and social solvency. That battle begins in the center city.

This concern for housing by the Carter Administration is not unusual. Assisted housing has been a cornerstone of public policy of every Democratic President since Franklin D. Roosevelt, with the insightful help of Eleanor Roosevelt, looked over a Depression-wrecked America and saw, in compassion, a third of a Nation ill-housed.

For nearly half a century, Democratic Presidents have been following through on FDR's commitment to the American people to help those who cannot cope with the cruel realities of free-market housing to find a safe, clean and decent place to live. And most Republican Presidents have been doing their best to water down or reverse the progress which has been made.

The worst of the Republican attack on American housing policy came during the Nixon era, in which every effort was made to scrap housing subsidy programs, bring housing construction for lower income families to a grinding halt and, to the extent possible, actually dismantle the relatively new agency of government which had been given the task of housing the Nation's poor—HUD.

The Nixon wrecking crew was very effective. Not only did poor people suffer from the absence of new assisted housing starts, but the cost to them for access to the static stock of assisted housing rose. Workers in the construction trades lost jobs. Many contractors went out of business. Manufacturers of building supplies and tools were hard hit. And, in what could not possibly have been an unrelated coincidence, the entire national economy began to slide faster and further into the Nixon recession.

When the American people elected Jimmy Carter as their President they were saying, in part, they wanted no more of the Nixon economics and the Nixon anti-social programs.

Theirs was an Administration which did not like the poor, resented the cities and the kinds of people who populate them, and felt programs aimed at improving the lives of urban dwellers were unAmerican.

Theirs was a mentality which enjoyed telling New York City to "drop dead."

Contrast that with these strong sentiments expressed by Jimmy Carter as the Democratic candidate for President:

He made it clear that "housing for low- and moderate-income people is an expression of concern consistent with the highest standards of the American people."

He supported "greater emphasis on the rehabilitation of existing neighborhoods."

He supported "direct Federal subsidies and low-interest loans to encourage construction of low- and moderate-class housing."

He encouraged "more loans for housing and rehabilitation to the poor."

He favored "expanding assisted housing for the elderly and handicapped."

And a little more than a month ago the President said to the National Black Network that the amount of money that goes for better housing for poor people is going to increase every year he is in the White House.

It is the Carter Administration, through its Department of Housing and Urban Development under Secretary Harris' superb leadership, that has turned the Nixon policies around.

It is the Carter Administration which is committed to the revitalization of the American cities.

That is the Number One priority of HUD.

And, HUD's Number One tool to revitalize the cities is assisted housing.

We intend to turn our full energies to the future—a future in which the Carter Administration can bring forth new initiatives for revitalizing the cities.

That is the mission which Secretary Harris has charted for HUD, and it is at the very heart of the Carter Administration commitment to serve the American people.

For it is the cities where the overwhelming numbers of American people live. And it is people this Administration is honor-bound to serve.

1984 SUMMER OLYMPICS IN LOS ANGELES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ANDERSON of California. Mr. Speaker, I would like to take a brief moment today to congratulate the city of Los Angeles on its success in being chosen the official U.S. candidate city for the 1984 summer Olympics games. The U.S. Olympic Committee has made a wise decision, and it appears very likely at this time that Los Angeles will be chosen over any international competitors.

By stressing a "Spartan" spirit and the fact that the games could be held on a financially sound basis, Mayor Tom Bradley and the Los Angeles delegation were able to overcome a fine bid placed by New York City. California Gov. Edmund G. Brown, Jr., is also to be congratulated for his assistance in gaining the committee's approval.

When the 1932 Olympics were held in our city, they did not result in a huge deficit such as now faces Montreal. Certainly, that was many years ago, and the economic picture today is quite different than it was then. But even though the games have grown in scope, size, and expense over the years, Los Angeles still has the advantage of many facilities which can be readily available for the Olympiad's activities—including the Los Angeles Memorial Coliseum, originally constructed to host the games.

In preparing its bid, Los Angeles has consistently resisted efforts to increase the budget it has proposed to carry the cost of the 1984 Olympiad. I am positive that city officials will continue to avoid pressures to increase the financial outlay, and not allow Los Angeles taxpayers to carry the burden for fiscal extravagance.

The Olympic spirit does not entail such extravagance and luxury. I hope Los Angeles is successful in its efforts to return a "Spartan spirit" to the games; not only would it insure the success of the 1984 Olympiad, it would do much to guarantee the success and desirability of future Olympics as well.

LABOR INPUT TO PANAMA CANAL TREATY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following statement and testimony of Mr. Alfred J. Graham, president of the Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO, and AFL–CIO labor adviser to the U.S. Panama Canal negotiating team, before the House Committee on International Relations. I believe his comments pertaining to the representation of labor during the treaty negotiations are pertinent in view of the fact that Congress was not consulted and little informed during the negotiation process.

STATEMENT—PART I

(By Alfred J. Graham)

Mr. Chairman, members of the committee, my name is Alfred J. Graham, President of the Canal Zone Central Labor Union and Metal Trades Council, AFL–CIO.

The CLU–MTC in the Canal Zone represents 14 local unions affiliated with nine national AFL–CIO unions. We represent the largest organized group of U.S. citizen employees of the Panama Canal Co.-Canal Zone Government.

The Canal Zone Central Labor Union and Metal Trades Council thanks you and your Committee, Mr. Chairman, for providing us with the opportunity to express our views on the proposed new Panama–U.S. Treaty.

Our presentation will be in two parts. The first part will cover Employee Privileges and Immunities along with Labor Provisions written into the Treaty. The Second part will cover our views on the political impact of the Treaty on the Canal Zone and the U.S. Government Employees working there.

EMPLOYEE PRIVILEGES AND IMMUNITIES

As written into the new Panama–U.S. Treaty, Employee Privileges and Immunities are for the most part satisfactory.

We are not satisfied with the lack of Treaty provisions that would solve the dual citizenship problem once and for all.

The Republic of Panama has a Citizenship Law that in our opinion was enacted for the sole purpose of harassing U.S. Citizens born to American parents on the Isthmus of Panama. The law states that these Americans are Panamanian citizens. These Americans do not want Panama Citizenship, they serve in the U S. Armed Forces, pay U.S. Income tax, for the most part without representation, and consider themselves to be U.S. Citizens. The U.S. Government agrees that they are U.S. Citizens, but Panama disagrees and says they are Panamanians. When crossing into Costa Rica they must carry a Panamanian passport. The U.S. State Department agrees with the dual citizenship problem by doing nothing to correct it.

If Panama becomes sovereign over the Canal Zone these employees fear that they will be subject to further harassment from the Government of Panama.

We requested that the Treaty stipulate that Panama will surrender all claim of Panamanian Citizenship, in the past and for the duration of the Treaty, on all U.S. Citizens born on the Isthmus of Panama, if the U.S. Citizen states his or her intention of U.S. Citizenship at age 21 to the U.S. State Department. This request was denied.

LABOR PROVISIONS IN NEW PANAMA-UNITED STATES TREATY

As a result of the July meeting of the AFL–CIO Panama Canal Committee, I was elected by the Committee and appointed by AFL–CIO President George Meany to be the AFL–CIO Labor Advisor to the U.S. Treaty Negotiating Team.

I worked with the U.S Treaty Team on Treaty labor provisions until August 26.

We are satisfied that most of the labor provisions we required are included in the New Treaty.

One of the most important labor provisions, Optional Open-Ended Early Retirement, will require legislation. However, we are grateful for the attention President Carter and his staff gave this matter by stipulating that the U.S. Government would sponsor this legislation in the Treaty.

We face other labor problems with DOD. Canal Zone Government operations that will become DOD functions, if the Treaty is ratified, are in danger of losing the Washington, D.C. pay base and Canal Zone leave benefits. This will cause serious labor unrest in the Canal Zone. Our schools and hospitals are very important to all of us in the Canal Zone and any disruption of these operations could affect the entire Panama Canal operation.

Labor legislation

We will be seeking labor legislation for the following:

1. Optional Open-Ended Early Retirement.

2. Unemployment Compensation for Non-U.S. Employees.

CONCLUSION

Although Treaty labor benefits are, for the most part, satisfactory we wish to go on record at this time opposing the New Panama-U.S. Treaty.

President Meany does not speak for the affiliated local unions of the CLU–MTC when he supports this Treaty.

This concludes the labor section of our testimony. I will be glad to answer any questions that the House International Relations Committee members wish to ask.

STATEMENT—PART II

It is our opinion that President Carter's Treaty Signing Ceremony in Washington, D.C. set democracy in Latin America back 100 years. It amazes us to witness a U.S. President, with a human rights platform, gather together the largest group of anti-human rights dictators in Central and South America and honor them by signing a Treaty with another dictator.

Ambassador Bunker and Mr. Linowitz testify over and over again that the Canal Zone will be turned over to the Panamanian people. This is what they label as "educating" the American voter so that they will not oppose the New Treaty.

You can be assured that 7 billion dollars worth of land and property will not be turned over to the Panamanian "people". As usual with military dictators the "people" will get little or nothing out of this Treaty.

The U.S. Citizen employees are observing the "educational" program of both Countries very carefully. Ambassador Bunker is trying to paint an oppressive Government lily-white. The Panamanian Government has a different tactic. Their action plan is to print anti-U.S. articles in the Government controlled press and 24 hours a day broadcast Imperialist Yankee Go Home slogans on the Government controlled T.V. and news media.

Communist and pro-communist elements within the Panamanian Government are working diligently to "educate" the people of Panama to throw the U.S. presence out no matter what guarantees are written into the Treaty concerning continued U.S. military presence in Panama.

U.S. Citizen employees who would be asked to remain in Panama to operate the waterway until Panama could operate it are rightfully concerned over their loss of Civil Rights under the sovereignty of the present Panamanian Government. There is no freedom of the press, speech or the broadcasting media.

Many of our members fear the actions of the Guardia National. Some think that Americans will be harassed so that they will leave Panama sooner than they planned. Already one Canal Zone labor leader, opposed to the Treaty, has been arrested and harassed by the Government of Panama, and this included the blowing up of his private automobile.

To bring this point home to Committee members, the fact that I am reporting to you our feelings about the oppressive Government of Panama, I am placing in jeopardy the well being of my family and myself at this very moment. I am also putting my career with the Panama Canal on the line. You can be assured that I will go on the list of Americans to be dealt with should sovereignty become a reality.

We do not pretend to be experts on National Defense matters. However, the Neutrality Treaty provides that if the U.S. goes to war, the enemy nation will have guaranteed access to the Panama Canal. To put it another way, if an ally of the U.S. sent an expeditionary force to Panama to stop the enemy nation from using the Panama Canal, the U.S. military would be required to stop them so that our enemy could be free to transit ships of war to attack the United States.

Our Joint Chiefs of Staff have approved this Treaty and we say we want our share of income tax money back that is helping to pay their salaries, because these fine gentlemen are not earning their pay.

In conclusion, we oppose any treaty given to a military dictator. We believe that the U.S. should live up to its image as the leader of the free world and consider a treaty only with a Constitutional Government in Panama. Do not be fooled by the word plebiscite. Plebiscite by threat is no substitute for Democratic Government.

Furthermore, we are convinced that the Panama Canal will be in the hands of the Communists, if not before, then shortly after the year 2000.

We believe that the American people are being misled and lied to about the Panama Canal. It is too small, too old, the Canal Zone is an area dividing Panama. The Panama Canal can be blown up with one hand grenade. All nonsense.

It is the largest lock type Canal in the world. The Queen Elizabeth II transits as well as ships up to 946 feet long and 105' wide drafting 40 feet.

It has been maintained and is in better condition today than it ever was.

The people of Panama are free to enter the Canal Zone whenever they wish, and anyone who says it can be destroyed with one hand grenade has never seen the Canal.

Finally, we believe that no Senate or Congress of the United States should be told by a dictator to "Ratify or Else".

Again I thank the Committee for permitting us the opportunity to express our views.

PART III

Mr. LAGOMARSINO. Mr. Graham, you indicated you sat in, you were a special adviser.

Mr. GRAHAM. Yes, sir, I was AFL–CIO adviser to the U.S. treaty team.

Mr. LAGOMARSINO. Did you meet with our negotiators in that capacity?

Mr. GRAHAM. All but Mr. Linowitz. Mr. Linowitz was never in town while I was working in the State Department. I did meet Ambassador Bunker, Mr. Wayrough, General Dolvin, people that were actually doing the staff work on the treaty.

Mr. LAGOMARSINO. Do you feel you had input into the decisions that were reached on the labor matters?

Mr. GRAHAM. Yes.

Mr. LAGOMARSINO. I congratulate you on having apparently more influence than we have, because as far as I know no member of Congress was consulted and asked for suggestions, so you have something that is unique.

Mr. GRAHAM. This is one of the problems why we were asked not to advertise my presence there. The shipping lobby and others would be interested also in having advisers.

Mr. LAGOMARSINO. I am quite sure they would be.

Mr. GRAHAM. However, the outcome I think speaks for itself. That obviously the U.S. State Department was interested in Mr. Meany's final approval, and it stands to reason that Mr. Meany has 13 million members in the AFL–CIO, active AFL–CIO opposition to the treaty could well result in its defeat. I believe that was the overriding factor that persuaded Mr. Bunker to put a labor representative on the treaty team.

Mr. LAGOMARSINO. On the other hand, overwhelming opposition by Members of Congress can result in its defeat.

Mr. GRAHAM. That is one of the things that has been bothering me all along about this. The Government of Panama seems to think that the Congress of the United States is some kind of big judge you didn't have to deal with. He is a military dictator who walks into his hand-picked national assembly and says all in favor say Aye and rubber stamps every bill he hands them. Perhaps that influences his thinking when it comes to the Senate and the Congress of the United States. That man is really, in the United States I think we would term him as somewhat of a hick.

His ignorance, for instance, of the operation of the Panama Canal is appalling. I have personally spoken to him and he seems to have a notion that the ship shows up and somebody goes out in a row boat and picks up the check and says go ahead and takes off and that is all there is to it. A slight obstruction in the wakes of the locks never seems to enter his mind. I also believe that he has no real knowledge of the American legislative process, and so that I believe influences him also.

VOLUNTEER MILITARY SAID WORKING

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. STEIGER. Mr. Speaker, Dr. Richard V. L. Cooper's long-awaited Rand Corp. report, "Military Manpower and the All-Volunteer Force," has been published.

Dr. Cooper, perhaps the top civilian expert on military manpower policies, spent 4 years preparing his report. His firm conclusion is that the switch 4½ years ago from a draft-induced to a Volunteer Armed Force "has worked."

Today's volunteers are smarter than their draft-era predecessors, he found. They are representative of the Nation as a whole, too, both economically and from an urban-rural standpoint.

Contrary to critics' claims, the All-Volunteer Force—AVF—has not driven up defense manpower costs, Rick Cooper found. Only two-tenths of 1 percent of added defense costs can in any way be attributed to the AVF, he concluded. Increased pay and benefits preceded the volunteer approach, and they were implemented because of the draft in many cases.

The Washington Post and New York Times both provided excellent synopses of Rick Cooper's study in their Monday editions. I commend them to your attention:

[From the Washington-Post, Sept. 26, 1977]

VOLUNTEER MILITARY SAID WORKING

(By George C. Wilson)

The great American experiment of filling the ranks of the military with volunteers rather than draftees "has worked," the Rand Corp. said yesterday.

The all-volunteer force, said Rand in its 407-page report, has proved in its first 4½ years to be at least as fair to young people as the draft.

The services have attracted smarter people through recruiting than the draft brought them, the study said. Fears that ending the draft would mean a poor, black Army have not been realized, it added.

"The military services can attract a socially representative mix of the desired quantity and quality of new recruits without the pressure of the draft," it concluded.

The nonprofit research firm, based in Santa Monica, Calif., said the extra cost of relying on volunteers has been modest, adding only two-tenths of 1 per cent to the defense budget.

While "for the most part, the story of the volunteer force has been one of success," Rand said, it warned that the experiment "can be made to fail" if Pentagon and congressional leaders do not improve the way they manage military and civilian personnel on the defense payroll.

The study was commissioned by the Defense Department's Advanced Research Projects Agency.

Other conclusions in the report, entitled "Military Manpower and the All-Volunteer Force," included:

The shortage of jobs for teenagers is not the main reason people have been volunteering for the military since the draft ended, "but rather the fact that military service is apparently seen as an attractive employment option by a broad cross-section of American youth."

Today's black young people are better educated than those of 20 years ago and thus more can meet military entrance requirements, one of two main reasons for the increased number of blacks in the services. The other reason is "the unusually high" unemployment rate among young black men.

There are just as many youths from middle-and high-income areas enlisting as were taken in under the lottery draft system late in the Vietnam war. (The draft ended in 1973.)

The proportions of country and city youths volunteering "are remarkably similar" to what they were under the draft.

It "is plainly incorrect" to blame the volunteer experiment, which started in January, 1973, for the biggest increases in military manpower costs. Higher pay and better benefits preceded the experiment.

Looking ahead, the Rand study said that "the key all-volunteer force issue" is not the size of the manpower pool for the military but the number of people the services will need to sign up each year.

Because the services limit the number of enlisted people that can enter the senior pay grades, partly in response to congressional restrictions, the flow of people entering and leaving the military is faster today than it was under the draft.

Yet, said Rand, "the long-run success" of the volunteer force hinges on reducing this personnel turbulence through better management of enlisted manpower.

"Shifting from the current mix of 60 per cent first-termers and 40 per cent careerists to a 55-45 mix or a 50-50 mix," said the report, would result in a better matchup between people and jobs and reduce the need for new volunteers. The combination could save "up to $1 billion to $2 billion per year," said Rand.

Additional automation and more reliance on civilians within the military establishment would save significant sums, according to Rand.

The study faulted the military's system of requiring a person to advance or leave the service, even though "a recent survey shows that nearly 50 per cent of all enlisted personnel would prefer to remain technical specialists rather than assume supervisory responsibilities."

The report said pay and related compensation for the military have risen to the point that officers "earn about 70 per cent more and enlisted personnel about 30 per cent more than comparably aged and educated civilian workers."

[From the New York Times, Sept. 26, 1977]

VOLUNTEER MILITARY CALLED SUCCESS; PAY AND PENSION OVERHAUL URGED

(By Bernard Weinraub)

WASHINGTON, Sept. 25—While the volunteer military has been a success, outdated policies are costing $5 billion to $10 billion annually, according to a detailed study of the nation's four-year-old shift from drafted to voluntary military personnel.

The report by the Rand Corporation, released today, pointedly disputes the conventional wisdom that the volunteer Army includes growing numbers of poorly educated youths from ghettos. Instead, the report says, an increasing proportion of black men and women are meeting the requirements for service.

"The number of blacks entering the armed forces would be about the same under the all-volunteer force or the draft," the report says. "The main difference is that the all-volunteer force, by paying competitive wages with civilian jobs, is not discriminating against blacks the way the draft did."

The report adds: "The American military has not been nor is it becoming an Army of the poor or the black. Military service apparently continues to be viewed as an alternative employment option for a very broad cross section of American society, from the wealthiest to the poorest."

Dr. Richard V. L. Cooper, a senior Rand Corporation analyst and the author of the 394-page report, said in a telephone interview: "Clearly the military service is still an integral part of American society. It's not a poor man's Army. The reason kids join is the same as they've always joined: employment, pay and benefits, job training, a chance to see the world, getting away from home. The reasons haven't changed."

The report said that much of the debate over the volunteer military has been the result of "either a lack of information or misinformation." Although 16 percent of enlisted men are black, as against 8 percent in 1960, the report heaps gentle scorn on critics worried about the influx.

"The rising proportion of blacks should be viewed as a positive sign, given that the main cause is the vastly larger numbers of blacks qualifying for military service," the report said. The Rand Corporation, a research and analysis group based in Santa Monica, Calif., made the study for the United States Defense Advanced Research Projects Agency.

BOOST FOR ENLISTMENT

High unemployment for black youths, coupled with a lag in earning potential for them, has accelerated the numbers of blacks entering the military.

Rather than finding fault with changes that have accompanied the shift to volunteerism, the report declared, "The legacy of the draft has obscured and inhibited change that should be made by Congress and the Department of Defense." It said that the Pentagon could save $5 billion to $10 billion annually with an overhaul of promotion, pay and pension policies.

The report urged the Pentagon to open the door to more re-enlistments, thereby cutting the costs of training new recruits each year, and to remove sizable numbers of civilians from its payroll, replacing them with civilians under short-term contracts.

In dealing with the often-criticized military pension system, which costs more than $35 billion a year, the report said plainly that the Pentagon must undertake a major overhaul of the pension program before costs escalated further.

HIGHER COMPENSATION

"It turns out that military personnel remaining until retirement earn a total compensation package 30 to 40 percent higher than the average amount earned by their comparably aged and educated counterparts," the report said.

It added: "Part of the reason for the enormous growth of retirement costs is the number of years that each retiree spends on the retired rolls. In contrast to the civilian worker who retires at, say, age 65 and spends about 10 years receiving retirement pay, the average enlisted member serving 20 years spends more than 35 years on the retirement rolls, and the average 20-year officer spends just a little under 35 years."

If retirement policies are not changed, the report predicted, the cost of the program, which has grown from 1 percent of the defense budget to 7 percent since 1956, will be eating up 12 percent of the budget by the mid-1990's.

And, although military pay, which Mr. Cooper calls a "costly patchwork," is supposed to be comparable to civilian pay, officers' total compensation would place them in the top 10 percent of comparably aged and educated civilian workers, the report said.

The report's key proposals for pay and pensions would make the military pensions

contributory, as in civilian life, so that the growing costs of retirement are shared by both the individual and the Government; re-establish the 30-year career as "the norm" and encourage more 35-year careers, and alter military pay so that increases are less automatic and more responsive to achievement.

"The removal of the draft has raised genuine questions about the ways in which the D.O.D. [Department of Defense] uses and manages its human resources," the report concluded. "The legacy of the draft means that fundamental changes in manpower management and utilization are needed, not only to insure the long-run success of the volunteer force, but more important, to halt spiraling manpower costs and make better use of defense resources."

CAMPAIGN FINANCING ACT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. STEERS. Mr. Speaker, and my distinguished colleagues, I would like to take this opportunity to stress the importance of immediate House action on the Campaign Financing Act of 1977 (H.R. 5157). The House of Representatives can create a necessary fundamental change in the method whereby congressional candidates are financed.

This legislation, to provide for the matching of private contributions with public money from the voluntary $1 income tax checkoff fund, has more than 120 cosponsors. At present, it is being reassessed by the House Administration Committee in view of Senate action on S. 926.

Prior to the August recess, the Senate passed a campaign financing reform bill (S. 296) without the bill's public financing provisions. The argument has been raised by opponents of congressional public financing that the Senate action killed this issue. I believe passage of S. 926 indicates that the House can go directly to conference if it acts on public financing legislation.

Public financing of congressional campaigns will restore the confidence of the American people in their Government and increase voter involvement in the electoral process.

The costs of conducting a political campaign to reach and inform the constituents in congressional districts, including the expenses for radio and television spots and publications, are considerable and excessive. The unfortunate effects of the enormous costs of campaign financing impacts directly on the voters. Well-funded special interest groups secure an inordinate amount of access to candidates through large campaign contributions. Individual voters cannot match the financial strengths of organized special interest groups.

This legislation encourages candidates to seek contributions from members of the general public. Passage of this bill would equalize the ability of the voters and the special interest groups to influence candidates for office—an essential element in the operation of a representative democracy.

The availability of public funds would also enable candidates to throw their hat into the political arena without all the existing problems created by the need to pay for campaign expenses. The competition created by this legislation would improve, in my opinion, the quality of Government and would create a more responsive and capable Congress. When the electorate has a well-defined choice, elections will be more likely to be won on merit.

In conclusion, H.R. 5157 will be a constructive change in our political process. Prompt action by the House Administration Committee and the House of Representatives is imperative in order that this reform may be in place in time for the 1978 elections.

BOOTLEGGED CIGARETTES

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. McHUGH. Mr. Speaker, last evening the television program "Sixty Minutes" devoted a segment of its telecast to the problem of bootlegged cigarettes. I would like to commend those involved in producing this segment for bringing the issue to the attention of the public.

I am sure that those Members who were watching this program were made aware of the extent to which organized crime is involved in bootlegging cigarettes. The profits to be made are enormous, and are rechanneled into other activities by organized crime.

Last April I introduced legislation, H.R. 6330, to help solve this problem. A number of other Members have done likewise. To date, however, nothing has happened. Consequently, I wrote to the distinguished chairman of the Subcommittee on Crime, Mr. CONYERS, requesting hearings last month.

For the benefit of those Members who missed "Sixty Minutes," I am inserting a copy of my letter to Chairman CONYERS into the RECORD. It should help to familiarize those who were not aware of this problem with its nature and depth.

I do not claim that the approach incorporated in my bill is necessarily the best alternative among the several bills that have been introduced. I also appreciate the very heavy schedule that the Subcommittee on Crime faces. Given the seriousness of this problem, however, it is my hope that hearings will be scheduled in the very near future.

The problem is nationwide in scope, and does not merely involve the loss of tax revenue to a small number of States. As I mentioned previously, the profits derived by organized crime are rechanneled into a variety of other criminal activities. None of us should overlook this when considering the issue.

The letter follows:

AUGUST 31, 1977.

Hon. JOHN CONYERS,
Chairman, Subcommittee on Crime, Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.

DEAR JOHN: On April 19th I introduced legislation to curb traffic in bootlegged cigarettes. This bill, H.R. 6330, was referred to your subcommittee. As you know, a variety of similar bills have also been introduced, and the Advisory Commission on Intergovernmental Relations has recently concluded that some legislative remedy is necessary. Consequently, I would like to urge you to schedule hearings on these bills.

According to the Law Enforcement Assistance Administration, cigarette smuggling is the second largest source of revenue for organized crime. In turn, much of this money is funneled into other illegal activities.

At the same time, bootlegged cigarettes deprive states of much needed revenue. This is especially true in the case of my own state, which estimates the revenue loss at some $80 million annually. However, Michigan is also among those states which suffer the greatest loss in tax revenues. Altogether, states are losing approximately $300 million annually according to the Multi-State Tax Commission.

This is money that those states can ill afford to lose. Ultimately, of course, these losses are passed on to the individual taxpayer.

Everyone agrees there is a problem, that the problem is caused by wide differentials in tax rates, and that the states cannot stop the flood of bootlegged cigarettes themselves. Given the seriousness of the problem, it would seem desirable to explore the problem in greater detail and to consider alternative legislative remedies. That is why I am asking for hearings.

I appreciate the very heavy schedule your subcommittee faces, and only hope that you will give my request your most serious consideration.

Best regards.

Sincerely,

MATTHEW F. McHUGH.

HEALTH SERVICES IN RURAL AMERICA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ABDNOR. Mr. Speaker, South Dakotans are greatly worried when they read of some of the Federal schemes to cut rising health costs. Like everyone else, they would like to see the costs go down—but not at the expense of losing the few doctors we have or the health facilities which are located in our wide open spaces.

Bob Holsworth tells it "like it is" in his recent column published in the Hoven, S. Dak. Review. I commend it to the attention of my colleagues:

BOBSERVATIONS

(By Bob Holsworth)

It wonders me at times how the various governmental agencies conduct their studies and evaluate the findings and most of all, where they conduct the studies and surveys.

It disturbs me a lot when I see the conclusions they have come up with concerning distribution of health care, especially that one about closing down small hospitals that operate at less than 80 percent of bed capacity and another about the closing of small post offices, which in my mind constitutes the same kind of stinkin' thinkin'.

This type of "economy" may work fine for California and New York and other highly populated areas, but when you consider the distances with gas at about the 65c level and the spread-out population of this part of the nation, it just don't make economic sense to

me, not even considering the humanitarian aspect of the situation.

In 1969 my life depended on quick medical action. It was saved in a 20-bed hospital with one doctor, and the hospital sometimes had only three or four patients in bed, and at that time did not even have a heart monitor. Had it been necessary to haul me to a hospital with 80 percent of its beds filled, I probably would not be here to tell about it—They woulda had to ship me clear to Minneapolis or at least Sioux Falls, and I didn't have that much time.

In the fall of 1967 my dad's life was saved in a small Minneosta hospital because it was close. It is highly unlikely he'd have made it to Minneapolis.

Here east of the river where the population is more dense than out west, there are places where it is necessary to go 30 or 40 miles to a small hospital, and I really doubt if even the larger cities like Aberdeen and Watertown operate at the 80 percent level more than a fraction of the time.

PANAMA CANAL TREATY

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. IRELAND. Mr. Speaker, I have submitted the following remarks in written form in order to avoid tying up the House's time for oral discussion.

Much has been made lately in the news media of the fact that former Secretaries of State Rusk and Kissinger support the new Panama Canal Treaty.

Recently, as a member of the House International Relations Committee, I had a chance to question both of these gentleman about the treaty, and I would like to take this opportunity to share some observations with my colleagues.

From my own reading of the treaty it seems clear that there are two basic assumptions which are crucial to the treaty and are the touchstones upon which many of its advocates are basing their support. The first of these is that the United States is entitled to intervene to protect the neutrality of the canal, and the second is that U.S. warships are entitled to expeditious or privileged passage through the canal.

Numerous advocates of ratification have consistently maintained that both rights are "guaranteed" by the treaty.

However, on August 24 of this year at a press conference in Panama, Dr. Bethancourt, Panama's chief treaty negotiator, observed "the pact does not establish that the United States has the right to intervene in Panama. "Nor," he went on to say, "does it provide the United States with the right to determine when (that) neutrality is violated."[1]

As to the issue of the expeditious passage of U.S. warships, Dr. Bethancourt observed, "if the Gringos with their warships say, 'I want to go first,' that is their problem. We cannot go that far."[2]

The point here Mr. Speaker, is that quite obviously, different interpretations are being applied to the same key principles by both parties. I raised this concern with Messrs. Rusk and Kissinger and the following dialogue ensued:

Mr. IRELAND. I would like to pursue for a minute, gentleman, this different interpretation that apparently exists in Panama and the United States on issues that have been referred to earlier as the real heart of the treaty.

The chief negotiator in Panama, as I think most of us are aware, was on the radio in Panama in late August saying that the treaty does not establish that the United States has the right to intervene or send troops into Panama, and that we do not have the rights that have been alluded to as the strong point in the argument presented this morning.

My real concern is that should the Congress approve such a treaty based on Article IV, based on the interpretation that we do have these rights, and the Panamanians approve the treaty based on the fact that we don't have the rights, what good is the treaty with such a very basic difference of opinion in it?

Mr. RUSK. I expressed earlier that to me this Article IV (Defense and Protection) is a very important part of these two treaties and I would hope that this Committee, for example, in its Committee report, would make this point very clear in terms of United States' interpretation. . . .

Now if at the time of the exchange of ratifications there is a fundamental difference publicly expressed by the two sides on this point, then we may have to go back to the drawing board and see what can be worked out. . . . (Emphasis added.)

Mr. KISSSINGER. I would think this is a case in which it is important to spell out the meaning of Article IV and I would support a Congressional attempt to express in turn its support for the Administration's interpretation of Article IV.

I must say my own support of the agreement hinges importantly on the neutrality clause and it is my understanding that it gives us the possibility to defend the neutrality of the Canal unilaterally. . . . (Emphasis added.)

Mr. RUSK. Over in the other body, for example, in their resolution of advice and consent they might include this as an understanding. I would hope it would not be raised as a technical reservation, because that creates some technical problems, but as an understanding so there is no doubt as to what this treaty means as far as we are concerned.

Mr. IRELAND. How would that operate mechanically should they say this is our understanding and it is dramatically different from what has been expressed in Panama? Where would this going back to the drawing board occur, in your opinion?

Mr. RUSK. If this should happen and then at that time of exchange of ratification, or when you approach the exchange of ratification, or when you approach the exchange of ratification, if Panama then does not want to ratify, in the face of that expression of our interpretation, then you are back to the drawing boards. In other words, the public still has some misunderstanding about what ratification means. . . .

Mr. KISSINGER. I would think at the time of exchange of ratifications the act of exchanging should make clear that the other side understands our interpretation of this treaty and I think this can be worked out. . . .

Mr. RUSK. This point is a basic consideration in exchange for an abrogation of the 1903 treaty, among other things. It is part of the basic consideration.

It seems crucial to me, Mr. Speaker, that prior to any attempt at ratification, Congress should make certain that both sides understand and agree on the meaning of each and every clause in the treaty. Otherwise, if each side is allowed to attach whatever interpretation suits its purpose in order to promote ratification, the treaty truly will not be worth the paper on which it is written.

Therefore, Mr. Speaker, I would respectfully encourage my colleagues at this point to look rather closely at this whole question of interpretation and not base their judgments solely on the basis of the formal language contained in the treaties.

Thank you, Mr. Speaker.

[1] Foreign Broadcast Information Service Translations, August 29, 1977.

[2] *Ibid.*

A. ALAN POST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ANDERSON of California. Mr. Speaker, on September 1, 1977 the State of California lost the leadership of a man who has been one of the most widely respected government figures in the past three decades. A. Alan Post, legislative analyst for the State of California, has retired after a highly distinguished tenure in government service.

As the chief financial adviser for the California State Legislature, Alan's influence in state affairs has been tremendous. He has served with five Governors, both Republican and Democratic—and with countless faces and political philosophies in the State senate and assembly. Yet his impartiality and ability have been praised and respected almost universally, a tribute to the professional reputation he was able to establish and maintain over the years.

I first came to know Alan while serving in the California State Assembly. His duties were to advise the legislature and make nonpartisan recommendations on any proposal carrying a fiscal implication—including the Governor's budget. Obviously, his was a job tailor made for controversy.

During the 8 years I served as Lieutenant Governor of our State, my wife and I were able to know the Posts quite well. Alan is a slight man, whose polite demeanor and patience belie his strength and conviction. The respect and admiration he inspired in those around him was amazing, yet at the same time he was a good friend and a warm, caring personality.

A native Californian, A. Alan Post was born in Alhambra on September 17, 1914. He attended the Chouinard Institute of Art prior to his graduation from Occidental College in 1938, and received an M.A. degree in economics from the Princeton University Graduate School in 1940.

Alan's career in fiscal matters began in 1933, when he worked for the Security First National Bank of Los Angeles until 1936. After spending the period between 1940 and 1942 in investment banking, he taught economics at Occidental College

in 1942, serving as an assistant professor at American University in 1943.

During World War II, Post served in the U.S. Naval Reserve, seeing active duty in 1943-44 as an apprentice seaman and ensign. Following that tour of duty, he joined the U.S. State Department as an economist in 1944.

Post first worked for the State of California in 1946, when he became chief economist-administrative assistant for the joint legislative budget committee. In 1950, he was appointed State legislative auditor by then Gov. Earl Warren; the title was changed to legislative analyst in 1958.

As a fiscal conservative, Post seemed to have a yearly task of slashing the Governor's proposed budget—or, in some cases, calling for increases in certain items. Obviously, such a responsibility is not exactly geared to endear a person to the heart of the chief executive—nor to the legislators whose pet programs are labeled as uneconomic. Yet A. Alan Post's fairness, objectivity and ability remained unquestioned throughout his career in Sacramento.

Since the beginning of his long tenure as a State official, Post has seen California grow from, in his own words, "a veritable outpost of the continental United States to one of the largest and most important political entities in the world." California's tremendous growth and prosperity in the past 30 years is due in no small measure to the economic expertise and advice that A. Alan Post has provided to our State's leadership.

Alan's reputation as a fiscal expert is reflected in the wide range of professional societies and activities he has been involved with over the years. These include the National Tax Association; the Research Advisory Committee of the Council of State Governments; and the National Legislative Conference Committee on Legislative Staff Training. In addition, he has at various times held positions on the Committee on Government and Higher Education; as a consultant on Future Operations, 1965–66; and as a member of the Advisory Committee for the Legislative Services Project, American Society for Public Administration in 1967.

Alan's community involvements have reflected his interest in arts and the humanities. An accomplished artist, he is a former member of the California Water Color Society, and is chairman of the Art Evaluation Committee for the Capitol Mall, Redevelopment Agency of the city of Sacramento. Post served as president of the Crocker Art Gallery's board of directors in 1966, and is a member of the Sacramento Artists League.

In addition, Post was chairman of the board of managers of the Young Men's Christian Association in 1961–62, and is a member of the board of directors, People to People Council, Inc.

Now that he is retired, Alan plans to spend more time in his home on the coast of Spain, where he plans to devote much of his time to painting. In addition, he will continue to serve as an economic consultant to the Shah of Iran, a position he took temporarily last fall. Travel also will play an important part in his plans.

Mr. Speaker, seldom does a public servant have the opportunity to serve the people of a State for so long and so well as A. Alan Post has done. His retirement this month is truly the end of an era in California government, for his singular capacity for work and untarnished reputation have been a constant and distinguishing factor in Sacramento for nearly 30 years.

My wife, Lee, joins me in congratulating Alan on an outstanding career, and in sending our best wishes to his lovely wife, Helen, and their son, David. I am positive that they are justly proud of Alan's many accomplishments.

We would also like to wish Alan the best of fortune as he vacations on Spain's scenic coast prior to his working as a consultant for the Shah of Iran. Retirement is, of course, a relative term; Alan will keep busy when he returns to California at the end of this year and starts a new career as an instructor at the University of Southern California, and as a consultant.

It is good to see that he will return to California, for the love he holds for our State is amply demonstrated by his sterling record of service on our behalf.

MYSTERIOUS DEATH OF BLACK LEADER

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mrs. BURKE of California. Mr. Speaker, the mysterious death of black leader Steven Biko has attracted worldwide attention. The black nationalist died in custody on September 12. The South African Government announced that Biko's death was the result of a 7-day hunger strike, making Biko the 21st black to die while in detention during the past year.

Steven Biko, the 30-year-old black leader has been labeled the Martin Luther King of South Africa's movement toward "black consciousness." This proud nonviolent man is also contributed with the founding of the movement. It is a sad note that until his death Steven Biko was unknown to many. For, Biko was a victim of the South African Government's policy of "banning" persons who express comments that were contrary to government actions, and was prohibited from being referred by the press and confined to his home in King William's Town in Cape Province.

Biko's death is exemplary of frustration that potentially results in backlash. Already, there has been mounting criticism requesting the resignation of the Minister of Justice Jimmy Kruger. The growing demands come from not only blacks, but from whites who are enraged by the South African Government's role in this affair. Originally, the Government had stated that Biko died due to a hunger strike. However, recently, there have been growing suspicions that there could be other causes for Biko's death. Members of the family who viewed Steven Biko's body on Saturday night have reported that there appeared to be a pronounced swelling on Biko's forehead and there was a distortion of his features, which are hardly the result of a hunger strike.

Throughout South Africa there have been demonstrations against the Government's actions. In addition, memorial services and protest meetings are planned with the promise of creating more repercussions from abroad.

The South African Government by it's contradictory statements has left itself wide open for more criticism. My hope is that with the mounting pressure, the Government will open a wide investigation into the true cause of Steven Biko's death and that this will mark the beginning of new attitudes directed at recognition of the black majority which is demanding its long overdue right to participate at the most fundamental levels in a society which has to this point insisted on remaining ignorant of mounting frustrations. South Africa's Government, by refusal to grant worth and dignity to all individuals is asking not only for worldwide criticism but is refusing to recognize the very seeds of bloodshed and eventual self-destruction which it has planted.

IN PRAISE OF BOB POAGE

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MATHIS. Mr. Speaker, as Members are aware, one of the most distinguished Members of this House has made a decision not to continue his service. The gentleman from Texas, Mr. POAGE, made that announcement in his beloved home district over the weekend, and in doing so has announced an end to one of the most distinguished careers in the long history of this body. W. R. "BOB" POAGE is probably today the most knowledgable person in the world on agricultural matters, and is recognized as such by persons involved in agricultural here and abroad. I have had the pleasure of serving with this great American since 1971, both as a Member of this body and on the House Committee on Agriculture. I came to this body with knowledge of BOB POAGE's expertise and leadership, and my admiration has grown in direct proportion to the length of time I have known and served with him.

The citizens of this Nation, and especially the constituency he has served from his native Texas, will always be indebted to this gentleman, and I know I speak for all Members when I say he will be sorely missed. My wishes are for a full and rich retirement for both BOB and his lovely Mrs. Poage.

THE PREDATOR CONSERVATION ACT

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. WHITEHURST. Mr. Speaker, on September 28, 1977, I plan to reintroduce H.R. 6909, a bill which I believe could have an immediate positive impact on the wildlife of our Nation. This bill, the Predator Conservation Act, is intended to protect predators from indiscriminate slaughter and ultimately to preserve the prey-predator interrelationship. I think we all need to be reminded of the vital role played by predators in keeping our ecosystem in balance. The repercussions from the practice of indiscriminate slaughter are extremely detrimental to this balance, and H.R. 6909 would go a long way toward abating the inhumane treatment of many animals.

Examples abound of such indiscriminate slaughter, including the killing of predators by aerial hunters, the use of steel-jaw traps, and sweeping use of poisons. Such methods are certain to upset nature's delicate balance. For example, the mountain lion is one of the most adaptable of carnivores, but it is constantly facing the threats of poison, guns, and traps. This marvelous predator ranges through more kinds of country and varying degrees of latitude than any other; it has managed to survive the ebbs and flows of the glaciers, and it lived through the massive dying-off of mammals in the Pleistocene era. Today the mountain lion, known also as panther, cougar, or puma, depending on the section of the country, roams through the sea swamps of Florida, travels the 11,000-foot flanks of Mount Whitney, and climbs the Andes to 15.000 feet. It finds a home also in prairies, coastal woodlands, swamplands. deserts. and hill country, but nevertheless the species is being diminished gradually but steadily by the encroachment of what we like to call civilization.

In North America, there are an estimated 12,000 pumas, and this continent is the last major stronghold of this animal. The current methods of taking these animals appear to be anything but civilized. Trappers use oil of catnip and recorded mating calls as lures. Experienced hunters are aware of the lions' habits and stalking trails, and they have developed effective slaughter methods. It is clear that the mountain lion's worst enemy is man, who has taken away so much of this animal's habitat and food supply and killed so many of the species directly as well. Needless to say, the mountain lion has been backed into an ecological corner. Paradoxical as it may seem, the predator may not need wilderness as much as it needs protection from human harassment.

Another predator that has suffered the consequences of indiscriminate slaughter is the bobcat. According to a recent news article, inflated prices for the fur of the bobcat have led some biologists to begin investigating the impact of such heavy demands on the U.S. bobcat population. It appears that this animal is having great difficulty withstanding the uncontrolled exploitation which has been a direct result of pressure for the cat's skin. This vanishing breed continues to go unprotected in many areas of the country while the price of pelts climbs upward. There is no doubt that protection is lagging behind fashion and the profit motive. At an average price of $200 per pelt, the pursuit of this tormented cat continues: bobcats in most of our Western States can be taken day or night, 365 days a year.

Also suffering the consequences of inhumane slaughter methods is the wolf. Despite this animal's role in the ecosystem, it has been reviled and driven almost to the brink of extinction. Besides natural illnesses, the wolf has no real enemy except man. The wolf in the past has also been among the world's most adaptable carnivores, but such is no longer the case since man has branded this animal as a pest and a menace. At one time, the habitat of the wolf included almost any region except desert and tropical jungle. Today the wolf's range in the conterminous United States is 1 percent of what it once was. Six of the 24 subspecies of the timber wolf are probably already extinct. The legendary evils of the wolf have caused it to be hunted for bounty for more than 2,500 years; man has devised poisons and snares to destroy it and has even used the rest of the canine family against it by breedings dogs large enough and strong enough to help kill off their closest wild relative.

I am pleased to say that my bill has received support from Marlin and Carol Perkins, and Ms. Perkins presented H.R. 6909 this past June at the Endangered Species Symposium in St. Louis. In addition, endorsements have been received from the International Primate Protection League and the Fund for Animals.

I would be the first to agree that a degree of regulation of some species is an essential factor in maintaining a proper balance in the ecosystem, but such regulation need not be carried out in an inhumane or indiscriminate manner. One of the basic principles of ecology is that life forms which occupy a habitat must adapt to it. If this adjustment is disturbed, the end result will be the deterioration of the habitat. It is hard to understand why, of all the creatures on earth, man alone has attempted to make himself independent of ecological rules by artificially altering habitats to suit his needs without regard for maintaining any sort of balance.

Predators are no exception to nature's laws, and their numbers must be limited to what the available territory can provide. My concern, as reflected in H.R. 6909, is that this limitation be accomplished by humane methods and not by indiscriminate slaughter of the types so prevalent today. It is my hope that my colleagues will see fit to join me in support of H.R. 6909, and I will welcome their cosponsorship.

AIR BAG RULING MUST BE REVERSED

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. KASTEN. Mr. Speaker, the Subcommittee on Consumer Protection and Finance of the House Interstate and Foreign Commerce Committee has opposed a resolution I have cosponsored to block Federal orders requiring installation of air bags in all new automobiles.

I am very disappointed with the subcommittee's action. It should be overturned by the full committee before the October 10 deadline. If not, the American people will again become the victims of more Government regulation and interference in their lives.

While there are several good reasons to oppose the Department of Transportation's ruling, I think the central question remains: To what extent should the Government protect us from ourselves? In this case, the Government bureaucrats have gone too far. We must reject the philosophy that Government can or should regulate all aspects of our lives—to make decisions for us—in the expectation that we will be better off for having done so. Our obligation as lawmakers is to guarantee the individual's freedom of choice—not necessarily to protect him from every possible danger of living in society.

COST CONSIDERATIONS

In our consideration of the air-bag ruling, I do not think we can ignore the consumer factor. The Department of Transportation admits that the air bag could add $200 or more to the price of a new automobile. Once an air bag inflates, the car must be returned for a new air bag installation which costs more than the original factory installation. Since 1.2 million injurious accidents occur each year, the air bag may inflate in several hundred thousand cars annually. The cost of the air bag each time a person buys a new car, plus the accident replacement cost, could add up to a new expense for the average car owner of over $2,000 during his driving life. Again, we must ask ourselves: Does the Government have the right to inflict that cost increase on the average consumer?

QUESTIONABLE VALUE

One of the more disturbing aspects of the Department's ruling is that no hard evidence exists to show that air bags would significantly improve highway safety. Last year Transportation Secretary William Coleman negotiated a plan whereby 400,000 cars would be equipped with air bags so that real-world safety statistics could be gathered as a basis for making a sound, quantitative analysis of the value of air bags. Instead, the new administration has chosen to circumvent that voluntary approach in favor of an arbitrary decision that could very well prove as disastrous as the mandatory inter-lock system several years ago.

SEAT BELT ALTERNATIVE

Seat belts are installed in 95 percent of today's automobiles. Hard evidence, as opposed to conjecture, exists which shows that seat belts are effective in saving lives. A person wearing a seat belt in a serious accident triples his chances for survival. At the same time, a DOT analysis shows that seat belts, even though worn by only 44 percent of the population, save 30 percent more lives than would air bags. Indeed, to achieve maximum effectiveness, air bags must be used with seat belts.

It is tragic that more people do not use their seat belts, but a few people have the right to do "foolish things." Yet, the air bag ruling penalizes those who do take safety precautions for the benefit of those who choose to ignore the warnings and drive without benefit of seat belt protection. A nationwide seat-belt education program would be a far better alternative than promulgating another Government regulation to further aggravate the American consumer.

A GLARING EXAMPLE

I agree that this particular issue pales in comparison with some of the more weighty matters which must be addressed by this Congress. However, it stands out as a glaring example of how Government encroachment begins—not with malice, but rather with a simple premise that Government should take actions which will hopefully be good for us. The flaw, however, is that the people, and not the Government, should be making those judgments.

OPPORTUNITIES FOR BLACKS

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. PHILLIP BURTON. Mr. Speaker, I would like to call the Members' attention to the comments of Dr. Carlton B. Goodlett, president of the National Newspaper Association—Black Press of America. His observations on the important relationship between opportunities for Blacks and the implementation of black economic influence are incisive and inspiring.

We have no illusions about the chances o. 26 million blacks, representing the black tail, wagging the white dog. Yet, 26 million blacks, finally recognizing the ultimate disaster offered by capitalism for black colonials in capitalist America, led by the Black Psychologists, Black Nurses and Doctors, the Black Church, the Black Politicians, and Black leaders everywhere, using their moral, mental and physical resources: such a unified, dedicated black force for change, residing in the belly of the beast, would create an irresistible process in the body politic that would force the total nation to seek and develop viable economic alternatives.

Three examples come to us from the Jewish experience by which Blacks might use our economic power to combat racism:

(1) The Jews, early in the life of their progeny, as soon as a child develops the capacity to understand concept, identify for their progeny who they are and what they are: Jews are Semites; and the child is told of the great history of the Jewish people. Shortly after developing self-identity, the young Jew must be taught a lesson never to be forgotten: who the enemy is—the anti-Semite, and no means must be spared to destroy anti-Semitism. Blacks, similarly, at the age of conce tual development, must identify for young Blacks who they are. The importance of Alex Haley's "Roots" cannot be over-estimated. Its psychological impact involving a dramatic appreciation by Blacks of their origins and a discussion of the mythology of docile acceptance of slavery was accompanied by a deep sense of psychological awakening on the part of whites, who previously had lived with the myth that Blacks, even in slavery, were the White Man's Burden. Our Black progeny must be acquainted with the beauty of blackness, and the history of the Black man's contribution to world civilization and progress must be vividly painted—for example, the history of the mighty kingdoms of Africa, with its great universities and societies of culture; the domestication of animals, the mining and smelting of precious metals, are the contributions of Blacks to civilization. Next, our Black young must be taught that the eternal enemy of the Black experience is racism, and no means must be spared to destroy it.

(2) Jews have always recognized and accepted their responsibility to use their resources to take care of their own. The National Jewish Welfare Appeal is a most important instrument with which internal needs of the national Jewish community are met; the needs of the international Jewish community are responded to in the Bonds for Israel drives. Blacks in 1976 earned $77.1 billion, while they spent $70 billion—more than any other identifiable group in the nation in terms of the expenditure of its gross annual income for goods and services. Blacks are the 9th wealthiest nation of the non-socialist world; as the Jews, we must use our economic resources in the development of a National Black United Fund (NBUF), so that blacks can undergird through self-help and financial support, the intra-group needs of Black America, not only giving aid and assistance to the needy of 26 million Black Americans but also providing leadership in the assistance and development of trade and commerce, and relief to the nations in Africa and other third world peoples.

(3) Jews use their economic resources and their political power in forging opportunities for Jews as well as using political and economic means to punish their enemies. Similarly, 26 million Blacks, two-thirds of whom live in America's fifty largest cities, with a 1976 annual income of $77.1 billion, must use Black economic power and political power as instruments in developing intra-group opportunities for Blacks, on the one hand, and using this political and economic power, on the other hand, to punish the racists who thwart Black progress.

The power of economic boycott was no better illustrated than the response of the American Jewish community in 1975 to Mexico's affirmative vote on the UN Resolution declaring Zionism was a form of racism. Because of this vote, American Jews literally destroyed Mexico's multimillion-dollar tourist industry. Even though Mexico changed its foreign ministers and came to New York pleading for reconciliation, the Jewish leaders curtly told Mexico, "We will see how Mexico votes in the 1976 UN session." At the 1976 UN session, Mexico changed her vote, and in January, 1977, Jews were officially notified in the mass communications media that they should now return as tourists to Mexico.

No Black sacrifice is too great in our struggle—with allies if possible, but alone if necessary—to destroy racism—the enemy eternal, by any means necessary, and create for all people a decent life.

A recent observation on how many times a dollar changes hands within the ethnic communities of San Francisco should be of significance to us: A dollar changes hands in the Chinese ocmmunity 5 to 6 times, in the Jewish community 4 to 5 times, in the WASP community 3 to 4 times, and in the Black community, once—it comes in and goes out! Think of the awesome economic power Blacks will control, when we learn and practice the simple expedient of allowing a dollar to touch Black hands twice while residing in our community!

In the new planned national economy, Blacks should show the highest degree of creative statesmanship by moving to the vanguard, offering to White businesses and the White middle class who have flown the cities an invitation to return and rebuild these areas of enterprise, and share in the political power which thereby results; they should urge the development of the metropolitan concept, in which the borrough system provides, with federal assistance, the economic basis for all the life enrichment potentials—adequate schools, adequate health facilities, adequate housing, adequate finances—a community vibrant enough to implement the philosophical demands of the Humphrey-Hawkins Full Employment Bill: a job for every able-bodied citizen, with the government accepted as an employer of last resort.

Only in the Black experience and our own sordid circumstances can we find the courage, fortitude and daring intellectual perspective to move out from a submerged, amorphous mass, the victims of an oppressive social and political system, to rally millions of sleeping giants in America to the cause of turning this nation around, moving in a great crusade to fulfill the humanistic promises in a Second American Revolution (or indeed to guarantee the fulfillment of the humanistic promises submerged in the First American Revolution) which must be won. Our crusade will give birth to a planned economy, dedicated to the service and enrichment of life for all Americans. What a victory this would be for a suffering humanity against all of our enemies, who stealthily but surely are structuring a planned society for the few who are rich, the few who are powerful, the few whose greed knows no bound.

We have hastily postulated the emerging pattern of the new yet great design by which 26 million Blacks residing in the belly of the beast can find internal resources with which to enlarge their political and economic options. If, however, we slumber while our masses crawl and our youngsters are allowed to rot in jail, we shall deserve our fate—which is being ignored in person, while our economic resources are snatched from us as life-enriching contributions for those who are basically our enemies. We fail to utilize the intellectual, creative genius of Black America in this crusade for Black survival at great peril.

The struggle in the founding conventions of the nation pitted supporters of humanistic values against those of materialistic values. Unfortunately, the materialists won, and the nation has traveled its first 200 years down the contradictory road of verbalizing paeans of "Freedom Liberty, Justice and Equity," but the cadence of the nation's drum-beat in act and deed emphasizes rights held in primacy over human rights."

The greed of the Whites who landed at Plymouth Rock began a process of sustained exploitation which led ultimately to the extinction of the native Red Man, and accepted for 200 years the moral stench of Black slavery. The neurosis of greed displayed in the destruction of both material and human resources in the name of free-

dom, justice and equality, has created an avaricious breed of homo sapiens interested foremost in the acquisition and accumulation of wealth—vast holdings by the powerful and greedy, in violation of the most elemental laws of a finely honed eco-cycle. Racism, sexism and classism are a double-edged sword, contributing to the mental illness of both the victims of this aberrant behavior and the perpetrators.

How could a system that lived a lie, and glorified personal greed, which flaunted human and moral values, create a physical and psychological climate which was not foreboding to all societal resources, physical and human?

The Kerner Commission's Report identified racism as the one cardinal sickness which haunts the nation; the second and third horsemen of the Apocalypse which threaten the nation are sexism and classism. The fourth, mental illness.

OUR NATION IS A SICK SOCIETY

How can good mental health abound in a society which: (1) spends $50 billion securing Western Europe against communist dogma, post-World War II, but refuses to guarantee a national wage above the poverty line for its workers? (2) Whose leader proclaims human rights throughout the world, yet the nation rejects equal rights for its female citizens? (3) A nation which spends $25 billion to place footsteps on the moon but will not guarantee to its citizens the right to a job with all of the rehabilitating virtues which honest work gives to a man or woman? (4) A nation more interested in the bottom line for industry and investment with no concern for the lifeline to health for its citizens? This is indeed a sick society.

John D. Rockefeller III said it best: This nation needs a Second Revolution, in which humanistic values long deferred become the elan vital of the body politic. Rampant inflation, with unbridled unemployment, are the bells which toll the irreconcilable conflicts of a laissez-faire capitalist society. With Lincoln's words ringing down through the ages: "A nation divided cannot endure," the evils of racism, sexism and poverty threaten the survival of our society. In response to such festering problems, the President has appointed a Commission to make a national inquiry into Mental Health. As a psychologist and a physician interested in illness—personal and societal—let me urge this Workshop's participants to beware the folly of probing symptoms only, and ignoring the deep etiological factors which allow—indeed, force—a sick society to spawn mental illness among its citizenry.

Our nation created the atomic bomb, and now, while its scientists cringe in horror, its political leaders amass without restraint weapons capable of destroying all of humanity and all living things, to leave its skyscrapers as sentinels resembling the pyramids of Egypt and the temples of the Incas.

NEW CHALLENGES FOR SELF-HELP

We have recently organized the National Conference of Presidents of 100 Largest National Black Organizations. In its April, 1977 conference these leaders representing mass organizational membership of 11.5 million Blacks accepted the full responsibility of being the vanguard of the Black struggle to turn this nation around, if necessary. Moreover, it adopted two self-help programs: (1) Endorsement and sponsorship of the National Black United Fund, presently organized in 14 cities, destined to reach the fifty largest cities of the nation so that the Black have's can lend aid and assistance to the have-nots, in reconstituting their lives. (2) Pledged full support to the efforts to build here at Morehouse College the first Black medical college conceived in the 20th century, to serve mankind in the challenging 21st century. We must raise matching funds of at least $20 million from Black America, to make this medical school a reality and a tangible demonstration that a people earning $77 billion in 1976 and an anticipated $100 billion in 1982 can and will support its own, monetarily as well as physically, for the new birth of freedom in the USA.

"THE SEARCH FOR A BLACK IDEOLOGY"

We hope shortly to call, probably at Robert Moten's Farm in Virginia, behavioral scientists, representing all of the disciplines, to search for a Black Ideology in this, the 114th post-Lincoln Emancipation Year. We project soon to call a first international conference of Blacks in Diaspora, a gathering of representatives of the 65 million Blacks inhabting North, Central and South America, such as Afro-Americans, the Latino-Africans and the Hispano Africans. These two projects—the think-tank in search of an idaology and the convening of an international conference of Blacks in Diaspora, must demand the attention and receive the assistance of the nation's Black Psychologists, and other behavioral scientists.

Finally, we dare not fail to reconstitute our struggle to protect the Black psyche.

According to the Joint Commission on Mental Health, 1969, in terms of mental health, racism is a more pervasive and far more serious threat than childhood schizophrenia, mental retardation, psychoneurosis or any other emotional derangement. It destructive effects severely cripple the growth and development of millions of our citizens, both young and old alike. Yearly, it directly and indirectly causes more fatalities, disabilities, and economic loss than any other single factor.

This is the challenge that primarily faces those trained as Black behavioral scientists. This is the challenge facing millions of Blacks, especially the educated tenth. As we visualize our role, all that we have said this morning might be dismissed, if we only remember the prophetic message in Mari Evans' "Speak the Truth to the People":

"Speak the truth to the people
Talk sense to the people
Free them with reason
Free them with honesty
Free the people with love and courage and care for their being
Spare them the fantasy
Fantasy enslaves
A slave is enslaved
Can be enslaved by unwisdom
Can be enslaved by black unwisdom
Can be reenslaved while in flight from the enemy
Can be enslaved by his brother whom he loves
His brother whom he trusts
His brother with the loud voice
And the unwisdom
Speak the truth to the people
It is not necessary to green the heart
Only to identify the enemy
It is not necessary to blow the mind
Only to free the mind
To identify the enemy is to free the mind
A free mind has no need to scream
A free mind is ready for other things . . .
Speak the truth to the people
Spare them the opium of devil-hate
They need no trips on honky-chants
Move them instead to a Black One-ness
A black strength which will defend its own
Needing no cacophony of screams for activation
A black strength which attacks the laws
Exposes the lies, disassembles the structure
And ravages the very foundation of evil
Speak the truth to the people
To identify the enemy is to free the mind
Free the mind of the people
Speak to the mind of the people
Speak truth.

—Mari Evans."

AGRICULTURAL TRADE

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. HAGEDORN. Mr. Speaker, I would like to add to the remarks of my colleagues some observations on a specific point which is of direct concern to both myself and my constituents. This concerns the status and future of agricultural trade between the United States and the Republic of China.

I think that no one would dispute the fact that the Republic of China on Taiwan has developed on extremely dynamic economy which demonstrates the best of what can be achieved through a successful economic development program. Being an island state with severe limitations on available land, the economy of the ROC has been based in large part on the development of high volume international trade. I am pleased to point out that the United States has played a major role in the development of that trade, and that the level of U.S.-China trade currently stands at close to $4 billion.

This constitutes a very real economic interest of the United States, and a not inconsiderable one. While a large part of American exports to the ROC is composed of mechanical and capital equipment, the American farming community is particularly concerned with the maintenance of large-scale American exports of agricultural products to that country.

The figures for 1976 American trade with the ROC suggest the importance of those exports. In that year the United States exported to the Republic of China $77.9 million worth of unmilled wheat, $4.6 million in barley, $94.5 million in corn, $5.9 million in infant cereal preparations, $2.9 million in leguminous dried vegetables, $19.5 million in unmanufactured tobacco, $84.3 million in raw cotton, $148.4 million in soybeans, and $15.3 million worth of other agricultural commodities—for a total of $473,724,000 in 1976 alone.

These figures indicate a number of things. In the first place, they indicate the viability of the Republic of China as a major trading partner of the United States. Beyond that, however, they indicate the concrete interest which the United States has in maintaining and expanding its economic links with the Republic of China. Unlike the PRC, the Republic of China is a proven market, which promises to absorb even greater American exports in the years to come. I believe very strongly, as my constituents do, that this market should be protected and expanded, and that this Government should think twice before taking any step which would seriously endanger our current trading relationship. I will repeat—that America's trade with the Republic of China in agricultural commodities, as with its trade in machinery and other heavy goods, has proven itself beneficial to both parties, has helped both our general balance of payments situation and our farming com-

munities, and must not be endangered or undermined in pursuit of a policy with no proven economic, much less moral, advantages. This is our responsibility both to our own people, and to those in the Republic of China with whom we have over the years developed such a favorable relationship.

PRAISE FOR SENATE INITIATIVE ON TUITION RELIEF

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. DELANEY. Mr. Speaker, I would like to take this opportunity to call the attention of my colleagues to a very significant event taking place in the Senate at this very moment. Some 43 Senators from both sides of the aisle and every section of the Nation are joining together in a united effort to pass education tax credit legislation and provide relief for our students and hard-pressed families caught by the spiralling cost of tuition expenses. I wholeheartedly endorse their effort and pledge to work closely with them to bring about this urgently needed reform in the Internal Revenue Code during the 95th Congress.

Senators PACKWOOD and MOYNIHAN, the principal sponsors of the Tuition Tax Credit Act of 1977, tell me that 12 of the 18 members of the Senate Finance Committee have already sponsored their bill and Chairman LONG has made a commitment to hold Senate hearings in January—hearings, to quote Senator MOYNIHAN, which will be "wide-ranging, comprehensive, and thorough."

The Tuition Tax Credit Act, going into the Senate hopper today, provides a credit for a taxpayer's tuition expenses, those of his spouse, or of his dependents—the amount is 50 percent of tuition payments up to a total of $500 per student and is refundable if the credit is greater than the tax liability.

Mr. Speaker, you will recall that on February 9 of this year I introduced H.R. 3403, the Tuition Tax Relief Act of 1977. While not exactly identical to the new Senate legislation, it is similar in major respects and I foresee no difficulties in resolving differences between the two versions in Committee. H.R. 3403 now enjoys the cosponsorship of 60 of my colleagues from both sides of the aisle; numerous variations on this theme have been proposed by other House Members; and Senator SCHWEIKER, who introduced a bill similar to H.R. 3403 on March 1, has cosponsored the new Tuition Tax Credit Act in the Senate.

The problems of skyrocketing tuition and reduced income for education are affecting both parents supporting students and students educating themselves. As Senator PACKWOOD is mentioning at his press conference today, Newsweek recently described the plight of these "middle-class poor," who have watched income adjustments eaten up by inflation and higher taxes. Homes and quality education seem to head the list of dreams priced beyond the means of many middle-class Americans.

The Tuition Tax Relief Act here in the House and the Tuition Tax Credit Act in the Senate both encourage these people to help themselves—in a far more meaningful way than money distributed through Government doles. The cost of the legislation is less than 1 percent of our national budget projections and would be only 4 percent of what taxpayers presently spend each year for public education at local, State, and Federal levels.

I was encouraged by the overwhelming sentiment expressed by both the House and the Senate a week ago in setting aside money for tuition tax relief through the second budget resolution. I applaud my colleagues in the other Chamber for their unified effort today. And I call upon our Ways and Means Committee to expedite hearings on this important topic and report appropriate legislation to the House floor as quickly as possible.

The list of cosponsors follows:

THE HOUSE TUITION TAX RELIEF ACT OF 1977

[Cosponsored by 60 Members]

James J. Delaney (NY)
Edward P. Beard (RI)
Carlos J. Moorhead (CA)
Norman E. D'Amours (NH)
J. Herbert Burke (FLA)
Leo C. Zeferetti (NY)
Robert W. Edgar (PA)
James L. Oberstar, (MN)
Jack Kemp (NY)
Donald J. Mitchell (NY)
Romano L. Mazzoli (KY)
Robert A. Young (MO)
Newton I. Steers, Jr. (MD)
Barbara A. Mikulski (MD)
Hamilton Fish, Jr. (NY)
Raymond F. Lederer (PA)
Don Young (Alaska)
Robert H. Mollohan (W. VA.)
Thomas J. Downey (NY)
W. C. Dan Daniel (VA.)
David C. Treen (LA)
John J. LaFalce (NY)
Henry J. Hyde (ILL)
Clarence D. Long (MD)
John Joseph Moakley (MA)
Robert J. Cornell (WIS)
Mario Biaggi (NY)
Floyd J. Fithian (IND)
Bob Traxler (Mich)
Richard L. Ottinger (NY)
James M. Hanley (NY)
Daniel K. Akaka (Hawaii)
Robert J. Lagomarsino (CA)
John E. Fary (ILL)
John H. Rousselot (CA)
Robert E. Badham (CA)
James C. Cleveland (NH)
Robert K. Dornan (CA)
Joshua Eilberg (PA)
John M. Murphy (NY)
Bruce F. Caputo (NY)
Barry M. Goldwater, Jr. (CA)
Eldon D. Rudd (Ariz)
Norman F. Lent (NY)
Gus Yatron (PA)
Dale E. Kildee (Mich)
Toby Moffett (CT)
Thomas A. Luken (Ohio)
Samuel S. Stratton (NY)
Doug Walgren (PA)
Fred B. Rooney (PA)
Edward J. Markey (MA)
Matthew J. Rinaldo (NJ)
Joseph D. Early (MA)
Richard M. Nolan (MN)
James M. Jeffords (VT)
Elliott H. Levitas (GA)
Lucien N. Nedzi (Mich)
Edwin B. Forsythe (NJ)
John Buchanan (ALA)

THE SENATE TUITION TAX CREDIT ACT OF 1977

[Cosponsored by 43 Senators]

Bob Packwood (ORE)
Daniel Patrick Moynihan (NY)
Richard Schweiker (PA)
James B. Allen (ALA)
Wendell Anderson (MN)
Lloyd Bentsen (TX)
Howard Cannon (NEV)
Carl T. Curtis (NEB)
John Danforth (MO)
Dennis DeConcini (Ariz)
Robert Dole (Kan)
Pete V. Domenici (NM)
John A. Durkin (NH)
Jake Garn (Utah)
Barry Goldwater (Ariz)
Mike Gravel (Alaska)
Robert Griffin (Mich)
Clifford P. Hansen (WY)
Orrin G. Hatch (Utah)
William Hathaway (Me)
S. I. Hayakawa (CA)
H. John Heinz (PA)
Jesse Helms (NC)
Hubert Humphrey (MN)
J. Bennett Johnston (LA)
Paul Laxalt (Nev)
Patrick Leahy (VT)
Richard Lugar (IND)
Charles Mathias (MD)
James McClure (ID)
John Melcher (MT)
Gaylord Nelson (Wisc)
James Pearson (Kan)
Jennings Randolph (W. VA.)
Abraham Ribicoff (CT)
Harrison Schmitt (NM)
John Sparkman (ALA)
Ted Stevens (Alaska)
Strom Thurmond (SC)
John Tower (TX)
Malcolm Wallop (WY)
Milton Young (ND)
Edward Zorinsky (Neb)

WILLIAM R. HULL, JR.

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. SISK. Mr. Speaker, it is with a distinct sense of sadness that I join my colleagues today in paying tribute to our beloved former colleague Bill Hull.

Bill and I came to Congress together in 1955 and my association with him for the next 20 years was a delight, both socially and professionally. His infectious good humor lightened the burdens as we worked together on many complex issues.

Often called "the most conservative of the northern Democrats," Bill, nevertheless, was a progressive thinker and possessed uncommon "horsesense."

We were saddened when he retired in 1974, and are even more saddened now as we realize his cheerful presence is forever gone.

Reta and I extend our deepest sympathies to his children and grandchildren and can only tell them that he was indeed an able and effective public servant in the eyes of his fellow Members.

HEW STATEMENT ON HEALTH MAINTENANCE ORGANIZATIONS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ROYBAL. Mr. Speaker, recently the Honorable Hale Champion, Under Secretary of Health, Education, and Welfare, addressed the Group Health Association of America on the subject of Health Maintenance Organizations. In view of the ever-increasing costs of health care, Mr. Champion's remarks will, I am sure, be of interest to many of my colleagues.

Therefore, I insert Mr. Champion's remarks into the RECORD:

REMARKS BY HALE CHAMPION

I'm here for a lot of reasons.

I have some old friends in this room—including the man who made the invitation—Jeff Cohelan.

I've had a long time interest in HMOs. I was a Kaiser member when I lived in California, and that goes back 25 years. I was a director of the Harvard Community Health Plan up to the day I was sworn in as Under Secretary.

Further, I happened to be in the neighborhood as Chairman of the National Health Insurance Issues Advisory Committee. We're looking around the country before advising President Carter on the national health plan he has pledged to submit to the Congress early next year—and I think a lot of us have been impressed by what we're learning about HMOs, their performance and their potential roles.

And finally, strange as it may be for a Convention speaker, I'm here because I also have something substantial to say—and I wanted to say it directly to you.

Secretary Califano and I don't think you are a demonstration project. We think you're for real, and we intend that you shall be treated that way. We think you are already very important to the health and pocketbooks of the people of his country and we want to make you even more important. You're not perfect, but nobody is. Not us, certainly, and certainly not the American Medical Association or the American Hospital Association.

I think you have often been ill-served by the Department of which I am now Under Secretary, and the Secretary and I have agreed we are going to try to do a whole lot better by you in the future.

It may take us some time to turn matters around, and I know your past experiences may give you justified reason to be skeptical about the pace and character of change as we try to make up for lost time. But our interest is great and our commitment is genuine—not to you as individuals, but to the enormous potential that the nature of your organizations offers as an approach to better, more comprehensive and less expensive health programs for all.

We will not always agree, but I think we may well agree more often with you than with any other group in the whole vast national health industry.

And make no mistake about it—health is a big business, the third largest in the United States, behind only construction and agriculture.

The figures I have become familiar with in recent months are staggering. One of every twenty employed persons in the United States is in health activities. Last year, $139 billion was spent on health in this country. In just 10 years, health has grown from 5.9 percent of the Gross National Product to 8.3 percent. And if the costs keep careening out of control, it will reach 10 percent by 1980.

And the most astounding figure of all to a man with my responsibilities is this: 12 cents of every Federal budget dollar is spent on health—or, at least, in the name of health.

I don't think we're getting our money's worth: That should be enough to do far better in building better health for the American people, and some changes are clearly in order.

Some people think that the problems in Medicaid and Medicare are inevitable products of government-financed programs. Not so. The problems are the inevitable products of putting programs under the care of people who often didn't like their objectives and didn't work hard enough at making them succeed. A lot of repair work is overdue, and we are hard at it even as we try to plan a more cohesive set of programs for the future.

I think any careful examination of Federal handling of HMOs in the last six years will make my point about government programs and the critical importance of the right kind of leadership and direction about as well as it can be made.

In 1971, President Nixon told you that by 1976 he wanted 1,700 HMOs with 40 million enrollees across the country. But what did he and his people do? They decided to treat HMOs as a demonstration program. They turned around and marched down the hill again. They wrote regulations that the most successful HMOs in the country couldn't qualify under, and they inhibited growth and development in a multitude of ways you are all too familiar with. So today, when we desperately need the capacity he called for, we have only 175 plans with 6.5 million members. And you accomplished most of that while the prior administration kept calling you a demonstration. Ridiculous. What is there left to demonstrate when over 25 HMOs have been providing good quality care to four million enrollees for the last ten years, and Kaiser and others have been going strong for over thirty years. How much more proof does one need than the studies that already show HMOs' ability to provide quality care at five to thirty per cent less than the fee-for-service sector.

We are through with this nonsense about demonstration. We are going to get about the business of stimulating the development of more HMOs—and we're going to stay in that business!

I also want to share with you some of my thoughts about why I think HMOs are so vital to any future design of a national health system and why I find it so disturbing that more HMOs weren't developed during the past few years.

When Secretary Califano and I began at HEW, we immediately were confronted with the staggering inflation in health care costs and the prospect that our national ability to cope with domestic needs could easily be crippled by these runaway expenses. With some firm guidance by President Carter we realized that unless we took strong action, the Federal Government ran the risk of using up all our health dollars in escalating costs, without obtaining any additional health benefits, notably in the preventive areas.

Our first step was to develop a hospital cost containment proposal. During our analysis, we found that HMOs offered a remarkable record of cost savings by reducing hospital admissions and lengths of stay. HMOs helped give us a basis on which to make some very critical decisions. For example, we felt a lid of 9 or 10 percent increase on hospital revenues was reasonable, even generous, in light of evidence that HMO members had only half as many hospital days per 1,000 as Blue Cross-Blue Shield members. Clearly, fee-for-service hospitals had room to economize without undermining quality. And, we were so confident of HMOs' ability to restrain costs that we exempted HMO-operated hospitals from our proposal.

But HMOs also looked promising for more reasons than efficiency. As I began meeting with the Advisory Committee on National Health Insurance Issues and as I learned more about other HEW health programs, it became evident to me that HMOs could play a major role in our evolving strategy to deal with some other principal shortcomings in the present health care systems. HMOs can provide instructive lessons in three areas:

Access to the appropriate level of care;

Emphasis on preventive medicine;

And the quality of care provided.

For those who don't already know better than I, let me explain:

When the average consumer approaches the current health care system, that person is faced with a bewildering array of providers and a complex set of decisions regarding treatment. That person needs assistance. In the current situation, the consumer turns himself over to his family doctor, an internist or a physician in a hospital out-patient department, who makes choices for him. There's no need to tell all of you how often this results in appropriate care.

HMOs provide an attractive alternative. The HMO member knows precisely where to go to receive the kind of care he needs. Moreover, the provider has little, if any, financial incentive to promote unnecessary treatment. Entry into the system is fast, and simple, and the provider's motivation is to improve and preserve health, not to encourage use of excess and expensive services and facilities.

In addition to appropriate access and strong prevention, I believe that HMOs also have a major organizational capability in the provision of high quality care. I subscribe to the belief that physicians who practice medicine in the company of other physicians almost always do a better job. Interaction among peers is a fundamental strength of HMOs. Thus, physicians keep abreast of the latest medical procedures and frequently consult with one another on difficult cases just as in a good teaching hospital.

In summary then, my view is that HMOs offer significant promise both in terms of quality and of cost, and that they can help us overcome several of the severe shortcomings of the present health care system.

But, while the promise is great, and while many HMOs have proved their worth, the HMO industry in general still has some distance to go. As I said earlier, I realize that part of your problem has been the Federal Government—and I'll speak to that again in a few moments. But since I just finished discussing what HMOs can do well, let me next offer some advice on how HMOs can help themselves.

There can be no question that public concern that HMOs might provide care of inferior quality is the greatest threat to HMO development. I think it is clear that the scandals here in California with certain prepaid health plans which enrolled only Medicaid patients did undeserved, but serious damage to the credibility of true HMOs as providers of quality care. They were not real HMOs. They were sometimes motivated not as most of you are, but by the "fast buck" and they were encouraged by officials who wanted only to cut costs without worrying about quality of coverage.

They demonstrated, however, that some kinds of HMOs can provide an incentive to underserve, just as the fee-for-service sector can offer clean incentives to overprescribe. In the case of the California PHPS, profits were pursued and quality of care often forgotten. This is a situation which must not be forgotten. I'll talk about HEW's intentions to do better, but we also need your help in policing against inferior HMOs. And I know

that all of you will continue to be vigilant as well in maintaining the quality of your own medical services.

Another area where HMOs can do better is in preventive medicine. The potential of HMOs in this regard, which I discussed earlier, has not been fully realized. Many HMOs have not been as aggressive as they might. I think HMOs are in a strong position to play a leading role in the effort to emphasize preventive as well as curative medicine, and I want to urge you to provide that leadership.

I have one last observation, and then I'll stop telling you how to do better and begin discussing the changes we're going to make to have the Federal Government do better.

I would also hope that HMOs would take a leadership role in the efforts to end medicine's unhealthy fascination with new technology, especially expensive gadgetry of unproven value, and to keep physician salary increases within appropriate limits. Even an HMO can sometimes succumb to the lure of experimental new technology and expensive salary structures.

Now, as I said before, I realize full well that the performance of HEW's HMO program has been anything but stellar. In fact, the Federal Government, with an announced policy of stimulating the growth of HMOs, has probably done more to dampen development than anyone since the early days of professional ostracism. Last year, Congress passed amendments to improve the situation. Now it's time for the Executive Branch to get itself together.

I want to outline for you the problem that we think that we have inherited and, at least in a general way, the steps we have in mind.

One: We understand that it is very difficult to raise capital to start an HMO. As you know, the authority for feasibility grants expires at the end of fiscal year 1978. We will push to have that authority extended. And we will encourage private investment whenever possible by making it clear that NHI is an opportunity for HMOs, not a threat. I think insurance companies ought especially to be encouraged to move more aggressively in HMO investment.

Two: HEW has not been aggressive in determining where there ought to be HMOs, seeking out groups in those areas that have the potential to form HMOs, and then providing interested groups with technical assistance. Rather the Department has dealt with applications as they arrived and not very enthusiastically even then. This is going to change. We are going to do everything we can to stimulate HMO activity, including the new interest of local governmental units such as Contra Costa County in this approach.

Three: we recognize that in HEW the grant program and the office of qualification have been hopelessly divided and that the resulting lack of cooperation has led to confusion and delay. We understand how important it is for a new HMO to have a smooth transition between the two offices. New organizational arrangements are being discussed and changes will be made to insure greater cooperation between the two units.

Four: The qualifications office is receiving an average of four applications a month and can only process two. About fifty applications are now pending. Furthermore, there are not adequate criteria for determining qualification.

Secretary Califano and I think this situation is totally unacceptable, and I tell you now—that backlog is coming down. As a first step, we have asked Dr. Milton Roemer of UCLA's School of Public Health to come in to help us reform the process.

Five: I recognize full well how slow the Department has been in issuing regulations. I am not satisfied that nine months after the passage of the HMO Amendments of 1976 the regulations issued only partially implement the law. In fact, I'm damn unhappy about it.

We are going to accelerate the processing of the remaining HMO regulations. Secretary Califano has already instituted action on the regulations to implement common HMO requirements in Medicare, Medicaid and the Public Health Service, and those regulations will be finished this summer. In addition, we are beginning to look at how state planning agencies should evaluate HMO applications for certificate of need. I pledge speedy consideration. In fact, the delays in your regulations are symptomatic of problems with the entire regulations development process in HEW. But we are currently changing that process and have now speeded up all regulations writing. Unfortunately, we have a huge backlog to be dealt with, with many carrying statutory priority.

Six: We recognize that HEW has not paid much attention to the enforcement of standards in the 31 federally qualified HMO's or among those receiving federal grants or loans. This cannot continue. As I mentioned earlier, all proponents of HMO's, including us, must be vigilant in the protection of consumers from inferior HMO's. To risk failure is totally counterproductive to the goal of HMO growth. It is ironic, but true, that HMO's must meet a higher standard than many of those whose errors HMO's have done much to overcome. But so be it.

Seventh and last: We are totally dissatisfied that only one and one-half percent or under 700,000 of Medicare and Medicaid recipients are enrolled in HMOs. We are going to consider ways to increase that percentage significantly.

Even that list is not a complete one. We also need to explore better and more adequate funding, and zero-based budgeting is going to give us a chance to do that by reassessing our priorities, even at present departmental spending levels.

As we embark on these efforts, we will consult you. But we hope and expect that you will not wait to be called. Let us know on your own initiative what works well and what does not.

And, perhaps most importantly, let us together try to revive the confidence and enthusiasm of earlier years, to overcome the distrust and pessimism of the recent past—some of which seems to be carrying over into the present in Washington.

All the good things won't happen right away. The disarray and debris left behind by people who didn't believe government could help solve problems or speed progress will take some time to clear away. Attitudes will have to change and so will aspirations. But if we can rebuild mutual confidence in social progress with people like you, then we'll begin to actually make some again.

One of the best places I know to start is in health, and I can't think where we could find better partners than in HMOs.

I've given you a lot to hold us to. Please feel free to do it.

Thank you.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MAZZOLI. Mr. Speaker, because of previous commitments in my district, I was absent on September 23, 1977, and missed four rollcall votes. Had I been present:

I would have voted "yea" on roll No. 579, approving the Journal of Thursday, September 22.

I would have voted "yea" on roll No. 580 on final passage of H.R. 6796, the ERDA Research and Development authorization.

I would have voted "yea" on roll No. 581 on the final passage of H.R. 3, the medicare-medicaid antifraud and abuse amendments.

Also, I would have voted "yea" on roll No. 582, final passage of H.R. 5383, Age Discrimination in Employment Act amendments.

THE CAMPAIGN AGAINST FOREIGN STEEL

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MURTHA, Mr. Speaker, the Johnstown works of United States Steel Corp. is helping to launch a nationwide effort to restrict the import of foreign steel.

With the Johnstown area already stunned by July flooding, the impact of imports and other factors on the steel industry has struck a particularly hard blow. Along with a set of bumper stickers saying, "The threat is real from foreign steel," Mr. Fred Beiser, general superintendent of the Johnstown Works has sent me an article from the plant's newspaper and one of the first letters sent by one of their employees to President Carter.

I would like to enclose both items for the information of the Members:

FLOODS CANNOT STOP US: FOREIGN STEEL CAN

(By Fred R. Beiser)

To everyone who worked so hard to get the plant quickly back in operation, I can only say: "A fine Job—you came through beautifully!"

We proved that floods can't stop us. Sure, they hurt, but we had it within our grasp to make a quick recovery and we did!

Now that we have "beaten" a devasting flood, it is time to turn everyones' attention to something more hazardous than any flood as far as our plant is concerned!

Dumping foreign steel into the United States by Japan and western Europe at less than it costs to produce and sell in Japan and Europe is against existing Federal Anti Dumping Laws.

Foreign steel hurts our customers and ourselves.

Each of us should insist that our government enforce Anti Dumping Laws. Get the message across to your congressmen and senators! Write them! Tell them that foreign steel is affecting your job and our business!

Write to your government representatives at the above addresses! Tell them that you're a U.S. Steel Corp. employee (or retiree) from Johnstown Works or Canton Plant. If you're a union member, include your Local's number and your name and address. Insist that these elected officials enforce the Federal Anti Dumping Law! Tell them that our nation's economy and our jobs depend on their immediate support of this law. Voice your opinion now!

SEPTEMBER 14, 1977.

DEAR JIMMY: I have never written to a President before because I always figured you were much too busy with bigger problems than any of my little ones. But this time I thought I better write from my flood-wrecked town and let you know about the plight of many jobless steelworkers. I wanted to write you sooner but we were too busy cleaning up from the flood; the time I was going to write was about two months ago when you made the statement that the government agencies should buy the cheapest steel, foreign or not. If we all did this our country would be in bad shape. I'm sending you a bumper sticker for your car and asking you to reconsider your policy on foreign steel.

Thank you,

WALTER W. SHOSTEK.

P.S.—If you need any more stickers for your staff please let me know. Answer as soon as possible.

ORGANIZATIONS CONCERNED WITH SOCIAL JUSTICE ENDORSE PROPOSED CANAL TREATIES

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. METCALFE. Mr. Speaker, two organizations concerned with social justice have given their endorsement to the proposed Panama Canal treaties. The endorsement of the treaties by the Board of Directors of the NAACP—National Association for the Advancement of Colored People—and the restatement of position of the National Conference of Catholic Bishops by its president, Archbishop Joseph L. Bernardin, is based on the belief that the treaties embody the best principles of the conduct of international relations. Both the Conference of Bishops and the NAACP have criticized the present Canal treaty relationship with Panama because it does not allow the country of Panama to fully develop all of its natural resources.

In addition to the endorsement by these two major organizations, Mr. Vernon Jordan, executive director of the National Urban League, has also indicated his support for the agreements. In an article which appeared September 17, 1977, in the Chicago Defender, Mr. Jordan said:

So the question becomes, how can we arrange for the Panamanians to have a stake in the Canal's operations and sovereignty over their own land while protecting our best interests.

I commend the views of the NAACP, the National Conference of Catholic Bishops, and Mr. Vernon Jordan to my colleagues.

The articles follow:

NAACP URGES SENATE TO OK PANAMA TREATY

NEW YORK.—The NAACP commended President Carter today for bringing to an end 14 years of negotiations on the Panama Canal and urged the Senate to ratify the treaty.

In a resolution adopted at its quarterly meeting on Monday, September 12, the NAACP National Board of Directors noted that the proposed treaty "at long last acknowledges the Republic of Panama's incentives over its territory. The full text of the resolution follows:

"Whereas, the proposed treaties between the United States and the Republic of Panama concerning the operation and use of the Panama Canal appropriately and at long last acknowledges the Republic of Panama's sovereignty over its territory; provides for economic incentives for the efficient operation of the Canal; affirms the Canal's neutrality, and commits the United States to protect and defend the international waterway from acts of aggression or any interference with the free exercise of our right to its use;

"Whereas, the National Board of Directors of the NAACP views the embodiment of these sound principles of international cooperation as a positive and important instrument of peace and goodwill;

"Whereas, opposition to the pacts is premised on emotional ties to historical blunders such as "the manifest destiny;'

"Whereas, the NAACP has been in the forefront of those who believe that colonialism has long been a threat to international peace, to freedom and the liberty of people of color; and,

"Whereas, these treaties in no way threaten the security or interests of the United States;

"Be it therefore resolved, That the NAACP congratulate and commend President Jimmy Carter for the culmination of fourteen years of negotiation of these agreements, and that the Board of Directors of the NAACP go on record as urging the ratification of these treaties, and urge our branches, chapters, units and members to write their senators recommending ratification."

[From the Washington Post, Sept. 16, 1977]

CATHOLIC BISHOPS TO SUPPORT TREATIES ON PANAMA CANAL

(By Marjorie Hyer)

America's Roman Catholic bishops will support the Panama Canal treaties and submit Senate testimony in their behalf "at an appropriate time," the head of the American hierarchy told President Carter this week.

Archbishop Joseph L. Bernardin, president of the National Conference of Catholic Bishops, made the pledge during a half-hour meeting with the President to discuss questions of human rights.

The archbishop said he had requested the White House meeting because he had "received many questions on this subject from bishops in other countries" and anticipated further questioning at the worldwide Synod of Bishops that opens in Rome later this month.

Churchmen in other countries, he said, have expressed concern "about how firm and lasting the present U.S. emphasis for human rights will prove to be."

He said he came away from the White House interview convinced of President Carter's "firm and sincere commitment" to human rights as a matter of national policy.

Archbishop Bernardin, who was accompanied by the Most Rev. Thomas C. Kelly, general secretary of the Catholic hierarchy, said he volunteered Catholic support on the Panama Canal treaties during the White House conversations.

He pointed out that the bishops' conference nearly a year ago adopted a policy statement favoring a new treaty. "Once a policy is adopted," he explained in a press briefing, "it is followed up."

The churchman said he also commended the President on the administration's opposition to federal funding for abortion and reiterated the Catholic Church's support for a constitutional amendment outlawing abortions.

The White House meeting of the two bishops was the first meeting of President Carter with members of the hierarchy since he became President.

During last year's election campaign, Archbishop Bernardin and other top officers of the hierarchy met with both presidential candidates to discuss abortion and other campaign issues.

In their White House meeting this week, at which Vice President Mondale also was present, the Catholic bishops registered concern for such issues as undocumented aliens, unemployment and welfare reform, the archbishop said.

[From the United States Catholic Conference, Nov. 10, 1976]

A STATEMENT ON U.S.-PANAMA RELATIONS

The United States and the Republic of Panama are presently engaged in negotiations about the future of the Panama Canal. These negotiations have been in progress since 1964 and have been advanced significantly since the Statement of Principles formulated by the two governments in 1974.

The Administrative Board of the U.S. Catholic Conference issued a policy statement in February 1975 which affirmed that: "It is a moral imperative—a matter of elemental social justice—that a new and more just treaty be negotiated." (Panama-U.S. Relations, 1975) We continue to believe that the moral imperative exists to fashion a new treaty which respects the territorial integrity and sovereignty of Panama, and dissolves the vestiges of a relationship which more closely resembles the colonial politics of the nineteenth century than the realities of an interdependent world of sovereign and equal states.

Since 1975 there has been extensive debate in the United States about the treaty negotiations. Issues of a political, strategic and economic nature have been raised. In addition, the status of U.S. citizens living in the Canal Zone is a matter of concern for U.S. policy. Our purpose in this statement is to reaffirm our stance in favor of a new treaty by specifying major issues which we believe should be in the forefront of the public debate and policy decision-making in the United States.

Speaking as bishops of the Catholic Church, our perspective on the treaty negotiations is set by a text from Pope John XXIII's *Pacem In Terris.* In his discussion of relations between states, the Pope said: "Each of them, accordingly, is vested with the right to existence, to self-development and the means fitting to its attainment, and to be the one primarily responsible for this self-development." (para. 86) It is the principle which is at stake in the treaty negotiations: the fundamental question is the need to acknowledge in principle and in fact Panamanian sovereignty over its own territory. The terms of the 1903 Treaty acknowledge the principle of Panamanian sovereignty, but prevent its exercise in any form in the Canal Zone. Without rehearsing the history or the terms of the treaty, we simply would affirm that the moral, legal and political realities of international life today render the 1903 Treaty an anachronism.

The terms of the Treaty make it impossible for Panama to be the primary agent of its own development, because it deprives the nation of a substantial part of its territory, income and capacity for planning the integral development of its people. Finally, by restricting sovereignty in this way, the present relationship strikes directly at the national dignity and sense of respect which any nation needs for free and independent existence. To quote Pope John again, "Nor must it be forgotten, in this connection, that peoples can be highly sensitive, and with good reason, in matters touching their dignity and honor." (para. 89)

Because the issue of sovereignty is so closely tied to the freedom and self-deter-

mination of a nation, it has become an issue of dignity and honor for the Panamanians. Given our political history, the world has a right to expect that Americans will be especially sensitive to another nation's claims for freedom, dignity and self-determination.

The implications of the sovereignty issue for Panama can be illustrated with two examples: First, as we indicated in our 1975 statement, the inability of Panama to integrate the Canal and the territory comprising the Canal Zone into its national planning has significant economic consequences ranging from urban congestion in Panama City to the amount of revenue which can be garnered from operating the Canal. Second, through a process of unilateral actions, the United States has developed in the Canal Zone a very substantial military presence which goes far beyond the requirements for defending the Canal. The existence there of the U.S. Southern Command implies a U.S. military presence throughout Latin America. It is a continuing political problem, casting reflection on the independence of Panama, for its government to be so closely tied, without choice, to the military policy of the United States in Latin America. Without a new treaty the Panamanians have no possibility of addressing either of these issues.

We support a new treaty, therefore, because we see it as a requirement of justice between our nations. As we consider this larger question of justice, however, we wish also to express our pastoral concern and public support for a negotiated treaty which will protect the welfare of the people living and working in the Canal Zone. We especially call attention to the need for an agreement which will provide for the economic security of Americans presently employed in the Canal Zone. This too is a requirement of justice which rests upon both the United States and Panamanian governments.

The issues involved between our two countries are complex; they are also emotionally volatile. The need in both countries is for reasoned discussion, a sense of the other's point of view and a commitment to a fair resolution which will lay the basis for a long-term relationship of respect and cooperation between our governments and our peoples. It is to achieve these objectives that we commit ourselves to a continued program of public education and discussion in the United States.

[From the Chicago Defender, Sept. 17, 1977]

CANAL TREATY IS SOUND

(By Vernon Jordan)

The credibility of American foreign policy and our position of enlightened world leadership are at stake in the recently concluded Panama Canal Treaty.

If the Senate fails to ratify the treaty, this country will be in deep trouble. One possibility might be a prolonged Vietnam-type guerrilla war in Panama. The Canal, always vulnerable to sabotage, could be closed. And America's prestige among South American and Third World countries would go down the drain.

Despite this, the treaty has become one of those emotional issues tailor-made for demogoguery. We're hearing wild charges that the Treaty is a "giveaway," that it endangers national security, and that it involves territory we own.

None of these charges hold water. The Treaty is no giveaway. It assures U.S. operating control of the Canal and an American military presence there until the year 2000, and we retain freedom of action to assure Canal's neutrality. It's a sound agreement that will mean continued access to the waterway for all nations and continues America's strong position there.

Rather than endangering national security, the Treaty strengthens it. The Joint Chiefs of Staff and U.S. Officers at the Canal all endorse the Treaty. They know it means stability of the Canal's operations and that the agreement is the best defense against sabotage because Panama will have a major economic stake in its operation. Even after the Treaty ends, if our defense interests required it, our armed forces would still be in a position to defend the Canal.

And it is incredible to hear people say that the U.S. owns the Panama Canal Zone. We have rights there, but we don't own the place. The Canal Zone is not like other territories the U.S. purchased and owned forever thereafter.

Our control—not ownership—is based on a 1903 Treaty that was rammed down the throats of the Panamanians during the heyday of colonialism. By renegotiating that Treaty we put our presence there on a legal and moral basis far superior to that now governing our control.

Ratification of the Treaty is essential to avoid bloodshed. I often wonder whether the people so loudly opposed to the Treaty are willing to put their own lives on the line in fighting any war that might result from its rejection.

It should not be so hard to understand the Panamanian feelings about the Canal Zone. How would we as Americans feel if a foreign country controlled a broad strip of land cutting through the heart of our country? And how would we react if that control was based on a colonial era treaty forced upon us and if the foreign power refused to grant us sovereignty over our own land and operating participation in a canal on our own territory?

It's as if Great Britain had granted independence in 1776 while still holding on to a big chunk of America and refused to give it up 200 years later. We'd be pretty hot about that, and that's the way most Latin Americans feel today.

The real question is not whether we will continue to control the Canal and the Zone in all aspects. We can forget about that. If the Treaty is rejected by the Senate then the Canal may be closed down anyway by military action or by sabotage, almost impossible to stop.

So the question becomes, how can we arrange for the Panamanians to have a stake in the Canal's operations and soverignty over their own land while protecting our best interests.

The answer to that is the Treaty. It is fair, honorable and workable. It took 13 years to negotiate. Four Administrations have worked for an agreement that supplants the dishonorable 1903 Treaty, and all have started from the assumption that Panama's rights have to be honored.

So this is not a partisan issue. It would be irresponsible to endanger America's international position and her relations with other countries for whom the Treaty is a key indicator that our Nation is willing to deal with power and weaker nations on a basis of mutual interest and mutual respect.

THE JOHNSTOWN FLOOD OF 1977—PART V

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MURTHA. Mr. Speaker, the concluding part in this series on the Johnstown flood concerns the future of the town, and how some of the residents see the situtaion following the July devastation. As this series closes, I would again like to congratulate Dave Leherr and Stuart Brown of the Pittsburgh Post-Gazette on compiling this excellent article on the Johnstown flood and its effect.

The article follows:

THE JOHNSTOWN FLOOD OF 1977—PART V

Robert Rose, 53, a lawyer, stood in the mud that used to be the first floor of the David Glosser Memorial Library in downtown Johnstown.

"We lost 100,000 books, many of them rare volumes that can never be replaced," says Rose, who is a member and former president of the library board of directors.

The library was just dedicated in 1971. Ironically, the old library is now the Johnstown Flood Museum.

"We saved the top shelf of books," he says.

Aided by three busloads of Penn State students who came to Johnstown to help in the mopup operations, Rose was dry freezing the salvaged books and packing them in boxes to preserve them. Others were sponging microfilm to keep it wet so that this valuable part of the library's collection would not crack.

Rose was one of those who talked with determination and confidence—not just hope—about the future.

"This town will survive this flood and it will be stronger because of it," says Rose. "I was 12 in 1936. I remember the mud then. I remember my grandmother shoveling mud. I remember the hardship. But most of all I remember how quickly they came back.

"Yes, we were told we were flood free and we believed it. No, I'm not angry. But I can understand those who are. If I had lost a loved one or if I had lost a business, I might not be so charitable."

Perhaps it was fate, perhaps just chance, but even as Rose talked, one of the students was hosing off laminated copies of old newspapers which are part of the library collection.

She held up the April 6, 1936, edition of the Johnstown Democrat.

The headline read: "Greater City Rises From Ruins of Deluge."

For some reason, an employee of Lee Hospital, on Main Street in downtown Johnstown, was up during the middle of the night of July 19–20 at her home more than 40 miles away. She turned her radio on and heard reports of heavy rainfall in the Johnstown area. At her home there was no rain.

She is the sort of person who will rush to work unasked during an emergency, but these reports didn't seem especially urgent, though they were unusual.

She drove to work the next morning and was astounded to find Main Street under several feet of water. The basement of the hospital was wiped out, and gone were generators, the cafeteria and food preparation area, surgical supplies and other equipment.

She telephoned her husband to say she'd be coming home late, and he idly wondered why the hospital was taking so much of her time these days. Later she would be driving a truck.

This week, in a semi-darkened office at the hospital where most electrical power had not yet been restored, a weary administrator, Richard Seifert, told a visitor how nearly 300 patients had been evacuated without panic.

Some had been waiting for surgery. Some were recuperating. Though the electricity had gone out in the middle of the night, most of the patients were not aware of the flood until they awoke in the morning and looked out their windows, Seifert said.

The administrator was tired, bone tired, and though he and the visitor had not met before it appeared some of the deep lines in Seifert's face must have emerged during the past week.

He said those patients who could be sent home were, and others were transferred to

other hospitals. Most were carried down the stairs of the six-floor building. And as Seifert spoke, the only unit of the hospital still functioning was the emergency room, which had administered 10,000 tetanus shots in addition to other chores.

Outside on Main Street dozens of volunteers were shoveling mud and gathering debris away from the hospital. They included hard-working Mennonites from far away, Penn State University student volunteers and Seifert's teen-age girl.

Seifert was asked when he thought Lee Hospital, with its 321 beds, might again begin admitting patients. He said around Aug. 7 or 8 they might be able to "phase them in." But nothing was certain in this mess, he conceded.

"Our electrical power is down to nothing," Seifert said as, nearby, staff members sat near windows straining their eyes to write. "Three emergency generators we had lasted us an hour. Then they were wiped out and the night could have been a night of terror in this place.

"But our people were beautiful. They moved. They kept things calm. The patients were disturbed as little as possible. We had 276 of them, and they moved out 97 the first day, 103 the second day and the rest on the third day. Remember, some of these people were so sick it took 10 people to carry them downstairs, and I don't have to tell you what it was like outside."

Seifert was asked about the spirit of Johnstown, about whether it would come back.

"I see a community coming back stronger than before," he said, "but it's up to the people—their attitudes and their industry."

Then, apparently not satisfied with his answer, he got up and walked slowly to a table. A framed picture was lying face up. Seifert picked it up and held it out for the visitor to see: The face of a bearded man. The plaque said "Dr. J. K. Lee."

"John K. Lee," said Lee Hospital's administrator. "His widow died in 1916 and left the money that helped us to become this beautiful hospital. We came through World War I and construction wasn't finished on our present building until 1928. Then we had the floods of 1936 and World War II and now . . . this.

"Dr. Lee died on May 31, 1889. He was a victim of Johnstown's Great Flood. So when you ask me, will we make it back. I look at this bearded man and this hospital and that muck outside and tell you this:

"It's only the game fish who can swim upstream, and I think the people here are tough enough to take this—and survive."

1984 AT COORS: POLYGRAPHS ON DEMAND II

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mrs. SCHROEDER. Mr. Speaker, on September 20, 1977, at page 30039. I inserted a letter to the editor of the Denver Post from a striking Coors brewery worker in which he explained that a central issue in the strike was that the Coors management insisted on the right to require employees to submit to polygraph tests upon demand, and that refusal to take such a test would be grounds for dismissal.

The RECORD insert elicited the following letter which, I believe, speaks for itself:

DEAR CONGRESSWOMAN SCHROEDER: I noted in the Congressional Record of 20 September 1977 your submission of a letter to the editor of the Denver Post regarding the striking Coors employees. Included in the letter is a discussion pertaining to mandatory submission on the part of employees to polygraph tests, if requested by the employer. I believe my experience with polygraph tests is extremely germain to just this issue.

During my leaner years as a returning student, I sought a job with a Denver firm operating an armoured car service. Unfortunately I don't remember the name of the firm or of that administering the required polygraph tests, but it should be easy to determine since there can't be too many of either in Denver. In any event, I was subsequently advised by the armoured car firm that they could not hire me. In response to my query of why not, I was further advised that it was simply due to the fact I failed the polygraph test. Needless to say, I was deeply disturbed and imposed upon the firm to give me a second test.

I failed the second test as well, but I was able to get the tester to show me the results, even though it was contrary to his firm's policy. Thus, I personally confirmed, and it was obvious, that according to the graph I did indeed clearly lie on two occasions: 1) when asked if I had ever been jailed, I answered no; and 2) when asked if I had ever stolen anything with a value of $150.00, to which I again answered no.

Since my life is extremely easy to document, I can easily show I have never been jailed, albeit it is virtually impossible to confirm that I have never stolen anything over $150.00. In any event, my failing the tests must be attributable to my recognition of the importance of the two above noted questions and, perhaps, the anxiety brought about by my need for employment and income. I have been concerned over polygraph use since then, fearing that as a matter of expediency or frustration on the part of the courts, they will begin to accept polygraph results as admissable evidence or that, as in the Coors case, refusal to take such a test will be taken as a measure of guilt.

Accordingly, based on my own personal experience, I firmly believe the use of polygraphs should be against the law, unless specifically offered, under no suggestion or duress, by the individual concerned.

MEAT IMPORT HEARINGS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ABDNOR. Mr. Speaker, last week the International Trade Commission completed a series of hearings on the impact of meat imports on domestic prices—a series which began last June in Rapid City, S. Dak. Some 230 South Dakotans and meat producers from other Midwestern States attending this final hearing in Washington at which I presented the following statement:

THE HONORABLE JAMES ABDNOR BEFORE THE U.S. INTERNATIONAL TRADE COMMISSION WITH REGARD TO LIVESTOCK AND MEAT IMPORTS

Mr. Chairman and members of the Commission, I am pleased to finally have this opportunity to appear before you to express my views on the issue of livestock and meat imports. As you may recall, I had intended to appear at your initial hearing in June held in Rapid City, which is in my Congressional district. My statement was placed on the record but, unfortunately, I was prevented from presenting it personally due to a last minute legislative scheduling conflict which required my presence on the floor of the House.

Since my statement is on the record, I will not take much of your time. I did want to make you fully aware of my deep, personal interest in this matter by my appearance before you this morning, however, and I would also like to reiterate and emphasize the major points of my statement, which as you will recall dealt primarily with flaws in the Meat Import Act of 1964. (A copy of my statement is attached for your ready reference.)

Although I identified fourteen more-or-less distinct problems with the '64 Act, they can be summarized basically as errors of concept, omission, and administration.

First, the concept of an import quota which increases as domestic production does is faulty in that it ignores the cyclical nature of the industry. Second, omitting live animals, meat of certain livestock, and processed meats of all kinds ignores the interrelated nature of these products with those subject to the quota and invites circumvention. Third, the inadequate protection afforded in light of the errors of concept and omission inherent in the '64 Act is further diminished by the manner in which the law has been administered.

Mr. Chairman, I believe these issues can and should be addressed in the context of amendments to the 1964 Meat Import Act. I also believe and urge that all imported meat products should be subject to health and sanitation requirements which are equal to those placed upon domestic production and, finally, that imported meat products should be identified as such to the ultimate consumer.

Mr. Chairman and members of the Commission, you can be certain these issues will continue to have my attention as long as the dire financial condition of the livestock industry prevails. As you can appreciate, however, in an urban dominated Congress the efforts of rural members like myself and the others who appear before you today will continue to be futile unless we have the understanding, concern, and support of officials such as yourselves.

With that thought in mind, I thank you for your consideration.

IN PLACE IN IRVING

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. MILFORD. Mr. Speaker, I would like to share with you a story that was published in the Sunday magazine of the Dallas Morning-News about one of my good friends in Irving, Tex. First, I think you should know that Irving is a suave, sophisticated city and rather conservative in outlook. In many ways, this city of 118,000 people is the typical "suburbia" often stereotyped in TV shows.

Recently, Jackie Townsell, who is both female and black, defeated a white male realtor to win a seat on the Irving City Council. I think it is an interesting story.

Politics is not Jackie's only claim to fame—she cooks some of the best food in the district. Both my staff and I enjoy eating at Jackie's grocery-cafe where you can always find the best black-eyed peas around.

Mr. Speaker, I include this article written by Mike Granberry in the RECORD:

IN PLACE IN IRVING

(By Mike Granberry)

The stringy-haired, buck-toothed teaser limps in with a grin, plops down to a hot plate of meat loaf and cabbage and expresses unequivocal, unabashed displeasure.

With a smile as big as Dallas and a falsetto that would fill Gomer Pyle with pride, he declares, "All I need me is some YEW-TIN-SILLS!"

First one laugh, then another. In moments, everyone in Jackie Townsell's Irving, Texas, grocery-cafe is laughing like a seasoned idiot. Epidemic laughter, Jackie leading. Guffaws, running rampant.

Welcome to the House of Good Feeling.

Soon, the country-talkin' cane-poker is fitted with knife and fork and is gobbling cream corn and slurping strawberry Kool-Aid from a Mason jar as if his last meal had been set before him. "Jackie," he drawls, corn dripping out the side of his mouth, "I'd vote for yew inny-time!"

"Thank you," she replies. And laughs and laughs. . . .

The noon rush over, Jackie herself settles down to a jar of Kool-Aid and an hour of quiet conversation. Only a few latecomers remain, munching diligently in the corner.

"I'm the only woman on the Irving City Council," Jackie declares, "and that is no problem for me. I speak out and say what I want and handle myself in the most businesslike manner possible. Men understand that, you know."

The men in the corner could be a trio of extras taking leave from "Straw Dogs." Or characters from the pages of a D. H. Lawrence novel. The men are mechanics, and they are greasy. They even joke about the odor they carry.

Hearing Jackie's remark, the curly-haired man rises, holds his cornbread high in the air in mock salute and cries out, Amen, brother! Ahhhhhh-Men!"

Jackie laughs.

To a politician like Jackie Townsell, such endorsements are often worth free meals. But everyone pays at Jackie's place, and everyone gets their money's worth; all-you-can-eat, $2.50. And almost no one walks into or away from Townsell's Grocery without feeling embraced.

The air in there is certainly warmer than it is in anyone's political headquarters. Besides Jackie's omnipresent laughter and home cooking, a two-tone cat curls up in the corner and naps for a solid hour. Dust gathers on the Hershey bars as if, by God, it belonged there. Two boys, one black, one white, wearing boxer shorts, wrestle over a Dr Pepper bottle that is half as big as they are.

Jackie's mother, Mrs. Ola Howard, who along with Mrs. Ruby Collins cooks most of the vittles, takes swipes at three flies trying to kamikaze their way into the meat bin.

Follow the sloping ceiling and rutted floor of Jackie's general store all the way to the characters hunched in primitive chairs in the back corner. Past the Tide, Wonder Bread and Hostess Twinkies. Even past the Lifebuoy. Way past the Lifebuoy. Quick to admit that Jackie is an Irving folk hero, these pot-bellied boys are even quicker to confirm that they'll be back, again and again.

Politicized fork-movers have always frequented Townsell's Grocery, but lately more and more have been stopping in, having heard of or read about Jackie and wanting a piece of the action. Like a piece of peach cobbler, served up after cornbread and meat loaf and strawberry Kool-Aid.

Jackie Townsell's popularity base began building seventeen year ago, she suspects, when she and husband Jimmy first opened a grocery store in the muddy Bear Creek community of West Irving. A behind-the-scenes grassroots political organizer, Jackie started stuffing hearty meals into the stomachs of hungry callers five years ago. Food became the ultimate unifying force, luring eaters of all ethnic origins. "Me and Jimmy used to live here," she says, pointing to the back door where the bedroom used to be. "I'd be cookin' and people'd want some. I figured I'd better make 'em pay for it."

Which is cause for a good-natured laugh. And another. Looking "lean and mean" in summer blouse and blue jeans, Jackie appears much younger than 41, the mother of a man of 26. A fan of her own cooking, she is one of those rare individuals who can stomach great quantities of food and at the same time struggle to keep her weight up. Infuriating, those people are. But Jackie more than makes up for it. Good feeling comes as naturally to her as a giggle or a grin. Opportunity is a constant companion. The luckiest of accidents appear to happen to her as often as the grocery door swings open, as often as she smiles, take another bite or greets a newcomer.

Truly blessed by chance—"I have had a good life," she says—Jackie is equally endowed with a gift for gab. Storytelling is as much a part of the store scene as political theorizing. Jackie is a laugh-along ringleader whose laugh is almost always the last. And for whom votes, when the time came, were as naturally easy to come by as belches of satisfaction.

The time was April, when Jackie defeated two challengers for a city council post. White realtor Jack Spurlock finished second; retired Navy man Johnny Watson, third. Watson visited the store, offering congratulations. Spurlock was never heard from.

"You wanna know how all of this started?" she says now, turning a capped hot sauce bottle upside down and watching its contents flow thickly to the top. "We used to sit around and talk about things—that's how it all got started. We'd talk about this amendment, that resolution—the world or the local situation in general. We'd discuss and cuss, agree, disagree, hash it out just to pass the time.

"I can't remember first being really concerned long about 1968. But that wasn't the time for a black woman to run for office in Irving, Texas. Gradually, I got better and better feelings about running. Knowing when to run—why, people just made me feel it. Made me feel like I ought to.

"My white friends gave me the go-ahead to run. They asked that I put together a resume, list everything that I'd done in the last five years." She laughs. "They were shocked and impressed. It was so long." Laughs again. "One thing leads to another—don't you know?

"I feel delighted to be elected," she says, mentioning that she had lost a council seat by 225 votes in a runoff three years ago. Long active in civic affairs, Jackie preceded her council bid by serving as precinct chairman, a post she resigned to run her April campaign.

"To know the kind of people we have here—progressive, proud people—makes me feel pride. I'm happy just being associated with them. I have so many friends, I'm filled up with tears just thinkin' about 'em . . .

"You know," she continues, "I don't know what a person would do without friends. A friend is someone I talk to whenever I'm low. Someone I call up whenever I want. Someone who's always there. Friends mean love to me, no matter what color they are.

"See, I see myself as a voice, a voice of all the people. I want to listen to the needs of those less fortunate than me, though I resent 'black spokesman' tags. I'm not a spokesman anyway. I'm a spokesperson." She laughs.

"Understanding means a lot of things, and I want to be all of the things to all of the people all of the time. Seriously, I'm for the entire city, all of Irving, not just West Irving. I have no hangups about black or white, rich or poor. I serve all. All elected me."

Race is a moot point in Jackie's store. Whites and blacks trade tidbits of gossip between bites and swallows. A white council member walks in, waves to Jackie and takes a chair. An old black peddler, wearing a red cap and poking the floor with an oak cane, sits down beside him. "How ya been?" the men say.

"The Sixties opened a lot of eyes," Jackie says. "On both sides, black and white. Blacks were as prejudiced as whites. But people's minds have mellowed. Who you are is more important than what color you are.

"Martin Luther King was a hero of mine, and my other heroes were Mother and a white woman I used to work for. Both taught me to cook, and Martin Luther King is responsible for improving race relations, almost totally responsible. Martin Luther King taught me and a lot of other people how to love."

Politics and food have a way of infecting Jackie in the way that she infects others. Delightfully, with an innocence that seems to promise everyone no harm. "You've got to love politics," she says. "I certainly didn't get into it for the money (for council members, $100 a month). Prestige may be involved, but it's more the prestige of the people that I care about.

"I've always been a Democrat, though. I've always read the paper. I've always been obsessed with politics. Little sister (Jackie is the eldest of three daughters) always read the funnies." She laughs, turns serious, shifting again her train of thought.

"You know what we need to do? We here in Irving? We need to stop building and start *repairing*. We're building too many new, unnecessary roads. We need to repair, then build."

Roads are among Jackie's earliest memories. Her Bear Creek ties run deep, beyond her West Dallas birthplace, from which she moved at the age of eleven to a hollow hamlet "where the roads were dirt and stumps were all over. We'd slosh home in the mud, couldn't drive to save ourselves and had to hike to school. I met Jimmy about then—we were just kids." She laughs. "He was seventeen, I was fifteen." Laughs again. "I knew I couldn't help fallin' in love.

"You know, Jimmy's boyhood dream was to build a store. He was raised to Terrell. His parents were sharecroppers, and he used to walk to a store that a white man owned. That man was a hero of Jimmy's. He used to give him candy and stuff. Jimmy always wanted a store just like his. He talked about it the whole time we were courtin'.

"When we got it . . ." She's laughing now." . . . it wasn't anything like he thought it would be. He didn't last long. So who's kept the store? Me, that's who."

But nowadays, Jimmy works a full day at Dresser Industries, then comes home to mind the store while Jackie attends meetings, civic functions or political rallies. 'He's a good man," she says. "You oughta see him play jacks with the kids in here, always sayin', 'Mistuh Jimmy, would you play us some jacks?' Whoooooee! He'd kill me if he knew I'd told that!"

Playing jacks, checkers, tuning in jazz, rock, even country blues—these are the lighter aspects of Jackie Townsell's lighter side. "I enjoy being alone at night, coming back from a meeting or a talk. I can think then.

"And, no, I don't enjoy campaigning. I hate it. Beatin' on doors, runnin' here, runnin' there—it'll wear you out. Some of my friends said, 'Jackie, you're crazy! We wouldn't do that for nothin'!'

"I never, as a big girl or a little girl, thought I could be a politician. I didn't even know what a politician was. I always wanted

to be a secretary. Takin' messages, typin'—that's still a dream of mine.

"Am I serious? Of courre. And I will never, ever run for higher office. By the time this is over, I'll be old and gray . . ."

And Jackie Townsell laughs again, at herself, with you, a warm sound that sticks to the ribs of your mind through the afterlunch afternoon.

CONSUMERISM—WHAT'S AHEAD

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. RICHMOND. Mr. Speaker, it is ironic that as a nation which prides itself on the preeminence of its agricultural system and the high quality of its food supply and which refers to itself as the "best fed nation in the world" we are literally eating ourselves to death. Recent scientific studies show that at least six major diseases are directly related to a diet that is overly rich in fats and calories. Faced with dire warnings about their health and barraged with seductive advertisements for nonnutritional foods, American consumers are demanding accurate information about the food they are eating and its relation to their health and well-being.

One voice which is speaking out for the consumer is that of Ms. Nancy Steorts, a respected and influential official at USDA during the former administration. On the eve of our investigation into the role of the Federal Government in nutrition education, I would like, as chairman of the Domestic Marketing, Consumer Relations, and Nutrition Subcommittee, to include in the RECORD a very important speech recently delivered by Ms. Steorts before the American Chemical Society.

CONSUMERISM—WHAT'S AHEAD

The consumer movement is a major social, economic and political force in this country today and is a vital force to be contended with in the years ahead.

In a recent study, "Consumerism at the Crossroads", which was commissioned by Sentry Insurance in cooperation with Louis Harris Associates and the Marketing Science Institute of Harvard University, it was pointed out that the consumer movement is here to stay—and in fact is growing stronger every year. According to this survey, consumers still feel they are not being treated fairly in the market place and believe that the quality of goods and services has depreciated over the last ten years.

The study points out very clearly that the business community is sharply out of step with the American people on consumer issues. It is predicted that if this attitude doesn't change business can expect to be continually attacked by both consumer activists and elected representatives which will more than likely result in more regulations.

HOW CAN BUSINESS START TO CHANGE ITS IMAGE?

1. See the consumer once again as the Customer.

2. Work with and not against consumers and the issues that are important to them.

3. Find out what the needs of today's consumer are. They are changing constantly.

4. Work with professional consumer representatives—invite responsible consumer leaders into the board room for advice.

5. Don't let your Public Relations firm or Advertising Agency dictate to you the best approach to reach consumers—talk to consumers themselves—let the PR firm then take the lead from you.

6. Keep in close touch with what's happening in Washington, in State and Local Government, as well as in your own communities.

7. If you move aggressively and initiate a program be sure you then communicate the story effectively.

8. Personal contact with our key communicators is essential today. If you are proud of what you are doing, tell your story. The consumer is interested in what's happening today.

Business executives often say that many consumer demands are not possible. Consumers have pointed out very clearly that they are willing, however, to pay more for better products—if the quality is real, the price difference not excessive and they are fully aware of the improvements that have been made.

BACK TO THE BASICS

There has been a tremendous return to the basics today in American Society and a great new awareness of nutrition as it relates to our health.

We've seen an increase in home gardens, a massive return to home canning and freezing, an upsurge in the number of people preparing meals from scratch rather than depending on convenience foods and a tremendous need for more nutritional information.

FOOD AS IT RELATES TO HEALTH

The old adage, "You Are What You Eat", is rather evident in a recent U.S. Department of Agriculture survey which shows that there are a large number of people who want to change what they are.

The study shows that there is a large number of people who are worried about dealing with or preventing health problems. Almost two-thirds of the 1,400 people interviewed said that they, or someone in their household, suffered from some type of ailment. High blood pressure, allergies and overweight were mentioned most frequently. (In fact, according to the AMA, about one in five Americans is overweight.) About 60 percent of those with a health problem said they had changed their diet.

Both groups appear to be cutting down on items high in saturated fats and oils, replacing them with other products.

They are substituting fatty red meats with fish, poultry and lean red meats. Other changes listed include drinking more low fat milk, eating more cheese and using more margarine instead of butter.

Many households are also looking for special information on the labels of food and beverage products to check for the number of calories, the amount of fat, or the presence of sugar. Other types of special information they are looking for include vitamins, minerals and the amount of carbohydrates.

Rather than eating sweets, snacks and fried foods, changing dieters are turning more to fresh fruits and vegetables. They are eating more salad vegetables, especially green peppers, raw broccoli, cauliflower, spinach and mushrooms.

As scientists involved in the development of new foods you have a great challenge ahead. Additives, coloring, fortification, preservatives are all going to be questioned very severely by consumers. What will the effects of these be to the consumer's health? Consumers want the facts—not advertising fluff.

The era of the "twinkie" is quickly coming to an end.

NUTRITION—A NATIONAL PRIORITY

Consumers are looking to government and industry today to help them become more knowledgeable about nutrition and the nutritional quality of the food they are buying.

Last week in Washington I attended a Conference on Nutrition and the American Food System, which was sponsored by Family Circle magazine, Food Marketing Institute & Community Nutrition Institute. Government, industry and consumers spent two days discussing this most important subject of nutrition which is now becoming a national priority.

Senator Robert Dole in his keynote address to this Conference said, "I am convinced that agriculture and nutrition must be brought into closer coordination." As more and more Americans are aware of the link between what they eat and how healthy they are, nutrition is likely to be the central consideration in all our food policies. Senator Dole predicted that as the food buying habits of the American people change, the production habits of the American farmer will change.

This could bring about an entirely different scene at the supermarket.

Congressman Fred Richmond, Chairman of the House Agriculture Committee's Domestic Marketing Consumer Relations & Nutrition Subcommittee, stated at this same Conference that this Subcommittee is undertaking a thorough five-part investigation in the Fall of the role of the federal government in nutrition education.

Consumers, food industry representatives, health and education professionals, public interest and private groups, and media experts will all be called to discuss their activities and advise on how the federal government can play a more effective role in nutrition education.

At the conclusion of these hearings a report will be prepared and legislation will be introduced to insure that the federal government will play an active and leading role in determining national nutrition policy.

A White House task force is currently preparing a report on the status of nutrition research and it has been learned that the President will personally determine which issues should be given immediate and long-term attention.

No one alone can determine national nutrition policies. It must be a joint effort. Congressman Richmond stated that Congress must allocate more funds for nutrition research, foster inter-agency coordination, disseminate more sophisticated consumer information materials by the government, consolidate all federal efforts, demand the government take a position on labeling and consumer oriented grading programs and establish federal policy and standards on food advertising.

We are in a new era today—an era of good food for good health. As scientists in research we need your help.

We must have nutrition education today. It is a national priority. It must be available when consumers need it. It must have high visibility—in advertising—at the grocery store—in the welfare office and throughout the media. Consumers need to have the facts about the FOOD they are buying. You can help. Through your research activities you can tell us more about the food we are eating. Help us develop new guidelines for quality foods.

A concentrated effort is needed. Government officials, industry executives, nutritionists, health officials and consumers need to work together to define the goals and direction of future nutrition policy. By working together we should be able to devise an effective nutrition policy.

CITIZEN RATE BOOBY TRAP?

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ABDNOR. Mr. Speaker, we have been hearing a good deal from the U.S. Postal Service and the administration concerning one of their solutions for rising postage rates—the so-called citizen rate.

That not all citizens are being deceived by contrivance is illustrated in this very perceptive editorial of publisher Wendell Long in the Bennett County Booster II at Martin, S. Dak.

DON'T BE DECEIVED

The 13 cent-16 cent first class letter rates proposed by President Carter has been approved by the U. S. Postal Service Board of Governors, according to "Federal Times."

The plan now goes to the Postal Rate Commission and, if approved, the new rates will become effective next May. The PRC gets up to 10 months for hearings.

The Proposal is for first class business letters to rise three cents to 16 cents. And there would be a new "citizen rate" that would stay at 13 cents per letter as at present. Other classes of mail would increase.

We wonder what the ghost of Ben Franklin somewhere up there thinks of what has happened to his United States post office idea, an idea that enables individuals to communicate with one another at a reasonable cost, an idea essential to a free society, and idea that gave us the glue to keep our society together.

We think that U.S. citizens should not be deceived by this big break the postal service intends to give us.

On a fact sheet about "citizens' rate" handed out at Postmaster General Benjamin F. Bailar's press conference recently, eight facts were listed and facts numbered 7 and 8 were most revealing, we think:

Fact 7: "Citizens' Rate Mail will not be subjected to a mandatory requirement that it be processed during peak-load hours."

Fact 8: "Regular first-class and other priority mail will normally have carrier and lock box priority over Citizens' Rate Mail."

In other words, non-business mail from you is going to be put at the bottom of the pile, sent to the back of the bus. Your letter to mom or dad or son or daughter or Aunt Abigail often won't get there as soon as it does now. And if the postal service's scheme to cut down six-day delivery to five-day delivery—meaning no Saturday mail in most cases—goes through, as it probably will, Lord only knows how long it might take for your letters to arrive.

Since the President has urged the postal service to keep citizen mail at 13 cents, this postal service plan to slow your mail service down even more smacks of a political ploy. Which is to say that Bailar pleases the President and cuts down on service to the U.S. citizen at the same time. Neat, right?

It was nice in 1970 to get politics out of the post office, but the present postal service setup isn't working. We need a mail system that works. Thirteen cents for a first-class stamp is too much and six-day service is essential.

The new "citizens rate" scheme is no step in the right direction. It just means poorer service for us all.

PROBLEMS WITH A VITAL ENERGY OPTION

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. PRICE. Mr. Speaker, newspapers too infrequently carry truly accurate and clearly focused reports of events and situations—even those of first-rank importance from the standpoint of the national interest.

On the first page of the New York Times on September 21, I read an article by John Vinocur that I believe merits high marks for its truth content and well-focalized presentation. It describes a serious situation that could have disastrous implications for our plans for solving our national energy problem. I hope it is read by lawyers—and particularly by officials of the Nuclear Regulatory Commission and executive branch agencies—who, at this very moment, are concentrating Federal brainpower on the need to formulate considerable improvements in the overall nuclear regulatory process. The likelihood of reversing, or continuing, the present decline in the prospects for assuring availabiilty of nuclear power to help meet our energy needs will depend to a large extent on such improvements.

I place Mr. Vinocur's article in the RECORD, and commend him for his comprehension and unvarnished account of an alarming situation:

[From the New York Times, Sept. 21, 1977]

OUTLOOK HELD BLEAK FOR MANUFACTURERS OF ATOMIC REACTORS

(By John Vinocur)

American manufacturers of nuclear reactors are in deep trouble. Their slumping markets show no signs of recovery, and the industry itself is now facing the disintegration of skills and production capability built up since World War II.

Business is terrible. In the early 1970's, atomic power seemed the logical energy source for last quarter of the century and utility companies ordered an average of 30 reactors a year to run their electricity generating plants. But after this bright period of expansion, domestic orders have fallen off to almost nothing.

[Rebuffing President Carter, the House of Representatives joined the Senate in authorizing funds for the Clinch River Breeder Reactor.]

TWO-YEAR LIMIT CITED

There were three orders for new nuclear plants in 1976. This year, there have been four, although two are tentative preliminary contracts.

"In about two years, you are going to see this business disintegrate," said Howard M. Winterson, a vice president at Combustion Engineering, one of the American manufacturers.

"We have yet to show a profit. When everybody works off his backlog, things are going to be very, very tough."

Utility companies have turned almost exclusively to coal from the reactors that use nuclear fuel instead of coal. A fission process in the reactors creates the steam needed to drive the industry's power-generating turbines.

The reasons for the change, the manufacturers say, are regulations that stretch out the delivery time for nuclear plants to more than 10 years and thereby multiply inflationary costs, decreased demand for electricity as a result of the recent recession and higher prices, continuing resistance by strong environmentalist groups and what is perceived as an active anti-nuclear bias within the Carter Administration.

During the current slump, the four manufacturers of nuclear plants—the Westinghouse Electric Corporation, the General Electric Company, Combustion Engineering and the Babcock & Wilcox Company—are managing to operate their nuclear reactor divisions through an industrywide backlog, based on old orders, and estimated at about $15 billion to $20 billion by industry sources. The size of the backlog is described as deceptively large because of the possibility of cancellations and the lack of any new business.

SALES ABROAD SEEM THREATENED

Westinghouse and General Electric have not had any new orders since 1975 and overseas sales, once a major hope for development, now seem threatened by Administration export controls and local anti-nuclear sentiment of an intensity so far unknown in the United States.

"The technical people are very disillusioned with the business and are beginning to look outside," Mr. Winterson said. "How could you blame an engineer for thinking, 'I've got a family to support. Maybe I ought to go to aerospace.' There's nothing really optimistic to hold him back with. In a sense, it could mean dismantling a generation of advanced technology."

On a national scale, the nuclear reactor builders employ directly about 30,000 people, with Westinghouse centering its operations in the Pittsburgh area, General Electric in San Jose, Calif., Babcock & Wilcox at Lynchburg, Va., and Barberton, Ohio, and Combustion Engineering at Windsor, Conn.

Sam W. Shelby, marketing general manager for Westinghouse's water reactor divisions, also used a two-year time frame in his gloomy assessment of the industry's chances for recovery.

"It's going to be extremely difficult then," he said. "Our second- and third-tier suppliers are hurting badly already. We've nurtured these small and middle-sized industries over the years and are very concerned about their future. If the situation persists, the capacity we once had to create a new generation of products will be gone."

The industry's view usually involves the phrase "prospects of disintegration." But there is a plausible case for asserting it has already started and may be difficult to reverse, according to Irvin C. Bupp, a professor at the Harvard Business School who has studied the economics of nuclear power.

"JUST CANNOT GO ON"

"Flatly stated, the manufacturers just cannot go on under the present conditions," Mr. Bupp said. "The minimum healthy market for one of the companies I know is five to 10 new orders a year."

But there are many people who do not despair about the industry's troubles.

The vasting illness that has attacked the business is seen by some environmentalists as a salutory development in blocking expansion of a technology they call unsafe and unreliable. It is also a kind of vindication for a small group of ec nomists who have maintained that coal power is cheaper in the long term that nuclear fuel.

The reply of the reactor manufacturers is that dismissing nuclear power would make the nation entirely dependent on coal, which they say would be unrealistic in terms of coal supply and cost.

The nuclear industry's poor health 20 years after the start-up of the first American commercial reactor contrasts with Government projections in the 1960's for as many as 1,000 nuclear-powered generating plants to be operating by the end of the century.

The Government has now scaled back this year 2,000 goal to about 300 plants in addition to the 63 now in operation that furnishing 11.9 percent of all United States generating capacity.

Under optimum conditions, the present backlog would eventually increase the total of operational plants to 209 according to Kidder, Peabody & Company, but the pattern since 1974 has been more one of cancellations of old orders than of winning new ones.

Over the last three years, utilities throughout the country, hard pressed by inflation and a drop—largely related to the recession—in the traditional 7 percent annual growth rate in the use of electricity, cut back sharply on the construction of all generating plants—oil and coal, as well as nuclear.

But because coal-powered plants take only six years to build, in comparison with 10 or 12 years now needed for nuclear-powered plants, and because coal-powered plants have none of oil's uncertainties and involve relatively small capital costs, there have been 14 new orders for them during the first six months of 1977, compared with the dismal nuclear record.

ILLUSTRATED BY FLORIDA DECISION

What happened to the nuclear business is illustrated in the decision in December 1975 by the Florida Power Corporation, a St. Petersburg-based utility supplying electricity to central Florida, to cancel plans to build two nuclear-powered generating plants, each of 1,100 megawatts, or 110,000 kilowatts. Over a period of two years, the cost had run up for the units to $2.6 billion from $1.4 billion.

"It's simple," said William Johnson, spokesman for the utility. "With the high capital costs and long lead time on nuclear we had to project out 10 years. Excluding the other variables, that means 10 years at 6 percent or 60 percent overall."

"You can't borrow just at one time," he added. "It's not like building a house. The interest can cost almost as much as the plant. We completed one nuclear plant at $400 million The originally projected price was $118 million."

At the same time, Mr. Johnson spoke favorably, as almost all the utilities do, of nuclear power.

"If it weren't for the capital problem, someone in our situation would be foolhardy not to pursue nuclear," he said.

"The fuel cost comparison with oil is super and the coal option will become increasingly expensive. If they could get their plant delivery time down to five to seven years it would be a very different situation," he added.

Industry advocates say its situation could be improved through passage of a proposed Nuclear Regulatory Reform Act that the Carter Administration expects to send to Congress by the end of the month. The bill, which is still being drafted, aims at getting nuclear-powered generating plants on line six years after they are proposed.

This would be accomplished by trying to speed up the process through early site approval, creating pre-approved standardized plant designs and narrowing the room for maneuver that environmental groups have to block or stall a project.

If the bill were to go through, states could reserve areas for the construction of nuclear plants removing the possibility of years of environmental arguments on site selection.

Admission of standardized plant designs would further reduce the time lost in individual plant investigations.

At the same time, a provision in the proposal would require the Nuclear Regulatory Commission, the Federal agency that oversees nuclear power, to pay the legal expenses of environmental groups fighting plant construction.

BILL'S FUTURE IS UNCLEAR

The bill's future is unclear at best. A Senate staff member, specializing in nuclear issues, said that, even though the Administration has called for the construction by the year 2000 of 300 new nuclear plants in addition to those operating today, he feels the Administration is weighted with opponents of nuclear power.

"I don't see the people Carter has put into the Interior Department—they're no-bones-about-it anti-nuclear—standing for any kind of bill that is going to limit the environmentalist role in the area."

The industry's main hopes are tied to shortening plant delivery time and an improvement in the health utilities themselves.

Its pessimism about the short term is slightly lessened by the increasing cost of setting up coal plants. In some areas far from the coal fields, the cost margin between nuclear-powered and coal-powered generators has narrowed.

The Florida Power Corporation for example is now paying $360 million for a coal-powered 600,000 kilowatt unit under construction compared with the $400 million that its last 825,000 kilowatt nuclear plant cost.

TESTIMONY OF PROF. F. MICHAEL SCHERER AT WAYS AND MEANS TRADE SUBCOMMITTEE'S HEARING ON STEEL—PART 2

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. VANIK. Mr. Speaker, on September 20, the Subcommittee on Trade of the Committee on Ways and Means held a hearing on "World Steel Trade: Current Trends and Structural Problems."

Prof. F. Michael Scherer of Northwestern University presented a statement at the hearing which provides an extraordinarily balanced and thoughtful summary of present steel problems.

I would like to include his statement in the RECORD for the benefit of all those who are concerned about the present steel situation:

STATEMENT OF F. M. SCHERER

It is an honor to appear before the Subcommittee today on the important question of America's role in world steel trade. I testify not as one who analyzes every squiggle in the weekly tonnage statistics, but from a background of observing the steel industry's performance carefully throughout the 1960s and then conducting from 1970 to 1974 a seven-nation study of economies of scale in steel making. What I hope to offer is perspective, not details, on the current crisis.

THE U.S. STEEL INDUSTRY'S COMPARATIVE EFFICIENCY

The current position of American steel makers is very much a matter of historical legacy. The industry's raw steel output reached a peak in 1955 that was not exceeded until nine years later. And even in the 1973 boom, raw steel output was only 29 percent higher than in 1955. Steel in the United States has been an industry of slow growth, and as a result, expansion has for the most part occurred by adding to or replacing capacity at long-established steel production sites. This in turn means that American steel makers have been significantly constrained by ancient plant location choices and plant layouts, making it more difficult to increase productivity than if they could have started with a clean slate.

In contrast, Western European steel capacity has more than doubled since 1955, and Japanese production has increased thirteenfold. For the Japanese in particular this rapid expansion has made it possible to build new steel works at deep-water ports able to receive raw materials and ship products in the most efficient manner. These new works embody the latest blast furnace, converter, and rolling mill technology, and they are laid out so that the flow of materials makes few if any detours, thus minimizing handling costs. For these and other reasons, the Japanese steadily narrowed the United States' once solid lead in steel productivity per worker, and sometime during the early 1970s they pulled ahead. Unless drastic changes occur, their lead is likely to increase in coming years as they round off the edges of the modern steel-making base they have established.

Nor is the problem merely one of physical facilities. In part because of its comparatively undynamic history, the U.S. steel industry has been less attractive to young engineers and scientists than such industries as aerospace, electronics, and chemicals. Nor is it unfair, I believe, to the industry's many able managers to say that it has not held its own in the competition for managerial personnel. Talent flows where the growth opportunities lie, and American steel has not been among the leaders. By way of contrast, steel in Japan has in recent decades been considered one of the most dynamic industries, and it has attracted at least its fair share of Japan's technical and managerial elite.

A homely example of what these developments imply is suggested by an experience I had in the fall of 1973. Within the span of a month I had the opportunity to inspect Japan's newest cold strip rolling mill and one of the newest U.S. counterparts. The difference was striking. The Japanese mill—the first to break away from U.S. engineering traditions—was better designed for rapid coil changeover and high-speed production. Its crew was remarkably skilled and enthusiastic; they seemed to take pride in overriding the automatic controls to change coils even faster than the design parameters contemplated. Perhaps I caught them on a bad day, but productivity of the U.S. crew was much lower—in part because of inferior equipment design, in part because of what appeared to be less skill in using the equipment they had, and partly because they lacked the Japanese crew's manifest enthusiasm.

Similarly, the Japanese engineers and managers with whom I met appeared to have a better understanding of how technological changes would permit them to improve the efficiency of their steel mills than their American counterparts did. Indeed, the reason I sought interviews in Japan was that I encountered no one in my 1970–72 U.S. and European interviews with a sufficient understanding of the scale economies yielded by the large new blast furnaces being erected then by the Japanese.

In short, we Americans are simply being outclassed in the design and operation of steel works. That is one important reason, although not the only, for the difficulties the American industry is now experiencing.

One further point along this line deserves mention. It is often said that American steel makers are suffering because foreign producers receive vast governmental subsidies. Without doubt, large subsidies are being

doled out overseas. But it is my impression that at least in the developed nations, subsidization is most common in countries with the least efficient steel industries (such as the United Kingdom and France), and least common in nations like Japan, West Germany, and Holland with highly efficient industries.

In Germany, the principal subsidies as of 18 months ago were payments to induce the use of high-cost local coal in place of the imported coal steel makers preferred even with subsidies, modest transport cost subsidies to badly located Saarland mills, and Kurzarbeit (i.e., short working time) payments, which appear to be merely a more humane way of handling unemployment compensation. In Japan, a feature often singled out as preferential is the high debt leverage permitted by close enterprise—bank—government ties. But high leverage is typical of all Japanese industry, not just steel. It certainly cannot explain American steel's special problems.

PRICING

Another reason for the difficulties American steel producers face now lies in the realm of pricing. For decades the U.S. steel industry was one of the most tightly disciplined of industrial oligopolies—the casebook example of so-called administered pricing. All major producers followed United States Steel's price leadership in virtual lock step, and even as late as the mid 1960's, off-list pricing was rare.[1] Gradually, this has changed. One factor for change has been the less aggressive price leadership role played by United States Steel, in part because of its declining market share and partly, I suspect, because it grew weary of government criticism for its repeated moves to higher price levels. Second, tough import competition has apparently induced more extensive off-list pricing in the very recent past, especially in West Coast states. But even now, it is reasonably accurate to say that steel prices in the United States move in only one direction—up.

This is not the case overseas. Foreign steel prices behave the way an economist would expect them to behave in a competitive basic industry: they go up in booms (as in 1973) and fall in slumps (as during the past two years). This is contrasting behavioral pattern leaves the U.S. industry vulnerable during slumps, for its high maintained prices simultaneously attract a flood of imports when overseas prices fall and prevent it (given anti-dumping treaties) from fighting back by attempting to cut prices and exports more vigorously.

It is said that there is more to the problem than this, and in particular, that foreign producers dump in the U.S. market. I lack the facts to assess the truth of that allegation. I do know, however, that comparing home and export prices is not easy. The main difficulty is that there is typically not one set of steel prices in Western Europe and Japan, but two and perhaps several. In Europe, steel producers sell at both their announced basing point prices, which tend to be fairly rigid, and also at "alignment" prices adjusted (usually downward) to meet the competition of importers.[2]

Needless to say, they sell as much as they can at regular basing point prices, but the more intense import competition becomes, the more transactions tend to occur at alignment prices. I am told that an even more complex system of pricing exists in Japan, with some prices being quite stable and others highly flexible. If therefore it is claimed that the Europeans and Japanese are selling in the United States below their domestic price level, it is important to ask, below which domestic price level? This point is frequently overlooked in discussions of alleged dumping, including, as nearly as I can discern, in the May 1977 report by Putnam, Hayes & Bartlett for the American Iron and Steel Institute.

The problem of American steel makers' non-competitiveness vis a vis imports has become sufficiently acute that one gropes for radical cures, such as proposing an analogous multi-tier approach to pricing American steel. Steel buyers to whom stability of either supplies or prices is important might contract for their minimum needs at a fixed price subject to neither escalation nor reduction. The remainder of steel output would move in spot markets at prices that vary more or less continuously with supply and demand conditions. Such a system would make the United States industry much better able to cope with import competition without eliminating stability for those steel users who value it. It would also permit U.S. producers with substantial excess capacity to compete vigorously to utilize that capacity—among other things, by seeking export orders. It is of course a system unlikely to be accepted gladly by the industry; if it were otherwise, it presumably would have been adopted long ago.

Its main drawback from an industry perspective is loss of the simplicity and transparency that provide the basis for strong price leadership. Without such a prop, price competition would undoubtedly become more vigorous. What its impact on profits would be is less clear. More competition would work in the direction of reducing already depressed profits, but better utilization of capacity during periods of slack demand would have the opposite effect. Such a change and its probable consequences should, it seems to me, be considered seriously by government agencies able to extract a quid for the protectionist quo currently being sought by the industry.

THE POLICY DILEMMA

How can the United States move to a situation in which its steel industry is sufficiently cost- and price-competitive to withstand the competition of efficient importers? I know no easy solutions. There is a fundamental dilemma. If the industry is given no protection and if world steel markets continue to be depressed, which seems likely for at least the next two to three years, U. S. producers' profits will be under heavy pressure. Despite appreciable cash flow from depreciation charges, it is questionable whether steel industry management will find foreseeable industry conditions attractive enough to warrant heavy investment in expansion and modernization. Without such investment, the U. S. industry will fall even further behind world leaders. On the other hand, the industry has an absolutely striking history of squandering through elevated prices and wages any advantages conferred by low productivity abroad (once, but no more), import quotas, and devaluation of the dollar.

If the government is to intervene, it must surely be with a well-balanced combination of the carrot and the stick. At the very least, in my opinion, dumping at prices below national spot market or aligned levels should be enjoined. Ignoring the very serious spillover effects on other areas of international trade—e.g., grain, aircraft, and electronics—where the U.S. is strong, not weak, one could conceivably see some potential good coming from stronger tariff or quota protection against steel imports. But if it chooses to traverse the protectionist route, the government should insist upon some and perhaps all of three conditions: (1) commitments from the individual leading firms (i.e., the top eight) to a seven-year plan of modernization with ambitious productivity increase goals; (2) commitments by the leading firms that they will not use their increased cash flow to make diversification acquisitions[3] or raise dividends by more than the general rate of inflation; and (3) commitments to create a spot market for steel products more sensitive to supply and demand changes than the existing administered price system.

I personally believe that, considering the danger of stimulating more widespread international trade breakdowns, the protectionist approach is the wrong way to go. I would prefer to "tough it out" and hope that time heals what will for a while be some very painful wounds. Barring a substantial change in the U.S. industry's pricing policies or an unexpectedly large resurgence in world steel demand, the short-term consequences of non-intervention will probably be further import penetration, continued pressure on steel industry profits, some retardation of investment, and the closure of especially inefficient plants, with attendant hardship to their employees. What happens over the longer run will depend critically upon world supply and demand developments. If demand grows more rapidly than supply, the pressure of imports will ease and investment in new domestic capacity will accelerate.

A more likely scenario in my view is continued slackness in world steel markets—if not because demand growth fails to recover, then because developing nations with rich ore and coal resources are going to insist upon adding more value at home and satisfying a growing share of world semifinished and finished steel demand. The persistence of slack in world markets and "get all you can" oligopolistic pricing domestically will mean a continuing rise in the share of U.S. demand satisfied by imports and more plant closures, but also the expansion of well-located plants with good modernization potential. I think it highly improbable that domestic capacity would shrink enough during this century to jeopardize national defense mobilization needs. This most likely of free market scenarios is a sad one, for the United States, with its rich coal reserves, abundant capital, and vast technological capabilities, probably has a comparative advantage over most of the world's nations in steel production. But if U.S. steel makers fail to find ways of becoming cost- and price-competitive, it may be the most one can reasonably hope for.

[1] See George J. Stigler and James K. Kindahl, *The Behavior of Industrial Prices* (New York: National Bureau of Economic Research, 1970), pp. 72–74.

[2] See Klaus Stegemann, "Three Functions of Basing-Point Pricing and Article 60 of the E.C.S.C. Treaty," *Antitrust Bulletin*, Summer 1968, pp. 395–432, for an analysis of European pricing patterns.

[3] Mergers should be permitted and perhaps even encouraged among non Big Eight ordinary steel producers other than min-mill bar product producers. Firms with less than four million tons capacity are too small to achieve all significant economies of scale using blast furnace—oxygen converter methods.

AMERICAN VETERANS MUCH IN EVIDENCE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. TEAGUE. Mr. Speaker, on June 17, I expressed my shock to this body in learning that the National Academy of Sciences had submitted the results of a study entitled "Health Care for American Veterans" which, among other things, recommended turning over the Veterans' Administration hospital and

medical program to private physicians and the private hospital system.

In the meantime, a number of hearings have been held by the Subcommittee on Medical Facilities and Benefits, during which time the subcommittee heard from representatives of the National Academy of Sciences who were responsible for preparing and submitting the report. A press release that was prematurely issued by the Academy entitled "Report Finds Role of VA Health Care Obsolete, Recommends Integrating with Community Services" has apparently found much currency among newspaper editors across the Nation. One of the articles in this regard appeared in the Outlook section of the Sunday, August 28, 1977, issue of the Washington Post entitled "The Fading American Veteran." While the article had some kind things to say about the veterans programs and the new Administrator, Max Cleland, the thrust of the article was a reiteration of the argument put forth by the National Academy of Sciences in the report referred to in my remarks of June 17.

Almost from the day I entered Congress, there have been attacks of one kind or another on veterans programs. Over the years, the Department of Health, Education, and Welfare has indicated its desire to take over the VA hospital and medical system. The Office of Management and Budget has conducted a campaign from one administration to the next to reduce the number of veterans being cared for in VA hospitals on a day to day basis. The American Medical Association has always taken a dim view of veterans medicine and has made no bones of its opposition to VA medical care for veterans in general and especially veterans with nonservice-connected disabilities. I mention these to indicate that the National Academy of Sciences study is just the latest assault on veterans programs.

The hearings on the National Academy of Sciences study are continuing with Veterans Administrator Max Cleland scheduled to testify in behalf of the Veterans' Administration. I cannot emphasize enough that veterans must be on guard against the forces abroad in this country whose ultimate purpose is to destroy the VA medical and hospital program. There are more than 29 million veterans in this country, who together with their dependents comprise almost one-half of our population. Our committee has heard from great numbers of these veterans, and I can assure you that studies such as the National Academy of Sciences submitted to the Congress are serving to remind these veterans that none of their cherished veterans rights and programs are sacred, and that unless they continue to be on guard, others will be asserting every effort to take them away.

I want to take this opportunity to share with my colleagues the article in the Washington Post on August 28:

THE FADING AMERICAN VETERAN

(By Warren Rogers)

Out in San Diego, home of the U.S. Navy's Pacific Fleet, back before World War II, they would let their daughters go out with sailors and Marines, but only if you wore civvies. It was okay to date the girls, as long as the neighbors didn't see you were in service and get the wrong idea about thier morals. And on the East Coast, at Norfolk, where the Atlantic Fleet headquartered, it was common for the good citizens to put out signs saying: Dogs and sailors, keep off the grass.

That all changed, of course, when the Japanese bombed Pearl Harbor, and nothing was too good for our boys in uniform. By war's end there were 12 million of us, including the girls' brothers and sometimes the girls themselves, still in uniform. It was apparent then, and during the Korean police action, and, in a different way, amid the mymiad ambiguities of Vietnam, that Rudyard Kipling had our number as a people, although referring to another culture and another time, when he wrote:

For it's Tommy this, an' Tommy that,
An' "Chuck 'im out the brute"
But it's "Savior of 'is country" when
The guns begin to shoot

The guns are silent now and the hope, even expectation, is that they will stay that way for a long time and so it is chuck-him-out time again for the American veteran. The signs are everywhere, The National Academy of Sciences' National Research Council spends three years and $6 million studying the Veterans Administration's medical system and recommends that it go out of business as a separate entity and phase in, over the years, with the rest of the nation's hospitals. President Carter's new head of the Civil Service Commission, Alan K. Campbell, makes a speech to the American Legion in Denver and calls for an end to veterans' preference in government hiring—that is, an end to the 5 per cent for all veterans and 10 per cent for disabled veterans added automatically to their scores in Civil Service tests for government jobs.

What many veterans think they are hearing is something like, "Don't you know there's peace on?" Especially for the confused and suspicious veterans of Vietnam—and 8 million of America's 29 million veterans are of that era, the unhallowed period of the paradeless war—winds of change in our society seem to be saying this, "Okay, vets, the wars are over. We thank you for what you did. But how long must a grateful nation remain grateful? Enough's enough, all good things must end, and this is it for veterans. In a burgeoning, welfare state, with national health insurance for all just around the corner, why should veterans be treated any differently from other citizens."

LINCOLN'S CONCERN

Why indeed? For most of our history, they got no special treatment. No President gave them much thought, apparently, until Abraham Lincoln, at his second inauguration on March 4, 1865, spoke of the need "to care for him who shall have borne the battle and for his widow and his orphan." Lincoln was facing unprecedented numbers of veterans to be rehabilitated, along with all the other crushing problems of Reconstruction. But the next month he was dead of an assassin's bullet, and it was nearly two generations and a few wars later, including the big one of 1914–18, before any sort of organized government approach to the special needs of veterans began to take form. Even then, it was more do-it-yourself than anything else, with the creation by World War I's doughboys of the American Legion as their powerful voice.

Aside from the Legion, veterans have demonstrated they can be a headache and worse for any President. Most notably, there were the bonus marchers confronting President Hoover in 1932, to the lasting embarrassment of Douglas MacArthur and Dwight D. Eisenhower, obliged as Army officers to disband them by force. Then, too, the Legion and other veterans' organizations leaned so hard on President Truman right after World War II that he brought up a truly big gun, four-star (later five-star) Gen. Omar N. Bradley, to face them down as VA administrator.

President Carter need fear no bonus marchers in these affluent times, so far removed from the Depression days that overwhelmed Hoover, and the veterans' organizations no longer have the power they once enjoyed with Congress, the press and the public. And so he could afford to cut across the grain, as it were, in picking a fellow Georgian, from the Atlanta suburb of Lithonia, to head the VA.

The story of Max Cleland has been told in exquisite detail through written and broadcast news reports—a triple-amputee Army veteran of Vietnam combat duty, handsome and articulate, imaginative and tough, a hellraising witness on Capitol Hill for GI rights, driving his own car to work despite his physical handicaps, surrounding himself with other Vietnam veterans as advisers, fanning the fires in his gut to fulfill a passion for public service—and the story undoubtedly will continue to be told.

Cleland's appointment caused the biggest stir at VA headquarters since Gen. Bradley's because the seven other administrators in between were more or less predictable types bearing the Legion's and the Veterans of Foreign Wars' seal of approval. By contrast, the choice of Cleland was heretical, and, because of that, exciting.

With him, easily the youngest VA chief at 34, and the first to come out of Vietnam, the old-line veterans' organizations were uncomfortable. They had wanted one of their own, like Cleland's immediate predecessor, Richard L. Roudebush, who had been a VFW national commander, and his predecessor, Donald E. Johnson, a former Legion national commander (as was John S. Gleason, President Kennedy's VA administrator). But there is little they can do or say, except wait and watch his performance, because Cleland's credentials for the $57,500 job are impeccable and, while it is not yet clear how high his own personal ambitions might soar, he has the full support of President Carter, at least at the outset of his tenure.

Blond and hefty, 6-foot-3, with a bachelor's degree from Stetson University and a master's in American history from Emory, Cleland joined the Army to "find out more about the war."

He qualified as a paratrooper only to be assigned as a general's aide. Tiring of that, he volunteered for Vietnam and, for 11 months, tromped the bomb-pocked terrain around Khe Sanh as a captain with the 1st Air Cavalry Division.

In April, 1968, one month before his tour was up, he reached for a loose grenade, to throw it away from himself and his men, and it exploded in his face. He lost both legs and his right forearm.

He came home a hero—Purple Heart, Silver Star and Bronze Star Medals for wounds and valor—and all but consumed by pain, horror, frustration, fear and more than a little self-pity. What probably saved him from wallowing in all that, and spending the rest of his life a basket case, was that fire in his gut. He got angry, first at himself and then at the system, which, he figured, was geared to warehouse him, not rehabilitate him.

Cleland fought the system for 18 months in Army and VA hospitals. They never gave him a wheelchair of his own; he finagled one. They discouraged him from trying to operate an automobile; he learned from another triple amputee. They told him he would never walk on artificial legs; he walked, puffing and sweating and excruciating every step of the way, but he walked.

Now resigned to life in a wheelchair and neither bitter nor self-pitying, he has a chance to shape the VA as he thinks it should be.

The major responsibilities handed this 34-year-old bachelor by the President include:

The nation's largest medical system by far; primarily 171 hospitals with 94,000 beds, 317 outpatient clinics, 86 nursing homes and 18 domiciliaries, served by more than 5,800 full-time physicians, nearly 25,000 full-time nurses and more than 150,000 other medical care employees.

The world's largest adult education program: the GI Bill, which to date has provided training to more than 16 million veterans, including more than 6.5 million under the current GI Bill.

One of the nation's largest life insurance programs: nearly 5 million veterans covered by GI life insurance policies valued at $35 billion. The VA also supervises the insurance program for active-duty and reserve military personnel, amounting to another $64.5 billion in value.

A GI home loan program that has provided in excess of $120 billion thus far in more than 9 million veterans home loans.

A compensation and pension program that distributes $8.1 billion annually to 5.5 million veterans and veterans' survivors.

Administrative problems galore in the third largest federal agency, with a quarter-million employees and an annual budget of $19 billion. The only bigger departments are Defense and Health, Education, and Welfare.

A FIGHT ON HIS HANDS

Cleland starts out right away with a fight on his hands. He faces a deadline Thursday for responding to that National Academy of Sciences' report which, when all is said and done, would do away with VA hospitals as they now exist. The report, filed this summer after three years of study by the Academy's National Research Council at a cost of $6 million, was authorized by the Senate's Veterans Affairs Committee, and is entitled, "Health Care for American Veterans."

None of its findings came as a big surprise to the VA, which, after all, supplied the raw data. But Cleland and his chief adviser, VA General Counsel Guy McMichael, who for six years had been general counsel of the Senate committee, were hopping mad at the report's chief recommendation: to merge the VA hospital system, over a period of a few years, with the nation's other hospitals, public and private.

A chief argument for this phasing in was that it is only a matter of time until every American, veteran or not, is covered by a national health insurance program of some kind, and, further, what is the use of maintaining a general hospital system for certain members of society (veterans) when, as age takes its toll in physical ills and financial income, they will be no different in their medical needs from all other members? In other words, chuck-him-out time?

Cleland, McMichael and others at the VA, like Dr. John D. Chase, the VA's chief of medicine, are breathing easier since Academy spokesmen said that this and all of its other recommendations should not be taken too literally but that its findings should. Some of the findings are far from common knowledge and paint a picture of a changing profile of the American veteran, and, indeed, a rather surprising one for those veterans who use VA hospitals.

In the beginning, when the VA hospital system was organized in 1922, the goal was to treat veterans suffering from disabilities connected with their military service—the result of World War I wounds, illnesses and injuries, primarily. This was boldly innovative, a move from scratch, because at the time the federal government had almost no role in providing health care for the general public, nor was there anything like today's commercially operated health insurance programs.

Nowadays, however, the picture has so changed that it might be said to be totally reversed. Only 29 per cent of VA hospital care today is provided to veterans with service-connected disabilities. Thus, an astonishing 71 per cent of the veterans in VA hospitals are there with disabilities they received when they were civilians. This is true even though government expenditures of all kind (local, state and federal) for the health of the public at large totaled $179 billion in fiscal 1976, and health insurance protection in some form now covers more than four-fifths of the general public—with a national health insurance program, with some kind of federal financing, certain to be adopted by Congress within the next few years.

Further, more and more veterans are growing eligible for full VA hospital care. This is because the largest bloc of veterans, some 13.5 million from World War II, is approaching the age when long-term-care needs increase rapidly and ability to pay for it out of dwindling incomes is decreasing. VA rules stipulate that any veteran at age 65 is eligible for VA hospital care automatically, just as if he or she were disabled. The reasoning is that 65 is the age at which veterans most need support, as personal income drops drastically upon retirement and illnesses hit oftener and harder.

The VA's statistics show that, by 1980, some 2.6 million veterans will be 65 and older. By 1990, this will be more than double, to 5.9 million, and, by 2000, the figure will be 7.1 million, or about 25 percent of all surviving veterans (always provided there are no more wars this century to produce more new veterans than would accrue in peacetime).

The assumption is, then, that the number of veterans in long-term-care facilities will more than triple by the year 2000. Today, some 44,500 of the 95,000 VA patients, nearly half, are in long-term-care facilities, and the VA is paying in whole or in part for another 16,400 in non-VA long-term-care facilities. As time passes, then, it is apparent that the VA hospital system thus becomes more and more rather like an old soldiers' home.

The profile of the average veteran using VA hospitals is a bleak one older than most veterans, usually unmarried, less likely to have hospital insurance coverage and poorer. The survey showed 54 percent were over 50 years of age, compared with 29 percent of all veterans, 48 percent were unmarried, compared with 20 percent for all, and 30 percent had hospital insurance coverage, as against 82 percent for all veterans. Of those in VA hospitals, 48 percent had incomes (for 1975) under $5,000, compared with 26 percent in other hospitals, and only 5 percent had incomes over $15,000, compared with 21 percent in other hospitals.

There are other depressing signs. For instance, the most common diseases for VA patients are chronic and require continuing care and repeated admissions.

Also, of the 10 most common primary diagnoses, alcoholism ranks second and cirrhosis of the liver, one of its major consequences, is eighth. Counting secondary diagnoses as well as primary, alcoholism was present for 13.8 percent of all patients, several times higher than the rate in private hospitals.

RESPONSE BY VA

The picture that emerges from this thicket of statistics is what apparently is bothering the National Academy of Sciences surveyors. It is of a benevolent Uncle Sam liberally extending hospital care, not to deserving veterans in gratitude for their having "borne the battle," but to down-and-outers, the poor and ailing who are life's losers and who just happen to be veterans.

The Academy also is saying that the VA cannot go on rocking along like this for the rest of the century because (a) it will be faced with more and more older veterans—three times as many by the year 2000, in fact—in search of geriatric attention and (b) it doesn't make much sense because there is going to be some form of federally funded national health insurance in a few years anyhow, and VA must coordinate with that in some way.

Cleland, McMichael and their colleagues at VA have put together a response to the Academy's report that, by and large, looks like a rear-guard action, agreeing with the generalities but giving ground grudgingly on the details. Their response apparently will be along these lines:

The VA agrees by and large with the general tenor of the Academy's findings; it knew about those things all along and has been moving toward "fine tuning" and correcting inadequacies.

The VA is ready, even eager, to cooperate with whatever national health insurance plan evolves in Congress. But the VA hospital system constitutes only 10 per cent of the national hospital picture, and the VA insists that its integrity be preserved as a veterans system. The key to a national health insurance program is getting costs under control: How much will it cost? What is wrong with the VA continuing to go it alone for veterans?

As an experiment, the VA is prepared to establish a "health maintenance organization" in one or more of its hospitals. This would make VA hospital care available to families of veterans, a possible prelude to bringing in other non-veterans later as part of a general national health approach.

The VA is ready, as it has been for years, to take payments from health insurance companies for medical care provided veterans who are covered by policies from those companies. So far, the companies have declined the VA's invitation.

The VA would cling to its affiliation with medical schools around the country, as it has since 1946. VA stipends for interns and residents now cover 26 per cent of all graduate medical education, and half of all doctors now entering practice have had some training in VA hospitals. Without such support, some medical schools would go out of business.

And that is how matters now stand for the veteran, who turns out to be, as far as the VA is concerned, somewhat of a different bird than perceived since Lincoln's day; and for the fellow Georgian President Carter tapped to sort it all out. The saga of Max Cleland, whom life itself tried to chuck out by taking away his legs and right forearm, is still unfolding, and his former boss, Guy McMichael, now his top aide, may have a lot to say about where it goes from here.

There are those who whisper that McMichael actually is running the VA, with Cleland at the virtually attack-proof front man.

"Who's going to criticize a triple-amputee as sincere and dedicated and hard working as Max?" asked one VA official. "Not meaning to sound grisly, but it would have to be a blinded veteran or somebody like that, wouldn't it?" the whisperers note that McMichael is a man of proven administrative ability, whereas this is Cleland's first time out in this area. Be that as it may, they make an exceptionally effective team: the tough, coolly articulate McMichael, as informed as any person in the country on veterans' affairs, and the warm, effusively articulate and even schmaltzy-folksy Cleland, who has grown from angry advocate to per-

suasive protector of the rights of veterans, especially handicapped veterans.

McMichael, now 37, enlisted in the Army as a private in 1962 upon graduation from Harvard. Discharged in 1964, he went to the University of Michigan law school, finishing in 1967, and practiced for a while in his native South Bend, Ind., before becoming an assistant prosecutor for the State of Indiana. He also dabbled in Democratic politics and, at the behest of his mentor, then Sen. Vance Hartke (D-Ind.), moved to Washington in 1971, when the Senate organized the Veterans Affairs Committee.

POLITICAL AMBITIONS

The Cleland-McMichael team dates to 1975, when Cleland came to Washington and joined McMichael's staff at the committee. Cleland, after serving two terms in the Georgia state senate, had reached out for the office of lieutenant governor in 1974. He lost, third in a field of 10, but he had made a lot of friends, including Georgia's Gov. Jimmy Carter, and the political die for him was cast.

It is no secret that Max Cleland wouldn't mind being governor of Georgia, as his friend was, and it may be that he is gathering the administrative know-how right now to help him do the job. Some at the VA call him "governor," but not to his face. And, whatever is in the back of his mind, nobody can say he is not giving his all to the job at hand

As one looks out of his office window in downtown Washington, it is only 600 yards across Lafayette Park and Pennsylvania Avenue to the White House. This was pointed out to him, teasingly, the other day: "Only 600 yards to go, Max."

He snorted his big man's laugh and said, dismissingly, "Yeah, but that's a lo-o-o-ng 600 yards." Still, there seemed to be a touch, just a touch, of dreaming in the way he said it.

CARCINOGENS IN THE WORKPLACE

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. PERKINS. Mr. Speaker, a distinguished former member of the House, the Honorable Earle C. Clements of Kentucky, who has since had other careers as Governor of Kentucky, and a U.S. Senator, recently sent me a very thoughtful and penetrating article from Science magazine of September 23, 1977, concerning carcinogens in the workplace.

It occurred to me that this article is so timely that it should be included in the RECORD:

CARCINOGENS IN THE WORKPLACE: WHERE TO START CLEANING UP

The most hazardous industry in the United States, in terms of exposure of workers to carcinogens, may well be the manufacture of scientific and industrial instruments, according to a study prepared by John Hickey, James Kearney, and their associates at Research Triangle Institute for the National Institute for Occupational Safety and Health (NIOSH). The fabricated metal products industry was rated second most hazardous, and the manufacture of electrical equipment and supplies third. The chemical industry, which many people would consider an odds-on choice to head the list, was ranked a lowly 12th.

The study was designed as a first step for controlling exposure of workers to carcinogens. But because of NIOSH's limited resources, it was first necessary to identify those industries where the potential hazard is the greatest, and therefore where the maximum effort should first be exerted.

The rankings in the study are based on two separate sets of data: the total amount of exposure to carcinogens, and the relative potencies of the carcinogens. The relative potencies of the carcinogens were estimated as accurately as possible from a comprehensive search of the available literature. The ranking for carcinogenic potential took into account the time required for tumors to appear after exposure to the carcinogen, the minimum amount of carcinogen required, and the method of administration. Some of the available data about individual carcinogens are contradictory and some are incomplete; most of the information, furthermore, is based on studies with animals. Each of these areas represents a potential pitfall of the study, particularly the need to extrapolate animal data to human exposures. But the data used, the report emphasizes, are the best now available.

The investigators ranked some 86 industrial chemicals according to their carcinogenic potential. The ten most potent chemicals, the report concludes, are *N*-nitro-sodiethylamine, thallium, chromium, asbestos, nickel, coal tar pitch volatiles, methyl methane sulfonate, acetamide, yellow OB, and ethylenimine.

Information about the exposure of workers to carcinogens was obtained primarily from NIOSH's National Occupational Hazards Survey (NOHS). For this 56-million, 3-year study—which has not yet been completely published—a group of engineers went to manufacturing facilities throughout the country to determine, among other things, how many workers in each type of plant are exposed to chemical agents, what those agents are, how the exposure occurs, and the length of the exposure. Data from this survey were then combined with data on carcinogenic potential to produce two new lists, one ranking carcinogens by a combination of exposure and potency and the second ranking industries by the amount of exposure to carcinogens and suspected carcinogens.

In the first case, the investigators combined potency, amount of exposure, and annual production to conclude that the ten most hazardous industrial chemicals are, in order, asbestos, formaldehyde, benzene, lead, kerosene, nickel, chromium, coal tar pitch volatiles, carbon tetrachloride, and sulfuric acid. Similarly, the potency of the materials and the amount of exposure to them was used to rank American industries.

The new results differ from the conclusions of previous studies. Hickey tells *Science*, because those previous studies generally considered only the volume of the carcinogens and not the amount of exposure. Previous studies have ranked the chemical industry very high, for example, because it manufactures hazardous materials in lots of tons or more. But the large quantities of materials may actually be manufactured by only a very small number of people, so that consideration only of the volume of carcinogens grossly overestimates the potential hazard.

In contrast, Hickey says, the manufacture of scientific and industrial instruments requires relatively small amounts of carcinogenic materials. But these materials are used in the hand fabrication of devices, so the total exposure—and thus the total risk—is very high. The fabrication of metal and electrical products both rank high for the same reasons. Hickey emphasizes that the total amount of hazard is very similar in the top ten industries, and the actual rankings could be altered by undiscerned factors such as the discovery of previously unrecognized carcinogens. But there seems little doubt, he adds, that these are the industries where research and cleanup efforts should first be directed.

The single most severe problem in many industries, the report says, is the presence of carcinogenic dusts in the workplace. These occur in the dry mixing of paints and pesticides, for example, and in many other processes where solids must be mixed. A major effort is thus needed, according to the report, to develop new ways to enclose the entire system of dry materials production, mixing, and transfer.

Another severe problem that seemingly could be easily solved is better venting of areas where carcinogens are used. In many cases, the report says, the venting system now in place does little good and, in some instances, it even blows carcinogens back in the faces of the workers. More attention apparently also needs to be given to the use of masks and protective gear now used only infrequently.

It must be emphasized that the Research Triangle Institute report is basically a library study. The investigators neither visited factories nor tested potential carcinogens. They also did not use any data about occupational cancer in the studied industries: many of the most potent carcinogens, in fact, have not been in use for the 25 to 30 years that would be required for cancers induced by them to begin showing up. It is also possible that better controls have been established in some industries since the NOHS study was conducted. Nonetheless, the results will give NIOSH a good idea where to begin emphasizing control procedures. The study should also give pause to many executives who now think they run clean industries.

BANKRUPTCY LAW REVISION—BANKRUPTCY COURTS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. EDWARDS of California. Mr. Speaker, I am pleased to report that the Committee on the Judiciary has acted favorably on H.R. 8200, a bill to revise the bankruptcy laws of the United States. It has been a long and difficult effort preparing such a complex bill, but I am proud of the product that the committee has produced, and I am confident that it will make a vast improvement in our bankruptcy system.

The committee filed the bill, as amended, and the committee report on September 8. The report is report No. 95-595, and I urge my colleagues to study it carefully, for it contains a detailed description and analysis of the bill, and goes over in detail the reasons that we proposed what we did in the bill.

One issue that is addressed in the committee report is the need for the separation of the bankruptcy court system from the district courts. Though this is covered fully in chapter 1 of the report, I wish to add to the record on this point. My colleague from California (Mr. DANIELSON) included in the report as separate additional views a copy of a letter from Judge Shirley Hufstedler of California. I received a copy of that let-

ter when it was first sent in June, as did all members of the committee before we considered H.R. 8200, so it was before us before we debated and voted on the amendment offered in committee by the gentleman from Illinois (Mr. RAILSBACK). I answered Judge Hufstedler's letter, and that, too, was before the members of the committee. In order to complete the record before the House, I would like to set out my response to Judge Hufstedler here:

WASHINGTON, D.C.,
July 26, 1977.

HON. SHIRLEY M. HUFSTEDLER,
U.S. Court of Appeals,
U.S. Court House,
Los Angeles, Calif.

DEAR JUDGE HUFSTEDLER: Thank you for sending me a copy of your letter to Congressman Wiggins concerning H.R. 7330 (now H.R. 8200) and the proposed bankruptcy court system. I understand your concerns about the proposed courts, but feel that they fail to recognize the state of bankruptcy administration today, and the potential drastic decline that may result if the current system is not substantially changed. I would like to address the points you raise in opposition. They have been considered in detail by the Subcommittee on Civil and Constitutional Rights, when it debated this legislation earlier this year, and by the full Committee on the Judiciary during its recent mark-up.

First, you are correct that the bill creates 94 new bankruptcy courts, one for each judicial district in the United States. The bill does not, however, create any specific number of new judgeships for the bankruptcy courts. The reason is simple. When creating a new tenured bench, it is important to know first how many judges will be needed. The bill provides for a five-year transition period during which the new substantive law will be implemented and the caseload measured. Then Congress will have the opportunity to establish the proper number of judgeships. It is too early to tell now how many judges will be needed. It may be that far less than 94 will be needed. The legislation has the capacity to provide for less than 94, because the provisions governing designation and assignment of judges and permitting roving judgeships for more than one district will permit great flexibility in channeling judicial resources.

Second, I would like to distinguish between two separate issues that you raised. The first is whether the court that handles bankruptcy cases should be a subordinate adjunct of the district court or whether it should be separate and independent of the district court. The second issue arises only if the first issue is decided in favor of a separate court, and I believe the authors of the Staff Report to which you refer made that explicit: if an independent court is to be established, then the Congress must decide the constitutional status of that court. It is important to separate the issues, though I recognize that if the Constitution dictates that an independent court be an Article III court, some may wish to reconsider the issue of the independence of the bankruptcy court.

You have suggested that those seeking to establish a new court system have a heavy burden of persuasion to bear, and have suggested further that the changes proposed are not supported by the record. There is no question in my mind that most of the changes proposed are supported by the record. I served on the Bankruptcy Commission for two years. The Commission's hearings and discussions were replete with evidence of the need for an independent court. The Subcommittee hearings before the Congress, which I chaired, were similarly filled with specific examples of the severe problems in bankruptcy administration caused by the step-child relationship between the district courts and the bankruptcy courts. The Staff Report to which you referred cites the record extensively in support of the proposition that a new court is needed.

Moreover, it is not only the bankruptcy specialists who have called for a new court system. The American Bar Association adopted a resolution last year endorsing the concept of an independent bankruptcy court. Numerous State Bars, including the Bar of Arizona in the Ninth Circuit have done likewise, and the Association of the Bar of the City of New York has also endorsed the concept; no State Bar has rejected it. The American Bankers Association also favors an independent bankruptcy court.

From my experience on the Bankruptcy Commission, I concur in your observation that about 90 percent of all bankruptcy cases are consumer cases that require primarily administrative work. Under present law, there is much administrative work in business cases as well. The combination of administrative and judicial responsibility for a case in the same individual leads to an unjustifiable institutional bias in the bankruptcy judge. That is precisely the reason the Commission proposed, and every major organization has endorsed, the concept that the administrative and the judicial functions in bankruptcy must be separated, and not performed by the same individual. H.R. 8200 accomplishes that result.

The administrative functions are to be taken over by private trustees in part, and by the United States trustee in part. Only the judicial functions are to remain with the new bankruptcy courts. Examination of the bill as a whole is a prerequisite to understanding the function of the proposed bankruptcy court. A simple assertion that new courts should not be created to handle the administrative aspects of bankruptcy cases, both consumer and commercial, will not do, because the bill does not create such a court system. Under the bill, the court will become involved only when there is a dispute to be resolved, that is, only when two parties appear, each asserting different rights under the law.

Further, to demean the importance of bankruptcy work by suggesting that only a small proportion of that work involves matters that rise to trial level fails to recognize the enormous volume of nonbankruptcy litigation, both civil and criminal, that is settled before trial, and requires only administrative processing. In my view, the work of the bankruptcy court is very important; unfortunately, many judges fail to appreciate the broad impact bankruptcy has.

During the course of a year, more people in this country are affected by bankruptcy cases than by all other civil and criminal litigation combined. In fiscal year 1976, there were 246,549 bankruptcy cases as compared with 130,597 other civil cases, and 41,020 criminal cases filed in the district courts. Of the bankruptcy caseload, 35,201 cases or 14.3 percent were completed business bankruptcies, of which 3,901 were filed under the reorganization chapters, X, XI, and XII. By contrast, complicated civil litigation in the district courts appears to be less frequent. During fiscal year 1976, only 2,230 securities, commodities and exchange cases were filed, and only 1,555 antitrust cases were filed.

On the other hand, 10,355 social security cases were filed, 13,962 personal injury cases were filed, and 19,809 prisoner petitions were filed. Moreover, within each bankruptcy case, several adversary proceedings and contested matters serve as mini-trials magnifying the significance of the 246,549 bankruptcy cases many-fold.

While civil cases may involve two or three parties on each side, a bankruptcy case involves one or two debtors and often hundreds of creditors. In fiscal 1976, over 9 million creditors were scheduled in bankruptcy cases. This figure does not reflect many unscheduled creditors, omitted through inadvertence or as a result of the poor records of many debtors. Bankruptcy cases often impact entire communities and occasionally the entire nation. Cases pending in the bankruptcy court in October, 1976, involved over $27 billion in scheduled assets and nearly $43 billion in scheduled liabilities. *W. T. Grant* involved assets of over $600 million and liabilities of $1.1 billion and affected the job of 80,000 employees, the investments of 70,000 public investors, and the rights of millions of consumers. Bankruptcy cases pending in the district courts such as *Penn Central* affect the lifestyle and the jobs of countless Americans. In addition, the possibility that major municipalities may have to seek relief under the Bankruptcy Act indicates the enormous importance of this legislation.

I am not sure that arguments relating to trends in judicial administration help us solve the recognized problems that plague bankruptcy administration. I know that trends do not guide you in deciding particular cases that come before your court, but that you decide them on the merits of each individual case. We must decide this issue on its merits.

Nor do I believe that creation of this court will lead to any fragmentation, and demands by each specialized group for its own separate court. In fact, all that this bill does for bankruptcy litigants is to give them the same kind of judges and the same kind of court that all other federal litigants already have—tenured judges and independent courts. If bankruptcy litigants could be accorded equal treatment in the federal district courts, many problems would be solved. But for the past 40 years, the federal judiciary has made it absolutely plain that they wish no part of bankruptcy. The district judges refuse to become involved or decide bankruptcy cases except when they have to; this posture is at variance with their zeal to decide other complex areas of the law, such as securities law, labor law, and tax law.

Neither will the proposed court system change the priority currently accorded bankruptcy cases. They are presently heard almost exclusively by bankruptcy judges. The cases are not required to wait along with all other Federal civil cases to be heard. The reason is a practical one. It is not because we consider bankruptcy cases to be more important than other Federal cases; rather bankruptcy and reorganization cases can succeed only where the procedure is quick. A reorganization that is prolonged due to court delays is a reorganization that is doomed to failure. Creditors simply will not wait, and will prefer instead to liquidate a business rather than participate in drawn out reorganization procedures. That could affect thousands of jobs and public investors, and millions or billions of dollars.

Once we assume, even arguendo as you suggest, that an independent court is necessary, I am sure that you, as a strong believer in the Constitution, can understand our reluctance to establish an Article I court if there is a reasonable doubt that such a court would violate Constitutional norms. The Staff Report raises substantial doubts that anything less than an Article III court can perform the functions of a full-fledged bankruptcy court. The Department of Justice has recently communicated to us their view that an Article I court most likely could not pass constitutional muster, and certainly could not be granted all the powers that are necessary to bankruptcy administration.

The Department of Justice has also stated very clearly, in their Report on the Needs of the Federal Judiciary, that first-rate people can only be attracted to a job with sufficient prestige, because Congress will never pay judges the salaries they could earn in other pursuits. As to the quality of the present bankruptcy bench, I have no doubt that the judges are able and dedicated individuals. Neither do I have any doubt that it is becoming increasingly difficult to attract first-rate people to the bankruptcy bench. But it is beyond doubt that everyone regards the district judges as a cut above even the best of the bankruptcy judges. The attitude and actions of the Judicial Conference toward bankruptcy judges underscores that fact. A new court with tenured judges will attract highly qualified individuals. Federal litigants are entitled to no less.

As to the constitutional issues, they are covered exhaustively in the Staff Report. The Report reviews case law, scholarly writing, and the responses of nine constitutional experts to a letter from Chairman Rodino. The comments quoted in the Report by those legal scholars may not have been directed to H.R. 7330 specifically. Nevertheless, even a cursory reading of Chairman Rodino's letter of inquiry will indicate that all of the responses were directed solely at the powers and the constitutional status of the proposed bankruptcy courts.

The expanded jurisdiction of the bankruptcy court is a concept that is central to this bill. My service on the Bankruptcy Commission convinced me that the current limited jurisdiction of the bankruptcy courts is a cause of serious concern, and hampers judicial administration unnecessarily. The hearings before the Subcommittee indicated the same. What is granted by the bill is not "a jurisdictional bonanza", but rather something that is essential to efficient bankruptcy administration. Any volume of Federal Supplement that you read has at least one case concerning the jurisdiction of the bankruptcy court. The issues litigated on jurisdiction are often the same as those litigated on when the case comes to trial on the merits. That is wasteful, and no amount of concern over a "bankruptcy menace" will change that fact. I am surprised by your conclusion that expanded jurisdiction is unsupported by the record and your contention that expansion is countenanced only by bankruptcy specialists. Nothing could be further from the truth. Every State Bar that has considered the issue has supported expanded jurisdiction, as has the American Bar Association.

The second major topic discussed in your letter focuses on the "intolerable systemic costs" of the bill. You understandably express concern that routing appeals to the courts of appeals will result in an intolerable increase in the caseloads of the courts of appeals, but you fail to take account of the flexibility that a full complement of Article III judges will give to the federal courts. The liberal designation and assignment provisions in the bill will permit bankruptcy judges to fill in on an as-needed basis; they should be particularly useful on appellate panels where their special expertise will be a valuable asset.

To the extent that there will be an increase in the caseload of the courts of appeals, I agree with the Staff Report that the increase is not likely to be such as to unduly overburden these courts. You note that the comparison between the projected 1.7% increase in the caseload and the proposed 30% increase in the number of judgeships is unfair, because the increased appellate caseload will fall most heavily in just a few circuits, especially the Ninth. However, you failed to note that the 30% figure was also an average, and that the judgeship bill proposes nearly a 100% increase in the number of judges for the Ninth Circuit.

You contend that a panel of judges cannot be expected to handle more than 200 cases a year, and cite the 1976 Annual Report of the Director. Examination of the Management Statistics for the United States Courts 1976 also published by the Director indicates, at page 13, that 97 judges disposed of 16,426 appeals in fiscal 1976. While it is true that "actions per judgeship" were reported to be 169 cases terminated in fiscal 1976, the Director makes clear on page 13 that a three-judge panel would dispose of roughly three times that number. Thus, the extra 300 bankruptcy appeals suggested by the Staff Report translates into a burden of less than two-thirds of the work of one appellate panel for the entire country.

As you imply on pages 9 and 10 of your letter, we all tend to be concerned with things that affect us the most. The bankruptcy appellate burden will be borne most heavily in the Ninth Circuit, but that is not a sufficient reason to oppose a bill of national importance, or the creation of a badly needed new court system.

I welcome any further communication you wish to have on the bankruptcy legislation.

With kind regards,

Sincerely,

DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights.

DAY OF RECKONING AHEAD!

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. ABDNOR. Mr. Speaker, the public, the administration and the Congress are most reluctant to face up to the fact that a day of reckoning is fast approaching in our national fiscal policies. Once in a while—as when we defeated a resolution to increase the debt limit—we give token awareness that there is a problem, but for the most part we go blindly on enacting ever more expansive government programs.

In trying to help its readers understand what is happening, the Watertown, S. Dak., Public Opinion carried this editorial, which all of us in the Congress need to seriously consider:

I.O.U.'s CAUSE MOST OF FEDERAL FISCAL PROBLEMS

The federal government is rapidly pushing its way toward the trillion dollar debt milestone, being roughly three-fourths of the way there already and no slowdown in sight despite President Carter's campaign promises of a balanced budget and a beginning of debt reduction by 1981.

There has been little but lip service so far. Meanwhile, the demands upon the government for more of everything—and all of it expensive—continue unabated. Saying "no" isn't a prominent characteristic in government.

The situation has bothered one Watertown resident who believes the average person's unconcern with a steadily worsening situation may stem from a lack of understanding of how and why we got that way. He reduced it to children's bedtime story stature and, preferring anonymity lest he be misunderstood, came up with this:

"Once upon a time there was a father who had a number of children who were industrious and made a practice of saving part of their allowances and other earnings in their piggy-banks.

"From time to time one or another of the children wanted things like roller skates, bicycles, formals, clothes, cars and so on which they felt their father was obligated to give them. In nearly every instance, the father would respond with "I don't have the money myself but I'll take it out of your piggy-bank and put in my I.O.U." This made everybody happy.

"Then came a day when one child wanted to buy a home, another wanted to start a business, another take a long trip, and so on and they all went to the father and asked him to give them the money for his I.O.U.'s.

"Father could only reply, "I don't have any more money now than I ever had. I have given you all the things you asked for and you can't have it twice."

"Could it just be possible the father is Uncle Sam and the children are people like you and me, businesses and financial institutions? And the I.O.U.'s our government securities?"

The analogy is clear and direct. "You can't have it twice" and a day of reckoning and revelation always comes.

When one considers the I.O.U.'s the federal government has stacked up against itself, that day could be cataclysmic indeed.

RESOURCES IN THE BLACK COMMUNITY

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 26, 1977

Mr. JOHN L. BURTON. Mr. Speaker, I would like to call the Members attention to a recent speech given by Dr. Carlton B. Goodlett, a distinguished physician, publisher, and leader in the black community.

As always, Dr. Goodlett's comments are provocative and penetrating:

"IDENTIFICATION AND UTILIZATION OF RESOURCES IN THE BLACK COMMUNITY: WHERE DO WE GO FROM HERE?"

(By Carlton B. Goodlett, Ph.D., M.D., President National Newspaper Publishers Association—Black Press of America)

I am grateful for the opportunity to involve myself in this new experience today, of sharing with Black professionals in psychology a summer workshop in which there are more Black professionals in this room than there are fingers on the hands. Permit me a few nostalgic moments.

Approximately 45 years ago, when the General Education Board was seeking a university setting in which to establish an institute for the Study of the Black Child, the late, venerated John Hope, President, the Atlanta University system, invited a search team to inventory Atlanta as a site for this important Institute. The decision was made to establish an Institute for the Study of the Negro Child at Atlanta University, but, alas! There were no Blacks in the nation who had specialized in this discipline. Harold Jones, Professor of Psychology and Director of the Institute of Child Welfare, University of California, was chairman of the search committee; he thereupon set about looking for a protege to train so that this important institute could be built for Black children. In 1935, I stumbled into Professor Jones' class on Child Development at UC, Berkeley; without my knowledge of his intent, three years later, May 1938, the 92nd Black Ph.D. recipient in the history of the United States was graduated, and efforts were made to establish the deferred Institute for the Study of the Black

Child. But, unfortunately, the General Education Board had reached the end of its Child Development Institute cycle, and no funds were available.

Another historical reminiscence: in 1938–'40, two Black psychologists at West Virginia State College, Institute, West Virginia, attempted to organize a National Association of Black Behavioral Scientists; because of the paucity of specialists in sociology, psychology, educational psychology and other related disciplines, the catch-all phrase "behavioral scientist" was used. This effort died a-borning, because it was an idea whose time had not come.

Fortunately for Black Americans, approximately 7 years ago a National Association of Black Psychologists was organized, and reflects the rapid development occurring since John Hope's efforts to establish an Institute for the Study of the Negro Child at Atlanta University. This summer workshop, sponsored by the Middle Level Community Clinical Psychology of the Southern Regional Educational Board, is a testimony of the fact that "behavioral sciences" have come of age in Black America.

Let us hope that the Black behavioral scientists will have the ability, the investigative techniques and, finally, the courage and insight, to search for new ways to assist 26 million American Blacks, an aggregation larger than 158 other nations in the world, to live in a hostile, racist society—a society which threatens Black America's very survival.

BLACK AMERICA

For the past twenty years, since the Montgomery Freedom Walk, Black America has been haunted by the Martin Luther King-Abernathy-Jesse Jackson litany, "I Am Somebody!" Let us briefly inventory this *somebodyness*.

The thought had haunted me, shortly after the litany was started, and we mentioned it to Dr. King once: "Martin, would it not be horrendous, for some White folks, such as George Wallace, to get on national TV and prove that Black folks are really Nobody?" I was challenged to attempt to quantify King's "Somebody" litany, and found the following applicable data:

For the totality of the American experience until recently, Blacks have been caught up in the semantics of "individual freedom", as opposed to the broad concept of "freedom for the masses." Rugged individualism and the myth of individual freedom and security leads to a black man's being described as "the 9th American", when in truth the strength of Black America lies in the concept that we are 12 percent of America—a force of over 26 million. In this light, we become a nation within White America which is the second most numerous aggregation of blacks within the boundaries of a nation on the face of the earth—second only to Nigeria with its population of 61 million. In terms of higher education and economic advantages, Black America is the most highly developed of any black people in the world. With approximately 7,500 physicians, 2,700 dentists, 4,000 attorneys, thousands of academicians, we are a learned people. Our black youth in institutions of higher learning number 667,000—300,000 more than British students in institutions of higher learning in Great Britain, with her population of 55 million.

Even though 600,000 Black youths in college is an impressive figure, these numbers must be counterbalanced by the fact that probably two to three times that number of Black youth are not attending any school, anywhere—not subject to any discipline or authority, and lacking the skills, education or psychological maturity to become "productive citizens"—a description by the capitalist society of those who produce goods and services.

Many of these jobless Black adolescents are still seeking nonexistent jobs. However, many at the end of the hope rainbow have simply given up.

To translate statistics: while the actual size is difficult to determine, it has been estimated that from 500,000 to 600,000 Black youths from 16 to 19 are continually out of work. If we include the underclass, ranging from 8 to 16, while too young to work they must be counted because far too many of them are committing violent crimes and using narcotics. A conservative estimate of these endangered Black youngsters would equal about one million, living in the 25 largest U.S. cities. These youngsters live on the edge of civilized society. The most immediate option for these Black youth is crime—first and foremost against other Blacks.

The commander of the Homicide Division of the Chicago Police Department recently stated in an interview that the average person found guilty of murder is "male, Black, 18 and under." Louisiana probably is the only state in the nation where there are more young Blacks incarcerated in prison than young Blacks attending college.

Many Black adults, particularly women, are organizing into groups, like the Concerned Women in the War Against Crime in Chicago, to which the White establishment media give a tremendous play. These women are encouraging Blacks to cooperate more closely with the police. Never do they attempt to look for or address themselves to a solution of the deeper root causes of crime, which are poverty, miseducation, poor housing, all compounded elements of racism in the American society.

The White establishment and increasing numbers of Black organized anti-crime organizations are rapidly becoming the adversaries of these Black under-class youth. This contradiction of Blacks joining the establishment in pursuit of the wrong solution to the problem of Black crime against property and person is a glaring example of the cruel, vicious contradictions in White capitalist America. First, Samuel Yette in "The Choice: Black Survival—USA," and now Ward in his article, "Black Youth—An Endangered Species," warns us that an entire generation of Black youth are becoming useless, expendable, non-functional, non-productive human waste material, because the system refuses to educate them or provide for them or their parents.

These young expendables have become the nation's number one social liability; the same system of racism and exploitation which created their despicable lot apparently is readying the machinery for their disposal.

We do not condone Black crime by any spectrum of the age cycle. Obviously the fear of crime in the Black ghettos is warranted. However, just as Blacks exposed the chicanery and the diabolical nature of Moynahan's description of the Black Family, so must Blacks vigorously reject the White analysis of the Black crime problem, which consistently leaves out the first culprit and villain—America itself—and instead places the blame on young Blacks for not "boot-strapping" themselves out of poverty. This is a classic American conundrum: the victim of racism, black youth, is again made the scapegoat for his own victimization.

The nightmare of white racism, 1977, reminds us of Alexis de Tocqueville's observations in 1882 on the American experience:

"The most formidable of all the ills that threaten the future of the Union arises from the presence of a black population upon its territory. The two races, European and Negro, are attached to each other without intermingling; and they are alike unable to entirely separate or to combine."

Implied in de Tocqueville's formulation are the three ultimate resolutions to America's racial crisis: total separation of the races, amalgamation, or extermination of one race or the other.

Those who believe that the fate of Black Americans is, after all, inextricably entwined with that of all the powerless, dispossessed and wretched of the American Earth must present to our youth, the inheritors and architects of tomorrow, their grand design for the raceless society! What are their means and timetables? What viable alternative do they propose when they look up and see that events have rushed by them, that the USA is now a divided society, with a white nation well fed, well clothed and comparatively happy, and a black nation ill-housed, ill-educated, underemployed and progressively poorer?

After 114 post-Lincoln's Emancipation years of recycling depression, inflation, and the last-hired first-fired syndrome, the teeming black masses feel that there must be something better than their wretched economic existence, and they are crying for help—for jobs, food for their children, care for the aged, and roofs over their heads. From whence will this help come? What and who will rescue our people?

The answer: Black America must rescue itself.

No help can be expected from any other quarter!!

What are the Black resources available for "self-service"?

Black Schools: Our sons and daughters must be imbued to seek educational excellence and dedicate their lives to the service of the teeming Black masses. Our youth must never forget that there is a nation to be led, and an eternal struggle to be waged against racism.

The Black Family: In all ages when men were victims of both physical and psychological slavery, the strength for survival has been the family. The Black family has been a balm and a refuge in time of distress; we must not be brainwashed by the nonsense of a Moynahan. The family institution must rescue the lost Black youth; it must strengthen the resolve of each Black citizen to walk tall and assume leadership in the human struggle for survival and liberation.

The Black Sororities and Fraternities: More than 600,000 of the educated Black elite are members of the Pan-Hellenic Council, composed of members of our national sororities and fraternities. They must assume the responsibilities which higher education and economic advantage places upon the apex of the 26-million Black pyramid. These organizations, together with the various orders of the Masonic Lodge and the Eastern Star, the Knights of Tabor, the Pythians, the Woodmen of the World, the Elks and others, are capable of amassing tremendous manpower and economic resources for common programs and common causes. Their only need is an ideology as the precursor to their development of agendas, to rechart the Black experience.

The Black Church: Too often, the Black Church has become a bastion of conservatism, reflecting the *status-quo-ism* of the organized White Church. Black churchmen must become revolutionary leaders using their institutional resources to build the whole man, who can use religion as an instrument for social change.

Of all the Black religious forms, perhaps the Muslims come closest to developing a Black ideology; they have set themselves apart and built a Black agenda, with the possibility of accomplishing through togetherness that which Blacks cannot accomplish alone. The Muslim ideology reflects itself in their espousal of the dignity and the beauty of Blackness.

The Black Church has a prophetic mission to play in Black survival. Christianity is a

revolutionary religion, and Black churchmen must take on the revolutionary zeal of the early Christians, when Jesus was the first great socialist, and Christianity was the earliest form of socialism. The Acts from the Bible describe the first church:

"And they continued steadfastly in the apostles' doctrine and fellowship, and in breaking of bread, and in prayers. And all that believed were together, and had all things common; And sold their possessions and goods, and parted them to all men . . ."

A DYNAMIC AND MEANINGFUL ROLE FOR THE BLACK CHURCH

The Black Church should develop new techniques so as to contribute to the solution of the crisis which threatens black youth in America. Three suggestions for actions in a grand design for aid to black youth are here presented:

I. Every church should open up its Sunday School facilities for day child care facilities; thereby providing without the necessity of responding to the many sophisticated requirements placed upon nursery schools, day care with little or no charge to all young mothers surrounding the parish who need such assistance.

II. The Black Church must establish halfway houses, and lend assistance to those young blacks who are attempting, individually and with help, to rescue themselves from the grasp of narcotics, drug abuse and alcoholism.

III. As the Jewish Synogogic schools, or the Chinese or Japanese language schools, the Black Church should open its doors to black youth three days a week, Mondays, Wednesdays and Fridays, from 3:30 to 5 p.m. This 90-minute period should be utilized in the development of black identity and black history, and black youth must be taught their collective responsibility and concern for the black masses. Moreover, these afterhours church schools must provide remedial procedures in the language arts so as to increase the comprehension and interpretive verbal skills of black youth.

IV. The Black Church should organize their considerable economic power as leverage against economic racism. In Harlem the churches bank $1 million every Monday, but less than 10% goes to Black banks; Black churches bank at least a billion dollars a year, but that money drops into White pockets. Black institutions must learn to increase Black economic viability.

The Black Press: In times of stress, the Black Press has been the sole conduit to convey the alarm or sound the promise of hope. Without its press, Black USA would resemble a giant whose spinal cord has been severed, leaving a complete interruption with no transmission from the brain to the vital organs.

The Black Financial Institutions: Black banks have net assets of $1.3 billion. The 39 black life insurance companies, built from the meager economic base which sustains 26 million blacks, have a total asset of $531 million. The black savings and loan associations have assets totaling $464 million. These financial institutions have great potential and must become a force to help in the creation of a new world being born.

The Black Politicians: With over 3,500 black elected officials there are more today than at any previous period. Unfortunately, too often they represent a mere replacement by a black face of a white politician. These misguided politicians, rather than serving the masses who elected them enter the political treadmill and play politics as usual. Black political officeholders are primarily elected to serve their black constituencies. The black masses soon will demand that the black politician be in the vanguard of political leadership, structuring important social changes. These politicians must be about the business of combating the enemy eternal, racism.

UAW OPPOSES THE NEUTRON BOMB

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 23, 1977

Mr. WEISS. Mr. Speaker, on Wednesday I will introduce an amendment to H.R. 6566—the ERDA National Security Authorization—to delete all funds for the development, production, and deployment of the neutron bomb.

On September 22, I received a telegram from the United Auto Workers Union stating its support for the amendment and its opposition to production of the neutron bomb.

I would like to share a copy of this telegram with my colleagues and hope that they too will support the amendment on Wednesday when we consider the bill on the House floor.

In addition to the UAW, the following eight other organizations have voiced their support for the amendment: Americans for Democratic Action, New Directions, the Coalition for a New Foreign and Military Policy, SANE, Network, New Democratic Coalition, Women Strike for Peace, and the Women's League for Peace and Freedom.

Twenty-three of our congressional colleagues are joining me in introducing this amendment and their names are printed below: Representative HERMAN BADILLO, Representative BERKLEY BEDELL, Representative WILLIAM BRODHEAD, Representative JOHN BURTON, Representative JOHN CONYERS, Representative RON DELLUMS, Representative ROBERT DRINAN, Representative ROBERT EDGAR, Representative DON EDWARDS, Representative DAN GLICKMAN, Representative ELIZABETH HOLTZMAN, Representative ROBERT KASTENMEIER, Representative ANDREW MAGUIRE, Representative EDWARD MARKEY, Representative BARBARA MIKULSKI, Representative GEORGE MILLER, Representative PARREN MITCHELL, Representative RICHARD NOLAN, Representative RICHARD OTTINGER, Representative LEON PANETTA, Representative FRED RICHMOND, Representative FORTNEY (PETE) STARK, and Representative HENRY WAXMAN.

The UAW telegram:

DEAR REPRESENTATIVE WEISS: The UAW supports your amendment to prevent construction of the neutron bomb. While we struggle to make progress in the SALT negotiations, and recalling President Carter's inaugural address and emphasis on curbing nuclear proliferation, it is folly to proceed with a weapon like the neutron bomb. The UAW has long felt that there must be an end to the nuclear arms buildup and fears that the neutron bomb could open a new and potentially dangerous door to disaster. We support your amendment and hope the House acts favorably upon it.

HOWARD G. PASTER,
UAW Legislative Director.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 27, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 28

8:00 a.m.

Energy and Natural Resources

To continue hearings on the proposed Alaska natural gas pipeline route.

3110 Dirksen Building

9:00 a.m.

Agriculture, Nutrition, and Forestry.

Agricultural Production, Marketing, and Stabilization of Prices Subcommittee

To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.

322 Russell Building

Commerce, Science, and Transportation, and Environment and Public Works

To hold hearings jointly on the nomination of Steven D. Jellinek, of Maryland, to be Assistant Administrator for Toxic Substances, Environmental Protection Agency.

4200 Dirksen Building

Commerce, Science, and Transportation

Consumer Subcommittee

To hold oversight hearings on the activities of the Consumer Product Safety Commission.

5110 Dirksen Building

Select Nutrition and Human Needs

To hold oversight hearings on food quality in the Federal food program.

Until Noon 6202 Dirksen Building

9:30 a.m.

Human Resources

To mark up S. 1784, to amend the Age Discrimination in Employment Act so as to protect the employment rights of older workers; S. 2108, to amend the Indochina Migration and Refugee Assistance Act of 1975; and S. 1328, to encourage the implementation of career education programs.

4232 Dirksen Building

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.

224 Russell Building

Judiciary

Business meeting on pending calendar business.

2300 Dirksen Building

Judiciary

Juvenile Delinquency Subcommittee

To continue hearings on the implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

1318 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on bank regulatory issues.
5302 Dirksen Building
Finance
To continue consideration of the proposed National Energy Tax Act as embodied in H.R. 8444.
2221 Dirksen Building
Foreign Relations
To hold a business meeting on treaties, nominations and other committee business.
4221 Dirksen Building
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold oversight hearings on the implementation of the Government in the Sunshine Act (P.L. 94–409).
1224 Dirksen Building
Rules and Administration
To hold hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs.
301 Russell Building
Veterans' Affairs
To receive legislative recommendations from representatives of the American Legion.
318 Russell Building
1:00 p.m.
Select Indian Affairs
To mark up S. 1509, to provide for the return to the United States of title to certain lands conveyed to certain Indian Pueblos of New Mexico; S. 1582, Ak-Chin Indian community water bill; and S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.
154 Russell Building
3:00 p.m.
Conference
On S. 1019, to authorize funds for certain maritime programs for fiscal year 1978.
S–126, Capitol

SEPTEMBER 29

8:00 a.m.
Energy and Natural Resources
To continue hearings on the proposed Alaska natural gas pipeline route.
3110 Dirksen Building
9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To continue oversight hearings on transportation problems affecting agriculture, forestry, and rural development.
322 Russell Building
9:30 a.m.
Foreign Relations
To hear Attorney General Griffin Bell and others on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).
318 Russell Building
Select Intelligence
To hold a closed business meeting.
S–407, Capitol
10:00 a.m.
Finance
To continue consideration of the proposed National Energy Tax Act as embodied in H.R. 8444.
2221 Dirksen Building
Governmental Affairs
Reports, Accounting, and Management Subcommittees
To resume hearings on S. 1847, 1838, 1829, and 2088, to improve the operation and extend the scope of the Federal Advisory Committee Act.
6202 Dirksen Building
Judiciary
Improvements in Judiciary Machinery Subcommittee
To hold hearings on S. 1430, to improve the judicial machinery in customs courts.
2228 Dirksen Building
Select Indian Affairs
To hold hearings on S. 2046, to enable Alaska Natives to maintain or consolidate tribal governing bodies, and S. 1789, to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservatory District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.
1202 Dirksen Building
Joint Defense Production
To receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building
2:00 p.m.
Select Ethics
To hold an open followed by a closed business meeting.
S–126, Capitol
2:30 p.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To mark up proposed standards on automatic auto crash protection devices.
5110 Dirksen Building

SEPTEMBER 30

9:00 a.m.
Select Nutrition and Human Needs
To resume oversight hearings on food quality in the Federal food program.
Until 1:p.m. 6202 Dirksen Building
9:30 a.m.
Foreign Relations
To receive testimony on economic considerations from Executive branch officials on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).
318 Russell Building
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building
Veterans' Affairs
To hold hearings on a study by the National Academy of Science on health care for American veterans.
Until 12:15 p.m. 4221 Dirksen Building
10:00 a.m.
*Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building
Joint Defense Produdction
To continue to receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building
Finance
To continue consideration of the proposed National Energy Tax Act as embodied in H.R. 8444.
2221 Dirksen Building
Select Intelligence
Special Investigations Subcommittee
Closed business meeting.
S–407, Capitol

OCTOBER 3

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building
Energy and Natural Resources
Business meeting to consider pending calendar business.
3110 Dirksen Building
Select Small Business
To hold hearings on S. 1815, Small Business Venture Capital Act of 1977.
424 Russell Building

OCTOBER 4

9:30 a.m.
Foreign Relations
To receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st sess.).
318 Russell Building
Human Resources
Aging Subcommittee
To hold hearings on S. 1282, to provide assistance for legal services projects for the elderly.
1224 Dirksen Building
10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To hold hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building
Commerce, Science, and Transportation
To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building
Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building
Select Indian Affairs
To resume hearings on Federal Indian Domestic Assistance programs.
6202 Dirksen Building

OCTOBER 5

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To hold hearings to review a report by the Congressional Budget Office on energy conservation through public transportation.
4200 Dirksen Building
Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).
318 Russell Building
Human Resources
To hold hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building
Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building
Rules and Administration
To hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

9:30 a.m.
Human Resources
To continue hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building
Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Until 1:00 p.m. 6226 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building
Banking, Housing and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6202 Dirksen Building
Energy and Natural Resources
Business meeting to consider pending calendar business.
3110 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building
Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
357 Russell Building
Select Small Business
To receive testimony on the implementation of that part of P.L. 95-89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building
9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1974, the Regulatory Flexibility Act.
424 Russell Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
6202 Dirksen Building

OCTOBER 10

9:30 a.m.
Environment and Public Works
To hold hearings to review plans for the White House Conference on Balanced National Growth and Economic Development.
4200 Dirksen Building
Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building
Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

OCTOBER 11

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
1114 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building
Foreign Relations
To hold hearings on H.R. 7819, S. 1256, and S. 1257, to amend the laws relating to diplomatic immunity.
4221 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearing on activities of the Civil Rights Commission.
2228 Dirksen Building
9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
4200 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold overight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

OCTOBER 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

OCTOBER 18

9:00 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building
9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building
10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3310 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

OCTOBER 28

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 3

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

10:00 a.m.

NOVEMBER 9

Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, September 27, 1977*

The House met at 12 o'clock noon.

The SPEAKER. The prayer today will be offered by a guest chaplain, father of one of our Members, Dr. Carroll Hubbard, Sr., Southern Baptist Theological Seminary, Louisville, Ky.

Dr. Carroll Hubbard, Sr., Southern Baptist Theological Seminary, Louisville, Ky., offered the following prayer:

Eternal Father, Ruler of creation and Sovereign of nations, we confess our dependence upon Thee. It is not in us to order our paths or to achieve our destiny.

Give us strength for the living of these days. May these who stand in places of great responsibility have the wisdom needed to make right decisions and the courage to act for the country's highest good and the glory of God.

Grant in this Chamber and across the land such a return to personal faith and integrity that *"justice may roll down like waters, and righteousness like an everlasting stream"*—Amos 5: 24.

In a chaotic world, make us instruments of Thy peace. Fill our hearts with compassion for needy, suffering people everywhere.

We pray in the Redeemer's name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

Mr. BAUMAN. Mr. Speaker, reserving the right to object, is it the Chair's intention to entertain a motion for a call of the House prior to proceedings under suspension of the rules?

The SPEAKER. The answer is in the affirmative.

Mr. BAUMAN. I thank the Speaker, and withdraw my reservation of objection.

The SPEAKER. Without objection, the Journal stands approved.

There was no objection.

DR. CARROLL HUBBARD, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, naturally, it is a special joy for my wife and me to have visiting with us my parents, Dr. and Mrs. Carroll Hubbard, my aunt, Mrs. Ruth Ambrose and her sister-in-law, Mrs. Jeffrey Ambrose, at our Nation's Capital.

It is an honor for my father, Dr. Carroll Hubbard, a Baptist minister, to give the invocation at this September 27 session of the U.S. House of Representatives. I am grateful to our Chaplain, Dr. Edward G. Latch, and to my colleagues for extending to my father this privilege.

My parents, both natives of and highly respected in the district I represent, were very helpful toward my being elected as a Member of the Congress.

APPOINTMENT OF CONFEREES ON H.R. 4544, BLACK LUNG BENEFITS REFORM ACT OF 1977

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees:

Messrs. PERKINS, DENT, PHILLIP BURTON, GAYDOS, CLAY, BIAGGI, ZEFERETTI, MICHAEL O. MYERS, MURPHY of Pennsylvania, CORRADA, SIMON, MILLER of California, THOMPSON, ANDREWS of North Carolina, ULLMAN, ROSTENKOWSKI, VANIK, QUIE, ERLENBORN, ASHBROOK, SARASIN, EDWARDS of Oklahoma, JEFFORDS, and DUNCAN of Tennessee.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 9290, DEBT LIMIT TEMPORARY INCREASE

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95-635) on the resolution (H. Res. 781), providing for consideration of the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 9090

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight to file a report on the bill (H.R. 9090) to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

DR. CARROLL HUBBARD, SR.

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, a few days ago we had as our guest chaplain the brother of our colleague, the gentleman from Hawaii (Mr. AKAKA). Today we have the great privilege of having as our guest chaplain the father of our colleague, the gentleman from Kentucky (Mr. HUBBARD).

Dr. Carroll Hubbard has been an inspiration to many thousands of people who have known him during the 48 years that he has served as a minister of churches in Kentucky and Tennessee. Now he is serving as a professor at Southern Baptist Theological Seminary in Louisville. Having had the great delightful experience of visiting in his home in Louisville, I can share with the Members the great sense of warmth and love that his friends throughout mid-America feel for him. I join in rejoicing with our colleague, the gentleman from Kentucky (Mr. HUBBARD) over his father's presence and that of his mother here today with us.

PERMISSION FOR SUBCOMMITTEE ON MINORITY ENTERPRISE AND GENERAL OVERSIGHT OF COMMITTEE ON SMALL BUSINESS TO SIT ON THURSDAY, SEPTEMBER 29, 1977, AT 9 O'CLOCK, A.M., DURING 5-MINUTE RULE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the Subcommittee on Minority Enterprise and General Oversight of the Committee on Small Business may be permitted to sit on Thursday, September 29, 1977, at 9 o'clock, a.m., during the deliberations of the House under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO LAWRENCE O'BRIEN

(Mr. RONCALIO asked and was given permission to address the House for 1 minute.)

Mr. RONCALIO. Mr. Speaker, the death a few weeks ago of Kenny O'Donnell gave me occasion to reread his book, "Johnny We Hardly Knew Ye." That required me to read again Lawrence F. O'Brien's "No Final Victories," and thus to gain perspective on the Kennedy years that only an additional 15 years on the Washington scene can give one.

I came to the conclusion after reading these two books that there are few Americans in our history who have made a more solid contribution to the success of our political processes than has Lawrence O'Brien.

I am pleased to note that his friends are planning a dinner in his honor in New York City Thursday night. I will not be there, but I want to publicly recognize this truly great American.

LABOR STEAMROLLER AT IT AGAIN

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, the Committee on Education and Labor has reported favorably H.R. 8410, the so-called labor reform bill. The procedure used in adopting this bill was atrocious. All attempts at injecting fairness into the system and providing some balance were rejected. Sound amendments went down to defeat as the committee leadership insisted on its own narrow version of what the bill should contain. Instead of a compromise which many of us could support, we are left with a one-sided approach to labor law reform.

Such a procedure, of course, is not unusual for the Education and Labor Committee. This committee has a history of reporting out bills without balance and then having the legislation rewritten drastically on the House floor.

The minimum wage bill is a good example of this process. Rather than taking time and arriving at a compromise in committee which most of us could agree on, a no-compromise position was the order of the day. Instead of giving the general membership time to consider the provisions of the legislation, the goal was to rush the bill through the House before the August recess. And when the bill reached the House floor, major changes were voted by the Members.

Frankly, this procedure is unfair to you, the individudal Member. The failure of the committee to try to reach a compromise puts you on the spot. It makes it extremely difficult for you to go out and defend such a bill to your constituents. You are the real loser in the process.

I urge you to reject any attempt to rush through this one-sided labor law reform proposal. Both you and our Nation deserve better.

PERMISSION FOR SUBCOMMITTEE ON SCIENCE, RESEARCH, AND TECHNOLOGY OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET TOMORROW DURING 5-MINUTE RULE

Mr. THORNTON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Science, Research, and Technology of the Committee on Science and Technology may be permitted to meet on tomorrow, Wednesday afternoon, September 28, 1977, while the House is considering amendments under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, is this request for the purpose of conducting hearings?

Mr. THORNTON. Mr. Speaker, if the gentleman will yield, this is only for the purpose of conducting hearings.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

CALL OF THE HOUSE

The SPEAKER. The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. —]

Andrews, N.C.	Gaydos	Reuss
Archer	Harrington	Rhodes
Ashley	Harsha	Roncalio
Badillo	Johnson, Calif.	Rudd
Bolling	Kastenmeier	Ruppe
Bowen	Kemp	Santini
Breaux	Kindness	Scheuer
Chappell	Koch	Shuster
Clawson, Del	LaFalce	Skubitz
Conyers	Lehman	St Germain
Cotter	Lujan	Stump
Coughlin	Lundine	Teague
Crane	McClory	Udall
Cunningham	Moakley	Ullman
Davis	Murphy, N.Y.	Vander Jagt
Dent	Nolan	Whalen
Derrick	Patterson	Wiggins
Diggs	Pattison	Wilson, Bob
Drinan	Pepper	Wolff
Evans, Ga.	Quayle	

The SPEAKER. On this rollcall 375 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENTS BY THE SPEAKER

The SPEAKER. The Chair would like to make these announcements.

The House will consider suspension No. 2 first and then go back to suspension No. 1 when the gentleman from Arizona is available to make the motion and follow through with the suspensions. If we have not completed debate on all the suspensions by 5 o'clock, we will stop any further debate on suspensions at 5 o'clock in order that we may vote at that time.

There are Members who would like to have a vote on the first suspension immediately, but in view of the fact the Chair has given assurances to some Members that votes will not occur until later in the afternoon, the Chair feels obligated because of these previous commitments.

Pursuant to the provisions of clause 3 (b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions, to be determined by "non-record" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

RESOLUTION TO INSTRUCT CONFEREES ON H.R. 7555

Mr. STOKES. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 780) to instruct the conferees on H.R. 7555.

The Clerk read as follows:

H. RES. 780

Resolved, That upon the adoption of this resolution the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to Senate amendment numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes, be, and they are hereby instructed to recede from the House amendment to Senate amendment numbered 82 and to agree to the Senate amendment.

The SPEAKER. Is a second demanded?

Mr. CONTE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Ohio (Mr. STOKES) and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the thrust of my resolution is to instruct the House conferees to recede from the House amendment numbered 82 and to agree to the Senate amendment. I offer this resolution out of a sense of compromise and because the Senate has refused to meet with the House conferees unless and until the House has either voted up or down the Senate amendment on the abortion issue.

Mr. Speaker, I think that it is deplorable that the most important piece of social legislation passed by the House has now been tied up in conference for 3 months because of this Hyde amendment language. As conferees we agreed upon and settled without disagreement $60 billion in money items. For 3 months your constituencies and mine have been denied this important legislation because of this punitive and pernicious Hyde amendment.

As all of you know, the fiscal year will end 3 days from now and the House will be faced with the embarrassing position of either passing a continuing resolution or not funding the largest money bill for fiscal 1978 human-need programs. This entire bill is now endangered because of a difference in language over an issue; namely, whether the poor for whom this legislation was originally designed should have access to abortion services under certain circumstances.

On Monday, September 12, 1977, the Senate conferees requested that the House conferees vote upon the Senate abortion language. They based their request upon the fact that the Senate has twice voted upon and rejected the House language. In addition they have voted twice to overwhelmingly support the Brooke language, once by a vote of 56 to 39 and again by a vote of 60 to 33. In spite of this not a single House conferee other than Mr. ROYBAL and myself has been willing to put his name on a resolution which honors the request of the Senate to have you vote either up or down the Senate language. Now, I want my position to be patently clear. The Senate language is not my language. My preference is no language, and I have consistently voted against the Hyde amendment and the Conte compromise amendment. But in the sense of compromise, I offer the House the Senate language which your other conferees refuse to offer you even with the knowledge that they cannot go back to the conference table until they have done so.

It is therefore in the sense of compromise that I acceded to the request of my distinguished chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON) and the distinguished chairman of our subcommittee, the gentleman from Pennsylvania, (Mr. FLOOD) that I introduce this resolution. I hope that the House will in a sense of compromise agree to accept the Senate language and save the House from the embarrassment it is now suffering.

We find ourselves in this embarrassing position as a result of the House playing doctor in an area where most of us have little or no medical training in our backgrounds. The Senate language appears to be a way for the House to now compromise and gracefully step out of this no win and embarrassing predicament.

I hope that you will support this resolution to an impossible impasse.

Mr. CONTE. Mr. Speaker, will the gentleman yield for a brief observation?

Mr. STOKES. Yes; I yield to the gentleman.

Mr. CONTE. I just want to observe—and I am sure it was an error—but in the RECORD yesterday, on page 30959, the gentleman mentioned the Senate language, but in the Senate language he leaves out the words "or medically necessary." Then, I notice in the Democratic whip notice that it also leaves out the words "or medically necessary." That must be an overt act.

Mr. STOKES. On both occasions, I say to the gentleman from Massachusetts, that was a printer's error and not our error. We submitted the Senate language as is set forth in the bill, which does contain that additional language.

Mr. CONTE. I want to thank my good friend.

The SPEAKER pro tempore (Mr. HUBBARD). The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from Ohio, a very able Member of the House, has talked about compromise. There is, certainly, in the legislative process a need for compromise on occasion. But the resolution before us deserves to be defeated soundly because it is not a compromise. There can be no compromise on the issue of life and death. That is what we are debating here today. The Senate language is so broad that without question it sanctions abortion on demand. This House on five different occasions over the last 2 years has repeatedly stood by the language as drafted by the gentleman from Illinois (Mr. HYDE), the gentleman from Massachusetts (Mr. CONTE), the gentleman from Pennsylvania (Mr. FLOOD), and others. The language that the House has voted upon deserves to be upheld today. If the gentleman from Ohio thinks the House is playing doctor in offering this language, read the other body's language. It is a most complex medical prescription of when abortions can be allowed and so broad as to allow them at any time. This is not a no-win situation. It does not embarrass the gentleman from Maryland, nor should it embarrass anyone else. The end of the fiscal year is approaching in a few days. The other body, if we soundly reject this resolution, will have to adopt the House position as last year they did when they finally capitulated to the House position, this very same language. We have voted on this five times, yes, in this House, but this sixth time, this final time when we are asked to hold firm in favor of allowing these children to live, will be one that our constituents will look at. This will be the record vote that will count. I hope this House will uphold its position in favor of the right to life and vote down this resolution by the same or a greater margin than we have defeated similar language in the past. Stand fast. This is one of the fundamental and important issues facing us in this country today, and we, the peoples' representatives, again should affirm our position.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL), the ranking minority member on the committee.

Mr. MICHEL. Mr. Speaker, I wish to outline the parliamentary situation here, which is rather unique. It comes about only by the fact that the conferees, having met several times now with the Senate, have really reached an impasse, mainly because the Senate would prefer that we at least give them a vote in the House on their language. I personally happen to think it is a legitimate request on their part, since they have had two votes on the House language, one this year and one last year. That does not necessarily mean that the gentleman from Illinois is going to vote for the resolution. On the contrary, I will oppose the resolution. But it will put us in the position that, by defeating the resolution, we can go back in conference with the Senate, telling them in good faith we had our vote, and the House, hopefully, in my opinion, will have reaffirmed its earlier position.

Then we can get down to talking seriously, because we only have several days in which to conclude action on this big money bill for Labor-HEW before the end of the current fiscal year. As we all know, the figures have heretofore been agreed to. The only hangup is this one sticky amendment.

Mr. STOKES. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. FLOOD), the distinguished subcommittee chairman.

Mr. FLOOD. Mr. Speaker, I doubt if I will take 4 minutes. The gentleman from Illinois has stated the case very well indeed. Very well. I rise, of course, in opposition to the resolution. The resolution

proposes to instruct the House conferees to agree to Senate amendment numbered 82.

The Senate amendment is, in my opinion, totally unacceptable.

Experts agree that to permit payments for abortions "where medically necessary"—that phrase is as proposed by the Senate—would open the door to abortions for all sorts of reasons, especially those related to mental health. The Senate amendment would put in language that would in effect permit payment for abortions as a method of family planning or for emotional or social convenience, which is just what the House of Representatives and the American people want to stop.

The House conferees have decisively rejected that Senate language time and time again. We have taken several votes on it in the conference, and with the exception of one conferee, all the House conferees have agreed to vote against it. The Senate conferees want the full House to vote now on their amendment, and this, of course, is our opportunity to do so.

I urge the resolution be decisively defeated so that we can go back to conference with a strengthened hand. That is what we want to do. The new fiscal year will begin just in a matter of a few days now, and it is of the utmost importance that we resolve this issue so that the $60 billion Labor-HEW appropriation bill, which affects the lives of every man, woman, and child in this Nation, can be enacted into law.

Mr. CONTE. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I rise in opposition to this resolution accepting the Senate language and urge my colleagues to continue to support the provision of the House amendment to the Labor-HEW appropriations bill.

The House version would permit the use of Federal funds for abortions only if the life of the mother would be endangered if the fetus were carried to term. But before I present the specific arguments against the Senate position, I would like to address a personal note to my colleagues.

The abortion issue is, perhaps, the most difficult one facing us as legislators and as individuals. It is difficult because support or opposition to abortion is not based on economics or practicality, but rather on our moral and philosophical beliefs. Fortunately, we are not deciding that issue today.

While I disagree, I respect the right of an individual to believe that abortion should be a matter of personal choice. However, it does not necessarily follow that such a choice should be exercised at public expense. Each year the Federal Government has been spending about $50 million for some 300,000 medicaid abortions. The importance of this fact is that it indicates significant numbers of abortions are being performed at public expense as a matter of convenience, or as a form of birth control, rather than as a matter of genuine medical necessity.

It is not my desire or intent to restrict the access of poor women to abortions when their lives would be endangered by a full term pregnancy. And, indeed, the House amendment covers this contingency.

In the past few days there has been a great deal of pressure exerted upon us by various interests, who are dependent either directly or indirectly on this Labor-HEW appropriations bill. I fully understand and sympathize with them in their dilemma. There is no one who has worked more diligently than I to assure adequate funding for necessary and worthwhile programs, whether they be in the field of health or education. And as a member of the Labor-HEW Appropriations Subcommittee, I have devoted a considerable amount of my efforts to improving the situation of the less fortunate in society. I have been particularly involved in providing additional funds for maternal and child health programs; mental health facilities and programs; the distribution of medical personnel to poverty, rural, and other underserved areas; day care facilities; educational outreach programs, including those for the underprivileged; as well as many other social service programs. I have also been a strong supporter of family planning programs, research into improved contraceptives and the elimination of barriers to adoption of unwanted children.

However, it is precisely because of this deep-seated respect for the dignity of human life and my attempts to help to preserve and better it, that I cannot accept or support the so-called compromise language of the Senate amendment.

The Senate version would allow Federal funding of abortions in the case of rape, incest, or other medical necessities. In my opinion, the language is weak, overbroad, unnecessary and would lend itself to abuse.

Instead of a genuine medical necessity, an abortion could be performed as a matter of convenience as long as a doctor authorized it as a medical necessity. Physicians have already indicated that their interpretation of "medically necessary" means "an abortion that was requested by a woman."

While a great number of individuals are opposed to abortions on demand, there are many who feel that where abortion is a medical necessity it should be funded. However, medical testimony indicates that abortion is very rarely a medical necessity. Indications are that if this "medical necessity" loophole is allowed to stand, elective abortions will be performed under the guise of mental health. For example, when California liberalized its abortion law in 1968, 92 percent of the abortions done in the first year were for mental health reasons. In short, adopting this language would mean abortion upon demand.

With regard to the rape and incest language of the Senate's version, it is my opinion that the language is unnecessary.

First, pregnancy resulting from rape is extremely rare. In Buffalo, N.Y., a study in 1969 indicated that there had not been a pregnancy from confirmed rape in over 30 years; in Chicago up through 1967 in over 9 years; and in St. Paul up through 1972 in over 10 years. In a 1968 District of Columbia report, evidence indicates that out of 300 rape victims, only 1 of those victims became pregnant.

Second, testimony from law enforcement officials indicates that inclusion of the rape-incest language would, in their opinion, induce individuals to file false rape reports in order to be eligible for Federal abortion funds. This would not only result in perjured reports, but also would raise havoc with the judicial system in investigating and processing these false reports.

Third, although it is true that the House amendment would not provide funds for abortions resulting from rape or incest, it would not prevent contemporaneous medical treatment which may prevent fertilization or implantation. This has been attested to by Attorney General Griffin Bell. Based upon this legal interpretation, the Department of Health, Education, and Welfare is and will provide for treatment of rape or incest victims as long as the treatment is prompt; that is, before the fact of pregnancy is established.

And, as in all cases, funds for abortions will be allowed if it is medically determined that the life of the mother would be endangered if the fetus were carried to term.

It is apparent from these interpretations that the rape and incest exception of the Senate amendment is unnecessary and that the House language adequately provides treatment for the victims of rape and incest.

Arguments have been raised as to the methods and safety of treatment of rape and incest victims. It is true that extensive use of DES has proven to be cancer inducive. But the use has to be excessive. Also, there are alternatives to DES which are effective and allowed under the House language as legitimate methods of treatment. I realize, however, that there is a great deal that could be done to promote better treatment programs for these victims, both in terms of medical treatment and support treatment to deal with the trauma involved. I would be the first to advocate the use of funds to promote research and implementation of new programs for these victims. But the possible inadequacies in present programs in no way justifies the use of abortion as an alternative to immediate treatment.

The Senate exemptions are so numerous and broad as to leave the Government with the obligation to pay for virtually all abortions. When the Senate passed the language on June 29, 1977, Dr. Louis Hellman of the Population Reference Bureau estimated in the Washington Post that under the Senate language, 90 percent of those abortions now performed would still remain federally financed. In contrast, under the language supported by the House conferees, Dr. Hellman estimated that "only a few thousand—possibly 1,600 a year" would be financed by the Federal Government.

When I was in the conference with the Senate I talked to the chairman of the Senate committee and I said to him "I would have greater respect for the U.S. Senate if they would vote on this amendment up or down but do not come in here with the camouflage of rape, incest, and

medical treatment because it is like driving a bulldozer through a plate glass window. Let us be honest with ourselves, that is what you are trying to do."

And because of these reasons, Mr. Speaker, I am asking the Members to reject the Senate amendment and to reaffirm their commitment to the House language as we have done so affirmatively in the past five occasions.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, I was rather astonished by the gentleman's statement that to allow medicaid abortions in the case of incest would be to create an enormous loophole; that to permit medicaid abortions in the case of rape would be to create an enormous loophole. Is the gentleman stating to the Members of this House that he is opposed to providing, for poor women, abortions in cases of incest and in cases of rape?

Mr. CONTE. The gentlewoman did not listen to me. She is dragging a red herring across the issue. What I said, and I have said it before, and I have given you the statistics time and time again, from Buffalo, N.Y., and from the District of Columbia and other parts of the country, where there have been no pregnancies because of rape. If a woman is raped, she can go in and have medical treatment and there will be no pregnancy. So, let us not drag a red herring across the issue.

Ms. HOLTZMAN. Would the gentleman answer the question?

Mr. CONTE. I would be glad to answer the question. I believe I did.

Ms. HOLTZMAN. Does the gentleman support medicaid abortions for poor women in cases of rape or incest? Yes or no?

Mr. CONTE. I am saying under this amendment and under the ruling of Attorney General Bell that any woman who is raped or is involved in a case of incest that she can be given medical treatment promptly so that pregnancy or fertilization will never occur.

So, why talk about it? It is not an issue.

Mr. Speaker, for the benefit of the Members I insert the following:

ABORTION IS, ABOVE ALL, A MORAL ISSUE

(By Eunice Kennedy Shriver)

While Congress debates the language of federal legislation on the public funding of abortion, a concerted attack is being waged on President Carter's opposition to such funding.

Even the moral basis of the president's position is being misconstrued as the imposition of his religious beliefs. Such arguments are misleading and do an injustice both to President Carter and the presidency.

Much of the confusion stems from an inability to distinguish between religious discourse and moral discourse. Religion defines man's relationship to God. Morality debates such issues as the meaning of life—human rights, justice equality and freedom—on philosophical grounds which are independent of one's religious convictions or affiliations.

When he spoke to the Houston Ministerial Association in 1960, President Kennedy said "Whatever issues come before me as President . . . I will make my decision . . . in accordance with what my conscience tells me to be in the national interest, and without regard to outside religious pressures or dictates."

In taking his stand on abortion, President Carter is saying exactly the same thing. He is proclaiming that presidential leadership above all else, must be based on moral conviction. He is not speaking from the context of his religion but with the clear voice of his conscience.

Abortion is not exclusively a religious issue. It is also a moral issue involving the moral principle of equity which Mr. Carter has vigorously supported. This principle demands respect for the rights of the powerless as well as the powerful, of the fetus as well as the mother. It insists on the right of protection and good physical care for the unborn during the uterine stage of growth and development, just as we all need and are granted various forms of protection during each stage of our lives.

It is not true, as has been claimed, that President Carter is "imposing the moral views of a minority on the majority." For example, a recent poll shows that 63 per cent of all Americans oppose governmental support of abortion through Medicaid. But it would not matter if 63 per cent were on the other side. For the deeper point is that numbers count for little when human rights are at stake.

The reason we have a Constitution and why human rights need protection is that majorities, throughout history, have often been insensitive to the rights of minorities.

The abortion issue is no exception. When President Carter expresses his concern for the rights of the unborn he acts in the great tradition of American justice by refusing to permit a powerless minority to be disposed of either by a consensus of the majority or by a decision of the more powerful.

Not only is this in the tradition of the American Constitution; it is in the tradition of the American presidency as well. From George Washington in the Revolutionary period to Abraham Lincoln in the Civil War until today, presidents have used their office to advance moral discourse and to preserve moral principles.

I think it is totally misleading to compare this with the imposition of religious doctrine. The Constitution separates church from state but not morality from government. When Theodore Roosevelt called the presidency a "bully pulpit" he was referrering precisely to the unequalled opportunity for moral leadership which the office provides.

Similarly, opposition to federal support for abortion should not be equated with the Catholic, or any other, faith. The fact, as we all know, is that many Americans of every faith—and of no religious belief at all—share the conviction that federal support of abortion (except under rare circumstances involving survival of the mother or rape or incest) is unacceptable both as moral principle and as public policy.

It is unfortunate that in the present situation the rights of the unborn can be protected only in some cases. The Supreme Court has created a form of economic inequality that is regrettable: but would there be truly greater equality if even more of the unborn had their lives terminated? Would it be more moral if all the powerless were put at risk?

Those who agree with President Carter's position recognize that the present compromise is an imperfect one. But they recognize, too, that our obligation to social justice and the needs of the poor can be met in more humane ways. Instead of spending public money on aborting the unwanted babies of the poor, we should be finding out why these babies are unwanted and alleviating the conditions which produce hopelessness, alienation and despair.

For example, the most glaring lack in our social agenda is the absence of any strong public policy towards strengthening the family and making the welfare of infants and children the center of our national concern. Even today, we are one of the few countries to deny public funds to assist young women having their first babies.

Instead of focusing only on ways to prevent infants from being born, we should be looking for times and places to strengthen families, to repair the shattered network of communication among parents and their children, to give young men and women less reason to feel rejected and unwanted themselves, and therefore less reason to reject their own children as unwanted.

We know that efforts in this direction can make a difference. One teen-age pregnancy center at Johns Hopkins Hospital and Medical School, for example, has been able to cut down on prematurity, encourage girls to stay in school, lower the level of infant mortality, dramatically reduce the number of repeat pregnancies, and at the same time, strengthen and sustain the concepts of rights, duties and responsibilities within the family life on which society is founded.

It seems to me that in the strengthening of families and the assurance of a healthy and wanted life for all babies, conscience and public policy converge.

Only in a newborn child do we see what might have been, but still might be. Only in the newborn child do we catch a glimpse of absolute innocence, pure beauty, soul untouched, raw possibility and soaring hope. Who can say that the squalling, helpless infant that we hold in our arms may not save someone from suffering or lead men into peace? Who knows?

The SPEAKER. The time of the gentleman has expired.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. Mr. Speaker, I realize that this is a very difficult vote for every Member of the House. It is, indeed, most difficult for me, as a practicing Catholic, to stand before the House in support of the resolution presented by the gentleman from Ohio (Mr. STOKES) particularly since I am opposed to abortion. The issue before us, however, is not whether abortion should be outlawed or prohibited, but whether or not Federal funds can be used to pay for abortions performed on women on welfare, medicaid, and the poor in general. We are in this predicament because the conferees have reached a stalemate. The House conferees insist on their position and the Senate members of the conference committee insist on theirs.

Let us, for a moment, however, examine the real facts. When we first went to conference the House had just passed the Hyde amendment which states, and I quote:

None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

It was the wish of the majority members of the House that voted for the Hyde language that there be a complete prohibition of the use of Federal funds to pay for abortions under any and all circumstances.

But, the Hyde amendment was abandoned by the House conferees and instead presented to the Senate conferees the Conte amendment of last year as the official position of the House.

The Conte amendment reads as follows:

None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

This was voted down by the Senate, and since both sides refused to compromise, Mr. STOKES and I decided to try to break this impasse for we all know that without this action this bill would die, and the elderly, the blind, the disabled and the poor in general would suffer the consequences.

Someone during this debate said that the truth must be known. The truth of the matter is that last year the House adopted in essence most of the present Senate language. We adopted not only the Conte amendment but the following report language which I will quote in part:

It is not our intent to preclude payment for abortions when the life of the woman is clearly endangered as in the case of multiple sclerosis, or renal disease when the fetus is carried to term; nor is it the intent of the conferees to prohibit medical procedures necessary for the termination of an octopic pregnancy or for the treatment of rape or incest victims; nor is it intended to prohibit the use of drugs or devices to prevent implantation of the fertilized ovum.

This is the language that we, the Members of the House, adopted last year. The Conte amendment without the report language is now the position of the House conferees. Given only those two choices I favor the Senate language excluding the terms medical necessity and including cases of multiple sclerosis, renal diseases and medical procedures for the termination of an octopic pregnancy.

The answer as to what we as conferees will do is now up to you.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, when this subject came before the House the last time—and I believe it was about a month ago—I pleaded with the House and with the committee to allow us to vote on the Senate compromise language. I want to compliment the gentleman from Pennsylvania (Mr. FLOOD), the chairman, and the leadership in this House for allowing us to have this vote.

I realize that there are people in this Chamber who really do believe, as one speaker said, that this is the greatest issue facing this Nation today, and they say that there will never be any way to compromise on this issue. I respect the people in this Chamber who have that belief, but I believe there is a majority of House Members who believe as I do, either we should be willing to have a different position on the subject of abortion or we should be willing to look at a compromise. For the Members in this Chamber, I just hope that they read this compromise and not just listen to all the medical experts who are speaking in this Chamber today. I think it is a reasonable compromise.

The real issue, of course, is whether we are going to have safe abortions or whether we are going to have illegal, dangerous abortions for the poor women of this country. That is the issue.

The Ambassador from Mexico just a month and a half ago said that in their country where abortion is illegal—absolutely illegal—their abortions are running almost 3 to 1 to the rate that we are having legally in the United States. No action by Congress is going to stop abortions in America.

Read this language. I believe it is a worthwhile compromise.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

In this language is there any period or requirement for time that a rape would have to be reported to the police or anybody else, to any law enforcement authority?

Mr. PRITCHARD. If the gentleman is suggesting that some woman would wait 6 or 7 or 8 months before reporting a rape, I think that is ludicrous.

Mr. VOLKMER. Is there any requirement that it be reported at all? There is none whatsoever in this provision.

Mr. PRITCHARD. I am sure if the gentleman wants to take that as the objection of the House, and he wants the committee to take it back, we can work this out.

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield further, it cannot be improved, we should have what we have now.

Mr. PRITCHARD. I just want to assure the gentleman that his objection can be taken care of, if that is his real objection to this compromise.

Mr. VOLKMER. That is just one objection to the resolution, and I have many more.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I think the Members of the House can understand what is involved in the Senate language that is before us. All the Senate language does is authorize, in cases where women are too poor to pay for abortion themselves, the right to have a safe medical abortion in the case of rape, in the case of incest, or in the case in which a doctor determines there is medical necessity.

Despite the hemming and hawing of the gentleman from Massachusetts (Mr. CONTE) on this issue, I hope almost every Member would agree that to deny a safe medical abortion in cases of rape is unconscionable and to deny a safe medical abortion in the case of incest is unconscionable, that to deny a careful, safe abortion, in a circumstance where a doctor determines it is medically necessary is unconscionable.

Despite claims to the contrary there has already been a compromise with the principle that the so-called rights of the fetus should always prevail. The House bill compromises that position by permitting abortions when the life of the mother is in danger. So the choice is not between compromise and no compromise at all.

Mr. Speaker, I think the proposal on the floor is a reasonable one. I hope it is adopted.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of the resolution of the gentleman from Ohio.

We are never going to agree very easily in this country on the great devisive emotional issue of abortion.

We are never going to accede to one point of view. The facts are confused. The interpretations are confused. The definitions, medically, philosophically, religiously, and otherwise, are not subject to one interpretation; so it behooves us all to find a middle ground, a compromise if you will, so that we can get on with this very difficult situation which afflicts not all women, but which afflicts poor women. Remember, in the United States today a woman can have an abortion if she has the money to pay for it, within the limitations set forth by the Supreme Court decision.

So the question then remains, what about poor women who cannot afford medical expenses for an abortion? Shall the Government help them?

I submit that this compromise language is reasonable. It is extremely reasonable. We should try to come together, try to agree to accept this language. It is not so shocking. It is not so outrageous. It does not offend, or should not offend, one's sensibilities, even if he or she is against abortion. It says that in the case of rape and incest you will allow and provide an abortion for a woman who cannot otherwise afford it, and in the other instance, where the language is relatively similar to the House language, where the health of the mother would be endangered. So I urge this House to let us resolve our differences. Let us compromise this matter and support the resolution of the gentleman from Ohio, and get on with the affairs of government.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I voted against the Hyde amendment consistently because it is unrealistic and because there are no exemptions for life-shortening diseases, for rape or for incest; but I am also asking you to vote no on this resolution.

No. 1, it cannot pass, anyway, because it is under a suspension of the rules and we need a two-thirds vote to pass it. If you have a majority which supports it, the Senate conferees will misread it and they will not compromise.

What we ought to do is vote no, so we can get back into conference and both sides of the conference can do what they should have done originally, which is to reach a compromise which is different than both the Senate language and the House language.

If either the Senate or the House language prevails, we will really have accomplished nothing. All we will do is assure that every year we will have the same fight. The law will bounce up and down like a ping pong ball, depending upon which group is in the majority in that particular session. I think we want a law which is consistent for all

groups to live with, even though they may not like it.

The only way we can do that is if both the Senate and House language is defeated, and we get back into conference and we can get some rational compromise on both sides.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I want there to be no mistake about what we are being asked to vote upon in this resolution: This is no compromise—it is total capitulation.

We are being asked to repudiate the House position established over five separate votes since 1976 and to capitulate to the Senate language which is abortion on demand.

In sworn testimony before the U.S. district court in New York, Dr. Jane Hodgson stated that all abortions are medically necessary.

Dr. Louis Hellman, a former HEW official who supports abortion wrote in the Washington Post 90 percent of so-called medicaid abortions would be permitted under this language.

One of the most effective supporters of abortion, a member of the other body, is quoted in the New York Times as stating—

Is there any abortion that wouldn't fit within this description?

The pregnant woman would not even have to claim she had a headache or athlete's foot to get an abortion under this language.

That the other body even came up with this amendment is a slight concession to the fact that 55 percent of a nationwide survey conducted by CBS and the New York Times said the Government should not pay for abortions, only 38 percent said "yes."

We are told that if the Hyde amendment continues in the law there will be a great increase in maternal deaths as a result of back-alley abortions. The Center for Disease Control has set up a well-funded monitoring program with two doctors roaming the country searching for maternal deaths due to back-alley abortions since August 4 when the courts finally permitted enforcement of the Hyde amendment.

They have not reported one.

Actually, the C.D.C.'s statistics issued in April 1977 indicate the leading cause of abortion-related maternal death in the United States is legal abortion.

Do not forget, the mortality rate for unborn children in abortion is 100 percent.

We are told that denying medicaid abortions is an act of cruelty toward poor women. We tell the poor they have to wait a little longer for adequate food, education and housing, but we will thrust upon you the means to kill your preborn young.

The Reverend Jesse Jackson, national president, Operation PUSH, sent everyone a telegram this month and he said:

As a matter of conscience I must oppose the use of Federal funds for a policy of killing infants. The money would much better be expended to meet human needs. I am therefore urging that the Hyde Amendment be supported in the interest of a more humane policy and some new directions on issues of caring for the most precious resource we have—our children.

Jesse Jackson is from Chicago, and his commitment to the poor is at least the equal of those who support the idea that poor unborn children are socially expendable.

We hear so much about the "quality of life" * * * but the quality of a society is measured by its concern for the rights of human beings who exist on the very edge of full humanity—the very aged, the dispossessed, the dying, and the preborn.

Our society waivers on the razor's edge of a choice between efficiency, economy, and comfort on the one hand, and respect for the lives of the weak, helpless, unproductive, and unborn on the other.

The cause against wholesale abortion is a cause for the soul of a society that must make that choice—do we want efficiency and convenience more than respect for the helpless, defenseless lives that interfere with that convenience?

Abortion is violence, whether done with a curette or a suction machine. Do we have to commit our society to violence as a solution to our socioeconomic problems?

This resolution is a step toward consigning untold thousands of pre-born children to death for the crime of being innocently inconvenient.

This resolution is a step toward transforming the medical profession from healers to executioners-for-hire.

It is a lethal resolution and ought to be resoundingly defeated.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I congratulate the gentleman from Illinois (Mr. HYDE) on his statement.

Mr. Speaker, I rise in opposition to House Resolution 780, to instruct the House conferees to recede from the House position on the Hyde antiabortion language in the fiscal year 1978 Labor/HEW appropriations bill and concur with the Senate language.

Our citizenry is sending Congress a message that is loud and clear: They do not want their tax dollars spent on abortions or abortion-related activities.

Our President—and his Secretary of Health, Education, and Welfare—have sent Congress a message that they also feel the expenditure of Federal funds for abortions is totally inappropriate.

We have been urged here today to compromise on the abortion language so that the money for important human-need programs will no longer be tied up in conference. We speak of human-need programs on the one hand, while we debate denying the most human of needs: protection of life at all stages of development.

I am certainly in favor of providing the necessary funds for the many worthy programs funded by the Labor/HEW Appropriations measure. But in ordering our priorities, certainly the issue of life and death takes precedence and cannot be compromised.

I have repeatedly stated my opposition to abortion and my support of "alternatives" legislation for dealing with this multifaceted problem—counseling services for pregnant, unwed adolescents; adoption subsidies; family planning funding and so forth. So, I will not rehash those feeling here today.

But I will state my intention to do everything I can to insist that the House version of the Hyde prohibition be ushered into the statute books with the Labor/HEW funding measure.

I commend to the attention of my colleagues the following telegram by the Reverend Jesse L. Jackson, national president of Operation Push.

CHICAGO, ILL.,
September 6, 1977.

MRS. THEA BARRON,
National Press Building,
Washington, D.C.

An open letter to Congress as a matter of conscience I must oppose the use of Federal funds for a policy of killing infants. The money would much better be expended to meet human needs. I am therefore urging that the Hyde amendment be supported in the interest of a more humane policy and some new directions on issues of caring for the most precious resource we have—our children.

REV. JESSE L. JACKSON,
National President Operation Push.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, so that we understand the parliamentary situation, if we vote yea, we are voting for the Senate language. If we vote nay, we are voting for the Hyde-Conte amendment.

Mr. HYDE. If we vote yea, we are capitulating to the Senate. If we vote nay, we are saying we meant what we said, no abortion except to save the life of the mother.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Speaker, I am opposed to the Hyde-Conte language because it would prohibit the use of Federal funds for abortions for poor people, even where the health of the mother would be permanently impaired. The woman could be left permanently crippled or with permanent brain damage and you could still not use the money to perform an abortion. I am not enthusiastic about the Senate language, but I am going to vote for the resolution in the hopes that we can come back with reasonable language that all of the Members of this House can support. I hope we will be successful in that effort.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I would just like to make several very interesting observations.

First of all, I think that if women Members of the House were voting on this, this really would not be an issue, and we would be going along with the Senate and its language allowing abortions where doctors determine they are medically necessary.

Second, we have heard a lot about "incest" and "rape." I will only remind the

Members that if we just went with language allowing abortions in cases of incest and rape, the young woman victim must go down, allege incest or rape to get an abortion, and it becomes a part of the record. Where does she go at night, when she is all finished with her abortion? Can she go home? She could be beaten for alleging rape or incest. She is not provided with any other shelter. What a horrendous choice a young girl is forced to make.

Third, more on teenage pregnancies. We hear a lot about our children and how concerned we are about our greatest natural resource, our children. Children are very important. Remember, 1 in every 10 teenage girls in America last year between 15 and 19 years old became pregnant.

The death rate from complications of pregnancy and childbirth is 13 percent greater for 15- to 19-year-olds and 60 percent greater for teenagers 14 or younger compared with women in their early 20's.

Babies born to teenagers are two to three times more likely to die in their first year than babies born to women in their early 20's.

Teenagers bear nearly one in five babies born in the United States; two-fifths of these births are out of wedlock and account for half the total out-of-wedlock births in the country.

We also see a much greater chance for teenagers around that age to have children with birth defects. I think that is a very, very serious problem. Allowing doctors to perform abortions when they determine one is medically necessary is not promiscuous abortion on demand. We are talking about complicated medical decisions and the Congress should not start down the dangerous road of quarterbacking doctors' professional opinions in this area.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. BURKE).

Mrs. BURKE of California. Mr. Speaker, I would like to address this whole question of "medically necessary." We know there are two groups of women of childbearing age who are considered to be high risk in having children.

One of those groups is women over 35. I am a person over 35 who had a child, and my doctor at no time told me there was a medical crisis involved in my having that child. But some women over 35, if they do have a child, may be advised by their doctor that it would not be advisable.

The other group is girls who are under 18. Fifteen thousand of those affected by this bill will be under 14. Some girls under 14 may be mature enough to have a child; some girls under 14 will be told by their doctor, "If you have this child, it is not going to be medically advisable."

During my lifetime girls under 14 who had children often died. Today the question is this: If you have the money and you are under 14, you can be saved, but if you are poor and under 14 and your doctor says there is a crisis involved, you may not survive. Under this bill we say to them, "If you are poor, you may not have that alternative."

Mr. Speaker, I ask the Congress to support this resolution.

Mr. RUDD. Mr. Speaker, I rise in support of the original House position—the Hyde amendment as passed on June 13—and against the Senate language.

As my distinguished colleague from Illinois (Mr. HYDE) has already noted, the Senate language is so wide open that it will allow the use of taxpayer dollars for abortion on demand.

I have received overwhelming support for the Hyde amendment and opposition to the Senate language from my own constituents.

Of particular interest is a letter from the Navajo tribal superintendent of police, who has written to support the Hyde amendment and to oppose the Senate language on rape and incest.

It is the view of Superintendent Philip Meek, Jr., who serves as police chief for the approximately 70,000 Navajo Indians in my district, that the ultimate effect of the Senate version if it becomes law will be the filing of false rape and/or incest reports by women wishing to obtain free abortions at taxpayer expense.

The House of Representatives has endorsed the language of the Hyde amendment on five previous occasions. The law already protects the woman who is the victim of rape or incest—prior to proof of pregnancy. I believe the House has a moral obligation to stand by its previous position, and I urge my colleagues to insist that we do on this vote to retain the original House language in the HEW appropriations bill.

Mr. DORNAN. Mr. Speaker, today we are considering a resolution which, in effect, says that the House of Representatives does not really stand by what it says. This resolution would direct the House conferees to the conference committee on the Labor-HEW appropriations to agree to the Senate language dealing with the funding of abortion on demand. If we agree to this language which allows "medically necessary" abortions, the House will have caved in on its oft-repeated insistence that abortion on demand should not be funded by the taxpayers.

On five separate occasions, in two separate Congresses, in 1976 and 1977, the House has cleaved to the language of the Hyde amendment which prohibits the Federal funding of abortions unless it is to save the life of the mother. Moreover, the House has been sustained in its decision and interpretation of the law by the Supreme Court.

Simply put, there is absolutely no reason now to give in to the Senate's version which would allow federally funded abortion on demand.

That repudiating our stand and receding to the Senate would permit federally funded abortion on demand has been admitted by the proponents of the Senate language. In testimony before Judge Dooling in the U.S. district court in New York, Dr. Jane Hodgson testified on August 3, 1977, that:

> In my opinion, "medically necessary" means any abortion that was requested by a woman."

In other words, any abortion demanded by a woman—abortion on demand. And Dr. Louis Hellman, a former HEW official stated that the Senate language would permit 90 percent of the medical abortions to continue. On the Senate side, Senator BOB PACKWOOD, an outspoken proponent of abortion on demand, has asked publicly of the medically necessary clause. "Is there any abortion that couldn't fit within this description?"

Anyone who does not see the reality of the Senate language has certainly not been listening to the authorities on HEW-funded abortion.

The "medically necessary" clause in the Senate language would open a pandora's box and make a farce of the attempt of the Congress to put a limit on the use of taxpayer's funds to pay for abortion. This provision of the Senate amendment is reason enough to stand fast by our commitment to the taxpayers of America that their money will not be used to fund abortion. I urge my colleagues to vote nay and support the wishes of the majority of American citizens not to be forced to pay for someone else's right to kill human life.

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 780, the legislation under consideration, and that I may be permitted to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. STOKES. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing this debate today, I just want to say this: The gentleman from Illinois (Mr. HYDE) has said that to vote for this resolution will mean capitulation; it will mean voting for a lethal resolution.

I just want to say to the House that if it were not for me, we would not have any resolution, and we would also be in the embarrassing position that we could not even go back to conference. The Senate conferees have walked out on the House conferees. They said, "Until such time as you present a resolution to the House and present our language to the House, we will not even talk to you."

I have brought this resolution here today because our conferees have put us in an embarrassing position. None of them would touch this resolution with a 10-foot pole, except the gentleman from California (Mr. ROYBAL) and myself.

I say to the Members that the House has a chance today to pull itself out of this embarrassing situation and to attempt some kind of a compromise and do something for the American people who are sitting out there looking at us while we sit here for 3 months arguing about foolish, oppressive, pernicious language in a $60 billion bill. The American people deserve better representation than that. I urge you to vote for my resolution.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, the gentleman is absolutely right. Even though I am taking the opposite side on this matter, I admire the gentleman and commend him for his courage for bringing this issue to a head once and for all so that we can get this bill out of the way.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Ohio (Mr. STOKES) that the House suspend the rules and agree to the resolution (H. Res. 780).

The question was taken.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR AGREEMENT TO SENATE AMENDMENT TO H.R. 5645, CIVIL RIGHTS COMMISSION AUTHORIZATION ACT OF 1977

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 782) providing for agreement to the Senate amendment to the bill H.R. 5645.

The Clerk read as follows:

H. RES. 782

Resolved, That immediately upon the adoption of this reolution, the bill (H.R. 5645) to raise the limitation on appropriations for the United States Commission on Civil Rights, with the Senate amendment thereto be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the bill be, and the same is hereby, agreed to with an amendment as follows:

On line 8 of the Senate engrossed amendment, strike out "$10,420,023", and insert "$10,480,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. EDWARDS) and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5645, with a Senate amendment, raises the authorization for appropriations for the U.S. Commission on Civil Rights from a current level of $9,540,000 for fiscal year 1977 to $10,420,023 for fiscal year 1978. That amendment would change the authorization amount to reflect what has already been approved by this Congress in the fiscal year 1978 appropriations—$10,480,000. This figure represents a compromise of half the difference in the House and Senate authorization bills.

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 to study and collect information on the denial of equal protection of the laws because of race, color, religion, sex, or national origin or in the administration of justice. Although appropriations for the Commission have already been approved, passage of this bill is necessary because the Commission's present authorization ends on September 30, 1977, and any supplemental appropriations for pay increases or employee benefits will require an authorization.

I ask that my colleagues join with me in supporting the passage of H.R. 5645 as amended.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority members of the Committee on the Judiciary charged with handling this bill were not here at the time the bill was called up and that is the reason I asked for a second.

I wonder whether the gentleman from California (Mr. EDWARDS) would inform me as to whether the bill has the support of the minority members, so far as the gentleman knows.

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will yield, my answer is yes, the bill has the support of the gentleman from Virginia (Mr. BUTLER) and of the gentleman from Illinois (Mr. MCCLORY).

Mr. Speaker, I thought the gentleman rrom Virginia (Mr. BUTLER) was here. He is not, but I assure the gentleman from Maryland that this bill has the support of the gentleman from Virginia (Mr. BUTLER), the ranking Republican member.

Mr. BAUMAN. Mr. Speaker, with that assurance, I have no further requests for time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and agree to the resolution (H. Res. 782).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADJUSTMENT OF STATUS FOR INDOCHINA REFUGEES

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7769) to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The Clerk read as follows:

H.R. 7769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment within three years after the date of enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

(3) the alien has been physically present in the United States for at least two years.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to the date of enactment of this Act; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

SEC. 2. Upon approval of an application for adjustment of status under section 1 of this Act, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

SEC. 3. Any alien determined to be eligible for lawful admission for permanent residence under this Act who acquired that status under the provisions of the Immigration and Nationality Act prior to the date of enactment of this Act may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

SEC. 4. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this Act, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 1(a) of this Act. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

SEC. 5. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this Act.

SEC. 6. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this Act the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

SEC. 7. Except as otherwise specifically provided in this Act, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this Act shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill which the committee brings to the floor today is designed to authorize the adjustment of status of some 150,000 Indochina refugees who have been admitted to the United States as well as some additional refugees who are in the process of being admitted.

At the current time these refugees are in a "parole" status and the bill would authorize them to acquire the status of permanent resident aliens, which would eventually allow them to become naturalized U.S. citizens.

This legislation is noncontroversial, and the Members will note that the bill has been cosponsored by all of the members of the Subcommittee on Immigration, Citizenship, and International Law and was unanimously approved by the full Judiciary Committee. There is ample precedent for the enactment of legislation of this type. For example, legislation was enacted in 1958 for Hungarian refugees and in 1966 for Cuban refugees both of whom entered this country in such substantial numbers that their adjustment of status was impossible under the normal provisions of the Immigration and Nationality Act.

By authorizing the adjustment of status of these Indochina refugees, this bill will serve two primary purposes: First of all, it will overcome the effect of various state laws which limit employment opportunities in certain professions and occupations to aliens who have acquired permanent resident status. These include, among others: Accountants, architects, barbers, engineers, manicurists, nurses, teachers, and law enforcement officers.

In addition to these statutory restrictions, many employers are reluctant to hire refugees because of their parole status, and that status makes them ineligible to enlist in the U.S. Armed Forces. Furthermore, many refugee students are required to pay nonresident tuition fees because they are parolees and not permanent residents, even though some have resided within a particular State for well over 2 years.

Another less tangible—but still important—benefit resulting from this legislation would be the removal of the sense of insecurity felt by these refugees as a result of their ambiguous parole status. Testimony presented by Departments of State and HEW indicated that this uncertain legal status has created a great deal of anxiety and uneasiness among the refugee population and that the granting of permanent residence status to them would facilitate their assimilation into American society.

I will now attempt to briefly explain the major provisions contained in the bill for the benefit of my colleagues. First of all, it authorizes the Attorney General in his discretion to adjust the status of those refugees who file applications for such adjustment within 3 years from the date of enactment of the bill.

Two separate categories of Indochina refugees are covered by this bill—namely those who were in the United States at the time of the Communist takeover in their respective countries and those who fled during or after that takeover.

The bill further provides for their retroactive adjustment of status to March 31, 1975—a date which covers all of the countries involved—or to their date of arrival into the United States, whichever is later.

In order to be eligible for adjustment of status the refugees would be required to file an application and to have been physically present in the United States for a period of 2 years. In addition, the refugee would be required to be admissible under the Immigration and Nationality Act with the exception of certain documentary requirements, the labor certification and literacy requirements, and the ground of exclusion relating to public charges.

Provision is also made for the spouse and children of the principal refugee regardless of their nationality.

Another provision of H.R. 7769 would make ineligible for adjustment any person who "ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion."

Finally, the bill grants permanent residence without regard to the 20,000 per country limit on immigration or the 170,000 limitation on immigration from the Eastern Hemisphere so that these refugees do not compete for immigrant visas with other qualified immigrants.

As I have stated, Mr. Speaker, this bill is noncontroversial in nature, is strongly supported by the administration—and I might add by the previous administration—and by the American Council of Voluntary Agencies, representing some 44 different voluntary agencies.

In fact, I am not aware of any opposition to the enactment of this proposal, and as a result urge my colleagues to support this meritorious legislation.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my appreciation to you for scheduling floor action on my bill, H.R. 7769, to adjust the status of the Indochinese refugees to that of permanent residents. I also wish to commend Chairman EILBERG and my fellow members of the Subcommittee on Immigration and the full Judiciary Committee for reporting this bill to the House for action.

As you will recall, 2½ years ago the Subcommittee on Immigration met on a daily basis to deal with the very human problem of the thousands of refugees created by the fall of Indochina. The Congress performed admirably at that time and, in a very brief period, we were able to enact into law the Indochina Migration and Refugee Assistance Act establishing a program to assist Indochinese refugees in their resettlement in this country. As part of that bill we required periodic reports to the Congress which deal with the many issues involving the resettlement of the Indochinese refugees. In reference to the pending legislation which would allow the refugees to acquire permanent residence, the March 21, 1977, HEW task force report to the Congress reads as follows:

In addition to providing an important emotional benefit to the refugee population, such legislation would have the practical effect of enabling refugees to overcome present limitations that prevent them from competing for some jobs, that deny them entrance into other occupations because of state or union regulations, and that deny in-state college tuition benefits in some places.

In addition, the General Accounting Office has studied the refugee program and has reported three separate times on this program. Their report of May 10, 1977 indicated that legislation such as my bill, H.R. 7769, would "pave the way for U.S. citizenship and more job opportunity."

Mr. Speaker, the underemployment of refugees, the result of their uncertain immigration status, has caused many to resort to public assistance. While the employment rate for refugee males was 94.6 percent—compared with 93.5 percent for the overall U.S. male population, and 86.4 percent of refugee females, compared with 91.5 percent for overall U.S. female population—36 percent of the refugees are receiving some cash assistance. Such figures indicate that the number of refugees actually employed is practically the same as the number of U.S. workers employed. The need for some refugees to resort to welfare assistance is not due to their unwillingness to work, but rather their need to supplement their income due to their underemployment.

What we see is a high work ethic among Indochinese refugees and at the same time a severe problem of underemployment.

As the June 20, 1977, HEW task force report states:

Enactment of such legislation would open a wide range of employment opportunities to refugees, helping them become more fully self-sustaining. It can also make them eligible for instance tuition rates at many state

colleges and universities, and for enlistment in the U.S. Armed Forces.

Mr. Speaker, enactment of this legislation will permit these refugees to achieve the ability to be fully self-sustaining, of which I know they are capable.

Turning to the provisions of my bill, it would provide that any alien:

First. Paroled into the United States after March 31, 1975;

Second. Physically present in the United States for at least 2 years; and

Third. Found to be admissible as an immigrant under the Immigration and Nationality Act, with certain exceptions, is eligible to become a permanent resident. Such permanent residence would be retroactive to his date of arrival in the United States.

My bill applies to natives or citizens of Vietnam, Laos, or Cambodia, and the spouse or child of those refugees granted permanent residence. It allows all persons who fit within these categories to adjust their status if they are otherwise admissible and have been physically present in the United States for 2 years. My bill would specifically waive the grounds for inadmissibility dealing with the requirement of a labor certification, the public charge provisions, the requirement for a possession of valid immigration visas, literacy, and special requirements relating to foreign doctors. It specifically makes ineligible any alien who ordered, assisted, or otherwise participated in the persecution of others because of race, religion, or political opinion.

Refugees so adjusted to permanent residence would not be charged against any quotas and would not be required to pay any fees for such adjustment of status.

This is a comprehensive bill that deals with the several categories of persons that have been paroled into the United States as refugees. It should be noted that special legislation has been enacted in the past to deal with large groups of refugees who have been allowed to come to our country, such as refugees from Hungary following the 1956 uprising (Public Law 85–559), and the Cuban refugees who fled that country in 1959 and the years following (Public Law 89–732).

I believe we now are in a similar situation where legislation is needed to allow the Indochinese who we have accepted into our country to participate more fully in our society as permanent residents. It is appropriate that we now enact legislation to allow them to adjust their status and allow these people to get on with the task of rebuilding their lives in their new country.

This legislation had the support of the Ford administration last year. I urge its enactment.

Mr. EILBERG. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I am pleased today to support H.R. 7769, a bill which would grant permanent residence status to over 150,000 Indochinese refugees who were legally admitted to the United States as parolees and are living here on a permanent basis.

I urge my colleagues to support H.R. 7769. This bill will have a beneficial impact on thousands of Indochinese refugees who are living in the United States; and, in that it enables these refugees to enter the mainstream of our society, the bill is beneficial to all people in our country.

REFUGEE LAWS OUTDATED

Our laws governing the admission of refugees are antiquated. In my opinion, it is misleading to admit people on a permanent basis and then call them something other than permanent residents and not give them the rights and responsibilities of residents. The Indochinese refugees are here. We gave them the opportunity to resettle in the United States, and we should now grant them a status that reflects the fact that they are here permanently, if they so choose.

Refugees are admitted into the United States either as parolees or conditional entrants. The immigration status of a refugee seems to indicate that he or she is in a probationary status; and that, if the individual manages to survive the probationary period, the refugee will be allowed to stay permanently and become nondeportable. This is a misconception.

The fact of the matter is that any alien, including a permanent resident, can be deported. Under section 241 of the Immigration and Nationality Act, any alien who entered the United States fraudulently, who was ineligible for admission at the time of his entry, who is convicted of a crime involving moral terpitude, who is an anarchist, Communist or member of a totalitarian party or advocates the violent overthrow of the United States, can be deported. Calling refugees parolees or conditional entrants does not protect the public from undesirable aliens.

LEGISLATION PROVIDES NEEDED PROTECTION FOR REFUGEES

Unlike permanent residents, parolees are not granted "green cards" which aliens are generally expected to use to prove that they are legally allowed to secure employment. Aliens without green cards are prohibited from entering the Armed Forces; in some States they cannot practice medicine, and in other States, their children are denied instate tuition rates. Unless an adjustment bill is enacted, it will take years, if it is ever possible, for the Indochinese refugees to obtain permanent resident status. It simply does not make sense to create an arbitrary barrier to frustrate the efforts of refugees to secure employment or obtain an education. Our laws should encourage refugees and other legal aliens to become productive members of our society—rather than public charges whose conditional status stands in the way of their complete assimilation.

The Indochina war caused inordinate suffering among Southeast Asians. We have, and rightly so, offered them a haven in our land, as well as the rights and responsibilities of living here. We should not leave their status in limbo. We should at least grant them the dignity of an immigration status that eases them into the mainstream of American life, and gives them the chance to be considered on an equal par with other legal residents. Such substantive reform—while needed—is not the purpose of this legislation. Yet enacting H.R. 7769 would be an important first step in the effort to remove misleading and outdated immigration laws from the books. Again, I urge your support.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. SAWYER), a member of the subcommittee.

Mr. SAWYER. Mr. Speaker, I am from the Grand Rapids area of Michigan. We have some 700 refugees that we took in on this program, 150 families. It has been run under the direction of the Reverend Howard Schipper. They have done a fantastic job. These are great people with an exceedingly high work ethic. They have 100 percent employment of those that are in the labor market in our area. At this point in time, only 19 of these families are requiring any kind of public assistance.

The problem is not employment or unemployment or the desire to work or the ability to find jobs. It is, as has been stated here, the problem of underemployment. This is brought about by language barriers, custom problems to some degree; but to a large degree by this parolee status which prevents them from getting into some kinds of employment for which some of them are very well qualified.

Mr. Speaker, I think this is a very good step. I can conceive of no group or individual that would have objection to letting these people move from a parolee status into the mainstream and measure up to their capability in the employment market.

Mr. Speaker, I, too, want to congratulate the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. EILBERG) for very efficiently, effectively, and promptly getting this legislation on the floor.

Mr. FISH. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. FENWICK), who had the first piece of legislation introduced in this chamber on this subject.

Mrs. FENWICK. Mr. Speaker, I thank my colleague.

Like my other colleagues, I, too, congratulate the chairman of the subcommittee and the ranking member.

This is the kind of legislation that without opposition accomplishes something so good and so much in the tradition of our country. We are dealing here with tragic people. We use the word refugees, but of whom can it be said more truly than of these people, escaped from a harsh and cruel totalitarian regime. As we read in the paper, many of them launched themselves in little boats, hoping to be picked up, with inadequate food, with children and babies, men and women.

So they come to this country as, indeed, they should. What this bill does is to give them the opportunity to be what they can be, industrious, hardworking, ingenious people, able to settle down and make some life of what is left of the wreck of their country and their hopes.

Mr. Speaker, I think this is a splendid bill. I congratulate again the chairman and the ranking member and the House.

Mr. STARK. Mr. Speaker, today I rise in support of H.R. 7769 which adjusts the status of Indochinese refugees. I represent the State of California which has the largest population of Indochinese refugees. The Indochinese refugees have proven that they are an extraordinarily hardworking and industrious people. Their unemployment rate is lower than the unemployment of the general American population. Yet, this hardworking people still have many obstacles to overcome. One of these obstacles is underemployment. Many Indochinese who are highly trained people have been forced to take unskilled jobs. H.R. 7769 which I support today would remove one of the obstacles to self-sufficiency for the Indochinese. H.R. 7769 would adjust the status of these Indochinese from that of temporary parolees to permanent resident aliens. This adjustment would greatly assist the Indochinese in becoming fully self-reliant participants in our society. There is no real alternative to the approach adopted in H.R. 7769. This legislation is absolutely essential for any humane policy toward the refugees. This bill has widespread support and I fully endorse it.

Mr. EILBERG. Mr. Speaker, I have no further requests for time.

Mr. FISH. I have no further requests for time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 7769.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

STAFF ALLOWANCES FOR FORMER PRESIDENTS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9278) to amend the Act of August 25, 1958, with respect to staff allowances for former Presidents.

The Clerk read as follows:

H.R. 9278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of the first section of the Act of August 25, 1958, entitled "An Act to provide retirement, clerical assistance, and free mailing privileges to former Presidents of the United States, and for other purposes", as amended (3 U.S.C. 102 note) is amended by inserting after "$96,000 per annum" the following: "adjusted as provided in paragraph (2)), except that for the first 30-month period during which a former President is entitled to staff assistance under this subsection, such rates of compensation in the aggregate shall not exceed $150,000 per annum (adjusted as provided in paragraph (2))".

(b) Subsection (b) of the first section of such Act is further amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Effective at the beginning of the month in which an adjustment taking effect after September 30, 1977, under section 5305 of title 5, United States Code, occurs in the rates of pay under the General Schedule, each amount subject to adjustment under this paragraph shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such amount (including any previous adjustment) which corresponds to the overall average percentage of the adjustment in the rates of pay under the General Schedule.".

SEC. 2. The amendments made by the first section of this Act shall take effect October 1, 1977.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will considered as ordered.

Mr. BAUMAN. Mr. Speaker, is the gentleman opposed to the bill?

The SPEAKER pro tempore. Is the gentleman from Illinois opposed to the bill?

Mr. DERWINSKI. No, I am not.

The SPEAKER pro tempore. Is the gentleman from Maryland opposed to the bill?

Mr. BAUMAN. Yes, I am opposed to the bill and I demand a second.

The SPEAKER pro tempore. The gentleman qualifies.

Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is important that H.R. 9278, a relatively simple and uncomplicated bill be acted on under this expedited procedure today in order to correct an inequity which will soon be upon us.

The purpose of the bill is to increase the authorization for funds to pay for staff of former Presidents from the current $96,000 per year to $150,000 per year, but only during the 30 months immediately following termination of funds provided to former Presidents under the Presidential Transition Act. In the case of former President Ford, this will occur on October 1 of this year, less than 1 week from now. The $96,000 amount currently authorized would continue permanently following the 30-month period.

In addition, both levels of authorization—the $150,000 and the $96,000 would be increased each year by an amount equal to the average comparability pay raise granted each October to other Federal employees. This is the same method used to increase the clerk hire allowance each year for Members of the House.

Simply stated, former Presidents would be authorized funds for staff in accordance with the following timetable:

One. The initial period immediately upon leaving office—such funds as are authorized by the Presidential Transition Act.

Two. For the next 30 months, $150,000 per year, adjusted annually by the average comparability pay raise.

Three. Thereafter and for the remainder of the life of former Presidents, $96,000 adjusted annually by the average comparability pay raise.

Mr. Speaker, it is clear that the activities of former Presidents are generally quite hectic immediately upon leaving office and, for the most part, subside after a few years. For instance, I understand that President Ford has received and will respond to tens of thousands of letters on the issue of the Panama Canal Treaty alone; hence the bill establishes a declining rate of authorization.

This authorization was last increased in 1970 from $80,000 to $96,000. Given the rate of inflation that has occurred in the last 7 years, it is only right and equitable that we act now so that former Presidents will have adequate funds to enable them to perform their work. H.R. 9278 is important and necessary. I urge the passage of this bill.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I support the effort of my distinguished committee colleague to provide an increase in the staff allowance for former Presidents of the United States.

The bill provides a reasonable formula for accommodating the staff needs of a former President for a 30-month period after the expiration of funds appropriated for the 6-month transition period following a President's leaving office.

As my colleagues are aware, there are two laws providing staff assistance to former Presidents. One is the Presidential Transition Act of 1963 which authorizes up to $1,000,000 for staff and related expenses for a 6-month period to "promote the orderly transfer of executive power in connection with the expiration of the term of office of a President." Following that, a former President is authorized a staff allowance under the Former Presidents Act of 1958. It is the latter act that this legislation amends.

Presently, the law provides a staff allowance of $96,000 a year for former Presidents. The last time this allowance authorization was adjusted was in 1970 when it was increased from $80,000 to $96,000.

The legislation before us authorizes a base allowance of $150,000 for a 30-month period, following which the au-

thorization is reduced to a base allowance of $96,000. This formula recognizes continued demands on former Presidents during the period immediately following the transition period and the need to provide adequate staff assistance during that period.

The bill also provides annual adjustments in the base allowance in a manner similar to the adjustments made in congressional staff allowances. That is, the allowance is increased by a percentage equal to the average percentage increase which occurs under the annual comparability pay act for Federal white collar employees.

Mr. Speaker, this legislation provides a practical and continuing solution to the problem of meeting staff requirements of our former Chief Executives and deserves the support of this body.

Mr. Speaker, I would like to point out that the gentleman from Arizona very effectively has described the purpose of the bill. But I would like to put this in a somewhat more personal fashion. The specific reason for this bill is that as of October 1 the transition funds involving the immediate former President, Mr. Ford, expire. Mr. Ford turned back to the Treasury a very substantial portion of the transition funds that he was provided, and, as the gentleman from Arizona pointed out, due to inflationary complications, as well as the ongoing demands on the immediate past President, it is deemed proper that for a 30-month period the funds be increased. I think if we keep in mind what we know to be the very busy official schedule of the former President, and the fact that he has been called on by President Carter to address a number of issues, we can see that the immediate past President does in fact bear a substantial workload and does in fact require the additional staffing these funds would provide. That is the practical purpose.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I would like to inquire of the gentleman from Arizona as to the status of the President prior to President Ford under this bill.

Mr. UDALL. If the gentleman will yield, let me say to the gentleman that, if I had my way, the last President before President Ford would get nothing. It seems to me he left office under unusual circumstances. If this had been the Army I suspect we would classify him as having an "other than honorable" discharge. But officially he left office without any cloud over his rights. He is officially just as much a former President as any of the others. The reason we draw the distinction in this bill is that in the first 30 months after a President leaves office we feel there is a much greater demand and much more work.

He will continue to get the $96,000 figure.

Mr. VOLKMER. This piece of legislation would not affect his allowance?

Mr. UDALL. No. There is a $96,000 allowance made for ex-Presidents. He gets it now. He will continue to get it under the bill. He will get nothing except the cost-of-living comparability adjustment that other Federal employees on other Federal staffs would get.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, could the gentleman from Arizona tell me whether or not hearings were ever held in subcommittee or in committee on this legislation and, if so, when?

Mr. UDALL. If the gentleman will yield, the answer is no, they were not held, so I cannot tell him when.

Mr. BAUMAN. The bill in fact was only introduced yesterday?

Mr. UDALL. The bill was introduced yesterday.

Mr. Speaker, if the gentleman will yield briefly, I will explain it more fully.

Mr. BAUMAN. Certainly, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I do not like to legislate this way, I will say very frankly to the gentleman. This bill was introduced by the chairman of the Committee on Post Office and Civil Service, the gentleman from Pennsylvania (Mr. NIX), on September 23.

I think the explanation is that it slipped up on us. President Ford had recently contacted me, the Speaker, and some other Members, including the gentleman from Illinois (Mr. DERWINSKI). Former President Ford had suddenly discovered that as far as this quite substantial staff that he now has under the Presidential Transition Act is concerned, the money for that staff has run out. Here he is, with thousands of letters coming in every day, with public appearances to make and testimony to give, and we were putting him in a position that I did not think we should put a former President in.

If we had gone through hearings and through markup in the subcommittee and in the full committee, there would have been a real gap in the staff support available to former President Ford. It is to accommodate him that we are moving ahead on this schedule in this way.

Mr. BAUMAN. Am I correct in my assessment of the figures available that the increase in allowances for former President Ford will be in the amount of $64,600 under this legislation?

Mr. UDALL. The gentleman is correct.

Mr. BAUMAN. And the increase for former President Nixon will be $6,800?

Mr. UDALL. Yes. He only gets the cost of living addition to his staff allowance. Mr. Nixon would only get the comparability payment addition, if you will. There is no adjustment made for him, in his basic allowance.

Mr. BAUMAN. But that is the amount Mr. Nixon will get as a result of this bill?

Mr. UDALL. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, I will just say that while I am not opposed to proper compensation or expenses for former Chief Executives of the United States, providing funds for the answering of the mail, it is startling to hear the gentleman from Arizona (Mr. UDALL) say that one of the reasons for this increase is that former President Ford is receiving a great volume of mail—perhaps 10,000 letters so far—as a result of his statements on the Panama Canal.

If the taxpayers are in fact to be asked to finance Mr. Ford's propaganda in favor of this treaty, a stand which is at odds with the majority viewpoint of the people of the country and at odds with the 1976 Republican national platform on the issue, I just wonder whether or not this is an appropriate expenditure of public money. If he wants to propagandize in favor of the treaty, he ought to do it at his own expense. I cannot quite understand this thinking.

Mr. UDALL. Mr. Speaker, will the gentleman yield to me?

Mr. BAUMAN. Yes; I yield to the gentleman from Arizona.

Mr. UDALL. Would the gentleman feel differently if President Ford were against the treaty? Does the gentleman think he ought to be enabled to answer his mail if he were against the treaty?

Mr. BAUMAN. Mr. Speaker, if the gentleman from Arizona will get former President Ford to change his wrong position, then I will be glad to respond to that question.

Mr. UDALL. Mr. Speaker, will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. There is an analogy here that we ought to bear in mind.

When a Member retires from Congress or from the House of Representatives, people do not stop writing to the Member that morning. People continue to write a former Member.

So we have had on the books for a hundred years, I suppose, ever since we have had the frank, a provision that gives retiring Members the frank for the first 90 days after they are out of office.

Mr. Speaker, I find this bill somewhat in that same kind of context.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, appreciating, as I do, the great statesmanship of the gentleman from Maryland (Mr. BAUMAN), I will make this statement.

Mr. BAUMAN. I have learned all my statesmanship from the gentleman from Illinois (Mr. DERWINSKI) by watching him closely.

Mr. DERWINSKI. Mr. Speaker, I would just like to point out that what we are talking about here is staff allowance.

The immediate past President is in great demand by virtue of the wishes of numerous groups who appreciate his contributions to the country and his stature as a real statesman. I think all of us who have worked with him know he is a human being and not necessarily perfect, so, on occasion, we could have honest differences of opinions on issues with him.

Keeping in mind that a former President is in need of a staff in a position like Mr. Ford's, he has communicated that need to the leadership of both Houses.

I think this is a very reasonable proposal, one that directly affects only the staff needs of the immediate past President.

Mr. BAUMAN. Mr. Speaker, I thank both the gentlemen for their explanation.

I just thought, in view of the fact the legislation has had no hearings nor did it go through the usual committee procedure, it would be well to have a full discussion. I think we get the picture as a result of the remarks that have been made.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the minority leader.

Mr. RHODES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the bill, H.R. 9278, has been brought here as a result of the communication by the former President with the Speaker and me. I am sure that we would all agree that former President Ford is the best judge of his own needs as far as clerk-hire is concerned.

Nobody can anticipate the needs of a past President. They may be large, they may be small. It happens that this particular past President is receiving mail in volumes which he could not have anticipated and which we could not have anticipated either. I believe that when he says he does need this additional fund he does mean it. I feel that it is certainly in the interests of the country that any former President have the wherewithal to execute the duties which remain and to respond to the many people who continue to write to him and to deserve a reply.

Once a person is President, he never quite gets away from the office as long as he is living. This ex-President, being, certainly, the conscientious man we all know him to be, will want to discharge those duties. I hope we will give him the wherewithal to accomplish that.

Mr. UDALL. Mr. Speaker, I yield myself 1 additional minute.

I would like to make one point: $150,000 seems like a lot of money. However, I think we should bear in mind that an ex-President was President of a country containing 215 million people, a lot of whom feel they have a right to correspond with him and to get an answer.

Mr. Speaker, to put the matter into better perspective, that staff allowance is less than 50 percent of the staff allowance of a Member of the House of Representatives representing 450,000 people. Therefore, we are giving the ex-President of the whole country about 40 or 45 percent of the staff allowance for 30 months that we give to a Member of Congress.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 9278.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. BAUMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill H.R. 9278.

The question was taken.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

HUMAN RIGHTS IN CAMBODIA

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 724) to express the House of Representatives deep concern over the disregard of basic human rights in Cambodia, as amended.

The Clerk read as follows:

H. RES. 724

Whereas the foreign policy of the Carter administration gives high priority to the issue of human rights conditions around the world;

Whereas there have been numerous credible accounts by refugees from Cambodia telling of countless killings and other barbaric brutalities by the Government of Cambodia; and

Whereas the United States and the peoples of the world must protest the brutality taking place within Cambodia: Now, therefore, be it

Resolved, That the United States House of Representatives—

(1) expresses deep concern over the continuing disregard for basic human rights, including atrocities and killings, of the Cambodian people by the Government of Democratic Kampuchea; and

(2) calls upon the President to cooperate with other nations, through appropriate international fora such as the United Nations, in an effort to bring the flagrant violations of internationally recognized human rights now taking place in Cambodia to an end.

The SPEAKER pro tempore. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLARZ) and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise not only as a Member of the Congress but as someone whose people were the victims of what may well be the greatest crime in the history of mankind. It is hard to believe, but it was only three decades ago, after the liberation of Buchenwald, Auschwitz, Bergen-Belsen, Treblinka, and other death camps, whose names too will go down in the annals of demonology, that the world finally and fully realized the extent of the horror of Hitlerism. I wish I could forget the sad events of those unfortunate days, but they remain, no matter how hard I try, a vivid and haunting memory.

I remember how, during the years in which Germany dominated most of the continent people were rounded up throughout the Nazi-occupied countries and herded into ghettos in Warsaw and Lodz and elsewhere around Europe. I remember how they were taken from the ghettos and sent to extermination camps like Treblinka, Auschwitz, Buchenwald, and Bergen-Belsen. I remember that when they arrived at the extermination camps they were stripped completely naked and sent into the gas chambers where they lost their lives: I remember how 6 million people, men, women, young children and old folks, artists, rabbis, carpenters, bakers, housewives, just plain people, who wanted nothing more than to lead their lives and serve their God, were sent to their deaths. And I can remember, while all of this went on, while 6 million died, how Popes and presidents and prime ministers stood by in silence and said nothing.

I would have hoped after the holocaust that the world would have learned its lesson and that the extermination of the Jews was the last chapter in the brutal history of man's inhumanity to man. Alas, that was not to be the case.

When the Khmer Rouge entered Phnom-Penh in April of 1975, signalling the collapse of the Lon Nol regime and the end to the war in Cambodia, there was hardly anyone who realized that the curtain was about to rise on a new act in the deadly drama of mass murder.

There was, I think, throughout the world a sense of relief that the slaughter and the killing which had taken place in Cambodia during the course of that conflict had come to an end and, indeed, in Cambodia itself, there was similar feeling of relief as the victorious Khmer Rouge troops entered their capital. As the Communist cadres marched into Phnom Penh they were acclaimed by the inhabitants of that city, not only with a sense of relief, but almost with a sense of joy, not so much because they identified themselves with the aims and objectives of the Khmer Rouge, but because the war and the killing had come to an end.

How wrong, how tragically wrong they were, because within only hours of the time that those Communist troops entered the capital of Cambodia, the curtain had gone up on what has since, we now realize, become one of the most monstrous crimes in the history of mankind. The Khmer Rouge troops immediately proceeded to completely evacuate the city. Three million men, women and children, even the sick and the infirm who were in hospitals, even those who were on their death beds, were forced out of their homes, were forced out of the hospitals, and sent on a forced march into the countryside.

Never before in the history of mankind had a regime attempted to so radically restructure the basis of the social

order in a country. The cities were completely depopulated, and on that march into the countryside—for which no preparations had been made, for which no food had been set aside, for which no water was available, for which no medicine was nearby—literally thousands upon thousands of Cambodians lost their lives. When they reached the remote countryside, they were ordered to build housing for themselves, and they were sent to work, regardless of their background, in the jungles, clearing areas and constructing rice paddies, and sent to work in the fields. Once they had done that, the new regime began to systematically slaughter, to isolate, to single out and to execute anyone who was in any way identified with the old regime. It was not just that they were slaughtering and murdering officials of the old regime, or people who served in the army of the Cambodian Republic, they also began to slaughter anyone who had an education.

Our committee held hearings on this dreadful situation, and we were told that that it had apparently been the policy of the Cambodian Government to murder anyone considered an intellectual, and by their terms an intellectual was anyone who had a seventh grade education. I regret to tell the Members that these killings are continuing today, and the country has been turned into one vast concentration camp. The people who live there are forced to get up at dawn. They are sent to work in the fields until about noon. They are given maybe a half hour or an hour for lunch, which consists of a meager ration of rice. They work until sundown, and then after having dinner are often herded together for indoctrination lessons in the evening.

Starvation throughout the country is rampant, and while no one knows for sure how many have lost their lives to malnutrition, to disease, and to execution, the best estimates we have are that it is, at the very least, in the hundreds of thousands and, yes, may well exceed 1 million.

We talk about the problem of genocide. We think of how the Germans slaughtered the Jews. We think of how the Turks slaughtered the Armenians. But what we have in Cambodia is something which is almost unprecedented in the annals of human history. It is something for which in a way the existing language is inadequate. Jean Lacoutre, one of the most esteemed and respected students and scholars of Indochina, who has recently written a book about these events, said the only way to describe it was to coin a new phrase, the phrase of autogenocide: The slaughter of a people by their own people.

Since the fall of Phnom-Penh in April 1975 about one-quarter of the Cambodian people have been slaughtered by their own Government, and there is no end in sight to these mass killings.

So, the Members might ask, what can we do about it? Probably not very much. This is an isolated regime. There are only eight countries in the world that even have diplomatic relations with it, and those countries that do have ambassadors in Phnom-Penh are restricted to 100 yards of their embassies in terms of their ability to send their diplomatic personnel out into the countryside. It is a country which appears to be impervious to what other countries and other peoples think about it. They are so determined to be autonomous that they accept no aid or assistance from other countries that conceivably could be terminated. Consequently, boycotts and embargoes probably would not do much, and I do not know anyone who has suggested that an expeditionary force should be sent into Cambodia in an attempt to free the people of that wretched country from the grip of the regime that has come to power. But the fact that we probably cannot do very much does not mean that we cannot do something and does not mean that we should not in some way, however inadequate that may be, attempt to deal with this dreadful situation.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I certainly concur wholeheartedly with the purpose of this resolution.

I recently had an opportunity to talk to three refugees from Cambodia, one of them living in my district, and they presented to me the horrors that the gentleman from New York has described regarding the people that live in that sorrowful land.

They also gave me, and I inserted in the RECORD on September 7, two resolutions, one adopted by Cambodian refugees in the United States and Canada, and one by a group of Cambodian refugees in Washington, D.C. Both resolutions were forwarded to the United Nations more than a year ago. It is my understanding they have received no action by the United Nations at all and no response.

I notice the pending resolution asks the United Nations to take some action. I wonder if it is not something of a useless gesture in the light of what has happened to ask the U.N. to act on this.

Mr. SOLARZ. Mr. Speaker, the gentleman raises an important point. It seems to me that the central existential fact of human history was the slaughter of 6 million Jews by the Nazis in World War II. As someone who has thought very hard and very long about that sad experience, I want to tell you that I have been haunted by a statement that was attributed to Hitler at the height of the holocaust when he was discussing his plan to exterminate the Jewish people with some of his henchmen. During that discussion he observed that, when the Turks had slaughtered the Armenians at the end of World War I, mankind said very little and that the world soon forgot what had happened to the Armenian people. Hitler's point was that in the same sense that international public opinion had ignored the slaughter of the Turks, so, too, could the Germans reasonably expect that mankind would ignore the slaughter of the Jews.

It seems to me it is not inconceivable that if mankind had spoken out more forcefully at the time that the Armenians fell victim to the Turks, that Hitler might have thought twice before launching his extermination program against the Jews.

Is it not possible that if we now express our concern, express our protest over what is happening in Cambodia, that even if we cannot prevent what is happening there, we might discourage such developments in the future.

I think it was Emerson who once said:

> The only thing which is necessary for the triumph of evil is for good men and women to do nothing.

This resolution expresses the concern of the Congress over the events which have taken place in Cambodia since the end of the war. It talks about the brutalities and barbarities and the countless killings that have taken place. It calls upon the President to raise this question at the United Nations and other international forums.

We cannot, to be sure, say that it will work. Probably it will not work. God knows that we bear a measure of responsibility for setting in motion the forces which led to the present situation. It was, after all, our invasion and our bombardment of Cambodia which created the civil war which ultimately led to the triumph of the very regime whose activities we now deplore; but the fact that our moral credentials may not be pure should not prevent us from speaking out now. Were we to accept that argument, it would be a formula for moral and political paralysis and we would be unable to express our concerns with respect to the existence of immorality and evil anywhere in the world.

So I say to my colleagues, in conclusion, that even if this resolution is not about to bring an end to this terrible killing, I would hate to think, when the final history of our country is written, that during the years when these terrible events in Cambodia were taking place, the Congress of the United States and the American people remained silent and said nothing and were indifferent to the plight of these unfortunate people.

Let us at least make our position clear. Let us speak out and let us hope that by so doing we can encourage others in our own country and elsewhere around the world to express their outrage as well.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I rise in support of what the gentleman has said, and particularly the perceptive comment regarding the fickleness of what we might call world opinion—the fact that so often the world does seem to be blinded to inhuman activity.

I would point out one further area, though. It seems to me that even in this country we have a degree of a double standard. The Chinese Communists, for example, are guilty beyond a shadow of a doubt of exterminating upwards of 10 to 15 million of their own countrymen. That is a regime that is still in existence, and yet for some reason or other, which always seems to evade my understanding, we in this country seem to look with favor on that country, particularly our Presidents, past and present. We do not

seem to hold them to the same standard that my colleague from New York is properly saying that we should hold the Cambodians. Or the PLO, for example.

I think perhaps in some cases we in the United States contribute to that very world opinion that Hitler was alluding to some quarter century ago.

I thank the gentleman for bringing this particular area of inhumanity to our attention. I would only hope that across the board we would try to keep it balanced and applied to all the people in the world who are using this unexplained and unforgivable type of political solution, the extermination of their fellow men.

Mr. DERWINSKI. Mr. Speaker, I wish to address myself to this resolution and urge its support.

Mr. Speaker, once in a while in the course of human events, something occurs of such staggering dimensions that many dismiss it as untrue. The autogenocide addressed in the resolution now before us is a case in point. The magnitude of the slaughter taking place in Cambodia has now reached such mind-boggling proportions that many just cannot believe something like this can happen in today's world.

I, too, felt that way until I listened to the findings of a variety of witnesses before our Subcommittee on International Organizations. Especially impressive was the testimony of State Department's principal Cambodia watcher, Charles H. Twining, who based his conclusions on information gleaned from hundreds of interviews of refugees fleeing from Cambodia since the overthrow of the Lon Nol government. From those interviews, Mr. Twining deduced that after the systematic liquidations in 1975 of Cambodians tied to the Lon Nol government, the new regime began—in early 1976—killings of "all other intellectuals." He went on to define an intellectual as "anyone who had a seventh-grade education or above."

In light of that testimony, Mr. Speaker, Congress is morally obliged to speak out through House Resolution 724 on this deplorable situation. As columnist Anthony Lewis put it so well several months ago in the New York Times:

> To remain silent in the face of barbarism as enormous as Cambodia's would be to compromise our own humanity. It would be to say that hundreds of thousands of Cambodians do not count in the human scale. It would be to repeat the West's corrupting mistake in 1972 of ignoring tribal genocide in Burundi. In today's world, we ignore mass murder anywhere at our own peril.

Mr. Speaker, it must be noted that the lack of congressional support for U.S. policy in Cambodia played a role in consigning the people there to a Communist hell. It also should be noted that congressional thwarting of Ford administration efforts to help sustain the Government of South Vietnam led to total communization of that country. Certainly, when one looks at the suffering of the people in Cambodia, it would be impossible to reason that the Cambodian Reds are merely the agrarian reformers of the 1970's.

Mr. Speaker, I would like to point out to the Members of the House that the gentleman from New York (Mr. SOLARZ) was very effective in developing this resolution and seeing that hearings were held; and in interrogating witnesses who appeared before us, especially one who was actively defending the Government of Cambodia. I would like to point out that he has very, very accurately and properly dramatized for us the historic issue here. That is mankind stood by silently while the Turks perpetrated the first modern genocide against the Armenians. There was too little done when the German Nazis attempted to exterminate the Jews.

Now we have in this case of Cambodia, in my judgment, a situation where people are being wiped by their own. At this point, I direct the attention of the Members to the fact that our colleague from Ohio (Mr. PEASE) has introduced a resolution calling for hearings in the House on the subject of atrocities being perpetrated in Uganda by the government there against its own people. So, I commend the gentleman from New York for the initiative he has taken. Notwithstanding the hopelessness, we feel that at a time like this it is nevertheless essential that we do write a proper record, and we are doing that this afternoon.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. Mr. Speaker, I yield as much time as she may consume to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding to me. What we have heard this afternoon does honor to the speakers and to this House. It is fitting that we should try, no matter how unproductive it may be, to establish in this world a sense of solidarity with those who suffer. We cannot stand by in silence.

I think it was Mr. Scranton, our Ambassador to the United Nations, who said that we cannot stand by and watch such cruelty without seeming to condone it; even more profoundly, perhaps, without becoming in some sense accomplices.

Like the earlier speaker, I, too, watched what happened in Germany. It changed the course of my life and pushed me into politics, which I had never contemplated as a younger woman. That is what this century ought to have taught us, that we are all human beings on this planet, to some extent responsible one for another. We cannot stand silent and watch what is taking place in Cambodia. It is proper that we pass this resolution. I had hoped that somebody would do this, someone from the Committee on International Relations, and I commend the gentleman from New York and our ranking minority Member for having presented it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I just wanted to pursue again the point I posed to the gentleman from New York, which he never really quite answered. The gentleman from Illinois also raised another aspect of the same point.

This resolution calls upon the President to call upon international fora, such as the United Nations, to deal with the persecution and genocide in Cambodia. I point out that the United Nations has had before it for almost a year two resolutions presented by numerous Cambodian exiles, regarding this problem and the U.N. has failed to do anything.

The United Nations Commission on Human Rights, meeting a few months ago, refused to debate the issue of Idi Amin and Uganda. Yet the United Nations is ready in this current session to debate at great length the issue of Rhodesia, where no one is being slaughtered by the government but by roving guerrilla bands supported by many members of the U.N.

It seems to me the actions of the United Nations are highly selective as to what human rights are involved and where they want to have them enforced. That immoral selectivity demonstrates hypocrisy as I see it.

Mr. DERWINSKI. Mr. Speaker, the gentleman is correct. The U.N. members performing in New York have hurt the reputation of U.N. They have hurt its effectiveness. By applying purely political approaches to world problems they have rendered the U.N. far less effective than it should be.

The gentleman made a very practical point. We will see a U.N. session in a few weeks that will play a political game, a resolution against Israel. That is because of the political makeup of the U.N. It is unfortunate, but those of us who have worked with the U.N. recognize that it is an imperfect body, because of the political nature of the membership and the manner they perform. That, however, does not take away the point made by the gentleman from New York that by dramatizing this issue, by emphasizing our interest, we might somehow start to develop the momentum that could bring about an overdue but certainly legitimate interest in the plight of the poor people in Cambodia.

Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I rise in support of this resolution, and I want to associate myself completely and wholeheartedly with the remarks of the gentleman from New York (Mr. SOLARZ).

Mr. Speaker, there is no reason why this resolution, which expresses the concern of the House with the disregard of basic human rights in Cambodia, should not pass unanimously. I hope that we will have a recorded vote on this matter. The magnitude of the slaughter which has taken place and, we are told is still going on, defies comprehension.

There are two brief points that I would like to make. The first is that the national media have, with only a few exceptions, failed to give this situation the attention and exposure it deserves. Reports which I have seen indicate that approximately 2 million persons have perished since the Communists came to power. That is out of a pretakeover population of 7 million. There are a few questions, and they are rhetorical to be sure, which must be asked on behalf of those whose voices have been stilled. Where are the front page newspaper articles. Where are the angry editorial denunciations. Why the deafening silence from

those who are charged with informing the people of current events.

Second, our Nation seems to be preoccupied with allegations of human rights by governments which are, or have been, our allies in world affairs. But we seem to want to disregard even more outrageous actions by those who have in the past chosen to be our adversaries. Our attitude seems to be one of ignoring the problem in the hope that it will go away. This might be a variation of the old philosophy of benign neglect. The only thing we can be sure of is that if we continue to ignore the problem—only those who have so far managed to survive will go away.

It does not matter in the least to me whether the wrongs are committed by a Communist or non-Communist government. It does not matter whether the victims are in Asia, Africa, Europe, or South America. The taking of life is wrong. Depriving a people of their right to self-determination is wrong and cannot be tolerated. No distinctions can be made in this area—to do otherwise is the height of hypocrisy. I hope and pray that my colleagues in the House will join me in unanimously approving this resolution. It is the very least we can do.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Resolution 724, expressing the concern of the Congress regarding the disregard of basic human rights in Cambodia. The sponsor of this resolution, the gentleman from New York (Mr. SOLARZ) is to be commended for focusing the attention of the House on the tragic turn of events in Cambodia, since the takeover of that country by the Khmer Rouge.

Hearings held by the Subcommittee on International Organizations, chaired by Congressman FRASER, revealed numerous reports of widespread bloodshed and gross violation of human rights in Cambodia in the last 2 years.

Equally disturbing were the reports of drastic government action directed against the masses of the population, such things as forced migrations and forced labor, along with short rations and lack of medical supplies and attention have reportedly resulted in the needless and callous loss of thousands of innocent lives.

It is the duty of the Congress to express the opposition of the American people to such evidence of official violence against individual lives wherever this might occur. To stand by without even voicing our opposition to the evident disregard by the Khmer Rouge for human rights and particularly human lives, would be a dereliction of duty.

Mr. WAXMAN. Mr. Speaker, the horror started within hours of the Khmer Rouge's sweeping entry into Phnom Penh. Sydney Schanberg of the New York Times captured the astonishing events in an article that was to win him a Pulitzer Prize. More than 2 years ago, as one of the last Westerners in Cambodia, he wrote,

> Perhaps as many as four million people, most of them on foot, have been forced out of the cities and sent on a mammoth and grueling exodus into areas deep in the countryside where, the Communists say, they will have to become peasants and till the soil . . .
>
> In Phnom Penh two million people suddenly moved out of the city enmasse in stunned silence—walking, bicycling, pushing cars that had run out of fuel, covering the roads like a human carpet, bent under sacks of belongings hastily thrown together when the heavily armed peasant soldiers came and told them to leave immediately, everyone dispirited and frightened by the unknown that awaited them and many plainly terrified because they were soft city people and were sure the trip would kill them.
>
> Hospitals jammed with wounded were emptied, right down to the last patient—limping, crawling on crutches, carried on relatives' backs, wheeled on their hospital beds.
>
> The Communists have few doctors and meager medical supplies, so many of these patients had little chance of surviving . . .
>
> Everyone, Cambodians and foreigners alike, thought this had to be Phnom Penh's most miserable hour . . .

But the hours have turned into days, the days months, and the months years. In all that time, the suffering, the hardship, the senseless, cruel, horribly calculated murders of a people—the dismemberment of a society—have continued.

It is thought the Khmer Rouge, so jaded by the Indochina wars, have decided to eradicate completely the last vestiges of all that was associated with the last regimes. They have cut off Cambodia from the rest of the world. Completely. They have emptied the cities. Completely. They have moved the population into communes in the countryside for the production of rice. They have shunned outside assistance, relying solely on nothing more than themselves.

And whoever cannot survive such an upheaval, dies.

It has been estimated that from several hundred thousand to 2 million of Cambodia's 7 million people have died since the end of the war. This represents nothing less than genocide.

What is occurring in Cambodia is beyond the pale of humanity, beyond any rationale, any justification, any ideology, any nationalism, any redemption.

As one commentator has recently written, "Clearly, Cambodia has fallen into the hands of monsters."

It is long past the time that the world—so sensitive to compelling issues of human rights everywhere—no longer be silent in the face of these crimes against humanity.

House Resolution 724, expressing our concern for the disregard of human rights in Cambodia, breaks our official silence by calling upon the President, through cooperation with other nations, to work to bring this barbarism to an end.

Passage of this resolution is a pitifully small step when weighed against the enormity of Cambodia's holocaust. But conscience demands that it be the first.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and agree to the resolution (H. Res. 724) as amended.

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 38, noes 0.)

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Does the gentleman from Ohio (Mr. ASHBROOK) object to the vote on the ground that a quorum is not present?

Mr. ASHBROOK. No. Under article I of the Constitution, which requires a quorum be present for the conduct of business, I make the point of order that a quorum is not present.

Mr. SOLARZ. Mr. Speaker, I ask for a vote on the resolution.

The SPEAKER pro tempore. Does the gentleman from New York (Mr. SOLARZ) object to the vote on the ground that a quorum is not present?

Mr. SOLARZ. No objection.

Mr. RONCALIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ORDER OF BUSINESS

Mr. ASHBROOK. Mr. Speaker, I insist on my point of order that a quorum is not present, as required under the Constitution, for the conduct of business.

The SPEAKER pro tempore (Mr. MURTHA). The Chair will inform the gentleman that further proceedings have been postponed, there is no longer a pending question being put to a vote, and under clause 6(e), rule XV, the point of order is not now in order.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ASHBROOK. Mr. Speaker, the Chair counted the House not more than 1 minute ago and found that not even 40 Members were present. I do not think any Member was present who did not stand. There was clearly not a quorum present.

I want the record to show that I object to that. I think my rights and responsibilities as a Member of Congress have been diluted by this rule, and I want to object to further proceedings because there is not a quorum present, as required by the Constitution.

Mr. Speaker, I make a point of order to that effect.

The SPEAKER pro tempore. The Chair will inform the gentleman that the Chair merely counted a division vote, and did not count the House.

The Chair recognizes the gentleman from New York (Mr. SOLARZ).

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

BICENTENNIAL COMMEMORATIVE MEDALS

Mr. FAUNTROY. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 386) to provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789.

The Clerk read as follows:

H.J. RES. 386

To provide for the striking of a national medal to be issued annually in commemoration of the bicentennials of outstanding historic events and personalities from 1777 to 1789

Whereas the Bicentennial of the adoption of the Declaration of Independence of the United States of America has been commemorated with the breadth and dignity befitting the American diversity, and

Whereas the Bicentennial celebration during 1976 saw the majority of our citizens participate in activities which helped to improve the quality of life for millions of Americans in thousands of communities across this nation while each were brushed with a sense of our past, our history, and

Whereas the Bicentennial year has given us great impetus to continue our historical review as we realize that the signing of the Declaration of Independence was only the beginning of our struggle to become a nation, and

Whereas it was the ratification of the Constitution and the inaugural of our first President the following year that truly signaled the beginning of our success under the great American experiment, and

Whereas the Members of the Congress of the United States of America recognize that from the careful study and commemoration of past events and writings can we have a better understanding to make sound judgments affecting our future, and

Whereas the Congress of the United States assembled in the United States Capitol Building stands as a working and living symbol of our Republic, the oldest continuously democratic form of government in history, and

Whereas the United States Capitol Historical Society represents all Americans through their duly elected Representatives who themselves are members of the Society, and

Whereas the United States Capitol Historical Society was founded in 1962 with the express purpose to encourage an understanding by the people of the founding, growth and significance of the Capitol of the United States as a tangible symbol of their free representative government, and

Whereas the United States Capitol Historical Society has historically undertaken scholarly research, citizen study of the Constitution of the United States and other significant contributions to art, restoration, publication and film without appropriated funds to promote an understanding of the richness and inspiration of our history, and

Whereas the United States Capitol Historical Society seeks to foster and increase an informed patriotism of the land in the study of those historic events and personalities who contributed to the founding of the Nation and our Constitution form of government, and

Whereas the United States Capitol Historical Society recognizes the need to promote greater awareness of the events which led to the adoption of the Articles of Confederation, our first effort at governing our Republic, the intervening struggle for independence and finally the adoption of the Constitution of the United States of America, and

Whereas it is recognized that one means to generate a greater awareness of the events and personalities who helped form our national fabric is to commemorate these events and personalities on medals to be struck by the Secretary of the Treasury and made available for purchase by the citizenry; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in commemoration of the Bicentennial of the founding of the United States of America and the adoption of the Constitution of the United States of America and of those individuals who participated in the American Revolution, the Secretary of the Treasury shall strike and furnish to the United States Capitol Historical Society (hereinafter referred to as the "Society") no less than one medal each year for thirteen years with suitable designs, emblems and inscriptions to be determined by the Society, with the concurrence of the Commission of Fine Arts, subject to the approval of the Secretary of the Treasury. The thirteen medals shall be made and issued at such times and in such quantities as may be required by the Society and subject to the approval of the Secretary of the Treasury but no medals shall be made after December 31, 1989. One of the thirteen medals shall honor President James Madison, and shall be issued to coincide with the dedication of the new James Madison Building of the Library of Congress and also commemorate the establishment of the Library of Congress. The thirteen medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

SEC. 2. The medals shall be furnished by the Secretary of the Treasury to the Society at a price equal to the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses. The Director of the Mint is authorized to announce the availability of the medals to the collectors of coins and medals whose names and addresses appear on the customer lists maintained by the Mint. Security satisfactory to the Director of the Mint shall be furnished by the Society to indemnify the United States for full payment of the costs of manufacture and announcement of the medals.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be struck in bronze, silver and gold and shall be of such size or sizes as is determined by the Secretary of the Treasury in consultation with the Society.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from the District of Columbia (Mr. FAUNTROY) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have sponsored this resolution for the U.S. Capitol Historical Society.

The resolution would authorize the U.S. Mint to strike and furnish to the society one medal each year for the next 13 years. These medals would commemorate the bicentennials of historic events that occurred during the revolutionary era from 1777 to 1789.

The resolution authorizes the mint to announce the availability of these medals through their mailing lists. All costs of the manufacture and the announcement would be reimbursed by the society, and there would, therefore, be no expense to the Government.

Joining me in the sponsorship of the resolution is the ranking Republican member of the Subcommittee on Historic Preservation and Coinage, Mr. LEACH. We were joined by Mr. WRIGHT, the Democratic leader, and Mr. RHODES, the Republican leader, and by Mr. CONABLE and Mr. PICKLE, who are members of the board of the U.S. Capitol Historical Society. The chairperson of the Joint Committee on the Arrangements for the Bicentennial, Mrs. BOGGS, also joined us in sponsoring this resolution. The joint committee, of course, ceased to exist at the end of the 94th Congress.

The departmental report indicated that the administration has no objection to this bill.

The resolution was unanimously favorably reported by both the Subcommittee on Historic Preservation and Coinage and the Committee on Banking, Housing, and Urban Affairs.

At this time I would like to yield to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my subcommittee chairman for yielding.

Mr. Speaker, I would just like to make two points. First, let me say that I strongly support this bill.

The first point I wish to make is that our subcommittee is very, very reluctant—and we are continuing this policy—in the matter of passing bills which will compete with private coinage. The only reason for this particular bill is that this bill is aimed at a very worthy cause, which is the study and preservation of the Capitol Building itself.

The second point I would like to make is that the bill itself is a tribute to the Honorable Fred Schwengel, who is president of the Capitol Historical Society. I am honored to represent the district which he formerly represented, and I am sure that every Member in this Chamber will agree that no one has contributed more to the history and preservation of the Capitol itself than has Mr. Schwengel.

Mr. FAUNTROY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I rise in support of this measure as well.

May I say first that it is important to understand that there will be no cost to the taxpayers if this joint resolution is adopted.

The Capitol Historical Society will underwrite the costs, although the Mint will strike the medals. There is no single Federal agency responsible for the

remainder of the Bicentennial period; and I am very pleased that our Historical Society has come forward to advance Bicentennial activities in ways that will allow them eventually to raise substantial sums of money to carry on this and other work of the Society.

That work involves not only the historical art projects going on within the Capitol, but the sponsorship of a symposium relating to the Bicentennial period, which will be held annually and which will provide a high level of scholarship for our understanding of the events of the bicentennial period and the years intervening between the Revolution and the signing of the Constitution.

Mr. Speaker, the medals will be available to all collectors. There is a rather well defined group of medal collectors in the country, and it is a predictably successful project. For that reason, Mr. Speaker, the Members should have no reservation about supporting this project.

I would like to urge the Members to take some interest in the work of the Capitol Historical Society. The gentleman from Texas (Mr. PICKLE) and I both serve on the executive committee, and it is performing very interesting work, not only in exploring the historic background of this most historic building in the United States, but also in contributing to the understanding and traditions of our country and the art heritage that is included within these walls.

Mr. Speaker, I would like to join the gentleman from Iowa (Mr. LEACH) in his remarks about the President of the Society, Mr. Schwengel, a very selfless and dedicated person whose interest in history is well known to us all and whose contributions through the Capitol Historical Society have been significant.

Mr. FAUNTROY. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. PICKLE), a cosponsor of the legislation with the gentleman from New York (Mr. CONABLE).

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the distinguished chairman of the Subcommittee on Historic Preservation and Coinage, the gentleman from the District of Columbia (Mr. FAUNTROY), for his leadership on this resolution of which I am a cosponsor.

This resolution is the result of a great deal of hard work and planning by many people. It was an effort primarily led by our former colleague the Honorable Fred Schwengel who is now the president of the U.S. Capitol Historical Society.

I hope that my colleagues will join in supporting this very worthy project to strike 13 commemorative medals to celebrate our Nation's history. While some people may think that our Bicentennial celebration ended on December 31 last year, that year was only the beginning of our celebration. Just as the signing of the Declaration of Independence was only the beginning of a long hard fight to establish a free republic, our celebration last year was just a beginning of our recognition of our 200th birthday.

That Declaration on July 4, 1776, was the beginning of a battle that culminated in April of 1789 with the inauguration of our first President.

The purpose of this resolution is to create a series of medals to commemorate the events of those 13 years which resulted in the establishment of our Government and the adoption of our Constitution.

All of the costs of manufacturing and marketing these 13 medals will be paid by the U.S. Capitol Historical Society. This will not cost the taxpayers anything.

The proceeds from the sale of these medals will be used to continue the outstanding work that the Capitol Historical Society began 15 years ago. It will help to continue the work of historical research, citizen study of the Constitution, restoration, and the publication of books and films. It will also help the Historical Society in hosting an annual conference addressing itself to the events of 200 years ago. This conference will be attended by leading historians and preservationists.

Mr. Speaker, our history as a Nation did not end with the signing of the Declaration of Independence; it only began. And our celebration of our 200th birthday should not end in 1976. By encouraging the commemoration, study and discussion of the events that lead to the adoption of our Constitution, we will be furthering the understanding of our heritage and the principles of our Government.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I am delighted to yield to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I thank the gentleman from Texas (Mr. PICKLE) for yielding to me. I would like to add my thanks to the committee members and others, especially the gentleman from New York (Mr. CONABLE), Mr. PICKLE, and other members of the Historical Society for bringing this legislation to the floor. Certainly the purposes of it fit in entirely with the purposes of our Joint Committee on the Bicentennial of last year because the proceeds will be devoted to a better understanding not only of our Capitol Building, but of the Congress itself and of the historical events that did take place during that era, during the time of the Revoluntionary War, and after the war, before we were finally a constituted government, to which our Bicentennial celebration was dedicated.

Mr. Speaker, I would like to ease the feelings of any who think this would interfere with private enterprise. Whenever we have had the Government issuance of a medal, instead of hurting private enterprise it has somehow or other encouraged more collectors and the issuance of more medals by private enterprise, that have a relationship to the Government issued medal. It really has helped private enterprise a great deal.

Members may be interested in knowing that the so-called unappropriated funds spent by the American Revolution Bicentennial Administration were really funds derived from the sale of Bicentennial medals. Through this we were able to not only pay all of the expenses of the Bicentennial and to share with the State commissions some of our moneys, but, having paid for our own report in a timely fashion to the Congress, and to self-destruct, as we were supposed to do on June 30 of this year, we were able to turn some of those unappropriated funds gained from the sale of Bicentennial medals over for further use in Bicentennial programs.

So I recommend very highly to the Members of this body the swift passage of this legislation.

Again I wish to thank the Members for bringing this to the floor. Also I am very grateful to Fred Schwengel for his interests.

Mr. PICKLE. Mr. Speaker, before yielding back my time, I wish to take this occasion to compliment the gentlewoman from Louisiana (Mrs. BOGGS) for the leadership she gave the Bicentennial Committee this past year. She presided over the committee with grace and dignity, fairness and determination. We could not have had a more appropriate or lovely chairman than we did in the gentlewoman from Louisiana (Mrs. BOGGS).

So we compliment the gentlewoman for her work.

Mrs. BOGGS. I thank the gentleman from Texas for his kind remarks.

Mr. FAUNTROY. I have no further requests for time.

Mr. LEACH. I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the District of Columbia, Mr. FAUNTROY, that the House suspend the rules and pass the joint resolution (H.J. Res. 386).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—ayes 43, noes 0.

So (two-thirds having voted in favor thereof), the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 386 just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

INDIAN CLAIMS COMMISSION ACT AMENDMENTS

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2664) to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20(b) of the Act of August 13, 1946 (c. 959,

60 Stat. 1054), as amended, is hereby further amended by adding a new sentence at the end thereof, as follows: "Notwithstanding any other provision of law, upon application by the claimants within thirty days from the date of the enactment of this sentence, the Court of Claims shall review on the merits, without regard to the defense of res judicata or collateral estoppel, the determination of the Indian Claims Commission entered February 15, 1974, adjudging that the Act of February 28, 1877 (19 Stat. 254), effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the fifth amendment, and shall enter judgment accordingly.".

The SPEAKER pro tempore. Is a second demanded?

Mr. COHEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. ASHBROOK. Mr. Speaker, I object and on that I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. RONCALIO and Mr. ASHBROOK.

The House divided, and tellers reported that there were—ayes 16, noes 13.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. RONCALIO. Mr. Speaker, will the Chair kindly advise the Members what we are doing. Please repeat the issue.

The SPEAKER pro tempore. The House is now voting on ordering a second in order to permit consideration of the motion.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. On this vote, if the second is ordered, what is the procedure following the ordering of a second?

The SPEAKER pro tempore. We will debate the motion to suspend the rules.

Mr. VOLKMER. I thank the Speaker. And if the second is not ordered?

The SPEAKER pro tempore. The motion will no longer be pending.

Mr. VOLKMER. I thank the Speaker.

The SPEAKER pro tempore. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 376, nays 19, not voting 39, as follows:

[Roll No. 592]

YEAS—376

Abdnor	Badham	Bonker
Addabbo	Badillo	Brademas
Akaka	Bafalis	Breaux
Alexander	Baldus	Breckinridge
Allen	Barnard	Brinkley
Ambro	Baucus	Brodhead
Ammerman	Beard, R.I.	Brooks
Anderson, Calif.	Bedell	Broomfield
	Beilenson	Brown, Mich.
Anderson, Ill.	Benjamin	Brown, Ohio
Andrews, N.C.	Bennett	Broyhill
Andrews, N. Dak.	Bevill	Buchanan
	Biaggi	Burgener
Annunzio	Bingham	Burke, Calif.
Applegate	Blanchard	Burke, Fla.
Armstrong	Blouin	Burke, Mass.
Ashley	Boggs	Burleson, Tex.
Aspin	Boland	Burlison, Mo.
AuCoin	Bonior	Burton, John
Burton, Phillip	Hillis	Pease
Byron	Holland	Perkins
Carney	Hollenbeck	Pettis
Carr	Holtzman	Pickle
Carter	Horton	Pike
Cavanaugh	Howard	Pressler
Chisholm	Hubbard	Preyer
Clausen, Don H.	Huckaby	Price
	Hughes	Pritchard
Clay	Hyde	Pursell
Cleveland	Ichord	Quie
Cochran	Ireland	Quillen
Cohen	Jacobs	Rahall
Coleman	Jeffords	Railsback
Collins, Ill.	Jenkins	Rangel
Conable	Jenrette	Regula
Conte	Johnson, Colo.	Reuss
Corcoran	Jones, N.C.	Rhodes
Corman	Jones, Okla.	Richmond
Cornell	Jones, Tenn.	Rinaldo
Cornwell	Jordan	Risenhoover
Coughlin	Kasten	Roberts
Crane	Kastenmeier	Robinson
D'Amours	Kazen	Rodino
Daniel, Dan	Kelly	Roe
Daniel, R. W.	Kemp	Rogers
Danielson	Ketchum	Roncalio
Davis	Keys	Rooney
de la Garza	Kildee	Rose
De'aney	Kostmayer	Rosenthal
Dellums	Krebs	Rostenkowski
Derrick	Krueger	Rousselot
Derwinski	Latta	Roybal
Devine	Le Fante	Rudd
Dickinson	Leach	Ruppe
Dicks	Lederer	Russo
Dingell	Leggett	Santini
Dodd	Lent	Sarasin
Dornan	Levitas	Satterfield
Downey	Lloyd, Calif.	Sawyer
Drinan	Lloyd, Tenn.	Scheuer
Duncan, Oreg.	Long, La.	Schroeder
Duncan, Tenn.	Long, Md.	Schulze
Early	Lott	Sebelius
Eckhardt	Lujan	Seiberling
Edgar	Luken	Sharp
Edwards, Ala.	Lundine	Shipley
Edwards, Calif.	McCloskey	Shuster
Edwards, Okla.	McCormack	Sikes
Eilberg	McEwen	Simon
Emery	McFall	Sisk
English	McHugh	Skelton
Erlenborn	McKay	Skubitz
Ertel	Madigan	Slack
Evans, Del.	Maguire	Smith, Iowa
Evans, Ga.	Mahon	Smith, Nebr.
Evans, Ind.	Mann	Snyder
Fary	Markey	Solarz
Fascell	Marks	Spellman
Fenwick	Marlenee	Spence
Findley	Marriott	Staggers
Fisher	Martin	Stangeland
Fithian	Mattox	Stanton
Flippo	Mazzoli	Steed
Flood	Meeds	Steers
Florio	Metcalfe	Steiger
Flowers	Michel	Stockman
Flynt	Mikulski	Stokes
Foley	Mikva	Stratton
Ford, Mich.	Milford	Studds
Ford, Tenn.	Miller, Calif.	Stump
Fountain	Miller, Ohio	Thompson
Fowler	Mineta	Thone
Fraser	Minish	Thornton
Frenzel	Mitchell, Md.	Traxler
Frey	Mitchell, N.Y.	Treen
Fuqua	Moakley	Trible
Gammage	Moffett	Tsongas
Gaydos	Mollohan	Tucker
Gephardt	Montgomery	Udall
Giaimo	Moore	Ullman
Gibbons	Moorhead, Calif.	Van Deerlin
Gilman		Vander Jagt
Ginn	Moorhead, Pa.	Vanik
Glickman	Moss	Vento
Goldwater	Motti	Volkmer
Gonzalez	Murphy, Ill.	Waggonner
Goodling	Murphy, N.Y.	Walgren
Gore	Murphy, Pa.	Walker
Gradison	Murtha	Walsh
Grassley	Myers, John	Wampler
Gudger	Myers, Michael	Watkins
Guyer	Natcher	Waxman
Hagedorn	Neal	Weaver
Hall	Nedzi	Weiss
Hamilton	Nichols	White
Hanley	Nix	Whitehurst
Hannaford	Nowak	Whitley
Hansen	O'Brien	Whitten
Harkin	Oakar	Wilson, Tex.
Harris	Oberstar	Winn
Hawkins	Obey	Wirth
Hefner	Ottinger	Wright
Heftel	Panetta	Wydler
Hightower	Patten	Wylie
Yates	Young, Fla.	Zablocki
Yatron	Young, Mo.	Zeferetti
Young, Alaska	Young, Tex.	

NAYS—19

Ashbrook	Harsha	Myers, Gary
Bauman	Heckler	Poage
Butler	Holt	Quayle
Caputo	Kindness	Symms
Collins, Tex.	Lagomarsino	Taylor
Hammer-schmidt	Livingston	Wiggins
	McDonald	

NOT VOTING—39

Archer	Evans, Colo.	Nolan
Beard, Tenn.	Fish	Patterson
Bolling	Forsythe	Pattison
Bowen	Harrington	Pepper
Brown, Calif.	Johnson, Calif.	Runnels
Cederberg	Koch	Ryan
Chappell	LaFalce	St Germain
Clawson, Del	Lehman	Stark
Conyers	McClory	Teague
Cotter	McDade	Whalen
Cunningham	McKinney	Wilson, Bob
Dent	Mathis	Wilson, C. H.
Diggs	Meyner	Wolff

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Maine (Mr. COHEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am happy to bring to the floor a bill which I believe will prevent a serious miscarriage of justice. H.R. 2664 directs the Court of Claims to review, on the merits, a decision of the Indian Claims Commission that the United States took the Black Hills area of the Great Sioux Reservation from the Sioux Nation in violation of the fifth amendment of the Constitution.

In 1877, Congress unilaterally took the Black Hills area of the Great Sioux Reservation, approximately 7,347,000 acres, in violation of the Fort Laramie Treaty of 1868. The Black Hills, valuable for gold and other natural resources, was also a religious shrine of the Sioux and they have continued to press their claim since the date of taking.

The Sioux first filed their claim for the Black Hills in the 1920's. This litigation has been before the courts for over 50 years. In 1942, the Court of Claims held that the Sioux were not entitled to recovery. There was serious question on whether the court dismissed the claim on its merits or for lack of jurisdiction.

The Sioux filed the claim again before the Indian Claims Commission. After another long, tortuous path of litigation, the Commission held in 1974 that the United States took the Black Hills in violation of the fifth amendment and that the Sioux were entitled to interest at 5 percent per annum on the principal amount, $17,500,000. They also held that the 1942 Court of Claims decision was not a bar to the claim before the Commission on the grounds of res judicata.

In 1975, the Court of Claims reversed the Commission on this issue of fifth amendment taking, holding that the 1942 court decision was res judicata. The court did not address the issue on its merits, even though it did say:

[A] more rank case of dishonorable dealings will never, in all probability, be found in our history.

Mr. Speaker, simply put, this bill will waive any defense the United States has to this claim based on res judiciata or collateral estoppel and authorizes the Court of Claims to review the fifth amendment taking issue on its merits. This bill does not, I repeat, does not make a congressional determination of the validity of the claim.

The charge is made that this bill establishes an undesirable precedent in waiving the defense of res judicata. I disagree. First, res judicata is a judicially created, technical defense designed to avoid repetitious litigation. Equity would require that, in appropriate cases, it should be waived to avoid a gross miscarriage of justice and I believe this case meets that criteria.

Secondly, the United States has, through appropriate congressional actions waived the defense in the past where claimants against the United States would be denied elemental justice. Congress has already established the precedent of waiving this defense and doing justice.

Mr. Speaker, while I am not ashamed of the record of our treatment of Indian tribes, I must admit that, in many cases in our history, the United States has acted less than circumspect in this regard. The record of our treatment of the Sioux in the taking of the Black Hills, as the Court of Claims admits, does us no credit.

I do not think that it would be honorable for the United States to now hide behind the technical defense of res judicata and deny the Sioux their day in court on the merits of this issue.

I strongly urge the Members to vote for passage of this bill.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for yielding.

I would like to recommend to the membership of the House that they just take a few minutes to read the report on this particular bill. It is a fascinating story of how the United States stole this area.

Mr. Speaker, the court that ruled against the Indians said:

A more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history.

Then the court ruled against the Indians after making that statement.

Mr. Speaker, there are technical legal objections to passing this bill, and evidently the gentleman from Maine (Mr. COHEN) is going to raise those objections. I had not intended to talk at this point because I thought I would wait and respond to his statement.

However, Mr. Speaker, I urge the Members to read the report. This area of land was given to the Indians, ceded to them, in 1868; and it was said that it would be theirs in perpetuity. In 1877 the Congress unilaterally declared that the treaty of 1868 was no longer in effect, and so, 11 years after we had given the land to them, we said, "No; the treaty no longer applies."

Then in 1943 the court said,

On the basis of the treaty of 1877, we will not allow you to file a claim under the 5th amendment.

Subsequently in 1974 the Claims Commission said the Sioux were entitled to damages for the taking of $17,500,000 plus interest at 5 percent from 1877. But the Court of Claims held in 1975 that the 1943 decision was res judicata with respect to the interest portion of the award.

Mr. Speaker and Members of the House, that is the rank double-dealing, dishonorable event which we are trying to correct by this piece of legislation.

Those Members who will fall back on the strict procedural techniques they learned in law school will undoubtedly say that res judicata applies forever and ever.

Mr. Speaker, I used to teach business law, and I used to teach my students the value of res judicata. That is fine for the court, but it is not appropriate here in Congress.

Please read the report. Please see that all this bill tries to do is to award interest which the Indian Claims Commission said the Indians are entitled to and then the Court of Claims said that they could not award it, despite the "dishonorable dealings."

Mr. Speaker, all we are saying is that the Court of Claims should consider whether or not the interest which the Indian Claims Commission awarded the Indians should be given to them. That is all this amounts to.

Again, please read the report. It is a fascinating document.

Mr. Speaker, if the Members are interested at all in history and in how we treated these conquered people, they will find the report to be one of the most fascinating things that they could read. It would only take them a few minutes. Once they read that report, Mr. Speaker, I think they will agree that this bill should be passed and passed unanimously.

Mr. RONCALIO. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker and Members of the House, I think it is no secret that I have had disagreement with the committee before on matters regarding the Indian Claims Commission; and from what I can see, I will have disagreement on some of the matters which they will bring to the floor in the future.

However, let me say that I am unhesitatingly in favor of this bill.

Mr. Speaker, we are here dealing with the largest and the most historically significant of all of the Indian claims presented against this country. Therefore, I think a little history of the situation is necessary for a proper understanding. Everyone does not have the time and will not take the time to read the report. I agree with the gentleman from Colorado (Mr. JOHNSON) that if they did, they would vote for this bill.

However, very briefly, Mr. Speaker, by act of this body in February of 1877, the United States unilaterally stripped the Sioux Nation of the Black Hills. This was a retaliation for the Custer defeat at Little Big Horn. It is one of the darkest pages in the history of our dealings with American Indians.

By a special act, this matter was brought into the Court of Claims in 1926; and in 1942, with great haste, the Court of Claims held that the Sioux claim was not proper. It is not clear, but it appears to careful students that the court held, in effect, that it did not have jurisdiction and so it dismissed the case in 1942.

After the Indian Claims Commission came into being in 1946, the Sioux claim was brought before the Indian Claims Commission; and in 1974 the Indian Claims Commission held that the act of 1877 was indeed a unilateral taking, that it was a taking under the fifth amendment of the U.S. Constitution, that the Sioux were entitled to $17.5 million as compensation for that taking, and because it was a fifth amendment taking, they were entitled to interest at the rate of 5 percent.

That judgment was then taken by the Federal Government to the Court of Claims who dismissed it, saying that it was res adjudicata, the decision of the court in 1942 barred a further claim in the court. And while they said that:

A more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history. . . .

They held that res adjudicata must prevail and that it must be dismissed.

The value at the time of the taking is really the critical issue.

Mr. JOHNSON of Colorado. Mr. Speaker, if the gentleman will yield, I think the gentleman made a misstatement and I know the gentleman knows better, and I think the point should be cleared up. The court affirmed the $17 million award and said that they could not consider the question of interest because of res adjudicata.

Mr. MEEDS. That is exactly correct. They in effect ruled that the earlier court had ruled on the fifth amendment taking aspect and they did affirm the $17,500,000 award. That is not here in controversy. The effect of this legislation is not to decide the question of the fifth amendment taking but merely to have this body waive the claims on res adjudicata, so that they can be reinstated. We are not making the final decision, the court will make the final decision, as it should. They will decide whether it was a fifth amendment taking. So it is important to understand we are not passing on any claims.

As I said earlier, this is a history of missed opportunities and bitterness by the Sioux Indians. Rightly or wrongly, this case, above all other cases, is regarded as the prime example by Indians of the white man's injustice to Indians in his judicial system.

But, despite this, a large number of the Sioux Indians have continued to press in the courts, since 1926, then in the Indian Claims Commission and the Court of Claims. Now some Sioux point to this and demand the return of large parts of seven States, but most of them

prefer to work within the system to achieve the ultimate benefits.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RONCALIO. I yield 2 additional minutes to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I thank the gentleman from Wyoming (Mr. RONCALIO) in yielding me the additional time.

Mr. Speaker and Members of the House, our failure to pass this legislation will only lend credence to the people, like Russell Means. Conversely, passage will raise the long and suffering hopes of the vast majority of the Sioux people who have kept faith in the system. And, just as importantly to the Members in this House, it will write a more honorable finish to a chapter in American history that has had less than an honorable beginning.

So I urge the adoption of the legislation.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reason I take this time is to raise some questions about the procedure, really, that we are adopting today, not so much as to the merits of the case but rather than procedure.

I would suggest, respectfully, that this bill, arguably is inconsistent with the action taken earlier this year by this Congress dealing with the finality on Indian claims. I am talking about Public Law 95–69 on the Indian claims authorization extension and Public Law 95–103, which was the extension of the statute of limitations with the United States as trustee. That is a minor issue, perhaps, but it is an argument, I think, that has to be addressed.

The gentleman from Colorado (Mr. JOHNSON), for whom I have a great deal of respect, pointed out that this really is a moral claim, and it is really an equitable claim rather than a legal one. As such, it is my opinion that it belongs in the nature of a private relief bill rather than this public act being taken today. This is a $17.5-million claim by the Sioux. It is now pending before the Indian Claims Commission. They withheld final judgment at the request of the attorney for the Sioux. The purpose, I take it, is so that the Claims Commission could add $85 million as interest.

There is also pending in the Indians Claims Commission an offset in favor of the United States against the Sioux in the amount of $45,685,000, I am told. Nothing in this bill indicates how that is going to be handled, which is one of the major concerns I have.

I would like to read, if I could, from this report. The gentleman from Colorado (Mr. JOHNSON) has asked that we read the report. I refer to page 11, where the administration in a letter to the gentleman from Arizona (Mr. UDALL) said:

> Accordingly, the administration believes that a Federal policy towards unresolved Indian claims is a necessary element for an overall Federal policy towards Indian affairs. Since the administration has not yet had the opportunity either to develop its overall policies on Indian affairs or to complete the review of all unresolved Indian claims, we strongly recommend that the Congress defer action on H.R. 2664.

On the same page, a bit further down:

> If this policy is changed for one or two tribes, there is a great potential that much of the past effort which has gone into the resolution of Indian claims may have been for naught. Therefore, we recommend that Congress defer action on the bill, pending an administration submission of a comprehensive recommendation on Indian claims. If this recommendation is not accepted by the Congress, we would recommend that certain technical changes be made in H.R. 2664.

The reason they make these recommendations, again contained on page 12 of that report, is they are concerned about the offset. Again, nothing in the bill addresses the possibility of the United States litigating that claim. It seems to me that ought to be addressed. That is one of the reasons the Department of Justice objected to this measure. They also suggested certain amendatory language, which brings me back to the point of why are we bringing this up under suspension where no amendments can be offered, because the Department of Justice has made a recommendation on page 13 of the report:

> If our recommendation to defer action is rejected, we recommend that the material in quotation marks in Section (a) of H.R. 2664 be changed to the following: Notwithstanding any other provision of law and without regard to the defense of *res judicata* or collateral estoppel the Court of Claims shall hear and determine *de novo* . . . .

Mr. Speaker, that is a critical distinction: de novo, because the chairman of the subcommittee has indicated to this body we are not making any final judgment. It is going back to court, and there the issue is going to be litigated. It will be litigated on a very narrow basis. It will not be litigated de novo but only as the Indian Claims Commission found in 1974.

I think the Department of Justice makes very solid points here. I am not passing judgment on the merits of the claim, but it seems to me when we are about to make a decision exposing the Federal Treasury to another $85 million, we ought to take into account the recommendation of the Department of Justice.

Mr. Speaker, it is for those reasons that I would vote against taking this matter up under suspension.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Speaker, some strong words have been spoken here about the misconduct of the United States which gave rise to this claim by the Indian tribes, but that is not the issue any more. The misconduct resulted in a taking, and the taking is not now disputed. The reasonable value of the property has been determined to be approximately $17.5 million, and that is not disputed. It is not in issue. The Indians are to be paid for the misdeeds of our predecessors.

What is involved now, however, is only the issue of interest. In other words, Mr. Speaker, we are talking, as seemingly in all cases, only about money—$85 million. That payment of interest is unrelated to the misdeeds of the United States. The misdeeds are compensated by paying for the taking. Interest is not payable in this case as a matter of law. That is why it is being suggested that the law be changed.

The Court of Claims determined that interest was not payable by application of the doctrine of res judicata. And certiorari was denied not once but more than once by the U.S. Supreme Court.

The appeal, then, is not one of law. The appeal is to the good conscience of this House. Frankly, my conscience is not offended by denying the payment of interest amounting to about 5 or 6 times the principal to a claimant when the United States has deferred payment in accordance with law. The United States has not arbitrarily withheld payment during this period but has simply followed the law. The United States could not have paid the interest after the court decision without violating the law. If I am to exercise my conscience it would not be for the payment of $85 million to an uncertain group of people, but rather to pay the $17.5 million as compensation for the taking.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I appreciate the gentleman yielding.

I am directing my question to my good friend and eminent legal mind, the gentleman from California (Mr. WIGGINS). I have respected his opinion in matters judicial for a great number of years.

If the gentleman had a tort claim for a wrongful deed of a little girl being hit by a drunken soldier driving near a military base and he got a judgment and then got into unconscionable legal delays which dragged on for 25 or 30 years, would he not consider it his legal duty to say as a matter of law that his client was entitled to interest for waiting all those years?

Mr. WIGGINS. Mr. Speaker, if the gentleman will yield further, in the hypothetical situation posed, the proper remedy is a private bill and not amending the basic law.

Mr. RONCALIO. I thank the gentleman. I will address the difference between a private bill and the public bill later in the debate.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Speaker, the gentleman mentioned offsets. I am unaware of any offsets pending in the Indian Claims Commission at this time. There were at some time some pending, but I do not think there are any longer because this body acted on that matter about 3 years ago.

Mr. COHEN. I am looking on page 12. It is on a different docket. It is my understanding that the Indian Claims Commission might have an offset of this other claim. But as of now there is no mention of it. It might be strictly construed that there is no offset on this.

Mr. MEEDS. I am informed by counsel that is a different claim by different Sioux and does not pertain to the Sioux Black Hills claim at all.

Mr. COHEN. On the question and colloquy addressed in this "Dear Colleague" letter, it says:

What is the position of the Administration on this legislation?

The Secretary of the Interior has reported in favor of the legislation. The Attorney General has recommended that consideration of the bills be postponed until completion of a proposed study concerning the number of Indian claims which have never been filed in court.

It did not indicate the Justice Department made specific recommendation that we not vote this procedure and we should redraft and review it as a de novo case and not as it is strictly confined in this bill.

Second, will the legislation set a precedent? It will, which is one reason why I think we should go the private bill relief route rather than this one.

In the "Dear Colleague" letter it is claimed: "The Sioux Black Hills claim is unique." I would agree. That is all the more reason why it should emerge as a private relief bill so it would not set a precedent for all the other bills that will come before this body. The Carter administration should make a policy decision and we should not be taking this action to set such a precedent.

Mr. JOHNSON of Colorado. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Speaker, several points have been raised that I think should be answered because they can be answered.

The gentleman raises a point about the type of claims handled by the Claims Commission. That was because of an entirely separate set of circumstances under which the Claims Commission was not able to handle all of its work. This does not relate to that. The Claims Commission was established because the courts before 1946 had been so unfair and so arbitrary that they caused the conscience of the country to be shocked.

So the Indian Claims Commission was established. Then the Indian Claims Commission finds the Indians are entitled to $17.5 million, plus interest, since 1877.

The court says, "Oh, no, you can't have interest from 1877, because the Treaty of 1877 prevents it."

Marvelous. Think of the injustice of that. That is a classic Catch 22 situation. I hope Mr. Heller reads this colloquy, because he can write a new book someday, because this is the Catch 22 of our session.

Furthermore, the gentleman raises the point they can pursue another course of action. There is no other course of action if you do not give them this kind of relief, because it is res judicata.

Mr. COHEN. The fact is you can submit a private bill at any time. This is not the only time. At any time you can submit a private bill. That is what the Justice Department wants to do on this matter before we set a precedent on these Indian claims.

Just this summer there was an item in the paper that certain tribes in Nevada, and Montana are going to be seeking the return of large amounts of land or $30 billion in lieu of the land.

We are setting a precedent that will be a very serious one. All I am suggesting is not to take it up under suspension, but to file a private bill or take it up under our regular procedures.

Mr. JOHNSON of Colorado. Mr. Speaker, if the gentleman will yield further, I object to the notion that the administration is the final arbiter in these situations and I am not suggesting that the House should be the final arbiter, as the gentleman suggests, with the filing of a private bill.

The Indian Claims Commission was established to avoid this kind of emotional debate, this kind of argument about res judicata, the poor Indians, or anything else.

The Claims Commission, if we examine their work, has done a good dispassionate job. This is their decision and because of a complicated legal situation, their determination is unable to be carried to fruition. What we are saying is let the court decide whether the Indian claims are valid or invalid on the basis of merit, not on res judicata from the decision in 1943, which relates back to 1877, which everybody agrees was a unilateral stealing of the Indians' lands.

Mr. COHEN. Mr. Speaker, all I am suggesting is that a private bill can be filed and will receive overwhelming support: but to come in and say on an ad hoc basis we are going to change the application of res judicata, I think is a mistake. I think we can correct the injustice by doing it in the appropriate and proper way.

Mr. JOHNSON of Colorado. Mr. Speaker, if the gentleman will yield further, what the gentleman is saying is send it to the Congress and we on the subcommittee will be beseiged with claims. The gentleman is saying we should make that decision. There is no way we can handle that volume of business.

Mr. COHEN. All the more reason we have to wait for the Carter administration to make a proposal how it will deal with all the Indian claims.

Mr. RONCALIO. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. GUDGER).

Mr. GUDGER. Mr. Speaker, I would like to associate myself in general with the comments of the gentleman from California concerning the legality of the position we are in now. I will not extend this debate with a long assessment of this problem of the doctrine of res judicata, which has been applied by the Court of Claims and sustained by the Supreme Court in the case. I have done that arguing in my dissenting opinion on page 17 of the committee report. I would like for the record to show one paragraph of that opinion. I state therein:

I would find it much easier to support a bill to grant a special appropriation to the Sioux Nation of Indians, even acknowledging therein that it is for the purpose of extinguishing a moral or equitable obligation arising upon the Black Hills claim, but I cannot justify in my own mind this exercise of congressional review of a judicial decision which I consider contravenes our exclusively legislative responsibility under the separation of powers doctrine. Furthermore I feel that it is in the best interest of the Indian Nations that their claims be resolved by law under the legal principles applicable at the time of the enactment of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049, 25 USC section 70). I feel that in each instance where Congress undertakes to rewrite the law to deal with the claim of a particular tribe or nation, it makes more difficult the closing of the old wounds and the settlement of the ancient claims which it was the purpose of the Indian Claims Commission Act to terminate and which continue in litigation now 30 years later.

Thus, under the constitutional doctrine of separation of powers, under the principle that our law should be uniform in application, and under my personal conviction that the purposes of the Indian Claims Commission Act should be executed without further congressional interference, I voted "no" in committee and will vote "no" when H.R. 2664 (S. 838) comes up for consideration by the full House of Representatives.

I firmly believe it is in the best interests of the country to not enact the legislation; however, I am not going to speak against it, other than in the dissenting opinion to which I have heretofore referred.

Mr. MILFORD. Mr. Speaker, will the gentleman yield for a question?

Mr. RONCALIO. I yield.

Mr. MILFORD. I appreciate the gentleman yielding to me. I am curious about something. We are talking about roughly $100 million in money, or at least the possibility of that much. We are talking about damage which occurred some 100 years ago.

I am curious to know, who will be the actual beneficiaries. Who will get the $100 million? How is the proposed bill's provisions going to determine exactly who will be entitled to the money and on what basis?

Mr. RONCALIO. The court will review and determine what will be the respective interests. I would presume it would be awarded to the several tribes and their members in accordance with the judgment rendered by the Court. All this does is give them a chance to go to court. They may get nothing at all.

The objection we hear, I say to my good friend from Texas, is that this ought to be a private bill and not a public bill. I submit that is not the appropriate method for the treatment of Indian claims. I have never known a private bill to hit the floor of this House and have an opportunity to be debated because three men—one of them was H. R. Gross, God bless him, I miss him—simply said, "I object."

That took care of my private bill, and after it was objected to twice it went to the bottom of the calendar. It is the old tyranny of the runaround, and that is why this bill is here today, trying to stop the runaround.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from South Dakota.

Mr. ABDNOR. I would like to stop debating the legalities and talk a little bit about this bill from another aspect. This lawsuit has been pending for over

50 years, and is a festering sore which has been breeding trouble through the 50 years. and culminated in about 1973 with the outburst of AIM at Wounded Knee. It is still a troubled area. These people, these 60,000 Sioux, are wondering if the U.S. Government ever intends to meet about this bill from another aspect: its obligation to them.

We make all kinds of payments to other groups and other countries, and they have been taken care of; yet, these people who want a chance to be heard in a court, are refused. That is what this is about.

Mr. Speaker, I am pleased today to have this opportunity to urge my colleagues to support H.R. 2664, the bill to amend the Indian Claims Commission Act, with respect to the Sioux claim for the Black Hills of South Dakota.

The Black Hills claim was first instituted over 50 years ago. In 1974, the Indian Claims Commission handed down a decision on the claim which amounted to an admission of the taking of the Black Hills from the Sioux and a liability by the U.S. Government for just compensation for the fair market value of the land in 1877, plus interest. Then, in 1975, following a Government appeal of the 1974 decision, the Court of Claims dismissed the interest portion of the claim on the principle of "res judicata," before even hearing the Sioux's side, claiming that in a decision they reached in 1942 the Sioux did not have a fifth amendment claim in the 1877 act. With that decision, the question of whether the Sioux are entitled to interest cannot now be tried—at least not until the provision of res judicata is waived.

This bill would amend the Indian Claims Commission Act by waiving res judicata in this particular case. Our Government acknowledged the taking of the Black Hills portion of the Great Sioux Reservation with the Indian Claims Commission decision of 1974. Therefore, it is not fair that we have not given the Sioux their chance before the Court of Claims to seek the interest they feel is due them.

It is not the responsibility of the Congress to decide if their claim is valid, but it is our responsibility to insure that they do have a chance to have their claim heard on its merits by the court. Passage of my bill will do just that.

Thank you for giving me this opportunity to urge your favorable consideration of H.R. 2664.

Mr. COHEN. Mr. Speaker, I yield one minute to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, I would like to ask the gentleman a question. The $85 million mentioned in this legislation refers to possible repayment to Indians for interest accrued since 1877 on this claim, but when the claim was first established it was prior to the time the Indians were entitled to constitutional protections because Congress had not conferred upon them citizenship rights. If that is the case, how can any Indian claim fifth amendment rights that were established prior to the time they were conferred.

Mr. COHEN. I am not serving on the committee. I am just addressing myself to a different aspect of the procedure.

As to whether they were entitled to fifth amendment protection or not, the problem is review on the merits. But, it is not a trial as the chairman, I think mistakenly, said a moment ago, that it would be a new trial. It is no new trial as such. It is a review on the record of the Indian Claims Commission; not a trial. They are simply going to review it.

It is simply going to review the determination made in 1974 as to the award itself, plus $85 million in interest. But there is no trial.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding so that I might respond to the gentleman's inquiry.

We are not here deciding the fifth amendment question now. This still has to be decided by the court. But, in any event, the property of all people, whether they are citizens of the United States or not, who are under the flag of the United States, is protected under the fifth amendment of the U.S. Constitution. So the fact that they were not citizens at that time does not bar this claim.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, one of the most difficult and thankless jobs in the House of Representatives is the job held by the gentleman from Wyoming (Mr. RONCALIO) dealing with the sensitive, difficult and complicated claims of Indians, and similar bills, which job he has undertaken and which he does with class, style, a lot of consciousness and compassion. I want to say he has reached a good result here, and we support him.

I commend the gentleman from Colorado, the ranking minority member on the subcommittee, for his support also.

This is a good bill and one which was recommended by the committee.

Mr. COHEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. I thank the gentleman for yielding.

Mr. Speaker, in conclusion, I would only ask those who are not decided to take a look at the last paragraph of the Senate report which accompanies the legislation. It is an excellent treatment of the res adjudicata defense and, in my opinion, adequately responds to, and surmounts the objections of the eminent gentleman from California.

Mr. Speaker, let me state again the principle here, in trying to address the unhappiness of the Indians of America.

I would like to think the gentleman from Maine would be observant enough to recognize that we are trying to meet these problems of the Indians of our Nation. That is not running away from our responsibility. We know we have problems in the Northeast and in other parts of the country. We appreciate the efforts of the gentleman from Maine in responding to these problems. And this is an opportunity to correct an evil, ancient wrong in every part of the United States. And not to say now to the Sioux, "Bring it back next year in a bill," or, "Bring back a bill granting judgment for $84 million," who are we to determine it would be $84 million? It may, of course, be nothing, or only a fraction of. Let a judge decide $80 million. Let the Sioux have their day in court. That is all we ask for in this bill.

Mr. Speaker, I ask for a yea vote.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

The real issue here is what avenue we are going to proceed on, whether we are going to follow this procedure, which runs a very serious risk of setting a precedent that this body will have to live with, with all of the other claims that will have to come before Congress in the next few years, or whether we should follow the more appropriate procedure of a private bill which will not set the precedent that this bill will set.

Mr. Speaker, I will close by referring to the report, on page 13, which reads as follows:

> . . . the Court of Claims would serve merely an appellate review function to the Indian Claims Commission's decision entered February 1, 1974. If the Commission's 1974 decision had been arrived at after a trial and after a careful consideration of the material facts and law, there might be some merit for the Court of Claims providing only an appellate review. But this was not the case. Rather, no opportunity to adduce evidence relevant to the Sioux fifth amendment claim was presented to the parties by the Indian Claims Commission, no trial was held thereon, and the parties were not given a chance to submit written briefs on the issue.

That is the reason why the Justice Department recommended a change in the language of the bill if we reject their advice to defer action for the time being.

So in view of that, Mr. Speaker, I would recommend that this bill be defeated.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. COHEN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, just so I know what the procedure would be here, if we use a private bill, one Member could object on a request by unanimous consent; is that correct?

Mr. COHEN. I am advised that is correct, but we also have the other option that we have a comprehensive proposal coming from the Carter administration in the very near future.

Mr. VOLKMER. Then you have to wait for the President to tell you what to do?

Mr. COHEN. We have to wait for the President to establish what kind of policy he is going to set regarding all the claims that are coming before this body.

Mr. Speaker, I yield back the balance of my time.

Mr. RONCALIO. Mr. Speaker, prior to 1851, the Western Sioux traditionally and aboriginally had a hunting range which covered a vast area in the northern Great Plains which extended into seven existing States. In 1851, the United States entered into the 1851 Treaty of Fort Laramie in order to secure over-

land trails to California, where gold had been discovered 2 years prior. The treaty provided for the safe passage of white emigrants through the Sioux lands and attempted to define the respective borders of the seven signatory tribes. In the ensuing years great numbers of white emigrants began to pour over the overland trails, disrupting and destroying the hunting capacity of the tribes and leading to conflict between the Sioux and the white travelers.

In 1868, the United States and the Sioux entered into another treaty—1868 Fort Laramie Treaty—in which, first, the United States agreed to abandon certain forts; second, the United States confirmed in the Sioux recognized title to a tract of land which became known as the Great Sioux Reservation; third, the Sioux surrendered all rights to permanently occupy lands outside the Great Sioux Reservation, but retained the right to hunt in an aboriginal hunting area; fourth, the United States agreed to keep all unauthorized personnel out of the Great Sioux Reservation; and fifth, the United States agreed that no further lands of the Sioux would be ceded without three-fourths consent of the adult male population.

Even prior to 1868, it was known that the Black Hills, which was located within the confines of the Great Sioux Reservation, contained gold. After the 1868 treaty, the army did attempt, though unsuccessfully, to keep gold seekers out of the Black Hills.

In 1873, Lt. Col. George Custer conducted an official exploration of the Black Hills and confirmed the existence of gold.

After this confirmation of the presence of gold, the Secretary of the Interior sent a commission to the Sioux to negotiate a sale of the Black Hills, but failed.

In 1875, President Grant and the Secretary of the Interior decided that they could no longer keep whites out of the Sioux country, and decided to buy the land. Another commission, the Allison Commission, was sent to negotiate, but the Sioux refused to sell.

In November 1875, the President decided to end all efforts to keep whites out of Sioux country and by secret order, withdrew the army. During that time, the administration asked Congress to unilaterally take the Black Hills, but the Congress refused.

One month later, on December 3, 1875, the Secretary of the Interior instructed agents to notify the Sioux that unless they returned to the reservation by January 31, 1876, they would be declared "hostiles." The Sioux were hunting off the reservation, with the permission of the Government's agents, and in accordance with the provisions of the 1868 treaty, at the time. Because of the severity of the winter, the short notice, the fact that families—rather than men only—were on the expedition, the Sioux were unable to meet the deadline.

Custer was searching for "hostiles" when he met his famous defeat at Little Big Horn on June 25, 1876. The news, which arrived in Washington during the celebration of the Nation's Centennial, incensed the Congress. Congress, by attaching a rider to an appropriations act, gave the Sioux an alternative—sell the Black Hills or starve.

After this ultimatum, yet another commission went to negotiate with the Sioux. Despite the ultimatum, less than 10 percent of the adult male population agreed to a cession agreement—far less than the 75 percent required under the 1868 Treaty.

Nonetheless, in the act of February 28, 1877, Congress unilaterally effected the acquisition of the Black Hills and abrogated all off-reservation rights possessed by the Sioux under the 1868 Treaty.

HISTORY OF LITIGATION ON THE BLACK HILLS CLAIM

After 1877, the Sioux repeatedly requested permission from the Congress to present the Black Hills claim to an impartial tribunal. In 1920, a special statute was enacted which permitted the Sioux to bring suit in the Court of Claims. The Black Hills case was filed with 12 other suits, and eventually, all were dismissed. The court, in dismissing the Black Hills case in 1942, essentially decided that the Sioux did not have a fifth amendment claim, as was alleged, for the taking of the Black Hills since: First, the United States had acted in a guardianship capacity in taking the Black Hills; and second, the promises which had been made under the 1877 act taking the Black Hills; that is, provision of certain food and rations, and addition of 900,000 acres to the Great Sioux Reservation, had been kept. The court, however, went on to say that the Sioux claim, if they had one, was a moral claim and the Congress, in the Sioux Jurisdictional Act, had not given the court jurisdiction to hear moral claims. In addition, the court made several statements in which they appeared to be questioning their jurisdiction to determine what would be "just compensation" in the event a fifth amendment taking had been found.

Upon establishment of the Indian Claims Commission, the Sioux filed another claim for the Black Hills. In 1954, the Commission dismissed the suit on the ground that the petitioners had failed to prove their case. The Court of Claims affirmed this decision in 1956.

However, the Sioux, through new counsel, requested a rehearing, which was granted, and in November of 1958, the Court of Claims vacated its judgment of affirmance and remanded the case to the Commission. On November 4, 1960, the Sioux filed an amended petition which reiterated the allegation that the 1877 act constituted a fifth amendment taking. Six years later, the Government filed its answers, which had been due within 60 days. During the intervening 6 years, the Government had first petitioned the Court of Claims for a writ of mandamus seeking to upset the Commission's actions on remand, but was unsuccessful. The Government then moved to dismiss the case, and 4 years later moved for a clarification of the record.

In 1973, the Indian Claims Commission ruled that, first the Black Hills land and minerals had a fair market value of $17.5 million; second, the 1877 act constituted a fifth amendment taking; and third, that the United States had waived the defense of res judicata and that, even if there had been no waiver, the Court of Claims dismissed the Black Hills claim in 1942, because of lack of jurisdiction. Because the Commission determined that this was a fifth amendment taking, interest at the rate of 5 percent per annum, was due. Hence, the $17.5 million award became $100 million.

The Government appealed to the Court of Claims, and on June 25, 1975, the Court of Claims reversed the decision of the Commission on the fifth amendment taking. The court determined that the issue of a fifth amendment taking had already been decided by the Court of Claims in 1942, and thus, was res judicata. The effect of this decision is to wipe out the interest payable on the claim, and leave the Sioux with $17.5 million, rather than $100-plus million.

The Sioux appealed to the Supreme Court for a writ of certiorari, which was denied the petition in December of 1975.

The case is now back before the Commission, which is determining offsets the Government can make against the claim. You will remember the "Sioux" amendment to the Indian Claims Commission Act last year which prohibited the Government from offsetting "food, rations, or other provisions" as payments on the claim.

The Commission is ready to hand down its decision, but has agreed to wait until the end of the year to give the Sioux a chance to reverse the Court of Claims' decision through legislation.

THE CENTRAL QUESTION OF RES JUDICATA

The Government is alleging that the 1942 decision of the Court of Claims was a decision on the merits of the fifth amendment taking, that the Sioux were found not to have a claim and, therefore, the case was dismissed on the merits. The Government contends that the Indian Claims Commission case is barred by res judicata.

The Sioux, on the other hand, are alleging that the 1942 decision does not state whether a judgment was entered on the merits or whether the case was dismissed for lack of jurisdiction. The Sioux say that language was employed which indicates that the dismissal was for lack of jurisdiction to determine what would have constituted "just compensation" had a fifth amendment taking been found.

The Indian Claims Commission, in its decision, decided that the 1942 court had not denied the Black Hills claim on its merits, but had dismissed the case, because of lack of jurisdiction. Thus, the issue of a fifth amendment taking was not res judicata. In support of this conclusion, the Commission cited the defendant's brief before the court, the plaintiff's motion for a new trial, and the defendant's brief in response to the motion.

In its motion for a new trial, filed July 28, 1942, the plaintiff asserted only one error of law in the court's opinion—the court's holding that it had no jurisdiction to grant any relief to the plaintiff. In its brief in response to this motion, the defendant argued that the

court was correct in dismissing plaintiff's claim for lack of jurisdiction.

The Commission also quoted language the court had included in a case 4 months after the 1942 Sioux case in which the court seemed to indicate that it did not have the authority in the Sioux case to determine what would have constituted "just compensation" if a fifth amendment taking had been found.

In order for the defense of res judicata to be sustained, the following four conditions must exist:

(1) the same cause of action;
(2) the same parties or their privies;
(3) a court of competent jurisdiction must have heard the case;
(4) a final judgment on the merits must have been issued.

The Claims Commission, in essence, decided that the third and fourth requirements had not been met by the earlier decision. Thus, the defense of res judicata could not be sustained.

Chairman Kuykendall, the lone dissenter in the Claims Commission decision, expressed his belief that the Court of Claims had heard the fifth amendment claim on its merits, and did determine that the Sioux were not entitled to recover.

In 1975, the Court of Claims reversed the decision of the Indian Claims Commission and ruled that the issue of a fifth amendment taking was res judicata. The court did not address the merits of the Sioux claim, but did admit numerous times that "duplicity" was involved in the Government's dealings with the Sioux, that "a more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history * * *" and that the "want of fair and honorable dealings seems obvious." However, the majority of the court held that the prior court did have jurisdiction to determine the taking claim, but that "there was just no valid * * * claim, whether a tribunal was provided for its enforcement or not." The court admitted that it was being lenient with the Government in its pleading of res judicata, which the Sioux contend had not been affirmatively pled, as is required. In addressing this point, the court said:

The Commission's taking theory founders on the bar of res judicata. As if doubtful of its reading of the 1942 case, the Commission strained to find an abandonment of this defense by the Government. Defendant did say in its pleadings that we held we had no jurisdiction in 1942, but explains it meant we had not jurisdiction of claims that were moral and not legal. Until after the remand by this court, the claim was actively prosecuted on the new moral grounds created by the 1946 Act. The Government shows that it gave clear notice that it relied on res judicata as to any matters properly before the 1942 Court. After 1960, when it was clear that the Indians relied on a taking theory, the defendant debated the theory in full reliance on the 1942 case. We think the Commission should have accepted the Government explanation of its pleadings, as do we. When it came to write its decision it was well aware that the 1942 decision had not been stipulated out of the case. Our policy, and the Commission's has been to be lenient with the Indians as to whether their original petition allegations filed before the jurisdictional cutoff, stated the claim on which they were ultimately to recover. It will not do, in cases under the same Act, to trap the Government in pleading allegations that were at best, ambiguous.

The lone dissenter in the Court of Claims, Judge Davis, held that the 1942 court had essentially divided the fifth amendment claim into two parts: First, whether or not there was a fifth amendment taking; and second, what would constitute "just compensation." Judge Davis expressed the belief that the 1942 court had the authority to determine whether or not a fifth amendment taking had occurred, but had no power to decide the latter question of compensation. Thus, the 1942 court was not, in his opinion, a court of competent jurisdiction. In the closing sentence, Judge Davis said:

I am not persuaded that in 1942 the Indians had the opportunity to present their 5th Amendment claim to a tribunal which deemed itself fully empowered to decide all aspects of that demand on their merits.

SHOULD CONGRESS REMOVE THE BAR OF RES JUDICATA IN THE SIOUX CASE?

There is no doubt that the ambiguity of the 1942 decision supports both sides' case, as evidenced by the Indian Claims Commission which awarded for the plaintiff, and the Court of Claims reversal which found for the defendant. In addition, in both instances, dissents were filed expressing the opposite view held by the majority of the tribunal.

The Sioux attorneys, in their petition for writ of certiorari before the Supreme Court, stated:

Without meaning to sound melodramatic, counsel can state unhesitatingly that, after a 100-year wait, an award of only $17.5 million for the cherished Black Hills, which works out to less than $300 per capita, will be thought of by the Sioux as yet another breach of faith by white institutions. Instead of settling an old grievance, this case will become a new grievance, while the long and painful transition of the Sioux from a buffalo hunting culture to a place in modern society will be set back a few more generations. The Black Hills claim is important—still a living part of our nation's history.

As I recall your conversation with Mr. Lazarus and Mr. Sonosky, you agreed to carry the ball on the Sioux bill if we could determine that the Sioux case is unique. If the bill is to pass the committee and the House, I think we will have to convince Members that the Sioux claim is unique and that Congress has, in the past, removed the bar of res judicata. The Library of Congress has done some research on this latter point, and have given us three examples of Congress taking this action. There are probably others which could be found if further research was done.

The first part of our argument—that the Sioux claim is unique—will be very difficult to prove. Messrs. Lazarus and Sonosky indicated that one of the strong points in favor of Congress acting in the Sioux case is that the claim is still open. We would not be reopening any case. The Justice Department had furnished to the Senate committee a list of 100-plus cases in which the res judicata argument had been raised. These cases, however, are all dead cases.

You will recall that we asked the Commission whether there were any pending cases in which res judicata or collateral estoppel had been raised as a defense. The Commission informed us by letter this morning that there are 24 pending cases in which the Government has raised these defenses. Eleven of those 24 are fifth amendment claims. This evidence is the most damaging, and represents the biggest hurdle to committee and House passage of the bill. Harry Webb with the Claims Commission indicates that from his viewpoint, there is no particular set of circumstances which would distinguish the Sioux case from the other active cases. I have sent a copy of the Commission letter listing the 24 cases to the Sioux attorneys so they can counter.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 2664, as amended.

The question was taken.

Mr. COHEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MONTANA WILDERNESS ACT

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 393) to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes.

The Clerk read as follows:

S. 393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Montana Wilderness Study Act of 1977".

SEC. 2 (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the "Secretary") shall, within five years after the date of enactment of this Act, review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled "West Pioneer Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled "Taylor-Hilgard Wilderness Study Area" dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled "Bluejoint Wilderness Study Area" and dated April 1976 comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled "Sapphire Wilderness Study Area" and dated April 1976, comprising approximately ninety-

four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

(5) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mount Henry Wilderness Study Area" and dated January 1974, comprising approximately twenty-one thousand acres which shall be known as the Mount Henry Wilderness Study Area;

(6) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Ten Lakes Wilderness Study Area" and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Middle Fork Judith Wilderness Study Area" dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

(8) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled "Big Snowies Wilderness Study Area" and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

(9) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled "Hyalite-Porcupine-Buffalo Horn Wilderness Study Area" and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

(10) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled "Mount Henry Wilderness Study Area" and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mount Henry Wilderness Study Area.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act, except that any reference in such subsections to areas in the national forests classified as "primitive" shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress of his recommendations with respect to such areas within seven years after the date of enactment of this Act: *Provided, however,* That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, it is with the greatest sense of honor that I today rise in emphatic support of S. 393, the Montana Wilderness Study Act of 1977. I say "honor" because this bill, along with the Absaroka-Beartooth wilderness proposal which should come before us late this Congress, represents the culmination of 25 years of service in the Congress by our distinguished friend and colleague from Montana, Senator LEE METCALF. Specifically, the bill before us today represents the product of over 4 years of extremely hard work by Senator METCALF, with the strong support of former Senator Mansfield. Indeed, an almost identical bill passed the Senate in August of last year, only to die in the House for lack of time at the end of the 94th Congress. Senator METCALF reintroduced the bill this year, and it passed the Senate unanimously in May.

From the outset it should be made clear that S. 393 is a wilderness study bill only. Not one single acre of land will be designated as wilderness if S. 393 is enacted into law. Rather, S. 393 would direct the Secretary of Agriculture to study nine areas within various national forests in Montana to determine their suitability for potential addition to the National Wilderness Preservation System. Upon completion of the studies, the President would make recommendations to Congress as to which areas, or parts of areas, should, or should not, be added to the wilderness system.

It is also important to note that because S. 393 is a wilderness study bill only, the nine areas involved would remain open to use by off-road vehicles such as snowmobiles, trail bikes, and four-wheel-drive machines, unless or until they are designated as wilderness by Congress. This point should be stressed because many opponents of wilderness study fear the areas will be closed to off-road vehicles.

It should further be understood that even if the areas are ultimately designated as wilderness, the Wilderness Act will allow the following uses, among others, to continue: First, hunting and fishing; second, grazing; third, the use of aircraft and motorboats if established prior to addition of the area to the Wilderness System; fourth, any measures necessary for the control or prevention of fire, disease, or insects; fifth, mineral exploration until 1984; and sixth, fisheries enhancement programs and facilities, including the aerial stocking of fish. As such, wilderness and wilderness study status for an area cannot fairly be said to constitute the absolute lockup of the area which many wilderness opponents allege.

I believe that the evidence accumulated during our hearings on S. 393 also irrefutably demonstrates that S. 393 will not unduly interfere with timber harvesting on Montana's national forests.

For example, U.S. Forest Service data shows that the annual allowable cut on Montana's national forests generally far exceeds the volume actually harvested, in some cases by a ratio of greater than 2 to 1. This is dramatically illustrated by the fact that in 1976, over 60 million board feet of timber were offered for sale by the Forest Service in Montana which were not purchased by industry. This amount is in excess of even the most optimistic estimates of annual allowable harvest from the nine areas in S. 393. Further, in the two study areas in the Lewis and Clark National Forest, where opponents of wilderness study argue an immediate need for the timber resources, Forest Service land use planning will not be completed until approximately 1982. As the Forest Service has agreed to refrain from timber sales in roadless areas until land use planning is completed, the maximum 5-year wilderness study period in S. 393 will not interfere with any future harvesting schedules in these areas.

During markup of S. 393 suggestions were advanced that would have shortened the wilderness study period for the nine areas from 5 years to 2 years, and limited Congress' time for acting on the President's recommendations to 4 years. These were both wisely rejected. Letters from both the Departments of Agriculture and Interior requesting the full 5-year study period in order to allow for the completion of mineral surveys, land exchange options, and other endeavors, prompted the committee to retain the full 5-year study period. In view of the committee's and Congress increasingly crowded schedule, we also felt it would be imprudent to force ourselves to act on nine wilderness proposals in the single State of Montana within 4 years of receiving the President's recommendations. However, to accommodate concerns that the wilderness study process does not drag out unnecessarily, the committee report on S. 393 has instructed the Secretary to complete the wilderness studies, if at all possible, within 2 years, giving top priority to three areas where resource conflicts appear the most pressing. I believe this will resolve any problems of delay, while at the same time enabling the wilderness studies and mineral surveys to be completed in an orderly and unhurried fashion.

In closing, allow me to stress that the nine areas to be studied in S. 393 have been carefully chosen for their outstanding natural values. They represent the judgment of Senator METCALF, with almost 25 years of service to his State in Congress, and former Senator Mansfield,

with over 30 years, that these areas contain values which merit, at the minimum, further study of their wilderness potential. I am honored and privileged to today have the opportunity of insuring that their judgment will be given the force of law. I urge my colleagues' strong support of S. 393.

Mr. Speaker, I include at this point a letter dated September 13, 1977, addressed to me by the Washington representative of The Wilderness Society, as follows:

THE WILDERNESS SOCIETY,
Washington, D.C., September 13, 1977.

The Honorable TENO RONCALIO,
Chairman, Subcommittee on Indian Affairs and Public Lands, House Office Building, Washington, D.C.

DEAR MR. RONCALIO: At the August 4 markup on S. 393, the Montana Wilderness Study Bill, you stated that the Committee Report would contain language assuring an adequate power supply for the Big Sky resort. I believe that this promise can be kept without giving the Secretary of Agriculture the authority to approve a powerline across the Taylor-Hilgard Wilderness Study Area to Big Sky before the wilderness study is completed and before Congress has had a chance to act on the President's recommendations.

There are three key points to consider:

(1) A powerline corridor from the west to Big Sky, although preferred by the resort, is not the only way to deliver power to Big Sky. The Montana Department of Natural Resources determined that the existing corridor in the Gallatin Canyon is the best route. In addition, the hearing examiner found that only a 69-KV line, rather than 161 KV, is needed. A line this small can be strung on the existing poles, or buried, thereby minimizing the impact on the Gallatin Canyon.

(2) The Board of Natural Resources is expected to make its decision this week, on the need for and location of the "Big Sky powerline". Committee Report language allowing the Secretary to bypass the S. 393 mandate for powerline approval would seriously bias the Board's decision and would be used as leverage against the Board by the Montana Power Company.

(3) It is in Big Sky's best interests to accept an alternative other than a route from the west due to the time frame involved. The S. 393 wilderness study for the Taylor-Hilgard will take no longer than the Beaverhead Forest land use plan to complete. In addition, lengthy appeals and lawsuits can be expected if the Montana Power Company tries to build a powerline across the Taylor-Hilgard before the necessary studies are completed.

With these thoughts in mind we reluctantly offer the following language in an effort to compromise on this issue and to be fair to all parties concerned:

"In view of the need to resolve the question of a future power source for the Big Sky resort the Committee directs the Forest Service to incorporate the consideration of alternative powerline corridors to Big Sky into the wilderness study for the Taylor-Hilgard area. The Committee further directs the Forest Service to finish the Taylor-Hilgard wilderness study within two years in order to reduce the economic uncertainty facing the Big Sky resort as a result of delays in deciding the need for and location of a powerline to the resort. It is the desire of the Committee that this language not prejudice the utility siting decision for a powerline to Big Sky pending before the Montana Board of Natural Resources and Conservation."

I hope that something like the above is acceptable and I greatly appreciate your consideration in this matter.

Sincerely,

BILL CUNNINGHAM,
Washington Representative.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Speaker and Members of the House, I rise in opposition of the bill as it is now written. As it is now written it does not respond to the needs of the people who have to live with these study areas. I do not object to the study of most of the areas within S. 393. As a matter of fact I wholeheartedly support study of six of the nine areas included in the bill. My primary objection is with the indefinite time given for action to be taken on these nine Montana areas. As the bill is presently written, the Forest Service would have 5 years to study the areas, the President would have an additional 2 years to make his recommendations to Congress, and the Congress would have an indefinite time to make a final decision on whether or not an area should be wilderness.

Members of Congress in the meantime, we have State and local governments, local industries, workers and citizens who must live with the uncertainty of potential economic disruptions for an indefinite period of time. For several of the areas, removing the timber from production during the wilderness study, even for a limited amount of time, will cause hardships on local industries and communities. With the extended time for study and with an unlimited period given for congressional action, as proposed with the present language in S. 393, timber mill closures are a very real possibility. And in communities in Montana that are totally dependent upon timber and its availability, mill closures spell economic disaster for everyone.

I am convinced that the Federal Government can complete the necessary studies within 3 years and that Congress can make a decision within two terms of Congress.

In fact the Indian Affairs and Public Lands Subcommittee accepted my amendment to shorten the study period, but the full Interior Committee deleted this provision. Apparently the Forest Service knew enough about several of the areas already to recommend wilderness in their August 4 testimony in subcommittee.

I am also opposed to the inclusion of two areas in my district—the Big Snowy Mountains and the Middle Fork of the Judith River. Both areas are included in the Forest Service's new roadless area review evaluation where the wilderness characteristics of both areas would be compared with those of all other roadless areas and if the characteristics are of comparable quality, wilderness or additional wilderness study would be requested at less cost and less public resentment than through a congressionally mandated wilderness study that S. 393 mandates.

I ask my colleagues to defeat S. 393 under suspension of the rules so the bill can be amended to shorten the study period and force a more timely decision.

If you share the growing frustration of many people over the lack of timeliness of the Federal Government in making decisions that affect local economies and jobs, then I urge you to join with me in voting "nay" on S. 393 under suspension of the rules.

Mr. RONCALIO. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, as the chairman of the subcommittee, the gentleman from Wyoming (Mr. RONCALIO) has paid tribute to a great former Congressman and present Senator, LEE METCALF, I would like to pay tribute to my dear colleague and my great chairman, the gentleman from Wyoming (Mr. RONCALIO), for the work that he has done on this committee and his untiring, sensitive and conscientious concern for the west. He is a great man.

This bill not only stands as a monument to Senator LEE METCALF but to our colleague, TENO RONCALIO.

I would also like to say to the gentleman from Montana (Mr. MARLENEE) that I will work with the gentleman in the next Congress, if I am still here, to make sure that the studies be done speedily, so that we can resolve this issue. I agree with the gentleman that it should not go on ad infinitum as a study arrangement. I will work with the gentleman to see that the Department of Agriculture and the Forest Service bring this to as speedy a conclusion as possible.

As I say I will work with the gentleman, but I do believe that it is only right that the Congress not have a gun at its head, by a provision saying that we must come to a conclusion in a certain number of years. But I certainly will help the genleman from Montana, (Mr. MARLENEE) to act swiftly.

Mr. RONCALIO. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Montana (Mr. BAUCUS), an excellent lawmaker and a great young man.

Mr. BAUCUS. Mr. Speaker, I thank the gentleman for yielding to me and I join the chairman of the subcommittee, the gentleman from Wyoming (Mr. RONCALIO), and also the gentleman from Oregon (Mr. WEAVER), in paying tribute to LEE METCALF, the Senator from Montana. I think that Senator METCALF, who was reelected for four terms in the House of Representatives, served here with tremendous distinction, just as he is now doing in the Senate. It was his vision really that led to this bill, and it is his vision for the future of Montana that has led hopefully to the passage of this bill. I think all of us should pause for a second to realize the tremendous effort he has undertaken and to commend him for it.

The main reason for this bill is that we in Montana are in a state of transition. There is much pressure on the public lands in Montana—pressure for development, hunting and fishing, pressure to keep the land the way it is. We now are at the point where we have to address those pressures and make some decisions. That is the whole point of this bill. It

asks us to look at the 1 million acres in Montana and to really decide whether those acres should be set aside together or should not be so set aside. That is the whole point of the bill; it permits us to pause, to reflect, and to study so that we can then make wise and equitable decisions. If we do not do this, 20 years from now when we in Montana and other portions of the country might wish to stop and say, "Wait a minute, we made a mistake, we should have set this land aside as a wilderness." At that time it will then be too late. That is the reason why we should pass this bill at this point, study the areas, let us look them over and see what makes sense and what does not make sense.

One of the objections the gentleman from Montana (Mr. MARLENEE) makes is that the study period is too long. I agree with the gentleman, the study period should be shorter than 7 years. Seven years is too long a period of time. I believe that the Forest Service can make its recommendations in a much shorter period of time, but I do not think that that is any reason to defeat the bill. I believe we should go ahead and pass the bill and then encourage the Forest Service to come up with its recommendations within a much shorter period of time.

In fact, that is just what the committee report language dictates to the Forest Service. It says the Forest Service should come up with its recommendations within 24 to 30 months. That is 2 years to 2½ years. That is the same period of time in which we would have mandated the Forest Service to come up with its recommendations.

In addition to that, just 3 hours ago Forest Service officials assured my office that they can and will complete the studies of these nine areas within the time that we prescribe in our language in the committee report. That is, there is no need for us to stop and defeat the bill and try to amend it under some other procedure.

We have told the Forest Service to expedite its study. The Forest Service has assured us it will expedite its study. I see no reason, therefore, to delay this. Let us get on with the show. Let us look at these nine areas. Let us do it so that all of us, not only Montana, but other parts of the country, 10 or 15 or 20 years from now will be proud when we look back knowing it will be part of our action taken here today in pausing for a few years in order to determine which lands should be set aside and which lands not. I think that is the heart of the question here, and I think all of us will agree we should proceed with the bill. Let us pass it so that Montana and other parts of the country will know what the future holds for them, so we can be proud of not rushing too quickly into forcing development.

Mr. Speaker, since my election to Congress a great number of interested individuals have shared with me their thoughts, concerns, knowledge, and vital information regarding this and other wilderness proposals pending before Congress. They have given freely of their time. Although many may disagree with my position regarding S. 393, I would like each of them to know that I sincerely appreciated our conversations and correspondence. My decision regarding S. 393 was openly determined after attempting to hear all viewpoints.

I am grateful for having the opportunity to meet and work with each of them. It is my hope we will continue to work together, to discuss our differences and to attempt to forge a balanced equitable public lands policy.

I know that I will inadvertently omit a name but I will hazard an attempt to thank personally the individuals who have assisted me in my deliberations regarding S. 393. That list follows:

Don Aldrich, Bob Anderson, Ron Barkley, Larry Blasing, Harold Brown, Billy Brothers, Don Brunell, Millar Bryce, Mike Comola, Ernie Corrick, Art Crane, and Joe Crosswhite.

Bill Cunningham, Orville Daniels, John Delano, Gerald Delin, Forrest Dobson, Jack Duke, Bill Hand, Dudley Haupt, Gene Hawkes, Bob Helding, Lonn Hoklin, Russ Hudson, and Pete Jackson.

Ray Karr, Doug Kilner, Holly Larson, Gil LeKander, Bob LeProwse, Floyd Marita, John McBride, Howie McDowell, John McGuire, John and Jeannette McIntire, Clifton Merritt, Doris Milner, Dale Moore and Bob Morgan.

Rolf Olson, John Orth, Bob Ream, Harlan Rosacker, Royce Satterlee, Steve Sherrick, Nina Smith, T. T. Smith, Phil Tawney, Mons Teigen, Robert Torheim, Robert Wambach, Jean Warren, Ken Weyer, Hubert White, Bob Williams, Everett Woodgerd, and William Worf.

I thank the gentleman from Wyoming for yielding time to me, and I yield back the remainder of my time.

Mr. RONCALIO. Mr. Speaker, we have no further requests for time. I reserve the last few minutes of my time.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself such time as I may consume.

I would like to correct an impression that may have been left, I think inadvertently, by some of the Members on this side when they spoke about the interest of Senator METCALF in this bill. Senator METCALF did endorse the bill and does endorse it, of course, but Senator MELCHER was opposed to it. He was afraid of it because of the time restraints, because of the grazing concerns, and because of timbering questions.

I have always taken the position that when we talk about a wilderness area, we should listen primarily to the Representatives who come from the area involved. I know that there are many Members, particularly on this side, who do not agree with that. The chairman of the Committee on Interior and Insular Affairs and I have debated that. He agrees in principle that we should listen to the Representative from the area, but we should not give him a veto. I agree with that.

That makes sense, too. But now we are talking about 973,000 acres which the delegation from Montana is divided about. We are talking about some areas that the gentleman from Montana (Mr. MARLENEE) has in his district being included that he does not think should be involved and tied up for this length of time. The gentleman from Montana (Mr. BAUCUS) believes that it is fine in his area. I believe we should try to accommodate Mr. BAUCUS and we should try to accommodate Mr. MARLENEE, and we cannot fully adopt this bill today. There is not any reason why we cannot accommodate both of them if we do not accept this bill, because by amendment we could take care of the problem and, of course, we cannot amend today.

Let me point out to the Members one of the problems with this bill. We have a 5-year study that is authorized. The gentleman from Montana (Mr. BAUCUS) says that he has just received assurances from Mr. Cutler that it will not take that long. However, the report on page 18 has a paragraph in the letter from Joan Davenport, the Assistant Secretary of the Interior, and she says:

The 5 years provided before the amendment is a more realistic time frame. This would provide the Geological Survey and the Bureau of Mines the time to work these areas into their ongoing program in a way that would not disrupt meeting other wilderness deadlines.

So here we have the Department of Agriculture with one point of view and the Department of the Interior with another point of view. It seems to me that we have to take that into consideration.

Third, and most importantly, section 3(a) of the bill on page 5 says this:

Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character. . . .

Mr. Speaker, what we are doing is creating wilderness by adopting this act, and then later on we are perhaps going to take away the wilderness designation. It says it will be treated as a wilderness until Congress determines otherwise. The Members know what is going to happen when somebody comes in with a bill to determine otherwise. We know what is going to happen when somebody comes in 5 or 7 years from now representing the State of Montana and says, "Look, we don't want you to treat this as a wilderness."

Somebody will be standing up and saying, "Look, that has been treated as a wilderness. It is part of our heritage. It is part of the cathedral."

We know that "wilderness" is a cheap environmental vote and you will be branding something for Montana because it is easy for us outside of Montana to say, "Sure, you should have a wilderness."

I have seen this wilderness experience happen too many times here. It is easy to impose wilderness on somebody else's district. There is a great temptation to want to do that. We pacify a few vocal Representatives, a few vocal people in our districts, at the expense of some other districts. That is why I keep insisting we should listen to the Representatives who go back home and represent those people affected by our designations.

If the gentleman from Montana (Mr. BAUCUS) wants this designated as a study, we ought to give it to him. If the gentleman from Montana (Mr. MARLENEE) does not want it and wants to exclude it, we ought to give it to him. We

should very well treat it as a wilderness until we determine it otherwise and that means we treat it as de facto wilderness until considered otherwise. But only if the Representative of the area agrees.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I do not know how much of the gentleman's State is in wilderness. The State of Wyoming, which I represent, every foot of its 98,000 square miles, has 23 percent of its national forest in wilderness. I defy any State to match that record, any State in the Union. None of them have as much as 23 percent, but I do. So I am not pushing wilderness on my colleagues in Montana or anywhere else. We ought to look at these beautiful lands in the pristine way that Congress intended back in 1964.

In my own State back in the good old robber baron days, 5½ million acres were given to the Union Pacific Railroad and they own it lock, stock, and barrel, a swath 500 miles long. They own the shale, the uranium, the minerals, and everything in it. If we have that devotion to our system, we should have some devotion for the things that are beautiful, too, to protect them for future generations.

Mr. JOHNSON of Colorado. The gentleman has raised a totally irrelevant argument. I have sponsored in my career three wilderness areas in my district and the gentleman has gone along with them. I believe in the wilderness concept, but I do not believe we ought to force it on somebody else. That is what we are doing to the gentleman from Montana (Mr. MARLENEE).

Mr. RONCALIO. Mr. Speaker, if the gentleman will yield further, how can we do this when the Montana delegation is split on this matter, and Senator METCALF, with 25 years of public service and good judgment, views the passage of this bill as critical?

I can cut the body in two, like Solomon, and say, "Here is your part and here is your part."

We cannot do that in the State of Montana.

We put in page 2 of the report:

The committee suggests that the Secretary of Agriculture give a high priority to the completion of all nine studies within a period of 24 to 30 months.

If we do that, the gentleman from Montana (Mr. MARLENEE) has no objection to the bill. That is his suggestion to the subcommittee, which I voted for.

Mr. JOHNSON of Colorado. It is in the report, but it is not in the bill. The bill says it will be wilderness until Congress acts otherwise. The gentleman from Montana (Mr. MARLENEE) is opposed to that language, the same as the Senator from Montana (Mr. MELCHER), a former Member of this body, is also opposed.

Mr. RONCALIO. How can you study an area to become wilderness if you do not retain its wilderness characteristics during the study period?

Mr. JOHNSON of Colorado. But the language of the bill extends it beyond the study period until Congress acts otherwise. That is the weakness of the bill. It could be easily handled if the bill was open to amendment and we could bring it to the body in debate.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, they have not even begun a study of the two areas in my State and these would fall under studies for review of the Forest Service. Until they are studied as such, it would be a needless waste and duplication.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I thank my colleague from Colorado for yielding. As I listened to the gentleman speak about the necessity of paying some attention to the Congressman who represents the area, I thought of a skit I saw on television one time. Danny Thomas was portraying the part of a young Lebanese boy who had come to this country and was trying to make a go of it. He was expounding on the greatness of this country. He said:

One thing about the United States is that you can do anything you want to do, but don't do it in my front yard.

That is about how this body acts at times. We have a habit of always trying to do something in somebody else's area, in some other congressional area.

It seems to me the fellow who knows more about his district, his people and their likes and dislikes is in a better position to tell this body what ought to be done than the way those outside the area who know little or nothing about the area, the people, or its economic and social problems.

Mr. COHEN. Mr. Speaker, I have no further requests for time.

Mr. RONCALIO. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate bill S. 393.

The question was taken.

Mr. RONCALIO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. RONCALIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, and the prior announcement of the Chair, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 393.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair is reminding the Members again that the recorded votes will begin at 5 p.m.

RIVER AND HARBOR IMPROVEMENTS

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7744) to amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of August 11, 1888 (25 Stat. 423; 33 U.S.C. 622), is amended to read as follows:

"SEC. 3. (a) The Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the 'Secretary'), in carrying out projects for improvement of rivers and harbors (other than surveys, estimates, and gagings) shall, by contract or otherwise, carry out such work in the manner most economical and advantageous to the United States. The Secretary shall have dredging and related work done by contract if he determines private industry has the capability to do such work and it can be done at reasonable prices and in a timely manner. During the four-year period which begins on the date of enactment of this subsection, the Secretary may limit the application of the second sentence of this subsection for work for which the federally owned fleet is available to achieve an orderly transition to full implementation of this subsection.

"(b) As private industry reasonably demonstrates its capability under subsection (a) to perform the work done by the federally owned fleet, at reasonable prices and in a timely manner, the federally owned fleet shall be reduced in an orderly manner, as determined by the Secretary, by retirement of plant. To carry out emergency and national defense work the Secretary shall retain only the minimum federally owned fleet capable of performing such work and he may exempt from the provisions of this section such amount of work as he determines to be reasonably necessary to keep such fleet operational after the minimum fleet requirements have been determined. Notwithstanding the preceding sentence, in carrying out the reduction of the federally owned fleet, the Secretary may retain so much of the federally owned fleet as he determines necessary, for so long as he determines necessary, to insure the capability of the Federal Government and private industry together to carry out projects for improvements of rivers and harbors. For the purpose of making the determination required by the preceding sentence the Secretary shall not exempt any work from the requirements of this section. The minimum federally owned fleet shall be maintained to technologically modern and efficient standards, including replacement as necessary. The Secretary is authorized and directed to undertake a study to determine the minimum federally owned fleet required to perform emergency and national defense work. The study, which shall be submitted to Congress within two years after enactment of

this subsection, shall also include preservation of employee rights of persons presently employed on the existing federally owned fleet.".

SEC. 2. Section 8 of the Act of March 2, 1919 (40 Stat. 1290; 33 U.S.C. 624), is amended to read as follows:

"SEC. 8. (a) No works of river and harbor improvement shall be done by private contract—

"(1) if the Secretary of the Army, acting through the Chief of Engineers, determines that Government plant is reasonably available to perform the subject work and the contract price for doing the work is more than 25 per centum in excess of the estimated comparable cost of doing the work by Government plant; or

"(2) in any other circumstance where the Secretary of the Army, acting through the Chief of Engineers, determines that the contract price is more than 25 per centum in excess of what he determines to be a fair and reasonable estimated cost of a well-equipped contractor doing the work.

"(b) In estimating the comparable cost of doing the work under subsection (a)(1) by Government plant the Secretary of the Army, acting through the Chief of Engineers shall, in addition to the cost of labor and materials, take into account proper charges for depreciation or replacement of plant, all supervising and overhead expenses, interest on the capital invested in the Government plant (but the rate of interest shall not exceed the maximum prevailing rate being paid by the United States on current issues of bonds or other evidences of indebtedness) and such other Government expenses and charges as the Chief of Engineers determines to be appropriate.

"(c) In determining a fair and reasonable estimated cost of doing work by private contract under subsection (a)(2), the Secretary of the Army, acting through the Chief of Engineers, shall, in addition to the cost of labor and materials, take into account proper charges for depreciation or replacement of plant, all expenses for supervision, overhead, workmen's compensation, general liability insurance, taxes (State and local), interest on capital invested in plant, and such other expenses and charges the Secretary of the Army, acting through the Chief of Engineers, determines to be appropriate.".

The SPEAKER pro tempore. Is a second demanded?

Mr. DON H. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) and the gentleman from California (Mr. DON H. CLAUSEN) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am particularly pleased to bring to the floor today H.R. 7744 relating to the performance of dredging by contract. A key factor in bringing this legislation to the floor has been the usual fine leadership of the distinguished chairman of the full committee, the gentleman from California (Mr. JOHNSON). I wish also to extend my very warm thanks to the ranking minority member of the Subcommittee on Water Resources, the gentleman from California (Mr. DON H. CLAUSEN) and the ranking minority member of the full committee, the gentleman from Ohio (Mr. HARSHA).

The purpose of this bill is to establish the policy that dredging work associated with Corps of Engineers navigation projects should be performed by contract if private industry has the capability to do the work and it can be done at reasonable prices and in a timely manner. The bill also clarifies the procedure to be used in preparing the Government estimate of the cost of doing a particular job.

The Corps of Engineers stated in a letter dated April 26, 1977, to this committee that it believes its principal reliance should be on private industry to perform required Federal dredging and that a healthy and profitable dredging industry is necessary to insure the economical and timely execution of the program. It therefore instituted the "testing of the market" program to determine the feasibility of increased reliance upon private industry. It further stated its intention to gradually reduce the current corps-owned dredge fleet to a minimum fleet configuration as industry demonstrates its capability to perform the work which requires specialized dredging equipment.

One of the primary purposes of this program is to induce industry to build modern, technologically advanced equipment. The information developed by the committee in its hearings on this bill, however, is that without the assurance provided by a legislative declaration of policy, as opposed to one established by agency regulation, the necessary incentive to private industry to undertake the expenditure of large sums of money will simply not exist. Accordingly, H.R. 7744 establishes the policy that dredging work should be accomplished by contract, while at the same time protecting the interests of the Federal Government.

The requirement that work shall be done by contract is to be phased in over a 4-year period. By the end of the 4-year period all work, other than that reserved for the minimum fleet, will be advertised for bids. As private industry demonstrates its capability to perform the work, the corps' dredge fleet will be gradually reduced to a minimum fleet capable of performing emergency and national defense work. The Corps of Engineers is authorized to exempt work from the provisions of the bill and assign it to the minimum fleet so as to keep that fleet operational. The corps can retain as much of the fleet over and above the minimum fleet as it determines necessary, for as long as it determines necessary, in order to insure the combined corps-private industry capability to meet national dredging needs. For this additional fleet, however, work may not be exempted from the provisions of the bill.

Existing law provides in part that—

. . . No part of the funds appropriated for works of river and harbor improvement shall be used to pay for any work done by private contract if the contract price is more than 25 per centum in excess of the estimated cost of doing the work by Government plant. . . .

Hired labor estimates, employing Government plant costs, are only utilized by the Corps of Engineers for comparison with bids when Government plant is in fact available to do the work. Where Government plant is not available the corps utilizes a "well equipped contractor" estimate—the cost of the work to a well equipped contractor without profit. There has been some question as to whether this practice is in conflict with the above-quoted legislation. Accordingly, the bill clarifies this and provides that where Government plant is available to do the work, and the cost of doing the work by contract is more than 25 percent in excess of the estimated cost of doing the work with Government plant, the work shall not be done by contract. Similarly, where Government plant is not available, the work shall not be done by contract if the cost of doing it by contract is more than 25 percent in excess of the estimated cost of a well equipped contractor doing the work.

Mr. Speaker, a provision similar to H.R. 7744 was contained in the House-passed version of the Water Resources Development Act of 1976 but was not contained in that legislation as finally enacted because of objections raised by the Senate conferees. This year we have worked very closely with Senator HATFIELD and the public port interests to remove or modify those parts of the legislation to which they objected. The bill, as reported by the committee, is no longer objected to by these parties, nor by the administration. I urge its passage.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7744. As the gentleman from Texas, Mr. ROBERTS, has already ably explained, this bill provides for a statement of Federal policy that dredging performed in the navigable waters of the United States, under the auspices of the Federal Government, should be done by private industry. This is necessary to assure the private sector that if they make the commitment to provide the capability to dredge our navigable waters that they will have an opportunity to do so.

Mr. Speaker, when H.R. 7744 was first introduced some concern was raised over the impact that this bill might have on the hopper dredging currently done by the Corps of Engineers on the west coast. During our hearings these concerned witnesses testified to their concern that if the bill were enacted there might no longer be the capability on the west coast to do the necessary dredging because of retirement of Federal plant. Senator HATFIELD and I were able to work on what we believe is a fair solution to this problem and my colleagues on the Public Works Committee have graciously accepted these minor clarifications.

I am especially grateful to Chairman ROBERTS for giving me the opportunity to work out solutions to my concerns over availability of dredging plant on the west coast. The bill and report both reflect the necessary clarifications of intent.

Specifically, these clarifications now provide that:

First. The Secretary of the Army may retain as much of the federally owned fleet as he determines necessary, for as long as he determines necessary, to insure that the Federal Government and

private industry together will have sufficient capability to carry out projects for improvements of rivers and harbors.

Second. During the period that the federally owned fleet is being reduced the Secretary shall require competitive bidding only for that part of the fleet which is over and above the requirements for maintaining a minimum fleet.

Third. The minimum fleet will be a modern technological "up-to-date" fleet and the corps will begin to develop this technologically modern fleet immediately.

Fourth. The term "keep such fleet operational," as described in section 3(b) on line 25, page 5 of the committee print, means that it is intended that the Chief will maintain and utilize the minimum fleet in a manner which is economically advantageous to the United States. That is to say, that it will be kept busy. It is intended that there will be no restrictions on the Secretary of the Army to set aside work for the Federal minimum fleet.

Fifth. The term "retirement of plant," as used in this bill, is intended to be broadly interpreted. For example, retirement can include not only scrapping or selling of vessels, but also mothballing or other storage or research or demonstration use.

Sixth. The size of the Federal minimum fleet and the time of the reduction to its minimum configuration is a decision which solely rests with the Secretary of the Army, acting through the Chief of Engineers, and that their decision will not be conditioned by any other interest.

Mr. Speaker, because these agreements were worked out I can support this bill and it is my understanding that these qualifications will result in a sound Federal policy upon enactment of H.R. 7744. I, therefore, urge my colleagues to support this adoption.

Mr. ROBERTS. Mr. Speaker, I yield 6 minutes to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Speaker, I appreciate the gentleman's yielding this time for the purpose of entering into a colloquy with me.

I have read the committee report on H.R. 7744 and I want to commend you and the committee for your commitment to providing a workable relationship between the Corps of Engineers and the private dredging industry. More commendable is your quest for a climate that will produce economical dredging of our rivers and harbors.

I further want to commend you for agreeing in committee to amendments and report language that will assure a continued corps role in dredging in areas such as the Pacific Northwest, where I am from, which lacks sufficient private industry capacity to maintain vital river and harbor entrances.

Within this context, I rise today to seek further understandings that bear on the cost of dredging and are relevant, I believe, not only to the west coast, but to the entire Nation.

First, section 2(c) of H.R. 7744 authorizes the corps, in determining a fair and reasonable cost for a private dredging contract, to take into account "proper charges for depreciation or replacement of a plant." Allowing the option for computation of "replacement cost" into the corps' cost estimate is a sharp break with current practice, and one I fear will lead to higher costs for dredging.

Currently, depreciation is included in the calculations of the cost of dredging. But the cost of replacing equipment is expected to come out of profit margin. The assumption is that tax deductions for depreciation and capital investment, and corps allowances for depreciation in cost estimates, are adequate compensation and incentive to private industry.

The problem with permitting a company to realize replacement costs is that there is no assurance the company will replace its plant when it becomes obsolete and in that instance the replacement allowance amounts to a windfall.

But I fear there is a strong likelihood of a higher cost for dredging. A contractor must be awarded the contract for a particular job if his bid is the lowest responsive bid and is no more than 25 percent over the corps cost estimate. If plant replacement cost compensation is fed into the cost estimate computation and the 25-percent margin is maintained, we are almost certain to see an increase in dredging costs. Further, the corps also would be required to make a similar such allowance to maintain comparability. The net result may be dredging at a cost that is prohibitive in some cases.

I would appreciate an explanation of what factors prompted the committee to include the option of a replacement cost factor and your feelings as to whether it will push up dredging costs.

Mr. ROBERTS. The provision you cite would provide for consideration of depreciation or replacement costs by the Corps of Engineers when estimating the cost of doing a particular job. Which of the two of these items is included is entirely up to the Corps of Engineers. They presently have the authority to use either of these factors and if replacement costs were not mentioned in the bill we would be taking away a discretionary authority which the Corps of Engineers now possesses.

Mr. AuCOIN. I thank the chairman for that explanation. I still, however, am concerned about dredging costs and to what extent competition in the private industry exists to mitigate against unwarranted price increases.

The committee should be commended for its foresight in including language that insures that a minimum corps fleet is to be maintained, kept up to technologically modern and efficient standards, including repair and replacement, and fully utilized to achieve cost-effective benefits from this equipment.

I also appreciate that the committee has recognized the need for the corps to retain dredges above and beyond the minimum fleet. This is particularly meaningful to the Northwest where private industry's capability, especially with respect to hopper dredges, is limited.

However, Mr. Chairman, I hope the committee agrees with me that over time, as the corps fleet is reduced down to the minimum fleet, it will be recognized that a fully utilized minimum fleet capable of immediate response not only is a mandatory safeguard for emergencies and national defense, but also serves to supplement competition and to promote price stability.

Mr. ROBERTS. The bill would authorize the Corps of Engineers to retain as much of its fleet over and above the minimum fleet as it determines necessary, and for as long as it determines necessary, in order to insure the capability of the Federal Government and private industry together to carry out and maintain projects for improvement of rivers and harbors. This fleet over and above the minimum fleet will be used to perform work where private industry lacks the capability or where private industry does not meet the requirement in section 2 that its bid be no more than 25 percent above the Government estimate. This will insure that there is sufficient Federal and private capability to meet our Nation's dredging requirement and that there will continue to be competitive pricing and bid practices.

Mr. AuCOIN. Again, I appreciate the chairman's comments. Allow me to address one final, technical matter. In two places in H.R. 7744 the phrase "Government plant" appears. I am certain this is meant to refer to "Federal Government plant" and is not intended to embody any reference to dredges owned by other Government entities such as ports.

Mr. ROBERTS. That is correct. The term "Government plant" means Corps of Engineers' dredges.

Mr. AuCOIN. I thank the speaker for engaging in this most instructive colloquy on H.R. 7744. These matters are of the utmost importance to my constituents.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. Weaver).

Mr. WEAVER. Mr. Speaker, I thank the gentleman.

I just wish to take this time to associate myself with the comments of my colleague, the gentleman from Oregon (Mr. AuCoin), and I thank the chairman of the subcommittee for his cooperation.

Mr. HARSHA. Mr. Speaker, I rise in strong support of H.R. 7744. This bill provides for encouragement to provide industry where economically feasible to carry out some of the dredging activities currently done by the Federal Government. The dredging industry of the United States under current Federal policy has no assurance that if they make substantial investments in plants the Federal Government will allow them the opportunity to do the work.

Since 1888 the Corps of Engineers has been able to determine whether dredging should be done by Government plant or by private firms. The corps has interpreted their authority to mean that unless the Government fleet is completely utilized, private industry will have no work available to them. That is to say that the Federal Government has a monopoly. Since it is fair to assure in my opinion that the Members support the free enterprise system is it not unusual that we have allowed for a government monopoly in the dredging sector?

H.R. 7744 recognizes this inequity with a series of incentives to private industry which assures them that if they

will provide the capability the Government will provide them with the work. My colleague, the gentleman from Texas, has already enumerated the provisions and I will not take the time of the House to repeat them. I would, however, remind the Members that the purpose of this bill is not to increase costs but to decrease them. H.R. 7744 provides a mechanism to draw down the Government-owned fleet as industry demonstrates its capability to do the job at reasonable prices. This will be a cost saving. It makes no sense whatsoever for the Government to maintain dredging plant and conduct the work if private industry has the capability to do the work at reasonable cost. Of course, for national defense purposes, there will be a minimum Federal fleet maintained to meet our defense needs and this fleet will be kept operational and technically modern.

Mr. Speaker, the bill, as originally introduced, raised some concerns with our friends on the west coast and my able colleague, the ranking minority member of the Water Resources Subcommittee, DON CLAUSEN, has worked out a compromise which assures that there will always be sufficient dredging plant available to be able to meet the demand, and, I stress, at reasonable cost.

Mr. Speaker, I believe H.R. 7744 represents sound application of the principles of free enterprise. My only regret is that it has taken so long to bring this bill before the Members since it will accomplish what we in Congress always say we are trying to do—to stimulate the private sector and make this a government of less Federal involvement. H.R. 7744 will accomplish that goal and still provide for the national defense.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DON H. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this opportunity to extend to the chairman of the subcommittee, the gentleman from Texas (Mr. ROBERTS), appreciation on behalf of the minority for the kind of consideration he gave to the working out of this compromise with regard to dredging and our ability to maintain the minimum capability on the west coast, as has been articulated by my friend, the gentleman from Oregon, LES AUCOIN.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. DON H. CLAUSEN. Mr. Speaker, I ask unanimous consent that all Members who so choose to have the opportunity to insert their remarks at this point in the RECORD be permitted to do so.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 7744, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1977

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7691) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Grant and Cooperative Agreement Act of 1977".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" and the relationships they reflect causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary through legislative action.

(b) The purposes of this Act are—

(1) to characterize the relationship between the Federal Government and contractors, State and local governments, and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government so as to promote a better understanding of Federal spending and help eliminate unnecessary administrative requirements on recipients of Federal awards;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of types of contract, grant agreement, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements, and other forms of Federal assistance in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other interstate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance or procurement contracts and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office, a wholly owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation, or to increase basic knowledge and understanding in a specific area of relevance to agency missions, authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever—

(1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation, or to increase basic knowledge

and understanding in a specific area of relevance to agency missions, authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied scientific research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research, shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with and, to the extent practicable, involve representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients, and other interested members of the public. The result of the study shall be reported to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of section 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

GUIDELINES

SEC. 9. The Director of the Office of Management and Budget is authorized to issue supplementary interpretative guidelines to promote consistent and efficient use of contracts, grant agreements, and cooperative agreements as defined in this Act.

REPEALS AND SAVINGS PROVISIONS

SEC. 10. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891 and 1892), is repealed, effective one year after the date of enactment of this act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(d) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7691 was reported unanimously by the Committee on Government Operations. It will make a long-needed improvement in the instruments which are used by the Federal Government to govern grants, procurement contracts, and cooperative agreements. There has been much confusion in these terms and how they have been defined. Many instances have been noted when grants were called contracts and when contracts were in fact grants.

This bill will distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships. An identical bill was passed by the last Congress, but was vetoed by President Ford after adjournment and there was no opportunity to override. In my opinion, the veto was not well considered and this legislation should be enacted into law. The Carter administration supports the bill.

It will carry out two recommendations of the Commission on Government Procurement. The first recommendation was to enact legislation to distinguish assistance relationships as a class from procurement relationships by restricting the term "contract" to procurement relationships and the terms "grant," "grant-in-aid," and "cooperative agreement" to assistance relationships, and also to authorize the general use of instruments reflecting the foregoing types of relationships. The second recommendation was to urge the Office of Federal Procurement Policy to undertake or sponsor a study of the feasibility of developing a system of guidance for Federal assistance programs.

H.R. 7691 seeks to clarify the distinctions between grant-type assistance, and procurement, and to distinguish between the classes of grant-type assistance by requiring each executive agency to use a contract, a grant, or a cooperative agreement which would reflect more precisely the relationship between the Federal Government and the recipient.

The bill authorizes executive agencies to enter into contracts, grants, or cooperative agreements and to use the instruments required. The bill further directs the Office of Management and Budget to undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs and determining the feasibility of developing a comprehensive system of guidance for such programs.

The legislation is basically technical, but its results will be extremely beneficial in properly and clearly determining the relationships between the Federal donor and the recipient and make for a general improvement in such relationships.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7691 is more than a bill that seeks to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships. H.R. 7691 is a bill that seeks to improve management techniques at some of the highest levels of our Government so that unnecessary paperwork and redtape can be effectively reduced. As chairman of the Federal Paperwork Commission, I find such a result a compelling and attractive feature of virtually any piece of legislation that comes before this House. If we are ever going to win our war against excessive paperwork, we must fight and win the decisive battles right here where so much paperwork begins, right here in the Congress.

I want to remind my colleagues that H.R. 7691 fulfills one of the key recommendations found in the 1972 report of the Commission on Government Procurement; namely, that we clarify the distinctions between grant-type assistance and procurement. It is most unfortunate that we have not yet legislated those distinctions, but we have today an opportunity to take positive action without further delay.

Mr. Speaker, the Procurement Commission did not make its recommendations without sufficient justification. They conducted a very thorough study before reaching any conclusions. We must ask ourselves if what they found 5 years ago still exists today. I submit that if the reasons for this legislation were so apparent 5 years ago, they are even more apparent today. All we need to do is look around us. Just a few months ago, the Secretary of Health, Education, and Welfare unveiled a major program to combat abuse and simple confusion in HEW's grant and contract procedures. So we know that the problem still existed at HEW earlier this year. Similar problems with abuse and confusion can be found in virtually every segment of our Federal Government. During the sub-

committee hearings on this bill, we heard from Senator LAWTON CHILES of Florida, who told us of instances where agencies were switching to grants near the end of the fiscal year in order to obligate more funds. They were switching because grants were easier and much quicker to process. And speed was the name of the game if they were to obligate the funds at their disposal before time ran out.

The Paperwork Commission has found through hearings that abuse of this sort does exist. It is human nature. No one wants to be bothered with mountains of redtape if an easier alternative is available. The bill before us today will help to structure and organize management in Federal assistance programs, thereby improving management techniques so that paperwork and redtape can, indeed, be reduced.

Actually, it is a very simple bill. If H.R. 7691 becomes law, those who award contracts will know, without question, that a contract must be used whenever the principal purpose is in the acquisition of property or services for the direct benefit or use of the Federal Government. They will know that a grant must be used when there is no anticipated substantial involvement between the executive agency and the recipient during the performance of the contemplated activity. Finally, they will know that a cooperative agreement must be used when substantial involvement is anticipated between the executive agency and the recipient. Another provision mandates a study that should lead to the development of a comprehensive system for Federal assistance programs. In conclusion, I want to point out the one area of disagreement over this bill. As far as I have been able to determine, no one objects to the goals of H.R. 7691. Everyone agrees that action must be taken to distinguish between grants and contracts. The disagreement is over the implementation of that action. Some feel that these goals should be accomplished through administrative action. Many of us in the Congress feel that we should achieve these goals through legislative action. I suggest that, instead of passing the buck to the executive branch, we in the Congress should exercise our responsibility and establish some meaningful guidelines for the distribution of Federal grants and contracts.

Mr. Speaker, I urge the prompt approval of H.R. 7691.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 7691, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL PROGRAM INFORMATION ACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6257) to provide for the efficient and regular distribution of current information on Federal domestic assistance programs, as amended.

The Clerk read as follows:

H.R. 6257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Program Information Act".

DEFINITIONS

SEC. 2. For the purpose of this Act, the term—

(1) "assistance" refers to the transfer of money, property, services, or anything of value; the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes, but is not limited to, grants, loans, loan guarantees, scholarships, mortgage loans, insurance or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling, statistical and other expert information, and service activities of regulatory agencies; but does not include provision of conventional public information services;

(2) "Federal agency" means an agency as defined by section 551(1) of title 5, United States Code;

(3) "Federal domestic assistance program" means any function of a Federal agency which provides assistance or benefits for a State or States, territorial possession, county, city, other political subdivision, grouping, or instrumentality thereof; any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government; and

(4) "administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

DUTIES OF THE DIRECTOR

SEC. 3. The Director of the Office of Management and Budget (hereinafter referred to as the "Director") shall identify all existing Federal domestic assistance programs and provide information on each such program to the general public through electronic media as authorized under section 5 of this Act and through a printed catalog as authorized under section 6 of this Act.

INFORMATION REQUIREMENTS

SEC. 4. (a) The Director shall prepare and maintain a Federal Assistance Information Data Base (hereinafter referred to in this Act as the "data base"). For each Federal domestic assistance program the data base shall—

(1) identify each such program by title, by authorizing statute, by administering office, and by an identifying number assigned by the Director;

(2) describe the program, the objectives of the program, and the types of activities which have been funded under the program;

(3) describe the eligibility requirements, the formulas governing the distribution of funds, the types of assistance, the uses and restrictions on the use of assistance, and the obligations and duties of recipients under the program;

(4) provide financial information, including the amount of funds appropriated for the current fiscal year or, if unavailable, the amount of funds requested by the President, and the amounts obligated, and the average amounts of awards made in past years;

(5) identify information contacts including the administering office and regional and local offices and their addresses and telephone numbers;

(6) provide a general description of any application requirements and procedures and, to the extent practicable, an estimate of the time required to process the application.

(b)(1) Each Federal agency shall furnish to the Director, at such times as the Director may determine, current information on all domestic assistance programs administered by such Federal agency.

(2) The Director shall on a regular basis incorporate into the data base all relevant information received under paragraph (1) of this subsection.

COMPUTERIZED PROGRAM INFORMATION SYSTEM

SEC. 5. (a) The Director shall establish and maintain a computerized information system to provide access to the data base.

(b) The Director, to the greatest extent practicable, shall provide for the widespread availability of information contained in the data base, by computer terminals wherever available.

(c) The Director, notwithstanding any other provision of law to the contrary, when he determines the efficiency of the information system established pursuant to subsection (a) of this section requires it, may enter into contracts with private organizations to obtain computer time-sharing services including, but not limited to, computer telecommunications networks, computer software, and associated services.

(d) The Director shall insure that the information available under this Act is made available to the public at a reasonable price.

(e) The Director may develop information services to further assist State and local government officials identify or obtain sources of Federal assistance.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 6. (a) The Director shall prepare and publish each year a catalog of Federal Domestic Assistance Programs (hereinafter referred to in this Act as the "catalog").

(b) The Director shall prepare and publish supplements to the catalog as necessary.

(c) The Director may prepare and publish specialized compilations of the information in the catalog by function as necessary.

(d) The catalog shall contain, in such form as the Director determines—

(1) all substantive information on Federal domestic assistance programs that is in the data base at the time that the catalog is prepared;

(2) any other information which the Director considers may be helpful to potential applicants or beneficiaries under such programs; and

(3) a detailed index.

(e)(1) The Director shall make each catalog available to the public at a reasonable price.

(2) There are authorized to be distributed, without cost, catalogs to Members of Congress, Delegates, Resident Commissioners, agencies, State and general purpose units, Indian tribes, Federal deposit libraries, and other local repositories designated by the Director.

TRANSFER PROVISION

SEC. 7. The Director is authorized to transfer to the Office of Management and Budget all personnel, books, records, and other documents of the Department of Agriculture of any kind or description which he determines to be principally held or engaged in the operation and function of the Federal Assistance Programs Retrieval System (FAPRS).

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated $900,000 for fiscal year 1978, $1,000,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980.

FEDERAL INFORMATION SYSTEMS STUDY

SEC. 9. The Director of the Office of Management and Budget shall conduct a study of existing Federal information systems that provide fiscal, budgetary, and program-related data, statistics, and information on grant awards and shall report to the Congress, within one year from the date of enactment of this Act, his recommendations for appropriate dissemination of Federal financial information, a summary of all executive branch actions taken within the year to consolidate, reorganize, and improve the existing financial information system, and his recommendations for statutory changes necessary to further develop and improve methods for the dissemination of Federal financial information, using modern communications technology.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6257, the Federal Program Information Act, was reported unanimously by the Committee on Government Operations after hearings and consideration. The bill is supported by the Carter administration, the National Governor's Conference, and the National Association of Counties.

This legislation authorizes the Office of Management and Budget to identify all existing Federal domestic assistance programs and provide information on each such program to the general public through a computer data bank and through a catalog of Federal domestic assistance programs. Its purpose is to provide a more ready access by State and local communities, private organizations and the general public to current up-to-date information on the availability of and eligibility for funds for domestic assistance and to avoid efforts that may be needless in tracking such information. The bill was proposed in response to complaints received by the Congress on the difficulties many local governments—particularly small ones—institutions and persons were having on obtaining such information.

Under the system potential recipients could go to a computer terminal, which is a part of the system, and determine what programs they are eligible for and how to apply for that program. The user will receive a description of the program including its objectives and a listing of the types of activities which have already been funded. In addition, eligibility requirements, distribution formulas, use restrictions and recipient obligations will be identified and various financial data, information contacts, and application requirements and procedures will be listed.

The OMB is also directed to undertake a study of existing Federal information systems that provide information on assistance programs and suggest legislative changes needed to improve the dissemination of the information.

In my opinion this legislation will be highly beneficial to the public.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we approve H.R. 6257, the Federal Program Information Act, we will be giving our Nation's towns and cities, large and small, the helping hand they have been reaching for during the last decade. It is ironic that we have thrust hundreds of Federal programs in their direction but neglected to provide them with a reasonable method of keeping track with what is available. This legislation before us today will remedy that shortcoming.

In my capacity as Chairman of the Commission on Federal Paperwork, I have witnessed time and again the frantic scramble for simple access to information on federally funded programs. Small towns in my district, for example, have no real way to keep up with the ever-increasing network of Federal programs. Many of them have no idea that we have more than 250 health programs or more than 100 different education programs. Many local leaders are dismayed and frustrated when they learn that larger communities are finding and making use of a far wider range of Federal programs than they ever dreamed existed. They are, in many cases, simply unable to compete for funds to which they are entitled. They cannot compete simply because they cannot afford to hire someone full time to keep up with the programs.

A recent study conducted by the Paperwork Commission confirmed what many of us in the Congress should have known for years, that there is a crying need for Federal data on financial assistance programs to be disseminated to State and local governments. At our Commission hearings, for example, State and local officials testified that such information would be extremely useful for planning and budgeting purposes. In short, it would mean an opportunity to develop better local government organization. When they improve their organization and streamline their search for Federal funds, there, of course, will be a significant reduction in Federal paperwork and unnecessary redtape. That is a bonus from H.R. 6257 that we cannot afford to pass up.

What we are establishing here is a relatively low-cost system administered by the Office of Management and Budget. Under the provisions of this act, OMB will develop a data retrieval system, a computer system, and they will also maintain an up-to-date catalog of all Federal programs.

This simple, but effective, system will allow a potential recipient to report to a nearby computer terminal and learn not only what is available but also how to apply for it. That computer terminal will provide a State or local official all the pertinent information he or she needs about a Federal program, including that program's objectives, its eligibility requirements, distribution formulas, and recipient obligations.

Finally, H.R. 6257 will require OMB to conduct a study of existing Federal information systems that provide information on assistance programs. The Director will report to Congress within 1 year of enactment, giving us recommendations on dissemination of Federal financial information.

Mr. Speaker, this bill has been favorably reported by the Legislation and National Security Subcommittee as well as by the full Government Operations Committee.

During the course of our hearings, we heard supporting testimony from Senator KENNEDY, Senator CHILES, Jim McIntyre of the Office of Management and Budget, and Diedre-Reimer and Terry Smith of the National Governors' Conference. The Commission on Federal Paperwork has found it to be an excellent piece of legislation. I am pleased to recommend its prompt approval.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 6257, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 904) to provide for the efficient and regular distribution of current information on Federal domestic programs and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

S. 904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Program Information Act".

DEFINITIONS

SEC. 2. For the purpose of this Act, the term—

(1) "assistance" refers to the transfer of money, property, services, or anything of value; the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by Federal statute. Assistance includes, but is not limited to, grants, loans, loan guarantees, scholarships, mortgage loans, insurance, or other types of financial assistance; provision or donation of Federal facilities, goods, services, property, technical assistance, and counseling, statistical and other expert information, and service activities of regulatory agencies; but does not include provision of conventional public information services;

(2) "Federal agency" means an agency as defined by section 551(1) of title 5, United States Code;

(3) "Federal domestic assistance program" means any function of a Federal agency which provides assistance or benefits for a State or States, territorial possession, county,

city, other political subdivision, grouping, or instrumentality thereof; any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government; and

(4) "administering office" means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

TITLE I—PROGRAM INFORMATION

DUTIES OF THE DIRECTOR

SEC. 101. The Director of the Office of Management and Budget (hereinafter referred to as the "Director") shall identify all existing Federal domestic assistance programs and provide information in each such program to the general public through electronic media as authorized under section 103 of this Act and through a printed catalog as authorized under section 104 of this Act.

INFORMATION REQUIREMENTS

SEC. 102. (a) The Director shall prepare and maintain a Federal Assistance Information Data Base (hereinafter referred to in this Act as the "data base"). For each Federal domestic assistance program the data base shall—

(1) identify each such program by title, by authorizing statute, by administering office, and by an identifying number assigned by the Director;

(2) describe the program, the objectives of the program, and the types of activities which have been funded under the program;

(3) describe the eligibility requirements, the formulas governing the distribution of funds, the types of assistance, the uses and restrictions on the use of assistance, and the obligations and duties of recipients under the program;

(4) provide financial information, including the amount of funds appropriated for the current fiscal year or, if unavailable, the amount of funds requested by the President, and the amounts obligated, the average amounts of awards made in past years, and, within two years, to the extent possible and appropriate, current information on the amount of funds not already obligated nor otherwise committed;

(5) identify information contacts including the administering office and regional and local offices, and their addresses and telephone numbers;

(6) provide a general description of any application requirements and procedures and to the extent practical, an estimate of the time required to process the application.

(b) (1) Each Federal agency shall furnish to the Director, at such times as the Director may determine, current information on all domestic assistance programs administered by such Federal agency.

(2) The Director shall on a regular basis incorporate into the data base all relevant information received under paragraph (1) of this subsection.

COMPUTERIZED PROGRAM INFORMATION SYSTEM

SEC. 103. (a) The Director shall establish and maintain a computerized information system to provide access to the data base.

(b) The Director, to the greatest extent practicable, shall provide for the widespread availability of information contained in the data base, by computer terminals wherever available.

(c) The Director, notwithstanding any other provision of law to the contrary, when he determines the efficiency of the information system established pursuant to subsection (a) of this section requires it, may enter into contracts with private organizations to obtain computer time-sharing services including, but not limited to, computer telecommunications networks, computer software, and associated services.

(d) The Director shall insure that the information available under this Act is made available to the public at a reasonable price.

(e) The Director may develop information services to further assist State and local government officials identify or obtain sources of Federal assistance.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

SEC. 104. (a) The Director shall prepare and publish each year a catalog of Federal Domestic Assistance Programs (hereinafter referred to in this Act as the "catalog").

(b) The Director shall prepare and publish supplements to the catalog as necessary.

(c) The Director may prepare and publish specialized compilations of the information in the catalog by function as necessary.

(d) The catalog shall contain, in such form as the Director determines—

(1) all information on Federal domestic assistance programs that is in the data base at the time that the catalog is prepared;

(2) any other information which the Director considers may be helpful to potential applicants or beneficiaries under such programs; and

(3) a detailed index.

(e) (1) The Director shall make each catalog available to the public at a reasonable price.

(2) There are authorized to be distributed, without cost, catalogs to Members of Congress, Resident Commissioners, agencies, State and general purpose units of local government, federally recognized Indian tribes, Federal deposit libraries, and other local repositories designated by the Director.

SEC. 105. The Director is authorized to transfer to the Office of Management and Budget all personnel, books, records, and other documents of the Department of Agriculture of any kind or description which he determines to be principally held or engaged in the operation and function of the Federal Assistance Programs Retrieval System (FAPRS).

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. There are hereby authorized to be appropriated to carry out the purposes of this Act $1,200,000 for fiscal year 1978, $1,700,000 for fiscal year 1979, and $2,200,000 for fiscal year 1980.

TITLE II—GRANT AND BUDGET INFORMATION SYSTEMS

NOTICE REQUIREMENTS

SEC. 201. Title II of the Intergovernmental Cooperation Act of 1968 is amended by striking out section 201 thereof and inserting in lieu thereof the following new section:

"SEC. 201. Any department or agency of the United States Government which administers a program of Federal assistance to any of the State governments of the United States or to their political subdivisions shall, upon request, notify the Governor, the State legislature, or other official designated by either, of the purpose and amounts of actual Federal assistance awards to the State or its political subdivisions. Such notification will, upon request, also provide such additional related information on other Federal assistance awards, where a perceived need exists, to facilitate State and local government planning, budgeting, or program administration; except that this provision shall not be construed to authorize the disclosure of information pertaining to individuals or to awards made directly to individuals. The Office of Management and Budget shall oversee the compliance by the departments and agencies with the provisions of this section, and shall issue guidelines and regulations to provide uniform compliance by all such departments and agencies."

OFFICE OF MANAGEMENT AND BUDGET STUDY

SEC. 202. The Director shall conduct a study of existing Federal information systems that provide fiscal, budgetary, and program-related data, and information on grant awards and shall report to the Congress within one year from the date of enactment of this Act, his recommendations for the appropriate dissemination of Federal financial information, and his recommendations for statutory changes necessary to further consolidate and improve methods for the dissemination of Federal financial information, using modern communications technology.

REPORTS

SEC. 203. (a) Not later than twelve months after the date of enactment of this Act, the Comptroller General of the United States shall undertake, prepare, and submit to the Congress a progress report on the action taken by the Director of the Office of Management and Budget to implement this Act and the degree to which any such actions have been successful.

(b) Not later than twenty-four months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a full report and audit which shall include, but not be limited to, the following:

(1) a progress report on the action taken by the Director of the Office of Management and Budget to implement this Act and the degree to which those actions have been successful;

(2) an evaluation of the effect of the activities of the Director of the Office of Management and Budget on the efficiency and effectiveness of affected Federal agencies in carrying out their assigned functions and duties under this Act; and

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of title I of this Act.

MOTIONS OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill S. 904 and to insert in lieu thereof the provisions of H.R. 6257, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6257) was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GAO AUDITS OF INTERNAL REVENUE SERVICE AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

Mr. ROSENTHAL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 213) to amend the Ac-

counting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 117 of the Accounting and Auditing Act of 1950 (31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Comptroller General shall make, under such rules and regulations as he shall prescribe, audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury: *Provided,* That such audits shall not affect the finality of findings or decisions of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code.

"(2) For purposes of, and to the extent necessary in, making the audits required by paragraph (1) of this subsection, representatives of the General Accounting Office—

"(A) shall, to the extent provided by, and subject to the requirements imposed by, section 6103 of such Code but notwithstanding the provisions of any other law, have access to returns and return information (as defined by section 6103(b) of such Code); and

"(B) shall, notwithstanding the provisions of any other law, have access to all other books, accounts, financial records, reports, files, papers, things, and property belonging to or in use by the Internal Revenue Service or the Bureau of Alcohol, Tobacco, and Firearms:

Provided, That no officer or employee of the General Accounting Office shall, except as otherwise expressly provided by law, divulge or make known in any manner whatever to any person, other than another officer or employee of such office whose official duties or responsibilities require such disclosure, any information described in clause (B) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Any such officer or employee who makes a disclosure in violation of this proviso shall be subject to the penalties provided by law.

"(3) The Comptroller General shall, from time to time, but not less often than once every six months, designate in writing the name and title of each officer and employee of the General Accounting Office who, pursuant to the provisions of paragraph (2) of this subsection, is to have access to tax returns and tax return information, or any information described in clause (B) of such paragraph (2), in a form which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer. Each such written designation, or a certified copy thereof, promptly shall be deliverd to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms.

"(4) The Comptroller General shall, as frequently as may be practicable, make reports to the Congress on the results of audit work performed. In addition, the Comptroller General shall submit an annual written report to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, the Committee on Government Operations of the House of Representatives, and the Committee on Governmental Affairs of the Senate which report shall include, but shall not be limited to, the following:

"(A) The procedures and requirements which the General Accounting Office, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco, and Firearms have established for protecting the confidentiality of tax returns and tax return information made available to the Comptroller General under this subsection;

"(B) The scope and subject matter of any audit or other examination or review authorized under paragraph (1) of this subsection; and

"(C) Any findings, conclusions, or recommendations developed by the Comptroller General as a result of any audit or other examination or review authorized under paragraph (1) of this subsection including any significant evidence of inefficiency or mismanagement.".

The SPEAKER pro tempore. Is a second demanded?

Mr. BROWN of Michigan. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. ROSENTHAL) and the gentleman from Michigan (Mr. BROWN) will be recognized for 20 minutes each.

The chair recognizes the gentleman from New York, Mr. ROSENTHAL.

Mr. ROSENTHAL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the 94th Congress, the House passed and sent to the Senate legislation to authorize General Accounting Office (GAO) to conduct independent audits of the Internal Revenue Service (IRS) and the Bureau of Alcohol, Tobacco, and Firearms (ATF) of the Treasury Department. The legislation, which resulted from investigative hearings into the IRS by the Commerce, Consumer, and Monetary Affairs Subcommittee, passed the Senate in amended form. The Senate bill added provisions requiring reports to the Congress on personnel and procedures involved in GAO's access to tax return information; and requiring that plans for GAO initiated audits be reported to the Joint Committee on Taxation and made subject to veto by a two-thirds vote of the committee membership within 30 days. Due to a number of technical difficulties in the Senate, an official version was not received by the House prior to its adjournment sine die.

In this Congress, the Senate acted first and approved S. 213 which is identical to last year's Senate bill. The Government Operations Committee unanimously approved and ordered reported S. 213, without amendment.

The Department of Treasury, IRS, and GAO support S. 213.

The purpose of the legislation is to resolve the longstanding differences between the GAO and the IRS over the right of the GAO to gain access to records necessary to perform regular audits of the Service. Because the problem of GAO access to tax administration documents and records applied not only to the IRS but also to the ATF, the committee included that Bureau within the provisions of S. 213.

S. 213 scrupulously safeguards the privacy and integrity of income tax returns and information from unauthorized disclosure and subjects GAO employees to the same penalties and sanctions available against IRS employees and others for any unauthorized disclosure of tax return information. Moreover, the final authority of the Secretary of the Treasury under section 6406 of the Internal Revenue Code to make decisions regarding the merits of any claim presented under the Internal Revenue laws, is not disturbed.

The committee believes that regular and independent GAO audits of the IRS and the AFT will result in substantially greater efficiencies and economies in the operations and activities of those agencies.

GAO audits of the IRS and the ATF of the Department of the Treasury have been severely restricted and often made impossible because of the continued refusal by IRS and ATF to grant GAO access to needed records. Without access to necessary records, GAO cannot effectively evaluate IRS and ATF operations involving millions of dollars of appropriated funds and billions of dollars of annual revenue collections.

The longstanding refusal by the IRS to permit the GAO to review administration of the Internal Revenue laws has been the subject of discussion and correspondence between GAO and IRS for a number of years. It has also been the subject of congressional hearings before subcommittees of the House Committee on Government Operations in 1972 and 1973 and in 1975 by the Subcommittee on Commerce, Consumer, and Monetary Affairs.

The IRS has consistently interpreted the Internal Revenue Code as prohibiting the Commissioner of IRS from making any documents or records on the administration of the Internal Revenue Code available to GAO, and the Service questions the authority of GAO to make independent management reviews. The Tax Reform Act of 1976 the "tax return" itself is covered under the code as well as tax return information, which is broadly interpreted to include practically all documents in IRS possession.

GAO has long believed the sections of the Internal Revenue Code relied on by the IRS do not preclude the Service from making records available to GAO for audit purposes and that GAO does have authority to make independent management audits of IRS under the Budget and Accounting Act of 1921, the Accounting and Auditing Act of 1950, the Legislative and Reorganization Act of 1970 and the Congressional Budget and Impoundment Control Act of 1974. Because the GAO has no authority to seek court review of its differences with the IRS, the legislation presently before the House today is made necessary.

The committee vote in support of this legislation is an expression of our belief

that as a consequence of this lack of independent audit capability, IRS and ATF management practices and administration of the tax laws have not been as efficient as they otherwise would have been; and that many committees and individual Members of Congress have been denied meaningful information on IRS and ATF operations.

Mr. BROWN of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I should like to take this opportunity to commend the ranking minority member, the gentleman from Michigan (Mr. BROWN), and the chairman of the subcommittee, the gentleman from New York (Mr. ROSENTHAL), for bringing this legislation to the floor.

Mr. Speaker, the subject of S. 213 has long been the concern of the Government Operations Committee. It is a bill that will allow the General Accounting Office to oversee, as it does with other executive agencies, the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms, both of the Department of the Treasury. GAO will be allowed to audit on its own initiative the operations of the IRS and have access to tax returns and other return information it needs in doing such audits.

The purpose of the auditing by GAO is to provide independent and objective evaluations of how well IRS is carrying out its responsibilities; the GAO is not concerned with the identity of individual taxpayers, nor do they intend to impose their judgment upon that of IRS in individual cases. The GAO will examine individual tax transactions only to serve as a reasonable basis for evaluating the effectiveness, efficiency, and economy of selected IRS operations and activities. We have been careful to include in this legislation severe penalties for any unauthorized disclosure of tax return information.

The need for this legislation should be self-evident. The IRS is an agency of 80,000 employees and it has enormous legal powers and duties. The Government Operations Committee has, in the last 18 months, issued three reports critical of IRS operations on the taxpayer assistance program, the income document matching program, and the enforcement of the Bank Secrecy Act. Independent reviews of IRS operations by GAO would be another means of ascertaining whether alleged abuses and weaknesses do exist and of identifying other problems concerning the administration of the tax laws.

I support S. 213 and urge its passage.

Mr. BROWN of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this legislation but I wish to take a minute to stress limits of the audit permitted by the bill.

The main purpose of the bill is to resolve a longstanding disagreement between the IRS and GAO, by making clear that the Comptroller General has the authority to initiate regular mangement reviews of the IRS and to obtain access to pertinent records, including tax return and tax return information, and to make such audits on an independent basis.

I think we should first recognize that this legislation provides for an administrative audit, not an audit or a second-guessing of substantive determinations made by the IRS.

Final authority of the Secretary of the Treasury or his delegate to make decisions in individual cases is specifically preserved. For emphasis on this point I refer to the actual language of the legislation. In the very first paragraph it says:

Provided, That such audits shall not affect the finality of findings or decisions of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code.

I wish to add these remarks to establish the parameters of the audit.

I also have some concern about the privacy of tax returns—but that issue has already been decided in the Tax Reform Act of 1976, in favor of permitting GAO access to tax return information. However, in view of congressional concern regarding personal privacy, as evidenced by the Privacy Act of 1974, I expect the General Accounting Office to exercise its authority under this legislation in a most cautious and disciplined manner.

With these comments, I support the bill.

Mr. ROSENTHAL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, this is long overdue legislation that would have been enacted last year but for some technical problems on the Senate side that delayed action until after Congress adjourned.

This bill simply authorizes the Comptroller General to conduct independent audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms. For years, the IRS took the position that it was prohibited by the Internal Revenue Code from making its administrative records available to the GAO. The GAO never accepted that interpretation of the code, and they have been battling it out for a long time.

Now we have a bill that is acceptable to the GAO, to the IRS and to the Bureau of Alcohol, Tobacco, and Firearms. House passage today will send it to the White House and we can get on with the work.

Mr. LEVITAS. Mr. Speaker, I commend the gentleman from New York (Mr. ROSENTHAL) for bringing this important bill to us, and I rise to speak in support of S. 213. This bill would allow the General Accounting Office to perform its independent auditing function within the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury.

In the opinion of some people, this bill is not needed because they interpret the present laws to grant GAO this power already. However, since neither IRS nor ATF will permit GAO to have access to their records, we must take this legislative method to settle a procedural interagency dispute. Both IRS and the Department of the Treasury desire the leglegislative method and support S. 213.

IRS and ATF are to be commended if their prior refusal to allow GAO to audit their operations stemmed from a genuine desire to protect the individuals whose records they keep. I share that concern. However, as GAO has repeatedly stated, they do not intend to audit individual returns but to examine some only to ascertain how effectively and efficiently the IRS and ATF are carrying out their tax collecting responsibilities. Furthermore, I believe that the provisions of this bill, and the safeguard amendments resulting from the Tax Reform Act of 1976, are sufficiently strict so that individual privacy is adequately protected; and the legislative history of this bill is such that the GAO must know that individual privacy protection is a major purpose and concern.

The success of a voluntary tax collection system such as ours depends completely on the perceptions of the taxpayers that it is fair and equitable, and that their privacy is being respected.

As Benjamin Disraeli said:

All power is a trust; we are accountable for its exercise. And accountability is the issue here.

We have seen past abuses on the part of the IRS. The investigations, findings, and conclusions of the Government Operations Committee in the House of Representatives have disclosed occasions of neglect and inequities by IRS in administering its operations, all of which might have been forestalled by the knowledge that they were accountable to some outside authority. In the absence of GAO review, there is no independent assurance that IRS and ATF are carrying out their operations in an equitable, efficient, effective, and economical manner.

The magnitude and complexity of Federal tax collection activities are such that independent GAO evaluation of IRS and ATF operations are needed to assist the Congress in its oversight functions and will almost certainly strengthen the administration of the programs and activities of these important Government agencies.

Mr. ROSENTHAL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROWN of Michigan. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ROSENTHAL) that the House suspend the rules and pass the Senate bill S. 213.

The question was taken.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, and the prior announcement of

the Chair, further proceedings under this motion will be postponed.

The gentleman from California withdraws his point of order.

PARLIAMENTARY INQUIRY

Mr. WYDLER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WYDLER. What is the business before the House, Mr. Speaker?

The SPEAKER pro tempore. The Chair is about to determine whether to recognize the gentleman from North Carolina (Mr. FOUNTAIN) for a motion to suspend the rules and pass the next bill.

Mr. WYDLER. Mr. Speaker, I urge the Chair to do something.

The SPEAKER pro tempore. Is the gentleman from New York seeking recognition?

Mr. WYDLER. I am not seeking recognition. I am seeking some progress on the floor.

AUTHORIZING CERTAIN APPROPRIATIONS FOR THE TERRITORIES OF THE UNITED STATES AND TO AMEND CERTAIN ACTS RELATING THERETO

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes, with the Senate amendments thereto, concur in Senate amendments Nos 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25, and concur in Senate amendments Nos. 10, 19, 20, and 26 with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 9, strike out all after "1977;" over to and including "annum;"." in line 2 on page 2 and insert: "for fiscal year 1978, $90,000,000; for fiscal year 1979, $122,700,000; for fiscal year 1980, $112,000,000;".".

Page 2, strike out lines 3 to 15, inclusive, and insert:

(b) Section 2 of the Act of June 30, 1954 (86 Stat. 330), as amended, is further amended by (1) deleting "but not to exceed $10,000,000," and (2) deleting all of the language beginning with the words "which amounts for each fiscal year" up to and including the words "calendar year 1974,".

Page 2, strike out all after line 23 over to and including line 6 on page 3.

Page 3, line 7, strike out "104." and insert: "103.".

Page 3, line 14, strike out "105" and insert: "104.".

Page 4, lines 6 and 7, strike out "or who has developed thyroid atrophy resulting in myxedema, or" and insert: "or who has developed hypothyroidism, or".

Page 4, line 19, strike out "(1) or (2)" and insert: "(1)".

Page 5, line 3, after "section." insert: "The costs of such medical care and treatment shall be assumed by the Administrator of the Energy Research and Development Administration.".

Page 5, line 18, strike out all after "per" down to and including "$100,000." in line 20 and insert: "capita. Where the demise of any individual eligible for payment under paragraph (1) or (3) supra is directly related to the thermo-nuclear detonation referred to in paragraph (a) of this section, the Secretary may make an additional compassionate payment not to exceed $100,000 to the heirs or legatees of such individual. In determining the amount of such payment the Secretary shall consider, but is not limited to, the following: any payments which the deceased has received or would have been eligible to receive under this section, and loss of support, services, or contributions to the heirs or legatees.".

Page 6, strike out all after line 15 over to and including line 21 on page 8.

Page 8, line 11, strike out "III" and insert: "II".

Page 8, line 23, strike out "301." and insert: "201.".

Page 9, line 22, strike out "302." and insert: "202.".

Page 10, line 6, strike out "303." and insert: "203.".

Page 10, strike out all after line 7 over to and including line 2 on page 11 and insert:

(a) by deleting from the first sentence of section 9-A(a) everything after the words "government of Guam"; adding a period after "Guam"; and inserting the following sentence: "Effective October 1, 1977, the salary and expenses of the Comptroller's office shall be paid from funds authorized to be appropriated to the Department of the Interior.";

Page 11, after line 2, insert:

(b) the Act of June 30, 1954 (68 Stat. 330), as amended, is further amended by deleting the last sentence of section 4(a);

Page 11, line 3, strike out "(b)" and insert: "(c)".

Page 11, line 6, strike out "surtax" and insert: "separate tax".

Page 11, strike out all after line 9 over to and including line 19 on page 13 and insert:

"SEC. 204. (a) Notwithstanding any law or court decision to the contrary, the District Court of Guam is hereby granted authority and jurisdiction to review claims of persons, their heirs or legatees, from whom interests in land on Guam were acquired other than through judicial condemnation proceedings, by the United States between July 21, 1944, and August 23, 1963, and to award fair compensation in those cases where it is determined that less than fair market value was paid as a result of duress, unfair influence, or other unconscionable actions.

(b) Land acquisition effected through judicial condemnation proceedings shall remain res judicata and shall not be subject to review hereunder.

(c) Fair compensation for purposes of this Act as defined as such additional amounts as are necessary to effect payment of fair market value at the time of acquisition, if it is determined that, as a result, of duress, unfair influence, or other unconscionable actions, fair market value was not paid.

(d) The District Court of Guam may employ and utilize the services of such special masters or judges as are necessary to carry out the intent and purposes hereof.

(e) Awards made hereunder shall be judgments against the United States.

(f) Attorney's fees paid by claimants to counsel representing them may not exceed 5 per centum of any additional award. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both. A reasonable attorney's fee may be awarded in appropriate cases.

(g) All agencies and departments of the United States Government shall, upon request, deliver to the court any documents, records, and writings which are pertinent to any claim under review.

Page 13, after line 19, insert:

SEC. 205. Section 11 of the Organic Act of Guam (64 Stat. 387; 48 U.S.C. 1423a), as amended, is further amended by adding at the end thereof the following language: "The Secretary is further authorized to guarantee for purchase by the Federal Financing Bank notes or other obligations of the government of Guam in an aggregate amount of not more than $25,000,000 which shall be issued in order to meet the health care needs of Guam, and such bank, in addition to its other powers, is authorized to purchase, receive, or otherwise acquire these same. The interest rate on obligations purchased by the Federal Financing Bank shall be not less than a rate determined by the Secretary of the Treasury taking into consideration the current market yield on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 per centum, plus 1 per centum per annum. Such guaranteed notes or other obligations shall, while outstanding, include a provision for semiannual payments of interest only. The maturity of any notes or other obligations to be guaranteed may not exceed thirty years. If the Secretary determines that the government of Guam will not meet its obligation to pay interest, the Secretary shall request the Secretary of the Treasury to deduct such payments from sums collected and paid pursuant to section 30 of this Act (48 U.S.C. 1421h). Should there be default at maturity on the notes or other obligations so guaranteed, (1) the Secretary may withhold such sums as he determines may be necessary from sums collected by the Secretary of the Treasury pursuant to section 30 of this Act (48 U.S.C. 1421h) until losses incurred by the Secretary under the guarantee plus interest at the rate specified in this section have been reimbursed to the Secretary and (2) notwithstanding any other provisions of the law, Acts making appropriations may provide for the withholding of any payments from the United States to the government of Guam which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the United States may have against the government of Guam pursuant to this guarantee. In addition, should there be a default and should the section 30 sums be insufficient to cover such default, the Secretary may require the government of Guam to impose such additional separate taxes for such period of time as he determines would be sufficient to cover such default. For the purposes of this Act, under section 3466 of the Revised Statutes (31 U.S.C. 191), the term 'person' includes the government of Guam. The Secretary may place such stipulations as he deems appropriate on the notes or other obligations he guarantees. No loan may be guaranteed by the Secretary for the health care needs of Guam pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.".

Page 13, line 20, strike out "IV" and insert: "III".

Page 13, strike out all after line 20 over to and including line 18 on page 14 and insert:

SEC. 301. (a) The Revised Organic Act of the Virgin Islands (68 Stat. 504) as amended (48 U.S.C. 1599) is further amended as follows: Delete from the first sentence of sec-

tion 17(a) everything after the words "government of the Virgin Islands", add a period after "Virgin Islands" and insert the following sentence: "Effective October 1, 1977, the salary and expenses of the Comptroller's office shall be paid from funds authorized to be appropriated to the Department of the Interior.".

Page 14, after line 25, insert:

(c) Section 8 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574) is amended by adding at the end thereof the following new subsection:

"(f)(1) The Legislature of the Virgin Islands may impose on the importation of any article into the Virgin Islands for consumption therein a customs duty. The rate of any customs duty imposed on any article under this subsection may not exceed—

"(A) if an ad volorem rate, 6 per centum ad volorem; or

"(B) if a specific rate or a combination ad valorem and specific rate, the equivalent or 6 per centum ad valorem.

"(2) Nothing in this subsection shall prohibit the Legislature of the Virgin Islands from permitting the duty-free importation of any article.

"(3) Nothing in this subsection shall be construed as empowering the Legislature of the Virgin Islands to repeal or amend any provision in law in effect on the day before the date of the enactment of this subsection which pertains to the customs valuation or customs classification of articles imported into the Virgin Islands.".

Page 15, line 1, strike out "V" and insert: "IV".

Page 15, strike out lines 2 to 13, inclusive, and insert:

SEC. 401. The Secretary of the Interior is directed to submit to the Congress not later than January 1, 1978, a report on Federal programs available to the territories of the United States indicating in such report what programs are available to each territory, what additional programs would be of benefit to such territory if made available, what changes or modifications to each program should be made to improve the operation and effectiveness of each program and the estimated costs of such program. There is hereby authorized to be appropriated for fiscal year 1978 $50,000 to assist the Secretary in the preparation of this report.

Page 15, strike out all after line 13 over to and including line 6 on page 16 and insert:

SEC. 402. In order to compensate the territories of Guam and the Virgin Islands for unexpected revenue losses occasioned by the Tax Reduction Act of 1975 and the Tax Reform Act of 1976 there is hereby authorized to be appropriated to the Secretary for grants to the government of Guam not to exceed $15,000,000 and after October 1, 1977, for grants to the government of the Virgin Islands not to exceed $14,000,000, such sums being in addition to those previously authorized for such purposes.

The Clerk read the House amendments to the Senate amendments numbered 10, 19, 20, and 26, as follows:

In the Senate amendment numbered 10 strike out the period and insert in lieu thereof a comma and the following: "and insert in lieu thereof:

SEC. 105. In addition to amounts heretofore authorized pursuant to the Micronesian Claims Act of 1971 (85 Stat. 96), there are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to satisfy all adjudicated claims and final awards made by the Micronesian Claims Commission to date under title I and title II of said 1971 Act, for full payment of such awards: *Provided*, That no sums appropriated pursuant to this section may be paid on awards pursuant to title I of said 1971 Act until, subsequent to the date of enactment of this section, the Government of Japan has provided to the Government of the Trust Territory of the Pacific Islands a contribution, which contribution may be in goods and services, which has a value as determined by the Secretary of Interior equivalent to not less than 50 per centum of the total awards made pursuant to title I of said 1971 Act less $10,000,000 from such total.".

In the Senate amendment numbered (19), in the matter inserted by that amendment:

(1) In subsection (a) after "proceedings," and before "by" insert "in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam,";

(2) In subsection (a) between "result of" and "duress", add "(1)", and delete the period after "unconscionable actions" and insert ", or (2) unfair, unjust, and inequitable actions of the United States.".

(3) In subsection (b) after "proceedings" and before "shall" insert "in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam,";

(4) At the end of subsection (c) insert the following language: "Interest may not be allowed from the time of acquisition to the date of the award on such additional amounts as may be awarded pursuant to this section."

In the Senate amendment numbered 20, in lieu of the matter inserted by that amendment, insert the following:

SEC. 205. There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary for grants to the Government of Guam to meet the health care needs of Guam, but not to exceed $25,000,000: *Provided*, That no grant may be made by the Secretary of the Interior pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.

In the Senate amendment numbered 26, at the end of the matter inserted by that amendment, add the following:

SEC. 403. Effective on the date of enactment of this Act, those laws, except for any laws administered by the Social Security Administration and except for Medicaid which is now administered by the Health Care Financing Administration, which are referred to in section 502(a)(1) (except for the reference to the Micronesian Claims Act of 1971 (85 Stat. 96)) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by joint resolution approved on March 24, 1976 (90 Stat. 263), and 502(a)(2) of said Covenant shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Commonwealth of the Northern Mariana Islands.

TITLE V

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures of certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress that:

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments thereto be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California that the Senate amendments and House amendments thereto be considered as read and printed in the RECORD.

There was no objection.

The SPEAKER pro tempore. Is there objection to the first unanimous-consent request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, can the gentleman tell us whether we have been consulted?

Mr. PHILLIP BURTON. If the gentleman will yield, yes, I have consulted with the minority on this, and we are in full agreement. This bill is substantially, not entirely, the same as the House passed about 5 months ago with only three dissenting votes. The main difference is this bill provides a 3-year rather than a 5-year authorization and, therefore, costs some $200 million less than the bill we sent down.

Mr. Speaker, we have before us today the conference report on H.R. 6550, the omnibus authorization bill for the terri-

tories of the United States. These include Guam, the Virgin Islands, American Samoa, the Government of the Northern Marianas, and the Trust Territory of the Pacific Islands. The House version of the bill was passed by the House last May with only three dissenting votes. The Senate passed its own version in July. What we are taking up today is the House bill as amended by the Senate and with certain amendments thereto. Following is a breakdown of what the major differences are between the original House bill and the version before us today:

First of all, title I, section 101: The Senate bill contains a 3-year authorization, as opposed to a 5-year authorization in the House bill, for the Trust Territory of the Pacific Islands. The House bill authorized $80 million for fiscal 1978 and each of the succeeding 5 years and retained the base year indexing formula which provided for yearly adjustment of the authorization. The Senate bill authorizes $90 million for fiscal 1978, $122,700,000 for fiscal 1979, and $112,000,000 for fiscal 1980 and deletes the inflation adjustment formula, thus providing higher absolute dollar levels in its place. I have agreed to accept the Senate language. The provision to authorize for the trust territory such amounts as were authorized but not appropriated for fiscal years 1975, 1976, and 1977, as set forth in the House bill, are still intact in the bill before us.

The Senate deleted the section authorizing funds for the trust territory economic development loan fund. Since the House Appropriations Committee in June directed that no money be appropriated to this fund until an audit was completed and certain other conditions were met, we have agreed to delete this authorization at this time.

The Senate deleted the entire section authorizing payment of adjudicated claims and final awards made by the Micronesian Claims Commission under title I and title II. We are insisting that this section be reinstated and to meet certain objections, we have added a proviso making U.S. payment of title I claims contingent on Japan's payment of its 50 percent share of those claims.

The Senate, in the section providing compassionate payments to inhabitants of Rongelap Atoll and Utirik Atoll in the trust territory who were victims of U.S. thermonuclear testing, made a few changes, which are acceptable. These include the broadening of a medical definition and the stipulation that ERDA, as the successor to the AEC, should assume the costs of medical care and treatment for these people. Additionally, the Senate provided compassionate payments of up to $100,000 for the heirs or legatees of any individual who dies as a result of the U.S. nuclear testing. The House had provided $100,000 for the parents of the only person to die to date but should any additional deaths occur in the future, the Senate language would provide for that.

What was title II, section 201 of the House bill, which provided for the consolidation of block grants to the Virgin Islands, Guam, American Samoa, the Trust Territory and the Government of the Northern Mariana Islands, was stricken by the Senate. We have requested that they reinstate this section as a new title V.

I might note here that there is on the books already Public Law 93–510, the Joint Funding Simplification Act, enacted in 1974. This act simplifies the application and reporting process by providing for integrated funding through a lead agency representing other participating Federal agencies. We strongly urge all agencies and departments to actively implement this law in regard to Federal grants for the territories of the United States.

It is essential to the well-being of these territories that we assist them in every possible way to eliminate the burden caused them by unnecessary red tape. And between Public Law 93–510 and this new title V, this goal ought to be attainable.

The Senate substituted new language for the sections in the House bill dealing with the comptrollers for Guam and the Virgin Islands. The Senate provided for the Secretary of the Interior to assume costs for both these offices, effective October 1, 1977, which essentially was the intent of the House language. We have therefore accepted the Senate's language on these two sections.

The Senate made a technical change in the House amendment authorizing the Guam Legislature to levy an additional tax. Their language, which provides for a "separate" tax, as opposed to a "surtax," is totally acceptable.

Section 304, the Guam postwar land takings section, has been changed to section 204, and in effect, is a new section proposed by the Senate. I need not remind my colleagues of the destruction of lives and property suffered by the people of Guam during World War II. A substantial number of Guamanians lost their lands after the war, and these losses were due not necessarily to the Japanese occupation of the island, but by condemnation proceedings conducted in most cases by military authority rather than through the normal judicial proceedings. Section 204 seeks to redress the inequities caused by our own Government, and we think it only fair that the landowners be justly compensated for the taking of their lands by the Government. Therefore, we accept the Senate proposal to grant jurisdiction to the district court of Guam to review the claims of persons, their heirs or legatees, whose interests in land on Guam were taken from them without fair compensation.

While I respect the other body's concern about frivolous claims and no standards whereby the judiciary could better measure the fairness of such claims, I am just as concerned that the court does not impose unreasonable burdens upon the claimants to prove their claims in court, and as a result, end up without any compensation at all. In other words, while it may be possible to carry the burden of proving who owned the land, where it was, and how much the United States paid for it in 30-year-old condemnations, it will be grossly more difficult—if not impossible—to carry the burden of proving that some unnamed and unlocatable U.S. naval officer had threatened a claimant's grandfather with a "take what we offer or we'll take it anyway and you might get less" decision on this matter.

We fully intend that the United States shall offer all possible cooperation and assistance, including making all records and documents available to claimants since the U.S. agency files are the repository of most of the relevant information that the claimants will need for litigation. Furthermore, on the matter of standard of proof, there is an understanding that the phrase "unconscionable actions" was deliberately used in order to expand and soften the rigid requirements of fraud and duress to include any actions, promises, appeals, or other activities which would amount to an unfair advantage to the landowner at the time his land was acquired by the government. This language, when viewed with the additional "unfair, unjust, and inequitable" language contained in (2) reflects our desire that these claims be viewed with sympathy and sensitivity, as well as reflecting the climate at the time.

As I mentioned earlier, at the time Guam was administered by military authority, many of the claimants whose lands were taken following reoccupation, did not have the opportunity to seek competent legal advice or to be represented by legal counsel in any proceeding where the matter of fair compensation was adjudicated. Section 204 seeks to correct this deficiency and to assure all litigants of their rights to seek an equitable solution to this problem, given the fact there was, at the time, an almost nonexistent judiciary forum to which the claimants has access immediately following World War II.

The Senate added a section authorizing a $25 million guaranteed loan to Guam, with the approval of the Secretary of HEW, to enable the Guam government to purchase the new Medical Center of the Marianas to replace the Guam Memorial Hospital. Over the last 10 years Guam Memorial Hospital has suffered severe damages caused by two super typhoons and has undergone several renovations and much patchwork. It is estimated that it would require between $18 and $20 million to simply upgrade the present facility to meet minimum health care standards and to acquire hospital accreditation. A recent health care needs study of Guam reveals the numerous deficiencies of the Guam hospital, asserts that the economy of Guam cannot support two hospitals and recommends the purchase of a fully equipped hospital, which we understand is available at the approximate cost of $25 million.

Since the government of Guam does not have the financial ability to undertake a large capital improvement project to build a new hospital or to assume a new debt obligation, we believe that a

direct appropriation of $25 million is the more responsible course to take. With this in mind, we are offering an amendment to the Senate amendment to provide such a grant.

The Senate added an amendment to allow the Virgin Islands Legislature to vary the present 6-percent ad valorem custom duty on the importation of articles into the Virgin Islands. The duty is a carry-over from Danish law and because we agree with the Senate that the local legislature ought to be able to vary it, we have accepted the amendment.

The Senate struck the provision of the House bill which would have extended to Guam and the Virgin Islands certain programs that will be extended to the Northern Marianas by the Commonwealth Covenant. We are requesting that this section be reinstated, and to meet certain objections we have added language making it clear that medicaid and those programs administered by the Social Security Administration shall be excluded.

The Senate, in striking the above section in its version of H.R. 6550, added a section directing the Secretary of the Interior to submit to the Congress by January 1, 1978, a report on Federal programs available to the territories of the United States and authorized $50,000 for this purpose. We have no objection to retaining this section.

And that concludes the changes with which we are dealing today. As the chairman of the House Interior Subcommittee with jurisdiction over the insular areas, I would assure my colleagues that what we have before us is the most equitable and responsible final disposition of H.R. 6550 that it is possible to attain. In approving these amendments, we will be properly discharging our responsibilities toward the people in these offshore areas and reassuring them that we have their best interests at heart. We can do no less. I urge my colleagues to support the amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 6550 as amended. It is an omnibus bill, authorizing funds for the upkeep of America's offshore areas as well as financial relief for those Micronesians harmed as a result of World War II and its aftermath or impaired as a result of U.S. nuclear testing in the Pacific.

As amended H.R. 6550 will in title I: Provide a 3-year authorization for the continuance of the civil government of the Trust Territory of the Pacific Islands—including the government of the Northern Marianas until the separate funding provisions of the covenant becomes effective, provide for the payment of Micronesian war claims, provide authorization for the rehabilitation of Enewetak Atoll, and provide compensation to those affected by radioactive fallout at Rongelap and Utirik Atolls.

In title II, provision is made for typhoon rehabilitation in Guam, for continuance of Guam's economic development fund and to purchase a new hospital. Also, the Secretary of the Interior will assume the costs of the Guam Comptroller, and the District Court of Guam is provided jurisdiction to review postwar land claims.

Title III directs the Secretary of the Interior to assume the cost of the Virgin Islands' Comptroller. Further, the Virgin Islands Legislature is authorized to override a line item veto by the Governor and to vary the 6-percent ad valorem custom duty imposed by a carryover from Danish law.

Title IV directs a study of Federal programs by the Secretary of the Interior, permits discretionary consolidation of grants-in-aid to the territories by concerned Federal departments, extends some of the Federal programs granted to the Northern Marianas under terms of the covenant to Guam and the Virgin Islands; and authorizes grants to Guam and the Virgin Islands to compensate for tax losses occasioned by changes in the Federal tax laws.

As is apparent, the bill undertakes a comprehensive approach in dealing with America's offshore areas. For the first time, unity, rather than fragmentation, is the hallmark of our territorial legislative effort. I commend the chairman of the subcommittee together with my other colleagues on the Interior Committee for fashioning legislation which is truly responsive to the needs of America's territories.

Therefore, without reservation, Mr. Speaker, I support H.R. 6550 and encourage my colleagues to do likewise.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 6550 as amended. This legislation is a territorial omnibus bill, authorizing funds for the continued administration of the Trust Territory of the Pacific Islands; for typhoon relief on Guam; for the purchase of a new hospital on Guam; for the adjudication by the District Court of Guam of property claims lodged by Guamanians against the Federal Government; and for Federal grants to compensate Guam and the Virgin Islands for losses in governmental income resulting from recent Federal tax reductions. The bill also transfers payment for the Interior Departmental Comptrollers on Guam and the Virgin Islands to the Secretary. Moreover, the bill provides departmental discretion to those Federal agencies furnishing grants-in-aid to the territories—Puerto Rico excepted—to consolidate any or all programs. Lastly, the legislation provides that Federal programs made applicable to the Northern Marianas by provisions of the Covenant, with some exceptions, will be applicable to Guam and the Virgin Islands on the same terms.

H.R. 6550 is a comprehensive bill, initiated by the Subcommittee on Territorial and Insular Affairs to meet the long-term needs of America's offshore areas. Contrary to procedures of the past, where Congress relied upon the administration to propose piecemeal legislation, this year the House of Representatives took the lead in developing the legislation now before us. The measure represents our best judgment, rendered on a bipartisan basis and in coordination with the other body, to meet the financial and humanitarian needs of Americans living in the offshore areas.

Accordingly, Mr. Speaker, I ask my colleagues to support passage of this amended version of H.R. 6550 as they did its precursor last May.

Mr. WON PAT. Mr. Speaker, I rise to urge passage of the conference report of H.R. 6550, a bill to authorize funds for a number of projects in the Trust Territory of the Pacific, the Virgin Islands and Guam.

Because Congressman PHILLIP BURTON, chairman of the House Subcommittee on National Parks and Insular Affairs, will present in detail the key aspects of this bill. I will address at this time only several points of major concern to my constituents on Guam.

The most crucial is found in title III of the measure, which pertains to the post-World War II land takings on Guam by the Federal Government.

Hundreds of my constituents are on official record charging that their property was taken by agents of the Federal Government either without adequate payment or in some instances without any payment at all. The methods used by Federal representatives were, according to these persons, almost always abusive and without any regard for the legal rights of the parties involved.

For the people of Guam who had just come through 3 years of brutal occupation by Japanese forces, their liberation by American forces was a blessing. But shortly after our liberation, U.S. naval agents began to approach islanders for their property which was used to bolster the war effort against Japan. As a result of those early land takings, over one-third of our best land on Guam lies in Federal hands.

In addressing this section, I must note that the postwar land takings is the most controversial section in the bill and one which has created difficulty. The final language now before you is by any standards a compromise to which I only agreed to with hesitation.

The present language of this section calls for the Federal District Court in Guam to be granted authority to review all claims by persons—or their heirs—whose lands were acquired by the United States between July 21, 1944, and August 23, 1963. The court is ordered to award "fair compensation in those cases where it is determined that less than fair market value was paid as a result of duress, unfair influence, or other unconscionable actions."

I call to the attention of my colleagues that this language is not meant to subject future claimants with unfair and inflexible rules which would prevent them from pursuing their legitimate goal of justice and fair compensation from the Federal Government. In the Senate Energy Committee report on H.R. 6550, that committee clearly noted that it had, and I quote:

> Deliberately used the word "unconscionable" to expand and soften the rigid requirements of fraud and duress to include any actions, promises, appeals, or other activities which would amount to an unfair advantage.

The committee also included language to make evidentiary rules more flexible.

It has been over 30 years since many of the land takings occurred. In that time, many of the parties have either passed away or can no longer be found. For this reason, it is important that the courts fully understand the need to be flexible in the matter of evidence. I can only repeat that it is the intention of Congress that this matter be brought to an honorable and equitable solution in a manner which will provide the long-sought-for justice that the people of Guam deserve.

Although I have some personal reservations about the need for claimants to show proof of duress after so many years, I am concurring to the present language of H.R. 6550 in an effort to expedite the passage of this measure before this present session of Congress adjourns. My failure to do so would jeopardize other key portions of the measure and would only delay the time when the people of Guam can bring this matter to the courts.

I am deeply appreciative to my colleagues on the House Interior and Insular Affairs Committee for their support in this matter. A special note of gratitude must go to my good friend, Congressman PHILLIP BURTON, who has stood by us all the way in our efforts to seek a fair settlement of the land takings on Guam. He has shown an enormous capacity for detail and a keen awareness of what was needed by the people of Guam. Equally deserving of praise is the minority members of the committee including Representatives JOE SKUBITZ, DON CLAUSEN, and ROBERT J. LAGOMARSINO.

I also want to note the outstanding efforts of Senator J. BENNETT JOHNSTON of the Senate Committee on Energy and Natural Resources for his assistance in the land-taking sections and also for his support of my request for funds to help the Government of Guam meet its health care needs.

I thank you for your attention and urge that this measure be passed.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. —]

Addabbo	Eckhardt	Moorhead, Pa.
Archer	Ford, Mich.	Murphy, Ill.
Ashbrook	Fowler	Nix
Ashley	Gephardt	Nolan
Aspin	Gibbons	Patterson
Beard, R.I.	Goldwater	Pepper
Beard, Tenn.	Harkin	Robinson
Boland	Harsha	Roe
Bolling	Hefner	Roncalio
Bonker	Holtzman	Rose
Bowen	Johnson, Calif.	Santini
Burlison, Mo.	Kemp	Scheuer
Cederberg	Koch	Shuster
Chappell	Lehman	Sisk
Clawson, Del	Long, Md.	Teague
Conyers	Lundine	Tucker
Cornwell	McClory	Ullman
Cotter	McDonald	Waxman
Cunningham	Mathis	Wilson, Bob
Davis	Mazzoli	Wolff
Dent	Meeds	Zablocki
Drinan	Mineta	

The SPEAKER pro tempore. On this rollcall 369 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

House Resolution 780, by the yeas and nays;
H.R. 7769, by the yeas and nays;
H.R. 9278, de novo;
House Resolution 724, de novo;
H.R. 2664, by the yeas and nays;
S. 393, de novo; and
S. 213, de novo.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

PARLIAMENTARY INQUIRIES

Mr. BAUMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, the gentleman who is in the chair has just announced that the first order of business is the vote on House Resolution 780.

I would like to ask the Chair, in view of the fact that the pending resolution directs the conferees on the Labor, and Health, Education, and Welfare appropriation bill to abandon the House amendment, better known as the Hyde amendment, and agree to the Senate language, is it not correct that a "no" vote on this resolution will support the retention of the Hyde amendment?

The SPEAKER pro tempore. The Chair will state to the gentleman that that is not a parliamentary inquiry.

Mr. BAUMAN. I thank the Chair.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. CHARLES H. WILSON of California. Mr. Speaker, would the Chair give the Members again the list of resolutions and bills on which it has been decided there will be rollcall votes?

The SPEAKER pro tempore. The Chair will repeat. Votes will be taken in the following order:

House Resolution 780.
H.R. 7769.

Does the gentleman wish the Chair to continue with the reading of the list?

Mr. CHARLES H. WILSON of California. Mr. Speaker, I wonder if the Chair could in each instance identify the bill or the resolution by subject matter.

The SPEAKER pro tempore. The Chair will inform the gentleman that the Clerk will read the titles of the bills and resolutions as they come up for vote.

Mr. CHARLES H. WILSON of California. The inquiry I have made, Mr. Speaker, has to do with the procedure to obtain a rollcall vote on a bill on which a vote was not ordered during the course of the day. I have reference to the bill for the staffing of former Presidents.

Will there be a rollcall vote on that bill, or will a rollcall vote have to be requested?

The SPEAKER pro tempore. The Chair will inform the gentleman that the question will be put de novo on that particular bill.

Mr. CHARLES H. WILSON of California. Then, Mr. Speaker, we will have an opportunity to obtain a vote?

The SPEAKER pro tempore. A Member can ask for a recorded vote at that time.

Mr. CHARLES H. WILSON of California. I thank the Chair.

The SPEAKER pro tempore. Does the gentleman from California (Mr. CHARLES H. WILSON) desire that the Chair proceed with the reading of the list of bills and resolutions?

Mr. CHARLES H. WILSON of California. No, Mr. Speaker, that is not necessary.

RESOLUTION TO INSTRUCT CONFEREES ON H.R. 7555

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 780).

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. STOKES) that the House suspend the rules and agree to the resolution, House Resolution 780, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 164, nays 252, not voting 18, as follows:

[Roll No. 594]

YEAS—164

Akaka	Flippo	Miller, Calif.
Alexander	Foley	Mineta
Allen	Ford, Mich.	Mitchell, Md.
Anderson, Calif.	Ford, Tenn.	Moffett
	Forsythe	Mollohan
Anderson, Ill.	Fowler	Moorhead, Pa.
Andrews, N.C.	Fraser	Moss
Ashley	Frenzel	Neal
AuCoin	Giaimo	Ottinger
Badillo	Gilman	Panetta
Baucus	Ginn	Pattison
Beilenson	Glickman	Pease
Bingham	Gonzalez	Pettis
Blanchard	Hannaford	Pickle
Brademas	Harkin	Preyer
Breckinridge	Harrington	Pritchard
Brodhead	Harris	Railsback
Brooks	Hawkins	Rangel
Brown, Calif.	Hefner	Reuss
Broyhill	Heftel	Richmond
Buchanan	Holtzman	Risenhoover
Burke, Calif.	Horton	Roncalio
Burton, John	Howard	Rose
Burton, Phillip	Hughes	Rosenthal
Butler	Jacobs	Roybal
Carr	Jeffords	Ryan
Chisholm	Jenrette	Sarasin
Clay	Johnson, Colo.	Scheuer
Cleveland	Jones, N.C.	Schroeder
Cohen	Jones, Tenn.	Seiberling
Collins, Ill.	Jordan	Sisk
Conable	Kastenmeier	Slack
Conyers	Ketchum	Solarz
Corman	Keys	Spellman
Cornwell	Koch	Stark
Coughlin	Kostmayer	Steed
Daniel, R. W.	Krebs	Steers
Danielson	Krueger	Stockman
Dellums	Leggett	Stokes
Dicks	Levitas	Studds
Diggs	Lloyd, Calif.	Thompson
Dingell	Long, Md.	Tsongas
Dodd	Lundine	Tucker
Downey	McCloskey	Udall
Drinan	McCormack	Van Deerlin
Duncan, Oreg.	McFall	Walgren
Eckhardt	McKinney	Waxman
Edgar	Maguire	Weaver
Edwards, Calif.	Martin	Weiss
Evans, Colo.	Mattox	Whitley
Evans, Del.	Meeds	Wiggins
Fascell	Metcalfe	Wilson, C. H.
Fenwick	Meyner	Wilson, Tex.
Findley	Mikulski	Wirth
Fisher	Mikva	Yates

NAYS—252

Abdnor	Breaux	Delaney
Addabbo	Brinkley	Derrick
Ambro	Broomfield	Derwinski
Ammerman	Brown, Mich.	Devine
Andrews, N. Dak.	Brown, Ohio	Dickinson
	Burgener	Dornan
Annunzio	Burke, Fla.	Duncan, Tenn.
Applegate	Burke, Mass.	Early
Archer	Burleson, Tex.	Edwards, Ala.
Armstrong	Burlison, Mo.	Edwards, Okla.
Ashbrook	Byron	Eilberg
Aspin	Caputo	Emery
Badham	Carney	English
Bafalis	Carter	Erlenborn
Baldus	Cavanaugh	Ertel
Barnard	Cederberg	Evans, Ga.
Bauman	Chappell	Evans, Ind.
Beard, R.I.	Clausen, Don H.	Fary
Beard, Tenn.		Fish
Bedell	Cochran	Fithian
Benjamin	Coleman	Flood
Bennett	Collins, Tex.	Florio
Bevill	Conte	Flowers
Biaggi	Corcoran	Flynt
Blouin	Cornell	Fountain
Boggs	Crane	Frey
Boland	D'Amours	Fuqua
Bonior	Daniel, Dan	Gammage
Bonker	de la Garza	Gaydos
Gephardt	Markey	Santini
Gibbons	Marks	Satterfield
Goldwater	Marlenee	Sawyer
Goodling	Marriott	Schulze
Gore	Mathis	Sebelius
Gradison	Mazzoli	Sharp
Grassley	Michel	Shipley
Gudger	Milford	Shuster
Guyer	Miller, Ohio	Sikes
Hagedorn	Minish	Simon
Hall	Mitchell, N.Y.	Skelton
Hamilton	Moakley	Skubitz
Hammer-schmidt	Montgomery	Smith, Iowa
	Moore	Smith, Nebr.
Hanley	Moorhead, Calif.	Snyder
Hansen		Spence
Harsha	Mottl	St Germain
Heckler	Murphy, Ill.	Staggers
Hightower	Murphy, N.Y.	Stangeland
Hillis	Murphy, Pa.	Stanton
Holland	Murtha	Steiger
Hollenbeck	Myers, Gary	Stratton
Holt	Myers, John	Stump
Hubbard	Myers, Michael	Symms
Huckaby	Natcher	Taylor
Hyde	Nedzi	Thone
Ichord	Nichols	Thornton
Ireland	Nowak	Traxler
Jenkins	O'Brien	Treen
Jones, Okla.	Oakar	Trible
Kasten	Oberstar	Ullman
Kazen	Obey	Vander Jagt
Kelly	Patten	Vanik
Kemp	Perkins	Vento
Kildee	Pike	Volkmer
Kindness	Poage	Waggonner
LaFalce	Pressler	Walker
Lagomarsino	Price	Walsh
Latta	Pursell	Wampler
Le Fante	Quayle	Watkins
Leach	Quie	Whalen
Lederer	Quillen	White
Lent	Rahall	Whitehurst
Livingston	Regula	Whitten
Lloyd, Tenn.	Rhodes	Winn
Long, La.	Rinaldo	Wright
Lott	Roberts	Wydler
Lujan	Robinson	Wylie
Luken	Rodino	Yatron
McDade	Rogers	Young, Alaska
McDonald	Rooney	Young, Fla.
McEwen	Rostenkowski	Young, Mo.
McHugh	Rousselot	Young, Tex.
McKay	Rudd	Zablocki
Madigan	Runnels	Zeferetti
Mahon	Ruppe	
Mann	Russo	

NOT VOTING—18

Bolling	Dent	Patterson
Bowen	Johnson, Calif.	Pepper
Clawson, Del	Lehman	Roe
Cotter	McClory	Teague
Cunningham	Nix	Wilson, Bob
Davis	Nolan	Wolff

The Clerk announced the following pairs:

On this vote:

Mr. Pepper and Mr. Lehman for, with Mr. Nolan against.

Mr. Patterson of California and Mr. Nix for, with Mr. Cotter against.

Mr. Johnson of California and Mr. McClory for, with Mr. Bob Wilson against.

Until further notice:

Mr. Dent with Mr. Del Clawson.

Mr. Wolff with Mr. Cunningham.

Mr. Davis with Mr. Bowen.

Mr. Teague with Mr. Roe.

Mr. JONES of Oklahoma changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motions to suspend the rules on which the Chair has postponed further proceedings.

ADJUSTMENT OF STATUS FOR INDOCHINA REFUGEES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 7769.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 7769, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 22, answered "present" 1, not voting 21, as follows:

[Roll No. 595]

YEAS—390

Abdnor	Chisholm	Foley
Addabbo	Clausen, Don H.	Ford, Mich.
Akaka		Ford, Tenn.
Alexander	Clay	Forsythe
Allen	Cleveland	Fountain
Ammerman	Cochran	Fowler
Anderson, Calif.	Cohen	Fraser
	Coleman	Frenzel
Anderson, Ill.	Collins, Ill.	Frey
Andrews, N.C.	Conable	Fuqua
Andrews, N. Dak.	Conte	Gammage
	Conyers	Gaydos
Annunzio	Corcoran	Gephardt
Archer	Corman	Giaimo
Armstrong	Cornell	Gibbons
Ashbrook	Cornwell	Gilman
Ashley	Coughlin	Ginn
Aspin	Crane	Glickman
AuCoin	D'Amours	Goldwater
Badham	Daniel, Dan	Gonzalez
Badillo	Daniel, R. W.	Goodling
Baldus	Danielson	Gore
Barnard	Delaney	Gradison
Baucus	Dellums	Grassley
Bauman	Derrick	Gudger
Beard, R.I.	Derwinski	Guyer
Beard, Tenn.	Devine	Hagedorn
Bedell	Dickinson	Hall
Beilenson	Dicks	Hamilton
Benjamin	Diggs	Hammer-schmidt
Bennett	Dingell	
Biaggi	Dodd	Hanley
Bingham	Dornan	Hannaford
Blanchard	Downey	Hansen
Blouin	Drinan	Harkin
Boggs	Duncan, Oreg.	Harrington
Boland	Duncan, Tenn.	Harris
Bonior	Early	Hawkins
Bonker	Eckhardt	Heckler
Brademas	Edgar	Hefner
Breaux	Edwards, Ala.	Heftel
Breckinridge	Edwards, Calif.	Hightower
Brinkley	Edwards, Okla.	Hillis
Brodhead	Eilberg	Holland
Broomfield	Emery	Hollenbeck
Brown, Calif.	English	Holt
Brown, Mich.	Erlenborn	Holtzman
Brown, Ohio	Ertel	Horton
Broyhill	Evans, Colo.	Howard
Buchanan	Evans, Del.	Hubbard
Burgener	Evans, Ga.	Huckaby
Burke, Calif.	Evans, Ind.	Hughes
Burke, Fla.	Fary	Hyde
Burke, Mass.	Fascell	Ichord
Burlison, Mo.	Fenwick	Ireland
Burton, Phillip	Findley	Jacobs
Butler	Fish	Jeffords
Byron	Fisher	Jenkins
Carney	Fithian	Jenrette
Carr	Flippo	Johnson, Colo.
Carter	Flood	Jones, N.C.
Cavanaugh	Florio	Jones, Okla.
Cederberg	Flowers	Jones, Tenn.
Chappell	Flynt	Jordan

Kasten	Moorhead, Pa.	Sisk
Kastenmeier	Murphy, Ill.	Skelton
Kazen	Murphy, N.Y.	Slack
Ketchum	Murtha	Smith, Iowa
Keys	Myers, Gary	Smith, Nebr.
Kildee	Myers, John	Snyder
Kindness	Myers, Michael	Solarz
Koch	Natcher	Spellman
Kostmayer	Neal	Spence
Krebs	Nedzi	St Germain
Krueger	Nowak	Staggers
LaFalce	O'Brien	Stangeland
Lagomarsino	Oakar	Stanton
Latta	Oberstar	Stark
Le Fante	Obey	Steed
Leach	Ottinger	Steers
Lederer	Panetta	Steiger
Leggett	Patten	Stockman
Lent	Pattison	Stokes
Levitas	Pease	Stratton
Livingston	Perkins	Studds
Lloyd, Calif.	Pettis	Symms
Lloyd, Tenn.	Pickle	Taylor
Long, La.	Pike	Thompson
Long, Md.	Poage	Thone
Lott	Pressler	Thornton
Luken	Preyer	Traxler
Lundine	Price	Treen
McCloskey	Pritchard	Trible
McCormack	Pursell	Tsongas
McDade	Quayle	Tucker
McDonald	Quie	Udall
McEwen	Quillen	Ullman
McFall	Rahall	Van Deerlin
McHugh	Railsback	Vander Jagt
McKay	Rangel	Vanik
McKinney	Regula	Vento
Madigan	Reuss	Volkmer
Maguire	Rhodes	Waggonner
Mahon	Richmond	Walgren
Mann	Rinaldo	Walker
Markey	Risenhoover	Walsh
Marks	Roberts	Wampler
Marlenee	Robinson	Watkins
Marriott	Rodino	Waxman
Martin	Rogers	Weaver
Mathis	Roncalio	Weiss
Mattox	Rooney	Whalen
Mazzoli	Rose	White
Meeds	Rosenthal	Whitehurst
Metcalfe	Rostenkowski	Whitley
Meyner	Rousselot	Whitten
Michel	Roybal	Wiggins
Mikulski	Russo	Wilson, C. H.
Mikva	Ryan	Wilson, Tex.
Milford	Santini	Winn
Miller, Calif.	Sarasin	Wirth
Mineta	Satterfield	Wright
Minish	Sawyer	Wydler
Mitchell, Md.	Scheuer	Wylie
Mitchell, N.Y.	Schroeder	Yates
Moakley	Schulze	Yatron
Moffett	Sebelius	Young, Alaska
Mollohan	Seiberling	Young, Mo.
Montgomery	Sharp	Young, Tex.
Moore	Shipley	Zablocki
Moorhead, Calif.	Sikes	Zeferetti
	Simon	

NAYS—22

Ambro	de la Garza	Rudd
Applegate	Kelly	Runnels
Bafalis	Lujan	Shuster
Bevill	Miller, Ohio	Skubitz
Brooks	Moss	Stump
Burleson, Tex.	Mottl	Young, Fla.
Caputo	Murphy, Pa.	
Collins, Tex.	Nichols	

ANSWERED "PRESENT"—1

Burton, John

NOT VOTING—21

Bolling	Harsha	Patterson
Bowen	Johnson, Calif.	Pepper
Clawson, Del	Kemp	Roe
Cotter	Lehman	Ruppe
Cunningham	McClory	Teague
Davis	Nix	Wilson, Bob
Dent	Nolan	Wolff

The Clerk announced the following pairs:

Mr. Dent with Mr. Del Clawson.
Mr. Cotter with Mr. Bob Wilson.
Mr. Nix with Mr. Cunningham.
Mr. Nolan with Mr. Ruppe.
Mr. Pepper with Mr. Harsha.
Mr. Teague with Mr. McClory.
Mr. Wolff with Mr. Kemp.
Mr. Lehman with Mr. Davis.
Mr. Bowen with Mr. Patterson of California.
Mr. Roe with Mr. Johnson of California.

Mr. ALLEN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STAFF ALLOWANCES FOR FORMER PRESIDENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 9278.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill H.R. 9278.

The question was taken and the Speaker pro tempore announced that in the opinion of the chair two-thirds having not voted in the affirmative, the motion was rejected.

RECORDED VOTE

Mr. DERWINSKI. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 203, not voting 20, as follows:

[Roll No. 596]

AYES—211

Abdnor	Delaney	Jeffords
Addabbo	Derwinski	Johnson, Colo.
Anderson, Ill.	Devine	Kasten
Andrews, N.C.	Dickinson	Kastenmeier
Andrews, N. Dak.	Dornan	Kemp
Annunzio	Duncan, Tenn.	Ketchum
Archer	Edwards, Ala.	Kindness
Ashley	Edwards, Calif.	LaFalce
Badham	Emery	Lagomarsino
Bafalis	Erlenborn	Leach
Baldus	Evans, Colo.	Leggett
Bellenson	Evans, Del.	Lent
Biaggi	Fary	Levitas
Bingham	Fascell	Livingston
Blanchard	Fenwick	Long, La.
Boggs	Findley	Lott
Boland	Fish	McCloskey
Brademas	Fisher	McDade
Breaux	Flood	McEwen
Breckinridge	Flowers	McFall
Brooks	Foley	McKay
Broomfield	Forsythe	McKinney
Brown, Mich.	Fountain	Madigan
Brown, Ohio	Fowler	Mahon
Broyhill	Fraser	Mann
Burgener	Frenzel	Marks
Burke, Mass.	Frey	Marlenee
Burleson, Tex.	Fuqua	Marriott
Burton, Phillip	Gephardt	Martin
Butler	Giaimo	Mathis
Carney	Gilman	Meeds
Carter	Goldwater	Michel
Cavanaugh	Gonzalez	Mikva
Cederberg	Goodling	Miller, Ohio
Chappell	Gradison	Mineta
Clausen, Don H.	Hamilton	Mitchell, N.Y.
Cochran	Hammer-schmidt	Moakley
Cohen	Hanley	Moore
Coleman	Harrington	Moorhead, Calif.
Collins, Tex.	Heckler	Moorhead, Pa.
Conable	Hillis	Murphy, N.Y.
Conte	Hollenbeck	Murtha
Corcoran	Horton	Myers, John
Coughlin	Howard	O'Brien
Daniel, Dan	Hubbard	Oakar
Daniel, R. W.	Huckaby	Oberstar
de la Garza	Hyde	Obey
	Ichord	Pattison
Pettis	Ryan	Ullman
Pickle	Sarasin	Vander Jagt
Pike	Sawyer	Vento
Preyer	Schulze	Waggonner
Price	Sebelius	Walker
Pritchard	Seiberling	Walsh
Pursell	Shipley	Wampler
Quie	Sikes	Whalen
Quillen	Simon	White
Railsback	Sisk	Whitehurst
Regula	Skubitz	Wiggins
Rhodes	Smith, Iowa	Wilson, Tex.
Rinaldo	Spence	Winn
Robinson	Stanton	Wirth
Rodino	Steed	Wright
Rogers	Steiger	Wydler
Roncalio	Stockman	Yates
Rooney	Taylor	Young, Alaska
Rostenkowski	Thompson	Young, Fla.
Rousselot	Traxler	Young, Mo.
Rudd	Treen	Young, Tex.
Runnels	Tucker	Zablocki
Ruppe	Udall	

NOES—203

Akaka	Flynt	Mottl
Alexander	Ford, Mich.	Murphy, Ill.
Allen	Ford, Tenn.	Murphy, Pa.
Ambro	Gammage	Myers, Gary
Ammerman	Gaydos	Myers, Michael
Anderson, Calif.	Gibbons	Natcher
Applegate	Ginn	Neal
Armstrong	Glickman	Nedzi
Ashbrook	Gore	Nichols
Aspin	Grassley	Nowak
AuCoin	Gudger	Ottinger
Badillo	Hagedorn	Panetta
Barnard	Hall	Patten
Baucus	Hannaford	Pease
Bauman	Hansen	Perkins
Beard, R.I.	Harkin	Poage
Beard, Tenn.	Harris	Pressler
Bedell	Hawkins	Quayle
Benjamin	Hefner	Rahall
Bennett	Heftel	Rangel
Bevill	Hightower	Reuss
Blouin	Holland	Richmond
Bonior	Holt	Risenhoover
Bonker	Holtzman	Roberts
Brinkley	Hughes	Rose
Brodhead	Ireland	Rosenthal
Brown, Calif.	Jacobs	Roybal
Buchanan	Jenkins	Russo
Burke, Calif.	Jenrette	Santini
Burke, Fla.	Jones, N.C.	Satterfield
Burlison, Mo.	Jones, Okla.	Scheuer
Burton, John	Jones, Tenn.	Schroeder
Byron	Jordan	Sharp
Caputo	Kazen	Shuster
Carr	Kelly	Skelton
Chisholm	Keys	Slack
Clay	Kildee	Smith, Nebr.
Cleveland	Koch	Snyder
Collins, Ill.	Kostmayer	Solarz
Conyers	Krebs	Spellman
Corman	Krueger	St Germain
Cornell	Latta	Staggers
Cornwell	Le Fante	Stangeland
Crane	Lederer	Stark
D'Amours	Lloyd, Calif.	Steers
Danielson	Lloyd, Tenn.	Stokes
Dellums	Long, Md.	Stratton
Derrick	Lujan	Studds
Dicks	Luken	Stump
Diggs	Lundine	Symms
Dingell	McCormack	Thone
Dodd	McDonald	Thornton
Downey	McHugh	Trible
Drinan	Maguire	Tsongas
Duncan, Oreg.	Markey	Van Deerlin
Early	Mattox	Vanik
Eckhardt	Mazzoli	Volkmer
Edgar	Metcalfe	Walgren
Edwards, Okla.	Meyner	Watkins
Eilberg	Mikulski	Waxman
English	Milford	Weaver
Ertel	Miller, Calif.	Weiss
Evans, Ga.	Minish	Whitley
Evans, Ind.	Mitchell, Md.	Whitten
Fithian	Moffett	Wilson, C. H.
Flippo	Mollohan	Wylie
Florio	Montgomery	Yatron
	Moss	Zeferetti

NOT VOTING—20

Bolling	Guyer	Patterson
Bowen	Harsha	Pepper
Clawson, Del	Johnson, Calif.	Roe
Cotter	Lehman	Teague
Cunningham	McClory	Wilson, Bob
Davis	Nix	Wolff
Dent	Nolan	

The Clerk announced the following pairs:

Mr. Teague with Mr. Del Clawson.
Mr. Dent with Mr. Cunningham.
Mr. Wolff with Mr. Bob Wilson.
Mr. Cotter with Mr. McClory.
Mr. Bowen with Mr. Harsha.
Mr. Lehman with Mr. Guyer.
Mr. Nix with Mr. Rangel.
Mr. Nolan with Mr. Roe.
Mr. Pepper with Mr. Johnson of California.
Mr. Davis with Mr. Gammage.

Mr. CARNEY, Ms. OAKAR, Messrs. ASHLEY, PURSELL, TUCKER, and LEVITAS changed their vote from "no" to "aye."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

HUMAN RIGHTS IN CAMBODIA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution (H. Res. 724) as amended.

The Cierk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SOLARZ) that the House suspend the rules and agree to the resolution House Resolution 724, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

INDIAN CLAIMS COMMISSION ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 2664, as amended.

The Clerk read the title of the bill.

The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 2664, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 173, nays 239, not voting 22, as follows:

[Roll No. 597]

YEAS—173

Abdnor	Blanchard	Clay
Addabbo	Blouin	Collins, Ill.
Akaka	Boggs	Conable
Alexander	Bonior	Conyers
Ammerman	Brademas	Corman
Anderson, Calif.	Breaux	Cornell
	Breckinridge	Cornwell
Andrews, N. Dak.	Brodhead	Delaney
	Brown, Calif.	Dellums
Annunzio	Buchanan	Diggs
Aspin	Burgener	Downey
Badillo	Burke, Calif.	Early
Baldus	Burlison, Mo.	Eckhardt
Baucus	Burton, John	Edgar
Bedell	Burton, Phillip	Edwards, Calif.
Beilenson	Carr	Edwards, Okla.
Benjamin	Cavanaugh	English
Bennett	Chisholm	Erlenborn
Biaggi	Clausen, Don H.	Evans, Colo.
Bingham		Evans, Ind.
Fary	Mazzoli	Schroeder
Fenwick	Meeds	Sebelius
Findley	Metcalfe	Seiberling
Ford, Mich.	Mikulski	Sharp
Fraser	Mikva	Shipley
Gephardt	Mineta	Simon
Glickman	Mitchell, Md.	Skubitz
Gonzalez	Moffett	Smith, Iowa
Goodling	Moore	Smith, Nebr.
Gore	Murphy, N.Y.	Solarz
Grassley	Murphy, Pa.	Staggers
Hamilton	Myers, John	Stangeland
Harkin	Oakar	Stark
Harrington	Oberstar	Steed
Harris	Obey	Steers
Hawkins	Ottinger	Steiger
Holland	Pettis	Stokes
Holtzman	Pike	Thompson
Howard	Pressler	Thone
Jenrette	Price	Traxler
Johnson, Colo.	Pritchard	Tsongas
Kazen	Pursell	Udall
Keys	Quie	Van Deerlin
Kildee	Quillen	Vento
Koch	Rahall	Volkmer
Kostmayer	Reuss	Walgren
Leach	Rhodes	Watkins
Long, La.	Richmond	Waxman
Lujan	Risenhoover	Weiss
Lundine	Rodino	Whalen
McFall	Roncalio	Winn
McHugh	Rosenthal	Wirth
McKay	Rostenkowski	Wright
Madigan	Roybal	Yates
Maguire	Runnels	Young, Alaska
Markey	Ruppe	Young, Mo.
Marks	Ryan	Young, Tex.
Marlenee	Santini	Zablocki
Mattox	Sawyer	

NAYS—239

Allen	Eilberg	Kemp
Ambro	Emery	Ketchum
Anderson, Ill.	Ertel	Kindness
Andrews, N.C.	Evans, Del.	Krebs
Applegate	Evans, Ga.	Krueger
Archer	Fascell	LaFalce
Armstrong	Fish	Lagomarsino
Ashbrook	Fisher	Latta
Ashley	Fithian	Le Fante
AuCoin	Flippo	Lederer
Badham	Flood	Leggett
Bafalis	Florio	Lent
Barnard	Flowers	Levitas
Bauman	Flynt	Livingston
Beard, R.I.	Foley	Lloyd, Calif.
Beard, Tenn.	Ford, Tenn.	Lloyd, Tenn.
Bevill	Forsythe	Long, Md.
Boland	Fountain	Lott
Bonker	Fowler	Luken
Brinkley	Frenzel	McCloskey
Brooks	Frey	McCormack
Broomfield	Fuqua	McDade
Brown, Mich.	Gaydos	McDonald
Brown, Ohio	Giaimo	McEwen
Broyhill	Gibbons	McKinney
Burke, Fla.	Gilman	Mahon
Burke, Mass.	Ginn	Mann
Burleson, Tex.	Goldwater	Marriott
Butler	Gradison	Martin
Byron	Gudger	Mathis
Caputo	Hagedorn	Meyner
Carney	Hall	Michel
Carter	Hammer-schmidt	Milford
Cederberg		Miller, Calif.
Chappell	Hanley	Miller, Ohio
Cleveland	Hannaford	Minish
Cochran	Hansen	Mitchell, N.Y.
Cohen	Heckler	Moakley
Coleman	Hefner	Mollohan
Collins, Tex.	Heftel	Montgomery
Conte	Hightower	Moorhead, Calif.
Corcoran	Hillis	
Coughlin	Hollenbeck	Moorhead, Pa.
Crane	Holt	Moss
D'Amours	Horton	Mottl
Daniel, Dan	Hubbard	Murphy, Ill.
Daniel, R. W.	Huckaby	Murtha
Danielson	Hughes	Myers, Gary
de la Garza	Hyde	Myers, Michael
Derrick	Ichord	Natcher
Derwinski	Ireland	Neal
Devine	Jacobs	Nedzi
Dickinson	Jeffords	Nichols
Dicks	Jenkins	Nowak
Dingell	Jones, N.C.	O'Brien
Dodd	Jones, Okla.	Panetta
Dornan	Jones, Tenn.	Patten
Drinan	Jordan	Pattison
Duncan, Oreg.	Kasten	Pease
Duncan, Tenn.	Kastenmeier	Perkins
Edwards, Ala.	Kelly	Pickle
Poage	Sisk	Vanik
Preyer	Skelton	Waggonner
Quayle	Slack	Walker
Railsback	Snyder	Walsh
Regula	Spellman	Wampler
Rinaldo	Spence	Weaver
Roberts	St Germain	White
Robinson	Stanton	Whitehurst
Rogers	Stockman	Whitley
Rooney	Stratton	Whitten
Rose	Studds	Wiggins
Rousselot	Stump	Wilson, C. H.
Rudd	Symms	Wilson, Tex.
Russo	Taylor	Wydler
Sarasin	Thornton	Wylie
Satterfield	Treen	Yatron
Scheuer	Trible	Young, Fla.
Schulze	Tucker	Zeferetti
Shuster	Ullman	
Sikes	Vander Jagt	

NOT VOTING—22

Bolling	Guyer	Pepper
Bowen	Harsha	Rangel
Clawson, Del	Johnson, Calif.	Roe
Cotter	Lehman	Teague
Cunningham	McClory	Wilson, Bob
Davis	Nix	Wolff
Dent	Nolan	
Gammage	Patterson	

The Clerk announced the following pairs:

Mr. Bowen with Mr. Lehman.
Mr. Cotter with Mr. Davis.
Mr. Teague with Mr. Johnson of California.
Mr. Wolff with Mr. Del Clawson.
Mr. Nix with Mr. McClory.
Mr. Cunningham with Mr. Guyer.
Mr. Harsha with Mr. Nolan.
Mr. Bob Wilson with Mr. Patterson of California.
Mr. Dent with Mr. Pepper.
Mr. Rangel with Mr. Roe.

Messrs. HANLEY, FLOOD, MILLER of California, and MARRIOTT changed their vote from "yea" to "nay."

Mr. GLICKMAN changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

MONTANA WILDERNESS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 393.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the Senate bill S. 393.

The question was taken.

RECORDED VOTE

Mr. MOTTL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 256, noes 155, not voting 23, as follows:

[Roll No. 598]

AYES—256

Addabbo	Annunzio	Bennett
Akaka	Ashley	Bevill
Alexander	Aspin	Biaggi
Allen	Badillo	Bingham
Ambro	Baldus	Blanchard
Ammerman	Baucus	Blouin
Anderson, Calif.	Beard, R.I.	Boggs
	Bedell	Boland
Andrews, N.C.	Beilenson	Bonior

Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Caputo
Carney
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
Coughlin
D'Amours
Danielson
de la Garza
Delaney
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Fraser
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gudger
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Holland
Hollenbeck
Holtzman
Howard
Hubbard
Hughes
Jacobs
Jeffords
Jenkins
Jenrette
Jones, N.C.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Kildee
Koch
Kostmayer
Krebs
LaFalce
Lagomarsino
Le Fante
Lederer
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McEwen
McFall
McHugh
McKay
Maguire
Mann
Markey
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Mikulski
Mikva
Milford
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quie
Quillen
Rahall
Reuss
Richmond
Rinaldo
Rodino
Roncalio
Rooney
Rosenthal
Rostenkowski
Roybal
Russo
Ryan
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Simon
Sisk
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Staggers
Stark
Steers
Stokes
Studds
Thompson
Thone
Thornton
Traxler
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walsh
Waxman
Weaver
Weiss
Whalen
White
Wilson, Tex.
Winn
Wirth
Wright
Wylie
Yates
Yatron
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOES—155

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Applegate
Archer
Armstrong
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Benjamin
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.
Cleveland
Cochran
Cohen
Coleman
Collins, Tex.
Conable
Corcoran
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Dornan
Duncan, Oreg.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Flippo
Flynt
Foley
Forsythe
Frenzel
Frey
Fuqua
Gammage
Giaimo
Ginn
Goldwater
Goodling
Gradison
Grassley
Hagedorn
Hall
Hammer-schmidt
Hansen
Hightower
Hillis
Holt
Horton
Huckaby
Hyde
Ichord
Ireland
Johnson, Colo.
Jones, Okla.
Kelly
Kemp
Ketchum
Kindness
Krueger
Latta
Leach
Lent
Livingston
Lott
Lujan
Luken
McCloskey
McCormack
McDade
McDonald
McKinney
Madigan
Mahon
Marks
Marlenee
Marriott
Michel
Miller, Ohio
Minish
Montgomery
Moore
Myers, John
O'Brien
Poage
Pressler
Quayle
Railsback
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rogers
Rose
Rousselot
Rudd
Runnels
Sarasin
Satterfield
Schulze
Sebelius
Shuster
Sikes
Skelton
Skubitz
Slack
Snyder
Stangeland
Stanton
Steed
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Treen
Trible
Vander Jagt
Waggonner
Walker
Wampler
Watkins
Whitehurst
Whitley
Whitten
Wiggins
Wilson, C. H.
Wydler
Young, Alaska
Young, Fla.

NOT VOTING—23

Bolling
Bowen
Clawson, Del
Cotter
Cunningham
Davis
Dent
Evans, Del.
Guyer
Harsha
Johnson, Calif.
Lehman
McClory
Nix
Nolan
Patterson
Pepper
Rangel
Roe
Ruppe
Teague
Wilson, Bob
Wolff

The Clerk announced the following pairs:

Mr. Bowen with Mr. Lehman.

Mr. Cotter with Mr. Davis.

Mr. Teague with Mr. Johnson of California.

Mr. Wolff with Mr. Del Clawson.

Mr. Nix with Mr. McClory.

Mr. Cunningham with Mr. Guyer.

Mr. Harsha with Mr. Nolan.

Mr. Bob Wilson with Mr. Patterson of California.

Mr. Dent with Mr. Pepper.

Mr. Rangel with Mr. Roe.

Mr. Ruppe with Mr. Evans of Delaware.

Mrs. LLOYD of Tennessee changed her vote from "no" to "aye."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

GAO AUDITS OF INTERNAL REVENUE SERVICE AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 213.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. ROSENTHAL) that the House suspend the rules and pass the Senate bill S. 213.

RECORDED VOTE

Mr. QUILLEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 402, noes 5, not voting 27, as follows:

[Roll No. 599]

AYES—402

Abdnor
Addabbo
Akaka
Alexander
Allen
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashley
Aspin
Badham
Badillo
Bafalis
Baldus
Barnard
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonior
Bonker
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pattison
Pease
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie

Quillen	Simon	Van Deerlin
Rahall	Sisk	Vander Jagt
Railsback	Skelton	Vanik
Regula	Skubitz	Vento
Reuss	Slack	Volkmer
Rhodes	Smith, Iowa	Walgren
Richmond	Smith, Nebr.	Walker
Rinaldo	Snyder	Walsh
Risenhoover	Solarz	Wampler
Roberts	Spellman	Watkins
Robinson	Spence	Waxman
Rodino	St Germain	Weaver
Rogers	Staggers	Weiss
Roncalio	Stangeland	Whalen
Rooney	Stanton	White
Rose	Stark	Whitehurst
Rosenthal	Steed	Whitley
Rostenkowski	Steers	Whitten
Rousselot	Steiger	Wiggins
Roybal	Stockman	Wilson, C. H.
Rudd	Stokes	Wilson, Tex.
Runnels	Stratton	Winn
Russo	Studds	Wirth
Ryan	Stump	Wright
Santini	Symms	Wydler
Sarasin	Taylor	Wylie
Satterfield	Thompson	Yates
Sawyer	Thone	Yatron
Scheuer	Thornton	Young, Alaska
Schroeder	Traxler	Young, Fla.
Schulze	Treen	Young, Mo.
Sebelius	Trible	Young, Tex.
Seiberling	Tsongas	Zablocki
Sharp	Tucker	Zeferetti
Shipley	Udall	
Shuster	Ullman	

NOES—5

Ashbrook	Hammer-	Waggonner
AuCoin	schmidt	
Bauman		

NOT VOTING—27

Bolling	Guyer	Pepper
Bowen	Harsha	Poage
Chappell	Johnson, Calif.	Rangel
Clawson, Del	Kildee	Roe
Cotter	Lehman	Ruppe
Cunningham	McClory	Sikes
Davis	Nix	Teague
Dent	Nolan	Wilson, Bob
Evans, Del.	Patterson	Wolff

The Clerk announced the following pairs:

Mr. Bowen with Mr. Lehman.
Mr. Cotter with Mr. Davis.
Mr. Teague with Mr. Johnson of California.
Mr. Wolff with Mr. Del Clawson.
Mr. Nix with Mr. McClory.
Mr. Cunningham with Mr. Guyer.
Mr. Harsha with Mr. Nolan.
Mr. Bob Wilson with Mr. Patterson of California.
Mr. Dent with Mr. Pepper.
Mr. Rangel with Mr. Roe.
Mr. Evans of Delaware with Mr. Ruppe.
Mr. Kildee with Mr. Chappell.
Mr. Sikes with Mr. Poage.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, together with the accompanying papers, referred to the Committee on Appropriations:

SEPTEMBER 22, 1977.

Hon. THOMAS P. O'NEILL,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved two 11(b) resolutions which direct the Administrator of the General Services Administration in cooperation with other interested Federal agencies to investigate the feasibility and need for construction of a Federal building in Springfield, Massachusetts, and Boston, Massachusetts, to meet the needs of Federal agencies in the area on September 22, 1977.

An original and copy of the authorizing resolution are enclosed.

Sincerely,

RAY ROBERTS,
Acting Chairman.

COMMUNICATION FROM CHAIRMAN OF SELECT COMMITTEE ON CONGRESSIONAL OPERATIONS

The SPEAKER laid before the House the following communication from the chairman of the Select Committee on Congressional Operations:

SELECT COMMITTEE ON
CONGRESSIONAL OPERATIONS,
Washington, D.C.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Select Committee on Congressional Operations in cooperation with the Architect of the Capitol has, pursuant to your direction, completed the test of television coverage of the daily proceedings of the House of Representatives, beginning March 15, 1977, and ending September 15, 1977.

The Select Committee transmits herewith its report and evaluation of this test together with its recommendaions for future broadcast coverage of the House. The report and recommendations were approved unanimously by the members of the Select Committee.

Sincerely,

JACK BROOKS.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, That the Senate disagree to the amendment of the House of Representatives to the bill (S. 1811) entitled "An act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes," and agrees to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon and appoints Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. ABOUREZK, Mr. FORD, Mr. DURKIN, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. DOMENICI, Mr. MCCLURE, and Mr. BARTLETT be the conferees on the part of the Senate.

INTRODUCING BILL TO AUTHORIZE HYDROELECTRIC POWER PROJECTS

(Mr. MEEDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MEEDS. Mr. Speaker, I have today introduced for myself and several colleagues a bill to authorize various hydroelectric power projects at existing water resource development projects constructed and operated by the Secretary of the Interior under the Federal Reclamation law. I have sought this opportunity to discuss the bill in the belief that it is sufficiently unique and relevant to warrant the attention of those Members of the House who are genuinely concerned with the lack of tangible programs being offered to abate the energy crisis confronting our country at this time.

The bill, when enacted, will authorize the Secretary of the Interior to proceed immediately with final design, construction, operation, and maintenance of 13 hydroelectric powerplants with appurtenant switching facilities on existing reservoirs and canals of the Bureau of Reclamation. These plants will have the approximate capacity of 657,000 kilowatts and will involve the currently estimates expenditure of $243,614,000.

In selecting this array of powerplants for authorization at the present time, the bill has been limited to those opportunities that involve no additional water management facility construction. In other words, the dams, reservoirs, and canals are in place and the water re source is presently accomplishing beneficial purpose. This measure will allow the corollary use of the water for power production without diminishing its use for other purposes, or causing any environmental impact except the limited impact arising from construction activities.

Generally, the powerplants will fall into two categories: Those which produce additional energy and those which provide additional peaking capacity. In the energy producing category, the plants in the bill will produce more than 600 million kilowatts hours of energy annually representing a saving in fuel oil consumption of approximately 400,000 barrels. In addition the program will provide approximately 500 megawatts of peaking capacity to the several systems served by the plants. This is the equivalent of one-half of a major, modern day nuclear power station. Such capacity is sorely needed throughout our western systems as more and more of the total energy supply is met from steampower sources. The presence of these plants online would have the cumulative effect of delaying the requirement for installation of a major steamplant for an appreciable period of time; thus delaying major economic investment by others and forestalling potential adverse environmental consequences.

In short, Mr. Speaker, the bill we have introduced is in the finest tradition of multiple utilization of our natural resources and there is no reason whatsoever to delay its consideration beyond

the minimum period of time required to firm up the cost and production data. Two things are certain, these plants are going to become more feasible over time as the cost of energy from alternative sources becomes more expensive and they will become more costly to construct the longer we delay their development. With this in mind, it is my intention promptly to proceed with this measure with a view to bringing to the floor early in the next session.

GENERAL LEAVE

Mr. MANN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

DOMESTIC TEXTILE INDUSTRY AND INTERNATIONAL TRADE

The SPEAKER. Under a previous order of the House, the gentleman from South Carolina (Mr. MANN) is recognized for 60 minutes.

Mr. MANN. Mr. Speaker, as you well know a great variety of international trade matters has been before this body of Government on many occasions over many years. Likewise, the problems of the domestic textile industry in regard to international trade—specifically imports—have been the topic of many long hours of discussions in these chambers.

Most of those discussions have had a common characteristic which I can only describe as "habitual behavior." We've concerned ourselves with the issue, familiarized ourselves with the problems; but, Mr. Speaker, we have not formulated lasting solutions. Our domestic textile industry has fallen victim to our own liberal, short-sighted policies in international trade.

Not since 1957—20 years ago—has the American textile industry enjoyed a favorable balance of trade. The textile trade deficit through June of this year has already exceeded $1.2 billion. Last year, it represented $3 billion of our $9 billion total trade deficit. During the first half of this year, the figures were running well ahead of the totals for the same period in 1976. We are again witnessing and condoning "habitual behavior."

Yet, we now have an opportunity to be constructive—to positively change this pattern. We should not permit tariff cuts in the forthcoming Tokyo round.

Certainly, we have seen from experience what tariff cuts do to the balance of trade in textiles. Hindsight must have taught us that true "free trade" does not exist. The lesson we must have learned by now is that our own policies have not been good for our own textile industry.

Other nations have seen the internal effects of a liberal international trading posture upon their textile industries. They have seen it, and they have taken steps to correct it with agreements and tariff structures in line with their own best interests.

On the other hand, we as a nation have one of the most generous textile trade policies of any nation. I assert that they are too generous. Our existing tariff schedules are inadequate. They do not offer a fair and balanced international textile trade situation. Yet, there is talk of lowering these tariffs further. To me, that is inconceivable. It is unjustified. It is detrimental to the well-being of our own industry and ultimately the Nation.

Let us look at the historical evidence of the effects of such policy. Since World War II, the vast textile industries of the world have looked to the United States as the prime target for marketing their goods.

A 1955 reduction of U.S. textile tariffs helped spur such a rise in cotton imports—especially from Japan—that a special import restraint agreement had to be negotiated the next year. This one reduction in textile tariffs was an additional incentive to other uncontrolled low-wage countries to seek new markets in the United States.

At the time the first GATT textile agreement was negotiated in Geneva in 1961, U.S. imports of cotton products amounted to 5.2 percent of U.S. domestic consumption. By 1973, when the new GATT textile agreement covering manmade fibers, wool and cotton was negotiated, cotton imports represented 14.3 percent of the domestic market. In the same period, manmade fiber consumption had risen to 10.3 percent, and wool consumption was up to 25.5 percent, of the domestic market.

Substantial increases have continued since then. Negotiations to renew the present GATT Multifiber Arrangement have concluded. As a result of these negotiations, governments representing about 85 percent of free-world textile trade requested that the Director General of GATT open a protocol on December 15, 1977, to renew the MFA for a 4-year period.

The MFA, while by no means a perfect instrument, is to date the very best method we have to insure orderly textile trade with other nations. It is a conceptually sound agreement and has succeeded in keeping imports from rising to levels they might otherwise have reached. Complementing this broad and general agreement are bilateral agreements with other trading nations and the existing tariff schedules imposed on these imports.

During the tough MFA renewal negotiations, our negotiators were unable to achieve a reduction in the import growth rate to bring it to a level more near that of the growth rate of the domestic textile industry. This reality, Mr. Speaker, places even greater importance on our bilateral agreements and the present tariff schedules. They represent our only hope of slowing down—or even containing within tolerable limits—the current penetration of imports into our own textile market.

Negotiations to renew the MFA were based on our current domestic tariff structure. Any thought toward reducing tariff schedules must take this into account. For even with the MFA and existing duties, textile imports have increased 14 percent since 1974 when the MFA took effect. And a mere glance at our current deficit in trade in the textile sector would be sufficient reason for no reductions in textile tariff rates.

The condition of our balance of trade in textiles has wider implications than a tally sheet can show. The textile/apparel industry in the United States employs 2.3 million Americans, or about one in every eight workers involved in manufacturing. Of this total work force, a great percentage are either female and/or members of minority groups. The proportion who belong to these groups is much larger in the textile industry than in other U.S. manufacturing concerns.

Currently, unemployment in textile plants is 7 percent and 10 percent on the apparel side. These facts take on added importance when you consider that many of the jobs are in central cities or small towns where no realistic employment alternatives exist. If we continue to allow greater influx of imports, textile and apparel unemployment will surely grow.

The health of the textile/apparel industry, the largest industrial employer in the United States, obviously plays a leading role in the health of the country's overall economy. Those 2.3 million employees, if thrown out of work by imports, would wreak havoc on income tax revenues and public assistance expenditures. With all of our emphasis on jobs and full employment, surely our official policy should not be one of sacrificing employment on the altar of free trade.

The textile industry assumes a great importance in regard to national defense and support for all branches of the military. As you know, the importance of textiles in the defense of our country has been rated only second to the steel industry's.

In this area of national security, the need for a healthy, comprehensive, domestic textile industry is acute. In times of war, Mr. Speaker, we may not be able to look to outside suppliers for the textile products we need.

Mr. Speaker, the record clearly shows that our domestic textile industry has not fared well in affairs of international trade. The industry simply cannot tolerate such a deteriorating situation, and history has proven too well that a reduction in textile tariffs will merely encourage an increase in imports.

Mr. Speaker, I strongly believe that our best course of action is to exempt the entire textile sector from the Tokyo round of tariff negotiations, and I urge the administration to adopt such a course.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman for taking the leadership in bringing this issue to the

floor of this House. I am supportive of the gentleman's thrust.

Mr. Speaker, the negative effect of the avalanche of imports from low-wage nations on the employment and product capacity of the U.S. garment and textile industry has become a matter of great national concern. Although the apparel industry is the largest employer of labor in the United States, employing 2.3 million individuals—one-eighth of all manufacturing employment—every year thousands of these jobs are being sacrificed to low-cost imported goods from abroad. The impact of imports on our domestic market is demonstrated dramatically by employment and man-hour statistics:

Domestic producers of womens' and childrens' apparel attained a peak level of output in 1972—only marginally higher than the output attained in 1968. The employment of production workers engaged in making womens' and childrens' clothing was at peak in 1969. On the other hand, man-hours spent by workers in shops peaked in 1966. Compared with 1966, domestic volume of the industry's output was down by 12.1 percent, while employment was off by 12.6 percent and man-hours down by 14.2 percent. But the physical volume of imports advanced by 250.6 percent from 1966–76. A similar comparison between 1972 and 1976 reveals that the industry's physical volume was down by 14.5 percent with employment down 8.1 percent and man-hours down by 9.5 percent; meanwhile, imports rose by 14.5 percent. The obvious conclusion is that the increased penetration of imports into our domestic apparel market has incessantly eroded employment for the industry's workers, while simultaneously inhibiting the industry's volume of output—all statistics from the U.S. Bureau of the Census.

That is only part of the story. As the actual job market eroded, a significant number of potential employment opportunities diminished for individuals wishing to find jobs in the apparel and garment industry. The International Ladies' Garment Workers' Union—AFL–CIO—has estimated that between 1961 and 1976, approximately 151,000 persons lost potential employment in the garment industry as a direct result of the rise in imported apparel goods during the same period.

The ILGWU reports that during the same 15-year period, New England lost over 100,000 jobs, Illinois over 18,000, Pennsylvania more than 65,000; every State with a significant number of textile/apparel manufacturers has lost an appalling number of employees and business due to the rising flood of imports.

Who are the people who have lost their jobs?

Individuals who normally get jobs in the manufacture of womens' and childrens' garments are women minorities and semiskilled workers. One out of every five never completed grade school. Ten percent are black, nine percent Latin Americans. Over 42 percent are over 45 years old. Eighty percent are women whose geographic mobility is severely limited: one-third of these women are widowed, divorced, single or separated; in other words, they work to support themselves and their families, not for supplemental funds—U.S. Womens' Bureau, Bulletin No. 239. These persons all have limited job opportunities—particularly women with only primary educational skills and children, parents, and/or a husband to support.

The jobs the garment industry could provide, if not for the unchecked growth of imports, are desperately need for our economy: for women and minorities, the industry is a source of livelihood—the garment industry is the Nation's largest employer of women—providing an essential economic base. For this reason alone the Federal Government would be justified in curbing imported goods.

Lazare Teper, director of research at the ILGWU, has predicted that, with the renewal of the Multifiber Textile Agreement and extension of present bilateral agreements:

> Import penetration in womens' and childrens' apparel in the next 5 years is likely to increase from its present 31.1 percent of domestic output to around 39 percent to 42 percent—(and) may actually exceed these figures. . .

This in turn will cause an increased corrosion of domestic production and employment.

The American market is the largest in the world; a major objective of almost every exporting nation, therefore, is access into our market. These exporting nations use various devices to target their goods into the United States—devices which are totally irrelevant to the doctrine of free trade. These devices, including pricing products according to out-of-pocket costs rather than by real costs; dumping goods in the U.S. market; receiving subsidies or total immunity from antitrust laws; inducing domestic manufacturers to relocate abroad in their own nations to produce goods aimed at American markets by offering economic incentives they will not offer to their own manufacturers: free land, exemption from duty on production material, exemption from taxes and guarantees against expropriation.

The largest competitive advantage that foreign producers have over American firms, however, is the great difference in wage levels. In 1975—the most current year for which data is available—the average hourly wages in foreign nations was significantly lower than in our own country, making our domestic apparel and textile industry especially vulnerable to the impact of these low-wage, and therefore low-cost imports. These wage and salary differentials, which are not offset by duties, only encourage the growth of women's and children's wear imports. In an industry as labor-intensive as the garment industry, it is impossible for American producers to compete with foreign suppliers—particularly when one notes that salaries range from an average of 24 percent to 39.3 percent of the value of the finished product.

Even worse, the average consumer no longer benefits from the original low cost of imported goods: the price advantage of imports from low-wage nations has practically disappeared. The Amalgamated Clothing and Textile Workers Union (AFL–CIO) reports that:

> The markup on items brought in to open price lines is comparable to markup on domestically produced items . . . (and) when an import is used to "fill in" a line, e.g., a department store's imported private label shirt is sold alongside a branded shirt, it is sold at the branded price; thus the markup is higher.

The ACTWU report shows that whenever import penetration exceeds approximately 40 percent over an extended period of time, pricing tends to be based on import costs; therefore, the markup is comparable to the markups on goods produced in the United States.

It is becoming increasingly obvious that American consumers may not get and price advantage from buying imported goods in retail stores: in 1975, the Baltimore research office of the ILGWU and in August 1977, Sidney Margolius, a consumer affairs expert and author, conducted studies that found scores of examples of equivalent prices between domestic and imported goods. It is time to realize that imports have reached the higher price bracket. In fact, the most famous American brand names now are used on low-wage imports and no longer can be used as evidence that the products are made in this country or the quality can be relied upon as equivalent to U.S. union craftsmen.

Aside from all of the previously stated reasons for checking the flow of imported goods into the United States is still another, often overlooked area of concern: Imported products, whose manufacture is not subjected to our own strict domestic environmental and safety standards, often pose serious hazards to users, due to careless design and construction. Low prices often equal low quality, particularly in the apparel and shoe industries. Sidney Margolius reported in the August 1977 issue of the AFL–CIO American Federationist that:

> Quality problems are noticeable in cheap imported men's suits and women's coats. Some of the discount clothing stores . . . advertise discounts on name brands but often the main stocks are low-priced imports. These . . . usually are machine-made garments with poorly fitted linings which soon can become quite shapeless. The imported women's coats often are made of reprocessed wool with inferior wearing qualities. . . . Imported products have been especially notorious for the many instances of . . . flammable clothing and fabrics . . . (p. 10–11).

Many people have argued that the imposition of import barriers by the Federal Government amounts to using U.S. consumers to subsidize U.S. industry by paying higher prices for goods. But I have already enumerated the exorbitant social costs of imported goods: The costs of unemployment, both actual and potential, and the loss of tax revenues when

jobs and entire businesses are ruined by foreign competition. It is not fair to sacrifice American workers in threatened domestic industries—persons who work at low wages and have few economic resources by our own standards—to the ideals of "free trade." Although the Carter administration has sought to increase the amounts of adjustment assistance to businesses and employees injured by increased imports, this is not the solution any more than welfare is a solution for unemployment. Not only is there a cumbersome and lengthy procedure to wade through to qualify for such assistance, but the Government is again doing just what the opponents of increased tariffs do not want: Asking the consumer to pick up the tab for purchasing certain goods.

Through the vigorous efforts, our Govermnent has worked out agreements that regulate imports on an orderly basis under the provisions of the multifiber textile arrangement (MTA). An agreement to renew the MTA was recently reached in Geneva. Under its provisions, imports are expected to increase at an annual rate of 6 percent, even though domestic production is growing at considerably less than that percentage—the ILGWU reports that employment in the garment industry has dropped by 25 percent, and domestic investment in the industry has been steadily declining since 1973; ergo, the increases in productivity that could have offset higher U.S. labor costs will be lower, since less money is being pumped into the industry.

Obviously, the MTA arrangement and the agreements with foreign countries concluded in accordance with its provisions are inoperable. Time and again, they permit imports of specific apparel or textile products to rise far beyond the contemplated 6 percent. The effect only causes increased unemployment of domestic workers and places undue hardship upon our own manufacturers. Duty cuts would only bolster the tempo at which imports erode the desperately needed jobs in this country. This should not be permitted to take place.

It has become absolutely essential for the United States to take appropriate action to safeguard the jobs in this Nation. Controls on presently unrestricted textile and apparel imports should be imposed before these imports rise at an even higher tide. Bilateral negotiations should be conducted with a view to reducing import growth in every threatened area, thereby protecting domestic employers and employees. No reduction of any sort should be made in existing tariffs on imported textiles and apparel.

Mr. Speaker, permit me to conclude my remarks by quoting a letter I received from a constituent, a letter which portrays the problem more eloquently than any statistics or floor statement:

> As a . . . voter in your district, I am compelled to write to you to point out a very serious problem that faces the New York, New Jersey metropolitan area . . . It is amazing to read in the papers that the Congressional Delegation is trying to bring jobs into this region. They dream up all kinds of schemes with Federal financing. There is a very simple answer to the high unemployment in this region. Save the existing jobs in the Textile industry; stop the excessive imports. See for yourself and go to any department store and all you will see is Made in Hong Kong, Korea and Taiwan . . . Right now our industry is absolutely dying. In the last two years along 250 knitting mills went bankrupt. . . . Local No. 155 ILGWU in New York City represented 147 mills 3 years ago. Last year during contract negotiations, they had 80 mills to deal with . . . There is no end to it. This is a weekly occurrence. Judging by the machines that are offered in (this week's) liquidation sales, another 300 jobs are gone. Highly sophisticated knitting machines that cost $40–$60,000 two years ago are being auctioned off at prices from $250 to $5,000. That should tell you something about the state of this once proud industry. I hope that Congress will finally wake up and save our industry. The shoe and television industries are gone. Are we next?

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding, and want to commend the gentleman for his initiative in taking this special order. It is important that we emphasize the fact that we are talking about the largest single number of workers of any industry in the United States.

Mr. Speaker, on August 4, 1977, I spoke before this body on the Multifiber Textile Arrangement and the bilateral agreements with different countries regulating textile and apparel imports. At that time, I sought to analyze the nature of the problems these instruments were supposed to deal with, the progress and pitfalls of the past, as well as the present needs.

I concluded that, in the light of the renewed MFA, we need to negotiate realistic agreements with exporting countries taking into account our capacity to absorb additional imports. I also noted that we must bring countries not currently under bilateral agreements with us, such as the People's Republic of China, into the orbit of the MFA and the bilateral agreements concluded under its terms—and also suggested that there was no justification for lowering customs duties on apparel and other textile products in the course of the Geneva tariff negotiations.

Today I want to address myself to this latter point—why duties should not be cut in the course of the current round of tariff negotiations under the GATT auspices.

An examination of the levels of imports of textiles and apparel over a period of time reveals that the existing agreements with different countries, while slowing the tempo of advance, did not bring it even to the levels contemplated in the particular instruments. To me, this is proof enough that the existing duty levels were not sufficient to keep undo imports from our shores. If anything, import penetration in product after product proved to be excessive and unduly harmful to the domestic manufacturers' ability to produce and employ workers.

Should duties be cut below the present levels, unquestionably the pressure of imports will increase. Countries that have not tried to export to us will begin exporting. Countries that do export to us—but which have not always shipped to the fullest extent allowed under the existing agreements—will try to fill their pipelines and further swamp the domestic scene with foreign textiles and apparel.

American retailers, who normally take much larger markups on goods of foreign origin than they do on domestic apparel and textiles, would benefit. American consumers, I am afraid, would continue to pay the same prices as heretofore, if past experience is a guide. This was the conclusion of a recent study conducted by the Library of Congress for the House Committee on Ways and Means. It stated, despite the difficulties of getting information because of its proprietory nature, that:

> Markup ratios on imports . . . appear to be higher than those on domestic products since the aim of the retailer is usually to sell identical or equivalent products at the same or approximately the same price and that the lower cost of imports does not result in any price benefit to the consumer and merely allows the seller a higher profit.

Were duties cut, the capability of the American producers of apparel and textiles would be hurt. Producers would either be forced out of business or else reduce their operating rates but stay in business after laying off part of their workforce or else putting their total workforce on short-time schedules. In the alternative, it would force a number of domestic producers to start producing abroad for the U.S. market or else to import foreign-made goods manufactured by someone else. I do not view such prospects in a favorable light. It would spell heightened job loss over here, increased joblessness, and an increased welfare load that ultimately has to be borne by all consumers—by the American public at large.

This is why it is essential that apparel and textile products be treated as an exception in the forthcoming Multilateral Trade Negotiations in Geneva. The jobs that apparel and textiles provide are badly needed in our economy. To maximize employment opportunities for the type of workers who are normally employed in producing apparel and textiles in the United States, we must do everything possible to safeguard employment opportunities in textiles and apparel.

Some people might argue that duties on apparel and textiles can be reduced because the multinational and bilateral textile agreements serve to limit the volume of imports. This is an unsound argument. The various agreements did help to slow the tempo of import growth, but they did not reduce the import growth, itself. Imports continue to grow and continue to erode jobs in the domestic industry. Bear in mind that the ability to expand output abroad, even in the countries that to date have not exported apparel in any significant quantity to the United States, is fostered by low capital

required to enter business and the ease with which the needed work force can be trained.

Our Nation cannot afford to take chances with boosting the already high levels of unemployment. I would therefore encourage the administration to exclude apparel and textiles from any duty reductions in the Geneva talks.

Let me not in this connection that the Trade Act of 1974 has already recognized apparel and textiles subject to textile agreements as import-sensitive products by excluding them under the provision of section 503(c)(1)(A) from the Generalized System of Preferences.

I would also like to note that the Trade Act of 1974 excluded from duty cuts products with respect to which action was taken under its section 203 or section 232 or 351 of the Trade Expansion Act of 1962. In the instant case, the United States recognized as a matter of public policy that textiles and apparel are import-sensitive and therefore negotiated the Multifiber Textile Arrangement and the bilateral agreements thereunder. In effect, the situation differs little from that contemplated by the Trade Act to which I referred. Duty exclusions are justified both for items covered by the existing textile agreements, as well as for the few similar garments and textiles which may not be covered by the similar agreements . . . these products serve the same end use, can be readily imported, and act as substitutes for items which are covered by the MFA.

I repeat—duties should not be reduced on apparel and textiles, and I so recommend.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the leadership the gentleman from South Carolina (Mr. MANN) is providing in attempting to find ways to solve the problem of textile imports.

Over the past 10 years, while the U.S. market has grown only 28 percent, textile imports have increased a staggering 71 percent. The net effect has been the loss of an estimated 350,000 American jobs.

The problem is especially acute for cotton. In 1976, more than 700 million pounds of cotton yarn, fabric and apparel were imported, more than 40 percent above a year ago. Textile imports now account for about 20 percent of the U.S. market for cotton.

The continued erosion of cotton's domestic market by textile imports threatens more than 4 million people who depend directly on cotton production for their livelihoods.

In my home State of Arkansas, cotton is grown on nearly 8,000 farms. In 1976 revenue from cotton and cottonseed to Arkansas farmers totaled $258 million, making Arkansas the Nation's fourth largest cotton-producing State.

The importance of cotton to the State of Arkansas can be seen from the fact that revenue from cotton and cottonseed was over one-fifth as much as the entire payroll of all manufacturing industries within the State.

Obviously, the continued loss of the domestic market to textile and apparel imports will have a devastating impact on Arkansas and other areas which are heavily dependent on cotton production.

Many of the jobs that would be lost in rural areas where job opportunities are few. It is doubtful that rural communities could survive such an economic loss.

I join with you and other concerned Members of the House in urging that our position in seeking renewal of the multifiber arrangement and bilateral agreements with exporting nations which will result in a more equitable rate of growth in textile imports.

Mr. MANN. Mr. Speaker, I thank the gentleman from Arkansas (Mr. ALEXANDER).

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I want to commend the gentleman from South Carolina (Mr. MANN) for arranging for this special order in order that the very important issue that has been presented to the House could be fully discussed. I want to echo the sentiments which have been expressed.

Mr. Speaker, the availability of jobs for our people, as well as the economic health of our Nation, requires that textile imports should not increase more rapidly than those markets increase.

Textile imports into the United States have increased more than twice as fast as the domestic textile market has grown over the past 10 years. Consequently, our textile and apparel employment declined over 144,000 in that period instead of showing an increase in employment of near 3 percent comparable to the market growth.

Excessive textile imports affect our farmers as well as textile manufacturers. When excessive cotton imports reduce the demand for our farmers' cotton they must plant other crops. This results in adverse economic impact for two reasons. The economic output from cotton production per acre is greater than for substitute crops such as feed grains and soybeans. Also, when textile imports cause acreage to be diverted from cotton to other crops, the prices of those crops tend to be depressed.

While the multifiber arrangement and the bilateral agreements negotiated thereunder are limiting to some extent textile imports into the United States, the U.S. textile industry has already lost significant portions of the U.S. market to imports even though the United States has been levying import duties on these textile imports. Any reduction in the current level of U.S. textile tariffs would permit foreign exporters to capture still more of the U.S. domestic market at the expense of the U.S. domestic textile industry and U.S. textile workers. This would be contrary to the best interest of the U.S. textile industry, the U.S. textile workers, the U.S. consumers, and the U.S. economy. Consequently, it is strongly recommended that the U.S. trade negotiators refrain from granting any reduction in the current level of textile tariffs during the Tokyo Round of the Multilateral Trade Negotiations.

Mr. Speaker, our trade negotiators can enhance our Nation's economic health by keeping textile imports in a close relationship to the rate of growth of the textile market and by declining to grant any reductions on our textile import tariffs.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I, too, want to commend the gentleman from South Carolina (Mr. MANN) for offering leadership on this issue. I join with him in the statement he has made here today.

Mr. Speaker, the increasing problem this country is having with its balance of payments is aggravated by the growing import deficit in the apparel industry. Last year $2.8 billion of our trade deficit was accounted for by apparel and textile imports. This year it will undoubtedly be even greater.

Within the next few years, if the administration has its way with the tariff cuts they are negotiating, the apparel deficit could be significantly greater than it has ever been.

Even with the controls we have had on apparel imports, they have grown at three to four times the rate of domestic market demand. Imports are not only taking all the growth in our apparel markets, they are taking large portions away from the markets previously established by American producers.

When markets are taken away by imports, people lose jobs. Imports are posing a serious threat to hundreds of thousands of apparel workers in every part of this country. Right now we have about 1.4 million apparel workers contributing to the economy of this country. They are found in almost every State and in over half of all the congressional districts.

In my district in Maryland, there are 3,300 apparel workers. They are among the 18,400 apparel employees in the State of Maryland. Many of these people are employed in the production of apparel lines which are especially vulnerable to rising imports—men's and boys' suits, coats, and trousers, and women's sportswear. Their jobs are in jeopardy.

The administration claims that employment among minority groups and among women is a high priority item. Yet they are willing to place apparel tariff cuts on the negotiating table in Geneva. In the current "Tokyo round" of tariff negotiations there is the potential of cut up to 60 percent on apparel tariffs.

The obvious result of tariff cuts on apparel is to increase imports on a large scale. Employees in our apparel industry will be put out of work as their production is replaced by imports.

Mr. Speaker, American apparel workers are 80 percent women, they come in large measure from minority groups, were unskilled until they were trained by the apparel manufacturer, and often live in rural areas where alternative employment is unavailable. When their jobs are lost because of imports, they must join the ranks of the unemployed in great numbers. They will no longer be contributing members of our society, they will be taking welfare checks and unemployment checks.

The cost to us, if apparel tariffs are cut, is not only in terms of the balance of payments, it is in greater Government outlays for the unemployed and it is in lost income no longer generated by apparel workers and by workers in related industries, particularly textiles and manmade fibers.

The social costs in terms of unemployment are incalculable. The lives of hundreds of thousands could be devastated by such a move by the administration. We must support our constituents—all of them—by supporting the American apparel industry's stand against tariff cuts.

Mr. Speaker, I include at this point in my remarks tables showing the importance of the apparel industry in Maryland and the United States as well as an exchange of correspondence between myself and the President's chief trade negotiator, Mr. Strauss.

MARYLAND

Employment in Maryland—1974: Total private employment, 1,112,400.
Total manufacturing employment, 269,500.
Apparel, textiles and fiber employment—1974: Apparel, 18,400.
Textiles, 1,700.
Man-made fibers, 2,500.
Total, 22,600.
Percent of total manufacturing, 8 percent.
Apparel industry in Maryland in 1974: Seventh largest employer in manufacturing.
Employment, 18,400.
Percent of all manufacturing, 6.8 percent.
Total annual payroll, $114,200,000.
Number of apparel plants, 244.
Number with 100 plus employees, 57.
Value of apparel production in Maryland in 1974:
Men's and boys' suits and coats, $176,000,000.
Men's and boys' shirts, trousers and work clothing, $114,000,000.
Women's outerwear and sportswear, $60,700,000.
All other apparel, $144,000,000.
Total apparel, $494,700,000.

1974 apparel employment in Maryland by congressional district

District	Number of plants	Total employment
First (Bauman)	38	3,330
Second, Third & Seventh (Long, Mikulski, Mitchell)	144	9,264
Fourth (Holt)	10	171
Fifth & Eighth (Spellman, Steers)	8	57
Sixth (Byron)	36	5,577
Total above	236	18,399
Not reported by county	8	13
Total State	244	18,412

UNITED STATES

Employment in the United States—1974:
Total private employment, 63,487,600.
Total manufacturing employment, 20,380,700.
Apparel, textiles and fiber employment—1974:
Apparel, 1,380,500.
Textiles, 975,200.
Manmade fibers, 100,300.
Total, 2,456,000.
Percent of total manufacturing, 12.1 percent.
Apparel industry in the United States in 1974:
Employment, 1,380,000.
Percent of all manufacturing, 6.8 percent.
Total annual payroll, $8,246,395,000.
Number of apparel plants, 23,034.
Number with 100+ employees, 3,494.
Value of apparel production in the United States in 1974 (Wholesale value):
Men's & boys' clothing, $9,924,000,000.
Women's outerwear, $9,333,100,000.
Women's & children's underwear & nightwear, $1,824,900,000.
Children's outerwear, $1,435,800,000.
Knit outerwear & underwear, $2,470,800,000.
Hosiery, $1,328,500,000.
All other apparel, $1,860,400,000.
Total apparel, $28,195,500,000.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The current world trade negotiations conference is charged with solving problems, the resolution of which will certainly have a direct effect on the lives, jobs and security of American workers.

During the swearing-in ceremony of our country's special trade representative, Robert S. Strauss, you spoke of this, and I certainly share your position on this particular matter. That is you spoke out for a balanced policy with the emphasis on protecting the jobs of American workers and the support for a strong and competitive American economy.

One of the matters to be resolved will be a final agreement on multi-fiber imports. I am familiar with many citizens who depend on the clothing and textile industries, citizens who are currently worried about the security of their jobs and the very life of our economy which are directly threatened by the mass importation of cheap textile materials from abroad.

It is primarily on their behalf that I respectfully request that you direct our nation's trade representative to support reasonable restrictions on the importation of these items. Certainly the vitality of world trade and free commerce are jeopardized without a productive and continually growing U.S. economy. Like yourself, I believe that a balanced approach is best to resolve many of the problems currently besetting us, an approach which will entail selective import restrictions beneficial to both our economy and world trade.

Thank you in advance for your consideration.

Faithfully yours,

ROBERT E. BAUMAN,
Member of Congress.

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
Washington, D.C., June 9, 1977.

Hon. ROBERT E. BAUMAN,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BAUMAN: Your letter to President Carter concerning the impact of imports on the textile industry has been referred to me for a reply.

You correctly point out that this Administration is seeking to achieve a balanced U.S. trade policy. I am, of course, concerned about the harmful effects of textile and apparel imports on this industry, and I am aware that imports of some of these products are growing at a faster rate than domestic production. Hence, the jobs of many American workers could be at stake.

The United States is seeking to renew the Multifiber Arrangement Regarding International Trade in Textiles which expires at the end of this year. Under that Arrangement, the United States has negotiated 18 bilateral textile and apparel agreements that establish quotas on textile and apparel exports to this country. Approximately 75 percent of U.S. cotton, wool and man-made fiber textile and apparel imports are subject to these agreements.

In the next fourteen months, thirteen of our 18 textile and apparel agreements will expire. In renegotiating these agreements we will be mindful of the concerns you expressed. We will continue to maintain quotas, with suitable modifications if necessary, to prevent disruptive imports; these measures will be vigorously enforced.

You can be certain that this Administration is determined to assure the well-being and vitality of our domestic textile and apparel industry, and if I can be of further assistance to you, please do not hesitate to let me know.

With every good wish,
Sincerely,

ROBERT S. STRAUSS.

Mrs. HECKLER. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman in the well for his leadership on the Ad Hoc Textile Committee, and I commend as well my good friend and distinguished colleague, the gentleman from New York (Mr. FISH).

I feel that in participating in this discussion today we represent the whole country, not a specific region, and we show a bipartisan concern for what is truly an American problem. It seems to me that as we in this Congress look at so many public issues, we are at the point of a midcourse correction. We must correct our course if we have gone too far in terms of protecting the environment and overlooking the economy. We must also correct our course if we have gone too far in opening our doors to free trade on a virtually unlimited basis and causing unemployment at home.

One of the biggest dilemmas of our time is the question of welfare reform. We read steadily of welfare recipients who wish to work and who want jobs, and certainly we in the Congress feel a sense of commiseration with them and a desire to help them, because we know they want to be effective Americans. But how can we as a nation help those on

welfare and put them in the work force if, on the other hand, we are denying employment, through the unstemmed tide of foreign imports, to those who are already working?

In my congressional district, unfortunately, the textile industry to a great extent left in the 1920's and went to other areas. I speak with some regret that we lost the opportunity to keep that valuable segment of industry in our section of the United States. But we do still have 14,000 apparel-related jobs, and the people who need the apparel industry as a means of livelihood are so concerned about the tide of imports and the joblessness that it has produced that they have literally taken to a forum of public protest that is quite unfamiliar to them.

Mr. Speaker, I speak today in protest as well, not against free trade but in favor of fair trade which takes into account the needs of American workers.

Mr. Speaker, I rise to make additional comments about the seriousness of the problem of textile imports and their effect on domestic jobs.

Last month, when I held office hours in Fall River, a woman worker in one of our textile plants there took time off from her job to come into the office. Because we had so many constituents to see that day, she had to wait several hours. And when she got in to see me, she was in tears—because she fears for her job.

During the same visit, I toured a textile plant in the district. Men and women both came up to me to shake hands and tell me of their concerns. Their message was clear: these imports are driving our companies out of business. We cannot afford to lose our jobs. We are not trained to find jobs in other industries.

Although I believe in world trade and feel it is important for nations to find markets outside their own boundaries, I also believe that our first priority is jobs for Americans.

American textile and apparel plants have been forced to cut 150,000 jobs in the past 10 years. This industry provides about 2.3 million jobs, which accounts for 12 percent of all manufacturing jobs in the country. The continued loss of jobs in this industry will have a critical effect on our economy.

In my congressional district, thousands are employed in the textile industry. In the Fall River area, 14,000 people are so employed. Of those, 1,000 jobs are provided by knitting companies. This is one of the most seriously affected units of the textile industry. Some 300 knitwear companies have gone out of business in the past 10 years, due to the importation of large amounts of knitwear products.

The critical situation in the knitwear industry can be illustrated by a few facts. Although knitted outerwear employment accounts for less than 10 percent of the total textile and apparel employment of the Nation, the balance of trade deficit in knitted outerwear accounted for about half of the total textile and apparel trade deficit in 1976.

These are the figures: Total U.S. textile and apparel trade deficit in 1976 was $2.6 billion; the total knitted outerwear trade deficit was $1.3 billion.

In that same year, the United States trade deficit with Korea, Hong Kong, and Taiwan—the countries that hurt our knitwear industry the most—was a staggering $3 billion. That figure is even more startling when we realize that our exports to Korea and Taiwan consist mostly of weapons which are sold at below cost and are subsidized by the American taxpayer.

There is another aspect to this loss of American jobs that I wish to emphasize. On the average 75 percent of the employees in the knit industry are minorities. Women comprise 90 percent of the total labor force in that industry. These individuals—like the people of my district—are not likely to be able to be retrained for other jobs and are not mobile enough to relocate to another State should their jobs be lost.

We must take action to reverse this trend toward loss of jobs in the textile industry. We are already taking some steps. My distinguished colleague, Mr. HOLLAND of South Carolina, is heading a task force on the operation and extension of the multifiber agreements, as part of the Ways and Means Committee.

I have also been pleased to cosponsor, with my friend Mr. LEDERER of Pennsylvania, a bill which would prohibit imports which have been assembled outside this country from carrying a label stating "Made in the U.S.A." just because parts of the garment were made here. This is a small step, but at least it informs our consumers that they are not buying American-made goods.

The question is: What is the administration doing? The new bilateral trade agreements are now being negotiated. The Hong Kong agreement, though it provided for a rollback of 6 percent in the quota for sweaters made of manmade fibers, it did nothing for those made of wool and most of our imports from Hong Kong are of wool.

In extending the multifiber agreements, we could suggest that the present 6 percent quota growth be reduced to a level no greater than domestic market growth, which grew only 3 percent in 1976. We could also urge that new bilateral agreements allow no quota growth in those categories of products already heavily impacted by imports.

But the multifiber agreements are not the only important considerations in approaching the problem. Maintaining existing tariffs on imported textiles and apparel is of primary importance. The multifiber agreements are not substitutes for tariffs, but are supplemental.

When, in the 1960's, the United States agreed to cut tariffs on textiles and apparel over a 5-year period, textile imports rose by 150 percent in that period. Now, there are suggestions that tariffs be reduced again. I believe that move would be disastrous for the textile industry.

The industry had understood that textiles and apparel were not going to be included in the Tokyo Round of negotiations on tariffs involving 11 countries. Now the administration has said that textiles and apparel will be included in those negotiations. Again, I repeat, lowering tariffs would be disastrous for the textile industry.

Low-cost, low-wage foreign producers should not be permitted to jeopardize American jobs. Our first priority, as I said earlier, is domestic jobs—jobs for our workers.

I commend my colleagues, Mr. MANN and Mr. FISH, for requesting this special order today to bring to the attention of the Congress the increasing problems of the textile industry and the responsibility of Congress to address these problems immediately.

Mr. MANN. Mr. Speaker, I thank the gentlewoman from Massachusetts (Mrs. HECKLER) for her contribution.

Mrs. CHISHOLM. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentlewoman from New York.

Mrs. CHISHOLM. Mr. Speaker, there is a human dimension bearing on textile and apparel imports that should not get lost in the welter of statistics, studies, rules and regulations that invariably play so important a role in any high level negotiations among governments. I refer to the very unique character of the people who make up the work force in the textile and apparel trades.

They are the people who can least afford added adversity because, in most cases, their lives have been one long woeful tale of adversity. They are the most vulnerable populations in our Nation.

Who are they? Overwhelmingly women and minorities.

For ages, women have come to these industries because, in their origins, they were cottage industries where the work was done at home. Although, these industries have changed their methods of production over the years, they still retain something of the character of the old time cottage industry.

Pushing a needle or weaving the fabric has, in many cultures, been women's work. Whether it should have been is a question for discussion. But there is little doubt that this has been the traditional way.

Today, about 80 percent of the employees in the apparel trades are female. In textiles, women compose about half the work force.

The girls, the married women, and the elderly females who work in these mills and factories do not do so to earn pin money, to gain a few extra pennies for some piece of finery. They work because they have to. Some do so as supplementary earners, but a very high percentage are the main support of their families.

It is not tradition alone that brings them to these trades. Many girls learn to run a sewing machine at an early age in their homes. When they have to go out to work, this is a skill at hand. It is also a skill that is easily learned.

Other girls learn to run the machines in a trade school. Upon graduation they are ready to go into the factory to apply and adapt their skills to the needs of mass production.

Women are also recruited to this industry because they are available at lower

pay. Because both textile and apparel production—especially in the latter case—is labor intensive, the producers are continually on the look out for cheap labor. When men leave these trades because they are able to command higher wages elsewhere, invariably they are replaced by women.

These women do not have the mobility enjoyed by most men. Many of them have children who need their attention; homes they must clean and meals they must cook for the family. They have a double responsibility: one on the job and the other at home. If the job disappears, the worker cannot disappear that easily because she still has that other job with her family.

Some of the factors that draw women into these industries also draw minorities into the same mills and factories. Typically, a migrant or immigrant generation of women toil for years to scrape together the few pennies to see their children through school. Their hope—that their children will know a better life—is often realized. The result is that the second generation does not stay on in the parental profession of tending a loom or running a sewing machine. The children move on to skilled trades, to capital intensive manufacture with its higher wage level, to government jobs, to the professions, to managerial posts.

The vacuum, however, is soon filled by the newcomers—from new countries or continents, from Appalachia, from southern plantations, from the Mexican border, Puerto Rico, Cuba. As one minority leaves, another minority enters.

To generations of minorities, these trades have been the first rung on the economic ladder. It has been the first hopeful step in an upward climb.

For these vulnerable minorities—to the women who must work, to the minorities who want hope—the textile and apparel trades are not expendable. When they lose their jobs they lose more than income; they lose hope. To them discharge means despair.

When we speak of these people we are not talking about some speck on the economic landscape. The textile and apparel trades employ more than 2,300,000 workers. Actually, there would be at least another quarter million of these people—among the Nation's most needy—employed if imports had not been chewing away an even bigger portion of our American market.

Regrettably, there is easy talk about the need for us to give up these jobs so that workers in the poor lands of the earth shall have a chance for gainful employment. Usually this is put in terms of affluent Americans making sacrifices for the indigent Third World.

In reality, however, it is not affluent America that makes the sacrifice when a job is wiped out in a textile mill or in an apparel shop. It is the nonaffluent American who is sacrificed.

We dare not indulge in an impossible policy where we pit the people of the Third World against the people in our own Third World. And we do have our own Third World composed of racial and ethnic minorities who even look like and feel like the people of the other Third World.

We can and should develop policies that will allow us to live while we allow others to live. In an expanding American economy, there is room for both expanding domestic as well as foreign production.

We have the instruments for arriving at such balanced agreements. The means for doing so is the multifiber arrangement recently negotiated in Geneva as well as actions that can be taken in accordance with its provisions.

These agreements, of course, are far from perfect. That is why we cannot afford to cut tariffs on textiles and apparel. These items must be excepted in the course of the forthcoming negotiations in Geneva.

But certainly, whatever chips we use in the game of trade, we must not indulge in the dangerous ploy of throwing away chips that are marked "women" or "minorities". To do so is merely to add injury to injury and this is not the aim of our society. We must protect their jobs. Hence, the need for agreements to regulate trade in textiles and apparel, and there is a need to leave the existing tariff structure alone.

Mr. MANN. Mr. Speaker, I thank the gentlewoman from New York (Mrs. CHISHOLM) for her remarks.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I thank my distinguished colleague, the gentleman from South Carolina (Mr. MANN), for yielding.

Mr. Speaker, it is a long, long way from Geneva, Switzerland, to Egg Harbor, N.J. But I trust that our country's representatives who recently negotiated the renewal of the Multifiber Agreement at Geneva were aware of the impact of their activities on towns all over the United States like Egg Harbor. I say "towns like Egg Harbor," because for lots of people in Egg Harbor itself it is already too late.

Egg Harbor is a very small community. The Lisa Manufacturing Co., a garment firm, was one of its few employers. It employed 65 workers—not a large number by big city standards—but in a town the size of Egg Harbor it was one of the mainstays of the local economy. In January of this year the Lisa Manufacturing Co., closed its doors and went out of business—because it could no longer meet the challenge of cheap imports produced by workers in far-off countries who earned 30 and 40 cents an hour.

The loss of these 65 jobs has had a major, devastating effect on the economy of Egg Harbor. And a dozen miles up the road, in Hammonton, N.J., the situation was repeated when the Aggressive Coat Co., employer of some 90 workers, ended operations at about the same time. And in town after town from one end of the country to the other come similar stories—stories of small and medium sized establishments, frequently the mainstay of a community's economy, closing down under the relentless pressure of low-wage foreign competition, leaving economic disaster and human misery in their wake.

The stories of the Egg Harbors and the Hammontons of America, small though the number of workers in each individual case may appear to be, add up. In my own State of New Jersey alone, for example, fully one-quarter of the jobs in the apparel industry have been lost during the last 10 years—and they have been lost very largely as a direct result of the import problem. In 1966, more than 80,000 New Jersey workers were employed in that industry. But by last year the number had shrunk to 60,000—and is still declining.

Job losses of this magnitude constitute a major dislocation to the economy of the communities involved and the State as a whole; but for the individuals involved and for their families they often constitute an economic catastrophe—for large numbers of displaced workers—the majority of them women—are the sole or primary supporters of their families. And many do not have—and find it very difficult to acquire—the skills needed to obtain other types of employment. For them, the availability or lack of availability of work in the apparel or textile industries represents the difference not between one job and another job, but the difference between making a living and living in poverty—between being a wage-earner or becoming a public charge.

So I hope that our negotiators dealing with the problems of tariffs on apparel and textiles keep the Egg Harbors and the Hammontons of America in mind. This is a human aspect of the problem—an aspect which cannot be measured by statistics.

The economic health of the towns and the cities of America is not expendable. That is why no cuts in tariffs should be made on any article of textiles or apparel. The existing regulation of imports is far too inadequate to supply proper safeguards to preserve jobs and work opportunities even though they are decidedly a step in the right direction. But very decidedly they must be supplemented by adequate tariffs. This is essential.

Mr. MANN. Mr. Speaker, I thank the gentleman very much for his remarks.

Mr. DUNCAN of Tennesse. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am most pleased to join with my colleagues here today in support of efforts to control the increasing imports of textile products into this country.

The fiber, textile, and apparel industry is a vital one for the entire United States, but perhaps even more important for the district which I am privileged to represent. In my district alone, there are 57 apparel manufacturing plants with more

than 14,000 employees. In the entire State of Tennessee, there are 128,000 jobs provided by this industry: 73,400 in apparel manufacturing, 32,600 in textile manufacturing and 22,000 in the production of manmade fibers.

These jobs, which are so vital to the economy of my district and my State, are threatened by the increasing volume of imports of fibers, textiles, and apparel into this country. These imports have grown so steadily that more than one out of five garments purchased in this country last year were either made abroad or were made of imported fiber or fabric. Imports have mounted so fast that they already have displaced the jobs of more than 350,000 American workers.

One must point out that American workers are particularly vulnerable to imports, because of the huge difference between wages in the United States and wages in other countries which are the principal supporters of these imports. The average hourly wage in the American textile and apparel industry is over $3.50 an hour. In Hong Kong, Korea, and Taiwan, the most significant sources of imports, the hourly wages are 74 cents, 38 cents, and 42 cents, respectively.

Mr. Speaker, I believe it is incumbent upon this Government to take steps to preserve orderly world trade in textile products and to preserve the jobs of the 2.5 million Americans who work in the fiber-textile-apparel industry.

The Multifiber Arrangement (MFA), under which bilateral textile product restraint agreements are negotiated, is up for renewal at the end of the year. While it has not been nearly as effective as most would wish, I do hope that it is renewed, because it does provide an import framework under which individual quota agreements are concluded with the major exporting nations.

One would hope, also, that the administration would insist during negotiations with individual countries that imports, particularly in highly impacted areas, be limited so as not to further endanger American industry and employment.

The MFA and the bilateral agreements are important, but perhaps of even greater importance is the maintenance of current American tariffs on fiber, fabric, and apparel. Even with our current duties and with the MFA, imports have continued to rise. Without either one of them, the rate of imports will, without a doubt, increase.

For this reason, I urge the administration not to bargain away these vital textile product duties during the multilateral trade negotiations now underway in Geneva. There is no compensation our negotiators could bring home from Geneva which would make up for the loss of this vital American industry.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman from South Carolina for yielding to me, and I am delighted that he has invited the Members to be present so as to have a chance to take part in his most important special order tonight.

Mr. Speaker, I might point out that I come from a district that has 42 percent Spanish surname people. I come from a district that is sort of a port of entry into this country for a large number of people who come here seeking a livelihood. They are not always highly skilled, but they can fit into the textile and garment making industries and into the apparel industries. That this opportunity for them exists I believe is a wonderful thing and I believe it is in the best traditions of America. I believe it ought to be encouraged. These people are out working, they are earning a living, they are not out raking leaves, they are not taking part in make-work jobs. They are making a product that is important and essential to everyone of us each day of our lives. It is productive work, it is decent work and it is meaningful work. It is work by means of which they can take that first step on the escalator that will bring them into our society as an important part of our Nation and an important part of our economy.

Again I want to thank the gentleman from South Carolina (Mr. MANN) for letting us participate in his special order today.

Mr. Speaker, the statistics are well known. Eighty-one percent of all apparel workers are women. Almost half the workers in textile mills are women.

The reasons for women being able to enter these jobs easier than most others result from the work structure of the apparel and textile plants. They provide some of the all-too-few opportunities for first-time entrants into the work force. Thus, when imports threaten to destroy these industries, the tragedy affects the entire movement for social equality, not just the particular individuals who are unemployed.

Where can a woman find a job after being out of the job market for 15 to 20 years, because she wanted to devote her efforts to raising her children? Where can the new divorcee find steady income when previously she was dependent upon her husband's income? Where even can a woman find a job such that she can work part time to handle the dual pressures of family and economic necessity.

The apparel industry fills these roles and provides these opportunities. For most women there are no other possibilities available to them. That is due in large measure to the fact that most of the tasks performed in an apparel plant fall into the semiskilled category. Inexperienced people can be trained on the job within a short period of time. Production in this industry is minutely subdivided so that anyone can learn a specific task.

In the case of sewing machine operators for example, the work is subdivided to such a degree that most operators may do no more than sew a single short-run seam on a garment. Once the elementary instruction in handling a sewing machine is given an inexperienced worker, the rest of the learning process consists of a progressive and relatively rapid acquisition of maximum operating speed.

Thus many women can earn a livelihood when, by necessity or choice, they want to quickly enter the job market. And these needs shall continue to exist even after skilled or professional jobs are totally freed from the sexual biases that currently remain.

The problems of working-class women are seldom addressed. But by fighting against imports we are keeping open what is in many localities the most available source of income for them.

When the Government negotiates bilateral agreements with growth rates for imports such that these imports take over an increasing portion of our markets, it is working women who will suffer. The justice of that escapes me. There can be no way to correct the inequities of greater unemployment for women than for men when the Government directly allows jobs to be destroyed en masse in the apparel and textile industries. Failure to recognize all the social consequences of the rising tide of imports can only mean more problems for the Government in the near future. We must protect the livelihood of American workers, and this most necessarily includes the women who earn their living in the apparel industry.

Mr. JENKINS. Mr. Speaker, will the gentleman yield?

Mr. MANN. I am happy to yield to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Speaker, people in the State of Georgia are concerned about the problems faced by the American apparel industry. Apparel is important to all Georgians, because almost 100,000 of us work in that industry. It is important to all other Georgians because the far-reaching effects of that employment and its $400 million annual payroll mean thousands more jobs and millions more payroll in related industries throughout the State. In my district alone the apparel industry employs 10,800 people and pays them about $60 million.

We are only one of 25 States in this country which have more than 10,000 apparel workers. Throughout this great land there are 1.4 million people employed in the apparel industry, and almost every State has one or more apparel plants.

These people who produce our clothes are special. Many of them were unskilled when they entered the industry; 80 percent of them are women; a large percentage of them come from minority groups; and a lot are bringing home second incomes which help substantially raise the family's standard of living.

Apparel workers have incomes which enable them to buy other goods in our economy. They are good community citizens, often active in the small towns where many of them live and work. They pay taxes, and in general are part of the mainstream of American life.

These are people who are not on the unemployment or welfare rolls. But they could be, if we in this country do not act to stem the rising tide of imported apparel.

We are at a crucial point in time for the apparel industry. The controls, which have been in effect for the last 4 years, to provide orderly markets in apparel and textiles are coming up

for renewal in a few months. The Multifiber Agreement must be renewed by this December or orderly markets will no longer be assured, and imports will most surely enter this country in much greater quantities than ever.

Although renewal is not yet assured, 16 countries representing 80 percent of the world trade in apparel and textiles have tentatively agreed to sign a protocol extending the Multifiber Agreement. Strong support of our Government will help to make this a reality.

An even greater potential threat to the American apparel industry is the possibility of tariff cuts. The current "Tokyo Round" of tariff negotiations going on in Geneva hold the potential of a 60-percent reduction in apparel tariffs. If these tariffs are reduced even slightly we will all suffer the consequences. Apparel imports will increase at an even faster rate than ever.

The present tariff structure is such that even with quantity controls on apparel imports, these imports are growing at least three times faster than market demand. A cut in tariffs will further aggravate this situation, allowing greater amounts of imports to come to our shores to displace American-made apparel.

American apparel producers cannot compete with low-wage countries, such as Korea which pays its apparel workers only 32 cents per hour. The average American apparel worker earned $3.39 per hour in 1976. Our workers enjoy a standard of living unknown to Korean workers, or to Taiwanese apparel workers who earn 41 cents per hour.

Apparel tariffs stand between employment and unemployment for thousands of apparel and textile and fiber workers in this country. Many others will also suffer if these tariffs are cut.

We all stand to lose if imports push Americans out of the apparel business. Unemployment will grow measurably, welfare rolls will increase, balance-of-payments deficits will go up, and the economy will go down. There is nothing to be gained by selling apparel tariff reduction for tariff cuts from another country.

It is the experience of American business that whenever tariffs are cut by almost all other countries, nontariff barriers are set up almost at once. They exclude our trade in ways we would not even consider.

We need American workers working. We need apparel produced in this country, both for its fine quality and for the economic contribution this great industry makes to America.

Textiles and apparel are the industrial life blood of Georgia and we can no longer, especially with today's high rate of unemployment, allow the import of foreign textile products to further retard and reduce our own domestic industry.

With textile imports representing nearly one-third of our total international trade deficit, it is inconceivable that we would entertain the idea of any tariff reductions in the upcoming Multilateral Trade Negotiations in Geneva.

In Georgia, the textile industry employs over 124,000 American citizens. The related apparel industry employs another 68,700 people. Together, they represent the largest industrial employer in the State.

The industry is even more vital to the State economy when you consider that textile plants number more than 166, and they are located in almost all of Georgia's counties. Many of the areas are rural, less-populated sections where no alternate employment is available.

In Georgia, textiles have served as an agent of employment for those who have no other source of work or those whose qualifications are limited.

The young, displaced farm workers, Vietnam veterans—all of these people through textile employment have good paying jobs. Their steady employment has allowed them improved stations in life.

The very nature of the industry also allows for steady advancement for those willing to work and learn. In today's highly technical world, few industries have the promotional opportunities textiles create.

Mr. Speaker, the loss of employment would be a very serious matter to any of those 124,000 American citizens working in Georgia's textile plants.

Loss of jobs also has grave implications for the overall community in which the plant is located, not to mention the effect it would have on the State and national economy.

It would represent loss in revenues for all governments at all levels.

Unemployment greatly affects community developments and improvements. In Georgia, textile companies have done their fair civic duties. Swimming pools, ball fields, museums, donations to finance additions to schools and churches have all been made possible by textile companies. The very quality of life of many Georgians has improved as a result of the textile industry.

I might add that one of the premier track and field events in the Nation—the Georgia olympics—held annually in Jefferson, Ga., is the brainchild of one of our Nation's most enlightened textile executives. Through the expenditure of his time, his effort, and his money this event attracts nationwide attention, as my friend, the gentleman from Illinois (Mr. METCALFE) will attest.

Textile imports have already climbed to an alarming level. Any reductions in tariffs can only encourage more imports into this country. Too much American industry has died at the hands of uncontrolled imports from foreign markets. We must act, and act decisively, to save the textile industry.

I am not advocating a protectionist position. I am merely suggesting that we regulate our trade, as all nations do, so that we maintain our domestic industry which employs so many Americans.

Mr. HOLLAND. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from South Carolina.

Mr. HOLLAND. I thank the gentleman for yielding.

Mr. Speaker, when you talk about textiles, you are talking about something I, like every South Carolinian, know something about.

In fact, you are talking about an industry that directly employs nearly half the entire working force of the State.

You are talking about an industry which employs over 213,000 South Carolina citizens who spin, weave, knit, and finish textiles. You are talking about thousands of additional jobs related to the support and maintenance of this industry.

You are talking about an annual payroll in excess of $1.1 billion a year.

You are also talking about a very important corporate citizen for the State and the Nation.

Last year alone, corporate income taxes paid by the South Carolina textile industry amounted to over $21 million.

An additional $3.7 million was paid by the industry in sales and use taxes.

Individual income tax paid by hourly textile workers accounted for $15.5 million.

It does not take a mathematician to see the overall contribution this industry makes to the maintenance of both State and Federal governments.

By the same token, it does not require an economist or historian to relate the adverse effects that imports flooding into the domestic marketplace have had, and continue to have, on this important industry.

In South Carolina, imports have real meaning. They mean unemployment, diminishing revenues, financial insecurity, and cloudy futures.

Mr. Speaker, the level of textile imports in this country is already at almost intolerable levels. We know that in the last 10 years imports have been responsible for the loss of hundreds of thousands of jobs in the American textile industry. The people of South Carolina and the entire textile industry simply cannot afford any reduction in tariffs which will, as history has shown, encourage, promote and generate still more and more imported textiles.

Mr. Speaker, international trade with all of its many concepts and theories is a very complicated issue. No doubt, it requires enlightened thinking and broad-minded approaches.

However, Mr. Speaker, one basic and easily understood premise of a democracy is that Government be responsive to the needs of the people.

Any reduction in import tariffs on textiles is not serving the needs of the people. Not the 213,000 textile workers in South Carolina, or any of the other millions who count on textiles day-after-day as a means to earn a living.

During the recent recess, like most of my colleagues, I spent considerable time talking with the people of my district. In those conversations, one subject concerned people of all ages and from all walks of life—our unemployment rate. People need jobs. People want to work. They want to contribute.

With all of the complex problems facing this Nation, I rejoice when we are able to resolve a problem effectively. The question concerning a lowering of textile tariffs is one such problem. It does offer an immediate solution. The solution, Mr. Speaker, is to retain present tariffs with no changes. This solution assures our people their jobs.

Mr. LOTT. Mr. Speaker, the American apparel industry plays a unique role in our economy. It employs large numbers of people who would otherwise be included in the high unemployment groups—minorities, women, unskilled workers.

The American apparel industry trains its newly employed workers, providing them with job skills they did not have. It costs the industry millions of dollars each year to provide this training, and it gives our economy trained people who take pride in their ability to earn a living and produce one of the necessities of life.

Now these people are being threatened as never before. Apparel imports are not new to our economy, but the volume of imports is new.

The multifiber agreement covering international trade in apparel and textiles creates an orderly market for this trade. However, it also provides a rapidly growing market in this country for imports, thus cutting back markets for domestic apparel producers.

Right now apparel imports are being allowed to grow at a pace three to four times the growth in demand for apparel. This means that imports take all the market growth plus some of the market already established by American apparel manufacturers.

All this is going on under the present tariff structure. If there is a change in this rate structure, imports are sure to increase at an even faster pace.

Imported sweaters now account for more than 50 percent of the total sweater market in this country. Men's and boys' woven dress and sport shirts are more than 40 percent imported. And many other examples could be cited to show large amounts of penetration into important American apparel markets.

The potential of a tariff cut of up to 60 percent exists at this time. The "Tokyo Round" of tariff negotiations going on in Geneva could result in just such a drastic move. We cannot allow this to happen.

The Multifiber Agreement is coming up for renewal in December, and the people of Mississippi support this renewal. Provision of orderly markets and some control of apparel imports is important to this vital industry. In connection with this, however, we need to maintain the present tariff rates to assure that the apparel industry of this country is able to remain strong.

Almost 5,000 people in the Fifth District of Mississippi rely on apparel directly to give them an income of $23 million a year. Thousands more of us get indirect support from these workers through the money they spend, the taxes they pay, and the contributions to community activities made by these people.

If even half of these people lost their jobs because of increasing imports of apparel, the welfare rolls and unemployment lines would grow, not just in length but in burden to our area.

What could happen in the Fifth District of Mississippi could happen in the Nation as a whole. With 1.4 million apparel workers contributing to our economy we can be assured of fine quality clothing and 1.4 million self-supporting citizens.

With even half of these people, 700,000, out of jobs because of imports, we would have a heavy burden to be borne by an already overburdened economy.

But it is not just the apparel industry which would suffer unemployment. Half of the value of the textile industry's output goes into apparel production. Much of the fiber industry's production goes into apparel fabrics. Distributors, shippers, packaging firms, and many others would experience significant decreases in demand if large numbers of apparel workers became unemployed.

We must support the apparel industry's stand on the tariff situation. We cannot ask our apparel workers to toil for 32 cents an hour as they do in Korea. American apparel workers earned an average of $3.39 per hour in 1976, and this makes price competition with imports impossible. Let us support the American apparel worker and the American way of life to which he is such an important contributor.

Mississippi

Employment in Mississippi—1974: Total private employment, 535,300.

Total manufacturing employment, 219,700.

Apparel, textiles, and fiber employment—1974: Apparel, 42,100.

Textiles, 7,200.

Manmade fibers, 0.

Total, 49,300.

Percent of total manufacturing: 22 percent.

Apparel industry in Mississippi in 1974: Largest single employer in manufacturing, employment, 42,100.

Percent of all manufacturing, 19.2 percent.

Total annual payroll, $202,900,000.

Number of apparel plants, 211.

Number with 100+ employees, 146.

Value of apparel production in Mississippi in 1974: Men's and boys' apparel, $438,800,000.

Women's, girls', children's and infants' apparel, $150,000,000.

All other apparel, $112,600,000.

Total apparel, $701,400,000.

1974 apparel employment in Mississippi by congressional district

District	Number of plants	Total employment
First	59	12,208
Second	56	10,112
Third	42	9,619
Fourth	28	5,234
Fifth	21	4,685
Total above	206	41,858
Not reported by county	5	283
Total State	211	42,141

United States

Employment in the United States—1974: Total private employment, 63,487,600.

Total manufacturing employment, 20,380,700.

Apparel, textiles, and fiber employment—1974: Apparel, 1,380,500.

Textiles, 975,200.

Manmade fibers, 100,300.

Total, 2,456,000.

Percent of total manufacturing, 12.1 percent.

Apparel industry in the United States in 1974: Employment, 1,380,000.

Percentage of all manufacturing, 6.8 percent.

Total annual payroll, $8,246,395,000.

Number of apparel plants, 23,034.

Number with 100+ employees, 3,494.

Value of apparel production in the United States in 1974 (wholesale value): Men's and boys' clothing, $9,924,000,000.

Women's outerwear, $9,333,100,000.

Women's and children's underwear and nightwear, $1,842,900,000.

Children's outerwear, $1,435,800,000.

Knit outerwear and underwear, $2,470,800,000.

Hosiery, $1,328,500,000.

All other apparel, $1,860,400,000.

Total Apparel, $28,195,500,000.

Mr. BURKE of Massachusetts. Mr. Speaker, it is no secret that our textile and apparel industry is threatened with extinction. Dramatic shifts in foreign penetration of the domestic textile and apparel industry have seriously reduced the American producer's share of our own market.

The textile/apparel industry employs over 2.3 million Americans, and it is the responsibility of this Government to see to it that the jobs of these workers are protected.

It is extremely important that we maintain existing tariffs on imported textiles and apparel. In fact, because of the following facts, the U.S. trade negotiators should be seeking to increase tariffs rather than to even consider reducing them. During the Kennedy round, the United States agreed to cut tariffs on textiles and apparel over a 5-year period. Yet, in the first year of these reductions, textile imports increased by 28 percent. By the end of the 5-year period, they had increased by 150 percent. So it is very clear, proposals to cut U.S. tariffs on textiles and apparel come at a time when imports increased 34 percent in 1976 alone.

Mr. Speaker, in my State, Massachusetts, the textile/apparel industry provides 73,700 jobs and an annual payroll of $652 million. I do not intend to stand quietly by and watch these jobs be further jeopardized.

Of particular concern to me is the knitted outerwear industry. This industry maintains four plant locations in the Commonwealth of Massachusetts. During the last few years the knitting industry has lost over 300 mills and the 1976 trade deficit was $2.59 billion, caused mainly from foreign imports. The knitting industry is a labor intensive industry employing an estimated 125,000 employees. The industry provides a greater proportion of jobs for female and minority workers than does American industry as a whole.

During 1976, the average wage rate of a U.S. knitwear worker was $3.56 per hour. Their Far East competition pay the following wage rates: Hong Kong, 78 cents per hour; Taiwan, 48 cents per hour; and South Korea, 39 cents per hour.

The knitted outerwear industry has suffered more than a 50-percent market penetration from foreign imports.

It is my hope that these astonishing facts can be impressed upon our U.S. trade negotiators.

It is quite clear from this data that a reasonable reduction of textile/apparel imports can only help our national economy, and protect most needed American jobs.

Mr. KETCHUM. Mr. Speaker, unemployment continues to be one of this Nation's most difficult problems. The latest figures show that, during the month of August, unemployment in this country rose to 7.1 percent.

Concern over this problem is continuing to be expressed, but mere expressions of concern are not enough. We must act—and act decisively—on this problem.

And that means protecting the existing jobs of our workers, and creating the climate for new jobs. We must not allow ourselves to be put in the position of exporting a significant part of our jobs market.

Yet that is exactly what we doing when we allow a flood of textile and apparel imports to come into this country and take over our markets.

Between 1969 and 1975, we saw 271,000 jobs in the textile and apparel industries lost to imports. And that is just an overall figure. Some segments of the industry were especially hard hit. The men's and boys' tailored clothing industry alone lost 40 percent of its total workforce because of the unfair competition from imports produced in countries where wages are low and where government regulations are practically nonexistent.

We need to take a close look at the textile and apparel industries in this country and recognize how important they are to our economic health. One out of every eight persons working in manufacturing plants in the United States is employed by these industries. Sixteen percent of the employees in U.S. textile and apparel plants are black, and 81 percent are women. In addition, there is not a State in this Union which does not have a textile plant, an apparel plant, or both. So the problem of textile and apparel imports should be of concern to all of us.

The Multifiber Arrangement and the bilateral agreements negotiated thereunder currently govern U.S. textile imports. The arrangement and the bilateral agreements were negotiated on the basis of the current U.S. tariffs on textiles. If the U.S. negotiators agree to any textile tariff reductions during the forthcoming Multilateral Trade Negotiation under GATT, this would destroy the effectiveness of the agreements and would further weaken the competitive position of the U.S. textile industry. Under the circumstances, I strongly recommend that the current level of textile tariffs be continued, and that our trade negotiators refuse to consider and reduction in our textile tariffs.

I think we all recognize the importance and the benfits of international trade. We want it to continue, and we are willing to share the growth in our domestic markets with the less developed countries.

But we must insist that international trade in textiles be orderly and equitable. We cannot afford to sacrifice the livelihood of thousands of Americans on the altar of unrestrained and totally unreasonable foreign competition. This is the message we need to get across to our trade negotiators.

Mr. MURTHA. Mr. Speaker, there can be no doubt Americans are becoming increasingly upset about the import of foreign materials—imports that too often are costing Americans jobs and growth within our economy.

That is why I am very pleased to participate in this discussion of trade policy for the Nation's apparel industry.

In 1961 only 7 garments were imported for every 100 made in the United States. Last year, 35 garments were brought in for every 100 produced in our own country. The result of this—a pattern repeated in steel, electronics, combs, and other industries—is the unemployment of thousands of workers, loss of investment in the U.S. economy, and a stagnation of American economic growth. Like other industries, if this import rise continues, it will surely lead to more men and women out of work, and more problems for our economy.

As a representative of the ILGWU recently wrote to me—

> Negotiating further duty cuts for apparel products would seriously aggravate an already dangerous situation. Even at existing rates, imported apparel enjoys a substantial competitive advantage over garments made in the United States, an advantage that has led to the devastating growth of the past. Most foreign made apparel does not compete in terms of unique design, superior quality or similar features. It competes primarily in terms of cost. The cost savings to distributors and retailers who rely on imports is enormous and in most cases the savings is not passed on to the consumers.

To follow up on that point, it must be noted apparel is a labor-intensive product, with from 25 to 35 percent of the wholesale cost of an American made garment represented by wages. Existing duties fail to inhibit shipments into the United States between 1961 and 1976 apparel imports, measured in terms of square yards of fabric used in their manufacture, rose by 722 percent.

The fact is our present apparel import policy does not adequately protect American industry and workers.

I am very hopeful the administration will insure no duty cuts will be negotiated for apparel items. If this is not done, I believe the American apparel worker will be further damaged.

As in other trade categories, we seek not to close our doors to imports, or put up barriers that will harm the world's economy. What we desire is a fair policy, that recognizes the needs of our own people, our own industries, and the need for growth within our own Nation.

That is the policy I urge. I would like to thank Congressman MANN for organizing this discussion, so we can impress on the Government and the Nation the very deep concern that many of us have in this important policy area.

Mr. BUTLER. Mr. Speaker, we in this country have a choice to make. We can choose to keep apparel workers productive and earning their wages and benefits. Or we can see to it that they swell the ranks of the unemployed who receive unemployment checks and welfare checks in order to survive.

We will make this choice by the way we react to the tariff negotiations which are starting soon in Geneva. There is the potential for apparel tariffs to be cut by as much as 60 percent in what is known as the Tokyo Round of multilateral trade negotiations. If we sit back and allow such drastic cuts in apparel tariffs, we will surely be making the choice for unemployment.

Last year the average hourly wage in the American apparel industry was $3.39. In Korea the average apparel worker earned 32 cents per hour, in Taiwan it was 41 cents, and in Hong Kong it was 69 cents. That is the basis for competition between domestically produced apparel and foreign-made apparel. We cannot ask our workers to take a wage cut and reduce their standard of living to a level experienced in these Far Eastern countries.

The American consumer is not benefiting from apparel imports. Retailers buy imports to sell in their stores because they can take significantly higher markups on imports, thereby making greater profits. The savings which might be realized by consumers simply do not occur.

The threat posed by tariff reductions on apparel imports is one of massive unemployment among apparel workers and among workers in related industries, particularly textiles and manmade fibers. These three industries—apparel, textiles and manmade fibers—employ 2.4 million workers in this country. Apparel alone accounts for almost 1.4 million workers.

In the Sixth District of Virginia there are 5,400 apparel workers. They too are threatened by increasing apparel imports. To a great extent they are people in rural areas where there are few opportunities for alternative employment. They have been trained by the apparel companies for whom they work, and generally have few other work-related skills.

When apparel workers are forced out of their jobs by increasing imports they very often have to join the ranks of the unemployed, taking unemployment and welfare checks instead of weekly wage checks. They change from productive, contributing workers to an economic drain on us all.

The magnitude of the problem in the apparel industry makes it particularly important for us to support the industry's stand against any tariff cuts. The potential increase in unemployment and consequent economic drain on the whole country is a threat which none of us wants realized. We as a nation cannot afford to grant tariff cuts on apparel in exchange for any of the minor diplomatic concessions we might receive. The cost to us is too high, both in dollar terms and in terms of wasted employment opportunities.

Virginia

Employment in Virginia—1974: Total private employment, 1,323,200.

Total manufacturing employment, 401,200.

Apparel, textiles and fiber employment—1974: Apparel, 36,200.
Textiles, 45,600.
Manmade fibers, 20,000.
Total, 101,800.
Percent of total manufacturing: 25 percent.
Apparel industry in Virginia in 1974: Second largest employer in manufacturing, employment, 36,200.
Percent of all manufacturing, 9.0 percent.
Total annual payroll, $188,000,000.
Number of apparel plants, 238.
Number with 100+ employees, 121.
Value of apparel production in Virginia in 1974: men's and boys' suits and coats, $68,300,000.
Men's and boys' shirts, trousers and work clothing, $17,100,000.
Women's outerwear and sportswear, $128,800,000.
Childrens' outerwear, $63,900,000.
All other apparel, $121,300,000.
Total apparel, $559,400,000.

1974 apparel employment in Virginia by congressional district

District	Number of plants	Total employment
First	11	1,360
Second	8	255
Third	23	3,198
Fourth	10	1,501
Fifth	39	6,632
Sixth	35	5,412
Seventh	30	6,704
Eighth	0	------
Ninth	53	10,096
Tenth	0	------
Total above	209	35,158
Not reported by county	29	1,053
Total State	238	36,211

United States

Employment in the United States—1974: Total private employment, 63,487,600.
Total manufacturing employment, 20,380,700.
Apparel, textiles and fiber employment—1974: Apparel, 1,380,500.
Textiles, 975,200.
Manmade fibers, 100,300.
Total, 2,456,000.
Percent of total manufacturing: 12.1 percent.
Apparel industry in the United States in 1974: Employment, 1,380,000.
Percent of all manufacturing, 6.8 percent.
Total annual payroll, $8,246,395,000.
Number of apparel plants, 23,034.
Number with 100 plus employees, 3,494.
Value of apparel production in the United States in 1974 (wholesale value): Men's and boys' clothing, $9,924,000,000.
Women's outerwear, $9,333,100,000.
Women's and children's underwear and nightwear $1,842,900,000.
Children's outerwear, $1,435,800,000.
Knit outerwear and underwear, $2,470,800,000.
Hosiery, $1,328,500,000.
All other apparel $1,860,400,000.
Total apparel, $28,195,500,000.

Mr. ANNUNZIO. Mr. Speaker, judging by the letters to our congressional offices and the statements by textile and apparel union officials, there is currently a swirl of controversy, not only about excessive and injurious imports, but also about the excessive profit markups by apparel importers. Through our reciprocal trade agreements program since 1934, we have been in the forefront of freer trade among our trading partners and the diminution and elimination of nontariff trade barriers not just among the industrial nation competitors, but also among the over 100 lesser developed nations. All in all, our granting of minimal tariffs is supposed to pay off in lower prices to our American consumers. Yet, in truth, this is not the case in our textile and apparel market. Consumers pay as much for cheaper produced foreign imports as for domestic goods. So the question arises: Why let foreign goods displace American production?

It seems to me that the time has come to speak out loudly and clearly about the penetration of our domestic clothing market by foreign imports, much to the detriment of our own workers and at great profit to the importers as opposed to the profits accruing to our domestic manufacturers.

In no uncertain terms I wish to add my voice to those who are advocating much stronger pressure to impose much stricter quotas on textile and apparel imports.

In July of this year, the Multifiber Arrangement (MFA) was renewed through 1981. Under this umbrella agreement, we undertake to negotiate bilateral import totals with 47 countries for textiles and apparel made of cottton, wool and manmade fibers in 135 categories. The MFA sets a ceiling of 6 percent on the annual rate of growth of these imports to the United States, but here is the rub: The annual rate of growth of our domestic textile production has been only 2.6 percent over the last several years. Why should foreigners be entitled to a growth rate twice as high as our domestic growth rate? This new accord assures foreigners an ever-increasing share of our domestic textile and apparel market.

I am talking of no small industry—total textile trade involved $31 billion last year: 2.2 million people are engaged in the clothing business. Are we in Congress going to stand by inactively while many of these workers, some in our own districts, lose their jobs because of ever-growing competitive imports? In my case, I say the answer is—"No."

Consider these facts. In 1976, our textile imports totaled $1.762 billion, our exports were $1.865 billion—result: A trade surplus in our favor of $103 million. But listen to the apparel story. In 1976, our apparel imports totaled $3.5 billion, our exports amounted to $400 million—result: A trade deficit against us comprising $3.1 billion. This total is 30 times as large as our textile export surplus. I think you would agree with me that something is seriously wrong here.

I am talking of imported sweaters, made of manmade fibers equaling our domestic production. I am talking of imported cotton blouses equaling our domestic production. I am talking of imported wool sweaters surpassing twice our domestic production. I am talking of imported men's wool suits comprising 30 percent of our domestic production. In this latter instance alone, employment in our men's wear industry has dropped from 295,000 in 1965 to 240,000 in 1976.

In our total apparel trade 1976 imports as a percentage of domestic consumption are as follows:

[In percent]

Cotton	19.2
Wool	22.5
Manmade fibers	6.8

Yet we are supposed to allow these percentages to grow year by year. At whose cost? I am told that our clothing unions estimate that around 150,000 jobs have been lost to imports over the last decade. No wonder our labor unions and American clothing firms feel that the 6 percent growth in imports is excessive—3 percent should be the utmost limit.

I am not alone when I say that this growth rate of 6 percent in imports is excessive. Mr. Brandis, the director of trade for the American Textile Manufacturer's Institute, is against the 6 percent growth rate. Mr. Meany of the AFL–CIO, Mr. Finley of the Clothing Workers' Union, and Mr. Charkin of the Garment Workers' Union have actually met with President Carter to discuss this excessive rate of imports. Yet the proponents of free trade still insist that if we cannot produce textiles for less, then we should trade for them and produce something else. And the administration says that it is in the interest of the United States to promote the trade of developing countries—such as Taiwan, South Korea, and Hong Kong. I must say that I am rather biased in favor of our own working people and our domestic industry.

I am concerned not only about the injurious effects of excessive imports but also the excessive profits derived from these imports. The American consumer is paying through the nose for these imports because of the high markup practices of textile and apparel importers. Our consumers are simply not getting any share of the cheaper imported goods. Few verifiable facts exist as to the markup practices of importers, so a definitive conclusion cannot be stated. However, based on congressional testimony by officials of the International Ladies Garment Workers Union, the AFL–CIO, the Amalgamated Clothing Workers, and others, we know that a 50-percent markup policy is the general practice, even though the costs of imported foreign textile goods may be 30 percent lower than comparable American goods. It is even more significant when a spokesman for the National Knitted Outerwear Association, representing 1,500 U.S. manufacturers, attests to the 50 percent markup policy as being seen "very often" when applied to imported goods.

It is also a fact that imported garments are styled so realistically to resemble American products that consumers simply cannot tell the difference. Nor are these marked as imports. They are mixed with domestically-produced items and the consumer pays the price.

Our House Ways and Means Committee plans to hold hearings on textile imports. At that time, I hope that importing apparel retailers will reveal their internal pricing data. Similarly, the Inter-

national Trade Commission plans an extensive study coupled with hearings on the importation of textiles.

As I said in the beginning, I am for freer trade, but on a reciprocal basis and to mutual profit between nations. But not when the United States opens wide its doors to injurious imports at the expense of American workmen, American firms, and, above all, American consumers.

I insist that we do everything possible to protect the jobs of our people, to protect American companies, and to protect American consumers, and urge my colleagues to join together in the effort to stem the tide of the steadily rising textile/apparel trade deficit which is running well ahead of last year's deficit of $3 billion.

Mr. HILLIS. Mr. Speaker, I represent the Fifth Congressional District of Indiana, which includes most of Logansport, a small city of about 21,000 people located in the north-central part of the State. The H. W. Gossard Co., makers of girdles and brassieres, has a shop in Logansport. Not many years ago, this shop provided work for more than 200 people. Those 200 people and their dependents comprised a not insignificant portion of Logansport's consuming public. They spent their wages purchasing the products and services sold by the merchants of Logansport. They contributed a great deal to the economic well-being of the community.

The shop is still there today—still functioning. But it no longer employs 200 workers. By the latest count available to me, the work force in that plant is now down to 139. The massive flood of garment imports which has rolled over this country in the last several years has swept away the jobs of one-third of these workers, affecting not only the workers themselves and their families but the many others in Logansport who benefited directly and indirectly from their buying power—and, to a significant degree, the community as a whole.

But I have recently learned that Logansport is, in this regard, actually far more fortunate than several other communities. Not very long ago, this same firm had not just the one plant in Logansport, but four plants: two others in the State of Indiana and one up in the Upper Peninsula of Michigan. Taken together these 4 factories employed upward of 750 people.

Some time in 1975, the company was forced to terminate operations at its plant in Bicknell, Ind., where about 100 workers had been employed. At the end of 1976, the companys' facilities at Ishpeming, Mich., which had provided employment for about 250 workers, was closed down. And just last month, a third of this company's factories shut down, this one located at Sullivan plant. Thus, in a relatively brief period, a firm which had employed some 750 workers has had to reduce its work force down to less than 140. Five-sixths of the jobs provided by this employer—over 600 in all—have disappeared.

But the jobs have not, of course, really disappeared. The products which the company produced are still in demand in this country, but that demand is now being met by products turned out not by the workers of Indiana and Michigan, but by workers and employers in places like Philippines and Haiti and Mexico, places where many workers are paid rates that are less than one-quarter or one-fifth of our legal minimum wage—let alone our average wage.

I said a moment ago that Logansport, because its plant is still in operation, is actually somewhat more fortunate than communities like Bicknell and Ishpeming and Sullivan, where shops have had to be shut down. Similarly, my own State of Indiana, while hard hit, is also in a sense more fortunate than a number of other States where the effects of the tide of garment imports verge on the disastrous. Florida has seen its apparel employment drop by 20 percent in only 3 years. Massachusetts and New Jersey have lost a quarter of their apparel jobs in a decade. In the same period, Pennsylvania has lost some 46,000 apparel jobs. Connecticut has lost some 29 percent of its apparel employment. In Illinois, almost 37 percent of the apparel jobs disappeared within 11 years. And fully 40 percent of the apparel jobs of New York —some 115,000—have gone down the drain.

These are very important figures, Mr. Chairman, for they indicate that the penetration of imports in the apparel trades in the American market has caused and is continuing to cause very severe disruptions in the economy of many communities and many States all over this country. I would hope that those who represent us in negotiating agreements with foreign countries, and those who administer the whole program are aware of the extent of this penetration and of the havoc it is causing.

There are still 139 workers left at the Gossard plant in Logansport. They and the remaining workers and producers in these affected industries look to our representatives at Geneva for some assurance of protection against the fate which has already befallen so many of their fellow Americans.

We look to them to except textiles and apparel in the course of the current negotiations for duty reductions. These industries cannot take it. Their workers cannot take it. The United States cannot take it and witness a further loss of employment, so much needed in our country in this day and age.

Mr. BROYHILL. Mr. Speaker, I wish to congratulate and commend my colleague from South Carolina for taking the leadership in this problem that confronts a great part of this Nation. This is an important matter for my State, for many States in the Union and, in fact, for the entire Nation.

The gentleman from South Carolina has placed before this House details of a situation that cannot and must not be ignored. Every Member of this body, and every official of the executive branch who has any responsibility in the area of international trade policy, should take notice.

The dimensions of the total textile import problem are much too broad, and involve too much of the country's total economy to be swept aside with a few indifferent words.

When the interests of this significant industry are threatened by a condition in our economy and may be further jeopardized by international negotiations to which we as a Nation are a party, it is time for us in the House to pause and take inventory of the situation.

I do not wish to chronologically relate the developments which ultimately led to our present-day GATT multifiber arrangement, since most of you are familiar with that history.

However, I do wish to talk briefly in response to those who would propose to include textiles and apparel in the upcoming Tokyo round of multilateral trade negotiations. For them, I think some pertinent points need review.

The initial MFA, although not a perfect agreement by any means, did establish broad guidelines upon which orderly international textile trade could be conducted. More importantly, the MFA allowed for certain bilateral negotiations to be conducted and agreements reached with our textile trading partners.

During the tenure of the MFA, we have learned that our own domestic market could not achieve a growth rate comparable to the 6 percent allowable for imports. In fact, the domestic market grew at less than half that rate. The result, Mr. Speaker, was that foreign countries were able to unload vast amounts of textile products on our markets, which retarded even more the development of these markets.

Today, even with the MFA scheduled for signing and renewal in mid-December, the 6-percent growth provision remains intact. Our Nation's negotiators, however, have assured the industry that steps to alleviate the problem will be worked out in bilateral agreements which must be renewed prior to year's end.

To date, new textile bilaterals have been reached with Hong Kong and South Korea. On balance, I believe they are an improvement over our previous agreements with these governments, although they do not accomplish all that I would have wanted.

The MFA, Mr. Speaker, was negotiated, along with the Hong Kong and Korean bilaterals, under the current textile tariff schedule. If our administration's negotiators allow these tariffs to be reduced during the Tokyo round, such action would only serve to weaken, even cripple further, our only means of safeguarding the American Textile Industry. Tariff cuts during the multilateral trade negotiations could also open a Pandora's box in future bilateral trade negotiations.

It is evident, Mr. Speaker, that textiles must not be considered during the Tokyo round. The various segments of this industry are so commercially interdependent and unique in international trade matters that they require special consideration and treatment.

Mr. Speaker, it is imperative that a full and thorough account be taken of the trade impact of the GATT multifiber arrangement and the bilaterals under its

auspices. Any consideration toward reducing these tariffs will only cloud this matter and weaken the beneficial effects of these trade instruments.

I realize, Mr. Speaker, that when one calls for exempting specific sectors from general trade negotiations, he is inevitably faced with loud cries that such action inhibits free trade and smacks of protectionism. Nothing could be further from the truth.

The domestic textile market is the most internationally competitive industry in all of America. This industry is not suffering from import competition because of inefficiency or obsolescence. Quite the contrary. No textile industry in the world spends as much on equipment, modernization and research. No textile industry offers the consumer such an array of new and quality products at noninflationary prices.

All of this has been accomplished, Mr. Speaker, even when our textile employees are paid the highest wages of any textile manufacturing nation anywhere. And, when I say high, I am comparing our current average hourly wage of $4.03 to average wages of other countries who pay 30 or 40 or 60 cents an hour.

In my own State of North Carolina, where textiles employ over 269,000 workers, more than 1,365 plants are operating. They produce practically every conceivable product. They utilize nearly every known production method. Yet, no matter how modern, no matter how efficient, logic tells us that such an industry cannot, in the long run, survive such unequal competition as foreign imports present.

I fear even to consider for a moment what would happen if the annual textile payroll of North Carolina—some $2.3 billion—would disappear.

The consequences of lowering textile tariffs would be devastating. Such action would only invite a greater surge of imports.

The only proper action, Mr. Speaker, is to exempt the textile sector from the multilateral trade negotiations, and insure that present textile tariffs remain uncut.

Mr. NICHOLS. Mr. Speaker, the textile/apparel industry in Alabama is the single largest industrial employer in the State. Several large textile and apparel manufacturers have chosen Alabama as their headquarters, while many other manufacturers operate various plants throughout the State. Currently, more than 85 plants representing 40 corporations are operating textile/apparel plants in Alabama.

The annual payroll for the Alabama textile/apparel industry last year totaled $832 million. When you consider the amount of local, State, and National revenues this payroll generates, the value of Alabama's textile industry becomes even more significant.

I am told that the industry has not yet fully recovered from the 1975 recession which saw textile employment in the State drop by some 35,000 workers. Today, the combined textile/apparel industry employs more than 106,000 Alabama citizens. Of this total, more than 20 percent represent minorities. Women and minorities together account for 50 percent of the total work force.

Mr. Speaker, textile and apparel corporations in Alabama have an outstanding record of good citizenship in the communities in which they operate. The quality of life has been greatly improved by the many contributions to civic causes, recreational facilities, and education all made possible by Alabama's textile/apparel industry.

The industry in Alabama is diversified; it is involved in all phases of textile/apparel production. Plants in the State spin, weave, knit, and finish textile and apparel products for the home, for industrial use, and to meet recreational needs.

The industry also represents a major customer for many products and services provided by the State and Nation.

Alabama's cotton farmers, as well as many of the farmers from other States, see the industry as a vital consumer of their crops. Manmade fiber producers and suppliers of various dyestuffs and finishing chemicals consider the plants in Alabama as prime customers.

Mr. Speaker, I am proud of the contributions made by the textile and apparel industry to Alabama. On the other hand, I am equally concerned about its problems.

At this very moment, we have textile plants in Alabama operating at less than total capacity. Some plants in the State have not operated full workweeks since the 1975 recession.

This "short week" has broad and intense implications beyond the obvious fact that when plants operate at less than full capacity, the employment ranks shrink to accommodate that condition.

Furthermore, at less than full capacity, full benefits for capital outlays for machinery and plant equipment cannot be realized. Nor does such a production schedule allow for adequate business and profit to generate the needed capital to remain healthy and competitive.

As you may already know, the return on investment for textile manufacturing is well below the national average for all manufacturing.

At a time when companies are being required to expend vast sums of revenue to meet federally imposed standards of clean air, clean water, and other nonproductive costs, this return is increasingly inadequate. Operating at less than full capacity clearly hampers the need for generating adequate capital.

We have all seen the alarming figures of rising imports in the general apparel and textile sector. We all know, too, that our domestic industry is competing with low-wage countries which are not required to spend literally millions of dollars a year to meet environmental regulations, nor are they required to spend millions to assure and improve the health and safety of their employees.

Mr. Speaker, as imports increase, our industry in Alabama suffers.

Just recently, Chicopee Manufacturing Co. permanently closed a plant in Anniston. Another textile plant closed recently in Geneva, Ala. The reason: the plants could no longer produce the product at a cost that would allow for adequate capital outlays for needed modernization and new machinery.

The American textile/apparel industry operates some of the most modern, safe, and efficient plants in the world. If I may repeat myself, I am proud of the industry in Alabama. It is inconceivable to me that anyone could remain silent while this vital U.S. industry is eroded by cheap, imported products, manufactured by workers who are paid indecent wages and who work under sweatshop conditions.

Mr. Speaker, any reduction in tariffs on imported textiles and apparel can only place a heavier burden on our domestic market.

It will undoubtedly contribute to the decline of an industry in Alabama which for many years has fought a courageous, but unsuccessful, battle against an impractical foreign trade policy.

I, Mr. Speaker, wish to go on record as strongly opposing any textile tariff reductions during the Tokyo round. I further urge that textiles and apparel be exempted from consideration during the multilateral trade negotiations.

Mr. RINALDO. Mr. Speaker, I am pleased to have this opportunity to comment on the critical problem of textile imports and the adverse impact they have had on the U.S. garment industry. As a member of the Informal House Textile Committee and the Committee on Interstate and Foreign Commerce, I had the opportunity recently to visit certain nations in the Far East, including Taiwan and Hong Kong. This fact-finding mission was undertaken in view of the signficant rise in unemployment among U.S. textile and garment workers.

Over the last 10 years New York and New Jersey garment manufacturing plants alone have lost more than 100,000 jobs as a result of foreign imports and low-wage child labor competition from the Far East. The loss of jobs in this sector of the economy, which has traditionally served to attract unskilled women and minority workers into the job market, has resulted in a major decrease in tax revenues for cities like Newark and New York, and has contributed to the increase in unemployment and welfare costs.

The fact-finding mission also sought to learn whether opportunities exist in Hong Kong and Taiwan for American-made goods, particularly those of small manufacturers in the Northeast, where the loss of industrial jobs has been the principal reason for unemployment rates exceeding the national average.

The expansion of U.S. export trade with the Far East and other nations is of particular urgency in view of the anticipated $25 billion trade deficit that has been projected by the U.S. Department of the Treasury for the current year. Should this trend persist, it would further undermine the stability of the dollar, both at home and abroad. On the domestic front, it could lead to renewed double-digit inflation and increased unemployment.

In view of the expiration of 11 bilateral trade agreements at the end of 1977, it was a particularly opportune time to obtain on-the-spot appraisals of present difficulties in United States-Far Eastern commercial relations, and to seek the advice of businessmen and United States and foreign government representatives on the possible alternatives and improvements in the current trade agreements that are due to expire.

In the recent trade talks in Geneva on textiles and apparel, one of the unstated, but very real, problems is the sweat shop. The term has almost gone out of usage in the United States. But once it was fitting phrase for a life of toil that was inhuman. At the turn of the century, the sweat shop was the curse of the apparel trades. The quarters were crowded and disease ridden; the hours of work were long; the pay was low; the lighting bad; the air polluted. The product, of course, was cheap. But the price paid by those who worked in these sweat shops was their health and their lives.

For many generations America has sought to wipe out the sweat shop. The unions played their role. State governments passed sanitary codes and laws for protection against fire. Federal law eliminated child labor, established workmen's compensation, limited hours of work, set minimum wages.

After these many generations the American worker had reason to believe that the sweat shop was gone forever and that, in a more sane, sanitary, and civilized setting, he would no longer have to compete in the market against other producers who continued with sweat shop labor. But now, almost a century later, the sweat shop is back. It is located in other lands but its products are sold here—generally under the instigation, initiative, and institutional know-how of American companies.

During the visit to Taiwan, Representative NORMAN LENT and I inspected a textile factory in Panchaio and the Far East textile garment factory. In the course of our inspections, we witnessed girls as young as 14 years old working at physically exhausting labor at a pay scale of $78 a month. We were informed that children are recruited out of grade school and live in factory dormitories with only three holidays a year. These child labor practices were banished in the United States and other major industrial nations more than 100 years ago, but appear to be widespread in Taiwan.

As a result, Taiwan's exports of garments and textiles to the United States are increasing faster than some of its competitors in the Far East. The island is heavily dependent on the U.S. market, and competition from South Korea has stirred new interest in Taiwan to increase its share of the U.S. market.

Since Taiwan is the major remaining uncontrolled low wage supplier of textiles and apparel to the United States, it is imperative that the bilateral agreement between our countries be concluded expeditiously. Furthermore, I suggest that a U.S. policy of prompt negotiations of such bilaterals be made with any nation whose imports threaten or significantly impact on the U.S. market, and I urge that textile and apparel tariffs be exempted from the present round of multilateral trade negotiations.

I strongly support the multifiber agreement; it should be extended for 5 years with the present 6-percent quota growth factor reduced to a level no greater than domestic market growth. Further, I support a revision of those provisions of the multifiber agreement which permit carryovers of unused ceilings to the following year. This provision has permitted Taiwan manufacturers to borrow on ceilings from previous years and from other categories of goods. Moreover, I recommend that any new bilaterial agreements should prohibit quota increases in those categories of products that are already heavily impacted by imports; additionally the amended agreement should define such impact by total imports of a particular product from all countries. I further recommend that the agreement place bilateral limits on a year-to-year basis so that unused quotas would not result in an excessive increase in shipments, and that the provisions of bilateral agreements be monitored and enforced more effectively.

Protecting the jobs of 2½ million workers in the U.S. textile and apparel industry should be the cornerstone of our policy toward trade negotiations with Taiwan. Together, textile and apparel imports created an all-time high trade deficit of $31 billion in 1976, or one-third of the total U.S. trade deficit. The expiration of 11 bilateral trade agreements, including those with Hong Kong and Taiwan, offers an opportunity for a more realistic approach towards salvaging U.S. industries that are dangerously threatened by imports.

In Hong Kong, Representative LENT and I visited the Manhattan Garment Co., Ltd., and with company officials discussed United States-Hong Kong trade relations. During these discussions, I sought to learn their views on the export trade quota system, the relationship of quota brokers, and their views on changing the Multi-Fiber Agreement, as well as the expected impact of the recently concluded 5-year textile agreement that reduces the overall quota growth rate from 6 percent a year to only 1.5 percent next year.

The reduction in the growth rate in 1978 will, however, only be temporary. Under the terms negotiated, it will climb back to 6 percent during the next 4 years.

Even though there has been a 7-percent drop in exports in the first half of this year from Hong Kong, compared to the same period last year, the Hong Kong garment and textile industries are seeking to increase the value of each item and thus increase the actual value of their exports. This will mean more competition with high-fashion garments in the United States.

Hong Kong trade officials are strongly opposed to arguments from the United States and the European Economic Community to maintain the quota system as a means of protecting their own garment and textile industries from low-wage exports, such as Hong Kong.

The quota system has not by any means been adequately enforced. The administration of the quota system by the government in Hong Kong has led to charges of serious abuses. The carryover of quotas has led to the development of quota brokers who have made a fortune in buying and selling quotas. However, the Hong Kong government claims it has no list of these brokers, thus it is unable to police their activities.

American importers in Hong Kong argue that the United States should directly administer the present quota system. They claim the United States would more effectively police the quotas, collect the premiums paid, and avoid abuses in selling carryover quotas from one year to the next.

The major drawback to the United States in taking over the administration of the quota system is that it would be hard to police and would require an extensive bureaucracy.

The other option of abandoning the quota system would, on the other hand, insure a flood of imports and devastate the American textile industry which pays significantly higher wages than those in Hong Kong. This option is not acceptable under any circumstances since it would exacerbate unemployment in the garment and needle crafts in the United States.

In 1976 Hong Kong exported more than $3 billion worth of garments, with one-third shipped to the United States.

Hong Kong businessmen and economic planners are seeking a 7-percent growth rate this year.

Hong Kong experienced a phenomenal growth rate of 16 percent last year on the crest of a 43 percent annual increase in domestic export values. Expectations of a further increase would seriously threaten the viability of our own garment and textile production and sales.

Whether American and private investment in Hong Kong over current trade policies are in our best interests is open to question.

Hong Kong is our major link to mainland China, and is the source of future trade and improved relations with that country. But before the United States encourages more rapid investment and trade with Hong Kong, we should be concerned with whether Hong Kong has become a bastion for the exporting of American capital and jobs to the Far East to the detriment of U.S.-based industries and jobs.

I favor a congressional inquiry into U.S. commercial relations with Hong Kong in an effort to project the possible future course of U.S. trade policies; to learn the efficacy of the present quota system; to measure with more accuracy the outflow of U.S. capital and jobs to Hong Kong, and the effect that increased commerce through Hong Kong would have on our future diplomatic and commercial relations with Red China.

This on-the-spot visit with America's major trading partners in the Far East

has convinced me of the tremendous possibilities for a major expansion of U.S. trade there—provided that some trade barriers and redtape are removed by those governments. It also served to clarify some of the difficult obstacles that the United States faces in changing the 11 bilateral trade agreements expiring this year.

The discussions also serve to reveal how dependent Hong Kong and Taiwan have become on the U.S. market and the health of the U.S. economy. Serious disturbances in the U.S. economy have earthquake-like effects in the Far East.

The United States remains the epicenter of business and commerce in the Pacific, and our diplomatic relations with countries in the Far East rests principally on our trade policies.

The situation in Taiwan is, of course, related to our long-range diplomatic ambitions of establishing more normal and full-fledged relations with mainland China. Hong Kong serves as a proving ground for those relations since its economy is tied in, through a variety of commercial interests, with mainland China. We have no way of knowing at this point, however, whether that commerce with mainland China will substantially increase during the next decade. However, the prospects appear to be good barring any diplomatic or military tensions over the fate of Taiwan.

Finally, during the course of our conversations with representatives of foreign governments and businesses, we were frequently confronted with a challenge to the United States to compete more effectively in the Far Eastern market. The low wage scales in Taiwan and Hong Kong make this a one-sided challenge. Furthermore, the increased licensing of U.S. patents and designs with firms in Taiwan and Hong Kong, undercuts U.S. attempts to transport goods manufactured in the United States to those markets. However, some specialized U.S.-made goods, aside from those already manufactured in the Far East, offer some promise for increased exports of U.S. products.

I recommend that the U.S. Department of Commerce do more to familiarize small U.S. manufacturers with the potential demand in the Far East for their products, and that it actively encourage and assist these small American based businesses to engage in cooperative trade ventures in the Far East, either alone or in concert with other small businessmen interested in export sales to the Far East.

Mr. PREYER. Mr. Speaker, we all know that the most compelling justification for reasonable restraints on textile and apparel imports is the preservation of the more than 2 million jobs that those industries provide.

Not everyone is so familiar, however, with another important reason for import controls. That is the preservation of the interest of the American consumer.

Because some imported items of textiles and apparel are sometimes cheaper than American-made goods, it is often assumed that this is always true and always will be true.

History, however, teaches another lesson.

The fact is that the laws of economics apply as much to imported goods as domestic goods.

All prices tend to go as high as the market will bear. And foreign-made textile prices climbed steeply just a few years ago (1973–74) when there was great worldwide demand and the value of the American dollar was in decline. Manufacturers in other countries could get higher prices for their textiles in other countries than they could get here, so they shifted a large share of their exports to those other countries. If we had not had a strong textile/apparel industry which could take care of American demand, we would have had to bid up our prices in order to get the supplies we needed.

It has been estimated that apparel prices would have gone up about 5 percent, which translates into a total cost increase to American consumers of $3 billion in 1973 and even more in 1974.

Foreign suppliers price their exports low in order to acquire a share of our market. Once they get a dominant share they can raise their prices to whatever level the market will bear. And this share does not have to be as high as 50 percent or 70 percent. It can be as low as 30 percent. Today we see that about 25 percent of all garments sold in the United States were made abroad and many of those foreign-made garments cost as much or more than their domestic counterparts.

America is fortunate. We do not have the high rates of inflation that are plaguing some other countries. The prices of raw materials do not fluctuate as widely. Consequently, the production costs in our own textile and apparel industries do not jump around as much as they sometimes do in other countries. As a result, our prices do not swing as widely up or down.

If we allow reductions in tariffs and allow textile/apparel imports unrestrained entry to the United States, we give a blank check to foreign producers to set their prices at whatever level they wish, and to ship their goods to whatever nation will pay the highest price without any regard for American consumers.

Without a strong American textile and apparel industry, we will put ourselves completely at the mercy of foreign manufacturers who will ship us what they wish and charge us what they wish. We have already seen evidence that this could happen when markets in other countries became temporarily more attractive than here and as certain apparel products have achieved a major position in our market.

The American consumer profits most from the diversity and availability of American-made textiles and the reasonable and stable price structure that characterizes them.

Despite years of inflation, American textiles are still a bargain. The consumer price index for all items was 179.6 in April. Food stood at 190.9 and housing was 186.7, but apparel prices were at the relatively low level of 148.6 and textile home furnishings were only slightly higher.

We can keep textile and apparel prices stable and low in America if we keep our textile and apparel industries strong and free from unreasonable and unbridled foreign competition.

We have seen from past practices that any reduction in tariffs merely weakens the domestic market.

With the trade deficit running at nearly $3 billion in textiles, American textile trade policy is more than adequate to promote reciprocal trade.

Mr. FLYNT. Mr. Speaker, I join with my colleagues in expressing my deep concern about the adverse impact of increased textile and apparel imports into this country. It is my belief that greater protection is needed to insure the continued viability of the U.S. textile and apparel industry.

In order to provide relief and afford adequate protection for our domestic industries, I urge the renewal of the multifiber arrangement (MFA) and the renewal of those bilateral agreements which expire at the end of this year.

Additionally, we must insist that our Government refrain from any reductions of the existing tariff levels on textiles and apparel during the multilateral trade negotiations.

Mr. Speaker, unless these measures are taken to provide adequate protection, I fear that the textile and apparel industry will suffer the same fate as the American shoe industry and other industries severely damaged by excessive imports.

Mr. McDADE. Mr. Speaker, the issue of foreign import penetration in the textile and apparel industries is of critical importance to workers and employers throughout my congressional district.

Clearly American markets have suffered substantial invasion by imported textile and apparel goods. The comparative growth rate between the market for domestic goods and imported goods has long been a subject of controversy. For example, during the last 10 years, textile imports have grown a total of 71 percent while the U.S. market grew only 28 percent overall. It is estimated that the increase in textile and apparel imports has cost American workers 100,000 jobs between 1966 and 1976—49,000 in my State of Pennsylvania alone. In fact, my State and district suffer more from imports than almost any other area of the Nation.

As a member of the Steering Committee of the Informal House Textile Committee, I have been deeply involved in the attempt to persuade the administration to adopt strict controls on imports. Indeed 230 of my colleagues have joined in calling for a limit to textile/apparel imports. However, to date, the administration has not been successful in significantly improving the trade rules. While it is true that the negotiations on the multifiber agreement (MFA) are essentially completed, resulting in a more flexible agreement, and that the Hong Kong and Korean Bilateral Agreements are an improvement on past history, still

growth rates of imports remain substantially in excess of our domestic market. Clearly this is not the improvement we had hoped for.

Now, added to an already unhappy situation is the prospect of a tightly scheduled round of tariff cuts. We know that the negative impact of reducing tariffs in the predicted 25 to 60 percent range would be disastrous. Tariff cuts have always meant increased imports. To include textile and apparel items in this tariff cutting round denies any progress made to date in the MFA and Bilateral Agreements. These tariff cuts will benefit all the nations who trade with the United States, not just those bound by the MFA or bilateral agreements. Our industries would be left virtually unprotected.

The situation demands an industry-wide exclusion for textile/apparel products—nothing less. Item by item justifications for exclusions are not sufficient. If the administration wants justifications, it can look at my congressional district. Our unemployment rate is at an acceptable level—in excess of 9 percent. We will lose hundreds of jobs if an exclusion and a policy of overall protection is not adopted. Frankly, with the U.S. average wage in the textile/apparel industry at $4.13 per hour, we cannot hope to compete with Korean wages of 40 cents per hour, or Hong Kong wages of 80 cents per hour or lesser Latin American wage rates. We should not have to. This Nation has made some basic decisions about its values: we value a decent wage for working people, a clean environment, the health and safety of our workers, education instead of exploitation of our children—we have expressed these goals in countless pieces of legislation, but they all cost. However, when it comes to standing firm on these goals by protecting our domestic industry from goods produced by nations which observe none of these values, we find the administration unwilling to act.

I submit the Congress cannot and will not yield on this issue and it is time our trade negotiators got that message.

Mr. MARTIN. Mr. Speaker, I join my colleagues today in what amounts to a plea on behalf of the textile and apparel workers of America and the industries of which they are the essential ingredient.

These two industries, alone, employ more than 2,400,000 people. Most of them have families. We should not dismiss lightly the fate of that many people. To put it bluntly, that is enough people to have turned around all but two of the Presidential elections we have had since World War II. Yet, the administration has proposed to include textile and apparel among the items negotiable in the upcoming "Tokyo Round" of tariff negotiations to be held in Geneva. My State had about one in six of those jobs and, to be quite frank, I do not consider these people's jobs negotiable. And, I doubt those 375,000 people concur in being put on some Swiss auction block.

The auctioning at Geneva of our textile and apparel industries could result in reductions of up to 60 percent in tariffs on these goods. Those who know me know I am no diehard protectionist. I certainly wish the textile and apparel exporting nations no ill; on the contrary, I see their balanced and orderly growth as essential to a peaceful world order. But, our economic well-being is our first concern. It is in our interest that our trading partners prosper since partners are also customers and we prefer customers with enough to cover their checks. There is absolutely nothing wrong with the textile and apparel exporting countries sharing in the growth of American consumption of textiles and apparel. But, there is the problem: they have overshared with imports growing at three or four times the rate of growth in consumption.

The plain fact is that the growth of textile and apparel imports has not been orderly, has not been fair, and has not been just to American workers. A couple of hundred thousand Americans have lost their jobs because of these imports. That is not at all surprising when you consider differing wage costs: 32 cents in Korea, 41 cents in the Republic of China, 69 cents in Hong Kong, and $3.39 here. Now, $3.39 is not a high wage. But, it is better than unemployment, and a lot better over the long haul.

It is time—and this sounds like a broken record—to call a halt to the galloping growth rate of textile and apparel imports. There is a limit to how much import-provoked deterioration my area's textile-based economy can take, and we reached it some time ago.

Textile jobs and apparel jobs are not glamorous jobs. They are not high-paying jobs. But they are the jobs that keep hundreds of small towns alive. The bulk of the workforce in these jobs is made up of women and minorities; 80 percent are, in fact, women. Most of them are the second wage earners in an intact family.

The loss of these jobs that comes about as imports rise relative to consumption has a ripple effect, one that is felt in my district as much as in any. To the extent these jobs are a household's major income source, the impact is obvious. To the extent those jobs are lost in the smaller towns in neighboring districts, my more urban district loses retail sales and gains unskilled, unemployed jobseekers. To the extent these jobs are lost by second wage earners in a family, we lose new car sales, furniture and appliance sales, and housing starts. My district also loses textile machinery sales. As a commercial center, we lose bank deposits, mortgages, and consumer loans. To the extent the newly unemployed become rootless, we and other larger population centers—including Washington—gain welfare clients. Tax impacts are obvious, both in terms of income taxes lost to the Treasury, as well as costs of welfare and unemployment imposed on Federal and State taxpayers and, significantly, property taxpayers in major metropolitan areas to which former workers migrate.

Mr. Speaker, textile and apparel workers are a hard-working group, and a very independent group. Concentrated in smaller towns, and imbued with the work ethic, they are not willing candidates for the dole. But, if the present import situation worsens—as it will if this industry goes on the block in Geneva—we will have to confront economic, social, and political—not to mention emotional—traumas that will scar vast areas for a generation.

Mrs. LLOYD of Tennessee. Mr. Speaker, 20 years ago the wardrobe of the average American male and female was predominantly American made. Unfortunately, this is no longer the case. In 1956, for every 100 garments made here, 4 garments sold here were made abroad. By 1961, the proportion was 6 out of every 100. Then came the startling developments.

By 1971, 25 garments for every 100 made in this country were made abroad, and now the figure is 35 out of every 100.

The noted economist, Prof. John Dunlop of Harvard, predicts that at current growth rates, import penetration in the men's and boys' clothing industry will reach or exceed 50 percent by 1987.

The economic well being of our Nation is dependent on the well-being of our industries and of their employees. That well-being is now in dire jeopardy because of the threats from low-wage imports to the major industry in our community—textile/apparel manufacturing—and to its thousands of workers.

That means that all of us are in jeopardy. For as the flood of imports into the United States from low-wage countries goes on unabated, threatening further closing of textile and apparel plants and the consequent heavy loss of more jobs, the whole economy of our country is threatened.

A chain reaction of disaster looms: Business suffers, there are more jobless added to the already high unemployment rolls, more people go on welfare, community services are cut and taxes rise.

We must stop this chain reaction at the source.

With some 2 million jobs, the textile/apparel industry is the largest employer of labor in U.S. manufacturing. Hundreds of thousands of jobs in the industry have already been lost because of low-wage imports. Many cities and communities across the country have felt the effects of this economic disaster.

Some observers have advocated increased use of Government adjustment assistance programs to help workers adversely affected by the flood of imports. Adjustment assistance is a program designed for special instances and can only be used on a very selective basis. If it were to be used merely to help the hard-hit textile and apparel industry, it would cost the taxpayers of this country billions of dollars each year. It is certainly not the answer to a major import problem.

The fight against the flood of low-wage imports has long been led in the textile/apparel industries by the Amalgamated Clothing and Textile Workers Union and the International Ladies Garment Workers' Union. These great American trade unions have no desire to cut off international trade; they have sincerely cooperated with the U.S. Gov-

ernment to work out agreements with low-wage nations that would control imports on an orderly basis. Such an agreement has been worked out under the provisions of the multifiber textile arrangement.

I urge President Carter to direct our trade negotiators to concentrate on getting better agreements covering textile and apparel imports with foreign countries and to limit the permissible annual growth rate of apparel and textile imports. I also urge that uncontrolled textile and apparel imports be placed under control when such imports rise sharply and substantially, and that no reductions of any kind in the tariffs on textiles and apparel be negotiated in the course of the forthcoming discussions in Geneva.

This is a must. To do otherwise is to injure thousands of workers still eking out their living in the production of textiles and apparel in the United States. To cut duties is to place more people on public assistance. This cannot be our national goal.

Mr. DERRICK. Mr. Speaker, I get the feeling that we are 10 years behind in our international trade agreements.

Now we are talking about the possibility of cutting the U.S. tariffs on textiles and apparel—despite the fact that imports of these items increased 34 percent in 1976 alone and the tariffs are clearly no barrier to a growing influx of textile imports.

At the Kennedy Round we agreed to reduce our textile/apparel tariffs over a 5-year period. These cuts amounted to 20.8 percent for cotton goods and 14.8 percent for manmade fiber goods.

Perhaps it should have been foreseen that imports of all fibers began to climb shortly thereafter, rising from 2.5 billion square yards in 1967 to 5 billion square yards in 1976. In terms of dollars, imports of textile manufacturers jumped from 1 billion in 1967 to 4.4 billion in 1976.

Obviously, one must conclude that existing tariff levels do not limit access to the U.S. market.

During the 10 years since the reduction of the Kennedy round, we have witnessed a continuing deterioration in our textile balance of trade. Indeed, 1957 was the last year in which we enjoyed a favorable balance.

In 1967 the deficit was relatively small, only $801 million. By 1976 the deficit had climbed—if climbed is the right word—to $2.7 billion. This is almost one-third of the total U.S. trade deficit.

Despite the abundant evidence of increasing textile imports and the growing deficit in our balance of trade, we fear that in the multilateral trade negotiations—the Tokyo Round—textile tariffs will be thrown on the table as a bargaining chip along with a host of other industries. Other nations will seek reductions in textile tariffs in payment for concessions that we want.

Textiles and apparel should be clearly and cleanly exempted from the Tokyo Round.

The present multifiber arrangement, an international agreement subscribed to by 50 nations governing world trade in textiles, is conceptually sound and has played an important role in keeping imports from rising to levels they might otherwise have reached. The MFA was negotiated under our present tariff structure.

Thus, an adaquate structure of customs duties is essential to support the MFA. Even present duties are insufficient to achieve that result. As more and more of the developing nations build production capacity in textiles beyond their own needs, it is inevitable that the imports problem will become ever more critical.

It would be a mistake to trade off textiles in the Tokyo Round negotiations in exchange for some hoped-for concession by another nation in another industry.

The United States should agree to no textile tariff reductions. Tariffs are already inadequate and there is no good reason why the United States should deprive itself of even this small revenue from customs. Further, and most important, we need to retain textile tariffs as a barrier, even though imperfect, against the kind of unrestrained imports which threaten to engulf our domestic industries and add more jobless to the 350,000 workers who have already been displaced.

Mr. VOLKMER. Mr. Speaker, I rise to discuss the serious problem that exists in the field of employment of production workers in apparel and other textile products. In the last several years, despite the existence of various international and bilateral agreements with foreign countries, we have witnessed a steady erosion in the number of textile and apparel jobs in this country. The number of workers producing these important products has diminished steadily. The opportunities for many workers who would have loved to have a job in textile mills and apparel plants have been seriously curtailed.

I do not propose to add to the figures that have been mentioned by other Members who spoke before me. I want to address your attention to the human aspects of the problem.

Just think of the wage earner who loses a job in a community where a textile mill or an apparel plant provides the main source for earning a livelihood. The family roots are in the particular community. That is where the family friends and relatives reside. That is where all members of the family have gone to school. That is where they feel they belong.

But when jobs disappear, it affects the family and its well-being. More than that, it also affects the well-being of the community. Some people, of course, would argue that the community should be helped to get back on its feet, and of course it should. But while such aid is under consideration, the bare fact remains. People in the community are jobless.

This is what has been happening in the apparel industry producing clothes from knit and woven materials. The human tragedy for the families of the workers who lost their jobs because of increased import penetration cannot be remedied by paying them some minute sums of money on top of unemployment insurance, in the form of adjustment assistance. That such additional payments are needed is unquestionable. But these payments do not solve the problem of worker displacement. They do not solve the problem of communities who lose their textile mills and apparel plants because these were killed by imports.

The problem is real. It does receive recognition from the Federal Government, and did so for many years past under both Democratic and Republican administrations. An effort was made to cope with the problem by means of international and bilateral agreements designed to contain import growth. But that is all they do—they contain import growth. They do not eliminate it. And what happens in fact, due to imperfection of these documents and because we do not have agreements with all countries that ship textiles and apparel to our shores, imports keep increasing far beyond the amounts contemplated in these agreements.

Clearly, the network of such agreements needs to be shored up, strengthened and expanded. But at the same time, we must make sure that nothing is done to tamper with our existing duty structure. Clearly, the level of our tariffs did not prevent massive inflow of imports to our shores. Were duties cut, a further rise in imports, far beyond whatever was attained up to now, would take place. We cannot permit this to happen. We cannot witness an increase in joblessness among textile and apparel workers.

I am sure that the administration will heed this advice and negotiate stronger bilateral agreements with foreign nations dealing with imports of textile and apparel and desist from tariff cutting in this field.

Mr. SISK. Mr. Speaker, when textile and apparel imports are allowed to come into the United States at unreasonable levels, they adversely affect the American consumer.

This is a point that is frequently overlooked.

There is a popular misconception that imported fabrics and apparel are lower priced than domestically produced goods. This may be true for some types of apparel, but not always. Surveys show that a higher markup is normally added on imported goods, so it is not always the consumer who benefits most from the low cost of production in low-wage countries.

But when you weigh the real cost of unrestrained imports to the American consumer—not what's on the price tag, but the real cost in terms of the unemployment created by imports . . . the real cost in terms of the tax revenues lost when imports wipe out jobs and industries in communities across the country—then you can see the adverse effect this has on the American consumer.

Moreover, if we allow American consumers to become totally dependent on foreign producers for essential fiber and

apparel, we are putting them at the mercy of those same foreign producers when it comes to actual price and supply on down the road.

We must not allow this to happen. We must not pursue policies that, in effect, say our home industries are expendable and we are going to allow them to go under because these goods can be produced cheaper overseas. The idea is completely fallacious.

But if we do not stand firm in our trade negotiations, if we do not see to it that the growth in our domestic markets is shared and not completely turned over to imports, then this is what is going to happen.

Preliminary discussions are already taking place under the Tokyo round of the multilateral trade negotiations. In my opinion, during the Tokyo Round it would be a mistake for the United States to agree to grant tariff reductions on textiles because the multifiber arrangement and the bilateral agreements under this arrangement were negotiated on the basis of the current U.S. tariffs on textiles. Reducing the tariffs on textiles would undermine the multifiber arrangement and the bilateral agreements and would be unfair to the U.S. textile industry. Consequently, I strongly urge that the U.S. negotiators refuse to agree to any reductions in the current level of textile tariffs.

Mrs. HECKLER. Mr. Speaker, I rise to make additional comments about the seriousness of the problem of textile imports and their effect on domestic jobs.

Last month, when I held office hours in Fall River, a woman worker in one of our textile plants there took time off from her job to come into the office. Because we had so many constituents to see that day, she had to wait several hours. And when she got in to see me, she was in tears—because she fears for her job.

During the same visit, I toured a textile plant in the district. Men and women both came up to me to shake hands and tell me of their concerns. Their message was clear: These imports are driving our companies out of business. We cannot afford to lose our jobs. We are not trained to find jobs in other industries.

Although I believe in world trade and feel it is important for nations to find markets outside their own boundaries, I also believe that our first priority is jobs for Americans.

American textile and apparel plants have been forced to cut 150,000 jobs in the past 10 years. This industry provides about 2.3 million jobs, which accounts for 12 percent of all manufacturing jobs in the country. The continued loss of jobs in this industry will have a critical effect on our economy.

In my congressional district, thousands are employed in the textile industry. In the Fall River area 14,000 people are so employed. Of those, 1,000 jobs are provided by knitting companies. This is one of the most seriously affected units of the textile industry. Some 300 knitwear companies have gone out of business in the past few years, due to the importation of large amounts of knitwear products.

The critical situation in the knitwear industry can be illustrated by a few facts. Although knitted outerwear employment accounts for less than 10 percent of the total textile and apparel employment of the Nation, the balance of trade deficit in knitted outerwear accounted for about half of the total textile and apparel trade deficit in 1976.

These are the figures: Total U.S. textile and apparel trade deficit in 1976 was $2.6 billion; the total knitted outerwear trade deficit was $1.3 billion.

In that same year, the U.S. trade deficit with Korea, Hong Kong, and Taiwan—the countries that hurt our knitwear industry the most—was a staggering $3 billion. That figure is even more startling when we realize that our exports to Korea and Taiwan consist mostly of weapons which are sold at below cost and are subsidized by the American taxpayer.

There is another aspect to this loss of American jobs that I wish to emphasize. On the average 75 percent of the employees in the knit industry are minorities. Women comprise 90 percent of the total labor force in that industry. These individuals—like the people of my district—are not likely to be able to be retrained for other jobs and are not mobile enough to relocate to another State should their jobs be lost.

We must take action to reverse this trend toward loss of jobs in the textile industry. We are already taking some steps. My distinguished colleague, Mr. HOLLAND of South Carolina, is heading a task force on the operation and extension of the multifiber agreements, as part of the Ways and Means Committee.

I have also been pleased to cosponsor, with my friend Mr. LEDERER of Pennsylvania, a bill which would prohibit imports which have been assembled outside this country from carrying a label stating "Made in the U.S.A." just because parts of the garment were made here. This is a small step, but at least it informs our consumers that they are not buying American-made goods.

The question is: What is the administration doing? The new bilateral trade agreements are now being negotiated. The Hong Kong agreement, though it provided for a rollback of 6 percent in the quota for sweaters made of manmade fibers, it did nothing for those made of wool and most or our imports from Hong Kong are of wool.

In extending the multifiber agreements, we could suggest that the present 6 percent quota growth be reduced to a level no greater than domestic market growth, which grew only 3 percent in 1976. We could also urge that new bilateral agreements allow no quota growth in those categories of products already heavily impacted by imports.

But the multifiber agreements are not the only important considerations in approaching the problem. Maintaining existing tariffs on imported textiles and apparel is of primary importance. The multifiber agreements are not substitutes for tariffs, but are supplemental.

When, in the 1960's, the United States agreed to cut tariffs on textiles and apparel over a 5-year period, textile imports rose by 150 percent in that period. Now, there are suggestions that tariffs be reduced again. I believe that move would be disastrous for the textile industry.

The industry had understood that textiles and apparel were not going to be included in the Tokyo Round of negotiations on tariffs involving 11 countries. Now the administration has said that textiles and apparel will be included in those negotiations. Again, I repeat, lowering tariffs would be disastrous for the textile industry.

Low-cost, low-wage foreign producers should not be permitted to jeopardize American jobs. Our first priority, as I said earlier, is domestic jobs—jobs for our workers.

I commend my colleagues, Mr. MANN and Mr. FISH, for requesting this special order today to bring to the attention of the Congress the increasing problems of the textile industry and the responsibility of Congress to address these problems immediately.

Mr. BUCHANAN. Mr. Speaker, the growth of apparel imports is a threat to the U.S. economy. Apparel imports are detrimental to consumers because—

Imports are used by retailers as a source of higher-than-average markups, not passing any true savings on to the consumer.

Imports create unemployment among apparel workers and their suppliers in the textile, fiber, and other industries.

Growing apparel imports are a drain on our economy because they cost us in higher unemployment payments, more welfare payments, loss of training opportunities for minorities, women, and the unskilled, all of whom are hired and trained by this unique industry.

We here in Alabama have 48,900 apparel workers. Many of them are living in small towns and rural areas where their apparel jobs are the only source of outside income. These workers are paying taxes, supporting their local economies in a way that makes them an important part of their communities, not a drain on their neighbors.

Apparel is the largest manufacturing employer in the State of Alabama. But it is not just here that it is an important industry. In 25 States apparel workers number over 10,000. In almost every State in the union there are apparel plants, 23,000 throughout the Nation.

The threat to this industry is greater now than it has ever been. Right now in Geneva the Tokyo Round of tariff negotiations holds the potential of cutting apparel tariffs by as much as 60 percent.

The controls which are now in force regarding world trade of apparel and textiles has such a generous growth factor that our apparel imports are growing three times faster than apparel demand. If we cut tariffs we are just inviting imports to grow at an even faster pace.

The current tariff structure has allowed apparel imports to grow so rapidly that they have satisfied all the increased demand in our markets and have also taken over large portions of the market previously held by U.S. apparel producers.

Direct price competition with most foreign apparel producers is not possible.

We have a standard of living in this country which is reflected by the $3.39 per hour we pay our average apparel worker. He or she cannot get along with the 32 cents per hour paid the average Korean apparel worker.

It is important to Alabama and to the Nation as a whole to maintain a viable apparel industry. Its size—1.4 million workers, $8.6 billion payroll—and its indirect influence on many other industries in our economy are important reasons for maintaining a strong apparel industry.

But even more important, its unique role as employer and trainer of people who have few or no other job opportunities makes it essential to support their stand against tariff cuts. Let us help the industry compete so that it can continue to provide us with high quality clothing at prices we can afford.

The Sixth District of Alabama has 1,450 apparel workers who are depending on the support of Congress in their fight for jobs. All the rest of us in the Sixth District are also supporting these apparel workers because their jobs contribute to the total welfare. The interdependence of our economy makes a threat to apparel workers a threat to us all.

Mr. SIMON. Mr. Speaker, the textile and apparel industries in our country are facing some serious problems, and the problems stem in part from the amount of textile and apparel imports coming into our country from abroad. I consider myself a "free trader," and I am always reluctant to recommend solutions that involve import restrictions. On occasion, however, significant import increases create problems that we cannot ignore. The present decline in the textile and apparel industry in the United States is one of these situations.

The textile and apparel industries are, by no means, the only industries to suffer from plant closings and loss of jobs. But they are particularly vulnerable since their product lines are relatively uncomplicated to manufacture, and their operations can be so easily shifted from one location to another. And since these industries are the largest employers of labor in the United States—more than 2.3 million workers—they are obviously vital to the economic stability and well-being of the Nation.

The impact of exports has been devastating to this industry. In the State of Illinois alone, the number of workers employed in textiles and apparel has declined by 39 percent over the last 10 years, and that decline is continuing. Some 18,300 breadwinners lost their apparel-related jobs in that period of time. Last year, in the first 4 months of 1976, a total of 2,810 apparel workers, laid off or terminated as a direct result of imports, were certified by the Government for special trade adjustment assistance. This is a help to the employees involved, but it is not the answer to the overall problem.

The multifiber textile arrangement—like the long-term arrangement applicable to cotton textile and apparel imports before it—has helped to regulate, in an orderly manner, the imports of cotton, wool, and synthetic fibers without impairing international trade since its implementation in 1974. But these measures, though helpful, have not been perfect and have allowed increases in imports far beyond anything that was contemplated in the agreement.

I am happy to note that an international consensus to renew the multifiber textile arrangement was reached in Geneva on July 24. The protocol on the renewal provides that in negotiating bilateral agreements with key suppliers, it is possible to depart from the strict reading of this arrangement to meet the problems caused by significant import increases. My hope is that the United States will take full advantage of these provisions, and, whenever feasible and justifiable, will seek a reduced rate of growth of textile and apparel imports.

At the same time, I hope that it will be possible for the United States to reach mutually beneficial agreements with those countries such as the People's Republic of China with whom we presently have no agreements.

And, I hope that in the course of the forthcoming tariff negotiations in Geneva, there will be no actions taken that will bring about further erosion of this part of our domestic economy.

Mr. QUILLEN. Mr. Speaker, I am deeply concerned about the problem of apparel imports and I welcome this opportunity to join my colleagues in urging greater efforts on the part of the administration and our trade negotiators to protect the fiber, fabric, and apparel industry which is essential to the economic well-being of this country, of my State, and of my district.

There now exists the possibility that textile tariffs will be reduced at the same time that apparel imports are rising. I fear that the apparel industry may suffer the fate of the shoe industry—tariff cuts on footwear resulted in the American market being inundated by imports.

Many people in my district depend on the jobs provided by the apparel industry and these people are now directly threatened because of the increasing imports of textile products from low-wage countries. A rising tide of imports dumped onto the American market will, if unchecked, destroy thousands of American jobs and inflict economic ruin in towns and cities throughout the United States. We cannot permit this to happen.

There are more than 4,700 persons employed by the 24 apparel manufacturing operations in my district and there is also a heavy concentration of production of manmade fibers. Throughout the State of Tennessee the apparel industry is the No. 1 manufacturing employer. There are over 73,000 apparel workers, or 1 of every 7 manufacturing employees in Tennessee. In 1974, these people produced almost $1.25 billion worth of apparel and earned an annual payroll of $380 million.

My concern is not for my district or my State alone. Most congressional districts have apparel employment. A total of 1.4 million American workers in the apparel industry are now directly threatened by imports, and many more in other industries will also be affected.

All of these jobs are being placed in jeopardy by the large and increasing volume of imports. It is no use to say that the American apparel industry is losing its market because it is not competitive. Price competition is impossible because of the tremendous difference between the American standard of living and that in the Orient, which is the source of most of the imports. In 1976, for example, the average hourly wage earned by an American apparel worker was $3.39. In Korea, it was 32 cents.

Mr. Speaker, about 21 percent of all apparel purchased in this country last year was imported or made from imported goods. It is expected that these imports will continue to grow at an annual rate of 8 percent while the domestic market expands at a rate of only 2 percent each year. These imports are going to cause increasing numbers of our apparel workers to be thrown onto the unemployment and welfare rolls if we further encourage them through tariff cuts.

I was alarmed to discover last week that the administration plans to put our textile and apparel tariffs on the negotiating table during the multilateral trade negotiations. I would urge the administration to reconsider. The present tariffs are the key to orderly international trade in textiles and to the preservation of jobs in this country.

The multifiber arrangement is up for renewal, and it should be extended. We must support the apparel industry's stand against any reduction in tariff rates. We now have many bilateral agreements with other textile nations, and the administration has been successful in negotiating better terms in the recent renewal of some of them. I applaud these efforts, but they will amount to little if the current duty structure is destroyed.

Mr. Speaker, the following statistics regarding the apparel industry in Tennessee demonstrate its vital importance to my State and reinforce my determination to protect these Tennesseans, and other Americans in the apparel industry, from unfair foreign competition.

The material follows:

TENNESSEE

Employment in Tennessee—1974: Total private employment, 1,276,900.

Total manufacturing employment, 513,400.

Apparel, textiles and fiber employment—1974:

Apparel, 73,400.

Textiles, 32,000.

Manmade fibers, 22,000.

Total, 128,000.

Percent of total manufacturing: 25 percent.

Apparel industry in Tennessee in 1974: Largest single employer in manufacturing—

Employment, 73,400.

Percent of all manufacturing, 14.3 percent.

Total annual payroll, $380,000,000.

Number of apparel plants, 379.

Number with 100-plus employees, 210.

Value of apparel production in Tennessee in 1974:

Men's and boys' suits and coats, $80,900,000.

Men's and boys' shirts and nightwear, $186,800,000.

Men's and boy's trousers and slacks, $241,700,000.
Men's and boys' work clothing, $274,300,000.
Women's outerwear and sportswear, $127,400,000.
All other apparel, $304,900,000.
Total apparel, $1,216,000,000.

Mr. STUDDS. Mr. Speaker, as a Member of Congress from an area of the country where there are many apparel plants, I feel the trade negotiations in which the administration is presently engaged are too important to ignore.

I understand that the administration is considering plans to reduce tariffs on textiles and apparel. This will increase the flow of imports into this country and can only lead to a reduction of textile and apparel jobs in this country.

I think every effort should be made to make sure this does not happen. Even though textiles and apparel are already covered by the multifiber arrangements, nonetheless they should not be considered for cuts in the course of the Tokyo Round of tariff negotiations.

The apparel and textile industries are vital to the well-being of our country. Not only do they form a large part of the industrial base of our economy, but they employ 2.3 million Americans—a number which is certainly too large to ignore or consider expendable.

The American apparel manufacturers are the most efficient in the world. They and their employees should not have to suffer from unfair competition which results when American products are marketed along with a growing number of imported products which are produced much more cheaply through sweatshop wages and conditions in overseas shops.

No one is suggesting that we completely curtail imports in general or apparel imports specifically. We certainly want industries in other countries to be allowed to develop. What is being suggested is that the agreements which are negotiated contain import quotas which are fair to all parties concerned.

We cannot allow imports to grow at astonishing rates and expect to maintain the viability of our own industries.

In a 1976 study, Prof. John Dunlop projected that at current growth rates, import penetration would reach or exceed 50 percent for all products by 1987.

I find this unthinkable, especially since only 20 years ago, the figure for import penetration was 4 percent. The rise in imports must be halted in such a way as to be fair to all concerned.

Agreements with other countries are important, but we also need to maintain our existing duty structure applicable to apparel and textiles. To reduce tariffs is to invite a further invasion of our markets by an avalanche of imports from many countries that are not exporting these products to us at this time. Even before any controls are applied to such exports, they can destroy too many jobs over here. We cannot afford to have this happen.

Mr. DAN DANIEL. Mr. Speaker, my colleagues and I are here today because of the grave threat excessive imports are inflicting on one of our key domestic industries, the textile industry.

We hope to focus enough attention on this problem, so that the executive branch will not take any steps to make an already serious situation worse.

The damage that would be caused to the domestic textile industry by any reduction in textile tariffs would be severe.

So, I join in urging that the United States not offer reductions for textile products during multilateral trade negotiations this year.

Mr. Speaker, the Commonwealth of Virginia is not one of the largest textile-producing States, but we still have some 46,000 people employed in this industry, with a total payroll of $400 million this year alone.

I would not be properly serving these constituents if I did not do what I can, such as speaking today, to help save this industry from the fate which faces it if imports remain the threat they are today.

However, I believe the magnitude of the problems besetting the textile industry go beyond the serving of the interest of my own State.

It is a national problem. For example, our trade deficit in textiles was $3 billion in 1976, one-third of the American balance-of-trade deficit for that year.

Certainly, a country with a sophisticated textile industry such as we have should not be put in the position of importing such large quantities of these products.

It is time for us to take action.

At a minimum, we must assure no reductions take place in our textile tariff schedule during this year's multilateral trade negotiations. Such action would only serve to worsen a critical problem by allowing an even greater influx of textiles into our domestic market.

I hope people will take heed to what we have been saying here today. When we consider the fact that the import situation in America has been deteriorating year after year, there is no doubt that it is time for action.

Mr. D'AMOURS. Mr. Speaker, I appreciate the opportunity to join with many of my colleagues from all across the Nation to voice my concern for the future of the American textile and clothing industry.

The textile and clothing industry is one of America's oldest and most highly competitive industries. In the past it has also been one of our largest manufacturing industries. Yet today the very existence of the textile and clothing industry, and the livelihoods of its 2.3 million workers nationwide, is threatened by foreign imports.

The American textile industry is fighting for survival because foreign governments are heavily subsidizing their own textile industries, both directly through preferential tax treatment, and indirectly through low wage requirements. American manufacturers on the other hand, receive no Government subsidies, must abide by our minimum wage and overtime laws, pay substantial social security and unemployment security taxes, may not hire young children at slave wages, and must comply with a wide variety of Federal, State, and local environmental, health and safety regulations.

It is illustrative to note that while the average manufacturing wage in the textile industry in Korea is 16 cents per hour and in Taiwan is 17 cents per hour, in the United States the average wage in the textile industry is between $3 and $4 per hour not including fringe benefits.

It is entirely fitting and proper for the U.S. Government to be concerned with the environment, the health and safety of U.S. workers and other similar issues. At the same time these factors must be taken into account when the Government is negotiating tariff and quota levels with other nations. To do otherwise would be to insure increased unemployment in the United States and to encourage and reward lower standards abroad.

We must not allow the United States to become an importer of goods made by poverty level foreign labor if the end result is that we are forcing American workers out of jobs and onto welfare.

During the Kennedy round of trade negotiations in the 1960's the United States agreed to cut tariffs of textiles and clothing over a 5-year period. The effect of those agreements was disastrous for the U.S. textile and clothing industry. By the end of that 5-year period textile imports had increased 150 percent.

Last year alone imports skyrocketed another 34 percent—to the point where the United States is now importing close to $4 billion a year in textiles and clothing.

The profit level of the U.S. textile manufacturers who survived the trade negotiations of the 1960's and early 1970's indicates that the future does not look bright for the American textile industry. Profits were down to 2.4 percent of sales last year as compared to an average of 5.3 percent in all manufacturing industries. In the last quarter of 1976 profits dipped to 1.6 percent of sales.

In my own home State of New Hampshire the effect of these generous trade concessions has been equally damaging. The number of textile and clothing plants has declined 30 percent in the last 10 years. The precipitous drop in the number of manufacturers has resulted in a similar reduction in the work force. In 1967 there were over 12,000 men and women employed in the textile industry in New Hampshire. This year there are only 8,500 textile workers. Nationwide, employment in the textile industry has been reduced by 144,000 over the last decade. Most of the loss in employment has been at the expense of female and minority workers who already suffer from high rates of unemployment.

As my colleagues here today are well aware, the present multifiber arrangement is due to expire on December 31, 1977. Given the present state of the textile and clothing industry in the United States today it is my strong hope that the administration, under the leadership of Ambassador Robert Strauss, the Special Representative for Trade Negotiations, will work toward an extension of the multifiber arrangement for at least 5 years with the present 6-percent quota growth factor reduced to a level no greater than domestic market growth; and

with revision of those provisions which permit carryovers of unused ceilings to the following year, and "borrowing" from other categories.

Mr. SPENCE. Mr. Speaker, South Carolina has 57 percent of its manufacturing employees working in the three interrelated areas of apparel, textiles, and manmade fibers. Apparel is the second largest manufacturing employer in the State, accounting for 47,300 workers. In the Second District alone—the district I represent—there are 5,000 workers in the apparel industry according to latest figures.

The annual payroll for the 47,300 apparel workers in South Carolina, according to figures provided by the American Apparel Manufacturers, is $242 million and the value of the goods they produce is $940 million.

These people and their payroll and production are seriously threatened today by rapidly rising imports. Hundreds of thousands of workers could be unemployed and billions of dollars in production could be replaced by imported apparel in the next few years, if apparel tariffs are cut in the current trade negotiations.

Last year American apparel workers earned an average of $3.39 per hour for their work. Apparel workers in Korea earned an average of 32 cents. In Hong Kong it was 69 cents and in Taiwan it was 41 cents per hour. It is obvious that we cannot compete with the price of imported apparel because we must pay our workers enough to enjoy the standard of living only this country can provide.

I am not lacking in concern for the economic well being of our friends and allies in the free republics of Asia. But we do them no favors if, by permitting imported apparel to flood our markets, we disrupt our own economy and put our own apparel workers on the unemployment and welfare rolls. For many apparel workers in this country there is little opportunity for alternative employment. They came into the industry with little or no skills and were trained at the expense of the manufacturer. Still others live in rural areas where there are very few jobs available other than in the local apparel factories. Others are "difficult to employ" because they are members of minority groups which traditionally have higher-than-average unemployment levels.

It is up to Congress to protect the American apparel industry—and most especially its employees—from the drastic effect that any cut in apparel tariffs would have. As representatives of the people, we owe it to our constituents. Well over half the congressional districts in the country have apparel workers. Almost every State in the union has some apparel production. Twenty-five States have over 10,000 apparel workers.

This is a problem all of us face—not just a few of us from a couple of States or a particular region. This is a problem which could have devastating effects on the entire economy, if the administration has its way in the tariff cutting business.

The potential of adding hundreds of thousands to our employment rolls, of having taxpayers turned into welfare recipients, is a serious problem with ramifications for us all. Any benefit to the consumer is more than counterbalanced by the loss to the taxpayer. And the cost in human lives disrupted and money needlessly spent is too great a price.

A recent study by an economist in the Library of Congress tells us that apparel imports give no price savings to U.S. consumers because retailers put greater markups on imports. Apparel imports thus appear to contribute little or nothing to our benefit, and their substantial increase could seriously disrupt our economic future.

I therefore call upon my colleagues in the House to oppose tariff cuts affecting the apparel industry at the present time. I ask unanimous consent to include immediately following my remarks certain tables of figures relating to the apparel industry in South Carolina and in the United States as a whole.

SOUTH CAROLINA

Employment in South Carolina—1974:
Total private employment, 799,000.
Total manufacturing employment 380,600.
Apparel, textiles and fiber employment—1974: Apparel, 47,300.
Textiles, 152,900.
Man-made fibers, 18,000.
Total, 218,200.
Percent of total manufacturing: 57 percent.
Apparel industry in South Carolina in 1974: Second largest employer in manufacturing.
Employment, 47,300.
Percent of all manufacturing, 12.4.
Total annual payroll, $242,400,000.
Number of apparel plants, 277.
Number with 100+ employees, 136.
Value of apparel production in South Carolina in 1974:
Men's and boys' shirts and nightwear, $273,900,000.
Men's and boys' trousers, Jeans and work clothing, $47,600,000.
Women's outerwear and sportswear, $143,400,000.
Women's and children's underwear and nightwear, $64,100,000.
Children's outerwear, $113,600,000.
All other apparel, $297,700,000.
Total apparel, $940,300,000.

1974 apparel employment in South Carolina by congressional district

District	Number of plants	Total employment
First	23	3,715
Second	38	5,000
Third	61	9,712
Fourth	54	12,991
Fifth	58	8,432
Sixth	41	7,350
Total above	275	47,200
Not reported by county	2	81
Total State	277	47,281

United States

Employment in the United States—1974:
Total private employment, 63,487,600.
Total manufacturing employment, 20,380,700.
Apparel, textiles and fiber employment—1974:
Apparel, 1,380,500.
Textiles, 975,200.
Man-made fibers, 100,300.
Total, 2,456,000.
Percent of total manufacturing: 12.1 percent.
Apparel industry in the United States in 1974:
Employment, 1,380,000.
Percent of all manufacturing, 6.8 percent.
Total annual payroll, $8,246,395,000.
Number of apparel plants, 23,034.
Number with 100 plus employees, 3,494.
Value of apparel production in the United States in 1974 (Wholesale Value):
Men's and boys' clothing, $9,924,000,000.
Women's outerwear, $9,333,100,000.
Women's and children's underwear and nightwear, $1,842,900,000.
Children's outerwear, $1,435,800,000.
Knit outerwear and underwear, $2,470,800,000.
Hosiery, $1,328,500,000.
All other apparel, $1,860,400,000.
Total apparel, $28,195,500,000.

Mr. EVANS of Delaware. Mr. Speaker, the problem of increasing imports of fiber, fabric, and apparel is of great concern to me and I wish to join the gentlemen from New York and South Carolina in expressing the hope that the administration will take strong steps to support this industry which means so much to our Nation.

Delaware plays an important role in the manufacture of manmade fibers which provide about 70 percent of the fibers used in American textile mills. Thus, the fibers industry is an integral part of the production chain which provides apparel for the American consumer.

The fiber/textile/apparel industry provides about 2.5 million jobs for Americans, one out of every eight manufacturing jobs in the country. And these jobs are being threatened by the rising tide of imports. It has been estimated that 21 percent of all garments sold at retail in this country last year were imported or were made with imported yarn or fabric. This apparel market penetration by imports could well reach 50 percent or more within 10 years. Already, current textile imports in all forms have reduced U.S. employment by more than 350,000 jobs. Further increases by imports could disastrously inflate the number of Americans out of work even more.

These imports also have a significant impact on our balance of trade. During 1976, the balance of trade in textile products was a deficit of $2.4 billion, or 26 percent of the entire U.S. trade deficit of $9.2 billion. The textile trade deficit will be even higher this year.

Mr. Speaker, some have argued that free importation of textiles benefits the consumer. I want to make two observations with respect to that contention.

First, studies have shown that little if any of the lower prices for imported apparel ever reach the consumers. They are largely absorbed in higher retail margins.

And second, if imports reach levels much above the present figures, during periods when there is heavy demand

abroad, the U.S. consumer would have to pay higher prices for imported apparel that could no longer be provided adequately from domestic sources. If the United States does not have a strong textile-apparel industry we could one day be subjected to the sort of price escalation of imported apparel that we face today on such commodities as oil and coffee.

There are several steps which can be taken to alleviate this problem. The first is to obtain a renewal of the multifiber arrangement, which is the umbrella international agreement under which bilateral textile import agreements are negotiated. The MFA expires at the end of this year and it is my hope that it will be renewed. The second step that must be taken is for our negotiators to insist on tighter and better restraint agreements with our trading partners. It is my understanding that recently renewed bilateral agreements have been much improved over previous efforts in terms of import growth rates, and I encourage the administration to continue this trend.

The most important action that can be taken, however, is for our administration to insist that there shall be no American tariff reductions on fiber, fabric or apparel during the multilateral trade negotiations which are already underway in Geneva. These tariffs are the only permanent protection for American industry. The quantitative restrictions on imports permitted by the MFA would disappear if the MFA were not renewed. In addition, the MFA itself was negotiated on the basis of current duties.

Any reduction in American tariffs would encourage even greater imports from low-wage countries, would severely disrupt orderly world trade in textile products, and would continue costing us American jobs.

Mr. Speaker, I join with my colleagues in urging the administration to take these steps to preserve a vital American industry.

Mr. DICKINSON. Mr. Speaker, the production of apparel in this country is of extreme importance to us all. It is not important only to those who work in the industry, or to those in the textile, man-made fiber, distribution, and packaging industries who derive a large portion of their business from the American apparel industry.

Apparel production affects us all. When an industry is as big as the American apparel industry is—1.4 million workers and $30 billion in production—it is a vital part of our entire economic system. We must make sure that this important link in our economic chain remains strong.

Any move that weakens the apparel industry is an immediate threat to the 1 million workers in the textile and man-made fiber industries who are its important suppliers. It is an additional threat to the economy as a whole because of the potential of extra unemployment which could number in the hundreds of thousands.

The contribution of the apparel industry to this country extends beyond its economic role. It has a unique function as an employer. The majority of apparel workers are in the "difficult to employ" groups in this country. Eighty percent of them are women, many are from ethnic minorities, a great number of them came to the industry as unskilled workers and were trained by their employers.

Apparel employment is found in almost every State in the Union and in over half of the congressional districts. These people are in both metropolitan and rural areas.

The Second District of Alabama has 11,600 apparel workers in 57 plants. They represent almost one-quarter of the 48,900 apparel workers in my State. The apparel industry in Alabama is the largest manufacturing employer in the State, followed by the textile industry.

The administration has recently said that it might be necessary to do something about the fact that the steel industry of this country is being hurt by imports. The reasoning behind this is that the steel industry is important to us and is being undercut by imports produced by low-wage countries, principally Japan in this case.

The same arguments can also be used by the apparel industry to defend its strong stand against ever-growing imports. The apparel industry has received some help in maintaining orderly markets. The multifiber agreement has been in existence for the last 4 years and has helped to keep apparel imports from taking over more of our markets than they might have. But apparel imports are still growing at three to four times the rate of market demand.

Now the administration is posing another threat to the American apparel industry. Current tariff negotiations in Geneva hold the potential for as much as 60 percent apparel tariff reduction. This could mean even faster growth in apparel imports.

The American apparel industry cannot compete with imports on the basis of price. Apparel workers in Korea earn an average of 32 cents per hour. In Taiwan the hourly average for apparel workers is 41 cents and in Hong Kong 69 cents.

Last year American apparel workers earned an average of $3.39 per hour. They enjoy a standard of living unknown to workers in the Far Eastern countries with whom they compete.

We cannot tolerate a tariff reduction on apparel which will mean unemployment for thousands upon thousands of workers in this country. These are people who are often difficult to employ in good economic times, and certainly will join the ranks of the unemployed in an economy such as we have now. We need to keep our workers productive, taxpaying citizens, not welfare recipients. We need to strengthen our economy, not make it more difficult to recover from our recent troubles.

We can do this if, among other things, we help to keep the American apparel industry viable. Let us support the industry in its strong stand against tariff cuts. We will be helping all the American people in this effort.

Mr. HORTON. Mr. Speaker, early next year, representatives from the United States and other countries around the world will resume negotiations held under the auspices of the Tokyo round of GATT (General Agreement on Tariffs and Trade). The purpose of these talks will be to establish new tariff reductions to improve the climate of international trade. While many of us applaud the resumption of these talks with the hope that the world economy will recover from its staggering low during the early 1970's, there is nevertheless cause for great concern. The administration has indicated that it is considering reductions of 60 percent for the textile and apparel industry. Should such a consideration be recommended and adopted by GATT signatories, our domestic industry would suffer severely. Accordingly, I strongly recommend that the administration exclude apparel and textiles from any tariff reduction in the Geneva talks.

Earlier this year, many of us participating in the House Informal Textile Committee met with leaders of the American Textile Manufacturers Institute, the International Ladies Garment Workers Union, the Amalgamated Clothing and Textile Workers Union, the American Apparel Manufacturers Association and other textile/apparel/fiber related organizations to discuss the then impending renewal of the multifiber agreement. It is this agreement, strongly supported by the United States, which has led toward orderly world textile trade by setting forth guidelines for bilateral textile trade treaties. While the United States has negotiated two such treaties under the recently renewed MFA, it will have 11 major bilaterals to negotiate this year and next. To date, agreements with Hong Kong and Korea have called for overall quota growth rates of less than 6 percent permitted under the extended MFA. Those two agreements, and succeeding ones with other countries, however, will fail to establish a reasonable balance between the United States and its trading partners if textiles are not exempted from the upcoming tariff talks.

The disadvantages with which our domestic textile and apparel industry are faced far outstrip its ability to cope with the additional injustice resulting from a tariff reduction and consequent increase in imports. Employment in our domestic industry now totals approximately 2.3 million. There can be no doubt that an increase in imports would cause additional job losses. The American textile and apparel employer is already the victim of unbelievably low wages abroad. According to some estimates, the average Korean textile worker makes 32 cents per hour, an Indian worker 21 cents an hour and clothing workers in Haiti 18 cents per hour. The same estimates indicate that American clothing workers begin at $2.50 per hour.

In addition, our textile and apparel industry must deal with a maze of burdensome regulations governing everything from health and safety to energy and pollution standards. I am not saying that these standards are inherently wrong. What I am suggesting is that American industry must comply with rules and

regulations not required of all its competitors abroad. Add to that the fact that some foreign governments are willing to subsidize their textile and apparel export programs.

It is my understanding that administration officials will begin preliminary discussions on our position at the Geneva talks. If the indications we have received are correct, those same officials are considering a 60-percent reduction for textiles, as I have mentioned. Because the economic viability of the American textile and apparel industry is at stake, and because the United States is in the process of renegotiating several major bilateral agreements under the MFA, I strongly urge the administration to exclude apparel and textiles from any duty reductions in Geneva.

Mr. EMERY. Mr. Speaker, constituents in my district have recently brought to my attention the current import situation which exists regarding the textile-apparel trade. They indicate to me that unless imports on textile-apparel goods are not stabilized and, in some instances, even decreased, their jobs will be severely threatened.

In order to understand the current situation, one must know certain basic characteristics about the domestic textile-apparel industry. Textile-apparel companies in the United States tend to be many and small, thus making them highly competitive. More than nearly any other industry, they employ large numbers of women and minorities, thus making them important to our over-all economy. And like many of our domestic industries, when faced with American labor costs, they cannot compete with foreign imports.

Given the fact that after the Kennedy round negotiations in 1962, which cut tariffs on textile-apparel goods over a 5-year period, imports increased by 150 percent, and given the fact that in the most recent 12-month period textile-apparel imports increased by 54 percent, many domestic industries will be unable to stay in business.

If these domestic industries are forced to close, the overall adverse effect on a State like Maine will be significant. We are a small State, mainly rural, which depends upon small businesses to keep the local economy healthy. There are 12,500 employees in the Maine textile-apparel trade with a payroll of $96 million for the 1977 12-month period. There are 136,400 employees in the New England textile-apparel trade with a payroll of over $1 billion for the same period.

While such numbers may not appear significant to a company like Alcoa Aluminum or Mobil Oil, I assure you, Mr. Speaker, they are important to the Maine and New England economies.

The United States will soon have an opportunity at the Tokyo round tariff negotiations in January 1978 to support the domestic textile-apparel industry by excluding this industry from negotiations and bargaining sessions. It appears at this time, however, that Robert Strauss, our special representative for trade negotiations, will include textile-apparel as part of the negotiations. This is especially alarming in view of the fact that the multifiber agreement, created in 1975, is already based on our current domestic tariff structure and allows an annual 6 percent growth factor. I believe that the current import quotas are already too high, but inclusion of textile-apparel as part of the Tokyo round talks will almost certainly further jeopardize the industry's security. I urge the Congress to voice its position on this important matter and encourage Ambassador Strauss to exempt textile-apparel goods from the negotiations, so that the current tariff structure will at least be maintained.

Mr. WAGGONNER. Mr. Speaker, textile imports into the United States have increased more than twice as fast as the domestic textile market has grown over the past 10 years. Thus, textile imports now represent a severe problem for the U.S. economy.

In 1976 our imports of cotton, wool, and manmade fiber textiles and apparel amounted to more than $4.4 billion, creating a textile trade deficit of more than $2 billion, or nearly 29 percent of the total U.S. trade deficit of $6.9 billion in 1976.

Our textile imports in 1976 displaced more than 1¼ billion pounds of domestic mill fiber consumption and more than 350,000 jobs in the textile and apparel industries of the United States. Textile and apparel employment in the United States actually declined over 144,000 between 1966 and 1976, despite a growing domestic market for textile products.

Although one of the goals of the Tokyo round of multilateral trade negotiations is to generally lower import tariffs, this does not mean that it would be right or appropriate for the U.S. negotiators to agree to lower or eliminate the tariffs on U.S. textile imports. The multifiber arrangement and the bilateral textile agreements were negotiated on the basis of the current U.S. tariffs on textile imports. Consequently, lowering or eliminating such tariffs would jeopardize the operations of the arrangement and the agreements, and would weaken the competitive position of the U.S. textile and apparel industries, thereby threatening job security in these industries. In view of these considerations, it is strongly urged that, during the forthcoming GATT negotiations, the U.S. negotiators decline to consider any reduction in the level of tariffs on U.S. textile imports.

Mr. Speaker, having good trade relations with our friends in the developing countries does not require that we turn over our whole market to them. Yet that is what will happen if recent trends continue. Our negotiators should be more concerned about the welfare of the United States and its workers. They should insist that imports grow no faster than the domestic market.

Ms. MIKULSKI. Mr. Speaker, in discussions bearing on control of textile and apparel imports it is argued at times that we ought to encourage maximum imports to the United States because such products from overseas are a boon to the consumer. The assumption is that the low cost of production in lands where wages run at the incredibly low level of 20 and 30 cents an hour offers a bargain to the American buyer. This is a miscalculation as readily seen when examined in the light of what really happens. The error arises from the fact that low cost imports do not go directly from the overseas producer to the American consumer. Between these two parties are the middlemen, whose prevalent game it is to put high markups on the imported products.

In a recent convention of textile producers in the United States, Mr. Thomas M. Macioce, president of Allied Stores, put his objectives very clearly. When he was asked by a reporter for Women's Wear Daily, a trade magazine, "Aren't retailers really just buying a markup when they buy imports?" the retailing spokesman was refreshingly frank: "Sure," he responded, "we are indeed buying better markups, but that's our job. We would be delighted to buy only American-made goods if we could make the same type of markup."

The consumer is not the beneficiary of low wages overseas. The true beneficiaries are American manufacturers who have their work contracted out for production overseas, or American retail chains, or American importers. They buy cheaply and then mark up the price to sell at levels comparable with products produced in the United States.

Startling evidence to this effect was submitted to the Trade Subcommittee of the House Ways and Means Committee, March 25, 1976, by the president of the International Ladies' Garment Workers' Union, Mr. Sol C. Chaikin. I should like to recall that evidence and enter it in the RECORD.

Mr. CHAIKIN. Mr. Chairman, I have samples of garments produced in the U.S. and abroad made of the same materials and sold at the same prices to American consumers. This, I think, is part of an answer to a question asked by a member of your committee, Mr. Chairman, and I would like to with your permission offer them as exhibits.

Mr. GREEN. You may do so.

Mr. CHAIKIN. First, I offer three misses' shirts, style 1458, made of fabric blended from 65 percent acetate, 35 percent nylon, size 14. They are identified by a Sears Roebuck label, and an RN number 43721 registered to Niki-Lu of Miami, Inc., according to information supplied by Mrs. Klein of the Federal Trade Commission on March 15, 1976. Three shirts were purchased from Sears at the Paramus Plaza, New Jersey, on March 13, 1976. The retail price is $8 each. One was made in the United States, one was assembled in El Salvador and one in the Dominican Republic.

The detailed Sears sales slip shows the quantity purchased to be three, totalling $24. Stitch for stitch it is the same item, same quality, same piece goods, same style number, same Sears number, same Sears price for the people who would come in and buy.

Our second product consists of two brassieres, style No. 1038. The identification on these items is Warner's RN 16396, one made in the United States, the other in Mexico, both purchased at Macy's on March 16, 1976; their retail price was $6.50 each.

The details of the Macy's sales slip are right here.

Our third product is a pair of misses' blouses, style 46241, made of knit fabric, otherwise not identified. That is just a small violation. They are identified as a product of White Stag, a large domestic company. One of the two garments was made in the USA and the other one in Japan, both pur-

chased at Bloomingdale's on Lexington and 59th Street in New York City on March 22, 1976. The retail price is $14 each. The details of the Bloomingdale's sales slip are right here.

We now have for Congressman Karth and others men's long-sleeve dress shirts, size 16, sleeve length 33, made of 65 percent polyester and 95 percent cotton, with a Sears label, one made in the USA and the other one in Korea, both purchased at the Sears Paramus Plaza store in New Jersey on March 13, 1976. Retail price was $8 each.

In this case, we bought them on sale, reduced to $4.99 each. The original price was the same. The reduced price on sale is exactly the same and the detailed Sears sales slip is here.

Now these examples could have been multiplied literally by thousands of instances.

Comparison shopping in men's clothing, conducted in several Baltimore stores, revealed the same pattern. Here are several examples that once more make the point about the higher mark-ups on imports.

The following data was compiled on comparable retail prices for American-made and imported apparel sold in Baltimore department stores in August 1975. This is what they showed.

RETAIL PRICES OF COMPARABLE DOMESTIC AND IMPORTED APPAREL

The following data was compiled on comparable retail prices for American-made and imported apparel sold in Baltimore Department stores.

Shirts at the Hecht Co.—

American-made—Golden Arrow, 100% polyester, button down, short sleeve—$12.

Imports—Van Heusen Splendor, Double knit, made in Taiwan, 100% polyester, long sleeve—$13, short sleeve—$12.

American-made—Clay Poole, 3 button knit sport shirt, 50% polyester, 50% cotton—$6.50.

Imports—Clay Brook, Made in Hong Kong, 3 button knit sport shirt—$12.50.

Shirts at Stewarts:

American-made—Arrow, Belmont short sleeve shirt—$9.

Imports—Van Heusen, Van Luster, made in Taiwan, short sleeve shirt—$10.

Denim jackets at the Hecht Co.:

American-made—Lee, $21.25 and $24.

Imports—Britannia Sportswear, Made in Hong Kong, $25, $27, and $27.50.

Jeans at the Hecht Co.:

American-made—Lee, $17.

Imports—Britannia Sportswear, Made in Hong Kong, $18 and $20.

Sweaters at Hutzler's:

American-made—Robert Bruce, 100% Orlon acrylic—$20.

American-made—Jantzen, 100% Wintuck acrylic—$19 and $20.

Imports—the label read: "Made in Italy for Hutzler's," 100% acrylic—$25.

Source: Data collected by Martin Lesser, Upper South Department, ILGWU, on August 5, 1975.

Mr. ZABLOCKI. Mr. Speaker, to show the effects of textile/apparel imports very directly, I want to talk about the glove industry.

Wisconsin has always been one of the Nation's major producers of both dress and work gloves. Milwaukee had several companies that manufactured gloves. I say had, because only one company exists now.

Dress gloves were made from deerskins. Today the deer are still plentiful but no dress glove industry exists. Thousands of people lost their jobs, particularly in the northern half of the State. This is because the overwhelming majority of dress gloves sold in America today are made abroad. The labor content of dress gloves is among the highest of the already high amount of labor put in most other apparel products. There is no way Wisconsin manufacturers can compete with wage levels below 50 cents an hour, as they are in Korea, Taiwan, Haiti, Brazil, Barbados, and other glove producing areas.

Work gloves are still produced in the United States in substantial numbers. But here, too, the import penetration is expanding rapidly at the expense of domestic production. While the market in work gloves has remained essentially static over the last 6 years—domestic consumption rose only 3.4 percent—imports rose in this period by 348 percent.

Cotton gloves have experienced the same inundation. In the short period from 1972 to 1976 cotton glove production in America declined 15.4 percent. The import penetration ratio went from 5.8 percent in 1972 to 26.8 percent in 1976.

It is essential for the executive branch to limit these growths of imports to a much greater degree than they have heretofore. Controls on currently unrestricted countries should be imposed before marked disruption becomes irreversible.

Under title V of the Trade Act of 1974, which governs the GSP procedures for granting zero duty preferences to developing nations, the President has authority to exclude any article from such preferences as he determines to be import sensitive. It is significant, therefore, that work gloves have been specifically excluded from zero tariff reduction under the generalized system of preferences. Cotton work gloves were excluded because of section 503(c) of the Trade Act. Other work gloves were excluded from GSP because the administration's review procedure, of public comment and advice from appropriate U.S. Government agencies, had convinced the executive branch that such work glove imports were already so large and injurious to the domestic industry that GSP duty-free treatment for these articles was neither warranted nor necessary. By the same token, there is little justification for a reduction in U.S. duty rates in the upcoming multilateral trade negotiations.

Mr. METCALFE. Mr. Speaker, the textile and apparel industries—their firms and workers—make a major contribution to the well-being of our country. It is the primary source of employment for that part of the workforce which suffers structural handicaps which close off most other job opportunities to them in America's sophisticated industrial economy. Thus the ever-rising tide of imports hurts most those who already are at a disadvantage.

Where will the labor force in the apparel and textile industry find alternative jobs?

A job once lost in the apparel industries means, in effect, indefinite unemployment. The consequence of such chronic unemployment also means indefinite social and economic costs which must be shouldered not only by the individual and his family, but by his community and the Nation at large. This cost of supporting the unemployed and the loss of their productive contribution is always forgotten by economists when they speak of increased costs to consumers from import restrictions.

As is perfectly obvious from the increased volume of imports—1976 was a record year for general imports of apparel—the current rates of duty are no deterrent to textile/apparel imports. The only consequence of tariff reductions in textiles and apparel would be a further influx of goods from abroad and could mean the effective demise of many branches of the apparel industry in this country.

Section 127(b) of the Trade Act of 1974 automatically excludes from consideration for purposes of tariff reductions, any item which has been accorded import relief by the President under that act.

In this respect, textile and apparel products, in effect, have been accorded such relief by virtue of the various bilateral agreements which have been negotiated by the United States with various supplying countries pursuant to the multilateral arrangement regarding international trade in textiles (MFA) to which the United States is signatory.

It is, of course, acknowledged that the U.S. textile and apparel import control program stems from different statutory authority than the Trade Act of 1974, but the purpose of the textile and apparel import program is to provide to the domestic industry needed relief against import competition. As a group, therefore, I urge the President to exempt textile and apparel from the multilateral tariff reduction negotiations in the same manner as would be products directly accorded relief under sections 201–203 of the Trade Act.

Mr. LENT. Mr. Speaker, I want to join my distinguished colleagues, Mr. MANN, of South Carolina, and Mr. FISH, of New York, in stating my concern about the problems caused by increasing imports of textiles.

The continuing economic problems of our Nation have come to preoccupy our thoughts and deliberations. But little attention has been given to the relationship between foreign trade and the conditions necessary to promote economic prosperity here at home.

The relationship of foreign trade to the domestic economy can be set forth in a few statements.

First. Jobs are the fundamental base on which our economic and social well-being rest.

Second. Investment will not be made unless a stable market and expanded sales are seen as reasonably assured in the future.

Third. No lasting social or economic progress can be made or political stability maintained either within the United States or elsewhere in the free world, unless the U.S. economy remains strong. The increasing international interdependence which we all know about not only means that the United States cannot act in isolation from the rest of the world, but also that our own economic

health is absolutely essential to the economic and social welfare of the entire international community.

Fourth. Unless present trends in foreign trade are reversed, the result will be an undermining of this country's economic strength.

In 1976 apparel imports were the highest on record. This while the unemployment rate of experienced apparel workers averaged above 13 percent.

Economists are decrying the fact that insufficient amounts of capital investment are being made in the textile and apparel industries. Not only does this lack prevent the creation of new jobs to lower the unconscionable unemployment level but causes a long-term decline in the average rate of productivity growth.

Without productivity growth, there can be no improvement in the general standard of living of our people. Unless textile and apparel companies see a halt to imports unabated movement to completely take over the American market, they see no incentive to invest in their productive capacity here.

We are told that we should recognize the need of the developing countries to develop—to industrialize their economies and to obtain for themselves a larger share of world trade. Labor-intensive textile and apparel production is where their comparative advantage lies. But this development cannot happen unless the U.S. economy is strong and full employment prevails here.

The success of poor nations in improving their economies is tied to a healthy world economy, of which a strong, growing U.S. economy is fundamental. If the American economy fails, if our recovery falters and we slide into another recession—which is the way the signs are pointing at the moment—the free world economy may come down like a house of cards. That is why it is so important to pay attention first and foremost to what is happening in U.S. manufacturing, to jobs which are the base on which the economy stands.

The impact of imports is far reaching and ultimately the prosperity of all Americans is involved. We have arrived at a point in our history when we must decide whether we are going to halt and reverse our decline as an industrial nation, or whether we are going to allow the decline to continue to our own detriment and the detriment of the free world.

Mr. FLIPPO. Mr. Speaker, my interest and the interest of many of my colleagues in the textile import situation is not limited to the textile and apparel manufacturing industries alone—as vital and as important as they are.

There is another segment of our population that is equally concerned with import developments. I refer to the hundreds of thousands of families engaged in cotton farming.

Mr. Speaker, I am particularly bewildered by the inconsistencies in the import situation. For some 40 years, our Government has maintained rigid import quotas on cotton, permitting entry into the United States of only 30,000 bales of upland cotton each year—less than 1 day's supply for our mills.

Also, our farmers have been encouraged to reduce their cotton crop acreage drastically, creating far-reaching hardships for great segments of the cotton economy from North Carolina to California.

But now, Mr. Speaker, we sit here and watch cotton in the form of manufactured textile products enter this country at the rate of some 2 billion square yards annually. Last year alone, imports of cotton textile products soared by 53 percent over 1975.

Soon our trade negotiators will be deciding what tariffs to cut, and by how much. With our textile tariffs now in effect obviously presenting no barrier to foreign imports, it would be sheer and deliberate foolishness to invite an even greater import problem by cutting textile tariffs. The President should instruct his negotiators immediately to remove from the list all textile items.

Such action will be in the best interest of our Nation and the 2.3 million American workers in our domestic textile and apparel industry.

Mr. BEVILL. Mr. Speaker, I am here today to add my support to protecting both the employers and employees of America's textile industry.

Mr. Speaker, this industry is extremely competitive, with literally thousands of companies vying for the consumer's business. While it is generally known that small business units are prominent in the apparel segment, it should be noted that more than one-half of all textile mill products come from companies with less than $50 million in annual sales.

As manufacturing employment in this country continues to shrink, it becomes even more vital to at least maintain and even expand the American textile industry. This is particularly true because this industry provides a very large number of threshold jobs which this society must have if the welfare problem is to be successfully addressed.

Mr. Speaker, the most modern and efficient textile industry in the world must also compete with the sweatshops of Asia, Africa, and Latin America. I have been told that about 350,000 American jobs would be required to produce the present volume of textile and apparel imports from these nations.

I have also been told that the administration is considering reducing textile tariffs which would allow more imports, and take away more American jobs. This, Mr. Speaker, must not happen.

The textile and apparel industry of the United States is scattered through the 50 States. It provides a heavy concentration of jobs in New York, Los Angeles, Miami, and other large cities. It also frequently provides the only industrial employment in a long, long list of American small towns. It gives jobs to a much larger proportion of females than in American industry as a whole. It is substantially more representative of minority groups than is the work force as a whole.

Why, I must ask, would we want to jeopardize the livelihoods of these citizens? Why would we support a greater tide of textile imports?

No one, Mr. Speaker, must make matters worse.

It would indeed be tragic if our own Government added insult to injury.

Mr. EILBERG. Mr. Speaker, representatives of the United States and other countries have been meeting to renegotiate agreements with various countries relating to the export of textiles and apparel to this Nation. This is one of the most important matters now facing us and I think we in the Congress should be aware of the facts and should take a strong stand in favor of regulating trade between the United States and other countries.

The record on the threat to employment here is a shocking one.

Total imports of textiles and apparel made of wool and manmade fibers have been increasing by leaps and bounds. In 1976, these imports grew by 35.9 and 24.5 percent, respectively. Imports of women's and girls' sweaters grew by a shocking 111.5 percent in 1976, while the number of men's and boys' sport coats imported from low-wage countries rose by 44.9 percent. In the same year, there was an increase of over 36 percent in the number of trousers imported by our country, 20.8 percent in men's suits, 34.5 percent in women's coats and jackets. As imports continue to rise, they take a larger and larger share of our domestic market. We cannot continue to absorb such increases and erosion of the domestic market.

These imports are made at very low labor costs. In the Far East, apparel workers now receive from 38 cents an hour in Korea, to 42 cents in Taiwan, to a high of 74 cents an hour in Hong Kong—only a fraction of U.S. earnings. Most imported apparel comes from low-wage Far Eastern countries, but even apparel made in the advanced nations of Europe are made at wage rates below ours.

In my State of Pennsylvania alone, employment in textile mills went down from 70,300 in 1966 to 50,600 in 1976. It was the same picture for apparel employment, which was down in 10 years from 182,200 to 136,500.

Our Government must act promptly to deal with this perilous situation.

We are not asking our Government to cut off trade. We are not asking even to reduce the current levels. But we must urge that prudent regulations be adopted and these regulations be strictly enforced.

I urge President Carter to see to it that controls on presently unrestricted textile and apparel imports should be imposed when these imports show a sharp rise and that there should be no reductions of any kind in existing tariffs on imported apparel and textiles.

I urge that bilateral agreements to be negotiated in the near future provide the lowest possible growth rates in heavily impacted areas.

I stated at the outset of my remarks that the need to renegotiate agreements with various countries dealing with their exports of textiles and apparel to us is one of the most important matters now facing the Nation. The other most important matter is the maintenance of the

existing duty structure in the course of the discussions that are due to begin in Geneva before long. All existing duty rates on textiles and apparel should be left intact. For if they are cut, it would lead to an additional threat to jobs that our country cannot afford.

Mr. PICKLE. Mr. Speaker, I commend my colleagues on their impressive statements outlining the scope of the textile industry and bringing to light the problem of ever-increasing competition from foreign imports.

The value of the American textile industry to our national security has been outlined in previous statements. In order to avoid repetition, my remarks will be brief. However, brevity in no way diminishes the importance I place on the relationship between the textile industry and our national security.

It has been noted that during World War II, textiles emerged second only to steel in importance.

During the Vietnam conflict, the domestic textile industry met the need of not only our own troops, but were major contributors of support supplies for our allies. All of this was accomplished with extreme efficiency.

With all of the vast amount of sophisticated weaponry and warfare items of today's modern world, we perhaps may tend to underestimate the support supplies still required to keep our Armed Forces combat-ready and proficient.

Mr. Speaker, a healthy and adequate domestic textile industry is still an important element in our national defense.

I need not remind my colleagues what it means to be dependent upon a foreign nation for a vital product. Each of us is reminded quite vividly every time we drive into a gasoline station.

All other arguments aside, our country cannot jeopardize our national defense by allowing our own textile market to be destroyed. We cannot afford still another dependence on foreign suppliers for such a vital commodity.

Any future tariff reductions on textile products entering this country will no doubt, as the past has shown, cause still another rise in imports.

At a time when the U.S. industry is struggling to remain alive under present economic and international trade conditions, further erosions in the marketplace cannot be tolerated.

Our textile officials tell us, and we can see from the facts and figures, the rate of return on investment for domestic textiles is already at crucial levels.

In the name of national security and the welfare of all Americans, let us not formulate or allow trade policies which are detrimental to U.S. textiles.

Mr. Speaker, our clearest and most direct way to the solution of this problem is to exempt textiles completely from the upcoming multilateral trade talks scheduled in Geneva.

Mr. CLEVELAND. Mr. Speaker, I am pleased to participate today in this special order with my colleague from South Carolina (Mr. MANN), on the serious threats posed to the American textile/apparel industry by rising imports and inadequate trade policies.

Although my district contains relatively few textile mills, this issue has been a concern to me ever since I came to the Congress in 1963. My work over the years on similar problems encountered by the shoe industry has sharpened my interest in the textile situation, and I have long advocated protective trade policies to aid both industries.

Earlier this year I joined Mr. MANN and others in contacting President Carter to request assistance for the textile industry, and I also contacted Special Trade Representative Robert Strauss to express my personal interest in trade policies affecting it.

At a time when textile imports are reaching alarmingly high levels, it is incredible that the administration intends to include textiles and apparel in the upcoming Tokyo round of negotiations aimed at reducing tariffs. On the contrary, common sense and the prospect of massive unemployment should dictate higher tariffs.

The so-called Kennedy round of trade negotiations in the mid-1960's resulted in a voluntary reduction by the United States of textile and apparel tariffs over a 5-year period. It is crucial to point out that at the end of that period, textile imports had risen 150 percent, clearly attributable to the tariff reductions. Last year alone, imports were about 35-percent higher than the previous year.

These imports have had a severe effect on employment in the textile industry, and the belief is widespread that if our present tariff structure were reduced any further, the resulting surge of imports would prove disastrous. The multifiber arrangement (MFA), established in 1974 to set import quotas, has not yet been renewed, and it would by no stretch of the imagination be able to control imports in the face of lower tariffs. The MFA is inadequate even now, because of its provisions allowing a 6-percent annual growth in imports and permitting unused quotas to be carried over from year to year.

Mr. Speaker, I subscribe fully to the doctrine that our trade system should be a free but fair one, without undue advantages accruing to either side. However, when circumstances combine to give foreign products such advantages, we should utilize tariffs or quotas to neutralize them.

In any event, there are certain domestic capabilities, and the textile/apparel industry is surely one of them, that are essential to our national interest. Imported products are now threatening the well-being of the American textile industry, and every effort should be taken to maintain and protect it. The preservation of vital American jobs and industries is more than worth the risk of any adverse trade effects.

Mr. FOUNTAIN. Mr. Speaker, on no occasion, when we stand to discuss international trade in these Chambers, do we ever avoid division among Members with regard to the theories of international trade.

Usually, the most resounding cries come from those Members who believe any attempt to regulate or coordinate international trade is a disguised method to inhibit free trade. They charge that regulation is a subtle effort toward favoritism for a select group. They call it protectionism.

Regulated foreign trade, they tell us, diminishes competition, promotes monopolies, is a disservice to the consumer.

Well, Mr. Speaker, today we are talking about regulating textile and apparel trade. We are considering textiles and the upcoming multilateral trade negotiations and possible tariff cuts.

Many of my distinguished colleagues have presented some alarming facts concerning the threat imports have become to the domestic textile industry. They have told us that the industry simply cannot tolerate the increase in imports which will no doubt come about if we reduce current tariff levels.

They are asking that textiles and apparel be exempted from the upcoming trade talks in Geneva.

No doubt, the suggestion of such an approach will be met by predictions from free-trade advocates that such action will produce untold evils. We will be told that the American textile industry will enjoy the fruits of a monopoly—that the consumer will fall prey to increased prices, decreased product choice and a decline in quality.

Nothing could be further from the truth.

The domestic textile industry is the most internally competitive of all American industry.

Literally thousands of small companies compete day-to-day for a share of the market. Market position and product pricing is a result of intense bareboned parlaying where even a penny may decide the outcome.

Prices on domestically produced textile products have increased less than on almost any other product.

Nor has consumer choice been limited within the spectrum of American-made products.

Next time you are in a department store, look at the bedding sheets. Every conceivable color, style and pattern is at the tip of the consumer's hands.

Look at the innovations made in other products. We did not get all of the wonder-fabrics and easy-care, long-lasting textiles from research and development labs in Korea or Hong Kong. Nor did they invent permanent-press, rayon, nylon or water repellent cloth.

A monopoly? Hardly. Poor quality? Nonsense. Limited consumer choice and satisfaction? No.

Mr. Speaker, I am quite sure we will hear the cries of the free trade theorists concerning this matter.

But perhaps they will think twice before putting forth all of their usual arguments.

Because with the American textile industry their arguments simply do not hold water. The facts speak for themselves.

Ms. OAKAR. Mr. Speaker, I am extremely pleased to join with Congressman MANN in this special order on the serious problem of textile imports. Even before coming to Washington after my election to Congress last year, I was contacted by both labor and management in several of the large textile firms

in my district on the imports situation. I met with these concerned men and women, and they told me of how a number of textile companies in Ohio had closed down because of imports, and naturally, they fear that their jobs may be the next to go.

Despite improvements in the Nation's economic conditions in recent months, we still have in this country nearly 7 million unemployed men and women. This number does not include nearly 1 million persons who became discouraged and stopped looking for work in their communities in the belief that no work was to be found. Nor does it include persons forced to work on short-time schedules because work on regular schedules was not available at their places of employment.

These continued high levels of unemployment bring into focus the problem that we encounter in the textile and apparel industries—rising imports that add to the joblessness of workers who normally earn a living in these industries.

Between 1961 and 1976, 15-year period imports of textiles and apparel increased more than fivefold. As a result of this upsurge, many experienced textile and apparel workers lost their jobs. Not only were experienced workers displaced in the process, but newcomers who under more normal circumstances would have secured work in textiles and apparel were also left in the cold, jobless.

The overwhelming rise in imports took place despite the fact that our Government sought to contain them by means of multinational and bilateral agreements with foreign countries. While these efforts did slow down the tempo of import penetration, it remained very high. As a result, a number of plants were forced out of business. Other plants had to operate on part-time schedules.

It is highly important therefore to strengthen and widen our network of agreements with foreign countries to contain import penetration to an even greater degree than has been attained up to now. At the same time, it is essential that we leave our existing duty structure intact. In view of the imperfect coverage of the existing agreements, cutbacks in tariffs are likely to lead to further appalling increases in the volume of textile and apparel imports.

With the existing levels of unemployment, both in these industries as well as throughout our Nation, we cannot afford to even contemplate such reductions. I certainly hope that the administration will recognize the existing state of affairs and exempt apparel and textiles from the negotiations that are due to proceed in Geneva before long.

Mr. ANDREWS of North Carolina. Mr. Speaker, my colleagues who have spoken here today deserve the thanks of the entire American people, not just those who are employed by the American textile industry, but all persons who are concerned that our Government take those steps necessary to see that American jobs are not lost.

Any lowering of tariffs on textiles and apparel at this time would, in my mind, constitute an outright disregard for the legitimate needs of our own workers.

Mr. Speaker, I have been told by some shortsighted individuals that many of our industries, such as textiles and apparel, are outmoded, inefficient, too labor intensive for our modern day economy. They even believe that these industries must simply disappear to be replaced by more sophisticated types of industry.

This kind of thinking, Mr. Speaker, is disturbing, for it indicates a total loss of mental power and a complete separation from reality.

What these individuals forget, or choose to ignore, is that the textile/apparel industry employs some 2.3 million Americans, and that the first responsibility of the Government of the United States is to see that these 2.3 million citizens are not thrown out of work onto relief rolls.

I do not need to be reminded that in my State of Tennessee the textile/apparel industry provides about 100,000 jobs and an annual payroll of $700 million.

Mr. Speaker, I think that it should be made perfectly clear that those of us in the Congress who are concerned with the future of the textile industry will not—I repeat—will not sit quietly and watch the downfall of the U.S. textile industry from imports.

We are standing up today to make it known to our friends and foes alike that we expect full recognition of the legitimate needs of 2.3 million textile and apparel workers.

Mr. ZEFERETTI. Mr. Speaker, I am deeply concerned over the rise of imports in many lines of manufacture, particularly in the textile industry. Due to the existing import control system now in operation in this country, ever-increasing imports have resulted in the loss of many jobs, particularly in the garment industry.

The United States has the world's largest textile industry, but in 1976 apparel imports hit a new high. In fact, the overall United States textile trade deficit last year in all fibers was approximately $3 billion. I feel that it is blatantly unfair to allow the lion's share of American market growth to benefit foreign industries at the expense of our own.

This situation has been aggravated by two loopholes in our tariff law, which help to export jobs, expand industry abroad, and increase imports at the expense of our economy. The immediate repeal of these items of our Tariff Schedules by the Congress is in the best interests of both the worker whose job is in jeopardy and the consumer who pays exorbitant markups on foreign-made products.

Another practice which I vehemently oppose is the importation of products manufactured in this country and then assembled in a foreign land, which are permitted to reenter the United States at a lower duty rate.

It is my understanding that the Carter administration is considering including textile and apparel products as a possible area of tariff cuts in the upcoming multinational trade negotiations. Any tariff cut would, no doubt, result in even more imports flooding the American market. For this reason, I have urged both President Ford and President Carter to develop a new and more realistic trading policy and one that better protects our own working people.

It is time for Congress to take the appropriate actions necessary to save the textile industry and its workers. The enactment of legislation, such as the proposal to close the existing loopholes in our tariff laws, is vital to maintaining this industry which has been so vital to America's economy. I urge my colleagues to join in supporting measures that will restore vitality and growth to our textile industry.

Mr. SNYDER. Mr. Speaker, America's negotiating team recently returned from Geneva where 85 percent of the participating countries agreed to formally renew the MFA on December 15.

Our negotiators were unable during these talks to reduce the present 6-percent growth rate of imports to one closer to the 3-percent growth of our own textile market.

We must now rely on individual bilateral negotiations to aline import growth closer with the growth of the domestic market. Many such bilaterals will be renegotiated before year's end.

Hundreds of thousands of American textile and apparel jobs hang in the balance of these renegotiations. If import growth goes unchecked, it means loss of jobs, loss in gross national product and it means more people on welfare roles.

It also means, Mr. Speaker, that we will deprive our domestic textile industry of some of the resources essential to comply with many of the regulations on environment and health and safety that our own Government is imposing.

You might call this a reverse subsidy, Mr. Speaker, favoring foreign competition.

Our own textile industry is faced with stringent regulations in a number of areas—regulations which most foreign nations do not even begin to impose on their manufacturers.

We have water pollution guidelines for 1983 which the National Commission on Water Quality has estimated will cost the industry between $526 and $785 million, plus $50 to $81 million more in annual operating costs.

The Occupational Safety and Health Administration has promulgated standards on noise and cotton dust which, if enforced, will impose an astronomical burden on the textile industry.

The noise standard alone is estimated to cost the industry $3 billion. Meeting the dust standard, according to estimates by the Research Triangle Institute, a Government contractor, will cost around $2.8 billion.

Taken all together, the cost of water preservation and noise and dust control will amount to well over $6 billion in an industry whose annual capital expenditures have averaged only $762 million in the last 5 years and whose profit after taxes has averaged $646 million.

Mr. Speaker, I must ask how can we expect our own companies to compete successfully with foreign manufacturers who have no such regulatory burden to carry and who pay wages which are so low as to be illegal in the United States?

It is one thing to espouse free trade, but it is something else again when our trading partners overseas play the game under different rules.

Mr. Speaker, our Government negotiators will soon be returning to Geneva to undertake multilateral trade negotiations, the so-called Tokyo round. And I hear talk about the possibility of cutting the U.S. tariffs on textiles and apparel—despite the fact that imports of these items increased 34 percent in 1976.

Despite the fact that our deficit of trade balance is growing.

Despite the fact that the current level of imports is drawing away vital resources essential to compliance with many environmental and safety and health regulations.

And despite the fact that American textile and apparel jobs are already in jeopardy from imports.

Despite all this evidence, Mr. Speaker, we fear that textile tariffs will be used as a bargaining chip along with a host of other industries during the Tokyo round:

Such action would be a grave error.

Textile tariffs should not be reduced. Textiles and apparel should clearly and cleanly be exempted from the Tokyo round. Tariffs are already inadequate. Even so, they must be retained at present levels as a barrier against the kind of unrestrained imports which today threaten to swallow the American textile industry.

Mr. FLOWERS. Mr. Speaker, I commend my distinguished colleagues for their very fine presentations which have given us a knowledgeable picture of the importance of the U.S. textile industry and the very complex concepts at work in international trade.

I noted with considerable interest a recent article which appeared in the Daily News Record regarding textile plant closings in the United States.

The article listed two reasons for plant shutdowns over the past several years: foreign imports and the lack of available capital to meet stringent Government regulations with regard to safety and health and environmental preservation.

I ask unanimous consent to include portions of this article in the RECORD. I think it clearly points out the conflicting dilemma in which our own textile industry operates. That is, our own Government policy, on the one hand, encourages the proliferation of imported products from low-wage countries while, on the other hand, we legislate vast amounts of regulations which require literally millions of dollars from our industry.

TEXT: DAILY NEWS RECORD—AUGUST 15, 1977

New York—well over 66 textile plants have been shut down in the past 2½ years, with a job loss estimated in excess of 13,000, according to a survey by DNR.

Well-informed industry sources estimate the total figure as being well in excess of 100 plants closed during the period—in 1974 it is believed knitting plant liquidations numbered at least 200.

In areas of spinning, weaving and finishing, imports are clearly the underlying factor in the closing of more than 38 units since the start of 1975.

It was the contention of textile-apparel management and labor that between 1969 and 1975, the combined complex suffered a loss of 271,000 jobs due to imports. In men's and boys' tailored clothing alone, they claimed, 45,000 jobs, or 40 percent of the total work force went down the drain.

While imports of textiles have been frightening the U.S. mail industry for many years now, the buildup of apparel from overseas since 1975 has eclipsed in seriousness the fabric threat, industry said.

According to the U.S. Bureau of the Census, in 1947 there were 8,157 American plants engaged in spinning, weaving, knitting and finishing textiles, by 1963, the figure was down to 7,201. So, there was a gradual attrition underway before the apparel import buildup had begun to reach alarming penetration levels here.

It was the contention of a spokesman for the American Textile Manufacturers Institute that in the area of polyester-cotton woven dress shirts, U.S. production amounted to 5,270,000 dozen in 1976, against imports in that year of 4,763,000 dozen, for a penetration in excess of 50 percent.

Value of apparel imports has been running ahead of prior years due to inflation, the spokesman observed, but this apparel flow from overseas represents a displacement of close to 30 percent of American apparel fabric output.

Said Frank Gress, a partner in the gray goods brokerage firm of Ehrlich, Gress: "I have handled imported cloth as well as domestic, but the heavy shift from cloth to apparel by overseas suppliers have given them such a labor advantage that there is no way in which greater mill efficiency here can overcome this disadvantage."

Gress dismissed ideas of helping U.S. mills become more efficient to fight imports as nonsense.

"Apparel is much more labor intensive than cloth, and mills are losing out in a situation which they cannot rectify by getting new machines."

He went on to say that in some cases, mills could not compete even if they gave their cloth away to their American apparel manufacturing customers.

Gress predicted that the U.S. cloth business will be forced to content itself with "periodic boomlets," which would occur in the early phases of recovery from inventory glut, attributable to the speed with which domestic mills could fill revived demand.

Dan River's executive vice-president, John B. Russell, agreed with Gress when he saw only brief periods of good buying here because of imports.

"I see a modest pickup in our business in September across the board. But imports will probably prevent this buying from really taking off. June imports of apparel were at record levels, and I expect this will turn out to be the case for all the summer months," Russell told DNR.

Yet he said he could not single out imports as the lone culprit behind the shutdowns. "Cost of OSHA regulations is huge. We'll be spending about $80 million in the next five years. Of course, imports did shrink the market here, making it more competitive. This in turn makes it less attractive for mill management to invest, so they close down many older units." Dan River has done some of this.

Russell said he sees a continuation of this contraction of American textile industry, though perhaps not at the rate of the past few years.

Peter Scotese, president of Spring Mills said: "We will spend $100 million in the next five years on OSHA rules and on modernization—nothing for new plant. There's no rate of return on this capital, zero. There is no question that imports are making it difficult for all segments of this industry to survive. And I don't think we can stop that buildup.

"I see a continuation of mill closings. If you are thinking of investing borrowed capital, it's extremely difficult to realize a return in the face of foreign apparel."

Scotese added that where mills are heavily into apparel goods, foreign competition will exert continuing pressure on prices and profits.

Imports will affect some industry segments seriously, might even wipe them out and will probably not hit others at all, he said.

Austin List, president of Johnston Industries, said the textile industry pie has been cut up into smaller pieces because of imports, and that this is forcing the collapse of numerous marginal operations.

A world textile depression has added to the pressure, he explained, discouraging important investments.

"Management is more realistic today. In the face of doubling machinery costs, plus imports, many will just turn the key. It's cheaper to invest somewhere else," he declared.

He predicted the industry will continue to contract and will become more verticalized—even in industrial fabrics.

List expressed the hope that Washington might wake up to the realities and change its policies. If it does not, he asserted, those who remain will do well, but there will be "a lot fewer of us."

Robert Eisen, executive vice-president of Greenwood Mills, was more emphatic in blaming the foreign cloth and apparel surge as causing mills to fail. "Why should management invest in modernization of old plants in the face of this threat to their profit-making capabilities?" He asked. "The rise of blends has made it necessary to refrigerate mills at great cost," he observed. "And with imports the frequent decision has been to shut plants down," he said. "Other factors, like mills being located in tight labor areas, or OSHA rules, are secondary," he stated.

Mr. ASHBROOK. Mr. Speaker, like many of my colleagues, I am increasingly alarmed at the threat foreign competition poses to domestic employment. Because of trade policies which fail to place basic American interests first, American jobs are being lost to overseas competitors. This is happening in such diverse areas as our basic steel industry and the textile and apparel industry.

I am very disturbed that the long running imbalance of trade and tremendous deficit in textiles has retarded the healthy growth of the domestic industry which serves as one of the few remaining people-intensive manufacturing concerns. The result is higher unemployment—something we certainly cannot afford at this time.

We spend billions of dollars annually in welfare payments to millions of Americans. We fund program after program designed to stimulate the economy and provide for Government service employment. And yet, when it comes to trade, we follow policies which reduce employment opportunities.

We all know that the solution to our unemployment problem lies in the private sector of our economy. Given fair and free operation, American industry can provide jobs for more people with

more satisfactory results than all of the Government-financed programs combined.

And yet, as we have witnessed by these discussions here, we seem to refuse tc accept the fact that our own international trade policies with regard to textiles, as well as other industries, benefit other nations at the expense of our own. Imports have and will continue, unless actions are taken, to erode our own industrial employment.

I am weary of being labeled a protectionist by some who wish us to be supreme benefactor to the whole world at the expense of our own taxpaying citizens. Mr. Speaker, America has the most liberal, free trade policy of any nation in the world. We have been a generous people. Look at our foreign aid tab. We were generous with our funds which poured vast sums into countries to help rebuild their war-plagued economies. We were generous with our funds that helped to establish many of the very factories which are closing ours down today.

Mr. Speaker, unemployment is one of our major enemies. Short-sighted American policy has created much of it. When will we learn?

From New England to the Deep South through the Western States, the textile and apparel industry is a very vital and necessary part of our economy. A vital and necessary part of the economy because it provides literally hundreds of thousands of jobs for hardworking, taxpaying, law-abiding citizens.

And yet right now, this very day, we are watching this industry being slowly choked. We are watching the employment rates shrink. We are witnessing plant closings.

Mr. Speaker, it seems inconceivable that we would consider tariff cuts on imports for this industry. Reduced tariffs can only lead to increased imports, and imports cost jobs. Jobs which we as a nation cannot afford to lose.

We must consider the impact of our trade policies on domestic employment. We must place basic American interests first when it comes to our textile and apparel industry. We cannot afford to lose an even greater share of the U.S. textile-apparel market to foreign imports.

Mr. MANN. I thank the gentlemen who have spoken and wish to thank them on behalf of the industry for the oversight that his subcommittee and he individually have furnished, and the leadership that he is furnishing on that committee toward seeking a solution for this problem.

Mr. Speaker, today we have heard from approximately 50 Members of this House expressing their concerns about the import problem. There have been many discussions in this hall concerning this problem, and we are still seeking that elusive lasting solution. We seem to be the victim of habitual behavior in this as well as other areas.

Not since 1957, 20 years ago, has the American textile industry enjoyed a favorable balance of trade. In recent years we have developed some solutions. With our current tariff structure and multifiber arrangement, some measure of control has been brought to the import picture. In spite of that, there has been a 14-percent growth in import penetration in the textile industry since the MFA went into being in 1974, but now we are confronted with a true crisis with the administration apparently taking the position that our international posture requires a tariff-cutting exercise.

When the MFA was agreed to, or tentatively agreed to, in Geneva 2 months ago, our negotiators' industry representatives and others proceeded on the assumption that the tariff levels and the tariff structure would remain the same. No one was satisfied with the MFA because it did not solve the problem of the 6-percent annual growth that is allowed for imports as against an increase in the domestic market of less than 3 percent.

So as we confront now the multilateral treaty negotiation, if the textile industry is laid upon the table to be traded off and fluffed off with other commodities and other considerations in the world, then we are faced with what I feel is a disaster for the textile industry, but even more importantly a disaster for this country, because the importance of the textile industry in terms of employment has been pointed out in its numbers. The importance of the textile industry with reference to the strategic defense capability of this country surely cannot rely upon outside sources for uniforms and for parachutes and for those many things that are necessary were this country to be confronted with an armed conflict.

The historical effects of tariffs and of reductions in tariffs are well demonstrated. In 1955 there was a reduction in tariffs with Japan in particular and it developed that imports increased so rapidly, not just from Japan and the major exporting countries but also from other countries that got into the act because our market then became attractive to them, that it was necessary at that time to provide for an emergency tariff control or increase within a year.

I can only suggest to the administration that in the jobs program that I referred to earlier, 2.3 million people are paying taxes and producing goods for the people of this country even now with a trade deficit, and we read the disturbing news of the increasing trade deficits of this country across the board. I should point out that of the $9 billion deficit last year, $3 billion of that was traceable to the textile deficit, and there seems to be an increase occurring this year.

Mr. Speaker, the record clearly shows that our domestic textile industry has not fared well in affairs of international trade. The industry simply cannot tolerate such a deteriorating condition, and history has proven too well that a reduction in textile tariffs will result in an increase in imports. We have a tenuous position in the industry at this point.

I must insert here that, as we have heard here today, there are sweatshop conditions that exist in other countries and low wages exist in other countries. We see on the other hand the Government-regulated requirements that we are putting on our industry, requiring them to pull up their corporate profits for the last few years and requiring the profits to be invested in environmental and other governmentally required improvements to plants and operations, which of course contribute to the quality of life of our people. But do we trade off the industry as a whole and accept the sweatshop products of other countries without considering what we are doing to ourselves?

Mr. Speaker, I strongly believe that our best course of action is to exempt the entire textile sector from the Tokyo round of tariff negotiations, and I urge the administration to adopt such a course.

I appreciate the opportunity of expressing my opinion on the problems of the textile industry, and particularly I express my appreciation to my colleagues who have joined in this effort to bring sanity to our export and import and international trade policy with reference to this most important of our industries in this country.

Mr. MATTOX. Mr. Speaker, during the last 10 years textile imports into the United States have increased more than twice as fast as our domestic textile market has grown. As a result, employment in this industry declined by approximately 144,000 jobs at the same time there was a market growth of nearly 3 percent.

The textile/apparel industry is the largest industrial employer we have, providing 2.3 million jobs. Trade policies which weaken this industry also have a critical effect on both our balance of payments and our rate of unemployment.

As a member of the National Security Task Force of the House Budget Committee, I am also concerned about disruptions in this industry having an adverse effect on our national security. The importance of textiles to our national defense has been rated second only to the steel industry. In a national emergency we may not be able to look to outside suppliers for the textile products we need. For this reason alone, it is of vital importance to keep our domestic capability strong.

The health of the textile industry is of special concern to women. They hold 81 percent of apparel jobs. These jobs provide needed opportunities for first-time entrants into the work force, especially women who have been out of the job market for 15 or 20 years because they have sacrificed to raise children.

Our American textile market is the largest in the world. Other exporting nations use various devices to target unrealistically priced products into our market. Because these countries are not subject to the same quality and safety standards, they have an unfair competitive advantage over our own industry.

When a textile or apparel plant is forced to close because of inability to compete with imports from countries where wage rates are shamefully low and employee working conditions are intolerable, not just the plant personnel are affected.

This is especially true in a small town. The whole town suffers from the loss of productivity and revenue, not to men-

tion the emotional loss for those workers who took pride in their work.

Although the employees may be eligible for trade adjustment assistance, it is just short-term help if it is approved and does not necessarily lead the recipients back into useful full-time employment.

The majority of those employees who lose jobs when apparel and textile plants close are usually women and members of minorities who are skilled sewing machine operators or are only skilled in some phase of textile or apparel production. Even if there are other jobs available in the community, skills learned in apparel production are not always readily transferrable and many people must remain unemployed.

Most of the people who work in these plants have to work in order to support their families. This is true even of those who are bringing in a second income to their families. Without that income, the family will have to cut back on some of the things it needs in order to live a decent life. This cutback also affects local merchants, who suffer from decreased demand for their goods.

Unemployed workers place a double burden on Government finances. Not only are they receiving public assistance in the form of unemployment compensation checks, food stamps, et cetera, but they are also not adding to Government revenues as they were through taxes when they were employed.

This human side of plant closings due to imports must be taken into consideration when the administration determines its trade policy. It is essential that the United States engage in world trade, but it is equally essential that such trade be truly fair to all concerned.

That is why we cannot lower our tariffs. That is why we must conclude more agreements with countries that export to us and that are likely to export to us. Otherwise, we will face a disaster. Our administration must make certain that this does not happen.

Our existing tariff schedules are inadequate. They do not offer a fair and balanced international textile trade situation. It is absolutely necessary that these tariffs be reevaluated during the Tokyo trade negotiations with the objective of placing our domestic industry on a sound footing.

Mr. YATRON. Mr. Speaker, I rise to speak on imports, but with a slightly different orientation. Not only will I comment and present statistical information on the tremendous damage that the Government's trade policies have caused in my jurisdiction, in the Commonwealth of Pennsylvania, and in this country, but I will first point out some things that are often ignored and recommend to the administration and this Congress a new analysis of this old problem.

The most frequent argument heard in favor of allowing underdeveloped countries free and unlimited right to export into this country is that this provides jobs for their people; with the implication that those jobs bring the dignity that jobs have brought to the American worker. This is false.

What the United States is fostering by this policy is the continued subjugation of the nationals of underdeveloped countries by outsiders.

A great percentage of the production facilities located in these underdeveloped countries are owned by nationals of developed countries, including the United States. It is they who reap the profits from the labors of the workers of the underdeveloped countries; workers who are paid sums like 16, 18, and 21 cents per hour for their labor. We are encouraging the very type of sweatshop which the unions in this country were formed to eliminate, while at the same time depriving the workers in this country of the right to work.

This is done in the name of the "workers" in underdeveloped countries, but is actually done for the benefit of entrepreneurs from fully developed countries with booming economies. This is wrong.

If the cost to the American taxpayer in unemployment compensation, retraining programs, and other related expenses were fully calculated, it is my belief that we could conclude that rather than continue to encourage the financial subjugation of workers in underdeveloped countries by a so-called free trade policy, our American taxpayers and workers, and the workers in the underdeveloped countries would be better off with a new aid program which would directly aid the countries, whose exports to the United States would be reduced, to develop their natural resources and indigenous industries which would be in the hands of their own nationals.

As to the damage that has been done to the Commonwealth of Pennsylvania and its residents, the facts are clear. Imports of women's and children's apparel have increased more than 250 percent between 1966 and 1976. Many of the contractors who do the actual sewing of these garments are located in Pennsylvania and many in my district.

This is clearly a Pennsylvania as well as national problem. The seriousness of this problem from the point of view of Pennsylvania can best be emphasized by the fact that the decline of employment in Pennsylvania between 1966 and 1976 was almost 100 percent greater than the decline in jobs for the country as a whole. One-half of the total number of jobs lost in the garment industry in this period was lost in Pennsylvania.

In the United States it is not the large entrepreneurs who are engaged in the cutting and sewing of women's apparel but "mom and pop" shops which represent the best form of the free enterprise system. The U.S. Bureau of Census, County Business Patterns publication for 1973 stated that the average women's and children's apparel contracting plant employed 53 people en toto; including executives and administrators. Multiplant organizations are uncommon.

No one can complain that profitability in the domestic industry is unreasonable. Statistics compiled by Dun & Bradstreet, Inc. indicate that in 1975 the average net profit earned on sales by blouse manufacturers in the women's and children's wear industry was 1.28 percent.

A new awareness of the fact that lower cost of production overseas does not profit the American consumer is finally encroaching on the public's consciousness. As recently as September 5, 1977, Business Week featured an article in its economic section which it subheaded with the statement that—

A new study concludes that it (free trade) allows apparel retailers to take bigger markups.

The article went on to note that savings were not passed on the consumer.

It seems clear from all of this that to be profree trade is to be against the American worker and the American consumer.

Let the problems of those overseas be handled directly.

The recommendation which I would like to make is to cut off all imports. This must be modified, however, taking into account the realities of the situation in the world today.

The following recommendations were formulated by the Atlantic Apparel Contractors Association and adopted by and transmitted to the Pennsylvania Congressional Delegation Steering Committee which then sent to the White House a letter dated August 10, 1977. In that letter the Pennsylvania Congressional Delegation Steering Committee recommends, and I herewith recommend, the following proposals:

The Multi-Fiber Tariff Arrangements which expire at the end of this year as well as the Bi-Lateral Arrangements with countries not covered thereby should be amended to provide as follows:

(a) Imports should be limited to rise at a maximum rate of 3% in excess of the amount provided for in the previous year, or the actual rise in total domestic production during the previous year, whichever is less.

(b) The practice of allowing newly created industries in less developed countries to export to the United States without restrictions initially should be amended to provide that any such increase should result in a limitation on the 3% increase that all other countries are allowed to enjoy in any year pursuant to (a) above.

(c) The practice of borrowing from one import category or from a succeeding year's quota to justify an increase in imports in another category should be discontinued.

(d) Notwithstanding the fact that a manufacturing facility may be located in a less-developed country; if it is operated or controlled, directly, or indirectly, by the nationals of another country, then items imported from that plant should be charged against the quota of the country whose nationals control the manufacturing facility.

I further recommend, as did the Pennsylvania Congressional Delegation Steering Committee, that Item 807.00 of the Tariff Schedule of the United States be amended so that it will operate as interpreted by the Tariff Commission in 1963. This will result in duty-free entry of American made parts of a foreign manufacturer's product being permitted *only* if it is readily separable, i.e. constructively segregated. It will insure that garments cut in the United States *cannot* be sewn abroad without tariff being payable on the value of the entire garment.

While the foregoing does not result in a termination of imports of garments, it is at least calculated to protect against unpredictable increases in imports

dampening the economy in this area even as it picks up for the balance of American industry.

In summary, I recommend your attention to the questions raised at the beginning of my statement. Analyze the cost to the American taxpayer of unrestricted imports in the apparel and other industries in terms of costs related to lost jobs. Analyze where the money paid for imports really goes. It is my belief that when this is calculated precisely it will shock even the most ardent free trader.

This Congress and this administration should make a policy decision as to the appropriate distribution of the large amount of taxpayer money spent because of imports. It is my opinion that the money would be better spent by preserving jobs in the United States and helping the economies of underdeveloped countries to mature along lines that are suggested by their own resource bases, free of outside control and dominance.

Mr. RICHMOND. Mr. Speaker, the apparel industry is an indigenous industry of my district. It has historically been one of the most basic sources of employment, not only for my district, but in fact the largest source of manufacturing employment in all of the New York area. Thus the massive amount of garment imports in the last several years has been a contributing factor in our economic difficulties. If imports are to continue as in last years, the effect on New York will be worse than the Great Depression. Some 115,000 jobs have been lost in New York in the past decade.

There had been hope that the multifiber arrangement would provide significant relief to the firms and workers in this industry. Unfortunately, this has not proved to be the case and the future prospects suggest more of what has been our experience in the last decade; declines in apparel production, greater unemployment, and imports taking over our domestic markets.

Let me cite what has happened to the major branches of the men's and boys' apparel industry over the last 10 years. The import penetration rates have jumped dramatically. The most striking is that for men's and boys' suits, where in 1967 the import penetration level was only 1.2 percent of domestic production. By 1976, it is estimated to have reached about 22½ percent or well over one-fifth of the market.

For coats and jackets imports, penetration leaped from the substantial level of 9½ percent in 1968 to nearly 45 percent, or almost half of the domestic market by 1976. The situation for trousers and shirts, both of which had suffered from the already high import penetration levels of 15.6 percent and 14.8 percent, respectively, in 1968, show the imports to have shot up to 45 percent in trousers and 40.4 percent in shirts.

This bleak picture has developed over the last decade despite constant effort on the part of the U.S. Government to control imports through multilateral and bilateral agreements. Now, however, the Government proposes to further exacerbate the problem by cutting tariff rates for textile and apparel products.

Indeed, it would be completely inconsistent policy to have apparel and textiles receive import relief under bilateral agreements negotiated with the exporting nations and then have that relief vitiated by cutting tariffs on these products.

The extreme import-sensitivity of all apparel and textile products is also evidenced by the statutory exclusion given to these products from the generalized system of preferences under the Trade Act of 1974. Since Congress has determined that GSP duty-free treatment of apparel and textiles is neither warranted nor necessary, this too supports the position that there can be no justification for reduction in the U.S. duty rates on these products in the upcoming multilateral trade negotiations.

Indeed, to cut these imports duties after Congress exempted such products from preferences would act to negate congressional action.

The issue is not that of choosing between free trade and protectionism. It is a case of weighing the full consequences for not only the people in my district but for the Nation as a whole. Can we permit the escalating erosion of this industry, which provides livelihood to such a large number of people for who few alternative opportunities exist?

People will do desperate things when they see their economic security and future hopes relentlessly threatened.

The import situation must be stabilized now if the economic and social fabric of cities is to be maintained.

Mr. COHEN. Mr. Speaker, I appreciate this opportunity to express my views on the importance of the textile and apparel industries to the United States, and on the need to establish effective trade policies which will permit those industries to prosper.

There was a period during the 19th century when the United States exported fabric to many parts of the world. We sent cloth in American vessels to Europe, to the East, and to Africa. In fact, American-made cloth was so common in certain remote areas that the inhabitants believed that all material came from the United States. In the East Africa of Livingstone's day cloth from the mills of New England was used in African markets as a medium of exchange. Even today, the swahili word "amerikani" or "merikani" means fabric in the coastal regions of Kenya and Tanzania.

The legend which persists does not reflect the situation which exists today. American textile and apparel manufacturers are no longer recognized as great exporters of their goods. Indeed, American firms are having difficulty holding on to the traditional markets within the United States on which they have grown to depend. Massive importation of foreign cloth and apparel is to blame.

In my own State of Maine, there are 9,400 textile workers and 3,500 apparel workers. Together these employees represent 12 percent of all manufacturing employment in the State. In 1977 alone, these workers will earn an estimated $96.6 million. In several of Maine's smaller cities, the textile and knitting mills constitute the only industrial employers in the area. The mills, as a result, play a vitally important economic role in communities and, to a significant degree, they dictate the extent to which many communities prosper or decline.

Steadily increasing cloth and apparel imports are hurting these communities in Maine.

Between 1974 and 1976, the amount of imported wool fabric and apparel rose by 18 percent, an amount which was double the rate of growth for these goods in the domestic market.

In the most recent 12-month period, these imports were up by 54 percent.

The situation is easily understood if one looks closely at the experiences of specific manufacturers. For example, one knitwear manufacturing firm in my district, the Emple Sales Corp. of Brewer, Maine, lost to imports business in excess of $600,000 in 1968, $180,000 in 1971, $150,000 in 1972, and $200,000 in 1974. That averages out to over $160,000 per year in lost business over a 7-year period. If permitted to continue, that translates into unemployment, idle machinery, defaulted loans, and vacant, crumbling buildings. In Maine it usually has one added effect: the deterioration of communities resulting from an out-migration of the young in search of work.

This body has a responsibility to address the textile and apparel import penetration problem. Two actions can and must be undertaken. First, we must strenuously encourage the President to promptly renew the multifiber arrangement (MFA) with improvements which will prevent the already high quotas granted to our trading partners from being increased precipitously. Second, we must impress on the President and his Special Representative for Trade Negotiations the absolute necessity of tightening the existing tariff rate structure which prevents floods of imports from those nations with which the United States does not have bilateral agreements governing textile imports.

Our involvement in this matter becomes even more necessary now that our international economic policy planners are considering loosening, rather than tightening, the tariffs. Robert S. Strauss, the President's Special Representative for Trade Negotiations, was quoted recently as saying; "Textiles and apparel definitely will be included in any Tokyo round negotiations." If this is the case, I would hope that Mr. Strauss will bear in mind that tariff cuts have historically resulted in increased imports. I would hope that he will remember that in the first year following the Kennedy round cuts imports increased by 28 percent and that within 5 years of those cuts they had increased by 150 percent. Lastly, I would hope that Mr. Strauss will not forget that during 1976 alone, textile and apparel imports increased by 30 percent over the previous year.

The textile and apparel industries constitute an important segment of our local and national economies which must not be allowed to atrophy as a result of unsound trade decisions and a lack of attention by the Federal Government. I hope that many of my colleagues in the Congress will join with me in sending this message to President Carter.

Mr. JENRETTE. Mr. Speaker, the textile industry is crucial to the United States and particularly to the State of South Carolina which I have the pleasure to represent in this body.

The textile import problem is naturally of utmost importance and interest to the State of South Carolina. More than 60 percent of the industrial employment in our State is in textiles and related industries. South Carolina produces on an annual basis 15 percent of the cotton, synthetic, and wool fabrics in the Nation.

Even though the cotton textile industry has the benefit of the multifiber arrangement, the cotton textile situation looks like this. In 1976, there was an increase in the cotton bale equivalent of cotton imports of 432,000 bales over 1975. Although there is an almost absolute quota on the importation of upland type raw cotton imports, this quota does not extend to manufactured cotton textiles. In 1976, cotton textile imports totaled 2 billion square yards, a 53-percent jump over 1975.

Mr. Speaker, this circumstance will have a doublebarreled effect in the long run. Not only does it have an immediate effect upon the cotton textile industry and those employees engaged in the industry, but it will seriously affect the cotton growers in our country. In South Carolina, for example, cotton added $48 million to the gross income of the State in 1975. The market for this cotton is in the domestic textile mills of this Nation. If production and employment continue to be affected as a result of low-price imports, the market for our own domestic cotton will be decreased proportionately. This, in turn, means that the Government's cotton program will be more expensive to the taxpayers of our country, since there will be an insufficient market to handle domestic cotton production.

There are a number of things which can be done to correct the problem which exists in the textile industry, both as to cotton and other fibers. The No. 1 thing is that no tariff reductions on any textile product should be negotiated by the administration in the upcoming multilateral trade negotiations. The massive volume of imports already attests to the fact that there is no need for a tariff reduction to make the U.S. market available to foreign imports of textile products. In fact, Mr. Speaker, the only purpose any negotiated reductions in our tariff structure on textiles would serve would be to inflict greater damage upon the textile industry. I am absolutely confident, Mr. Speaker, that that is not the desire of our Government.

In conclusion, the United States can no longer afford to delay taking effective action to bring the rate of increase of imports of textile products under effective control.

Yes, foreign trickers aided by loopholes in our laws and by attitudes of many who administer our import-export market, are causing the demise of the American cottonpicker—we must not allow that to happen.

The hour is at hand, Mr. Speaker. Action must be taken.

FEDERAL ASSISTANCE EQUALITY ACT OF 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 60 minutes.

Mr. EDWARDS of California. Mr. Speaker, today I am introducing with my colleagues, Mr. DRINAN and Ms. JORDAN, the Federal Assistance Equality Act of 1977, a comprehensive revision of title VI of the Civil Rights Act of 1964 relating to equality of opportunity in federally assisted programs.

Title VI of the Civil Rights Act of 1964 directs Federal agencies to enforce compliance with that title's prohibition against racial or ethnic discrimination in federally assisted programs. The responsibility for assuring that federally assisted programs do not engage in unlawful discrimination rests with those Federal officials who operate the programs. Although there has been progress over the last 10 years, Federal title VI responsibilities have not been effectively discharged. The Federal program suffers from a number of significant and well-documented deficiencies, including the lack of overall leadership and coordination among the agencies, despite Executive orders directing the Attorney General to coordinate enforcement, the absence of consistent guidelines and strict time limits for processing complaints, the failure of agencies to utilize the findings of discrimination of other forums, particularly State and Federal courts, and the agencies' failure to conduct a sufficient number of compliance reviews, both pre- and post-award. Finally, the overall impact of title VI is seriously hampered because it is limited to discrimination based on race, color, or national origin. The bill we introduce today seeks to correct these and other deficiencies. It addresses the need for restructuring and improvement of the Federal effort to assure that the billions of dollars spent on Federal financial assistance each year are not being used to perpetuate unlawful discrimination.

In a report issued by the U.S. Civil Rights Commission in November of 1975, "The Federal Civil Rights Enforcement Effort—To Extend Federal Financial Assistance," the Commission evaluated the civil rights activities of several Federal agencies responsible for assuring nondiscrimination in their federally assisted programs. In its report, the Commission concluded that:

> During the past few years dedicated staff in a number of Federal agencies have tried hard to establish viable equal opportunity programs, but, largely because of inadequate governmentwide leadership, these efforts have often been futile.

After finding widespread shortcomings in the title VI enforcement effort, the Commission recommended a number of changes, including legislative revision of title VI.

The Commission's findings parallel those of congressional committees which have undertaken studies of a similar nature, including the House Judiciary Committee Subcommittee on Civil and Constitutional Rights, which I chair. The subcommittee and the full committee have examined the antidiscrimination enforcement activities of several agencies in connection with specific Federal programs.

As a result of our activities, there have been several instances in which I have been forced to conclude that specific statutes as originally enacted have proved ineffective, cumbersome, and incapable of accomplishing the goals they were designed to achieve. There are times when we must conclude that no matter how good our earlier intentions, the results we intended have not been forthcoming because the mechanisms necessary for achieving those results are not available. In such cases, legislative revision becomes imperative.

For example, in October 1975, the subcommittee held hearings on the civil rights aspects of revenue sharing. As a result of those hearings the subcommittee issued a report calling for certain administrative and legislative changes designed to enhance enforcement of the civil rights provisions of the General Revenue Sharing Act. I testified before the Subcommittee on Intergovernmental Relations and Human Resources of the House Committee on Government Operations in November 1975, to present the findings and recommendations contained in the subcommittee's report. Because the Government Operations Subcommittee had legislative jurisdiction over the revenue sharing program, and was at that time considering proposals for extension and modification of the program, the focus of my testimony was on the subcommittee's recommendations for legislative modifications. The subcommittee's recommendations were adopted by the Government Operations Subcommittee as civil rights amendments to the General Revenue Sharing Act. These amendments subsequently were adopted by the full Committee on Government Operations, the House, and, in revised form, by the conferees on the extension of general revenue sharing. As a result, the civil rights provisions of the enactment of the amendments.

At the same time, the House was also considering legislation reauthorizing the Law Enforcement Assistance Administration. Civil rights language almost identical to that adopted by the House Government Operations Committee was adopted by the House Judiciary Committee for the LEAA program. The full House passed the LEAA civil rights amendments, and they were accepted by the Senate.

Certain fundamental concepts were agreed to in the development of last year's civil rights provisions for revenue sharing and LEAA. First, that the Federal enforcement agency should be required to take cognizance of discriminatory findings by courts, by agencies after a due process hearing, and by the U.S. Attorney General. Second, if a finding of discrimination had been made, then the Office of Revenue Sharing and LEAA should be required to send notice to the recipient. If compliance is not achieved in a specified number of days, the funds to that recipient would be suspended temporarily. Third, the recipient government could request an administrative hearing on the matter, but if compliance is not achieved within a specified number of days after suspension, the money would be terminated premanently. Fourth, the recipient should be given every incentive to come into voluntary compliance, but negotiations toward compliance would not disrupt the suspension and termination timetables. Fifth, private individuals must have their complaints investigated within a reasonable period of time. And sixth, private individuals should be allowed to go to the courts to seek relief.

Throughout the many months which it took for the legislative process to move these basic concepts from the form of an introduced bill to enactment into law, these basic concepts were not comprised. The timetables, the triggering mechanisms, the hearings available to the recipient, the issues allowed to be heard in hearing, and the rights of private parties vary. Revenue sharing has one set of timetables, LEAA another; revenue sharing notices of noncompliance are triggered by one set of holdings or findings, LEAA notices are triggered by another set. But the basic concepts are the same. The legislation we are introducing today incorporates those basic concepts and applies them to all Federal departments and agencies which extend Federal financial assistance.

This bill, whose provisions parallel many of the changes in the civil rights aspects of revenue sharing and LEAA programs, will bring about similar improvements in the enforcement of the civil rights requirements of federally assisted programs. It also aims to create greater uniformity in policies and standards by placing overall direction of the program within the Executive Office of the President. It aims to correct the glaring omission of sex discrimination by adding sex to its coverage as well as age and handicap. Enforcement mechanisms are tightened and improved with more stringent timetables, along with the addition of private remedies which has proved to be one of the most effective tools of civil rights enforcement.

Some of the basic proposals for reform contained in this bill could be implemented through means other than legislation, that is, through Executive order and reorganization. Indeed, in its 1975 report, the Civil Rights Commission recommended that the prohibition of sex discrimination in any federally assisted program be accomplished by Executive order. The Commission also recommended that the transfer of the responsibility for coordinating and directing the title VI effort to the Executive Office of the President be accomplished by Executive order. Moreover, I am advised that the Civil Rights Task Force of the President's Reorganization Project plans to examine title VI enforcement after completing its study of equal employment opportunity enforcement. I have indicated the subcommittee's willingness to work with the task force on this project. It may be that the goals we seek to implement through this bill will be adopted by the task force.

But regardless of the final decision as to the most appropriate vehicle for change, I am convinced that the legislative process is a proper forum for stimulating public comment on all of these proposals, and to indicate congressional concern to the administration. If introducing the bill and holding hearings can serve to initiate a general examination of title VI—an examination that is long overdue—then we will have accomplished a substantial portion of our goal in drafting this legislation. We must begin the process now, however, if equal opportunity in federally assisted programs is to become a reality.

So that a short description of the bill is readily available to all, my colleagues Representatives DRINAN and JORDAN and I wish to insert a section-by-section analysis at the conclusion of our remarks.

FEDERAL ASSISTANCE EQUALITY ACT OF 1977—SECTION-BY-SECTION ANALYSIS

Section 1. Provides a short title for the act.

Section 2. Amends Title VI of the Civil Rights Act of 1964 so as to make the following revisions:

(1) Section 601. (a) Re-enacts the existing Section 601 and adds "sex" as a prohibited ground of discrimination;

(b) Keys in the prohibitions against discrimination based on age and handicap contained in the Age Discrimination Act of 1975 and the Rehabilitation Act of 1973.

(2) Section 602. (a) Requires each federal executive agency providing federal financial assistance to send notices of non-compliance to recipients whenever (i) a state or federal court finds discrimination; (ii) a state or federal agency, after notice and opportunity for hearing, finds discrimination; (iii) such agency determines there is reasonable cause to believe a recipient has discriminated in a federally assisted program; or (iv) receives a reasonable cause determination of another agency from the Executive Office of the President;

(b) Places an affirmative obligation upon each agency to discover state or federal court or agency findings which would "trigger" enforcement proceedings, and gives the Executive Office of the President the duty to establish uniform procedures for such discovery;

(c) Requires each federal agency to commence enforcement proceedings within 10 days of any of the four "triggering" events by sending a notice of non-compliance to the recipient. Gives the recipient 30 days to comply voluntarily before assistance is suspended. Requires the Executive Office of the President as well as the federal agency and the recipient to sign any compliance agreement;

(d) Requires each agency to forward its reasonable cause determinations to the Executive Office for possible forwarding to other agencies;

(e) Gives the Executive Office the responsibility to coordinate enforcement of Title VI, thus transferring that authority from the Attorney General.

(3) Section 603. Requires suspension of assistance 30 days after notice, limiting the suspension to the program or activity in which the discrimination has been found or determined to exist, if compliance is not achieved.

(4) Section 604. Describes the circumstances which require resumption of federal financial assistance after it has been suspended. Such circumstances include reversal of a discrimination finding or determination by a court or agency, and compliance with the non-discrimination requirements which triggered the suspension.

(5) Section 605. (a) Requires termination of assistance 60 days after suspension, and authorizes the agency to seek repayment of all or some of the prior assistance;

(b) Describes the circumstances which will preclude termination, including a court or agency reversal of the discrimination finding or determination, and compliance with the non-discrimination requirements which triggered suspension.

(6) Section 606. Requires deferral on applications or other requests for assistance upon the discovery of an event which would trigger commencement of enforcement proceedings under section 602.

(7) Section 607. (a) Authorizes the Attorney General to initiate litigation against a recipient either if there is a pattern or practice of violations or if an agency recommends such action;

(b) Requires suspension of funds 45 days after the Attorney General commences a suit unless the court otherwise orders;

(c) Authorizes the Attorney General to intervene in any private suit initiated under Title VI;

(d) Describes the kind of relief which the Attorney General may seek when bringing or intervening in a suit.

(8) Section 608. Codifies the right of aggrieved, private individuals to institute actions under title VI, and describes the relief which may be awarded.

(9) Section 609. (a) Requires each agency to promulgate regulations within 60 days of enactment of the Act or of any new authorization for federal financial assistance. Such regulations shall include time periods for processing complaints and conducting compliance reviews;

(b) Gives the Executive Office of the President the authority to review and approve (or reject) proposed regulations promulgated under subsection (a);

(c) Provides a similar procedure for amendments to existing regulations as is provided in subsection (b) for new or initial regulations.

(10) Section 610. Defines the terms "Federal executive agency" and "State."

H.R. —

A bill to revise title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Assistance Equality Act of 1977".

REVISION OF TITLE VI OF 1964 ACT

SEC. 2. Title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964 is amended to read as follows:

"TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

"PROHIBITION OF DISCRIMINATIONS

"SEC. 601. (a) No person in the United States shall, on the ground of race, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

"(b) No person in the United States shall be subject to an act or omission that would constitute a violation of section 303 (42 U.S.C. 6102) of the Age Discrimination Act of 1975 or of section 504 (29 U.S.C. 794) of the Rehabilitation Act of 1973 under any program or activity receiving Federal financial assistance.

"TRIGGERING MECHANISM FOR COMPLIANCE; VOLUNTARY AGREEMENTS; COORDINATION

SEC. 602. (a) Each Federal executive agency providing Federal financial assistance shall, in accordance with subsection (c), commence enforcement proceedings against a recipient of such assistance whenever—

(1) a State or Federal court finds that a recipient of Federal financial assistance has violated section 601 or otherwise discriminated on the ground of race, color, sex, national origin, age, or handicap;

(2) a Federal executive agency or a State agency, after notice and opportunity for a hearing, finds that a recipient of Federal financial assistance has violated section 601 or otherwise discriminated on the ground of race, color, sex, national origin, age, or handicap;

(3) such agency, after an investigation, determines there is reasonable cause to believe that a recipient of Federal financial assistance has violated section 601 or otherwise discriminated on the ground of race, color, sex, national origin, age, or handicap; or

(4) the Executive Office of the President, under subsection (a), refers to such agency any reasonable cause determination of another agency made under subsection (a)(3).

(b) It shall be the duty of each Federal executive agency providing Federal financial assistance to discover in a timely fashion any findings of discrimination under subsections (a)(1) and (a)(2) that would result in the commencement of enforcement proceedings. The Executive Office of the President shall, under subsection (e), establish uniform procedures to assure that each such agency timely discovers such findings.

(c) Within ten days after discovery of such findings, after its own determination of reasonable cause, or after a referral under subsection (a)(4), each Federal executive agency providing Federal financial assistance to a recipient found or determined to have discriminated shall commence enforcement proceedings under this title by sending a notice of noncompliance to such recipient. Such notice shall advise the recipient that Federal financial assistance will be suspended, in accordance with section 603, unless agreement for compliance is secured within thirty days after the date of the notice. If such recipient agrees to comply, the terms and conditions agreed to shall be set forth in writing and signed by the recipient, the Federal executive agency, and the Executive Office of the President.

(d) Whenever a Federal executive agency determines reasonable cause under subsection (a)(3), such agency shall, in addition to commencing enforcement proceedings, simultaneously forward its determination to the Executive Office of the President for review within fifteen days after receipt by such Office. If such Office approves such determination, then such Office shall forward such determination to all other Federal executive agencies.

"(e) The Executive Office of the President shall coordinate enforcement by the Federal executive agencies of this title. Such Office shall prescribe standards and procedures regarding implementation of this title and shall assist such agencies in accomplishing that implementation effectively. The Executive Office of the President may adopt such rules and issue such orders as are necessary to carry out the functions of such Office under this subsection.

"SUSPENSION

"SEC. 603. If, by the end of the thirtieth day after notice under section 602 of this title, such recipient has failed to enter into a compliance agreement, each Federal executive agency providing Federal financial assistance to such recipient shall suspend further assistance to such recipient. Such suspension shall be limited to the program or activity with respect to which a determination or finding of discrimination described in section 602(a) of this title was made. Such suspension shall not occur if the recipient is in full compliance, as determined by the court or agency whose determination or finding triggered the notice under section 602(a) of this title, with any relevant remedial order of such court or agency.

"RESUMPTION OF FINANCIAL ASSISTANCE

"SEC. 604. At any time after suspension under section 603 of this title but before termination, suspended assistance shall be resumed only if the suspension arose out of—

"(1) a State or Federal court or State agency or Federal executive agency finding of a violation of section 601 or other discrimination and—

"(A) that finding has been reversed after judicial review or appellate proceedings; or

"(B) the recipient has fully complied with the remedial terms of an order issued by such court or agency as determined by the court or agency issuing the order; or

"(2) a reasonable cause determination of a Federal executive agency and—

"(A) such agency fails to find a violation of section 601 or other discrimination after affording the recipient an opportunity for a hearing; or

"(B) the recipient has entered into a compliance agreement signed by such Federal agency, the recipient, and the Executive Office of the President.

"TERMINATION

"SEC. 605. (a) Not later than the sixtieth day after the commencement of suspension of financial assistance under section 603 of this title, each Federal executive agency that has suspended such financial assistance shall terminate that financial assistance and may order repayment by the recipient of some or all prior financial assistance provided by such agency to the program or activity with respect to which a determination or finding of discrimination described in section 602(a) of this title occurred.

"(b) The termination required under subsection (a) of this section shall not take place if the suspension arose out of—

"(1) a State or Federal court or State agency or Federal executive agency finding of a violation of section 601 or other discrimination and—

"(A) that finding has been made the subject of judicial review and, after such judicial review or appellate proceedings, has been reversed; or

"(B) the recipient has fully complied with the remedial terms of an order issued by such court or agency as determined by the court or agency issuing the order; or

"(2) a reasonable cause determination of a Federal executive agency and—

"(A) such agency fails to find a violation of section 601 or other discrimination after affording the recipient an opportunity for a hearing; or

"(B) the recipient has entered into a compliance agreement signed by such Federal agency, the recipient, and the Executive Office of the President.

"AGENCY DEFERRAL MECHANISM TO ASSURE COMPLIANCE

"SEC. 606. (a) Each Federal executive agency, in processing any application or other request for Federal financial assistance, shall defer or deny, such application or other request beginning when such agency discovers a determination or finding that results in, or would, if the party making such application or request were receiving financial assistance from such agency, result in, the commencement of enforcement proceedings under section 602 of this title. Such deferral or denial shall continue until a compliance agreement is signed or another event occurs that results or would result, if the party making such application or request were receiving financial assistance from such agency, in resumption of such assistance.

"(b) The provisions of subsection (a) of this section shall apply to all applications or requests for assistance, including such applications or requests from potential recipients seeking assistance for the first time, recipients seeking renewal or continuation of assistance, recipients whose assistance is suspended, and recipients whose assistance has been terminated.

"ENFORCEMENT BY THE ATTORNEY GENERAL

"SEC. 607. (a) The Attorney General may commence a civil action against any recipient if—

"(1) the Attorney General believes that such recipient has engaged in a pattern or practice of violations of section 601 of this title; or

"(2) a Federal executive agency that has suspended or terminated financial assistance to such recipient under this title recommends commencement of such action.

"(b) Beginning on the forty-fifth day after the commencement of a civil action under subsection (a)(1) of this section, each Federal executive agency providing financial assistance to a program or activity with respect to which the pattern or practice of violations is alleged shall, unless the court orders otherwise, suspend such financial assistance, pending the conclusion of such civil action. The Attorney General shall give timely notice to each Federal executive agency providing financial assistance to such program or activity of the commencement of a civil action with respect to such program or activity under this section.

"(c) The Attorney General may intervene in any civil action commenced by any person under section 608 of this title.

"(d) In any civil action commenced under this section or in which the Attorney General intervenes under this section, the court may grant appropriate relief to enforce the rights guaranteed by section 601 of this title. Such relief may include any temporary restraining order, preliminary or permanent injunction, or other order, including the suspension, termination, or repayment of Federal financial assistance, or the placement of funds in escrow pending the outcome of the litigation.

"PRIVATE ENFORCEMENT

"SEC. 608. Any person aggrieved by a failure to comply with this title may institute

a civil action in a State or Federal court to enforce the rights guaranteed by this title against the person or other entity responsible for such failure and recover appropriate relief. Such relief may include any temporary restraining order, preliminary or permanent injunction, or other order, including the suspension, termination, or repayment of Federal financial assistance, or the placement of funds in escrow pending the outcome of the litigation.

"REGULATIONS

"SEC. 609. (a) Within sixty days after the date of the enactment of this Act or of an Act authorizing Federal financial assistance, each Federal executive agency authorized to provide financial assistance shall publish in the Federal Register proposed regulations regarding—

"(1) the discovery of determinations and findings of discrimination made by State or Federal courts or agencies;

"(2) the investigation of complaints alleging a violation of this title, including reasonable time limits for completing such investigations;

"(3) the initiation of compliance reviews, including reasonable time limits for completing such reviews; and

"(4) the processing of applications for Federal financial assistance to assure compliance with this title.

"(b) Upon publication of the proposed regulations in the Federal Register, such Federal executive agency shall submit such regulations to the Executive Office of the President for approval. Within sixty days after such submission, the Executive Office of the President shall either approve the proposed regulations for final adoption or return such regulations with written objections to such Federal executive agency for revision and resubmission within fifteen days after such return. Final regulations shall be issued not later than one hundred and twenty days after the date of the first submission of regulations to the Executive Office of the President by such agency under this subsection.

"(c) Any amendment to regulations adopted under this section shall follow the same procedure as applies to the adoption of regulations under this section.

"DEFINITIONS

"SEC. 610. As use in this title—

"(1) the term 'Federal executive agency' has the meaning given the term 'Executive agency' in section 105 of title 5 of the United States Code; and

"(2) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any possession or other territory of the United States.".

Ms. JORDAN. Mr. Speaker, the bill Congressmen EDWARDS and DRINAN and I are introducing today is called the Federal Assistance Equality Act of 1977. We have no illusions that it will be adopted in 1977. We introduce the bill today to focus debate on current enforcement of title VI of the Civil Rights Act of 1964 and the organizational structure used to coordinate enforcement.

In March of 1976, I introduced legislation which strengthened the civil rights enforcement program of the Law Enforcement Assistance Administration. My bill was incorporated into Public Law 94–503, the Crime Control Act of 1976. During this same time last year, I offered amendments in the Intergovernmental Relations Subcommittee of the House Government Operations Committee which strengthened the civil rights enforcement program of the Office of Revenue Sharing. Those amendments were accepted by the House. Although modified in conference with the Senate, they were incorporated into Public Law 94–488, the State and Local Fiscal Assistance Amendments of 1976. Earlier this year, I introduced legislation which applied the civil rights enforcement provisions of the general revenue sharing to the countercyclical fiscal assistance program. My bill was incorporated into Public Law 95–30.

The bill we introduce today is a logical extension of these three public laws. The bill would apply the same enforcement procedures of these three public laws to all Federal departments and agencies which extend Federal financial assistance. For the first time since 1964, the bill would make enforcement of title IV truly uniform throughout the Government.

Government agencies would know exactly how and when to enforce title VI. And recipients of Federal assistance would know exactly what is expected of them. At the moment, we have neither. Some Federal agencies try to vigorously enforce title VI. Some Federal agencies appear to ignore title VI. Recipients of Federal assistance from more than one Federal agency are confronted with duplicating and sometimes contradictory civil rights implementation schedules and reporting procedures.

Since the passage of title VI, the Congress has added various civil rights provisions to separate authorizing legislation. In some programs, discrimination based on sex is included in the law and sometimes it is not mentioned. This bill would achieve uniformity throughout the Government in the basic prohibitions. One of the questions which the Congress will face as this bill moves through the legislative process is whether to repeal all the special civil rights provisions in various authorizing statutes which would conflict with the bill. That is a course of action I favor. Without doing so, we would not have achieved true uniformity.

This bill places in the Executive Office of the President the coordinative functions now assigned by Executive order to the Attorney General. The bill contemplates that the President would assign the responsibilities of coordination to an already existing unit within EOP, such as the Office of Management and Budget, or create a new unit especially for civil rights coordination. Experience has shown that it is difficult for one Cabinet official to coordinate the actions of other Cabinet officials.

Although the Executive order delegating to the Attorney General title VI coordination responsibilities specifically states the Attorney General may order another department to take specific enforcement actions, so such order has ever been issued. It is unlikely that such an order will be forthcoming in the future. Before civil rights coordination can be truly effective, it must be placed in that unit of the Government which has the power and authority to achieve uniformity throughout the Government. That power and authority is found within the Executive Office of the President. It is not contained in any other executive agency.

Mr. Speaker, the basic purpose of this bill is to strengthen enforcement so as to achieve compliance with the Civil Rights Act of 1964. Compliance is what we are after. The bill contains provisions for notifying the recipient that it is not in compliance, for suspending payments, for terminating payments and for filing civil actions. All these measures sound harsh. They are all proposed in order to induce compliance. Suspension and termination are last steps. They are in the bill because they must be there in order to have an effective civil rights enforcement program. But if compliance is achieved, suspension or termination will never happen. Under the present act, compliance is not uniformly sought. With the enactment of the provisions of this bill, compliance will be uniformly sought, for all.

Mr. DRINAN. Mr. Speaker, I join with Chairman EDWARDS of California and Representative JORDAN in the introduction of the "Federal Assistance Equality Act of 1977." This bill seeks to revise title VI of the Civil Rights Act of 1964, which forbids discrimination on the ground of race, color, or national origin in federally assisted programs or activities. We are undertaking this revision because of numerous deficiencies which have been revealed in the enforcement of that title.

The adequacy of title VI has been the subject of much examination and debate since its enactment over 13 years ago. The following is only a partial list of those who have studied its effectiveness: the Judiciary Subcommittee on Civil and Constitutional Rights, chaired by Representative EDWARDS of California; the U.S. Commission on Civil Rights; the Center for National Policy Review; the Leadership Conference on Civil Rights; and the Center for Law and Social Policy. I think it is fair to say that critics of title VI agree that improvements, either administratively or legislatively, must be made if the title is to have the impact originally intended.

The bill we introduce today seeks to make the necessary changes in title VI so that it will have the vitality which underlay its initial passage. Despite 13 years of operation, title VI has not ended discrimination in federally assisted programs. A large measure of its failure is attributable to lax enforcement by the Federal executive agencies. In its latest, massive report on that title, the U.S. Civil Rights Commission found that "Federal title VI responsibilities have not been effectively discharged." The Commission recommended a number of administrative changes; we propose to accomplish those objectives by legislation.

One of the major criticisms of title VI is the broad discretion given to the Federal agencies to enforce its proscriptions. Even though the agencies are "directed"

by title VI to effectuate its nondiscrimination provisions, they have exercised that apparently mandatory duty in a discriminatory manner. In some instances litigation has been needed to compel Federal agencies to undertake compliance activities. See *Adams* v. *Richardson*, 480 F. 2d 1159 (D.C. Cir. 1973).

This bill would correct that deficiency in several ways. First, it would require each agency to "commence enforcement proceedings" within 10 days of its discovery of a finding of discrimination by any Federal or State court or agency, or within 10 days of an agency reasonable cause determination of discrimination. Second, the bill sets out precise time periods for negotiating voluntary compliance after the commencement of enforcement proceedings, and for the suspension, termination, and resumption of Federal financial assistance.

Third, the bill also narrows the discretion of agencies by providing specific timetables for promulgating regulations to enforce title VI. In addition, it requires that "reasonable time limits" be adopted for processing complaints and conducting compliance reviews. These three changes are essential elements to revitalize title VI, and are based on similar changes Congress made last year in the nondiscrimination provisions of the revenue sharing and the law enforcement assistance acts.

A second major criticism of title VI is the scope of its coverage. Under existing law discrimination is forbidden only if it is grounded on "race, color, or national origin." We propose to broaden that coverage to include discrimination on the basis of sex, age, and handicap. To avoid confusion with other laws, we key in the provisions of the Age Discrimination Act of 1975 and the Rehabilitation Act of 1973.

The so-called "pinpoint" provision is a third area of deficiency in title VI. That provision limits termination of or refusal to provide Federal financial assistance "to the particular political entity, or part thereof, or other recipient as to whom such a finding—of discrimination—has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been found." 42 U.S.C. 2000d–1. While that provision is amenable to a broader construction, at least one court has construed it narrowly. See *Board of Public Instruction of Taylor County* v. *Finch*, 414 F.2d 1068 (5th Cir. 1969). Thus even though a recipient may be operating several programs or activities receiving Federal funds, such assistance cannot be cutoff unless discrimination is found in each and every program or activity.

This construction of the "pinpoint" provision obviously imposes a tremendous enforcement burden on the agency and is inconsistent with the underlying purpose of title VI not to provide Federal financial assistance to a recipient which discriminates. In order to correct that misinterpretation, the bill would modify the Taylor County construction of the "pinpoint" provision. Under our proposal, Federal agencies would be authorized to terminate or refuse funding to the entire "program or activity" in which discrimination is found. By dropping the "or part thereof" language, the bill expands the authority of agencies to suspend, terminate, or deny assistance. That authority, however, would not be unlimited. It would extend only to the program or activity in which the discrimination occurred unless the violation infected every program or activity operated by the recipient.

A fourth area of concern is the coordination of title VI implementation at the Federal level. By Executive order, the President has assigned coordination responsibilities to the Attorney General. The exercise of that authority by the Department of Justice has not been very satisfactory. First, the Department has been reluctant, despite the express terms of the Executive order, to direct other agencies to take specific administrative action to enforce title VI. In part that reluctance is based on the co-equal status of the Attorney General and other cabinet level officials.

Second, the Department is essentially a litigating agency. It is not a coordinator of administrative activities. Indeed some would say that such coordination is incompatible with its litigation role. When the Civil Rights Commission, 2 years ago, suggested that the coordination responsibility be transferred out of the Department, then Assistant Attorney General for Civil Rights, J. Stanley Pottinger, agreed with the Commission.

In light of these considerations and the recommendation of the Commission, our bill would transfer the coordination function from the Department of Justice to the Executive Office of the President. The need for direction in the enforcement of title VI from the highest office in the Nation has been documented several times over by the Civil Rights Commission and others who have studied the problem. Although the Commission stated specifically that the authority should be given to the Office of Management and Budget, our proposal allows the President flexibility as to which component in the Executive Office should assume those duties.

It may be, for example, that the President will want to create a new civil rights office in the Executive Office whose only responsibility will be to coordinate title VI enforcement. Or he may wish to assign the duties to the Office of the Vice President. To be sure, there may be other options which, upon further study, will prove to be more efficacious.

Before concluding, I should note additional changes which this bill makes in title VI. It omits existing provisions dealing with contracts of insurance or guarantee—sections 602 and 605, judicial review—section 603, employment—section 604, and congressional involvement in the administrative process—section 602. Developments in the law since 1964 have rendered these provisions obsolete, unnecessary, unworkable, or confusing. For example, the bank regulatory agencies have, for some time, deemed themselves excluded from the title VI requirements because of the provision relating to contracts of insurance or guarantee, even though one court has taken a contrary view. See *Laufman* v. *Oakley Building & Loan Co.*, 408 F. Supp. 489 (S.D. Ohio 1976). The bill would clarify that ambiguity.

Further, the proposal would codify the authority of the Attorney General to commence self-initiated pattern or practice suits against recipients. It also retains the authority of the Attorney General to sue upon the recommendation of a title VI agency. Of course, we do not mean to imply that litigation by the Attorney General is to be preferred to administrative remedies. Indeed President Carter is to be commended for his July 20, 1977, memorandum to all heads of executive departments and agencies in which he stated that "administrative proceedings leading to fund terminations are the preferred method of enforcing title VI, and this sanction must be utilized in appropriate cases."

Additionally, the bill codifies the right of aggrieved individuals to initiate suit under title VI, a right long recognized by the courts. That right of action would extend not only to suits against the recipients of Federal assistance which may be discriminating, but also against the Federal agencies themselves in the event they fail to comply with the directives in the new title. Attorney fees are not included as part of the remedial provisions since Public Law 94–559 already authorizes them in actions brought under title VI. The Attorney General is given the power to intervene in such private suits.

The bill also seeks to regularize the deferral authority now exercised by the agencies. That practice, which arose out of the administrative enforcement process, has never been addressed legislatively, except for the Fountain amendment which has limited application. By including a deferral provision in this bill, we hope to encourage public discussion of that mechanism and a more formal resolution of it so that the agencies apply a uniform practice.

Finally it should be noted that this bill is not intended to alter existing substantive law as to the standard of liability under title VI. The Supreme Court and lower Federal courts have held that effect, not purpose or intent, is all that needs to be proved in establishing a violation of Section 601. *Lau* v. *Nichols*, 414 U.S. 563 (1974); *Soria* v. *Oxnard School District Board of Trustees*, 386 F. Supp. 539 (C.D. Cal. 1974). The Supreme Court has reaffirmed that effect-oriented standard in a recent case under the equal employment opportunity provisions of Federal law. *Dothard* v. *Rawlinson*, 97 S. Ct. 2720 (1977). This bill would continue to apply that standard of liability to title VI.

In conclusion, it has been 13 years since enactment of title VI of the Civil

Rights Act of 1964. Since that time, a number of developments have occurred in the enforcement of it and in the Federal programs providing financial assistance. It is now time for Congress to reevaluate the effectiveness of title VI and to revise and strengthen it. That is the course we pursued last year with the Revenue Sharing and Law Enforcement Assistance Acts. It is apropriate to follow a similar path with title VI.

GENERAL LEAVE

Mr. GORE. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from California (Mr. EDWARDS).

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Speaker, on September 22, 1977, I was absent from the House of Representatives on the Yom Kippur recess. Had I been present, I would have voted in the following fashion:

Rollcall No. 577: Journal: The House approved the Journal of Wednesday, September 21, 1977, "no."

IRREGULARITIES IN HEAD START ALLOTMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. QUIE) is recognized for 15 minutes.

Mr. QUIE. Mr. Speaker, the matter which I have obtained permission to print is a report regarding the Head Start formula prepared by the Congressional Research Service of the Library of Congress. The report raises serious questions about the administration of the Head Start program by the Administration for Children, Youth, and Families, formerly the Office of Child Development, and indicates that the administrative office is not comply with the law, but manipulates funds in an effort to give the appearance of compliance.

As the report indicates, the Office of Child Development under the last administration and the Administration for Children, Youth, and Families under this one, have not utilized the formula the Education and Labor Committee placed in the law January 4, 1975. The result of their failure to follow the law is that 12 States: Arizona, Connecticut, Georgia, Illinois, Maryland, Michigan, New York, Ohio, Oregon, Pennsylvania, South Dakota, Wisconsin, and the Commonwealth of Puerto Rico, in the next fiscal year when the $625 million Head Start appropriation is distributed will actually receive less than the minimum amount each of those States would be entitled to if the formula in the law was used.

Because the implications of the CRS report are so serious, I have asked the chairman of the Education and Labor Committee, Mr. PERKINS, to ask Ms. Arabella Martinez, Assistant Secretary for Human Development; Ms. Bambi Cardenas, Commissioner for the Administration for Children, Youth, and Families; Mr. Sol Rosoff, Deputy Commissioner for the Administration for Children, Youth, and Families; and Mr. James L. Robinson, who was and has been the Director of Head Start since the formula became law in 1975, to appear before our committee to explain exactly why this office has chosen to ignore the law.

I want to congratulate Jean Yavis Jones, Steve Chilton, and Sharon House of the Education and Public Welfare Division, Congressional Research Service of the Library of Congress, for the outstanding job they did on compiling this report. The report follows:

DISTRIBUTION OF FORMULA GRANT FUNDS UNDER THE HEAD START PROGRAM: CURRENT LAW AND EDUCATION AND LABOR COMMITTEE PROPOSAL

This report includes a discussion of the issues relating to the procedures and effect of the current and projected methods of distribution of Head Start funds. It includes an analysis of the Office of Child Development's method of distributing these funds and the impact of a proposed formula change on the funds allotted to the States.

I. CURRENT LAW AND DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE PROCEDURES

The law governing the allocation of Head Start funds among the States is contained in sec. 513(a) of P.L. 93-644. The Head Start, Economic Opportunity, and Community Partnership Act of 1974. This subsection reads as follows:

"ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE

"SEC. 513. (a) Of the sums appropriated pursuant to section 512 for any fiscal year beginning after June 30, 1975, the Secretary shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. In addition, the Secretary shall reserve not more than 20 per centum of the sums so appropriated for use in accordance with such criteria and procedures as he may prescribe. The remainder shall be allotted among the States, in accordance with the latest satisfactory available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all States, and (2) the relative number of related children living with families with incomes below the poverty line in each State as compared to all States; but there shall be made available, for use by Head Start programs within each State, no less funds for any fiscal year than were obligated for use by Head Start programs within such State with respect to fiscal year 1975. Allocation of such increases within each State shall, to the extent feasible, be made in such manner as to reflect the proportionate increases in program costs incurred by grantees, in accordance with regulations which the Secretary shall prescribe for this purpose. For the purpose of this subsection, the Secretary shall utilize the criteria of poverty used by the Bureau of Census in compiling the 1970 decennial census."

According to the plain meaning of the statutory language CRS believes that the correct procedural steps for implementing this section are as follows:

1. Determine the amount of the appropriation to be used for the outlying areas, subtract and set this aside for that purpose. The law gives the Secretary the authority to determine this amount as long as it does not exceed 2 percent of the total appropriation.

2. Determine the amount of the appropriation to be reserved for discretionary purposes by the Secretary, and subtract this amount from the total. The law gives the Secretary the authority to determine this amount as long as it does not exceed 20 percent of the total appropriation.

3. Distribute one-half of the remainder among the States based on the relative number of public assistance recipients in each State compared to all States. Distribute the other half of the remainder among the States based on the relative number of related children living with families with incomes below the poverty line in each State as compared to all States.

4. If after the above step any State has less than the amount obligated for use by Head Start programs in the State for FY 1975, such States are increased to the FY 1975 level and States with amounts over their 1975 amounts are proportionately reduced to provide the amount needed to raise all States to their 1975 amounts.

5. Funds reserved by the Secretary (in step 2 above) may be used in accordance with criteria and procedures established by the Secretary. Such funds, or any proportion thereof, may be distributed to the States in accordance with such criteria and procedures of the Secretary.

The above procedures, steps 1-4 have been used by the Congressional Research Service in the Headstart allocation tables it has prepared for the use of the Committee on Education and Labor. We have withheld the maximum amount allowed for both the outlying areas (2 percent) and the Secretary's reserve (20 percent), and we have not distributed any of the Secretary's reserve to the States. Therefore the amounts shown in the CRS tables represent the minimum any State should receive under the formula in the law for the specified appropriation amount. The minimums would be higher if the Secretary chose to reserve less than the amounts reserved under the CRS distribution.

According to information provided to CRS by responsible officials in the DHEW Office of Child Development on September 23, 1977, the Department has not followed the above procedures in allocating headstart formula funds. One procedure was followed in FY 1977, and a different procedure was followed in the estimates provided to the Committee for the allocation of FY 1978 funds according to the current law.

In FY 1977, the procedures used by DHEW, OCD in allocating headstart funds were as follows:

1. $1,776,000 was reserved for the outlying areas (less than 2 percent).

2. An amount was reserved for discretionary use by the Secretary.

3. From the remainder, each State was given the amount it obligated in 1975.

4. The remaining formula funds were then distributed to provide each State with a cost-of-living increase over the FY 1976 amount.

5. Additional funds were distributed to projects from the Secretary's reserved funds.

This distribution method did not take into account the number of public assistance recipients nor the number of children living in poverty as required by law. In making its 1977 allocations, DHEW made two errors.

One error was to reserve the FY 1975 "hold harmless" amounts from the formula grants monies initially. The second error was to distribute cost-of-living increases out of formula funds to each State without regard to the formula.

The effect of the first error is to make the FY 1975 hold harmless amount an additional amount to the formula distribution, rather than part of it. Under this procedure all States receive higher than their 1975 amounts. If the formula in the law were used, all States would not necessarily receive more than their FY 1975 amounts. Other States would then, of course receive less than due them under the formula.

In relation to distributing what should be formula funds in order to provide a cost-of-living increase to each State, DHEW, OCD officials have referred CRS to the legislative intent of the appropriations committees. However, there is no mention in the FY 1977 appropriations legislation (P.L. 94–439) or the accompanying report which indicates Congress intended Headstart funds to be distributed by any formula other than that in the authorizing legislation. The Committee reports accompanying the FY 1977 appropriations bill did contain indications that the increased funds were to be used for "increased operation costs of headstart projects across the nation," and "to offset some of the costs of special training and related services to handicapped children." We must assume that Congress intended funds for these purposes to accrue to States through the formula in the law and/or from additional funds provided from the Secretary's reserve awarded to Headstart projects on a discretionary basis.

We do not know at this time whether some States actually received less Headstart funds than they were legally entitled to for FY 1977. However, since the formula was not followed, it is possible that some States received less than the amount to which the formula would entitle them. It is likely that any such shortfalls would be quite small, since meeting the FY 1975 hold harmless alone required the use of all but about six million dollars of the non-discretionary (i.e., formula) funds, which could easily be made up in every State by the $46 million of discretionary funds which were distributed by OCD.

We have not investigated the FY 1976 allocation of Headstart funds in detail. However, we assume they were distributed in a similar way because of a statement before the Subcommittee on Economic Opportunity of the House Education and Labor Committee on September 7, 1977 by the Staff Counsel who reported that "HEW informed us that except for 1965 (sic) the year the allocation formula was first utilized, HEW has never utilized the allocation formula in the distribution of monies to the States for Headstart."

The DHEW, OCD arrived at the FY 1978 estimates they submitted to you in the following manner, according to information they supplied us:

1. Beginning with an estimated $625 million appropriation, they set aside $2.5 million for the outlying areas.

2. They subtracted 20 percent of $625 million and set this aside as the Secretary's reserve.

3. From the remaining funds (to which the formula should apply) they then subtracted amounts to provide each State with its FY 1975 level.

4. The remaining formula funds were then distributed according to the formula in the law. This amount for each State was added to each State's FY 1975 hold harmless amount.

Further funds from the Secretary's reserve were awarded to the States in the following manner and added to the above amounts:

5. Where necessary, each State was given an additional amount so that each State would receive 6 percent more than its FY 1977 amount.

6. From approximately $40 million set aside for this purpose, each State received an amount proportionate to its proportionate share of the amount distributed in steps 3–5, except that each State received at least enough for each project grantee to expand by one classroom of 15 children.

The error in this computation is in step 3 where they again subtracted out the FY 1975 hold harmless amounts before applying the formula instead of the reverse.

Steps 5 and 6 above allocate funds from the Secretary's reserve which are discretionary by law. These steps were presumably taken at least in part to comply with the language in the report of the State Committee on Appropriations on the FY 1978 appropriations legislation.*

Impact of OCD distribution of Head Start funds under the current formula for 1978 projections

The attached table 1 represents a comparison of the allotments which would be available to the States for Headstart programs under the formula in current law as computed by CRS and the Office of Child Development.

Because of the different methods of computing the allotment formula and because the CRS figures do not include additional reserve funds given to the States, these figures are difficult to compare. However, since the CRS figures represent the minimum amounts which each State is entitled to receive under the allotment formula in the current law, they can be compared to the OCD projections to determine whether or not the funds as allotted by OCD are at least as much as those required amounts. A perusal of the attached table shows that according to OCD projections, 12 States and Puerto Rico would actually receive less than the minimum amounts required by the law as computed by CRS. These and the amounts of discrepancy are:

Arizona	$542, 895
Connecticut	677, 594
Georgia	1, 156, 214
Illinois	2, 627, 910
Maryland	621, 045
Michigan	5, 655, 001
New York	315, 289
Ohio	1, 648, 872
Oregon	560, 481
Pennsylvania	3, 898, 751
South Dakota	75, 180
Wisconsin	137, 136
Puerto Rico	1, 648, 944

NOTE.—It should be noted that OCD, in compiling the projections of State allotments utilized less than 2% for the outlying areas. This means that they distributed more than the amount distributed by CRS. Since CRS included the full 2% reserve for those areas it is possible that more than the above listed States would actually receive less than the minimum required under the OCD method of distribution.

As a result of OCD's method of distributing funds, those States whose 1975 hold-harmless levels were significantly higher than what would have been available to them if the allotment formula had been in force at that time get a higher amount of funds than due them under the formula. These funds are obtained by reducing the amounts to those States whose 1975 hold-harmless levels more closely approximated the current allotment formula.

Grants made to projects in the States for Headstart programs in 1975 were not arrived at through the use of the current allotment formula, and therefore, did not necessarily relate to the number of public assistance recipients and children in poverty. By deleting the hold-harmless amounts from the funds appropriated and distributing only the remaining funds according to the allotment formula OCD further perpetuates whatever imbalance may have existed in 1975 with regard to the distribution of funds via poverty and public assistance populations in each of the States.

In summary, CRS believes that DHEW did not follow the law in allocating FY 1977 Headstart funds because of incorrect treatment of the FY 1975 hold-harmless amounts and because of the distribution of cost-of-living increases to each State. However, we do not at present know the dollar effect of these procedures. Discrepancies between the amount received and the amount due under law for any State are likely to be small if they exist at all.

The OCD did not utilize the correct formula in distributing Headstart funds in their 1978 projections. Continuation of this method of distribution of FY 1978 funds at the $625 million level would deprive at least 13 States and Puerto Rico of the minimum amounts they are entitled to under the allotment formula in law which appears to be a violation of the law.

TABLE 1.—COMPARISON OF HEADSTART ALLOTMENTS AT THE $625,000,000 LEVEL UNDER CURRENT FORMULA AS ESTIMATED BY CRS AND OCD (FISCAL YEAR 1978)

State	Current formula in law (using AFDC recipients and poverty children under 18)		
	OCD	CRS minimum amount provided by allotment formula [1]	Amount required to bring OCD estimates to minimum allotment level
Alabama	$14, 959, 812	$11, 393, 000	
Alaska	1, 923, 319	1, 311, 000	
Arizona [2]	3, 676, 419	4, 219, 314	$542, 895
Arkansas	7, 693, 243	5, 798, 000	
California	45, 041, 078	27, 559, 000	
Colorado	6, 945, 856	5, 168, 000	
Connecticut [2]	4, 056, 089	4, 733, 683	677, 594
Delaware	1, 538, 303	1, 096, 000	
District of Columbia	4, 130, 595	2, 944, 000	
Florida	18, 096, 925	15, 814, 725	
Georgia [2]	11, 861, 007	13, 017, 221	1, 156, 214
Hawaii	2, 699, 385	1, 924, 000	
Idaho	1, 962, 763	1, 329, 000	
Illinois [2]	25, 808, 538	28, 436, 448	2, 627, 910
Indiana	9, 034, 343	7, 179, 444	
Iowa	4, 966, 564	3, 677, 593	
Kansas	4, 751, 586	3, 495, 000	
Kentucky	14, 330, 234	10, 359, 000	
Louisiana	13, 599, 973	11, 243, 968	
Maine	2, 818, 644	2, 387, 323	
Maryland [2]	6, 992, 174	7, 613, 219	621, 045
Massachusetts	12, 360, 487	12, 015, 983	
Michigan [2]	16, 157, 786	21, 812, 787	5, 655, 001
Minnesota	6, 519, 220	4, 586, 205	
Mississippi	47, 206, 531	37, 082, 000	
Missouri	13, 279, 397	10, 310, 271	
Montana	1, 853, 953	1, 388, 000	
Nebraska	2, 917, 594	1, 943, 000	
Nevada	869, 186	743, 741	
New Hampshire	1, 422, 694	1, 131, 595	
New Jersey	16, 066, 949	15, 491, 942	
New Mexico	4, 045, 729	3, 434, 803	
New York [2]	41, 375, 674	41, 690, 963	315, 289
North Carolina	15, 188, 467	11, 255, 000	
North Dakota	874, 840	801, 363	
Ohio [2]	20, 148, 264	21, 797, 136	1, 648, 872
Oklahoma	8, 634, 070	6, 634, 000	
Oregon [2]	3, 533, 799	4, 094, 280	560, 481
Pennsylvania [2]	19, 975, 206	23, 873, 957	3, 898, 751
Rhode Island	1, 800, 834	1, 794, 206	
South Carolina	9, 417, 598	6, 857, 000	
South Dakota [2]	1, 104, 849	1, 180, 029	75, 180

*The above observations as to the correct legal method of distributing headstart funds have been reveiwed and concurred in by David Ackerman, legislative attorney of the CRS, American Law Division.

TABLE 1.—COMPARISON OF HEADSTART ALLOTMENTS AT THE $625,000,000 LEVEL UNDER CURRENT FORMULA AS ESTIMATED BY CRS AND OCD (FISCAL YEAR 1978)—Continued

State	Current formula in law (using AFDC recipients and poverty children under 18) OCD	CRS minimum amount provided by allotment formula [1]	Amount required to bring OCD estimates to minimum allotment level
Tennessee	12,506,456	9,568,827	
Texas	25,029,672	24,291,459	
Utah	2,194,615	1,689,932	
Vermont	1,464,213	1,076,743	
Virginia	9,019,398	8,075,828	
Washington	6,703,699	5,628,586	
West Virginia	6,658,812	5,045,000	
Wisconsin [2]	7,467,947	7,605,083	137,136
Wyoming	1,051,792	751,000	
Puerto Rico [2]	20,601,397	22,250,341	1,648,944
Total	544,337,978	487,499,998	19,565,312

[1] This represents the least amount which must be distributed to the States based on the allotment formula. It represents the amount available with the 2-percent reserve for the trust territories taken out and with the full 20-percent reserved for the discretion of the Secretary.

[2] States which would get less than the minimum required by the allotment formula according to OCD distribution.

II. IMPACT OF PROPOSED CHANGES IN HEADSTART ALLOTMENT FORMULA ON DISTRIBUTION OF FUNDS TO THE STATES

Current formula

The current formula for allotment of funds to the States for Headstart programs provides for a distribution which takes into consideration both the number of Public Assistance recipients (generally defined as AFDC money recipients) and the number of children in poverty aged 0–18 in each of the States as compared to the total number in the United States. The formula includes a hold harmless provision which mandates that no State get less than the amount they received in FY 1975. The Secretary is permitted to reserve up to 2 percent of the total appropriation for the Virgin Islands, American Samoa, Guam and the Trust Territories (usually referred to as outlying territories) and up to 20 percent of the total for discretionary purposes. At a minimum this provides for at least 78 percent of the Headstart appropriation to be distributed to the States according to the allotment formula. The law requires that data used for computation in determining allotments be the most recent information available.

Proposed formula change in H.R. 7577

H.R. 7577, the Economic Opportunity and Community Service Amendments of 1977, included a provision which would have changed the current allotment formula to distribute funds to the States solely on the basis of the number of children aged 0–6 living in families with incomes below the poverty level. On Sept. 7, 1977 the Subcommittee marking up the bill deleted the proposed change in the allotment formula, leaving the formula as it was, except to specifically define Public Assistance recipients as AFDC recipients. The decision to leave the formula intact was to a large extent the result of the difficulty in determining the impact of such a change on the States because of discrepancies between tables prepared by the Office of Child Development and by the Congressional Research Service at the request of the Subcommittee.

Distribution of funds according to allotment formulas

The attached CRS TABLE 2 represents the minimum amount of funds which would be distributed to the States on the basis of the formula as it now exists; the funds if it were changed and the difference in amounts resulting from such a change. It assumes an appropriation of $625 million with a hold harmless at the 1975 level. For the purposes of measuring the impact of the States, the full 22 percent reserve allowed to the Secretary was utilized and 78 percent of the appropriation was distributed to the States.

As a result, the allotments as shown by this table represent only the minimum amounts available to the States as required by the formulas. The Secretary could choose to reserve less than 22 percent of the total thereby distributing more funds to States in accordance with the allotment formula (this would result in a proportionate increase in each State) or the reserve funds could be used to provide additional funds to the States on the basis of program need or cost of living increases or any other criteria established by the Secretary. Under no circumstances should any State be entitled to receive less than the amount shown in this chart if either of the appropriate allotment formulas were used.

Fiscal impact of change in formula

In general, the current allotment formula provides for a proportionate distribution of funds among States with equal weight given to the relative number of children in poverty and the number of public assistance recipients. A change from the current to the proposed formula would distribute large amounts of funds to those States with smaller proportions of welfare recipients and higher proportions of young children in poverty families. The following tables show the differences in minimum amounts which would be available to the States under both formulas.

STATES ENTITLED TO LESS UNDER PROPOSED FORMULA CHANGE

State	Minimum amount required— Under current formula [1]	Under proposed formula	Decrease
Connecticut	$4,733,683	$4,120,269	$613,414
Florida	15,814,725	13,381,000	2,433,725
Illinois	28,436,448	24,748,964	3,687,485
Iowa	3,677,593	3,504,000	173,593
Maine	2,387,323	1,973,000	414,323
Maryland	7,613,219	5,282,746	2,330,473
Massachusetts	12,015,983	9,339,607	2,676,376
Michigan	21,812,787	16,234,903	5,577,885
Minnesota	5,486,205	5,145,984	340,221
Missouri	10,310,271	9,327,000	983,271
New Hampshire	1,131,595	1,091,610	39,985
New Jersey	15,491,942	12,431,673	3,060,269
New York	41,690,963	27,527,721	14,163,242
Oregon	4,094,280	3,483,703	610,577
Pennsylvania	23,873,957	18,387,040	5,486,917
Rhode Island	1,794,206	1,353,945	440,261
Tennessee	9,568,827	9,111,000	457,827
Vermont	1,076,743	1,059,284	17,458
Virginia	8,075,828	7,306,825	769,002
Washington	5,628,586	5,371,020	257,566
Wisconsin	7,605,083	6,669,016	936,066

[1] These amounts represent the minimum amount which each State would be entitled to under the formula at an appropriation level of $625,000,000. They do not include any reserve or other funds beyond the 78 percent of appropriated funds which must be distributed according to the formula.

STATES ENTITLED TO MORE UNDER PROPOSED FORMULA CHANGE

State	Minimum amount required— Under current formula [1]	Under proposed formula	Increase
Arizona	$4,219,314	$6,765,993	$2,546,679
Arkansas	5,798,000	10,773,122	4,975,122
California	27,559,000	39,715,709	12,156,709
Georgia	13,017,221	15,521,253	2,504,033
Idaho	1,329,000	1,552,871	223,871
Indiana	7,179,444	7,442,344	262,900
Louisiana	11,243,968	12,251,396	1,007,428
Montana	1,388,000	1,454,651	66,651
Nebraska	1,943,000	2,313,766	370,766
Nevada	743,741	1,003,336	259,595
New Mexico	3,434,803	3,825,608	390,805
North Carolina	11,255,000	11,801,324	546,324
North Dakota	801,363	814,356	12,993
Ohio	21,797,136	22,263,624	446,487
South Dakota	1,180,029	1,336,539	156,510
Texas	24,291,459	32,103,034	7,811,575
Utah	1,689,932	2,337,388	647,456
Puerto Rico	22,250,341	33,314,373	11,064,032

[1] These amounts represent the minimum amount which each State would be entitled to under the formula. They do not include any reserve or other funds beyond the 78 percent of the appropriated funds which must be distributed according to the formula.

Under the current formula nineteen States would be entitled to a minimum of at least the hold-harmless level, that is the amount they received in 1975. Under the proposed one factor formula 18 states would remain at the hold-harmless level. However, thirteen States remain at a minimum hold-harmless level under both formula.

States at minimum hold-harmless level under both formulas

Alabama, Alaska, Colorado, Delaware, District of Columbia, Hawaii, Kansas, Kentucky, Mississippi, Oklahoma, South Carolina, West Virginia, Virginia, and Wyoming.

States at minimum hold-harmless level under current formula—but not under proposed formula

Arkansas, California, Idaho, Montana, Nebraska, and North Carolina.

States at minimum hold-harmless level under proposed formula—but not under current formula

Florida, Iowa, Maine, Missouri, and Tennessee.

TABLE 2.—ALL FORMULAS ASSUME A FISCAL YEAR 1975 HOLD HARMLESS, A TOTAL ALLOCATION LEVEL OF $625,000,000 (OUT OF WHICH IS TAKEN 22 PERCENT AS A SET-ASIDE, LEAVING $487,500,000 TO BE DISTRIBUTED)

[The current formula is calculated as a 2-part formula: Pt. 1 is based on the number of children 0 to 18 in poverty according to the 1975 survey of income and education (SIE). Pt. 2 is based on the number of AFDC recipients as reported in February 1977. The new formula is based solely on the number of children 0 to 5 in poverty according to the SIE. All data is shown in the table III. Poverty data for Puerto Rico is taken from 1970 census figures]

State	Fiscal year 1975 allocation	Povchil 0 to 18	AFDC recipients	Povchil 0 to 5	Current formula	New formula	Difference
Alabama	11,393,000	209,380	166,899	85,130	11,393,000	11,393,000	0
Alaska	1,311,000	9,600	10,991	3,890	1,311,000	1,311,000	0
Arizona	2,428,000	139,070	57,463	54,420	4,219,314	6,765,993	2,546,679
Arkansas	5,798,000	147,080	95,911	86,650	5,798,000	10,773,122	4,975,122
California	27,559,000	908,210	145,087	319,440	27,559,000	39,157,709	12,156,709

State	Fiscal year 1975 allocation	Povchil 0 to 18 AFDC recipients	Povchil 0 to 5	Current formula	New formula	Difference
Colorado	5,168,000	89,140	92,305	29,000	5,168,000	5,168,000	0
Connecticut	2,406,000	85,970	134,522	33,140	4,733,683	4,120,269	−613,414
Delaware	1,096,000	19,340	31,700	6,330	1,096,000	1,096,000	0
District of Columbia	2,944,000	32,090	95,302	11,240	2,944,000	2,944,000	0
Florida	13,381,000	492,590	244,050	14,148	15,814,725	13,381,000	−2,433,725
Georgia	7,705,000	354,470	251,864	124,840	13,017,221	15,521,253	2,504,033
Hawaii	1,924,000	28,970	55,710	10,920	1,924,000	1,924,000	0
Idaho	1,329,000	33,110	19,829	12,490	1,329,000	1,552,871	223,871
Illinois	15,997,000	546,040	778,512	199,060	28,436,448	24,748,964	−3,687,485
Indiana	6,314,000	167,310	167,104	59,860	7,179,444	7,442,344	262,900
Iowa	3,504,000	75,100	96,200	26,170	3,677,593	3,504,000	−173,593
Kansas	3,495,000	59,930	76,798	21,300	3,495,000	3,495,000	0
Kentucky	10,359,000	225,410	212,810	69,940	10,359,000	10,359,000	0
Louisiana	9,797,000	303,560	220,177	98,540	11,243,968	12,251,396	1,007,428
Maine	1,973,000	50,810	60,390	14,620	2,387,323	1,973,000	−414,323
Maryland	4,351,000	137,660	216,959	42,490	7,613,219	5,282,746	−2,330,473
Massachusetts	7,801,000	183,480	376,217	75,120	12,015,983	9,339,607	−2,676,376
Michigan	8,655,000	360,005	656,021	130,580	21,812,787	16,234,903	−5,577,885
Minnesota	4,414,000	121,650	133,894	41,390	5,486,205	5,145,984	−340,221
Mississippi	37,082,000	260,130	175,270	78,640	37,082,000	37,082,000	0
Missouri	9,327,000	209,120	271,126	67,310	10,310,271	9,327,000	−983,271
Montana	1,388,000	32,300	18,775	11,700	1,388,000	1,454,651	66,651
Nebraska	1,943,000	50,390	34,173	18,610	1,943,000	2,313,766	370,766
Nevada	596,000	22,280	12,363	8,070	743,741	1,003,336	259,595
New Hampshire	1,015,000	27,490	25,219	8,780	1,131,595	1,091,610	−39,985
New Jersey	10,312,000	274,270	447,335	99,990	15,491,942	12,431,673	−3,060,269
New Mexico	2,895,000	104,140	55,851	30,770	3,434,803	3,825,608	390,805
New York	26,409,000	701,190	1,240,749	221,410	41,690,963	27,527,721	−14,163,242
North Carolina	11,255,000	294,060	202,057	94,920	11,255,000	11,801,324	546,324
North Dakota	520,000	23,710	13,617	6,550	801,363	814,356	12,993
Ohio	12,322,000	443,440	571,857	179,070	21,797,136	22,263,624	466,487
Oklahoma	6,634,000	127,150	90,264	46,770	6,634,000	6,634,000	0
Oregon	2,045,000	66,320	124,389	28,020	4,094,280	3,483,703	−610,577
Pennsylvania	12,007,000	452,430	659,604	147,890	23,873,957	18,387,040	−5,486,917
Puerto Rico	15,315,000	844,409	191,998	267,953	22,250,341	33,314,373	11,064,032
Rhode Island	1,145,000	29,980	53,593	10,890	1,794,206	1,353,945	−440,261
South Carolina	6,857,000	21,636	140,393	5,691	6,857,000	6,857,000	0
South Dakota	739,000	31,180	23,785	10,750	1,180,029	1,336,539	156,510
Tennessee	9,111,000	256,040	189,670	69,290	9,568,827	9,111,000	−457,827
Texas	17,748,000	813,190	318,291	258,210	24,291,459	32,103,034	7,811,575
Utah	1,540,000	41,920	36,796	18,800	1,689,932	2,337,388	647,456
Vermont	929,000	26,900	23,254	8,520	1,076,743	1,059,284	−17,458
Virginia	6,399,000	201,760	174,407	58,770	8,075,828	7,306,825	−769,002
Washington	4,643,000	116,140	146,036	43,200	5,628,586	5,371,020	−257,566
West Virginia	5,045,000	104,060	65,941	34,220	5,045,000	5,045,000	0
Wisconsin	4,698,000	148,960	205,280	53,640	7,605,083	6,669,016	−936,066
Wyoming	751,000	11,490	6,632	4,610	751,000	751,000	0
Federal total	371,772,000	10,516,110	9,915,440	3,463,752	487,499,998	487,499,997	

LEGISLATION TO AMEND TRADE ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GARY A. MYERS) is recognized for 5 minutes.

Mr. GARY A. MYERS. Mr. Speaker, today I am reintroducing legislation to amend the Trade Act of 1974 to provide that the President may not reduce or terminate import relief granted under section 203 of the Trade Act if the Congress disapproves such action. I have been joined by 15 of my colleagues who have cosponsored this measure.

Members who have been following the crucial trade policy debate now heating up throughout the Nation realize that my legislation could benefit most immediately the domestic "specialty steel" industry. The specialty steel industry, makers of stainless and other steel products noted for strength, durability, and corrosion resistance, is composed of more than 20 producers nationwide which hire 65,000 workers to manufacture over a million tons of steel yearly. This industry petitioned the International Trade Commission (ITC) in 1976 for relief from heavy import damage to production and employment and, in a landmark case, was granted 3 years of relief—in the form of moderate quotas on imported specialty steel—in June 1976.

As many of my colleagues further realize, President Carter has asked the ITC to take another look at the import relief already promised, to gage the impact on domestic industry of terminating the quotas. Under authority conferred in the Trade Act of 1974, the President has the authority to terminate or reduce already-granted import relief without consulting Congress or seeking congressional approval. My bill would simply permit the Congress to override the President's decision to terminate import relief, thereby restoring executive-legislative balance in the formulation of trade policy.

I urge my colleagues to support this legislation. There has been a great deal of discussion recently concerning the depressed state of the domestic steel industry, caused in part by increased imports. A "steel caucus" has formed to focus attention and action on the unique problems of the steel industry. But the legislation I am reintroducing today is not just "steel legislation," or "electronics legislation," or "shoes legislation." It is not aimed solely at any one industry hurt by increased imports. Rather, it is intended to insure that both the administration and Congress can participate fully in the debate on trade policy—a debate that will have immensely important implications for the way all Americans will live in the future.

There are those among my colleagues who are inclined toward "protectionism" while others are doctrinaire "free traders." I believe we can all agree, though, on the principle that Congress must participate fully in the formulation of trade policy. The bill I am reintroducing today embodies that principle and I urge my colleagues' support.

AN EXTENSION OF SALT I INTERIM AGREEMENT WITHOUT CONGRESSIONAL APPROVAL VIOLATES THE ARMS CONTROL ACT OF 1961

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, when the Arms Control and Disarmament Agency was established in 1961, procedures were formulated which enabled the Congress to participate in the approval of "any action" taken by the executive branch which would have the effect of limiting American arms through agreement with foreign nations. The act in particular calls for Senate and House approval when the President takes action such as is embodied in the Interim Agreement on Offensive Arms which limits the number of strategic missile launchers. The House of Representatives approved the 1972 interim agreement as required by statute. Its renewal or extension similarly calls for House approval, because the President is taking action which limits American arms.

The administration's extension of SALT I is in violation of the provisions of the 1961 act if it does not obtain explicit approval from both Houses of Congress. The approach favored by the ad-

ministration of obtaining the tacit agreement of the Soviets that they will continue to be bound by the terms of the 1961 act is bad policy as well as being illegal. It is bad policy, because we now know too well from our experience with the present interim agreement, that every ambiguity not firmly established by written mutual agreement will be resolved against the United States. Should the Soviets, for example, deploy for sea trials, the 63d, 64th, and 65th missile firing submarines they have now completed, in violation of the terms of the interim agreement, the fact that we have no formal agreement with the Soviets would gravely prejudice our ability to force Soviet compliance with an agreement whose term had formally expired. Similarly, Secretary Brown has already disclosed that the Soviet Union has four entirely new missiles ready for deployment in land-based missile silos, to replace the current generation of MIRVed ICBM's—the SS–17, SS–18, and SS–19. Should the Soviets deploy these missiles either in the fixed silo mode or the mobile mode, in the absence of an agreement with the Soviets ratified by the Congress, we will surely be at a serious disadvantage from a negotiating perspective. The continuation of the Soviet Backfire (Tu–26) intercontinental strategic bomber program in the wake of the U.S. cancellation of the B–1 bomber similarly imposes risks which we will have difficulty in controlling in the absence of full congressional participation in a temporary extension of the interim agreement.

I strongly urge the administration to support an appropriate congressional resolution to extend, for a time certain, the terms of the interim agreement so that the administration is in full compliance with the law, and the rights of the Congress under the law are assured.

STRONG TEXTILE TARIFFS ARE NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOLLENBECK) is recognized for 5 minutes.

Mr. HOLLENBECK. Mr. Speaker, I welcome the opportunity to address the enormous trade deficit that is plaguing the American textile and apparel industry.

Last August, I witnessed, first hand, the tragic effect that the flood of imported textiles has had on our economy. I toured a number of knitting mills in and around my district in New Jersey, and heard the same story from both management and employees. The continuing growth of imports from low wage countries has resulted in shrinking the American textile market.

Why then, I ask you, is the administration considering the possibility of cutting the U.S. tariffs on textiles and apparel when the imports on these items have increased over 34 percent in the last year alone? Literally thousands of my constituents have lost their jobs in recent years due to the flood of imports. In the last 5 years, a local textile related union has lost over 3,000 members. I contend that reducing textile tariffs would do nothing more than increase our Nation's already high unemployment rolls.

In recent weeks we have witnessed the administration bow under to Korea and Taiwan in the negotiations of the multifiber arrangement. In theory, the MFA is designed to keep imports from rising to harmful levels. However, from all reports, that has not been the case. With the MFA negotiated under the present tariff structure, it does not appear hopeful that effective import quotas will be agreed to.

Thus, an adequate structure of customs duties is essential to support the MFA. It is obvious that the present duties are insufficient to achieve that result. Each year more and more developing nations are increasing their textile capabilities. It is inevitable that the import problem will become more and more critical.

The United States should not and economically cannot agree to any more textile tariff reductions. Strong textile tariffs are our only defense against the kind of unrestrained imports which threaten to shut down our domestic textile industries.

PERIL IN PREMATURE GENEVA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, a significant advance toward reconvening a Geneva conference on Middle East peace occurred over the weekend. The Israeli Cabinet approved an American proposal for a single unified Arab delegation at the conference. In announcing its willingness to negotiate with a Pan-Arab group, Israel also stated its acceptance of a Palestinian presence in the delegation.

This Israeli decision is an important contribution to sustaining the momentum toward peace in the Middle East. Many critical questions remain yet to be resolved, however. For example, Israel has conditioned her acceptance of Palestinian participation in the talks with the caveat that these representatives may not be known members of the Palestine Liberation Organization. What constitutes a known member as opposed to an unknown member of the PLO is not yet clear.

In order to continue the momentum toward peace it is now critical for the PLO to make a significant contribution toward reaching a settlement. This organization could state publicly what its leaders have indicated privately—that in the context of a final peace agreement that provides for Palestinian self-determination in the West Bank, it would recognize and respect the sovereignty and integrity of Israel as a nation state. Such a move would greatly enhance prospects for peace.

Further progress toward peace, however, will require time. Deadlines for reconvening a peace conference must, therefore, be avoided. Excessive reliance should not be placed on the impetus toward agreement a conference alone can generate. The face-to-face presence of an Israeli and an Arab delegation will not suffice to generate solutions of broad differences and momentous problems existing between these parties.

We need to promote, therefore, prior to a Geneva conference the common acceptance of general principles intrinsic to a peace agreement.

We must approach the reconvening of a conference, therefore, with caution, with deliberation and patience. Enthusiasm and haste cannot substitute for the painstaking attention to clarifying issues and seeking potential compromise that alone will assure a successful conference outcome. Not to convene a conference would be a great misfortune. But to convene a conference only to see it fail would provoke consequences considerably more dire.

If general principles are not largely agreed to in advance, Geneva carries the grave prospect of disaster rather than a just peace.

CAPTIVE NATIONS WEEK, 1977

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the 1977 Captive Nations Week was impressively observed both in our country and abroad. As shown—and at that selectively—by continuous reports on the week's observance, citizens and the media throughout this Nation let it been known that our people have not forgotten the captive nations; that if human rights are to become the centerpiece of our foreign policy, the captive nations in toto must become the prime center of interest and concern; and that no matter how under the illusions of détente and simplistic normalization many in our society remain apathetic to the plight of over 27 captive nations in the Communist totalitarian world, these are sufficiently offset by those who understand and appreciate the value of all the captive nations in the unending struggle for world freedom and the end of all empires.

I wish to present these further evidential items of the scope and nature of the recent 19th observance of Captive Nations Week, which entail the proclamation of Gov. James R. Thompson of Illinois, the program of the New York observance, and articles, editorials and letters in the Worcester Telegram, Indianapolis Star, the Pilot of Boston, the Muncie, Ind. Star, Dallas News, South Pasadena Review, and the Boston Herald American:

PROCLAMATION OF THE STATE OF ILLINOIS

The nineteenth observance of Captive Nations Week beginning July 11 will be culminated with a parade at noon Saturday, July 16, down State Street in Chicago.

The colorful, annual event, with its different ethnic groups, reminds us that many peoples throughout the world are denied the

right of self-determination and the freedom that we here take for granted. Through the years liberty-loving people have sought the freedom of America where they can worship as they wish and develop their talents in our free society.

Their different customs and characteristics have made our lives more exciting and interesting, broadened our perspective, and enriched the culture of our state. Getting to know them has given us a warm understanding and sympathy for the aspirations of all peoples.

Appreciative of their contributions to the growth and development of this Prairie State, I, James R. Thompson, Governor of the State of Illinois, proclaim July 11 through 16, 1977, Captive Nations Week and suggest that all Illinoisans participate in the observance.

19TH ANNUAL OBSERVANCE—CAPTIVE NATIONS WEEK

SUNDAY, JULY 1

9:30 a.m.: Procession on Fifth Avenue 59th Street to St. Patrick's Cathedral.

10.00: High Holy Mass—St. Patrick's Cathedral, Rt. Rev. Basil H. Losten, Ukrainian Bishop of Philadelphia.

11:15: Procession up Fifth Avenue—St. Patrick's Cathedral to 72nd St., then to the Central Park Mall (Band Stand).

12 noon: Rally at Central Park Mall, Master of Ceremonies Horst Uhlich, Executive Vice Chairman.

National Anthem, Go-World Brass Band, Kevin Pickard, Conductor.

Pledge of Allegiance, Commander Jerry Bianchi, Catholic War Veterans, Queens, N.Y.

Invocation.

Opening Remarks, Dr. Ivan Docheff, Chairman, Captive Nations Week Committee of N.Y.

Captive Nations Week Proclamations.

Addresses, Honored Guests of the Committee.

Resolution, Ing. John Kosiak, Chairman, Resolutions Committee.

Folklore Entertainment, Estonian Folks Dance Group, Turkestan National Folcke Group, Crimean Tatar National Folk Dancers.

Music Interlude, Go-World Brass Band.

WEDNESDAY, JULY 20

2:30 p.m.: Mayor Beame's Captive Nations Week Proclamation, Honorable Abraham Beame, City Hall Blue Room, Manhattan.

PRESIDENT CARTER AND CAPTIVE NATIONS WEEK

To the Editor:

Since 1959 there has been a law authorizing the President to designate the third week in July as Captive Nations Week. The law states that the President is "authorized and requested" to issue proclamations each year "until such time as freedom and independence have been achieved for all the captive nations of the world."

The act has become a symbol for those Americans from Eastern Europe who have seen their countries swallowed up by Soviet armies. Every year dozens of groups, many of whose members typify the ethnic base of the Democratic party in the East, meet to talk of the liberation of their homelands.

As in past years, Professor Levi E. Dobriansky, chairman of the National captive Nations Committee, wrote to the President early in May, telling him of the importance of Captive Nations Week. In response, a man at the Office of Management and Budget informed him the matter would be handled by the State Department. Later he was referred to Greg Treverton, a staffer at the National Security Council, which is headed by the President's chief White House adviser on foreign affairs, Zbigniew Brzezinski.

Time passed. Prof. Dobriansky, having to fly to Cleveland to be on a panel which, ironically enough, discussed "detente," asked Lee Edwards, a conservative activist and publicist, to take over while he was gone. Calling later on the phone, the professor was told by Mr. Edwards that Brzezinski's staffer Treverton had announced there was not to be any proclamation.

Dobriansky spread the news about the President's decision to interested ethnic groups and to congressional leaders.

In a letter to the President, Dobriansky wrote, "Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad. Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction, and certainly will weigh it accordingly.

"For one who is supposedly concerned and and committed to human rights globally, we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in contrast to your five predecessors you chose to ignore this annual observance of Captive Nations Week . . . We are appalled at your difference."

The President did then issue a token proclamation.

This Carter effort to appease Moscow follows a series of cancellations of defense measures, including, and especially, the B–1 bomber. What's next in the big sellout of America?

C. S. Dow.

Box 187, Rutland.

HUMAN RIGHTS STAND WEAKENING?

To The Editor Of The Star:

How many times have you read or heard the word human rights lately? If our President is so sincere about the issue why did he hesitate to proclaim Captive Nations Week? It took some concerted action by patriotic and concerned congressmen to make a White House reversal, so Captive Nations Week wasn't completely ignored as planned by the Carter administration.

What about human rights for the one million political prisoners in slave labor camps in the Soviet Union? What about some recognition for the Czechoslovakian people? It has been nine years since they last sought human rights. This year, hundreds of Czechs signed a manifesto called Charter 77 to remind the West that human rights supposedly guaranteed by the Helsinki Accord have not been extended to those ruled by the Soviet Union. In response, the secret people arrested 100 prominent signers and began to assault Western journalists in the streets.

What about human rights for East Germany, that has been waiting for 32 years to throw off its shackles?

Human rights are simply nonexistent wherever the Commnuists rule. But Mr. Carter sought to avoid even offering hope to the enslaved peoples by declaring Captive Nations Week.

MARIE HORAK,
Valparaiso.

LET MY PEOPLE GO

The 19th observance of Captive Nations Week is currently underway (July 17–23). It is an appropriate time to remind ourselves that the captive nations must remain our concern so that we may keep the hope of freedom alive in the many people who do not enjoy the same kind of liberty which we do. From Armenia and Byelorussia, which were annexed in 1920, to Cambodia, South Vietnam and Laos in 1975 and Angola last year, communist, totalitarian states have been forced on millions of people.

President Carter has repeatedly reaffirmed his commitment to human rights but there remains a lingering confusion as to exactly what human rights are. They have been vaguely interpreted as political, social, economic, scientific, artistic, and racial. What then do we mean when we use the term rights?

We define right as the moral power to do, hold or exact something. To do means either to perform or omit something because a person may have a right to keep silent as well as to speak. To hold means to own, keep or use something and includes metaphorical meanings such as to hold a job or an office. To exact means to demand that someone else perform or omit some action, and so a teacher exacts attention and silence from the pupil. This kind of right is a subjective right because the moral power to do, hold or exact resides in the subject or person possessing the right.

When we transfer the word right from the person who has the right to the things over which the right is possessed, we call that an objective right. If I say: "I will get my rights" I am speaking of an objective right, some object which is rightfully mine.

Right is founded on law. Right puts an obligation on others to respect the right. Since all obligation comes from law and ultimately from the natural and eternal law, then all right comes from law.

To exemplify these three meanings of right: A person is unjustly deprived of a right (objective right, an object due the person); appeal is made to the code of civil rights (the law); the person is given a fair trial to which he or she has a right (subjective right).

There are four components to a right: Subject, the one possessing the right; Term, those bound to respect or fulfull a right; Matter, what one has a right to and Title, the reason why this subject has this right. Take the example of an employee having a right to wages and we will discover these four elements: the employee who has earned the wages, (Subject; the employer who is bound to pay the wages (Term); the wages the employee has earned (Matter); and the work done whereby the employee has earned the wages. (Title).

The issue of human rights becomes complex when we introduce the issue of duty because right is limited by duty. I may exercise my right up to the point where my duty to others supercedes my right. A right ceases to be a right when it injures another's rights.

As we observe Captive Nations Week, the issue of human rights assumes a necessary prominence. The dissidents in the U.S.S.R. place different emphasis on human rights; for example, many of the Jewish people in Russia wish to exercise their right to leave the Soviet Union, while Russian citizens wish to exercise their rights to assemble, to criticize without fear of imprisonment and to be fairly represented. A third group of non-Russians including Lithuanians, Ukrainians and Georgians wish to exercise their rights to preserve their culture and their language and to govern themselves. The Captive Nations desire a restoration of their human rights, be they personal, civil or even national. It remains our duty to insist on their rights.

TRADE WITH THE RUSSIANS

(By Anthony Harrigan)

This summer, the Department of Commerce took the commendable step of denying Control Data Corp. a license to export its sophisticated Cyber 76 computer system to the Soviet Union. This government action was praiseworthy because the Cyber 76 system could have been adapted for military purposes.

The United States should be very strict in preventing the export of high technology equipment to hostile nations. Such equipment strengthens the enemies of freedom. Indeed, in the case of Cyber 76, it's shocking that Control Data sought to sell a computer system that would have greatly enhanced the military power of America's principal adversary.

The issue of trade with the Soviet Union should be more carefully examined. Every commercial transaction with the USSR may have political and military significance.

Fortunately, close scrutiny of U.S. trade with the Soviet Union will be given Sept. 9–10 in Denver, when the Solzhenitsyn Society (P.O. Box 2336, Boulder, Colo. 80302) sponsors national conference on this subject.

Dr. Edward Rozek, president of the Society, is professor of political science at the University of Colorado and a leading authority on Soviet affairs. Scholars, officials, businessmen, and former Soviet citizens will address the conference.

The speakers include Dr. Lev Dobriansky, head of the Captive Nations Assembly; Dr. Ray Cline, former deputy director of the Central Intelligence Agency; Efraim Sevala, a former Soviet citizen who escaped to the free world; John L. Moore, Jr., president of Export-Import Bank; and William F. Buckley, author and columnist.

In recent years, the Soviets have been very successful in gaining access to Western technology. In many cases, they have obtained complete "turnkey" projects, in which a western contractor provides a plant so complete that the Soviet officials only have to unlock the door and start producing.

The Soviets have gained access to Western industrial know-how, utilizing Western money. Since 1974, Soviet borrowing from the West has jumped from $6 billion to $14 billion. That's money diverted from projects in the United States or in friendly nations.

In other words, the Soviets have been importing valuable technology "on the cuff." This enables the Communist leadership to divert men and materials to military projects.

Since the early years of the Soviet regime, Moscow has turned to the West for technological know-how. While preaching the downfall of capitalism, they have maneuvered to acquire the skills—and money—of the capitalist nations. The Soviet leadership expects to use the Western technology and Western-built plant facilities to bury the West.

During the Kissinger years, the U.S. government encouraged the sale of technology and equipment to the Soviet Union. The U.S. public now realizes that Dr. Kissinger's detente policy was a dangerous illusion. It's time, therefore, to reexamine all aspects of trade with the strongest totalitarian regime in the world today. The Solzhenitsyn Society conference is an important step in that direction.

STALLED CRUSADE?

The National Captive Nations Committee, which is dedicated to freedom for the Iron Curtain countries, has a grievance against Mr. Human Rights, Jimmy Carter. Each year since 1959, the president, in accordance with congressional mandate laid down that year, has proclaimed Captive Nations Week.

But this year was slightly different. The proclamation arrived four days late. At that, it made no mention of the 27 captive nations, nor of the prime captor, the Soviet Union. Dr. Lev. E. Dobriansky, chairman of the captive nations committee, was incensed.

"We feel compelled to ask," said Dobriansky, "which is more important to this administration—human rights or relations with the Soviet Union? We will be watching very carefully the administration and the White House to determine the answer and how President Carter develops what he himself has called his 'crusade for human rights.' His near-disastrous inaction on Captive Nations Week sugegsts that his commitment to his human rights crusade is growing lukewarm if not cold."

The likelihood, to be sure, is that Carter has lately grown nervous over his strained relations with the Soviet Union. But what an extraordinary thing it will be if it turns out that the Carter human rights policy is for all nations but the Soviets. That would be like "Hamlet" without the Prince of Denmark, provocative perhaps but rather beside the point.

CAPTIVE NATIONS WEEK: TRAGIC TRAVESTY

(By John H. Rousselot)

During last week's 19th observance of Captive Nations Week, it is most appropriate that we take time to consider the millions of people throughout the world for whom tyranny and oppression are features of everyday life. The list of captive nations is long. They exist in virtually all parts of the world. Some of these countries once enjoyed long periods of self-determination and freedom. Others have been free for only the briefest of moments.

Yet in each of these countries, the spirit of liberty remains alive—held dear by those who continuously struggle to rid themselves from the oppression which grips their homelands. In recognition of their ongoing battle, we have set aside the third week in July as Captive Nations Week. Through this commemoration, we pay tribute to the courage of those who are not yet free and we reaffirm our own country's strong commitment to human and civil rights for all people. It is, therefore, truly unfortunate that America's current foreign policy seems to conflict with our respect for the human rights of these captive nations.

For the past two years, the only country to enjoy United States most-favored-nation trade benefits, subject to the human rights and free emigration conditions of the Trade Act of 1974, has been Romania. In the past, our government has granted Romania a waiver from those requirements because, allegedly, the Romanians were pursuing a foreign policy independent of the Soviet Union. Many of us here in Congress, however, have been concerned about constant charges that attempts have been made to suppress the language and culture of ethnic minorities. In addition, recent news accounts have referred to continued harassment of those seeking to emigrate and a new crackdown on dissidents—actions which point to a serious disregard for human rights and a badly needed reconsideration of our trade position.

Unfortunately, the Carter administration does not share that viewpoint. On June 3, the President recommended that a waiver from the human rights and free emigration conditions of the trade act be extended—that we continue to trade with Romania. Earlier this week the Trade Subcommittee of the House Ways and Means Committee added its approval to the administration's recommendation. I find these actions tragic and wonder aloud when we are going to stop having a selective human rights foreign policy—when we are going to give more than lip service to Captive Nations Week.

CAPTIVE NATIONS WEEK

July 17–23 was observed nationally as "Captive Nations Week" in accordance with Public Law 86–90, passed by Congress in 1959. President Carter and Governor Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine and others continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief;" and "Hundreds of Ukranian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of UN Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric, bordering on outright ethnocide and genocide. Hundreds of Ukranian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guarantees of the Helsinki Accords, which it signed. Recently two Ukranian dissidents, Mykola Rudenko and Olesiy Tykhy, members of the Ukranian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. In Soviet jails and concentration camps are: Valentyn Moroz, a Ukranian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, the Rev. Vasyl Romaniuk, Yuriy Shukhevych, Ivan Svitlychnyi, Sviatislav Karavanski, Stefania Shabatura, Nina Strokata-Karanska, Ivan Hel, Vyacheslav Chornovil just a few of hundreds of Ukrainian political prisoners.

This year's Captive Nations Week was observed at the time of the Belgrade conference, at which 33 nations are reviewing the implementation of the Helsinki Accords of 1975. However, the captive nations in the Russian Communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations Week served as an appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive peoples under the Russian Communist domination to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress, Committee of America, Boston Chapter.

WESTERN ALLIES SUPPORT UNITED STATES IN ILO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, the United States is soon going to decide whether to remain a member of the International Labor Organization or to allow the 1975 letter of intent to withdraw to take effect on November 6. I believe the United States should remain in the ILO and am very glad to learn that the nine governments of the European communities support the United States staying in ILO. On behalf of the European community, Prime Minister Leo Tindemans recently wrote to President Carter expressing the great hope that the United States would

withdraw its notice of intent, and the willingness of the governments of the nine to work with the United States in resolving complex issues we all agree require solution in ILO. The Prime Minister also states that together we would be able to work effectively in supporting an organization whose historical commitment to social justice is so consonant with the purposes of the U.S. Government.

Mr. Speaker, I include this important letter from Prime Minister Tindemans in the RECORD:

BRUSSELS,
September 9, 1977.

Mr. JIMMY CARTER,
President of the United States of America, Washington.

MR. PRESIDENT: I am writing to you on behalf of the Nine member Governments of the European Communities to convey to you our views on the present situation in the International Labour Organisation.

The member Governments of the European Communities have been following recent events in the ILO with keen concern. We share the preoccupations of the United States' Government. Like the U.S. Government, we consider that certain developments at the annual Conference of the ILO, held in June 1977, were damaging to the Organisation. One of the results of that Conference, the failure to adopt the report of the Committee on the Application of Conventions, seems to us particularly regrettable. It is our firm view that the successful operation of the ILO requires that the annual reports of this Committee should be adopted and should be acted upon. It is our intention, which we believe is shared by many member Governments, to insure that the main points in this years report, and in particular its endorsement of the need for a single standard in judging performance, are actively pursued within the organisation.

The 1977 Conference was the more disappointing in that we consider the ILO to be an element of major and indeed growing importance in the UN system. As the World Employment Conference showed, the ILO has a significant role to play in the attempts of global economic development. It has a substantial contribution to make to the success of the basic needs strategy. Similarly it has a major contribution to make in the fiscal of human rights where the ILO machinery is the longest established and, so far, the most effective of that deployed by any international organisation. Finally the regular work of the ILO, the only world-wide tripartite organisation, in standard setting and in improving conditions of work throughout the world seems to us of undiminished importance.

For these reasons we consider the ILO remains an organisation fully worthy of our support. It would be a major blow both to the Organisation itself and to the UN system as a whole if the U.S. were to withdraw. Nor do we believe that the resulting situation would be readily rectified. The task of reform and of achieving the objectives we share in the ILO might well be impossible in the absence of the United States even though the Governments of the Nine would continue their efforts to preserve and enhance the value of the ILO's services to the international community.

On the other hand, working together with the United States in the organisation and seeking the support and goodwill of the many member states who share our objectives, we consider that there would be a reasonable prospect of making progress in the right direction and of preserving the integrity of the Organisation. This would of course require flexibility on the part of all involved in the negotiations which lie ahead. We believe it will be possible to secure a strengthening of the defence of due process through amendment of Article 17 of the Standing Orders. The necessary restructuring of the Organisation, including, for instance, changes in voting procedures, will require the most careful consideration. But if the discussions are approached in a spirit of mutual understanding the essential requirements of the membership of the Organisation, including the preservation both of the principles of tripartism and of the partnership between the industrial and developing countries can be satisfied.

There is of course no prospect of resolving these complicated issues in the next two months. But a recent opinion by the Legal Adviser to the ILO in response to our inquiry concludes that notice of intent to withdraw from membership can be extended for a defined period of time. We greatly hope that the United States will withdraw its notice of intent. If however there are factors which make that impossible, we urge that you take appropriate steps to extend the formal notice for a new period so as to allow time to work out lasting solutions to the problems which confront the ILO. Such an extension would cover next year's Conference, to which any results of our work in the months ahead will need to be submitted.

In this way all of us, together, will be able to work effectively in support of an organisation whose historical commitment to social justice is so consonant with the purposes of your Government.

Respectfully yours,

LEO TINDEMANS.

PRESIDENT SHOULD ESTABLISH COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. NOLAN) is recognized for 60 minutes.

Mr. NOLAN. Mr. Speaker, my colleagues and I introduce a resolution expressing the sense of the House of Representatives that the President of the United States should establish a Commission on Domestic and International Hunger and Malnutrition. The 254 Members who have joined in cosponsoring the resolution agree that this Commission will be the most practical and effective means to provide the President and the Congress with a concise and comprehensive analysis of public policy as it relates to the root causes of world hunger.

In his inaugural address, President Carter called for a "common effort" to guarantee "the basic right of every human being to be free from poverty and hunger and disease and political repression." Members of Congress have long shared the President's concern. Indeed, our political leaders have expressed these sentiments for generations, but hunger and malnutrition remain an all too present reality at home and abroad.

Thirty-six years ago, when Europe was at war and the bombing at Pearl Harbor lay only 11 months ahead, President Franklin Roosevelt called for a world founded upon the "four freedoms," one of which included freedom from want. In his address to Congress, Roosevelt denied that freedom from want was merely "a vision of a distant millennium." Rather, he said:

> It is a definite basis for a kind of world attainable in our own time and generation.

In order to move closer to a world committed to securing freedom from want, the United States helped lead the way in organizing the Food and Agriculture Organization (FAO) of the United Nations in 1943. Building upon the efforts by the League of Nations to improve nutrition and to solve agricultural marketing problems, the founders of FAO declared their intention to focus upon two central objectives: freedom from hunger and adequate returns for farmers. During the pre-World War II years, the prevalence of hunger and malnutrition amidst burdensome and unmarketable surpluses, had convinced the FAO founders that the physical presence of food stocks was not enough to assure freedom from hunger. Instead, FAO stressed the need to improve nutrition, to broaden the distribution of food and to keep agriculture economically healthy.

By 1977, hunger and malnutrition still remain daily facts of life for millions of people throughout the world. Freedom from hunger has not been attained in one generation as President Roosevelt had hoped. In terms of sheer numbers, the population explosion of the last 30 years has made world hunger a more serious concern today than it was a generation ago. If President Carter's determination to attain freedom from hunger in our lifetime is to be more successful than Franklin Roosevelt's similar determination three decades ago, we must intensify our efforts in behalf of hungry people in the United States and around the world.

The sponsors of this resolution therefore call upon the President to establish a Commission on World Hunger. After evaluating the numerous studies, reports, policies and programs related to domestic and international hunger and malnutrition, the Commission is expected to summarize and clarify its findings. The Commission's comprehensive survey will serve as the basis for specific policy and legislative recommendations and for developing a clearly defined and coordinated national food policy. The work of the Commission will thus enable the President and Congress to choose courses of action which will significantly reduce hunger and malnutrition in our lifetime.

Mr. Speaker, my colleagues and I also recognize the need for the Commission to focus its resources upon an examination of the continuing paradox between increasing worldwide hunger and the burdensome grain surpluses in the United States. The League of Nations and the Food and Agriculture Organization recognized the paradox, but after 40 years we still have not resolved the contradiction. Most of the voluminous studies and reports that have been made on the "world hunger" problem have passed by this paradox. By tackling this question headon, the Commission can

make an original contribution to our understanding of the nature of the food and agriculture problem and of the practical measures that will be needed to overcome it at last.

The world food supply has alternated between glut and scarcity for generations. World hunger nevertheless has been a continuing reality despite the periodic appearance of food surpluses. For the world's farmers, however, the wide swings in the level of food production have repeatedly disrupted the agricultural economy both at home and abroad. Like the movement of the grim reaper's deadly scythe, each up and down swing in food production has cut into the capability of the world's farmers to produce enough food to meet minimum human needs. If this destructive process is not halted, the day will come—if it is not already at hand—when our farms will not yield enough to eat for the human race.

One of the Commission's first priorities, therefore, must be to explain the paradox of the continuing increase in numbers of human beings who suffer from hunger and malnutrition while the prices received by farmers in the United States are falling under the burden of surpluses to the lowest levels of purchasing power since the depths of the Great Depression in 1933. Our agricultural productivity cannot be maintained when our farmers are sinking in perilous economic straits.

By weakening the world's farm economies, food surpluses actually reduce our capability of feeding a hungry world. And, despite efforts to improve nutrition and food distribution—the goal of many of our domestic and international aid and development programs—hunger and malnutrition stubbornly persist. The paradox of continuing hunger amidst food surpluses thus will lead the Commission to examine the reasons why those who are hungry cannot earn enough to pay farmers what it has cost them to produce the food that overflows our storehouses today. Indeed, the world's hungry cannot even purchase food when it is cheap—when the prices farmers receive for their production have been driven down by surpluses. If we are going to end world hunger, the Commission will have to learn why the paradox of hunger amidst plenty continues to exist, and then make the recommendations to resolve the problem once and for all time.

Mr. Speaker, the challenge which lies before the Commission and before our country is both solemn and momentous. Our parents and grandparents lived through an era when public officials dared to dream about eliminating world hunger in their lifetimes and tried to work toward that end. We can benefit from their experience. We do not need to preoccupy ourselves with the fact that those who preceded us failed to reduce world hunger. Rather, we need to know why they failed. The proposed Presidential Commission provides a unique opportunity to ask the right questions and to offer well-conceived recommendations for solving the problem of world hunger.

The bipartisan, rural-urban coalition which has joined together in support of the Commission demonstrates a widespread recognition that we need to make elimination of world hunger and malnutrition a priority. The emergence of the coalition also indicated that we have the interest and the support in the House and in the Senate for a Presidential Commission to undertake a comprehensive food policy review.

The congressional coalition supporting the Commission did not, however, just happen to coalesce. The active efforts of Harry Chapin and the staff of World Hunger Year contributed immeasurably to building the coalition. Through their efforts, the largely urban-based religious and humanitarian groups concerned about world hunger have established a closer relationship with farmers and farm organizations. The National Farmers Organization and the National Farmers Union both support the Commission and they have helped to define its purpose.

When the President appoints the members of the Commission, he therefore should strive for a balanced membership that will include farmers and representatives from the religious and humanitarian organizations, in addition to other individuals who represent a variety of backgrounds, taking into account age, income, interest in food and agriculture issues, and relationship to hunger and malnutrition. In selecting commission members, the President should also search for people who are willing to devote considerable time, effort and talent to the commission's work.

The strong support which my colleagues have shown for the commission indicates that the House of Representatives is serious about trying to end world hunger and malnutrition. We urge the President to establish the commission and to mandate that it perform the function suggested by the House of Representatives in this resolution.

The resolution follows:

Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition

Whereas, hunger and malnutrition remain daily facts of life for millions of people throughout the world;

Whereas, there is a need to examine the continuing paradox between increasing worldwide hunger and malnutrition and the burdensome grain surpluses in the United States;

Whereas, it is in the interest of the United States to reduce significantly hunger and malnutrition and to assist in the efforts of nations and people to improve the capability to feed themselves;

Whereas, the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and political conditions of developed and developing nations;

Whereas, the United States needs to develop a clearly defined and coordinated food and development policy that reflects the interrelationships between domestic and international hunger and malnutrition;

Whereas, Americans are concerned about, and wish to make a valuable contribution to, the process of formulating policies to meet basic human needs; and

Whereas, in this time of greater national emphasis on protecting basic human rights, there can be no higher priority than the preservation of life itself.

Resolved, That the President should establish a Commission on Domestic and International Hunger and Malnutrition (hereafter referred to as the "Commission") so that the President and the Congress may better understand the pervasiveness of hunger and malnutrition and take necessary steps to counteract the problem.

SEC. 2. (a) The Commission should—

(1) establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition;

(2) identify and evaluate existing Federal programs and policies related to hunger and malnutrition.

(3) develop for the President and the Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition throughout the world and assisting in implementing such recommendations.

(b) To carry out the purposes of subsection (1), the Commission should—

(1) assemble, correlate, integrate, and generate information and resources on food, hunger, malnutrition and related concerns;

(2) assess the organization and structure of current programs which affect domestic and international hunger and malnutrition;

(3) analyze and present findings to the President, the Congress, and the public; and

(4) assist the President and Congress in implementing its findings, conclusions, and recommendations.

SEC. 3. The Commission shall be a balanced membership composed of 15 persons appointed by the President from individuals who represent diverse backgrounds, taking into account age, wealth, and relationship to the problems of hunger and malnutrition.

SEC. 4. The Commission should—

(1) not later than six months after the date of the appointment of its final member, prepare and transmit to the President and the Congress an interim report on the progress achieved in implementing the provisions of section 2 of this resolution together with a schedule of activities and goals for the following six months; and

(2) not later than one year after the date of appointment of its final member, prepare and transmit a report containing a detailed statement of findings, conclusions, and recommendations.

(3) assist for a period of up to one year after the transmission of the final report in the implementation of its recommendations, and conduct an educational program to disseminate its findings to the people of the United States.

SEC. 5. The Clerk of the House shall transmit a copy of this resolution to the President.

Mr. GILMAN. Mr. Speaker, legislation is being introduced today by my distinguished colleague from Minnesota (Mr. NOLAN) and me, and over 225 of our colleagues establishing a Presidential Commission on World Hunger. I intend to actively support the goals toward which this Commission will be directed; namely, significantly reducing the hunger and malnutrition which imperils the lives of millions in this and other nations. I am hopeful that such a commission will provide us with valuable insight concerning the manner in which costly, inefficient food programs may be modified or excised, and efficacious, forward-looking programs initiated.

The commission's goal is threefold in nature: First, establishing clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition; second, identifying and evaluating existing Federal programs and policies related to hunger and malnutrition; and third, developing for the President and the Congress specific recommendations for policies and legislation to markedly reduce hunger and malnutrition in the world, and assisting in implementing such recommendations.

Mr. Speaker, an oriental adage posits the following scenario:

If you give a man a fish,
he will have a single meal;
If you teach this same man how to fish,
he will eat for the rest of his life.

Indeed, in a recent letter which was circulated by Congressman NOLAN, myself and 23 of our colleagues, we stressed this premise, asserting that "the ultimate solution" to the scourge of world hunger and malnutrition is "assisting people to obtain an adequate diet." Our concern is not with ad hoc stop-gap measures characterized, for example by only a continual stream of food shipments to less developed countries. Rather, the United States—in concert with other developed nations—must identify those policies whereby emergency food shipments can be provided the hungry, while at the same time initiating programs aimed at encouraging and providing less-developed nations with the capability of assisting themselves in developing and implementing techniques for increasing their food production and distribution.

Domestically, we must similarly strive to develop and implement policies providing self-help assistance to the millions of American hungry and malnourished. Concurrently, our policies must reflect legitimate concern for both assuring that farmers and consumers encounter a fair and equitable price in the marketplace, and for avoiding disruptions in the producing potential of our farmers.

The manner in which these tasks are to be accomplished has generated many differing proposals—ascertaining the relative viability and adequacy of these proposed solutions lies at the heart of this Presidential Commission's task.

Last year, the Subcommittee on International Resources, Food, and Energy, of which I was the ranking minority member, held 4 days of hearings on "the Right-to-Food" Resolution. Testimony from more than 25 witnesses contained numerous interpretations of the causes of widespread hunger and malnutrition, and illuminated the cataclysmic manifestations in which global hunger appears.

Many well-reasoned, but often divergent, recommendations for combating hunger were advanced, with agreement crystallizing around the conclusion that key policy decisions remained concerning implementing an intensified commitment to markedly attenuate the crisis of world hunger and malnutrition. The Right-to-Food Resolution emerged as a realistic statement of congressional and public concern for marshaling our forces to check the famine and unreliable or shortsighted systems of food production and distribution responsible for the death and suffering of so many.

I am confident that a Presidential Commission on World Hunger can efficiently serve as a vehicle for conceptually organizing responsible recommendations aimed at ameliorating the debilitating concomitants of hunger and malnutrition.

Accordingly, I urge my colleagues to join with us and our more than 225 colleagues who are actively supporting this bipartisan effort for establishing a Presidential Commission on World Hunger.

Mr. BONIOR. Mr. Speaker, my statement will be brief because this resolution and the large number of signatures attached to it provide their own eloquence.

I only want to say that I am extremely proud to be a cosponsor of this resolution. It displays the continuing interest in human rights and humanitarian concerns that has marked this Congress thus far. It is a reordering of priorities long overdue.

Hunger and malnutrition are not the world's inheritance. To the extent that they exist, they do so more through price, maldistribution, and agricultural underdevelopment rather than scarcity. In the words of Alan Berg, food expert for the World Bank:

Enlightened policies and actions could prevent this and we have no choice but to try. To do otherwise would reflect a fundamental and grievous change in the character of man.

I commend my colleagues for their concern and urge quick passage of this resolution.

Mrs. HECKLER. Mr. Speaker, I rise today to speak in support of establishment of this most important Commission on Domestic and International World Hunger and Malnutrition.

In my 3 years as a member of the House Agriculture Committee, I have become increasingly frustrated over the monumental lack of knowledge about nutrition, even in our own country. Finally, the House is scheduled to hold hearings on the subject of nutrition. I applaud that first step.

However, I believe that what we must do, as representatives of the people, is to arrive at a bold new approach to food and nutrition. We must first become knowledgeable about nutrition, then we must establish a national policy on nutrition that will be our guide for the programs we must consider and approve as the Congress of the United States.

The objective of the forthcoming nutrition hearings is simply to discover what we know about nutrition. I think I already know what these hearings will reveal: and that is that we know very little about nutrition.

There is an urgent need for a new nutrition-oriented national food policy and that is why I wholeheartedly support this resolution calling for a Commission on Domestic and International World Hunger and Malnutrition.

Although experts disagree, many climatologists are warning us that the weather will be increasingly variable over the next decade. This warning, if proved true, will vitally affect our food supply—and that of the world.

Even this country, with its great capacity for production of food is not immune from the specter of hunger.

Not only does the United States need to develop a clearly defined food and nutrition policy, but we must help develop an international policy as well. We all know how significantly the food and agriculture policies of the United States affect the world. We all know that we have the greatest agricultural production machine in the world—and yet hunger and malnutrition are increasing in the world at large.

Therefore, I feel this problem needs a focus—a forum where the issue will receive national, and worldwide, attention. A Presidential Commission on hunger would seek to establish the relationships between the problem of hunger and our policies here in the United States. It would also develop recommendations that the President and Congress can use to provide legislation that could reduce hunger and malnutrition throughout the world.

There is no more important problem that Congress could consider. Food and nutrition are basic to our survival and to our children's survival. Our policy must take into account, not only what we must do in the next few years, but what we must do to insure adequate food production in the next century.

My long interest in the problems of the consumer has caused me to take an ever-closer look at the problem of food and to realize that it is truly a global problem and a massive one. We must begin to address this problem now. The nutrition hearings the Agriculture Committee will hold are a first step, and this Presidential Commission is another first step. Therefore, I urge the Congress to approve this resolution calling for establishment of a Presidential Commission on Domestic and International Hunger and Malnutrition.

Mr. BAUCUS. Mr. Speaker, the accomplishments of mankind are surely incredible. Men fly through the air, walk on the Moon, and communicate instantaneously with any point in the world. Yet, tens of millions of the world's people continue to starve.

Meanwhile, American farmers face increasing surpluses and sinking prices. Farmers in Montana lose money on every bushel of wheat and every head of cattle they produce. Something is terribly wrong.

This resolution to establish a Presidential Commission on World Hunger can go a long way to resolve this cruel paradox. Such a commission could determine why starving people are not able to earn enough to buy food for as much as it costs the farmer to produce it and what can be done to give them this abil-

ity. Both the hungry people of the world and the bankrupt American farmer would benefit.

It is my hope that our President, who is so keenly sensitive to other violations of human rights will adopt this resolution and set in motion it's plan to eliminate the tragedy of starvation.

Mr. FRASER. Mr. Speaker, I rise to add my endorsement to Congressman RICK NOLAN'S resolution to establish a Presidential Commission on Domestic and International Hunger and Malnutrition.

The resolution states that the Commission shall pursue three goals: First. Establish clearly the causes of domestic and international hunger and malnutrition and their interrelationships; Second. Identify and evaluate existing programs and policies that are concerned with hunger and malnutrition; and Third. Present to the President and Congress specific recommendations for legislation to significanlty reduce hunger and malnutrition and outline specific steps for the development of a clearly defined and coordinated national food policy. In addition to its charge to provide essential analyses and recommendations, the Commission could dramatically draw national attention to the need for a sustained and serious public commitment to understand and ameliorating the plight of the world's hungry and malnourished.

The foreign economic assistance and food aid programs of the United States have been generous and well-intentioned. Too frequently, however, our efforts have been skewed by an adherence to political/strategic objectives, undermined by a lack of understanding of the effects our aid has on food-poor nations' agrarian development, and plagued by an inability to engage in long-term planning and coordination.

Beginning with the "New Directions" policy of the Foreign Assistance Act of 1973, and continuing through the International Development and Food Assistance Acts of 1975 and 1977, Congress has addressed and sought to correct many of these problems. Yet, our efforts have not been sufficient. We devote only .24 of 1 percent of our GNP to official development assistance, despite repeated urgings by the international community to meet a target level of .70 of 1 percent. We have been unable to develop anything resembling a national food and nutrition policy, even though there is widespread recognition of the haphazard and ad hoc manner in which policies bearing on hunger are formulated and implemented. We have not fully tapped the reservoir of good will the American people feel toward those in need and have failed to institutionalize the concern that surfaces so readily in times of international emergency.

The Presidential Commission alone obviously cannot rectify these failings. But it could serve as a highly visible and dramatic catalyst. It could help draw together, organize, render intelligible, and disseminate the vast body of research that has been undertaken on the causes and consequences of hunger. It could help coordinate the energies of the executive and legislative branches in an attempt to fashion an embryonic national food policy. It could provoke new thinking about how an individual might influence the course of a campaign against hunger. And it could challenge and help transform prevailing assumption about international development, leading to a heightened awareness of the need to ensure that a person's right to a nutritionally adequate diet becomes a fundamental point of reference in the policymaking process.

The resolution is an important and timely measure. I commend Congressman NOLAN and all those who have worked with him in developing this idea for their initiative. Particular credit must be given to Harry Chapin and the staff of World Hunger Year for their unceasing efforts on behalf of this concept. I encourage my colleagues to see that the proposal is given prompt and positive consideration.

Mr. STEERS. Mr. Speaker, I would like to urge the support of every Representative for a resolution introduced by Congressman RICHARD NOLAN to establish a Presidential Commission on Domestic and International Hunger and Malnutrition.

The problem of hunger is still painfully acute in many countries throughout the world. Although there have recently been few dramatic examples—such as the Sahel drought in Africa—to publicize the tragedy of human starvation, the scope of this problem still grows larger. The problems of famine, hunger and malnutrition are not episodic occurrences that disappear as soon as a flurry of publicity arises, but rather long-term and constant problems that must be continuously attacked.

For this reason, I believe that a Presidential Commission is highly desirable. It is needed to raise the public's level of awareness of the causes and possible solutions of hunger in the United States and abroad. The humanitarian goals of this Commission are totally consistent with the American people's desire to translate their good intentions into realistic and concrete solutions. The needs of the hungry are universal; I hope that partisanship will not block any potential remedy—especially a resolution that establishes a Presidential Commission to study and propose solutions to the problem of hunger.

Mr. SIMON. Mr. Speaker, I am pleased to join my friend from Minnesota (Mr. NOLAN) in introducing a resolution to establish a Presidential Commission on Hunger. I commend him for the leadership he has taken in this field and would also like to note the important role played by Harry Chapin and others involved with World Hunger Year.

Despite efforts by the United States and other nations to combat world hunger, there has not been a noticeable improvement in the situation. The problem is overwhelming. Approximately 460 million people around the world—twice the size of the U.S. population—suffer from chronic hunger. Even in our own land of opulence and high grain yields, a sizable number are malnourished.

The problems of hunger—both in this country and abroad—are not just a simple matter of producing more food. We need to improve our efforts in distribution and agricultural technologies. We need to understand the relationships between hunger, population, and economic development.

The administration recently announced its plan for a grain reserve of 30 to 35 million metric tons. Six million tons will be placed in an International Emergency Food Reserve. This announcement is a positive and important step in the right direction. But more needs to be done. At the time an increased reserve was announced, the administration proposed reducing our food production through expanding the set-aside program.

We need to develop and implement our policies on a more informed and coordinated basis. We must increase our understanding of the world hunger problem, develop new and more adequate policies to deal with the problem, and implement these policies effectively.

The proposed Presidential Commission on Domestic and International Hunger and Malnutrition will serve these needs. It has three important goals. First, the Commission will establish clearly the causes of domestic and international hunger and malnutrition and their interrelationships. This will provide those of us in Government as well as individuals and groups in the private sector with the understanding necessary to focus effectively on the hunger problem.

The second goal of the Commission will be to identify and evaluate existing programs and policies that are concerned with hunger and malnutrition. So many Federal, private, and international programs attempt to deal with the hunger problem, that it is necessary to get a firm grip on what is being done before we can improve the situation.

The accomplishment of these first two goals—understanding the causes of hunger and present programs to combat it—will allow the Commission to attack its third and cruicial goal with adequate preparation and expertise. This final goal is to bring to the Congress and the President specific recommendations on how to significantly reduce hunger and malnutrition and to outline specific steps for the development of a well-defined and coordinated national food policy. The Commission's recommendations could serve as a spearhead for more comprehensive and effective action.

Mr. Speaker, I strongly support this resolution. I have written on the subject and am familiar with it.

An attack on hunger is basic to our fundamental responsibility as political leaders and as human beings. I hope my colleagues will examine this proposal and offer their support.

Mr. DOWNEY. Mr. Speaker, the major

catalyst for the introduction of this resolution in support of a Presidential Commission on Domestic and International Hunger and Malnutrition has been the work of a hunger-action group which I have had the privilege of being associated with since my election to Congress. The name of the group is World Hunger Year (WHY).

I think it is fitting that this small phrase, WHY?, is the most important for outlining the reasons for this resolution and the massive support it has received in both chambers of Congress.

Why a Presidential Commission?

The country and the Federal Government have become increasingly more aware of the need for a coherent and comprehensive national food policy. The increasing productivity of American farms coupled with continuing domestic and global hunger and malnutrition is a situation that defies a piecemeal approach. Food is the most basic of human needs, and this need demands a basic and thoroughly evaluated Government approach.

The first step in the formulation of a national food policy is a comprehensive and integrated analysis of the causes of world and domestic hunger. A Presidential Commission, with representation of all perspectives on this issue, will be a visible and functional vehicle for addressing this problem of far-reaching consequences.

A Presidential Commission will serve as a springboard for legislative action and public consideration of the entire hunger paradox. The Commission concept is not new, and it has sometimes failed. Yet, the continuing and growing importance of the issue, the need for compilation, coordination, and analysis and not "original research," and the vast potential for legislative and administrative follow-through clearly indicate that this Commission can succeed. I believe it will.

Why should the 95th Congress act?

The research, public interest, and Federal programs associated with the hunger problem have reached a certain type of threshhold in recent years. Direction is needed. A comprehensive and integrated analysis of the causes of world and domestic hunger by the Commission can provide that direction. The time is ripe for elevating the consideration of this issue and to funnel our resources in a direction where they can accomplish the most.

A coordinated examination of available hunger research, a distillation of ideas and recommendations, the communication of these recommendations to the Congress, administration, and public, and assistance in implementing these recommendations constitute the blueprint for this Presidential Commission. It will mark a new beginning in America's effort to deal with the hunger issue.

It is new beginnings that is the theme of the Carter administration, and the congressional support for this resolution will show that this is a new beginning that receives support from legislators representing a multiplicity of interests and with varied perspectives. The basic problem of hunger in the world deserves no less.

Mr. BONKER. Mr. Speaker, a Presidential Commission on Domestic and International Hunger and Malnutrition should help generate what this Nation has long needed, namely an integrated, coherent, and well-formulated national food policy. Under a Presidential commission U.S. Government policy would be developed in a manner reflecting the best interest of this Nation and of the world, still heavily populated by those experiencing hunger and malnutrition on a daily basis. For too long our food policy has been a confusing mix of positions adopted by a multitude of Government agencies often heavily dominated by narrow perspectives and priorities.

It will take much more than a Presidential commission and a national food policy to counteract the problem of domestic and world hunger. By this resolution we are not suggesting there are easy answers nor that the United States should try to solve world hunger on its own. Rather, we are on the threshold of a new approach and of a new era in America's commitment to help eradicate not only the symptoms, but also the causes of domestic and international hunger and malnutrition. For these reasons, I am happy to cosponsor this resolution. At the same time, I would like to commend the performing artist Harry Chapin for his devotion to the vital cause which our resolution seeks to strengthen.

Mr. AUCOIN. Mr. Speaker, 2 weeks ago Time magazine carried a story about America's bumper harvest. There in full color we saw surplus wheat dumped onto the main street in Marshall, Okla. Another photograph showed wheat piled high against an already filled elevator in Kansas.

It was the third best wheat crop in U.S. history. Together with corn and soybeans this country faces a projected grain surplus of 84 million metric tons at year's end. A certain symbol of America's bounty.

Yet too often these stories are followed by stories of another kind. Stories of hunger, of suffering. Of human misery spawned by a simple lack of food.

The Food and Agriculture Organization today estimates that more than half a billion people lack the minimum nourishment they need to maintain their health, their growth, and their work capabilities. In short, some 500 million people are so hungry they're sick.

Some never recover.

Unfortunately, the gulf between America's swollen silos and the world's hungry is far greater than the few pages between news stories. And therein lies one of the most difficult and perplexing problems facing mankind.

Finding an answer will require all the ingenuity we can muster. The resolution which is being introduced today is one step in that direction.

A Presidential Commission on Hunger would provide a badly needed focus for national debate on U.S. food policies at home and abroad. This has been lacking in the past and is undoubtedly the reason our food programs today are so fragmented. The commission could also pull together the increasing volume of research that has been done on the world hunger, digesting the findings and identifying key causes of hunger in all countries.

It could serve as an advisory group to Congress in its search for sound legislative solutions. Most importantly, it could elevate public consciousness about a problem that must be of personal concern to each and every American.

In this regard I think something needs to be said about the efforts of Harry Chapin and my colleague from Minnesota (Mr. NOLAN). It is they as much as anyone who have championed the fight against human hunger. If we succeed in reducing the number of malnourished by even a fraction it will be due in large measure to the determination and hard work of these two men.

I am proud to be able to join with them in their cause and am proud to cosponsor this resolution, which seeks such a commission. I urge every Member of this House to do likewise.

Mr. JEFFORDS. Mr. Speaker, I would like to join my colleague from Minnesota (Mr. NOLAN) and my colleague from New York (Mr. GILMAN) in their plea to the Members of the House and to the President to establish a Commission on Domestic and International World Hunger and Malnutrition. This Nation with its many successes and our availabilities can hardly expect to be a credible world leader unless we make a serious effort to solve the world hunger problem.

First, I would like to commend Mr. NOLAN, Mr. GILMAN, and the distinguished Senator from my home State of Vermont, Mr. LEAHY, as well as a great musician and man with a cause, Mr. Harry Chapin for their very active role in this great battle to reduce hunger and malnutrition in this country as well as abroad.

As a member of the Committee on Agriculture, I have had an interest in many food programs. There are many areas I could discuss relative to this situation but I would like to concentrate on the following three points:

First. World food reserves. The purpose of a reserve may vary from assuring emergency food aid to price stabilization or it may serve as some combination of the two. Reserves could similarly be used in such instances to assure food assistance and commodities for the Food for Peace program. With an increasing percentage of exportable U.S. commodities guaranteed to buyers by long-term agreements, other trading partners would be assured of having access to supplies.

There are three main issues to be considered in discussing a reserve proposal. First is the availability and cost of acquiring stocks. Second, is the determination of what countries and under whose control—farmers, government, or a combination—the stocks would be held. And finally, identification of the mecha-

nism which would trigger the accumulation and release of stocks.

Despite the recommendations of the World Food Conference and an increased awareness of the importance of giving priority to increasing agricultural production, the World Food Council estimated recently that the world food situation has not changed significantly over the last few years. The global population continues to increase by 70 to 80 million people per year. World food production is barely increasing as fast as population. The UN's most seriously affected countries have an increasing food deficit. A number of these countries have suffered such severe food shortages during the past year that consumption has been reduced below the usual requirements. Approximately half a billion people remain malnourished.

Second. Infrastructure. There is a severe shortage in many developing nations of what is known as "infrastructure": facilities to transport, distribute and store food. This applies both to food aid and to food which is produced in these countries. The resulting losses are so large that it has been estimated by former Secretary of State Henry Kissinger that investment in better storage and pesticides could prevent enough losses to match the total of all food assistance worldwide.

The absence of adequate storage and other "infrastructure" is the most important limitation on the absorptive capacity of many nations, especially the poorest nations, to receive more of our badly needed food assistance. It is also a major disincentive to agricultural development. Farmers do not increase their output because they know there are no additional facilities to store and transport it.

Third. Developing appropriate technologies to facilitate the production of food: Congressman BINGHAM and Congressman HARRINGTON proposed an amendment, which was adopted in the Development Assistance Act of 1978, to stimulate bilateral programs in rural oriented nonconventional energy technologies. This amendment was derived from a bill I introduced with over 80 cosponsors. Such a program would establish cooperative arrangements on a bilateral basis between the United States and developing countries to research, develop and demonstrate, with the goal of earliest possible widespread use, of nonconventional technologies—that is, solar, wind, biomass, et cetera—in the rural areas of the Third World.

These are the areas where the vast majority of the Third World lives. Oil prices have hit these countries especially hard, and lack of rural energy development has served as a significant drag on overall Third World economic development. A large portion of the rural Third World is remote enough that extension of central energy grids is prohibitively expensive; thus the focus of the technologies addressed in this proposal are "decentralized" and "small scale."

The procedure would be twofold initially: First, in areas where there is already a reasonable chance of success for a known technology to solve a known problem, joint development and demonstration of the technology should begin as soon as possible. Second, in other countries and regions, survey teams composed of members of AID, ERDA, and recipient country representatives will do studies of the energy needs, uses and resources in these areas. The results of the surveys will be included in a new information system whose purpose would be the transferability of new technologies from one like area of the world to another, accelerating the pace of rural energy development as much as possible.

The thinking behind the creation and direction of this proposed program is already well along in the agencies, and was the subject of a memorandum of understanding signed by the Administrators of AID and ERDA last fall. The development of such technology is necessary to maximize the agricultural potential of these nations.

I have brought out these various points to stress the need for food production and international development. We must begin now. By establishing such a Commission to find out why we have the hunger problem and what we can do, as legislators, to conquer it. This Commission would report to the Congress and the President after 6 months, its findings as well as recommendations in policy and legislation to reduce hunger and malnutrition in the world. I urge your support of such a measure.

GENERAL LEAVE

Mr. GORE. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Minnesota (Mr. NOLAN).

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

THE PUBLIC PARTICIPATION IN FEDERAL AGENCY PROCEEDINGS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, earlier this year Congressman RODINO and I reintroduced the Public Participation in Federal Agency Proceedings Act. H.R. 8798, the latest version of legislation, has been reported out of Chairman DANIELSON'S Administrative Law Subcommittee and is currently pending before the full Judiciary Committee. I am hopeful that the full committee will act favorably on this legislation before the end of the first session of Congress.

In its September 19, 1977, editorial, the New York Times endorsed the legislation. For the benefit of our colleagues, the text of the editorial follows:

[From the New York Times, Sept. 19, 1977]

PUBLIC FUNDS FOR PUBLIC WATCHDOGS

In 1973 the United States Treasury issued tentative rules that banned accounting practices by which multinational corporations could hide profits in foreign subsidiaries, beyond the reach of American tax collectors. Numerous corporations testified against the proposed rules and one citizen watchdog group, Tax Analysts and Advocates, testified in favor. Three years later, the Treasury revised the proposal and again solicited public comment. This time, more than 100 companies joined in opposition but Tax Analysts did not have the money to pay for necessary technical assistance to rebut their arguments. Shortly thereafter the Treasury adopted rules that favored the multinationals and sacrificed about $1 billion annually in tax revenues.

This experience is not unusual. When citizen groups—most notably environmentalists—seize on issues with obvious public appeal, they have little difficulty in making their views count. Often, however, the only groups with money to offer persuasive research data or expert testimony on complex issues are those with a direct financial stake in the outcome. That is not to say that self-appointed groups necessarily represent the ultimate "public" interest in every case. Most government regulators agree, however, that the involvement of such groups often leads to significant research and argument that might otherwise escape governmental notice.

New legislation, introduced by Senator Kennedy and Congressmen Koch and Rodino, is designed to insure such a constructive presence. Their Public Participation bill would provide $10 million a year to pay the expenses of impecunious groups before Federal agencies—when the agencies believe their expert testimony to be useful. The bill would also provide funds to reimburse such groups for successful court challenges of decisions by Federal agencies.

Much of the opposition to "public participation" funding comes from lobbyists who simply don't want competition. But more serious criticism has been voiced by those who believe that the money would be used irresponsibly to slow down Federal proceedings. The opponents of nuclear power, for example, have been able to delay the construction of power plants for many years by skillful manipulation of the law.

Undoubtedly some proceedings would be slowed down to give a hearing to additional voices. But the agencies themselves would choose the groups to be funded and would be bound by the law to pay their expenses only when additional testimony was plainly needed for a fair evaluation. That should prevent the financing of those seeking merely to stall. And in court cases, groups would qualify for funds only if an agency's actions were ultimately declared illegal.

As often as not, citizen groups want action, not delay. That is clear from the experience over the last two years of the Federal Trade Commission, the only agency that has been compensating private groups for research under separate legislation. The grants have speeded up rulemaking procedures concerning eyeglass advertising, hearing aid sales practices and nutritional claims for processed food.

"Public participation" funding is an experiment. It is no more likely to work miracles than "sunshine" and freedom of information laws. And it might prove to be more nuisance than benefit. But the practical objective of making Federal agencies aware of diverse points of view warrants that modest risk.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

Mr. CARR. Mr. Speaker, on Friday, September 9, I was at Bethesda Naval Hospital for an eye examination and I missed three votes, rollcall Nos. 526, 527, and 528. These votes were on resolutions providing for the consideration of H.R. 6566, ERDA authorization for national security programs; H.R. 6796, ERDA authorization for nonnuclear programs; and H.R. 2176, Federal Banking Agency Audit Act, respectively. Had I been present, I would have voted in favor of all three of the above resolutions.

On Monday, September 12, I was absent from the first quorum call. At that time I was delivering a lecture to the Air Force War College, Maxwell Air Force Base, Ala.

On Wednesday, September 21, I was absent for rollcall No. 575. I was on the Senate side of the Capitol conferring with a group of Japanese parliamentarians when this previously unannounced vote took place. Had I been present, I would have voted in favor of the amendment by the gentleman from Pennsylvania (Mr. COUGHLIN).

ANTI-AMERICAN HANOI HELPERS

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, remember back in the 1960's and early 1970's when the press was so laudatory about those pushing for "peace" in Vietnam. The television networks and the newspapers could not give too much coverage to those individuals who were pushing to get the United States out of Vietnam.

At that time the argument was that the Vietnamese people should make their own decisions. If the United States would leave, the democratic forces would come to power instead of the U.S.-supported regime which supposedly was crushing the people's rights.

With the Communists in power you would think that all those who were arguing this line would be ashamed to show their faces. But not the Cora Weisses, David Dellingers, Ramsey Clarks, Sam Browns, and 2,500 others of that ilk.

To quote the Washington Post:

> The men and women who marched to rally opposition to the Vietnam war crowded into a Manhattan theater to shake hands with and welcome the Vietnamese delegation to the United Nations.

Cora Weiss asked, "Isn't it good to be here?" I wonder where her concern is for the thousands in "reeducation," that is, concentration camps in Vietnam, the millions being forcibly resettled and the thousands trying to escape.

These people gathered for a "victory" celebration. Let us not forget that it is the victory of the Communists these people applaud that cost the lives of more than 56,000 American servicemen.

At this point I include the full text of the article from the Washington Post entitled "Another Hurrah for Hanoi":

ANOTHER HURRAH FOR HANOI

(By Lee Lescaze)

NEW YORK, September 25.—The antiwar movement came together again today for a victory celebration—another, if not a last, hurrah.

The men and women who marched to rally opposition to the Vietnam war crowded into a Manhattan theater to shake hands with and welcome the Vietnamese delegation to the United Nations.

Today, the protesters carrying placards outside were Vietnamese—about 250 exiles singing the songs and waving the flags of their vanished nation, South Vietnam.

Some of the roughly 2,500 Americans making their way into the theater tried to sing down the Vietnamese. None appeared interested in the placards proclaiming that "Vietnam tramples upon human rights."

Inside and outside the theater, one message was the same, however. The crowd was told by the protesters standing in the rain and by the speakers on the stage that they all are friends of the Vietnamese people. And in both places the talk was of freedom. The crowd inside liked the message better.

"Isn't it good to be here?" asked Cora Weiss, the event's organizer and a longtime opponent of America's Vietnam policy. In the crowded lobby, guest after guest agreed. "Smile, this is a great day," one woman told a friend. "Isn't this great?" people said upon meeting.

And they stood, applauded and whistled for minutes when the Vietnamese delegation entered the theater after shaking hands for an hour on a receiving line in the lobby. Vietnam was formally admitted to the United Nations last week.

"The war is over," as posters in the lobby noted, which leaves the antiwar movement without its cause. But many of its leaders deny that the movement will die away, and would object to labeling today's rally a last hurrah.

David Dellinger, who has marched in unpopular causes since World War II, made it clear that he sees a new wrong for the movement to right. He cannot understand, Dellinger told the crowd, how anyone who favored the independence and sovereignty of Vietnam would not favor the independence of Puerto Rico. Dellinger's reference to "the war against the Puerto Rican people" was cheered.

Cora Weiss pledged that the organization she heads, Friendshipment, would launch a new campaign to persuade President Carter and Congress to approve U.S. aid for Vietnam. But, while looking to the future, her speech also contained a nostalgic call of the antiwar movement's honor roll.

As she called out each name—Norman Morrison who set himself on fire outside the Pentagon, the GIs of Ft. Hood who first said "I won't go," and many more—the audience applauded. The loudest applause was for the four students shot dead at Kent State.

The Vietnamese, Weiss said, will never forget their war for independence, but she fears Americans 300 years from now may not remember the role some of them played in ending U.S. involvement in Vietnam.

Ngo Dien, the deputy foreign minister for press and information, replied on behalf of the Hanoi delegation. He said the late President Ho Chi Minh had spoken of taking a trip abroad after the final victory in order to thank people around the world who had helped his cause. Ngo Dien said Ho would have been delighted with today's welcoming party.

"Long live the friendship of the Vietnamese and American people," he said in conclusion, and the audience stood and clapped as he clasped his hands over his head.

The mood was joyful, but not markedly forgiving. There was warm applause for Ho Chi Minh, but only scattered handclaps when Weiss said the United States is "a great nation." That was not what the people came to hear. This was a victory party, and the United States lost the war.

CANAL ZONE MADNESS?

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, James C. Woolley of the Pasadena American Legion Post 277, VFW, Fort Smallwood, submitted a letter to the editor, in response to an inflammatory Carl Rowan column in the August 25 issue of the News American. It is certainly worthy of the attention of all persons concerned about President Carter's ill-advised treaty in collaboration with Sol Linowitz and Ellsworth Bunker.

Mr. Woolley's letter follows:

VOICE OF THE PEOPLE: IN DEFENSE OF VETERANS

After reading Carl Rowan's article in the Aug. 25 issue of the News American titled "Canal Zone Madness," and as a veteran of World War II and Korea (not by my choice, but by the choice of the president, the Congress and the people of the United States), I can honestly write I was thoroughly disappointed and disgusted with this article.

For Mr. Rowan's benefit, we members of the American Legion and the V.F.W. do not have to prove that we are heroic patriots. We already did that by fighting four wars in the last 55 years or more, so that such people as Mr. Rowan could live in a free country and write insulting remarks about us. We did not run to Canada or Switzerland, Mr. Rowan.

It is a known fact, even an historic fact, according to my encyclopedia, that the United States purchased and owns the Panama Canal outright. It is my belief that it should be renamed immediately, the American or United States Canal. History has already proved that we of the veterans organizations and millions of other Americans are not being deluded by myths or emotional non-issues in this matter.

Panama is already controlled by a dictator who is receiving weapons daily from this country and who openly states he will turn these same weapons on us if we do not meet his demands. Cuba demands, China demands, North Vietnam demands, Israel demands, Russia demands, and all other foreign countries continually demand one thing or the other from the United States daily.

Do we ever say who the hell do you think you are, demanding from us? Why don't we demand on occasion, especially about our M.I.A. citizens in Southeast Asia.

We gave Cuba and the Philippines their freedom. Where are they now? Under a dictatorship of unbelievable power. Treaties signed by our country are usually broken by the foreign countries.

We of the Legion and V.F.W. are not all geriatric gallants as we have some very patriotic young men from the Korean and Vietnam Wars. Some of our WW II vets are still in their early 50's, which isn't too old

to forget. No we are not all white haired, Mr. Rowan and those of us who are, don't have short memories either.

Neither do we believe in an aggressive foreign policy, which will lead to war, but we do know from first hand experience, in the trenches, that most foreign countries, especially our potential enemies understand strength and cannot be trusted. A strong foreign policy with a strong defense will make all these characters back down and stop making demands upon Uncle Sap or Uncle Sucker as most of them call us.

It has been stated by more than one leader of our country, both military and civilian, in the past decade or more, that if the United States had followed more closely the views and recommendations of the American Legion with respect to foreign policy over the years, our position in the World would be stronger than it is today.

Although I respect Mr. Rowan and many of his columns, I wish to God he would attempt to discontinue making a racial issue of everything he writes. I'll be the first to admit that we all, whether we are red, yellow, black or white, have a certain amount of prejudice in our hearts, and the minority of the world have suffered, but I don't think that everything that happens in the world is caused by some racial issue as Mr. Rowan continually claims.

He also lives in the past and keeps writing about things we did to Panamanians years ago. Why didn't he write about our treaty in 1955, which allowed Federal agencies to pay Panamanian workers the same wages that Americans earn there for the same type of work.

The way I read Mr. Rowan and the very, very, few other citizens and organizations that are for the Panama Canal treaty is that we should give up every territory we ever purchased. That means, we should give Alaska back to the Russians; New Mexico back to Mexico or Spain; California can be split between Spain, Mexico and Russia; France can have Louisiana and the rest of the Mississippi Valley that we purchased from them and last but not least we could give Manhattan, which we stole for a few beads, back to the Indians. In fact, if Mr. Rowan wants to write about a minority group, he should write about the Indians; there is a group that has really suffered over the years. Our ancestors stole the whole country from them and they have had very few rights since.

I read where four out of five citizens in this country are against the Panama Canal treaty. If this is so why is the President pushing to have it approved? Don't the people have anything to say about government anymore? It seems like more than just veterans organizations are against the treaty, so why pick on us.

Yes, Mr. Rowan, we veterans are flag wavers, we are patriotic, we are for God and Country, we dare to care about others, etc. We are against such things as a judge in New Jersey ruling it is against the law to pledge allegiance to the flag and to salute it. Although the Nazi flag was banned world wide after WW II, it is still displayed in this country and this is an insult to the many who died to stop such a display.

We are for a strong defense and the few veterans rights we receive. We are strong for peace in this world, but not to the point where we have to bow down to dictators, communism, etc. We don't believe we should be so easy in our foreign policy that the other countries will take advantage of our good nature. Further, we become very upset when people like Mr. Rowan insult our integrity, and knowledge of what is happening in this world today.

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UNIVERSAL SOCIAL SECURITY COVERAGE—TIME TO TAKE ANOTHER LOOK

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PICKLE. Mr. Speaker, almost everyone knowledgeable about old-age benefits and needs, advances the idea of universal social security coverage as a good one. But usually they follow this with the statement that universal coverage is not practical for one reason or another.

On Tuesday, September 13, the Ways and Means Social Security Subcommittee voted by a strong majority of those present to enact universal coverage under social security. About a week later, on September 19, the subcommittee reaffirmed this vote and also set as a tentative goal bringing about universal coverage by 1980.

There has been a lot of misinformation about what the subcommittee did and did not do in these actions, and we here today would like to set the record straight and to open what we hope will be a new and better informed dialogue on universal social security coverage.

First, the subcommittee did not vote to phase out or reduce benefits people under Federal retirement are counting on getting—and it does not pretend to have the jurisdiction to do so.

Second, the subcommittee is well aware that there are complicated and difficult matters which must be worked out before universal coverage can become a reality. Whatever method is worked out with the Federal civil service retirement, for instance, must be carefully thought through and tested to see that no one is left worse off under the dual system than they would have been under the civil service system by itself. Required contributions for a dual system should be along the same lines of what is expected for the single system. And we would want to be careful not to add to the already very high unfunded liability suffered by the civil service retirement system. This unfunded liability was at $107 billion at the end of last year computed on a static basis, and I believe it would be even higher computed on a more life-like dynamic basis.

Regarding State and local coverage, a method must be found to cover the 30 percent not already covered in a way that would not be struck down by the Supreme Court. And they, too, must have an adequate transition. Constitutional questions are something which should not, by the way, be a problem with a few nonprofit employees not already covered provided the current exemptions such as those regarding special religious beliefs are continued.

So, first and second—and these points do bear repeating—the subcommittee did not vote to phase out or reduce anyone's expected retirement, and the subcommittee is very well aware that there are serious complications which must be thought out carefully before universal coverage can become a reality.

The third point I want to make is this: The subcommittee has been accused of voting universal coverage simply to "bail out" the short-term financing needs of the social security system. I take issue with that. The simple truth is that universal coverage would come into play too late to save the day. The disability fund is slated to run out possibly in late 1978. If we put the resources of the OASI and DI funds together, then both of them will run out in 1981. The subcommittee set as a tentative goal bringing in universal coverage by 1980. I do not think any of us are under the illusion that universal coverage can come about that rapidly.

Even if we were successful in making a start in 1980, my guess is it would be only the beginning of a gradual phase-in that would start then. So, in essence, we do not rely on the Federal civil servant and others to bail out the social security system because they cannot do so. They are just too late. By the time they join up, the system will be on a sound track all on its own once again, and the Congress should be well aware of its moral and political obligation to see that this is so.

Now, if we are not doing it to cut back other retirements, and if we are not doing it because we think it will be easy, and if we are not doing it to bail out the system, then, one might ask, why are we doing it?

The answer, and the fourth point I want to make, is a simple one. Universal coverage is right; it is fair; it is a good deal for all, and it is in the national interest.

To begin to get an idea of why I and many on the subcommittee feel this way, let me list some of the problems we have under the current system:

There are serious gaps in the coverage of workers who work for a short time under the civil service retirement system and for those who work part of their lives under one system and part under the other. Some may qualify for only one pension—and that at a reduced level because it is not based on their full work history. Some may wind up qualifying for neither pension. If a worker dies or suffers disability shortly after leaving the civil service system but before retiring, his family is left with no coverage whatsoever as the civil service system has no carryover provisions.

Further, to provide survivor coverage after retirement, a civil servant must take a reduced pension. About 80 percent of the people who leave the civil service system before retirement withdraw their contributions, making the gaps in coverage even wider. Under the civil service system, it generally takes much longer to reach a family survivorship protection on a par with that offered under social security. And disability benefits, where there are several dependents involved, are also less under civil service than under social security and take a longer time of service to earn—5 years as opposed to six quarters.

People working in uncovered State and local positions usually face much the same risks and disadvantages. Moreover, their own systems may be more promise than prospect. I do not have hard statistics, but from all that I have been told, these States and localities who are not covered under social security or who have pulled out of the system usually base this judgment on a lack of funds to pay for it. And if they do not have the money for social security, I am willing to wager they have not set aside much money to fund their own pension systems either. This raises future financing problems for those localities of a far greater proportion than we face today with social security. This would especially be the case where jurisdictions have pulled out of social security for financial reasons and have turned around and liberalized their own retirement systems to try to approximate what the employees have had to forego because of the termination.

The bottom line of all this is that when the civil service retirement system or these uncovered State and local retirement systems fail to pick up on someone, the taxpayer winds up with the bill.

It simply is not fair for a few—and they are few in terms of the national employment picture—long-term Federal, State, and local employees to set up for themselves a "good deal" which works to the disadvantage of the Nation as a whole.

This unfair burden is compounded when the long-term civil service employee goes out and moonlights or works after retirement just long enough to qualify for the minimum benefit under social security. He or she then receives full social security rights on top of an already adequate pension and without paying very much into the social security system. In 1969 the Social Security Administration and the Civil Service Commission estimated that as many as 43 percent of civil service retirees were also qualifying for social security. That may have gone up to 50 percent by today because of the provision which went into effect in 1966 allowing retirement at age 55 after 30 years of service.

Allowing these windfall benefits and gaps to continue is wrong. Not only is it unfair to the rest of the people, who must bear their cost, but it is against the national interest as well. It is wrong that we have let our own house, the house of the Federal Government, work against the long term objectives of social security for over 40 years. It is time to put things in order. The fact that it can be done, and I firmly believe it can, without harm to those same civil servants, makes it a travesty against the future of this Nation if we do not begin now to address this issue.

To understand why I think this, and think it so strongly, we need to look at the basic principles of the social security system—what it is and what it was intended to do.

Social security is a national social insurance policy. The first such system apparently was begun by Bismarck in 1889. Austria followed suit in 1906; England in 1908, and by 1928 all of Europe had social security policies of one form or another. The policies arose from the need in industrial societies to find new ways to care for the risks and vicissitudes of poverty and infirmity in old age.

In this country poverty and infirmity were viewed mainly as individual maladies. The Depression showed us that in an industrial society more than the individual was responsible, and people began to present ideas on how to handle the situation. Some may remember Francis E. Townsend with his $200-a-month old-age pension which would be raised by a sales tax and must be spent immediately. This was at a time when the average wage was $75 to $100 a month. Then there was Senator Huey Long's "Share the Wealth" proposal. And there was the social security legislation proposed and pushed by Franklin Roosevelt, which was the idea that prevailed here as in Europe.

In signing the social security law, President Roosevelt described it as—

> A cornerstone in a structure which is being built, but is by no means complete—a structure intended to lessen the force of possible future depressions, to act as a protection to future administrations of the government against the necessity of going deeply into debt to furnish relief to the needy—a law to flatten out the peaks and valleys of deflation and of inflation—in other words, a law that will take care of human needs and at the same time provide for the United States an economic structure of vastly greater soundness.

What we are really talking about here is the social and political costs of poverty in a democracy. Fear of old-age destitution, uncertainty of adequate protection for one's family, and the reality of that destitution when it comes are nothing more than seeds of political unrest of a type which has, historically, worked against the survival of democracy.

When I say, therefore, that it is in the national interest to have universal coverage, when I say that it is in the national interest to have a secure foundation to our national retirement, survivor, disability, and health programs, I am not talking about frills but about something which is very basic and very necessary. In an industrial society, social security has come closer to providing that secure foundation than has any other program.

Social security does not, and has never, provided a total retirement program. What it does do is provide a basic hedge against the most damaging risks we encounter in our working lives: against death or disability during wage-earning years and against outliving our sources of income in later years. The only other primary financial hazard one faces is unemployment.

With this in mind, the question becomes, really, not "Should we have universal coverage?" but "Why haven't we had it from the beginning?" President Roosevelt again provides the best answer for this when he stated, in explaining the social security proposal—

> It is overwhelmingly important to avoid any danger of permanently discrediting the sound and the necessary policy of federal legislation for economic security by attempting to apply it on too ambitious a scale before actual experience has provided guidance for the permanently safe direction of such benefits.
>
> In short, the founders of social security faced the political and the real danger of biting off more than they could chew.

And opted for a reduced program for starters so that they were sure they would have something they could manage well.

The intention for universal coverage was made, however, in the very first Advisory Committee report, of December 10, 1938, which recommended the following regarding social security coverage:

> I. The employees of private non-profit religious, charitable, and educational institutions now excluded from coverage under Titles II and VIII should immediately be brought into coverage under the same provisions of these Titles as affect other covered groups.
>
> II. The coverage of farm employees and domestic employees under Titles II and VIII is socially desirable and should take effect, if administratively possible by January 1, 1940.
>
> III. The old-age insurance program should be extended as soon as feasible to include additional groups not included in the previous recommendations of the Council and studies should be made of the administrative, legal, and financial problems involved in the coverage of self-employed persons and governmental employees.

All but the last item have been taken care of. We are down to that final step. And I firmly believe that we now have the administrative capability and the experience necessary to handle that final step.

The final point I want to make is that universal coverage is not just a good deal for the Nation. It is a good deal for the Federal civil servant and the other currently uncovered employees, too.

It would end the uncertainty employees face of "falling through the cracks" between covered and uncovered employment. It would maximize their retirement potential by covering their entire working lives with a solid base. It would extend to uncovered employees the additional survivor, disability, and health benefits which are available only under a system as massive as social security.

Mr. Speaker, as an additional aid to further discussions of the question of universal coverage, I would like to include in the RECORD three additional items.

The first is a chart which compares the basic provisions of civil service retirement with social security. I caution that this chart may contain some errors, so I ask that no one view it as a Bible on the subject. But it does help to give a general idea of the two systems, which is necessary before we can begin working out the details of how to set up a dual structure. I point out, too, that this chart

does not list any of the health benefits available to those who qualify for social security—an important and large benefit for anyone planning their retirement.

The second is a short description, published by the Joint Economic Committee in December 1974, of the health program, medicare, available under social security.

Third, I would like to include the testimony presented before the subcommittee by Mr. Jerry Wurf, international president of the American Federation of State, County & Municipal Employees AFL–CIO. Mr. Wurf heads a union now numbering about 1 million, making it one of the largest, as well as the fastest growing, in the country. He and I often disagreed on many things, but we do agree on this issue of social security, on what it means to the average worker and on the importance of universal coverage. Where two people of such divergent philosophies agree, I submit there must be some merit and some truth.

The benefit chart, medicare description and Mr. Wurf's statement follow:

COMPARISON OF THE PRINCIPAL PROVISIONS OF THE CIVIL SERVICE RETIREMENT SYSTEM AND SOCIAL SECURITY

CIVIL SERVICE [1]	SOCIAL SECURITY
A. Financing	*A. Financing*
Contributions	Contributions
Employee and agency each contribute 7% of basic pay to finance normal cost (amount of funds which, if accumulated annually and invested over covered employees' careers, will meet their future benefit payments).	Employees, employers, and the self-employed pay social security contributions on covered earnings up to the taxable earnings base ($16,500 in 1977, automatically adjusted as average wages rise) according to the following tax rate schedules:
Static rather than dynamic costs projections are used so that calculations of normal cost do not include future general pay increases or future annuity cost-of-living adjustments. *OMB estimates FY 1976 dynamic normal cost as 31.7% of payroll.*	
In addition to establishing the 7 percent contribution rate, 1969 legislation sought to increase financial stability by providing two additional sources of revenue:	
(1) Direct appropriations by Government to liquidate, in level installments over 30 years, any increase in unfunded liability resulting from legislation authorizing new or liberalized benefits, extension of coverage to new groups of employees or increases in salaries on which benefits are based.	
(2) Transfer by Secretary of Treasury to Civil Service Retirement (CSR) Fund of annual interest payments for unfunded liability and cost of military service credits. The unfunded liability for this purpose consists of that portion of liabilities not met by present assets, the present value of future employee and agency contributions, and the present value of future 30-year payments (1 above). Government appropriations and Treasury transfers (1 and 2 above) are estimated to total $6.9 billion in FY 1978.	
An additional source of revenue is interest earned through investment of money received from the above sources (estimated at $3.2 billion in FY 1978).	
The unfunded liability of the CSR system (computed on a static basic) was $107 billion as of the end of FY 1976.	
	Employees and employers, each
	[In percent]

Calendar year	Tax rate: OASDI	HI	Total
1977	4.95	0.90	5.85
1978–80	4.95	1.10	6.05
1981–85	4.95	1.35	6.30
1986–2010	4.95	1.50	6.45
2011 on	5.95	1.50	7.45
Self-employed			
1977	7.00	0.90	7.90
1978–80	7.00	1.10	8.10
1981–85	7.00	1.35	8.35
1986–2010	7.00	1.50	8.50
2011 on	7.00	1.50	8.50

	Cash benefit financing provisions based on dynamic assumptions as to future movement of wage and price levels, and therefore benefit levels. (Benefit amounts are automatically adjusted as prices rise, and the contribution and benefit base and retirement test exempt amounts are automatically adjusted as average wages rise.)
	Financing provisions are intended to provide sufficient income (along with interest earnings on invested contingency-reserve assets of social security trust funds and other income—see below) to meet benefit payments and administrative expenses as they fall due and maintain trust funds at modest contingency-reserve levels for use in temporary situations where income may be less than outgo.
	Additional financing sources are: (1) premiums from people enrolled in the SMI program and from certain uninsured people in the HI program, and (2) general revenue funds for (a) special purposes in the cash benefits program (e.g., special age—72 payments to certain uninsured aged), amounting to less than 1% of program income, and (b) HI benefits for those already aged when the HI program began and a substantial portion of the cost of the SMI program
	Current projections, based on present-law financing provisions, indicate long-range shortfall equivalent to an annual average of 8.2% of taxable payroll. (However, about half—3.88% of payroll—of this projected shortfall is attributable to the present coupled benefit structure; assuming enactment of decoupling legislation (as proposed in H.R. 8218), the remaining long-range financing shortfall that is projected under present law financing would be equivalent of 4.32 percent of taxable payroll.)
B. Age and service retirement	*B. Age and service retirement*
Full benefits at age 62 after 5 years, age 60 after 20 years [2] or age 55 after 30 years: 1½% of average salary of highest 3 consecutive years times years of service not exceeding 5, plus 1¾% of high–3 average salary times years of service exceeding 5 but not exceeding 10, plus 2% of high-3 average salary times years of service exceeding 10. Substitute 1% of high-3 salary, plus $25 for any or all of above percentages if higher. Unused sick leave used in computing years of service.	At age 62 (reduced if benefits taken before age 65) with full insured status. A person is fully insured if he has (1) 40 quarters of coverage (QC's), or (1) 1 QC (acquired at any time) for every year elapsed after 1950, or age 21, if later, and before age 62, or year of death or disability if earlier (a minimum of 6 QC's is required). Retirement benefit is equal to the primary insurance amount (PIA) which is computed from a benefit table in the law that is based approximately on the formula: 145.90% of the first $110 of average monthly wage [3]; plus
Minimum annuity: Equal to minimum social security PIA. Minimum annuity is not payable if entitled to other periodic governmental payment equalling or exceeding minimum social security PIA.	53.07% of the next $290; plus
Maximum: 80% of high-3 average salary. Higher amount produced by crediting unused sick leave is payable.	49.59% of the next $150; plus
	58.29% of the next $100; plus
	32.42% of the next $100; plus

Footnotes at end of table.

CIVIL SERVICE [1]	SOCIAL SECURITY
	27.02% of the next $250; plus 24.34% of the next $175; plus 22.54% of the next $100; plus 21.18% of the last $100. Minimum: $114.30 Maximum: $632.90
C. Disability provisions	*C. Disability provisions*
At any age after 5 years: The worker must be totally disabled for position held or similar position. Same as age and service retirement unless higher benefit allowable under guaranteed minimum formula which grants lesser of (1) 40% of high-3 average salary, or (2) annuity computed under general formula after adding assumed service from date of separation to age 60. Guaranteed minimum not available to employee age 60 or over. Minimum annuity: Equal to minimum social security PIA. Minimum annuity is not payable if entitled to other periodic governmental payment equalling or exceeding minimum social security PIA.	At any age before 65, after a 5-month waiting period: The worker must be unable to engage in any substantial gainful activity; the impairment must be a medically determinable physical or mental condition that is expected to continue for at least 12 months or to result in death. Fully insured status and (a) if disabled before age 24, at least 6 QC's out of the 12 quarters preceding disablement, or (b) if disabled between ages 24 and 31, QC's in at least half of the quarters after age 21, or (c) if disabled after age 31, 20 QC's in the 40-quarter period ending with disablement. The disabled blind can qualify for benefits if they are fully insured. Benefit is equal to the PIA.
D. Dependents of annuitants	*D. Dependents of annuitants*
No provision.	Wife or husband, age 62 or over (reduced if taken before age 65), or wife caring for child entitled to benefits, and dependent, unmarried child, if child is under age 18 (or 22 if full-time student), or disabled with a disability which began before age 22, of a person entitled to retirement or disability benefit. Benefit is 50% of PIA subject to maximum family benefit. Maximum family benefit is computed from a benefit table that is based on the PIA. (Highest maximum family benefit is $1,107.60, based on maximum PIA.)
E. Survivor provisions	*E. Survivor provisions*
1. Annuities or benefits	1. Annuities or benefits
Death before retirement—After 18 months: Widow, widower, and unmarried children under age 18 (or 22 if full-time student), or if older, incapable of self-support because of a disability incurred before age 18. Surviving spouse's benefit is 55% of regular worker's annuity plus for each child the smallest of (1) 60% of high-3 average salary divided by number of children; (2) $1,689, or (3) $5,068 divided by number of children. Children with no surviving parent: to each child the smallest of (1) 75% of employee's high-3 average salary divided by number of children; (2) $2,027; or (3) $6,081 divided by number of children. Children's annuities are increased with increases in the cost of living.[4]	Widow or widower age 60 or over or between age 50 and 60 if disabled (benefits reduced if taken before age 65); widow or widower (mother or father), if caring for a child under age 18 or disabled who is entitled to benefits; dependent parent, age 62 or over, dependent unmarried child under age 18 (or 22 if full-time student), or disabled with a disability which began before age 22. Fully insured status required except that child's, mother's, and father's benefits may also be paid based on currently insured status. Currently insured status requires 6 QC's within the 13-quarter period ending with the quarter of death. Age-65 benefit for widow or widower is 100% of PIA (100% of worker's benefit if taken before age 65), and for dependent parent is 82½% of PIA, except that two (2) dependent parents receive 75% each. Benefit for child and mother is 75% of PIA. All benefits subject to maximum family benefit provisions.
Minimum survivor annuity: Equal to higher of minimum social security PIA or an amount no less than the smaller of the two following amounts: (a) 55% of 40% of the employees high 3-year average salary (in effect, 22% of the average salary), or (b) the amount obtained under the general formula after increasing the employee's actual service by the period of time from the date of his death to the date on which he would have attained age 60. Widow's benefit amounts under part (a) of the guarantee are equivalent to amounts that would have been paid under the general formula if the decreased worker had 21 years and 11 months of Federal service. If a widow becomes entitled to an annuity based on a period of service of at least 18 months but less than 3 years, the annuity is computed based on the average salary for the actual period of service. (Not payable if entitled to other periodic governmental payment equalling or exceeding minimum social security PIA.)	
Death after retirement—Children—Same as provisions for death before retirement.	No distinction based on whether death occurred before or after retirement.
2. Optional annuities	2. Optional annuities
Death after retirement—Widow or widower: If named at retirement, with reduced annuity, entitled to 55% of amount of service annuity elected as survivor base. Person with insurable interest: Beneficiary named by unmarried employee or member in good health at retirement, entitled to 55% of reduced service annuity.	No provision.
3. Lump sum	3. Lump sum
Death before retirement—Death in service: Service of less than 5 years—refund of accumulated employee contributions, plus interest to death if over 1 year of service. If 5 or more years of service and no survivor annuitant—refund of employee contributions plus interest only to 12/31/56. Death after separation: Less than 5 years of service—refund of employee contributions, plus interest to separation if over 1 year of service. Five or more years of service—refund of employee contributions plus interest to 12/31/56. No eligible survivor annuitant and amount credited to employee not exhausted—refund of employee contributions plus interest to 12/31/56 minus all regular annuities paid.	Payable based on fully or currently insured status. Benefit is $255.
Death after retirment—Death before amount credited to employee exhausted and no eligible survivor annuitants, or after termination of annuity rights—refund of employee contributions plus interest to 12/31/56 minus all regular annuities paid.	

COMPARISON OF THE PRINCIPAL PROVISIONS OF THE CIVIL SERVICE RETIREMENT SYSTEM AND SOCIAL SECURITY—Continued

CIVIL SERVICE [1]	SOCIAL SECURITY
F. Separation provisions	*F. Separation provisions*
Service of 1 year or less: Refund of employee contributions without interest. More than 1 year, but less than 5 years of service: Refund of employee contributions plus interest to separation. After 5 years: (a) Deferred annuity at age 62, or (b) Refund of employee contributions plus interest to 12/31/56, provided application filed more than 31 days before commencing date of any annuity for which he may be eligible. If separation is involuntary, after 25 years, or after 20 years at age 50, immediate annuity reduced by 1/16 of 1% for each month the employee is under age 55.	None.
G. Cost-of-living annuity increase provision	*G. Cost-of-living annuity increase provision*
Benefits are increased automatically effective in March by amount of increase in the Consumer Price Index (CPI) from previous June through December and effective in September by amount of increase in the CPI from previous December through June. The automatic increases apply only to annuitants on the rolls; however, there is a guarantee that an annuity which commences after a cost-of-living increase shall be no less than it would have been if it commenced on the effective date and had received the cost-of-living increase.	Benefits are increased automatically each June whenever the CPI rises 3 or more percent between specified base periods. However, an automatic benefit increase will not go into effect if in the year preceding the June for which it would otherwise become effective a general benefit increase (other than an automatic benefit increase) has become effective or has been enacted. The automatic increases apply to future beneficiaries as well as to beneficiaries on the rolls when the increase occurs.

[1] Provisions also generally apply to Members of Congress except Members contribute 8 percent of basic pay and are eligible for full benefits computed at 2½ percent of high-3 average salary times years of service at age 62 after 5 years, or age 60 after 10 years, annuities of certain congressional employees are also computed under a special benefit formula.

[2] Employee mandatorily separated under civil service system after attaining age 70 with 15 years' service.

[3] Average monthly wage is based on earnings in a specified number of years. Generally, the number of years is 5 less the number elapsing after 1950 (or after age 21, if later) and up to the year in which the worker reached retirement age, became disabled, or died; the years used in the average are those after 1950 in which earnings were highest.

[4] Although cost-of-living increases of annuities generally apply only with respect to annuitants already on the rolls, cost-of-living adjustments permanently modify annuity rates for a child, since a child's benefit is a specified amount not affected by salary increases.

EXAMPLES OF MONTHLY BENEFIT PAYMENTS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM

	High 3 average salary			
	$8,000	$11,000	$16,500	$20,000
MONTHLY BENEFIT PAYMENTS				
Retired worker after 20 yr of service	$242	$332	$498	$604
If maximum survivor benefit is provided for wife	236	322	471	566
Retired worker after 30 yr of service	375	516	773	938
If maximum survivor benefit is provided for wife	360	487	717	866
Retired worker after 42 yr of service (maximum benefit)	533	733	1,100	1,333
If maximum survivor benefit is provided for wife	503	683	1,012	1,223
Disabled worker: 40 percent minimum guarantee [1]	267	367	550	667
Widow [2] of worker who had 5-yr service	$147	$202	$303	$367
Widow and 1 child	288	343	444	508
Maximum family payment [3]	570	625	726	790
Widow of worker who had 10-yr service	147	202	303	367
Widow and 1 child	288	343	444	508
Maximum family payment [3]	570	625	726	790
Widow of worker who had 20-yr service	147	202	303	367
Widow and 1 child	288	343	444	508
Maximum family payment [3]	570	625	726	790
Widow of worker who had 30-yr service	206	284	425	516
Widow and 1 child	347	425	566	657
Maximum family payment [3]	629	707	848	939
1 surviving child [4]	169	169	169	169

[1] This guarantee applies in all cases where a worker has less than 21 yr and 11 mo of covered Federal service and entered such service prior to age 39. (Another guarantee applies if he has less than 21 yr and 11 mo of service and entered at age 39 or later.) Disability benefit amounts are equivalent to age-service retirement benefit amounts if the disabled worker has at least 21 yr and 11 mo of covered Federal service.

[2] These are benefits payable to the widow of a worker who dies in service. If the worker dies after retirement the widow would only receive an annuity if the worker had elected to receive a reduced annuity at his retirement from service. In such a case she would receive 55 percent of the amount of his annuity he elected as a survivor base. The benefits payable to a child are as shown whether the worker dies in service or after retirement.

[3] This represents the total monthly benefits payable to a widow and 3 or more children—the total monthly benefits payable to 3 or more children when there is an entitled widow or widower cannot exceed $423.

[4] The total monthly benefits payable to 3 or more surviving children when there is no entitled widow cannot exceed $507.

EXAMPLES OF MONTHLY BENEFIT PAYMENTS UNDER SOCIAL SECURITY

	Average yearly earnings		
	$8,000	$11,000	$16,500
Monthly benefit payments: [1]			
Retired worker 65 or older; disabled worker under 65	$453	$525	$633
Wife 65 or older	226	262	316
Retired worker at 62	362	420	506
Widow at 60	324	375	453
Widowed mother and 1 child	680	788	950
1 surviving child	340	394	475
Maximum family payment [2]	793	918	1,108

[1] The maximum benefit for a male worker who becomes age 65 in 1977 is $437.10 a month based on average yearly earnings of $7,608. Because of the limitations on the amount of covered earnings ($16,500 for 1977), the higher benefits for retired workers and their aged dependents or aged survivors shown in the chart generally will not be payable until later.

[2] The family maximum always comes into play when there are 3 or more beneficiaries receiving benefits on 1 record.

Dated Sept. 20, 1977.

HEALTH CARE: NON-INCOME-TESTED

MEDICARE—HOSPITAL INSURANCE (HI) [1]

Basic program information

Legislative objective.—To provide hospital insurance for persons who are: (1) age 65 and over and eligible for social security or railroad retirement; (2) disabled and eligible for social security or railroad retirement for at least 24 consecutive months; or (3) chronic renal disease patients who have social security coverage either as worker, spouse, or dependent.

Date enacted and major changes.—The program was enacted in 1965 to cover the hospital expenses of the aged. Coverage was extended to disability insurance beneficiaries and chronic renal disease patients in 1972.

[1] Much of this information, including the supplementary materials, was taken from the "1974 Annual Report of the Board of Trustees of the Federal Hospital Insurance Fund," 93d Cong., 2d sess., House Doc. No. 93-314.

Administering agency.—The Social Security Administration of the Department of Health, Education, and Welfare, with the assistance of other Federal agencies, State health agencies, and intermediaries—Blue Cross plans and private insurance companies—which determine the amount of payments due and process claims.

Financing.—Medicare hospital insurance is financed by an earmarked payroll tax paid half by the covered employee and half by his employer and a tax paid by self-employed people on their earnings. The combined health insurance tax rate for employee and employer is 1.8 percent paid on all earnings up to $14,100 (effective Jan. 1, 1975), and the tax rate for the self-employed is 0.9 percent on the same amount. Benefits for persons enrolled who reach age 65 before 1975 and who have insufficient coverage for full entitlement but meet a transitional insured status requirement are financed from general revenues of the U.S. Treasury (See section on old-age, survivors, and disability in-

surance—OASDI.). Other aged can enroll by paying a premium of $36 a month. Premiums are redetermined annually.

Eligibility criteria

Major eligibility conditions.—To be eligible to receive benefits, individuals must be: (1) age 65 or over and receiving or entitled to social security or railroad retirement benefits as an insured worker or a dependent or survivor of an insured worker; (2) disabled and eligible for social security or railroad retirement benefits for 24 or more consecutive months; or (3) chronic renal disease patients who have social security coverage either as worker, spouse or dependent.

Special temporary provision.—In addition to the above, persons are eligible for hospital insurance who reached age 65 before 1968 and who had insufficient coverage for entitlement to cash benefits. Persons who reach age 65 after 1967 and have three quarters of covered employment for each additional year after 1967 until 1975 for men and 1974 for women are also eligible. At those times, the coverage requirement will be the same as for social security cash benefits. Persons 65 and over not eligible under any other entitlement provisions can get medicare coverage by paying a premium of $36 a month. Excluded from the program are persons eligible for Federal employees' health benefits, aliens admitted for permanent residence who have resided in the United States less than 5 consecutive years immediately preceding application, and persons convicted of certain subversive activities.

Persons included.—Only the eligible individuals noted above are included in the program.

Income test.—There is none.

Assets test.—There is none.

Other Conditions

Citizenship.—There is no requirement except under the special temporary provision for persons not fully entitled. See major eligibility conditions above.

Residence requirement.—Payments ordinarily are made only for services provided in the United States, Puerto Rico, the Virgin Islands, Guam, and American Samoa. However, payments may be made for emergency hospital services provided in border areas outside the United States for persons who become ill or are injured in this country if the foreign hospital to which they are admitted is closer or more accessible than the the nearest U.S. hospital.

Institutional status.—There is no limitation on benefits for persons in institutions. Person residing in institutions may qualify if they are otherwise eligible.

Benefits and services

Nature of benefits.—Hospital and posthospital services are covered by insurance as specified in legislation. Payment is made to providers of inpatient hospital services, health maintenance organizations, posthospital extended care in a skilled nursing home or other qualified extended-care facility, and for posthospital home health services for the reasonable cost of such services, within specified limits, reduced by fixed deductible amounts charged to the beneficiary.

Inpatient hospital services are provided up to 90 days in each benefit period. A benefit period begins when the individual receives hospital or extended-care services and ends when he has not received such care for 60 consecutive days.

Determinants of benefit amounts.—The beneficiary pays an inpatient hospital deductible amount applicable to all hospitalization in a benefit period and a daily coinsurance amount for the 61st through the 90th day. The inpatient hospital deductible was originally $40; however, the medicare law requires an annual review of the deductible by the Secretary of Health, Education, and Welfare and provides a specific formula for redetermining the deductible. In general, the inpatient hospital deductible rises as hospital costs rise; for 1974, the deductible was $84. All coinsurance amounts under hospital insurance are a percentage of the inpatient hospital deductible. Thus, for the 61st through the 90th day of covered hospital care in a benefit period, there is a daily coinsurance amount equal to one-fourth the inpatient hospital deductible; for 1974, the amount was $21 per day. In addition, each beneficiary has a lifetime reserve of 60 inpatient hospital days for optional use with a daily coinsurance amount equal to one-half the inpatient hospital deductible; for 1974, this amount is $42 per day. For instance, if a beneficiary is in the hospital for any length of time up to 61 days in a benefit period, he pays $84 toward the hospital costs. If he is in the hospital for 90 days, he pays $21 per day for the 61st through the 90th day, or a total of $714. If he stays in the hospital another 10 days and uses part of his lifetime reserve, he pays an additional $420.

Posthospital extended care is allowed for up to 100 days in each benefit period with a daily coinsurance amount equal to one-eighth of the inpatient hospial deductible (for 1974 this amount is $10.50) for each day after the first 20 days.

Posthospital home health services for homebound persons (visiting nurse services and various types of therapy) are allowed for a maximum of 100 visits during the year following 3 days or more of hospitalization or extended care.

Hospital insurance payments are not made to the extent that payment is made, or can reasonably be expected to be made, under a workmen's compensation plan of the United States or an individual State.

Benefit amounts. The average payment per beneficiary receiving services in fiscal year 1973 was $1,414; the average for all enrolled persons was $318 per year. These amounts were up from $1,210 and $260, respectively, in 1971.

MEDICARE—SUPPLEMENTARY MEDICAL INSURANCE (SMI)[1]

Basic program information

Legislative objective.—To provide medical insurance for persons who elect this coverage and who are: (1) age 65 and over; (2) disabled and eligible for social security or railroad retirement for at least 24 consecutive months; or (3) chronic renal disease patients who have social security coverage as worker, spouse, or dependent.

Date enacted and major change.—This program was enacted in 1965 to cover the medical expenses of the aged. Coverage was extended to disability insurance beneficiaries and chronic renal disease patients in 1972.

Administering agency.—The Social Security Administration of the U.S. Department of Health, Education, and Welfare, with the assistance of "carriers" including Blue Shield plans, commercial insurance companies, and group practice prepayment plans.

Financing.—Supplementary medical insurance is financed half by the premiums paid by those enrolled in the program and half by general revenues of the Federal Government. The enrollee premium effective June 1974 is $6.70 per month, usually deducted automatically from social security, railroad retirement, or civil service benefits. The individual's premium may be paid from medicaid funds in behalf of persons eligible for both medicaid and medicare.

Eligibility criteria

Major eligibility conditions.—An individual must pay monthly premiums and be (1) entitled to medicare hospital insurance, or (2) age 65 or over and a citizen and resident of the United States or an alien lawfully admitted for permanent residence who has resided in the United States for the 5 years immediately preceding application. Beginning July 1, 1973, eligibility was extended to disabled persons under 65 who have been entitled to disability insurance for 24 months or more, and to persons who have been receiving renal dialysis for 3 months or more (coverage terminated 1 year after a successful kidney transplant). No one who has been convicted of certain subversive activities such as treason may enroll for supplementary medical insurance.

An individual generally may not enroll more than 3 years after his first opportunity to do so and may not enroll more than twice. The premium rate for a person who does not elect to come into the system at his first opportunity is increased by 10 percent for each full year he stays out of the program. The premium for aged persons receiving public assistance—either money payments or medical assistance—may be paid for them by State public assistance agencies, under agreement with the State.

Persons included.—Only the eligible individuals noted above who elect to enroll are included in the program.

Income test.—There is none.

Assets test.—There is none.

Other conditions—

Citizenship.—See major eligibility conditions above.

Residence requirements.—See major eligibility conditions above.

Institutional status.—There is no limitation for benefits to persons in institutions.

Benefits and services

Nature of benefits.—Beneficiaries receive health services covered by the insurance as specified in legislation. Insured services include the following: (1) Physicians' (including surgeons and the professional component of anesthesiologist, pathologist, radiologist, and physical medicine in a hospital) services, except for routine physical examinations, eye examinations to determine the refractive state of the eye, examinations for hearing aids, immunizations, elective cosmetic surgery, and routine foot care; (2) services and supplies normally furnished in a physcian's office incident to his professional services (including drugs which cannot be self-administered); (3) out-patient hospital services; (4) services of independent clinics; (5) home health services up to 100 visits per year; (6) diagnostic X-ray and laboratory tests; (7) X-ray, radium, and radio-active isotope therapy; (8) surgical dressings and splints and other devices used for reduction of fractures and dislocations; (9) rental of durable medical equipment (or purchase thereof if not more expensive); (10) ambulance services in certain circumstances; (11) prosthetic devices; (12) braces and artificial limbs where required due to a change in the patient's physical condition; and (13) manual manipulation of the spine to correct a subluxation (demonstrated by X-rays to exist) by a chiropractor.

Determinants of benefit amounts.—Payment is made by reimbursement to the beneficiary or directly to the provider, for 80 percent of the excess of reasonable charges for services (100 percent for radiology or pathology services provided by a physician in a hospital; and 100 percent for home health

[1] Much of this information, including the supplementary materials, was taken from the "1974 Annual Report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund," 93d Cong., 2d sess., House Doc. No. 93-315.

services after the first $60 in a calendar year). The beneficiary pays the deductible of $60 annually for all services plus percent of the reasonable charges for covered services after the first $60 is paid. The payment for out-of-hospital physician's treatment of mental, psychoneurotic, and personality disorders is limited to $250 or 50 percent of expenses, whichever is less, in a calendar year.

The determination of reasonable charge takes into consideration the customary charges for similar services generally made by the physician or other provider, the prevailing charges in the locality for similar services, and whether services were delivered in an efficient manner. Benefits are not paid to the extent that payment is made, or may reasonably be expected to be made, under a workmen's compensation plan of the United States or of an individual State.

Benefit amounts.—The average payment per beneficiary receiving services in fiscal year 1973 was $228; the average cost per enrolled individual was $117. These amounts were up from $197 and $104, respectively, in 1971.

In fiscal year 1973, $1,193 million in premiums were deducted from monthly benefit checks, $149 million were deposited by States, and $84 million were paid by individuals to the Social Security Administration.

STATEMENT SUBMITTED TO THE SUBCOMMITTEE ON SOCIAL SECURITY, COMMITTEE ON WAYS AND MEANS

(By Jerry Wurf, International President of the American Federation of State, County and Municipal Employees, AFL–CIO)

July 19, 1977.

Mr. Chairman and members of the Subcommittee, I am Jerry Wurf, International President of the American Federation of State, County and Municipal Employees. Our union has over 750,000 members who work for state and local governments and, when we negotiate for wages and working conditions, we represent more than 1.5 million public employees.

We are in substantial agreement with the Administration's short and long term Social financing reform proposals. The Administration's program, if enacted, should go a long way towards preserving the fiscal integrity of the nation's most important social insurance program.

However, there is one major area of the Social Security program which the Administration has not touched upon that also is in serious need of reform. This pertains to the coverage provisions of the Social Security System, particularly as they impact upon state and local government workers.

I want to urge that coverage under Social Security be made universal. The System should not only include workers in private industry, but also all state and local government employees, federal employees, and even members of Congress and their staffs.

The present Social Security coverage situation for state and local employees in particular is neither healthy from the worker's standpoint nor from Social Security's standpoint.

a. From the Worker's Standpoint—

Before a state or local government can join the Social Security System, its employees must vote to be covered. But the Social Security Act also gives public jurisdictions the unilateral power to terminate coverage for their employees. These provisions are inconsistent and unfair, and have proven to work to the detriment of the public employees who really need the income security protections of the Social Security System.

The facts are that general, nonuniformed state and local workers, who have their coverage terminated, are the ultimate losers because Social Security benefits cannot be replaced. This was clearly demonstrated in recent studies of the cost of replacing Social Security benefits for Alaska and California state workers and for employees of San Jose, California.

The State of Alaska—the only state government thus far to submit a withdrawal notice—requested that the William M. Mercer Company, an independent pension consulting firm, determine what the cost to the State would be for replacement of Social Security benefits, should the State go ahead and withdraw from the System. The Mercer report estimates that it would cost the State a whopping 22% of payroll to fully replace lost retirement, disability and death benefits provided by Social Security. The cost of partial replacement of lost benefits, based upon four alternative programs, would range between 12.5% and 19.25% of payroll. The report stressed, however, that these figures only represent benefit replacement costs. They do not reflect the high cost (and difficulty) of administering such a program.

The Wyatt Company, another independent pension consulting firm, recently studied the impact of termination of Social Security coverage on the State of California and its workers. The Wyatt report concluded that the cost of replacing Social Security benefits by a state program would be prohibitive, estimating that even partial replacement of benefits would cost the State 12.32% of payroll. Subsequently, the Commission on California State Government Organization and Economy, which requested this study, issued its own report to the Governor and State Legislature, not only recommending that the State continue to participate in Social Security, but also urged that coverage be made universal throughout the country for public employees at all levels of government.

A third study was recently completed by Robert J. Myers, former Chief Actuary of the Social Security Administration. He examined whether San Jose, California, which has withdrawn from Social Security, was able to replace the benefits which city workers lost. He, too, concluded that benefits lost by opting out of Social Security were far greater than any improvements made in the City's pension plan.

The reason for this unanimity among the experts on this point is because Social Security, over the last 40 years, has emerged as the cornerstone of the American worker's income security. Social Security is more than a retirement system. It also provides income for workers who are permanently and totally disabled and for survivors of workers who die prior to or after retirement. In addition, it is a health insurance system, which protects permanently and totally disabled workers and retirees against the rising cost of health care.

The only workers that truly benefit from opting out are higher paid public employees, police and fire for example, who retire in their late forties or early fifties and qualify for Social Security benefits through second career employment. I might add that this also is the case with respect to federal employees, 50% of whom qualify for Social Security by moonlighting or through a second career.

The danger of the present voluntary system of entry into and exit from the Social Security System also focuses on the state and local workers who have never had coverage, as in Massachusetts. These workers frequently have to rely on financially unstable state and local pension plans for their retirement security and certainly do not have the scope of income security protection afforded by Social Security in cases of death, disability, or other contingencies.

To underscore the significance of this last point, it should be understood very clearly that there is an interrelationship between Social Security coverage for public employees and the stability of state and local pension plans. The facts are that the current funding problems of state and local pension plans cannot be resolved unless Social Security is made the basic income security program for all public employees. Without universal coverage, the cost of providing even substandard public pensions by financially strapped state and local employers will continue to be prohibitive.

b. From the Social Security System's Standpoint—

In my opening remarks, I indicated that the present public employee coverage situation is unhealthy for the System as well as for the worker.

Present coverage provisions represent a financial drain on the Social Security System. They encourage abuse by some public employees, enabling them to qualify for Social Security benefits that are far greater than their contributions. And as a whole, the four million state and local employees and 2.6 million federal employees currently not covered by the System have become a substantial source of lost income to the Trust Funds, which presently are experiencing a $5.6 billion deficit. This was clearly demonstrated by Social Security estimates of the impact of future public employee entry into or exit from the System.

The Social Security Administration has estimated that if coverage is terminated for one-half of the 8 million state and local workers who are currently covered, the loss in contributions and interest between 1978 and 1982 would be $37.2 billion! On the other hand, if all 12 million state and local employees were covered under Social Security on a mandatory basis, an additional $35.2 billion would be added to the Trust Funds. The Social Security Administration also estimated that the long-range fiscal impact of extending coverage to all state and local workers would be a reduction in the cost of the cash-benefits program by about 0.15% of taxable payroll, and 0.04% for the hospital insurance program.

As you are well aware, federal civil service employees (including employees of the Social Security Administration) are not covered by Social Security. This is because the federal government, as their employer, has chosen not to do so, even though it has elected to cover the military for the past 20 years.

Nevertheless, it is estimated that nearly 50% of the 2.6 million civil service work force become eligible for windfall Social Security benefits anyway through outside or second career employment. Since only 10 years of covered employed are required to receive full Social Security benefits, the incentive for "double-dipping" is significant.

The Social Security Administration estimates that if this situation were corrected, mandatory federal employee coverage would, over the long run, reduce Social Security costs by about 0.17% of taxable payroll for the cash benefits program and 0.06% for the hospital insurance program.

In light of these figures, I strongly urge that the Subcommittee seriously consider incorporating the concept of universal coverage as an integral part of the Social Security financing reform program that it will be considering. It certainly would be a logical extension of the theme of the Administration's proposals, which we support—that is, to preserve the short and long term fiscal viability of the Social Security System. The direct link between universal coverage and the fiscal integrity of the System is sufficient grounds to advocate universal

coverage, to say nothing of supporting it for equity reasons.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I would be glad to yield to the gentleman from Missouri.

Mr. GEPHARDT. I thank the gentleman and commend him for his remarks. I would like to join in his remarks.

Mr. Speaker, I rise today to join my colleagues on the Social Security Subcommittee of the Committee on Ways and Means to urge your favorable consideration of "universal coverage" which would mandate participation in the social security system for all Federal, State, local and nonprofit organization employees.

Two weeks ago, five other members of the subcommittee and I, Republicans as well as Democrats, made a tentative decision against the opposition of two other members to approve universal coverage. Your mail this past week has no doubt carried the same message as mine, that we have created a debacle from which we must retreat. We were and are still aware that this is a controversial issue with the people who would be most affected. However, we feel just as strongly that this step is a necessary improvement for the equity and fairness of our social security system. By now you should have received a letter from eight subcommittee members asking that you keep your position open on the question until we have had a chance to present our case to you. This special order is one forum in which we hope our facts and arguments will prevail.

The social security structure has been shaped both by long-standing traditions and by changing economic and social conditions. One hundred years ago, we did not need social security, for ours was an agrarian society in which over half the Nation's adult workers were farmers; individual effort as a means of security prevailed—but ask any senior citizen in your neighborhood whether they need social security now.

Fifty years ago we did not think the National Government could institute legislation in this area. A Federal-State constitutional system was then interpreted by the courts as limiting such action.

Furthermore, social insurance lacked the support of most organized trade union movements, given relatively high wages of labor and a high standard of living. So what evolved—retirement programs for certain groups of government employees—mainly teachers, policemen, and firemen. Federal, State, and local governments, in essence, recognized and accepted an early responsibility to provide benefits against certain risks of economic insecurity in an industry, government, small in size and isolated from market-influenced wage increases. Do we not have to recognize today that government is big business and cost-of-living increases are nearly automatic? Is it not our responsibility to address the question of why employees in the private sector are required to participate in social security, but Government employees are not?

It took the severe Depression of the 1930's to dramatize the fact that many American workers were almost universally dependent on factors beyond their individual control for their economic security. Federal action became a necessity, as neither the States and local communities nor privately organized charities had the financial resources to cope with the growing need among the people. We first made loans, then grants to the States to pay for direct relief and work relief. Special Federal emergency relief and public works programs were started. There followed the passage of the Social Security Act, signed into law on August 14, 1935.

I will not recount the evolution of our social insurance program and how it has provided coverage to new groups of people or increased benefits. For purposes of today's subject we need only recognize two facts. First, Federal, State, and local employees were not initially covered by social security because they were already covered by social insurance. Second, as of today, only these same employees and those employed by nonprofit organizations are exempt.

Thus, history tells us that universal coverage is the last step in a long, hard march to provide aid to the needy, which dates from the earliest colonial times. But our mail tells us that Federal, State, local, and nonprofit organization employees are not in need of social security. The mailgrams read: "Leave us alone"; "Don't bail out social security money problems with mine." Just a few years ago, it was necessary to underwrite the civil service retirement system benefit obligations. We are still paying off that debt, with interest, but that is not the point. The net revenue effect over the long term of universal coverage is a wash and we must not delude ourselves that this is a remedy for social security's short term financial problems. The best reason to cover Government employees is because it is the only fair and reasonable thing to do. If social security is good for everyone else in America, it must be good for us who work in government.

At the end of 1975, out of a total of 2.7 million Federal civilian employees, about 2.4 million were excluded from social security coverage because they were covered under a Federal staff-retirement system. Social security coverage for employees of the States and their political subdivisions is available through agreements between the Secretary of HEW and the States. About 70 percent—some 8 million out of the approximately 12 million State and local employees—are covered under social security. However, the social security law permits termination of coverage for employees of State and local governments upon action by the State and there is an increasing trend in this direction. As recently as 1966, only five State or local groups elected to terminate coverage for a total of 33 employees; this year notices have been filed by 150 groups affecting 54,860 employees.

You may ask for reasons behind this trend. I assure you it is not in most cases because of social security's financial problems, but rather its financing requirements. The basic motivation for terminating coverage is to reduce costs to the Government, to the employee, or both. But a new plan in its place may be inadequately financed. Contributions may be diverted from retirement systems for other operating funds. In short, without social security, there may be no security at all. I reiterate that the decision to terminate coverage can only be taken by the State, not the employees of the State and local governments involved.

About 90 percent of the roughly 4 million employees of nonprofit organizations are covered by social security. But those organizations, like the States, may elect to be covered by social security. Reversing the coin, some of my constituents who work in private industry rightly complain that I have the right to keep myself and other Federal employees out of the social security system while they are required by law to participate. We should either treat all workers fairly and equitably or have no social security system at all.

Universal coverage will fill the gaps in protection that many individuals face who have worked under both the social security and civil service retirement systems. On the other hand, for those employees who have worked under both systems, windfall benefits may accrue under present law in relation to the worker's social security contributions. This can be corrected at a reduced cost to both employees and the Federal Government if we have universal coverage. We also protect those employees at the State and local levels who want social security coverage, but who are terminated because part of the group desires otherwise.

It is also important to make two other points. First, the adoption of this proposal would not mean the abolishment of any existing civil service retirement system. Second, the adoption of this proposal would not necessarily result in increased pension contributions or reduced pension benefits to Federal, State, local, or nonprofit employees. If universal coverage is adopted, the existing Federal, State, and local pension systems will simply have to be modified so they appropriately integrate with the social security system—as pension plans in private industry have for years. The specific details of those modifications would have to be decided by Congress for Federal employees, and by State and local governments for their employees. This is not a problem, but a responsibility, that changing economic and social conditions require us to accept and correct.

In conclusion, I would share with you the words of one constituent, who wrote to me saying, "Is this not a government of the people, by the people, and for the people?" Without universal coverage, how would you answer that question? With it, you can say that as a representative of the people, I have voted to provide economic security for and by

all the people, including myself, through the social security system.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I would like to ask the gentleman from Texas, who made an excellent presentation on this very important issue, one or two questions. The first is whether or not the proposal which the gentleman advocates would also cover Members of the Congress of the United States as well as civil servants.

Mr. PICKLE. Yes; it would.

Mr. LEVITAS. I commend the gentleman for his leadership in this regard, and the others who have worked with him. A lot of my constituents, and I am sure the same is true for Members who represent other districts as well, are somewhat baffled by the fact that they pay into a social security system significant taxes, that they are looking forward to meager benefits, and yet the Commissioner of the social security system himself is not party to the social security system and does not pay the taxes and does not look to it for his benefits.

There is a lingering suspicion in the American public that if it was a good dish, he might want to eat it himself. It might make the American people a little more confident in their entire social security system if those of us who are responsible for it in the Congress, and those of us who are responsible for administering the Social Security Administration, were paying into it and looking to it for benefits.

As the gentleman may know, I introduced a bill during the last Congress, and reintroduced one in this Congress, which would bring under the system the Members of Congress and certain others along the lines that the gentleman's subcommittee has proposed. I want to associate myself with his efforts, with the reasonable way in which he has approached it, with the assurance that the existing retirement system of civil service and other presently noncovered retirement systems will not be lost; that they will not forfeit rights that they have acquired, and that we will move to a stage where people will be covered by social security and there will not be some elite group omitted from the system.

I commend those members of the committee who have taken the leadership in this regard.

Mr. PICKLE. Mr. Speaker, I would say to the gentleman from Georgia that the purpose of this program is simply to do away with the dual system and not cause damage to any individual who has already qualified or is qualifying under the civil service retirement system, but to have one system. That is the very point of the universal coverage, so that everybody will feel that everybody is paying into the system and not that only a portion of them are paying for the benefits that others may be receiving.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, I would add that what the gentleman from Georgia (Mr. LEVITAS) just said is a lingering suspicion I am afraid is not a suspicion on the part of our constituents, but is knowledge; that they are living under a system which is not being imposed on the entire country, in fact is not being imposed on the lawmakers themselves. The gentleman's point is very well taken and is a good reason we want to go forward with the program.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Speaker, I appreciate very much the gentleman's yielding and also his having arranged this special order.

Mr. Speaker, I look at the mail that has come into my office, and I suspect my mail is no different than the mail of my colleague, the gentleman from Texas (Mr. PICKLE) or the mail of the gentleman from Missouri (Mr. GEPHARDT) or the mail of the gentleman from Arkansas (Mr. TUCKER). There is an awful lot of misinformation and a tremendous amount of concern being expressed about the decision to go to universal coverage. I believe that was the decision made by the subcommittee and I hope it will be sustained by the full committee. Obviously, I hope it will be sustained by the full House of Representatives.

Mr. Speaker, the fundamental issue involved is the very one which the gentleman from Texas has so precisely stated; that is to say, whether or not a certain group within this society should not be included within a universal system of social security. I think they should be included. I think that as time goes on we can assure our colleagues, who have a concern based on the fact that this issue has arisen in the way that it has, that it is possible for us to devise a social security system that is sound and stable, which compliments and supplements the civil service retirement system which is also sound and stable.

Both goals can be accomplished, and what is said today will, I hope, shape the decision that the House will make. I hope it will help to influence others to recognize the correctness of the decision made by the subcommittee.

Mr. Speaker, I very much appreciate the gentleman's yielding.

Mr. PICKLE. Mr. Speaker, I would say to the gentleman from Wisconsin (Mr. STEIGER) that my mail has been, I am sure, similar to his. At least the inquiries I have received have been rather numerous in the last week.

Some news columnists have come out and said, "They are going to liquidate the Federal retirement system." One of the unions here in Washington, specifically the postal group, has put out a pamphlet. I think the pamphlet is misleading, and I hope it is corrected. However, they have sent it out all over the country, and it says that we are going to literally do away with the present system.

We are not going to hurt the present Federal system. You can have both, as the gentleman from Wisconsin (Mr. STEIGER) said. You can have a strong social security base, and on top of that you can have whatever other kind of system you want to pay for.

The inference has been that we are going to destroy the Federal retirement system. That is not so. We have no intention of doing that, and we do not have the jurisdiction to do it. I would hope the various groups affected would study the situation and ferret out the facts before they make a change and perhaps scare people into a situation that is not justified.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would like to emphasize one point that has been made here, and I think it is one that bears thinking about for a moment in considering the facts we are dealing with.

At the end of 1975, out of a total of 2.9 million Federal civilian employees, about 2.4 million were excluded from social security coverage because they were covered under a Federal staff retirement system.

Social security coverage for employees of the States and their political subdivisions is available through agreements between the Secretary of HEW and the States. About 70 percent or about 8 million of the approximately 12 million State and local employees are covered under social security.

However, the social security law permits termination of coverage of employees of State and local governments upon action by the State, and there is an increasing trend in this direction.

As recently as 1966, only five State or local groups elected to terminate coverage for a total of 33 employees. But this year notices have been filed by 150 groups affecting 54,860 employees.

I think the point that we get from these statistics is that not only do we have a vast number of people who are not included but we have an even larger group that is now seeking to opt out of this Federal social security system.

So the questions that are being legitimately asked by our constituents who do not have the option to get out of the system are going to be asked with even more force and even more legitimacy as the days go on and as people continue to opt out of the system at the State and local levels.

Mr. PICKLE. Mr. Speaker, I think the gentleman is right.

Mr. GEPHARDT. If we do not act this year, I think we will have an even larger group getting out of the system. We are going to have to act within the next few months, and now is the time to take that action.

Mr. PICKLE. We are going to have to institute these safeguards, because the situation is running in reverse, and it gets much worse if we do not act and if we continue to allow them to opt out.

Mr. TUCKER. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Arkansas.

Mr. TUCKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to echo the gentleman's sentiments that in making the proposal that the Subcommittee on Social Security has made, there is absolutely no intention to take away any benefits from anyone who has paid into the system.

However, I think it is constructive and helpful to remind ourselves that a retirement system, whether it is a public or private employee retirement system, is a different type of system than a national social insurance system. Under the social security system there is no pretense that the money we pay into the system today—and I should not say, "we," since those in Congress are among the favored few who do not pay in—but under a social insurance system the money that an individual pays in today will not be returned to him.

The purpose of a social security system is to see to it, candidly, that one generation of workers is always supporting that same generation of retirees, so those of us who are working today are paying benefits into a trust fund to support those who are retired today.

There has never been any pretense in the social security system that it was intended to do otherwise.

On the other hand, an employee retirement system is designed so that if I make contributions today, I will receive a return for those contributions as a sort of deferred wage in future years when I finally reach retirement age.

Mr. Speaker, as my colleague and good friend, the gentleman from Missouri (Mr. GEPHARDT), has pointed out, because of the approach we have taken in this area and in some other areas over the past several decades, we face some real jeopardy in the social security system. It is true that 70 percent of the employees of all State and local governments are currently covered under social security; but merely by a sizable number of those employees giving notice that they intend to withdraw from the system over the next few years, we could send the social security system spiraling into great financial difficulty.

Mr. Speaker, there is no way by which we in Congress can continue to justify saying that a General Motors employee or an employee at some local filling station or an employee under the many teacher retirement systems and Government units across the country which have participated in social security coverage has to pay social security in addition to whatever private payments he gives to his pension system.

However, those favored few who fall into the few categories that are, by law, excluded, merely have to contribute to their public retirement system and do not have to take part in the social security system.

Mr. Speaker, social security is too vital to leave any group out.

I compliment my colleague, the gentleman from Texas (Mr. PICKLE), and my other colleagues on the committee for the efforts they have exerted today.

Mr. Speaker, we can make the social security system absolutely financially stable, and we can assure the continuation of what I believe is today the finest system of social insurance extant in any nation in the world. However, to do so we are going to have to face some hard reality and require it to be what it ought to be, a nationwide mandatory system of social security coverage for all.

Mr. Speaker, I include with my remarks the following article by William C. Greenough and Francis P. King.

PENSION PLANS AND PUBLIC POLICY

UNDERFUNDING OF FEDERAL EMPLOYEE PLANS

The annual report for 1968 of the United States Civil Service Commission stated bluntly that "something has to be done about the civil service retirement system." Referring to an existing policy of "brinksmanship in retirement funding," the report pointed to an unfunded liability for fiscal 1968 "of more than $52 billion and a balance of $18 billion." By 1974 the unfunded liability had grown to $77 billion.

The huge unfunded liability has developed gradually, the product of years of inadequate financing. Employees have paid in their share for the contributory retirement plan, but the Civil Service Commission has frankly acknowledged that the government has "not made regular, systematic contributions in amounts sufficient to take care of liberalized benefits." Consulting actuaries to the U.S. Civil Service pension system told the Congress in 1973 that "by all standards set by the government for nongovernmental pension funds, the retirement system is not adequately financed, with the result that considerable present expense is being passed on to future generations of taxpayers."

Already, retirees from federal government service receive higher pension benefits than do their counterparts in private industry. At present, under the contributory federal plan employees pay in 7 percent of their salaries and the government matches this amount. Since the majority of private plans are noncontributory, it might seem that the federal employee contribution was making up the difference in benefit levels, but this is not the case. The huge cost of the federal plan is understated because if its continued and increasing underfunding. As was explained in Civil Service Commission testimony before a Senate Appropriations Subcommittee in 1968, "every time we increase salaries by $1, we are increasing the unfunded liability by $2.50."

To magnify the problems already existing, Congress in 1970 added the most liberal cost of living increase to be found among all the pension plans in the nation, private or public. Failure in dealing with the problem of inflation as it affected the public generally did not deter either Congress or the Administration from insulating from the effects of inflation the more than one million beneficiaries of the system and, in the future, all retirees from the current federal work force of over two and a half million. This is done through a provision of the law that provides a full cost-of-living pension increase whenever the cost of living has gone up by at least 3 percent since the date of any previous increase. The law adds to this an extra 1 percent every time the cost of living increases by 3 percent, a one-third extra premium on inflation. The stated objective of the extra 1 percent was to protect federal employees from the three-month lag; actually the 1-percent extra benefit is a permanent addition and is even included in the base for future benefit increases. Writing in Business Week, Arch Patton notes that "some wags have suggested that the one-third premium explains why Washington has done so little about curbing inflation: All the civil service employees make a profit on it."

Between 1965 and 1974 the cost of living rose 69 percent; civil service pensions rose 85 percent. A man who retired with a pension of $500 a month was getting $925 a month. Increases between 1970 and 1974 alone have already added over $10 billion of unfunded increased future costs.

The effect of the automatic escalator in benefits for federal employees who will retire in the future is estimated by the Civil Service pension actuaries to require an increase in the current normal cost of the plan from the present 14 percent of payroll to 21.13 percent. Double-digit inflation could quickly bring the cost up to 30 percent or more of the federal payroll. And it must be remembered that this figure does not include amortization provision for the existing unfunded liability, the interest cost of which is now only partially included in the current costs and will not be fully included until 1980. As incurred liabilities rise because of the cost-of-living increases, this interest cost will rise too, perhaps then bringing the cost of the pension system in 1980 to 40 percent or more of payroll. If a 4-percent annual inflation rate is assumed, the 1974 unfunded liability would rise to $156 billion instead of $77 billion under a static assumption.

Another reason for the high cost of the federal civil service plan is that it provides, as do many state plans, extremely expensive early retirement provisions. An employee may retire with a full pension at age 55 after 30 years of service. This provision roughly doubles the cost of providing a pension over what it would cost were age 65 to be the normal retirement age. It partially accounts for the high ratio of retired federal employees to the current work force.

Yearly actuarial reports of the Civil Service Retirement System point out to the Congress the growth and extent of unfunded plan liabilities. Adding, though gradually, the interest cost to current funding levels has represented a step toward more rational and responsible financing of the system. The cost-of-living feature, with its compounding 1 percent extra, adds enormously to the difficulty of the task.

The benefit structure and funding situation of the federal civil service plan raises many of the same policy questions regarding pension protection of employees that the public employee systems of the states do. Should not the same funding standards be applied to pension plans of public and private employers? Equitable treatment of all members of retirement plans—and of taxpayers—would seem to make sense if government employees are not to become a specially protected elite, benefiting from the capacity of governments to provide for taxation of citizens in the future who are unable to represent themselves in the legislative sessions of today. Or, on the other hand, retired public employees could become an endangered species if their unit of government ever entered a stage of contraction, or if taxpayers ever decided the tax burden for pensions was too great.

Another Federal Plan—The Military. Perhaps the most obscure of all public pension plans is the Armed Services Pension System. It provides the public with no annual report and its unfunded liabilities exceed even the gargantuan liabilities of its companion, the Federal Civil Service Retirement System. As figures shown in Chapter 5 indicate, the failure to establish a sound method of reserve financing for this system has created an annual burden of expenditure that is expected to rise to nearly $6 billion in 1978.

The unfunded liability now exceeds $130 billion.

A PUBLIC FOLICY FOR PUBLIC PLANS

Several points become immedately evident upon the examination of local, state, and federal employee retirement systems. Nearly all government employers provide a retirement plan for their employees, an excellent record, providing coverage far ahead of the private sector. On the average, the vesting provisions of these plans are at least on a par with those of private plans, and in some cases vesting is earlier, also a good record. Benefits of public plans are often provided for at ages or service periods enabling retirement with normal benefits as early as age 55, and for uniformed employees even earlier. This is extravagant. Such over-generous provisions can increase by as much as half the costs of these plans. Also extravagant is the frequent failure of the plans to integrate benefits with Social Security; over-generous early retirement benefits and failure to integrate with Social Security make some public employees a true pension elite, retirees who fare far better than their counterparts who have worked throughout their productive lives in the private sector. Perhaps most serious of all the defects is lack of prudent funding, representing a lack of willingness to face up to the actual costs of pension plans. While few of the state and local plans are operated wholly on a "pay-as-you-go" basis, have accumulated liabilities substantially in excess of assets. This does not provide adequate security for public employee pensions, or fair treatment for future taxpayers. Coupled with this is the increase in the number of public employees during the last decade or two. As they begin to retire, a surge in the population of retired public employees will take place (augmented by the unusual opportunities for early retirement that are open to them). Promises made in earlier decades, but not fully funded, will have to be kept at tremendous cost.

Specific steps should now be taken to improve the soundness of public retirement systems—federal, state, and local.

1. Public employee plans should be required to meet the same standards for the amortization of past service benefits and the funding of normal costs that are applied by law to private pension plans.

2. If the above requirement is implemented, it will be necessary in most if not all states to rechannel tax revenues in order to begin the process of reducing unfunded liabilities and meeting normal costs. This should raise the consciousness of taxpayers regarding plan provisions.

3. For each legislative or collective bargaining proposal, independent current and future cost estimates should be required, and specific tax increases mandated to meet any increased costs.

4. In reexamining public plan provisions, careful attention should be given to the generous early retirement provisions so prevalent at present, and growing in use. Although it may be impossible to alter benefit promises and early retirement options available to persons presently participating in these plans, it would be desirable to consider bringing newly hired public employees into plans that provide for a normal retirement no earlier than age 65. with earlier retirement available only under standard actuarial reduction provisions. Splitting off new entrants into a separate plan or a plan with altered provisions for new entrants will not be easy. One of the main arguments mounted against it is that two employees in the same job and pay class would be treated differently in terms of the employer expenditure for the deferred pension benefit of each. Union leaders in particular have argued that a proposal for a split pension plan would do violence to the principle of equal pay for equal work or equal treatment of employees in similar situations. This argument could backfire were the public ever to decide that reform in early retirement provisions could only occur through depriving present employees of benefits promised them. A better method might be to provide a current salary differential for new entrants who would be accepting a return to age 65 as normal retirement age.

5. Are uniformed public employees—police, firefighters, and sanitation personnel—to remain as separate classes of pensioners when it comes to early retirement? This is perhaps one of the toughest problems of public administritaon. On the one hand it is reasonable to support the idea that the physically demanding and often dangerous situation of the uniformed services demands younger men and women. Early retirement seems appropriate in the light of the hazards faced and the demands made. Yet plan provisions frequently make early retirement attractive not for the purpose of binding up the wounds and exhaustion of an arduous life, but for the purpose of seeking another job at comparable pay with the additional advantage of receiving a "retirement" income at the same time. A policy question that must be fairly and frankly acknowledged is whether public budgets can afford this result.

6. All public employees should participate in the Social Security system. Federal employees (except members of the Armed Forces Retirement System), and nearly all public employees in a half a dozen states, plus some in some pension systems in other states, do not now participate in Social Security. The burden and the benefits of an income transfer and redistribution system—Social Security—should be shared as broadly and as equitably as possible. All citizens benefit from the existence of such a system, whether they participate or not. Those who participate receive benefits directly. Employers and employees who do not contribute to Social Security, however, effectively increase the burden on those who do participate. The option for state and local employments to remain outside the Social Security program and the noncoverage of federal employment represent the last serious gap in this national scheme.

7. The contributions or the benefits of all public pension plans should provide their benefits so as to be integrated with Social Security.

8. The highest standards of actuarial evaluation, accounting, and disclosure of operations should be required of public pension systems. Perhaps model state laws should provide for this. Independent certified public accountants should examine each pension fund annually and the results of the audit should be published. The exact extent of unfunded liabilities should be determined by qualified actuaries according to a reasonable and clearly stated set of actuarial assumptions and established amortization schedules.

It would seem reasonable to establish as public policy that all types of employer-sponsored or jointly-administered pension plans be subject to the same rules of conduct, whether they involve public employers or private employers. The distinction between a public social insurance program and a public employee retirement system should be kept clear. By its nature a social insurance system, or Social Security, is a system for redistribution and intergenerational transfer, and it must depend on the willingness of each successive generation to support aged persons, in return for the implicit promise that the supporting generation's turn will come. An employee retirement system, on the other hand, public or private, defers a part of wages until the retirement age, and is thus properly operated on the basis of reserve funding. Public policy should not permit heavily unfunded liabilities for public employee or private retirement plans to be created and thrust forward onto future generations, captive though they may be through precedent or sovereign power.

It is very much in the interest of present public employees and their governmental units to move toward sound retirement provisions and adequate financing and funding of public plans. A rapid shift of priorities from benefit leapfrogging to assurance of future payments of reasonable benefits would seem to be in the public interest. Public employees are just as deserving of legislative and regulatory protection of their benefits as are private employees. But to achieve adequate financing and funding, they will have to forego excesses in early retirement benefits, accept integration of benefits with Social Security, and be prepared for higher tax rates. All signs point toward intense public policy discussion of public employee retirement plans in coming years.

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Arkansas (Mr. TUCKER) for his comments.

He is eminently correct that it must be a universal system and that we must put everyone under it. We can do so without damaging any other group.

Mr. KETCHUM. Mr. Speaker, I commend my fellow colleagues on the Ways and Means Subcommittee on Social Security for addressing the concept of universal coverage during a special order this afternoon. After much forethought on how best to proceed with social security reform, our subcommittee tentatively decided to extend social security coverage by providing for the participation of all Federal, State, and local government employees, and nonprofit organizations' employees, by 1980. Since that decision, I have received no fewer than 50 mailgrams and letters in which concern has been expressed that we are "liquidating" the civil service retirement system. Nothing could be further from the truth. Misinformation on the concept of universal coverage has been widespread. I hope that we may elucidate any misunderstandings that might still be circulating.

Mandated by the Social Security Act of 1935, and liberalized by amendments thereafter, the social security system has grown to be an integral part of the income structure of the American economy. Statistics published in January's Social Security Bulletin show that to 32.7 million Americans, "social security" means a check in the mail once a month—a total of $6.3 billion a month, $75 billion a year, of purchasing power. In 1976, benefits to retired persons averaged $223 a month; to the disabled, $244.

Social security is compulsory, nearly universal already, and most important, it is virtually immune to the risk of economic distress, a risk few families can fully insure against. Our objective to extending coverage to all current civilian employees is the integration of the civil service retirement and social security systems without reducing benefits or protection for, or increasing contributions from, participants in either program.

Universal coverage is a rational and desirable goal of any nationwide social

insurance system. Public discussion of universal coverage has taken place for many years. It has long appeared that a large majority of Americans favor it, but no action has previously been taken by the Congress. Many difficulties, both legal and administrative, have stood in the way.

However, despite these difficulties, the latest Advisory Council on Social Security stated that—

It is of great importance from the standpoint of assuring good protection for all workers on an equitable basis that all Federal, State, and local jobs be compulsorily covered under social security.

The Council urged the Congress to move promptly toward that goal. I share with you a copy of a letter from Indiana State Representative, William Drozda, which supports these recommendations.

GARY, IND., *September 16, 1977.*

HON. WILLIAM M. KETCHUM,
House Ways and Means Subcommittee on Social Security, Longworth Office Building, Washington, D.C.

DEAR CONGRESSMAN KETCHUM: It has come to my attention that the Ways and Means Social Security Subcommittee has tentatively voted to extend Social Security participation to all federal, state and local government civilian employees. I wish to commend your committee on this action, to encourage it to maintain this position, and to emphasize why this will mean very much to all too many State employees in Indiana.

The State employees in Indiana who will benefit most from the proposed extended Social Security coverage are those that are working full time and participate neither in Social Security nor the Indiana Public Employees' Retirement Fund. As hard as it may be to believe, there are numerous State employees in Indiana who are exactly in that predicament—They are working full time yet accruing neither federal, state, nor private retirement plan benefits.

The current Federal-State agreement between Indiana and the Social Security Administration provides that only "Temporary," "Intermittant," "Hourly Rated," "Contractual," and "Emergency" employees of the State of Indiana shall be excluded from Social Security coverage. The Indiana State Budget Agency, Public Employees' Retirement Fund and State Personnel Division have determined that "If it is anticipated that the position will require work amounting to 600 hours of work per year or less, then no FDIC contributions should be deducted," per memorandum of their offices dated 10/30/73.

In spite of the aforementioned agreement, to date there are no fewer than 13 employees of the Indiana Employment Security alone, who are working full time this year, have worked over 600 hours last year and have no retirement program at all. Please consider the future of such unprotected public employees as these when considering expansion of Social Security coverage.

If further information would be of any benefit, please contact me at (219) 884-7493. I thank you and your committee for its action to date in these matters and in closing must reemphasize the future needs of too many pensionless employees of the State of Indiana.

Sincerely,

WILLIAM DROZDA,
State Representative.

Integration of the individual staff retirement and social security systems will be an extremely difficult task, crossing jurisdictional boundaries of major committees in both the House and Senate, and involving many complex technical problems. But integration could be achieved, in an equitable manner by 1980. Discussion must develop between the appropriate subcommittees to make changes in the civil service retirement program and social security which would prevent the payment of excessive benefits and to reduce the cost of both employees and the Federal Government.

In the name of equity and fairness, and adequate total retirement income for all Americans, I respectfully request my colleagues in the House of Representatives to support universal compulsory coverage under social security and integration of private pension with social security benefits.

Mr. MIKVA. Mr. Speaker, one of the most distressing aspects of the debate over universal coverage has been the amount of misinformation surrounding the phasein of social security coverage with the various civil service retirement and disability plans. Many of us on the Social Security Subcommittee have spent as much time this past week explaining what we have not done, as what we have. I would like to take a few minutes to try to clarify this transition.

Under the bill approved last week by the subcommittee, all current and future Federal employees will be covered under social security. Current employees will be provided with quarters of coverage for work completed prior to the effective date of 1980. No work time would be lost for anyone, and benefits thus accrued would not be reduced. In short, no Federal employee will be forced to work one extra minute to make up for the time he or she has not been covered by social security. The bill specifically guarantees that Federal employees would be deemed to be insured if they die, become disabled, or retire without enough social security credits. Thus, employees both with and without credits will be protected under universal coverage.

Much of the apprehension about our action, I think, stems from the dual jurisdiction in the House over pension and disability systems and the coordination which will be necessary for an equitable integration of these retirement and disability plans. The Post Office and Civil Service Committee will have to design conforming amendments to Federal retirement plans before social security coverage can be phased in. It will take time to coordinate a fair transition, and no one on our subcommittee denies that there will be problems in doing so.

For example, there are gaps in protection for many employees who have worked under both civil service and social security retirement and disability. There is also the problem of Federal workers who retire early under civil service and take new jobs in the private sector, usually receiving substantially higher social security benefits. It is estimated that the percentage of the retired Federal employees eligible for social security may be as high as 50 percent. Clearly, it will require a great deal of skill and sensitivity in drafting transition legislation if these difficulties are to be overcome.

It is because of these problems, and not in spite of them, however, that our subcommittee has acted at this time to mandate social security coverage for Federal Government employees. We have taken this step in full knowledge of the conflicts involved, and in the belief that ours must be the committee to initiate mandatory social security coverage. We have done so under the assumption that the transition worked out by the Post Office and Civil Service Committee will be a fair and orderly one which will provide for the continuation of coverage and benefits earned by Federal employees, without doubling payroll taxes. Tax rate schedules are to be integrated in the same manner as coverage and benefits. No one should pay twice for the same coverage, and no one should be denied the protection that they have earned. Under the bill contemplated by the Social Security Subcommittee, no one will.

The transition is as simple—and complex—as that. It will take patience, courage, and hard work to phase in universal social security coverage by the 1980 effective date. It may even be that more time will be necessary to complete the transition. But we must not let complexities defeat our purpose of providing a coordinated, fair and stable retirement and disability system for all Americans. The Subcommittee on Social Security has recognized that it must act first if the process of instituting universal coverage is to begin. We ought not let misinformation about the details of integrating these plans obscure the goal of providing a fair and unified tax and benefit retirement structure.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) to revise and extend their remarks and include extraneous material:)

Mr. SARASIN, for 5 minutes, today.
Mr. QUIE, for 15 minutes, today.
Mr. GARY A. MYERS, for 5 minutes, today.
Mr. KEMP, for 5 minutes, today.
Mr. HOLLENBECK, for 5 minutes, today.
Mr. FINDLEY, for 5 minutes, today.

(The following Members (at the request of Mr. GORE) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. DODD, for 5 minutes, today.
Mr. FRASER, for 5 minutes, today.
Mr. NOLAN, for 60 minutes, today.
Mrs. CHISHOLM, for 5 minutes, today.
Mr. KOCH, for 5 minutes, today.
Mr. CARR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. QUIE, and to include extraneous

material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,369.

Mr. PICKLE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,817.50.

Mr. FOLEY, to extend his remarks in the permanent RECORD immediately prior to the vote on the adoption of the conference report on the bill S. 275.

(The following Members (at the request of Mr. MARKS), and to include extraneous matter:)

Mr. SCHULZE.
Mr. JOHN T. MYERS.
Mr. GRADISON.
Mr. CONABLE.
Mr. WALSH.
Mr. STEERS in two instances.
Mr. LAGOMARSINO in two instances.
Mr. REGULA.
Mr. VANDER JAGT.
Mr. KEMP in two instances.

(The following Members (at the request of Mr. GORE) and to include extraneous matter:)

Mr. KASTENMEIER in two instances.
Mr. MURTHA.
Mr. FLIPPO.
Mr. MCHUGH.
Mr. DANIELSON.
Mr. BAUCUS.
Ms. MIKULSKI.
Mr. TEAGUE.
Mr. SKELTON.
Mr. EILBERG in three instances.
Mr. VANIK in two instances.
Mr. RANGEL in 10 instances.
Mr. MOLLOHAN.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BRECKINRIDGE.
Mr. AUCOIN.
Mr. WAXMAN in three instances.
Mr. EDWARDS of California.
Mr. RODINO.
Mr. BONKER in two instances.
Mr. BEARD of Rhode Island.
Mr. BARNARD.
Mr. DINGELL.
Mr. DAN DANIEL.
Mr. NOLAN.
Mr. LEVITAS.
Mr. STARK.
Mr. FISHER.
Mr. WEISS.
Mr. DRINAN.
Mr. MILFORD.
Mr. NEDZI.
Mr. DODD.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1322. An act to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 23, 1977, present to the President, for his approval, bills of the House of the following title:

H.R. 1862. To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for their survivors; and for other purposes;

H.R. 5262. To provide for continued participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes; and

H.R. 6502. To amend title 38 of the United States Code to provide an automobile assistance allowance and to provide automotive adaptive equipment to veterans of World War I.

ADJOURNMENT

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 55 minutes p.m.), the House adjourned until Wednesday, September 28, 1977, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2455. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2456. A letter from the Secretary of Health, Education, and Welfare, transmitting his views in opposition to proposed legislation relative to student loan bankruptcies (section 316 of H.R. 8200); jointly, to the Committees on Education and Labor, and the Judiciary.

2457. A letter from the Comptroller General of the United States, transmitting a report concerning how General Services could save millions of dollars annually by relocating Federal agencies into existing Government-owned property (LCD-77-314); to the Committee on Government Operations.

2458. A letter from the Comptroller General of the United States, transmitting a report concerning Government's unresponsiveness to multifamily housing real estate tax problems (CED-77-125); jointly to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

2459. A letter from the Comptroller General of the United States, transmitting a report on flexible and compressed work schedules in relation to their use in industry and State, local, and Federal governments (FPCD-77-62); jointly, to the Committees on Government Operations, Education and Labor, and Post Office and Civil Service.

2460. A letter from the Comptroller General of the United States, transmitting a report on the analysis of the prospects for developing America's vast coal resources (EMD-77-43); jointly, to the Committees on Government Operations, Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules, House Resolution 781. Resolution providing for the consideration of H.R. 9290. A bill to increase the temporary debt limit, and for other purposes (Rept. No. 95-635). Referred to the House Calendar.

Mr. ZABLOCKI: Committee on International Relations. Report on allocation of budget totals under the second concurrent resolution of the budget for fiscal year 1978 (Rept. No. 95-636). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 8410. A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act; with amendment (Rept. No. 95-637). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 9090. A bill to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949 (H. Rept. 95-638). Referred to the Committee on Appropriations for period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 9324. A bill to amend title XVI of the Social Security Act to provide that an alien may not qualify for supplemental security income benefits unless he not only is a permanent resident of the United States but has also continuously resided in the United States for at least 5 years; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. KOCH, and Mr. THOMPSON):

H.R. 9325. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit for certain contributions of literary, musical, or artistic compositions; to the Committee on Ways and Means.

By Mr. BURLESON of Texas:

H.R. 9326. A bill to amend the Internal Revenue Code of 1954 to repeal the passive income limitation for small business corporations; to the Committee on Ways and Means.

By Mr. DERRICK:

H.R. 9327. A bill to amend the Federal Home Loan Mortgage Corporation Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DEVINE:

H.R. 9328. A bill to amend the Regional Rail Reorganization Act of 1973 and the Department of Transportation Act to provide financial assistance, in connection with rail service assistance programs, to any State which accepts an offer of settlement from a railroad in reorganization with respect to

real property tax obligations owned by such railroad to such State; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS of California (for himself, Mr. DRINAN, and Ms. JORDAN):

H.R. 9329. A bill to revise title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964, and for other purposes; to the Committee on the Judiciary.

By Mr. EVANS of Colorado:

H.R. 9330. A bill to designate the Big Blue Wilderness, Courthouse Mountain Wilderness, Dolores Peak Wilderness, Mount Sneffels Wilderness, and Mount Wilson Wilderness, San Juan and Uncompahgre National Forests in the State of Colorado; to the Committee on Interior and Insular Affairs.

By Mr. FORD of Michigan (for himself, Mr. NEDZI, Mr. CONYERS, Mr. TRAXLER, Mr. BLANCHARD, Mr. BRODHEAD, Mr. BONIOR, and Mr. PURSELL):

H.R. 9331. A bill to amend title 38, United States Code, to provide for the payment of supplemental tuition allowances to certain veterans pursuing educational programs for purposes of offsetting the differences in State educational costs; to the Committee on Veterans' Affairs.

By Mr. FRENZEL (for himself, Mr. BURKE of Massachusetts, and Mr. RAILSBACK):

H.R. 9332. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to claim a credit for amounts paid as tuition to provide education for himself, for his spouse, or for his dependents, and to provide that such credit is refundable; to the Committee on Ways and Means.

By Mr. MEEDS (for himself, Mr. UDALL, Mr. LUJAN, Mr. RONCALIO, Mr. JOHNSON of Colorado, Mr. SANTINI, Mr. KREBS, Mr. MARLENEE, Mr. JOHNSON of California, Mr. HANSEN, Mr. BAUCUS, Mr. STUMP, Mr. DON H. CLAUSEN, and Mr. MARRIOTT):

H.R. 9333. A bill to authorize the Secretary of the Interior to construct hydroelectric powerplants and various existing water projects, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOCH (for himself, Mr. BRADEMAS, and Mr. ZEFERETTI):

H.R. 9334. A bill to amend the Public Health Service Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. BROWN of California, Mr. PHILLIP BURTON, Mr. CARNEY, Mrs. CHISHOLM, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. DOWNEY, Mr. EDWARDS of California, Ms. HOLTZMAN, Mr. KASTENMEIER, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. ROSENTHAL, Mr. ROYBAL, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. WAXMAN, Mr. WEISS, Mr. CHARLES H. WILSON of California, and Mr. WOLFF):

H.R. 9335. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes; to the Committee on the Judiciary.

By Mr. KOCH (for himself and Mr. DORNAN):

H.R. 9336. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for tenants of houses or apartments for their proportionate share of the real property taxes and interest paid or incurred by their landlords; to the Committee on Ways and Means.

By Mr. MARKEY:

H.R. 9337. A bill to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy; to the Committee on Education and Labor.

By Mr. MILLER of Ohio (for himself, Mr. COHEN, Mr. LAGOMARSINO, Mr. CORCORAN of Illinois, Mr. DAN DANIEL, Mrs. LLOYD of Tennessee, Mr. COLLINS of Illinois, Mr. CONTE, Mr. EILBERG, Mr. HUGHES, Mr. WHITEHURST, Mr. TRAXLER, Mr. KINDNESS, Mr. HARRINGTON, Mr. EDGAR, and Mr. MOTTL):

H.R. 9338. A bill to amend title 38 of the United States Code to extend to 45 days the period between semesters, terms, or quarters during which the Administrator of Veterans' Affairs may continue to pay educational assistance or subsistence allowances to eligible veterans and eligible persons if the educational institution is closed during such period for more than one full calendar month as part of an energy conservation program or as a result of a fuel curtailment; to the Committee on Veterans' Affairs.

By Mr. MITCHELL of Maryland:

H.R. 9339. A bill to provide for the establishment of the Federal Protective Service for the protection of property under the jurisdiction of the General Services Administration, to provide for the pay and training of the members of such service, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MURPHY of New York (for himself, Ms. MIKULSKI, Mr. DAVIS, Mr. BENJAMIN, Mr. EILBERG, Mr. YOUNG of Alaska, Ms. MEYNER, Mr. FARY, Mr. AUCOIN, Mr. DRINAN, Mr. ERTEL, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, and Mr. ZEFERETTI):

H.R. 9340. A bill to provide financial aid to local fire departments in the purchase of advanced firefighting equipment; to the Committee on Science and Technology.

By Mr. MURPHY of New York (for himself, Ms. MIKULSKI, Mr. DAVIS, Mr. BENJAMIN, Mr. YOUNG of Alaska, Ms. MEYNER, Mr. FARY, Mr. AUCOIN, Mr. DRINAN, Mr. ERTEL, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, and Mr. ZEFERETTI):

H.R. 9341. A bill to provide financial aid for local fire departments in the purchase of firefighting suits and self-contained breathing apparatus; to the Committee on Science and Technology.

By Mr. GARY A. MYERS (for himself, Mr. BUCHANAN, Mr. KETCHUM, Mr. MURPHY of Pennsylvania, Mr. BEVILL, Mr. TREEN, Mr. MURTHA, Mr. MITCHELL of New York, Mr. APPLEGATE, Mr. ST GERMAIN, Mr. LUNDINE, Mr. WALGREN, Mr. PURSELL, Mr. ROE, Mr. EILBERG, and Ms. MIKULSKI):

H.R. 9342. A bill to amend the Trade Act of 1974 to provide that the President may not reduce or terminate import relief if the Congress disapproves such action; to the Committee on Ways and Means.

By Mr. RISENHOOVER:

H.R. 9343. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. SISK:

H.R. 9344. A bill to amend title 10, United States Code, to allow female members of the Armed Forces to serve in all duty assignments for which they volunteer and are otherwise qualified; to the Committee on Armed Services.

By Mr. THOMPSON (for himelf, Mr. PERKINS, Mr. CLAY, Mr. MILLER of California, Mr. PHILLIP BURTON, Mr. KILDEE, Mr. BRADEMAS, Mr. FORD of Michigan, Mr. MICHAEL O. MYERS, Mr. WEISS, Mr. BIAGGI, Mr. BEARD of Rhode Island, Mr. SIMON, Mr. ZEFERETTI, and Mr. LE FANTE):

H.R. 9345. A bill to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act; to the Committee on Education and Labor.

By Mr. ULLMAN:

H.R. 9346. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system, to reduce the effect of wage and price fluctuation on the system's benefit structure, to provide coverage under the system for officers and employees of the United States, of the State and local governments, and of nonprofit organizations, to increase the earnings limitation, to eliminate certain gender-based distinctions and provide for a study of proposals to eliminate dependency and sex discrimination from the social security program, and for other purposes; to the Committee on Ways and Means.

By Mr. WAXMAN:

H.R. 9347. A bill to amend the Tariff Schedules of the United States by repealing item 807 of schedule 8, part 1, subpart B; to the Committee on Ways and Means.

By Mr. WHITEHURST (for himself, Mr. BADILLO, Mr. BONIOR, Mr. BURKE of Florida, Mr. DOWNEY, Mr. DRINAN, Mr. EDWARDS of Oklahoma, Mr. KEMP, Mr. MCCLORY, Mr. MOAKLEY, Mr. PURSELL, Mr. RODINO, Mr. ROE, Mr. SIMON, Ms. SPELLMAN, Mr. STEERS, Mr. WAXMAN, and Mr. CHARLES WILSON of Texas):

H.R. 9348. A bill to protect predators from indiscriminate slaughter; to the Committee on Merchant Marine and Fisheries.

By Mr. WOLFF (for himself and Mr. BINGHAM):

H.R. 9349. A bill to restore to certain institutions of higher learning their rights to determine academic standards of progress with respect to veterans and to provide counseling to veterans whose educational assistance allowance is discontinued under certain circumstances, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WOLFF (for himself and Mr. HOLLENBECK):

H.R. 9350. A bill to amend title 38, United States Code, to provide counseling for certain veterans; to permit acceleration of monthly educational assistance payments to eligible veterans and dependents; to revise the criteria for nonaccredited courses; to provide alternative financial and educational assistance to peacetime post-Korean veterans affected by the expiration of their delimiting period; to provide for a conditional extension of the delimiting period for certain Vietnam-era veterans; to provide for the development of additional educational, employment, and readjustment assistance programs for veterans; to provide for the correction and preclusion of, and protection against, abuses and misuse of veterans benefits; and to otherwise enhance and improve the effectiveness, integrity, and utilization of veterans readjustment assistance programs; to the Committee on Veterans' Affairs.

By Mr. JACOBS (for himself, Ms. KEYS, and Mr. ZEFERETTI):

H.J. Res. 604. Joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.J. Res. 605. Joint resolution to authorize and request the President to proclaim the second week in April of each year as National Medical Laboratory Week; to the Committee on Post Office and Civil Service.

By Mr. HANSEN (for himself, Mr. HORTON, Mr. RUNNELS, Mr. DAVIS, Mr. BYRON, Mr. FLOWERS, Mr. CHAPPELL, Mr. HUBBARD, Mr. KASTEN, Mr. SATTERFIELD, Mr. BREAUX, Mr. FLYNT, Mr. CAPUTO, Mr. VOLKMER, Mr. LLOYD of California, Mr. QUILLEN, Mr. MATHIS, Mrs. LLOYD of Tennessee,

Mr. RISENHOOVER, Mr. WATKINS, Mr. COHEN, Mr. HUCKABY, Mr. IRELAND, Mr. YOUNG of Missouri, and Mr. ENGLISH):

H. Con. Res. 365. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the property of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. EDWARDS of California:

H. Res. 782. Resolution providing for agreement to the Senate amendment to the bill H.R. 5645.

By Mr. JACOBS (for himself, Ms. KEYS, and Mr. GLICKMAN):

H. Res. 783. Resolution to amend the Rules of the House of Representatives to require that measures affecting the salaries, freebies or emoluments of Members or former Members of Congress be adopted by rollcall vote; to the Committee on Rules.

By Mr. NOLAN (for himself, Mr. GILMAN, Mr. BONIOR, Mr. WEAVER, Mr. AUCOIN, Mrs. HECKLER, Mr. ROSE, Mr. HARKIN, Mr. GUYER, Mr. JEFFORDS, Mr. JONES of Tennessee, Mr. BEDELL, Mr. SIMON, Mr. MCCLOSKEY, Mr. STEERS, Mr. BRODHEAD, Mr. DOWNEY, Mr. MOFFETT, Mr. RICHMOND, Mr. MAGUIRE, Mr. MCHUGH, Mr. BONKER, Mr. FRASER, Mr. BROWN of California, and Mr. SMITH of Iowa):

H. Res. 784. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. REUSS, Mr. HARRINGTON, Mr. ABDNOR, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLEN, Mr. AMBRO, Mr. AMMERMAN, Mr. ANDERSON of Illinois, Mr. ASPIN, Mr. BADILLO, Mr. BALDUS, Mr. BARNARD, Mr. BAUCUS, Mr. BEARD of Rhode Island, Mr. BENJAMIN, Mr. BEVILL, Mr. BIAGGI, Mr. BINGHAM, Mr. BLANCHARD, Mr. BLOUIN, Mrs. BOGGS, and Mr. BRADEMAS:

H. Res. 785. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committee on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. BREAUX, Mr. BRECKINRIDGE, Mr. BRINKLEY, Mr. BUCHANAN, Ms. BURKE of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. CAPUTO, Mr. CARNEY, Mr. CARR, Mr. CARTER, Mr. CAVANAUGH, Ms. CHISHOLM, Mr. CLAY, Mr. COCHRAN of Mississippi, Mr. COHEN, Ms. COLLINS of Illinois, Mr. CONABLE, Mr. CONTE, Mr. CONYERS, Mr. CORCORAN of Illinois, Mr. CORMAN, Mr. CORNELL, and Mr. CORNWELL):

H. Res. 786. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. COUGHLIN, Mr. D'AMOURS, Mr. DAN DANIEL, Mr. DAVIS, Mr. DELLUMS, Mr. DE LUGO, Mr. DERRICK, Mr. DICKS, Mr. DIGGS, Mr. DODD, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EDWARDS of California, Mr. ENGLISH, Mr. ERTEL, Mr. EVANS of Georgia, Mr. EVANS of Colorado, Mr. FAUNTROY, Mr. FINDLEY, Mr. FISHER, Mr. FITHIAN, Mr. FLIPPO, and Mr. FLORIO):

H. Res. 787. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By NOLAN (for himself, Mr. FOLEY, Mr. FORD of Tennessee, Mr. FOUNTAIN, Mr. FRENZEL, Mr. GEPHARDT, Mr. GIAIMO, Mr. GIBBONS, Mr. GINN, Mr. GLICKMAN, Mr. GORE, Mr. GRASSLEY, Mr. HAGEDORN, Mr. HANLEY, Mr. HANNAFORD, Mr. HANSEN, Mr. HAWKINS, Mr. HEFNER, Mr. HEFTEL, Mr. HIGHTOWER, Mr. HOLLAND, Mr. HOLLENBECK, Ms. HOLTZMAN, Mr. HOWARD, and Mr. HUBBARD):

H. Res. 788. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By NOLAN (for himself, Mr. HUCKABY, Mr. HUGHES, Mr. HYDE, Mr. IRELAND, Mr. JACOBS, Mr. JENRETTE, Mr. JOHNSON of Colorado, Mr. JONES of North Carolina, Ms. JORDAN, Mr. KASTENMEIER, Mr. KEMP, Ms. KEYS, Mr. KILDEE, Mr. KINDNESS, Mr. KOCH, Mr. KOSTMAYER, Mr. KREBS, Mr. KRUEGER, Mr. LAFALCE, Mr. LEACH, Mr. LE FANTE, Mr. LEGGETT, Mr. LENT, and Mr. LEVITAS):

H. Res. 789. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. LLOYD of California, Ms. LLOYD of Tennessee, Mr. LONG of Louisiana, Mr. LUKEN, Mr. LUNDINE, Mr. MCDADE, Mr. MCEWEN, Mr. MCFALL, Mr. MADIGAN, Mr. MARKS, Mr. MARLENEE, Mr. MARTIN, Mr. MATHIS, Mr. MATTOX, Mr. MAZZOLI, Mr. METCALFE, Ms. MEYNER, Ms. MIKULSKI, Mr. MIKVA, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of New York, Mr. MITCHELL of Maryland, and Mr. MOORHEAD of Pennsylvania):

H. Res. 790. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. MURPHY of Illinois, Mr. NATCHER, Mr. NEAL, Mr. NEDZI, Mr. NIX, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. OBEY, Mr. O'BRIEN, Mr. OTTINGER, Mr. PANETTA, Mr. PATTEN, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. PEASE, Mr. PEPPER, Mr. PERKINS, Mr. PRESSLER, Mr. PREYER, Mr. PRICE, and Mr. PRITCHARD):

H. Res. 791. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

By Mr. NOLAN (for himself, Mr. PURSELL, Mr. QUIE, Mr. RAHALL, Mr. RINALDO, Mr. RISENHOOVER, Mr. RODINO, Mr. ROE, Mr. ROONEY, Mr. ROSENTHAL, Mr. ROSTENKOWSKI, Mr. RUNNELS, Mr. RYAN, Mr. ST GERMAIN, Mr. SANTINI, Mr. SCHEUER, Ms. SCHROEDER, Mr. SEBELIUS, Mr. SHARP, Mr. SHIPLEY, Mr. SKELTON, Mr. SOLARZ, Ms. SPELLMAN, Mr. STAGGERS, and Mr. STARK):

H. Res. 792. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture, and International Relations.

Mr. NOLAN (for himself, Mr. STOCKMAN, Mr. STOKES, Mr. STUDDS, Mr. THOMPSON, Mr. THONE, Mr. THORNTON, Mr. TRAXLER, Mr. TREEN, Mr. TRIBLE, Mr. TSONGAS, Mr. UDALL, Mr. ULLMAN, Mr. VAN DEERLIN, Mr. VENTO, Mr. WALGREN, Mr. WALSH, Mr. WEISS, Mr. WHITLEY, Mr. CHARLES WILSON of Texas, Mr. WOLFF, Mr. WON PAT, Mr. WRIGHT, Mr. ZEFERETTI, and Mr. HAMILTON):

H. Res. 793. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculture and International Relations.

Mr. NOLAN (for himself, Mr. MINISH, Mr. HILLIS, Mr. MARKEY, Mr. LEDERER, Mr. WAXMAN, Mr. STANGELAND, Mr. RAILSBACK, Mr. FARY, Mr. FISHER, Mr. RONCALIO, Ms. MEYNER, Mr. PICKLE, and Mr. STRATTON):

H. Res. 794. Resolution expressing the sense of the House of Representatives that the President should establish a Commission on Domestic and International Hunger and Malnutrition; jointly, to the Committees on Agriculure, and International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISH:

H.R. 9351. A bill for the relief of Kumari Kumudini Mahakud; to the Committee on the Judiciary.

By Mr. STEERS:

H.R. 9352. A bill for the relief of James William Dibben; to the Committee on the Judiciary.

H.R. 9353. A bill for the relief of Vincent Gagliardi; to the Committee on the Judiciary.

By Mr. EILBERG:

H. Res. 795. Resolution opposing the granting of permanent residence in the United States to certain aliens; to the Committee on the Judiciary.

H. Res. 796. Resolution opposing the granting of permanent residence in the United States to Arif Raza Zaidi Syed; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

258. By the SPEAKER: Memorial of the Legislature of the State of California, relative to bees; to the Committee on Agriculture.

259. Also, memorial of the Legislature of the State of California, relative to genetic diseases; to the Committee on Appropriations.

260. Also, memorial of the Legislature of the Territory of Guam, relative to Federal payments to Micronesians under the Micronesian Claims Act of 1971; to the Committee on Appropriations.

261. Also, memorial of the Legislature of the State of California, relative to the Sugar Pine Dam project; to the Committee on Interior and Insular Affairs.

262. Also, memorial of the Legislature of the State of California, relative to the use of flame retardant chemicals in clothing; to the Committee on Interstate and Foreign Commerce.

263. Also, memorial of the Legislature of the State of California, relative to arson; to the Committee on the Judiciary.

264. Also, memorial of the Legislature of

the State of California, relative to child abduction; to the Committee on the Judiciary.

265. Also, memorial of the Legislature of the State of California, relative to illegal aliens; to the Committee on the Judiciary.

266. Also, memorial of the Legislature of the State of California, relative to uniform relocation assistance; to the Committee on Public Works and Transportation.

267. Also, memorial of the Legislature of the State of California, relative to hydrothermal powerplants; to the Committee on Science and Technology.

268. Also, memorial of the Legislature of the State of California, relative to veterans educational benefits; to the Committee on Veterans' Affairs.

269. Also, memorial of the Legislature of the State of California, relative to medicare; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

255. By the SPEAKER: Petition of the Council of State Governments, Atlanta, Ga., relative to water resources research; to the Committee on Appropriations.

256. Also, petition of the Washington Urban League, Inc., Washington, D.C., relative to the proposed Convention Center in Washington, D.C.; to the Committee on Appropriations.

257. Also, petition of Kentucky Bankers Association, Louisville, Ky., relative to congressional oversight of banking practices; to the Committee on Banking, Finance and Urban Affairs.

258. Also, petition of the Council of State Governments, Atlanta, Ga., relative to the Water Resources Planning Act; to the Committee on Interior and Insular Affairs.

259. Also, petition of the Council of State Governments, Atlanta, Ga., relative to coastal zone management; to the Committee on Merchant Marine and Fisheries.

260. Also, petition of the council of the county of Maui, Wailuku, Hawaii, relative to Federal subsidies of American Merchant Marine ships; to the Committee on Merchant Marine and Fisheries.

261. Also, petition of the Council of State Governments, Atlanta, Ga., relative to water pollution; to the Committee on Public Works and Transportation.

262. Also, petition of the North Carolina State Coordinating Committee for International Women's Year, Raleigh, N.C., relative to displaced homemakers; jointly, to the Committees on Education and Labor, and Interstate and Foreign Commerce, and Ways and Means.

SENATE—*Tuesday, September 27, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Right Reverend John T. Walker, bishop of the Diocese of Washington, Protestant Episcopal Church, offered the following prayer:

Let us pray:

We thank You, Almighty God, for having given into our trust a land so well endowed with resources of the Earth and so rich in human talent. Grant us to be faithful stewards of that trust. Give vision to those who serve this people in government. May Your divine spirit, the spirit of truth, of love, and of justice keep them from all falsehood and corruption; may it keep them free of malice and hate and may it guide them into the ways of mercy and of peace. We pray that our people may have courage to stand fast, upholding those principles upon which this Nation was founded. We pray always to the honor and glory of Your name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., Sept. 27, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, September 26, 1977, be approved.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

REQUEST FOR CONVENING HOUR THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes daily this week through Saturday, it convene at the hour of 9 o'clock a.m. following a recess.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further use for my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. ALLEN. Yes, I am glad to.

REQUEST FOR TIME LIMITATION ON VOTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all rollcall votes today be 10-minute rollcall votes.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

THE PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, on Friday, September 16, 1977, I discussed in some detail the major cash benefits which would flow to the Government of Panama should the Senate ratify the proposed Panama Canal Treaty. I relied heavily on an analysis of treaty benefits by the Panamanian Planning and Economic Policy Minister, Nicolas Arditto Barleta, given on August 19, 1977, to the National Assembly of Panama in Panama City. Minister Barleta stated to the National Assembly that cash benefits accruing to Panama under the treaty would total some $2.262 billion in 1977 dollars, for an average annual payment of approximately $100 million, during the term of the proposed treaties.

The major treaty I have reference to would turn full control of the canal over to Panama in the year 2000.

At the time I made my remarks on Minister Barleta's analysis of the expected cash flow from the proposed treaty, I advised the Senate that I would subsequently discuss the relationship of this projected cash flow to the enormous loans which have been made by the large multinational banks to Panama and which are in danger of default. The fact is, Mr. President, that the treaty income that the military dictatorship in Panama hopes to exact from U.S. taxpayers and from the users of the canal would be spent not to upgrade the position of the Panamanian worker, but rather to refinance or pay off these existing tremendous debts owed to the big international banks.

Some time ago, at my request, the Economics Division at the Library of Congress researched the claims of the foreign and domestic branches of U.S. banks against Panamanian borrowers. The Library of Congress reported an astonishing total of $2.77 billion in claims on Panama by U.S. banks and their foreign branches alone, and I should point out, Mr. President, that this $2.77 billion in claims does not—does not—take into ac-

count similar claims by major European and Japanese multinational lenders.

To be sure, much Panamanian borrowing is in the private sector—no doubt also substantial personal loans have been extended to members of the elitist Panamanian regime—but of U.S. total claims of $2.77 billion, a minimum of $1.4085 billion is public sector borrowing, and I am reliably advised that this figure has grown over recent months to a conservatively estimated $1.7 billion in public sector borrowing. How did Panama raise this kind of cash? What collateral was pledged for this enormous debt? A clue is found in a particularly perceptive passage from the recent staff report of the Committee on Foreign Relations entitled "International Debt, the Banks, and U.S. Foreign Policy." I quote:

The question arises of how prudent the banks have been in their lending, how thorough their assessment of the credit worthiness of individual borrowers. In light of the general lack of accurate data on the external debt situation of many countries, it is hard to see how their evaluations of sovereign risk can be very precise. Has the profitability of this activity blinded them to the underlying risks? Or has the banks' willingness to lend to foreign countries for balance of payments purposes been premised on the unstated assumption that in the event of a real debt repayment crisis, the governments of the wealthy industrial countries will have to come to the rescue because they cannot afford to see either the debtor countries or their own large banking institutions go under?

In my judgment, the answers to the questions posed should be obvious to us all.

So, Mr. President, although it is virtually impossible to obtain completely accurate data on the debt position of the Government of Panama, a fact recognized by the Foreign Relations staff report, my own study of this matter convinces me that Panama is in the midst of a serious financial crisis, if not on the brink of bankruptcy. This pending insolvency of Panama should be especially obvious to the big U.S. banks which are clearly overlent to Panama, and indeed the multinational banks must all see the clear danger that the Government of Panama could soon default on very substantial loans now coming due—unless, of course, the U.S. taxpayer puts up the cash or unless the Panama Canal, with its substantial revenues, is handed over. We are, in this case, being asked to do both.

As I said, Mr. President, the multinational bankers like to shroud their affairs in a cloud of mystery, making it accordingly quite difficult to keep tabs on international banking transactions, but again, the Panamanians have helpfully supplied us with a memorandum from Minister Barleta to the President of Panama, Demetrio B. Lakas—Mr. Torrijos is the dictator, but they do have a nominal President, Mr. Lakas—in which financial perspectives for Panama for 1977 are outlined in grim, but presumably accurate, detail. Minister Barleta advises President Lakas that commitments of an obligatory nature in the Panamanian budget include:

Between B/42.3 million—

A Balboa is the equivalent of the dollar in Panama. It has the same value as the American dollar. It is tied to the American dollar.

Between B/42.3 million to B/42.7 million for servicing the foreign debt which will increase from between B/87.5 million to B/129.8 million or B/130.2 million in 1977, depending on whether or not the economy recuperates during the last semester. Interest will increase from between B/24.8 million or B/25.2 million, depending on the above observation, while the amortizations will be increased by B/17.5 million. Due to the tendency required to service the foreign debt, its ratio in respect to current revenue increases from 29.6 percent to between 38.2 percent and 39.0 percent which significantly deteriorates our capacity for further indebtedness.

That is Minister Barleta advising President Lakas of Panama.

If we in this country pay some $42 billion in interest on our national debt, it is only approximately 10 percent of our current Federal income. The interest on the Panamanian debt is going to jump up to about 38 or 39 percent of their total revenue. So we see the horrible financial straits they are in. The only thing that can save them and, secondarily, the big international banks is to have this Panama Canal Treaty approved.

I do not believe it is in the interest of the American taxpayer to hand over the canal to Panama in order that they can pay back the international banks.

Mr. President, these figures are truly incredible. This small country of 1.7 million people is already obligating up to 39 percent of its current revenues to foreign debt service. These multinational banks have got their hooks into Panama pretty solidly, and one can well imagine the dilemma facing the Government of Panama and can certainly understand the Panamanian dictator's frantic desire to shake down the Panama Canal Company for quiet money to satisfy these international bankers.

But, Mr. President, Minister Barleta's memorandum to President Lakas contains other information which ought to be carefully considered by the Senate. Minister Barleta states:

The global (annual) deficit (of Panama) will be between B/ 131.9 million and B/ 138.7 million, depending on how well the economy recuperates during the second semester of 1977. To finance this deficit we will require B/ 15.6 million from the Venezuelan Investment Fund, B/ 5.0 million in Internal Bonds, and from B/ 111.3 million to B/ 118.7 million from the private banks.

So we can see the desperate straits that Panama is in.

Mr. President, I do not know whether this latest B/ 118.7 million from the private banks has yet been obtained, but I understand that a consortium of banks did extend an additional $150 million in loans to Panama about the time it became obvious that the executive department of the United States was serious about pressing for the conclusion of a proposed treaty and a cash bailout of the Government of Panama. So one of the chief parties in interest in this whole proceeding is the group of international banks. They stand to gain by this more than anybody else, possibly.

Minister Barleta continues in this fashion:

We feel it will be extremely difficult to syndicate loans with the commercial banks in the amounts previously mentioned, taking into account that during the present fiscal period we must contract for a total of B/ 323.6 million with those sources, who in turn have become more demanding each time that an accord has to be finalized. Besides, the relation between servicing the debt and current revenues of between 38.9 percent and 39 percent suggest a deteriorated capacity to service this debt and thus will increase the risk as realized by the lending institutions.

We should remember, Mr. President, that these remarks are in a memorandum which predates by some months the conclusion of the proposed treaty, and I note particularly that Minister Barleta refers to commercial banks becoming "more demanding each time that an accord has to be finalized." I do not think there should be any doubt in anyone's mind what accord Barleta has in mind. He is talking about this treaty, Mr. President. He is talking about this document signed a few weeks ago amid such fanfare down there at the OAS and at the White House.

So, Mr. President, what we have is a relatively small country down there of some 1.7 million inhabitants—about half the size of my native State of Alabama—a spendthrift dictatorial government, and multinational banks demanding payment. What we have gotten proposed to us as a solution to their problems is apparently the Panama Canal Treaty. The banks get their money, the Panamanians get the canal, the Canal Zone, and the American people get to hold the bag. That is what the whole situation boils down to.

Again, Mr. President, Minister Barleta expresses the problem quite succinctly:

. . . In short, 1977 lines up as extremely delicate due as much to current expenses increasing more than current revenues, as well as to the amount and structure of the new financing that must be contracted which reaches the limits available to the Nation as such.

Yes, 1977 does line up as an extremely delicate year for Panama and for the United States and for the big banks. But, Mr. President, the U.S. Senate cannot permit the interests of these multinational banks to outweigh the critical and special national interest of our own people.

Perhaps methods of assisting this destitute Panamanian Government should be explored, notwithstanding the repressive and repugnant character of the present dictator, but in no event should the United States give economic aid to Panama in a form which damages the security of our country and, indeed, the entire free world. If we must bail out these banks, can we not find some other method of rendering assistance? The stability of these banks, to be sure, is important to us all, but surely we ought not permit the dismantling of our own country in order to satisfy their insatiable appetite for profit.

Mr. President, I ask unanimous consent that the memorandum of Minister

Barleta, together with a related memorandum of the U.S. Embassy in Panama and two reports from the Congressional Research Service of the Library of Congress dated July 21, 1977, and July 28, 1977, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 21 1977.

To: Subcommittee on Separation of Powers,
Attention: Quentin Crommelin.
From: Economics Division.
Subject: U.S. Commercial Bank Loans to the Government of Panama.

As we have discussed on the telephone, we are enclosing photocopies of different materials pertinent to the above-mentioned subject. There is a statement by Henry C. Wallich, Member, Board of Governors of the Federal Reserve System, dated March 23, 1977, to the House Subcommittee on Financial Institutions of the Committee on Banking, Finance and Urban Affairs, which includes a table on claims of U.S. banks on various foreign countries, including Panama.

We have also included a June 3, 1977 Federal Reserve press release which has tables on U.S. bank claims on selected foreign countries in 1976. Panama is included in the section on offshore banking centers on page 5 of the tables.

Another source in the Federal Reserve indicated that foreign branches of U.S. banks had claims of $1.886 billion on Panama at the end of 1976, while the March 1977 Treasury Bulletin indicated that domestic offices of U.S. banks had $886 million in short and long-term claims against Panama as of that date. Of this amount, only 13% were long-term claims. Adding the two figures results in $2.772 billion in claims on Panama by U.S. banks and their foreign branches. This appears to be the number used by Governor Wallich in the attachment to his statement.

We are also including a photocopy of the World Debt Tables, Volume II, p. 117, which shows the external public debt position of Panama. Unfortunately, the table includes data only up through 1974. Conversation with a World Bank official revealed that 1975 and 1976 figures are in the process of compilation and some results are expected by the end of next week.

If you would like further assistance on this matter, please do not hesitate to contact us on 426-5750.

DAVID HOYT,
Analyst in Banking and Capital Markets.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 28, 1977.

To: Senate Judiciary Committee, Subcommittee on Separation of Powers.
From: Economic Division.
Subject: Further information on loans to Panama.

As we have discussed on the telephone, we have been able to gain some further information on the availability of data on U.S. bank loans to the Government of Panama.

In conversation with a Federal Reserve official, it was learned that they do not have information available which gives a distinction by type of borrower for foreign loans from U.S. banks. They do have a figure for borrowing by banks and official institutions in Panama from the head office of a U.S. bank. This figure, however, is not available over the telephone and is obtainable only "through normal channels". Information on loans made from individual U.S. banks is, in some instances, known by the Federal Reserve, but is regarded as confidential information and was not released to us.

The World Bank provided us with some preliminary data on the external debt of the entire Panamanian public sector. At the end of 1975, loans outstanding and actually disbursed by foreigners to Panama totaled $767.9 million with $58.7 million accounted for by Panamanian branches or offices of private, foreign-owned banks. The corresponding figures for 1976 were $1.0909 billion and $129.4 million. The 1976 figure for Panamanian public sector borrowing, disbursed or undisbursed was $1.4085 billion.

DAVID HOYT,
Analyst in Banking and Capital Markets.

MEMORANDUM

To: Eng. Demetrio B. Lakas, President of the Republic, Presidency of the Republic.
From: Nicolas Arditto Barleta, Planification Minister.
Matter: Financial perspectives for 1977.

The purpose of this Memorandum is to call attention to the financial basis upon which will be defined the budget policy of 1977 thus permitting to show the pertinent limitations that are being detected in this year's budget.

(a) The current revenues should increase between B/ 43.6 million and B/ 44.2 million with respect to this year's revised income figures thus reaching totals of B/ 339.7 million or B/ 333.3 million; dependent on whether or not there is a recuperation in the economic activity during the last six months of this year.

(b) The increase in current revenues assumes an economic upturn of 3 percent and an inflation rate of 5 percent throughout 1976.

(c) It also assumes a B/ 21.0 million package increase of taxes which should not interfere significantly in the desired economic recuperation process.

(d) The technical group involved in this evaluation has concluded that the following are the tributary measures that would fill the above requirements:

A consumer tax designed in such a manner as to minimize its effect on prices and on lower income groups. This type of taxation tends to divert private expenditure towards investments, thus stimulating economic development.

Reform import duties in order to replace specific value taxes by value added duties. This measure will adjust the increase of tax income to the increased cost of imported goods, and will thus help to stimulate internal production.

Limit the tax deduction permitted on interest paid for mortgage loans used to buy homes for one's personal use.

Consolidate the progressive tax structure for corporations into one tax rate in order to avoid the use of numerous companies to lower the effective tax rate.

(e) At the same time, operational expenses are estimated to increase from between B/ 50.3 million and B/ 50.7 million and will reach totals of B/ 340.6 million or B/ 341.0 million, depending on how the economy is reactivated during the second semester of this year.

(f) The fact that the increase in revenues will be inferior to the increase in expenses suggest that there will virtually be no new recourses to augment the coverage of public services.

(g) The significance of the rigidity to which the new budget elaboration will be subjected will be understood when one observes that only B/ 3.1 million will correspond to net reincorporations of previously frozen expenditures, while the remaining B/ 47.2 million correspond to commitments of an obligatory nature.

(h) These commitments of an obligatory nature can be broken down in the following manner:

(1) From between B/ 42.3 million to B/ 42.7 million for servicing the foreign debt which will increase from between B/ 87.5 million to B/ 129.8 million or B/ 130.2 million in 1977, depending on whether or not the economy recuperates during the last semester. Interest will increase from between B/ 24.8 million or B/ 25.2 million, depending on the above observation, while the amortizations will be increased by B/ 17.5 million. Due to the tendency required to service the foreign debt, its ratio in respect to current revenue increases from 29.6 percent to between 38.2 percent and 39.0 percent which significantly deteriorates our capacity for further indebtedness.

(2) B/ 2.3 million of the amortization of salaries are for:

Education—B/ 1.4 million.
Health—0.4 million.
Housing—0.1 million.
Other institutions—0.4 million.

(3) B/ 1.3 million of current transferences which reflex the increase in subsidy to the National University, the payment of Balboa notes subscribed to BID and the increased consumption of water.

(4) E/ 0.4 million in salary increases to:

Health—0.3 million.
Government and Justice, Labor—.
Presidency—0.1 million.

(5) B/ 0.3 million for the XIII the month of public functionaries.

(6) B/ 0.2 million for inclusion in the MIDA budget for personnel frozen in its investment portion of said budget and for the hiring of new auditors for the Finance Ministry.

(7) B/ 0.4 million in order to bolster the supply budget of the Health Ministry and other compulsory expenditures.

(i) Since, for the above reasons, all other expenses must be maintained at the budgeted fiscal 1976 level, it is convenient to eliminate from the budgeting process all programmed budgeting meetings in order that the respective institutions and our analyst can dedicate the most amount of their time possible to formulate, evaluate and turn in punctually their budget by program.

(j) As to the Central Government contribution towards the public investment program, we calculate that it will be B/ 78.0 million which represents an increase of B/ 18.0 million over B/ 60.0 million that is estimated will have been contributed this year.

(k) As a result, the global deficit will be between B/ 131.9 million and B/ 138.7 million, depending on how well the economy recuperates during the second semester.

(l) To finance this deficit we will require B/ 15.6 million from the Venezuelan Investment Fund B/ 5.0 million in Internal Bonds, and from B/ 111.3 million to B/ 118.7 million from the private banks.

(m) Thus, the amounts that must be financed as well as the amounts that must be obtained, create very concrete problems which in turn reiterate the need to increase expenses and investments only in those areas of an obligatory nature and to dedicate the most of time possible to the conscientious elaboration of a budget by programs in order to execute the largest possible amount of services required by our society with the scarce resources that are available.

(n) On the one side, the required new financing of between B/131.9 million and B/138.7 million implies that there will be pressure on the liquidity and solvency of the National Bank which must provide the Central Government the monetary resources while the 3 previously mentioned financial operations can be formalized, all of which should take at least four months. During this period, the National Bank will have to recur to its lines of credit as well as to its internal reserves which have been practically saturated during the present year by having to finance the global deficit of B/99.3 million which in turn is between B/32.6 million and

B/39.4 million less than what has been estimated for 1977.

(n) On the other hand, we feel it will be extremely difficult to syndicate loans with the commercial banks in the amounts previously mentioned, taking into account that during the present fiscal period we must contract for a total of B/323.6 million with those sources, who in turn have become more demanding each time that an accord has to be finalized. Besides, the relation between servicing the debt and current revenues of between 38.9% and 39% suggest a deteriorated capacity to service this debt and thus will increase the risk as realized by the leading institutions.

(o) In short, 1977 lines up as extremely delicate due as much to current expenses increasing more than current revenues, as well as to the amount and structure of the new financing that must be contracted which reaches the limits available to the Nation as such.

(p) As a result of the above, I respectfully request your backing in eliminating the budgeting meetings and in demanding from the institutions that they pay the most attention to formulating and elaborating a budget by program. Also, I ratify the need for you to back the approval and execution of the taxing measures that we have presented for your consideration, once that we have finalized the pertinent studies.

With by highest consideration and appreciation.

EXHIBIT 4

(Sent by United States Embassy in Panama to the State Department on Oct. 26, 1970)

Tags: ECON, EFIN.

Subject: Panama's recession is structural—a result of low productivity.

1. This message is part of a continuing series of mission economic studies of the State of the Panamanian economy and projections for its future.

2. Summary: Panama's recession, which deepened during the first half of 1976, is neither cyclical nor primarily a product of economic conditions outside Panama. In our view the economy is floundering mainly because its high cost output is not competitive in the world market and few opportunities exist for available private investment. To establish a basis for renewed sustainable growth will require actions that lead to lower costs and improved productivity. These could include easing the labor code, reducing subsidies, boosting domestic savings, and directing resource flows more toward the international service sector where Panama has natural advantages, however, most such actions would cut back social benefits granted to the working classes under the "revolution", and might not be politically acceptable under the present government, inflows of foreign capital have not been getting at the core problem of high costs (low productivity). Lack of access to relevant Canal Zone sites is delaying GOP development of infrastructure which is prerequisite to the growth of various commercial services industries by the Panamanian private sector. End summary.

3. Economic conditions in Panama worsened steadily during the 1976 first half. There were decreases from a year ago in key indicators—manufacturing, construction, external trade, unemployment, (increase), and sales to the Canal Zone (see reftel), overall growth is likely to be near zero for 1976.

4. Failure of the economy to respond to a variety of stimulants indicates that the recession is more than a cyclical maladjustment. Credit has remained relatively plentiful, with preferential rates available from the government for both agricultural and industrial projects. There are tax subsidies for new exports, and tax benefits for reinvested profits. No basic changes have been made in the "rules of the game" under which business operates, such as the labor code or tax laws, since before the onset of recession, in fact, the GOP in recent months has actively sought by various direct means to improve the business climate. A large boost in 1975 public sector spending had little effect on either private investment or aggregate demand.

5. Also, Panamanian economic problems do not seem to be caused primarily by worldwide economic trends or world trade. In contrast to Panama's continuing decline, other developing countries (LDC's) have been experiencing a quickening economic tempo so far this year in response to rapid recovery by the industrialized countries, plus some correction of structural maladjustments, LDC exports have been generally increasing as a part of the marked improvement in 1976 first half world trade (plus 10 percent) while the value of Panamanian exports remained at its 1975 level (excluding an abnormal decline in petroleum products exports), changes in Panama's economy also differed from the worldwide pattern both during the 1974–75 world recession and the years immediately preceding it. Despite sharp 1974–75 recession among the industrialized countries (zero growth), LDC's, gross domestic product (GDP) increased 5.5 percent in 1974 and 1.7 percent in 1975. Growth had begun tapering off in 1971 whereas during 1971–73 the rest of the world including Latin America experienced unprecedented boom.

6. Private investment in Panama reached a peak in 1971. Growth in manufacturing began to fall off in 1971 with a decline in the number of attractive import substitution possibilities, little increase has subsequently taken place in the volume of manufactured exports, output of both construction materials and intermediate goods stopped expending in 1973. Expansion of construction activity began slowing in 1972 and has actually been declining since 1974. Imposition of rent controls in 1973 brought private investment in low cost housing to a standstill. On the other hand, growth of the important services sector remained near 8 percent annually through 1974 (plus 3 percent in 1975) due in part to the major expansion of the foreign banking sector since 1971, growth in agricultural output has remained sluggish since 1970 at about 3 percent annually, much slower than during the 1960's.

7. Panama's basic economic weakness in our view and the reason behind current stagnation is its non-competitiveness in the world market—a structural problem involving primarily high cost production (coupled with a lack of resources) in both agriculture and industry. The export potential for Panamanian agriculture is extremely limited at present, the main exports, bananas, is in the hands of foreign plantation operators, and has probably reached its peak in an increasingly competitive world market. In general land is of poor quality and farm labor costs are high—the $3 per day minimum wage is estimated to be at least double the rate anywhere else in Central America. The government encourages high cost production, including rice, the principal crop, by subsidizing producers through support prices typically set above the world market. Thus, Panama cannot profitably export major crops such as rice and corn and is further precluded from developing any profitable export potential for various lesser crops by the small domestic market base in Panama. Accessible forests have been cut over and there is little potential for meat exports while access to the U.S. market is restricted. Panama's sugar industry is likewise non-competitive due to high costs of both cane production and refining operations.

8. As with agriculture, Panama's manufacturing industry currently has little export or overall growth potential because of high production costs coupled with a dearth of natural resources (copper deposits have not yet been determined to be economically explicitable). Minimum wages and the general wage and benefit structure in Panama are estimated to be the highest in Central America and among the highest in all Latin America. Higher wages and benefits in the Canal Zone exert upward pressure on wages in the republic as employers compete for the generally better qualified workers attracted by Zone wages. The dominance of the service sector in Panama's central urban areas with its higher skill levels also creates upward pressure on the entire wage and benefit structure. Employee benefits under Panama's labor code add to direct employment costs. The code exerts indirect pressures on costs through subsidies such as firing restrictions imposed on employers and, by strengthening the trade union movement, bolsters the trend toward costlier contract settlements. High labor costs encourage the substitution of capital for labor, thus boosting structural unemployment throughout the economy. Also, relative capital costs—mostly foreign sourced—are likely to rise as Panama's already high debt service burden worsens and the economic outlook for other LDC's improves relative to Panama.

9. Establishing the basis for renewed growth and improved economic well being that can be sustained will require actions that lead to a lower cost structure. One widely discussed possibility is an easing of the labor code, although its real impact on costs remains uncertain (it did not bring on recession although it may have stood in the way of needed private sector adjustments). Changes probably would not induce an immediate surge of private investment, however, the business community has made clear its conviction that changes are essential, giving them an additional psychological importance that bears importantly on the general investment climate. Changes might be a convincing sign of GOP concern over the private sector's economic plight.

10. Appropriate belt tightening also could include lowering subsidies as well as the wage/benefit structure to reduce relative production costs, and increasing personal taxes to curb consumption (particularly imports) and expand domestic savings. These effects are usually achieved indirectly by currency devaluation. Since Panama's currency is the U.S. dollar, such actions must be taken directly; in addition, resources may need to be more heavily concentrated in the internationally-based services sector where Panama has more natural advantages, with proportionately less in agriculture and the nonproductive social sectors.

11. Comments:

(A) Panama's high wages, subsidies, and consumer imports—together with a moderate tax burden and little public saving—permit a standard of living which no longer appears to be supportable by Panama's inefficient domestic production.

(B) Increased external financial flows per se, regardless of concessionality, permit Panama to defer grappling with the core problem of low productivity until a later date when the problem will probably have worsened, unless such financing bears specifically on some aspect of costs. Indeed, much of the capital inflow of the past three years has aggravated Panama's economic malaise by exacerbating its debt service burden without enhancing overall productivity. Moreover, total inflows greatly exceeded the current account deficit of Panama's balance of payments, resulting in large negative "errors and omissions" (around $100 million annually) most of which probably represented outflows of domestically-owned capital.

(C) The types of actions mentioned above for addressing Panama's high cost structure run headlong into the "revolution"—the social and economic benefits granted to the

urban and rural working classes over the past eight years which would need to be reversed in part—in short, the "revolution" has collided with growth and one or the other must yield; whether or not actions of sufficient scope to be economically meaningful along the above lines are politically possible for the present government is questionable.

(D) Panama's best economic prospects lie in the development of its potential as a sub for servicing international commerce, various aspects of cargo handling are an essential part of the picture. Thus, the GOP has a valid case in urging early access to relevant canal zone sites needed to develop the infrastructure on which growth of various transport, storage and other commercial services depend.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have 5 minutes of my regular time that I turned back.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, reserving the right to object, what was the request?

Mr. ROBERT C. BYRD. I turned back my time under the order and I asked unanimous consent to receive 5 minutes of it back.

Mr. ABOUREZK. May I ask the leader is it for the purpose of speaking or does he have any motions or amendments in mind he wants to make during those 5 minutes?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have 5 minutes of the time which was allotted me under the order, and which I very thoughtfully and in consideration of the time of the Senate yielded back.

Mr. ABOUREZK. Reserving the right to object——

The ACTING PRESIDENT pro tempore. I have already ruled.

Mr. ABOUREZK. Well, Mr. President——

Mr. ROBERT C. BYRD. The Senator did reserve the right to object.

The ACTING PRESIDENT pro tempore. After the Chair ruled.

Mr. ABOUREZK. I do not have any objection. He has the right to have 5 minutes. But is it going to be counted against his hour?

Mr. ROBERT C. BYRD. No, it would not be.

The ACTING PRESIDENT pro tempore. It would not be counted.

Mr. ABOUREZK. I have no objection.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that on all rollcall votes today there be a 10-minute limitation.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on every day this week through Friday that it stand in recess until the hour of 9 a.m. daily through Saturday.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow morning.

Mr. ABOUREZK. I object.

Mr. METZENBAUM. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

COMPREHENSIVE NATURAL GAS POLICY

The ACTING PRESIDENT pro tempore. The bill, S. 2104, and the pending amendments are automatically before the Senate. The question is on the appeal by the Senator from Ohio (Mr. METZENBAUM) from the ruling of the Chair that amendment 994 was not in order. The appeal is not debatable, and the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. METZENBAUM. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table the appeal.

Mr. METZENBAUM. I ask for the yeas and nays.

Mr. ABOUREZK. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 73, nays 6, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—73

Allen	Glenn	Nelson
Baker	Goldwater	Nunn
Bartlett	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Roth
	Hollings	Sasser
Byrd, Robert C.	Huddleston	Schmitt
Cannon	Inouye	Schweiker
Chafee	Jackson	Sparkman
Chiles	Javits	Stennis
Church	Kennedy	Stevens
Culver	Laxalt	Stevenson
Curtis	Leahy	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Magnuson	Tower
Domenici	McGovern	Wallop
Durkin	Melcher	Weicker
Eagleton	Metzenbaum	Young
Ford	Morgan	Zorinsky
Garn	Muskie	

NAYS—6

Abourezk	Brooke	McIntyre
Bayh	Hart	Riegle

NOT VOTING—21

Anderson	Hayakawa	Metcalf
Case	Humphrey	Moynihan
Clark	Johnston	Randolph
Cranston	Mathias	Sarbanes
Eastland	Matsunaga	Scott
Gravel	McClellan	Stafford
Haskell	McClure	Williams

So the motion to lay on the table the appeal from the ruling of the Chair was agreed to.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Senate?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, is this time being charged against my 60 minutes?

The ACTING PRESIDENT pro tempore. Not until the Senator begins to debate.

Mr. ROBERT C. BYRD. Mr. President, I think that I owe it to the Senate to state what the situation is, as best I can see it, so that Senators will know what the Senate, as a body is up against.

Today is our eighth day of deliberations on the pending natural gas pricing bill. The leadership waited 5 days before it presented the first cloture motion, feeling that it was best not to enter a cloture motion until Senators had had adequate time to debate this very controversial and important measure.

On yesterday the Senate overwhelm-

ingly voted to invoke cloture, so as to put an end to unlimited debate. The Senate had worked hard all of this year in an effort to diligently transact the public's business. The leadership on both sides of the aisle, the joint leadership of the two Houses, and the President of the United States joined early in the session in setting a tentative target date of October 8 to complete our work.

Obviously we cannot now complete our work by October 8. The bill that is before the Senate is one of the most important components of the President's comprehensive national energy policy. The Senate has a duty to work its will on this legislation, to amend it, to modify it if the Senate wishes—but to work its will. I said months ago that the President's package was not thought of by anyone, even the President himself, as something sacrosanct, that could not be changed, or that ought not to be changed, or that could not be improved; and the Senate has proceeded, in a deliberative fashion to study the various parts of the package. That is our duty as Senators.

We are under no obligation to rubberstamp anything that the President sends up here, and the President does not expect that. The Senate is an independent body and I, for one, am not persuaded by any comments from the outside, from any source, on this bill or on any other bill. The Senate should work its own will and exercise its independent judgment, regardless of what comments may come from the outside, and from what source.

But the Senate has a duty ultimately to reach a decision. We have spent 7 days already.

I respect the right of Senators strongly opposed to the bill, to try to get the bill amended. I respect the right of any Senator to utilize the rules of the Senate. They are there for every Senator. But there comes a time when even the rules can be abused, and I say this without casting any aspersions on any Senator.

Yesterday, there were 18 rollcall votes, not counting the vote on the treaties. That is a total of 270 minutes spent on rollcall votes alone. Yesterday, 1 hour and 6 minutes were utilized on quorum calls. That is 66 minutes, which, when added to the 270 minutes, reaches a total of 336 minutes, or 5 hours and 36 minutes of your time—the time of every Senator here—5 hours and 36 minutes utilized in doing nothing but having quorum calls and rollcall votes.

A Senator is entitled to a rollcall vote on a matter if one-fifth of the Senators present sustain his request. But obviously the Senate cannot go on in the face of what we were confronted with yesterday. When cloture was invoked yesterday, I stated that there were somewhere between 300 and 400 amendments at the desk. Actually, there were 508 amendments at the desk at that time.

I have heard it said that every amendment will be called up, and I have heard it said that the Senate will go on for weeks. I have heard it said that we may go on for 3 months.

My hope is that Senators will understand what is going on, and that Senators will try to accommodate the Senate, call up their serious amendments, debate them, have a vote on them, let the Senate work its will, and pass a bill and send it to conference.

After this bill, there is the utility rate reform. After that bill there is the energy tax bill that comes out of Senator LONG's Finance Committee. There are other measures that have to be passed before we go out: extension of the debt limit, minimum wage, District of Columbia appropriations, supplemental appropriations, various conference reports, and so on.

Every day of delay, delay, delay for the purpose of delay, delay, delay is not helping the Senate to reach its decision. It is imposing upon the Senate itself, and is not getting the business of the public done.

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. If the distinguished Senator will allow me to complete my statement I shall be glad to yield.

We are now in a cloture situation. What is the purpose of cloture? The purpose of cloture is to shut off unlimited debate, allow the Senate to move more quickly toward a final decision, to expedite the business of the Senate. So the rules that might be utilized in the normal course of things are not exactly the same rules and precedents that govern our actions when the Senate has invoked cloture. Under the cloture rule, no dilatory motion or dilatory amendment or amendment not germane shall be in order.

What does "dilatory" mean? "Dilatory," when the Senate is not operating under cloture, means something far different from what the word "dilatory," means when the Senate is working under cloture. When the Senate is under cloture, under a mandate by three-fifths of the Senate—and, in this case, under a mandate of more than three-fourths of the Senate—to get on with the business and to promptly get that business transacted, "dilatory" means to ask, what is the intent of the Senator who is making the motion or offering the amendment? What is his intent? Is it a serious amendment or motion and offered with serious intent and in good faith, or is its purpose merely to delay or obstruct the Senate in working its will?

The Senate is in the best position to interpret that intent—based on the circumstances at a given time.

I hope the Senate will be prepared, if what we saw yesterday continues through today, to spend the night and to spend more than one night, if necessary, to get final action on this bill. I am not willing to see the Senate, while it is on trial—and that word has been said so often that it is hackneyed, but it is on trial—I am not willing to see the Senate prevented by dilatory actions from reaching a final decision on the bill. So I urge all Senators, if it is at all possible, to stay on the floor and let us have a majority, if we can, of Senators on the floor at all times so that, if we have to have quorum calls, a quorum can be quickly established and we shall save time.

I urge Senators to think about this carefully and give the Senate the utmost of cooperation, give the managers of the legislation cooperation, and be mindful that the longer the quorum calls last, the more the Senate will be delayed in reaching a final decision on this issue.

Mr. LONG. Will the Senator yield?

Mr. ABOUREZK addressed the Chair.

Mr. BAKER addressed the Chair.

Mr. LONG. Will the Senator yield to me?

Mr. ABOUREZK. He cannot yield under this cloture situation.

Mr. LONG. He can yield for a question.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. ROBERT C. BYRD. Mr. President, I am yielding for a question.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has the floor and he may yield for a question.

Mr. LONG. I would like to ask the Senator if he does not realize that the Senate voted on yesterday to say, by an overwhelming vote, that clearly we have a quorum present. Anybody can look here and see that we have two-thirds of the Senators present.

Mr. ABOUREZK. Mr. President, is that a question?

Mr. LONG. Where there is clearly a quorum present, it is dilatory to suggest the absence of a quorum with a quorum sitting here. Is the Senator aware of that?

Mr. ROBERT C. BYRD. I agree, in certain instances that would be the case.

Mr. BAKER addressed the Chair.

Mr. LONG. When we have cloture invoked, is it not correct that we must assume that there is a filibuster going on and that there is an effort being made to delay?

Mr. ROBERT C. BYRD. Yes, I think the Senate reached that conclusion yesterday.

Mr. LONG. Under those circumstances, is it not within the power of the Senate to simply agree among the Senate that where an amendment, in the judgment of the Senators, is dilatory and where his tactics are dilatory and known to be so, we are simply not going to second the motion for the yeas and nays?

Mr. ROBERT C. BYRD. I hope that would be the case.

I now yield to the distinguished minority leader for a question.

Mr. BAKER. Mr. President, I seek recognition in my own right.

Mr. ROBERT C. BYRD. Before I yield, then, Mr. President, I ask unanimous consent that, when the Senate completes its business daily, this week, it stand in recess until the hour of 9 a.m. each morning through Saturday.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow morning.

Mr. ABOUREZK. I object.

Mr. President, I seek recognition.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. I do not lose

the floor by virtue of asking unanimous consent.

Mr. ABOUREZK. I submit that he does.

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all rollcall votes today be limited to 10 minutes.

Mr. ABOUREZK. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, this is the third time today I have made each of these unanimous-consent requests and they have been objected to in each instance.

Mr. ABOUREZK addressed the Chair.

Mr. BAKER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ABOUREZK. Will the Senator from Tennessee yield briefly so I may make a response?

Mr. BAKER. No, Mr. President, I cannot. I have some remarks to make in connection with the remarks of the Senator from West Virginia and I want to save this time for that purpose.

Mr. President, this is really a difficult stuation for the Senate. I have been here almost 11 years now, which is very junior in terms of the service of many others who are present on the floor at this time. This is the first time that I have seen the prospect that the Senate might indeed be in session all night long, possibly more than one night. Mr. President, it occurs to me that the Senate, then, is doing something that is almost archaic. It is necessary, and I support it. I am going to say some more about that in a minute. But what we have arrived at in this conflict is not just a test of wills which the Senate is designed to accommodate, but a test of energy and stamina. It is unfortunate that we have reached that point. But that is the only way, under the present rules, that we can deal with 500 amendments that are at the desk.

So, in the idiom of another undertaking, sometimes you win; sometimes you lose; sometimes you get rained out. The one thing I do not want to see is for us to get rained out.

I have a serious disagreement with the administration on how we ought to proceed on this measure. I am willing, nonetheless, to see the Senate work its will, to see us arrive at a determination within this body on how we should proceed to approach the House of Representatives, in conference, on our disagreements, if there are some. I do not want to see us have no bill. I do not want to see us rained out.

So, Mr. President, I join with the majority leader in seeking cloture. Every Member on this side of the aisle, save one, who reserved his vote because of an unbroken precedent over many years of service, every single Member present on this side voted for cloture except that one. So I rise, Mr. President, to say that it is imperative, in my view, that we proceed to do the Nation's business. It is imperative that we deal with these issues; that we dispose of the matters that are before us; and that, if we must, we simply meet the challenge of the test of strength.

Mr. President, there are hearings going on that are of extraordinary importance to the country; for instance, the hearings in the Committee on Foreign Relations on the advice and consent of the Senate with respect to the ratification of the treaties with Panama. They have permission to meet. I hope they will continue. I hope the distinguished chairman of that committee and the ranking member, Senator CASE, of New Jersey, will go ahead and do the best they can, notwithstanding that rollcall after rollcall and, maybe, quorum calls will be in progress. I hope they will send a few over here and keep a few there and continue with their witness list.

For my part, I do not know of any issues that have given me as much trouble in my own mind as the Panama Canal issue; but I think I need to stay here, so I shall not be at those hearings much of the time.

I hope other committees—the Committee on Finance, for instance—will continue to meet if they have permission to meet. I offer whatever physical space or arrangements I have so they can be close to the floor.

Mostly, Mr. President, I hope that Senators on this side of the aisle will stay here and give us the resource and muscle we need to meet this test of physical stamina.

Mr. ABOUREZK. Mr. President.

Mr. RANDOLPH. Will my persevering colleague yield?

The PRESIDING OFFICER (Mr. BUMPERS). Does the Senator from Tennessee yield to the Senator from West Virginia for a question?

Mr. BAKER. Mr. President, I yield briefly to the Senator from West Virginia for a question.

The PRESIDING OFFICER. The Senator will state the question.

Mr. BAKER. Does the Senator seek yielding for another purpose?

Mr. RANDOLPH. I will ask a question.

Mr. BAKER. I yield for a question.

Mr. RANDOLPH. I thank the Chair.

The conference on the Federal Mine Safety Health Amendments Act of 1977, between the Senate and House conferees, was in session yesterday afternoon and evening. It was most difficult—it was almost impossible to do our work. We finalized that conference last night but the excessive rollcalls caused problems as we were attempting to move forward this vitally important legislation.

Mr. BAKER. Mr. President, I thank the distinguished Senator from West Virginia, he has done very much in this field of safety for coal miners and we all owe a great debt of gratitude to him.

Several Senators addressed the Chair.

Mr. MAGNUSON. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator yielded. The Senator from South Dakota is recognized.

Mr. ABOUREZK. If I can get consent to get the floor as soon as Senator MAGNUSON asks his question, I will be happy to yield.

Mr. MAGNUSON. Mr. President, I want to make an announcement here that we still have HEW to bring up this week and we still have not reached any agreement with the House. If we do not reach an agreement by this weekend, there is a possibility that all our social security checks will not be sent out, all of the grants that affect pretty nearly every person in the United States, medicare, medicaid, and we are going to have to have a long conference with the House on the same old question, abortion, again to get this done.

Mr. JACKSON. Will the Senator yield?

Mr. MAGNUSON. I do not know how we will do it if we have to run up to the floor every 10 minutes and answer a live quorum or a vote.

HEW is much more important to me, and I think to every Senator on this floor, than this long, troublesome thing we are having going on here.

The Senator from Tennessee said he had been here 11 years and he has never seen a situation like this before. I have been in the Senate 31 years and I have not seen it.

I have seen a filibuster, but that is when somebody stands up and talks about something, not just dilatory actions.

Sure, we have slept here all night, many a night, but there was someone talking. At least we could come in and get educated once in a while in the course of an evening. [Laughter.]

But I have never seen anything like this. I have seen it for a couple of days, but not go on for a whole week like this.

I want to point out that HEW is pretty important come October 1 and we better realize that here, all of us, on either side.

Mr. ABOUREZK. Mr. President, how much time do I have remaining on my hour?

Mr. MAGNUSON. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Dakota has requested how much time he has left.

The Senator has only used 7 minutes on this. He has 53 minutes.

Mr. ABOUREZK. I yield myself no more than 5 minutes at this time.

Mr. President, I am very much interested in the series of speeches given this morning concerning the present parliamentary situation.

I have to say, before I get into the main part of my remarks, that I think the majority leader, who I supported in his election to that position last year, has done an excellent job as majority leader. He has been extremely efficient. He has worked the Senate very hard. He has done whatever he could to move along the business of the Senate—and that, incidentally, has included some legislation that faced a filibuster, or the threat of a filibuster, which he refused to call up for fear it would tie up the Senate. I am speaking of the Consumer Protection Agency legislation.

While I might disagree with that action, I do not argue with the motives of the majority leader in doing that because he is interested in seeing the Senate move along.

Now, he made three unanimous-consent requests just now, with a great num-

ber of Senators present. He asked that the rollcalls be 10 minutes, and that we adjourn or recess until 9 o'clock in the morning.

Now, let me say, Mr. President, I know exactly why he has done that. He made those requests early this morning when no one was here, and last night no one was here. But he did it again this morning so that all the Members present could hear JIM ABOUREZK object to those requests.

Now, he knew I was going to object, as I objected last night. And I did object again this morning.

In fact, I know exactly why he did it. Last year when I was managing, on behalf of Phil Hart who was very ill at the time, a couple of antitrust bills, I did the same thing to JIM ALLEN—precisely the same thing.

I did it while a lot of Members were around. It is designed to build pressure against those who are bringing up amendments or doing a lot of talking.

That is within the prerogatives of the leader to do that and, it is within the prerogative of other Senators, committee chairmen, to get up and say, "My committee has important legislation that we've got to get out and I agree with the leader—I'm getting tired of this, tired of being called here every 15 minutes for a vote."

As the chairman, Mr. MAGNUSON said, at least if there were a talking filibuster, we could get half-way educated. Well, I would argue with that, on occasion.

But in point of fact, by bringing up the cloture petition and getting the motion voted on, and getting enough support to shut off debate, we only have 1 hour apiece. I have to be very careful of not using my time because there are occasions like this when some of us must respond to what is going on.

Let me say that these efforts to put pressure on people who feel very strongly about the legislation that is up are not going to work, simply because, as the majority leader knows and the other Senators know, we are acting, I believe, in the tradition of the Senate.

What is the Senate all about? Is it a group of 100 people who are here to follow orders, or are we here to ask questions, to question the issues that come up and determine in the best interest of our constituents, determine in our own conscience, what we ought to do?

I think that is what it is about. We are elected for 6 years. Supposedly, that is to take off the narrow, special interest, pressures that are put on a Senator for the first 4 years, until he has to run for election again.

In addition, the Senate rules were devised to allow Senators to object. If there is only one man who wants to object, the rule allows him to object as long as he is physically able to do so; to object to legislation which he opposes.

The leader and everybody here knows it is not pleasant to be put in the position of protest. All kinds of peer pressure is put on one. As the nights drag on, as votes come on, I have had any number of Senators come up to me and say, "Why don't you let us get out of here and go home?"

I know precisely what number of speeches the leader has given. I know the effect they have on other Senators. But I want to say to the leader and to the Members——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ABOUREZK. I yield myself 5 minutes.

I would like to say that there are a number of us who feel that the natural gas deregulation issue is the most important economic issue in several decades.

I believe that the cost of deregulation, estimated by the Library of Congress up through 1990, would be $162 billion to the American consumer. Add onto that the ripple effect of inflation, for people who consume natural gas, who buy products made with natural gas, and on and on and on, and we have got much more than that $162 billion.

It is not a question of exploring for more energy. The administration has a program which insures and encourages exploration for more energy.

This is simply an economic question: Is the money going to stay with the consumer, or is it going to be transferred to the oil companies? That is the question. The question is not whether we are going to move the Senate along and make it convenient for Senators so that they do not have to answer a rollcall vote every 15 minutes. The question is, Are we going to do what we think is proper in our own minds?

I do not object to the majority leader trying to put on pressure, because I understand it very well. But I just want to make very clear what my personal position is. I speak for myself and my constituents who agree with me, and that is a great number, that this is a disastrous piece of legislation.

I have another question I should like to pose. The President has said that he would veto a deregulation bill. The House Speaker has said a deregulation bill would never get through the House.

The majority leader has said that we have to determine in our minds what is good for us and he is right about that. But this question arises: If the Speaker of the House is against it and will not let it go through, if the President will veto it and not let it become law, why is the leader and why are the proponents of the deregulation measure pushing so hard to get it out of the Senate? What is the reason for it?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. I yield.

Mr. ROBERT C. BYRD. The President mentioned the leader. I voted with the Senator on the deregulation question.

Mr. ABOUREZK. The leader is right; he voted to table Bentsen-Pearson. But since the vote to table, he has not quite redeemed himself in my mind.

[Laughter.]

Every action he has taken has been to get the deregulation measure out of here and over to the conference committee.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. ABOUREZK. I will not yield anymore until I am finished.

I think somebody has to answer a very serious question, and I do not know who has the answer: Why are the proponents—why is the leadership—working to push Bentsen-Pearson, the deregulation measure, out of the Senate, if it is not going to go anywhere? There must be some other reason. What is going to happen in the conference committee? Is there something we here do not know that might happen in the conference committee?

I want to conclude by apologizing to my colleagues for inconveniencing them. It is not very pleasant for me, either physically, emotionally, or any other way, to do so. But I hope they understand that some day—I do not know when it will be—they will have an issue that strikes them, that grabs them so hard, about which they will feel so strongly, that they might want to do the same thing.

Last night, the leader filed written notice of his intention to suspend the rules. Listen to this. He intends to suspend the rules, or try to—it has to be done by a two-thirds vote—in order to prevent, first of all, the reading of amendments and, second, to require that amendments be voted en bloc.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. ABOUREZK. I will yield in a moment.

If two-thirds of the Members of the Senate vote for whatever motions he will file later—he is entitled to do it today at any time—then the Senate will have prevented any further discussion, any further amending of this bill. He probably would not have filed them if he did not intend to follow up on those questions.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. I will yield on the Senator's time.

Mr. ROBERT C. BYRD. The Senator cannot yield to me on my time.

My ABOUREZK. By unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator yield to me for a statement, on my time.

Mr. ABOUREZK. On his time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. My question is this: Has not the Senator from South Dakota also filed at the desk today a written notice of his intent to move to suspend the rules to allow nongermane amendments to be called up?

Mr. ABOUREZK. Yes, that is correct.

Mr. ROBERT C. BYRD. Let us lay out the whole record.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ABOUREZK. Mr. President, I have not given up the floor.

The PRESIDING OFFICER. The Chair apologizes. Does the Senator wish additional time?

Mr. JACKSON. Mr. President, will the Senator yield to me on my time?

Mr. ABOUREZK. By unanimous consent, I yield to the Senator on his time, if I can get the floor again.

Mr. JACKSON. On my time.

The PRESIDING OFFICER. Without objection, the Senator is yielded to, on his time.

Mr. JACKSON. Mr. President, I think the time has come to be candid about what is going on here.

I have some very strong views about the issue of deregulation. As chairman of the committee and as the floor manager of this bill, I have to deal with realities.

I feel very strongly that we should set aside the rancor and all the other things that go with protracted discussions of the nature we have engaged in and will indeed get into in the next 24 hours. It seems to me that what is needed here is a little pause to discuss, privately and quietly, how we can try to bring together the divergent views and get those views to the conference.

Mr. President, the bottom line will be the conference; and even in the conference, we will have to face some difficult decisions. We are not kidding anyone by going on and on here, going nowhere, because the conference will be the bottom line.

My only appeal would be for our colleagues on both sides of this issue to try to see if we can find a common meeting ground. I have proposed a compromise. I was aware of what the feedback would be on that compromise. I have had objections on both sides, converging on my position. It is not the kind of position I would normally approve, but it is the kind of position I have to go forth with in light of the problems we face here.

My appeal is for our colleagues on both sides of the issue, as we continue these discussions throughout the day, to see if we can come together and find a common meeting ground and get the issue into the forum where it is going to be decided, and that is the conference between the House and the Senate.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ABOUREZK. Mr. President, I still have the floor.

The PRESIDING OFFICER. The Senator is correct. He has not yielded the floor.

Mr. ABOUREZK. Mr. President, I only want another minute or two.

I suggest that if the leader, who sets the schedule in the Senate, intends to go all night long and start again early tomorrow morning, it is within his purview.

However, I suggest that we recess every day until 1 o'clock, to let the Foreign Relations Committee hear the treaty testimony. I do not want to interrupt the Foreign Relations Committee any more than he does, but I suggest that to the majority leader, and he might want to consider it and do that.

Mr. HANSEN. Mr. President, I suspect that a great many of us on this side of the aisle and some on that side as well might feel called upon to respond to the rhetorical question posed by the Senator from South Dakota.

I claim no particular, exclusive knowledge at all, but he did ask the question as to why, in the face of what the President of the United States has said, what the Speaker of the House has said, and what others have said, we persist in trying to get passed the particular legislation that is being sponsored by a bipartisan coalition, including Democrats as well as Republicans.

The Senator from South Dakota makes a projection as to the cost of deregulation. There are all kinds of projections that have been made about cost. But, first of all, let me say there can be no denying the opportunity to discover great amounts of gas is very real and exists in the United States, and on the Outer Continental Shelf. The MOPPS study disclosed this; the USGS figures disclosed this, and did not square with what the administration has been proposing and, as a consequence, Dr. McKelvey of the USGS found himself out of a job.

Most recently, the FEA commissioned a study that gives the lie to what has been said by administration representatives. It says that the way to have more gas is to deregulate, and if we do not deregulate we had better accustom ourselves to going without gas because there will not be enough found.

May we have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Wyoming.

Mr. HANSEN. Mr. President, the key to more gas is to give the incentive to the industry to go out and undertake the increasingly expensive search for and production of gas. It is just that simple.

There is no reason at all why the law of supply and demand has not worked and will not continue to work just the same in searching for oil and gas and in producing oil and gas as we have found works in the marketplace on any other commodity you want to talk about.

The Senator from South Dakota speaks about the great burden that, according to his figures, would be visited upon the economy and upon Americans if we deregulate. Let me say that the mind and the recollections of Americans are shorter than I suspect they are if we think for 1 minute that the people in the Northeast cannot recall very vividly what it means to be out of gas. Factories were shut down; schools were closed; people were out of work; lights in certain areas of the country were out simply because we were out of gas.

It may cost more—it will cost more—to produce more gas, but it will not start to cost, it cannot possibly be as expensive as being out of gas.

So it gets down to this issue: Are we willing to have the effort made to find the gas so that we will not be out of gas or do we want to continue along in the demagogic fashion that some people propose we do now and say, "Let us not pay any more to Americans to find more gas to put people to work, to guarantee employment here? Let us add to our balance of payments deficit by having to import more." Is that we want? At the present time we are importing about half of all the oil we use, and that is costing at least this year, according to the best estimates, not less than $45 billion. So the alternatives ought to make crystal clear to anyone who is concerned why it makes good sense to take this first small step toward deregulation.

My good friend from West Virginia, the senior Senator, has reminded me that a large majority of State Governors support the Pearson-Bentsen amendment, which reminds me that I am not persuaded by the President's assurance given Virginia voters in the height of a political campaign down there just a few days ago that he would veto any deregulation bill, because I can recall all too clearly when he was campaigning less than a year ago or about a year ago he gave a similar assurance, equally positive, to the Governor of Oklahoma. But in that case he was not going to veto a natural gas deregulation bill; he was going to see that deregulation became an accomplished fact. He criticized the then President of the United States, President Ford, because he was unable to work with the Congress of the United States, and he said, "I can and will work with the Congress. We will get natural gas deregulated."

I ask unanimous consent that that letter from the candidate for the Presidency, Jimmy Carter, now President, to Gov. David Boren, Governor of the State of Oklahoma, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 19, 1976.

GOV. DAVID BOREN,
State Capital Building, Oklahoma City, Okla.

DEAR GOVERNOR BOREN: The formulation of a workable national energy policy implemented by a responsive, understandable governmental structure will be of highest priority in a Carter administration. If we are to reach our goals of full employment and a healthy, growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. These resources must be produced and used in an environmentally acceptable manner at a cost that the consumer can afford to pay.

A sound energy policy must aggressively promote conservation of our scarce oil and gas resources. This is the only way in which we can hope to make ends meet in our energy budget. But, coupled with energy conservation, our policy must encourage additional production of our domestic reserves.

Eight years of Republican administration have failed to produce an energy policy. Demand for new energy supplies has increased by over 4% per year since 1969—even though demand was reduced considerably during the recession triggered by the Arab oil embargo. At the same time, domestic production and resources have decreased substantially, and dependence on foreign supplies has increased from 35% prior to the embargo to over 40% today.

To increase our domestic production, I have proposed three important steps.

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our nation's oil and gas operators attract needed capital.

Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Second, I believe we should act to encourage enhanced recovery from wells already in production. As you well know, an average

of 60% of our oil remains in the ground after standard recovery methods have been exhausted. It is estimated that up to 60 billion barrels of crude could be added to our supply if enhanced recovery techniques are used. Since the environmental costs have already been largely paid on these resources, both consumers and producers alike benefit from development of this resource.

Third, I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediately begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute. Our present demand for coal is limited by two important factors. First, we have geared our technological growth to oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process. A Carter Administration will provide this leadership.

I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Sincerely,

JIMMY CARTER.

Mr. HANSEN. There is one other reason, a compelling reason, why I think we should move toward deregulation. I have spoken about employment and unemployment that certainly will follow if we run out of gas. I have spoken about the balance of payments, which is extremely serious now.

But, lastly, I speak about national security. We are dependent upon uncertain foreign sources of supply for about 50 percent of all the petroleum products we use today, and it seems to me that no one in his right mind, given the uncertain state of world affairs today, would possibly want to exacerbate this extremely critical and serious problem for Americans by suggesting that we ought to continue on down the same wrong road we have been on for all too long.

Mr. President, I hope that despite the fact my good friend from South Dakota, who posed the question, now seems not to be on the floor, he will take the occasion, if he is interested, and I hope he will be, to read what I said by way of response to his rhetorical question.

Mr. METZENBAUM. Mr. President, I think in these moments of stress, where there is kind of an anxiety, we lose sight of the fact too often that the amendments that are being offered are substantive, are meaningful, and are put in by those of us who propose the amendments with only one purpose in mind, and that is to make a bill we do not think is a good bill into a better one.

We are talking about something that will have more significant impact upon the economy of this Nation than almost any other action that will come before the Senate this year, $10 billion a year in additional costs.

While we are talking about this particular piece of legislation and the number of amendments to which the majority leader addressed himself, there is strong feeling on both sides of the issue. I want to point out to my good friend, the distinguished majority leader, that of the amendments that were offered yesterday, 95 of them were offered by 14 Senators whose views are not in accord with mine, who favor deregulation, and I believe the Senate should work its will. I think the amendments should be considered fairly, and I think, unfortunately, too many amendments are going to be swept under the rug because they are going to be thrown out with all of the other issues on the basis of, "Well, this is just another amendment of those who oppose deregulation."

AMENDMENT NO. 956

Mr. President, I call up amendment No. 956.

The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. Mr. President, will the Senator from Ohio yield to me to use about 3 minutes of my hour, and yielding back to him for his amendment after I have made my few remarks?

Mr. METZENBAUM. By unanimous consent I believe I can yield the floor to the Senator and——

Mr. ROBERT C. BYRD. Mr. President, what is the request?

Mr. DOMENICI. The Senator offered an amendment, and I asked him if he would yield to me without losing his right to the floor, yield 3 minutes of my hour just to make a statement.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have listened here today to a number of Senators. Some of them have been here a lot longer than I have and some as long as I have been here, and I think I would first like to say I do not believe that because one Senator, after cloture has been invoked, has strong feelings about some issue that he necessarily ought to be entitled to frustrate the will of the Senate.

This issue is not so difficult that we cannot resolve it. Everyone has strong feelings about difficult legislation, and I do not think anyone ought to tell this institution that even after cloture is invoked his individual freedom as a U.S. Senator justifies his being dilatory to the exclusion of this body's making up its mind, whether it makes it up his way or another way.

That is not the reason that we invoke cloture, to let a Senator have the freedom to use his conscience, and it may be his conscience to say we are not going to have any legislation. That is precloture. That is not after cloture.

On this issue that the Senator from South Dakota makes so simple that if we vote for deregulation we are going to hurt all the consumers in the country and give all the money to the oil companies, let me just say that there is a genuine dispute in this country among experts across the board, and you can find some facts to support anyone's theory. I would assume you could even find some that would say roll back the price 80 or 90 percent and they would give you some thesis.

But to show you that there is a genuine dispute and that those of us who favor deregulation are not necessarily against the consumers of this country, I give the President all the credit that he is due. I have great respect and admiration for him. I will even say he can change his mind. But I want to say this. On October 19, 1976, he did not feel deregulation was going to hurt the consumers of this country. And he changed his mind, and he is entitled to change his mind. But that does not make those of us wrong who agree with him in his statement of October 19, 1976. We happen to still agree that way, and that does not mean that we are for robbing the consumers of America. Perhaps we just continue to agree with what Jimmy Carter said on October 19.

I want to read what Jimmy Carter said on October 19, 1976, so everyone will know that it addressed this very issue.

There is one little paragraph. He wanted to be elected for these reasons:

First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas.

Another sentence:

The decontrol of producers' prices for new natural gas would provide an incentive for new exploration and would help our Nation's oil and gas operators attract needed capital.

That might be enough.

Now let me read the next part:

Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. Let me read the last sentence. And then I will be delighted to yield.

Mr. LONG. Who said that?

Mr. DOMENICI. It is signed "Sincerely, Jimmy." "Jimmy Carter" typed; "Jimmy" signature.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. DOMENICI. Mr. President, will the Senator yield me 1 additional minute?

Mr. METZENBAUM. I yield the Senator 1 additional minute on the same terms.

The PRESIDING OFFICER. The Senator is yielded 1 additional minute under the same terms.

Mr. DOMENICI. I want to read the last sentence:

While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Mr. President, could we have order, please?

The PRESIDING OFFICER. May we have order in the Senate?

Senators please take their seats or retire to the cloakroom.

Mr. DOMENICI. Mr. President, the only other argument made that in my opinion deserves to be commented upon is that the President having changed his mind since October 19, 1976, which he

is entitled to—I say again I have the utmost admiration and respect for him, and he is entitled to it—now should this institution, because he says he is going to veto a measure that does what he recommended in October of last year——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DOMENICI. Mr. President, will the Senator yield me an additional 2 minutes?

Mr. METZENBAUM. I yield the Senator an additional 2 minutes under the same terms and conditions.

The PRESIDING OFFICER. The Senator is yielded 2 additional minutes.

Mr. DOMENICI. That is right. Under the same terms.

Should we because he has changed his mind and because the Speaker of the House of Representatives, who has agreed with him, is saying, "What you passed, if it is deregulation, will never become law," we go home? Should we go home and say they are right, in spite of the kind of differing opinions among genuine people, including genuine people in this institution? There should be more fear about that kind of abdication of our responsibility than any fear about denying one Senator his conscience-bound position to fight even after cloture has been imposed even if this institution finds it dilatory.

The first argument is a far better one than the second argument.

We have a responsibility and the institution is being denied the responsibility. If the House of Representatives and the President tell us, "Pass only this or I will veto it," or "Pass only this and the House of Representatives will not agree to it," then I would submit, if that is the case, the good leader does not need to wait for October 8. We can adjourn today and tell someone to send us a message over here the next couple of weeks as to what they want law to be and we can all go home today.

I do not think anyone wants to do that, and I think we should get on with voting.

The issues are complex but can be resolved and whatever side wins we will go to conference and sooner or later we will live up to our responsibility and have an energy policy with reference to natural gas.

I yield the floor.

AMENDMENT NO. 956

Mr. METZENBAUM. Mr. President, I call up amendment No. 956 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 956.

On page 8, line 13, insert after the semicolon the following: "(4) each producer's exploration, development, and production expenditures; (5) each producer's new reserve additions from extension, revisions, and new well discoveries, including any negative revisions; (6) each producer's cost of producing gas and the net income (or loss) including the rate of return earned on gas operations (or loss); (7) each producer's interstate and intrastate sales and revenues of natural gas;".

Renumber succeeding clauses accordingly.

Mr. METZENBAUM. Mr. President, I do not think this is a controversial amendment. It merely requires the gas producers to provide the commission data, project by project, on cost of exploration and estimated recovery reserves.

This data will permit the commission to arrive at an accurate cost of production figure.

If it is acceptable, I am perfectly willing to do it on an oral basis.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

(Putting the question.)

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. JOHNSTON. Mr. President, I make a point of order that the request for the rollcall is dilatory.

Mr. METZENBAUM. It cannot be.

The PRESIDING OFFICER. The point of order is not well taken. Any Senator has a right under the Constitution to ask for the yeas and nays on an amendment.

Mr. LONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. LONG. Has the Chair announced the result of the vote?

The PRESIDING OFFICER. The Chair has not.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment (No. 956) of the Senator from Ohio (Mr. METZENBAUM).

Mr. ABOUREZK. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 34 Leg.]

Abourezk	Garn	Moynihan
Allen	Gravel	Muskie
Anderson	Hansen	Nunn
Baker	Hart	Pearson
Bartlett	Haskell	Randolph
Bellmon	Hatch	Ribicoff
Bentsen	Hayakawa	Schmitt
Bumpers	Helms	Scott
Burdick	Inouye	Stennis
Byrd, Robert C.	Jackson	Stevens
Cannon	Johnston	Stone
Chiles	Laxalt	Talmadge
Cranston	Leahy	Tower
Curtis	Long	Wallop
Danforth	Lugar	Young
Dole	McClure	Zorinsky
Domenici	Melcher	
Ford	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second for the amendment of the Senator from Ohio?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BAKER. Point of order, Mr. President; a quorum is present.

Mr. STEVENS. No business has been transacted.

Mr. BENTSEN. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. BENTSEN. The motion is dilatory, since no business has taken place and a quorum has just been established.

The PRESIDING OFFICER. The refusal of the yeas and nays is business, so business has taken place.

Mr. METZENBAUM addressed the Chair.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is going to rule that, in light of the fact that a quorum has been established, and there are very few Senators on the floor now to honor the request of the Senator for yeas and nays, to which the Chair feels he is entitled, the Chair will not rule that it is a dilatory tactic.

Mr. STEVENS. Mr. President, a parliamentary inquiry: Did the Chair state that a Senator is entitled to the yeas and nays by the rules?

The PRESIDING OFFICER. The Chair stated that. He misspoke himself. But it is the feeling of the Chair that, based on the number of Senators present, there are not enough Senators here necessary, considering the division on this issue, to get the yeas and nays which he has requested.

The clerk will call the roll.

Mr. STEVENS. Mr. President, is the Chair making a ruling that the burden is on those who oppose a rollcall vote to demonstrate that a quorum is present?

The PRESIDING OFFICER. Let me say that it is the Chair's feeling that if there were 51 Senators on the floor and the Senator from Ohio requested the yeas and nays and was not success-

ful in getting it, the Chair would so rule as it has.

Mr. STEVENS. But the record discloses that the transaction of business immediately prior to the request for the yeas and nays was, in fact, a quorum call. Who is to presume that there are not 51 Members on the floor at this time? Is the Chair counting them?

The PRESIDING OFFICER. The Chair does not presume; the Chair knows there are not 51.

Mr. STEVENS. Is the Chair noting that and counting them?

The PRESIDING OFFICER. Certainly.

Mr. ABOUREZK and Mr. METZENBAUM. Regular order, Mr. President.

The PRESIDING OFFICER. There are less than 47 Senators on the floor at this time.

The Clerk will call the roll.

Mr. STEVENS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. STEVENS. The inquiry is, if the Chair is assured by his own vision that there are 51 Members on the floor, would the Chair rule in the manner he has just ruled, that the transaction of business—namely, the request for a rollcall—vitiates the previous quorum call, which established a majority of the Senators being present?

The PRESIDING OFFICER. No. The Chair has just stated that if there were 51 Senators on the floor—and I might say the Chair has counted the Senators three or four times in the last hour to ascertain whether there is a quorum present. There is not, in the opinion of the Chair, at this moment a quorum present.

Mr. METZENBAUM. Regular order, Mr. President.

Mr. ABOUREZK. I ask for the regular order, Mr. President.

QUORUM CALL

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. ZORINSKY). A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll, and the following Senators answered to their names:

[Quorum No. 35 Leg.]

Abourezk	Danforth	Inouye
Allen	DeConcini	Jackson
Anderson	Dole	Javits
Baker	Domenici	Johnston
Bartlett	Durkin	Kennedy
Bayh	Eagleton	Laxalt
Bellmon	Eastland	Leahy
Bentsen	Ford	Long
Biden	Garn	Lugar
Brooke	Glenn	Magnuson
Bumpers	Goldwater	Mathias
Burdick	Gravel	Matsunaga
Byrd, Harry F., Jr.	Griffin	McClure
Byrd, Robert C.	Hansen	McGovern
Cannon	Hart	McIntyre
Case	Haskell	Melcher
Chafee	Hatch	Metzenbaum
Chiles	Hatfield	Morgan
Church	Hathaway	Moynihan
Clark	Hayakawa	Muskie
Cranston	Heinz	Nelson
Culver	Helms	Nunn
Curtis	Hollings	Packwood
	Huddleston	Pearson
Pell	Schmitt	Thurmond
Percy	Schweiker	Tower
Proxmire	Scott	Wallop
Randolph	Sparkman	Weicker
Ribicoff	Stennis	Williams
Riegle	Stevens	Young
Roth	Stevenson	Zorinsky
Sarbanes	Stone	
Sasser	Talmadge	

The PRESIDING OFFICER. A quorum is present.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I call up amendment No. 1007 and ask that it be reported.

Mr. CHILES. Let us have a vote.

Mr. MELCHER. A voice vote.

Mr. TOWER. A point of order. Has there been disposition of the motion on the Metzenbaum amendment?

The PRESIDING OFFICER. The amendment of the Senator from South Dakota is not in order.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry. The Senator from South Dakota was recognized to call up his amendment. Why is it not in order? Under what rule?

The PRESIDING OFFICER. There is an amendment of the Senator from Ohio pending. The question is on agreeing to the amendment (putting the question).

Mr. TOWER. The question is on the motion to table.

Mr. ROBERT C. BYRD. Mr. President, I believe the question was on the motion to table, was it not?

The PRESIDING OFFICER. The Journal indicates that there was no motion to table.

Mr. TOWER. There was a motion to table and there were the yeas and nays.

The PRESIDING OFFICER. The amendment is rejected.

The bill is open to further amendment.

AMENDMENT NO. 1007

Mr. ABOUREZK. Mr. President, I call up amendment 1007 and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1007.

The legislative clerk proceeded to read the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to read.

The legislative clerk resumed the reading of the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the reading of the amendment.

Mr. STONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the reading of the amendment.

Mr. CURTIS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the reading of the amendment.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

"TITLE II—PUBLIC PARTICIPATION IN FEDERAL AGENCY PROCEEDINGS

"SEC. 18. (a) Subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure) is amended by inserting after section 558 of such title the following new sections:

"§ 558a. Attorney's fees; fees and costs of experts; participation expenses

"(a)(1) The Congress finds that effective functioning of the administrative process of Government requires Federal agencies to seek the views of all affected citizens. In practice, access to the administrative process is frequently an exclusive function of a person's ability to meet the high costs of participation in Government proceedings.

"SEC. 19. The purpose of this section is to promote increased public participation in agency proceedings, thereby insuring more effective functioning of the administrative process by enabling all affected persons to secure the representation in agency proceedings to which such persons are entitled. The Congress intends that each Federal agency shall utilize to the fullest extent the authority and funds provided pursuant to this section.

"(b) For the purpose of this section the term—

"(1) 'person' means any person as defined in section 551(2) of this title and includes a group of individuals with similar interests;

"(2) 'proceeding' means any agency process including rulemaking, ratemaking, licensing, adjudication, or any other agency process in which there may be public participation pursuant to statute, regulation, or agency practice, whether or not such process is subject to the provisions of this subchapter.

"SEC. 20. Each agency is authorized, in accordance with the provisions of this section, to award reasonable attorneys' fees, fees and costs of experts, and other costs of participation incurred by eligible persons in all rulemaking, ratemaking, and licensing proceedings, and, in addition, to such other proceedings involving issues which relate directly to energy, health, safety, civil rights, the environment, or the economic well-being of consumers in the marketplace.

"(2)(A) This section does not authorize funds for merely attending, as opposed to participating in, agency proceedings, nor for proceedings where the cost of participation is minimal.

"(B) This section does not create any new right to participate in any Federal agency proceeding.

"(d) Any person is eligible to receive an award under this section for participation (whether or not as a party) in an agency proceeding if—

"(1) the person is an effective representative of an interest the representation of

which contributes or can reasonably be expected to contribute substantially to a fair determination of the proceeding, taking into account—

"(A) whether the interest is adequately represented by a participant other than the agency itself,

"(B) the number and complexity of the issues presented,

"(C) the importance of public participation, in consideration of the need to encourage participation by representatives of segments of the public who, as individuals, may have little economic incentive to participate, and

"(D) the need for representation of a fair balance of interests; and

"(2) (A) the economic interest of the person in the outcome of the proceeding is small in comparison to the costs of effective participation in the proceeding by that person, or whenever the person is a group or organization, the economic interest of a substantial majority of the individual members of such group or organization is small in comparison to the costs of effective participation in the proceeding, or

"(B) the person does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this section.

"SEC. 21. Any person seeking an award under this section shall submit to the appropriate agency an application which states the basis of such person's eligibility for the award and the amount sought. Upon receipt of such application, the agency shall make a written determination of the eligibility of the person for an award and the amount and computation of such award, if any, and shall state the reasons therefor. Such determination shall be made promptly, and prior to timely participation in the proceeding by that person unless the agency finds that prior determination cannot practicably be made, and states in writing its reasons for a temporary deferral. The agency shall make determinations required by this paragraph after consideration of the funds available for awards under this section for the proceeding and the requests or possible requests for such awards by other eligible participants in the proceeding. For the purpose of this section a determination under this paragraph is a final agency action in accordance with chapter 7 of this title.

"(2) Whenever multiple applications are submitted for participation in a proceeding, the agency may—

"(A) require consolidation of duplicative presentations;

"(B) select one or more effective representatives to participate;

"(C) offer compensation only for certain categories of expenses, or

"(D) jointly compensate persons representing identical or closely related viewpoints.

"(3) Payment of fees and costs under this section shall be made—

"(A) within ninety days after the date on which a final decision or order disposing of the matters involved in the proceeding or phase of the proceeding is made by the agency; or,

"(B) within ninety days after an eligible person submits to the agency a statement of its fees and costs if the agency has deferred making a determination under subsection (e) (1) of this section by the date of such final decision.

"SEC. 22. Notwithstanding any other provision of law, an agency shall make advance payments to permit any eligible person to participate or to continue to participate in a proceeding if the person establishes that the ability of such person to participate in the proceeding will be impaired by failure to receive funds prior to the conclusion of such proceeding.

"SEC. 23. The amount of reasonable attorneys' fees, fees, and costs of experts, and other costs of participation awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished or to be furnished, except that (A) no expert or consultant shall be compensated at a rate in excess of the highest rate of compensation for experts and consultants paid by the agency involved; and (B) attorneys' fees shall not be awarded in excess of $50 per hour for any such participation unless the agency determines that special factors, such as an increase in the cost of living or limited availability of qualified attorneys for the proceedings involved justify a higher fee.

"SEC. 24. No determination under this section shall be made by any office, bureau, or other division of an agency having responsibility for the presentation of the case or the initial decision or recommendation in any proceeding to which this section applies, except that agency personnel and hearing examiners in any such proceeding may provide relevant information with respect to such determinations.

"SEC. 25. Each agency shall take appropriate action to assure that information concerning the availability of compensation for public participation pursuant to this section is contained in the notices of proceedings to which this section applies and to otherwise publicize the availability of such funds to the general public.

"(f) (1) A person who receives advance payments pursuant to this section or who the agency determines to be eligible to receive a specified award pursuant to this section shall be liable for repayment of part or all of such payments actually received, or for forfeiture of part or all of the specified award for which such person is determined to be eligible, whenever the agency determines that the person clearly has not provided the representation for which the payments or specified award was made.

"(2) In any agency proceeding—

"(A) in which an eligible person acts in a manner demonstrating bad faith toward any other participant, and upon application by such other participant, the agency may rescind part or all of an award under this section to such eligible person, or

"(B) in which any participant (other than an eligible person) acts in a manner demonstrating bad faith toward an eligible person, and upon application by such eligible person, the agency may require such participant to pay to the agency an amount equal to part or all of an award made to such eligible person under this section.

"(g) A person who has applied for an award under this section may bring an action in accordance with chapter 7 of this title for review of a final agency action under this section—

"(1) denying an award, failing to make a determination, or failing to pay an award of fees or costs or both to such person, or

"(2) granting an amount of fees or costs, or both, which is insufficient to enable such person to participate or to continue to participate effectively in a proceeding, or

"(3) reimbursing an amount of fees or costs, or both, which is insufficient to compensate such person for its participation in such proceeding

in the appropriate court of the United States having jurisdiction of an appeal from the proceeding in which such person participated or sought to participate, except that such appeal shall not be the basis for the court to enter an order to stay such proceeding. No person shall be entitled to intervene in any action brought under this section involving an application for an award by another person.

"(h) (1) Each agency shall, within ninety days after the date of enactment of this section, propose regulations to carry out the provisions of this section. Such regulations shall be adopted by the agency and take effect no later than one hundred and eighty days after the date of enactment of this section.

"(2) (A) The head of each agency to which this section applies shall prepare and transmit to the Congress and to the Office of Management and Budget by such date as the Director of the Office of Management and Budget designates an annual report with respect to the nature and disposition of all proceedings by which awards of fees and costs pursuant to this section were sought. Each report shall include the amounts sought and awarded in each such proceeding, the computation of such amounts, and the identity of each applicant and recipient.

"(B) The Director of the Office of Management and Budget shall allocate the funds appropriated pursuant to section 5(a) of the Public Participation in Federal Agency Proceedings Act of 1977 among agencies to which this section applies. In making such allocations, the Director shall be guided by the indicia of need for funds to promote public participation in each agency's proceedings based on a survey of agency estimates for the initial year and thereafter based upon the report of each agency submitted pursuant to paragraph (A) of this subsection. The Director shall insure that the funds appropriated pursuant to such section 5(a) for each fiscal year are utilized to the fullest extent.

"(C) The Director of the Office of Management and Budget shall submit to Congress on the date of submission of the President's budget a report showing the funds allocated to each agency pursuant to this subsection.".

(b) The analysis of chapter 5 of title 5, United States Code, is amended by inserting immediately after the item relating to section 558 of such title the following new item:

"558a. Attorneys' fees; fees and costs of experts; participation expenses.".

SEC. 26. Chapter 7 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 707. Attorneys' fees; fees and costs of experts; litigation expenses

"(a) For the purpose of this section, the term 'person' means any person defined by section 551(a) of this title and includes a class of individuals and any individual member of such class.

"SEC. 27. Notwithstanding any other provision of law, any party or party intervenor in a civil action or other proceeding for judicial review of agency action under this chapter, including actions by the Department of Energy, or the Federal Energy Regulatory Commission, shall be entitled to recover reasonable attorneys' fees, fees and costs of experts, and other reasonable costs of litigation, including taxable costs, from the United States if—

"(1) the court affords such person the relief sought in substantial measure or, after the filing of such action, the agency affords such person the relief sought in substantial measure;

"(2) such action served an important public policy; and

"(3) (A) the economic interest of the person in the outcome of the action is small in comparison to the costs of effective participation in the action by that person, or whenever the person is a group or organization, the economic interest of a substantial majority of the individual members of such group or organization is small in comparison to the costs of effective participation in the action, or

"(B) the person does not have sufficient resources available to participate effectively, in the action in the absence of an award under this section.

SEC. 28. Reasonable attorneys' fees, fees and

costs of experts, and other costs of litigation awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished.".

SEC. 29. The analysis of chapter 7 of title 5, United States Code, is amended by adding immediately after the item relating to section 706 of such title the following new item:

"707. Attorneys' fees; fees and costs of experts; litigation expenses.".

SEC. 30. The Administrative Office of the United States Courts shall, in accordance with such rules as the Judicial Conference of the United States may prescribe, prepare, and transmit to Congress an annual report on awards of attorney's fees and litigation expenses against the United States under section 707 of title 5, United States Code. Such report shall contain a list of all civil actions in which such awards were sought, and shall include the amounts awarded in each such action and the identity of each recipient.

SEC. 31. (a) In addition to the sums authorized under subsection (b), and in addition to any funds otherwise available for supporting public participation in agency proceedings, there are authorized to be appropriated for the purposes of carrying out the provisions of the amendment made by section 2 of this Act the sums of $10,000,000 for the fiscal year 1978, $10,000,000 for the fiscal year 1979, and $10,000,000 for the fiscal year 1980. All funds for any fiscal year which are not expended during such year shall remain available for expenditure in succeeding fiscal years for awards of fees and costs in proceedings commenced during such fiscal year.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of the amendments made by section 3 of this Act for each fiscal year prior to October 1, 1980, and there are authorized to be appropriated, for the fiscal year 1981 and succeeding fiscal years, such sums as may be necessary to satisfy court awards of fees pursuant to the amendments made by section 3 where the action was brought prior to the end of fiscal year 1980.

SEC. 32. The provisions of this Act shall take effect on the date of its enactment, except that—

(1) the amendment made by section 2 shall take effect one hundred and eighty days after such date, but the provisions of the amendment made by such section shall apply to the proceedings in which regulations are required to be issued under section 558a (h) (1); and

(2) the amendments made by section 3 shall apply to any civil action brought after such date of enactment.

Mr. TOWER. Point of order, Mr. President. The amendment is not germane. I therefore suggest that a point of order should lie against it, and I ask the Chair to rule.

The PRESIDING OFFICER. The point of order is well taken.

The bill is open to further amendment.

AMENDMENT NO. 1352 (FORMERLY UP AMENDMENT NO. 856)

Mr. KENNEDY. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment No. 856 which is now printed amendment No. 1352.

At the appropriate place add the following:

"*Provided:* that this section shall not apply to any well owned or controlled or in which an interest is held in whole or in part by any natural gas company or affiliate of any natural gas company which also owns, controls or has an interest in assets used in the refining, transportation or marketing of petroleum."

Mr. KENNEDY. Mr. President, the amendment I am calling up would limit the deregulated price to natural gas sold by independent producers. The purpose of this amendment is simple—it is to promote competition. It is clear that one of the reasons the consumer will lose so badly under deregulation of natural gas prices is that the industry which produces gas is not competitive—in short, the market forces that hold prices down to a level determined by supply and demand are not at work in this industry. This fact is absolutely central to the deregulation issue.

My amendment is not lengthy or complicated. It merely limits the deregulated new gas price to gas produced by nonintegrated firms.

What I am offering today represents a minimal approach to a serious competitive problem. It is the very least we can do and still claim to be facing up to the problem of monopoly in the oil and gas industry. It attacks the basic problem: The growing control over our energy resources by the major integrated oil and gas firms.

The arguments on this issue were debated both in the last Congress, and I would not belabor them here. It might be well, however, to review briefly some basic facts about the oil and gas industry for the benefit of new Members and to refresh the memories of the rest of us.

First, let us look at what the major integrated companies have done in the oil industry itself. The top 16 companies, each with production in excess of 100,000 barrels a day, lift more than 70 percent of our domestic crude oil. But their control extends far beyond this percentage, to most of the oil produced in this country.

They own the gathering systems which pick up oil at the wellhead, and the trunk pipelines which deliver it to refineries. In 1975 some 92 percent of the oil delivered into ICC-regulated lines went into the lines owned by the 16 majors. Much of the independent production is on farmouts which they hold on major company acreage. The farmout agreement always gives the primary leaseholder a perpetual call on all the oil, in addition to a generous share of it as an overriding royalty. In other words, the major has given up the right to produce some of the oil on its leases, but still controls the disposition of all the oil from those leases.

Then there is the system of exchange agreements among the majors, and independents drawn into their sphere of influence, which keeps control of oil firmly in major hands. Let me refer to a letter written to Secretary of the Interior Rogers Morton by the president of Kerr-McGee Corp.

The circumstances were that Kerr-McGee had been ordered to deliver Government royalty oil from its offshore leases to a small business refinery. The company pointed out that this oil had already been committed for exchange to a major company which would sell Kerr-McGee oil for its Synnewood, Okla., refinery. If the oil had to go to the small business refinery, Kerr-McGee would be unable to get enough crude to run its own refinery at an efficient level:

> Kerr-McGee exchanges or trades all of the oil produced by it in the Gulf of Mexico for oil to supply its refineries or for products to meet marketing requirements . . . when there still remained surplus production in the United States . . . there was no obligation to return crude to the various major companies from whom we purchased. Beginning in 1972, . . . we faced increasing demands to sell these companies offsetting barrels of Kerr-McGee's Louisiana production. This situation has continued to deteriorate until today we are literally unable to buy a free barrel of oil from these large producers.

Let me emphasize that this is not some academic critic of the industry. It was the president of a large independent oil company addressing the Secretary of the Interior, who said:

> . . . we are literally unable to buy a free barrel of oil from these large producers.

This was back in 1973, when oil supplies were getting tight, and independent refiners were being cut off from supplies. Had it not been for Congress moving in in December 1973 with the Emergency Petroleum Allocation Act, there would be very few independent refiners left today.

Second, the major international oil companies with their control of downstream refining and marketing operations have played a role in stabilizing the monopoly prices of the OPEC cartel. In the international area, the effects of integration are particularly harmful. The world's integrated majors quite simply have no serious incentive to bargain with OPEC for lower prices.

Let me suggest an example. Since December 31, 1972, Exxon has lost more than 30 billion barrels of its former overseas proved reserves. This is a volume of oil almost equal to total proved reserves of the United States today, including the North Slope. Yet the company has never been more healthy and prosperous; its credit standing with the financial community has never been better. The reason is simple: Exxon still has 19 billion barrels of reserves left, which are worth a great deal more than the 50 billion barrels they once had. The rise in open prices, by multiplying the value of crude reserves, has enabled Exxon to hand over an unbelievable volume of reserves to OPEC countries without suffering in the slightest.

The North Slope offers another example. The companies were eager to go ahead with the Alaskan pipeline back in 1969, when crude would have been delivered to west coast refineries at not much over $3 a barrel. Given the escalation in pipeline costs, this would have been impossible by the time the line was finished. It was the rise in OPEC prices which converted the oil industry's North Slope investment from an unmitigated disaster to a glorious success.

In other words, the integrated majors stand to profit so much from their crude oil price increases—which they can readily pass through their refining channels—that they have little reason to shop around for the least expensive foreign

crude. No matter what Iran, or Saudi Arabia, or Venezuela does to crude prices, the majors go right on lifting it for the countries.

This has a clear impact on gas prices. The price of any gas deregulated will move at the very least to the level of OPEC crude prices on a Btu equivalence basis. Some members of producing States have said it should go to the even higher price of No. 2 heating oil.

In any event, the willingness of the majors to go along with OPEC price increases is a major factor in high gas, as well as oil, prices. We should not reward them for cooperating with the cartel by letting them extend the profit benefits of such cooperation from their oil to the gas production.

What this amendment does is to recognize the competitive problems of the oil and gas industry. It removes the controls from that part of the industry which now is truly competitive. And moreover, it recognizes that it is the independent producer who responds to higher prices as incentive to find more gas in the United States rather than in investing in department stores, circuses or the North Sea or Saudi Arabia. For almost a decade the independent producers have accounted for the bulk of onshore domestic discoveries. To give a deregulated price to the major companies would simply enhance their profits and their market power and would produce no new supply.

Mr. President, essentially this is consistent with what the Senator from Wyoming mentioned earlier in his comments regarding the competitive forces in our society. There has been quite a bit of discussion over the years concerning the independent sector of the gas industry's being the most competitive. What this amendment would do is provide whatever incentives are agreed to exist in the Pearson-Bentsen amendment only to the independent sector, to the nonintegrated sector of the industry. It would, I think, provide all of the additional incentives which the proponents of this proposal claim.

It would, however, preclude the large windfall profits which I believe would accrue to major integrated companies without this amendment.

Mr. President, I am hopeful that those who believe in the strength of the independent gas producer, who believe in the importance of providing additional incentive to that independent sector, and who understand full well the workings of the major integrated oil companies in moving and shifting profits and production around would find reason to support this amendment.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. TOWER. Mr. President, I move to table the amendment.

Mr. KENNEDY. Mr. President, if we are unable to get a seconding on substantive amendments, we are going to be around here a whole lot longer than some of us intend to be.

I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. STEVENS. Mr. President, I, too, although I oppose the Senator's amendment, hope the Senate will keep in mind that there is a difference between dilatory amendments and substantive differences of opinion on this subject.

While I have withheld seconding for a rollcall vote on dilatory amendments, I would urge the Senate not to do that with regard to substantive amendments. Again, I shall vote against this amendment, but I think the record should be clear that it is not being offered as a part of any dilatory tactic. It is a subject that has been raised before.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the amendment, for the reasons stated, and I must say that the Senator from Massachusetts has not been calling up amendment after amendment after amendment after amendment, just to consume time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move that the amendment be laid on the table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAYH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Debate is not in order. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The clerk will call the roll.

Mr. HART. Mr. President, the amendment which——

The PRESIDING OFFICER. Debate is not in order. A motion to lay on the table is pending. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 427 Leg.]

YEAS—64

Allen	Danforth	Hatch
Baker	DeConcini	Hatfield
Bartlett	Dole	Hayakawa
Bellmon	Domenici	Heinz
Bentsen	Eagleton	Helms
Brooke	Eastland	Hollings
Bumpers	Ford	Huddleston
Burdick	Garn	Javits
Byrd, Harry F., Jr.	Glenn	Johnston
	Goldwater	Laxalt
Cannon	Gravel	Long
Chafee	Griffin	Lugar
Chiles	Hansen	Mathias
Curtis	Hart	McClure
Melcher	Schmitt	Thurmond
Morgan	Schweiker	Tower
Nunn	Scott	Wallop
Packwood	Sparkman	Weicker
Pearson	Stennis	Williams
Percy	Stevens	Young
Randolph	Stone	Zorinsky
Roth	Talmadge	

NAYS—32

Abourezk	Haskell	Moynihan
Anderson	Hathaway	Muskie
Bayh	Inouye	Nelson
Biden	Jackson	Pell
Byrd, Robert C.	Kennedy	Proxmire
Case	Leahy	Ribicoff
Church	Magnuson	Riegle
Clark	Matsunaga	Sarbanes
Cranston	McGovern	Sasser
Culver	McIntyre	Stevenson
Durkin	Metzenbaum	

NOT VOTING—4

Humphrey	Metcalf	Stafford
McClellan		

So the motion to lay Mr. KENNEDY's amendment No. 1352 on the table was agreed to.

AMENDMENT NO. 1039

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BENTSEN. Mr. President, I have an amendment at the desk that I request be stated.

The PRESIDING OFFICER. The Senate is not in order. Will Senators please take their seats?

Mr. BENTSEN. Mr. President, I have a printed amendment No. 1039 at the desk.

Before it is reported, I wish to make a couple of comments on my time. If I have heard it from one Senator, I have heard it from a great number, "Can't you come up with something in the way of a compromise that you can get together on?" I think we have done that in the amendment I am about to propose. We have made some further major concessions on the Pearson-Bentsen bill.

Remember that the Pearson-Bentsen bill, as introduced, was the culmination of months of debate on the floor of the Senate in the fall of 1975. Now we have gone beyond that. There are those who think that there might be an aberration in the price and talk about $5 and $6 gas. I certainly do not think that is going to happen. But we have provided, in this amendment that is about to be reported, a fail-safe cap. I think the law of supply and demand in competing fuels is going to take care of the problem. But, just to be certain, there is a 2-year fail-safe cap that would say the very top price that would be paid is what they would be paying for No. 2 heating oil landed on the docks of New York. That is the agreement that has just been made or is in the process of being made with the Mexican Government. In effect, it would be comparable to that. In no way does that mean they are going to get that price. But that is a fail-safe cap to give the market time to adjust.

One of the other things we have done which we are all concerned about is protect the residents, protect the homeowners, who are already paying too much. We have put an incremental pricing provision in this after talking to many Senators here who are concerned about it, incremental pricing that would protect the school and the hospital and the homeowner, and see to it that the price for the new gas found was to be paid by industry to the extent that new

gas is available. Only after that has been fully utilized will they begin to move into the old gas that will go to the other services that we are talking about. That is a very major concession and a major provision that should be of interest to all of the Senate.

One of the concerns has been that we might have wrongfully withheld gas.

There are economic instances when they have found gas way out in the boondocks, a long way from a pipeline, and it takes time. They have to build those reserves and drill additional wells, before they can justify building that pipeline.

Those are things we understand. But there are times when possibly there might be the wrongful withholding of that gas.

We provide there that the Federal Energy Commission at that point could make that determination and if they decide that gas is wrongfully withheld, we would be denied the price of the deregulated gas.

Then there has been the concern as expressed by Senator CHILES, Senator STONE, Senator GLENN, and others, about, "Have you put a barrel around your State where we can't really get in and compete to buy your gas?"

We have seen that any question of that has been taken out of the Pearson-Bentsen, by accepting an amendment. We worked together with Senator CHILES, Senator STONE, and Senator GLENN. I think we have brought forth a true compromise that I hope the Senate will be able to accept.

I yield to my colleague and cosponsor of this amendment, the Senator from Kansas (Mr. PEARSON).

The PRESIDING OFFICER (Mr. FORD). The Senator from Kansas.

Mr. PEARSON. Mr. President, I thank the Senator for yielding.

Under the cloture provisions, I will speak on my time, Mr. President.

Mr. President, among all the charges that have been leveled by and toward, and back and forth and among the proponents and opponents of this particular issue, an issue which for decades has polarized the people of this country, is what is the proper role of Federal regulation over interstate sales of natural gas. Prior to the Supreme Court decision in the Phillips case in 1954, a ruling contrary to the intent of Congress in the Natural Gas Act, regulation of natural gas producer sales was nonexistent. That history, as to the proper sale of Federal regulation, so long debated among those who were experts in this field, so long debated by Members of this Congress through the decades, once again has an opportunity to be resolved.

Mr. President, the Pearson-Bentsen measure introduced in January of this year was essentially and fundamentally the measure that was introduced and passed by the Senate in 1975 by a vote of 58 to 32.

It was refined, distilled down, made more certain by events through the past 2 years and by the action of the Congress in other pieces of energy legislation.

For example, those measures dealing with conversions were taken out because conversion was addressed in other legislation. This bill retained provisions for deregulation of new natural gas onshore, and phased deregulation offshore under new criteria, with continuing controls over offshore gas, for the next 5 years.

Mr. President, neither the Senator from Texas nor myself had the privilege of serving on the Energy Committee. We appeared and we testified. We were not a part of their deliberations. It was closely divided in the committee, too. Those that know the history of the committee action know that the particular Pearson-Bentsen measure as introduced failed on a vote of 9 to 9. So the Energy Committee reported out the administration provision without recommendation.

We have, through debate, gained further understanding over particular and unique conditions in various States, and have been able to understand more clearly what the natural gas supply situation is in the country. Therefore, with the press of cloture coming upon us, we put together what we considered to be a fair and equitable modification which was in response partly to the move made by the Senator from Washington 2 days ago.

This is repetitious, but it serves some repeating, because I want to stress the provisions of these modifications.

There was a great deal of concern over what the price of natural gas would be. We sought to answer that in various ways. Many times we pointed out what percentage of the total price was applicable to the wellhead price.

In 1975, the price, the percentage of the wellhead price as to the total price of natural gas, was about 15 percent with the FPC, in subsequent rulings has increased to about 20 or 25 percent, but that is the total of the percentage of this new gas price.

When they cite figures that have been cited by the Secretary of Energy and by the President and others as to the enormous price increases from deregulation, no one ever makes reference to what the price of alternative fuels will be when we do not have any natural gas.

This is not a situation in the abstract. We started off this year in January. Nobody anticipated in the state of the Union message, or any place else, that one of the first pieces of legislation would be to meet a natural gas crisis in this country. Everything else was set aside.

At that time, I debated at great length whether we should come forward with the Pearson-Bentsen proposal. Or, stated otherwise, should we offer some sort of a permanent solution in a time of crisis?

Last winter we were assured that everything will take care of itself, do not mix up the energy legislation, the administration is going to come forward with a program at a later time. They promised to have it proposed by about April 20—and they did.

The recommendation for natural gas policy is unfortunately unworkable. I understand the Secretary of Energy says the totally restrictive definition for new gas can be understood by the bureaucrats; it is measurable. Because we are within 2½ miles or we have to go a thousand feet deeper. The pricing provisions are also totally unrealistic.

The people in my State, and I have not been parochial about this because the State of Kansas is an importer of gas today, are seriously concerned over the shortcomings of this proposal.

Natural gas contracts are about 20 years in length. They expand at the rate of 7 or 10 percent per year. Whatever new price we have for new gas under our proposal is blended into the total of about 7 to 10 percent per year.

But there was fear as to the price impact. There were apprehensions—and justifiably so. So yesterday we proposed a cap of 2 years for onshore gas to have some adjustment period to phase-in not only offshore production, but to phase-in onshore new gas. That is in the modification which Senator BENTSEN and I are now preparing.

There was concern about who is going to pay for this new expensive gas. So we have proposed incremental pricing in our modification, a complex provision whereby the new price of new gas as it comes on is borne by others than those we set forth as the high priority classification—residents, small commercial users with less than 50 thousand cubic feet per day, human needs and essential agricultural purposes.

The industrial users, who must bear the burden of incremental pricing are some of the greatest friends the deregulation movement had. But still, we are proposing incremental pricing.

Years ago, the people in the front lines were the Senators from the producing States. I have heard and other Senators have heard Senators today from producing States say time and time again, "I might be just better off if we didn't have a bill." And, indeed, they might. But we still intend to persevere.

I should note that the industrial and the agricultural users, I think, were the people who showed great statesmanship in arguing for some sort of proposal that would increase the supply. We talk price, price, price. Nobody ever mentions supply. We talk about jokes, about how much bananas cost, and we do not even have bananas to sell. Supply is the great issue here.

In the low price we charge to residents, we add incremental prices to industrial users. The people who work the hardest are not happy about this now; but in the give and take, I think it is a fair thing to do.

At one time, in the original proposal we sought to protect the intrastate consumers' market. We said that on those contracts that expired by their own terms intrastate, if such gas is sold out of State to the interstate system, it can be sold no higher than the price set by the Federal Power Commission. It did not give a chance to the interstate pipelines to come in and bid for that gas. Senators here today thought that was a wrong approach, and we modified it yesterday, to the detriment of the intrastate system that for years had produced the gas, for years had paid the price, for years had developed their industrial system.

This whole debate is about 50 percent a debate on the popularity of the oil and gas industry. One of the great motivations in the Senate and throughout the Congress and the administration is

whether or not you like the oil and gas companies. Never mind what the facts are; never mind what the provisions are. Does it help big oil or big gas?

I, as one, might say to Senators that they are their own worst enemies. I think we can give a little credit for the potential success of our proposal to the people in big oil or big gas.

This is not an industry bill, as proposed by the news media. The TV and the newspapers continually talk about "the proponents of the industry bill today came forward with this proposal." It is a proposal that deals with supply, consumer protection, and the economic health of this country.

We often hear that producers have withheld available gas and thereby cheated the consumer. There were allegations that contracts to give gas to the interstate pipeline systems were not honored. No one has proved that there have been contract violations.

It is alleged that somebody is lying about the proved reserves in this country. Yet, all the industry and the governmental estimates of proven reserves in this country are almost identical.

But the fear exists. The big bogeyman of the big corporations colors everything, and the shadow falls over all the calming deliberations we have had here. So we do something about withholding in our modification. If anybody withholds gas and then seeks to sell it into the interstate system, they sell it at no higher than the FPC regulated price.

Mr. President, we have accommodated legitimate concerns. These seem to be the main ones. We have sought to accommodate them within the time pressures we had.

One last thought: I do not think anyone has to remind another Senator that it does not make an awful lot of difference what the President says, and it does not make an awful lot of difference what the Speaker of the House says, that we should make this judgment within ourselves. But I have wondered continually throughout this debate why the opponents of this measure are continuing to fight even the chance to get it up for a vote. Apparently they have won. They have a Speaker who already has declared, "We will have none of it, no matter what your judgment may be." Then the President of the United States, who does not even know the provisions of the bill, said, "I am going to veto it."

I think they have won. Why hold this back now? Why not let the Senate express its will? I do not know if that will be the case. I believe it may even be an exercise in futility and almost stupidity.

We have a chance now to look at this anew, to look at it in better form, and for the Senate to work its will.

Mr. President, the Senator from Texas called up amendment 1039. I ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an amendment numbered 1039.

The legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the reading of the amendment.

Mr. HAYAKAWA. Mr. President, I ask for order, and may I ask that the clerk read much more slowly and carefully and articulately so that we can all understand this amendment.

The PRESIDING OFFICER. The Senate will come to order and the clerk will continue.

The legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"That this Act may be cited as the 'Natural Gas Act Amendment of 1977'.

"SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); and (2) amending section 1 thereof by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and inserting therein the following new subsection:

"'(a) This Act may be cited as the "Natural Gas Act".'.

"SEC. 3. Section 1(c) of the Natural Gas Act, as redesignated by the Natural Gas Act Amendments of 1977 (15 U.S.C. 717(b)), is amended (1) by deleting 'The' at the beginning thereof and by inserting in lieu thereof immediately after '(c)' the following: '(1) Except as provided in paragraph (2) of this subsection, the'; and (2) by inserting at the end thereof the following new paragraph:

"'(2) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the authority of the Commission to regulate the sale of natural gas to a natural-gas company for resale in interstate commerce pursuant to this Act shall cease to exist with respect to, and shall not apply to, new natural gas: *Provided*, That nothing contained in the Natural Gas Act Amendments of 1977 shall modify or affect the authority of the Commission in effect prior to the date of enactment of such amendments to (A) regulate the transportation in interstate commerce of natural gas or the sale in interstate commerce for resale of old natural gas or (B) regulate the sale for resale of natural gas by any natural-gas company which transports natural gas in interstate commerce.'.

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (13) through (15), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means (A) natural gas sold or delivered in interstate commerce for the first time on or after January 1, 1977: *Provided, however*, That natural gas shall not be deemed new natural gas if the Commission finds, after hearing, that at any time prior to January 1, 1977, proper facilities were in place for natural-gas production, such natural gas could be produced economically, and such natural gas could have been sold and delivered from completed wells and was wrongfully withheld from sale or delivery: *Provided further*, That new natural gas contracted for sale or delivery from offshore Federal lands shall be committed for an initial contract term of not less than 15 years or for the life of the reservoir from which it is produced if less than 15 years: *Provided further*, That any natural gas sold or delivered in interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1977 pursuant to limited term certificates (5 years or less) or temporary emergency contracts shall not be considered, for the purpose of this provision, as having been committed to interstate commerce, or (B) (1) natural gas produced from a reservoir discovered on or after January 1, 1977 (including a reservoir discovered by the deeper drilling of an existing well), as determined by rule by the Commission, regardless of whether or not the leases covering such newly discovered reservoirs were committed by contract or otherwise dedicated to the interstate market or (2) natural gas produced from a well or wells initiated on or after January 1, 1977, and completed within an extension of a previously discovered reservoir, as determined by rule by the Commission, regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

"'(8) "Old natural gas" means natural gas sold or delivered in interstate commerce other than new natural gas.

"'(9) "Boiler fuel use" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(10) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule by the Commission.

"'(11) "Offshore Federal lands" means any land or subsurface area within the Outer Continental Shelf, as defined in section 2 (a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"'(12) "Intrastate commerce" means commerce within the United States other than interstate commerce.'.

"SEC. 5. Section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) is amended by adding at the end thereof the following new sentence: 'Nothwithstanding the foregoing, the Commission shall have no power to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale, except (A) to the extent that such rates or charges, or such portion thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company.'.

"SEC. 6. Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by striking the period at the end thereof and by adding the following: ': *Provided further*, That the Commission shall have no power (1) to deny, in whole or in part, any rate or charge made, demanded, or received by any natural-gas company for, or in connection with, the purchase or sale of new natural gas, or that portion of the rates and charges of such natural-gas company which relates to such purchase or sale except (A) to the extent that such rates or charges, or such portions thereof, for new natural gas sold or delivered from offshore Federal lands exceed the national ceiling or interim ceiling established or modified by regulation of the Commission pursuant to section 24 of this Act, or (B) in any case where a natural-gas company which transports natural gas in interstate commerce purchases new natural gas from an affiliate or produces new natural gas from its own properties, to the extent that the Commission determines that the rates

and charges therefor exceed the current rates and charges, or portion thereof, made, demanded, or received for comparable sales by persons not affiliated with such natural-gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas or new natural gas produced from offshore Federal lands by a natural-gas company if such rate or charge has been previously determined or deemed to be just and reasonable pursuant to this Act.'

"SEC. 7. Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end thereof the following new subsection:

"'(i) Subject to the provisions of section 24 of this Act, after the date of enactment of the Natural Gas Act Amendments of 1977, the provisions of this section shall not permit the Commission to condition the grant of, or to deny, a certificate of public convenience and necessity to a natural-gas company which transports natural gas in interstate commerce for the transportation in interstate commerce or for the sale in interstate commerce for resale of natural gas, or for the facilities used therefor, based on the price of new natural gas: *Provided, however,* That any contract for new natural gas shall be filed with the Commission by the purchasing natural-gas company which transports natural gas in interstate commerce.'

"SEC. 8. Section 14 of the Natural Gas Act (15 U.S.C. 717m) is amended by adding at the end thereof the following three new subsections:

"'(h) The Commission is further authorized and directed to conduct studies of the private or public exploration, production, sale, transportation, distribution, and consumption of natural gas, produced in the United States or in any State, whether or not otherwise subject to the jurisdiction of the Commission, and to make an annual independent estimate of total natural-gas reserves. The Commission shall, insofar as practicable, obtain and keep current information regarding (1) the ownership, operation, management, and control of all facilities for such exploration, production, sale, transportation, distribution, and consumption; (2) the independent estimate of total natural-gas reserves in the United States as required by this subsection, the current utilization of natural gas, and the relationship between the two; (3) the rates, charges, and contracts for natural-gas service to residential, rural, commercial, and industrial consumers, and private and public agencies; and (4) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense. Notwithstanding the provisions of section 1 of this Act (15 U.S.C. 717), the provisions of sections 20, 21, and 22 of this Act (15 U.S.C. 717s, 717t, and 717u) shall be applicable to the enforcement of this section. The Commission shall report annually to the Congress and shall publish and make available the results of studies, investigations, and estimates made pursuant to this subsection.

"'(i) In making studies, investigations, and reports pursuant to this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing agencies and other instrumentalities of the United States, of the several States, and of the natural-gas industry. Such agencies or instrumentalities of the United States shall cooperate with the Commission to the maximum extent practical to carry out the purposes of this subsection. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other agency or instrumentality of the United States.

"'(j) The reports and information made public by the Commission shall be so composited and published as to preserve the confidentiality of trade secrets and other proprietary information obtained by the Commission as provided by law.'.

"SEC. 9. The Natural Gas Act, as amended by the Natural Gas Act Amendments of 1977, is further amended by adding at the end thereof the following six new sections:

"'NATIONAL CEILING FOR RATES AND CHARGES

"'SEC. 24. (a)(1) The Commission shall by rule, as soon as practicable after the date of enactment of the Natural Gas Act Amendments of 1977, establish, and may from time to time modify, a national ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands on or after January 1, 1977, through December 31, 1982. In establishing such national ceiling, the Commission shall consider the following factors and only these factors:

"'(A) the prospective costs attributable to the exploration, development, production, gathering, and sale of new natural gas from offshore Federal lands;

"'(B) the rates and charges necessary to encourage the optimum levels of (i) the exploration for natural gas, (ii) the development, production, and gathering of natural gas, and (iii) the maintenance of proved reserves of natural gas;

"'(C) the promotion of sound conservation practices in natural-gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to consumers; and

"'(D) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of provisions (A) through (C) of this paragraph.

"'(2) The Commission shall monitor the national ceiling established pursuant to paragraph (1) or the interim ceiling established pursuant to paragraph (4) during the period such ceiling is in effect, and commencing on January 1, 1978, the Commission shall report to the Congress not less than annually on the effectiveness of such national ceiling or interim ceiling in meeting the factors set forth in paragraph (1).

"'(3) The Commission may authorize a person to charge an amount in excess of the national ceiling established pursuant to paragraph (1)(a) or the interim ceiling established pursuant to paragraph (4) for new natural gas produced from offshore Federal lands from any high cost production area or vertical drilling depth, as designated by the Commission by rule.

"'(4) Pending the establishment of a national ceiling pursuant to paragraph (1) by a final Commission order which is no longer subject to judicial review and within 30 days after the date of enactment of the Natural Gas Act Amendments of 1977, the Commission shall establish on a monthly bases an interim ceiling for rates and charges for new natural gas sold or delivered from offshore Federal lands which shall be effective January 1, 1977, and which shall be equivalent on a British thermal unit (Btu) basis to the average first sale price for new crude oil produced in the United States as determined by the Secretary of the Department of Energy or the Federal Energy Regulatory Commission pursuant to section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757). After the establishment of a national ceiling pursuant to paragraph (1) by final Commission order which is no longer subject to judicial review, any person who has sold or delivered new natural gas from offshore Federal lands during the period the interim ceiling price was in effect shall thereafter have the benefit of the national ceiling: *Provided, however,* That the Commission shall have no power to order a reduction in the rates and charges for such sale or delivery below the interim ceiling price in effect on the dates of the establishment of the national ceiling.

"'(5) From and after January 1, 1982, there shall be no ceiling price applicable to the sale or delivery of new natural gas from offshore Federal lands.

"'(6) No price established by or pursuant to the Natural Gas Act Amendments of 1977 for new natural gas produced from offshore Federal lands shall be retroactive so as to affect any price for any natural gas sold or delivered in interstate commerce prior to January 1, 1977.

"'(7) The rates and charges made, demanded, or received by any natural-gas company for, or in connection with, a contract for new natural gas sold or delivered from offshore Federal lands shall be deemed to be just and reasonable for the purposes of this Act, if they do not exceed the applicable national ceiling or interim ceiling established by regulation of the Commission, or subsequently modified by the Commission pursuant to this section, in effect at the time when such new natural gas is either first sold or first delivered under such contract to a natural-gas company.

"'(b)(1) Rates and charges for new natural gas sold or delivered from sources other than offshore Federal lands on or after January 1, 1977, shall not exceed on a British thermal unit (Btu) basis the current cost of Number 2 fuel oil, landed in New York, New York, as determined by the Commission.

"'(2) From and after two years subsequent to the date of enactment of the Natural Gas Act Amendments of 1977, there shall be no ceiling price applicable to the sale or delivery of new natural gas from sources other than offshore Federal Lands.

"'NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"'SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Act Amendments of 1977, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas as a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within 60 days of the date of enactment of the Natural Gas Act Amendments of 1977, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"'(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"'(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event

later than 120 days after the date such applications are accepted for filing.

"'(d) For purposes of this section the term "small user" means any person utilizing 50 Mcf or less on a peak day.

"'LIMITATION ON CURTAILMENT

"'SEC. 26. (a) Except as expressly provided in subsection (b) of this section, the Commission under the authority of this Act, shall not for a period of at least 10 years after the date of enactment of the Natural Gas Act Amendments of 1977 (1) modify, amend, or abrogate contracts entered into prior to January 1, 1977, for the sale or transportation of natural gas for boiler fuel use, (2) modify, amend, or abrogate the supply terms of certificates of public convenience and necessity issued pursuant to section 7 of this Act that authorize the sale or transportation of natural gas under such contracts, except upon application duly made by the holder of a certificate under section 7 of this Act; or (3) prevent, impair, or limit, either directly or indirectly, the deliveries under any such contract or certificate except upon application duly made by the holder of a certificate under section 7 of this Act.

"'(b) The provisions of this section shall not modify or limit the authority of the Commission to effectuate curtailments of natural gas transported and sold by a natural-gas company.

"'EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

"'SEC. 27. Any contract for or related to the sale of natural gas in interstate or intrastate commerce entered into after September 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sale of other natural gas.

"'SEC. 28(a)(1) The Commission may, by rule or order, authorize any interstate or intrastate pipeline to transport natural gas on behalf of any interstate or intrastate pipeline or local distribution company served by any interstate or intrastate pipeline, upon such terms and conditions, including provisions respecting fair and equitable prices, as the Commission deems appropriate. No person shall be subject to regulation under the Natural Gas Act, or as a common carrier under any provision of Federal or State law, by reason of the transportation of any natural gas authorized by the Commission under this subsection.

"'(2) For purposes of this subsection—

(A) The term "intrastate pipeline" means any person engaged in the transportation of natural gas by pipeline who is not subject to the jurisdiction of the Commission under this Act.

(B) The term "interstate pipeline" means any person engaged in the transportation of natural gas by pipeline who is subject to the jurisdiction of the Commission under this Act.

"'(6) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of this Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any transportation of natural gas authorized by the Commission under this subsection.

"'SEC. 29. INCREMENTAL PRICING. The Commission shall—

(a) Require all natural-gas companies with certificated facilities for transportation of natural gas to file reports at least annually with respect to (1) old natural gas, (2) new natural gas, and (3) synthetic or liquidified natural gas in such form and manner as to reflect the price and volumes received into such facilities.

(b) Consistent with the provisions of Sections 4, 5 and 7 of this Act, require that the costs of old natural gas be allocated for rate purposes to those users specified in Section 25(a) of this Act, including essential agricultural users until the rates or charges for natural gas for users not specified in Section 25(a) equal to reasonable cost of substitute fuel oil.

(c) In cases where the users identified in subsection (b) obtain natural gas supplies directly or indirectly from more than one natural-gas company, the Commission shall allocate the relative volumes attributable to such users for rate purposes among the supplying natural-gas companies.

(d) The Commission shall report to Congress annually on the effect of incremental pricing.

"SEC. 10. The Emergency Natural Gas Act of 1977 (15 U.S.C. ——) is amended as follows:

"(a) in section 2, by striking out in paragraph (4), the following: 'or which would be required to be so certificated but for section 1(c) of such Act';

"(b) in section 4(a)(1), by striking out 'April 30, 1977' and inserting in lieu thereof 'April 20, 1979';

"(c) in section 4(f)(2)(A), by striking out 'by August 1, 1977, to the maximum extent practicable,' and inserting in lieu thereof 'as expeditiously as practicable,';

"(d) in section 6(a), by striking out 'as the President determines' and inserting in lieu thereof 'which the President shall determine from time to time, in advance of any such sales';

"(e) in section 6(a), by striking out 'August 1, 1977' and inserting in lieu thereof 'April 20, 1979, and for a delivery period not to exceed 180 consecutive days';

"(f) in section 9(c), by striking out 'August 1, 1977' and inserting in lieu thereof April 20, 1979; and,

"(g) in section 12(b), by striking out 'October 1, 1977,', and inserting in lieu thereof 'January 1, 1978, and January 1, 1979,'".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Is this amendment in order, because it amends more than one section?

The PRESIDING OFFICER. An amendment to be struck down as amending more than one part of the bill must skip around in the bill. This amendment is a complete substitute, and the Chair rules it is in order.

The Senator from Kansas.

Mr. PEARSON. Mr. President, I did not seek recognition.

The PRESIDING OFFICER. The Chair apologizes to the Senator.

AMENDMENT NO. 1118 TO AMENDMENT NO. 862

Mr. METZENBAUM. Mr. President, I call up my amendment No. 1118.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 1118 to amendment No. 862.

Mr. METZENBAUM. Mr. President, I ask that further reading of the amendment be dispensed with.

Mr. ROBERT C. BYRD. Mr. President, may we please have stated what the amendment is?

The PRESIDING OFFICER. The Senator is correct. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

On page 3, line 25, after January 1, strike through line 5 on page 4 and insert "1978.".

Mr. METZENBAUM. Mr. President, this amendment is a substantive amendment which would change the definition with respect to extensions of previously discovered reservoirs.

While I am on my feet I want to make clear to Members of this body that all amendments offered by this Senator in the past several days have been substantive amendments which went to the heart of the legislation and not a dilatory proceeding. This one falls in the same category, and I hope the Senate will see to it to agree to the yeas and nays.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. PEARSON. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Kansas.

Mr. PEARSON. Mr. President, as I understand this amendment it modifies the definition of new gas in the Pearson-Bentsen proposal.

Mr. METZENBAUM. That is correct.

Mr. PEARSON. Not the modified Pearson-Bentsen proposal but the one that was existing prior to the modification.

Mr. METZENBAUM. That is correct.

Mr. PEARSON. Mr. President, let me say very briefly that the definition of new gas has one purpose, to provide additional supplies of gas into the interstate system. It provides, first, for gas sold in the interstate system for the first time after January 1, 1977; second, new reservoirs; and, third, extensions of new reservoirs, which is a determination made by the Federal Power Commission or its successor. We think this is essential. We think this is an essential part of the definition of new gas. I move to table the amendment of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. Mr. President, not really wishing to follow this procedure but not having any alternative available to me, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senators from Minnesota (Mr. ANDERSON and Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 428 Leg.]

YEAS—53

Allen	Glenn	Packwood
Baker	Goldwater	Pearson
Bartlett	Gravel	Percy
Bellmon	Griffin	Randolph
Bentsen	Hansen	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Sparkman
Curtis	Helms	Stevens
Danforth	Johnston	Stone
DeConcini	Laxalt	Talmadge
Dole	Long	Thurmond
Domenici	Lugar	Tower
Eastland	McClure	Wallop
Ford	Melcher	Weicker
Garn	Morgan	Young
	Nunn	Zorinsky

NAYS—41

Abourezk	Hart	McIntyre
Bayh	Haskell	Metzenbaum
Biden	Hathaway	Moynihan
Brooke	Hollings	Muskie
Bumpers	Huddleston	Nelson
Byrd, Robert C.	Inouye	Pell
Cannon	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Stevenson
Durkin	Matsunaga	Williams
Eagleton	McGovern	

NOT VOTING—6

Anderson	McClellan	Stafford
Humphrey	Metcalf	Stennis

So the motion to lay amendment No. 1118 on the table was agreed to.

Mr. KENNEDY addressed the Chair.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER (Mr. ZORINSKY). Is there a sufficient second?

There is not a sufficient second.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Is this a motion to table?

The PRESIDING OFFICER. It is.

The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senators from Minnesota (Mr. ANDERSON and Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 65, nays 30, as follows:

[Rollcall Vote No. 429 Leg.]

YEAS—65

Abourezk	Garn	Packwood
Allen	Glenn	Pearson
Baker	Goldwater	Pell
Bartlett	Gravel	Percy
Bellmon	Griffin	Proxmire
Bentsen	Hansen	Randolph
Biden	Hatch	Roth
Burdick	Hatfield	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schmitt
Byrd, Robert C.	Heinz	Schweiker
Chafee	Helms	Scott
Chiles	Huddleston	Sparkman
Cranston	Johnston	Stennis
Curtis	Laxalt	Stevens
Danforth	Leahy	Stone
DeConcini	Long	Talmadge
Dole	Lugar	Thurmond
Domenici	McClure	Tower
Eagleton	Melcher	Wallop
Eastland	Morgan	Weicker
Ford	Muskie	Young
	Nunn	Zorinsky

NAYS—30

Bayh	Haskell	McGovern
Brooke	Hathaway	McIntyre
Bumpers	Hollings	Metzenbaum
Cannon	Inouye	Moynihan
Case	Jackson	Nelson
Church	Javits	Ribicoff
Clark	Kennedy	Riegle
Culver	Magnuson	Sarbanes
Durkin	Mathias	Stevenson
Hart	Matsunaga	Williams

NOT VOTING—5

Anderson	McClellan	Stafford
Humphrey	Metcalf	

So the motion to table the motion to reconsider was agreed to.

AMENDMENT NO. 1361

Purpose: "Data" amendment with administration definition of new gas.

Mr. KENNEDY. Mr. President, I call up amendment No. 1361 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment No. 1361 to amendment No. 862.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717(a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (17) through (19), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means natural gas—

(1) which is produced from a new lease; or

(2) which is produced (other than from a new lease)—

(A) from a new well—

(i) which is 2.5 statute miles or more (horizontal distance) from any old well, and

(ii) the completion location of which is in a newly discovered reservoir; or

(B) from a new well the completion location of which—

(i) is 1,000 or more feet deeper than the deepest completion location of any old well which is within 2.5 statute miles (horizontal distance) of such new well, and

(ii) is in a newly discovered reservoir; and was produced by a qualified producer.

"'(8) 'Reservoir' means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) 'Newly discovered reservoir' means any reservoir which was first penetrated by a well the surface drilling of which commenced after April 20, 1977.

"'(10) 'Old well' means any well other than a new well.

"'(11) 'Qualified producer' means a producer which has publicly disclosed such items related to costs, expenses, taxes, natural gas production and discovered reserves for the past ten years and annually for every year thereafter according to rules and regulations as the Commission may promulgate.

"'(12) 'Old natural gas' means natural gas other than new natural gas.

"'(13) 'Boiler fuel use of natural gas' means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(14) 'Affiliate' means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(15) 'Offshore Federal lands' means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(16) 'Intrastate Commerce' means commerce within the United States other than interstate commerce."

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, this amendment, in addition to redefining new gas in the Pearson-Bentsen amendment, would permit the deregulated price only to firms that publish basic data which include the costs, the expenses, the taxes, the production, and reserves.

It is basically an information-oriented amendment. Most of these data are published at the present time by the independent gas companies in their annual reports. They generally do an absolutely superb job.

But the integrated companies fail, I think, to meet a similar standard, despite the fact that we have passed important information- and data-gathering provisions in the Petroleum Allocation Act and in the 1975 Energy Policy and Conservation Act.

The integrated companies can basically hide behind a consolidation of various reports. If we are going to deregulate under the Pearson-Bentsen amendment, it seems to me we ought to be entitled, and the public ought to be entitled to know the effect of deregulation. We are entitled to know the facts.

We do not want to find ourselves in the mid-1980's in cold houses with gas at $5 per Mcf and not really know what has happened or be able to assess why.

I know, Mr. President, there are those who believe there are already existing provisions in the current legislation to provide such information. But all you have to do, Mr. President, is to inquire of the Federal Trade Commission or the Federal Power Commission to find that the investigations have been going on for years, while their requests for information, for raw data, have been contested by the major integrated companies and tied up in the courts. Still this information is not available.

During the course of our discussion we are constantly talking about the resources which are available, the amount of natural gas in reserves, those areas which lend themselves to future production. But one of the reasons we do not have as clear a definition as we would like is because the major oil companies and gas companies refuse to provide that kind of information.

Mr. President, we hear the argument made that it is unreasonable to demand that we have such information, that it impinges on proprietary interests of the gas companies. But, the fact of the matter is, if we look at what happens up in Alberta, Canada, the oil and gas province of Canada, we find they have virtually similar requirements of all the oil and gas companies that drill in that area, and they work. Those data requirements work very effectively, and the public benefits.

It is in an attempt to derive that kind of information for the American public that this amendment is proposed.

Mr. President, it is very clear, as I mentioned earlier, that the independent gas companies are already providing much of this information to the Government. They do not have reluctance, nor have they really been resistant, to providing the kind of vital information so that informed judgments can be made. It is the major integrated companies stonewalling the Government and the public.

All this amendment says is if you are going to benefit under deregulation, you are going to have to provide information which should be available to the American public, since energy is such an absolutely essential aspect of the American economy and American life. If we are going to provide windfall-type incentives to this major industry, the American people are entitled to the information. Make no mistake about it, they are not going to get the information under the current language of Pearson-Bentsen.

Finally, this amendment also attempts, under the definition of new natural gas, to close the loophole that exists under the Pearson-Bentsen amendment. Senator HASKELL offered an amendment last evening which begins to address that issue and I will offer one that will deal more precisely with that, although the new natural gas provisions would be defined as well in this amendment.

Those essentially are the provisions of this amendment, and I hope that the amendment will be accepted.

Mr. President, I am prepared to withhold the remainder of my time and move to a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BENTSEN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 430 Leg.]

YEAS—50

Allen	Glenn	Pearson
Baker	Gravel	Percy
Bartlett	Griffin	Randolph
Bellmon	Hansen	Roth
Bentsen	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Chafee	Hayakawa	Scott
Chiles	Heinz	Sparkman
Curtis	Helms	Stennis
Danforth	Johnston	Stevens
DeConcini	Laxalt	Stone
Dole	Long	Talmadge
Domenici	Lugar	Thurmond
Eastland	McClure	Tower
Ford	Melcher	Wallop
Garn	Morgan	Weicker
	Packwood	Young

NAYS—44

Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Huddleston	Nunn
Burdick	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Cannon	Javits	Ribicoff
Case	Kennedy	Riegle
Church	Leahy	Sarbanes
Clark	Magnuson	Sasser
Cranston	Mathias	Stevenson
Culver	Matsunaga	Williams
Durkin	McGovern	Zorinsky
Eagleton	McIntyre	

NOT VOTING—6

Abourezk	Humphrey	Metcalf
Goldwater	McClellan	Stafford

So the motion to lay Mr. KENNEDY's amendment No. 1361 on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the vote on that particular amendment was very close. We have better participation by the Members. Basically, what we were attempting to do with the last amendment was to build the deregulated price only for the gas companies that were going to provide for the American people information on their reserves and also on their production. That information is not now available. No one can sit through the long hearings listening to members of the Federal Trade Commission or the Federal Power Commission, which have been trying to gain this information, and not realize that we do not have the mechanism or the device to be able to obtain that information.

The PRESIDING OFFICER. Will the Senator from Massachusetts suspend for one moment? The Senate is not in order. Will Senators please cease their conversations.

The Senator from Massachusetts.

AMENDMENT NO. 1365

Mr. KENNEDY. Mr. President, I call up my amendment No. 1365 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 1365.

The amendment is as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

"SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717 (a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (15) through (17), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means natural gas produced from any reservoir which was not discovered to contain natural gas by the drilling of a well on or before April 20, 1977, and is produced and sold by a qualified producer.

"'(8) "Reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) Qualified producer means a producer which invests each year in exploration for natural gas in areas not yet proven to contain natural gas by drilling, an amount equal to the highest amount expended for such purposes in any of the past ten calendar years, plus all net receipts accruing to it as a result of natural gas sales at prices in excess of $1.45 per Mcf.

"'(10) "Old natural gas" means natural gas other than new natural gas.

"'(11) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(12) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(13) "Offshore Federal lands" means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2 (a)

of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(14) "Intrastate Commerce" means commerce within the United States other than interstate commerce."

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, this is a relatively short and uncomplicated amendment. What it provides is to insure that the profit from the increased prices of deregulated natural gas are going to be plowed back into new exploration for natural gas in this country. This is basically a plowback provision for the Pearson-Bentsen amendment.

During the course of the debate we heard a great deal about how we need to provide the additional incentive that is going to be provided by the free market area, which is an argument which I think many of us have contested. But, nonetheless, there have been those who have supported the Pearson-Bentsen deregulation feeling that it was going to provide a substantial increase in profits which is going to be available for increased exploration.

What this particular amendment would do is to insure that the excessive profits from marketing would be placed back into exploration. I think it is entirely fair and entirely just if we are talking about trying to devise a gas policy which is going to benefit the American people and also provide a reasonable return.

We have heard during the course of the debate for the past few days that we should be less concerned either about the structure of the independent gas industry, or what they are going to actually benefit in terms of price, and that what we ought to be interested in is how to insure that we are devising a national energy policy that is going to produce the greatest amount of energy, in this case natural gas.

This particular amendment will insure that we will have the additional resources committed to exploration. It will require that those resources above the fair and reasonable return will actually be plowed back into exploration for natural gas in areas not yet proven to contain natural gas by drilling.

It seems to me that this is a desirable, worthwhile, and valuable addition to the Pearson-Bentsen amendment.

So, Mr. President, I would hope this amendment would be accepted.

Mr. PEARSON. Will the Senator yield for a question on my time?

Mr. KENNEDY. Yes.

May we have order, Mr. President?

Mr. PEARSON. Is this amendment to the original bill or to the Pearson-Bentsen substitute?

Mr. KENNEDY. This is an amendment to the Pearson-Bentsen amendment.

Mr. PEARSON. And it provides that all earnings shall be plowed back into further exvploration and development over a certain percentage of profits?

Mr. KENNEDY. That is right. All the earnings above the $1.45 figure would be used for exploration. That is really what we are attempting to insure, that we are going to get the greatest degree of production.

This would insure the plowing back of those profits that would go to the gas companies which are being justified here as an additional incentive to look into new areas. It seems to me this would be the best way, if we are going to go the route of Pearson-Bentsen, to assure that the greatest amount of resources would be available for exploration for natural gas.

Mr. PEARSON. What is the provision if the producer does not plow back, if he refuses to comply with the mandate of this particular amendment?

Mr. KENNEDY. It is not a very serious one. It is only that they lose the benefit of the deregulated Mcf figure.

Mr. PEARSON. Or all deductions that they may acquire?

Mr. KENNEDY. If they do not plow back, that is. The principal reason for Pearson-Bentsen, as I understand it from the author, is that it is the best device to increase production because of the expansion of the revenues which will be gained. This amendment is to insure that those revenues will actually be used in exploration. Is it not the intention of the author of Pearson-Bentsen that the additional increase in price will be so used?

Mr. PEARSON. The Senator is correct. I want to understand his amendment. As I understand it now——

Mr. KENNEDY. The Senator has no objection to accepting the amendment?

Mr. PEARSON. We will see about that. As of now, if a producer fails to plow back, he loses the deregulated price on all of his production?

Mr. KENNEDY. I would rather state it a different way. I would rather state that when he does plow that back, he is eligible for the extraordinary benefits of Pearson-Bentsen. I think that is probably a more appropriate way of explaining it.

Mr. PEARSON. I thank the Senator.

Mr. KENNEDY. The author of the amendment indicated that he expects the benefits of his proposal above the $1.45 will be plowed back and there will be new exploration. There really should not be any reason for him not to accept this amendment.

Mr. DECONCINI. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield.

Mr. DECONCINI. Is it the intent of this amendment that the producers would be able to have enough incentive and enough profit at the regulated interstate price? That is where the price would be. All gas would be regulated at the interstate price. This provides they plow back any profits above that?

Mr. KENNEDY. The Senator is correct. It would be at basically the interstate price.

Mr. DECONCINI. At the interstate price?

Mr. KENNEDY. Well, the ones that would not be would be at the $1.45, but anyone who obviously plows this back is going to be under the deregulated price. So anybody who plows back is going to be eligible for the deregulated price. I think it was going to go up to either $3, $4, or $5 per Mcf, but if they do not plow back then they come back to the reasonable price, which at the present time is $1.45.

Mr. DECONCINI. Will the Senator yield for another question?

Mr. KENNEDY. Yes.

Mr. DECONCINI. Is there any time limit after which this would cease, such as 5 years, or any anticipation of that? Would this just continue?

Mr. KENNEDY. There are two questions on that. I think if there is going to be compliance with the provisions, they would be automatically eligible so in that sense it is a continuing factor. On the other part of it, which is the regulated price, that is recalculated by the commissioner. So that, I imagine, would go up. It would certainly be my intention that it would go up by the inflationary factor. The other amendment we offered on that, the previous amendment, had the inflator factor built into it. I understand that the Federal Power Commission makes those judgments on an annual basis based on various factors and that they would certainly include the inflator factor. So if they do not comply, they are back to any variance of the $1.45 increase.

Mr. DECONCINI. I thank the Senator.

Mr. BENTSEN. Will the Senator yield for a question?

Mr. KENNEDY. Could the Senator use his time for a question and I will use my time for the answer, if that is agreeable?

Mr. BENTSEN. I did not know this was done. That is not the customary procedure. I have been yielding for questions. It is truly a question and not a speech.

Mr. KENNEDY. I yield for the question.

Mr. BENTSEN. I would like to know how the provision would work when the Senator refers to an amount being spent that would be the highest amount spent in any of the past 10 calendar years, and it must be in areas in which they have not found natural gas. It seems to me that would be a little difficult and arduous. I said I would not make a speech. Will the Senator respond?

Mr. KENNEDY. That effectively sets the base which its future investment would be based upon. So in looking back, we would have to add any of the additional revenues that would come from deregulation; they would have to be added into that. What we would do is use the base. Yet we would use the carrying forward of the resources that would be gained by deregulation. That will, I think, be much more expanded than the Senator from Texas believes.

In any event, whatever those figures would be, you would use the 10-year base, figuring that that would be the highest of that time. That would be the base figure from which it would come.

Br. BENTSEN. If I may comment on my own time, I think what we end up with is a very complicated procedure

that gives no consideration at all for a man's cash flow in the business and what might be his financing concerns, and the determination of the terms of that financing is, therefore, very difficult in this application.

Mr. KENNEDY. The only point is that it would be required that he spend as much time as he has spent in the past on it. If he has been spending that, it seems to me to be a reasonable expectation. If the purpose of this policy is to find new areas, we expect him to expend that and do as well in the future as he has in the past.

Mr. SCHMITT. Will the Senator yield for a question?

Mr. KENNEDY. Will the Senator use his time for the question and use my time for the answer?

Mr. SCHMITT. I did not know I was establishing a precedent, most people having yielded for questions, but I shall be happy to.

On the Senator's proposal, which I have not been able to get a copy of yet, would he explain what happens if the cost of production of gas is greater than $1.45? Does not his proposal result in a disincentive to invest if his cost of production is higher? Really, it is just a back door means of doing exactly what the Pearson-Bentsen amendment is trying not to do.

Mr. KENNEDY. What we are talking about is, basically, exploration costs. I think that that would make it easier for the particular company to comply, to spend as much as they did in the past.

Mr. SCHMITT. We cannot attract investment in the drilling, which is the whole problem we have in the production of gas, unless we can realize a profit. If the cost would be greater than $1.45, I believe the Senator's proposal would act as a disincentive for investment.

Mr. KENNEDY. This amendment is very simple. As they get an increase, in terms of the deregulated price, they are going to have a requirement that that is going to have to be poured back into continued exploration on it. We have set out how that is going to be measured, which will provide, obviously, a reasonable return on the investment, but will insure that the inflated price that is going to be passed on to consumers—which is, I think, not going to be reflective of traditional market forces—is going to be plowed back into additional exploration fo resources.

It seems to me that that is the minimum that we ought to expect from a highly inflated source.

Mr. SCHMITT. I do not believe prices are going to be highly inflated, but the point I am trying to make with this question is that, if the Senator's amendment were adopted, as I understand it, then any earnings above $1.45, gross earnings, would have to be plowed back into exploration.

I am a supporter of a plowback provision, but it has to be above a certain reasonable return on investment that should be invested in exploration. Without a reasonable return on investment, the drilling will not proceed and we will not get an increase in supply for the marginal or higher-cost frontier area. I am afraid the Senator's amendment would not accomplish anything other than a restriction to areas in which the costs are $1.45 or less. That is not what we want to do. We want to increase exploration in as marginal areas as we can, increase exploration of deposits that may come in at costs quite a bit higher than $1.45, but for which there is a sales market available for the gas so produced.

I recommend that my colleagues vote either against the amendment or for a tabling motion.

Mr. KENNEDY. Will the Senator give me a chance to respond?

The procedure we outline here is basically almost the identical procedure which would be used by the independent gas companies in their exploration. It is basically what is being followed now as a practice and procedure. They do not have the kind of problem that the Senator has expressed here. Some of the others, such as the integrated companies, do.

The fact remains that there is going to be more and more in terms of return above what is a reasonable price. I am sure that, to the Senator from New Mexico, $1.45 is not a reasonable price. On the bottom side, we are going to have that price gradually increased. It is to be reviewed at an annual basis to reflect the inflated factors, to arrive at a reasonable price. But as more and more gets returned to the gas companies, there is the expectation that what is going to be above the reasonable price is going to have to be returned in terms of exploration. The Senator is correct in understanding that as the thrust of this amendment.

I just say, finally, that it is basically the procedure which is being followed by the independent gas companies, which are the most competitive in the oil and gas industry today. They do not feel it is too much of a burden, quite frankly. Others, such as the integrated companies, do. That is basically my response.

I am going to reserve the remainder of my time.

Mr. SCHMITT. If the Senator will yield, I submit that there will be no independent gas producers if the independent is going to produce gas at a price higher than $1.45 and if he has to plow back every bit of that extra price into the ground. He has to be able to offer his investors and himself a return on investment. If it happens to cost $2 to bring some gas in and we adopt the Senator's amendment, that investment is not going to be made in that higher cost gas reservoir.

So, again, I suggest that it is not really a plowback provision at all; it is a disincentive for future investment.

Mr. KENNEDY. This Senator understands and the Senator from New Mexico may correct me if I am wrong—what is the practice in New Mexico in terms of the independent gas companies? It is my understanding—and if I am wrong, I would be glad to be corrected—with regard to the independents, that they are the part of the oil and gas industry which is by far the most competitive. Generally, as a rule, as a practice, they are reinvesting just about all of their profits in exploration. All we are trying to do is insure that the rest of the industry is going to follow what is already the practice in the most competitive aspect of the oil and gas industry.

Mr. SCHMITT. I realize the Senator is not a geologist or a minerals economist but, over a period of time, it does not make sense to plow back everything you earn over costs or, even, as in the case of the Senator's amendment, plow back more than what you earn over cost. That just does not make sense. No independent in New Mexico would do that consistently over any period of time, or anywhere else in this country.

For a limited period of time, in anticipation of increased return at some later time, you may actually spend more than you are making. You may plow back more than you are earning, but if you do it over an indefinite period of time, you are going to go out of business. You are certainly not going to attract any stockholders.

Once again, I urge that the amendment not be adopted and that we not be fooled that this is a realistic plowback provision. I think many of the Senators who support Pearson-Bentsen believe in some form of plowback provision, but this is not the form it should take.

Mr. THURMOND. Mr. President, I ask unanimous consent that Hargrave McElroy of my staff be permitted the privilege of the floor throughout consideration of this bill.

THE PRESIDING OFFICER. (Mr. CHILES). Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I want to say to the Senator that I do not want to limit his development of the idea in his amendment, but if he has completed his presentation, I want to advise him that I shall be moving to table.

Mr. President, I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The motion before the Senate is a motion to table.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 38, as follows:

[Rollcall Vote No. 431 Leg.]

YEAS—56

Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Griffin	Roth
Bentsen	Hansen	Sasser
Burdick	Haskell	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
	Hayakawa	Scott
Cannon	Helms	Sparkman
Chafee	Huddleston	Stennis
Chiles	Johnston	Stevens
Church	Laxalt	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Talmadge
Dole	Mathias	Thurmond
Domenici	McClure	Tower
Eastland	Melcher	Wallop
Ford	Morgan	Weicker
Garn	Packwood	Young

NAYS—38

Anderson	Hart	Metzenbaum
Bayh	Hatfield	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Nunn
Byrd, Robert C.	Jackson	Pell
Case	Javits	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Leahy	Riegle
Culver	Magnuson	Sarbanes
DeConcini	Matsunaga	Williams
Durkin	McGovern	Zorinsky
Eagleton	McIntyre	

NOT VOTING—6

Abourezk	Humphrey	Metcalf
Heinz	McClellan	Stafford

So the motion to lay Mr. KENNEDY's amendment (No. 1365) on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. The Senator from Vermont does not seek recognition.

QUORUM CALL

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the roll to ascertain the presence of Senators.

The assistant legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 36 Leg.]

Allen	Curtis	Helms
Anderson	Danforth	Hollings
Baker	DeConcini	Huddleston
Bartlett	Dole	Inouye
Bayh	Domenici	Jackson
Bellmon	Durkin	Javits
Bentsen	Eagleton	Johnston
Biden	Eastland	Kennedy
Brooke	Ford	Laxalt
Bumpers	Garn	Leahy
Burdick	Glenn	Long
Byrd, Harry F., Jr.	Goldwater	Lugar
	Gravel	Magnuson
Byrd, Robert C.	Griffin	Mathias
Cannon	Hansen	Matsunaga
Case	Haskell	McClure
Chafee	Hatch	McGovern
Chiles	Hatfield	McIntyre
Church	Hathaway	Melcher
Clark	Hayakawa	Metzenbaum
Cranston	Heinz	Morgan
Moynihan	Riegle	Stone
Muskie	Roth	Talmadge
Nelson	Sarbanes	Thurmond
Nunn	Sasser	Tower
Packwood	Schmitt	Wallop
Pearson	Schweiker	Weicker
Pell	Scott	Williams
Percy	Sparkman	Young
Proxmire	Stennis	Zorinsky
Randolph	Stevens	
Ribicoff	Stevenson	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 1039

The question is on agreeing to the amendment of the Senator from Texas (putting the question). The "yeas" appear to have it. The amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I was seeking recognition before the Chair announced the vote.

The PRESIDING OFFICER. If the Senator was seeking recognition before the result was announced, he has a right to recognition, and the Chair's announcement that the amendment was agreed to is nullified.

Mr. ROBERT C. BYRD. I thank the Chair. I think, Mr. President, that on an amendment of this significance, the sponsors of the amendment and those who are opposed to it ought to be present and be aware that a vote is occurring.

Mr. PEARSON. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. ROBERT C. BYRD. I yield.

Mr. PEARSON. What is the pending business?

The PRESIDING OFFCIER. The amendment of the Senator from Texas, cosponsored by the Senator from Kansas, numbered 1039.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would just like to point out to the Members of the Senate that there is not a Senator, other than the sponsors, who have had an opportunity to read this amendment. It is not printed and not available. It has not been available at the desk. It would be totally irresponsible, in my judgment, to vote on an amendment of this nature without Senators having a chance to read it and see its contents.

Mr. ROBERT C. BYRD. Mr. President, the Chair acted properly. When a quorum was established, the Chair acted properly in putting the question, but I felt——

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Wait a minute, I have the floor.

I thought that an amendment of this magnitude should certainly have more Senators on the floor than were present, or at least not be passed by voice vote with so few Senators on the floor.

Now I yield the floor.

AMENDMENT NO. 915

Mr. METZENBAUM. Mr. President, I call up amendment No. 915. In doing so, I would like to advise that one reason why I am calling it up at this time is that I think the Senator from Washington (Mr. JACKSON) has a strong interest in this amendment. It is to the substitute amendment (No. 862) of the Senator from Texas (Mr. BENTSEN), and I think the Pearson-Bentsen amendment should not be considered without it.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 915 to amendment No. 862:

On page 3, strike all of lines 12 through line 17 and insert in lieu thereof "That".

Mr. DURKIN. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. Mr. President, this is a substantive amendment, limiting what would happen. If we enact this amendment, it would make it possible that that which is new natural gas today be delivered in an interstate market on an emergency basis. Otherwise that which is truly interstate gas at this moment would be classified as domestic, intrastate gas in the future. It is appropriate; I urge the adoption of the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STONE. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 915) of the Senator from Ohio (Mr. METZENBAUM). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CULVER), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 37, as follows:

[Rollcall Vote No. 432 Leg.]

YEAS—56

Allen	DeConcini	Hayakawa
Baker	Dole	Heinz
Bartlett	Domenici	Helms
Bellmon	Eastland	Johnston
Bentsen	Ford	Laxalt
Burdick	Garn	Long
Byrd, Harry F., Jr.	Glenn	Lugar
	Goldwater	McClure
Byrd, Robert C.	Gravel	Melcher
Cannon	Griffin	Morgan
Chafee	Hansen	Nunn
Chiles	Haskell	Packwood
Curtis	Hatch	Pearson
Danforth	Hatfield	Percy

Randolph	Stennis	Tower
Roth	Stevens	Wallop
Schmitt	Stone	Weicker
Schweiker	Talmadge	Young
Scott	Thurmond	Zorinsky

NAYS—37

Anderson	Huddleston	Muskie
Bayh	Inouye	Nelson
Biden	Jackson	Pell
Brooke	Javits	Proxmire
Bumpers	Kennedy	Ribicoff
Case	Leahy	Riegle
Church	Magnuson	Sarbanes
Clark	Mathias	Sasser
Cranston	Matsunaga	Sparkman
Durkin	McGovern	Stevenson
Eagleton	McIntyre	Williams
Hathaway	Metzenbaum	
Hollings	Moynihan	

NOT VOTING—7

Abourezk	Humphrey	Stafford
Culver	McClellan	
Hart	Metcalf	

So the motion to lay on the table Mr. METZENBAUM's amendment (No. 915) was agreed to.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Mr. JACKSON. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on S. 1811, the ERDA Authorization Act of 1978. Mr. President, this is a very important matter.

Without objection, the Presiding Officer (Mr. SARBANES) laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 1811) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JACKSON. I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. BUMPERS, Mr. ABOUREZK, Mr. FORD, Mr. DURKIN, Mr. MATSUNAGA, Mr. HANSEN, Mr. HATFIELD, Mr. DOMENICI, Mr. MCCLURE, and Mr. BARTLETT, conferees on the part of the Senate.

AUTHORIZATION FOR COMMITTEE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration may have until October 17 to report the results of a review of laws relating to contributions solicited from or made by officers and employees of the Senate pursuant to Senate Resolution 110.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued consideration of the bill.

Mr. DURKIN. Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. DURKIN. I yield to the Senator from Ohio for the purpose of a unanimous-consent request.

Mr. GLENN. I ask unanimous consent that Rick Ross of my staff may have the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I yield to the Senator from Ohio to call up an amendment.

Mr. PEARSON. Will the Senator yield? I would like to get the yeas and nays on the pending business, amendment No. 1039. Will the Senator yield for that purpose?

Mr. METZENBAUM. Will the Senator be good enough to tell us what amendment No. 1039 is?

Mr. PEARSON. It is the Pearson-Bentsen modification, which is now the pending business. I would like to get the yeas and nays ordered on it.

Will the Senator yield for that purpose?

Mr. METZENBAUM. Yes.

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays on amendment No. 1039? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURKIN and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. DURKIN. I yield to the Senator from Ohio to call up his amendment.

The PRESIDING OFFICER. Without objection, the Chair recognizes the Senator from Ohio.

AMENDMENT 1074

Mr. METZENBAUM. Mr. President, I call up amendment No. 1074 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment.

On page 11, strike lines 4 through 10.

Mr. METZENBAUM. Mr. President, this is a very simple amendment, which would eliminate from the bill a provision making it possible for persons to charge an amount in excess of the national ceiling which has been established pursuant to law. I think there is no real reason to permit anything to go over and above that which is permitted under the provisions of the law as proposed.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 31, nays 64, as follows:

[Rollcall Vote No. 433 Leg.]

YEAS—31

Anderson	Huddleston	Muskie
Biden	Inouye	Nelson
Church	Jackson	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Leahy	Riegle
Culver	Magnuson	Sarbanes
DeConcini	Matsunaga	Stevenson
Durkin	McGovern	Williams
Hart	McIntyre	Zorinsky
Hathaway	Metzenbaum	
Hollings	Moynihan	

NAYS—64

Allen	Ford	Nunn
Baker	Garn	Packwood
Bartlett	Glenn	Pearson
Bayh	Goldwater	Pell
Belimon	Gravel	Percy
Bentsen	Griffin	Randolph
Brooke	Hansen	Roth
Bumpers	Haskell	Sasser
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Cannon	Heinz	Sparkman
Case	Helms	Stennis
Chafee	Javits	Stevens
Chiles	Johnston	Stone
Curtis	Laxalt	Talmadge
Danforth	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Wallop
Eagleton	McClure	Weicker
Eastland	Melcher	Young
	Morgan	

NOT VOTING—5

Abourezk	McClellan	Stafford
Humphrey	Metcalf	

So Mr. METZENBAUM's amendment No. 1074 was rejected.

Mr. DURKIN and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1075

Mr. METZENBAUM. Mr. President, I call up amendment No. 1075.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment numbered 1075:

On page 12, line 8, strike everything after "ceiling" through line 12 and insert a period.

Mr. METZENBAUM. Mr. President, Senators have just voted against an amendment that would prohibit charging prices higher than the national ceiling price. The bill contains a proviso that would prevent the commission from setting rates lower than the interim ceiling price. This is a substantive amendment. It is the reverse of the amendment the Senate just rejected. If the other one should have been defeated, then this one should be adopted. I urge its adoption.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 37, as follows:

[Rollcall Vote No. 434 Leg.]

YEAS—56

Allen	Garn	Pearson
Baker	Glenn	Percy
Bartlett	Goldwater	Randolph
Bellmon	Gravel	Roth
Bentsen	Hansen	Sasser
Burdick	Haskell	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
Byrd, Robert C.	Hatfield	Scott
Chafee	Hayakawa	Sparkman
Chiles	Heinz	Stennis
Church	Johnston	Stevens
Curtis	Laxalt	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	McClure	Wallop
Eastland	Melcher	Weicker
Ford	Morgan	Young
	Packwood	Zorinsky

NAYS—37

Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Huddleston	Nelson
Brooke	Inouye	Nunn
Bumpers	Jackson	Pell
Cannon	Javits	Proxmire
Case	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Matsunaga	Stevenson
Durkin	McGovern	Williams
Eagleton	McIntyre	
Hart	Metzenbaum	

NOT VOTING—7

Abourezk	Humphrey	Stafford
Griffin	McClellan	
Helms	Metcalf	

So Mr. HANSEN's motion to lay on the table Mr. METZENBAUM's amendment (No. 1075) was agreed to.

AMENDMENT NO. 909

Mr. BUMPERS. Mr. President, I call up printed amendment No. 909 which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes amendment No. 909 to amendment No. 862.

On page 11, line 24, strike the words "Secretary of the Department of Energy or the".

Mr. BUMPERS. Mr. President, this amendment is designed to cure a possible overlap of jurisdiction and, therefore, confusion.

Under the Pearson-Bentsen amendment, the Pearson-Bentsen amendment allows either the Secretary of the Department of Energy or the Federal Energy Regulatory Commission to determine the new crude oil equivalent price on which prices for new natural gas developed offshore will be based.

This amendment simply strikes the Secretary from it and leaves the authority with the Commission.

It is not a big amendment but has the potential for eliminating what all of us complain about constantly and that is the duplicitous nature of the regulatory agencies, the overlapping of regulatory agencies.

Obviously if the Secretary and the Commission both—and the Commission is supposed to be fairly independent—but if both of them have the right to determine the Btu equivalent price on which the price of offshore gas is going to be based there is the potential for conflict and confusion, overlapping and delayed decisions. So my amendment simply takes the Secretary out of the business and leaves it with the Commission where I think it properly should be.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, will the Senator yield for a question on my own time?

Mr. BUMPERS. The Senator from Texas asked me to yield for a question on his time. I am pleased to yield.

Mr. BENTSEN. My understanding is leave it with the Commission and not have it as a possible conflict between the two; is that correct?

Mr. BUMPERS. That is correct.

Mr. PEARSON. Mr. President, will the Senator yield on my time?

Mr. BUMPERS. I yield.

Mr. PEARSON. I might say to the Senator that as I understand it, I would have no objection to the Senator's amendment. We drafted it in the alternative to make it comply with the act creating the Department of Energy where the Secretary in some cases gets into the fixing of prices for emergency powers. If I understand the Senator's amendment he would place it in the regulatory agency rather than the Secretary; is that correct?

Mr. BUMPERS. It takes away the possibility of the Secretary having the power because right now it is vested in both. It says either the Secretary or the Commission.

Mr. PEARSON. To repeat, I have no objection to the Senator's amendment. We drafted it in that way, as I understand it, to comply with the wording and the structuring of the Department of Energy.

Mr. BENTSEN. The Senator from Texas has no objection.

Mr. BUMPERS. Mr. President, I am most reluctant to take the time of the Senate when this amendment could be agreed on. To be candid with Senators, I asked for the yeas and nays and have a sufficient second. Senator METZENBAUM is off the floor right now. So I will have to insist on a rollcall vote until he gets back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from New Hampshire (Mr. MCINTYRE), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Nevada (Mr. LAXALT), are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 62, nays 31, as follows:

[Rollcall Vote No. 435 Leg.]

YEAS—62

Abourezk	Ford	Packwood
Allen	Garn	Pearson
Anderson	Griffin	Pell
Baker	Hansen	Proxmire
Bayh	Hart	Randolph
Bentsen	Hatch	Riegle
Biden	Hatfield	Roth
Bumpers	Hathaway	Sarbanes
Burdick	Hayakawa	Sasser
Byrd, Harry F., Jr.	Heinz	Schmitt
Cannon	Huddleston	Schweiker
Case	Kennedy	Sparkman
Chafee	Leahy	Stevens
Church	Matsunaga	Stevenson
Clark	McClure	Stone
Cranston	McGovern	Thurmond
Culver	Melcher	Wallop
Danforth	Metzenbaum	Weicker
Dole	Moynihan	Williams
Domenici	Muskie	Young
	Nelson	Zorinsky

NAYS—31

Bartlett	Gravel	Mathias
Bellmon	Haskell	Morgan
Brooke	Helms	Nunn
Byrd, Robert C.	Hollings	Percy
Chiles	Inouye	Ribicoff
Curtis	Jackson	Scott
DeConcini	Javits	Stennis
Durkin	Johnston	Talmadge
Eagleton	Long	Tower
Eastland	Lugar	
Glenn	Magnuson	

NOT VOTING—7

Goldwater	McClellan	Stafford
Humphrey	McIntyre	
Laxalt	Metcalf	

So Mr. BUMPERS' amendment (No. 909) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator from Indiana.

Mr. BAYH. Mr. President. I have not had much to say in the debate in which the Senate has been engaged today. I have some thoughts I would like to express. I was going to express them earlier today in the reasonable proximity of an amendment proposed by our distinguished colleague from Massachusetts (Mr. KENNEDY) on the question of divestiture, which I believe ties in closely with what we have been discussing. At that time my remarks were shut off by a motion to table by our distinguished colleague from Texas, who, of course, was within his right to do that. I intend at this time to express myself on this issue. I would say to my colleagues who may have elsewhere to go that my remarks will probably take somewhere between 15 and 20 minutes. I do not intend to call up any amendment so, for the sake of convenience, they might be able to do something which will not require them to be here.

Mr. President, I have heard a great deal of very conscientious discussion from all of our colleagues relative to their concern about the energy problem to which we are addressing ourselves. It is amazing to me how men of equally good purpose can be as far apart as some of us are on what the solution to a common problem is.

The distinguished Senator from Texas (Mr. BENTSEN) and the distinguished Senator from Kansas (Mr. PEARSON), both of whom I have a great deal of respect for, have proposed a revised amendment which they suggest is a compromise to the earlier proposal which they made.

I would say out of deference to both of these colleagues and their supporters that I think there are some significant improvements in the new Bentsen-Pearson, Pearson-Bentsen amendment over the earlier one. But when we get to what the bottom line is, the impact is ultimately going to be the same thing.

During the discussion of their modified amendment, both of our distinguished colleagues stressed supply and demand, and how, by freeing up new gas, supply and demand was going to determine price, and the forces of the marketplace were going to move in and take over from the Federal bureaucrats.

How much I wish that were the case. I believe all of us can look back now with the 20–20 vision of hindsight and we can see that there have been some miscalculations in the pricing of natural gas. That, indeed, is partially responsible for some of the shortages of supply and some of the lack of exploration.

But to suggest that merely deregulating, as several proposals before us would do, is going to turn the ultimate decision of price over to the forces of the marketplace is, I respectfully suggest, being a little bit naive and ignoring what is actually happening out there in the cold, cruel world.

I think this was brought vividly into focus during the remarks of both these distinguished colleagues when they talked about forces of the marketplace and supply and demand determining what the price of gas is going to be. In other words, get the Federal Government out, get the bureaucrats out, take the regulations off, and then supply and demand will determine what the consumer has to pay—but at the same time we must protect against the so-called acquisition of $5 gas, so we are going to limit gas prices to the price for a similar Btu quantity of No. 2 crude oil as it is laid down in New York.

That, in essence, says it will not be supply and demand in the marketplace that will determine prices but that the price will be set by whoever determines the price of foreign oil laid down in New York.

That is not supply and demand. In essence, we are saying that right now we have a cartel, an OPEC cartel, which we would like to get rid of—it is not going to disappear—and they are the ones who determine the price of No. 2 crude oil. There is not a whole lot we have been able to do about that. The subject before us now is not whether we will let OPEC determine what the price of crude oil will be, but whether we are going to say that, in essence, OPEC is also going to set the price of so-called dergulated gas.

What concerns the Senator from Indiana is that I do not like to see all this regulation, but I have to confess to my colleagues, both those are on my side of this issue and those who are not, that if there is going to be any regulating done, I would rather that we did it rather than letting foreign governments do it. The practical fact, whether we like it or not, I say, is that there is no free market in petroleum right now. The OPEC price has a dynamic, if not totally influential, impact on the price of crude oil.

For us now to say, in considering what our natural gas policy is going to be, that we are going to limit, through deregulation, the price of natural gas to what the similar Btu price of crude oil is going to be, and then kid ourselves into believing that we really set natural gas prices in the free market is quite far from what the facts really are.

I am concerned about how we get new supplies. I think what we are going to have to do is increase the price of new natural gas, as President Carter suggested. But I have to say that I do not think we ought to let OPEC determine what that price should be. It is rather clear that supply and demand does not determine what OPEC's price is. For that reason, I think the administration proposal or some reasonable compromise like it that lets the cost of production have an impact on prices—not a cartel limitation setting the price—makes a great deal more sense to me than deregulation under current conditions.

I think my friend from Kansas said that those opposing deregulation sometimes try to capitalize on the unpopularity of oil and gas corporations. Well, I suppose they have been subjected to a certain amount of criticism, perhaps abuse. I happen to be one who feels that they have asked for a good deal of it. But, to me, this whole business really should not be directed at taking on the unpopular oil and gas industry, but, really, we ought to structure our natural gas program and the gas pricing mechanism in a way that reflects our concern for consumers, who really do not have the high-priced lobbyists, and are not able to conduct the kind of high level, very sophisticated Madison Avenue type campaigns that we have seen the petroleum industry conduct over the last couple of years.

Somebody has to be concerned about the average citizen and unless we are willing to stand up and limit the price of new gas to whatever is necessary to go out there and have the kind of exploration we need, I think the consumers are the ones that are going to get it in the back of the neck.

The Senator from Indiana is one who has been very concerned about the lack of competition in the petroleum industry. I was going to address myself to this particular subject at the time that the Senator from Massachusetts called up his divestiture amendment, but, as I said a moment ago, I was foreclosed from doing so by a tabling motion. I say that with no acrimony in my heart toward my colleagues who proposed the tabling motion, because there has been a lot of that done and everybody has been exercising their right.

I do want to say right now that, inasmuch as we have had a proposal that has been made here recently, which was suggested to be a compromise, and is directly related to the cost of gas as it compares to a similar Btu value of petroleum, I think the Senate ought to look at how petroleum prices are set. I think we ought to explore more carefully than we have—and apparently, from a parliamentary standpoint as well as from a vote standpoint, we do not have the horses to do it, the effect that the vertical integration of the oil companies has on the price of petroleum and, indeed, on the entire petroleum industry.

First of all, I am concerned about competition. My distinguished friend from Wyoming talked about the fact that there were a number of industries in which there are significantly fewer companies than in the petroleum industry. And you know, he is honest, he is accurate, and he is right. But what he did not say, and what I think we have to consider if we are talking about vertical integration, is not only the number of companies, but the way in which they have a pervasive, almost insidious control over the whole chain of command; so that, not only do we have some dozen to a dozen and a half major multinational corporations, but we also have those corporations controlling exploration, production, transportation, refining, and retail sales. That is what makes vertical integration so bad: A combination of a relatively small number of companies and complete control of the distribution system of a very vital, indispensable commodity.

We can say that there are only four automobile companies. I think there were four the last time I counted. Indeed, there are more oil companies. But the automobile companies do not own the steel mills; they do not own the railroad systems, the transports for steel and the automobile parts. And indeed, they do not have the kind of lock on the

retail end of the market that exists in petroleum. So I am concerned that there is not the kind of competition that there ought to be.

One of the responses that some of our colleagues, very well intentioned and sincere, have made to the concern that some of us have that we need to divest the major oil companies, break them up into their component parts, to be very harsh about it, I suppose, is that, at a time when we really ought to devote more resources in the area of exploration, to break up the major multinational oil companies, would be to create smaller companies and thus decrease the amount of resources that are available for exploration. You know, that argument would be persuasive to the Senator from Indiana if it were not for the facts, two general sets of facts.

First of all, I think we have every right, if we are concerned about the development of energy, and if we are concerned about possible lack of competition—and, indeed, in addressing ourselves to the divestiture of oil, the major multinational companies, if we are concerned about studying vertical integration—I think we have to look to see how the oil companies, some of them, are currently investing their money. It concerns me that we need to have more resources in the area of exploration. I am prepared to accept a reasonable solution on how we get more money into the area of exploration. But I must say, that when I look at the facts as they are, and I find one of the major multinational oil companies, Mobil Oil, going out and spending several hundred billion dollars to buy Marcor—Montgomery Ward, I wonder just how much that is going to do to help discover more gas and more oil.

It may make good business sense from their standpoint, but if one of the reasons for not breaking up the oil companies into their component parts is that this is going to take away resources from the multinationals that would otherwise go into the exploration area, then I think we have every right to say, "How much new gas, how much new oil is being discovered and developed because Mobil now owns Montgomery Ward?"

I think we could ask the same question, about why Gulf tried to buy Ringling Brothers Circus. If I look at some of the ads that are supposed to prove the great diversity of the oil companies, the fact of the matter is that they are involved in everything from sports complexes to pesticides that have no relevance at all to what most of us feel is the traditional petroleum system. Yet they have done it, for reasons that seem to make sense to them, but for reasons which I feel cut back on competition and take money out of the area of exploration for new energy supplies.

Second of all, I want to make clear that divesting the majors would not result in small companies with insufficient resources for effective exploration and development.

Exxon, which is now No. 1 on the Fortune 55 list of U.S. corporations, would have successor companies that would all be in the top 20, and Exxon Production would be No. 4. Even the smallest of the oil giants—Marathon Oil, which is now number 17 on the Fortune 500—would be succeeded by companies which would all be on the Fortune list and thus among the very largest U.S. corporations.

Not only would they still be able to raise the capital, but the available capital would not have to go through the bureaucratic delays and limitations of an integrated company. Of equal importance, available capital would no longer be diverted to other nonenergy investments. Mobil Production, for example, would be in the oil production business and its stockholders, banks, and other financial sources would expect it to focus its effort and capital on that work, rather than diluting its skills and experience with non-energy undertakings, such as its current Marcor—Montgomery Ward—venture. Similarly, Gulf Production would never consider purchasing the Ringling Brothers Circus, as Gulf recently tried to do.

I think the fact that the vertical integration of the oil industry has had a rather perverse impact on competition can best be brought to the Senate's attention by reminding Senators that the Federal Trade Commission was so concerned about the practices of the seven largest multinationals, the so-called Seven Sisters, that they brought the case which is known either as the Exxon case or the Seven Sisters case. Anybody who wants to really get chapter and verse on the insidious lack of competition that exists in the petroleum industry ought to bring that Federal Trade Commission report to the Senate, or take it to bed with him some night, and read it.

Right there in cold, hard print we see what one of the major agencies of the Federal Government has to say about the present practices of the vertically integrated major oil companies.

Let me summarize very quickly some of the very high points, the three major FTC complaints: First, the companies are charged within the complaint with the combination or agreement to monopolize the relevant market.

Second, they are charged with having maintained monopoly powers in the same markets.

Also, individually and with others, they are charged with restraining trade and maintaining a noncompetitive market structure in the relevant markets.

I suggest to any of my colleagues, who will remember back when this complaint was brought, that it was brought at a time when we had an administration in power that was hardly an administration looking for a way to get the oil companies.

Quite to the contrary, this was not what the thrust of that complaint would have been if it had been brought in a different time—perhaps now rather than back in a previous administration. I recommend that brief as reading to anyone who really wants an idea of some of the very complicated practices in restraint of trade, and the violations of our antitrust and monopoly laws that exist today in the petroleum industry.

One concern that the Senator from Indiana has had expressed to him frankly, from a number of his constituents confronted with the very effective public relations campaign that the major multinationals put out in their effort to shoot down divestiture at the time the Senate Judiciary Committee reported a bill the Senator from Indiana cosponsored with several other Senators from the committee, is the massive public relations blitz we see conducted.

One of the major thrusts of the public relations blitz was that since there were a lot of stockholders out there that owned this oil company stock, that if Senators BAYH, KENNEDY, ABOUREZK, METZENBAUM, and some of the rest of us who were involved in this divestiture were successful, that the stockholders, retired school teachers, small businessmen, perhaps the farmer, the laborer, the individual citizen who had a small or a large portfolio of stock, were the ones who were really going to be hurt.

I suggest to anyone who is really concerned about this, who is really concerned about free enterprise, who really believes, as the Senator from Indiana does, that the more competition, the better off we are, the more healthy industry is, we better look at the only case in point. I think it proves that the more concentration we have, the less profit we have, and the less healthy industry is.

Look back at the old John D. Rockefeller trust, when it was brought to court and by court decree was forced to divest. What happened to the stock? What happened to the poor people out there relying on that stock to retire?

The fact of the matter is that instead of that stock going down in value, after the company was broken up into its component parts, we found that within 1 year's time—within 1 year's time—after the breakup of the Standard Oil monopoly, the price of the stock in the successor companies went up 47 percent—47 percent—which proves to the Senator from Indiana that when we break up large monopolistic corporations and actually put them out in the marketplace and say, "OK, go get them, sell that mousetrap cheaper, let's have more competition," that they make more profits, the people that own the stock get more dividends, and the country is better off as a result.

So. Mr. President, I regret that the Senate is again going to be unable to come to grips with the question of divestiture. I say, as I said a moment ago, that I think it is very relevant to the question before us right now, because the petroleum market does not have the kind of competition it should have. Yet one proposal before us is suggesting that the price of deregulated gas be limited to the price of so-called deregulated petroleum, which is not deregulated at all. It is controlled by the OPEC pricing system. And the effects of this system are exacerbated by the vertical integration of the major, multinational oil companies.

I frankly feel that if we moved ahead on vertical divestiture, we could have some sort of a free crude oil market and begin to put one OPEC nation off against the other. That, perhaps more than anything else, would enhance our chances of ultimately coming to grips

with OPEC. I am realistic enough to know that that is not going to happen overnight.

But, it seems to me that we ought to do everything we can to separate ourselves from OPEC and not tie the price of natural gas to a similar Btu value of OPEC oil.

QUORUM CALL

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 37 Leg.]

Abourezk	Curtis	McClure
Allen	Eastland	Meicher
Baker	Garn	Moynihan
Bartlett	Goldwater	Pearson
Byrd, Robert C.	Hansen	Sparkman
Cannon	Hart	Tower
Chiles	Jackson	Weicker

The PRESIDING OFFICER. A quorum is not present.

Mr. ABOUREZK. I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion of the Senator from South Dakota.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Anderson	Griffin	Nelson
Bartlett	Haskell	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield	Pell
Biden	Hathaway	Percy
Brooke	Heinz	Proxmire
Bumpers	Helms	Randolph
Burdick	Hollings	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Riegle
Case	Inouye	Roth
Chafee	Javits	Sarbanes
Church	Johnston	Sasser
Clark	Kennedy	Schmitt
Cranston	Laxalt	Schweiker
Culver	Leahy	Scott
Danforth	Long	Stennis
DeConcini	Lugar	Stevens
Dole	Magnuson	Stevenson
Domenici	Mathias	Stone
Durkin	Matsunaga	Talmadge
Eagleton	McGovern	Thurmond
Ford	McIntyre	Wallop
Glenn	Metzenbaum	Williams
Gravel	Morgan	Zorinsky
	Muskie	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 906

Mr. ABOUREZK. Mr. President, I call up amendment 906 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 906.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with, and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I temporarily object to calling it off until the clerk can at least say what the amendment is to.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk read as follows:

Amendment No. 906 to S. 2104.

On page 2, line 19, strike, "but not intrastate gas,".

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

We have been voting on amendments that we know nothing about for about 48 hours. Is it not necessary, under the rules, for the proponent of an amendment to explain the amendment, so that those of us who might agree with him could agree or those who might oppose could oppose?

The PRESIDING OFFICER. It is not necessary under the rules for a proponent to explain an amendment.

Mr. GOLDWATER. Is it necessary under the rules of commonsense?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

Mr. PEARSON. Mr. President, I concur in the view of the Senator from Arizona. We are just going through an exercise now. We call up an amendment, ask unanimous consent that it not be read, and ask for the yeas and nays.

To be consistent with that in what we have been doing around here, which must embarrass some of us, but it is possible to get out of it, I just moved to table the amendment of the Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the amendment of the Senator from South Dakota. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea".

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 78, nays 16, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—78

Allen	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Griffin	Packwood
Bellmon	Hansen	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Bumpers	Hatfield	Proxmire
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Huddleston	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Church	Laxalt	Stennis
Cranston	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Eagleton	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Melcher	Williams
Garn	Morgan	Zorinsky
Glenn	Moynihan	
	Muskie	

NAYS—16

Abourezk	Durkin	Metzenbaum
Anderson	Hart	Ribicoff
Bayh	Hathaway	Riegle
Brooke	Hollings	Sarbanes
Clark	Kennedy	
Culver	McGovern	

NOT VOTING—6

Hayakawa	McClellan	Stafford
Humphrey	Metcalf	Young

So the motion to lay Mr. ABOUREZK's amendment No. 906 on the table was agreed to.

AMENDMENT NO. 1064

Mr. RIEGLE. Mr. President, I call up amendment No. 1064 which is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CANNON). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes amendment No. 1064 to S. 2104.

Mr. HANSEN. May we have order, Mr. President? We cannot hear the clerk.

The assistant legislative clerk resumed and concluded reading the amendment.

The amendment is as follows:

On page 15, line 21, strike out the period and insert in lieu thereof a comma and "or" and after such line insert the following: "Any nonprofit, public service institution providing services vital to public health and safety, including schools and hospitals, as defined by the Commission.".

Mr. RIEGLE. This amendment, for those Senators who were able to hear that explanation, deals with including

certain public service institutions such as schools and hospitals into the classification of high priority users, and there are really two purposes for wanting to do this. One is to insure that those vital public functions receive what supplies there are available if shortages should arise, and, second, also to insure that they be given the cost benefits that the bill presently assigns to those categories of users that fall in the high priority-use category.

I think this is an oversight in the bill and not an intentional one, but there are a number of hospitals and schools, particularly, whose usage during the winter months would be in excess of 50 metric cubic feet, which is the cutoff point in establishing the amount that the customer would use to be into that high-use category, and I want to see that we include them in the category that would give them the price advantage that normal smaller users would have.

I have talked with the committee about this, and in our discussions the Senator from Washington and his staff have indicated that they are inclined to accept the amendment. The House of Representatives has a similar amendment that it has passed.

Of the 89,000 elementary, secondary, and higher education institutions in the country, probably about 27,000, or about 30 percent, would be affected.

In terms of public hospitals, we have about 2,600 public hospitals in the country, and it is thought that probably half of them would likely be affected by the amendment.

So I hope this is something that can be accepted by virtually all Members of the Senate, because I think it makes good sense, both in terms of assuring that these public services will be provided in instances where there might be shortages, and also that there might not be intense financial pressure applied to these public service institutions at a time when they are feeling the cost pinch from so many other directions as well.

I ask the Senator from Washington if he is willing to accept the amendment.

Mr. JACKSON. Mr. President, will the Senator yield on my time, so I do not use his time?

Mr. RIEGLE. I yield.

Mr. JACKSON. Mr. President, I commend the Senator from Michigan for his amendment. As I understand it, it would amend the incremental pricing setup at schools and hospitals to the definition of high priority users.

I must say that there should be little dispute over that policy decision. I think it is a good amendment, and I am prepared to vote for it.

Mr. HANSEN. Mr. President, this amendment is consistent with the incremental pricing provision in Bentsen amendment No. 2. Our side is willing to take it.

Mr. RIEGLE. I thank the Senators. The Senator from Alabama (Mr. SPARKMAN) has asked to be added as a cosponsor. The Senator from West Virginia, Mr. RANDOLPH, has also worked with me on this amendment, and should also be included as a cosponsor. I wish to thank him for his help.

In the light of the fact that we may have other bills to deal with on the same subject, I think it is important to have the yeas and nays on the amendment. So I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan (Mr. RIEGLE). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. (HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—94

Abourezk	Garn	Morgan
Allen	Glenn	Moynihan
Anderson	Goldwater	Muskie
Baker	Gravel	Nelson
Bartlett	Griffin	Nunn
Bayh	Hansen	Packwood
Bellmon	Hart	Pearson
Bentsen	Haskell	Pell
Biden	Hatch	Percy
Brooke	Hatfield	Proxmire
Bumpers	Hathaway	Randolph
Burdick	Heinz	Ribicoff
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Inouye	Sasser
Case	Jackson	Schmitt
Chafee	Javits	Schweiker
Chiles	Johnston	Sparkman
Church	Kennedy	Stennis
Clark	Laxalt	Stevens
Cranston	Leahy	Stevenson
Culver	Long	Stone
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	Weicker
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Melcher	Zorinsky
Ford	Metzenbaum	

NAYS—1

Scott

NOT VOTING—5

Hayakawa	McClellan	Stafford
Humphrey	Metcalf	

So Mr. RIEGLE's amendment (No. 1064) was agreed to.

Mr. HANSEN. Mr. President, will the distinguished majority leader yield momentarily for a unanimous-consent request?

Mr. ROBERT C. BYRD. Yes.

Mr. HANSEN. Mr. President, I ask unanimous consent that Mary McKenna of the staff of the Committee on Energy and Natural Resources be granted the privilege of the floor during debate and votes on S. 2104.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor to the amendment that I offered previously and which was accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 957

Mr. ABOUREZK. Mr. President, I call up amendment No. 957 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment:

On page 8, beginning on line 18, strike out all through line 19 and insert in lieu thereof the following: "be the price which was determined to be just and reasonable by the Commission and was in effect on April 20, 1977.".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. TOWER. I raise the point of order that this amendment has already been disposed of by the Senate and, therefore, is out of order.

The PRESIDING OFFICER. The Senator is correct. The point of order is sustained.

AMENDMENT NO. 929

Mr. ABOUREZK. Mr. President, I call up amendment No. 929 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment:

On page 3, between lines 12 and 13 insert the following:

"(8) it is necessary to take account of the production differences between nonassociated and associated or dissolved natural gas:".

Renumber succeeding paragraphs accordingly.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. McCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 70, nays 23, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—70

Allen	Glenn	Packwood
Baker	Goldwater	Pearson
Bartlett	Gravel	Pell
Bellmon	Hansen	Percy
Bentsen	Haskell	Proxmire
Biden	Hatch	Randolph
Bumpers	Hatfield	Roth
Burdick	Heinz	Sasser
Byrd, Harry F., Jr.	Helms	Schmitt
Byrd, Robert C.	Huddleston	Schweiker
Cannon	Jackson	Scott
Chafee	Javits	Sparkman
Chiles	Johnston	Stennis
Cranston	Laxalt	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Mathias	Talmadge
Dole	McClure	Thurmond
Domenici	McIntyre	Tower
Eagleton	Melcher	Wallop
Eastland	Moynihan	Weicker
Ford	Muskie	Young
Garn	Nelson	Zorinsky
	Nunn	

NAYS—23

Abourezk	Durkin	Matsunaga
Anderson	Hart	McGovern
Bayh	Hathaway	Metzenbaum
Brooke	Hollings	Morgan
Case	Inouye	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Williams
Culver	Magnuson	

NOT VOTING—7

Griffin	McClellan	Stafford
Hayakawa	Metcalf	
Humphrey	Sarbanes	

So the motion to lay Mr. ABOUREZK's amendment No. 929 on the table was agreed to.

AMENDMENT NO. 933

Mr. KENNEDY. Mr. President, I call up amendment No. 933.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HANSEN. Mr. President, I did not hear the distinguished Senator from Massachusetts. What is the number of the amendment?

Mr. KENNEDY. Amendment 933. I think the Senator will want to support this one. [Laughter.]

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment numbered 933:

On page 8, line 3, after the word "reserves" change the period to a comma and insert the following: "and shall determine separately the following: (a) proved reserves, (b) probable reserves, (c) possible reserves, and (d) speculative reserves.".

Mr. KENNEDY. Mr. President, in the Pearson-Bentsen amendment there are provisions for the Commission to determine the estimates of natural gas reserves. It is couched in rather old boilerplate language which has never actually resulted in the United States being able to determine accurately, under a common definition, what the reserves are in this country. Different companies have interpreted it different ways, and different estimates have been provided. As a result, we have not been able to obtain the kind of reserve information which would be obtained if this amendment were adopted.

I think all of us could call the American Petroleum Institute and ask for natural gas reserves and they would give us an estimated figure. However, it is highly likely that this figure would not be reliable. What we need, in order to make public policy, is the best information on the available natural gas reserves.

Therefore, I am offering this amendment to the Pearson-Bentsen amendment. It requires that the reserve data be broken out into four areas: the first, proved reserves; the second, probable reserves; the third, possible reserves, and the fourth, speculative reserves.

There are enabling provisions to give the Commission the authority, by regulation, to define those terms in a way in which all the major gas companies could conform to give us uniform data.

It seems to me that this would yield an important source of information for the public, for consumers, for Government agencies, and for Congress, to be able to legislate in the future in this important area.

I repeat: All one has to do is to listen to the Federal Trade Commission or the Federal Power Commission, to analyze their attempts over the years to try to gain this kind of information, and to see the frustration they have faced at every point of the long, complicated path.

This information is not available today. This amendment would assure that this information would be available in the future. It is absolutely basic, I believe, to making an informed judgment on matters of this magnitude. It is absolutely essential if we are going to make policy considerations in the natural gas area.

So I hope that this amendment will be accepted by the proponents of the bill; but if that is not so, I will ask for the yeas and nays on the adoption of the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I inquire of the Senator from Wyoming if he feels that this would strengthen the Pearson-Bentsen amendment in any way. If he is prepared to vote on it, that is fine.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. Can the Senator use his time?

Mr. TOWER. On my time.

Would the Senator be prepared to dispose of this amendment by voice vote, if it appeared that the voice vote would be favorable?

Mr. KENNEDY. The answer to that is "yes."

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1077

Mr. METZENBAUM. Mr. President, I call up amendment No. 1077.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1077:

On page 11, line 21, strike everything after "average" through "(15 U.S.C. 757)" on line 2, page 12; and insert the following: "per barrel domestic refiner cost of acquiring crude oil during the preceding three calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954)".

Mr. METZENBAUM. Mr. President, this amendment goes to the question of what the price will be during the 5 years of the phaseout period provided for in the Pearson-Bentsen amendment. Under this amendment, it would provide that for offshore gas, it would be a ceiling price equal to the Btu price in the President's bill.

I will ask for the yeas and nays; but if this is acceptable, as was the previous amendment, we will not have to have the yeas and nays. Absent that, I ask for the yeas and nays.

Mr. HANSEN. Mr. President, we find this amendment not as meritorious as the previous one.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. STONE assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr.

McCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—58

Allen	Glenn	Pearson
Baker	Gravel	Pell
Bartlett	Griffin	Percy
Bellmon	Hansen	Randolph
Bentsen	Hart	Roth
Burdick	Haskell	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
	Hatfield	Scott
Byrd, Robert C.	Heinz	Sparkman
Cannon	Helms	Stennis
Chafee	Johnston	Stevens
Chiles	Laxalt	Stone
Curtis	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	Mathias	Tower
Dole	McClure	Wallop
Domenici	Melcher	Weicker
Eastland	Nelson	Young
Ford	Nunn	Zorinsky
Garn	Packwood	

NAYS—36

Abourezk	Eagleton	McIntyre
Anderson	Hathaway	Metzenbaum
Bayh	Hollings	Morgan
Biden	Huddleston	Moynihan
Brooke	Inouye	Muskie
Bumpers	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Stevenson
Durkin	McGovern	Williams

NOT VOTING—6

Goldwater	Humphrey	Metcalf
Hayakawa	McClellan	Stafford

So Mr. TOWER's motion to lay on the table Mr. METZENBAUM's amendment (No. 1077) was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that Jim Range, of my staff, may be accorded access to the floor during the continuation of the consideration of this matter and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1363

PURPOSE: NEW NATURAL GAS DEFINITION

Mr. KENNEDY. Mr. President, I call up my amendment No. 1363.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1363.

The PRESIDING OFFICER. The amendment is not at the desk. Will the Senator send his amendment to the desk?

Mr. KENNEDY. If the desk will send it back.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4(a). Section 2 of the Natural Gas Act—

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717 (a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (14) through (16), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" means natural gas produced from any reservoir which was not discovered to contain natural gas by the drilling of a well on or before April 20, 1977.

"'(8) "Reservoir" means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) "Old natural gas" means natural gas other than new natural gas.

"'(10) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(11) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(12) "Offshore Federal lands" means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(13) "Intrastate Commerce" means commerce within the United States other than interstate commerce.' "

Mr. KENNEDY. Mr. President, this is an amendment which is somewhat similar to the amendment agreed to last evening involving the definition of new natural gas. We have voted on different amendments addressing this problem, including one proposed last evening by Senator HASKELL, and others by Senator METZENBAUM. It seems to me that this amendment provides the best opportunity for the Senate to define, in an important way, exactly what we believe to be the appropriate definition for new natural gas.

The proposal that is included in this amendment is very similar to the one which has been accepted in the House, in the Krueger-Wirth-Brown proposal.

That is the essential part of the amendment. The rest of the amendment restates other definitions.

The definition which I propose rewards with a higher price gas from new reservoirs. It does not stipulate where those reservoirs shall be. They can be below an existing reservoir. They can be above it. They can be next door. They can be in frontier areas or in established, well-defined areas. Under my definition new gas is gas from a new reservoir.

The Pearson-Bentsen bill is generous to a fault. Pearson-Bentsen includes as new gas:

Gas already dedicated to interstate contracts;

Gas from a well which is merely an extension of an existing reservoir; and

Gas from an existing well which could produce gas but has been capped.

In the next few minutes, Mr. President, I intend to discuss specific provisions of Pearson-Bentsen which cry out for revision.

If Pearson-Bentsen makes any sense at all, it must be because of the need for additional natural gas and the probability that a higher price will get it produced. It follows that higher prices should be related to higher costs. That is what producers have been telling us: We cannot get all the gas at present prices. We need more money to get at the new, high cost gas.

But when we look at the definition of new gas which will get the deregulated price, we are left to wonder. Here is one of the definitions of new gas in Pearson-Bentsen:

Gas produced from a well within an extension of a previously discovered reservoir, as determined by rule by the Commission regardless of whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market.

What does this language mean?

I am not a geologist or an oil man but, as it has been explained to me, I do not have to be. The words pretty much speak for themselves. This gas is not from a new reservoir. This is not a new, wildcat frontier area. This refers to an area which has been drilled and is producing. This is a well from the same reservoir—but simply an extension of that reservoir.

An extension well is a well about the same depth. It is drilled at a defined distance away from a well which has been producing gas, for example 500 yards. Wells are drilled in a pattern, in different directions, to find where the rest of the reservoir lies.

Already we should know that the costs of extension wells cannot be much greater than the wells already in place because the depth and the geology are likely to be the same. But we also know that the risk of drilling a dry hole are much less than normal. In fact, the best information I can find is that extension wells are much more likely to find gas—and to find more of it. It stands to reason.

I asked the Library of Congress to tell me what the success rate was likely to be on an extension well. The results bear out my suspicion. In 1975, 1,577 extension wells were drilled in the United States. Of these, 905 were dry, 672 were successful, leaving an overall success rate of 43 percent. In other words, nearly every other extension well pays off.

Now compare this to wells drilled in new, exploratory areas. In that case 6,104 wells were drilled and 5,228 of them came up dry—a success rate of only 14.4 percent. So you can see that on this basis, an extension well is three times as likely to find oil compared to exploration in new fields—14 percent compared to 43 percent.

Let us add in exploratory wells in old fields, where success is more likely. There you find that the average success rate of all wells other than extension wells is 19 percent. Extension wells are still more than twice as successful as all other wells.

Next, consider how much gas these extension wells are likely to discover. In 1975 there were 5.39 billion cubic feet of natural gas discovered for every foot of a successful exploratory well—which is a well other than an extension well. But there were 14. 488 billion cubic feet found for every successful extension well. This means that an extension well not only is two or three times more likely to find gas, it is also likely to find three times as much.

One final statistic should be noted, and that is that in 1975—the last year for which reports are available—no extension wells were reported on the OCS. This is inconceivable unless we understand that oil companies have not wanted to add to estimated reserves on the OCS while there is a chance they could get a higher price for such a well in the future. That is exactly what Pearson-Bentsen would provide. Next year, if this bill becomes law, you could be sure extension wells will be drilled with abandon on the OCS.

This leads to another consideration. What is to prevent a company from drilling another well in an old reservoir just to call it an extension well eligible for the higher price? What is to prevent a company from moving over a few hundred yards and drawing the same oil from the same pool? The geological facts are not so well defined as to prevent that from happening. The information about pressure levels is available only to the producing companies and they would, with this legislation, have every incentive to stick in another straw but drink from the same soda.

This bill, Mr. President, is full of holes. And if it is passed, those old reservoirs are going to be full of holes too. Old gas will become new gas by the simple expedient of sinking a new hole into the same field.

On Wednesday, Senator BENTSEN and I engaged in a colloquy during debate on my amendment to retain the present price for gas. Senator BENTSEN told me—

> We think 70 percent of the new reserves will be found, because the potential new reserves we believe to be in those deeper areas and some of those high risk areas that have not been effectively drilled yet.

If that is the case—if the bill is intended to get at new reserves, where higher costs is justified—why does this bill make extensions of old reservoirs eligible for a new gas price?

Extensions merely delineate and expand the knowledge about gas found in the past. It is not in any way the discovery of new gas.

This definition will do one thing. It will reward those who have been holding back on production of known reserves. The extension loophole is a reward of those great people who may have brought us the gas shortage in the first place. None of us who suspect that there has been gas withholding is so naive as to think in terms of little men running around turning off the valves of thousands of gas wells around the country. What has happened is that reservoirs have been located, the presence of gas has been determined—and producers have either not developed those reservoirs at all or have not developed them fully.

You cannot blame the producers. Back in 1969 John Nassikas promised at his first press conference that there would be a "Nassikas round" of price increases as soon as he moved into FPC. Successive commissioners under Nixon and Ford have voted to raise gas prices as fast as they possibly could—indeed in his later years at the Commission, Nassikas often found himself in the minority opposing outrageous increases. Any producer, knowing prices were going up, would hold back on development.

The last selection of this definition reads, "Whether or not the leases covering such previously discovered reservoirs were committed by contract or otherwise dedicated to the interstate market."

Again, it does not take a geologist to know why that provision is in there. It takes an oilman who wants to get out from under the onerous burden of honoring a contract he made with consumers to provide gas from a particular reservoir. That contract was made in good faith based on the prevailing price of the day and based on the cost of producing from that reservoir. The reservoir is said to be "dedicated" to the interstate market, but under Pearson-Bentsen all dedication ceases.

The attempt to exempt these reservoirs from their previous dedication is further evidence that this is not genuinely "new" gas. The reservoir could hardly have been dedicated if it were totally unknown. It is clear—if any further evidence is needed—that the cost of pumping from this reservoir is not drastically different. Otherwise, the producer would never have made such a contract in the first place.

It is important to remember that what we are talking about is likely to be a reservoir which has been producing profitably at 52 cents and in some cases substantially less. If this were not true, producers could be losing, which they clearly are not. We are talking about a reservoir producing for a price less than $1.46. Now, with deregulation, the price will jump somewhere between $3.50 to $5 during the initial years and then settle down to about double the highest price now in the interstate market, about $2.80 per Mcf. This is the evidence provided by the Congressional Budget Office.

Is it any wonder that producers want out from the burden of honoring existing dedications? Who would not want to multiply their profits 6 or 10 times over with the help of the U.S. Senate?

So much for extension wells. Now let us consider another effect of the Pearson-Bentsen bill as it relates to "capped wells."

Mr. President, last winter when natural gas was in short supply, schools and factories were closed and some homes went without heat. Senators rightly concerned about this plight want to see increased production to meet those needs. That may account for the vote on Thursday.

At the same time, hundreds of wells dotting the producing country wore tight metal caps—not to keep them warm like people up North wanted to be but to keep them from producing. What were the owners of these wells waiting for?

The answer of course was higher prices. The wells were known to be able to produce gas. Prices were high by all reasonable standards, but they were expecting them to rise still further. Under the administration's bill they will have an attractive price; $1.75 in 1978, climbing to $2.47 by 1985. But under the Pearson-Bentsen bill these wells will be designated in 1978 as producing "new" gas at more than $3.

It takes some boldness for the Senate to come along and slap a sign on these wells which says they are "brand new" and then to put a price on that gas which will exceed $3. Not even used car dealers would try to get away with that.

Not even the great champion of deregulation in the House of Representatives, Representative KRUEGER of Texas, was bold enough to ask for that. The deregulation bill he proposed in the House excluded capped wells. So would the Senate version, if my amendment were passed because it would stipulate that only wells drilled after January 1, 1977 could qualify for the higher price.

Mr. President, I think we all know that Pearson-Bentsen is not so constructed as to focus on frontier areas—those genuine wildcat areas where risks are high. We know that the sponsors intend to go on producing from the same general areas where they have already found gas. For that reason, I have not proposed an amendment which would eliminate new reservoirs in old areas, even though these are not the frontiers from which we must expect the big breakthroughs.

But there comes a point at which the definition of new gas becomes ridiculous. How can it apply to gas which is already discovered? That makes no sense at all.

Proponents will tell us of the rare cases—the cases where a small amount of gas is discovered away from a pipeline, cases of little old ladies and retired dirt-farmers who hit it lucky and are not holding on to get a little more for retirement. We will hear about how we cannot compel production on private property. And of course, that is true. No one is compelled to bring gas into the market.

But can anyone really argue that giving new gas prices to capped wells achieves the purposes of this bill? Is it in the national interest to encourage producers to hold out for a sunny day? Have we added anything to the national reserve?

The answer is so obvious as to defy a plausible rejoinder. Let us take an easy step and exclude capped wells.

I think if we limit this Pearson-Bentsen amendment in this way, we will go in a very important way down the road toward reducing the very substantial wind-

fall which would result under the Pearson-Bentsen definition of new gas.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question, on my time?

Mr. KENNEDY. Yes, I will be glad to yield. My response on my time, and the question on the Senator's time.

Mr. JOHNSTON. I thank the Senator. As I understand, from the little factsheet here, the Senator has excluded from the definition of new gas, gas now under existing 5-year-or-less contracts. The exclusion includes the 5-year-or-less contracts; does it also include sales under the Emergency Natural Gas Act passed just a few months ago?

Mr. KENNEDY. My understanding is that if it is new gas under the Emergency Act, it would be excluded from the effect of this definition, but it does not change the definition. It would be so excluded.

Mr. JOHNSTON. Is the Senator aware that the President built in an exemption from FPC control for both kinds of gas, that sold under the Emergency Natural Gas Act and that sold under 5-year contracts? The purpose of that exemption was that if the producers responded to the national need, the national emergency, and dedicated their gas to new contracts under either the 90-day-or-less contracts or under the 5-year-or-less contracts, they would not thereby suffer any regulation by the FPC, and no disadvantage.

My question is, would this not really be breaking faith with those producers, in effect penalizing them for responding to the national need?

Mr. KENNEDY. I would say no. As I understand the provisions that were applied in the Emergency Act, it was to provide incentives to move gas into the interstate system. I do not think we should extend that kind of assurances beyond those particular intentions. That was at least my understanding of why those incentives were provided in the Emergency Act.

It seems to me that the profit that will be realized without the deregulation in the intrastate market would be, certainly, a very good and substantial one. The purpose of this legislation is to encourage new gas production and new gas finds, and not just the finding of an additional way of moving known resources into a higher price area.

Mr. JOHNSTON. My second question is, This would regulate intrastate contracts, which are now selling at an average price of something around $1.85, with more recent spot contracts up as high as $2. It would roll all of those back to the price of old gas; would it not? And what price would the Senator envision that that rollback would be? From, say, $1.85 to what?

Mr. KENNEDY. Well, the Senator is correct about the extension of regulation to the intrastate market, but the price would be the just and reasonable price under the present law. That, I think, would be a moving price, and as I understand it, it would be adjusted according to cost.

Mr. JOHNSTON. On a cost-of-discovery basis; is that not correct?

Mr. KENNEDY. All costs are considered, as I understand.

Mr. JOHNSTON. Does the Senator really believe we are going to help natural gas prices by rolling back the prices of natural gas from the producing States?

Mr. KENNEDY. The question would be, Senator, whether the particular price is just and reasonable. If it is not just and it is not reasonable, then I think it ought to be rolled back. If it is fair and reasonable, it should not be rolled back.

What is considered within the definition of just and reasonable are a decent rate of return or profit on investment, and other financial incentives.

If it is not just and reasonable, then, of course, it ought to be escalated and increased. If what you are talking about is an inflated figure over what is just and reasonable, I do not see its justification, for the major gas companies. I think that ought to be the test and it is the criterion in this particular amendment. But beyond that, I think it focuses the incentive on the place where the incentive should be focused, and that is on new gas.

Mr. JOHNSTON. Mr. President, I yield myself 2 minutes.

I think this amendment is very clearly the worst we—well, I will not say that. I will say it is one of the worst we have considered. I would say it would have an absolutely devastating effect on natural gas. More than that, it would constitute a breach of faith by the Senate with gas producers, first, because they were assured when they responded to the emergency need under the Emergency Natural Gas Act and under the 5-years-or-less sales provision, that they would not be regulated. This amendment proposes to come in and regulate them, not under the new gas price, but under the old gas price, which is based on a cost basis.

Second, we are likely to break a lot of small producers who, relying on the intrastate price, borrowed money and are paying interest to the banks, and now are operating on borrowed money based on the price they are getting for new natural gas. We would break many of them, put them out of business, and break faith with what Congress told them, and in the process, we would do precisely the opposite of what we wanted to do, which is provide an incentive to gas producers.

I urge the Senate to defeat this amendment.

Mr. BENTSEN. I yield myself 2 minutes.

Mr. President, the Senator's definition for "new natural gas" is fine—the definition of a reservoir system, where it extends the field beyond its estimated limits as so found by previous drilling, and the Energy Commission would make the decision as to whether or not it accomplished that and extended it.

The factsheet that was distributed also talks about gas that was withheld. In the Pearson-Bentsen bill, we have added an amendment to it to protect against that kind of a situation. Any gas that is wrongfully withheld—and that finding, of course, is made by the Commission—will not be subject to the new price for gas, or the unregulated price, or the cap price, any one of those.

So we have provided the safeguards to take care of that kind of situation.

The step out of a field is a substantial risk. They are going out into new horizons and trying to prove up that the field extends beyond what the original estimates happen to have been.

I urge the Senate to defeat the amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just briefly, it is difficult for me to understand the sense of indignation of those that oppose this amendment on the issue of price and cost.

The fact of the matter is that if this amendment is accepted, and if in the interstate market the price which is being charged for old gas has little relationship to the cost, then it is not just or reasonable, and it ought to be regulated.

I cannot understand why those that are so concerned about this amendment feel that undue enrichment out of the pockets of the American consumer ought to continue, but that is effectively what they are saying.

"If this amendment goes through, those boys are going to have to prove this is a fair and just price and they might not be able to do it, so we will oppose it."

That is what they are saying with regard to the intrastate gas.

If they can make the case for a fair and reasonable price, which includes a reasonable profit, why should it be different in Texas than the Midwest, or New England. That price can be determined in a public hearing as a result of examining the facts and the information.

But to say that we do not want to open our books on this and give the information out, we do not want to have to justify it, therefore, it is a terrible amendment, just seems to me to hit the target of what the Pearson-Bentsen amendment is all about, and that is providing windfall profits on old gas.

It is extraordinary to me when we really try and define what is new gas that we get all these objections. When we try and say, "All right, take the lid off what is really new gas," the apologists of deregulation say, "Oh no, we can't do that, we also have to call old gas new gas," and they go through this convoluted formula to try by some definition to make this transformation.

That is really what is at the heart of this amendment.

True, this amendment provides a definition of what is new gas which is consistent with the plain English meaning of the word. It does not include old gas that will now be defined as new gas. I think that is part of the reason why at least some are so concerned about it.

Mr. BARTLETT. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield if the Senator would use his time for the question. I will use my time for the answer.

Mr. BARTLETT. That will be fine.

I would point out to the distinguished

Senator that a field may be extended in perhaps two ways, and perhaps more of it, at least, by an offset well drilled to the outer limit of the wells, the extent of the field, or it can be extended by a wildcat stepping out.

Now, if a person would decide to try to extend a field by drilling a wildcat field, considered by the industry to be a wildcat, separate, not 2½ miles, but some distance from the field, do I understand the language of the amendment correctly that this would not allow him to have the uncontrolled price?

Mr. KENNEDY. It is my information that based on the 1975 statistics only 14.4 percent of the wells in the new fields, which would fall within this definition of new gas wells, were successful.

Five thousand, two hundred twenty-eight out of 6,104 came up dry. Compare this with the 43 percent for the extension wells, and with the 36 percent for new reservoirs in old areas. Moreover, these wells are likely to come up with only a third as much gas.

So, in effect, there is a substantial difference in drilling new reservoirs, versus the extension of reservoirs and redrilling in old fields. A dramatic difference in terms of risk.

What we are doing in this particular amendment, it seems to me, is throwing that second group into the first group.

I think if the case can be made in terms of the deregulation, it has to be limited to the high risk effort to produce gas from the new reservoirs.

I think a case can be made, perhaps, for deregulation in this area. But I fail to see why we ought to include those other areas as well.

Mr. BARTLETT. I would think the Senator would want a person wildcatting to have as much success as he could in finding new and additional reserves of natural gas. It is very important. But as I understand the answer, the answer is that he would not be entitled to the decontrolled price?

Mr. KENNEDY. The Senator is correct.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay on the table the amendment of the Senator from Massachusetts.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I have a unanimous-consent request, if it is not out of order.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I ask unanimous consent to be allowed to make a technical modification to the amendment I earlier offered which was accepted by the Senate 94 to 1.

I have discussed it with the minority and majority leaders on this bill, but the amendment is defective in that it keyed in the wrong line in the bill. I drafted technical language to put it on the right line.

I ask unanimous consent that the technical modification be accepted.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Reserving the right to object, I think we better see the amendment before we agree to that.

Mr. RIEGLE. Let me say, I have discussed it with Senator HANSEN, who I see is off the floor now, and the staff members sitting beside the Senator now are aware of it.

I discussed it with him. We agreed to it. So I hope the Senator will not object.

Mr. BARTLETT. Reserving the right to object, I would like to see the amendment.

Mr. RIEGLE. Fine.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. The question is not debatable. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—51

Baker	Garn	Percy
Bartlett	Glenn	Randolph
Bellmon	Gravel	Roth
Bentsen	Griffin	Schmitt
Burdick	Hansen	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
	Hatfield	Stennis
Byrd, Robert C.	Heinz	Stevens
Chafee	Helms	Stone
Chiles	Johnston	Talmadge
Church	Long	Thurmond
Curtis	Lugar	Tower
Danforth	Mathias	Wallop
DeConcini	McClure	Weicker
Dole	Melcher	Young
Domenici	Metzenbaum	Zorinsky
Eastland	Packwood	
Ford	Pearson	

NAYS—42

Abourezk	Hart	Morgan
Allen	Haskell	Moynihan
Anderson	Hathaway	Muskie
Bayh	Hollings	Nelson
Biden	Huddleston	Nunn
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Cannon	Javits	Ribicoff
Case	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Sparkman
Durkin	McGovern	Stevenson
Eagleton	McIntyre	Williams

NOT VOTING—7

Goldwater	Laxalt	Stafford
Hayakawa	McClellan	
Humphrey	Metcalf	

So the motion to lay on the table Mr. KENNEDY's amendment (No. 1363) was agreed to.

Mr. METZENBAUM. I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

Mr. METZENBAUM. I ask for the yeas and nays.

Mr. BARTLETT. I move to lay the motion on the table.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair inquires, is there a sufficient second to reconsider? There is a sufficient second.

On the motion to table, is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 57, nays 33, as follows:

[Rollcall Vote No. 441 Leg.]

YEAS—57

Allen	Glenn	Percy
Baker	Griffin	Proxmire
Bartlett	Hansen	Randolph
Bellmon	Hatch	Roth
Bentsen	Hatfield	Schmitt
Burdick	Hathaway	Schweiker
Byrd, Harry F., Jr.	Heinz	Scott
	Helms	Sparkman
Byrd, Robert C.	Hollings	Stennis
Cannon	Johnston	Stevens
Chafee	Laxalt	Stone
Church	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Mathias	Tower
DeConcini	McClure	Wallop
Dole	Melcher	Weicker
Domenici	Morgan	Young
Eastland	Muskie	Zorinsky
Ford	Packwood	
Garn	Pearson	

NAYS—33

Abourezk	Eagleton	Metzenbaum
Bayh	Hart	Moynihan
Biden	Haskell	Nelson
Brooke	Huddleston	Nunn
Bumpers	Jackson	Pell
Case	Javits	Ribicoff
Chiles	Leahy	Riegle
Clark	Magnuson	Sarbanes
Cranston	Matsunaga	Sasser
Culver	McGovern	Stevenson
Durkin	McIntyre	Williams

NOT VOTING—10

Anderson	Humphrey	Metcalf
Goldwater	Inouye	Stafford
Gravel	Kennedy	
Hayakawa	McClellan	

So Mr. BARTLETT's motion to lay on the table the motion to reconsider was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House disagrees to the amendment of the Senate to the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. DENT, Mr. PHILLIP BURTON, Mr. GAYDOS, Mr. CLAY, Mr. BIAGGI, Mr. ZEFERETTI, Mr. MICHAEL O. MYERS, Mr. MURPHY of Pennsylvania, Mr. CORRADA, Mr. SIMON, Mr. MILLER of California, Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. QUIE, Mr. ERLENBORN, Mr. ASHBROOK, Mr. SARASIN, Mr. EDWARDS of Oklahoma, Mr. JEFFORDS, and Mr. DUNCAN of Tennessee were appointed managers of the conference on the part of the House.

The House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25 to the bill (H.R. 6550) to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes; and that the House agrees to Senate amendments numbered 10, 19, 20, and 26 with amendments in which it requests the concurrence of the Senate.

The House has passed the bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The Speaker has signed the enrolled bill (S. 1322) to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

The enrolled bill was subsequently signed by the President pro tempore.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

TECHNICAL CORRECTION TO AMENDMENT NO. 1064

Mr. RIEGLE. Mr. President, I ask unanimous consent that I be permitted to make a technical correction in amendment No. 1064 which I offered about a half hour ago and which was accepted by the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 912

Mr. ABOUREZK. Mr. President, I call up amendment No. 912.

The PRESIDING OFFICER. The clerk will report.

Mr. BARTLETT. Will the Senator state the number of the amendment.

Mr. ABOUREZK. 912.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 912:

On page 9, lines 4, 5, and 6, strike "(without regard to the outcome of any appeal of such price determination pending on April 20, 1977).".

Mr. ABOUREZK. I ask for the yeas and nays on this amendment, Mr. President.

The PRESIDING OFFICER (Mr. RIEGLE). Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

The call of the roll was resumed.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that Mike Aylward of Senator MCINTYRE's staff be granted the privileges of the floor between the hours of 7:30 p.m. and 9:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 38 Leg.]

Abourezk	Clark	Hatfield
Allen	Cranston	Hathaway
Anderson	Culver	Heinz
Baker	Curtis	Helms
Bartlett	Danforth	Hollings
Bayh	DeConcini	Huddleston
Bellmon	Dole	Inouye
Bentsen	Durkin	Jackson
Biden	Eagleton	Javits
Brooke	Eastland	Johnston
Bumpers	Ford	Laxalt
Burdick	Garn	Leahy
Byrd, Harry F., Jr.	Glenn	Long
	Goldwater	Lugar
Byrd, Robert C.	Gravel	Magnuson
Cannon	Griffin	Mathias
Case	Hansen	Matsunaga
Chafee	Hart	McClure
Chiles	Haskell	McGovern
Church	Hatch	McIntyre
Melcher	Randolph	Stevens
Metzenbaum	Ribicoff	Stevenson
Morgan	Riegle	Stone
Muskie	Roth	Talmadge
Nelson	Sarbanes	Thurmond
Nunn	Sasser	Tower
Packwood	Schmitt	Wallop
Pearson	Schweiker	Weicker
Pell	Scott	Williams
Percy	Sparkman	Young
Proxmire	Stennis	Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. DURKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I make a point of order against the pending amendment No. 912 inasmuch as it purports to strike language in the bill that is not in the bill.

The PRESIDING OFFICER. The point of order of the Senator from New Hampshire is well taken.

Does anyone else wish to be heard?

The Chair sustains the point of order of the Senator from New Hampshire.

The bill is open to further amendment.

AMENDMENT NO. 913

Mr. ABOUREZK. Mr. President, I call up amendment No. 913 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 913:

On page 11, strike lines 8 through 10, and insert in lieu thereof the following: "from offshore Federal lands, based upon a showing of actual costs.".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay on the table the amendment of the Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New York (Mr. MOYNIHAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from California (Mr. HAYAKAWA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 55, nays 35, as follows:

[Rollcall Vote No. 442 Leg.]

YEAS—55

Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Griffin	Roth
Bentsen	Hansen	Schmitt
Burdick	Hatch	Schweiker
Byrd, Harry F., Jr.	Hatfield	Scott
	Heinz	Sparkman
Byrd, Robert C.	Helms	Stevens
Cannon	Johnston	Stevenson
Chafee	Laxalt	Stone
Chiles	Long	Talmadge
Curtis	Lugar	Thurmond
Danforth	Matsunaga	Tower
DeConcini	McClure	Wallop
Dole	Melcher	Weicker
Eastland	Morgan	Young
Ford	Nunn	Zorinsky
Garn	Packwood	

NAYS—35

Abourezk	Eagleton	McIntyre
Anderson	Hart	Metzenbaum
Bayh	Haskell	Muskie
Biden	Hathaway	Nelson
Brooke	Hollings	Pell
Bumpers	Huddleston	Proxmire
Case	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Williams
Durkin	McGovern	

NOT VOTING—10

Domenici	Kennedy	Stafford
Hayakawa	McClellan	Stennis
Humphrey	Metcalf	
Javits	Moynihan	

So the motion to lay on the table Mr. ABOUREZK's amendment (No. 913) was agreed to.

AMENDMENT NO. 903

Mr. BAYH. Mr. President, I call up amendment 903 and ask respectfully for its immediate consideration.

The PRESIDING OFFICER (Mr. MUSKIE). The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes amendment No. 903:

On page 3, between lines 3 and 4, insert:

"(6) the fourfold increase in world oil prices since 1973 is the result of ruthless international cartel action rather than market forces to the detriment of the economy of the United States and to general international economic development;".

Renumber succeeding sections accordingly.

Mr. BAYH. Mr. President, I shall be brief because, frankly, I think anyone who listened to the amendment can understand its implications and its thrust.

It is in the "purpose" section, and I think it is important, in line with what I said earlier, whether you choose to accept the Senator from Indiana's feeling about vertical integration and whether indeed we should tie the price of natural gas in this country to what amounts to the price of OPEC oil as it is delivered to this country.

Nevertheless, I think it is important for the "purpose" section to state unequivocally the basis for the problem that confronts us today, and that is a fourfold increase in the price of oil.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I ask unanimous consent to suspend the yeas and nays.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. Could the Senator tell us is he willing to accept this?

Mr. SCHMITT. We are willing to accept this on a voice vote, Mr. President.

Mr. WALLOP. I object.

The PRESIDING OFFICER. Objection is heard.

The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from Indiana. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 54, nays 36, as follows:

[Rollcall Vote No. 443 Leg.]

YEAS—54

Abourezk	Eastland	Moynihan
Allen	Ford	Muskie
Anderson	Glenn	Nunn
Bayh	Hart	Packwood
Brooke	Haskell	Proxmire
Bumpers	Hatfield	Ribicoff
Burdick	Hathaway	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Helms	Sarbanes
Byrd, Robert C.	Hollings	Schweiker
Cannon	Inouye	Sparkman
Case	Jackson	Stevenson
Chiles	Leahy	Stone
Church	Magnuson	Talmadge
Clark	Matsunaga	Thurmond
Cranston	McGovern	Weicker
Danforth	Melcher	Williams
Durkin	Metzenbaum	
Eagleton	Morgan	

NAYS—36

Baker	Gravel	Pearson
Bartlett	Hansen	Pell
Bellmon	Hatch	Percy
Bentsen	Huddleston	Randolph
Biden	Johnston	Sasser
Chafee	Laxalt	Schmitt
Culver	Long	Scott
Curtis	Lugar	Stevens
DeConcini	Mathias	Tower
Dole	McClure	Wallop
Garn	McIntyre	Young
Goldwater	Nelson	Zorinsky

NOT VOTING—10

Domenici	Javits	Stafford
Griffin	Kennedy	Stennis
Hayakawa	McClellan	
Humphrey	Metcalf	

So Mr. BAYH's amendment (No. 903) was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1138

Mr. METZENBAUM. Mr. President, I call up my amendment No. 1138.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment to amendment No. 862 numbered 1138:

On page 12, strike lines 13 through 15.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 1138) of the Senator from Ohio (Mr. METZENBAUM). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from California (Mr. HAYAKAWA), and the Senator from New York (Mr. JAVITS) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 39, nays 51, as follows:

[Rollcall Vote No. 444 Leg.]

YEAS—39

Abourezk	Hart	McIntyre
Anderson	Haskell	Melcher
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Huddleston	Nelson
Bumpers	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Case	Kennedy	Riegle
Church	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Sparkman
Durkin	Matsunaga	Stevenson
Eagleton	McGovern	Williams

NAYS—51

Allen	Chiles	Gravel
Baker	Curtis	Hansen
Bartlett	Danforth	Hatch
Bellmon	DeConcini	Hatfield
Bentsen	Dole	Heinz
Burdick	Eastland	Helms
Byrd, Harry F., Jr.	Ford	Johnston
	Garn	Laxalt
Byrd, Robert C.	Glenn	Long
Chafee	Goldwater	Lugar

McClure	Randolph	Thurmond
Metzenbaum	Roth	Tower
Morgan	Schmitt	Wallop
Nunn	Schweiker	Weicker
Packwood	Scott	Young
Pearson	Stevens	Zorinsky
Pell	Stone	
Percy	Talmadge	

NOT VOTING—10

Clark	Humphrey	Stafford
Domenici	Javits	Stennis
Griffin	McClellan	
Hayakawa	Metcalf	

So Mr. METZENBAUM's amendment was rejected.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. BAYH). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCHMITT. I move to lay that motion on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and navs were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 32, as follows:

[Rollcall Vote No. 445 Leg.]

YEAS—59

Allen	Glenn	Nelson
Baker	Goldwater	Nunn
Bartlett	Gravel	Packwood
Bellmon	Griffin	Pearson
Bentsen	Hansen	Pell
Burdick	Hatch	Percy
Byrd, Harry F., Jr.	Hatfield	Proxmire
	Heinz	Randolph
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Schmitt
Chafee	Huddleston	Schweiker
Chiles	Johnston	Scott
Cranston	Laxalt	Stevens
Curtis	Leahy	Stone
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Dole	McClure	Wallop
Eastland	McIntyre	Weicker
Ford	Morgan	Young
Garn	Muskie	Zorinsky

NAYS—32

Anderson	Clark	Inouye
Bayh	Culver	Jackson
Biden	Durkin	Javits
Brooke	Eagleton	Kennedy
Bumpers	Hart	Magnuson
Case	Haskell	Mathias
Church	Hathaway	Matsunaga
McGovern	Ribicoff	Sparkman
Melcher	Riegle	Stevenson
Metzenbaum	Sarbanes	Williams
Moynihan	Sasser	

NOT VOTING—9

Abourezk	Humphrey	Stafford
Domenici	McClellan	Stennis
Hayakawa	Metcalf	Talmadge

So the motion to lay on the table was agreed to.

AMENDMENT NO. 974

Mr. KENNEDY. Mr. President, I call up amendment No. 794.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 974.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, strike all of paragraph (c), and insert the following:

(c) The Commission may by rule establish one or more special prices or authorize or require a person to charge or receive for new natural gas an amount in excess of or less than the base price, as the case may be, authorized in subsection (b) of this section, in any high-cost or low-cost production area designated by the Commission. The Commis-

* * * * *

and, pursuant to the factors for revising the base rate in paragraph (2) of subsection (b) of this section; may establish such special prices if the Commission finds—

(1) that the current incurred costs, without regard to prospective levels of general inflation or deflation, of production in such low-cost or high-cost production areas designated by the Commission are substantially above or below the adjusted base price authorized under subsection (a) of this section; and

(2) the production of new natural gas in designated high-cost production areas is required by the public convenience and necessity.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, in the Pearson-Bentsen amendment, for the period before 1982, no figure is established for the price of natural gas produced on the Federal Outer Continental Shelf. A series of criteria are spelled out on page 10 of the Pearson-Bentsen amendment by which the commission will determine a "national ceiling price" a price for OCS gas. On page 11 it says that the commission may authorize a person to charge an amount in excess of the "national ceiling price," if they make a determination that these are high costs involved in the production of certain gas.

This simple amendment adds the provision that if they find out that it is low-cost production, they can lower the price and pass those savings on to the consumers.

It seems to me an eminently sound, eminently logical, and eminently fair proposal. I do not know whether any supporters of the Pearson-Bentsen amendment would like to talk about that or question the logic of that proposal. However, we do see in the language that it says that the standard established by the criteria in the Pearson-Bentsen bill gives the opportunity to establish amounts in excess for particular gas that is found in special reservoirs that are going to be unduly high-cost production. This simply says that if they find it will be cheaper, those costs savings will be passed on to the consumer.

I think it is readily understandable, and unless there is further discussion on it, I might be willing to have a voice vote.

Mr. SCHMITT. Mr. President, I question the logic, and I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 52, nays 37, as follows:

[Rollcall Vote No. 446 Leg.]

YEAS—52

Allen	DeConcini	Laxalt
Baker	Dole	Long
Bartlett	Eastland	Lugar
Bellmon	Ford	Mathias
Bentsen	Garn	McClure
Burdick	Glenn	Melcher
Byrd, Harry F., Jr.	Goldwater	Nunn
	Gravel	Packwood
Byrd, Robert C.	Griffin	Pearson
Chafee	Hansen	Randolph
Chiles	Hatfield	Roth
Cranston	Heinz	Sasser
Curtis	Helms	Schmitt
Danforth	Johnston	Schweiker

Scott	Talmadge	Weicker
Stevens	Thurmond	Young
Stevenson	Tower	Zorinsky
Stone	Wallop	

NAYS—37

Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Huddleston	Nelson
Brooke	Inouye	Pell
Bumpers	Jackson	Percy
Cannon	Javits	Proxmire
Church	Kennedy	Ribicoff
Clark	Magnuson	Riegle
Culver	Matsunaga	Sarbanes
Durkin	McGovern	Sparkman
Eagleton	McIntyre	Williams
Hart	Metzenbaum	
Haskell	Morgan	

NOT VOTING—11

Abourezk	Hayakawa	Metcalf
Case	Humphrey	Stafford
Domenici	Leahy	Stennis
Hatch	McClellan	

So Mr. SCHMITT's motion to lay on the table Mr. KENNEDY's amendment (No. 974) was agreed to.

ROUTINE MORNING BUSINESS

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Select Committee on Indian Affairs:

Without amendment:

S. Res. 270. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 785, a bill conveying 2,700 acres to the Paiute and Shoshone Tribes of the Fallon Indian reservation. Referred to the Committee on the Budget.

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Without amendment:

H. Con. Res. 282. A concurrent resolution making apportionment of funds for the National System of Interstate and Defense Highways (Rept. No. 95-454) (together with additional views).

By Mr. McINTYRE, from the Committee on Armed Services:

With amendments:

S. 1863. A bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, test, and evaluation for the Armed Forces, and for other purposes (Rept. No. 95-455).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Human Resources:

John B. Slaughter, of Washington, to be an Assistant Director of the National Science Foundation.

George Claude Pimentel, of California, to be Deputy Director of the National Science Foundation.

Floyd James Rutherford, of New York, to be an Assistant Director of the National Science Foundation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RANDOLPH (for Mr. WILLIAMS), from the Committee on Humane Resources:

Robert R. Humphreys, of Virginia, to be Commissioner of the Rehabilitation Services Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, September 27, 1977, he presented to the President of the United States the following enrolled bills:

S. 126. An act to reduce the hazards of earthquakes, and for other purposes.

S. 602. An act to extend and revise the Library Services and Construction Act, and for other purposes.

S. 1307. An act to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 6536) to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits, was read twice by its title and referred to the Committee on Government Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF:

S. 2145. A bill to amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V of the Executive Schedule; to the Committee on Governmental Affairs.

By Mr. TALMADGE (by request):

S. 2146. A bill to amend the Consolidated Farm and Rural Development Act, as amended; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STONE (for himself, Mr. CHILES, and Mr. WILLIAMS):

S. 2147. A bill to amend the Immigration and Nationality Act of 1952; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 2148. A bill to amend the Internal Revenue Code of 1954 to provide rules for the tax treatment of employees under certain profit sharing plans; to the Committee on Finance.

By Mr. EASTLAND:

S. 2149. A bill to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; to the Committee on the Judiciary.

By Mr. STENNIS (for himself and Mr. EASTLAND):

S. 2150. A bill to amend the Internal Revenue Code of 1954 to provide a special computation for determining the public support of certain charitable organizations; to the Committee on Finance.

By Mr. WILLIAMS:

S. 2151. A bill to authorize loans for the establishment of local, public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Human Resources.

By Mr. SPARKMAN (by request):

S. 2152. A bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund; to the Committee on Foreign Relations; and, if and when reported by that committee, to the Committee on Banking, Housing and Urban Affairs, by unanimous consent.

By Mr. DOLE:

S. 2153. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of amounts paid to relatives for purposes of the credit for expenses for household and dependent care services necessary for gainful employment; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF:

S. 2145. A bill to amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V of the Executive Schedule; to the Committee on Governmental Affairs.

Mr. RIBICOFF. Mr. President, at the request of the General Services Administration, I am introducing legislation to amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V (47,500) of the Executive Schedule.

The GSA advises that the position is presently authorized at level V by Presidential authority and enactment of this legislation will include the position under the same statutory authority as other GSA heads of a service.

I ask unanimous consent that the text of the bill and the accompanying statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5316 of chapter 53, title 5, United States Code, is amended as follows:

( ) Commissioner, Automated Data and Telecommunications Service, General Services Administration.

WASHINGTON, D.C.,
July 20, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith for referral to the appropriate Committee, is a draft bill "To amend chapter 53 of title 5, United States Code, to include the position of Commissioner, Automated Data and Telecommunications Service, General Services Administration, in level V of the Executive Schedule."

The position of Commissioner, Automated Data and Telecommunications Service (ADTS), is currently authorized at level V

by Presidential rather than statutory authority. This position was elevated to the Executive level V in 1971 in the predecessor organization, Transportation and Communications Service, prior to the establishment of ADTS. This legislation is requested to include the ADTS Commissionership under the same statutory authority as the other General Services Administration's Heads of Services.

GSA recommends prompt and favorable consideration of this legislation. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to submission of this legislative proposal to the Congress.

Sincerely,

ROBERT T. GRIFFIN,
Deputy Administrator.

By Mr. STONE (for himself, Mr. CHILES, and Mr. WILLIAMS):

S. 2147. A bill to amend the Immigration and Nationality Act of 1952; to the Committee on the Judiciary.

Mr. STONE. Mr. President, the bill I am introducing today with the senior Senator from Florida and the junior Senator from New Jersey would extend the right of citizenship to elderly, long-term U.S. residents who are political refugees and have been unable to learn English, despite years of living, working, and paying taxes in this country. The measure would waive the language requirement for those individuals who, on the effective date of the bill, are over 50 years old and have lived in the United States for at least 5 years. It would apply only to persons admitted to the United States as political refugees—from Cuba, Yugoslavia, the Soviet Union, Indochina, and oppressive regimes throughout the world.

In the State of Florida, there are thousands of Cubans who came to our country in the early 1960's and have been working and paying taxes ever since. For some of them, particularly the elderly, learning English has proved an insurmountable obstacle to the achievement of citizenship status. I have received letters from elderly residents who have gone down to the Federal building time and time again and paid their $25 examination fee, only to be denied citizenship, because they are unable to demonstrate an adequate knowledge of English. If such people could take the exam in their native language, they would have a chance at the full legal protection and increased opportunity for civic participation that citizenship affords. Above all, they could achieve the dream of becoming full-fledged U.S. citizens.

The measure we are introducing today would not apply to new arrivals in the United States or to young people in school. It would affect only older political refugees who after at least 5 years of living and working here on the date of this bill's passage are unable to meet the language requirement for citizenship. It would apply to citizens who have fled from oppressive governments in search of democracy and now would like to participate more fully in the American way of life.

In recent months, Congress and the Carter administration have been developing a foreign policy based on human rights and sending a strong message throughout the world on behalf of human dignity. A logical application of this human rights policy here at home would be to make citizenship more available to political refugees who have sought asylum in our country, learned our history, and adopted our culture.

By Mr. EASTLAND:

S. 2149. A bill to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; to the Committee on the Judiciary.

Mr. EASTLAND. Mr. President, I am introducing today, by request of the administration, a bill to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (H.J. Res. 549, Public Law 94–241, 90 Stat. 266).

This bill has been drafted by the Committee on the Judiciary after consultation with representatives of the administration and the Administrative Office of the United States Courts.

Article IV of the Covenant requires the United States to undertake to establish a court of record to be known as the "District Court for the Northern Mariana Islands" which will have, among other things, essentially the same jurisdiction as a district court of the United States, including exclusive jurisdiction over certain Federal questions and Federal crimes. The district court will also have original and appellate jurisdiction, except as the constitution and laws of the Northern Mariana Islands shall otherwise provide, over all civil and criminal cases arising in the Northern Mariana Islands.

It is anticipated that the constitution for the Northern Mariana Islands may become effective as early as January 9, 1978. This constitution requires the Legislature of the Northern Marianas to establish a Commonwealth trial court with, among others, original jurisdiction over civil and criminal matters where the amount in controversy or the fine does not exceed $5,000 or imprisonment for more than 5 years. Until the Constitution becomes effective, the legislature will have no authority to act. After the constitution becomes effective, it will take the legislature and the Government of the Northern Mariana Islands some undetermined time to provide for and establish the Commonwealth trial court. Therefore, unless the district court for the Northern Mariana Islands is established in this session of the Congress, the Government of the Northern Mariana Islands may find itself without a functioning judicial branch to try civil and criminal cases. Moreover, even assuming the local legislature could move expeditiously after the constitution becomes effective, there still would be no court with jurisdiction over Federal questions, Federal crimes, and civil and other criminal matters where the amount in controversy or the fine exceeded $5,000 or 5 years of imprisonment, and there would be no appellate tribunal to review any of the cases arising in the Northern Mariana Islands. We should not wait until the next session of this Congress acts on this bill. To do so would leave an unacceptable void in the judicial functions of this new government.

Mr. President, I ask unanimous consent that a copy of the bill be placed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established for and within the Northern Mariana Islands a court of record to be known as the "District Court for the Northern Mariana Islands." The Northern Mariana Islands shall constitute a part of the same judicial circuit of the United States as Guam. Terms of court shall be held on Saipan and at such other places and at such times as the court may designate by rule or order.

(b)(1) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court for the Northern Mariana Islands who shall hold office for the term of eight years and until his successor is chosen and qualified, unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

(b)(2). The Chief Judge of the Ninth Judicial Circuit of the United States may assign justices of the High Court of the Trust Territory of the Pacific Islands or judges of courts of record of the Northern Mariana Islands who are licensed attorneys in good standing or a circuit or district judge of the Ninth Circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit to serve temporarily as a judge in the District Court for the Northern Mariana Islands whenever such an assignment is necessary for the proper dispatch of the business of the court. Such judges shall have all the powers of a judge of the District for the Northern Mariana Islands, including the power to appoint any person to a statutory position, or to designate a depository of funds or a newspaper for publication of legal notices.

(b)(3). The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for the Northern Mariana Islands to whose offices the provisions of chapters 35 and 37 of title 28, respectively, United States Code, shall apply.

(b)(4). If the President appoints a judge for the District Court for the Northern Mariana Islands or a United States atttorney or a United States marshal for the Northern Mariana Islands who at that time is serving in the same capacity in another district, the appointment shall, without prejudice to a subsequent appointment, be for the unexpired term of such judge or officer.

(c). The provisions of chapters 43 and 49 of title 28, United States Code, and the rules heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom where appropriate, except as otherwise provided in Articles IV and V. The terms "attorney" as used in the Federal Rules of Crim-

inal Procedure (Rule, 54(c)) shall, when applicable to cases arising under the laws of the Northern Mariana Islands or any other person or persons as may be authorized by the laws of the Northern Marianas to act therein.

Sec. 2(a). The District Court for the Northern Mariana Islands shall have the jurisdiction of a district court of the United States, except that in all causes arising under the Constitution, treaties or laws of the United States it shall have jurisdiction regardless of the sum or value of the matter in controversy.

(b). The District Court shall have original jurisdiction in all causes in the Northern Mariana Islands not described in subsection (a) jurisdiction over which is not vested by the Constitution or laws of the Northern Mariana Islands in a court or courts of the Northern Mariana Islands. In causes brought in the District Court solely on the basis of this subsection, the District Court shall be considered a court of the Northern Mariana Islands for the purposes of determining the requirements of indictment by Grand jury or trial by jury.

SEC. 3. The District Court shall have such appellate jurisdiction as the Constitution and laws of the Northern Mariana Islands provide. Appeals to the District Court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to subsection 1(b)(2), provided, however, that only one of them shall be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the District Court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

SEC. 4. (a) The relations between the courts established by the Constitution or laws of the United States and the courts of the Northern Mariana Islands with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States and the courts of the several States in such matters and proceedings, except as otherwise provided in Article IV of the Covenant; provided that for the first fifteen years following the establishment of an appellate court of the Northern Mariana Islands the United States Court of Appeals for the judicial circuit which includes the Northern Mariana Islands shall have jurisdiction of appeals from all final decisions of the highest court of the Northern Mariana Islands from which a decision could be had in all cases involving the Constitution, treaties or laws of the United States, or any authority exercised thereunder, unless those cases are reviewable in the District Court for the Northern Mariana Islands pursuant to Section 3 of this Act.

(b) Those portions of Title 28 of the United States Code which apply to Guam or the District Court of Guam shall be applicable to the Northern Mariana Islands or the District Court for the Northern Mariana Islands, respectively, except as otherwise provided in Article IV of the Covenant.

SEC. 5. This Act shall come into force upon its approval or at the time proclaimed by the President for the Constitution of the Northern Mariana Islands to become effective, whichever is the later date.

By Mr. STENNIS (for himself and Mr. EASTLAND):

S. 2150. A bill to amend the Internal Revenue Code of 1954 to provide a special computation from determining the public support of certain charitable organizations; to the Committee on Finance.

Mr. STENNIS. Mr. President, on behalf of myself and my distinguished colleague from Mississippi (Mr. EASTLAND), I introduce a bill to amend the Internal Revenue Code as it relates to the classification of organizations as public charities under section 509.

Charitable, educational, scientific, and like public organizations are generally classified as either public charities or private foundations under section 509 of the Internal Revenue Code. Among the types of public charities are organizations described in sections 509(a)(1) and 509(a)(2) of the Code, because their financial support comes from, directly or indirectly, the general public. In the case of certain publicly supported charities, the Internal Revenue Service regulations provide that an organization will be a publicly supported charity where it meets either a mechanical test or a facts and circumstances test in computing the amount of financial support deemed to be derived from the public. In making such computation, the Service has provided, by regulation, that contributions from any one person, with certain exceptions, are subject to a percentage limitation, so that only a portion of the gift, if the gift is a large one, is treated as part of the charity's public support. The dollar limit is an amount determined by multiplying contributions and other allowable financial support over a 4-year period by a 2-percent factor. This means that, in the case of any contribution from any one person, with the exceptions noted below, the amount of the gift deemed to come from the public cannot exceed 2 percent of the organization's aggregate 4-year financial support. However, regulations provide that contributions from publicly supported charities, such as organizations described in section 170(b)(1)(A)(vi), are not subject to such percentage limitations. Gifts from one public charity to another are deemed to come from the general public.

Therefore, if a charitable organization is supported through contributions by one public charity, the donee organization is itself classified as a public charity, even though it has no other source of support than the one donor.

Section 509 recognizes that certain charitable organizations should be treated as public charities where they are operated, supervised, or controlled by or in connection with a civic league described in section 501(c)(4), a labor organization described in section 501(c)(5), or a trade association described in section 501(c)(6) if these organizations can meet certain publicly supported tests prescribed in section 509(a)(2) of the Code. Thus, if a trade association described in section 501(c)(6) can satisfy certain financial support tests contained in section 509(a)(2)(A) and section 509(a)(2)(B), a charity which it controls, operates, or supervises, will not be treated as a public charity under section 509(a)(3). However, contributions made by that same publicly supported business league to its charitable organization are not treated as contributions from the general public, despite the fact that the trade association has broad public support from, for example, its members.

It seems clear that contributions by a publicly supported business league or labor organization should be treated no differently than contributions from a publicly supported charity where the charitable donee, in making computations of its public support for purposes of classifying it under section 170(b)(1)(A)(vi) and section 509(a)(1). The Internal Revenue Service has recently, and in my judgment erroneously, ruled that contributions by a chamber of commerce to a charitable organization are subject to the 2-percent limit as if the chamber of commerce was a private individual. I ask unanimous consent that Revenue Ruling 77–255 be included in the RECORD immediately following the conclusions of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. STENNIS. Mr. President, to make matters worse, the Service has ruled privately that controversies relating to these limitations are not subject to review by the Tax Court under the declaratory judgment provisions of section 7428 enacted as part of the Tax Reform Act of 1976 where the charity is currently classified as a public charity. Thus, a chamber of commerce which makes contributions to a charitable organization cannot controvert this finding by the Internal Revenue Service except by having the donee organization treat itself as a private foundation.

This bill will remedy this unfair and discriminatory practice by treating all such contributions as public contributions where the donor organization is itself publicly supported so that a charitable organization, supported entirely by a civic league, labor organization, or business league, can be classified as a public charity.

EXHIBIT 1

[¶ 55,712] Rev Rul 77–255. IRB 1977–30, p. 7. Charitable Contributions and Gifts. Contributions made by Section 501(c)(6) business league to Sec. 501(c)(3) organization seeking to be classified as other than private foundation under Sec. 509(a)(1) because it's publicly supported under Sec. 170(b)(1)(A)(vi) are subject to two percent limitation imposed by Sec. 1.170A–9(e)(6) of Regs. Ref. ¶ 16,011. Sec. 170.

Advice has been requested whether contributions given under the circumstances set out below are subject to the two percent limitation imposed by section 1.170A–9(e)(6) of the Income Tax Regulations.

An organization exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 that is not organized and operated for the purpose of testing for public safety has requested a determination that it is other than a private

foundation by virtue of being described in sections 509(a)(1) and 170(b)(1)(A)(vi). A business league exempt from Federal income tax under section 501(c)(6) has made contributions to the section 501(c)(3) organization that total more than two percent of the section 501(c)(3) organization's support during the period in which its support is to be measured under section 170(b)(1)(A)(vi). The business league engages in some charitable and educational activities that benefit the community in which it is located, but it is not organized and operated exclusively for such purposes. It is not a governmental unit referred to in section 170(c)(1). None of the amounts contributed to the section 501(c)(3) organization by the business league has been earmarked by the donors to the business league for use as contributions to the section 501(c)(3) organization.

Section 509(a)(1) of the Code excludes from private foundation status, among other organizations, those organizations described in section 170(b)(1)(A)(vi).

Section 170(b)(1)(A)(vi) of the Code describes an organization that is referred to in section 170(c)(2) and that normally receives a substantial part of its support from a governmental unit referred to in section 170(c)(1) or from direct or indirect contributions from the general public.

Section 170(c)(2) of the Code, in part, describes a domestic corporation, trust, or community chest, fund or foundation, that is organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

In determining whether an organization receives the support required under section 170(b)(1)(A)(vi) of the Code, section 1.170A-9(e)(6) of the regulations provides that contributions by an individual, trust, or corporation shall be taken into account as support from direct or indirect contributions from the general public only to the extent that the total amount of the contributions by any such individual, trust, or corporation during the period for which the support is being measured does not exceed two percent of the organization's total support for such period.

Section 1.170A-9(e)(6) of the regulations provides an exception to the two percent limitation, however, in that the limitation does not apply to support received from governmental units described in section 170(c)(1) of the Code or to contributions from organizations such as those described in section 170(b)(1)(A)(vi) unless those contributions represent amounts that have been expressly or impliedly earmarked by the donor to such governmental unit or section 170(b)(1)(A)(vi) organization as being for, or for the benefit of, the particular organization claiming section 170(b)(1)(A)(vi) status.

The business league is not an organization of the type described in section 170(b)(1)(A)(vi) of the Code because it is not organized and operated exclusively for the purpose set out in section 170(c)(2). Because it is neither a governmental unit described in section 170(c)(1) nor an organization of the type described in section 170(b)(1)(A)(vi), the contributions by the business league to the section 501(c)(3) organization do not fall within the exception to the two percent limitation.

Accordingly, the contributions by the business league are subject to the two percent limitation set out in section 1.170A-9(e)(6) of the regulations in determining the section 501(c)(3) organization's support from direct or indirect contributions from the general public.

By Mr. WILLIAMS:

S. 2151. A bill to authorize loans for the establishment of local, public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Human Resources.

Mr. WILLIAMS. Mr. President, there are between 80 and 100 million cats and dogs in the United States today, with 2,000 to 3,500 more born every hour.

Far too many of these animals are unwanted. The cuddly kitten or puppy, purchased on a whim, may lose its appeal when it matures. Or a pet owner may not be able to find homes for a new litter. These unwanted animals suffer needlessly, and they impose a considerable burden on society.

Each year 15 million to 17 million cats and dogs are turned over to animal shelters, where more than 13 million of them are destroyed. Another 5 million are abandoned to fend for themselves. Only 1 in 10 of these abandoned animals finds a new home. The others die within a short time of disease, starvation, exposure, or under the wheels of a car.

This pet population explosion has created serious problems in cities throughout the Nation. In 1974, U.S. mayors ranked dog and other pet control problems as the primary source of citizen complaints.

Stray animals are a menace to public health, spreading disease, and biting and scratching the unwary. Some 65 diseases—including mumps, measles, tuberculosis, diphtheria, and scarlet fever—are transmittable from cats and dogs to humans. A million and a half Americans require medical treatment for dog bites every year, and 30,000 must undergo treatment for rabies. Unfortunately, most dog bite victims are children.

Pets and stray animals pollute the environment with waste and noise. Dogs deposit some 110,000 pounds and 3,000 gallons of waste per day on the streets of New York City alone. In addition, stray animals damage property, cause traffic accidents, and kill other animals.

The costs of animal control figure significantly in municipal budgets, and, despite massive expenditures, the problem continues unabated. Some $500 million annually is spent for public and private animal control efforts. About $100 million of this amount is spent just to destroy unwanted animals. The city of Chicago, for example, spends $1 million a year on its animal shelter, and another $60,000 to remove dead animals from the streets. Long Beach, Calif., spends $74,000 a year just to care for impounded animals.

Other countries have tried various means of controlling their pet populations. In Reykjavik, Iceland, dogs have been banned since 1924. In the Soviet Union, dogs are periodically prohibited in certain cities and are shot on sight in the streets.

Few people would recommend such draconian solutions in the United States. Pets provide needed companionship and protection for children, for the elderly, indeed, for people of all ages. But it is clear that something must be done to bring our pet population under control. Animal shelters simply do not have the capacity to handle the burgeoning number of unwanted pets. If no one adopts them within a few days, the only alternative is to destroy them.

But there is a better solution. It involves prevention rather than the "cure" of the decompression chamber and the needle.

One city, Los Angeles, has tried this solution with notable success. In 1971, Los Angeles established a low-cost spay and neuter clinic as a pilot project for controlling its dog and cat population. The project worked so well that after 2 years, two more clinics were opened in other parts of the city. The purpose of these clinics is to sterilize pets at the lowest possible cost, while maintaining the highest possible medical standards. The fee of $11.50 for neutering and $17.50 for spaying saves pet owners from $23.50 to $140 per operation.

The response of Los Angeles pet owners has been enthusiastic. Thousands of dogs have been spayed and neutered in the low-cost clinics. And, contrary to some predictions, private veterinarians have also shown an increase in spaying and neutering operations. As a result, the percentage of licensed dogs that have been altered increased from 16 percent in 1972 to 37.7 percent in 1974. At the same time, impoundment and destruction of animals in the city's shelters have been sharply reduced. From 1971 to 1975, the number of animals impounded declined 18.9 percent, and the number of animals destroyed was reduced by 21.7 percent.

Other factors besides the municipal clinics have contributed to these trends. Stricter enforcement of the city's leash law, lower license fees for sterilized dogs, and public education have all played a role. But Los Angeles officials are convinced that the clinics have been a key element in reducing and stabilizing the pet population.

This means savings to the taxpayers. While the city pays $3 for each sterilization, it must pay $20 for each animal it handles in a shelter. One study indicates that for every dollar spent on the public clinics, the city will save $6.50 in animal control costs.

I believe the Los Angeles experience can be applied to other cities to help them cope with their animal populations. Unfortunately, financially hard-pressed city governments cannot come up with the initial funding needed to start clinics like Los Angeles.

Therefore, I am introducing a bill which would provide Federal loans for this purpose. Loans of up to $200,000 would be available to any city, county or other local government with a population of 100,000 persons or more, for the establishment and initial operating costs of public nonprofit clinics for the spaying and neutering of dogs and cats. The bill would authorize $4 million each year for 5 years for such loans.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds and declares that—

(1) the Nation has an overpopulation of pet dogs and cats; and

(2) this overpopulation has resulted in an increasingly vast number of homeless dogs and cats, which suffer needlessly and cause—

(A) a grave hazard to public health and safety;

(B) environmental and property damage; and

(C) a severe financial burden on local governments throughout the Nation.

(b) The Congress further finds and declares that—

(1) spaying and neutering of dogs and cats are effective means of bringing these animal populations under control;

(2) most pet owners are willing to pay a reasonable fee for spaying or neutering their dogs and cats if adequate facilities are available; and

(3) existing public and private facilities are unable to provide spaying and neutering on a large enough scale at a reasonable cost.

(c) It is, therefore, the purpose of this Act to encourage and assist in the establishment of local, public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats.

LOANS

SEC. 2. (a) The Secretary of Health, Education, and Welfare is authorized to make loans to general purpose units of local government, including, but not limited to, cities, counties, towns, townships and parishes, which have populations of at least one hundred thousand persons according to the latest estimates available from the Department of Commerce, for the purpose of establishing, by construction or otherwise, and providing initial operating costs of public, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats. No eligible unit of local government may receive a loan in excess of $200,000 under this Act.

(b) Any such loan shall be made on the basis of an application submitted to the Secretary of Health, Education, and Welfare in such form and containing such information and assurances as he may, by regulation, prescribe.

(c) The Secretary of Health, Education, and Welfare shall, from time to time, promulgate regulations establishing maximum fees for spaying and neutering which may be charged at clinics established or operated with loans pursuant to this Act. Any unit of government receiving such a loan shall abide by such maximum charges until such loan is repaid in its entirety.

(d) Each such loan shall bear interest at a rate which is not more than a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one per centum, plus an allowance adequate in the judgment of the Secretary of Health, Education, and Welfare to cover administrative costs and probable losses under this Act.

(e) Each such loan shall be repayable over a period and according to a schedule determined by the Secretary of Health, Education, and Welfare to be appropriate, but not exceeding twenty years.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 3. To carry out the provisions of this Act, there is authorized to be appropriated not to exceed $4,000,000 for the fiscal year ending September 30, 1978, and for each of the four succeeding fiscal years.

By Mr. SPARKMAN (by request):

S. 2152. A bill to amend the Bretton Woods Agreements Act to authorize the United States to participate in the supplementary financing facility of the International Monetary Fund; to the Committee on Foreign Relations; and, if and when reported by that committee, to the Committee on Banking, Housing, and Urban Affairs, by unanimous consent.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to authorize United States participation in the supplementary financing facility of the International Monetary Fund.

In accordance with Senate rule XXV.1 (j)(1), I request that the aforementioned bill be referred to the Committee on Banking, Housing, and Urban Affairs when it is reported from the Committee on Foreign Relations.

The bill has been requested by the Secretary of the Treasury and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the sectional analysis of the bill and the letter from the Secretary of the Treasury to the President of the Senate dated September 16, 1977.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2152

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2), as amended, is further amended by adding at the end thereof the following new section:

"SEC. 27. (a) For the purpose of participation of the United States in the Supplementary Financing Facility (hereinafter referred to as "the facility") established by the decision numbered 5508–(77/127) of the Executive Directors of the Fund, the Secretary of the Treasury is authorized to make resources available as provided in the decision numbered 5509–(77/127) of the Fund, in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights.

(b) The Secretary of the Treasury shall account, through the fund established by section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), for any adjustment in the value of monetary assets held by the United States in respect of United States' participation in the facility."

SECTIONAL ANALYSIS

This bill amends the Bretton Woods Agreements Act to authorize the Secretary of the Treasury to take the steps necessary for United States participation in the Supplementary Financing Facility of the International Monetary Fund. The terms of United States participation in the facility will be governed by the decisions of the IMF Executive Directors establishing the facility and authorizing replenishment of IMF resources for the purposes of the facility.

The bill provides that resources of the United States will be available for the purpose of participating in the Supplementary Financing Facility in an amount not to exceed 1,450 million Special Drawing Rights. These resources will be provided by the United States entering into an agreement with the IMF as provided in Executive Board Decision numbered 5509–(77/127). In addition, the United States can transfer (i.e. sell) its reserve claims on the IMF arising from participation in the facility to others under the Executive Board Decision, and can purchase such claims on the IMF held by others. However, in no event may the total amount of currency made available by the Secretary of the Treasury, net of amounts received with respect to U.S. participation in the Facility, exceed the equivalent of 1,450 million Special Drawing Rights.

Transactions arising from U.S. participation in the facility, like other U.S. transactions with the IMF, are exchanges of monetary assets. This accounting and budgetary treatment of U.S. transactions with the Fund was adopted as a result of the recommendations in 1967 of the President's Commission on Budget Concepts. Concurring in the application of the exchange of assets concept, the Congress, since 1975, has considered appropriations unnecessary for increases in the United States quota and for payment by the U.S. of its maintenance of value obligations in the IMF.

Similarly, no appropriations are necessary for U.S. participation in the IMF Supplementary Financing Facility and none are authorized by the proposed bill. When the United States provides dollars under the terms of the facility, the U.S. in return will receive a monetary asset in the form of a liquid claim, of equivalent SDR value, on the IMF. These claims will form part of the U.S. "reserve position" in the IMF and so will form part of U.S. monetary assets.

Because the assets and accounts of the Treasury are denominated in dollars, while those of the IMF—including all U.S. claims on the IMF—are denominated in SDR, there may, as a consequence of exchange rate changes, be a net change in the value of U.S. monetary assets arising from United States participation in the facility.

The proposed bill, therefore, provides for the Exchange Stabilization Fund, established by section 10 of the Gold Reserve Act of 1934, as amended, to account for any such net adjustment in the value of U.S. monetary assets arising from U.S. participation in the facility. The Exchange Stabilization Fund similarly is used, pursuant to section 3 of the Special Drawing Rights Act, as amended (22 U.S.C. 286o), to account for valuation changes in U.S. holdings of Special Drawing Rights and, in light of section 18 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286e–3), to account for any valuation adjustment in foreign currencies purchased by the United States from the IMF.

Interest earned on claims held by the United States through its participation in the facility will be covered into the Treasury as miscellaneous receipts.

THE SECRETARY OF THE TREASURY,
Washington, September 16, 1977.

HON. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am today transmitting legislation to authorize United States participation in the Supplementary Financing Facility of the International Monetary Fund.

The establishment of the new facility, a major initiative to strengthen the international monetary system at a time of critical need, represents the fulfillment of an important goal agreed at the London Summit. The facility will provide the International Monetary Fund with resources which are urgently needed to improve international balance of payments adjustment and to as-

sure the smooth functioning of and strengthen confidence in the international monetary system.

A Special Report on the Supplementary Financing Facility, prepared by the National Advisory Council on International Monetary and Financial Policies, accompanies this legislation. I fully support the Council's strong recommendation that the United States participate in the facility, and I urge prompt Congressional action to authorize that participation.

The International Monetary Fund, since its establishment in 1945, has served as the world's central institution for international monetary cooperation and is a cornerstone of United States international monetary policy. The IMF serves a key role in establishing and monitoring the "rules of the game" for acceptable international monetary and financial behavior of its 131 members. The IMF also serves a critical function in facilitating the adjustment of payments imbalances by members by providing temporary financing during the period while corrective policies take effect and eliminate the need for such financing.

Thus, adjustment is made possible in ways that are compatible with our liberal trade and payments objectives, in ways that avoid discrimination against others and disruption of the world economy.

The facility would provide approximately $10 billion of additional resources to the International Monetary Fund to meet demands that may be placed on the Fund over the next several years. The pattern of world payments has recently undergone profound transformation, with the strain of a quintupling of oil prices, unprecedented inflation, and the worst recession in a generation. Existing international monetary mechanisms, official and private, have thus far met the extraordinary financing needs arising from these events. This facility is needed to assure that the international community can deal with future balance of payments financing needs in the context of an orderly and cooperative international monetary system.

The Supplementary Financing Facility would be used in certain clearly defined circumstances. It would make additional resources available for a temporary period to help meet the financing needs of those IMF members with particularly large payments problems relative to their quotas in the IMF, where such members are willing to undertake effective and sustained economic measures to correct their difficulties. In light of the severe adjustment problems faced by some members, those eligible to draw on the facility will receive more financing than is otherwise available to them from the IMF, and will be afforded a somewhat longer period to adjust and repay their drawings on the Fund. Interest on drawings on the facility will be market-related, so that borrowing members will also pay a somewhat higher charge than on drawings from the IMF's regular resources.

The legislation I am proposing today will authorize the United States to participate in the facility in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights—approximately $1,700 million. Congressional authorization for U.S. participation in the facility is required by section 5 of the Bretton Woods Agreements Act, as amended. No appropriations are required for U.S. participation in the facility, since U.S. transactions with the IMF, which are akin to deposits in a bank, do not involve expenditures of funds, but are exchanges of monetary assets.

This $10 billion facility represents a unique cooperative effort on the part of the United States, other industrial countries, and the major oil exporting nations. Participation is equitably shared, with the industrial countries providing slightly over half and the U.S. providing approximately 17 percent of the total. Participation of the United States and all other major participants is essential to the initiation of the facility.

The need for the facility is present and real in this period of exceptional balance of payments financing difficulties. Establishment of the facility is critically important to the interests of the United States and the entire IMF membership. I strongly urge the Congress to consider this proposal promptly and favorably.

It will be appreciated if you will lay the enclosed bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the President's program.

Sincerely,

W. MICHAEL BLUMENTHAL.

Mr. SPARKMAN. Mr. President, in accordance with Senate rule XXV 1(j)(1), I ask unanimous consent that the bill I have just introduced be referred to the Committee on Banking, Housing, and Urban Affairs when it is reported from the Committee on Foreign Relations.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is the bill, and has it been cleared with the chairmen of the committees?

Mr. SPARKMAN. It is out of the Foreign Relations Committee.

Mr. ROBERT C. BYRD. Mr. President, from time to time I have had to reserve the right to object to protect the various chairmen of committees to which measures are being referred. May I ask whether or not, in the opinion of the Parliamentarian, this is a referral which would be required?

The PRESIDING OFFICER. I am advised by the Parliamentarian that the bill would normally go to the Foreign Relations Committee. However, the chairman of the Foreign Relations Committee is making the request, so it would go to the Banking Committee after reported from the Foreign Relations Committee.

Mr. ROBERT C. BYRD. I have no feelings one way or the other about the matter. I am merely trying to protect all the chairmen to be sure matters have been cleared with them.

Mr. SPARKMAN. Will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. SPARKMAN. Under the rules that were adopted when Senator STEVENSON was revising the rules, it was provided that on international financing might go to the Foreign Relations Committee, the Banking Committee would have sequential jurisdiction. This is just following that course.

Mr. TOWER. If the Senator will yield, speaking as the second ranking Republican on that committee and the ranking member of the Financial Subcommittee, this is certainly established procedure now under the new rules. I am certain that no members of the Banking Committee would object.

Mr. ROBERT C. BYRD. Very well. I do not object, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. DOLE:

S. 2153. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of amounts paid to relatives for purposes of the credit for expenses for household and dependent care services necessary for gainful employment; to the Committee on Finance.

TAX CREDIT FOR DAY CARE PROVIDED BY GRANDPARENTS

Mr. DOLE. Mr. President, the bill which I am introducing today is needed to correct what I would like to think is an oversight in our present tax law. This bill amends the Internal Revenue Code to make it possible for parents to claim a 20 percent credit on day care expenses when the grandparents are employed to sit with the children.

Even though Congress liberalized the tax treatment of day care services provided by relatives in the Tax Reform Act of 1976, the law still excludes, in most instances, care provided by the child's grandparents. Under our present law, parents can claim a credit for child care if the child is kept by strangers, in some facility, or by more distant relatives. In only a few instances is a credit allowed when the grandparents care for the child. Those cases are when the parent of the child is widowed; is divorced and has not remarried; or if there is a mentally or physically handicapped spouse who can not take care of the child. Even when these conditions are met, the credit is not allowed if the sitting takes place in the grandparents' home.

These restrictions were designed to keep abuse from taking place, and the Senator from Kansas shares this concern. However, in attempting to prevent the splitting of income between taxpayers we have put an unwarranted restriction on day care.

Today, there are many forces working against strong cohesive family units. Child care problems often arise when both parents work, or when there is a single parent home and that parent has to work. Frequently, in these situations, there is a grandparent available to care for the child. But, since our tax structure makes it economically advantageous not to use grandparents as sitters, the child is often shuttled off to another babysitter.

For those parents who financially need the 20 percent credit, this creates a conflict. It seems to me that where grandparents are available and willing to work as sitters, they should be encouraged to do so. In most cases, grandparents care is preferred to that offered by the sitter down the block. Also, in many instances, it is the best care.

Despite the fact that the United States has always had a highly mobile population, the majority of families still continue to live in fairly close proximity to their relatives. Two studies within the last 5 years indicate that somewhere between one-quarter and one-third of working parents use relatives to care for their children in either their own homes or in the relatives' homes. The studies further indicate that while all ethnic groups rely heavily upon their relatives

for child care assistance, black and Spanish families use paid care by relatives somewhat more than do whites.

The bill I am introducing today would, if enacted, eliminate the cross reference to section 3121(b) that resulted in the distinction between a taxpayer's parents and his/her other relatives for purposes of this tax credit. Beginning in calendar year 1977, the cost of day care provided by grandparents would be eligible for the 20 percent credit regardless of the taxpayer's marital status or the location of the child care.

This amendment of the day care tax credit makes good practical sense, is good day care policy, and encourages family ties and mutual assistance. Its merits significantly outweight the risks of tax abuse or avoidance that prompted the inclusion of the section 3121(b) cross-reference. I believe this adjustment brings the tax credit into closer conformance with what most Senators understood the intent to be of including care provided by relatives. Many were, and still are, under the impression that the sole purpose of the cross-reference was merely to make sure that relatives employed to provide child care services eligible for the credit were indeed paid for their services and in turn were paying their social security and income taxes. I do not think everyone realized the cross-reference would condition child care provided by grandparents on the parent's marital status or the place where the care was provided.

The removal of the cross-reference to the definition of employment for social security purposes will not affect in any way the obligations of the day care employer or employee to pay social security taxes, regardless of family relationship. Thus, parents of the taxpayer would continue to be covered under social security in the same situations as they are presently.

Elimination of the cross-reference to section 3121(b) would not affect other existing safeguards. Payments to dependents would continue to be ineligible for the credit. A person is disqualified as a dependent if gross income is $750 or more. Thus, taxpayers who pay their parents less than $750 for child care services would generally pay less taxes by continuing to claim their parents as dependents than by claiming the 20-percent day care credit. Regardless of the amount paid to their parents, if they chose to claim the 20-percent day care credit, they could not also claim the dependency exemption.

The fear that income splitting between taxpayers and their relatives might occur is mitigated by the limit on annual expenses eligible for the credit of $2,000 for one child and $4,000 for two. Thus, there is no tax advantage to be derived from the 20-percent day care credit for paying caretakers more than these maximum amounts.

The existing provisions limit the tax credit for day care expenses to families where the sole parent or both parents work, or where one parent attends school full time while the other works. This, plus the requirement that the taxpayer have in his household a qualifying individual—a child aged 14 or younger, or a spouse, or dependent who is physically of mentally incapable of caring for himself—almost guarantees that whoever is being paid will, indeed, be providing services.

The Joint Committee on Taxation estimates the cost of this bill to be $33 million. This figure reflects a $10 million cost incurred when currently married couples are allowed to take the child care credit. The remaining $23 million arises when child care in the taxpayer's parents' home is made eligible for the credit. Both of these changes are necessary if we really want to encourage strong family ties.

It is difficult to justify a tax benefit which benefits people who use institutional day care but not those who employ their children's grandparents; which benefits day care provided in the child's home, but not that provided in the grandparent's home; and, which benefits broken families but not those which have remained together. Our Government and politicians lately have given a lot of lipservice to the "American family." This measure offers a concrete, direct way to remedy an antifamily technicality in the tax law and to eliminate tax penalties for families which provide mutual support and assistance.

ADDITIONAL COSPONSORS

S. 1587

At the request of Mr. STONE, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1587, to amend the Internal Revenue Code.

S. 1590

At the request of Mr. DOMENICI, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 1590, granting a Federal charter to American Ex-Prisoners of War, Inc.

S. 1855

At the request of Mr. HATCH, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 1855, the Employee Bill of Rights Act.

S. 1868

At the request of Mr. MELCHER, the Senator from Arizona (Mr. DECONCINI) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1868, to expedite the issuance of Federal permits.

S. 1891

At the request of Mr. BELLMON, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 1891, to amend the Social Security Act.

S. 2115

At the request of Mr. RIBICOFF, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2115, a bill to amend the Internal Revenue Code.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. Res. 242, relating to IRS policy toward fringe benefits.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from Massachusetts (Mr. BROOKE), the Senator from Vermont (Mr. LEAHY), the Senator from New Jersey (Mr. CASE), the Senator from Michigan (Mr. RIEGLE), the Senator from South Dakota (Mr. ABOUREZK), the Senator from North Dakota (Mr. BURDICK), the Senator from Colorado (Mr. HART), the Senator from Iowa (Mr. CULVER), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 264, authorizing additional expenditures for the Select Committee on Nutrition and Human Needs.

AMENDMENT NO. 842

At the request of Mr. MELCHER, the Senator from Texas (Mr. TOWER) was added as a cosponsor of Amendment No. 842, to be proposed to the bill (S. 1868) to expedite the issuance of Federal permits.

AMENDMENT NO. 993

At the request of Mr. GRIFFIN, the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. MOYNIHAN), and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of Amendment No. 993, to be proposed on S. 2104, to establish a comprehensive natural gas policy.

AMENDMENT NO. 1025

At the request of Mr. PERCY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Amendment No. 1025, to be proposed to the bill (S. 2114) to encourage energy conservation in public utility systems.

SENATE RESOLUTION 270—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF S. 785

(Referred to the Committee on the Budget)

Mr. ABOUREZK, from the Select Committee on Indian Affairs, reported the following original resolution:

S. RES. 270

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 785. Such waiver is necessary because the Congressional Budget Act of 1974 requires that all authorizations for appropriations for Fiscal Year 1978 be submitted by May 15, 1977. However, the Senate Select Committee on Indian Affairs is a new Committee which was not fully operational by that date and could not, therefore, have met the May 15, 1977, deadline.

SENATE RESOLUTION 271—SUBMISSION OF A RESOLUTION TO ESTABLISH A COMMISSION ON DOMESTIC AND INTERNATIONAL HUNGER AND MALNUTRITION

(Referred to the Committee on Agriculture, Nutrition, and Forestry.)

Mr. LEAHY (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. BAYH, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. GLENN, Mr. HART, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. KENNEDY, Mr. LUGAR, Mr. HOLLINGS, Mr. BELLMON, Mr. FORD, Mr. MCGOVERN, Mr. MELCHER, Mr. METZENBAUM, Mr. PELL, Mr. PERCY, Mr. SASSER, Mr. STAFFORD, Mr. STONE, Mr.

WILLIAMS, Mr. CHURCH, Mr. CASE, Mr. HUDDLESTON, Mr. CHILES, Mr. RIEGLE, Mr. MORGAN, Mr. METCALF, Mr. DANFORTH, Mr. HATHAWAY, Mr. DECONCINI, Mr. DURKIN, Mr. INOUYE, Mr. SARBANES, Mr. BIDEN, Mr. MCINTYRE, Mr. HASKELL, Mr. MATHIAS, Mr. CULVER, Mr. HEINZ, Mr. BENTSEN, Mr. RIBICOFF, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. BROOKE, Mr. JOHNSTON, and Mr. JAVITS) submitted the following resolution:

Resolved, it is the sense of the Senate that the President should establish a Commission on Domestic and International Hunger and Malnutrition.

Whereas, hunger and malnutrition remain daily facts of life for millions of people throughout the world;

Whereas, there is a need to examine the continuing paradox between increasing worldwide hunger and malnutrition and the burdensome grain surpluses in the United States;

Whereas, it is in the interest of the United States to reduce significantly hunger and malnutrition and to assist in the efforts of nations and people to improve the capability to feed themselves;

Whereas, the economic, food, and development policies of the United States significantly affect the nutritional, social, economic, and political conditions of developed and developing nations;

Whereas, the United States needs to develop a clearly defined and coordinated food and development policy that reflects the interrelationships between domestic and international hunger and malnutrition;

Whereas, Americans are concerned about, and wish to make a valuable contribution to, the process of formulating policies to meet basic human needs; and

Whereas, in this time of greater national emphasis on protecting basic human rights, there can be no higher priority than the preservation of life itself.

Resolved, that the President should establish a Commission on Domestic and International Hunger and Malnutrition (hereafter referred to as the "Commission") so that the President and the Congress may better understand the pervasiveness of hunger and malnutrition and take necessary steps to counteract the problem.

SEC. 2 (a) The Commission should—

(1) establish clearly the causes of hunger and malnutrition and the relationship between domestic and international hunger and malnutrition;

(2) identify and evaluate existing Federal programs and policies related to hunger and malnutrition;

(3) develop for the President and the Congress specific recommendations for policies and legislation to reduce significantly hunger and malnutrition throughout the world and assisting in implementing such recommendations.

(b) To carry out the purposes of subsection (1), the Commission should—

(1) assemble, correlate, integrate, and generate information and resources on food, hunger, malnutrition and related concerns;

(2) assess the organization and structure of current programs which affect domestic and international hunger and malnutrition;

(3) analyze and present findings to the President, the Congress, and the public; and,

(4) assist the President and Congress in implementing its findings, conclusions, and recommendations.

SEC. 3. The Commission shall be a balanced membership composed of 15 persons appointed by the President from individuals who represent diverse backgrounds, taking into account age, wealth, and relationship to the problems of hunger and malnutrition.

SEC. 4. The Commission should—

(1) not later than six months after the date of the appointment of its final member, prepare and transmit to the President and the Congress an interim report on the progress achieved in implementing the provisions of Section 2 of this resolution together with a schedule of activities and goals for the following six months; and,

(2) not later than one year after the date of appointment of its final member, prepare and transmit a report containing a detailed statement of findings, conclusions, and recommendations.

(3) assist for a period of up to one year after the transmission of the final report in the implementation of its recommendations, and conduct an educational program to disseminate its findings to the people of the United States.

SEC. 5. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. LEAHY. In this time of greater national emphasis on protecting basic human rights, there can be no higher priority than guaranteeing the right of every human being to be free from hunger and malnutrition.

The American people have long been committed to meeting this tremendous challenge. Our deep and enduring commitment is evidenced in our established domestic food and nutrition programs and our unilateral, bilateral and multilateral food aid and economic assistance programs. Domestically, a significant amount of our Government expenditure has been directed toward alleviating hunger and malnutrition. Internationally, the United States has been a most generous country in its assistance to the poorer nations.

Yet, despite our efforts, hunger and malnutrition remain daily facts of life for millions of people throughout the world. Estimates by the World Bank and the Food and Agriculture Organization suggest that around 450 million, and possibly as many as 1 billion, people worldwide are severely malnourished.

Malnutrition causes millions of premature deaths each year. Most of the victims are infants, children, pregnant women, and nursing mothers in the developing countries. Of every 100 babies born, 40 will die before the age of 6, mostly from nutrition-related causes. A substantial number of the survivors will be mentally or physically impaired because of their malnourishment.

However, malnutrition is not limited to the developing countries. Millions in the United States are hungry and malnourished.

In addition malnutrition is not limited to the underconsumption of food, but includes the consumption of the wrong types and amounts of food. This type of malnutrition can be almost as debilitating as underconsumption. In fact, the Senate Select Committee on Nutrition has reported that malnutrition can be linked to 6 of the 10 leading causes of death in the United States.

Why, despite our past and present efforts, is hunger and malnutrition becoming the fate of an increasing number of the world's population? What can we do to help stop and reverse that trend?

It is imperative that these questions be answered if we seriously wish to fulfill the commitment we made at the World Food Conference in Rome that by 1985 "no child will go to bed hungry . . ., no family will fear for its next day's bread, and . . . no human being's future and capacities will be stunted by malnutrition."

It is to find the answers to these questions that Senators and I are submitting a resolution which proposes that the President establish a Commission on Domestic and International Hunger and Malnutrition. An identical resolution is being submitted in the House by Congressman NOLAN.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD a list of the House cosponsors.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Alexander, Allen, Aspin, AuCoin, Badillo, Baldus, Baucus, Bedell, Bingham, Bonior, and Bonker.

Brodhead, Bowen, Brown, G., Carr, Collins, C., Conyers, Dellums, Downey, Drinan, and Edgar.

Fraser, Harkin, Harrington, Heftel, Jacobs, Jones, E., Kastenmeier, Keys, Kostmayer, and LaFalce.

McHugh, Maguire, Mitchell, P., Moffett, Neal, Nolan, Panetta, Reuss, Richmond, and Burton, Phil.

Burton, John, Stark, Edwards, Don, Mineta, Diggs, Solarz, Howard, Patten, Preyer, Rooney, Thompson, Walgren, Jordan, Wilson, Charlie (Tex), and Roe.

Anderson, J., Caputo, Gilman, Grassley, Guyer, Heckler, Jeffords, Kemp, Lent, and McCloskey.

Pursell, Quie, Rinaldo, Steers, Thone, Frenzel, Johnson, Jim, Madigan, Rinaldo, and Carter, Tim.

Leach, Stockman, Hagedorn, Marlenee, Mitchell, Don, Coughlin, Rodino, Rose, Scheuer, and Schroeder.

Simon, Smith, N., Studds, Tsongas, Udall, Weaver, Wolff, Zeferetti, and Spellman.

Jones, Walter, Breckinridge, English, Fithian, Jenrette, Huckaby, Glickman Akaka, Whitley, Risenhoover, Ginn, Barnard, Evans, Billy, Cornwell, D., and Thornton, Ray.

Kildee, Lloyd, Nowak, Mathis, Oberstar, Rahall, Boggs, Benjamin, Davis, Hefner, Long, and Gillis.

Skelton, Ammerman, Krebs, Hightower, Miller, George, Biaggi, Patterson, Pepper, Murphy, John, and Nedzi.

St Germain, Santini, Ireland, Sharp, Krueger, Ford, H., Hannaford, Fauntroy, Metcalfe, Murphy, Morgan, Rostenkowski, Fisher, Mikva, Carney, Wright, and Nix.

O'Brien, Hollenbeck, McEwen, Cohen, Conable, Pressler, Trible, Hansen, Hyde, Buchanan, Duncan, Kindness, Corcoran, and Conte.

Martin, Walsh, McDade, Findley, Marks, Cochran, Treen, Pritchard, Sebelius, Stangeland, Hillis, Railsback, Fisher, and Levitas.

Hughes, Ryan, Ullman, Runnels, Price, Foley, Staggers, Gephardt, Meyner, Florio, Minish, Pease, Stokes, Cavanaugh, Moorehead, William, Giaimo, and Hamilton.

Waxman, Fary, Markey, Beilenson, Roncalio, Meyner, Ambro, Gore, Vento, Traxler, Natcher, Obey, Perkins, Murphy, A, and Hubbard.

Cornell, Bevill, Daniel, Dan, Brinkley, Pattison, Won Pat, Dicks, Van Deerlin, Shipley, Koch, Brademas, McFall, Luken, Gibbons, Holtzman, Blanchard, Oaker, and Holland.

Chisholm, Beard, E., Blouin, Breaux, Clay, D'Amours, Corman, J., de Lugo, Ertel, Dodd, Derrick, Evans, F., Fountain, Burke, Yvonne,

Hawkins, Hanley, Leggett, Le Fante, Lloyd, M., Lundine, Rosenthal, Ottinger, Mikulski, Mazzoli, Mattox, and Weiss.

Mr. LEAHY. The Commission on Domestic and International Hunger and Malnutrition is not intended to be a factfinding commission. The research about the number, location, and problems of the hungry and malnourished is available, but scattered. The Commission would be expected to correlate and integrate the existing information.

The major purpose of the Commission would be to assess and evaluate U.S. public policies and programs which affect domestic and international hunger and malnutrition in order to recommend steps toward an effective national food, nutrition, and hunger policy. Specifically, the Commission would assess whether the hungry and malnourished are in fact receiving food and assistance, and the impact of such assistance. It would evaluate all economic and development assistance programs as to their effect on the food production system of the recipient countries, especially on their ability to produce adequate amounts of food for their own domestic consumption, and on the hunger and malnourishment in those countries. The Commission would assess the impact of our domestic food and agricultural program and policies on the domestic and world food supply, hunger and malnutrition, and the relationship between each. It would especially address the continuing paradox of increasing worldwide hunger and malnutrition in the face of burdensome grain surpluses in the United States. Throughout the consideration of each of these questions the Commission must evaluate the relationship of each program and policy to the others, and their cohesiveness as one national policy.

The Commission would then analyze their findings and present to Congress and the President legislative and other recommendations for a unified national food, hunger, and nutrition policy that would be effective in reducing hunger and malnutrition.

The Commission should be composed of 15 people who have practical knowledge about the areas of hunger and malnutrition, food production and supply, and related public policy, including representatives from the Executive and Congress. We hope that a special effort would be made to appoint a balanced membership representing diverse backgrounds.

The Commission is given a strict timetable for its work. It would issue an interim report after 6 months, and a final report at the end of a year. However, unlike other commissions, this Commission would not disband and let its report gather dust. It would exist for a year after the issuance of a final report in order to, at the request of Congress or the President, engage in a program of public education of its findings, and assist in implementing its recommendations.

If established, the Commission would go far beyond studies and commissions of the past. The most recent study of domestic food policy was undertaken by the White House Conference on Food, Nutrition and Health in 1969; significantly, international food policy was not considered. The most recent U.S. study of world food problems was undertaken by the Departments of Agriculture and State prior to the World Food Conference. This study concentrated on management of grain stocks and on assistance to developing countries for increasing production. However, it did not fully consider the interrelationships of U.S. domestic food policy and world food problems.

Therefore, the Commission we propose would be the first comprehensive inquiry by the Federal Government into the total impact of our public policies on domestic and international food and malnutrition.

It is also important to note this Commission on Democratic and International Hunger and Malnutrition will not duplicate the work of the World Food Council, but will supplement its coordinating role of United Nations agencies concerned with food matters. Further, it will enhance our contribution to the World Food Council by offering a cohesive national policy.

The proposed Commission is asked to answer difficult questions about the U.S. policies affecting hunger. We are asking, "What are we doing?," "Can we do it better?," and "Can we do more?".

The Senators and Congressmen who support this legislation ask these questions and actively seek their answers because of their true humanitarian concerns.

We understand our actions can play a vital role in eliminating the specters of hunger and malnutrition which afflict millions in our country and on our planet. We can replace that specter of hunger. Our actions can shape a world where:

A child born today can be glad to be alive, secure in the prospect of a lifetime of mental and physical well-being.

A family can provide for its own basic needs.

The most basic human right, to be free from hunger and malnutrition, is guaranteed.

Ghandhi, the Hindu philosopher, once said, "Even God dare not approach a hungry man except in the form of bread." One need not travel far these days to understand why bread bespeaks the most universal of all languages. It is a language that our country could learn to speak eloquently. It is a language we are still learning to speak, sometimes awkwardly. It is a language we are going to be called upon to speak louder and louder in the coming years. We must be prepared to speak with one voice. The Commission would help shape this unified voice.

Mr. President, I ask unanimous consent that a short statement by Senator HUMPHREY in support of this resolution be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HUMPHREY

Mr. President, there are few problems that are more frustrating than the problem of human hunger.

We have made major progress in the struggle against hunger here at home, but the battle abroad needs a strengthening of our commitment and resolve.

This Resolution, which would establish a Commission on Domestic and International Hunger and Malnutrition, is a mechanism by which we can more fully assess the intensity of this problem.

I am very pleased to cosponsor this Resolution and I want to applaud Senator Leahy for taking the initiative with this Resolution. A companion Resolution has been offered in the House of Representatives by Congressman Rick Nolan of Minnesota. Both the Senate and House efforts have overwhelming support, a further tribute to the primary sponsors and their leadership.

The hunger problem is very perplexing. On the one hand, our capacity to respond to immediate human tragedy has never been greater, a fact that should raise our moral responsibility in answer to situations like the recent Sahel disaster.

However, our commitment to world hunger must go beyond responding to tragedy. We must prevent tragedy by designing and developing food production and distributions systems that get nutritious food to all of those who need it.

We need a new commitment, as I have said before. Perhaps what we need is an innovative institutional and fresh psychological approach, something like our resolve to reach the moon in the early 1960's.

This resolution is thoughtful and creative. The fact that we have been spinning our wheels in this problem is not unknown. Perhaps this Resolution will put us on a new road to the betterment of mankind.

Again, I offer my support to this effort and commend both Senator Leahy and Congressman Nolan for their leadership in introducing this important measure.

Mr. DOLE. I am pleased to cosponsor with PAT LEAHY and my other congressional colleagues a resolution to establish a Commission on Domestic and International Hunger and Malnutrition.

FOOD ISSUES ARE COMPLEX

Needless to say, food production and distribution is a complex problem requiring international attention. I was among the congressional advisers to the World Food Conference in 1974. I believe that conference and subsequent follow-up actions have sparked a keen interest in food matters: an interest which has caught the imagination of the people in both the developed and the yet to be developed nations.

The problem of world hunger and malnutrition still exists, but fortunately more resources are being directed to a broad spectrum of food issues—food aid, agricultural research, production, distribution, nutrition, investment, trade and so on. Yet still more needs to be done. But it can be done only if all nations work together in a reasoned and rational manner. "Human reason," Thomas Mann wrote, "needs only to will more strongly than fate and it is fate."

SOLUTION TO HUNGER AND MALNUTRITION SHOULD BE MAJOR INTERNATIONAL GOAL

Frequently we talk about our achievement of putting a man on the Moon; and, indeed that was quite an achievement. However, a more difficult goal to achieve because of its international complexities is that of adequately addressing the problems of world hunger and malnutrition.

A major difference between our success in putting a man on the Moon and in

finding the solution to the hunger and malnutrition problem is that the latter cannot be accomplished by the unilateral action of one nation. It will take the cooperation and coordinated efforts of the developed and the developing nations, of national and international institutions and organizations, and of the people themselves in accepting change and providing resources to accomplish it.

After having said this, however, I hasten to say that "ending hunger and malnutrition" should be an international goal. I liked the bold objective declared by Henry Kissinger at the World Food Conference—"That within a decade no child will go to bed hungry, that no family will fear for its next day's bread, and that no human being's future and capacities will be stunted by malnutrition." I hope that President Carter and other heads of state will help such a dream come true.

DEVELOPED NATIONS SHOULD HELP NEEDY COUNTRIES TO HELP THEMSELVES

I believe that linkage of food assistance to agricultural development is an excellent idea and one that will hasten the day when no one goes to bed hungry. The food gap in developing countries can never be filled with food aid from donor countries. The developed countries must help the needy countries to develop their economies, especially their agriculture. This not only makes sense from the standpoint of a humanitarian act, but it also makes good economic sense viewed from our own self-interest perspective. Many former Public Law 480 food recipient countries are now good cash customers for U.S. agricultural exports.

The World Bank has substantially increased its lending for agricultural development in developing nations. I commend that effort.

Section 211 of the International Development and Food Assistance Act of 1977 provides U.S. food assistance for development. That legislation was initiated in the Senate Agriculture Committee of which I am the ranking minority member. I supported this provision of Public Law 480 and have urged the Carter administration to increase their Public Law 480 budget substantially above the amounts planned for fiscal year 1978.

BIPARTISAN EFFORT NEEDED

Public Law 480, Food for Peace, through which $30 billion worth of farm commodities has gone to foreign recipient countries, was passed in 1954 by a Republican Congress and was signed by a Republican President, Dwight D. Eisenhower. It was amended and supported over the last 23 years by my colleagues on both sides of the aisle. Thus, Public Law 480 probably has had more bipartisan support over a sustained period of time than any other single piece of legislation.

Here at home the food stamp program, the child nutrition programs, and other domestic food assistance programs are bipartisan efforts.

I believe the problem of world hunger and malnutrition deserves this strong and effective bipartisan effort.

This is why I am joining with over 50 of my colleagues in the Senate and 240 in the House in asking for the establishment of a Commission on Domestic and International Hunger and Malnutrition. This is needed to maintain the momentum that was initiated by the World Food Conference and to continue the search for ideas and new ways to solve the problems of world hunger and malnutrition. The nearer we come to solving this important human problem the closer we will come to achieving a lasting world peace.

SENATE RESOLUTION 272—SUBMISSION OF A RESOLUTION INCREASING CERTAIN EXPENDITURES

(Referred to the Select Committee on Small Business.)

Mr. NELSON (for himself (Mr. HASKELL, Mr. WEICKER, and Mr. PACKWOOD) submitted the following resolution:

S. RES. 272

Resolved, That section 2 of Senate Resolution 140, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$1,500" and inserting in lieu thereof "$4,500".

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY CONSERVATION IN PUBLIC UTILITIES—S. 2114

AMENDMENT NO. 1394

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON (for himself, Mr. DOMENICI, Mr. JACKSON, and Mr. FORD) submitted an amendment intended to be proposed to the bill (S. 2114) to authorize Federal action to encourage energy conservation, efficiency, and equitable rates in public utility systems, and for other purposes.

Mr. JOHNSTON. Mr. President, during mark up of the administration's public utility rate reform proposals, the Senate Committee on Energy and Natural Resources deferred consideration of the interconnection, wheeling and pooling provisions of the administration bill pending further hearings. On Tuesday, September 20, 1977, the Subcommittee on Energy Conservation and Regulation received testimony on these provisions from the administration and representatives of public and private utilities.

As a result of information generated at that hearing, we have determined that new authority with respect to interconnections should be granted to the Federal Energy Regulation Commission. We have further concluded that any legislation respecting the more complex economic issues associated with wheeling and pooling should be deferred until in-depth hearings and study can be completed.

Our amendment provides authority for the Commission to order the physical connection of transmission facilities between electric utilities whether or not those utilities are presently covered by the Federal Power Act. Such an order may be made only when the Commission finds such action necessary to encourage energy conservation or the optimum efficient use of electric utility facilities and resources.

The authority provided in this amendment is not to be used to remake the structure of any utility system. Thus, the reference in this amendment to sales and exchanges of electric energy and coordination among utilities applies only to those interactions and transactions which are necessary to effectuate the interconnection. The amendment states explicitly that no Federal Power Act regulation shall be extended under this amendment to any utility which is not presently covered by the act, except to the limited extent necessary to provide for compliance with an interconnection order.

The amendment provides the Commission with authority to order interconnections only in those specific situations in which:

Energy conservation or efficient use of facilities will be encouraged;

Enlargement of generating facilities is not required;

No uncompensated economic loss occurs; and

No undue burden or impairment of the reliability of or the ability to render service by any utility would result.

We believe these restrictions will insure the responsible use of this authority to overcome present institutional obstacles to improving energy efficiency without placing any unwarranted burden on the parties affected by an interconnection order.

The amendment requires that these authorities be placed in the Federal Energy Regulating Commission when the Department of Energy begins operation. We feel strongly that the issues associated with any interconnection order should be subjected to the collegial examination and careful procedures established for the commission in the Department of Energy Organization Act.

Mr. President, this amendment represents needed extension of Federal authority which has been carefully crafted to limit its application to those situations in which specific and widely agreed upon goals can be achieved. I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1394

On page 16, line 18, insert a new section 15 as follows, and renumber succeeding sections accordingly:

"INTERCONNECTION

SEC. 15. (a) Section 202 of the Federal Power Act is amended by adding a new subsection (g) to read as follows:

"g(1) Whenever the Commission, upon application of any State Regulatory Authority or any qualifying cogenerator as defined in the Public Utility Regulatory Policy Act of 1977 or any electric utility, and after notice to each State regulatory authority, qualifying cogeneration or electric utility affected and after opportunity for hearing, finds such action necessary or appropriate to carry out the purposes of paragraphs 2(a) or 2(b) of the Public Utility Regulatory Policy Act of 1977, it may by order direct

an electric utility (other than a Federal agency)—to establish physical connection of its transmission facilities with the facilities of any other electric utility or qualifying cogenerator; and to order such utility or qualifying cogenerator to sell energy to, to exchange with, and otherwise to coordinate with said parties only as necessary to effectuate the intent of the interconnection.

"(2) Prior to issuing an order under the authority of this subsection, the Commission shall inform the parties of its intent to issue such order and shall set a reasonable time for the terms and conditions of agreements among the parties affected by such order to be determined by negotiation among said parties. *Provided*, that said terms and agreements shall be subject to approval by the Commission and in the event that the parties do not reach an agreement approved by the Commission, the Commission may prescribe the terms and conditions of the agreement among the parties affected by such agreement, including the apportionment of cost among them and the compensation or reimbursement reasonably due to any of them. *And Provided further*, that if in the Commission's judgment, time is of the essence, the Commission may issue an order under the authority of this subsection prior to or during the negotiations among the parties.

"(3) The Commission shall have no authority under this subsection to—

"(A) compel the enlargement of generating facilities for purposes of this subsection, or

"(B) take any action that would result in an uncompensated economic loss to the electric utility or its customers, place an undue burden on such utility, unreasonably impair the reliability of the system of any utility, or impair its ability to render adequate service to its customers.

"(4) Except as provided in this subsection, compliance by any electric utility with an order issued under this subsection shall not subject any electric utility to regulation under the Federal Power Act if any such electric utility is not otherwise subject to regulation under such Act.

(b)(1) The first sentence of section 201 (b) is amended by inserting "(other than section 202(g))" after "Part" and by adding the following at the end thereof: "The provisions of section 202(g) shall apply to the electric utilities and other persons specified therein."

"(2) Section 201(e) is amended by inserting "(other than facilities subject to such jurisdiction solely by reason of section 202(g))" before the period at the end thereof.

(c) Upon the effective date of the Department of Energy Organization Act (Public Law 95-91) the authorities vested in the Federal Power Act by this section shall be transferred to and vested in the Federal Energy Regulatory Commission.

"(5) For the purposes of this subsection the term: "electric utility" means a utility as defined in the Public Utility Regulatory Policy Act of 1977 which sells or exchanges electric energy;

AMENDMENTS NOS. 1395 AND 1386

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted two amendments intended to be proposed by him to the bill (S. 2114), supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. ALLEN. Mr. President, I announced that on September 30, 1977, the Subcommittee on Separation of Powers of the Committee on the Judiciary will hold hearings to receive testimony associated with executive branch negotiations for the disposition of the territory and property of the United States located in the Isthmus of Panama. The hearings will begin at 9 a.m. in room 1318, Dirksen Senate Office Building.

CANCELLATION

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations had previously scheduled hearings on October 11 on three bills regarding diplomatic immunity, H.R. 7819, S. 1256 and S. 1257.

These hearings have now been canceled until further notice due to the committee's extremely heavy Panama Canal Treaty hearings schedule.

CABINET-LEVEL DEPARTMENT OF EDUCATION

Mr. RIBICOFF. Mr. President, I wish to announce the Committee on Governmental Affairs will begin consideration in October of S. 991, and four related bills, to create a separate, Cabinet-level Department of Education in the Federal Government.

The committee will hear testimony on October 12, 13, and 14 from both the public and the private sector, including representatives from education organizations, State and local governments, and a wide variety of concerned citizens and public officials.

The hearings will begin at 10 a.m. each day in room 3302 of the Dirksen Senate Office Building.

HEARING CHANGE

Mr. ABOUREZK. Mr. President, I wish to announce that the time of the hearing scheduled by the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee on the Freedom of Information Act on October 6, has been changed from 10 a.m. to 9 a.m.

ADDITIONAL STATEMENTS

HE ALWAYS BRINGS ME CANDY

Mr. ROBERT C. BYRD. Mr. President, the word "parson" is not too frequently heard these days, but it can still be applied to many clergymen. To the people of an earlier era, the local minister or priest was often the best educated, most talented, and wisest member of the community. He was called "parson" a word derived from the Latin word for person—because he was considered the prime example of responsible and successful personhood in the community.

The people of the Beckley area of West Virginia are fortunate to have in their midst such a clergyman—such a parson. He is the Reverend C. Shirley Donnelly, an ordained Baptist minister who served the Crab Orchard Baptist Church just outside the city of Beckley for 25 years. The Reverend Dr. Donnelly, who emerged from the Army as a full colonel in the chaplaincy after World War II, is 82 years old. Colonel Donnelly is a scholar, a citizen helpfully involved in many community affairs, and one of the best living West Virginia historians. His personal library contains more than 1,500 books and manuscripts—many of great historical value. His ministry and life have touched thousands personally, and a column which he has written for nearly 2½ decades for a local newspaper remains one of the most consistently popular features among that paper's readers. Shirley Donnelly's life is an excellent example of the mature and disciplined exercise of one's talents, intelligence, commitments, and interests. He is, indeed, a contemporary "parson," in the best sense of that word.

The Reverend Dr. Donnelly has found a genuine satisfaction in serving his community, his State and Nation, and his God. Over the years of that service, he has acquired a treasury of wisdom based on experience. As the Book of Job states, "The price of wisdom is above rubies." Today, Shirley Donnelly, to the good fortune of the citizens of West Virginia, is a priceless repository of modern parables and vivid anecdotes.

One of his stories is a special favorite of mine. It portrays the enviable compassion and wisdom that often have characterized people in the Appalachian region. Colonel Donnelly published this story in a column a few years ago in the Beckley, W. Va., Post-Herald. The column, titled "Byrd Hears Lucky Moonshiner's Tale," appeared on April 1, 1974.

Mr. President, I ask unanimous consent that this column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Beckley (W. Va.) Post-Herald, Apr. 1, 1974]

BYRD HEARS LUCKY MOONSHINER'S TALE

(By Shirley Donnelly)

When Robert C. Byrd was in Oak Hill on March 16 for a speaking date he and his driver, Sgt. W. F. Wiant of the State Police, were guests in our home.

As we sat at meat, the senator asked me to tell him again a story that he once read here. It was a story told me by a parole adviser, Philip Ross, who was on the staff of the U.S. District Court when the late Judge George F. McClintic was federal judge.

Ross and I had grown up together in Charleston. He would stop and stay the night at our home at Oak Hill while at work in this area.

A few times he spent weekends with us. In the course of our evenings together he used to relate some of his experiences in dealing with people who had run afoul of the federal law.

During the days of the early 1930's, the country was wallowing in the trough of "The Great Depression." A man in one of the little towns on Route 60 upstream from Charleston found himself up against it, so turned to making and selling a little liquor on the side.

It wasn't long until someone turned him in and the authorities caught him. Following his arrest he was arraigned in Judge McClintic's court where he pled guilty and asked to be put on probation.

After the judge looked him over the man was told to go home and report for sentencing.

In the meantime the court had the case of the man investigated. Ross was assigned to it. One summer afternoon Ross went to the man's house in time to meet him when he came in from the mine.

In the home was a little girl, four or five years old. Ross sat on the steps of the miner's humble home and chatted with the child. He asked her age and also if she loved her daddy. When Ross asked if she loved her daddy he said the magic word and the child bubbled over with joy as she told of her love.

Ross asked the child why she loved her daddy and was told, "I love him because he always brings me candy." She turned and looked down the road and at the sight of her father the little girl broke from Ross's questioning and ran to meet him.

When the father saw his child racing toward him he stopped and set down his dinner bucket. Ross saw the man remove the lid from his dinner pail and take out a little poke of candy. This he handed to the little girl.

When the man and child reached the house, Ross told him his mission and how the child had told about her father always bringing her a bag of candy each evening. Ross asked the man why he did this.

The poor miner told how when he was a child he loved candy better than anything but his parents who were very poor and he was denied the pleasure of his life.

However, when he was but a small boy he vowed that if he lived, got married and had a child he would see to it that his child would get candy every day! When this came to pass the father religiously kept his boyhood vow.

Ross wrote this story in his pre-sentencing investigation of the offender. When "come back day" dawned, the man appeared before Judge McClintic expecting to be sent to Atlanta Penitentiary. After reading the candy story, McClintic was moved to grant the man probation, adding privately, "I couldn't send a man like that to prison."

SALT TALKS

Mr. TOWER. Mr. President, I would like to offer to the Senate a few brief observations concerning the present situation with respect to the Strategic Arms Limitation Talks.

Our failure to achieve a SALT II agreement prior to the expiration of SALT I is not surprising. Since the beginning of the year we have unilaterally canceled the B–1 program, signaling the Soviets that we do not intend to produce an advanced, penetrating strategic bomber. We unilaterally terminated our only ICBM production line and deferred development of a new mobile ICBM system.

The Soviets are no doubt smugly pleased with the course of strategic policy under the Carter administration. It is, frankly, an erratic course, substantially altered by decisions which reflect confusion and uncertainty as to the future of our strategic deterrents. It is troubling to me that this administration has articulated no justification for these evident changes in our strategic plans and policies. They urge Congress and the American people to accept these decisions only because they say "it's cheaper," and because it will permit them to hold down the level of spending for national defense.

The climate that has resulted from these decisions and the shortsighted rationale offered in defense of these actions is not at all the sort of climate that will help our efforts at the negotiating table. The Soviets are witness to unilateral U.S. concessions that will have a decided effect upon our side of the strategic equation.

In my view, this sequence of concessions would seem questionable even under conditions of normalcy in military and strategic affairs. In the framework of ongoing negotiations with the Soviets on arms limitation, however, such concessions are extremely disturbing and untimely. In short, I fail to see how we can participate in prudent deliberations with the Soviets on arms limits when our own strategic policy is as unsettled, vague, and befuddled as it is today.

So, I am not alarmed at the prospect of SALT I expiring on October 3 with no new treaty yet negotiated. I have never felt that we should approach SALT II on the basis that without a new agreement, there would occur a dramatic acceleration in the so-called arms race. I am not opposed to an informal extension of the existing agreement, if observed on the same basis by both sides. As the Senate, however, cannot be circumvented in this regard, it is incumbent on the administration to justify the basis for its actions and provide to the Senate an assessment of the anticipated duration and nature of ensuing negotiations aimed at such agreements it seeks to conclude.

Above all else, I think our Government, and particularly our negotiators, must be alert to the necessity—should it arise—to demonstrate to the Soviets our capacity for patience. Mr. Warnke, I hope, will be mindful of the response Winston Churchill gave to the interviewer who asked what the three most critical attributes of a prime minister of England ought to be: Mr. Churchill is said to have slowly and deliberately replied:

The first is patience . . . the second . . . is patience . . . and, the third . . . young man, is patience.

THE DRUG BENEFITS FOR THE AGED ACT OF 1977

Mr. CULVER. Mr. President, I was pleased to join Senator KENNEDY and Senator THURMOND yesterday in introducing the Drug Benefits for the Aged Act of 1977. Many people do not know what their elders have learned the hard way: that medicare pays little over one-third of the medical expenses of the elderly. When first implemented in 1967, medicare paid 46 percent of the medical bills of those 65 and older; in fiscal 1976 medicare coverage dipped to only 38 percent of total medical expenses. Last year, the elderly themselves had to pay fully 27 percent of their medical expenses. And if one included supplemental insurance premiums, the aged paid nearly 1 out of 3 health care dollars out of their own pockets. Another fact that commonly escapes those under 65 is that medicare covers only those drugs administered in the hospital or administered in a doctor's office—a mere 13 percent of the aged's drug costs. Again, the elderly must foot the bill for the remaining 87 percent of drug costs, either with supplemental insurance or directly from their pockets.

If I seem somewhat disenchanted in the face of such inadequate medicare coverage, it is no wonder. But I am not nearly so disenchanted as the millions of medicare beneficiaries who must continually make up for the medicare shortfall, and regularly struggle to afford the high cost of needed prescription drugs.

Mr. President, approximately 85 percent of people 65 and over suffer from at least one chronic disease, such as cancer, heart disease, or stroke, and nearly half of these are disabling. The aged's susceptibility to illness is clearly reflected in last year's average medical bill: $249 for those under 19, $547 for those 19 to 64, and $1,521 for those 65 and over. Of that $1,521, the typical senior citizen must pay over $400, or fully 27 percent, directly out of his or her pocket. That $400 constitutes a particularly heavy burden for elderly families whose median income is about half that of younger families.

Even though the elderly account for little more than one-tenth of the population, they account for about one out of every four prescription drugs dispensed in the country. And since medicare covers only 13 percent of the drug costs, 1 out of every 4 health dollars the aged spend out of pocket, or $100 a year, is for drugs.

As further evidence of the demand for this type of drug assistance for those over 65, I would like to cite a few excerpts from the April 14, 1977, Cedar Rapids Gazette:

ELDERLY: DRUG COST HELP IS TOP NEED

(By Mary Burke)

Prescription cost assistance has replaced transportation as the most important need of senior citizens according to survey results released Wednesday by the Heritage Agency on Aging. . . .

In addition to prescription costs, discussion focused on congregate meals, the most used service according to the 1,770 participants in the survey; transportation, the second most important need; and assistance in paying utility bills, a need not specifically covered in the survey. . . .

Important services—1. Prescription cost assistance; 2. Transportation; 3. Meals on wheels; 4. Activity and recreation programs; 5. Public health nursing; 6. Friendly visiting; 7. Tours and outside area trips; 8. Handyman chore service; 9. Congregate meals; 10. Well elderly clinics. . . .

Therefore, Mr. President, I am pleased to have this opportunity to cosponsor the Kennedy-Thurmond Drug Benefits for the Aged Act of 1977. Six years after enactment, the legislation is designed to cover all the drug costs of the 24 million Americans aged 65 and older. During the first 5 years it would pay for approximately 70 percent of their drug costs, particularly those for chronic illnesses. Neither funding nor administration would be through the medicare program; it would be financed from the general treasury and administered by the Department of Health, Education, and Welfare. And the measure contains quality, utilization, and cost controls to minimize abuses in the system.

Mr. President, I am proud to be associated with this legislation to meet one of the most urgent needs of our senior citizens—assistance with the cost of drugs.

EXTENSION OF SALT I INTERIM AGREEMENT

Mr. DANFORTH. Mr. President, the existing United States-Soviet arms agreement dealing with strategic offensive nuclear weapons expires October 3. Last week, both the Soviet Union

and the United States issued identically worded, supposedly unilateral statements pledging each nation to continue its strategic weapons programs consistent with the expiring interim agreement. The administration alleges that because the positions of each nation were arrived at unilaterally and not as a part of any mutual agreement, no action is required by Congress in accordance with section 33 of the Arms Control and Disarmament Act. Both as a matter of law and policy, I strongly disagree with the administration and I hope that Congress will formally act on the continuation of the interim agreement.

The language of section 33 clearly supports my position:

SEC. 33. The Director is authorized and directed to prepare for the President, the Secretary of State, and the heads of such other Government agencies, as the President may determine, recommendations concerning United States arms control and disarmament policy: Provided, however, *that no action shall be taken under this or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States* . . . (Emphasis supplied)

It should be obvious to anyone that the plain and simple meaning of this section is that both the letter and the spirit of this law require congressional action to give validity to any extension.

It is irrelevant that the statements of the two nations were issued separately. Their timing, following a meeting of Secretary of State Vance and Foreign Minister Gromyko, and their nearly identical wording demonstrate that their separation was merely a thinly disguished attempt to circumvent section 33. Surely no one can believe that the declarations of intent were not mutually agreed to. And even if we were to believe this, the requirement for formal congressional affirmation to a unilateral decision by the administration is called for in this law.

As a matter of policy, it is inconceivable that the administration would not want the concurrence of the Congress in this historic action. The extension of the interim agreement could affect the fundamental security of our nation and peace in the world. The implications and meaning of such a momentous declaration must involve the Congress if the administration desires to share the responsibilty for the fate of the United States with the American people. The confidence and support of the public in this and any future arms limitation agreements call for nothing less.

Mr. President, I also hope that in the process of addressing this action of the administration that the Congress would also ascertain the precise meaning of and state its views on our "unilateral" declaration. Secretary Vance's statement says the United States will continue to act in accordance with the provisions of the interim agreement "provided that the Soviet Union exercises similar restraint." How does this nation intend to interpret what precisely constitutes "similar restraint."

Frankly, Mr. President, this vague terminology, without further clarification, leaves me feeling more than slightly uneasy. In the past there have been a number of news reports concerning Soviet violations of the SALT I agreements. The Soviet Union has continued an aggressive and alarming development program of strategic weapons. Only recently, Defense Secretary Brown announced that the Russians have under development at least four new types of ICBM's. How does this continued Soviet action, especially viewed against our hesitancy to experiment with new generations of strategic systems, fit in with the "restraint" espoused by the administration.

Mr. President, a continuation of the current agreement, if properly understood and reviewed, may well be beneficial, as we attempt to reach a SALT II agreement which we could all support. An extension would remove the pressure of time which could otherwise compel our negotiators to accept provisions in a new accord which may not truly be in our best interests but which would be accepted in order to reach some agreement.

We have an opportunity to provide needed time for thoughtful deliberation. But such time, to obtain maximum benefit, must be brought through the legal process of congressional action.

DRUG BENEFITS FOR THE AGED ACT OF 1977 DESERVES SENATE SUPPORT

Mr. PELL. Mr. President, I am very pleased to join with Senators KENNEDY and THURMOND as a cosponsor in the introduction of S. 2144—the Drug Benefits for the Aged Act of 1977. This legislation would assist more than 24 million older Americans who have made the painful discovery that the present medicare program is inadequate and incomplete when it comes to prescription drug coverage, and who, as a group, have a real and burdensome financial problem when it comes to paying out of pocket for these needed medical products.

The importance of this legislation is readily apparent when one studies the volumes of testimony and the thousands of letters sent to Senators by senior citizens. I have heard in hearing after hearing about the disproportionate portion of an elderly person's income which goes to paying prescription drug costs. When the Senate's Special Committee on Aging held a hearing up in Providence, R.I., last year, every witness who discussed health programs also pinpointed the high cost of prescription drugs as one of the most serious unresolved problems in their lives today.

Our witnesses have shown us that without adequate access to proper drugs, individuals suffer from prolonged ill health, and frequently eventually undergo otherwise unnecessary hospitalization, which could have all been avoided if only they could have afforded these pharmaceutical products in the first place.

This legislation covers every citizen of this country aged 65 or over; about 24 million Americans. It is universal, not restricted in the present sense of medicare and medicaid. It will supplant the present medicaid system for individuals over age 65 and will eventually save the States about $200 million, representing their present share of the medicaid copayment requirement.

Senior citizens who receive prescription drugs under this program will not be subjected to copayments, deductibles, or any coinsurance costs. The aim is to provide these pharmaceuticals with no out-of-pocket expense to the beneficiary.

This legislation goes beyond earlier approaches to the prescription drug problem, which were linked to medicare recipients. The Senate passed such limited legislation three times in the past, in 1967, 1972, and 1973, and I voted for it each time, but we always lost to the House in conference. This time I believe that there are better controls on expenditures, quality, and appropriateness in this bill and that it deserves full support from both Houses of Congress.

America's elderly citizen deserves decent and prompt medical care, not as a welfare program, but as a right. Full pharmaceutical coverage makes sense and is long overdue, and I urge my colleagues to strongly support this important bill.

AUTOMOTIVE AIR BAGS

Mr. BARTLETT. Mr. President, the recent decision of Transportation Secretary Adams to mandate the installation of air bags on all new autos by model year 1984 has generated considerable public interest. This interest is apt to increase as the public becomes fully aware of all the ramifications of this decision.

The elimination of freedom of choice for the car-buying public on the question of air bags has concerned me greatly since the Secretary's decision was announced. I suspect that the increased cost of automobiles which will result from the Secretary's decision will concern virtually everyone.

The concerns I have spoken of have been reflected in the editorials which have appeared in several papers in my own State of Oklahoma. The July 2, 1977, edition of the Tulsa World, the July 4, 1977, edition of the Oklahoma City Times, and the September 6, 1977, edition of the Daily Oklahoman all contain editorials which focus attention on the various aspects of the air bag issue.

One sentiment has surfaced rather frequently in my discussions with others about the air bag issue. That sentiment was well expressed in the above-mentioned Daily Oklahoman editorial when it concluded: "There is a limit to what government can or should do to save people from themselves, and the airbag order seems to have exceeded that limit." I concur completely with that statement.

In order that my colleagues might have the benefit of the thoughts expressed in these editorials, I ask unanimous consent that they be printed in the RECORD.

Hopefully, we in the Congress will address the issues raised by these editorials by considering, and hopefully by passing, one of the Senate concurrent resolutions which have been offered to disapprove Secretary Adams recent mandate.

There being no objection, the editorials were ordered to be printed in the RECORD, as follow:

[From the Daily Oklahoman, September 6, 1977]

PUNCTURING THE AIR BAGS

Unless Congress rouses itself this year to vote otherwise, all domestic and foreign automobiles sold in this country—beginning with standard-size models in 1982—must be equipped with a so-called "passive restraint system."

This highly questionable and controversial ruling by Secretary of Transportation Brock Adams would become effective in 1983 for mid-size models and in 1984 for the smaller cars. It has all the trappings of another ignition interlock fiasco, which ought to be reason enough for Congress to reverse the Adams ruling.

The issue has become so charged with emotionalism and clouded with conflicting testimony that even the experts are haranguing each other. If they seem confused, the average motorist is probably even more so.

If the Adams ruling is allowed to stand, it means that the auto industry must begin in 1982 to install either harness belts that wrap around automatically or air bags that inflate instantly upon frontal impact to cushion driver and front seat passengers.

Since there is no actual operating experience in mass production and use to guide either side, the opposing arguments are a mass of conjecture and extrapolation from statistics and limited tests.

Air bag proponents claim they would save more than 9,000 lives annually and prevent thousands of injuries. That may or may not be true; nobody really knows.

It is a fact, however, that the air bags would operate only in head-on collisions. They would afford no protection in rear-enders or when a vehicle was broad-sided, categories of accidents which far outnumber the incidence of frontal crashes.

It is also a fact that air bags would add substantially to the cost of a car, probably about $200. What also bothers many opponents is the possibility of unwanted air bag inflation due to faulty installation or age deterioration of the system. The auto industry is hardly in any position to guarantee 100 per cent quality control on air bags, any more than it is on transmissions or other components.

Finally, what weighs most against the idea is its compulsory aspect. There is a limit to what government can or should do to save people from themselves, and the air bag order seems to have exceeded that limit.

[From the Oklahoma City Times, Oklahoma City, Okla. July 4, 1977]

BLOW TO CAR BUYERS

Opting for the most stringent of three alternatives under consideration, Transportation Secretary Brock Adams has ruled that cars must be equipped with air bags or other passive restraints starting Sept. 1, 1981.

Under the Adams ruling, automatic protection devices will be required for standard and luxury-size cars of the 1982 model year, for 1983 intermediate and compact cars and for 1984 model subcompact and mini-size autos. The devices may include either the controversial air bag, which inflates automatically when the car is in a collision, or a combination lap and shoulder harness attached to the car door.

Other alternatives Adams had under consideration were encouraging passage of state laws requiring use of seat belts and standing on existing federal rules that allow car builders the option of installing seat belts or air bags.

Obviously, Adams bowed to pressure from consumer-oriented activists, although insurance firms also hailed the decision. Adams claimed 9,000 lives can be saved annually with use of the passive restraints. But the air bag is effective in protecting passengers from injury only in head-on collisions. Even with the air bag, seat belts will still be necessary for rear-seat passengers. Indeed, Adams said seat belts like those used in present cars will be required as an air bag supplement.

The National Highway Traffic Safety Administration has said that even 70 per cent use of seat belts would mean 11,400 fewer highway deaths each year. That's only slightly less than the life savings claimed for air bags—when used in conjunction with optional seat belts.

Skepticism about the air bag stems from reported inadequate testing, doubt about their reliability after years of road use and the potential hazard from accidental inflating.

The added cost of installing air bags—estimated between $187 and $340—will make new car owners cringe. Not only that but the cost of replacing a bag once inflated is expected to be about $600.

Congress has 60 days to decide whether to let Adam's order stand. Any public reaction will have to develop quickly.

[From the Tulsa World, July 2, 1977]

AIR BAGS FOR ALL

Transportation Secretary Brock Adams has decided to require mandatory safety restraints for all automobiles, beginning in 1982.

The controversial air bag and automatic seat restraints will be the options available to the American motorists, who have shown little interest in the air bags and downright dislike for seat belts.

The theory of the "passive" restraints is to automatically protect motorists in front-end collisions. The idea of saving 9,000 lives a year, as Brock predicts, is appealing.

Of course the Secretary is on safe ground when he defends such devices in the name of saving even one human life.

But past experience with auto safety indicates that the public doesn't want to pay the extra $100 to $300 that Brock estimates the air bags or seat restraints will cost.

The likelihood is great that enterprising motorists who have found ways to thwart various devices guaranteeing use of seat belts also will thwart the new passive devices.

Remember the history of the seat belt? Motorists refused to buy them when they were optional equipment and when they were required, they refused to use them.

When warning buzzers were placed in the autos, they were ignored and when a system that made it impossible to start an auto without the seat belts fastened, the public rebelled. Interlock systems were disconnected all over the country and a system featuring a return to the buzzer was substituted.

All of this of course cost the public money.

The air bags will do the same. Manufacturers say the cost will be close to $300 and up to $600 for reinstallation in the case of an inflation.

Adams' decision on the air bags will not end the controversy. If Congress doesn't overrule him now, there might come a time when the public will. That time could very well be when the buyers start seeing that $300 cost showing up on the stickers of the new cars in 1981.

THE GENOCIDE CONVENTION AND PRESIDENT CARTER'S UPCOMING TOUR

Mr. PROXMIRE. Mr. President, last Friday President Carter announced plans for an 11-day, four-continent trip to take place late in November. During this time the President will visit eight nations, seven of which ratified the Genocide Convention at least 17 years ago. Once again, the foremost representative of the United States will have to step into the international arena hampered by his country's perplexing and inexcusable failure to ratify this important treaty.

Apart from the strictly "business" reasons for the trip, the White House announcement emphasized the President's desire to "underline traditional ties of allegiance, of beliefs, and of values," to "symbolize our willingness to cooperate with systems that are different than ours socially, politically, and economically," and to "widen the scope of international cooperation." To accomplish these worthwhile goals, the President's agenda will include stops in such infrequently visited areas such as Latin America and black Africa.

Mr. President, other nations, and especially the developing countries of the Third World, look to the United States for protecting human rights and promoting human dignity. Why must it be, then, that a President who has given a high personal priority to protecting human rights and promoting international cooperation must explain to others why his country has not supported a widely respected treaty designed to do both? How can Congress in good conscience both acknowledge the worth of the President's goals and consistently withhold support for a document to help accomplish them? I urge my colleagues to support the President in his preparations for this trip by once and for all ratifying the Genocide Convention.

CONSTITUTIONAL INITIATIVE AMENDMENT

Mr. HATFIELD. Mr. President, on July 11, I joined my colleague from South Dakota, the Honorable JAMES ABOUREZK, in introducing a resolution which would be the first step in amending the Constitution to allow a national initiative. One of my reasons for cosponsoring such a bill was Oregon's early establishment of a statewide initiative.

As we consider the possibility of a national initiative, it is important to look at the experience of a State that has had an initiative provision for 75 years. The wide range of topics indicates that this has been a helpful outlet for public expression in my State.

I am grateful to the Congressional Research Service for providing me with a history of the use of the initiative in Oregon. I ask unanimous consent that it appear in the RECORD at this point:

THE INITIATIVE IN OREGON

In 1902 the Oregon legislature submitted to the voters an amendment to the State constitution to create a procedure whereby citizens could participate in the legislative process via the initiative and referendum procedure. This constitutional amendment was ratified: yes—62,024; no—5,668.

In Oregon, in order to get an initiative on the ballot, 6 percent of the legal voters are required to file a petition with the Secretary of State not less than four months prior to the election. For constitutional amendments which are initiated, eight percent of the legal voters must sign the petition. Once on the ballot, a majority is sufficient for passage.

From 1902 through the November 1976 general election, a total of 225 initiative measures, including 76 constitutional amendments, have appeared on the ballot in Oregon. Seventy-six of these initiatives were adopted, 26 of which were constitutional amendments. A few statistics follow:

From 1902–1976, 33.77 percent of all initiatives on the ballot were adopted.

Of all initiatives on the ballot, 85, or 37.77 percent, were constitutional amendments.

30.58 percent of constitutional amendment initiatives were adopted; 39.59 percent of other initiative measures were successful.

A wide variety of topics, many of them controversial, have been considered via the initiative process. The first two issues considered by Oregon voters after the adoption of the procedure in 1902 were on questions of the establishment of a direct primary nominating convention, and the selling of liquor by local option. Both (in 1904) were successful. In 1908 a constitutional amendment initiative to create equal suffrage was defeated. (However, ultimately women were given the right to vote via an initiative on the ballot in 1912.) A successful initiative of 1908 instructed the legislature to vote for the people's choice for U.S. Senator.

In 1910, a successful initiative created a direct primary system permitting voters to express a choice for President, Vice-President and to select delegates to a national party convention.

In 1912 an initiative to abolish capital punishment was defeated; however, two years later, in 1914, a successful initiative abolished the death penalty.

Other subjects of initiatives have been an eight-hour work day (unsuccessful in 1914), repeal of Sunday closing laws (successful in 1914), compulsory education (successful in 1922), legalized gambling (unsuccessful in 1940), and liquor by the drink (successful in 1954).

SMALL BUSINESSES DISAPPEARING FROM NATION'S SECURITIES MARKETS

Mr. NELSON. Mr. President, as chairman of the Senate Select Committee on Small Business, I wish to inform the Senate of some disturbing trends with regard to reduced small business participation in the Nation's securities markets, and the consequent difficulties of these companies in raising capital.

SHARP DECLINE IN NEW AND SMALL STOCK OFFERINGS

The decline in the number of stock offerings by smaller- and medium-sized firms has been alarming. Registered securities offerings by smaller companies, those with less than $5 million in assets, dropped from a high of 698 in 1969 to a low of 3 in 1975, and only 41 for the past 3 years, 1974–76.

Another way of analyzing the figures is to compare the total number of stock issues of companies of all sizes with the number of offerings by unseasoned companies—those attempting to sell stock for the first time. These first-time issues could be large or small, but all are new. As a percentage of total offerings, the new or first-time stock offerings have fallen to a minor fraction, from 62.05 percent to 16.37 percent between 1972 and 1976, a drop of almost 75 percent. With new and small stock issues no longer coming to the market, the average size of equity security offerings rose from $4 million in 1969 to $29 million in 1976.

These statistics corroborate the testimony presented to our committee by professional venture capital investors that, while they used to launch between 12 to 15 new technology companies a year, they have been lucky to create any at all in the past 4 years.[1]

I ask unanimous consent that a table summarizing these trends be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[1] Joint Hearings before the Senate Small Business Committee and the Senate Finance Committee, 94th Cong., 1st sess., "Small Business Tax Reform," Statement by Richard J. Hanschen, June 19, 1975, pg. 443.

COMMON STOCK OFFERED FOR CASH IN THE UNITED STATES [1]

Year	Number of common stock only	Issues by companies with assets of less than $5,000,000	Number of issues by unseasoned companies [2]	Dollar amounts raised by unseasoned issues	Percent of issues by unseasoned companies	Total dollar amounts (in millions)	Average size of issue
1965	376					$1,811	4,816,400
1966	324					2,265	6,990,700
1967	466					1,935	4,152,300
1968	1,009	358				3,890	3,855,301
1969	1,703	698				7,481	4,392,800
1970	976	198				7,126	7,301,200
1971	1,112	248				9,384	8,438,800
1972	1,020	409	633	$1,690	62.05	6,795	6,661,700
1973	324	101	176	300	54.32	4,487	13,848,700
1974	150	9	45	82	30.00	2,791	18,606,600
1975	211	3	24	70	11.37	6,331	30,004,700
1976	251	29	42	176	16.37	7,398	29,474,100
1977			21	113			

[1] Registered S–1 issues under Securities Act of 1933. Registration A issues excluded.
[2] 1st-time offerings.

Source: Securities and Exchange Commission figures (August 1977) except col. 3, statistics on issues with less than $5,000,000 in assets. Col. 3 furnished by the National Association of Small Business Investment Companies and the National Venture Capital Association (September 1977).

VALUE OF NEW AND SMALL BUSINESS

Mr. NELSON. Mr. President, it is common knowledge that new and small enterprises are the lifeblood of the Nation's economic progress. Every study of the subject has shown that individual inventors and small businesses account for more than 50 percent of all inventions and innovations.[2] The story is the same in heavy industry, light industry, trade and consumer goods. The list includes the airplane, Wilbur and Orville Wright; the helicopter, Cierva, Focke, and Sikorsky; catalytic petroleum refining, Eugene Houdry; oxygen steelmaking, Schwarz, Miles, and Durrer; power steering, Francis Davis; Xerox copying, Chester Carlson; the mercury dry cell, Samuel Ruben; the automatic transmission, H. F. Hobbs; FM radio, Edwin Armstrong; air conditioning, Willis Carrier; penicillin, Alexander Fleming; the instant camera, Edwin Land; the zipper, Judson and Sundback; dacron polyester fiber, Whinfield and Dickson; and many other commercial and household items.

On the horizon there are other exciting breakthrough inventions, a majority of which will predictably be made by small businesses.

INABILITY TO RAISE CAPITAL

To develop these inventions from the idea stage—to build a plant, a production line and a marketing organization—takes money. It is almost certain that a new firm will not have the capital it takes to develop and introduce new products. They need to find people willing to invest money—several hundred thousand dollars, or even a few million dollars. These requirements are far beyond the means of the inventor's family, friends and associates. If the small inventor is to have any real chance to develop his product, he must solicit money from a wider public. Since bonds and commercial paper are sold in multi-million amounts with minimum purchases of $10,000 or $25,000, this usually means that the aspiring inventor must reach the stock market where both smaller and larger investors can supply capital according to their varying resources and interests.

But, the cold facts and figures we have

[2] Small Business, as defined by Small Business Administration Standards also accounts for 55% of all private employment, 48% of business output, and 43% of the GNP.

reviewed tell us that the chances of the entrepreneur of the present or the future reaching the public securities markets are dismal.

A recent MIT study demonstrates that once promising young companies have been launched, they generate increases in jobs, sales, and taxes, that are far above the growth rates of more mature and established firms.[3]

In this connection is it pertinent to note the tendency of many Wall Street professionals to overlook the potential of dynamic new and growth companies in contributing to the economy and overall performance of their portfolios. This is typified in a Wall Street Journal report of September 21, 1977, that over the past 10 years professionally managed funds, which are characterized by concentrated investments in the very largest corporations, had a yearly rate of return of 4.2 percent, while a sample of 115 bank trust departments showed an average annual rate of return on equity of 1.92 percent (1972–76). Significantly, the article quotes a professional investor as not being interested in "the next IBM" because he did not regard such companies as a basis for a sound investment program. See the article entitled "Some Portfolio Managers Are Discarding Traditional Tenets and Testing New Ones," reprinted below.

It is to be hoped that regulatory authorities and the professional investment community would look at the scorecard of accomplishment by new companies since World War II, and would support efforts of those interested in the free enterprise system to expand capital formation and access to equity funds for this sector of the economy.

ROLE OF INDEPENDENT BROKER-DEALERS

Despite a growing economy, the number of independent brokers and dealers have steadily declined by about 12 percent, with the total number of broker-dealers falling from 4,614 in 1970 to 4,070 in 1974.

The Wall Street Journal of September 22, 1977, reported that 299 investment banking and brokerage firms went out of business in the past 4½ years, including some of the most familiar names. I ask unanimous consent that this article be printed at the conclusion of my remarks.

It would seem there is a direct connection between the disappearance of these independent professionals and the ability of smaller firms to raise equity capital. The Small Business Committee has been told that the large nationwide securities firms are not interested in floating stock issues for any business until it has reached $1 million in annual profits. But, the most critical stage of a fledgling business is getting to a respectable level of profits. This zone includes all of the start-up enterprises which hold promise of developing new products and services at cost savings to the consumers. The smaller broker-dealers are the only entry point for the smaller and unseasoned businesses. Without them new and small companies cannot hope to sell their stock to the public and thus participate in public securities markets for the funds needed to survive and grow.

CONSEQUENCES OF THE TRENDS

The danger of what is happening is that the dynamism of the economy is undermined, our free private enterprise system is imperiled by shifting all the new developments into existing big business, and our national economic and societal goals—growth, diversity, opportunity—are thereby impaired.

In other words, we are moving rapidly in exactly the wrong direction. Our policies should encourage and preserve these long-held and central values of the American system.

In my view, we must change our policies, and in a hurry, or the traditions that our citizens have prized so highly will be things of the past.

For several years, the Small Business Committee has been bringing these worrysome facts and figures to public attention.[4]

In 1975 Congress responded to these circumstances by amending the Securities and Exchange Act of 1934 with a mandate that the Securities and Exchange Commission gauge the effect its rules and regulations are having on the viability of small broker-dealers (P.L. 94–29). The act required that SEC make an effort to help assure the continued participation of small broker-dealers in U.S. securities markets.

This congressional declaration recognized that while economic conditions and cyclical forces have inevitable effects on security markets, so also do effects of Government policies.

Accordingly, the Small Business Committee, earlier this month, sent a letter to the SEC requesting an interim report on the commission's efforts, pursuant to the statute, to preserve the viability of small broker-dealers, to reduce their regulatory and reporting burdens, and to survey the impact of any current commission proceedings on this segment of the industry.

On September 19, the SEC replied that it will prepare and deliver such a report to the committee.

This report would, we hope, include a small business assessment of rule 390 proceeding under which the commission seeks to permit unlimited stock trading off the floor of exchanges beginning January 1, 1978.

RESERVATIONS ABOUT THIS PROPOSAL BY INFORMED OBSERVERS

Those interested in small business must be concerned that the Wall Street Journal article of September 22, stated that this proceeding "may be a factor in many (more) small brokerages' calling it quits . . ." Similarly, a New York Times editorial of last week reported that there is presently no electronic system capable of taking up the slack which would result from adoption of the commission's recommendation. I ask unanimous consent that this editorial also be reprinted at the conclusion of the statement.

The Times is saying that there is not presently in existence a system which would be capable of instant display of the outstanding offers to buy and sell a listed stock and then provide for an execution of the bid and offer that are selected.

Particularly disturbing is the conclusion of Merrill Lynch, the largest U.S. securities firm, and the biggest potential beneficiary of the SEC proposal, that "the confusion of fragmented markets could drive small investors and small institutions completely out of the marketplace."

The Treasury Department also has publicly expressed its concern about the lack of a workable electronic system which the SEC proposal appears to contemplate.

The Small Business Committee, of course, is concerned about how this proposal will affect independent broker-dealers and the small business community, and the consequent impact on the economy and the free enterprise system.

Obviously competition is desirable in the securities industry as well as in the economy in general. Competition is served by the maximum number of viable independent brokers and dealers across the country which can provide advice, assistance, and an outlet for the securities of new and small enterprises. By this process competition in products and services becomes and remains a reality. This is how the investor, the producer, the worker, the consumer, and everyone else will benefit.

Our committee would like to receive assurances that the rule 390 proposal will actually result in increased competition, rather than increased concentration.[5]

While there can be no absolute assurances of the effect of any future action, this SEC proposal seems to have more than its share of uncertainties. The absence of the computer system and information about the impact on small business, and the reservations on the part of The New York Times, The Wall Street

[3] A comparison of five young technology companies (Data General, National Semiconductor, Compugraphic, Digital Equipment, Marion Laboratories) with six mature companies (Bethlehem Steel, DuPont, General Foods, General Electric, International Paper, and Proctor and Gamble), all of which are among the largest 100 corporations, reveal the following:

	Compound Annual Rate of Increase	
	New companies (In percent)	*Mature companies (In percent)*
Jobs	40.7	.6
Sales	42.5	11.4
Taxes	34.1	7.8

[4] Twenty-fifth Annual Report of the Select Committee on Small Business, U.S. Senate, for the 93rd Cong., 2d sess., Rept. No. 94–13, Feb. 17, 1975, pp. 113–6; and the Twenty-Sixth Annual Report of the Select Committee on Small Business, U.S. Senate, for the 94th Cong., 1st sess., Rept. No. 94–636, Feb. 19, 1976, pp. 115–8.

[5] There are less than 3,000 corporations listed on the U.S. Securities Exchange out of a total 2 million U.S. corporations. Also, the 25 largest brokerage firms presently account for two-thirds of the capital and two-thirds of the gross revenues from securities industry.

Journal and the Treasury Department, should be sufficient to cause the Commission to proceed with caution in this matter.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point several newspaper articles to which I have referred, together with the letter sent by the committee on September 9, 1977 to the Honorable Harold M. Williams, Chairman, Securities and Exchange Commission, and the reply of September 19, 1977.

There being no objection, exhibits I through V were ordered to be printed in the RECORD, as follow:

EXHIBIT I

[From the Wall Street Journal, Sept. 21, 1977]

SOME PORTFOLIO MANAGERS ARE DISCARDING TRADITIONAL TENETS AND TESTING NEW ONES

(By Gene G. Marcial)

NEW YORK.—Using all his professional savvy, a New York securities analyst recently decided to make two major additions to his portfolio—Occidental Petroleum and Teledyne.

Occidental provided him with a 20 percent loss on his investment in less than three weeks. Teledyne sank even faster, requiring only two weeks for a 20 percent drop.

"I just don't understand this market," another portfolio manager laments. "We have tried just about everything, and nothing seems to work."

Money managers across the country voice similar anguish about their own accomplishments in particular as well as the stock market's weakness in general.

And well they might fret. A survey by Becker Security Corp. shows that 90 percent of professionally managed funds fared worse than the general market, as gauged by Standard & Poor's 500-stock index, over the past 10 years. The median rate of return of the typical professionally managed fund for the 10 years through 1976 was 4.2 percent a year, against the 6.7 percent compounded annual rise of the S&P index. Another survey of 115 bank trust departments shows that between 1972 and 1976, the average annual rate of return on their equity portfolios was a paltry 1.92 percent.

UNPROFESSIONAL SHOWING

Such performances, of course, are embarrassing to professionals. This embarrassment led to the current "indexing" fad, wherein portfolio managers invest proportionately in all the shares included in a major market index such as the S&P 500—so that the managers' performance will correspond with the ups and downs of the index itself. That way the managers can at least say they have kept pace with the market.

Ever since the fad took hold a year or so ago, analysts have grumbled that indexing, in effect, is settling for an average investment scorecard. But nowadays, with the market wallowing around a 20-month low, investment strategists are questioning not only indexing but also a lot of older investing concepts. And they are closely examining any promising new concept.

In this soul-searching, some analysts conclude that such old techniques as trying to anticipate a company's future earnings as a basis for buying or selling of the stock haven't been working for quite some time.

Among those disenchanted with most traditional concepts are Alfred J. Moran, Jr. and Anthony L. Adams, managing directors of QSR Advisory Corp., an investment-counseling concern. Substantial testing, they say, has shown that many strategies held dear by Wall Street actually have "very limited uses."

UNRELIABLE INDICATORS

Earnings forecasts and the stock price's relationship to the company's earnings, for instance, were found to be "invalid" guides to investment in stocks listed on the New York Stock Exchange. "They don't work on a long and consistent basis," Mr. Moran says.

Also disturbed by the principles and performance of professional institutional investors over the years is Josef Ben-Porat, who has been with the San Francisco brokerage house of Sutro & Co. for 17 years.

After he lost most of his clients in the market declines of 1960 and 1966, when he relied largely on professional analytical advice in picking stocks, he says, "I decided I could do far better myself." Having discarded traditional market concepts and paying little attention to economic indicators, Mr. Ben-Porat maintains a 30-stock portfolio that he says has shown "vastly improved gains" since he first developed his own strategies in 1967.

"I don't look for the next IBM because buying untried or unknown companies isn't a basis for a sound investment program," he says. Instead, he sticks to major companies, which he considers more likely to survive any economic difficulties. Emphasizing the long-term trends of a company, his key rule is to buy a stock only when it is close to its lowest average closing price for a 10-year period.

DISREGARDING THE PROFITS

Mr. Moran and Mr. Adams of QSR also have developed their own theories because of disenchantment with the prevailing principles. They cite Texas Oil & Gas Corp. as an example of the unreliability of a company's earnings outlook and price-earnings ratios in guiding investment strategy. The company's earnings grew steadily from 1969 through 1975, but the stock peaked at about $35 in 1972 and then tumbled to $13 in 1975 (it has since recovered to around $29).

Conversely, General Electric Co.'s stock climbed from $30 in late 1974 to about $50 in mid-1975, although the company's earnings were declining. "The point is, earnings actually have a more casual relationship with a stock's price than is generally believed on Wall Street" Mr. Adams says.

"In hundreds of tests" he adds "we deduced that buying stocks that sell at lower than a historically derived average (price-earnings ratio) and then selling them at a higher than historically derived average is of no basic use in making money in the stock market."

In the third quarter of 1973 Mr. Moran and Mr. Adams note General Motors stock was selling at about five times its annual earnings, a low multiple suggesting to many analysts at the time that the stock was a good buy. But in fact the stock plunged from about $68 then to about $28 in late 1974.

SOME EXCEPTIONS

QSR says there isn't any doubt that under certain circumstances a low-multiple stock could be very attractive. But low ratios "shouldn't be pursued as an investment strategy" Mr. Moran says.

QSR has also studied the relative effects of what it calls abnormal economic occurrences on the one hand and abnormal corporate occurrences on the other. An abnormal economic event might be the reduction of the reserve requirement of Federal Reserve member banks, while an abnormal corporate event could be a sharp increase in a company's spending for research and development. "We have developed a computer model that tracks abnormal occurrences in 500 different corporate and economic series. We have found that since 1945, stocks on the Big Board have responded to abnormal economic occurrences only 18 percent of the time and to abnormal corporate occurrences 82 percent of the time," Mr. Moran says.

Mr. Moran concludes that widely heralded changes in economic indicators often have little impact on the stocks of individual companies and that it is important to try to determine which stocks are most likely to be affected.

He says, for example, that bank reserve requirements have been cut eight times since July 1953, and that each time Standard & Poor's 500-stock index was up an average of 31.7 percent a year later. Through the use of "pattern-recognition" techniques, he says, "we are able to determine which stocks have the highest propensity for upward or downward movement" at the time of such occurrences.

"ABNORMAL CORPORATE EVENTS"

As for abnormal corporate events, Mr. Moran says that a big increase in General Electric's spending for research and development typically has spurred a rise in the company's stock. However, a similar spending increase by Dow Chemical Co. might have little or no impact on that stock, Mr. Moran says.

Some other investment counselors are trying to get away from what they describe as the "herd instincts" of the institutional investors in their approach to the market.

William A. Kent, institutional research director of Philips, Appel & Walden Inc., a New York brokerage house, believes that a big factor behind the failure of institutional investors to beat the market averages is their "cavalier attitude" in failing to investigate the quality of management of companies whose stocks they buy.

He also suggests that dividend payments aren't a good gauge of investments. He says studies of stocks he follows indicate that since 1967, at least 17 companies that either cut or omitted dividends have seen their stock prices rise an average of 78 percent in a period of 52 weeks after the event. "The stocks of those that omitted dividends did better, in fact," Mr. Kent says, rising an average of 100 percent.

Mr. Kent also observes that the top 10 companies in total return (price appreciation plus yield) among the Fortune 500 industrial companies in 1976 paid minuscule or no dividends in that year. "Above all, avoid companies that pay huge dividends," he advises. "It tells you the company is trying to promote its stock, or maybe it knows of no better way to spend its money to expand the business."

EXHIBIT II

[From the Wall Street Journal, September 22, 1977]

A SPECIAL BACKGROUND REPORT ON TRENDS IN INDUSTRY AND FINANCE

Mergers and name changes continue to take a toll of brokerage firms.

At least 150 investment banking and brokerage houses have departed in one of those ways over the past 4½ years. Another 149 firms simply went out of business. Among well-known Wall Street names that have vanished: W. E. Hutton; Model, Roland & Co.; D. H. Blair, and William D. Witter. One of the latest major firms to hang up its stock charts was Faulkner, Dawkins & Sullivan, acquired last month by Shearson Hayden Stone.

Reasons for the trend to fewer brokerages are the advent of negotiated commissions, which give larger firms an advantage; a decline in the number of new issues, which limits available business; the rise of attractive alternative investment opportunities, and a generally disappointing stock market. A recent survey by Hill & Knowlton Inc. indicates that "consolidation on the Street will continue for some time to come".

The SEC plan to permit off-board trading in listed stocks also may be a factor in many small brokerages' calling it quits. Such a move would clearly benefit the larger firms.

EXHIBIT III

[From the New York Times, September 19, 1977]

PLAYING CHICKEN AMONG THE BULLS AND BEARS

The Securities and Exchange Commission wants to foster a freely competitive national marketplace. It has decreed, therefore, that as of Jan. 1, 1978, members of the New York Stock Exchange do not have to take stock sale and purchase orders to the exchange floor. They can trade stocks in their own offices, on street corners, or anywhere else. The commission hoped, by this action, to induce the various stock exchanges and securities associations to create a national electronic system which would display instantly every offer to buy and sell. The stock exchanges say their progress in setting up such a system is slow because there has been no leadership from the S.E.C. to design the system it wants.

So it is now dawning on all parties that on Jan. 2 the trading of securities is likely to fragment into minimarkets, with some loss of continuity and flexibility. The large, well-capitalized brokerage firms will use their resources to build inventories of stocks, so that they can match buy and sell orders in their offices. The 25 largest New York Stock Exchange firms already possess almost two-thirds of the capital and handle two-thirds of the gross revenues of the 378 member firms. The trend toward merger and concentration would be accelerated by the dispersal of trading, since the larger firms would pick up most of the business that leaves the floor of the exchange. The S.E.C. heard testimony that half of the New York Stock Exchange volume might leave in the first year, 90 percent in the second year, and within three years the exchange might be out of business. Even Merrill Lynch, the largest firm and likely to be the biggest beneficiary of the change, warns that the confusion of fragmented markets could drive small investors and small institutions completely out of the marketplace.

Historically, the securities industry has resisted change, and greeted each reform proposal as a threat to capitalism. But the reformers, in their zeal for pure competition, seem sometimes to forget that the existing system does function efficiently. In its current effort to force greater competition, the S.E.C. has whetted the appetites of the large firms, frightened the small ones, and confused the interested public.

All parties agree that a national electronic marketplace, open to brokers everywhere, is a plausible and workable idea. And Wall Street, by and large, has accepted the end of the quasi-monopoly of its exchanges. But the electronic market does not now exist and is not likely to come into being in the next 90 days. The threat of dispersed and unlimited trading may have been a useful prod by the regulators. But carrying out the threat will risk damaging America's capital markets. Their efficient functioning is too important to the economy to permit this game of "chicken" to persist between the securities industry and its regulators. It is time to get on with the transition to an electronic market system that is both open and orderly.

EXHIBIT IV

SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., September 9, 1977.

HON. HAROLD M. WILLIAMS,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: As you are aware, the Senate Small Business Committee has long been interested in the nation's securities industry. Securities markets provide a vital medium of financing for new, small and growing corporations. Also, many brokers and dealers are small and independent business organizations.

For several years, the Committee has followed with concern, its Annual Report and otherwise, the decline in the number of securities brokers and dealers, the sharp reduction in the number of registered offerings by companies with less than $5 million in net worth and the average size of equity offerings. A recent letter to President Carter pointed out that securities issues by firms with less than $5 million in assets declined from 698 in 1969 to 13 in 1976. During the same period, the average size of all equity securities issues rose from about $4 million to $29 million. We understand also that the number of broker-dealers has declined by about one-fourth during the same period of time.

These disturbing trends lead Congress in 1975 to amend the 1934 Securities and Exchange Act to provide that the SEC should review its efforts to help assure the continuing participation of small broker-dealers in the U.S. securities markets.

It would therefore be appreciated if the Commission could arrange for members of the professional staff of this Committee to receive and discuss a brief interim report on the efforts that are currently under way pursuant to the statute, including measures aimed at the viability of smaller broker-dealers, the reduction of reporting and regulatory burdens, and the effect of any current proceedings of the Commission, such as Rule 390 and related matters which might have an impact on the ability of small securities brokers and dealers in communities across the country to provide advice and assistance to smaller companies who wish to reach the public securities markets.

With thanks for your interest in this matter,

Very truly yours,

GAYLORD NELSON,
Chairman.

EXHIBIT V

SEPTEMBER 19, 1977.

HON. GAYLORD NELSON,
Chairman, Select Committee on Small Business, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of September 9, 1977, requesting a report on efforts by the Commission to reduce regulatory burdens on small broker-dealers.

Please be assured that my fellow Commissioners and I share your concerns in this area, and are anxious to do all we can to make sure no unnecessary burdens are placed on either small broker-dealers or small corporate issuers. I have referred your letter to Mr. Andrew Klein, Director of the Division of Market Regulation, and asked him to compile the information you requested. The Commission will be in further contact with you as soon as possible.

With best wishes,

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

THE LAMAZE WAY TO AN ENERGY POLICY

Mr. GARN. Mr. President, last week I shared with Senators the conclusions of an Arthur D. Little study of our present energy situation, and the proposals that are now before us. Those conclusions were that what conservation can be achieved is already being achieved, through the operations of the marketplace, as a result of the higher energy prices we now have. The study concluded that if no energy policy was enacted, almost all of the goals of conservation set by the President would be achieved by 1985.

Mr. William Bonner, the executive director of the National Taxpayers Union, has come to much the same conclusion. In Mr. Bonner's words, "Carter's energy proposals are as unnecessary as spanking a newborn baby. At best they serve no more useful purpose than commanding the Sun to rise at dawn. And at worst, they actually slow down the rate of conservation, cause confusion, reduce production and bring about economic stagnation."

I find Mr. Bonner's logic unassailable, and hope that all Senators will take the opportunity to look them over. I ask unanimous consent that Mr. Bonner's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Sept. 25, 1977]

WHY ANY ENERGY BILL?

(By William Bonner)

In his book, *Birth Without Violence*, French obstetrician Frederic LeBoyer blames much of the suffering which babies experience at birth on two human flaws: impatience and insecurity.

For example, when a baby is born, it is often dangled by the feet and smacked on its buttocks in order to elicit a healthy cry. This is not done for any medical reasons, but to relieve the mother's (or doctor's) anxiety.

Also, rather than wait a few moments for the baby to begin breathing, doctors and midwives generally sever the umbilical cord immediately. This cuts off the supply of oxygen coming from the mother and jolts the baby's lungs into operation.

These practices, and many others, cause considerable trauma to the newborn. What's more, they are entirely unnecessary. Birth, claims Dr. LeBoyer, has been turned into a painful ordeal simply because we have been unwilling to take things at their natural pace.

But it is not only childbirth which is touched by this refusal. In areas of national concern, impatience and insecurity often lead to far more suffering than the fleeting pain caused to the world's babies.

Most recently, energy has received a good deal of nervous attention. A peculiar nexus of world affairs has shaken public confidence in the obscure forces which normally tend to such matters. And as a result, it appears the nation and the Congress are resolved to "do something" about energy affairs.

Until four years ago, energy was as insignificant as other consumer goods. There was no more need for a national energy policy than for a national coffee policy or a national policy on Swiss cheese.

But the Arab oil embargo changed things. All of a sudden, energy was elevated to national prominence. It became the most talked about item in the country. Oil became the godhead of western civilization.

In the spring of 1974 experts on energy sprang up out of the ground like crocuses. Colleges offered courses in it. Lawyers specialized in it. People hoarded it. And at least one person (who cut in line at a filling station) died for it.

The immediacy of the crisis quickly subsided, however. The Arabs could not refrain from selling oil any more than the Japanese could stop selling transistor radios. But though the threat was gone, the stage had been set for government to "do something" on a permanent basis about energy.

Jimmy Carter realized the insecurity which people feel about energy matters and made

use of it during his campaign. He promised to develop a national energy policy and has done so.

But, Carter could hardly say that his predecessors had done nothing on energy affairs. In the three years before he took office, the federal government spent about $7 billion and hired more than 11,000 people to work on energy matters. A vast, entrenched bureaucracy had been created. High-paid people spent their days on everything from drawing up plans for controlling the seven sisters to drawing pictures of a strange cartoon character called Energy Ant who goes around reminding children to close the door.

Carter's own energy proposals are not altogether ridiculous. They at least realize that far more energy can be had by conservation than by more development. The particular elements of his program are designed for the most part to encourage conservation. Yet, though some may believe them to be sound enough, Carter's energy proposals are as unnecessary as spanking a newborn baby. At best, they serve no more useful purpose than commanding the sun to rise at dawn. And at worst, they actually slow down the rate of conservation, cause confusion, reduce production and bring about economic stagnation.

This results from what is fundamentally an unrealistic notion of the value of energy. Conservationists often begin to think of energy as we once thought of virginity—as something to be valued for its own sake. But like virginity, energy is only useful as it is expended.

A group of 20 or so 5th graders, one of whom had received a fund-raising letter from a Washington-based public interest organization, each wrote back (obviously put up to it by their teacher) saying that it was a waste of paper to send such a letter to a 10-year-old. "Don't you know there's a paper shortage?" the letters uniformly inquired.

This line of argument—coming as it did in 20 separate letters in response to just one—had certain obvious flaws. The director of the organization, however, merely replied that: paper shortage or no, if paper were not used to exchange information and opinions, of what use was it?

And so it was that the 5th grade at an upstate New York grammar school was exposed to this modest, yet important, idea: unused, energy is of no more value than the "flower that blooms unseen and wastes its fragrance on the desert air."

Germany has realized this. There is no oil native to Germany. Yet, Mercedes still fly down the autobahn at speeds of 90 miles an hour. No speed limits have been imposed in an effort to save fuel. Germany recognized that conservation is desirable only as much as it increases prosperity and improves the quality of life.

No one drives a car to conserve fuel. People drive to get from one place to another. They may want to do so as efficiently as possible, of course, for economic reasons.

In 1973, a modified 1959 Opel set the world record for miles per gallon. It traveled 376.6 miles on a single gallon of gas, at an average speed under 30 mph. Thus, vast savings could be realized if everyone were forced to drive 1959 Opels and the speed limit were reduced to 30 mph. It is hard to imagine how this would improve the quality of life, however.

Similarly it is doubtful if any real improvement in the quality of life results from reducing the speed limit to 55 mph. The consumption of oil is supposedly reduced by 3 billion gallons per year. But so too is the number of man-hours available for work or leisure. If each member of the labor force loses just 6 minutes a day in extra travel time due to the 55 mph limit, the loss to the nation is in excess of 2 billion man-hours annually. At an average hourly wage of $5 per hour, that reflects a dollar loss of $10 billion per year. Or, at today's oil prices, about 18 billion gallons per year.

Of course, no accurate figures on the subject exist. This is just a way of showing that energy is not an isolated product. It is a part of a much greater order of labor, raw materials, capital, expertise, and enterprise which functions in the same complex fashion as an ecological system. Efforts to influence the balance of these things—such as those proposed by Carter and the conservationists—are sure to produce unwanted results; just as Army Corps of Engineers projects upset the balance of nature.

One unwanted result would be brought about by the use of the tax system in an attempt to restrict fuel consumption. Largely because of its impossible complexity, the tax code is an abomination. President Carter called it "a disgrace to the human race" in his campaign statements. Unfortunately, manipulation of the tax code with proposed energy features would make it an even greater disgrace.

But that is only the most minor tax-related problem. More important is the economic effect these tax features would have. By the mid-1980s, if Carter's taxes on gas guzzlers and gas guzzled went through, the government would be collecting another $75 annually in taxes. While this money would not be entirely removed from productive economic activity (the oil companies would have it to invest before payment to IRS), society would anticipate its removal and reduce investment and consumption almost proportionately. It is of little consequence that some of this money would be intended for rebate. Economic disruption would have already occurred.

Another unwanted result, already partly seen, is a dramatic rise in insulation and solar energy prices as a result of tax subsidies. The insulation materials industry hasn't been able to keep up with the demand. Solar energy companies too are hard pressed to meet the rising market for their services. With this tremendous pressure, prices rise dramatically, making conservation even less economic and, hence, less attractive.

Neither President Carter nor the proponents of strict conservation measures are seriously worried by these adverse effects. They apparently think that such side effects are outweighed by the good they hope to accomplish.

But just what good is it that they expect to achieve? Surely not conservation for its own sake? Behind the clamor for a national energy policy is not the desire to keep petroleum in the ground, it is the abiding fear that one day we may wake up and not be able to warm our instant coffee. The motivation for Carter's energy legislation is the desire to plan an orderly reduction in the use of oil and gas as well as a transition to other energy sources. They are a way of avoiding that terrible day when the last drop of gasoline is pumped and we suddenly realize there is no more. Presumably, on this day, people would begin to starve and freeze. Riots would break out. Confusion and disorder would engulf the industrialized world.

The way to prevent this catastrophe is, of course, to plan ahead. And that is what a national energy policy aims to do. But the real question is whether the government can plan more successfully than the people themselves.

There are, no doubt, people who have confidence in the ability of politicians and bureaucrats to distribute the world's resources with justice and efficiency. There are also farmers who plow backwards to fool the crows. Neither group has any record of successes to point to. The truth is that government planning most often causes the very disasters it is intended to avert. In energy matters, there is no exception.

Government planning frustrates individual planning. Deprived of the information provided by free-floating prices, the individual is adrift without a compass. He has only a complex system of government incentives, penalties, and policies to guide his actions. Unfortunately, these policies are usually bewildering, and contradictory. The Department of Interior is requiring leaseholders on federal oil lands to increase production. At the same time, President Carter is proposing stiff new taxes to decrease consumption. He is also proposing to hold down gas prices at a time when slightly higher prices would yield (according to the American Gas Association) enough gas for more than a thousand years of consumption at present rates.

In line with Carter's request, there already has been ordained another new goliath agency with thousands of employes, a fleet of hundreds of cars and trucks and well-lighted, heated and air-conditioned offices to enforce a policy of conservation which—if done by individuals themselves—would be free and effortless.

These contradictions—and many others like them—make it very difficult to perceive an energy policy, much less order one's affairs around it. They virtually guarantee a confused, and perhaps irrational, response by consumers to the energy "crisis."

The best way to promote orderly conservation would be, as Dr. LeBoyer suggests, to let nature take its course. As prices rise, reflecting diminishing resources, consumers will gradually reduce consumption and switch to other means of power. No bombastic program is necessary. No one needs to be encouraged to save money. People buy hamburger because it is cheaper than steak. McDonald's doesn't need a subsidy to sell it.

Not only is this "method" cheap, it is also effective. Throughout history products and services have come and gone. And in almost every instance, their arrival and departure have been orderly and gradual—like a bell curve—except in two cases: when governments interfere with the transition, or when there are unforeseen calamities (against which no one could plan).

And in the case of energy, the "do nothing method" is already working well. In countries where prices have risen steeply, efficiency has also increased. Germany has a per capita energy consumption only half that of the U.S.—despite a similar economy and standard of living. Even within the U.S., consumers have been responsive to price changes. In New York, the average person uses only half as many BTUs as the average person in Texas. This is because energy costs about twice as much in New York as it does in Texas.

It scarcely needs to be said that there already is enough unnecessary hardship in the world—for tiny babies as well as full-grown adults. Perhaps a little more confidence in the natural order of things, and in people's ability to adapt to changing circumstances, could spare us additional grief.

REGIONAL ENERGY DEVELOPMENT ACT OF 1977

Mr. MOYNIHAN. Mr. President, the Regional Energy Development Act of 1977 was introduced today by my distinguished colleagues, the Senator from Washington, chairman of the Energy and Natural Resources Committee. This proposal, of which I am a cosponsor, represents a truly constructive and innovative step toward a solution of the Nation's energy problem.

The bill contains enabling legislation for regional energy corporations, for profit entities which will initiate planning and development to meet the energy

needs of the various regions. I want to emphasize that the Federal involvement in this corporation is minimal: the directors of the corporations will be appointed by the President, with the advice and consent of the Senate; and, a portion of the obligations of the corporations will be guaranteed by the Federal Treasury. Other than for these limited ties, the corporations will be on their own.

The legislation is also drafted to limit the control that the corporations can exert over private energy development projects. Specifically, the corporations are prohibited from operating any of the energy development projects which it supports financially. This is important: we are not advocating governmental control of energy development; rather, we are establishing a partnership whereby publicly established, but privately owned, corporations will work with private enterprise to promote solutions to regional energy problems.

There have been other proposals for energy financing corporations and for energy development banks. The regional corporations established by this bill are, however, unique. First, the obvious distinction is that the focus of our proposal is on the region, while the other proposals would have established national energy banks. This concentration on regions is important since energy problems vary appreciably from one region to another. The Northeast, for example, is a region that lacks sufficient energy sources of its own. The Northeast's energy corporation would, therefore, strive to increase its sources of energy and to plan for their optimal use on a regional scale. Energy-rich regions, such as the Southwest, the Northern Mountain States, and the Appalachian States, have problems of their own: the impact of intense resource development and exploitation on the region's economy and environment. In all of these cases, the regional energy corporations could address those energy problems that are most important to the particular region.

Another aspect of the proposal which I feel is of particular significance is its emphasis on planning and on a development process which is consistent with that plan. To be truly effective, to be a positive force in the resolution of the region's problems, the corporation's activities must be coordinated with a plan for the region's energy future. The legislation specifically requires that a systematic analysis of the region's energy problems, leading to a plan for action, be conducted, and that all investments of the corporation be consistent with that plan.

Governor Carey of New York and his colleagues in the Coalition of Northeast Governors deserve our thanks for their efforts to develop this proposal. I am enthusiastic about the potential of regional energy corporations, as a blend of planning and financing and as a cooperative effort by the public and private sectors. I am hopeful that this legislation will quickly be passed by Congress and will, when implemented, contribute greatly to the solution of energy problems the Nation now faces.

PROFITS, PROPHETS, AND PROFFITS

Mr. GARN. Mr. President, during our consideration of natural gas deregulation, which is apparently going to go on for some time, it may profit us to think of some of the factors that have enabled America to grow to her present greatness.

In a recent speech in Denver, the outgoing President of Rocky Mountain Oil and Gas spoke of the idea of freedom, the need for vision, and the willingness to sacrifice which have characterized this Nation from the beginning. As we debate this bill, and think of President Carter's campaign promise to deregulate the price of natural gas, contrasted with his threat last Saturday to veto any bill deregulating natural gas, it would be nice if all of us would think about the implications of the points Mr. Eliason makes.

I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TO SOLVE OUR ENERGY PROBLEMS AMERICA NEEDS PROFITS, PROPHETS, AND PROFFITS

Twenty-five years ago this week, I left my home in Logan, Utah for New York City. I had just won a four-year scholarship to attend Columbia College. My Dad was so pleased that he said, "Max, I am going to buy you a first-class ticket to New York", and he did.

As the prop-driven plane approached Chicago, one of the engines stopped. I sighed with relief after we landed safely in Chicago, but I was very nervous as I watched the mechanics remove the engine for repairs. We had a three-hour layover, so I walked into the terminal and bought a $50,000 life insurance policy payable to my Dad. A few moments later, I got on a weight machine that told fortunes. My fortune read, "Congratulations. An investment which you have just made is about to pay off big."

Each of us has the hope that an investment which we make will pay off big. Of course, we also hope to live to enjoy it.

My remarks today will mainly center on the need for adequate incentives for the oil industry. When I finish, I hope that you will agree that "to solve our energy problems, America needs Profits, Prophets and Proffits." I wish to discuss these three "P's".

PROFITS

Let us first talk about profits.

During my four years at Columbia, most of my classes were held in Hamilton Hall, named after Alexander Hamilton. He was an early student at Columbia, which then was called "King's College". His statue stands in front of the building. Hamilton was a brilliant statesman. He was the first Secretary of the Treasury of the United States under George Washington. His policies were largely responsible for establishing this Nation on a firm financial basis.

Hamilton believed that "if social progress is a legitimate public interest, then adventurers must be permitted to invest, take risks, and save for further investments from their successful ventures."

In other words, businessmen should be allowed to keep the profits from their successful ventures.

Our founding fathers made that principle a cornerstone of the new Republic. As a result, America became to the entire world the land of freedom and of economic opportunity. It became the land of Horatio Alger.

This economic freedom and the opportunities for profit made possible the rapid development of the mineral resources of the United States. Why? Because our system provided the incentives needed to encourage individuals to work hard, invest and take risks.

Now, however, America faces a severe energy shortage. In fact, oil imports increased 31 per cent during the first half of 1977 and now supply 47 per cent of total domestic consumption. They averaged 8.8 million barrels per day this year vs. 6.7 million barrels per day in the first 6 months of 1976. From January 1 to July 1 of this year, imported oil cost Americans $23 billion. By comparison, the U.S. in 1971 imported 3.9 million barrels of oil per day at a cost of $3.6 billion.

These figures show that the United States has a monumental energy supply problem. Great debates are going on to determine the reasons for these shortages, and how to correct them. Some men in Government have stated that the United States does not have the resources needed to provide the energy needs of America, and so our only solution is to conserve energy. This seems to be one of the major assumptions on which the Carter energy plan is based.

These men are right in stressing that our fossil resources should be used wisely. But conservation alone will not do the job. Domestic supplies must be developed rapidly, and they can be, because the United States has approximately one-third of the world's fossil fuel resources when our oil and gas, coal, oil shale and tar sands reserves are taken into account.

Recognizing that America has abundant energy resources, the obvious primary reason for our supply shortages is that economic incentives to develop domestic energy supplies have been and are being destroyed by foolish political decisions. Many of our present political leaders have forgotten, or else never learned, that incentives are the basic reason why our economic system is the most successful one in the world.

Unfortunately, some of our leaders seem to think that "oil profits" are a political embarrassment to be avoided where possible. They are completely wrong, because oil profits are the most powerful tool available to solve the energy crisis. Without them, any energy program is doomed to failure.

The Independent Petroleum Association of America (IPAA) estimates that to increase U.S. production and reduce imports will require a 10-year drilling program involving 670,000 wells at a cost of $256 billion. That large required sum of money will not be available if the present price control systems on oil and natural gas are continued.

I do not have to recount to you the history of these price controls, because we are painfully aware that natural gas prices have been regulated since 1954 and oil prices since the early 1970's.

These controls are a crime against the millions of American citizens who have an interest in oil and gas production, because they are being forced to sell their product for less than full value because of arbitrary governmental decrees. No other segment of our society is being subjected to such controls.

Price controls on oil and natural gas also are a crime against every consumer, because the oil industry is being deprived of the profits which are needed for investments to provide increased energy supplies for the consumers.

Governmental reports show that crime has been increasing steadily in this country in recent years. These reports fail to show, however, that the Federal government is the biggest thief of all because it is literally stealing billions of dollars each year from the owners of oil and natural gas. If the Carter Administration's proposed energy plan is adopted, this rip-off will continue indefinitely.

Suppose that the United States Congress

authorized the Federal Government to go into the United Bank of Denver tomorrow morning and to confiscate two-thirds of the money out of every depositor's account. Would you consider that to be thievery? I would. And, those depositors would have every reason to be terribly upset.

How does that example differ from the case where the Federal Government is forcing some domestic producers of oil to sell their product for just $5.25 per barrel, when in fact that oil is worth about $15? Some stripper oil well production in this Country, on which the price is not regulated, is selling for in excess of $15 per barrel, and we are paying approximately $14 per barrel for foreign oil landed on our shores.

How can anyone justify such a rip-off? Two main reasons given by the proponents are that (1) allowing prices to rise would cause more inflation and injure consumers, and (2) removing these controls would give "windfall profits" to producers.

Those are not very good reasons to justify the stealing of oil and gas from producers.

The Carter Administration has tacitly admitted that the first of these reasons is not valid, since they propose to increase the price of oil as a means of restricting wasteful consumption. However, to accomplish this, they are proposing to equalize oil prices by adding new taxes on oil at the wellhead.

Bill Blackburn, an independent oil man and former President of RMOGA, sent a letter to President Carter on August 2, 1977, in which he succinctly described the effect of this oil taxation portion of the President's proposed energy program. Here is part of his comments:

For oil developed prior to September, 1973, and now producing more than 10 barrels per well per day I now receive $5.25 per barrel.

Your proposed energy program would increase the price of this oil to $13.50 per barrel over a period of three years.

I would continue to receive $5.25 per barrel and the government would receive all proceeds over $5.25 per barrel. After three years the government would receive $8.25 per barrel and I would receive $5.25 per barrel. I would pay all expenses out of my $5.25, and would "net" $1.50 to $3.50 (average $2.50 per barrel). I would pay all taxes levied by various governments—i.e. school, county, state, federal and so forth.

The government's share of $8.25 per barrel would have to be added to the retail price paid by consumers. As a consumer, I would pay my share.

I do not understand how a government can "tax" a product with a net price to me of $2.50 per barrel at a rate of $8.25 per barrel to the government.

This is the way it looks to me: I find it: I develop it: I operate it: I take all risks: I get $2.50 per barrel: the Government gets $8.25 per barrel and the price to the consumer goes up.

Bill, that is how it looks to me, also.

Now what about the argument that ending price controls would give oil and gas producers "windfall profits"? The dictionary defines a "windfall" as an "unexpected gain".

Since when is it wrong for any American to receive an unexpected gain? Does the Federal government have the right to take such a gain away from one person and give it to another?

Clearly, the value of oil and gas has increased. Who should benefit from that increase—the man who invested his money and took the risks, or someone who had nothing to do with developing the resource?

Last week the nationally-syndicated columnist, Michael Novak, posed some interesting questions in his column, which he said he would like to ask ten anti-oil senators to answer: "What is wrong with windfall profits for American oil men, that is right with windfall profits for Arab oil men? Does not the same windfall blow in Araby that blows in Texas? If someone in this world is going to make money on oil, wouldn't you rather have it be Americans?"

Those are very penetrating questions. Why should American oil producers be robbed with price controls while we continue to send billions of dollars overseas each year to enrich the Arab nations?

There are some critics who have voiced concern that even if oil and gas prices are increased, oil industry profits will not be reinvested in energy projects. However, figures compiled by the Commerce Department show that about 80 per cent of industry's revenues from oil and gas production is plowed back into exploration, development and production—all aimed at increasing U.S. energy output. This is even though the incentive to do so has been dampened because of the present price control systems.

Before leaving this subject, I would like to pose another question: Why are profits of the oil industry labeled "windfalls", but profits of other industries are not? Is the oil industry the only one where profits are being made?

Let me tell you about another personal experience. In 1970, I made my first real estate investment in a duplex apartment. The purchase price was $25,000, but I paid only $3,500 down. In the intervening years, the rentals have paid off the second mortgage and have reduced the balance owing on the first mortgage to $10,000.

I could sell that duplex tomorrow for $50,000. I would net $40,000 after paying off the $10,000 mortgage. Subtracting my $3,500 investment, my profit would be $36,500. In other words, since 1970 my original $3,500 investment has yielded a ten-fold return. And just think, I did not have to drill one dry hole—my risk was very low.

Should that profit be taken away from me? Should I be forced to sell the duplex for perhaps $17,000, which would allow me to just double my investment? Anyone who says "yes" to these questions does not understand the keystone to America's economic system, which is economic incentives. I made my investment only because I hoped to make a good profit.

PROPHETS

That brings us to the second "P"—Prophets.

I was in Washington in January of last year testifying before a Senate subcommittee against proposed divestiture legislation aimed at breaking up the major oil companies. While there, I visited Arlington National Cemetery and paused to meditate beside the eternal flame which burns over the grave of President John F. Kennedy.

Between President Kennedy's grave and the Potomac River is a granite wall on which are engraved excerpts from his inaugural address, as chosen by his widow. Among the quotes is the following:

Let every Nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of liberty.

As I read those words and looked over that wall at the city of Washington across the Potomac, I wondered if our friends and enemies abroad recognize that many Americans no longer are dedicated to assuring the survival of liberty. Why did I wonder? Because that very morning, in the Halls of Congress, I had seen men who were intent on destroying the oil industry, which is an integral part of our free economic system.

It is clear that governmental controls and regulations will destroy our individual freedoms unless the course of events is changed dramatically. Not just the freedom of the oil industry is at stake, it is the freedom of every American.

Some people claim that it is too late to save our freedoms. I disagree. The theme of this 32nd Annual Convention of RMOGA is "We Can Do It." I believe that this statement of confidence applies to saving our Country as well as our Industry.

This Nation is crying for leaders who have the vision of Prophets—men who can lead us away from the brink of Socialism where we presently find ourselves—men who can restore our faith in government and in ourselves.

There were many citizens who hoped that Jimmy Carter would be one of those "Prophets" that we sorely need to lead us back to basic American economic principles. The final verdict is not in, but clearly he has let many of his supporters down so far.

For example, candidate for President Jimmy Carter wrote a letter dated October 19, 1976, to Governor David Boren of Oklahoma, on a letterhead which displays pictures of Jimmy Carter and Walter Mondale above the caption, "Leaders, for a change". Among other things, Jimmy Carter said therein:

"If we are to reach our goals of full employment and a healthy growing economy, we must reduce our dangerous dependence on foreign oil and we must develop our own domestic energy supplies. . . .

Coupled with energy conservation, our policy must encourage additional production of our domestic reserves. . . .

To increase our domestic production, I have proposed three important steps. First, I will work with the Congress, as the Ford administration has been unable to do, to deregulate new natural gas. The decontrol of producers prices for new natural gas would provide an incentive for new exploration and would help our Nation's oil and gas operators attract needed capital. . . .

I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production, while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership of the current administration has produced.

Jimmy Carter's reason for advocating decontrol of natural gas prices could have been written by my fellow Columbian, Alexander Hamilton. It makes good sense.

Mr. Carter wrote a similar letter to Governor Edwards of Louisiana and Governor Biscoe of Texas, and he sent a telegram containing the same promise to the Convention of the IPAA in New Orleans in the fall of 1976. I was there when his telegram was read to the assembled oil men.

But many of us in the oil and gas industry questioned whether Jimmy Carter would keep his promise to work with Congress to deregulate new natural gas prices. We considered that promise to be a last-minute attempt to insure his victory in the Presidential election.

As it turned out, Jimmy Carter won the electoral votes of Oklahoma, Texas and Louisiana. If he had not done so, he still would be down in Georgia with his brother Billy.

Instead, Jimmy Carter is in Washington. But is he working with Congress to decontrol natural gas prices as he promised? No, sir. He personally has been contacting members of Congress urging that they vote to continue such price controls. He, in fact, has gone one step further. He is working for legislation which would extend price controls for the first time to natural gas sold in intrastate commerce.

This situation reminds me of a question that I heard the other day—"It is 10 o'clock, President Carter. Do you know where your campaign promises are?" His actions have made President Carter's oft-repeated statement, "I will never lie to you", sound very hollow indeed.

In his energy message, President Carter declared that we should approach solving our

energy problems as if we are at war. He sounded like a "Prophet" as he told America of the seriousness of our energy situation.

We in the oil industry agree with the President that an all-out effort is required. And we are anxious to work unitedly with our fellow Americans to win the energy war. But we become disheartened when we note that a large part of the "war effort" is being directed at crippling the oil industry, through price regulation, threats of dismemberment, and governmental red tape. The Government is making it continually more difficult even to get into lands to develop energy resources.

This is a lousy way to fight the war. It should be written up in Ripley's "Believe It or Not".

Let me tell you of a recent "war story" involving governmental foolishness.

My Company, Skyline Oil Company, filed an application to drill a well on a 160-acre tract in the Well Draw Field in Converse County, Wyoming. Three weeks ago, we received a notice from the Bureau of Land Management stating that "a cultural resource inventory by an approved archaeologist for work within the State of Wyoming must be conducted prior to approval of application to drill".

I personally called the Casper BLM office for more information, since we already have drilled three wells on the same lease without needing to have an archaeologist study the drill sites. I was told that such an inventory now is required by regulations adopted pursuant to the Federal Antiquities Act, the National Historic Preservation Act, and other legislation.

I explained that the Federal government owns the minerals under the 160-acre tract, but a rancher in Wyoming owns the surface rights. Therefore, any artifacts or other items on the surface are owned by the rancher, and we are paying a substantial sum to him for surface usage.

The BLM man told me that "even though the surface owner may own the artifacts, etc., he may not have the right to change or destroy them because of Federal law." I paused for a moment to consider whether I may have misdialed my phone and reached Moscow instead of Casper.

A vision then popped into my head of a collapsed rock sheep pen which an archaeologist found near a remote proposed drill site in New Mexico last year. The archaeologist advised the Operator that if the drill site pad had encroached upon the pen, the location would not have been approved. That archaeologist stated that any artifact which is older than about 1950 could be of significance. The rock pen was about thirty years old.

Can you imagine the Federal government telling the farmers of America that they cannot destroy old sheep pens and other such structures which are located on their property and which they own? What is this Country coming to? What is happening to the property rights of Americans as guaranteed by the Fifth and Fourteenth Amendments? Are you concerned about the Federal government's effort to extend its control over your private property?

I, for one, am convinced that it is high time for each of us to stand up and be counted in the fight to preserve property rights and other freedoms in America. Then perhaps Congress and the President will wake up and change the battle plan in the energy war. Hopefully, they will gain new vision and become "Prophets".

PROFFITS

Now, I would like to talk about the third "P"—Proffits.

As I was growing up in Logan, Utah, one of my best friends was a fellow named Bruce. We lived on the same street. We were in the same scout troop. One of our favorite sports was to divide the neighborhood boys up into armies, dig trenches and foxholes, and have a war using tomatoes for hand grenades. We fought our own World War II.

When Bruce and I got to high school, we both joined the ROTC unit. I became a Lieutenant Colonel and commander of the ROTC drill team and Bruce, who was a year younger than I, became assistant commander. When we graduated, I went off to Columbia to college and Bruce went off to war. Bruce loved the military and made it his career. He was sent to Vietnam as an infantry officer, where he became very ill. After recovering, he asked to be sent back to Vietnam. On his second tour of duty in the jungles there, he contracted a fatal illness from which he died in 1971 at age 36. My buddy Bruce, gave his life for this Country.

As I was standing in Arlington Cemetery on that cold January day, reading President Kennedy's words, I thought of Bruce and tears came to my eyes. His body lies buried there at Arlington, in the rolling hills that were behind me. He is the only person I personally know who is buried there.

Lieutenant Colonel Ray Bruce Proffit, my buddy, gave his life for freedom. Millions of others like him have made the supreme sacrifice for that cause. If we allow short-sighted politicians to succeed in making foolish decisions which destroy our liberties, we will betray these sacrifices, which then will have been made in vain.

Milward Simpson, a former Senator from Wyoming and former Governor of Wyoming, said that the word "free" in free enterprise should be struck out and that it should be called the "private enterprise system". He said that "it is not free, for men have given their lives and fortunes to protect private enterprise".

This Country desperately needs "Proffits"—men and women who have courage and are willing to fight for the preservation of our sacred liberties, whether in the foxholes or in the arena of politics. The energy battle is being waged not only in the oil fields, but also in the political fields. The "Proffits" of today must fight on both fronts if we are to win the energy war.

"We Can Do It" if we remember that to solve our energy problems America needs Profits, Prophets and Proffits.

To conclude, I would like to leave with you these words from the man who was President of Columbia University when I arrived on campus 25 years ago this week, Dwight D. Eisenhower:

"There is nothing wrong with America that the faith, love of freedom, intelligence and energy of her citizens cannot cure."

I believe that. Do you?

DOUGALD McRAE—IN MEMORIAM

Mr. MORGAN. Mr. President, last Thursday while the business of the U.S. Senate was being conducted, I was absent. I had returned to the State of North Carolina for the funeral service of a very dear friend of mine and to serve as pallbearer.

I could not miss being there.

Dougald McRae, described so aptly by my county newspaper at home as "one of the county's most colorful political figures and longtime confidant of the State's leading Democratic officials" was one of my oldest friends and political allies. I ran for my first public office, clerk of the court, while still a student at Wake Forest Law School and Dougald McRae was one of those who encouraged me to run and lent me his support, which was considerable in my county. I never ran again for any office without his advice and his help and when I was elected to the U.S. Senate no person took greater pride in that fact. And when I went home on weekends, we often met on Saturday mornings at the local cafe where Dougald was always ready to give counsel.

What sort of man was Dougald McRae? Let me tell you.

Politics was his life and to him, there was nothing derogatory about that term. "Politics" to Dougald was simply the business of government, whether at the county, State, or national level, and if he was not actively shaping it at the courthouse or the polling place he was helping mold public opinion at the service station, the cafe, or the street corner.

And he never tired of it.

His champion was the Democratic Party and the largest floral spray at the historic Summerville Presbyterian Church on the day of his funeral had a ribbon with the word "Democratic" boldly printed on it.

He would have liked that.

He cut his teeth in politics in the days when the parties fought bitterly in our part of the State, and no one ever wondered what side Dougald was on. As the paper stated last week:

McRae was often controversial as most politicians are but never hesitant to take a stand. He made his views known and he worked hard for the candidates he supported.

And he was respected for it.

Franklin Roosevelt was a hero and to Dougald, Harry Truman epitomized the rough-and-tumble politics for which my home county of Harnett is famous. A staunch Scottish Presbyterian, he defended the right of a Catholic to be President of the United States and though well up in years shared the spirit of Camelot. Dougald admired Lyndon Johnson's practical approach to politics and his persuasive powers, both of which Dougald had long since mastered himself. He adored HUBERT HUMPHREY, considering him to be the expert on American government, and tolerated GEORGE McGOVERN, realizing they stood miles apart philosophically but were both good Democrats.

A host of local and State candidates were the direct beneficiaries of his political efforts and the vote in his precinct, Upper Little River No. 1, always reflected it. He shared the confidence of a long line of North Carolina Governors, Senators, and State officials and former Chief Justice of the Supreme Court considered him one of his closest friends, inquiring of me each time I saw him, "And how is my good friend Dougald McRae?"

His neighbors in a rural farming community called on him for help and counsel. Long before the word "ombudsman" became popular, Dougald McRae was one. He helped his friends by listening to their problems and then using his considerable contacts and friends to cut through redtape and find practical solutions. He loved his family and there was seldom a time when he and his wife Katherine were at home alone, for children or grandchildren or neighbors or friends were always there and that is the way he liked it.

In spite of all this, he was an unpretentious man.

He was uncomfortable in a suit and sometimes considered shaving a bother. Cars were not for show but for getting you about. They drove better when slightly battered. Hats were a part of his wardrobe but wore best when crumpled. Neckties were most comfortable when loose at the collar.

And cigars were never meant to be smoked but rather chewed, slowly.

Dougald McRae never sought high public office. But he cherished his duties as a poll holder, precinct chairman, and then for many years member and chairman of the county elections board. This was his way of "serving" and he did it well.

He left his print on my county, my State, and my life. He made his 77 years count for something by making sure that the democratic process worked and stayed healthy and strong. And his faith in it never waivered.

I hope someday the same can be said of me.

TUITION TAX CREDIT

Mr. DOMENICI. Mr. President, I wish to make the following statement in support of legislation recently introduced by Senators PACKWOOD and MOYNIHAN, the tuition tax credit, S. 2142. I am pleased to join my distinguished colleagues as a cosponsor of this legislation.

Education rightly ranks high on the list of American priorities. Today, increasing numbers of Americans, young and old, male and female of all races, are availing themselves of the benefits of our educational system. Unfortunately, however, the ability of the American consumer to purchase this high-priority commodity is eroding at a rapid rate. The skyrocketing costs of education have touched the pocketbooks of all of us.

I rise today to support legislation which will help to bring the cost of education back within an affordable range. The Tuition Tax Credit Act, introduced by Senators PACKWOOD and MOYNIHAN, is a step in the right direction toward deescalating educational costs.

The Tuition Tax Credit Act provides a tax credit, subtracted directly from the amount of taxes owed, for tuition expenses paid by an individual for himself, his spouse, or his dependents. The amount of the credit will be 50 percent of tuition costs up to a total of $500 per student. The tax credit is also refundable if the credit is greater than the tax liability. This provision makes the legislation especially attractive to lower income Americans.

Students at all educational levels are eligible for the credit. In order to benefit from this legislation, an individual can be a part-time or full-time student at an elementary or secondary school, a vocational school, or at a college or university. Also included are business and trade schools which meet the basic accrediting requirements of the Office of Education.

One especially desirable feature of the Tuition Tax Credit Act is that the credit is extended to students in private elementary and secondary schools. Formerly, private school education, though expensive, was affordable. However. it has been projected that enrollment in private elementary and secondary schools will drop by 50 percent by 1984 due to rising costs. Enactment of this legislation will help to reverse the trend toward declining enrollment. I am particularly pleased with this aspect of the Tuition Tax Credit Act since I have long felt that parents who choose to send their children to nonpublic schools deserve some kind of tax relief.

Of all the legislation I have seen to date which is designed to provide tuition tax credits, the Packwood-Moynihan bill offers the best approach. It provides a workable mechanism for according to middle and lower income Americans direct and effective tax relief. I wholeheartedly agree with Senator PACKWOOD'S statement this measure is a "revolutionary concept in self-help education."

I am pleased to cosponsor and actively support this very important piece of legislation. The broad-based support which this proposal has received in the Senate indicates to me that the time is right for enactment of tuition relief legislation. I hope that we in the Congress can act quickly to implement the Packwood-Moynihan Tuition Tax Credit Act.

REGULATION OF THE TRUCKING INDUSTRY

Mr. BAYH. Mr. President, it is certainly an honor and a privilege for me to submit the testimony of Mr. Morris Katz, chairman of the board of the Katz Bag Co., for inclusion in the CONGRESSIONAL RECORD. Mr. Katz is a man of great knowledge and experience in the field of interstate as well as intrastate trucking. He recently testified before an Interstate Commerce Commission hearing in Chicago, Ill. In his testimony he argued that continued regulation of the trucking industry was necessary if our country expects to maintain the orderly movement of goods from one point to another. In these months of intensive debate regarding regulatory issues, I believe it would be profitable for all of us to reflect on Mr. Katz's views as we consider alternative courses of action.

Mr. President, I ask unanimous consent that the testimony of Mr. Katz be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF MORRIS KATZ

My name is Morris Katz, Chairman of the Board of the Katz Bag Company, Inc., Indianapolis, Indiana. I come before you wearing two hats.

One is as Chairman of the Board of Katz Bag Company, and the second is as a past President of a national trade organization known as the Textile Bag Processors Association, and presently I am a member of their cabinet.

I will abbreviate the trade organization as the TBPA, which consists of approximately 150 member companies throughout the United States and Canada. We are similar in nature and they have asked me to also represent them here as well, and speak on their behalf.

I come before you to also represent the small business firms, of which there are hundreds of thousands throughout the United States.

Without the use of commercial regulated carriers we would be put out of business, and thereby put many people out of work.

Katz Bag Co. was organized in 1911. We are a small family owned company and I can remember back in the 20's and 30's when we did not have regulated truck lines.

I am against government intervention in private enterprise and especially with regulations, and believe totally in open competition of the free enterprise system, but with certain exceptions;

For example: If there were no regulations and insurance thru the FDIC in the banking and savings and loan industries, there would be utter chaos for over 230 million people in the United States and throughout the world.

By the same token, I place the regulated commercial trucking industry in the same vein.

In my business 95 percent of our domestic shipments are less than truck load, and we use the commercial carriers whether it be for intra or inter state shipments. The commercial carriers are a highly competitive market because we have many options in carriers for shipping. The trucking industry is regulated to a point where we, as a shipper and receiver, know our freight costs of our raw materials and finished products to any part of the 50 states.

When you stop to realize the importance of maintaining a semblance of order in the trucking industry, I am one of the few who can remember the past when we had no order in the trucking industry.

Back in the 30's before the trucking industry was regulated and before the I.C.C., using a truck line at that time the shipper did not have confidence or trust in the carrier, as you did not know your cost, as there were all kinds of rates being offered and there were quite a number of lost shipments during that period of time, with a limited liability or responsibility from the carrier.

When the I.C.C. came into being they brought in an established order, responsibility, and eliminated chaos in the trucking industry; and it gave the shipper confidence and trust that our merchandise would be shipped, arrive, and be received at its destination by responsible carriers at reasonable rates, in a reasonable time frame.

We are also one of the companies that make small shipments in the minimum category. There is no other way to ship these small shipments. We realize that the truck lines have to lose money on pick-up and delivery on minimum shipments, but we also sweeten their pie because we ship and receive millions of lbs. of freight yearly.

De-regulation of the trucking industry would be chaotic to our economic system and would create economic turmoil.

We ourselves would be put out of business as would others, as we presently have no shipping alternatives.

I further understand that nothing is perfect and that adjustments or modifications probably are in order, but to destroy what it has taken generations to establish we might as well go back to the horse and buggy days.

It would be totally unfair to make the American people victims for the selfish interests of a few, who are not aware of the pitfalls of de-regulation.

During the 40's it was the regulated trucking industry that supplied the necessary quick movement of the war materials from all parts of the country to the ports for shipment overseas.

I wish to call to your attention, and I have some photos with me to show you, that during the floods of 1971 and 1973 along the Mississippi River from Minnesota to New Orleans that our industry supplied sand bags and other materials to our government and municipal agencies and others around the clock on a few hours notice.

Had it not been for the effective movement of goods by regulated carriers, several billions of dollars worth of loss could have occurred.

Example of our participation:

While fighting a 1973 flood, in excess of 40 million sand bags were used. One of your large commercial carriers kept trailers at our plant to be loaded with approximately ¼ million bags per trailer, and they moved into vital areas and delivered sand bags on location where they were needed. I might add that our government in 1973 was so deeply concerned about delivery of these sand bags that they brought into service U.S. Air Force Hercules and DC-6's to fly sand bags into these areas. But I must say the aircraft did a poor job under the circumstances and were excessive in cost to the taxpayer.

First the sand bags had to be loaded into trailers, taken to the airport, re-loaded into the aircraft, delayed with loading restrictions, and then the aircraft were subject to weather conditions and limited to landing only at airfields which could service aircraft of that size. After landing the bags then had to be reloaded into U.S. Army trucks for final delivery to their destination.

With urgency a top priority we strongly suggested to the U.S. Government Agency not to use government or commercial aircraft as they were delaying deliveries and also wasting taxpayer's money. They allowed us to continue using commercial regulated carriers and the trailer loads were delivered in a matter of hours to critical areas where volunteers of men, women, and children would fill the sand bags to protect their homes, industries, and cities along the Mississippi River.

It is only through the regulated commercial carriers that we can effectively move emergency supplies into critical areas, without excessive costs.

This ends my testimony and should anyone have any questions, I will certainly try to answer them to the best of my abilities.

But let me again reiterate that this experimentation with the regulated carriers must not only be carefully evaluated, but must proceed with the utmost caution. Otherwise, the snowballing effect it will have can put many small firms out of business as we will no longer have a handle on our freight costs for inbound or outbound shipments of finished products or necessary raw materials. It is impossible to operate a business if your costs fluctuate greatly from day to day and too many man hours are wasted "shopping" for the most competitive freight rates for all our shipments.

The net result will be that everyone will be hurt, but the consumer will pay the greatest cost in higher prices and unemployment.

SHADOW OPEN MARKET COMMITTEE'S RECOMMENDATIONS FOR MONETARY POLICY

Mr. HATCH. Mr. President, the Joint Economic Committee's midyear economic report has just been released, and it is encouraging that 11 members of this 20-member committee dissent, in varying degrees, from the "majority" view that calls for rapid money creation. Perhaps in time all 20 members of the committee will come to understand that rapid money creation leads to inflation and that inflation leads to unemployment.

It is instructive that the policy recommendations of the Shadow Open Market Committee, a distinguished group of monetary experts, are exactly the opposite of those contained in the JEC majority views. I ask unanimous consent that the Shadow Open Market Committee's recommendations be printed in the RECORD.

There being no objection, the recommendations were ordered to be printed in the RECORD, as follows:

POLICY STATEMENT: SHADOW OPEN MARKET COMMITTEE

The policies that produced sustained recovery, rising employment and lower inflation have ended. The growth rate of money—currency and demand deposits—has returned to the high levels of 1968, 1972 and early 1973. Government spending is growing again at a faster rate than the economy. The budget deficit is rising.

Prospects for the economy in 1978 and 1979 as a result appear less attractive than when this Committee met last March. Inflation is expected to increase next year and the growth of real output is expected to fall. The reasons for slower growth and higher inflation differ, however. Capacity utilization is high in many industries, and real growth must slow to the trend rate of capacity growth—three to four percent per year. Accelerating inflation, and an enhanced risk of recession are mainly the result of the inappropriately expansionary monetary policy that the Federal Reserve pursued during the past two years, and particularly during the past six months.

Increased money growth in 1977 has restricted the choice of policies for 1978 to three principal alternatives. None of the three is attractive, but there are important differences. At is meeting today the Shadow Open Market Committee discussed these differences and recommended that the Federal Reserve return to policy of eliminating inflation gradually, while minimizing the risk of a large recession.

THREE OPTIONS

The Federal Reserve has three options. (1) It can continue on the path of rapid money growth that has prevailed in 1977. (2) It can accept the errors of the past year while immediately restoring the policy of slowing inflation. (3) Or in some measure it can correct for the excessive money growth of the past year, and once again restore a policy of ending inflation.

The first option minimizes the risk of recession in 1978, but would result in increased inflation. By maintaining the recent high rate of money growth, real growth might temporarily be higher than otherwise, but at the cost of higher inflation later. As inflation increases, the demands to do something about inflation increase. Controls on wages and prices would become more likely. But controls, if adopted, would ultimately prove to be useless against inflation. Shortages of goods, services, and materials used in production would be the inevitable result. Sooner or later money growth would be reduced as part of a new, anti-inflation policy. This option adds to real growth in 1978 at the cost of higher inflation. This policy would squander the progress that has been made in restoring stability. The benefits of this option seem small when compared to the costs.

The second option would be to accept higher inflation in an unavoidable, but temporary, consequence of excessive money growth. Money growth would be reduced to an annual rate of 4 percent starting from present levels. This policy means that the Federal Reserve's summer errors would be translated into a recession. Output growth under this policy would probably be less than the trend rate.

The third option is to partially correct the summer bulge in the money stock. This bulge can be partly eliminated without severe consequences for real growth because the economy has not yet adjusted to the higher level.

At the previous meeting of this Committee, in March 1977, we recommended that the growth rate of money be held between 4 percent and 4½ percent during the year ending in the first quarter 1978. The growth rate of money for the second and third quarter has been over twice the rate we recommended. The annual rate of money growth is far above the 5¼ percent midpoint of the target chosen by the Federal Open Market Committee, November 1976, and reaffirmed at subsequent meetings. By their standards, as well as ours, the growth rate of money has been excessive.

This Committee has affirmed repeatedly that stable growth, lower inflation, and recovery from recession can be achieved together if proper policies are chosen. The Federal Reserve's 1977 excesses may mean that a recession will once again follow when it attempts to reduce inflation.

RECOMMENDATIONS

The inordinate growth of money in the last six months stemmed from two episodes. In March and April, Federal Reserve credit was increased rapidly to keep interest rates from rising; consequently the money stock jumped. But this only postponed the rise in interest rates to the end of April.

Again in June and July, Federal Reserve credit growth was accelerated to keep short-term interest rates from rising and the stock of money rose rapidly. But the rise of interest rates was only postponed one month.

The Federal Reserve has not been able to prevent a rise of short-term interest rates this year. It has only been able to obtain slight delays of rate rises. And it has done this only at the expense of losing control of the amount of Federal Reserve Credit and the money stock.

The failure of the Federal Reserve to reach its targets is not an accident. Excessive money growth has been the result of inappropriate procedures for controlling the stock of money. The Federal Reserve has continued to concentrate on short-term changes in interest rates and has ignored the movements of the monetary base and other determinants of the stock of money. The result has been excessive money growth in periods of expansion, and insufficient money growth in recession.

This Committee has warned repeatedly that current procedures for confronting money are inadequate. The result of those procedures is that stable high output has not been achieved; inflation has increased; price and wage controls have become more likely; and the risk of returning to a stop and go economy is greater.

In addition to the change in procedures, the Shadow Open Market Committee recommends that the summer bulge in money be removed by reducing the current level of the money stock by $4-billion, the reduction to be accompanied by an announcement that the step has been undertaken to return the money stock to the level it would have reached if the most recent error in monetary policy had not occurred. Subsequent to the correction, money growth should resume at a constant annual rate of 4½ percent.

A stop-go monetary policy is not inevitable. We urge,again, that the Federal Reserve refrain from trying to control short-term interest rates. It should not take the Federal Funds rate as its operating target. Instead, it should adopt procedures to directly control money. If it does so, the Federal Reserve is fully capable of achieving its announced targets for money growth.

The return to stability with rising real income cannot be achieved by monetary policy alone. The growth rate of government spending is high and rising. A rising share of resources absorbed by government means fewer resources for private investment, slower growth of private output and fewer jobs in the private sector.

We project that the budget deficit for fiscal 1978 and the borrowing by off budget agencies will require the private sector to absorb about $60-billion in new government securities. This amount is much larger than appropriate under current conditions. We recommend that nothing further be done to increase the budget deficit and government borrowing in 1978 and that the budget deficit be reduced in 1979. The Congress and Administration should adopt a program to limit the growth of government spending, so as to achieve and maintain the balanced budget promised by the Administration for fiscal 1981.

Prof. Karl Brunner, Director of the Center for Research in Government Policy and Business, Graduate School of Management, University of Rochester, Rochester, New York.

Prof. Allan H. Meltzer, Graduate School of Industrial Administration, Carnegie-Mellon University, Pittsburgh, Pennsylvania.

Mr. H. Erich Heinemann, Morgan Stanley & Company, Inc., New York, New York.

Dr. Homer Jones, retired Vice President and Director of Research, Federal Reserve Bank of St. Louis, St. Louis, Missouri.

Dr. Jerry Jordan, Senior Vice President and Chief Economist, Pittsburgh National Bank, Pittsburgh, Pennsylvania.

Prof. Thomas Mayer, University of California at Davis, California.

Dr. Rudolph Penner, American Enterprise Institute, Washington, D.C.

Prof. Robert Rasche, Department of Economics, Michigan State University, East Lansing, Michigan.

Prof. Wilson Schmidt, Department of Economics, Virginia Polytechnic Institute, Blacksburg, Virginia.

Dr. Anna Schwartz, National Bureau of Economic Research, New York, New York.

Dr. Beryl Sprinkel, Senior Vice President and Economist, Harris Trust and Savings Bank, Chicago, Illinois.

Dr. William Wolman, Senior Editor, Business Week, New York, New York.

TESTIMONY ON PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations continued its hearings today on the Panama Canal treaties. The witnesses today were Dr. Harold Brown, Secretary of Defense, Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, Adm. Robert L. J. Long speaking for Adm. James L. Holloway III, the Chief of Naval Operations, and Lt. Gen. D. P. McAuliffe, Commander in Chief, U.S. Southern Command.

I ask unanimous consent that the prepared statements of these witnesses be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HONORABLE HAROLD BROWN

Mr. Chairman and Members of the Committee: Just over sixty-three years ago the first United States vessel crossed through the Panama Canal from one to the other of the two great oceans which border our country.

Let us strip the matter to its essentials. Your deliberations in this committee room today are vital. As much as any other factor, they will determine whether we can be confident that our ships of war and vessels of commerce will continue to use that important but fragile waterway during and beyond the last quarter of the twentieth century as they did in the first.

We have always been a practical people—proud of our history, but not sentimental; remembering where we have been, but oriented toward the future. You all are practical men or you would not hold the offices you do. In my judgment, the issues before you are practical ones, and it is in practical terms that I shall address them.

On September 7, 1977 the President signed two treaties affecting the operation and control of the Panama Canal. I am pleased to appear before you this morning with General George Brown, Chairman of the Joint Chiefs of Staff, to state that the Department of Defense wholeheartedly and fully supports these treaties, and to explain why I believe they deserve our—and your—full support.

Quite properly, the focus of your deliberations must be on whether these treaties promote the national interest—and specifically the national security interest—of the United States. To help in answering that question, there are three points that I consider critical:

Use of the Canal is more important than ownership.

Efficient operation of the Canal in the years ahead is more important than nostalgia for a simpler past.

Ability to defend and control access to the Canal is essential. But the issue is how that ability can best be assured—by a cooperative effort with a friendly Panama, or by a garrison amid hostile surroundings.

I have examined these issues personally and in detail. So have the Joint Chiefs of Staff. The Department of Defense has been fully involved in all stages of the drafting and negotiation of these treaties. Mr. Chairman, I believe, personally, and in the light of my responsibilities as Secretary of Defense, that these treaties fully serve, and greatly promote, our national security interests. The Joint Chiefs of Staff, as General Brown will tell you, share that assessment. These treaties deal with today's realities. They provide the security which we need for the future.

I see three elements which together make up our national security concerns relating to the Canal. These are:

First, unimpeded use;

Second, effective operation; and

Finally, physical security of the Canal.

These are our paramount objectives.

The first requirement includes free and unimpeded use of the Canal both by our Navy and by our merchant ships. Free use of the Canal is essential to assure optimum ability to shift our forces and materiel rapidly between the Atlantic and Pacific Oceans. That capability enhances our defense posture in both the European and Pacific regions.

The neutrality treaty—more formally, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal—provides that the Canal shall be open permanently to all vessels of all nations. Moreover, it contains an important additional provision. The United States is given a preferred position with respect to use of the Canal, a position which no other country except Panama will enjoy: United States vessels of war, and the United States auxiliary fleet (important examples of which are oilers and supply ships) are guaranteed rapid transit through the Canal. This is so irrespective of the cargo they carry. These provisions assure us that the United States will remain able to use the Canal in timely fashion whenever military necessity dictates, just as we can today.

Our second national security requirement is that the Canal operate effectively. The Panama Canal treaty provides that during its term the United States will operate the Canal, with increasing participation of Panamanian managers and workers operating under the treaty terms according to U.S. laws and regulations. Thus, the United States can continue the present efficient operation of the Canal for many years to come, and the Panamanians will be in a position to operate it successfully when the treaty expires.

Our third national security requirement is that we must be able to defend the Canal from hostile acts. Our armed forces now control, and they will continue to control with overwhelming forces, the sea approaches to the Canal, on both the Pacific and Caribbean ends. This is not affected by the treaty.

The treaty goes even further, however. It states unequivocally that during the life of the treaty, the United States armed forces shall enjoy the right and the primary responsibility to defend the Canal itself. It further provides that during that period the United States may station, train, and support units of our armed forces in Panama, and that the United States will decide unilaterally whether and how to modify the force levels we maintain there. All key military bases and training areas which we now operate in the Canal Zone will remain under U.S. control.

When the Panama Canal treaty expires, as the year 2000 dawns, the neutrality treaty provides that U.S. and Panama are to maintain jointly the permanent neutrality of the Canal, and that no troops other than Panamanian may be stationed in Panama. The United States is also made a guarantor of the neutrality of the Canal. In that capacity, we have the right to take appropriate measures to enforce this guarantee. In my judgment, these provisions ensure that the United States' ability and unilateral right to defend the Canal against any external threat remain unimpaired.

There is another aspect of the third national security requirment—ability to defend the Canal from hostile acts—which cannot be ignored. Such hostile acts might not be external. If Panama and other Latin American countries, or major elements of the Panamanian population, became hostile to the United States, then protecting the Canal against internal threats, terrorism and guerrilla actions would become much more difficult. Such occurrences are far less likely under the new treaty than they would be if the long unsettled status quo were to continue. The treaty is a guage of our good faith, toward Panama and all of Latin America. It also provides Panama with a tangible stake in the continued effective operation of the Canal. Further, the treaty contemplates a combined defense agreement between the United States and Panama as a result of which Panama's armed forces will be able to protect the Canal against threats from within Panama more effectively than they can at present. Nothing in life, and still less in international life, is certain. But all these elements should add to the real security of the Canal, and make its availability for United States use much more sure than any alternative course of action.

As I see it, and I do not think anyone with national security responsibilities disagrees, the Panama Canal will, for the foreseeable future, be an important defense artery for the United States. The treaties which you are examining provide real security, not paper claims. They offer the firmest and most practical guarantees obtainable that the Canal will remain operational, secure, and available to the United States.

The Canal was built for shipping, not slogans. We seek to guarantee transit of vessels, not theoretical claims of title. These goals we have sought, as I said at the beginning, are practical. The issues before you are practical ones. Our negotiations have obtained instruments which—more certainly than thousands of forces and their armaments on the spot—will assure those practical objectives for generations to come. I am convinced that approval of these treaties will best provide for our national security.

I would be happy now to answer any questions you may have.

STATEMENT BY GENERAL GEORGE S. BROWN, USAF

Mr. Chairman and Members of the Committee: I am here to discuss the security aspects of the proposed Panama Canal treaty.

The Joint Chiefs of Staff recognize the Panama Canal as a major defense asset, the use of which enhances United States capability for timely reinforcement of United States Forces. The strategic military value of the canal is reflected in our ability to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific Oceans. The strategic value of the canal is not expected to change substantially throughout the life of the new Panama Canal Treaty and beyond, so long as the canal provides the sole means of transiting ships across the American continent.

United States military interests in the Panama Canal are in its use, not its ownership. Therefore, any new treaty must assure that access to and security of the Panama Canal are protected in times of war and peace. This assurance is provided by a permanent regime of neutrality to be maintained by the U.S. and Panama which specifies that the canal will remain open to all world shipping at reasonable tolls, without discrimination, in accordance with specific rules of neutrality, and that it will always be operated efficiently under rules that are just, equitable and reasonable and necessary for safe navigation and efficient, sanitary operation.

Defense of the Panama Canal has two components: internal security and external defense. Both are presently the responsibility of the United States Government.

Internal security entails surveillance and control. It is primarily concerned with countering sabotage and terrorist activities. Currently the Canal Zone's police and security forces are responsible for internal security. When required, reinforcement is provided by the United States military units assigned to U.S. Southern Command. Under the new Panama Canal Treaty there will no longer be a Canal Zone and police functions will become the responsibility of the Government of Panama. However, the Canal Commission will continue to provide security for Canal installations. The military units of U.S. Southern Command will be available to augment the Panamanian forces and Commission guards.

External defense is concerned with defense against armed attack by hostile forces using guerrilla or conventional tactics. Our current plans will be described by General McAuliffe. Under the new Panama Canal Treaty, the United States will have primary responsibility for the defense of the canal during the balance of this century. Under the new Panama Canal Treaty, the Panamanian Guardia Nacional and appropriate U.S. Forces Commander will develop plans in concert to provide for mutual defense. The Joint Chiefs of Staff will continue to plan for rapid reinforcement of U.S. Southern Command in the event of emergency need.

Our capability to defend the Panama Canal will be enhanced through cooperation with the Government of Panama. The new treaty provides a basis for such cooperation between the United States and Panama. The alliance relationship should develop and strengthen during the life of the Panama Canal Treaty and be further enhanced by the Neutrality Treaty. The regime of neutrality provided in the Neutrality Treaty calls for a canal open to all ships of all nations in times of peace or war. It specifically provides that U.S. and Panamanian naval ships shall transit expeditiously without impediments or preconditions. Since both the United States and Panama agree to this regime, our right to take the measures that we may deem to be necessary to maintain the canal's neutrality is assured.

For these reasons, the Joint Chiefs of Staff support the treaty as being protective of the military interests of the United States and as providing an effective basis for defense of the canal.

STATEMENT OF ADM. ROBERT L. J. LONG, U.S. NAVY, (SPEAKING FOR ADMIRAL JAMES L. HOLLOWAY III, U.S. NAVY CHIEF OF NAVAL OPERATIONS)

I have gone on record with the other members of the Joint Chiefs of Staff, in supporting the Panama Canal Treaties.

The Joint Chiefs of Staff are unanimous in their position supporting the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, although each of us may have reached this conclusion on the basis of our individual line of reasoning. I would like to provide the Committee, in this statement, with my own rationale.

The Panama Canal is and will remain of major importance to the United States. Its use is a key factor in the Navy's ability to accomplish its responsibilities in connection with essential war plans and other contingencies involving our national security. While I cannot state that loss of the Canal would result in the failure of these plans or in the inability of the Navy to carry out these responsibilities, it would certainly make these tasks enormously more difficult. We would be much better off with the use of the Canal than without it.

The importance of the Canal to the Navy for defense purposes lies in its assured use, not in its ownership. There are two threats to the continued use of the Canal by our naval forces and essential shipping: the external threat and the internal threat.

The external threat is represented by a general war situation. In a conventional conflict, our capabilities to defend the approaches of the Canal are adequate to provide me with reasonable confidence that defense of the Canal against an external threat is practicable. In the case of a nucler conflict defense of the Canal would be virtually impossible as would be defense of almost any other major installation of importance to the United States. However, in a strategic nuclear war, the importance of the Canal in relative priorities diminishes to an inconsequential position.

The second threat to our continued use of the Canal is the internal threat from subversive, clandestine, or local guerrilla activities. The defense against such a threat in the formidable jungle terrain of the Canal area would be extremely difficult, particularly in view of the vulnerability of the lock system to disruption as the result of relatively minor damage to critical mechanical components. Defense against a persistent and continuing internal threat would be particularly difficult. Therefore defending against this internal threat is significantly enhanced if the cooperation of the local interests, the Panamanians and Central Americans, can be maximized. On the other hand, our ability to defend and protect the Canal so as to ensure its continued operation, would become extremely difficult in the face of an adversary relationship with our Latin neighbors, or an active hostility on the part of the local population. Our adherence to these treaties, which make the Panamanians our direct partners in the defense of the Canal, will substantially contribute to a friendly and cooperative attitude among all Latin Americans toward the United States on the Panama Canal issue.

The specific provisions in the Panama Canal Treaty providing for the defense of the Canal by the United States until the year 2000, and in the Treaty of Neutrality which will guarantee our use of the Canal after the turn of the century, are considered by the unified commander, Commander-in-Chief Southern Command, to be adequate. That view is shared by the Joint Chiefs of Staff, based upon the analysis of the Services and the unified commander. It is my judgment that the favorable effect which I believe the Treaties will have on the attitudes of the Panamanians and Central Americans toward our continued use of the Canal, for national and hemispheric security purposes, will substantially assist the United States to defend the Canal against the internal threat. On this basis, it is my view that the continued use of the Panama Canal for military purposes in our national defense plans is best assured through the provisions of the new Treaties.

STATEMENT BY LIEUTENANT GENERAL D. P. MCAULIFFE

Mr. Chairman and Members of the Committee, thank you for inviting me to appear before you, as the Commander in Chief of the United States Southern Command. My priority mission is the defense of the Panama Canal.

I will discuss with you my present capability to perform that mission with the forces and facilities presently available and also an assessment of my capability to perform that mission under the treaties signed on 7 September.

The forces presently available to me to carry out the mission of canal defense are well trained and capable of implementing a wide range of defense tasks to protect the canal and also to protect U.S. lives and property. They are not capable, without reinforcement from the United States, of protecting the canal from a major external threat. Substantial reinforcement forces would be needed in the event of such a contingency. We could not, however, assure the uninterrupted operation of the canal in such a hostile environment, but it is my firm conviction that under the most likely threats, we can limit such interruptions to ones of short duration.

I have been consulted regularly during the course of the treaty negotiations and have furnished information, comments and recommendations to the Joint Chiefs of Staff for the development of U.S. defense positions concerning the negotiations.

In my judgment the Panama Canal treaty provides adequately for the United States to exercise primary responsibilitiy for the defense of the Panama Canal and for the support of the forces needed to carry out that mission. That judgment is based upon the following factors: The United States has an adequate military force structure in the canal area now; that force structure is expected to remain adequate and may, of course, be modernized during the treaty period; our capability to reinforce from the United States will continue to exist; U.S. forces, located astride the most critical canal facilities, have sufficient bases and training facilities, the latter of which will be shared; the treaty and its agreements provide freedom of movement for military forces in carrying out the canal defense mission.

The Panama Canal treaty establishes a concept of defense which includes U.S. and Panamanian forces operating cooperatively to defend the canal. Indeed, the most effective defense of the canal can be obtained in conjunction with a friendly Panama. We expect that the Panamanian armed forces, that is, the Guardia Nacional, will contribute military units to canal defense and that they will train with our forces in appropriate canal defense tasks.

The concept for combined defense which I have recommended to the Joint Chiefs of Staff envisions the continued presence of American forces in the vicinity of the canal for the term of US control of canal operations, not only to assist in defense of the canal but also to provide protection of US lives and property.

Under this concept certain types of mili-

tary facilities are essential to support the US Forces committed to canal defense. These include the major airfield, cantonment areas for stationing of forces in close proximity to the canal, training areas, communications facilities, piers and docks, logistic support facilities and family housing. These essential facilities are provided for in the Panama Canal treaty and its implementing agreements.

It is apparent that the Panama Canal treaty will require the relocation of a few US military units from their present locations in the Canal Zone to other locations within selected US military defense sites in Panama. These consolidations will not adversely affect our capability to defend the canal and, in fact, in many ways will contribute to a more efficient operation.

The US primary defense responsibility and the presence of US military force in Panama, together with the provisions of the neutrality guarantee, adequately protect the security interests of the United States. When these factors are combined with a cooperative defense effort by the Government of Panama and its armed forces, they even more adequately provide for the security interests of the United States.

That concludes my statement. I shall be pleased to answer any questions you may have.

COMMITTEE ON GOVERNMENTAL AFFAIRS REPORT PURSUANT TO SECTION 302(b) OF CONGRESSIONAL BUDGET ACT

Mr. RIBICOFF. Mr. President, pursuant to section 302(b) of the Congressional Budget Act, I herewith submit the report of the Committee on Governmental Affairs concerning the budget authority allocated to it in the joint explanatory statement of managers accompanying the conference report on the second concurrent resolution on the budget, and ask unanimous consent it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD. as follows:

COMMITTEE ON GOVERNMENTAL AFFAIRS, U.S. SENATE
2D REPORT TO THE SENATE PURSUANT TO SEC. 302(b) OF THE CONGRESSIONAL BUDGET ACT

[Figures in millions of dollars]

	Fiscal year 1978 direct spending jurisdiction	
	Budget authority	Outlays
Controllable programs:		
Department of Commerce, Bureau of the Census: Special studies, services, projects	4	4
District of Columbia: Advances to stadium sinking fund, Armory Board	1	1
The Judiciary: Trust funds, Operation of the Public Defender Service for the District of Columbia	2	2
General Services Administration:		
Real property activities, expenses, disposal of surplus real property (special fund)	1	1
Records activities, National Archives gift fund	(1)	(1)
National Archives trust fund		(1)
Advisory Commission on Intergovernmental Relations	(1)	(1)
Controllable subtotal	8	8
Other programs:		
Civil Service benefit funds:		
Retirement and disability fund	17,592	11,274
Employees life insurance fund (trust revolving)	0	−425
Employees health benefits fund (trust revolving)	0	−30
Retired employees health benefits fund (trust revolving)	0	6
Federal payment to civil service retirement and disability fund	5,139	5,139
Department of the Treasury: Secret Service, contribution for annuity benefits	6	6
Other subtotal	22,737	15,970
Committee total	22,745	15,978

[1] Represents amounts less than $500,000.
Entitlements: The only entitlements program under the jurisdiction of the Governmental Affairs Committee requiring appropriation action is for the Compensation of the President, in the amount of $200,000 (budget authority and outlay).
Sept. 27, 1977.

GAS FOR HOSPITALS AND SCHOOLS

Mr. SPARKMAN. Mr. President, last winter the natural gas shortage that resulted from the bitter cold and our sadly declining supplies forced the closing of many businesses and factories throughout Alabama as well as most other States. Residential users were protected from being cut off from natural gas supplies, because they are considered by the Federal Power Commission and most State agencies as the highest priority users, as they should be. Cutting off gas to industry and commerce is devastating to local economies and threatens the financial well-being of workers and their families. But cutting off homes would threaten their very survival.

Although this assignment of priorities seems to be appropriate, there are two types of users of natural gas whose needs are not appropriately recognized in the scheme of natural gas allocations during a shortage. I refer to schools and hospitals. I favor the Riegle amendment to put schools and hospitals along with residential and small commercial customers into the highest priority classification.

It is hard for me to understand how the discontinuance of vital energy supplies to a hospital could be considered. Hospital patients, already threatened by other factors—the reasons for their being in hospitals—should not be further jeopardized by natural gas curtailments in the hospital, even while their homes are still heated. Natural gas is used for many crucial purposes other than heating in hospitals. The ill and infirm of our society who require hospitalization should be more protected from shortages of vital energy than those of us who are healthy and vigorous.

I would also include schools in the highest priority category. Any commercial establishment which uses less than 50,000 cubic feet on a peak winter day can qualify for the highest priority. This includes many establishments which are not as important to our society as our schools. Last winter we closed the doors on our schools in many areas while the doors remained open to nonessential, even frivolous enterprises. Is it more important to continue the operation of low priority businesses than to continue our children's educations? From what does society profit more than from its schools? When we curtail natural gas supplies to schools are we making a wise judgment about our priorities? I think we are not.

I urge my colleagues to join me in adding hospitals and schools to those categories of uses which are the last to be curtailed from natural gas.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. I ask unanimous consent that the official notification be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 23, 1977.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 23, 1977.

In reply refer to: I-7876/77ct.

Mr. WILLIAM RICHARDSON,
Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, Washington, D.C.

DEAR MR. RICHARDSON: My letter dated 18 February 1976 indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an African country tentatively estimated to cost in excess of $25 million.

Sincerely,

H. M. FISH,
Lieutenant General, USAF, Director, Defense Security Assistance Agency and Deputy Assistant Secretary (ISA), Security Assistance.

REGULATORY AGENCY BIAS TOWARD INDUSTRY

Mr. PERCY. Mr. President, independent regulatory agencies play a major role in determining the nature of our society. All types of industries, from television to

trucking to toys, fall under the purview of regulatory agencies.

The underlying raison d'etre for any regulatory agency—indeed, perhaps for Government itself—is the protection of consumer welfare. Yet, far too often we find that consumers have little or no input into the regulatory decisionmaking process.

Several recent studies, including the Senate Committee on Governmental Affairs' study, "Public Participation in Regulatory Agency Proceedings," conducted pursuant to Senate Resolution 71, help to document this problem.

Last fall, Common Cause issued a report entitled "Serving Two Masters." This study indicated that the impartiality of the Federal regulatory agencies is jeopardized by the disproportionate number of officials who come to Government from the regulated industries, by high-level employees with stock in regulated industries, and by the high proportion of public employees who leave Government to go to work for private interests with which they had direct dealings while in Government service. Indeed, the "revolving door" appears to be quite popular.

A new study by Common Cause issued last month, entitled "With Only One Ear," is no more optimistic. Based on a survey of the appointment calendars of 39 Federal regulatory commissioners during the year 1976, the study reveals that these commissioners met with representatives of industry 10 times as often as with consumer spokespersons. Forty-six percent of the commissioners' meetings with outside groups were with industry representatives, while only 4 percent were with spokespersons for consumer and other nonindustry groups. Seventeen of the 39 commissioners recorded no consumer contacts during the year.

As usual, the Common Cause study addresses a timely issue in a responsible manner. The industry-consumer imbalance revealed in "With Only One Ear" is a situation that must be remedied. It demonstrates the need for an agency which will represent consumers—an Agency for Consumer Advocacy—in their dealings with the Federal Government. A bill which would establish such an agency will come before the Senate next session. Its passage is long overdue.

Because of the importance of this issue and the need to deal forthrightly with it, I ask unanimous consent that the summary of "With Only One Ear" together with a summary of findings of the Senate Committee on Government Affairs' "Study on Federal Regulation, Volume III, Public Participation in Regulatory Agency Proceedings," be printed in the RECORD.

There being no objection, the summaries were ordered to be printed in the RECORD, as follows:

WITH ONLY ONE EAR: A COMMON CAUSE STUDY OF INDUSTRY AND CONSUMER REPRESENTATION BEFORE FEDERAL REGULATORY COMMISSIONS, AUGUST 1977

SUMMARY

Federal regulatory commissioners have often been criticized for being unduly responsive to the viewpoints of the industries they are charged with regulating. The data contained in this study, based on a Common Cause survey of the appointment calendars of federal regulatory commissioners, document the close contacts regulatory officials maintain with industry representatives. The data also reveal that consumer representatives have relatively few meetings with commissioners of the independent federal regulatory commissions. During 1976, the data show, the 39 commissioners who supplied the requested information met with representatives of industry ten times more often than they did with consumer representatives.

Industry has a constitutional right, like that of any individual citizen, to lobby government for favorable action. Consultation between regulatory officials and industry representatives is an essential part of effective policy-making in regulatory agencies. But Common Cause believes the underrepresentation of consumer interests and the secrecy often surrounding contacts between regulatory officials and industry agents revealed here raise serious questions of agency bias toward industry viewpoints. Present regulatory decisions are suspect in the public's view because of the narrow range of facts and viewpoints on which they are based.

Specific information regarding regulatory officials' contacts with industry is generally unavailable to the public. Only one of the 11 independent federal regulatory agencies surveyed—the Consumer Product Safety Commission—has adopted regulations requiring the maintenance and public disclosure of comprehensive records of outside contacts. At other agencies, most commissioners maintain some form of appointment record but for their personal use rather than for public information. As a result, recording practices vary widely.

The data presented in this study are the result of a six month project by Common Cause. Of the 50 federal regulatory commissioners who served for at least five months during 1976, eleven were unwilling or unable to supply any form of appointment record. Their responses to our requests ranged from simple refusals to make their calendars public to a statement by one commissioner that he destroys his records at the end of each year. The remaining 39 commissioners provided appointment calendars of varying degrees of completeness. Most of these calendars required considerable clarification from the commissioner or staff members.

The data in this study should not be used to single out individual commissioners or commissions as pro- or anti-consumer. The data supplied by the regulatory commissioners is necessarily incomplete because of the lack of a uniform system of record keeping. The data, however, do reveal significant patterns in the meeting practices of the commissioners as a whole. Common Cause found that:

"Forty-six percent (or 1,273 of the 2,786 recorded outside contacts by the 39 commissioners were with industry representatives.

"Only 4 percent (or 121) of the commissioners' recorded outside meetings were with representatives of consumer or public interest organizations or concerned individuals.

"Forty-four percent (or 17) of the 39 commissioners who were willing to make public their appointment records for 1976 recorded no contact with consumer or public interest representatives at any time during the year."

The Common Cause findings complement the findings of two recent Congressional studies of federal regulation. In October of 1976, the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce of the U.S. House issued a study concluding that "the actions of regulatory agencies reflect more than anything else their primary attention to the special interests of regulated industry and a lack of sufficient concern for underrepresented interests." In July of 1977, the Committee on Governmental Affairs of the U.S. Senate issued a study finding that "in agency after agency, participation by the regulated industry predominates—often overwhelmingly. Organized public interest representation accounts for a very small percentage of participation before Federal regulatory agencies."

The Common Cause study concludes that increased public representation in commission proceedings is needed along with a comprehensive system of public logging of commissioner contacts with outside parties. The study points out that the lack of contact with consumers is often the result of the lack of organized consumer groups rather than inhospitable attitudes on the part of commissioners. The Common Cause study endorses two complementary legislative proposals that were recommended in the Senate and House committee studies:

"Establishment of an independent, nonregulatory consumer agency with authority to advocate consumer interests before federal agencies and courts; and

"Authorization to provide compensation to eligible persons for costs incurred in participating in agency proceedings."

In addition to increasingly public participation in regulatory decision-making, the Common Cause study recommends adoption by President Carter of a proposed executive order to require top officials to log outside contacts. Common Cause believes that a logging procedure would help counterbalance interest group pressures by increasing agency accountability.

A copy of the proposed executive order as submitted to the White House by Common Cause in February of 1977 is appended to the study. The order is still under review. Its major features include:

"Coverage of federal agency officials and employees at and above the GS–16 level and other employees designated by their agencies;

"Logging of meetings and telephone calls on substantive policy matters between covered employees and persons who have an interest in influencing official action (there are exemptions for informants, news media, and other appropriate situations);

"Logs must provide the date and place of the communication, the name, affiliation, and position of participants, and a brief description of subjects discussed;

"Logs must be made available to the public by designated agency officials, consistent with the Freedom of Information Act; and

"Employees who violate the order would be subject to disciplinary action."

[Report From the Senate Committee on Governmental Affairs, Study of Federal Regulation, Volume III, July 1977]

PUBLIC PARTICIPATION IN REGULATORY AGENCY PROCEEDING

SUMMARY OF FINDINGS

The following is a restatement of the major findings and conclusions of this report, listed by chapter.

Need for public participation

(1) Full public participation in the regulatory agencies are to effectively discharge their mandate to regulate in the public interest.

(2) Increased public participation and input can provide regulators with a greater range of ideas and information, broaden the active constituency of the agency, and place greater emphasis on public interest concerns and viewpoints. A lack of such public participation, on the other hand, requires regu-

lators to rely too heavily on input from the industry they are charged with regulating.

Extent and cost of participation

(3) At agency after agency, participation by the regulated industry predominates—often overwhelmingly. Organized public interest representation accounts for a very small percentage of participation before Federal regulatory agencies. In more than half of the formal proceedings, there appears to be no such participation whatsoever, and virtually none at informal agency proceedings. In those proceedings where participation by public groups does take place, typically it is a small fraction of the participation by the regulated industry. One-tenth is not uncommon; sometimes it is even less than that. This pattern prevails in both rulemaking proceedings and adjudicatory proceedings, with an even greater imbalance occurring in adjudications than in rulemaking.

(4) The single greatest obstacle to active public participation in regulatory proceedings is the lack of financial resources by potential participants to meet the great costs of formal participation. Lack of funds has prevented public participation in many important proceedings.

(5) The regulated industry consistently outspends public participants by a wide margin in regulatory agency proceedings. In every case or agency reviewed, industry spent many times more on regulatory participation than their public interest counterparts. In some instances, industry committed as much as 50 to 100 times the resources budgeted by the public interest participants. For example, in 1976 the nation's 11 trunk airlines spent more than $2.8 million on outside counsel to represent them in regulatory proceedings before the CAB. By contrast, the Aviation Consumer Action Group, the principal representative for public interest organizations at CAB proceedings, had a total 1976 budget of $40,000, of which approximately half was spent on participation in CAB proceedings.

(6) Lack of resources has limited the amount of technical expertise that participant groups have been able to bring to bear in agency proceedings.

(7) Opportunities for citizen participation are hampered by significant administrative costs such as transcript fees and reproduction of required materials.

Standing and intervention rights

(8) The Supreme Court in recent years has taken an increasingly restrictive view of the standing requirements that make it difficult for citizens to obtain judicial review of allegedly unlawful Government action. At present, some of the Supreme Court's decisions in this area constitute a considerable barrier to citizen participation in the regulatory process.

(9) Although agencies generally have relaxed intervention requirements in recent times, there is considerable variance in the standards between agencies. In some cases, the standards have not been precisely or clearly defined; in the case of other agencies, the standards have been conservatively applied. Greater clarity and uniformity is needed to assure full public access to administrative agency proceedings.

Administrative obstacles to participation

(10) Delay, which is a general problem in regulatory agency activities, is particularly burdensome to participating citizen groups. Prolonged proceedings result in straining further the usually limited resources of such groups and hinders effective and constructive participation. The prospect of expensive, protracted proceedings, has a chilling effect which frequently means that public participation is effectively precluded from the outset.

(11) Potential public participation is often foreclosed by inadequate notice of pending proceedings. Although some agencies have utilized the general and trade press, mass mailings, and agency publications, most agencies seldom make active efforts to solicit public views on important proceedings. This may be the only way for individual citizens, as opposed to citizen groups, to be alerted to proceedings which may affect them.

(12) Some agency proceedings provide inadequate time for effective public participation. These include FPC proceedings in which rate increases are granted with no opportunity for participation until after the rate increase goes into effect; FPC proceedings in which multiple and updated filings change the matters being decided by the agency; and NRC proceedings in which public participants are effectively excluded at early stages as a result of agency staff working with the regulated industry in advance of an announcement of a formal agency proceeding.

(13) Informal negotiations between the FCC and the broadcast networks—as in the case of the "family viewing" hour—in lieu of official agency proceedings, resulted in circumventing the notification and public participation requirements of the Administrative Procedure Act. Such practices make effective public participation impossible.

Public counsel office

(14) The effectiveness of both the CAB Office of Consumer Advocate and the ICC Office of Rail Public Counsel has been limited by the lack of full statutory independence from direction and control by the parent regulatory agency.

(15) Congressional intent in establishing the Office of Rail Public Counsel in the Interstate Commerce Commission has been thwarted by the failure of the President to nominate a Director of that Office.

(16) The Office of Consumer Advocate at the Civil Aeronautics Board has been more successful in promoting consumer interests in such areas as overbooking and baggage handling, than in relation to fundamental economic questions, particularly fare increases. The Office of Consumer Advocate has stopped short of full advocacy of consumer interests in deregulation and lower fares.

(17) The outreach program of the current Public Counsel office in the Interstate Commerce Commission has been highly successful in enabling communities to participate in rail reorganization planning.

Direct compensation of intervenors

(18) The Federal Trade Commission's program, pursuant to the FTC Improvement Act, of providing compensation to certain participants in rulemaking proceedings, has allowed for the presentation of diverse viewpoints and information that otherwise would not have been presented.

(19) There is no evidence that the encouragement of participation through a compensation program would, by itself, lead to delay of agency proceedings, unless additional participants raise new issues which should be considered.

Complaint handling

(20) Most regulatory agencies do not sufficiently utilize the complaints they receive from the public in agency policymaking, particularly in rulemaking.

(21) Most regulatory agencies do not use complaints they receive from the public to inform the public about the performance of regulated industries and potentially dangerous products.

Advisory committees

(22) Although a much higher proportion of regulatory agency advisory committee meetings are open than is the case for other Government agencies, there have been important and unwarranted instances when meetings have been closed.

(23) Nearly all regulatory agency advisory committees do not have a balanced representation of viewpoints in that they seriously lack representation of consumer and other broad public interests.

Public understanding of agency regulations

(24) Citizen participation in the regulatory process cannot be effective unless the general public is able to comprehend agency action. Agency rules and regulations are frequently obsolete, conflicting, confusing, or obscure. For years, Federal agencies have issued rules without systematic, periodic evaluation of those already on the books. Also persons involved in drafting regulations are too often ill-equipped and untrained for that responsibility.

SUMMARY OF RECOMMENDATIONS

The following is a restatement of the major recommendations contained in this report, listed by chapter.

Requirements of standing and intervention

(1) Congress should ease the requirements of standing in order to provide greater public access to the Federal courts for review of regulatory agency decisions:

(a) Legislation should be adopted to provide that when a statute has been designed primarily to benefit the general public, any member of the public has standing to sue to enforce the provisions of that statute.

(b) Congress should amend the Administrative Procedure Act to provide that when permission is granted to a party to intervene in an administrative agency proceeding, the requisite for standing to seek judicial review of the proceeding will be satisfied.

(c) Congress should, where appropriate and necessary, incorporate permissive standing into specific pieces of legislation.

(2) Congress should amend the Administrative Procedure Act to provide full opportunity for public intervention in regulatory agency proceedings. A general interest standard should be established, and agencies should be required by statute to grant intervention if:

(a) A clear interest, economic or otherwise, is established which is likely to be affected by the outcome of the proceeding; and

(b) that interest is not adequately and competently represented by the existing participants, other than the Government.

However, agencies might impose reasonable limitations on participation in the interest of (i) restricting irrelevant, duplicative, or repetitive evidence or argument, (ii) having common interests represented by a single spokesperson, and (iii) retaining authority to determine priorities and control the contents of the proceeding.

Administrative obstacles to participation

(3) Regulatory agencies should actively solicit the views of the widest possible public in all rulemaking and adjudicatory proceedings with significant and wide-reaching impact. Such public notification should include efforts to reach the public at points of contact with regulated industries as well as by broadcasting, advertising, and mailings.

(4) Regulatory agencies should hold regional hearings whenever a proposed action would have a significant or unusual regional implication or effect. Consideration should also be given to holding certain hearings in the evening and on weekends to facilitate public participation.

(5) In agency licensing proceedings where substantial agency staff consultation precedes submission of the license application—for example, with respect to nuclear plant licensing by the Nuclear Regulatory Commis-

sion and hydroelectric project licensing by the Federal Power Commission—the applicant should be required to file a letter of intent, to be published in the Federal Register, before beginning work with the agency staff on the formal application.

(6) Because rapid changes in the matter being decided unduly hamper public participants, rate making agencies should severely restrict repeated updated filing and multiple rate filings by the regulated industry. Because there is no effective opportunity for public participation after a rate increase is in effect, rate increases should not go into effect until after they have been found to be fair and reasonable.

Independent Consumer Agency

(7) Congress should establish an independent nonregulatory consumer agency that would: (1) have full intervention, participation, and appellate rights to advocate consumer interests before the Federal agencies and the Federal courts; (2) undertake studies and disseminate information of importance to consumers; (3) serve as a consumer complaint clearinghouse; (4) possess authority to obtain information needed to carry out its functions; and (5) have adequate funding to assume these responsibilities.

Public Counsel Office

(8) Internal consumer advocate offices should be established within major Federal rate setting regulatory agencies. These include the Civil Aeronautics Board, the Federal Power Commission (Energy Regulatory Commission), the Federal Communications Commission (Common Carrier Bureau), and the Interstate Commerce Commission.

These offices should be statutorily established and separately budgeted to assure independence. They should have full powers of intervention and authority to seek judicial review. These offices should have consumer complaint handling responsibilities, and should also be permitted to advise and assist independent groups who seek to represent broad interests.

(9) Congress should provide grants to States for the establishment and operation of offices of consumer services to assist consumers in their presentations before State banking, insurance and telephone rate regulation commissions.

Direct compensation of intervenors

(10) Congress should enact legislation authorizing agencies to provide compensation to eligible persons for costs incurred in participating in agency rulemaking, ratemaking, licensing, and certain other proceedings. Eligibility for compensation of reasonable costs should be conditioned on whether (a) the participant can reasonably be expected to make a substantial contribution to a fair determination of the issues; and (b) the economic interest of the person is small in comparison to the cost of effective participation or the participant does not have sufficient resources to participate effectively. Such legislation should also provide compensation to eligible persons for costs incurred in seeking judicial review of agency actions.

(11) Until such time as general legislation for compensation of public participation costs is enacted, regulatory agencies should implement their own programs to compensate eligible participants in agency proceedings as appropriate.

(12) The APA should be amended to empower agencies to order "fee shifting" in cases of bad faith, willful violation of an agency order or other egregious conduct. Agencies should have the power, as do the courts, to allow exceptions to the general American rule that litigating parties pay their own attorneys fees, whether they win or lose.

Complaint handling

(13) Each regulatory agency that normally receives complaints from the public should have a central complaint handling office charged with the orderly logging and classification of complaints. This office should also be directed to bring patterns of complaints to the attention of the highest appropriate level in each agency for enforcement and rulemaking attention.

(14) In agencies dealing with consumer products and services, such as the CAB, ICC, and CPSC, complaint summaries should be produced and made publicly available.

(15) Individual complaints should be available for public inspection, with proper safeguards against bad faith complaints and protection for privacy rights of complainants.

Advisory committees

(16) Agencies should act to remedy the lack of consumer and other public interest representation that now exists on most advisory committees.

(17) Agencies should solicit and honor nominations for service on advisory committees from recognized citizen groups in appropriate fields.

(18) Advisory committee meetings of consequence should be announced at least 15 and, if possible, 30 days in advance and should be widely publicized in appropriate publications, as well as the Federal Register.

Public understanding of agency regulations

(19) Congress should require regulatory agencies to review their rules and regulations, and eliminate or modify and conflicting, inconsistent, redundant, or inactive provisions. Every effort should also be made to clarify rules in simple, easy to understand language. In the review process, agencies should submit proposed recodifications to a panel composed of citizens, whose duty is to advise the agencies of matters of clarity and organization. A complete review of agency rules should be accomplished within 2 years after enactment of this legislation.

(20) The Federal Register should require agencies submitting proposed rulemaking documents to state that a good-faith effort was made to determine that the proposal does not conflict with or duplicate any existing rules. Any similarity or inconsistency should be explained or justified in the rulemaking proposal submitted to the Federal Register.

THOUSANDS WELCOME VIETNAM DELEGATES

Mr. MOYNIHAN. Mr. President, it is seldom that one is dismayed by a gathering of American citizens in support of a political objective—except when that objective is repugnant to American principles and to common decency generally. Such a gathering occurred in the city of New York 2 nights ago. Members of the Vietnamese delegation to the United Nations were feted at a New York theater, their attacks on the United States applauded by many of the Americans in attendance. The New York Times reports that at least one official of the U.S. Government was in attendance. He is quoted as being "deeply moved" by the experience of having his own country and his own Government excoriated by the spokesman of a Stalinist dictatorship in Vietnam.

Eric Sevareid of the Columbia Broadcasting System rightfully characterized that gathering as one of persons who were anti-American and pro-Hanoi, whose supposed antiwar sentiment was in fact directed exclusively against the United States. It is of course a tribute to our Constitutional system that it protects the rights of those who wish to express their support even for totalitarian enemies of the United States. It remains the responsibility of the rest of us to point out what has occurred.

I ask unanimous consent that the New York Times article I referred to be printed in the RECORD and that Mr. Sevareid's astringent commentary be printed immediately thereafter. This is political counterpoint which deserves broader appreciation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 26, 1977]

THOUSANDS WELCOME VIETNAM DELEGATES—ANTIWAR ACTIVISTS AMONG THOSE AT CEREMONY IN NEW YORK FOR UNITED NATIONS TEAM

(By Pranay Gupte)

With an explosion of emotion yesterday, Vietnam's new delegation to the United Nations was greeted by thousands of its American friends and supporters, many of whom had opposed the United States involvement in Indochina. In songs and speeches they suggested that a new, more harmonious era between the two countries was about to begin.

"Your presence here finally puts the past behind us," Cora Weiss, a longtime antiwar activist, said to the Vietnamese at a ceremony at the Beacon Theater, Broadway and 74th Street. Her reference seemed to be as much to the end of the Vietnam war as to the recent admission of that nation to the United Nations—admission that the United States had opposed several times.

As she spoke, dozens of supporters of what was once the Saigon Government stood in the rain outside the theater and chanted slogans accusing the Vietnamese Government in Hanoi of ignoring human rights. Occasionally, a sharp argument would break out between the demonstrators and passersby, and at one point it even looked as though there might be a fistfight. There were no arrests, although policemen watched warily.

Mrs. Weiss was repeatedly cheered during her speech, but the applause was loudest when she called on the Carter Administration to provide financial assistance for the reconstruction of Vietnam.

She looked down from the dais at members of the Vietnamese delegation. She smiled, they smiled back.

"Welcome, welcome in the name of the American people," Mrs. Weiss shouted.

The audience of about 2,500 rose to its feet, roared, and clapped for many minutes.

As the cheering continued, Mrs. Weiss beckoned to the Vietnamese, four of whom walked up to the stage and, with their hands clasped above their heads, acknowledged the applause of the crowd, which had been invited by Friendshipment, a coalition of peace and religious groups in this country, which Mr. Weiss is affiliated.

One of the Vietnamese, Ngo Dien, the Deputy Foreign Minister of Press and Information, then stepped to the microphone and read a speech, a substantial portion of which was an attack on United States "imperialists."

"From such a long distance the American imperialists send half a million troops to wage a bloody colonial war," he said in English. "Yet no enmity exists between the Vietnamese and American people."

Heavy applause interrupted him.

Mr. Dien motioned for quiet, then continued: "How can we accept that those who dropped 50 million tons of bombs on Viet-

nam not contribute to the healing of war wounds?" There was more applause.

"Long live the friendship between the Vietnamese and the American people!" Mr. Dien declared.

The crowd once again rose to its feet and cheered.

Among those who applauded was Ramsey Clark, the former United States Attorney General. "I'm very happy to see Vietnam finally in the United Nations, where they belong," he said.

The man next to him nodded. He was Sam Brown, the former antiwar activist, now an official in the Carter Administration.

"I am deeply moved," he said. "It's difficult to describe my feelings—what can you say when the kinds of things that 15 years of your life were wrapped up in are suddenly before you?"

"I believe we ought to aid the Vietnamese in their reconstruction," Mr. Brown said, adding that he hoped President Carter could be persuaded similarly.

Then Pete Seeger sang a few songs, some from the days of the antiwar protests in which many of those in yesterday's audience had participated. Later there were hugs and kisses, much like in a class reunion.

"We've waited so long, so long for this day," said Evie Moore, who was among those present. There were tears in her eyes.

CBS EVENING NEWS WITH WALTER CRONKITE

WALTER CRONKITE. The United Nations General Assembly opened debate today before representatives from 149 countries, the newest member—Vietnam. Eric Sevareid comments.

ERIC SEVAREID. The UN General Assembly has reconvened in New York, including representatives of the regime that now runs a unified Vietnam. They won their war. They have demonstrated full control of that country. The principle of universality must govern UN membership, not likemindedness, so they are entitled to their seat. Americans must put up with that.

What they may properly react to is the transaction that occurred yesterday in a New York theater. Several thousand other Americans joyfully welcomed the Hanoi delegation, one of whom promptly denounced what he called U.S. imperialism and demanded money payment from this country. One newspaper describes the gathering as the antiwar movement coming together again. It was, rather, that part of the antiwar movement which was not antiwar at all; it was anti the American role in the war and pro Hanoi. This group never had the slightest objection to the murderous civil war in Vietnam, which was started by the Hanoi Communists, who invaded the South, where the war was entirely fought save for the American bombing of the North.

There's a great difference between those Americans who wanted the United States out of the war because they thought it was none of our business, unwinnable, morally and politically destructive of our own principles and our own society—between them and the Americans who wanted Hanoi to win. It was the latter, for the most part, who met in the theater, and they had the effrontery to welcome the Hanoi officials in the name of the American people. There is nothing most Americans want to forget more than Vietnam, but this occurrence obliges us to do a little remembering—to remember the thousands of North Vietnamese farmers cold-bloodedly liquidated by the Hanoi Communists in the name of their class warfare doctrine; a million or so ordinary people of the North driven into exile in the South, men, women and children on foot, tens of thousands of Catholics among them; the thousands of village leaders in the South executed by Vietcong assassination squads. And to remember that at no time was there evidence that the majority of Southern Vietnamese desired communist rule and much evidence that a majority feared and loathed the prospect. They were not a downtrodden starving people, however inefficient and often corrupt their officialdom, which never imposed massive regimentation upon them.

Most of those in the New York theatre were not celebrating peace. They were celebrating the triumph of communist totalitarianism, which is what they had always been working for in the guise of a peace movement.

CRIME KEEPS PACE WITH TECHNOLOGY: THE COMPUTER AGE AND SENATOR RIBICOFF RESPONSE

Mr. PERCY. Mr. President, in the last decade our Nation has been plagued with an alarming increase in the crime rate. While much of our attention has been focused on the violence and immediacy of crime in the street, we are also faced with an ever-increasing amount of white collar crime. Like the rest of our society, the criminal element is doing its best to keep up with the rapid technological advances of our age. We are now confronted with the very real danger of massive computer crimes which may involve individual thefts of millions of dollars.

The difficulties we face in combating crime in the computer age are many. Computer thefts and misuse are extremely hard to detect. Very few law enforcement officials and prosecutors are familiar enough with the technical issues to prosecute effectively and convict computer criminals. Private firms and banks are sometimes reluctant to divulge the fact that such crimes have occurred within their institutions. Present laws do not provide the public with adequate protection against computer theft.

On June 27, 1977, my distinguished and respected colleague, Senator RIBICOFF introduced S. 1766 entitled "Federal Computer Systems Protection Act of 1977." I was pleased to be one of eight cosponsors of this bill which, if adopted would be the first law enacted by the Congress aimed directly at controlling crime by computer. It would impose heavy prison terms and stiff fines for electronic burglars who use the computer systems of the Federal Government, financial institutions, and other entities to steal or manipulate information, financial instruments, and other property. This legislation, which is urgently needed, is the culmination of a year's study of computer security in Federal programs by GAO and the staff of the Governmental Affairs Committee.

I recently read an illuminating two-part article in the New Yorker magazine, entitled "Annals of Crime: Dead Souls in the Computer," by Thomas Whiteside which appeared in the August 22 and August 29 issues. It cites numerous examples of the ingenious ways in which computer criminals operate, and describes the very serious problems involved in maintaining the security of the information stored in the computers. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Yorker, Aug. 22, 1977]

ANNALS OF CRIME—DEAD SOULS IN THE COMPUTER—I

(By Thomas Whiteside)

Crime usually does its ingenious best to keep pace with technology, so it is probably inevitable that some of the more interesting specialized manifestations of criminality to emerge recently have had to do with deliberate misuses of the computer. Over the past two decades, computers have come to play such a dominant role in the processing of all kinds of information that it is now difficult to imagine any large-scale enterprise being able to function without them. In banking; in conducting credit transactions of every kind, including those involving credit cards; in keeping records of corporate sales; in drawing up inventories and payrolls; in trading securities; and in maintaining Social Security, health, welfare, and tax records—in all these activities the computer has become an essential organizational tool. Some hundred and fifty thousand computers are currently in use in the United States, but that figure does not reflect the true extent of computerization in the country, for just one large computer may serve several thousand individuals or corporations, who, on a time-sharing basis, feed their particular programming data into it by telephone connection from remote keyboard terminals or other devices, and receive, via telephone line, printouts or other records of processed information. The number of Americans now directly involved in computer operations is more than two million. This group includes programmers, who translate written information into binary computer language and prepare it in step-by-step logical form for electronic processing; operators who handle the computers themselves and their data-storage libraries; and operators at keyboard terminals and printout terminals.

The number of citizens whose lives are affected by computers is, of course, incomparably greater than this, for it includes practically everyone who has a bank account, engages in any kind of credit transactions, or has any kind of financial relationship with the government or with any large organization. In fact, one would have to be a hermit nowadays to avoid involvement in the economic and social consequences of computer-processing activity. To most people, the computer is a sort of unseen universal engine of unfathomable complexity—a device capable of calculating at incredible speed the correct path to land spacecraft on Mars, the status of one's bank account, or the seating available on a commercial-airline flight. It seems to possess an almost magical ability to produce certainty out of a box, and at the same time it endows what used to be transactions between human beings, which were slower and perhaps less efficiently conducted, with an air of chilling impersonality. The intimidating effect of the computer is not confined to people who have only an ordinary citizen's knowledge of its functioning but often extends to managers and chief officers of big corporations that employ computers on a large scale. These executive types seem to be fascinated by the efficiency of computers and by the endless printouts that can be ordered up at the touch of a button, and too often they tend to place in the veracity of these instant and apparently unassailable results a faith that they would almost certainly hesitate to place in the work of mere human beings. Even professional auditors seem frequently to give unusual credence to the accuracy of the computer printouts that form a large part of the evidence of an organization's financial position. Often, an auditor's faith in the computer has led to surprises.

The impersonality of the computer also affects the people who are in the computer profession—who work as programmers or computer operators, or who staff remote terminals connected to the computers. But, having a working understanding of what computers can and cannot do, these people are less prone to intimidation by the computing process than are the managers of the corporations that employ them or the citizens the daily details of whose lives are now so largely subject to computer accounting and recording. It seems that a sort of computer mystique has helped make possible a significant increase in illegal manipulations of the computer, in which it and its technology have been used as instruments of embezzlement, fraud, and theft.

It also seems that computers have driven some people who work with them to crimes that have taken on the quality of ideological acts. A clear example, involving theft through a computer of what in this kind of crime is an altogether trifling sum—the equivalent of seven hundred and twenty dollars—was than of an English salary clerk named Henry King. In a court in Cambridge, he pleaded guilty to manipulating the computer programming for his company's salary accounts in such a way as to have the computer pay him salary checks to which he was not entitled. In his defense, his lawyer explained to the court that King had undertaken to outwit his company's computer because it was "a horrible impersonal machine."

Records of computer crime contain a number of instances in which the computer has been an object of physical attack, for the reason that someone has come to regard it either as a kind of electronic destroyer of personal identity or as an abhorrent symbol of corporate capitalism. Sometimes these attacks are committed by programmers or other computer processors in irrational outbursts, and sometimes they are planned, for political or other reasons. Several incidents have involved guns being fired at computers. In 1974, at an installation at the Charlotte Liberty Mutual Life Insurance Company, in Charlotte, North Carolina, a computer operator, apparently in a fit of frustration, was reported to have fired a handgun several times at the company computer. In Olympia, Washington, in 1968, an unknown person fired two shots from a pistol at an I.B.M. 1401 computer in a state employment office. And in a municipal office in Johannesburg, South Africa, in 1972, an unidentified person, who city officials suspected may have been the recipient of an exorbitant bill of some kind, fired four shots through a window at a computer. The computer was dented but continued working.

Where guns have not been used, attackers seem to have employed any instruments at hand to disable computers. After half a million dollars had been spent in attempts to correct fifty-six serious breakdowns over a two-year period in a Burroughs 3500 computer used by the National Farmers Union Service Corporation of Denver to process data from the Farmers Union insurance companies, a computer operator was arrested and accused of having caused the breakdowns by inserting a car key in a memory-disc file, thus short-circuiting the computer's memory. The suspect, who was caught in 1972 through the use of a closed-circuit television monitor, was subsequently quoted as telling police that he had committed the acts because of an "overpowering urge" to shut the computer down. A while later, in New York, a memory system in a Metropolitan Life Insurance Company computer was found to have been damaged by an attack with a screwdriver. And an attack in 1972 on the core memory system of a Honeywell computer used by a New York bank—this one evidently also carried out with a pointed instrument—caused damage to the computer estimated at five hundred and eighty-nine thousand dollars.

Computers have also been the targets of sabotage by radical and revolutionary groups. During the Vietnam war, a number of computer centers on American campuses—particularly those at universities reported to be engaged in Defense Department research—were bombed by radical students. In 1970, for example, a computer center at the University of Wisconsin was bombed, resulting in the death of one student and damage estimated at one and a half million dollars. In the same year, a Molotov-cocktail bombing of a computer at Fresno State College, in California, caused damage estimated at a million dollars. In 1973, antiwar demonstrators in Australia shot a computer in the offices of an American computer manufacturer in Melbourne. The weapon used was a double-barrelled shotgun, and the damage to the computer was extensive. At New York University, in 1970, a group of radical students placed gasoline bombs on an Atomic Energy Commission computer being used by the university, and declared that they would destroy the computer unless they were given a hundred thousand dollars to pay the bail bond of a jailed Black Panther. Faculty members raced into the computer room in time to defuse the devices.

An attack on an academic computer facility in Rome last June was more successful. According to a Reuters dispatch, three masked women, armed with rifles and a silencer-equipped pistol, held two professors and an assistant on duty powerless in a computer center at the university while a male accomplice poured gasoline on the center's computer and then set it on fire. The computer-terrorist women gave no motive for their behavior. Damage to the computer and the premises was estimated at more than two million dollars.

The impersonality of the computer and the fact that it symbolizes for so many a system of uncaring power tend not only to incite efforts to strike back at the machine but also to provide certain people with a set of convenient rationalizations for engaging in fraud or embezzlement. The computer lends an ideological cloak for the carrying out of criminal acts. Computer crime, to those who engage in it, is not like stealing a purse from an old lady; it imparts to theft a nice, clean quality. Except in actual physical assaults on computers, computer crime is seldom associated with overt violence. It also holds several other attractions for the potential lawbreaker. It provides intellectual challenge—a form of breaking and entering in which the burglar's tools are essentially an understanding of the logical structure of and logical flaws inherent in particular programming and processing systems. It opens the prospect of obtaining money by means that, while clearly illegal, do not usually involve taking it directly from the till or the cashier's drawer. In most large organizations, money that is kept on the premises is guarded far more strictly than the company computers and their contents are. In our computer-oriented society, however, the use of actual money has become less frequent; instead, its equivalent circulates vicariously, in the form of digital information on tapes or other storage devices. Only the proper application or manipulation of computer logic can convert these signals into real money, by directing them electronically to particular accounts, on which negotiable checks can be drawn. (More likely than not, the checks are made out by a computer.) The attenuation of money into digital impulses has probably contributed to the increasing incidence of waywardness among people who continually process so much of it in such a form.

Other tempting features of computer crime, as distinct from other forms of criminal activity, are that most such crimes are difficult to detect and that when the guilty parties *are* detected not much seems to happen to them. For various reasons, they are seldom intensively prosecuted, if they are prosecuted at all. On top of these advantages, the haul from computer crime tends to be very handsome compared with that from other crimes. For example, the average take in armed bank robberies committed in this country, the Federal Bureau of Investigation says, is currently ten thousand dollars. The average amount from all reports of missing funds from banks, including bank fraud and embezzlement, according to F.B.I. statistics, is about nineteen thousand dollars. Donn B. Parker, a computer-security expert at Stanford Research Institute (now S.R.I. International), in Menlo Park, California, who has made a specialty of gathering information on computer abuse and is the author of a book called "Crime by Computer," carried out a study of forty-two computer-related bank frauds and embezzlements committed in this country between 1962 and 1975, and found that the average take per crime was four hundred and thirty thousand dollars. While some reported computer crimes involve the theft or embezzlement of only thousands of dollars, quite a few involve very large sums; a million dollars from a computer crime is considered a respectable but not an extraordinary score. Still another attraction of crime by computer is the fact that once someone succeeds in breaking the security of a computer system, large amounts of money are not necessarily any more difficult for him to steal or embezzle than small ones. The total sums being stolen or obtained by fraud in this country through the subversion of the computer-processing system are difficult to estimate, but Parker guesses that there may be losses of a hundred million dollars or more annually. Estimates by other computer-security specialists have been as high as three hundred million a year.

Ironically, the largest sum known to have been lost through a single computer crime involved not some disloyal company employee embezzling funds but a scheme directed by the company management itself. The victims were the company's customers. The crime in question was an integral part of the great Equity Funding Corporation of America scandal, which broke in 1973. From the mid-nineteen-sixties until the company's true condition came to light, Equity Funding, which had its headquarters in Los Angeles, was considered one of the hottest stocks on Wall Street. Equity Funding's apparent prosperity was based on the theory that by dealing in both mutual funds and insurance policies the company could make both kinds of investment highly attractive to potential customers; the customers would invest in mutual-fund shares through the company and at the same time buy life insurance issued by the company. Equity Funding itself would then pay the life-insurance premiums, recording the payments as a loan to the customer and using the mutual-fund shares he had bought as collateral for the loan. By this device, the customer was supposed to be able to make good use of cash that he might otherwise have had to tie up in insurance. From 1969 on, the company officer who took complete charge of this apparently successful operation was Stanley Goldblum, the chairman of the board. Under Goldblum's direction the company embarked on a program of corporate expansion and acquisition. According to the report of Robert M. Loeffler, the trustee in bankruptcy, that program began more and more to depend upon fraud and misrepresentation, the main purpose being to raise the company's profitability illegally and so keep its stock—of which Goldblum and some of his associates in the company were major holders—selling at high prices.

The manner in which this scheme was carried out has caused the Equity Funding case to be characterized by some people, including Loeffler, as a securities fraud and by others as a computer fraud. True, it was only in the last few years of the fraud that the company's computer was brought into use as a tool to further—and further conceal—the plot, but the turn that the Equity Funding fraud took in this phase has the quality of a modern corporate reenactment of Nikolai Gogol's novel "Dead Souls." Pavel Ivanivitch Tchitechikov, the novel's wily antihero, travels through the heart of Russia making what are represented as authentic purchases of serfs, who are then supposed to be resettled as workers on an estate that Tchitchikov claims to own in a remote part of the country. However, the serfs, although their names are listed in the most recent provincial census, do not exist except in name, having died since the census was compiled. The scheme devised by Tchitchikov—and eventually uncovered—was to acquire these nonexistent people by formal deed, exactly as though they were alive, and to use these deeds as collateral in obtaining a large government mortgage, available only to serf-owners. With this loan in hand, he dreamed, he could proceed to buy real serfs and live prosperously on an estate bought with the government mortgage.

Had Tchitchikov's adventures taken place in the United States in the early nineteen-seventies, it could very well have occurred to him, as he considered various opportunities, that one way of converting nonexistant souls into hard cash would be to set himself up in the life-insurance business, use a computer to record insurance policies on people who didn't exist, and then sell the supposedly genuine policies to other insurance companies, through a system of reinsurance which people in the business customarily use in order to spread their actuarial risks and obtain ready cash. That is what several officers in charge of Equity Funding did, as an integral part of a vast securities fraud. In order to raise the price of Equity Funding stock, which by the end of the nineteen-sixties had fallen from its spectacular highs, some people in charge of the company began to make wholesale additions to their lists of genuine policyholders, the additions consisting of computerized bogus life-insurance-policy records, which were then sold to reinsurers under an arrangement whereby the reinsurer would bear some or all of the risks involved.

The risks turned out to be only too real. The bogus records were manufactured within Equity Funding by a specially assigned staff and were fed into the company's computer as evidence of its growing salable assets. At first, these records existed only in a computerized summary form—listing, for example, the age, sex, policy number, premium, and coverage for a nonexistent policyholder, along with his invented name. The tapes on which this bogus information was recorded had been compiled from existing tapes that contained basic insurance information on real customers; when the genuine information was transferred, it was doctored by the substitution of fake policy numbers.

And when the bogus business was rerouted in its new form into the computer, it was given the special code sign "Department 99" to identify it to the plotters, and to the computer, as requiring special handling when the occasion required. The computer was then used to process the bogus records in an ostensibily normal way, and the bogus policies, represented by computer printouts of doctored information, were sold—along with legitimate policies, belonging to real customers—to reinsurers. Since the terms of the sales gave the reinsurers the right to receive, after one year of the existence of each policy, the premiums supposed to be paid by the policyholder, Equity Funding required cash to cover these expected premium payments. Much of the cash was raised from sales to reinsurers based on yet additional spurious policyholder records, thereby adding to the pyramid.

However, in order to be able to substantiate such bogus computerized records to auditors or reinsurers, where that should become necessary, the conspirators manufactured "original" paper documents on which the fake computerized information was supposedly based. For some time, these records were manufactured by company executives at what the bankruptcy trustee's report called "fraud parties," lasting well into the night, at the opulent company headquarters. At these sessions, some of the computerized records of the nonexistent insured people were modified to make them appear more genuine. For example, to avoid actuarial anomalies that might be noticed by the reinsurers, a certain number of the insured people had to be shown to have died in the course of a given year, and so, at the fraud parties, the conspirators would deprive various nonexistent policyholders of their supposed lives, converting them into truly dead souls.

That did not bring the computerized existence of the supposed deceased to an end, however, because after declaring them dead the conspirators would then file with the reinsurers death-benefit claims, which were to be passed on to the heirs of the departed. The money received from the reinsurers on the basis of these bogus claims totalled one million one hundred and seventy-five thousand dollars, most of which was put into Equity Funding's own accounts, and showed up in its books as current earnings. And in a computer fraud within a computer fraud, a smaller sum—a hundred and forty-four thousand dollars—was routed into the personal bank accounts of particular conspirators, who took this action without the knowledge of the Equity Funding management people directing the original fraud.

In the spring of 1971, the ramifications of the Equity Funding computer swindle grew to such proportions that the conspirators estimated that there would be a requirement that year for between twenty thousand and fifty housand bogus files, which, as before, would mostly be doctored variations of existing policyholders' files, with new names and policy numbers added—both in computerized form, for eventual sale to reinsurers, and, in selected samples, in the form of supportive documentation for the company's auditors. After the all-night fraud parties grew too onerous, the bogus computerized information was compiled not at the company headquarters but in a separate office, on Maple Drive, in Beverly Hills.

The manual backup operation to support the fictional computerized lists included the manufacture of fake credit reports and fake medical reports on the nonexistent policyholders. When the auditors examining the computer printouts of the doctored tapes asked Equity Funding officers for the raw documentation on policyholders in the computerized file, the conspirators would obligingly promise to provide such documentation in the form of sample policies chosen by the computer at random. They would then order printouts of the samples, but since all the fake policies were tagged with the Department 99 code, they were able to instruct the computer to exclude all Department 99 records.

They would inform the auditors that these particular files were in use at the moment, and would be available the next morning—meanwhile instructing their operatives on Maple Drive to rush them into being. During 1972, the Equity Funding computer readouts on the files of its fictitious policyholders recorded fourteen and a half million dollars' worth of business—which, of course, had never existed. (In terms of the face value of all the life-insurance policies supposedly in force, Equity Funding claimed it to total, during this period, $3.2 billion. But of this alleged face value, the bankruptcy trustee's report calculated that $2.1 billion was fictitious.) Of a total of ninety-seven thousand computer-recorded policies of insured citizens, about sixty-four thousand turned out to be the records of electronic dead souls. All told, the computer-fraud component of the Equity Funding scandal served as a means of furthering a larger fraud, in which, out of seven hundred and thirty-seven million dollars in assets that the company reported in its last financial statement, a hundred and eighty-five million dollars was nonexistent. Besides the reinsurers and institutional investors, tens of thousands of genuine insurance policyholders and investors in the mutual-fund operations of Equity Funding were heavily victimized in the whole operation.

The conspiracy fell apart in March of 1973 after a former employee of Equity Funding reported details of it to the New York State Insurance Department and to a Wall Street insurance analyst named Raymond Dirks, who, it seems, in turn notified some of his commercial clients as well as New York Stock Exchange officials of what he had heard. The worth of Equity Funding shares plunged wildly on the New York Stock Exchange. On March 27th, examiners from the California Insurance Department in the Equity Funding premises took firm security measures to guard records there, after notification from the federal Securities and Exchange Commission (based on word from an informer inside the company) that some incriminating computer tapes had been very recently altered and that other tapes were being systematically erased. Goldblum and several other Equity Funding officers were subsequently arrested, tried, and sent to prison on fraud charges.

For all the huge sums involved, the Equity Funding fraud, regarded only in terms of its computer-crime elements, does not seem to have been a particularly sophisticated affair compared with some other frauds, many of them committed on a less grand scale. It was simply a reckless pyramiding operation, which was bound to be uncoverd sooner or later, and only surprisingly inadequate auditing procedures and downright gullibility and carelessness on the part of big Wall Street institutional investors permitted it to continue as long as it did. It depended on the use of the computer printout merely as a screen to make the detection of a vast amount of deliberate misinformation more difficult by routine auditing, and did not involve astute manipulation of the internal workings of the computer itself to make the traces of the crime extremely difficult to detect, as do the more adroit examples of computer crime. Since the criminal element directing the fraud consisted of management itself, there was no need to conceal the misuse of the computer from company officials. Furthermore, the fraud was carried out by a fairly extensive internal conspiracy. The more effective computer crimes are seldom the work of such conspiracies, for when the thoughtful computer criminal seeks an accomplice he usually prefers to turn to his computer console or his terminal keyboard.

However much management may have come to rely on these super-efficient data-processing systems, the systems inevitably contain certain imperfections, and it is the knowledge of these imperfections which can bring a gleam of temptation to the eye of a supposedly trustworthy bank employee—especially one who happens to feel that he has been treated unfairly by management. Such feelings encouraged a man. I will call Stephen Hattner, the chief teller of the Park Avenue branch of the Union Dime Savings Bank, between 1970 and 1973, to manipulate accounts using a remote terminal at his office so that the bank's com-

puter regularly printed out evidence that the bank's books were in order—which in fact they were, though the accounts themselves weren't. When the fraud was eventually uncovered, in the spring of 1973, it was not because of alertness on the part of the bank management, or because of suspicions held by any of the tellers whom Hattner had been in charge of, or through the supposedly elaborate security safeguards built into the bank's electronic data-processing system, or by vigilance on the part of the bank's own auditors. Rather, it was because of a police raid on the headquarters of a large bookmaking operation, whose members happened to be the subject of a federal, state, and local investigation.

One of the unusual aspects of the Union Dime embezzlement, in terms of computer crime, is that Hattner was able to take away his proceeds in the form of hard cash, directly from the till. A further point of interest is that, for all his ability to conceal his computer-terminal fraud from the bank management and the auditors, he had had no training at all in computer science, having been given only enough instruction in how to operate a terminal to carry out his normal work. He had no special knowledge of the internal circuitry and programming of the computer itself. What he was able to learn about beating the system he learned primarily from his experience behind the bank counter—how instructions were typed into the computer and how the output of the computer, in the form of print-outs, was modified by his input. That and a certain nimbleness, plus his familiarity with bank routine—and, of course, the pressing needs of his gambling activities—were what enabled him to make away with so much money for so long. If his bookmakers had not indiscretely kept his name in their files, he might still be on the job at Union Dime.

On the raided premises, police seized a list of the bookies' customers, in which Hattner's name was included. It appeared from the bookie records that Hattner had been a big-spending customer. The police began an investigation in the hope of tracing the source of his funds, and he was followed to his place of employment. It turned out that Hattner, who was forty-one years old, was earning eleven thousands dollars a year, and lived, with his wife and children, in a suburban community in New Jersey, in a two-bedroom garden apartment, which he rented for two hundred and seventy-five dollars a month. During the years when he had been stealing from the bank, he had been betting as much as thirty thousand dollars a day on the races and other sports events, and was a heavy loser. All the money he dropped came out of the bank in cash. He had embezzled more than a million and a half dollars. None of the money was ever recovered. All of it had been blown, through the bookies, at the race track or on professional basketball. In its place, at the bank, was a set of Union Dime computer printouts that, over the three years of Hattner's criminal activities, indicated that the bank's accounts were in perfect balance.

Basically, what Hattner had done was to exploit his position as chief teller to take advantage of an error-correction routine that was built into Union Dime's computer system. By this means he was able, through a computer terminal he was authorized to use, to modify bank records so that customers who conducted transactions at Union Dime thought they had money in their accounts which they didn't have, and the computer, having been so instructed by Hattner, was moving the phantom sums from account to account in seemingly perfect order. While using the terminal to keep the books neatly in balance, Hattner moved money—or, rather, data representing money—among hundreds of accounts at Union Dime to prevent the discovery of the substantial shortages he was causing. Without any knowledge on the part of his family or his associates, Hattner had been a confirmed gambler for years. Also, he felt that the management was badly overworking and underpaying him.

In 1970, when he began taking money to finance his gambling, one device he used was the looting of accounts in which there was little movement of money. In this he was helped by the fact that Union Dime did not send out monthly statements to its customers. Instead, it issued passbooks to them, and when customers wished to make deposits or withdrawals, or to receive interest on their accounts, they had to appear at the bank with their passbooks.

When a teller put a passbook on the carriage of a registering machine connected to the bank's central computer, a transaction was recorded both in the passbook and in the bank's computer system. Hattner developed a special way of treating certain of these transactions. In the first period of his embezzlement, he concentrated on giving his unusual treatment to accounts having large balances—usually of a hundred thousand dollars or more. At the end of a banking day, he would look over the computer printouts of the day's transactions and pick out any large-balance accounts that had just been opened and recorded in the normal manner in the customer's passbook and in the computer records. If one of the accounts that Hattner picked out showed, for example, a hundred-thousand-dollar deposit, he would sit down at the computer terminal with the account number and, using his authority as chief teller, type out what is known as a supervisor's override—an error-correction instruction—and have the computer change the hundred-thousand-dollar-deposit figure to fifty thousand dollars. (The customer's passbook, of course, would continue to show a hundred thousand dollars.) Hattner would then go into his cash box or the bank vault and pocket fifty thousand dollars in cash.

Unless the customer made a large withdrawal, the chances that the discrepancy would be discovered immediately were relatively small, Hattner reasoned. One thing he had to watch out for was interest payments, which were generally made quarterly. When the date for an interest payment approached, Hattner would take the missing principal from another account and move it, through the computer terminal, to the first account. For Union Dime's day-of-deposit accounts, interest was payable on the last day of each quarter of the year, but its time-deposit accounts were payable two days after that. Hattner used the difference in these due dates to transfer money back and forth so that no irreconcilable discrepancies could be detected either by customers or by bank officials.

As Hattner's embezzlement went on, he had to deal with more and more accounts, until, by means of his instructions through the computer terminal, he was juggling money among some fifty accounts at a time. He kept track of the accounts by notes he made on scraps of paper, which he put in his pockets, and as the fraud continued and the complications increased, his pockets became stuffed with these scraps. However, he appears not to have been much worried about the visits of the bank's auditors; he always had advance notice of their arrival, and he said subsequently that when they came he was well prepared and had little difficulty satisfying them. If the auditors asked him to explain an apparent mistake in an account, Hattner would appear concerned, go through the motions of checking on the discrepancy by telephone, and tell the auditors that he had discovered it to be the result of a data-processing error. On the spot, he would type an error-correction instruction into the computer as an ostensible resolution of the discrepancy. Out of sight of the auditors, however, he would further adjust the computer record by moving sums among accounts in such a way that the computer showed the accounts involved to be in balance. When Hattner was on vacation—he was careful never to take long ones—and discrepancies in customer accounts were brought to the attention of other tellers, they left memos for him so that he could resolve the discrepancies on his return. When he got back, he would sit down at the computer terminal and quickly make the necessary adjustments.

As time went on, and as Hattner grew more experienced in embezzlement, he tried to simplify the paperwork of his manipulations—his pockets were overflowing with his notes, and he was hiding slips of paper in his desk—by concentrating on accounts represented by certificates of deposit that were redeemable, with interest, on a certain date. He felt that he could avoid the complications of adjusting the regular accounts every quarter to reflect the usual interest, and concern himself merely with covering up the disappearance of money when particular certificates reached maturity. When that happened, he would calculate the interest due, add it to the principal, and pay the customer in cash, which he would obtain by altering the computer records of some other account.

In carrying out the fraud—particularly in its later period—Hattner, though he evidently felt no sympathy for the bank, became concerned that if he was caught, individual depositors whose accounts he had been juggling would suffer financial harm. He knew that some of them were elderly people who had invested their life savings in Union Dime, and, out of a sense of responsibility for their situation, he became increasingly careful to see to it that, after a certain amount of juggling, his net defalcations from individual accounts did not exceed twenty thousand dollars—the limit for which individual deposits at all banks were then insured by the Federal Deposit Insurance Corporation. When the F.D.I.C. raised the insurance limit to forty thousand dollars per account, Hattner had no hesitation about raising his fraud limit to the same amount per customer. After his crime came to light, all the losses of individual depositors were, in fact, covered by insurance. In a Manhattan court, Hattner, charged with grand larceny to the extent of approximately a million and a half dollars, pleaded guilty and expressed remorse for his acts. He received a lenient prison sentence of twenty months, of which, with good behavior, he served fifteen. While he was in prison, he acted as a clerk in the assistant warden's office and taught a course in high-school mathematics—with the help, as it happened, of computer-connected instructional terminals. After his release, he found work as a cabdriver in New Jersey. Like the Union Dime management, he prefers not to discuss the case with the press.

While there is a growing trend for people who carry out crimes in banking systems to do so by falsifying data they put into the computer from keyboard terminals, some of the more remunerative frauds and thefts have been committed without the criminals actually touching the keys of a terminal or even going near the computer. What the criminals have employed in such cases is a knowledge of the operating system used and the security flaws inherent in it. Some of the devices used to best the computer are engagingly simple—as in the case of a young man who, obviously knowing something about the ways of computers, applied for and received a twelve-month installment loan from a New York bank. On receiving from the bank, together with the loan, the book of computer-coded coupons he was supposed to send in with his monthly payments, he tore out the last payment coupon in the book instead of the first and sent it in to the bank along

with one month's payment. He then received a computer-generated letter from the bank thanking him effusively for paying off his loan so promptly and assuring him of his excellent credit standing. The young man didn't exactly *steal* from the bank—he just left it up to the computer to make the next move. The bank involved has since fixed that little programming oversight, and the young man—who claimed he simply made a mistake—was not prosecuted.

In another example, this one involving the use of a computer as a tool for collusion with an inside source, a man opened a substantial account at a New York Bank several years ago. In doing so, he informed an officer of the bank that he manufactured furniture on the West Coast. He told the banker that he was about to open a plant in the East, and said he would have his bank on the West Coast transfer a large sum of money into his New York account for that purpose. Soon, as the officer had been led to expect, the sum of two million dollars was transferred from the West Coast bank via a computerized system, such as is regularly used to move funds between major banking institutions. But some time later, the transaction was discovered to have been a fraudulent one. The West Coast manufacturing concern was nonexistent, and so was its West Coast bank account. By the time the fraud was discovered, the shadowy manufacturer had taken the two million dollars and disappeared. The origin of the fraud came to light after an investigation of the West Coast bank employees who were likely to have typed the instructions for the transfer. Normally, the typing of the orders was done through computer terminals by a staff of four women, of whom three were still employed when the investigation was ordered. The fourth woman was said to have resigned her job recently because of an unhappy love affair.

The woman, when she was sought out and interviewed at home, indicated that she had left her job after being dropped by her boyfriend. Her description of him matched that given by the New York bank for the self-described furniture manufacturer. The woman admitted sending the computer message, but said that she had thought it was a joke. The missing boyfriend, who was evidently familiar with the automatic nature of the transfer of banking funds by computer, had prevailed upon her one day to transmit two million dollars to his own East Coast account. He said that he wanted to play a prank on a computer-operator friend of his at the New York end of the line, who would understand that the message was a fake and get a big kick out of it. Since the missing boyfriend, purported depositor, and pseudo-manufacturer was not available for questioning by the police, the two banks involved in the two-million-dollar transfer were left with the computerized message as a souvenir.

Some of the most ingenious computer-aided crimes to date have been pulled off without even the degree of personal interference with the computer exemplified in the case of the phantom manufacturer. A few of these depended on the banks' use of what is called the magnetic-ink character-recognition imprinting system—notably, those blobby-looking numbers that usually appear at the bottom of a bank customer's checks and personal deposit slips, permitting them to be read by computer and automatically sorted and processed. In the Washington, D.C., area some time ago, a new depositor at a bank carried out an almost immaculate computer crime by outthinking the bank on the convenience offered by the magnetic-ink character-recognition system. The method was close to simplicity itself. According to one record of the affair, the depositor opened a new account in the normal way and made a deposit of several thousand dollars, to show himself a man of some substance. And, in the normal way, he received from the bank his personal checks and deposit slips, both bearing at the bottom left, in magnetic-ink computer-readable code, his account number. The slips, however, he did not use. Instead, the depositor visited the bank and went to the desk where customers bringing money or checks in for deposit filled out their deposit slips. For the convenience of customers who had forgotten to bring their own deposit slips, the bank provided stacks of blank slips in trays under the desk. The new depositor picked up a hefty batch of these blank deposit slips, but he did not fill them out. Instead, he took them to a printer specializing in computer-data forms, and there had his account number printed in magnetic ink at the bottom of the blank deposit forms. He then returned to the bank on different occasions and added these magnetically-printed forms to the neat pile of blank deposit slips in the trays. Then he went away and waited for the jackpot.

Other customers streamed into the bank and, dipping into the trays of deposit slips, innocently recorded their own deposits in the usual way. After the deposits and the deposit slips were routinely accepted by tellers, the deposit slips disappeared into the maw of the bank's computer-actuated sorters. The deposit slips that bore no magnetic-ink account numbers were sorted out by the machine for manual handling, and those that did bear magnetic-ink identification were automatically routed for deposit in the accounts represented by the magnetic code. In this way, the computer funnelled the deposits of scores of the bank's customers into the new depositor's account. And by the time the customers began to complain that checks they were issuing against their deposits were bouncing, the new depositor, to whose account other depositors had miraculously added a quarter of a million dollars, had drawn out a hundred thousand of it and disappeared. A similar scheme, also involving the embezzlement of a large sum of money, was carried out in a New York bank several years ago, and, on a smaller scale, the same stunt was pulled on a Boston bank.

An even craftier scheme, this one rather more elaborate than the Washington swindle, also revolved around the use of falsified magnetic-ink characters on checks to confound and defeat the computerized banking system. As in the cases of the other magnetic-code frauds, this one was carried out without anyone's ever laying a finger on the computer itself or any of its keyboard terminals. The fraud began with a new customer opening an account at a New York bank with a substantial amount of money. He received his coded checks and deposit slips from the bank, and he used the coded deposit slips in the usual way—without transforming the deposit-slip desk at his bank into a sort of financial cuckoo's nest, as the Washington-area depositor did. Like the Washington man, the New York man sought out a knowledgeable, and willing, printer, and what he then did was to have some new checks printed on blank-check forms similar to those used by his new bank. With one exception, the printed checks bore the same information as the originals, including the depositor's name and address and the name and address of the bank. The exception was the set of magnetic-ink characters in the lower-left corner of the checks.

There the depositor had printed, in magnetic ink, a set of numbers different from the set the bank had assigned him. The manner in which these numbers was changed was the key to the scheme. The magnetic-ink account numbers used by banks are preceded by a three-digit code, also in magnetic ink, which routinely sent it back to New York, and so on. In the meantime, other large checks from the same depositor were making the rounds in the same way. Because they were not rejected by the Chemical Bank, they were assumed by the corresponding bank to be good. The fraud was uncovered only when checks issued by the depositor became so frayed from mechanical handling in the computer system that they could no longer be read automatically; a clerk in one of the corresponding banks then noticed the discrepancy between the name of the bank as it appeared in plain print on one of the checks and the magnetic-ink numerical code designation. By that time, according to an auditor who told me of the affair, the depositor had disappeared with more than a million dollars in cash.

It seems clear to anyone looking over press reports and other accounts of computer crimes that many of the crimes are variations on certain basic techniques. Yet one cannot help being impressed by the sheer diversity of the efforts. For example, the technique employed by Hattner at Union Dime to juggle accounts around in the computer appears in less spectacular but no less ingenious variations in a number of other computer crimes. One such type of computer embezzlement involves the use of what Donn Parker refers to as the salami, or thin-slice-at-a-time, technique—reliance on tiny increments, sometimes literally only a fraction of a penny at a time. The criminal programs the computer to divert these minute sums to his own account from a number of accounts or transactions, and then patiently lies in wait to collect the steadily growing fruit of his mini-embezzlements. One way in which computer criminals might employ the salami technique is to round down any sums ending in fractions to the nearest whole number—for example, fractions of pennies as these are computed in interest-bearing accounts. In the meantime, the criminal has established a dummy account at the same bank, and he programs the computer to divert the surplus from the round-downs to this account.

Quietly accumulating year in and year out, these fractional sums can mount handsomely, and usually neither the bank nor the depositors know what is going on. Even when the bank does suspect jiggery-pokery, it may not do much about it. The cost and effort involved in tracing and prosecuting any impropriety would be considerably greater than the sums involved.

These three digits inform a computer at a Federal Reserve System bank—through which checks are routed between most banks for clearance—what bank the check is to be returned to so that the transaction can be completed. Suppose, purely for the purpose of illustration, that the computer criminal opening the big account in a New York bank did so at the bank I happen to use, which is the Chemical Bank. In changing the magnetic-ink account number, the depositor altered the orignial account number to one that contained the wrong number of digits. At the same time, he altered the initial three digits to those belonging to a real bank on the West Coast—let us say, again purely for the purpose of illustration, the Bank of America in Los Angeles. He then began opening accounts at other banks, making deposits in these accounts in the form of the altered checks bearing his printed name and the printed name of the Chemical Bank—along with the magnetic code for the Bank of America. These checks were accepted for deposit subject to clearance.

From one of the banks involved, such a check was sent to a Federal Reserve bank for routing to the bank of origin. Although the check bore the name and address of the Chemical Bank in New York, the Federal Reserve data-processing system scanned only the magnetic-ink code on it, identified it as a Bank of America check, and routed it to

Los Angeles. The check remained in transit for perhaps two days. At the end of that time, it was run through the computer mechanism at the Bank of America. The computer, instantly searching its memory for a Bank of America account number matching that of the magnetic-ink strip on the check, rejected the check, which then went into a clerical pool for manual handling. Since the printed logotype on the check clearly identified it as a check that belonged in the Chemical Bank in New York, the clerk handling the machine-rejected check sent it back to the Chemical Bank by mail, assuming that a simple routing error had been made. The check was then in transit for another two days. Back at the Chemical Bank, the check was put into the computerized sorting system for final clearance. But instead of that, it went into motion again: the Chemical Bank computing system passed it on to the Federal Reserve System, which routed it out to the Los Angeles bank again.

Parker told me not long ago that he felt he had almost certain knowledge of one salami-type embezzlement that was still being carried out at a bank whose officers he had talked with. The embezzler, he said, was evidently using the bank's computer to transfer twenty or thirty cents at a time, at random, from three hundred checking accounts at the bank and diverting the money to a dummy account for his own use. The computer criminal was careful never to divert sums from any particular account more often than three times a year. Because a customer was unlikely to notice such a small discrepancy in his monthly bank statement—or, if he did notice it, to find it worth his while to go to the bank and argue over it—the embezzlement was likely to go on and on. Parker suspects that many thousands of bank customers are being fleeced regularly of small sums in this fashion in cities throughout the country, since these people trust the accuracy of the computerized statements, and if there is a small discrepancy they are apt to put it down to their own poor arithmetic.

In another variation of the salami technique, two programmers who were employed by a big New York garment firm instructed the company's computer to increase by two cents the amount withheld from their fellow-employees' paychecks each week for federal taxes. They further programmed the computer to direct the two cents per employee per week to their own federal withholding accounts. The result was that at the end of the year they received the money in the form of refund checks from the Internal Revenue Service, which had been acting as an unwitting bagman for the embezzled sums.

In yet another ingenious variation a programmer working at a mail-order sales company had its computer round down odd cents in the company's sales-commission accounts and channel the round-downs into a dummy sales-commission account he had established under the name of Zwana. He had invented the name Zwana because he knew that the computer processed the company's accounts in alphabetical order, and he could easily program the computer to transfer all the round-downs into the last account in the computing sequence. The system worked perfectly for three years, and then it failed—not because of a logical error on the culprit's part but because the company, as a public-relations exercise, decided to single out the holders of the first and last sales-commission accounts on its alphabetical list for ceremonial treatment. Thus Zwana was unmasked, and his creator fired.

Computer crime does not necessarily involve the direct theft of money. The near-universal use of electronic data processing in accounting systems has made computer programs that record and control the flow of inventories increasingly subject to manipulations whereby the computer is directed to move goods into criminal hands. The records of thefts or suspected thefts of goods by computer-data manipulation include the physical disappearance, in the early nineteen-seventies, of two hundred and seventeen railroad boxcars owned by the bankrupt Penn Central Railroad. The deputy chief of a federal crime force investigating the case concluded that a computer program used by Penn Central to direct the assembly and routing of the company's boxcars had been manipulated to divert the boxcars—which were worth millions of dollars—from Penn Central sidings. F.B.I. agents eventually found them, freshly painted and with the Penn Central markings obscured, on the sidings of the tiny La Salle & Bureau County Railway, in Illinois, which has only fifteen miles of track. The boxcars had apparently been rerouted, with the help of someone who could modify the Penn Central computer input, so that some remarkably sophisticated criminal group could arrange their eventual resale or rental to another railroad system.

According to Lindsay Baird, an independent computer-security consultant, who tries to help large corporations and banks make their data-processing systems tamperproof—or as nearly so as possible—the kind of manipulation that seemed to be responsible for the disappearance of the Penn Central boxcars has also been used to misdirect government supplies of one kind or another into criminal channels. Laird has cited a fraud pulled off in South Korea in the early nineteen-seventies, in which, through manipulation of a United States Army supply-computing program largely operated by Korean technicians, huge quantities of food, uniforms, vehicles, gasoline, and other American supplies were diverted into the hands of a Korean gang for resale. Baird, who participated as an Army provost marshal in an investigation of the Korean affair, told me recently that the swindle was so effective that the theft of about eighteen million dollars' worth of equipment a year was being concealed by the misuse of inventory-and-supply computer programs.

In 1975, in Linden, New Jersey, it was discovered—after the arrest of three men, including a computer-console operator for the Exxon Corporation—that, through the manipulation of an Exxon computer in which records of oil transfers were supposedly kept current, and the alteration of oil gauges, conspirators had been able, in the course of seven years, to make off with about twenty million dollars' worth of Exxon fuel. The fuel had been siphoned from the company's huge Linden refinery into a barge owned by the conspirators. In the first three months of 1975 alone, according to the Union County prosecutor, Exxon lost one and a half million gallons of fuel, worth half a million dollars.

A fourth example of crime involving the physical diversion and theft of supplies by the use of computers is the case of a young man named Jerry Neal Schneider, who was arrested in Los Angeles in 1972 and charged with stealing what police estimated as a million dollars' worth of electronic equipment from the Pacific Telephone & Telegraph Company, by means of rigged computer instructions. Schneider, who was twenty-one years old, had been keenly interested in computers for some time. When he was a high-school student, in Los Angeles, his walk to and from school had taken him past a Pacific Telephone supply storeroom, and he had noticed trash cans outside holding papers of various sorts. Schneider, feeling that rummaging through the trash cans might be, as he later recalled, "kind of a fun thing," did so now and then. Sometimes he would find odds and ends of discarded telephone-company equipment and take it home with him. He also began to take home and read discarded copies of telephone-company operating guides. At the time, most of them were nearly meaningless to Schneider, but he held on to them, and gradually built up something of a technical library, of which these guides and other manuals were a part. Eventually, he said, he added to his library, **from the trash cans, management guides . . .** dealing with how Pacific Telephone ordered equipment from the Western Electric Company. According to Schneider, the guides also "described the methods through which equipment was ordered to a field-supply location" of Pacific Telephone.

A few years later, Schneider, by then an engineering student at the University of California at Los Angeles, reread the guides and other telephone-company technical publications. It occurred to him then that he had in his possession the key to obtaining a lot of money, and he decided to use it. The details of how he set about doing so are not easy to determine, because Schneider has given different versions of his actions to different interviewers. But even taking the discrepancies into account, one can form a fairly clear picture of his procedure. What Schneider was after was a system that would enable him to safely order by telephone and then sell expensive equipment purchased by Pacific Telephone. In the material he had found in the trash cans, the company had described the fundamentals of its equipment-ordering system, which was programmed into an I.B.M. 360 computer. Within the Pacific Telephone organization, equipment for installers and repairmen was ordered by phone through computers and delivered to convenient locations by truck in the middle of the night. To place such an order, an employee had to use a series of codes. He needed, among other information, an identification code number designating the site from which the order was coming and an account code number. Schneider, by various ruses—including calls in which he impersonated telephone-company employees, and a visit to telephone-company facilities in which he passed himself off as a free-lance writer preparing a technical article on computerized warehouse systems—pieced together most of the information on codes and procedures necessary for placing unauthorized orders. Next, he bought an automatic dialer so that his Touch-Tone telephone's signals would resemble those from the equipment used by the authorized employees. In June of 1971, after several trial runs, he put into the computer an order for thirty thousand dollars' worth of telephone equipment, to be delivered to a company drop-off point he had chosen. The order was automatically registered on a punch card and processed by the I.B.M. computer, and the equipment was duly delivered on the designated night. Schneider hauled it away and ordered more. Soon he had formed a corporation grandiosely called the Los Angeles Telephone & Telegraph Company, through which he sold the stolen equipment to private suppliers and users of such apparatus.

He continued, month after month, to order equipment without incident. He later said that he once had a twenty-five-thousand-dollar switchboard delivered to a telephone-company manhole at two o'clock in the morning. The equipment was picked up by a van that looked like a Pacific Telephone van but was a secondhand job bought at auction. After a while, Schneider had ten people working for his company, and a six-thousand-square-foot warehouse, in which he stored the stolen equipment. In January of 1972, he was undone by an employee to whom he had refused a salary raise. The disgruntled employee went to the police, the warehouse was raided, and Schneider was arrested. He was charged with grand theft. After some plea bargaining and a promise to cooperate with the police, Schneider was sentenced to sixty days at a prison farm. With time off for good behavior, he served forty days. Of the million

dollars' worth of equipment that the police said Schneider had stolen, the prosecution could prove only that he had handled some five thousand dollars' worth. He was able to settle a two-hundred-and-fifty-thousand-dollar civil suit brought against him by Pacific Telephone for eighty-five hundred dollars. After his sojourn at the prison farm, Schneider set himself up in business as a computer-security consultant to various corporations, offering them an insider's knowledge of how to prevent computer crime. The eighty-five hundred dollars that Schneider was obliged to pay Pacific Telephone was far more than offset when, as a result of the publicity surrounding the case, he was able to sell the story of his computer depredations to a movie company for a substantial sum.

It is perhaps an indication of the degree to which the computer has become a vital element of our society that sets of electronic signals stored in computers have in themselves become entities of great value and the targets of numerous attempts at theft. Most thefts of computer tapes are probably not reported to the police, because the victimized owners prefer to arrange for the tapes' return through private negotiations with the thieves—negotiations that in some cases may involve the passing of money and in others assurances that no prosecution will be undertaken. Sometimes such thefts are unremunerative. According to an item that appeared in the weekly *Computer-world* in 1971, thieves operating at the Los Angeles International Airport stole an air shipment from the Bank of America which included two reels of the bank's computer tapes. The thieves assumed that the tapes contained valuable records and demanded ransom, threatening to destroy them if it was not paid. The ransom attempt failed, because the bank had in its files duplicates of the stolen tapes.

Another attempt at ransoming stolen tapes which did take into account the existence of backup records, occurred last January in Europe. According to Interpol, the international police information clearing house, the head programmer of the computer department of the Rotterdam facilities of Imperial Chemical Industries, Ltd., was accused of absconding with computer-tape records relating to the company's extensive European operations—including a duplicate set of tapes that had been stored in a separate and supposedly secure facility. The programmer allegedly attempted to extort two hundred thousand pounds in cash from the company for their return. But the ransom scheme failed when, at a rendezvous in Oxford Street in London, the tapes were about to be traded for the ransom, which had been brought to the scene in ten-pound notes by an Imperial Chemical Industries representative. Scotland Yard men, alerted by the company, were lying in wait. On the spot they arrested the programmer and an alleged accomplice, retrieving the missing tapes as well as retaining the ransom money.

However, another attempt in 1973 at computer-tape hijacking, in West Germany, was more successful. In this affair, a computer operator formerly employed by a German corporation broke into the computer center the corporation used and made off with twenty-two reels of computer tape containing vital information about the company's marketing plans and programs. He demanded that the company pay two hundred thousand dollars for their return. The company had no duplicates of the stolen tapes, and the cost of reconstructing the data would have been greater than the ransom demanded, so the company quietly paid up.

Sometimes electronic penetration of data in a computer system is attempted by a company's competitors, and when it is successful the rewards can be high. An independent computer-security consultant told me not long ago of what appears to be one such case. It concerned prospecting information obtained by a huge oil company that was one of the principal bidders on oil-drilling rights to tracts of government land on the North Slope of Alaska. According to the account I was given, the oil company sent reports from its geologists exploring the field to a central communications post in the area. From a keyboard terminal there, the geological data were sent thousands of miles by telephone line to a computer at the offices of the oil company. Later on, after the data had been transmitted to the computer, the same remote terminal received from the company headquarters financial analyses based on the geological data. The analyses indicated the sums that the company's representatives in Alaska might bid for the drilling rights. After the company lost to its competitors by a suspiciously narrow margin on most of the bids it submitted, it began an investigation into the security of the reporting system. The investigation concluded that someone using very inexpensive rented electronic equipment and representing the interests of the competitors had tapped the oil company's computer communication line, printed out the data, and used the information to the advantage of the competitors. The sums at stake probably ran into scores of millions of dollars.

Not only does a lot of the information in a computer have great value but the programs themselves—the step-by-step instructions incorporated into the computer's memory to direct the complex processing of data—are considered valuable assets by their designers and owners. Designing a computer program for the handling of specific kinds of data can be a tedious and time-consuming affair, often involving the ingenious application of computer logic. Computer programs have therefore been the targets of numerous outside attempts—usually made on behalf of competitors—to pry them loose from the computer's memory and have them duplicated for gainful purposes. This form of industrial espionage or thievery goes on between manufacturing and other corporations possessing their own computers and also between corporations whose business it is to supply other companies with computer-processing services on a time-sharing basis.

One such case involved a man I will call Eli Bart, a young man who was considered the best computer programmer on the staff of a California computer-service company known as the University Computing Company, or U.C.C., in Palo Alto. In 1971, according to court records, Bart masterminded the theft—actually carried out by a computer from a computer—of a program that had been developed by a competing company called Information Systems Design, Inc., or I.S.D., of Oakland. The services provided by both organizations involved the design as well as the processing of computer programs for their customers. As it happened, the two companies were competing to provide specialized services for, among other corporate customers, the Shell Development Corporation, in Emeryville, and Aerojet-General, in Sacramento. U.C.C. was by far the bigger of the two computer-service companies; its sales were about a hundred million dollars a year, while those of I.S.D. were about a million. However, there was one technical area in which the I.S.D. people considered themselves ahead. That was the application of a computer program designed by I.S.D. which made it possible for the company to provide its clients, at their remote sites, with visual engineering information on calculations made by the service company's computer. The I.S.D. people believed that in the design of this special program, which they called PLOT/TRANS, they had a device that would eliminate the need for certain expensive equipment required for complete two-way instant computing services involving graphics between customers' facilities and I.S.D. To this extent, U.C.C., which did not have any such system worked out, was at a competitive disadvantage.

Bart decided to improve his company's position by raiding the memory bank of the I.S.D. computer and getting the secret of its PLOT/TRANS program. (The program itself had not cost I.S.D. very much to develop—possibly about five thousand dollars' worth of time—but the I.S.D. people put its potential value to the company at a million dollars or more.) Bart set about penetrating the I.S.D. computer from a telephone-connected terminal at U.C.C. headquarters. To communicate with the I.S.D. computer, he needed three separate informational keys: the unlisted telephone number of the I.S.D. computer; a number designating the authorized terminal site from which he was calling; and an account number identifying the caller, for billing purposes. Bart was able to obtain the unlisted telephone number by visiting the offices of Shell Development, which was, after all, a client of U.C.C. as well as of I.S.D.

And because of this double connection he already knew the identifying site and account numbers of Shell, as both I.S.D. and U.C.C. had, as a convenience to Shell, given it the same identification numbers for access to their computers. Naturally, Bart also needed the identifying name of the program he sought, and this he received from an acquaintance at Aerojet-General, which was a PLOT/TRANS user. There was a certain hitch to this plan, since the form of data flow at the keyboard terminal employed by Bart did not precisely match that used at the Shell Development terminal site, which was a Univac 1004. However, on January 19, 1971, when Bart attempted access to the I.S.D. computer he was able to manipulate his entry communications to make it appear that his instructions were from the Univac used by Shell. Once he had successfully gained access to the I.S.D. computer by means of his identifying codes, he fed it instructions to send out a set of signals that would allow his computer to duplicate the PLOT/TRANS program on punch cards. This attempt failed, because Bart didn't know that the I.S.D. computer—unlike U.C.C.'s—lacked the capability to punch out cards at a remote terminal. When nothing happened, Bart gave it a command to take a table of contents of the PLOT/TRANS file and asked it to list the symbolic information in that file. This time, the I.S.D. computer responded, and the result was a high-speed printout, on the raider's computer, of the PLOT/TRANS program. The printout took three seconds. In his delight at successfully snatching the program from his competitor's computer, Bart did not consider the possibility that the I.S.D. computer might have responded to his initial, apparently unsuccessful, instruction without his knowing it. But this was what had happened. The I.S.D. computer *had* complied with Bart's instruction to punch out a set of cards representing the PLOT/TRANS program. Since the cards were identified by the I.S.D. computer as having been requested by Shell Development, they were routinely delivered to that company, but nobody there could recall asking for them. An I.S.D. employee visiting Shell Development a few days later recognized the cards as representing an I.S.D. program. Computer records at Shell confirmed that no request for the program had been made. Suspicious about what was going on, the I.S.D. people had the origin of the requesting call to the I.S.D. computer traced, and that led to U.C.C. and to Bart.

On February 19, 1971, police, accompanied by an I.S.D. computer-programming special-

ist and armed with a search warrant, raided the U.C.C. premises. The action had a novel legal feature, in that it was apparently the first time a warrant included specific authority to search the memory system of a computer for evidence of a crime. During the search, which took some nine hours, all the information stored in the computer's memory devices was read out onto tapes, which the police impounded. In Bart's office, the searchers uncovered handwritten notes on how the I.S.D. computer might be penetrated, and also uncovered a computer printout of the stolen I.S.D. program. Bart was charged with the theft of a trade secret, eventually pleaded guilty, and was fined five thousand dollars and placed on three years' probation. As a result of a civil suit brought against U.C.C. for engaging in unfair competition, a jury awarded I.S.D. three hundred thousand dollars in punitive and compensatory damages.

Another computer misuse, and a fairly frequent one, consists in gaining unauthorized entry into a computer to make free use of its data processing facilities. In one case, which was reported in the Los Angeles *Times* in December of 1975, a computer-service organization called Manufacturing Data Systems, Inc., of Ann Arbor, Michigan, was the victim. According to the report, a former employee of M.D.S.I., who was currently employed by a North Hollywood firm, the W. & R. Tool and Manufacturing Company, was charged in Los Angeles with grand theft of computer time for using secret terminal passwords assigned to English and French representatives of M.D.S.I., in order to gain access to the company's computer by long-distance telephone and use it to produce, in Hollywood, a numerically punched tape that was then used to direct the operation of computer-connected tool-manufacturing machines owned by W. & R. Tool. The total amount of computer time consumed in the penetration was a hundred and forty-three hours, with a commercial value of fifteen thousand dollars. Other cases involving theft of computer time range from that of a big Midwestern bookmaker who obtained surreptitious entry into the computer of a university to make his betting calculations to that of a high-school student, an electronics enthusiast, who found in a trash basket the password assigned to an analyst employed by a computer-service company, obtained further information on the logical structure of the service company's computer system, and then used great amounts of computer time to play computer games.

The theft and unauthorized sale of computerized information, in printouts or other forms, appear to have become widespread in the computer industry, and many instances of such illegal trafficking are on record. A number of them concern unauthorized printouts and the sale of lists of one sort or another that are recorded in computer systems. For example, several years ago three computer operators were alleged to have extracted from an Encyclopaedia Britannica computerized list and sold nearly three million customer names; the list was valued by the publisher at a million dollars. In 1973, a computer operator employed at the Illinois Driver Registration Bureau, who had been bribed with ten thousand dollars by outsiders, stole a tape reel of drivers' names and addresses which had a direct-mail value of seventy thousand dollars, and the stolen list was put to commercial use. In a variation of this scheme, employees of the New York Department of Motor Vehicles were charged in 1974 with adding more than a thousand names to computer printouts of lists of approved applicants for drivers' licenses. These names belonged mostly to recent non-English-speaking immigrants who had never had the required eye examinations or taken the necessary written and road tests, but licenses for these people were automatically issued on the basis of the computer printouts. Working in league with a private driving school, the officials responsible collected between two hundred and four hundred dollars for each license thus authorized by the computer. The scheme netted about a third of a million dollars.

To unscrupulous computer employees, all sorts of computerized lists have market value. A computer specialist employed by the Australian Taxation Commission is reported to have sold to people with income-tax forms to fill out copies of documentation, based on highly confidential computer logic, that described the computerized methods used by the commission to check on the legitimacy of taxpayers' claims for deductions. With this information as a guide, the taxpayers could safely exaggerate claims for tax deductions. Computer programmers handling payroll accounts have been known to manipulate the data input of parts of payroll lists to give certain employees, for a fee, unauthorized salary raises.

Police officers have been accused of selling computerized information concerning criminal records for the use of potential employers: in one case, according to a 1974 report in *Computerworld*, a Massachusetts state-police officer was accused of selling computerized police records to a private detective agency, which then allegedly sold the information to retail stores looking over prospective employees. (At the trial, however, the judge found the officer not guilty on grounds of insufficient evidence.) And in Chicago in 1971 a police officer was indicted by a federal grand jury on charges of programming the F.B.I. National Crime Information Center computer to obtain information for private use. In Norway, a computer operator employed by the government health service sold records of people with certain ailments. The patients could then be individually approached by a commercial drug-marketing organization.

Computerized voting lists have sometimes been the object of illegal manipulation. In 1971, a computer-service company was accused, in a civil suit brought by the State of California, of using for commercial purposes a computer tape bearing a list of registered voters. The case was settled out of court. In New York City in 1972, a computer operator employed by the Board of Elections was charged with participating in a vote-fraud conspiracy by illegally feeding into a computerized list of registered voters a hundred punch cards containing the names of unregistered voters. In August of 1973, the syndicated columnist Jack Anderson charged that there was "compelling evidence" that some congressmen were misusing the voting computer in the House of Representatives. The computer is activated when a member inserts his personal card in a terminal on the House floor, and it registers both his presence and his yea or nay on a particular vote. Anderson charged that, in violation of House rules against proxy votes, some congressmen, and even pages, had been seen inserting more than one card in the computer, presumably on behalf of absent House members. And in Sweden two employees at a private data center in Helsingborg surreptitiously borrowed computer tapes compiled by the Swedish census bureau and sold the information on them to assorted customers. One customer for the bootlegged tapes was a political party, which bought information on two hundred and ten thousand voters in a primary election. The thieves were caught when the original tapes were requested for a special computer run and found to be missing.

The functioning of a great part of the modern credit economy revolves around the operation of huge centralized data banks in which computerized information concerning the financial records of consumers and business firms is collected, stored, and sold to clients through commercial credit-reporting networks. So crucial have satisfactory credit ratings become to businessmen and ordinary consumers alike that an underground market in the doctoring of unfavorable credit information has grown and flourished. This situation has proved to offer profitable opportunities to some computer programmers and operators employed by large credit-reporting companies, and also to various people who, although they themselves do not directly handle computers, are knowledgeable enough to beat the computerized credit-reporting system. The largest of the computerized credit-reporting agencies is TRW Credit Data, which is operated by a unit of TRW, Inc., the electronics conglomerate. TRW Credit Data maintains computerized credit files on some fifty million American consumers and provides information on their credit histories to subscribing businesses, such as banks, credit-card companies, oil companies, and retail stores. The data-processing headquarters of TRW Credit Data, in Anaheim, California, seem to have been victimized over a period of years by various well-organized attempts to doctor computerized credit records. A recent article in the *Wall Street Journal* reported that a federal grand jury in Los Angeles charged in an indictment that a credit-fraud ring had employed a TRW Credit Data woman clerk to alter the credit records on several hundred people who were poor credit risks so as to show them to have excellent credit performance; for this service, fees of between three hundred and fifteen hundred dollars were said to have been charged by the ring for each credit record improved. On the basis of these doctored credit records, poor-risk applicants were able to get loans from banks and savings-and-loan associations, to get credit cards from American Express and Master Charge, and to make credit purchases at department stores and other retail businesses. The scheme was said to have been carried out between August of 1974 and March of 1975. Previously, TRW Credit Data, along with other large credit-reporting agencies, had apparently been victimized by members of another criminal gang, who prepared their ground thoroughly in order to create spurious favorable credit reports. Between 1973 and 1974, according to an earlier article in the *Wall Street Journal*, another credit-faking gang went about its business by using as a front a fraudulent business school specializing in credit-reporting procedures.

This "school" turned out "graduates" who, with the bogus credentials supplied them, were able, according to California police, to find employment in nationally known mail-order houses, banks, and savings-and-loan associations that all subscribed to TRW Credit Data. As subscribers, such businesses were required to supply computerized credit information on their own customers to TRW Credit Data. This is what the "graduates" did, but much of what they fed into the TRW computer consisted of doctored information that turned poor credit risks into excellent credit prospects. TRW Credit Data, in turn, fed this information on request to other client businesses, to whom bad-risk customers, in league with the gang, had applied for loans and credit. As a result of these manipulations, a number of businesses were said to have suffered large losses on uncollectible loans and other bad debts.

In a reverse form of this sort of computer abuse, the F.B.I. itself, between 1968 and 1972, was the perpetrator of a number of highly improper acts involving computerized information. According to the results of an investigation subsequently undertaken by the Department of Justice, the bureau planted in the files of credit-reporting agen-

cies false adverse information on radicals and other people whose political views were anathema to the bureau—the idea being to harass those citizens by making it difficult, if not impossible, for them to obtain loans or other forms of credit.

As if all the losses through theft and fraud were not enough, organizations using computers must also contend with the acts of irate employees. The cost of identifying and reconstructing information that has been destroyed is often enormous, and disgruntled computer programmers, operators, and clerks are well aware of the serious blows they can strike against their employers by destroying or deliberately altering data within a system. For example, several years ago, at the headquarters of the Yale Express System, Inc., a trucking firm in New York, an overworked computer operator took home with him billing data he was unable to enter into the system by the end of a working day and simply destroyed them. The billing represented in the destroyed data totalled two million dollars. And in New York some time ago an annoyed computer-room employee of the Irving Trust Company attacked with a sharp instrument the computer tapes of all General Electric dividend accounts being processed in the Irving Trust computers at the time, rendering all the data stored on them unusable.

Belden Menkus, an independent computer-security consultant, told me not long ago of an act of sabotage with particularly expensive consequences that evidently occurred within the computer staff of a large insurance company in Hartford. According to his account, which has been confirmed by several other computer-security people, the incident involved a woman who was a computer-tape librarian at the company headquarters and was having love affairs with two men in the data-processing division. Apparently, these affairs caused so much turmoil and friction, not only among the principals but within the computer staff generally, that after various scenes and confrontations the tape librarian was told by her supervisor to seek employment elsewere, and was given thirty days' notice. Before she left, she found a telling way of expressing her opinion of the insurance company. As computer tapes containing data vital to the company came into the tape library, she either erased them or mislabelled and misfiled them. She similarly erased or mislabelled tapes that duplicated the missing data. The damage was not discovered until the day after the librarian left. The company's computer system was thrown into almost complete chaos, and, according to Menkus, "it cost the insurance company ten million dollars to re-create the data this woman had destroyed." For its own reasons the insurance company decided not to prosecute the offender, who, in any case, was obviously unable to pay the ten million dollars.

Even as relentlessly optimistic an organization as the Girl Scouts of the U.S.A. appears not to be immune to resentment in the computer room. According to Donn Parker's records, a disgruntled employee at Girl Scout Headquarters, in New York, a few years ago expressed her feelings by erasing information on several reels of tape in the computer room, which she accomplished by running a magnet over the reeled tape through flange openings in the sides of the reels.

A French programmer who was dismissed from his job several years ago devised a different scheme for expressing his annoyance with his employer. According to an item in the computer trade publication *Data Management*, the computer program that the employee had been working on at the time of his dismissal was one that would keep his employer's records systematically updated on an annual basis. When he was given notice, he added an instruction to the computer (which, like other systems, has an electronic clock built into its workings) to erase all the company's records as of two years after he departed. Other programmers faced with dismissal have contented themselves with entering instructions into the computer to give them large severance payments or to have their names put on their corporations' pension lists.

Not too surprisingly, the cash-dispensing machines used by banks to provide their customers with cash in remote spots have attracted the attentions of people engaged in computer crimes. Supposedly, these automatic dispensing systems are secure. To get cash from them, a customer must insert his bank credit card in the dispenser and punch out on the machine keyboard a special number assigned to him, along with the sum he wishes to withdraw. The machine then feeds this information into a central computer, which checks it against the customer's correct number and his bank balance or credit balance. If the card is a forgery or is otherwise invalid, the machine clamps down and retains it; if the central computer indicates that the customer has the right identification and the necessary funds in the bank, the machine dispenses the cash—always a limited amount, usually fifty to a hundred dollars—while the computer deducts the withdrawal from the customer's account. The number of withdrawals that the computer allows a customer in any one day is also limited. However, I have been assured by one security man that there are cases in which cash-dispensing machines have been made to give up sums of money to unauthorized users. Another independent computer-security consultant told me recently that he was in the process of proposing to one large bank a test of its automatic cash-dispensing system, because he was convinced that he could outwit the system and withdraw funds unsecured by his bank account.

A newsletter put out by a British data-security organization reported in December of 1974 that a French electronics engineer had been convicted in Tours on a charge of fraudulently obtaining sixty thousand francs from bank cash-dispensing machines in four French cities. What the engineer had done, it seems, was to telephone bankcard customers and, identifying himself as a bank official, tell them that the bank, for security reasons, was giving them a new secret number for use at its cash-dispensing terminals; he also asked them, in an apparently routine manner, what their present number was. In every case, he got the number. He then used the secret numbers together with falsified bank cards to get cash from dispensers. He was caught when a dispenser became blocked by one of his cards and he made the mistake of going to the same place the next day to try again.

In Tokyo, in 1974, a kidnapper chose a bank cash-dispensing-machine system as a means of collecting ransom. To prepare the ground for the actual kidnapping, the criminal opened a bank account under the false name of S. Kobayashi, with a false address. He then began to withdraw small sums from among the three hundred and forty-eight cash-dispensing machines the bank maintained around Japan, and by making telephone calls to the bank after doing so he was able to calculate that it took the bank's central computer about twenty minutes after the actual dispensing of the cash to determine which dispenser a particular withdrawal had been made from. Some time later, he carried out the kidnapping he had been planning, and he immediately telephoned a demand that the ransom money of five million yen—sixteen thousand five hundred dollars—in cash be paid into his account. The kidnapper would collect the ransom when he inserted a bank card bearing the name S. Kobayashi in any one of the bank's cash-dispensing machines. By this means, he reasoned, he would be assured of at least twenty minutes of getaway time after he received the ransom money. His scheme failed, however, because as soon as the bank received his demand its data specialists were able to reprogram the bank's central computer to identify instantly the machine in which S. Kobayashi's card would be inserted. The police stationed radio-equipped men within reach of the bank's cash dispensers, and the criminal was caught as he walked away from one of the machines.

[From the New York Times, Aug. 29, 1977]

ANNALS OF CRIME: DEAD SOULS IN THE COMPUTER—II

(By Thomas Whiteside)

It is almost universally conceded in the electronic data-processing industry that, even with the help of auditing teams, it is extremely difficult to detect acts of embezzlement, fraud, or thievery in which computers, or the processing routines employed in their operation, are used as the principal tools of crime. It seems to be also agreed that the number of undetected computer-related crimes is probably far greater than the number of those on record. Of course, a considerable amount of fraud occurs under manual accounting systems, and the computer unquestionably offers, through its instant and wide-ranging memory-search devices, internal controls over data that were not possible in the past. However, manual systems of accounting, although they involve great quantities of slow-moving paper, offer a certain security in that the paper goes through many different clerical and supervisory hands, which means that a successful fraud has to pass the repeated scrutiny of a number of people. But with computerized systems, in which literally tons of paperwork may be compressed into recorded signals on a single reel of magnetic tape, the number of people in the chain is vastly reduced. This tends to put far more information than before into the hands of far fewer people, and the capacity for abuse thus tends to be increased. Furthermore, the manual system requires clerks to sign vouchers, whereas computers impose anonymity. "When I type a computer entry into the record from a keyboard terminal, it looks just the same as if you had typed it," one computer-security man with considerable experience in banking systems said to me recently. "In a multi-terminal computer system, there is simply no way of telling with certainty who is pushing the keys at the other end." Also, because of the extreme complexity of any computer system, it is difficult to check on just what a computer programmer, designer of a particular program, computer-tape librarian, or computer user may have been doing. Certainly, such matters tend to be almost entirely opaque to top management people in many organizations, and they are difficult even for auditors to comprehend fully. As Brandt Allen, a computer scientist at the Colgate Darden Graduate School of Business Administration of the University of Virginia, wrote two years ago in a *Harvard Business Review* article on computer crime, "computer technology tends to confound auditors and managers to the extent that they are rarely in a position to detect or prevent computer-based embezzlement."

Indeed, the number of successful computer frauds that have been committed against companies whose books have been found in order by reputable auditing firms has raised some serious questions in the financial press and in government about whether the auditing profession today is adequately protecting the public interest. These questions were underlined when, last Sep-

tember, after a three-year investigation into the many-dimensioned fraud at the Equity Funding Corporation of America, in Los Angeles—which involved the fraudulent resale to bona-fide insurance firms of faked Equity policies bearing the names of "policyholders" whose sole existence was within the corporation's computers—the Securities and Exchange Commission accused the well-known accounting firm of Seidman & Seidman of negligence when it audited the Equity Funding books and declared them to be acceptable accounts of the company's true financial position. (The firm was also accused of negligence when it audited the books of three other companies in trouble with the S.E.C.) The S.E.C. made clear its belief that although the actual deceptions—primarily the practice of listing fictional dead souls as holders of live insurance policies—had been carried out by Seidman & Seidman's client, the conduct of the accounting firm itself "represented a breach of its ethical and professional responsibilities." The Commission maintained that, contrary to the representations of the accounting firm, the audits of Equity Funding were not carried out in accordance with generally accepted accounting procedures, that critical areas of the audits had been undertaken by inadequately trained people, and that the firm had placed "unwarranted reliance on management representations." The S.E.C. issued a formal administrative order instructing Seidman & Seidman to improve its auditing procedures.

A vice-president handling computer security in one large New York bank has little faith in the idea that the auditing profession can improve its ability to detect computer crimes in the making. "Auditors seldom find a loss," he told me. "They may confirm it after it happens." Other computer-security people are even more skeptical on this score. "The beautiful part about a computer crime is that if you're intent on committing one you can always make Column A equal Column B for the accountants," Lindsay L. Baird, Jr., an independent computer-security consultant, remarked some time ago.

Donn B. Parker, a computer-security expert at SRI International (formerly the Stanford Research Institute), in Menlo Park, California, who has compiled extensive information on computer crimes and is the author of a book called "Crime by Computer," has observed that one basic problem affecting the auditor's detection of irregularities in computerized accounts is that in dealing with digitized material the auditor is at least once removed from the contents of the original record; he is essentially examining data representing the work of computer-terminal operators, computer programmers, magnetic-tape librarians, and electronics engineers. "Dealing with a computerized system tends to destroy the independence of the auditor, since the very people whose work he is supposed to be auditing are standing between him and the documents of record transmitted by these people," Parker has said.

In computer systems, what accountants call "the audit trail," by which auditors are supposedly able to trace transactions backward and forward, is at times inadequately marked. In manual systems, the audit trail consists of journals, ledgers, and other documents, all present before the auditor's eyes. But in a computerized accounting system, as Foster Brown, a computer-systems-development expert, wrote in an article in the *Journal of Systems Management* in April of 1975, "the form, content, and accessibility of records frequently are such that the auditor is unable to follow a single transaction completely through the system." The impediments, Brown wrote, include the problem that source documents, once put into computer-readable form, tend to become relatively inaccessible, and in some computer systems are even eliminated. Brown also noted that "ledger summaries may be replaced by master files that do not show the amounts leading up to the summarized values." Above all, Brown said, the ability of the auditor to take a direct look at the figures involved is hindered by the fact that "files maintained on a magnetic medium can not be read except by use of the computer and a computer program"—and, as Parker, too, pointed out, the computer and its program are generally run not by the auditor but by the people being audited. He has said, "The system is sufficiently complex so that if an auditor of the computerized books of a large corporation were to be truly independent in his examination, he would have to bring with him for the auditing process not only his own team of computer specialists but even his own computer."

Not long ago, I called on Donald L. Adams, managing director of administrative services for the American Institute of Certified Public Accountants, a trade association, about half of whose members are auditors, and asked him to explain his group's position on the problems of auditing computerized company books that might have been tainted by fraud. Adams said that as far as the auditing profession is concerned, "basically, our goal is to come up with a representation of the fairness of the financial statement set forth." He went on, "As a result, we have disclaimed that it is our responsibility to detect fraud. Certainly, many of the things we do in an audit might uncover fraud, and if we do we bring it to the attention of the client." A "Statement on Auditing Standards," issued by the American Institute of Certified Public Accountants, limits the responsibility of the auditor in even more determined language. It states, in part. "The auditor recognizes that fraud, if sufficiently material, may affect his opinion on the financial statements." It goes on, "However, the ordinary examination . . . is not primarily or specifically designed, and cannot be relied upon, to disclose defalcations and other similar irregularities, although their discovery may result." And it insists that the responsibility of the auditor to detect fraud "arises only when such failure [to detect fraud] clearly results from failure to comply with generally accepted auditing standards." Adams said in his talk with me that, with certain exceptions, the financial impact of computer-related fraud is not great. "The sort of frauds that have taken place, while the amounts involved might seem high, have not been what in our parlance we term material; that is, they have not had a major impact on the fairness of a financial statement," he said. This, he made clear, was the official position of the auditors' association. Speaking unofficially, he conceded that it might be difficult to sustain that position in all cases of computer fraud, and certainly in the case of the Equity Funding affair. He asserted that most large accounting firms had people on their staffs who specialized in the auditing of computer systems and who were highly qualified to audit data from computers.

The handling of more and more computerized information—or digitized money, so to speak—by fewer and fewer people and the increase in the inherent risks involved have accelerated a trend toward eliminating the few human beings left in the computer-communication chain. This trend is apparent both in the area of electronic fund transfers, notably between banking institutions, and in government accounting systems, in which many billing and payment functions are carried out almost entirely by computer. One of the largest banks in New York is estimated to engage in computerized fund transfers of about thirty billion dollars a day. A significant part of this traffic has now been completely automated. "We will guarantee to some of our customers that the transactions in which they are involved will not be touched by human hands," a vice-president of this bank told me a while ago. He added, "The reason the customers like the service is that computers don't make errors; people do."

However, a report issued last spring by the General Accounting Office, an investigative arm of Congress, on the automated decision-making by computers in government was not sanguine about heavy reliance on the untouched-by-human-hands approach—at least, on the federal level. According to the report, government computers each year issue, on an automated and unreviewed basis, authorizations for payments or checks (not including payroll checks) totalling twenty-six billion dollars; the computers also issue unreviewed bills totalling ten billion dollars and unreviewed requisition orders, shipping orders, repair schedules, and the like valued at eight billion dollars. Altogether, according to the G.A.O. report, federal computers are involved in more than one and a half billion separate payments and other actions a year "without anybody reviewing or evaluating whether they are correct." The G.A.O. found that designers, programmers, and users of electronic data-processing equipment made numerous errors, which were the cause of millions of dollars of wasted expenditure; it also found that the data being processed were not subject to adequate internal audits. Concerning the latter aspect, the G.A.O. report observed, "We learned that certain internal-audit groups rarely became involved in the [computer] applicants' logic because they lacked the expertise to effectively make such studies."

In a separate report, the G.A.O. noted that "the number of computer-related crimes in government as well as in the private sector is cause for concern about how well systems are being controlled." This report said that the G.A.O. had learned of sixty-nine computer-related crimes or other incidents occurring within the govcernment, and that these crimes had resulted in losses of more than two million dollars, but it emphasized that the sixty-nine episodes were only those that had come to light, and stated that "we cannot be sure whether . . . we simply have not uncovered larger crimes." Concerning the adequacy of internal controls within government agencies, the G.A.O. report said that "federal agencies' internal audit groups vary greatly" in how they review the integrity of computer-processing systems, and that in nine of twelve cases studied "auditors had not reviewed controls in the systems involved. Further, it observed, "Agency internal auditors often had not been informed about computer-related crimes so they could consider their effect on audit procedures. In several of the cases we reviewed, auditors told us our inquiry was the first time they had heard of the crimes."

Like computer-related crimes elsewhere, most of those in government involve the doctoring of data fed into the computer and the manipulation of programs so as to have funds deposited in dummy corporate accounts and checks sent to unauthorized people. Lindsay Baird gave me one such example. "The incident happened a few years ago in a town in southern California," Baird said. "A woman had gone to a bank there to cash an Internal Revenue Service tax-refund check made out to her. She had all the proper personal identification with her, but a bank employee happened to recall from other checks the woman had cashed there that she was on public assistance, and felt puzzled by the federal-tax refund. She told her superior at the bank, the I.R.S. was notified, and the I.R.S. looked into the matter. They found that they had no record of having sent such a check to the woman. An investigation—in which I had a part, followed. It

turned out that the woman had a niece working in California for the I.R.S. as a data-terminal operator. One day, the niece asked her aunt if she would like to have some government money. The woman said she would. So her relative at the I.R.S. got the woman's Social Security number from her, and with that she created in the I.R.S. computer system a fictitious tax record for her. The niece knew the sequence of the I.R.S. computing process. The I.R.S. uses ten regional computers around the country, and maintains a master computer in West Virginia.

Hung on the ten regional computers are terminals. Through one of these terminals, the operator instructed the regional computer that the woman was owed a tax refund for a certain amount. She knew just what she was doing. The instruction was registered in the regional computer and passed on from that computer into the master computer in West Virginia. The master computer wrote the woman a refund check at the appropriate time in the programmed check-writing cycle. Then, after the check-writing cycle had been completed, the operator deleted the record from the regional computer, which then updated the master computer on the change, whereupon the master computer deleted the fictitious record that had been compiled, and also deleted the record of its ever having written the woman a refund check. In this case, the guilty operator was identified in the investigation. But the question remained as to whether this was the only such case of altering I.R.S. records and affecting its check-writing functions. The I.R.S. people had no practical way of finding out how many operators might have been doing the same sort of thing. The cost of auditing and investigating so many people—so many relatives and friends of terminal operators—was so monumental that the I.R.S. people just give up. They wanted to find a way of patching up the system to prevent similar incidents, of course, but I told them that it couldn't be done—that, among other things, the system had not been designed with auditability in mind."

The difficulties of catching up with the people who have committed computer crimes is compounded by the reluctance of corporations to talk about the fact that they have been defrauded and by the difficulties and embarrassments of prosecution and trial. In instance after instance, corporations whose assets have been plundered—whose computer operations have been left shattered by wiped-out memory functions or have been manipulated to churn out fictitious accounting data or to print large checks to the holders of dummy accounts—have preferred to suffer in silence rather than to have the horrid facts about the frailty of their miracle processing systems come to public attention.

Top management people in large corporations fear that publicity about internal fraud could well affect their companies' trading position on the stock market, hold the corporations up to public ridicule, and cause all sorts of turmoil within their staffs. In many cases, it seems, management will go to great lengths to keep the fact of an internal computer crime from its own stockholders.

People who commit computer crimes tend to be aware of management's extreme sensitivity to publicity on the subject, and when their defalcations happen to be discovered they sometimes take advantage of that sensitivity to bargain their way out of serious trouble. One example of the unabashed use of management fear of publicity has been cited in a book on computer crime by Gerald McKnight, a British writer. According to McKnight, a young manager of the sales department of a company in the English Midlands voted with other directors of his company to computerize its accounting operations. He thereafter began systematically looting the company treasury through its computer by establishing dummy companies, to whose accounts he instructed the computer to write a steady stream of checks. His crime was eventually uncovered partly through the resentment of a computer keypunch clerk, whom he had burdened with unpaid overtime work that happened to consist of entering his fraudulent instructions into the company's accounting system. Upon being confronted with the fraud, the criminal calmly admitted his misdeeds, but his fellow-directors pointed out to the chairman of the board that any prosecution would result in publicity that could have serious effects on the company's reputation for efficient control of its affairs. The former sales manager went on to demand coolly that the company give him a letter of recommendation so that he could find satisfactory work elsewhere. Rather than face unpleasant publicity, his employers caved in and gave him the recommendation, whereupon the computer criminal moved to another company as its executive director and, for three and a half years thereafter, steadily manipulated its computer to pay money out into dummy accounts, at the rate of about a hundred thousand dollars a year. After a long internal investigation into inconsistencies that were eventually discovered in the company's accounts, the crime was brought to light. And once again the criminal admitted his guilt, and managed to walk away with a letter of recommendation to his next prospective employer. But the malefactor's boldness tripped him up. Before leaving the second company, he had the effrontery to demand that the second company pay him a lump sum of about six thousand dollars to cover "loss of office"—a separation payment to which, under British law, executives are entitled under certain circumstances. At that the indignation of the directors of the second company simply could not be contained; not only did they refuse to pay but they took legal action against him, though not on criminal charges. They started a civil suit against him, charging breach of contract. The suit is reported to be pending.

The reluctance of corporations to subject themselves to unfavorable publicity over computer crimes is so great that some corporations actually seem willing to take the risk of getting into trouble with the law themselves by concealing crimes or attempted crimes committed against them. Among independent computer-security consultants, it is widely suspected that certain banks, which seem exceptionally reluctant to admit that such a thing as computer fraud even exists in the banking fraternity, do not always report such crimes to the Comptroller of the Currency, in Washington, when they occur, as all banks are required to do by federal law. Bank officers do not discuss the details of computer crimes with the press. Neither do officials at the office of the Comptroller of the Currency, who claim that existing statutes forbid them to do so. Thus the banks seem effectively protected from detailed public examination of the degree to which they really do comply with the law. "The bank doesn't want to look as if its security were bad," one independent computer-security man said to me in explaining the reluctance of some banks to comply with that law. Donn Parker, who believes he has almost certain knowledge of at least one major bank computer crime that was never reported to the federal government, told me that a principal reason for this kind of behavior is the fear on the part of banks that such a record will bring about an increase in their insurance rates; and he explained that the terms of their contracts for insurance against robbery or other crimes are among the most confidential and jealously guarded information in the banks' possession.

Then, there are the difficulties of effectively prosecuting computer criminals. In the first place, the police, if they are to collect evidence, have to be able to understand precisely how a crime may have been committed, and that usually calls for the kind of technical knowledge that is simply not available to most police departments. Even on a federal rather than a local law-enforcement level, few members of prosecutorial staffs know enough about the intricacies of electronic data processing to prepare a case against defendants which will stand up in court. The Federal Bureau of Investigation has developed a course in computer criminology at its agent-training center, at Quantico, Virginia, but, according to commercial computer-security people I have talked with, the training so far offered is not of a very advanced type in relation to all the ramifications of the existing criminal problems. Another difficulty is that not only police and prosecutors but juries and judges must be able to find their way through the mass of technical detail before they can render verdicts and hand down decisions in cases of computer crime, and this alone is a demanding task. In the face of all the complexities involved and all the time necessary to prepare a case that will stand up in court, many prosecutors try to make the best accommodation they can with the defendants' lawyers by plea bargaining, or else they simply allow the cases to fade away unprosecuted. If they do bring a case to trial, they have the problem of presenting evidence that is acceptable to the court.

August Bequai, who is a former member of the enforcement staff of the S.E.C., and who, besides being a practicing lawyer in Washington, was once the chairman of a Federal Bar Association subcommittee on white-collar crime, says that the big stumbling block for prosecutors in computer-crime cases is the introduction of digitized information as acceptable evidence. "Suppose you bring a case involving a crime committted through manipulation of a computer, and you try to introduce a computer printout as evidence of the crime," Bequai explains. "You immediately run into what is called the hearsay rule, which says that at a trial you can't introduce into the court record a statement made outside the courtroom unless it represents a record of an act, transaction, occurrence, or event made contemporaneously with the act at issue, and in the ordinary course of business. Such an acceptable record would be the notation made by a nurse in a doctor's office as to what time a patient came in to see the doctor on a particular day. But when it comes to introducing computer printouts as a record to support a prosecution case, the prosecution has to reckon with the fact that they haven't necessarily been made in the regular course of business or made contemporaneously with the acts at issue—they may have been run off some time after the actual crime. In matters of fraud, you have to prove who falsified what records and when, and produce evidence to that effect, but it's extremely difficult to produce evidence of precisely what happened throughout the whole computing process, with all its stages—the input at entry terminals, the programming of the data, the storage and all the processing that take place in the computer room itself, the production by the computer of punch-card decks representing the processed data, and, of course, the eventual printouts, which might be made in remote spots thousands of miles away. And then you have to contend with how material these electronic signals are considered to be under the law. Suppose someone steals—physically makes off with—paper securities. That's a clear case of theft, or something whose face value is clearly printed on the stolen securities. But what if a thief steals a reel of computer tape bearing the same information as the paper securities but in digitized form? Under many state laws, the prosecution may have a hard time proving in court that the thief has stolen money.

What he has made off with may be downgraded to a reel of magnetic tape so what is actually grand larceny becomes a case of petit larceny."

The status of electronic data impulses as property is as yet so undefined and unclear in many criminal statutes that the findings of a California judge in the case of the man I have called Eli Bart—which involved the theft of a valuable program from the computer of another company—is likely to be a precedent in computer-crime jurisprudence. Bart used his employer's computer keyboard terminal and printout system to extract, via telephone line, the program in question from a competing company's computer. The judge found that, under a California law protecting trade secrets, electronic data impulses that Bart had caused to be transmitted from the competitor's computer did not constitute an "article," or a tangible form, representing a trade secret. What the court did find was that the material in question was essentially "a private library," to which Bart had obtained access without a proper library card, consisting of the secret passwords and so on that were necessary for authorized users. The act of theft, the court found, was not in Bart's stealing electronic impulses over the telephone line but only in his stealing their tangible form; in other words, the theft consisted of Bart's having caused his employer's computer to make a printout of the pirated program and his physically carrying the printout from his employer's computer into his nearby office.

Even when people who carry out computer-related crimes are convicted, they are seldom sent to prison, and even when they are, they usually receive sentences that are remarkably light compared with those imposed on people convicted of commoner forms of larceny. In part, this leniency can be explained by the generally nonviolent nature of the offenses, their sheer novelty to most judges, and, possibly, the impersonal nature of the victims chosen by the defendants. Furthermore, nearly all the defendants are members of the white-collar class, and so are generally deemed to be good risks for rehabilitation; compared with people accused of street larceny, say, most of the convicted people fare well in the presentencing reports prepared by probation departments, whose researchers tend to work within a structure of solid bourgeois values. For a computer embezzlement of a million and a half dollars from the Union Dime Savings Bank in New York, the man I have called Stephen Hattner, the chief teller in the Park Avenue branch of the bank, received a sentence of twenty months in jail. (This sentence led one computer-security man to remark, "If a man takes money from a bank teller and doesn't even use a gun but only shoves a note at the teller, he'll get five years. [Hattner's] haul of a million and a half dollars is the equivalent of his having committed a bank-branch robbery once a day for three years at the rate of the typical branch holdup take, which is about two thousand dollars.")

For his use of the Pacific Telephone & Telegraph Company's computer to steal a million dollars' worth of equipment, a young computer buff named Jerry Schneider was sentenced to sixty days in jail, and was freed after serving a bit more than a month. In the case of Eli Bart, the presentencing report noted, "Computer-program theft is the crime of the future. As such, it has not been referred to this [probation] office at the felony level in prior instances. Thus, there is no ready frame of reference for determining a proper sentence." Bart got three years' probation and a five-thousand-dollar fine. One ringleader of a gang that police charged had, in 1971, recruited insiders at two credit-reporting bureaus—TRW Credit Data and the Computer Credit Corporation—to establish false identities and credit records in the computers of these companies was, after pleading guilty to charges of making false financial statements, placed on probation and fined a thousand dollars. The ringleader of another gang that penetrated TRW Credit Data, between 1973 and 1974, and inserted false credit data in its computers was also placed on probation and fined a thousand dollars on similar charges. A computer-terminal operator inside another credit-reporting bureau, called Equifax, Inc., who was alleged to have participated in a scheme to feed fake credit data into company computers was not even taken to court. According to an article in the *Wall Street Journal* last March, "Equifax actually declined to prosecute its suspected insider," because "prosecution was so difficult," and because the company had fired the terminal operator suspected of having participated in the scheme and considered her dismissal penalty enough.

For the purpose of closing some of the loopholes in existing law that make it so difficult for prosecutors to bring computer criminals to account on the courts, Senator Abraham Ribicoff, of Connecticut, introduced a bill in the Senate in June that would make virtually any unauthorized use of federal computers or computer-processng systems, or similar private equipment or systems used in interstate commerce, a federal offense. The bill is designed to cover improper manipulations within a broad range of activities occurring in computer processing; input activity, involving the translation of data into computerized form and its storage on punch cards, magnetic tapes, or other devices; programming activity, which provides a logical sequence of instructions that direct the computer in solving problems; processing activity, in which data are handled according to the directions of a program; and output activity, where the end results of the data processing are made available to the computer user in printout or other form. The Ribicoff bill is also aimed at improper manipulations of computers or their data from remote locations, via telephone line, such as occurred in the Bart case.

There are certain exceptions to the history of lenient treatment of computer criminals who have been convicted. One such example is the case of a man I shall refer to as James Harlowe. Several years ago, in a northern-California court, Harlowe was convicted of embezzling more than a million dollars from his employer, a large produce-growing and packing company, by manipulating the computer that processed the company's accounts. Harlowe had carried out the embezzlement during a period of six years from a position of trust as the company's chief accountant. In essence, what Harlowe did was to use the computer to play a kind of digitized war game, in which he designed a master program that, when it was integrated into the company's computerized accounting system, would systematically siphon off large sums into dummy accounts and thus into his own pockets—all this in such a way that his crime would be virtually untraceable. And the scheme worked, year after year, without his employers being any the wiser. It worked so well, in fact, that in the end, when Harlowe decided, for his own reasons, to have it known that an embezzlement had been going on, he encountered difficulty in drawing attention to the fact that his company's computerized books had been thoroughly cooked for a long period. When he was finally apprehended and found guilty of grand theft, he could easily have escaped with a light sentence, but before his sentencing he tactlessly displayed such a lack of remorse that the court was angered and he was given a ten-year term in prison. Of that term, he served five and a half years, in San Quentin. He is now in business for himself in northern California.

Some time ago, while I was in California, I met Harlowe and had a long talk with him about his adventures as a computer criminal. I was not able to discuss his case with his former employers, because I had already learned on good authority that they, like the officers of most other corporations that have been victims of computer crime, had no intention of talking with the press. And, of course, what I got from Harlowe is his side of the events in which he became enmeshed.

My initial meeting with Harlowe was over a leisurely lunch in a restaurant. He is a rather short, sandy-haired man in his mid-forties, with brown eyes and horn-rimmed glasses. His manner was brisk and attentive. In arranging the interview, I had assured him that I would not use his real name in writing about his case, and he answered my questions—even those I felt a bit awkward about phrasing, such as "Just when did you begin your embezzlement?"—with a cheerful responsiveness.

Harlowe comes from a ranch-owning family whose roots were established in northern California over several generations; he appears sufficiently proud of the social solidity of his family background to bear himself with a faintly patrician air. In college, in California, he majored in economics and statistical theory. After he graduated from college, in the early nineteen-fifties, he worked for a while as a civil engineer. He spent the summer of 1961 on a leave of absence in an area south of San Francisco, where a friend told him that a large produce company nearby was having administrative and accounting problems, because a couple of employees on whom the company depended had left. On the friend's recommendation, Harlowe went to see the president of the produce company, and he was hired as an administrator and accountant. Harlowe ran the company's packing-shed operations, in which a hundred and fifty people were employed, and took on the responsibility of supervising all the accounting for the company's operations. He told me that the work was demanding but that he was well paid, and that at the end of his first seven-month growing cycle the president of the company gave him a ten-thousand-dollar bonus in appreciation of the order he had brought into the company's operations. However, Harlowe said, he found his employers difficult to deal with; he felt they were "coarse," "insensitive," and "bullying" in their relations with their employees. "They simply lacked gentility," he told me. He decided to leave, in spite of the pay, and with his bonus he bought an interest in a small chemical company. But the following year, he said, the people running the produce company asked him to come back to work, this time on a profit-sharing basis. "The company was grossing about thirty million dollars a year, and I was told that if I would come back they'd give me five per cent of the pretax profit, plus a salary of twenty-five thousand dollars, plus expenses, plus a car and food for my family," Harlowe said. (He is married and has a large family.) He went on, "This was in 1962, and I felt I couldn't refuse the offer. So I went to work for them on that basis—as their chief administrator and accountant."

One innovation that Harlowe induced his employers to adopt was a fully computerized accounting system. For a couple of years before this, Harlowe told me, he had been studying computer technology and had been taking I.B.M. training courses in the subject; he had also developed his own library on electronic data processing. "After a while, I'd rented an I.B.M. 402 accounting machine and some ancillary equipment, such as card-punch equipment," he said, "I kept all this stuff in my garage—the way, I guess, someone else might put in an electric-train layout. I was really involved in computing and data processing." After Harlowe had been back at work with the company for a short time, he began to develop a way of automat-

ing the company's accounting system, using the equipment in his garage. "I wrote all the procedures and wired up the panels in the equipment," he said. "When I had the system well worked out, I set up an independent computer-service bureau, moved the data-processing equipment out of the garage, and set up in business—but not in my own name. I hired a few people and managed to get some data-processing work from various clients. This was quite aside from my regular job. In a while, I went to the management of the company and, without telling them what I had done, I persuaded them to automate their accounting system and to have the work done by a computer-service bureau. I recommended that they use the bureau I had set up." At that stage, he said, he had no thought of engaging in anything really wrong; his only reason for concealing his ownership of the service bureau was that he knew, as an accountant, that the auditors would expect the data processing of the company's accounts to be handled by a third and entirely independent party, but he really wanted to get the company's business, which was substantial. He got it, and his sideline computer-service business thrived. "I rented time on an I.B.M. 1401 computer, then got my own I.B.M. 360 on lease at three thousand dollars a month," Harlowe said. He also carried on his official accounting and administrative duties with the produce company.

At the end of the 1962 growing season, Harlowe said, he was in for a shock. The management appeared to be as pleased as ever with his services, but he found that instead of getting the expected five percent of the company's pretax profit as a bonus he got a greatly reduced figure. Before his five-percent share was computed, the rest of the top management people took their shares from the pretax profit, and his share was figured on what remained of the pretax profit after the bonuses of the top management people had been subtracted. "I felt cheated," Harlowe told me. "I was angry. I hadn't had any liking for the people who were running the company in the first place. And I said to myself, 'There's one guy in this organization you shouldn't fool around with.' I was handling the money."

Harlowe decided that he would find his own way of getting back the percentage of the company's profit he believed himself to have been cheated out of. So in processing the company's accounts he ran them through the computer again, subjecting the data to alterations that gave the accounts the appearance of being conscientiously compiled and properly balanced, but, at the same time, diverting funds to himself. The diverted funds were accounted for in the computerized books mostly in the form of various increased costs. Harlowe then began to loot the corporation's gross at what he considered the acceptable rate of three-quarters of one per cent annually. He did this by devising a special algorithm—a set of rules for making calculations—which he used as a master program to alter the company's accounting data in the computer. "The algorithm allowed me to assess true cost variances in the accounts and to inflate these in a way that seemed reasonable," he said. "When you're doing millions of dollars' worth of business it isn't all that difficult to make alterations in increments of pennies or fractions of cents. I would subject the company records to these variances in the computer in such a way as to diffuse the higher costs throughout the system."

Harlowe kept the true computer records of the company's financial position; the company got the altered version in printout form. "What made the elevated cost figures relatively easy to justify was the nature of the produce business, which is subject to many fluctuations," he said. "For example, you have continuous fluctuations in such matters as freight and labor costs. And you have weather. If we had a period of rainy weather, I would build in a little extra to the naturally increased harvesting costs resulting from this, and could always easily justify these increases. After all, who can tell exactly how muddy a muddy condition is? I'd pick other natural phenomena to which, at what seemed the right time, I could attribute some other elevated cost factor. As the chief accountant, I made a weekly report to the managers of the company on the state of their accounts, and I'd take with me a printout of the altered records. I might tell them at one meeting that the cost of carrots was running at, say, twenty-eight dollars a ton. I might have escalated the cost, through the computer processing, by a factor of seventy-five cents a ton, but the algorithm controlling the accounting data had so spread the added cost through the system that it was integrated into a huge variety of very detailed information—so much for row-boss supervision, so much for harvest labor, so much for truckings, so much for tractor overhead, so much for fertilizer and pesticides.

The increased cost shown penetrated into almost every area of the company's operations. Once a week, I reviewed the extra costs that I felt I could safely build into the system. I took the company's true costs, decided on the variances, and, using the algorithm I'd devised, had the computer spread the costs in such a way as to support the total cost figure I had decided on. I had no elaborate figuring to do. It was all in the design. The whole arrangement was built into the computer system. It would be hard for anyone to believe that the cost figures shown in the finished printout could be wrong when they were supported by such a mass of information, in which all the details seemed to relate perfectly to one another. But, believe it or not, I didn't have to do much more than press a few buttons to achieve the effect. The algorithm was the key to the whole thing.

"In the kind of work I do, I happen to visualize cost-accounting problems in geometrical or spatial metaphors. I tend to see figures in the shape of charts and graphs; I tend to see a cost progression as a curve with a certain shape and in a certain motion across a scale. When you see things that way, you don't need to burden yourself with a million details. Once I had visualized how I wanted the cost curve to go in relation to the real costs of the operation, I made the cost adjustments I thought appropriate—two cents a box of produce now, a cent later on—and the computer went through all the details and expanded all the cost minutiae to fit the new cost configuration. I really had what you might call an econometric model of the company's operations, including the whole banking array. As a matter of fact, some of the ideas for the model were based on principles I'd learned while I was a student in college. My professor in statistics then was Kenneth Arrow, who is now at Harvard. He won the Nobel Prize a few years ago. I don't suppose it ever occurred to him that he might be training an embezzler. Well, the computer would tell me how much to spend in each cost category. To receive the difference between the real and the inflated costs, I had opened dummy bank accounts in the names of fictitious corporations that were presumably doing business with the produce company, operating from box numbers—a procedure that is very common in the produce business. All told, there were about fourteen dummy bank accounts having supposed dealings with the produce company.

The difference between the inflated and the real costs would be funneled into these dummy accounts. Suppose I decided at the end of a particular month to create eight thousand dollars of inflated costs. The computer would break this down into cost categories, such as labor costs. I'd have a dummy company that would be a labor contractor, which I'd give a likely sounding name to. I would have a produce-company check of three thousand and sixty-two dollars made out to this company. The same thing with inflated package costs—I had a dummy company that was supposedly a supplier of packaging materials. The computer would move the surplus funds into these dummy accounts by check.

"Not all these dummy companies would receive money all the time, because I wanted to use some of them only at certain times. However, in order to keep up the appearance of activity in these dummy corporations I would have the computer write what was really a series of kited checks between these accounts and between these accounts and the company. It was a sort of perpetual-motion system—a movement of paper for appearance's sake—and to maintain it I would keep about twenty thousand dollars of supposed working capital shifting between the dummy accounts, so that there was always something in the pipeline. The algorithm took care of where to send the money, just as it did in the case of all the money I regularly siphoned off from the company treasury into the dummy accounts. The computer even wrote out the checks to the dummy companies. I had to drop the checks off in the mail, along with the bank-deposit slips."

Harlowe said that he gradually stepped up the embezzlement until it was providing him—on top of his regular salary of twenty-five thousand dollars and his annual bonus of about fifteen thousand dollars—with two hundred thousand dollars a year. During the six-year period of his embezzling, his average annual take was a little over a hundred and sixty-six thousand dollars. He said that although his employers often complained about high operating costs, his accounting appeared to be entirely above suspicion. He told me that sometimes, after inflating the costs of particular types of produce, he would take his fraudulent weekly computer printouts to the management and do some complaining himself. "I'd go into these meetings with my reports and say, 'Look at these costs—you've got to bring down these unit costs in these areas.'" He went on, "And after calling attention to the very conditions I was changing I'd give them a convincing explanation of why the costs were high. Then we'd develop a management plan for correcting these high costs, and the next week I'd let the conditions be corrected. But the week after that the cost of something *else* would go up on the books."

"Innumerable as the sands of the sea are the passions of man," wrote Nikolai Gogol, musing on the life of Pavel Ivanovitch Tchitchikov, the restless hero of his sardonic masterpiece "Dead Souls," "and all are different, and all, base and noble alike, are first under man's control, and afterward cruel tyrants dominating him." Tchitchikov travels about Russia, quietly buying up lists of the names of serfs who have died but whom Tchitchikov intends to represent as living, as part of a devious scheme to obtain a substantial government loan, with these supposedly live laboring souls as collateral. The phantom labor-contracting companies and their electronic dead souls who were registered within the recesses of Harlowe's I.B.M. 360 exerted at times a direct influence on the fortunes of the live souls who actually toiled in the produce company's fields as pickers. Most of the thousand-odd laborers in the company fields were Mexican nationals brought to this country under contract as migratory workers through the so-called bracero program. Although such people might not have known much about computers, they knew a great deal about the rigors of field work, and there were times when they had to work harder than ever to satisfy the kind of Stakhanovite

norms established in Harlow's computerized accounts. As Harlowe described it, the effects of the manipulated contents of his computer on the lives of field hands began to be felt not long after the company switched to computerized accounting, and at first the changes were made on behalf of the company itself. Harlowe recalled, "The braceros had all been on piecework in the fields, and then the U.S. Department of Labor came along and laid down regulations that required each bracero to be paid at a minimum guaranteed hourly rate regardless of his piecework earnings. Naturally, this wasn't to the liking of the produce company, because it meant that the basis of pay was cut loose from the established piecework-production criteria. The braceros didn't understand anything about this guaranteed-wage stuff. One of the functions of the row bosses was to pound away at the idea that they were still on piece rates. The company came to me with the problem. I proposed a remedy. They told me to go ahead. So what I did was to write a computer program that would simulate payroll records. I used this simulation to devise a way in which we could optimize the relationship between hours worked and production achieved, and so make it appear that the braceros were working fewer hours than they actually were, and were thus making more than the minimum hourly wage called for by the Department of Labor regulations.

I worked out such a scheme on the computer. In this scheme, I staggered—in the computer records, anyway—the supposed departure times of the buses that carried workers into the fields and grouped the men in different buses, so that individual workers whom the computer had identified from payroll records as being the best producers would always make up a crew that accounted for the greatest number of hours of work, and that crew's bus, as I caused the records to show, would be sent off into the fields first. Then I'd put the lesser producers into buses with later departure times, thereby reducing the number of hours they worked, and when all the time sheets and production records were computerized and compiled into printouts of payroll records the resulting figures optimized the braceros' piecework earnings per hour and put them over the required federal minimum. In the first season, that program saved the company seventy-eight thousand dollars." Put another way, it evidently cost the braceros seventy-eight thousand dollars. "The braceros weren't aware of the details, of course," Harlowe said. "They weren't so unhappy. Anyway, they were used to what they call a mordida—the bite. It was part of their life."

When Harlowe turned against his employers and organized his embezzlement, the concentration of his energies on this project left him little time to attempt to solve the problems of migratory labor. But as the embezzlement moved along its course, Harlowe was able to use some of his insight into field-working conditions to further his scheme. In explaining how he would rationalize higher costs shown in the books, Harlowe told me, "I'd go into one of these management meetings with my accounts that reflected inflated figures on harvesting costs. If the real harvesting costs for carrots happened to be twenty-five dollars a ton, my figures would show them to be thirty dollars a ton. The row-boss cost figures should come to five dollars and sixty cents a ton, but they would show as five dollars and seventy-five cents a ton. When I presented those figures, management would ask, 'How come the costs are so high here?' And I'd tell them that the figures showed they must be paying the field crews for bags of carrots that weren't full. That's the sort of thing you watch out for on piecework, you see. If you figure that your one-unit piece pay is equivalent to a bag of carrots weighing fifty pounds, and you accept bags that have only forty-nine pounds of carrots in them, you're getting only ninety-eight per cent of the product contracted for. And I'd say to management, 'You've got to have these guys fill their bags of carrots.' And management would go out and try to make corrections. They would harass the row bosses, who would harass their crews. The row bosses would tell management, 'We're doing our best.' But they accepted management's explanation. Management would tell them, 'We've got it down here in black and white.' And management itself believed it. The computer figured it out, and who could argue with the facts?"

As Harlowe prospered, he made investments in the cattle business, maintained several cars, and flew his own light airplane, in which he travelled throughout the northern-California valley regions in the course of doing outside, legitimate data-processing business with ranchers and farmers for his computer-service company. He also had two homes, for one of which, on the northern-California coast, he paid ninety thousand dollars. He felt he was making the best of the circumstances he found himself in. He told me, "There was the satisfaction of having the last word where the produce company was concerned. There was a personality conflict between the principals and me, and I'm an egotist and don't like to be treated in a manner in which I'm expected to have a subservient attitude. Then, there was the excitement—it all seemed like a daring thing to do." At the same time, he said, what was happening to him had an unreal character. "Sometimes I had to stop and think that I was really doing all this." But there was also a sense of power. "It was as though I were the one in control of the situation. There was a sort of solitary grandeur."

I asked Harlowe whether he had ever dreamed at night about his embezzlement. He said he hadn't. I asked him if he daydreamed about the future. He said he had done a lot of that. He would imagine himself living a life of financial independence. "I wanted to be respected in my field," he told me. "I could see myself on the California coast in a new house I had built in my mind. It would have a nice library, and I would be getting visits from prominent people—the Under Secretary of Labor, for example—and we would spend half the night arguing about agricultural policy; or a professor of mathematics I happened to respect, and we would sit in the library and discuss econometric models at length." Also, Harlowe thought about how he would greatly expand his legitimate computer-service business, and he saw himself as gaining recognition for computer-programming innovations he felt he could devise.

Harlowe's daydreaming did not prevent him from keeping his eyes open to what was going on around him. At the office where he maintained his commercial data-processing service, he spotted at one point a series of data-processing anomalies not of his own making. "I discovered that one of my employees was stealing from *me*," Harlowe said: "He had been padding expense accounts on our computer, and stealing computer time so he could program and run off some accounts of his own. But I had a pretty good costing system established, and I had written an internal program that reported unit time for programs resident in that computer, and I called the guy in and told him exactly what he was doing. He turned white. That guy thought I was clairvoyant. I couldn't find it in my heart to reprimand him. After all, I was doing the same thing on a much grander scale. Also, I would rather have his gratitude than his resentment. So I worked out what I called a rational solution with him—a bonus arrangement he could draw against, so he'd have a little more ready money coming in. He was astounded by my benevolence."

Harlowe had to keep constantly on the alert to insure that his frauds were so well integrated into the produce company's computer records as to pass muster with the firm of independent auditors whose representatives came to the company offices once a year, in March or April. Usually, Harlowe said, an auditors' inspection took several days to complete. He said that the auditors were unaware that he owned the computer-service company processing the books. The general ledger was in printout form, and Harlowe made a point of being present during the audit. "When the auditors wanted some supporting detail, I would bring it," he told me. He went on, "Being present, I knew at just what stage of the audit they would leave for the night. There were certain parts of the books that I felt I would rather not have a complete audit on. So a couple of times in the course of an audit, when the auditors had gone home for the night, I would go to the data center and run off on the computer new printouts of the whole year of records under review. In the process, I would shift some accounting details—the ones I'd rather not have inspected—from the as yet unaudited part of the accounts and have the computer bury them in printouts that had already been audited. Since the auditors were working from broad totals in their separate work sheets, I kept the new totals in conformity with their figures but changed the supporting details and some subtotals. Then I went back to the company office and just switched the new printouts of the year's accounts with the ones that the auditors were working on. Each time, the auditors would come in the next morning and work on an entirely new set of books without knowing it. At the end of one audit, I went out to dinner with the auditors. They complimented me on the completeness and detail and general quality of the records I was keeping. What they particularly liked was the way in which I had integrated management information into the general records. They thought that it was a comprehensive system, and they even discussed with me the possibility of using my computer applications for another of their clients, who was also in the produce business. After that dinner, I went out to my car in the restaurant parking lot and laughed until tears came down my cheeks."

As the years of successful embezzlement went on, and the total amount of money that Harlowe had diverted from the produce company's treasury approached a million dollars, he began to think of pulling up stakes and moving on. "I had a very tough job at best, organizing the accounts of a company that was run by people I didn't like," Harlowe told me. "And when you're manipulating double accounts a job like that is even more difficult. In 1967, I decided that the time had come to stop this defalcation and to go into the next phase of my life, whatever that might be."

But withdrawing from the produce company, he knew, posed some tough problems. "The principal problem was that in order to leave the job I would have to do a lot of readjusting of the computer," Harlowe said. "I would have to find a way of winding down the inflated cost figures. And I couldn't do this overnight without attracting attention. I couldn't allow the costs to drop suddenly—particularly in a period of inflation. It would take me a couple of years." Also, he said, because of some preliminary inquiries by the Internal Revenue Service, he suspected that several companies—of which the company he worked for was one—were prime candidates for investigation by I.R.S. auditors because of some of their business practices, and this prospect made him very reluctant to leave, since he would then no longer be able to manipulate the company books to keep himself out of trouble. It seemed now that the electronic dead souls

that Harlowe had created had not only assumed a stubborn life of their own but were exerting an increasingly dominating force on their creator's own capacity for action.

The idea came to Harlowe that he might find a way out of his dilemma by having at least some of the defalcations revealed, but without his being blamed for them. He believed he would not be unjustified in making it appear that a couple of the principles of the produce company were themselves siphoning off money from the treasury, in order to escape taxation. "I had a unique position, in that the principals of the company were very impatient about paperwork," he explained. "They had me balance their checkbooks, pay their bills, and keep their personal bank accounts. That made it easy for me to salt their accounts, and that's what I did. I began putting checks from company accounts into their personal accounts, and from there into oblivion via dummy companies. Since I always got their bank statements, I would destroy these checks when they came back. But the transactions were recorded. I didn't do a lot of this. Just enough to suggest some possible culpability—that there was more there than met the eye."

Then Harlowe pondered how the true state of the company's finances might be discovered without his being blamed. He considered going to the chief officer and saying that he was doing so as an act of conscience. "My role would be that of the dutiful employee." But he decided against that. "Instead," he told me, "I decided to overdraw the bank account of one of my dummy companies, and deliberately call the bank's attention to the dummy company the produce company was dealing with."

He had his computer turn out a check from the dummy company for an amount that the company's bank account would not cover, so as to alert the bank to the phantom nature of the company. But, to Harlowe's intense annoyance, the dummy company's bank paid no attention to the bad check. So Harlowe had the computer write another bad check, and then another. Only after about a month, when he had overdrawn the dummy account with checks amounting to seventy-eight thousand dollars, did one of the bank's officers become suspicious. The bank manager called Harlowe, who expressed puzzlement. The bank manager arranged for a meeting with a vice-president of the produce company—one of the people whose personal checkbooks Harlowe happened to be manipulating. Harlowe told me he later learned that the meeting ended in a state of confusion, while he remained the only person who understood what was really going on. At that point, Harlowe told me, he calculated that the people running the produce company—for their own reasons, connected with company finances—would be eager to avoid any intensive examination of its financial affairs. And if by any chance they did press for a thorough investigation, there would be enough evidence around to divert attention from Harlowe's own culpability. But then, as the atmosphere at his company grew tense and suspicious, Harlowe developed apprehension as to how well he had really covered his tracks. He went to a lawyer in the area who was noted for his skill in complicated cases, told him the whole story, and paid him a fee of fifty thousand dollars (a small portion of the funds that Harlowe had embezzled, after all) after being assured, he said, that he had a defensible case. Harlowe told me that, taking his discussions with the lawyer into account, he did indeed consider that if the produce company had him arrested when some of the facts came out he would have a pretty good case in court. "The principals of the company were not entirely blameless," he said. "So far as I'm concerned they really were trying to take money out of the business, overstating expenses to avoid taxes. I'd be testifying as a naive bookkeeper. The accounting was so terribly complex that no layman juror could understand all these computer-programming technicalities.

"I felt I could come out pretty well." But then, after the company management did sign a criminal complaint against Harlowe, and he was arrested and put on trial for grand theft, he had second thoughts about going through with this elaborate plan to shift the blame for his defalcations, and his lawyer persuaded him to plead nolo contendere. "The lawyer had it arranged, he believed, so that with the nolo plea I would get eighteen months," Harlowe said. "I thought that that wasn't so bad." Before being sentenced, he was called in for a probation-department interview. Harlowe, confident that all was settled, not only refused to tell what had become of the million dollars he had embezzled but, he admitted to me, "was pretty curt with the probation officer." In large part because of his generally uncooperative attitude, the probation officer's presentencing report was highly unfavorable, and, in court, the judge grimly gave him not the expected eighteen months in jail but ten years in San Quentin—apparently a record sentence to date in any case of computer crime. While he was in jail, Harlowe worked his way up to become a clerk to the warden ("I was really treated more as a staff member than as an inmate"), and also taught a course in basic computer-programming techniques to fellow-prisoners.

Harlowe was released on parole in 1974. When I talked with him, he said he was on the verge of settling accounts with the I.R.S., as part of the aftermath of his embezzlement. According to Harlowe, the I.R.S. people were somewhat confounded by his case. In spite of the fact that he had admitted embezzling more than a million dollars from the produce company, and in spite of the fact that embezzled funds are subject to taxes, he was allowed to settle with the I.R.S. people for only a few thousand dollars. Harlowe explained the situation to me by saying, "At some point in my financial maneuverings, the income from the embezzlement had become income in a corporation in which I was the principal shareholder. Through various pipelines, I contributed cash from the embezzlement amounting to close to a million dollars to the corporation, and I listed this income to the corporation as though it represented sales. So in fact it was as though I had made a proper accounting of the funds for tax purposes. The I.R.S. man I dealt with found that most peculiar. He'd never come across a case before where embezzled funds had been declared—if under somewhat different colors—as income." Even so, the corporate tax paid on this sum apparently amounted to very little indeed, because Harlowe had been able to demonstrate to the government's satisfaction that the company he had established had kept losing money.

How it supposedly lost it was something I couldn't get any clear idea of from Harlowe. I had the impression that the money just wafted away through a maze of intercorporate dealings and into—to use Hardlowe's word—oblivion. Whatever thoughts Harlowe might have about his embezzlement, he clearly didn't have much time for the sort of remorse that seems to be sought as an ideal by sentencing judges and by probation people. He merely observed at one point that "when you get close to a computer, get really involved with it, you tend to lose track of that humaneness—you become enthralled by the numbers, you generate them endlessly, and your whole life becomes so bound up with them that you lose a qualitative sense."

Lately, Harlowe, no longer on parole, has been acting as a data-processing consultant to a group of construction companies in northern California, for which he has written a series of programs embracing a whole range of accounting procedures, in areas from supplies to accounts payable and receivable. He told me that he also possessed a particular computer program that he had written in prison, and that he thought it had good commercial potential in the area of cost analysis. He said that he had become interested in prison reform, and added that, in part as a consequence of his prison experiences, he was occasionally in touch with some politically radical friends, some of whom had approached him for advice on taking action against computer systems as symbols of the Establishment. "These people consider themselves urban guerrillas, but they are intelligent enough to realize that violence will only bring repression," Harlowe said. "They feel that the best way to further their cause is to screw up major computer systems, such as the big credit-card outfits and the billing systems of major oil companies. They told me they were putting together a technical task force, and invited me to join it. For obvious reasons, I declined. I'm not in favor of sabotaging computers. Might be mine."

The accelerating incidence of computer-related crimes—particularly in the light of the continuing rapid growth of the computer industry and the present ubiquity of electronic data-processing systems—raises the question of what countermeasures can be taken within industry and government to prevent such crimes or, at least, to detect them with precision when they occur.

By far the biggest manufacturer and lessor of computers is, of course, the International Business Machines Corporation, and the I.B.M. people can hardly be expected to ignore the increasing attention that the press and the public are devoting to computer crimes. I.B.M. undertook, some years ago, a forty-million-dollar program to examine the whole problem of data security as it applies to the computers that I.B.M. produces and to the operating systems that it designs and sells or leases. In spite of this, however, and although it is a matter of general knowledge within the industry that I.B.M. has assigned teams of specialists to examine in detail breaches of security occurring in I.B.M. systems (the company is said to have compiled a catalogue of more than three hundred cases of computer crime), the I.B.M. people resolutely refuse to discuss any specifics of computer crimes that may have come to their attention. In fact, they can be brought to concede only with reluctance that the problem exists at all.

Some time ago, when I managed to interview John Rankine, the director of data-security programs for I.B.M., he characterized the incidence of purposeful subversion of computer systems as "minuscule." He politely declined to discuss either particular cases of computer crime of which the I.B.M. people were aware or general types of cases that the company might know about because computer crime, he told me, was not a subject that he followed in detail. Still, he did willingly discuss the overall issue of data security in computer systems, which, he said, was a fundamental one in the entire history of computer science and had to do primarily with the prevention of unintentional destruction or distortion of digitized information in the computer process. "The accountant does not want his system destroyed by the engineer, and the scientist who is working on a problem wants to protect his interim results in the computing process without having the next set of computations destroy them," Rankine said. He went on to say that his company's responsibility was to have data security as a basic design criterion, and that the issue of computer crime was actually only a very small part of the drive to achieve the integrity of computer systems as a whole. Rankine then discussed some of the procedures that his com-

pany had devised or had recommended to organizations using its computers and computer systems.

In addition to tight physical security for facilities, these included such internal checks within a system to insure data security as adequate identification procedures for people communicating with the computer by way of keyboard terminals; elaborate internal audit trails built into a system, in which every significant communication between a user and a computer would be recorded; and, where confidentiality was particularly important, cryptography, or the scrambling of information. He said that, for example, in the matter of data security, to forestall the use of a terminal by someone in such a way that another terminal in a system would appear to be the one used, I.B.M. is now offering computer terminals activated by lock-and-key devices that, when the keys are turned, emit a signal identifying the terminal site to the central computer. Other security devices in the development stage include a pen that will record, for identification purposes, not only the personal signature of a terminal user but also the dynamics involved in writing the signature out, such as the characteristic pattern of acceleration and deceleration used in forming individual strokes; and a device that will oblige the user of a terminal, before he can get a go-ahead from the computer to use it, to press his thumbprint on a special plate in a recess of the terminal for an instantaneous matching of its whorls and loops against an image stored within the computer. But, Rankine said, he didn't want to emphasize the importance of particular devices unduly, for "precautions on behalf of data security are made throughout the system." The fact is, he said, that "the data-security job will never be done—after all, there will never be a bank that absolutely can't be robbed." The main thing, he said, is to make the cost of breaching security so high that the effort involved will be discouragingly great.

In this respect, the I.B.M. people—as the result of a proposal made to computer manufacturers by the National Bureau of Standards that they develop a procedure for secure encryption of digital information—have taken the lead in constructing such a system. The procedures they have produced, after very elaborate work, has recently been adopted, under the name of the Data Encryption Standard, by the bureau as a required algorithm in the cryptographic handling of all federal unclassified information.

As the major manufacturer of computers and the major designer of programs to operate them, the I.B.M. organization, while obviously aware of the increasing problems of data security, is careful to place itself at a cool distance from the consequences of misuses of its equipment and systems.

In a statement on data security issued some time ago, it said, in part, "I.B.M. has developed and is continuing to develop equipment, software, and various techniques and procedures to safeguard computer information. It is the responsibility of the user to see that these data-security measures are applied as needed." Though computer-security specialists I have talked with tend to be sympathetic concerning the somewhat difficult position that I.B.M. finds itself in, particularly as the designer of computer-operating systems that may have been misused by unscrupulous employees of other corporations using the systems, they also tend to speak with a certain, though not necessarily disrespectful, skepticism of the value of some of the countermeasures against computer crime and misuse which the I.B.M. people say they have been developing under their data-security program.

Donald Adams, of the American Institute of Certified Public Accountants, who himself has a background as a computer programmer, told me that he has been unofficially "crusading" for a tightening up of what he considers to be in effect the loose design of commonly used I.B.M. and other computer systems. "The problem is that I.B.M. and other manufacturers try to make their systems so flexible that, in my view, they have made them virtually uncontrollable," Adams said. He added that it was his personal belief that in selling its systems to users I.B.M. tended to appeal to the needs of technicians rather than to what might sometimes be the best interests of top management. The flexibility of I.B.M. computer systems commonly used in business, he explained, was an attractive feature to the technicians of the user companies, especially in terms of program design, but was likely to make for systems that were relatively insecure. But top management people aren't usually aware of the lack of security that goes with flexible systems, he said, because "the management is dependent on what the technicians tell them about computer systems." And one independent computer-security consultant I talked with declared that, as far as he was concerned, most of what I.B.M. has accomplished so far in its forty-million-dollar data-security program has been essentially "to fix the little problems but not the big problems."

To somebody looking at the problem of computer crime as a whole, one conclusion that seems reasonable is that although some of the criminal manipulators of computer systems have certainly shown ingenuity, they have not employed highly sophisticated approaches to break into and misuse computer systems without detection. In a way, this fact in itself is something of a comment on the security of most existing computer systems: the brains are presumably available to commit those sophisticated computer crimes, but the reason that advanced techniques haven't been used much may well be that they haven't been necessary.

Some glimmering of the more advanced techniques of unauthorized entry into and manipulation of computer systems which may lie ahead is perhaps observable in various exercises that have been carried out within the defense establishment for demonstration purposes, their aim being to penetrate some of the most complex and supposedly secure computer systems used by agencies of the armed forces, by civilian agencies, and by government contractors. There is, for example, the experience of a team of computer scientists from the Air Force and the MITRE Corporation—a research-and-development organization that works largely under contract to the federal government, on such projects as the National Military Command System and the Worldwide Military Command and Control System—indeliberately penetrating and maniplulating the contents of what has purported to be a secure computer system. The exercises were carried out, on behalf of the Air Force, by Steven B. Lipner, an information-systems expert at the MITRE Corporation, and Lieutenant Colonel Roger R. Schell, then a computer-security specialist in the Command and Management Systems Division of the Air Force and now a student at the Air War College at Maxwell Air Force Base, in Montgomery, Alabama. The results of their efforts have been described in several Air Force and MITRE internal papers that Lipner and Schell made available to me when I visited them sometime ago at the MITRE Corporation headquarters, in Bedford, Massachusetts. According to Schell, the primary aim of the exercises was not so much to derive technical insights from the penetration of a particular computer system as to demonstrate to defense officials that the penetration could be accomplished without great difficulty. In one paper that Schell and Lipner prepared for the Air Force, they put their views concerning the security of large computer systems in blunt language:

"On numerous occasions, programmers have conducted formal or informal projects aimed at testing the security of operating systems by penetration—by writing programs that obtain access to information without authorization. . . . In each case, the result has been total success for the penetrators. The programmers involved in these efforts have not been "insiders" but simply competent system programmers armed with user- and (sometimes) system-level documentation for the computer and operating system under test."

Both Lipner and Schell had been studying problems in computer security since 1972, and between 1972 and 1975 they undertook a series of exercises involving the security of an advanced computer-time-sharing system called Multics, which had been developed jointly by Honeywell Incorporated and the Massachusetts Institute of Technology, partly with Defense Department funds. According to Schell, security had been a significant consideration in the design of the Multics system. It was designed to provide protection for numerous users simultaneously, and so elaborate were the checks built in to prevent unauthorized access, and to insure that users having authorized access to one level of privileged information within the computer had no way of obtaining access to a higher level, that the Multics system had been proposed by the Air Force Data Services Center at the Pentagon as a means of handling secret computerized defense information. The security precautions included a cryptographic system to encode user passwords, so as to make the passwords meaningless even if they were copied or physically stolen from the computer storage system. The exercise was carried out first on a Multics system at the Rome Air Development Center, at Griffis Air Force Base, in New York, and then it was carried out a second time on a Multics system at M.I.T. For the purposes of these exercises, Lipner and Schell were allowed only the minimal access accorded every user. The penetration attempts were conducted from the basement of Schell's house in Concord, Massachusetts, where he installed a keyboard terminal connected to his home telephone line. He could, of course, have operated the terminal by telephone from Los Angeles or Tokyo or Moscow. Lipner and Schell told me that it took them just half an hour to determine that the Multics security system could be penetrated. It then took them two hours to write the computer program to carry out the actual penetration.

Essentially, what they did, it appears, was to take advantage of the inability of a computer to make qualitative decisions. "We provided ways of making unexpected requests of the computer, and then looked to see how the computer responded to unexpected requests—things that would be non-sensical to a sensible user," Schell said. "We watched to see how the computer might respond by itself doing something unexpected." In this way, they devised a method of entering from their terminal an informational request that the computer accepted as legitimate, and, proceeding from that, they they wrung from the computer compliance with a sequence of other requests.

One of the prize targets of any computer criminal attempting to penetrate a computer system has always been the master list of users' secret passwords stored within the computer's memory system—in files that are usually protected by the most elaborate security that the system can provide. Indeed, the mystique of the secret password is such that even the designers of computer systems may not fully take into account the possible

reasoning of a sophisticated unauthorized user; namely, that if to get at the hidden list of secret passwords he has to break through the toughest security that the computer can provide, he would do better not to worry about the passwords at all. For if he can break into the system, he doesn't need passwords. Another barrier that the computer criminal or unauthorized user of a computer system has to cope with is that of the computer's audit trail—the internal monitoring system that can record all significant actions of the users and is supposed to provide a means of detecting and tracing unauthorized attempts to gain entry. In the Multics system, this audit mechanism was considered, even by Lipner and Schell, to be built in so securely that it was almost impossible for any attempt to obtain the passwords to escape notice. In challenging Multics, therefore, Lipner and Schell chose to ignore the audit-trail mechanism, and to allow it to record their acts as they found their way through the system. Using flaws in the operating system as entry points, they got access to essential programs and to file containing the master list of encrypted passwords. Actually, they did not consider this technically necessary, since they were confident that once they had made the initial penetration of the computer they had established the condition for gaining access to any information they wanted; they extracted the list of encrypted passwords simply by way of demonstrating what they had been doing.

Lipner and Schell didn't deign to use these passwords, since they considered themselves already well into the computer system without them. Instead, they began judiciously inserting in the computer system what are known in the business as trapdoors. In essence, a trapdoor is a special element, or anomaly, inserted in a program or system which allows the person inserting it to bypass or subvert the logical or other protective features safeguarding the secure functioning of the system. The nature of a trapdoor is that, while it is known to and usable by a penetrator, it is unrecognized by and unknown to other users of the system—even to the audit-trail mechanism. Through the use of trapdoors, Lipner and Schell proceeded to modify parts of particular programs and the operating system itself, to their own potential advantage, present and future. In fact, they modified the system so thoroughly that even if the particular flaws which had allowed the original penetration were to be discovered and corrected, the penetrators would continue to have full access to the system.

As if all this weren't enough, Lipner and Schell also employed what people in the business sometimes refer to as the Trojan-horse technique of penetration. This technique has occasionally been used in computer crimes. It consists basically of providing the computer with apparently appropriate and acceptable information that in reality contains secret instructions for unauthorized behavior—instructions that authorized users of the system will unknowingly cause to be carried out at some future time by routinely communicating with the computer. The Trojan-horse instructions that Lipner and Schell fed into Multics system insured that other users and the operating system itself could give them all the unauthorized information and all the control of the computer that they would ever want. As for the supposedly relentless internal-audit-trail mechanism that had recorded their entry into and progress through the computer system, Lipner and Schell, using their control of the system, simply erased from the audit system all trace of their entry. Thus, a complex computer system, which was the product of at least six years of intensive development to make it exceedingly secure, was penetrated and robbed of its internal controls in two and a half hours. Reporting on these exercises, Lipner and Schell observed, "The only sound assumption that can be made about a current computer system concerning information protection is that any program that runs on the system can access any information physically accessible to the [central] processor, and can retrieve, alter, or destroy the information as the programmer wishes."

To attempt to correct that situation, the MITRE Corporation and the Air Force have been developing an innovative system that Schell calls a "security kernel," whose use they say can vastly improve the security of data in computer systems, and Honeywell has since claimed that it has used such a kernel to make significant improvements in the security of the Multics system.

While much of the information stored in the Multics system that Lipner and Schell succeeded in penetrating would be regarded by users of the system as confidential in nature, none of it had any government-security classification. If it had been thus classified, the penetration of the system would obviously have had even greater significance. However, an exercise carried out by three computer scientists at the Naval Research Laboratory, in Washington, D.C., against an advanced computer system used by the armed forces did involve a large amount of classified information, as well as some that was unclassified. The target of this exercise was the executive, or controlling, system employed to run a Sperry Rand Univac 1108 computer for military purposes. The executive system of the Univac was meant to process simultaneously a great number of programs with different levels of security protection, and was considered by its designers to be highly secure and complex. Indeed, a programmers' reference manual issued by the Univac people declared, concerning the system's soundness in respect to any possible intentional or unintentional invasion, "The Executive System has unique features that automatically guarantee absolute protection." The exercise was carried out by David Stryker, Dr. John Shore, and Stanley Wilson, of the Naval Research Laboratory. Because of the stringent physical-security precautions that the armed forces take on behalf of their computer systems, the men attempting the penetration of the Univac 1108 operated not from a remote telephone-connected terminal but from a terminal "hard-wired" to the computer; that is, one connected in what was essentially a closed-circuit system.

A while ago, when I talked with Dr. Shore at the N.R.L., he explained the nature of the exercise and discussed with me a declassified copy of an official report on it, written by Stryker and entitled "Subversion of a 'Secure' Operating System." Dr. Shore was unequivocal on the subject of complete computer security. "If you give someone who knows about computer systems enough time and unrestricted access, he'll find a way to defeat the existing controls," he said.

He observed that the operating system of a large, advanced-model computer, which acts as a master-control program and allocates the resources of the computer to the tasks required of it, is so complex and contains so many instructions that it simply cannot be comprehended by a single person. For example, the number of instructions in the executive system of the Univac 1108 is about half a million, and that figure, even though it is enormous, is a good deal smaller than the totals in certain other operating systems. (One of the operating systems designed for the I.B.M. S/370 computer, I found out from the I.B.M. people, contains about six million instructions; if these were run off on computer-printout sheets, their bulk would be equivalent to one continuous instruction-filled sheet at least fifteen miles long.) A consequence of all this complexity, Dr. Shore said, is that any knowledgeable person attempting to penetrate a supposedly secure computer begins with an advantage, in that he has to find only one significant flaw in order to start working his way into the system, whereas the designers of a system are theoretically afforded no leeway at all in their attempts to make it secure.

Dr. Shore said that the exercise to penetrate the Univac 1108 system by the N.R.L. team took place in late 1973 and early 1974. The particular system against which the exercise was aimed had been modified to improve its security. For example, some of the classified material stored within the computer had been encrypted, and, as a consequence of the design of the system, could be made available to users only under strict security conditions—including, of course, proper identification of each user. In addition to these precautions, the computer system had been given other special modifications in order to increase its security. The three experts involved in the test were allowed only unclassified and unprivileged access to the computer, from a basement terminal. Their specific aim was to demonstate the inability of the Univac operating system to prevent access to certain information by unauthorized users. Their procedure in breaking through the "absolute protection" supposedly afforded users by the Univac 1108 appears to have been similar in some respects to that of Schell and Lipner in penetrating the Multics, for it involved taking advantage of flaws and inserting trapdoors in the logic of the Univac 1108. However, what the N.L.R. experts exploited was not the existence of "bugs" in the executive program—although these certainly existed—but rather features resulting from oversights in the design of the executive program.

The details of the exercise are complex. What the intruders did, in effect, was to modify certain programs that were shared by many users despite a supposed guarantee against such modifications. As a result, a subsequent user of the now modified shared program "fell through a trapdoor," as Dr. Shore put it, which enabled the N.R.I. team to take control and impersonate that subsequent user. When they had succeeded in doing this, they had access to all the information belonging to subsequent users of the penetrated shared system. They were then able to copy classified information that had been stored in an encrypted file onto their own computer tapes, and in the copying process the Univac 1108 decrypted the classified information. They erased virtually all traces of their entry into and subsequent ravages of the system as recorded in the internal-audit mechanism, and were able with impunity to impersonate legitimate users with classified access rights.

Using only thirteen seconds of computer time in a typical subversion of the Univac 1108, they were able to copy all data belonging to other users of the penetrated shared program for a full eight hours or so. During that period, they possessed effective control over a large amount of the data in the entire computer system. "We could have selectively rewritten any of this information or selectively erased it," Dr. Shore told me. They extracted so much information from the computer that, he said, "we found we had an information-pollution problem on our hands." They had to write a computer program of their own to sort out the more significant parts of the information that the computer kept disgorging. Their choice of material amounted to between a million and two million words of text, classified and unclassified. And, as a final insult, the computer time

during which the stolen information kept pouring out was billed to other users; the only computer time billed to the N.R.L. team was the thirteen seconds it took them to subvert the system. (Sperry Rand has pointed out, however, that it has introduced modifications in the design of the Univac programming system so as to improve its security.)

If these men had attacked this particular defense computer system with hostile intent, the results could clearly have been devastating. And yet Dr. Shore and his colleagues at the N.R.L. are convinced, after thorough investigation, that by prevailing standards the staff at this particular site did a "good job" in modifying a standard commercial computer operating system in order to provide better security for users. Whether in the military, in government, or in business the designers of future computer systems seem no more able to promise absolute solutions to problems of data security than chess players are able to foresee games in which White can never be beaten. In the meantime, nobody knows what Trojan-horse programs may be lying in wait in computer systems until, at the appropriate signal, they spill out in acts of disruption and pillage, or what electronic dead souls may be flitting within the recesses of a system until, at the direction of some intent Tchitchikov at a keyboard terminal, they are mustered into ghostly but immensely exploitable legions.

NATIONAL 4–H CENTER DEDICATION CEREMONY

Mr. PERCY. Mr. President, I would like to congratulate the National 4–H Center on the completion of its expansion program. I was pleased to join government and embassy officials, representatives of private industry, friends of 4–H throughout the Nation and 4–H leaders, in dedication ceremonies commemorating completion of the National 4–H Center's expansion program Thursday, September 22, on the 4–H Center's campus at 7100 Connecticut Avenue, Chevy Chase, Md.

The dedication ceremonies marked completion of an expansion program begun in 1969 to help meet the growing educational needs of a steadily expanding 4–H program which now has a membership of nearly 6 million youths between the ages of 9 and 19. The center has been made possible by contributions from the private sector as well as from 4–H members.

Featured in the ceremony was the dedication of three buildings: J. C. Penney Hall, named in honor of the late James Cash Penney, founder of the J. C. Penney Co.; W. K. Kellogg Hall in honor of the W. K. Kellogg Foundation; and McCormick Hall, in honor of the McCormick family and International Harvester Foundation.

As honorary cochairman of the National 4–H Foundation Advisory Council, Mr. Penney took an active role in expansion of the center and attended many functions including expansion groundbreaking on April 20, 1970. Since her husband's death in 1972, Mrs. Penney and the J. C. Penney Co. have continued their active interest and support of 4–H. The support has included not only major contributions to the center expansion program but also funding for regional leader training programs and other 4–H activities.

Mrs. J. C. Penney, widow of the late business leader and vital civic leader, and Donald V. Seibert, chairman of the Board and chief executive officer of the J. C. Penney Co., both of New York, participated in the dedication ceremonies. As a special tribute to her late husband, Mrs. Penney unveiled a mural by Dean Fausett, depicting the close relationship between Penney's life and ideals and the history of 4–H. Mrs. Penney also dedicated a small chapel in memory of her husband's devout and abiding faith. Mr. President, I ask unanimous consent to have the text of Mrs. Penney's remarks at the dedication printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, Russell G. Mawby, Battle Creek, Mich., president of the W. K. Kellogg Foundation, largest single contributor to the 4–H expansion program, also participated in the ceremonies. A former 4–H member and active participant in the development of the expansion program, Dr. Mawby dedicated W. K. Kellogg Hall which contains the dining hall, plus conference and residential facilities.

Brooks McCormick, Chicago, president and chief executive officer of International Harvester Co., dedicated McCormick Hall. International Harvester has supported domestic and international 4–H programs for more than half a century. The hall includes conference rooms, residential facilities and an attractive courtyard.

The expansion program, initiated in 1969, only 10 years after the center first opened as a residential educational facility for 4–H members, leaders and staff, has resulted in contributions of $8,000,000. Of this $6,000,000 has come from corporations, foundations, businesses and individuals. More than $2 million has been contributed by 4–H members, leaders and staff from every State and territory.

Since the center opened in 1959, more than 250,000 young people and adults from across the country and around the world have participated in citizenship and leadership programs designed to help them improve youth development programs in their own communities.

EXHIBIT 1

MRS. J. C. PENNEY'S REMARKS AT DEDICATION

Mr. Voss, Mr. McCormick, Mr. Mawby, Mr. Seibert, Mr. Neilson, Mr. Mindrum, Mr. Shrum, all other members of the Department of Agriculture and National 4–H Council who are present here, distinguished Members of Congress who have honored us with their presence today, and guests:

My husband had a unique way of saying things you couldn't help but remember them. Today I remember one of his sayings particularly, because it fits this occasion so well.

He said to me, more than once—"If one builds for a decade, one should cultivate trees—but if one wants to build for the centuries, one should cultivate men and women."

I just can't imagine a better way to "cultivate men and women", as Jimmy put it, than through 4–H programs, both here and abroad. And, I can't imagine an occasion that he would have enjoyed more than this dedication.

Jimmy was very close to 4–H for many years. Going back as far as the 1920s, he was drawn to 4–H by a mutual interest in agricultural pursuits, particularly cattle breeding. 4–H boys and girls were welcomed visitors to his farms to see his fine purebred herds—and he always took great delight in seeing calves they bred win blue ribbons at state fairs and livestock expositions. He became so impressed with 4–Hers interest in breeding better livestock, that it was not uncommon for him to give diligent 4–Hers some of his purebred calves to encourage them in this endeavor.

In later years Jimmy participated in many 4–H Leader Forums, the first one being the Western Regional Leader Forum in Salt Lake City in 1966. He was honorary co-chairman of the National 4–H Advisory Committee, and it was my great honor to have succeeded him on this committee.

My husband was active in 4–H right up to a few weeks before he passed away. In one of his last public appearances, he and I attended a meeting at Gracie Mansion, residence of the Mayor of New York City, to help launch the 4–H program in New York City. Right here in April, 1970, he participated in the ground-breaking ceremonies for the Center's expansion program. Last year I was proud to be here at the restoration ceremony, which has culminated in this beautiful building we are dedicating today.

It's my great honor to represent my husband and our family at this dedication. We have three generations here today—myself, our two daughters: Mrs. Mary Frances Wagley and Mrs. Carol Guyer, and several of our grandchildren. I would like to present them to you and am asking them to kindly rise.

My family and I are indeed proud to present to the National 4–H Center, in tribute to Mr. Penney, a beautiful mural, a reproduction of which you see here. The original, inside the Hall, was executed by the eminent artist, Dean Fausett. He is here with us today, and I am very pleased to present him to you. **Mr. Fausett, would you kindly rise.**

And I am more than happy as well to give to the 4–H Center the chapel in the Hall in loving memory of my husband. I can think of no more fitting tribute to one whose life, both personal and business, was intimately bound up with his devout religious faith.

J. C. Penney Hall has a special meaning to our family. This is not a memorial to my husband. This is an extension of his life—a fulfillment of a long-time commitment to 4–Hers everywhere, in whom he had great faith and hope in providing leadership for our great nation in the future. I know he would want me to express his gratitude to everyone who has made possible the completion of this expansion program.

THE OIL CRISIS AND AMERICA'S ALLIES

Mr. PERCY. Mr. President, the scarcity of petroleum in future years may have important repercussions that we have failed to seriously consider. The lack of sufficient oil to go around to all those nations who desire it may place a tremendous strain on American relations with Europe and Japan. Such a situation could cause incalculable political and strategic consequences. America's wastefulness in the use of energy will create resentment throughout the world as nations conclude that one of the reasons for the depletion of oil reserves is the habits of the American consumer.

This facet of the energy crisis merits careful thought and considerations. Its

potential implications are far reaching and affect American security. And it points to a challenge we have only begun to address—energy conservation to delay the day when there will be less oil produced by the oil exporting nations than the total minimum import needs of the industrialized importers. The rest of the world is closely watching the actions of this Nation in our attempts to conserve energy and develop new alternatives to fossil fuels. We can either earn the respect of these nations, or we can destroy their confidence in our ability to be the leader of the free world.

Recently, Prof. Lloyd Humphreys from the University of Illinois at Urbana-Champaign sent me an excellent article which appeared in the New Zealand Herald on May 24, 1977, addressing this very issue. Mr. President, I ask unanimous consent that this article, "Oil Crisis Will Lose Friends for the U.S.," by Gwynne Dyer, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OIL CRISIS WILL LOSE FRIENDS FOR THE US

(By Gwynne Dyer)

Oil is the only lubricant that also causes friction. It has done a bit of that already—remember Dr. Kissinger's hint two years ago that the United States would invade the gulf states in the event of another embargo?—but it will take a real scarcity to show up oil's full potential for trouble-making.

As President Carter recently told the world, that scarcity is coming in less than 10 years, but he tactfully omitted to mention where the friction will be greatest. It will not be between suppliers and customers: Despite serious quarrels about price levels, their relationship is basically a symbiotic one. It will be between competing customers, and especially between the United States, Europe and Japan.

STARTING TO BE AIRED

The grievance that America's allies are going to develop is just starting to be aired in the European press, but when you talk to European energy experts its shape is entirely clear. They define the coming problem not as a shortage of oil, but as American greed and wastefulness. One recently identified the crucial problem as "getting American consumers off the backs of the rest of us."

Once the crisis arrives, that is inevitably also going to be the popular conclusion in Western Europe (and Japan). That sort of resentment directed against the United States cannot fail to have political consequences.

Europeans use about the same energy forecasts that American experts do, and they come to the same grim conclusion as President Carter: By 1985, there will probably not be enough oil to go round. Even if Congress obediently and quickly passes every one of Mr. Carter's energy conservation proposals into law (about as likely as the mass conversion of its members to Zoroastrianism), there may still be an oil famine then.

Exact figures for oil production and consumption eight years in the future are obviously impossible. But the precise date does not matter. If not in 1985, then in 1988 (or 1983) there will be less oil produced by the exporting countries than the total minimum import needs of the industrialised importers.

The United States, which can better afford to pay, however grudgingly, will import most of what it has to have, and Europeans, Japanese and even Russians will have to spend various lengths of time shivering in the dark. They will not like it, especially since it will by then be graven in their minds that the reason for their misery is the habits of the American consumer.

SUBSIDISE WASTE

The United States now imports just under half the oil it uses. If its citizens consumed energy at the same rate as Germans or Japanese (whose countries are equally industrial and nearly as prosperous), it would actually be able to export a bit. That is the key fact: The United States is taking one-third of the total oil exported in the world simply to subsidise its waste.

Even if Mr. Carter's plan is not mangled by Congress, it will do nothing about this fact. He is seeking only to cut the annual rate of growth in United States energy demand from 4 per cent to 2 per cent, and shift the pattern of consumption towards domestic rather than imported energy sources.

But that will still leave the United States consuming half the energy in the industrialised West and Japan, with only about a quarter of its population, and sucking in at the very least six million barrels of imported oil a day in 1985. The Europeans and Japanese (to say nothing of the poverty-stricken oil importers of the Third World) can hardly fail to notice who is causing the problem.

ALTERNATIVE SOURCES

Of course the world will not end. Alternative sources of energy will be developed, and the level of economic activity will eventually adjust to the amount available, whether higher or lower than now. Moreover, the oil crisis which is needed to give enough impetus to the development of new energy sources would come sooner or later, whatever Americans do. People simply are not capable of giving really serious attention to their needs of the day after tomorrow unless they are actually miserable today.

But the crunch and the misery will come a lot sooner because of the profligate American waste of energy, and that is going to be a big, unavoidable political fact at the time. It will place an immense strain on United States relations with Europe and Japan, with incalculable political and strategic consequences. America may end up paying a high price for its energy habits in more ways than one.

COMPREHENSIVE NATURAL GAS POLICY—S. 2104

Mr. ROBERT C. BYRD. Mr. President, apparently there is some doubt or some question on the part of some Members as to whether or not the Senate will be in all night.

So that there will be no doubt, let me say this: This afternoon, after I had said we would be in all night unless we completed action on this bill, I asked the Sergeant at Arms to proceed to make preparations for an all-night session.

So he sent some of the policemen home early, to return at 11 o'clock tonight. He sent some doorkeepers home early to return on the late shift.

He has closed certain galleries here, so that those doorkeepers could go home and be back to relieve the others who have stayed.

Half the pages were sent home so that they could come back later and relieve the half who stayed.

Mr. CULVER. When do we go home? [Laughter.]

Mr. ROBERT C. BYRD. Who asked that question? [Laughter.] Big bad John. [Laughter.]

Cots have been set up in room S-207; cots are set up in the Vice President's Ceremonial Room; cots are in the Marble Room; cots are in the lobby or will be soon; there are cots in the Senate gym which, incidentally, is another good use of the Senate gym.

The gym will be open all night, and blankets and pillows have been supplied by the Army and the Air Force. I hope that there is no Doubting Thomas left among us.

I look upon an all-night session with about as much joy and comfort as does any other Senator here. There are some of you who have stamina and endurance that exceeds the stamina and endurance that I have, and I am sorry that the Senate is being discommoded as it is.

This is the eighth day on which the Senate has been in session on this bill. Five days went by before the leadership offered the cloture motion, during which Senators could have called up amendments and had them voted on.

I suppose there may be, still, well over 400 amendments that can be called up. I realize the deep feelings and emotions that run on both sides of the aisle and on all sides of the question. But may I say to you, my colleagues, that we have to reach a decision on this bill at some point.

We have all worked hard. The Senate has done its job well throughout the year, having gotten off to a late start because of the restructuring of the committees and other things. We had all hoped to go home in mid-October. Every day's delay in completing action on this bill is a day's delay in adjournment.

I am not going to take down the bill. The Senate may vote it down, or my colleagues on this side of the aisle may impeach me. That is, of course, their right. But I feel that it is my duty to do whatever I can to secure final action on this bill. Whatever the Senate does by way of amending it or modifying it is the Senate's business. I am not wedded to either side.

Up to this point, I have supported the administration proposal. I voted to table the Pearson-Bentsen amendment, although in past times I have supported deregulation. But for reasons which I need not go into here, I have chosen to support the administration position.

At this point, I still support Senator JACKSON and his side of the matter. If the Senate votes that down, I am going to vote for Pearson-Bentsen. My interest has been in getting a bill to conference, because there is where the matter will be settled.

I feel it is the responsibility of the Senate to act on an energy program. It does not affect just 100 Senators; it affects 215 million people.

What I am saying is, gentlemen, we are going to have to make a decision on this bill at some point. If Senators want to call up all these amendments and insist that they be voted on, it may mean that the snow will be flying and we will still be here. It may mean we will be

here until Christmas. But the Senate must act on this bill, one way or the other.

I want to see a bill go to conference, because if it does not go to conference, I fear the entire energy program can be imperiled. And the President can, of course, call us back into session.

Let me emphasize again that behind this bill there are other measures awaiting action. The majority should vote its will and let this bill go to conference. I think that is our responsibility.

Speaking for myself, I as a Senator will never attempt to hold up a bill that is called up here for debate, no matter how strongly I may feel one way or the other about its merits, or use the rules to delay Senate action on that bill unduly.

I believe every Senator here has the same dedication to the Senate and to the country that I have. But I cannot leave any doubt in any Senator's mind as to whether or not we are going to finish action on this bill, one way or the other. If we are here in December, we will be here in December. I do not say this as a threat; I simply am stating the facts as I see them.

I would urge Senators who have a great number of amendments to go through those amendments and try to select from those amendments such amendments as the author thereof feels are serious amendments, and he wants a vote on them. If there are amendments which have been offered merely for the purpose of delaying action on this bill, I would hope that the author or authors of such amendments would not call them up.

Let us call up the amendments which are serious. Let us call them up in good faith, and let the Senate work its will on them. But I hope that we will not persist in calling up amendments simply to have a vote, and then, when the vote is wide, when there is a wide margin against the amendment, move to reconsider just in order to get another vote. That is really, I think, being unfair to the Senate and unfair to every Member of this body.

I have seen, time and time again, in the last day or so, amendments that were voted down by wide margins. There could be no hope of changing the vote on a motion to reconsider. No hope whatever. And yet Senators would persist in moving to reconsider, moving to table, getting the yeas and nays, and taking more time of the Senate going through an absolute action of futility.

That is discommoding everyone. It is achieving no purpose. It is making the Senate look bad. Really, it is an outrage.

Every Senator has the right to do that under the rules, but I urge, in the best of good faith, that Senators who have a great number of amendments take a look at their amendments, select out—if they have 200 amendments, select 20 of them, or 25, or 15, or 50, but select those which you think are meaningful and are not being called up merely to get a vote, merely to protract the action of the Senate and keep Senators here, as we are being kept tonight, away from our families.

Some of us, including myself, really cannot stand too much of this staying all night long. But I think, Mr. President, that there is only one way to get action on this measure, and that is for us to stay with it until the Senate casts its final vote thereon.

We are going to have votes all night. Lest there is any doubt about that, if it comes to a point where we are not having votes, I will be forced, against my own desire, to call up amendments myself and quickly move to table those amendments.

There were at least 35 amendments earlier today that had been returned from the Printing Office that are not germane. There are that many that can be ruled out on a point of order because they go to different parts of the bill.

I do not want to call those amendments up one by one and move to table them. I want to avoid that. But eventually, if this persists, against my own will I will simply have to call up amendments, not forgetting Senators who have great numbers of amendments at the desk. I think I owe that to the Senate. I owe it to the Senate.

After awhile, if those Senators do not select the best of their amendments in good faith, believing that they ought to be voted on and that the Senate has a right to consider them and ought to consider them, I will feel compelled, and I do not want to do it, to begin calling up amendments myself, and those amendments, I say to my good friend from Ohio (Mr. METZENBAUM)—he must have at least 250 amendments at the desk—and to other Senators who have great numbers of amendments at the desk, I would hope that they would take a look at those amendments. I plead with them, take a look at the amendments, call up those that the Senate ought to consider, and give up the idea of simply putting the Senate through the discomfort of voting on amendment after amendment after amendment, when Senators have about reached a mind-set here where they will simply vote to table everything.

And if we would do that, I think Senators would be more considerate of the amendments that are being called up.

I just hope that we will return to reason and not put the Senate through the wringer as it is being done here and discommode every Senator.

So, do not push that on me. Do not push that on me.

Eventually, I feel I have no other choice but at some point in time to just call up amendment after amendment myself and move to table them.

Forgive me if I sound as though I am stating a threat. I am not. I know this would not be a very popular thing for me to do, especially with some of my friends. But I am asking them—I am asking them—I am asking all Senators to be fair with all other Senators. Call up the amendments you feel you have to call up, you feel the Senate ought to consider. But obviously, there must be a lot of those amendments that do not need to be called up and will not be called up except for the purpose of putting Senators through needless votes and taking time needlessly of the Senate and making it look worse and worse and worse.

We owe this country an energy bill, so let us get down to business and do the best we can to make our decisions on good faith amendments.

Now, I thank my colleagues for listening. I have spoken too long. But I thought that this might be helpful. I would hope that we can get Senators together and that they will, in the spirit of compromise, try to reach some understanding and compromise on this issue and let us have a vote up or down.

If we lose, we have done our best; and if we do not lose, fine; but let us get this bill over to the conference.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I very much appreciate the position of the majority leader, and I have a concern about my fellow Senators and recognize my own position as being a rather new Member of this body. Yet, I think I also recognize an obligation to my own constituency because I feel very deeply about this legislation.

With respect to the number of amendments that have been laid down, I pointed out before, earlier in the day, that there were 95 amendments offered yesterday by those who were supporters of deregulation.

I have called up, or others have called up on my behalf, approximately 15 amendments. I think at least three and maybe four of them have been adopted.

I would submit to the Members of the Senate that I challenge you to show me any amendment of mine that has been called up that is not a substantive amendment, that does not strike at a significant part of the bill, and I say without any fear of contradiction, you will not find that to be the case.

Mr. DECONCINI. Will the Senator yield?

Mr. METZENBAUM. No, not at this point.

Now, with respect to the question of the length of time and the need to be in session this evening, tonight, if the majority leader wants to be in session tonight, I will be here and I will do what I have to do. If we are in session tomorrow night, I will be here tomorow night and I will do what I have to do.

But I want to point out to the majority leader and to the Members of the Senate, we have been debating this bill for 8 days. That is approximately half the time that the Senate debated this same measure 2 years ago.

I was not a Member of the body at that time. You debated deregulation, the Pearson-Bentsen amendment, for 3 weeks on that occasion and it was not found necessary to stay in session overnight.

But if that be the will of the leader, I respect it and do not wish to take issue with it.

You may be assured of the fact that

the amendments I call up will be amendments that have significance and are meaningful and are not dilatory, and I will, indeed, expect to have a rollcall with respect to each of them.

Less than that, I would feel I would not be doing the job the people of Ohio sent me here to do. Whether it takes 20 amendments, or 30 amendments, or 40 amendments, or something more than that, that is the number of amendments that I will call up. Whether or not the leader might call up any in order to table them, I am not certain that would serve any particular useful purpose, because one way or the other there would be a rollcall on those amendments.

But I will be here to call up those amendments I think are of significance and that I think the Members of the Senate ought to have an opportunity to vote on and that I think are amendments that strike at the substance of this legislation.

That is what I think is my responsibility.

Several Senators addressed the Chair.

Mr. DECONCINI. Mr. President, I challenge the distinguished Senator from Ohio because I believe the fact is we have had at least 12 votes on reconsideration and motions to table, rollcall votes, and quorum calls that do not have anything to do with the necessity of this body in adopting an energy policy.

I believe that they are dilatory and they should be ceased and we should address the particular amendments that are germane.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I recognize that the Senator from Ohio (Mr. METZENBAUM) is dedicated to the service of his constituents. Never would I question that.

I believe, however, that he will do what he said he would do, namely, that he will call up the amendments that he feels are meaningful and useful, and that is what I have asked from the beginning.

I do not mean just to single out Mr. METZENBAUM. The reason I mentioned him is because in going over the amendments I believe he has at least 250 amendments.

Mr. METZENBAUM. Quite a few.

Mr. ROBERT C. BYRD. And there is at least one other Senator (Mr. ABOUREZK) who has a good many.

Mr. METZENBAUM. So does Mr. DOMENICI.

Mr. ROBERT C. BYRD. Very well, I will urge Mr. DOMENICI to look at his amendments and call up those he feels would be meaningful or would add something to the final product, but not call up others.

Mr. President, why do Senators not call up their amendments and have voice votes on them?

Obviously, there is a quorum present. I would suggest that if any Senator who has a great number of amendments would call them up, we could have voice votes on them, and that Senator would still be fulfilling his responsibilities to his people.

But to call up amendment after amendment and have them tabled by wide margins and then move to reconsider the votes, is obviously futile.

So why not let the decision rest in such instances and go on to the next amendment?

A lot of these amendments can be voted on by voice and I would hope we would proceed in that fashion as much as possible.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I listened with interest to the distinguished Senator from Ohio and his statement that we are going to have a rollcall vote on all these amendments and whether the majority leader chooses to bring them up, that we will have a rollcall vote, it seems to me that he is utilizing the rules, and that is his privilege to do so.

I think we are also entitled to utilize the rules. I think the rules allow us, if we keep 51 people on this floor, to avoid quorum calls, and to also avoid yielding to a second if we think there are sufficient Senators on the floor to vote by voice vote, or if he would like people to stand for him to get a record of how people stand on that amendment, that we could take up these votes.

The majority leader well went over how many hours we spent yesterday in quorum calls and in rollcalls, and we certainly spent that much time or more today.

If I have got to be here all night, if I cannot be with my family tonight, then I would just as soon sit on this floor, or see that 51 of us sit on this floor so that we avoid the quorum calls and let us see how many of these amendments we can take up.

If a Senator wants to use his hour, he can use it and discuss it. I guess he could have amendments read, and that is another way of, perhaps, delaying.

But at least we would avoid all the time of the rollcalls and all the time of the quorum calls. If we wanted to, we could get in shifts where somebody goes out and rests and some of us stay in here.

I want to give the Senator his opportunity under the rules, but I want to take my opportunity under the rules, and I think that is that we keep a quorum on this floor.

We can avoid the quorum calls and we can avoid the rollcalls. I think we can help the Senator get a number of recordings on his amendments.

Mr. ROBERT C. BYRD. Mr. President, I will not continue to delay the Senate further. I do have one further suggestion I think might be helpful.

I think there are precedents both ways. The prevailing precedents are that the Chair may not count to see whether or not there is a quorum present. But I believe there is at least one precedent, as I recall reading them, in which the Chair did count.

Now, we are constantly setting new precedents and we can set some more.

I think we have seen demonstrated in this operation of the cloture rule that while it is not so difficult to get cloture, the present rule is not proving effective. As I have said for some time, the real filibuster starts when cloture is invoked.

Why do we not all stay on the floor, those of us who can? If there is a quorum on the floor, I think we may find a way that the Presiding Officer would state the presence of a quorum, he having counted the Senators on the floor.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. If I may complete my statement—and if we maintain a quorum here, Senators could call up a good many amendments. If Senators feel that an amendment is worth discussing, and if they feel there ought to be a rollcall vote on it, they can sustain the request for a rollcall vote by a sufficient show of seconds.

But if a quorum remains present, we could dispose of many amendments by voice vote. I would like Senators to think about that.

Mr. BAYH. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

The PRESIDING OFFICER. Does the Senator from West Virginia yield the floor?

Mr. BAYH. I do not want him to yield the floor. I should like to ask a question.

The PRESIDING OFFICER. The Senator from West Virginia may yield only for a question, and by unanimous consent.

Mr. ROBERT C. BYRD. I yield for a question.

Mr. BAYH. I appreciate the courtesy of the leader. I appreciate the double burden that rests on his shoulders—one, as an individual Senator and, two, as a leader.

I think everything he said is certainly well within the responsibilities as well as the rights of the leader. I respect him for it.

The question I pose is this: I assume that any precedent that is established in the wee hours of the night or tomorrow night, as the case may be, relative to a situation such as we have, when we have strongly divided differences of opinion, will be a precedent that will be followed later this year or next year or later on.

Mr. ROBERT C. BYRD. Yes, until it is overturned by the Senate.

Mr. PERCY. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. PERCY. I am sympathetic with what the Senator has stated. I had not planned on spending my 55th birthday this way, but so be it.

Mr. ROBERT C. BYRD. Happy birthday to you.

Mr. PERCY. I have a birthday suggestion. Inasmuch as there is a precedent for 10-minute rollcall votes, is it possible to tighten that down a little? If we have 24 rollcall votes tonight and tighten it down to 10 minutes, that would save us 2 hours.

Mr. ROBERT C. BYRD. Yes, it would.

Mr. PERCY. I do not think anyone

would maintain that we are going to be very far away from the floor. So if there is a precedent for 10 minutes, I ask if the majority leader will consider asking unanimous consent for that, or even 7½ minutes. If we can get it down to that, we would pick up another half hour or 45 minutes tonight.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I seek recognition only to conserve the time of the majority leader.

I am sympathetic, also, with the situation described by the distinguished Senator from Illinois, but I must say that I cannot agree to a 10-minute rollcall vote at this time. If later on, after the next rollcall vote, we seem to be in that frame of mind, I will be glad to consider it; but I have certain Members who are away from the floor, and I cannot agree to it at this time.

While I have the floor, I point out that while I have said nothing to this point, I fully concur with the majority leader in his desire to move this legislation. I do not think we need to prove our dedication on this side of the aisle to that proposition, because the cloture vote was supported by every Senator on this side except one, who, for reasons of principle and to avoid breaking a lifetime precedent, did not vote for cloture. So we cast every vote for cloture.

In every way within the rules and in avoidance of establishing precedents that may haunt us in the future, I intend to do what I can to see that the Senate transacts the country's business on this side.

I do not want to be here tonight, but we are here tonight, and we may be here tomorrow night. But within the purview of the rules, we are going to try to find a way to dispatch this business.

Mr. ROBERT C. BYRD. I thank the Senator, and I thank the Senate for its indulgence.

SEVERAL SENATORS. Third reading.

The PRESIDING OFFICER. If there be no further amendment—

AMENDMENT NO. 967

Mr. KENNEDY. Mr. President, I call up amendment No. 967.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 967.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

On page 11, strike lines 20 through 25, and on page 12, strike lines 1 and 2, and insert in lieu thereof the following: "and which shall be equal to the price for sales under such contract which was determined to be just and reasonable by the Federal Power Commission and was in effect on April 20, 1977.".

Mr. KENNEDY. Mr. President, if I may have the attention of the membership for just a moment, there have been a number of amendments—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, rollcall votes have been asked on a number of amendments that involved just a few cents an Mcf but obviously involved billions of dollars to the American taxpayer. Adjusting a particular date for 1 year or 2 years means anywhere from $10 billion to $20 billion to the American taxpayer, or considering different definitions, which this amendment I offer does, can mean billions of dollars to the American taxpayer.

It seems to me that on a matter that, in its scope, can mean the difference of anywhere from $120 billion to $160 billion to the American taxpayers, when the matter goes to conference there at least should be some indication as to how the membership stands on some of these important issues. So I think it is not unreasonable to request rollcall votes on some of these matters.

The PRESIDING OFFICER. The Senate will be in order. There is too much conversation going on in the Chamber.

Mr. KENNEDY. Mr. President, the amendment I offer at this time applies to the definition which will be used to set a fair rate of return on Outer Continental Shelf gas until 1982.

In this bill, at page 10, there are four different criteria that are used in the Pearson-Bentsen amendment that will set the costs for Outer Continental Shelf natural gas. It talks about prospective costs attributable to exploration. It talks about rates and charges necessary to encourage the optimum level. Who is going to explain to us what the optimum levels are? It talks about the promotion of sound conservation practices in natural gas consumption. It talks about rates and charges that will protect the consumers of natural gas from price increases that, in the absence of a national ceiling during periods of anticipated shortage, would exceed the rates and charges necessary to achieve objectives of paragraphs 1 through 3. What does that mean? No one has defined that, and that is going to result in billions of dollars of cost to the American taxpayer.

The amendment I offer here is to use the tried and tested language of just and reasonable price, and applies the just and reasonable standard to the Outer Continental Shelf. Those words have been tested. Those words have been litigated. They are words of art that are used by various regulatory agencies and have been interpreted to provide a sufficient rate of return to the producer and to provide a degree of protection for the consumer, which I think would be lacking under the Pearson-Bentsen amendment.

So I hope, Mr. President, that this amendment will be accepted and will be used in place of the general, broad, vague, and indefinite language that is included in the Pearson-Bentsen amendment. I believe the result would be a saving of billions of dollars between now and 1982, when that natural gas will be decontrolled.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Mississippi (Mr. STENNIS), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. HATCH), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 52, nays 35, as follows:

[Rollcall Vote No. 447 Leg.]

YEAS—52

Baker	Garn	Packwood
Bartlett	Glenn	Pearson
Bellmon	Goldwater	Percy
Bentsen	Gravel	Randolph
Burdick	Griffin	Roth
Byrd, Harry F., Jr.	Hansen	Schmitt
Byrd, Robert C.	Haskell	Schweiker
Cannon	Hatfield	Scott
Chafee	Heinz	Stevens
Chiles	Helms	Stevenson
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Durkin	Mathias	Weicker
Eastland	McClure	Young
Ford	Melcher	Zorinsky
	Nunn	

NAYS—35

Abourezk	Culver	Kennedy
Allen	Eagleton	Leahy
Anderson	Hart	Magnuson
Bayh	Hathaway	Matsunaga
Biden	Hollings	McGovern
Brooke	Huddleston	McIntyre
Church	Inouye	Metzenbaum
Clark	Jackson	Moynihan
Cranston	Javits	Muskie

Nelson	Ribicoff	Sasser
Pell	Riegle	Williams
Proxmire	Sarbanes	

NOT VOTING—13

Bumpers	Humphrey	Stafford
Case	McClellan	Stennis
Domenici	Metcalf	Talmadge
Hatch	Morgan	
Hayakawa	Sparkman	

So Mr. SCHMITT's motion to lay on the table Mr. KENNEDY's amendment (No. 967) was agreed to.

Mr. ALLEN. Mr. President, I yield to the Senator from Washington.

Mr. JACKSON. I have an amendment I would like to offer. You go ahead and then I will offer it.

Mr. ALLEN. I did want to have a few words to say to the Senate.

Mr. JACKSON. I have an amendment I wanted to offer.

Mr. ALLEN. I thank the Chair.

Mr. President, I might state while I am not in sympathy with the goal sought to be achieved by this extended debate, yet I do support the right of the distinguished Senator from Ohio and the distinguished Senator from South Dakota to pursue this discussion in the manner provided by the rules.

I want to comment briefly on a statement made—and I yield myself such time as I may use, Mr. President—I wish to comment briefly on the suggestion that later on we might see the Presiding Officer state that there is a quorum present, and I would hate to see the Rules of the Senate changed during a hotly contested issue here on the floor.

On the matter of the Presiding Officer saying there is a quorum present when obviously there is a quorum present, he cannot do that under the Rules of the Senate.

I might state, of course, as we all know the Senate operates on the presumption that a quorum is present, but any Senator at any time can suggest the absence of a quorum, and then after business has been transacted, that is the only condition precedent to calling for another quorum call after a quorum has been established. If business is transacted then another quorum call can be called for.

But on page 641 of Senate Procedure, the 1974 edition—of course, there have been some different years of issue—we find this language at the top of page 641:

> The Chair has no authority to count a quorum.[103] There is no rule of the Senate which justifies or authorizes the Presiding Officer of the Senate to count a quorum.[104]

So I hope we will not have that precedent established that the Chair can count a quorum because any Senator has got a right to suggest the absence of a quorum if business has been transacted between calls.

Then on page 1005, at the bottom, it gives the forms where a Senator can suggest the absence of a quorum and, parenthetically, it says:

> [Since the Presiding Officer has no authority to count to see if a quorum is present, and the rule provides that once a Senator suggests the absence of a quorum, "the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result," the Chair always after a quorum is suggested makes the following statement:]

So I hope we will not change the rules just by the Chair's announcing that a quorum is present.

I hope also—and I was very much encouraged by the very fine statement of the distinguished majority leader suggesting—that those who have amendments pick out 15, pick out 20, pick out 50, and arrange to offer those. I think that was a real fine gesture indicating that there is not going to be any effort to shortcut the rules.

Mr. STONE. Mr. President, will the Senator yield?

Mr. ALLEN. Just a moment and I will. I think that is very important.

Notice has been filed, I believe, by the distinguished majority leader giving notice that he will, or he has the right to, file a motion to suspend the rules to permit offering a handful of amendments and calling for them to be considered en bloc.

Well, obviously, that would be a ghastly procedure to offer separate amendments here and ask that they be considered en bloc, and I hope we will not amend the rules right here in the heat of battle, because I feel like these rules that we have, that we establish, will come up from time to time and precedents will be established, and the Senate cannot function if we are going to change the rules every time we have a cloture procedure.

So I believe this matter is going to work out, and I will say this: While I am supporting the Pearson-Bentsen amendment, this whole bill is not as important as the Senate rules. I will say that. The whole bill, I would a whole lot rather see the bill go down to defeat, even though I support it, than to make a mockery of the Senate rules. That is the way I feel about it. I think the Senate as an institution ought to preserve the Senate rules and not make a mockery of them, and I commend the distinguished majority leader for his apparent conciliatory attitude in having legitimate amendments considered.

I do hope, and I appeal to our distinguished colleague the Senator from Ohio (Mr. METZENBAUM) and the distinguished Senator from South Dakota (Mr. ABOUREZK), to accept the majority leader's proposal here, and let us consider these amendments. If he tries to do otherwise, I will support his effort along that line, but the rules ought to be preserved.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. STONE. Did not the Senator from Alabama also hear the distinguished Senator from Ohio telling the Senate that his intentions were to offer substantive amendments in a substantive fashion, and that his intention was not to delay the work of the Senate?

Mr. ALLEN. Yes, he stated that, and I know he will live up to it.

Mr. STONE. Therefore, the concern of the Senator from Alabama about quorum calls, although commendable from the point of upholding our rules, may seem not to be relevant, in the light of the remarks of the Senator from Ohio that we are going to go to work on the substance of this bill.

Mr. ALLEN. My remark was relevant in the context of the statement made on the floor that the Presiding Officer might be called on to declare a quorum being present. That is not authorized under the rules.

Mr. STONE. But then the Senator from Ohio said that we are going to be working on amendments of substance, and at least the implication of his remarks was that there would be no procedures that would be dilatory, obviously, visibly, or by inference, such as quorum calls and the like.

Mr. ALLEN. I thank the Senator.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I, of course, have to respond. When I had the floor earlier and remarked about the Presiding Officer's counting to ascertain the presence of a quorum, I said it was my recollection that the prevailing precedents are that he cannot do it.

I did say, however, that I thought there had been a precedent, a few precedents or at least one precedent, to the effect that the Presiding Officer did count for a quorum.

I am very familiar with the language the Senator has read. I have had occasion to read that book a number of times, and I have briefed it. I have my own abbreviated version of it.

I have talked, since I left the floor, with the man who wrote that book—Dr. Riddick, our Parliamentarian Emeritus—and he tells me that he too thinks he remembers a precedent in which the Chair counted the Senators present and announced that there was a quorum. I do not have the book in front of me, but the book also says, if I recall it fairly correctly, that the Chair has, upon one or two occasions, by unanimous consent counted Senators present on the floor to determine whether or not a quorum was present.

I think that book also will say, if the Senator will read it further into the RECORD, that the Chair, at least upon one occasion, counted those Senators who were present but who did not vote, or who had anncunced pairs and did not vote, and the Chair validated the vote because, even though the rollcall did not show a quorum present, the Chair counted Senators who were present and who did not vote, and who, under the rules, can be required to state their reasons for not voting; and the Chair announced that the vote was valid.

This can be discussed ad infinitum and ad nauseam. I am fully aware, as I said at the beginning, that the prevailing precedents are against the Chair's making the count, but the Senate can set new precedents.

I yield the floor.

Mr. ALLEN. Mr. President, answering further as to the power of the Presiding Officer to count toward a quorum the

Senators who have not voted, the precedent book states:

The Senate (in 1910), on appeal, decided that, where less than a quorum voted on an amendment by yeas and nays, the Presiding Officer had no authority, for the purpose of establishing the presence of a quorum and validating the vote, to count as present certain Senators who had announced pairs and withheld their votes; the Senate having decided the vote invalid, the next step was a call of the Senate to establish a quorum.

There were instances back in 1874 when the Chair did count to ascertain a quorum, and there are a number since then, but the most recent precedents state that the Chair does not have the authority to count toward a quorum; and the reading of the authority itself states categorically that the Chair does not have authority to count a quorum.

Mr. ROBERT C. BYRD. Now, Mr. President, I want to say with all the sincerity that I have in my heart that the distinguished Senator from Alabama (Mr. ALLEN) has, in my judgment, been as much a master of the rules and precedents as any other Senator.

I must also say, however, that there was a Senator here who came from the State of Georgia, and whose name one of the Senate office buildings now carries—and I introduced the resolution to provide that that building carry his name—who was also a master of the rules. I asked him, upon one occasion, how he became such a student of the rules, and he told me that more important than the rules are the precedents. The rules only consisted, at that time, I believe, of something like 40 rules, but the book of precedents, of course, contains 900 and some pages—I remember the number of pages in the abridged edition of Webster's dictionary.

With the exception of the forms in the book here, it contains 916 pages. The precedents are very important, and I ask unanimous consent to have printed in the RECORD the pages from the book of precedents on counting for a quorum, the pages under that heading.

There being no objection, the excerpt from "Senate Procedure" was ordered to be printed in the RECORD, as follows:

Counting of Quorum by Chair:

See also "Pairs Counted To Constitute a Quorum," p. 645.

The Chair has no authority to count a quorum. There is no rule of the Senate which justifies or authorizes the Presiding Officer of the Senate to count a quorum.

The Presiding Officer has no right to inform a Senator during a rollcall, whether or not a quorum has voted.

Where the absence of a quorum has been disclosed, a request for unanimous consent to permit the Presiding Officer to ascertain by a count if a quorum is present cannot be entertained.

On one occasion the number of Senators voting on a division being less than a quorum, the Presiding Officer by unanimous consent counted the Senate and announced that a quorum was present. In another instance where on a division, one less than a quorum voted, the President of the Senate stating there was present a Senator who did not vote, held that a quorum of the Senate was in attendance, citing a precedent of June 19, 1879. Less than a quorum, on a division, having voted on a motion to proceed to the consideration of a bill, the President pro tempore held that unanimous consent could not be given to withdraw the motion; and a count of the Senate was made by him and a quorum announced as being present.

In one instance in 1912, a vote by division on a motion to lay on the table being less than a quorum, the Vice President held the vote was valid, inasmuch as the presence of a quorum had been established by a rollcall immediately previous to the vote.

The Senate (in 1910), on appeal, decided that, where less than a quorum voted on an amendment by yeas and nays, the Presiding Officer had no authority, for the purpose of establishing the presence of a quorum and validating the vote, to count as present certain Senators who had announced pairs and withheld their votes; the Senate having decided the vote invalid, the next step was a call of the Senate to etablish a quorum, upon the appearance of which the yeas and nays must again be called on the amendment.

Mr. ROBERT C. BYRD. Then I have in my hand a precedent, and I will read it into the RECORD:

On July 3, 1884 (fn: 48th Congress, 1st session, Record, p. 5038), on the question of agreeing to a motion by Mr. William P. Frye, of Maine, that the Senate proceed to the consideration of the bill (H.R. 3056) to establish a bureau of navigation in the Treasury Department, there were, on a division—ayes 12, noes 24.

The President pro tempore (fn: Mr. George F. Edmunds, of Vermont) said:

"No quorum has voted. If there be no objection the Chair will count the Senate."

Mr. Frye asked unanimous consent to withdraw his motion whereupon the President pro tempore said:

"The Chair cannot allow unanimous consent to be given unless there is a quorum."

Mr. John Sherman, of Ohio, remarked that there was a quorum present.

The President pro tempore said:

"The Chair will ascertain that by unanimous consent without a call of the Senate. (Counting.) A quorum is present."

I have a further precedent. On March 3, 1881, 46th Congress, 3d session, in the Journal, page 388:

While a motion to postpone further consideration of one bill for the purpose of considering another was pending, a motion to proceed to the consideration of executive business was made, on which no quorum voted.

The Presiding Officer (Mr. Cockrell) proceeded to count the Senate, and announced the presence of a quorum. (*See* Cong. Record, p. 2424.)

In the 60th Congress, 1st session, at Journal page 511, on May 29, 1908:

The conference report on H.R. 21871 "to amend the national banking laws," being under consideration,

Mr. La Follette raised a question as to the presence of a quorum.

Mr. Aldrich raised a question of order, viz, that a Senator must be in possession of the floor, and that he can not take the floor by asking a parliamentary inquiry and then make any motion.

The Vice President (Mr. Fairbanks) sustained the question of order.

An appeal having been taken from the decision of the Chair,

On motion by Mr. Aldrich to lay the appeal on the table; yeas 32, nays 14, no quorum voting.

The Vice President (Mr. Fairbanks) counted the Senate and announced that a quorum was present, and so the motion prevailed.

After debate the Vice President again counted the Senate and found no quorum present. (*See* Cong. Record, pp. 7158, 7159, 7166.)

I thank the Senate for its indulgence.

AMENDMENT NO. 1047

Mr. JACKSON. Mr. President, I call up amendment No. 1047.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an amendment numbered 1047: On page 28, line——

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 10, insert the following new section:

NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

SEC. 18. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by adding at the end thereof the following new section:

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL AND OTHER PURPOSES

"SEC. 25. (a) Except to the extent that natural-gas supplies are required to maintain natural-gas service to residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, and notwithstanding any other provision of law (other than the provisions of this Act) or of any natural-gas curtailment plan in effect under existing law, the Commission shall within 120 days of the date of enactment of the Natural Gas Policy Act, by rule, prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for essential agricultural, food processing, and food packaging purposes for which natural gas is necessary, including but not limited to irrigation pumping, crop drying, and the use of natural gas a raw material feedstock or process fuel and in the production of fertilizer and essential agricultural chemicals in both existing plants (for present or expanded capacity) and new plants. The Secretary of Agriculture shall determine by rule, within sixty days of the date of enactment of the Natural Gas Policy Act, the agricultural, food-processing, and food-packaging purposes for which natural gas is necessary. The Secretary of Agriculture shall certify to the Commission the amount of natural gas which is necessary for such essential uses to meet requirements for full food and fiber production.

"(b) Except to the extent that natural-gas supplies are required to maintain natural-gas service for purposes specified under subsection (a) of this section, the Commission shall prohibit curtailment by a natural-gas company, to the maximum extent practicable, of natural gas for industrial purposes for which natural gas is essential for uses (other than boiler fuel) for which there is no practicable substitute.

"(c) The Commission shall decide applications for special relief from a curtailment plan as soon as practicable, but in no event later than 120 days after the date such applications are accepted for filing.".

Mr. JACKSON. Mr. President, this amendment was introduced by Mr. PEARSON. I might say that I had it in one of my other substitutes. Simply stated—and, by the way, I advised Senator PEARSON that I was going to call up his

amendment to my substitute, which is amendment No. 1022—simply stated, this amendment provides for certain priorities for essential agricultural uses and for other purposes.

Such uses would follow, in the event of a shortage, after the priority for residential users, small users, hospitals, and similar users vital to public health and safety, as defined by the Commission, meaning at that time the Federal Power Commission.

Mr. President, I do not think there is any dispute about the need for this amendment, and I hope it will be adopted unanimously.

Mr. HANSEN. Mr. President, insofar as I know, there is full support on this side of the aisle for the amendment. It conforms with identical language, I believe, or almost identical.

Mr. JACKSON. Well, it is in the original Pearson bill.

Mr. HANSEN. And that is the same language, is it not?

Mr. JACKSON. Yes, it is.

Mr. HANSEN. I would think we might just have a voice vote on it.

Mr. JACKSON. Let us have a rollcall on it.

Mr. HANSEN. Well, if you want a rollcall, that is fine, but there is no objection as far as I am concerned.

Mr. JACKSON. Well, it is fine with me.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. JOHNSTON. Will the Senator yield?

Mr. JACKSON. Yes.

Mr. JOHNSTON. Mr. President, I very much support this amendment, but I wonder if the Senator has the words "chemicals and animal feed" in this.

Mr. JACKSON. Does the Senator have the amendment?

Mr. JOHNSTON. No, I do not.

Mr. JACKSON. Which on line 12, refers to "crop," line 11, and the use of natural gas, a raw material feed stock producer fuel.

Is that what the Senator is referring to?

Does the Senator have it?

Mr. JOHNSTON. Yes, I have the amendment now.

Mr. JACKSON. This is a standard amendment that has been offered before. It is in my other substitute. It is also in Senator PEARSON'S original amendment.

Mr. JOHNSTON. My question is this, we had this same amendment in the Energy Committee and it had broad support, but we found one correction or addition we wanted to make and that pertains to essential chemical feed stocks and animal feed.

Mr. JACKSON. May I say to the Senator, of course, we cannot change it here under the Senate rules of cloture.

Mr. JOHNSTON. Would anyone object if we added or broadened it to allow that by unanimous consent?

Mr. JACKSON. Is the Senator talking about animal feed stocks or chemical feed stocks?

Mr. JOHNSTON. Chemical feed stocks and animal feed.

Mr. JACKSON. I would suggest, it is in the House bill, the basic language. We can work it out in conference.

Mr. JOHNSTON. If it is in the House bill, I would not be so concerned. I am not sure it is.

Mr. FORD. I am not sure it is, either.

Mr. JOHNSTON. It is very important to some States, particularly those that raise a lot of chickens. It is also very important——

Mr. JACKSON. Well, if the Senator wishes to ask unanimous consent, that is what it would take.

Mr. METZENBAUM. I would object unless there is a general understanding that there are no objections to other kinds of amendments on the floor, and I doubt that would be forthcoming.

I do not know the significance of this amendment that is being offered on the floor and, unless I knew that were satisfied, I would have to object.

Mr. JOHNSTON. I can tell the Senator very simply that in the making of chicken feed, it is made from fish in some areas and they dry the fish with natural gas and apparently that is the only way it can be done. It is a very important part of making chicken feed and the chicken industry in this country, of course, is very big. That is one essential part that we want to make a priority use of natural gas.

The other is for essential chemical feedstocks, petrochemical plants that have no other source of making their petrochemicals and they simply must use natural gas.

Mr. JACKSON. As the author of this amendment, although the amendment was introduced by Senator PEARSON, I would say in response to the question and to make it part of the legislative history that it would be the intention to include such natural gas as might be employed in the production of feeds to support the poultry and chicken business in this country.

I mean, that is the intent, because it is a broad amendment in support of the agricultural industry of this Nation and wherever natural gas is an essential ingredient part of that effort, it is the intent of the proposer of this amendment to include those areas, specifically, the chicken industry.

Mr. JOHNSTON. I had an amendment prepared, but it went to another amendment. It went to Mr. FORD'S amendment. We had it all ready to put in. We did not have the appropriate line on this.

Mr. JACKSON. This is the only amendment that runs to my amendment, under Senate rules——

Mr. FORD. Mr. President, no. I believe I have an amendment at the desk that runs and has the support of Mr. JOHNSTON, Mr. TOWER, Mr. DOMENICI, Mr. BARTLETT, Mr. CHURCH, and others. It is at the desk.

Mr. JACKSON. Mr. President, the trouble is, of course, we were looking for it.

Mr. FORD. We have too many at the desk, that is the trouble.

Mr. JACKSON. The trouble is that a lot of the amendments, including my own substitutes, have not been printed. We cannot get it. So I have not seen the Senator's amendment.

But I would ask unanimous consent to temporarily withdraw the Pearson amendment and allow the Senator from Kentucky to offer his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Reserving the right to object, it is not my intention to object, I want to be certain that when we speak about the Pearson amendment, the Senator means the Jackson amendment that incorporates the Pearson language.

Mr. JACKSON. No, I am the proposer of the Pearson amendment. The amendment I proposed was introduced by Senator PEARSON.

Mr. HANSEN. I see.

Mr. JACKSON. Amendment 1047. I just want to be fair to the Senator.

Mr. FORD. Mr. President, may I ask a question of the distinguished Senator from Washington?

The PRESIDING OFFICER. The Senator from Washington has a right to withdraw his amendment.

Mr. FORD. Before he does, let me ask the Senator from Washington, does the Senator's amendment run to 1022?

Mr. JACKSON. That is correct.

Mr. FORD. I have an amendment to 1022.

Mr. JACKSON. The Senator from Kentucky had spoken to me about this earlier. That is why I am stepping aside and allowing him to introduce the amendment.

I just wanted to be sure to include in my substitute, which is amendment 1022, the original Pearson-Bentsen——

The PRESIDING OFFICER. The Senator from Washington has withdrawn his amendment.

UP AMENDMENT NO. 856

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 856.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota reserves the right to object.

Mr. ABOUREZK. Can we get copies of the amendment? Is it fair to ask for copies of the amendment?

Mr. BENTSEN. It is unreasonable.

Mr. ABOUREZK. I do not want to be unreasonable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment is as follows:

On page 16, line , insert the following: between lines 14 and 15:

ESSENTIAL AGRICULTURAL AND NATURAL FIBER USERS

SEC. 12. (a) PRIORITY FOR ESSENTIAL AGRICULTURAL USES.—Notwithstanding

any other provision of law, no pipeline company and no local distribution company may curtail deliveries to any person who uses natural gas for any agricultural use identified as an essential use by the Secretary of Agriculture under subsection (b)(1), unless such curtailment of deliveries to such person does not reduce the quantity of natural gas delivered to such person below the use requirement specified in subsection (b)(2) or is necessary in order to meet the needs of high-priority users.

(b) Identification of uses and determination of requirements.—The Secretary of Agriculture shall, by rule—

(1) not later than sixty days after the date of the enactment of this Act identify those agricultural uses for which an assured supply of natural gas is essential; and

(2) not later than one hundred and twenty days after such date of enactment determine the natural gas use requirements of persons using natural gas for agricultural uses identified under paragraph (1) in order to meet the requirements of full food and fiber production, including irrigation and crop drying, and processing and to otherwise preserve public health, safety, and welfare and for which use requirements alternative fuels are not economically practicable or reasonably available, as determined by the Commission.

The determination of use requirements under paragraph (2) may allow for additional amounts necessary in cases in which essential uses may be interrupted, or production capacities are extended or in cases in which new production facilities are added, but only if such extensions or additions are determined by the Secretary to be necessary in order to meet national food and natural fiber production requirements and to otherwise preserve public health, safety, or welfare.

(c) Definitions.—For purposes of this section—

(1) The term "agricultural use" means, when used with respect to natural gas, a use related to agricultural production or natural fiber production and processing, or food processing, or food quality maintenance, including the use of natural gas—

(A) for irrigation pumping,

(B) for crop drying,

(C) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, or food or

(D) for the preservation of food and food products prior to their distribution for final redistribution to the consuming public.

(2) The term "high-priority user" means any person who—

(A) uses natural gas in a residence;

(B) uses natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or

(C) uses natural gas in any other use the curtailment of which the Commission or the State regulatory authority, as the case may be, determines, by rule, would endanger life, health, or maintenance of physical property.

(3) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(4) The term "local distribution company" means any person engaged in the transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(5) The term "State regulatory authority" means any State agency which exercises ratemaking authority or reviews the conditions for termination of service by any local distribution company located within such State.

(d) The Secretary of Agriculture shall not, for the purpose of restricting production of any crop or crops, limit or fail to make any determination provided for in either paragraph (b)(1) or paragraph (b)(2) of this section.

Mr. FORD. Mr. President, I do not want to get into too much detail. Most of the people who have been interested in agricultural amendments believe this is the best as it relates to the field of agriculture.

I have talked to the distinguished Members on the other side of the aisle and on this side. I believe the distinguished chairman of the Energy Committee is willing to accept this amendment. We have already taken care of the other priority uses.

Now, the agricultural position, I think, comes third, and gives them the opportunity to spell it out, the Commission on Agriculture set the area, the Department of Energy to distribute the gas, and it goes into a broader field than the one the distinguished Senator from Washington proposed.

I think he has seen this language. I think all have agreed to it.

If there is no question, Mr. President, I would be willing to go to a voice vote.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. The Senator from Kentucky had a similar amendment, No. 886, which was identical in all of its substantive parts, and I had an amendment prepared to 886 which would simply add the words "animal feed" to those priority uses, and this would cover chicken feed. Particularly, the processing of fish, these menhaden fish we catch in the Gulf and dry by natural gas and make animal feed out of them.

So, Mr. President, I would ask at this time, and I believe this has been checked with the Senators, under subparagraph (c) entitled "Definitions," subparagraph 1(c), after the word "chemicals" insert the words "animal feed."

Mr. President, I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The amendment is so modified.

Mr. HANSEN addressed the Chair.

Mr. JACKSON. Vote!

Mr. BUMPERS. Mr. President, I am a strong supporter of measures to secure an adequate supply of natural gas for essential agricultural uses. Typically, these uses, including crop drying, irrigation pumping, and food processing, are not readily adaptable to other fuels. If this Nation is to continue enjoying the supply of food and fiber that it needs, the availability of natural gas for agriculture should be safeguarded to the fullest extent possible. For this reason, I support the amendment of the Senator from Kentucky (Mr. FORD) to expand and clarify, largely along the lines of House-passed language in H.R. 8444, provisions of the pending bill, S. 2104, to establish a priority for agricultural uses of natural gas.

I would like to clarify one question that has arisen under the language of the bill. One of the kinds of activities eligible for the priority is food processing. I would like to inquire whether this concept includes the full cyclical process of raising or preparing food for market. In the case of the broiler industry, for example, which is extremely important in my State of Arkansas, feed mills, in which chickenfeed is manufactured, are essential to the growth and marketing of poultry. Natural gas is used to heat these mills. Without it, feed cannot be manufactured, and chickens die before they are ready to be marketed.

Curtailments in feed mills in Arkansas took place last winter with severe financial losses. In February 1977, for example, 4.7 million chickens died in Arkansas as the result of lack of natural gas, either because of feed mills being shut down, or because no gas was available to heat chickenhouses. In March of 1977, 1.8 million chickens died from the same causes.

Mr. President, my question is simply this. Does "food processing" as that term is used in the Ford amendment encompass the full cyclical process of raising broilers, including natural gas essential for the heating of feed mills?

Mr. FORD. Mr. President, the Senator is correct. It is our intention that all activities encompassed within the term "food processing" should be eligible for priority consideration. Use of natural gas to heat feed mills is clearly within this concept.

Mr. JACKSON. Mr President, I concur in the interpretation voiced by the author of the amendment and am indebted to the Senator from Arkansas for raising this important point.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 910

Mr. METZENBAUM. Mr. President, I call up amendment No. 910.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 910:

On page 12, line 17, strike out all after "SEC. 11. (a)" through line 20 and insert in lieu thereof: "The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any price, or rule or order relating to price issued under this Act after an opportunity for hearing on a record.".

Mr. METZENBAUM. Mr. President, I do not believe this amendment is objectionable. It merely provides for proceedings under the Administrative Procedure Act to be applicable to the provisions of this law. I hope that the Members on the other side will find it acceptable.

Mr. STONE. To what is this amendment—to the bill, to the Jackson substitute, or to what?

Mr. METZENBAUM. To the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Ohio.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there

a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on the motion to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 51, nays 36, as follows:

[Rollcall Vote No. 448 Leg.]

YEAS—51

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Goldwater	Pearson
Bellmon	Gravel	Percy
Bentsen	Griffin	Randolph
Burdick	Hansen	Roth
Byrd, Harry F., Jr.	Hatch	Schmitt
	Hatfield	Schweiker
Byrd, Robert C.	Heinz	Stevens
Cannon	Helms	Stevenson
Chafee	Huddleston	Stone
Chiles	Johnston	Thurmond
Curtis	Laxalt	Tower
Danforth	Leahy	Wallop
DeConcini	Long	Weicker
Dole	Lugar	Zorinsky
Domenici	McClure	
Ford	Melcher	

NAYS—36

Abourezk	Hart	McIntyre
Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Nelson
Bumpers	Jackson	Pell
Church	Javits	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Magnuson	Riegle
Culver	Mathias	Sarbanes
Durkin	Matsunaga	Sasser
Eagleton	McGovern	Williams

NOT VOTING—13

Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Hayakawa	Scott	Young
Humphrey	Sparkman	
McClellan	Stafford	

So the motion to lay on the table Mr. METZENBAUM's amendment (No. 910) was agreed to.

AMENDMENT NO. 911

Mr. ABOUREZK. I call up amendment No. 911.

The PRESIDING OFFICER (Mr. LEAHY). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment 911:

On page 10, line 19, strike "provide reasonable incentives for" and insert in lieu thereof "reimburse producers for actual costs incurred in".

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from South Dakota. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 57, nays 28, as follows:

[Rollcall Vote No. 449 Leg.]

YEAS—57

Allen	Glenn	Packwood
Baker	Gravel	Pearson
Bartlett	Griffin	Pell
Bellmon	Hansen	Percy
Bentsen	Haskell	Randolph
Brooke	Hatch	Roth
Burdick	Hatfield	Sasser
Byrd, Harry F., Jr.	Heinz	Schmitt
	Helms	Schweiker
Byrd, Robert C.	Hollings	Stevens
Cannon	Huddleston	Stevenson
Chafee	Javits	Stone
Chiles	Johnston	Thurmond
Curtis	Laxalt	Tower
Danforth	Lugar	Wallop
DeConcini	Mathias	Weicker
Dole	Matsunaga	Williams
Domenici	McClure	Zorinsky
Ford	Melcher	
Garn	Nunn	

NAYS—28

Abourezk	Eagleton	Metzenbaum
Anderson	Hart	Moynihan
Bayh	Hathaway	Muskie
Biden	Inouye	Nelson
Bumpers	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	McGovern	
Durkin	McIntyre	

NOT VOTING—15

Case	Long	Sparkman
Eastland	McClellan	Stafford
Goldwater	Metcalf	Stennis
Hayakawa	Morgan	Talmadge
Humphrey	Scott	Young

So Mr. TOWER's motion to lay on the table Mr. ABOUREZK's amendment (No. 911) was agreed to.

AMENDMENT NO. 914

Mr. ABOUREZK. Mr. President, I call up amendment No. 914.

The PRESIDING OFFICER. The Senator will be in order. The Chair cannot hear the Senator from South Dakota.

Mr. HANSEN. Mr. President——

The PRESIDING OFFICER. The Senator from South Dakota has been recognized.

Mr. HANSEN. Was it No. 914?

Mr. ABOUREZK. 914.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 914:

On page 3, strike all of lines 21 through 25, and on page 4 strike all of lines 1 through 5, and insert in lieu thereof the following: "by the Commission.".

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is it not true that this amendment is duplicative of one we have voted on earlier in that it strikes out extension wells?

Mr. ABOUREZK. I do not think so.

Mr. HANSEN. I make the point of order that it goes to two places in the bill.

The PRESIDING OFFICER. The amendment hits two places in the bill, and the point of order is well taken.

AMENDMENT NO. 916

Mr. ABOUREZK. Mr. President, I call up amendment No. 916.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 916:

On page 3, in line 10, delete "15" and insert in lieu thereof "20"; and on line 11, delete "15" and insert in lieu thereof "20".

Mr. ROBERT C. BYRD. Mr. President, I make the same point of order, that it goes to more than one place.

The PRESIDING OFFICER. The motion is well taken; the amendment is to two parts of the bill.

AMENDMENT NO. 919

Mr. ABOUREZK. Mr. President, I call up amendment No. 919.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) offers an amendment numbered 919:

On page 8, line 13, strike lines 13 through 19 and insert in lieu thereof:

SEC. 5. (a) Except as provided in sections 10 and 14, the maximum lawful price for any first sale of new natural gas produced in the United States and delivered during any calendar month which begins on or after the date of the enactment of this Act shall be the current Btu related price at the time of such deliveries, provided oil price controls contained in the Emergency Petroleum Allocation Act are in effect.

(b) Upon the expiration of oil price controls contained in the Emergency Petroleum Allocation Act, any increase in new natural gas prices shall not exceed the current Btu related price at the time of expiration plus the inflation adjustment.

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

Mr. HANSEN. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. Is there a sufficient second on the request for the yeas and nays? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) and the Senator from North Carolina (Mr. MORGAN) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 56, nays 27, as follows:

[Rollcall Vote No. 450 Leg.]

YEAS—56

Allen	Domenici	McClure
Baker	Ford	Melcher
Bartlett	Garn	Moynihan
Bellmon	Glenn	Nunn
Bentsen	Gravel	Packwood
Brooke	Griffin	Pearson
Burdick	Hansen	Percy
Byrd, Harry F., Jr.	Hart	Randolph
	Haskell	Roth
Byrd, Robert C.	Hatch	Sasser
Cannon	Hatfield	Schmitt
Chafee	Heinz	Schweiker
Chiles	Helms	Stevens
Church	Huddleston	Stone
Cranston	Javits	Thurmond
Curtis	Johnston	Tower
Danforth	Laxalt	Wallop
DeConcini	Lugar	Weicker
Dole	Mathias	Zorinsky

NAYS—27

Abourezk	Hollings	Metzenbaum
Anderson	Inouye	Muskie
Bayh	Jackson	Nelson
Biden	Kennedy	Pell
Bumpers	Leahy	Proxmire
Culver	Magnuson	Ribicoff
Durkin	Matsunaga	Riegle
Eagleton	McGovern	Sarbanes
Hathaway	McIntyre	Williams

NOT VOTING—17

Case	Long	Stafford
Clark	McClellan	Stennis
Eastland	Metcalf	Stevenson
Goldwater	Morgan	Talmadge
Hayakawa	Scott	Young
Humphrey	Sparkman	

So the motion to lay on the table was agreed to.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Could we have order so the Senator from California can be heard?

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jim Forcier be granted privilege of the floor throughout consideration of this bill in all stages.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Dr. Charles Cohon of my staff be granted privilege of the floor throughout this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 896

Mr. ABOUREZK. Mr. President, I call up amendment No. 896 and ask it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. HANSEN. Mr. President, a point of order.

Mr. ABOUREZK. Regular order, Mr. President.

The PRESIDING OFFICER. Would the Senator state his point of order?

Mr. ABOUREZK. Regular order.

Mr. HANSEN. Point of order.

The PRESIDING OFFICER. Will the Senator state his point of order?

Mr. ABOUREZK. Regular order. The amendment has not been read, Mr. President.

Mr. HANSEN. The amendment is not germane.

Mr. ABOUREZK. I ask for the regular order.

The PRESIDING OFFICER. The point of order is well taken. The Chair understands it was established this morning that under cloture the point of order will lie before the finishing of the reading of the amendment as time is of the essence under cloture.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HANSEN. I move to table the appeal.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. INOUYE. Mr. President, there is a quorum here.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I object.

Mr. HANSEN. The yeas and nays.

The yeas and nays.

The yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. CRANSTON. The yeas and nays. Let us have the yeas and nays.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. CRANSTON. The yeas and nays.

Mr. INOUYE. Regular order.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. What are the yeas and nays requested on?

Mr. HANSEN. On the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. ABOUREZK. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 39 Leg.]

Abourezk	Garn	Melcher
Allen	Glenn	Metzenbaum
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bayh	Hansen	Nelson
Bellmon	Hart	Nunn
Bentsen	Haskell	Packwood
Biden	Hatch	Pearson
Brooke	Hatfield	Pell
Bumpers	Hathaway	Percy
Burdick	Heinz	Proxmire
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Ribicoff
Byrd, Robert C.	Huddleston	Riegle
Cannon	Inouye	Roth
Chafee	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Johnston	Schmitt
Clark	Kennedy	Schweiker
Cranston	Laxalt	Stevens
Culver	Leahy	Stevenson
Curtis	Long	Stone
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Wallop
Domenici	Matsunaga	Weicker
Durkin	McClure	Williams
Eagleton	McGovern	Zorinsky
Ford	McIntyre	

The PRESIDING OFFICER. A quorum is present.

The question is on the motion to table.

Mr. ROBERT C. BYRD. To table what?

The PRESIDING OFFICER. The motion to table the appeal from the ruling of the Chair.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE), would vote "yea."

The result was announced—yeas 70, nays 13, as follows:

[Rollcall Vote No. 451 Leg.]

YEAS—70

Abourezk	Brooke	Church
Anderson	Burdick	Cranston
Baker	Byrd, Robert C.	Curtis
Bellmon	Cannon	Danforth
Bentsen	Chafee	DeConcini
Biden	Chiles	Dole
Durkin	Javits	Proxmire
Eagleton	Johnston	Randolph
Ford	Laxalt	Ribicoff
Garn	Leahy	Roth
Glenn	Long	Sasser
Gravel	Lugar	Schmitt
Griffin	Mathias	Schweiker
Hansen	Matsunaga	Stevens
Hart	McClure	Stevenson
Haskell	Melcher	Stone
Hatch	Moynihan	Thurmond
Hatfield	Muskie	Tower
Heinz	Nelson	Wallop
Helms	Nunn	Weicker
Hollings	Packwood	Williams
Huddleston	Pearson	Zorinsky
Inouye	Pell	
Jackson	Percy	

NAYS—13

Allen	Culver	McIntyre
Bayh	Hathaway	Metzenbaum
Byrd, Harry F., Jr.	Kennedy	Riegle
	Magnuson	Sarbanes
Clark	McGovern	

NOT VOTING—17

Bartlett	Hayakawa	Sparkman
Bumpers	Humphrey	Stafford
Case	McClellan	Stennis
Domenici	Metcalf	Talmadge
Eastland	Morgan	Young
Goldwater	Scott	

The PRESIDING OFFICER. The appeal from the decision of the Chair is tabled, and the judgment of the Chair stands as the decision of the Senate.

AMENDMENT NO. 911

Mr. METZENBAUM. Mr. President, I call up amendment No. 911.

The PRESIDING OFFICER. The clerk will report.

Mr. TOWER. Point of order, Mr. President. Amendment No. 911 has already been disposed of by the Senate.

The PRESIDING OFFICER. The Senator from Texas is correct. The amendment has already been disposed of.

AMENDMENT NO. 912

Mr. METZENBAUM. Mr. President, I call up amendment No. 912.

Mr. TOWER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. TOWER. Amendment 912 has already been disposed of.

The PRESIDING OFFICER. The point of order is not sustained. Amendment No. 912 has not been disposed of.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes Amendment No. 912.

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll on the motion to lay on the table. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Ohio.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair will correct himself. The clerk will cease calling the roll. The Chair will notify the Senate that the Chair had been in error before. This amendment had been disposed of.

Mr. ROBERT C. BYRD. Mr. President, for that reason I ask unanimous consent that the rollcall be terminated and vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 919

Mr. METZENBAUM. Mr. President, I call up amendment No. 919.

The PRESIDING OFFICER. The clerk will report.

Mr. TOWER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. TOWER. Amendment 919 has already been disposed of.

The PRESIDING OFFICER. That is correct; the Senator from Texas is correct, and his point of order is sustained.

AMENDMENT NO. 975

Mr. KENNEDY. Mr. President, I call up amendment 975.

The PRESIDING OFFICER. The clerk will report amendment 975.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 975.

The amendment is as follows:

On page 7, after line 18, add a new section 8 as follows, and redesignate the succeeding sections accordingly:

COMPLIANCE BY PRODUCERS WITH CONTRACTUAL AND CERTIFICATION OBLIGATIONS

SEC. 8. (a) Not later than December 15, 1976, and every twelve months thereafter, the Commission shall report to the President and to the Congress with respect to—

(1) compliance by producers of natural gas with terms of any contractual or certification obligation to deliver natural gas to interstate natural gas companies at prescribed or minimum rates, and

(2) the extent to which natural gas companies have pursued administrative and judicial remedies to compel compliance by natural gas producers with the terms of any contractual or certification obligation of such producer to deliver quantities of natural gas to natural gas companies at prescribed or minimum rates.

(b) Any interested person may bring an action against any producer of natural gas to compel compliance by such producer with the terms of any contractual obligation of such producer to deliver natural gas to natural gas companies at prescribed or minimum rates.

(c) The district courts of the United States shall have jurisdiction with respect to any action brought under subsection (b). The court shall have the power to grant such equitable relief as is necessary to redress the effect of any failure by any producer of natural gas to comply with any contractual obligation to any natural gas company, including declaratory judgment, mandatory or equitable relief, and the courts shall further have the power to award—

(1) compensatory damages to any person or class of persons,

(2) costs of litigation including reasonable attorney and expert witness fees, and

(3) whenever and to the extent deemed necessary or appropriate to deter future violations, punitive damages.

Mr. ROBERT C. BYRD. Mr. President,

I make a point of order the amendment goes to different places in the bill.

The PRESIDING OFFICER. The Senator is correct. The amendment does go to different places in the bill, and the point of order is well taken.

Mr. KENNEDY. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. The second part—the second reason why the point of order was sustained by the Chair was because the second part—of the amendment was to redesignate the succeeding sections accordingly, and that is a separate amendment.

Mr. KENNEDY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is there a precedent on that, Mr. President? Because, obviously, there was a series of different measures that were before the Senate that were going to be subject to amendment, and in submitting this we left the particular provisions open. It was relevant to all the different provisions that are before the Senate, and we left it open. It is relevant to each and every one of the different proposals that are before the Senate.

The PRESIDING OFFICER. That does not have to be specified in the amendment. It could have been taken care of by technical and clerical corrections, which will be the usual procedure.

The question is then on the appeal from the ruling of the Chair.

Mr. KENNEDY. Parliamentary inquiry. Is it because it does not technically comply or because it is nongermane?

The PRESIDING OFFICER. The ruling of the Chair is because it hits the bill in more than one spot, of necessity.

Mr. KENNEDY. Well, Mr. President, then I will withdraw the——

Mr. METZENBAUM. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. METZENBAUM. Do I understand if the Senator had offered the amendment to only one section, and if thereafter there had been an amendment proposed to make the technical corrections that would have been acceptable, but because the Senator included the language with reference to renumbering right in the amendment that makes it out of order?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I ask for recognition.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Do I understand that when the amendment has just those words "redesignate the succeeding sections accordingly" to make those conform with the legislation we are trying to amend, that, in and of itself, is going to permit a point of order to be raised?

The PRESIDING OFFICER. That would constitute a series of amendments that hits the bill in more than one spot; so the Senator is correct.

Mr. KENNEDY. Mr. President, I will resubmit it and get a yea and nay vote on it. Before submitting it, I would say that this is absolutely relevant to the proposal which is before us. It basically requires the commission to make a finding on the various gas contracts that are not going to be complied with and fulfilled, on the basis of a very considerable study that has been made by the Federal Trade Commission and the Federal Power Commission. It is absolutely relevant, and it was to accord the renumbering of the sections, to leave that flexibility for technical change, that that language was added.

I think it is important not just for this particular legislation, but I think it will be extremely important in terms of the future. Where you fail to designate the particular sections, it can be effectively struck down as not being revelant, and a point of order will lie. I think that is an extremely important precedent that all the Members of the Senate should understand.

I resubmit the amendment, and ask for a yea and nay vote on the decision of the Chair.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Does the Senator from Massachusetts challenge the ruling of the Chair?

The PRESIDING OFFICER. The Chair was in the process of asking the Senator from Massachusetts if he were appealing the ruling of the Chair.

Mr. KENNEDY. I resubmit the amendment, and I appeal the ruling of the Chair.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 7 after line 18 add a new section 8 as follows and redesignate the succeeding sections accordingly:

COMPLIANCE BY PRODUCERS WITH CONTRACTUAL AND CERTIFICATION OBLIGATIONS

SEC. 8. (a) Not later than December 15, 1976, and every twelve months thereafter, the Commission shall report to the President and to the Congress with respect to—

(1) compliance by producers of natural gas with terms of any contractual or certification obligation to deliver natural gas to interstate natural gas companies at prescribed or minimum rates, and

(2) the extent to which natural gas companies have pursued administrative and judicial remedies to compel compliance by natural gas producers with the terms of any contractual or certification obligation of such producer to deliver quantities of natural gas to natural gas companies at prescribed or minimum rates.

(b) Any interested person may bring an action against any producer of natural gas to compel compliance by such producer with the terms of any contractual obligation of such producer to deliver natural gas to natural gas companies at prescribed or minimum rates.

(c) The district courts of the United States shall have jurisdiction with respect to any action brought under subsection (b). The court shall have the power to grant such equitable relief as is necessary to redress the effect of any failure by any producer of natural gas to comply with any contractual obligation to any natural gas company, including declaratory judgment, mandatory or equitable relief, and the courts shall further have the power to award—

(1) compensatory damages to any person or class of persons,

(2) costs of litigation including reasonable attorney and expert witness fees, and

(3) whenever and to the extent deemed necessary or appropriate to deter future violations, punitive damages.

Mr. ALLEN. Mr. President, I yield myself 2 minutes.

As I understand the Chair's ruling, he has ruled that since there is a provision of the amendment stating that the other sections shall be renumbered accordingly, therefore the amendment seeks to amend the bill at two different parts, and therefore, under the rules, is out of order.

I would be worried about this if I felt that it established a precedent that would make it more difficult to offer amendments and to get them considered. But I believe that this section calling for renumbering the other sections really was not necessary, because the Secretary would have straightened that out anyway. So it is not necessary, really, to have that there. Now that it is there, it does make the amendment out of order.

Mr. SARBANES. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Maryland will state his parliamentary inquiry.

Mr. SARBANES. Is an amendment offered in the nature of a technical amendment to renumber sections throughout a bill, and therefore referring to different sections of the bill, subject to a point of order?

The PRESIDING OFFICER. It is subject to a point of order. But the point of order, of course, has to come from the floor.

Mr. SARBANES. I understand that, but I want to——

The PRESIDING OFFICER. If the Senator will withhold just a moment, nor is it a matter that will be raised by the Chair, or by the present holder, ab initio.

Mr. SARBANES. I understand that. But the precedent that is being established is that such an amendment, when offered, is subject to a point of order, is that correct, or it may be?

The PRESIDING OFFICER. The Senator is correct. The Chair would remind Senators that that is usually done by unanimous consent, through a request to allow the Secretary to make technical and clerical corrections. and not by an amendment standing alone.

Mr. ROBERT C. BYRD. Mr. President, I made the point of order earlier. The point of order was sustained by the Chair.

We do have a very, very nice point here. I would ask unanimous consent that in this instance, the Senator may be allowed to offer his amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection——

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. What is the parliamentary situation?

The PRESIDING OFFICER. The Senator has offered the amendment, and the question presently is on agreeing to the amendment.

Mr. TOWER. The Chair has not, then, ruled on the point of order?

The PRESIDING OFFICER. No point of order has been made. The Chair would remind Senators that the amendment was originally presented, withdrawn, and has been subsequently presented again, and no point of order has been made to the amendment as it presently stands before the Senate. So the question presently is on agreeing to the amendment.

Mr. ROBERT C. BYRD. Mr. President, I made the original point of order. The Chair sustained the point of order.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The amendment was withdrawn, and there was some debate. As I said, it is a very, very fine, thin point.

The amendment is before the Senate. I will not renew the point of order, and I would suggest that we vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I move that the amendment be laid on the table.

Mr. KENNEDY. Mr. President, will the Senator withhold that for 30 seconds, so I can explain it?

Mr. TOWER. I withhold, out of deference to the Senator from Massachusetts.

Mr. FORD. Mr. President, a point of information.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. When a Senator addresses the Chair, is he not supposed to be on his feet?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, this amendment provides the authority and responsibility to the commission which is established in the Pearson-Bentsen amendment to make a report to Congress about the compliance with contracts that have been signed, and will continue that function up until the time of decontrol of gas on the Outer Continental Shelf.

It has been the experience of the Federal Power Commission and the Federal Trade Commission that they believe there have been a number of instances where there has been, effectively, a failure of compliance with those contracts, with the collusion of the pipeline companies and other companies, which has inured to extraordinary benefits of the companies themselves.

It is to get the information on that particular practice that this amendment is offered.

I am prepared to vote, and I thank the Senator from Texas for yielding.

Mr. TOWER. Mr. President, I renew my motion to lay on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. MORGAN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 42, nays 45, as follows:

[Rollcall Vote No. 452 Leg.]

YEAS—42

Baker	Garn	Packwood
Bartlett	Glenn	Pearson
Bellmon	Goldwater	Proxmire
Bentsen	Gravel	Roth
Burdick	Griffin	Sasser
Byrd, Harry F., Jr.	Hansen	Schmitt
	Hatch	Schweiker
Byrd, Robert C.	Helms	Stevens
Cannon	Hollings	Stone
Chafee	Huddleston	Thurmond
Chiles	Johnston	Tower
Curtis	Laxalt	Wallop
Dole	Long	Weicker
Domenici	Lugar	
Ford	McClure	

NAYS—45

Abourezk	Hart	Melcher
Allen	Haskell	Metzenbaum
Anderson	Hatfield	Moynihan
Bayh	Hathaway	Muskie
Biden	Heinz	Nelson
Brooke	Inouye	Nunn
Bumpers	Jackson	Pell
Church	Javits	Percy
Clark	Kennedy	Randolph
Cranston	Leahy	Ribicoff
Culver	Magnuson	Riegle
Danforth	Mathias	Sarbanes
DeConcini	Matsunaga	Stevenson
Durkin	McGovern	Williams
Eagleton	McIntyre	Zorinsky

NOT VOTING—13

Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Hayakawa	Scott	Young
Humphrey	Sparkman	
McClellan	Stafford	

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Massachusetts. The yeas and nays have been ordered on the amendment and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California, (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 57, nays 31, as follows:

[Rollcall Vote No. 453 Leg.]

YEAS—57

Abourezk	Eagleton	McIntyre
Allen	Griffin	Melcher
Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Bentsen	Hatfield	Muskie
Biden	Hathaway	Nelson
Brooke	Heinz	Nunn
Bumpers	Hollings	Packwood
Byrd, Robert C.	Huddleston	Pearson
Cannon	Inouye	Pell
Chiles	Jackson	Percy
Church	Javits	Proxmire
Clark	Kennedy	Ribicoff
Cranston	Laxalt	Riegle
Culver	Leahy	Roth
Danforth	Magnuson	Sarbanes
DeConcini	Mathias	Stevenson
Dole	Matsunaga	Williams
Durkin	McGovern	Zorinsky

NAYS—31

Baker	Glenn	Sasser
Bartlett	Goldwater	Schmitt
Bellmon	Gravel	Schweiker
Burdick	Hansen	Stevens
Byrd, Harry F., Jr.	Hatch	Stone
	Helms	Talmadge
Chafee	Johnston	Thurmond
Curtis	Long	Tower
Domenici	Lugar	Wallop
Ford	McClure	Weicker
Garn	Randolph	

NOT VOTING—12

Case	McClellan	Sparkman
Eastland	Metcalf	Stafford
Hayakawa	Morgan	Stennis
Humphrey	Scott	Young

So Mr. KENNEDY's amendment (No. 975) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1317

Mr. DECONCINI. Mr. President, I call up amendment No. 1317 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes amendment No. 1317.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk read as follows:

SEC. 10. The Secretary of Energy shall, after the termination of each year following the date of enactment of this Act, report to the Congress—

(1) the amount of new natural gas produced in the United States during such year;

(2) the amount of new natural gas reserves discovered in the United States during such year;

(3) the number of new exploratory natural gas wells drilled in the United States during such year; and

(4) the amounts and number reported pursuant to clauses (1), (2), and (3) compared with the average annual such amounts and number for the five-year period preceding the date of enactment of this Act.

Mr. DECONCINI. Mr. President, this amendment goes hand in hand, in my opinion, with the Pearson-Bentsen amendment.

As a number of my colleagues here know, I supported the Pearson-Bentsen amendment, because I do believe in deregulation.

This amendment would require that the Secretary of Energy report to Congress the amount of new natural gas produced here, and also the amount that is discovered within this country, the number of new exploratory and natural gas wells.

I think if we are going to have deregulation which, of course, is still questionable, but if we do have it, we are entitled to know the amount of gas that is recovered, new gas, and I think it should be a direct report to Congress if this amendment is agreed to. I ask for a voice vote.

Mr. TOWER. Mr. President, I think it is a good amendment and I do nct see why it cannot be adopted by a voice vote.

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. TOWER. Mr. President, what is the pending business?

AMENDMENT NO. 1039

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1039. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ABOUREZK. What is amendment 1039?

The PRESIDING OFFICER. That is the second Pearson-Bentsen amendment.

Mr. ABOUREZK. Mr. President, I want to call up an amendment.

Mr. President, I move to table amendment 1039, the one that is the pending business, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Dakota to lay on the table amendment No. 1039. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Minnesota would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. HAYAKAWA), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 40, nays 47, as follows:

[Rollcall Vote No. 454 Leg.]

YEAS—40

Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Huddleston	Pell
Byrd, Robert C.	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Magnuson	Stevenson
Durkin	Matsunaga	Williams
Eagleton	McGovern	
Glenn	McIntyre	

NAYS—47

Abourezk	Ford	Melcher
Allen	Garn	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Percy
Bentsen	Hansen	Randolph
Burdick	Hatch	Roth
Byrd, Harry F., Jr.	Hatfield	Schmitt
	Heinz	Schweiker
Chafee	Helms	Stevens
Chiles	Johnston	Stone
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
DeConcini	Lugar	Wallop
Dole	Mathias	Weicker
Domenici	McClure	Zorinsky

NOT VOTING—13

Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Hayakawa	Scott	Young
Humphrey	Sparkman	
McClellan	Stafford	

So Mr. ABOUREZK's motion to lay on the table amendment No. 1039 was rejected.

AMENDMENT NO. 965

Mr. ABOUREZK. Mr. President, I call up amendment No. 965.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK)—

The amendment is as follows:

On page 12, line 13, strike all of paragraph (e) and redesignate the succeeding paragraphs accordingly.

On page 9, at line 24, strike ", through December 31," and insert in lieu thereof a period;

On page 10, at line 1, strike "1982."

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the amendment is not in order because it goes to different places in the bill.

The PRESIDING OFFICER. The amendment hits the bill in three places, and the point of order is well taken.

AMENDMENT NO. 966

Mr. ABOUREZK. Mr. President, I call up amendment No. 966.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the amendment is not in order, because it goes to two different places in the bill.

The amendment is as follows:

On page 10, line 1, change "1982" to "1992".

On page 12, line 13, change "1982" to "1992".

The PRESIDING OFFICER. The Senator is correct. The point of order is well taken.

AMENDMENT NO. 971

Mr. ABOUREZK. Mr. President, I call up amendment No. 971.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, after line 2, insert the following new paragraph and redesignate the succeeding paragraphs accordingly:

(7) "New natural gas" means natural gas (A) which is produced from a new lease on the Outer Continental Shelf; or (B) which is produced other than on the Outer Continental Shelf from a new well (1) the completion location of which is 2.5 statute

miles or more (surface measurement) from the completion location of any old well, or (ii) the completion location of which is at a depth of 1,000 feet or more in excess of the depth of the completion location of any old well with a completion location that is within 2.5 statute miles (surface measurement): *Provided*, That the completion location of any such new well is not in the same producing zone as the completion location of any such old well.

(8) "New lease" means a lease, entered into on or after April 20, 1977; or which was leased before such date, under a lease which terminated or was abandoned before such date and was not in effect on such date.

(9) "New well" means a well the drilling of which was not begun on or before April 20, 1977, or with respect to which a drilling permit had not been issued on or before April 20, 1977, in the case of a well for which permit is necessary.

Mr. ROBERT C. BYRD. Mr. President, I make the same point of order.

The PRESIDING OFFICER. The Senator is correct. The point of order is well taken.

AMENDMENT NO. 934

Mr. ABOUREZK. Mr. President, I call up amendment No. 934.

The PRESIDING OFFICER. The amendment will be stated.

Mr. TOWER. 934?

The PRESIDING OFFICER. The Senator is correct.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 934:

On page 10, line 3, strike the word "prospective".

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered—

Mr. TOWER. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 934. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Arkansas (Mr. BUMPERS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 58, nays 29, as follows:

[Rollcall Vote No. 455 Leg.]

YEAS—58

Allen	Garn	McClure
Baker	Glenn	McIntyre
Bartlett	Goldwater	Melcher
Bellmon	Gravel	Nunn
Bentsen	Griffin	Packwood
Burdick	Hansen	Pearson
Byrd, Harry F., Jr.	Hatch	Pell
	Hatfield	Percy
Byrd, Robert C.	Hayakawa	Randolph
Cannon	Heinz	Roth
Chafee	Helms	Schmitt
Chiles	Huddleston	Schweiker
Church	Javits	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Leahy	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eagleton	Mathias	Zorinsky
Ford	Matsunaga	

NAYS—29

Abourezk	Haskell	Muskie
Anderson	Hathaway	Nelson
Bayh	Hollings	Proxmire
Biden	Inouye	Ribicoff
Brooke	Jackson	Riegle
Clark	Kennedy	Sarbanes
Cranston	Magnuson	Sasser
Culver	McGovern	Stevenson
Durkin	Metzenbaum	Williams
Hart	Moynihan	

NOT VOTING—13

Bumpers	Metcalf	Stennis
Case	Morgan	Talmadge
Eastland	Scott	Young
Humphrey	Sparkman	
McClellan	Stafford	

So the motion to lay on the table was agreed to.

AMENDMENT NO. 1086

Mr. KENNEDY. Mr. President, I call up amendment No. 1086 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1086:

On page 12, line 13, strike "1982" and insert in lieu thereof: "1987".

Mr. KENNEDY. Mr. President, this is a very simple amendment. Under the Pearson-Bentsen scheme, there is a generous compensation for the exploration and finding and production of Outer Continental Shelf gas that provides for a 5-year period for regulation.

This simply extends that for an additional 5 years.

I think any fair reading of the Pearson-Bentsen amendment would show that the criteria which has been established is extremely generous for the development of offshore gas and this would just extend those very generous provisions for 5 additional years.

Mr. President, I ask for the yeas and nays on this particular amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I move to lay on the table the amendment of the Senator from Massachusetts.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN).

If present and voting, the Senator from Minnesota would vote "nay" and the Senator from North Carolina would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 49, nays 38, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—49

Allen	Glenn	McIntyre
Baker	Goldwater	Packwood
Bartlett	Gravel	Pearson
Bellmon	Griffin	Pell
Bentsen	Hansen	Percy
Burdick	Hatch	Randolph
Byrd, Harry F., Jr.	Hatfield	Roth
	Hayakawa	Schmitt
Byrd, Robert C.	Heinz	Schweiker
Chafee	Helms	Stevens
Chiles	Huddleston	Stone
Curtis	Johnston	Thurmond
Danforth	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Ford	Mathias	Zorinsky
Garn	McClure	

NAYS—38

Abourezk	Eagleton	Melcher
Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Church	Javits	Riegle
Clark	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Magnuson	Stevenson
DeConcini	Matsunaga	Williams
Durkin	McGovern	

NOT VOTING—13

Case	Morgan	Stennis
Eastland	Nunn	Talmadge
Humphrey	Scott	Young
McClellan	Sparkman	
Metcalf	Stafford	

So the motion to lay on the table was agreed to.

AMENDMENT NO. 990

Mr. BAYH. Mr. President, on behalf of myself and the distinguished Senator from South Dakota, I call up amendment No. 990.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for himself and the Senator from South Dakota proposes amendment No. 990:

On page 14, strike all of line 19 through line 15 on page 15, and insert in lieu thereof the following:

PRIORITY ALLOCATIONS

SEC. 26. Section 7 of the Natural Gas Act is amended by inserting at the end thereof the following:

"(i) (1) Whenever the Commission determines that the public health and welfare is endangered due to an actual or imminent shortage in the supply of natural gas the Commission may issue such orders as are necessary to allocate available supplies of natural gas subject to its jurisdiction in order to provide for the following uses in accordance with the priority in which they are listed:

"(A) residential and small commercial or industrial and agricultural uses amounting to less than 50 Mcf on a peak day;

"(B) industrial feedstock requirements and industrial and commercial process uses designated as such;

"(C) industrial and commercial nonboiler fuel uses averaging between 50 and 300 Mcf per day which do not qualify under clause (B);

"(D) any nonboiler fuel use which does not qualify under clause (A), (B), or (C); and

"(E) any boiler fuel use in excess of 300 Mcf per day, except that effective after one year following the date of enactment of the Natural Gas Reform Act of 1977 it shall be a violation of this Act to make any delivery for such use of natural gas subject to the provisions of this Act.

"(2) The Commission may make allocations or exceptions to allocations not in accord with paragraph (1) in any case in which it determines such an allocation or exception is necessary to prevent irreparable harm to life or property and the beneficiary of such allocation or exception agrees to such adjustments in future allocations as the Commission determines necessary to carry out the purpose of this subsection.".

Mr. FORD. Mr. President, a point of information. Will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. FORD. As I understand it, this is priority use. It relates to agriculture. We adopted an amendment earlier by a voice vote. Does this go to another section of the bill? Does it alter the amendment we have adopted?

Mr. BAYH. This goes to the section on page 14, section 26. It strikes that and supplements the language which deals with how fuel is allocated in the event of a curtailment. We have been very careful and very sensitive to the fact that there are priority uses.

This amendment is designed not only to recognize the need to deal with the problem when we have a situation such as we had last year, but also to deal with it in a way that we maintain prices so that, in addition to allocating, we do not just get the gas by having the price go up.

It seems to me that, with respect to curtailment, it is more important that we let people who own homes and need hospitals and need schools have that gas at a reasonable rate and not force the market up so that they have to get expensive gas.

We had tragedies last year, when old folks could not afford the price of gas and a couple of them died.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana, (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 45, nays 43, as follows:

[Rollcall Vote No. 457 Leg.]

YEAS—45

Baker	Goldwater	Muskie
Bartlett	Gravel	Nunn
Bellmon	Griffin	Pearson
Bentsen	Hansen	Percy
Burdick	Hatch	Randolph
Byrd, Harry F., Jr.	Hatfield	Roth
Chafee	Hayakawa	Schmitt
Chiles	Helms	Schweiker
Cranston	Huddleston	Stevens
Curtis	Inouye	Stone
Danforth	Johnston	Thurmond
Dole	Laxalt	Tower
Domenici	Long	Wallop
Ford	Lugar	Weicker
Garn	McClure	
	Melcher	

NAYS—43

Abourezk	Glenn	Metzenbaum
Allen	Hart	Moynihan
Anderson	Haskell	Nelson
Bayh	Hathaway	Packwood
Biden	Heinz	Pell
Brooke	Hollings	Proxmire
Bumpers	Jackson	Ribicoff
Byrd, Robert C.	Javits	Riegle
Cannon	Kennedy	Sarbanes
Church	Leahy	Sasser
Clark	Magnuson	Stevenson
Culver	Mathias	Williams
DeConcini	Matsunaga	Zorinsky
Durkin	McGovern	
Eagleton	McIntyre	

NOT VOTING—12

Case	Metcalf	Stafford
Eastland	Morgan	Stennis
Humphrey	Scott	Talmadge
McClellan	Sparkman	Young

So the motion to lay on the table Mr. BAYH's amendment No. 990 was agreed to.

Mr. BAYH. Mr. President, I hate to keep bothering my colleagues with business at this hour, and I think we all realize that some of these amendments are more important than others, but just for the sake of those who may have gone through this vote, we have just refused to provide allocation provisions in the case of an emergency for homeowners, for hospitals, and for schools in an emergency, although we did it earlier today generally across the board.

AMENDMENT NO. 897

Mr. President, I respectfully request on behalf of the Senator from Ohio (Mr. METZENBAUM) that amendment No. 897 be made the order of business, please.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes amendment No. 897 to amendment No. 862:

On page 2, line 15, after the words "new natural gas" insert the following: "except for natural gas produced by companies whose sales in interstate commerce exceed 100 billion cubic feet annually".

Mr. BAYH. Mr. President, what this particular amendment does is in a very few words strike a major blow for the independents and small producers.

Many of us have expressed concern about the need to discover more gas. Anyone who has studied it—some of our colleagues have studied it more particularly than I, but almost all of us are aware of the fact that a very large percentage of all new natural gas supplies are discovered by independents and small individual entrepreneurs.

What this amendment does is say, "All right, if we are going to subject the Na-

tion to the kind of inflationary pressures that will result from a deregulation effort, we will say, in the wording of the Pearson-Bentsen amendment, that we can deregulate new natural gas, and the words of this amendment say, 'except for natural gas produced by companies whose sales in interstate commerce exceed 100 billion cubic feet annually.'"

In other words, we say to those who actually go out and get it, "You are the ones who ought to have the benefit." That is where we ought to have the incentive, not with the majors, who take the gas from those who actually find it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 40 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Proxmire
Brooke	Hathaway	Randolph
Burdick	Hayakawa	Riegle
Byrd, Harry F., Jr.	Heinz	Roth
	Helms	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Cannon	Huddleston	Schmitt
Chafee	Inouye	Schweiker
Chiles	Jackson	Stevens
Church	Johnston	Stevenson
Clark	Laxalt	Stone
Cranston	Leahy	Thurmond
Culver	Long	Tower
Curtis	Lugar	Wallop
Danforth	Mathias	Weicker
DeConcini	Matsunaga	Williams
Dole	McClure	Zorinsky
Domenici	McGovern	
Durkin	McIntyre	
Eagleton	Melcher	
Ford	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

Mr. STEVENS. Mr. President, the effect of this amendment would be to cut off a deregulated price for most of the gas produced and sold in the United States. I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 53, nays 31, as follows:

[Rollcall Vote No. 458 Leg.]

YEAS—53

Allen	Ford	Melcher
Baker	Garn	Nunn
Bartlett	Glenn	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Pell
Burdick	Hansen	Percy
Byrd, Harry F., Jr.	Hatch	Randolph
	Hatfield	Roth
Byrd, Robert C.	Hayakawa	Schmitt
Cannon	Heinz	Schweiker
Chafee	Helms	Stevens
Chiles	Huddleston	Stevenson
Curtis	Johnston	Stone
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Durkin	McClure	Zorinsky

NAYS—31

Abourezk	Haskell	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Inouye	Nelson
Brooke	Jackson	Proxmire
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Matsunaga	Williams
Eagleton	McGovern	
Hart	McIntyre	

NOT VOTING—16

Bumpers	McClellan	Stafford
Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Goldwater	Ribicoff	Young
Humphrey	Scott	
Javits	Sparkman	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Vote!

Mr. PELL. Third reading.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1039. The yeas and nays have been ordered.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. Does the Senator from South Dakota yield the floor?

Mr. ABOUREZK. Yes.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 954

Mr. BAYH. Mr. President, I ask that the amendment of the distinguished Senator from Ohio (Mr. METZENBAUM) No. 954 be made the pending order of business.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for Mr. METZENBAUM, proposes amendment No. 954:

On page 11, line 21, strike all after "average" through "amended (15 U.S.C. 757)." on page 12, line 2, insert in lieu thereof: "per barrel wellhead price of crude oil during the preceding three calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954) produced in the United States, other than crude oil transported through the trans-Alaska pipeline (within the meaning of section 8(g)(2)(A) of the Emergency Petroleum Allocation Act of 1973, as amended), divided by a Btu conversion factor of 5.8 million Btu's per barrel.".

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. BAYH. Mr. President, did not the Senator from Indiana have the floor?

The PRESIDING OFFICER. Until the clerk reported the amendment and at that point it becomes a new contest for seeking recognition.

The Senator from Alaska sought recognition first.

Mr. STEVENS addressed the Chair.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. STEVENS. If I have the floor——

Mr. ROBERT C. BYRD. Yes, the Senator has the floor.

Mr. STEVENS. Does the Senator wish to make a point of order?

Mr. ROBERT C. BYRD. No, perhaps the Senator does.

Mr. STEVENS. Mr. President, it is the Senator from Alaska's position that this amendment amends the bill in two places. Therefore, it is subject to the point of order.

The PRESIDING OFFICER. The point of order is well taken.

The bill is open to further amendment.

AMENDMENT NO. 946

Mr. BAYH. Mr. President, I ask that the amendment No. 946 of the Senator from Ohio be made the pending order of business and I ask that it be stated.

The PRESIDING OFFICER (Mr. LEAHY). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an amendment numbered 946:

On page 3, between lines 12 and 13, insert the following:

"(8) the burden of increased costs must to the maximum reasonable extent be borne by low priority users; and".

Renumber succeeding paragraphs accordingly.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I make the same point of order for this amendment. It deals with two portions of the bill.

The PRESIDING OFFICER. The point of order is well taken.

Mr. BAYH. Would the Chair be more specific about that?

The PRESIDING OFFICER. If the amendment changes two points which are not continuous, thus it amends different parts of the bill, and thus would be subject to the point of order.

The Senator from Indiana.

Mr. BAYH. For the edification of myself, if not the Chair, the amendment reads "on page 3, between lines 12 and 13."

Now, I do not know how many sections we can get in between two lines in a bill on one page.

The PRESIDING OFFICER. The amendment also reads to renumber succeeding paragraphs accordingly. It is the Chair's recollection that at an earlier time this morning, when still in the shank of the evening, the same issue arose.

Mr. BAYH. I pose another question to the Chair.

If one is adding a section between present sections 7 and 8, how does one change section 8 to be section 9 without this very technical amendment?

The PRESIDING OFFICER. The Chair understands that the usual technique would be to rely on the normal procedure of asking for technical and clerical corrections at the end of the bill. The provision is usually made at the end of the bill. The Chair understands, however, the quandary the Senator from Indiana finds himself in.

Mr. ROBERT C. BYRD. Mr. President, I ask for regular order.

Mr. BAYH. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. When the rule which has been utilized by other Members of this body, within their right, to prohibit amending a bill in two sections is applied, is not that generally applied under the rules to two sections, not subsections? This is only applied to section 2, which starts on page 2, continues on through page 3, on through the top of page 4. It is the findings and purpose section, I suggest, and the point is raised about changing two subsections.

The PRESIDING OFFICER. All that is required is that the amendment touch the bill in more than one contiguous place.

Mr. BAYH. A parliamentary inquiry. If the definition is a noncontiguous place, I suggest to the distinguished Presiding Officer that this does not apply, because it does apply continuously. It applies to inserting new language between present sections 7 and 8. The very next number in the bill is continuous. It is section 8 which we changed to new section 9.

The PRESIDING OFFICER. Will the Senator indulge the Chair for a moment?

Mr. BAYH. I will be happy to do so. I am sorry to cause this inconvenience.

The PRESIDING OFFICER. The Chair does not mind a bit. The Chair gets paid by the year. [Laughter.]

The Chair feels that the Senator's point is well taken, and it is because of the contiguous nature of the amendment. The Chair reverses its earlier position and maintains that the point of the Senator from Indiana is well taken, and the amendment is in order.

Mr. BAYH. I appreciate the patience of the distinguished Presiding Officer, which is characteristic of his personality and tenure in the Senate.

Mr. President, this matter may not be earthshaking to some, but we have done a lot of discussing in efforts to amend, some successful—one failed by two votes a little earlier—to try to allocate gas to high priority users. Certainly, there should be no place where this should be specified with more specificity and clarity than in the purpose section, and that is what this does. To the maximum reasonable extent, the increased costs are to be borne by low-priority users. It is the business of allocation.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, this is a very difficult problem that deals with the basic bill, not with the Pearson-Bentsen amendment. It deals with the subject of incremental pricing, which is a subject that is not dealt with in that amendment and probably should be dealt with in connection with a discussion on the bill itself, should the Pearson-Bentsen amendment not be adopted finally. This, in effect, is taking up the issue much before its time, in my opinion.

It is probably the most complex subject that could be discussed in relation to the whole problem. Since it is premature and could be raised again in connection with the bill itself, should that event ever materialize, I think it is an amendment that should not be considered by this body prior to the final consideration of Pearson-Bentsen, and for that reason I move to table the amendment at this time.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Indiana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. LONG), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 50, nays 32, as follows:

[Rollcall Vote No. 459 Leg.]

YEAS—50

Abourezk	Domenici	Lugar
Allen	Ford	McClure
Baker	Garn	McIntyre
Bartlett	Glenn	Melcher
Bellmon	Goldwater	Packwood
Bentsen	Gravel	Pearson
Burdick	Griffin	Percy
Byrd, Harry F., Jr.	Hansen	Randolph
	Hatch	Roth
Byrd, Robert C.	Hatfield	Schmitt
Cannon	Hayakawa	Schweiker
Chafee	Heinz	Stevens
Chiles	Helms	Stone
Curtis	Huddleston	Thurmond
Danforth	Javits	Tower
DeConcini	Johnston	Wallop
Dole	Laxalt	Zorinsky

NAYS—32

Anderson	Haskell	Muskie
Bayh	Hathaway	Nelson
Biden	Hollings	Nunn
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Matsunaga	Sasser
Durkin	McGovern	Stevenson
Eagleton	Moynihan	

NOT VOTING—18

Case	McClellan	Stafford
Eastland	Metcalf	Stennis
Hart	Metzenbaum	Talmadge
Humphrey	Morgan	Weicker
Long	Scott	Williams
Mathias	Sparkman	Young

So the motion to lay on the table was agreed to.

Mr. CRANSTON and Mr. ABOUREZK addressed the Chair.

Mr. CRANSTON. Mr. President, I ask unanimous consent that T. J. Oden of Senator MCINTYRE's staff have the privilege of the floor throughout all stages of consideration of the pending bill.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

AMENDMENT NO. 944

Mr. ABOUREZK. Mr. President, I call up amendment No. 944 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) for Mr. METZENBAUM, proposes amendment No. 944.

On page 3, line 14, after "the", strike through to "gas", in line 16 and insert: "actual costs associated with finding new supplies of natural".

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, if I may have just a moment to discuss the amendment.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, I have the floor, I think.

Mr. ROBERT C. BYRD. The Senator did not yield for that.

Mr. STEVENS. I have not yielded, Mr. President.

Mr. President, the problem with this amendment is that one of the findings states that a new system of pricing natural gas is required and that is that we must recognize the costs and risks associated with the finding of future supplies of natural gas. The effect of this amendment would make it so that the new costing systems must recognize actual costs associated with the finding of new supplies. This change takes away consideration of future costs and risks connected with exploration and development and would act therefore as a retardant to the conducting of exploration and development of new gas supplies, which would be contrary to the whole purpose, whether it is the bill or Pearson-Bentsen. On that basis, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 56, nays 30, as follows:

[Rollcall Vote No. 460 Leg.]

YEAS—56

Allen	Glenn	McIntyre
Baker	Goldwater	Melcher
Bartlett	Gravel	Nunn
Bellmon	Griffin	Packwood
Bentsen	Hansen	Pearson
Burdick	Haskell	Pell
Byrd, Harry F., Jr.	Hatch	Percy
	Hatfield	Randolph
Byrd, Robert C.	Hayakawa	Roth
Cannon	Heinz	Schmitt
Chafee	Helms	Schweiker
Chiles	Huddleston	Stevens
Curtis	Javits	Stevenson
Danforth	Johnston	Stone
DeConcini	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Ford	Mathias	Weicker
Garn	McClure	Zorinsky

NAYS—30

Abourezk	Eagleton	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Inouye	Nelson
Brooke	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Matsunaga	Sasser
Durkin	McGovern	Williams

NOT VOTING—14

Bumpers	McClellan	Stafford
Case	Metcalf	Stennis
Eastland	Morgan	Talmadge
Hart	Scott	Young
Humphrey	Sparkman	

So the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I think it is time we took a breather. I want to state that, assuming the Senator from Alaska can hold the floor, there will be about an hour right now during which Members can take a slight break. We have agreed with the majority leader that it would be no more than an hour.

Mr. President, I am concerned about some of the questions which have been raised about the concept of deregulation. I think it would be well to put into the RECORD at this point some of the arguments which have been made concerning deregulation, particularly the arguments against deregulation, and to try to provide a rebuttal to those arguments.

Mr. President, I ask the Chair notify me when I have used 20 minutes of my time.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. STEVENS. One of the arguments is that this Pearson/Bentsen phased deregulation would result in windfall profits to the producers of natural gas. A standard criticism of any effort to allow higher prices is that it will "swell the profits" of producing companies. But it does not make any sense to look at the gross dollar volume of profits. There is not a Mr. Exxon somewhere who is happier if his profits are $2 billion instead of $1 billion. Instead, you have to look at the profit as a proportionate return on equity. If a company makes a $1 billion profit on $10 billion equity, it is not as profitable as a company that makes only $1 million on $5 million in equity.

If we look at return on equity, we find that gas and oil producers have made a return at or below the figure for all manufacturing, and well below the rate for many other industries and companies. Thus, in 1976, the top 28 oil companies averaged a return of 13.1 percent on stockholder's equity, as against 16 percent for 13 large newspaper firms, and 18.4 percent for the Washington Post.

If higher prices cause industry profits to increase, say 20 percent, while the money they have to invest to get the gas also rises 20 percent, there is certainly no ripoff, even though profits increase.

The counterargument from regulators would be—Dr. Rivlin and others have said this explicity—that no additional expenditures will be made to try to get gas at higher prices. To see how silly this is, we need only look at past history. Many of the supporters of regulation seem to think that gas should still sell for 26 cents/Mcf, and oil for $5.25/bbl.

That might be all right if we had control, really, over the oil market. I think one of the things that the people who argue against deregulation for gas forget is that the alternative supply of energy, if the price of gas continues to be regulated and the supply does not increase, can only be ever-increasing foreign oil which we are importing at an ever-increasing price.

The problem really is—and, Mr. President, this was demonstrated recently in the President's report on the transportation system for Alaskan natural gas—that if a true comparison is made of the cost of new supplies of natural gas, that comparison must be made to the alternative price of imported foreign oil. Imported foreign oil is now in excess of $14 a barrel. That will be somewhere around $2.75 per Mcf for gas. We are talking about a concept of trying to increase the supply of gas. The only thing that I know that will increase the supply of gas is to allow the gas price to float toward the cost of that foreign oil. That will stimulate production, it will stimulate exploration, and it will increase the supply of gas in this country.

In my own State it will mean that we will see exploration in the other 13 basins of Alaska which have not yet been explored for natural gas. We have 15 sedimentary basins in my State. Two of them have been explored in terms of exploration in depth, and those two, in fact, are producing. I believe if we are going to use the economic system in which we all believe, the free enterprise system, the counter-productive effects of continued regulation should be eliminated.

If their logic were correct, company expenses would be no different, so that the decrease in revenue would mean that industry profits would decline drastically or disappear. Yet does anyone really think that if prices were controlled at still lower levels that the oil industry would go merrily on its way losing money. Not at all. They simply would not have drilled much of the gas and oil we are now using.

Do not think that by continuing regulation you are in some way punishing Exxon stockholders. Their dividends and stock price are unlikely to be radically affected by our action. Instead, what we are doing is preventing additional inves-

tors, whether through bonds, stocks or private expenditures, from putting money into production and bringing in additional supplies.

What producer would allow profits to be captured by the Internal Revenue Service. The producer would plow these profits back into further exploration and development and not permit 48 percent of them to be taken away by the Treasury. Realizing, however, that many in Congress were concerned about this notion, the deregulation bill would include a provision calling for the enactment of a windfall profits tax.

Argument No. 2 against deregulation was that it would be too costly to the consumer of natural gas. The administration estimated deregulation would cost $71 billion and the Library of Congress estimated $77 billion. Congressmen STOCKMAN and BROWN, however, in a very careful and conservative study estimated that the administration proposal would cost $48 billion more than deregulation between now and 1990.

Deregulation will go to a very high price. The administration's own studies use a range of $2.35 to $2.50 in real dollars, although at times the administration says the price could go to $4 or $5 per Mcf—the CBO study is based on a $4 price.

I think it is important to recognize the problem is when we compare the cost to the consumer, too. Is the cost to the consumer to be the cost that he or she will have to pay for an alternative fuel, namely foreign oil, or is it the cost to pay for the same existing supply of gas under regulation as compared to deregulation?

The fair comparison is the comparison, as I stated, which the administration used in comparing the cost of gas from the Prudhoe Bay to foreign oil. That is what I base my conclusion on that really deregulation will ultimately cost the consumer less because if new gas supplies are not available the consumer will have no alternative but to move to the more expensive foreign oil as a substitute source of energy.

Little or no additional gas will be produced. Their basic figures assume no increase in supply beyond $1.75. On other occasions, however, the administration will admit to a very modest supply response. However, the three ERDA MOPPS' studies all show increase in supply based upon higher prices.

The administration ignores the cost of alternative fuels that increased supplies would replace. The same effect is achieved by assuming away all increased supplies and not mentioning that alternative energy supplies will be needed and expensive. Finally, as BROWN and STOCKMAN point out, the administration fails to compute the cost of unused pipeline capacity. The Stockman/Brown study found that an additional 25 Tcf of gas would be produced under deregulation.

The argument for deregulation is straightforward and simple. Market prices for natural gas should prevail for the same reason the market sets most prices in our society. Producers have an incentive to find the lowest cost supplies and sell to all consumers who find the product at the market price more valuable than their alternatives. Despite highly publicized crises, it works. The rapid disappearance of the sugar crisis and grain crisis of a few years ago, the easing of the orange juice and coffee crises more recently, show how it works. When a market threatens to get out of balance, due to a change in either supply or demand, prices give the signals to both buyers and sellers. As price rises, producers bring in more marginal and higher cost supplies, and buyers buy less and use alternatives where economical, until balance is restored. If demand slackens, producers will drop their higher cost production, and restrain prices, until balance is again achieved.

We argue that the same thing will happen with natural gas. With deregulation, prices may well rise above the controlled levels. More supplies will be produced. Consumers who have lower cost alternatives will switch, thus freeing additional supplies, and helping to moderate the price rise. People who consume the additional supplies will be spared the cost of using higher cost alternatives.

Again, the rule of other things being equal must be observed. If current production rests heavily on old discoveries, production may fall over time, even though more new discoveries are made under deregulation than would have been made otherwise. The point is that production would have fallen far faster under controls.

Mr. ABOUREZK. Will the Senator yield for a question

Mr. STEVENS. I would be happy to yield after I have finished this next paragraph, Mr. President, assuming that the Senator from South Dakota is willing to use his time.

Mr. ABOUREZK. It is just a question.

Mr. STEVENS. I would be happy to yield if I may finish this one paragraph.

Argument three against deregulation was the price above $1.75 would be unproductive because of the nonavailability of drilling rigs. This fact is clearly not true because the most authoritative source on drilling rigs, Hughes Tool Co., indicates that there are 2,350 rigs in existence, of which only 2,150 are in operation. Furthermore, the U.S. manufacturers possess the current capacity to manufacture 679 additional drilling rigs per year, and they ought to be given the chance to put people back to work making drilling rigs.

I will be happy to answer a question for the Senator from South Dakota.

Mr. ABOUREZK. The Senator said that production would fall faster under regulation than it would under deregulation. By that is the Senator conceding that production will fall under deregulation?

Mr. STEVENS. The Senator from Alaska is of the opinion that under deregulation the supplies will increase and will increase rather rapidly and that for a substantial period of time we will have an increased supply of gas in this country. But since gas is a finite resource, eventually the time will come when our supplies will start to dwindle. At that time, consumers will shift to the lesser expensive fuels that are available.

I happen to believe very strongly in solar and differential thermal energy, for instance. Those two energy sources will not come on the market under our system until the price is more advantageous to the consumer than the price of existing fuels.

I think that the problem with the administration's position is that it intends, for instance, in terms of the production of oil, to impose a $6 tax at the wellhead. That has nothing to do with increased production of supplies. Incidentally, the cost of that wellhead tax will cost the consumer more between now and 1985 than the administration's own projections of increased deregulation will cost the consumer between now and 1990.

I find a strange dichotomy. Perhaps the Senator from South Dakota can tell me how he can possibly support a tax on the wellhead price of oil to increase the consumer cost of oil, which incidentally will not increase the supplies of oil one iota. As a matter of fact, it is designed to decrease consumption and to be a disincentive in the whole area. On the other hand, the problem of deregulation which is associated with an incentive to production is cast aside. It is a real dichotomy for the Senator from Alaska.

Mr. RANDOLPH. Mr. President, will my able colleague yield?

Mr. STEVENS. I am delighted to yield to my friend from West Virginia.

Mr. RANDOLPH. It will be out of my time. That is understood; is it not?

Mr. STEVENS. Under any circumstance the Senator wishes to have me yield under the rules I am delighted to yield to my good friend.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized on his own time.

Mr. RANDOLPH. I appreciate the comments made by the knowledgeable Senator from Alaska (Mr. STEVENS).

He has been talking about the manysided approach to the deregulation of natural gas as he sees the arguments pro and con and the implications therefrom.

The President 11 months ago, on October 19, 1976, sent a letter to Gov. David Boren of Oklahoma.

I realize that letter, which was to set forth the conviction on energy matters, of the then candidate for President, now our Chief Executive. He defined in essence and some detail, his convictions about the energy problems of this country. That communication has been referred to several times during the debate on the pending subject matter.

In that letter President Carter used these words.

> Deregulation of new gas would encourage sales in the interstate market and help lessen the prospect of shortages in the nonproducing states which rely on interstate supplies. While encouraging new production, this proposal will protect the consumer against sudden, sharp increases in the average price of natural gas.

Would my colleague from Alaska indicate whether the portion of the letter I have just read from the President is the position that he advocated earlier this evening in his address?

Mr. STEVENS. That was the position that the Senator from Alaska is attempting to articulate, yes.

Mr. RANDOLPH. I so understood, and

I followed the Senator in his well-reasoned and well-documented discussion of this perplexing problem.

I have never spoken in this Senate Chamber since coming here in November of 1958, until just in the last few minutes at the hour of 3:45 a.m.

Mr. STEVENS. If the Senator would note, the Senator from Alaska takes pleasure in participating because it is now just 10:45 p.m. in Anchorage, and we still have a lot of time to go, by Alaska time. I am happy to have the Senator associated with me even though it is 3:45 a.m.

Mr. ROBERT C. BYRD. The Senator notes for the record that both West Virginia Senators are on the floor at this hour.

Mr. RANDOLPH. Yes, I certainly want the RECORD to indicate that the esteemed majority leader, Senator BYRD of West Virginia, is as always at his post of duty, no matter what hour.

I do recall seeing W. C. Fields in a theater production, of course a long time ago. The famed comedian came out of a log cabin while a snowstorm was raging. He looked out around and as he turned to go back into the cabin, the snow swirling about his head, said, "This night haint fit for man nor beast."

I am sure Senators have reservations about being in a tormenting session during this long night. It is not a pleasant forum as night begins to turn into morning. I shall read a portion of that letter that has not yet been actually quoted in the Chamber, but has been placed in the RECORD.

. . . I favor a substantial shift from the use of oil and gas—our highest quality energy sources—

I repeat and emphasize:

I favor a substantial shift from the use of oil and gas—our highest quality energy sources—to coal, which we have in abundance. We must immediately begin a program to encourage conversion from the use of petroleum and natural gas to coal in those applications for which coal is an acceptable substitute.

Is that not true? I ask the Senator from Alaska. We have acted affirmatively in accordance with that portion of President Carter's energy recommendations.

Mr. STEVENS. That is correct, in the coal conversion bill which we have already passed, and we are, I think, acting responsibly with regard to an attempt to bring about an adjustment on gas price also.

I might point out to my faithful friend from West Virginia that our Canadian neighbors have adjusted their prices on gas and on oil. They are allowing the market price to work, and they are in fact stimulating the activity with regard to the use of the exploration of development of their coal reserves. I am sure the Senator knows that Alaska has vast coal reserves, as does his State of West Virginia. Currently there is only one mine left in Alaska that mines coal. Even though during the World War II period we had substantial coal production and most of our people used coal. And we found that because of the arbitrary pricing system starting with natural gas that the price of oil was less than the price of the coal. This is a strange circumstance really when it is a more convenient fuel to use in many instances. I think we are working in that direction, and we should find a way to stimulate increased production in the use of coal wherever possible in this country.

Mr. RANDOLPH. The response of my able colleague is factual. I have visited Alaska several times, and it is a land of vast spaces and great potential. It was my privilege to vote to admit Alaska into our union of States. Yes, also within the mountains of our State there are vast deposits of coal.

From President Carter's conviction on coal, I read as follows:

Our present demand for coal is limited by two important factors. First, we have geared our technological growth to oil and gas for well over 100 years. Second, we have failed to establish a stable regulatory climate in which coal producers are sure of the rules of the game before they make investments in expanded production or new mines. Switching to the use of coal will require strong presidential leadership and proper federal incentives to encourage the conversion process.

President Carter indicated that if he were elected President he would give leadership in solving energy problems. I have a high regard for the office itself, and also I cherish a very genuine esteem for its present occupant. Our President has certainly been one of the most ardent advocates of needed conservation of energy program, and conversion from oil and natural gas to coal. The Senate and the House of Representatives have passed coal conversion legislation. It is ready now for conference.

Is that not a fact?

Mr. STEVENS. That is a fact, and as the Senator from Alaska hope that the President of the United States if he is delivered a bill which brings about a concept of phased deregulation as the Pearson-Bentsen amendment proposes might well again reconsider his position and, as he did in the B–1 bomber situation, return to his original statement that he made during the campaign of last year.

Mr. RANDOLPH. And we both recognize that our President has changed his viewpoint on the matter of deregulation of natural gas. He did not change his viewpoint on the subject of coal conversion. Would that be a fair statement?

Mr. STEVENS. I believe that would be a fair statement.

I am not certain, however, the President has completely changed his mind on deregulation. Every President is entitled to a little bit of jawboning as against the action of Congress. We have seen it for a long time, and I have seen all kinds of threats of filibusters that waned away. I have seen threats of vetoes from the administration that did not materialize, and I would think that the President is willing to make some concessions to Congress to enable it to change and shape energy policy in its consideration of his requests.

I think that the Senate has done very well by the President in terms of reacting to his requests so far in the energy field, and I would believe that he would do very well by us if he would consider our recommendations too before making a final decision on whether or not to veto a proposal that contained a phased deregulation concept for natural gas.

Mr. RANDOLPH. My colleague does express the hope that the President may modify his position in reference to this pending portion of the energy package which hopefully we are developing in the Senate. In that connection the front page coverage by the Washington Star, indicated that the majority leader of the Senate (Mr. BYRD) who is in the Chamber at his post of duty at this hour, almost 4 o'clock, that he had reservations on our President's recent comment. I can, in good conscience, disagree with the Chief Executive on the matter of deregulation. The majority leader of the Senate was quoted, according to the Star article, when the President said he would or might veto legislation if gas deregulation was included. Senator BYRD seemed not to take that seriously, that veto threat, as some persons might consider it a veto threat.

I ask unanimous consent to print in the RECORD that portion of the news story from the Washington Star of Tuesday, Septembed 27, which carried the reaction of the majority leader. I am not attempting to set forth the majority leader's position. His course will be determined by his personal belief.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Senator BYRD, who had met Carter for breakfast along with other congressional leaders, said the President shouldn't expect the Senate to pass his energy program intact. He hinted that Carter's thinly veiled threat to veto legislation that would deregulate gas prices will have little effect on Senate action.

But BYRD said he was ready to hold around-the-clock sessions in an effort to get progress on stalled natural gas legislation.

Speaking from the Senate floor, BYRD said: "We're under no obligation to rubber-stamp anything the President sends up here. I, for one, am not persuaded by advice from the outside on what the Senate should do."

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to comment?

Mr. RANDOLPH. Yes, indeed.

Mr. ROBERT C. BYRD. Mr. President, my reaction at that point was not meant to indicate that I did not take the President seriously. Whatever characterization may have been given to my reaction I think I will have to say that I take the President seriously at his word when he speaks. I simply feel, however, that it is up to the Senate to reach its own decision independently of what comments may be said on the outside.

Mr. RANDOLPH. I am appreciative of this statement of our majority leader. It will clarify what I had stated. But I do remember full well there was a quotation attributed to the majority leader which underscored what he has now said. It is clear he expects the Senate to work its will, and that any outside influence, whatever that might be, the White House or industry, or any type of pressure would not be reflected in the vote in the Senate. It would not be a reaction to an outside influence. It would be the individual de-

cisionmaking process of the Members of the Senate.

Would my colleague from Alaska comment on the responsibility of Senators to reach a determination as we go into the ninth day of debate on this question?

Mr. STEVENS. I say merely that I think that, from my point of view, it is improper for this body to consider what has actually been the vote of the other body or to have comments made in the other body used here. I should think eventually it should be improper for one to bring a threat of veto or promise of support for anybody. I think we should exercise our independent judgment on the basis of the facts before us and our general knowledge. We certainly cannot shut off Senators from knowledge that the President made statements, but I think it is proper to bring a threat of veto to the floor of the Senate.

Mr. RANDOLPH. The President, we agree, and I am sure all Senators, if they were in the Chamber at this hour would agree, have the right, if they so desire, or are so convinced, to change their position on the issue of deregulation of natural gas from prior decisions. We understand that the President has the right to make a decision which now is the exact opposite of the decision of 11 months ago, which, as I continue to stress, was made public.

I am concerned that there seems to be an indication that our President should not speak out and speak out vigorously, as he has done, on three occasions, within the last 24 or 36 hours on this matter.

There has been the implication that Senators would be making their decisions under the influence of certain interests which would perhaps not be concerned with the public interest. That concerns me. I cannot and will not impugn the motives of Members of the Senate when they vote contrary to the vote that I cast. These are times which call for moderation in emotional comment.

I remember a great man who lived in West Virginia, who published a periodical called, The Golden Rule Magazine. His name was Napoleon Hill. He died perhaps a year-and-a-half or 2 years ago. Hill wrote a book called "Think And Grow Rich." He did not refer just to material wealth. It is a volume printed in the millions of copies throughout the world. In that book, he says, "If you must think evil of a person, never speak it; write it on the sands near the water's edge."

Yes, we too must be very careful, in the debate that will continue on this subject, to address ourselves to substantive matters, matters that contribute, hopefully, to an understanding of this particular part of the energy message. I read now the conclusion of the letter of 11 months ago setting forth the then Presidential candidate's thinking on energy items I have not covered:

> I hope that these policy recommendations will help to put my views on the supply aspects of the energy problem into focus. Without a strong commitment to increasing our domestic production while maintaining basic environmental principles, we cannot hope to reverse the unhealthy trends which the lack of leadership has produced.

(Mr. MELCHER assumed the Chair.)

Mr. RANDOLPH. It is my hope that the leadership, not only of the administration, reflected from the White House, but the leadership in the Senate—not a Democratic or Republican leadership, but the leadership of the Senate, members of both parties, recognize that there is not only our understanding of the problem, but also our commitment to complete, in an orderly manner, the consideration of amendments. It is on that premise that my remarks are not being concluded in no rancor or ill intent. Just the opposite; they are made in the firm resolve that within the membership in the Senate, there is a desire and, if possible, a determination, that perhaps this session all night will accomplish a positive result toward bringing a disposition of this matter in the orderly way which I have advocated. I have talked perhaps, rather slowly and without script or notes. I have spoken, however, very earnestly. It is my fond hope that what has been happening here will not continue to take place in the body in the hours when daybreak comes across the Capitol plaza; that we will move—not precipitously, but in the way the Senate should move; with consideration for substantial subject matter, making our individual decision; then, as quickly as is feasible, doing what we have already done. I ask my colleague from Alaska, is it the second of the five energy matters with which we are dealing? Or have we already completed three and are now working on the fourth? I am not sure, but we have acted.

Now we are challenged, I underscore, to dispose of this subject—not to get it behind us; not, as the poet said, to drop it like a shabby old coat in the street and never be put on again; yes, we must come to a conclusion on this particular part of the energy issue.

I say, in no narrow partisan sense, that I am a strong supporter of the President of the United States. I voted for his election. I campaigned in behalf of his candidacy. But I would not want President Carter or any President of the United States to impugn the motives of the Members of the Senate of the United States. Certainly, this is a critical time when we must be very, very sparing of harsh words that cause perhaps deep cleavage.

I believe that that can be the result. But it can only come about if, within each Member of the Senate, there is that sense of proportion which allows us, as I said, day before yesterday, to consider each amendment on its own merits; not attempting to polarize for or against the Pearson-Bentsen subject matter, but to consider it as an amendment, standing alone, if it is offered in substance.

I have been here, on the Hill, since March 8, 1933, except for that 11-year period between laboring in the House of Representatives and then, in 1958, coming to work in the Senate. I have rarely seen the principle of polarization accomplish balanced results which we must achieve to bring about a final determination of vital legislation.

So, let us move forward. Let us try to find some areas of agreement, but let us realize that there is strong support for the proposal which I am now supporting and hope to continue supporting. That is the principle of natural gas deregulation, which was strongly advocated, as the able Senator from New Mexico (Mr. DOMENICI) when he quoted the President. That was the advocacy of deregulation in reference to natural gas. I hope my colleagues will share with me the feeling that there is this individual responsibility of each Member of the Senate. I have been feeling for a long, long time that we need a rebirth of personal responsibility in America. That rebirth or rediscovery of individual responsibility must be exercised in the Senate.

Having been given the opportunity to comment at this hour, I believe that perhaps I have spoken some 25 minutes of the hour allotted to me, since the application of cloture. There are few Members present and very few individuals in the galleries at this hour. Nevertheless, I was impelled to speak as I always would want to speak—cheerfully but from my heart. In the words of the Bible: "Pleasant words are as an honeycomb, sweet to the soul, and health to the bones."

Mr. STEVENS. I thank the Senator from West Virginia.

Mr. President, argument No. 4 is that interstate natural gas prices have risen sharply in the past 11 years, which should have been more than enough incentive to increase production. It is certainly true that interstate natural gas prices have risen sharply, but what this statement does not tell you is that interstate prices have always been substantially lower than intrastate prices. With higher prices in the intrastate market and without the burden of the FPC regulations, producers preferred to sell in that market especially from onshore discoveries. From the Federal offshore lands where gas must by law go into the interstate market producers leased and developed only those reserves that were economic for them under the severe restrictions of Federal price controls while passing up opportunities where profitability was not reasonably to be expected. Reserve additions in the intrastate market averaged 7.8 Tcf during the 5-year period 1971–76.

Argument No. 5 against deregulation is that there is not much more gas from conventional sources left to be discovered. This assumption is clearly contradicted by studies performed by the U.S. Geological Survey, Stanford Research Institute, Potential Gas Supply Committee, and ERDA (MOPPS). The U.S. Geological Survey estimates that there is between 890.7 Tcf and 1,290.7 Tcf of remaining natural gas reserves.

Argument No. 6 against deregulation was that not much new gas would be produced as a result of deregulation because natural gas is not very price responsive. Such a statement ignores the clear and unequivocal evidence of price responsiveness of natural gas in Texas, Ohio, New Mexico, and many other States in response to the higher prices permitted in the intrastate natural gas markets. A particular case in point is the Canyon Sand Gas Play in West Texas where nearly 1,200 new gas wells have been drilled in the last 5 years as

intrastate prices rose from 16.5 cents per Mcf to $1.90 Mcf.

Argument No. 7 against deregulation is that producers have been speculatively withholding gas in anticipation of higher prices and should not, therefore, be rewarded by giving them new gas prices for this withheld gas. Under the deregulation proposal there is a provision disallowing new gas price treatment for this type of "withheld" or "capped" gas that could have been produced but was not. Most shut-in gas is, however, gas that the producer cannot deliver because there is no nearby pipeline. Gas shut in for justifiable reasons could still receive the new price. For instance, the Louisiana Department of Conservation January 1977 report of wells that were shut in indicated that there were 500 of these wells. Of this 500, 474 or 94.9 percent were awaiting pipeline connection, because they were located at some distance from existing pipelines. The remaining 26 wells or 5.1 percent had not yet been production tested in order to determine their potential delivery capacity.

Argument No. 8 against deregulation is that the exploration, development, and production phase of the natural gas industry lacks competition and, therefore, should be forced under Federal price controls. According to the American Association of Petroleum Geologists, independents in 1976 drilled 89.2 percent of the wildcat wells and accounted for 75 percent of the new fields found.

Let me conclude by reading a portion of the conclusion of the President's decision on the Alaska gas transportation systems:

> Even if we achieve the ambitious coal conversion, conservation and production goals outlined in the National Energy Plan, Alaska gas provides us with a needed additional resource for helping reduce oil imports while heating more of our homes and running more of our families with a premium domestically produced fuel. If we fall short of our goals, Alaskan gas is essential in the effort to minimize imports and help fill the gap between natural gas supply and demand.

Again, in justifying the pipeline system selected by the administration, they chose to compare the cost of Alaska gas with oil imports. I feel that if the same principle were followed in connection with deregulation, all Senators would support the deregulation of natural gas.

Does the Senator from Missouri seek recognition now?

Mr. DANFORTH. Mr. President.

Mr. ABOUREZK. Mr. President, I have been seeking recognition.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ABOUREZK. Mr. President, a point of order. I was on my feet and asking recognition and the Senator from Missouri was not. Under the rules, I am entitled to recognition.

The PRESIDING OFFICER. The Senator from Missouri has been recognized and no point of order will lie to the question of recognition.

Mr. ABOUREZK. Mr. President, I submit there is a question of recognition. The rules specifically state that if a Senator is on his feet seeking recognition, he is entitled to recognition.

Mr. STEVENS. Regular order, Mr. President, the Senator from Missouri did address the Chair first.

The PRESIDING OFFICER. Regular order is called for. The Senator from Missouri did seek recognition and he is recognized.

Mr. DANFORTH. Mr. President, first, I want to say to the distinguished senior Senator from West Virginia, who is on the floor, that I have great respect for him and also very great respect for his namesake and son, who resides in St. Louis, Missouri. The Senator has made for himself a splendid reputation in this country. His son, who is known as Jay Randolph, has made a splendid reputation in the St. Louis area and it is also growing throughout the country, as an outstanding sportscaster.

He has broadcast the St. Louis Cardinal baseball games, particularly on television when they had dual broadcasts on radio and television; he has broadcast the St. Louis Cardinal football games, and many other football games, on national networks. He has really been an outstanding credit to his profession and I believe has raised the standard of broadcasting in the sports field well above its usual state. He has added dignity and grace to a field which has given so many people so much pleasure over the years.

I suppose any young man who thinks about the possibility of a future in politics dreams of the possibility of standing on the floor of the Senate and making a speech. Indeed, that was my dream as a boy from the time I was in my preteens. Yet somehow I never dreamed I would be standing on the floor of the Senate at the hour of 20 minutes past 4 in the morning speaking on the subject of the pricing of natural gas.

It is an anomalous situation in that several months ago I wrote a letter, which was also signed by several other Senators, to the very distinguished majority leader, inquiring about the scheduling of our meetings. I might say I fully appreciate and support the fact that the majority leader is keeping us in around the clock because, indeed, the picture is bleak and, indeed, the Senate should eventually work its will. Indeed, it is a circumvention of the voting of cloture to have amendments called up one after another, hundreds of amendments. So there really is no recourse, no hope, for solving this situation, other than for the Senate to continue to be in session hour after hour, presumably day after day, until we come to an end.

Also, it is anomalous for me to be speaking at this time because I voted in favor of cloture and I support deregulation of natural gas. Normally, the people who are speaking in this sort of situation are simply taking up the time of the Senate, postponing the inevitable. I am not speaking for that purpose. I am speaking, very frankly, in order to let some of my colleagues sleep. I think it is pretty clear that not too many people are going to be persuaded by my comments on the natural gas situation, but I believe getting at least a little bit of rest is important, and I am delighted to do my part to try to make it possible for people to get some reasonable recovery from the long ordeal in which they have been involved.

I do not know exactly how I rate in age among the Members of the Senate, but I am confident I am in the youngest 10 percent. It is a grueling pace under the best of circumstance. I do not understand how people who are in their fifties, sixties, or seventies can take this kind of pace, even under the best of circumstances, and these are not the best of circumstances.

It seems to me that in this kind of situation, when the inevitable is before us, when we know that this bill is not going to be taken down, that eventually it is going to be voted upon even if we have to go every night for the next month, what we are really doing is playing with the health and the lives of other people.

Be that as it may, the least I can do is to stand up and talk a little bit—not to persuade anybody but to at least give people a chance to get a little bit of rest.

The State of Missouri is not an energy-producing State. I read in the newspaper a month ago that there was a little tiny oil field in St. Louis County. I had never heard of it before. There is some very nice low sulfur coal that is capable of production in the north central part of our State. To the best of my knowledge, we produce absolutely no natural gas. A lot of the people who have participated in this debate are from States which are producing States, and they obviously have an interest in protecting the particular economic concerns of their own constituents.

Missouri does not produce natural gas and, therefore, windfalls are not going to be reaped by people within our State if the controls go off the price of natural gas.

I do believe that the fundamental issue which is involved in this question is one which the people of my State have faced many times, and which the people of the country face. That simply is, how do we go about solving major problems? Is it true that government has magical properties? Is it true that there are wizards located in Washington who know exactly what to do, and if only we vest them with enough power, if only we gave them enough administrative support, if only we provide them with enough paper they can then pass around to each other and to their fellow citizens, somehow our problems are going to be resolved from above?

I believe that has been a misconception, a kind of a trap which we in our country have gotten ourselves into, the notion that the way to solve problems is to turn over responsibility to Washington and then let the Government regulate us just a little bit more.

This concept is one which increasingly the people of my State have begun to call into question. I do not think they believe there is a Wizard of Oz located in Washington.

There are some people who, in an election year in particular, like to say to the politicians, "What are you going to do about" and fill in the blank, and the

problem will be spelled out upon which we in the Government are supposed to act.

It is very typical for a candidate in a political campaign to present himself to his constituency and to say to his constituency, "If you have a problem, I have a solution."

The solution always involves some program, some law, some agency, some new set of regulations.

That has been what might be called the principle of modern government. There is no challenge that Government cannot solve, and if only we have more government and more regulation we can do the job for the American people.

It is this concept that people are beginning to call into question, and they are right in calling it into question because they are beginning to realize that the purported solutions of the past have not been solutions at all. The programs simply have not worked as well as their advocates have said they will work. I believe this same kind of weariness about the magical properties of government is now being realized by the people of my part of the country with respect to the whole energy program.

The essence of America's present position on energy has been to rely on Government regulation to control the price of oil and to control the price of gas. Some believe that as a result of this approach, instead of making matters better, we have made matters worse. We have limited the price which can be attained from producing oil and gas and, as a result, we have done a couple of things: First of all, we have limited production by reducing the incentive to produce; second, we have lowered the price and, therefore, increased the incentives to use wasting assets at an artificially cheap price.

Now the question is having dug ourselves into this hole by governmental action, by regulation, how do we get ourselves out of the hole?

My understanding of the administration's basic position is that it just wants to keep on digging; that the way to solve the problem of regulation is more regulation; that, in fact, the regulatory system may not have worked too well in the past but we can balance it by creating yet more complexity and more artificiality in our approach to the question of energy.

I happen to serve on the Senate Finance Committee. Therefore, I have been dealing more with the question of the tax aspect of the administration's energy program than with this present bill. My own feeling is that it is peculiar, to say the least, to have a program which at once artificially limits the price of oil and gas and then proceeds to increase the price by the method of taxation.

My children have a game called Blockhead. The game of Blockhead consists of putting blocks up equally so that if the pile of blocks begins to topple over, you put another block on and you try to balance it and keep building it up and up.

I do not mean this disrespectfully at all, but I mean it in a descriptive term based on that game. In my opinion, the administration's energy program is a Blockhead program. It is also a no-growth program.

The administration says, and it was printed in the morning Post of yesterday morning, that our economic situation really is not so bad; we are coming out of our recession; we have a rosy future. Yet a lot of other people look at the economy, and they do not share the administration's optimism. I do not share the administration's optimism.

We are now 2½ years into the recovery from the last recession, and still we have 7 million Americans out of work; still we have inflation on an annualized basis since last January of more than 8 percent.

That is not a rosy picture. When we add to that the fact that for the last 3 months the leading economic indicators have declined in each of the last 3 months, which, in itself, is the definition of "recession," I do not believe we are in good shape in our economy.

Then to place on the present stagnant economic situation the further handicap of a no-growth energy program, shored up by increased taxation, is, I believe, to say that we have given up on getting the economy growing in the months and the years ahead.

It is to say to the 7 million Americans who are now out of work, "Stay out of work."

When we consider the fact that youth unemployment is about 15 to 20 percent, and black youths somewhere between 30 and 40 percent, I do not believe it is fair to say to the young, or fair to say to the minorities who are having such a difficult time getting jobs, "Take your place at the back of the line. There is no future for you."

If we have a no-growth position on our energy policy, I think that is exactly what we are saying.

I would point out that the information I have seen indicates that in the area of natural gas we do have a potential abundance; we do have, in the ground, a substantial amount of natural gas to meet our future needs.

I am told that professionals agree that we have at least enough natural gas from conventional sources to maintain current production rates for 35 years, 700 trillion cubic feet. After depletion of these 700 trillion cubic feet, it will be technologically feasible and financially attractive to turn to 1,500 trillion cubic feet of gas in tight sandstone, Devonian shale, and coalbeds, which would be about another 75-year supply. Thereafter we can turn to 60,000 to 80,000 trillion cubic feet of gas dissolved in geopressured water zones underlying the gulf coast. This is a very substantial quantity of natural gas.

How do we produce it? We produce it by letting the system work. We produce it by creating the kinds of marketplace incentives which make it attractive to get this gas up and out of the ground where it is now. That, I believe, is the fundamental, philosophical question which we have to face. How do we solve our problems as a country? Do we believe that the system itself is basically sound? Do we believe that we should allow it to work? Do we believe that the role of Government is to begin letting up on the system, letting up on the private sector, letting up on the American public? Or, in the alternative, is it our belief that we should continue with the blockhead approach; that we should continue balancing one set of unsuccessful regulations with another set of unsuccessful regulations; that we should, at one and the same time, limit the price of energy by control and raise the price of energy by taxation?

Do we believe that what we need is less government or do we believe that what we need is more government?

That is a fundamental question, and somebody is right and somebody is wrong. That is the judgment that we are called upon to make in the Senate.

Maybe I am wrong. Maybe the way to go is more control, more regulation, more taxes, more artificiality.

On the other hand, maybe the other side is wrong. I do not know. I believe I am right. But time is going to tell.

It seems to me that we are going to have to face the responsibility of deciding one way or another. Either we need more control or we need less control.

Which way are we going to go? How do we solve our problems? Is it more government or is it less government? My position is less. Someone else's position is that it might be more. All right.

Let us make that decision one way or another.

Then a few years from now let us face the consequences like men, and let us go before the American people at election time—that is the forum in which we approach them, and say:

Here was our problem back in the year 1977. Here was what your Congress did. Here was what my position was, and we were either right or we were wrong, and you can tell me if I was wrong by the way you vote in the election.

That to me is the way the system works. And that is why I think it is so important to proceed with resolving the question that is before us. It is a basic question of economics. It is a basic question of the relationship between the American people and their Government, if they want more or if they want less. It is a question that we have been elected to resolve, and that is why we are here now at 4:45 a.m. in the morning to resolve this question.

Mr. RANDOLPH and Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

BLACK LUNG BENEFITS

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4544.

The PRESIDING OFFICER (Mr. MELCHER) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 4544) to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RANDOLPH. I move that the Sen-

ate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. RANDOLPH, Mr. KENNEDY, Mr. LONG, Mr. HASKELL, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, Mr. CHAFEE, and Mr. LAXALT conferees on the part of the Senate.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER (Mr. MOYNIHAN). Objection is heard.

The clerk will continue.

The rollcall was resumed and concluded.

QUORUM CALL

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The second assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 41 Leg.]

Abourezk	Domenici	Moynihan
Allen	Durkin	Nelson
Baker	Ford	Provmire
Bartlett	Garn	Randolph
Bayh	Gravel	Ribicoff
Bellmon	Haskell	Riegle
Bentsen	Hatch	Roth
Burdick	Hayakawa	Sarbanes
Byrd,	Heinz	Sasser
Harry F., Jr.	Hollings	Schmitt
Byrd, Robert C.	Huddleston	Schweiker
Cannon	Jackson	Stevens
Chafee	Johnston	Stone
Chiles	Laxalt	Thurmond
Cranston	Mathias	Wallop
Culver	McClure	Weicker
Danforth	McIntyre	Williams
DeConcini	Melcher	Zorinsky

The PRESIDING OFFICER. A quorum is present.

Mr. ABOUREZK. Mr. President, I move that the Senate adjourn. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, that is the prerogative of the leadership, to move to adjourn. I hope the Senators will not sustain the request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

QUORUM CALL

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. The objection is heard.

The call of the roll was resumed.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ABOUREZK. Mr. President, I move we adjourn.

Mr. ROBERT C. BYRD. Mr. President, this is a prerogative of the leadership. I hope the Senator will not get any seconders.

Mr. ABOUREZK. Mr. President, I move we adjourn, and make the point of order——

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second to adjourn.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota is suggesting the absence of a quorum. The clerk will call the roll.

Mr. ABOUREZK. Mr. President, my question is, How can the question be put——

The PRESIDING OFFICER. The Chair must ask the Senator not to proceed.

The Chair will lay the motion before the Senate. The question is on agreeing to the motion.

The motion was rejected.

The PRESIDING OFFICER. A quorum is not present. The clerk will continue to call the names of the absentees.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 42 Leg.]

Abourezk	Dole	McIntyre
Allen	Domenici	Melcher
Baker	Durkin	Metzenbaum
Bartlett	Eagleton	Moynihan
Bayh	Ford	Nelson
Bellmon	Garn	Nunn
Bentsen	Goldwater	Packwood
Biden	Gravel	Percy
Brooke	Hansen	Randolph
Burdick	Hart	Riegle
Byrd,	Haskell	Roth
Harry F., Jr.	Hatch	Sarbanes
Byrd, Robert C.	Hayakawa	Schmitt
Cannon	Helms	Stevens
Chafee	Hollings	Stone
Chiles	Jackson	Thurmond
Clark	Johnston	Tower
Cranston	Laxalt	Wallop
Culver	Leahy	Weicker
Curtis	Lugar	Williams
Danforth	Mathias	Zorinsky
DeConcini	McClure	

The PRESIDING OFFICER. A quorum is present. The question recurs on the motion to adjourn.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, that is a prerogative of the leadership. I hope the Senate will not sustain his request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. I have put the question. Will the Senator from South Dakota allow the Chair to continue without interruption?

Mr. ABOUREZK. Mr. President, I just have one inquiry. Was the vote announced?

The PRESIDING OFFICER. I did announce the vote.

Mr. ABOUREZK. Why would the Chair do that when I was seeking recognition?

The PRESIDING OFFICER. The vote had concluded one-half hour ago.

Mr. ABOUREZK. Was the Chair giving the Senator a fast shuffle? Does the Chair want to continue to do that, or does the Chair want to recognize Senators who are legitimately seeking recognition?

The PRESIDING OFFICER. The Chair will conduct its duties properly, and the Senator from South Dakota will do the same.

Mr. ABOUREZK. Mr. President, I move we adjourn.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, if this is the way the Senator expects to gain votes for his side, he had better think again and again. I have been voting with his side. I hope he will consider that fact. I am not impressed by this kind of debate.

AMENDMENT NO. 882

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 882 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the amendment is not in order because it hits at the bill in two places.

Mr. ABOUREZK. Mr. President, may the amendment be read?

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes amendment No. 882:

On page 24, line 22, and on page 25, line 3, insert after the word "Act" the following: ": *Provided, however,* That any sale of natural gas to which the provisions of section (8)(b)(1) of the Natural Gas Policy Act apply shall be subject to the provisions of section 7(b) of the Natural Gas Act during the term of the contract relating to such a sale, upon termination of such a contract, or prior to any subsequent sale from the same acreage".

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 888

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 888, and I make the point of order that it is not in order because it hits the bill in two places.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes amendment No. 888.

On page 19, following line 18, add the following new section:

"ENERGY STAMP PROGRAM

"SEC. 18. (a) Notwithstanding any provision of this Act or any other provision of law, the Administrator of the Federal Energy Administration, or his successor in interest, shall, not later than one hundred and eighty days following the date of enactment of this section, promulgate such regulations as may be necessary to establish an energy stamp program to provide assistance to low-income and fixed-income households which presently must devote a major portion of their income for the purchase of utility services.

"(b) As used in this section the term—

"(1) 'heating fuel' means electricity, oil, gas, coal, or any other fuel if used by a household as the primary source for heating or cooling a dwelling;

"(2) 'Director' means the Director of the Community Services Administration;

"(3) 'local agency' means the community action agencies, and State Economic Opportunity Offices which are established pursuant to the Economic Opportunity Act of 1964;

"(4) 'household' means—

"(A) any group of related individuals who are living as one economic unit for whom heating fuel is customarily purchased in common, directly, or indirectly by undesignated payments in the form of rent; or

"(B) any individual living alone who purchases heating fuel, directly, or by undesignated payments in the form of rent;

"(5) 'coupon' and 'stamp' mean any coupon, stamp, or certificate issued pursuant to the provisions of this Act;

"(6) 'retail heating fuel outlet' means any establishment, including a recognized department thereof, which sells heating fuel for consumption by households;

"(7) 'wholesale heating fuel outlet' means any establishment, including a recognized department thereof, which sells heating fuel to retail heating fuel outlets for resale for consumption by households;

"(8) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

"(9) 'bank' means any member or nonmember bank of the Federal Reserve System; and

"(10) 'landlord' means any person who rents a dwelling which is the principal residence of the tenant and who normally includes the cost of heating fuel in the rental charge to the tenant.

"(c)(1) If the local agency plan described in subsection (g) is approved by the Director, the Director shall establish and maintain an energy stamp program, under which households deemed eligible pursuant to subsection (d) will be provided with assistance to defray heating fuel costs. The method in which this assistance is provided shall be through energy stamps.

"(A) Any eligible household may receive heating fuel coupon assistance—

"(i) if such household purchases heating fuels;

"(ii) if such household makes undesignated payments for heating fuel in the form of rent, and the landlord to whom such rent is due consents to the making of such payments in coupons.

"(B)(i) Coupons received by any eligible household described in subparagraph (A)(i) shall be used to purchase heating fuel only from a retail heating fuel outlet participating in the energy stamp program.

"(ii) Coupons received by any eligible household described in subparagraph (A)(ii) shall be used only for payment of the appropriation portion of such household's rent related to heating fuel costs.

"(d)(1) The Director shall establish uniform national standards of eligibility for participation by households in the energy stamp program. Participation in the program shall be limited to households whose income and other financial resources are determined by the Director to be substantial limiting factors in permitting such households to purchase heating fuel or to make undesignated payments for such fuel.

"(2) As a minimum, the standards of eligibility shall provide that any household is eligible if such household—

"(A) is eligible for benefits under title IV or XVI of the Social Security Act; or

"(B) is eligible for benefits under the Food Stamp Act of 1964.

"(3) In lieu of, or in addition to, the criteria described in paragraph (1) or (2), the Director shall consider any criteria submitted by a local agency to the Director for determining the eligibility of households in the area serviced by such local agency.

"(e)(1) Pursuant to subsection (g)(4) of this section, energy stamps shall be printed by the Bureau of Printing and Engraving of the United States in $5 denominations and shall be issued by a local agency only to households which have been duly certified as eligible to participate in the energy stamp program.

"(2) Each coupon shall—

"(A) bear the name of the local agency from where it was issued;

"(B) stipulate that its monetary value is $5; and

"(C) include any words or illustrations that are required to explain its purpose and use.

"(3) The Director shall establish standards for determining the number of energy stamps to be issued to an eligible household.

"(4) In establishing standards under paragraph (3) the Director shall consider—

"(A) any criteria submitted by a local agency that is deemed to be important for the evaluation of energy stamp assistance in the area serviced by such local agency;

"(B) the income of households within the area serviced by such local agency;

"(C) the number of individuals in such households;

"(D) the temperature and other climate conditions in the area in which such households reside;

"(E) the type of heating fuel used by such households; and

"(F) the extent to which such households have participated in weatherization programs.

"(5) Prior to receiving the energy stamps, each participating household must pay to the local agency 33⅓ per centum of the total value of the coupons to be received by such household.

"(6) The value of the energy stamp assistance provided to an eligible household under this section shall not be considered to be income or resources for any purpose under any Federal or State law, including any law relating to taxation, welfare, or public assistance programs.

"(f)(1) Coupons accepted by any retail heating fuel outlet or any person described in subsection (c)(2)(A)(1) shall be redeemed through wholesale heating fuel outlets or banks, with the cooperation of the Treasury Department.

"(2) Coupons issued and used in accordance with the provisions of this section shall be redeemable at face value by the Director through the facilities of the Treasury of the United States.

"(g)(1) Each local agency desiring to participate in the energy stamp program shall submit to the Director for approval a plan of operation specifying the manner in which and the effective dates of participation which such program shall be conducted within the area serviced by such local agency. In addition, the local agency may provide information regarding weatherization programs which have been or are now being conducted in the area.

"(2) The Director shall approve any local agency plan of operation which satisfies the provisions of paragraph (1) and which provides—

"(A) that the local agency shall undertake the certification of applicant households in accordance with the eligiblity requirements established by the Director under subsection (d);

"(B) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions or regulations of this section;

"(C) that the local agency shall undertake extensive outreach action to inform eligible households and heating fuel outlets as to the availability, rules, regulations, and benefits of the energy stamp program;

"(D) for the granting of a fair hearing and a prompt determination thereof to any household aggrieved by the actions of a local agency under any provision of its plan of operation as it affects the participation of such household in the energy stamp program;

"(E) that the local agency keep a strict and accurate accounting of all transactions made pursuant to this section;

"(F) a requirement that landlords submit certification that any increase in rent charged to a household is not based solely upon actual or anticipated receipt by that household of energy stamps; and

"(G) that the local agency shall coordinate the energy stamp program with weatherization projects.

"(3) If the Director determines that in the administration of the program there is substantial failure by a local agency to comply with provisions of this section or with the plan of operation submitted by such agency, he or she shall inform such local agency of the failure and shall allow the local agency a reasonable period of time for the correction of the failure. Upon the expiration of such period, the Director shall order that there be no further distribution of energy stamp assistance in the area serviced by such agency until such time as satisfactory corrective action has been taken.

"(4) The Diretcor shall reimburse a local agency for the costs it incurs in administering the energy stamp program. Such reimbursement would be made upon terms and conditions prescribed by rule of the Director. In addition, the United States—

"(A) shall finance the printing of energy stamps and the issuing of such coupons to local agencies; and

"(B) shall be obliged for payment of the face value of energy stamps to persons redeeming such coupons in accordance with the provisions of this section.

"(h)(1) Whoever knowingly uses, transfers, acquires, alters, or possesses energy stamps in any manner not authorized by this section—

"(A) shall, if the total value of such coupons is $100 or more, be fined not more than $10,000 or imprisoned for not more than five years, or both; or

"(B) shall, if the total value of such coupons is less than $100, be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(2) If a local agency administering the energy stamp program finds (in accordance with the process described in subsection (g)(2)(F) of this section) that a landlord has increased rent to a household based solely upon actual or anticipated receipt by that household of energy stamps, then the landlord may be fined an amount not more than twelve times the amount of the household's rent increase.

"(i) The Director shall issue such regulations as he deems necessary or appropriate for carrying out the provisions of this section.

"(j) For the purpose of carrying out the provisions of this section, there are author-

ized to be appropriated, for the fiscal year ending September 30, 1978, the sum of $100,000,000, for the fiscal year ending September 30, 1979, the sum of $100,000,000, for the fiscal year ending September 30, 1980, the sum of $100,000,000, and for each fiscal year thereafter, such sum as may be necessary.".

The table of contents of such Act is amended by adding at the end thereof the following:

"Sec. 18. Energy stamp program.".

The PRESIDING OFFICER. The point of order is sustained.

AMENDMENT NO. 1157

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1157 and make a point of order that it amends the bill in two places.

The PRESIDING OFFICER. The point of order is sustained.

Mr. ABOUREZK, Mr. ROBERT C. BYRD, and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ABOUREZK. Mr. President, point of order.

Mr. METZENBAUM. Mr. President, I am entitled to the floor.

Mr. ABOUREZK. We are entitled to have the amendments read.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ABOUREZK. We are entitled to have the amendments read. That is the right of the Senate.

AMENDMENT NO. 1245

Mr. ROBERT C. BYRD. Mr. President, I call up amendment No. 1245 and make the point of order that it amends the bill in two places.

Mr. ABOUREZK. Mr. President, I make the point that this railroading may go on for a while but it will not go on forever.

The PRESIDING OFFICER. The point of order in sustained.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. Mr. President, a point of order. The amendment must be read.

Mr. ROBERT C. BYRD. Mr. President, we had two precedents already today to the contrary.

Mr. ABOUREZK. I ask for a ruling.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia is correct. There is ample precedent for an amendment which is not in order not to be read.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

Mr. ABOUREZK. A parliamentary inquiry.

Mr. METZENBAUM. A parliamentary inquiry.

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. Senators will kindly show respect for the Chair. The Senator from West Virginia has the floor. They will address questions to the Senator who has the floor.

Mr. ABOUREZK. A parliamentary inquiry.

Mr. METZENBAUM. The Senator from West Virginia loses the floor each time he calls up an amendment under the rules.

The PRESIDING OFFICER. The Chair has stated that the floor is held by the Senator from West Virginia. The Senator who has commented that this ceases to be the case when each amendment is disposed is correct, but on the last occasion on which an amendment was disposed of the Chair thereupon, once again, recognized the Senator from West Virginia.

Mr. ABOUREZK. I seek recognition.

The PRESIDING OFFICER. The Senator from West Virginia is entitled to the floor and entitled to respect.

Mr. ABOUREZK. I seek recognition, Mr. President.

Mr. METZENBAUM. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Senators are not conducting themselves in a manner in which this debate has so far proceeded.

The Senator from West Virginia has the floor.

Mr. METZENBAUM. We seek recognition for a parliamentary inquiry.

Mr. ABOUREZK. I seek recognition.

Mr. ROBERT C. BYRD. If Senators will desist, I will yield the floor.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is the Chair ruling that no amendment has to be reported?

The PRESIDING OFFICER. The Chair has made no such ruling nor has such a question been addressed to the Chair.

Mr. ABOUREZK. I am addressing a question to the Chair of that nature.

The PRESIDING OFFICER. Will the Senator kindly proceed and state his request?

Mr. ABOUREZK. Is the Chair ruling that every amendment need not be read?

The PRESIDING OFFICER. The question is not correctly formulated. The proposition every amendment need not be read——

Mr. ABOUREZK. Will the Chair respond to the question as formulated?

The PRESIDING OFFICER. The Chair states the question is meaningless and can easily be reformulated.

Mr. ABOUREZK. I suggest the absence of a quorum so I can reformulate it, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The rollcall was resumed and concluded.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The call of the roll was resumed and concluded, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 43 Leg.]

Abourezk	Ford	Melcher
Allen	Garn	Metzenbaum
Anderson	Glenn	Moynihan
Baker	Go.dwater	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Bellmon	Hansen	Packwood
Bentsen	Haskell	Pearson
Biden	Hatch	Pell
Brooke	Hatfield	Percy
Bumpers	Hathaway	Proxmire
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Sarbanes
Chafee	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Javits	Stevens
Clark	Johnston	Stevenson
Cranston	Kennedy	Stone
Culver	Laxalt	Thurmond
Curtis	Leahy	Tower
Danforth	Long	Wallop
DeConcini	Lugar	Weicker
Dole	Mathias	Williams
Domenici	McClure	Zorinsky
Durkin	McGovern	
Eagleton	McIntyre	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 921

Mr. ABOUREZK. Mr. President, I call up amendment No. 921 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 921.

On page 7, line 21, strike all after "(20)" and insert "The term 'inflation adjustment' means the amount that results from dividing—

"(1) the average of the Wholesale Price Index of Industrial Commodities Less Fuels and Related Products and Power, for the quarter which immediately precedes such calendar quarter, seasonally adjusted as computed and published by the Department of Labor; by

"(2) the average of the Wholesale Price Index of Industrial Commodities Less Fuels and Related Products and Power, for the first calendar quarter of 1977.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I move to table this amendment.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The motion is not debatable.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD (after having voted in the affirmative). Mr. President, on this vote I have a live pair with Mr. MAGNUSON. If he were voting, he would vote "nay." I have already voted "aye." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Washington (Mr. MAGNUSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from North Carolina (Mr. MORGAN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 53, nays 29, as follows:

[Rollcall Vote No. 461 Leg.]

YEAS—53

Allen	Garn	McClure
Baker	Glenn	Melcher
Bartlett	Goldwater	Nunn
Bellmon	Griffin	Packwood
Bentsen	Hansen	Pearson
Brooke	Hatch	Pell
Burdick	Hatfield	Percy
Byrd, Harry F., Jr.	Hayakawa	Randolph
	Heinz	Roth
Chafee	Helms	Schmitt
Chiles	Huddleston	Schweiker
Curtis	Javits	Stevens
Danforth	Johnston	Stone
DeConcini	Laxalt	Thurmond
Dole	Leahy	Tower
Domenici	Long	Wallop
Eagleton	Lugar	Weicker
Ford	Mathias	Zorinsky

NAYS—29

Abourezk	Durkin	Moynihan
Anderson	Haskell	Muskie
Bayh	Hathaway	Nelson
Biden	Hollings	Proxmire
Bumpers	Inouye	Ribicoff
Cannon	Jackson	Riegle
Church	Kennedy	Sarbanes
Clark	McGovern	Stevenson
Cranston	McIntyre	Williams
Culver	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Robert C. Byrd, for

NOT VOTING—17

Case	Matsunaga	Sparkman
Eastland	McClellan	Stafford
Gravel	Metcalf	Stennis
Hart	Morgan	Talmadge
Humphrey	Sasser	Young
Magnuson	Scott	

So the motion to lay Mr. ABOUREZK's amendment (No. 921) on the table was agreed to.

AMENDMENT NO. 905

Mr. METZENBAUM. Mr. President, I call up amendment No. 905.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, between lines 21 and 22, insert:

"(5) through most of its history the natural gas industry stimulated demand for this product by offering especially attractive prices to large consumers on the basis of interruptibility of supplies and special attractions for household space heating;

"(6) natural gas though a superior fuel for heating and as a feedstock is expensive to transport and store and is inferior as a source of power for transportation and most other applications and has generally commanded a lower price at the point of production than crude oil;".

Renumber succeeding sections accordingly.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. SCHMITT. Mr. President, a point of order. I believe this amendment goes to the bill in two places.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, a precedent has been set on that subject in connection with the Kennedy amendment before.

The PRESIDING OFFICER. That was not a precedent. This amendment does hit the bill in two places. The point of order of the Senator from New Mexico is sustained.

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair, and say to the Members of the Senate that I think it is highly inappropriate to claim that a bill is being amended in more than one section, when the only part of the language that could be used for that purpose, to make that argument, are the words "Renumber succeeding sections accordingly." Other than that, it applies to only one place.

I therefore appeal the decision of the Chair and ask for a rollcall.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I move to lay the appeal on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll on the motion to table the appeal.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD (when his name was called). Mr. President, I have a live pair with the Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "no." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Colorado (Mr. HART) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 57, nays 27, as follows:

[Rollcall Vote No. 462 Leg.]

YEAS—57

Baker	Glenn	Nunn
Bartlett	Goldwater	Packwood
Bellmon	Gravel	Pearson
Bentsen	Griffin	Pell
Biden	Hansen	Randolph
Burdick	Haskell	Ribicoff
Byrd, Harry F., Jr.	Hatch	Roth
	Hayakawa	Sasser
Cannon	Heinz	Schmitt
Chiles	Huddleston	Schweiker
Church	Inouye	Stevens
Cranston	Jackson	Stone
Curtis	Johnston	Thurmond
Danforth	Laxalt	Tower
DeConcini	Leahy	Wallop
Dole	Long	Weicker
Durkin	Lugar	Williams
Eagleton	Matsunaga	Zorinsky
Ford	Moynihan	
Garn	Nelson	

NAYS—27

Abourezk	Domenici	McGovern
Allen	Hatfield	McIntyre
Anderson	Hathaway	Melcher
Bayh	Helms	Metzenbaum
Brooke	Hollings	Muskie
Bumpers	Javits	Proxmire
Chafee	Kennedy	Riegle
Clark	Mathias	Sarbanes
Culver	McClure	Stevenson

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Robert C. Byrd, against

NOT VOTING—15

Case	McClellan	Sparkman
Eastland	Metcalf	Stafford
Hart	Morgan	Stennis
Humphrey	Percy	Talmadge
Magnuson	Scott	Young

So the motion to lay the appeal on the table was agreed to.

Mr. BAYH. Mr. President, I do not want to make a Supreme Court case out

of a justice of the peace issue. I confess to my colleagues that I was sitting here unaware of the fact that the issue before the Senate and this question before the Presiding Officer had been decided 3 hours ago in an identical situation with a contrary decision. I say this in no way critical of the Chair, but I would like to ask a question of the Chair. I know it is possible to ask for reconsideration of the previous appeal of the ruling, which I think would be wasted effort. I do not want to do that because of my colleagues and my respect for the Chair. Is it parliamentarily possible for the Chair to reconsider his own position if he is convinced on reflection that it merits being reconsidered?

The PRESIDING OFFICER. The Chair could reconsider if the issue came up again ab initio, but the Senate has, in effect, ruled on the ruling of the Chair and the matter is not before the Senate at this point.

Mr. BAYH. May I ask if it is parliamentarily proper for the same amendment to be sent to the desk again? Let me in point of reference point out that on page 76 this issue is addressed, and from reading the series of examples propounded it appears that the makers and sustainers of the rule quite rightly do not want an amendment going hit and miss like a shotgun at several different portions of appeals of legislation. I rise to bring this to the Senate's attention because I think it is very easy for us to get carried away with the emotion and sort of the automatic voting that we all must confess we go through, when we come in here and establish a precedent which really does not make sense tomorrow, next week, or next year.

The identical question was decided earlier, Mr. President. The Chair had no reason to know that. If I had been on my mettle I would have alerted the Chair, but I was not. What we are saying here is that it is impossible to insert a new subsection—not a section but a new subsection—into a section, material between lines 21 and 22, and then 22 starts out with the next subsection. What we are trying to do is change the number of that subsection. There is nothing substantive about it at all. What we are doing is saying, "If you make an amendment that makes subsequent subsections out of order, you ought to have a chance to houseclean it and change the number of those subsections."

That does not seem to be an unreasonable request. It does not seem to the Senator from Indiana, with all due respect to the Chair and the Senate, to be within the thrust of the rules encompassed on page 76.

The PRESIDING OFFICER. The Chair wants to be clear. This is a close question and a difficult question. It remains the technical and commanding fact that the amendment hits the bill in two places.

Mr. BAYH. A parliamentary inquiry, please.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. How would the Presiding Officer and the Parliamentarian suggest this matter be handled? Just insert a subsection? It does not go to a different section. It is completely contiguous.

The PRESIDING OFFICER. The Chair suggests that this be handled the way the Senate normally and usually handles it when changes are made in a text. At the end of the consideration of the bill, unanimous consent is obtained to make the technical corrections that are appropriate to follow the changes which have been made, including the numbering.

Mr. LEAHY. Will the Senator yield?

Mr. BAYH. I will yield the floor. Frankly, this amendment I am sure is a critical and important amendment. I think it should have passed. But I think it is more critical that we not get ourselves into a situation where we cannot insert a subsection between two lines and then renumber other subsections because the rules of the Senate say that. I do not think that is what the rules of the Senate are designed to accomplish. They are designed to keep us from having substantive matters in one amendment which go to different parts of the bill.

The PRESIDING OFFICER. If the Senator will abide with the Chair for a moment, the rules do not say that. It is precedent which has been established.

Mr. BAYH. Mr. President, the most immediate precedent, with all respect to the present occupant of the Chair, was 180 degrees different. I say that without wanting to put the immediate occupant into an embarrassing position.

The PRESIDING OFFICER. The Chair is impressed with the fascination of the precedents.

The Senator from Vermont.

Mr. LEAHY. Being equally fascinated with the precedents, Mr. President, the Senator from Vermont had the opportunity around 3 a.m. today, I believe it was, to occupy the Chair, to warm it up, as it were, for the present distinguished occupant, when a similar question arose.

The Senator from Vermont gave it some thought with the type of time and reflection that is available at that hour of the morning, time that normally is not occupied doing anything else of significant consequence, and aware of the fact that paid as we are by the year and not by the hour it does give one a chance to reflect on such issues.

The Senator from Vermont ruled to the contrary establishing that precedent for whatever it is worth on the basis that as a matter of pure practicality, if you are going to amend a section which like a lead slug in a printer's stick expands the typeface already there, indeed that is what you are doing here and there is no other way. There is no other way to do it. Indeed, to continue my metaphor, if you put that spacer into the printer's stick, if you put that amendment into section (a), as it were, and it then requires section (b) to become section (c) there really is no other way to logically and correctly do it, notwithstanding our normal catchall phrase at the end allowing the Secretary to make such technical changes and so forth. Indeed, you must do it, and the Senator from Vermont saw that as being something entirely different than coming and and making two amendments to two separate sections.

For what it is worth, the Senator from Vermont ruled that in that very narrow and very particular case of one amendment, which by its nature required other sections to move down, it was not out of order. The Senator from Vermont would point out to the Chair and to his colleagues that the ruling would have been entirely different had the amendment been one that would have been directed very specifically to two different sections.

I mention that only to point out what my deliberations were at 3 o'clock this morning. I do not think they are any more earth shattering at 6:45 a.m. this morning than they might have been at 3 o'clock this morning. But figuring that anything might be of some edification to this body at this time, I pass it on for what it is worth and yield back the floor.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Chair thanks the Senator from Vermont for his illuminating if not necessarily edifying explanation, and the Chair suggests to the Senator from Indiana that there appear to be conflicting precedents with respect to this issue and the Senate might well consider itself, not at this point, bound by either then at some future point when a comparable question arises. Would that be an agreeable thought and acceptable one to the Senator from Indiana?

Mr. BAYH. Mr. President, with all respect to the Chair, I do not. We all know what we are trying to accomplish here substantively and procedurally, and from the standpoint of the law of this country. I do not think that we are really trying to establish this kind of precedent.

A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. It will be helpful to the Chair. Would it be parliamentarily possible, if you please, for the Senator from Indiana to propose a reconsideration of the appeal of the ruling of the Chair and ask not for the yeas and nays but for a voice vote on the question?

The PRESIDING OFFICER. The Senator may ask for a reconsideration of the vote by which the appeal was tabled.

Mr. BAYH. I do not want to take any more time. We already thrashed this over.

I think everyone knows what the issue is. I do not ask for a yea and nay vote. I do ask my colleagues to contemplate what we may be doing here when someone else wants to do something and gets bottled up on a matter of trivia that I do not think the rule really intends.

I ask to reconsider the last vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the appeal was tabled.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, a brief comment. I do not think we are really dealing with trivia. We are dealing with technicalities of both sides of the discussion and several sides of the discussion

have in fact depended on technicalities in the rules in order to carry their cause.

So, I suggest that we maintain the inconsistencies we have right now and at another point where it is necessary, if it is necessary, then take the matter up again.

Mr. METZENBAUM. Mr. President. Before the Senate votes on the motion to reconsider of the Senator from Indiana, I simply point out that this decision and ruling is not only applicable to amendments made after cloture but is applicable to all motions, all amendments that are offered to the bill, or any other bill. I think it is an extremely bad precedent, and I would hope that we would not go the route that apparently we seem to be going at the moment in an effort to preclude the hearing of amendments which could be disposed of in a much more appropriate fashion.

Mr. SCHMITT. Mr. President, it is also, though, a precedent that is made moot by the normal procedure of the Senate, and I submit that to my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

Mr. BAYH. Mr. President, let me just suggest: The Senator from Indiana has tried the best he can to suggest to his friend from New Mexico, and others, that the question here, as has been said by the Senator from Ohio, goes far beyond the given issue, and if anyone thinks this issue is going to rise or fall on the relatively few amendments that are going to be precluded in this category, he is mistaken. I do not suppose there are five of them, and I have to confess I have not counted them. But I think the Senator from Vermont described exactly what we are trying to do, and not being a printer I certainly have not had that kind of experience. But I would hope that we would not establish a precedent here that is going to last a long, long time perhaps. I mean we spent more time debating this question than perhaps it deserves. But the longer we debate it the more substantive the precedent is going to be later on.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt.

Will the ayes once again state their case? Would those in favor stand and be counted?

Mr. CURTIS. In favor of what?

The PRESIDING OFFICER. In favor of the motion to reconsider.

I thank Senators.

Will those opposed now stand?

It is a tie.

The Chair votes not to reconsider.

AMENDMENT NO. 928

Mr. METZENBAUM. Mr. President, I call up amendment No. 928, so that the Chair may have another opportunity in case someone cares to raise the point of order with respect to this amendment. It is as short an amendment as possibly could be imagined. I ask the clerk to state it.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 928: On page 3, between lines 12 and 13 insert the following:

"(8) there must be assurances that price increases result in increased exploration and development of natural gas;".

Renumber succeeding paragraphs accordingly.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I move to table the amendment.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Washington (Mr. MAGNUSON). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Virginia (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 61, nays 20, as follows:

[Rollcall Vote No. 463 Leg.]

YEAS—61

Allen	Byrd, Harry F., Jr.	Danforth
Baker	Cannon	DeConcini
Bartlett	Chafee	Dole
Bellmon	Chiles	Durkin
Bentsen	Cranston	Eagleton
Brooke	Curtis	Ford
Burdick	Garn	Glenn
Goldwater	Johnston	Roth
Gravel	Laxalt	Sasser
Griffin	Lugar	Schmitt
Hansen	Mathias	Schweiker
Haskell	Matsunaga	Stevens
Hatch	McClure	Stevenson
Hatfield	Melcher	Stone
Hayakawa	Nelson	Thurmond
Heinz	Nunn	Tower
Helms	Packwood	Wallop
Huddleston	Pearson	Weicker
Inouye	Percy	Williams
Javits	Proxmire	Zorinsky
	Randolph	

NAYS—20

Anderson	Hollings	Moynihan
Bayh	Jackson	Muskie
Biden	Kennedy	Pell
Church	Leahy	Ribicoff
Clark	McGovern	Riegle
Culver	McIntyre	Sarbanes
Hathaway	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Robert C. Byrd, for

NOT VOTING—18

Abourezk	Humphrey	Scott
Bumpers	Long	Sparkman
Case	Magnuson	Stafford
Domenici	McClellan	Stennis
Eastland	Metcalf	Talmadge
Hart	Morgan	Young

So the motion to lay Mr. METZENBAUM's amendment (No. 928) on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their patience and forbearance. It has been a long, hard day and night. I think that most Senators would probably be able to perform better today if we took a little recess to allow for a bit of breakfast and a shave and shower. There will be votes when we come back in. I think that, based on the experience we have had during the last several hours, we can expect a good many rollcall votes. I therefore suggest that Senators be prepared for votes at any time after 9 a.m., when the Senate comes back in.

Mr. METZENBAUM addressed the Chair.

Mr. ROBERT C. BYRD. I yield before making my motion.

Mr. METZENBAUM. I understand the purpose of the motion of the Senator from West Virginia. It is 10 after 7. It seems to me that some of us—I have no objection to the recess for the purpose of freshening up, but I think we are going to be under very difficult pressure to be back by 9. I am not sure what hour the Senator said.

Mr. ROBERT C. BYRD. 9 a.m.

Mr. METZENBAUM. It seems to me there ought to be adequate time to go home and not be under that pressure. I suggest the hour of 10 a.m.

Mr. ROBERT C. BYRD. The Senator is under no greater pressure than I have been. I have not had a wink of sleep. I had planned to go straight through and have no recess at all. There are some Senators who could speak. I could speak for an hour if I had an hour's time left. But I think we all ought to recess. It seems to me, after having discussed the matter with several Senators, that we should recess for about 2 hours—that would be ample—then get back to our business. If I could see the end in sight, I should be willing to recess for longer than 9 a.m.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. If he will, I should like to make a committee meeting announcement.

Mr. ROBERT C. BYRD. Yes.

ANNOUNCEMENT OF COMMITTEE MEETING

Mr. ALLEN. There will be a meeting of the Subcommittee on Separation of Powers of the Committee on the Judiciary in room 2300 at 10 a.m.

Mr. ROBERT C. BYRD. Would the Senator have it in the Capitol so it will be convenient for me to attend?

Mr. ALLEN. What time does the Senator wish?

Mr. ROBERT C. BYRD. What time does the Senator want it?

Mr. ALLEN. I suggest 10.

Mr. ROBERT C. BYRD. It could be in my office.

Mr. ALLEN. Yes, at 10 a.m.

Mr. ROBERT C. BYRD. We would have to request time for it to meet.

Mr. ALLEN. I thought coming back at 9, we would have 2 hours.

Mr. ROBERT C. BYRD. Yes.

Mr. BROOKE. Will the majority leader consider that we are going to run into heavy traffic trying to get back here at 9 o'clock? It is now 7:15. Would the Senator compromise with the Senator from Ohio so we can get back here at 9:30?

Mr. ROBERT C. BYRD. I have been trying for a compromise for several days. I shall settle for that.

RECESS UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that the Senate stand in recess until the hour of 9:30 a.m. today.

There being no objection, the Senate, at 7:12 a.m., recessed until 9:30 a.m., Wednesday, September 28, 1977.

NOMINATIONS

Executive nominations received by the Senate September 27, 1977:

DEPARTMENT OF STATE

David D. Newsom, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Philippines.

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service information officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

THE JUDICIARY

Thomas A. Ballantine, Jr., of Kentucky, to be U.S. district judge for the western district of Kentucky, vice C. Rhodes Bratcher, deceased.

COPYRIGHT ROYALTY TRIBUNAL

The following-named persons to be Commissioners of the Copyright Royalty Tribunal for the terms indicated (new positions):

For a term of 7 years from September 27, 1977:

Thomas C. Brennan, of New Jersey.
Douglas Coulter, of Virginia.
Mary Lou Burg, of Wisconsin.

For a term of 5 years from September 27, 1977:

Clarence L. James, Jr., of Ohio.
Frances Garcia, of Texas.

FEDERAL ELECTION COMMISSION

John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission for a term expiring April 30, 1983, vice Neil Stabler, term expired.

NATIONAL LABOR RELATIONS BOARD

John C. Truesdale, of Maryland, to be a member of the National Labor Relations Board for the remainder of the term expiring August 27, 1980, vice Peter D. Walther, resigned.

U.S. INTERNATIONAL TRADE COMMISSION

William R. Alberger, of Oregon, to be a member of the U.S. International Trade Commission for the term expiring December 16, 1985, vice Will E. Leonard, Jr., term expired.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code section 3442 and 3447:

ARMY PROMOTION LIST

To be colonel

Abbott, Rudolph E., xxx-xx-xxxx
Abt, Irwin E., xxx-xx-xxxx
Adams, Tom, Jr., xxx-xx-xxxx
Adcock, Thomas G., xxx-xx-xxxx
Adkins, Thomas J., xxx-xx-xxxx
Akiyama, Frank M., xxx-xx-xxxx
Alderman, Nathaniel, xxx-xx-xxxx
Alexander, Joseph E., xxx-xx-xxxx
Allen, Teddy G., xxx-xx-xxxx
Allison, Robert H., xxx-xx-xxxx
Alsheimer, Robert H., xxx-xx-xxxx
Alston, Charles A., xxx-xx-xxxx
Anderson, Ralph O., xxx-xx-xxxx
Andreacchio, Nichol, xxx-xx-xxxx
Armstrong, Hart R., xxx-xx-xxxx
Armstrong, James S., xxx-xx-xxxx
Arndt, Terrence L., xxx-xx-xxxx
Badger, William W., xxx-xx-xxxx
Baird, Richard J., xxx-xx-xxxx
Ball, James W., xxx-xx-xxxx
Banner, Thomas A., xxx-xx-xxxx
Barborak, Franklin, xxx-xx-xxxx
Barisano, Louis, xxx-xx-xxxx
Barlow, Donald J., xxx-xx-xxxx
Barnes, John L., xxx-xx-xxxx
Barnum, Robert C., xxx-xx-xxxx
Barrett, Jonathan R., xxx-xx-xxxx
Bauchspies, Robert, xxx-xx-xxxx
Beasley, Benjamin B., xxx-xx-xxxx
Behrenhausen, Richard, xxx-xx-xxxx
Bell, Charles H., xxx-xx-xxxx
Bennett, Ferrell R., xxx-xx-xxxx
Berg, George A., xxx-xx-xxxx
Bernd, Roy B., xxx-xx-xxxx
Berner, John J., xxx-xx-xxxx
Biemeck, John F., xxx-xx-xxxx
Bishop, Robert L., xxx-xx-xxxx
Blanck, John E., xxx-xx-xxxx
Bland, Andrew R., xxx-xx-xxxx
Blascak, Donald W., xxx-xx-xxxx
Bloomfield, John E., xxx-xx-xxxx
Boiani, Peter J., xxx-xx-xxxx
Bokovoy, John E., xxx-xx-xxxx
Bonner, Benjamin J., xxx-xx-xxxx
Borer, Robert S., xxx-xx-xxxx
Bowen, Guy P., xxx-xx-xxxx
Braa, Emery W., xxx-xx-xxxx
Breedlove, Joe J., xxx-xx-xxxx
Britt, Albert S., xxx-xx-xxxx
Britten, Samuel L., xxx-xx-xxxx
Broadaway, Thomas F., xxx-xx-xxxx
Broadus, James C., xxx-xx-xxxx
Broman, Ralph W., xxx-xx-xxxx
Bronson, Richard M., xxx-xx-xxxx
Brooks, Thomas J., xxx-xx-xxxx
Brown, Gene L., xxx-xx-xxxx
Brown, Richard W., xxx-xx-xxxx
Brown, Roy A., xxx-xx-xxxx
Brudvig, Dale K., xxx-xx-xxxx
Bryan, Richard L., xxx-xx-xxxx
Bryant, William L., xxx-xx-xxxx
Bryden, John M., xxx-xx-xxxx
Burcham, Jerry J., xxx-xx-xxxx
Burke, Francis J., xxx-xx-xxxx
Burt, John C., xxx-xx-xxxx
Burton, Dawson L., xxx-xx-xxxx
Bush, Charles E., xxx-xx-xxxx
Buswell, Arthur T., xxx-xx-xxxx
Byers, Rodney C., xxx-xx-xxxx
Caddigan, James L., xxx-xx-xxxx
Caldwell, Doris L., xxx-xx-xxxx
Caldwell, Richard G., xxx-xx-xxxx
Campbell, Donald A., xxx-xx-xxxx
Campbell, James G., xxx-xx-xxxx
Campbell, Joseph R., xxx-xx-xxxx
Cardwell, Kenneth E., xxx-xx-xxxx
Carpenter, William, xxx-xx-xxxx
Carroll, George F., xxx-xx-xxxx
Carruth, George A., xxx-xx-xxxx
Carson, Martin B., xxx-xx-xxxx
Carter, Harold M., xxx-xx-xxxx
Caruso, Michael L., xxx-xx-xxxx
Casey, Franklin J., xxx-xx-xxxx
Cason, James P., xxx-xx-xxxx
Cass, Stanley D., xxx-xx-xxxx
Castelli, Joseph G., xxx-xx-xxxx
Cavezza, Carmen J., xxx-xx-xxxx
Cento, Dahl J., xxx-xx-xxxx
Cercy, James C., xxx-xx-xxxx
Chamberlain, Charles, xxx-xx-xxxx
Chandler, Edward V., xxx-xx-xxxx
Chapman, Joseph M., xxx-xx-xxxx
Chase, Gerald W., xxx-xx-xxxx
Childs, Leo M., xxx-xx-xxxx
Christy, Bobby G., xxx-xx-xxxx
Circeo, Louis J., xxx-xx-xxxx
Clark, Jack T., xxx-xx-xxxx
Clay, Clifford D., xxx-xx-xxxx
Clelan, Joseph R., xxx-xx-xxxx
Clements, Philip J., xxx-xx-xxxx
Clemons, Charles H., xxx-xx-xxxx
Clifford, Peter L., xxx-xx-xxxx
Cline, Donald H., xxx-xx-xxxx
Cofoni, Peter J., xxx-xx-xxxx
Colburn, Edward A., xxx-xx-xxxx
Colket, Charles H., xxx-xx-xxxx
Connell, Terence J., xxx-xx-xxxx
Conrad, Hawkins M., xxx-xx-xxxx
Conroy, Arthur T., xxx-xx-xxxx
Cooper, Frederick E., xxx-xx-xxxx
Cordonnier, David J., xxx-xx-xxxx
Corns, Johnnie H., xxx-xx-xxxx
Cotner, Henry L., xxx-xx-xxxx
Cowles, Phillip R., xxx-xx-xxxx
Crater, John F., xxx-xx-xxxx
Crow, John S., xxx-xx-xxxx
Crowley, Ronald C., xxx-xx-xxxx
Damme, Richard J., xxx-xx-xxxx
Daniels, Harry V., xxx-xx-xxxx
Darrah, James T., xxx-xx-xxxx
Davenport, Charles, xxx-xx-xxxx
Davis, Alice M., xxx-xx-xxxx
Davis, Bobby G., xxx-xx-xxxx
Dean, Richard C., xxx-xx-xxxx
Deel, Arlin, xxx-xx-xxxx
Degeneffe, Delano E., xxx-xx-xxxx
Delany, Daniel J., xxx-xx-xxxx
Delvecchio, William, xxx-xx-xxxx
Denmark, Sumner J., xxx-xx-xxxx
Desimone, Frank P., xxx-xx-xxxx
Detrich, Virgil D., xxx-xx-xxxx
Dewitt, Calvin III, xxx-xx-xxxx
Dickson, Rodney, xxx-xx-xxxx
Dillingham, William, xxx-xx-xxxx
Dilworth, Robert L., xxx-xx-xxxx
Dinkins, Robert L., xxx-xx-xxxx
Dobbs, Herbert H., xxx-xx-xxxx
Dodson, John P., xxx-xx-xxxx
Donovan, Claude B., xxx-xx-xxxx
Dorough, Aaron G., xxx-xx-xxxx
Dottle, James C., xxx-xx-xxxx
Doukas, James W., xxx-xx-xxxx
Drisko, Melville A., xxx-xx-xxxx
Dubbelde, John B., xxx-xx-xxxx
Dunlap, Roger L., xxx-xx-xxxx
Dunn, James W., xxx-xx-xxxx
Dupont, Robert H., xxx-xx-xxxx
Dyson, Harold B., xxx-xx-xxxx
Ebbole, Robert, xxx-xx-xxxx
Eisenbarth, Roland, xxx-xx-xxxx
Elliott, Roy P., xxx-xx-xxxx
Ellis, Gary L., xxx-xx-xxxx
Epperson, Thomas A., xxx-xx-xxxx
Erickson, Darrold J., xxx-xx-xxxx
Eure, Samuel L., xxx-xx-xxxx
Evans, Walter C., xxx-xx-xxxx
Fadel, Richard A., xxx-xx-xxxx
Fancher, Louis C., xxx-xx-xxxx
Fanning, Joseph J., xxx-xx-xxxx

Feaster, Lewis L., xxx-xx-xxxx.
Ferguson, Donald W., xxx-xx-xxxx.
Ferguson, James C., xxx-xx-xxxx.
Ferguson, Michael L., xxx-xx-xxxx.
Finch, Arthur L., xxx-xx-xxxx.
Fink, Jerry D., xxx-xx-xxxx.
Fiske, William S., xxx-xx-xxxx.
Fitzgerald, John M., xxx-xx-xxxx.
Flanders, Norwood S., xxx-xx-xxxx.
Fleming, Jerry L., xxx-xx-xxxx.
Forgy, Jack O., xxx-xx-xxxx.
Franks, Frederick M., xxx-xx-xxxx.
Fritts, William D., xxx-xx-xxxx.
Fritz, James E., xxx-xx-xxxx.
Fujitani, Donald S., xxx-xx-xxxx.
Fuller, James R., xxx-xx-xxxx.
Gale, Paul B., xxx-xx-xxxx.
Gange, William B., xxx-xx-xxxx.
Gantt, John R., xxx-xx-xxxx.
Garcia, Eliseo J., xxx-xx-xxxx.
Gard, William B., xxx-xx-xxxx.
Garigan, Thomas P., xxx-xx-xxxx.
Garrison, Edgar C., xxx-xx-xxxx.
Gassie, Herbert H., xxx-xx-xxxx.
Gates, Norman B., xxx-xx-xxxx.
Gayler, Earl D., xxx-xx-xxxx.
Gell, Richard W., xxx-xx-xxxx.
Givler, Leon J., xxx-xx-xxxx.
Glasker, Samuel J., xxx-xx-xxxx.
Glick, Stephen A., xxx-xx-xxxx.
Goetz, George W., xxx-xx-xxxx.
Goetz, John A., xxx-xx-xxxx.
Goff, Lee A., xxx-xx-xxxx.
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Serene, Fred L., xxx-xx-xxxx.
Sergio, Stephen T., xxx-xx-xxxx.
Serna, Robert W., xxx-xx-xxxx.
Shadell, Michael J., xxx-xx-xxxx.
Shaffer, Robert L., xxx-xx-xxxx.
Shaw, Claude D., xxx-xx-xxxx.
Shaw, Gregory S., xxx-xx-xxxx.
Shaw, Rayford L., xxx-xx-xxxx.
Shea, Daniel P., xxx-xx-xxxx.
Sheely, Raymond A., xxx-xx-xxxx.
Shelby, Danny W., xxx-xx-xxxx.
Shepherd, William E., xxx-xx-xxxx.
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Shirey, James H., xxx-xx-xxxx.
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Willis, James H., xxx-xx-xxxx.
Wilson, Charles B., xxx-xx-xxxx.
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Wray, Timothy A., xxx-xx-xxxx.
Wright, Barry E., xxx-xx-xxxx.
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Wright, Steven W., xxx-xx-xxxx.
Wright, Walter J., xxx-xx-xxxx.
Wyman, Francis L., xxx-xx-xxxx.
Wynn, Donald T., xxx-xx-xxxx.
Yakovac, Joseph L., xxx-xx-xxxx.
Yarrow, William M., xxx-xx-xxxx.
Yatsko, Larry W., xxx-xx-xxxx.
Yaws, Neil S., xxx-xx-xxxx.
Yee, Bobby, xxx-xx-xxxx.
Yesensky, Richard J., xxx-xx-xxxx.
Young, Alan R., xxx-xx-xxxx.
Young, Daniel E., xxx-xx-xxxx.
Youngblood, Richard, xxx-xx-xxxx.
Yrazabal, Mark A., xxx-xx-xxxx.
Zastrow, Richard G., xxx-xx-xxxx.
Zelazny, Robert C., xxx-xx-xxxx.
Ziemkiewicz, Frank, xxx-xx-xxxx.
Zimmerman, Richard, xxx-xx-xxxx.

WOMEN'S ARMY CORPS

To be captain

Brinckmann, Karen A., xxx-xx-xxxx.
Conklin, Zelda K., xxx-xx-xxxx.
Flye, Patricia A., xxx-xx-xxxx.
Horan, Linda M., xxx-xx-xxxx.
Jankowski, Lisa T., xxx-xx-xxxx.
Peters, Clarice J., xxx-xx-xxxx.
Pue, Veronika G., xxx-xx-xxxx.

DENTAL CORPS

To be captain

Balloch, Steven M., xxx-xx-xxxx.
Benner, Michael D., xxx-xx-xxxx.
Calverley, Mickey J., xxx-xx-xxxx.
Chamberlin, John H., xxx-xx-xxxx.
Davis, Larry D., xxx-xx-xxxx.
Dewald, Ernest J., xxx-xx-xxxx.
Diazrojas, Pablo, xxx-xx-xxxx.
Ellis, Randall W., xxx-xx-xxxx.
Green, Joseph M., xxx-xx-xxxx.
Johnson, Mark, xxx-xx-xxxx.
Jordan, John R., xxx-xx-xxxx.
Krautmann, Paul J., xxx-xx-xxxx.
Plautz, Henry S., xxx-xx-xxxx.
Rajniak, John D., xxx-xx-xxxx.
Sculley, Patrick D., xxx-xx-xxxx.
Smith, Ben E., xxx-xx-xxxx.
Striano, Thomas S., xxx-xx-xxxx.
Webb, Joseph G., xxx-xx-xxxx.
Weller, Gary P., xxx-xx-xxxx.
Wheeler, James J., xxx-xx-xxxx.
Witker, Robert E., xxx-xx-xxxx.

MEDICAL CORPS

To be captain

Andersen, Peter A., xxx-xx-xxxx.
Beam, Thomas E., xxx-xx-xxxx.
Boyd, James F., xxx-xx-xxxx.
Carroll, Dale A., xxx-xx-xxxx.
Corneli, Floyd M., xxx-xx-xxxx.
Current, John D., xxx-xx-xxxx.
Davidson, Howard, xxx-xx-xxxx.
Downey, Gordon O., xxx-xx-xxxx.
Dye, Scott F., xxx-xx-xxxx.
Fogarty, John P., xxx-xx-xxxx.
Fortuna, Lawrence J., xxx-xx-xxxx.
Gooden, Stephen M., xxx-xx-xxxx.
Goodloe, Samuel Jr., xxx-xx-xxxx.
Haas, Royce A., xxx-xx-xxxx.
Hahn, David B., xxx-xx-xxxx.
Harvey, Robert C., xxx-xx-xxxx.
Hill, Marvin E., xxx-xx-xxxx.
Isenhower, Nelson N., xxx-xx-xxxx.
McCabe, James M., xxx-xx-xxxx.
Mein, Calvin E., xxx-xx-xxxx.
Moore, John W., xxx-xx-xxxx.
Muller, Thomas W., xxx-xx-xxxx.
Piacente, David A., xxx-xx-xxxx.
Pumphrey, Robert S., xxx-xx-xxxx.
Rebecca, George S., xxx-xx-xxxx.
Reid, Michael L., xxx-xx-xxxx.
Roden, William C., xxx-xx-xxxx.
Ross, Allan L., xxx-xx-xxxx.
Sakas, Edward L., xxx-xx-xxxx.
Scavone, John A., xxx-xx-xxxx.
Steinweg, Kenneth K., xxx-xx-xxxx.
Tramont, Edmund C., xxx-xx-xxxx.
Weeks, Kenneth D., Jr., xxx-xx-xxxx.
Young, Robert M., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be captain

Baker, Stuart W., xxx-xx-xxxx.
Berry, Jon G., xxx-xx-xxxx.
Bouck, Grant S., xxx-xx-xxxx.
Brandes, Bruce D., xxx-xx-xxxx.
Burton, Lloyd R., xxx-xx-xxxx.
Cahill, William R., xxx-xx-xxxx.
Chaffee, Dennis L., xxx-xx-xxxx.
Charlesworth, James, xxx-xx-xxxx.
Cisneros, Guillermo, xxx-xx-xxxx.
Coburn, Dale P., xxx-xx-xxxx.
Comin, Larry E., xxx-xx-xxxx.
Cothran, Thomas L., xxx-xx-xxxx.
Dagostino, Michael, xxx-xx-xxxx.

Davis, Ford R., xxx-xx-xxxx.
Dolan, Kerry B., xxx-xx-xxxx.
Driggers, William D., xxx-xx-xxxx.
Dukes, Michael W., xxx-xx-xxxx.
Egmon, Gary W., xxx-xx-xxxx.
Fenlason, Robert W., xxx-xx-xxxx.
Fogarty, John M., xxx-xx-xxxx.
Fogle, Allen R., xxx-xx-xxxx.
Gaschen, Fredrick S., xxx-xx-xxxx.
Goodman, Thadious L., xxx-xx-xxxx.
Graski, George M., xxx-xx-xxxx.
Grassia, Philip G., xxx-xx-xxxx.
Guillen, Atanacio C., xxx-xx-xxxx.
Gutierrez, Anthony, xxx-xx-xxxx.
Hilts, Barry W., xxx-xx-xxxx.
Horne, Rodney J., xxx-xx-xxxx.
Indrisano, Gerard S., xxx-xx-xxxx.
Johnson, Darryl F., xxx-xx-xxxx.
Lamarche, Stephen M., xxx-xx-xxxx.
Levens, Jack L., xxx-xx-xxxx.
Loader, Michael B., xxx-xx-xxxx.
Madden, Gary E., xxx-xx-xxxx.
Madeo, Peter D., xxx-xx-xxxx.
Martin, James A., xxx-xx-xxxx.
Martinez, Manuel E., xxx-xx-xxxx.
Martinez, Phillip T., xxx-xx-xxxx.
McCormick, Roscoe, xxx-xx-xxxx.
New, Hector, xxx-xx-xxxx.
Nickel, Gary W., xxx-xx-xxxx.
Olson, Calvin J., xxx-xx-xxxx.
Opio, Roger M., xxx-xx-xxxx.
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Phillips, Edward P., xxx-xx-xxxx.
Pigford, Joe N., xxx-xx-xxxx.
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Rose, Charles A., xxx-xx-xxxx.
Sheppard, Anthony J., xxx-xx-xxxx.
Smith, Lee T., xxx-xx-xxxx.
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Tate, David B., xxx-xx-xxxx.
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Wanzer, Christopher, xxx-xx-xxxx.
Weiss, Robert D., xxx-xx-xxxx.
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ARMY MEDICAL SPECIALIST CORPS

To be captain

Bracewell, William, xxx-xx-xxxx.
Brandenburg, Joe W., xxx-xx-xxxx.
Daigle, Wade W., xxx-xx-xxxx.
Fullerton, Jack S., xxx-xx-xxxx.
Going, James W., xxx-xx-xxxx.
Herzberger, James K., xxx-xx-xxxx.
Hobson, Karen P., xxx-xx-xxxx.
Rousey, James L., xxx-xx-xxxx.
Woerman, Allyn L., xxx-xx-xxxx.

VETERINARY CORPS

To be captain

Bartz, Curtis R., xxx-xx-xxxx.
Hines, Fred A., xxx-xx-xxxx.
Rafio, Norman L., xxx-xx-xxxx.

ARMY NURSE CORPS

To be captain

Alfino, Joyce, xxx-xx-xxxx.
Ball, Bettye H., xxx-xx-xxxx.
Barber, Patricia F., xxx-xx-xxxx.
Beaty, James M., xxx-xx-xxxx.
Beeman, Thomas A., xxx-xx-xxxx.
Berry, George E., xxx-xx-xxxx.
Boggess, George H., xxx-xx-xxxx.
Bolcar, Blinn S., xxx-xx-xxxx.
Brink, Dorothy A., xxx-xx-xxxx.
Callahan, Michael F., xxx-xx-xxxx.
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Carle, Marcia L., xxx-xx-xxxx.
Carroll, Vonna J., xxx-xx-xxxx.
Carter, Michael R., xxx-xx-xxxx.
Christensen, Donald, xxx-xx-xxxx.
Corbin, Kathleen C., xxx-xx-xxxx.
Darden, Marianne L., xxx-xx-xxxx.
Deangelis, Richard, xxx-xx-xxxx.
Dell, Edward E., xxx-xx-xxxx.
Dillinger, Paul L., xxx-xx-xxxx.
Dixon, Ernestine, xxx-xx-xxxx.
Dunn, Linda J., xxx-xx-xxxx.
Evans, Rosalie K., xxx-xx-xxxx.
Flynn, Patricia J., xxx-xx-xxxx.
Gilbert, Derl H., xxx-xx-xxxx.
Glenn, Alvin E., xxx-xx-xxxx.
Hamparian Phyllis, xxx-xx-xxxx.
Hardaway, Russell G., xxx-xx-xxxx.
Heil, Elizabeth A., xxx-xx-xxxx.
Henricson, Lawrence, xxx-xx-xxxx.
Heresa, Sadonyia J., xxx-xx-xxxx.
Hudson, Sharon R., xxx-xx-xxxx.
Jackson, Brendel J., xxx-xx-xxxx.
Jameson, Jill C., xxx-xx-xxxx.
Kalbfleish, Julia E., xxx-xx-xxxx.
King, Mary M., xxx-xx-xxxx.
Kinsinger, Daniel A., xxx-xx-xxxx.
Lanam, Jon P., xxx-xx-xxxx.
Lensing, William A., xxx-xx-xxxx.
Levinson, Carolyn H., xxx-xx-xxxx.
Martin, Gerald K., xxx-xx-xxxx.
Maslowski, Charlott, xxx-xx-xxxx.
McCormack, Patricia, xxx-xx-xxxx.
McLaren, Mary E., xxx-xx-xxxx.
McNeil, Jack L., xxx-xx-xxxx.
McQueen, Viola C., xxx-xx-xxxx.
Menton, Leta K., xxx-xx-xxxx.
Millican, Jerry W., xxx-xx-xxxx.
Mills, Sharon I., xxx-xx-xxxx.
Mull, Ellen A., xxx-xx-xxxx.
Nelson, Sharon J., xxx-xx-xxxx.
Newman, Peggy F., xxx-xx-xxxx.
Nieves, Wilfredo, xxx-xx-xxxx.
Nipps, Marcella A., xxx-xx-xxxx.
Owens, Patricia O., xxx-xx-xxxx.
Parry, Barbara A., xxx-xx-xxxx.
Peterson, Rodney C., xxx-xx-xxxx.
Powell, Jerry W., xxx-xx-xxxx.
Prucha, James F., xxx-xx-xxxx.
Purol, Rose M., xxx-xx-xxxx.
Ray, Karen L., xxx-xx-xxxx.
Reeves, Carla M., xxx-xx-xxxx.
Ross, Patricia A., xxx-xx-xxxx.
Sarran, Sue C., xxx-xx-xxxx.
Schilhab, Galynn E., xxx-xx-xxxx.
Scott, Charlene, xxx-xx-xxxx.
Smith, Michael C., xxx-xx-xxxx.
Soden, Virginia D., xxx-xx-xxxx.
Strzelecki, Lorna R., xxx-xx-xxxx.
Sullivan, Candice J., xxx-xx-xxxx.
Taddiken, Patricia, xxx-xx-xxxx.
Thompson, Charles F., xxx-xx-xxxx.
Troop, Michael D., xxx-xx-xxxx.
Vanhook, Thomas J., xxx-xx-xxxx.
Varney, Kathryn E., xxx-xx-xxxx.
Watson, Eileen K., xxx-xx-xxxx.
Wells, Dawn L., xxx-xx-xxxx.
Williams, Barbara G., xxx-xx-xxxx.
Woolsey, Mary M., xxx-xx-xxxx.
Youngberg, Barbara L., xxx-xx-xxxx.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 8284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Arm, Stephen P., xxx-xx-xxxx.
Carroll, Samuel J., xxx-xx-xxxx.
Coleman, Aaron R., xxx-xx-xxxx.
Hicks, Ancil L., xxx-xx-xxxx.
Kirsch, Richard J., xxx-xx-xxxx.
Tichenor, Arthur H., xxx-xx-xxxx.
Whealy, Michael T., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be first lieutenant

Heinemann, Warren R., xxx-xx-xxxx.

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be major

Abercrombie, Thomas, xxx-xx-xxxx.
Aberg, Eric T., xxx-xx-xxxx.
Abney, Robert O., xxx-xx-xxxx.
Adair, William H., xxx-xx-xxxx.
Adams, Doye W., xxx-xx-xxxx.
Adams, James L., xxx-xx-xxxx.
Adams, John B., xxx-xx-xxxx.
Adams, Richard M., xxx-xx-xxxx.
Ahern, Michael B., xxx-xx-xxxx.
Ahrens, Robert E., xxx-xx-xxxx.
Alexander, Alfred A., xxx-xx-xxxx.
Alexander, William, xxx-xx-xxxx.
Allan, William D., xxx-xx-xxxx.
Allen, Frank B., xxx-xx-xxxx.
Allen, Ralph L., xxx-xx-xxxx.
Allen, Richard B., xxx-xx-xxxx.
Allen, Robert A., xxx-xx-xxxx.
Allen, Troy N., xxx-xx-xxxx.
Allison, David B., xxx-xx-xxxx.
Allman, Douglas D., xxx-xx-xxxx.
Alt, Emile A., xxx-xx-xxxx.
Ames, Robert A., xxx-xx-xxxx.
Amrine, Robert M., xxx-xx-xxxx.
Anderschat, Richard, xxx-xx-xxxx.
Anderson, Dean R., xxx-xx-xxxx.
Anderson, Martin S., xxx-xx-xxxx.
Anderson, Norman L., xxx-xx-xxxx.
Anderson, Robert W., xxx-xx-xxxx.
Anderson, Stephen M., xxx-xx-xxxx.
Andrae, Raymond R., xxx-xx-xxxx.
Andrews, Andrew E., xxx-xx-xxxx.
Ankrom, Charles B., xxx-xx-xxxx.
Annan, William M., xxx-xx-xxxx.
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EXTENSIONS OF REMARKS

TV, REAL-LIFE VIOLENCE LINKED

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. STEERS. Mr. Speaker, the benefits of a highly technical, consumer-oriented society are many, but the dangers accompanying such a system should not be ignored. Television is one of these dangers. It is my belief that the hours of commercially popular, violent programs are distorting the picture that American children get of the role of violence in society.

For that reason, I have cosponsored House Resolution 345, introduced by my distinguished colleague from Illinois (Mr. RAILSBACK), which expresses that it is the sense of the House of Representatives that there exists a sufficient indication of a relationship "between the level of violence depicted on television and a distorted view of social reality held by heavy viewers of television to warrant consideration of such relationship by those persons responsible for television programing and broadcasting in the United States."

I think that the Congress should be extremely cautious in approaching this national problem. We must not impose restrictions on the constitutionally guaranteed rights of expression, but this does not condone congressional inaction. I urge my colleagues to examine this problem. I am therefore inserting into the RECORD the following article that appeared in the Washington Post on September 13, 1977.

CBS STUDY IN BRITAIN LINKS TV, REAL-LIFE VIOLENCE

(By Bernard D. Nossiter)

LONDON, Sept. 12—Does television violence breed violence?

Emphatically yes, answers William Belson, who has just announced the central findings of a six-year study here financed by the American television network, CBS. After prolonged interviews with 1,565 London boys, Belson concludes that those who watch screen violence for long periods commit 50 per cent more rape and other mayhem than those whose viewing is limited.

Unproven, replies Stepehn Brody of the British Home Office, who has coincidentally published a survey of all previous research on the question. These studies suggest at most, he argues, that the violent-prone may enjoy and gain reinforcement from watching violence on the screen, but it is unlikely to affect the behavior of the ordinary viewer.

The $290,000 study was done here rather than in the United States because Belson and his London School of Economics survey team, whom CBS wanted, preferred to do the work here.

It has captured a great deal of attention here, largely because of its blunt conclusions.

One of the most startling for a British society that likes to regard itself as peaceful is the high level of violence among youths aged 13 to 16.

Nearly one in eight of those questioned, 12 per cent, told Belson's interviewers that they had committed 10 or more serious acts of violence in the previous six months. Some examples: knocking a boy off his bike, breaking a telephone in a booth, throwing bricks at a girl, kicking a boy hard in the crotch, burning a boy's chest with a cigarette, attempting rape and bashing a boy's head against a wall.

Of Belson's group of 1,565, only 725 claimed not to have committed a single serious violent act.

To determine television's effect, Belson, a professor at North East London Polytechnic, split his group in two. Those who spent the most time watching more-violent programs were "qualifiers"; those who watched less-violent fare and less often were his "controls."

His most dramatic finding is that the prolonged violence-watchers had engaged on average in 7.48 acts of serious violence in the past six months. The "controls," however, had committed an average of 5.02 such acts.

Skeptics might contend that this simply reflects an extraordinary amount of violence among London's youths. But Belson argues that it shows a serious difference in behavior traceable to violence on television.

Among the more violent shows Belson singled out were several American series that have drawn big audiences here; "Starsky and Hutch," "The Untouchables," "Hawaii Five-O" and "The Man From UNCLE."

The professor makes no distinction between the crime-generating consequences of a violent Western or classincal drama.

What about "Hamlet," he was asked, with its four killings and one suicide on stage, two executions and another suicide off stage?

"'Hamlet' would rate very high" on his violence scale, Belson said in an interview. "The fact that it's art makes no differences. It's pretty violent."

What of the argument that the violence-prone watch violence more than others? Belson conceded that "we do not have a method for unambiguously resolving" this question. But he said that his full report, still unpublished, attempts to deal with it.

His findings give a clean bill of health to violence in cartoons, science fiction, slapstick comedy and sports—except for boxing and wrestling. In fact, much youthful violence here occurs every Saturday when rival soccer crowds assault each other and passers-by. But this lies outside Belson's study.

He readily acknowledges that many other factors besides television can induce violence, including size of family, poverty and environment. But he says he has succeeded in isolating television as a contributing factor and urges a "major cutback in the total amount of violence being presented."

Belson claims that television violence does not affect conscious attitudes, that those who watch much and those who watch little display the same attitudes toward authority and toward violence as a means to solve problems.

But he suggests that his results show that television "disinhibits," unconsciously releasing constraints against violence.

This puts him squarely in contradiction with Aristotle's theory of catharsis: that observing the portrayal of tragedy relieves tension and fear.

The study by Brody for the Home Office, however, rediscovers the wisdom of the ancient Greeks. It notes that catharsis has been out of fashion, but recently an "increasing number of studies . . . show some support for it." They suggest that films "can channel the expression of aggressive feelings . . . serving as a vehicle for the absorption and harmless amelioration of fears, anxieties and hostilities."

"It can be stated quite simple," he writes, "that social research has not been able unambiguously to offer any firm assurance that the mass media in general, and films and television in particular, either exercise a socially harmful effect or that they do not . . .

"The mass media are no different than other forms of cultural expression, which, though they reveal the state of a society or civilization, cannot be said to determine its development."

ROSE-HULMAN PRESIDENT SPEAKS OUT ABOUT BENEFITS OF FREE MARKET

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. JOHN T. MYERS. Mr. Speaker, Dr. Samuel F. Hulbert, president of the Rose-Hulman Institute of Technology in Terre Haute, Ind., recently called attention to the alarming degree of misunderstanding among today's college students about the basics of the economic system that propelled the United States into a position of world leadership.

Dr. Hulbert outlined Rose-Hulman's philosophy in the following comment. I call it to the attention of my colleagues and educators across the country with the hope that his warning will spur others to return to teaching the basics so that future generations will fully appreciate the importance of a "free market" to our way of life.

IT IS TIME SOMEONE IN EDUCATION SPOKE OUT ABOUT THE BENEFITS OF THE FREE MARKET

(By Dr. Samuel F. Hulbert)

A number of recent surveys have shown that the American college students and faculty members do not understand the meaning of basic economic terms like "free market," "mixed economic system" and "collectivistic system." Our educational system is creating an educated class capable of building space ships or transplanting human organs but which is basically composed of economic illiterates. As a case in point, a survey released by World Research *INK* in June noted that only 16% of American college students are consistently pro-free market. Another 28% are consistently anti-free market: 67% of American college students do not believe in a strictly limited government. More than 70% of the students believe it is permissible for the government to force people to belong to a welfare security system. Only 30% of the students think private enterprise can do a better job than government in allocating present energy supplies and in finding new energy resources. Only 47% think that the private enterprise system can deliver gas and electric power more efficiently than government, and 57% of the students want to nationalize the Oil Companies.

There is a decided misconception of the level of profits made by American business. For example, 40% of the students believe that the Oil Companies' profits are greater than 20% on each dollar of sales. The real figure is about 5%. Again, I say American colleges are training a group of economic illiterates.

The faculty and staff at Rose-Hulman Institute of Technology are committed to mak-

ing sure that our students understand the free market system and the dangers of government that is not strictly limited in power and the loss of incentive that accompanies a collective system. It is time that all college students were told:

a. That the government now takes about 44 percent of the nation's total personal income.

b. That government regulations have cost consumers more than $100 billion.

c. That government health programs have driven the nation's spending on health care from 5 percent of the GNP to nearly 9 percent during the past decade.

d. That our present welfare system is turning millions of Americans into helpless wards of the state, and encouraging millions of others to choose dependency instead of work.

e. That more than $4 billion in known welfare abuse, error and fraud have occurred.

f. That there are nearly 85 full-time dependents or employees of government for every 100 productive taxpayers.

g. That the government's total accumulated long-term debt and obligations are over $5 trillion—more than the total worth of the economy.

h. That the government is printing money at a rate more than twice as fast as the nation's economy is growing.

I believe that if American college students were told the facts by their respective faculties, more than 32 percent would believe in a strictly limited government.

Rose-Hulman doesn't teach that the present economic system is perfect but it does teach that ours is the best system devised to date and that it is not only important to work to constantly improve the system but to constantly defend the system against the constantly growing power of the government and the collectivistic-system philosophy prevalent in the country today.

HON. WILLIAM R. HULL, JR.

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 1977

Mr. WHITTEN. Mr. Speaker, I have had the privilege of serving with many able Members of this august body and it was a real blow to learn that one of the ablest in my tenure here—Representative William R. Hull—had passed away.

Much will be said about the many contributions that Bill Hull made to his district, State and country, but I would like to take this opportunity to speak of the man behind the deeds.

Born in the agricultural region of northern Missouri and a farmer prior to entering public service, Bill brought to Congress the knowledge that studies and rhetoric cannot match a good day's work. And to this principle he remained true during his 18 years of devoted service.

I learned, as a member of the Appropriations Committee where I worked closely with Bill, that he was a man who could be counted on to work tirelessly, oftentimes without receiving the credit he deserved, toward making his district and country a better place to live.

For many years, Bill's knowledge of the attitude and atmosphere of Congress served to promote the cause of his rural constituency and that of the agricultural community throughout the country. And as the hard work and planning became reality, Bill would step back and let others whose contributions could not match his, make the headlines, because he was content knowing he had helped his people.

Though he could, and often did disagree with a colleague, he always respected the right to a difference of opinion and would listen to the opposition with an open mind.

It is hard to find men of Bill Hull's character in any walk of life and I, along with all those who knew him, will miss his counsel and friendship.

USE OF PANAMA CANAL BY U.S. GOVERNMENT DURING TIME OF WAR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following figures concerning the use of the Panama Canal by the U.S. Government before, during, and after the Vietnam war. I believe that these figures are significant in that they reveal the importance of the Panama Canal to the United States during a time of war.

U.S. GOVERNMENT USE OF PANAMA CANAL BEFORE-DURING-AFTER VIETNAM

U.S. NAVAL SHIP TRANSIT

1964	86
1965	112
1966	148
1967	145
1968	147
1969	138
1970	125
1971	99
1972	86
1973	61
1974	49
1975	20
1976	26

U.S. GOVERNMENT VESSEL AND CARGO TRANSITS[1]

Fiscal year	Number of transits	Long tons of cargo
1964	285	1,177,269
1965	284	1,923,538
1966	591	3,220,190
1967	879	6,147,479
1968	1,504	8,497,221
1969	1,376	7,210,068
1970	1,068	4,410,451
1971	503	2,236,619
1972	413	1,742,303
1973	373	1,405,428
1974	248	1,748,963
1975	170	526,497
1976	85	177,508

U.S. GOVERNMENT CARGO SUPPORT FOR VIETNAM[2]

	Fiscal year—			Average
	1967	1968	1969	
Via Panama Canal	5.1	7.7	6.1	
Total support provided	12.7	13.0	12.9	
Panama Canal's percent of total	40	69	47	49

[1] Source: Annual report, Panama Canal Company included warships, auxiliaries and Military Sealift Command controlled ships.

[2] Millions of long tons (approximations provided by Military Sealift Command and Military Airlift Command).

BALANCE(S) OF POWER: PART VI (VII) THE NAVAL BALANCE: THE ROLE OF THE MODERN SOVIET NAVY

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BRECKINRIDGE. Mr. Speaker, extensive debate in this country continues over the actual goals and priorities which shape the Soviet naval mission. Today's entry in the naval balance is an arresting statement of Soviet naval doctrine by the "Father of the modern Soviet navy," Fleet Adm. Sergey G. Gorshgov, commander in chief of naval forces since 1956 and deputy minister of defense, as well as central committee member of the Soviet Communist Party.

Gorshgov's definitive writing, "The Sea Power of the State," was published last year. The selection here consists of excerpts from the translation by Ruben Ainsztein, published in the January-February 1977 issue of Survival. Numbers in parentheses indicate pages of the original text.

As successive articles will illustrate, different interpretations of Soviet mission are related to different choices among possible scenarios, which in turn affect assessments of naval capabilities relative to the United States. No argument may ignore, however, the doctrine propounded here, in which the primacy of the missile submarines' strategic mission dictates the security role of surface ships and the ASW mission of naval aviation and attack submarines.

Any measure of the shift in the naval balance must take into account those Soviet strategic priorities. The first part of Ainsztein's excerpted translation of Fleet Admiral Gorshgov's "The Sea Power of the State" follows:

THE SEA POWER OF THE STATE

(By S. G. Gorshkov)

(NOTE.—Known by many as the 'father of the modern Soviet navy, Admiral Gorshkov has guided its transformation from the antiquated coastal defence force it was in the 1950s to the global, nuclear-armed fleet it is today. In a celebrated series of essays published in 1972–73, Admiral Gorshkov argued convincingly that, as a super-power, the Soviet Union must possess a strong ocean-going navy. In a lengthy book, The Sea Power of the State, published last year and excerpted below, Gorshkov returns to this theme. The book has been hailed by Soviet reviewers as a major contribution to military thinking, one announcing that "for the first time in our literature, the author formulates the concept of seapower in scientific terms". As in his earlier writings, Gorshkov emphasizes the importance of the oceans to the maintenance of Soviet power and influence. Particularly revealing, however, is his discussion of the impact of nuclear weapons and missile technology on naval strategy. He argues that technology has downgraded the use of navies against other navies, and that the primary tasks of the Soviet navy are to project strategic power ashore and to counter the adversary's sea-borne strategic capabilities. In performing these tasks, according to Gorshkov, submarines and naval aviation are crucial. To provide a short but comprehensive presentation of Gorshkov's views has required substantial abridgement, and only

the highlights of some of his many arguments are reprinted here. Both the translation from the original text and the selection of appropriate excerpts are the work of Reuben Ainsztein of the Sunday Times (London). Morskaya Moshch Gosudartsva (Soviet Ministry of Defence Publishing House), 1976. (Translation by Reuben Ainsztein.))

Among the many factors influencing the development of human society, Marxism includes geographical ones, of which the World Ocean is one of the most important. The World Ocean constitutes almost three-quarters of the surface of our planet and contains colossal biological, energy and mineral resources.

As a result of man's use of the World Ocean over many centuries, there came into existence transport and fishing fleets, which made it possible to expand trade and led to the establishment of numerous bases and ports. As the science of oceanography has developed, the fleets of ships engaged in the exploration and study of the oceans have grown proportionately. There is every ground to state that the totality of the means used for exploiting the riches of the World Ocean and the means used for defending the interests of the state, when rationally combined, constitute the sea power of the state and determine a country's ability to use the military-economic potentialities of the oceans to its advantage.

We are quite justified in treating the sea power of a state as a system which is characterized not only by the interconnection of its naval, transport, fishing, scientific and other fleets, but by an indivisible unity with its dimension, the World Ocean, for it is in its interactions with the World Ocean that sea power is expressed in its integrity. The importance of the individual components making up a state's sea power is not constant. In our own times, when the grandiose scientific discoveries of our epoch are used for military purposes, the technological capabilities of waging war in the oceanic element have grown tremendously.

Naval power played a major role in World War II, which was caused by the international monopolistic capital, and has played since a major role in the local wars which in the last quarter of our century have become an integral part of the policies of the imperialist states. To quote one example, the Pentagon leaders regard the naval might of the United States as the most important component of their strategic nuclear forces, capable of carrying out in the shortest possible time strikes of gigantic might against land objectives situated a long way from the coast and thus decisively affecting the situation in any operational theatre. At the same time, by concentrating their nuclear power in the sphere of naval operations, they calculate that they will be able to divert nuclear strikes from their own territory.

Guided by such views of the role of naval power in the event of another world war, the imperialist camp has adopted an oceanic strategy as the basic conception of its military doctrine. This strategy stems from the facts that practically all land objectives are open to blows from the oceans, and that oceanic nuclear systems are the most mobile and the most difficult to hit because of their ability to use the depths of the seas for their defence and the immense oceanic space for concealing themselves. This is why large areas of the World Ocean have already been turned by the imperialists into launching sites for *Polaris*-type ballistic missiles, which are always ready for action.

It is generally known that the nuclear strategic missiles of the US Navy are directed at our country from various directions. Apart from them, the United States and the aggressive anti-Soviet blocs, NATO, CENTO and others, have set up numerous naval and air bases along the maritime frontiers of the Soviet state. From those bases the members of these blocs can direct their carrier-borne aircraft and their land-based air forces against important targets on Soviet territory and also on the territory of the other countries of the Socialist Commonwealth.

Arming the navies with nuclear missiles has brought much that is novel to naval tactics and operational art. It has forced the naval powers to change the construction of ships and to create new types of naval technology and arms. Side by side with the traditional task of destroying the enemy's ships, the navies of the leading maritime powers have now been given a new task: to destroy the military-economic potential of the enemy by direct assault on his vital industrial centres by nuclear strikes from the sea.

For the Soviet Union, the chief goal of whose policies is the building of a Communist society and the continuous rise of the welfare of her builders, naval power constitutes one of the most important factors ensuring the strengthening of her national economy, the acceleration of her scientific and technical progress and the consolidation of her economic, political, cultural and scientific links with friendly nations and countries.

The material expression of our naval power, which constitutes the realistic potential of our country to fend off aggression from the oceans, is its Soviet Navy, which is continuously growing and improving in quality.

We are witnessing a reorientation in the structure of the US armed forces stemming from the doctrine that in the event of war the fundamental tasks will inevitably be carried out by powerful blows from the sea performed by the three elements of naval power: 1) ballistic missiles launched by nuclear-powered submarines; 2) aircraft carriers; and 3) marines. The destructive power of nuclear strikes is regarded by the American strategists as a novel, complementary extension of naval power applied in its actions against land. This will be assisted by the wide-ranging use of nuclear-powered submarines, thanks to which the traditional dependence of navies on the configuration of strategic positions on the oceans and the seas—on the 'geography' of their bases—has diminished, thus producing opportunities for extending the sphere of aggressive intentions to new areas of the World Ocean.

Among the factors favouring the growth of naval power there are other achievements in the field of scientific and technological progress, in particular the creation of artificial earth satellites, which the imperialist armed forces are already using for the purpose of intelligence, communications and navigation.

An examination of the fundamental aspects of the sea power of the Soviet state leads us to the obvious conclusion that our country, disposing of naval power and constantly increasing it, is acquiring ever new opportunities for developing her economy and science, for improving the living standards of the Soviet nation and for strengthening her defence potential. The constantly growing maritime might of our country ensures our ability to enlarge our exploitation of the colossal natural resources of the World Ocean. The exploitation of the natural resources of the World Ocean combined with the advance of science and technology, making such exploitation possible, open new vistas of economic and political integration for the socialists states, widen the sphere of their international co-operation and heighten the prestige of the Soviet state on the international arena.

The growing maritime might of our country ensures the successful implementation of her foreign policy and allows us to widen our trading, shipping, scientific and cultural links with other countries. It strengthens the constructive co-operation between our country and other countries with differing social systems and gives our nation a most important weapon for realizing her historical mission: the continuous growth of economic assistance to all countries that have chosen the road of independent development.

History teaches us that navies have always played an important role in consolidating the independence of states whose shores are washed by seas or oceans, as well as in their economic and cultural development. Naval power has always been one of the historical factors determining the transformation of states into great powers. Moreover, history teaches us that states without naval power have been unable to maintain the status of a great power for any length of time. And it could not be otherwise, for the element in which navies operate is the seas and the oceans.

This is why both military necessity and economic growth which depends on maritime trade, as well as the political struggle, have always made states build, maintain and modernize their navies. Today, in an era of gigantic scientific discoveries and their application to military purposes, the possibilities of waging war over the surfaces of the oceans have grown incredibly. The oceanic theatres of war, instead of being the traditional areas of warfare between the naval forces of the warring states in their struggle to dominate seaborne communications or to carry out or prevent landing operations, have become the ideal areas for launching ballistic missiles from submerged submarines and for launching aircraft from the decks of assault aircraft-carriers.

While in the past the oceanic vastnesses concealed the threat of seaborne invasions, the chances of which were chiefly determined by the relation of naval power between the warring states, they are now hiding, since the creation of naval strategic missiles, also the threat of devastating nuclear strike. Therefore, naval operations on the oceanic theatres of war constitute today a most important part of the total armed struggle. Finally, the oceans have ceased to be defensive moats, which in the last two World Wars successfully separated the countries of the western hemisphere from the devastating hurricanes of war that did not spare the countries of the European continent.

At the same time one must point out that the vastness of the oceans and the seas constitutes not only the main strategic zone for deploying big naval forces and stationing underwater ballistic missile-launchers, but also provides the Western powers with numerous islands which can be turned into strongholds and bases for their navies and air forces. This has allowed the imperialist states to surround the Soviet Union and the countries of the Socialist Commonwealth with powerful concentrations of land, naval and air forces and launching sites for ballistic missiles on land and at sea. The combat utilization of all these forces is linked with the presence of powerful navies earmarked for waging direct military operations or for providing all-round protection to the other types of forces. Thanks to the vastness of the oceanic theatres of war and the depths of the oceans, the imperialists are capable, at the price of minimal losses, of deploying and manoeuvring their fleets in any direction and to concentrate, in a relatively short time, powerful naval forces in selected parts of the World Ocean, from where they could launch nuclear strikes against the territory of the Soviet Union.

America, being separated from Europe by the vastness of the Atlantic Ocean, has for hundreds of years been secure and escaped the horrors of war. She has grown used, thanks to the shield provided by her powerful navy, to being safe and enjoying impunity. But the situation has changed and

the oceanic vastnesses are now the least secure in the United States system of defense. Should the US imperialists unleash a war against the countries of the Socialist Commonwealth, United States territory may become the theatre of military operations, and the oceanic spaces will become the arena of savage warfare between navies fighting to secure the maximum utilization of their naval power for the solution of crucial strategic tasks.

The post-war development of the Soviet Navy can be divided into two stages. In the first stage, which corresponds to the first post-war decade we built ships and aircraft armed with conventional guns, torpedoes and bombs. The construction of our navy basically followed a programme aimed at giving our country a fleet of surface warships. The Soviet Navy continued to be a navy for coastal operations and remained, in the strategic operational sense, a defensive factor in the totality of our armed forces. In case of war it could have operated only within the framework of massive land operations, helping the land forces to reach their objectives. Our views of what our navy was intended to do were shaped by the experience of World War II and our victory over powerful continental enemies.

About the middle of the 1950s, in accordance with the decisions taken by the Central Committee of the Soviet Communist Party, we set out in our country on a vast programme of building a mighty ocean-going navy armed with nuclear missiles. This was the beginning of the second stage in the development of the Soviet Navy.

In working out our programme we took careful account of the relationship of forces in the world, of the strategic situation on the oceans as a result of the creation of aggressive blocs by the West, of the unchecked accumulation of naval nuclear weapons by the imperialists, of the likely development of naval techniques and weapons, and also of the economic capabilities of our country.

CUTTING DUTIES WILL CUT JOBS

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BEARD of Rhode Island. Mr. Speaker, some recent statements by spokesmen for the administration indicated that it was proposed that duties on textiles and apparel be considered for reduction in the course of the scheduled meetings in Geneva to deal with tariff and trade problems. I respectfully suggest that such a view is unsound.

To cut duties on imports of clothing and clothing accessories for men, women and children, in my view, is to increase the likelihood that a large number of firms in this country will either go out of business or turn to importing and that employment, so badly needed now, will be further cut down.

To take such a chance with the people who earn a modest livelihood producing apparel in this country and in the process increase the already high level of joblessness is not sound. The United States has to take the fate of these people into account and not jeopardize it any further.

Even if imports were reduced to zero—and I do not suggest that this be done—domestic industry is fully capable of supplying the American consumer with all the needed clothing at reasonable prices. The high degree of competition that prevails in the industry guarantees that. Both plant capacity and labor are available. Production can be easily increased in response to any rise in consumer demand and in response to any curtailment of the inflow of imports.

With unemployment among apparel workers averaging 12 percent of the experienced work force, in addition to large numbers who stopped looking for work temporarily because none was available in the areas where they live, the Nation cannot afford to take chances with even higher levels of joblessness.

This is one of the reasons why the United States must not tamper with existing levels of duties on apparel and for that matter, on textiles. The rate at which imports have grown, even though there were some international agreements designed to limit the flow of imports, has fully demonstrated that the existing duties in no way stand as an obstacle to increased imported apparel and textile products.

After all, the existing agreements with foreign countries, even though they tend to regulate the level of imports to the United States, are far from perfect instruments of control. Even though they are designed to allow imports to grow at the rate of 6 percent a year, far in excess of the rate of growth of domestic production, in fact imports have advanced at a much faster rate.

Should duties be cut, one can anticipate an even further rise in import penetration in our market and in the process, an even greater displacement of workers in this country and an ever-increasing level of unemployment. This is not a picture any of us wants to contemplate. And neither does the administration, I am certain.

PORT OF PHILADELPHIA MOVES TO ATTRACT NEW OCEAN CARGO

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. EILBERG. Mr. Speaker, I am exceedingly proud of the fact that the Philadelphia Port Corp. is taking another major stride forward to make our great port city even more attractive to ocean-going commerce than it already is.

Chairman of the board of the Philadelphia Port Corp., R. F. Gilkeson, has just announced that the corporation is purchasing a combination heavy lift/container crane to be erected at Packer Avenue Marine Terminal.

The crane, which will be operational by December 1978, will be the only one of its kind in the world.

To be constructed at a cost of $3,400,000, the crane will be able to lift 375 tons and place it in the center of any ship capable of using the Panama Canal. It will be able to lift heavy cargoes faster, better, and more cheaply than any crane now operating on the Atlantic coast.

It is expected to attract substantial new ocean cargo to the port and provide additional employment for Philadelphia's longshoremen, tugboats, line handlers, pilots, and other marine interests.

In addition to its heavy lift superiority, the crane will handle containers at the same high speed as Philadelphia's four specialized container cranes. From 1970 through 1976, Philadelphia's container business increased ten-fold and there is no end in sight to continued growth.

NO F–15'S TO SAUDI ARABIA

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. STEERS. Mr. Speaker, I insert the following letter to President Carter into the RECORD at this point:

HOUSE OF REPRESENTATIVES,
September 26, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It has been reported recently that your Administration is considering the sale of 60 highly sophisticated F–15 fighters to Saudi Arabia. I would like to take this opportunity to urge you not to make these planes available to Saudi Arabia.

For what reason are the Saudis to need this new weaponry? From what I have read on this matter, it appears that these weapons are being made available to the Saudi government to alleviate their fears about attacks from the Soviet Union, and, possibly, Iran. It is ironic that the United States has provided Iran with the military equipment that aroused Saudi Arabia's concern. Surely, this pattern of arms sales is ill-conceived. If this is allowed to continue, the end result will be profits for American arms manufacturers and war in the Persian Gulf and possibly the Middle East.

While Saudi Arabia has been one of the more moderate Arab states to date, the stability of the Saudi government is such that a new regime could emerge that would choose to deploy these weapons, not in a defensive manner against the USSR or Iran, but rather in an offensive manner against Israel. In light of the fact that Saudi Arabia has supported military engagements against Israel in the past, this possibility is not far-fetched at all.

In examining the tension in the Middle East, it is important to note that the Israelis wish to hold a defensive position to ensure the survival of Israel itself. The Arab countries, on the other hand, wish to acquire territory from the present boundaries of Israel, thereby placing them in a potentially offensive military posture. In fact, some Arab groups wish to strive for the ultimate destruction of Israel. The sale of these highly complex and effective, potentially *offensive* military weapons to Saudi Arabia places Israel in an even more precarious position, and does nothing to lessen overall Middle East tension.

The road to a negotiated, long-lasting peace in the Middle East will be a long and arduous one, and often the disagreements of the opposing sides will appear quite formidable. If each side is convinced that a war cannot be won quickly, or that a war would not facilitate the ultimate goals of that country, then the likelihood of the outbreak of war has been lessened greatly. That is why the United States must be extremely careful in any action it might take that would jeopardize the uneasy peace in the Middle East.

Let me say once again that I feel the United States should not sell 60 F–15's to Saudi Arabia, and I urge you to develop a long-range plan or arms sales to that area of the world which will not result in a disastrous arms race there.

I appreciate the time you have taken to consider this most important matter.

Yours sincerely,

NEWTON I. STEERS, Jr.

PERSONAL EXPLANATION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. NOLAN. Mr. Speaker, I would like to take this opportunity to explain to my colleagues the reason why I was unable to be present on the floor today for consideration of what I realize were a number of particularly important items of business. Over the weekend, a very close friend of mine passed away in Minnesota. I felt a deep and personal obligation to attend her funeral. I thank you for your understanding in this matter.

A COMPARISON OF GAS COSTS OF AUTOMOBILES WITH HIGH FUEL EFFICIENCY AND THOSE WITH LOW EFFICIENCY AS AFFECTED BY PRICE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. VANIK. Mr. Speaker, in May of 1973, I inserted in the CONGRESSIONAL RECORD charts that showed how much extra money persons with fuel inefficient cars could expect to pay compared to those with fuel efficient cars. The figures were startling. They gave us a chance to see quickly the long term disadvantages of poor mileage automobiles.

Those figures were based on a range of then-current gasoline prices and mileage rates. Those assumptions are now outdated and need to be up-dated, especially since we are in the midst of considerations on how to conserve gasoline and other energy forms.

Comparing costs in this latest mileage chart is shocking. If a person drives a 10-mile per gallon automobile for 10,000 miles with gasoline costing 60 cents, he will pay $600. If that same person uses an automobile that gets 28 miles per gallon—the approximate mileage standards required in 1985 by Public Law 94–163, the Energy Policy and Conservation Act—and gasoline costs are the same, his annual costs will be $214. This amounts to an annual savings of $386.

If pump prices of gasoline rise to the $1/gallon level that is mentioned often as "the ultimate" expectation, these results occur: a car with mileage rating of 10 miles per gallon will require $1,000 for yearly gasoline expenses; a car getting 28 miles per gallon will consume approximately $357 of gasoline—a savings of $643. Obviously, if gasoline costs rise above the $1/gallon level, the disparity between total gasoline costs will rise even higher.

The following chart shows the annual gasoline costs of autos with mileage rates ranging from 10 to 50 miles per gallon. The costs are based on per gallon gasoline prices of up to $2. When we purchase an automobile, it is easy for us to disregard the long term costs of ownership. Usually we are concerned with initial purchase prices and not more. I hope that this chart can show the long term repercussions of buying fuel efficient versus fuel inefficient automobiles.

ANNUAL GASOLINE COSTS, WITH VARIABLE GAS PRICES AND MILEAGE RATES, FOR A CAR DRIVEN 10,000 MILES (ROUNDED TO NEAREST DOLLAR)

	Mileage in miles per gallon																			
	50 [1]	48	46	44	42	40	38	36	34	32	30	28	26	24	22	20	18	16	14	10
Gasoline costs per gallon:																				
$0.56	$112	$117	$122	$127	$133	$140	$147	$156	$165	$175	$187	$200	$215	$233	$255	$280	$311	$350	$400	$560
$0.58	116	121	126	132	138	145	153	161	171	181	193	207	223	242	264	290	322	363	414	580
$0.60	120	125	130	136	143	150	158	167	176	188	200	214	231	250	273	300	333	375	429	600
$0.62	124	129	135	141	148	155	163	172	182	194	207	221	238	258	282	310	344	388	443	620
$0.64	128	133	139	145	152	160	168	178	188	200	213	229	246	267	291	320	356	400	457	640
$0.66	132	138	143	150	157	165	174	183	194	206	220	236	254	275	300	330	367	413	471	660
$0.68	136	142	148	155	162	170	179	189	200	213	227	243	262	283	309	340	378	425	486	680
$0.70	140	146	152	159	167	175	184	194	206	219	233	250	269	292	318	350	389	438	500	700
$0.75	150	156	163	170	179	188	197	208	221	234	250	268	288	312	341	375	417	469	536	750
$0.80	160	167	174	182	190	200	211	222	235	250	267	286	308	333	364	400	444	500	571	800
$0.85	170	177	185	193	202	213	224	236	250	266	283	304	327	354	386	425	472	531	607	850
$0.90	180	188	196	205	214	225	237	250	265	281	300	321	346	375	409	450	500	563	643	900
$0.95	190	198	207	216	226	238	250	264	279	297	317	339	365	396	432	475	528	594	679	950
$1.00	200	208	217	227	238	250	263	278	294	313	333	357	385	417	455	500	556	625	714	1,000
$1.20	240	250	261	273	286	300	316	333	353	375	400	429	462	500	545	600	667	750	857	1,200
$1.40	280	292	304	318	333	350	368	389	412	438	467	500	538	583	636	700	778	875	1,000	1,400
$1.60	320	333	348	364	381	400	421	444	471	500	533	571	615	667	727	800	889	1,000	1,143	1,600
$1.80	360	375	391	409	429	450	474	500	529	563	600	643	692	750	818	900	1,000	1,125	1,286	1,800
$2.00	400	417	435	455	476	500	526	556	588	625	667	714	769	833	909	1,000	1,111	1,250	1,429	2,000

[1] Miles per gallon.

VOTING RECORD OF REPRESENTATIVE JONATHAN B. BINGHAM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BINGHAM. Mr. Speaker, over the past several weeks, I have missed, or have not been recorded, on five rollcall votes. I wish to record here what my positions would have been had I been recorded as voting:

Rollcall No. 320, motion to pass S. 521, to authorize funds for repair of leaks at John F. Kennedy Center, "yea."

Rollcall No. 405, motion to pass House Resolution 642, rule to consider H.R. 5023, re claims by United States on behalf of Indians, "yea."

Rollcall No. 527, motion to pass House Resolution 657, rule to consider H.R. 6796 authorizing appropriations for civilian energy research and development, "yea."

Rollcall No. 532, motion to pass H.R. 6683 to reduce hazards of earthquakes, "yea."

A TRIBUTE TO JUDGE C. L. "BUD" SUMMERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. SKELTON. Mr. Speaker, many times we hear the expression that someone is "a pillar of the community," but we do not stop to think about exactly what that means. Webster's Dictionary defines "pillar" as: "a firm, upright support; a chief supporter." In light of this definition, I think it is most fitting to say that Judge C. L. "Bud" Summers was a pillar of the community in Lafayette County, Mo. Bud Summers passed away recently and, with his passing, the local community certainly lost one of its strongest supporters.

Bud Summers was a lifetime resident of Lafayette County and during his life he served the community in a wide variety of ways. At one time or another, he was a member of the school board, president of the Lions Club, a member of the Show-Me Regional Planning Commission, a member of the Missouri Valley Human Resources Development Commission, and president of the Alma Telephone Co. In 1971, he was elected as presiding judge of the Lafayette County Court.

Judge Summers is survived by his wife, Dorothy; one daughter, Janell Summers of Fort Wayne, Ind.; and three sisters Mrs. Lettie Borgstadt of Concordia, Mrs.

Nell Gieseke of Malta Bend, and Mrs. Robyn Payne of Higginsville.

I knew Bud Summers well and the friendship between us was a warm, personal bond. He was one of the best-loved individuals in all of Lafayette County. He was one of those rare people who earn both affection and respect from those around them. His death leaves a void in the lives of his friends and relatives that will be hard to fill.

DR. JOHN L. McDANIEL RETIRES AT REDSTONE ARSENAL WITH A RECORD OF OUTSTANDING ACHIEVEMENTS

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. FLIPPO. Mr. Speaker, on October 1, a leader in the scientific and technical community of our Nation will retire from active Government service. I feel that the recognition of the Congress is fitting in respect to the accomplishments of Dr. John L. McDaniel of the U.S. Army Missile Research and Development Command at Redstone Arsenal, Ala.

Dr. McDaniel was personally involved in the engineering work on the Army's early missile and rocket systems. His has been a career of service since 1942. Since 1960, he has provided the managerial leadership in directing major research and development missile programs for the Army, serving as Technical Director of the Research and Engineering Directorate of the U.S. Army Missile Command and later as Director of the Research, Development and Engineering Laboratory, U.S. Army Missile Command. In January of this year, when the U.S. Army Missile Research and Development Command was created, he was named Deputy and Technical Director of the command.

Dr. McDaniel has demonstrated his technical and managerial capabilities in fielded U.S. Army missile systems such as Pershing, Hawk, Tow, and Dragon; other systems still in the developmental stage are Viper, Stinger, and Hellfire.

In addition to the missile and rocket systems conceived and developed under Dr. McDaniel's direction, his leadership and ingenuity have been demonstrated in the development of a laser target illuminator. This illuminator and the technological concept for laser semiactive guidance, were transferred to the U.S. Air Force in 1965 for initiation of the Paveway guided bomb program.

In 1968, a breakthrough in hypervelocity technology was demonstrated which paved the way for development of a family of hypervelocity weapon systems.

Dr. McDaniel led the task of planning and developing the Army missile plan in 1969 which was adopted throughout the Department of the Army in 1971 as an authoritative reference for management of resources.

A most recent breakthrough by researchers under Dr. McDaniel's management is a new phenomenon of short, stable, and coherent pulses of radiation, greater in intensity than lasers. This effort, called pulse formation by amplification of superradiant emission, was begun in 1976 and is expected to play an important role in the scientific community.

Dr. McDaniel was born September 13, 1918 in Guin, Ala. He holds a bachelor's degree, summa cum laude, in chemistry from Berry College, Mount Berry, Ga., and honorary doctor of science from Auburn University, Auburn, Ala., and an honorary doctor of laws degree from Athens State College, Athens, Ala.

As Redstone Arsenal's top ranking civilian, he has been an Army employee since 1942 except for time spent in the Navy during World War II.

Dr. McDaniel earned many honors including the highest honor awarded by the Secretary of Defense, the Department of Defense Distinguished Civilian Service Award. He has also received the Army Research and Development Achievement Award, the Meritorious Civilian Service Award, and the Decoration for Exceptional Civilian Service, of the Department of the Army. Other awards include Outstanding Service Award, National Society of Professional Engineers; Decoration for Exceptional Civilian Service Award; Alabama Section, American Institute of Aeronautics and Astronautics, Holger N. Toftoy Award.

Dr. McDaniel is past president of the Tennessee Valley Chapter, American Defense Preparedness Association. He is a member of the American Society for Public Administration, the American Institute of Aeronautics and Astronautics, the Alabama Academy of Science, the Society of Logistics Engineers, and the Association of the U.S. Army. He served a 3-year term to the National Advisory Board of Directors of the Association of the U.S. Army. He is a member of the Committee on Federal Laboratories, Federal Council for Science and Technology.

He served on the National American Institute of Aeronautics and Astronautics Technical Committee for Missile Systems. He is past president of the Institute of Electrical and Electronics Engineers; the Alabama Chapter of the American Society for Public Administration; and the Alabama Section of the American Institute of Aeronautics and Astronautics. He is a member of the Madison County United Way board of directors and the City of Huntsville Manpower Area Planning Council.

Dr. McDaniel has been a strong advocate of higher education. He has served as a faculty member of the University of Alabama in Huntsville and of the Florida Institute of Technology in Huntsville. He is an advisor to Auburn University, Athens State College, and the University of Tennessee Space Institute.

He has authored a number of technical publications and has patents in the field of guidance control.

Dr. McDaniel is listed in Who's Who in America, Who's Who in the South and Southwest; the National Register of Scientific and Technical Personnel; and American Men of Science.

THE REPUBLICAN PARTY—DOWN BUT NOT OUT

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. VANDER JAGT. Mr. Speaker, on Friday, September 23, the minority leader delivered what I consider to be the sharpest, most comprehensive and detailed analysis that I have seen yet of the Carter administration.

It is an unrivaled unraveling, thread by thread, of the Carter administration, exposing, as JOHN RHODES has so aptly phrased it, an administration that is marked by "uncertainty and ineptitude, compounded by a moral blindness and a lack of understanding of the processes of government."

Politicians often are accused of saying one thing and meaning another; or of trying to say all things to all people. But, in this speech before the Commonwealth Club of California, JOHN RHODES has called the shots as they clearly are, and they have landed cleanly within the bullseye.

I urge my colleagues to read the minority leader's excellent critique, and ask that it be placed in the RECORD.

THE REPUBLICAN PARTY—DOWN BUT NOT OUT

(By Hon. JOHN J. RHODES)

Last November second a new President was elected. The new Congress that came into office with him reflected the principal reason for the change of Administration. 292 Democrats were returned to the House of Representatives and 143 Republicans joined them on the other side of the aisle. In the United States Senate, 62 Democrats and 38 Republicans were sworn in. This at a time when 17 Senate seats had changed hands; the greatest number in nearly 30 years. If the American people had not voted overwhelmingly for Democrat Representatives and Senators, it is highly unlikely that Jimmy Carter would be sitting in the White House today. Indeed, he lagged behind his ticket in most sections of the Country.

Today—eight months after the President's inauguration—those figures still sting men and women devoted to the Republican cause. According to the latest Gallup Poll, released just two weeks ago, only 20 percent of the American people choose to call themselves Republicans. But I believe that beneath the surface of those somewhat disheartening figures lies a very different story. Although I have to concede that the Republican Party is down—it is very far from out.

The elections in 1974 and in 1976 both reflected the awful impact of the Watergate era on the fortunes of the Republican party. I believe that the Watergate tragedy—and its effects—have distorted the true picture of the Republican Party's basic health.

Indeed, I am convinced that we are in the opening months of a renaissance of national Republican strength. And that strength is based on the vitality of Republican principles. It is also based on the actions of an Administration and a Democrat Congress that underline the dangers for America—of a Democrat Administration and Congress at the controls of our national destiny.

In four special elections to the House of Representatives since the 95th Congress began—three of them have been won by Republican candidates. One of those seats had been held by a Democrat for over one hundred years. I am convinced that these special elections were won because of a com-

bination of factors that imply the basic empathy of the American people with the beliefs of the Republican Party. Each candidate campaigned as an individual. They had little reason—unfortunately—to emphasize their association with the Party itself. But they made no bones—any one of them—about their belief in a balanced budget—in a firm national defense—and a steady reduction of the staggering tax burden borne by American working men and women. They made no bones—any one of them—about their individual beliefs that the American people are entitled to be let alone: That the ever increasing encroachment of government on the way we conduct our daily lives must be brought to an end. These beliefs are shared by men and women throughout this Country, and they are the principles on which Republican candidates have stood for generations.

I think it's also worthy of note that the results of these elections have run parallel to a growing sense in the Country, as recorded in recent national polls, that the Democrat President and the Democrat Congress have failed to instill a national confidence in their ability to do the job. I believe that Republican fortunes are bound to rise as increasing evidence of this Administration's failures continue to be written into the public record.

The President of the United States is the national leader, and it is really no pleasure—even for the leader of a beleagured Republican minority in the House—to criticize him for his actions in that capacity. But eight months of the Carter Administration reveal a pattern of uncertainty and ineptitude, compounded by a moral blindness and a lack of understanding of the very processes of government, that bode no good for the Nation's economic health or for the state of its defenses.

When President Carter was candidate Carter—he was free to make the mistakes of inexperience, and the judgments of self-righteousness. But the bill for those mistakes and for that self-righteousness has come due and the American people are the ones who have to pay.

This Administration has compiled a record in domestic and foreign policy in only eight months that signals four years of difficult times for the American people. I submit to you that in the actions already taken, and in those actions that have not been taken, President Carter has drawn a map of intent with lines drawn by a hand guided by impulses that are a combination of the quixotic, the stubborn, and the uncertain.

As an old Democrat used to say, "Let's look at the record." It is a record that strongly implies an inability to maintain a sense of proportion—to recognize the limitations of governmental action—and most of all—to put first things first.

President Carter came into office at the beginning of a period of resurgence in the national economy. The long recession had bottomed out—in considerable degree because of the courageous actions initiated by the Ford Administration; and there appeared to be in the offing a long and sustained recovery. But the Carter Administration, wishing to put its own stamp on national economic policy, has produced—only eight months later—a situation in which inflation continues to rise at an annual rate of over six percent—and in which the unemployment of black Americans is worse than at any time since the end of the Second World War. Fourteen and one-half percent of those black Americans who wish to work are unable to find jobs. Over forty percent of black youth between the ages of 16 and 24 can't find employment. That—ladies and gentlemen—is social dynamite. And Jimmy Carter has lit its fuse by his refusal to encourage circumstances in which American business enterprise is willing and able to invest in the capital expenditures that will improve productivity—and open up meaningful jobs for those who wish to work.

The President has committed himself to a balanced budget by the end of his first term. But the fiscal magic he's going to have to invoke to make those figures come out his way is no magic at all. It's simply the old shell game.

But this is a shell game in which the stakes are unbelievably high. There are nuggets of useful information to be plucked even from the governmental statistical hand-outs that choke the Washington paper machine. One of those statistics has just been released by the Congressional Budget Office. It's almost impossible to believe—but the Congressional Budget Office projects an increase in the American tax burden that could produce incalculable social and political consequences. According to the CBO—our personal income tax will rise from $130.8 billion to $339 billion by the close of fiscal '82. That means, my friends, that the American working man and woman will pay three times as much in taxes at the end of Jimmy Carter's first—and hopefully last—term, as they paid the day he took his oath of office.

That's no way to balance a budget—indeed it looks to me to be very similar to some of the fiscal gimmickry to which New York City's government has been prone—and look where they are.

Not only is that no way to balance a budget—but it is no way to encourage the surge of economic growth that is required to put the unemployed back to work and to dampen the inflation that threatens to kill the hope of the future.

How in the world can Jimmy Carter and his Democrat colleagues in Congress come to grips with the enormous economic problems which now confront the Nation when they cannot see that one problem must be confronted in the context of another—that solutions cannot be applied like bandaids—but that the body of government and of the national system is one and must be treated as one.

Perhaps the most dramatic illustration of the Carter Administration's failure to understand the system it must govern is the so-called energy conservation plan. The fact is—that the Carter energy package—introduced with such fanfare—and with a call to sacrifice—is simply a disguised tax program—designed to take the money from the pockets of the American people—in order to put it into the U.S. Treasury—and to dole it out for the President's heavily inflated social welfare programs. Why doesn't the President of the United States understand that his energy tax is bound to drive up the costs of production throughout American industry?

Why doesn't the President of the United States understand that his so-called energy program is lighting the fires of renewed inflation?

Why doesn't the President of the United States understand that lower production means fewer jobs and that fewer jobs means pain for the working people who can least afford that inflation?

Why doesn't the President of the United States understand that encouraging the price of fuel to rise to the so-called "world market level" is simply a surrender to the economic power of the OPEC countries?

Since when do the American people wish to surrender their economic well-being—the determination of their Country's future—to a small group of Arab potentates on sandy strips of deserts tens of thousands of miles from our own shores?

I don't believe the American people have come to any such conclusion about whom they want to make their decisions for them. And frankly—I don't believe that Mr. Carter understands that this is exactly the situation that his policies will create.

What Jimmy Carter has accomplished has been to sketch a blueprint of dramatically-growing government—and shrinking American business initiatives and economic growth. I believe that Jimmy Carter—if he keeps up his current policies—will go down in history as our first "no growth" President. And—whatever some extreme environmentalists may believe—most Americans don't want a "no growth" society. They know that this society can't survive as it is with no growth. We simply are not a no growth civilization. And we can't tolerate a "no growth" Presidency.

The entire American story is a story of progress; and if it is to continue—so it must remain.

In the early 1930's, under the desperate conditions of worldwide depression, many American thinkers sounded the note of "the mature economy,"—we had reached "the last frontier"—in other words, we were finished—we had to make do with what was.

If we had listened to the voices of the "mature economists" and the "last frontier experts", the American people would have closed down shop right after the California goldrush.

Well—I'm here to tell you—ladies and gentlemen—that if we listen to the no growth experts of the 1970's—and to the fine tuners of the American economy—we'll wind up in exactly the same place. For the fact is that civilization on the rise is propelled by the exigencies of human nature to explore any and all potential for growth. Government—business enterprise and most of all—the people—are obliged to direct that growth in the most fruitful way and in the most intelligent direction. But to stop it—to make a virtue of its absence—is to create a need for authoritarian institutions that almost inevitably will lead either to social chaos or the ultimate loss of human freedom.

We may seem a long way from those circumstances, my friends, but I believe that the Carter Administration is inadvertently taking the first steps along the road.

Witness the creation of the New Department of Energy, under Dr. James Schlesinger. (I have—by the way—great respect for Dr. Schlesinger's abilities and energy. Indeed—that's part of the problem.) For the new Department of Energy concentrates unto itself enormous power to determine the price and flow of and make market decisions as to the distribution of energy resources that fuel the American economy. Never before—except in war time—has a department of government been given the power that now accrues to the Department of Energy.

Leave aside the fact that in an age of disenchantment with unresponsive government bureaucracy—President Carter and the Democrat Congress have added yet another layer of 20,000 bureaucrats. (Incidentally, if the history of the Department of Health, Education and Welfare is any indication, we'll have 200,000 of them in less than ten years.) Leave aside the blatant interference with personal freedom which must evolve out of such a concentration of power. Think only of the simple fact that the men and women who make these decisions—decisions of economic life and death—are responsible only to themselves.

The fact is that the President and his Congressional cohorts are well on the way to creating a hidden tax mechanism; its sole meaningful function (aside from inhibiting natural growth and progress) is to provide revenues for the Carter coffers.

But even that's not enough for an Administration dedicated to the principle of hidden tax. Under the guise of so-called "tax reform," the President's people have drafted and floated in the press a blueprint for combating the enormous housing shortage. Their solution to the dilemma of millions of Americans who can no longer afford their own homes because of uncontrolled inflation is a simple one. Wipe out the historic mortgage

loan tax deduction. By so doing—you'll make it impossible for the middle income Americans even to dream of owning their own homes. There will no longer be a need to fulfill that dream. When Jimmy Carter talks about filling loopholes—that apparently is what he means. Lower the expectations of the American people and their threshold of aspiration will be lowered, too.

Would anyone in this room—would anyone in this audience—have thought it possible only a few years ago—that an American President and an American Congress would seriously consider driving middle class Americans from the housing market as an act of public policy? I don't believe so—and I do believe that even public consideration of such a tax policy—implies an attitude by this Administration that can only result in its departure from public life—as soon as the American people have an opportunity to open the door marked "Exit."

The President of the United States is an engineer. But—in his first eight months in office—he has behaved more like Mr. Fixit—a tinkerer with public policy—who has produced by his tinkering so many holes in the public dike that it will take far more than ten fingers to fill them.

Mr. Carter's tinkering is nowhere more evident than in his proposal to alter the financing mechanism for our Social Security System. Whatever problems the Social Security System faces, the American people wish it to be treated as a rational—soundly structured—system of insurance—geared to the contributions made by workers over a productive lifetime. But Jimmy Carter has sent legislation to Capitol Hill which would take that first—and believe me, it is only the first—step toward using general revenues to pay the Social Security bill. Instead of remedying the System's ills by attacking its inequities and by making the fundamental changes that are necessary to restore its health—the President simply wants to open up the public treasury and to increase yet again the tax burden of the American people.

It is because of Mr. Carter's first steps in the directions I have so far outlined that I believe the Republican Party is down—yes—but very far from out. For although the American people have exhibited great good will for the President—and the polls indicate it—that good will—even as it expresses approval of Mr. Carter's personal qualities—is accompanied by great dissatisfaction with the President's policies.

The American people don't believe that there is an energy crisis—and they don't believe it because the President's remedies are not in the American spirit—because the President has not demonstrated his commitment to doing everything necessary to tap new and increasing energy resources from every possible source.

It is fashionable among Administration circles to say that self-sufficiency is an illusion—but I remember—and some of you remember—when—during a great crisis another President committed himself to helping American industry build fifty thousand airplanes a year. He was laughed at—it was an impossible dream—it was whistling in the dark. But he pointed the way and American know-how did the job. If it had not been for his vision and for the drive of the American people—if it had not been for our technological ingenuity and our willingness to meet the test—the outcome of the world's greatest war might have been different indeed.

If we are now engaged in the moral equivalent of war—as *this* Democrat President tells us—we must take positive action to win that war. Husband the ammunition, yes—and that is what conservation is all about. But take the offensive;—seize your own destiny and find new resources for American expenditure by American decision. That is the way to conduct a winning war.

Somehow—though—this Administration has in a very short time appeared to lose its moral nerve. A Presidential campaign on the theme of moral rectitude—a President who declared that obeying the law would not be sufficient for officials in his Administration—now publicly declares his "pride" in his closest and most powerful aide simply because a highly critical government report declared that there were no apparent violations of the law in that official's conduct.

A President who received his Party's nomination with the words that the American people are tired of seeing "big shots" evade the consequences of their actions—now appears to millions of his fellow citizens to be singing a very different song.

I very much dislike saying this—but I believe that it needs to be said. If there is one strand of behavior discernible through the fabric of the Carter Administration's policy—it is the strand of duplicity.

Mr. Carter tells us on Tuesday that his welfare program will cost not one dime more than those expenditures now being made:—but on Thursday,—he offers a program that will cost, by his own estimates, 1.2 billion more annually than current expenditures. And by the estimates of impartial observers, the total will actually be over six billion dollars more than we now spend.

Whether or not such a program is justified is a matter for debate, but there can be no debate about the necessity for saying what you mean in public discourse.

Witness another Carter campaign promise and what has happened to its implementation during the "days of wine and roses." The President made the unqualified commitment to see to it, that all appointments to the judiciary will be made solely on the basis of merit and without political consideration.

And now we have the sad spectacle of Mr. Carter's Attorney General squabbling with his Deputy Attorney General over exactly that promise. Some of the most successful prosecutors in the federal system have been removed from office solely because of their membership, and sometimes it is a very nominal membership, in the Republican Party. Witness Jonathan Goldstein, the U.S. Attorney in New Jersey who has made one of the most enviable records in the country as a prosecutor of corrupt public officials of both parties, and who was forced just last week to leave office as a result of pressure from the Democrat machine in his own state.

Witness the Deputy Attorney General who is not even told when his personal recommendation for U.S. Attorney in Western Pennsylvania is vetoed. And why was he vetoed? The New York Times tells us that he has prosecuted friends of Democrat officeholders who apparently have a line—indirect though it may be—to the White House. Is this what Jimmy Carter meant when he promised to insulate judicial appointments from our political process?

On the other hand, it would be unfair to accuse Mr. Carter of breaking all of his campaign promises. At least one promise—made in the context of heavy campaign contributions by the Maritime Union—has been kept.

The President of the United States—despite the advice of the Secretary of the Treasury—of the U.S. Navy—and of his own counsel—has endorsed the principle of cargo preference—a principle that according to the Government Accounting Office will cost the American consumer over 600 million dollars a year in additional energy costs.—This at the very same time when the President has pledged to fight the energy crisis as the "moral equivalent of war."

This President has called repeatedly for a "full employment" economy—but when heavy political contributors asked for special "cargo preference," he backed them up despite a report from the Government Accounting Office that cargo preference—and I quote—"will cause a net loss of employment."

When the Administration's rationale for supporting this give away-rip-off legislation was questioned in the House of Representatives, the Democrat steam roller cut off all debate. That's a splendid example of the Democrat party's commitment to open government.

If the White House is to be perceived as a place of moral leadership, then its occupant, particularly when he has made such leadership his principal rallying cry, must call the shots as he sees them; and if he is to see them as they are, he must take the moral mote from his eye.

Politics, above all, is a process of accommodation. Effective political leadership in this country demands the presumption that one's political opponents are just as committed to the well-being of the American people (no matter how mistaken they may be) as you yourself are. And I certainly think that the President has given every evidence of his desire to make his Administration a benchmark for achievement.

But his politics, guided as they are, by self-righteousness inappropriate to a process of conciliation, threaten the well-being of the very people he wishes to lead to peace and prosperity. Nowhere is this more evident than in the Carter Administration's foreign policy.

The President took office at a time when American interests around the world were in better shape than they had been in many years. The tragic war in Viet Nam had been concluded; the threatened backlash of bitterness had evaporated by the obvious good will of President Ford. The United States was well on the way to a successful conclusion of the SALT talks; the opening to China had opened new possibilities for achieving a stable relationship with the greatest power in Asia, and quiet diplomacy to achieve an end to the bloody anguish in Africa was the watchword for American policymakers. But in eight months the Carter Administration has inadvertently produced a situation in which the SALT talks are threatened with deadlock, and a surge in the arms race may be the inevitable result. We have polarized the situation in Southern Africa by an ongoing and apparently never ending series of ad libs by our Ambassador to the United Nations, who seems to have a mandate from the President himself to conduct foreign policy on the front pages of the world's newspapers.

Sometimes we in Washington wonder who the Secretary of State is . . . Cyrus Vance at the State Department in Washington . . . or Andy Young at the U.N. in New York.

Most tragic of all—we appear to be moving steadily toward a confrontation in the Middle East—which could result in an explosion of cataclysmic proportions. It is a sad fact that the rising tensions in the Middle East can be directly related to the President's off-the-cuff comments about negotiations between the Arabs and the Israelis—negotiations that must be conducted between the parties themselves if they are to have any reasonable chance of success. Only last week the Administration renewed its pressure on Israel to deal with the Palestinians. With its usual exquisite timing—the State Department put the squeeze on—on the eve of Rosh Hashanah—the beginning of the Jewish High Holy Days.

If American pressure is required—it is a pressure that should be exercised in quiet negotiations—not via the avenue of moral preachment.

Our Secretary of State travels to China—and his journey is followed by two successive statements by Premier Teng in which the Chinese leader stated explicity that the Vance trip resulted in a setback to Sino-American relations. This Administration has succeeded in worrying our allies on Taiwan as to whether or not we are preparing to abandon them. This Administration has succeeded in antagonizing an Israeli government because they perceive us as withdrawing slowly but steadily from our commitment to that country's survival.

At the same time as all these developments begin to loom on the horizon, we find President Carter unilaterally withdrawing a key element of American defense (and I mean the B–1 Bomber)—from the national arsenal. We should look at this from the viewpoint of Premier Leonid Brezhnev. He sees an American foreign policy in increasing disarray. He sees the U.S. fall back from its initial negotiating position on SALT simply as a result of a Soviet refusal to accept—its premises. He sees a strong verbal commitment to human rights around the world sharply de-escalate at the first signs of Russian displeasure. And he asks himself the question—Am I dealing with a strong Administration that has an international strategy designed to protect American interests—or am I dealing with an Administration whose right hand has no idea what its left hand is doing? I think I know the judgment that President Brezhnev has arrived at—and I can only hope that he makes no mistake about what the mistakes of the Carter Administration imply about American will and American resolution.

The simple fact is that President Carter's foreign policy—on its face, is non-existent. The President has taken a series of initiatives. He has then publicly retreated as soon as those initiatives came under fire—and he has failed to grasp the global implications of each and every one of his acts. Foreign policy is no policy at all unless it is an interlocking series of attitudes—judgments and movements that are related to an overall global objective. I don't believe that we have such a policy today, because I don't think President Carter has given his subordinates the opportunity to develop such a policy. It's "off the cuff,"—and "shoot from the hip" in Jimmy Carter's Washington.

I've spent a considerable amount of time today discussing the shortcomings of the Democrat President and the Democrat Congress for two reasons:

(1) I believe that we are going through a period in which the high hopes of the majority that elected President Carter are now increasingly shadowed by the reality of his performance. And I believe it necessary for Democrats—Republicans—and Independents alike to send a message to Jimmy Carter. We want strong and coherent government designed to let us live our own lives here at home and to protect the national interest abroad. We do not wish government to grow ever larger—ever more unresponsive—and ever further removed from the realities of our individual day-to-day lives.

(2) I was asked to discuss the future of the Republican Party. I believe that the performance of the Carter Administration and of the Democrat Congress is the most vivid and powerful illustration of the necessity for the Republican Party to elect officeholders on the local—state and national levels in ever-increasing numbers. I believe that the recent series of special elections to Congress offers the first clue that the American people are beginning to sense the inadequacies of Democrat solutions—based on the history of the 1930's—to the problems we face in the 1970's.

These recent Republican victories are an expression of the commitment of the Republican Party and its candidates to apply those measures that will permit us to maintain and strengthen a system in which individual liberties are the ultimate value. And they are an expression of the rapidly increasing understanding throughout the country that it is indeed time for a change.

The Republican Party in Congress has already begun to demonstrate its capacity to implement that change. In the House of Representatives, the Minority has offered a comprehensive reform of the Social Security Act. Just last week—the Democrat Majority of a key subcommittee lined up on behalf of the Republican initiative to take off the earnings limitations that prevent older Americans from supplementing their income. Just as important—we persuaded the Majority on that Committee that it was time for the Federal bureaucracy to join the rest of the American people by participating in the Social Security System. There is no reason for the ordinary citizen to be obliged to pay Social Security taxes and for Washington's government employees to escape the burden of a tax system they themselves have created.

In the United States Senate, the Republican minority—all 38 Republican Senators—offered a comprehensive program emphasizing new production. I believe it's an alternative that will eventually be written into law.

We Republicans in Congress have succeeded in preventing an overwhelming Democrat majority from imposing a phoney public finance law—big union restrictions in the construction industry—and a host of other Presidential musts. But most important—we have offered alternatives. We have produced models for sober and moderate response to the needs of the American people.

We have repeatedly offered legislation calling for substantial tax cuts and I believe that we have forced the Administration into a position in which it will make at least a tentative and hesitant response. Tax reform may be an abstraction but tax relief is a necessity.

As our numbers grow—and they will grow steadily—our influence on the process will magnify. I hope and trust that when I am next invited to be with you, I will speak as the Speaker of the House—and the title of my talk will be—"The Republican Party—At the Gates of the White House."

Thank you very much.

EAST LOS ANGELES LIONS CLUB CELEBRATES GOLDEN ANNIVERSARY

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DANIELSON. Mr. Speaker, it has come to my attention that the East Los Angeles Lions Club of the district in California which I represent, is celebrating its 50th anniversary. For half a century the East Los Angeles Lions Club has rendered valuable service to our community and to people needing help everywhere. The East Los Angeles Lions Club has also organized several other Lions Clubs in surrounding areas and through this "seed" effect has broadened its impact.

During its 50 years the club has made generous contributions to people whose homes have been destroyed or damaged by such disasters as fire, flood, and earthquake. It has built youth centers, religious conference buildings, cabins for the YMCA and, during the war, dormitories for servicemen. The East Los Angeles Lions Club has always met the traditional need for food for the hungry and in line with the commitment of Lions everywhere to aid the blind and those with visual problems, it has provided eyeglasses for schoolchildren, braille instruments for the blind and has given seeing-eye dogs to and chauffered the blind. The benevolence of the club has not been limited to its own community but it has also sent contributions in money and in food and clothing to American Indians on their reservations, to the poor of Mexico, the Philippines, and Africa.

It is this type of service to mankind which makes the East Los Angeles Lions Club truly outstanding in its spirit of service. I commend them and wish them well during their next 50 years and wish to bring their contributions to the attention of the Members.

CATTLEMEN PLEAD CASE

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BAUCUS. Mr. Speaker, last week 40 desperate Montana cattle producers traveled over 2,000 miles to come to Washington to plead their case at the International Trade Commission hearing on meat and live cattle imports. These 40 cattle producers represented the following seven State organizations: The Montana Cattlemen's Association—Eugene Walker, president; The Montana Stockgrowers Association—Walter Johnson, president; The Meat Promoters of Montana—Voyle Samuelson, president; Women Involved in Farm Economics—Gay Holliday, president; Montana National Farmers Organization—Phil Olsen, president; Montana State Grange—Jack Iman, master; and Minutemen for Agriculture—LeRoy Musick, president. These 40 cattlemen were joined by Montana's Governor, Thomas L. Judge, and Robert Barthelmess, chairman of the Montana State Board of Livestock.

Montanans understand that beef imports are not the only cause of the prolonged depression of cattle prices, but we do know that more restrictions on beef imports would provide some much-needed relief.

Following is a copy of my testimony before the International Trade Commission hearing describing the plight of the Montana cattle producer:

TESTIMONY OF CONGRESSMAN MAX BAUCUS

Thank you for giving me the opportunity to present testimony on your investigation into the conditions of competition in U.S. markets between domestic and foreign live cattle and cattle meat fit for human consumption.

My testimony will be brief because I shall limit it to Montana's unique situation rather than rehashing the facts and figures of in-

ternational trade in general that will be presented to you by other livestock sources.

To begin with, I was distressed to learn that the Commission recently voted unanimously that beef and cattle imports do not harm the domestic cattle industry. Coming from Montana, I can assure you that imports hurt our state's domestic industry, both directly and deeply.

Montana has the open spaces and rangeland for grazing cattle, but its removal from primary feedlot and distribution centers and its proximity to Canada make it particularly vulnerable to both fluctuations in the import picture for live cattle and the long-term problem of excess imports. When feedlots feel the pinch from increasing imports, our cattlemen feel it first and hardest. When imports cut directly into local markets, the flood of beef across the border from Canada hits us harder than most other states.

Let me assure you that Montana's cattle markets are severely depressed and the economic bind that this places most of our ranchers in is prolonged and disastrous. While imports are not the sole cause of this problem, so much beef is coming into this country and so many soundly managed ranches are on the verge of bankruptcy, that the relationship between imports and economic disaster is hard to miss.

While direct cause-and-effect relationships are hard to pin down, a look at the tables for meat imports subject to the Meat Import Act and the price per hundredweight of slaughtered steers seems to indicate that the dramatic drop in imports due to the imposition of mandatory quotas last December resulted in at least a slight firming of the price for slaughtered steers after the appropriate time lag. While slightly under $42 a hundredweight is far from a price that will keep Montana's stockgrowers from going broke over the long run, it was certainly the highest price we've seen for over a year. Now, with the new influx of imported beef, the price is going back down. Our ranchers cannot adjust their operations over the short, or even medium haul for the effect of imports. They have no control over the world pricing picture, over inflation, or over the many imput costs which almost every other worker or business person in America can pass either "back" or "forward." For our stockgrowers, there is no "back" and no way to pass increased costs "forward." We are stuck with reacting after the fact to decisions or oversights that will determine the market picture for long periods of time.

I hope that your cumulative picture of the harm done to our producers is not unduly limited or colored by general considerations of consumer pricing. It is easy enough to say that statistical measures are difficult to come by and, thus, absent adequate proof, the Council on Wage and Price Stability should be accepted at face value with the warning that consumer prices would be unduly affected by a reduction of beef and meat product imports. Politicians and bureaucrats must always play to the person behind the shopping cart. But the inability to develop adequate proof of harm to our industry may be partially the result of not putting enough resources into looking for the cause and effect and then saying it's not there to be found with the level of analysis we've done so far. If you want to see effect, come to Montana, visit our ranches, and talk to our stockgrowers. If you want to find cause, don't stop with the conclusion that, since beef imports cannot be traced directly as the primary cause of the depressed cattle industry, nothing can or should be done about it. I'm sure that further digging will prove enough evidence of a strong connection between the flood of beef products into America and the problems faced by my constituents.

Thank you very much.

CHILD PORNOGRAPHY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Ms. MIKULSKI. Mr. Speaker, yesterday we passed the reauthorization for the Child Abuse Prevention and Treatment Act. Included in this bill was an expanded definition of child abuse to include sexual exploitation. I think that now is an appropriate time to share an article written by Ms. Gloria Steinem, an editor of Ms. magazine, on the subject of Child Pornography. She addresses several crucial questions: Who are the purchasers of child pornography? What are these men really like? Does child pornography really differ from pornography in general? What conditions in our society allow pornography to thrive? Ms. Steinem's perceptions are full of insight. I think that she is right on target.

The article follows:

Children are being undressed and sexually fondled by adult males; men performing sexual acts on children; "Fathers" having intercourse with "daughters"; These widely available, very profitable films and photographs are the subject of Congressional hearings and TV documentaries as America discovers child pornography, and condemns it as a sexual perversion. In fact, it is neither sexual nor a perversion. It is one logical, inevitable result of raising boys to believe they must control or conquer others as a measure of manhood, and producing men who may continue to believe that success or even functioning—in sex as in other areas of life—depends on subservience, surrender, or some clear tribute to their superiority. If that sounds farfetched, consider the facts of child pornography. And consider their echoes in our own observations, perhaps even in our own lives.

Who are the purchasers who feed their sexual needs and a nationwide, lucrative industry by buying books, films, and magazines of the humiliation, the brutalization of children? They are, of course, men. That fact is so taken for granted that it's rarely specified, nor is it a surprise that investigations have yet to turn up even a significant few female buyers. (Yes, there have been some women who help produce such pornography, but their need seems to be money or the approval of men they're dependent on, not the personal need for intimate, obscene power that creates the pornography market in the first place.)

And who are these men who purchase pornography? Their biographical facts aren't recorded and rarely are their real names listed, but the clerks and dealers who serve them usually remark on their respectable appearance, their briefcases, white skins, and well-tailored clothes. Whether they are younger and "mod" or older and "Establishment," they seem to be of a group most likely to have been raised to expect power and authority.

The victims of child pornography are, of course, even more powerless and without alternatives than the women who are the subjects of most "adult" pornography. Many of these victims of "chicken porn," as it is known to the profit-making trade, are young boys, and the television exposés have put a homophobic emphasis on them, as if the use of little girls by adult males were somehow less shocking and less worthy of outrage. But much of child pornography is devoted to the undressing, fondling, genital display, and oral or genital penetration of female children. Where there is a description or story, the most popular themes seem to make the man a family friend or even the father.

All of this has been treated like an isolated, mysterious perversion by the Congressional and state hearings, the citizen marches and press exposés currently devoted to "doing something" about child pornography.

But how different are those obsessed, power-hungry purchasers of child pornography from the many "normal" men who are convinced of the need and permission to be violent, to conquer sexually? Once the belief in a false superiority is inflicted on men in order to perpetuate a male-dominant system, surely the question is only one of degree; of how far the individual has to or will go in order to get the drug of male superiority to which society has addicted him.

And how different are the child victims of pornography from the millions who have been sexually approached or molested or continuously brutalized as children, sometimes by men in or close to their own families? How many readers of these words have had one such childhood experience themselves?

And finally, how different are the profiteering producers of child pornography from other socially accepted pushers of the male-dominant drug? From all the media creators who confuse sexuality with a "masculine" need for violence, superiority, and power?

Nonetheless, most of the current legislative, law enforcement, and societal efforts do set off child pornography as a thing apart. Though in most ways, lawmakers are quite comfortable grouping women and children together, in this case children are being singled out. Pornographic violence against women seems to be regarded as an unfortunate but necessary by-product of First Amendment guarantees of free expression; or even as an inevitable, normal part of sexual expression. In any case, the efforts are to create stiffer penalties for the producers of child pornography, to make the transport of boys under 18 across state lines for immoral purposes a federal crime (as the transport of girls has been under the Mann Act), and generally to separate child pornography from the rest of the pornographic empire by categorizing it as child abuse.

If the measures do rescue and protect children, they are obviously worth every effort. But laws have a way of being enforced according to the cultural values of their makers. Antiobscenity statutes seem to be invoked more often against antiestablishment groups than against powerful pornography industries. (Self-help sex manuals produced by and for women have been suppressed, for instance, while *Playboy* and most of its imitators continue unquestioned and free.) One can imagine puritanical judges and communities using such laws, no matter how carefully worded, to suppress the personal, freely chosen expressions of teenagers, while letting commercial violence go free.

The truth is that sexuality itself isn't the source of the almost unbearable feeling of outrage and vicarious humiliation that brings tears to our eyes—and a frightening desire for revenge to our hearts—when we look at pornography, whether the object is an adult or a child. It is the obscene use of power, the physical or psychic violence done to one human being by another, the pleasure of the powerful in the humiliation and dehumanizing of the powerless—that is the source of our outrage. True, it is more obvious in the case of children: they cannot have the power and knowledge to either consent freely or to defy the adult masculine world. But the forces at work are the same in all pornography.

Right now, however, the only popular connection between the pornographic uses of women and children is a patriarchal connection of blame. If women weren't becom-

ing so rebellious, the reasoning goes, we would continue to satisfy man's "natural" need for sexual dominance—and then men wouldn't become desperate enough to turn to children. In other words, child pornography, like so many other social ills, is somehow the fault of women.

It may take even more marches and lawsuits—and as many people jailed for civil disobedience and speak-outs—to affect the "masculine" sexual war as it did to change minds on the war in Vietnam.

Clearly, we have a long, long way to go.—GLORIA STEINEM.

TAXING AND SPENDING POLICY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. GRADISON. Mr. Speaker, when John Maynard Keynes published his book, "General Theory," he set in motion a way for Government to influence the performance of an economy and control the problems of inflation and unemployment. For the last 50 years, Keynesian economic theory has been the foundation for Government economic policy in over 95 percent of the free world countries. Assigning a very minor role to changes in the size of the money supply. Keynesian economics relies on taxation and Government spending to deal with inflation and unemployment.

PART I. THE INADEQUACIES OF KEYNESIAN ECONOMICS

According to the theory, inflation and unemployment should not be increasing at the same time. As prices rise, businesses experience a nominal rise in profits and, in response, increase their production by hiring new workers. As inflation creates the illusion of prosperity in business circles, the unemployed find work and the unemployment rate drops. In the face of this proposed inverse relationship, unemployment can be cured by greater Government spending to bolster aggregate demand and induce business to increase their production and hiring. This can be done, in theory, without triggering further increases in the price level.

But the experience of the last 5 years in the United States has been one of simultaneous increases in inflation and unemployment. Increased Government spending has not had the effect on the employment rate that it should. What has gone wrong? Have the stimulus packages been too conservative? The budget deficits too small? No. The deficits have been enormous. The reason for the ineffectiveness of the stimulus packages lies not in the implementation but in the theory.

Keynesian economic theory draws its policy conclusions from one crucial assumption: wages will always rise at a slower rate than prices. This assumption was accurate in the world Keynes lived in, and remained reasonable up to the last decade. But just as Newtonian physics bowed to Einstein's discoveries on relativity as techniques of measurement became increasingly sophisticated, Keynes must bow to newly emerging wage-price relationships. Many hourly wages and salaries are now indexed to the cost of living. It is no longer true that wages rise at a slower rate than prices, more and more frequently, they move together.

If our larger and larger budget deficits cannot significantly reduce unemployment, what is their effect? I maintain that their direct effect is twofold. First, they give support to sustained and increasing inflation. Second, they crowd out businesses from borrowing money and force up the interest rates for those that do manage to borrow.

PART II. BUDGET DEFICITS AND INFLATION

When the Federal Government spends more than it receives in tax revenue, the deficit must be financed through borrowing money from the public. The Government competes with private business for money. For example, in 1975, businesses borrowed $125.2 billion, the U.S. Government borrowed $85.2 billion. In 1976, business borrowed $202.6 billion as the recovery progressed, the Government borrowed $69 billion. In 1975, two-fifths of all the money available for businesses to use to expand production and employment went instead to the Government. It was used to purchase already existing goods and services. With our rapidly expanding labor force, the need for new capital is crucial.

Government action thus hinders capital formation in two ways. Business acquires money to build and expand by borrowing from private individuals. The problem is that business must compete with the Government to borrow the limited money available. Simultaneously, the money that the Government borrows is used to purchase goods and services, lowering the supply available to the American consumer. The result is that Government borrowing and spending leads to higher prices for both business and consumer.

President Carter should be applauded for his promise to balance the budget by 1981. His method, however, should be scorned. Instead of reviewing all the spending programs that are already taking place and making cuts of the waste, the President intends to spend as usual. How will the budget be balanced? As our wages rise with the cost of living, we will move up into higher tax brackets. Our money would not be worth any more, but more of it will go into the tax revenues.

We must balance the budget, the sooner the better. I say this not because balancing the budget is so right, but rather because prolonged large deficits are so wrong. We have not had a surplus in the budget in over 10 years. Even during the boom times of the early 1970's, when the Government should have been running surpluses, we had deficits. This has gone on too long. Both taxes and spending should be reduced. We are no longer living in a Keynesian society where a nation's economy can be molded by fiscal policy. Clearly, our fiscal policies of the recent past have distorted the labor and financial markets much more than they have reduced inflation and unemployment.

MADAME MARIA JERITZA: SALUTE TO A GREAT DIVA

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. RODINO. Mr. Speaker, earlier this month, a great lady and a dear friend was bestowed a richly deserved honor.

Honors are nothing new, of course, for Madame Maria Jeritza. For four decades, she dazzled the artistic world as a legendary soprano, becoming one of opera's true luminaries in both this country and in Europe. On September 18, Governor Byrne presented her with New Jersey's first annual award of the State Council on the Arts—an award honoring New Jersey residents for distinguished service in the arts and promoting culture in New Jersey.

The occasion was especially meaningful for me as Madame Jeritza has been a close and prized personal friend to me and my wife for more than 25 years. She is godmother to my granddaughter who bears her name. At her home in New Jersey, it has been my great privilege to socialize with some of the great artists of our time, men and women whose brilliance has given so much to the Nation and to the world—Tucker and Farrar, Schipa and Gigli, DeLuca, and Martinelli. And no photograph of the many I value is more dear to me than the one Madame Jeritza gave to me showing Puccini himself presenting her with a complete score of one of his works. It enjoys an important spot in my home in New Jersey.

Jeritza, of course, is more than a great artist; she is a humanitarian whose work and spirit have brought aid and joy throughout the world.

Mr. Speaker, I am pleased to place in the RECORD a copy of the New York Daily News article regarding last week's Governor's award:

[From the New York Daily News]

BYRNE'S BRAVOS FOR AN OPERA GREAT

(By Bruce Chadwick)

Madame Maria Jeritza Seery, 92, a legendary soprano in America and Europe for four decades, was honored by Gov. Byrne yesterday as the first winner of what will be an annual cultural award for the Garden State.

The award, bestowed yesterday at Morven, the Governors mansion in Princeton, was the highlight of the second annual reception for members of New Jersey's cultural community.

Madame Jeritza, who was a sensation at the Court Opera in Vienna before moving to the United States in 1921, was the first choice of the State Council on the Arts, which will recommend the culture award recipient to the governor each year.

"It is appropriate that the very first governor's annual award go to Madame Jeritza," said Gov. Byrne. "She is more than just a great lady of the opera in New Jersey. She is a singer of international stature. We all respect her very much. She has lived in New Jersey for decades and has elevated New Jersey through her distinguished life."

In the future, one or more people may receive the award each year. The purpose of the award is to honor New Jersey residents for distinguished service in the arts field and to promote culture in New Jersey.

"We think the arts are as important as any other field of endeavor. This award will attract attention to what is going on in New Jersey's artistic life. This is a state with some great theaters, concert halls and ballets. Many great New York and international performers live here, as well," said Al Kochka, executive director of the State Council on the Arts.

A rambunctious child by her own admission, Madame Jeritza spent six years in a convent before turning to opera. She made her debut as Elsa in "Lohengrin" in Olmutz, a small Austrian city, when she was 17. Her religious training stayed with her. She always wore several religious medals beneath her gowns during performances.

She later moved to Vienna and became the premier diva at the principal opera house there. She made her debut at the Met in 1921 in Erich Korngold's "The Dead City."

The famed singer, who retired from a full-time opera schedule in the mid-1930s, was famous for her Tosca, Thais, Salome and Carmen. She was generally acknowledged to be the favorite soprano of Puccini and Richard Strauss.

At the height of her career, she was mobbed on the streets, treated like royalty wherever she went and the center of whatever room she was in. It was a little like that yesterday for the aging diva, as dozens swirled around her offering congratulations. It was, well, like a scene out of an opera.

MISREPRESENTATION OF CONGRESS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. TEAGUE. Mr. Speaker, all of us in this body know that Congress as an entity and all of us as individuals from time to time have been criticized and maligned by the fourth estate. Some is brought on by our own actions as individuals and as a body; but there is also much that is not deserved.

Mr. Mike Mask of the Weatherford Democrat wrote an article entitled "Science of Politics" in which he states:

Probably no area of political activity is more misconceived or misunderstood by the ordinary citizen than is the nature of the work which our representatives in the Congress perform.

No truer statement by the press has ever been made; and I wish to include Mr. Mask's article at this point:

THE MISREPRESENTATION OF WORK—THE CONGRESSMAN'S WORK

(By Mike Mask)

Probably no area of political activity is more misconceived or misunderstood by the ordinary citizen than is the nature of the work which our representatives in Congress perform. The typical view of this work is either profoundly cynical or exceedingly naive picturings our elected representatives as either crooks or self-sacrificing citizens engaged in public duty. Of late in response to Watergate and other corruptions the former view has gained predominance and publicity. It should be obvious that the American people have a proper right to examine the job these representatives perform after all they are their employers and the benefits which they bestow on these employees is not insignificant.

Salaries alone for U.S. Senators and representatives is $42,500 a year with substantial additional benefits in the form of prestige, travel pay, administrative pay and pension plans also available. This is not to imply that these benefits are not earned for the truth is that as in any organization there are some earning their salaries while a few noticeable individuals abuse the privileges bestowed upon them. However, because of the position, status, honor and pay which the taxpayer grants to these men it behooves the ordinary citizen to be more aware of the real nature of the Congressman's work so that he may properly evaluate his job performance.

In order to inform the taxpayer, however, a number of myths about Congressional work must first be disspelled. The first and most important myth is the one which holds that the greatest amount of a representatives time is spent speaking, debating and voting on the floor of Congress. Nothing is further from reality. The Congressman's real effort is spent actually in two pursuits: working on committees and dealing with the citizens (constituents) from his region who he at least in theory represents. Committee work is usually dull, dreary, detailed investigation of legislative issues carried out by groups of representatives. The vast majority of this work deals in listening to testimony and investigating the validity of this testimony. Such work constitutes the heart of Congressional performance. Sadly the work is usually obscure, unrecorded to a great extent and not readily known by the public at large. The really crucial votes a Congressman casts will probably fall in committees and yet they are the least noticed by the public and quite often are not recorded in the public records. As a result the citizen too often sees attendance and voting upon the floor of Congress as the essential criteria by which to judge Congressional performance. The facts are that committee votes are much more important and that by the time a bill reaches the floor for a vote the outcome may be obvious. The idea that Congressmen should always be ready to be on the floor to vote is a rather simple one which overlooks the basic fact that a Congressman by meeting in committees, by talking to constituents or by listening to various interest groups may actually be performing his job in a more meaningful manner.

NEXT: The New, New Congress.

PHILADELPHIA SEEKS LANDING RIGHTS FOR EL AL AIRLINES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. EILBERG. Mr. Speaker, I have joined my colleagues from Philadelphia, Hon. ROBERT N. C. NIX, Hon. MICHAEL O. MYERS, and Hon. RAYMOND F. LEDERER in requesting Secretary of State Vance to grant El Al Israel Airlines landing rights in Philadelphia. This is an issue that concerns the citizens of our city, and directly involves many of them.

Direct flight between Israel and Philadelphia would facilitate international travel and cultural exchange between the United States and Israel. Philadelphia's International Airport has recently undergone extensive renovation and expansion, and is ideally suited for international arrivals and departures. In addition, it is inconvenient to force visitors from abroad who wish to see the historical sites in this country, many of which are in Philadelphia, to be subjected to an unnecessary side-step in flight. It would be to this country's advantage to welcome visitors from abroad by making their journey here as fast and as easy as possible.

Many members of Philadelphia's Jewish community as well as large numbers of Christian pilgrims and tourists visit Israel frequently. Therefore, we hope that the Secretary of State will rule favorably on our request, which has the enthusiastic support in Philadelphia of Mayor Frank Rizzo, city aviation officials, and our constituents.

I would like to enter in the RECORD the text of a letter sent on September 26 by the Philadelphia congressional delegation to Secretary of State Vance:

WASHINGTON, D.C.
September 26, 1977.

Hon. CYRUS R. VANCE,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: We are writing to you to ask for your support for a request from El Al Israel Airlines that it be granted landing rights in the City of Philadelphia.

Mr. Secretary, every year thousands of tourists and business people from all across the tri-state Greater Philadelphia region travel to Israel. However, a great inconvenience is added to their trip, because they must travel first to New York City, the only United States city which El Al is allowed to serve.

This inconvenience seems especially unnecessary now that Philadelphia's International Airport has undergone millions of dollars worth of expansion and modernization. The expansion has included construction of an Overseas Air Terminal. We are proud to say that because of this new facility and others built by the City, the airport ranks with the finest in the country as a gateway for international travelers.

Several major foreign airlines now land in Philadelphia—among them Air Jamaica, Alitalia, Lufthansa, and British Airways, along with the American overseas carriers, TWA and Pan American. It would be a great service to our constituents and our region, Mr. Secretary, if El Al were to be added to this list.

In this regard, we fully support the Philadelphia City Council resolution calling for the United States to grant landing rights to El Al. We urge an affirmative response.

Please feel free to call upon us if we can provide further information in support of El Al's request to begin service to our City.

Sincerely,

ROBERT N. C. NIX,
JOSHUA EILBERG,
MICHAEL O. MYERS,
RAYMOND F. LEDERER,
Members of Congress.

FOOD STAMP PROVISIONS OF THE FARM BILL

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WAMPLER. Mr. Speaker, while perusing the September 16, 1977, issue of the CONGRESSIONAL RECORD, I was surprised by a comment of my distinguished colleague from New York (Mr. RICH-

MOND) in regard to the food stamp provisions of the farm bill (S. 275). On page 29578 the gentleman is quoted as saying that—

. . . it is expected that the department would move to implement EPR—elimination of the purchase requirement—as soon as possible, without waiting for the final promulgation of the other eligibility requirements.

As one who followed this provision closely throughout the legislative process, I take exception to the gentleman's interpretation of legislative intent. Section 1303(a) of S. 275 states in part that—

The Secretary of Agriculture shall implement the Food Stamp Act of 1977 as expeditiously as possible consistent with the efficient and effective administration of the food stamp program. The provisions of the Food Stamp Act of 1964, as amended, which are relevant to current regulations of the Secretary governing the food stamp program, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued pursuant to the Food Stamp Act of 1977.

Current program regulations are continued in force specifically in recognition of the fact that major change of the food stamp program cannot be accomplished overnight without seriously jeopardizing effective and efficient program administration. Sound program administration obviously includes observance of established procedural mechanisms, such as those prescribed by the Administrative Procedure Act.

The phrase "consistent with the efficient and effective administration of the food stamp program" in the statute itself should therefore be clear enough.

In addition, the gentleman's interpretation is inconsistent with legislative history. For example, cost estimates prepared by House Agriculture Committee staff, the Congressional Budget Office and the Department of Agriculture—which were relied upon extensively during committee and floor deliberations and which are contained in the committee report on the farm bill—House report No. 95-464, pages 427, 464, and 472—assumed that elimination of the purchase requirement would not have effect until April 1978.

It is important to recognize, too, that budget and appropriation allocations for the food stamp program during fiscal year 1978 are based on similar estimates. To proceed down a different course at this point could play havoc with the budget by inflating anticipated Federal costs to the tune of $364 million.

I opposed elimination of the purchase requirement, and still do, because I am convinced that this provision will destroy the nutritional focus of the food stamp program. However, as it soon will be law, I fully expect the provision to be implemented in line with the intent and letter of the law. Unnecessary delay is tantamount to an item veto of the farm bill. And premature implementation of the provision would raise havoc with the budget and fly in the face of sound administrative practice. I hope the Department will use good judgment in this matter.

TRIBUTE TO A GREAT LADY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. SCHULZE. Mr. Speaker, last week marked the passing of one of my district's most active and dedicated committeepeople, a friend who will be missed in no small measure. Mary Semelsberger, of Tredyffrin Township, Chester County, Pa., was a truly unique individual whose long suit was honesty. At times, Mary's devotion to a fair representation of the truth embroiled her in heated controversy. But, with Mary, it could have been no other way.

Her memory is preserved in an editorial which appeared in the September 22, 1977, issue of the Suburban and Wayne Times. For what the editorial communicates about the human virtues of loyalty and honesty, I enthusiastically commend it to the attention of my colleagues:

TRIBUTE TO A GREAT LADY

We have been privileged, over the years, to know TWO great committeepeople—both, incidentally, women.

One of them died the other day, and the Republican Party of Tredyffrin is much the poorer for her passing.

Mary Semelsberger was the quintessential committeewoman—active, energetic, compassionate, helpful—and imbued with long-standing principles of Party and Religion.

How many thousands of voters did she register for the benefit of the Party? How many of them would have registered Democrat, if not for her active interest and persuasion? How many of them appreciated her true and vivid interest in their welfare and their problems?

We can give a clear answer to that last question. In the primary election of 1971, when the Chester County "Independents" gave the Republicans their first big scare, the Independents planned to take Tedyffrin by storm and with it, the whole county.

Their strategy was to win Tedyffrin by capturing its East 5 precinct. That was the key. It was also Mary Semelsberger's precinct—just how much it was her precinct no one ever fully appreciated until the vote was tabulated.

The Independents brought in all their big guns to campaign in East 5. They openly bragged that they were going to "beat Mary Semelsberger." But when the vote was counted, she had racked up an astounding majority that turned Tedyffrin around, and preserved Chester county for the "regulars" for another two years.

The reason? Mary collected every "due bill" she had earned over nearly 40 years by helping the people of the precinct. By no means the least of these was black Mt. Pleasant, in whose homes Mary Semelsberger was a frequent visitor, a solver of quarrels, one who would help with finances or keep a youngster from going to jail. No one thought that the black community would ever turn out to vote in a primary. Mt. Pleasant did—for the one woman who totally cared about its people. It was the key to that election victory—and the triumph was all Mary's.

Despite many and major illnesses, she remained active until about two years ago, when she turned the reins over to her daughter, Mary Alice. But she retained her interest in the Party.

Mary had going for her what too few have today—a sense of total loyalty to the Republican organization which, for a time, had her on its payroll in West Chester. She expressed undying faith in Ted Rubino, right down to the time when he was convicted. It was not the worst virtue for anyone to have.

Part of her conviction that Rubino was an honest man sprang from Rubino's relationship with her devoted husband, Sam, who, after retiring from the State Police, served as a Rubino aide in the Court House. No one ever said a word against Sam Semelsberger's honesty—nor against Mary's.

As in the Nixon administration, the lower echelons kept the faith long after the reason for it had departed.

In many conversations over the years, Mary deplored the disintegration of the Republican Party nationally and locally as an effective organization. We knew then, and we know now, that had Republican leadership kept faith with those who served them so devotedly, the question of party disintegration would never have arisen.

With Mary Semelsberger there were no "Watergate" quibblings with the truth. You knew where Mary stood—and many a Tredyffrin politician felt the lash of her honesty—and unfairly resented it. She wanted an honest, open party—not a devious one. Too often, especially near the end of her active career, she was unable to put across the point that an open, active, concerned party would bring in the voters.

Mary Semelsberger was truly a great committeewoman. She was truly a great friend whose like we shall not see again, whose friendship we cherished.

It's sort of a shame that there was not an evening memorial service or viewing for Mary. We're sure that her constituents would have turned out, once more, to "vote" for her in record numbers, in her final "election."

BOOTLEGGED CIGARETTES II

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. McHUGH. Mr. Speaker, yesterday I noted that the program "Sixty Minutes" had devoted a segment of its telecast on Sunday to the problem of bootlegged cigarettes. As that telecast made clear, the problem is extremely serious because of the involvement of organized crime and the loss of tax revenues to State governments.

What is the present legislative situation? As I indicated in my statement yesterday, several Members of Congress, including myself, have introduced legislation designed to curb traffic in bootlegged cigarettes. To date, however, hearings have not been scheduled.

A more thorough and comprehensive analysis of the present legislative situation was presented by Leon Rothenberg, executive secretary of the National Tobacco Tax Association, in a paper presented to NTTA Administrators on June 20, 1977.

For the benefit of those Members not familiar with this issue, or with what can be done to deal with it, I am inserting a copy of that paper into the RECORD. It is my hope that Members concerned with this issue will support my call for hearings.

The article follows:

STATUS OF NTTA CONTRABAND CIGARETTE BILL

(By Leon Rothenberg)

We began this year with a very good prospect that a major blow could be struck against cigarette bootlegging through the enactment of a federal contraband cigarette law. The principal encouraging prospects may be summarized as follows:

FAVORABLE FACTORS

NTTA had requested and received the technical assistance of the Alcohol, Tobacco and Firearms Bureau in drafting a new contraband bill which met all the requirements of federal enforcement. The NTTA bill which had its origins in the latter 1960's was reviewed and revised by ATF's legal staff to assure that it met fully the requirements for effective federal enforcement. The draft bill had then been submitted to tax administrators of each of the states for their consideration and suggestions and ATF and NTTA representatives further reviewed the bill in light of these suggestions. There was common agreement that the resulting bill was a good bill, which would bring into the fight against bootlegging the much needed resources and talent of the ATF.

Secondly, there was a new awareness in Congress of the significance of bootlegging as a law and order and state revenue problem. No longer was cigarette bootlegging regarded as uniquely a northeastern problem. The evidence of bootlegging throughout the eastern half of the country had become overwhelming. The presence of organized crime in these illicit operations had become a matter of record. It was apparent that the profits of bootlegging had an impact considerably beyond the areas of specific activity.

A third major development in support of a contraband bill was the 1976–77 study and recommendations on the subject of cigarette bootlegging by the Advisory Commission on Intergovernmental Relations. ACIR is a prestigious research group, composed of federal, state, and local officials. It has a deserved reputation for thoroughness and objectivity in its studies on state and local governmental problems. Several years ago, NTTA requested ACIR to consider cigarette bootlegging as an appropriate subject for an intergovernmental tax study. The study has now been conducted and the Commission has listed among its conclusions a specific and strong recommendation for the enactment of a contraband bill.

Another encouraging factor has been the strong support given contraband legislation by the tobacco trade. As Louis Ehrlich, Chairman of the National Association of Tobacco Distributors' Committee on Legislation and Taxation will tell you this morning, the NATD has worked closely with NTTA in support of contraband legislation. Louis Ehrlich's testimony to the Advisory Commission on Intergovernmental Relations contributed importantly to the information provided at that hearing. At that same hearing, the Tobacco Tax Council presented testimony in opposition to the contraband bill. However, it is hoped that the Council will recognize that federal contraband enforcement would benefit all segments of the tobacco industry and give public support to this needed legislation.

Another significant factor has been Congress' increasing awareness of the press coverage of bootlegging. Time magazine, Jack Anderson, and the daily press have given considerable attention to the social evils and consequences of cigarette bootlegging. A few years ago, cigarette bootlegging was a matter of concern to the few who were directly involved in combatting this operation. It is now common knowledge.

Still another factor which has lent encouragement to the prospects for passage of a contraband bill is the interest displayed in such legislation by Congressman Rodino of New Jersey, Chairman of the House Judiciary Committee, the committee which has jurisdiction over such bills. Congressman Rodino had been the sponsor of a contraband bill in 1972, and his bill was the subject of a hearing that year. NTTA President Bob Murphy of New Jersey has worked strenuously for contraband legislation, and in April of this year, he received correspondence from Congressman Rodino, in which the Congressman expressed concern over cigarette bootlegging and strong interest in legislation designed to combat this activity.

Early in May, I visited with the general counsel of the Judiciary Committee in Washington. He reiterated Congressman Rodino's strong interest in contraband legislation and suggested that there was a good likelihood that the Judiciary Subcommittee on Crime would hold a hearing on the bill this year.

CONTRABAND CIGARETTE BILLS IN THE NINETY-FIFTH SESSION

Where do we stand now with respect to the NTTA Contraband bill? As of NTTA's last tally, there are more than a dozen contraband bills before the Ninety-fifth Congress. More than half of these bills are in the form of NTTA bills introduced in past years, the most prominent example of which was the Javits bill of the early 1970's. Predominantly, these bills were introduced in the session before the NTTA–ATF draft was completed. These introductions reflect the continued support of their sponsors for contraband legislation, and we may expect their sponsors to support the 1977 NTTA version when the time arises.

In addition, five bills have been introduced which are either identical to the current NTTA bill or which follow the NTTA bill with small modifications.

The identical bills are: in the House of Representatives,

H.R. 5995—by Representative Patterson of California, and

H.R. 7019—by Representative Railsback of Illinois; and in the Senate,

S. 1487—by Senators Bellmon of Oklahoma and Anderson of Minnesota.

The bills which correspond, but not precisely, to the NTTA bill are:

H.R. 7044 by Representative Duncan of Tennessee, which differs in a few points of language which are minor in nature and

H.R. 7381 by Representative Eilberg of Pennsylvania which has one difference which may be substantive, from the NTTA bill. The current NTTA bill, like its predecessors, identifies contraband cigarettes by the absence of tax indicia and limits the definition of "state" to those which use tax indicia in cigarette tax administration. The Eilberg bill deletes this limitation and redefines a "contraband" cigarette in language which is being examined to determine whether or not the bill would apply in a state, specifically Michigan, which does not use tax indicia.

The NTTA bill would make the absence of tax indicia prima facie evdience of a contraband violation when such cigarettes are in the possession of unauthorized persons. In order to assure specific and effective enforcement, this provision has been an element of the proposed NTTA contraband legislation since its inception, and it is strongly supported by ATF. The Michigan Revenue Division has supported the NTTA Contraband Bill, with this provision, in recognition that the curbing of cigarette bootlegging throughout the country would benefit Michigan directly. (Subsequent to the NTTA Central Region Meeting, the AFT legal staff issued a verbal opinion that the Eilberg bill, H.R. 7381, like the NTTA contraband bill, would make the absence of tax indica on cigarettes in the possession of unauthorized persons evidence of a contraband violation).

PRESENT OUTLOOK FOR LEGISLATION

If prospects for a contraband bill appeared good several months ago, what are they now? The picture is less clear.

We have been advised that Congress will enact a contraband bill only if the states demonstrate unanimous support for such legislation. There have been several developments which may raise some question, at least in the minds of Congress, as to the solidity of that support.

One, considerable attention has been given in recent months to a proposal for a federally-imposed uniform cigarette tax rate as a means for ending bootlegging.

There is no doubt that a uniform rate would remove the profit incentive for bootlegging. There is doubt, however, as to whether such legislation could be passed at this session or, foreseeably at a session in the near future, because of the difficulty in getting high tax and low tax states to agree on a uniform rate. It should be pointed out that the Advisory Commission on Intergovernmental Relations has described a uniform rate proposal as a "radical approach" which might be considered only after contraband legislation and other reasonable enforcement efforts are tried.

Also, we have been told that Congress will not act until it evaluates the results of the $787,500 LEAA grant to the Interstate Revenue Research Center. This came as a surprise to tax administrators, since I am sure that none of the States participating in IRRC has ever viewed the bootlegging problem as involving a choice between IRRC and contraband legislation. The contraband bill is needed because of the recognition that no enforcement effort by the states individually or collectively can match the effectiveness of a federal enforcement agency which would have superior resources and which would not be confronted by the problems created by state borders.

Finally, the states themselves have not been sufficiently aggressive in supporting the contraband bill. The number of such bills now before Congress is not impressive. We have said again and again that cigarette bootlegging is a national problem. The few NTTA bills which have been placed in the Congressional hopper give limited support to that assertion.

It should be stressed that the NTTA and the National Association of Tax Administrators—which like NTTA has adopted a resolution in support of contraband legislation—are making a determined effort to direct Congressional attention to the need for a contraband bill. NTTA President Bob Murphy and Arthur Roemer of Minnesota, Chairman of the NTTA Committee on Contraband Legislation, and his committee have worked continuously toward this objective. Daniel G. Smith, President of NATA, has been personally involved in this effort. The NATA–NTTA headquarters has contraband legislation as a priority item on its current calendar.

In order to demonstrate the national support for contraband legislation, NTTA and NATA call upon each of you to approach your Congressional delegations again:

To indicate your concern over bootlegging.

To indicate your support for the NTTA bill.

And to stress that this bill is a carefully drawn measure and that it reflects the work and the technical expertise of ATF, the agency that would have the responsibility for enforcing the law.

NATO—ENDURING ALLIANCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following column by my constituent Gen. Henry Huglin. Gen-

eral Huglin is a retired Air Force brigadier general and syndicated columnist. He comments on NATO and the need for the United States to continue its strong ties with it:

NATO—ENDURING ALLIANCE

(By Henry Huglin)

NATO headquarters, Brussels. NATO has been a viable, effective alliance, linking our country, Canada, and 13 European nations, for more than a generation. It has been highly successful in fulfilling its purpose—to deter war and political coercion by the Soviets in Europe.

NATO, as usual, has deficiencies and problems, but they are being dealt with. And the Alliance is needed as much as ever today, as the Soviets' military strength is greater than it has ever been and their expansionist intentions are evidently unchanged, even though their Cold War bluster has been muted by the siren sounds of detente.

Further, as always since the Alliance was founded in 1949, our country's leadership is essential. And this leadership needs to encompass overall military forces at least equivalent to the Soviets', as well as ideas, example, and leadership to keep the Alliance effective. Wisely, President Carter is committed to this course.

In addressing the NATO Council in May, Mr. Carter renewed the pledge of U.S. commitment to NATO with these words: "We will continue to make the Alliance the heart of our foreign policy. We will remain a reliable and faithful ally. We will join with you to strengthen the Alliance—politically, economically, and militarily. We will ask for and listen to the advice of our allies. And we will give our views in return, candidly and as friends."

He then gave this assessment: "This effort rests on a strong foundation. The state of the Alliance is good. Its strategy and doctrine are solid . . . In the aftermath of World War II, the political imperatives were clear—to build the strength of the West to deter Soviet aggression. Since then East-West relations have become far more complex. Managing them requires patience and skill."

These statements are consistent with the general policy toward NATO of previous administrations, although performance has not always matched the rhetoric.

The cement that holds NATO together is the common concern over the Soviets' intentions to use their great and increasing military strength to overrun western Europe, or to politically coerce us into withdrawal from Europe and the western European nations into neutrality or subservience.

The military strength and political unity of NATO have provided the climate of stability and confidence under which the western Europeans have flourished.

But now serious economic problems of inflation and recession in many NATO European countries, triggered primarily by the quadrupling of foreign crude oil prices four years ago, are being reflected in political uncertainties, especially in Britain, France, and Italy.

These economic and potential political problems could become unmanageable on a democratic basis, if the military threat and potential for political pressure from Soviet Russia were not effectively dealt with by NATO's strength and unity.

These realities, the illusoriness of detente, the disappointing results of the Helsinki accords, and the Soviets' acceleration of the arms race have led our government and those of our partners to cooperate further to improve NATO's military forces, in equipment, standardization, logistics, reserves, and other effectiveness measures. They have also agreed to try to add 3% to their defense budgets in real terms and to project their defense planning to 1990.

Our European NATO partners crucially need our active role. But, also, they continue to be crucial to our security and economic interests. Hence, we have invested a great deal in NATO over 28 years and will continue to do so. But this great investment can be considered as an essential payment of premiums on our national security and economic insurance policies.

Now, the likelihood of war breaking out in Europe is low. But, if the Soviets' strength is not counterbalanced by us and our NATO partners, they can achieve their goals without war. The climate of security and confidence will erode and NATO could break up, as the Europeans vote into power governments which will turn away from their political and economic ties with us to appease the Soviets, as their only perceived prudent way of accommodating to power politics realities.

Military strength is the basic ingredient of the Alliance. But also essential are mutual understanding, trust, confidence, and cooperation among the NATO partners—and collective national wills to meet the challenges and pay the price in troops, arms, and determination.

We can expect that NATO will continue to be the heart of our foreign policy for the foreseeable future. To keep it viable will require our continued strong effort, persistence, and leadership. There is no feasible alternative, as long as our protracted conflict with Soviet Russia is unresolved and unresolvable.

NORTHWEST EXPORT OF LOGS ADDS TO HOUSING COSTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BONKER. Mr. Speaker, on September 19, 1977, the Washington Post carried a front page story about the skyrocketing price of lumber and the severe impact it is having on the cost of housing. According to the article, by Mr. Bill Curry, the prices paid for timber have never been so high, adding "$700 to $1,500 to the cost of an average new home."

While the building surge will help to revitalize the South's forest industry, it is the consumer who ultimately suffers. In the Northwest, the timber supply problem is compounded by the export of unprocessed logs to other countries. Last year, approximately 2.8 billion board feet, more than one-third of that harvested, ended up in Japan.

The continued export of logs greatly affects supply and demand. Local manufacturers must compete with Japanese buyers in bidding for available timber, thus driving the price upward. Small mill owners simply cannot compete with what the Japanese are willing to pay for premium Northwest timber. The higher purchase price, of course, adds significantly to the cost of housing.

And if local mills cannot compete, they have no choice but to drop out or sell to the larger corporations. This practice is much too common in the Northwest which at one time was thriving with small wood and pulp mills. In one community there used to be 20 mills. Today only one remains. This trend can only lead to fewer and fewer multinational corporations totally dominating the wood products industry.

Anyone who flies over the Northwest can look down and see vast areas of clear cutting which threatens reduction of our timber supply. While I concede that there are responsible reforestation programs in effect, particularly in the private sector, the fact remains that the private areas are being seriously overcut. This, in due course, will mean greater pressure on public lands for available timber.

As a Representative of an area that is primarily dependent on timber harvesting and the wood products industry, I want to see this industry healthy and profitable. I also want to see it continue for many years in the future. That is why I take exception to having so many of our finest logs exported to Japan. That country presently has 26,000 mills that are busy cutting up our Douglas fir and hemlock timber.

Mr. Speaker, a few months ago, I introduced a bill to make permanent a ban on the export of logs and place the emphasis instead on sending out finished products. This will get the Japanese out of bidding for domestic logs and revitalize local wood mills in the Northwest. My bill will also close the loopholes, particularly the practice of substitution, that allow the export of logs from Federal timberlands to continue.

The high cost of housing is reason alone to enact this legislation. We need to protect our national resources and stop exporting unprocessed logs and the jobs that go along with them.

Mr. Curry included in the Washington Post article a brief recap on "Lumber: Supply and Demand," which highlights, at least statistically, the case. I draw my colleagues' attention to the fact that Douglas fir timber for the Northwest provides 8 billion board feet—but what is not mentioned is the fact that over one-third of the amount will end up in Japan:

LUMBER: SUPPLY AND DEMAND

(By Bill Curry)

Pine from 12 western states is the single biggest source of timber in the United States—9.9 billion board-feet last year. Douglas fir from western Washington and western Oregon provided another 8 billion board feet in 1976.

Southern states produced 7.9 billion, and these regions combined accounted for more than half of the nation's timber production.

Unlike the South, where individuals own most of the woodlands, the western states are heavily dependent—about 50 percent—on federally owned lands for their supplies. Thus higher prices go more to the U.S. Treasury and less to the local economy.

All told, the United States consumed some 43 billion board feet of wood last year, with 20 percent of that imported, primarily from Canada. One-half of the total went for lumber and plywood, with half of that used in new home construction. (One-fourth of all paper is made from sawdust and leftover wood chips of this production).

In 1973, when the last sharp rise in prices occurred, there were 2.5 million new housing starts. The federal government says the current pace of new housing construction is about 2 million for 1977.

Demand for single-family houses has increased the most, a type of construction that requires some 50 percent more lumber and plywood per unit than multi-family housing.

Between the high-price years of 1973 and

1977, housing starts plunged, as did prices for wood products.

Joe Muench, an economist with the National Forest Products Association, says that while the cost of buying trees has gone up 462 percent since 1970, the average price of finished building materials at the mill has risen only 143 percent. He says that increased efficiency and new technology have allowed the industry to absorb some of the increase in timber prices.

RESTITUTION FOR VICTIMS OF CRIME

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. EDWARDS of California. Mr. Speaker, on Thursday, September 29, the House is scheduled to vote on amendments and final passage to H.R. 7010, providing compensation to victims of violent crime. It is my feeling that this bill would be much improved by requiring that States seeking grants under the Victims of Crime Act be required to have on their books a provision allowing judges to require criminals to pay restitution to their victims. I intend to offer an amendment to that effect.

The attached article by Colman McCarthy appeared in the June 21, 1977, issue of the Washington Post and indicates some of the successes which can be achieved under a creative restitution program. I commend the article to my colleagues:

SENTENCES OF RESTITUTION—NOT VENGEANCE

(By Coleman McCarthy)

NEW ORLEANS.—If buildings could heave and groan with despair, the Orleans Parish Prison would be a quaking mass of cement and steel. Built 50 years ago to hold 450 people, it is crammed now with between 900 and 1,000. Its record of squalor, cruelty and turmoil has earned it a reputation as one of the nation's most oppressive prisons.

New Orleans itself, romanticized as a city of fine cuisine and charming customs, festers with crime. Thirty-three per cent of the state's crime is here, but only 16 percent of its population. Major crime has increased 77 per cent since 1965. The human beings suffering in Parish Prison are mostly black or poor, the products of New Orleans' overcrowded low-income housing, understaffed public schools, low per capita income and severe unemployment rate (the state's highest).

Inhumane jails and crime-creating living conditions are not unique to New Orleans. Few large cities, Washington included, are without them; even more bleak, few cities have public officials willing to break from conventional thinking by seeking alternatives to the expensive, useless and brutal system of punishment that is imprisonment.

New Orleans may be different. Owing to the foresight of a few officials of conscience, a group of criminals from Parish Prison is about to be involved in a program based on the sound notion of punishing people without imprisoning them. The idea is that convicted criminals, instead of "paying back" society by languishing in prison (and earning advanced degrees in the school of crime) would be permitted to repay society by making restitution to the victim. In a crime against his property, for example, the victim may enjoy the temporary pleasures of vengeance when the offender is put away for a few months or years, but he is still without whatever was stolen. The New Orleans restitution program seeks to have the property returned or replaced by the person who took it.

As simple as it sounds, the success of the restitution program depends on meeting several challenges. Probation officers need to select the offenders who can accept both the personal freedom and the demands of a daily job. From the job's salary comes the money to pay back the victim. The offender also keeps some of the money himself. Because they are under court order to reduce prison crowding, New Orleans officials are using a restitution shelter to house 30 to 50 persons. Although restitution programs have been working—and succeeding—in other areas of the country, the New Orleans experiment is different because it is dealing with criminals that other programs seldom go near: the unskilled and uneducated.

New Orleans officials dismiss talk that their restitution program is "a bleeding-heart scheme." Calling Parish Prison "a maggot reeking in the middle of the city," one official said that with the institution's being a severe economic drain, the restitution program offers fiscal relief. Figures from the Law Enforcement Assistance Administration about four similar programs in Georgia suggest that the economics of restitution are sound. From 504 offenders who have gone through the Georgia program in the past four years, $62,500 has been paid back to victims, $172,500 has gone to federal and state taxes, $113,000 to the offenders' own families and $61,000 saved as nest eggs.

LEAA, which has been an advocate of restitution as an alternative to prison, recently commissioned a $2-million evaluation of the programs. The agency's endorsement of restitution is based on the concept that "a monetary repayment to the victim by the offender, or the offender's performing service for the community, not only helps the offender on the road to rehabilitation but also saves taxpayers money that would have been spent keeping the offender in jail."

In New Orleans, as elsewhere, officials daring to support restitution programs know that they are the exceptions. Charles C. Foti, the parish sheriff and the force behind the local restitution program, has found that his harshest critics are those who express a "lock'em-up-and-throw-away-the-key" philosophy. Foti, a survivor of the wild style of politics that has made much of southern Louisiana into a political swampland, is betting that his efforts will be seen as making good economic sense rather than "coddling criminals." Foti believes that "those who administer the correctional system in this country must become more concerned with economics of crime and the problems of the victim. In our system of criminal justice, restitution is the only method where society is actually paid back by the criminal. With so many overcrowded prisons, restitution becomes a necessity rather than simply a meaningful alternative to incarceration."

New Orleans is not the only jurisdiction under court order to reduce prison crowding; the District of Columbia is another. But it is among the few, backed by a small LEAA grant of $150,000, that insists on seeing criminals as human beings. From what is known so far, the restitution programs that have been given a chance are proving to be successful. The question now is whether the success will be allowed to spread.

THE UNFORTUNATE HAZARDS OF PUBLIC SERVICE

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WALSH. Mr. Speaker, recent events in Washington have added still another unfortunate chapter to the legend of the hazards of life in the public service.

It is an unpleasant story, it does not read well, and it has had a pronounced—and, I think unfortunate—effect on each and every citizen who cares about his Government and the type of person serving them therein.

In conversations with my family, my friends, my constituents and my colleagues, the disturbing theme of a lack of respect and trust in public officials is repeated again and again.

Political pundits, polltakers, preachers and the man on the street all will tell you that the level of public confidence in the institution of government—and more particularly in the personal ability, honesty and integrity of government officials—has never been lower. And every new revelation of impropriety, of influence peddling or of suggested scandal brings that confidence even lower still.

Newspapers, news magazines and news broadcasts devote considerable attention to investigations, to opinion surveys, to the intimate details of an agency or its head in difficulty, yet seldom do we hear about—or stop to consider on our own—the infinitely repeated instances of a governmental unit that shines in its performance, or about the official whose personal code is nothing less than quiet, dedicated, deeply honest duty.

What a tragedy, and how unfortunate it is that the institution of government—a government founded and run on the best principles man has ever devised—and the reputations of the very people who uphold these principles should be regarded with scorn with ridicule and with indifference.

I had not intended to make this week's column a forum for my personal beliefs, but I feel strongly you should know that my opinion of our Government, imperfect though that system can often be, is high.

Even more important, I wanted you to know of my unshakable conviction that the vast majority of the men and women who have devoted their lives to public service are numbered among the most deeply committed, unselfishly honest Americans I know.

I have been in public service for nearly 40 years—all my adult life—starting as a welfare caseworker and continuing through my experience in county and State government, as a mayor and now a member of Congress. I don't know that I could be truly happy in any other profession, for following this profession is, in every sense of the word, a privilege.

An even greater privilege for me is the opportunity to work side by side in pub-

lic service with people of high moral character, great personal ability, and tremendous and loyal dedication to their calling.

When someone tells me, "Government is crooked, and the biggest crooks are politicians." I am saddened—not for myself, but for the vast and overwhelming majority of persons whose entire lives have been given to honest service to others through Government.

By far, they have earned your praise, as well as mine, and I thought this would be an appropriate time to say so.

TOWARD A NEW BEGINNING FOR THE PEACE CORPS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BONKER. Mr. Speaker, on January 22, 1977, I submitted a statement in the RECORD which expressed my concern about the need to revitalize and reshape the Peace Corps; about the need for a fresh start so that once again the Peace Corps can serve as a uniquely creative and vibrant expression of "the best that is in us." I also mentioned my plan to introduce legislation which would reconstitute the Peace Corps as a public corporation along the lines suggested in a study conducted by Harlan Cleveland of the Aspen Institute for Humanistic Studies.

I have refrained from introducing this legislation to allow an opportunity for ACTION officials to develop their thoughts on the future of the Peace Corps. Acting on my request, the Subcommittee on International Development Assistance has been conducting hearings on the future of the Peace Corps.

Thus far, I have not been impressed with the arguments brought forward in favor of retaining the Peace Corps as part of ACTION. I have reason to believe that no more attention has been devoted to the Peace Corps in this administration than in recent administrations. With the exception of appointing an able administrator for ACTION, little has been done to help restore the utility the Peace Corps once had. Consequently, I have decided to proceed with introducing a bill during the next couple of weeks which would establish the Peace Corps as a public corporation. At the same time, I would like to insert in the RECORD an opening statement I made before a recent International Development Assistance Subcommittee hearing, which sets forth an updated expression of my thinking concerning the future of the Peace Corps.

PEACE CORPS: TOWARD A NEW BEGINNING

(By the Honorable DONALD BONKER)

Mr. Chairman, I deeply regret that a conflict between the date set for this subcommittee's first oversight hearing on the Peace Corps and the schedule for my return from the district prevented my being present to hear the testimony of Sam Brown, Director of ACTION, and Gretchen Handwerger, Acting Director of the Peace Corps. I have read a transcript of the proceedings for the first hearing, so I feel reasonably up to date.

As members of this subcommittee know, I have a strong interest in the Peace Corps and its future. I requested these hearings in order to explore ways of revitalizing and reshaping the Peace Corps as an effective expression of American values in helping to cope with essential human needs abroad and promote better international understanding. This is based on the realization that Peace Corps presently is a vestige of its former self, and a belief that a new beginning is necessary.

I use the phrase "new beginning" because I hope there is not any question as to whether the Peace Corps should continue to exist. I know of no other organization which better represents the spirit which the Carter administration is trying to create in its relations with the rest of the world, or which has generated more goodwill and understanding in our foreign relations. The central question before us is how can the Peace Corps be revitalized most effectively, to take more into account the needs of the relatively least developed areas of the world, while retaining the same spirit which inspired the creation of the Peace Corps.

When the Peace Corps was first formed, emphasis was placed on promoting voluntary action among Americans to work abroad in a variety of programs. These programs were aimed primarily at enhancing international goodwill and mutual understanding. Over the years, this mandate was weakened substantially due to the increasing politicization and bureaucratization of the Peace Corps, culminating in its incorporation into ACTION. Ironically, as the Peace Corps was facing virtual extinction primarily because of political pressure exerted under previous administrations, the Agency for International Development was given new life through the "new directions" legislation, which incorporated many key concepts already developed by the Peace Corps in its work.

I believe that major priority should now be given by the Peace Corps to the unique role it can play in reducing human poverty and misery, and promoting equity in human development, particularly in the least developed countries of the world. This means much more emphasis and attention will have to be placed on recruitment and training of volunteers. Likewise, Peace Corps field offices will have to be strengthened considerably to provide more technical and material assistance to volunteers, and help volunteers substantially improve their performance in training host country counterparts. Peace Corps volunteers should no longer be automatically regarded as de facto host government employees. Gone are the days when Peace Corps can send English teachers to areas where the central concern is having enough food to eat, or supplying volunteers to work at universities in central cities when there are no schools, much less teachers, for the majority of the population living in rural areas.

My call for a new beginning for the Peace Corps raises important questions concerning the best organizational arrangement for encouraging and effectively harnessing the creative energies and talents of Americans working abroad which the Peace Corps is seeking to foster. While I am wary of placing trust in some kind of "organizational fix", frankly it is difficult to justify the present organizational arrangement of having Peace Corps within ACTION which was originally designed to de-emphasize Peace Corps' programs and erode its identity. Is Peace Corps within ACTION credible as a non-political entity when budget levels and several essential programs under control chiefs of domestic operations are still established largely by OMB and Peace Corps programs are determined by appointees subject to the political guidance of those who happen to be in power? Is a Peace Corps within ACTION viable when it has taken over seven months simply to nominate a new director, at great expense to program development and support?

Thus far, I have not been impressed with the reasons set forth by Mr. Brown for keeping Peace Corps within ACTION. First, the formidable challenges which confront Peace Corps volunteers working on the village level in impoverished areas of foreign countries are fundamentally different in several respects from those faced by volunteers in the U.S. Second, it has been my impression that in most instances Peace Corps credibility has been damaged not so much because other countries felt that Peace Corps was not involved with problems of poverty and human development in the U.S., but because either the Peace Corps could not adequately perform the tasks it was committed to undertake due to inadequate support to the field, of sloppy programming, or because the Peace Corps was perceived simply as an extension of the U.S. foreign policy establishment. Third, an autonomous Peace Corps would not in itself prevent a high degree of interchange between domestic and international development programs. Former PCV's would still be eligible to work in VISTA and vice versa. Finally, the gains in efficiency through centralized services thus far have not been very noteworthy. To the contrary, these "services" seem to have led to an extremely cumbersome recruitment and personnel system, and discouraged a process by which more support could be delegated to field staff.

In short, Peace Corps' mandate should be strengthened, and its important programs revitalized so that it is once again a uniquely vibrant and creative expression of "the best that is in us", particularly in the way the U.S. relates to the needs of the least developed countries. My comments are designed to provide a constructive stimulus for discussion. We need to address some very difficult questions concerning the future of the Peace Corps and I look forward to learning the views of our witnesses on this matter during the course of these hearings.

SOCIAL SECURITY CHOICES

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. CONABLE. Mr. Speaker, earlier this month the minority leader, Mr. RHODES, joined me and the four Republican members of the Social Security Subcommittee of the Ways and Means Committee in presenting a comprehensive 15-point proposal for social security reform. That package includes provisions to restore the system's financial stability, to remove the longstanding inequities in the system—especially those pertaining to women—to adjust the system to changing American lifestyles and to move closer toward truly universal coverage.

Any major changes in the social security program are controversial, but this proposal has received considerable favorable notice as a comprehensive plan to deal realistically with the long-term problems. I would like to submit three

more editorials, from the New Orleans States-Item, the Chattanooga Times, and the Miami Herald commenting on the proposals. In view of the serious problems confronting the social security system, I would urge that all Members give serious consideration to these editorials:

[From the New Orleans States-Item, Sept. 15, 1977]

SOCIAL SECURITY CHOICES

Congressional Republicans' plan to overhaul the Social Security system seems more realistic than proposals advanced by President Carter and congressional Democrats.

The system is faced with two critical problems. In the short term, its reserves are in danger of depletion. Over the long haul, the system faces a deficit running into the trillions of dollars.

Mr. Carter has proposed shifting money from the General Fund and raising taxes to deal with Social Security's problems. The General Fund proposal has encountered stiff opposition in Congress, as well it should, and the Carter plan appears to be getting nowhere.

A plan offered by Rep. Al Ullman, Oregon Democrat, also would increase the rate of the payroll tax paid by employers and employes. Mr. Ullman also has proposed increasing the maximum wage base on which the Social Security tax is levied by $500 a year for each of the next five years. This would be in addition to the automatic increases now in the law.

The Democrats would ease Social Security pressures in the short term without addressing the incredible deficit, which lies ahead. Current workers, who would be taxed more, would have no real assurance that the system would be solvent when they retire.

The Republican plan tackles major causes of funds depletion: The drain of early retirement on the system, which removes funds faster than they can be restored, and the double indexing of future benefits based on both wage rates and inflation.

The Republicans would increase the source of funds by bringing federal employe pensions under Social Security. They would raise the age for maximum benefits from 65 to 68, but on a graduated scale, beginning in 1990. And they would index benefit increases to inflation only.

Federal workers and those affected by the increase in retirement age will not be happy with the Republican plan. Yet the plan really goes to the core of the Social Security problem. Such hard and uncomfortable choices will have to be made if the system is to become solid again and avoid bankruptcy.

[From the Chattanooga Times, Sept. 19, 1977]

SOCIAL SECURITY: NEEDED CHANGES

Few would argue that the nation's Social Security program is in trouble. The number of persons to whom it pays out benefits is increasing, unemployment and other factors have reduced its income and it is obvious the system cannot continue to absorb more annual deficits.

The government estimates that Social Security payments will exceed revenues by $5.6 billion this year, compared to deficits of $3.2 billion and $1.2 billion for 1976 and 1975, respectively.

If this continues, with no changes in income or benefit levels, the Old Age, Survivors and Disability Insurance (OASDI) trust funds will be depleted; the disability funds could run out by 1979, followed by the retirement and survivors trust fund in 1983.

The Carter Administration has proposed higher employer payroll taxes and the transfer of income tax funds to the system (during periods of high unemployment) for the years 1978–82. On a longer term, the administration would require employers to pay the Social Security tax on each employe's full salary; the latter would pay only on the preset salary base.

Even though some portions of the system are funded from general income taxes, we're leery of expanding the idea. Wide-scale use of Treasury funds for the system would alter it fundamentally, destroying the key concept that benefits are an "earned right." Worse, an "easy" access to general revenue would leave congressmen wide open to pressure to increase benefits, the type of pressure they have been notoriously unable to withstand in other areas.

Similarly, removing the salary ceiling on employers could boomerang by forcing them to cut back on other fringe benefits for their employes.

To rescue the Social Security program, Congress either has to increase the amount being paid in, or reduce the benefits. In this regard, the plan offered by House Republicans, a portion of which has already been approved by a subcommittee, is attractive.

The GOP alternative would make Social Security practically an universal retirement system by including employes of nonprofit corporations as well as government workers. Obviously the latter will fight the proposal. But the GOP plan would stop the present practice of allowing civil servants to retire early, work outside government for five years and then collect a Civil Service pension and a relatively generous Social Security pension.

Further, it would, beginning in 1990, raise the age for retirement with full benefits at age 68 instead of the present 65—but in gradual steps. Earlier retirement would be permitted but with reduced benefits.

Republicans and Democrats are agreed that correction of a faulty inflation adjustment in 1972 is necessary. Under this method, Congress "indexed" the Social Security system to provide adjustments for cost-of-living and inflation automatically. Benefits for persons already retired in 1972 is based simply on increases in the consumer price index; for those currently at work, however, their future retirement benefits are adjusted twice. Because wages—and the payroll tax wage base—will rise to keep pace with inflation, today's workers will be entitled to higher Social Security benefits since they will have higher average earnings at retirement. Thus, their benefits will be computed from a formula already adjusted for price increases.

If the "decoupling" is not accomplished, future Social Security costs could mushroom dramatically—depending on changes in wages and prices; because of the overadjustment, Social Security benefits in some cases could even exceed workers' pre-retirement wages.

With the present multi-billion deficit in the government's regular budget, it is foolish to cure the woes of Social Security with a transfer of income tax funds. The system's "pay-as-you-go" premise can be maintained—but not without some fundamental changes that must be made soon.

[From the Miami Herald, September 19, 1977]

EQUALIZING THE BURDEN

Commerce Secretary Juanita Kreps lofted a trial ballon last month when she suggested the way to solve the money crunch for the (Social Security) system was to raise the retirement age from 65 to 68. That didn't seem to go over very well, but the Republicans in Congress are saying it is not a bad idea if you take it gradually and put off the effective date until 1990 and then take 10 years to inch the retirement age to 68.

That would limit the sharpest protest to the group under 40 and not many people in that age bracket are going to worry about what happens in the year 2000. They have more pressing problems with mortgage payments and kids who aren't learning anything in school.

We doubt the jump to age 68 for retirement will go far in Congress during the Carter years, but we would like to see serious thought given to a parallel Republican recommendation that Soical Security benefit increases be tied more closely to inflation and not, as it is today, double hinged to inflation and wage rates. That has pushed pension benefits up faster than they should have gone, though a lot of senior citizens are sure to tell us they are barely getting by on what they receive.

The basic problem, of course, is the federal government itself which hasn't the political courage to deal with inflation. It is easier to increase retirement benefits and that takes no courage at all.

Another portion of the GOP pension package that intrigues us is the recommendation that the federal retirement program be folded into Social Security. It used to be when federal wages were so low that retirement after 20 or 30 years was considered a fair exchange. But that is no longer true.

Many middle-management federal employes do better than counterparts in the private sector. They get out after 20 years, collect generous retirement benefits and then go back to work to earn another pension. You've heard of "double dipping?"

If this is a good idea for federal employes, then why not fold state and municipal workers into the Social Security system? Here in Miami, we have seen examples of public employe pensions that go far beyond what private employes can hope for even at age 65.

And have you heard that Mayor Abe Beame of New York, defeated for a second term after a career in city government, will retire at $64,000 a year? That's $4,000 more than he has been making.

STEEL CRISIS

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. MOLLOHAN. Mr. Speaker, this Nation is confronted by one of the most serious challenges to our entire economic structure since the Arab oil embargo of 1973. In the long term, it can be even more devastating. I refer, of course, to the crisis in the American steel industry caused by a multiple of factors. Wheeling, W. Va., is a "steel city." Harry Hamm, the editor of its leading newspaper, the News-Register, has stated the situation in clear and unmistakable words. I invite the attention of all my congressional colleagues to his editorial of September 25, 1977:

HOMEFRONT NEGLECT

The nation's steel industry is facing a major crisis today with plants closing, layoffs spreading like wildfire and whole communities and regions facing serious economic setbacks.

Youngstown Sheet and Tube Company's announcement last week that it was laying off 5,000 workers came as a real shocker pointing up in a dramatic fashion the problems faced by one of the nation's most basic industries—steel.

The Youngstown cutbacks are the severest to date, but they are by no means an isolated incident. U.S. Steel and Inland have laid off some 4,000 workers in the Chicago area. Bethlehem Steel announced furloughing 3,500 em-

ployees at its Lackawanna, N.Y., plant. Other operations at its Johnstown, Pa., facilities also are being restricted. Jones & Laughlin has dismissed personnel in its research and engineering staffs and Armco last week revealed cutbacks.

In our own area, Weirton Steel has released some 160 workers and the exact number of persons who have lost their jobs with Wheeling-Pittsburgh Steel in what the firm calls a cost-cutting program is open to speculation. Last week U.S. Stamping at Moundsville announced it will shut down its plant in December after 75 years of operation with 300 employees told to find other work.

Cheap steel imports, coupled with stringent government environmental requirements and a slack demand from major steel markets have combined to cause havoc in the steel industry. In July, steel imports accounted for nearly 19 percent of the nation's steel supply—the highest percentage to date. Through the first seven months, the nation's trade deficit in steel mill products stood at nearly $2.2 billion.

A week ago, the American Iron and Steel Institute reported that the industry poured only 2.28 million tons of steel in the week ended Sept. 17, down 0.5 percent from the previous week, meaning the industry was putting to use only 74.9 percent of its total capability.

Total steel output so far this year is 89.75 million tons, down 4.7 percent from the 94.14 million tons poured through Sept. 17, 1976.

Despite these grim statistics, President Carter told a group of worried Senators last week that he sees no immediate need to grant the steel industry's demands for more restraints on foreign imports.

President Carter's reaction to steel's problems is not surprising. Ever since the end of World War II, America's Presidents have been preoccupied with foreign affairs with the result that problems on the homefront often were neglected.

This country's international economic policies under successive administrations, Republican and Democrat, have shown undue favoritism to foreign producers of goods. Presidents and Secretaries of State were prone to use economic favors to persuade foreign countries to adopt policies they believed were beneficial to U.S. foreign policy objectives, many of which were open to question.

Today we are paying for these misdirected policies with thousands of American workers being forced to join the ranks of the unemployed because of unfair foreign trade competition. Steel especially is feeling the pinch although the textile industry is hurting for the same reason.

Even now when the crisis in the American steel industry seems obvious to everyone, President Carter's chief trade negotiator, Robert Strauss, seems to place a higher priority on foreign trade interests than on unemployment at home. Even though there is ample evidence of dumping in the steel industry by the Japanese, Strauss has discouraged U.S. steel companies from seeking justice in the courts. He has told them their efforts to fight unfair competition would be harmful to world trade. Isn't it time our leaders began looking after their own people?

Government officials take the attitude that our steel companies failed to modernize and keep up with their Japanese counterparts. The truth is that while the Japanese Central Bank was arranging for the Japanese steel industry to receive massive loans through large city banks, the government in this country was milking the lifeblood capital from the U.S. steel industry with income taxes alone 419 percent greater than paid by Japanese firms.

Thomas Gorman, president of the Al Tech Speciality Steel Corporation, says that while the Japanese nation was doing everything in its power to create capital for its steel industry, our nation was doing everything in its power to restrict "our industry's growth and its ability to create capital. In many cases, these programs, which had the guise of other more 'noble' causes restricted capital formation by raising taxes, controlling prices or creating more costly government regulations on the industry."

I find it hard to understand at a time when unemployment in the United States hovers close to the 7 percent mark, with millions of workers unable to find employment, our government continues to show undue favoritism to foreign producers of goods. Such favoritism continues to work to the extreme disadvantage of American industry and to the workers which American firms employ. I find it incredible that the administration would continue to permit expansion of foreign imports at a time when this same administration bemoans the nation's high rate of unemployment.

Somewhere in Washington there must be men and women in high government positions with the courage to stand up for America and insist that steps be taken to curb unfair foreign competition that results in state-supported industries dumping their excess production in this country at prices often less than that at which they could sell the goods for a profit in their own countries.

Surely it is time for the administration to consider tax incentives for capital improvements so that would allow our industries to compete with those modern facilities overseas built as a result of massive U.S. assistance. Congress too must take a stand by enacting laws that assure American industry that no unfair competition will be permitted to flourish in this country at the expense of our own workers.

I cannot accept the attitude taken by The New York Times in addressing the steel crisis, when that newspaper concluded, that American steelworkers should be content to discard their jobs on the trash heap because the "burden of protecting the industry from unpleasant realities would be too great."

In response to the position taken by The Times, Mr. Gorman, president of a specialty steel company, who I quoted above says this kind of talk is not only monstrous but immoral. He correctly points out that the "unpleasant reality that should be faced is that it is our total national economy which is competing, not the steel industry alone."

It is discouraging indeed to hear our Senators and Representatives in Washington cry protectionism when the American steel industry even suggests remedies used by the Japanese to protect and expand their own industry. Japan enjoyed all-out unrestricted growth of its industry and especially steel because of the protection of its domestic markets from foreign competition.

For thirty years the United States has poured out $140 billion in foreign aid around the globe. The reconstruction of Japan and Europe in the postwar period was made possible primarily because of U.S. dollars freely given to those countries. It is time to look homeward before all is lost.

RICHARD CLARK ASSOCIATES: 20 YEARS OF ACCOMPLISHMENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. RANGEL. Mr. Speaker, this year Richard Clark Associates, minority group recruiting specialists, is celebrating their 20th anniversary of being in business. I would like to honor them for the record today for these years of aiding in the advancement of minority employment.

Through their efforts, thousands of talented people have found executive jobs and hundreds of companies have been helped to tap the great neglected human potential of black college graduates.

In 1957, Richard V. Clark founded the Hallmark Employment Agency which moved to the Rockefeller Center complex in 1962. In 1964. Richard Clark Associates was established. In June of the same year the first minority group Job Opportunity Center was created. This was in the days when it was a rare occasion to see a black executive.

Well that is changed now. Pushed by the law, prodded by their consciences, and doggedly following their own self-interest in hiring qualified talent, many big corporations are now anxious to hire black executives. Often the problem lies in a system that helps corporate personnel people, in letting blacks know what jobs are available, and in bringing the two together.

Looking back we can all see and appreciate the amount and quality of progress made by Richard Clark Associates. The blacks of America are just now beginning to realize their own potential and are also developing the self-confidence needed to adapt to the mainstream of prosperous American living.

Before concluding this statement, I would like to show you some results of this company's efforts in tangible terms. In June of this year the recruiting weekend produced 180 engineers, 150 MBA's, 80 chemists, 75 systems and programing specialists, and a host of other skilled people. Four out of five will have had work experience, the rest were new graduates. All were available for job interviews with major corporations drawn from the Fortune 500.

I am proud to see this great record and I hope you all will appreciate this great work also.

PHILADELPHIA STATE HOSPITAL PAYS TRIBUTE TO FATHER RICHARD FLEMING, FIRST CATHOLIC CHAPLAIN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. EILBERG. Mr. Speaker, my very good friend, Father Richard J. Fleming, recently was honored by staff members of the Philadelphia State Hospital, where for nearly 20 years he served as its first Catholic chaplain. The hospital is located in the Fourth District of Pennsylvania, which I am privileged to serve in the House of Representatives.

A very fine article on the tribute paid to Father Fleming, and on his years of

selfless service to the mentally disturbed, appeared in the September 22, 1977, issue of the Catholic Standard and Times, the very fine weekly publication of the Archdiocese of Philadelphia. Out of genuine respect for Father Fleming and the work which he has done, it is a personal privilege and pleasure for me to place this article in the CONGRESSIONAL RECORD:

FATHER RICHARD J. FLEMING—STATE HOSPITAL HONORS FIRST CATHOLIC CHAPLAIN

Father Richard J. Fleming, first full-time Catholic Chaplain at a State psychiatric hospital in Pennsylvania, will be honored on Sept. 23 by staff members of Philadelphia State Hospital.

Father Fleming, earlier this summer, was transferred by the Archdiocese to become pastor of St. Charles Borromeo Church, 1731 Hulmville Rd., Cornwells Heights. He was the original head of the Catholic Chaplaincy at Philadelphia State Hospital, Byberry, having joined the staff in 1958. At that time the hospital's population was overcrowded with well over 7,000 patients.

When Father Fleming started at the hospital, the religious affiliation—whether Catholic, Protestant or Jewish—was unknown for most of the patients. Father Fleming enlisted the help of 15 volunteers to determine the religious faith of all for whom the information could be obtained. This information was recorded on the patient's medical records. During his first four years at Byberry, Father Fleming served without pay from the Commonwealth.

Father Fleming in his 19 years service to the hospital brought a warmth and geniality to patients and staff alike. He knew the patients by name and addressed each one personally. In 1960, the annual patients' Communion Breakfast was established under his guidance by Mrs. Frances Kochut, R.N., who also established the Sacred Heart Guild at the hospital to raise funds for the program. The innovation of these Sunday breakfasts in a large restaurant in the community for patients after attending Mass was a milestone since large groups of psychiatric patients had never been taken outside the institution for a program.

In 1960, when one of the cottages in a group at the south end of the grounds was being converted from a residence to the Catholic chapel and offices, later named Kennedy Hall, Father Fleming personally helped in the manual work. In July 1961, Cardinal Krol dedicated the chapel to St. Dymphna, the patron saint of the mentally ill.

Father Fleming was graduated from St. Charles Seminary, Overbrook, and ordained in 1946. He has been a member of the Association of Mental Health Chaplains since 1959 and is accredited as a Teaching Chaplain by the National Catholic Welfare Conference. He is also a member in the National Association of Catholic Chaplains, the Pennsylvania Hospital Chaplains Association and the Catholic Chaplains of Pennsylvania Hospitals & Schools. He served for several years as chairman of the Planning Committee for Institutional Chaplains on a State-wide basis.

HERE WE GO AGAIN

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. BARNARD. Mr. Speaker, the people of this country are painfully aware that social security system is in desperate financial straits.

They are apprehensive, because we are at a point of no return. Within the foreseeable future, the system will go bankrupt if major action is not taken.

The responsibility for overhauling social security rests squarely on the shoulders of Congress. My colleague from Georgia (Mr. LEVITAS) was on record 2 years ago as urging a head-to-toe revision to put the system on a sound financial footing. I commend him and join him in that desire. I request that an editorial from the Atlanta Journal and Constitution which addresses this problem be printed in the RECORD as an extension of my remarks:

HERE WE GO AGAIN

How long ago was it that Rep. Elliott Levitas of Georgia's Fourth District proposed to the U.S. House of Representatives that the Social Security System be revamped and placed on a sound financial basis

He proposed it during his first term in the House. He's now in his second term. And we seem no closer to finding a solution to the mess that characterizes Social Security.

What brings it to mind is that Congress continues to deal with the Social Security System in the same makeshift manner that has been the norm since the system was born. It's the same concept of papering over the holes, of painting over the cracks, of being unwilling to face reality.

Demonstrating a remarkable lack of imagination and a total absence of courage, a House subcommittee has voted to increase the tax base on which Social Security taxes are paid by individuals and by businesses. This would then be followed by increasing the rate of tax paid by individuals and by businesses.

Rather than following the Levitas idea of taking a good hard look at Social Security and coming up with a revamp, the House subcommittee is taking the easy way out by doing what has been done by all its predecessors. The House members are moving toward imposing substantially heavier Social Security taxes on individuals and businesses in a typical makeshift approach.

After all, members of the House don't pay Social Security taxes. So it's no skin off their respective noses.

This makeshift approach is nothing more than an abdication of responsibility by members of the House. We urge Rep. Levitas to renew his compaign to bring reason and logic to the Social Security morass.

SENATOR STEVENS SPEAKS ON MILITARY SERVICE

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DAN DANIEL. Mr. Speaker, last week Senator TED STEVENS of Alaska served as keynote speaker for the annual meeting of the American Logistics Association here in Washington.

As most Members of the Congress are well aware, Senator STEVENS has labored long and hard in the interest of the men and women who serve in the Nation's Armed Forces.

Senator STEVENS lays out plainly the actions which have been taken and contemplated which would make military service even less attractive than it is, but it sums matters up completely in his remarks that since 1973, the cumulative impact of benefit erosion has been to reduce military personnel's real purchasing power by 6.3 percent.

In my judgment, we can all benefit from a study of Senator STEVENS' statement, and I respectfully insert it in the RECORD at this time:

ADDRESS BY SENATOR TED STEVENS

Thanks for the generous introduction and warm reception. I'm honored to be here. I know this invitation reflects your recognition of my efforts on behalf of military benefits. But we all know what we're up against.

Since 1973, we've witnessed erosion in medical and champus benefits; the regular re-enlistment bonus; travel pay upon re-enlistment; superior performance pay; terminal leave payments; sick pay exclusions; G.I. bill benefits, the airman education and commissioning programs.

This litany could go on. But you know the list as well as I do. The cumulative impact has been to reduce military personnel's real purchasing power by 6.3 percent during a period when the non-military sector's purchasing power has increased 6.5 percent.

In not keeping its commitments to the military, Congress has all too often proved to be a summer soldier and sunshine patriot. Its record demonstrates, once again, the simple truth of that old verse:

"Our God and soldiers alike we adore
At the brink of danger; but not before:
After deliverance both alike requited,
Our God's forgotten, and our soldiers
Slighted."

In peacetime, with foreign policy focusing on detente and inflation the primary domestice problem, it's easy to forget past priorities and debts. The need to balance the budget takes precedence over all other considerations. All Departments' budgets are subject to renewed scrutiny, and in terms of Defense appropriations, military benefits represent the easy and obvious place to start slashing.

In the FY 1978 Defense appropriations bill, attempts to phase out commissary subsidies for clerk-hires; limit D.O.D. blue collar worker wages; and prohibit dual compensation, exemplify this problem.

As you know, I sponsored amendments to block these actions. We had to go to the floor in all three cases, and we won, by majority vote of the Senate.

The Senate restored the Wage Board amendment by voice-vote; the commissary subsidy by a vote of 59 to 33, and dual compensation by 49 to 46. But even this narrow margin is encouraging.

It shows common sense and common decency can prevail. And while we cannot deny the discouraging trend in erosion of military benefits . . . these recent votes request an encouraging trend in the erosion of anti-defense, military voting.

Given a good case to preserve military benefits—and we have an excellent one—the majority will respond to reason.

The majority supported my amendments because they recognized the proposed actions were unconscionable, unfair, short-sighted, and counter-productive.

It is unconscionable to place the burden for defense budget cuts on those who have committed the best years of their lives to service for their Nation.

It is unfair, particularly in a period of inflation, to reduce the range of benefits which military personnel have counted on when they made their career decisions.

It is short-sighted, for the steady erosion of military benefits will deter recruitment and enlistment in an all-volunteer army. What inducement or incentive exists, if prospective personnel see fringe benefits curtailed and long-term commitments unkept?

It is counter-productive, specifically in the area of the dual compensation prohibition. The net result would have been to deprive the Federal Government of highly qualified personnel.

I don't need to re-hash all the arguments or all the statistics which explained why commissary clerk-hire phase-out, D.O.D. blue collar wage restrictions and dual compensation prohibitions failed, and my amendments prevailed. The point is that Congress recognized a strong peacetime defense depends on a viable, volunteer army. If we do not keep past commitments or provide incentives, inducements and opportunities comparable to and competitive with the non-military public and private sectors, we are not going to be able to sustain this peacetime force.

So what lies ahead? If the past is indeed prologue, what can we anticipate for the future?

Congress, as I have noted, appears to be coming around.

The administration's position is open to question. On the plus side, the President was—for 13 years—a career military man. On the minus side, administration decisions on Defense programs, to date, reflect a tendency to opt for the cheapest—not necessarily wisest—investment.

However, most important, the President has completed appointment of the Military Compensation Commission, and its Chairman, Charles Zwick, in interviews has demonstrated an open mind.

Clearly, revisions in compensations and benefits are inevitable. However, any realignment must respond to the unique situation of the military.

Maintenance of an All-Volunteer Army requires dealing with the issues of comparability and competitiveness in the job market. Specific consideration must be given to these facts:

Military careers presently provide lower lifetime earnings than equivalent civilian positions.

Only 9 percent of enlisted men and 19 percent of officers can expect to achieve retirement eligibility due to the "up and out" policy.

Military retirees must seek post-retirement employment to approximate comparability with the civilian sector's lifetime earnings.

Military employees are subject to hardships and hazards—ranging from weekend duty without overtime to abrupt transfers to remote regions. And while Adak is like home to me, it's a helluva an adjustment for a recruit from South Carolina. Benefits like commissaries are not a convenience in locations like Adak—they're a necessity!

As co-sponsor of Senate bill 274, prohibiting unionization within the Armed Forces, I believe it is incumbent upon Congress to act equitably in the area of salaries and benefits to compensate for this restriction on personal freedom—essential to national security.

Finally, we can't just single out military retirement and cost increases. This situation is applicable to the SST, CSI and private systems. Over the last decade, General Motors—for example—experienced a $500 million increase in pension costs and IBM's costs have increased 500 percent.

Certainly, there is a legitimate concern about the unfunded liability portions of military, SSI and CSI systems. This must be corrected on an across-the-board actuarial basis to protect future generations . . . but.

Military retirement funds cannot be singled out.

Compensation or comparable benefits must be provided to off-set contributions to retirement systems.

If measures and dual compensation are to be phased out they must be replaced by a system which permits retirees to continue to work and increase ultimate, cumulative benefits.

The Presidential Commission on Military Compensation and Congress are challenged to come up with solutions which accomodate all these considerations—and whatever the new programs, they cannot penalize those presently in or retired under the existing system.

As a member of Subcommittees on Defense and Interior Appropriations, I have a perspective of the conflicting claims upon Congress. We are going to have to make realignments. We continue to revise domestic priorities. We must get a handle on inflation. But we must not compromise national security.

All of us are going to have to live with change. All of us are going to have to make some sacrifices. But we all will do better if we approach the situation in a spirit of cooperation and candor.

Specifically, cooperation means the President's Commission. The military, veterans groups, and Congress should work together, in good faith, to develop a compensation system which achieves equitable revision rather than unfair erosion of military benefits.

Candor means clearly explaining to the American people that they have three alternatives so far as military compensation is concerned:

To bear the costs—no matter how high—of All-Volunteer Armed Forces; or

To return to the draft, compulsory military service; or

To live in constant jeopardy due to a physically and mentally depleted military.

There is no other way around this issue. Americans will have to pay or serve or sacrifice national security. And confronted with this choice, I am confident that they will opt to bear the costs for a strong, peacetime, All-Volunteer Army.

Public opinion polls show that Americans' feelings fluctuate on a wide range of issues—we have never waivered in our commitment to national security. We have never wanted to be second in national defense.

And while we have and will continue to change our positions and programs in many areas, Americans have, for two centuries, held constant to Thomas Jefferson's admonition:

"For a people who are free and who mean to remain so, a well organized and armed militia is their best security."

NATIONAL ENERGY ACT—ANSWERING QUESTIONS RELATED TO PUBLIC UTILITY REGULATORY POLICIES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DINGELL. Mr. Speaker, I have received many inquiries both from my colleagues in the House and from concerned citizens related to part V of title I of the National Energy Act as it passed the House, the part which relates to public utility regulatory policies.

It appears that the basis of these inquiries, in large measure, is a result of an organized effort to kill these provisions. I have seen many "letters to stockholders" which, in my view, do more to misinform than to inform the public.

In any event, I feel that the questions raised should be answered so that my colleagues and the public can better understand these important provisions. With the electric utility industry supplying about 10 percent of this Nation's end-use energy while consuming approximately 25 percent of the primary fuel resources and 33 percent of the new private capital annually, improved efficiency in the generation, transmission, and consumption of electric energy is simply too important for any of us to ignore:

Question. Doesn't Part V provide for a federal takeover of regulatory authority traditionally vested in the states?

No. The minimum federal standards prescribed in the legislation as passed by the House are to be implemented by state regulatory agencies and enforced by state courts (with two exceptions as noted below). Even if the federal government determines that the utilities in a state are not in compliance with the legislation, its power is limited to publishing a finding of noncompliance which is then used in the state court. As noted above there are two exceptions to the exclusive reliance on state courts: in cases where the parties have traditionally been able to go to federal courts, such as when one state sues another, or when the state court refuses to handle the matter.

A further precaution taken by the House to avoid a federal "takeover" was to make the Federal Energy Regulatory Commission the agency responsible for oversight rather than the Department of Energy. Thus an adjudicatory agency rather than an advocacy agency will have responsibility for this program.

It should also be noted that there is no federal rulemaking attached to these federal minimum standards (unlike the Administration's proposal) and no federal rate-setting (except where the state abdicates all responsibility).

Question. Doesn't the bill add another regulatory layer full of red tape to an already burdensome process?

No. As described above, existing state and local institutions and procedures are used rather than providing for a federal review of state decisions (as was suggested by the Administration and rejected in the Commerce Committee).

Question. Aren't the minimum standards specified in Part V new, untried, and unsound rate principles which will lead to chaos in ratemaking and unfair pricing?

No. Every minimum standard in the legislation passed by the House is already in effect in one state or another at this time. Furthermore these standards involve basic principles which have been used in industry for years. An example is time of use pricing which has been a cornerstone of ratemaking in the telephone industry (it costs more to make a call during the busy hours of the day than at the slack periods at night) which is only now beginning to be used in the electric utility industry at an unreasonably slow rate. It should be kept in mind that these minimum standards are only broad guidelines which must be implemented by state regulatory agencies only when they find it cost effective to do so.

The charge that these standards will lead to unfair pricing is also without merit. Unfair pricing exists today in varying degrees throughout the country not only because of overt attempts to subsidize one class of customers to the disadvantage of others but also because utilities and the commissions which regulate them have often failed to collect the necessary data to determine which customers or class of customers are causing what costs. A principal element of this legislation is that prices for electric energy be based on the cost of providing service; no more, no less.

Question. Weren't all these provisions added to the Carter energy program at the last moment, going much further than the

Administration's proposals, and why does Congress feel it necessary to legislate here?

The legislation which the Administration sent to Congress earlier this year had provisions not only for regulation of the electric utility industry but also the gas utility industry. While it is true that the legislation suggested by the Administration wasn't as broad in scope as that passed by the House, the Administration's version had a much greater impact on the degree to which the federal government would participate in state ratemaking. Furthermore electric utility regulation has been of great interest recently in Congress as evidenced by the studies and hearings conducted in both the House and the Senate and by Title II of the Energy Conservation and Production Act which passed both bodies and was signed into law in 1976. In preparation for the public utility regulatory provisions of the legislation now being considered before Congress, 1100 pages of testimony from 70 different witnesses representing all segments of the utility industry and the consuming public was heard. In fact, more time was spent on public utility regulatory provisions in hearings and in marking up of the legislation than for any other single section of the National Energy Act for which the Commerce Committee was responsible. The reason that Congress is deeply interested in this subject can be summarized very briefly: the electric utility industry which supplies the nation with about 10 percent of its energy, consumes annually about one-quarter of the primary fuel resources and one-third of the new private capital. This is too important an area for Congress to ignore.

Question. Doesn't the bill provide for certain loopholes for some customers?

Two exceptions to the cost of service principle are included in the bill, one temporary and one ironically due to state's rights. It has always been a basic principle of ratemaking that rates should not only be fair but also predictable and consistent. If a state with rates which were not based on cost of service were suddenly to change its rate structure, certain customers who had made economic decisions based on the old rate schedule (such as buying an electric hot water or converting an industrial process from gas heat to electric heat) might suffer a severe economic shock. Thus there is a provision in the bill for a gradual 5-year changeover in these cases. Furthermore, several states have made the decision to have "lifeline" rates and the Commerce Committee felt, that while it did not necessarily approve of such rates, it would be improper to override these local decisions. Thus states who wish to have such rates may do so but there is no federal mandate to do so.

Question. Does the legislation mandate marginal cost pricing and, if so, why?

The legislation does not mandate any specific costing methodology and says so explicitly in the report to the legislation. There was very convincing testimony given to the Subcommittee on Energy and Power that marginal cost pricing might be appropriate but the final Committee (and House) decision was to leave the choosing of a costing methodolgy in the hands of the states.

Question. Why is there a ban on advertising by utilities?

There is no ban on advertising by utilities; that would be a blatant violation of the First Amendment. There is no doubt, however, that certain classes of advertising, such as political advertising (much like that with which we have recently been inundated) is performed for the benefit of the stockholders of the company and not for the ratepayers. Thus, the legislation provides that in these cases costs of advertising cannot be passed to the ratepayer but must be borne by the stockholders. It should be kept in mind that the costs which we are asking the stockholders to pay are minimal: In 1975 privately owned electric utilities spent approximately $15 million on advertising and had a net income of $6 billion. Thus if all advertising expenses were paid out of net income and not recovered from ratepayers (which we do not advocate) the percentage reduction in net income would have been 0.2 percent or a loss of 1¢ for every $5 of net income.

Question. Doesn't the legislation make it more difficult for electric utilities to get competent people for their boards of directors?

It shouldn't. Existing law already restricts who can serve on the board of directors of a public utility and has done so since the 1930's. No person on the board of a firm authorized to underwrite securities for utilities or a firm which supplies electrical equipment to electric utilities can be on the board of the electric utility unless a waiver is obtained from the Federal Power Commission (FPC). Thus there is a presumption that there is a conflict unless proven otherwise. The present legislation says that members of boards of firms which supply fuel to utilities, which are general types of financial institutions, or which are the 20 largest customers must disclose these positions when they join the board of an electric utility. The FPC can remove them only when they find, in a public hearing, that a conflict of interest exists. Thus the presumption is that no conflict exists unless proven otherwise. This measure certainly shouldn't have any adverse effect on a utility's ability to obtain qualified individuals for its board of directors.

Question. In establishing these minimum standards, why were privately owned utilities covered and not publicly owned ones?

Coverage is not controlled by type of ownership but by size: both privately and publicly owned electric utilities are covered. It happens that most of the large utilities are privately owned (and, therefore, covered) while most of the small ones are publicly owned (and, therefore, not covered). The threshold of coverage for the first seven years is annual sales of 750 million kilowatt-hours per year. This threshold captures about 90 percent of total sales in the nation. After the first seven years the threshold drops to 200 million kilowatt-hours per year which captures 95 percent of total sales. This covers about 400 companies. To capture all sales would involve covering 2,000 more companies to get just 5 percent of the sales. This would clearly involve bureaucratic red tape at its worst. Even with the highest limit of 750 million, many public utilties are covered such as those which serve Los Angeles, Anaheim, and Pasadena, California; Jacksonville and Orlando, Florida; Kansas City, Kansas; Austin, Texas; Seattle and Tacoma, Washington; all of Puerto Rico; and many others.

Question. Why give the FPC authority to order interconnections, wheeling of power, and the takeover of similar management prerogatives?

The reliability and adequacy of electric service is no longer a local or even a statewide question. The massive electrical grid which has evolved, has turned this into a regional and a national question. Often what is best for one utility or one state may not be in the best interest of the entire region. Many times the utilities involved are able to address these problems by themselves without any intervention. However there are instances when a parochial attitude prevents the efficient use of fuel and capital resources within an entire region. The House concluded, therefore, that the FPC should be given anuthority in certain areas. However it made sure that this authority would not be abused by requiring that the FPC, in exercising its powers, would have to determine beforehand that orders for interconnection, wheeling, and the like would be of general benefit to all consumers of the affected region, would not cause financial harm or a decrease in the reliability of service to the consumers of the utility affected by the order, and that the utilities requesting the orders were ready, willing, and able to pay for any capital and operating expenses involved in the order so that the utility subject to the order would be made whole. In no way does this involve a "takeover" of management decision-making prerogatives. It is merely an attempt to communicate to those few managers who do not see any value in cooperating with some of their fellow utilities that there may be larger issues at stake.

Question. Even if the measures set forth in the legislation are needed, won't they lead to increased capital financing problems for an industry already plagued with difficulties in raising capital?

No, the exact opposite is true. There are, indeed, certain portions of the Administration's energy program which will require significant capital expenditures. An example is coal conversion which is estimated to cost the utility industry $40 billion by 1985. However, the same computer model which predicts this increase in capital requirements also predicts that there will be a net capital savings of $55 billion by 1985 due to utility rate reform and conservation (even taking into account added metering expenses and the like). Thus Part V dealing with a public utiltiy regulatory policies not only is a saver of capital resources but provides the capital to support other measures such as coal conversion.

THE FTC AMENDENTS AND CLASS ACTION SUITS—I

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WAXMAN. Mr. Speaker, a vigorous lobbying campaign has been undertaken by corporate interests across the country to strike section 7 of H.R. 3816, the Federal Trade Commission Amendments of 1977. Section 7 provides for citizen suits and other consumer actions to enforce FTC rules prohibiting unfair and deceptive trade practices. This provision is the heart of the legislation. It is designed to give consumers an equitable and effective tool with which they can protect themselves when the FTC is unwilling or unable, due to a lack of resources, to go into court in their behalf.

A number of fallacious arguments have been raised as to the effects this provision would have. It has been contended that consumer class action suits would serve only to enrich attorneys and not to benefit consumers. It is also alleged that class action attorneys would utilize this new opportunity to "blackmail" corporate defendants into settling claims against them.

Both these charges are utterly without merit. In order to refute them fully, I am pleased to insert a memorandum prepared by Beverly C. Moore, Jr., editor of Class Action reports. This is the first of three such memoranda Mr. Moore has prepared on various aspects of this critical legislation. I commend it to my colleagues:

FALLACIOUS ARGUMENT NO. 1: CONSUMER CLASS ACTIONS WOULD SERVE ONLY TO ENRICH ATTORNEYS—NOT TO BENEFIT CONSUMERS

Plaintiff attorneys have long been used as scapegoats to discredit or obscure the deterrent and compensatory benefits of class actions. The truth is that class actions have cut in half the proportion of the monetary recovery consumed by attorney fees. The available data show that attorney fees have accounted for an average 16–17 percent of class action recoveries,[1] compared to 33 percent or more in nonclass litigation such as automobile accident or medical malpractice cases. Thus, 83–84 percent of a class recovery is, in fact, distributed to the members of the class. On its face this performance is superior even to those paragons of distribution efficiency, the modern supermarket or department store, where retail price markups range from 25 to 40 percent.

If attorney fee awards in class actions are considered excessive, that can only be the fault of the judges. For *all* fee awards to the successful attorney for a class are determined by the court. In recent years courts have developed and applied strict standards. The basic consideration is the time spent on the case multiplied by the attorney's noncontingent hourly market rate. The product is then adjusted for contingent risk, quality of performance, benefits conferred, and other factors. Fees are no longer awarded on a percentage basis, although a substantial percentage of the recovery continues to serve as an upper limit regardless of how many hours the attorney may have spent on a case.

It should be noted also that the percentage of a class recovery consumed by fees tends to decline as the size of the recovery increases. This is significant because recoveries in most class actions thus far, and particularly in consumer class actions, have been reduced to a fraction of the actual harm to the class through the requirement that each class member must be identified and located and must ultimately come forward to claim or prove his individual share of the damages. Since H.R. 3816 permits damages to be assessed in the aggregate, based on the actual harm to the class rather than the number of class members who affirmatively submit claims, class recoveries will be substantially larger although the attorney hours necessary to obtain them will remain about the same. Accordingly, the percentage of recoveries consumed by fees in H.R. 3816 class actions is likely to be lower than the traditional 16–17 percent.

To be sure, some attorneys have become wealthy through class action litigation, but at least a few people make a fortune in practically every type of business pursuit. Would the corporate interests who opposed H.R. 3816 be able to live with the limited incomes and incentives they propose for class action plaintiff attorneys? We think not. A fee award of $300,000 or $3 million may seem large, and it is, by class action standards. But such fees are normally just compensation for hundreds or thousands of hours of work by several attorneys over a period of years during which they must forego other, often more profitable legal work and continue to pay their secretaries, office rent, and other substantial overhead. Since such attorneys are paid nothing unless they win, the risk is substantial. Despite the few who have succeeded handsomely, many class action attorneys who have obtained recoveries in a majority of their cases have yet to register an overall profit after five or ten years of litigation.

It may be that lawyers in general make too much money, due in part to various anticompetitive restrictions contained in bar association "ethics" codes. But there is no basis for singling out plaintiff class action attorneys when a solution applicable to the entire profession is called for. In the final analysis, if the earnings of plaintiff class action lawyers are so excessive, why are there so few of them? Why are there several times as many class action defense lawyers—unless defense work is where the big money really is? Why are defense firms manned by 50 or even 200 lawyers, while a "large" plaintiff class action firm may have ten attorneys? Again, the answer is that the earnings of class action defense lawyers exceed those of plaintiff lawyers. In one case a wealthy class action plaintiff attorney, in response to a defense assertion of excessive fees, offered to stipulate that for winning the case he would accept half of what the defense attorneys were paid for losing it.

In sum, H.R. 3816 opponents' contention that class actions merely enrich attorneys is simply defied by all of the available evidence and logic. More than four out of every five dollars recovered does end up in the hands of class members. That large aggregate recoveries can be distributed in small amounts to large numbers of individual consumers has been amply demonstrated by the Antibiotics Antitrust Litigation, where 882,000 households in six western states received refunds averaging $30–$40 for alleged prescription drug price overcharges that had occurred eight to 20 years earlier.[2] The greater benefit for consumers, however, is deterrence of future injuries that effective class action remedies would render unprofitable. Corporate opponents' objective in attacking attorney fees is unmistakeable. By destroying or limiting the incentive for attorneys to prosecute class actions, corporations can escape legal liability for harms perpetrated on the consuming public.

FALLACIOUS ARGUMENT NO. 2: CLASS ACTION ATTORNEYS WOULD BRING "STRIKE SUITS" UNFAIRLY "COERCING" DEFENDANTS INTO SETTLEMENTS UNRELATED TO THE MERITS OF THE PLAINTIFFS' CLAIMS

This is sometimes referred to as the "legalized blackmail" argument. As we shall see, it is really another argument against the class action device per se. Naturally, defendants would rather escape liability to small claimants altogether. The notion here is that a defendant could adequately resist a baseless $10 lawsuit brought by an individual consumer. But when confronted with the aggregation, through a class action, of one million equally baseless $10 claims, defendants complain that they are somehow coerced—perhaps "leveraged" would be the better term—into settling in order to avoid the mere possiblity of a $10 million class judgment.

The short answer to this contention is that its proponents have never identified a single one of these class action "strike suits". If they are so prevalent, giving just one actual example ought not to be overly difficult. Yet in 1972, when the Senate Commerce Committee sent a questionnaire to opposing counsel in over 400 class actions, including 127 defense counsel, asking specifically for examples of frivolous or unmeritorious class suits, not a single such example was forthcoming.[3]

To date there have been two major empirical studies of class action litigation, both of which have investigated this legalized blackmail problem. Both found no evidence whatever that it exists. The first study, conducted for the Senate Commerce Committee by the editors of the Georgetown Law Journal, investigated all class actions filed in the U.S. District Court for the District of Columbia during the 1966–1972 period.[4] Personal interviews with opposing counsel in 64 of these cases "disclosed that no more than a handful [of defense attorneys] would label their opponents' cases as frivolous."

Of more central importance to the legalized blackmail argument is whether defendants actually capitulate to settlement demands in such baseless class actions—or, where the case is not "frivolous", whether defendants are forced to settle for more than its merits would justify. Of the 81 final dispositions of class actions in the Senate Commerce Committee sample, defendants prevailed in 47 cases, or 58 percent. In 44 of those 47 cases, defense victories were obtained by summary judgment, denial of class certification, or other dismissal at a preliminary stage of the litigation. In short, defendants do not capitulate. Whether the plaintiffs' case is strong or weak, defense resistance is consistently vigorous—often protracted. Strike suits simply do not pay, and at least by now practically all class action plantiff attorneys know this to be true.

The other study, a phase of the exhaustive and authoritative American Bar Foundation Class Action Project, painstakingly analyzed all antitrust class and nonclass actions filed in the Northern District of Illinois during fiscal years 1966–1973.[5] Conclusion: "The charge that the costs of defending class actions are so high and the potential liability so great as to force defendants to settle irrespective of the merits of plaintiff's claim finds little support in this district." In fact, the study complained that even "successful" class actions had been able to recover only a fraction of single damages, although the law provides for treble damage recoveries. If there is a "blackmail" aspect to the class action process, it is wielded not by plaintiffs but by defendants who can, even under H.R. 3816, avail themselves of an array of artificial legal doctrines to escape full liability for class harms perpetrated. A survey of the reported decisions does not reveal a single consumer class action in which damages approaching 100 cents on the dollar were recovered.

We do not suggest that class action strike suits have never been filed. A few have been, but they represent a tiny fraction of all class actions. More importantly, strike suits clearly are more frequent in nonclass actions than in class actions—more frequent also in small class actions, where less harm can be done, than in large class actions, where, according to the American Bar Foundation study, defendants' willingness to resist rather than to capitulate corresponds with the amount at stake in the litigation. Occasional strike suits are a characteristic phenomenon of every type of litigation. If the Congress is determined to thwart class action remedies because an even tinier percentage of class than nonclass actions may be "strike suits," then perhaps the desirability of our entire civil legal system should be reconsidered.

It is not surprising that there is no empirical evidence of a legalized blackmail problem, since the basic economics of class action litigation pose severe disincentives for strike suits. Any lawyer filing a class action must be prepared to make a substantial investment. He must be willing, over a course of perhaps five years or more, to sacrifice hundreds or thousands of professional hours, to advance perhaps tens of thousands of dollars for notice and other litigation expenses, and to pay out further sums for office overhead—all down the drain unless he ultimately obtains a class recovery. No attorney in his right mind is going to risk having to make and lose that investment because the defendant will not capitulate to the quick settlement of a baseless claim. To file a class action without a strong case on the merits is irrational economic behavior.

Even if the defendant were to capitulate—and the studies discussed above suggest that this rarely occurs—Rule 23(e) provides further safeguards. Any such "strike settlement" would have to be approved by the court as being fair and adequate for the absent class members. Any fees awarded the plaintiff attorney would be related to the number of hours expended rather than the

Footnotes at end of article.

success in extracting a settlement. And where the settlement fund is relatively modest, being merely a payoff to dispose of the litigation, its size would also be a constraint, since judges are unlikely to award fees consuming more than 30–40 percent of a class recovery regardless of the attorney hours involved. Furthermore, Rule 23(e) prevents the attorney from withdrawing his class claims, settling the claim of the named plaintiff, and privately extracting a fee from the defendant. All such activity is subject to court approval and possible notice to the absent class members.[6]

Strike suits are far more likely to occur in nonclass actions, not only because there is no mandatory judicial scrutiny of settlement and fee payments but also because the "nuisance value" of avoiding further defense costs may exceed the amount even of a meritorious nonclass claim. For example, if an individual plaintiff has a $100 claim, a defendant may be well advised to pay it rather than to incur thousands of dollars of billings from its own attorneys. When confronted with a potential $10 million class claim, however, it is extremely unlikely that the cost of defending will exceed or even approach the value of the claim itself. In that situation the defendant's primary motivation for settling is not "nuisance value" but the fear of being held liable for $10 million. The settlement amount will be somewhat less than $10 million, since it represents a compromise based upon both sides uncertain assessments of the outcome at trial. This is not "coercion"; it is simply the normal settlement process.

It is necessary to make this point because drug companies who were defendants in the epic *Antibiotics* antitrust litigation have been circulating the argument that they were "blackmailed" into a series of settlements totaling $213 million, "of which $42 million [19.7 percent] was awarded in attorney fees,"[7] in order to avoid "the possibilities of protracted litigation in the public eye."[8] Although we do not know what these drug companies' defense costs were, the suggestion that they were willing to pay out $213 million to avoid such costs is absurd on its face. Obviously, the payments of $213 million, representing a modest fraction of the asserted single damages, were made to avoid the possibility that the court or jury would impose a far greater liability, exceeding $1 billion, and that this judgment would be supported by sufficient evidence to be upheld on appeal. That the defendants' willingness to settle for $213 million was based not on "coercion" but on their perceived probability of a greater liability at trial is amply demonstrated by a single fact. When the state of North Carolina held out for more, the defendants did not capitulate to "blackmail". They went to trial—and won.[9]

Finally, it must be emphasized that the proper standard for evaluating the blackmail "leverage" of a class claim is to compare it with a nonclass claim of the same magnitude. As the Ninth Circuit observed in *Blackie* v. *Barrack*:

"Precisely the same power to coerce a settlement . . . is wielded by any [individual or corporate] plaintiff with a substantial claim. . . . [W]e have no means of deciding whether the present hue and cry of "blackmail" in fact represents an abnormally high incidence of unfairly coerced settlements, or is rather the pained outcry of defendants whose previously advantaged litigating position has been undermined, and who must now confront small claimants (who have been given the capacity to exert pressure proportionate to the magnitude of the total injury occasioned by defendants' alleged violation of the law) on more equal grounds."[10]

When viewed in the context of a nonclass claim of equal magnitude, the class action consistently has less leverage potential. The reason why is quite simple. In the nonclass action, all plantiff parties are by definition already before the court, and if there is a recovery they will definitely receive it. In a class action, no one except the named plaintiffs is before the court until and unless the court allows the case to proceed as a class action. In a substantial proportion of the cases class status is denied on grounds having nothing to do with whether a class exists that has suffered a real injury adjudicable on a classwide basis. That will continue to be so under H.R. 3816, although its aggregate class damage remedy ensures a full recovery where class status is granted and the planitiffs have the evidence to prevail on the merits.

A further consideration is the usually substantial imbalance of litigation resources between the small claim class plantiff and the defendant corporation. A nonclass plaintiff with a substantial claim is more likely to have substantial resources to prosecute it. Indeed, the real danger of "strike settlements" in the class action context comes from the ability of well financed defendants to engage in protracted litigation which depletes the plaintiff's resources and coerces an inadequate class settlement.

FOOTNOTES

[1] See data presented at 3 *Class Action Rep.* 51 n. 77, 162 (1974).

[2] *See* Lebedoff, "Operation Money Back," 4 *Class Action Rep.* 147–168, 228–241 (1975).

[3] *See* data on file with Senate Commerce Comm.; Senate Commerce Comm., *Staff Review of Class Action Legislation*, 92d Cong., 2d Sess. (1972).

[4] Note, "The Rule 23(b)(3) Class Action: An Empirical Study," 62 *Geo. L.J.* 1123 (1974).

[5] DuVal, "The Class Action as an Antitrust Enforcement Device: The Chicago Experience," 1976 *A.B.F. Res. J.* 1021–1106, 1273–1358.

[6] *See, e.g.*, Magana v. Platzer Shipyard, Inc., 14 FEP Cases 561 (S.D. Tex. 1977).

[7] This fee percentage is somewhat higher than the 16–17 percent average for two legitimate reasons. First the *Antibiotics* litigation consisted not of a single case but of a series of cases involving different subclasses and geographic regions. The litigation was highly protracted, spanning a ten year period, involving dozens of attorneys and thousands of hours of their time on both sides. Second, relatively high fees were awarded the plaintiff attorneys because they were the first to obtain a recovery of this magnitude in the history of legal institutions.

[8] This suggested adverse publicity factor can be quickly dismissed, since most members of the public have no idea which corporations are being sued for what. Indeed, at any point in time, most large corporations are being sued for something.

[9] The attorneys representing North Carolina presented little evidence of their own. They merely submitted the transcripts and records from prior government prosecutions. The jury returned a verdict for the defendants.

[10] 524 F. 2d 891 (9th Cir. 1975).

Footnotes at end of article.

NEUTRON BOMB

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WEISS. Mr. Speaker, I would like to share the following letters supporting the amendment I will move to H.R. 6566—the ERDA National Security Authorization—deleting all funds for the neutron bomb. I strongly urge my colleagues to examine the views expressed in these letters for their valuable advice.

In addition to these two organizations, the following groups support the amendment: The United Auto Workers, the Americans for Democratic Action, New Directions, the Coalition for a New Foreign and Military Policy, the New Democratic Coalition, the Women's Strike for Peace, and the Women's League for Peace and Freedom.

Twenty-four Members of the House have joined me in introducing this amendment: Representatives HERMAN BADILLO, BERKLEY BEDELL, WILLIAM BRODHEAD, JOHN BURTON, JOHN CONYERS, RON DELLUMS, ROBERT DRINAN, ROBERT EDGAR, DON EDWARDS, DAN GLICKMAN, ELIZABETH HOLTZMAN, ROBERT KASTENMEIER, PETER KOSTMAYER, ANDREW MAGUIRE, EDWARD MARKEY, BARBARA MIKULSKI, GEORGE MILLER, PARREN MITCHELL, RICHARD NOLAN, RICHARD OTTINGER, LEON PANETTA, FRED RICHMOND, FORTNEY, "PETE" STARK, and HENRY WAXMAN.

The material follows:

SEPTEMBER 26, 1977.

DEAR MEMBER OF CONGRESS: Congressman Weiss' amendment to delete funds for enhanced radiation warheads will be on the House floor on Wednesday. SANE urges you to vote in favor of this amendment, for we believe the neutron bomb is an unnecessary and dangerous weapon.

It is unnecessary because our seven thousand tactical nuclear weapons already deployed in Europe present enough of a risk to deter Soviet invasion. Alleged Soviet fearlessness in the face of currently deployed weapons is a Pentagon fabrication with no parallel in reality.

The neutron bomb is dangerous because the Soviets will react by developing one of their own. In a period of tension, each side would be motivated to launch an attack in order to preempt the other side's likely use of neutron weapons. The military standoff in Europe would become more unstable.

If a war were to occur (no deterrent can guarantee that it will not) and neutron bombs were used according to plan, the result would almost certainly be escalation of the conflict to a nuclear world war.

While leaving negotiating tables intact, the neutron bomb would damage American arms control efforts. It would hamper attempts to conclude a comprehensive test ban treaty. It would signal American disinterest in a Mutual Force Reductions agreement. It would, by adding to the forward-based systems problem, make the arms reductions we seek in SALT more difficult to negotiate. And it would worsen the prospects for controlling nuclear proliferation by setting the wrong example for other nations.

SANE believes that a neutron bomb deployment will be viewed in retrospect as a very unfortunate mistake. Your support of the Weiss amendment can help the United States avoid this error.

Sincerely,

VICTOR LLOYD,
Administrative Director.
PAUL R. BENNETT,
Staff Associate.

SEPTEMBER 26, 1977.

DEAR REPRESENTATIVE: NETWORK endorses the Weiss amendment to HR 6566, the ERDA National Security Authorization. This amendment prohibits funds for production, procurement or deployment of any en-

hanced radiation weapon or for research, development, test or evaluation of same.

Granted there are persuasive military arguments on both sides and religious groups cannot be briefed on the highly sensitive and technical material with which you are familiar, still we felt we wanted to communicate our deep concerns to you.

We pose two questions which we feel are serious because they probe the moral implications behind a decision to proceed with the neutron bomb:

"Will the choice to go ahead with the enhanced radiation weapon increase the likelihood of nuclear weapons use in the future?

"Are the federal dollars best spent in this area?"

With the information we have, we urge you to choose to stop this weapon.

Some of the arguments which we have found persuasive are:

"The neutron weapon is designed to be used in a package; therefore there is comparable damage to existing weapons in Europe.

"European leaders are not urging it.

"Other nations in the future may follow our example or even purchase these warheads from us."

However, the main arguments are our answers to the above questions. Since property has been valued over human life by many nations down through history, we sense such a weapon could, in the hands of some decision makers in the future, be deployed. To the second question our experience with people in rural and urban poverty areas in this country leads us to urge the government to spend money instead on health, housing, and most of all full employment programs.

Peace,

Sr. CAROL COSTON, O.P.,
Executive Director.

INABILITY OF PUBLIC EMPLOYMENT AGENCIES TO HELP UNEMPLOYED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. STARK. Mr. Speaker, today I received a letter from a constituent that illustrates the plight of our welfare population with poignant simplicity. The writer is 40 years old, black, and a woman. She is a trained accountant, yet cannot find any employment, either through her own efforts, or through the services provided by the CETA and WIN programs. She comes to the conclusion, and I must say rightfully so, that she is on welfare because she is 40, black, divorced, and the mother of a 7-year-old child.

She eloquently recounts her experiences with the public employment agencies, and their inability to even provide her with a semblance of assistance. It would be advisable for us all to read her letter very carefully, before we plunge into a massive reform of the welfare system. This woman is a living example of the myths of welfare that Secretary Califano is so fond of stressing. She is healthy, able to work, trained, yet there simply are not any jobs for her. The welfare reform proposal does give jobs to recipients, but her doubts as to the effectiveness of the jobs programs, as they are currently administered, must be ameliorated before we create another huge, but impotent, bureaucracy.

I think that the most important thing that we must keep in mind, during this debate on welfare policy, is that we are talking about people's lives. The numbers, statistics, and policies are all meaningless, unless we listen to the people, how they view the system, and whether our noble efforts are truly helping those who need the help. The text of her letter follows:

FORTNEY H. STARK,
Congress Of The United States,
House Of Representatives,
Washington, D.C.

DEAR PETE: Well here I am again. I read with interest, some understanding and very much confusion about your new role with the President's Welfare Reform Law. It's amazing and wonderful to think that most or all people on Welfare will have a job! A job that will pay at least $3600.00 a year!! Finally after many years of struggle the AFDC program and the Food Stamp program will be separate components! Is this letter confusing? Well it is because I am confused.

Well now why do I of all people have the sudden interest in Welfare!! I have this interest because now for the first time in my life I am a welfare recipient. Why! Everywhere I have gone in this city of Oakland has refused me a job. Why? I have come to this conclusion—personal—I am black, 40, divorced and the mother of a seven year old son. My second conclusion—the systems in which the cities, counties and states of this great nation are designed to keep persons on welfare. The stigma that is attached to a welfare recipient is inescapable. The myth is ridiculous!! I am enclosing this article from the September issue of the Reader's Digest as condensed from the Washington Post. An article by Joseph A. Califano, Jr.

Let me tell you what I have been through for the last six months. Five of those months I refused to go to welfare to seek help. I was above such and would not stoop so low. Finally out of desperation I went to seek help. I was unable to get a job thru the various companies and corporations. I enrolled in the WIN program and in the CETA program with the Urban League. (WIN/E.D.D. State of California) Surely I would be guaranteed a job through one of these programs. I am poor. I meet the requirements. Instead of meeting hope in these programs I met apathy. Apathy was evident in all the interviewers of all the programs I went through. Here I am a person on Welfare who wants to get off and I am told day after day call us, come back keep trying surely something will turn up.

In desperation one of the employees of the "state" told me to write my congressman. The programs WIN and CETA are not really meeting the needs of poor people who want to work. I have found that the employed persons of these programs only have a job. It is their job to see as many as possible and do the necessary work the state wants. To them its just a job and no more. They are not allowed to show any empathy to the people whom they serve. To most perhaps this is the best job they have had in their lives and certainly they aren't going to do anything to jeopardize their job. Federal funds and State funds are fed into these programs. The only good that the Federal and State funds do is to see that the employees of the programs have good jobs.

Pete, I am on welfare, not because I want to be. I am here because there was no other source to turn to. I love to work. I am good at what I do. I am an accountant and have been for more than twenty (20) years. Suddenly for the first time in my life I can't find work. More than that I have not been granted the luxury of an interview.

Now back to WIN AND CETA. People are human beings. Most people want to work. What happens if you have a system that is designed to keep people from working. Now take a look at the kind of jobs that come through to WIN and CETA. Clerk jobs low paying, part-time, unskilled, jobs that want people in their twenties, jobs that require only one (1) or two (2) years experience. When you are interviewed by one of the program interviewers they know that you have experience that exceed the requirements for a particular job. They are kind enough to tell you. Now you find yourself unable to get a job through WIN or CETA. What's next? I have asked myself this question over and over. I am in good health and I have many working years left and I cannot find a job! What am I going to do? Am I going to remain on welfare for the rest of my life? Must I take a job that is beneath my requirements (providing that I can secure such a job)? What am I going to do?? Now everything seems dark and hopeless. I say to you Congressman Stark that there can be no Welfare reform in this country until there is some reform in these federally funded programs. The programs should be set up to meet the needs of the people of this country and not gather names and numbers for information on the unemployed in this country.

I am not on welfare because I want to be. I am on welfare because I am black, 40, divorced and the mother of a seven year old son!

STEEL INDUSTRY BLAMED FOR ITS WOES

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. REGULA. Mr. Speaker, I would like like to share a recent newspaper article from the Cleveland Plain Dealer with my colleagues. As you know, last week members and representatives of 63 House offices met to establish the steel caucus. Those of us who heard Ambassador Robert Strauss testify before the Subcommittee on Trade were distressed to learn that there is no policy to deal with the current steel crisis. I am hopeful the Congress and the administration can work together to come up with some positive solutions, rather than assessing blame as their article appears to do.

[From the Plain Dealer, September 26, 1977]

STEEL INDUSTRY BLAMED FOR ITS WOES

YOUNGSTOWN.—Some top Carter administration officials claim the steel industry created its own problems, and argue that the government should not rescue marginal steel plants like those in the Mahoning Valley.

Interviews with several administration officials indicate the feeling in Washington is that the steel industry created its crisis by paying too high wages and refusing to modernize, according to a copyrighted story in the Youngstown Vindicator yesterday.

"To raise their wages as much as they have in the face of an economic recession simply shows insufficient regard for the status of the market," said William D. Nordhaus, of the White House Council of Economic Advisers.

"The industry is in a 10-foot hole and it dug five feet of it by itself," Nordhaus was quoted as saying. "We cannot afford to compromise national economic expansion to bring it up."

While expressing sympathy for the plight

of communities hit by steel industry cutbacks, administration policy-makers say the federal government's job is to act in the nation's interests, not the interests of individual communities.

"By propping up an inefficient industry in inefficient ways on the one hand you alleviate some human misery. But, on the other hand, you engender a low standard of living for workers and consumers in the long run," Nordhaus said. "The federal government is not in the business of telling industry not to shut down, when to shut down or where to shut down. Those are industry decisions in this country, and it's only natural that it should begin with marginal facilities."

"We know Youngstown Sheet & Tube, Wheeling-Pittsburgh and Alan Wood Steel are in sad shape, but that's a private sector problem," said Richard W. Heimlich, assistant special ambassador for trade. "Unless there's something specifically illegal going on in the trade area, the way our system works, it's up to the steel industry."

A White House adviser on economic affairs was quoted as saying tax reforms expected to be compiled by mid-October "are almost certain to help the steel industry but only if it decides to modernize."

Two other officials anticipated the Labor Department will designate the Mahoning Valley a trade impact area. That would qualify Sheet & Tube's 5,000 displaced workers for additional unemployment benefits, the newspaper said.

"We know 5,000 people lost their jobs," Heimlich said. "How much of it was due to imports and how much of it was due to inflation of costs? There's a lot more to the Youngstown situation than imports."

OCTOBER IS "FIRE SAFETY MONTH" IN HAMILTON COUNTY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. LUKEN. Mr. Speaker, the month of October has been proclaimed "Fire Safety Month" in Hamilton County, Ohio, by the South Western Ohio Fire Safety Officers Association. The purpose of this proclamation is to expand the activities of "Fire Prevention Week" to a full month and help the public learn how to prevent fires, burns, and loss of life due to fire.

Mr. Speaker, I bring this citation to the attention of my colleagues in the hope that they will see fit to follow suit in their own Districts.

Fire prevention and control in this country is alarmingly lax. The United States has the highest per capita loss of life and property damage due to fire of any industrialized nation in the world.

The Subcommittee on Consumer Protection and Finance has just completed the second day of hearings on my bill, H.R. 7684, which calls for a study to be conducted by the Department of Commerce on the advisability of Federal fire standards. I introduced this legislation in the wake of the Beverly Hills Supper Club fire which occurred May 28, 1977, in Southgate, Ky. This tragic fire took the lives of 164 persons. Mr. Speaker, the subcommittee found at its hearing last week that the building which housed this supper club was rampant with fire code violations, and its patrons became the victims of this neglect.

We must educate the public on fire prevention and control in their own homes as well as what to look for in places of public assembly in case of a fire.

The only mechanism we now have is education, training, and proper enforcement of existing regulations to overcome the horror and tragedy which fire presents.

It is my belief that we should investigate the possibility of enhancement of the Federal role in fire prevention and control. Until such an investigation is complete, I call your attention to "Fire Safety Month" in Hamilton County, Ohio, and urge all Members of Congress to initiate similar efforts in their home towns and counties to educate constituents of the programs and training which is available on fire safety and prevention.

THE FTC AMENDMENTS AND CLASS ACTION SUITS—II

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WAXMAN. Mr. Speaker, business opponents of section 7 of H.R. 3816, the Federal Trade Commission Amendments of 1977, have seriously misrepresented the provisions in this legislation regarding first, notification of consumers affected by pending litigation, and second, the award of damages, to the extent where their constitutionality has been questioned. The Subcommittee on Consumer Protection and Finance and its chairman, Representative BOB ECKHARDT of Texas, have taken great pains to carefully craft a class action policy that is not only fully consistent with due process requirements of the Constitution but is scrupulously fair as well.

Beverley C. Moore, Jr., editor of Class Action Reports, has prepared a careful and thoughtful review of the constitutional issues raised by this provision. I am pleased to insert it in the RECORD for the benefit of my colleagues:

I. CONSTITUTIONAL CONSIDERATIONS—NOTICE AND "FLUID RECOVERY"

Among the arguments that business opponents have made against § 7 of H.R. 2816 is the following:

The class action section calls for a "streamlined" procedure of class action suits, by allowing limited notice to class members, cost of notice allocation to defendants before trial, and the "fluid recovery" concept of damages. This "streamlined" procedure was rejected by the Supreme Court in 1973 (see Eisen, 417 U.S. 156) as unconstitutional in that it did not provide defendants due process of law. To allow this "streamlined" procedure is not good substantive or procedural law.

This is quite a surprising contention because, as its authors surely knew when they made this statement, the Supreme Court's Eisen decision did not in any way rule upon the "streamlined" class action procedure, the "fluid recovery", or any constitutional issues whatever. Eisen held only that Rule 23 of the Federal Rules of Civil Procedure—the rule governing class action procedures—requires that the named plaintiff give individual notice of the pendency of a class action to all class members who are identifiable with reasonable effort. Since "[t]he usual rule is that a plaintiff must initially bear the cost of notice", that cost (over $315,000 in the Eisen case) could not be shifted to the defendants.

Furthermore, the procedure adopted by the district judge for allocating part of the cost of notice to the defendant—a "mini-trial" on the merits to determine which side probably would win in the end—contravened the basic Rule 23 policy that any decision on the merits must come after rather than before the decision on whether the case can proceed as a class action.

In short, the Eisen decision is nothing more than a literal interpretation of what the language of Rule 23(c)(2) means. "[W]e find the notice requirements of Rule 23 to be dispositive of petitioner's attempt to maintain the class action as presently defined", since petitioner was unable to bear the cost. "We therefore have no occasion to consider whether the Court of Appeals correctly resolved the issues of manageability and fluid class recovery"—i.e., the constitutional and "streamlined" class action issues. The Supreme Court vacated the appeals court decision on these matters.

Rule 23 is not a constitutional provision. It is merely a rule promulgated by the Supreme Court in 1966 to govern class action procedures in the federal courts. The authorization for the Supreme Court to promulgate such rules is contained in the Rules Enabling Act and is subject both to Congressional veto of proposed rules and to Congressional legislation to change existing rules or interpretations with which Congress disagrees. The opponents' blatant distortion of Eisen raises serious questions about the credibility of arguments against this legislation. Certainly constitutional objections to § 7 may be raised by its opponents, but to tell this Committee that the Supreme Court has already sustained those objections smacks of a deliberate attempt to deceive.

SHIFTING NOTICE COSTS TO THE DEFENDANT

One such constitutional objection relates to the provision allowing the court to shift part or all of the cost of notice to the defendant. It has been suggested that the effect of this provision would be a taking of property without due process. Where the defendant ultimately won the case, it would be unable to recover its notice costs from the plaintiff, whose inability to bear those costs initially precipitated their being shifted to the defendant.

The first point to be made in response is that the bill provides only for a fraction of the notice costs to be shifted, proportionate to the likelihood that the plaintiff ultimately will win the case, at which point notice and other costs would be taxable against the losing defendant under existing law. Thus, all of the notice costs can be shifted only if the court finds a 100 percent probability that the defendant will lose. What the probability actually is would be determined by a preliminary hearing into the merits of the case.

Eisen referred to this procedure as being analogous to that for obtaining a preliminary injunction, which obviously is not unconstitutional though the defendant may sometimes prevail in the end and may have suffered unrecoverable losses in the interim. Many examples could be given of costs, such as compliance with discovery demands, that either party to a lawsuit must bear with little hope of recoupment. As in most such instances, shifting notice costs to the probable loser is justified as necessary for the probable winner to avoid the even greater loss of not being able to proceed with the suit.

In any event, shifting notice costs to a defendant will very rarely occur. The bill's

major thrust is to limit the extent, and thus the expense, of the notice that the plaintiff is required to give. For classes ranging in size into the ten thousands, the plaintiff (or in reality his attorney) will ordinarily be able to give individual notice to all identifiable class members. At least that has been the experience in post-Eisen federal class action litigation. Accordingly, in perhaps a majority of class actions that would be brought under H.R. 3816, the bill does not necessarily mandate departures from Eisen notice requirements.

In the larger class actions, those with more than 40 or 50 thousand identifiable class members, the plaintiff's resources may be inadequate for giving personal notice to all class members. The bill then directs the court to weigh the interests of class members in receiving personal notice of the lawsuit's pendency against their interest in having the suit go forward in their behalf. What this will mean, in practice, is that where the potential recovery of each class members is relatively small, the court may tailor the notice to the plaintiff's pocketbook, by limiting individual notice to some fraction or sample of the class and providing notice by publication or other means calculated to reach at least some of the class members not receiving personal notice.

Because of these options, shifting notice costs to the defendant need be considered only where (1) the class is so large that the plaintiff (or his attorney) cannot afford the cost of personal notice and (2) the personal stake of each class member is so large that individual notice would be required as a matter of due process. Normally in a large consumer class action individual claims are small, not large. Thus it is conceivable that the need to shift notice costs to a defendant will never arise. It has not yet arisen in California, New York, or New Jersey, where statutes or court rules authorize notice cost shifting. The comparable provision in H.R. 3816 should therefore be viewed as a measure to ensure justice in the extraordinary case.

GIVING PERSONAL NOTICE TO LESS THAN ALL OF THE REASONABLY IDENTIFIABLE CLASS MEMBERS

It has been argued that Eisen required individual notice to all class members because the Court viewed the Rule 23 notice provisions as incorporating the requirements of constitutional due process. This interpretation is foreclosed by the subsequent decision in Sosna v. Iowa. There the Supreme Court observed that the Eisen notice requirements apply to Rule 23(b)(3) class actions for damages but not to Rule 23(b)(2) class actions seeking injunctive or declaratory relief. Since the due process interests of class members in receiving notice may be of equal magnitude in either type of case, Eisen must be viewed merely as a construction of what type of notice the language of Rule 23 itself requires.

It must be kept in mind that the notice at issue here is not the notice that there has been a damage recovery—come get your money. This notice merely advises class members that there is a lawsuit pending in their behalf. If they do nothing in response to the notice they are included in the class. Otherwise, the notice advises that any class member may "opt out"—which few do because of the prohibitive cost of bringing individual suits—or he may come into the class action with his own attorney.

The due process concerns relate solely to this latter function of eliciting the participation of class members who may more adequately represent the interests of the class than the initial plaintiff. For example, the Mullane decision mentioned by the Supreme Court in Eisen was a case in which the party representing the class members had interests clearly adverse to theirs. Furthermore, the class was small and personal rather than publication notice could have been given at mininmal cost. Where the size of the class and the expense of giving personal notice to all members is large, notice to a statistically valid sample of the class is just as likely to ensure the coming forward of adequate class representatives as is notice to the entire class. Requiring more extensive notice than necessary to guarantee adequate representation provides no further benefits to the class.

Due process, a reasonableness concept, surely cannot require an essentially worthless notice effort the expense of which, by preventing the suit from going forward at all, would destroy the very rights of class members that notice to a sample of the class is designed to protect. H.R. 3816 merely adopts the position that personal notice need not be given to all class members if its cost would be prohibitive—a position already taken by such States as California, New York, New Jersey, Florida, and Nebraska and by the drafters of the Uniform Class Actions Act.

THE "FLUID RECOVERY" CONCEPT

The district court in Eisen, finding that it would be prohibitively expensive to compute and distribute small damage awards to millions of individual class members who had paid allegedly inflated brokerage commissions on odd lot securities transactions, determined to use the unclaimed damage funds to reduce the commission rates paid by future securities purchasers. Since many class members were likely to purchase odd lot securities in the future, at least those persons would be compensated for the prior overcharges through the subsidized commission rates.

This type of remedy is commonly known as the "fluid recovery." H.R. 3816 makes no specific reference to the term, but does provide that class damages are to be assessed in the aggregate, as computed by statistical or sampling techniques, with any portion of the recovery remaining after payments to individual claimants to be disposed of as the court in its discretion directs. Presumably the fluid recovery would be one of several distribution alternatives, another being escheat to the federal treasury. The method actually selected would depend upon which would most benefit the actual class members, the costs involved, the nature and composition of the class, etc.

In any case, the overriding objective is to disgorge the defendant of all of its illegal gains, regardless of how many individual class members can be identified, located, and persuaded to submit their personal claims for damages. Only in this manner can the class action remedy achieve its primary objective of deterring violations of FTC rules and orders. Only in this manner can the class action achieve its secondary objective of compensating injured consumers, since without the aggregate class damage fund the plaintiff may lack the resources to carry out an effective program for locating the class members and distributing damage payments to them. Without the aggregate class damage remedy, defendants would continue to escape substantial proportions of deserved damage liabilities for proven harm to consumer classes.

As noted previously, the Supreme Court did not reach the fluid recovery issue in Eisen, but the Second Circuit did. Two of the three appellate judges concluded that the fluid recovery was not authorized by Rule 23, if authorized would in any event violate the defandant's constitutional due process rights, and was generally "illegal, inadmissible as a solution of the manageability problems of class actions and wholly improper."

The only policy reason given for these conclusions was a reference to the allegations of some class action defense attorneys that the large recoveries of actual and proven damages that the fluid recovery would facilitate could be used as leverage to coerce defendants into settling class claims regardless of their merits. This "legalized blackmail" argument, which has been discredited by all of the available empirical evidence, is not even theoretically tenable. See the analysis contained in the H.R. 3816 Memorandum of Congress Watch distributed to the members of this Committe. Otherwise, the Second Circuit's ruling on constitutionality consists of a bare conclusion, unsupported by any reasoning or analysis whatever. The Ninth Circuit and a few district courts have reached the same conclusion, citing the Second Circuit, but again falling to explain how assessing class damages in the aggregate violates a defendant's due process rights.

The overwhelming majority of academic and other independent legal commentators have disagreed with the Second Circuit. It is difficult indeed to discern how a defendant is prejudiced by being held liable on a class-wide basis for an aggregate amount which is no more than the sum of its liabilities to individual class members were it feasible and cost effective to bring each and every one of them before the court. A guilty defendant has no legitimate interest in what is done with its damage payments. If the aggregate class damage remedy and fluid recovery are unconstitutional, then so are the Parens Patriae antitrust provisions enacted last year; so are stockholder derivative suits, since at least some of the stockholders benefiting from a corporate recovery were not stockholders at the time of the corporate injury; so are Federal Energy Administration price rollback orders.

Ironically, after concluding that the fluid recovery would be unconstitutional, the Second Circuit then invited Congress to address the problem. "If penalties are to be imposed upon wrongdoers, at least let the Congress decide how the money is to be spent." This logic is unfathomable. If the aggregate class damage remedy is unconstitutional, Congress cannot by statute make it constitutional. On the other hand, if Congress can authorize this remedy, then certainly it can delegate enforcement to the private sector. It can hardly be questioned that Congress has virtually unlimited constitutional authority to impose almost any civil penalty for harmful economic conduct, however arbitrary the amount may be in relation to the harm and regardless of whether the victims are given notice or are allowed to share the penalty as compensation for their injuries. In that context H.R. 3816, which equates the "penalty" with the actual and proven damage to the class, and which provides for reasonable notice and an opportunity for individual class members to obtain compensation for their losses, is not only constitutional but is also sound as a matter of policy.

II. FTC rules and orders are so vaguely worded that private enforcement would lead to nonuniform judicial interpretations

More specifically, the argument is as follows:

Current TRR's and FTC rules are drawn with a view towards keeping open flexible enforcement options, not with a view of defining wrongs for which consumers will have per se redress. To this end, TRR's are broadly written—and therefore subject to a myriad of judicial opinions. If enforcement of TRR's is left to the creative ingenuity of counsel for class action plaintiffs, muddled interpretations can be expected and the concept of uniform interpretation of the law will almost certainly be lost. To avoid this, FTC orders should be enforced by the FTC, as they presumably have an idea of what was in their mind when the orders were written.

This contention, it should be noted, applies equally to class and nonclass actions. It is an attack on the advisability of any private cause of action for violation of FTC rules.

FTC rules are pictured as "flexible enforcement options" whose actual meanings are "presumably" known only to the FTC.

It is unclear whether this means that the FTC can decide that practically any act or practice violates the language of some rule and is therefore subject to arbitrary $10,000 per day penalties, or that the FTC has arranged for itself the "flexibility" to enforce the rules of its choosing and to ignore violations of other rules, as long as the agency claims to exercise this discretion uniformly and consistently against all violators.

Either situation should be intolerable to business interests, who should welcome potential private class action liabilities as a potent argument to persuade the FTC to incorporate more specificity into its rules. After all, both trade regulation rules and cease and desist orders (which are usually consent decrees) ate the product of negotiation between the FTC and the industry or firm. It is likely that corporations accede to such purportedly broad language mainly because they know that the FTC lacks the resources to detect and litigate sanctions against most violations and therefore must limit its compliance efforts to the most obvious or blatant violations. We can be sure that when faced with the more abundant resources of the private sector, corporations and industries would make sure that they understood the violations of FTC rules and orders that could subject them to class action liabilities.

The basic problem with the opponents' argument, however, is that most FTC rules and orders are far more specific than most of the statutory provisions under which corporations have traditionally been amenable to private lawsuits—not to mention the far more imponderable risks of the marketplace which corporations must face daily. If Congress were to accept this argument as to broad language, the long ago enacted private causes of action under the antitrust, securities, and employment discrimination laws which give rise to most federal class action litigation would not be enacted if voted upon today. Yet each of these areas illustrates patterns of dual public/private enforcement which, if anything, have increased rather than decreased the uniformity of judicial interpretation, a consequence mainly of the large body of legal precedent that private enforcement has generated. No significant legal conflicts have developed through competition between private enforcers and the Antitrust Division/FTC, SEC, or EEOC.

For the litmus test of whether private enforcement would be dysfunctional to FTC enforcement, we need only observe that the FTC itself favors the H.R. 3816 private class action provisions. The jealousy with which government bureaucracies guard their domains from intrusions by outsiders is well known. It is curious that the business interests opposing this legislation are so protective of a government regulatory monopoly which, when left to its own devices, they are so eager to condemn.

III. PRIVATE CLASS ACTION REMEDIES ARE NOT NEEDED

Specifically: Under the Magnuson-Moss Act (the FTC improvement Act of 1975), the FTC is given authorization to file civil actions "to redress injury to consumers" for knowingly dishonest or fraudulent violations **of clearly defined prohibitions, including** monetary refunds and damage payments. . . . The FTC should be given a chance to exercise its new authorities—and an evaluation of this exercise should be made—before enactment of new class action type legislation.

After more than two years of exercising "its new authorities", the FTC has obtained "consumer redress" in less than two dozen cases. Monetary relief is seriously sought in a rather tiny minority of prosecutions. They tend to be cases in which the injured consumers are easily identifiable and their damages easily computable on an individual basis.

It is not necessary to suggest that this performance is inconsistent with the best of motives and effort on the part of the FTC. After all, the Magnuson-Moss Act does not grant the FTC the critical aggregate class damage remedy. Furthermore, the agency's redress powers are somewhat constrained by the defense that "we didn't mean to do it"—a defense which the defendant's everyday marketplace, unlike the legal system, seldom recognizes, and for good reason.

More importantly, the FTC could not possibly detect and prosecute even an ideal consumer class remedy against every violator of any rule or order unless the size of the FTC were expanded to Pentagon proportions. Is that what the opponents of this legislation really want when they argue for exclusive FTC remedies? Or does the business community really fear harnessing the superior entrepreneurial virtues of the capitalist system—i.e., private class action enforcement—to reduce harmful byproducts of that very system?

CONSIDERATION FOR THE TEXTILE KNITWEAR INDUSTRY AND WORKERS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. McGUIRE. Mr. Speaker, America's negotiating team recently returned from Geneva where 85 percent of the participating countries agreed to renew the multifiber arrangement (MFA) on December 15. Our negotiators were unable during these talks to reduce the present 6 percent growth rate of imports to one closer to the 3 percent of our own textile market. We must now rely on individual bilateral negotiations to aline import growth closer with the growth of the domestic industry. Many such bilaterals will be renegotiated before the year's end.

Hundreds of thousands of American textile and apparel jobs will be seriously affected by these renegotiations. Unchecked import growth will mean loss of jobs and loss in gross national product.

I am especially concerned about the fate of the many mills and suppliers involved in the textile and apparel industry in New Jersey. Particularly hard hit have been the companies and employees engaged in the knitwear industry. There are over 13,000 people employed in the knitted outerwear industry in New Jersey, many of whom work and reside in my district.

While the entire textile industry has suffered from the astronomical growth of textile imports over the last several years, no segment of the textile industry has suffered as severely as the manufacturing of knitted outerwear. In 1976, knitted outerwear faced over 50-percent market penetration from imports, as the market share of imports in the knitwear industry grew 5 percent from 1975 to 1976 alone. The textile deficit for 1976 was $2.59 billion, but of this total knitted outerwear accounted for $1.29 billion. Thus, although the knitted outerwear segment of the textile industry employs 5 percent of the total labor force in the textile industry, it had to absorb over 50 percent of the entire textile deficit.

Over 300 knitting companies have been forced out of business due to rising imports over the last year. An estimated 60 yarn-dyeing plants which supplied the industry have also succumbed, despite the existence of measures which are designed to prevent this dislocation. The net effect has been an exportation of jobs from the United States to other countries with wage levels and working conditions that are intolerable by American standards.

U.S. knitting mills are the most efficient in the world. But their margin of efficiency cannot be great enough to overcome the gap between foreign and domestic labor conditions. About 90 percent of all imports of sweaters come from three low wage countries: Taiwan, Hong Kong, and Korea. Their imports have not only destroyed job opportunities in the knitting industry, but also in the supply trades. I must ask how we can expect our own companies to compete successfully with foreign manufacturers who pay wages which are so low as to be illegal in the United States.

Recognizing the dangers of protectionism in international trade and this country's traditional and important commitment to furthering the cause of tariff and quota reductions, I am a firm believer in the merits of free trade. However, I must note that it is one thing to espouse the merits of free trade, but it is something quite different when our trading partners overseas play the game under different rules.

Government negotiations will soon be returning to Geneva to undertake further multilateral trade negotiations as part of the Tokyo round. Despite previous assurances that textiles would not be included in the forthcoming tariff negotiations, it seems not only that they will be discussed but that cuts can be expected. It is difficult to understand how U.S. tariffs on textiles and apparel can be cut when imports of these items increased 34 percent in 1976.

Because only 18 countries are participants in the MFA and because the MFA and bilateral agreements negotiated thus far allow imports to grow at more than twice the present growth rate of the domestic industry, textile tariffs cannot be reduced. These bilaterals, indeed, were negotiated in light of the present tariffs. With the bilaterals almost concluded, it would be unfair to the domestic textile industry to remove these tariffs now. The lowering of these tariffs would induce the growth of imports to reach the limit of growth for every category of textiles and would encourage those exporting nations which are not participants in the MFA to increase their exportation of textiles to the United States at an even faster rate. The tariffs must be retained against the kind of unrestrained imports which today threaten to destroy the American textile industry.

OIL CORPORATIONS AND THE FOREIGN TAX CREDIT: TIME FOR A CHANGE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DRINAN. Mr. Speaker, the Internal Revenue Service in the very near future will issue long-awaited guidelines regarding the use of the foreign tax credit by U.S. oil corporations with operations abroad. This regulation, anticipated in October, will have a profound effect on the revenues collected by the U.S. Government from oil companies.

The oil companies have avoided billions in taxes by the use of the oil tax credit; 1976 losses were estimated at $1.2 billion. The oil companies are able to avoid paying these taxes because the huge per barrel taxes levied against them by the oil producing nations are still considered income taxes, rather than royalty payments, by the IRS.

So long as this situation continues, the oil companies can subtract $1 of taxes owed to the United States for every dollar paid in "taxes" to foreign nations. The result, of course, is that some petroleum giants pay as little as 3 or 4 percent of their income to the United States in the form of taxes. Meanwhile, the oil producing nations have reaped a multibillion dollar windfall. Many have characterized the U.S. tax treatment of oil company income earned abroad as "hidden foreign assistance" to the oil producing nations. It would seem more appropriate that we direct such assistance to needy nations, rather than to countries such as Saudi Arabia and Kuwait, which enjoy the highest per capita standards of living in the world.

There is substantial evidence that the Department of State and the Treasury put pressure on the IRS to treat these payments as income taxes rather than royalties. In 1955, the State Department and lawyers for some of the oil giants worked with the Saudi Arabian Government to draft a tax code which would permit such action. The State Department and National Security Council strongly urged that the taxes all go to the oil producing nations, many of whom were felt to be vulnerable to Communist takeover. In 1955, the IRS in a landmark revenue ruling, reversed its position and permitted the oil giants to credit all taxes paid abroad against taxes owed in the United States. They have been taking advantage of it ever since, to the tune of more than $16 billion of U.S. taxes. At present, the huge petroleum corporations account for an astonishing 70 percent of annual tax dollars foregone due to the foreign tax credit.

The massive price increases of recent years, all of them on a straight per barrel basis with no direct relation to income earned, make even less credible the fiction that these payments are income taxes rather than royalties. Now, the Internal Revenue Service and Treasury Department are finally in the process of reviewing this matter.

In connection with that review, the Subcommittee on Commerce, Consumer, and Monetary Affairs of the Committee on Government Operations, of which I am a member, is conducting hearings into Treasury and IRS action, or the lack of it, in this regard. Under the able leadership of the subcommittee chairman, Representative BENJAMIN S. ROSENTHAL, we will seek to determine what factors have been taken into account in the formulation of U.S. policy in this area and what factors are now being considered as the review proceeds through several stages.

This issue is a complex one, but it is most important in terms of the nature and direction of U.S. tax policy. The current issue of People and Taxes, published by Public Citizen, contains an excellent summary of the history and present status of the use of the foreign tax credit by oil corporations with substantial operations abroad. The article, by Mr. Robert McIntyre, is entitled "Oil Foreign Credits Under Attack."

I commend Mr. McIntyre's summary to my colleagues:

OIL COMPANIES' FOREIGN CREDITS UNDER ATTACK

(By Robert McIntyre)

Long after the price of oil has sextupled and Arab countries have become among the richest in the world, the U.S. Treasury continues to provide foreign aid to Arab countries and subsidies to the multinational oil companies through the tax system.

The primary form of the tax subsidy involves the foreign tax credit. Designed to avoid "double taxation," the foreign tax credit provides that U.S. residents need pay U.S. taxes on their foreign income only to the extent that foreign rates are lower than U.S. rates. For multinational corporations, this means that where foreign taxes are 48% or more no U.S. tax is due. If the foreign rate were, say, 30% then the U.S. would pick up the 18% remaining (48%—30%=18%).

The foreign tax credit is only applicable to foreign *income* taxes. Other assessments, such as sales taxes, are treated as normal business expenses and are *deductable* from gross income, rather than creditable against tax. The difference is significant. For example, suppose U.S.-based Atlantic Corp. has $100 in before-tax income in Luxembourg and it has paid Luxembourg $40 in tax. If the $40 is an *income* tax, then Atlantic's U.S. tax liability is only $8. (U.S. tax of 48% of $100 or $48, minus foreign tax credit of $40, equals $8.) If Luxembourg's tax is *not* an income tax, then Atlantic owes the U.S. Treasury $29 [48% × ($100—$40)], more than three times as much.

A DISTINCTION WITH A DIFFERENCE

The distinction between a foreign income tax and other taxes is not always crystal clear, but it does make sense. Non-income taxes, such as sales or excise taxes, do not have much of an effect on profits, since they can be passed on to consumers in the form of higher prices. Income taxes, on the other hand, do reduce profits, and from the U.S.'s point of view 48% is enough for a company to have to bear.

The hardest distinctions arise when the foreign country imposing a "tax" is also the seller of the product a company markets. This is exactly the situation which the multinational oil companies are involved in. One not uncommon scenario was recently described by the London Economist (the United Kingdom has a foreign tax credit system similar to the U.S.'s): "Imagine the Sheikhdom of Petrolia has nationalized its oil, but wishes to pay Gigantic Oil Ltd. for managing Petrolia's oilfields. The going rate is 20 cents a barrel. But in a spirit of friendly compromise, the Sheikh pays Gigantic a notional 40 cents a barrel, applies the standard Petrolian corporations tax of 50% to that, and actually hands over 20 cents a barrel. This makes no difference to Petrolia, but Gigantic Oil has 20 cents of tax credit to reduce its British corporation tax."

The result is that Gigantic, instead of paying a British tax of 50% on its 20 cent profit, pays nothing, since its British tax on its nominal 40 cent profit is wiped out by the phony 20 cent "foreign tax credit."

Another typical gimmick involves using a "posted price" several dollars below the market price, the difference being a paper profit on which a "tax" is assessed. For example, Exxon might buy oil from Saudi Arabia at $8 per barrel and then sell to one of its own subsidiaries, or to someone else at $12. They would then pay a tax of, say, $2 on the $4 "profit," giving Saudi Arabia a total of $10 for the barrel of oil.

But the $10 per barrel would just about match the selling price that the Saudi's wanted from the start, and the company would have a $2 "tax credit" to use for lowering its U.S. taxes.

The basic idea behind all these schemes (and there are many more) is to assure the oil producing countries of a fixed return per barrel, while at the same time maximizing the foreign tax credits available to the multinational oil companies. For example, the Petroleum Intelligence Weekly described the OPEC pricing system announced on December 13, 1975, as establishing the rule that "the average 'government take' per barrel of oil would be $10.12. This $10.12 could be made up of any combination of "taxes," royalties, "buy back payments," or other payments, "so long as these various elements always total $10.12 per barrel."

Since the price charged by the Arabs for the oil is fixed and has nothing to do with the oil company's actual profits, it is fairly clear that the Arab "tax" is really a royalty, and certainly not an income tax. Nevertheless, oil companies operating under similar schemes will accumulate $17.6 billion in foreign tax credits in 1977, and will thereby pay virtually nothing in U.S. taxes.

FOREIGN POLICY VERSUS TAX POLICY

Why does the Treasury allow this to happen? The answer to this question is not a simple one. It is rooted in foreign policy considerations which go back at least 50 years, and which crystalized into the current approach in the mid-1950s.

Beginning in the 1920s, the U.S. government actively encouraged U.S. companies to gain access to and control over foreign oil. These efforts culminated in 1956 with an IRS ruling that "taxes" paid by oil companies to Saudi Arabia would be treated as "income taxes" for purposes of the foreign tax credit. This ruling, which was instigated by the State Department, was intended as a back door method of foreign aid. In essence, tax payments which would otherwise have gone to the U.S. were diverted to the Saudis—as they raised their taxes, the U.S. Treasury would collect less. Direct aid was unfeasible at the time, due to the recent Arab-Israeli war. Following the initial ruling, similar allowances were made for other oil producing countries. In addition, other governments, such as Britain and France, made similar credit allowances so that their companies would not be disadvantaged.

There is some evidence that at the time of the original ruling, the Saudis did, in fact, impose what might reasonably be called an income tax. This situation did not last long, however. Within a few years the Arab tax systems had been changed so that they demanded a fixed return per barrel of oil. The foreign policy rationale remained in effect, however, and the ruling was not revoked.

The multinationals, for their part, cooperated by supplying American consumers with cheap oil and gasoline.

In 1973, however, the picture abruptly changed. The Arab oil embargo shattered the 15 year holding action against higher prices, and the cost of oil went up by a factor of six. At the same time oil company profits skyrocketed, going from $5.7 billion in 1972 to $11.3 billion in 1976.

Although the OPEC countries nationalized many of the oil fields held by foreign multinationals, they had no desire to reduce the companies' foreign tax credits, which enhance both the company's profits and the return enjoyed by the OPEC governments.

LIMITING THE CREDITS

It is not clear, however, that the credit will continue to be allowed. So far there has been a split between those who want to look at the industry's narrow technical arguments, and those willing to look at the total picture. Thus, in 1975 the Senate voted to disallow all foreign tax credits for oil income, but the House rejected this approach in favor of limited restrictions on the use of the credits. Emil Sunley, deputy assistant Treasury Secretary for Tax Policy, accurately described the result: "Congress threw up its hands and said 'It's too hard. We can't tell the difference between taxes and royalties. We'll assume that you pay enough taxes abroad, but we'll stop you from using excess credits from oil extraction as a credit against non-oil income'."

Advocates of completely denying the credits have not given up, however, the leader in the fight is Sen. Frank Church (D-Idaho), who heads the Senate Foreign Relations subcommittee on Foreign Economic Policy.

Church has asked IRS to rethink its old ruling, and to reclassify the OPEC "taxes" as royalties. He has also written to President Carter urging him to take action. Church told the President that the rulings are incompatible with the tax laws, extremely costly to the Treasury, and inconsistent with the goal of reducing dependence on Arab oil. He noted that even the tax attorneys for the major oil companies recognize this fact, citing a 1970 cable from an intercompany negotiating team which states that "the artificialty of this system is obvious and well-known."

Because of the touchy foreign policy questions involved it appears likely that any decision in this area will in fact be made by the President himself.

IRS RETHINKS ITS POSITION

Last year, however, IRS seemed to begin to take some steps on its own. In response to a request by Mobil to carry forward its claimed tax credits, IRS put out a press release saying that "income taxes which are part of a scheme to collect a fixed charge per barrel and thus are not arm's length transactions, may, in the future, not be eligible to be credited against U.S. corporate income tax liability." Coming from a Treasury Department where one of the officials was an Exxon employee on leave, this seemed a radical statement. But at recent hearings held by the Foreign Relations Committee on a proposed tax treaty with the United Kingdom, IRS Commissioner Jerry Kurtz was curiously guarded in responding to Church's questions about foreign tax credits.

Kurtz took a narrow technical line with the committee, stating that the distinction between a royalty and an income tax was complicated and subtle and that the unique facts of each situation had to be analyzed. That fact is obviously well known to the oil companies, who constantly conspire with the OPEC governments to change the local tax laws to stay ahead of IRS. In fact, Kurtz admitted that "events move faster than our audits and rulings."

Kurtz's hesitancy was partially explained when Assistant Secretary for Tax Policy Laurence Woodworth told the committee that both he and Treasury Secretary Michael Blumenthal would be involved in the ultimate decision. Kurtz obviously did not want to undercut his boss on whatever decision might be made.

According to Church, Blumenthal currently appears to favor retention of OPEC tax creditability. This is one reason why Church has contacted President Carter directly.

Whatever the ultimate resolution of the issue, it does not appear that it will be made on technical grounds. There is growing agreement that the oil companies will lose if tax policy is the only consideration.

A LOT AT STAKE

The multinationals continue to press their technical arguments, but they also raise the spector of dire consequences to the U.S. if creditability is eliminated. According to a spokesman for Aramco (a partnership of Exxon, Texaco, Mobil, and SoCal), "If someone tried to figure out the best way of driving American companies out of the Middle East, and turning it over to the Dutch, the French, and others, they couldn't find a better way. The whole thing astounds me."

However, the U.S. was the leader in providing for the creditability of OPEC "taxes," and it is not clear that other countries would not revise their tax laws if the U.S. rescinded its favorable treatment. According to Church, the United Kingdom, at least, is likely to follow the U.S. lead.

In addition, Church would like to see American companies move away from Arab oil into other areas. He believes that U.S. security requires more stable sources of energy, and that incentives for the major companies to look elsewhere are therefore in the national interest. In fact, Church has actively supported creditability for a British "tax" on North Sea oil, although IRS has indicated that the tax does not qualify as an "income tax." This concession is likely to be established in a proposed tax treaty between the U.S. and Britain.

What exactly the OPEC governments would do in response to the U.S. denying creditability is a matter of speculation. Some observers worry that the volatile Arabs would retaliate with production cuts and higher oil prices. Even Church's chief aide Jerome Levinson admits that the Saudis would probably decry such a step as "impairing peace prospects in the Middle East."

On the other hand, elimination of the tax credits would not directly affect the OPEC governments immediately, and the most noticeable short term effect would probably be a reduction in the oil companies profits because of increased tax payments to the U.S. Treasury.

Whatever the effects of a decision in this will be, it is clear that such a decision will be made within the next few months. The IRS could revoke its questionable rulings of the 1950s, it could let them stand or it could reevaluate the creditability of foreign "taxes" in each oil producing country separately. At stake is hundreds of millions of dollars for the multinational oil companies or the U.S. Treasury.

THE FTC AMENDMENTS AND CLASS ACTION SUITS—III

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. WAXMAN. Mr. Speaker, some outspoken opponents of section 7 of H.R. 3816, the Federal Trade Commission Amendments of 1977, have argued that the new authority in the bill, providing for consumer class actions to enforce compliance with FTC rules, is arbitrary, punitive, and dangerous.

Nothing could be further from th truth. The FTC does not have the ability in all instances, to file suit to protec consumers even when the agency know: that its rules are being violated at a cost to the American people of over $1.3 billion annually. Common citizens must have a remedy directly available to them to protect their interests against unfair and deceptive trade practices. Section 7 provides this remedy.

At the same time, and in response to the concerns raised by the business community, this tool has been carefully limited in its application under the bill. Specifically—

First, perhaps most importantly, suits can be brought only if the commission, in promulgating rules, has affirmatively decided that a consumer action can be brought for a violation of a particular rule;

Second, the damages contested must be over $25,000;

Third, the court may not award plaintiffs exemplary of punitive damages, which can be awarded, for example, under antitrust law;

Fourth, plaintiffs must bear the cost of notifying all persons affected by the suit;

Fifth, suits regarding any rule violation must be brought within 3 years of the rule's promulgation.

The intent of these provisions is to prevent citizen suits which are frivolous in nature or would have the effect of unduly harassing businesses regulated by the FTC.

In order to more fully respond to the arguments raised by Dears, Beverley C. Moore, Jr., editor of Class Action Reports, has prepared a memorandum on this issue, which I am pleased to bring to the attention of my colleagues.

The memorandum follows:

ANALYSIS OF FALSE AND MISLEADING ARGUMENTS OF SEARS, ROEBUCK & CO. AGAINST SECTION 7 OF H.R. 3816, WHICH WOULD EMPOWER THE FTC TO AUTHORIZE CONSUMER CLASS ACTION LAWSUITS AGAINST VIOLATORS OF FUTURE FTC CEASE AND DESIST ORDERS OR TRADE REGULATION RULES

1. Sears' Argument. The policy of uniformity in law enforcement will be upset because of the great potential for conflicting court interpretations and decisions. A judge in one state or federal jurisdiction may rule that an order or rule has been violated whereas a judge in another state or federal jurisdiction may rule that it has not been violated. Historically, Congress has reserved enforcement power to the FTC—as opposed to private parties—precisely to ensure uniformity of enforcement.

The Truth. The very same potential for conflicting court interpretations already exists. In suits brought by the FTC itself, "[a] judge in one state . . . may rule that an order or rule has been violated whereas a judge in another state . . . may rule that it has not been violated." Such conflicting decisions are ultimately resolved by the appellate courts. Whether a suit is brought by the FTC or by injured consumers themselves pursuant to § 7 of H.R. 3816, the judge must apply exactly the same legal principles in deciding whether a violation has been established. If anything, consumer suits would result in more rather than less uniformity, by increasing the body of judicial precedent

defining which business practices are violative of FTC rules and orders.

If H.R. 3816 class actions really threatened "uniformity of enforcement", the FTC itself would be among the first to complain. But the FTC favors this bill, including the § 7 class action provision. In fact, the bill requires the FTC to specify which provisions of rules or orders may be enforced through private class actions. If dual enforcement of a particular provision would be likely to result in conflicting judicial interpretations, then presumably the FTC would not authorize private enforcement of that provision.

The uniformity of enforcement issue is a false one. Our legal system has traditionally relied upon combinations of public and private enforcement. The antitrust, securities, employment discrimination, civil rights, environmental, and many other statutes have long been enforced by government officials and private plaintiffs. Yet no problems of nonuniformity of outcomes have developed.

The real issues are enforcement resources and prosecutorial vigor. As Sears and other business interests well know, the FTC cannot possibly detect, sue, and recover full civil penalities from every violator of an FTC rule or order. In order to spread its limited resources among the violators that are prosecuted, the FTC must often accept compromise relief having little or no deterrent impact on either the defendant or other potential violators. That is why Sears prefers a more easily dealt with government enforcement monopoly to the vigor and ingenuity of private enforcement. This is merely another example of the bastions of "free enterprise" seeking government refuge from the rigors of a free marketplace for legal remedies.

2. Sears' Argument. The courts could be overwhelmed with a flood of irresponsible litigation because separate suits can be brought in any state or federal court jurisdiction where a company does business. Sears, for example, operates in all 50 states.

The Truth. A plaintiff may bring suit "where a company does business" for the vast majority of harms for which lawsuits can be brought. If class actions were brought against Sears in 50 state courts, it could have all of those suits removed to federal courts. At that point, or if 50 class actions had originally been filed in federal courts, Sears could have them all consolidated before a single court by the Judicial Panel on Multidistrict Litigation. Sears' argument is utter nonsense because the very essence of the class action concept is that similar injuries to large numbers of people are adjudicated in a single suit rather than in "separate suits . . . brought in any . . . jurisdiction where a company does business."

Apart from how many class actions alleging the same violation might be brought in different jurisdictions, Sears also suggests that such suits would be "irresponsible". Studies of class action litigation during the past decade indicate quite the contrary. No attorney desirous of making money will file a major class action suit unless he knows that he has a good case. For in order to earn a court awarded fee, he must win the case. If he does not have a good case, he will lose not only the lawsuit but a very substantial investment of his own time and resources. The evidence is unequivocal that defendants do not settle unmeritorious class actions. Nor may they "buy off" an unfounded case with a payment to the plaintiff attorney, since all class action settlements must be approved by the courts. In short, natural economic disincentives and close judicial scrutiny guarantee much more "responsibility" in the bringing of class actions under H.R. 3816 than can be said of most other types of litigation.

3. Sears' Argument. Individuals could recover damages without actually proving them, because the bill would allow courts to award damages on a fluid recovery basis to all members of the class, on evidence of injury by only a few.

The Truth. Every penny of damages awarded to a class of consumers must represent proven harm. "[E]vidence of injury by only a few" would only produce a damage award for injuries to a few. What Sears really demands is that each of thousands or millions of defrauded consumers be required to come into court individually to present sales receipts and testimony concerning the subjective motivations for their purchases—even though the aggregate damage to the entire class has already been established through statistical methods with equal or greater accuracy than could be achieved by examining each consumer individually. Sears itself relies on some of these sampling and survey techniques in deciding whether to market a new product or in making other vital business decisions. Shouldn't Sears' customers have the same tools to measure the refunds they are entitled to for overcharges or product failures that Sears uses to sell those products to them?

What Sears really wants is for business firms to be able to escape most of their deserved liabilities for proven harm to consumer classes. For few consumers will take the time and effort to press individual claims for $10 or $100. Nor is there any reason why defrauded consumers should have to bear that burden. After all, it is the defendant corporation who was responsible for their losses. Accordingly, H.R. 3816 places the initial focus on measuring the total damages on a classwide basis. Then, with the resources provided by the class damage fund, the court can tackle the problem of distributing the money to the individual class members.

This distribution process starts with individual payments to actually injured members of the class. These individuals will not "recover damages without actually proving them". Indeed, individualized proof will usually be superfluous once it is established that the particular consumer (a) purchased the product in suit, (b) the product failed to perform according to the seller's representations, and (c) the true market value of the product would have been $X less than the actual sales price had its characteristics been accurately represented or an FTC rule or order had otherwise been complied with. The individual consumer need not establish elements (b) and (c) of this formula. These will already have been established for him through the econometric measurement of aggregate class damages. All he need do is show that he purchased the product. This, too, may frequently be done for him by his representatives, the class plaintiffs, using the defendant's own records of purchases or other affirmative means of identifying the purchasers and sending refund checks to them.

To be sure, there may be some imprecision in apportioning class damages among the class members. A recent consumer antitrust class action charging Arizona bakeries with price fixing serves as an example. Obviously, consumers would not have been able to produce supermarket receipts for each loaf of bread purchased during the alleged conspiracy period, but data was available showing the average expenditures on bakery products for Arizona households of different sizes. Based on that data, "average damage" checks were mailed to 250,000 consumers who had demonstrated (a) their Arizona residencies, and (b) the sizes of their households.

Note that the imprecision here relates to each individual's amount of damages. Contrary to Sears' suggestion, the fact of injury, in some amount, had already been established. To have required greater precision in determining which households purchased more or less than the "average" quantities of bakery products would have prevented most consumers from recovering at all—the outcome that potential defendants of course desire. Yet regardless of the imprecision in apportioning damages among consumers who were injured in varying, but actual, degrees, the defendant's total liability remains exactly the same as if absolute individual precision had been attained. The defendant has no legitimate interest in who receives proven damages.

Sears also claims that "the bill would allow courts to award damages on a fluid recovery basis to all members of the class, on evidence of injury by only a few." This statement refers to the second stage of the damage distribution process in which the court disposes of any monies not already distributed to individual members of the class. Again, the residual funds do not represent unproven damages. They represent proven damages to individuals who cannot be identified or located at reasonable cost. The court may distribute the unclaimed funds "for a public purpose which benefits, as closely as possible," the injured but unidentifiable members of the class. The most common application of this "fluid recovery" is to reduce the future price of a product, such as bread, likely to be purchased again by those unidentifiable consumers who had been overcharged or defrauded in the past. It may be that a minority of future purchasers, such as new residents in the area, will not have been actual class members and will receive windfalls from the subsidized prices. But this imprecision is, again, the necessary consequence of affording some compensation to the majority of future purchasers who were previously injured.

Sears neglects to mention that an important purpose of H.R. 3816 is to prevent violations of FTC rules and orders by holding violators liable for the full amount of proven class damages regardless of the feasibility of precisely distributing the entire recovery to the individual members of the class. Of equal importance, Sears neglects to mention that under H.R. 3816 some or all of the unclaimed class damages will ordinarily be returned to the defendant. The amount reverting to the defendant will depend upon the willfulness of the violation, the degree of unjust enrichment, economic hardship, and other factors.

4. Sears' Argument. Section 7 would serve to enrich attorneys and not consumers because attorneys would receive large legal fees whereas individual plaintiffs may receive minor sums where injury is slight and receive no recovery where injured plaintiffs can no longer be identified or are never notified.

The Truth. All attorney fee awards in H.R. 3816 class actions must be determined by the court to be reasonable—based upon actual time expended, skillful performance, contingent risk, and other factors that courts have traditionally considered in class action cases. The fact is that the class action lawsuit, when compared with the nonclass suit, has cut in half the percentage of the recovery consumed by attorney fees. In class actions, 80–85 percent of the recovery is actually distributed to the class members.

It is true that the reasonable fee received by the class attorney, often representing thousands of hours of legal work, will by definition dwarf the amount recovered by any individual consumer. But exactly the same thing can be said about the gross profit of Sears or any other major business corporation, in comparison to the benefit that any single consumer receives from purchasing the firm's product. Like Sears, the class attorney has not a single "customer" but thousands or even millions of them. The reasonableness of the attorney's compensation must be assessed as a percentage of the total recovery, just as

Sears' profits must be assessed as a percentage of total sales. One thing is clear. The 15–20 percent of class recoveries consumed by attorney fees and costs is less than the average retail markups in Sears' own stores.

5. Sears' Argument. Section 7 would further jam the courts by discouraging voluntary resolution of problems through Consent Orders. Many companies consent to F.T.C. orders to save the expense of litigation though they may not be proved guilty of wrongdoing. Companies will be less likely to enter into consent decrees if such action merely opens the door to private class action suits and the potential that massive sums of money may be awarded against them.

The Truth. Signing a consent order "merely opens the door to private class action suits" and "massive" damage liabilities only if (1) the company violates the consent order and (2) the plaintiff can prove that the violation inflicted "massive" damage on the consumer class. Companies have no business signing consent orders unless they intend to obey them. If companies really sign consent orders not because they have violated the law but mainly to save legal fees, why would such law abiding firms be expected to violate the consent orders? Whatever the answer to that question, the threat of class action damage liabilities will ensure that consent orders are not violated.

6. Sears' Argument. The "streamlined" notice procedures of Section 7 are not in the public interest because only a sample number of class members may be notified even though all members are reasonably identifiable. Thus, damages may be awarded to the whole class though some class members might not elect to sue if notified.

The Truth. The notice to which Sears refers is not the notice that there has been a class recovery against which all class members may claim their damage shares. It is merely the notice that a class action suit is pending in their behalf. The main purpose of this notice is to afford other class members an opportunity to actively participate in the litigation through their own attorneys, thus enhancing the adequacy with which the named plaintiffs represent the absent class members. Since at most only a few additional plaintiffs can be necessary for this purpose, and since those few can easily be enlisted through random sampling notice, it is wasteful, and unfairly burdensome to the class plaintiffs who must pay the cost, to send a class action pendency notice to all identifiable members of a large class of small claimants.

A recent study of one major class action case shows that most people who ultimately responded to the notice soliciting their damage claims paid little attention to, did not understand, or did not even remember receiving the class pendency notice. That is understandable. Of the three options provided by the pendency notice—(1) come into the suit as a named plaintiff, (2) "opt out" of the suit and recover no damages, and (3) do nothing and be automatically included in the class—the overwhelming majority of class members choose the latter. Only small percentages "opt out", or "elect [not] to sue", in Sears' words. And the evidence indicates that perhaps a majority of those people "opt out" because they misconstrue the legalese language of the notice as recommending that they do so. In any event, these people can always "elect not to sue" at a later point by affirmatively declining to participate in the class damage recovery. That factor would then be considered by the court in determining what portion of the total unclaimed damages is to be returned to the defendant.

A NEW AIRCRAFT LANDING SYSTEM

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. MILFORD. Mr. Speaker, my Subcommittee on Transportation, Aviation and Weather is presently examining R. & D. efforts of the Federal Aviation Administration.

One program which has been the subject of much interest and concern is that of the microwave landing system—MLS. Because of the importance of this program, and the complexities associated with it, I would like to summarize those aspects of the program that are important to our committee and to Congress as a whole.

The MLS research and development effort has been going on now for over 10 years. During this period, the FAA has appeared before Congress on a regular basis and received congressional approval for their program. This is amply evident in the nearly $100 million in funds that the Congress has authorized and appropriated for the MLS program.

Also during this period, the program has been conducted in full public view. The U.S. program benefited from the oversight of an advisory committee, chartered by the FAA, which represented the Broad interests of the aviation community and the public. This user oriented committee helped to structure the extensive test and evaluation process that led to the selection of the time reference scanning beam (TRSB) system as the preferred technique for the U.S. MLS program.

This decision was obtained with the active participation of foreign experts and was reviewed by senior officials from DOT, DOD, and NASA. I would also reiterate that at this point in time, the U.S. had invested $20 million in developing and evaluating the doppler technique before choosing TRSB.

The United Kingdom chose to continue developing doppler, claiming the superiority of this technique over TRSB.

Because of these British claims and certain accusations directed toward Lincoln Lab simulations of the doppler system, I and the subcommittee staff visited with doppler engineers at their British facility in Bedford, England. We discovered that the engineers had no quarrel with the Lincoln Labs simulations and that only lobbyists and politicians raised arguments questioning Lincoln Lab work.

We reviewed the British program and presented our findings to the committee. Our conclusion was then, and still is, that the British have a fine landing system, that the technical differences between the United States and United Kingdom systems are extremely small. Both systems are deserving of equal and fair opportunity in the international selection process.

Of course this process is now nearly completed. The technical panel of ICAO voted 6 to 1 in favor of the American scanning beam system (TRSB). The Air Navigation Commission reviewed the work of the technical panel and determined that AWOP had fulfilled its mandate and that a worldwide meeting could now be scheduled to vote on the issue.

Some entities in the United Kingdom have not been satisfied with the decision made by the constituted international panel and they mounted a major effort at discrediting the FAA program. A major lobbying effort was instituted wherein key members of Congress and the administration were targeted.

I have been reluctant to enter this fracas for fear of interfering with legitimate international deliberations. However, I feel that I would be remiss in my responsibilities if I did not now speak out.

I believe I was the first Congressman to begin examining, in detail, the Doppler-TRSB argument. And over the past 2 years I have looked at it longer and harder than perhaps any other Member of Congress. During this period of time I have found no evidence of foul play by either the FAA technicians and scientists or those from Great Britain. In the best political fashion, I have heard spirited debates from each nation's politicians. I have also observed some less than commendable lobbying activities.

It is clear to me that TRSB evolved in the open, and has survived in national and international competition in the open. Duly constituted international panels of ICAO have been doing their work and evaluations of these two competing landing system designs are on schedule.

Accordingly, our continued support is appropriate, in the interest of this Nation and in the interest of the worldwide aviation community.

I would like to make one final statement concerning Lincoln Labs data and field test data.

The integrity of Lincoln Labs was cast into question by some lobbyists who, not only misrepresented the situation, but also inferred that their position was also the official United Kingdom position. These allegations caused great concern to the chairman of the full committee, to myself, and to many other members of the committee. In order to clearly place the Lincoln Labs data in proper perspective, let me quote a passage from the AWOP 6 final report—a report signed off by—not only the United Kingdom and the United States—but also the entire technical panel. Paragraph 2.8.1. states:

> . . . It was generally considered that the assessment program could not have been carried out without the Lincoln Laboratory simulation facilities . . . (and) the majority of Panel Members felt that the results of the simulations had been most useful, and that the margins of error applicable to them were such that Members could use them with confidence in arriving at conclusions.

Thus, I think there is little doubt between technical people and responsible officials of the United States and United Kingdom concerning the accuracy or usefulness of the Lincoln Labs data.

In fact, paragraph 6.1.3.1. of the AWOP final report states:

The computer simulation was verified by a significant degree of field tests and bench simulations. . . .

In spite of all the foregoing, some persons still are insisting on a side by side fly-off between the two landing systems. Any engineer worth his salt knows that such a contest has no technical merit. This is akin to saying that the only way to determine the heavier of two persons is to weight them only when they are at the same location:

That is why paragraph 6.1.3.1 of the AWOP stated:

Because the Panel agreed that overall multipath performance could not be assessed by testing a system in one situation, computer simulation, using a number of agreed airports, was the primary technical assessment tool.

Thus, it is difficult for me to get overly excited about the results of a TRSB-Doppler fly-off. However, if this is what is needed to satisfy the lobbyists and politicians, then I'll not oppose it. They can, however, take full credit and responsibility for the $300,000 per test, cost to the taxpayer, that will prove nothing and benefit no one.

In summary, I would like to reiterate that both the United States and United Kingdom have developed fine systems. Debating about the differences between them is like choosing between a Ford and a Chevy as a family automobile. It's just that close. The whole argument between Doppler and TRSB has been an engineering debate involving microseconds, when a day or two either way would make no real difference.

Eventually a decision had to be made. The United States made its decision in 1974 in favor of TRSB. The International Air Navigation Commission made its recommendation for TRSB to the ICAO worldwide body for resolution in April. Yet, the debate continues.

Unfortunately, there are some people here and abroad who stand to gain by delaying the final selection process and these interests have developed stalling tactics accordingly.

I, for one, will not sanction such a delay. A delay is not in the best interest of the United States.

The U.S. has three urgent requirements:

The Army needs MLS immediately;

Some large airports in the U.S. have reached the point of ILS frequency saturation and need the additional capabilities of MLS;

Small community airports need MLS because of ILS limitations and the high cost of ILS;

Off-shore oil producers need the precision guidance and accuracy of MLS.

The U.S. has over 600 installed Instrument Landing Systems—over one-half the entire world's total. Many of our main competitors in the landing system business have less than 10. By sheer volume, the problem is most acute here in the United States.

In fact, I have copies of letters from NBAA, ALPA, and ATA that emphasize the requirement for MLS.

NBAA states:

For reasons of cost-effectiveness, site limitations, governmental support criteria, and co-channel interference due to lack of adequate frequencies, a replacement system must be developed.

Although U.S. research has dictated a choice of the scanning beam (TRSB) microwave technology, the United States should not permit lack of international agreement on technology choices by ICAO to unduly delay the availability of MLS to U.S. operators.

ALPA states:

ALPA fully endorses the recommendation for TRSB and urges the FAA to move rapidly in its MLS development program.

ATA states:

We are pleased that the ICAO All Weather Operations Panel has recommended international standardization of the U.S. candidate TRSB MLS.

On the civil side, in order to avoid proliferation of the ISMLS, FAA, should take steps to permit operational use of advanced versions of the TRSB MLS by any civil users who have special needs which cannot be met by ILS.

Thus, it is obvious that the United States has a compelling need for a timely ICAO decision.

The ICAO process has been time consuming and deliberate, but it has also been very fair and thorough. The United Kingdom, the FAA, and the AWOP members have all worked very diligently and are deserving of the highest praise for bringing the program this far under very competitive, very political, and very difficult circumstances.

It is time now to cease the bickering and back-biting and to proceed resolutely forward with a common goal—that of developing and installing an improved instrument landing system—one that may save thousands of lives here, in the United Kingdom and around the world.

MORE ON THE IRS PLAN TO TAX FRINGE BENEFITS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. KEMP. Mr. Speaker, this afternoon the House Ways and Means Committee adopted an amendment to H.R. 6715, the Technical Corrections Act of 1977, which prohibits the Internal Revenue Service from promulgating new rules with regard to the taxation of fringe benefits which would take effect prior to July 1, 1978. The purpose is to delay the effect of any such rules until Congress has had time to study them.

I applaud this action by the Ways and Means Committee because I have been speaking out against the IRS plan to tax fringe benefits since it was first revealed by Commissioner of Internal Revenue Jerome Kurtz in July. Since then, 49 Members of Congress have joined me in a resolution denouncing the IRS plan.

Unfortunately, the basic problem still remains; namely, the ambiguity of the Tax Code with regard to what constitutes income and what does not. Consequently, because the Tax Code clearly specifies that all income is taxable—unless otherwise excepted—there is no doubt that fringe benefits fall into this category. If they did not it would be a simple matter to avoid paying taxes by receiving all income in the form of nonfinancial remuneration.

Therefore, it is not really necessary for the IRS to establish new rules for the taxation of fringe benefits. There is no reason at all why individual IRS agents may not on their own begin implementing the taxation of fringe benefits during individual audits. This has already happened in several cases—most recently with regard to the taxation of demonstrator automobiles used by car salesmen in Missouri—and could continue in spite of the Ways and Means action.

I strongly suspect, at this point, that the fringe benefit issue is not dead. Next week the administration is scheduled to send its tax reform package to the Hill and it may very well contain provisions for the taxation of fringe benefits—an idea which was recently endorsed by the Brookings Institution.

I still believe, therefore, that the Congress ought to move ahead to prevent taxation of fringe benefits. The reasons I have cited earlier are still valid:

First. Taxation of fringe benefits will increase the tax burden on the vast majority of working Americans;

Second. It will cause monumental administrative problems with regard to deliniating fringe benefits from conditions of work; and

Third. It will seriously disrupt all labor/management relations in this country because virtually all union contracts contain fringe benefit clauses which will, in effect, be negated if fringe benefits are taxed.

One of the maxims of a good tax system is that taxation be consistent. I believe that regardless of the ambiguities of the Tax Code with respect to fringe benefits the American people have come to operate their lives on the assumption that such things as free parking spaces, store discounts for retail employees, airline passes for airline employees, and day care centers for working mothers, will not be taxed as income. To do so now would be capricious and counterproductive.

BONN TO ALLOW NEUTRON ARMS

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. DODD. Mr. Speaker, I will be offering an amendment to H.R. 6566—ERDA national security programs—which is intended to give Congress the time necessary to seriously consider whether or not the United States should produce enhanced radiation weapons. This amendment will further Congress ability to exercise its constitutional responsibility to the American people, and to itself, to participate fully in Government decisions which could have profound national security and foreign policy implications.

One of the critical reasons why Congress should adopt my amendment is the

fact that neither President Carter nor our NATO allies have as yet reached positions on the issue of eventual deployment of enhanced radiation warheads. In this regard, the Washington Post reported today that though West Germany will probably not oppose the stationing of U.S.-produced neutron weapons on its soil, that Government will probably reach no public decision until President Carter states his intent to produce the weapons and the NATO allies agree that they are necessary.

According to the Washington Post report, one top aide to Chancellor Schmidt stated explicitly that the West German Government does not "want to give an answer before it is decided by the President to produce the weapon." Another German official said that—

> We are not going to invite deployment before your president has even made that decision and make political fools of ourselves.

Earlier this month Defense Minister Georg Leber cautioned that more discussions are needed before enhanced radiation warheads can be deployed and that such decisions can only be taken by NATO as a whole.

Mr. Speaker, I also believe that we in Congress should not make fools of ourselves by unconditionally approving funds for the production of enhanced radiation warheads in the ERDA national security authorization. Similarly, I do not believe that we should invite the potentially devastating foreign policy effects that might result from a deletion of funds for production of such warheads. Instead, I proposed that we take a reasoned, cautious approach that will put the funds in the bill, but allow Congress full scope to review whatever decision is reached by the President and our NATO allies.

Specifically, the amendment I will propose would require the following actions by the executive branch and Congress before any funds could be expended for production of enhanced radiation warheads in fiscal year 1978:

The President certifies to Congress for each enhanced radiation warhead that its production is in the national interest;

The ERDA Administrator submits a complete arms control impact statement to Congress on each neutron weapon;

The President authorizes production of each neutron weapon, as required by the Atomic Energy Act;

The President studies and reports to Congress on the use of neutron weapons and their impact on the NATO strategies for conventional weapons, on the use of other tactical nuclear weapons, and on the deterrent effect of NATO forces;

The President reports the full reasons for any production decision to Congress; and

Congress does not disapprove of any production decision by concurrent resolution within 45 calendar days of notification.

I would like to share the text of today's Washington Post article with my colleagues by inserting it at this point in the RECORD:

[From the Washington Post, Sept. 27, 1977]

BONN IS EXPECTED TO ALLOW STATIONING OF NEUTRON ARMS

(By Michael Getler)

BONN, September 26.—The West German government probably would not oppose the stationing of U.S.-produced neutron weapons on West German soil.

That is the view of most leading government and political figures here about one of the most politically sensitive defense issues to arise in the postwar era.

The Bonn government, however, has made no final decision on the stationing of these special atomic weapons here.

Nor is it likely to say anything about allowing deployment until President Carter publicly states his intent to produce the weapons and the 14-member NATO military alliance agrees that they are necessary and should be stockpiled on the potential battlefield of West Germany.

In effect, Bonn and Washington, the two most crucial links in West European defense plans, are locked in a "which comes first, the chicken or the egg" situation when it comes to publicly endorsing this controversial new atomic warhead for short-range missiles and artillery shells.

Although President Carter appears to want some public declaration of support from NATO allies before he makes his decision to request production funds from Congress, the West Germans "don't want to give an answer before it is decided by the President to produce the weapons," said a top aide to Chancellor Helmut Schmidt.

"We are not going to invite deployment before your president has even made that decision and make political fools of ourselves," another official said.

The neutron weapons—which are designed to kill primarily by enhanced radiation techniques rather than by the combined blast, heat and shock of existing atomic weapons—have generated sharp controversy and some strong criticism here.

The widespread view after discussions earlier this month in the Parliament, or Bundestag, however, is that West Germany will not prevent introduction of the new weapon if Carter gives the go-ahead.

Although the Parliament did not give a resounding "yes" to the new weapon, "at least no major obstacle was put in its path," an aide to Schmidt said.

A speech by Conrad Ahlers, a member of the Bundestag Defense Committee and of Schmidt's ruling Social Democrat Party, is widely interpreteted as reflecting the coalition government's position. Reciting the pros and cons of the new weapon, Ahlers concluded, "In my opinion, we will have to learn to live with the neutron bomb and to include it in our defense concept."

Defense Minister Georg Leber, also a Social Democrat, rejected as too emotional the most stinging criticism of the weapon that came this summer from his party colleague, Egon Bahr, the executive secretary of the Social Democrats.

Bahr called the weapon's design—which kills people without causing the enormous physical damage of standard atomic weapons—an example of "perverted thinking."

Leber said the new weapon was neither more nor less humane than other atomic weapons.

Leber was also careful to say neither yes nor no to deployment. He cautioned that more discussions are needed and that such decisions can only be taken by NATO as a whole. A Bonn newspaper reported after Leber's speech, however, that "indications are that a basic decision has been taken in favor of the neutron bomb."

Conservative opposition party leaders have generally expressed support for the weapon.

Politicians here make it clear, however, that if the government appears to be enthusiastic about the weapons, the situation could prove to be a minefield because it clearly remains controversial.

Thus, in Bonn's view, the NATO consultations are very important to give an allied, rather than a U.S.-West German, cast to the situation. Bonn-Washington discussions and commitments are apt to remain private until all major positions are worked out, sources here say.

The neutron weapon is likely to be a main topic of conversation here Tuesday night when President Carter's national security adviser, Zbigniew Brzezinski, has scheduled a private dinner meeting with Schmidt.

West German military strategists generally view the neutron warheads as having significant advantages against massed Soviet tank armies. The strong radiation emitted by these weapons, they suggest, could penetrate the heavy shielding against atomic attack that Soviet tanks already carry. Thus, they view the weapon as a major factor in deterring attack.

The argument against these weapons has been that they are seen as being easier to use and control and therefore could lower the threshold at which warring nations might decide to escalate to nuclear warfare.

Leber argued in Parliament that these weapons, in his view, would not lower that threshold and that the guidelines for use of nuclear weapons would not be changed by the neutron weapon.

The issue is especially sensitive here because the basically short-range field army missile and artillery that would carry the neutron warhead would be based in West Germany and undoubtedly would be landing on East German or West German soil when they are fired. The question of when a conventional war becomes a nuclear war is of critical importance to people who live on the battlefield.

Although the trend here at the moment may be to go along with the neutron weapon, there is lingering dismay, as the Frankfurter Allgemeine newspaper noted, at how the Carter administration showed so little skill in allowing such an important, yet controversial, new weapon to be introduced into public and political discussion.

The West Germans believe that the United States blundered by not being more open and informative with its allies and the public.

Right after the neutron weapon controversy developed, portions of a new U.S. strategy assessment were revealed in the press. They suggested that the United States might give up one-third of West German territory in the face of an initial Soviet attack.

Although U.S. officials explained that new administrations always order studies of all possible options, and the flap has since died down, the West Germans viewed it as yet another alarming signal of confused thinking in Washington.

CLINCH RIVER BREEDER REACTOR

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. FISHER. Mr. Speaker, I would like to bring out an important aspect of this issue of whether or not to continue the Clinch River breeder reactor program which thus far has been given little attention. Major, long-term research and demonstration projects like

Clinch River, once begun after careful consideration, should not lightly be discontinued. The burden of proof properly rests on the shoulders of those who would stop the project. Otherwise such a project is always in jeopardy and the organizing and staffing of the work is rendered inefficient and costly. I make this point out of long personal experience in directing research in the energy and related fields.

In my judgment the burden of proof in this case has not been carried successfully by those who would have the Clinch River breeder reactor project stopped. The hope that stopping CRBR would enhance the likelihood that our Government could induce other countries developing breeder reactors to abandon their breeder programs and give up supplying breeders and fuel processing equipment to other countries—the nonproliferation point which President Carter emphasized when he recommended against CRBR—has largely eroded during the past several months. The other "breeder" countries—France, United Kingdom, the Soviet Union—are continuing their programs and Japan has begun a modest effort. West Germany recently has checked further work on its breeder temporarily, but apparently will go forward with furnishing Brazil with a reprocessing plant. Breeder reactors offer prospects so promising to meet the very severe problems of future energy supply facing these countries that they cannot in all good sense give up their own programs.

The environmental and health objections to breeders still exist: an accident could result in radioactive fallout damage. But the health and environmental risks of going to other heat and power sources are as great or greater—sources such as conventional reactors (landscape scarring from much more extensive uranium mining, accidental fallout) and coal (landscape degradation from surface mining, acid mine drainage from underground mining, air pollution from burning of coal). Nuclear waste disposal is a serious problem but is even more pervasive with a conventional reactor program requiring much larger amounts of uranium ore.

The danger of irresponsible, even subversive conversion of plutonium into bombs would be present. This possibility exists with respect to assembling bombs from conventional hot fuel; India already has detonated a bomb manufactured from fuel used in a research reactor and many other countries could do this over a few years' period in a similar way. The full range of risks—health, environmental, diversion of radioactive elements to bombs—has to be dealt with promptly on an international scale whether or not the United States goes forward with Clinch River.

The argument that the CRBR no longer represents a good investment of the large funds it will require, that the benefit/cost estimate is no longer favorable, has more substance and point at this time in my opinion than the other arguments which have been offered against continuing Clinch River. The expected cost has risen considerably because of the general inflation in the cost of construction and of sophisticated industrial equipment as well as because of the redesign of certain portions of the project. Furthermore, it is true that the design would be different in a number of respects if it were done all over again now. Several things can be said about these points.

Return-on-investment and benefit/cost estimates are difficult and uncertain with respect to research and demonstration projects because commercial results are remote and indirect by the very nature of research. If we already knew what would work technically and economically, research and demonstration would not be needed. From my experience in research if 1 project out of 5 or 10 really works out well, you would be lucky. Also, from my own experience, during the course of a large, long-term project like CRBR there will be times when the whole undertaking seems to be going badly, the outcome looks doubtful, personnel become discouraged, and financial backers are tempted to withdraw. At other times, things look good and everyone concerned is upbeat.

This last point brings me back to what I said near the beginning: Because the fortunes and outlook for a great new research or demonstration project will go up and down, the burden of proof that it should be stopped rests on those who would stop it. I do not think that case has been made convincingly, that proof has been presented. Therefore, I come down on the side of continuing the Clinch River project. Those in charge should strive to hold down costs, of course; and they should readjust the project, even redesign portions of it as this can be done within limits of completing the project on a reasonable schedule. Along these lines, I supported a proposal which sought to provide for gradually increasing private financial participation in paying off cost overruns on the Clinch River breeder reactor which exceed $2 billion. This was rejected by the House, however. To stop the Clinch River project now would deny us all the benefits of the lessons that can only really be learned from a careful evaluation of the completed demonstration.

FINANCIAL DISCLOSURE LAW RECOMMENDED BY PRESIDENT HARRY S TRUMAN ON SEPTEMBER 27, 1951

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 1977

Mr. KASTENMEIER. Mr. Speaker, today marks the 26th year since President Truman sent a special message to the Congress recommending enactment of conflict-of-interest legislation containing public financial disclosure. Since the House will soon be considering legislation providing for Government-wide public financial disclosure, I would like to call to the attention of my colleagues the special message of President Truman on this issue.

SPECIAL MESSAGE TO THE CONGRESS RECOMMENDING CONFLICT-OF-INTEREST LEGISLATION SEPTEMBER 27, 1951

To the Congress of the United States:

I recommend that the Congress enact legislation requiring officials in all branches of the Government to place on the public record each year full information concerning their incomes from all sources, public and private. I believe this will be an important step in assuring the integrity of the public service and in protecting government officials against false and unfounded charges of improper conduct.

The overwhelming majority of the people who are working for the Federal Government in the Legislative, Judicial, and Executive branches are decent, honest, and upright citizens who are doing their very best in the public interest. I believe that the standards of conduct now prevailing in the Government service compare favorably with those of the past and with the standards now prevailing in business and the professions. Nevertheless, it should be our constant aim to improve these standards. As the burdens of the Government increase during this defense period, and more and more citizens enter into business or financial dealings with the Government, it is particularly necessary to tighten up on our regulatory procedures, and to be sure that uniformly high legal and moral standards apply to all phases of the relationship between the citizen and his Government.

In operations as large as those of our Government today, with so much depending on official action in the Congress and in the executive agencies, there are bound to be attempts by private citizens or special interest groups to gain their ends by illegal or improper means. Unfortunately, there are sometimes cases where members of the Executive and Legislative branches yield to the temptation to let their public acts be swayed by private interest. We must therefore be constantly on the alert to prevent illegal or improper conduct, and to discover and punish any instances of it that may occur.

We must also guard against the danger that the misconduct of a few will result in unwarranted suspicion and distrust of the honesty of all government officials.

In recent months, there has been something amounting to a deliberate effort to discredit the government service. Attempts have been made through implication and innuendo, and by exaggeration and distortion of the facts in a few cases, to create the impression that graft and corruption are running rampant through the whole Government.

To my mind the most disturbing feature of the charges and rumors stirred up by these attempts is their effect on the confidence of the American people in their Government and in all the individuals who make up the Government. I am told that people all around the country are getting a mistaken and a distorted impression that the Government is full of evil-doers, full of men and women with low standards of morality, full of people who are lining their own pockets and disregarding the public interest.

This is a terrible distortion of the true facts about our Government. It would be tragic if our citizens came to believe it. It would be tragic for the American people themselves to have such an idea about their Government, and it would be a terrible tragedy for all those who serve within the Government. None of us can afford to let the whole body of public officials be given a bad name by accusations, rumors, and sensational publicity tending to smear everybody.

I believe the best thing we can do to spike this effort to discredit Government officials is to place all the facts right on the record. The facts themselves are the best cure for public doubts and uncertainty.

I recommend, therefore, that the Congress promptly enact a statute which will require all full-time civilian Presidential appointees, including members of the Federal bench; all elected officers of the Federal Government, including Members of the Congress; and all other top officials and employees of the three branches of the Government—say those receiving salaries of 10,000 dollars or more, plus flag and general officers of the Armed Services—to file annually a statement of their total incomes, including amounts over and above their Government salaries, and the sources of this outside income. Consideration should also be given to requiring other Government employees to file such statements if their outside income exceeds a specified amount—perhaps $1,000 a year. Some items which are not ordinarily counted as income, such as gifts and loans, should be included in the statements filed under this statute. Penalties for willful violation of this statute should be equivalent to those for violation of the laws relating to the filing of income tax returns.

These statements when filed should be made accessible to the public.

Such public disclosure will, in my opinion, help to prevent illegal or improper conduct and at the same time protect Government officers from unfounded suspicions.

The majority of Federal employees have no income of consequence other than their official salaries. Some of our best public servants, on the other hand, do have sizeable amounts of outside income. The great public service that is being rendered today by many men who have been successful in business or other forms of endeavor demonstrates that no distinction can be drawn between these two groups in terms of public good. The disclosure of current outside income, however, will strike at the danger of gifts or other inducements made for the purpose of influencing official action, and at the danger of outside interests affecting public decisions.

A disclosure of all sources of outside income will be of obvious help in tracking down any case of wrongdoing. Furthermore, the mere existence of a requirement that such disclosure be made will act as a deterrent to improper conduct.

If an official of an executive agency knew that he would have to disclose the fact that he accepted a gift or loan from a private company with which he has public business, or if a Member of Congress who is on a committee concerned with a certain industry knew that he would have to disclose the fact that he accepted a fee from a company in that industry, I believe the chances are that such gifts or fees would not be accepted.

Such a disclosure procedure will also serve to protect officials and legislators from widespread misunderstanding on the part of the public. Our citizens will be able to see for themselves that the talk about corruption and enrichment in public office is grossly exaggerated.

As a general rule, I do not like to see public officials, or any other particular group subjected to rules and requirements which do not apply to the rest of the population. But at the same time, public office is a privilege, not a right. And people who accept the privilege of holding office in the Government, must of necessity expect that their entire conduct should be open to inspection by the people they are serving. With all the questions that are being raised today about the probity and honesty of public officials, I think all of us should be prepared to place the facts about our income on the public record. We should be willing to do this in the public interest, if the requirement is applied equally and fairly to the officials of all three branches of our Government. This is the best protection we can give ourselves and all of our co-workers against the charge of widespread graft and favoritism in the public service.

I know of no other single step that will do so much good so quickly in protecting the reputations of our public servants and—at the same time—in producing concrete indications of any really questionable practices.

Much the same considerations apply also, I believe, to those people who hold the principal positions of responsibility in our great political parties. Of course, these offices are not Government positions. But those who hold them are necessarily brought into very close contact with the Government. And our major political parties have traditionally been so much a part of our whole system of government, that those responsible for the conduct of party business are in fact, if not in law, charged with a real public responsibility. For that reason, I would favor including the principal national party officials and employees among those persons required to file annual income statements along the lines I have described.

The legislation I have here recommended should be passed as soon as possible. If action cannot be completed before adjournment of the present session, then I earnestly hope that Congress will finish the task as soon as it reconvenes. We should lose no time in placing all the facts before the country, and in clearing up those false impressions that are injurious to the proper functioning of our Government.

I believe also that both the Congress and the Executive should continue to search for other means, legislative and administrative alike, to reassure the American people about the high standards of their Government and to make sure that those high standards continue to be maintained by every individual who holds public office.

HARRY S. TRUMAN.

HOUSE OF REPRESENTATIVES—*Wednesday, September 28, 1977*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Be strong, all ye people of the land, saith the Lord, and work, for I am with you.—Haggai 2: 4.

O Thou seeking shepherd of our striving spirits, whose goodness and mercy follow us all our days, we open our lives to Thee that the thoughts of our minds, the attitudes in our hearts, the words on our lips, and the work of our hands may be acceptable in Thy sight as we face the tasks of this day.

Amid the shifting scenes of modern moods we pray for wisdom to solve our problems, for strength to carry our burdens, for good will to relate ourselves affirmatively to others, and for a faith that holds us steady and keeps us steadfast that we fail not man nor Thee.

Bless our President, our Speaker, Members of Congress and those who work so untiringly with them. Give them strength of body and mind that they may fulfill Thy purposes for our country and for all mankind. Do thou shed Thy good on us and crown our good with brotherhood from sea to shining sea. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate insisted on its amendment to the bill (H.R. 4544) entitled "An act to amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such act, and for other purposes," disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon. Ordered, that Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. RANDOLPH, Mr. KENNEDY, Mr. LONG, Mr. HASKELL, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, Mr. CHAFEE, and Mr. LAXALT be the conferees on the part of the Senate.

LEGISLATIVE PROGRAM FOR WEDNESDAY, SEPTEMBER 28

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent to speak out of order for 2 minutes.

The SPEAKER. The gentleman from Texas is recognized for 1 minute.

Mr. WRIGHT. I take this time, Mr. Speaker, to announce the revised schedule for today in order that Members may be informed.

We would begin with House Resolution 70, to establish a Select Committee on Population. When that is concluded, we hope to take up the conference report on H.R. 7554, HUD appropriations. Following that, we will go to House Resolution 760, to authorize the Assassinations Committee to apply to courts. Then, we would go to H.R. 9290, to increase the temporary debt limit.

There will be a vote on the rule and a vote on the bill. It calls for a modified rule of 1 hour of debate.

Then we hope to take up H.R. 8638, the Nuclear Antiproliferation Act of 1977, for vote both on amendments and on the bill.

Finally, we hope to take up H.R. 6566, ERDA authorizations for national security programs, for votes on amendments and the bill.

That would conclude our business for the day. We would hope to finish so that the final vote would be by about 7 o'clock this evening, and in no event would we intend to stay in session beyond 7:30.

ELECTION OF ROBERT L. (BOB) LIVINGSTON AS MEMBER OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. RHODES. Mr. Speaker, I offer a privileged resolution (H. Res. 797) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 797

Resolved, That ROBERT L. (BOB) LIVINGSTON, of Louisiana, be and he is hereby elected a member of the Committee on Public Works and Transportation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSION OF APPRECIATION

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to express my personal appreciation to the Speaker and to the majority caucus for the action they took which made possible the resolution just passed. The Speaker was affirmative in his response to the plea of the minority leader. I think it is quite appropriate that I express my appreciation to him publicly.

SAM BROWN AND HUMAN RIGHTS

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MICHEL. Mr. Speaker, the New York Times, Monday, September 26, 1977, carried a newsstory headline "Thousands Welcome Vietnam Delegates." The story stated, in part:

With an explosion of emotion yesterday, Vietnam's new delegation to the United Nations was greeted by thousands of its American friends and supporters.

Among these friends and supporters of a government notorious for its violations of human rights was Sam Brown, high-level Carter appointee as Director of ACTION. Brown, obviously overcome with emotion at the sight of those whose comrades had brutally tortured helpless American prisoners of war, stated:

I am deeply moved, . . . It's difficult to describe my feelings—what can you say when the kinds of things that 15 years of your life were wrapped up in are suddenly before you?

Mr. Speaker, quite frankly such behavior is incredible and an insult to every American who fought in Vietnam and to the memory of the over 50,000 who died there. President Carter talks and talks and talks about human rights—but he allows his high-level appointees to pay public tribute to representatives of a government whose infamous "reeducation" camps deny human rights to so many.

Were taxpayers funds used to pay for Brown's transportation to New York? Does President Carter approve of Brown's actions? I would very much like to know.

PANAMA CANAL TREATY

(Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAGEDORN. Mr. Speaker, recently allegations were reported concerning alleged U.S. intelligence bugging of Panamanian and American officials during Panama Canal Treaty negotiations.

At this time I would like to renew my call for the House Intelligence Committee to hold full public hearings on this matter. It has been alleged that U.S. intelligence in 1975 and 1976 carried out electronic surveillance operations on Panamaian officials and that a former U.S. Army sergeant participated in the bugging and provided Panama's Government with tapes and transcripts made by the Americans.

In light of past intelligence abuses, I believe the American people must be assured that the United States was not coerced or intimidated into an agreement with Panama on the canal. The people are entitled to the whole story, in public and on the record, not behind the closed doors of a congressional committee.

ESTABLISHING A SELECT COMMITTEE ON POPULATION

Mr. MOAKLEY. Mr. Speaker, I call up a privileged resolution (H. Res. 70) to establish a Select Committee on Population, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 70

Resolved, That there is hereby created a Select Committee on Population to be composed of eleven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of—

(1) the major adverse effects of current population growth throughout the world and their implications for the United States;

(2) approaches which have shown to be effective in coping with excessive population growth, with emphasis on those measures designed to reduce the frequency of conception rather than the termination of pregnancy;

(3) means to encourage countries with excessive population growth rates to adopt those methods which have proven to be successful in reducing population growth rates.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

To carry out this resolution, the committee is authorized to employ and fix the compensation of such professional staff and clerical and stenographic assistants as it deems necessary.

The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

Mr. MOAKLEY (during the reading). Mr. Speaker, since there is a committee amendment in the nature of a substitute which will be considered, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Strike out all after *"Resolved,"* and insert:

H. RES. 70

Resolved, That there is hereby established a Select Committee on Population to be composed of sixteen Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of—

(1) the causes of changing population conditions and their consequences for the United States and the world;

(2) national, regional, and global population characteristics relative to the demands on limited resources and the ability of nations to feed, clothe, house, educate, employ, and govern their citizens and otherwise afford them an improved standard of living;

(3) various approaches to population planning (including the study of family planning technology, with emphasis on measures designed to reduce the frequency of conception rather than the termination of pregnancy, and the relationship of improved economic and social opportunities to family size) in order to ascertain those policies and programs, within the United States as well as other nations, which would be most effective in coping with unplanned population changes; and

(4) the means by which the United States Government can most effectively cooperate with and assist nations and international agencies in addressing successfully, in a noncoercive manner, various national, regional, and global population-related issues.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned, and to hold such hearings as it deems necessary.

The provisions of clauses 1, 2, and 3, rule XI, except the provisions of clause 2(m) relating to subpoena power, shall apply to the committee.

To carry out this resolution, the committee is authorized to employ and fix the compensation of such professional staff and clerical and stenographic assistants as it deems necessary.

The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House. Any such report shall be referred to the committee or committees which have jurisdiction over the subject matter thereof.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New Jersey.

FEDERAL ELECTION COMMISSION AUTHORIZATION, FISCAL YEAR 1978

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 1435) to authorize appropriations for the Federal Election Commission for fiscal year 1978, with a Senate amendment to the House amendments, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Page 1, line 5, of the House engrossed amendment, strike out "$8,123,000" and insert "$7,811,500".

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, I make that reservation for the purpose of inquiring whether or not the Chair would entertain a call of the House. We are starting legislation, and there are not many Members present. Therefore, I would hope we could entertain a call of the House at this point.

Mr. THOMPSON. Mr. Speaker, if the gentleman will yield, would the gentleman reserve his request until we complete this matter?

Mr. ASHBROOK. Yes, I will reserve my request and withdraw it at this point.

Mr. THOMPSON. Mr. Speaker, by the adoption of S. 1435, which is a House amendment in the nature of a substitute with a Senate amendment, the House would be concurring with the Senate in authorizing the sum of $7,811,500 for the operation of the FEC for the fiscal year ending September 30, 1978. Further, the House and Senate Appropriations Committees have met in conference and agreed on a fiscal year 1978 appropriation of $7,300,000.

The amount in S. 1435 represents a compromise negotiated between myself, as chairman of the Committee on House Administration, and Senator CANNON, as chairman of the Senate Committee on Rules. This compromise reduces the House authorization by $311,500—by splitting precisely down the middle the difference between the House and Senate authorizations.

The House had authorized the sum of $8,123,000 while the Senate had authorized the sum of $7,500.

I might state to my colleagues that this compromise figure was adopted on the floor of the Senate by unanimous consent.

Further, the ranking minority member on the Committee on House Administration, the gentleman from Alabama (Mr. DICKINSON) is in accord with this reduction and concurs in my unanimous-consent request.

Mr. ASHBROOK. Further reserving the right to object, Mr. Speaker, I want to congratulate the gentleman on the compromise. Actually it would drop the amount a little bit.

Mr. THOMPSON. Mr. Speaker, I thank the gentleman.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. MOAKLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 600]

Addabbo	Fish	Roberts
Anderson, Ill.	Florio	Roe
Applegate	Goodling	Rose
Archer	Harsha	Santini
Badham	Johnson, Calif.	Shuster
Bolling	Kastenmeier	Solarz
Bowen	Koch	Spellman
Brown, Mich.	Le Fante	St Germain
Burton, John	Lehman	Stark
Butler	Livingston	Teague
Cederberg	McClory	Traxler
Chappell	McCloskey	Tucker
Chisholm	Marriott	Udall
Clawson, Del	Mathis	Watkins
Cornwell	Milford	Whalen
Cotter	Moorhead, Pa.	Wiggins
Cunningham	Moss	Wilson, Bob
Davis	Oakar	Wilson, C. H.
Dent	Patterson	Wolff
Diggs	Pattison	Young, Alaska
Drinan	Pepper	
Edwards, Ala.	Rangel	

The SPEAKER pro tempore (Mr. NATCHER). On this rollcall 370 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO FILE REPORT ON H.R. 6954, ETHICS IN GOVERNMENT ACT OF 1977

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service may have until midnight tonight to file its report on H.R. 6954, the Ethics in Government Act of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

ESTABLISHING A SELECT COMMITTEE ON POPULATION

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, the Committee on Rules ordered favorably reported, with an amendment in the nature of a substitute, the resolution (H. Res. 70) to establish a Select Committee on Population.

ESTABLISHMENT OF COMMITTEE

The resolution, as reported would establish a Select Committee on Population within the House composed of 16 Members, appointed by the Speaker, of whom one would be designated as chairman. The committee would be established upon adoption of the pending resolution and would cease to exist at the earlier of two dates: First, upon filing a final report in the House; or second, at the expiration of the present Congress just prior to 12 noon on January 3, 1979.

No funding is provided by the resolution nor can any become available to the committee except by subsequent action of the full House. Upon its appointment the select committee will meet to adopt a proposed budget. The budget must be presented to and justified before the Committee on House Administration which presents the original request together with any changes that committee makes. Under the customary procedure it is possible to have a separate vote on the original proposal and the amendments of the Committee on House Administration. Only upon adoption of the funding resolution does any funding become available to the select committee.

SCOPE OF THE INQUIRY

Under the resolution as reported the select committee is authorized and directed to conduct a full and complete investigation of:

First. The causes of changing population conditions and their consequences for the United States and the world;

Second. National, regional, and global population characteristics relative to the demands on limited resources and the ability of nations to feed, clothe, house, educate, employ, and govern their citizens and otherwise afford them an improved standard of living;

Third. Various approaches to population planning (including the study of family planning technology, with emphasis on measures designed to reduce the frequency of conception rather than the termination of pregnancy, and the

relationship of improved economic and social opportunities to family size) in order to ascertain those policies and programs, within the United States as well as other nations, which would be most effective in coping with unplanned population change; and

Fourth. The means by which the United States Government can most effectively cooperate with and assist nations and international agencies in addressing successfully, in a noncoercive manner, various national, regional, and global population-related issues.

POWERS AND LIMITATIONS

The Select Committee is authorized to sit and act through the present Congress. No geographic limitation is placed on this authority and the select committee is authorized to meet whether or not Congress has recessed or adjourned. Like most committees, it would need leave from the House to meet while any measure is considered under the 5-minute rule.

The provisions of clauses, 1, 2, and 3 of rule XI, except the provisions of clause 2(m) relating to subpena power, are made applicable to the select committee. Most of the procedural reforms of the past decade designed to insure the rights of ideological and party minorities in committee and to insure the press and public access to the legislative process are embodied in these rules. Since clause 2(m), rule XI provides that committees shall have subpena power, the select committee would have acquired the power by simple reference. Since subpena power had not been requested in the original resolution, the committee substitute exempted the power from those conferred by the paragraph.

The select committee is authorized to employ staff but funding for salaries must be obtained in the funding resolution.

The committee is directed to render a final report at or before the end of the present Congress. Such report shall be filed in the House or with the Clerk if the House is not in session. The report will be printed and referred to the appropriate standing committees.

TERMS OF CONSIDERATION

The resolution (H. Res. 70) to establish the select committee is privileged and requires no rule. Under the rules of the House, the floor manager is recognized for 1 hour and, by custom, yields half that time to the minority. Presently pending is the amendment in the nature of a substitute reported by the Committee on Rules. At the appropriate time, I shall move the previous question and the House will proceed to vote on the question, the committee amendment, and adoption of the resolution.

Mr. Speaker, the Committee on Rules and its ad hoc subcommittee have given extensive consideration to this proposal. The committee is persuaded that there is an urgent need for the proposed inquiry and I urge adoption of the resolution to permit this work to begin.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Massachusetts has been involved actively in the subject of this resolution—the creation of a Select Committee on Population. He has explained that he offered a series of constructive amendments to the resolution in the Rules Committee; which you now are being asked to consider together as a substitute to House Resolution 70. No objections to this substitute were raised when the question was before the Committee on Rules, and I know of none on this particular point at this time.

I must object, however, to the closed procedure under which the House is being asked to consider this matter today. House Resolution 70 is being brought to the floor as a privileged resolution, just as was the resolution establishing the permanent Select Committee on Intelligence on July 14. What this means, of course, is that after 1 hour of debate, an up or down vote will occur on the passage of the resolution as it is, with no opportunity whatsoever for amendments of any kind.

I offered an open rule in the Rules Committee under which House Resolution 70 could have been considered. This motion was defeated, and it is difficult for me to understand why. Frankly, I think the members should be a little embarrassed to have a privileged resolution like this for a select committee to come to the floor under what amounts to a closed rule. Certainly in establishing a select committee, all the Members should have an opportunity to offer amendments to make needed changes.

I have been told it is the position of the Democrat caucus and certainly the Republican conference to be for open rules, and yet time and time again, this body is being asked to consider closed or modified closed rules. It is not necessary, in my opinion, to be considering this resolution under such a procedure.

With respect to the establishment of a Select Committee on Population, the substitute to House Resolution 70 provides for a 16-member panel to conduct a full investigation and study of issues related to global population growth and planning. The select committee is authorized to sit and act within or without the United States and to employ and fix the compensation of such professional and clerical staff as it deems necessary. The rules of the House relative to committee procedure are made applicable to the select committee, except that there is no grant of subpena power.

The select committee is directed to report to the House during the present Congress the results of its investigation and study along with its recommendations.

The resolution does not authorize the spending of any funds. Such authorization will have to be provided in a special funding resolution from the Committee on House Administration. I personally object to that. We should specify in these resolutions some sort of ceiling on the amounts of funds that can be spent by a select committee. I think it is very unclear what the cost will be in this instance.

Mr. Speaker, while I generally oppose the proliferation of select committees, I believe a legitimate need exists for creating a Select Committee on Population. The problem of overpopulation is one from which no nation can escape. If this select committee does its job, and I have no reason to think it will not, then we should have a significant amount of useful data assimilated by the end of this Congress from which to consider various legislative remedies.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise today in opposition to House Resolution 70, which would create a Select Committee on Population to conduct a "full and complete investigation and study" of population growth. The select committee would be authorized to meet only during the present Congress, but is given carte blanche to travel "where it deems necessary" and to hire the required professional staff and clerical assistants.

Mr. Speaker, I maintain that this House is already spending substantial sums through the committee system. The creation of a new select committee to deal with a subject already being studied is a gross abuse of the American taxpayer. This body has voted over $62 million to support the various standing, joint, special, and select committees for fiscal year 1978. This is an increase of well over $10 million from fiscal year 1977.

We talk a lot about financial obligations and responsibilities. The creation of a Select Committee on Population would be an unnecessary and wasteful duplication of work that has been done and is continuing to be done by the Subcommittee on Census and Population, House Post Office and Civil Service Committee.

The International Development Subcommittee, House International Relations Committee, has also done extensive work in the area of population and its impact on world problems. Nothing will be accomplished but a needless expenditure.

In addition to House and Senate committee activities, more than 11 research institutions, organizations, and foundations are devoted to population study. The United Nations has an agency for population study. The Federal Government, through the Department of Health, Education, and Welfare and the State Department's Agency for International Development, is involved in population research. Several private foundations, as well as an international organization in Brussels, do extensive work in this field.

It is time to close the door on unnecessary spending. It is time to accept the fact that the creation of one more committee, however laudatory its purpose might be, does not solve problems and will not really provide answers to serious and important questions. It is time to utilize existing structures and if they do not prove effective or efficient, make the necessary improvements.

It is unfortunate that more Members do not listen to their own rhetoric. If they did, I do not believe we would be considering House Resolution 70 today. During our debate on House reform proposals during the 93d Congress, it was considered enlightened legislating to re-

duce the number of committees. What has happened to this spirit of reform and dedication to streamlining this body's activities?

One of my distinguished colleagues, now a cosponsor of this legislation, stated during debate on House Resolution 988 (House Committee Reform legislation):

. . . I think that there is a great deal to be said for keeping the oversight authority together with the authority in both the authorizing committee and the relevant appropriations subcommittees rather than to proliferate a variety of committees that do not have either authorizing or appropriating responsibilities. For these select committees, although carrying out the kind of oversight responsibility that I believe the gentleman's proposal has in mind, do not have the capacity to be effective in terms of modifying the authorizing legislation.

This Member went on to state that:

. . . there is a second reason that it seems to me this amendment should not be passed, why it is unwise. Passage of this amendment could set a precedent for a proliferation of other similar select committees in a wide variety of fields.

For example, we would have proposals to establish a Select Committee on Consumer Products; a Select Committee on Energy; a Select Committee on Inflation; a Select Committee on Transportation. All one has to do is to enumerate the variety of the problems with which we as legislators are faced, and to consider the attention that may at any given moment in the life of the country be focused on a particular area, to understand that by creating this kind of committee in this particular field, we will only set a precedent for making possible one select committee after another.

Mr. Speaker, I submit that the times have not changed so drastically since October 2, 1974. If the creation of one more select committee was a bad idea then, is it not a bad idea now?

More recently, the Commission on Administrative Review has recommended further "committee reform" and a resolution in the number of standing and select committees. It is a widely accepted fact that every Member of the House is very nearly overwhelmed by the multitude of demands on his or her time. The Obey Commission recognizes this fact in its recommendation for a scaling down of the committee system to allow the Members to more fully study the legislative issues which we must deal with in a limited period of time. Surely the creation of a Select Committee on Population runs contrary to the reported findings of the Commission on Administrative Review.

While I know that many sincere, dedicated and conscientious Members have cosponsored this resolution, I must oppose the enactment of House Resolution 70 and urge my colleagues to do the same.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the distinguished gentleman from Wisconsin (Mr. ZABLOCKI), chairman of the Committee on International Relations.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Speaker, certainly House Resolution 70 is somewhat of an improvement, with the amendments of the Committee on Rules. However, I join the gentleman in opposing it.

As the gentleman from California pointed out, the proposed select committee would overlap and duplicate other activities already being carried out by this House through other committees, and it risks impairing our relationships and efforts in the population field which are underway in some of the poor countries at the present time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. LONG).

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, House Resolution 70, to establish a Select Committee on Population, as amended by the Rules Committee, is a significant improvement over the resolution as originally introduced. Nonetheless it continues to pose major problems:

The proposed select committee would overlap and duplicate activities already being carried out by this House through other committees.

And it risks impairing our relationships with and efforts in the population field which are underway in the poor countries of the world.

In making this assessment, I am speaking only to the foreign affairs aspects of House Resolution 70. I am not addressing any domestic implications, or such questions as to whether we need to add further to the number of committees of the House at this time.

I originally joined in cosponsoring House Resolution 70 when it was introduced early this year. The idea is appealing—a committee devoted specifically to the population question, unquestionably a prime issue of our time.

But upon further review, and with additional information which has come to me as chairman of the International Relations Committee, I have come to the conclusion that the proposed select committee—from an international affairs standpoint—would be an unnecessary, duplicate expense and could have unintendedly harmful effects.

The International Relations Committee already is deeply engaged in population matters abroad. It has been for many years. We were the first committee to undertake major study missions overseas on population questions, and our concern has continued unabated.

This year, in our consideration of the International Development and Food Assistance Act of 1977, we heard more witnesses on the subject of population than on any other issue. We approved an authorization of $181 million for population planning assistance abroad during the coming fiscal year. We added to the law a policy provision emphasizing the interrelationship between population growth and development in poor countries, and we authorized the President to study the complex factors affecting population growth in developing countries.

Hearings involving population questions continue to be held by the full committee or subcommittees periodically, and we are continuing to assign this subject to staff study missions going overseas. Clearly, the proposed new Population Committee would overlap and duplicate in this field.

Furthermore, it is becoming increasingly apparent that rates of population growth abroad are intertwined with social and economic factors of a very complex nature. This is a major consideration of the International Relations Committee in its authorization and oversight of U.S. development assistance abroad. House Resolution 70, as amended by the Rules Committee, recognizes these linkages in speaking of "the relationship of improved economic and social opportunities to family size."

But one should ask the question—Does the proposed Select Committee on Population really intend or want to get involved in the larger question of economic development of the poor nations of the world?

Last, let us be aware of the sensitivities of the developing countries of the Third World—particularly on the population issue. Experience has shown to date that the low-profile approach to population assistance abroad has been preferable, and in most cases necessary, for successful implementation of these programs.

The Special Committee on Population under House Resolution 70 would be authorized to go anywhere in the world. By its nature, the committee would be of high visibility. Its activities and recommendations would carry a "made in America" image in the eyes of developing countries.

I fear that such a result would be counterproductive in terms of our relationships with these countries and our ongoing efforts to help them on population matters.

For these reasons, Mr. Speaker, I urge the House to vote against House Resolution 70.

Mr. LONG of Maryland. Mr. Speaker, I support the creation of the proposed Select Committee on Population as a signal that this country is seriously concerned with the threatening worldwide problem of uncontrolled population growth. Patience, courage, and wisdom are required for the world community to bring its rapidly increasing population under control. Many economic and political reasons make it imperative to solve the world poverty problem. World poverty is inexorably tied to too many people on this small planet. As long as population continues to grow, our aid to poor countries has to deal with an open-ended problem—like bailing out a pond that is connected to the ocean. The movement of millions of Mexicans across the United States-Mexican border is an example of what happens when a society such as Mexico allows its population to proliferate, then abandons its citizens to unemployment and hunger. Can we in the United States accept the population overflow of another society? Or should we help Mexico contain its population explosion?

These are critical questions that need sound analysis and detached judgments. The population-poverty crisis of this late 20th century demands a sharpening of our sensibilities to the plight of the unemployed and the destitute. It demands

an understanding of why the poor seek large families. And it demands of us in Congress to know whether our foreign assistance efforts, including those in population, have had any measurable impact on the welfare and the population growth rates and policies of those countries seeking and receiving our aid.

I trust that each one of you will support the creation of the House Select Committee on Population. The committee is appropriate. It is timely. Its work will benefit this country and the world. The world community has not done much to register its commitment to a more equitable international economic system. The scramble for resources and energy by national states and the resulting worldwide degradation of the environment tell the story of a civilization with little concern for those yet to be born. Facing as we do this unpromising outlook, we in the House of Representatives can take a first step to find out as much as we can about the grave dilemma humanity faces—exploding human populations living for the most part in squalor, hunger, and fear.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, I simply rise in support of this resolution.

I have been doing a good deal of work in connection with some of our illegal alien problems, and, very frankly, some of the things we are running into in our attempt to deal with that problem have to do with the population explosion that is occurring in certain parts of the world, and particularly here in the Western Hemisphere.

I think we are in desperate need of a plan to extend our studies more comprehensively in order to get a better understanding and, hopefully, create more cooperation, not only in this country but throughout the world, if in fact we are going to be able as the human race to survive on this planet. I think time is awasting.

I appreciate the fact there have been other committees from time to time that have made some small contribution in this field, but I think we need a zero in on the problem.

Mr. Speaker, it seems to me that is what we are doing by the creation of this select committee, and, therefore, I support the committee, believing that it could be of substantial help to us.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I rise in support of House Resolution 70, which calls for the establishment of a House Select Committee on Population.

The degree to which the problems created by overpopulation on our planet has risen is in itself adequate reason to create this committee. Legislative jurisdiction is important, of course, but we must begin to deal with our population growth, and this committee will be able to address the problem effectively. Though I am chairman of one standing committee that from time to time has jurisdiction over population matters, I sincerely believe that the time has come to have a select committee, one that can address itself exclusively to population and the problems related to it.

My experiences in this country—and especially the things I have seen during travels to many Asian countries more sharply affected by the problem than the United States—have led me to this conclusion. I remember well the suffering and deprivation I saw when I once visited Indonesia. President Suharto himself told me that overpopulation was his country's number one problem, and I have witnessed the results of overpopulation time and time again. I am firmly convinced, Mr. Speaker, that we here have the capacity to devastate our own country by our own growth.

Mr. Speaker, the House often has been criticized for becoming an unwieldly bureaucracy in itself, and we are all too familiar with the ability of bureaucracies to delay finding solutions to problems. But I believe that this proposed Select Committee on Population will indeed be able to find a solution to this problem before it becomes dangerously acute here in our own country. Careful studies and recommendations in the areas of birth and death rates, birth control, the availability of food resources, and other areas will help find this solution and help plan our wisest course of action. We will be able to plan our growth before we fall victim to the population problems of our friends in other less fortunate parts of the world.

Some may say that our population problem is not acute enough—not important enough to justify the creation of yet another committee and the spending of yet more tax dollars within the legislative branch itself. But this is a subject that we cannot afford to look at in shortsighted fashion. The population problem is a worldwide problem, and the shortages and deprivation experienced in other parts of the world can soon become just as prevalent here.

Mr. Speaker, I give my wholehearted support to the creation of this committee.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, as a cosponsor of House Resolution 70, which would establish a Select Committee on Population, I urge my colleagues to carefully consider the issues involved and to support the creation of this select committee.

The population problem touches every aspect of our lives. Unprecedented and unplanned population growth and distribution have had a staggering impact upon the ability of many nations to cope with some of the most basic needs and wants of their citizens.

Population-related problems have had a tremendous effect upon the world's natural resources, both renewable and nonrenewable. They have seriously jeopardized the social and economic development capabilities of many Third World nations.

The proposed select committee could address domestic population and family planning programs and policies, as well as those pertaining more directly to the international community.

As Members of Congress whose decisions often affect both the American public and the world, we must make informed and rational decisions which will properly address these and other population problems. These issues will range from how to develop better energy and food supplies to the complex problems of world poverty and economic development.

I believe the proposed Select Committee on Population could provide us the necessary information and perspective with which to wisely make these pressing decisions. In the best interests of planning and cooperation, I urge my colleagues to establish the Select Committee on Population.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. THORNTON).

Mr. THORNTON. Mr. Speaker, I want to compliment the gentleman from New York for the work he has done on this resolution to establish a Select Committee on Population.

I believe a 2-year inquiry by a select committee would serve as an additional resource to all the standing committees of the House.

The select committee would be authorized to conduct an investigation and study of population characteristics relative to the demands upon our world's resources of food, energy, land, and fresh water.

In 1973, in my first address in this House, I stressed the need for Congress then to allocate and develop new energy resources and to maintain agricultural productivity in order that we might provide food for the world's steadily increasing population, which is growing at the rate of 170,000 new people every day.

Norman Borlang, father of the green revolution in world agriculture, said:

> If a crop failure occurs in any of the large grain-producing areas of the world, tens of millions would die in an international disaster and little could be done to prevent it.

Mr. Speaker, I support the creation of this select committee to help address the problems relating to the world's rapid population growth.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I rise in strong support of House Resolution 70 to create a Select Committee on Population.

Few issues that come before Congress are as complex and difficult as the problem of population control. There is no general consensus on the best approach to the problem; there are still a few who deny the seriousness of the problem itself. Efforts to formulate an effective policy in this area are hampered by two major obstacles. The first is the continued insistence of some Third World leaders that overpopulation is a "false issue" and that the first priority should be on development. The second difficulty is the lack of accurate statistics for many countries where the population problem is most acute, making it almost impossible to evaluate the progress of family planning programs with any degree of confidence. These factors can make the area of population policy one of the most frustrating handled by Congress. Nevertheless, this is not a mat-

ter we can afford either to ignore or to dismiss with an annual cursory review. For as we enter the last quarter of the 20th century, rampant population growth presents a greater threat to the future order and stability of the world than any other danger except that of nuclear war.

This is not a pleasant fact to confront. Nuclear war may be brought on or averted by the decisions of a relatively small number of men in the governments of the United States and the Soviet Union. Most of these officials are well educated, experienced policymakers who understand well the stakes involved in a nuclear confrontation. Their world view must be broad and long term, for the results of their decisions will affect the lives and destinies of millions of their countrymen and others all over the world.

Consider, by contrast, the population monster. It is not subject to control by the decisions of Carter or Brezhnev, Vance or Gromyko. On this matter, the future of the world rests with the individual decisions of a rice farmer in Bangladesh, a nomad in the Sahel, or an unemployed young newcomer to the teeming slums of Lagos, Mexico City, or Djakarta. Their decision to limit the size of their family—or their failure to do so—may well determine the fate of mankind.

It is this factor which makes the population crisis so dangerous. Exponential population growth is not a dramatic, headline-grabbing news item, but a quiet and inexorable process that gathers momentum with each passing day. The longer it continues, the harder it will be to stop. It is already too late to prevent the doubling of the Third World's population within the next quarter-century, a development that may cripple efforts to provide a better life for their desperately poor citizens. The issue today is whether the policymakers of both the developed and the less developed countries will act with the speed and effectiveness necessary to avoid even greater increases. In a world where only one out of every three people has an adequate diet, we should be greatly alarmed by the doubling of our numbers. Any growth bevond that inevitable point is plainly intolerable, for the resulting strains on economic and social systems might well lead to the near or total collapse of governmental structures throughout the Third World. The ultimate result would be millions of deaths from hunger and disease in the developing nations, a prospect we must do everything in our power to prevent.

The last 10 years have witnessed a growing awareness within Congress that the United States has a vital interest in the success or failure of efforts to limit the high population growth rates of the Third World. This concern has been reflected in the authorization of larger and larger expenditures for population programs, increasing from $35 million in fiscal year 1968 to $177 million a decade later. Still, our task cannot be accomplished merely by throwing money at the problem. The most important question we must address is whether these programs are actually having a discernible impact in the field. We have now spent over $1 billion for family planning, but Congress has yet to make a detailed investigation into the results of our programs. We do not really know how effective our efforts have been up to this point, and we need to learn more in terms of which approaches are the most effective.

My own concern about this matter has been stimulated by several reports issued this spring and summer. The reports in question—two from the General Accounting Office and a staff report to the Senate Foreign Relations Committee—analyze our population programs in Ghana, Pakistan, the Philippines, and Indonesia. Their findings are not encouraging. The GAO report on Ghana, which has received some $12 million in population assistance from the United States, notes that the program "has reached only a small proportion of the population, especially in the rural areas where 70 percent of the population lives." Only 7 percent of the women in the reproductive age bracket of 15–42 are currently family planning acceptors, and the number of new acceptors in recent years has averaged around a third of the target levels. The report found that 77 percent of Ghana's family planning clinics were located in urban areas, although Ghana's population is almost three-fourths rural. Nearly a third of those utilizing family planning services were from the two largest cities alone. As a result, our programs have had a minimal impact on Ghana's annual population growth rate of 2.7 percent, and Ghana's crude birth rate remains one of the highest in the world.

AID's population program in Pakistan has been the subject of two recent studies: one by Senate Foreign Relations Committee staffers which was completed in February of this year, and another by the GAO which was issued in mid-July. Both reports agree that Pakistan's family planning program—which has received $59 million in American assistance—has yielded negligible results. According to the Senate report,

> The highest possible percentage of eligible couples currently practicing contraception is no more than 7.3 percent. This rate is the same as it was in 1968–69, before the program began. Most analysts in this field believe that five to seven percent of eligible couples would find a means of preventing conception even without a family planning program because they already had as many children as they wanted.

The GAO study concurs with these findings, stating that "the program has not had the desired impact of increasing the number of couples using contraceptives," and adds that "few elements of the program are working as planned." The failure of the Pakistani program is particularly serious because it calls into question the validity of the "contraceptive inundation" approach to population control—the concept that providing an adequate supply of contraceptive services will in turn create a demand for those services. This theory has been applied in other AID population programs besides that of Pakistan; in light of the study's results, the theory may need revision.

It must be pointed out that not all of AID's programs have been as unsuccessful as those in Pakistan and Ghana. The United States has supplied $30 million in population assistance to Indonesia's family planning program, and the results of a recent census provide strong evidence that the rate of population growth has declined on Java and Bali, the most densely populated areas of the world's fifth most populous country. The population growth rate on these two islands has apparently fallen from 2.5 percent a decade ago down to 2.1 percent last year, with most of the decline taking place in the last 5 years. If these figures are accurate, then Indonesia is making significant progress toward a resolution of its population problem.

Other recipients of AID assistance have also made some progress in slowing their growth rates. Thailand, which has received some $11 million in AID funds, has reduced its growth rate from 3.0 to 2.5 percent since 1965, and Costa Rica has had an even sharper decline—from 3.9 percent down to 2.3 percent. Tunisia has apparently seen a slight decrease in its growth rate, and Colombia has inaugurated an extensive new program, although it is too soon to assess its relative effectiveness.

The picture, then, is one of mixed results. What emerges most clearly from this brief survey is the need for more information on which to base our policies and judgments in the future. At present, no fewer than seven committees have jurisdiction over some aspect of the population problem, and this fragmentation of responsibility is inimical to the development of the kind of expertise this complex issue requires. Existing committees often find themselves forced to give the issue comparatively short shrift.

While the International Relations Committee has performed a useful function in pressing for funds for international population programs, it has not really had the time to examine these programs in detail. We are simply spread too thin. For example, during the last Congress no hearings were held by the International Relations Committee or any of its subcommittees devoted to the population crisis.

Moreover, we cannot overlook the fact that the United States faces a population problem also, and none of the standing committees of the House has given that problem any real attention.

I believe that the proposed Select Committee on Population is the necessary answer to the present state of affairs.

I have tried today to point out the critical importance of this issue. We cannot afford to make the wrong decisions or to opt for the wrong choices. We must ascertain the most effective approaches to population control and discard discredited theories without hesitation. Time is an element of maximum importance where an exponential growth process is concerned, and the decisions we make today—or the mistakes we fail to correct—could affect us greatly in the

future. I urge your support for this resolution.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of this worthy resolution, House Resolution 70, creating a Select Committee on Population and commend the gentleman from New York (Mr. SCHEUER) for his leadership and efforts in bringing this measure to the floor. As one of the 260 cosponsors of this resolution, I note a growth of support for the resolution which is indicative of its importance to my colleagues. This select committee would help gather and insure the availability of information necessary for dealing in a coherent and effective manner with the exponential expansion of the population and the tremendous obstacles overpopulation presents for global and domestic social, political, and economic goals.

Presently, in countries around the world, hundreds of millions of people face starvation or malnutrition; the world's natural resources are being depleted rapidly. Yet current birth rate trends suggest that the world's population will double in 35 years—and will then redouble in less than that. Such unbridled population growth cannot fail to deleteriously affect the attempt to improve the quality of life. Moreover, overpopulation will have severe ramifications for global environmental, health and education concerns, and, as the National Security Council has pointed out, the population expansion may pose the single greatest threat to future domestic security and the hopes for world peace.

While I too share the concern of many of my colleagues about the proliferation of select committees, and believe that we should examine each proposal carefully to prevent duplication and inefficiency, I believe that this proposed select committee can withstand such examination. Presently jurisdiction for population issues is dispersed among at least eight committees. The establishment of the select committee will allow the coordinated, comprehensive study which is so vital if we are to initiate the policies necessary to forestall future disaster.

Accordingly, I urge my colleagues to join me in supporting this important legislation.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in support of House Resolution 70, which provides for the establishment of a Select Committee on Population.

I am honored to join my colleague and good friend, the gentleman from New York (Mr. SCHEUER), and other distinguished colleagues of mine, in support of this resolution, which reflects a growing concern about the effects of current population growth on the quality of life here and around the world.

The establishment of a Select Committee on Population would remedy a situation that sees jurisdiction over population-related programs scattered among many and varied committees.

A Select Committee on Population would provide a focal point within the Congress from which all problems of population growth can be studied, and from which the implementation of Federal programs in these areas can be more effectively reviewed.

This committee will conduct a complete investigation of the major, adverse effects of current population growth throughout the world and their implications for this country.

It will study approaches which have proven effective in coping with overpopulation including measures designed to reduce a rapidly increasing world birth rate; and will investigate means to encourage countries with excess population growth to adopt methods which have proven successful in reducing population growth rates.

In summary, I feel this proposal is a long-awaited first step toward organizing the efforts of the Congress to deal with the problems caused by a world population that is doubling every three decades.

The considerable support this resolution has received, not only from 235 Members who have cosponsored the proposal, but from individuals and groups across the country, is indicative of a growing, national awareness of the need for this select committee.

I urge my colleagues to support this resolution to create a Select Committee on Population.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, it is my intention today to vote against House Resolution 70, a bill to establish a Select Committee on Population. I am in favor of proposals which would enable the legislative branch to deal more effectively with the issues confronting us. However, House Resolution 70 is not such a proposal.

One responsibility of this House is to assure the American people that duplication of effort and waste do not occur—either in the bureaucracy or in the U.S. Congress. If we pass the resolution before us, we will have failed to fulfill that responsibility.

Many of the Members on the floor today were also present in 1974 when this House spent long hours debating committee reform legislation. At that time, arguments were eloquently made that certain committees were not needed, were superfluous, that jurisdiction was shared by other committees in the House. If those arguments were applicable then, I maintain they certainly apply to the pending resolution.

A subcommittee of the Post Office and Civil Service Committee has traditionally been charged with the study of population and demography. Over the years, this Subcommittee on Census and Population has conducted an extensive series of hearings on population-related issues and has published an impressive set of documents on the subject. This material is available as a resource to all Members who are interested. It is my understanding that additional efforts in this area will be undertaken by the subcommittee during the remainder of the 95th Congress.

Several other committees in the House have jurisdiction over population-related programs; and this approach is not unusual. There is simply little that this proposed committee could do which is not already being done.

Aside from the U.S. Congress, there are approximately 11 research institutions, foundations, and organizations devoted to population study. The U.S. Government has at least two agencies which study world population and the United Nations Fund for Population Activities reports annually on its studies. In addition, several foundations make large grants to independent organizations and universities to examine the implications of population growth. Surely the necessary information can be obtained through these sources.

Finally, Mr. Speaker, we must ask ourselves how our constituents will benefit from the establishment of yet another committee and by the additional funding necessary to support such a committee.

The spirit of true reform compels us to defeat House Resolution 70 and to express confidence in the ability of the House to effectively meet its responsibilities without the continual proliferation of the committees, special committees, select committees, and joint committees.

Mr. Speaker, I realize the good intentions of the Members who support this proposal but, without intending to be facetious, I would like to point out that during the hour this bill is being debated the population of the world is increasing. Do the Members believe for one moment that the existence of this committee for the next 15 months will have any effect on the population growth of the world? If they do, then they are living in a fool's paradise.

Stripped of the issues, and the organized movement behind this proposal, the facts are that this is a total duplication of work now going on in the Congress and in other governmental entities. We have in the Committee on Post Office and Civil Service the Subcommittee on Census and Population. All this new committee need do, if it is created, is to take our records, put their imprint on them, publish a lot of new documents and waste more public money.

The U.S. Government has two agencies studying the issue of population control.

My friend the gentleman from New York (Mr. BINGHAM) in his eagerness to establish this special group has evidently forgotten that the United Nations—and he is a champion of the U.N.—has a fund for population activities and they provide annually and in complete detail reports on the growth of the world's population. Then there

are a number of foundations that are tax exempt, in other words, supported by public funds, that are studying the implications and the problems of population growth.

I repeat, this is a totally unnecessary creation.

Let me remind the Members that 3 or 4 years ago we fought to reform the House and to streamline committees so as to avoid duplicating activities. All we will be doing through this proposal is to perpetrate the abuse this body places upon our taxpayers by creating an unnecessary committee with an unnecessary staff, which will then perpetuate itself starting in January of 1979.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LLOYD).

Mr. LLOYD of California. Mr. Speaker, I would like to say to the preceding speaker that I am, indeed, one of the folks who live in a fool's paradise because I believe firmly that this committee can have a great effect on what is going to happen in the world. We have to acknowledge the fact that we have a real problem with expanding world population. Within the next 30 years, and certainly some of us may well be around at that time, we will see a doubling of the world's population, and if you do not think that is one of the biggest problems that we are going to face then, you are not seeing the problems that we are looking at right now.

Mr. Speaker, I rise in support of the Select Committee on Population. The world population is doubling every 30 years. The political, economic, and social repercussions of this explosion are obvious. Therefore, I feel Congress should have the mechanism to review what population trends mean to this Nation and to our international relationships. The select committee will have jurisdiction over population questions currently examined by over 10 House committees. Population is a factor in unemployment, scarcity of natural resources, housing and other basic issues. It is about time we realize this and make population one of the central concerns in Congress now and for the future.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. COLLINS).

Mrs. COLLINS of Illinois. Mr. Speaker, I wish to express my support for this legislation, House Resolution 70, establishing a Select Committee on Population.

I cosponsored this bill when it was first introduced by Representative SCHEUER in January because I felt that the issue of uncontrolled population growth needed to be addressed by this Congress in a systematic and comprehensive way.

Mr. Speaker, there is no way that we can overemphasize the urgency of this problem. According to the best demographic estimates, the world's present population of 4 billion may reach nearly 7 billion by the end of the century. It is doubling, at the present rate of expansion, every 37 years.

This unprecedented rate of population growth throughout the world is frustrating the efforts of governments of both rich and especially of poor nations in their efforts to provide their citizens with even the most basic elements of existence: food, clothing, shelter, health care, education, and jobs. These deteriorating economic and social conditions have direct and severe consequences for both the internal stability of nations as well as for the prospects for peace among them.

At the present time, jurisdiction over population-related issues is scattered among eight committees of the Congress. This reflects the fact that the population problem is indeed linked to many other everyday concerns. However, by parceling out the issue to various committees we end up with a situation where no one committee or subcommittee has primary responsibility for dealing with population as a central problem of our time. The Select Committee on Population as proposed in this resolution would constitute a first step toward meeting this urgent need.

It would be authorized to conduct a full and complete investigation of the causes of changing population conditions and their consequences for the United States and for the rest of the world. In addition, the committee would study various approaches to population planning in order to ascertain those policies and programs, both within the United States and abroad, which would be most effective in coping with unplanned population growth, was well as the means by which the U.S. Government can most effectively assist other nations in addressing, in noncoercive manner, the population issue.

Certain changes in the resolution, made in the Committee on Rules, reflect and take into account the concerns of those of us with a particular interest in the committee's perspective toward the Third World. As a member of both the Subcommittee on Africa and the Subcommittee on Inter-American Affairs, I am particularly sensitive to the dangers of a population policy that would put an unfair burden on the Third World, while overlooking the relationship between population, resources and development.

While the population problem is more clearly manifest in the Third World, the reasons for the conditions are to be found to some extent in the economic inequalities between nations as well as the inequities within them. For this reason it is essential that the population issue be approached within the larger context of international and domestic development policy as a whole.

Were I not convinced of the select committee's commitment to these principles, I would not endorse its establishment. The resolution before us makes this commitment clear. Among the approaches to population planning that this select committee will study is the all-important relationship of improved economic and social opportunities to family size.

So long as it does not lose sight of this larger perspective, namely, the relationship between population and development, the Select Committee on Population will have my support.

I urge my colleagues to join me in support of House Resolution 70, establishing a Select Committee on Population.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, let me give the Members one illustration why it is important that we move on this thing. We are concerned now about the problem of illegal aliens. Mexico today has a population of 62 million. Mexico has a growth rate of 3.6 percent. If we take 3.5 percent for one century, we have a growth factor of 16—16 times the present 62 million population. Obviously that is not going to happen. It cannot. Catastrophe would stop it. If Mexico by the end of this century reaches the point where one female produces one female, Mexico eventually will have a population of 175 million. If that does not happen until the year 2020, Mexico eventually will have a population of 270 million, or 50 million more than we have in the United States right now.

If we think we can solve the illegal alien problem by ourselves without paying attention to the problems of Mexico and this population problem, we are living in a fool's paradise. Maybe—maybe my colleague, the gentleman from Illinois, Mr. DERWINSKI, is right. Maybe we are just going to waste our time. Maybe this committee will not grab this problem either, as these other agencies and committees really have not done in a fundamental way. But I am willing to take a chance. I think if we look at the kind of a world we are moving into, we have to take that chance to look at one of the most fundamental problems our Nation and our world is going to face.

Mr. Speaker, I yield back the remainder of my time.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Speaker, as a cosponsor of House Resolution 70, I would like to urge all of my colleagues to join me in supporting legislation to create a Select Committee on Population.

It is estimated that close to 500 million people are facing starvation or malnutrition. With the world's 4 billion population expected to double within the next 35 years, there is little doubt that we need to take a comprehensive look at the problem of overpopulation. If not, we could eventually find ourselves studying survival in an overcrowded world.

The Select Committee on Population will have the opportunity to examine such far-reaching questions as maternal and child health care, contraception research, and the impact of future immigration upon our entire country. All are issues that touch the lives of every American.

Already, we are feeling the effects of increased congestion, inflation, and scarcities of essential resources. The

United States has the opportunity to take a leading role in finding a solution to the global population problem. I urge adoption of this legislation.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise to make a confession. At the beginning of this Congress I succumbed to the good friendship and the good nature of our friend, the gentleman from New York (Mr. SCHEUER) and joined as a cosponsor of this resolution. Since that time I have had some reservations about that. I think there are a good many other Members in this House who were taken in by the import of what this select committee was to do. Many Members are interested in finding effective approaches in coping with excessive population growth, with emphasis on birth control rather than abortion, the very issue which we are going to be discussing this afternoon in the conference on the Labor-HEW appropriations bill. I submit to the Members, as was so eloquently stated by the gentleman from Illinois (Mr. DERWINSKI), who preceded me, that we really do not need another committee in this House to determine what the problem is and the biological factors that are creating the population explosion around the globe. We probably ought to be concerned more about the doubling and tripling of staff around Congress.

I look at the Democratic caucus decision this morning embracing the Obey Commission's recommendation to create a Select Committee on Committees. The report of the Commission reads in part:

> Members have too many assignments and jurisdictions are too confused for the strains and conflicts Members currently endure to be substantially alleviated by piecemeal and procedural reforms.

It goes on to state:

> The House should create a Select Committee on Committees by the end of the first session of the 95th Congress. The Select Committee should be directed to conduct a complete and thorough study of the House committee structure, including the number of committee and subcommittee assignments per Member, . . .

That is what the Democratic caucus subscribed to this morning, that we have just allowed the committee structure to get completely out of hand around here. I wonder what might happen with a committee like this with 16 members, with a real legitimate justification for foreign travel. I predict that the committee will be in every foreign country in the world since most are experiencing increases in their population growth rate. There has been criticism before about this Congress and the amount of travel that has been taken. I just wonder what kinds of reports we will hear about travel by this committee, whenever it is chosen.

I submit, Mr. Speaker, we would do well to turn down this resolution and abide by the Obey Commission's recommendations and look at the overall committee system before we just add another problem to our woes.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I am pleased to have this opportunity to join others in the House to speak to you today in support of House Resolution 70, which would establish a Select Committee on Population.

Just over 4 billion people now occupy this planet. Despite droughts, wars, disease, and major improvements in methods of birth control, nothing has slowed our steady trek toward the overpopulation of the planet. Experts at the United Nations predict that the number of people on Earth will continue to double and redouble at a faster and faster rate.

The world's population is estimated to have been only 250 million when Christ was born. By 1850, there were 1 billion people in the world, and only 80 years later, there were 2 billion. Current U.N. projections indicate that the world's population in the year 2000 will exceed 6 billion. One of the more disturbing aspects of this situation is that the biggest growths in population are occurring in parts of the world least equipped to deal with the social, political, and economic pressures caused by overpopulation. For example, Mexico's current population is 60 million, and is doubling every 20 years. As a result of the severe unemployment in Mexico, nearly 10 percent of its 60 million people are illegal aliens residing in the United States.

House Resolution 70 directs the new select committee to investigate and study three major areas of concern: First, the adverse effects of world population growth and their implications for the United States; second, approaches to the problem which have proven useful in coping with excessive population growth with the emphasis on reducing conception rather than the termination of pregnancy; and third, means to encourage countries with excessive growth rates to adopt methods which have proven successful in reducing population growth rates.

I address this body most frequently in my capacity as the ranking Republican on the House Energy and Power Subcommittee. The amount of energy used every day by the world's 4 billion people, for everything from heating water to running the most sophisticated computers, is increasing rapidly. Each increment in demand is another drain on limited energy reserves.

Fossil fuels, particularly petroleum, made the economic growth of the industrialized world possible. Nitrogen fertilizers, produced from natural gas, boosted agricultural productivity. As population growth continues, and the amount of land available for cultivation dwindles, additional food needs must be met by cultivating existing farm land more intensively. This maximum cultivation generates heavy new demands for fertilizers, irrigation and other energy intensive methods.

But it would be wrong to assume that population-related energy problems are confined to poor countries. When population growth occurs in societies where either wealth or technology have led to energy-wasting life styles, the added demand on energy supplies is especially large.

Even successful population control policies will not mitigate overnight our increasing demand for energy. But those policies can be an important part of a long-term approach to energy problems. If that is to be the case, and I hope that it will be, it is important to begin now.

Current congressional jurisdiction over population-related problems is spread widely throughout our various committees. While it does not quite extend from A to Z, it does go from A (Agriculture) to W (Ways and Means). This select committee, a single forum, with the broadest possible perspective, is vital if we are to give this issue the overall study that it deserves.

To me, the population problem is most quickly and easily perceived in terms of the increasing demand for energy. To someone on the Agriculture Committee, it may be perceived in terms of the need to provide food for more and more people. For a Member serving on the Committee on Banking, Finance and Urban Affairs, it may mean the problem of providing the necessary housing. A single select committee would provide us a means to benefit from the substantive expertise of our colleagues in these and other areas, and at the same time spare us the tunnel vision that is sometimes the natural product of the committee system.

Again, Mr. Speaker, I urge the favorable consideration of House Resolution 70.

Mr. LOTT. Mr. Speaker, I yield the balance of my time to Mr. BAUMAN.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I say to the gentleman from Maryland, I always wondered how long it would take before the idea surfaced to pass a law against this also.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his decisive and incisive contribution.

Mr. Speaker, an excellent case has been made in many particulars against this resolution by a number of speakers. I know that it is common practice, like Parkinson's law, that in the Congress of the United States when you smell a popular issue, you create a committee to milk it. This is that kind of issue.

The gentleman from New York (Mr. SCHEUER), if nothing else, is to be given great credit for his beaver-like activities in delving around the floor of the House and rounding up 262 Members to cosponsor this legislation over the past 6 months, but the volume of misguided

Members does not make the proposition any better.

As the gentleman from Illinois (Mr. DERWINSKI) said, this is just another example of Congress throwing away taxpayers' money and creating unnecessary bodies. We have been told that this committee will bring the population problem into focus, narrowing the issue, that is all very well; but you do not propose to abolish the Subcommittee on Census and Population of the House Committee on Post Office and Civil Service. You do not diminish the jurisdiction of the Committee on International Relations. You ignore the existence of 11 research institutions, foundations, and organizations that deal with this privately. You forget there are two U.S. Government agencies which study world population and the United Nations fund for population reports annually on its studies. The bill, H.R. 3950, now pending, which the gentlewoman from Colorado (Mrs. SCHROEDER), has sponsored would charge the Census Bureau to deal with this same problem.

We have before us a resolution that could be a blank check for 16 Members of this Congress to gallivant around the world without any limitation. If you look at page 4 of the bill, they can hire as many staff members as they want, to be paid, we know not what; and for what purpose? At the end to file a report that few will read.

Now, I raise the question whether this report is really necessary. I would like to read to you from the Chicago Sun Times of July 18, 1977, which is in large part an article about the activities of the gentleman from New York (Mr. SCHEUER). In this article it refers to the fact that the gentleman from New York last year hired a professional writer, Polly Greenberg, to research and draft a population report. The article says she was paid more than $10,000 to write the report. I have no way of knowing from the content of the article whether or not that was paid by taxpayers or private sources. The article does say that private parties sent Miss Greenberg to Africa on an extensive trip where she did the research, and at the time this was written the report was eventually to be filed as a House document.

If this has already been done, why must we set up a select committee and spend more money in duplication and allow Members to dribble away the taxpayers' wealth?

You are concerned about growing population, but you show no concern about the taxpayers who have to pay for these kinds of inane ideas. There is no concern about the lack of controls over foreign travel, no concern that this resolution authorizes unlimited staff. If the example of other select committees in this House is to be followed, I will predict this committee will come in with a budget anywhere from $200,000 to $800,000, which is an average of most of our select committees.

You have to only look at what this Congress has done with the taxpayers wealth. If we cannot control ourselves in this House any better than this on such useless spending, this waste of taxpayers' money, I do not see how you are going to expect millions of people to control themselves and stop procreating all around this world. This resolution creates still another unnecessary committee of the House to study just what a majority of Congress has been doing to the American taxpayer for years.

Congress ought to try a little bit of self-restraint. That is probably the only way we are eventually going to solve the population problem.

Mr. Speaker, I think small things sometimes tell more about an institution than the larger issues. When the history of the decline of this country is written, one of the issues that the historians will have to address is the total lack of fiscal responsibility on the part of this House of Representatives and of the other body. This is another tragic example, and I say shame on the House.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, the previous Speaker, I think, has articulated what he conceives as the issue rather specifically; that is, are we wasting money or are we not? Are we going to save money by refusing a committee which has taken this long in the history of the Congress to make this important and valuable contribution to a problem that, in my judgment, the time has come for this, the 95th Congress, to address?

What I see in this resolution as redeeming and certainly worth the vote of every Member is that we are now trying to find ways to optimize the chances of life for the greatest number of people in the world. This is an issue to which I am drawn. If this select committee is willing to spend a few more dollars, hire a few more people, and organize the effort and thought that is emanating from other bodies—outside of Congress—I think that this action will fully justify every vote from every Member of this House.

I am a little impatient with those who keep arguing, from an economic point of view, as to whether we can afford a committee to study an international problem of this dimension. We are talking about some 400 or 500 million people in the world who are chronically undernourished—10 million of them children—because of lack of adequate population control measures. We are talking about 12,000 human beings who die of malnutrition every day. To tell me that we cannot afford a committee at this point, I think, suggests a shortsightedness that I prefer not be a part of.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Speaker, as a cosponsor of H.R. 70, to establish a Select Committee on Population, I want to urge you to consider this matter carefully and support the resolution. Population problems and related problems of social welfare, natural resources use, and economic development are among the most intractible but important ones facing this country and the world. Without deeper understanding of the causes and consequences of demographic trends, which vary greatly from country to country, most of the world's problems will be more difficult to solve and the future position of the United States will be more uncertain.

Personally I have been involved in population research for many years having directed programs in this field and written a good deal myself. This latter includes an extended paper for the recent U.N. Conference on World Population and the earlier U.S. Commission on Population and the American Future, Rockefeller Commission.

I am especially hopeful that a House select committee will enrich these earlier studies in several ways. The importance of more rapid economic progress in many developing countries as a condition for reduction in population growth requires further investigation as do increasing urbanization, entrance of women into the labor force, extensions of old age security programs, shortages of energy and food, and other factors. Here in this country the rapid drop in birth rates, now perhaps stabilized at less than long-run replacement rates, points to the need for reappraising social security funding, educational expenditures, and the emphasis in health and employment programs.

The results of earlier experiences and reports need to be analyzed and presented in a form that can guide the House as we wrestle with population-related bills dealing with taxes, welfare, foreign aid, housing, education, health, and other matters. A select committee can add significantly to the ongoing work of regular subcommittees concerned with population. I would expect the financial requirements to be modest.

Mr. MOAKLEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, it is with reluctance that I rise to oppose the bill for I think the gentleman from New York is sincerely concerned about population issues and will do all he can to work on them. As the chairman of the Census and Population Subcommittee in the last Congress, I must say the committee is not needed. We had intensive and extensive hearings updating the whole population area. Rarely was more than one other member of the committee present because of the constant conflicts we have here. To take this jurisdiction away from where it belongs coupled to the population statistical gathering branch of the Government, seems utterly insane to me. The last thing we need is more committees and we have the most up to date population information available already set out in hearings. Consequently since the subject matter has already been more than adequately covered leadership would decide to cover it again with yet another committee.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I will not belabor the point. I support the select

committee. But I think that special praise needs to be given to the gentleman from New York (Mr. SCHEUER), who singlehandedly, without question, brought this committee into existence.

Mr. Speaker, I remember him working on this House floor. I do not know how many years he has been here, because I just got here, but he singlehandedly brought this committee into existence, working both sides of the aisle.

I would like to think that I helped him a little bit, but he was pushing and showing me how to get action in this House, and I think the gentleman deserves special recognition.

Mr. YOUNG of Missouri. Mr. Speaker, I am opposed to this resolution for two basic reasons.

The first is that this select committee would needlessly duplicate the work that the Subcommittee on Census and Population is already doing.

This subcommittee has conducted hearings and published numerous reports on various aspects of population. And several other committees have looked into related matters.

Aside from that, our Government has two agencies which conduct extensive studies of world population. And there are a number of organizations in the United States that are entirely devoted to the study of population and population control measures.

If we vote to establish this select committee, it would add fuel to the arguments that Congress is not paying enough attention to waste in Government. This would be yet another committee, with yet another payroll and another set of reports—and probably no new information.

The other reason I oppose this resolution is that this Select Committee on Population would probably end up spending most of its time—and American taxpayers' money—discussing population control in other parts of the world.

Now I am not saying that there are no such population problems. But I am saying that the U.S. House of Representatives is not the proper place for a forum on world population problems.

Let us leave it to the United Nations or to the foundations devoted to population control to deal with these problems. I have said this before and I will say it again: The United States has no right to interfere with sensitive matters such as population control in other nations.

Mr. PEPPER. Mr. Speaker, in recognition of the compelling need to begin developing policies responsive to problems arising from projected changes in our population structure—I am pleased to be recorded as one of the 264 cosponsors of House Resolution 70 as introduced by my distinguished colleague from New York, Mr. SCHEUER. This legislation will provide for the establishment of a Select Committee on Population to conduct an investigation and study of world population growth, and to provide policymakers with more than educated guesses about what lies ahead.

As chairman of the House Select Committee on Aging, I believe that we must improve the ability of the Congress to anticipate potential problems resulting from economic, social, and political changes that will occur in the population over the next 50 years. Just yesterday, our Aging Subcommittee on Federal, State, and Community Services, chaired by Congressman MARIO BIAGGI, held its first in a series of hearings on "Aging in the World of Tomorrow." Testimony provided revealed that the population of over 65'ers will more than double by the year 2025, and that life span extending technologies, probably available after 1990, will permit a person to live an average of 150 years. Life expectancy is and will continue to increase in the foreseeable future. The need to prepare society and individuals for the various kinds and degrees of adjustments that will have to be made before the future becomes the present is obvious. The findings of these foresight hearings will be published in a report later this Congress. Hopefully, at that time, we will have a Committee on Population to review and assess the impact these findings will pose for the larger community in which we all live.

We have experienced in our lifetime continuing progress and remarkable change both in this country and throughout the world. We have suffered through two World Wars, the Depression and periods of domestic strife, but we have always moved toward social improvement at home and peace abroad. There is before us an opportunity to continue our progress both in America and in the international sphere by closely examining the subject of population and its effects on our lives.

We are all familiar with the arguments concerning our finite resources and the limits which they may place on man's ability to grow industrially and to improve socially. We have considered and approved a national energy package that aims to meet production and conservation goals necessary to our increasing energy demands. The agriculture bill was intimately tied to the costs of production, price supports and bumper crops and the effects of each of these on our total food resources. What we now have a chance to address is the issue of those ultimate consumers of these and all resources, people. How does an increase in population change our lifestyle or alter the labor market? Where will the food be produced to feed a burgeoning world population, and what measures will be necessary to meet the development requirements of an ever-growing Third World? These are only a few of the questions which one may raise concerning the overall issue of population growth, both in the United States and in nations across the globe.

House Resolution 70, Mr. Speaker, provides the House of Representatives with a means to grasp the matter in its entirety, and to direct itself to the right questions, if not to arrive at some definitive answers. The select committee will be directed to study the major adverse effects of population growth throughout the world and its probable impact on the United States. The committee will further investigate the most effective means to control excessive population growth, giving priority to efforts to reduce conception, to encourage or assist countries in utilizing those methods proven to be most successful.

Some questions have been raised as to the need for another select committee, particularly one to study population. The issue is of far greater significance than the difficulty our young "baby boom" Americans are having as they begin to enter the job market; it is greater even than the proportional increase of older Americans and the strain on the social security system which we will experience in the near future, although both these subjects are related to the broader population question. National and international population growth is a subject that translates directly into resource use, industrial development, housing, health care, education and nutrition requirements in every country of the world.

The present world population is just over 4 billion, but the next billion will be with us in only 11 years, and our population will double in about 35 years. That is not much time to find ways to clothe, feed, and educate twice as many people as there are today. Energy use, pollution, food production, and the consequent resource depletion will all increase and will continue to increase at a faster rate unless we are able to control population growth to a point where it permits our technologies to catch up with necessary demands.

This can be taken a step further to consider the very structure of the world in generations to come. Our present international system gives us some indication as to likely conflicts of interest in the future if the population question is not considered in light of desired economic growth, modernization and human well-being. The underdeveloped nations are rightly asking for their share of the pie, yet all forms of international assistance are struggling to keep abreast with the aggregate demands of a perennially growing world population. This makes it almost impossible to achieve the true goal of improving the living conditions in the world's poor nations. We do not want to reach a point where international concerns dictate our own domestic policy, yet a confrontation between the developed and underdeveloped world, which could conceivably ensue if development goals are not met, might force decisions at home which impede our own expected progress out of the necessity for international security.

This is, of course, an admittedly undesirable scenario for the future. It is nonetheless possible, and it points to the need to begin to deal with the issue of population. People are the users of energy, people demand food to exist, and it is people who become frustrated if their expectations for an improved standard of living—economic and social—are not met.

House Resolution 70 is our means, therefore, to begin to formulate policy in regard to this very important matter. Through the select committee's efforts, we can pull together the abundance of

available information to arrive at an informed position, and one that is vital not only to the continued success of the United States, but also to the opportunity for all peoples to enjoy an improved quality of life.

Lastly, Mr. Speaker, I would like to extend special appreciation to the gentleman from New York (Mr. SCHEUER) for his kind and thoughtful gesture of postponing consideration of this important legislation until today. Mr. SCHEUER's proposal was originally scheduled to be taken up on Friday of last week. However, he volunteered to permit H.R. 5383, a bill I sponsored to curb forced retirement, to be brought to the floor before his own measure. I strongly support the gentleman's resolution that is before us today, and commend him for his actions on behalf of our Nation's senior citizens last Friday.

Mr. VANIK. Mr. Speaker, I support House Resolution 70, providing for a Select Committee on Population.

There is no question on the need to study the trend of world population and its relationship to the need for food, resources, health education, development, and an improved standard of living.

I believe that it will be also necessary for the study to deal with population trends in America and its relationship to work force, unemployment, and retirement needs.

Earlier this year I have projected a substantial increase in the Nation's work force. The dynamic increase in our work force in the past 20 years reflects the massive movement of housewives into the work force.

The work force of our Nation has grown with every spurt of inflation. As financial pressures increased, millions have moved from the kitchen and the school desk to the job search. Following is a preliminary table I have prepared setting forth the effect of demographic factors on unemployment. Although our economy creates over 2 million jobs per year, there is a widening disparity betweens jobs and employable manpower.

The table follows:

WORKFORCE, 18 TO 64

	1970	1976	1980	1985
Number	115,097,000	124,936,000	131,842,000	139,646,000
Less disabled	11,700,000	12,500,000	13,000,000	13,750,000
Subtotal	104,797,000	112,436,000	118,842,000	125,896,000
Less full-time college students	6,800,000	6,900,000	7,000,000	9,000,000
Subtotal	97,997,000	105,536,000	111,842,000	116,896,000
Less workers in job security program paying into the unemployment fund		89,347,000	91,347,000	93,347,000
Total potential unemployment if all able workers sought jobs		16,189,000	20,495,000	23,549,000

With improved economic conditions and with zero population growth—jobs in America may exceed workers by the year 2000. It may then become necessary to provide incentives for family growth or to consider some programs of immigration to sustain the necessary workforce.

Demographic studies on American population are absolutely essential in planning the economic growth of the country, developing and allocating resources, and preparing for the establishment of adequate educational and retirement facilities.

Mr. BAUCUS. Mr. Speaker, I rise in support of House Resolution 70, a bill to create a Select Committee on Population. I would like to address myself briefly to this issue.

If current trends continue, more than 2 billion persons will be added to world population by the end of the century. This creates a severe problem for all thoughtful policymakers.

Uncontrolled population growth may be the root cause of many of our world's problems. Yet in our approach to the resultant social and economic problems, we are only treating the symptoms, not the underlying cause of our problems. Left unchecked, overpopulation will result in a deteriorating social, economic, and environmental climate. Therefore, we must address ourselves directly to this issue.

It is vital that Congress understand the problems of population growth. We must better understand relationships, not only of our legislative policies to domestic population growth, but also of U.S. foreign policy to population growth abroad.

Exactly what do I mean by relationships? Let me give a few examples. Although overpopulation is not a significant problem in the United States, it should not be ignored. Recently, our population growth has declined, and our positive growth rate is attributed less to birth than to immigration—both legal and illegal. We understand too little about the unique social problems caused by such immigration, and how those problems differ substantially from problems associated with natural population increases. It is important, therefore, for Congress to find out what implications there are for such changes, and how legislation has and can affect population growth through immigration.

A more significant problem is the growth rate in the nations of the Third World. Robert S. McNamara, president of the World Bank, has stated that, "overly rapid population growth in a poor country siphons away resources that are desperately required for reducing economic and social deprivation, and that at the national level, the Government must devote a greater and greater amount of investment simply to provide minimal service to an ever increasing population."

Severe overpopulation problems will create increasing strains on international finance and trade, and these strains pose a number of fundamental policy issues that Congress should contemplate. Namely, can the underdeveloped nations with population problems ever hope to develop self-sustaining economies? Will their economic growth rate permit them to repay extensive international loans—realizing, of course, that the capital which would otherwise go toward development of an economic infrastructure will likely be swallowed by ravenous population growth? Assuming that international loans are not permanently available, at what point will these nations exhaust their credit resources? Moreover, what are the implications of national defaults? And, how will American financial institutions involved be affected? Also, what will be the impact on American trade if overpopulated nations are unable to secure the credits necessary to pay for their purchases from the U.S. market? Finally, can human rights survive in an atmosphere of desperation, which reduces the value of human life, and offers no hope for improvement? These issues are paramount in the formulation of U.S. foreign policy, primarily because they have direct repercussions on world peace and economic stability.

Congress, by creating a Select Committee on Population, could address itself to these issues. I believe we can help mitigate overpopulation problems in the Third World by assessing how our past and present policies have increased—or at least not retarded—population growth in these nations.

In assessing population problems, one must answer a multiplicity of crucial population-related questions. In addressing these questions, it is important to distinguish between nations suffering from overpopulation and those whose economic structures depend upon—and are able to sustain—high levels of imports such as foodstuffs. Moreover, if increased populations are problems, solutions must be considered in the context of human dignity and ethical morality.

The relationship between population growth and economic growth must be ascertained. Is economic growth necessarily tied to population growth? We need to know what impact a stabilizing population in the United States will have on future economic growth. And what areas of the economy will be especially affected by a stable population? Will there be manpower shortages in sectors of the economy such as agriculture which depend on unskilled labor? How will technological advances relieve these shortages if they develop?

Advanced industrial nations with stable populations like West Germany and

France have solved their unskilled labor shortage through immigration. But this has brought about new social problems by creating ghettos of alienated immigrants. Are Western European immigrant problems applicable to the American experience if the U.S. population levels out?

Are the overpopulation problems of one country "exported" to another? To what extent is the problem of illegal immigrants coming to the United States from Mexico due to population pressures in Mexico? Are U.S. attempts to restrict immigration futile, if the real problem is rapid population growth in Mexico? If so, what can the United States do to assist Mexico in resolving the problems of immigration and rapid population increases?

We must have the answers to these critical questions and many others if we are to gain an understanding of what the population problem is, how it affects our lives, and how we may come to terms with it.

The select committee's objectives and its ultimate success or failure in meeting these objectives depend on several factors. Will it be able to sensitize Members of Congress on population issues and will it be able to make Members aware of the impact that legislative policies have or could have on population growth? Can it formalize these "considerations" as an integral part of the legislative process?

While overpopulation is a critical problem facing us today, creation of the Select Committee on Population must be considered within the context of the proliferation of congressional committees. If the proposed select committee does not focus on issues that relate directly to the legislative process, such a committee would, I believe, be superfluous to "specific" congressional needs. Instead, the subject would be best dealt with by an independent study rather than unnecessarily tying up precious congressional resources.

If the primary focus of the proposed select committee were on the influence that legislation has upon population growth, the select committee's creation would be justified. Based upon the committee report (95-516), I believe that this is the focus, so I urge my colleagues to support this resolution.

Underlying the justification for this committee is the assumption that Congress has the tools with which to deal with the issue of overpopulation and is prepared to accept its challenge. We cannot be sure in advance whether Congress actually has the tools to deal with this issue. That is the task of the Select Committee on Population. But I do feel that the answer should be determined within the committee's mandated 2-year charter, and no longer.

Mr. MOAKLEY. Mr. Speaker, at this time it gives me great pleasure to yield such time as he may consume to the gentleman from New York (Mr. SCHEUER), the sponsor of the bill.

Mr. SCHEUER. Mr. Speaker, the hour is late and the Members have heard a great deal of discussion on this measure, so I do not think it needs a lot of elaboration by me. Suffice it to say that our whole civilization is faced with a time bomb. It took nature and the Good Lord about 1 million years—until the year 1830—to populate this Earth with 1 billion people. The second billion was added about 100 years after that, in 1930. The third billion took only 30 years. We reached a population of 3 billion around 1960. The fourth billion took a short 16 years. We reached that last year. As one of my colleagues mentioned, we now have just under a 2-percent rate of population growth around the world, which means that we will double our population sometime in the fourth decade to come, within a few years of 2015. At that point in time, if we do reach a population of 8 billion, we are going to see mass starvation, massive instability, massive unrest, and revolution taking place all over the Earth.

The Committee on Armed Services visited Southeast Asia in January 1976.

I was fortunate enough to be invited to join that group. When one of the members asked President Suharto of Indonesia, "What is the main threat to the economic stability and the military security of Indonesia?" he answered, "Our galloping rate of population growth."

He said to us:

> If we can't provide our kids with food, with clothing, with housing, with health care, with education, and, above all, with jobs, our government and our society are ripe for subversion, infiltration, overthrow, and revolution.

That is the situation facing governments in the developing countries throughout the world—in Asia, in Africa, and in Latin America.

I visited Africa last year. I visited six countries there, and I found that every one of those countries was desperate for our help in slowing their galloping rates of population growth. They realize that population growth is destroying their development program, which our AID program is helping to finance. They understand very well that they cannot build enough homes, they cannot plant enough food, they cannot build enough hospitals, and they cannot build enough schools to feed, clothe, house, educate, and, above all, employ their people. They are unable to cope with this situation which is the result of millions and millions of decisions or nondecisions being made in the dark of night.

As a humanitarian matter, as a matter of the Judeo-Christian ethic, as a matter of the categorical imperative, we owe to the nations around the world a promise to give them the help that they are asking for, that they are begging for, that they are pleading for.

Mr. Speaker, as to our own country, let me quote from an article that appeared in the Washington Star just a week ago, Wednesday, September 21. It cites a Government study that describes how in the last decade, when birth rates fell among older women to almost a replacement level, the birth rate among teenagers went up, "when cheap, effective contraceptive devices * * * became widely available, even to teenagers."

Nevertheless, the article goes on:

> The rate of illegitimacy among these girls, 15 to 17 years old, had nearly doubled in the decade * * * at a time when the rates for older women were dropping.

I continue reading from the article, as follows:

> In both cases, the upward trends occurred only among white girls. The birth and illegitimacy rates of black girls declined, although the rates are still much higher for blacks than for whites.

Even more disturbing is the fact that incidence of pregnancy among adolescents under the age of 15 is increasing.

This is a subject related to the work of many committees of the Congress. It certainly affects the Committee on Eduaction and Labor, because there is something that these young people should know that they do not know.

It affects the Committee on Ways and Means, both for its impact on our welfare programs and for its impact on our welfare programs and for its impact on title XX of the Social Security Act which makes family planning services available.

It clearly affects the Committee on Interstate and Foreign Commerce, which has jurisdiction over both biomedical research programs responsible for producing better contraceptive devices that are perhaps more appropriate for teenagers, and which has jurisdiction over family planning services that are provided under medicaid and title X of the Public Health Service Act.

It certainly affects the Committee on Agriculture, which has responsibility for the food stamp program.

It affects at least a half a dozen committees of this Congress. I wonder if anybody in this audience or any of the Members would like to hazard a guess as to which of these committees have held hearings on the problem of adolescent pregnancy or have seriously discussed the problem during hearings. Not a single one of the committees of this Congress, with the exception of the subcommittee chaired by the gentlewoman from Colorado (Mrs. SCHROEDER), who has helped document the figures I have read this morning, and who has done a diligent job, and has been active in this field.

Yes, the subcommittee of the gentlewoman from Colorado, a subcommittee of the Committee on Post Office and Civil Service, is the only committee or subcommittee in the Congress that has had the time, let us say, to face up to this tremendously critical and important problem.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Speaker, I strongly support the resolution that has been filed by the committee to create a Select Committee on Population.

Truly one of the crucial problems that is facing this country is the fact that Mexico, our neighbor nextdoor, has a serious overpopulation problem which will worsen in the next few years. Mexico City could well become the most popu-

lated urban area in the world, with 50 percent of its population under the age of 25 and growing.

With such overcrowding urban conditions and high unemployment in Mexico, trouble with our good neighbor to the south seems imminent. We already know what a problem we now have with illegal aliens, and it will not improve as overpopulation becomes an increasingly worldwide phenomonen.

I want to commend the gentleman from New York (Mr. SCHEUER) for filing legislation of this type; this proposed Select Committee on Population will serve as a significant resource committee to the existing legislative committees which must cope with the problems of today and the future. We need to examine the causes of changing population conditions in this country and throughout the world.

I do hope my colleagues will support this legislation.

Mr. SCHEUER. I thank the Speaker from the bottom of my heart, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 258, nays 147, not voting 29, as follows:

[Roll No. 601]

YEAS—258

Addabbo	Brinkley	Drinan
Akaka	Brodhead	Duncan, Oreg.
Alexander	Brooks	Duncan, Tenn.
Allen	Brown, Calif.	Eckhardt
Ambro	Brown, Mich.	Edgar
Ammerman	Brown, Ohio	Edwards, Calif.
Anderson, Calif.	Broyhill	Emery
	Buchanan	Erlenborn
Anderson, Ill.	Burke, Calif.	Evans, Del.
Andrews, N.C.	Burke, Fla.	Fary
Applegate	Burton, John	Fenwick
Armstrong	Burton, Phillip	Findley
Ashbrook	Butler	Fish
Ashley	Caputo	Fisher
Aspin	Carter	Fithian
Badillo	Cederberg	Ford, Mich.
Bafalis	Chisholm	Ford, Tenn.
Baucus	Clay	Forsythe
Beard, R.I.	Cohen	Fraser
Bedell	Collins, Ill.	Frenzel
Beilenson	Conable	Frey
Benjamin	Conte	Fuqua
Bennett	Conyers	Gammage
Bevill	Corman	Gibbons
Biaggi	Coughlin	Gilman
Bingham	D'Amours	Ginn
Blanchard	Danielson	Glickman
Blouin	Davis	Gonzalez
Boland	Dellums	Gore
Bolling	Derrick	Gradison
Bonior	Dicks	Guyer
Bonker	Dingell	Hamilton
Brademas	Dodd	Hammer-schmidt
Breckinridge	Downey	
Hanley	Markey	Rostenkowski
Hannaford	Marks	Roybal
Harkin	Martin	Ruppe
Harrington	Mattox	Ryan
Harris	Meeds	Santini
Harsha	Metcalfe	Sarasin
Hawkins	Meyner	Sawyer
Heckler	Mikva	Scheuer
Hefner	Miller, Ohio	Seiberling
Heftel	Mineta	Sharp
Hightower	Minish	Shuster
Holland	Mitchell, Md.	Simon
Hollenbeck	Mitchell, N.Y.	Sisk
Holtzman	Moakley	Skubitz
Howard	Moffett	Smith, Iowa
Hubbard	Montgomery	Solarz
Huckaby	Moorhead, Pa.	Spellman
Hughes	Moss	Staggers
Ichord	Murphy, Ill.	Steers
Ireland	Murphy, N.Y.	Stockman
Jeffords	Murphy, Pa.	Stokes
Jenkins	Natcher	Thompson
Johnson, Colo.	Neal	Thone
Jones, N.C.	Nedzi	Thornton
Jones, Tenn.	Nix	Treen
Jordan	Nolan	Tsongas
Kasten	Nowak	Tucker
Kastenmeier	Oakar	Udall
Kemp	Oberstar	Ullman
Keys	Ottinger	Van Deerlin
Kildee	Panetta	Vander Jagt
Koch	Pattison	Vanik
Kostmayer	Pease	Vento
Krebs	Perkins	Waggonner
Krueger	Pettis	Walgren
LaFalce	Pickle	Walker
Leach	Pressler	Wampler
Leggett	Preyer	Waxman
Lent	Price	Weaver
Levitas	Pritchard	Weiss
Lloyd, Calif.	Pursell	Whitehurst
Lloyd, Tenn.	Quie	Whitley
Long, La.	Quillen	Whitten
Long, Md.	Rahall	Wiggins
Lott	Regula	Wilson, Tex.
Luken	Reuss	Winn
Lundine	Rhodes	Wirth
McCloskey	Richmond	Wolff
McEwen	Rodino	Wright
McFall	Rogers	Wydler
McKinney	Roncalio	Yates
Madigan	Rose	Zeferetti
Maguire	Rosenthal	

NAYS—147

Abdnor	Flood	Myers, Michael
Andrews, N. Dak.	Flowers	Nichols
	Flynt	O'Brien
Annunzio	Foley	Obey
Archer	Fountain	Patten
AuCoin	Fowler	Pike
Baldus	Gaydos	Poage
Barnard	Gephardt	Quayle
Bauman	Giaimo	Railsback
Beard, Tenn.	Goldwater	Rinaldo
Boggs	Goodling	Risenhoover
Breaux	Grassley	Robinson
Broomfield	Gudger	Rooney
Burgener	Hagedorn	Rousselot
Burke, Mass.	Hall	Rudd
Burleson, Tex.	Hansen	Runnels
Burlison, Mo.	Hillis	Russo
Byron	Holt	Satterfield
Carney	Hyde	Schroeder
Carr	Jacobs	Schulze
Chappell	Jones, Okla.	Sebelius
Clausen, Don H.	Kazen	Shipley
	Kelly	Sikes
Cleveland	Ketchum	Slack
Cochran	Kindness	Smith, Nebr.
Coleman	Lagomarsino	Snyder
Collins, Tex.	Latta	Spence
Corcoran	Lederer	St Germain
Cornell	Livingston	Stangeland
Crane	Lujan	Stanton
Daniel, Dan	McDade	Steiger
Daniel, R. W.	McDonald	Stratton
de la Garza	McHugh	Studds
Delaney	McKay	Stump
Derwinski	Mahon	Symms
Devine	Marlenee	Taylor
Dickinson	Marriott	Traxler
Diggs	Mathis	Trible
Dornan	Mazzoli	Volkmer
Early	Michel	Walsh
Edwards, Ala.	Milford	Watkins
Edwards, Okla.	Miller, Calif.	White
Eilberg	Mollohan	Wilson, C. H.
English	Moore	Wylie
Ertel	Moorhead, Calif.	Yatron
Evans, Colo.		Young, Alaska
Evans, Ga.	Mottl	Young, Fla.
Evans, Ind.	Murtha	Young, Mo.
Fascell	Myers, Gary	Young, Tex.
Flippo	Myers, John	Zablocki

NOT VOTING—29

Badham	Jenrette	Rangel
Bowen	Johnson, Calif.	Roberts
Cavanaugh	Le Fante	Roe
Clawson, Del	Lehman	Skelton
Cornwell	McClory	Stark
Cotter	McCormack	Steed
Cunningham	Mann	Teague
Dent	Mikulski	Whalen
Florio	Patterson	Wilson, Bob
Horton	Pepper	

The Clerk announced the following pairs:

On this vote:

Mr. Stark for, with Mr. Dent against.
Mr. Rangel for, with Mr. Teague against.
Mr. Pepper for, with Mr. Jenrette against.

Until further notice:

Mr. Florio with Mr. Badham.
Mr. Lehman with Mr. Whalen.
Mr. Patterson of California with Mr. McClory.
Mr. Cotter with Mr. Del Clawson.
Mr. Bowen with Mr. Cavanaugh.
Mr. Roberts with Mr. Bob Wilson.
Mr. Le Fante with Mr. Cunningham.
Mr. Steed with Mr. Horton.
Mr. Roe with Mr. Skelton.
Mr. Mann with Mr. McCormack.
Ms. Mikulski with Mr. Cornwell.

Mr. MAZZOLI changed his vote from "yea" to "nay."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TOMORROW UNDER THE 5-MINUTE RULE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may be permitted to sit while the House is meeting under the 5-minute rule tomorrow, Thursday, September 29.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us this is vitally essential legislation?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, I certainly can; and the committee is scheduled to meet at 9:15, and we anticipate to be through Friday at 10 o'clock; but if we ran over a few minutes, I did not in any way want to violate the House rules. I wanted this to protect us.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, can the gentleman assure us that the committee will not go beyond 12 o'clock?

Mr. BROOKS. I certainly can.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION ACT, 1978

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7554) making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, with the remaining amendment in disagreement, and that the House recede from its disagreement to the Senate amendment No. 40 and concur therein.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment No. 40: Page 30, strike out lines 3 to 9 inclusive.

The SPEAKER pro tempore (Mr. THORNTON). Is there objection to the request of the gentleman from Massachusetts?

Mr. BEARD of Tennessee. Mr. Speaker, reserving the right to object, I would like to just reaffirm what has already been stated in the record. As a result of the Roberts-Hammerschmidt bill that was a compromise bill and also the Cranston-Thurmond bill on the Senate side, I have been told and the reason I will not object is it has been said to the Members of the committee that the White House will sign the compromise veterans' bill dealing with the awarding of veterans' benefits to those whose discharges are automatically upgraded under the Carter program.

Mr. BOLAND. Mr. Speaker, if the gentleman will yield, I personally am not privy to any such information from the White House myself. My understanding is that the members of the Veterans' Committee do have that assurance with respect to the authorization bill, S. 1307. That bill will be signed. In light of the circumstances. I urge that the House now recede from its insistence on the so-called Beard amendment.

Mr. BEARD of Tennessee. Mr. Speaker, I thank the gentleman and I do want to state the authors of the House bill, SONNY MONTGOMERY, JOHN PAUL HAMMERSCHMIDT and RAY ROBERTS have been assured by the White House that the President would sign it.

Mr. Speaker, I thank the gentleman for his patience.

Mr. BOLAND. Mr. Speaker, if the gentleman will yield further, I thank the gentleman from Tennessee for his patience.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, the minority supports the majority position. This matter has been resolved all the way through.

Mr. BEARD of Tennessee. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING SELECT COMMITTEE ON ASSASSINATIONS TO APPLY TO COURTS

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 760 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 760

Resolved, That for the purpose of carrying out H. Res. 222, Ninety-fifth Congress, when authorized by a majority of the committee or subcommittee members voting, a majority being present, the Select Committee on Assassinations, or any subcommittee thereof, is authorized to make applications to courts; and to bring and defend lawsuits arising out of subpenas, orders immunizing witnesses and compelling them to testify, testimony or the production of evidence, and the failure to testify or produce evidence.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MURPHY) for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 760 is a privileged resolution providing for 1 hour of debate in the House. This resolution gives the Select Committee on Assassinations authority to make applications to the courts and to bring and defend certain lawsuits. This authority may not be exercised unless authorized by a majority of the committee or subcommittee members voting, a majority being present.

The select committee was created by House Resolution 222 to conduct a "full and complete" investigation on the deaths of John F. Kennedy and Martin Luther King, Jr. Under House Resolution 222 the committee was given subpena power and the authority to grant immunity.

House Resolution 433 extended the life of the select committee through the 95th Congress. This resolution originally contained language giving the select committee authority "to bring, defend and intervene in lawsuits and make applications to court." However, this portion of House Resolution 433 was struck from the resolution by a floor amendment on March 30, 1977. It was felt that the authority sought by the committee was too broad with no limitations placed on the type of suits in which the committee might become involved.

The current resolution seeks less authority than was originally requested by the select committee in House Resolution 433. This resolution seeks no authority to intervene in lawsuits. Secondly, the authority to bring and defend lawsuits is clearly limited to certain types of lawsuits arising out of subpenas, immunity orders, testimony, or the production of evidence, and the failure of a witness to testify or produce evidence.

House Resolution 760 would clarify the power of the select committee with regard to its authority to go to court. Althought House Resolution 222 granted the committee the power to obtain immunity for witnesses under the appropriate statutes of the United States, the power to "make applications to courts" was deleted from House Resolution 433. There is now some doubt as to whether the committee can still apply to courts for immunity orders. Without this clarification, the committee would be compelled to go to the House on a case-by-case basis whenever the committee needed to apply for a grant of immunity, or for any other authority to go to court such as to obtain access to grand jury minutes or to defend against a motion to quash a subpena. House Resolution 760 should clarify this ambiguity.

House Resolution 760 was unanimously adopted by the Select Committee on Assassinations. The Rules Committee reported the resolution out by unanimous voice vote. This resolution provides the select committee with limited legal authority to conduct its investigation. I urge the adoption of House Resolution 760.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement just made by the distinguished gentleman from Illinois (Mr. MURPHY) about House Resolution 760. The resolution, for example, would make it clear that the select committee may apply to a court for an order of immunity. But it is somewhat more limited than the authority that was sought on March 30, 1977 when the House, by a vote of 223 to 195, deleted certain language from House Resolution 433. The language deleted provided that,

For the purpose of carrying out H. Res. 222, the select committee is also authorized to bring, defend, and intervene in lawsuits and make applications to courts.

Mr. Speaker, I might say the alternative, according to the proponents of this legislation, to the House granting the select committee the limited power at this time to make application to the courts is that the select committee would have to come back to the House each and every time it sought an immunity order.

In the Kennedy assassination investigation alone, the select committee has anticipated calling approximately 200 witnesses, many of whom might request a grant of immunity before they would testify. This could require the House to schedule each of these grants of immunity for floor debate, possibly on 150 separate occasions.

According to the proponents of this resolution, this is what they are attempting to prevent by virtue of the resolution.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from

Maryland (Mr. BAUMAN), for purposes of debate only.

Mr. BAUMAN. Mr. Speaker, on March 30, when the House considered the latest resolution authorizing the continuance of the Committee on Asssasinations, the resolution then before us contained the following phrase:

For the purposes of carrying out House Resolution 222, the Select Committee is authorized to bring, defend and intervene in lawsuits and make applications to courts.

Mr. Speaker, I offered an amendment at that time to strike out that language, and on a rollcall vote, with 223 in favor, 195 opposed, this broad authority was stricken from the resolution.

The reason I offered the amendment at that time—I think most Members will recall, and the majority of the House agreed—was the erratic behavior of the committee and its sensational activities had cast in doubt whether or not the committee could properly handle such wide-ranging authority which at that time was unprecedented in the House of Representatives.

Mr. Speaker, since that time a similar authority for a House committee to go into the courts without full House approval has been granted for the first time to the special Korean investigation that is being conducted. But still no other committee, standing or select, has the power to go into court for these purposes without first coming to the House.

Quite frankly, I discussed this matter with the gentleman from Ohio (Mr. STOKES) at length. I read the remarks he put into the record explaining why he felt this was now necessary. But I would also point out that this committee has already the power under the House rules and the United States Code to issue subpenas and to grant immunity to the witnesses that they may seek to compel to testify.

The thing that concerns me still is that, while this resolution before us, House Resolution 760, is described by the gentleman from Illinois as being limited in its scope, it does authorize the committee to make applications to courts. I have no idea exactly what that means. It does not sound to me to be a legal term of art. The resolution also says, without the committee, or its subcommittees, mind you, ever coming back to the House, they may compel witnesses to testify and to produce evidence.

Many of the Members have expressed grave concern that that kind of authority in the original resolution might lead to the calling of officials from the Attorney General's office, the FBI, the CIA, since at one point the committee was threatening to bring the Attorney General before the committee under subpena to testify.

Although the report says this power is limited to legal proceedings regarding immunity, and the remarks of the gentleman from Ohio indicate it is to be limited to immunity, I still read this as being a very wide-ranging authority for the majority of the select committe on its subcommittees so that there could be two or three Members of the House agreeing to bring contempt citations.

If they have many witnesses that need to be called, let us have them tell us what it is all about, and then we can have confidence that this power is needed. Otherwise we should let them come back to the House, as every other committee of the House must do, save the one conducting the Korean investigation, and seek such authority in each instance.

Mr. Speaker, I am afraid that, although the committee has demonstrated a greater responsibility in the last few months—at least I assume it has, because they are saying nothing—the history of the committee is such that I do not think we ought to change our stand. I, therefore, oppose the resolution.

Mr. MURPHY of Illinois. Mr. Speaker, for purposes of debate only, I yield 10 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, the resolution being debated today would, if adopted, clarify the power of the select committee to use one aspect of the authority already part of the select committee's basic resolution. The new resolution makes it clear that the select committee has the authority to make an application to a court to obtain a grant of immunity under the appropriate statutes of the United States. We are taking this action out of an abundance of caution and out of a desire scrupulously to follow the limitations of our current resolution and the essential requirements of due process. I note, too, that this power is ordinarily at the disposal of other investigative committees of the Congress.

I believe that a brief history of the scheduling of House Resolution 760 is illustrative of the necessity that the House pass it at this time. The committee has a witness who was scheduled to appear, and the committee desires to interrogate this witness at the earliest possible time. To obtain the immunity that this witness requires before he will testify, House Resolution 760 was introduced. The Rules Committee by voice vote reported House Resolution 760 to the House Calendar. Almost 2 weeks have passed since the House first could have taken action on House Resolution 760. It has been scheduled numerous times for action on the floor but due to the press of other urgent business of the House, like the ERDA bill, House Resolution 760 has not been brought up for vote until the present time. Consequently, the committee's investigation into the sensitive area where we believe this witness has information has been completely stopped. As I have indicated, one of the reasons we desire the passage of House Resolution 760 is the precise desire to avoid consuming excessive amounts of time on the floor of the House and to be able to proceed with our investigation without an undue delay due to awaiting action on the floor. The delay in voting on House Resolution 760, due to the other urgent business of the House, is a perfect illustration of the necessity that the House pass House Resolution 760 today.

LEGISLATIVE BACKGROUND

Mr. Speaker, an explanation of the need for this action requires some background. In House Resolution 222, the House placed upon the select committee the duty of conducting "a full and complete investigation and study of the circumstances surrounding the assassination and death of President John F. Kennedy and the assassination and death of Martin Luther King, Jr." The House also empowered the committee to subpena witnesses and grant immunity. In fulfilling this mandate, the committee indeed expects to call a number of witnesses, some of whom may have to be granted immunity from the use of their testimony in a prosecution against them.

But, under 18 U.S.C. 6005(a), to obtain immunity for such witness, a congressional committee, so authorized by its basic resolution, must apply to a Federal district court for an order conferring immunity on the witness. It is probably already the case that the select committee has been authorized to apply to a court for such an immunity order, because the House Resolution 222 explicitly provides that—

The Select Committee shall be considered a committee of the House of Representatives for all purposes of law, including . . . sections 6002 and 6005 of title 18, United States Code, . . .

Since section 6005 requires applications to courts for orders of immunity, it would seem to follow from the inclusion of this language in the select committee's basic resolution that such applications are authorized.

Nevertheless, the special legislative history of House Resolution 433, the resolution that reconstituted the select committee, casts some doubt over the committee's power to apply to a court for such an order. Originally, the committee, in House Resolution 433, sought general authority to "bring, defend and intervene in lawsuits." This portion of House Resolution 433 was deleted on the floor of the House. The effect this particular deletion had on the general immunity provision in House Resolution 222 is what is at issue.

ALTERNATIVES IF HOUSE RESOLUTION 760 NOT PASSED

Were a witness to refuse to comply with a court's immunity order compelling testimony before the committee, as well as defend a contempt charge on the ground that the rejection of the explicit language in House Resolution 433 authorizing the committee to go to court also affected the general authority granted by House Resolution 222 to seek immunity applications under section 6005, the committee would face a difficult and troublesome legal issue. It is likely, too, that an appellate court would not resolve this issue for several months, a period of time coming during the heart of the committee's investigations. Were the resolution of the issue to go against the select committee's power, it would also seriously hinder the course of the investigation. While the lawsuit was pending, moreover, all witnesses appearing before the committee would also be in a position to frustrate the committee's efforts to secure their testimony safe in the knowledge that the committee's authority to proceed was in doubt because of the litigation. Obviously, this is a risk that the select committee cannot afford

to run if we are to fulfill the mandate the House has given us.

If the committee cannot secure this clarification of its power, our work will not, of course, come to an end. But if it is to go forward, it will be necessary for the committee to return to the House floor on a case-by-case basis for each immunity application, something that other committees of the House do not have to do and something that we do not believe that the House intended when House Resolution 222 was amended. We can reasonably foresee that during the most difficult period of our investigation, immunity applications might be a weekly or even biweekly occurrence. Obviously, what is at stake here is more than the power of the committee. The efficient operation of the House calendar is also called into question, since it would be extremely time consuming for the committee to seek specific authority on the floor of the House to go to court to implement each of the committee's individual votes to grant immunity to particular witnesses. Obviously, too, if the House were on recess the investigation would remain in limbo pending the return of the Members.

GRAND JURY ILLUSTRATION

There are additional reasons for requesting the specific authorizing language we seek rather than for a resolution narrowly authorizing the committee to make an application in immunity situations. The committee has already been confronted with a limited number of other situations where it is necessary to make other types of applications to courts. For example, the committee presently needs access to certain grand jury minutes. We do not believe that the prosecutive agencies involved would object, but we know that they would want the committee to seek court permission, too. This is the proper legal way to proceed. It would be unseemly for us to act in any other fashion.

BRINGING AND DEFENDING LAWSUITS

In addition to granting the committee unequivocal authority to make applications for immunity or grand jury transcripts, the new resolution also specifically authorizes the committee to bring and defend lawsuits arising out of subpenas, immunity orders, testimony, or the failure of a witness to testify. This authority is narrowly related to issues touching on testimony or the production of evidence before the committee. For example, it insures that the committee has the authority to defend a motion to quash what may be filed against one of its subpenas. The committee has an absolute defense against such a motion based upon the speech and debate clause; this provision guarantees the committee authority to appear in court to assert that defense.

It would also enable the committee to go to a court to obtain a civil contempt order against a witness who had been ordered to testify by a court, but had not complied with it. The witness would be in violation of a court order, but to obtain the witness' testimony, it may only be necessary to clarify the order or call the judge's attention to the fact that a witness had not obeyed his order. The resolution would give the committee this authority; it would not supplant the role of the House in any criminal contempt proceeding, since pursuant to statute, criminal contempt proceedings would still have to be referred to the full House for certification.

COMPARISON WITH 443

The power to bring suit is not something that could be exercised by staff members without careful committee supervision. No power is sought to roam far and wide conducting our investigation by lawsuit rather than by carefully planned hearings—something that those who voted to delete general litigation authority in House Resolution 433 legitimately feared. For example, under the deleted authority in House Resolution 433, the committee could have intervened in a freedom of information suit brought by a citizen against the Archives for access to the Kennedy autopsy materials. No such power for the committee would be granted by the current resolution.

The authority could only be exercised by a majority of the committee or subcommittee members voting, a majority being present. It is certainly a much more restrictive and controlled authority than that which was deleted from House Resolution 433.

SENATE AND KOREAN PRECEDENT

The authority is necessary because committees cannot go to court to defend themselves unless they are specifically authorized to do so by resolution of the full House. *Reed* v. *County Commissioners*, 277 U.S. 376 (1928). Here it is significant to note that in response to the Reed case, the Senate passed a special resolution authorizing all Senate committees to petition courts for relief. See Senate Resolution 262, 70th Congress, 1st session 1928. There is no comparable resolution that exists for the House. Consequently, each committee must be individually so authorized, as the Korean Committee has been under its resolution. See House Resolution 252. Indeed, the powers granted the Korean Committee in section 6 of its resolution are broader than those we seek. This last point is particularly significant. It was thought that powers such as these were unprecedented when House Resolution 222 was considered. Now that the Korean Committee has found it necessary and helpful to have powers of this character of a general nature, the narrow authority sought by this committee should not be refused.

Mr. Speaker, this resolution will clarify and grant the committee the narrowly drawn legal authority it needs to accomplish what the House has mandated. It is a necessary power for any investigative committee to have to perform a competent and complete investigation. Having authorized the committee, and funded it, the House clearly has demonstrated its commitment to a serious investigation. To deny the committee sufficient legal authority to perform its task would make a mockery out of the "full and complete" investigation mandated by House Resolution 222. I hope it will receive the favorable attention of the House.

Mr. Speaker, as I have stated, the ability of the committee to be able to grant use immunity for a witness is crucial to the success of the committee's investigation. I have a legal memorandum written on the origins of the use immunity concept and its key role in any successful investigation. I include in the RECORD the memorandum which I have referred to.

SEPTEMBER 19, 1977.

MEMORANDUM

To: Select Committee Members.
From: G. Robert Blakey, Chief Counsel and Director.
Re: Use Immunity and the Congressional Investigatory Process.

The congressional fact finding process requires many legal tools. It is not enough that a congressional committee charged with a sensitive and difficult investigation has the power to compel the attendance of witnesses and the production of documents. Although witnesses may be forced to attend, they may not be compelled to testify contrary to their privilege against self-incrimination. Immunity is a means to procure a witness' testimony by guaranteeing that that testimony will not be used to incriminate the witness.

The immunity mechanism has deep historical roots, has been widely used by the Congress, and has proven most useful in untangling complicated conduct involving criminal wrong-doing. The Ervin Committee, for example, in investigating presidential campaign activities and the 1972 Watergate breakin conferred immunity on twenty-seven witnesses. The testimony of two of those immunized, Jean Dean and Jeb Stuart Magruder, may have been the single most important factor leading to the breaking of the Watergate case".[1]

The statute under which immunity was granted by the Ervin Committee was enacted in 1970 as part of the Organized Crime Control Act.[2] It was a "use immunity" statute; it replaced a hodgepodge of fifty separate Federal statutes that provided for blanket or "transactional immunity". The 1970 law provides "no testimony or other information compelled under the (court) order (or any information directly or indirectly derived from such testimony or other information) many be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order".[3]

This statute presently governs the granting of immunity by Congress and its Committees. It also regulates grand juries and administrative agencies. Its legal roots run deep in English and American law. To understand the scope and limitations on Congress' immunity power under the statute, reference must be made to the history behind the concept of "use immunity" and its place in American criminal law.

I. HISTORY OF THE DUTY TO TESTIFY AND THE PRIVILEGE AGAINST SELF-INCRIMINATION

A. The duty to testify

Use immunity is merely a constitutional equivalent of the Fifth Amendment privileges against self-incrimination. The Fifth Amendment states:

"No person shall be . . . compelled in any criminal case to be a witness against himself. . . ."[4]

This right against self-incrimination counterbalances the duty of every witness to provide testimony. The right to maintain silence is best seen as an exception to a general duty to speak. The legal duty to speak is basic to and arose with the modern Anglo-American system of justice. Until the Sixteenth Century "witnesses", as we know them today, were not used in English trials.[5] Jurors were supposed to find the facts based on their

Footnotes at end of article.

own self-acquired knowledge. Indeed, the pure witness—the individual unrelated to either party who merely happened to have relevant information—ran the substantial risk of a suit for maintenance if he volunteered to testify.[6] The situation became unworkable as litigation became more complex and juries became less and less able to resolve factual disputes on their own. Finally, in the *Statute of Elizabeth* in 1563,[7] provision was made for compulsory process for witnesses in civil cases. The enactment of this statute alleviated the risk of a suit for maintenance, for "what a man does by compulsion of law cannot be called maintenance".[8]

The *Stat. of Elizabeth*, by allowing a party to compel a witness to attend a hearing, only made it possible to testify freely; it imposed no duty to testify. Nevertheless, the step from right to duty was short, and it was soon taken. By 1612, Sir Francis Bacon in the *Countess of Shrewsbury's Trial* was able to assert confidently:

"You must know that all subjects, without distinction of degrees, owe to the King tribute and service, not only of their deed and land, but of their knowledge and discovery. If there be anything that imports the King's service they ought themselves undemanded to impart it; much more, if they be called and examined, whether it be of their own fact or of another's, they ought to make direct answer."[9]

For more than three centuries it thus has been a maxim of indubitable certainty that the "public has a right to everyman's evidence".[10] "When the cause of justice requires the investigation of the truth," as Wigmore[11] put it, "no man has knowledge that is rightly private."

This principle, steadfastly adhered to over the past three hundred and fifty years, was resoundingly affirmed by the Supreme Court as recently as the "Watergate case". On March 1, 1974, seven presidential staff members were indicted for conspiracy to obstruct justice and other offenses relating to Watergate. On April 18, the District Court on motion of the Special Prosecutor issued a subpoena *duces tecum* to the Preident of the United States, directing him to produce in advance of the September 8 trial certain specified tapes and documents. Citing Executive privilege, the President refused.

On July 24, the day the House Judiciary Committee began its final, public debate on proposed articles of impeachment, the Supreme Court held unequivocally that not even the President may eschew his duty to provide evidence. As the Court stated, "The very integrity of the judicial system and public confidence in the system depend on a full disclosure of all the facts . . . To ensure that justice is done, it is imperative to the function of courts that compulsory process be available for the production of evidence . . ."[12]

The Court, in rejecting the President's privilege in this case, reaffirmed the ancient proposition of law, "(T)he public . . . has a right to every man's evidence except for those persons protected by a constitutional, common law, or statutory privilege."[13] Executive privilege was found to be too general and ill-defined a concept to offset the testimonial duty in a criminal case.

B. The privilege against self-incrimination

As the Watergate case reflects, the historical duty to testify is not absolute; it may be qualified by certain distinct privileges, the most important being the privilege against self-incrimination. The origins of this privilege, however, are unclear. The history of the privilege begins with the hated practice of the oath *ex officio mero*.[14] This oath was one abuse characteristic of heresy trials in the ecclesiastical courts and then of the infamous Star Chamber, which took its rules of procedure from ecclesiastical law. The emotional reaction which accompanied abolution of the oath ultimately halted the use of such incriminating interrogation in the common law courts.

Until the early Seventeenth Century, however, when the long battle between King and Parliament began, no serious and successful objection had been made to the oath *ex officio*. Under proper circumstances, the canon law upheld it.[15] Nevertheless, through the influence of Lord Coke, a change occurred. By 1615, the power of the ecclesiastical court to use the oath *ex officio* in any penal inquiry had been ended by decisions of the common law courts.[16] The Star Chamber and its similar practice were the next to go. As a direct result of public indignation at the *Lilburn Trial*,[17] where the defendant was ordered pilloried and whipped for failure to respond to the oath, Parliament abolished both the oath and the Chamber itself.[18]

Before the Star Chamber, Lilburn himself had not claimed a privilege against self-incrimination, but merely that the proper presentment had not been made, a presentment necessary before the oath could be lawfully administered. After the cause had triumphed, however, the distinction was soon lost or ignored. The oath itself had come to be associated with the Stuart tyranny. Details were forgotten.[19] Repeatedly claimed, then assumed for argument, finally by the end of the reign of Charles II, there was no longer any doubt of its general application.[20] No one at any time in any English court could be compelled to accuse himself. It was out of this history and the experience of the colonists with the Royal Governors that the privilege ultimately found its way into our Bill of Rights in the Fifth Amendment.[21]

The modern privilege against self-incrimination applies to both Federal and state proceedings.[22] Any question the answer to which would furnish a link in a chain of evidence[23] which would incriminate the witness need not be answered "unless he chooses to speak in the unfettered exercise of his own will".[24] The privilege applies not only at trial but also in any circumstance of official interrogation.[25] Only testimonial utterances fall within its scope.[26] The privilege is personal; it may not be claimed to protect another.[27] In addition, it protects only natural persons; corporations[28] or unions[29] may not claim its protection. The privilege may be waived by the recitation of incriminating facts;[30] the law requires its waiver when an accused testifies in his own behalf at a criminal trial.[31]

Generally, it must be asserted to be claimed. Otherwise, it is waived. For the privilege is "merely an option of refusal not a prohibition of inquiry".[32]

Like the duty to testify, the privilege against self-incrimination is not an absolute. It is out of the conflict of this privilege with the duty to testify that the concept of immunity developed.

II. HISTORICAL DEVELOPMENT OF THE IMMUNITY GRANT: A SUBSTITUTE FOR THE PRIVILEGE AGAINST SELF-INCRIMINATION

In England, it was only a comparatively short time after the privilege against self-incrimination had matured before various techniques to mitigate its impact on the administration of justice developed. The first reliable example occurred in the *Trial of Lord Chancellor Macclesfield* in 1725.[33] The Chancellor had been guilty of traffic in public offices. An act was passed to immunize present Masters in Chancery so that their testimony could be compelled. Once the present "criminality" legally attaching to their actions was effectively "taken away" by the statute, their privilege against self-incrimination "ceased" to exist.[34] What Parliament found it could thus do with its amnesty powers, the King's prosecutors soon learned they could accomplish by the tendering of Royal pardons. The tradition in English law of permitting the privilege to be thus annulled stands even today unquestioned.[35]

The American colonists not only brought with them the privilege against self-incrimination, but they also adopted these various techniques. As early as 1807 in the treason trial of Aaron Burr, President Jefferson attempted to give an executive pardon to one of the witnesses against Burr.[36] The witness refused the pardon, but testified anyway. The right of a witness to refuse a pardon, and thus defeat the technique, was not clearly established until 1915, when the Supreme Court upheld the right of a grand jury witness to turn down an executive pardon from President Wilson.[37] In the intervening years, the cloud that existed over the pardon technique because of the Burr trial directed the chief attention of the law toward the legislatively authorized immunity grant.

Congress first adopted a compulsory immunity statute in 1857.[38] Legally, no attack was successfully mounted upon it. Nevertheless, its operation was hardly successful, since it automatically protected against prosecution any matter about which any witness testified before Congress. It constituted Congress' first broadscale experimentation with transactional immunity.

"For five years, rascals and scalawags of various stripes journeyed with celerity to Congress to confess and thus receive an 'immunity bath' that cleansed them, if not of their sins, at least of legal culpability for crimes committed."[39]

As Alan Barth described it:

"The investigating committees became, during the brief period the law was in force, a kind of bargain-basement confessional where easy absolution could be secured."[40]

One individual who had stolen two million dollars in bonds from the Interior Department had himself called before Congress, where he testified to a matter relating to the bonds and was immunized.[41] Obviously, this was an intolerable situation, and the statute was soon repealed. In its place the Immunity Statute of 1862[42] was enacted. The new statute did not grant immunity from prosecution; it merely purported to protect the witness from having his testimony subsequently used against him. Six years later the statute was broadened to cover judicial proceedings.[43] After being upheld by lower Federal courts,[44] relying on an early New York decision,[45] the statutory scheme finally reached the Supreme Court in *Counselmen* v. *Hitchcock* in 1892.[46]

The Court refused to uphold the relevant elements of the 1862 Act. It noted that the statute to be upheld would have to afford a protection coextensive with the privilege.[47] The statute only barred the use of the statements made, not the use of leads derived from those statements. But the Fifth Amendment offered, the Court felt, protection to the witness against not only his testimony being used against him, but also leads or "fruits" of that testimony being so used, since a witness need not testify at all about matters that might incriminate him, even indirectly. To be constitutional then, an immunity statute had to protect a witness to the same degree that the Fifth Amendment protected him, i.e., it had to bar the use of the compelled testimony as well as the fruits of that testimony. The Court recognized this when it stated the protection under the statute in question was inadequate because, "It could not, and would not, prevent the use of his testimony to search out other testimony to be used in evidence against him. . . ."[48]

Nevertheless, there was language in the opinion that went beyond this narrow holding. The Court indicated at one point, "In view of the constitutional provision, a statutory enactment, to be valid, must afford absolute immunity against prosecution for the offense to which the question relates."[49] *Counselmen* was read from thereon to mean

Footnotes at end of article.

that a statutory grant of immunity to be constitutional must be absolute, or in other words, cover the whole "transaction" underlying the testimony, not just the testimony itself or its fruits.

In response to the *Counselmen* decision, Congress amended various immunity provisions in the Federal Criminal Code, so that they provided "transactional" instead of "use" immunity. In *Brown* v. *Walker*,[50] the validity of this device was presented once again to the Supreme Court. The Court, by a closely divided vote, sustained the constitutionality of transactional immunity. The Court held that once the criminality attaching by law to the actions of the witness was removed by another law the privilege ceased to operate. The dissenters suggested that the privilege was intended to accord to the witness an absolute right of silence designed to protect not only from criminality, but also disgrace or infamy, something no legislative immunity could eliminate. The majority, relying on English history, rejected this proposition.

Since *Brown* v. *Walker*, the basic principle of the immunity grant has not been successfully challenged. But it is interesting to note that Congress neglected to alter the immunity provision relating to Congress until 1954, when it provided for transactional immunity to witnesses testifying concerning "attempts to interfere with or endanger the national security or defense of the United States by treason, sabotage, espionage, or the overthrow of its government by force or violence".[51] This and other similar grants were subsequently sustained.[52]

The view that transactional immunity was constitutionally mandated remained until the Supreme Court's 1964 decision in *Murphy* v. *Waterfront Commission*.[53] In that case, the Court held immunity conferred by a state prevented the Federal government from using compelled testimony or information derived from it in a later criminal prosecution. The Court thus implied, contrary to *Counselmen*, that the constitutional privilege against self-incrimination was adequately preserved if the witness was protected against direct or derivative use of his compelled testimony. The Court suggested that the Fifth Amendment privilege would be sufficiently preserved by using the doctrine of suppression of the fruit of the poisonous tree, an analogy borrowed from the test for suppressing illegally obtained evidence in Fourth Amendment cases.[54]

The Court's view in *Murphy* was embodied in the current immunity statute,[55] which the Brown Commission,[56] after an exhaustive and thorough survey of the relevant case law and an analysis of the policy arguments, included in its proposed Organized Crime Control Act. The Act passed by an overwhelming majority of both Houses in 1970.[57] Subsequent to passage in the Congress, similar statutes were passed in Louisiana, Ohio and Arizona.

Even before Federal enactment, states had been experimenting with similar use immunity statutes. Such statutes were sustained by the Supreme Court at the same time as the Federal law was upheld.[58] Such statutes have recently won the recommendation of the National Advisory Committee on Criminal Justice Standards and Goals.[59]

In *Kastigar* v. *U.S.*,[60] the Supreme Court upheld the constitutionality of this use immunity statute. The Court offered a two-fold rationale. First, it concluded that "use immunity" was coextensive with the Fifth Amendment since it placed a witness in precisely the same position he would have been in under the Fifth Amendment, i.e., his testimony, even though compelled, could not be used in any way to incriminate him. Thus the Court reasoned:

(P)rotection coextensive with the privilege is the degree of protection which the Constitution requires. Transactional immunity which affords full immunity from prosecution for the offense to which the compelled testimony relates, affords the witness considerably broader protection than does the Fifth Amendment privilege. The privilege has never been construed to mean that one who invokes it cannot subsequently be prosecuted. Its sole concern is to afford protection against being 'forced to give testimony leading to the infliction of "penalties affixed to . . . criminal acts".' Immunity from the use of compelled testimony and evidence derived directly and indirectly therefrom affords this protection. It prohibits the prosecutorial authorities from using the compelled testimony in any respect, and it therefore insures that the testimony cannot lead to the infliction of criminal penalties on the witness.[61]

Second, the Court determined that "use immunity" provided a resolution of the conflict between the duty to testify and the privilege against self-incrimination that was more consonant with the realities of law enforcement than was transactional immunity. The Court stated:

"Immunity statutes, which have historical roots deep in Anglo-American jurisprudence, are not incompatible (with the values of the self-incrimination clause). Rather they seek a rational accommodation between the imperatives of the privilege and the legitimate demands of government to compel citizens to testify. The existence of these statutes reflects the importance of testimony, and the fact that many offenses are of such a character that the only persons capable of giving useful testimony are those implicated in the crime." [62]

In short, the Court found that use immunity was not only equivalent to the Fifth Amendment privilege but was also better suited to the aims of the criminal justice system.

When the Brown Commission and the *Kastigar* Court opted for use immunity as a solution to the conflict between the duty to testify and the privilege against self-incrimination, those bodies were not importing a foreign jurisprudential concept. The notion that testimony or statements may be extracted for one purpose to satisfy an overriding principle but may not be used to prosecute the witness is firmly embedded in the American criminal law.

For instance, in the case of a suppression hearing concerning illegally obtained evidence the Court has made clear that any testimony provided by the defendant cannot be used at the subsequent trial. The analogy with the normal immunity situation is apposite. As the Court noted in *Simmons* v. *U.S.*[63] a defendant wishing to establish standing must do so at the risk that the words which he utters may later be used to incriminate him. In this situation, the Court, in order to provide the defendant with an opportunity to testify concerning possibly illegally obtained evidence, grants "use" immunity for any such evidence elicited.[64]

Similarly, Congress and the courts have prevented the use of testimony garnered at incompetency hearings from being used at trial against the defendant.[65] And the Federal Rules have forbidden the use of the withdrawn guilty plea by the prosecution at trial.[66] Again, in these instances, resort was made to a use immunity mechanism to obtain testimony necessary to fulfill a particular policy interest where that testimony might otherwise not have been given because of its incriminating nature.

III. POLICY ADVANTAGES OF USE OVER TRANSACTIONAL IMMUNITY

An effective investigation requires the power to grant immunity. Under the present federal statute, Congress has access to use immunity. Aside from its constitutional rationale, there are several policy advantages of use over transactional immunity. Use immunity more effectively respects inter and intra-government relations. Use immunity does not interfere with administrative regulation by preventing the imposition of civil penalties and forfeitures. Under some circumstances, it promotes the defendant's Sixth Amendment rights to compulsory process of witnesses. And most importantly, it more effectively than its counterpart promotes witness cooperation.

A. Use immunity preserves comity between state and federal jurisdictions

The present immunity statute reconciles federal and state power. The power of state governments to grant immunity only reaches the testimony compelled or its fruits, even if the statute under which it is granted is a transactional immunity statute. *Murphy* v. *Waterfront Commission*,[67] held that the constitutional privilege against self-incrimination under federal as well as state law and a federal witness against incrimination under state as well as federal law. At that time a great majority of state statutes in states which had immunity legislation were "transactional" in nature. The Court held that the constitutional rule required that a state witness may not be compelled to give testimony which may be incriminating under federal law unless the compelled testimony and its fruits could not be used in any manner by federal officials in connection with a criminal prosecution against him. In essence then, the Court found that "use" immunity was constitutionally sufficient to accommodate the interests of state and federal governments in investigating and prosecuting crime. It allowed the states to carry out their law enforcement responsibilities without unduly entrenching on ongoing federal investigations. As Justice Goldberg concluded:

"This exclusionary rule, while permitting the states to secure information necessary for effective law enforcement, leaves the witness and the Federal Government in substantially the same position as if the witness had claimed his privilege in the absence of immunity." [68]

The implication of *Murphy*, of course, is that federal prosecuting agencies should be barred from granting transactional immunity, which would interfere with state prosecutions. One would assume such a result on grounds of comity if nothing else. Nevertheless, an earlier Supreme Court opinion leaves this in doubt. In *Adams* v. *State of Maryland*,[69] the Court allowed a congressional grant of immunity under a federal transactional statute to abort a state prosecution. Under the *Adams* opinion, it is possible for a federal agency, either legislative or executive, to interfere with independent state prosecutions by providing a blanket immunity order to a federal witness. Under the present federal use immunity statute, such a result is not possible since only the federal witness' testimony and its fruits are barred from use in state courts.

B. Use immunity does not interfere with executive and congressional investigative responsibilities

Unlike transactional immunity, which prohibits the government from prosecuting a witness for the entire transaction about which he testifies, use immunity bars only the direct and indirect use of the testimony against that witness. As a result, use immunity does *not* interfere with the executive branch's ability to prosecute the witness so long as the prosecutor can demonstrate that any testimony used against the witness was obtained independently of the immunized testimony.[70] The prosecutor can, of course, meet this burden by sealing all evidence in his possession and delivering that evidence to the court prior to the time that the immunized testimony is to be given. In fact,

Footnotes at end of article.

this procedure was successfully followed by the Special Prosecutor's Office in advance of John Dean's immunized testimony before the Ervin Committee. Based on the sealed evidence, Dean decided to plead guilty.

Similarly, under the current immunity statute, the executive branch cannot interfere with the activities of its legislative counterpart in granting immunity.[71] Thus, if 10 days notice is given the Attorney General and the appropriate committee of Congress approves the immunity application by a two-thirds vote, the court must grant the legislative request to bestow the witness with immunity regardless of any policy arguments to the contrary made by the executive branch.[72]

Such a proscription could not be maintained under a transactional immunity statute. Transactional immunity operates like a pardon. It prohibits the future prosecution of the individual. Traditionally, the pardon power has been exercised only by the Executive. The executive branch is responsible for investigating and prosecuting wrongdoers. Such a broad-based power to abort prosecution of wrongdoers should only be exercised by the highest official responsible for carrying out the prosecutive responsibility. On a more pragmatic level, only the executive is in a position to know the full implication of a pardon on ongoing or potential prosecutions.

Hypothetically, under a transactional immunity statute, Congress could exercise a power to pardon by granting immunity and effectively aborting criminal prosecutions. To prevent such a transfer of constitutional power and interference with duties of the Executive, the Executive would have to be granted a veto over Congress' deployment of transactional immunity.

The dangers of such a limitation, however, are readily apparent. It is only necessary to recall the Senate Watergate investigation. A presidential veto on the Ervin Committee's use of immunity for John Dean and other witnesses would have prevented the true story of Watergate from coming out. The converse is also true. The possibility exists under transactional immunity for congressional committees acting on corrupt motives to prevent executive prosecutions.

Use immunity, of course, obviates the need for an executive veto. By allowing the Congress to wield immunity power without executive interference, it respects the division of authority and separation of powers between the various branches. With use immunity, congressional investigating committees are free to make important immunity decisions without being dominated by a fear of aborting an independent executive investigation. In addition, by restricting the immunity only to the testimony and fruits compelled, both branches are prevented from employing immunity for corrupt purposes.

C. Use immunity does not interfere with administrative regulation by foreclosing the imposition of civil penalties and forfeitures

Transactional immunity has traditionally been interpreted to prohibit not only criminal proceedings, but also the exaction of civil penalties and forfeitures. For example, in one case, authorities were unable to suspend the license of an inattentive co-pilot after transactional immunity had been granted for testimony relating to an airplane crash.[73] Use immunity does not carry with it such a prohibition. The courts are unwilling to include within the scope of its protection a bar against use of immunized testimony in proceedings to impose civil penalties.[74]

D. Use immunity promotes defendant's Sixth Amendment right to compulsory process for obtaining witnesses

Ironically, there are some circumstances in which not even the defendant's interest is served by transactional immunity. A defendant has a Sixth Amendment right to use compulsory process to produce witnesses in his favor. It has been held under both use and transactional immunity statutes, however, that a defendant has no constitutional right to confer immunity upon a defense witness who exercises his privilege not to give testimony that is self-incriminating.[75] Immunity can only be conferred by those agencies granted that power by statute. A prosecutor or a court would be extremely reluctant to confer immunity on a witness in such a situation if the grant amounted to pardon for all crimes testified to by the witness. Therefore the defendant's interest in compelling a witness' testimony is better served in this case by use immunity. A prosecutor will be less inclined to oppose immunity for the defendant's witnesses if the effect is merely to prevent prosecution based on the testimony or leads derived from that testimony.

E. Use immunity promotes witness cooperation

Immunity is granted solely for the purpose of obtaining testimony. By this criteria, use is preferable to transactional immunity because only use immunity has a built-in incentive for the witness to testify with as much detail as possible.

Since transactional immunity prohibits prosecution for any criminal activities mentioned in the witness' testimony, the witness has no incentive to testify to anything beyond his general involvement in the crimes for which he seeks immunity. The reluctant witness may provide the government with some evidence, but not enough to sustain a conviction. Although the witness would still be subject to the contempt sanction, this remedy is effective only if the government can establish that the witness is still withholding information.[76]

Use immunity, on the other hand, carries an inherent incentive for an immunized witness to furnish the details of his criminal activity. Since use immunity imposes a burden on the prosecution to demonstrate that all of the evidence it introduces against an immunized witness was obtained independently of the immunized testimony, the witness vastly increases the prosecutor's burden by including more and more information in his testimony. In short, a witness' protection under use immunity is only as good as his testimony is detailed. Thus, John Dean, having been granted use immunity by the Senate Watergate Committee, sought to erect a shield against subsequent prosecution by furnishing the Committee with one of the most richly detailed accounts even given a congressional investigative committee.[77]

CONCLUSION

Use immunity gives the Congress an effective investigative tool. It has deep historical roots in Anglo American jurisprudence and in our system of criminal justice. The Congress can be confident that use immunity under the statute, more effectively than any other form of immunity, accomplishes the purpose of the immunity grant—obtaining testimony. It does so not only by fulfilling its constitutional responsibility to be coextensive with the Fifth Amendment privilege against self-incrimination, but also by respecting the separation of power between the Executive and Congress, and the relation between the states and the federal government.

FOOTNOTES

[1] See Hamilton, *The Power to Probe*, Vintage Press, 1977, pp. 22–23.
[2] 18 U.S.C. §§ 6001–6005.
[3] *Id.* at § 6002.
[4] V Amendment, U.S. Constitution.
[5] See generally 7 Wigmore, *Evidence*, § 2190 (3d. ed. 1940); Morgan, *The Privilege Against Self-incrimination*, 34 Minn. L. Rev. 1–45 (1949).
[6] See, e.g., (1450) Y.B. 28 Hen. 6, 6, 1.
[7] St., 1563, 5 Eliz. 1, c. 9, § 12.
[8] Littleton arguing in (1450) Y.B. 28 Hen. 6, 6, 1.
[9] (1612) 2 How. St. Tr. 769, 778.
[10] Cf. *Piedmonte v. United States*, 367 U.S. 556, 558 n.2 (1961).
[11] 8 Wigmore, *Evidence*, § 2190, at 66 (3d ed. 1940).
[12] *U.S. v. Nixon*, 418 N.S. 683 (1974) at 691.
[13] *Id.* at 691.
[14] The oath *ex officio mero* was a procedure in which a clergyman was compelled to state under oath whether he committed the crime with which he was charged. 3 *Blackstone's Commentaries*, 99–100, (Wendell ed. 1857).
[15] See Wigmore, supra. at § 2250.
[16] See *Id.* § 2250, at 289 nn. 56 and 57, and cases cited therein.
[17] (1637) 3 How. St. Tr. 1315.
[18] St., 16 Car. 1, cc. 10, 11.
[19] Benthem, *Rationale of Judicial Evidence* (1827), 7 *The Works of Jeremy Bentham* 456, 462 (Bowring ed. 1843), quoted in 8 Wigmore, *Evidence*, § 2250, at 292 (McNaughton rev. ed. 1961).
[20] See cases cited 7 Wigmore, *Evidence* § 2250, at 298–99 n. 105 (3d ed. 1940).
[21] See generally Pittman, *The Colonial and Constitutional History of the Privilege Against Self-Incrimination in America*, 22 Va. L. Rev. 763 (1935).
[22] *Malloy* v. *Hogan*, 378 U.S. 1 (1964).
[23] *Hoffman* v. *United States*, 378 U.S. 1, 8 (1964).
[24] *Malloy* v. *Hogan*, 378 U.S. 1, 8 (1964).
[25] Cf. *Miranda* v. *Arizona*, 384 U.S. 436 (1966).
[26] *Schmerber* v. *California*, 384 U.S. 757 (1966).
[27] *Rogers* v. *United States*, 340 U.S. 367, 371 (1951).
[28] *Wilson* v. *United States*, 221 U.S. 361 (1911).
[29] *United States* v. *White*, 322, U.S. 694 (1944).
[30] *Rogers* v. *United States*, 340 U.S. 367, 373 (1951).
[31] *Spies* v. *Illinois*, 123 U.S. 131, 180 (1887).
[32] 7 Wigmore, *Evidence*, § 2268, at 388 (3d ed. 1940).
[33] (1725) 16 How. St. Tr. 767, 921, 1147.
[34] Cf. *Hale* v. *Henkel*, 201 U.S. 43, 67 (1906).
[35] 8 Wigmore, *Evidence*, § 2281, at 469 (3d ed. 1940).
[36] See generally Wendell, *Compulsory Immunity Legislation and the Fifth Amendment Privilege: New Development and New Confusion*, 10 St. Louis U.L.J. 327, 330–31 (1966).
[37] *Burdick* v. *United States*, 236 U.S. 79 (1915). Cf. *United States* v. *Wilson*, 32 U.S. (7 Pet.) 150, 160–61 (1833).
[38] Act of Jan. 24, 1857, ch. 19, 11 Stat. 155.
[39] Hamilton, supra. at 80.
[40] Barth, *Government by Investigation*, p. 131.
[41] See generally Wendel, *supra.* note 138, at 333–35.
[42] Act of Jan. 24, 1862, ch. 11, 12 Stat. 333. The statute is now found in 18 U.S.C. § 3486 (1964), as amended, 18 U.S.C. § 3486(c) (Supp. I, 1965).
[43] Act of Feb. 25, 1868, ch. 13, 15 Stat. 37.
[44] *United States* v. *Williams*, 28 Fed. Cas. 670 (C.C.S.D. Ohio 1872); *United States* v. *Brown*, 24 Fed. Cas. 1273 (D.C.C. Ore. 1871); *United States* v. *Farrington*, 5 Fed. Cas. 343 S.C.N.D.N.Y. 1881); *In re Phillips;* 19 Fed. Cas. 506 (D.C.D. Va. 1869).
[45] *People* v. *Kelly*, 24 N.Y. 74 (1861).
[46] 142 U.S. 547 (1892).
[47] *Id.* at 565–84.
[48] *Id.* at 564.
[49] *Id.* at 585–86.
[50] 161 U.S. 591 (1896).
[51] 18 U.S.C. § 3486, 68 Stat. 745 (1954).
[52] See *Ullman* v. *United States*, 350 U.S.

422 (1956) upholding 18 U.S.C. § 3486, and *Reina* v. *United States*, 364 U.S. 507 (1960) upholding 18 U.S.C. § 1406 which granted transactional immunity in narcotic and Internal Revenue cases.

[53] 378 U.S. 52 (1964).

[54] See e.g., *Wong-Sun* v. *United States*, 371 U.S. 471 (1963).

[55] 18 U.S.C. §§ 6001–6005.

[56] National Commission in Reform of Federal Criminal Laws, 1970. Members included former Gov. Edmund (Pat) Brown, Chairman, Rep. Richard Poff, Vice-Chairman, Senators Sam Ervin, Roman Hruska, John McClellan, Representatives Robert Kastenmeier, Abner Mikva and Don Edwards.

Use immunity also brings with it the recommendations of scholars. In analyzing the constitutional demands of the privilege against self-incrimination, Wigmore in his treatise noted that the initial judicial analysis before *Counselmen* was sound concerning the constitutional meaning of use immunity statutes:

The constitutional efficacy of (use) . . . statutes . . . was well expounded in . . . early opinions, written at a period nearer to the era of constitution-making, when the cobwebs of artificial fantasy had not begun to obscure its plain meanings . . ." Wigmore, *Evidence*, 3rd Ed., p. 523.

These sentiments were echoed in McCormack in analyzing the rejection by Counselmen of the analysis of use immunity by Judge Denio in *People* v. *Kelly*. As the legal scholar put it:

"Surely (Counselmen) . . . was a wrong turning at a critical point. Perhaps few decisions in history have resulted in freeing more rascals from punishment. Surely . . . protection (from use plus fruits) is all that (should) . . . reasonably be demanded, and the insistence upon complete immunities for punishment is an unjust and unnecessary obstruction to law enforcement." McCormack, *Evidence*, 1954, p. 285–86.

[57] Organized Crime Control Act of 1970, 84 Stat. 922, 18 U.S.C. §§ 6002–3.

[58] *Zicarelli* v. *New Jersey State Crime Commission*, 406 U.S. 472 (1972).

[59] Report of Task Force on Organized Crime, Washington, 1976, p. 154–55.

To date, only the ABA House of Delegates has voiced disapproval over the enactment of use as opposed to transactional immunity statutes. The ABA criticism has revolved around charges that use immunity inhibits witness cooperation and encourages inaccurate testimony, because of the uncertainty about the scope of protection. Further, the ABA points to the "small number of successful prosecutions" of immunized witnesses under use immunity statutes, and that a return therefore to transactional immunity would not remove a significant weapon against organized crime.

The ABA is also troubled by the fact that as they put it, "'Use' immunity represents the most grudging interpretation of the constitutional right against self-incrimination". Perhaps the most fitting answer to such a view is Justice Holmes' opinion in *Heike* v. *U.S.* (227 U.S. 131, 144 (1913)). He called for strict construction of immunity statutes. Giving immunity where it is not necessary, the Justice stated, would be giving an unnecessary gratuity to crime, a step no sane society ought ever to take.

[60] 406 U.S. 441 (1972).

[61] *Id.* at 453.

[62] *Id.* at 459.

[63] 390 U.S. 377 (1968).

[64] *Id.* at 389.

[65] *United States* v. *Alvarez*, 519 F.2d 1036 (1975) and 18 U.S.C. § 4244.

[66] F.R. Cr. P. 11(e)(6).

[67] *Supra.*

[68] *Murphy, supra* at 56.

[69] 347 U.S. 179 (1953).

[70] *Kastigar, supra.*

[71] 18 U.S.C. § 6005.

[72] *Application of U.S. Senate Select Comm. on Pres. Camp. Activities*, 361 F. Supp. 1270 (DDC 1973) (Sirica, Jr.).

[73] See *Lee* v. *CAB*, 225 F. 2d 950 (D.C. Cir. 1955) and hearings before Subcommittee on Criminal Law and Procedure of United States Senate Judiciary Committee. 91st Congress, 1st Session. Hearings on S. 30 and Others, March 18, 19, 25, 26, and June 3, 4, 1969. Testimony of Robert G. Dixon, Jr., p. 298–99.

[74] *U.S.* v. *Capetto*, 502 F. 2d 1351 (1974), *Cert. den.* 420 U.S. 925 (1975).

[75] *U.S.* v. *Allstate*, 507 F. 2d 492 (7th Cir. 1974).

[76] See *U.S.* v. *Buffalino*, 285 F. 2d 408, 418 n.27 (2d. Cir. 1960) (witness to "organized crime convention" able to circumvent transactional immunity by answering evasively).

[77] While the ABA has been critical of the effect of use immunity as an incentive to provide testimony, its criticism is misplaced. Use immunity has proven itself to be a potent weapon against organized crime precisely because of this crucial distinction from transactional immunity. Use immunity does not prohibit prosecutions. It prohibits the use of compelled testimony and its fruits. As such, use, unlike transactional immunity, leaves some uncertainty as to the subsequent vulnerability of the witness to criminal prosecution. Whatever uncertainty is generated about whether a witness can be prosecuted will induce increased cooperation of that witness. The witness must assure that as much testimony as possible is recorded under immunity or risk prosecution based on evidence or leads not referred to or implied by the testimony. The ABA comment that use immunity inhibits witness cooperation is not only inherently illogical, but ignores the Ervin Committee's experience with the federal use immunity statute.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland agrees that this select committee already has power to grant witness immunity, regardless of any past action of the House. The gentleman from Ohio (Mr. STOKES) agrees. In the face of that, however, he seeks to have this resolution passed so as to make sure of that right.

Mr. Speaker, I think the gentleman is correct. I do not think we need this resolution to grant these immunity powers.

Mr. Speaker, what concerns the gentleman from Maryland is that when the gentleman from Ohio first appeared before the Committee on Rules in March, he said:

* * * there may be instances where it may be preferable for the Committee itself to exercise its right to secure evidence from the Executive Branch of Government, rather than having to rely upon the Justice Department to pursue statutory contempt * * *

This resolution is written rather broadly. May I ask the gentleman this question: Have there been any instances in which a witness has refused to testify when the committee has offered to grant immunity; and second, is the gentleman seeking to use these powers to bring citations of contempt, either civil or criminal?

Mr. STOKES. Mr. Speaker, in order to answer the gentleman, may I say first that yes, we have had witnesses who have appeared before the committee and who have refused to testify, asserting their constitutional privilege.

Because of the cloud over this committee and its authority to be able to grant immunity, we have not made any application to any court or come to the floor for authority to grant immunity to a witness. This is precisely why we are before this body today asking for this narrowly prescribed authority.

Fortunately, we have had no difficulty with the executive branch of the Government. We have had excellent cooperation from all of the agencies from whom we have sought any type of testimony or evidence of any type.

So that we might properly deal with those persons who are involved in organized crime or those persons who might be soldiers of fortune who want to avail themselves of the constitutional privilege of not incriminating themselves, we need this authority. If we are going to be able to conduct the type of investigation that has to be conducted here where there are allegations of conspiracy, this is a tool that is absolutely needed. All we are asking for is for this body not to require us to come here conceivably to get 100 or 150 immunity applications from this body.

Mr. THONE. Mr. Speaker, will the gentleman yield?

Mr. STOKES. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, I certainly support the gentleman from Ohio (Mr. STOKES) in his advocacy of this resolution and the necessity for it. I do have one inquiry to make. I think the gentleman from Maryland (Mr. BAUMAN) makes a good point regarding the fact that the subcommittee is also authorized to exercise this somewhat extraordinary authority. Does the gentleman from Ohio (Mr. STOKES) feel strongly on that point?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STOKES. Mr. Speaker, I thank the gentleman for yielding me the additional time.

In answer to the gentleman from Nebraska (Mr. THONE), I say that we do feel strongly on that point. But, Mr. Speaker, first let me describe the procedure that is necessary here without this resolution. In order to proceed to the Federal court and request an application of immunity, the full committee would have to vote such procedure by a two-thirds vote of the full committee. The House would then have to give us permission to go to court. If we were to then go to the Federal court and receive the order immunizing the witness and the witness then refused, despite that court order, to testify before our committee, it would then be necessary for us to come back to the floor of the House to get permission to bring the matter to the attention of the court. To go back to the court and say to the court that this witness refused to comply with the court's order, we would have to come back to the floor of the House for authority to go back to tell the court that the witness refused to comply with its order.

Under this resolution, we could avoid these unnecessary trips to the House

floor. But this, of course, is a procedure in civil contempt. In no way can we proceed with criminal contempt without coming back to the floor of the House for full certification under the applicable U.S. statutes.

Mr. THONE. Will the gentleman from Ohio (Mr. STOKES) yield again briefly?

Mr. STOKES. Certainly I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Speaker, as I understand it, just to clarify again the statement made by the gentleman from Maryland (Mr. BAUMAN) the only use of immunity contemplated here is strictly in the area of "use" immunity, is that correct?

Mr. STOKES. That is correct.

Mr. THONE. Mr. Speaker, Congress investigative process requires many legal tools, chief among them, after the subpena, is the power to grant immunity. It is not enough that a congressional committee charged with a sensitive and difficult investigation has the power to compel the attendance of witnesses and the production of documents. Witnesses may be forced to attend by a subpena; they may not be forced to testify in derogation of their right against self-incrimination. Immunity, therefore, is a legal means to get a witness' testimony by guaranteeing that the testimony will not be used to incriminate the witness.

In recent years, the immunity mechanism has been widely used by the Congress, and has proven most useful in untangling complicated conduct involving criminal wrongdoing. The Ervin Committee, for example, in investigating Presidential campaign activities and the 1972 Watergate breakin, conferred immunity on some 27 witnesses. The testimony of one of those immunized, John Dean, may have been the single most important factor leading to the breaking of the Watergate case.

The primary reason for the introduction of House Resolution 760 is to insure that the Select Committee on Assassinations, like the Ervin Committee, will not be hampered in obtaining the necessary immunity orders to fulfill its investigatory responsibility.

The type of immunity that the select committee will be seeking under the statute is "use immunity", the same type which enabled the Ervin Committee to effectively compel the testimony of many of its important witnesses without jeopardizing prosecution of these witnesses by the Watergate Special Prosecutor. As I just mentioned, the Members are probably most familiar with the case of John Dean. His story, perhaps more than any other, best illuminates the effective application of use immunity by a congressional committee.

"Use" immunity prevents the use of an immunized witness' testimony in a subsequent criminal trial by any jurisdiction, State or Federal. It also prevents any use being made of leads, inferences, or implications arising out of the testimony. It does not, however, prevent the subsequent prosecution of a witness on matters touched upon in the testimony provided the prosecutors are able to meet the substantial burden of demonstrating that any evidence used in the prosecution was obtained independently of the testimony. Such proof may, of course, as in John Dean's case, be had by the sealing by the prosecution of all testimony in advance of any immunized testimony by a witness. Based on such sealed evidence, Dean decided to plead guilty and was convicted of a crime after his Watergate testimony.

Use immunity should not be confused with "transactional immunity". "Transactional" immunity involves granting a witness complete protection against future criminal prosecutions on all matters touched upon in the immunized testimony. In effect, the witness is allowed to take an immunity "bath" that then cleanses him of all crimes relevant to the testimony. No prosecutions are possible against that witness for those crimes indicated in the testimony, regardless of whether the evidence implicating the witness was obtained independently or even previous to the immunized testimony.

Mr. Speaker, use immunity has not only been found to be constitutionally sufficient, but has proven to be a precise tool for congressional investigations. When all is said and done, the interest in granting immunity is in obtaining testimony. Transactional immunity prohibits prosecution of matters related to a witness' testimony. There is no incentive, therefore, for an individual to testify beyond acknowledging in the testimony the matter sought to be immunized.

In contrast, it is only necessary to remember the testimony given in great and lengthy detail by John Dean before the Ervin Committee. Many attributed it to Mr. Dean's remarkable powers of recollection. I suggest that something else was involved. Like any witness immunized under the present Federal use immunity statute, Dean had a great incentive to develop his powers of recall. A witness is protected under use immunity for all his testimony and its implications given under the immunity grant. But the protection is only as good as the testimony is detailed.

In short, use immunity gives the Congress a device for prompting testimony without preventing future prosecutions by the Government for criminal activities related to the witness' testimony, but for which evidence is independently obtained. It is essential to the work of the select committee.

The current use immunity statute will allow the select committee to conduct its investigation without interfering unduly upon the prosecutive responsibilities of State or Federal officials. The select committee will be able to fulfill its mandate to conduct a full and complete investigation into the assassinations of John F. Kennedy and Dr. Martin Luther King, Jr. We need now to clarify our power to use immunity by the passage of this resolution.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. STOKES) has again expired.

Mr. MURPHY of Illinois. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from Ohio has not assured me at all by his statement with reference to my concerns. In fact, I think the gentleman has only magnified them, by saying that this resolution is for the purpose of allowing contempt procedures against witnesses without further action by the House. I do not understand that such power rests with any other committees of the House. If the Congress is to hold in contempt any witness, clearly the House should decide the issue, whether in civil or criminal contempt. The full House should pass on it. I cannot think of any instances where this power has been granted with the possible exception of in the Korean investigation. This committee does not warrant this kind of a broad grant of power.

Mr. MURPHY of Illinois. Mr. Speaker, I yield, for purposes of debate only, 1 minute to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. I thank the gentleman for yielding.

I would just like to say that I admire the chairman. I am not a lawyer on this committee, so some of the Members can get very much over my head. But we have sat on Saturday and Sunday for hours coming up with what we think is the fairest and the most constricted power. It has been given to the Korean Committee, and it would seem to me that the investigation of the murder of one of the Nation's greatest black leaders and the investigation of the murder of a President of the United States would require that we give to this committee, to its chairman, and to the head of counsel, our new counsel, the ability to proceed. We have a limited period of time, and we have limited money. To go back to the House every single time, particularly when we are only talking about civil contempt, would be to me a ludicrous construction of the committee's purpose and the committee's job, which is being done however quietly.

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Connecticut.

Mr. DODD. I thank the gentleman for yielding.

I would like to commend the chairman and the gentleman from Connecticut (Mr. MCKINNEY) for his stand. The point is well taken. We have seen this resolution necessarily delayed for a 2-week period, having come up four different times before we could do what we are doing here this afternoon.

I think if everyone would recognize that if we try to come back to this Congress for permission to proceed in a civil contempt case, we might be here all year on these cases, given the calendar and the pressure we are under.

Mr. MURPHY of Illinois. Mr. Speaker, for purposes of debate only, I yield 1 additional minute to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. I would just like to say to the House that the gentleman from Connecticut has accurately described the situation we have been in the 2-week period since we left the Committee on Rules. We have now been trying for 2

weeks just to be able to get this resolution on the floor of the House. We have identified somewhere in the neighborhood of 100 to 150 witnesses in the Kennedy case alone, for whom we may want to seek immunity applications. If we are seriously to be about this investigation, the Members can understand the problem we would have with the House Calendar and trying to get onto the floor 100 or 150 times pursuant to immunity applications for those witnesses. It would be impossible. No one in this body wants to obstruct this investigation. But I think it would be seriously obstructing the purposes for which we were originally constituted if we were required to come back to this body, case after case, 100 or 150 times or more, to get permission to make immunity applications to a court or to seek citations for civil contempt.

Mrs. COLLINS of Illinois. Mr. Chairman, I stand in support of House Resolution 760, a resolution which authorizes the House Assassination Committee to enter courts and intervene in court proceedings in order to discharge their legislative duties in a complete fashion.

As my colleagues will recall this Assassinations Committee originally had the power to "bring, defend, and intervene" in lawsuits, but this authority was curtailed during House consideration of the status of the committee on March 30, 1977.

It is fitting and proper that this committee and its subcommittees have the power to engage in lawsuits that might be necessary as a result of its use of subpenas, grants of immunity, contempt power, or efforts to see that evidence is produced. Having access to the courts and the judicial process is a fundamental and necessary tool of any congressional investigative body. Without the authorization to seek legal means to carry out an investigation, the possibility of this committee discharging its obligation to investigate the assassinations of President John F. Kennedy and Dr. Martin Luther King is surely curtailed.

In summary, let me remind my colleagues that this committee is a responsible body, chaired ably by Congressman STOKES of Ohio. It appears to me, we ought to give this reasonable request for access to the courts our unequivocal approval.

I urge my colleagues to join me in support of House Resolution 760.

Mr. MURPHY of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 290, nays 112, not voting 32, as follows:

[Roll No. 602]

YEAS—290

Addabbo	Fisher	Moorhead, Pa.
Akaka	Fithian	Moss
Alexander	Flippo	Mottl
Allen	Flood	Murphy, Ill.
Ambro	Flowers	Murphy, N.Y.
Ammerman	Flynt	Murphy, Pa.
Anderson, Calif.	Foley	Murtha
	Ford, Mich.	Myers, Gary
Anderson, Ill.	Ford, Tenn.	Myers, Michael
Andrews, N.C.	Fountain	Natcher
Andrews, N. Dak.	Fowler	Neal
	Fraser	Nichols
Annunzio	Frenzel	Nix
Applegate	Fuqua	Nolan
Ashley	Gammage	Nowak
Aspin	Gephardt	Oakar
AuCoin	Giaimo	Oberstar
Badillo	Gibbons	Obey
Baldus	Gilman	Ottinger
Barnard	Ginn	Panetta
Baucus	Gore	Pattison
Beard, R.I.	Gudger	Pease
Beard, Tenn.	Hamilton	Perkins
Bedell	Hanley	Pettis
Beilenson	Hannaford	Pike
Benjamin	Harkin	Preyer
Bennett	Harrington	Price
Bevill	Harris	Pritchard
Biaggi	Harsha	Quie
Bingham	Hawkins	Railsback
Blanchard	Heckler	Regula
Blouin	Hefner	Reuss
Boggs	Heftel	Richmond
Boland	Hightower	Rinaldo
Bonior	Hillis	Risenhoover
Bonker	Holland	Rodino
Brademas	Holtzman	Rogers
Breaux	Hubbard	Roncalio
Breckinridge	Hughes	Rose
Brinkley	Ichord	Rosenthal
Brodhead	Ireland	Roybal
Brooks	Jacobs	Ryan
Broomfield	Jeffords	Santini
Brown, Mich.	Jenkins	Sarasin
Buchanan	Jenrette	Sawyer
Burke, Calif.	Johnson, Colo.	Scheuer
Burke, Fla.	Jones, N.C.	Schroeder
Burke, Mass.	Jones, Tenn.	Schulze
Burlison, Mo.	Jordan	Seiberling
Burton, John	Kastenmeier	Sharp
Burton, Phillip	Kazen	Shipley
Caputo	Ketchum	Sikes
Carney	Keys	Sisk
Carr	Kildee	Skubitz
Carter	Koch	Slack
Cavanaugh	Kostmayer	Smith, Nebr.
Cederberg	Krebs	Snyder
Chappell	Krueger	Solarz
Chisholm	LaFalce	Spellman
Clay	Leach	St Germain
Cohen	Lederer	Staggers
Coleman	Leggett	Stanton
Collins, Ill.	Levitas	Steers
Conte	Lloyd, Calif.	Stokes
Conyers	Long, La.	Studds
Corcoran	Long, Md.	Thompson
Corman	Luken	Thone
Cornell	Lundine	Traxler
D'Amours	McCloskey	Tsongas
Danielson	McDade	Tucker
Davis	McFall	Udall
Delaney	McHugh	Ullman
Dellums	McKay	Van Deerlin
Derrick	McKinney	Vander Jagt
Devine	Maguire	Vanik
Dickinson	Mahon	Vento
Dicks	Mann	Walgren
Diggs	Markey	Walsh
Dodd	Marks	Wampler
Downey	Mathis	Waxman
Drinan	Mattox	Weaver
Duncan, Oreg.	Mazzoli	Weiss
Duncan, Tenn.	Meeds	White
Early	Metcalfe	Whitley
Edgar	Meyner	Whitten
Edwards, Ala.	Mikulski	Wiggins
Edwards, Calif.	Mikva	Wilson, C. H.
Eilberg	Miller, Calif.	Wilson, Tex.
Emery	Mineta	Winn
English	Minish	Wirth
Ertel	Mitchell, Md.	Wolff
Evans, Colo.	Mitchell, N.Y.	Wright
Evans, Del.	Moakley	Wylie
Evans, Ind.	Moffett	Yates
Fary	Mollohan	Yatron
Fascell	Montgomery	Young, Mo.
Fenwick	Moorhead, Calif.	Zablocki
Fish		

NAYS—112

Archer	Guyer	Poage
Armstrong	Hagedorn	Quayle
Ashbrook	Hall	Quillen
Badham	Hammer-schmidt	Rhodes
Bafalis		Robinson
Bauman	Hansen	Rooney
Brown, Ohio	Hollenbeck	Rostenkowski
Broyhill	Holt	Rousselot
Burgener	Huckaby	Rudd
Burleson, Tex.	Hyde	Runnels
Butler	Jones, Okla.	Ruppe
Byron	Kasten	Russo
Clausen, Don H.	Kelly	Satterfield
	Kemp	Sebelius
Cleveland	Kindness	Shuster
Cochran	Lagomarsino	Simon
Collins, Tex.	Latta	Skelton
Conable	Lent	Smith, Iowa
Coughlin	Livingston	Spence
Crane	Lloyd, Tenn.	Stangeland
Daniel, Dan	Lott	Steiger
Daniel, R. W.	Lujan	Stockman
de la Garza	McCormack	Stratton
Derwinski	McDonald	Stump
Dingell	McEwen	Symms
Dornan	Madigan	Taylor
Edwards, Okla.	Marlenee	Thornton
Evans, Ga.	Marriott	Treen
Findley	Martin	Trible
Forsythe	Michel	Volkmer
Frey	Milford	Waggonner
Gaydos	Miller, Ohio	Walker
Glickman	Moore	Watkins
Goldwater	Myers, John	Whitehurst
Gonzalez	Nedzi	Wydler
Goodling	O'Brien	Young, Fla.
Gradison	Patten	Young, Tex.
Grassley	Pickle	Zeferetti

NOT VOTING—32

Abdnor	Florio	Rahall
Bolling	Horton	Rangel
Bowen	Howard	Roberts
Brown, Calif.	Johnson, Calif.	Roe
Clawson, Del	Le Fante	Stark
Cornwell	Lehman	Steed
Cotter	McClory	Teague
Cunningham	Patterson	Whalen
Dent	Pepper	Wilson, Bob
Eckhardt	Pressler	Young, Alaska
Erlenborn	Pursell	

The Clerk announced the following pairs:

Mr. Dent with Mr. Horton.
Mr. Eckhardt with Mr. Rahall.
Mr. Cotter with Mr. Whalen.
Mr. Rangel with Mr. Erlenborn.
Mr. Stark with Mr. Cunningham.
Mr. Teague with Mr. McClory.
Mr. Howard with Mr. Young of Alaska.
Mr. Le Fante with Mr. Del Clawson.
Mr. Lehman with Mr. Bob Wilson.
Mr. Bowen with Mr. Steed.
Mr. Brown of California with Mr. Roe.
Mr. Cornwell with Mr. Johnson of California.
Mr. Florio with Mr. Pressler.
Mr. Pepper with Mr. Pursell.
Mr. Roberts with Mr. Patterson of California.

Messrs. ZEFERETTI and RUPPE changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 9290, INCREASING THE TEMPORARY DEBT LIMIT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 781 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 781

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(6) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the Record at least one legislative day prior to consideration thereof, and said amendments shall not be subject to amendment but may be debated by the offering of pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to my colleague, the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 781 provides for the consideration of H.R. 9290 to increase the temporary debt limit.

The rule provides for 1 hour of general debate with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. It is a modified open rule, providing for amendments to be offered by the direction of the Committee on Ways and Means or by any Member who has caused his germane amendments to be printed in the CONGRESSIONAL RECORD 1 legislative day prior to consideration of the bill. No amendment, however, will be subject to amendment. The rule also provides for one motion to recommit.

The rule contains two waivers of points of order. Clause 5 of rule XXI prohibiting appropriations in a legislative bill is waived. This waiver is necessary because the original Second Liberty Bond Act which the bill amends contained an appropriation, thereby subjecting any further amendment to the act to a technical point of order.

The 3-day rule, clause 2(L)(6) of rule XI, is also waived. Since the authority for the current temporary debt limit expires on September 30, 1977, it is necessary that H.R. 9290 be considered as soon as possible. Without the waiver of the 3-day rule, it would not be possible to consider the bill today since the report on the bill was not filed until September 26, 1977.

Owing to the time constraints, Chairman ULLMAN stated on the floor of the House on Monday (CONGRESSIONAL RECORD, September 26, 1977, 30957) his committee's intention of requesting a rule on the bill which would require germane amendments to be printed in the RECORD 24 hours prior to their consideration. Mr. ULLMAN noted that the bill was scheduled for floor action on September 28, 1977, and that Members would need to have their amendments printed in the RECORD by September 27, 1977.

Mr. Speaker, H.R. 9290 extends the authority for the temporary debt limit through September 30, 1978, and would increase the amount of the limit by $73 billion, from $300 billion to $373 billion. The bill increases by $10 billion, from $17 billion to $27 billion, the amount of bonds which may be issued at a rate of interest higher than 4¼ percent. The bill is similar to the measure which was defeated by the House on September 19, 1977.

Mr. Speaker, I urge my colleagues to adopt House Resolution 781 so that we may proceed to consideration of H.R. 9290.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might point out that the reasons for voting against this resolution and against the bill that the resolution makes in order are just as cogent today as they were when we turned down such a request a few days ago.

Today we are being asked to increase the national debt by $73 billion; a few days ago we were asked to increase it by $75 billion. We can take some pride in the fact that at least we reduced the figure by $2 billion, which, in my way of thinking, is $2 billion of debt reduction that we otherwise would not have had, come September 30, 1978, had the House not acted as it did a few days ago.

I think the American people are becoming concerned and will continue to be concerned with the spending ways of this Congress and what this Congress is being asked to spend by the Carter administration.

I have prepared a chart on the cost of servicing the public debt since 1966, and I would like to call just a few of its costs to the attention of the Members.

Back in 1969, $263 of every personal income tax return was being applied to servicing the interest on the national debt. Today $707 of each individual income tax return will be required to service that debt. So, in the short space of 10 years, that part of the average tax return going to service the debt has increased by 169 percent. This means that even though we are putting off the burden of paying the debt itself and putting it on the backs of our children, our grandchildren, and our great grandchildren, we are not putting off the cost of servicing the debt, and it is increasing very dramatically. I cannot stress this point too heavily. There seems to be some confusion on the part of some Members that an ever higher national debt, and the ever higher levels of spending which raises the debt, are costs which are not borne by today's taxpayers. That is wrong, for it is today's taxpayers who must pay the interest on the debt.

Back in 1969, only 19 percent of the average tax liability per return was devoted to servicing the national debt; we now have 26.7 percent of the average tax return going for the servicing of the national debt. That is a 42-percent increase in burden.

Mr. Speaker, at this point I include the chart to which I referred, as follows:

COST OF SERVICING THE PUBLIC DEBT—1966 THROUGH 1978

Year	Number of personal income tax returns showing tax liability (in millions)	Interest on the public debt (billions)[1]	Burden of public debt service per personal income tax return with tax liability (col. B divided by col. A)	Average tax liability per personal income tax return with tax liability	Proportion of average tax liability per return devoted to public debt service (col. C as a percent of col. D)
	A	B	C	D	E
1966	55.5	$12.0	$216	$998	21.6
1967	58.2	13.4	230	1,057	21.7
1968	60.5	14.6	241	1,136	21.2
1969	63.1	16.6	263	1,384	19.0
1970	61.6	19.3	313	1,468	21.3
1971	60.4	21.0	348	1,427	24.3
1972	59.4	21.8	367	1,594	23.0
1973	62.9	24.2	385	1,641	23.4
1974	65.8	29.3	445	1,809	24.5
1975	63.1	32.7	518	1,940	26.7
1976	[2] 62.2	37.1	596	2,116	28.1
1977	[2] 64.4	42.0	652	2,461	26.4
1978	[2] 66.3	46.9	707	2,640	26.7

[1] Figures shown are total interest paid on public debt and are not net of interest earned by the Government from other accounts. Therefore, figures in this colum do not correspond to net interest figures shown in function 900 of Budget Resolutions.

[2] Preliminary estimates received from U.S. Department of the Treasury.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

I wish to point out that when the gentleman from Ohio (Mr. LATTA) and I came together to the Congress back in 1959, the national debt was $275 billion. Now it is upwards of $700 billion.

I suppose an opponent of ours could say, "Well, it has gotten worse since you have been here," and I would agree. But I know the gentleman from Ohio (Mr. LATTA), who is a member of the Committee on Rules, and this gentleman from Ohio had little to do with the unbalanced portion of this obligation. In fact, I think we both have records that show we have consistently opposed the big, wild, radical spending schemes.

What has happened traditionally over the years is that those Members of this body who could be classified as big spenders have voted for every conceivable kind of spending programs, for experimental socialized programs, and for tinkering with the economy, and then they have run back to their folks and said, "Look what I did for you." Then when the time comes to pay for their excesses, they cast their only conservative vote in this Congress, and that is to vote against the debt ceiling bill. I do not think that is a consistent position.

I think a responsible vote would be to say, "Yes, let's pay for what we have authorized." But I think those of us who are not responsible for these wild, radical spending programs should not be called upon to bail out those Members who have caused the problem.

Mr. LATTA. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. DEVINE) for his comments, and I want to commend him for his very conservative voting record over the years and for his high regard for the taxpayers. If this Congress had followed his leadership and voted against some of the excesses over the years of his service in this body, the Ways and Means Committee would not be here today with a proposal to increase the debt to $773 billion.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just want to commend the majority leadership on their scheduling for today.

I think it is appropriate that on the same day on which the House creates a totally unnecessary select committee which is going to cost $500,000 to $800,000 allowing Members to run around the world with unlimited staff, we also vote on the national debt increase.

Mr. Speaker, no doubt some Members will wander around their districts this fall wondering why we have so high a national debt. They might look in the mirror.

Mr. LATTA. Mr. Speaker, I thank the gentleman from Maryland for his comment.

I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I appreciate the comment of my colleague, the gentleman from Maryland (Mr. BAUMAN), because he is justifying his vote. I, in turn, am going to justify mine.

Mr. Speaker, I voted for the creation of that select committee, and I have no apologies to make for it because I believe it is in the best interests of the long-range future of the human race.

I just want to say that I suppose it is a matter of where our priorities are.

At the same time, Mr. Speaker, I think it is necessary that we do pay our bills. I think it is necessary that we follow up and pass this resolution and permit the Committee on Ways and Means to make its case.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Speaker, there has been some discussion as to how we come to this tremendous debt.

It has, indeed, increased with the increasing spending of our Government; it has increased with the cost of wars and national defense but it has also increased through the generous tax cuts that have come along since the mid-1960's.

Mr. Speaker, I want to point out that if we had maintained the tax base of the mid-1960's, we would today be in pretty good fiscal position. We have lost a lot of our revenue by a constant procession of tax cuts which have added to our deficits and created a great imbalance between the receipts of this Government and its expenditures.

Therefore, Mr. Speaker, let us analyze the whole issue.

Mr. SISK. Mr. Speaker, I thank the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I yield myself 3 minutes.

I yield myself this time, Mr. Speaker, to call the Members' attention to the committee report because we have heard about the adverse effects of tax cuts of the 1960's. I recall that. That was a Kennedy tax cut.

Let me say in 1960, the national debt stood at $291 billion, and at the end of the 1960's, it was $367 billion. However, during the 1970's, the national debt has risen to $773 billion and still going.

Mr. Speaker, I would like to ask when did this great increase come? Was it in the 1960's or in the 1970's. I think you will soon learn that it came in the 1970's rather than in the 1960's.

I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 96, not voting 26, as follows:

[Roll No. 603]

YEAS—312

Addabbo	Fascell	Meyner
Alexander	Findley	Mikulski
Allen	Fish	Mikva
Ambro	Fisher	Miller, Calif.
Ammerman	Fithian	Mineta
Anderson, Ill.	Flippo	Minish
Andrews, N.C.	Flood	Mitchell, Md.
Andrews, N. Dak.	Flowers	Mitchell, N.Y.
	Foley	Moakley
Annunzio	Ford, Mich.	Moffett
Applegate	Ford, Tenn.	Mollohan
Ashley	Forsythe	Moorhead, Pa.
Aspin	Fountain	Moss
AuCoin	Fowler	Mottl
Badillo	Fraser	Murphy, Ill.
Baldus	Frenzel	Murphy, N.Y.
Barnard	Fuqua	Murtha
Baucus	Gaydos	Myers, Gary
Beard, R.I.	Gephardt	Myers, John
Beard, Tenn.	Giaimo	Myers, Michael
Bedell	Gibbons	Natcher
Bellenson	Gilman	Neal
Bennett	Ginn	Nedzi
Bevill	Glickman	Nichols
Biaggi	Gonzalez	Nix
Bingham	Goodling	Nolan
Blanchard	Gore	Nowak
Blouin	Gudger	O'Brien
Boggs	Guyer	Oakar
Boland	Hagedorn	Oberstar
Bolling	Hamilton	Obey
Bonior	Hammer-schmidt	Ottinger
Bonker		Panetta
Brademas	Hanley	Patten
Breaux	Hannaford	Pattison
Breckinridge	Harkin	Pease
Brinkley	Harrington	Perkins
Brodhead	Harris	Pettis
Brooks	Hawkins	Pickle
Brown, Calif.	Heckler	Pike
Brown, Ohio	Hefner	Poage
Buchanan	Heftel	Preyer
Burke, Calif.	Hightower	Price
Burke, Fla.	Holland	Pritchard
Burke, Mass.	Hollenbeck	Pursell
Burleson, Tex.	Holtzman	Quayle
Burlison, Mo.	Howard	Quie
Burton, John	Hubbard	Rahall
Burton, Phillip	Hughes	Railsback
Butler	Hyde	Reuss
Byron	Jacobs	Rhodes
Carney	Jeffords	Richmond
Carr	Jenkins	Rinaldo
Carter	Johnson, Colo.	Rodino
Cavanaugh	Jones, N.C.	Roe
Chappell	Jones, Okla.	Rogers
Chisholm	Jones, Tenn.	Roncalio
Clay	Jordan	Rooney
Cleveland	Kasten	Rose
Cohen	Kastenmeier	Rosenthal
Collins, Ill.	Kazen	Rostenkowski
Conable	Keys	Roybal
Conte	Kildee	Ruppe
Conyers	Koch	Russo
Corcoran	Krebs	Ryan
Corman	Krueger	Santini
Cornell	LaFalce	Sarasin
Coughlin	Lederer	Scheuer
D'Amours	Leggett	Schroeder
Daniel, Dan	Levitas	Sebelius
Daniel, R. W.	Lloyd, Calif.	Seiberling
Danielson	Lloyd, Tenn.	Sharp
de la Garza	Long, La.	Shipley
Delaney	Long, Md.	Sikes
Dellums	Lundine	Simon
Derrick	McCloskey	Sisk
Derwinski	McCormack	Skelton
Dicks	McDade	Skubitz
Dingell	McEwen	Slack
Dodd	McFall	Smith, Iowa
Downey	McHugh	Solarz
Drinan	McKay	Spellman
Duncan, Oreg.	McKinney	St Germain
Duncan, Tenn.	Madigan	Staggers
Early	Maguire	Stangeland
Edgar	Mahon	Stanton
Edwards, Ala.	Mann	Steers
Edwards, Calif.	Markey	Steiger
Eilberg	Marks	Stokes
Erlenborn	Mathis	Stratton
Ertel	Mattox	Studds
Evans, Colo.	Mazzoli	Thompson
Evans, Ind.	Meeds	Thone
Fary	Metcalfe	Thornton

Traxler	Walgren	Winn
Trible	Walsh	Wirth
Tsongas	Waxman	Wright
Tucker	Weaver	Yates
Udall	Weiss	Yatron
Ullman	White	Young, Alaska
Van Deerlin	Whitehurst	Young, Mo.
Vander Jagt	Whitten	Young, Tex.
Vanik	Wiggins	Zablocki
Vento	Wilson, C. H.	Zeferetti
Waggonner	Wilson, Tex.	

NAYS—96

Abdnor	Frey	Miller, Ohio
Anderson, Calif.	Gammage	Montgomery
Archer	Goldwater	Moore
Armstrong	Gradison	Moorhead, Calif.
Ashbrook	Grassley	Murphy, Pa.
Badham	Hall	Pressler
Bafalis	Hansen	Quillen
Bauman	Harsha	Regula
Benjamin	Hillis	Risenhoover
Broomfield	Holt	Robinson
Brown, Mich.	Huckaby	Rousselot
Broyhill	Ichord	Rudd
Burgener	Ireland	Runnels
Caputo	Jenrette	Satterfield
Cederberg	Kelly	Sawyer
Clausen, Don H.	Kemp	Schulze
Cochran	Ketchum	Shuster
Coleman	Kindness	Smith, Nebr.
Collins, Tex.	Kostmayer	Snyder
Crane	Lagomarsino	Spence
Davis	Latta	Stump
Devine	Leach	Symms
Dickinson	Lent	Taylor
Dornan	Livingston	Treen
Edwards, Okla.	Lott	Volkmer
Emery	Lujan	Wampler
English	Luken	Watkins
Evans, Del.	McDonald	Whitley
Evans, Ga.	Marlenee	Wolff
Fenwick	Marriott	Wydler
Flynt	Martin	Wylie
	Michel	Young, Fla.
	Milford	

NOT VOTING—26

Akaka	Florio	Roberts
Bowen	Horton	Stark
Clawson, Del	Johnson, Calif.	Steed
Cornwell	Le Fante	Stockman
Cotter	Lehman	Teague
Cunningham	McClory	Walker
Dent	Patterson	Whalen
Diggs	Pepper	Wilson, Bob
Eckhardt	Rangel	

The Clerk announced the following pairs:

Mr. Dent with Mr. Horton.
Mr. Cotter with Mr. Whalen.
Mr. Rangel with Mr. Del Clawson.
Mr. Teague with Mr. Cunningham.
Mr. Le Fante with Mr. Diggs.
Mr. Lehman with Mr. McClory.
Mr. Bowen with Mr. Walker.
Mr. Cornwell with Mr. Bob Wilson.
Mr. Florio with Mr. Stockman.
Mr. Pepper with Mr. Steed.
Mr. Roberts with Mr. Eckhardt.
Mr. Patterson of California with Mr. Johnson of California.
Mr. Akaka with Mr. Stark.

Mr. GAYDOS changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report pursuant to section 302 of the Congressional Budget Act of 1974.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why do we need unanimous consent for that? How much is the bill going to cost?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield, to answer the gentleman's questions, the bill will cost some $6 billion.

Mr. ROUSSELOT. $6 billion add-on costs to our already inflated expenditure list?

Mr. BEVILL. It is within the budget.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, if there was an objection, what would be the result of that action?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield further, it is entirely possible we would not get this supplemental through both Houses of Congress before we adjourn sine die.

Mr. ROUSSELOT. What are the constraints? I do not fully understand. Why there is a need for such hurried action? Can the gentleman explain what would occur if we object?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield further, we need to file this bill tonight in order to accommodate the schedule of the Rules Committee at the House. In other words, we are just asking until midnight tonight in order to file this privileged report.

Mr. ROUSSELOT. Otherwise you would just file it tomorrow?

Mr. BEVILL. That is correct.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill, H.R. 9232, rescinding certain budget authority recommended in the message of the President of July 19, 1977 (H. Doc. No. 95–187), transmitted pursuant to the Impoundment Control Act of 1974.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

PERMISSION FOR THE COMMITTEE ON APPROPRIATIONS TO FILE REPORT

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on H.R. 9233, rescinding certain budget authority recommended in the message of the President of July 26, 1977 (H. Doc. 95–197), transmitted pursuant to the Impoundment Control Act of 1974.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

INCREASING THE TEMPORARY DEBT LIMIT

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9290, with Mr. DELANEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this bill, H.R. 9290, provides for an increase in the temporary limit on the public debt and also will allow the Treasury Department to increase the amount of long-term bonds, with an interest rate above 4¼ percent, that may be in the hands of the public at any one time.

PUBLIC DEBT LIMIT

The last increase in the public debt limit bill was enacted 15 months ago. It increased the debt limit in three stages to the present level of $700 billion. This level consists of a $400 billion permanent limit and a $300 billion temporary limit. The temporary limit of $300 billion expires after September 30, 1977, and must be extended and increased before October 1, 1977, in order to meet the Federal Government's financing requirements for fiscal year 1978.

The administration requested an $83 billion increase in the combined temporary debt limit through September 30, 1978; that would make the combined limit $783 billion. The major part of the increase is derived from the anticipated unified budget deficit of $61.5 billion for fiscal year 1978.

The second budget resolution, which was adopted by the House 2 weeks ago, provided for an increase to $775.45 billion in the combined permanent and temporary limit. This increase is based on an estimated unified budget deficit of $61.25 billion.

The Committee on Ways and Means carefully examined the administration's month-by-month projection of its debt limit needs in fiscal year 1978 in order to determine whether it would be possible to adapt the projections to the $775.45 billion limit set in the last budget resolution. The committee also was acutely aware that the House would prefer a debt limit for next fiscal year that would be set below the upper bound approved in the budget resolution.

The $773 billion limit proposed in the committee bill is sufficient to meet the mid-June seasonal peak with a $15 billion cash balance and allowance for contingencies. It also is a sufficient margin for the end of August and the month of September, even though it will provide the Treasury with somewhat smaller operating cash balances for this relatively short period at the end of the fiscal year.

Although the proposed limit is below the boundary approved in the second budget resolution, it is adequate to accommodate the Federal funds deficit of $68.25 billion and financing for the off-budget credit agencies of $7.7 billion. The difference between these totals and the proposed increase in the debt limit will be made up by adjustments in the operating cash balance.

DEBT MANAGEMENT

The debt management provision of the bill will increase by $10 billion the authority of the Treasury to issue long-term bonds with interest rates above 4¼ percent. Present law allows up to $17 billion of such outstanding long-term bonds to be held by the public. An increase of $10 billion will raise the level to $27 billion. In June, the average interest rate paid on long-term bonds was 6.35 percent.

Since 1971 when the Treasury initially was given limited authority to issue these long-term bonds, it has carefully used the opportunity to develop a market for these issues. As a result, there is a better balance in the maturity distribution of outstanding issues, and the average maturity period of these issues no longer is becoming shorter. In fact, the average length of time to maturity presently is the highest it has been since fiscal year 1973, and it is still just short of 3 years—2 years and 11 months.

The committee has been sparing in its extension of this authority especially during the past 2 years. The committee has tried to avoid too great an increase in long-term issues during the recent recession so that the interest rates on long-term bonds—both corporate and Government—would continue to fall and major, private capital formation would become and remain economically viable.

TEMPORARY LIMIT EXPIRES FRIDAY

The House is considering this bill only 2 days before the current temporary debt limit expires. In past years, there was grave concern that the public debt limit bill might not be passed before the existing limit expired. That situation faces us now, and the House Members may be interested in learning what could happen if the bill is not passed this week.

The Treasury Department anticipates that it will have a large enough cash balance on Monday morning to meet Federal outlays through Thursday, October 6. This balance and estimated tax receipts next week will be enough to cover expenditures for monthly payments to retirees under the social security and civil service programs and beneficiaries of the supplemental security income, VA, public assistance, medicare, unemployment insurance, and revenue sharing and antirecession fiscal assistance programs.

Since there would not be borrowing authority available for any new issues of Federal debt, $5.8 billion in maturing Treasury bills would have to be paid off instead of being renewed. No new savings bonds could be issued after this week. Payments could not be made from the social security trust fund, because the Treasury Department would not have funds with which to redeem the Federal securities in which the reserves are invested. The Treasury would be limited to paying bills with the amounts of tax and other receipts that are received each day. No further payments could be made under the programs I have just named, payrolls could not be met, and payments to Federal contractors would cease.

Mr. Speaker, this bill provides the administration with enough additional borrowing authority to meet fiscal year 1978 needs within the limits set by the second concurrent budget resolution.

Mr. Speaker, I urge the adoption of this bill, today, so that the Treasury Department will be able to make payments on the Federal Government obligations that have already been authorized and for which appropriations have been enacted.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the second time in less than a week that the House has had to consider an extension and increase in the public debt limit.

That the proposal before us today is $2 billion lower than the one we rejected last week is irrelevant to the issues raised by this hoary and outworn ritual. Far from constituting an improvement, this cosmetic reduction only calls attention to the cynicism and duplicity that has long surrounded the debt limit device.

This procedure of setting a limit on the amount of debt the Treasury can incur has been labeled repeatedly and accurately as a charade and a deception.

It is a charade because as a fiscal measure it does nothing to curb the growth of public debt. It merely puffs upward every time the debt expands, much like the cover on a bowl of dough left to rise too long. All the pressure is upward, and the debt limit does nothing to push the size of indebtedness back down.

It is a charade also because of the outrageous implication that only $400 billion of the total is "permanent" while the remaining $373 billion is "temporary." No one in this Nation—in Congress or elsewhere—could possibly be expected to believe that any portion whatsoever of this debt is temporary when there has been a budget surplus which could be applied toward debt reduction in only 1 year out of the last 18. Even the election of a President pledged to balance the Federal budget by 1981 has not diminished the growth of the debt. At a projected $61.2 billion for the upcoming fiscal year, the Nation's indebtedness is spinning merrily along, completely unencumbered by the flimsy restraints of the debt limit. Perpetuating the fiction of a "temporary" debt limit convinces no one of the honesty of Government. Unfortunately, however, it does open the door to various kinds of legislative mischief to which this obligatory legislation can be held hostage.

The debt ceiling is a deception, because although it masquerades as a fiscal control device, the real point of control occurs, as we all well know, much earlier in the legislative process when the votes are taken which mandate Federal Government spending. Once the spending has been agreed to, the majority in Congress has little choice but to permit payment of the resulting bills, even to the extent it means going into debt to do so. For Members of Congress who have promoted and supported an array of expensive programs then to vote against the consequent debt is deceitful, hypocritical or both. The majority in Congress assumes responsibility for the control of the legislative process; it cannot subsequently shrug off responsibility for the costs engendered by its legislative achievements.

In the long run, there are a number of ways to resolve this repetitive and embarassing dilemma. We could abolish the entire debt ceiling, as I proposed in H.R. 9197, so that the Treasury would be permitted to meet whatever levels of indebtedness have been contracted for by Congress. If Congress wishes to maintain a stronger illusion of control over fiscal policy, we could link the ineffective public debt limit to the potentially more effective congressional budget process. The most beneficial but least probable alternative would be for Congress, individually and jointly, to stop enacting measures that result in spending in excess of Federal revenues.

None of these proposals will help us escape the trap in which we find ourselves today. We have only two choices at this point. We can agree to a $773 billion public debt level, only $2 billion less than the objectionable amount voted down last week, and thereby make ourselves accomplices to perpetuating a longstanding fraud on the American people. The practical effect, based on historical realities (and I use the team loosely) is to bring us back a few days earlier next year, to raise the debt ceiling again, rather than to save $2 billion as some will claim in justifying a changed vote today. Or, we can vote against the proposed debt limit once again and thereby share the responsibility for preventing the Government, starting next week, from paying its bills or sending out checks. Neither of these choices is honorable or pleasant. Indeed, confronted with these alternatives, it becomes tempting to vote "present," leaving the responsibility for making the choice to those who ordered the spending in the first place.

Mr. Chairman, regardless of how we resolve this matter today, I urge the Congress, the Committee on Ways and Means and the Rules Committee either

to eliminate this anachronism or to update it by linking it to the budget process. Permitting it to continue any longer amounts to playing russian roulette every year with the credit of the Federal Government at stake. This is an irresponsible risk which ought to be ended.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I support H.R. 9290 to increase the temporary debt limit. This legislation and the process we experience in its enactment is unpleasant but it is necessary.

Our Committee on Ways and Means had to scale the debt limit downward by $2 billion—this reduction was not based on exciting new facts which would establish the basis for a lower debt ceiling. The reduced debt limit will certainly create financing problems as early as June 1978. There is a possibility that these problems might earlier occur. The reduction in the temporary debt ceiling is based upon political expediency, the $773 billion debt ceiling appears to be the maximum acceptable to the House.

The administration would be well advised to note the hostility of the House to further increases in the allowable Federal debt. According to press reports, the President's tax program contemplates an additional deficit of between $15 to $20 billion. This means an additional annual public borrowing of this addition to the public debt.

While Congress will merrily support and embellish any tax cut the President will propose, we can anticipate a corresponding opposition to any increase in the public debt which will be the proximate result of the tax cut proposal.

A tax cut of the dimension suggested by Secretary Blumenthal is certain to create a legislative crisis on the debt ceiling issue.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. KETCHUM).

Mr. KETCHUM. Mr. Chairman and members of the committee, it seems that only yesterday we were here debating this debt ceiling. As a matter of fact, it was just last week.

It appears it was $75 billion last week and this week it is $73 billion. What is a couple of billion dollars among friends?

Mr. Chairman, how did we arrive at the $73 billion figure vis-a-vis the $75 billion figure? We went over to the committee. We had a little meeting at the Committee on Ways and Means. We discussed a few things here and there, and finally the gentleman from Ohio (Mr. VANIK) stood up and said, "Let us drop it $2 billion and see how that flies."

Apparently it will fly, because we are going to be subjected, as we are every time the debt ceiling question comes up, to the horror stories of what is going to happen if we do not pass the debt ceiling. The whole world is going to stop.

Mr. Chairman, we voted for a budget resolution here a week or so ago, and the projected debt or projected deficit was $61.25 billion, or something in that neighborhood.

If that was the case, why do we not simply increase the debt ceiling by that amount; and then if the Committee on the Budget was wrong, we can come back in 2 or 3 weeks and increase the debt ceiling again.

Mr. Chairman, my dear friend, the gentleman from New York (Mr. CONABLE), the ranking minority member on the Committee on Ways and Means, as does my friend, the gentleman from Texas (Mr. BURLESON) favors doing away with this charade; and a charade it absolutely is. However, it is the only game in town by which to call to account those individuals who are willing to vote for more and more expenditures; and then when it comes time to pay the piper, say, "No, I am not going to do it."

Mr. Chairman, in the State of California, for years and years and years, based on our constitution, we must have a balanced budget, which means that by July we must come up with both Houses agreeing on a budget that will balance. If we do not pass the budget, we are subject to the same tales of doom and gloom that we in this body are subject to here today.

One year we decided not to do it. We agreed to disagree with the other body, and the State is still there. It is still there. Nothing happened. We still had a National Guard. The schools continued to operate, and we finally resolved our differences.

Mr. Chairman, I do not believe all the tales of gloom and doom; and I do not think that the Federal Government is going to come to a halt if we vote no on this debt ceiling increase. I do think it is necessary to have this bill come up time and time again to illustrate to the American people that this Congress and its profligate spending are what causes that debt ceiling to rise, and nothing else.

The CHAIRMAN. The time of the gentleman from California (Mr. KETCHUM) has expired.

Mr. CONABLE. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. KETCHUM. Mr. Chairman, I thank the ranking minority member for yielding me this additional time.

To continue, Mr. Chairman, then when it is time to pay the bills, we can just say, "Gee whiz, we do not want to vote for an increase in the debt ceiling because the taxpayers are not going to like it."

Mr. Chairman, I hope that the taxpayers do not like it. I hope they start talking to all of the Members about this constant increase in the debt ceiling. It is phony, and we are being phony if we vote for all of the marvelous expenditure programs and do not vote to increase the debt ceiling.

Therefore, Mr. Chairman, I would call upon all the Members here today who voted for that new Select Committee on Population to vote for an increase in the debt ceiling because, by doing so, they helped to increase that debt.

Mr. Chairman, we cannot have it both ways. I would sincerely hope that this debt ceiling bill is voted down as it was last week, because there is not any change between this week and last week except $2 billion.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Chairman, I agree with a great deal of what the immediately preceding speaker, the gentleman from California (Mr. KETCHUM), said. My credentials are good. I just voted against the Select Committee on Population.

Mr. Chairman, I agree even more with what the gentleman from New York (Mr. CONABLE) has said. He used words like "cynicism," "duplicity," "charade," "legislative mischief," "deceitful and hypocritcal, or both."

I would not dare use words as critical of my fellow Members as that, but since the gentleman used them, I do dare repeat them. But I would like to agree again with the gentleman from California (Mr. KETCHUM) that we should have this operation here from time to time. I do not like his choice of words that it is the only game in town because, in fact, it is a game. We should not make it a game. We do play games with it, however.

Mr. Chairman, I am now going to address myself only to the members of the Committee on Ways and Means whose function it is to bring this legislation to the floor of the House.

There were 13 members of the Committee on Ways and Means itself who voted against increasing the debt ceiling the last time it came up. Of those 13 members, 5 voted for a new pension for World War I veterans and for a new tax credit for people who have their children in college. And they are looking for a miracle to think they can increase the spending and decrease the revenues and not increase the debt. And the miracles do not happen.

I tended to look over to this side of the aisle when I made that statement because that is where most of that came from, not all, but most.

Now, looking over on this side of the aisle, there were 3 members of the Committee on Ways and Means who voted for the budget resolution but voted against increasing the national debt. Well, the budget resolution requires an increase in the national debt. All we are doing is playing games with ourselves when we vote for all of these things and then refuse to vote to increase the debt.

I have no trouble with good, solid conservatives who vote against all of these spending programs and vote against increasing the debt. I have no trouble with good, solid liberals who vote for all of these programs and vote to increase the debt. But I have a lot of trouble with the people who vote for all of these programs and vote against increasing the national debt. They are just playing games.

I wish that we could all just examine our own consciences and our own voting record and go on from there.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. PIKE. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I believe I would be happy to associate myself with the remarks of the gentleman from New York (Mr. PIKE). But I would

like to ask the gentleman if he considers my position deceitful in any way since I voted against the budget resolution and for the debt ceiling increase?

Mr. PIKE. Certainly not. I am aware that the gentleman has been a paragon of virtue on this particular issue. I am terribly impressed. I want to make it very clear that I am not talking about the gentleman. But, please, do not too many Members get up and ask me that question because, if they do, the ones who are left will be the people I am talking about.

Mr. ULLMAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman, I rise in support of the legislation. I wish to associate myself with the remarks of the gentleman from New York (Mr. PIKE) who just spoke before me, but I would like to add something to his comments which, for some reason, he left out, unless I missed it.

Mr. Chairman, we hear a lot from our friends across the aisle about support from this side of the aisle for social programs, spending money as if there was no tomorrow, and then voting against this bill. And I must agree that there is some valid criticism to be directed in that direction. By the same token, it seems to me that the same type of criticism can also be directed just as validly against those Members of this body on both sides of the political aisle who consistently have voted against every defense expenditure, against every expenditure involved in the field of space, for every tax loophole and against the closing of every tax loophole. I must say, in all candor, and maybe I am getting a little too sensitive, and I should not be, that I shudder when I hear one Member commend another Member, as we saw in the case of the debate on the rule, as to how great a service that particular Member has contributed to this legislative body by consistently voting against all the social programs. Very conveniently, however, it was forgotten that that particular Member also has voted consistently for every defense expenditure and for every tax loophole and against the closing of every tax loophole. It seems to me that somewhere along the line we should be a little more consistent.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, when this bill or its counterpart was before us less than a week ago, I voted against it. At that time I indicated that it was the responsibility of those people who had passed the budget resolution which created the enormous deficit, which this deficit financing or borrowing is required to cover, to cast the votes to pass the debt ceiling increase. It is still my position today that it is the obligation of those spenders who voted for the budget resolution to pass this debt increase.

However, Mr. Chairman, it is a matter of some embarrassment, not only to the Congress but to the entire country, that we face an impending crisis in which we may not be able to pay our bills. For that reason and that reason only, I shall vote to support this debt increase bill, with a warning to those on the other side, who continually create further deficits for us to cover, that this is likely to be the last time, and that from now on they are going to have to cover their own excesses; do not come to papa looking for help.

Mr. Chairman, I yield back the remainder of my time.

Mr. ULLMAN. Mr. Chairman, we have no further requests for time.

Mr. CONABLE. Mr. Chairman, I have several more requests. I yield 1 minute to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, this is one of those debates in which it is so easy to agree with almost everything that has been said. I am terrified to ask the distinguished gentleman from New York (Mr. PIKE) as to where I fit in his scenario, and I suppose I am worried about the gentleman from California's painting of pictures. I am also worried about what happens were we to adopt the Conable strategy, the strategy of my friend, the gentleman from New York, my ranking member—where he says it is so easy to vote "present." Surely, it is easy to vote "present," and that way we can turn around and say, well, that is somebody else's job; that is not mine.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. Of course I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I mentioned only the temptation to vote "present." I intend to vote "aye."

Mr. STEIGER. I thank my colleague. That helps me ever so much. The last time I was almost all alone voting "aye," and I did not want to be alone this time.

I am going to vote "aye." I do so because I have become more and more persuaded by my friend, the gentleman from New York (Mr. CONABLE) and my distinguished elder statesman, the gentleman from Texas (Mr. BURLESON) that the whole thing is not worth our fighting and we ought to just get the thing over with. The $2 billion reduction really does not make a "diddley-doggoned" bit of difference but hopefully it is sufficient to convince a few more Members to face up to their responsibility.

Mr. CONABLE. I thank the gentleman for the new word "diddley-doggoned."

Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to this resolution H.R. 9290 to increase the temporary debt limit. I believe that the time of accountability for this House was long before we got to this point in time. I tend to agree with my colleague, the gentleman from New York, that those Members who impose all these added expenditures are really the ones who ought to be explaining this debt increase and are the Members who vote for all the big spending bills. But such Members will not do that because in most cases that would not "sell" back in their districts.

The argument is frequently used that if the Congress refuses to increase the debt limit the Government will come to a standstill. No one will get paid, we are told, all Government purchases will halt, and the economy will plunge into a recession. This simply is not so. Tax revenues roll into the U.S. Treasury every day so most bills can be paid.

The question of whether to increase the debt limit boils down to this: Should the Federal Government continuously borrow money to live from day to day, or should it live within its means? Households cannot continuously borrow money to pay for living expenses. Businesses cannot continuously borrow money for their day to day expenses. Even State and local governments cannot continuously borrow money for day to day expenses, or if they do, it does not last long—witness New York. Why then should the Federal Government continue to mortgage the future income of its future citizens to pay for current expenses? Why should the Federal Government ask future generations to pay for benefits being enjoyed today?

Of course the U.S. Government should not. The evils of deficit financing are clear. It unfairly places the burden of present consumption upon future generations. But what is perhaps even worse, it absorbs capital on the open market, drives up interest rates, increases inflation, and discourages investment. Low investment and high inflation brings lower productivity, fewer jobs, and a depressed standard of living.

Today, when the Federal Government attempts to spend more than it receives, it can pay for it two ways: It can print the money, or it can borrow it. The Treasury Department, however, does not have control over the money supply. That belongs to the Federal Reserve System. Beyond the orderly growth in the money supply which the Board of Governors of the Fed directs, the Federal Government cannot print money. Therefore, the only way to pay for its deficit is through borrowing. If we take away the authority of the Government to issue more debt, it has no choice but to spend only what it receives in revenues. Make no mistake about it: If you vote to keep the debt limit where it is, you are voting for a balanced budget. I urge a "No" vote.

Mr. ULLMAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, I would like to rise in defense of the great young statesman, the gentleman from Texas, who was misidentified by the gentleman from Wisconsin (Mr. STEIGER). If the great patriot from Texas had his way, there would have to be some other issue which some of the Members who love to demagog on this issue would have to demagog about, because he recognized a long time ago that this is not a very useful fiscal control rod; that if the budgetary process is going to work, it will work, and if it does not, this will not help.

I only regret that the gentleman from Texas (Mr. BURLESON) has chosen to retire before offering what I thought would be a most useful proposal to do away with the debt ceiling device altogether.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I rise in opposition to H.R. 9290. This bill represents an increase of $73 billion over the current temporary debt limit of $300 billion which covers the time period from April 1, 1977, through September 30, 1977.

On Monday, September 19, a bipartisan majority of the House had the wisdom to defeat H.R. 8655, a bill that proposed to increase the so-called temporary debt limit to $375 billion. This responsible action no doubt sent chills through those who believe that an ever-expanding flow of Federal deficit dollars constitutes the ultimate solution to any and all of America's problems. The fact that our national experience of the last 25 years appears to refute this proposition nonetheless seems to have escaped many of them. So now the Ways and Means Committee has stepped into the breach and reported a new and lower temporary limitation which reduces the original $375 billion figure by a whopping $2 billion. Well, at least this is a step, although a very small one, in the right direction. Now, if the committee diligently continues reducing the temporary debt limit at this rate, it will be eliminated in 186½ years.

Appendix IV of the committee report accompanying this bill provides some very depressing statistics from my frame of reference. This schedule, detailing how the national debt has increased since 1917, is replete with the phrase "temporary increase." In reality, there is nothing "temporary" about these legislated temporary debt increases. Such increases are simply added to the public debt total which continually and inexorably moves to ever higher red ink pinnacles. The present debt limitation is thus increased to $773 billion. The permanent debt limitation is $400 billion. To my knowledge, there is no active program anywhere either in Congress or in the executive branch to reduce this huge indebtedness.

As long as the Congress refuses to legislate with fiscal responsibility and continues to annually spend billions in excess tax revenues, the fires of inflation will be fueled by deficit dollars and never go out. There will be further debasement of the dollar's purchasing power, higher prices, reduced capital expenditures by the private sector, retarded economic growth, high interest rates, fewer jobs, and more of the disastrous inflation-recession business cycle.

My vote against this bill and its aforementioned economic effects is a protest I must make and will continue to make until the Congress musters the political courage to put this Government's spending program on a more sound fiscal basis by having as a goal, at least the limiting of Federal outlays to available tax receipts in a given fiscal year.

I would like to help the President achieve his goal of a balanced budget by 1981. In that spirit, I will vote against this bill in the hope it will be defeated and the temporary debt ceiling will be decreased further.

Mr. CONABLE. Mr. Chairman, I yield myself 1 minute.

This is not a moment full of sound and fury signifying nothing. This signifies $73 billion of lost spending. I regret the necessity of paying the country's bills under these circumstances. I think we must do it.

I urge my colleagues to vote "aye."

Mr. THONE. Mr. Chairman, I rise in opposition to H.R. 8655, the temporary increase in the debt limit.

Inflation is the chief worry of the majority of Americans. And the majority in this Congress is the chief cause of inflation. The wild, reckless, deficit spending of the majority in Congress is going to set off yet another round of inflation spiraling out of control.

It now costs the United States $130 million every day of the year just to pay the interest on our national debt. Just the interest on our national debt is now the fourth largest item in our Federal budget.

We have allowed the Federal Government to get completely out of control. Here in metropolitan Washington, the number of Federal employees has increased 25 percent in the past 10 years. In the same period, the amount of office space owned or leased by the Federal Government in the Washington area has increased by 47 percent. The growth of employees is only exceeded by the larger, swankier quarters being provided.

Overall, our Federal spending has quadrupled over the last 15 years. Only once in 17 years has the United States taken in more money than it has spent.

Mr. Chairman, I urge that this bill be defeated. When that is done, I urge that the budget resolution be reconsidered. With only a small across-the-board reduction in all Federal programs, we could make this increase in the debt limit unnecessary.

Today could be the day we turn the tide and turn away from ceaseless deficit spending. To that end, I urge rejection of H.R. 8655.

Mr. ULLMAN. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, no amendments are in order except amendments offered by direction of the Committee on Ways and Means and germane amendments printed in the CONGRESSIONAL RECORD at least 1 legislative day prior to consideration thereof, and said amendments shall not be subject to amendment but may be debated by the offering of pro forma amendments.

The clerk will read.

The Clerk read as follows:

H.R. 9290

A bill to increase the temporary debt limit, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the period beginning on the date of the enactment of this Act and ending on September 30, 1978, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $373,000,000,000.

SEC. 2. Effective on the date of the enactment of this Act, the first section of the Act of June 30, 1976, entitled "An Act to increase the temporary debt limit, and for other purposes" (Public Law 94-334), is hereby repealed.

SEC. 3. The last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$17,000,000,000" and inserting in lieu thereof "$27,000,000,000."

Mr. ULLMAN. Mr. Chairman, there are no committee amendments.

The CHAIRMAN. There being no amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DELANEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9290) to increase the temporary debt limit, and for other purposes, pursuant to House Resolution 781, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 213, nays 202, not voting 19, as follows:

[Roll No. 604]

YEAS—213

Addabbo	Burke, Calif.	Fary
Akaka	Burke, Mass.	Fascell
Alexander	Burleson, Tex.	Findley
Ambro	Burlison, Mo.	Fisher
Ammerman	Burton, Phillip	Flippo
Anderson, Ill.	Carney	Flood
Annunzio	Chisholm	Flowers
Applegate	Clay	Foley
Ashley	Cohen	Ford, Mich.
Aspin	Collins, Ill.	Ford, Tenn.
Badillo	Conable	Fraser
Baldus	Conte	Frenzel
Beard, R.I.	Conyers	Fuqua
Bedell	Corman	Gephardt
Bellenson	Cornell	Giaimo
Benjamin	Danielson	Gibbons
Bennett	Delaney	Gonzalez
Bingham	Derrick	Gore
Blanchard	Dicks	Hamilton
Boggs	Dingell	Hanley
Boland	Dodd	Hannaford
Bolling	Downey	Harrington
Bonior	Drinan	Harris
Bonker	Duncan, Oreg.	Hawkins
Brademas	Eckhardt	Hefner
Breaux	Edgar	Heftel
Breckinridge	Edwards, Ala.	Hightower
Brodhead	Edwards, Calif.	Holland
Brooks	Eilberg	Holtzman
Brown, Calif.	Evans, Colo.	Horton

Howard	Mollohan	Seiberling
Hubbard	Moorhead, Pa.	Sharp
Hughes	Moss	Shipley
Jeffords	Murphy, Ill.	Simon
Jenkins	Murphy, N.Y.	Sisk
Jones, N.C.	Murtha	Slack
Jones, Okla.	Myers, Michael	Smith, Iowa
Jordan	Natcher	Solarz
Kazen	Nedzi	St Germain
Keys	Nix	Staggers
Kildee	Nolan	Stanton
Koch	Nowak	Steed
Krebs	Oakar	Steers
Krueger	Oberstar	Steiger
LaFalce	Obey	Stokes
Le Fante	Ottinger	Stratton
Lederer	Patten	Studds
Leggett	Pattison	Thompson
Long, La.	Pease	Thornton
Long, Md.	Perkins	Tsongas
Lundine	Pettis	Tucker
McCloskey	Pickle	Udall
McCormack	Pike	Ullman
McFall	Poage	Van Deerlin
McHugh	Preyer	Vanik
McKay	Price	Vento
McKinney	Pritchard	Waggonner
Maguire	Reuss	Waxman
Mahon	Rhodes	Weaver
Markey	Richmond	Weiss
Mazzoli	Rodino	White
Meeds	Roe	Whitten
Metcalfe	Roncalio	Wiggins
Meyner	Rooney	Wilson, C. H.
Mikulski	Rose	Wilson, Tex.
Mikva	Rosenthal	Wirth
Mineta	Rostenkowski	Wright
Minish	Roybal	Yates
Mitchell, Md.	Ruppe	Young, Mo.
Moakley	Ryan	Young, Tex.
Moffett	Scheuer	Zablocki

NAYS—202

Abdnor	Erlenborn	McDonald
Allen	Ertel	McEwen
Anderson, Calif.	Evans, Del.	Madigan
	Evans, Ga.	Mann
Andrews, N.C.	Evans, Ind.	Marks
Andrews, N. Dak.	Fenwick	Marriott
	Fish	Martin
Archer	Fithian	Mathis
Armstrong	Flynt	Mattox
Ashbrook	Forsythe	Michel
AuCoin	Fountain	Milford
Badham	Fowler	Miller, Calif.
Bafalis	Frey	Miller, Ohio
Barnard	Gammage	Mitchell, N.Y.
Baucus	Gaydos	Montgomery
Bauman	Gilman	Moore
Beard, Tenn.	Ginn	Moorhead, Calif.
Bevill	Glickman	
Biaggi	Goldwater	Mottl
Blouin	Goodling	Murphy, Pa.
Brinkley	Gradison	Myers, Gary
Broomfield	Grassley	Myers, John
Brown, Mich.	Gudger	Neal
Brown, Ohio	Guyer	Nichols
Broyhill	Hagedorn	O'Brien
Buchanan	Hall	Panetta
Burgener	Hammer-schmidt	Pressler
Burke, Fla.		Pursell
Burton, John	Hansen	Quayle
Butler	Harkin	Quie
Byron	Harsha	Quillen
Caputo	Heckler	Rahall
Carr	Hillis	Railsback
Carter	Hollenbeck	Regula
Cavanaugh	Holt	Rinaldo
Cederberg	Huckaby	Risenhoover
Chappell	Hyde	Robinson
Clausen, Don H.	Ichord	Rogers
	Ireland	Rousselot
Cleveland	Jacobs	Rudd
Cochran	Jenrette	Runnels
Coleman	Johnson, Colo.	Russo
Collins, Tex.	Jones, Tenn.	Santini
Corcoran	Kasten	Sarasin
Coughlin	Kastenmeier	Satterfield
Crane	Kelly	Sawyer
D'Amours	Kemp	Schroeder
Daniel, Dan	Ketchum	Schulze
Daniel, R. W.	Kindness	Sebelius
Davis	Kostmayer	Shuster
de la Garza	Lagomarsino	Sikes
Dellums	Latta	Skelton
Derwinski	Leach	Skubitz
Devine	Lent	Smith, Nebr.
Dickinson	Levitas	Snyder
Diggs	Livingston	Spellman
Dornan	Lloyd, Calif.	Spence
Duncan, Tenn.	Lloyd, Tenn.	Stangeland
Early	Lott	Stockman
Edwards, Okla.	Lujan	Stump
Emery	Luken	Symms
English	McDade	Taylor
Thone	Walker	Wolff
Traxler	Walsh	Wydler
Treen	Wampler	Wylie
Trible	Watkins	Yatron
Vander Jagt	Whitehurst	Young, Alaska
Volkmer	Whitley	Young, Fla.
Walgren	Winn	Zeferetti

NOT VOTING—19

Bowen	Johnson, Calif.	Roberts
Clawson, Del	Lehman	Stark
Cornwell	McClory	Teague
Cotter	Marlenee	Whalen
Cunningham	Patterson	Wilson, Bob
Dent	Pepper	
Florio	Rangel	

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Del Clawson against.

Mr. Dent for, with Mr. Bob Wilson against.

Mr. Rangel for, with Mr. Marlenee against.

Mr. Cotter for, with Mr. McClory against.

Mr. Stark for, with Mr. Cunningham against.

Mr. Whalen for, with Mr. Bowen against.

Mr. Florio for, with Mr. Roberts against.

Until further notice:

Mr. Cornwell with Mr. Lehman.

Mr. Pepper with Mr. Patterson of California.

Messrs. BARNARD, THONE, and FORSYTHE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERSONAL EXPLANATION

Mr. KASTEN. Mr. Speaker, last Friday—September 23—I was returning from Wisconsin and missed one rollcall vote that occurred during the session. For the record, I wish to state that had I been present I would have voted "yea" on final passage of H.R. 6796, the ERDA Authorizations for Civilian Research and Development Act.

PROVIDING FOR REPRINTING OF HOUSE REPORT 94–1688 AND HOUSE REPORT 94–1757

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 490) to provide for reprinting of House Report 94–1688 and House Report 94–1757, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 490

Resolved, That there shall be reprinted for the use of the Committee on Government Operations one thousand five hundred copies each of the report entitled "Chemical Dangers in the Workplace", House Report 94–1688, and "Administration of the Federal Employees' Compensation Act", House Report 94–1757.

The SPEAKER. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the reprinting of two House reports distributed by the Committee on Government Operations. The total cost of the printing is estimated to be $884.96.

Mr. HAWKINS. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL ANNOUNCEMENT

Mr. McCORMACK. Mr. Speaker, I would like to inform the Members of the House that we are sponsoring a solar energy exhibition in the Cannon House Office Building at this time. We have had a solar energy seminar going on over there all afternoon. There is a reception scheduled at 5:30 p.m. for all Members of the House.

There is a large number of displays on solar energy collectors and heating systems for the Members to see. I want to remind the Members that we would like to have them come over and visit us. To repeat, that is in the Cannon House Office Building today, with a reception scheduled at 5:30 p.m.

AUTHORIZING PRINTING, AS A HOUSE DOCUMENT, OF A CERTAIN COMMITTEE PRINT OF THE SUBCOMMITTEE ON THE CITY OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 654) authorizing the printing, as a House Document, of a certain committee print of the Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 654

Resolved, That the committee print of the Subcommittee on the City of the Committee on Banking, Finance and Urban Affairs entitled "Toward a National Urban Policy" be printed as a House document.

SEC. 2. In addition to the usual number, there shall be printed two thousand copies of such document for use by the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. (Mr. BROWN of California). The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, this resolution provides for the printing as a House document of additional copies of a committee print entitled, "Toward a National Urban Policy", for the Committee on Banking, Finance and Urban Affairs.

The total cost involved is $2,940.23.

The SPEAKER pro tempore. Does the

gentleman from California (Mr. HAWKINS) request additional time?

Mr. HAWKINS. No, Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

May I say to the gentleman from California (Mr. HAWKINS) that I am a member of this committee, and I have not heard any great reasons as to why we have to act concerning this report with such urgency.

Could the gentleman tell me why we need this extra funding for this report?

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, the resolution was submitted by the gentleman from Wisconsin (Mr. REUSS).

Mr. ROUSSELOT. Yes. After reading the press release this weekend, I was sure that they would want to put out a lot of material. Does the gentleman know why we need this print so urgently?

Mr. HAWKINS. There are no copies available at the present time. The information that was furnished to the gentleman from Wisconsin (Mr. REUSS) by the committee indicated that they had many requests for the document. Therefore, the committee did unanimously approve it without any opposition.

Mr. ROUSSELOT. The Committee on House Administration does not really have any information as to why this is so important, does it? It has not been discussed with the Committee on Banking, Finance and Urban Affairs, as I understand.

Mr. HAWKINS. If the gentleman will yield further, the committee does not consider the merits of the case or whether or not there is agreement or disagreement with the findings which are published in the report.

We assume that the chairman of the committee is speaking, in effect, for the committee; and that when copies are requested by the committee to be used by the committee, there is no further information that would be contrary to what was presented to the committee.

Mr. ROUSSELOT. Mr. Speaker, I will have to admit to my colleague that this is a lot less money than we normally spend; but there has been no discussion in the committee as to the urgency of this printing. Therefore, I just do not understand why the urgent need for it. I do know that the chairman is very anxious to publicize all his thoughts and ideas on this subject, so I assume this is somewhat of a personal document for him.

Mr. HAWKINS. Mr. Speaker, I can assure the gentleman that this is a very minor mistake, if it is a mistake at all.

We certainly, I think, must assume the integrity of the chairman of the committee. When the committee says that they need the document and that they have many outstanding requests for the document, we assume it is needed. It is on that basis that the committee reported the resolution out. As I say, both in the subcommittee and in the full committee no one presented any opposition to the resolution.

Mr. ROUSSELOT. Mr. Speaker, it was never discussed in committee. We were never informed or alerted to the fact that this matter was coming up. I am sure there is great reason for it, and that if the chairman of the committee was here he would explain to us the urgency.

Mr. Speaker, I withdraw my reservation of objection.

Mr. HAWKINS. Mr. Speaker, I again move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF REVISED EDITION OF "OUR FLAG" AS A HOUSE DOCUMENT

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 204) to authorize the printing of a revised edition of "Our Flag" as a House document, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 204

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document a revised edition of "Our Flag", revised under the direction of the Committee on House Administration.

SEC. 2. In addition to the usual number of copies, there shall be printed two hundred and seventy-six thousand additional copies, of which two hundred and twenty-four thousand copies shall be for the House of Representatives, and fifty-one thousand five hundred copies shall be for the use of the Senate.

With the following committee amendment:

On line 8, after "sand" and before "copies" insert "five hundred".

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this authorizes the printing as a house document of a revised edition of "Our Flag." This is a document that I believe is familiar to every Member. It is extensively used by the Members. This simply brings it up to date. It is a routine resolution which is authorized in every session of the Congress.

I know of no objection to the resolutions and the amendment.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. HAWKINS. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF REVISED EDITION OF "OUR AMERICAN GOVERNMENT" AS A HOUSE DOCUMENT

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 205) to authorize the printing of a revised edition of "Our American Government" as a House document, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 205

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document a revised edition of "Our American Government", revised under the direction of the Committee on House Administration.

SEC. 2. In addition to the usual number of copies, there shall be printed five hundred and fifty-six thousand additional copies, of which four hundred and fifty-three thousand copies shall be for the use of the House of Representatives, and one hundred and three thousand copies shall be for the use of the Senate.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the Committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert in lieu thereof the following: That there shall be printed as a House document a revised edition of "Our American Government," revised under the direction of the Joint Committee on Printing.

SEC. 2. In addition to the usual number of copies, there shall be printed 556,000 additional copies, of which 443,000 copies shall be for the use of the House of Representatives, 103,000 copies shall be for the use of the Senate, and 10,000 copies shall be for the use of the Joint Committee on Printing.

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this concurrent resolution is again one which is renewed in each session. It simply brings up to date a revised edition of the pamphlet entitled "Our American Government."

I believe that all of the Members are familiar with this document and use it, particularly in distributing it to schools and other groups within their districts. This includes the usual number to be printed, there is no increase in the number to be printed. It is simply a revised edition and provides for its distribution.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. HAWKINS. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

PROVIDING FOR PRINTING OF 100,000 ADDITIONAL COPIES OF SUBCOMMITTEE PRINT OF SUBCOMMITTEE ON CONSUMER AFFAIRS OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS ENTITLED "GIVE YOURSELF CREDIT: GUIDE TO CONSUMER CREDIT LAWS"

Mr. HAWKINS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged concurrent resolution (H. Con. Res. 241) providing for the printing of 100,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws," and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 241

Resolved by the House of Representatives (the Senate concurring), That there shall be printed as a House document the report by the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

SEC. 2. In addition to the usual number of copies, there shall be printed 100,000 copies of the report referred to in the first section of this concurrent resolution for use by the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert in lieu thereof the following: That there shall be reprinted for the use of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs one hundred thousand copies of House Document No. 95-167 entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this concurrent resolution provides for a reprint of a House document entitled "Give Yourself Credit: Guide to Consumer Credit Law."

The Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs has distributed its previous supply and is still receiving, according to information received by the subcommittee, about 1,000 requests a day. High schools and universities have been the main distributors of this booklet as a teaching guide for courses in consumer credit. In the subcommittee and the full committee there was no opposition expressed to the resolution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Maryland for the purpose of discussion only.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, the only reason I take this time is that I want to make a plea to the gentleman from California (Mr. HAWKINS) and the other members of the Committee on House Administration that in the past it has always been the custom here to inform the Members of the House at least a day in advance that these types of resolutions were going to be brought up so that those of us who might care to read them would have the privilege of knowing exactly what is going to be considered. This pending resolution is a good example of the necessity. I have no thought that it would be defeated if I demand a rollcall vote, which I could easily do, but it is for the printing of 100,000 copies of a report that is not a House document dealing with legislation, but some little goodie that the subcommittee dreamed up. The previous printing, it indicates, was 20,000 copies. Now we are going to 100,000 at a cost of $40,000.

For the life of me, I do not know why a subcommittee of the Congress ought to be providing booklets to be used as teaching guides in schools that ought to be paid for by local school systems. So if nothing else, I hope the gentleman would give the House the courtesy of telling us what the heck they are bringing out of this committee. In fact, I had been told that this resolution would not come up, that the gentleman's staff had informed the minority that this would not be called up today.

Mr. HAWKINS. May I say I agree 100 percent with what the gentleman has said. It was my information that suitable notices were given to the other side and that they have been very familiar with our efforts since August 1. The report was filed on August 1. This is about the fifth attempt we have made to bring the resolution up. Suitable notices were given, I think, to everyone who was interested in the resolution each time we attempted to bring it up. This is a further attempt to bring it up today, which we hope will succeed. But I can assure the gentleman that the chairman of this subcommittee has sought to give suitable notices to all of the individuals involved, certainly the ranking minority member of the subcommittee, whose presence I noted a few minutes ago, and also at the staff level. I regret if the gentleman from Maryland was not aware of it. If it is of any importance, I certainly will hereafter include the gentleman from Maryland among those who are notified.

Mr. BAUMAN. If the gentleman will yield further, the gentleman is very kind. I am not asking for any special notice. All I am saying is that the past practice has been that the gentleman's committee would announce such the day before several printings would be considered, or the majority leader would do that, or somebody would tell us what is going on around here. We are getting into an awful lot of trouble around here because they do not. I am sure this printing is a duplication of several other booklets that several other agencies have already printed. But just let us know what the gentleman's committee is doing.

Mr. HAWKINS. Hereafter I will try to comply with the gentleman's request. I deem it something more than mere courtesy. I think it is an obligation for those of us who bring these matters before the House to notify everyone as reasonably as we possibly can.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the gentlewoman from New Jersey for purposes of debate only.

Mrs. FENWICK. I have just a question. I thank my colleague for yielding. Can the gentleman assure this House that such booklet is not being printed by any other agency of Government, in other words, that the Department of Commerce or the Federal Trade Commission, or any other agency, is not putting out such a booklet?

Mr. HAWKINS. I can certainly assure the gentlewoman that to my knowledge no other agency is printing it. Whether it is being reproduced by someone in the private sector, I have no knowledge of that. So far as I know, this is the only printing that is being done.

Mrs. FENWICK. Were inquiries made so as to assure us of this? Would the gentleman care to respond to this? Would the chairman of our subcommittee respond to this?

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield I will respond.

Mr. HAWKINS. I will be glad to yield to the gentleman from Illinois to respond to this.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, House Concurrent Resolution 241 calls for the printing of 100,000 copies of the House Document "Give Yourself Credit" which was published by the Consumer Affairs Subcommittee.

This is one of the most important documents that has ever been published by the Congress since it tells both consumers and businessmen alike what their rights are under the various consumer laws.

The publication is printed for the most part in question and answer format, and includes copies of all the consumer credit laws for those who wish to become more technically familiar with the various laws.

Mr. Speaker, this publication has been hailed by consumers and business groups across the country. Originally some 2,000 copies were printed and subsequently a resolution for the printing of 20,000 additional copies was passed. Those copies were quickly distributed to people in every State of the Union who have been writing by the thousands. The Consumer Affairs Subcommittee has been receiving requests for the book at the rate of 700 to 1,000 a day. These are not multiple requests where we would send 100 or even 1,000 to one organization, they are individual requests from your constituents and mine. We have received requests

from most Members of Congress for copies of the book, and a number of newspapers and magazines have reprinted major portions of the booklet on their own.

Mr. Speaker, I would like to point out that this publication only informs consumers and businessmen what their rights are under State and Federal law. We do not attempt to give legal advice nor do we in any way attempt to interfere in State laws. What we are trying to do is make it easier for our constituents to understand some of our laws, and I think this is a most worthwhile function of Congress.

The book has been praised by the media across the country. We have not received a single negative comment about the book. The only problem we have had is keeping up with the demand.

Mr. Speaker, businessmen across the country have expressed concern that there are too many technical lawsuits dealing with consumer laws. One of my hopes is that this book will help prevent such lawsuits since it will explain to consumers their rights before they get into trouble and, thus, should have a great effect on eliminating the technical nuisance suits.

I urge the adoption of the resolution.

Mrs. FENWICK. Mr. Speaker, if the gentleman will yield, this is the first time I have heard of it.

Mr. ANNUNZIO. We sent the gentlewoman copies of the booklet.

Mrs. FENWICK. I thank the gentleman.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. HAWKINS. Mr. Speaker, I move the previous question on the concurrent resolution.

The previous question was ordered.

The concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just passed and the other previous resolutions on printing reported by the Committee on House Administration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NUCLEAR ANTIPROLIFERATION ACT OF 1977

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8638, with Mr. PREYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, September 23, 1977, all time for general debate on the bill had expired.

The Clerk will read the bill by titles.

The Clerk read as follows:

H.R. 8638

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Nuclear Antiproliferation Act of 1977".

STATEMENT OF POLICY

SEC. 2. The Congress hereby finds and declares that the proliferation of nuclear explosive capability poses a grave threat to the security of the United States and to continued international progress toward world peace. Recent events emphasize the urgency of this threat and the imperative need to increase international cooperation to implement effective safeguards and controls on peaceful nuclear activities in order to prevent further proliferation of nuclear explosive capability. Accordingly, it is the policy of the United States to—

(1) pursue actively through international initiatives the establishment of more effective international controls over the transfer and use of nuclear materials or equipment and sensitive nuclear technology for peaceful purposes, including the establishment of common international sanctions to prevent such proliferation;

(2) take such actions as are required to enhance the reliability of the United States as a supplier of nuclear fuel to nations which share our antiproliferation policies;

(3) strongly encourage nations which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons to do so at the earliest possible date;

(4) aid nations, pursuant to article IV of the Treaty, in identifying and adopting appropriate technology for energy production through conventional, nuclear, and non-nuclear alternate sources, consistent with the resources and environmental protection concerns of those nations;

(5) seek to preserve and enhance the deterrent effect of international safeguards by assuring that the peaceful nuclear activities and exports to which they are applied are such as to permit warning time of diversion comparable to that which has traditionally obtained in the low-enriched uranium fuel cycle without reprocessing; and

(6) assure all nations of the world that the United States, as a matter of national policy, will impose conditions on its own nuclear exports, including international safeguards and physical security guidelines at least as stringent as those collectively adopted by other nuclear supplier nations, and will act in a manner which will maintain and enhance the comprehensiveness and effectiveness of such international safeguards and physical security guidelines.

STATEMENT OF PURPOSE

SEC. 3. It is the purpose of this Act to promote the policies set forth in section 2 by—

(1) providing for a full and comprehensive assessment of the risks of proliferation in the negotiation, review, and renegotiation of agreements for cooperation and subsequent arrangements and in the consideration of export applications;

(2) specifying procedures under which the Congress will receive adequate information and opportunity to examine proposed agreements for cooperation and amendments thereto and to review the policies of the United States concerning proliferation;

(3) establishing criteria which will govern exports by the United States of nuclear materials or equipment and sensitive nuclear technology intended for use in peaceful nuclear activities;

(4) specifying United States initiatives to seek the negotiation of international agreements for effective and comprehensive international controls, sanctions, and physical security measures, to establish international arrangements or other mutual undertakings to provide nuclear fuel services to those countries which adhere to stringent antiproliferation policies and practices, and to strengthen the International Atomic Energy Agency;

(5) supporting such actions by the United States as are required for it to assert itself as a reliable supplier of nuclear fuel to nations which share our antiproliferation policies; and

(6) providing incentives to the other nations to join in the cooperative international antiproliferation efforts described above.

TITLE I—UNITED STATES INITIATIVES FOR INTERNATIONAL NUCLEAR COOPERATION

INTERNATIONAL NUCLEAR CONTROL COMMITMENTS

SEC. 101. The United States shall immediately seek to achieve from all nations and groups of nations stronger and more comprehensive commitments to adhere to the antiproliferation principles and the other objectives set forth in this Act, and to develop adequate means and mechanisms for insuring such adherence. Accordingly, the president shall take immediate steps to seek to have all nations and groups of nations, including nuclear supplier nations, commit themselves to international arrangements or other mutual undertakings in furtherance of the following objectives:

(1) Preventing the use of nuclear materials or equipment and sensitive nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear weapon State for nuclear explosive devices for any purpose.

(2) Achieving universal application of International Atomic Energy Agency safeguards to all peaceful nuclear activities in, under the jurisdiction of, or under the control of non-nuclear weapon States.

(3) Establishing and maintaining adequate physical security measures by all nations or groups of nations on all of their activities.

(4) Ensuring that special nuclear material exported by or in the possession of the parties to any such international arrangement or mutual undertaking, and that all special nuclear material produced in or through the use of any nuclear materials or equipment or sensitive nuclear technology transferred internationally by such parties, is subject to adequate physical security measures to ensure their protection against acts of terrorism, sabotage, and theft.

(5) Otherwise preventing the further spread or acquisition of nuclear materials or equipment or sensitive nuclear technology that will assist, encourage, or induce, any non-nuclear weapon State to manufacture or otherwise acquire any nuclear explosive device.

(6) Adopting specific principles and procedures, including common international sanctions, to be followed in the event a nation violates any material obligation with respect to the peaceful use of nuclear materials or equipment or sensitive nuclear technology or in the event that any nation violates the principles of the Treaty, including the manufacture or acquisition by a nonnuclear weapon State of a nuclear explosive device.

(7) Establishing international procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials or equipment or sabotage of nuclear facilities and for recovering nuclear materials or equipment that have been lost or stolen or that have been obtained or used by a nation or by any person or group in contravention of the principles of the Treaty.

(8) Protecting the international environment from radioactive, chemical, or thermal contamination arising from peaceful nuclear activities.

SAFEGUARDS TRAINING PROGRAM AND STUDIES

SEC. 102. The Administrator of Energy Research and Development, in consultation with the Nuclear Regulatory Commission, shall establish and operate a training program on physical security and national safeguard responsibilities to be made available to persons from nations which have, or may be expected to develop or acquire, nuclear materials or equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with the national security interests of the United States.

INTERNATIONAL FUEL CYCLE EVALUATION

SEC. 103. The President shall institute an immediate initiative to establish an intensive international fuel cycle evaluation involving other nuclear supplier and recipient countries to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on separation of pure plutonium or the presence of highly enriched uranium and problems related to spent fuel storage. The President shall, in the first annual report submitted to the Congress pursuant to section 601 of this Act, detail the progress of the international nuclear fuel cycle evaluation.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read through title I, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer a series of technical amendments which accomplish the same purpose, that is to substitute the term "Secretary of Energy" for "Administrator of ERDA" throughout the bill, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. BINGHAM: Strike the reference to the 'Administrator' and/or the "Administrator of Energy Research and Development" in the following instances and insert in lieu thereof the following: "Secretary of Energy".

Page 7, lines 12–13,
Page 10, lines 1–2,
Page 17, lines 10–11 and line 17,
Page 18, line 3,
Page 20, lines 14–15,
Page 22, line 13,
Page 23, lines 21–22.
Page 25, line 10,
Page 26, line 4 and line 25,
Page 24, line 3 and lines 22–23,
Page 27, line 1, line 3 and lines 11–12,
Page 28, lines 14–15,
Page 35, lines 5–6,
Page 41, lines 1–2 and lines 21–22,
Page 44, lines 15–16 and line 20,
Page 45, lines 13–14.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York that the amendments be considered as read and considered en bloc?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. BINGHAM).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title I of the bill? If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—UNITED STATES INITIATIVES TO STRENGTHEN THE INTERNATIONAL ATOMIC ENERGY AGENCY

INTERNATIONAL ATOMIC ENERGY AGENCY PROGRAMS AND CAPABILITIES

SEC. 201. The United States is committed to a strengthened and more effective International Atomic Energy Agency and to a comprehensive safeguards system administered by the Agency to deter further proliferation. Accordingly, the United States will continually seek to act with other nations to strengthen the Agency through contribution of technical resources, support, funding, and by—

(1) continuing to strengthen the safeguards program of the Agency and, in order to implement this initiative, contributing funds, technical resources, and other support to assist the Agency in effectively implementing safeguards;

(2) assuring that the Agency has the resources to carry out the provisions of article XII, relating to "Agency Safeguards", of the Statute of the International Atomic Energy Agency, including support needed to provide for the storage under international supervision of special nuclear material which is sensitive from the standpoint of preventing proliferation;

(3) improving the Agency's safeguards system (including accountability) to insure—

(A) the timely detection of a possible diversion of special nuclear materials which could be used for nuclear explosive devices,

(B) the timely dissemination of information regarding such diversion, and

(C) the timely application of procedures in the event of such diversion;

(4) assuring that the International Atomic Energy Agency receives the data needed for it to administer an effective and comprehensive international safeguards program; and

(5) assuring that the Agency provides to the world community results of Agency inspection and monitoring and timely notice of any evidence of violation of safeguards agreements to which it is a party.

MEASUREMENT STANDARDS STUDY

SEC. 202. The Secretary of Commerce (acting through the National Bureau of Standards), the Administrator of Energy Research and Development, and the Nuclear Regulatory Commission shall, in consultation with the Secretary of State and the Director of the Arms Control and Disarmament Agency, work cooperatively to establish a program to develop reference methods and standards for measuring nuclear materials and other substances with sufficient accuracy to insure that consistent and compatible measurements can be made at all points of the nuclear materials safeguards system. These methods and standards may be made available, in accordance with the Atomic Energy Act of 1954, to the International Atomic Energy Agency for such safeguards purposes and to nations and groups of nations selected for such assistance by the officials and agencies designated in the first sentence of this section.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: Page 9, on line 24, strike all through page 10, line 15.

Mr. McCORMACK. Mr. Chairman, in reviewing this bill we found that section 202 duplicates a program that is already in existence in the Energy Research and Development Administration. The same agencies are involved in all cases: the Nuclear Regulatory Commission, the National Bureau of Standards, the new Department of Energy, the Arms Control and Disarmament Agency and the IAEA. Finding this complete duplication, I offer this amendment to delete section 202 from the bill.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I would like to say that the gentleman from Washington has been extremely cooperative in working out agreements on various aspects of this legislation. The gentleman has pointed out this duplication. The section in the bill was originally requested by the administration, but we understand that the administration is now satisfied that it is taken care of in the ERDA authorization.

Mr. Chairman, we have no objection to the amendment.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I have had a chance to examine the amendment and consult with the author and I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II? If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—UNITED STATES INITIATIVES FOR ASSURING ADEQUATE NUCLEAR FUEL SUPPLY

ENRICHMENT SERVICES

SEC. 301. The United States shall take such actions as may be necessary to ensure a reliable supply of enriched uranium to those

nations and groups of nations which may seek to utilize the benefits of atomic energy for peaceful purposes, including the generation of electricity, and which adhere to policies and practices set forth in this Act which are designed to prevent proliferation. Such enrichment services shall be provided under agreements entered into pursuant to section 161 of the Atomic Energy Act of 1954 or as otherwise authorized by law. The United States will strive to assure that it will have available the capacity to carry out this policy on a long-term basis. As a matter of national policy, the United States shall, on a timely basis, issue licenses for, or otherwise authorize the export of, nuclear materials or equipment, when all the applicable statutory requirements are met.

INTERNATIONAL NUCLEAR FUEL DEMAND STUDY

SEC. 302. The President shall institute prompt discussions with other nations or groups of nations to develop multilateral approaches for meeting future worldwide nuclear fuel needs. In the first annual report submitted to the Congress pursuant to section 601 of this Act, the President shall report on feasible options for the establishment of multinational facilities for the provision of nuclear fuel services under international auspices and inspection. Such report shall include—

(1) an evaluation of alternative management and financing arrangements for such facilities, including a specific discussion of the establishment of international storage facilities for weapons-usable material and irradiated fuel elements, and of methods for the acquisition and transportation of irradiated fuel elements located in non-nuclear weapon States;

(2) an assessment of what incentives would be practicable and necessary to motivate non-nuclear weapon States to join in international arrangements or mutual undertakings in lieu of seeking to obtain national nuclear fuel service facilities; and

(3) specific recommendations on steps to be taken by the United States to promote the establishment of such international arrangements or mutual undertakings, including a discussion of the desirability of placing existing and future United States nuclear fuel service facilities under international auspices.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Are there amendments to title III of the bill? If not, the Clerk will read title IV.

The Clerk read as follows:

TITLE IV—AGREEMENTS FOR COOPERATION

SEC. 401. Section 123 of the Atomic Energy Act of 1954 is amended to read as follows:

"SEC. 123. COOPERATION WITH OTHER NATIONS.—No cooperation with any nation or regional defense organization pursuant to section 53, 54a, 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until the following conditions have been met:

"a. The proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include (1) the terms, conditions, duration, nature, and scope of the cooperation; (2) a guarantee by the cooperating party that the safeguards set forth in the agreement for cooperation will be maintained with respect to all nuclear materials or equipment transferred pursuant thereto, and with respect to all special nuclear material produced through the use of such nuclear materials or equipment, so long as such materials or equipment remain under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason; (3) in the case of a non-nuclear weapon State, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that International Atomic Energy Agency safeguards be maintained with respect to all nuclear materials or equipment in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere; (4) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., a guarantee by the cooperating party that any nuclear materials or equipment to be transferred pursuant to such agreement, and any special nuclear material produced through the use of any nuclear materials or equipment transferred pursuant to such agreement, and any sensitive nuclear technology transferred pursuant to any such agreement, will not be used for atomic weapons or any nuclear explosive devices, for research on or development of atomic weapons or any nuclear explosive devices, or for any other military purpose; (5) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c. and agreements for cooperation with nuclear weapon States, a stipulation that United States cooperation under the agreement for cooperation shall cease if the cooperating party detonates a nuclear explosive device, terminates or abrogates an agreement providing for International Atomic Energy Agency safeguards, or materially violates an Agency safeguards agreement or any guarantee it has given under the agreement for cooperation; (6) a guarantee by the cooperating party that any nuclear materials or equipment or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to subsection 91 c., 144 b., and 144 c., any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any nuclear materials or equipment transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the express written consent of the United States; (7) a guarantee by the cooperating party that adequate physical security will be maintained with respect to any nuclear materials or equipment transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any source or special nuclear material or any production or utilization facility transferred pursuant to such agreement; (8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guarantee by the cooperating party that no source or special nuclear material transferred pursuant to the agreement for cooperation and no source or special nuclear material used in or produced through the use of any source or special nuclear material or any production or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed or otherwise altered in form or content without the prior approval of the United States or stored in any facility that has not been approved in advance by the United States; (9) except in the case of an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guarantee by the cooperating party that it will furnish a report or permit the International Atomic Energy Agency to furnish a report to the United States, in accord with a request of the United States, on the status of all inventories of source or special nuclear material possessed by that cooperating party and transferred to it pursuant to an agreement for cooperation with the United States, and in addition, in the case of a cooperating party that is not a party to the Treaty on the Non-Proliferation of Nuclear Weapons, a guarantee by that party that it will furnish a report or permit the Agency to furnish a report to the United States, in accord with a request of the United States, on the status of all inventories of source or special nuclear material possessed by that cooperating party and subject to Agency safeguards; and (10) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guarantee by the cooperating party that any special nuclear material, production facility, or utilization facilities produced or constructed in the territory of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the guarantees specified in this subsection. The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91 c., 144 b., or 144 c.) from any of the requirements of the preceding sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States antiproliferation objectives or otherwise jeopardize the common defense and security. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the assistance and concurrence of the Administrator of Energy Research and Development and with the assistance of the Director of the Arms Control and Disarmament Agency, and shall be submitted by the Secretary of State, after consultations with the Nuclear Regulatory Commission, to the President, together with the views and recommendations of the Secretary of State, the Administrator, and the Director who shall provide to the President an unclassified Nuclear Proliferation Assessment Statement regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to insure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the proposed agreement for cooperation shall be submitted to the President by the Administrator of Energy Research and Development or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, by the Secretary of Defense.

"b. The President has approved and authorized the execution of the proposed agreement for cooperation and has made a determination in writing that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security.

"c. The proposed agreement for cooperation (if not an agreement subject to subsection d.), together with the approvel and determination of the President, has been submitted to the Congress and a period of 30 days has elapsed while Congress is in session (excluding the days on which either House is not in session because of an adjournment of more than 3 days); except that the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate,

after submission of such agreement for cooperation, may by resolution in writing waive all or any portion of such 30-day review period.

"d. The proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of section 53, 54a, 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) together with the approval and determination of the President, has been submitted to the Congress, together with any required Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency, and a period of 60 days has elapsed while Congress is in session (excluding the days on which either House is not in session because of an adjournment of more than 3 days). Such proposed agreement for cooperation shall not become effective if, during such 60-day period, the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed agreement for cooperation. Prior to the elapse of the first 40 days of any such 60-day period the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate shall submit to their respective Houses a report on their views and recommendations with respect to the proposed agreement and an accompanying proposed concurrent resolution stating in substance that the Congress favors or does not favor, as the case may be, the proposed agreement for cooperation. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within 10 days and shall be voted on within 5 calendar days thereafter, unless such House shall otherwise determine.

"e. Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c.) to the Congress, the Nuclear Regulatory Commission, the Secretary of State, the Administrator of Energy Research and Development, the Director of the Arms Control and Disarmament Agency, and Secretary of Defense shall, upon the request of either the Committee on Foreign Relations of the Senate and Committee on International Relations of the House of Representatives, promptly furnish to those committees their views as to whether the safeguards and other controls contained in the proposed agreement provide an adequate framework to insure that the export of any nuclear materials or equipment contemplated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.".

RENEGOTIATION OF AGREEMENTS

SEC. 402. The President shall initiate an immediate program to renegotiate agreements for cooperation in effect on the date of the enactment of this Act, or otherwise to obtain the agreement of parties to such agreements, to the undertakings that would be required for new agreements under this Act. The President shall also institute an immediate initiative to seek international arrangements or other mutual undertakings with nuclear supplier nations for the application of the policies contained in section 123 a. of the Atomic Energy Act of 1954, as amended by section 401 of this Act, by such nations as nuclear export guidelines.

SAVINGS PROVISION

SEC. 403. The amendment to section 123 of the Atomic Energy Act of 1954 made by section 401 of this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to the date of enactment of this Act. This section shall not affect (1) the responsibility of the President under section 402 of this Act to seek to renegotiate the provisions of such agreements, or (2) the provisions of title V of this Act with respect to exports made pursuant to such agreements.

REVIEW

SEC. 404. No court or regulatory body shall have any jurisdiction under any law to compel the preparation of, or to review the adequacy of, any Nuclear Proliferation Assessment Statement required by this Act.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that title IV of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: On page 15, line 10 strike everything following the semicolon down through the semicolon in line 22 of the same page and insert in lieu the following:

"(8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be processed, or (in the case of plutonium, U–233, uranium enriched to greater than 20 percent in the isotope 235, or in the case of other nuclear materials after irradiation) otherwise altered in form or content without the prior approval of the United States; (9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., a guaranty by the cooperating party that no plutonium, no U–233, and no uranium enriched to greater than 20 percent in the isotope 235 transferred pursuant to the agreement for cooperation, or recovered from any source of special nuclear material so transferred or from any source or special nuclear material used in cooperation, will be stored in any facility transferred pursuant to the agreement for copoeration, will be stored in any facility that has not been approved in advance by the United States;"

On page 15, line 22 strike the number "9" and insert in lieu thereof the numeral "10".

On page 16, line 15 strike the numeral "10" and insert in lieu thereof the numeral "11".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BINGHAM. Mr. Chairman, this amendment, like several others that I will offer, was the result of consultations with the administration, both before and after our first appearance before the Committee on Rules. They were submitted to the administration in correspondence which appears on page 30294 of the RECORD of September 22, 1977. On the basis of that correspondence, we were advised by the Secretary of State that the administration supports the bill in every respect, with the exception of provisions dealing with congressional veto by concurrent resolution.

This amendment was requested by the administration to correct an error in the administration's own original bill. It clarifies certain requirements with respect to the U.S. approval for storage facilities and U.S. approval for certain fuel cycle activities. It substitutes two subparagraphs for the one that appears in the bill. It is rather technical. I would emphasize that it is at the suggestion of the administration that we offer this amendment.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will be glad to yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I would like to express my support of the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the amendments being offered by the manager of the bill, Mr. BINGHAM, and urge that they be accepted by my colleagues. While I had substantial reservations about the bill as reported, and voiced those objections at the initial meeting of the Committee on Rules, subsequent meetings between the committee, administration, industry and staff have produced a package of amendments and floor dialog which resolve my concerns. I am pleased that in just about 1 week we have transformed a potentially divisive situation into one where I think all Members can rise in support of this bill as amended.

I would like to make clear for the record two important matters regarding the amendments being offered today by my colleague from New York, Mr. BINGHAM. They are absolutely central to my support for the bill and I think they are central to this Nation as well as we begin to implement the kind of nuclear fuel cycle activities contemplated under the bill.

First of all, the committee report language regarding timely warning and how timely warning was to be interpreted was the principal reason I rose in opposition to granting H.R. 8638 a rule when the committee appeared before the Rules Committee. It was my opinion then, and remains so now, that the report language and the bill itself would have prevented critical negotiations between the United States and other nuclear suppliers on how to establish a safe and effective nuclear fuel cycle safeguards system.

The timely warning criterion, while important, should not be the sole criterion. If it were treated as the sole criterion, it would have severely limited the influence the United States could expect to have in the ongoing discussions to renegotiate agreements for cooperations, develop agreements and understandings on nuclear fuel cycle controls within the context of supplier agreements as well as those discussions contemplated under the President's international nuclear fuel cycle evaluation program.

It is my understanding that it is equally important in these discussions for U.S. representatives to consider the nuclear proliferation policies of the recipient country, the risk involved in a particular export, the size and scope of nuclear activities contemplated in the recipient country and the other relationships (including military) which we or other allies may have with that country. While the language of the amendment now contains specific instructions to consider timely warning to be foremost, it is my understanding that in order to develop an export relationship with any country, these other criterion must be addressed in an equally serious way to protect the other legitimate national security, political and economic interests of this Nation.

The second concern that I have, Mr. Chairman, is the lack of a firm statement of the intent of the United States under this legislation regarding ongoing and new commitments to export nuclear material and technology under this legislation. In my opinion, and central to my support for the bill, is the understanding that this Nation will be a reliable and consistent nuclear supplier provided that the terms of this bill have been agreed to or the recipient country has agreed to other more encompassing terms which may be a part of any ongoing nuclear fuel cycle agreement which we may reach bilaterally or multilaterally as for instance, part of a multination nuclear fuel cycle agreement.

It is my understanding that once umbrella agreements have been reached which satisfy the requirements of this bill or other agreements necessary for the exchange, trade can take place without fear of harassment by any agents of the U.S. Government, including the Congress. While the United States will insist on accurate and timely reporting as will be required under law, the U.S. Government will not arbitrarily interfere with nuclear commerce under the terms of the agreement provided that no violations of the agreement have taken place. It is my understanding that prior approval and prior written consent can, and must, include consent written into the formal agreements or mutual undertakings contemplated in this bill and such prior consent or approval should be taken as a serious commitment by the Government of the United States to honor the terms of the agreement. To compromise on that commitment, without good and sufficient reason, would be a serious breach of international confidence in an area which is vital to the energy sufficiency of the free world.

Based on these understandings, Mr. Chairman, I want to congratulate the gentleman from New York, Mr. BINGHAM, on the gentlemanly way he has handled a very complex subject, the courtesy dealt me as an interested Member who is not on the committee, and the stature he has shown in developing a bill which in my view will give our negotiators a very strong reading of the intent of the Congress and the Government of the United States regarding how we intend to act in international nuclear commerce. It is a good bill, I encourage Members to support it, and commend the gentleman, thank you Mr. Chairman.

Mr. BINGHAM. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 19, line 22, immediately after "Senate" insert "(and, in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate)".

Mr. BINGHAM. Mr. Chairman, this formally recognizes the legislative and oversight responsibilities of the Committee on Armed Services with respect to agreements for cooperation dealing with the military applications of atomic energy. These special defense-related agreements are arranged pursuant to subsections 91c, 144b, and 144c of the Atomic Energy Act of 1954, and pertain to such activities as the transfer, sale, lease, or loan of non-nuclear parts of atomic weapons, as well as utilization facilities and materials for military application. We are offering this amendment at the request of the Committee on Armed Services, and we fully sympathize with the concerns of that committee.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I will be glad to yield.

Mr. FINDLEY. I have had the opportunity to examine this amendment, and it has my full support.

Mr. BINGHAM. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

If there are no further amendments to title IV, the Clerk will report title V.

The Clerk read as follows:

TITLE V—EXPORT LICENSING RESPONSIBILITIES

SUBSEQUENT ARRANGEMENTS

SEC. 501. (a) Prior to entering into any subsequent arrangements under agreement for cooperation (other than an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954), the Administrator of Energy Research and Development shall obtain the concurrence of the Secretary of State and shall consult with and take into full consideration the recommendations of the Nuclear Regulatory Commission, the Director of the Arms Control and Disarmament Agency, and the Secretary of Defense, in order to assure that the subsequent arrangements are consistent with the agreements for cooperation and the policy of preventing proliferation. For purposes of this subsection, the term "subsequent arrangements" includes contracts for the furnishing of nuclear materials or equipment; approvals for the reexport of nuclear materials or equipment previously exported pursuant to an agreement for cooperation; approvals for the retransfer of any special nuclear material used in or produced through the use of any nuclear materials or equipment or sensitive nuclear technology previously exported pursuant to an agreement for cooperation; authorization for the distribution of nuclear materials or equipment pursuant to the Atomic Energy Act of 1954; arrangements for physical security; arrangements for the application of safeguards with respect to United States supplied nuclear materials or equipment; approvals for the reprocessing, alteration in form or content, or storage of any exported source or special nuclear material, or any source or special nuclear material used in or produced through the use of nuclear materials, or equipment or sensitive nuclear technology; or any other arrangement which the President finds to be important from the standpoint of preventing the proliferation.

(b) With regard to any source or special nuclear material exported by the United States and any special nuclear material used in or produced through the use of any exported nuclear materials or equipment or sensitive nuclear technology—

(1) the Administrator of Energy Research and Development may not enter into any subsequent arrangement for the retransfer of any such material to a third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until the Administrator has provided the appropriate committees of Congress with a report containing his reasons for entering into such arrangements and a period of 15 days has elapsed;

(2) the Administrator of Energy Research and Development may not enter into any subsequent arrangement for the reprocessing of any such material in a facility not in commercial operation prior to the date of enactment of this Act or for the subsequent retransfer to any non-nuclear weapon State of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, unless in his view such reprocessing or retransfer will take place under conditions that are designed to ensure the reliable detection of diversion which would provide timely warning to the United States of such diversion well in advance of the time at which the non-nuclear weapon State could transform the diverted material into a nuclear explosive device; and

(3) the Administrator of Energy Research and Development, in cooperation with the Secretary of State, shall attempt to assure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that was in commercial operation prior to the date of enactment of this Act, that such reprocessing shall take place under conditions comparable to those which he finds satisfy the standards set forth in paragraph (2).

GOVERNMENT-TO-GOVERNMENT TRANSFERS

SEC. 502. Section 54 a. of the Atomic Energy Act of 1954 is amended by inserting immediately after the first sentence the following new sentence: "The authority of the Administrator of Energy Research and Development to distribute special nuclear material under this section, other than under export licenses issued by the Nuclear Regulatory Commission (which the Commission is hereby authorized to issue), shall extend only to small quantities of special nuclear material (in no event more than five hundred grams per year of contained special nuclear material to any recipient) (1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or (2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.".

TECHNOLOGY TRANSFERS

SEC. 503. Subsection 57 b. of the Atomic Energy Act of 1954 is amended to read as follows:

"b. It shall be unlawful for any person to engage directly or indirectly in the production of any special nuclear material outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Administrator of Energy Research and Development after a determination that such activity will not be inimical to the interest of the United States. Any such determination by the Administrator shall be made only after consultation with the Secretary of State, the Director of Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, under mutually agreed to procedures which shall be established not more than 90 days after the date of enactment of the Nuclear Antiproliferation Act of 1977. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law.".

EXPORT LICENSING PROCEDURES

SEC. 504. (a) Chapter 11 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 126. EXPORT LICENSING PROCEDURES.—

"a. No license may be issued by the Nuclear Regulatory Commission for the export of any nuclear materials or equipment, no exemption from any requirement for such an export license may be granted by the Nuclear Regulatory Commission, and the Administrator of Energy Research and Development may not distribute any source or special nuclear material under section 54 or 64 of this Act until the Commission or the Administrator, as the case may be—

"(1) has furnished a copy of the license application or proposed exemption or a description of the proposed distribution, as the case may be, to the Secretary of State and has been notified by the Secretary of State that it is the judgment of the Secretary of State and other concerned Government agencies, including the Director of the Arms Control and Disarmament Agency, the Administrator of Energy Research and Development, the Secretary of Commerce, and the Secretary of Defense, that the proposed export will not be inimical to the common defense and security or that the export belongs to a category of exports determined not to be inimical to the common defense and security because they lack significance for nuclear explosive purposes;

"(2) finds that the recipient nation or group of nations has agreed to adhere to the criteria specified in subsection 127 a. or their equivalent and that any other applicable statutory requirements are met, except that, during the 18-month period beginning on the date of enactment of the Nuclear Antiproliferation Act of 1977, the provisions of paragraphs (4) and (5) of subsection 127 a. shall not prevent continued cooperation under agreements for cooperation authorized by section 124 of this Act if nations or groups of nations bound by such agreements have agreed to negotiations as contemplated in section 402 of the Nuclear Antiproliferation Act of 1977 or while the commitments in such agreements are under negotiation; and

"(3) finds that the recipient nation or group of nations has agreed to adhere to the additional criterion established by subsection 128 a. if such criterion is in effect, is applicable to such receipt, and has not been suspended with respect to such recipient.

In carrying out his responsibilities under paragraph (1) of this subsection, the Secretary of State shall provide to the Nuclear Regulatory Commission or the Administrator of Energy Research and Development, as the case may be, appropriate data and recommendations regarding the proposed export, exemption, or distribution, including any data and recommendations which the Commission or Administrator may request.

"b. The Commission shall act promptly on all applications for export licenses consistent with its statutory duties.

"c. In the event the Commission, after receiving from the Secretary of State the executive branch judgment that the issuance of the proposed export license will not be inimical to the common defense and security, does not issue the proposed license because it is unable to make the determinations required by this Act, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. In its decision, which shall not be a final order for the purpose of section 189 b. of this Act, the Commission shall explain the basis for its decision and shall include any dissenting views of individual Commissioners. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of the United States antiproliferation objectives or otherwise seriously jeopardize the common defense and security, the proposed export may be authorized by Executive order except that any such Executive order shall not become effective until it has been submitted to the Congress, together with the President's explanation of the reasons why the Commission's decision should be overturned, and a period of 60 days of continuous session of Congress has elapsed; and such Executive order shall not become effective then if during such 60-day period both Houses of Congress adopt a concurrent resolution stating in substance that the Congress does not favor the proposed export. Prior to the elapse of the first 40 days of continuous session of any such 60-day period, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate shall each submit a report to their respective House containing their views and recommendations with respect to the proposed export, and an accompanying concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed export. Any such resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within 15 days of continuous session and shall be voted on within 5 days of continuous session thereafter, unless such House shall otherwise determine. Notwithstanding the provisions of section 57 a. of this Act, if no such concurrent resolution is adopted by the Congress during such 60-day period, such Executive order shall constitute full authorization to export the nuclear materials or equipment with respect to which such Executive order applies. For the purposes of this subsection, continuity of session is broken by an adjournment of Congress sine die, and in computing any period of days of continuous session there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days.".

(b) Within 120 days after the date of enactment of this Act, the Nuclear Regulatory Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any license for the export of nuclear materials or equipment; (2) for providing its views to Government agencies on those matters with respect to which it is to be consulted under the provisions of this Act; (3) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by this Act, including such public hearings and access to information as the Commission deems appropriate; and (4) for public notice of Commission proceedings and decisions, recording of minutes and votes of the Commission and, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license or exemption, public written Commission opinions accompanied by the dissenting or separate views of any Commissioner.

(c) The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the Atomic Energy Act of 1954, shall not require the Commission to grant any person an on-the-record hearing in such proceedings.

(d) Chapter 11 of the Atomic Energy Act of 1954, as amended by subsection (a) of this section, is further amended by adding at the end thereof the following new section:

"SEC. 127. CRITERIA GOVERNING UNITED STATES NUCLEAR EXPORTS.—

"a. The United States adopts as a matter of policy, the following criteria, which in addition to other requirements of law, will govern its exports for peaceful nuclear uses of source and special nuclear material, production and utilization facilities, and sensitive nuclear technology:

"(1) International Atomic Energy Agency safeguards, as required by article III(2) of the Treaty, shall be applied with respect to such materials or facilities proposed to be exported or previously exported and subject to an agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

"(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to an agreement for cooperation, and no special nuclear material produced through the use of such material, facilities or sensitive nuclear technology will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

"(3) Adequate physical security measures will be maintained with respect to such materials or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof.

"(4) No such source or special nuclear material or equipment or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. The United States shall not approve such retransfer unless the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this subsection.

"(5) No source or special material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration. Such approval shall be considered pursuant to procedures established by section 501 of the Nuclear Antiproliferation Act of 1977.

"(6) No such sensitive nuclear technology shall be exported unless the conditions specified in paragraphs (1) through (5) are applied to any nuclear materials or equipment which is produced or constructed in the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology. "b. In addition to the criteria specified in subsection a. governing United States nuclear exports, no nuclear materials or equipment or sensitive nuclear technology shall be exported to a non-nuclear weapon State that, at any time after the date of enactment of the Nuclear Antiproliferation Act of 1977—

"(1) detonates a nuclear explosive device;

"(2) terminates or abrogates International Atomic Energy Agency safeguards; or

"(3) is found by the President to have materially violated an International Atomic Energy Agency safeguard agreement or any guarantee it has given under an agreement for cooperation with the United States;

unless the President determines that the cessation of such exports to that nation would be seriously prejudicial to the achievement of United States antiproliferation objectives or otherwise jeopardize the common defense and security. If the President makes such a determination with respect to a nation, a license or authorization for the export to that nation of nuclear materials or equipment or sensitive nuclear technology may be issued if, but only if, the Nuclear Regulatory Commission or the Administrator of Energy Research and Development, as appropriate, submits to the Congress a report with respect to such license or authorization (including a statement by the Secretary of State of the reasons why the President determined that nuclear exports to that nation should be allowed to continue), a period of 60 days of continuous session of Congress elapses, and the Congress does not adopt, during such 60-day period, a concurrent resolution stating in substance that the Congress does not favor the proposed export. For purposes of the preceding sentence, continuity of session is broken only by an adjournment sine die, and in computing such 60 days there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days.".

(e) (1) The President shall seek to achieve adherence by recipient nations and groups of nations to the additional criterion set forth in section 128 a. of the Atomic Energy Act of 1954, as added by paragraph (2) of this subsection.

(2) Effective at the end of the 18-month period beginning on the date of enactment of this Act, chapter 11 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new section:

"SEC. 128. ADDITIONAL LICENSING CRITERION FOR NUCLEAR EXPORTS.—

"a. In addition to the requirements of section 127 and other requirements of law, the United States adopts the following criterion which, unless suspended under subsection b., must be adhered to by any non-nuclear weapon State which, after the effective date of this section, is a recipient of United States exports of nuclear materials or equipment and sensitive nuclear technology intended for use in peaceful nuclear activities: International Atomic Energy Agency safeguards shall be applied with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of the recipient nation.

"b. If the President determines with respect to a specific recipient nation that the application of the additional criterion established by subsection a. of this section would be seriously prejudicial to the achievement of United States antiproliferation objectives or otherwise seriously jeopardize the common defense and security, he may by Executive order, subject to subsection c. of this section, suspend the application of such additional criterion with respect to that recipient nation. In making any such determination, the President shall consult with the Nuclear Regulatory Commission. A suspension of the application of such additional criterion shall not affect the continued applicability of the criteria set forth in section 127 a.

"c. Any Executive order described in subsection b. shall become effective only if (1) the Secretary of State has submitted it to the Congress, together with a detailed statement of the reasons underlying the President's determination, an assessment of when the suspended criterion might be applied with respect to the recipient nation in question; (2) a period of 60 days of continuous session of Congress has elapsed since such submission; and (3) during such 60-day period the Congress has not adopted a concurrent resolution stating in substance that the Congress does not favor the proposed Executive order. Prior to the elapse of the first 40 days of continuous session of such 60-day period, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate shall report their recommendations on the proposed Executive order to their respective Houses accompanied by a concurrent resolution stating in substance that the Congress favors or does not favor, as the case may be, the proposed Executive order. Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate debate shall be limited to 10 hours, to be evenly divided between the proponents and the opponents) within 10 days and shall be voted on within 5 calendar days thereafter, unless such House shall otherwise determine. For purposes of this subsection, continuity of session is broken only by an adjournment sine die, and in computing such 60 days there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days.

"d. The President may by Executive order cancel, in whole or in part, any suspension of the additional criterion which has become effective under this section.

"e. At such time as the program of renegotiation called for by section 402 of the Nuclear Antiproliferation Act of 1977 is completed, or at such time as any international arrangement or other mutual undertaking called for by section 101 of that Act is achieved, the President shall propose to the Congress amendments to subsection a. of this section to implement as additional licensing criteria any one or more of the requirements set forth in clauses (3), (4), (6), (8), (9), and (10) of section 123 a. of this Act.".

(f) The table of contents of the Atomic Energy Act of 1954 is amended by inserting the following new items immediately after the item relating to section 125:

"Sec. 126. Export licensing procedures.
"Sec. 127. Criteria governing United States nuclear exports.
"Sec. 128. Additional licensing criterion for nuclear exports.".

EXPORT OF WEAPONS—USABLE MATERIAL

SEC. 505. No license for the export of 5 kilograms or more of uranium enriched to 20 percent or more in the isotope U–235, uranium-233, or plutonium may be issued unless the Congress is notified, at the same time as the Nuclear Regulatory Commission is so notified under section 126a.(1) of the Atomic Energy Act of 1954, that it is the judgment of the Secretary of State and other concerned Government agencies that such export will not be inimical to the common defense and security.

LICENSING OF COMPONENTS, ITEMS, AND SUBSTANCES

SEC. 506. (a) Section 109 of the Atomic Energy Act of 1954 is amended to read as follows:

"SEC. 109. COMPONENT PARTS OF FACILITIES, ITEMS, AND SUBSTANCES.—

"a. With respect to those utilization and production facilities which are so determined by the Nuclear Regulatory Commission pursuant to subsection 11 v. (2) or 11 cc. (2), the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not be inimical to the common defense and security.

"b. The Nuclear Regulatory Commission shall determine which component parts described in subsection 11 v. or 11 cc. of this Act and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in subsection 126 c., no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export, after finding that (1) International Atomic Energy Agency safeguards as required by Article III(2) of the Treaty shall be applied with respect to any source or special nuclear material used in or produced through the use of such component, item, or substance; (2) no such component, item, or substance will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, item, or substance will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license will not be inimical to the common defense and security.

"c. The Commission, not more than 120 days after the date of enactment of the Nuclear Antiproliferation Act of 1977, shall publish regulations to implement the provisions of this section. Among other things, these regulations shall provide for prior consultation by the Commission with the Secretary of State, the Administrator of Energy Research and Development, the Secretary of Defense, the Secretary of Commerce, and the Director of the Arms Control and Disarmament Agency.

"d. The Commission may not issue an export license under the authority of subsection b. if it is notified, in accordance with the procedures established under section 126 a. (1), that the export would be inimical to the common defense and security of the United States.

"e. The President, not more than 120 days after the date of enactment of the Nuclear Antiproliferation Act of 1977, shall publish procedures regarding the control by the Secretary of Commerce over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations, as required, by the Secretary of Commerce with the Secretary of State, the Director of the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the Administrator of Research and Development.".

(b) The table of contents of the Atomic Energy Act of 1954 is amended by amending the item relating to section 109 to read as follows:

"Sec. 109. Component parts of facilities, items, and substances.".

EXPORT OF MATERIALS FOR ENRICHMENT

SEC. 507. In addition to other requirements of law, no source or special nuclear material may be exported under any agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of the Atomic Energy Act of 1954) for the purpose of enrichment (as described in subsection 11 aa. (2) of that Act) unless such enrichment is specifically permitted by the applicable agreement for cooperation.

TITLE VI—EXECUTIVE BRANCH REPORTING

PRESIDENTIAL REPORTS

SEC. 601. (a) The President shall review all activities of Government agencies relating to preventing proliferation and shall report to the Congress annually in January of each year (beginning in 1979) on the efforts of the Government to prevent proliferation. This report shall include but not be limited to—

(1) a description of the progress made toward—

(A) negotiating the international arrangements or other mutual undertakings contemplated in section 101 of this Act;

(B) negotiating the initiatives contemplated in sections 103 and 302 of this Act;

(C) promoting adherence to the Treaty on the Non-Proliferation of Nuclear Weapons and discouraging or prohibiting nuclear exports to non-nuclear weapons States that are not parties to the Treaty or have not entered into comparable agreements with respect to safeguards and forsaken the development of any nuclear explosive devices;

(D) strengthening the safeguards of the International Atomic Energy Agency as contemplated in section 201 of this Act; and

(E) renegotiating agreements for cooperation as contemplated in section 402 of this Act;

(2) an assessment of the impact of the progress described in paragraph (1) on the antiproliferation of goals of the United States, an explanation of the precise reasons why progress has not been made on any particular point and specific recommendations with respect to appropriate measures to encourage progress, and a statement of what legisaltive modifications, if any, are necessary in his judgment to achieve the antiproliferation goals of the United States; and

(3) a determination as to whether any non-nuclear weapon State with which the United States has an agreement for cooperation in effect or under negotiation has—

(A) exploded a nuclear device of any kind;

(B) refused to accept the safeguards of the International Atomic Energy Agency on all of its peaceful nuclear activities; or

(C) refused to give specific assurances that it will not engage in the development of any nuclear explosive device.

(b) In the first report required by this section, the President shall include an analysis of each civil agreement for cooperation negotiated pursuant to either section 123 or 124 of the Atomic Energy Act of 1954, including a discussion of the scope and adequacy of the requirements and obligations relating to the safeguards and other controls contained therein.

AGENCY REPORTS

SEC. 602. (a) The annual reports to the Congress by the Nuclear Regulatory Commission and the Administrator of Energy Research and Development which are otherwise required by law shall also include views and recommendations regarding policies and actions of the United States to prevent proliferation which are within the statutory responsibility of those agencies. The report of the Administrator shall include a detailed analysis of the implications of advanced enrichment and reprocessing techniques and of breeder reactor and other advanced reactor operation for proliferation and of alternative nuclear fuel cycles which minimize access to weapons-usable materials. This part of the report shall include a comprehensive version which includes classified information to be submitted to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives and a summary unclassified version.

(b) The reporting requirements of this title are in addition to and not in lieu of any other reporting requirements under applicable law.

(c) The Secretary of State, the Director of the Arms Control and Disarmament Agency, the Secretary of Commerce, the Administrator of Energy Research and Development, and the Nuclear Regulatory Commission, shall keep the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to their activities in carrying out the purposes and policies of this Act and to otherwise prevent proliferation.

(d) Any classified portions of the reports required by this Act shall be submitted to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

TITLE VII—DEFINITIONS AND SAVINGS PROVISION

DEFINITIONS

SEC. 701. (a) Section 11 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following:

"dd. The term 'nuclear fuel service' means the utilization for peaceful purposes of uranium enrichment services, nuclear fuel fabrication services, or other services relating to the use of source or special nuclear material as fuel in a reactor.

"ee. The term 'nuclear materials or equipment' means source material, special nuclear material, production facilities, utilization facilities, and components, substances, or items determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. or 109 e.

"ff. The term 'physical security measures' means measures to prevent the theft or sabotage or unauthorized use of source or special nuclear material.

"gg. The term 'safeguards' means a system of controls designed to insure that any nuclear materials or equipment subject thereto are not used to further any military purposes, including use in or development of any nuclear explosive device.

"hh. The term 'sensitive nuclear technology' means any information (including information incorporated in a production or uitlization facility, or in an important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, or a facility for the production of heavy water, and includes any Restricted Data.

'ii. The term 'significance for nuclear explosive purposes' means that the sensitive nuclear technology or nuclear materials or equipment in question would materially assist a foreign recipient in developing a nuclear explosive device.

"jj. The term 'Treaty' means the Treaty on the Non-Proliferation of Nuclear Weapons.

"kk. The term 'non nuclear weapon State' means any country other than a nuclear weapon State.

"ll. The term 'nuclear weapon State' means such term as defined in article IX(3) of the Treaty.

"mm. The term 'Agency' means the International Atomic Energy Agency.

"nn. The term 'proliferation' means the manufacture or acquisition of nuclear explosive devices by non-nuclear weapon States.".

(b) The definitions contained in section 11 of the Atomic Energy Act of 1954 shall apply to the terms used in this Act.

SAVINGS PROVISION

SEC. 702. Nothing in this Act shall affect the validity of any export license issued before the date of enactment of this Act.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that further reading of title V and the remainder of the bill be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: On page 24, strike everything from line 7–21, inclusive, and insert in lieu thereof the following:

"(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel assemblies or been the subject of a subsequent arrangement therefore prior to the date of enactment of this Act or for subsequent retransfer to a non-nuclear weapon State of any plutonium in quantities greater than 500 grams resulting from such reprocessing unless in his view such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among the factors in making this judgment, the Secretary of Energy will give foremost consideration to whether or not timely warning of any diversion will be provided to the United States well in advance of the time at which the non-nuclear weapon State could transform the diverted material into a nuclear explosive device; and"

Mr. BINGHAM. Mr. Chairman, this is another amendment in the series that I referred to previously, which we are offering as a result of the consultations that we had with the administration.

It clarifies the definition of "timely warning," which we consider to be an essential to the safeguarding of nuclear facilities. If there is no timely warning, there are no effective safeguards. It also approves the agreement that was reached by the administration with the Japanese with regard to the Tokai reprocessing facility, and it grandfathers that facility within the limits of the U.S.-Japan communique regarding Tokai which was released on September 12, 1977. This was an arrangement arrived at since the bill was originally reported out, and it deserves the same treatment as those two facilities already in operation in Western Europe which are likewise grandfathered in the bill.

Mr. FINDLEY. Mr. Chairman, would the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Mr. Chairman, this amendment, in my view, is the very heart of the legislation. The phrases have been very carefully drafted, very thoroughly considered. I am pleased with the final product. I know of no objection on this side, and I give the amendment my full support.

Mr. BINGHAM. I thank the gentleman.

Mr. McCORMACK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to offer my strong support for this amendment.

As you are aware, the President first promoted the idea of the international nuclear fuel cycle evaluation—INFCE—at the London economic conference May 7. A coordinating committee was established and a number of organizational meetings have been held preparatory to the opening here October 19. Upwards of 40 nations are expected to participate.

The purpose of INFCE is to achieve international consensus as to which fuel cycles offer the best mix of proliferation resistance, economics, and source material availability.

It is vitally important that the standard (Section 501b of the bill) against which retransfer and reprocessing safeguards are evaluated not leave INFCE participants with the impression that the United States has unilaterally and in advance established a standard in defiance of any consensus that may be reached through INFCE.

As Joseph Nye, Deputy Under Secretary at State testified before Senator CHURCH:

> . . . the INFCE program can be successful only with the participation of other nations, and their meaningful participation depends upon their perception that the program is to be an open and objective study.

This amendment is designed to clearly support what is implicit in the bill; namely, to leave the door open to going ahead with the reprocessing of spent fuel by foreign nations under mutually agreed to conditions; and signal to INFCE participants that the United States will fully participate in and abide by the international consensus on the best course to assure maximum proliferation resistance while preserving international ability to extract the valuable residual energy associated with spent fuel.

I am glad to have had this opportunity to work with the gentleman in forming this very constructive amendment.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take the floor simply to ask the distinguished chairman of the subcommittee one question. I notice that the language of the amendment—perhaps it is language art—says unless he decides it will not significantly increase the risk of proliferation.

Can the gentleman define "significantly increase the risk of proliferation"?

Mr. BINGHAM. If the gentleman will yield, it is, of course, difficult to be absolutely precise in a matter of this kind.

You will see that in the wording of that sentence we provide that the requisite criteria must be met in the view of the Secretary of Energy. That is to say, it is up to the Secretary of Energy to decide if there is or is not a significant increase in the risk of proliferation.

Clearly any substantial diminution in the technical constraints now limiting the ability of a nonnuclear weapon state to fabricate nuclear weapons would amount to a significant increase in the risk of proliferation.. Providing a major additional source of weapons, usable material, for example, would have this result. It is also the intent of this language to direct that the Secretary not confine his inquiry exclusively to increased proliferation risk in the country concerned, but should also consider the potential impact of his determinations upon other countries, as well.

What we tried to avoid here by the use of the word "significantly" is what we might say would be steps that could be considered de minimis. They are not significant.

Mr. DELLUMS. Mr. Chairman, I thank my colleague.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, the gentleman was on the floor, of course, during the general debate on this legislation and at the time I expressed strong support for including the element of timely warning.

I understand this is the amendment we were discussing at that time; is that correct?

Mr. BINGHAM. The gentleman is correct.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman, and I want to add my strong support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: On page 25, add a new subsection, section 501(c), as follows:

"(c) Nothing in this section is intended to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States; to preclude the U.S. from full participation in the International Fuel Cycle Evaluation provided for in Section 103; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the U.S. or any other participation; nor to prejudice open and objective consideration of the results of the evaluation."

Mr. McCORMACK. Mr. Chairman, this amendment is not intended to change the bill. Its purpose is to build a fence around the bill to protect it from future court decisions that might distort its meaning.

This is a complex piece of legislation upon which the subcommittee chaired by the gentleman from New York has worked hard. As has been stated previously, much of the wording in the bill are works of art, trying to define this razorthin line between arbitrariness and flexibility in relationships between this Nation and other nations, and between the administration and the Congress. In such cases we have in the past seen instances where well intended legislation has been distorted by court decisions long after the legislation was passed.

Mr. Chairman, this amendment is offered to build a fence around this bill, so to speak, to protect it from such court decisions.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to say that we have considered this proposed additional subsection. In our opinion, it is not necessary, but if the gentleman would feel reassured by it, we have no objection to its inclusion.

Mr. McCORMACK. Mr. Chairman, I thank the chairman.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I have exactly the same feeling as expressed by the gentleman from New York (Mr. BINGHAM).

Mr. McCORMACK. Mr. Chairman, I thank the gentleman, who has done so much to help improve this bill.

Mr. Chairman, this amendment is designed to follow, almost verbatim, words used by Mr. Joseph Nye of the Department of State in testifying on this subject before a Senate committee.

With the amendment, the new law will hopefully be protected from distortion in future court decisions. The amendment will help the new law do what we intend, and not something else.

For these reasons, I request support for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

Amendment offered by Mr. BINGHAM: On page 26, line 8 insert the following immediately after the comma: "the Secretary of Defense,".

Mr. BINGHAM. Mr. Chairman, this amendment is also offered at the request of the administration. It simply guarantees that the Department of Defense will be consulted when the Secretary of Energy consults with other pertinent agencies regarding the advisability of sharing technology with other nations.

Specifically, the Secretary of Defense will be consulted under this amendment when a finding that such activity will not be inimical to the interests of the United States must be made.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I wish to express my support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 28, line 6 insert after the semicolon and before the word "and" the following: *"Provided further*, That if the President determines that failure to continue cooperation with any such group of nations after the expiration of such eighteen-month period because the provisions of paragraph 4 or 5 of subsection 217 a. have not been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes the above determination;".

Mr. BINGHAM. Mr. Chairman, this amendment is another one in the series that resulted from consultations with the administration.

Originally we had a firm 18-month deadline within which Euratom would have to agree to grant the United States the right to approve or disapprove the retransfer and reprocessing of U.S.-supplied materials and nuclear fuels within Euratom.

The administration felt that this arbitrary deadline might create some problems in their negotiations with Euratom. Therefore, at the request of the administration, we have proposed this amendment, which leaves in the 18 months as a goal. We strongly hope and urge that the negotiations can be completed within that period, but this amendment would permit an extension of 1 year beyond that point if the administration found that that was absolutely necessary and consistent with our antiproliferation efforts after notifying the Congress of that determination, and further extensions of 12 months and increments annually thereafter if, again, the determination was made that those extensions were absolutely necessary.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, the Euratom posed a special problem, as the gentleman recognizes by this amendment.

The amendment does preserve the concept of universal standards for all user states; and yet, at the same time provides a flexible way by which the administration can respond to unforeseen difficulties. It gives the administration a clear direction down the right road and gives it encouragement to wrap it up in a short period of time, but nevertheless does provide for what I think is a very prudent level of flexibility.

Mr. Chairman, I support the amendment.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: On page 39, line 3, strike the word "of" and insert in lieu thereof the following: "of the isotope U-235 contained in".

Mr. BINGHAM. Mr. Chairman, this is a purely technical amendment to clarify the definition of the trigger quantities of highly enriched unanium and plutonium, the export of which over this amount would have to be reported to the Congress before export licenses are issued.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I support the amendment.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

Mr. FRASER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I seek clarification of one of the provisions of the bill from the gentleman from New York. Last session, during consideration of H.R. 15377, extending the Export Administration Act, the House accepted without opposition, an amendment offered by Congressman LONG of Maryland and myself. The amendment directed the President to conduct a study of the extent to which the education and training of foreign nationals in the United States contributes to the proliferation of explosive nuclear devices. As has been mentioned before, H.R. 15377 never became law because the Senate was unable to name its conferees. As a result, the present legislation builds on the nuclear export sections of H.R. 15377. I note that the legislation before us, H.R. 8638 contains a title VI, Executive Branch Reporting. It is my understanding that the reporting requirements are intended to include the report required in H.R. 15377 as passed by the House. Is this correct?

Mr. BINGHAM. The gentleman's understanding is correct. It is expected that the Presidential reports required in title VI will include a report on the relation between nuclear proliferation and the activities of foreign nationals in the United States. I appreciate the gentleman's strong interest in this subject and note that between 1955 and 1974 the Atomic Energy Commission trained over 10,000 foreign nationals in the use of research reactors and other aspects of a nuclear program. These have included hundreds of trainees from countries which we now regard as "near nuclear" such as India, Taiwan, Argentina, Brazil, and Korea. It is our intention to require a report on these matters from the administration, and if necessary, to hold investigations of our own.

Mr. FRASER. Mr. Chairman, I thank the gentleman for his response.

Mr. FINDLEY. Mr. Chairman, I move to strike the last word.

(Mr. FINDLEY asked and was given permission to revise and extend his remarks.)

Mr. Chairman, the warning time associated with alternative reprocessing technologies would be hard to quantify but the concept represents a continuum, progressing from undesirably short times associated with processes that involve separated plutonium to longer times for processes that retain uranium and most of the fission products present in irradiated spent fuel.

One needs to have warning times that are ample enough to give supplier states or the international community an opportunity to orchestrate an effective response to an act of diversion and to be able to do this, moreover, before the violator is able to transform his stolen material into bombs.

It has always been the hope of the committee that the Secretary of Energy would insist on a warning period that could be measured, however roughly, in months, not weeks or days. Clearly, we aspire to warning times that are as long as possible.

I should add in this connection, however, that once such warning time has been attained, it may be possible to extend timely warning further but only in a way that adds small additional increments of time at successively higher and perhaps prohibitive levels of cost. Thus, the committee recognizes the need to gage the degree of improvement in warning time that alternative reprocessing technologies provide in light of such considerations.

I would assume that the committee expects the Secretary of Energy to interpret the term "proliferation risk" in a manner consistent with the underlying philosophy of this act. For example, he should not confine his inquiry exclusively to increased proliferation risk in the country performing the reprocessing or receiving the reprocessed product, but should examine, as appropriate under the circumstances, the potential impact of his determinations on other countries as well.

Any substantial diminution in the technical constraints now limiting the ability of a nonnuclear weapon state to fabricate nuclear weapons would amount to significant increases in the risk of proliferation. Providing a major additional source of weapons usable material, for example, would have this result.

The committee's overall goal is at least to preserve, and where possible, enhance, the somewhat fragile margins of security that prevail today.

I assume that we are all agreed that the purpose of this provision is not to outlaw any kind of fuel processing indefinitely, but rather to assure that when U.S. supplied fuel is processed it will be done within a genuinely secure and safeguardable context.

Should reprocessing become necessary, technologies will be on hand that provide greater security; technologies, in other words, in which the entire world can have greater confidence. It seems to me that that is terribly important not just for international stability, but for the nuclear industry as well.

What we are really saying then is that timely warning helps to provide the world with the reassurance that some margin of security would be retained even if peaceful use guarantees and promises were to be broken.

Mr. LEGGETT. Mr. Chairman, from the outset, I would like to make it very clear that our colleague from New York, Mr. BINGHAM, who is also the able chairman of the Subcommittee on International Economic Policy and Trade, along with the cosponsors of this act, are to be highly commended for their diligent efforts in producing a responsible piece of legislation.

In general, I feel that H.R. 8638, the Antiproliferation Act of 1977, succeeds in strengthening and clarifying the procedures which govern the export of nuclear material and technology by the United States. As a result, we are making it less likely that current nonnuclear nations will soon acquire nuclear weapons through the diversion or exploitation of U.S.-supplied materials and technology. Also, for the most part, this bill provides a careful blend of incentives and deterrents designed to induce foreign nations to comply with our new antiproliferation safeguards without depriving them of the means to satisfy their longer term energy needs. Consequently, I feel that this legislation deserves the full support of the House.

However, even though I feel morally obligated to support passage of this legislation, I feel compelled to voice a few concerns with selected amendments, provisions, and sections of this act.

The first concern that I would like to share with you today pertains to the dilution of the timely warning standard implied in the Bingham amendment to section 501. The language that I am particularly concerned with states that—

> The Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power fuel asemblies or been the subject of a subsequent arrangement . . . unless in his view such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested.

From the standpoint of invincible safeguards, it was bad enough that the original language of the section grandfathered all those reprocessing plants which were in commercial operation prior to enactment of this act. The new language we have accepted here today is even more diluted in the extent of its overall control over proliferation since, in effect, it grandfathers all present nuclear weapons nations, all currently operating reprocessing facilities, and all facilities that have ever reprocessed power fuel assemblies in the past or ever entered into subsequent arrangements. Thus, the timely warning standard applies only to facilities which have not yet been constructed.

Mr. Chairman, it appears to me that the exceptions are far greater than the rule.

I would feel much more comfortable if the original language in section 501 were retained and amended so as to define commercial operations as reprocessing any facility which operates at a commercially viable volume. Alternatively, the language contained in section 2(5), the Statement of Policy, would also be acceptable as a timely warning benchmark. The definition contained in the section uses the low-enriched uranium fuel cycle without reprocessing as the benchmark.

In addition, I feel very strongly that the negotiating objectives set forth in section 101 should contain expressed reference to the notions of timely warning. Suggested language might read:

> All nations should limit their nuclear activities to nuclear materials and technologies which satisfy timely warning as articulated in the Statement of Policy and Section 501.

Similarly, we should explicitly make timely warning a precondition for nuclear exports in section 504.

My second concern addresses what I see as a lack of sufficient guidelines for recipient nations. More specifically, this act does not require recipient nations to dispose of spent fuel elements which were originally provided by the United States in a manner acceptable to us. Nor is there anything in the act which requires a recipient nation to permit the International Atomic Energy Agency to release reports of safeguards investigations to the United States.

My third area of concern applies to the extremely limited opportunities for judicial review and public participation provided for in this act. Indeed, judicial review of any nuclear proliferation assessment statement is explicitly precluded in section 404. Moreover, section 504(b) is worded such that the Nuclear Regulatory Commission has been granted unfettered discretion to determine the extent to which public participation will be permitted as a result of the provisions of the Administrative Procedures Act.

My fourth and final concern deals with the fact that ERDA is not bound by the same criteria and procedures for its government-to-government transfers including all subsequent arrangements as is the NRC in its licensing activities. I do not feel that such a loophole is absolutely essential given the gravity of this particular international issue.

Mr. SCHEUER. Mr. Chairman, today I find myself in a most uncomfortable position: wanting to vote for a bill because of its wholly laudable purposes even though I am convinced that it will not meet the desirable objectives for which it was intended and indeed may frustrate them.

My colleagues, Mr. BINGHAM, has done a masterful job drafting the preamble to this bill. The preamble and title espouse the U.S. goal of antiproliferation better than I could hope to do myself. However, close examination of the specifics of this bill shows that passage of the Bingham bill will not lead to nonproliferation: in fact, it may ironically contribute to the very worldwide proliferation we seek to deter.

How does the Bingham bill propose to deal with the problems of worldwide proliferation? Theoretically, H.R. 8638 seeks to reduce the risks that spreading world use of nuclear power will contribute to the proliferation of nuclear weapons among nations that do not now have them. It proposes to offer the incentive that we will "strive" to assure an adequate nuclear enrichment supply in combination with an implied threat to cut off nuclear exports, in order to induce other nations to agree.

Thus, the entire key to the Bingham bill is a proper incentive mix. Ultimately, the key to success of the antiproliferation bill lies in our capacity to impose various limitations on nations which buy reactors and fuel from the United States. And the success of this strategy rests in turn on our capacity to continue selling reactors. The logic of this position is infallible: if nations opt not to buy reactors from us, then of course they circumvent our strict standards.

Yet the Bingham bill does not provide an equal balance of incentives and disincentives. The impartial Congressional Research Service, wrote me yesterday that—

> The incentive or carrot, is small in comparison with the compulsory measures (sticks) proposed.

Furthermore, under the current provisions of the bill, every time a country needs an additional reactor component or nuclear fuel, they have to apply through the labyrinthine mechanism set up in the bill to apply for export licenses.

The restrictions on purchaser nations in the Bingham bill are far stricter than requirements other exporting nations establish. In fact, the U.S. Government approved the more liberal French and German nonproliferation export requirements contained in the London Nuclear Suppliers Group Pact announced last week.

Thus, under this bill, the United States proposes one set of nonproliferation requirements for our own exporters of nuclear reactors and fuel while we endorse a second far less restrictive set for the rest of the world as provided in the London Pact.

There are two critical distinctions between the restrictions we endorsed in London and the restrictions set forth in the Bingham bill. The first difference forces even a friendly nation that buys a reactor from the United States to open up to international inspection all the reactors already in its country regardless of when or from whom they were bought. This distinction might well have the effect of precluding nations friendly to the United States and desperately in need of nuclear power from purchasing a reactor from the United States.

The second distinction is that the United States, under the terms of the Bingham bill, demands an eternal veto on reprocessing. Thus, if a country were to buy a reactor from the United States they would have to agree to give us a veto in perpetuity on any reprocessing

they might want to do with waste from any of their reactors. There is no carrot at all to offset this large stick.

Implementation of the proposed restrictions would result in a swing of nuclear power plant and fuel sales away from the United States toward eagerly waiting and less restrictive foreign suppliers like France and Germany.

The critical need to continue exports of United States nuclear technology has properly been cited by both Representative BINGHAM and the administration. Indeed, the administration has, on several occasions, indicated its firm opposition to imposing a moratorium on U.S. peaceful nuclear exports. Yet the restrictions contained in this present bill would have precisely that effect.

Two examples from our immediate past history where the United States has lost nuclear reactor sales to competing nations because of our overly restrictive requirements suffice to indicate the serious adverse impact on our nonproliferation policy.

In 1975, Brazil bought four reactors from the Germans after extensive negotiations with the United States. As a consequence the United States lost $1.2 billion in exports and roughly 24,000 jobs. We also lost the chance to prevent Brazil from ultimately obtaining the reprocessing and enrichment technology which they acquired over President Carter's objections from the Germans.

In 1975 and in 1977 Iran bought a total of four reactors from the French and from the Germans. One consequence of these sales was a lost opportunity to obtain a United States-Iranian nuclear cooperation agreement with a higher level of safeguards than either France or Germany have committed Iran to. We also lost approximately $1.2 billion in exports and 24,000 jobs. The average export of each reactor to a country such as Iran is conservatively estimated to provide 3,000 direct jobs for 5 years plus 3,000 indirect jobs also for 5 years.

The Iranians have tried for three years to negotiate a bilateral nuclear agreement with the United States, including attempts by a high level diplomatic delegation this past summer. The major remaining concern which they have is the unrealiability and unpredictability of the U.S. export licenses process. Unless the Iranians are satisfied on this point within the next several months the Shah plans to purchase two more reactors from the French or the Germans.

In addition to the vital opportunities lost in these two countries to effect a significant reduction in world proliferation probabilities—opportunities lost because we have insisted on far more than other supplier nations—we have also lost $2.4 billion in U.S. exports and roughly 48,000 stateside jobs. These are revenues and jobs which would be stimulating our slumping economy today, had we achieved a rational balance of rewards and restrictions. We can ill afford continuing losses such as these at a period of time when we have the highest balance of payments deficits in our history and are plagued with continuing high unemployment.

Each reactor lost—and we have lost a total of eight due to the U.S. Government's actions and inactions since 1974—represents a loss of about $30 million worth of steel orders. Each reactor sold to a developed country yields from 40,000 to 70,000 tons of steel orders for American steel companies while each reactor sold to a developing country yields anywhere from 80,000 to 115,000 tons of steel orders for American steel companies. These are orders which today could be reviving our slumping steel industry.

There is a clear Gresham's law at work here: Nuclear suppliers demanding little or no restrictions will drive out of international nuclear commerce nuclear suppliers requiring adherence to harsh limitations in perpetuity. We ignore this elementary rule of economic conduct by now wary nuclear purchasers at our own peril.

What is required are additional U.S. positive incentives to offset the negative aspects of this bill, a harmonizing of our export requirements with those of other suppliers, or both. The first approach probably makes the most sense since it allows us to continue to set a strict example while avoiding the dangers of nuclear isolationism which have been so lucidly described by Senator FRANK CHURCH.

Such a course would also benefit our overall balance of payments, a subject which will continue to demand increasing attention from all of us in the future—if we hope to be able to pay the ever rising annual bill for our oil imports.

If the United States reestablishes its position in the export market we can expect to provide as much as $2 billion to $4 billion in export business each year from this source as well as 40,000 to 80,000 domestic jobs annually.

That nuclear isolationism is a grave danger is evidenced by the gradual erosion of our participation in world nuclear commerce. Increasingly, other governments like Spain, West Germany, and Finland, are purchasing their enriched uranium from Russia and France, thus reducing their dependence on U.S. nuclear fuel. Additionally, Germany and France have made nuclear reactor export sales at an increasing rate since 1975 to countries such as Brazil, Spain, Iran, and South Africa under their less restrictive nonproliferation terms.

Declining U.S. participation in nuclear commerce can only spell a reduced role in shaping global nonproliferation policies. It is transparently clear that additional incentives are required so that other countries will buy from and work with the United States in furthering our nonproliferation goals.

I wish to congratulate my colleague and good friend Mr. BINGHAM on his foresight and skill in elaborating goals with which no one can disagree and I hope that our colleagues in the other body can rectify some of the problems I have identified in this statement. The Congressional Research Service has prepared a memorandum on some proposed changes to improve the incentive mix of the Bingham bill. That memorandum follows:

[The Library of Congress, Congressional Research Service]

SEPTEMBER 26, 1977.

To the Honorable James Scheuer. Attn.: David Cohen.

From Warren H. Donnelly, Senior Specialist in Energy.

Subject: Suggested additional incentives for compliance with the Nuclear Antiproliferation Act of 1977, H.R. 8638.

This responds to your urgent request for quick suggestions on how to increase the incentives provided in the Nuclear Antiproliferation Act of 1977, H.R. 8638, to provide more inducements to other nations to adhere to the non-proliferation conditions laid down in this Act. While of necessity what follows had to be written in haste, it does suggest several ideas which would increase the incentives.

DISCUSSION

H.R. 8638, the Nuclear Antiproliferation Act of 1977 seeks to reduce the risks that spreading world use of nuclear power will contribute to the spread, or proliferation, of nuclear weapons among nations that do not now have them. It proposes to offer the incentive of assured nuclear enrichment supply in combination with the pressure of an implied threat to cut off U.S. nuclear exports to get other nations to agree. The incentive, or carrot, is small in comparison with the compulsory measures (sticks) proposed. The incentives for other nations to voluntarily agree to U.S. non-proliferation conditions could be increased by measures such as the following:

Statement of policy.—Amend Sec. 2 of H.R. 8638 to include a statement that is U.S. policy to assure equal access to U.S. uranium resources and U.S. enrichment services for all nations that adhere to U.S. non-proliferation measures specified in the bill, and to guarantee that the only reasons to break or change this commitment in the future would be violation of a material non-proliferation commitment by such countries. In essence, this would assure other countries that the U.S. will not threaten to curtail access to U.S. uranium or enrichment for reasons such as human rights.

Ownership in U.S. enrichment facilities.—Amend Title III to provide that foreign investor or nations can invest in U.S. enrichment facilities, and can claim a share of the output proportionate to their investment.

Buyback of spent fuel.—Amend Title III to amend Sec. 54 of the Atomic Energy Act of 1954 as amended to broaden the present ERDA authority to repurchase nuclear fuel, or uranium remaining after irradiation. To provide a greater incentive, Sec. 54 could direct the Secretary of State or the ERDA Administrator [Secretary of the Department of Energy] to negotiate repurchase agreements with agreement states. The repurchase agreements could authorize DOE to repurchase spent fuel of U.S. origin and to permanently store such spent fuel. If and when the U.S. may decide to reprocess such fuel, it would pay the using nation for the estimated fuel value of the residual uranium and plutonium, less charges for storage and reprocessing. An alternative would be to authorize DOE to negotiate agreements to take back spent fuel and provide a supply of uranium or slightly enriched uranium with an energy content equivalent to that estimated for residual materials in the spent fuel.

Elevate Section 123 agreements into treaty status.—Amend Title IV, Sec. 402, to provide that upon request of other countries, the President shall renegotiate agreements for

cooperation under Section 123 as full U.S. treaties. This would offer the assurance that conditions of agreements for cooperation would not be altered by future legislation.

Access to U.S. uranium.—Amend Title III to add a section, Access to U.S. uranium, that would have the U.S. take such actions as may be necessary to ensure a reliable supply of uranium to those nations and groups of nations which adhere to policies and practices of the Act, and to assure access to U.S. uranium on the same terms as domestic users. The section could also commit the U.S. to strive to assure that it will develop its uranium resources to assure that it will have enough available to carry out this policy on a long-term basis.

Lifetime licenses.—Amend Title III to add a section which would amend Sections 53 and 62 of the Atomic Energy Act of 1954 as amended to authorize and direct the Nuclear Regulatory Commission to issue single, lifetime licenses to cover the supply of source and special nuclear materials for specific foreign nuclear power plants and to automatically issue licenses for exports under the life-time license upon a finding that the license is in effect and that the nations are in compliance with the conditions of its agreement for cooperation and has not violated any other material non-proliferation commitment. In essence, this would eliminate the licensing of each export with the attendant NRC findings that various statutory conditions are adhered to plus elaborate review and advice procedures for the Executive Branch.

Mr. BEDELL. Mr. Chairman, I want to compliment the gentleman from New York (Mr. BINGHAM) and the members of the International Relations Committee for their efforts over the past months to bring before the House of Representatives legislation which would formulate a truly comprehensive nuclear antiproliferation policy for our Nation. The need for such legislation is critical, for our people and for the people of the world, and I think that it is appropriate that the United States assume a leadership role in promoting nuclear antiproliferation efforts.

The product of the committee's deliberations—H.R. 8638, the Nuclear Anti-Proliferation Act of 1977—is a sound piece of legislation. It establishes understandable and reasonable export standards and procedures for controlling the spread of nuclear weapons. And, beyond that, it recognizes the need to integrate unilateral initiatives with multilateral cooperation in fashioning a workable solution to the dangerous problem of nuclear proliferation.

It is a fact of life that the world is continually in a state of flux and that situations change. Since the Atomic Energy Act was passed in 1954, there have been many developments in the nuclear energy field which necessitate further legislation. Many nations are developing nuclear capability, not only for peaceful purposes, but also for the production of atomic weaponry.

Global nuclear proliferation causes me a great deal of concern. The potential for accidents due to the lack of proper safeguards, or for the misuse of nuclear potential by unstable national leaders or by terrorist groups is all too real. It is imperative that the United States and other members of the international community join forces to develop an effective nuclear antiproliferation strategy.

H.R. 8638 is a positive step in this direction. The bill would amend the Atomic Energy Act of 1954 to apply uniform standards for licensing of nuclear exports, to define specific criteria for the negotiation of new agreements for cooperation in the exchange of nuclear technology, and to promulgate regulations for timely action on nuclear export licenses by the concerned Government agencies. And, in addition, it would spell out numerous multilateral steps to combat nuclear proliferation and direct the President to pursue them.

In the past, because of loose and inconsistent export policies, it has been all too easy for the United States to conclude transactions with foreign governments which were accompanied by no clear assurances that U.S. technology and materials would not be subsequently transferred to third-party nations where they might be converted to military uses. H.R. 8368 addresses this problem by defining specific criteria to be applied to all U.S. exports of nuclear materials, fuels, and technology, without jeopardizing the provision of fuel to those countries which have signed the Non-Proliferation Treaty and which have joined in our antiproliferation efforts. The need for such clarification of the nature of U.S. antiproliferation policy and of the responsibilities of the various executive agencies within the Government for its coordination and implementation is clear, and I am pleased that this bill resolves this problem.

The legislation also directs the President to promote policies which might assist other countries in exploring and developing nonnuclear options and in improving their efforts to insure safety and security in fuel storage. I think that these steps are most valuable, for it is my belief that we should actively seek safe and reliable alternatives to nuclear energy. Many of the alternatives currently being pursued by the United States, such as solar, wind, and biomass, could quite conceivably more effectively meet the energy needs of many of the developing nations than nuclear power.

Finally, it is important to note that this legislation includes a provision which would set up a procedure to insure "timely warning" of efforts by individual nations to convert peaceful nuclear technology to military purposes. I strongly support the timely warning provision of the bill, for, if international antiproliferation efforts are to be effective, it is imperative that attempts to convert such technology for aggressive purposes be detected early enough to allow for an appropriate international response.

Mr. Chairman, I agree with President Carter's statement in his April 27 message to the Congress that, "The need to halt nuclear proliferation is one of mankind's most pressing challenges." It is a challenge which must be met now if we are to leave a liveable world to future generations.

Our society has learned to live with the omnipresent specter of nuclear holocaust. But it need not, and should not, accept it. The legislation which we are considering today constitutes a constructive attempt to deal with the prospect of an international nuclear catastrophe, and I urge its passage by the House and subsequent enactment into law.

Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 8638, the Nuclear Antiproliferation Act of 1977, and wish to commend all those who have helped bring this landmark legislation to the floor here today. As one who was intimately involved with attempts just a little over a year ago to adopt similar legislation, I know how difficult it is to draft, and pass this type of legislation. Mr. BINGHAM and the Carter administration deserve special praise for their continuous efforts to control nuclear weapons proliferation.

It is with some pleasure that I note many provisions in H.R. 8638 which were considered in the Joint Committee on Atomic Energy in the last Congress as we tried to enact H.R. 15419, the Nuclear Explosive Proliferation Control Act of 1976.

It is redeeming for me to note that the legislation before us is at least as effective as that which we tried to work out in the Joint Committee on Atomic Energy, and is vastly superior to the legislation which was eventually reported by that Joint Committee. I trust that the Senate will also act favorably upon this legislation, and its implementation can begin immediately.

Mr. LONG of Maryland. Mr. Chairman, I rise in support of the Nuclear Antiproliferation Act of 1977. This bill, which provides the first comprehensive reform of U.S. nuclear export and nonproliferation policies since 1954, is a notable achievement. In setting forth clear requirements for approval of the retransfer or reprocessing of U.S. supplied nuclear fuel it also demonstrates our overriding concern with the dangers of nuclear proliferation. Safeguards are urgently needed to prevent the spread of nuclear weapons.

This is only a first step, however. We must not stop here. Our main leverage remains the example we set by our domestic energy policy.

The simple fact is that nuclear power, as the solution to the energy shortage, has never made economic sense. Indeed, in the ultimate sense there is no energy shortage. The earth is bursting with energy: the sun, the winds, the tides, the heat within the earth, coal, oil, oil shale, secondary and tertiary oil resources. In what sense then is there a shortage? The shortage is in the capital needed to harness this energy and put it to work.

I could construct a list of U.S. capital shortfalls that would run into trillions of dollars, capital needed for housing, fighting poverty, combating pollution, controlling floods, expanding and improving educational and hospital facilities for the American people. The capital shortage is moreover worldwide. Yet to supply by nuclear power only 25 percent of our officially projected energy needs by the year 2000 would require at least $130 bil-

lion in capital investment per year. What a waste to spend billions of dollars on nuclear reactors when more energy can be gotten from other renewable sources, with far less capital investment. On what grounds can we justify making an investment of $235,000 for the energy equivalent of 1 barrel of oil produced by nuclear power when alternative sources of energy such as bioconversion of waste could be made available for less than $20,000?

For the developing countries nuclear power is potentialy inappropriate because:

First. Nuclear power requires excessive amounts of capital and managerial skill both of which are expensive and in short supply in the developing world;

Second. Nuclear power diverts resources from roads, schools, hospitals, irrigation projects, and housing, especially needed in poor countries; and

Third. Nuclear power lures the poor countries, as it does the rich, from the search for the type energy sources which are more appropriate for poor nations and in most cases more easily could be developed.

Both the developing and the developed states do have a choice, however. There are renewable energy sources all around us. Solar, solar electricity, wind are all renewable, less capital intensive and less dangerous to our political and natural environments. These alternative sources of energy could be competitive and environmentally sound solutions to the energy problem if they were not continually discouraged by price policies and heavy subsidies that drain factors of production away to nuclear power. A rural development strategy is needed for the developing countries, which focuses on the use of simple, inexpensive, labor-using tools and techniques that are appropriate to the scarcity of capital and the abundance of labor in poor countries.

We cannot provide all the answers. But we can help nudge the developing states toward light capital technology and away from nuclear power. Our foreign aid program should thus help encourage these countries to explore such alternative energy sources. Moreover, we must set an example by adopting a more imaginative and comprehensive energy program. This could go a long way in helping to alleviate some of the dangers of nuclear proliferation.

We have no time to waste. The House must begin now, by passing the nuclear antiproliferation bill. It may only be a first step, but it is a vital first step without which we will fail in our effort to halt the spread of nuclear weapons.

Mr. UDALL. Mr. Chairman, I rise in support of H.R. 8638 without amendments which would negate the intent of the bill as reported by the International Relations Committee.

I support this legislation because I believe it would constitute an essential element of our effort to halt the spread of nuclear weapons.

As chairman of the House committee having primary jurisdiction over the regulation of domestic nuclear energy, I applaud the efforts of the International Relations Committee in reporting this bill. It establishes standards that, for the first time, would provide a way of judging whether or not proposed nuclear exports are in accordance with our antiproliferation policies.

H.R. 8638 will have several important effects. It will help to define the split between peaceful and military uses of nuclear fission. It will create a climate in which nations perceive it not in their best interest to acquire nuclear weapons. It will demonstrate the resolve of the United States to assist other countries in satisfying their energy needs without helping to put them on the threshold of becoming a nuclear power.

The bill contains the important requirement that any nation receiving nuclear exports from the United States must place all its peaceful nuclear activities under the safeguards of the International Atomic Energy Agency. This will help to guarantee that nations are not producing nuclear weapons using technology and materials not associated with exports from the United States. Of particular significance is that H.R. 8638 reaffirms that we should consistently apply a timely warning standard in judging the adequacy of international safeguards. H.R. 8638 explicitly requires that our Government approve reprocessing of nuclear fuels supplied by us only under strict conditions. Reprocessing of such fuels would be permitted only if the recovered plutonium could be handled and stored in a way so that it could not be diverted to nuclear explosives without there being timely warning of such diversion.

The importance of timely warning should not be minimized. The earlier the warning, the more time there will be to take diplomatic action to dissuade another nation from constructing a nuclear weapon. Timely warning is, in fact, what gives safeguards their deterrent value. Any country considering acquiring nuclear weapons would have to take account of the pressures that would be brought to bear upon it before it actually had the weapons in hand.

There are of course those who say that the success in dissuading the government of South Africa from conducting a nuclear test explosion is evidence of there already being a system which will provide sufficient early warning. I do not accept this argument. We cannot always be sure that we would discover a test site as we did in this instance. I note that we still do not have a firm idea of where the South Africans obtained their nuclear explosive materials. It seems to me, therefore, that this is a case which emphasizes the need for more timely warning of the acquisition of nuclear explosive materials. H.R. 8638 is correct in its emphasis on this concept.

I am of course aware of those who say it is too late; that nuclear antiproliferation policies pursued by our Government will not only be ineffectual, but that they will keep us from gaining the economic benefits from nuclear exports. I do not accept these arguments. We should recognize that other nuclear exporting nations share the objectives of keeping the number of nuclear weapons states at its present level. The nuclear suppliers group agreement achieved last week is but one manifestation of the exporting nations' efforts in this area. I believe, therefore, that our own strong actions are already striking a responsive chord among the nations which engage in nuclear export activities. We should enact H.R. 8638 and then continue with the development of international institutions designed to provide a much more effective safeguards mechanism rather than the one that now exists and which has become obsolete.

For too long, concerns about proliferation were submerged as we focused upon the benefits of the peaceful atom. I look to H.R. 8638 as being an important step toward development of a much saner approach than has been evident in the past.

I urge support for this bill. I hope my colleagues will vote against amendments which would undercut the intent of the legislation as reported by the International Relations Committee.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. FORD of Michigan, having assumed the chair, Mr. PREYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8638) to provide for more efficient and effective control over the proliferation of nuclear explosive capability, pursuant to House Resolution 767, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BINGHAM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 23, as follows:

[Roll No. 605]

YEAS—411

Abdnor	Ambro	Andrews, N.C.
Addabbo	Ammerman	Andrews, N. Dak.
Akaka	Anderson, Calif.	Annunzio
Alexander	Anderson, Ill.	Applegate
Allen		

Archer	English	Lloyd, Calif.
Armstrong	Erlenborn	Lloyd, Tenn.
Ashbrook	Ertel	Long, La.
Ashley	Evans, Colo.	Long, Md.
Aspin	Evans, Del.	Lott
AuCoin	Evans, Ga.	Lujan
Badham	Evans, Ind.	Luken
Badillo	Fary	Lundine
Bafalis	Fascell	McCloskey
Baldus	Fenwick	McCormack
Barnard	Findley	McDade
Baucus	Fish	McDonald
Bauman	Fisher	McEwen
Beard, R.I.	Fithian	McFall
Beard, Tenn.	Flippo	McHugh
Bedell	Flood	McKay
Beilenson	Flowers	McKinney
Benjamin	Flynt	Madigan
Bennett	Foley	Maguire
Bevill	Ford, Mich.	Mahon
Biaggi	Ford, Tenn.	Mann
Bingham	Forsythe	Markey
Blanchard	Fountain	Marks
Blouin	Fowler	Marriott
Boggs	Fraser	Martin
Boland	Frenzel	Mathis
Bonior	Frey	Mattox
Bonker	Fuqua	Meeds
Brademas	Gammage	Metcalfe
Breaux	Gaydos	Meyner
Breckinridge	Gephardt	Michel
Brinkley	Giaimo	Mikulski
Brodhead	Gibbons	Mikva
Brooks	Gilman	Milford
Broomfield	Ginn	Miller, Calif.
Brown, Calif.	Glickman	Miller, Ohio
Brown, Mich.	Goldwater	Mineta
Brown, Ohio	Gonzalez	Minish
Broyhill	Goodling	Mitchell, Md.
Buchanan	Gore	Mitchell, N.Y.
Burgener	Gradison	Moakley
Burke, Calif.	Grassley	Moffett
Burke, Fla.	Gudger	Mollohan
Burke, Mass.	Guyer	Montgomery
Burleson, Tex.	Hagedorn	Moore
Burlison, Mo.	Hall	Moorhead, Calif.
Burton, John	Hamilton	Moorhead, Pa.
Burton, Phillip	Hammer-schmidt	Moss
Butler	Hanley	Mottl
Byron	Hannaford	Murphy, Ill.
Caputo	Hansen	Murphy, N.Y.
Carney	Harkin	Murphy, Pa.
Carr	Harrington	Murtha
Carter	Harris	Myers, Gary
Cavanaugh	Harsha	Myers, John
Cederberg	Hawkins	Myers, Michael
Chappell	Heckler	Natcher
Chisholm	Hefner	Neal
Clausen, Don H.	Heftel	Nedzi
Clay	Hightower	Nichols
Cleveland	Hillis	Nix
Cochran	Holland	Nolan
Cohen	Hollenbeck	Nowak
Coleman	Holt	O'Brien
Collins, Ill.	Holtzman	Oakar
Collins, Tex.	Howard	Oberstar
Conable	Hubbard	Obey
Conte	Huckaby	Ottinger
Conyers	Hughes	Panetta
Corcoran	Hyde	Patten
Corman	Ichord	Pattison
Cornell	Ireland	Pease
Coughlin	Jacobs	Perkins
Crane	Jeffords	Pettis
D'Amours	Jenkins	Pickle
Daniel, Dan	Jenrette	Pike
Daniel, R. W.	Johnson, Colo.	Poage
Danielson	Jones, N.C.	Pressler
Davis	Jones, Okla.	Preyer
de la Garza	Jones, Tenn.	Price
Delaney	Jordan	Pritchard
Dellums	Kasten	Pursell
Derrick	Kastenmeier	Quayle
Derwinski	Kazen	Quie
Devine	Kelly	Quillen
Dickinson	Kemp	Rahall
Dicks	Ketchum	Railsback
Diggs	Keys	Rangel
Dingell	Kildee	Regula
Dodd	Kindness	Reuss
Dornan	Kostmayer	Rhodes
Downey	Krebs	Richmond
Drinan	Krueger	Rinaldo
Duncan, Oreg.	LaFalce	Risenhoover
Duncan, Tenn.	Lagomarsino	Robinson
Early	Latta	Rodino
Eckhardt	Le Fante	Roe
Edgar	Leach	Rogers
Edwards, Ala.	Lederer	Roncalio
Edwards, Calif.	Leggett	Rooney
Edwards, Okla.	Lent	Rose
Eilberg	Levitas	Rosenthal
Emery	Livingston	Rostenkowski
Rousselot	St Germain	Walgren
Roybal	Staggers	Walker
Rudd	Stangeland	Walsh
Ruppe	Stanton	Wampler
Russo	Steed	Watkins
Ryan	Steers	Waxman
Santini	Steiger	Weaver
Sarasin	Stockman	Weiss
Satterfield	Stokes	White
Sawyer	Stratton	Whitehurst
Scheuer	Studds	Whitley
Schroeder	Stump	Whitten
Schulze	Symms	Wiggins
Sebelius	Taylor	Wilson, C. H.
Seiberling	Thompson	Wilson, Tex.
Sharp	Thone	Winn
Shipley	Thornton	Wirth
Shuster	Traxler	Wolff
Sikes	Treen	Wright
Simon	Trible	Wydler
Sisk	Tsongas	Wylie
Skelton	Tucker	Yates
Skubitz	Udall	Yatron
Slack	Ullman	Young, Alaska
Smith, Iowa	Van Deerlin	Young, Fla.
Smith, Nebr.	Vander Jagt	Young, Mo.
Snyder	Vanik	Young, Tex.
Solarz	Vento	Zablocki
Spellman	Volkmer	Zeferetti
Spence	Waggonner	

NAYS—0

NOT VOTING—23

Bolling	Horton	Pepper
Bowen	Johnson, Calif.	Roberts
Clawson, Del	Koch	Runnels
Cornwell	Lehman	Stark
Cotter	McClory	Teague
Cunningham	Marlenee	Whalen
Dent	Mazzoli	Wilson, Bob
Florio	Patterson	

The Clerk announced the following pairs:

Mr. Teague with Mr. Del Clawson.
Mr. Cornwell with Mr. Bob Wilson.
Mr. Dent with Mr. McClory.
Mr. Cotter with Mr. Cunningham.
Mr. Runnels with Mr. Pepper.
Mr. Stock with Mr. Patterson of California.
Mr. Florio with Mr. Lehman.
Mr. Bowen with Mr. Whalen.
Mr. Koch with Mr. Johnson of California.
Mr. Roberts with Mr. Horton.
Mr. Mazzoli with Mr. Marlenee.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, and that I may revise and extend my own remarks during the debate on the bill just passed.

The SPEAKER pro tempore (Mr. MEEDS). Is there objection to the request of the gentleman from New York?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 19, 20, and 26 to the bill (H.R. 6550) entitled "An act to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes."

And that the Senate agreed to the amendment of the House to the amendment of the Senate numbered 10 to the above-entitled bill with the following amendment:

Page 2, line 6, of the House engrossed amendments to the Senate amendments, after "total" insert: *"Provided further,* That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest on the actual value of property at the time of its loss or destruction and shall exclude from his payment such amounts as he determines constitute interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review".

ERDA AUTHORIZATIONS FOR NATIONAL SECURITY PROGRAMS, FISCAL YEAR 1978

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CHARLES H. WILSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 6566, with Mr. BRADEMAS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on Tuesday, September 13, 1977, all time for general debate had expired.

Pursuant to the rule, the Clerk will now read by title the committee amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 6566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FOR NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. There is hereby authorized to be appropriated for the use of the Energy Research and Development Administration (hereinafter in this Act referred to as the "Administration") for fiscal year 1978 for operating expenses for national security programs—

(1) for weapons activities, $1,205,000,000,

(2) for nuclear explosives applications, $1,000,000,

(3) for special materials production, $416,400,000,

(4) for laser fusion, $107,000,000,

(5) for naval reactor development, $211,700,000, and

(5) for program management and support, $40,800,000,

in all, $1,981,900,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. There is hereby authorized to be appropriated for the use of the Administration for fiscal year 1978 for plant and capital equipment, including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, for national security programs the following amounts:

(1) For laser fusion:

Project 78–4–a, high energy laser facility (NOVA), Lawrence Livermore Laboratory, California, $9,000,000.

(2) For weapons activities:

Project 78–16–a, cruise missile production facilities, various locations, $18,100,000.

Project 78–16–b, full fuzing option (FUFO) bomb production facilities, various locations, $43,000,000.

Project 78–16–c, high explosive fish radiography facility, Lawrence Livermore Laboratory, California, $10,900,000.

Project 78–16–d, weapons safeguards, various locations, $14,000,000.

Project 78–16–e, new weapons production installations, various locations, $5,000,000.

Project 78–16–f, replace 10-inch water main, Bendix Plant, Kansas City, Missouri, $2,000,000.

Project 78–16–g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, $12,500,000.

Project 78–16–h, Tonopah Test Range upgrade, Sandia Laboratories, Albuquerque, New Mexico, $4,000,000.

Project 78–16–i, laboratory support complex, Los Alamos Scientific Laboratory, New Mexico (A–E only), $2,000,000.

Project 78–17–a, production component warehouse, Pantex Plant, Amarillo, Texas, $4,000,000.

Project 78–17–b, surface water control system, Rocky Flats Plant, Colorado, $2,800,000.

Project 78–17–c, core facilities office building, utilities and roads, Lawrence Livermore Laboratory, California, $12,300,000.

Project 78–17–d, steam plant improvements, Y–12 Plant, Oak Ridge, Tennessee, $10,000,000.

Project 78–17–e, high explosive machining facility, Pantex Plant, Amarillo, Texas, $5,000,000.

(3) For special materials production:

Project 78–18–a, high level waste storage and waste management facilities, Richland, Washington, $17,000,000.

Project 78–18–b, high level waste storage facilities, Savannah River, South Carolina, $42,000,000.

Project 78–18–c, fifth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $12,500,000.

Project 78–18–d, new hydrofacture facility, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $5,400,000.

Project 78–18–e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, $15,500,000.

Project 78–18–f, powerhouse emission control improvements, Richland, Washington (A–E only), $500,000.

Project 78–18–g, fanhouse and increased fan capacity, H chemical separations area, Savannah River, South Carolina, $3,400,000.

Project 78–18–h, plantwide fire protection, Savannah River, South Carolina, $6,300,000.

Project 78–18–i, improved emergency coolant supply in reactor areas, Savannah River, South Carolina, $3,500,000.

Project 78–18–j, N-reactor environmental improvements, Richland, Washington, $7,500,000.

(4) For project 78–21, General Plant Projects—

(A) for weapons activities, $24,000,000,

(B) for special materials production, $12,000,000, and

(C) for naval reactor development, $2,800,000, in all, $38,800,000.

(5) For project 78–22, construction planning and design, $5,000,000.

(6) For capital equipment not related to construction—

(A) for weapons activities, $81,000,000.

(B) for special materials production, $36,700,000,

(C) for laser fusion, $13,200,000,

(D) for naval reactor development, $15,150,000,

(E) for program management and support, $300,000,

in all, $146,350,000.

ADDITIONAL AUTHORIZATIONS FOR PREVIOUSLY AUTHORIZED PROJECTS

SEC. 103. There are hereby authorized to be appropriated for the use of the Administration for fiscal year 1978 for projects previously authorized additional amounts as follows:

(1) For project 71–9, fire, safety, and adequacy of operating conditions projects, various locations, $47,000,000 for a total authorization of $287,000,000.

(2) For project 75–1–c, new waste calcining facility, Idaho Chemical Processing Plant, National Reactor Testing Station, Idaho, $28,500,000, for a total authorization of $65,000,000.

(3) For project 75–3–b, high energy laser facility, Los Alamos Scientific Laboratory, New Mexico, $31,900,000, for a total authorization of $54,500,000.

(4) For project 77–3–a, electron beam fusion facilities, Sandia Laboratories, Albuquerque, New Mexico, $4,400,000 for a total authorization of $13,500,000.

(5) For project 77–11–a, safeguards and research and development laboratory facility, Sandia Laboratories. Albuquerque, New Mexico, $4,300,000, for a total authorization of $8,300,000.

(6) For project 77–11–b, safeguards and site security improvements, various locations, $7,800,000, for a total authorization of $13,500,000.

(7) For project 77–11–c, 8-inch artillery fired atomic projectile production facilities, various locations, $12,600,000, for a total authorization of $22,600,000.

(8) For project 77–13–a, flourinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho (A–E and long-lead procurement), $5,000,000, for a total authorization of $15,000,000.

(9) For project 77–13–d, high level waste storage and waste management facilities, Savannah River, South Carolina, $31,000,000, for a total authorization of $56,000,000.

(10) For project 77–13–e, high level waste storage and handling facilities, Richland, Washington, $22,000,000, for a total authorization of $40,000,000.

(11) For project 77–13–f, waste isolation pilot plant (A–E, land acquisition, and long-lead procurement), Delaware Basin, Southeast New Mexico, $22,000,000 for a total authorization of $28,000,000.

(12) For project 77–13–g, safeguards and security upgrading production facilities, multiple sites, $8,700,000, for a total authorization of $16,400,000.

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that title I of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will report the first amendment recommended by the Committee on Science and Technology.

COMMITTEE AMENDMENT

The Clerk read as follows:

Committee amendment: Page 12, line 12, strike "$107 million" and insert: "$116,200,000, provided that at least 60 per centum of this amount shall be used for civilian applications of laser fusion.".

Mr. CHARLES H. WILSON of California (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The committee amendments read as follows:

Page 12, line 15, strike out "standing the provisions of section 3617 of the Revised".

Page 12, line 17, strike out "40,800,000" and insert "36,235,000".

Page 12, line 19, strike out "1,891,900,000" and insert "1,774,835,000".

Page 15, line 19, strike out:

"(C) for naval reactor development, $2,800,000, in all, $38,800,000."

Page 16, line 3, strike out "(D) for naval reactor development, $15,150,000".

Page 16, line 6, strike out "in all, $146,350,000".

AMENDMENTS OFFERED BY MR. CHARLES H. WILSON OF CALIFORNIA AS A SUBSTITUTE FOR THE COMMITTEE AMENDMENTS

Mr. CHARLES H. WILSON of California. Mr. Chairman, I offer amendments as a substitute for the committee amendments.

The Clerk read as follows:

Amendments offered by Mr. CHARLES H. WILSON of California as a substitute for the committee amendments: On page 12, at line 12, strike the figures "$107,000,000" and substitute in lieu thereof the figures "$116,200,000." On page 12, at line 17, strike the figures "$1,981,900,000" and substitute in lieu thereof the figures "$1,991,100,000."

Mr. CHARLES H. WILSON of California. Mr. Chairman, when the Committee on Science and Technology reported H.R. 6566 following its sequential referral to that committee, two amendments were proposed. One amendment would add $9.2 million in additional authorizations for the laser fusion research program. The other would have removed all naval reactor development program funds from the bill.

The Committee on Armed Services and the Committee on Science and Technology have resolved their differences with respect to these two programs which was evidenced in a colloquy between Chairman PRICE and Chairman TEAGUE during the general debate on this bill on September 13. The Committee on Science and Technology has graciously agreed to withdraw its amendment with regard to naval reactors.

In the spirit of the compromise between the two committees, I am offering

this substitute amendment which will add $9.2 million in additional authorization for the laser fusion program. This amendment does not make a division in the use of these funds as was suggested by the Committee on Science and Technology. I have been advised that this amendment is satisfactory to the Committee on Science and Technology.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I support the passage of this bill with the substitute amendment offered by my colleague from the Armed Services Committee. The naval reactor program and the laser fusion program, which were in dispute between Armed Services and the Science Committee, are the legitimate concerns of both committees. Recognizing this, Mr. TEAGUE, the distinguished chairman of the Committee on Science and Technology, and Mr. PRICE, the distinguished chairman of the Armed Services Committee, have arrived at a reasonable compromise and I congratulate them.

The naval reactor program has made a major contribution to the modern Navy. At the same time it has provided the basic light water reactor technology which is the basis of present day nuclear electric power generation. Furthermore, on September 2 of this year, the naval reactor program brought into operation the light water breeder reactor at Shippingport, Pa. This reactor is intended primarily for civilian application. Continued productive interaction between the military and civilian portions of this program are the primary concern of the Science Committee and this has been recognized in the colloquy between Mr. TEAGUE and Mr. PRICE on September 13.

In that same colloquy Mr. PRICE acknowledged and supported the Science Committee's interest in the laser fusion program when he said:

> The Science and Technology Committee which has legitimate concern for the continuation of research that could eventually lead to dramatic civilian applications for laser fusion, has added $9.2 million which we agree is a modest yet appropriate addition to the authorization bill. Laser fusion applications are programs which require additional support although the amount is not great when compared with other forms of fusion and fission energy.

The Science Committee increase reflects its understanding that the development of laser fusion can also be pursued by the private sector. Laser development over the last 15 years has been primarily a product of academic and industrial research efforts. All of these resources must be utilized and developed if the civilian applications of laser fusion are to materialize. At the same time, the committee recognizes that the national laboratories have an important and irreplaceable role to play in developing the civilian applications as well. The program can best be carried forward by increasing the use of private resources and, at the same time insure that the interaction between the national laboratories and the private sector is enhanced rather than cut off. The laboratories are a national resource for technical management and this is particularly true for the development of laser fusion.

Mr. PURSELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as a member of the Committee on Science and Technology, I think most of us on the Republican side conferred and also agreed to the amendment in the Committee on Science and Technology. I am very pleased that the gentleman from Illinois (Mr. PRICE) and the gentleman from Alabama (Mr. FLOWERS) agreed to compromise to leave in the $9.2 million. I would like to recommend that we adopt the amendment.

Mr. Chairman, I would like to ask at this time a question of the gentleman from Alabama (Mr. FLOWERS) regarding the $9.2 million that is in the bill now as it reads.

Last year the conferees agreed to specify that amount of money to KMS, the only private group, to our knowledge, working in this sector, and I would like to know if the gentleman would care to comment on that at this time.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I will say to the Members that the gentleman from Michigan (Mr. PURSELL) has certainly carried the ball for this technology in our subcommittee and called the attention of the Members to the importance of it.

I think we all concur in the importance of the work KMS has done, and we would like to see it carried on further. I can assure the gentleman that in our capacity as a subcommittee we will track this very closely and try to encourage the Energy Research and Development Administration, our successor, to continue funding for the KMS facility.

Mr. PURSELL. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I think it is important to recognize that many Members of the House are now going along with the administration in considering the laser fusion as a new development in the United States for a new source of energy. I really feel that the dimensions of laser fusion in civilian applications are important.

Although we do not dispute the $106 million going to the military application and weapons systems, I think it is time that Congress began to address itself to some equal funding in the long run for the future. I hope to be working toward that goal of asking ERDA to apply for funding for civilian applications on this particular issue.

Mr. Chairman, I am very pleased to have had the opportunity to engage in colloquy with the distinguished gentleman from Alabama (Mr. FLOWERS).

Mr. Chairman, I rise in strong support of the proposal to increase the authorization for the civilian applications of laser fusion. I speak from the perspective of considerable knowledge of the great potential of laser fusion and familiarity with its industrial role.

Laser fusion has a practically unlimited potential as a clean, safe source of electrical power and synthetic fuels. Scientists actively engaged in research on this concept indicate that developments are proceeding very well, and that this energy source can begin to have an impact on our total energy system much earlier than has been traditionally believed. From there, this alternative energy source can go as far as our determination in Congress, and our scientific ingenuity can take us.

Within the past year, the critical nature of our energy situation has been called to our attention with increasing frequency. Obviously, this is not the time to be limiting the development of new sources of energy—and laser fusion is one of our most promising alternative energy sources.

I have had an opportunity to work with many of the outstanding members of the Science and Technology Committee and the Armed Services Committee on this issue. I have found a rapidly developing appreciation for the potential of civilian laser fusion energy in these discussions, and was most gratified by the agreement reached by the distinguished chairmen, Mr. TEAGUE and Mr. PRICE, whereby research in the civilian applications of laser fusion can move ahead.

Those applications are becoming increasingly exciting. In the energy field we can foresee electric power generation and production of hydrogen for a whole range of synthetic fuels. The most likely application to be used first in the synthetic fuel field would be synthetic natural gas, and our need to supplement natural gas supplies has already become frighteningly clear.

Beyond that, it is possible to develop other hydrogen based fuels, which can be used to power automobiles and other equipment in our society, again with better environmental performance than dwindling conventional fuels. I sincerely believe that laser fusion will grow into a major component of our total effort for energy independence. In fact, it is difficult for me to conceive of an energy independent America without full-scale development of laser fusion, along with other energy sources.

There are other very real and exciting applications in the medical field, such as radiation therapy, as well as in petrochemical feedstocks, which must also be explored.

Based on our knowledge of this vast potential, it has been of considerable concern for us that the energy and other civilian applications of laser fusion be given a large role in the overall government energy effort. We recognize that there are legitimate military-oriented laser fusion applications in simulation and design. It is not, and never has been, our intention to weaken the effort to apply laser fusion technology to defense requirements. We seek only to intensify and strengthen efforts to meet the very different civil energy needs and objec-

tives which are so important to our Nation's future. It is in the national interest to continue both programs.

I believe we are reaching a point where the Congress and the administration recognize the dual validity of this program. It is my hope that the civil energy work in laser fusion will continue to grow and expand and achieve the rank of a separate program, with an appropriate mandate and distinct funding requests, within our Energy Department.

The compromise amendment adding $9.2 million in support of ongoing civil laser fusion R. & D. work is an important step forward in the recognition of the importance of civil energy development, especially in the private sector.

The crucial point, in my opinion, is that if our people are going to realize the benefits to be derived from laser fusion technology, it must come through successful industrial development of laser fusion. If we are going to seize the opportunity before us to have laser fusion energy help heat our homes, run our factories and fuel our vehicles, it can only happen through successful commercial application in the private sector. That must be the focus of the civilian energy aspects of the fusion program. That is why it is important that we continue to fund organizations, such as KMS fusion, which are oriented to meeting the special requirements of successful commercial application, and have both the scientific and industrial know-how to move the civilian energy program toward the goals our nation requires.

In essence, I believe we must bring all the appropriate government and private resources to bear in order to achieve the most rapid and most productive results.

In view of the enormous potential of laser fusion, I urge my colleagues to accept the compromise of the Armed Services and Science and Technology Committees, and approve the amendment to add $9.2 million for civil energy aspects of the laser fusion program oriented toward industrial and commercial energy delivery. Industrial research programs are the base on which we must build future industrial participation and facilitate technology transfer. This industrial program will also allow for an infusion of new concepts, provide a check on quality and intensity of other work, and healthy competition in program progress insuring that only the best work will be funded in public and private sectors.

Mr. Chairman, let us provide some real alternatives that will yield near-term benefits in the civil sector which are equally important as defense effects. This program deserves public support and the attention of our best scientists. It can only receive this essential impetus if a portion of it is out in the open where the Federal Government and industry can engage in a true partnership. This cannot be accomplished if government remains the customer for, as well as the program manager of, the technology development.

I strongly urge my colleagues to vote to increase the funding authorization for laser fusion, and to support continued development of this important component of America's future energy independence.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I enthusiastically support the Science and Technology Committee's desire for a strong civilian program in laser fusion. Laser fusion, like magnetic fusion, offers the route to nearly inexhaustible energy resources. It is an exciting and challenging field of research and development which has moved rapidly in the past few years. However, we must have an identifiable civil program if significant milestones are to be achieved within the next few years toward the demonstration of energy break even.

There is a major difference between civil and military laser fusion programs in terms of requirements for the ignition device. There is no primary need in the weapons program to develop a high repetition rate laser. Yet, the generation of electrical power for the utility grid will require a device which fires anywhere from 1 to 10 times a second on a continuing basis. The major capability for such laser R. & D. is in industry and that is why it is particularly important to involve them in the program at this stage. This can only be done if we carry out a well-defined civilian activity which should grow as the technology matures.

As a constructive critic of nuclear fusion power, I am particularly enthusiastic about the environmental aspects of laser fusion. The major advantages are:

The fusion reactor is inherently safe and there can be no unnecessary accidents.

There will be minimal hazards from nuclear waste products since fusion does not create the wide range of radioactive products created by fission.

The nature of the process allows for varying power levels of the laser reactions to cover a spectrum of process heat and even medical applications beyond central station power.

The fusion fuel cycle involves little handling or shipping of hazardous material.

Fusion plants will be very efficient so there will be considerably less thermal pollution.

Mr. Chairman, I think the potential payoff from a civilian program is great. The energy supply possibilities are simply too far-reaching to allow this civil program to lag behind magnetic fusion simply because of a short-term focus on weapons effects.

I am also concerned that the naval reactor development program should remain a part of the civilian nuclear development program. Naval reactor development has fed valuable technology into the civil reactor since the 1950's. The latest versions of the compact, very reliable reactors which have been developed by ERDA for the Navy offer untold possibilities from ocean floor pumping applications to ultimate use in civilian vessels. This work is not at all tailored to any weapons system, is funded by ERDA as part of civilian nuclear R. & D., and should properly be authorized by the Science and Technology Committee.

Mr. Chairman, I am fully supportive of the efforts of Mr. FLOWERS and Mr. PURSELL and am hopeful that in the near future, there will be independent authorization bills for military and civilian applications for these two vital technologies.

The civilian programs for laser fusion particularly offer great potential and I am hopeful that programs such as that at KMS will be funded at greater levels in the future.

Mr. CHARLES H. WILSON of California. Mr. Chairman, there is an organized effort to persuade Members of Congress that the laser fusion program should be conducted almost totally by commercial organizations at Government expense. This point of view is being pushed by two unregistered lobbyists in the pay of a small company under contract to the Energy Research and Development Administration (ERDA), KMS Fusion (KMSF), Inc., of Ann Arbor, Mich. These gentlemen have visited with various Members of this body pushing the theory that if only a major portion of the $104 million appropriated in fiscal year 1978 for laser fusion were given to KMSF, and other unnamed commercial firms, laser fusion energy would become available on a short-term basis and contribute to the civilian economy by providing energy and/or synthetic fuels. Nothing could be further from the truth. It should be noted that without an ERDA contract, the KMSF annual income would be considerably less than $1 million.

The Director of the Energy Research and Development Administration laser fusion program, in testifying before the Armed Services Committee, the Science and Technology Committee, and Appropriation's Public Works Subcommittee, stressed that:

> Inertial confinement fusion offers distinct advantages as one of several fusion options. It has a near-term, low risk payoff for the nuclear weapons program and a long-term, high risk, very high payoff for civilian energy production.

Long term is defined as several decades into the future, according to page 29 of ERDA document 77–1, "A National Plan for Energy Research, Development and Demonstration."

Mr. Chairman, it is a travesty and a disservice to the American people to raise high hopes for abundant energy soon from a process that, if it is ever successful, will not produce energy until well into the next century.

Our committee has examined the track record of KMS Fusion. From May 15, 1975, to September 30, 1976, under a $12 million contract, KMS Fusion agreed to four tasks. Here are the tasks, achievements, and conclusions:

LASER FUSION PROGRAM

Task 1: Develop, install, test and operate a two terawatt glass laser for fusion experiments. (A terawatt is a million million watts.)

Achievement: KMSF was unable to construct a laser of this power because their laser design did not include sufficient attention to cleanliness and other laser development techniques.

Conclusion: KMS Fusion fell well short of the performance objective of Task 1.

Task 2: Using the laser developed under Task 1, conduct fusion experiments that provide data and define the conditions necessary for achieving a significant number of fusion reactions using three different pellet designs.

Achievement: Fifty percent of the specified data was obtained on the first pellet, one-half of one percent of the required data was obtained for the second pellet, and one two hundreths of one percent of the required data was produced for the third pellet.

Conclusion: KMSF failed Task 2.

Task 3: Conduct research on target pellet fabrication techniques and fabricate pellets for use in the experimental program.

Achievement: KMSF showed considerable innovative technique in the area of pellet fabrication.

Conclusion: The performance in this area exceeded the minimum expected contractual obligations.

Task 4: Diagnose and theoretically analyze the results of the experimental program.

Achievement: KMSF did not fully characterize their laser's properties and thus were limited in their ability to properly analyze the experimental results.

Conclusion: They developed analytical techniques but produced no useful data.

Overall Conclusion: Between 65 and 75 percent of this $12 million contract's objectives were not fulfilled.

A new four task contract is in force from October 1, 1976, to September 30, 1977. The contract period for this $7,246,000 contract is almost over. Here are the tasks, achievements, and conclusions:

Task 1: Continue research on pellet fabrication for use by KMSF and other inertial confinement fusion laboratories.

Achievement: KMSF continues to demonstrate high competence in the art of pellet fabrication.

Conclusion: This task is proceeding satisfactorily and is expected to meet contract objectives.

Task 2: Analyze the performance of the KMSF laser system, maximize performance, and develop plans for improving its performance to the one terawatt level, which is one-half the energy level of the incomplete Task 1 of the previous contract.

Achievement: In late July, KMSF had the laser operating at about one-half terawatt, which is one-fourth the energy they agreed to achieve under Task 1 of the previous contract. KMSF is doing well in theoretical analytical studies.

Conclusion: KMSF is now about 18 months behind in getting the laser to work properly.

Special Note of Interest: KMSF has submitted a new proposal to ERDA requesting more money to get the laser working properly. The proposal is under consideration.

Task 3: Conduct laser fusion experiments using the refurbished laser system from Task 2.

Achievement: Task 3 must await completion of Task 2.

Conclusion: No results.

Task 4: Diagnose and theoretically analyze the results of the experiment program.

Achievement: Task 4 must await completion of Task 2 and Task 3.

Conclusion: No comment is necessary.

Overall Conclusion: KMS Fusion has failed miserably in performing the agreed-to tasks under this $7,246,000 contract.

The Armed Services Committee authorization report on the ERDA fiscal year 1978 budget request noted that KMS Fusion was scheduled to receive another $7 million contract in fiscal year 1978, and questioned whether this award was based upon technical merit. I oppose the idea that the Federal Government should give any private company a contract just for the purpose of preserving that company's financial viability. This seems to have been the case with KMS Fusion for the past several years. I have read letters to Dr. Seamans, the former ERDA Administrator, from several Members of Congress urging that KMS be funded at a higher level. No response has yet been received from ERDA. One must conclude that pressure has been brought to bear on ERDA to support this organization. Promoting the idea that laser fusion power is just around the corner can only hurt the current research program.

I conclude by pointing out that the civilian contractor who got the lion's share of all laser fusion funding not programed for Government facilities, who has failed miserably on two successive contracts, is the organization making the most noise about laser fusion being a civilian application program. It is time that we Members of Congress begin to separate contractor puffery from the facts.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not wish to speak to this amendment, but I do at this time ask unanimous consent to withdraw the other committee amendments recommended by the Committee on Science and Technology.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. CHARLES H. WILSON) as a substitute for the committee amendments.

The amendments offered as a substitute for the committee amendments were agreed to.

The CHAIRMAN. The question is on the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. CHARLES H. WILSON OF CALIFORNIA

Mr. CHARLES H. WILSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHARLES H. WILSON of California: On page 12, at line 10, strike the words and figures "(2) for nuclear explosives applications, $1,000,000," and renumber the following subsections accordingly.

Mr. CHARLES H. WILSON of California. Mr. Chairman, the committee offers this amendment for the purpose of deleting the $1 million which the bill would authorize for operating expenses in connection with the nuclear explosives applications program. The President submitted a budget amendment deleting these funds subsequent to the reporting of H.R. 6566 by the Committee on Armed Services.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding. As the chairman knows as a result of exchange of letters an agreement was reached on a provision in the bill which would be within the jurisdiction of the International Relations Committee.

I want to extend appreciation to the distinguished chairman of the House Armed Services Committee and subcommittee chairman for agreeing, at the request of the International Relations Committee, to delete the $1 million earmarked for the nuclear explosives application program. I am indeed pleased by the example of efficient and effective cooperation which our two committees demonstrated in working out our mutual concerns in the complex area of atomic energy policy.

The gentleman's amendment deletes the provision in the bill which was of concern to the International Relations Committee. I thank the chairman for offering the amendment and urge its adoption.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I appreciate the words of the gentleman from Wisconsin (Mr. ZABLOCKI).

I would like to say, Mr. Chairman, that the chairman of the Committee on Armed Services, the gentleman from Illinois (Mr. PRICE), and the chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. ZABLOCKI), along with the chairman of the Committee on Science and Technology, the gentleman from Texas (Mr. TEAGUE), did work very closely together in working out the differences among the three committees. Each of them is to be commended for their cooperation, their spirit, and their willingness to work in this respect.

Mr. Chairman, I ask for the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CHARLES H. WILSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS: Page 18, after line 3, insert the following new section:

SEC. 104. None of the funds authorized to be appropriated under this Act shall be obligated or expended for production, procurement, or deployment of any enhanced radiation weapon or for research, development, test, or evaluation with respect to any such weapon.

Mr. WEISS. Mr. Chairman, I know that there is a risk in addressing this issue in that one may be considered to be exaggerating or to be hysterical.

However, I would like to take us back to some 32 years ago when atomic weapons were first used. There was such horror on the part of humanity at large that it was generally agreed that nuclear weapons would be used only as a matter of last resort.

Mr. Chairman, we have gone from that point in 32 years—with the world literally in a balance of terror—to a point where we are suggesting the use of nuclear weapons for what? To be used as an antitank weapon.

I remind my colleagues that during the 16-day Yom Kippur war there were over 5,000 tanks wiped out without the benefit of nuclear weapons. Therefore, it hardly can be argued that we need this weapon for the safety or security of the United States.

The argument has been made that because it is more likely that we are going to be using the neutron bomb, in some way that is going to serve as a deterrent.

I suggest, Mr. Chairman, that we read the statement issued by the National Security Council as an arms control impact statement on this very weapon, in which they state, point blank, that it cannot be considered a deterrent; that it would not reduce collateral damage; that, as a matter of fact, the likelihood was that it would escalate in the same way that the use of any other nuclear weapon would escalate.

Mr. Chairman, the President of the United States on July 12 at a press conference indicated that he guessed that the use of any nuclear weapon, including a neutron weapon, would, in fact, escalate to all-out nuclear war.

Mr. Chairman, I know that sometimes we tend to get so bogged down with the work that we have to do that we think that only what happens from minute to minute is important, but I suggest that the issue that we are concerned with right now is probably more momentous than any other issue with which we could be concerned because it literally talks about the future of humanity. I think that as Members of the U.S. Congress we ought to be concerned with an argument that says that this weapon is all right because we are only going to be using it on so-called friendly soil.

What does that mean, Mr. Chairman? The scenario has been laid out. They are suggesting that if the Russians attack across East Germany into West Germany, in order to stop their tanks we will use the weapon on West German territory, and therefore, the Russians will not respond in kind.

Mr. Chairman, what kind of madness is that?

Again, the very impact statement that I referred to on this weapon says, point blank, that the Russians do not have a neutron weapon of their own—and this is their language—unless we give them neutron warheads, they are going to retaliate with conventional nuclear weapons, and the devastation will be exactly the same. We are on the way to full-scale escalation.

Mr. Chairman, it seems to me that if we really are concerned with our action and the effect and consequence of our action, now is the time to halt. The weapons, to the best of my knowledge, have not yet been deployed. We can still pull back from the nonsense and the madness of shooting nuclear weapons at tanks.

Once we start down the path, we know damn well that the Russians are going to go all out themselves. Further, if it is all right for us to use nuclear weapons to stop tanks, then it is all right for the Russians to use nuclear weapons to stop tanks and people. At that point the next thing you know we will have an all-out nuclear war.

I would hope that we would find it possible to concern ourselves with the peril that we all face.

It has been argued that the neutron bomb in some way is more humane. There will be statements made as we go along that will indicate just how inhumane it is. The facts are that it provides the same kind of lingering death as gas, chemical, and biological warfare, which have been outlawed by a number of the international conventions.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. WEISS. In my opinion and in the opinion of most experts, one of them a man who was in charge of nuclear planning for NATO, this weapon would simply lower the nuclear threshold, raise the potential for escalation and induce the very thing that we were trying to prevent.

The former CIA deputy director Herbert Scoville said:

> The neutron bomb does not make nuclear war more humane, it makes it more likely.

I hope that we have the good sense, and the sense for humanity, to stop it right here.

Mr. ROBERT W. DANIEL, Jr. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Virginia.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROBERT W. DANIEL, JR., and by unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, if the gentleman will yield, I have in my hand the National Security Council Arms Control Statement which the gentleman mentioned. Has the gentleman read the entire statement?

Mr. WEISS. Yes; I have. I have it in front of me.

Mr. ROBERT W. DANIEL, JR. I would point out to the gentleman the statement's conclusion. That conclusion states that the decision to cross the nuclear threshold would be the most agonizing decision to be made by any President. These weapons would not make that decision any easier nor any riskier, but by enhancing deterrence they would make it likely that the President would not have to face such a decision.

Mr. WEISS. The gentleman from Wisconsin (Mr. ZABLOCKI) has made a statement which was entered into the RECORD analyzing the entire arms control impact statement. It draws the conclusion that that last sentence is completely illogical and does not follow the earlier statements that they made in which they draw exactly the opposite conclusion.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, with all due regard for the opinion of the gentleman from New York, I give more credence to the statement itself than to an analysis of it that might be made by persons interested in their position.

Mr. WEISS. I am only quoting what the gentleman from Wisconsin (Mr. ZABLOCKI) said concerning the CRS analysis of the arms control impact statement conducted in the subcommittee.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I thank the gentleman for yielding.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, it is my understanding of the statement, and I have it before me, it appears in the CONGRESSIONAL RECORD of August 3, 1977, at page 26561, as to the Neutron Bomb Arms Control Impact Statement in reference to ER, and, for example, it says:

> . . . there is no mention made of the legality of enhanced radiation weapons, or the relationship of such weapons to the U.S. call for a ban on radiological weapons.

Then in the committee's evaluation of the statement, among other things, appearing on page 26561 of the CONGRESSIONAL RECORD, it says:

> The problem with ACIS's conclusion that ER weapons could enhance deterrents but would not affect the nuclear threshold is that one cannot argue the former unless the latter is also believed to be true.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. I just wonder how the gentleman can quote this as being in contravention to what the gentleman from New York has just said?

Mr. WEISS. I thank the gentleman. I agree with him wholeheartedly. Of course, the darned thing about this is that the very people who are proposing it point out that it is not a deterrent in any way; that in fact it lowers the nuclear threshold; that it is more likely that we are going to have a nuclear war, and yet we go on blithely ignoring the most imminent danger and long-lasting and permanent danger to civilization.

Mr. SEIBERLING. If the gentleman would yield further, it is very interesting, further, that the committee report says the principal dilemma for policymakers considering the warhead is whether the perceived gains for a deterrent outweigh the perceived risks of a lowered nuclear threshold. So it seems to me that the committee itself came to the opposite conclusion from what the statement says.

Mr. WEISS. What the last sentence says; that is right.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I congratulate my colleague, the gentleman from New York, on his amendment. As I see it, the real problem here is lowering the distinction between nuclear and nonnuclear weapons and thereby making it more likely that nuclear weapons would be used. This is a danger that it seems to me overrides any possible deterrent. The whole concept of using limited nuclear weapons and their remaining limited is just beyond the ability to fathom.

Mr. WEISS. I agree with the gentleman. Any limited use of nuclear weapons

is bound to escalate into nuclear war and destroy our form of civilization. But this weapon, by lowering that threshold, makes it more likely that nuclear weapons would be used and, therefore, more likely that total destruction would take place.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. WEISS. It is worth noting also that not only the President of the United States, but the current Secretary of Defense, Mr. Brown, and the former Secretary of Defense, Dr. Schlesinger, said exactly the same thing: that once we start using any kind of nuclear weapon, the neutron bomb included, we are on our way to full-scale, all-out nuclear war.

Mr. OTTINGER. Who prepared the impact statement?

Mr. WEISS. The National Security Council prepared that statement.

Mr. OTTINGER. I thank the gentleman.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding.

I just want to correct one of the gentleman's statements, and I will be discussing this matter, hopefully, with him in a little while. But, unfortunately, one of the reasons that I got on the Committee on Armed Services, and one of the purposes for being there, was, as the gentleman is attempting to allege with this amendment, that a nuclear threshold would be at a tremendously high level.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DOWNEY. Mr. Chairman, I ask unanimous consent that the gentleman have 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DICKINSON. Reserving the right to object, Mr. Chairman, what was the request?

The CHAIRMAN. The gentleman from New York (Mr. DOWNEY) asks unanimous consent that the gentleman from New York (Mr. WEISS) be permitted to proceed for 1 additional minute.

Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DOWNEY. If the gentleman would yield further, Dr. Schlesinger was one of the principal proponents of limited nuclear warfare. He believed that with greater accuracy we could use nuclear weapons selectively and fight a low threshold nuclear war without its becoming a total conflagration. So when the gentleman suggests that Dr. Schlesinger in any way was not interested in lowering the nuclear threshold, I really must correct him. He was the advocate.

Mr. WEISS. Will the gentleman agree that in the report Dr. Schlesinger made to this Congress in 1975, he pointed out that any kind of nuclear exchange is going to in fact escalate into all-out nuclear war?

Mr. DOWNEY. If the gentleman would yield further, I would only suggest to the gentleman that the testimony that Dr. Schlesinger gave to the committee when I was a member contradicts his later statement.

Mr. WEISS. That is not unusual for some of the statements that we have heard in the past.

Mr. Chairman, for the sake of a new antitank weapon, we are about to risk blowing up the world. Put bluntly, the development and deployment of the neutron bomb, intended by its proponents to destroy enemy tanks crossing into West Germany, will be a giant step along the road to world war III. Its actual use will mean the end of civilization as we know it.

As President Carter said at a July 12 news conference—

> My guess is—and no one would certainly know—that the first use of atomic weapons might very well quickly lead to a rapid and uncontrolled escalation in the use of even more powerful weapons with possibly a world-wide holocaust resulting.

Since the atomic bomb was dropped on Hiroshima, the use of nuclear weapons has been regarded as a last resort. The neutron bomb changes all this. It is not intended to be a weapon of the last resort. On the contrary, it is ballyhooed as a nuclear weapon that can be used in a "limited war." It is a way of using nuclear weapons, its proponents claim, without risking a nuclear holocaust. This kind of thinking drops the threshold point for nuclear weapons from a last resort situation to a tactical field situation.

Does anyone in this House really expect an enemy not to retaliate in kind when we use a nuclear weapon? If so, such thinking fails to heed the warning of the National Security Council's "Arms Control Analysis for the Enhanced Radiation Warhead (W–70)." In discussing the potential Soviet reaction, the report states that—

> The neutron bomb would be no less likely than the present warhead to evoke Soviet retaliatory use of tactical nuclear weapons. Unless the Soviet forces are supplied with a comparable warhead, their response would create the kind of devastation that this warhead is designed to prevent.

The analysis concludes by stating that "The escalating potential is the same for this weapon as for any other nuclear weapon."

Others have reached similar conclusions. In a 1975 report to Congress, then Secretary of Defense James Schlesinger points out that the Warsaw Pact strategy is strongly oriented toward employing all "weapons of mass destruction"—nuclear, biological and conventional—in answer to an attack.

Our current Secretary of Defense Harold Brown also concurs. During his confirmation hearings, he said:

> I do not think it at all likely that a limited nuclear exchange would remain limited.

While the risk of an escalating nuclear confrontation, triggered by our use of the neutron bomb, is the biggest moral burden we have to bear on this issue, production and deployment contains another inherent danger—nuclear proliferation. Much of the rationale for the neutron bomb is based on the belief that the United States will use it judiciously. While this may be true, we also need to realize that we will be encouraging other—and in many cases more volatile—nations to develop their own neutron weapons. As the National Security Council's arms control impact statement points out—

> Some governments might couple a decision to deploy ER (Enhanced Radiation) weapons with perceptions that U.S. doctrine has changed so as to make the use of nuclear weapons more likely in a tactical situation; such a coupling could have an adverse effect on U.S. efforts to prevent further nuclear proliferation.

The neutron bomb makes nuclear weapons more acceptable for use in conventional war, thereby eroding the barrier between conventional and nuclear warfare. Maintaining this barrier is a major aim of arms control. In an era when much of the world, including the United States, is struggling to limit the arms race, weakening this barrier would be an ironic and probably fatal development.

The neutron bomb will also hinder our own arms control negotiations with the Russians. A commitment to develop and deploy neutron warheads would necessitate continued nuclear testing. Although this is permissible under the Threshold Test Ban Treaty, to indulge in such testing would forfeit any chance of achieving a comprehensive test ban treaty.

But more importantly, to quote Wolf Count Baudission, a former West German general who is now director of the Hamburg Institute for Peace Research and Defense Policy—

> The main danger is that the neutron warhead makes the Soviet Union aware of its qualitative inferiority in a field in which it seeks equality. Thus one will find it very difficult to establish strategic stability through SALT or mutually balanced force reductions.

In the face of the likely consequences of the neutron bomb, I cannot understand why—in a matter so fraught with peril for all humanity—we would risk being wrong.

It is not as if there were a clear and present threat to our national security. Nor is there any substantial evidence that without the neutron bomb the United States would be in grave danger in the future. Nor has anyone proven that our present arsenal of weapons cannot offer the same protections, albeit in different, most notably safer ways, as the neutron bomb.

No, as far as I can discern, the neutron bomb is just another weapon we think we need—with one big difference: It could lead to the unspeakable horror of a full-scale nuclear war.

In the words of Herbert Scoville, former Deputy Director of the CIA, deployment of the neutron bomb "does not make nuclear war more humane," it "makes it more likely." For the survival of humanity, I urge you to join me in voting for this amendment.

Mr. DICKINSON. Mr. Chairman, I rise to speak in opposition to the amendment.

Mr. Chairman, I think some things ought to be put in perspective and some facts corrected. The speaker who preceded me, my colleague, referred to this as being a tank-killing weapon, the so-called neutron bomb. In the first place, it is not so designed. What we are talking about is not a bomb, but it will be an explosive weapon. It will be a missile warhead. But then the gentleman refers to the six-day war. and that because they did not kill so many tanks, they did not need it. The fact is, Mr. Chairman, the reason the Israeli nation's military apparatus was as successful as it was was because they had air superiority.

They went in there and through the use of air were able to kill tanks. That is why it came as such a surprise to the Israelis in the last war. They had evidenced no particular concern for our TOW missile, which is an antitank missile, and they did not have them in their inventory because they felt they did not need them. Much to their surprise, due to the SAM–7 and other antiaircraft weapons furnished by the Russians, the Israelis were denied air supremacy and could not kill the tanks. So an SOS went out to this country and we loaded up TOW missiles and flew them over there. The Israelis could not kill the tanks without getting the air superiority.

Anybody who knows anything about the statistics of the Warsaw Pact versus the NATO, knows we will not have air superiority because we are outnumbered 3 to 1 in tanks and planes, and 6 to 1 in men.

So what we are trying to do is develop a capability to allow the NATO nations to defend—not attack, not an offensive—but to defend themselves. So let us just get the facts straight.

If we are talking about giving them a capabilitly to defend themselves, then this is a reasonable way to do it. Perhaps the Members of this Chamber are not aware of it, but the Russians and the Warsaw Pact nations have a very real and very threatening capability for gas warfare. They train with it. Poisoned gas units are attached to and are an integral part of all Warsaw divisions and all Warsaw Pact divisions. They have their own antidotes. They have their own capability of cleaning their weapons and tanks. They have their own clothing to protect their troops.

And what does the United States have to defend itself if they decide to use chemical warfare? Nothing. Absolutely nothing. And if I am in error, then perhaps somebody who is more knowledgeable will stand and correct me, because we do not have a capability to defend against chemical warfare.

So the whole purpose of a nuclear deterrent is to deter war, and if it does not deter, if it is not a threat, then it is of no use. It falls of its own weight.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I will not yield now. I want to conclude my remarks. I will yield at the conclusion of my remarks if the gentleman thinks he has something to add to the conversation.

So if all we have is a nuclear weapon that can be deployed defensively where we anticipate the Warsaw Pact troops may be attacking, then we are talking about using the weapon in a friendly country, in areas where the civilian population exists. And it is not a very creditable deterrent if the Russians know that we cannot use the weapon there because we will be killing the West Germans and the people who are friendly to the NATO nations.

That is the purpose of developing a weapon. And we are told in the country that there is approximately 60 percent more area in which this can be used with its limited kill radius than the regular Lance missile or other nuclear devices that have a much larger kill radius because of its blast and even fire.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, so if we do in fact have a weapon that can be used selectively, that can be used in areas where we do not have to worry about how many friendly civilians it will kill, then in fact it is a deterrent, then in fact it is creditable, and that is what this is all about.

Killing people is bad, I do not care whether we kill them by radiation or by a blast or by concussion or by a bullet. But the fact is that we need a creditable deterrent, one that can be used selectively, something that will in fact inhibit the Russians, because we have no counter to their chemical warfare.

For that reason, I would oppose the prohibition on authorization of funds for the development of neutron weapons and I think it should be voted down.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the gentleman has pointed out that the Russians have a chemical warfare capability and we do not.

Mr. DICKINSON. That is true.

Mr. SEIBERLING. Of course, they have a lot more tanks in Europe than NATO does. If we have to counter every single item they have in their arsenal in order to deter them from invading Europe, what is stopping them now? Why have they not just gone ahead and invaded Western Europe?

Mr. DICKINSON. I do not think I can explain that to the gentleman.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would state to the gentleman from Ohio, I think the gentleman probably does not understand that this House in a period of emotionalism, and I think we are dealing with emotionalism now, rather than any rational thought, did lower the threshold of nuclear warfare to turn down binary production, which the gentleman from Alabama is talking about.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(At the request of Mr. ICHORD, and by unanimous consent, Mr. DICKINSON was allowed to proceed for an additional 2 minutes.)

Mr. ICHORD. Mr. Chairman, if the gentleman will yield further, I state to the gentleman from Ohio that in Heidelberg earlier this June I visited with 35 young officers of the U.S. Air Force. There were three full bird colonels, several lieutenant colonels, majors, captains, and lieutenants. I asked this question, "If the balloon went up tomorrow, do you feel that the Russians would use chemical warfare?"

Thirty-three out of the 35 young officers replied in the affirmative. The two that replied in the negative were two of the bird colonels. I asked the bird colonels why did they differ from the other 33?

One bird colonel replied that he did not think the Russians would use unconventional warfare because they thought they could do it with conventional means. The other bird colonel replied, "I don't think the Russians will use chemical warfare because the only means they know that we have to retaliate is with nuclear weapons."

That is the point that I think the gentleman from Alabama is making. When you do not have a chemical warfare offensive and defensive capability, you have lowered the threshold of nuclear war.

Mr. DICKINSON. Mr. Chairman, I would reclaim my time.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding time to respond.

Mr. DICKINSON. I think the gentleman can get his own time.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment. Ever since the Washington Post ran its first article on the enhanced radiation warhead in June, much disagreement has been generated over whether the United States should proceed with its production. I believe that after reviewing the facts concerning this weapon, the necessity for its development and production are obvious.

To begin with, the enhanced radiation warhead, commonly known as the neutron bomb, will primarily be used to strengthen our military forces assigned to NATO. Due to the superiority of the Soviet-bloc military over the NATO forces, particularly in the conventional weapons, our nuclear technology contributes to the balance of world power and therefore the continuation of world peace. Only through the use of nuclear weapons as a deterrent can the NATO countries prevent an attack against themselves. However, in order for nuclear weapons to be an effective deterrent, the NATO countries must be willing to use them in the event of a military attack. Furthermore, the Soviets must be made aware of this fact if the deterrent is to work.

In arguments against the neutron bomb, America's role, and the role of its nuclear weapons, has not been adequately explained. In Europe, the best defense is a good offense. Therefore, if deterrence fails, the NATO nations must be able to respond to any attack quickly and effectively. The backbone of NATO's military is the presence of the United States. For years the presence of U.S. nuclear weapons has acted as a symbol of our commitment to defend Western Europe. Without that presence, our allies in Europe would be extremely vulnerable to attack. With the military strength of the Soviet-bloc nations, any major attack would lead to the quick and total destruction of the NATO forces unless nuclear weapons were used in defense. Deployment of the neutron bomb will make such a defense much less costly in terms of human and property loss.

The need for modernization of our nuclear weapons has been misrepresented in arguments over the production of the neutron bomb. The major purpose of reducing the blast of nuclear weapons is not to protect buildings, as has been stated in many recent articles. The purpose of reducing the blast is to protect against unnecessary loss of civilian life. This can be accomplished by using the radiation caused by the nuclear explosion to eliminate enemy troops. In fact, due to the decrease of civilian casualties, the loss of life might well be reduced if neutron bombs were to replace present nuclear weapons.

Neutron bombs are tactical weapons to be used against specified targets such as massive tank forces. Their range, and long term effects, are considerably limited by comparison. If present nuclear weapons were used against the same tank force, the damage which would result would be much greater due to the extensive blast and thermal effects of these weapons.

The neutron bomb adds to the deterrent capability of the United States which I referred to earlier. It is necessary that the Soviets believe the United States would use its nuclear weapons in the event of an attack against NATO. Since neutron bombs reduce the lasting effect of nuclear explosions, and since the loss to civilian life is also reduced, the probability for use of nuclear weapons during a major attack is increased, thus increasing the deterrent against such an attack.

The neutron bomb is to be used as a complement to conventional forces—not as a replacement. The option to respond to an attack through the use of conventional forces will remain even after the neutron bomb is deployed. Such a military advantage acts as a deterrent to both conventional and nuclear attacks. The neutron bomb can also be used as an option between responding to an attack through the use of conventional forces and an all-out nuclear war. This option increases the deterrent against conflict escalation thus increasing the possibilities of a lasting peace between the two major alliances.

There are some who might argue that the Defense Department attempted to "slip" funding of the neutron bomb by the Congress by "hiding" it in the ERDA authorization request. However, the Atomic Energy Act of 1954 requires that ERDA produce all nuclear weapons including funding for development and production. Except for highly classified details, much information on the neutron bomb has been available to Congress for several years. In 1975, DOD noted the development of the neutron bomb in an unclassified report entitled, "The Theatre Nuclear Force Posture in Europe, a Report to Congress in Compliance with Public Law 93-365." The Army has been forthright and candid concerning development of this new technology.

Since the United States provides the backbone to their defense, it is vital that we continue to meet their military needs. The neutron bomb makes war itself less likely and is therefore an absolute necessity if the United States is to adequately maintain its role in NATO's defense.

Let there be no misunderstanding of the consequences should we fail to defeat this amendment. The stakes are too high, maybe higher than many of us would like to believe or even think about. Maintaining our ability to effectively deter an attack on Western Europe is of the uppermost importance. It cannot be overstated. Although we may be unable to state for certain the possibility of war with the Soviets, even with the development of the neutron bomb, there can be little doubt as to the devastating effects if we lose.

Mr. DELLUMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-one Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. MURTHA). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, an "enhanced radiation" warhead is simply an improved type of tactical nuclear weapon. It is no different from any other nuclear weapon except that it produces less blast and heat but more neutrons than a comparable yield nuclear weapon of existing design. There is nothing unique about the "neutron kill mechanism." This is no "form of chemical warfare," as has been suggested. All nuclear weapons generate neutrons, and a large enough dose of neutrons will kill any living organism.

The only unique thing about the "enhanced radiation" weapons is that it produces its neutrons with only a fraction of the blast and heat of other nuclear weapons of comparable yield. Blast and heat turn out to be far more effective in causing civilian casualties than in destroying enemy armored forces—the main threat to NATO. Hence, by the deployment of "enhanced radiation" weapons, we obtain a capability equally effective against Warsaw Pact military forces as are our current weapons, but designed to be much less destructive to civilians and our own troops. We can guarantee that the targets are military forces, with little spillover into population centers and, this is an important point, onto our own forces and those of our allies.

Nuclear weapons that can be used with less civilian damage, weapons designed to operate primarily against enemy troops, will enhance our deterrent to aggression. They will not make the Presidential decision to use nuclear weapons in an emergency any easier or risk-free. Civilian damage is one consideration. The risk of escalation is another.

We should remember that NATO's posture is a defensive one, while Warsaw Pact doctrine stresses an offensive posture which apparently would make use of all elements of warfare, including conventional weapons, chemical weapons, and theater or battlefield nuclear weapons, possible. The authors of the Warsaw Pact's military doctrine draw no fine distinctions between the use of tactical nuclear weapons and conventional programs.

U.S. military forces must have the capability to use nuclear weapons effectively and with the lowest collateral damage possible to civilians and urban areas. It does not make the slightest sense to deliberately continue to procure and store nuclear weapons that will produce unnecessary casualties in the event of a European war, when improvements are available. Our allies have to support our nuclear posture and they will do so, but only if we continuously improve our capability to inflict maximum damage on military targets with minimum effect on nonmilitary areas and our own forces.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, the other day, a columnist in a national daily came up with a phrase which has application to a lot of things being said about the neutron warhead. He called it junk talk.

To set things in perspective, it is important to know just what we are talking about. The neutron warhead is not a bomb. If it can be compared to anything it would be a roman candle. The Lance missile, which presently carries the warhead, is like the cylinder of the roman candle which is ignited; the neutron warhead compares to the tip of the candle, which explodes in a flash of color and light. The analogy can be carried further. Like the tip of the roman candle, the warhead's effect dissipates rapidly. Let it not be misunderstood—the purpose of that roman candle is to entertain, to amuse. The purpose of the neutron warhead is to deter if possible, but to kill or

immobilize, if not. Unfortunately that is the nature of war—to destroy the enemy before he destroys you.

It has been said that the neutron warhead should be classified as a "chemical warfare" weapon. It is not. It is a natural follow-along to development of nuclear weapons, and as such its ancestor was the atom bomb, not the test tube. It does not do anything earlier nuclear weapons did not do, and in two significant respects it does less; its use would confine its damage to an area far smaller than conventional nuclear bombs of comparable size. And it does not result in fallout. The importance of these two facts cannot be overstated.

And there is one final word. The naysayers moan that the possession of a neutron warhead would invite escalation to a holocaust. No battlefield commander, no theater commander could order its use. Only the President of the United States can do this.

The neutron warhead is a reasonable alternative to doomsday.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, it is always very difficult to discuss weapons systems in this body because we end up with all sorts of classified information. I dislike having to disagree with some of my colleagues, because I know they have studied these matters very carefully.

As we all look at these things, we have different opinions, and we interpret things differently. One of my biggest concerns is that I honestly believe this is a link to the ultimate deterrents that we all really abhor and want to prevent using at any time. One of the strongest feelings I have always had is to keep that white line between nuclear weapons and conventional weapons very bright, and I think that this weapon is one that really has a great potential of blurring that line for many years.

Why? Here they are talking about deployment. They are talking about deploying at the forward edge of the battle. People are saying, "Yes, we have to get command of the control, just like we do with any other nuclear weapon."

We have had Army manuals as late as 1976 saying that it would take at least 24 hours or longer, and, of course, since the forward edge of the battle would be in European nations, it would also take NATO clearance and clearance from our allies. It is significant to ask the question: How fast could they use this?

One of my concerns has been, as I look at this and talk to the different briefers, that they keep talking about how it could be deployed at the forward edge of battle, and that I should not be worried about the white line being blurred by these weapons systems because it will be the same as all of the other atomic weapons. They say it will require a potential OK before it will ever be used.

Then they proceed to tell me what a clean weapon this is. That is what worries me. That worries me, because if they continue to talk about this as a clean weapon, what does that mean? Why is it clean? How is it clean?

Everything in this world is relative to something else. Granted, relative to the ultimate deterrents, this is a clean weapon if we compare it to the ultimate deterrents, but it is not a clean weapon if we compare it to conventional weapons or conventional warheads.

It depends on what it is compared with. If I were a building, I might think it was a clean weapon, but as a human being, I probably would not think of it as a clean weapon. So I get very worried when we get caught up with this verbiage and try to label weapons. I get worried when we talk about clean weapons, when we say they are surgically clean, they are technically clean, and when we use all those wonderful words and we make it sound like there is more precision and it is easier to use, and so forth.

We are comparing it to the super-big atomic bombs, and we are comparing it to some of the other tactical atomic bombs, and then that begins to blur that line I spoke about a little bit.

I think this will blur the line a little more. What does it do in essence? Let me give the Members a little summary.

In essence, what it does is to increase by 50 percent the radius where they are going to have a more intensive initial reaction and radiation. It cuts down extremely on the thermal and shock value around the extremities. So they increase that radius with that intense radiation inside the radius.

Let us look at the manuals where they talk about this radiation. In the manual it says that if they want to kill a human being or incapacitate a human being—and that means that death comes very shortly, maybe in a couple of hours, but very shortly—that human being has to receive between 8,000 and 18,000 rads in his body from this initial radiation. That is 8,000 to 18,000 rads. Let us just remember that.

We all know that 30 rads, which is a much lower figure and, granted, much further out on the perimeter, will certainly not kill anyone, because we know it takes 8,000 to 18,000 rads to fairly rapidly incapacitate a human being. Thirty rads will not kill a human being by any means, but we do know that a 30-rad dosage, which would be way out on the perimeter, doubles the mutation rate in a human being.

Many doctors have said that that doubling of the mutation rate will mean it stays in the genes for probably at least 10 generations, however they figure that out.

So while we are talking about this, we have to admit, yes, that it will instantly incapacitate and kill, and possibly in a broader radius, but there will not be quite the shock in the broad parameter. Yet there will still be a lot of fallout, and the radiation will still be doubled over the long term.

I think when we call this clean and call it surgical and call it tactical, we have given it a lot of credence.

Mr. Chairman, I also think we have to look at what it is pointed at.

The CHAIRMAN. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. To continue, Mr. Chairman, we are saying that we need this weapon because the Russians have so many tanks. We are saying that if we utilize this weapon in Germany, the Russians will not be so threatening to us.

There are all sorts of reasons for why this is an "advancement" over the other weapons which we now have. I do not think it is. I think it is truly a white line type of thing. I think the President would keep that line very bright.

Mr. Chairman, we are also preparing a weapon that can be used by future Presidents.

When it comes into our arsenal, would we ever use it against a nonnuclear country? We have never discussed that. We do not know the answer to that.

Mr. Chairman, how do the nonnuclear countries which signed the nonnuclear proliferation pact feel about this and about our having it in our arsenal? Will not the Russians immediately want to do this also, and how does that affect the test ban treaty?

All these things need to be considered and considered very, very seriously before we proceed with the development of this weapon.

Therefore, Mr. Chairman, I again commend the gentleman on his amendment and hope the Members will vote for it.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the basic issue with respect to the neutron bomb, whether it is clean, dirty, or whatever, really to me is this: We talk about having it because the Soviet Union has CBR warfare, which I thought we had when I was in the Army. I thought we had it during the recent unpleasantness in other parts of the world.

In any event, we have this weapon to use, and this is a little bit more acceptable than the big bomb, which means that it increases somewhat the possibility, not by that much, maybe just by this much, that we might use it. When we increase the possibility by even this much so that we might get involved in nuclear conflicts, I think it is a bad deal. It is a bad deal.

How do we know how the Soviet Union is going to react to this deterrent, if it is a deterrent, rather than the big deterrent that we have? They are going to follow their own policies and their own doctrines. They have not invaded Western Europe since the peace in 1945.

I do not know whether they are going to start anything now if they have this edge on us where they have this overwhelming mass of tanks and planes and troops. I think we have more troops in America than there are Russian troops in America, just like they have more troops over in Europe than we and NATO have over in Europe.

Why did they not invade when we did not have this neutron bomb which was going to stop them?

Mr. Chairman, I do not think that this is really a deterrent.

Mr. Chairman, I really address this statement to my colleagues on this side of the House who have questions because many of our respected friends support this weapon, saying that we can live with it unless it is used, and that it is not that big when we compare it to other nuclear bombs. It raises the possibility, however slight, that nuclear war can become acceptable. They say that it is not even a bomb—my God—it is only an artillery shell and that that is a little different in and of itself.

Mr. Chairman, that is what we are talking about. If we use one of these artillery shells, what kind of commitment do we have that the other side is either only going to respond with an artillery shell or that they are going to go for the big ones?

Mr. Chairman, that is what is wrong with this bomb. It increases the possibility, ever so slightly, that nuclear war can be acceptable when we use the neutron bomb with smaller collateral effects. We do not use it as a bomb; we use it as a shell. That is what is wrong with the program. It increases that possibility that it can be acceptable or that it might be acceptable. If it is acceptable, then our children and our children's children are not going to have a world to live in.

The reason for that is that once you cross that threshold, bam, it is gone.

In closing I would just like to read from former Secretary of Defense Jim Schlesinger, who has argued that—

> . . . reduction of collateral damage should make it more credible to the Warsaw Pact that the NATO Alliance will use nuclear weapons.

It does not say that we will, but says it makes it a little more credible. So that they had better believe that we might use this. And that is what the gentleman from Alabama (Mr. DICKINSON) has said. That is what our threat is against their CBR warfare, which they have not used.

So I urge the Members to think about the bottom line that it increases the acceptability of nuclear conflict, because it would be limited and it would be in artillery shells.

I know of no individual who really believes that we can have a limited nuclear war and see our society and our children survive and even think of our children having children.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I do not ordinarily involve myself in debates on military subjects, because I really am not particularly knowledgeable in these areas, but this neutron bomb, the idea of it, has given me great cause for alarm. The more I listen and the more I read, the more alarmed I get.

The gentleman from Alabama (Mr. DICKINSON) in his remarks confirmed the fears that I felt when I first learned about this program, because obviously the development of this weapon and the use of it are very similar to gas warfare. The gentleman from Alabama (Mr. DICKINSON) points out that it will be deployed to counter the capability of the Soviet Union in chemical warfare. I guess actually it could be described as a combination. The neutron bomb is sort of a combination of chemical warfare and nuclear weapons. However, there is a catch-22 about it. It is supposed to disable. It is described as disabling people and tanks, fortresses, and so forth, and then it would kill after it disabled, leaving the tanks and buildings intact so that they can be occupied after a few hours by new troops. But the catch-22 is that it neither disables nor kills immediately.

I became interested in the subject early this year in reading in the Manchester Guardian an article by Anthony Tucker, the science correspondent, who described tests that were made in the United States to determine how effective this radition could be.

I will quote from the article. This is a news publication; there is certainly nothing classified about this newspaper. The article said that—

> Scientists watched the dying monkeys—

They were giving monkeys radiation—

> to see for how long military personnel could continue to drive tanks and fire weapons after irradiation at various distances from a low air burst. The idea is that a relatively large area of battlefield would be irradiated with very high energy neutrons whose penetrating power would render tank or blockhouse protection useless.
>
> In the U.S. experiments the monkeys were subjected to highly disciplined training in the driving of simulated vehicles, so that their performance after irradiation and burn damage could be accurately measured.

Then the article points out that depending on how large the dose of neutrons would be, and they use the term "rems" and the rem is a measure of radiation damage, some doses are fatal after a few weeks and sometimes the people irradiated, or the monkeys, function for an hour or so.

So what is going to happen when these neutron bombs or roman candles, or whatever they might be described as, are used and they temporarily or for a few minutes disable the enemy?

Then what is the behavioral pattern going to be? Are we going to get a new response? I cannot see how this could possibly work, and I wish some member of the Committee on Armed Services would explain it to me. It does not disable at once; it does not kill at once; it just disables after awhile; it kills after awhile. It certainly does not instantly disable these tanks and whatever machinery or gun emplacements, or whatever might be there.

Mr. Chairman, any discussion of when, where and for what tactical purpose the neutron bomb would be preferable to traditional weapons is an avoidance of the real issue.

The real issue is:

The efforts of the United States in the world weapons arena should be directed to ending this preoccupation with nuclear arms.

If we are capable of developing ever-increasing ways to exotically kill, then we can also develop technology to render these exotic weapons useless.

I could not agree more with my colleague from New York that the neutron bomb is a departure from the defensive policy of the United States.

The neutron bomb is not as devastating as a full-scale nuclear weapon and there could well be less hesitation in using it. Funding for the neutron bomb is a back-door strategy that can only escalate hostilities.

It is impossible to believe that if anyone uses any nuclear weapons that the enemy would not respond in kind—or worse.

How can there be a guarantee that an adversary targeted with a neutron warhead will not retaliate with a full-scale nuclear attack?

If we are attacked with a neutron bomb, we have more than enough nuclear weapons to kill the enemy several times over. And, of course, so does the enemy.

We should not be deluded into thinking this warhead is more acceptable, because it is not a nuclear weapon.

The neutron bomb is designed to kill primarily with radiation. Ordinary nuclear weapons depend on explosions and burns.

We must not take lightly the dangers inherent in expanding the world's nuclear stockpile.

In the arms race, death can be the only victor.

Even if the neutron bomb were the only weapon anyone could use, brick and mortar would be the only survivors—a grim testament that we would rather have won a futile war than have kept a necessary peace.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Chairman, I would like to compliment the gentleman in the well because I think he points up a very good point that all of us should recognize.

Mr. Chairman, it cannot be overstated that the radiation from the highly concentrated explosive we call the neutron bomb, which can scurry down city streets killing all living things while leaving the buildings intact, smacks of a special kind of science fiction horror that we all abhor. But it is more a matter of hard-headed military calculation than humanitarianism that brings me to oppose the miscalled "clean" bomb. No arguments emanating from any source, based on information presently available, can justify our Nation including the neutron bomb in our arsenal of weapons.

First of all, our defense strategy is based upon our effectiveness in deterring warfare. The neutron bomb has been heralded as such a deterrent, because it is believed that the United States would be more willing to use a smaller, more accurate nuclear weapon and, therefore, our adversaries would be less likely to launch an attack.

There is no evidence to indicate, however, that we would be more prone to employ this type of nuclear weapon. The risk of a full-blown nuclear holocaust is too great. I believe other powers would simply be provoked to develop and add the neutron bomb to their own weapon caches and, thus, add another ingredient to the arms race.

It is argued that we need the more flexible weapon for use in a limited war when it would be inappropriate to use blockbuster nuclear arms. Since, however, we cannot depend upon the enemy to respond in kind with the same limited weapon, this becomes an untenable argument. And why should they? When an enraged populace, the victim of radiation from the neutron bomb, knows it is going to die in a few days or weeks, it is likely to retaliate with more than an eye for an eye and a tooth for a tooth.

It is extremely dangerous to blur the lines between conventional and nuclear warfare. I perceive the neutron bomb as too tempting to use in a conflict where all other factors call for conventional weapons. Such encouragement for escalating the war to a full-scale nuclear free-for-all could be catastrophic.

The upgrading of NATO's conventional forces to match the Warsaw Pact troops and increasing the number of nonnuclear naval ships would be more effective in deterring attack than moving toward the production of an exotic nuclear weapon.

On the recent anniversary of the destruction at Hiroshima, I inserted a statement into the CONGRESSIONAL RECORD asking that Congress not support another Hiroshima-size bomb compressed into a smaller package with a more discriminating capability to kill. We owe our children something better than that. Perhaps a bomb that would destroy buildings and weapons but leave the people? That is facetious, but I judge it to be just as militarily effective.

Mr. EDWARDS of California. I thank the gentleman for his contribution, and I urge an aye vote on the amendment offered by the gentleman from New York.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, I would like to begin by simply commending my distinguished colleague, the gentleman from New York, for having brought this extraordinarily important amendment to the floor of Congress. I wish to point out, not for the purpose of demagoguery or simply for the purpose of dramatizing my point, that there is an insignificant number of Members on the floor of this House to listen to the debate on what I consider to be an extraordinarily important amendment having potentially devastating effects upon the future of this Nation and the future of this world. It is moments like these, Mr. Chairman, when this Member feels extraordinary fear beyond my ability to articulate, not only for myself and my children but for all of us in this room and throughout the world, because it is moments like these, Mr. Chairman, when it is clear to me that the decision is inevitable. This amendment will go down in flaming defeat. In its defeat it seems to me, Mr. Chairman, that we as people are running headlong to meet our destiny to destroy ourselves. It is critically important that those of us who care about human life on the face of this Earth continue to maintain the mind set that nuclear war is unthinkable. But that is not what the neutron bomb does, because if we go forward with this insanity, we make nuclear war thinkable, acceptable, possible, and I would submit to the Members ultimately inevitable. That to me is a great tragedy.

I sat here listening to the debate with my heart palpitating, but I know that it does not matter.

I am frightened to death because I do not choose to die on the basis of the madness that surrounds the thinking that goes into the need to produce this insane weapon.

Some of my colleagues applauded the President of the United States right outside, a few steps from here, who said: "It is my pledge to bring about an end to all nuclear weapons on the face of the Earth." Yet many of those colleagues who applauded that statement now find some weak, ineffective way to justify this continued madness.

A clean bomb? As my colleague from Colorado pointed out, yes, it is cleaner than a rock; it is cleaner than a club; it is cleaner than a blowgun; it is cleaner than a rifle; and it is cleaner than a tank.

Anyone here who indulges in the madness of thinking that we can contain a nuclear war should immediately take a trip to the psychiatrist. There are those on both sides of the aisle who serve with this gentleman who know that there is a considerable body of thought throughout this Government, of persons who have stated unequivocally that once we start down the road toward nuclear war it will result in global strategic nuclear war.

Specifically, many of my colleagues have supported this on the grounds that it would not be used in another Korea or another Vietnam because politically that would be devastating but we can deploy it in Europe I have asked people who are charged with the responsibility of making evaluations: "Suppose a war in Europe started, could we contain it?" The response was that whatever triggered the war in Europe, it would within a relatively short period of time escalate into global strategic nuclear war.

I care about myself; I care about my family; I care about human life on the face of this Earth.

No one on this floor has made an effective argument to continue to use our resources to engage in this madness. I would submit to you, Mr. Chairman, that if any here have any compassion for human life, those who are supporters of the right to life, I would suggest that there are millions of children on the face of this Earth who ought to have a right to live, and by going forward with the principles of this monument to madness we will have killed them, because I repeat: Once one makes nuclear war thinkable and acceptance and possible, it will ultimately become inevitable.

Mr. Chairman, with all the feeling that I have, from no idealogical perspective, but simply the desire to see human life survive and sustain itself on the face of this Earth, I urge my colleagues to vote for this amendment and strike down the madness of this insane weapon.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I want to commend the gentleman from California for his outstanding statement reminding us that we are, after all, telling the world something about our Nation's values, especially the value we place on life, including the lives of civilians, not only soldiers in tanks.

The gentleman appropriately referred to President Carter's inaugural pledge to end all nuclear weapons. I would like to read something to the gentleman and to the people assembled here. Recently a lady from Massachusetts handed me a copy of a letter she received from Major General J. K. Bratton, director of Military Applications for ERDA, dated September 1, 1977. She had written him about the Lance nuclear warhead, and in attempting to justify it he made this statement, citing the President's statement that his goal was to reduce and eventually eliminate all nuclear weapons. This is what the director of Military Applications for ERDA said:

> The President's stated goal is to reduce and eventually eliminate all nuclear weapons. A decision to produce the modified LANCE warhead would only be made to further that goal in that the same military effectiveness can be achieved with fewer weapons of smaller yields and a more modern, safe design.

I am quite sure of one thing—that when President Carter announced his goal of reducing nuclear weapons, he certainly did not have in mind achieving it by the means suggested by General Bratton. I suspect the President would be quite annoyed to see his words used to try to justify a new nuclear weapon. If the ultimate goal of the President, as I hope and believe, is to eliminate nuclear weapons, I fail to see how that goal will be achieved by creating this new category. Indeed, as I shall explain when I am recognized to speak, production of the neutron warhead will far more likely set back and make more difficult his efforts to reach that goal.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I want to pay tribute to my colleague from California who has expressed sentiments that I think are extremely moving and I hope will win support for the Weiss amendment to delete all funds for development and deployment of neutron weapons.

I am perfectly aware that this amendment, even if it were successful, would do little to slow down the overall military machine that spews forth weaponry faster than we can comprehend the consequences of it. It is my considered view, however, that this Congress, were it to

take time to exercise its critical judgment in this matter, the issue of neutron weapons, could well be a turning point in this Nation's choice of priorities—away from the preoccupation with death-serving and unnecessary instruments of war to thoughtful consideration of useful and life-enhancing projects of dignified work and reconstructed communities at home.

The eminent philosopher, Erich Fromm, wrote in a recent book on man's relation to technology:

> The machine man built became so powerful that it developed its own program, which now determines man's own thinking.

I translated this profound insight in the following way:

> We create more and more machines, in this instance military machines, and justify them in the name of national security; but rather than the notion of national security requiring these machines, these terrible machines require a justification, in fact, shape our notion of national security. We are acting on this issue as if we are saying to ourselves, let these new weapons decide for us questions too momentous to decide for ourselves.

As a Member from an urban city, I have to tell you that these weapons will not contribute one iota to the security and well-being of my fellow citizens there. Neutron weapons are no comfort to them. I shudder to think how helpless we have become in relation to the awesome technology we create. In honoring these machines, and that is what we are doing, I believe we are honoring ourselves and the good we could otherwise achieve.

I think if this amendment does not pass, that we will be back on the floor of the Congress in the near future to debate the next revolution in lethal military weapons technology. Both in the United States and the Soviet Union there is work on high energy lasers and charged-particle beam weapons of far greater potential lethality than even the neutron bomb. These bombs may, in fact, be an anachronism before the 95th Congress finally adjourns. The charged-particle beam or directed energy weapons in the R. & D. pipeline will be designed to incinerate whole cites efficiently and at extremely low cost. One day Members of Congress and this Nation will wake up to read in the papers that the whole strategic weapons balance has been completely thrown out of kilter by a new generation of unbelievably deadly weapons. Following that, we in Congress will be asked for a massive investment in charged-particle beam technology and satellite delivery systems.

In the name of all we stand to be reasonable, today is the time for us to stop the neutron bomb before we escalate these exotic weapons into uncontrollably new realms of destruction.

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, it is, I suppose, uncharacteristic of me to rise in support of a weapon. In talking to my friends whom I have joined with on so many issues, I find it extremely difficult, because my heart is with them in their opposition to nuclear war and armaments, and the futility of this whole military madness of this particular time in our history. I would like in particular to associate myself with the remarks of the preceding speaker, my colleague from Michigan (Mr. CONYERS). I think, of all the arguments in favor of the Weiss amendment that I have heard, his is really the most persuasive and most logical. But I must disagree, and I must give the Members a slightly different interpretation.

I must tell my colleagues that I think that they are misinformed. That is excusable, because a lot of the information about the neutron bomb that has been available has only been available through the newspapers. I can tell the Members, as a member of the Military Application of Nuclear Energy Subcommittee, one who has studied this with a great deal of care, with a great deal of thought, and has decided with a great real of trauma that this is a morally preferable weapon than those that we already have and which it will replace, that the newspaper accounts of this weapon and what it will do have not been accurate. They have been misleading interpretations of what the neutron weapons are all about.

Furthermore, I think my colleagues who are supporting Mr. WEISS have not seriously thought through what they are saying. The crux of the issue, as I take it from the speakers, is that the neutron weapon is somehow or other going to lower the nuclear threshold. Think about it for a second. Nuclear is nuclear. We cannot lower the nuclear threshold by changing the effects of any nuclear weapon; it is still a nuclear weapon. A nuclear weapon is still a nuclear weapon; its effects do not change the characteristic of the nuclear threshold.

If we are going to change the characteristic of the nuclear threshold, we work on nonnuclear alternatives. Nonnuclear is where we change the nuclear threshold. It is not with nuclear.

Let me take it one step further and point out the absurdity of the philosophy behind the Weiss amendment. If the crux of the Weiss amendment is that the lower the yield, the lower the blast, the cleaner the weapon—I do not use that term, because I agree with my colleague from Colorado in thinking that those are insane kinds of terms—but if those kinds of characteristics of a nuclear weapon lower the threshold, then one may say that those who are supporting the Weiss amendment are cast into the unlikely position—think it through—that if one's purpose is to raise the nuclear threshold, one will be on this floor fighting for weapons of higher megatonnage, more heat, more blast, more radiation.

Do the Members not see the weapons effects, however, altered, have nothing to do with the nuclear threshold; nothing to do with the nuclear threshold? They make it not less likely.

Furthermore, I think the people who are supporting the Weiss amendment have not thought through the fact that the neutron weapons must be considered in relation to existing tactical nuclear weapons. This is not a new layer of weapons which are going to be laid on the nuclear arsenal.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. These are weapons which will replace other weapons, other nuclear weapons which have higher blast, higher heat, higher collateral damage; which are less secure from terrorism, an element of the enhanced radiation weapon that has received too little attention. Believe me, I am far more concerned about nuclear terrorism than I am that the Soviet Union is going to roll over Western Europe.

These nuclear-enhanced radiation weapons will replace weapons which are already in the arsenal and will result in a step back from the awful, horrible, insane kinds of things that I have been hearing out of the mouths of people who I think are misguided in the support of the Weiss amendment.

It seems to me that as a civilized society we have always preferred weapons—to the extent that we have to prefer weapons—in that we have taken the choice between the lesser of two evils. We say we do not want weapons of high collateral damage. That is one of the main reasons we have been against chemical and biological warfare and dum-dum bullets. Now my liberal colleagues are in a position of favoring weapons, voting for high collateral damage weapons, if you will, by voting for the Weiss amendment. I simply do not understand it.

It was an agonizing decision for me. I studied it carefully, not out of the press, but out of the classified reports; and I came to the decision that the Weiss amendment, simply speaking, is morally wrong.

Mr. Chairman, I ask for the defeat of the amendment.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Let us see if we can agree on a definition. When we use the term "lowering the threshold," does the gentleman agree with me that that means that there is more of a likelihood that nuclear weapons will be used?

Mr. CARR. Exactly.

Mr. WEISS. Will the gentleman agree also that Mr. Schlesinger, among others, has said that one of the strengths of the neutron bomb, the neutron weapon, as a deterrent is that it is more credible that we would use such a weapon? Would the gentleman agree that Mr. Schlesinger made that statement?

Mr. CARR. I would accept the gentleman's statement.

Mr. WEISS. All right. Will the gentleman agree that if it is more credible we would be using the weapon, that in fact we would be lowering the threshold of the likelihood it would be used? Is that what we are saying?

Mr. CARR. I do not agree with Dr. Schlesinger, I have not agreed with him very often, and I do not agree in this instance. I think Dr. Schlesinger is wrong. I am not sure this is a more credible weapon. I do not support it for that reason.

Mr. WEISS. If the gentleman will yield further, I am really trying to get an agreement on the use of English before we get into a technical argument. If in fact the argument has been that it is more credible that we would believe we would use it, then that means lowering the threshold, does it not?

Mr. CARR. I do not accept the gentleman's premise. I do not believe it is a more credible weapon.

Mr. WEISS. Why have they said it is a marvelous, clean weapon? Why does the gentleman agonize over the decision as to whether or not he should come out for or against the amendment?

Mr. CARR. I think deterrent in this respect, credibility in this respect, is irrelevant. I would say to the gentleman from New York there are more serious reasons for opposing this amendment.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(By unanimous consent, Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. CARR. Mr. Chairman, I would say to the gentleman that there are a variety of reasons for supporting this amendment. Mayoe Dr. Schlesinger believes it is more credible. I do not happen to think so.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield to me?

Mr. CARR. I yield to my colleague, the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I have three points. First of all, I say to my colleague that there are Members on this floor who are informed as to the issue of nuclear weapons. I think it is an insult to the Members of Congress to say we are not informed. Every Member here on the floor of Congress is aware of the neutron bomb, and I would suggest to the gentleman we are informed. Whether the Members on the floor understand all the technical jargon that appears in documents, they do understand the idea of being blown off the face of the Earth, and I think they understand what these weapons are all about.

The second comment I wish to make is this: The gentleman argued that there is some moral defense for this bomb. I would ask for whatever time the gentleman needs if he is able to tell me what moral defense there can be for the production of a nuclear weapon whose sole purpose is to blow human beings off the face of the Earth. Where is the morality in that?

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. Mr. Chairman, if I may answer the gentleman, I would agree with the gentleman from California (Mr. DELLUMS) that if the menu that was to be served up to us today were that we are going to begin the production of the first nuclear weapon, we would probably be in agreement. On this point, I have associated myself with the remarks of my distinguished colleague, the gentleman from Detroit, Mich., Mr. CONYERS.

The problem that faces people like you and me is that we do not have the best of all possible worlds from which to choose. What do we have on the floor of the House? What do we have in Congress today? What is on the menu today?

If the gentleman wants to take the neutron weapon as a symbol and vote on the neutron weapon as a symbol of his endorsement or rejection of nuclear madness, that is up to him. I am merely telling the gentleman that the menu that has been served up today is whether this House is going to vote to continue the high-blast, high-yield, high-thermal radius weapons, the weapons that would have just as deadly a radiation as the weapons we now have or whether we are going to allow the President to choose.

This is an important thing. The President has not decided to produce these things. The issue is whether we are going to allow the President the option of choosing a less destructive weapon. That is the choice before us today unless Members for their own purposes choose to cast their votes in a more symbolic fashion. I choose not to do that.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield to me for one last time?

Mr. CARR. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I appreciate the last statement the gentleman made because it is more eloquent than any statement any other Member has made in stating the case. But underneath this entire debate the bottom line is that when we state that we must give the President a more acceptable option, what we are saying is that we have moved to the point where we make nuclear war thinkable.

That is the only point this gentleman is trying to make. Once we move from the unthinkable to the thinkable, then I would fear that it is inevitable.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(By unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. Mr. Chairman, I would just say to the gentleman from California (Mr. DELLUMS) that I do not believe that the neutron bomb or the idea of a radiation war makes war more thinkable. In fact, I would tell all my colleagues that I do not believe in limited nuclear war, but I see something morally deficient in those who have the arrogance to say that they are never wrong.

I might be wrong, but I do not believe that we will have a limited nuclear war. I might be wrong, it might be possible. I am not going to self-fulfill my prophecy. I think it would be morally wrong, too, to self-fulfill my prophecy that there would be an escalating holocaust by denying a weapon which might provide a second firebreak. I do not think that would happen, but it might.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman is 100 percent correct. He takes a very, very difficult position as he stands in the well and defends this weapon. Nobody likes to defend weapons, nobody would like to see them built, and if they did not have to be built, that would be fortunate in the case of some of them.

But what I would like to have the gentleman do, as he has done to some extent, is to refocus the discussion of this weapon. We are not talking about strategic nuclear war. That is not in issue. We are talking about the replacement of a tactical weapon with another tactical weapon.

Let us confine ourselves to that discussion, and then I think we will be able to get at the point.

Will the gentleman tell us what advantages there are with the neutron bomb, if there could ever be an advantage in killing people? I submit right away there are never advantages in war or killing people, but if we had to use this weapon in Europe, if it ever came down to that, are there any advantages with the neutron bomb over the KT–2 weapon that we have in existence, with the existing warhead?

Mr. Chairman, I would appreciate the gentleman's answer so our colleagues will be further illuminated about that.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(On request of Mr. DOWNEY and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. I think the gentleman knows, obviously, that this weapon is not suited for offensive warfare. True, if one is in a bow-and-arrow society and is running out of arrows, he might throw the bow. If he is running out of spears, a well-aimed shield might do some damage.

I am not willing to quibble about defensive-offensive; but the fact of the matter is that the neutron weapon is not well suited for offensive nuclear tactical use.

The other thing is that it is quite possible, as I think, that there is one scenario among nuclear strategic thinkers that has some credibility.

Again, I restate that I do not believe in limited nuclear war. I do not think it could happen, but there is one credible scenario advanced by Dr. Edward Teller that a well-announced intention to use nuclear weapons on friendly soil against hostile troops might, just might, provide a second firebreak.

I think, for all my conscientious colleagues who are against nuclear war and

nuclear conflict, if there was ever a possibility that we could have a second nuclear firebreak, even though we do not believe it would ever be used, if there was ever a possibility of a second nuclear firebreak, we think we would want to have that in there as a safety valve, and the neutron weapons might do it.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Ms. HOLTZMAN and by unanimous consent, Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. CARR. Mr. Chairman, I want to say that I have not had so many of my liberal friends talk to me all at once in a long time.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I hope the gentleman from Michigan (Mr. CARR) cherishes a moment that might not be repeated.

I would say to the gentleman that I have heard nothing but contradiction after contradiction, the last one being in some ways the most extraordinary.

In answer, I believe, to the gentleman from California, the gentleman from Michigan said that the moral argument in favor of this weapon was that it gave the President the option of using a less destructive weapon. On the other hand, the gentleman has stated at least twice that he does not believe in the possibility of limited nuclear warfare.

Mr. Chairman, I simply do not understand the gentleman's reasoning.

Mr. CARR. Mr. Chairman, let me clear my words up for the benefit of the gentlewoman from New York.

I meant to say that the President would have the option of putting a less destructive weapon in the inventory. I think the record will so indicate, and if it does not so indicate, I would be glad to correct it. I think my remarks do not in any way indicate that these are more likely to be used. They are not more likely to be used.

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield further, are they less destructive weapons?

Mr. CARR. They are less destructive weapons.

Ms. HOLTZMAN. Even if they might lead to total warfare, they are less destructive?

Mr. CARR. They are less destructive.

Ms. HOLTZMAN. I appreciate that clarification. I thank the gentleman.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I would like to ask the gentleman to explain further, for my enlightenment, the statement he made because I do not understand how he can justify it.

The gentleman indicated that the neutron bomb would be a defensive weapon, whereas a conventional nuclear bomb would be an offensive weapon, but I did not understand why the gentleman would make that distinction.

Would the gentleman tell us why?

Mr. CARR. The reason for that distinction is that the neutron weapon is suited only as an antipersonnel weapon.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(By unanimous consent, Mr. CARR was allowed to proceed for an additional one-half minute.)

Mr. CARR. To continue, Mr. Chairman, a conventional nuclear weapon destroys by heated blast. If a country is going to go on the offensive, it is going to want to tear up bridges, railroads, and supply lines and a lot of physical assets, which the neutron weapon cannot do.

Mr. BEDELL. I should think it would be the other way around. A country would want the bridges saved in order to have its troops advance.

Mr. RONCALIO. Mr. Chairman, I move to strike the requisite number of words.

I take the floor only to state to my colleagues first my commendation for my friend, the gentleman from Michigan (Mr. CARR) on his presentation.

Second, if I thought the caliber of debate on the floor of this beloved body could be at the level I just heard, I could reconsider my retirement next year.

Again, I commend the gentleman.

Mr. DINGELL. Mr. Chairman, the Nation's energy problem is so serious that we cannot afford to neglect any viable approach to the development of new energy sources.

We will be derelict in our duty if we fail to take any legislative action open to us that will move forward the R. & D. work on any project that has the potential of significant and substantial contribution to solution of the energy problem.

It is clear to us now that laser fusion offers one such opportunity. Up to now, the civil energy work has been under the direction of the weapons complex of AEC and ERDA, an organizational assignment which unavoidably makes civil energy laser fusion a secondary effort.

The Committee on Science and Technology has given this program proper status as a civil energy measure in the legislative process. It remains under military management, however, in the executive.

I want to congratulate the able chairmen of both the committee, Mr. TEAGUE, and of the subcommittee, Mr. FLOWERS, for the constructive handling of the civil energy laser fusion issue. Two specific steps have been taken:

First is the addition of $9.2 million added by the Science and Technology Committee to further the work of the industrially initiated ongoing civil energy laser fusion program. Second is the requirement that the funds requested for civil energy laser fusion be separated from those requested for military purposes in the next budget cycle.

This will enable the Congress to deal promptly and constructively in the next session with the question of establishing a civil energy laser fusion program with its own funding and clearly defined goals. When this program is lodged in the civil energy side of the Department of Energy, it will receive the backing and priority it deserves.

The reason civilian applications of laser fusion have been delayed is that under ERDA's leadership the program has been geared so heavily toward military applications. We can no longer treat the civil energy work as a secondary effort.

The most serious drawback to the military domination of the laser fusion work has been the denial of opportunity for true industrial participation. There is no incentive for industry to get into the field. As a matter of fact, secrecy requirements have clearly discouraged any inflow to the government of new and different ideas.

With all due respect to the great Government laboratories where most of the Government's laser fusion funds have been spent, I strongly believe that Government funding of private industry is the best way to insure expeditious development of civilian energy applications.

As long as military applications of laser fusion take precedence over civil energy objectives within the Government laboratories, we can have no assurance that this program will be pushed for civil energy purposes.

Laser fusion is now too important as a potential new energy source to permit it to be treated as a stepchild in the weapons house. It should be managed with far greater attention from topside, greater investment of funds, clearly defined long-range planning, and incentives which will draw talent and new ideas from university and industrial laboratories. It is time for industry to start up the learning curve which is the only path to commercialization.

Mr. CHARLES H. WILSON of California. Mr. Chairman, as the gentleman from Wyoming (Mr. RONCALIO) said, this has been a very worthwhile debate that we have had.

It is not my intention to try and limit time, I have no intention of doing that. It was the hope that we could finish this one amendment this evening. The leadership would like to have the House adjourn at 7:30 at the latest. I am wondering if there is any chance of completing this by 7:15 this evening? If not, then I would be constrained to move that the Committee do now rise.

Mr. Chairman, in view of the number of Members standing, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BRADEMAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6566) to authorize appropriations for the use of the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, and for other purposes, had come to no resolution thereon.

COMMUNICATION FROM CHAIRMAN OF COMMISSION ON ADMINISTRATIVE REVIEW

The SPEAKER laid before the House the following communication from the Chairman of the Commission on Administrative Review; which was read and ordered printed:

COMMISSION ON ADMINISTRATIVE REVIEW,
Washington, D.C., September 22, 1977.

Hon. THOMAS P. O'NEILL,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Commission on Administrative Review, established by House Resolution 1368 and incorporated into law by Public Law 94–440, submits the enclosed report and recommendations on the reorganization of the administrative system of the House and the improvement of day-to-day operations in legislative offices.

The Commission strongly believes that the recommendations it now submits will serve both to modernize the structure of the House's administrative system and to enable Members to make more effective use of their time and resources.

Sincerely,

DAVID R. OBEY,
Chairman.

FURTHER LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I have taken this time to ask if the Speaker, or the leadership, could inform the House what the program for tomorrow will be, or has that not yet been decided?

The SPEAKER. The Chair will state that the first order of business tomorrow will be to continue with the bill we were considering this evening. We would follow that with H.R. 9019, budget authority rescission, after which we will take up H.R. 7010, compensation for victims of crime. That would be followed by H.R. 3816, FTC Amendments of 1977.

Mr. BAUMAN. I thank the Speaker.

A COMPREHENSIVE WATER PROGRAM FOR THE NATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, today I am introducing a package of six bills, all dealing in various ways with the serious water problem facing this country.

The titles of the bills are: The Water Conservation Amendments of 1977; the Public Buildings Water Conservation Act; the Water Supply Act; the Water Efficiency Labeling Act; the Consumer Product Water Efficiency Act; and the Water Conservation in Homes Act.

These bills were, of course, prompted by the severe drought that is plaguing so much of this Nation. Two facts in particular stand out with respect to the drought. The first is that the Federal Government seems to have absolutely no plan or method for dealing with drought, either in advance or while it is in effect. Besides the overwieldy bureaucracy that handles our water resources, there is no single person or purpose behind Federal drought assistance. Certainly, little thought is given to contingency planning. Moreover, the Federal Government, itself a substantial consumer of water, does not make any effort to set an example for the Nation by modifying its consumption and installing watersaving devices, even though it recommends this course for others. In many respects, the Federal Government actually encourages water consumption by handing out billions of dollars for construction relating to water with no effort to bring the growth in consumption under control.

The second fact that strikes me is that the average consumer or homeowner, faced with rising water bills and mandatory conservation measures, gets little help from anyone. Information on the water consumption of basic home appliances such as dishwashers and washing machines is hard to find, out of date, or unreliable. The very high level of water consumption of many of these products leaves him little real choice, even if he does finally find information on the products. This same homeowner, if he chooses to take some meaningful action by having his home retrofitted or built with water conservation equipment such as grey-water filters or home recycling devices, receives no encouragement from the Federal Government in this endeavor. Indeed, he may have a great deal of difficulty in getting financing for the purchase and installation of such equipment, as it is not now recognized by the Federal Government as representing a real improvement upon the value of a home.

This scenario is not an unfamiliar one. To some extent, it is mirrored in all our natural resources. Most recently, we have attempted to reverse this situation with regard to our precious energy resources. We have established a Department of Energy to bring order out of the present Federal chaos, we have set down some mandatory energy conservation requirements for cars and other products, we have given various incentives for the use of innovative energy systems such as solar and wind power.

These actions should serve as a useful model for dealing with other resources and in particular, water. To build on that concept, I introduced the Federal Water Authorities Reorganization Act earlier this year. That bill provides for the formulation of a national water policy to guide all Federal activities in the area of water management. To oversee the implementation of that policy by the more than 30 separate Federal agencies that handle water resources, the bill creates an Office of Water Management within the executive branch serving as a management arm of the President and eliminates unnecessary bureaucracy. To avoid the confrontation we witnessed this spring between the President and the Congress over water project construction and to insure that needed projects are built without undue delay, the bill creates an independent Water Project Review Board to review proposed projects and pass recommendations on construction along to the President and the Congress. It is my belief that independent, expert review would benefit both branches and avoid the distrust that has characterized debate on water projects.

I might note that the cost of running these offices would be more than covered by the savings that would result from the abolition of two Federal water management bureaus, as proposed in the bill.

Reorganization of Federal water policies and management lays the essential groundwork for other actions and programs, as proposed in the bills I am introducing today. A short summary of the provisions of those bills follows:

1. THE WATER CONSERVATION AMENDMENTS OF 1977

The bill amends the Federal Water Pollution Control Act (Public Law 92–500) to build in water conservation incentives. Reduction of unnecessary water consumption is one of the ways of reducing the total flow of sewage, so the bill directs EPA to examine possibilities for water consumption reduction in all areas for which Federal sewage treatment funds are available. Further, the bill ties required Federal sewage treatment plant construction funds to reductions by localities in their water consumption levels, while providing a range of Federal assistance to communities to help them achieve this reduction.

2. THE PUBLIC BUILDINGS WATER CONSERVATION ACT

The bill amends the Public Buildings Act of 1959 for two basic purposes. The first is to revise Federal building codes to insure that all new Federal buildings meet stiff water conservation criteria. The second is to provide for the retrofit of existing Federal buildings with water-efficient equipment. The second goal is to be met by retrofitting at least 500 Federal buildings a year, in the normal course of repair of those buildings. This bill will not only set an example for those in the private sector, but it will provide a much-needed stimulus to the manufacture of water-efficient goods.

3. THE WATER SUPPLY ACT OF 1977

This bill addresses the present and critical lack of planning for the assurance of adequate water supplies. It directs the Administrator of General Services to survey existing federally owned or controlled water storage facilities to determine whether there is any unused capacity that could be converted to municipal use. It asks the Chief of Engineers of the Army Corps to report on the potential for the creation of new water storage facilities, so that the Congress may make appropriations for such purpose. Perhaps most importantly, it directs the Secretary of the Interior to determine future water consumption levels within the United States and come up with a comprehensive plan within one year for meeting such needs, for consideration by the Congress. Development of a substantive program such as this could greatly alleviate the effects of future droughts.

4. THE WATER EFFICIENCY LABELING ACT

The bill provides for mandatory labeling of water-consuming home appliances

as to their water efficiency. The label would contain information on the actual amount of water consumed by the product and the minimum level of water at which such product could be efficiently run. This will enable consumers to evaluate the efficiency of individual products and to compare efficiency of various types of products.

5. THE CONSUMER PRODUCT WATER EFFICIENCY ACT

Based on essentially the same concept as the Water Efficiency Labeling Act, this bill mandates increased water efficiency levels for consumer products, based on a stepped approach over 5 years.

6. THE WATER CONSERVATION IN HOMES ACT

The bill amends the National Housing Act (Public Law 73-479) to provide Federal loan guarantees for the financing of water conservation equipment for homes, including grey-water filters, hot water recirculation systems, fiberglass water pipe insulation, and residential recycling systems. This builds on the present law, which provides such loan guarantees for the installation of fire safety equipment, energy conserving improvements and solar energy systems.

As is the case with energy, there are no easy answers to drought and there is no way to actually increase our supplies directly. What we can do is manage what we have in a more thoughtful, careful manner, recognizing that the days of unlimited supply and reckless use are gone. The bills I am introducing today, along with H.R. 8060, the Federal Water Authorities Reorganization Act, are a first step toward reaching that goal.

Half the bills address the Federal role in our water resources, half provide assistance to the consumer and homeowner. That is more than just a coincidence. Our experiences in many diverse fields have shown that while the role of the Federal Government cannot be ignored in solving many of the problems we face, it is also not enough to expect the Government to solve everything for us; private individuals must be a part of the solution. In the area of water, it has been individuals who have taken the lead in coping with the drought; government has done very little. While there are some who would say that is an ideal situation, I think we cannot afford to forgo the resources and role of the Government in preparing for and dealing with water problems in this Nation.

I urge my colleagues to look very seriously at the tragic drought that is afflicting so much of the Nation and to consider these bills as the starting point of action to avoid a similar situation in the future and to alleviate the effects of the present water shortages as much as we can. We have taken some bold steps recently to protect and manage our energy supplies. Now we must do the same with our scarce water resources.

TITLES OF THE WATER BILLS

1. The Federal Water Authorities Reorganization Act of 1977.
2. The Water Conservation Amendments of 1977 (to PL 92-500).
3. The Public Buildings Water Conservation Act of 1977.
4. The Water Supply Act of 1977.
5. The Water Efficiency Labeling Act of 1977.
6. The Consumer Product Water Efficiency Act of 1977.
7. The Water Conservation in Homes Act of 1977.

VETERANS' BENEFITS FOR WOMEN AIRFORCE SERVICE PILOTS (WASP)

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. HECKLER. Mr. Speaker, I would like to call to the attention of the House the recent editor's report by William Randolph Hearst, Jr., one of the most outspoken and respected journalist of our time, which appeared earlier this week on the front pages of scores of newspapers across the country.

As editor-in-chief of the Hearst newspapers, Mr. Hearst heads a vast and trusted newspaper enterprise whose history is deeply rooted in the history of our Nation.

Mr. Hearst calls upon Americans everywhere to urge Congress to approve full veterans' benefits for the World War II Women's Airforce Service Pilots, universally known as the WASP's.

I would like to publish this excellent article in the RECORD in its entirety. Additionally, I would like to quote one brief passage which eloquently summarizes the WASP cause:

These courageous ladies piloted fighter craft and bombers to all parts of the world. Their role was to relieve male pilots for combat duty because there was a pressing shortage of combat-ready pilots in the war's early days, and they—the women—performed their jobs with courage, dispatch and efficiency. So dedicated were they that 38 of them lost their lives.

Mr. Speaker, as a member of the Committee on Veterans' Affairs and as the sponsor of H.R. 5087—a bill which would grant veterans' benefits to the WASP's—I commend Mr. Hearst for his support of these deserving women.

In addition to Mr. Hearst, the number of distinguished Americans supporting the WASP cause is large and impressive. In the interest of brevity, I shall name but a few.

The distinguished Senator from Arizona, BARRY GOLDWATER, who is a general in the Air Force Reserve and possesses a most distinguished war record, flew with the WASP's and knows first-hand their valuable contribution toward winning the peace. Senator GOLDWATER has testified before the Veterans' Committees of both the House and the other body that the only reason the WASP's have been denied their rightful status as veterans is that they were discriminated against on the sole basis of sex.

Still another champion of the WASP effort is Col. Bruce Arnold, the son of Gen. "Hap" Arnold, who commanded the Army Air Forces during the war and founded the WASP unit. Gen. "Hap" Arnold organized the WASP's with the fullest intention that they be militarized and be made an integral part of the Army Air Corps. Despite the fact that their promised militarization was prevented, the WASP's were, for all intents and purposes, a part of the Air Corps. In fact, the WASP's have been endorsed by and admitted to membership in the exclusive and select Combat Pilots Association of World War II—this distinct honor and privilege further testifies to the validity of the WASP cause.

Mr. Speaker, I hope that each Member of the House will take the opportunity to read Mr. Hearst's perceptive and persuasive column. On its merits alone, the WASP cause is convincing and compelling. I strongly urge enactment of this legislation.

Mr. Speaker, the article to which I referred is as follows:

TO RIGHT 33-YEAR-OLD WRONG

(By William Randolph Hearst, Jr.)

NEW YORK.—Earlier this month a class of 10 women graduated from Air Force Pilot School at Williams Air Force Base, Phoenix, Ariz. They were hailed as the first women to fly military aircraft for the U.S. Air Force.

These young women richly deserve the congratulations of their country, the plaudits of their military superiors and their role in history as the first "commissioned women pilots."

The truth is, these recent graduates are not the first women to pilot military aircraft for the Air Force. Back when the Air Force was called the U.S. Army Air Corps there were 1,074 women pilots who flew every kind of military aircraft then in existence It was wartime, and the young women belonged to a unit formed by General Hap Arnold called Women Airforce Service Pilots—WASP.

These courageous ladies piloted fighter craft and bombers to all parts of the world. Their role was to relieve male pilots for combat duty because there was a pressing shortage of combat-ready pilots in the war's early days, and they—the women—performed their jobs with courage, dispatch and efficiency. So dedicated were they that 38 of them lost their lives.

WASP was activated in September, 1942, and disbanded in December, 1944, when there were enough male pilots and the women were no longer needed. They were simply discharged—decommissioned, so to speak, without ever having been commissioned as officers.

Now the ladies of WASP, no longer young, wonder why they have never been given customary veterans' benefits and they are asking for them. There are 850 of them still living, according to Col. Bruce Arnold, son of Hap Arnold.

The women of WASP believe they are entitled to the basics—hospitalization when needed in veterans facilities, G.I. insurance rights, time served with WASP in the Army Air Corps should be added to civil service time served subsequently as civilians to count toward their pension programs. Last, but not the least important to many, the right to burial in a military cemetery.

A bill introduced in both houses of congress to give veteran benefits to the WASPS has met with unexpected resistance, mostly from bureaucrats and from the Veterans Administration which adheres to the attitude: "We'd be opening a can of worms."

A Senate committee held a hearing on the bill last May but did not put it to a vote. A House committee will hear witnesses on Tuesday and Wednesday of this week and there appears to be strong opposition building up, mostly as the result of lobbying by the government's own agencies. Chairman of the committee is Rep. Ray Roberts, D., Texas.

Washington correspondent Marianne Means of The Hearst Newspapers has reported that President Carter is opposed to the bill and that Mrs. Carter shares his opposition.

The total cost to the republic to provide full veteran rights to the brave women who served their country so well more than a quarter of a century ago would be a measly $100,000 per year for as long as the 850 survivors remain in our midst. Not a hundred million, nor even one million, but 100 thousand.

To resist this on grounds of its cost is nothing short of incredible for an administration that is requesting $10.6 billion for the first year's budget for its new Department of Energy. But more on that in another column.

We should regard the role of WASP as the rich heritage of the 10 female officers who graduated from the Air Force Pilot School this month—and we should honor the WASPs accordingly. It is simply not proper to deprive them of the military benefits that were bestowed by a grateful populace on all other military personnel.

The members of WASP came forward at a time when they were desperately needed. The idea of equal rights for women simply did not exist then. The problem was simple: There were too few men pilots: the women were eager to help win the war; and in those dark days of 1942 and 1943, the government was grateful to get all the help it could.

Right from the beginning, members of WASP were given to understand if they proved capable they would be made an official part of the Army Air Corps.

Due to congressional red tape, the entire plan went astray.

It did not take long to demonstrate that WASP was valuable to the war effort, but it was not until the summer of 1944 that Congress voted against the bill designed to make WASP part of the Air Corps.

By then, though, there was no longer a shortage of male pilots, and the time had come to get the women back to the kitchens where, in the chauvinist view of the day, they belonged.

Bitterly disappointed at not being allowed to remain in service until victory was assured, the WASPS went their own ways.

Because these were, for the most part, highly motivated young ladies, they did as well in civilian life as they did in the Air Corps—they did not raise the question of veteran benefits until quite recently. They didn't need help, so they didn't ask for it.

The basic objection of the Veterans Administration is that the granting of veterans' status to WASPS would set a precedent and there would then be no way to deny veterans status to the many groups that worked as auxiliaries to the Armed Forces. The Civil Air Patrol is named as one such group.

I contend, however, that they cannot be equated. The CAP, also founded by Hap Arnold, was composed of civilians who flew planes on their days off to search for submarines off the continental shores. It was as social as it was military.

Are we to forget these ladies of WASP, now all middle aged, who gave so much and asked for so little recognition? How ungrateful can a nation become?

Write your senator, write your congressman, write me (c/o The Times-Union).

THE FUTURE FOR UNIVERSAL TELEPHONE SERVICE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, one of the most complex issues the Congress faces is the future of the Nation's telecommunications industry. Specifically, the Congress must decide whether the universal telephone concept embodied in the 1934 Communications Act remains valid and whether competition in the interstate transmission market is desirable.

In its August 11, 1977 issue, the Times Recorder in Zanesville, Ohio, carried an editorial describing the basic issues involved.

LISTEN, CONGRESS

The service that enables Zanesvillians to call their doctor, fire and police departments, or friends and relatives, is in danger of being priced beyond the reach of many Americans on fixed incomes.

Why? Because the telephone industry's traditional, proven pricing method is in jeopardy due to federal regulatory policies.

The issue involves two types of so-called "competition" for telephone service—both being fostered by the Federal Communications Commission. One type permits the public to own its own telephones and related equipment and to connect them to the nation's communications network. The other permits non-telephone companies to provide private line long-distance services, primarily for big businesses.

In 1963, the Federal Communications Commission authorized entry of new companies into the telecommunications field. These "specialized" common carriers offer long distance service on known high-usage, low-maintenance cost routes. Slowly, but surely, they are draining revenues needed to help pay that portion of the costs of providing home telephone service not charged in the basic rate.

The price paid now for home phone service is said to not cover the full cost of that service. Ohio Bell says about 55 cents of an average interstate long distance call goes to help pay the additional costs involved. And a portion of the rates charged for business telephone equipment and optional residential services also contributes toward keeping a telephone affordable for nearly every household in the country.

In other words, some telephone company services are more profitable than others. Higher profit on some services allows the telephone company to offer less-profitable services at lower costs than they would if such services had to pay their own way. And often these low-profit services are the ones so vital to private citizens including senior citizens and others on fixed incomes.

Independent equipment suppliers also are offering services that attract large business customers away from telephone company-provided equipment. This money, too, is being lost to residential telephone customers.

The effect of this "skimming," if it becomes widespread, surely will be borne by home telephone users.

AT&T Board Chairman John deButts has said if residential telephone service must become entirely self-supporting, rates may go up as much as 79 per cent. And the increase does not include rises necessitated by inflation.

Competition is good and usually beneficial to the consumers. But it appears unfair and not of benefit to users if competitors are allowed to vie only in selling the high-profit services without having to also be handicapped by some of the less profitable operations.

It would be like a fist-fight with one of the fighters having a hand tied behind him.

If a competitive firm skims off the cream it will be difficult or impossible for the telephone companies to provide less profitable services at prices the public can afford.

The Consumer Communications Reform Act, now being debated in Congress, seeks to keep residential phone rates affordable for all. It would reaffirm the national policy of the telephone industry—universal service—a telephone in every home.

The Act also would restrict federal regulators from undermining price-setting methods agreed upon by Congress in 1934, which have produced the best, most reliable, and reasonably priced telephone service in the world.

One of the basic and important issues is that any change in national policy on telephone service should be made by Congress—by elected representatives answerable to the voters—rather than by bureaucrats of the FCC who apparently answer to no one.

There is already too much government by non-elected agencies with rules, guidelines, regulations and so forth instead of by elected representatives who must respect the ballot box.

All utilities are under constant criticism for making a profit. But all business must make a profit if it is to long endure. And with this profit it is able to continue needed services, produce necessary goods and meet public demands.

Rising utility bills of all kinds in recent years have naturally made everyone edgy about anything that would push them higher. But federal regulations have had an impact on all of the utilities in some instances resulting in higher rates and fees.

This is one reason the Consumer Communications Reform Act is sought to block developments that would result in still higher telephone bills, particularly for the residential user.

However, as the debate continues, the voice of the residential telephone user is being drowned out before congressional committees by vocal opponents of the universal service concept.

One of the most effective ways to counteract being shouted down on this issue is to write elected representatives in Congress and let them know voter feelings on this issue.

Being one of the silent majority on this matter won't help keep a telephone in our homes in Zanesville.

CONVEYANCE OF CERTAIN HOMESITES WITHIN THE CHUGACH AND TONGASS NATIONAL FORESTS

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 10 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a bill that would convey certain homesites within the Chugach and Tongass National Forests in Alaska.

After these forests were established in 1907, little land remained available around the population centers in southeast Alaska that the public could use for settlement and development. Recognizing this, the Bureau of Land Management and the Forest Service agreed to provide certain lands for homesites within these forests under the provisions of the existing land laws. Under this agreement, the Forest Service would provide special land use permits to individuals who wanted to establish homesites on these national forest lands. If the individual met the 3-year residency period as required by law, and if it were felt that the homesite was more desirable as

a residence tract than as national forest land, the Forest Service would recommend to the Bureau of Land Management that the homesite should be eliminated from the forest. The Bureau of Land Management would then reclassify the land as public domain and convey the land patent to the homesite resident. Hundreds of homesites were created through this patent system.

When the Alaska Statehood Act was passed and the State of Alaska was created, enough land became available for public usage to lessen the need to reclassify national forest land. The Forest Service therefore stopped issuing permits for residential land use within national forest lands. However, not all of the homesites recommended for elimination from national forest lands had received patents from the Bureau of Land Management when the National Forest Management Act of 1976 was signed into law. Section 9 of the act stated that—

> No land now or hereafter reserved or withdrawn from public domain as national forests . . . shall be returned to the public domain except by an act of Congress.

The result was that those individuals whose patents were in the process of being granted by the Bureau of Land Management could no longer receive those patents through the administrative process. It became apparent that the only method through which the homesites could be conveyed was through special legislation.

This bill would authorize the Secretary of Agriculture to grant patents specifically to those qualified permit holders who would have received patents to their lands through administrative procedure, but were inadvertently denied patents through the general provisions of the National Forest Management Act of 1976. A similar bill, S. 2118, has been introduced by my colleagues from the State of Alaska, the Honorable TED STEVENS and the Honorable MIKE GRAVEL. While there are many land issues yet to be resolved in the State of Alaska, this one can be accomplished quickly and painlessly. I respectfully request that this bill be passed as soon as possible in order that these people can receive their land.

THE LABOR LAW REFORM BILL WOULD REMEDY INADEQUACIES IN EXISTING LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, during August, the Subcommittee on Labor-Management Relations which I chair held a day of hearings in Roanoke Rapids, N.C. The hearing was a continuation of our consideration of H.R. 8410, the labor law reform bill. We selected Roanoke Rapids as the site of the hearings, because there are seven J. P. Stevens plants located there that have become the center of a prolonged labor dispute which has direct relevance to H.R. 8410.

I think nearly everyone present at the hearing would agree that it provided a most interesting look at the inadequacies of the existing labor laws.

We heard witnesses from throughout the region, including workers from many different companies, State legislators, clergy, journalists, academics, and other prominent citizens. Unfortunately, J. P. Stevens and five other companies who we specifically invited to testify decided not to appear. In spite of this absence, the testimony we heard was at times quite moving and perhaps the most compelling we have heard on how the existing labor laws fail to truly protect working men and women.

Also during the recess, a significant event occurred that was closely related to much of the testimony we heard in Roanoke Rapids, and has a very direct bearing on H.R. 8410. The U.S. Court of Appeals for the Second Circuit issued a decision once again holding J. P. Stevens in contempt of court for its flagrant violations of the labor laws.

The court found the Stevens Co. in contempt of orders that had been issued in 1967, 1968, 1973. It strained to find an appropriate remedy for such blatant and sustained violations of the National Labor Relations Act. The court ordered that J. P. Stevens post a violation notice in all its plants and mail to all its employees a copy of the contempt verdict. The company was ordered to file statements of compliance every 6 months and to provide the union access to nonwork areas on company property so that the union could make its case to the employees. Fines will also be imposed upon the company. Thus the board attempted to fashion an appropriate remedy to flagrant violations of the law that began well over 10 years prior to the issuance of the most recent decision.

The key part of the decision, however, was the conclusion. In the opening sentence of the conclusion the court declared:

> This case . . . has been a troubling one not only because of the violations of the rights of the employees involved, but also because it raises grave doubts about the ability of the courts to make the provisions of the Federal Labor Law work in the face of persistent violations.

We thus have an expression of grave doubt from one of the most prestigious courts in the land about the ability of Federal labor law to function as it was intended. The court expresses the same frustration we have heard repeated time and again by the witnesses before the Labor-Management Relations Subcommittee. The court confirms that existing Federal labor laws simply do not work in the face of persistent violations.

After several years of dealing with the Stevens case, and after having strained to find an appropriate remedy, the court's ultimate conclusion was that existing law does not provide an effective remedy against persistent violators such as J. P. Stevens. H.R. 8410 would not only have saved the courts years of deliberations; it would have either deterred a violation in the first place, or if not, provided the effective remedy for persistent violations the court declared lacking under current law.

The Second Circuit Court of Appeals has clearly and unmistakenly called out to us in Congress for passage of a bill that allows the courts to deal effectively with those intent on violating the law.

This is the same message we were told in Roanoke Rapids. It is a message that has been repeated to the Labor-Management Relations Subcommittee over the past several years by working men and women from virtually every State of the Union. I feel most gratified that the courts have now come to recognize the inadequacies in existing law that H.R. 8410 is specifically intended to remedy.

INTRODUCTION OF A CONSTITUTIONAL AMENDMENT ON ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MCKAY) is recognized for 5 minutes.

Mr. MCKAY. Mr. Speaker, today I introduced in the House of Representatives (as Senator HATCH did in the Senate) a human life amendment to the Constitution of the United States. It is termed a human life amendment, because its basic thrust is to protect human life, yet unborn, from the revolting practice of abortion.

Because the Supreme Court has, I believe wrongly decided, that a woman's right to have an abortion is almost absolute, it is essential that the Constitution be amended to forever insure that the unborn have a right to life.

The amendment I have introduced embodies my personal moral conviction that abortion is abhorrent and can be tolerated only in the gravest situations.

If passed, this amendment guarantees to the unborn the same right you and I enjoy under the Constitution, the right to life. The amendment states:

> No person who is unborn . . . shall be deprived of the right to life.

The amendment also articulates my personal religious beliefs as to the very limited situations where an abortion can be allowed. First, a mother may choose to have an abortion if continuation of the pregnancy would result in her death or a permanent and incapacitating impairment of her physical health. If a woman seeks an abortion for these reasons under the amendment, all medical skill must be used to save the child.

Second, under the amendment, no pregnancy which results from rape may be terminated unless the State has passed a law which restricts the termination to the early stages of pregnancy and then only if the highest trial court in the State has determined that the rape did in fact occur and the pregnancy resulted from the rape. The text of the bill follows:

> Joint resolution proposing an amendment to the Constitution of the United States to protect the right to life of unborn children
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the follow-

ing article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"Article —

"SECTION 1. With respect to the right to life, the term 'person' as used in this article and in the fifth and fourteenth articles of amendment to the Constitution of the United States applies to all human beings, including their unborn offspring in utero after conception.

"SEC. 2. Except as otherwise provided in this article, no person who is unborn and under the jurisdiction of the United States or any State shall be deprived of life by any person.

"SEC. 3. Nothing in this article shall prohibit any medically induced termination of pregnancy if such termination is necessary to prevent: (1) the death of the mother, or (2) a permanent and incapacitating impairment of her physical health, and so long as all reasonable skill and prudence are exercised to preserve the life of the unborn person involved.

"SEC. 4. A pregnancy which is the result of rape may not be terminated except under and in compliance with a law which (1) limits such termination to the first trimester of pregnancy or promptly upon discovery of the pregnant condition, and (2) requires a prior judicial determination in an ex parte, in camera proceeding before a court of general jursidiction that (a) the rape occurred and (b) the pregnancy is the possible result of the rape.

"SEC. 5. The Congress and the several States shall have the power to enforce this article by appropriate legislation.

NATIONAL AIR TRANSPORTATION ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 60 minutes.

Mr. LEVITAS. Mr. Speaker, on Monday, September 26, 1977, I introduced H.R. 9297, the National Air Transportation Act of 1978. At that time, I discussed generally the purposes of the bill. Today, I would like to explain the bill section-by-section so that the Members will have an opportunity to be acquainted with its provisions.

SECTION 1: SHORT TITLE

SECTION 2: DECLARATION OF POLICY

I. EXISTING LAW

Section 102 of the Federal Aviation Act sets forth the general policy criteria which guide the Civil Aeronautics Board in all of its actions. While this policy statement mandates competition whenever traffic is sufficient to support it, several of the criteria also emphasize the promotion of the industry, and from time to time other criteria have been restrictively interpreted by the Board to limit or delay the development of competition more than might be desirable.

II. NEED FOR CHANGE

The declaration of policy should be modified in order to make even more clear the intent of Congress that the air transportation industry shall be a competitive industry, and that the traveling and shipping public shall enjoy the lowest possible rates and fares and the best possible service. Because the existing policy statement has sometimes been restrictively interpreted with respect to competition, it should be rewritten in order to give the CAB a new set of instructions which will place unmistakably clear, additional emphasis upon both route and price competition.

The CAB agrees that the declaration of policy should be revised, and CAB Chairman Alfred E. Kahn has specifically called for a new set of instructions to guide the agency in helping the industry to become even more competitive.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT OF 1978

The National Air Transportation Act of 1978, hereinafter referred to as the "act," eliminates or modifies those criteria of the present policy statement in the Federal Aviation Act which have been restrictively interpreted by the CAB in the past. The act also specifically adds a number of new, highly procompetitive criteria. This increased emphasis on competition is coupled with a requirement for expedition (in section 1010). The new policy statement also recognizes the need for efficient and well-managed air carriers to earn a fair and reasonable return on investment in order that the public will be fully served, as well as recognizing the need for maximum possible energy conservation, the conservation of all national resources, and the need to maintain the highest safety standards. Finally, the new policy statement gives the Board ample opportunity to take into account the distinctions which exist between domestic and international air transportation by U.S. carriers.

SECTION 3: DEFINITION

I. EXISTING LAW

The existing law contains no explicit definition of "charter air transportation" or "charter trip," even though references are made elsewhere in the Federal Aviation Act to that type of air transportation.

II. NEED FOR CHANGE

A definition of "charter air transportation" and "charter trip" should be added to the aviation statute. In addition, there is a need to define a number of new terms used in the National Air Transportation Act of 1978.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT OF 1978

The act defines both "charter air transportation" and "charter trip." The definition of the latter term specifies that charter trips must be confined to air transportation in which the entire capacity of an aircraft has been engaged for the movement of persons, property, or mail. This would in no manner restrain the growing volume and variety of charter services, except that it would prohibit "part chartering" (operating part of an aircraft in charter service, while the remainder is simultaneously operated in individually ticketed, scheduled service) by combination carriers.

The act also contains a new definition of "scheduled air transportation" because at various points in the act that type of transportation is treated separately from other types of airline services.

A new definition of "all-cargo air transportation" is added because the act essentially terminates economic regulation of that type of air transportation.

Finally, the act adds a definition of "predatory" so that the CAB will be obligated to prevent predatory pricing.

SECTION 4: CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

I. EXISTING LAW

Under the present law the CAB can authorize new air service only if it finds that the service "is required by" the public convenience and necessity. In addition, certification is required for all types of air transportation for which exemption authority is not granted. Finally, the present statute does not grant all air carriers the right to hold more than one type of certification.

II. NEED FOR CHANGE

The Civil Aeronautics Board should be required to follow a consistent procompetition policy. The agency has done so on many occasions under present law but has taken a restrictive approach at other times. In addition, procedures for processing applications for operating authority should be expedited to the fullest extent possible, and every existing carrier, as well as new entrants in the future, should be eligible to hold more than one type of certificate. Finally, it no longer appears necessary to regulate the economics of all-cargo air transportation, although that type of air transportation should remain subject to the safety features and certain other limited aspects of the present Federal Aviation Act.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

Section 4 of the act makes a number of significant changes in congressional instructions to the CAB concerning air carrier certification. Section 4(a) would continue the certification requirement pending the CAB's expiration under the "sunset" provisions of the act. Section 4(b), however, specifically cross-references the act's new procedural provisions (the new section 1010 of the act), thus emphasizing the need for expedition in the handling of all applications for certificates.

Of equal importance is that section 4(c) changes the present requirement that proposed services be "required by" the public convenience and necessity before an application may be granted. In lieu thereof, the act requires that, in the case of scheduled and supplemental air transportation, the proposed services simply be "consistent with" the public convenience and necessity. This is a most significant change which, coupled with the strongly procompetition statement of policy in the act, will clearly create a presumption in favor of granting new applications and make it much more difficult for the CAB to engage in restrictive and protectionist policies which it has employed from time to time in the past. The new policy, this change in section 401 of the present law, and the new prescriptions for expedited procedures, in combination should prevent the CAB from ever again engaging in the type of "route case moratorium" which it imposed during the early part of this decade.

Under section 4(c) of the act, proposed section 401(d)(3) requires the Board to grant all applications to engage in all-cargo air transportation by companies which are "fit, willing, and able" to perform the proposed air transportation. The act would not even require that all-cargo air transportation be found to be "consistent with" the public convenience and necessity, let alone "required by" those elements. The act would also prohibit the Board from designating geographical areas, or terminal or intermediate points, to be served by operations authorized by all-cargo air transportation certificates. These provisions, together with section 16, which would terminate CAB authority over all rates and charges for air freight transportation will eliminate most economic regulation of all-cargo air transportation. The requirement for grant of a certificate is continued, however, in order to prevent operation for grant of all-cargo service by companies which are not "fit, willing, and able." "Grandfather" provisions are contained in the act for all all-cargo carriers operating under either certificate or exemption authority on the date of enactment of the act.

Also under section 4(c) of the act, proposed section 401(d)(4) clarifies and amplifies the CAB's authority to grant applications for certificates to engage in air transportation for only a temporary period of time. This is deemed necessary because, under the new policy statement and revised section 401 of the existing statute, the CAB will be required to grant more applications from both existing carriers and new entrants than it has in the past even under its most liberal interpretations of the present statute. Because the effect of this increased emphasis on competition and the increased emphasis on expedited procedures will not in all instances be assessable in advance, the agency should be able to authorize experimental or test operations and be able to assess their effects before making a permanent certification.

Proposed section 401(d)(5) would specify that any air carrier may simultaneously hold more than one type and may, in fact, hold all types of certificates specified in section 401 of the existing statute.

SECTION 5: TERMS AND CONDITIONS OF CERTIFICATES

I. EXISTING LAW

Under existing law there is no requirement for the CAB to review periodically restrictions which are deemed necessary in order to secure some public benefit at the time a certificate is granted.

II. NEED FOR CHANGE

Because the CAB currently has no obligation to review restrictions on certificates, many such restrictions have continued to exist after they have ceased serving the purpose for which they were originally imposed. The continued existence of such outmoded restrictions results in arbitrary and unnecessary limitations on the ability of carriers to meet fully the public convenience and necessity, and results in serious inefficiencies and therefore in added costs. While the CAB has recently undertaken a commendable program known as "route realinement" to modify and eliminate many existing restrictions, there is still a need for a clear statutory mandate to keep restrictions under constant review and to modify or eliminate them whenever they become inconsistent with the new policies set forth in section 102 of the act.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

A new section 401(e)(7) would be added to the aviation statute. The section would require the CAB, within 60 days after the filing of an application seeking removal or modification of a term, condition, or limitation attached to a certificate, to commence oral evidentiary hearings or other, expedited procedures where permitted by section 1010 of the act, to eliminate or modify any such term, condition, or limitation which the Board finds is inconsistent with the criteria set forth in the policy section of the act.

In addition, this provision of the act would permit the CAB to grant carriers which operate scheduled flights between points in this country in the course of providing the cities involved with foreign air transportation additional authority to transport persons or property between the domestic points. Because extensive grant of such authority could have an undue economic effect on carriers holding primary responsibility for the provision of domestic air transportation, this section of the act further authorizes the Board to limit the number of such flights per day on which the carrier engaged in foreign air transportation can carry domestic persons or property. Nevertheless, this new provision should be of significant help in strengthening our U.S.-flag carriers providing foreign air transportation.

SECTIONS 6 AND 7: MISCELLANEOUS

Sections 6 and 7 of the act make necessary editorial changes in the existing statute to reflect various substantive changes made by the act.

SECTION 8: CERTIFICATE TRANSFERS

I. EXISTING LAW

Present section 401(h) of the Federal Aviation Act provides that:

No certificate may be transferred unless such transfer is approved by the Board as being consistent with the pubic interest.

II. NEED FOR CHANGE

Provision for route transfers is thought to be important. There are instances where a certification to an air carrier, sound when made, becomes difficult for that carrier to operate fully as the remainder of its system changes and grows. Under these circumstances, the services involved—which have been found to be required by the public convenience and necessity—can often be operated more efficiently by another carrier. While other provisions of the statute would permit the existing authority to be terminated and a new authorization to be made, it may be more expeditious or otherwise more in the public interest simply to allow the CAB to authorize a route transfer from one carrier to another. This should be permissible, either in the context of a route exchange between two or more carriers, or in the context of a unilateral transfer in return for compensation which will recognize the transferor's past expenditures in generating traffic and otherwise developing the authority in question.

The present statute should be changed in two ways. First, it should state that an existing air carrier which no longer can fully operate the authority in question can transfer it to an entity not then operating as an air carrier. Such a provision will encourage new entrants into the air transportation business. In addition, the CAB should be prohibited from approving route transfers which would be in conflict with the declaration of policy in section 102 of the act, or which would substantially lessen competition or tend to create a monopoly in any section of the country.

III. CHANGES MADE BY THE NATIONAL TRANSPORTATION ACT OF 1978

Revised section 401(h) of the existing law would specifically authorize route transfers to both existing carriers and new entrants unless, after suitable procedures, the Board finds the transfer to be inconsistent with the policy declaration of the Act, or in restraint of trade.

SECTION 9: MISCELLANEOUS

Section 9 of the act makes editorial changes necessary to accommodate various of the act's substantive changes.

SECTION 10: UNUSED AUTHORITY

I. EXISTING LAW

Under existing law there is no requirement that certificated carriers provide nonstop service in every market which they are authorized to serve. The certificates issued by the CAB consist of a series of linear route segments, each of which includes a number of cities, from as few as 2 to 50 or more. Generally, the carriers have authority to provide nonstop service between any two cities on a route segment, unless there is a specific restriction prohibiting this service. There is no legal requirement, however, that the carriers provide nonstop service between every authorized combination of cities on a segment, and in many cases it would not be economically practical to do so. Indeed, many nonstop route authorities have resulted from authorizations made for other purposes, and therefore a number of existing nonstop segments have not been found to be required by the public convenience and necessity.

II. NEED FOR CHANGE

Where a need has been found for nonstop air transportation services, it is clearly contrary to the public interest to allow such authority to lie dormant. This is especially true in markets where the dormant authority is the only existing authorization. But even in markets where other carriers are also certificated, if a need has been found for first, second, or other competitive services, the authorization should not be allowed to lie dormant. If not needed, it should be excised from the national air transportation system under section 401(g) of the existing law. If not excised, and if another carrier is willing to exercise the authority, the latter carrier should be allowed to do so.

In the case of nonstop route segments which have resulted from other authorizations, and for which a specific need has therefore not been found, dormancy is not as serious a problem. Nevertheless, even in these instances the existence of unused authority can inhibit proper growth and development of the national air route structure and can block the provision of desirable services by willing carriers.

Accordingly, a need exists for specific statutory directions to the CAB with respect to unused authority.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

The act would add a new section 401 (k) to the aviation statute. That section would specifically authorize any air carrier holding a certificate issued under section 401 to file an application seeking authority to provide nonstop scheduled air transportation between two points listed in a certificate issued under that section to any other air carrier, but which the latter air carrier does not exercise. In order to assure that the authority in question should still be a part of the national air transportation system, the act requires the Board to find that granting the authority to the applicant would be consistent with the public convenience and necessity. However, where the authority in question is the only nonstop authorization in a market, the Board is required to make this determination through use of expedited show cause procedures, within 90 days after the date that the application has been filed. Even in the case of applications for authority in a market where competitive services are authorized, the Board is enjoined to proceed expeditiously.

The new section also authorizes the CAB to consider simultaneously the reduction, restriction, suspension, or termination of the authority of an air carrier to provide air transportation between the points involved if that carrier's failure to exercise such authority gave rise to the application.

Provision for automatic termination or reduction of the incumbent's authority is thought to be undesirable, because the authority in question may be an essential link in a linear route segment over which the air carrier provides other necessary services. For this reason, specific reference to eliminating or altering the incumbent's authority is contained in the statute, but the CAB is left with discretion in the premises.

SECTION 11: PERMITS TO FOREIGN AIR CARRIERS

I. EXISTING LAW

The present law establishes essentially the same procedures for processing applications by foreign air carriers for permits to engage in foreign air transportation to and from points in the United States that it provides for applications by U.S. carriers for certificates of public convenience and necessity.

II. NEED FOR CHANGE

Under the present statute, applications by foreign air carriers for permits to engage in foreign air transportation are processed in much the same manner as are applications by U.S. carriers for certificates, although most proceedings involving foreign air carriers are conducted more expeditiously than are proceedings with respect to certificates. Oral evidentiary hearings, however, are not necessary with respect to the normal application for a foreign air carrier permit. In the normal case, the foreign air carrier will apply for authority already specified in a bilateral agreement between the United States and another country. In such situations, there is no real issue as to need for the proposed service, and the issue of carrier selection will already have been resolved by the foreign government's designation of the carrier which it wishes to operate the services in question. Unless there is an issue as to United States versus foreign ownership of the foreign air carrier, or some other complex issue, a hearing is not needed in the case of foreign air carrier permit applications. Accordingly, while the hearing process is a valuable one in the case of the normal administrative process, specific statutory authorization should be enacted in this particular instance to permit use of nonhearing procedures at the agency's discretion, when complex and material issues of fact are not involved.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT

Section 10 of the act requires the CAB to promulgate rules establishing simplified procedures for the disposition of applications for permits by foreign air carriers. The section also calls for simplified procedures with respect to the alteration, amendment, modification, suspension or transfer of all or any part of any permit under section 402(f) of the existing statute. The rule is discretionary with respect to oral evidentiary hearings, so that the agency may require hearings in the event there is a complex issue of disputed, material fact.

SECTION 12: NOTICE OF TARIFF CHANGES

I. EXISTING LAW

Existing section 403 of the Federal Aviation Act of 1958 requires 30 days' advance notice of a proposed tariff change but does so uniformly for all changes.

II. NEED FOR CHANGE

There are two problems with the existing law. First, where one carrier has initiated a tariff change and a second carrier merely desires to meet the competition by filing a similar provision, a shorter period of notice should be required of a competitive carrier in order that its tariff may become effective on the same date as the first carrier. Second, the present 30-day notice provision has proved to be insufficient in most instances to permit CAB action on proposed tariff changes in advance of the date of enactment. As a result, last-minute action by the CAB has caused unnecessary confusion for both the public and air carriers.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

The act meets both of the above mentioned problems. First, it provides for competitive tariff filings on 25 rather than 30 days' advance notice. Second, in cases where the CAB would retain a suspension power under the act, the act requires tariff filings on 45 rather than 30 days' advance notice in the case of passenger tariffs, and 60 days rather than 30 days' advance notice in the case of air freight rates. These longer advance notice requirements are coupled with a statutory obligation for the CAB to take suspension action, if a tariff is to be suspended, 15 days in advance of the proposed effective date in the case of passenger service tariffs, and at least 30 days in advance in the case of air freight tariffs. The House has already passed a 45/15-day provision with respect to airline tariffs. Testimony has indicated, however, that a somewhat longer period of time, and even earlier advance action by the CAB, is necessary in the case of air freight rates. Accordingly, the act reenacts the 45/15-day provision with respect to passenger tariffs, and the longer period with respect to air freight rates.

SECTION 13: CONSOLIDATIONS, MERGERS, AND ACQUISITIONS OF CONTROL

I. EXISTING LAW

Existing section 408 of the Federal Aviation Act requires CAB approval in the case of most consolidations, mergers, acquisitions of control, property purchases, and other similar arrangements between air carriers.

II. NEED FOR CHANGE

While the CAB has very carefully applied section 408 over the years so as to avoid the approval of mergers or other arrangements which might adversely affect competition, restrain trade, create monopolies, or otherwise be adverse to the public interest, there is need to tighten up the section both to protect and enhance the competitive climate of the industry, and to insure that the Attorney General and the Secretary of Transportation have a suitable voice in CAB proceedings under section 408. Furthermore, under existing law the CAB is required to devote significant resources to reviewing transactions involving carriers which are basically unregulated, such as commuters and air freight forwarders. Although in many cases the CAB is not now required to hold a hearing, it still seems unnecessary for the Board to pass on the transactions if it is not regulating the basic operations of the carriers.

III. CHANGES MADE BY THE NATIONAL AIR TRANSPORTATION ACT OF 1978

The act requires notification to the Attorney General and the Secretary of Transportation in the case of most significant transactions subject to section 408. At the same time, the language of section 408(b)(1) is modified to make it clear that the Board may not approve a consolidation, merger, purchase, lease, operating contract or acquisition of control which would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize air transportation in any region of the United States, or the effect of which may be to substantially lessen competition, or tend to create a monopoly, or otherwise be in restraint of trade in any region of the United States, unless the Board finds that the proposed transaction is necessary to meet a serious transportation need or to secure impor-

tant public benefits. The latter provision, permitting some anticompetitive transactions where necessary in the public interest to meet a serious transportation need or secure other important public benefits, is a codification of the CAB's local cartage test which has proved to be a useful standard over the years, one which has accommodated the transportation needs of the public, and which has served the public interest well in a competitive air transportation system. While the CAB normally applies the local cartage test voluntarily, it is believed desirable to include the test in the statute itself. Section 408(b)(1) of the act places a burden on the proponents of the transaction to prove that the transaction meets a serious transportation need or secures important public benefits. This section also places the burden on the party challenging a proposed transaction to prove anticompetitive effects, if alleged.

The act adopts a prior notification procedure for transactions involving uncertificated air carriers such as air freight forwarders and all-cargo carriers, which will be virtually unregulated domestically after enactment of this bill. If the Board takes no action on a notice within 45 days, the transaction may be consummated without further Board action. Any such transaction is subject to prosecution if it violates the antitrust laws.

The act would also require the Board to act on any transaction which is subject to section 408(a) within 1 calendar year after the application for approval is filed. Most transactions subject to section 408 are of a nature that the companies involved are significantly fettered until they know whether the transaction in question will be approved. For this reason, there is a need for the utmost expedition in the case of such applications.

SECTION 14: AGREEMENTS AND CARRIER DISCUSSIONS

I. EXISTING LAW

The present statute requires the filing of most agreements between air carriers and other air carriers, foreign air carriers, or other carriers, and requires the Board to approve or disapprove such agreements. An agreement approved is immune from the antitrust laws under section 414 of the Federal Aviation Act.

II. NEED FOR CHANGE

During the early part of this decade the CAB approved anticompetitive capacity control agreements between a few air carriers, although these agreements ultimately were disapproved as contrary to public policy under the Board's "local cartage test," which permits approval of an anticompetitive agreement only where necessary in the public interest to meet a serious transportation need or secure other important public benefits. The earlier, temporary approval showed a need to strengthen section 412 and to provide for hearings at the discretion of the agency in the case of seriously anticompetitive agreements.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT OF 1978

The act's revision of section 412 provides the Attorney General and the Secretary of Transportation with an opportunity to submit written comments on any filed agreement. This provision would also apply to any requests by air carriers to discuss possible cooperative working arrangements. The act further provides that, either on its own initiative or if requested by the Attorney General or the Secretary, the Board may hold a hearing with respect to contracts, agreements, or requests for discussion.

The revised language of section 412 in the act requires the Board to disapprove any contract or agreement which it finds to be adverse to the public interest, or in violation of the act, or which might substantially reduce or eliminate competition, unless the contract or agreement is necessary to meet a serious transportation need or to secure important public benefits. In the latter respect, the act codifies the CAB's valuable local cartage test. Similarly, the act requires the Board to disapprove any requests for authority to discuss possible cooperative working arrangements that the Board finds may be adverse to the public interest or which it finds may substantially reduce or eliminate competition, unless the discussions can be justified under the local cartage test.

SECTION 15: EXEMPTION AUTHORITY

I. EXISTING LAW

Section 416 of the existing Federal Aviation Act has proven to be one of that act's better provisions. It grants the Board the power to exempt air carriers from other provisions of the statute, when that appears to be in the public interest. This has given the act some of the flexibility for which it is noted and has enabled the Board to act expeditiously in many areas.

II. NEED FOR CHANGE

Nevertheless, the present wording of section 416 of the Federal Aviation Act is cumbersome and renders the section somewhat difficult to apply. The law is not clear as to whether the Board may grant an exemption when the operation to be exempted is of "limited extent" or whether it is necessary that the carrier's entire existing operations be limited in extent. The meaning of the current "undue burden" test is also unclear. In addition, there is a need to be specific with respect to exemption for those commuter carriers which will not choose to avail themselves of the certification provisions of the act.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT

The act amends section 416(b) to eliminate the ambiguities and the strained language of the present section. Essentially, it permits the grant of exemption authority to air carriers whenever such relief is not inconsistent with the public interest and whenever use of the exemption process, which does not normally involve a hearing, is required "by special or unusual circumstances or by reason of the limited extent of the activity sought to be exempted." Section 416 of the act also specifically grants an exemption from the certificate requirements to those carriers which operate aircraft with a seating capacity of 56 passengers or less or which operate cargo service with aircraft having a maximum payload capacity of less than 18,000 pounds.

Some have argued that the exemption provision should be expanded to cover any "person," and not just "air carriers." It is not felt that this additional change is necessary, because entry into the air transportation business will be much more simple under the expedited procedures and revised section 401 test prescribed in the act and the new policy statement. Accordingly, the extraordinary procedures prescribed by section 416 should be confined to use for and on behalf of air carriers, and the act so confines that section.

SECTION 16: LOCAL AIR TRANSPORTATION

I. EXISTING LAW

There is no provision in the existing law for other than normal certification procedures in the case of small carriers, most often typified by the larger commuter carriers.

II. NEED FOR CHANGE

Many of the commuter carriers desire, and need, certification by the Government. Certification is an aid in securing needed financial assistance, and in otherwise becoming a full member of the air transportation industry. Nevertheless, because most commuter carriers operate on a limited scale, and often on an area basis rather than point-to-point, a more simplified certification procedure is needed for those commuter carriers which desire to be certificated rather than to operate under exemption.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT

The act adds a new section 418 to the aviation statute, which sets forth a simplified certification procedure for those commuter carriers designed to avail themselves of it, under which such carriers would hold area-type certificates rather than point-to-point routing certificates. Section 418(f) also exempts such carriers from many other provisions of the statute, and sets forth special suspension and revocation, and termination of service provisions for this particular class of carrier. The section also makes clear that such carriers would be eligible for both service-rate and subsidy payments under section 406 in connection with essential small community service.

SECTION 17: PRESIDENTIAL REVIEW OF INTERNATIONAL ROUTE CASES

I. EXISTING LAW

Present section 801(a) of the Federal Aviation Act provides that the issuance, denial, transfer, amendment, cancellation, suspension or revocation of, and the terms, conditions, and limitations contained in, any certificate authorizing a U.S. flag air carrier to engage in overseas or foreign air transportation, or any permit issuable to any foreign air carrier under section 402 "shall be subject to the approval of the President."

II. NEED FOR CHANGE

In the absence of either time or subject matter limitation on the President's right to approve or disapprove CAB international route case decisions, the historic application of section 801 has

served to unduly politicize international air carrier route cases. The President does have constitutional powers with respect to international air routes, because of their normal operation under bilateral agreement executed by this country and each other country involved and because international air operations affect both national defense and foreign relations. However, the Presidential review process has also become directly involved with the assessment of the economics of U.S. flag international air carrier operations and in selection of U.S. carriers to operate international routes, subjects which have been assigned by the Federal Aviation Act to the Civil Aeronautics Board as an arm of this Congress.

The effects of politicizing international route cases has led the American Bar Association to conclude that section 801 of the Federal Aviation Act should be amended to withdraw the President's power to review or approval in international route cases "in a manner which will preserve the President's constitutional rights and obligations in the field of national defense and foreign relations, while first, removing economic and domestic political considerations from the decisionmaking process, and second, assuring availability of judicial review." The latter reference refers to the fact than once the President has approved or disapproved a CAB decision with respect to international routes under current section 801, the courts normally will decline to review the matter under the separation of powers doctrine.

In addition, no reason appears for continuing any Presidential role in overseas air transportation routes.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT OF 1978

The ABA's Section of Administrative Law was of the opinion that "the President (should be) entirely removed from the (international) certification procedure." On the other hand, the ABA's Standing Committee on Aeronautical Law favored "legislation which would retain a limited role for the President in the certification process itself but would restrict that role to a veto right based exclusively on foreign policy and national defense grounds." It is concluded that the latter is the better approach, and that approach is adopted by the act with respect to certificates and permits involving foreign air transportation. An effort to remove the President completely from the certification procedure might be held unconstitutional, in light of the holding of the Supreme Court in *C&S Airlines, Inc.*, v. *Waterman Steamship Corporation*, 333 U.S. 103 (1948). The act terminates the President's present role with respect to overseas air transportation.

SECTION 18: FARES, CHARGES AND PRACTICES

I. EXISTING LAW

The existing law gives the air carriers the right to initiate all rates, fares, charges, and related practices. All such tariff provisions, however, are subject to complaint by the public or by other air carriers, and sections 1002 (d) and (g) give the Civil Aeronautics Board broad powers, after notice and hearings, upon complaint or upon its own initiative, to determine whether carrier-initiated rates are in fact lawful under the terms of the statute and, if not, to prescribe the lawful rate, fare, charge, or practice, or the maximum or minimum or the maximum and minimum rate or fare, and in the agency's discretion to suspend a carrier-initiated filing pending such investigation and determination of the lawful rate, fare, charge, or practice.

II. NEED FOR CHANGE

Under the existing statutory scheme the carriers not only have the right to initiate rates and fares, and related charges and practices, but in fact have had and have exercised a considerable degree of pricing flexibility and freedom. In the case of normal, basic fares (which are usually considered to be day coach, first class, and off-peak or night coach fares), a number of carriers have for years offered 20 percent reduced off-peak fares, which carry significant volumes of traffic, and which have constituted classic examples of price competition. At the same time, the industry has always used, and been allowed by the CAB to use, the time-honored marketing technique of differential pricing (in the case of the airlines, known as promotional and discounted fares), and large volumes of traffic have been generated and carried at these fares, which carry varying degrees of discount, and suitable restrictions to prevent violation of the unjust discrimination proscription of section 404 of the present Federal Aviation Act, a proscription which is carried over into the National Air Transportation Act.

Nevertheless, in an effort to provide the public with equal fares for equal distances, and otherwise to rationalize an air fare structure which had grown up in a haphazard fashion as the airline industry developed, the CAB—as a result of its comprehensive domestic passenger fare investigation (DPFI) in the early part of this decade—developed a number of formulae which have resulted in extensive control of the normal, basic fares. Despite the pricing freedom to compete with off-peak fares, even though the CAB has recently permitted the introduction of some new basic classes of service which seem generally to be outside the scope of the DPFI, and despite the freedom to engage in discount and other differential pricing, the bulk of the industry's traffic is carried at the day coach fare; and the detailed prescriptions of the Board's current formulae thus constitute a significant restraint upon management freedom and management discretion to price and to engage in pricing competition. While the present statute gives the CAB the power to establish what are called "zones of reasonableness" around the base point fare which the agency has found to be reasonable for any particular type of service at any market distance, the CAB has declined to use its power to grant this sort of pricing flexibility to the airlines (despite strong pleas to the contrary from a number of air carriers, the Department of Transportation, and others). Many observers have noted that the fare structure could be rationalized for the public's benefit in much the manner that this was attempted in the DPFI, while at the same time the carriers could be given a significant measure of pricing freedom (through use of the zone of reasonableness concept). However, observations and the carriers' arguments therefor have not yet been considered persuasive by the CAB. The Congress believes that such pricing flexibility could be very much in the interest of the traveling and shipping public, as well as in the interests of the carriers themselves. While the CAB has recently started a proceeding to consider the grant of more pricing freedom, a legislative direction to the CAB in this connection is still warranted.

III. CHANGES MADE BY NATIONAL AIR TRANSPORTATION ACT

The act makes a number of significant changes in this respect. First, in line with the act's general deregulation of all-cargo service, the Board's power to find air freight rates unlawful, or to suspend them, is terminated. This proscription applies to all air freight rates, not just those of the all-cargo carriers.

With respect to passenger fares, a zone of reasonableness is prescribed in the statute itself. A reasonable range of plus 10 percent, minus 20 percent, is prescribed. Under the act, this range is related to what is known as the "standard industry fare level" for each basic class of service. The standard industry fare level for each such class commences with the passenger fares in existence at the date the statute is enacted. Changes in each standard industry fare level, or what might sometimes be called the "midpoint fare" of each range, are thereafter to be accomplished on an automatic basis, both up and down, by application of changes in the certificated, scheduled industry cost levels.

Within the zone itself, the carriers are given total freedom to adjust their standard fares up or down within the zone (on both a system and a market-by-market basis). Within that zone, the CAB has neither the power under the act to find such changes unlawful, nor to suspend them. More sizable changes can be proposed reaching outside of the zone either at the top or the bottom, but such proposals would remain subject to the CAB's investigative and suspension powers. This is deemed desirable so that, while significant pricing competition can be attempted, and its effects can be analyzed, the CAB will retain general control to prevent price gouging at the upper end, or wholly unreasonable or predatory pricing at the other end. The act's zone would be applicable to all normal classes of service, day coach, first class, night coach, and other basic classes of service which may be established in the future.

In addition, the act leaves the carriers with their existing, considerable freedom with respect to differential pricing. The act also continues the CAB's present powers to suspend unjustly discriminatory or unduly preferential or prejudicial rate, fare, and practice proposals, and its power to prescribe lawful fares, rates,

or practices in lieu of any such unjustly discriminatory or unduly preferential or prejudicial proposal.

In addition to the foregoing changes, the act also amends section 1002(e) of the Federal Aviation Act, in order to update the standards and criteria which the Board must consider in passing upon rate and fare proposals. In particular, the new standards in the act stress the desirability of a variety of price and service options, such as peak and off-peak pricing and other pricing mechanisms to improve economic efficiency and provide low-priced air service.

SECTION 19. EXPEDITED PROCEDURES

I. EXISTING LAW

The present statute contains few procedural deadlines.

II. NEED FOR CHANGE

Like all administrative agencies, the CAB has been criticized from time to time for unduly slow administrative procedures. Furthermore, in the absence of legislative prescription of deadlines for CAB action, the agency has on one occasion undertaken unilaterally to impose a "moratorium" on the processing of new route applications. This was contrary to the wishes of many air carriers, and in the opinion of the Congress, contrary to the intention of the Federal Aviation Act. Accordingly, existing law should be amended to prevent the agency from imposing any such moratorium in the future, and to direct it to proceed expeditiously with all of its economic regulation.

III. CHANGES PROPOSED BY NATIONAL AIR TRANSPORTATION ACT

The act would add a new section 1010. This section would impose deadlines for action with respect to most applications, petitions, or complaints filed under the economic regulatory section of the act. While imposing these deadlines, the act also recognizes the possibility that the CAB may be unable to process all applications, petitions, or complaints filed with it within the prescribed deadlines, and thus grants the agency the right to dismiss certain such pleadings, either on the grounds that the pleading is inconsistent with standards for priority which the CAB is enjoined to establish, or does not state sufficient grounds for action under the act. Such orders of dismissal will be judicially reviewable in the courts of appeals.

The section legislates power for the CAB to use show cause procedures where material issues of disputed fact are not presented. The CAB from time to time uses show cause procedures today, but it has no firm legislative basis for this type of proceeding. This is considered to be a most significant addition to the CAB's powers to act expeditiously.

Section 16, prescribing these new, expedited procedures, is considered to be one of the more important aspects of the act. This prescription for expedition, together with the strongly procompetition policy statement of the act and the revised certification standards, will constitute strong motivation for the CAB to move the industry to an even more competitive status and to significantly increase the degree of pricing competition within the industry. Expedition of the administrative process alone will go a long way toward achieving the goals of increased competition, increased pricing flexibility, replacement of unused authority, and the like.

SECTION 20: SUNSET PROVISIONS

I. EXISTING LAW

The present Federal Aviation Act contains no "sunset" provisions.

II. NEED FOR CHANGE

For two primary reasons, "sunset" provisions are needed in the new act. First, because the act will result in significant changes within the industry, particularly in terms of the degree of competition and the degree of pricing flexibility and freedom for air carrier managements, the impact of such changes on the public and upon the airline industry itself should be assessed within a reasonable period of time. The best way to insure such review is to provide for "sunset" provisions, with prior review before the expiration provisions take effect.

Second, if the increase in competition within the industry, the increase in pricing flexibility and pricing competition, and the many other changes prescribed by the act, should result in significant improvement in the industry and thus in benefit to the traveling and shipping public, further changes along the lines prescribed in the act will perhaps be desirable in the future, including the possibility of terminating the CAB altogether. This, also, can best be accomplished by including a "sunset" provision. At the same time, implementation of the "sunset" provision will permit the Congress to reverse the course of action prescribed in the act, should the changes prove to be detrimental to the public and the airline industry which serves that public.

III. NEED FOR CHANGE

The act provides that the CAB's existence shall terminate 7 years after enactment of the act. It also provides that a comprehensive analysis of the CAB's implementation of the act, and the effect thereof on the traveling and shipping public and the industry, shall be presented to the Congress 5 years after enactment of the act, so that a full review by Congress can be accomplished before the termination provisions take effect.

THE 19TH CAPTIVE NATIONS WEEK AND THE BELGRADE CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the recent 19th Captive Nations Week observance throughout this country centered in part on human rights and the Belgrade Conference. Speakers and participants emphasized that the captive nations and human rights are virtually opposite sides of the same coin. And they also stressed during the week that we Americans expect our representatives at the Belgrade Conference to recite openly and strongly the denial of all types of human rights in Czechoslovakia, Lithuania, Ukraine, Georgia, and all other captive nations in Eastern Europe. This we shall see next month.

Continuing the selective reports compiled by the National Captive Nations Committee on the 19th week, I submit the proclamation by Mayor A. Bilandic, of Chicago, reports in America on the New York, and Boston events, along with an article, "Has Moscow Scared the President?" and editorials, letters and reports in the Pilot of Boston, News World, Jamaica Plain Citizen, Free China Weekly, the Ukrainian Weekly, and the Shenandoah Herald:

PROCLAMATION OF THE CITY OF CHICAGO

Whereas, our city's annual observance of Captive Nation's Week will be highlighted by a State Street parade at noon on July 16th; and

Whereas, under auspices of the Captive Nation's Friends Committee, the week's activities will direct public attention to the plight of people whose homelands are under Communist control; and

Whereas, many citizens of these countries are linked by family ties to residents of this community, and it is commendable that United States citizens, in appreciation of their freedoms, should extend sympathy and the hope of freedom to their fellow-men and women whose liberty has been denied:

Now, therefore, I, Michael A. Blandic, Mayor of the City of Chicago, do hereby proclaim the period of July 11 through July 16, 1977, to be Captive Nations Week in Chicago, and urge all citizens to take cognizance of the special events arranged for this time.

Dated this 3rd day of June, 1977.

MICHAEL A. BILANDIC,
Mayor.

CAPTIVE NATIONS WEEK OBSERVANCE IN NEW YORK CITY

NEW YORK, N.Y.—On Sunday, July 17, 1977 the 19th annual observance of "Captive Nations Week," sponsored by the Captive Nations Week Committee of New York, a member of the National Captive Nations Committee (NCNC), headed by UCCA President Prof. Lev E. Dobriansky took place. Among the 38 cosponsoring organizations were the Ukrainian American Organizations of Metropolitan New York, a branch of the UCCA and the Ukrainian Liberation Front.

Some 1,000 worshippers attended the Ukrainian-Rite Liturgy at St. Patrick's Cathedral, celebrated by the Most Reverend Basil H. Losten, Apostolic Administrator of the Ukrainian Catholic Archeparchy of Philadelphia, who was assisted by Rev. L. Lawryniuk of St. George's Ukrainian Catholic Church in Manhattan. An *ad hoc* choir consisting of Ukrainian choristers sang the responses during the Liturgy.

Bishop Losten also delivered a penetrating sermon, dedicated to the captive nations and their untold suffering under Communist regimes.

PROGRAM IN CENTRAL PARK

After the Liturgy some 300-400 formed marching columns and proceeded up Fifth Avenue to 72nd Street, and then to the Central Park Mall, where a brief program was held. After the playing of the American national anthem and the pledge of allegiance by Jerry Bianchi, Commander of Catholic War Veterans from Queens, N.Y., Dr. Ivan Docheff, chairman of the New York Committee, briefly addressed the gathering and called on Mr. Horst Uhlich, representing East

Germans, to act as master of ceremonies at the program.

Addressing the commemorative rally were Congressman Mario Biaggi, New York State Secretary of State Mario Cuomo and Barry Farber, the latter two being mayoral candidates in the City of New York from the Democratic and Conservative Party, respectively.

Folklore entertainment included the Estonian Folk Dance Group, the Turkestan National Folk Group and the Crimean Tartar National Folk Dancer.

Dr. John Kosiak, president of the Byelorussian Congress Committee of America, read a resolution which was adopted by acclamation while Miss Elizabeth Chartoryska-Sydor, in Ukrainian national custume read the "Captive Nations Week Proclamation," issued by Governor Carey. Mr. Cuomo read a proclamation issued by the Secretary of New York State.

RECEPTION IN HONOR OF DR. DOCHEFF

Later in the afternoon the Association of Crimean Tartars gave a reception in Honor of Dr. Ivan Docheff who is retiring as chairman of the Captive Nations Committee of New York. Among several speakers who praised Dr. Docheff's work was Dr. Alexander Sokolyszyn, of the Ukrainian group, who is chairman of the press section of the Committee.

Attending the reception were also Dr. and Mrs. Walter Dushnyck, Mr. and Mrs. Volodymyr Hladky, Mrs. Daria Stepaniak and Mr. A. Zaplitny, a young librarian.

CAPTIVE NATIONS WEEK IN BOSTON

BOSTON, MASS.—The week of July 17–23, 1977, was designated by Governor Michael S. Dukakis as "Captive Nations Week" in Massachusetts. The proclamation stated: "The captive peoples of Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Governor Dukakis issued the proclamation on July 14, 1977, in the presence of representatives from the Boston Chapter of the Ukrainian Congress Committee of America, American Lithuanian Council of Boston and American National League of Boston. The Boston UCCA was represented by: Very Rev. Myron Pacholok, pastor of St. Andrew Ukrainian Orthodox Church, Joseph Charyna, vice president, Mrs. Olga Szczudluk, secretary, and Orest Szczudluk, vice president and director of public relations. Mr. Szczudluk presented to the Governor a book, "The Bicentennial Salute to the Captive Nations 1976," in "appreciation for proclaiming Captive Nations Weeks in Massachusetts."

COVERAGE BY NEWS MEDIA

The news media in Boston and in Massachusetts received a special press release and copy of governor's proclamation. The press release related this year's CNW observance to the Belgrade conference, from which the captive nations were excluded.

Pilot, the official newspaper of the Boston Archdiocese, carried on July 22, 1977, a timely editorial, "Lithuanians, Ukrainians and Georgians wish to exercise their rights to preserve their culture and their language and to govern themselves. The Captive Nations desire a restoration of their human rights, be they personal, civil or even national. It remains our duty to insist on their rights," concluded the editorial.

On July 21, Jamaica Plain Citizen, Hyde Park Tribune, Dorchester Argus—Citizen and Mattapan Tribune carried a letter, written by Orest Szczudluk, Boston UCCA vice president, president, which informed readers about the present situation in captive countries.

HAS MOSCOW SCARED THE PRESIDENT? MYSTERY SURROUNDING PRESIDENTIAL PROCLAMATION OF CAPTIVE NATIONS WEEK OF 1977

(By Peregrinus)

"President Jimmy Carter, who has made 'human rights' a centerpiece of his diplomacy, beat a spectacular retreat last week that left many foreign policy observers stunned. 'He almost duplicated Ford's snub of Solzhenitsyn,' remarked one amazed critic."

This is the opening sentence of a front-page editorial, "Carter's Desperate Moves to Maintain Détente," which appeared in the July 30, 1977 issue of Human Events, an American conservative weekly published in Washington, D.C.

The story is so shocking that a person has a hard time to believe it happened in Washington, capital of the free world.

Since 1959 every President of this great country has issued a Presidential Proclamation, urging all Americans to observe this significant week.

A brainchild of Dr. Lev E. Dobriansky, Public Law 86–90 has become a symbol for millions of Americans of Central and Eastern European ancestry who have seen their countries of origin swallowed up by Russian armies. Because of the deep current of feeling among a vast segment of the American people, not only Presidents, but governors, mayors and other public figures, U.S. legislators and other officials from around the country have paid homage to Captive Nations Week.

The law explicitly specifies that "The President of the United States is authorized and requested to issue a proclamation designating the third week of July, 1959 as 'Captive Nations Week.'"

The law further states the President is "authorized and requested" to issue similar proclamations each year "until such time as freedom and independence shall have been achieved for all the captive nations of the world."

"But for reasons which are still wrapped in something of a mystery, Carter, though ultimately reversing himself under pressure, had planned to become the first President since passage of PL 86–90 to ignore the event," said the editorial.

Prof. Dobriansky, President of the UCCA and Chairman of the National Captive Nations Committee (NCNC), who has raised the issue every year with whoever is President, wrote to President Carter early in May. He received a reply—oddly enough—from the Office of Management and Budget, saying the matter would be handled by the State Department. Later Dr. Dobriansky was directed to Greg Treverton, a staffer on the National Security Council (NSC). On July 14, three days before the Week, Treverton's office informed Dobriansky that the NSC was still working on the President's statement.

Since Dr. Dobriansky had to fly to Cleveland to take part in a panel discussion on detente, he asked Lee Edwards, executive director of the NCNC, to follow up on the Presidential Proclamation. When Mr. Edwards called the NSC, Treverton said that there wasn't going to be any proclamation as it was "not required" by the law. Treverton also said that the proclamation wasn't necessary because of the President's well-known stand on human rights. Mr. Edwards was taken aback, but told Treverton that a "lot of people" were going to be surprised, shocked and disappointed.

On July 18 Prof. Dobriansky wrote a sharply-worded letter to President Carter, in which he said, in part:

"Your failure to proclaim Captive Nations Week is a source of grave disappointment to millions of Americans and our allies abroad. Those in the Kremlin and other Communist totalitarian centers are doubtless happy and delighted by this generous inaction and certainly will weigh it accordingly.

"For one who is supposedly committed to human rights globally, we expected from you the strongest proclamation yet. Instead, for the first time since 1959 and in strange contrast to your predecessors, you chose to ignore this traditional annual observance of Captive National Week. . . . We are appalled by this indifference. . . ."

Meanwhile, the White House was under pressure from various sides to issue the Presidential Proclamation.

"Republican leaders—many of whom, in fact, had ignored the 'human rights' issue when President Nixon and Ford were in office—began making some noises," continued the editorial.

Sen. Robert Dole (R.-Kan.), contending that Americans were "distressed" because the President had failed to issue a proclamation, introduced a resolution that would have directed the Administration to bring up the subject of "captive nations" at the Belgrade conference this fall on the implementation of the Helsinki document.

DEMOCRATS GO INTO ACTION

But Democrats also got into action, when a number of Democratic legislators appealed to the White House for the Presidential Proclamation. Mr. Andrew Valucek, director of the Minority Divisions at the Democratic National Committee, issued a special plea to the White House, appealing for the Presidential Proclamation.

By Wednesday, July 20, 1977, the President had yielded to political pressure at home. Before the House went into session on its special order, with many members primed to blast the President, Carter issued a token proclamation, thereby avoiding some harsh condemnations.

What alarms foreign policy specialists about this entire episode is that in the confrontation between Carter and Brezhnev on human rights, Carter "appears to have blinked first."

While the Russians used to look upon Captive Nations proclamations as an offensive intrusion into their affairs, they now tend to view the issuance of such statements as ritualistic exercises, primarily because U.S. Presidents in recent years have kept watering down these proclamations. But Carter was so worried about offending the Russians, he initially decided to cancel a *pro forma* proclamation, even if it would arouse the ire and alienate a great number of ethnics loyal to the Democratic party, as well as others.

Some experts believe this step by Carter was one of a series of appeasement moves accommodating Moscow. Others are the cancellation of the B–1, the scrapping of the production of the Minuteman II, the end of the hard-line Foreign Intelligence Advisory Board, and a move to end the Jackson-Vanik amendment limiting trade with the USSR.

Also, recently a special committee to coordinate all government policies involving the USSR was created under the chairmanship of Prof. Marshall D. Shulman, who reportedly takes pretty much of a dovish position when it comes to formulating foreign policy.

Some of President Carter's advisers, especially former Secretary of State Dean Rusk and former U.S. Ambassador to the USSR, Averell Harriman, are known to be against "Captive Nations Week." And there are many U.S. businessmen who crave increased U.S.-

Soviet trade, and don't care a hoot about persecution in the USSR.

It is regrettable that President Carter, who began his Administration with a relatively tough stance toward the USSR, appears to be scurrying in retreat before Brezhnev's ire.

What are we to think about future moves of Jimmy Carter?

CAPTIVE NATIONS

To the editor:

Congratulations and thanks for your magnificent editorial "Let My People Go" (7/22/77) in which you remind readers of our duty in social justice to insist on the rights of the captive nations: the Lithuanians, Ukrainians, Georgians and others, to self-determination.

In certain circles it has become unchic to recall the rights of captive nations, even though it has become fashionable to speak up for human rights. We are given to understand, for instance, that the Soviet occupation of the Baltic states, which the U.S. has never formally recognized, is not to be brought up at the Belgrade Conference on the observance of the Helsinki accord.

Some even speak condescendingly the "captive nations syndrome," as though there were something wrong with self-determination for nations which were until World War II or later, full-fledged members of the family of nations, and insist on being such again.

Often, those who cannot understand the aspirations of the captive nations are the greatest champions of the developing nations. Would it not be more consistent to advocate the right of all nations to self-determination?

FR. CASIMIR PUGEVICIUS,
Lithuanian Human Rights Commission.
Glen Dale, Md.

SELF-DETERMINATION OF NATIONS

If you take into consideration the simple fact that there live in the U.S.A. about 25–30 million descendants of Eastern European captive nations and several million who originated from nations enslaved behind the Bamboo Curtain, you perform a great service to the American public in presenting the causes and aspirations of those unfortunate nations.

During the Captive Nations Week you published several articles, and recently an interview with Professor Eugen Loebl concerning some of the enslaved nations. Every member of these nations should appreciate your interest and concern for their human and national rights and your excellent anti-Communist stand.

We Slovaks fully support the statement of the former high official of the Czech government (1945–49), Professor Loebl who, in the News World (August 11–12th), presented the "concept of self-determination of nations and nationalities, which he believes to be one of the strongest political forces in the world and a potential weapon against Soviet imperialism too long neglected by the West."

It is well known fact that the Russian Bolsheviks are intensely afraid of nationalism (self-determination) in nations residing in the orbit of U.S.S.R. On the one hand the Soviets and their satellites support each movement toward self-determination which florishes in the Western world, but on the other hand, they brutally suppress each such movement which occurs in the sphere of Soviet influence. The clearest pictures of how the Soviets know to liquidate the right of self-determination and how they use to their aim their natural ally—the chauvinism of other nations—is illustrated in Czecho-Slovakia.

This multinational state consists of two separate nations—the Slovaks and the Czechs—and of some minority groups: German, Polish, Hungarian and Ruthenian. Both the Slovaks and the Czechs have different national and political aspirations. The Slovaks want to be an independent nation, and the Czechs like to keep Slovakia as their colony in the framework of Czecho-Slovakia. And the Soviets know well how to manipulate in such cases.

THOMAS J. VETESKA,
for Free Slovakia.

SUPPORT CARTER'S POLICY ON RIGHTS, READER SAYS

To the Editor:

The week of July 17–23 is observed nationally as "Captive Nations' Week" in accordance with Public Law 86–90, which was passed by the U.S. Congress in 1959. President Jimmy Carter and Governor Michael S. Dukakis issued special proclamations, in which they called for the universal implementation of basic human rights.

Governor Dukakis' proclamation stated: "The captive peoples of Armenia, Byleorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others, continue to struggle for their national independence and their fundamental freedoms of thought, conscience, religion and belief" and "Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents are held in Communist Russian jails and concentration camps for demanding the application of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples."

Moscow's oppressions in the captive countries are extremely heavy and barbaric and border on outright ethnocide and genocide. Hundreds of Ukrainian, Lithuanian, Latvian, Estonian, Jewish, Armenian, Georgian and other dissidents have been and are being jailed for demanding that the Kremlin live up to the human rights guarantees of the Helsinki Accords, which it signed.

Recently, two Ukrainian dissidents, Mykola Rudenko and Oleksiy Tykhy, members of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords in Kiev, Ukraine's capital, were sentenced to long years of imprisonment. Anatoly Sharansky, a Jewish activist within the Helsinki monitoring group, was charged with treason simply for having desired to emigrate to Israel. Now in Soviet jails and concentration camps are: Valentyn Moroz, a Ukrainian historian and the symbol of Ukraine's struggle for freedom; Vyacheslav Chornovil, Rev. Vasyl Romaniuk, Yurly Shukhevych, Ivan Svitlychinyi, Sviatoslav Karavanskyi, Stefania Shabatura, Nina Strokat-Karavanska, Ivan Hel, to name just a few out of the hundreds of Ukrainian political prisoners.

This year's Captive Nations' Week is observed at the time of the Belgrade conference, at which 33 nations are reviewing the implementations of the Helsinki Accords of 1975. However, the captive nations in the Russian communist empire—Ukraine, Latvia, Lithuania, Estonia, Armenia, Byelorussia, Georgia, Turkestan, and others—are not represented by their own delegations at the conference. They should be participating in the conference, because the Helsinki Accords apply to them too.

The 1977 Captive Nations Week serves as the appropriate forum to voice public support for President Carter's policy calling for the universal implementation of basic human rights and for the right of the captive peoples under the Soviet Russian domination to enjoy national independence and freedom.

OREST SZCZUDLUK,
Vice President, Ukrainian Congress Committee of America, Boston Chapter.

PRESIDENT YEN WARNS UNITED STATES ON PEIPING DEALING

President Yen Chia-kan on July 22 reaffirmed the Republic of China's stand of never compromise with the Chinese Communists and warned the United States of the grave consequences of "normalizing" relations with the Peping regime.

Addressing a Captive Nations Week rally at the Sun Yat-sen Memorial Hall, the President said "there is no possibility of detente and no means of coexistence" between the Republic of China and the Chinese Communists.

"History proves," President Yen said, "that there can be no genuine cooperation and no coexistence between two entities with basic concepts, political systems and ways of life diametrically opposed."

Democratic nations, he said, "should hurry to free the enslaved people from their agony and not exacerbate their sufferings."

"Should the democratic nations harbor the illusion that the Chinese Communists might become moderate, enlightened and rational, and should they then go on to normalize relations with the Chinese Communists for the sake of momentary peace, they would be (as the Chinese saying has it) foolishly drinking poison to quench their thirst. The ensuing tragedy could last for a hundred generations."

Describing the Chinese Communist regime as "the root of the threat to Asia and of world turmoil," the President urged the world over to help destroy it.

The Republic of China observed the 1977 Captive Nation's Week in Taipei July 17 through 23, with more than 3,000 government and civic leaders, representatives of all walks of life, members of the diplomatic corps and foreign dignitaries and anti-Communist fighters attending.

The participants denounced the Chinese Communists as destroyers of Chinese culture and called on the world's free countries to stand united in the struggle against Communist tyranny and for freedom and human rights.

William Dickinson, member of U.S. House of Representatives, told the meeting that as it has been proved in history that no dictatorship can last long, and that the Chinese Communists will meet the same fate as the doomed tyrannical rulers of the past.

Im Lam, former premier of the defunct Khmer government, reported that the anti-Communist movement in his country is mounting.

Anusorn Yukol, secretary-general of the Sweden Chapter of the World Anti-Communist League, said that free China on Taiwan is the true representative of the entire China.

Suvit Chi-nachote, secretary-general of the Thailand Chapter of the World Anti-Communist League, said that his country has stood and will stand firmly to devote its efforts to the task of safeguarding world peace and freedom and helping the enslaved people of the Communist countries.

Dr. Jeno Platthy, president of a world-wide poets' organization, who fled Hungary several years ago, told the gathering that since the Second World War, his country has been under the boots of Soviet soldiers. He warned that what happened in Hungary can happen elsewhere.

"I have realized the indifference of the West, its preoccupation with business and material things. The real perils of a nation are not material, but always spiritual," Platthy said.

He predicted that the Communist empires will crumble one day and that those who keep millions as their slaves will pay for the sins and the misdeeds they committed.

Freedom is inevitable, he said, "It cannot be denied forever."

Meantime, about 300 freedom seekers, members of their families, overseas Chinese and foreign guests joined in a meeting to observe Captive Nation's Week at the hall of the Free China Relief Association in Taipei.

DE-COLONIZATION OF USSR IS THEME OF CN WEEK OBSERVANCE

NEW YORK, N.Y.—On Sunday July 24, the 19th annual Captive Nations Week observance, sponsored by "Americans to Free Captive Nations, Inc.," was held at the Statue of Liberty here. The participants were the representatives of the captive nations organizations such as: Ukrainians, Byelorussians, Lithuanians, Bulgarians, Georgians, Jews, Chinese, Azerbaidzhanians, Turkestanians, North Caucasians, Kazan and Crimean Tatars, Germans, Czechs, Russians and others; also a large group of Americans, representing the conservative movement; and the members of the American Council of Captive Nations.

The official program began with the pledge of allegiance led by Albert Guarino, an American war veteran. After the American anthem was sung by the participants, Dr. Valentina Kalynyk greeted the audience on behalf of ATFCN and spoke on the topic "Freedom Through De-Colonization," stressing the urgency of decolonization of the Moscow colonial empire under the name of the USSR.

She stated that "since 1945 over 45 former colonies became independent states, whereas some 120 nationalities in the USSR remain oppressed. The fact is that the plight of the 14 non-Russian republics in the USSR is incomparable in the history of all colonial empires. Ukraine alone, since 1917 through genocide and Russification lost some 40 million of her potential population."

She pointed out that "the free Western world, with its decaying moral principles, is more concerned with human rights for subversive, perverse and destructive elements of society than with promoting the rights of enslaved nations."

Dr. V. Kalynyk pledged to support the dissidents in and out of the USSR, among them the recently sentenced Rudenko and Tykhy for the activities in the committee concerned with promoting the implementation of the Helsinki Accords.

Other speakers were: Konsin C. Shah, Consul General of the Republic of China; Paul Keren, chairman of the Constitutional Party of New York State; Alexander S. Yessenin-Volpin, representative of Amnesty International; Barry Farber, a well-known radio talk show host, candidate for Mayor in New York; Vern Mitchels, representative of the Azerbaidzhanians, Turkestanians and the Crimean Tatars; Shalaudin Bey Bulta, representative of the North Caucasian nations; Dr. Joseph Sheftick, chairman of the American Council of Captive Nations. Igor Sinjavin spoke on behalf of the newest Russian political emigres who support self-determination and national independence of the captive nations and de-colonization of the USSR.

Dr. Roger Horoshko, secretary of ATFCN, read the proclamations of President Jimmy Carter, Mayor Abraham Beame, Governor of New Jersey Brendan Byrne; he also read messages from Senator Bob Dole, Congressman Daniel J. Flood; Bill Brock, chairman of the Republican National Committee.

LOOKING AROUND

Steve Postupack, who has been speaking out on human rights long before President Jimmy Carter made it the term of the day, did so again in his usual eloquent style recently before the county commissioners for the observance of captive nations week.

In his manner of speaking about things some might at times consider too "right-wingish," Postupack provides refreshing listening.

He was talking about the deplorable conditions in captive nations of Europe where the Soviets, not satisfied with clamping an iron fist on these countries alone, continue to seek control over the individual minds of the populations.

Postupack's talks are backed up by personal testimony of other Schuylkill Counties who have visited these countries to return with pure horror stories of the conditions imposed on friends or relatives living there. Even here they dare not speak too frankly or too much in public for fear of retaliation to those loved ones behind the iron curtain should the word get back to their communist captors.

One area man told of delivering aspirin to relatives which reduced them to tears on receiving this taken-for-granted drug here, which hardly exists over there.

Another area student on a trip to Moscow could find no one who smiled openly. She was shocked at that.

Postupack noted how the wrong words, or reading the wrong book, can get one in serious trouble in those captive nations. The "wrong attitude" toward conditions imposed by the communists can get one a term in a primitive "insane ward" where torture and beatings are common.

Things are as bad or worse in Cambodia and Viet Nam where we decided the price of freedom was not worth the cost and left the wasted deaths of some 40,000 Americans as a tribute to that defeatist belief. When the communist leaders, many of whom don't have the brains of some of our fifth graders, moved in they decided murder and torture are the only good tools of order.

And with all of this going on around us we sit dismantling military bases, without a military draft, flirting the Castros and getting ready to surrender the Panama Canal. Where is that "clear purpose of direction" candidate Carter talked so much about before he was President Carter?

If there is anything that is becoming clear—to the communists at least—it is that we are abandoning our belief, founded in truth of experience, that America remains as the last guardian of freedom.

The communist brand of freedom, that the individual is subservient to the state, has never changed. Their "clear purpose of direction" is an outright guarantee that it never will. Our dedication to just the opposite, that the state is subservient to the individual, should be just as clear, to ourselves, as well as the communists.

THE NEW FACES IN CONGRESS ONLY LOOK LIKE DEMOCRATS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

Mr. CAVANAUGH. Mr. Speaker, I would like to bring to the attention of my colleagues in the freshman class, as well as all the Members, a column that appeared in the Tuesday, September 27, 1977, edition of the Washington Star. The article was written by Mr. Michael Novak. The article follows:

THE NEW FACES IN CONGRESS ONLY LOOK LIKE DEMOCRATS

(By Michael Novak)

Interviews with old-time leaders in Congress disclose something the public has not caught onto yet, because even the press has been bamboozled. As their voting records now show, those new "Watergate Democrats" in the Congress are hardly Democrats at all but, rather, elephants in donkey dress.

The new class of Democrats has been beloved of the press for their clean, youthful, independent look. Many in the press dislike party discipline, loyalty, and respect for institutions. Praise is heaped on "independents." Television journalists seem to love the lone guns, handsome candidates with boyish smiles and the articulateness only an expensive schooling furnishes.

The Watergate Democrats in the House, according to those who have to deal with them, think serenely that they are better than the old-timers. They believe they have been "saved" by being in the generation they inhabit. They have not known sin. They do not feel "dirtied" by the rules or laws or practices of politics. They owe nothing to nobody. They spend much effort cultivating their self-image as "outsiders."

They think of themselves as handsome, telegenic, articulate, independent, incapable of wrongdoing or wrongthinking. Whatever they vote for, however crazy-quilt their voting records, they know that, as distinct from the older hacks, they are guided by conscience. They believe in Inner Light. They project serenity.

They are a suburban mother's dream. Earnest. Serious. Informed. Their articulation is neither rough like that of the old labor left, nor elegant like that of the old silk-stocking left. They talk like assistant professors, or salesmen just out of Yale Law, Stanford Business, an IBM training program in human relations, or a "Psychology Today" seminar at a Methodist summer camp. All their pieties have been approved of by the universities.

Most of them come from Republican districts. In their effort to please their constituents—and the new class of Watergate Democrats is nothing if not eager to please—these disguised Republicans have little interest in labor issues or Democratic party discipline. They get their signals from the Great Moral Beyond.

From Mugwumps of the 19th century to "consumer advocates" and "concerned citizens" of today the line to the Almighty is unbroken. They speak for what is Good for their fellow citizens, a serious obligation nobly carried.

The Watergate Democrats are the main reason why labor is taking a drubbing in Congress. With the Watergate Democrats at their side, the small band of Republicans is able to win crucial economic votes. In order to make Republican visions prevail, the Republicans do not need to win back new seats in the House in 1978. They have nearly 90 votes inside a Trojan donkey.

In 1977, however, youth and energy and organization are no longer running on the suburban liberal side. Liberal organizations like the Sierra Club and Nader's Raiders have been gutted. Their most talented staff-workers are now in government. In the field, the new energy is conservative—smooth, articulate, technically proficient, young, and eager for blood.

The tide is running against environmentalism, zero growth, and obscure species of tadpoles and worms. The conservatives are seizing the issue of jobs. Meanwhile, the Watergate Democrats, handsome and tailored, smile their independent smiles, the best friends the Republicans have had since the old Southern Democrats.

THE DEMAND FOR A SELECT COMMITTEE ON POPULATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. MEYNER) is recognized for 5 minutes.

Mrs. MEYNER. Mr. Speaker, we are living in a finite world with finite resources. Yet, each day, with each increase in the world's population, we place an even greater demand upon those limited resources.

Unchecked, world population growth could, quite frankly, smother the world in the next century and lead to the darkest of visions: Death, pestilence, famine, and starvation.

Despite this vision, the United States of America remains one of the few major

democracies in the world without an overall policy on the stabilization of population. As the leaders of the free world, we have a moral charge to establish standards, and to encourage peace among nations and the relief of human misery.

We can take a small step toward meeting this charge by approving today this resolution establishing a select committee on population.

The need—first, for a Select Committee on Population and, second, for a national policy on population stabilization ought to be obvious.

First, the legislative responsibility for coping with the problems of population is scattered among seven standing House committees. We cannot expect a cogent policy with a voice to articulate it. The Select Committee on Population will do this.

Second, an overall population policy will help us to address the questions begged by the dark vision of overpopulation I have spoken of.

The world already has problems meeting the demand for food. A third of the world's population goes to bed hungry every night. You do not have to be a professional demographer or nutritionist to realize that feeding 7 billion people by the end of the century is not going to be any easier than feeding the 4 billion people who now populate the Earth.

You do not have to be a medical expert to realize that water and air pollution, provoked by the demands of a large population, is going to be any less of a problem by the year 2000 than it is now.

You do not have to be a professional ecologist to know that encroachment of our beaches, our wildlife preserves, our lakes, and our woodlands is going to expand as our population expands.

You do not have to be a sociologist to know that increased population means greater competition for jobs, living space, and material needs, and this means a greater incidence of violence and crime.

An American approach to population stabilization will not, of course, diminish the prospects of the expected increase in population by the end of the century, but it will help.

Moreover, a well-defined approach to population stabilization would help to address some of the sensitive political problems here at home. Consider, for instance, the problem of illegal immigration into the United States. Authorities seem to have thrown up their hands in trying to cope with the problem and suggest that amnesty for illegal aliens may be the only answer.

Would it not be better to encourage other nations to change the demographic patterns that contribute to the desire of others to leave their homelands and come to the United States than to throw up our hands and authorize amnesty?

I recognize the problem some of my colleagues and some Americans face when we propose something like population stabilization. And it is a serious one. People fear that they will be forced or coerced into population control. Fears of forced sterilization and mandatory birth-control practices are murmured.

Let me say this. That is exactly what will happen in countries where less scrupulous leaders and less respect for democratic principles prevail.

Now is the time; this is the place; and here is the legislation that should prompt us to act so we can prevent such a course of events from ever taking place.

Our proposal stresses the word, "encourage." Through development of guidelines, a Select Committee on Population can propose legislation that will rely on democratic virtues—voluntary action, free will and choice—to encourage our own Government and those of other nations to develop programs that will help stabilize the world's population.

Let us act now, while we have time, while we have a chance, and while we have a choice.

I most wholeheartedly encourage my colleagues to support this resolution.

CONGRESSIONAL ACCESS TO SENSITIVE SECURITY DATA

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, I recently made an informal check of the access of committees of Congress to classified security information. To obtain an indication of the degree of the proliferation of sensitive security information in the Congress, I limited my review to the distribution of "Restricted Data" amongst the various committees. The concept of "Restricted Data," as defined in the Atomic Energy Act, concerns very sensitive defense and national security material related to nuclear energy and provides for a unique system of Government control of the dissemination of the information.

I must admit that my informal check into the matter revealed a disturbing trend. I found that about 15 individual committees and subcommittees of the House and Senate have access to restricted data and maintain individual files of varying amounts of such information. I also found that 256 staff members have been cleared to have access to this sensitive information. Since the 1960's, the number of staff people cleared for access to restricted data have increased by nearly a factor of 10.

A fundamental principle of maintaining the security of sensitive information is to limit its distribution. In its simplest terms, this means limit the access to the information to the minimum number of people consistent with getting the job done. I am concerned that this principle is being violated with the growth in access to this one type of specially sensitive security information to 15 separate organizations in the Congress alone.

I fully appreciate the need for a certain number of committees and subcommittees to have direct and ready access to information and files on sensitive security information. My plea is for the reduction of this access to the essential minimum. I believe this access could be reduced considerably by stricter compliance with the committee system of organization wherein specific responsibilities are assigned to individual committees. Strictly limiting access to the committee with the prime responsibility for the classified data involved will, I am sure, reduce the proliferation which is occurring.

Although I have not looked into the handling of other areas of sensitive national security information than restricted data, very probably similar unfavorable trends have developed in the treatment of such areas in the Congress. I firmly believe that we can greatly improve our treatment of these matters by reducing the number of congressional organizations handling such sensitive security information without relinquishing any congressional responsibilities or losing any legislative control in these areas.

I do not think we can overemphasize the importance of doing everything possible to safeguard sensitive security information. Loss of certain information could well result in the grave endangerment of our national security. Without consideration of the nature of the specific matter involved, it is not possible to estimate the seriousness of the consequences which could ensue. Losses of certain sensitive security information in the past has, in my view, resulted in the nullification of literally billions of dollars of investment in our defense forces. Obviously there is probably no graver matter that we have to contend with than the proper handling and safeguarding of such security information.

The protection of sensitive security information is also directly related to the proliferation of nuclear weapons which is now such a great concern to many Members of this body. The availability of nuclear weapons technology, and in some cases only an incidental piece of information concerning our weapons program, could make it possible for a striving dissident or other foreign national group to attain nuclear weapon capability. The forces for such harmful diffusion of sensitive information are proportional to the number of sources of such information. We should, accordingly, reduce the number of organizations and people to whom such information is distributed.

The tightening up of how the Congress handles sensitive security information is also important relative to the carrying out of oversight responsibilities of the Congress. Simply put the only way we can be effective in exercising effective oversight responsibilities over the safeguard functions performed by the executive agencies is by the conduct of the same functions in an exemplary manner.

The newly created Select Committee on Intelligence may provide the best route for improving the procedures for safeguarding sensitive security information in the House. I would hope that the committee would give this matter consideration. I would be happy in helping in any way that I can on this problem.

SALT I AGREEMENT CONSIDERATIONS

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, on October 3, 1977, the "Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures With Respect to the Limitation of Strategic Offensive Arms" technically expires. This agreement, commonly referred to as Salt I, has been in effect for 5 years. In our consideration of future strategic arms limitations we should take into account what has developed in these 5 years.

A good starting point in appraising the effect of the 5 years of Salt I on peace and security is to review section 3 of the joint resolution we passed which outlined the views and conditions under which the Congress approved the Salt I arrangement—Public Law 92-448, 92d Congress, House Joint Resolution 1227, September 30, 1972. This section is quoted below.

SEC. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

Each of us must reach our own decision on the worth of Salt I in advancing the cause of peace and security. The 5 years of experience we now have should be a primary source of guidance in determining our future course of action.

My own evaluation of this record gives me concern about the posture of our security as a result of the past 5 years under Salt.

One area is related to the reference in section 3 of the joint resolution to the need to assure the survivability of our strategic deterrent forces. Several witnesses, including the Secretary of Defense, have expressed the view that in the past 5 years the threat to the survival of these forces has increased.

Section 3 of the resolution, you will also note, recognizes the importance, in this fast-developing field of technology, of maintaining "a vigorous research and development and modernization program." Here again the Secretary of Defense's announcement that the Soviets have developed a fourth generation of missile systems in this period. Such technological modernizations are, of course, permissible under the SALT I agreement. I am concerned over what has happened to our relative position in this technological field.

I intend to continue examining very closely what has actually transpired during the 5 years of SALT I. We must all give this matter our most critical attention.

NEUTRON WEAPONS STOCKPILE MODERNIZATION

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, some years ago Lynn Montross, who was an historian for the Marine Corps, wrote a book titled, "War Through the Ages." The book does a remarkable job detailing man's inhumanity to man from about day 1 of recorded history through Korea. From it I learned that the quislings, those who sold out to the enemy, were known in the days of Genghis Khan. Montross relates how the Pope in the 11th century outlawed a new terror weapon which was wreaking havoc on the armored cavalry. The new weapon, the crossbow, would knock the knight off his horse. Flat on his back on the ground, he was an easy victim for the infantry if, in fact, the blow from the bow's projectile did not kill him. The crossbow was ineffective against buildings. Compared to previous bows, however, it had enhanced blast against knights in armor.

The current fuss about the so-called neutron bomb is without merit. The warhead should have been called the "reduced blast/thermal" warhead instead of the "enhanced radiation" warhead. This would have brought forth kudos for the developers of this new humanitarian approach to saving the lives of innocent civilians, should nuclear war erupt in Europe.

George F. Will had an excellent article in the July 7, 1977, Washington Post. I recommend it to those who wish to understand why a weapon with high neutron output, but low blast and thermal output, was developed. Mr. Will very clearly points out why those who oppose this new weapon do so:

In other words, a weapon must be so indiscriminately destructive in blast and fire effects that we will be deterred from using it. Similarly, Hatfield objects to neutron weapons because, being precise, they "invite" use.

The article follows:

THOSE BLASTS AGAINST NEUTRON WEAPONS
(By George F. Will)

Sen. John Heinz (R-Pa.) says a neutron warhead for battlefield missiles or artillery is "dehumanizing" because it "singles out people for destruction, choosing to preserve buildings instead." Newspaper reports have said that neutron weapons destroy people "rather than" property, or "while sparing" property.

In fact, neutron weapons do not "preserve" or "spare" property. But this kind of rhetoric has stimulated intemperate and uninformed outcries against such weapons. So before the debate boils to an irrational climax, this should be noted:

The principal objection to neutron weapons is not that they destroy people. Rather, the objection, made in the name of moral sensitivity, is that they do not destroy people and property as indiscriminately as the less precise tactical nuclear weapons that neutron weapons would replace.

All nuclear explosions produce four lethal effects: blast, heat, radiation and fallout. Neutron weapons produce only about one-tenth of the blast, heat and fallout produced by regular nuclear weapons.

Radiation from neutron weapons is more intense, but more confined; it can be confined to a radius of 300 yards. And it is short-lived; an area hit by a neutron weapon can be occupied the next day.

One newspaper reports that neutron weapons are "more detrimental to humans than to buildings," a description that also applies to bullets. Sen. Mark Hatfield (R-Ore.) says neutron weapons are "in the realm of such devastation that it is difficult to comprehend."

Not really. Nuclear weapons that neutron weapons would replace would destroy civilians and homes far beyond the battlefield area to which the effects of neutron weapons would be confined.

Since industrial organization became the basis of military power, and especially since the development of air power, the theory and practice of war has blurred the distinction between combatants and noncombatants. Neutron battlefield weapons are a step back from the indiscriminateness of modern war technologies: They make possible reduced collateral damage to civilians.

And that is why they are opposed.

Paul Warnke, President Carter's arms-control adviser, once said, with characteristic excess, that new tactical nuclear weapons capable of more controlled devastation would be "an absolute disaster." Weapons "with lower yield and greater accuracy and presumably few collateral consequences" would undermine the self-deterrence of nations that possess them.

In other words, a weapon must be so indiscriminately destructive in blast and fire effects that we will be deterred from using it. Similarly, Hatfield objects to neutron weapons because, being precise, they "invite" use.

Sen. Sam Nunn (D-Ga.) rightly notes that opponents of neutron weapons fear that the United States might not be sufficiently reluctant to use them. But as Nunn argues, a deterrent is credible only to the extent that it is usable:

"Those who oppose the warhead apparently believe in self-deterrence . . . that we should keep the weapons so destructive we would never use them or if we did use them, it would only be under the most desperate of conditions. . . . By deterring ourselves from using tactical nuclear weapons, except weapons which would destroy the territory we are pledged in NATO to protect, the advantages which the Soviets now maintain in conventional arms are greatly magnified. . . . I remind my colleagues that the purpose of deterrence in Europe is to deter Soviet aggression, not to deter ourselves from responding to that aggression."

Rejection of clean, precise neutron weapons would be destabilizing in two senses. On the one hand, the Soviets would be given reason for doubting that the United States would use existing tactical nuclear weapons, with their devastating collateral effects, while fighting on allies' soil. On the other hand, while NATO forces are equipped only with such imprecise weapons, NATO will be

under pressure to use them early against attack, before superior Soviet conventional forces move the battlefield from the border into the heart of Western Europe.

The basic objection to neutron weapons constitutes an objection to tactical nuclear weapons in general. Neutron weapons do not involve a departure from established principles for defending Europe with tactical weapons.

Opponents should calculate the cost—in money and, in the event of war, in allied and civilian lives—of alternative means of coping with the Soviet advantage in conventional forces. They should, but they won't.

WHO COMPOUNDS YOUTH UNEMPLOYMENT?

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the many organized labor lobbyists that hang around the east door to the Chamber during debate and critical votes in which they have an interest wore long faces last week as a result of action in this body on the fair labor standards bill.

They were appalled at the success of the "opposition" when we were able to remove the indexing feature, which they wanted so badly, as well as retain the tip credit. They were, however, pleased with their success in killing the effort to have a youth differential which would have helped keep and create jobs for young people at a figure below their new minimum wage.

You will recall, Mr. Speaker, that as the time expired on the vote on the youth differential, the "tote boards" on each side of the Chamber showed it had passed by four votes. However, the voting was kept open until such time as a couple of Members were persuaded to reverse themselves, whereupon a tie vote was revealed, which, of course, defeated the amendment. You then, Mr. Speaker, took the unusual, although perfectly legal, step of casting your vote, which finally tabulated a defeat of the amendment by 211 to 210.

This has not gone unnoticed, at least by a portion of the media, and I am enclosing with my remarks, a copy of the editorial which appeared in the Columbus, Ohio, Dispatch on Saturday, September 24:

HOUSE SPEAKER BLOCKS YOUTH JOBS

Youth unemployment seems certain to remain a serious national problem now that U.S. House Speaker Thomas O'Neill and his colleagues have rejected a minimum wage formula that would save teenage jobs.

The proposal would have enabled businesses to pay workers under age 19 less than the minimum wage during their first six months of employment.

In a key House vote, members deadlocked, and Mr. O'Neill himself cast an unusual final ballot against the youth wage differential.

This was a sad moment for American teenagers.

Economists generally agree that increases in the minimum wage harm inexperienced and unskilled workers most of all. Over the last decade increases in the minimum wage may have ended 25 percent of teenage jobs.

But, the youth differential would have provided an incentive for employers to hire less-skilled workers, enabling them to learn on the job.

A black economist, Dr. Walter Williams of Temple University, argues that blacks and other minorities have lost most from widespread application of minimum wage laws.

As late as 1948, when these laws had limited effect, black youths had a lower unemployment rate than white youths, but today the situation has reversed. Joblessness among black youths currently exceeds 40 percent.

"I would guess," says Mr. Williams, "that if we abolished the minimum wage, reduced licensing restrictions, changed labor legislation and reorganized the delivery of education, in 20 to 30 years there would be no 'black problem,' as there is no Japanese, Chinese, Jewish or other earlier immigrant problems."

The minimum wage differential for teen workers was a step to generate youth jobs for all. It is a shame that Speaker O'Neill blocked that initiative.

HON. OLIN E. TEAGUE RESPONSIBLE FOR MODERN DAY VETERANS PROGRAMS

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, although TIGER TEAGUE needs no defense from me, I rise to reply to the unprovoked attack by Colman McCarthy in yesterday's op-ed page of the Washington Post. Ordinarily, I do not engage in debate with newspaper articles because it generally is an exercise in futility.

In articulating veteran issues, I have found that the Washington Post in general seems more concerned about the concept of the wrongness of the Vietnam war than about helping Vietnam veterans.

I am reminded of Thomas Gray's words, "Where ignorance is bliss, 'tis folly to be wise." The article heaps considerable scorn on the distinguished chairman of the Subcommittee on Education and Training of the Veterans' Affairs Committee who chaired hearings on September 15 on two proposals which would authorize the Veterans' Administration to pay more money to certain veterans who attend high-cost schools or want to accelerate their entitlement by getting more GI bill money in a shorter period of time. The author of the article seems to feel that because the Congress has not acted on these proposals, there is a great indifference which permeates this body. The blame is placed at the feet of OLIN E. TEAGUE, the one Member of this body who has been continuously involved in consideration of legislation for all veterans since the end of World War II—the one man responsible for writing the modern day veterans' programs.

I have taken the liberty of checking with the Veterans' Affairs Committee in reference to some of the allegations in this article. I learned that the chairman scheduled a 1-hour hearing on September 15 on a bill introduced by Congressman QUIE to pay extra tuition to individuals who attend high cost schools and another bill to accelerate GI bill entitlement introduced by Congressman WOLFF, a distinguished member of the subcommittee. Because of the number of witnesses scheduled to testify, it was impossible to hear them all on September 15 even though the hearing began at 8 a.m. Mr. TEAGUE listened to witnesses for several hours so that all parties could be heard, then scheduled hearings to continue on September 16. None of the proponents of the legislation were in attendance on September 16 when the Veterans' Administration and other very important witnesses testified.

Mr. Speaker, the Vietnam era GI bill was enacted in 1966. Over the last 11 years, there have been a number of substantive amendments to the program with special consideration being given the so-called disadvantaged Vietnam veteran. While a few editorial writers engage in blandly stating that the World War II GI bill was much better and more generous than the Vietnam era GI bill, this simply is not true. On the contrary, the Congress in its appreciation of the contribution made by the Vietnam veteran to the Nation has approved a number of programs which not only makes the current GI bill comparable in assistance to the World War II GI bill, but has added other program assistance unheard of 30 years ago.

TIGER TEAGUE has helped establish an education program for Vietnam veterans that now provides almost $14,000 in cash assistance for educational assistance to an individual who served only 18 months on active duty. A married veteran with one child is now entitled to about $18,000 for 18 months of service. In addition the veteran may receive:

First. VA educational loan of up to $1,500 per year.

Second. Work study allowance of up to $625 per school year.

Third. Tutorial assistance of up to $65 per month for a maximum of up to $780 per school year.

Fourth. Full monetary benefits without charge to entitlement while the disadvantaged veteran trains to complete high school or takes courses which are prerequisite to his selected program.

Fifth. Forty-five months of benefits for 18 months of service compared to 28 months of training for 18 months of service for World War II veterans.

Sixth. A delimiting period of 10 years compared to the World War II program in which training had to be initiated within 4 years of discharge and completed within 8 years.

In other words, a single veteran going to school full time may now receive almost $5,000 per school year in benefits from the Veterans' Administration for 18 months of service.

Mr. Speaker, it should also be noted that the Vietnam veteran has participated in the current GI bill at a much greater rate than veterans in previous wars. Sixty-four percent have already used their GI bill as compared to 50 percent of the World War II veterans and about 43 percent of the Korean veterans.

It comes as a surprise to me that the author of the article in yesterday's Washington Post is so ill advised and misled as to believe that tuition assistance is somehow going to help the type of veteran he is pleading for—namely, the disadvantaged, alienated Vietnam veteran. The bills to which he has re-

ferred would help schools who have high tuition costs. Any other test of need such as being an unemployed veteran would not necessarily be benefited by the legislation. The GI bill is not structured to help educational institutions. The GI bill is intended to help veterans. To me, it is ridiculous to say that a veteran who lives in a certain State or who plans to go to a certain college is disadvantaged because the Federal Government is willing to give him "only" $2,700 a year toward his attendance.

Another fact worth mentioning is that after World War II most veterans did not have a job; therefore, he was not on the same economic footing as the veteran today, notwithstanding the fact that the unemployment rate for veterans remains relatively higher than for nonveterans. More than 80 percent of veterans going to school under the GI bill also work. More than 70 percent of these work full time with a median income of more than $13,000.

The charge leveled in yesterday's article in the Washington Post leaves the conclusion that Mr. TEAGUE automatically backs veterans' organizations' legislative proposals because he attends their conventions and socializes with leaders of the veterans' organizations. This is sheer nonsense. OLIN E. TEAGUE, like all true statesmen, has over the years sat on legislative proposals advocated by some veterans' organizations which have questionable merit. The reason that we have a good effective comprehensive veterans' program today is because the House Veterans' Affairs Committee under the leadership of OLIN E. TEAGUE for 25 years has been able to favorably consider and recommend meritorious legislation which is not only in the best interest of veterans and their families but for the good of the Nation.

Mr. Speaker, the facts I have outlined are easily obtained by simply checking the records available through the Veterans' Administration. But apparently Mr. McCarthy decided that he would have no story if he got the facts. This is the problem with this kind of reporting. I have no problem with any newspaper through its editorial pages, expressing a different point of view. I have always defended the right to do so. Nonetheless, one should have and report the facts in any case before attacking Mr. TEAGUE or any other member of the House Veterans' Affairs Committee. I think the committee has done a tremendous job in providing educational benefits for veterans of World War II, Korea, post-Korea, and Vietnam. I need not defend the current policy since it has been fully supported by six Presidents—three Republicans and three Democrats.

Mr. Speaker, I have nothing but praise for TIGER TEAGUE, RAY ROBERTS, RON MOTTL, and others who have done so much for our veterans and their dependents. I only wish we had more so dedicated. The majority of Congress, and TIGER TEAGUE in particular, are concerned with the Nation's obligation to all veterans and this includes Vietnam veterans. With a deficit in excess of $60 billion, we must maintain priorities; and we must try to fund all veterans' programs to the best of our ability.

TIGER TEAGUE is a legend to American veterans. His contributions are in legislative deeds not demagogic words.

PUBLIC URGES GRAND JURY REFORM

(Mr. EILBERG asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EILBERG. Mr. Speaker, I have previously inserted into the RECORD the American Bar Association's recommendations on grand jury reform, which recommendations parallel the provisions of H.R. 94, which I have introduced, to reform the Federal grand jury system.

In response to the American Bar Association's recommendations, numerous newspapers and others have urged prompt action by Congress to enact essential grand jury reform legislation. For the use of the Members, I would like to insert in the RECORD at this point a number of articles describing and discussing the ABA action and the need for the reforms detailed in my bill:

[From the Chicago Tribune, Aug. 7, 1977]

LAWYERS WARNED OF GRAND JURY ABUSE

(By Lee Strobel)

Grand juries are in danger of being abolished or having their power cut severely unless major changes are made to curtail abuses by over ambitious prosecutors the chairman of an American Bar Association committee said Saturday.

Richard E. Gerstein, state's attorney in Dade County, Fla., for more than 20 years, said state and federal grand jury systems must be revamped to prevent them from being what critics have called "a rubber stamp of prosecutors."

The ABA's Grand Jury Committee, headed by Gerstein, is proposing a 26-point plan to overhaul grand juries, to help expand the rights of witnesses, and to try to protect reputations of innocent persons.

The proposal, brought after three years of study, is among the more controversial issues under debate at the weeklong ABA convention in the Palmer House.

The 360-member House of Delegates, the policy-making arm of the 218,000-member association, will decide early next week whether to adopt the proposals as official ABA policy.

"Unless changes are made soon, the grand jury will be in danger of being bypassed or abolished around the country," Gerstein said in an interview.

"We want to preserve the system because, when it functions as it was intended, it can be an effective buffer between innocent people and the state and it gives citizens a chance to participate in the criminal justice system."

Under major provisions of the plan, grand juries would:

Permit witnesses to have a lawyer present during questioning, although the attorney could only act as an adviser and not address the jurors.

Be barred from issuing reports criticizing the qualifications or moral fitness of a person to hold a public office.

Allow anyone mentioned in a grand jury report to ask a judge in secret to have his name removed before the report is made public.

Give targets of grand jury investigations the right to tell their side of the story to the panel if they wish.

Require prosecutors to disclose to the jurors any evidence tending to negate the guilt of a target of an investigation.

Block prosecutors from making statements or arguments to influence grand jury action in a manner that would not be permissible in a courtroom trial.

Although the ABA cannot implement such changes, adoption of the plan as ABA policy would be a potent lobbying force in seeking new grand jury legislation, Gerstein said.

He said laws setting up safeguards as proposed by his committee are needed even though some proposals are part of the standards of the ABA or the National District Attorneys Association, of which Gerstein is a former president.

Gerstein's committee proposed several changes at the ABA midyear meeting in February, but the group decided to put off the plan at the request of Atty. Gen. Griffin Bell, who objected to some of the proposals.

Since then, several of the proposals have been reworded to eliminate most of Bell's objections, Gerstein said.

"The calls for reform started because of abuses under the Nixon administration and they've been increasing, not only from individual witnesses but from major corporations such as General Motors," Gerstein said.

He noted that, although the grand jury system was created in the 12th century in England to serve as a shield between citizens and the crown, England abolished the institution in 1933.

[From the Washington Star, Aug. 7, 1977]

LAWYERS FIGHTING OVER GRAND JURY REFORMS

(By David Pike)

CHICAGO.—Noting that the grand jury system is under increasing attack as being "riddled with abuse" and a "shield for the government" rather than for the citizen, the Criminal Justice Section of the American Bar Association is urging the organization to approve 26 proposals for reform.

While everyone here at the ABA's 100th annual convention agrees that abuses must be prevented, the proposals are drawing strong opposition from federal prosecutors.

Most controversial are recommendations that grand jury witnesses be allowed to have their lawyers join them during questioning instead of sitting outside the grand jury, that courts supervise the granting of immunity from prosecution, that only the broader form of immunity be allowed and that everything said before the grand jury, including comments to jurors by prosecutors, be recorded.

Such changes have been advocated by such diverse groups as the National Council of Churches, the American Law Institute and corporate officials called recently to testify in federal antitrust cases. Most recently the Founding Church of Scientology in Washington charged that the federal government's grand jury investigation into allegations of illegal actions by church members is merely an attempt to harass the church, and one minister has decided to go to jail rather than testify.

The issues being discussed are important mainly for the federal court system, where most charges are brought through grand juries. In most state and local systems, prosecutors merely file charges themselves and only occasionally use a grand jury for investigative purposes. However, the positions adopted by the ABA are certain to have a wide impact nationally and could influence grand jury reform bills pending before Congress.

ABA President Justin Stanley said Friday that grand jury reform is one of the top issues confronting the 8,000 lawyers meet-

ing here, and the issue certainly has drawn top-level attention from the Justice Department and the National District Attorneys Association.

The ABA had been scheduled to act on 23 reform proposals at its winter meeting last February in Seattle, but action was delayed at the request of Atty. Gen. Griffin Bell. Since then, the Justice Department and federal prosecutors have had considerable impact in modifying the proposals and increasing them to 26, the criminal justice section's report noted.

But the changes have not totally satisfied some federal prosecutors, and the heated lobbying and debate are expected to continue up to the time the ABA's House of Delegates votes on the proposals Tuesday. Bell is scheduled to address the convention tomorrow, but it is unknown whether he will comment on the grand jury issue to gain support for the Justice Department positions.

Most attention is being focussed on whether grand jury witnesses could bring their lawyers with them into the grand jury room to advise them on how to answer questions. The ABA two years ago supported such a move, but that position could be reversed if the current batch of reform proposals runs into trouble, sources said.

The issue is the one that reportedly most concerns Bell because the presence of defense lawyers within the sanctuary of the grand jury is seen as delaying and possibly obstructing a grand jury's investigation into criminal conduct, especially in organized crime and conspiracy cases.

Once lawyers are permitted inside the grand jury, the opponents contend, they will be able to repeatedly raise objections that will have to be taken before judges for a resolution, which could result in a "mini-trial." And in conspiracy cases, where one lawyer may represent several witnesses, the attorney would be able to see which witnesses are cooperating with the grand jury and even learn the identities of grand jury members, opponents argue.

The report notes that the grand jury process is the only part of the criminal justice system in which defendants do not have a right to have counsel present. And it argues that forcing a witness to go outside the grand jury room to consult with an attorney merely delays the process and "places the witness in an unfavorable light before grand jurors."

The report also points out that nine states including Virginia allow lawyers inside the grand jury and that none have reported any serious problems.

Another proposal that has brought strong opposition from prosecutors would provide that witnesses who are given immunity from prosecution in return for their testimony should only be granted "transactional immunity." Such protection covers any crime referred to in the testimony unlike "use immunity," which only protects the witness from use of his testimony in a future criminal prosecution.

The proposal is linked to another that would provide a further check on the granting of immunity by requiring a judge to determine that immunity is necessary, rather than the current practice of allowing prosecutors to determine whether immunity is in the public interest.

Opponents, in a statement that has been circulated to the 94 U.S. attorneys around the country, contend that: "The commentary by the ABA that use immunity encourages perjury and chills cooperation is totally unpersuasive. To the contrary, it is transactional immunity that discourages detailed truth telling since the individual is fully protected only by superficial testimony. The more detail a person (with use of immunity) provides, however, the greater is his protection."

As to giving the court a broad role in determining who can be granted immunity, the statement argues that it would "usurp the function of the executive (branch). It is not a proper judicial function to determine who should be prosecuted. It is equally not a proper judicial function to determine who should NOT be prosecuted, whether as a result of being granted immunity or otherwise."

Among the other controversial proposals is one requiring the recording of all matters before the grand jury, except their deliberations. Such a requirement, which is now in effect in only a few federal courts and not in the Washington area, is aimed at restraining prosecutors from exercising "undue or improper influence on the grand jury," the ABA report said.

[From the Washington Post, Aug. 9, 1977]

HOW TO MAKE GRAND JURIES WORK

Legislation pending in Congress to change the rules under which federal grand juries operate got a helping hand Wednesday when the American Bar Association approved a set of principles for grand-jury reform. Chief among them is a recommendation that a witness be allowed to have a lawyer present when being questioned in the grand-jury room. This recommendation, if accepted by Congress—and we hope it will be—should go a long way toward eliminating the abuses by prosecutors that have made the grand-jury system suspect. In doing so, it may save the grand jury from extinction.

Originally created in England as a mechanism for protecting citizens against an overbearing government, the grand jury has been used instead by many prosecutors as an instrument for harassing witnesses and browbeating defendants before they are indicted. The Nixon administration was especially skillful at using grand juries for political rather than law-enforcement purposes.

While the Department of Justice has recognized the need for new rules to end such abuses, it is not prepared to go as far as the Bar Association in fundamental reform. Attorney General Griffin Bell, in fact, argued before the lawyers against giving witnesses the right to have a lawyer with them—at present, witnesses' lawyers are required to wait outside the grand-jury room. His fear, and that of many prosecutors, is that grand-jury proceedings will come to resemble those of a trial, thus making the task of law-enforcement officials even more formidable than it is now. We think such fear is exaggerated. But even if it were not, this basic change in the law would be needed to preserve the grand jury's intended function.

Grand juries have been much criticized in the past few decades. They were abolished in England in 1933 and have been eliminated in several states. Their life expectancy in the remaining states and in the federal system was not considered great a few years ago because of the ways in which the juries had been abused. But that has changed. The Watergate affair provided a striking example of their usefulness in investigating and bringing indictments in situations where no other technique could have enjoyed public confidence. They are worth saving—but only if they are restored to the function intended by the Bill of Rights. The best way to do that would be for Congress to pass legislation along the lines suggested this week by the nation's lawyers.

[From the New York Times, Aug. 10, 1977]

BAR GROUP PROPOSES HELP FOR WITNESSES BEFORE GRAND JURIES

(By Warren Weaver, Jr.)

CHICAGO, August 9.—The American Bar Association urged Congress and the states today to adopt a broad program of grand jury changes aimed at curbing abuses by prosecutors and providing more protection for witnesses.

Over objections by the Department of Justice in two instances, the association's House of Delegates approved a 24-point program that would permit witnesses to have their attorneys in the grand jury room and require the government to inform witnesses who are possible targets of the inquiry of that fact.

The proposed code for criminal investigation would also limit the circumstances under which grand juries can grant a witness immunity, while broadening the area of such immunity once granted. It would strongly uphold the principle of grand jury secrecy but attempt to prevent the use of grand juries for political purposes.

DEBATE OVER LEGAL ADS

The House of Delegates, policy-making body for the 218,000 lawyers in the association, passed a watered-down resolution on President Carter's institution of a merit system in appointing Federal judges but deferred decision on the question of whether winners in civil lawsuits should recover their legal costs from losers as a matter of general policy.

The A.B.A., the single most powerful force in the legal profession, is holding its 99th annual meeting here. The convention is scheduled to close tomorrow with a debate over restrictions on legal advertising and the installation of William B. Spann Jr. of Atlanta as president.

At present, there is no requirement that Federal or state grand juries provide any legal information to witnesses subpoenaed to testify. Under the code adopted by the A.B.A. today, the witnesses would be told of their privilege against self-incrimination, their right to counsel and the possibility that any false testimony could lead to a perjury indictment.

Under current practice in all but nine states, witnesses may not have lawyers with them in the grand jury room, although they can go outside after a question and consult their lawyers in the corridor.

Richard E. Gerstein of Miami, a veteran prosecutor, called this "a ludicrous situation that can cast doubt on a witness' veracity" when he may be telling the truth but is uncertain of his legal rights at the moment.

Under the A.B.A. proposal, an attorney could advise his client in the grand jury room but could not address the grand jury or participate otherwise in the proceedings. If he violated these rules, the prosecutor could ask the court to remove him.

Appearing briefly, Attorney General Griffin B. Bell argued that this was "overkill," a move that would either make the grand jury system unworkable or else constitute a "lawyers' relief act" providing "plenty of work" for the profession.

The Department of Justice won two victories on grand jury reform, however persuading the House of Delegates to vote down proposals that would have made it easier for witnesses summoned before a grand jury to challenge and perhaps invalidate their subpoenas.

One supporter of legal representation within the grand jury room, Gilbert S. Rosenthal of New York, told the association that a number of indictments obtained by Maurice H. Nadiari, the former New York special prosecutor, had later been dismissed because of his "badgering of potential defendants" before the grand jury.

A proposed resolution "commending" President Carter for establishing nonpartisan commissions to proposed candidates for the United States Court of Appeals was amended to say that the A.B.A. "recommends" that the President establish this kind of commission in the future.

The move was made after complaints that the commission established for the 10th Circuit of the Court of Appeals included a number of political appointees and apparently unqualified members. That circuit is composed of Colorado, Wyoming, Utah, Kansas, Oklahoma and New Mexico.

By a vote of 142 to 141, the House of Delegates voted to postpone action indefinitely on a proposal to add 14 lawyers under 36 years old, one from each A.B.A.

[From the Wall Street Journal, Aug. 10, 1977]

BAR ASSOCIATION ENDORSES GRAND JURY SYSTEM REFORM

Grand Jury system reform was endorsed by the Bar Association.

Over opposition from Attorney General Bell, the nation's largest lawyers' group voted to support bills pending in Congress that would allow witnesses to bring attorneys to the jury room and broaden criminal immunity. Backers of the measures argued the changes were necessary to stem abuses of power by prosecutors, charging the grand jury system had failed to shield the innocent. The group's stance is expected to carry considerable weight in Congress.

Bell had warned the lawyers: "You are proposing a remedy that is much broader than the wrong you have found."

[From the Washington Post, Aug. 10, 1977]

ABA DELEGATES URGE REVISIONS IN GRAND JURIES

(By Stuart Auerbach)

CHICAGO, August 9.—The American Bar Association's policy-making House of Delegates today recommended sweeping changes in the grand jury system—including allowing defense lawyers in the jury room—that the Justice Department strongly opposed.

The proposals are aimed at ending what an ABA committee called "abusive" elements of the 800-year-old grand jury system, which developed under English common law to protect citizens from the king but which has now become a tool of the nation's prosecutors.

While ABA's action has no force of law, it has influence with Congress and state legislatures, which can pass measures revising the system.

An aide of Rep. Joshua Eilberg (D-Pa.) who has introduced a bill in Congress to revise the federal grand jury system along the lines recommended today by the ABA, said the measure would have no chance of passing without the support of the organized bar.

Attorney General Griffin B. Bell, who led a Justice Department team opposing parts of the recommendations before the ABA delegates, promised that the next battle would be in testimony to Senate and House committees considering changes in the federal grand jury system.

Bell especially opposed the provision that would allow witnesses to have their lawyers in the grand jury room. He called it "a lawyer's relief act" that would "generate plenty of business for lawyers."

Most grand juries, including those in federal courts, now allow witnesses to consult with their attorneys in an anteroom after every question.

Allowing a lawyer in the grand jury room with his client would fundamentally change the system, and federal prosecutors who lobbied ABA House of delegate members here all week said it would hamper their investigations of white-collar organized crime.

"Putting a lawyer in the grand jury room will invariably lead to impeding the investigation," Benjamin R. Civiletti, head of the Justice Department's Criminal Division told the delegates.

Richard E. Gerstein, however, who has had experience on both sides of the grand jury in his 21 years as chief prosecutor in Dade County (Miami), Florida, replied, "It's the only stage of the criminal proceeding where a person does not have a right to counsel."

Gerstein, who headed the ABA efforts for grand jury revision against the opposition of most of his fellow state and federal prosecutors, gets much of his political support from an association of grand jury members. But he was also the subject of corruption investigation by a special grand jury called by former Florida Gov. Claude Kirk. He was cleared.

Gerstein said the grand jury needs to be changed if it is to remain a vital part of the criminal justice system. He said it was especially misused during the Nixon administration when grand juries were set up in cities far from the scene of a crime and used to harass antiwar dissidents. He noted that a Seattle grand jury, for example, investigated the bombing of the Capitol in Washington, D.C.

The ABA also took another action opposed by the Justice Department: The legal organization recommended that prosecutors be barred from invoking a device called "use immunity." That device allows witnesses to be given immunity from prosecution for answers they give to a grand jury, but they still can be prosecuted on the basis of other evidence.

The ABA recommended that prosecutors instead be allowed to grant only a broad immunity, called "transactional immunity," under which a witness could not be prosecuted under any circumstances for the crime being investigated. Under the ABA proposal, prosecutors would be required to prove to a judge that such broad immunity is necessary before it could be granted.

[From the Washington Star, August 10, 1977]

GRAND JURY WITNESSES HAVE RIGHT TO LAWYER, ABA SAYS

(By David Pike)

CHICAGO.—Despite a last-minute personal appeal by Atty. Gen. Griffin Bell, the American Bar Association's House of Delegates has adopted by a 2–1 majority a position stating that citizens called as witnesses before a grand jury have the right to have their lawyer with them inside the grand jury room to give advice on answering questions.

The proposal to change the current practice, in which witnesses must leave the grand jury to consult with their attorneys, was recommended by the ABA's criminal justice section. The section report noted the increasing clamor from corporate officials and religious and political groups over alleged abuses of the grand jury system by prosecutors.

But yesterday Bell said the proposed change was "overkill . . . a remedy much broader than the wrong involved". He told members of the ABA's policy-making body that it would provide a "lawyers' relief act" by encouraging all grand jury witnesses to bring lawyers with them when they are subpoenaed to testify.

Instead, Bell said, a system should be adopted under which the courts would provide a lawyer who would sit inside the grand jury and provide advice to any witness who asked for it. He called this idea "more reasonable".

The delegates, by a vote of 186 to 93, approved the proposed change after lengthy and heated debate. And they did so despite the unusual plea from Bell, who has great respect here, and an intense lobbying campaign by the Justice Department, the National District Attorneys Association and others.

One prosecutor who had lobbied hard against the proposal just shook his head and said, "They murdered us."

Bell said later he was "disappointed" by the vote but that his department will continue to oppose legislation that would adopt the change.

The focus of the battle now will be in Washington, where a House Judiciary subcommittee headed by *Rep. Joshua Eilberg, D-Pa.*, is considering a number of grand jury reforms, including the lawyer issue. Justice has testified against the change there, while the ABA, acting on a 1975 vote to support it, has also testified. The vote yesterday is seen by many in the ABA as providing increased weight for its position.

Richard E. Gerstein, the Miami, Fla., state's attorney who presented the report containing 26 grand jury reform proposals, was "delighted" with the vote. He noted that after the Justice Department won some changes, they had agreed to 22 proposals and fought only four.

Of those, the department yesterday won on two—giving persons subpoenaed the right to fight it in their home city rather than where the grand jury sits, and placing the burden on prosecutors to show the court the testimony is necessary. And they lost two—the lawyer issue and a policy to require prosecutors who grant witnesses immunity from prosecution in return for testimony to give only the broadest type of immunity, covering any crime covered in the testimony.

Bell said he was not as concerned about losing on the last issue, "because they would have to overturn a law in Congress and Supreme Court rulings . . . I don't believe we'll have a problem there."

The debate lasted for 90 minutes and began with Gerstein's statement that "we have no desire to eliminate the grand jury . . . but it must be reformed to eliminate abuses and to prevent it from being a rubber stamp for prosecutors." He added that the abuse occurred mainly during federal investigations carried out during the administration of former President Richard M. Nixon.

Deputy Atty. Gen. Benjamin Civiletti, who heads the criminal division argued that all four proposals would "delay" and "shackle" grand jury investigations especially in conspiracy and organized crime cases. Some of the proposals he said would give judges authority over areas that must remain with prosecutors and said they were "unsound, unwise and shouldn't be adopted."

The most stirring pro-reform speech came from Chicago attorney Barnabas Sears, who quoted Supreme Court Justice Lewis Powell: "The rights of the best of men are protected only as long as the rights of the worst of men." He argued that "this is no time" for the ABA to reverse its past support of grand jury reform.

In other action yesterday the ABA passed a resolution calling for "swift and effective implementation" by the federal government of various laws and regulations aimed at extending and protecting the rights of mentally handicapped persons.

The ABA delegates noted that much federal legislation had been passed in this area in recent years but that "unfortunately, implementation of these rights often lags years behind the enacting legislation and falls short of legislative expectations."

A related resolution urged that "exclusionary zoning restrictions" prohibiting the establishment of "small-group homes for the mentally ill" in residential areas be eliminated, with a provision that the homes not be clustered in certain parts of a community.

[From the Chicago Sun-Times, Aug. 10, 1977]

ABA BACKS GRAND JURY WITNESS RIGHT TO COUNSEL

(By Michael Zielenziger)

Witnesses before a grand jury should have the right to be accompanied by an attorney,

the policy-making arm of the American Bar Assn. decided here Tuesday.

Over the dissent of U.S. Atty. Gen. Griffin B. Bell, who spoke against the proposal, members of the ABA's House of Delegates voted 186 to 93 to recommend that grand jury witnesses be given the right to counsel.

The recommendation, part of an over-all package of grand jury "reforms" approved by the ABA, would allow attorneys to advise their clients privately during any grand jury appearances, but would prohibit lawyers from addressing the jurors or from "otherwise taking part" in the proceedings.

Bell told the delegates attending the ABA's annual meeting at the Palmer House that the "remedy proposed is much broader than the wrong you have found" and said the recommendation amounted to "overkill" that would damage the grand jury process.

Under current practice in most states, a witness appears alone before a prosecutor and the grand jury. Should he desire to consult with his lawyer, he must leave the grand jury room. But, as pointed out at the delegates' session, the shuffling in and out of the grand jury chamber tends to make a witness look less honest, and can increase the likelihood of his indictment if he is a target of investigation.

The ABA recommendations do not carry the force of law. To become effective, states must revise their legal codes to reflect the new proposals.

Benjamin Civiletti, chief of the U.S. Justice Department's criminal division, told the delegates the proposal would make prosecution of drug abusers, white-collar and organized criminals more difficult. "Putting a lawyer in the grand jury room as a counsel to witnesses will impede fact-finding by the grand jury," he said, adding that it also would create potential new sources for grand jury leaks.

But the ABA delegates sided with Miami prosecutor Richard Gerstein, chairman of the grand jury reform committee, who asked: "If the courts have ruled that suspects must have a right to counsel when being quizzed by police in the stationhouse, why not before the grand jury?"

The reform package was proposed after mounting criticism that grand juries, designed to protect citizens from needless harassment, had become "rubber stamps" of zealous prosecutors.

The delegates also voted, after lengthy debate, to recommend that prosecutors use "transactional immunity" rather than "use immunity" when seeking to get witnesses to testify before grand juries.

Under "transactional immunity," witnesses are granted a blanket guarantee they will not be prosecuted for any crimes they may have committed. Under "use immunity," however, a witness can still be prosecuted for his offense if the prosecutor independently learns of incriminating evidence against him. Civil libertarians consider the concept of "use immunity" an infringement of the Fifth Amendment, which protects against self-incrimination.

The 26-point reform package approved Tuesday included these other features:

Prosecutors should not present evidence to the grand jury that would be inadmissable at trial.

They should recommend a grand jury not indict if they believe the evidence is not strong enough.

Every witness before a grand jury should be informed of his right to counsel, protection against self-incrimination, and that if he answers questions falsely he can be charged with perjury.

Targets of a grand jury investigation should be told they are potential indictees.

[From the Chicago Tribune, Aug. 10, 1977]

BAR ENDORSES GRAND JURY REFORMS

(By Lee Strobel)

A package of grand-jury reforms was endorsed Tuesday by the American Bar Association despite U.S Atty. Gen. Griffin Bell's strong objections to a provision allowing defense lawyers inside grand-jury chambers.

Bell and his criminal division chief, Benjamin Civiletti, warned that allowing defense lawyers to advise witnesses during grand-jury questioning would both shackle and lengthen the juries' investigations.

Civiletti said the proposal "will inevitably lead to impeding the fact finding" by grand juries and would generate more hearings to take up the already limited time of judges.

Bell said the idea "would generate plenty of business for lawyers" but is an unnecessarily strong action to take.

The ABA's house of delegates, which sets policy for the 218,000-member association, voted 186 to 93 to endorse the plan, which would let lawyers advise witnesses but would give them no other role inside grand-jury chambers.

An ABA committee on grand juries proposed letting defense lawyers into the chambers after a three-year study of federal and state grand-jury systems.

Richard E. Gerstein, committee chairman and state's attorney for 21 years in Dade County, Fla., told delegates that grand-jury reforms are urgently needed if abuses like those under the Nixon administration are to be prevented.

He likened letting lawyers into grand-jury rooms to letting attorneys advise arrested persons during questioning at police stations. He contended proceedings would be shortened by the change.

Bell and Civiletti objected to four proposals in the 26-point package on grounds that, taken together, they would hamper grand juries, lengthen proceedings, and make investigations of organized and white-collar crime more difficult.

The delegates went along with the Justice Department by rejecting two points but insisted on endorsing another provision that reasserts the ABA's endorsement of the broader of two kinds of immunity.

Although the ABA has no power to enact grand-jury changes, its endorsement of reform is expected to be a potent force for congressional action in that area.

At Bell's suggestion, the delegates rewrote a committee proposal that witnesses who refuse to testify before a grand jury and are held in contempt should be jailed for not more than six months. This was amended to call for a maximum of one year in jail. Current law provides up to three years in jail.

As part of the package, the ABA endorsed new laws prohibiting prosecutors from knowingly failing to disclose to the grand jury any evidence that would tend to substantially negate the guilt of a person under investigation.

GRAND JURY SYSTEM WOULD GAIN FROM ABA REFORM PACKAGE

[From the Salt Lake Tribune, Aug. 12, 1977]

If American Bar Assn. (ABA) policy is eventually reflected in law, and it often is, the grant jury system is in for some long overdue change.

The association's House of Delegates took the position this week that witnesses before grand juries should be allowed to have an attorney at their side to advise them. Some two dozen other changes designed to provide greater protection for individuals in grand jury proceedings were also approved, sometimes over the protest of Atty. Gen. Griffin Bell.

On too many occasions grand jurors have been reduced to little more than a rubber stamp for the prosecutor, the only lawyer permitted to address an advise them. There also have been frequent charges that grand juries used a new limited immunity grant weapon as an instrument of intimidation. And some critics believe grand juries have been employed as an investigative arm of established law enforcement agencies.

The ABA acted to stem these and other flaws in the face of a warning from Mr. Bell that the lawyers were destroying the grand jury and making law enforcement in some fields impossible. The attorney general's objections smacked of regret over the prospect of losing the government's overwhelming advantages under present grand jury procedures.

If the ABA recommendations become law an overly zealous prosecutor would no longer find it easy to browbeat a witness into possibly inadvertently incriminating himself or associates. Instead of having to leave the jury room to consult with a lawyer after each question put to him, a witness would have counsel with him.

Proposed limitations on grants of use-immunity would force prosecutors to develop evidence through investigation rather than extract it from an unwilling possible suspect under threat of contempt sentences.

The ABA recommendations came about because the grand jury system is being subverted and individual rights ignored or circumvented much too often. If, as Mr. Bell predicted, adoption of the reforms destroys the grand jury, then it deserves destruction.

If a cog in the criminal justice machine must rely on infringement of the very rights the system is designed to uphold, then the machine would run better without that cog. But it won't come to that.

If the ABA reforms are enacted into law the grand jury will survive and be better for them. Prosecutors may even find rewards in the return to traditional methods of case building sane questionable grand jury shortcuts.

[From the Dayton Daily News, Aug. 13, 1977]

NOT-SO-GRAND JURIES

It's too bad Attorney General Griffin Bell does not like the idea of letting witness take lawyers with them when they testify before a grand jury. But that ought not deter those who believe the grand jury system is in need of serious reform.

The proposal comes from a committee of the American Bar Association that also recommended 25 other changes in the system to make it more just.

Mr. Bell calls the idea "the lawyers relief act" because it would mean more business for the pinstriped folks with briefcases. He has a point, but virtually every governmental change these days means more business for lawyers. Before the century is out everyone may be a lawyer because we won't be able to sneeze without filling out a form or getting sued.

But that is not sufficient reason to avoid correcting a situation that has gotten out of hand. The federal government itself is one of the biggest abusers of the grand jury system, using it in the 1960s and early 1970s to barger dissidents and investigate their doings even when there was little likelihood of obtaining convictions or even indictments.

Witnesses before a grand jury are thrust into an unfamiliar and threatening situation and questioned by trained prosecutors who can spring evidence on them without warning. If they don't answer they can be held in contempt and jailed.

Mr. Bell says lawyers to help the witnesses could prolong matters and slow down the judicial process. But that risk, and it is real, is not as important as preventing miscarriages of justice.

[From the New York Times, Aug. 14, 1977]

A.B.A. TAKES ITS STAND ON GRAND JURY REFORMS

The right to the presence of counsel during legal proceedings is widely viewed as basic to the American criminal justice system, yet at one stage in the criminal process, before a grand jury, that right and others equally basic are generally denied. For that reason, many thoughtful persons have long been considering ways to remedy the situation.

Last week, the American Bar Association's policy-making House of Delegates proposed several reforms, including recommendations that witnesses be allowed to have their lawyers beside them in the jury room and that they be informed of their privilege against self-incrimination.

The ultimate fate of the proposals is in doubt. A bill incorporating some of them is before Congress, and the views of the House Delegates carry considerable weight because more than half of the country's lawyers belong to the bar association. However, there is a second powerful voice, that of Attorney General Griffin B. Bell. He opposes most of the suggested changes on the ground that they could make the grand jury system unworkable.

Historically, the grand jury has been considered a safeguard against arbitrary prosecution. Today, in the opinion of Federal Judge William J. Campbell and others, "the grand jury is the captive of the prosecutor, who can indict anybody, at any time, for almost anything, before any grand jury."

Another issue taken up by the lawyers last week at their 99th annual meeting was legal advertising.

In June, the Supreme Court struck down prohibitions against such advertising without ruling on questions of "time, place and manner." To fill the gap, the association adopted a set of nonbinding guidelines for its members. They may advertise their education and military records, the code provides, along with their legal specialty, bank references, fees and willingness to accept credit cards.

Although the guidelines have no legal force, they are expected to serve as models for codes promulgated by state bar associations and by courts that oversee the activities of lawyers. Members of the profession disciplined for violating such codes could challenge them in court.

[From the Milwaukee Journal, Aug. 21, 1977]

THE NOT-SO-GRAND JURY SYSTEM

Americans may yet win the same legal protection in the grand jury room that they properly enjoy in the courtroom.

Recently the American Bar Association voted to support legislation pending in Congress that would allow witnesses in grand jury proceedings to be accompanied by attorneys in grand jury rooms.

The past decade has seen shocking abuse of the grand jury system, with investigations turning into political persecutions. Having an attorney present to advise a witness could help stem such government high handedness.

Moreover, the present practice of allowing witnesses to consult their attorneys only outside the grand jury room is a silly inefficiency. This time-consuming consultation procedure should be eliminated.

Ignorance of legal rights and complexities could never be to the advantage of a witness whose liberty may be threatened. Passage of the grand jury bill would help clear the legal air for all concerned.

[From the Wilmington News Journal, Aug. 21, 1977]

GRAND JURIES IN OUR TIMES

No person shall be held for a capital, or otherwise infamous crime, except on a presentment or indictment of a Grand Jury . . . U.S. Constitution, amendment V.

Despite that constitutional injunction, the grand jury is in danger of becoming the vermiform appendix of the criminal justice system, a useless or abused organ that constantly presents the danger of infection to the body politic.

Abandoned by many states, accused of being a rubber stamp of federal prosecutors, and generally misunderstood by the public, there is good reason to believe that the grand jury, as an institution, is going to be excised from the system unless it is seriously reformed.

That's a historical irony. The institution dates back to medieval England, where the grand (or large) jury of freemen was established as a control on the tendency of the royal courts to push other freemen around. The grand jury, as it developed in English common law (and was transferred to the United States) was to be a protection for citizens against malicious or frivolous prosecution, in that authorities or prosecutors had to convince the grand jury that they had a sufficient case against a citizen to cause his indictment and trial.

Today, the most serious charge being brought against grand juries is that they do exactly the opposite, that they are a tool and device of prosecutors, who control the grand juries and can get anything out of them they wish.

The reform proposals have now come from no less a body than the American Bar Association which, at its recent convention in Chicago, made two proposals affecting federal grand juries: that witnesses before the grand jury be allowed counsel inside the jury room, and that the rules governing grand juries be modified so that it would be more difficult for the jury to grant a witness immunity to force him to testify—that is, giving him the choice of accepting immunity or going to jail for contempt.

The ABA also made some secondary suggestions that would halt the growing trend of abuse of grand jury powers to put news reporters and lawyers in danger of contempt if they refuse to testify on matters they consider confidential.

These reforms should be considered minimal. They would afford at least a thin coat of protection for witnesses (who are very liable to end up as the accused or indicted) in the federal jurisdiction. It is only speculative whether they would accomplish any substantial reform. And, note well, even these reforms are opposed by the U.S. Department of Justice, which uses the grand juries to its best advantage in prosecutorial roles, and sees itself in an adversary role with the private lawyers in this argument.

More practically, the federal government could minimize or even eliminate the role of the grand jury and proceed on the "information" of a prosecutor to a court that a crime has been committed and that a certain person could have committed it. It could, that is, if it were not for the italicized quotation that heads this column.

As for the states, those who do not have constitutional inhibitions have long since taken end runs around grand juries, usually by proceeding on information and skipping the *pro forma* indictments. Some states keep the institution of a grand jury on standby, for use in special investigations of corruption or wrong doing in government. In those instances, the mere convening of a special grand jury can have a chilling effect on official hanky-panky.

Delaware, alas, is among the states which require by constitution the grand jury process. A footnote on the Delaware Code in the state's 1897 constitution says that the grand jury is "enshrined" in our legal process, and the word is apt. Over the years, there has been a constant drumbeat of criticism to and from the grand juries, which are convened by counties, but constitutional reform would be necessary to operate in a less clumsy fashion, and constitutional reform is not a politically popular cause in Delaware today.

[From Newsweek, Aug. 22, 1977]

REFORMING THE GRAND JURY

In all of the U.S. legal system, no person stands more alone than a witness before a grand jury: in a secret hearing he faces an often hostile prosecutor and 23 strangers with no judge present to guard his rights, no lawyer present to counsel him and sometimes no indication of why he is being questioned. Enshrined in the Bill of Rights as a protection against unfounded prosecutions, the grand jury has instead become a powerful tool for government investigators. But last week at its annual meeting in Chicago, the American Bar Association, resisting opposition from the U.S. Department of Justice, approved a set of principles that could help reform the grand-jury system.

For years, antiwar activists and other political dissenters have argued that the Federal government used grand juries to stifle protest. Then businessmen and high government officials found that they, too, could be trapped. General Motors lawyers charged recently that they were being "treated like gangsters" in a tax investigation by the Internal Revenue Service, which was using the "grand jury as its sword." Former Treasury Secretary John Connally, acquitted after a bribery trial, complained that his indictment resulted from pressure applied against a former associate in a grand-jury hearing. Richard Gerstein, the prosecuting attorney in Miami for 21 years and chairman of the ABA reform panel, compares grand-jury change to decriminalization of marijuana. "When it becomes a problem for the middle class and not just the poor, everyone wants to do something about it," Gerstein says.

CAPTIVE

The fundamental change recommended by the ABA is to allow a witness to have counsel with him in the grand-jury room. As the official legal adviser to the grand jury, and usually the only lawyer in the chamber, a prosecutor now has almost complete control of the hearings. U.S. District Judge William J. Campbell says, "Today, the grand jury is the total captive of the prosecutor who, if he is candid, will concede that he can indict anybody, at anytime, for almost anything, before any grand jury." Under present rules, a witness may leave the room to consult his lawyer, but that leaves a bad impression with a grand jury. Most lawyers contend that if they are allowed in, they can not only protect their clients from a prosecutor's bullying, but also keep the prosecutor from manipulating the jurors.

Attorney General Griffin Bell, who extended his stay in Chicago last week to argue against admitting lawyers to grand-jury chambers, said the change in practice would turn the proceedings into a mini-trial and further slow the already molasses pace of criminal justice. "You'll make it unworkable," he predicted. The final ABA version compromised by recommending that a witness's lawyer not be allowed to speak to the jurors; but delegates stuck to the proposal by Gerstein's panel to let the lawyer sit with his client.

The Justice Department also objected to another proposal that the ABA adopted, this one to change the rules governing immunity granted grand-jury witnesses to force them to testify. Under a Nixon-era law, the government can require a witness to surrender his privilege against self-incrimination by giving him "use" immunity—that is, he can be prosecuted only if investigators could find evidence against him independent of his own testimony. But the ABA recommended that a witness receive "transactional" immunity—meaning that he could not be prosecuted for any possible crime he mentioned in his testimony.

The ABA wants to change several other grand-jury practices that most Americans don't even know exist. For instance, it recommended that all proceedings be stenographically recorded except the jurors' actual deliberations; currently, in many districts a prosecutor can tell a grand jury almost anything without anyone outside the room ever learning what he said. The association also suggested that grand juries stop a "growing" trend toward infringement on

freedom of the press and the attorney-client privilege. Now, almost always at the urging of prosecutors, reporters can be forced to testify about their confidential news sources and defense lawyers can be forced to surrender clients' business records—or face contempt charges.

GO TO JAIL

A recalcitrant witness has the option, of course, of going to jail for as long as the grand jury sits, up to eighteen months. If he then refuses to answer questions from a new grand jury, he can be sent to jail again. In 1972, five Irish-Americans from New York were ordered to tell a Federal grand jury in Fort Worth, Texas, about their alleged ties to the Irish Republican Army. The Nixon Administration never explained why it chose Fort Worth, and the grand jury took no action. But when the five refused to testify, they all served two terms totaling ten months for contempt. The ABA has recommended a single maximum term of one year.

The proposals of the bar association bind no one, but as the leading force in the legal profession its action will influence every state as well as the Federal government.[1] Seven bills are now pending in Congress to reform grand-jury procedures. The measure introduced by Democratic Rep. Joshua Eilberg of Pennsylvania, which follows the ABA plan closely, is considered most likely to pass, although the Justice Department will continue to oppose such provisions as allowing counsel in the jury chambers. "The whole point of grand-jury reform," says lawyer Gary Naftalis, who recently co-authored a book on the subject, "is to ensure that the proceedings are as fair as possible to the witness—while allowing the institution to function."

[From the Philadelphia Bulletin, Aug. 23, 1977]

THE ABA CALLS FOR: GRAND JURY REFORMS

The American Bar Association has called for some major changes in the grand jury system. In the interest of justice, Congress and state legislatures would do well to see that the ABA recommendations become reality.

At a recent meeting in Chicago, the ABA recommended, among other things, that witnesses be allowed to have a lawyer with them when they appear before a grand jury and that witnesses who are possible targets of a grand jury investigation be warned.

The proposal to allow lawyers in the grand jury room is opposed by the Justice Department. Prosecutors maintain that allowing a lawyer into the grand jury room would hamper investigations, particularly of organized crime. Most grand juries, including federal ones, now allow witnesses to consult lawyers outside the room after every question.

Certainly no one wants to make it overly difficult for prosecutors to build legitimate cases against criminals. But the fact is that the grand jury system has at times been abused, with witnesses brow-beaten by aggressive prosecutors.

It certainly makes sense for lawyers to sit in with clients before a grand jury to maintain on-the-spot vigilance in protection of clients' rights. Under the ABA proposal the grand jury proceedings would not become a minitrial because witnesses' lawyers would be allowed only to advise their clients, not to address the grand jurors or otherwise participate.

Grand juries were set up in England to protect citizens from capricious monarchs. Unfortunately, some prosecutors have twisted the system and used it for political gain.

Our system of criminal justice requires that the rights of witnesses or potential defendants constantly be weighed against the right of the state to obtain evidence and build a case. Under the present grand jury rules, that balance has been tilted; some individuals' rights have been infringed upon. The ABA's ideas for changing the grand jury system seem reasonable and fair.

[From the Long Island (N.Y.) Newsday, Aug. 24, 1977]

GETTING BACK TO BASICS WITH THE GRAND JURY

The grand jury, conceived as a protective shield between citizens and the awesome powers of their government, has increasingly evolved into a prosecutor's tool. The use of grand juries to obtain indictments for routine offenses in New York and 20 other states adds little by way of safeguards for defendants even as it makes the process of bringing criminals to justice unnecessarily cumbersome.

The latest step in the evolution was the passage in 1970 of the Organized Crime Control Act, which rewrote the rules governing witness immunity and came dangerously close to nullifying Fifth Amendment rights against self-incrimination. As predicted by critics at the time, the act has been used not only to combat organized crime but to harass and intimidate potential witnesses and suspects in a wide variety of cases.

Demands for reform have been fueled by the fact that witnesses must appear before grand juries without legal representation. Even though the American Bar Association could be accused of trying to get more work for its members, it makes a good case for allowing a lawyer to be present in the grand jury room.

The Bill of Rights says, "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury," with some exceptions involving military service or public danger. But the Supreme Court has ruled the states exempt from the provision, and 29 states now allow indictments on the basis of prosecutors' information and preliminary hearings—a system that seems to work well for all parties. New York would do well to follow that example, reserving grand juries for special investigations or cases where a witness might be endangered if his or her identity became known.

The problem is more complicated on the federal level; Congress is wary of tampering with the Bill of Rights. An attempt by Representative Joshua Eilberg (D–Pa.) to reform the system stands a far better chance. In essence, Eilberg would reverse the tilt toward the prosecution by allowing the presence of lawyers and restoring the immunity rules employed before 1970. His bill would also make grand juries more independent of prosecutors and attempt to prevent leaks of grand jury proceedings, which are supposed to be kept secret.

Attorney General Griffin Bell opposes the two key provisions on the ground that they may hamper the grand jury's work. But the safeguards in the Bill of Rights weren't intended to make the law enforcement system more efficient. And when those safeguards become largely meaningless, as has happened with the grand jury system, it's time to search for alternatives.

[From the Christian Science Monitor, Aug. 24, 1977]

GRAND JURY REFORM

The grand jury system in the United States is in dire need of reform. The American Bar Association's adoption of 25 proposed changes in grand jury procedures reflects a growing recognition within and outside the legal profession that the current system has become rife with abuses. The grand jury no longer adheres to its original intent—to be an impartial search for truth, carefully balancing the rights of the individual against the state's duty to uncover criminal activity.

Instead of serving as a buffer against undue prosecution, the grand jury in practice has often become the captor of overzealous prosecutors anxious to secure an indictment for political or other reasons. Under the current system, a witness called to testify before a grand jury appears alone, without a lawyer, to encounter a hostile prosecutor and 23 jurors. He does not know if he is the target of the investigation, nor even the scope of the probe. There is no impartial judge to serve as referee. The session is conducted in secret, and many states do not even require that records be kept. However, a witness's testimony can be used against him in a later trial. He may leave the jury room to consult an attorney, but in doing so he is apt to leave the impression on the jurors that he has something to hide.

In short, a grand jury witness is virtually defenseless. And many experienced lawyers say that a prosecutor can indict anybody, at any time, on almost any charge—so complete is his control in the grand jury room.

The ABA's proposals—most of which are included in seven bills that will be before Congress when it reconvenes next month—would provide greater protection for witnesses. One major proposal would allow a witness to have an attorney with him in the grand jury room; the lawyer could not address the jurors but only advise his client. He would also serve as a witness to the questioning, and his mere presence would restrain prosecutors from badgering witnesses.

Other proposed reforms would provide limited immunity to a witness, would require that he be told if he is the target of the investigation and the general scope of the probe, and would require that a record of the proceedings be kept.

Attorney General Bell has objected to the ABA recommendations as "overkill," moves he feels might make the system unworkable. The U.S. Justice Department in recognition of the problem is revising the manuals for U.S. attorneys to spell out what is and is not proper conduct. Among encouraging changes, the manual will state that prosecutors should present exculpatory evidence that might bear on a witness's innocence as well as incriminating evidence. The manual will also require a prosecutor to recommend that a jury not indict if he thinks the evidence so warrants.

Some law enforcement officials understandably are wary of reforms which they fear will further obstruct their efforts to bring criminals to justice; the criminal justice system already is too cumbersome and time-consuming, they rightly argue.

However, too many innocent victims of ambitious and sometimes unscrupulous prosecutors have had their reputations and lives irreparably damaged under the current system. A number of top prosecutors across the U.S. helped formulate the proposed reforms, attorneys strongly committed to the grand jury system—but all too familiar with its abuses.

We heartily concur with these prosecutors and the ABA's House of Delegates and urge

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[1] Many states have largely abandoned the use of grand juries. In Los Angeles County, Calif., for instance, only about 40 of 21,000 criminal cases last year went to a grand jury. Ordinarily, a prosecutor will charge a defendant by a process known as "information," the equivalent of an indictment, bringing an official complaint to a judge with the defendant present.

that Congress and the states not delay in returning fairness and justice to the grand jury room.

[From the Greenwood (S.C.) Index-Journal, Aug. 29, 1977]

REFORMING GRAND JURIES BIG JOB FOR CONGRESSMEN

When Congress returns to Washington next month, one of the many issues it will have to face will be revamping the grand jury system of the courts in the United States.

The grand jury system is a constitutionally guaranteed right of the U.S. court system and was intended to protect citizens from repressive government, placing a shield between the prosecutor and the accused.

Lawyers, legal scholars as well as many laymen have been critical of the system in recent years, however, and have said that the function of the grand jury system has become obscure. The American Bar Association has made some recommendations that will appear before Congress when it returns from the month-long recess. These recommendations are far reaching and would greatly alter the way the grand jury system is run.

The ABA charges that the grand jury system, instead of serving as a buffer against undue prosecution, has in practice often become the captor of overzealous prosecutors anxious to secure an indictment for political or other reasons.

Under the current system, a witness called to testify before a grand jury appears alone, without a lawyer, to encounter a hostile prosecutor and 23 jurors. He does not know if he is the target of the investigation, nor even the scope of the probe. There is no impartial judge to serve as referee. The session is conducted in secret, and in many states do not even require that records be kept. However, a witness' testimony can be used against him in a later trial. He may leave the jury room to consult an attorney, but in so doing he is apt to leave the impression on jurors that he has something to hide.

The ABA's proposals—most of which will be in the form of bills in Congress—would provide greater protection for witnesses. One major proposal would be to have an attorney in the grand jury room. Other proposed reforms would provide limited immunity to a witness, would require that he be told if he is the target of the investigation and the general scope of the probe would require that a record of the proceedings be kept.

ABA says lawyers would be present only as advisers to their clients, not as active participants. But prosecutors are afraid that lawyers will disrupt the proceedings by raising objections of all kinds.

Other worries of law enforcement officials are that a lawyer could be particularly damaging in racketeering cases because it might cause a witness to clam up, knowing his statements were being relayed back to the mob. Opponents also say it would be harder to expose conspiracies if a lawyer were able to sit in on grand jury testimony and prevent nervous witnesses from contradicting each other.

Attorney General Griffin Bell has called the bill a "lawyer relief act." Bell and other members of the Carter Administration have announced their opposition to some of the bill's key provisions, contending that grand jury abuse is rare. All these factions have agreed they will fight the proposed changes in the law.

While there is evidence that some elements of the grand jury system need to be changed, there are equally forceful reasons for leaving it the way it was originally written into the Constitution.

It is hard to say how widespread grand jury abuse may be, and the present system, along with providing a valuable service, has a lot of loopholes for abuse. When Congress takes up the debate on the question this fall, congressmen will be listening to a lot of people with a lot of diverse opinions. However, we hope they will give a lot of study to the questions of:

Should witnesses be denied the constitutional privilege against self-incrimination because a judge grants them immunity from prosecution for anything they might tell a grand jury? Under federal law, a grand jury witness can be forced to testify if the judge promises immunity.

Should witnesses be denied the presence of a lawyer in the grand jury room?

Should grand juries be allowed to seek help from independent lawyers and investigators to provide impartial advice that is a necessary part of the grand jury process?

The grand jury system is one of the most vital parts of the U.S. judicial system and we want to make sure that it remains the best available.

CONSOLIDATION OF THE EMPLOYMENT SERVICE AND CETA

(Mr. STEIGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STEIGER. Mr. Speaker, today I am introducing legislation which would, after a 3-year transition period, repeal the Wagner-Peyser Act and the Comprehensive Employment and Training Act and combine the employment and training programs operated by the Employment Service and the CETA system into a consolidated Comprehensive Employment Service.

Let me state at the outset that I realize reorganization will not solve the employment problems facing this country. This approach is simply one possible way to improve the delivery of employment and training services throughout the country.

Let me also explain here that the bill I am introducing today contains no public service jobs title, Job Corps or Young Adult Conservation Corps or provision for the continuation of the National Manpower Policy Commission. This is not because these programs lack my support. They are omitted for two reasons. First, my intention in this piece of legislation is to concentrate primarily on improving the basic delivery of employment and training services and programs to people throughout the country. The bill concentrates on that goal—the services and programs to be provided and the method for providing them. One of the bill's main purposes is to stimulate discussion of how we are now providing employment and training services; how well we do it; and how we might improve performance.

Second, the issue of how a public service jobs program should be structured has been highlighted by the jobs buildup as part of the economic stimulus package, the jobs component of welfare reform, and persistent employment problems among certain groups, most notably, unemployment among young people, and particularly black youth. Questions to be addressed include whether to target our resources on specific groups or have a broad-based guaranteed jobs program; whether to have programs to relieve structural unemployment as CETA title II was initially intended, supplemented by countercyclical programs to deal with downswings in the economy; whether public service jobs should be used to provide fiscal relief to hard-pressed communities for supplementing their work force or payrolls, or be strictly limited to creating new jobs for the unemployed in areas of service not generally undertaken by States and municipalities; or whether there should be a combination of approaches, and if so how should the mix be determined and by whom. This, it seems to me, requires a good deal of discussion and debate in Congress and throughout the country and is a subject I am not prepared to deal with in terms of new or revised programs or legislation at this time.

Further, the administration has indicated it has many amendments to offer to the Job Corps title of CETA, thus I decided to wait for these recommendations.

The Young Adult Conservation Corps is brand new and not as yet in operation. It has just been eneacted by this Congress, and it did not seem necessary to repeat the provisions in this bill at this stage in its development.

Finally, the National Commission for Manpower Policy is not mentioned. Again, I think we need to look at the mandate of the Commission and its accomplishments and determine if there needs to be revision in its role, but I am not prepared to address this question as yet.

BACKGROUND OF THE PROPOSAL

My interest in employment and training goes back about 10 years. When I first came to Congress in 1967, I became a member of the Education and Labor Committee. This was 5 years after the passage of the Manpower Development and Training Act and 3 years after passage of the Economic Opportunity Act—two of the major pieces of legislation in which Congress tried to improve employment opportunities for the unskilled, the unemployed, and the socially and economically disadvantaged.

In May 1969, I introduced the Comprehensive Manpower Act, designed to consolidate the categorical employment programs of MDTA and the Economic Opportunity Act under the direction of the State Governors and to build legislatively on the experiences of the concentrated employment program (CEP) and the Cooperative Area Manpower Planning System (CAMPS).

Four years after this bill was introduced, CETA was enacted. The intent of title I of CETA was essentially the same as that of the Comprehensive Manpower Act—a major difference being that local governments and combinations of local governments were given an opportunity to bypass State governments and deal directly with the Federal Government for the operation of employment and training programs.

The Employment Service, of course, was in operation long before CETA came into existence and long before I came to Congress. It was created by the Wagner-Peyser Act of 1933.

At the time CETA was enacted there was uncertainty as to what to do about its relationship with the Employment Service. As I indicated, in the Comprehensive Manpower Act I had originally proposed that job preparation and training programs be organized and directed at the State level by the Governors. Since the Employment Service is largely directed at the State level, I felt coordination with the Employment Service could be handled effectively by the Governor.

However, at the time CETA was under discussion there was much concern that the Governors were not ready to handle these types of programs and that they might not adequately provide for the large metropolitan or certain rural areas or for those in society most in need of services. As mentioned, localities were eventually given an opportunity to essentially bypass the States and work directly with the Federal Government.

There was much discussion as to how the Employment Service should be coordinated with such a system. Should the Employment Service be designated the presumptive deliverer of services for which they had traditionally been established, job placement in particular? Could the Employment Service effectively handle such responsibility in some areas? Did the Employment Service lack credibility with and the confidence of the disadvantaged? Finally, the committee chose to let time and the Labor Department deal with the problem and fudged the question stating in section 105 of CETA that prime sponsors should provide for:

Utilizing those services and facilities which are available with or without reimbursement of the reasonable cost, from Federal, State, and local agencies to the extent deemed appropriate by the prime sponsor, after giving due consideration to the effectiveness of such existing services and facilities, including, but not limited to, the State employment service . . ., but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise more quickly unemployment or current prospective manpower shortages.

In the 4 years since the enactment of CETA, the coordination between it and the Employment Service has varied. In some areas there has been steady improvement, in others continued problems. There seems to be general agreement at this time that administrative and legislative improvements to existing programs are needed to facilitate a better working relationship between the two programs. The added issue of welfare reform, with its eventual promise of a job or job training for all who can work with the proposed operation through the existing CETA system, has again raised the question: What is the role for the Employment Service?

In 1975, I left the Education and Labor Committee and became a member of the Ways and Means Committee. There I became more familiar with the operation of the Employment Service, particularly with its relationship to the unemployment compensation program. Rarely has Congress taken a look at the overall role and mission of the Employment Service.

In 1976, however, the Subcommittee on Manpower and Housing of the House Committee on Government Operations and the Subcommittees on Manpower and Unemployment Compensation of the Education and Labor and Ways and Means Committees held hearings on the operation of the Employment Service and its relationship to the CETA system. This was the first time since 1964 that the Employment Service had been the subject of extensive investigation by Congress.

It was during these committee hearings that I began to consider the advisability of combining the two systems.

WHY CONSOLIDATION

The main reason to consider consolidation or any change, for that matter, in the existing delivery systems is to get better, more effective services for people who need the help.

What would consolidation accomplish? First, one-step shopping for those in need of employment, training, and related services. One identifiable public agency at the local and State level responsible for helping people prepare for and get jobs and for helping employers find workers. Second, a mechanism to plan for local employment needs on a coordinated basis, providing an opportunity to more effectively link counseling, training, and supportive services to jobs and job development activities and to activities of other related local and State programs and services. Third, an identifiable point of responsibility for providing employability development and job placement for individuals in need of work and for employers in need of workers, as well as for Congress and the executive branch for assuring that national needs are being met and funds well spent. Fourth, a reduction in overlapping services, duplication of effort, and an opportunity for better utilization of monetary and human resources.

It is logical to ask whether any or all of these benefits could be obtained without consolidating the two systems, and I think the answer is probably. There are a number of alternatives to consolidation. One would be to continue the systems pretty much as they are now leaving local and State governments to continue to pursue better coordination on their own, with help from the Labor Department. Another alternative would be to improve the Employment Service by updating and improving the Wagner-Peyser Act to give local employment service offices an opportunity to do more planning and assessment of local needs and more flexibility to administer their offices to meet those needs and to work better with CETA prime sponsors and to provide a clearer definition of roles, better funding mechanism, relief from enforcement and compliance activities and more flexibility for State offices to contract out some functions to local prime sponsors or other agencies or organizations. A big step could be made administratively by the Labor Department through coordination of Employment Service and CETA regulations, terminology, planning cycles, reporting requirements, evaluation criteria and funding cycles and distribution. Another alternative is to give the States a larger role in CETA for coordinating activities of local prime sponsors and those of the balance of State, thus opening up a better opportunity to coordinate CETA programs with Employment Service activities. The administration's better jobs and income program sets forth one way to do this through their new CETA title IX. The Labor Department has also circulated some other possibilities in working draft form.

So clearly, there are alternatives. Doing nothing is one extreme, consolidation is probably the other. As I pointed out earlier, one of the major purposes in setting forth a proposal for consolidation, besides to focus on the benefits and drawbacks to such a move, is to get some discussion going on all the alternatives.

I first proposed the idea of consolidation about 18 months ago. Then, in April of this year, I circulated a more detailed version of my proposal to State employment security directors, Governors' manpower offices, local prime sponsors, the National Governors' Association, the National Association of Counties, the U.S. Conference of Mayors, and other individuals and organizations interested and concerned with employment and training programs and policies.

In the memo I outlined a general structure for consolidation, as well as some of the problems associated with the Employment Service and CETA. The following is an excerpt from that memo:

THE PROBLEMS IN BRIEF

EMPLOYMENT SERVICE

1. Through the years Congress and the Executive branch have layered new responsibilities on old and shifted priorities without reviewing or evaluating the Service's mission.

2. Some enforcement and compliance activities appear to have hampered job development efforts.

3. The federal-state relationship is not as effective as it could be. It has sometimes permitted Employment Service administrators to avoid responsibility to either the federal or state government.

4. Federal technical assistance, guidelines, reporting requirements and evaluation have often been confusing, burdensome, inflexible and ineffective.

5. Some states are persistent poor performers, but methods to correct this have been ineffective and sometimes counterproductive.

6. The Service has sometimes suffered from a poor community image. Employers have expressed a lack of confidence resulting in non-use. Unqualified referrals, unreliability of referrals, lack of proper screening and follow-up, delays in getting referrals have been cited as problems by employers. Some job seekers see the Service only as a source of lower-skilled jobs. Others, particularly minorities and disadvantaged, have criticized the Service for being ineffective and insensitive.

7. Computers are not always being used to their best advantage.

8. Labor market information functions need improvement.

CETA AND CETA/ES LINKAGES

1. State and local prime sponsors feel there is too much federal control of CETA.

2. There has been inadequate state coordination of CETA with related programs. The

State Manpower Planning Councils have not fulfilled the legislative expectation.

3. CETA and the Employment Service have worked well together in some areas, but in others there has been little cooperation resulting in overlapping and duplication of efforts.

4. Inconsistencies in definition and regulations make it difficult to compare and evaluate CETA and the Employment Service.

RESPONSE TO THE MEMO

The comments and suggestions received to date have been extremely well thought out and helpful and some have been incorporated into the legislation I am introducing today.

I would like to summarize the major points raised in the letters and comments to me, because these factors very much need to be included in any congressional discussion of how to improve delivery of employment and training programs.

First, let me state an overall impression. There seems to be a good deal of feeling on behalf of Employment Service representatives that they do not want the employability development responsibilities for the hard to place. There are some groups, youth for example, that the Employment Service feels confident of serving well, but for the most part the employability development functions cut down on their effectiveness in performing what they see as their most important responsibility—serving as a labor exchange. And they feel CETA clients and public assistance recipients should be plugged into the Employment Security system when they are job ready.

CETA representatives, on the other hand, do not in most cases seem to want all the labor exchange functions and labor market information development functions which the Employment Service has. CETA would like to develop jobs for some of its clients, but doesn't really want the responsibility for all citizens.

Many of those who communicated with me expressed real concern that there was and is a valid reason for separating employability development, focusing on the disadvantaged and unemployed, from employment services to job ready individuals and employers. To quote from one letter:

I view the ES primarily as an institution operating in the labor market to facilitate the optimal matching of workers and jobs. This service, as a matter of public policy, should be available without cost, to all persons—the unemployed seeking work as well as those seeking a change in employment. The present arrangement for providing those services is the Federal-State Employment Security system.

The central mission of CETA, on the other hand, is to provide services which enhance the employability of those who are at a disadvantage in the labor market; and in periods of high unemployment, to create public service jobs for the jobless. Although the CETA legislation is broad enough to enable prime sponsors to do much of what the ES does, in the main the missions of the two systems are reasonably distinct. The gray area is of course placements.

The argument is that the types of services and programs for the job ready and nonjob ready are often very different, that the focus of the personnel serving these two groups often requires different skills and approaches, that there is a chance that the needs of the hard to employ will be overlooked in a system where employers are looking for individuals to immediately fill jobs and where there are job-ready individuals available to take those jobs. In addition, the experience of the 1960's when Employment Service policy was weighted heavily toward serving the disadvantaged was often cited, and Employment Service representatives particularly asked: Can an agency who must concentrate on job preparation and training for the hard-to-employ, do a satisfactory job of serving the general public? Will employers utilize an agency who has a combined mission of serving the job-ready and the disadvantaged or will they shy away from such an agency feeling they will be forced to take unqualified applicants?

I might point out here that I am not really convinced that the human resources development policy of the 1960's was an attempt at a balanced approach to employment services. A balanced approach is what I have tried to take in the consolidation bill in order to be responsive to some of these concerns. The bill mandates programs of basic services to all those seeking work and to employers, but sets forth suggestions for special programs targeted at those most in need of help to secure and retain employment and stipulates that special consideration in the provision of services must be given to persons receiving unemployment compensation, persons receiving public assistance, veterans, the economically disadvantaged, and persons whose age, race, sex, physical or mental handicaps make it difficult for them to achieve employment. Whether this is adequate, of course, should be subject to debate.

Another feeling expressed by many was that much more could be accomplished through improvements to the existing systems than through a consolidation of the two. As I pointed out in my initial memo, the Employment Service has been plagued by shifting roles and missions, and the layering on of functions, some only vaguely related to its original purpose. If the Employment Service continues as a separate system, there is a very real need for Congress to spell out exactly what it expects it to do and then to provide adequate funding levels and mechanisms to insure that this mission can be achieved.

With regard to more effective coordination between the Employment Service and CETA, without consolidating the two, the suggestions were diverse. Generally, Employment Security people felt a role should be spelled out for them in legislation mandating use of the Employment Service by CETA, particularly for job placement services. Some people felt beefing up the Employment Service would increase its attractiveness to CETA prime sponsors, and thus mandating use would not be necessary. Some felt increasing the role of the States over CETA local prime sponsors would improve coordination. All felt there were many administrative steps the Department of Labor could take to improve the operation and coordination of the two systems, such as better staff training and technical assistance, development of a common data base, reporting requirements, terminology, and coordinated planning and funding cycles, automated information systems, monitoring and evaluation procedures.

There was some sentiment expressed that politicizing the job preparation and training programs by giving them to the Governors and local elected officials to operate has been a mistake and that to extend this concept to labor market exchange functions would be disastrous. On the other hand, there was criticism from some that the entrenched bureaucracy of the Employment Service made it difficult for them to be responsive to changing conditions and local needs.

Some said they felt the competition between the two systems, while posing some problems, was essentially healthy and had stimulated the Employment Service to undertake long overdue examination and updating of its services.

Finally, it was noted that while the employability development functions can be carried out on a local level in local communities, jobs usually exist in a larger labor market area which does not respect political boundaries. It was felt that the Employment Service as presently constituted can serve these needs because it is a statewide system, but in a consolidated system with an opportunity for local control of both job preparation and job placement, this labor market perspective would be lost.

I have tried to address this last concern by providing in the bill that each local prime sponsor shall, as part of its annual plan, describe how its programs will be coordinated with those taking place in jurisdictions adjacent to the prime sponsor area when the prime sponsor is part of a larger functioning labor market area, including agreements with neighboring jurisdictions for reciprocal use of services for residents within either area. In addition, each State must provide for the coordination of local prime sponsor plans and must describe how coordination will be achieved among geographic areas.

Many people expressed a desire to examine the consolidation concept in legislative form. Thus, I have spent time over the summer working and reworking various aspects of the proposal which I introduce today. This is not a perfect bill. It is a first effort. As was the case with my initial memo, I hope to receive suggestions for improvement.

Mr. Speaker, at this point I would like to summarize the legislation.

THE STEIGER BILL

In October 1981, the bill would end the Employment Service and the comprehensive employment and training system as we know them today. In their place will be a Comprehensive Employment Service to provide the services and programs operated today by the Employment Service and CETA.

TRANSITION

There is a 3-year transition period provided in the bill. As presently writ-

ten, the transition runs from the date of introduction of the bill. Of course, should this proposal be adopted, I would envision a 3-year transition period beginning with the date of enactment. The transition period is extremely important to the success of consolidation.

During this time the Secretary of Labor is directed to develop:

First. A common intake system, data base, terminology, reporting requirements, automated information system, referral procedures and evaluation system, as well as coordinated job development and solicitation;

Second. Coordinated planning at the local and State level including the coordination of planning cycles and planning activities and the delegation of the planning authority at the local level necessary for the Employment Service to adequately coordinate its activities with those of its Comprehensive Employment and Training Act of 1973 prime sponsor counterpart; and

Third. Coordinated funding cycles and formulas, including a phaseout of the resource allocation formula used by the Department of Labor as a basis for distributing funds to the Employment Service.

In addition the Secretary is directed during the transition to make necessary improvements in the operation of existing programs operated by CETA and the Employment Service. There is a provision for training and technical assistance to aid the transition and directions for the Secretary of Labor to undertake a very necessary and important 18 month investigation of ways to consolidate the personnel of the two organizations and suggest ways in which the personnel and personnel system of a consolidated program could be upgraded and made more effective.

FUNDING

There are three important aspects to the funding of the new system.

First, during the transition period funding for title I of CETA will be substantially increased from its present level of $1.8 billion to $2.75 billion for fiscal year 1981.

Second, the funds coming to the Employment Service out of general revenues will be increased from the fiscal year 1978 level of $53.6 million to $135 million in fiscal year 1981. At present approximately 15 percent of funds for running the Employment Service come from general revenues, 85 percent from the Federal unemployment tax.

Third, the use of FUTA moneys by the consolidated system would be limited to recipients of unemployment compensation, but the consolidated system could charge the cost of all services provided to persons receiving unemployment compensation to the Federal unemployment tax account.

SERVICES TO BE PROVIDED

As explained earlier in this statement, the bill provides for two types of services and programs: A basic level of services to be provided throughout the country to persons seeking jobs and to employers and supplemental programs and activities designed to meet local needs and to result in employment for those most in need.

The basic services will be available to all persons, but with particular emphasis on securing employment for persons receiving unemployment compensation, persons receiving public assistance, veterans, the economically disadvantaged, persons whose age, race, sex, or physical or mental handicaps make it difficult for them to achieve employment.

The basic services to be provided to persons seeking jobs are: Outreach to make persons aware of the availability of employment and training services; intake; assessment of the individual's needs, interest, and potential; aptitude, interest, and occupational performance testing; job and career counseling; job development; job referral and followup; development and dissemination of labor market information.

The basic services to those seeking workers are: Personal contact with employers in order to ascertain their employment needs and the quality of service provided to them under the act; timely referrals of qualified job applicants; technical assistance to employers to help them to increase and improve job opportunities; job development; information on the services and programs available under the act; and labor market information and analysis.

Supplemental services are to be designed at the local and State level to meet the most pressing needs and may include such activities as programs to help young people stay in school; programs to teach persons how to prepare for and get their own jobs; programs to help displaced homemakers and persons with limited English-speaking ability; programs to help middle age and older persons; programs, often called supported work, which help persons such as the mentally or emotionally handicapped, ex-addicts, or long-term welfare recipients, make the transition from unemployment to employment through temporary, highly structured, and supervised work experience; and transitional public service employment. There are also many supplemental programs which might be run to increase employer's use of the system and the number, availability and quality of jobs.

ADMINISTRATIVE STRUCTURE

Perhaps the key factor in a consolidated program, and the most controversial, is how should the program be administered and who should have responsibility and control.

THE FEDERAL ROLE

This bill proposes that most programs be planned and operated at the State and local level. Programs over which the Secretary would have the most direct operational control would be those of a national nature—programs for Native Americans, seasonal and migratory farmworkers, and summer employment for youth, and a program, which I consider very important, which we have had some very limited experimentation with in this country, but which I feel has much greater potential, to assist unemployed individuals, who are unable to obtain employment in the area in which they reside, and their families to voluntarily move to new communities in order to obtain employment.

The Labor Department would put its major effort into insuring that State and, through States, local programs do what the Congress intended and what their plans said they would do. The Labor Department through the Secretary is given considerable tools to accomplish this through training and technical assistance; authority to directly run programs or parts of programs that do not measure up; authority to fund parts of programs which do meet the requirements of the act and withhold funds from parts which do not; authority to establish procedures for and to conduct monitoring and evaluation of all programs and require reports on program performance from States and local prime sponsors; authority to develop by actively working with States and local governments the components and standards necessary to provide for the basic level of services to persons looking for work and to employers; authority to withhold all or portions of funds when plans have been changed so they no longer comply with the act or where there is evidence of discrimination or failure to serve those most in need.

However, the Secretary is directed to make sure that rules, regulations, and guidelines promulgated under the act are published in the Federal Register 60 days in advance, give State and local governments adequate time to implement them, take into consideration the need for program continuity and effectiveness, are written in clear, understandable language and will not create an undue burden of paperwork.

Four other important responsibilities of the Secretary of Labor are: First, establishment of a system for the collection and dissemination of labor market information—a task for which the bill provides a separate source of funding; second, fostering coordination and cooperation between and among States; third, establishment of an effective system of job information, retrieval and matching; and fourth, development of an information clearinghouse to aid State and local governments learn about other employment training and related activities being carried on throughout the country.

THE STATE ROLE

The State role is substantially increased in this legislation. The Governor is given responsibility for review and approval of local prime sponsor plans and for distributing funds to local prime sponsors. The Governor is also ultimately responsible to the Secretary for the performance of local prime sponsors. The Governor is responsible for providing services in areas of the State not served by prime sponsors. The Governor may do this in a number of ways, including dividing the State up into prime sponsor areas or through contract to public or private nonprofit agencies and organizations or through State agencies.

Three important tools are contained in the bill to help the Governor provide for improved services and programs:

First. A 5-year plan and an annual employment review statement, with em-

ployment as the organizing focus, requires the State to examine in a long-term and short-term basis such factors as the characteristics of its present and potential work force, the special needs of particular segments of that work force present and future employment opportunities, and actions which the State could take to alleviate or prevent employment problems.

Second. The provision of an advisory council, whose duties are changed somewhat from the duties of the Manpower Planning Councils under CETA in an attempt to make them more effective. The councils are given funds for separate staff and are required to meet at least four times a year.

Third. Provisions designed to enhance cooperation and coordination between related State agencies and programs, particularly the vocational education programs, and between various geographic areas of the State.

THE LOCAL ROLE

While the States are given increased responsibilities over local units of government in this bill. There is, I feel, still substantial control and flexibility available for local prime sponsors. The big gain for local prime sponsors in this bill is authority for and control over job development and placement functions. All CETA prime sponsors serving at the time of enactment of this bill will be eligible to serve as prime sponsors in the Comprehensive Employment Service. In addition, units of local government with population of 100,000 or more or combinations of units of local government containing a unit of general local government of 100,000 or more, who may not be serving as prime sponsor on the date of enactment, will still be eligible to apply for prime sponsorship under the new system. In addition, the Governor may designate as prime sponsors units of general government or combinations thereof, without regard to population, or any community based organization which serves a substantial portion of a functioning labor market and has the capacity for carrying out the programs.

The major question with regard to local prime sponsors is: "How can local governments' rights under this bill be protected from an unfriendly Governor or one who is perceived to be unfriendly?" First, the bill says the Governor must provide approval of plans if they meet the criteria set forth in the act. Second, if a Governor does not approve a plan from a local prime sponsor, the Governor must explain to the Secretary in the annual State plan why an alternate system was chosen. This assures an opportunity for the Secretary of Labor to determine if the reasons are valid and if not, to reject that portion of the State plan.

There is no formal mechanism established for direct appeal to the Secretary of Labor in cases where a prime sponsor's application and/or plan are disapproved, but the provisions mentioned above and the always available remedy of a prime sponsor making its position known to the Secretary, are supplemented by provisions for judicial review in the the Federal courts. The Federal courts were specifically chosen because this is a federally established and funded program.

ALLOCATION OF FUNDS

This particular section of the bill is part guesstimate, and I welcome suggestions for improvements. Essentially, the funding formula under CETA was retained and the Secretary is directed to report to Congress on how this will affect the distribution of funds under the Comprehensive Employment Service as compared to funds distributed under CETA and the Wagner-Peyser Act. The Secretary is also directed to report on the effect the funding formula will have on the ability of States and local prime sponsors to achieve the purposes of the act.

The bill provides that funds must be distributed to local prime sponsors and other local areas on the same formula as is used to distribute money to the States and that 90 percent of the money coming to the State under the formula shall be spent on the operation of programs at the local level either by prime sponsors or other authorized mechanisms.

Two very important provisions of the bill which I will mention before concluding are:

First. The study of the enforcement and compliance activities now preformed by the Employment Service. I certainly feel a good number of these activities belong somewhere besides in a Comprehensive Employment Service or an Employment Service operation, but if some must exist as part of such operation then thought should be given to creating a separate unit for carrying them out.

Second. The provisions for congressional and executive coordination and review. As I point out previously, Congress has been lax in its oversight of employment and training programs in the past, and we have often layered program on top of program with little regard to effects on existing programs and policies. Similarly, the executive branch has been guilty of this, and in addition, it does have in its present power the ability to take some administrative actions to improve the existing systems and cooperation and coordination between related programs at the Federal level. The bill sets forth a number of ways to achieve better congressional and executive results. I might add that in looking at civilian employment and training needs, we rarely consider the role of military recruitment and training programs. This is an unfortunate oversight, particularly now that we are operating an All-Volunteer Force. Thus, I have provided for such consideration in this bill.

There are provisions in this bill which are controversial to say the least, but some which I feel can be utilized regardless of whether we consolidate the two programs into one or not. These include mechanisms to foster coordination of data base, terminology, planning, funding, and reporting; provisions to foster cooperation between various levels of government and related services of government; the study of ways to improve personnel and personnel systems; the study of enforcement and compliance activities of the Employment Service; a revised funding system for the Employment Service, including the proposed revision in the use of the Federal unemployment tax funds; an improved labor market information system and provision for separate funding of this activity; provisions for improved executive and congressional coordination and review; improvements in Federal rules, regulations, and guidelines, and better recruitment with military recruitment and training programs.

I began looking at this issue well before welfare reform became part of our agenda, in fact well before we were sure Mr. Carter would be President. But the President's welfare reform package, like perhaps no other issue could, has focused congressional attention on the delivery of employment and training programs and services. This, combined with the expiration next year of the CETA authorization will, I hope, provide the opportunity for Congress to take a thorough look at how we are presently providing employment, training, and related services and to examine in detail ways in which the delivery of these services might be improved.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) to revise and extend their remarks and include extraneous matter:)

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. YOUNG of Alaska, for 10 minutes, today.

Mr. STEIGER, for 30 minutes, today.

Mr. FRENZEL, for 10 minutes, today.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous matter:)

Mr. THOMPSON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. MCKAY, for 5 minutes, today.

Mr. LEVITAS, for 60 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Mrs. MEYNER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EILBERG, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,771.

Mr. STEIGER, and to exclude extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,127.

Mr. SCHEUER, to revise and extend his remarks and to include extraneous material at the end of the debate, immediately preceding the vote in final passage of H.R. 8638, Nuclear Antiproliferation Act of 1977.

(The following Members (at the re-

quest of Mr. MARKS) and to include extraneous material:)

Mr. ARMSTRONG.
Mr. GOLDWATER.
Mr. DON H. CLAUSEN in three instances.
Mr. FORSYTHE in three instances.
Mr. YOUNG of Alaska.
Mr. MADIGAN.
Mr. CRANE.
Mr. STEIGER in two instances.
Mr. BROYHILL.
Mr. FINDLEY.
Mr. ERLENBORN.
Mr. KASTEN.
Mr. SARASIN.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. MCDONALD.
Mr. STUMP.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. EILBERG in three instances.
Mr. HAMILTON.
Mr. BINGHAM in five instances.
Mr. CARNEY.
Mr. AUCOIN.
Mr. YOUNG of Missouri.
Mr. BALDUS.
Mr. BAUCUS.
Mr. MILLER of California in two instances.
Mr. ALEXANDER.
Mrs. SCHROEDER.
Mr. DE LUGO.
Mr. YATRON.
Mr. MOSS.
Mr. MINISH.
Mr. ROGERS.
Mr. RODINO.
Mr. RUSSO.
Mr. FOWLER.
Mr. HANNAFORD.
Mr. WAXMAN.
Mr. BEDELL.
Mr. WOLFF.
Mr. NOLAN.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 213. An act to amend the Accounting and Auditing Act of 1950 to provide for the audit by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, September 29, 1977, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[*Omitted from the Record of Sept. 27, 1977*]

2461. A letter from the Chairman, Select Committee on Congressional Operations, transmitting the report of the select committee on the conduct of the 90-day test of broadcast coverage of the daily floor proceedings of the House, together with recommendations for the future of broadcast coverage (H. Doc. No. 95-231). Ordered to be printed.

[*Submitted Sept. 28, 1977*]

2462. A letter from the Secretary of Defense, transmitting the Department's annual report on Reserve Forces for fiscal year 1976 and the transition quarter, pursuant to 10 U.S.C. 279; to the Committee on Armed Services.

2463. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period September 15, 1977, to December 15, 1977, pursuant to 10 U.S.C. 139; to the Committee on Armed Services.

2464. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during August 1977, to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

2465. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting notice of proposed final regulations for vocational education programs, pursuant to section 431(d) of the General Educational Provisions Act, as amended by section 509(a)(1) of Public Law 93-380; to the Committee on Education and Labor.

2466. A letter from the Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting a report entitled "Title I Funds Allocation: The Current Formula", one of a series of six reports on compensatory education programs, pursuant to section 821(c) of the Education Amendments of 1974, as amended (90 Stat. 2235); to the Committee on Education and Labor.

2467. A letter from the Under Secretary of the Interior, transmitting the annual report of the U.S. Government Comptroller for the Virgin Islands, for fiscal year 1976, pursuant to section 17(h) of the Revised Organic Act of the Virgin Islands, amended (48 U.S.C. 1599(h)); to the Committee on Interior and Insular Affairs.

2468. A letter from the Deputy Assistant Secretary of the Interior, transmitting a recommendation proposing modification of desalting equipment for the Yuma desalting plant, pursuant to section 104 of the Colorado River Basin Salinity Control Act (Public Law 93-320); to the Committee on Interior and Insular Affairs.

2469. A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management; to the Committee on Interior and Insular Affairs.

2470. A letter from the Assistant Secretary of State for Congressional Relations, transmitting Presidential Determination No. 77-20 that the sale of defense articles and services to the Government of Chad will strengthen the security of the United States and promote world peace, pursuant to section 3(a)(1) of the Arms Export Control Act, as amended; to the Committee on International Relations.

2471. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of major defense equipment sold commercially to Greece (transmittal No. MC-58-77), pursuant to section 36(a) of the Arms Export Control Act; to the Committee on International Relations.

2472. A letter from the Director, Northeast Corridor Project, Federal Railroad Administration, Department of Transportation, transmitting a draft environmental impact statement on the Northeast Corridor Improvement Program, pursuant to 42 U.S.C. 4332 (2)(c); to the Committee on Interstate and Foreign Commerce.

2473. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend chapter 40, title 18, United States Code, to require the addition of tracer elements to explosive materials and to correct the reference to drugs; to the Committee on the Judiciary.

2474. A letter from the Chairman, Commission on Administrative Review, U.S. House of Representatives, transmitting a report pursuant to section 5 of House Resolution 1368, 94th Congress (H. Doc. No. 95-232). Ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Public Works and Transportation. Report on suballocation of spending authority from the Second Concurrent Resolution for fiscal year 1978; (Rept. No. 95-639). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 3815. A bill to amend the Securities Exchange Act of 1934 to make it unlawful for an issuer of securities registered pursuant to section 12 of such act or an issuer required to file reports pursuant to section 15(d) of such act to make certain payments to foreign officials and other foreign persons, and for other purposes; with amendment (Rept. No. 95-640). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 6782. A bill to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion; with amendment (Rept. No. 95-641). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SCHROEDER: Committee on Post Office and Civil Service. H.R. 6954. A bill to preserve and promote ethical standards throughout the executive branch, and for other purposes; with amendment (Rept. No. 95-642, Pt. I). Ordered to be printed.

Mr. MAHON: Committee on Appropriations. H.R. 9375. A bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; (Rept. No. 95-644). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NIX (for himself, Mr. UDALL, and Mr. DERWINSKI):

H.R. 9354. A bill to amend the act of August 25, 1958, with respect to staff allowances for former Presidents; to the Committee on Post Office and Civil Service.

By Mr. ANDREWS of North Dakota:

H.R. 9355. A bill to authorize the Secretary of the Interior to engage in a feasibility investigation of a potential water resource development; to the Committee on Interior and Insular Affairs.

By Mr. MADIGAN (by request):

H.R. 9356. A bill to provide a voluntary self-help program designed to assist producers of agricultural products against loss of farm income when natural or uncontrollable conditions adversely affect the production and will be meaningful in assuring the

consumers that producers will be able to continue to produce food and fiber; to the Committee on Agriculture.

By Mr. RAILSBACK (for himself, Mr. ARMSTRONG, and Mr. QUAYLE):

H.R. 9357. A bill to amend title 18, United States Code, to prohibit the sexual exploitation of children; jointly, to the Committees on Education and Labor, and the Judiciary.

By Mr. STEIGER:

H.R. 9358. A bill to consolidate the programs provided under the Wagner-Peyser Act and the Comprehensive Employment and Training Act of 1973, to amend certain provisions of the Social Security Act, and to provide for the implementation of employment policy through the operation and coordination of State and local employment programs; jointly, to the Committees on Education and Labor, Rules, and Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 9359. A bill to authorize the Secretary of Agriculture to convey certain homesites within the Chugach and Tongass National Forests, Alaska; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 9360. A bill to amend the Federal Water Pollution Control Act to include the reduction of unnecessary water consumption as a part of the national policy for the control of water pollution, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 9361. A bill to establish minimum water efficiency standards for public buildings and to provide for the procurement and installation of efficient water supply and removal equipment in public buildings; to the Committee on Public Works and Transportation.

H.R. 9362. A bill to assure more adequate supplies of water to the Nation and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Public Works and Transportation.

H.R. 9363. A bill to require that certain consumer products be labeled to specify the rate of water consumption of the consumer products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 9364. A bill to require that certain consumer products achieve minimum water efficiency standards, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 9365. A bill to amend section 2 of the National Housing Act to provide for a guaranteed loan program designed to encourage the acquisition and installation of water conservation equipment and systems in dwelling units; to the Committee on Banking, Finance and Urban Affairs.

H.R. 9366. A bill to provide that housing benefits available to a veteran, under title 38 of the United States Code, shall not be considered in determining, under title 5 of the Housing Act of 1949, whether such veteran is able to obtain credit for housing from sources other than the Farmers Home Administration; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CAVANAUGH (for himself, Mrs. SPELLMAN, Mr. BROWN of Michigan, Mr. GRASSLEY, Mrs. COLLINS of Illinois, Mr. CORNELL, Mr. CARR, Mr. GLICKMAN, Mr. NOLAN, Mr. BEDELL, and Ms. MIKULSKI):

H.R. 9367. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of certain financial information by depository institutions to governmental agencies, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ERLENBORN (for himself, Mr. DON H. CLAUSEN, Mrs. PETTIS, Mr. DUNCAN of Oregon, and Mr. STUMP):

H.R. 9368. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

By Mr. FINDLEY:

H.R. 9369. A bill to provide for uniform standards for trucks carrying freight in interstate commerce, and for other purposes; to the Committee on Public Works and Transportation.

Mr. LEGGETT (for himself, Mr. FORSYTHE, Mr. BREAUX, Mr. MURPHY of New York, Mr. BIAGGI, Mr. DE LA GARZA, Mr. PRITCHARD, Mr. GINN, Mr. STUDDS, Mr. YOUNG of Alaska, Mr. DE LUGO, Mr. BONKER, Mr. BAUMAN, Mr. AUCOIN, Mr. ZEFERETTI, Mr. OBERSTAR, Mr. LENT, Mr. HUGHES, Mr. EMERY, Ms. MIKULSKI, Mr. EVANS of Delaware, Mr. AKAKA, Mr. TRIBLE, Mr. CHAPPELL, and Mr. DICKS):

H.R. 9370. A bill to provide for the development of aquaculture in the United States, and for the other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MITCHELL of New York:

H.R. 9371. A bill to amend title 38, United States Code, to include insomnia within the list of chonic diseases for which compensation may be provided under such title for a service-connected disability; to the Committee on Veterans' Affairs.

By Mr. MOTTL:

H.R. 9372. A bill to grant priority in payment from the estate of a bankrupt railroad to tax claims of local school districts, other units of local government, and States; jointly, to the Committees on the Judiciary, and Interstate and Foreign Commerce.

By Mr. SISK:

H.R. 9373. A bill to establish the Crime Victim Assistance Fund, and to permit victims of certain crimes under Federal law to sue perpetrators of such crimes who profit from publicity related to such crimes; to the Committee on the Judiciary.

By Mr. McKAY:

H.J. Res. 606. Joint resolution proposing an amendment to the Constitution of the United States to protect the right to life of unborn children; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

270. By the SPEAKER: Memorial of the Legislature of the Territory of Guam, relative to allowing the government of Guam to purchase the Guam Memorial Hospital from the United States; to the Committee on Interior and Insular Affairs.

271. Also, memorial of the Legislature of the State of California, relative to incendiary fires; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. STRATTON introduced a bill (H.R. 9374) for the relief of Algirdas Brazinskas; which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

263. By the SPEAKER: Petition of the Western Governors' Conference, San Francisco, Calif., relative to Federal agricultural policies; to the Committee on Agriculture.

264. Also petition of the Western Governors' Conference, San Francisco, Calif., relative to the proposed commercial fishery station of Midway Island; to the Committee on Armed Services.

265. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to vocational rehabilitation service; to the Committee on Education and Labor.

266. Also, petition of the Americus and Sumter County Chamber of Commerce, Americus, Ga., relative to labor reform legislation; to the Committee on Education and Labor.

267. Also, petition of Western Governors' Conference, San Francisco, Calif., relative to implementation of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

268. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to expanding export markets for U.S. agricultural commodities; to the Committee on International Relations.

269. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to the administration of the Safe Drinking Water Act; to the Committee on Interstate and Foreign Commerce.

270. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to allocation formulas for projects under the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

271. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to energy research and development; to the Committee on Science and Technology.

272. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to social security; to the Committee on Ways and Means.

273. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to aid for energy-impacted communities; jointly, to the Committees on Banking, Finance and Urban Affairs, and Government Operations.

274. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to national welfare reform; jointly, to the Committees on Education and Labor and Ways and Means.

275. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to transporting Western crude oil to the rest of the country; to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

276. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to health care costs; to the Committees on Interstate and Foreign Commerce, and Ways and Means.

277. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to solar energy development; to the Committees on Ways and Means, and Banking, Finance and Urban Affairs.

278. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to energy conservation; jointly, to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, Science and Technology, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3816

By Mr. KRUEGER:

On page 35 strike out line 14 down through line 5, page 44.

Redesignate following sections accordingly.

H.R. 7010

By Mr. GUDGER:

Page 6, line 18, strike out "$50,000" and insert "$25,000" in lieu thereof.

SENATE—*Wednesday, September 28, 1977*

(Legislative day of Thursday, September 22, 1977)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. JAMES R. SASSER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord, our God whose grace is sufficient for all our needs, breathe upon us Thy renewing power. Take our tired bodies, worn minds, frayed nerves, and tested wills and restore them by Thy presence. Strengthen our bodies, sharpen our minds, put love in our hearts and steadfastness in our purpose.

Grant us grace to speak prudently when we must speak; to remain silent when we have nothing to say; to learn by listening; to be unafraid of the hard decision; to act insofar as we are able in accord with Thy will; and to leave the consequences to Thy providence. Reward our faithfulness with souls at peace with Thee.

We pray in His name who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 28, 1977.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES R. SASSER, a Senator from the State of Tennessee, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. SASSER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday and Tuesday be approved.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Tuesday, be approved.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

REQUEST FOR CONVENING HOUR THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, tomorrow, and Friday, it stand in recess until Thursday, Friday, and Saturday at 9 o'clock a.m., respectively.

Mr. METZENBAUM. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER FOR RECESS TODAY UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, there are certain nominations on the Executive Calendar that have been cleared. I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar and that, immediately upon the disposition of those nominations, the Senate return to legislative session.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, there is no objection to proceeding to the consideration of the Executive Calendar. I inform my friend, the majority leader, that the three nominations on that calendar for the National Science Foundation and the one for the Department of HEW are cleared on this side of the aisle.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to executive business, and, without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL SCIENCE FOUNDATION

George Claude Pimentel, of California, to be Deputy Director of the National Science Foundation.

Floyd James Rutherford, of New York, to be an Assistant Director of the National Science Foundation.

John B. Slaughter, of Washington, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Robert R. Humphreys, of Virginia, to be Commissioner of the Rehabilitation Services Administration.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to reconsider the vote en bloc by which the nominations were confirmed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the votes by which the various nominations were confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately advised of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now resume legislative session.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, the two leaders have their recognition, I believe, under the standing order.

The ACTING PRESIDENT pro tempore. The Senator is correct. There is an order for the Senator from Alabama for 15 minutes.

Mr. BAKER. Mr. President, may we have order?

Mr. ROBERT C. BYRD. Mr. President, I have no need for any time this morning. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The distinguished Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I have no requirement for my time under the standing order, and I yield it back.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alabama is recognized for not to exceed 15 minutes.

PANAMA CANAL TREATY

Mr. ALLEN. Mr. President, when I first initiated this series of speeches on the proposed Panama Canal Treaty and on the proposed so-called neutrality treaty—and this is the ninth speech in the series—I had some concern that my speeches might tend to become redundant, inasmuch as apparently these proposed treaties will not be presented to the Senate for some months; but, Mr. President, the more I study these proposed treaties, the more defects I discover and the more I realize that I will be at no loss for topics to discuss over the coming weeks and months. I have no

desire to bore the Members of the Senate with redundancy, so I will on each occasion discuss a separate aspect of the proposed treaties in a manner which I sincerely desire to be illuminating and informative rather than repetitive.

Today, Mr. President, I intend to discuss the environmental impact of the new treaty.

We hear a lot in Congress about the environmental impact, and we have environmental impact statements for almost everything. This new treaty has an environmental impact. Let us study it a little bit.

I will use as the basis for my remarks the draft environmental impact statement for the new Panama Canal Treaty prepared by the Department of State and published on August 30, 1977. That is a new publication. This proposed environmental impact statement is now open for comment, and I would encourage anyone wishing to comment thereon to correspond with the Office of Environmental Affairs in room 7820 at the offices of the Department of State here in Washington.

There is much to be learned from this draft environmental impact statement which cannot be learned from a cursory reading of the proposed treaty itself. And incidentally, Mr. President, this draft statement applies only to the proposed Panama Canal Treaty and does not apply to the proposed neutrality treaty. Presumably a draft statement on the proposed neutrality treaty will also soon be forthcoming.

As I said, Mr. President, much can be learned about the proposed canal treaty from this draft environment statement, and although obviously the Department of State is lobbying heavily and heartily for ratification of this treaty, nevertheless, the author of this draft statement should be commended for his candor in stating at least some of the more obvious environmental problems which are likely to ensue if the proposed canal treaty is ratified.

Under the heading "Unavoidable Adverse Impacts," the statement reads as follows:

> The principal unavoidable adverse impact resulting from actions under the proposed Treaty will be the loss of jobs of certain American and non-American employees of the Canal Company and the Canal Zone Government. There are also two other possible adverse impacts: increase in Canal tolls with a consequent increase in transcontinental rail traffic in the U.S. (section III B. 7.); and extensive deforestation in the Canal Zone, if protective measures are inadequate.

The environmental statement then proceeds to discuss in some 100 pages or more the details of this sobering conclusion. The statement further considers major alternatives to the proposed treaty including, "taking no action on the proposed treaty."

I do not favor that. I want to take action, up and down action, against giving advice and consent to the ratification of the treaty.

Then, it states, "postponing further action on the treaty, implementing the treaty's provisions (including those on environmental protection), and the possibility of a new treaty with stronger environmental safeguards."

Mr. President, I doubt if there is ever going to be another treaty. I believe this one will be defeated so badly that they are not going to come back with another treaty. I believe, too, that substantial amendments must be made to this treaty. Some definitely must be made in the area which forbids us to even negotiate with another nation for a sea level canal for this 23-year period without the consent of Panama. That must be changed.

Then there has to be an amendment giving us the right to determine whether the neutrality of the canal is in danger and giving us the right to send in troops.

The failure to give us priority on our warships going through the canal is amended.

Once these amendments are made, Mr. President, it is treaty law that the treaty would become a nullity and would have to be renegotiated and submitted again as a treaty ab initio.

I want to see an up and down vote defeating this treaty. Before we have that up and down vote, I want to see substantial amendments offered. One amendment I am going to offer, Mr. President, and I would be willing to vote for the treaty if this amendment is made, would be to raise the annuity that Panama receives from the Panama Canal Company out of the tolls, to raise it substantially—and it is around $2.3 million now—and leave all other provisions of the present treaty in full force and effect.

That is, that we would continue to have sovereignty over the Canal Zone; that we would continue to have the power to operate and maintain the canal, and that we would continue to have the right to defend the canal.

Another thing we are certainly going to have to amend is the American presence we have there. I believe under the treaty and executive agreements, we are supposed to cut down our bases there from 14 to 4. That will have to be changed.

The whole treaty will have to be redrafted by the Senate, in my judgment, which would be another way of saying it is dead because it would then have to be renegotiated.

The reservations are not going to do any good, mere reservations. That is merely a unilateral statement of how we interpret the treaty. It would not be binding on Panama, as I see it. It is not sufficient to say, "We make this reservation, that we feel the treaty means" this. That is not worth anything. We have to amend the treaty in the particulars I am talking about. Then to be absolutely safe, not only amend it but then defeat it after it has been amended as best we can.

As I say, I would be willing to substantially raise the amount of the tolls which Panama receives, the amount of annuity payments Panama receives, because I know they need the money, possibly raising the figure tenfold. That would not shock me. We could raise it up to $25 million annually, provided all of the provisions of the present treaty remain in full force and effect.

Mr. President, how much time have I remaining?

The ACTING PRESIDENT pro tempore. The Senator from Alabama has 5 minutes remaining.

Mr. ALLEN. I thank the Chair.

So, Mr. President, as far as the Office of Environmental Affairs at the Department of State is concerned this matter is still open to discussion—but, I might add, a limited amount of discussion inasmuch as the 30 days for comment will expire on September 30. In other words—the day after tomorrow. I would like to make my comments on the environmental impact of this treaty now, and I do feel after reviewing the draft environmental statement that the proposed new treaty will have adverse environmental impact sufficient to warrant rejection of the treaty in its present form unless substantially amended to include stronger environmental safeguards.

Let me get back to the subject from which I digressed a moment ago. As I stated, if this is a substantial amendment to the treaty that would vitiate and nullify the treaty because it would not be sufficient then for Panama to accept the treaty in its amended form we would have to renegotiate and submit a new treaty to the Senate. We would have to go through the same process that this present treaty has gone through or is going through.

But the value of the amendments would be that it would be a guideline, Mr. President, to what the Senate would probably accept in the subsequent negotiations between the two countries having to do with a Panama Canal Treaty. So if we amend this treaty in these substantial forms that I have suggested, even though that would nullify and hold for naught the entire treaty, it would serve as a guideline for the negotiators to have a treaty that would be acceptable to the Senate.

In my judgment, Senators should listen carefully to the recommendations of environmental groups and consumer groups and business groups in assessing the unavoidable adverse impacts of the proposed treaty in its present form on the environment, the rate of inflation, unemployment, and commerce generally.

Chief among the immediate adverse environmental impacts of the proposed canal treaty will be the short-term use and deforestation of the land in the Canal Zone turned over to the Panamanians. In considering this problem, the environmental impact statement reads as follows:

> Short-term use of the forest resources in Panama involves slash and burn practices by squatters to clear fields for corn and other crops. Given population pressures and rural poverty, these subsistence crops are very important to the nutrition and welfare of the numerous squatters engaged in these practices. This is the reason for the widespread deforestation around the Canal Zone and the threat to the Zone's forests. However, within a year or two the soil is exhausted, the squatters move on to new forest areas,

and erosion sets in with resultant damage to the entire ecosystem of the Canal watershed. Wildlife disappears, reforestation is difficult or impossible, and silting of the Canal may increase. Over the longer term and in combination with droughts, the level of the lakes may even diminish to the point of limiting the operation of the Canal and the Panama City water supply. Archeological sites and artifacts exposed during cultivation may also be lost.

There is, therefore, Mr. President, apparently some considerable concern that once the zone is thrown open to the Panamanians, Panamanian farmers will rapidly deplete the natural forest resources of the zone. This concern is expressed under the heading "Irreversible and Irretrievable Commitments of Resources" in the following fashion:

If the environmental protection measures in the draft treaty and the supplementary watershed management project should prove ineffective, the forests and associated cosystem in the Canal Zone could disappear.

We are trusting an awful lot to chance, Mr. President, if even the Department of State recognizes the danger that the forests and associated ecosystem in the Canal Zone could disappear and presumably be ruined for the foreseeable future—that is if, of course, this proposed treaty is in fact ratified.

Other considerations which come to light are the various laws, regulations, and policies now is force in the Canal Zone which would be supplanted by Panamanian law, regulations, and policies affecting environmental matters, if any. Among the U.S. laws which would apparently cease to operate after implementation of the treaty are the following:

1. National Environmental Policy Act of 1969 (NEPA).

2. Section 311, Federal Water Pollution Control Act of 1972 (FWPCA) regulating the discharge of oil and other hazardous substances into the navigable waters of the U.S.

3. Section 312, FWPCA regulating marine sanitation devices.

4. Marine Protection, Research and Sanctuaries Act (Ocean Dumping Act).

5. Section 4, Noise Control Act.

6. Executive Order 11514.

7. Occupational Safety and Health Act (OSHA) where it regulates the environment.

8. Environmental Control Policy for Canal Agencies (published in Federal Register Vol. 37, No. 204, October 20, 1972.)

9. Guidelines for the Preparation and Coordination of Environmental Impact Statements for Canal Agencies, dated December 15, 1972.

10. Title 35, Code of Federal Regulations (CFR):

a. Chapter 1, Part 61 Health Sanitation and Quarantine (includes controls on use of pesticides, herbicides, and rodenticides).

b. Chapter 1, Part 103.21 Precautions against sparks, smoke, etc. from vessels.

c. Chapter 1, Part 103.22 Vessels at Fuel Berths.

d. Chapter 1, Part 113, Subparts B, C and D: Handling Explosives, Hazardous Liquid Cargos and other Hazardous Materials (noxious chemicals, radioactive materials).

e. Chapter 1, Part 125 Sanitary Requirements: Vessel Wastes, Garbage, Ballast.

11. Canal Zone Administration and Regulations (CZAR):

a. Chapter 5, Part 167.111: Transporting Explosives, Flammable Liquids and Liquefied Petroleum Gases.

b. Chapter 5, Part 167.85: Mufflers; prevention of noise.

12. Regulations Governing the Storage and Handling of Petroleum Products in Bulk at Canal Zone Terminals. (This document has a different primary purpose but a major environmental secondary effect.)

The above list is not exhaustive and regardless of efforts to guarantee adequate environmental safeguards under the proposed treaty, I doubt that the measure of protection now afforded by U.S. law could ever be achieved in any arrangement with the Panamanians which included supplanting U.S. legal jurisdiction with Panamanian jurisdiction.

Tab F of the draft environmental impact statement is a study entitled, "Environmental Assessment of Proposals to Increase Tolls." You know, Mr. President, a major consideration in the proposed treaty is the increase in tolls proposed in order to cover promised payments to the near-bankrupt Government of Panama. But what effect will this increase in tolls have on commerce with the United States and on prices charged to consumers in the United States? Well, Mr. President, the effect is not going to be salutory.

The author of this study on the proposal to increase tolls, William Whitman of Kensington, Md.—and, I might add parenthetically that his study has been approved by the Canal Zone Environmental Quality Committee—Mr. Whitman's study is based on projected traffic through the Panama Canal in 1985 and assumes no increase above the rates in effect prior to July 8, 1974 except a 50 percent across-the-board increase in those rates. In fact, Mr. President, two increases have occurred since that time and a major jump in toll rates is still envisioned by the proposed treaty. Yet even discounting the two toll increases which we have already seen, Mr. Whitman finds the following unavoidable environmental effects: "A minimal increase in air pollutants over the United States; and an unquantifiable loss of employment and employment benefits in U.S. Atlantic ports." These environmental impacts are unavoidable effects of the toll increases which have already occurred and do not even take into account to any significant degree the major new increases which we are being asked to ratify in this proposed treaty.

You see, Mr. President, when these tolls go up, the inevitable effect is going to be to burden ocean-borne commerce and, as a result, to inflate the costs of basic raw materials shipped through the canal. Those materials will either be shipped at a higher cost through the Isthmus of Panama or will be transported by other means, chiefly rail, with the result both of higher prices and increased atmospheric pollution.

Lest there be any doubt that a toll increase could have a very serious adverse effect on U.S. commerce, I ask unanimous consent to include in the RECORD a table of major trade routes and tonnage carried on those routes through the Panama Canal in 1975.

Mr. President, I ask unanimous consent that a table entitled "Major Trade Routes in Panama Canal Traffic" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Major trade routes in Panama Canal traffic: 1975

Trade route	PC net tons	Long tons cargo
East Coast United States-Asia	41,970	55,402
Europe-Asia	13,779	10,028
Europe-West Coast United States/Canada	10,186	10,561
East Coast U.S.-West Coast South America	9,792	8,417
Europe-West Coast South America	7,642	5,481
U.S. Intercoast (including Alaska and Hawaii)	4,627	4,386
Europe-Oceania	4,484	3,590
East Coast United States/Canada-Oceania	4,112	4,130
East Coast Canada-Asia	3,891	3,461
South American Intercoastal	3,532	4,675
West Coast South America-West Indies	2,474	1,985
West Coast U.S.-East Coast South America	2,277	2,934
Subtotal	108,766	115,050
All other routes	26,288	25,051
Total	135,054	140,101

Mr. ALLEN. Mr. President, this table shows pretty conclusively that the United States is quite dependent on ocean-borne commerce through the Canal Zone and that the principal beneficiary of traffic through the zone is, contrary to some reports, the United States.

But let us look at the type of commerce moving through the canal. I ask unanimous consent that a table entitled "Panama Canal Traffic by Commodities" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PANAMA CANAL TRAFFIC BY COMMODITIES, 1975

Commodity:	*Percent of total cargo*
Coal and coke	18.8
Petroleum and products	17.1
Grains	12.7
Ores and metals	9.5
Manufacturers of iron and steel	8.0
Nitrates, phosphates, and potash	6.7
Miscellaneous agricultural products	5.1
Lumber and lumber products	4.1
Canned and refrigerated foods	3.0
Chemicals and petrochemicals	1.9
Machinery and equipment	1.8
Miscellaneous minerals	1.7
All other	9.6

Source: Annual Report, Panama Canal Company, fiscal year 1975.

Mr. ALLEN. Mr. President, this table shows that a substantial amount of cargo moving through the canal is energy-related or bulk shipment of raw materials required in the manufacture of consumer goods here in this country. The major increases in Panama Canal tolls are bound to have a multiplier effect in raising the cost of raw materials and thereafter raising the cost of consumer goods.

Mr. President, I ask unanimous consent that a third table entitled "Effect of 50 Percent Tolls Increase on Commodity Manufacturers" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EFFECT OF 50 PERCENT TOLLS INCREASE ON COMMODITY MOVEMENTS THROUGH PANAMA CANAL IN 1985

[Thousands of long tons]

Commodity	No increase	50 percent increase	Difference	Percent change
Bananas	2,342	1,710	632	27
Iron Ore	3,300	2,508	792	24
Crude petroleum	19,900	17,512	2,388	12
Petroleum products	13,600	11,968	1,632	12
Coal	14,000	12,460	1,540	11
Phosphates	4,700	4,277	423	9
Coarse grain and wheat	26,237	24,343	1,894	7
Soybeans	12,345	11,604	741	6
Iron and steel manufactures	11,543	10,966	577	5
Sugar	6,127	5,943	184	3
Miscellaneous ores	4,655	4,562	93	2
General cargo	30,659	30,046	613	2
Cargo not affected	35,534	35,534		
Total	184,942	173,433	11,509	

Mr. ALLEN. Mr. President, this table shows significant percentage reductions in the transportation of iron ore, crude petroleum, petroleum products, and coal through the Canal Zone if a 50-percent increase over pre-June 1974 tolls would be permitted. I want to emphasize, Mr. President, that a 50-percent increase over pre-June 1974 tolls has just about already occurred with the two increases put into effect to date. We can expect, therefore, reductions in energy products transiting the Isthmus of Panama if the further increases contemplated by the new Canal Zone Treaty are permitted. This at the very time when we are spending days here in the Senate working on legislation designed to solve energy problems. Let us not put any more burdens on the energy industry, Mr. President. Let us not drive up the cost of coal and petroleum products by a wholly unjustified increase in Panama Canal tolls.

There is another aspect of this environmental impact statement which I would call to the attention of the Senate and in particular to the members of the Committee on Agriculture, Nutrition, and Forestry. This one item appears under the heading "United States-Japan Via Cape of Good Hope." It discusses the bulk movement of coarse grains and wheat and soybeans between New Orleans and Japan. The report reads:

The distance between New Orleans and Yokohama is 9,126 miles via the Panama Canal and 15,762 miles via the Cape of Good Hope, a difference of 6,636 miles. The movement of 2,635,000 tons of soybeans and coarse grains and wheat via the Cape of Good Hope would entail about 16 voyages by a bulk carrier of 183,570 deadweight tons lifting approximately 170,000 tons of cargo. Each voyage would require about 42.4 days and fuel consumption at 15 knots would be 101.5 tons a day.

Senators ought to consider the possible impact on our farm exports if commercial shipping is diverted from the Panama Canal either because of the economics of increased tolls or because of other reasons beyond our control. Will farm exports be decreased because of a decrease in our ability to compete in world markets? Yes, in my judgment, much study should be given to the real world consequences of these proposed toll increases which have been given to us as part and parcel of this disastrous treaty. Mr. President, I ask unanimous consent that five additional tables from Mr. Whitman's study dealing with diversion of commodities from the canal route be printed at this point in the RECORD for easy reference by Senators and staff members.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Rearrangement of sources and markets resulting from 50 percent tolls increase

[By commodities]

Commodity:	Long tons (thousands)
1. Bananas	632
2. Iron ore	627
3. Petroleum	2,388
4. Petroleum products	1,632
5. Iron and steel manufactures	195
Total	5,474

The reaction to a tolls increase by rearranging sources and markets in effect eliminates the necessity for moving the cargo involved from one ocean to the other thereby reducing energy consumption that otherwise would be used for that purpose. Obviously, in this aspect, the effect of the proposed increase in tolls is beneficial to the environment.

DIVISION OF COMMODITIES FROM PANAMA CANAL TO SUEZ OR CAPE OF HOPE RESULTING FROM 50 PERCENT INCREASE IN PANAMA CANAL TOLLS (1985)

Commodity	Tonnage	Trade route	Via
General cargo	[1] 1,201	Europe-Japan-Australia	Suez.
Miscellaneous ores	93	Europe-Australia	Cape of Good Hope.
Iron and steel manufactures	186	Europe-Japan	Suez.
Phosphates	423	Africa-Japan	Suez.
Coal	1,540	United States-Japan	Cape of Good Hope.
Coarse grains and wheat	1,894	United States-Japan	Cape of Good Hope.
Soybeans	741	United States-Japan	Cape of Good Hope.
Sugar	116	Philippines-New York	Cape of Good Hope.
Total	6,194		

[1] Europe-Far East & Oceania. Because of the shorter distances involved, the movements of general cargo, miscellaneous ores, iron and steel manufactures, and phosphates, aggregating 1,315 tons, between Europe and Japan, Africa and Japan, and Europe and Australia, via Suez or the Cape of Good Hope, will result in less fuel consumption than would movement of the cargo through the Panama Canal.

CARGO DIVERSIONS INVOLVING VOYAGES OF DECREASED LENGTH VIA SUEZ CANAL OR CAPE OF GOOD HOPE

Commodity	Tonnage	Trade route	Decreased distance on diversion route
General cargo	[1] 1,201	Europe-Japan (Suez)	1,251
Miscellaneous ores	93	Europe-Australia (Cape)	1,558
Iron and steel manufactures	186	Europe-Japan (Suez)	1,251
Phosphates	423	Africa-Japan	4,126
Total	1,903		

[1] Includes 588 tons assuming full impact of cumulative increase on reefers and general cargo ships without consideration of shift of cargo to container ships and bulk carriers. See pp. 7, 8.

DIVERSION OF CARGO TO FAR EAST MINIBRIDGE BY 50 PERCENT INCREASE IN PANAMA CANAL TOLLS (1985)

[Thousands of tons]

Commodity: Route	Tons diverted	Total through PC
Sugar: Hawaii—United States	68	5,943
Iron and steel manufactures: Japan—United States	196	10,966
Total	264	16,909

Ships carrying cargo between Japan and East Coast United States ports may proceed directly from Japan to East Coast U.S. via the canal, or move from Japan to the West Coast U.S. and thence to East Coast U.S. via the canal. Cargo moving by the minibridge route moves from Japan to the West Coast U.S. by water and from there to the East Coast by rail. Movements from the East Coast U.S. to Japan follow the reverse pattern. Whether the all-water movement is direct between the East Coast and Japan or via intermediate West Coast ports, the shorter distance involved in the intermodal movement using rail transportation across the United States, results in a substantial saving in energy consumption in the use of that route in comparison to the all-water routes. The distance between Yokohama and New York on the all-water routes indicated is shown in the following table:

Distances Yokohama to New York on all-water routes via Panama Canal

Route:	Statute miles
Direct Yokohama-New York	11,115
Yokohama-San Francisco	5,261
Yokohama-Los Angeles	5,565
San Francisco-New York	6,053
Los Angeles-New York	5,671
Total Yokohama-New York (via SF)	11,269
Total Yohohama-New York (via LA)	11,236

(Source: H.O. Doc 151, with nautical miles converted to statute miles at ratio of 1:1.15.)

I yield the floor.

COMPREHENSIVE NATURAL GAS POLICY

Mr. METZENBAUM. Mr. President, what is the pending order of business?

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the unfinished business, S. 2104, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2104) to establish a comprehensive natural gas policy.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1039

The ACTING PRESIDENT pro tempore. The pending business is amendment No. 1039 in the nature of a substitute.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. METZENBAUM. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ROBERT C. BYRD. Will the Senator withhold that request temporarily? I wonder if the Senator would. He has numerous amendments. I wonder if he would mind calling up one of his amendments and let the Senate get started to work on an amendment.

Mr. METZENBAUM. As an accommodation to the majority leader in this instance I will be happy to do so.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. METZENBAUM. I will find occasion to call for a quorum at a later point because I believe it important that Members of the Senate know what is being discussed.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. METZENBAUM. As an accommodation to the majority leader, I do so.

AMENDMENT NO. 904

Mr. METZENBAUM. Mr. President, I call up amendment No. 904 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposed an amendment No. 904.

On page 2, lines 23 and 24, strike "the continuation of cost-based regulation of natural gas and".

Mr. BAYH. Mr. President, will the Senator yield?

Mr. METZENBAUM. Not on my time, if the Senator does not mind.

Mr. BAYH. If the Senator will yield, I am glad to do it on my time, I advise him, our distinguished leader, the Presiding Officer, and colleagues who might get the word at some time that appears appropriate today I wish the Senate to take just a very few minutes, and it should not take long, to reopen and hopefully to reconsider that action that was taken earlier relative to what that separation attack by amendments that is prohibited in the record really means.

I think that we have established a very bad precedent. I do not want to occupy the Senate's time unnecessarily, but I do not want us to leave this very heated debate after an all-night session with the record that could come back to haunt us when the matter is much more critical than is the case right now.

Mr. METZENBAUM. I am in an accommodating mood this morning. Whenever the Senator from Indiana wants to do that, I have no objection.

Mr. STEVENS. Mr. President, will the Senator yield for comments on the comments of the Senator from Indiana?

Mr. METZENBAUM. On the Senator's time.

Mr. STEVENS. On my time. I think that the ruling could lead to a misunderstanding. I call the attention of the Senator from Indiana to the fact that we are being rapidly propelled toward something which would amount to a change in the rules and that is an interpretation of the existing law and the time to change that interpretation is in dealing with the basic rule itself and not with any attempt to change the precedents of the Senate by persuasion, notwithstanding the fact that we are all getting a little bit frayed.

I happen to raise a serious question about the ruling, also, but I do believe that it is proper and it is a proper interpretation of the existing rules. Under the circumstance the only way to change it is to look forward to being more articulate in framing the rules as we seek to amend them to alleviate the situation that we are in now.

Mr. BAYH. Mr. President, with all respect to my good friend and colleague from Alaska, I do not think that is a reasonable interpretation of the rule. I am in the process now of studying those precedents that we were relying on. I do not want to change the interpretation of the rules but the situation we have ourselves in now is that the only alternative for cleaning up this what amounts to technical trash out of the bill is for a unanimous-consent request to permit the Secretary of the Senate to do so at which time one U.S. Senator can say, "I object." I just do not think that is what we mean.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. METZENBAUM. On the Senator's time.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator may be permitted to yield to me on my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I hope that we will not continue to discuss the conflicting precedents which have left the subject matter really inconclusive. There will undoubtedly be other amendments called up on which the same point of order can be made. At that time let the Senate work its will. I see nothing to be gained, however, because the precedents that we are talking about are in conflict, and as I see it they pretty much wash one another out. If there is another amendment on which the same point of order can be made, or is made, let the Senate then consider the matter more carefully. But I hope that we would not talk about going back now and reconsidering those precedents. I would have to object to it. That subject matter is not before the Senate. It was reconsidered. As I see it now, I just urge that we get on with our business and if the matter comes up again let the Senate take action on it at that time.

Mr. BAYH. Mr. President, if the Senator will permit me 1 minute on my own time, I concur with the leader that this matter should not be dredged up once again, but I do anticipate that a similar resolution will come forth, and by that time I hope to carefully study the precedents. If I come to the conclusion that our distinguished Parliamentarian ruled accurately then I may on reflection change my position.

But the position we have ourselves in now is untenable from a standpoint of how we run the Senate in cleaning up its housekeeping business. We should be able to change the section numbers and the subsection numbers. We are not even talking about section numbers.

Mr. ROBERT C. BYRD. I think the Senator has certainly a good point, and it may very well be that if the point of order is made that the Parliamentarian would rule in his way or the Senate would rule his way. But I hope we just forget yesterday—there is too much about yesterday that we ought not to try to remember—and try to look toward the rest of today and hopefully a conclusion to the present problem that confronts the Senate.

I thank the Senator.

Mr. STEVENS. Will the Senator yield to me? And I do not mean to be offensive in my remarks to the Senator from Ohio.

Mr. METZENBAUM. On the Senator's own time.

Mr. STEVENS. On my time.

I point out to the Senator from Indiana that the only reason that we have used the technicality is to attempt to eliminate the massive burden of amendments that were on the desk at the time cloture was voted. I am certain that the Senate would not condone the use of that very technical interpretation under any normal cloture circumstance. But I do not consider this to be a normal cloture circumstance. I hope that he would take into account, as the Senator from Tennessee said and reminds us, that bad cases lead to hard law, and that is what we got last night, and this is a bad case, and it is going to lead to harder law before we are through.

Mr. BAYH. Mr. President, I concur that we had some bad cases and ended up with bad law. I hope my friend from Alaska will recognize the fact that there were some things the Senator from Indi-

ana could have done in discussing this question last night as far as rollcalls and further appeals that he did not pursue, because he did not want to unnecessarily prolong the Senate beyond what was necessary to resolve this get-out-of-the-bad-law situation. I am hopeful we will have another chance to do that very quickly, expeditiously, without taking a lot of time.

Mr. STEVENS. I tell the Senator from Indiana so long as the situation persists we have no alternative but to attempt to try and eliminate some of this backlog of amendments, and under any normal circumstance I do not think we would be compelled to raise that point of order. But again the Senator from Indiana was successful in limiting the scope of that ruling last night, and I hope that he will not pursue it under the situation that we are in now because I think if he pursues it we are going to establish a precedent that will be very difficult to overcome even with a change of the rules.

Mr. ROBERT C. BYRD. Mr. President, I hope we will get on with the Senator's amendment.

I thank him for his indulgence.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I move to lay the motion on the table.

Mr. METZENBAUM. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. DURKIN), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 23, as follows:

[Rollcall Vote No. 464 Leg.]

YEAS—59

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Goldwater	Pearson
Bellmon	Gravel	Percy
Bentsen	Hansen	Randolph
Brooke	Haskell	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
	Hayakawa	Scott
Byrd, Robert C.	Heinz	Sparkman
Case	Helms	Stennis
Chafee	Huddleston	Stevens
Chiles	Javits	Stevenson
Cranston	Johnston	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Eagleton	McIntyre	Young
Ford	Melcher	Zorinsky

NAYS—23

Anderson	Hart	Pell
Bayh	Hathaway	Proxmire
Biden	Hollings	Ribicoff
Bumpers	Jackson	Riegle
Church	Leahy	Sarbanes
Clark	McGovern	Sasser
Culver	Metzenbaum	Williams
Eastland	Moynihan	

NOT VOTING—18

Abourezk	Inouye	Metcalf
Cannon	Kennedy	Morgan
DeConcini	Magnuson	Muskie
Durkin	Matsunaga	Nelson
Griffin	McClellan	Stafford
Humphrey	McClure	Stone

So the motion to lay Mr. METZENBAUM'S amendment (No. 904) on the table was agreed to.

The PRESIDING OFFICER (Mr. STENNIS). The bill is open for further amendment.

Mr. METZENBAUM addressed the Chair.

Mr. JOHNSTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Let us have quiet, please. Certainly this amendment, to command an all-night session, deserves special attention this morning so all can be heard.

The Chair is in doubt as to who addressed the Chair first.

Mr. METZENBAUM. The Senator from Louisiana has asked me to yield.

The PRESIDING OFFICER. I recognize the Senator from Louisiana.

Mr. METZENBAUM. I yield without losing my right to the floor.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Bob Szabo of my staff may have the privilege of the floor at all times during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Somebody put before the Presiding Officer a little note that says—this applies to rollcall votes; I think it applies anyway—that staff people that are admitted to the floor are welcome, but their place is back there in those seats unless called forward by a Senator for their personal attention. Then, they do not sit in Senator's chairs.

The Senator from Ohio is recognized.

AMENDMENT NO. 907

Mr. METZENBAUM. I call up amendment No. 907. Before doing so, I ask unanimous consent that members of my staff, Roy Meyers and Tom Hall, have the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. Along the same line, yes.

Mr. BELLMON. I ask unanimous consent that Hugh Watson of my staff may have the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays in connection with my amendment 907.

The PRESIDING OFFICER. Let us have the amendment stated first.

The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment.

On page 2, line 13, strike all after "and" and insert in lieu thereof "to limit interstate pipelines and natural gas producers to a fair rate of return;".

The PRESIDING OFFICER. The yeas and nays are requested on the amendment. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. HANSEN. I rise to make a point of order. The findings sections of the bill has already been amended. It is my understanding that we cannot go back and amend that same findings section a second time.

The PRESIDING OFFICER. Senators will have to indulge the Chair for a moment.

Mr. METZENBAUM. There are 12 seperate sections, I point out to the Parliamentarian.

The PRESIDING OFFICER. Under the counsel of the Parliamentarian, the Chair finds that that section referred to has not been amended. Therefore, the point of order is not sustained.

The Senator from Ohio is recognized.

Mr. HANSEN. Mr. President, I move to lay the amendment on the table.

Mr. METZENBAUM. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming to lay the amendment of the Senator from Ohio on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from New

York (Mr. MOYNIHAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 64, nays 19, as follows:

[Rollcall Vote No. 465 Leg.]

YEAS—64

Allen	Garn	Packwood
Baker	Glenn	Pearson
Bartlett	Goldwater	Pell
Bellmon	Hansen	Percy
Bentsen	Hart	Randolph
Brooke	Haskell	Roth
Burdick	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Cannon	Heinz	Sparkman
Case	Helms	Stennis
Chafee	Huddleston	Stevens
Chiles	Javits	Stevenson
Church	Johnston	Stone
Curtis	Lavalt	Thurmond
Danforth	Leahy	Tower
DeConcini	Lugar	Wallop
Dole	Mathias	Weicker
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Nelson	Zorinsky
	Nunn	

NAYS—19

Anderson	Hollings	Proxmire
Bayh	Inouye	Ribicoff
Biden	Jackson	Riegle
Bumpers	Kennedy	Sarbanes
Clark	McGovern	Sasser
Cranston	Metzenbaum	
Hathaway	Muskie	

NOT VOTING—17

Abourezk	Humphrey	Metcalf
Culver	Long	Morgan
Domenici	Magnuson	Moynihan
Durkin	Matsunaga	Stafford
Gravel	McClellan	Talmadge
Griffin	McClure	

So the motion to lay on the table the amendment of Mr. METZENBAUM (No. 907) was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

VISIT TO THE SENATE BY THE PRESIDENT OF THE SENATE, THE REPUBLIC OF THE PHILIPPINES

Mr. INOUYE. Mr. President, we are most fortunate to have in the Senate Chamber this morning a very distinguished citizen of the world. With the leave of the Senate, I would like to present him to you. He is the Honorable Gil Puyat, the President of the Senate of the Republic of the Philippines. [Applause.]

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes so that Senators may greet our distinguished visitor.

(There being no objection, the Senate, at 10:40 a.m., recessed until 10:42 a.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. STENNIS).)

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

AMENDMENT NO. 1058

Purpose: To encourage voluntary conversion from natural gas to heavy petroleum fuel oils by electric powerplants.

Mr. JOHNSTON. Mr. President, I call up my amendment No. 1058 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment No. 1058.

Mr. JOHNSTON. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk read as follows:

Add a new section 28 as follows:

TO ENCOURAGE VOLUNTARY CONVERSION FROM NATURAL GAS TO HEAVY PETROLEUM FUEL OILS IN MAJOR FUEL-BURNING INSTALLATIONS AND ELECTRIC POWERPLANTS

SEC. 28. (a) In order to assure that electric powerplants and major fuel-burning installations which voluntarily convert from natural gas to more plentiful heavy petroleum fuel oils are provided a market and receive just compensation for the owned and contracted for natural gas which is made available for other use by virtue of such conversion, the Commission shall, not later than 90 days after the date of enactment of this Act, promulgate regulations which:

(1) encourage, where practical, the utilization of domestic heavy petroleum fuel oils in lieu of imported fuel oils where the existing electric powerplant or major fuel-burning installation is already burning or using fuel oils, voluntarily, in order to make available such natural gas for other use;

(2) provide, for a period of not to exceed 5 years and in no event beyond December 31, 1989, in cases in which the person owning or operating an electric powerplant or major fuel-burning installation, existing as of the date of enactment of this Act, voluntarily burns or uses heavy petroleum fuel oils in existing boilers, combusters, or other existing consumption facilities in order to make available such natural gas, for the purchase of such natural gas by a pipeline company for just compensation to all parties involved in the sale and transportation of such natural gas. In arriving at a determination of just compensation, the Commission shall make provision for full compensation and reimbursement for increased costs, if any, including but not limited to—

(A) the cost of heavy petroleum fuel oil substituted for natural gas,

(B) the cost of fuel transportation, handling, and storage,

(C) costs resulting from powerplant operations and maintenance and decreased fuel efficiency, plus

(D) a proportionate share of the average costs of its gas system, if any,

incurred by the owner or operator of an electric powerplant or major fuel burning installation: *Provided, however,* That just compensation may not include any compensation for capital expenditures, as defined by generally accepted accounting principles, made in connection with conversion from natural gas to heavy petroleum fuel oil capability: *Provided further,* That, in the case of an intrastate pipeline company involved in the transportation of such natural gas, the term "just compensation" means the fee such intrastate pipeline company is then currently charging others for similar service, and

(3) provide that—

(A) such person voluntarily burning or using such heavy petroleum fuel oils and selling such natural gas to a pipeline, or

(B) any intrastate pipeline or producer supplier selling or transporting natural gas directly or indirectly to such person,

shall not be subject to regulation under the Natural Gas Act or as a common carrier under any provision of Federal or State law by reason of making any sale or engaging in any transportation of natural gas under this section.

(b) The rules required to be promulgated under subsection (a) shall, to the maximum extent practicable, provide that after the rates and charges of a pipeline company applicable to sales of natural gas to—

(A) low-priority users served by such pipeline, and

(B) local distribution companies for resale to low-priority users served by such local distribution company,

equal the reasonable cost of substitute fuels (as determined by the Commission) to low-priority users, served by such pipeline company and such local distribution companies, further increases in the average cost of natural gas delivered to such pipeline company shall be allocated to the rates and charges of such pipeline company applicable to sales of natural gas to all customers of such pipeline company.

(c) In order to implement this section only, any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating, or granting any party the option to terminate, any obligation under any such contract as a result of such sale or commingling,

is hereby declared against public policy and unenforceable with respect to any sale or transportation of natural gas provided for by a Commission rule promulgated under subsection (a) of this section.

(d) For purposes of this section—

(1) The term "heavy petroleum fuel oil" includes number 4, 5, or 6 fuel oil, petroleum pitch, and other similar heavy petroleum refined products.

(2) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(3) The term "pipeline company" means any person engaged in the transportation of natural gas in commerce.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I yield myself 4 minutes. If my colleagues will give me their attention, I think I can explain very simply an amendment which is being introduced on behalf of myself and the distinguished Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. Let us hear the Senator from Louisiana.

Mr. JOHNSTON. This is a very, very far-reaching amendment, which is very important for the energy crisis—and it is very simple. It is the kind of amendment about which one might think, "Why did

we not think of it before?" Here is the situation.

We have in the States of Louisiana, Oklahoma, Texas, and New Mexico, some 12,636 megawatts of electric generating capacity which is burning natural gas, but has the capacity to burn residual fuel oil. That is over 12,000 megawatts of electric generating capacity. Translated into natural gas, that capacity consumes about 1.3 trillion cubic feet of natural gas per year. Under the coal conversion bill, that we have passed earlier in this session, those plants do not have to convert to coal until 1990. In the meantime they will continue to burn natural gas. Coincidentally we have some 500,000 barrels of (unused) Alaskan heavy crude arriving off the west coast each day. We have a glut or a surplus of heavy crude which is uniquely suited to the production of residual fuel oil. The President has said we cannot exchange this Alaskan crude with Japan, so we must use it in this country. Yet we presently have no use to which this heavy crude may be put. To give you an example of what this Alaskan heavy crude excess can mean, a barrel of South Louisiana sweet, light crude, when refined in a normal gasoline-type refinery yields about 5.5 percent of the barrel as residual fuel oil. When west Texas intermediate crude is used, you get about 10 percent of the barrel as residual fuel oil. But Alaskan heavy crude, when used in an ordinary gasoline refinery, yields 26 percent of the barrel as residual fuel oil. If you configure a refinery to yield a maximum amount of heavy crude, a barrel of Alaskan crude will yield 55 percent residual fuel oil.

Mr. BUMPERS. Is the Senator using heavy crude and residual fuel oil as being synonymous?

Mr. JOHNSTON. Excuse me. Residual fuel oil is produced from heavy crude. Heavy crude is a thick viscose oil such as we have in Alaska. I might add that an excess of Alaskan crude will be greater when we go to full capacity on the Alaskan pipeline. So here we are. We have almost 1.3 trillion cubic feet of natural gas being used where residual fuel oil could be used and we have a surplus of the type of crude oil which is uniquely suited to residual fuel oil production. All this amendment does is authorize those industries which have a supply of gas but can use residual fuel oil, voluntarily to sell that gas for the replacement cost of the residual fuel oil.

That gas is going to be expensive because buying and transporting the residual fuel oil to their factories or to their generating plants is going to cost probably in excess of $3 per thousand cubic feet of gas sold. Hence, we have made our program entirely voluntary. But the proposal can release enough gas to make the difference between shortages in future winters and no shortages. Specifically, shortages in the winter of 1977 were 936.4 billion cubic feet, and we have 1.3 trillion cubic feet which could be released under this proposal.

Mr. President, I also point out that this amendment is very environmentally sound. It is much cleaner to burn this residual fuel oil than it is to burn coal. This amendment, however, is not going to retard the conversion to coal because, first, coal conversion is not mandated until 1990, and, second, this amendment authorizes the sale of gas only for a period of 5 years. This amendment is aimed at the short-term problem and the next 5 years is going to be the most critical in terms of natural gas.

Mr. NELSON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes. Let me say one thing before I do, and then I will yield to my distinguished colleague from Wisconsin.

I must tell you that we have been in contact with the new Chairman of the Federal Power Commission, which will change because the Federal Energy Regulatory Commission—FERC for short—and we are advised that the amendment needs some fine tuning. We are perfectly willing and anxious and happy to do that. The fine tuning will be made when we get to conference on this amendment. We will have to make it clear that the gas that could be sold under this amendment cannot be that gas which is subject to FPC curtailment orders because this in turn would conflict with the problems of the FPC or with FERC. We are perfectly happy to do that.

We also want to make perfectly clear that the incremental pricing scheme under this amendment is limited to the gas released under the amendment.

So, Mr. President, I think that this can be one of the most significant amendments that we have considered during this whole gas bill. This provides a way to permit gas to be released voluntarily to those who need the gas—and hopefully avoid the problems we had last winter.

I will yield to my distinguished colleague from Wisconsin.

Mr. NELSON. I just had two questions.

Mr. JOHNSTON. Yes.

Mr. JACKSON. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator has used his time. Each Senator now is charged with the time he uses in answering questions; is that right? Is that the procedure?

Mr. JACKSON. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I think it is charged to the Senator.

The PRESIDING OFFICER. All right. The Chair understands it better now. All right.

Mr. JACKSON. Mr. President, what price would be allowed for the released gas? Could the Senator give an indication?

Mr. JOHNSTON. Yes; the price is not specifically stated, but rather is to be fixed by the FPC based upon the cost of burning that individual fuel oil. The price will include the cost of buying the resid, the cost of transporting the resid, and minor modifications to the oil-burning capacity.

Mr. JACKSON. But not capital, large capital investment?

Mr. JOHNSTON. Not capital expense, no. Absolutely not.

Mr. JACKSON. Are we talking about $3, or what is the ball park figure?

Mr. JOHNSTON. The ball park figure would be over $3 and less than $4. I would guess $3.50.

Mr. JACKSON. Let me ask, Would interstate pipelines be able to buy the released gas?

Mr. JOHNSTON. Yes.

Mr. JACKSON. This becomes very important. If so, what impact would this have on the curtailment plans? The Senator started to allude to that.

Mr. JOHNSTON. We want to make perfectly clear, and I am willing to fine tune the amendment to make it perfectly clear, that the amendment has no impact on curtailment plans. In other words, we would not want to allow an industry that is going to be subject to curtailment next month to sell its gas at this premium price when next month it would not have the gas because it would be curtailed. So we are perfectly willing and anxious to fine tune it accordingly.

Mr. JACKSON. The whole purpose of the Senator's amendment is to provide an incentive and an inducement for the large utilities and iindustrial users, as I understand it, who are now burning natural gas, to turn to resid.

Mr. JOHNSTON. That is correct.

Mr. JACKSON. This is especially true in connection with the large amount of oil that will be coming down from Alaska by way of the canal. Is this not correct?

Mr. JOHNSTON. That is correct.

Mr. JACKSON. And the Alaskan oil is a heavy oil and the resid content runs percentagewise very large. Is that correct?

Mr. JOHNSTON. That is right. We have to do something to get some incentive for domestic refiners to obtain the capacity to refine this heavy crude. Over two-thirds of our domestic refiners cannot now do so. One of the great things about this amendment is that it will help create a market for the heavy crude.

Mr. JACKSON. Is this limited to intrastate users that are now using intrastate gas, or is it both? What gas would be eligible?

Mr. JOHNSTON. In its present form it is not limited to intrastate gas. But we want to fine tune the amendment in conference to make sure that it is either limited to intrastate gas or, if we include interstate gas, then that gas is not subject to curtailment because it is not the intent of this amendment to avoid any curtailment jurisdiction.

Mr. JACKSON. As I understand it this would not have an adverse impact on curtailment plans as I understood the response earlier.

Mr. JOHNSTON. Absolutely not.

Mr. JACKSON. Is that correct?

Mr. JOHNSTON. That is the intent of the amendment.

Mr. JACKSON. There is a rather large amount of gas, so we all understand, I think we are talking here—I do not know whether the figure includes interstate, or just intrastate—but it is close to a trillion cubic feet.

The PRESIDING OFFICER. Let us

have quiet. Senators go outside and carry on their business.

Mr. JACKSON. What is the approximate estimate of the gas that would be eligible under this amendment?

Mr. JOHNSTON. We calculate 1.3 trillion cubic feet is eligible. It is a voluntary program.

Mr. JACKSON. That is out of a total of about 20 trillion cubic feet or at least that is the demand factor.

Mr. JOHNSTON. That is correct.

Mr. JACKSON. At least the use factor last year or this year has run about 19 point something.

Mr. JOHNSTON. That is right. If all eligible gas is released under this amendment, more gas would be released than was curtailed in 1977.

Mr. JACKSON. Mr. President, because of the restrictive rule that we are operating under, it is not possible to modify the Senator's amendment here on the floor. I would be willing, if this matter is in conference, to see if we could not work out a solution which will provide the incentives that we seek in moving from gas to the residual oil, which will appear in substantial quantities over and above what is now in the Gulf State market area. I would be willing to accept the amendment.

Mr. METZENBAUM. Will the Senator yield?

Mr. EAGLETON addressed the Chair.

Mr. JACKSON. I understand the same matter impacts on the State of Missouri.

Mr. EAGLETON. Mr. President, I am pleased to join the distinguished junior Senator from Louisiana (Mr. JOHNSTON) in sponsoring this amendment.

Last winter, industries across this country, including some in my own state of Missouri, were forced to shut down or eliminate shifts because of shortages of natural gas. Regardless of what Congress does about the pricing of gas, shortages of this kind are going to continue for many years to come. I think it is imperative to take advantage of every cubic foot of gas that can be diverted from non-essential use to help meet such shortages. It has been estimated that more than a trillion cubic feet of gas could be made available to the interstate market by the amendment now before the Senate, more than the total of last winter's shortages. The companies that have this gas under contract cannot be expected to give it up out of altruism, even though they have the capability of switching to heavy heating oil. It has to make cents—dollars and cents—for them to do so and that is what this amendment provides.

Briefly, it would allow utilities and other major users which have supplies of natural gas under contract but which have the capability of burning heavy fuel oils to offer that gas in the market place at a price calculated to offset the added cost of burning oil. Without such an assurance of covering conversion costs these companies will certainly take advantage of the low-cost gas available to them even for such wasteful practices as firing boilers.

A second benefit of this amendment is that it would create a market for heavy residual fuels which are the unavoidable byproduct of refining gasoline and diesel oil. In many parts of the country today these residual oils are in surplus. That surplus will grow in the years ahead as a larger and larger proportion of domestic oil production will be made up of sour crude. Usually, the higher the sulfur content of oil, the heavier the gravity of that oil and thus the greater the amount of residual oils produced. Alaskan oil, for example, is expected to produce 25 percent residuals compared to less than 10 percent for low sulfur Louisiana sweet crude.

Mr. President, I think this is an excellent amendment which will help us weather the gas shortages that are inevitable in winters ahead. It is not an answer to our energy problem, but it can buy us time while we seek to provide those long range solutions. I urge adoption of the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. SCHMITT. Will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I do not have the floor, but I shall be happy to yield for a question only, if the Senator can get the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Will the Senator from Louisiana say again what the inducement is for the utility or any other user to shift to the use of residual fuel oil?

Mr. JOHNSTON. These utilities or other users have a supply of natural gas now, but also have the ability to burn oil. Under the amendment, they can sell that natural gas at the replacement cost of residual fuel oil. In other words, let us say it costs the utility or user the equivalent of $3.50 a thousand cubic feet of gas to burn the residual fuel oil. Then, an amendment would allow him to sell his gas for $3.50, buy residual fuel oil, and burn it in his oil-burning boilers.

Mr. SCHMITT. I just wanted to be sure that incentive was clear.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I understand that the proposal by the distinguished Senator from Louisiana would provide that the Federal Energy Regulatory Commission would make these different computations that are called for on pages 2 and 3 under A, B, C, and D, among other factors, in arriving at the replacement cost of the natural gas that might be released if an alternate fuel were to be burned.

My question is, suppose the clerk went through that exercise and concluded that the replacement cost of natural gas would be $3.50 a thousand. Let us assume further that no interstate pipeline is willing to pay that amount. My question is, May the utility, or whatever it is that is switching over from one fuel to another under this proposal, negotiate whatever sort of price might be mutually arrived at between the fuel-burning installation and the pipeline company?

Mr. JOHNSTON. Well, so long as they negotiate this price below $3.50, if that is the price that the FPC has determined.

Mr. HANSEN. That is in my question, of course.

Mr. JOHNSTON. Yes, they can do that.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I raise a point of order. I do not believe this amendment is germane. It covers a different subject than that which is covered in the original amendment.

The PRESIDING OFFICER (Mr. ZORINSKY). The Chair reads the amendment as having the prime purpose of converting from natural gas to residual fuel oil. There is nothing in the bill or either of the substitutes dealing with conversion. Therefore, this amendment introduces a new subject and the point of order is sustained.

Mr. JOHNSTON. Mr. President, this is a pricing amendment. It deals with the price of natural gas and the deregulation of the price of gas sold by industrial users because they switch to residual fuel oil.

Mr. METZENBAUM. Regular order, Mr. President. The Chair has ruled.

Mr. JOHNSTON. Mr. President, I ask the Parliamentarian to reconsider. I think the ruling is just dead wrong.

Mr. METZENBAUM. Mr. President, regular order. The Chair has ruled.

The PRESIDING OFFICER. The Chair will read the purpose of the amendment as stated by the drafter himself. "Purpose: To encourage voluntary conversions from natural gas to heavy petroleum fuel oils by electric powerplants." The point of order is sustained.

Mr. JOHNSTON. Mr. President, I ask for the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Ohio may think he has accomplished something very nice by having this amendment ruled out of order. The State of Ohio suffered more, I guess, than any other State by last winter's curtailments. Mr. President, we are trying in the Senate to achieve a natural gas policy and an overall energy policy. The rules of the Senate can be stretched all over the lot if we want them to be. But I suggest to the Senator from Ohio that he ought to start thinking about the State's supply of natural gas and how he is going to get natural gas in Ohio. This is one way he could have gotten it from people in Louisiana.

I am not going to seek to overrule the Chair, although I think the Chair was dead wrong. But I can say that if we do not do something, people are going to be unemployed in Ohio. I do not know whether the Senator saw the New York Times article of yesterday. It shows that 20 to 40 percent curtailments in Ohio are predicted for next winter. I do not know what the Senator is going to do about that. I had an amendment here that was designed to help. It may not have been a perfect amendment, but it was designed to help. I offered to go to conference and try to fine-tune it if there were some objections to it.

I think it is time for the Senator from Ohio to think about what he is doing

here and what he is trying to accomplish. I think it is time to accomplish something for natural gas supply in this country and not just a time to stretch the rules to try to stop any legislation.

Mr. EAGLETON. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NUNN. Mr. President, will the Chair state the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is, Shall the judgment of the Chair stand as the decision of the Senate as to the germaneness of the amendment?

Mr. HANSEN. Will the Chair repeat that, please?

The PRESIDING OFFICER. Should the judgment of the Chair stand as the decision of the Senate as to the germaneness of the amendment, which the Chair held was not germane?

Mr. BUMPERS. Mr. President, before the rollcall starts, for the edification of all Members, will the Chair state what the ruling is and what it is based upon?

The PRESIDING OFFICER. The Senator from Ohio made the point that the amendment of the Senator from Louisiana was not germane and, therefore, not in order under rule XXII, since cloture has been invoked.

Mr. BUMPERS. Will the Chair state what the ruling was that is being appealed?

The PRESIDING OFFICER. The Chair held it was not germane because of the primary purpose of the author of the amendment, himself, which is stated as "To encourage conversion by powerplants." There is nothing in the bill or either of the substitutes dealing with conversion.

Mr. EAGLETON. One further question: An aye vote would sustain the ruling of the Chair; a nay vote would reverse the ruling of the Chair.

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 22, nays 70—as follows:

[Rollcall Vote No. 466 Leg.]

YEAS—22

Abourezk	Brooke	Byrd, Robert C.
Bayh	Byrd,	Cannon
Biden	Harry F., Jr.	Case
Culver	Long	Ribicoff
Hatfield	McGovern	Talmadge
Huddleston	Metzenbaum	Wallop
Inouye	Moynihan	Weicker
Kennedy	Proxmire	

NAYS—70

Allen	Gravel	Packwood
Anderson	Griffin	Pearson
Baker	Hansen	Pell
Bartlett	Hart	Percy
Bellmon	Haskell	Randolph
Bentsen	Hatch	Riegle
Bumpers	Hathaway	Roth
Burdick	Hayakawa	Sarbanes
Chafee	Heinz	Sasser
Chiles	Helms	Schmitt
Church	Hollings	Schweiker
Clark	Jackson	Scott
Cranston	Javits	Sparkman
Curtis	Johnston	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Stevenson
Dole	Lugar	Stone
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McIntyre	Williams
Eastland	Melcher	Young
Ford	Muskie	Zorinsky
Garn	Nelson	
Glenn	Nunn	

NOT VOTING—8

Goldwater	McClellan	Morgan
Humphrey	McClure	Stafford
Magnuson	Metcalf	

So the ruling of the Chair was rejected.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from Louisiana, amendment No. 1058.

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 25, nays 67, as follows:

[Rollcall Vote No. 467 Leg.]

YEAS—25

Abourezk	Javits	Ribicoff
Brooke	Kennedy	Riegle
Case	Mathias	Sarbanes
Clark	McGovern	Sasser
Culver	McIntyre	Scott
Durkin	Metzenbaum	Talmadge
Hathaway	Moynihan	Weicker
Hollings	Muskie	
Inouye	Proxmire	

NAYS—67

Allen	Bentsen	Byrd, Robert C.
Anderson	Biden	Cannon
Baker	Bumpers	Chafee
Bartlett	Burdick	Chiles
Bayh	Byrd,	Church
Bellmon	Harry F., Jr.	Cranston
Curtis	Hayakawa	Percy
Danforth	Heinz	Randolph
DeConcini	Helms	Roth
Dole	Huddleston	Schmitt
Domenici	Jackson	Schweiker
Eagleton	Johnston	Sparkman
Eastland	Leahy	Stennis
Ford	Long	Stevens
Garn	Lugar	Stevenson
Glenn	Magnuson	Stone
Gravel	Matsunaga	Thurmond
Griffin	Melcher	Tower
Hansen	Nelson	Wallop
Hart	Nunn	Williams
Haskell	Packwood	Young
Hatch	Pearson	Zorinsky
Hatfield	Pell	

NOT VOTING—8

Goldwater	McClellan	Morgan
Humphrey	McClure	Stafford
Laxalt	Metcalf	

So the motion to lay on the table Mr. JOHNSTON's amendment (No. 1058) was rejected.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. LONG and Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. JOHNSTON. Mr. President, I suggest that the call for a quorum is dilatory in view of the fact that a quorum was just established by the past vote.

Mr. LONG. It is dilatory to suggest the absence of a quorum.

The PRESIDING OFFICER. The point of order of the Senator from Louisiana is well taken.

Mr. METZENBAUM. Mr. President, I appeal the decision of the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table that appeal.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on the motion to lay the appeal on the table.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum. There has been intervening business since the last quorum call.

Mr. LONG. Mr. President, a quorum is present. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. LONG. Mr. President, we have voted on this previously. When there is clearly a quorum present, and we have voted on this, then it is dilatory to suggest the absence of a quorum.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The point of order is well taken.

The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I seek recognition on this.

The PRESIDING OFFICER. It is not debatable.

Mr. ABOUREZK. The point of order is debatable.

Mr. LONG. A point of order is not debatable.

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

(Putting the question.)

The PRESIDING OFFICER. The Chair is in doubt and requests a division.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Those in favor will stand.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 74, nays 18, as follows:

[Rollcall Vote No. 468 Leg.]

YEAS—74

Allen	Ford	Nelson
Anderson	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Gravel	Pearson
Bayh	Griffin	Pell
Bellmon	Hansen	Percy
Bentsen	Hart	Randolph
Biden	Haskell	Roth
Bumpers	Hatch	Sarbanes
Burdick	Hatfield	Sasser
Byrd, Harry F., Jr.	Hayakawa	Schmitt
	Heinz	Schweiker
Byrd, Robert C.	Helms	Scott
Cannon	Huddleston	Sparkman
Chafee	Jackson	Stennis
Chiles	Javits	Stevens
Church	Johnston	Stevenson
Clark	Laxalt	Stone
Cranston	Leahy	Talmadge
Curtis	Long	Thurmond
Danforth	Lugar	Tower
DeConcini	Magnuson	Wallop
Dole	Matsunaga	Williams
Domenici	Melcher	Young
Eagleton	Moynihan	Zorinsky

NAYS—18

Abourezk	Hollings	Metzenbaum
Brooke	Inouye	Muskie
Case	Kennedy	Proxmire
Culver	Mathias	Ribicoff
Durkin	McGovern	Riegle
Hathaway	McIntyre	Weicker

NOT VOTING—8

Eastland	McClellan	Morgan
Goldwater	McClure	Stafford
Humphrey	Metcalf	

So Mr. JOHNSTON's amendment (No. 1058) was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. (ANDERSON). The Senator from West Virginia is recognized.

COMMITTEE MEETING DURING SESSION OF SENATE TODAY

Mr. ROBERT C. BYRD. Mr. President, in accordance with the rule the distinguished minority leader and I join——

Mr. METZENBAUM. Mr. President, I do not wish to object, but I just cannot hear the majority leader.

The PRESIDING OFFICER. May we have order.

Mr. ROBERT C. BYRD. Mr. President, in accordance with the requirements of the rules, the distinguished minority leader and I join in granting consent to the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary to meet this afternoon at 2 o'clock in the office of the Senate President pro tempore.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

Mr. METZENBAUM. Mr. President, I call up an amendment.

Mr. CRANSTON. Will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. Is it in the nature of staff on the floor?

Mr. CRANSTON. Yes.

Mr. METZENBAUM. Yes, I yield.

Mr. CRANSTON. I ask unanimous consent that Kathryn Files of my staff may have the privilege of the floor throughout consideration of this measure and for all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 922

Mr. METZENBAUM. Mr. President, I call up amendment No. 922.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment on page 3, line 4, strike lines 4 through 7 and insert:

"(6) estimates of the proven reserves of natural gas by the gas trade association have declined to a substantial degree because of downward revisions while demand for this premium heating fuel and relatively inexpensive fuel has increased;".

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum. In doing so, I want to make it clear to the Members of the Senate that I only do so by reason of a failure to obtain a sufficient second and would prefer not to use that procedure.

Mr. TOWER. Will the Senator withhold that request for a moment?

Mr. METZENBAUM. I will.

Mr. TOWER. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Wisconsin (Mr. NELSON), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Idaho (Mr. MCCLURE), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 64, nays 25, as follows:

[Rollcall Vote No. 469 Leg.]

YEAS—64

Abourezk	Ford	Packwood
Allen	Garn	Pearson
Baker	Glenn	Percy
Bartlett	Gravel	Randolph
Bellmon	Griffin	Roth
Bentsen	Hansen	Sasser
Burdick	Haskell	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
	Hatfield	Sparkman
Byrd, Robert C.	Heinz	Stennis
Cannon	Helms	Stevens
Case	Huddleston	Stevenson
Chafee	Javits	Stone
Chiles	Johnston	Talmadge
Curtis	Laxalt	Thurmond
Danforth	Long	Tower
DeConcini	Lugar	Wallop
Dole	Magnuson	Weicker
Domenici	Mathias	Williams
Durkin	McIntyre	Young
Eagleton	Melcher	Zorinsky
Eastland	Nunn	

NAYS—25

Anderson	Hart	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Pell
Bumpers	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Leahy	Sarbanes
Cranston	Matsunaga	
Culver	McGovern	

NOT VOTING—11

Goldwater	McClure	Riegle
Hayakawa	Metcalf	Scott
Humphrey	Morgan	Stafford
McClellan	Nelson	

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have a few remarks I wanted to make, and I shall yield myself so much time as I may use.

I was hoping the majority leader would be here.

Mr. ABOUREZK. May we have order in the Chamber, Mr. President?

The PRESIDING OFFICER. May we have order, please?

Mr. BUMPERS. Mr. President, I believe my position on this whole subject of deregulation is well known. I am not going to address issues, pros and cons, because they were debated before cloture. But I do want to say that I have told everybody that I would not vote for a

suspension of the rules; that I feel the Senator from South Dakota and the Senator from Ohio are operating within their rights under the rules of the Senate, which I have always considered an anachronism. I am not willing to change the rules of the game in the middle of the game. I do hope that we will be able to break this impasse sometime in the next 24 to 48 hours so that we can get a bill.

I think everybody understands the difficulty of working out a compromise when there are so many amendments. It is a fact that once cloture is voted you can no longer mix up the amendments, you cannot put them together, you cannot offer new compromises. I invite attention to the four options which I see exist.

First of all, we have Pearson-Bentsen No. 2, which is at the bottom of the list; the Jackson substitute, which is just above that; then Pearson-Bentsen No. 1, just above that, and then finally I suppose the bill is the fourth option. Those are the only things this Senate will have an opportunity to vote on if we are to break this impasse.

Unhappily, as I say, there is no in-between.

I am hoping that somehow or other lightning will strike this body and we will be able to come up with a bill.

There are those who say, "I would rather have nothing than either the administration bill or Pearson-Bentsen." I am inclined that way myself. I personally feel that $1.45 is adequate. As I said, I do not want to get into that. I am willing to support the administration measure. I am reluctant to commit myself firmly, but I believe I would vote for the Jackson substitute, which puts the cap at $2.03.

Mr. CURTIS. Will the Senator yield for a question?

Mr. BUMPERS. If the Senator will permit me to finish, I will yield to him on my time.

So that is where we are. If we do not come out with a bill, I remind my colleagues that we are consuming about 19 trillion cubic feet of gas a year in this country and between 7 trillion and 8 trillion cubic feet of that total is being used in intrastate commerce in the States of Oklahoma, Texas, and Louisiana.

The distinguished Senator from Texas (Mr. BENTSEN) said in the beginning of debate, "You will not hurt my feelings if we do not have a bill."

I did not really understand what he was saying at the time, but I do now because all the electricity in Texas, is being generated in a wasteful way—using gas.

Unless we come up with some kind of bill which we can take to conference with the House, that intrastate market is going to stay isolated from anybody's control. That gas will not ever move in interstate commerce to solve the problems of some of the States that are going to suffer inordinately this winter if we have anything like the harsh winter we had last winter.

Finally, Mr. President, I honestly believe that the Senate can operate in a more productive way than we have been operating for the last 24 hours. I do not think we have to prove our masculinity to the American people by working 24 hours a day.

I can say I have heard the term "outrage" used here to characterize almost every action of the Senate in the past 3 or 4 days. In my opinion, if the American people have a right to be outraged by anything, it is all the news reports I heard this morning about Senators walking onto the floor in their house shoes, groggy, and not knowing what they were voting on.

My constituents have a right to expect me to walk in here with a clear mind and to vote intelligently on all the 33 or 34 votes we have had in the last 24 hours.

I know the majority leader has a duty. I respect him, and I will do everything I can to assist him in carrying out his responsibilities.

I do not believe there is a Senator in this body who will admit to getting over 1 hour of sleep last night. I have not heard anybody say they have had more than that. One does not have to be broken out with brilliance to know the mental condition of this body right now.

Mr. President, I hope that the majority leader would seriously consider recessing this afternoon for 4 or 5 hours to allow us a little respite or, if he chooses in the alternative, to go to 7, 8, 9 or 10 o'clock tonight, and let us go home and sleep until in the morning. I believe the American people will respect us just as much for a 16-hour day as they will for a 24-hour day.

Mr. President, I have used up some time that maybe is not very productive. I do not have any amendments. I just wanted to get those things off my mind for whatever they are worth. As I say, I will give the same sentiments to the majority leader personally. I was hoping he would be in the Chamber. I hope other Members of the Senate will do likewise.

I yield to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished friend. The time may be charged to me.

Is it not true that there have been at least two test votes on Pearson-Bentsen and a clear majority of the Senate favored that proposal each time? Is that true?

Mr. BUMPERS. I believe the Senator is correct. I cannot verify his statement because there have been so many votes in the last few days.

Mr. CURTIS. If that be true, then someone is throwing a roadblock in the majority of the Senate's working its will, and if a majority is agreed upon a proposal, what right, by tactics, delays, begging, oratory, or any other method, does the minority have to demand a compromise when there is a clear majority favoring a proposal which could be passed in the next hour?

Mr. LEAHY. Mr. President——

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I would like to associate myself with the remarks of my good friend from Arkansas.

I think one of the problems with the city of Washington is that we are so parochial here and so insular, we actually believe that the rest of the country is interested in some of the things in which we seem to be interested. I have the feeling the national news media go around interviewing each other. We end up trying to develop the consensus around the country by simply talking to each other instead of going out there.

I noticed one of the local papers had a huge headline about the Senate being in an all-night-long filibuster. I daresay that in 90 percent of the newspapers upon which the people of this country read and determine their own opinions, the story would probably rate a page 8, 10, 15, or so forth, depending upon the size of the newspaper.

The point is this: We can sit here and it is sort of like marching up and down the hill. We go ahead and vote on a word here and a word there, and vote whether we will reconsider or table, or vote to find the Sergeant at Arms, or maybe the Sergeant at Arms is supposed to find us. Whatever, it is about that significant. The American people will sit back wondering are we going to vote an energy policy, vote one up or vote one down.

I do not happen to favor deregulation, but I do not favor in any way steps which are going to stop us from reaching a vote one way or the other on that question. I do not think we prove anything by being able to say, "We were in session for 30 hours yesterday," or whatever it might be. It really makes about that much sense. We can talk about the hundreds of rollcall votes we have had. We can talk about all the Saturdays and all the evenings and all the days we have been here. I can tell you, Mr. President, the one question I will get from my constituents back in Vermont, whom I visit once a week will be, "OK, Pat, what did you pass in the way of energy legislation?"

Mr. DOLE. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. DOLE. I believe I can demonstrate the point made by the Senator. I was walking around last night and a lady who happened to be a tourist was very happy the Senate was open because the zoo was closed.

[Laughter.]

Mr. LEAHY. I am not willing to concede it is quite that bad. In fact, I have an enormous respect for this body. From as long as I can remember even as a child I wanted to be in the U.S. Senate. I ran for this body with the first election that came up in our State after I reached the constitutional age of 30. I am extremely proud and I am extremely pleased to be here. There is no greater honor I could ever receive than to represent the people of Vermont in this body.

Having said that, Mr. President, I think all of us should sit back and question just exactly what it is we are doing here; to what extent are we reflecting our own personal biases, our own personal gratification, our own personal whim, and to what extent are we representing the constituents from our individual States; to what extent are we representing the national interest which we must represent when we hold the highest legislative office in this country?

Mr. President, maybe it might be wise for all of us to step back from the whole

scene for a short while, as my good friend from Arkansas has suggested, and ask just what are we going to do to represent the national interest that might be created among some of us within the cloakrooms, within the marble rooms, not an interest that might be because particular newspapers can fill up space by going back and forth talking about how many Senators came in with ties on or off.

I do not mind the long hours. I can go several days without sleep and it does not bother me. But I question again whether that answers the problems of this country, or whether they are not better answered by us stepping back, taking a fresh look, and then coming in and voting specifically on the issue before us, win or lose.

Mr. STEVENS. Mr. President, I ask unanimous consent that Dick Getzinger be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, in the wee hours of this morning I commented upon the Alaska gas situation and what it means in this current debate. Briefly, I would like to repeat that.

When the Alaska gas from Prudhoe Bay reaches the south 48, as we call it, that will be about 10 percent of our supply. The cost of bringing it down here, just in terms of the transportation cost alone, will exceed the price that the administration and those who are opposing Pearson-Bentsen are willing to permit gas produced in the south 48 to be sold for here.

This is taking place notwithstanding the fact that we are buying gas from our Canadian neighbors in excess of the limitation the administration seeks to impose; notwithstanding the fact that the new gas from Mexico will come in at a cost exceeding that price; notwithstanding the fact that the alternative sources of energy, such as imported LNG or SNG, both exceed this price which could be paid.

We talk about stimulating an increase of supplies from the south 48. I happen to believe that there is no way that the investor's dollar is going to be used in the south 48 to stimulate the development of the remaining gas resources in the south 48 unless the price is somewhere near that which we are presently paying Canada, which we have indicated we are willing to pay to Mexico, and which we are in fact paying to Indonesia and Algeria for imported LNG.

My State faces the proposition of trying to develop the vast gas and oil resources of an area that is one-fifth the size of the United States in a period of extreme regulation. We face the question of financing the cost of building this transportation system the President has recommended, which will exceed $14 billion, in a period of time when uncertainty as to pricing caused by arbitrary Government action fails to bring into balance supply and demand in accordance with normal free enterprise concepts under our system.

Unless we are willing, as the Canadians in fact have already done, to allow the price of natural gas produced in the south 48 States to drift toward the cost of alternative fuels, particularly foreign oil or foreign LNG or SNG, we will not see the production of the vast gas resources of my State. No one in his right mind is going to put money into exploration and development in the frontier and OCS areas if, in fact, he can participate in the development of gas in Mexico, in Canada, in Indonesia, or in Algeria, and sell that gas to the same United States customers without the regulation which is imposed by an arbitrary Government fiat coming from an erroneous Supreme Court decision in the Phillips case.

Again, my friend from Arkansas says that some of us may be too tired and some of us may not realize what we are doing. I happen to think that honorable compromise is the logical goal of participation in the legislative process.

I am sorry that my friend from Kansas repeated that comment made by a tourist about this body because no matter what anyone says, I join the Senator from Vermont in being very proud to be here. I do not care whether it is 24 hours a day or 24 minutes a day, but whatever is necessary to accomplish the goals which bring about enactment of sound legislation, to develop sound policy, to provide a national energy policy for this Nation, we must do.

To lose sight of the fact that we are paying foreign producers much more than we are willing to pay our own producers, the fact that that in and of itself is bringing about a situation where our supplies are ever diminishing and our demand is ever increasing, and we are now going toward the point where we will not only be relying upon foreign oil but we will be relying on foreign gas to the detriment of the development of the frontier and Alaska gas resources as the end result, I think, is unfortunate.

This is not a battle of futility, so far as I am concerned. It is a battle of real reality. Is the Senate going to restore the free enterprise system of the United States as far as energy supplies are concerned. If it is, we must pass at least the Pearson-Bentsen amendment. That, in and of itself, is a compromise over what I would seek.

I would seek a restoration of market forces. This is a transitional amendment which leads toward the ultimate goal that many of us seek. But it is not as immediate and it is not as abrupt as might occur if we were to bring about the immediate result of deregulation.

But I say in answer to my friend from Arkansas that I hope those of us who believe in the free enterprise system will stand steady.

I do not care, for one, whether we pass this bill on December 31. I am prepared to stay here as long as we must stay here to see to it that we restore the free enterprise system in the development of the oil and gas resources of this Nation so that my State can participate in that system and not face the ultimate question—and this is my last comment. The ultimate question is, if we continue on the policy that we are pursuing now, whether we want to nationalize the oil and gas industry? The worst thing that could happen to my State would be to see that the oil and gas resources of Alaska are developed by the Federal Government and not by the system that developed the total supply of the south 48 over the whole history of the oil and gas industry in this country.

Mr. HOLLINGS addressed the Chair.

Mr. STEVENS. I am glad to yield for a question if the Senator has one. I see my friend from South Carolina seeks the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the words of the Senator from Arkansas prompted me to just momentarily join back into the debate that began in this Senator's experience some 10 years ago when as a member of the Commerce Committee Senator MAGNUSON asked that I conduct hearings for the brown-outs and the black-outs up East in 1965 and 1966.

If the Senator from Alaska will stay and listen, we are going to talk about American free enterprise and get away from this Algerian cartel controlled issue. That is government control that the Senator from Alaska is asking us to compete with. When he talks of the Canadian gas he is talking about a $7 wellhead tax. When he talks about Saudi Arabia, and all the rest, he is talking about the OPEC cartel.

Mr. STEVENS. Mr. President, is the Senator asking a question or making a statement?

Mr. HOLLINGS. I am making a statement to the Senator from Alaska that in the name of American competitive free enterprise let us be honest with ourselves. We have not been granted the luxury. That is one lesson out of the 10 years' experience.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HOLLINGS. We are not granted the luxury of actually decontrolling and deregulating, and that crowd knows it. And the issue is greed. They are intelligent enough to know that if the U.S. Congress does not control it the Arabs' Congress is going to control it. Now, that is the issue.

I am not going to yield because I have listened to the Senator from Alaska and he is going to have to listen to me unless he leaves the Chamber.

Mr. STEVENS. I want to say that I am not going to leave. I am glad to respond to questions if the Senator wishes me to do so.

Mr. HOLLINGS. Mr. President, I am going to bring this into focus.

As to welfare, to fairness, and to free enterprise—all that is sloganing.

As to the statement "going to nationalize gas," that is the biggest bunch of nonsense in the world.

As far as "We are going to get back to the American free enterprise system," that choice is not before us.

The news media has taken up the singsong of decontrol, deregulate versus regulate. They never have gotten to the heart of the matter. It is absolutely impossible in this day and age, as long as that OPEC cartel continues, to get de-

control. That has been the tail wagging the dog in this whole issue, and that is why over the last 10 years we have looked to see if we were really being punitive. Are we being blind or butt-headed with respect to our national policy? Or do they really want a national policy?

I guess if I were one of the gas company owners—and I know many of them—I would confirm it is the greatest bonanza that has ever hit the American business development in the history of this country, it has grown under regulation to the sixth largest industry, and perhaps now the fifth, in stocks, returns, and dividends.

All one has to do is look to the most recent reports. Last month in a report from Business Week, on page 60 of the August 1 edition, natural gas rather than oil is capturing most of the investors' attention lately. Rapid price increases have made exploration for natural gas in the United States the most profitable area in the energy business. That is from Kurt Wulff, vice president of Donaldson, Lufkin & Jenrette.

"There's very little chance that gas prices could fall."

I refer to Bear Sterns and all the rest.

But they have painted a picture. The choice is between regulation and no regulation.

As to the statement that we could get really to a free market, that was stated knowing absolutely it is a total myth. They paint a picture of a weak, limping, gagged, strangled, stulified industry that cannot move due to the intransigence of Congress.

I can tell Senators here now it is moving. It is moving as fast as it can go. Their own facts show it.

They all leave the Chamber. Where did they all go, that oil and gas crowd, the Phillips 66 team. I want to get to them. Most of them have left.

I can tell Senators what it says. Unfortunately, the most recent report is only July. I wish we had August's report.

But under regulation, under this so-called strangulation, look at what occurred to rotary rigs in operation, as reported by Hughes Tool Co. and as reported by the American Petroleum Institute. Look at what has happened.

I say to the Senator from North Carolina one only has to go down the list. The average from 1972 was 1,107 rotary rigs in operation. By 1973 they had gone up to 1,194. By 1974 it had gone to 1,475, after the October 1973 Arab cartel's fixing of prices which forbids you and me from the private competitive free enterprise and market forces. Then in the same breath they talk about Algeria and talk about Saudi Arabia and all the other places that have fixed prices, and they talk about this, returning it to market forces. That is returning it to cartel forces.

In 1975 the average was 1,660. They are drilling more every year.

They would have us believe in the national media that they are going out of business. But they are gearing up and going, and they are going and they are going.

It is not a question, Mr. President, of taking a strangled, stultified, arrested industry, but taking the most prosperous there is, and translating a good operational mechanism into a greedy operation. That is all this is. It is just outright greed.

They have seen the vote, and they are trying to blame the 40-some Senators here who have been trying to save the American Congress.

Why do we continue to debate? We continue to debate because the majority of this Senate, if we are going to look at the majority, have constantly voted against inflation, and will hopefully do so, this year. That is why I am against my own gas guzzler tax.

I introduced the automobile fuel economy bill 4 years ago, and we had a carrot and a stick—the gas guzzler tax. I told the administration long ago to just forget about the gas guzzler tax, and the increase in gasoline prices, and the wellhead equalization.

How can I talk with any kind of persuasion that we should avoid $71 billion in inflation in one breath and get crude oil equalization of $23 billion worth of inflation in the next breath?

So Congress is going to save, in a sense, the White House and the administration, and maybe business, the free enterprise system and the American stock market if we can adjourn before all of these new taxes, social security, energy tax, and on down the line are enacted.

We talk about tax reform. I have been around here for five of them. That means more taxes. There is no mystery. There is no mystery who we have on board. The business community is awaiting free market forces to be regenerated by Congress to give them a fair chance to operate.

We are not talking here in the last 24 hours for a fair chance.

In 1976 they went up to 1,656, and the average in the year 1977 of rotary rigs in operation is 1,915.

The morning Post will have all the dry wells under the wet board. They know where and how to run their ads. We have seen that crowd operate over the years in this body.

It was inundated with bribes in 1955 when President Eisenhower had to veto it.

Bless old Carter. He is going to veto. That majority might as well get it through their heads.

That is why they are still talking. We are going to be saved perhaps by the White House, the House of Representatives, and the decent fair judgment of the majority of this body.

We think this present 41 votes can pick up another five, six, or seven votes, and get a majority so that we can get into the realm of fairness.

I never forget in having this hearing some 3 years ago, and we were talking at that time about bringing this picture into perspective. The Senator from Kansas was there and we were dealing at the time.

The average price of natural gas per Mcf is a little over 61.8 cents today in America. Many of the contract deliveries are really at or below 32 cents. Why are they talking about holding the line and not letting it go at $1.75? It is because if I am delivering with 32 cents, in many instances I can pay $4. I can pay $4.50. I can blend it into a $2.50 or $2.60 level and be competitive.

What is it going to do talking about sitting up here late nights? What are the people going to be able to do? They are not going to be able to sit up late at night. They are going to be huddling in some cold corner of America where they cannot stand the inflation and cannot pay the price. And the greedy crowd is going to spin it off into costs.

I came from a country that did just that. I wonder about it. I got back from Argentina, which is the richest country in the world in natural resources. They have hydroelectric power, water, cattle raising, the greatest fields in agriculture one has ever seen, and uranium. They have a wonderful ethnic and cultural heritage, a high intellectual and educational level, with every advantage in the world, except the consciousness on the part of the business community—greed. That is what they have.

The economic minister sat there and said, "Senator, every time they came and demanded more, they said give it to them. They would give them a 300-percent increase in benefits and they ended up with 600-percent inflation. In March of last year they ended up with a 970-percent inflation rate per month. That was in March of last year. And the country has just come down in heaps. That is why they are struggling, trying to reengender a consciousness within the various elements and institutions of society to accept some responsibility to build their society.

Now you have got it. When I asked that question 3 years ago, trying to get where they were going, gas was 30 some cents at that time. We got them up to 52 cents. About that time, the Federal Power Commission made their ruling. We argued 60 cents. I have talked with the Senator from Kansas about 65 cents, 70 cents, maybe 75. A majority of this body—everybody is talking about a majority.

Finally, I turned to the witness and I said, "I am like the Mafia. I would like to make you an offer you cannot refuse. What about a buck?"

He said, "Man, that will bring in all the gas you can use." Now the greeds will not settle for $1.75. They are like the sheep dog that has tasted blood, in the form of Pearson-Bentsen, and they are headed for it. They want to chastise everybody, trying to hold them up, saying, "Wait, look at what you are doing."

You have plenty for gas. You are drilling it all over the place. You have gotten it to the $1.75 level with all the incremental costs and increases. You are bringing in more gas right now.

There is not any problem with the energy policy of America. The problem is what the Senator from Alaska wants us to do, join Algeria and the cartel. I can tell you that inflation in these nations is rampant: 43 percent in Colombia, 41 percent in Brazil, all round. We are helping the countries, like Peru, get through the month of September. That is what their problem was, just to get through the month economically.

This thing is an international problem. Somewhere, sometime, a good majority has to say, look, man, we are way ahead. Pearson-Bentsen came out, 16 to 1, in May of last year and early June at $1.60. That is where they were. I was in the Commerce Committee. We had the responsibility. We said, this is gold. We will have a majority of the Senate at $1.60 and maybe if we can get it working over on the House side, then we will finally have a policy, because we understand that industry cannot operate with a questionmark.

Now the President has gone up too high again, in my opinion, but it did pierce that veil of inter-intra. I would pay another 15 cents to get that done. So he has done it and we tried to support it.

Instead of that, they come around deriding a substantial group of Senators who have worked on this problem and know what it is and know that the gas companies know what it is. And they are oozing wealth all over the lot and talking about a little pickup industry and how are we going to get the gas from Alaska?

My heavens above. If the Senator were only here, I could describe that economy up there and its wealth. We do not have aid to dependent children in front of us. We have one of the richest industries in the United States today to deal with. And we are doubling, taking that average cost of 60 cents and putting it up more than double to $1.75 per Mcf.

If you want to know what they are doing, go to their Oil and Gas Journal. I am reading from the April 1977 Oil and Gas Journal.

Gulf of Mexico. Transco Exploration Co., Houston, is among a growing number of interstate pipeline affiliates competing for gas reserves on the Outer Continental Shelf off Texas and Louisiana. Transco says its parent company, Transcontinental Gas Pipe Line Corp., is "gas-hungry," and higher interstate prices are helping to feed it.

Transco says development of High Island-South Block A-492 would have been barely a breakeven proposition at 52¢/Mcf. But at $1.44/Mcf, the company is drilling ahead.

This is the Oil and Gas Journal for these moaning tales about oil welfare here and free enterprise and nationalizing gas. But at $1.44 an Mcf, the company is drilling ahead.

That is now, that is not conjectural. That is what the Oil and Gas Journal says:

New Mexico. One of the more dramatic responses to the rise in interstate natural-gas prices has come in the Morrow and other Pennsylvanian sands of southeastern New Mexico. The absence of a strong intrastate market there has left most of the gas available for interstate consumption.

Drilling in Eddy County, N.M., heart of the gas play, soared from less than 20 wells in 1968 when gas was sold at 14.6¢/Mcf to 360 in 1974 when gas was selling for 55¢/Mcf.

With current higher prices, drilling there has virtually doubled again.

Doubled. They are not waiting on this bill. They have great profits in this thing:

The rotary-rig count for all of New Mexico in early March totaled 73, compared to only 39 the year before, Hughes Tool Co. figures show.

One independent says reserves of several trillion cu. ft. were needed to make production economic in the Indian basin of southeastern New Mexico in 1963–64 when prices were running 12–15¢/Mcf.

At $1.42/Mcf, production becomes economic with reserves in the low billions of cubic feet. The result has been the drilling of hundreds of Morrow and Cisco Canyon wells.

That is what is going on in this country today. Not this aid to dependent children.

Rockey Mountains. Higher interstate prices in the Mountain States, where the intrastate market is small, have triggered a gas-drilling boom there.

"We saw a considerable upswing in gas development after the $1.42 price was granted, but operators continue.

That is not HOLLINGS. That is the Oil and Gas Journal.

We say a considerable upswing in gas development after the $1.42 price was granted. But operators continue to be interested in many other areas.

We can go right on down to every particular area here. I am reading now from the top of that page, 51:

Edwin L. Cox in Oklahoma City and now of Weber-Fennell consulting geologists there, is a long-time student of the Arkoma. "If the gas price should go to $2–2.25/Mcf," he says, "you can count on seeing the Arkoma basin flow wide open.

There you are. It is going to do that under the administration's bill, starting off with $1.75 and going right on up. Within 4 years it will be $2–2.25 with the boom blowing it wide open.

Now they come with hat in hand and pleading, "Please help a little industry that is so strangled that we cannot complete with the OPEC cartel in Algeria." We cannot compete—for goodness sake. What in the world are we doing? Are we going to let a bunch from the cartel meet in a tent in Vienna or down in Abu Dhabi or down in Venezuela, wherever they meet—Panama City, I think, is a secret place—are they going to meet in secret and set the price or is this Congress going to meet for 24 hours around the clock and in the open to ask ourselves what is the right thing to do in this country?

We need to settle policy. You have a good policy submitted by the President. Perhaps that cannot pass. I would then have to go along with the Jackson amendment. But we are not going to deregulation.

I hope Senator ABOUREZK, Senator METZENBAUM, and the rest are not looked upon as obstructionists. I have seen this thing develop before. Historically we have to look back as to just where we were as Senators who met in committee a year ago agreeing, Republican and Democrat—the Senator from Kansas agreed with the Senator from South Carolina; the Senator from Illinois agreed with the Senator from Arizona, and around that table we came up with $1.60. Today we are talking about $1.75 and talking about free enterprise when we are faced with a cartel. It is absolute sham and outright greed.

I ask from them some tolerance and understanding for somebody to stand up here and begin to represent the overall interests of business and the consumer in America with a policy, a set level under the particular circumstances at this time, so we can save America's economy, on the one hand, from $71 billion worth of inflation; and, on the other hand, continue the boom that has been described here in my comments. I am willing to embellish upon, but I hold back the remainder of my time, Mr. President.

Mr. MELCHER. Mr. President, when we started this useful dialog an hour ago with the remarks of the Senator from Arkansas we were discussing the dilemma we were in on getting a final vote on the bill before us.

Now I, like about a third of the membership of this body, had the opportunity last year to spend most of the time campaigning with people in my State. The dialog on energy that transpired during that campaign was an important aspect of the campaign. People wanted to know about an energy policy for this country; they wanted to know what we had done, why we had done so little, and what we were going to do in the future that would assure this country a better energy policy.

During the course of that dialog, although I had voted against deregulation in the House, I informed the people of my State I thought it was time that we had some form of deregulation of natural gas, and that should be a part of our policy for the future on energy here in this country.

But in discussing it with them I cautioned, and they agreed, that a policy of deregulation for natural gas should not be too abrupt so as to not upset the budget of homes and hospitals and schools and agriculture.

So I was somewhat disappointed in the President's recommendation on the aspect of what he recommended for natural gas in his energy policy for the country.

It seems to me to continue too long, Government redtape and Government involvement to too high a degree. But, nevertheless, when the committee considered if they had no solution of anything else but a 9-to-9 vote, a tie vote, and to leave it up to the Senate to work its will.

The Pearson-Bentsen amendment is a rather modified form of gas deregulation. We are now on the second Pearson-Bentsen amendment. It does work in this incremental pricing system so as not to make on the homeowners, their budgets, too hard an impact on them. It recognizes hospitals and public buildings. It looks at agriculture and treats it separately, and it seeks to gradually get into some form of natural gas deregulation.

I have supported it on that basis.

But the fact is Pearson-Bentsen, if it passes here in the Senate, will be modified in conference. The House has passed the administration portion, has accepted the administration's recommendations on this.

The conferees representing the Senate on this from the committee will probably reflect a majority viewpoint of those conferees in opposition to Pearson-Bentsen. We can each of us set up

our own lists of conferees, and some list might be tied representing the Senate. Other lists will show a majority who have voted for the administration's position on this or a position close to the administration's position and against Pearson-Bentsen.

If the remarks of previous speakers have been to the point of "Let us get a bill," then I concur wholeheartedly. But I would like to make it clear that I, as one who has voted with Pearson-Bentsen, knowing full well it will not survive in that form in conference, am not in any way seeking to hold up final action on this bill but to get it to conference, and to allow the conferees then to make the adjustments with the House, which would undoubtedly be much less than the Pearson-Bentsen proposal we are voting on now. But we would have a bill.

I think that is the wisest course for the Senate to follow, and I would hope our rigorous session here of the past several days and during the night last night will lead us quickly to a final vote on the series of amendments we have.

If it is Pearson-Bentsen, let it go to conference, and let the conferees then resolve what will be the final compromise on the natural gas pricing.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from South Dakota.

AMENDMENT NO. 930

Mr. ABOUREZK. Mr. President, I call up amendment 930.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 930:

On page 3, strike lines 8 through 12 and insert in lieu thereof:

"(7) while proven reserves as estimated by the gas association have declined and demand has risen, increasing proportions of new supplies of natural gas have moved to the unregulated intrastate market, resulting in both critical and growing shortages of natural gas in the interstate market.".

Mr. TOWER. Mr. President, I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from South Dakota.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), the Senator from Michigan (Mr. RIEGLE), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 27, as follows:

[Rollcall Vote No. 470 Leg.]

YEAS—61

Abourezk	Garn	Pell
Allen	Glenn	Percy
Baker	Gravel	Randolph
Bartlett	Griffin	Roth
Bellmon	Hansen	Schmitt
Bentsen	Haskell	Schweiker
Burdick	Hatch	Scott
Byrd, Harry F., Jr.	Hatfield	Sparkman
	Hayakawa	Stennis
Chafee	Heinz	Stevens
Chiles	Helms	Stevenson
Cranston	Huddleston	Stone
Curtis	Johnston	Talmadge
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Durkin	McIntyre	Williams
Eagleton	Nunn	Young
Eastland	Packwood	Zorinsky
Ford	Pearson	

NAYS—27

Bayh	Culver	Matsunaga
Biden	Hart	McGovern
Brooke	Hathaway	Metzenbaum
Bumpers	Hollings	Moynihan
Byrd, Robert C.	Inouye	Nelson
Cannon	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Kennedy	Sarbanes
Clark	Leahy	Sasser

NOT VOTING—12

Anderson	McClellan	Morgan
Goldwater	McClure	Muskie
Humphrey	Melcher	Riegle
Magnuson	Metcalf	Stafford

So the motion to lay Mr. ABOUREZK's amendment (No. 930) on the table was agreed to.

AMENDMENT NO. 931

Mr. ABOUREZK. Mr. President, I call up amendment No. 931.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 931:

On page 3, line 4, strike "as a result," and insert in lieu thereof "producers have claimed that".

Mr. TOWER. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 931. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY) the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 63, nays 27, as follows:

[Rollcall Vote No. 471 Leg.]

YEAS—63

Abourezk	Eastland	Pearson
Allen	Ford	Pell
Baker	Garn	Percy
Bartlett	Glenn	Roth
Bellmon	Gravel	Schmitt
Bentsen	Griffin	Schweiker
Bumpers	Hansen	Scott
Burdick	Haskell	Sparkman
Byrd, Harry F., Jr.	Hatch	Stennis
	Hatfield	Stevens
Byrd, Robert C.	Hayakawa	Stevenson
Cannon	Heinz	Stone
Chafee	Helms	Talmadge
Chiles	Huddleston	Thurmond
Cranston	Johnston	Tower
Curtis	Laxalt	Wallop
Danforth	Long	Weicker
DeConcini	Lugar	Williams
Dole	Mathias	Young
Domenici	Melcher	Zorinsky
Durkin	Nunn	
Eagleton	Packwood	

NAYS—27

Anderson	Hathaway	McGovern
Bayh	Hollings	Metzenbaum
Biden	Inouye	Moynihan
Brooke	Jackson	Muskie
Case	Javits	Nelson
Church	Kennedy	Proxmire
Clark	Leahy	Ribicoff
Culver	Magnuson	Sarbanes
Hart	Matsunaga	Sasser

NOT VOTING—10

Goldwater	McIntyre	Riegle
Humphrey	Metcalf	Stafford
McClellan	Morgan	
McClure	Randolph	

So the motion to lay Mr. ABOUREZK's amendment (No. 931) on the table was agreed to.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 932

Mr. ABOUREZK. Mr. President, I call up amendment No. 932.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 932: On page 11, strike lines 20 through 23 and insert in lieu thereof the following: "and shall determine an interim ceiling based on the costs of finding, developing, and producing natural gas, as deter-".

Mr. WEICKER. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to

lay on the table the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 31, as follows:

[Rollcall Vote No. 472 Leg.]

YEAS—59

Abourezk	Ford	Nunn
Allen	Garn	Packwood
Baker	Glenn	Pearson
Bartlett	Goldwater	Percy
Bellmon	Gravel	Roth
Bentsen	Griffin	Schmitt
Burdick	Hansen	Schweiker
Byrd, Harry F., Jr.	Haskell	Scott
Byrd, Robert C.	Hatch	Sparkman
Cannon	Hatfield	Stennis
Chafee	Hayakawa	Stevens
Chiles	Heinz	Stevenson
Curtis	Helms	Stone
Danforth	Huddleston	Talmadge
DeConcini	Jackson	Thurmond
Dole	Johnston	Tower
Domenici	Laxalt	Weicker
Eagleton	Long	Williams
Eastland	Lugar	Young
	Melcher	Zorinsky

NAYS—31

Anderson	Hart	Moynihan
Bayh	Hathaway	Muskie
Biden	Hollings	Nelson
Brooke	Javits	Pell
Bumpers	Kennedy	Proxmire
Case	Leahy	Ribicoff
Church	Magnuson	Riegle
Clark	Mathias	Sarbanes
Cranston	Matsunaga	Sasser
Culver	McGovern	
Durkin	Metzenbaum	

NOT VOTING—10

Humphrey	McIntyre	Stafford
Inouye	Metcalf	Wallop
McClellan	Morgan	
McClure	Randolph	

So the motion to lay on the table Mr. ABOUREZK's amendment (No. 932) was agreed to.

Mr. METZENBAUM. Mr. President, during the pendency of this debate I ask unanimous consent that Roger Berliner be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 44 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Griffin	Packwood
Bayh	Hansen	Pearson
Bellmon	Hart	Pell
Bentsen	Haskell	Percy
Biden	Hatch	Proxmire
Brooke	Hatfield	Ribicoff
Bumpers	Hathaway	Riegle
Burdick	Hayakawa	Roth
Byrd, Harry F., Jr.	Heinz	Sarbanes
Byrd, Robert C.	Helms	Sasser
Cannon	Hollings	Schmitt
Case	Inouye	Schweiker
Chafee	Jackson	Scott
Chiles	Javits	Sparkman
Church	Johnston	Stennis
Clark	Kennedy	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stone
Curtis	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Wallop
Domenici	Matsunaga	Weicker
Durkin	McClure	Williams
Eagleton	McGovern	Young
Eastland	McIntyre	Zorinsky
Ford	Melcher	
	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 1366

Purpose: New natural gas, plough-back, and data.

Mr. KENNEDY. Mr. President, I call up amendment No. 1366.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1366:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717 (a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (15) through (17), respectively, and by inserting the following new paragraphs:

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. BENTSEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. BENTSEN. I make the point of order that the amendment is directed to two sections of the bill, if I heard it correctly.

Mr. KENNEDY. Mr. President, I withdraw the unanimous-consent request to dispense with the reading of the amendment, and I ask that the amendment be read.

The PRESIDING OFFICER. The point of order is not well taken. The amendment would amend the substitute in only one place.

Mr. BENTSEN. All right; I misunderstood the reading.

Mr. KENNEDY. Mr. President, I am trying to have the amendment read, if there is any question. If not, I withdraw the second request and ask unanimous consent that the reading of the amendment be dispensed with.

Mr. BELLMON. Mr. President, reserving the right to object, will the Senator explain the amendment?

Mr. KENNEDY. I thought we would just have it read, since there seemed to be a question of whether it was in order. We had considered it before, and I was trying to expedite the matter, but since there is a question, I ask that the amendment be read.

The PRESIDING OFFICER. The Clerk will state the amendment.

The second assistant legislative clerk read as follows:

Beginning on page 2, line 24, strike out all through page 5, line 2, and insert in lieu thereof the following:

SEC. 4. (a) Section 2 of the Natural Gas Act (15 U.S.C. 717 (a)) is amended by redesignating paragraphs (7) through (9) as paragraphs (15) through (17), respectively, and by inserting the following new paragraphs:

"'(7) "New natural gas" mean natural gas produced from any reservoir which was not discovered to contain natural gas by the drilling of a well on or before April 20, 1977, and is produced and sold by a qualified producer.

"'(8) 'Reservoir' means a porous and permeable underground formation containing a natural accumulation of producible crude oil, natural gas, or both, confined by impermeable rock or water barriers and characterized by a single natural pressure system.

"'(9) Qualified producer means a producer which has publicly disclosed such items related to costs, expenses, taxes, natural gas production and discovered reserves for the past ten years and annually for every year thereafter according to rules and regulations as the Commission may promulgate, and which invests each year in exploration for natural gas in areas not yet proven to contain natural gas by drilling, an amount equal to the highest amount expended for such purposes in any of the past ten calendar years, plus all net receipts accruing to it as a result of natural gas sales at prices in excess of $1.45 per MCF.

"'(10) "Old natural gas" means natural gas other than new natural gas.

"'(11) "Boiler fuel use of natural gas" means the use of natural gas as the source of fuel for the generation of steam or electricity.

"'(12) "Affiliate" means any person directly or indirectly controlling, controlled, by or under common control or ownership with any other person, as determined by rule of the Commission.

"'(13) "Offshore Federal lands" means any land or sub-surface area within the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a)).

"'(14) "Intrastate Commerce" means commerce within the United States other than interstate commerce.'"

Mr. KENNEDY. Mr. President, very briefly, this amendment contains three provisions, the first defining new gas along the lines of previous amendments that I have offered, that it will refer to only new reservoir gas.

Second, it requires the publication of data so we will have correct information.

The most important provisions are the plow-back provisions. It seems we voted on a similar plow-back provision yesterday, but I think that for those who have read the Wall Street Journal this morning, another vote might be in order. I ask unanimous consent to have printed in the RECORD an article entitled "Philadelphia Life Gets Sweetened Ten-

neco Offer," published in today's Wall Street Journal.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PHILADELPHIA LIFE GETS SWEETENED TENNECO OFFER

PHILADELPHIA.—Faced with a competing bid from American Express Co., Tenneco Inc. yesterday sweetened its offer to purchase the approximately 76% of the common stock of Philadelphia Life Insurance Co. it doesn't already own.

Tenneco offered to swap 0.25 share of a new issue of $7.40 voting preference stock with a liquidation value of $100 for each share of Philadelphia Life it doesn't already own.

The offer differs from Tenneco's first proposal in several respects. That plan had Tenneco offering 0.22 share of a 7% voting preference stock, also with a liquidation value of $100, for each Philadelphia Life share it doesn't own.

Thus, under Tenneco's original proposal, each Philadelphia Life share would have been exchanged for Tenneco securities yielding $1.54 a year; under the new proposal, that figure will be $1.85 a year.

Dollar Value

In New York, American Express said it doesn't plan any change in the terms of its offer. "We contemplate no change in the Sept. 7 proposal to acquire all the outstanding shares of Philadelphia Life Insurance Co.," an official said. He added that the American Express proposal carries an Oct. 15 expiration date.

Neither Philadelphia Life nor Tenneco would assign a dollar value to the proposed stock swap. Tenneco in August said its first proposal to acquire the Philadelphia Life stock was valued at $170.6 million.

Philadelphia Life agreed in principle to the first Tenneco bid but that agreement was disrupted when American Express Co. offered securities it said were valued at $230 million for all of Philadelphia Life's outstanding shares.

David Cornell, executive vice president of Philadelphia Life, said the company's board will meet shortly to consider the competing offers. He added that American Express has shown "continuing interest" in acquiring Philadelphia Life and that officials of American Express and Phidalephia Life will meet "so that we can see if they have anything further to offer."

The American Express spokesman in New York said the company doesn't have any meeting scheduled with Philadelphia Life but added: "We will, of course, be glad to meet with them if they think it is desirable."

Both the 7% preference stock offered earlier by Tenneco and the $7.40 preference stock offered yesterday would be noncallable for 10 years. Thereafter it would be subject to a sinking fund that will retire the issue for cash by the end of the 20th year at a redemption price equivalent to $25 a share of Philadelphia Life stock.

AMERICAN EXPRESS OFFER

As previously reported, the American Express offer calls for the exchange of one share of American Express $1.50 convertible preferred voting stock for each share of Philadelphia Life. The American Express stock would be convertible at the option of the shareholder at any time into 0.39 share of American Express common.

The offer stipulates that after three years, American Express would have the right to require conversion at the 0.39 ratio provided that the market price of American Express common was at least $64. After 10 years, the market price limitation would expire. The stock would have an involuntary liquidation preference of $25 a share.

Both the Tenneco and American Express offers are in the form of tax-free exchanges.

Tenneco is a widely diversified company with interests in pipeline, manufacturing, oil, packaging, agriculture and land management. American Express is involved in insurance, credit cards, travel service, travelers' checks, money orders and banking.

Mr. KENNEDY. One of the largest gas companies in this country is using its profits, not to find new natural gas, but to buy up life insurance companies. My amendment would require that they plow back the profits under the Pearson-Bentsen provision, so that those profits will be used to find new gas to meet our national energy requirements.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. MATSUNAGA). The question is on agreeing to the motion to lay on the table the amendment (No. 1366) of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 48, nays 46, as follows:

[Rollcall Vote No. 473 Leg.]

YEAS—48

Allen	Glenn	Pearson
Baker	Goldwater	Roth
Bartlett	Gravel	Schmitt
Bellmon	Griffin	Schweiker
Bentsen	Hansen	Scott
Burdick	Hatch	Sparkman
Byrd, Harry F., Jr.	Hatfield	Stennis
Chafee	Hayakawa	Stevens
Chiles	Heinz	Stone
Curtis	Helms	Talmadge
Danforth	Johnston	Thurmond
Dole	Laxalt	Tower
Domenici	Long	Wallop
Eastland	Lugar	Weicker
Ford	McClure	Young
Garn	Melcher	
	Packwood	

NAYS—46

Abourezk	Cranston	Jackson
Anderson	Culver	Javits
Bayh	DeConcini	Kennedy
Biden	Durkin	Leahy
Brooke	Eagleton	Magnuson
Bumpers	Hart	Mathias
Byrd, Robert C.	Haskell	Matsunaga
Cannon	Hathaway	McGovern
Case	Hollings	McIntyre
Church	Huddleston	Metzenbaum
Clark	Inouye	Moynihan
Muskie	Proxmire	Stevenson
Nelson	Ribicoff	Williams
Nunn	Riegle	Zorinsky
Pell	Sarbanes	
Percy	Sasser	

NOT VOTING—6

Humphrey	Metcalf	Randolph
McClellan	Morgan	Stafford

So the motion to lay on the table amendment No. 1366 was agreed to.

The PRESIDING OFFICER (Mr. HASKELL). The question is on agreeing to amendment No. 1039. The yeas and nays have been ordered, and the clerk will call——

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ABOUREZK addressed the Chair.

Mr. President, I have an amendment.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1078

Mr. ABOUREZK. Mr. President, I call up amendment No. 1078.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1078 to amendment numbered 862:

On page 11, line 21, strike everything after "average" through "(15 U.S.C. 757)" on line 2, page 12; and insert the following: "per barrel wellhead price of crude oil during the preceding three calendar months (exclusive of entitlement obligation or amounts attributable to the tax, if any, imposed by section 4996 of the Internal Revenue Code of 1954)".

Mr. ABOUREZK. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I move to lay on the table the amendment of the Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. BELLMON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana, (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 474 Leg.]

YEAS—58

Abourezk	Garn	Packwood
Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Griffin	Roth
Bentsen	Hansen	Schmitt
Burdick	Hart	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
	Hatfield	Sparkman
Cannon	Hayakawa	Stennis
Chafee	Heinz	Stevens
Chiles	Helms	Stone
Church	Huddleston	Talmadge
Curtis	Johnston	Thurmond
Danforth	Laxalt	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Weicker
Eagleton	McClure	Young
Eastland	Melcher	Zorinsky
Ford	Nunn	

NAYS—36

Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Nelson
Bumpers	Jackson	Pell
Byrd, Robert C.	Javits	Proxmire
Case	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Magnuson	Sarbanes
Culver	Matsunaga	Sasser
DeConcini	McGovern	Stevenson
Durkin	McIntyre	Williams

NOT VOTING—6

Humphrey	McClellan	Morgan
Long	Metcalf	Stafford

So the motion to lay on the table amendment No. 1078 was agreed to.

AMENDMENT NO. 1132

Mr. KENNEDY. Mr. President, I call up amendment No. 1132.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1132:

On page 5, line 23, after the word "company" add the following: "for the sale of nonassociated gas by a natural gas company whose production exceeds 100 BCF per year.

"The term 'nonassociated natural gas' means free natural gas not in contact with crude oil in the reservoir.".

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, this is a very simple amendment, and I believe it is a very sound one.

A third of all the natural gas that is discovered is associated natural gas, that which is associated with the drilling for oil.

This amendment provides that associated natural gas will be compensated for at a just and reasonable price. Obviously, the exploration is for the profit that is going to be made on crude oil, but that which falls below the billion cubic feet a year will effectively be decontrolled associated gas because of the paperwork and the administration for that particular item.

It seems to me, Mr. President, that since associated gas only results when there is oil exploration and the benefit for that oil exploration results in the incentive for crude oil, we do not have to give the additional incentive of a decontrolled price. That reaches approximately a third of all natural gas which is developed in the course of the year, and this will have a dramatic impact on the cost to the American consumer.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I cannot yield on my time. I believe I have only 3 minutes remaining.

Mr. WALLOP. It will be on my time, if the Senator will answer.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, I ask the Senator from Massachusetts if it is not true that the nonassociated gas is closer to 20 percent, rather than 30 percent, as he stated.

Mr. KENNEDY. Well, I believe it is closer to 30 than it is to 20. But if it is 20 or 30, whether it is a third or a fifth, it is still a substantial amount, and it is going to be billions of dollars a year to the consumers.

Mr. Presdent, I ask for the yeas and nays on this particular amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I move to lay on the table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 53, nays 36, as follows:

[Rollcall Vote No. 475 Leg.]

YEAS—53

Abourezk	Eagleton	Laxalt
Allen	Eastland	Long
Baker	Ford	Lugar
Bartlett	Garn	Mathias
Bellmon	Glenn	McClure
Burdick	Gravel	Melcher
Byrd, Harry F., Jr.	Griffin	Nunn
	Hansen	Packwood
Chafee	Haskell	Pearson
Chiles	Hatch	Percy
Curtis	Hatfield	Randolph
Danforth	Helms	Roth
DeConcini	Huddleston	Schmitt
Dole	Johnston	Schweiker
Scott	Stone	Wallop
Sparkman	Talmadge	Weicker
Stennis	Thurmond	Young
Stevens	Tower	Zorinsky

NAYS—36

Anderson	Durkin	McIntyre
Bayh	Hart	Metzenbaum
Biden	Hathaway	Moynihan
Brooke	Hollings	Muskie
Bumpers	Inouye	Nelson
Byrd, Robert C.	Jackson	Pell
Cannon	Javits	Proxmire
Case	Kennedy	Ribicoff
Church	Leahy	Riegle
Clark	Magnuson	Sarbanes
Cranston	Matsunaga	Sasser
Culver	McGovern	Williams

NOT VOTING—11

Bentsen	Heinz	Morgan
Domenici	Humphrey	Stafford
Goldwater	McClellan	Stevenson
Hayakawa	Metcalf	

So Mr. HATFIELD's motion to lay on the table Mr. KENNEDY's amendment (No. 1132) was agreed to.

AMENDMENT NO. 1072

Mr. ABOUREZK. Mr. President, I call up amendment No. 1072.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1072 to amendment No. 862:

On page 5 between lines 2 and 3 insert the following new section:

SEC. 5. (a) Within 30 days after the date of enactment of this Act and on a monthly basis thereafter, the Commission shall calculate and publish in the Federal Register the current Btu related price.

(b) Such Btu related price shall be computed by dividing—

(1) the average wellhead price for domestic crude oil currently in effect and established pursuant to the provisions of section 8 of the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757), by

(2) a Btu conversion factor of 5,800,000 Btu's per barrel.

(c) Upon the expiration of oil price controls contained in the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 757), the Btu related price shall be computed by multiplying the current Btu related price then in effect by the inflation adjustment.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1072) offered by the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN, the Senator from Mon-

tana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 57, nays 36, as follows:

[Rollcall Vote No. 476 Leg.]

YEAS—57

Abourezk	Ford	Pearson
Allen	Garn	Percy
Baker	Glenn	Randolph
Bartlett	Gravel	Roth
Bellmon	Griffin	Sasser
Bentsen	Hansen	Schmitt
Burdick	Hart	Schweiker
Byrd, Harry F., Jr.	Haskell	Scott
Byrd, Robert C.	Hatch	Sparkman
Chafee	Hatfield	Stennis
Chiles	Heinz	Stevens
Church	Helms	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Tower
DeConcini	Long	Wallop
Dole	Lugar	Weicker
Domenici	McClure	Young
Eagleton	Melcher	Zorinsky
Eastland	Nunn	
	Packwood	

NAYS—36

Anderson	Hathaway	McIntyre
Bayh	Hollings	Metzenbaum
Biden	Inouye	Moynihan
Brooke	Jackson	Muskie
Bumpers	Javits	Nelson
Cannon	Kennedy	Pell
Case	Laxalt	Proxmire
Clark	Leahy	Ribicoff
Cranston	Magnuson	Riegle
Culver	Mathias	Sarbanes
Durkin	Matsunaga	Stevenson
Goldwater	McGovern	Williams

NOT VOTING—7

Hayakawa	Metcalf	Thurmond
Humphrey	Morgan	
McClellan	Stafford	

So the motion to lay on the table amendment No. 1072 was agreed to.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 945

Mr. ABOUREZK. Mr. President, I call up amendment No. 945.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 945.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HATFIELD addressed the Chair.

Mr. ABOUREZK. I ask unanimous consent——

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike out lines 13 through 16 and insert in lieu thereof:

"(8) a new system of natural gas pricing is needed to eliminate the distortions created by the existence of two separate markets for natural gas, to reflect the costs and risks associated with finding new supplies of natural gas, and to reflect the economic cost of reliance upon alternative fuels in the absence of new supplies of natural gas without causing unnecessary burdens to the economy and without needlessly assuring the indefinite continuation of world oil prices at cartel levels.".

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move to lay on the table the amendment of the Senator from South Dakota.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN) the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 34, as follows:

[Rollcall Vote No. 477 Leg.]

YEAS—61

Allen	Garn	Packwood
Baker	Glenn	Pearson
Bartlett	Goldwater	Percy
Bellmon	Gravel	Randolph
Bentsen	Griffin	Roth
Burdick	Hansen	Schmitt
Byrd, Harry F., Jr.	Haskell	Schweiker
Byrd, Robert C.	Hatch	Scott
Cannon	Hatfield	Sparkman
Chafee	Hayakawa	Stennis
Chiles	Heinz	Stevens
Cranston	Helms	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Thurmond
DeConcini	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eagleton	Mathias	Williams
Eastland	McClure	Young
Ford	Melcher	Zorinsky
	Nunn	

NAYS—34

Abourezk	Hathaway	Moynihan
Anderson	Hollings	Muskie
Bayh	Inouye	Nelson
Biden	Jackson	Pell
Brooke	Javits	Proxmire
Bumpers	Kennedy	Ribicoff
Case	Leahy	Riegle
Church	Magnuson	Sarbanes
Clark	Matsunaga	Sasser
Culver	McGovern	Stevenson
Durkin	McIntyre	
Hart	Metzenbaum	

NOT VOTING—5

Humphrey	Metcalf	Stafford
McClellan	Morgan	

So the motion to lay on the table amendment No. 945 was agreed to.

TERRITORIES AUTHORIZATIONS

Mr. JOHNSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6550.

The PRESIDING OFFICER (Mr. MELCHER) laid before the Senate the amendment of the House of Representatives to the bill (H.R. 6550), to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

Mr. JOHNSTON. Mr. President, H.R. 6550 is an omnibus measure which has been considered extensively by the Committee on Energy and Natural Resources. Both the majority and the minority are in agreement to accept the House amendments with a further amendment.

This measure contains authorizations which must be enacted prior to the end of the fiscal year.

The PRESIDING OFFICER. Will the Senator withhold?

Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

The clerk will report.

The legislative clerk read as follows:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25 to the bill (H.R. 6550) entitled "An Act to authorize certain appropriations for the territories of the United States to amend certain Acts relating thereto, and for other purposes".

UP AMENDMENT NO. 856

Mr. JOHNSTON. Mr. President, for the reasons stated, I move that the Senate concur in the House amendments to the amendments of the Senate to the House bill, with an amendment, and I ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 856:

At the end of Sec. 105 insert the following new proviso:

"*Provided further*, That prior to making any payment on an award pursuant to either title I or title II of said 1971 Act, the Secretary shall review such award and determine whether any portion of such award constitutes interest on the actual value of property at the time of its loss or destruction and shall exclude from his payment such amounts as he determines constitute interest. The Secretary's determination of the proportion of any award which constitutes interest and the proportion which constitutes value shall be final and shall not be subject to judicial review.".

Mr. JOHNSTON. Mr. President, the distinguished Senator from Idaho (Mr. MCCLURE) and I have gone over this matter very carefully with members of the majority and minority staffs as well as members of the subcommittee.

Mr. MCCLURE. Will the Senator explain the purpose and intent of the House amendments as well as the proposed Senate amendment to them?

Mr. JOHNSTON. I would be happy to provide an explanation. As the Senator from Idaho knows, each of these subjects was fully discussed in committee and in various hearings before the committee. The first amendment proposed by the House would restore authorization for full payment of awards made by the Micronesian Claims Commission to date under the Micronesian Claims Act of 1971.

Mr. McCLURE. As I understand the House amendment, it includes a proviso which requires the Government of Japan to contribute 50 percent of the award total pursuant to title I on the 1971 act.

Mr. JOHNSTON. That is correct. That proviso retains the present percentage contribution for payment of title I award claims as is contained in the original act. I would like to emphasize that the U.S. contribution is strictly ex gratia. The United States has absolutely no liability, no responsibility, nor any obligation whatsoever to make any contribution in any manner for awards under title I. The title I awards arise out of damage and loss which occurred during Japanese occupation of these islands.

Mr. McCLURE. As I recall the original report language on the 1971 act, the committee clearly stated that title I payments were ex gratia and to that extent that the $10 million shall constitute full amount, and I quote:

. . . constitute the whole of the *ex gratia* contributions in the Micronesian special fund.

The purpose for providing additional sums at this time is, as I assume, only to satisfy the aspirations of those Micronesians who would otherwise only receive partial payment.

Mr. JOHNSTON. The Senator is correct, but I would like to emphasize that it is not the intent of this amendment to open the door for the United States to cover the entire amount of the additional awards above the original $10 million level. No payment will be made until and unless the Government of Japan agrees to contribute no less than 50 percent of the additional award total.

Mr. McCLURE. I notice in the amendment that the Japanese contribution may be in goods and services as was the original Japanese contribution and that the Secretary of the Interior will determine the value of the goods and services. I think this is a useful provision. The amendment which the Senator is proposing and which I fully support would add a further proviso to this section to require the Secretary of the Interior to review the individual awards and exclude from any payment such amounts as would constitute interest. Would the Senator comment on the reasons for this additional proviso?

Mr. JOHNSTON. I would be happy to comment. The Senate report on this legislation provides an analysis of the problems of interest, but it brief what occurred was that in the original act, the Congress placed certain restrictions and limitations on the procedures which the Commission was to follow in determining those awards. The committee stated specifically that, and I quote,

The Committee wishes to make clear that the Special Commission shall only consider the valuation placed on these claims as the value of the property at the time of its loss or destruction. The payment of interest on awards is not authorized.

It was the intent of the Congress that the Commission determine a value for property and award that amount. The Commission in the Tagabuel case developed a formula to determine property valuation which included interest as an element of the formula. The formula, unfortunately, was not the standard valuation method which the Senator and I are familiar with, that is, what a willing buyer and a willing seller would agree to as a price at the time of the loss or destruction, but rather involved a complicated determination of annual rental payments. It would appear that the Commission did award interest on the valuation but the proviso leaves that determination to the Secretary of the Interior.

Mr. McCLURE. What the Senator is saying, and I am in full accord with his statement, is that the Secretary of the Interior could determine that the actual propery valuation is the actual amount of the award or he could determine that it is something less and that the Commission erred in providing what can only be considered to be an interest payment.

Mr. JOHNSTON. The Senator is correct. I see no other way to fulfill the intent of the Congress than to have the Secretary of the Interior review the awards and make such a determination. I do not want to deny any award recipient under title II the full amount to which he is entitled, but neither do I think it proper for us to include an ex gratia contribution of interest which was not authorized.

Mr. McCLURE. I agree with the Senator and support the adoption of the amendment which he has proposed. I would like to clarify the intent of the additional House amendments if I may. The House has inserted some additional language in the section which authorizes the District Court of Guam to review and render judgment on land claims in Guam. I think it is important that we have a clear record on the intent of the amendments. One amendment further clarifies the role of res judicata by removing from consideration prior judgments of the District Court of Guam in which the issue of compensation was adjudicated in a contested trial in the District Court. Would the Senator comment on that provision?

Mr. JOHNSTON. It is the intent of the Congress to do justice to those in Guam whose lands were acquired by the United States. It is not the intent of the Congress to reopen all claims nor to imply that the compensation which had been paid previously was not just. What we are doing is recognizing an element of procedural fairness in that many people who should have had the opportunity to have an impartial judiciary determine what constituted just compensation could not have such a determination until the establishment of the district court. This is not to say that military proceedings were unfair or unjust nor that the values which were placed on land at that time were unfair. All we are saying is that a person should have had the right to have proceedings within the context of a civil court.

Mr. McCLURE. I understand and I agree with the Senator. The Senator is not implying that only those judgments which were a result of full scale litigation shall remain res judicata.

Mr. JOHNSTON. No, I am not. What I am saying is that unless an individual had the opportunity for such a trial he should be able to contest the value. But if in fact he had the opportunity to contest the value whether or not the value itself was contested, then he has had his day in court. It is essential for procedural fairness that the opportunity was afforded for an individual to have an impartial determination.

Mr. McCLURE. The amendments add additional language providing that any claimant must prove some inequitable action by the United States which resulted in his not receiving full fair market value for his land. I agree wholeheartedly with the House amendment which softens the burden of having to prove fraud or duress. Does the Senator agree?

Mr. JOHNSTON. I do agree. It is not sufficient for the purposes of this section for a claimant to merely allege that he should have received more than he received. If he sold his land for less than he could have received had he been a better bargainer, he nonetheless was a willing seller and was not induced to make a bad bargain. What we are talking about is equity. Given the period of time which has elapsed. I think it would be unreasonable to expect any claimant to meet the high standards which are required to prove fraud or duress; but he must prove not only that he received less than fair market value but that he received less because some action or actions by the United States which just were not proper. I think that we should always require the United States to act with fairness and propriety in its dealings with individuals. If, in fact, the United States did take advantage of the situation or orchestrated a situation, then I believe that justice should be done.

Mr. McCLURE. I fully agree with the sentiments expressed by the Senator and to that extent I support the language in the original Senate amendment providing that awards made by the district court shall stand as judgments against the United States and the language in the committee report liberalizing the rules of evidence and the authorization for the appointment of special masters in order to effect justice. I do not want to imply, however, that we are prejudging any prior award or payment nor that by implication we are asserting that the United States in fact acted improperly.

Mr. JOHNSTON. No, that is not the case nor should that be the implication. Controversy does exist in Guam and the appropriate forum to resolve the controversy is in the courts. Each claim should be evaluated on its merits and within its own special circumstances.

Mr. McCLURE. I note that as with the war claims no interest will be allowed on the difference between the price originally received and actual fair market value from the date of acquisition to the date of award.

Mr. JOHNSTON. That is correct, but interest will accrue, of course, on any judgment until time of payment of the judgment.

Mr. McCLURE. I think it would be useful to note that these amendments liberalizing the rules of evidence and insuring that procedural fairness will be accomplished are a result of the efforts of Congressman WON PAT.

Mr. JOHNSTON. That is true. It is a direct result of his concern and long efforts that this provision will be enacted. He first expressed concern that a requirement for claimants to meet the high standards of proof required to show fraud or duress could frustrate actual justice. I think this entire section stands as a tribute to him and his deep concern that justice be accorded the people of Guam.

Mr. McCLURE. I note that the House has suggested direct authorization for the health care needs for Guam rather than the loan guarantee which the Senate had originally provided. Would the Senator comment?

Mr. JOHNSTON. The situation in Guam is nearing a crisis stage and I believe it is important that the funds be made available as quickly as possible to meet the real health care needs of the people in Guam. This language, as the Senator knows, is designed to provide the Government of Guam with sufficient resources to purchase the Medical Center of the Marianas and prevent an unnecessary duplication of acute care facilities. This language will provide that authority.

Mr. McCLURE. I am concerned that the House amendment which would add a section 403 to the bill sets the stage for uncontrolled extension of Federal programs to all territories regardless of the appropriateness of such programs or their utility to the individual territory.

Mr. JOHNSTON. That is not the case and I wish to make that as clear as I possibly can. The Senate included a provision requiring a study by the Secretary of the Interior which will list Federal programs, their costs, and any necessary changes. As we indi ated in our committee report, that information should have been available to the Congress long before now and I regret that it is necessary to mandate a study every time we require some information. However, I believe that it is in the long-term interest of both Guam and the Northern Marianas, that they be treated alike to allow them to resolve internally those political issues which separate them from reunification.

Mr. McCLURE. I thank the Senator and I appreciate your continuing efforts on behalf of the various territories of the United States.

Mr. JOHNSTON. I appreciate the Senator's remarks and would like to extend my appreciation for his assistance and constant attention and concern for these people.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur with an amendment.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will state the remaining amendments.

The legislative clerk read as follows:

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill with the following amendment:

Page 3, line 2, of the Senate engrossed amendment, strike the period and insert: , and insert in lieu thereof:

SEC. 105. In addition to amounts heretofore authorized pursuant to the Micronesian Claims Act of 1971 (85 Stat. 96), there are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to satisfy all adjudicated claims and final awards made by the Micronesian Claims Commission to date under title I and title II of said 1971 Act, for full payment of such awards: *Provided*, That no sums appropriated pursuant to this section may be paid on awards pursuant to title I of said 1971 Act until, subsequent to the date of enactment of this section, the Government of Japan has provided to the Government of the Trust Territory of the Pacific Islands a contribution, which contribution may be in goods and services, which has a value as determined by the Secretary of Interior equivalent to not less than 50 per centum of the total awards made pursuant to title I of said 1971 Act less $10,000,000 from such total.

Resolved, That the House agree to the amendment of the Senate numbered 19 to the aforesaid bill with the following amendments:

Page 4, line 8, of the Senate engrossed amendments, after "proceedings," insert: in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam,

Page 4, line 11 of the Senate engrossed amendments, after "result of", insert: (1)

Page 4, line 12, of the Senate engrossed amendments, strike the period and insert: or (2) unfair, unjust, and inequitable actions of the United States.

Page 4, line 14, of the Senate engrossed amendments, after "proceedings", insert: in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam,

Page 4, line 20, of the Senate engrossed amendments, after "paid.", insert: Interest may not be allowed from the time of acquisition to the date of the award on such additional amounts as may be awarded pursuant to this section.

Resolved, That the House agree to the amendment of the Senate numbered 20 to the aforesaid bill with the following amendment:

In lieu of the matter proposed by said amendment, insert:

SEC. 205. There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary for grants to the Government of Guam to meet the health care needs of Guam, but not to exceed $25,000,000: *Provided*, That no grant may be made by the Secretary of the Interior pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.

Resolved, That the House agree to the amendment of the Senate numbered 26 to the aforesaid bill with the following amendment:

Page 10, after line 4, of the Senate engrossed amendment, insert:

SEC. 403. Effective on the date of enactment of this Act, those laws, except for any laws administered by the Social Security Administration and except for Medicaid which is now administered by the Health Care Financing Administration, which are referred to in section 502(a)(1) (except for the reference to the Micronesian Claims Act of 1971 (85 Stat. 96)) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by joint resolution approved on March 24, 1976 (90 Stat. 263), and 502(a)(2) of said Covenant shall be applicable to the territories of Guam and the Virgin Islands on the same terms and conditions as such laws are applied to the Commonwealth of the Northern Mariana Islands.

TITLE V

SEC. 501. In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands (hereafter referred to as "Insular Areas") it is hereby declared to be the policy of the Congress that:

(a) Notwithstanding any provision of law to the contrary, any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals) may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any insular area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: *Provided*, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receivng benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

Mr. JOHNSTON. Mr. President, one further word. We have agreed by this legislation to the extension of Federal programs to Guam and the Virgin Islands.

It is expressly understood between the Senate Members, both majority and minority, and our counterpart on the House side, Representative PHILLIP BURTON, that this shall not institute a precedent for extension of these programs to Puerto Rico and, indeed, it is our express intention not to do so.

For the benefit of my senior colleague from Louisiana, I add that those programs under the jurisdiction of his committee have not been extended to either Guam or the Virgin Islands—that is, those under the Social Security Administration.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 947

Mr. ABOUREZK. Mr. President, I call up amendment No. 947.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 947:

On page 3, between lines 12 and 13, insert:

"(8) an independent data system for natural gas, including reserves, is being instituted because of questionable reliability of available data;".

Mr. HATFIELD. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 59, nays 35, as follows:

[Rollcall Vote No. 478 Leg.]

YEAS—59

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Goldwater	Pearson
Bellmon	Gravel	Percy
Bentsen	Griffin	Randolph
Burdick	Hansen	Roth
Byrd,	Hatch	Schmitt
Harry F., Jr.	Hatfield	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Chafee	Heinz	Sparkman
Chiles	Helms	Stennis
Cranston	Huddleston	Stevens
Curtis	Johnston	Stone
Danforth	Laxalt	Talmadge
DeConcini	Leahy	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Eagleton	Mathias	Weicker
Eastland	McClure	Young
Ford	Melcher	Zorinsky

NAYS—35

Abourezk	Hart	Moynihan
Anderson	Haskell	Muskie
Bayh	Hathaway	Nelson
Biden	Hollings	Pell
Brooke	Jackson	Proxmire
Bumpers	Javits	Ribicoff
Cannon	Kennedy	Riegle
Case	Magnuson	Sarbanes
Church	Matsunaga	Sasser
Clark	McGovern	Stevenson
Culver	McIntyre	Williams
Durkin	Metzenbaum	

NOT VOTING—6

Humphrey	McClellan	Morgan
Inouye	Metcalf	Stafford

So the motion to lay on the table amendment No. 947 was agreed to.

AMENDMENT NO. 1206

Mr. BAYH. Mr. President, I ask that the clerk report amendment No. 1260, and that it become the pending order of business, if you please, sir.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes amendment No. 1260 to amendment numbered 862:

On page 15, between lines 15 and 16, insert the following:

(c) The Commission shall have the power to compel interstate pipelines to expand their certified storage capacity in order to adequately meet their systems peak demand day requirements.

Mr. BAYH. Mr. President, let me just say very quickly what this amendment is trying to accomplish. First of all, it recognizes we are not going to solve the problems like we had last winter by simplified solutions. It is a multicomponent shopping list of ingredients that are going to be required if we are going to keep from being confronted with this kind of situation again.

This amendment deals with adequate storage facilities. It gives the FPC the authority to compel integrated pipelines, only those pipelines that produce, transport and distribute natural gas—it would give the FPC the authority to compel those pipelines to expand their storage capacity to meet the systems' greatest need.

One thing we should not have is a shortage of storage, which can mean the closing of schools and inadequate gas for homes.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. Is there a sufficient second? Will Senators who wish to second the request for the yeas and nays raise their hands? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1260) of the Senator from Indiana (Mr. BAYH). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CHILES assumed the chair.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Colorado (Mr. HART) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 479 Leg.]

YEAS—53

Abourezk	Garn	Packwood
Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Hansen	Roth
Bentsen	Hatch	Schmitt
Burdick	Hatfield	Scott
Byrd,	Hayakawa	Sparkman
Harry F., Jr.	Helms	Stennis
Chafee	Huddleston	Stevens
Chiles	Johnston	Stone
Curtis	Laxalt	Talmadge
Danforth	Leahy	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
Eagleton	McClure	Weicker
Eastland	Melcher	Young
Ford	Nunn	Zorinsky

NAYS—41

Anderson	Haskell	Morgan
Bayh	Hathaway	Moynihan
Biden	Heinz	Muskie
Brooke	Hollings	Nelson
Bumpers	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Cannon	Javits	Ribicoff
Case	Kennedy	Riegle
Church	Magnuson	Sarbanes
Clark	Mathias	Sasser
Cranston	Matsunaga	Schweiker
Culver	McGovern	Stevenson
DeConcini	McIntyre	Williams
Durkin	Metzenbaum	

NOT VOTING—6

Griffin	Humphrey	Metcalf
Hart	McClellan	Stafford

So the motion to lay on the table amendment No. 1260 was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BAYH. Mr. President, will the Senator suspend?

Mr. METZENBAUM. I am sorry.

Mr. BAYH. Will the Senator yield just briefly?

Mr. METZENBAUM. To the Senator from Indiana, any time.

The PRESIDING OFFICER. The Senator from Indiana.

UNANIMOUS-CONSENT REQUEST—H.R. 5645

Mr. BAYH. Mr. President, I am about to propose a unanimous-consent request asking the Senate to consider and permit the Senator from Indiana, and perhaps the Senator from Maryland, or anybody else that wants to participate in a very brief discussion of this matter dealing with the extension of the Civil Rights Commission.

Mr. President, I ask unanimous consent that the Chair lay before the Senate

a message from the House on the bill H.R. 5645, an amendment of the House to the Senate amendment to the extension of the Civil Rights Commission, and that the discussion of this matter not be charged under rule XXII to any Senator during the consideration of this matter.

Mr. DOMENICI. Mr. President, reserving the right to object, I say to the distinguished Senator from Indiana that I have not checked with the ranking Republican on this side, nor with our leader.

I object.

The PRESIDING OFFICER. Objection is heard.

QUORUM CALL

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The second assistant legislative clerk resumed and concluded the call of the roll and the following Senators answered to their names:

[Quorum No. 45 Leg.]

Abourezk	Garn	Muskie
Allen	Glenn	Nelson
Anderson	Goldwater	Nunn
Baker	Gravel	Packwood
Bartlett	Hansen	Pearson
Bayh	Haskell	Pell
Bellmon	Hatch	Percy
Bentsen	Hatfield	Proxmire
Biden	Hathaway	Randolph
Brooke	Hayakawa	Ribicoff
Bumpers	Heinz	Riegle
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
	Huddleston	Sasser
Byrd, Robert C.	Inouye	Schmitt
Cannon	Jackson	Schweiker
Case	Javits	Scott
Chafee	Kennedy	Sparkman
Chiles	Laxalt	Stennis
Church	Leahy	Stevens
Clark	Long	Stevenson
Cranston	Lugar	Stone
Culver	Magnuson	Talmadge
Curtis	Mathias	Thurmond
Danforth	Matsunaga	Tower
DeConcini	McClure	Wallop
Dole	McGovern	Weicker
Domenici	McIntyre	Williams
Durkin	Melcher	Young
Eagleton	Metzenbaum	Zorinsky
Eastland	Morgan	
Ford	Moynihan	

The PRESIDING OFFICER. A quorum is present.

AMENDMENT NO. 908

Mr. BAYH. Mr. President. I ask that amendment No. 908 be made the pending business and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an amendment numbered 908 to amendment 862:

On page 8, after the word "consumption" on line 7, insert the following: *"Provided*, That in the case of exploration, the Commission shall determine separately the exploration expenditures by project and the ultimate recoverable reserves by project;".

Mr. BAYH. Mr. President, I say to the floor manager of the bill on the other side, an amendment very similar to this relative to information that was offered in another area by the Senator from Massachusetts (Mr. KENNEDY) was accepted on a voice vote.

I do not necessarily want to put the Senate through a vote on this, but it seems to me if we are asked expenses and expenditures and information, it ought to be on a project-by-project basis.

Mr. DOMENICI. Will the Senator from Indiana state again what the comparable amendment was? We have to locate it.

Mr. BAYH. It had to do with reserve data. It was offered by Senator KENNEDY. It was accepted by a voice vote.

I have to say to my colleague that I do not know what it is. If he does not think that makes good sense, I am prepared to put it to a rollcall vote. I just thought it might save the Senate some inconvenience if he was willing to accept it. If not, I understand.

Mr. DOMENICI. I say to the Senator from Indiana that I am informed that there is a substantial difference between the two amendments. On that basis, I cannot agree to accept the amendment or agree to a voice vote at this time.

Mr. BAYH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I move to lay the amendment on the table.

Mr. BAYH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Indiana. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Colorado (Mr. HART), the Senators from Montana (Mr. MELCHER and Mr. METCALF), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 56, nays 35, as follows:

[Rollcall Vote No. 480 Leg.]

YEAS—56

Abourezk	Byrd, Harry F., Jr.	DeConcini
Allen		Dole
Baker	Byrd, Robert C.	Domenici
Bartlett	Chafee	Eagleton
Bellmon	Chiles	Eastland
Bentsen	Curtis	Ford
Burdick	Danforth	Garn
Glenn	Lugar	Scott
Goldwater	McClure	Sparkman
Gravel	McIntyre	Stennis
Hansen	Morgan	Stevens
Hatch	Nunn	Stevenson
Hatfield	Packwood	Stone
Hayakawa	Pearson	Talmadge
Heinz	Percy	Thurmond
Helms	Randolph	Tower
Huddleston	Roth	Wallop
Laxalt	Schmitt	Weicker
Long	Schweiker	Zorinsky

NAYS—35

Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Nelson
Bumpers	Jackson	Pell
Cannon	Javits	Proxmire
Case	Kennedy	Ribicoff
Church	Leahy	Riegle
Clark	Magnuson	Sarbanes
Cranston	Mathias	Sasser
Culver	Matsunaga	Williams
Durkin	McGovern	

NOT VOTING—9

Griffin	Johnston	Metcalf
Hart	McClellan	Stafford
Humphrey	Melcher	Young

So the motion to lay on the table amendment No. 908 was agreed to.

Mr. BAYH and Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. ALLEN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAYH. Yes.

Mr. ALLEN. Mr. President, I ask unanimous consent that Mr. Tom Hagan of Senator BENTSEN's staff be given the privilege of the floor during the consideration of this bill and during rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana has the floor.

Mr. BAYH. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 968

Mr. ABOUREZK. I call up amendment No. 968.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 968:

On page 11, line 6, strike "or the interim ceiling established pursuant to subsection (d)".

On page 11, line 11, strike all of paragraph (d), through page 12 at line 12, and redesignate the succeeding paragraphs accordingly.

On page 13 at line 1, strike "or interim ceiling".

Mr. DOMENICI. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. The amendment amends the bill in more than two places.

The PRESIDING OFFICER. It clearly does, and the point of order is sustained.

AMENDMENT NO. 969

Mr. ABOUREZK. Mr. President, I call up amendment No. 969.

The PRESIDING OFFICER. The clerk will report.

The amendment is as follows:

On page 11, line 13, strike "which is no longer subject to judicial review".

On page 12, line 4 strike "Which is no longer subject to judicial review".

Mr. DOMENICI. Point of order. The amendment amends the bill in two places.

The PRESIDING OFFICER. It clearly does, and the point of order is sustained.

AMENDMENT NO. 984

Mr. ABOUREZK. Mr. President, I call up amendment No. 984.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 984:

On page 4, beginning with line 17, after the word "person", strike out all through line 19 and insert "has the same meaning as such term has under section 2(1) of the Natural Gas Act.".

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. WEICKER. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. Is the question on the motion to lay on the table?

The PRESIDING OFFICER. On the amendment.

There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Have the yeas and nays been ordered on the motion to table?

The PRESIDING OFFICER. Only on the amendment.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table? There is a sufficient second on the motion to table.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut to lay on the table amendment No. 984. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 79, nays 14, as follows:

[Rollcall Vote No. 481 Leg.]

YEAS—79

Abourezk	Byrd, Robert C.	Domenici
Baker	Case	Eagleton
Bartlett	Chafee	Ford
Bellmon	Chiles	Garn
Bentsen	Church	Glenn
Biden	Cranston	Goldwater
Brooke	Culver	Hansen
Bumpers	Curtis	Haskell
Burdick	Danforth	Hatch
Byrd, Harry F., Jr.	DeConcini	Hatfield
	Dole	Hayakawa
Heinz	Melcher	Schmitt
Helms	Metzenbaum	Schweiker
Huddleston	Morgan	Scott
Jackson	Muskie	Sparkman
Javits	Nunn	Stennis
Johnston	Packwood	Stevens
Kennedy	Pearson	Stevenson
Laxalt	Pell	Stone
Leahy	Percy	Talmadge
Long	Proxmire	Thurmond
Lugar	Randolph	Tower
Mathias	Ribicoff	Wallop
Matsunaga	Riegle	Weicker
McClure	Roth	Williams
McGovern	Sarbanes	Zorinsky
McIntyre	Sasser	

NAYS—14

Allen	Durkin	Inouye
Anderson	Eastland	Magnuson
Bayh	Gravel	Moynihan
Cannon	Hathaway	Nelson
Clark	Hollings	

NOT VOTING—7

Griffin	McClellan	Young
Hart	Metcalf	
Humphrey	Stafford	

So the motion to lay on the table amendment No. 984 was agreed to.

AMENDMENT NO. 1016

Mr. ABOUREZK. Mr. President, I call up amendment No. 1016.

The PRESIDING OFFICER. The amendment will be stated.

Mr. DOMENICI. Mr. President, I did not hear the number of the amendment.

The PRESIDING OFFICER. Will the Senator from South Dakota repeat that?

Mr. ABOUREZK. 1016.

Mr. DOMENICI. I thank the Senator.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK proposes an amendment numbered 1016:

On page 8, line 25, after "5" insert "(a)".

On page 9, between lines 4 and 5, insert the following new subsection 5(b) as follows:

"(b) Prior to making any first sale pursuant to section 5 of this Act, the producer shall provide the Secretary the following information for each of the five years immediately preceding the date of such first sale, and annually thereafter:

"(1) total expenditures for each of the following:

"(A) exploration,

"(B) development, and

"(C) production;

"(2) new reserve additions from each of the following:

"(A) extensions,

"(B) revisions, and

"(C) new well discoveries, including any negative revisions;

"(3) the cost of producing gas and the net income (or loss) including the rate of return earned on gas operations (or loss); and

"(4) interstate and intrastate sales and revenues of natural gas.".

Mr. DOMENICI. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from New Mexico will state it.

Mr. DOMENICI. The amendment is out of order because it amends the bill in two places.

Mr. ABOUREZK. Mr. President, it is a continuous amendment.

The PRESIDING OFFICER. The point of order is sustained.

AMENDMENT NO. 1079

Mr. ABOUREZK. Mr. President, I call up amendment No. 1079.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1079:

On page 3, line 16, strike line 16 and insert "be considered have".

Mr. DOMENICI. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1079) offered by the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 63, nays 30, as follows:

[Rollcall Vote No. 482 Leg.]

YEAS—63

Allen	Goldwater	Pearson
Baker	Gravel	Percy
Bartlett	Hansen	Randolph
Bellmon	Hart	Roth
Bentsen	Hatch	Sasser
Burdick	Hatfield	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Schweiker
	Heinz	Scott
Byrd, Robert C.	Helms	Sparkman
Cannon	Hollings	Stennis
Chafee	Huddleston	Stevens
Church	Johnston	Stevenson
Curtis	Laxalt	Stone
Danforth	Long	Talmadge
DeConcini	Lugar	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Eagleton	Melcher	Weicker
Eastland	Morgan	Young
Ford	Moynihan	Zorinsky
Garn	Nunn	
Glenn	Packwood	

NAYS—30

Abourezk	Durkin	McIntyre
Anderson	Haskell	Metzenbaum
Bayh	Hathaway	Muskie
Biden	Inouye	Nelson
Brooke	Jackson	Pell
Bumpers	Javits	Proxmire
Case	Kennedy	Ribicoff
Clark	Leahy	Riegle
Cranston	Mathias	Sarbanes
Culver	McGovern	Williams

NOT VOTING—7

Chiles	Magnuson	Stafford
Griffin	McClellan	
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1079 was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from New Hampshire yield me 5 minutes by unanimous consent?

Mr. DURKIN. Yes.

Mr. ROBERT C. BYRD. I thank my friend from New Hampshire.

Mr. President, I shall shortly move to recess for about an hour so as to give Senators an opportunity to get some dinner, or get some work done in their offices, or have a little bit of respite, and, in the meantime, I will be continuing to try to work with Senators.

I think I should state that we will be here a while yet today, but I do not anticipate an all-night session 2 days in a row.

But I do think Senators should be aware of the possibility of our being here for some time yet today.

RECESS UNTIL 6:41 P.M.

Mr. ROBERT C. BYRD. Mr. President I, therefore, ask unanimous consent that the Senate stand in recess for 1 hour.

There being no objection, the Senate, at 5:41 p.m., recessed until 6:41 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAVEL).

QUORUM CALL

Mr. ABOUREZK. Mr. President, at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 46 Leg.]

Abourezk	Garn	Moynihan
Allen	Glenn	Muskie
Anderson	Goldwater	Nelson
Baker	Gravel	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Proxmire
Brooke	Hathaway	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd, Harry F., Jr.	Helms	Roth
	Hollings	Sarbanes
Byrd, Robert C.	Huddleston	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Scott
Chiles	Johnston	Sparkman
Church	Laxalt	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stone
Culver	Lugar	Talmadge
Curtis	Magnuson	Thurmond
Danforth	Mathias	Tower
DeConcini	Matsunaga	Wallop
Dole	McClure	Weicker
Domenici	McGovern	Williams
Durkin	McIntyre	Young
Eagleton	Melcher	Zorinsky
Eastland	Metzenbaum	
Ford	Morgan	

The PRESIDING OFFICER. A quorum is present.

Mr. GOLDWATER. Mr. President, I yield myself such time as I will need, and it will not be much.

I became very interested in how much it is costing the taxpayers to have this extracurricula going on every night. So I asked our good friend, the Sergeant at Arms, Mr. Hoffman, to put together some expenses I asked him for, and this what he told me.

In response to your request for an itemized list of extraordinary expenses incurred by the Senate between the approximate hours of 9 p.m last evening and 7:15 a.m. this morning as a result of the all-night session, with the assistance of the Architect of the Capitol we have been able to prepare the following list. Sums listed here represent costs over and above those normally incurred for services provided during these evening hours.

Police overtime compensation, $5,556.
Air conditioning, $459.
Senate restaurants, $1,312.
Capitol physician's office, $503.
Library of Congress, $150.
Senate engineers, $400.
Electricians, $100.
Laborers, ground crew, and speech reinforcement support, $423.
Other Capitol maintenance personnel, rough estimate, $600.
Extra Senate office building maintenance expense, $400.
Extra Sergeant at Arms expense, $200.

We were not able to get an exact figure for the electricity we consume, because this is handled in a rather unusual way, and I did not know it. We do not have meters in this building, as we all have at home. But the total to run this place all night is $10,130.

I suggest that that will pay for one hell of a lot of energy.

Mr. ABOUREZK. Mr. President, I yield myself 1 minute.

I express my agreement with the Senator from Arizona, that I, too, think it is somewhat outrageous that we had to stay in all night last night. I wish we had not, and I wish the Senator from Arizona would have supported my motion to adjourn. We would not have had all that extra expense.

AMENDMENT NO. 1076

Mr. President, I call up amendment No. 1076.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes amendment No. 1076:

On page 11, line 20, strike everything after "be" through "(15 U.S.C. 757)" on line 2, page 12; and insert the following: "$1.45 per thousand cubic feet.".

Mr. ABOUREZK. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. The amendment apparently amends the bill in two places, and a ruling should lie against it.

Mr. President, I think the statement I made is incorrect. Apparently it starts making some changes on one page and carries over to the second page. Is that the opinion of my friend from South Dakota?

Mr. ABOUREZK. That is correct.

The PRESIDING OFFICER. Does the Senator withdraw his point of order?

Mr. HANSEN. Mr. President, I move to table the amendment.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to Mr. HANSEN's motion to lay on the table the amendment of the Senator from South Dakota. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 64, nays 29, as follows:

[Rollcall Vote No. 483 Leg.]

YEAS—64

Allen	Goldwater	Pearson
Baker	Gravel	Pell
Bartlett	Hansen	Percy
Bellmon	Hart	Randolph
Bentsen	Haskell	Roth
Byrd, Harry F., Jr.	Hatch	Sarbanes
	Hatfield	Sasser
Byrd, Robert C.	Hayakawa	Schmitt
Cannon	Heinz	Schweiker
Chafee	Helms	Scott
Chiles	Huddleston	Sparkman
Church	Johnston	Stennis
Curtis	Laxalt	Stevens
Danforth	Long	Stone
DeConcini	Lugar	Talmadge
Dole	Mathias	Thurmond
Domenici	McClure	Tower
Eagleton	McIntyre	Wallop
Eastland	Melcher	Weicker
Ford	Morgan	Young
Garn	Nunn	Zorinsky
Glenn	Packwood	

NAYS—29

Abourezk	Culver	McGovern
Anderson	Durkin	Metzenbaum
Bayh	Hathaway	Moynihan
Biden	Hollings	Muskie
Brooke	Inouye	Nelson
Bumpers	Jackson	Proxmire
Burdick	Javits	Ribicoff
Case	Leahy	Riegle
Clark	Magnuson	Williams
Cranston	Matsunaga	

NOT VOTING—7

Griffin	McClellan	Stevenson
Humphrey	Metcalf	
Kennedy	Stafford	

So the motion to lay on the table amendment No. 1076 was agreed to.

EXTENSION OF THE CIVIL RIGHTS COMMISSION

Mr. BAYH. Mr. President, for the information of my colleagues, what I am about to propose is not germane to the issue before us, and will require unanimous consent. It involves the extension of the Civil Rights Commission. It involves the acceptance of a conference report which we have just received from the House of Representatives.

I have been advised by my distinguished friend and colleague the ranking Republican member of the Constitutional Rights Subcommittee of the Committee on the Judiciary that he is

prepared to accept this report, and the objection that is put to this——

Mr. SCOTT. Mr. President, will the distinguished Senator yield?

Mr. BAYH. Could I just finish alerting the Senate? We had an objection a moment ago.

Mr. SCOTT. We are going to have another objection unless I know what is in the thing, and that is why I wish you would withhold it until you and I confer about it, since I am the ranking Republican member of the subcommittee.

Mr. BAYH. I had been advised the Senator from Virginia had been told what was in it.

Mr. SCOTT. Nobody told me about it. That is why I asked the Senator to withhold.

Mr. BAYH. The Senator from Indiana has no alternative, and would not have brought it up had he not been told the Senator from Virginia knew about it.

Mr. SCOTT. The distinguished Senator did not confer with me personally.

Mr. BAYH. I had hoped our staffs were in communication.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. ROBERT C. BYRD. Will the distinguished Senator allow me to confer with him about this matter?

Mr. BAYH. I will be more than happy to. It is a conference report, as the majority leader knows.

COMPREHENSIVE NATURAL GAS POLICY

The Senate continued with the consideration of S. 2104.

AMENDMENT NO. 1222

Mr. METZENBAUM. Mr. President, I call up amendment No. 1222.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 1222:

On page 7, line 21, strike paragraph (20) and insert the following:

(20) The term "inflation adjustment" means the amount that results from dividing—

(1) the average of the Wholesale Price Index of Industrial Commodities Less Fuels and Related Products and Power, for the quarter which immediately precedes such calendar quarter, seasonally adjusted as computed and published by the Department of Labor; by

(2) the average of the Wholesale Price Index of Industrial Commodities Less Fuels and Related Products and Power, for the first calendar quarter of 1977, seasonally adjusted, as computed by the Department of Labor.

Mr. WEICKER. Mr. President, I move that the amendment be laid on the table.

Mr. METZENBAUM. Mr. President, will the Senator from Connecticut be good enough to withhold that for a moment? I think that the Senator from South Dakota would like to address himself to the subject before debate is cut off.

The PRESIDING OFFICER. Does the Senator withdraw his motion to lay on the table?

Mr. WEICKER. I am glad to withhold it.

Mr. McGOVERN. I yield myself 5 minutes.

Mr. President, I rise to pay my respects to my colleague from South Dakota (Mr. ABOUREZK) and the Senator from Ohio (Mr. METZENBAUM), and the others who carried the heaviest burden on this so-called filibuster. I do so reluctantly, but I do it because I have come to the conclusion that the filibuster in this case is in the public interest.

I personally have never liked filibusters. I am not temperamentally suited to participate in one, and very frankly, last week when my own amendment to this bill became the subject of a filibuster, when it was divided into 20 sections calling for 20 separate votes, I was irritated about it.

But the truth that has been gradually making itself apparent, I think, over the last few days, is that the architects of this filibuster are using the only instrument that is available to them to block action on a bill that I am convinced will have devastating consequences on the American consumer. It is a bill that, if passed, will pick the pockets of every consumer in this country. So, in a very real sense, this filibuster is a people's filibuster. It is a filibuster in the interests of the American consumer. And however much it might inconvenience me, which it has, or any other Senator, as has been pointed out on this floor before, it is being conducted not for our convenience but to protect the interests of the American people.

If it had not been for this blocking procedure, irritating as it has been, we would already have voted to remove public regulation of natural gas.

I think the Senator from South Carolina (Mr. HOLLINGS) earlier today put this issue in better perspective when he said that the issue is really not so much whether we are going to have regulated gas prices, but who is going to do the regulating: whether the prices are going to be set by a public commission named by the President and confirmed by the Senate, or whether they are going to be set by the international oil cartel, which is precisely the way they will be set if the bill now pending before the Senate is passed.

Every estimate that I have seen, whether from the Congressional Budget Office, from the Library of Congress, or from some other objective source, indicates that if we take off public guidelines and public regulation on natural gas, it is going to cost somewhere in the vicinity of another $10 billion to the American people for the purchase of natural gas.

The former chairman of the public utilities commission in my State estimated last year that in terms of its impact on South Dakota, the removal of public regulation of natural gas would cost every South Dakota family an additional $250 or more per year.

So, Mr. President, while it has been very painful for me to come to this conclusion, as I have watched the Senate work here the last few days, and as I have watched the courage and the tenacity with which Senator ABOUREZK, Senator METZENBAUM, and their colleagues, Senator KENNEDY, Senator BAYH, and others participated in this effort, I have been more and more convinced of the wisdom of what they are doing; and I just want to add my voice to this effort. If I can help in any way to insure its success, I want to volunteer my services to the architects of the effort, to serve in any way I can. I am convinced that it is in the public interest, and I hope it will result in a better piece of legislation than the one now pending before the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. SCHMITT. Mr. President, will the Senator from Connecticut withhold his motion to lay on the table for a few more minutes?

Mr. WEICKER. I yield the Senator 2 minutes.

Mr. SCHMITT. Just very briefly, the Senator from South Dakota, the Senator from South Carolina, and the Senator from Massachusetts, at various times today and on other days, have suggested that the proponents of some form of scheduled deregulation are against the people. I do not know about other Senators, but I personally resent that. We are as much concerned about the people of the United States as are the good Senators who have suggested otherwise.

Our principal concern is two-fold: first, that the people of the United States, as rapidly as possible, have sufficient supplies of energy to provide for their needs without undue dependence on foreign supply. Our deregulation procedures will indirectly provide that supply. Also, in doing so, we hold out the very real promise, if mineral economics are at all justified in history as well as in theory, of having enough supply in a very few years to begin to lower the price to the American consumer. That has been the standard practice in this kind of activity in the past, and I have every expectation it will happen in the future.

Two things that they tend to forget are that without increasing the supply of natural gas, and with the curtailments facing us not only this winter, but in the future, if we do not increase supplies the inconvenience to the people will far outstrip the cost figures we have heard thrown around here in the last few days. The people, instead of cheap, clean, convenient natural gas, will have to buy expensive foreign oil, or switch to relatively polluting coal supplies, or purchase electricity for the same purposes, all of which are vastly more expensive than even the wildest estimates of the opponents of deregulation of natural gas.

Finally, Mr. President, there is this business of the OPEC cartel.

The OPEC cartel is not a cartel in the true sense. The one way in which this country is going to break the back of that cartel——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHMITT. One more minute.

The one way that the people of this country are going to break the back of the OPEC cartel is to increase the domestic supply of energy. That will break their back faster than anything else we can do. This is only one step, but it is a major step in that direction.

To deregulate the price, the supply of domestic natural gas will begin to increase, utilizing the vast resources of all aspects of the American economy, not

only the energy industry, but also other aspects of the economy and the initiative of the American people.

If we will follow suit in oil and begin to look to the future in other energy sources, the OPEC cartel will very rapidly become a thing of history.

I thank the Chair.

Mr. WEICKER. Mr. President, I move to lay on the table the amendment of the distinguished Senator from Ohio.

Mr. METZENBAUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. METCALF), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 61, nays 32, as follows:

[Rollcall Vote No. 484 Leg.]

YEAS—61

Allen	Garn	Pearson
Baker	Glenn	Percy
Bartlett	Goldwater	Randolph
Bellmon	Gravel	Roth
Bentsen	Hansen	Schmitt
Burdick	Haskell	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
Byrd, Robert C.	Hatfield	Sparkman
Cannon	Hayakawa	Stennis
Chafee	Heinz	Stevens
Chiles	Helms	Stevenson
Church	Hollings	Stone
Curtis	Huddleston	Talmadge
Danforth	Johnston	Thurmond
DeConcini	Laxalt	Tower
Dole	Long	Wallop
Domenici	Lugar	Weicker
Eagleton	McClure	Williams
Eastland	Melcher	Young
Ford	Nunn	Zorinsky
	Packwood	

NAYS—32

Anderson	Hathaway	Morgan
Bayh	Inouye	Moynihan
Biden	Jackson	Muskie
Brooke	Javits	Nelson
Bumpers	Leahy	Pell
Case	Magnuson	Proxmire
Clark	Mathias	Ribicoff
Cranston	Matsunaga	Riegle
Culver	McGovern	Sarbanes
Durkin	McIntyre	Sasser
Hart	Metzenbaum	

NOT VOTING—7

Abourezk	Kennedy	Stafford
Griffin	McClellan	
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1222 was agreed to.

Mr. METZENBAUM obtained the floor.

Mr. MATHIAS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Ralph Oman, of my staff, have the privilege of the floor during the debate on this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 894

Mr. METZENBAUM. Mr. President, I call up amendment No. 894.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes amendment No. 894:

On page 16, line 10, strike "$10,000" and insert in lieu thereof "$25,000".

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I should like to receive the comments of the Senator from Ohio on a letter from the Oil & Gas Association to his colleague, Senator GLENN. This letter is signed by Mr. E. A. Smith, president of the Ohio Oil & Gas Association, and Berman J. Shafer, treasurer. It pertains to a situation in Ohio regarding its gas reserves. I think that the situation in Ohio is very similar to the situation in Louisiana, Texas, and Oklahoma, but at a little different stage of development and decline. I will read the letter, and I would like the Senator's comments:

The Ohio Oil & Gas Association has recently completed a comprehensive analysis of production histories of nearly 8000 independently owned wells in Ohio as part of a study to determine the impact of vintage pricing—

I sort of like that phrase, "vintage pricing."

levels on the continued economic production of natural gas in this state. The wells encompassing this study represent approximately 80 percent of the wells producing marketable gas in the state and all of the wells studied are being operated by small independent producers.

Concisely, our study concludes the following points:

(1) Ohio is in the grave circumstance of losing 30 percent of their total gas reserve due to the unprofitability of producing marginal wells to their maximum extent.

(2) The loss to Ohio is estimated at 127 billion cubic feet for the wells under study, representing the amount of natural gas required to heat 70,000 homes over an eleven year period.

(3) These wells, constituting 70 percent of the wells studied are currently marketing gas at the lowest pricing tier of 58 cents to 65 cents per MCF and while they are marginal, these reserves are not only dependable but they are available to the consumer of Ohio.

(4) Unless the price of "old" natural gas is raised to $2.00 per MCF, these wells will soon be abandoned as unprofitable and the reserves lost will be permanent because replacement by new wells even at higher tier prices will be economically unsound at today's costs.

(5) The cost to the consumer for this increase on old natural gas prices will be an additional 1.32 percent of his existing monthly gas bill.

(6) On an annual volume basis, 96 percent of the wells under study produce less than 60 MCF per day, the BTU equivalent of a 10 barrel stripper well. It was further found that 76 percent of the wells under study produce less than 30 MCF per day.

(7) Historically, the production histories of wells drilled in Ohio has steadily worsened because of various factors. Ultimate gas reserves of wells drilled today are 50 percent lower on the average than those completed 10 years ago and 25 percent lower on the average than those drilled 25 years ago. The accompanying curves illustrate the character of these production declines over the years and at the same time traces the pattern of price increases. The third relationship reflects the spiral of increased drilling and completion costs. The conclusion is that gas prices have not kept pace with ebbing gas production or the higher costs of drilling.

Statistical data and a summary of the various elements of this report follow this letter. Included are our (1) computer analyses illustrating the economics of an average gas well in two separate areas of Ohio and reflecting the economics at various pricing levels. (2) A graphical illustration of additional gas available at higher wellhead prices for "old" gas. (3) A graphical illustration of the varying decline rates experienced over the past 25 years, the varying degree of pricing levels and the costs of drilling and completing wells over the past 25 years.

Should you have any further questions regarding this study, please feel free to contact this office.

Very sincerely,

E. A. SMITH,
President, Ohio Oil & Gas Association.

BERMAN J. SHAFER,
Treasurer, Ohio Oil & Gas Association.

Mr. President, I ask unanimous consent to have this report in its entirety printed in the RECORD, with the figures from the graphs. I understand that the graphs may not be reproduced.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OHIO OIL AND GAS ASSOCIATION:
SUMMARY OF ECONOMIC REPORT

Number of Wells in this Study: 7,750 Wells.

Percent of Total Gas Wells in Ohio: 80 percent.

Estimated Future Reserves as of December 31, 1976 of Wells in this Study: 419.14 Billion Cubic Feet.

Estimated Future Reserves receiving "Old" Natural Gas Prices (58¢–65¢ Per MCF): 289 Billion Cubic Feet.

Percent "Old" Gas Priced Reserves of Total: 69%.

Remaining "Old" Natural Gas Reserves Estimated Unprofitable below current Economic Limit: 127 Billion Cubic Feet.

Percent of Total Reserves: 30.3 percent.

Percent "old" Gas Production of 1976 Production: 53 percent.

Average Daily Delivery (all Wells in study) as of December 31, 1976: 20.70 MCF per day.

Number of Wells Producing Less than 30 MCF per day: 5,898 Wells.

Number of Wells Producing Less than 60 MCF per day: 7,428 Wells.

Percent of Total Wells—

Less than 30 MCF per day: 76 percent.

Less than 60 MCF per day: 96 percent.

Percent of Total Reserves—

Less than 30 MCF per day: 53 percent.

Less than 60 MCF per day: 85 percent.

Analysis of 3,716 Wells—

Average Life at Current "old" Natural Gas Prices: 9 years.

Additional Life at $2.00 per MCF: 11 years.

Additional Reserves: 89.035 Billion Cubic Feet.

Analysis of 2,258 Wells—

Average Life at Current "Old" Natural Gas Prices: 15 years.

Additional Life at $2.00 per MCF: 5 years.

Additional Reserves: 38.25 Billion Cubic Feet.

OHIO OIL & GAS ASSOCIATION—ECONOMIC ANALYSIS OF CLINTON GAS PRODUCTION

[WI estimates include cost of operations at $150 per month]

ANALYSIS OF 2,258 WELLS, AUG. 1, 1977, 200 MMCF RECOVERY

Year	Percent total recovery		Estimated annual recovery (MMCF)	Remaining reserve (MMCF)	Rate per day (MCF)	Income per month at $0.85	WI estimate at $0.85	Income per month at $0.65	WI estimate at $0.85	Income per month at $1	WI estimate at $0.85	Income per month at $1.32	WI estimate at $0.85	Income per month at $1.50	WI estimate at $0.85	Income per month at $1.75	WI estimate at $0.85	Income per month at $2	WI estimate at $0.85
	Per year	Accumulated																	
1	21.85	21.85	43.70	156.30	121.39	2,112	1,645	2,367	1,862	3,642	2,946	4,807	3,936	5,463	4,494	6,373	5,267	7,283	6,041
2	12.41	34.26	24.82	131.48	68.94	1,200	870	1,344	992	2,068	1,608	2,730	2,171	3,102	2,487	3,619	2,926	4,136	3,366
3	9.44	43.70	18.88	112.60	52.44	912	625	1,023	720	1,573	1,187	2,077	1,615	2,360	1,856	2,753	2,190	3,146	2,524
4	7.59	51.29	15.18	97.42	42.17	734	474	822	549	1,275	925	1,670	1,270	1,898	1,463	2,214	1,732	2,530	2,001
5	6.48	57.77	12.96	84.46	36.00	626	382	702	447	1,080	768	1,426	1,062	1,620	1,227	1,890	1,457	2,160	1,686
6	5.55	63.32	11.10	73.36	30.83	536	306	601	361	925	636	1,221	888	1,387	1,029	1,619	1,226	1,850	1,423
7	4.80	68.12	9.60	63.76	26.67	464	244	520	292	800	530	1,056	748	1,200	870	1,400	1,040	1,600	1,210
8	4.22	72.34	8.44	55.32	23.44	408	197	457	238	703	448	928	639	1,055	747	1,231	896	1,406	1,045
9	3.70	76.04	7.40	47.92	20.56	358	154	401	191	617	374	814	542	925	636	1,079	767	1,234	899
10	3.33	79.37	6.66	41.26	18.50	322	124	361	157	555	322	733	473	833	588	971	675	1,110	794
11	2.96	82.33	5.92	35.34	16.44	286	93	321	123	493	269	651	403	740	479	863	584	986	688
12	2.66	84.99	5.32	30.02	14.78	257	68	288	95	443	227	585	347	665	415	776	510	887	604
13	2.40	87.39	4.80	25.22	13.33	232	47	260	71	400	190	528	299	600	360	700	445	800	530
14	2.18	89.57	4.36	20.86	12.11	211	29	236	51	363	159	480	258	545	313	636	391	727	468
15	1.96	91.53	3.92	16.94	10.89	189	[1] 11	212	30	327	128	431	216	490	267	572	336	653	405
16	1.77	93.30	3.54	13.40	9.83	171	5—	192	13—	295	101	389	181	442	226	516	289	590	352
17	1.62	94.92	3.24	10.16	9.00	157	17—	176	0—	270	80	356	153	405	194	473	252	540	309
18	1.48	96.40	2.96	7.20	8.22	143	28—	160	14—	247	60	326	127	370	165	432	217	493	269
19	1.37	97.77	2.74	4.46	7.61	132	38—	148	24—	228	44	301	106	342	141	400	190	457	238
20	1.26	99.03	2.52	1.94	7.00	122	46—	137	34—	210	29	277	85	315	118	368	163	420	207

[1] Economic limit reached. Future unprofitable reserves equals 16.94 MMCF per well times 2,258 wells equals 38.25 billion cubic feet.

OHIO OIL & GAS ASSOCIATION—ECONOMIC ANALYSIS OF CLINTON GAS PRODUCTION

[WI estimates include cost of operations at $150 per month]

ANALYSES OF 3,716 WELLS, AUG. 1, 1977, 100 MMCF RECOVERY

Year	Percent total recovery		Estimated annual recovery (MMCF)	Remaining reserve (MMCF)	Rate per day (MCF)	Income per month at $0.58	WI estimate at $0.85	Income per month at $0.65	WI estimate at $0.85	Income per month at $1	WI estimate at $0.85	Income per month at $1.32	WI estimate at $0.85	Income per month at $1.50	WI estimate at $0.85	Income per month at $1.75	WI estimate at $0.85	Income per month at $2	WI estimate at $0.85
	Per year	Accumulated																	
1	21.85	21.85	21.85	78.15	60.69	1,056	748	1,183	856	1,821	1,398	2,403	1,893	2,731	2,171	3,186	2,558	3,641	2,945
2	12.41	34.26	12.41	65.74	34.47	600	360	672	421	1,034	729	1,365	1,010	1,551	1,168	1,810	1,389	2,068	1,608
3	9.44	43.70	9.44	56.30	26.22	456	238	511	284	787	519	1,038	732	1,180	853	1,377	1,020	1,573	1,187
4	7.59	51.29	7.59	48.71	21.08	367	162	411	199	632	387	835	560	949	657	1,107	791	1,265	925
5	6.48	57.77	6.48	42.23	18.00	313	116	351	148	540	309	713	456	810	539	945	653	1,080	768
6	5.55	63.32	5.55	36.68	15.42	268	78	301	106	463	244	611	369	694	340	810	539	925	636
7	4.80	68.12	4.80	31.88	13.33	232	47	260	71	400	190	528	299	600	360	700	445	800	530
8	4.22	72.34	4.22	27.66	11.72	204	23	229	45	352	149	464	244	527	298	615	373	703	448
9	3.70	76.04	3.70	23.96	[1] 10.28	179	2	200	20	308	112	407	196	463	244	540	309	617	374
10	3.33	79.37	3.33	20.63	9.25	161	13—	180	3—	278	86	366	161	416	204	486	263	555	322
11	2.96	82.33	2.96	17.67	8.22	143	28—	160	14—	247	60	326	127	370	165	432	217	493	269
12	2.66	84.99	2.66	15.01	7.39	129	40—	144	28—	222	39	293	99	333	133	388	180	443	227
13	2.40	87.39	2.40	12.61	6.67	116	51—	130	40—	200	20	264	74	300	105	350	148	400	190
14	2.18	89.57	2.18	10.43	6.06	105	61—	118	50—	182	5	240	54	273	82	318	120	364	159
15	1.96	91.53	1.96	8.47	5.44	95	69—	106	60—	163	11—	215	33	245	58	286	93	326	127
16	1.77	93.30	1.77	6.70	4.92	86	77—	96	68—	148	24—	195	16	221	38	258	69	295	101
17	1.62	94.92	1.62	5.08	4.50	78	84—	88	75—	135	35—	178	1	203	23	236	51	270	80
18	1.48	96.40	1.48	3.60	4.11	72	89—	80	82—	123	45—	163	11—	185	7	216	34	247	60
19	1.37	97.77	1.37	2.23	3.81	66	94—	74	87—	114	53—	151	22—	171	5—	200	20	229	45
20	1.26	99.03	1.26	.97	3.50	61	98—	68	92—	105	61—	139	32—	158	16—	184	6	210	29

[1] Economic limit reached. Future unprofitable reserves equals 23.96 MMCF per well times 3716 wells equals 89.035 billion cubic feet.

(Graphs not reproducible in the RECORD. The printed material from the graph is as follows:)

Economic study: Ohio Oil and Gas Association.

Composite production decline curves: Ohio gas wells.

Production History of Wells: 400 MMCF, Drilled 25 years Ago. Typical Well Costs equal $6.50 per foot; Market price equals 24 cents MCF.

Ten Years Ago (200 MMCF) Typical Well Costs equal $10.00 per foot; Market Price equals 27 cents MCF to 58 cents/65 cents MCF.

Two Years Ago (100 MMCF) Typical Well Costs equal $25.00 Ft.; $1.55 to $1.70 per MCF.

Annual net volumes (MCF).

Years.

ECONOMIC PRODUCTION COMPARISON AND ANALYSIS

[Average Ohio gas well at "Old" natural gas prices assuming complete recovery of reserves]

Estimated cumulative production (25 years ago):400 MMCF		
Gross proceeds (at 24¢/MCF)		$96,000
Average small producers interest (85%)		$81,600
Well investment (4,000 feet)	$26,000	
Operating costs	$24,000	
	$50,000	
Net revenues		$31,600
Percent of reserves in this study=3%		
Estimated cumulative production (10 years ago):200 MMCF		
Gross proceeds:		
(At 27¢/MCF for 80% of reserves)	$43,200	
(At 62¢/MCF for 20% of reserves)	$24,800	
	$68,000	
Average small producers interest (85%)		$57,800
Well investment (4,000 feet)	$40,000	
Operating costs	$36,000	
	$76,000	
Net loss		($18,200)
Percent of reserves in this study=67%		
Estimated cumulative production (2 years ago):100 MMCF		
Gross proceeds:		
(At $1.00/MCF for 35% of reserves)	$35,000	
(At $1.60/MCF for 65% of reserves)	$104,000	
	$139,000	
Average small producers interest (85%)		$118,000
Well costs (4,000 feet)	$100,000	
Operating costs	$72,000	
	$172,000	
Net loss		($54,000)
Percent of reserves in this study=18%		

Mr. METZENBAUM. Mr. President, I would be very happy to respond to my distinguished friend from Oklahoma, provided it is on his time. I do not have enough of my own time remaining.

Mr. BARTLETT. Not on my time. I would expect my comments and my reading to be on my time.

Mr. METZENBAUM. I will be happy to respond by communication, because I cannot afford time on the floor.

I will add one thing. I met in the Capitol with the people from that group, and they indicated that they would be delighted if they could get $1.75 per thousand cubic feet, which is the President's price. They also indicated that had they had the opportunity to do so, they would have urged the Senator from Oklahoma and the other Members of the Senate to support the amendment that this Senator from Ohio offered as an amendment to the pending measure.

Mr. BARTLETT. It is very clear, I say to the distinguished Senator from Ohio, that the Oil and Gas Association has shown, by its president and its treasurer, that they are interested in a free market and a higher price that would be based on supply and demand, one that would reflect the higher costs of drilling, the lower production and reserves available, as well as a proper price for the gas, to make it all worthwhile.

I think it shows very clearly that the price control approach is one that does provide the quantities we need and the quantities we can have from known reserves if the marginal wells are given an opportunity to produce, rather than to plug or abandon a well that is capable of providing the best energy of all—gas—and at a price far less than the replacement price of the OPEC, imported, high-cost crude oil.

Mr. President, I move to lay on the table the amendment of the Senator from Ohio, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Ohio. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Montana (Mr. METCALF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 485 Leg.]

YEAS—50

Allen	Ford	Packwood
Baker	Garn	Pearson
Bartlett	Glenn	Percy
Bellmon	Goldwater	Randolph
Bentsen	Gravel	Roth
Burdick	Hansen	Sasser
Byrd, Harry F., Jr.	Hatch	Schmitt
	Hayakawa	Scott
Cannon	Helms	Sparkman
Chafee	Huddleston	Stennis
Chiles	Javits	Stevens
Curtis	Johnston	Stone
Danforth	Long	Thurmond
Dole	Lugar	Tower
Domenici	McClure	Wallop
Eagleton	McIntyre	Young
Eastland	Nunn	Zorinsky

NAYS—41

Abourezk	Hart	Metzenbaum
Anderson	Haskell	Morgan
Bayh	Hatfield	Moynihan
Biden	Hathaway	Muskie
Brooke	Heinz	Nelson
Bumpers	Hollings	Pell
Byrd, Robert C.	Inouye	Proxmire
Case	Jackson	Ribicoff
Church	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Schweiker
Culver	Mathias	Stevenson
DeConcini	Matsunaga	Williams
Durkin	McGovern	

NOT VOTING—9

Griffin	McClellan	Stafford
Humphrey	Melcher	Talmadge
Laxalt	Metcalf	Weicker

So the motion to lay on the table amendment No. 894 was agreed to.

Mr. ABOUREZK addressed the Chair.

Mr. SCHMITT. Will the Senator yield for a unanimous-consent request?

Mr. ABOUREZK. On your time.

Mr. SCHMITT. Mr. President, I request unanimous consent that Diana Griffin, of my staff, be accorded floor privileges during debate.

The PRESIDING OFFICER (Mr. MCINTYRE). Without objection, it is so ordered.

Mr. SCHMITT. I thank the Senator for the use of my time.

[Laughter.]

AMENDMENT NO. 1124

Mr. ABOUREZK. Mr. President, I call up my amendment No. 1124.

The PRESIDING OFFICER. The clerk will report the amendment.

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 1124:

On page 10, strike lines 11 through 14.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BARTLETT. Mr. President, I move to lay that amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Oklahoma to lay on the table the amendment of the Senator from South Dakota. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. MELCHER), the Senator from Montana (Mr. METCALF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 63, nays 29, as follows:

[Rollcall Vote No. 486 Leg.]

YEAS—63

Allen	Garn	Pearson
Baker	Glenn	Pell
Bartlett	Goldwater	Percy
Bellmon	Gravel	Randolph
Bentsen	Hansen	Roth
Brooke	Hart	Sasser
Bumpers	Hatch	Schmitt
Burdick	Hatfield	Schweiker
Byrd, Harry F., Jr.	Hayakawa	Scott
	Heinz	Sparkman
Byrd, Robert C.	Helms	Stennis
Cannon	Huddleston	Stevens
Case	Javits	Stone
Chafee	Johnston	Talmadge
Chiles	Laxalt	Thurmond
Curtis	Long	Tower
Danforth	Lugar	Wallop
Dole	Mathias	Weicker
Domenici	McClure	Young
Eagleton	Morgan	Zorinsky
Eastland	Nunn	
Ford	Packwood	

NAYS—29

Abourezk	Haskell	Metzenbaum
Anderson	Hollings	Moynihan
Bayh	Inouye	Muskie
Biden	Jackson	Nelson
Church	Kennedy	Proxmire
Clark	Leahy	Ribicoff
Cranston	Magnuson	Riegle
Culver	Matsunaga	Sarbanes
DeConcini	McGovern	Williams
Durkin	McIntyre	

NOT VOTING—8

Griffin	McClellan	Stafford
Hathaway	Melcher	Stevenson
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1124 was agreed to.

AMENDMENT NO. 1125

Mr. ABOUREZK. Mr. President, I call up amendment No. 1125.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 1125:

On page 10, strike lines 15 through 20.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I move that the amendment be laid on the table.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 1125) offered by the Senator from South Dakota (Mr. ABOUREZK). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) is necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 67, nays 28, as follows:

[Rollcall Vote No. 487 Leg.]

YEAS—67

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bartlett	Goldwater	Pearson
Bellmon	Gravel	Percy
Bentsen	Hansen	Randolph
Brooke	Hart	Roth
Bumpers	Hatch	Sasser
Burdick	Hatfield	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Schweiker
	Heinz	Scott
Byrd, Robert C.	Helms	Sparkman
Cannon	Huddleston	Stennis
Case	Javits	Stevens
Chafee	Johnston	Stevenson
Chiles	Laxalt	Stone
Curtis	Leahy	Talmadge
Danforth	Long	Thurmond
DeConcini	Lugar	Tower
Dole	Mathias	Wallop
Domenici	McClure	Weicker
Eagleton	Melcher	Young
Eastland	Morgan	Zorinsky
Ford	Moynihan	

NAYS—28

Abourezk	Hathaway	Muskie
Anderson	Hollings	Nelson
Bayh	Inouye	Pell
Biden	Jackson	Proxmire
Church	Kennedy	Ribicoff
Clark	Magnuson	Riegle
Cranston	Matsunaga	Sarbanes
Culver	McGovern	Williams
Durkin	McIntyre	
Haskell	Metzenbaum	

NOT VOTING—5

Griffin	McClellan	Stafford
Humphrey	Metcalf	

So the motion to lay on the table amendment No. 1125 was agreed to.

AMENDMENT NO. 1126

Mr. ABOUREZK. Mr. President, I call up amendment No. 1126.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment No. 1126:

On page 10, line 2, strike "and only these factors".

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHMITT. Mr. President, I move to lay the amendment on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN) and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

The result was announced—yeas 58, nays 34, as follows:

[Rollcall Vote No. 488 Leg.]

YEAS—58

Allen	Glenn	Pearson
Baker	Goldwater	Percy
Bartlett	Gravel	Randolph
Bellmon	Hansen	Roth
Bentsen	Hart	Schmitt
Burdick	Haskell	Schweiker
Byrd, Harry F., Jr.	Hatch	Scott
	Hatfield	Sparkman
Cannon	Heinz	Stennis
Chafee	Helms	Stevens
Chiles	Huddleston	Stevenson
Cranston	Javits	Stone
Curtis	Johnston	Talmadge
Danforth	Laxalt	Thurmond
Dole	Lugar	Tower
Domenici	McClure	Wallop
Eagleton	Melcher	Weicker
Eastland	Morgan	Young
Ford	Nunn	Zorinsky
Garn	Packwood	

NAYS—34

Abourezk	Durkin	Moynihan
Anderson	Hathaway	Muskie
Bayh	Hollings	Nelson
Biden	Inouye	Pell
Brooke	Jackson	Proxmire
Bumpers	Leahy	Ribicoff
Byrd, Robert C.	Magnuson	Riegle
Case	Mathias	Sarbanes
Church	Matsunaga	Sasser
Clark	McGovern	Williams
Culver	McIntyre	
DeConcini	Metzenbaum	

NOT VOTING—8

Griffin	Kennedy	Metcalf
Hayakawa	Long	Stafford
Humphrey	McClellan	

So the motion to lay on the table amendment No. 1126 was agreed to.

ROUTINE MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:27 p.m. a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed S. 213, to amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms, without amendment.

The message also announced that the House has passed S. 1060, to amend the Act of February 9, 1821, to restate the charter of The George Washington University, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 1331, to provide for the establishment of a Center for Books in the Library of Congress, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to H.R. 5645, to raise the limitation on appropriations for the U.S. Commission on Civil Rights, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes;

H.R. 7132. An act to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the United States Postal Service;

H.R. 7747. An act to amend title 23 of the District of Columbia Code with respect to the release of detention prior to trial of persons charged with certain violent or dangerous crimes, and for other purpcses; and

H.R. 7766. An act to authorize the Mayor of the District of Columbia to enter into an agreement with the United States Postal Service with respect to the use of certain public air space in the District of Columbia.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 60. A concurrent resolution authorizing a bust or statue of Martin Luther King, Junior, to be placed in the Capitol; and

H. Con. Res. 277. A concurrent resolution expressing the sense of the Congress that the United States Postal Service should not reduce the frequency of mail delivery service.

At 4:15 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that

the House agrees to the amendment of the Senate to the amendments of the House to S. 1435, a bill to authorize appropriations for the Federal Election Commission for fiscal year 1978.

The message also announced that the House recedes from its disagreement to the amendment of the Senate numbered 40 to H.R. 7554, an act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1978, and for other purposes, and concurs therein.

The message further announced that the House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25 to H.R. 6550, to authorize certain appropriations for the territories of the United States, to amend certain acts relating thereto, and for other purposes.

The message also announced that the House has passed H.R. 6692, an act to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the enrolled bill (S. 213) to amend the Accounting and Auditing Act of 1950 to provide for the audit by the Comptroller General of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms.

The enrolled bill was subsequently signed by the President pro tempore.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 28, 1977, he presented to the President of the United States the enrolled bill (S. 1322) to revise the basis for estimating the annual Federal payment to the District of Columbia for water and water services and sanitary sewer services furnished to the United States.

HOUSE BILLS ORDERED PLACED ON THE CALENDAR

The following bills were read twice by title and ordered placed on the calendar:

H.R. 6530. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes; and

H.R. 6693. An act to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and for other purposes.

HOUSE BILLS AND RESOLUTIONS REFERRED

The following bills were each read twice by their titles and referred as indicated to the Committee on Government Operations:

H.R. 7132. An act to establish an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service;

H.R. 7747. An act to amend title 23 of the District of Columbia Code with respect to the release of detention prior to trial of persons charged with certain violent or dangerous crimes, and for other purposes; and

H.R. 7766. An act to authorize the Mayor of the District of Columbia to enter into an agreement with the U.S. Postal Service with respect to the use of certain public air space in the District of Columbia.

The following concurrent resolutions were each read by title and referred, as indicated:

H. Con. Res. 60. A concurrent resolution authorizing a bust or statute of Martin Luther King, Junior, to be placed in the Capitol; to the Committee on Rules and Administration.

H. Con. Res. 277. A concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Robert W. Fri, of Maryland, to be Representative of the United States to the 21st Session of the General Conference of the International Atomic Energy Agency;

The following as Alternative Representatives:

Richard T. Kennedy, of the District of Columbia;

Louis V. Nosenzo, of Virginia;

Nelson F. Sievering, Jr., of Maryland;

Gerard C. Smith, of the District of Columbia;

Galen L. Stone, of the District of Columbia;

Robert D. Thorne, of California; and

Robert S. Rochlin, of Maryland.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

John D. Negroponte, of New York, to be Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, with the rank of Ambassador.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John D. Negroponte.

Post: Deputy Assistant Secretary of State for Oceans and Fisheries Affairs.

Nominated: Not yet.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and Spouses Names: Not applied.

4. Parents Names: Dimitri and Catherine Negroponte, none; wife's parents—Sir Charles and Lady Villiers, none.

5. Grandparents Names: Helen Coumantaros, none.

6. Brothers and Spouses Names: Nicholas and Elaine Negroponte, none; George Negroponte, none; Michel Negroponte, none.

7. Sisters and Spouses Names: N/A.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Ralph Earle, II, of Pennsylvania, to be Special Representative for Arms Control and Disarmament Negotiations.

(The above nomination was reported with the recommendations that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONSTRUCTIONS STATEMENT

Nominee: Ralph Earle II.

Post: Ambassador-Designate.

Nominated:

Contributions, amount, date, and donee.

1. Self: Ralph Earle II, none.

2. Spouse: Eleanor F. Owens Earle, $10, April 1976, James Symington (U.S. Senate, Mo.).

3. Children and Spouses: Eleanor F. Earle, none; Ralph Earle III, none; Duncan O. Earle, none; Amanda W. Earle, none; Caroline E. McK. Earle, none.

4. Parents and Spouses: Mrs. Huberta P. Sheaffer (mother), none; Mr. T. C. Sheaffer, $25, January 1973, Republican National Finance Committee; Mr. T. C. Sheaffer, $100, October 1973, Republican National Finance Committee; Mr. G. H. Earle III (father), none; Mrs. Jacqueline S. Earle, none.

5. Grandparents and Spouses: (All deceased prior to January 1, 1973).

6. Brothers and Spouses: Mr. George H. Earle IV, none; Mr. Hubert P. Earle, none; Mrs. Elizabeth W. Earle, none; Mrs. Lawrence W. Earle, none; Mrs. Sylvie P. Earle, none; Mr. Anthony W. Earle, none.

7. Sisters and Spouses: Mrs. Jacqueline Earle-Cruickshanks, none; Mrs. Paul Earle-Cruickshanks, none.

I have listed above the names of each member of my immediate family, including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Frank J. Devine, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to El Salvador.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Devine, Frank J.

Post: United States Ambassador to El Salvador.

Contributions, amount, date, donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents, none.
5. Grandparents, none.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Esteban Edward Torres, of Virginia, for the rank of Ambassador during the tenure of his assignment as the U.S. Permanent Representative to the U.N. Educational, Scientific, and Cultural Organization at Paris, France.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Esteban E. Torres.

Post: U.S. Representative to UNESCO.

Nominated: July 14, 1977.

Contributions, amount, date, donee.

1. Self, $3,000.00, March 10, 1974, Esteban Ed Torres, Candidate for Congress, 30th Cong. Dist., California.

2. Spouse, $3,500.00, March 10, 1974, Esteban Ed Torres, Candidate for Congress, 30th Cong. Dist., California.

3. Children and spouses, none.

4. Parents (mother), Mrs. Rena G. Bay, $1,000.00, March 10, 1974.

5. Grandparents, none.

6. Brothers and spouses, Gus Provencio, $450.00, March 10, 1974; Roger Provencio, $666.00, March 10, 1974.

7. Sisters and spouses, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Carolyn R. Payton, of the District of Columbia, to be an Associate Director of the ACTION Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATCH:

S.J. Res. 84. A joint resolution proposing an amendment to the Constitution of the United States to protect the right to life of unborn children; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S.J. Res. 84. A joint resolution proposing an amendment to the Constitution of the United States to protect the right to life of unborn children; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, today I am introducing a joint resolution which calls for a constitutional human life amendment to protect the right to life of unborn children. Congressman GUNN MCKAY of Utah has introduced the joint resolution in the House of Representatives today.

In recent years, one of the most emotion-filled issues to face the American people has been the question of abortion. The joint resolution I am introducing is intended to protect human life by protecting the unborn from the revolting practice of indiscriminate abortion. However, the amendment I propose does not prohibit termination of a pregnancy if such termination is necessary to prevent the death of the mother or to prevent permanent and incapacitating impairment of the mother's physical health.

This amendment would also permit termination in the first trimester period of a pregnancy resulting from rape if State law does not prohibit such termination and if a judicial determination in a confidential ex parte proceeding prior to such termination indicates that the rape occurred and the pregnancy resulted from that rape. While this amendment reflects my personal moral commitment, I feel that the approach presented in this joint resolution is one of reason and sense. The amendment provides a solid meeting ground for responsible citizens and religious organizations who are so concerned about the indiscriminate abortions now permitted in our society. This is a valid way to guarantee the right to life to unborn children while also protecting the rights of mothers in our society.

ADDITIONAL COSPONSORS

S. 818

At the request of Mr. WILLIAMS, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 818, a bill to end the use of steel-jaw leg-hold traps.

S. 991

At the request of Mr. RIBICOFF, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 991, a bill to establish a separate Department of Education in the Federal Government.

S. 1178

At the request of Mr. THURMOND, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1178, a bill to amend the Communications Act of 1934 in order to prohibit the television broadcasting of programs portraying nudity, obscenity, explicit sexual activity, gross physical violence or morbid torture, any of which is offensive to the public taste and morals.

S. 1783

At the request of Mr. ANDERSON, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1783, a bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes.

S. 1983

At the request of Mr. GRIFFIN, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 1983, the Labor-Management Reform Amendments of 1977.

S. 2011

At the request of Mr. SCHMITT, the Senator from Arizona (Mr. GOLDWATER), the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 2011, the Regulatory Reduction and Congressional Control Act of 1977.

S. 2017

At the request of Mr. HELMS, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 2017, the Freedom of Choice in Education Act.

SENATE RESOLUTION 264

At the request of Mr. BELLMON, the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. HASKELL), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of Senate Resolution 264, authorizing additional and continuing expenditures by the Committee on Nutrition and Human Needs.

SENATE RESOLUTION 273—ORIGINAL RESOLUTION REPORTED WAIVING SECTION OF THE CONGRESSIONAL BUDGET ACT

(Referred to the Committee on the Budget.)

Mr. STENNIS, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 273

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1863, a bill to authorize appropriations during the fiscal year 1978 for procurement of aircraft and missiles, and research, development, tests, and evaluation for the Armed Forces, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

On July 12, 1977 the President submitted an amendment to the Budget for fiscal year 1978 as a result of his decision to terminate B-1 production and to pursue instead development and deployment of cruise missiles using air launched platforms. The amendment decreased the amounts requested for appropriations in certain accounts of the Department of Defense and increased others. Some of these increased amounts require fund authorization pursuant to section 138 (a) of Title 10, United States Code.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of

such act are waived with respect to S. 1863, as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

PIPELINE COMPETITION ACT—S. 1879

AMENDMENT NO. 1397

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. HASKELL. Mr. President, today I am submitting an amendment to S. 1879, a bill which I introduced on July 18 of this year dealing with the ownership of petroleum pipelines. The amendment is in the nature of a substitute. I ask unanimous consent that the text of my amendment be printed in the RECORD at the conclusion of my remarks.

S. 1879 would prohibit the Secretary of the Interior from granting or renewing rights-of-way over, upon or through Federal lands for pipelines transporting petroleum if the applicant for the right-of-way, or his affiliate is also in the business of producing or refining crude oil. It would also prohibit pipeline ownership by crude oil refiners or producers.

The amendment which I offer today would make it unlawful for any person who owns or controls any interest in a refinery asset, production asset, or marketing asset to own or control any interest in a petroleum pipeline. It would also prohibit any person who controls a pipeline from receiving for transport, storing, transporting, or delivering any petroleum in which such person or his affiliate holds an interest. A procedure is established to accomplish these goals.

An exemption from this prohibition is possible upon a determination by the Federal Energy Regulatory Commission that a pipeline is so integral a part of other assets that no public purpose would be served by divestment or prohibition of use and that the retention or use of the pipeline would not be injurious to competition.

Each person subject to the prohibitions of the act would be required to submit a plan to the Federal Energy Regulatory Commission for the divestment of the prohibited assets within 1 year of the date of enactment. The divestment plans are to provide for the formation of a separate corporation. Shares in the new corporation are to be distributed to the stockholders of the divesting corporation in proportion to the stockholders holdings in the divesting corporation. Divestment must be accomplished within 3 years from the date of enactment of the act.

The newly formed Federal Energy Regulatory Commission, which has, under the Department of Energy Organization Act, jurisdiction over the transportation of oil by pipeline, will have the responsibility for carrying out the purposes of the act. The Securities and Exchange Commission will play an advisory role in the proceedings.

Mr. President, this is not a new concept. A similar provision, the "commodities clause" of the Interstate Commerce Act, has been in effect since 1906. In that same year, the Roosevelt administration backed a bill introduced by Representative William P. Hepburn to expand the powers of the ICC. Two amendments relevant to pipeline divestment were proposed. Senator Lodge offered an amendment which would have made petroleum pipelines common carriers, subject to ICC regulation. Senator Elkins of West Virginia added a "commodity clause" to the bill. The provision would have prohibited common carriers from shipping commodities in which they had an interest. The Elkins amendment was deleted in the conference committee. Senator Lodge had the following to say about its deletion:

> I can see no possible reason why the men controlling these great trunklines of pipe should not make a carrying business and be content to carry oil for all producers at a reasonable rate. We make the railroads do it, and I do not see the slightest reason for this change.

I agree with Senator Lodge. In the 71 years since he had the foresight to advocate such an amendment, developments have shown just how much it was needed.

The ability of pipeline owners to control the crude oil supplies has been well documented through the years. This control has been exercised through the ownership of two systems: First, crude gathering systems, and second, crude oil trunklines.

The anticompetitive aspects of ownership of both these systems by major oil companies was recognized in reports by Attorney General William P. Rogers pursuant to section 2 of the joint resolution of July 28, 1955, consenting to an Interstate Compact to Conserve Oil and Gas. The 1958 report stated:

> The anticompetitive possibilities inherent in the control of transport facilities by major components of an industry have long been recognized. The peculiar conditions surrounding pipeline operation a half century ago were the justification for excepting these carriers from the operations of prohibitions against carriers dealing in the goods they transported. Recurrently since that time, proposals have been made to impose on pipelines the same prohibition. There are at least some indications that pipeline operation has since developed true common carrier capabilities, perhaps sufficient to permit independent operation. However, any recommendation in this respect must await full and careful investigation.

The 1959 report said:

> A different problem, however, is posed by the present pattern of pipeline ownership and operation. Only one possible pipeline connection is usually available to a well, and, considering its cost, is likely to endure for the life of the well. The economies of size and trunk-line operation logically impel building one large diameter line to a field or area, sufficient to carry anticipated production and therefore preclusive of economical operation of other lines.
>
> The position of each pipeline owner is greatly magnified by reciprocal use of pipelines among the select group of integrated companies owning pipelines. Logical and efficient operation of pipelines as a transportation system urges cooperation between lines and avoidance of duplication and cross-hauling. But the pipeline system is more than a transport agency, it is the crude oil market. *And cooperative use of pipelines has a grave potential for control of crude oil markets.* (Emphasis added.)

Antitrust litigation can perhaps deal with particular cases of pipeline abuse. But the problem is more far-reaching, covering the broad spectrum of this industry's transportation and buying operations, and *singularly suited to legislative action.* Precise definition of the problem requires compulsory process to insure complete information: *and any policy decision on the appropriate solution seems best suited to legislative determination.*" (Emphasis added.)

A producer typically sells his crude oil at the wellhead to the owner of the gathering system which services the field. The gathering lines move the oil to a trunkline. Extensive ownership of crude gathering systems has enabled major companies to control a large amount of independently produced oil.

In 1973, the FTC's "Investigation of the Petroleum Industry" found that "* * * once gathering lines are erected, there are few other buyers of crude from that particular field." For the years 1967–71, the FTC staff found that the eight largest majors alone purchased over 40 percent of the independent crude production. The FTC report concluded:

> Control of these gathering lines, in addition to ownership of approximately 52 percent of crude sources, gives the eight largest firms substantial control of domestically produced crude oil.

It is possible to trace this history of this problem since the year following the failure of the Elkins amendment to the Hepburn Act. In 1907, the Bureau of Corporations in its report on the petroleum industry made the following observation:

> It is true that the Standard Oil Company does not control a majority of crude oil production by actual ownership of the wells, but its control of the pipelines, the only effective means of marketing most of this oil, gives it just as complete a control of crude production as by direct title to the fields, and the result is that the Standard is almost the sole purchaser, and its daily quotations for oil and the "official price" in most of these fields.
>
> The indirect control is practically as effective as direct ownership would be.

The situation has remained the same since that time. In 1948, an economist with a major oil company was able to write:

> Ownership of a pipeline outlet from a producing region is second only to ownership of proven and developed acreage as a means of supplying crude.

In the late 1950's an official of Humble—now Exxon—expressed in the same view about the inflexibility of the producer-gathering line relationship when he told the Texas Railroad Commission:

> . . . down through the years I think actual experience has dictated that it's been a pretty certain fact that Humble, if it's the purchaser or Cities Service, or anybody else whom we serve in an area, that they pretty well have control of that production.

In 1967, the report of the Attorney General concluded that once the relationship between the producer and gatherer is established, the connection is rarely broken:

> . . . the field market for crude oil displays all of the indicia of a monopoly market. The physical pipeline connection and the basic division order may be the subject of competition initially, with occasionally real

rivalry as to which purchaser-pipeline is to be chosen for the initial connection. But once installed, the expensive physical connections and the complex legal arrangements are long enduring, not easily responsible to supply-demand fluctuations or to price behavior.

More recently, Mr. Charles Siess, president of Apco Refining Co. testified before the Subcommittee on Antitrust and Monopoly as to the difficulties his company encountered when attempting to use the gathering lines of another refiner as a common carrier. Apco offered General Crude Corp. 40 cents a barrel over the posted price for the purchase of approximately 22,000 barrels of crude a day. Until then the oil had been purchased by Sun Oil which owned the gathering lines in the field. The following exchange between Senator Tunney and Mr. Siess illustrates the problem dramatically:

Senator TUNNEY. After you purchased the crude from General Crude did you have any difficulty moving that crude from the point of the wellhead to your refinery?

Mr. SIESS. Yes, sir, we did. We were initially advised by Sun Pipeline, after we had General Crude send telegrams to all the prior purchases about the amendment on such and such a date, that Apco Oil would be the purchaser of crude and we in turn then advised Sun Pipeline that we would move that crude for our account—that they could not move the crude for us.

This was their intrastate gathering line in west Texas.

Senator TUNNEY. This was their common carrier line?

Mr. SIESS. It is an intrastate common carrier, I believe, sir. I think that in the State of Texas common carriers are almost any lines. The restrictions are pretty severe with respect to common cariers. . . . So I am sure that it was a common carrier.

Senator TUNNEY. What reason did they give you that they could not move your crude?

Mr. SIESS. They said that it didn't meet the vapor specifications for their system.

Senator TUNNEY. But they had been moving that same crude with the same vapor characteristics up until that point; is that correct?

Mr. SIESS. Yes, sir; they certainly had, and we discussed that point with them for several days. And very honestly we got down to the point where we were advised that—I believe it was 1 o'clock on Saturday morning—the tanks would be full and they would have to advise General Crude that they were going to shut the leases in.

And of course, our deal with General Crude was such that we would have had to pay for the crude even though the leases were shut in, if we expected to keep it.

So we, on a Friday morning very early, contacted the president of Sun Pipeline Co. in Tulsa, advising him that we had reviewed the situation in depth, and indeed had spent the night reviewing it, and that if they did not advise us by noon that they were going to move the crude we were going to file suit.

About 10:30 that morning, they called back and said that they would move the crude.

* * * * *

Senator TUNNEY. If you had not been able to move that crude on the Sun pipeline, what would that have meant to your company?

Mr. SIESS. Well, we would have had to, if we wanted to keep that crude, continue to purchase 23,000 barrels of crude at $3.90 a barrel, which roughly, I believe, turns into about $100,000 a day, approximately, for whatever period of time we couldn't move the crude—if we expected to keep it.

And with our balance sheet we would not have lasted very long.

Crude gathering systems carry oil to trunklines, which in turn transport the oil to refineries. In 1974, 87 percent of all domestic crude was carried by pipeline. Ownership of crude trunklines further extends the control of the major oil companies over crude supply. The following table is taken from a 1974 report by the Interstate Commerce Commission:

Shipments originated in major oil company pipelines, 1973 [1]

	Million barrels	Percent
Crude oil lines:		
8 Largest majors	1,897.4	64.3
8 Other majors	442.5	15.0
Joint venture lines [2]	385.3	13.1
Total, 16 majors	2,725.2	92.4
U.S. total	2,949.9	100.0

[1] ICC reporting lines, except Lakehead, Trans-Mountain, and Portland pipeline companies. Volumes exclude shipments received from connecting carriers.

[2] Lines owned or controlled by groups of 2 or more major companies.

In 1973, over 92 percent of the crude oil pipeline shipments reported by the Interstate Commerce Commission originated in lines that were owned or almost completely controlled by the integrated majors.

In 1967, a report by Attorney General Ramsey Clark on the Interstate Oil Compact pointed out the strategic importance of the majors' crude pipeline system:

Physically, the pipeline network presents a surprisingly flexible transportation pattern in terms of geography . . . . But, as a practical matter, this flexibility is only available to oil owned by an integrated company. The entire crude oil pipeline system is so dominated by the integrated companies that virtually all shipments, even if handled at origin or near destination by one of the few independent lines, must have intermediate access to an integrated company line.

Under the Hepburn Act, interstate pipelines have common carrier obligations. These are as a practical matter largely determined by the legal form of the pipeline's organization. The organization forms usually fit into one of three categories. The first and simplest is the pipeline owned and operated by a single company. The second, frequently used for larger lines, is the joint venture. This is a separate corporation formed by a group of firms which own shares in the line in proportion to their equity interest. The third form is the undivided interest line. These lines are constructed by a group of firms which operate under the legal fiction that they have not built one line, but that each member has its own line proportionate in size to its investment in the actual line. Each member, therefore, gets exclusive use of its share of line just as if it were a separate pipeline.

The chairman of the Interstate Commerce Commission has testified that pipelines which are owned by a single company and transport only their own oil are common carriers only for reporting purposes. They have no obligation to file rates or to transport oil for others. Although the ICC chairman did not say so, the logic of his position would probably exempt undivided pipelines from common carrier obligation to the extent the owners shipped only their own oil. A joint venture pipeline, however, even when carrying only the oil of its owners, is considered by the ICC to have full common carrier obligations.

The practical effect of this common carrier status, however, is quite limited. The 1967 Attorney General's report found that nonowner shippers—typically independents—face serious obstacles in gaining access to such common carrier facilities:

* * * outsiders simply are unable to use these lines as they could other types of common carriers. This is probably due less to direct refusal to accept outside shipment as to the multiple inconveniences which an outsider would encounter in attempting shipment over a line designed and geared almost entirely to handle the refiner-owner's own shipments.

The 1973 FTC report listed a number of devices short of outright refusal which are available to a pipeline operator who seeks to deny an independent access to its line. These include:

Requiring large "minimum tenders" (i.e., the least amount which the carrier will accept for shipment);

Granting irregular shipping dates;

Limiting available storage at the pipeline terminal; and

Imposing unreasonable commodity quality specifications.

The 1967 Attorney General's report went on to describe the practical effect of this pipeline control:

* * * virtually all crude oil passing through a pipeline carrier system is oil owned by the carrier's refining affiliate. Some exception is made where the "outsider" is also an integrated company whose lines elsewhere the carrier's refining affiliate may wish to use. Even in this situation, however, the appearance of discrimination is avoided by the exchange and re-exchange of the oil involved, or its "sale" and "repurchase."

In 1973, the FTC found the situation unchanged:

The opportunity to require the independent to enter into an agreement to sell his produce at the well head in order to obtain regular sale and transportation of crude clearly exists for majors.

Mr. President, I think that the evidence which has been accumulated over the years, as illustrated in testimony by representatives of independent oil companies, Government reports and representatives of the major oil companies themselves, indicates clearly that control over both pipeline gathering systems and crude trunklines greatly expands the ability of the major oil companies to control the Nation's supply of crude oil. Moreover, I think that this control has been exercised in restraint of trade and that its very existence is contrary to the competitive ethic that has made this country great.

As I have explained, this is not a new issue. It is one which has confronted leg-

islators for seven decades. Nor is this issue unfamiliar to me. On June 14, 1973, I introduced an amendment to the Alaska pipeline bill which would have required that the pipeline be independently owned. On June 26 of that year, I introduced a divestiture bill. The Senate was apparently not ready to favorably consider such legislation in 1973. I think I can say with some justification, in light of recent events in connection with the rate setting proceedings for the TAPS line, that "I told you so."

If it were not for the fact that the royalties and severance taxes collected by the State of Alaska are dependent upon the wellhead price of oil, which is the sale price minus transportation, the rate requests filed by the owners of the pipeline with the ICC might never have been challenged. Clearly a higher rate would place those companies having an interest in the pipeline at a considerable competitive advantage over those not owning an interest. The fact that the ICC eventually reduced the tariff by an average of 20 percent is an indication of the monopoly advantage which might have accrued to the owners of the pipeline. Since an independent pipeline owner would not have had this incentive to pad construction costs for the purpose of establishing artificially high tariffs, this situation might never have arisen if my amendment had been adopted in 1973.

I would also like to cite the report of the Attorney General pursuant to section 7 of the Deepwater Port Act of 1974 on the applications of Loop, Inc. and Seadock, Inc. for deepwater port licenses. The report was issued on November 5, 1976, and has relevance to the question of pipeline ownership, because deepwater ports, like oil pipelines, are subject to regulation by the ICC. The report concludes:

The major conclusion to be drawn from our antitrust analysis is that the integrated oil company owners of the proposed ports have attempted to maximize their profits through various overt and subtle requirements which will have the effect of restricting port throughput by limiting port capacity and access, thus enhancing the owners' profits in downstream product markets. Our economic analysis indicated that the port owners have the incentive to act in this manner, since port profitability is limited by rate regulation. We believe that the evidence demonstrates that the owners propose to operate the ports in a restrictive and anticompetitive manner, and that this will result in a misallocation of our nation's resources. In light of this, we have drawn up and herewith submit a set of competition rules to reduce the incentives of the owners to act in an anticompetitive manner. The procompetitive policy reflected in these rules underlies the specific recommendations we make in Subpart B below.

In one respect it is unfortunate that a detailed set of competition rules seems necessary, given that the proposed ports, like pipelines, will be subject to ICC common carrier regulation. Indeed, the oil companies are fond of citing this fact to allay fears of antitrust abuses. A cursory examination of the ICC's present powers, however, and an understanding of past ICC regulatory efforts in this area reveal that the ICC simply cannot effectuate any of these competition rules. The ICC's powers are severely circumscribed, being limited to rate regulation, valuation and assuring nondiscriminatory application of the tariffs (both rates and shipping conditions). The ICC has no power over the form of corporate organization; it has no power to order the elimination of restrictive provisions in the various underlying agreements; it has no power to order frequent share redistribution; it has no power to order expansion of facilities. Accordingly, in order to effectuate the Congressionally mandated goal of open and nondiscriminatory access to the ports, and to eliminate the evils associated with port ownership by integrated oil companies, resort must be had to means outside the scope of ICC regulation. We have already noted that the Secretary has the necessary power to condition the licenses in the manner we recommend. We conclude here that most of the inherent anticompetitive problems associated with integrated oil company ownership of deepwater ports should be eliminated or severely curtailed if our proposed recommendations are adopted.

Although the Attorney General concludes that the nonintegration approach is not necessary in the case of deepwater ports, the problems described in the report are analogous to those existing for oil pipelines, and the report is careful to point out that while it is concluded that these problems can be handled by regulation in the case of deepwater ports, it does not follow that this same conclusion will apply to oil company crude and product pipelines.

Finally, Mr. President, I would like to cite a letter from Acting Assistant Attorney General for Antitrust, Mr. John H. Shenefield, to Senator KENNEDY. The letter, dated June 30, 1977, indicates that a regulatory approach to requiring pipelines to operate in approximation of independent operation is a "second-best alternative to divestiture." Mr. Shenefield goes on to state that—

The problems arising out of vertically integrated ownership of pipelines . . . do, as a general matter, suggest the wisdom of divestiture . . .

In spite of these conclusion, the Carter administration has yet to commit itself on this policy question. I suggest that the time for timidity is past. For the last 70 years governmental studies have warned against the ownership of pipelines by those involved in other aspects of the petroleum industry. If these reports and conclusions have any meaning, if they suggest any policy direction at all, it is that this situation should no longer be permitted to exist. I call upon the Carter administration to make it its policy to separate pipeline ownership from ownership of other activities of the petroleum industry.

It is to this end that I am introducing my amendment today. I intend to chair hearings on this legislation later this year. I urge all of my colleagues to examine this matter closely for such examination will, I believe result in the conclusion that this legislation is absolutely essential.

PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977—1585

AMENDMENT NO. 1398

(Ordered to be printed and to lie on the table.)

Mr. ROTH (for himself, Mr. HATCH, Mr. ALLEN, Mr. BARTLETT, Mr. BELLMON, Mr. DANFORTH, Mr. DOLE, Mr. GOLDWATER, Mr. HATFIELD, Mr. HAYAKAWA, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. LAXALT, Mr. MATSUNAGA, Mr. MCCLURE, Mr. MORGAN, Mr. NUNN, Mr. PERCY, Mr. SCHWEIKER, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG) submitted an amendment intended to be proposed by them, jointly, to S. 1585, a bill to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, or magazine.

ELECTRICAL LIFELINE FOR THE ELDERLY—S. 1364

AMENDMENT NO. 1399

(Ordered to be printed and to lie on the table.)

Mr. HART. Mr. President, today I am submitting an amendment to S. 2114, the Public Utilities Regulatory Policy Act of 1977, which would extend a subsistence quantity of electricity to elderly residential users at the lowest cost that it charges to any class of consumer. It would also require the new Department of Energy to study an alternate electric costing methodology—long-term incremental costing—which would generate revenues sufficient to permit utilities to extend a subsistence quantity of electricity to all principal residences at significantly reduced rates.

This amendment is an immediate, easily-administered response to a well-documented problem faced by seniors. Home fuel costs have risen astronomically over the past several years, far outstripping increases in social security payments or other retirement income sources. Studies released since last year's bitter winter reveal that higher home energy costs forced many seniors to exchange food for essential home energy needs.

Recent forecasts by the U.S. Weather Service predict another cold winter for 1978. Mr. President, we cannot in good conscience permit the elderly to endure another winter of cold and economic hardship. My electrical lifeline amendment addresses this critical need while Congress devises a comprehensive national utility rate reform policy.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD at this time.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1399

On page 2, line 2, strike out "and".

On page 2, line 4, strike out the period and insert in lieu thereof a semicolon and "and".

On page 2 between lines 4 and 5, insert the following new subsections:

"(d) to provide an interim solution for the subsistence residential electrical needs of the elderly while Congress attempts to construct an equitable electric utility structure which adequately meets the needs of all classes of consumers;

"(e) to promote equity in electrical costing; and

"(f) to demonstrate the effects of lifeline costing on electric utility rate structures,

consumption patterns and the operation of electric utilities, and to demonstrate the feasibility and desirability of action by Congress to extend lifeline costing to other segments of our society.

On page 16, between lines 17 and 18, insert the following new sections:

LIFELINE RATES

SEC. 15. (a) No rate of an electric utility shall provide for a rate under which the charge per kilowatt-hour to an elderly residential consumer for a subsistence quantity of electric energy in any month for such consumer's principal place of residence exceeds the lowest charge per kilowatt-hour to any other electric consumer to whom electric energy is sold by such utility (or any electric utility which controls, is controlled by or under common control with, such utility). Such rates shall not exceed the average of residential rates in effect on the date of enactment of this Act. The relevant regulatory authority shall consider seasonal and climatic variations as they affect electric consumption in determining the subsistence electric needs of elderly residential consumers.

(b) For purposes of sections 15, 16, 17, and 18 of this Act, the term—

(1) "subsistence quantity" means the number of kilowatt-hours per month which the relevant regulatory authority determines is necessary to supply the minimum subsistence electric needs of elderly residential electric consumers at their principal place of residence for the following end uses: Heating, lighting, cooking, cooling, food refrigeration, medical, or other essential purposes as determined by the relevant regulatory authority;

(2) "elderly residential electric consumer" means an individual who demonstrates to the supplying electric utility for such individual that such individual is—

(A) (i) at least sixty-two years of age; and

(ii) the head of a household or principal income earner; or

(B) (i) is receiving social security benefits from the Social Security Administration; or

(ii) is receiving railroad retirement benefits from the Railroad Retirement Board;

(3) "relevant regulatory authority" means the regulatory body which has ratemaking authority with respect to electric rate schedules within its jurisdiction.

ENFORCEMENT

SEC. 16. (a) No electric utility may sell electric energy except in accordance with a rate schedule which has been fixed, approved, or allowed to go into effect by a regulatory authority. No regulatory authority may fix, approve, or allow to go into effect any rate schedule which violates section 15 of this Act.

(b) If any person alleges that a regulatory authority's action, or failure to act, violates subsection (a)—

(1) in the case of a regulatory authority which is a Federal regulatory authority (or which is a State regulatory authority whose action or failure to act is not reviewable by a State court of competent jurisdiction), such person may obtain review of such action or failure to act, insofar as it relates to a violation of subsection (a)—

(A) in any statutory review proceeding which is otherwise applicable to such action or failure to act, or

(B) if there is no such statutory review proceeding applicable to such action or failure to act, by commencing a civil action in the United States court of appeals for any circuit in which the utility sells electric energy, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code; and

(2) in the case of a regulatory authority which is a State regulatory authority, such action, or failure to act, insofar as it relates to a violation of subsection (a)—

(A) may be reviewed by any State court of competent jurisdiction, and

(B) if such action is reviewable by such a State court, may not be reviewed by any court of the United States, except by the United States Supreme Court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) Any individual found guilty of fraudulently misrepresenting his or her status as a residential electric consumer shall be punished by a fine not to exceed $5,000 or imprisonment for not more than three months or both.

FEDERAL ASSISTANCE

SEC. 17. (a) The Secretary shall provide technical assistance, including grants, or such other financial assistance as he deems necessary and appropriate to State and municipal regulatory authorities to assist these bodies in the establishment of subsistence electrical standards for the elderly.

REPORTING REQUIREMENTS

SEC. 18. (a) The Secretary shall submit a report to Congress within eighteen months after the date of enactment of this Act on the effects of this Act on electric utility rate structures, electric consumption, and the operation of electric utilities.

(b) Additionally, the Secretary shall study the extent to which cost-justified changes in rates will require incremental pricing (including but not limited to long-term incremental costing, peakload pricing, and so forth) whereby the incremental costs will exceed the average costs of electricity. In cases where the incremental costs will exceed the average cost of electricity, the Secretary shall study the extent to which subsistence quantities of residential electric consumption may be priced at lower levels, so that total revenues and costs are brought into balance.

(c) The Secretary shall also study the extent to which such a pricing schedule would alleviate the difficulties which low-income residences experience in paying electricity bills.

(d) The Secretary shall also study the impacts of such a pricing schedule on conservation efforts of all classes of consumers.

LIMITED AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of Sections 15, 16, 17 and 18 of this Act.

EFFECTIVE DATE

SEC. 20. The provisions of sections 15, 16, 17 and 18 of this Act shall take effect ninety days after the date of enactment and shall remain in force for a period not to exceed three years thereafter.

On page 16, line 19, strike out "SEC. 15." and insert in lieu thereof "SEC. 21."

On page 16, line 20, immediately after "out" insert the following: "sections 1 through 14 of".

NATIONAL PUBLIC UTILITIES REGULATORY POLICY ACT

AMENDMENTS NOS. 1400 THROUGH 1404

(Ordered to be printed and to lie on the table.)

Mr. BROOKE (for himself, Mr. CRANSTON, Mr. PERCY, Mr. ANDERSON, Mr. RIEGLE, and Mr. HART) introduced five amendments intended to be proposed by them, jointly, to S. 2114, the National Public Utilities Regulatory Policy Act of 1977.

Mr. BROOKE. Mr. President, I am filing today a package of amendments on behalf of myself and Senators CRANSTON, PERCY, RIEGLE, and HART, which are designed to strengthen S. 2114, the National Public Utilities Regulatory Policy Act of 1977.

The Energy Committee bill provides only that the Secretary of Energy may intervene in certain State ratemaking proceedings to advocate energy conservation, efficient use of energy facilities and rates to consumers.

We recognize the committee's concern that no State regulatory powers be preempted by the Federal Government and our amendments would not permit any such preemption. Instead, we propose that the Secretary establish advisory guidelines which States might voluntarily adopt, in part or in whole but which will, in any case, provide a model for regulators interested in energy conserving, equitable rate designs. These model guidelines will cover such areas as cost of service and time of day pricing, procedures for fuel adjustment charges, and restrictions on master metering. We will also propose that the Secretary have the right to appeal regulatory commission decisions, although without having the power to seek injunctive relief.

Our amendments also expand funding for State regulatory agencies which are undertaking to reform their rate structures which was originally authorized under ECPA.

Mr. President, these amendments have not only the support of the Carter administration but also of labor and public interest groups. I ask unanimous consent that letters from the United Auto Workers, the Sierra Club, the Environmental Action, and the National Wildlife Federation, be printed in the RECORD following my remarks. I also ask unanimous consent that the full text of the amendments and accompanying explanations be printed as well.

There being no objection, the amendments and material were ordered to be printed in the RECORD, as follows:

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, D.C. September 26, 1977.

Hon. EDWARD W. BROOKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BROOKE: We understand you may be offering a series of amendments to S. 2114, known as Part E of the National Energy Act dealing with utility rates. The UAW was sorely disappointed that the Senate Energy Committee recommended deletion of the key provisions of the House-passed utility rate reform legislation, and we support your amendments to strengthen the legislation reported to the Senate.

There is no question that restructuring the traditional manner in which utility rates are set will do a great deal to achieve the important goal of energy conservation. Your proposal to have the Department of Energy establish minimum guidelines for the manner in which utility rates are set will at least restore to S. 2114 a framework in which the states can act wisely to achieve energy savings and fair pricing through their control of utility rates.

The goals of the legislation will also be enhanced through your amendments to provide grants to states for developing innovative rates structures and to permit the De-

partment of Energy to intervene at the state level in the review of utility rates.

These and your other amendments to S. 2114 represent a modest, yet valuable, effort to give life to the idea of utility rate reform. This is an area in which the House acted decisively and which the Senate would be unwise to ignore. The UAW supports your effort in this regard and hopes your colleagues respond affirmatively to the important initiative you have undertaken.

We commend you for undertaking this important battle.

Sincerely,

HOWARD G. PASTER,
Legislative Director.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., September 28, 1977.

The National Wildlife Federation strongly supports utility rate structures that promote conservation. The establishment of minimum national guidelines for retail electric rates, so that the price charged for electricity is more sensitive to levels of consumption, is an essential part of the National Energy Plan. The utility rate reform measure reported out of the Senate Energy & Natural Resources Committee must be strengthened to encourage energy conservation and trim the wasteful use of electricity in the future.

We urge you to support a package of floor amendments to be introduced this week with the backing of the Administration which will include the following modest improvements:

1. Minimum guidelines (not standards with legal force) for energy conserving rate structures, to be developed by the Department of Energy and which encompass a general discussion of cost of service pricing but do not mandate any particular methodology.

2. Enforcement procedures which require a state to simply consider the federal guidelines and which allow the Department of Energy to seek judicial review, if necessary, of the state regulatory agency decision in state courts.

3. Grants for state regulatory authorities to upgrade staffing and assist in the improvement of such state program areas as innovative rate structures, consumer participation, and electric demand forecasting.

4. Consumer protection measures such as standards for the use of fuel adjustment clauses, minimum procedures for the termination of electric service, and rules designed to eliminate master metering in new buildings.

SIERRA CLUB,
Washington, D.C., September 24, 1977.

DEAR SENATOR: The Sierra Club urges you to support the Brooke and Hart-Sasser Amendments to S. 2114, the Public Utility Regulatory Policy Act of 1977. Electric utility rate reform is a critical element of the national energy plan. S. 2114, as reported, fails to address the need for major changes in utility rate structures to promote energy conservation and fairness to consumers.

In almost every state, the existing regulatory system fosters waste and inequity. Small consumers pay high prices while large commercial users are given lower rates for increased use. Peak loads grow, necessitating use of oil- and gas-fired generators and construction of more powerplants, but peak load users pay no more for the expensive strain they place on generating capacity. Residential bills skyrocket, boosted by poorly monitored and devised fuel adjustment clauses. Regulatory constraints and anti-competitive practices discourage cogeneration.

Electric utilities consumed 29% of all primary energy in 1976, including 16% of oil and 10% of natural gas—fuels too valuable to waste boiling water. Although utilities use more energy than any other sector of the economy, they have taken no meaningful steps to promote conservation in the use of electricity and lessen the peak demands which require massive use of inefficient oil and gas generators.

Sensible approaches to rate reform are well understood; they include such measures as cost of service pricing, elimination of declining block rate and promotional rates, time of day, seasonal and interruptible rates, and other load management techniques. Yet, despite the fact that the crisis in electricity supply and utility rates has been deepening for nearly a decade, almost none of these steps have been adopted by any state regulatory body. These reforms have been vigorously opposed by utilities and their large industrial customers with consistent success.

S. 2114 rejects utility rate reform in the name of "states rights." It leaves virtually untouched a system which has repeatedly failed. Its response to the potential savings from rate reform is cosmetic—appearances by the Department of Energy in ratemaking proceedings without even a right of appeal. It provides inadequate support for cogenerators of electricity and is silent about protecting consumers from well-documented abuses connected with the fuel adjustment clause and termination of service. It must be amended to meet the need for federal action on these matters.

The Brooke Amendment provides a workable approach to conservation-inducing rate reform without federal pre-emption or mandatory requirements. It creates an important federal role within the established state regulatory framework. It will actually protect those states whose attempts at innovative ratemaking have been thwarted by thinly veiled threats of industrial blackmail from major consumers loath to lose the hidden subsidy contained in declining block rates.

The key to the proposal lies in the development of guidelines by the Secretary of Energy—after full and open rulemaking procedures—on cost of service pricing, declining block rates, time of day, seasonal, and interruptible rates, and other load management techniques.

State utility regulators would *not* be bound by these general guidelines, but they would at least be required to consider them when making rate decisions and to face squarely the issues in the context of a formal rulemaking. They would be free to reject the guidelines or adapt them to their particular circumstances when the record developed in the state proceedings indicated that to be the appropriate course.

The Secretary could not force any regulatory body to adopt the guidelines. Where the record revealed that a state regulatory body had improperly refused to take justified reform measures, the Secretary could make that contention through an appeal in the *state court* system. Any final decision would be made by state courts on the basis of state law and the record developed by the regulatory body. In other words, the Secretary would prevail only where a state court ruled that on the basis of state law that reform was required.

Carefully-drawn limitations of the Secretary's appeal rights further minimize the likelihood of disruption of the state regulatory process. Appeals are limited to issues involving conservation-related rate reforms. Rulings of a regulatory body will not be stayed during the pendency of an appeal brought by the Secretary and any relief granted will be prospective in nature only.

The Brooke Amendment would set minimum federal standards in the following specific areas: the use of the fuel adjustment clause, termination of service, and citizen participation in ratemaking where federal funding has been provided to a state. These standards represent minimal intrusion in state affairs designed to protect residential consumers who have little real opportunity to seek redress or protection through cumbersome and expensive regulatory proceedings.

The Hart-Sasser Amendment insures cogenerators that they will be fairly treated by the utilities upon whom they depend to supply supplementary power and purchase the cogenerated power. There can be no doubt that the primary reason for the failure of this nation to take advantage of the immense potential for cogeneration is the combination of financial and regulatory disincentives placed on cogenerators and countenanced by most state regulatory schemes.

Utility rate reform can conserve energy, end the inequities in rates and reduce the need for expensive and environmentally harmful capital construction. The intense opposition to rate reform by large industrial consumers is understandable. Equitable cost of service pricing will bring an end to the special low rates large consumers now enjoy at the expense of the average residential consumer.

Your support for the Brooke and Hart-Sasser Amendments is needed to put rate reform back in the national energy plan.

GREGORY A. THOMAS,
Washington Representative.

AMENDMENT NO. 1400

On page 6, line 7, strike out ", except that nothing in this Act shall authorize him" and substitute "and is authorized".

Page 6, line 10, before the period insert: ", except that the Secretary may not—

"(1) seek or obtain any injunctive relief respecting the effectiveness of any rate in any such appeal or other proceeding for judicial review of any such decision, or

"(2) seek or obtain any relief respecting the effectiveness of any rate which would apply for any period before the final determination of such appeal or other proceeding.

SECRETARY'S APPEAL RIGHTS

Under the bill, as reported by the Senate Energy Committee, the Secretary is empowered to intervene in utility rate proceedings. However, the Secretary or his designee is not empowered to appeal the decision of the state regulatory commission.

The amendment will allow the Secretary to appeal. However, it will protect against some of the concerns raised during the Committee hearings on utility rate reform. For example, the Secretary is not entitled to obtain or request injunctive relief, even if State law would allow an intervening party to do so. Additionally, if the Secretary is found to be correct on the appeal, the relief he might seek could only be prospective. With these added protections, the utility would experience negligible problems with delay or receipt of added revenues necessary for its continued healthy financial standing.

Furthermore, the Secretary is not authorized to bring appeals in federal court and must prove, as would any other state intervenor, that the state regulatory authority did not comply with applicable state rules and statutes or did not properly rule based on the record before it. The Secretary could not therefore enforce any federal guidelines per se.

AMENDMENT NO. 1401

On page 6, line 20, insert the following:

ADVISORY GUIDELINES ON MASTER METERING

SEC. 6B. The Secretary may, after notice and opportunity for public hearing, prescribe guidelines applicable to retail utility sales which would prohibit or restrict the use of bulk or master meters in buildings to the extent the Secretary deems necessary to carry out the purposes of this act. Such guidelines shall provide that in determining whether or not to prohibit or restrict such meters in any building, such authority may consider the potential energy savings of cen-

tral heating, cooling, domestic hot water systems in buildings in which the output of such systems to separate units is measured separately and charged to such units and which shall be considered by State regulatory authorities and nonregulated utilities in utility rate proceedings.

AMENDMENT NO. 1402

On page 6, line 20, insert the following:

ADVISORY GUIDELINES ON AUTOMATIC ADJUSTMENT CHARGES

The Secretary may, after notice and opportunity for public hearing, prescribe advisory guidelines applicable to retail utility sales which shall include:

(a) a model fuel adjustment clause which effectively provides incentives for efficient use of resources, and

(b) model procedures which provide opportunity for consideration of an automatic fuel adjustment charge in an evidentiary hearing prior to the date such increase takes effect and such procedures as are necessary to insure equitable refunds when necessary and shall be considered by State regulatory authorities and nonregulated utilities in utility rate proceedings.

AMENDMENT NO. 1403

On page 6, line 20, insert the following:

ADVISORY GUIDELINES

SEC. 6A. The Secretary may, after notice and opportunity for public hearing, prescribe advisory guidelines applicable to retail utility sales which shall contain methods for determining costs, load management systems, and ratemaking methods as described in section 7 and which shall be considered by State regulatory authorities and nonregulated utilities in utility rate proceedings.

ADVISORY GUIDELINES

A. Under this amendment the Secretary is empowered to issue advisory guidelines which would be recommendations by the Department of Energy on appropriate methods for determining costs, load management systems, and rate-making methods described in section 6. They are guidelines, an indication of the approach of the Department and a possible model for states which want to reform their rate structures. No state is bound by them. However, the State Commissions are required to consider the guidelines and ascertain whether they may be appropriate.

B. A similar amendment empowers the Secretary to issue advisory guidelines related to reducing or eliminating master metering in multi-unit buildings. Otherwise, the amendment is identical.

C. A third similar amendment empowers the Secretary to issue advisory guidelines regarding model fuel adjustment clauses. Otherwise the amendment is identical.

AMENDMENT NO. 1404

On page 8, line 22, insert the following:

FINANCIAL ASSISTANCE FOR STATE AGENCIES AND FOR CONSUMER REPRESENTATION

SEC. 7A. (a) Title II of the Energy Conservation and Production Act is amended by adding the following new paragraph at the end of section 202:

"(8) The term 'nonregulated utility' means a utility which is a public agency or privately organized cooperative not subject to the ratemaking authority of a utility regulatory commission.".

(b) Such title II is amended by amending section 204(1) to read as follows:

"(1) assist utility regulatory commissions and nonregulated utilities in improving rate design, load management and related energy conservation practices by providing (A) financial assistance, through contracts and grants, and (B) technical assistance, including voluntary guidelines.".

(c) Such title II is amended by amending section 207 to read as folows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for each of the fiscal years ending September 30, 1978, and September 30, 1979, not to exceed $45,000,000 of which not more than $5,000,000 may be used for purposes of section 204 (2) and (3).

"(b) There are authorized to be appropriated to carry out section 205 for such fiscal years not to exceed $10,000,000.".

(d) Such title II is amended by adding a new section 208 to read as follows:

"APPLICABILITY TO GAS UTILITIES

"SEC. 208. The provisions of this title, with the exception of section 203, shall apply to the activities of any person, State agency, or Federal agency, with respect to the retail sale of natural gas in the same manner as such provisions apply to activities relating to the retail sale of electricity by electric utilities.

FINANCIAL ASSISTANCE FOR STATE AGENCIES AND FOR CONSUMER REPRESENTATION

This amendment continues authority given the Secretary under ECPA to make grants to assist utility regulatory commissions in improving rate design, encouraging load management, and developing other related energy conservation measures and practices. It also clarifies the Secretary's authority to provide technical assistance directly from the Department of Energy. It confers new authority for making such grants and providing nonregulated utilities as well as natural gas utilities.

This measure extends the ECPA grant making authority from its present expiration date of September 1977 to December 1980.

The amendment authorizes appropriations of up to $45 million per fiscal year of which $40,000,000 goes directly to the states and non-regulated utilities, instead of the $12,056 million currently authorized, and $5,000,000 for the intervention program of the Department before state regulatory commissions instead of the $1 million currently authorized. In addition, $10,000,000 is authorized for consumer representation at the state level instead of the $2 million currently authorized.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs, will hold a 2-day hearing on recent increases in lumber prices and their effects on the Nation's housing industry.

The hearing will be held on October 20 and 21, 1977 in room 5302, Dirksen Senate Office Building and will begin at 10 a.m.

The committee would welcome statements for inclusion in the hearing record.

COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, I wish to announce the Committee on the Judiciary will hear testimony on Tuesday, October 4, 1977, at 10:30 a.m. in room 2228 Dirksen Senate Office Building, on S. 2149, a bill to create the district court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

JOINT COMMITTEE ON DEFENSE PRODUCTION

Mr. PROXMIRE. Mr. President, the Joint Committee on Defense Production will be holding hearings on Department of Defense Procurement Practices on Thursday and Friday, September 29 and 30, 1977.

The witnesses on Thursday will be Thomas V. Jones, chairman of the Northrop Corp., and Fielding M. McGehee of the military audit project.

On Friday, the witnesses scheduled to appear are: the Honorable Dale Church of the Directorate of Defense Research and Engineering, Department of Defense; Jacques Gansler, former deputy assistant secretary for Defense/Materiel Acquisition; the Honorable HOWARD METZENBAUM, Senator from Ohio; and Dr. James Kurth of the department of political science at Swarthmore College.

The hearings will be held in room 5302 of the Dirksen Senate Office Building and will begin each day at 10 a.m.

SUBCOMMITTEE ON INTERNATIONAL FINANCE

Mr. STEVENSON. Mr. President, the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs will hold a hearing on October 7 on the Exchange Stabilization Fund and floating exchange rates. Testimony will be heard on S. 2093, a bill to require that Treasury Department administrative expenses be covered by regular appropriations, not by the Exchange Stabilization Fund, and on the use of the Exchange Stabilization Fund to support international monetary policy objectives.

The Exchange Stabilization Fund was established in 1934 with the gain from the devaluation of the dollar. The ESF was originally used to intervene in the foreign exchange market in order to stabilize the value of the dollar. Since the advent of floating exchange rates in 1973, the United States has not attempted to maintain a fixed value for the dollar relative to gold or other currencies, and has assumed that there was little need for official exchange market intervention. Last year the statutory authority for the ESF was amended to require that the ESF be used in support of U.S. obligations in the International Monetary Fund. The subcommittee hearing will be the first review of ESF operations under this new mandate.

Congressional oversight of ESF operations is especially timely. Concern is widespread that floating exchange rates are not working as they should. Inflation and payments imbalances have not yielded to exchange rate adjustment, in part because many governments have refused to permit market forces to determine exchange rates. The current system of "dirty floating" may be contributing to a worsening of world economic conditions. Mr. President, I ask unanimous consent that an article entitled "Floating Exchange Rates: The Calm Before an Economic Storm" which appeared in the October 3 issue of Business Week be reprinted in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. Floating exchange rates can help or hinder the world economy, depending upon the willingness of governments to abide by fair exchange rate policies. The amendments to the Bretton Woods Agreements Act, which were ratified by the United States last year, would require member countries to abide by IMF guidelines. Last April the executive board of the IMF adopted a set of principles to be used in surveillance over exchange rate policies. Unfortunately, those principles have not taken effect because an insufficient number of member countries have ratified the amendments to the IMF charter.

Surveillance over the floating exchange system cannot await the dilatory IMF amendment process. Accordingly, the hearing will address the following questions:

First. Is the present floating exchange rate system contributing to a worsening of global trade and payments imbalances, inflation and unemployment?

Second. Are the IMF guidelines adequate and are they presently being observed by foreign countries and by the United States?

Third. What exchange rate policy should the United States follow?

The hearing will begin at 9 a.m., in room 6226, Dirksen Senate Office Building. Persons desiring additional information should contact Robert W. Russell at (202) 224-0891.

EXHIBIT 1

FLOATING EXCHANGE RATES: THE CALM BEFORE AN ECONOMIC STORM

The International Monetary Fund will open its 32nd annual meeting in Washington next week in an atmosphere of relative—and quite false—financial tranquility. In fact, the floating-rate monetary system is in trouble after only four years: overwhelmed by economic turmoil and in danger of subversion by governments that are spending billions of dollars—much of it borrowed from private banks—to keep international exchange rates from floating freely as they are supposed to. Yet the only alternative to floating rates would seem to be a total breakup of the world economy, with nations hiding behind the sort of protectionist trade and economic policies that last existed in the early 1930s.

Little of that tension may show through in Washington. The foreign exchange markets appear calm after a summer of wild gyrations. West Germany and Japan have now promised to stimulate their economies—promises that, if carried out, will lessen the danger that the less successful economies will soon slide into deep recession. The IMF itself has gained both capital and stature now that Managing Director H. Johannes Witteveen is about to bring an additional $10 billion in lendable money into the fund. Behind all that will be said in Washington next week, however, is this cold, harsh reality:

The world economy, while increasingly fragmented, is as a whole in serious trouble. Hardly any of the countries of the world have fully emerged from the last great recession of three years ago, and most are in need of far more stimulation than anything that either Germany or Japan is likely to provide. The outlook is for continued slow growth for the industrial powers generally in 1978, with most key economies beset by high unemployment, nagging inflation, and vast international trade deficits.

Germany and Japan, while committed to new economic stimulation, may actually provide very little. Each faces rising unemployment rates that cry out for action, and Germany reported virtually no real economic growth in the second quarter of 1977. Yet each country remains sufficiently leery of inflation to hold stimulation to the minimum.

The U.S. economy, whose record $25 billion-plus international trade deficit this year has kept much of the world from being more economically depressed than it is, is clearly slowing down, and this country will be buying less from abroad than it has been buying. And if that record U.S. trade deficit is horrendous to behold, it has also been the staff of life to a great many economies.

World trade, despite Japan's huge surplus and the record U.S. deficit, is suddenly slowing again at a point in the world economic cycle when it still should be expanding. Growth in world trade came to 11½ percent in 1976. This year it will dwindle to 6 percent—well below the annual average of 9 percent over the past decade—and Chase Manhattan Bank reckons it could fall to 5 percent in 1978.

The strains within the world economy are reflected graphically in the way exchange rates have drawn dramatically apart since all currencies were set afloat early in 1973. So great are these strains today that a decided move away from international economic and monetary cooperation and coordination is under way. The belief is growing that the floating-rate international monetary system, which has worked tolerably well in the four years since the last vestiges of fixed exchange rates were erased, is now being overwhelmed by the world's economic ills. Indeed, as nations seek to protect their economic position in a world of shrinking trade, the floating-rate system is today being subverted by degrees of government intervention in the currency markets that dwarf anything seen under the fixed-rate Bretton Woods system, when nations were required to intervene.

VARYING DEGREES OF HAZARD

Even intervention at levels now being practiced has potentially serious hazards for the industrial powers, the international banking system, and the international lending agencies. Nations are borrowing heavily to finance their payments deficits, and this growth in credit from private banks that are awash in funds is pumping liquidity throughout the world at an alarming rate. Since the fourfold increase in oil prices, world monetary reserves have jumped by about 13 percent annually, and this surge in liquidity is sure to increase inflationary pressures around the globe and make it that much harder to rein in price rises.

The Organization for Economic Cooperation & Development, including all the industrial powers, believes that much of this reserve asset growth represents borrowing by governments from the private banking system. In fact, the once-clear line between the official monetary system and the private banking system has blurred so completely today in the face of vast, oil-fed capital movements that it is hard to tell where one of them ends and the other one begins. Nor is there much evidence that things are going to change any time soon. Not merely is the world economy in trouble, but governments have had to admit that the traditional remedies do not seem to be effective and that public confidence in the ability of governments to deal with their problems seems to be fading.

"We have tried gradual disinflation through applications of tight money and floating exchange rates, and these have not worked," says Nicholas Krul, who is director of the Geneva-based investment advisory service Gulf & Occidental Investment Co. "We have tried gradual reflation, and this has not worked. The lack of confidence in traditional monetary and fiscal policies means that additional stimulus immediately destabilizes expectations."

There is also the spreading belief that even if governments knew what to do, few today are sufficiently in command to apply necessary remedies. Professor Robert Triffin of Yale University, a leading international economist, is particularly pessimistic. "At economic summits and international conferences," he says, "national governments repeatedly pay obeisance to the holy trinity: high levels of employment and production, stable prices, and balance in external accounts. But after the rhetoric dies down, the problems persist, if not worsen." As Triffin, one of the first to predict the collapse of the Bretton Woods system of fixed exchange rates, sees it, "There is a much deeper institutional crisis, especially within the international monetary system."

There are now at least five distinct economic categories in the world. In a class by themselves are the U.S., West Germany, and Japan. Because of economic vitality, vast national wealth, and other special factors, these three powers play titanic roles in the world economy. There are a number of marginal economies, not exactly sick but not really well either. In this group are France, the Benelux countries, and the Scandinavian countries. Britain seems on the verge of joining this group, France and perhaps Holland on the verge of falling out of it. Then there are the economies that appear quite sick today, with little hope of a near-term cure: obviously there is Italy but probably Spain and Portugal as well.

The fourth group includes the developing countries, running huge trade deficits, so deeply in debt to the Western banking system that it is hard to see how they can ever make it back to even a modicum of health. Finally there are the members of the Organization of Petroleum Exporting Countries, mostly rich and, through their ability to control the world oil price, holding what amounts to a veto over world economic recovery.

IN DEFENSE OF THE SYSTEM

It is easy to grow too pessimistic. After all, the world economic system and monetary order have gone through grave trials in the past decade—many of them so severe that they were widely believed to be lethal—and yet survived them all. The death of the Bretton Woods system in 1971 did not divide the world into warring camps, and it certainly did not touch off the international trade and money wars so widely feared at the time. The quadrupling of world oil prices helped push the world economy into the worst recession since the Great Depression of the 1930s. Not one or two but all the world's key economies slipped into depths of recession that at times seemed to have no bottom. Yet, to one degree or another, every one of these economies came back—if not to great, good health, then at least to the status of walking wounded.

All this evidence tends to support the optimism that officials of the Carter Administration publicly voice for the present international monetary system—a system they support with the fervor of the converted. "The system is basically working well," says C. Fred Bergsten, Assistant Secretary of the Treasury for international affairs. "Try to go back to 1970-71 and envisage the shocks that have occurred as they would have been met under Bretton Woods. The answer is obvious. Anyone can look at the present system and pick at its faults, but the true test is to

compare it to the alternatives. The old system would not have worked."

There is reason for Bergsten's optimism, though it is hard to find at first glance. While international monetary cooperation is at an ebb, the 11th-hour ability to deal with issues that kept the Bretton Woods system alive for so many years has been lacking in recent years. The hurriedly called conference that brought haggard ministers jetting into Washington or Bonn or Basel has faded into the folklore of the monetary system. Not since a new set of exchange rates was hammered out at the Smithsinian Institution in Washington in December, 1971, has there been any broad international monetary agreement.

Although the desire to cooperate survives today, no real effective action has been taken in years. No fewer than three times in the past three years—at Rambouillet, France, in 1975, at Jamaica in early 1976, and in London last spring—nations have gotten together and tried to agree on rules that would keep the economic and monetary systems from breaking up.

But while negotiations have not accomplished much, economic reality is forcing changes. It has been hard to sell German officials on the argument that they must reflate their economy, and thus risk a higher rate of inflation, to keep other nations from sinking into recession. But now the German economy has nearly ground to a halt, the German unemployment rate will hit a stunning 6% this winter—the nation's highest since the early postwar years—and, like it or not, the Germans will have to reflate. Moral suasion may not be sufficient to force Japan to rein in exports and admit more imports. Now the message to Japan is blunter and less easy to ignore: Do something about the vast trade surplus or face drastic trade retaliation from other nations. Put on that basis, the argument won Japan's agreement to cut back sales of color television sets to the U.S. market.

The best hope for the world economic order would be for the floating-rate system to function well since, in theory, the markets should automatically force countries to act sooner than they might otherwise want to, for political or other reasons. Under fixed rates, many nations could chart their own courses and stick to them as long as they could muster enough international reserve assets to defend their own exchange rates.

HOW CLEAN THE FLOAT?

Thus the U.S., able at will to create the world's premier reserve asset—the dollar—could defend a greatly overvalued dollar for a decade. And Germany, because it kept gaining assets, could maintain a deeply undervalued mark for at least that long. The beauty of floating rates is that market forces, and not a nation's reserve holdings, should automatically determine appropriate exchange rates, and a nation that did not play by the rules would soon be forced into line. The alternative would be to see its currency driven down out of sight or driven up to the point where no other nation could any longer afford to buy its goods.

No one ever really assumed that nations would float their currencies absolutely "cleanly"—with no intervention and with market forces alone determining a currency's value. Each nation has been practicing its own version of the "dirty" float, intervening to keep a currency reasonably close to a desired level. But the most disturbing element today is the extent to which floats are no longer merely dirty but are downright filthy.

The wide disparities among the various key economies have produced strains in the foreign exchange markets on an unprecedented scale. This summer's turmoil in the exchange markets is just a tiny taste of how things can go—as much money raced across frontiers as during the monetary crises that accompanied the death throes of the Bretton Woods system. The almost inevitable result has been central bank intervention in these markets to a degree beyond anything in the days of fixed rates, when nations had to intervene.

In the third quarter of 1973, just after the start of the free-floating-rate system, central banks pumped in $2.7 billion to control currency movements in the exchange markets. By the second quarter of this year, intervention had soared to a record $22 billion. It may have gone still higher in the third quarter, had market turmoil been at its worst, and it could go still higher as the divergence among key economies becomes even more pronounced.

A high U.S. monetary official observes: "The British are intervening to check the rise of the pound. The French are controlling the value of the franc. The Germans and Japanese have let their currencies move some, but the Japanese continue to restrain the value of the yen through their control over their banks. If others do not float cleanly, then others will determine the value of the dollar. That's the position we were in before 1971, and we are being pressed back into it. We may be getting back to a position where we lose the value of floating rates."

Each nation, of course, has its own reasons for intervening in foreign exchange. A more expensive German mark, for instance, would make it easier for other countries to undersell the Germans in world markets. It would also cut into the earnings of German companies at a time when German industry is under profits pressure and the level of industrial investment is at a shockingly low level.

Meanwhile, Britain is steadfastly refusing to let the pound rise despite huge inflows of capital attracted by North Sea oil riches. But a higher pound would undercut the competitiveness of British exports and thus exacerbate unemployment, now at 6%. By undervaluing the pound, Britain is in effect exporting its unemployment. "What we are now seeing is more and more manipulation of currencies to gain a trade advantage," says Johannes Weitenberg, director of the Dutch central planning agency.

Such countries as France and Italy, with no oil reserves to fall back on, intervene in the exchange market in a deliberate bid to keep their currencies overvalued. They are managing their currencies to try to break their vicious cycle of depreciating currencies, higher import costs, higher inflation, and thus more currency depreciation. They could apply tough domestic austerity measures and permit their currencies to float freely, as the international rules suggest. But with unemployment in most of Europe at postwar peaks, few governments are willing to pay the political price. "The question is how much short-term costs a system can bear, and that obviously is a political question," says Alexandre Lamfalussey, chief economist for the Bank for International Settlements.

Perhaps the strangest case of a nation's breach of the international monetary rules is that of the U.S. this summer, when Treasury Secretary W. Michael Blumenthal seemingly launched a campaign to increase the value of the German mark and the Japanese yen by talking down the dollar. The exercise drew fire from abroad—from the Germans and the Japanese especially. At home it produced a counterattack by Federal Reserve Chairman Arthur F. Burns, who began talking the dollar up as vigorously as Blumenthal had been talking it down. To Burns, Blumenthal's handling of the dollar was clumsy and naive, and he has said so privately. Blumenthal, in turn, was infuriated by what he saw as backbiting criticism by Burns, and he has been lobbying against his reappointment when Burns's term as Fed chairman ends early in 1978.

THE U.S. BREAKS THE RULES

The explanation at the U.S. Treasury today is that Blumenthal did not really intend to talk down his own currency, that his aim was to force Germany and Japan to reflate their economies as they had promised to do at the London summit meeting in May. "Blumenthal got exasperated with the Germans and Japanese," says one U.S. monetary official. "Despite all their promises to join with the U.S. in reflating, acting as 'locomotives' to pull the world out of the economic doldrums, they procrastinated—even after their promises in London. Blumenthal just used the foreign exchange markets as a weapon to force Germany and Japan to get going."

Blumenthal simply repeated on several occasions that he thought the dollar was overvalued relative to the mark and the yen, and the exchange markets did the rest. In just a few weeks, for instance, the dollar fell 5 percent against the mark in exchange markets that were becoming increasingly chaotic. One Federal Reserve official said, "The markets had an air of unreality about them then." At that point Burns jumped in, defending the integrity of the dollar in terms so forceful that the dollar's skid halted at once. High-level Washington meetings preceded the Burns statement. Whatever really happened, Blumenthal in turn hastily came out in support of a strong dollar and, whatever his precise aim was at the time, the dollar has now made up virtually all of the ground it lost last summer—helped in no small measure by higher U.S. interest rates introduced by the Fed.

The U.S. action marked the first step toward actively managing the dollar since the floating-rate system began in 1973. Yet U.S. officials remain ideologically committed to a free and clean float. Says Anthony M. Solomon, Under Secretary of the Treasury for monetary affairs: "By definition, any movement away from a clean float is a movement toward greater rigidity in exchange rates. I don't see what would make that advisable."

In fact, however, while the U.S. still eschews the massive central bank intervention in the currency markets that is used by European governments and Japan, Washington may still be willing to "jawbone" the dollar around in the future to nudge other currencies to the levels it deems appropriate.

NEW CURRENCY TACTICS

In the end, floating rates may actually make it easier for countries to use their currencies to export such internal economic problems as inflation and unemployment. Most observers feel that it is almost impossible to determine when a nation is acting in the foreign exchange market to smooth out shortrun fluctuations and when it is acting to grab a competitive advantage. "It is very hard to tell when smoothing stops and intervention begins," says Robert Solomon, a Brookings Institution economist who formerly headed international research at the Federal Reserve. "The current situation is further clouded because the oil deficit makes it difficult to differentiate the foreign currency transactions involved in financing an oil deficit from old-fashioned intervention. The French have borrowed very heavily, for example, and it is very hard to tell exactly what is happening."

The massive intervention by foreign central banks in the floating exchange system has been made possible and perhaps even inevitable, by the tremendous liquidity that has developed in the private banking system in recent years. Borrowing to increase reserves is a favorite tactic of European governments intent on managing their currencies. The mere presence of large and growing reserves is often enough to stop speculation against a currency—which is what has pre-

served the value of the French franc all year. The French government and various state-owned industries have borrowed well over $1 billion so far in 1977.

The enormous liquidity in the private banking system is also one reason why the floating exchange system has not forced the automatic adjustments in balance-of-payments surpluses and deficits that it ideally should be dictating. Country after country has been able to borrow huge amounts of money to cover deficits, putting off the day when internal austerity measures would have to be taken. For countries such as Spain and Portugal, the ability to offset deficits by borrowing has fended off political pressures that might have blighted their nascent democracies.

THE ROLE OF PRIVATE BANKS

One of the most intriguing developments in the whole international monetary arena has been not merely the growth of the private banking system but the changing role that it is playing. Since the rise of floating rates, the private banking system has become a central feature of the whole international monetary system. In fact, some observers see the system slipping away from the control of central banks.

Says Yale's Triffin: "The internationalization of the capital markets, especially with the growth of the Eurocurrency markets and the growth of multinational corporations, has made it increasingly difficult for governments and international institutions to manage the world economy. The private sector has adjusted to the growing interdependence of the world economy, but the public sector has not."

The key to the shift, of course, is the huge increase in oil prices—beyond what it is doing to the world economy per se. For one thing, since oil contracts are traditionally denominated in U.S. dollars, the enormous increase in the price of oil has further increased the pivotal role of the dollar all over the world. Far from waning after the Bretton Woods system died, the dollar—thanks to oil—is even more the "numeraire" reserve currency than ever before.

The billions of dollars "taxed" out of the industrial and developing countries by OPEC are flooding the international private banking system. With loan demand from corporate customers still extraordinarily low, the banks are only too happy to lend to national governments. The quality of some national borrowers has already raised questions about the impact of all these loans on the health of the international banking system. Only last month, India, one of the world's poorest nations, borrowed seven-year money for only one percentage point above LIBOR (the pivotal London Interbank Offered Rate). Not only was the interest rate on a par with rates normally reserved for the likes of Germany, but the maturity of the loan was also two years longer than usual in banking circles. Just this week Mexico announced that it would borrow $1.2 billion from a syndicate of international banks. This loan, too, is for seven years, with the rate 1¾ percent over LIBOR.

European countries, of course, can borrow money for even less—say one-half to three-fourths of 1 percent over LIBOR. Where a nation once had to defend its currency with its holdings of gold and foreign exchange, a nation with a bent for intervening in the exchange markets can now borrow vast fortunes in the twinkling of an eye.

An irony is that while inflationary strains are themselves putting pressure on exchange rates, the very growth of the private banking system may be contributing to those inflationary pressures. "The problem," says a high official of the International Monetary Fund in Paris, "is that the U.S., British, Swiss and Germans are unwilling to put controls on their banks because they are competing for a bigger share of the world market." But this lack of controls is permitting a gigantic growth in world liquidity beyond what is needed for solid economic growth. The banks themselves simply note that as long as the oil money continues to pour in, they have little choice but to find borrowers.

To Triffin, however, it is a potentially explosive situation. "We continuously concoct salvage operations that avoid the worst but do nothing to combat inflation," he says. "In fact, they add to inflation in two ways. They allow countries to continue to live beyond their means, and they are leading to a depreciation of the U.S. dollar that is inflationary because so much of the world's trade is dollar-denominated."

Some sort of grand realigning of world economies, eliminating widely divergent inflation and growth rates, would help solve the problem. Currencies would tend to track more closely together and the pressure on nations to intervene to keep currencies in line would diminish. A dramatic resolve by nations to permit exchange rates to float cleanly, come what may, would also reduce strains in the world economic system, hence in the international monetary system. In reality, neither is a likely solution. There is nothing on the horizon that suggests that the growing differences in rates of growth and inflation and in the ability of nations to absorb higher energy costs will be smoothed out. Clean floating makes theoretical sense, but to the politicians who make such decisions, it appears potentially lethal—threatening massive political damage.

In fact, the most sanguine outlook—no matter what soothing words are uttered in Washington next week—is for continued tension as international trade patterns grow increasingly eccentric and as nations continue to battle both recession and inflation. And while intervention is supposed to be against the rules of the monetary system, the political pressures on governments, and the billions of ready cash just waiting to be borrowed, make it nearly certain that the cost of maintaining a floating-rate system will soar far beyond what it cost to maintain the now-defunct fixed-rate system.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. HARRY F. BYRD, JR. Mr. President, I wish to announce that a hearing will be held on October 14, 1977, on S. 690. The bill would permit the Jefferson County, Colo., mental health center to obtain a refund of social security taxes paid for 100 and 300 of its employees for the period beginning January 1, 1972. Nonprofit organizations are ordinarily not subject to social security taxation on behalf of their employees unless they file a certificate waiving their immunity to such taxation. The subcommittee understands that the Jefferson County mental health center believes that it was incorrectly informed by the Internal Revenue Service that no waiver had been filed and that it refunded taxes to the employees involved in reliance on that information.

The sponsor of the legislation is Senator FLOYD HASKELL.

The hearings will begin at 2 p.m. in room 2221 Dirksen Senate Office Building.

The bill before the subcommittee is a private relief measure dealing only with the particular situation of the Jefferson County mental health center. The subcommittee intends to examine the issues and equities involved in this situation but is not, at this time, examining any broader issues which may be involved concerning the taxation for social security purposes of nonprofit organizations.

Witnesses who desire to testify in the hearings should submit a written request to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510 by no later than the close of business on October 6, 1977. Treasury comments on the proposed legislation are requested.

ADDITIONAL STATEMENTS

TUITION TAX CREDIT ACT OF 1977

Mr. MATHIAS. Mr. President, I am happy to cosponsor the Tuition Tax Credit Act of 1977, S. 2142, introduced by the Senator from Oregon (Mr. PACKWOOD), and the Senator from New York (Mr. MOYNIHAN). This bill embodies the principle that I adopted in the first bill I introduced in Congress in 1961 and have supported ever since—the principle of tax recognition of investment in education. It provides tax relief to parents who are themselves paying for their children's education and thereby contributing to the future of the Nation. This has become increasingly difficult as the costs of education, like other costs, have risen inexorably over the past several decades.

Since the founding of this country, we have consistently placed a high value on education, based in part on the belief that an informed populous is the best guarantor of a healthy democracy. As James Madison said:

> Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

I believe Madison's words are still relevant. The present strength of America is derived in large part from the dynamic nature of our system of private and public education.

The Federal Government has supported this dynamism by giving generous monetary support to public school systems. It is reaffirming that commitment even today as the Congress considers the improvement and reentitlement of the Elementary and Secondary School Act. Regarding support for higher education, the Congress has in recent years moved away from institutional grants in favor of broad student aid packages. It was the aim of Congress that this be a means of supplying indirect aid to the higher education community while, at the same time, increasing the accessibility of post-secondary education to lower income families.

Unfortunately, many middle-income students have discovered that the combined effect of increased costs and the unavailability of financial aid has limited their access to higher education. The fact is that most middle-income students cannot qualify for anything beyond financial aid in the form of a loan. This has occurred at a time when other economic pressures have combined to further limit the amount of discretionary

income that is available for educational expenses.

The Bureau of the Census produces figures that corroborate a decline in college enrollment for middle-class students. Defining middle-income as between $10,000 to $15,000 per year, the Bureau found that college enrollment for middle-class 18- to 25-year-olds had experienced a 7 percent reduction between 1970 and 1973. In the same period, students from families with income levels below $5,000 experienced a 1 percent decline. Students from families earning above $15,000 dropped from 56 percent in 1970 to 54 percent in 1973. What these figures reveal is that a series of economic forces has dramatically reduced college accessibility to middle-income students. Today, the average cost per year for a public college is $2,790 and the average cost for a private institution is $4,568.

The Tuition Tax Credit Act of 1977 gives the Congress a splendid opportunity to rectify some of the more unfortunate aspects of the conditions I have just cited. This act provides for the direct substraction of tuition expenses from the amount of owed taxes by an individual, his spouse, or his dependents. The amount of this credit will be 50 percent of the tuition payments up to a total credit of $500 per student. It is noteworthy that this tax credit is applicable to part-time or full-time students whether they are attending elementary schools, secondary schools, or any post-secondary educational institution. This type of tax relief begins to give substantive help to a group of students whose families make too much money for traditional types of financial assistance, but not enough money to pay the costs of a modern education. Lower income taxpayers too can take advantage of this measure as the tax credit will actually be refundable.

This is a good bill. It will provide some much needed economic relief to all families which want to invest in the educational futures of their children. The cost of this bill in lost revenues is less than 1 percent of the projected $550 billion 1980 budget according to the Joint Committee on Taxation. I consider this type of investment in the future of American children to be an efficient investment in the Nation itself.

THE STEEL INDUSTRY AND JOBS

Mr. METZENBAUM. Mr. President, the situation with respect to the U.S. steel industry is grave. The cutback on Monday of last week by Youngstown Sheet & Tube Co. in my own State of Ohio leaves 5,000 persons jobless.

But Youngstown is neither the beginning nor the end. As far back as March 1,000 steel jobs were already lost in Scioto County, Ohio. By mid-August, the Bethlehem Steel Corp. said it was laying off 3,500 employees at its Lackawanna, N.Y., plant and would severely restrict future operations at flood-ravaged Johnstown, Pa. So far this year, more than 4,000 steelworkers in the Chicago area have been laid off by United States Steel and Inland. And just this weekend, Armco Steel announced that it will eliminate permanently by October 1, 600 jobs at steelmaking installations in Middletown and New Miami, Ohio.

According to the Board of Labor Statistics, Buffalo, N.Y., with a work force of 554,000, averaged 9.8 percent unemployment this year; Detroit, Michigan's work force of 1,896,600 registered 9.2 percent unemployment; and Youngstown/Warren, Ohio suffered an 8.8 percent unemployment rate on a work force of just over 230,000.

Today, tens of thousands of remaining jobs in steel cities of the Northeast and Midwest stand threatened. A whole region lies vulnerable to a crippled industry. New York, Michigan, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia all contain hundreds of communities that depend on steel for their existence.

What is at issue here is not the creation of new jobs, but the retention of existing jobs. In the name of one or another fiscal policy, we continue to sacrifice jobs. Either we claim sanctity for balancing the budget, or checking inflation; but in any case jobs pay the freight for carrying our fiscal philosophies on—reductio ad absurdum. And now we are further extending questionable justifications for erasing American jobs to include the need to keep world trade open, unfettered by any restrictions on our part.

But what about restrictions already imposed on the part of Japan and the European Community? First of all, while in our country jobs are often sacrificed to this or that fiscal policy, both Japan and Europe view unemployment as unacceptable. Therefore, contrasting, and even incompatible, economic philosophies underlie a trade arrangement which is inherently damaging to the United States.

In the name of full employment, Japan and Europe, working together through the European Community in 1975, agreed to limit Japanese exports to Europe. This is certainly not "world trade, open and unfettered by any restrictions." In the meantime, as American job after American job evaporates into the maze of imports, and industry after industry becomes obsolete, the void is filled by millions of workers employed in other countries who have "open season" on the ripe American market.

Clearly, then, the subject of imports is central to any discussion of the steel problem. Based on imports into the United States already this year, the volume will reach a record 18 million net tons in 1977, up from 14 million in 1976, an increase of 28.6 percent.

Even in the specialty steel industry—where relief was granted in the form of import quotas for a period of 3 years beginning in June 1976, the President has requested a review of the order before it has even had a chance to become effective. In May, I, and a number of my colleagues from Ohio's congressional delegation, wrote to President Carter requesting that he retain the import quotas for specialty steel commodities. I repeat that request today, and ask unanimous consent that the Ohio delegation letter to the President, dated May 17, 1977, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 17, 1977.

Hon. JIMMY CARTER,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: Once again the complex question of the impact on a domestic industry of foreign imports requires special attention. But this time, the issue reflects a unique feature: that of retaining, rather than imposing, import quotas.

On June 14, 1976, based on the recommendations of the United States International Trade Commission, relief was granted in the form of import quotas to the domestic specialty steel industry. That relief was to remain in effect for three years unless terminated by evidence of improved market conditions. To date, those conditions have not improved; on the contrary, due to the ironic twist resulting from the expectation of quotas, the first half of 1976 saw a sizeable increase in the volume of imports, making the first year's totals exceed by 25,000 tons of steel, the prior year's imports.

Mr. President, the first year of a three-year quota imposition is hardly over, and the specialty steel industry has experienced increased, not decreased, imports from foreign countries. As this program represents a test, the three-year testing period must be preserved in order to gauge the effect of import quotas on the industry.

The reduction on import levels was admittedly low to begin with:

In year 1975–1976, before quotas—155,000 tons of steel were imported.

1976–1977, 1st year of quotas—165,000 tons of steel were imported.

1977–1978, quota limits imports to 151,500 tons.

1978–1979, quota limits imports to 155,700 tons.

If what little relief was granted were to be eliminated now, not only would the effects of the three-year quota imposition be aborted prematurely, but ill-effects on the whole industry would have been the sole result of the original three-year recommendation.

Little more than two years remain to offer to the specialty steel industry sufficient relief just to maintain growth and jobs. We of the Ohio Congressional delegation urge you to consider carefully these unique features, and to retain the import-quotas so recently imposed on specialty steel commodities.

Warm regards,

Howard M. Metzenbaum, John M. Ashbrook, Clarence J. Brown, Thomas A. Luken, Tennyson Guyer, John Glenn, Douglas Applegate, Charles J. Carney, Thomas N. Kindness, William H. Harsha, Delbert L. Latta, Ronald M. Mottl, Ralph S. Regula, Clarence E. Miller, Mary Rose Oakar, J. William Stanton.

METZENBAUM SAYS HE MAY SUPPORT IMPORT QUOTAS TO AID STEEL INDUSTRY

WASHINGTON.—Senator Howard M. Metzenbaum (D–Ohio) said today that he is leaning toward advocating quotas on imported steel if the Administration is unable to "jawbone" foreign producers into cutting back the volume of their imports to this nation.

"In the wake of the closing of steel plants in Ohio and the loss of more than 6,000 jobs, I have urged Trade Negotiator Robert Strauss to use his influence on large steel producers such as Japan and West Germany to cut back

on their imports to America," said Metzenbaum.

"I am hopeful that this 'jawboning' can be effective and stem the tide of steel plant layoffs. But if it is not, then I am prepared to ask the Administration to institute immediate quotas on foreign-produced steel.

"The import question is one of the most difficult and challenging ones facing the nation. There is always the danger that other nations will react unfavorably and ban our exports, which could lead to still more problems here.

"But, in the steel industry, I feel we have come to the point where definitive action must be taken to protect the thousands of families who depend on this basic industry for their livelihood. Faced with a crucial situation such as this, possibly import quotas are risks we must take," concluded Metzenbaum.

Metzenbaum and other Senators from steel-producing states are meeting today to discuss the steel problem and hope to go to the White House sometime this week to carry their message to President Carter.

Mr METZENBAUM. Mr. President, certainly, there are more causes behind the steel problem than imports alone. It is essential that the industry recognize its failure to modernize facilities and utilize new technology. It is essential that the industry recognize world market conditions, and not raise prices as if the domestic steel industry existed in a vacuum. It is essential that the industry recognize the importance of both customers and consumers.

But first there must be a viable and vital industry to recognize these failures. And that means saving the jobs that already exist—jobs which employ about a half million Americans directly.

Some restrictions on the level of imports into the United States can, for the present, afford us the means of checking the dangerous trend of recent shutdowns in the U.S. steel industry, and avert the movement toward dependence on foreign steel. Steel remains vital to every industrialized nation in the world. But not one of them would welcome exclusive reliance on foreign sources for its needs. We have only to remind ourselves, with respect to the energy crisis, what dependence on foreign sources means.

Emergency measures are in order lest we find ourselves out of the steel business. Import quotas, imposed temporarily, provide two essentials: jobs and time.

There is no need to explain the importance of retaining existing jobs in an industry which employs one-half million Americans, when a priority of the Federal Government is to find new jobs for the 6.9 million unemployed. And there is no need to estimate what the demise of the U.S. steel industry would cost the steel States in unemployment payments.

The glaring and painful symptoms of the U.S. steel industry's present condition are layoffs and plant shutdowns. Treating these symptoms must be the first order of business; addressing the long-term factors—the second.

Limitations on imports can be imposed in a number of ways. The President can impose import quotas unilaterally, or by agreement with trade nations. The Congress can legislate some form of quantitative limitation on steel imports. And, finally, trading nations can enact restrictions on imports under the rules of the General Agreement on Tariffs and Trade (GATT). As a forum for preliminary discussion, trade nations also can utilize the Organization for Economic Cooperation and Development (OECD) to analyze situations, air problems, and propose solutions.

What is needed first are short-term solutions which can be imposed only by the President and/or Congress. The Congress should plan to enact legislation should the President fail to act within the next few weeks.

Concurrent with these temporary measures must come a willingness by the OECD to discuss proposals which can ultimately be ratified by the GATT to provide restrictions on imports whenever a country's domestic industry needs protective measures in order to adapt to its competitors. The international agreement could compute import quotas based on unemployment, imports percentage increase, and other measures which expose the need for relief.

Time is a crucial factor. Almost daily, the news media blare the bad news of additional cutbacks and shutdowns in the United States Steel industry. If relief is not granted soon, whole cities—steel towns—may become ghost towns.

OIL PRICE WILL NOT RISE IN THE EVENT OF DECONTROL

Mr. HATCH. Mr. President, there are two important articles in today's Wall Street Journal which bear on the subject of our energy debate. Since the Senate was in session all night, not many of us are likely to have read the Journal this morning. The articles point out that oil price decontrol simply means the end of the profit transfers. It does not mean a rise in price to the consumer. I ask unanimous consent that the two articles be printed in the RECORD for the benefit of the Senate in its important debate on energy.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

REVIEW & OUTLOOK—FACING THE BOGYMAN

The U. S. Senate is saving us from President Carter's tax increase energy plan. It has been an admirable display of common sense. Now if the Senate can sort out correct economics from prevailing economics, it could take a giant step toward solving our energy problems.

After the Senate broke the filibuster against natural gas deregulation and the Finance Committee sidetracked the proposed wellhead tax, Mr. Carter exhorted it to "act responsibly" and ward off "special interest attacks." Well, the special interests that we worry most about are those that want some $35 billion in new tax revenues with which to buy votes. Mr. Carter got his plan through the House, for instance, by loading it up with handouts to New England fuel oil consumers. Speaker Tip O'Neill's constituents would not have to pay replacement costs for the energy they burn. Happily, the Finance Committee has its own notions of responsibility, and had been chopping down the taxes and handouts one after another.

The Finance Committee is still bedeviled, though, by a set of widespread but incorrect notions: That the wellhead tax would increase prices and thus promote conservation; that U.S. consumers are not currently paying the world price for energy; that removing price controls from crude oil would result in new "windfall profits" for the oil companies; that decontrol would be costly for the consumer. None of these things is true, for reasons cogently outlined nearby by Charles E. Phelps and Rodney T. Smith of the Rand Corp.

Prices are set on the margin. All of the above misconceptions result from the failure to understand or apply this simple and universally accepted rule of economics. The price of a commodity will be the cost of producing the last unit necessary to bring supply and demand into balance. What counts is not the average cost of production, but the cost of the most expensive unit. Throughout the energy debates, even most economists have suffered an apparently congenital inability to apply this simple lesson to petroleum.

In the U.S. market, the marginal barrel of oil is imported, at the world price. The marginal price is the world price. The price of energy is the world price. Price controls on refined products have now been eliminated or made ineffective, simply because it eventually became apparent to nearly everyone that product prices could not be set by controls, but only by world market forces.

Price controls remain on domestic crude oil. But the effect of the controls, and the accompanying entitlements program, is merely to transfer profits from one oil company to another. This is why the "special interests" have in fact been deeply divided. Specifically, the current program transfers profits from domestic producers to importers. In its folly, the United States government has been subsidizing the purchase of OPEC oil.

The effect of Mr. Carter's wellhead tax would be to capture these profit transfers for the politicians. With the money in hand, the politicians can divvy up the largess, so much for Mr. O'Neill's homeowners, so much for Senator Long's energy research quasi-corporation. Meanwhile, the wellhead tax receipts of $12 billion a year would be drained out of the energy companies. Incentives to produce in the U.S. would be further diminished, and reliance on imports would further increase.

Once you understand that prices are set on the margin and consumers are already paying the world price, though, a painless solution emerges. If you decontrol the price of crude oil the world price of refined products will not go up. The consumer won't have to pay an extra penny.

If you decontrol, you simply will end the profit transfers. The rewards for producing oil in Texas will no longer have to be divided with the sheiks, nor will they go to the politicians. The incentives will be in the right place. People will be able to explore for oil and develop energy alternatives with less fear that Washington will expropriate the rewards of a successful venture. Production will be maximized. Imports will be minimized. Alternative energy sources, of which there are plenty at the right price, will be brought on as they become economically competitive. Once the government stops making the problems worse instead of better, we can all applaud Mr. Carter for building up a strategic petroleum reserve to minimize the national security problem.

The Senate is timidly edging toward this solution, trying to find a way to phase in the imagined costs. It is willing to pay a price to avoid Mr. Carter's Rube Goldberg devices. There will be a stampede the day enough Senators recognize that the costs of decontrol are a child's bogyman.

THE FLAW IN THE CRUDE OIL TAX

(By Charles E. Phelps and Rodney T. Smith)

The U.S. Senate has been grappling with the crude oil tax proposed by President Car-

ter. So far the debate has centered on whether the revenue should be rebated to consumers or used for development of new energy sources. Inability to agree on that issue led the Senate Finance Committee to vote againt the tax Monday, but because it's the centerpiece of the administration's energy plan immediate efforts were begun to resurrect it.

Aside from arguments about how to spend the revenue, there are important economic questions that need to be raised about a crude oil tax.

The stated purpose of the Carter plan is to raise the cost of petroleum products to the "world price." By conventional calculations this would mean an increase of five cents to seven cents a gallon, and thus would promote conservation. In fact, however, U.S. consumers already are paying the world price for refined products. The chief effect of the tax would be to extract some $12 billion a year from the oil industry, in the process increasing U.S. dependence on imported oil.

A simple way to understand why the U.S. consumer is already paying the world price is to look at the world trade in refined products. U.S. price controls do hold down the price producers receive for domestic crude oil. But at the same time the U.S. is importing gasoline and fuel oil, principally from refineries in the Western Hemisphere. The exporting countries, especially the Netherlands Antilles and Venezuela, also ship refined products to the European market.

Naturally, these refineries sell their goods to the highest bidder. If the U.S. market were not paying the world price, all of their products would flow to Europe instead. In fact, the U.S. has continued to import all types of refined products throughout the period of the controls, although the volume of trade has fluctuated during the period. In a vain attempt to discredit the primacy of world market forces, government studies have calculated that the cost of importing European products into the U.S. exceeds domestic prices. Actually, the pattern of world product trade already shows such a transaction could be uneconomic because Europe is a net importer of refined products from the Western Hemisphere.

MISFOCUSED DEBATE

The U.S. government, in its attempt to influence refined product prices, has consistently failed to understand the importance of the world-wide pricing mechanism. Because the crude oil tax would affect only U.S. refiners, it would have no noticeable effect on product prices, which are set in world markets. Thus the debate on the crude oil tax is misfocused because of the mistaken belief that consumers will bear the major burden of the tax. Instead the proposals would set up huge fund transfers without affecting the final cost. This can be seen by simply assessing the impact of various petroleum regulations.

The price of domestic crude oil is held below the world level by controls initially imposed in 1971 and extended by the 1975 Emergency Petroleum and Conservation Act. These controls reduce U.S. crude oil production below what it otherwise would be because producers receive less than the world price for their product. For vertically integrated firms such as the "majors" this is not too important, because the production of oil for their affiliated refiners allows them to offset imports of foreign oil at the world price. Instead of taking the profit in producing subsidiaries, they take it in refining subsidiaries. In effect they get the world price for domestically produced oil, and thus have no incentive to artificially increase imports.

Another regulation, called the Allocation Program, estabished the rights of refiners to the lower-priced, domestic crude oil on the basis of historical contracts for deliveries in the base year of the program (1972). This forced crude oil producers to sell oil to refiners for $5 per barrel, while comparable oil was valued at $12 to $14 per barrel on the world market. Because the market for refined products operated at the world level, this was a transfer of funds from producers to refiners. These transfers can be calculated at $16 billion in 1975 and $19 billion in 1976, though due to vertical integration much of this was a bookkeeping transfer of profits from production subsidiaries to refining subsidiaries.

However, prices of refined products were unaffected, since these transfers didn't alter the marginal cost of refining, and according to conventional economic theory prices are set by the marginal costs of production.

Next, the government attempted to control market prices by establishing price ceilings on refined products. This proved totally ineffective because the conditions of the market dictated *lower* prices for products than the regulations required. This again confirms that prices of refined products were being set by market forces.

In late 1974 the government inaugurated the entitlements program. Under it, refiners using more than the national average of "old oil"—oil from existing domestic fields at their 1972 rate of output—were required to purchase monthly "entitlements" from refiners that use less than the average. The purchase price of the entitlements reflected the difference in cost between the price-controlled old oil and the world price.

The idea, of course, was to provide a financial cushion for the companies that didn't have much "cheap" domestic oil. But a corresponding impact was that refiners promptly began to import more foreign oil to run through domestic refineries, thus increasing their volume of crude oil and their share of the entitlements. In effect, the entitlements program now subsidizes imported oil to the amount of $2.50 to $3 a barrel. The expansion in domestic refining replaced imports of refined products but domestic consumption and domestic product prices were virtually unchanged.

Finally, the inability of the U.S. government to overcome the world pricing mechanism in refined products was further evidenced in January 1976, when President Ford removed a $2 a barrel supplemental tariff on imports of crude oil. This reduced the price of crude oil to U.S. refiners by nearly five cents a gallon. But once again the prices of refined products in U.S. markets did not change when the tariff was removed. The price was set not in the U.S. but in the world market, which was not affected by the change in U.S. government policy.

EFFECT OF CRUDE OIL TAX

On the basis of this experience, what will happen if the Senate enacts the crude oil tax? The profit transfers that take place under current regulations from crude oil producers to refiners will terminate. The tax will capture these transfers for the U.S. government, which will receive $12 billion per year when the tax is fully implemented in three years. Refiners will not be able to recoup lost profits by charging higher prices for their products because prices will continue to be determined primarily by the world market. This transfer, like the earlier ones, will not affect consumer prices. And if it does not affect consumer prices, it will create no new incentive for conservation.

After the imposition of the crude oil tax, all domestic oil will be valued at the controlled price, not the world price. Consequently, domestic oil production by the vertically integrated corporations will decline. Since there will be no incentives to increase conservation and reduce demand, this shortfall wil have to be made up by imported oil. U.S. dependence on foreign oil will increase.

If the crude oil tax is adopted, it will have significant economic effects, primarily income transfers. The government will receive about $12 billion in tax revenues, implying that after-tax net revenues of petroleum corporations will fall about $6 billion. This transfer will be noticeable to stockholders of these corporations, since after-tax net revenue of U.S. petroleum corporations was about $15 billion in 1976.

The price of refined petroleum products will continue to be set by forces at work in the world market and not by current efforts of our government to regulate consumer prices. The price of products will not change, and consumers will be essentially unaffected, unless the Senate decides to rebate to them a portion or all of the tax. The goal of encouraging further energy conservation will not be achieved, and the U.S. as a country will increase its income transfers to OPEC as a result of the increased dependence on foreign oil.

THE FUTURE OF PEACE IN THE MIDDLE EAST

Mr. MOYNIHAN. Mr, President, I address my colleagues on a matter affecting the future of peace in the Middle East and, more fundamentally, the integrity of the foreign policy of the United States. It is potentially a grave matter and I should like to provide some background.

In 1974 and 1975, the U.S. Government took major initiatives in securing what have since become known as the Middle East disengagement agreements. Those agreements, which remain the basis for what can best be described as the armed truce which currently obtains in the Middle East, derive their effect in no small measure from the good name of the United States and the specific U.S. contribution to the maintenance of those agreements. The second of these agreements, the so-called September 1975 disengagement agreement, provided for the introduction of U.S. monitoring personnel in the Sinai, and for certain other U.S. undertakings designed to secure the confidence of the parties, especially of Israel.

My colleagues will recall that a major substantive and not inexpensive concession made by the Israelis as part of the agreement involved the abandonment of the oilfields at Abu Rudeis. The production from those oilfields allowed not only a substantial savings in hard currency otherwise expended for imported oil, but provided a measure of energy self-sufficiency in the face of rapidly growing international hostility toward Israel.

The United States made it plain that U.S. economic assistance would provide the additional hard currency necessary to compensate Israel for the loss of the oil. More important, it was understood that the United States would act to insure Israel a reliable supply of imported petroleum. The source of that petroleum would be Iran, as it had been in the past.

It would be a grave matter if the United States were now to attempt to manipulate Israel's energy dependence as a way of extracting further Israeli diplomatic concessions. More than grave, it would be dishonorable. Israel's virtually total dependence on imported petroleum grows directly out of U.S. initiatives, and was incurred, presumably, be-

cause of some fundamental belief in the integrity of U.S. undertakings and commitments.

Accordingly, I am deeply distressed by information that has come to me from sources that I consider reliable. Indeed, I would not raise this matter on the basis of one report alone; the multiplicity of such reports makes this matter simply too urgent to ignore. In essence, I am informed that American diplomats have broached to Israel's principal supplier of petroleum that it undertake to cut off oil shipments to Israel unless Israel agrees to certain U.S. proposals for the future conduct of Mideast negotiations.

These are reports which I do choose not to believe, for their truth would imply that the United States was acting in the worst of faith toward our traditional friend and ally—perhaps our only friend and ally—in the Middle East, the State of Israel. I must, therefore, call on the Secretary of State to state forthwith and wholly without ambiguity, whether the United States has suggested or urged such a course on the Government of Iran. And if the Secretary of State cannot lay the matter to rest in such fashion as to remove any doubt, the implications for our peacemaking efforts in the Middle East will be severe indeed.

Mr. CASE. Mr. President, we too have reports that the administration has asked Iran to cut off oil supplies to Israel in order to pressure Israel to go along with Arab demands for Israeli withdrawals from territory and in support of a Palestinian "entity" connected with the PLO.

If these reports are true such action would be outrageous. I find it difficult to believe them. Yet the reports persist and Senator MOYNIHAN is right in his demand that the Secretary of State answer specifically whether they are true. I support Senator MOYNIHAN wholly.

In addition, since such drastic and hostile steps could not have been taken without consultation with the President, it is essential that the President himself clarify immediately whether he authorized or allowed any such attempt. If others acted without the knowledge of the President then they should be brought to task for it.

All my colleagues are aware that under the 1975 Sinai accords—which were approved by the Congress—the United States entered into a series of bilateral agreements with Israel concerning the terms and conditions under which further negotiations with the Arab countries might go forward.

In addition, we entered into arrangements guaranteeing oil supplies to Israel. Any effort by the United States to cut off Israel's oil supplies would not only be an imprudent and unfriendly act but would be a breach by us of an international agreement under which we are bound.

NEW OMB DIRECTOR

Mr. PERCY. Mr. President, one of the tragic aspects of Bert Lance's resignation from his post as Director of the Office of Management and Budget is the loss not only of a close personal friend and confidant of President Carter's, but also of the man who so quickly provided a valuable link for the President to the business and financial communities of our Nation. Without question he was devoted to achieving the President's campaign pledge to balance the budget—a goal which has been reaffirmed with the enthusiastic support of many on both sides of the aisle in Congress.

Both the President and the Senate Governmental Affairs Committee must give serious consideration to the qualifications of the person chosen to replace Mr. Lance. We must insure that the nominee is dedicated to the goal of achieving a balanced budget and to the sound fiscal policies needed to bring this about. That person should also be able to reach out to business and financial leaders, and be knowledgeable about the Federal Government and our national needs and resources. The new Director of OMB must have sufficient force of personality and intellect to command the respect of fellow Cabinet officers, congressional leaders, and national interest groups with whom he or she must work intimately.

There is no need for a hasty decision in filling this important post, considered by many to be the second most powerful position in the Federal Government. We have in Mr. McIntyre a fine Acting Director, who can administer the office capably until a new Director is confirmed. Moreover, representatives of the private sector should have a full opportunity to participate in this process. I urge members of the business roundtable, the business council, the chamber of commerce and labor leaders to come forward with their recommendations. The Nation, the President, and the Congress deserve the very best this country can offer.

THE COMMISSION ON PAPERWORK ENDS ITS 2-YEAR JOB

Mr. McINTYRE. Mr. President, the Commission on Federal Paperwork established by the 93d Congress went out of business today. It finished its 2-year job and made its recommendations to Congress and the President.

Its final recommendations should drastically cut the hidden $100 billion paperwork tax that all Americans pay for their Government.

As cochairman of the Commission, I would like to let the Senate know that it has been one of the most successful commissions ever set up. We have made over 770 recommendations to Government agencies, States, localities, and even the Senate. As a result of the work of the Commission, we have changed the Senate rules to require paperwork impact statements as an early warning to us about excessive Government paperwork.

Despite these successes for this congressionally established Commission, we now need to reassess the way Government operates. The Commission's final recommendations are designed to do just that. We have gone beyond what Representative TOM STEED called the lawnmower cutting down the weeds of paperwork. Our final recommendations are the weedkiller that will stop useless paperwork at its roots.

It is my hope that the Senate will consider the recommendations we made. I hope that each Senator will take the time to read our final report. It is a different kind of document.

Rather than give you a massive book full of material that few would ever read, we have designed a type of memorandum, full of terse recommendations that I hope you and members of the Senate's staff will keep handy.

Our final recommendations are three:

First, we would like to centralize administrative responsibility for Government paperwork, stopping forms pollution before it starts. This will require help from all of us. We will need to strengthen the forms clearance office at the Office of Management and Budget, set up paperwork clearance offices in some agencies, consolidate various programs, often changing the laws that set them up, and possibly even give some agencies lead authority to control the programs of other particular offices—mainly to keep down the paperwork.

Second, we need to provide better communication routes between the average American citizen and his Government to end the frustration, fear, confusion, and anxiety so that he can make sure the Government knows when a form is onerous, duplicative or useless.

Third, we need to establish a national program to change the way Government operates to make service to the American people our national goal. "Service management" is the concept developed by the Commission as a goal for us all. This would provide for better run programs where the hidden tax of paperwork would not be pushed off to the consumer of Government services, which often are those least able to bear the cost.

It is only by changing our way of running the country, making sure that we know the burdens we place on the American people in return for the services we provide, that we will ever remove the hidden and frustrating costs of paperwork that we all pay.

I would just like to add a word of praise for the diligence and hard work of the Congressman from the 34th District of New York, FRANK HORTON, who chaired the Commission on Federal Paperwork. He and the other members of the Commission should all receive the thanks of the Senate, the House of Representatives and the people of the United States.

THE ADMINISTRATION'S FRAUDULENT ENERGY PROGRAM

Mr. HATCH. Mr. President, the Senate is expending great efforts over a fraudulent energy program that the administration has brought to us over the protests of its own experts and very nearly every expert in the Nation. Dr. Knudsen was removed from his position as Chairman of the Energy Supply Study Committee to ERDA because the facts of the ERDA study did not support the administration's energy mythology. The

same has happened to the very distinguished Dr. McKelvey, who has been removed from the directorship of the U.S. Geological Survey because he also refused to go along with the administration's grave deception of the American people. Even the CIA has been used politically and led to fabricate a false report that the Russians were running out of oil.

Mr. President, as I have said before, the Carter energy program is nothing but a tax grab and a power grab, and we should debate its merits on these terms as such and cease pretending that it has anything to do with the energy needs of the American people.

I ask unanimous consent to have printed in the RECORD three investigative reports from the Boston Herald American by the distinguished columnist Warren T. Brookes.

There being no objection, the reports were ordered to be printed in the RECORD, as follows:

CARTER'S NATURAL GAS COVER-UP

(By Warren T. Brookes)

President Carter is apparently engaged in a very sophisticated "cover-up." His administration is attemping to suppress or downplay a government ERDA study which shows that this nation is not running out of natural gas, but may in fact only have begun to tap the huge potential of this safe, clean fuel.

Indeed, if the ERDA study is correct, the nation should be embarked on an aggressive natural gas development program instead of putting so much of its focus on coal and nuclear power.

The "cover-up" started on April 6, 1977, just two weeks before President Carter launched his now-famous energy message to the American people and Congress.

In that message, you will remember, he warned the American people that we were "running out of natural gas" and that no amount of price changes could alter that fact.

But, on April 6, a team of top energy supply experts from ERDA (Energy Research and Development Administration), under the direction of Dr. Christian Knudsen, told the White House, in effect, that if the price of natural gas were turned loose—de-regulated—the nation would be literally awash in natural gas.

In more detail, Dr. Knudsen's study, which is summarized in the attached table, showed that:

At a cost of $2.60 per MCF (compared with the present top price of $1.42), this nation could expect to see its conventional natural gas reserves rise to 923 trillion cubic feet (TCF)—over four times the present total reserves of 216 TCF.

At a price of between $2.50 and $3, another 1000 TCF of hitherto un-economic new sources would be tapped, including 300 TCF of Devonian Shale in Appalachia, 300 TCF of Coal Seam Methane, and 300–400 TCF of Western Tight Sands.

This means that at a price range of between $2.50 and $3.50, this nation's total immediate gas reserves could effectively be multiplied by eight to 10 times—rising to 60–80 years of total usage (compared with the 12 years Mr. Carter has warned about).

In addition, Dr. Knudsen told the White House that at costs about $3 the nation could begin to tap the 20–50,000 TCF known to exist in the form of geopressured methane in the entire Gulf Coast region, both on and off shore.

In sum, Dr. Knudsen's committee told the White House that contrary to popular myth, promoted both by the major energy companies and the administration, this nation's natural gas potential is immense, a supply that would last from 100 to as much as 2000 years.

Indeed, when we talked to Dr. Knudsen ourselves last week, we got the distinct impression that he felt, based on his months of study on this subject, that this nation might well look to natural gas as a fundamental energy source in the next 40–60 year transition period rather than lean so heavily on coal and nuclear.

This plainly was the implication of the first ERDA-MOPPS study (Market Oriented Program Planning Study).

We say "first" because the study was such a devastating indictment not only of the entire Carter energy program, but of past government natural gas pricing policy, that it had to be redone.

It was obvious that Mr. Carter could not tell the country it was "running out of natural gas," if a study like this was floating around.

So, Dr. "Chris" Knudsen was suddenly relieved of his position as chairman of the energy supply study committee of ERDA, and a new MOPPS study was ordered—one that would be more "realistic," which is shorthand for more "pessimistic."

The second study was, indeed, somewhat more pessimistic, but still not enough to suit the Carter folks. It showed that present technology could still more than triple present gas reserves if the price were to rise to about $2.50, and at $3.25 these reserves would still reach over 800 TCF.

In the meantime, however, the first study "leaked out" to the Wall Street Journal and the Washington Post.

In an editorial on April 27, just one week after Carter told the nation it was almost out of natural gas, the Journal told its readers that there were 1000 to 2000 years of natural gas waiting to be discovered in the U.S., and at least 40 to 60 years in easily recoverable resources at a price of between $2.25 and $2.50.

Not surprisingly, the Journal wondered why Mr. Carter was arbitrarily setting a price ceiling on new natural gas at $1.75 when his own experts were telling him that, at just 75 cents more, the nation would be awash in natural gas.

It was then that Mr. Carter ordered a third, still more pessimistic, study on the natural gas situation, a study that was presented at a meeting in Reston, Virginia, on June 3.

This third version was nothing more than a cosmetic revision of the first two studies designed to make Mr. Carter's program and message more credible.

Even so, it told the President that at prices of about $3.50 to $4 the nation's total gas reserves would triple, and at prices of $2.50 they would more than double.

Unfortunately, by this time, the cat was well out of the Carter bag. On June 14, in an editorial entitled "Carter on the Run," the Wall Street Journal published its own synthesis of the three studies and told its readers just how these studies came about, inferring that the Carter administration was involved in a peculiar kind of economic and scientific revisionism.

In this editorial, the Journal pointed out that "Even at the worst the good people of ERDA have found us 55 years' worth of natural gas at a reasonable price."

And it pointed out that two of ERDA's top people, Harry Johnson and Philip White, had both told the Washington Post that the original first study figures developed by Dr. Christian Knudsen were "probably correct."

Because of all this, Dr. Knudsen was asked to testify before Senator Henry Jackson's Energy and Natural Resource Committee on June 23. He was asked point blank whether he thought he had lost his chairmanship of the supply committee because his first study didn't agree with the President's own thinking. He cautiously admitted there might have been some connection.

He was somewhat less cautious in a lengthy telephone interview with this columnist.

We asked Dr. Knudsen, "Doesn't your study suggest that with de-regulation this nation might well have a surplus of natural gas?"

He replied, "You could infer that, but I am not at liberty to do so at this time for obvious reasons. One thing seems clear. As the price goes up, it will become more and more economic to recover more and more gas. That is clear from our graphs."

In other words, the natural gas shortage is not a problem of supply, but of price. And this, of course, goes to the jugular of the Carter thesis which affirms the opposite.

Recently Jody Powell told the press, "President Carter believes that even if we increase the price of oil to provide an additional $20 a barrel, there would be little if any increase in production—and the same holds true of natural gas."

This statement is a direct contradiction of all three ERDA studies. That's why the President is trying to cover up their real meaning. In the next column we will show why.

CARTER'S CONTINUING NATURAL GAS COVER-UP

(By Warren T. Brookes)

It is an article of faith with the Carten administration that price de-regulation will do little or nothing to stimulate the expansion of natural gas reserves.

Yet the ERDA-MOPPS presented to the President on April 6 demonstrates that natural gas is very price responsive, that as prices rise to $2.60 to $3 it is likely, according to Dr. Christian Knudsen, that our total reserves will multiply from four to tenfold.

Dr. Knudsen's conclusions are not unique. They are amply supported by sophisticated economists and petroleum experts from coast to coast. Professor Robert S. Pindyck of MIT, writing in the Public Interest Quarterly in April, 1977, said, "It is of primary importance to move quickly toward the de-regulation of natural gas prices."

"Past and present controls," he wrote, "have resulted in shortages, increased imports, and higher than necessary prices. Policies in effect today depress the domestic price of energy, on the average, by 30 percent below the world price. Consumption then is 8 percent higher than it would be otherwise and supply is 6 percent lower."

The effect of de-regulation, according to Dr. Pindyck, would be to open up for exploration tremendous new reserves that are now being blocked out by present price control policies.

On May 2, 1977, one month after the first ERDA study the Colorado School of Mines estimated that there is between 923 and 973 TCF (trillion cubic feet) of conventional natural gas remaining to be discovered in the U.S., or from 40 to 50 years of consumption at present rates.

This agrees with the estimate of primary natural gas reserves of 929 TCF by Dr. Knudsen in the first ERDA-MOPPS study, the one Mr. Carter now wants to suppress.

This study also suggests that at prices of upwards of $3 the nation could well be looking at a natural gas potential of from 2000 to as much as 50,000 TCF, or from 100 to as much as 2000 years of supply.

The question is, will price alone generate the recovery of these reserves? Mr. Carter doesn't think so, and apparently is trying to down-play those folks at ERDA who think it will. Yet actual experience supports the ERDA-MOPPS study and refutes Mr. Carter's theory completely.

For example, in 1973 the FPC raised the price for new natural gas to 50 cents, and then in 1975 to $1.42. As a result of these two moves, belated as they were, the nation's drilling for natural gas (which had fallen steadily for 15 years under tight FPC price controls) has suddenly reversed itself (as the attached table shows).

In the last two years alone, total drilling has risen more than 40 percent and is now reaching above the 1964 highs. All because the price of FPC ceilings have moved up, and the price of unregulated intrastate gas is now above $2 per MCF.

Even so, the Wall Street Journal, in a survey done on February 3, 1977, reported that thousands of substantial natural gas leases, some very large, are still going untouched as producers play the "waiting game."

Typical was one producer named Tilman McIntyre who had "proved out" a 2000-acre lease with a single 14,000 foot, $1.3 million well.

McIntyre estimated that there was at least 60 billion cubic feet of gas under that single lease, enough to supply the entire nation for a single day. But, he told the Journal that at those depths he could not afford to bring that lease into full production for prices less than $2 per MCF—because of the enormous drilling costs at those depths.

So Mr. McIntyre's lease, like more than 5000 others in the Gulf region, lay idle during the nation's recent horrible natural gas crisis, a crisis brought on entirely by government pricing policies.

"There are 7000 natural gas producers out there waiting for the signal that will provide them with the incentive to get the rigs and lease the land," David Foster, Executive Vice President of the Natural Gas Supply Committee, told the Journal.

And, Barrie M. Damson of New York, an oil and gas operator, told the Journal that he would "move rigs into Louisiana within 24 hours of de-control and could put new gas on the market in about 45 days.

What makes this situation more ludicrous than ever is the fact that the FPC is now warning the public that next year's natural gas shortage could be even more severe than this winter's.

This is why, right now, the nation's major gas buyers are, with FPC permission, making contracts with Canadian producers to buy natural gas from them at $2.25 per MCF, fully four times the average wellhead price being paid to U.S. producers, and almost $1 above the regulated price for new gas.

What makes this interesting is that while U.S. production of natural gas is declining, Canadian gas production is suddenly booming.

According to a story on June 17, 1977, in The Christian Science Monitor, Canada is expecting to have a surplus of from three to five trillion cubic feet to get rid of next year—equivalent to about 15–20 percent of total annual U.S. production.

The significance of this is that just three years ago Canada was so worried about her natural gas shortages that she put an embargo on shipments to the U.S.

But, the combination of much higher prices offered to Canadian producers and rising U.S. demand has sent the Canadian gas producers into an exploration spree, into areas formerly considered too costly to yield.

According to the Monitor report. "Hordes of small and medium-sized producers all over Western Canada are scrambling for prospective acreage and drilling rigs. Within two years, they have transformed Western Canada's leisurely petroleum industry into a fast moving vehicle that is still accelerating."

The result is that Canada is now piling up a one to two trillion cubic foot surplus of natural gas every 12 months—a surplus that Canada is only too happy to sell to us at nearly 85 cents above the present regulated price of new gas in the U.S., and fully 50 cents above Mr. Carter's proposal.

When you talk to our own independent producers they say the same situation could take place in the U.S. Reserves that have been uneconomic to drill at old prices would suddenly look good with de-regulation.

One Houston independent producer told us that he could cite at least 300 major prospective fields he could drill and open at a price of from $2 to $2.25, and could be in full production within six to fourteen months.

But right now, it isn't worth his while to go after these reserves because all of them are at depths of from 9000 to 16,000 feet, and the wells will cost over $1.5 million each.

So, this coming winter when this nation will again be "short" of natural gas, American consumers will again be forced into purchasing $2.25 natural gas from Canada. $4 LNG gas from Algeria, and $5 SNG and $6–9 propane from domestic producers, all because we are apparently unwilling to de-control new natural gas and let U.S. producers go after the enormous but costly reserves that ERDA and the USGS tells us are there.

It is an outrageous, foolish situation. It may explain why Mr. Carter and his energy advisers seem more interested in downplaying and covering up Dr. Knudsen's report, than in pursuing its logical implications.

These implications go far beyond just natural gas. The Wall Street Journal observed. "De-regulation of natural gas would bring in so much of the stuff that it would soon force down the price of its nearest substitute. Number 2 fuel oil, which now sells at the equivalent of about $3 per MCF for natural gas. Which is to say that de-regulation of natural gas prices could very well break the OPEC cartel."

More important, the ERDA-MOPPS study suggests that the nation's immediate energy and heating needs could well be better and more cleanly met by more aggressive natural gas development than by risking the pollution of coal, or the uncertainties and complexities of greatly expanded nuclear power.

In other words, if Dr. Knudsen and ERDA are right, the entire Carter energy policy is wrong, and that is apparently why they are trying so hard to cover this study up.

CARTER'S ENERGY PROGRAM A MASSIVE AND COSTLY DECEPTION

(By Warren Brookes)

In politics, as in sports, winning is not only the most important thing, it is the only thing.

Unfortunately, when politicians win, the public usually loses—with higher taxes, more inflation and more government interference in their lives.

This certainly is true of President Carter's energy program which, much to the consternation of most serious energy economists, has passed through the House of Representatives almost unscathed.

It was an impressive victory for Carter and for "Tip" O'Neill, but it will prove to be an even more impressive $60 billion loss for the American consumer—and the nation's fragile economy.

We could fill this entire page with negative appraisals of this program by top economists of all ideological persuasions, including the prestigious and liberal Brookings Institution. The essence of these appraisals is that the Carter plan will accomplish little but to raise prices, and to dampen the production of energy.

As Nobel-Prize-Winner Professor Milton Friedman told the Boston radio audience of WMEX recently, "The Carter energy program is a monstrosity—a potentially devastating blow to the economy—and a tremendous new invasion by government bureaucracy in the market place."

What troubles this columnist most, though, is that the entire plan seems to be based on such a high degree of deception—and downright intellectual dishonesty.

The prime example is the whole thorny issue of natural gas deregulation.

For the past three months, President Carter has waged an all-out scare campaign trying to convince the public of the danger of deregulating new natural gas—warning that it would cost the consumer about $80 billion more over the next seven years, and would do little to stimulate new production of gas.

Yet, while he was carrying this attack to the media, his own energy professionals at ERDA published a study that showed that the nation could have all the natural gas it wanted, if new natural gas were deregulated. (See our columns of July 5 and 8, 1977.)

What makes this whole thing even more deceptive, though, is that, at the very time Mr. Carter was warning the American people about the evils of high priced unregulated gas, his own people at the FPC and the FEA were negotiating with no less than five foreign countries for huge supplies of new natural gas at prices far, far above Mr. Carter's own proposed ceiling of $1.75/MCF.

For example: The Federal Energy Department is right now concluding a deal for Mexican natural gas from PEMEX (the socialist oil cartel in Mexico) for two billion cubic feet of gas a day from the vast new Reforma Fields on the gulf of Mexico.

The price? $2.50/MCF. 75 cents above the Carter Energy Plan ceiling for American producers.

The amount? Over the next four years, the Mexicans are expected to expand their shipment of this high-priced gas to American consumers from two billion cubic feet a day in 1979 to as much as five to six billion cubic feet a day for a total sale to the U.S. of up to 2 TCF per year.

This means that the Mexicans by 1982 could be supplying the U.S. with as much as 5 to 10 percent of our present total gas consumption—all at prices 75 cents above the maximum in the Carter plan.

In other words, U.S. consumers will be paying a premium for new gas. They'll just be paying it to Mexico, not to U.S. producers. This deal, alone, could add from $2–5 billion per year to our trade deficit.

Apparently it is all right for the U.S. consumer to be gouged by Mexico's PEMEX at $2.50, but it is not all right to allow the consumer to help pay for the expanded U.S. development of its own huge (600–900 TCF) natural gas reserves at the current $2.00 unregulated, intrastate price.

But this isn't all.

Shortly after the House vote to keep the price ceiling on new domestic natural gas, the Federal Power Commission concluded another deal—this time with Indonesia, for a total of four trillion cubic feet (TCF) of their gas over the next 20 years.

The price of this Indonesian gas to start: $3.59/MCF—that's $1.84 above the ceiling price in the Carter plan. Total addition to our long-term trade deficit? More than $14 billion.

In other words, it is all right for U.S. consumers to pay the Indonesians $3.59, but it is evil to pay the U.S. producers any more than $1.75.

But, there's much more.

In July, the FPC concluded arrangements with Algeria to buy all the liquid natural gas they can ship for $3.37/MCF, or $1.62 more than we will allow U.S. producers under the Carter plan.

Again, it's all right to have the U.S. consumer pay a huge premium to an Algerian dictator, but not all right to encourage U.S. development of our own more difficult to drill but vast reserves.

Finally, in June, Mr. Carter's energy people made a deal with the Canadian government

for the shipment of about 1 TCF/year (about 5 percent of U.S. production) of their own excess natural gas at a price at $2.16 for 1977–78, or about 41 cents above the Carter proposed ceiling.

It is okay, apparently, to send Canada about two billion American dollars a year for natural gas at high prices, but not okay for these consumers to pay the same prices for the development of U.S. reserves.

What does all this mean?

It means that the Carter Energy Plan, far from saving the consumer money, will simply force U.S. consumers to pay foreign countries a premium for natural gas to make up for sliding U.S. production—a premium Mr. Carter won't allow to be used to stimulate the development of U.S. Reserves.

Several economists estimate that as a result of this crazy policy, by 1980 the U.S. will be importing as much as 15–18 percent of its total natural gas, all at prices vastly above even the present unregulated intrastate U.S. price.

Our own analysis shows that this alone could increase our natural balance of payments deficit by more then $7–10 billion a year—and further increase our dependence on others for our energy.

What is puzzling about this is that even James Schlesinger was recently forced to admit to the Senate Finance Committee that the U.S. "probably has over 100 years of natural gas reserves in this country—waiting to be developed."

Another deception: President Carter told the nation on April 20 that we had "less than 15 years of natural gas left." Unfortunately the ERDA–MOPPS study, from his own agency, shot that particular lie right out of the water.

We could go on and on about this, with myriad examples of this kind of dishonesty. But surely any thinking American can well wonder about an administration which on the one hand is warning against the high prices of unregulated gas, and on the other hand is making rapid-fire deals for foreign gas at prices up to 105 percent above the U.S. ceiling.

It is also a big tax raiser. On Public TV recently. FEA administrator John O'Leary admitted that the total tax bill of the Carter Energy Program is $136 billion between now and 1985—and that only $46 billion of that will actually be rebated. This means about $1,300 more taxes for every American family. (The Wall St. Journal estimates that the total cost of the Carter energy Program to the American consumer will be $500 billion, between now and 1985, or $7,000 per American family.)

The program represents nearly a 10 percent increase in the total taxes paid by the American public, but most of them are being hidden as taxes against industry to be passed along to you later.

In short, the American people are being massively deceived by the Carter Energy Program—and if they do not wake up soon to this deception and tell the Senate to clean the mess up, they will deserve what they get.

THE GENOCIDE CONVENTION AND THE CONSTITUTION

Mr. PROXMIRE. Mr. President, during the 29 years that the Genocide Convention has been before the Senate, the argument has repeatedly been raised that its ratification would limit or undermine the rights and protections guaranteed U.S. citizens by the Constitution. This argument has absolutely no merit.

This treaty is very carefully designed to let each nation govern its own internal affairs, and to come into effect only when there has been a clear attempt to perpetrate an act of genocide without appropriate attention or punishment.

Those who oppose this convention emphasize the inherent good judgment and unsurpassed protections already outlined in our own Constitution and claim that it should remain the single embodiment of supreme law recognized by our Government. This is a good point but our faith in the Constitution is a reason not to oppose, but to support the Genocide Convention. If we firmly believe that it stands for universal justice, we can be assured that America will continue to reach competent settlements of her internal affairs. Seen in this light, the treaty poses no threat to the United States, but does represent a strong threat to those nations whose systems of justice are based on prejudice, hypocrisy, and expediency.

Mr. President, if we believe in our Constitution in theory, we must support it in fact, and trust it to continue to provide a firm foundation for our Nation. As Mr. Herbert J. Hansell, legal adviser to the State Department said in May of this year:

> . . . we are in the process of developing a body of international criminal law that is important to the United States and to a peaceful world order. The Genocide Convention is one of the missing pieces in U.S. adherence to such a pattern of international criminal standards and it is my hope that this situation will be corrected.

Mr. Hansell is absolutely right, and I urge my colleagues to stop using the Constitution as an excuse, and instead understand that it is our absolute safeguard and strong incentive for ratification of the Genocide Convention.

AMERICAN BALTIC RALLY FOR HUMAN RIGHTS

Mr. SCHMITT. Mr. President, it was my privilege to share a speaker's platform Saturday with such distinguished individuals as Pavel Litvinov and Andrei Amalrik who understand and appreciate the meaning of freedom so much better than most of us ever could. To speak out for freedom here is noble; to speak out for freedom while in the Soviet Union, as they have done, is both noble and courageous. I commend both of these men for their actions.

I also want to commend all the people who have worked long and hard to bring the issue of human rights to the forefront of American and world attention. Many of these people left their homeland fleeing oppression and came to the United States because of her greatness—a greatness that is based on freedom and human rights. And when they came, they brought their cause. Today, that cause is our cause.

I congratulate President Carter for his firm stand on human rights, and I urge him to continue to pursue a policy based on human rights balanced only by the long-term perspective of how to best assure such rights. This is especially important with regard to the Soviet Union, one of the greatest violators of human rights in the history of mankind.

Two years ago in Helsinki, the Final Act of the Conference on Security and Cooperation in Europe was signed. The famous "Basket Three" provisions were to guarantee basic human rights: the right of free travel, both internally and externally; freer communication among citizens of various countries; reunification of families; and other basic rights. Now, 2 years later, as we are about to convene the followup meeting in Belgrade, we see that there has been no obvious change in the policies of the Soviet Union. In fact, the situation may have worsened.

Inspired by the Helsinki Accords, committees of citizens were formed throughout the Soviet Union to monitor the Kremlin's compliance with the act. The State Department has confirmed the existence of the committees in the Baltics, in Ukraine, and in Moscow, and we have heard that other committees exist in other areas of the U.S.S.R. These committees have been harassed and many of the members imprisoned. Is this the Kremlin's understanding of human rights?

Recent press reports indicate that the Soviet Union invited American publishers to a book exhibit but with the stipulation that Soviet authorities would have the right to veto, that is censure, any book which they felt was unsuitable. Is this the Soviet Government's understanding of free communication?

The administration has confirmed the reports that the Soviet Union has been monitoring telephone conversations of American citizens in the United States. Is this their understanding of the observation of human rights?

The blatant disrespect and violation of human rights which has characterized the Soviet Government since its beginning even touches American citizens in their homeland.

But I did not have to tell the Baltic Rally about the Soviet Union. Estonians, Latvians, and Lithuanians are well acquainted with the tactics and policies of the Kremlin. It was the Soviet leadership which destroyed Baltic independence in 1939. The democratic republics which existed in Latvia, Lithuania, and Estonia were wiped out by Soviet military aggression. And in the years that followed, thousands of the Baltic people were forcibly deported to other areas of the Soviet Union from where many never returned.

The issues before us are even broader than human rights; they also include national rights—the rights of each nation to exist and to determine its own destiny. For without national rights, there are no human rights. The Soviet Union, the last colonial empire, has destroyed the national rights of the Baltics, Ukrainians, Byelorussians, Armenians, and many, many more. The Kremlin did not even try to set-up puppet governments, claiming them to be independent, as they did in Poland, Hungary, and other East European countries.

I am, however, proud that the United States has refused to withdraw her recognition of the independent, democratic governments of Lithuania, Estonia, and Latvia. Just last year, the U.S. Senate reaffirmed its commitment to the continued recognition of these legitimate governments.

While the Soviets destroyed freedom in the Baltics almost 40 years ago, they have been unable to extinguish the hope and light of freedom that still lives on in the hearts of all Baltics. Today, people like Gunars Rode are still fighting for freedom and human rights. Throughout the Soviet Union there are people like Rode, Sakharov, Moroz, and countless others who are willing to undergo imprisonment and torture for the cause of freedom. They and others have brought world attention and opinion to bear on the Soviet Government.

The Helsinki Accords, with its human rights provisions, have given these people renewed strength in their fight. They believe that we in the United States and the West will support and help them. We cannot afford to betray that trust. It is imperative that at Belgrade the United States take a firm stand on the compliance with the human rights provisions of the Helsinki Act. In dealing with the Soviet Union, we must not tone down or temper our commitment to the observance of basic human rights. I ask my colleagues in the Senate to continue their support for the just aspirations of freedom-loving people in the Soviet Union and throughout the world.

Once again, I command all the participants in Saturday's rally for coming from distant cities to bring the attention of the White House and the Congress to this noble cause of freedom. I know that at times it may seem to them that no one is listening and that their cause is hopeless. Let me reassure them that we all take strength from their brothers and sisters in the Baltics; and let me urge them and us not to ever give up and not to let the United States ever give up on our mutual commitment to freedom. The light of freedom still burns in Lithuania, Estonia, Latvia, and throughout the Soviet Union—it is becoming brighter each day. The question is not whether the Baltic countries will one day be free; the question is when.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. CANNON. Mr. President, the following nomination has been referred to, and is now pending before, the Committee on Rules and Administration.

John Warren McGarry of Massachusetts to be a member of the Federal Election Commission for a term expiring April 30, 1983.

On behalf of the Committee on Rules and Administration, notice is hereby given to all persons interested in this nomination to file with the committee in writing, on or before Friday, October 7, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their desire to appear at any hearing which may be scheduled.

THE NEED TO BALANCE COSTS AND BENEFITS OF REGULATION

Mr. SCHMITT. Mr. President, recently I introduced S. 2011, the Regulatory Reduction and Congressional Control Act of 1977. This bill would provide, among other things, for congressional oversight over major rulemaking activities of the executive branch. At this time I request that Senators GOLDWATER, BARTLETT, and ZORINSKY be added as cosponsors of S. 2011. I welcome their interest in insuring the separation of powers and reducing the regulation of the economy.

One of the unfortunate trends observed in our economy today is the rapidly increasing regulation of individual decisionmaking in the business community. There are many areas in the economy where regulation by Government can be justified; however, it is essential that there be clear gains to the introduction of such regulation.

The Congress recently addressed the question of the need to regulate third party debt collectors at the Federal level. On balance, the legislation which we are sending to President Carter is probably one of the better "consumer" bills to come out of the Banking Committee in recent years. It is directed at the elimination of abusive practices by third party collectors; however, the potential for actually increasing the burden to consumers by overregulating the collection of debts by third parties is considerable. Recent experiences with legislation directed at truth-in-lending have shown that some common sources of credit can be eliminated by the careless design of "consumer" legislation.

It is, therefore, important to note the extent to which abusive practices occur in the collection of debts. Fortunately, some information is available to us from a study conducted of the Puerto Rican economy (Consumer Credit in Puerto Rico, by the Puerto Rico Development Group, January 1975). In fact, this is the only comprehensive study of its type available to date. Interestingly enough, of 600 households sampled, using a statistically scientific sampling method, none of the respondents indicated that abusive threats were employed by banks, loan companies, savings and loans, finance companies, or private debt collectors.

As we pursue legislative initiatives designed to protect the consumer from various forms of abuse, we should always balance our desire to eliminate the undesirable conduct with a recognition of the costs imposed on innocent consumers and business persons by the regulations which we write. This rule should apply not only in the writing of consumer legislation, but also in the consideration of other legislation to come before the Congress.

ART KRAUS, SR., "THE CONSULTANT"

Mr. CRANSTON. Mr. President, the July 1977 edition of Soundings magazine, published by Pacific Mutual, featured an article on a good friend of mine, Art Kraus. Art is an extraordinary individual, Mr. President. He's creative, energetic, and is always looking out for those around him. I am only one of many, many Californians whose lives have been enriched by his work and his kindnesses. Mr. President, in tribute to Art, I ask unanimous consent that the text of the feature article, "Art Kraus, Sr., the Consultant", be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ART KRAUS, SR., THE CONSULTANT

In the office in his Laguna Hills home, Art Kraus, Sr.'s telephone rings constantly. Watching Kraus set up free business counseling appointments, discuss consumer problems, and debate Orange County politics, it's difficult to believe that for 13 years he has been among the ranks of the "retired."

During the 25 years he was General Agent of one of Pacific Mutual's Los Angeles agencies, Kraus lived for his work. When a coronary insufficiency necessitated his retirement in 1964, he found he enjoyed the freedom from his daily business anxieties and the leisure time retirement promises. But after a year or two, Art sat back and began to twiddle his thumbs.

"I was feeling sorry for myself," he says. "I had been very active in the agency and enjoyed the business tremendously. Suddenly I felt that I was no longer needed, that I wasn't contributing to my community.

Just in time, Kraus was approached by the IESC (International Executive Service Corps), an organization which assists businesses in the developing countries of the world. Several months later, Art was in Thailand, teaching managers of the Southeast Asia Insurance Company western methods of recruiting and lecturing on business administration at Bangkok University. "That was the turning point of my retired life," he says. "I was highly respected there—the Orientals have an elevated regard for age. Thus I was able to regain my self-esteem and the feeling I was doing something important."

When he returned to California, Kraus felt revitalized, and it was then that his involvement with SCORE began. Sponsored by the Small Business Administration of the Federal government, the Service Corps of Retired Executives conducts counseling seminars for small businesses in need of sound business advice. Elected to represent the 15 SCORE chapters in the western United States, Kraus often made trips to Washington, D.C., where he established the beginnings of a close relationship with U.S. Senator Alan Cranston. Later he worked as a volunteer on Cranston's Los Angeles staff, providing counseling to people with Medicare, Social Security, and pension problems.

Art's enthusiasm didn't end there. For a short time, he appeared on a Leisure World television program called "The Squawk Box," offering consumer advice, and later wrote a consumer column for the *Laguna Hills News Post*. Presently, Kraus serves on the Emeritus Council at Saddleback Community College. Established by the school's Gerontology Division, the council's function is to assist Saddleback in developing programs specifically geared to older adults. The program's curriculum includes courses on consumerism, health and nutrition, finances, insurance, and the role of aging.

A perpetual student in these classes has been Art's wife, Alice. Says Kraus: "Alice has developed a self-assertiveness she didn't have before—she's a changed woman. Before the classes, she had never balanced her checkbook. Now she's taken over all my bookkeeping and has even joined the Leisure World orchestra, playing the violin she hadn't touched since we were married."

In his involvement in community and educational affairs, Art Kraus always introduces himself as a retired Pacific Mutual executive. "I've been representing the company in the community for 13 years," he says, "and I don't intend to stop. I'm frightened

to death of becoming one of those bench-warmers—people who are half asleep, looking over their shoulders for the undertaker. It's going to be quite some time before that old fella shows up for me."

IMPORT QUOTAS ON SPECIALTY STEEL

Mr. SPARKMAN. Mr. President, I am pleased to join with my colleagues in urging President Carter to retain the quotas on imported specialty steel.

Specialty steel represents a distinct segment of the steel industry. It is significant that, shortly after enactment of the Trade Act of 1974, this industry availed itself of the new provisions of the law in seeking relief from the flood of imports. The International Trade Commission, following extensive hearings and a complete investigation, recommended the strongest possible form of import relief—quotas for 5 years. President Ford agreed with the ITC's findings and implemented import quotas for 3 years.

These quotas have been in effect for less than a year and a half and their beneficial impact is just beginning to be felt. This is not the time to reduce or terminate this relief—particularly when the industry is just beginning to recover its economic health.

Mr. President, the Trade Act should be permitted to work as Congress intended. I have written a letter to President Carter about this matter, and request unanimous consent that it be printed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., August 12, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing concerning your review of the import quotas on specialty steel. I urge you to retain these vitally-needed quotas without change. A lifting of the quotas could adversely affect the jobs of 65,000 American steelworkers, including thousands in Alabama.

Last year, after a comprehensive investigation with the International Trade Commission and a thorough review by the previous Administration, the President granted three years of import relief to the domestic specialty steel industry. This industry had effectively shown that it was suffering serious injury as defined by the Trade Act of 1974. This was a unique case in view of the fact that it marked the first time that any President had granted the relief recommended by the International Trade Commission.

Now, after one short year of relief, the quotas are being reviewed with hearings before the International Trade Commission scheduled for August 23, 1977. The relief is just beginning to become effective. The economic health of the industry is starting to improve—as is supposed to happen under the Trade Act as an injured industry adjusts to foreign competition. But, the recovery has a long way to go.

If the quotas are terminated or modified, the domestic specialty steel industry will be back where it was before relief was granted. Foreign producers, heavily subsidized by their governments, are ready to flood our market again.

I understand that you will reach a decision on this matter in early October.

I am concerned that if these quotas are removed, many members of Congress may support new, more restrictive trade legislation. I respectfully urge you to let the Trade Act of 1974 operate as contemplated by Congress.

In your evaluation, I hope that you will consider the following points, which the specialty steel industries and the United Steelworkers Union feel are of importance.

The domestic industry is essential to the civilian and military economy.

More than 65,000 jobs in the specialty steel industry are at stake.

The industry has suffered serious injury as a result of unrestrained imports and although some beneficial effects are just beginning to be realized full recovery remains uncertain unless import relief is continued.

With the multilateral trade negotiations now in progress, our trading partners must be shown that the United States will not abandon an industry where relief is so clearly justified.

One year of import restraints is inadequate. The three-year period found to be necessary by the President of the United States should be given a chance to work. So must the Trade Act of 1974.

As one who has always been sensitive to the employment needs of our country, I am distressed to note that employment in the specialty steel industry remains at substantially depressed levels. Average total employment in 1976 for these products was 14 percent below 1974 levels and substantially below 1973 levels. For production and related workers, the situation was even worse, with employment 19 percent below 1974 levels. Furthermore, although employment has recovered some since 1975, the number of man-hours worked has not risen proportionately. Accordingly, production workers worked almost 30 percent fewer man-hours in 1976 than in 1974. This means that workers in the industry who have been recalled face shorter work weeks.

As you know, a large segment of our economy is involved in this situation, including 19 specialty steel companies, two of them in Alabama, and the United Steelworkers of America (AFL–CIO).

With kindest regards,
Sincerely,

JOHN SPARKMAN.

IMPORT QUOTAS ON SPECIALTY STEEL IMPORTS

Mr. BAYH. Mr. President, I want to take this opportunity today to express my strong concern about the continuation of temporary quotas on specialty steel imports. The specialty steel industry is an important part of the steel producing community. Specialty steel accounts for 1.5 percent of the industry's tonnage, but represents 9 percent of the dollar value of total domestic shipments. The stainless sheet, strip, bars, rods, plates, and tool steel which are produced by this "industry within an industry" are essential in the manufacture of aircraft, automobiles, consumer durables, and machinery required to make more steel. Specialty steel is utilized in everything from ball point pens to cardiac pacemakers.

Out of a total steelworking force of approximately 71,000 in Indiana, steel companies such as Allegheny-Ludlum, U.S. Steel and Joslyn employ about 1,500 workers in the specialty sector; 65,000 are employed nationwide. Importantly, many of these laborers had been certified for trade readjustment assistance before the quotas which took effect on June 14, 1976, allowed them to return to their jobs.

Mr. President, at the present time there is some question whether the import quotas will be maintained for the full 3 years decided upon by the previous administration. Based on the evidence to date, especially the fact that lost jobs are being reclaimed, and the difficulties facing the steel industry, I think they should. The continuation of these temporary curbs on specialty steel imports would provide evidence that Congress and the administration are responsive to dislocation of domestic industries caused by foreign imports and will act appropriately to help assure recovery.

As my colleagues recall, the remedy duly prescribed by the U.S. International Trade Commission for the specialty steel industry were import quotas for a 5-year period. The decision to limit the restrictions to 3 years could have been blocked by Congress in favor of the 5-year curbs. Nevertheless, this modification of the recommendations by the USITC was accepted.

President Carter has now asked the USITC to undertake a reexamination of the condition of the industry and the present level of imports. Mr. President, I think it is extremely important that we express our strong feelings to the President and his trade advisers to make certain that the specialty steel industry will have a sufficient opportunity to recover with the benefit of this carefully constructed remedy.

The specified quota level of 151,500 tons of specialty steel imports is only about 16,000 tons less than the record import level of calendar year 1976. This figure is reported to make up about 15 percent of the U.S. market. While it is clear that the U.S. market must not be closed to our trading partners, these quotas were carefully tailored so as not to unfairly restrict competition from abroad.

THE DOMESTIC STEEL INDUSTRY: THE LARGER PROBLEM

While the reason for this discussion today concerns a vital part of the U.S. steel industry we must not lose sight of the larger picture. Recent statistics concerning U.S. steel production reveal a basic industry clearly in trouble. Despite the boom of a few years ago, the outlook for the entire industry is now bleak. Profits are down 42 percent for the first half of this year. The Central Intelligence Agency tells us that the worldwide steel market will be listless through 1980. Here at home, capacity utilization was recently reported to be a sluggish 75 percent. These factors and others are of little consolation, however, to the working man or woman whose livelihood has been imperiled because of a company cutback. A "things are tough all over" attitude in this case just would not do if we want to see the recovery of an industry producing vital basic material and directly employing over half a million Americans.

As industry spokesmen have noted, the problems of the domestic steel industry have been "studied to death." The issue of productivity has been prominent in such studies. However, it is clear that the U.S. steelworker can be every bit as productive as his best foreign counterpart. Bethlehem Steel's Burns Harbor Works in northern Indiana is an outstanding example of how capital wisely invested can produce a facility as efficient and modern as any in the world. However, even the Burns Harbor plant which can compete on a cost basis in the U.S. market with any steel producer anywhere in the world is at a decided disadvantage if imported steel is "dumped" on U.S. markets at an increasing rate.

It has been estimated that for every 1 million tons of foreign steel that comes into this country 5,000 steelmaking jobs for American workers are lost. Against this estimate we must not lose sight of the important fact that one out of every six jobs in manufacturing are directly related to international trade. Clearly we cannot allow the psychology of "protectionism" to obscure the importance of maintaining markets for finished and agricultural goods with our best foreign customers. Neither should any vague notions of "free tradism" diminish our aggressive pursuit of a trading policy aimed at preventing unfair pricing practices. Tomorrow, our representatives will be present at a meeting of the Organization for Economic Cooperation and Development to discuss the problems plaguing the world steel market. I have indicated directly to Ambasador Strauss my own interest in his efforts to make sure that our trading partners have a firm understanding of the difficulties faced by our home industries.

Despite a widely shared commitment to "fair trade" policies, this slogan is not substitute for a fair and workable program to help the steel industry compete on an equal footing with its foreign competitors. Nor is it of any tangible assistance to the thousands of men and women whose jobs and livelihoods are threatened or lost by the closing of marginally profitable steel plants throughout the country.

Congress will be taking a hard look at proposals designed to assist in the long term solutions to the ills of the steel industry. One of the paramount objectives of such an effort is to insure job security for the people engaged in this most basic industry. Failure to succeed in developing a comprehensive approach to the problem will only mean recurring short-term difficulties measured in lost jobs and a decline in economic well-being for all Americans.

Mr. President, at this point I ask that my letter to Ambassador Strauss of September 26 be printed in the RECORD. I also ask unanimous consent that a letter I have written to Secretary of the Treasury Blumenthal also appear in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
September 26, 1977.

Ambassador ROBERT STRAUSS,
Special Representative for Trade Negotiations, Washington, D.C.

DEAR MR. AMBASSADOR: It is my understanding that United States representatives will be present in Paris this Thursday, September 29, at a meeting of the Organization for Economic Cooperation and Development. The topic of that meeting will concern problems within the world steel market.

There are indications that a strong inclination exists on the part of the countries of the European Economic Community for some type of agreement on steel import and pricing practices, and I would like to emphasize the importance of any such agreement.

Projections of the shape of the world steel market over the next few years are not encouraging. Plant closings and layoffs in this country are directly linked to international factors. Your testimony on September 20 before the House Ways and Means Trade Subcommittee reflected a sensitivity to the present situation. I am sure that you or your representative will clearly and candidly convey this concern to our OECD trading partners, but I would also encourage you to continue in your efforts to bring the problems associated with the world steel market into context of present multi-lateral trade negotiations.

The problems facing the steel industry are complex. Complexity, however, is of little consolation to the man or woman whose livelihood is lost because of a company cutback. Just as we begin work here in Congress to provide legislative support to this basic but beleaguered industry, I am confident that we can count on your continued efforts to assure that the trade practices of our major trading partners are fair and our own trade policies are sound.

Thank you for taking the time to consider my concerns. I look forward to staying in close touch with you on this important issue in the days ahead.

Best personal regards.

Sincerely,

BIRCH BAYH,
U.S. Senator.

WASHINGTON, D.C.,
September 27, 1977.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Department of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: On September 20, our Special Representative for Trade Negotiations, Ambassador Robert Strauss, urged the makers of steel in this country to seek relief through your Department from what many believe to be unfair and predatory pricing practices by foreign competitors.

It is my understanding that there are three major antidumping complaints now before your Department involving over $2.1 billion in steel trade. A preliminary decision affecting $175 million of this total is due by September 30. There are indications that other petitions will be filed within the coming weeks and dumping duties have already been assessed against several foreign producers. Because I represent a State with the third largest number of steel workers in the entire nation, I am willing to express my strong interest in your expeditious consideration of these petitions.

At a time when we are confronted with the largest trade deficit in our history, I believe we must make every effort to protect our own industries from suffering because of unfair trade advantages exploited by their foreign competitors. While I share with you the desire to maintain an open trading system, I believe the American people will support such a system only so long as we demonstrate the determination to make sure that it is a fair one.

The concern which I feel about this important issue is, as you know, widely shared by other Members of Congress. I recognize that the issues involved extend beyond matters of trade policy in the strict sense. It is, therefore, important that we make a joint and vigorous effort to develop an industrial policy that will provide short-term relief and address the long-term difficulties affecting this most basic industry. I look forward to working closely with you in the days ahead.

Thank you for taking the time to consider my comments.

Sincerely,

BIRCH BAYH,
U.S. Senator.

NATURAL GAS POLICY ACT

Mr. BROOKE. Mr. President, the length and complexity of the Senate's deliberations have no doubt made it clear to the Nation that it is no easy matter to frame a natural gas policy. We are trying to assure ourselves of an adequate gas supply and to pay no more for that assurance than is absolutely necessary. And we are trying to protect our economy from sudden inflationary shocks. We have become involved in a clash of economic theories and principles partly because we lack any sense of certainty about what the impact of any one of these legislative packages will be.

The proponents of deregulation argue that, for some additional cost, the Nation can be assured of significantly more gas supplies than the President's program will produce. The administration and the Congressional Budget Office, on the other hand, have projections showing that in 1985 deregulation would cost consumers over $12 billion and yet produce only 0.9 Tcf more new gas than the President's proposals.

I have reviewed virtually every major study on this subject and I have carefully followed the debate in the Senate over what exactly these studies show. In my view, every one of these has some major flaw that makes the exact figures projected for either the costs or the benefits of deregulation invalid. Each of the congressional and administration studies makes some assumptions which lead to an overestimate of deregulation's cost.

But on the other hand, the industry and MIT studies make the mistake of assuming that there are virtually unlimited supplies of readily identifiable new gas reserves. Our recent dismal experience which accelerated gas exploration efforts is that we find less and less gas per exploratory foot drilled. This should lead us to realize that geology simply may not conform to a pure econometric model in which supply expands with prices. Yet the proponents of deregulation cling to this pure theory to justify permitting unlimited prices in pursuit of new supplies.

The most serious questions concern

what the economic impact of these bills on our already troubled national economy's future will be. And I have not been satisfied by the attempts of the "deregulators" to refute the CBO and administration contention that the shortage prices paid to producers over the next 7 years would cause an extra 0.05 percent of inflation per year without producing new gas. There is every reason to believe this is a reasonable estimate, Mr. President, we cannot afford another one-half of 1 percent inflation.

There is no question in my own mind that we will find additional gas supplies if we increase the price of new gas somewhat. Gas is and has been underpriced, for it is worth at least as much as oil as a fuel and more than oil as a feedstock for major industrial uses, of which the most obvious are the manufacture of plastics and fertilizers. But, the question is what gas "should" cost. Both those who favor deregulation and those who support the President's plan agree that, under either policy, by 1985 gas will cost about $2.50 per Mcf. Everyone thinks producers are going to respond to the long-term returns on their investment and to the new predictability and certainty for energy prices which these investors have so long awaited. This seems to me to be yet another strong argument for continuing regulation. Indeed, it is hard to find a justification for paying producers the $3 to $4 per Mcf that gas is predicted to bring in between now and the time enough new supplies come on line, when there is every indication that the incentive of about $2.50 in the long run will produce virtually the same supplier response.

But the question remains as to exactly how high the cost of new onshore gas should go today. And I have long maintained that the "correct" price is at least the Btu equivalency of oil. It signals gas users both a more accurate impression of the value of the commodity they are using and it is high enough to provide incentives for conversion to coal over the long run. Of course, the $1.75 proposed by the President is not the true Btu equivalent of oil. New gas should be at least as valuable as new domestic oil, not "average" oil costs. It is arguable that it should be priced as high as the imported residual oil that our industries in New England have been forced to rely upon because we have never had the access to industrial gas supplies. In either case, the current price per Mcf would be closer to the $2 proposed in Senator JACKSON'S substitute. Thus, Mr. President, I would argue for a higher price than the FPC's current ceiling of $1.42 in order both to accelerate new production and also to reintroduce a measure of realism into our energy pricing policies. But I remain unconvinced that the new revenues producers would get under deregulated prices can be justified in terms either of their efficiency in generating new supplies or of their impact on the American economy.

There is no question this debate has become a battleground on which some larger ideological issues are being fought. Somehow the proponents of deregulation have tried to make this decision a test of support for the "free enterprise system" and opposition to encroaching Government interference.

Mr. President, Americans must face the fact that there is no "free" market for energy. The leaders of the OPEC nations are setting prices and controlling production in much the same way as would regulatory officials in this country, but with a few important differences. Their deliberations are not open and they are not accountable to their customers. We have a clear choice before us today—either we pay a price for new domestic gas set by American regulators, or we pay the price set by Arab and Latin America regulators. We are certainly being offered the possibility of having an "unregulated" new gas market system. But we should see very clearly that we are not being offered a "free" gas market system. The world's energy economy has become too interrelated and complex for that ever to be possible again.

Mr. President, I will vote for a new set of more realistic regulations for new natural gas because I believe that we have to manage resources in our mixed economy in the best way we know how to maximize the benefits and minimize the costs to consumers. And, I think the proposal before us is a reasonable and long overdue way to get more gas at a fair price.

STATEMENT OF ROBERT CHARLES SMITH, NATIONAL COMMANDER OF THE AMERICAN LEGION

Mr. THURMOND. Mr. President, today the Senate Committee on Veterans' Affairs was presented the priority legislative goals of the American Legion for the 2d session of the 95th Congress by that organization's recently elected national commander, Robert Charles Smith of Louisiana.

Accompanying Commander Smith before the committee were the president of the American Legion Auxiliary, Mrs. Alvin Moltzen of North Dakota; Frank Hamilton, chairman of the National Legislative Commission; Bill Lenker, chairman of the National Veterans Affairs and Rehabilitation Commission; Al Keller, chairman of the National Economic Commission; Miss Pat Higgins, legislative chairman of the auxiliary, and Mrs. Bernard Kennedy, chairman of the veterans affairs and rehabilitation committee of the auxiliary.

In his remarks, Commander Smith expressed the immediate concerns of the Nation's largest veterans organization, including the American Legion's vital interest in maintaining the strength and integrity of the VA health care system. Commander Smith also emphasized the need for immediate reform of the veterans pension program and the importance of adjusting the compensation and readjustment benefits programs to reflect increases in the cost of living. In most emphatic terms Commander Smith expressed the opposition of the American Legion to the recent recommendation of the Chairman of the Civil Service Commission to change the present Veterans Preference Act in title 5, United States Code, by modifying present benefits to veterans under the act.

Finally, Commander Smith made an eloquent plea for the Congress not to turn its back during a time of peace on those to whom our Nation turned in time of war.

Mr. President, in order that my colleagues may have the benefit of the timely and stirring remarks of the commander of this great veterans organization, I ask unanimous consent that Commander Smith's statement be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ROBERT CHARLES SMITH

Mr. Chairman and Members of the Committee: It is a personal honor and privilege to appear before you this morning to discuss the priority legislative goals of The American Legion for the second session of the 95th Congress. Before I address myself to these issues I would like to introduce some of the men and women who have accompanied me today. The President of the American Legion Auxiliary, and my counterpart, Mrs. Alvin Moltzen from the State of North Dakota, Miss Pat Higgins, Legislative Chairman of the Auxiliary and Mrs. Bernard Kennedy, Chairman of the Veterans Affairs and Rehabilitation Committee. Also joining me is Frank Hamilton, Chairman of the National Legislative Commission, Bill Lenker, Chairman of the National Veterans Affairs and Rehabilitation Commission, Al Keller, Chairman of the National Economic Commission, Mylio Kraja, our Legislative Director, Bob Lyngh, our recently-appointed Director of the National Veterans Affairs and Rehabilitation Commission, and Austin Kerby, Director of the Legion's National Economic Commission. Mr. Chairman, I would be remiss if I did not pay a special tribute to the members of the various National Commissions, and members of the Auxiliary and Legion Departments of Maryland and the District of Columbia who are also with me this morning.

VA BUDGET—FISCAL YEAR 1978

The first matter relating to veterans benefits programs which I must address is that of VA appropriations for Fiscal Year 1978. According to the last figures we have, including adjustments recommended by the new Administration, the proposed VA Budget for the new Fiscal Year, stands at 20 billion dollars. This includes cost-of-living increases in the programs of compensation, pension and education and training allowances. We support the proposed budget at these figures.

Of importance to us also, is the fact that the proposed budget and outlays provide funds for construction of two of the proposed eight replacement hospitals that VA has planned. I cannot emphasize too strongly to this Committee, the importance The American Legion attaches to progress toward the completion of these hospitals. Our strong conviction is that the continued success of the VA medical care program depends upon the timely renovation and replacement of medical facilities.

Of additional concern to us are the following programs which we consider to be of overriding importance:

1. The establishment of a physicians' and dentists' pay scale that will enable VA to recruit and retain the services of highly qualified professionals.

2. Expansion of the alcohol treatment units throughout the VA system, where a need for them is apparent. This is a program to which the Administrator has committed himself, and The American Legion associates itself with that commitment.

3. Continued emphasis on the VA's ongoing research programs. The research programs within the VA medical care system

are an essential factor in placing the VA in a preeminent position in the field of health care delivery. Veterans gain a tremendous advantage in the care they receive, and indeed all Americans and the peoples of the world benefit from the research done within the VA system.

I would offer just a word about one negative recommendation in the proposed budget as it was sent to the Congress. I refer to the renewed proposal to eliminate what the Administration chooses to call "duplicate burial benefits." A definition of "duplicate burial benefits" is that the survivors of a veteran are entitled to the death and burial benefits provided under VA programs, and, in many cases, also to the Social Security death benefit. The proposal to deprive veterans' survivors of one or the other of these benefits has been sent to Congress by Administration after Administration. There has been no indication that Congress would entertain the proposal, but The American Legion is unhappy about the proposal being suggested by more than one Administration. We have patiently pointed out, through the years that these are not, in fact, "duplicate benefits." The Social Security death benefit is an earned benefit to which all citizens are entitled who have paid Social Security taxes. The VA death and burial benefits are grants from Congress, made to insure that every veteran who has honorably served this nation in time of war shall not lie in a pauper's grave. It is a simple benefit, and one that is entirely within the context of the concern the American people have always shown to their veterans.

NATIONAL ACADEMY OF SCIENCES' REPORT

In this presentation it is, of course, necessary for me to address myself to the recently released National Academy of Sciences' Report entitled "Study of Health Care For American Veterans."

What I will submit at this time is a current American Legion reaction, as it is expressed in Resolution No. 77 (South Carolina), adopted by The American Legion National Convention in August, in Denver, Colorado. That resolution expresses the opposition of our organization to those recommendations that would destroy the present Veterans Administration hospital system.

The NAS report includes a detailed study of a number of elements of the VA medical care program, leading to a series of recommendations. It is not our intent to quarrel with everything that is in the report. Where an evaluation of factual data leads to recommendations that would in fact improve the operation of the system, and result in improved health care for veterans, we will support recommendations. However, the bottomline question that we of The American Legion have for the esteemed members of the National Academy is how the language of Section 201(c), of Public Law 93–82 leads to the most definitive conclusion that is in the report.

The pertinent language of Section 201(c) says that the Academy "will conduct an extensive review and appraisal of personnel and other resource requirements in Veterans Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to insure the provision to eligible veterans of high quality care in all hospital, medical, domiciliary and nursing home facilities."

It seems to us that the quoted language is quite clear, and we would like to know how such language reconciles with the following recommendation in the report: "VA policies and programs should be designed to permit the VA system ultimately to be phased in to the general delivery of health service in communities across the country." The discussion of this recommendation goes on to suggest, and again I quote, "Ultimately it is expected that these integrated-care programs will become part of the community system of medical care accessible to nonveterans, as well as veterans."

There can be no question that what is recommended here is the phasing of the VA system into a plan for national health care for all Americans—in other words, the inclusion of VA hospitals into National Health Insurance.

A recommendation of that kind is not what Section 201(c) asks of the National Academy.

The VA medical care program has been carefully developed through the years, with the full support of The American Legion, to do what Congress intended it to do—provide high quality medical care to the nation's veterans. This is a basic policy of our government. No authority except Congress can change that policy, and nothing in Public Law 93–82 indicates any intention to make such a change.

When we have had the opportunity to complete our evaluation of the report, within the context of the VA response, we will seek to appear here again, on this most important subject.

The American Legion does not intend to stand idly by while sources, from whatever level of expertise in the field of health care, move toward dismantling the VA medical care program as one to be maintained exclusively for the care of the nation's veterans.

PROPOSED REDUCTION IN NUMBER OF ACUTE CARE BEDS

The next matter I would like to discuss is the announcement, in June, by VA Administrator Max Cleland, that the VA plans to reduce the number of acute care beds in the VA system by 5,000 over the next five years. This announcement was reinforced in a letter written by VA Chief Medical Director, Dr. John D. Chase, to the Washington Post newspaper, later in June. In his letter, Dr. Chase confirmed the Administrator's statement, and indicated the reduction is to be made by reason of new standards for privacy, and fire and safety insurance set by the Joint Commission on Accreditation of Hospitals. Dr. Chase also pointed out what we already know—that the VA system has accomplished a 20,000 bed reduction during the past 10 years.

Other figures show that for Fiscal Year 1978, VA is projecting an increase of 51,602 in total number of inpatients to be treated. So, what VA is saying is that, with improved techniques and procedures, VA will continue to treat more patients in less beds.

There is also available data showing that as of May, 1976, VA was operating 44,879 acute care beds. Diminished by the number of special care type beds throughout the system, there were actually 30,049 acute care beds available in the VA system at that time. And it is from this number the Administrator now plans to take an additional 5,000 beds.

Collateral to these figures I can mention that the National Academy of Sciences' report projects that the VA medical care program is currently serving an active clientele of 3 million veterans. And, of course, we know that the veteran population that may be considered eligible to seek care within the VA system now approximates 30 million from all wars. I am sure it is not necessary for me to elaborate on the fact that the average age of the 13 million surviving World War II veterans has now passed 58, which means that this generation of veterans is beginning to be afflicted with disease and disability at an increasing rate.

Mr. Chairman and Members of the Committee, it is my duty to tell you that in the judgment of The American Legion this proposed reduction in acute care beds is intolerable, if the VA is to continue to fulfill the mission given it in its mandate from the Congress. What will happen if this plan is allowed to proceed is that more and more veterans will be turned back to the private sector. Their needs will reinforce the arguments for national health insurance, and when the goal has been achieved, the need for care outside the system for increasing numbers of the veteran population will be added to the arguments for the phase-in of the VA system into a national health insurance plan. So, the VA system will ultimately lose its identity. And the recommendation included in its report by the National Academy will have been achieved. If that happens, what Congress has mandated, and what The American Legion has worked for during 58 years, will be gone.

We of The American Legion hereby petition the Congress to not let the VA proceed with this planned reduction.

It is possible to meet the standards of the Joint Commission, and to still provide an adequate number of beds to treat veterans—certainly no less a number of beds than there are today. If Congress tells the VA to do that, the VA can and will do it. We ask the Congress to do so.

NATIONAL HEALTH INSURANCE

My presentation to the Committee leads me to comment on the continuing national debate on the subject of National Health Insurance. Since the debate continues, and since a legislative vehicle to establish national health insurance has not yet made its appearance, I will confine my remarks on this subject to a simple reiteration of what The American Legion perceives to be necessary in the event of a national health insurance plan. Our position on this subject is encompassed in Resolution No. 30 (North Dakota), adopted by our National Convention in August. This resolution asks that national health insurance legislation include the following provisions:

1. That the medical care program operated by the VA be recognized in the legislation as one providing health care services exclusively for veterans, and that it shall continue to be so maintained and operated.

2. That a veteran applying for medical care from the VA, to which he is otherwise entitled, and who, in accordance with existing law and regulations, is required to state his inability to pay for his own care, shall not be required to consider, in making such statement, any medical benefits that would accrue to him under the provisions of a Federal Health Care Act.

3. That if the above provisions are included in a Federal Health Care Act, then The American Legion shall make no objection to any section of the Act providing for reimbursement to the VA for cost of treatment rendered the veteran for nonservice-connected disabilities, of benefits to which the veteran may be entitled under a Federal Health Care Act.

We hope we will have the support of the members of this Committee when we submit these proposals to the Congressional Committees that will be considering legislation looking to the establishment of national health insurance.

DEATH AND DISABILITY PENSION PROGRAM

For several years, The American Legion has been petitioning Congress for a restructuring of the death and disability pension program. The present program is manifestly inadequate to the needs of the beneficiaries it is intended to serve. With inflationary pressures, and continued escalation of the cost of living, it is necessary each year for Congress to enact stop-gap legislation, to make the program responsive. There are inevitable lags. The automatic increases in Social Security benefits, which are attached to the cost-of-living index, result in decreases in the amounts of pension payable. In an-

swering the floods of complaint mail from veterans and widows, that we get on this subject, it has been impossible to explain to them, in a satisfactory manner, why their pensions decrease when their Social Security benefits are increased.

To provide a definitive solution to this genuine problem, The American Legion has submitted a restructuring proposal that we have earnestly recommended to the attention of Congress. Our proposal, very simply, would establish an income floor for all eligible beneficiaries of the program. Between their available income from all sources, with certain restricted exclusions, and their pension allowance, it would guarantee them an annual income fixed at a level that is above the officially designated poverty level. The intent is to allow all eligible beneficiaries to live with some degree of comfort and dignity—which is what the pension program was established for in the first place. Our plan would also attach the income floor to the cost-of-living index, to float upward with it. This would assure a complete pass through of all Social Security increases, and would obviate the continuing need for remedial legislation, to make the pension program effective.

We are well aware that this Committee, has introduced specific legislation that has been drawn in such a way, as to accomplish the objectives that I have mentioned. We know too, that similar legislation, emanating from this Committee was enacted by the Senate during the 94th Congress. We are grateful for the action that has been taken, and that recognizes the need to do something substantial to improve the death and disability pension program. It is our sincere hope that the 95th Congress will proceed to consider the legislation that is now before this Committee, and that action will now be taken to solve this serious problem. After all, we are dealing here with the problems of people who are, for the most part, old and unwell. These people need help now—not some time in the future.

We commend the Senate Committee for the action taken thus far, and we will support efforts to achieve early enactment of this much needed legislation. Of the various legislative proposals to which this statement addresses itself, may I say, that, in our judgment, none is of greater urgency in requiring legislative action.

COMPENSATION AND EDUCATION AND TRAINING ALLOWANCES INCREASES

Since the founding of The American Legion, the first priority commanding the attention of this organization has been the needs of the service-disabled. Legislation enacted during the present session will respond to cost of living increases, and for this The American Legion is most appreciative. I can say that, based on past experience, we know Congress will do what is necessary to see that the nation's obligation toward those who have sacrificed life or health will be met.

Similarly, we of the Legion share with Congress a continuing concern to see that the returned veterans of the war in Southeast Asia shall have the opportunity to complete their readjustment, and to achieve those educational and training goals that were lost or delayed by reason of their service during the late war. We know that legislation is in process to provide upward adjustment in the education and training allowances provided for veterans in training. The American Legion supports that legislation.

VETERANS PREFERENCE IN CIVIL SERVICE EMPLOYMENT

I feel that I should here mention a subject that, while it is not the direct responsibility of this Committee, is nevertheless important to all who are interested in veterans affairs. I refer to the matter of Veterans Preference in Civil Service employment.

The recently appointed Chairman of the Civil Service Commission has made clear to The American Legion that it is his intention to submit legislation to change the Veterans Preference Act as it is now set down in title 5 of the United States Code. We understand from the Chairman that the intent will be to modify the present benefits to veterans under the Act, namely, a limited point preference in securing employment, and retention rights in reductions in force. We are told that these changes will be proposed in the name of increased employment rights for minorities and women—a statement that does not seem to recognize that minorities and women have served the nation in war.

The American Legion supported the Veterans Preference Act of 1944. We believe this legislation was well conceived, in that it gave preference in gaining civil service employment to those who had served the nation in World War II. The benefits from the Act as presently administered are limited and modest in scope. And it might be said here that any modification of the current preference will not for the most part adversely affect the veterans of World War II, who, in many instances are approaching retirement age. Those most affected will be the recently returned Vietnam veterans, who are also having the most difficult time finding decent employment.

The American Legion defers to none in its concern for the rights of minorities and women. But, as I said a moment ago, women and members of minorities are veterans, too—and why should their needs and problems be dealt with at the expense of those who have just finished serving during a war that nobody wanted? That is a question the Chairman of the Civil Service Commission has not answered.

When legislation is submitted that will in any way diminish the limited advantages veterans now have in obtaining and keeping jobs in the Civil Service, The American Legion will seek to be heard in opposition to it.

HOME LOAN PROGRAM OF THE VETERANS ADMINISTRATION

We have another problem at this time, relating to the Home Loan Program that has been successfully administered by the Veterans Administration since 1944. In that time almost ten million GI loans have been guaranteed by the VA, totalling $136 billion. And, since the beginning of the direct loan program in 1950, more than 327,000 veterans have received direct loans, amounting to $3.3 billion.

The American Legion is very proud of the part it had in the passage of this landmark legislation and in subsequent amendments, such as those for mobile homes and condominiums, to meet changing conditions, and we are gratified the program has been so successful.

In spite of its excellent record, we understand that a proposal to remove the veterans home loan program from the VA to another agency, possibly Housing and Urban Development (HUD), may be included in the report of the President's Task Force on Reorganization. Our most recent National Convention mandated us to express vigorous opposition to any such proposal, and we shall do so.

SPECIAL DISCHARGE REVIEW PROGRAM

With reference to President Carter's Special Discharge Review Program, my purpose at this time is to express to this Committee, on behalf of The American Legion, our appreciation for the legislative response to that program. I will not discuss it in detail, since that has been done in other presentations. I will take this opportunity to say again that The American Legion believes the Special Discharge Review Program was not well conceived. Its effect on essential military discipline could only be bad. The American Legion for more than thirty years has been in the forefront of those who have provided counsel and assistance, without charge, to all veterans who desired to petition for relief from the effects of a discharge unjustly issued. In that time we have assisted thousands of veterans to have their discharges upgraded or to have their records corrected. Our best judgment is that the current policies of the Boards of Review and Correction are fair and equitable. Any actions to expedite and to enhance the efforts of petitioners to present their cases have been welcomed by the Legion.

Our point is: we wish to see justice done in all instances—and the application of justice should be equally applied to all former members of the Armed Forces.

WELFARE REFORM

Another matter I wish to mention is a recent move, quickly abandoned though it was, to include veterans' compensation and pension programs in studies looking toward welfare reform.

The members of The American Legion, along with all other citizens, applaud any effort to reform the structure of welfare programs. We were shocked and dismayed, however, when those designated to undertake that task indicated an initial intention to include in their studies veterans compensation and pension. The fact that they would do so, indicates a total lack of understanding of the basis for these veterans programs. Compensation and pension are not, and never have been, welfare, and they were never intended by Congress to be considered as such. Including them under the umbrella of welfare programs would, in our judgment, be a breach of faith between veterans and their government. At this point it hasn't happened, and we trust that it will not be allowed to happen.

THE ADMINISTRATION'S VIEW OF VETERANS PROGRAMS

In conclusion, Mr. Chairman and Members of the Committee, I would like to make just two points.

The first is that several developments during 1977 have caused deep concern within the ranks of The American Legion, and we believe, among all veterans. Some of those developments I have addressed in this presentation. It appears to us that it is now going to be necessary for veterans' organizations to move positively to defend the programs of veterans benefits that have been developed through the years, and that we had thought were completely accepted throughout the government. Recent events indicate that our assumption may have been mistaken. It appears possible that there are those in positions of influence and responsibility who believe that veterans' programs should be modified—perhaps diminished.

It is a thought that was not expressed during the ten years of the war in Vietnam, but, of course, that war is now over—and no more war veterans are being created. There is, indeed, strong competition for the Federal dollar, and veterans know that their programs are being evaluated along with all other benefit programs.

Which leads me to my second point—which is that The American Legion has always known that the best repository of concern for the needs and problems of veterans is in the Congress of the United States. In these halls we have always been given opportunity to tell our needs, and our problems have always been considered with the same degree of compassion and concern that was manifested when those who are now veterans, were asked to don the uniform and to defend the national interest.

If a challenge is now to be presented to the continued maintenance of veterans programs as we now have them, then it is to Congress that The American Legion will turn, in the full trust and confidence that

Congress, representing as it does the will of the American people, will not turn its back in peacetime on those to whom the nation turned in time of war.

Thank you, Mr. Chairman.

SENATOR CANNON RECEIVES AIR FORCE ASSOCIATION AWARD

Mr. ROBERT C. BYRD. Mr. President, last week Washington played host to a convention of the Air Force Association, a well known and highly regarded organization dedicated to support of our Nation's air defenses.

Following several days of meetings, displays and briefings, the convention wound up its business by presenting its highest honor—the H. H. Arnold Award. I am sure my colleagues share my pride that this honor went to one of our own, the distinguished senior Senator from Nevada, HOWARD CANNON.

H. H. "Hap" Arnold is an almost legendary figure in military history. A pioneer in the Army Air Corps, he was the man President Roosevelt turned to after the Germans revealed their devastating air power early in World War II. He became commanding general of the Army Air Forces and led that once-struggling branch of the service to a predominant place in our system of defenses.

His dictum, "The difficult we do immediately: the impossible takes a little longer," has become part of our heritage, a symbol of the "can do" attitude that is an enduring source of American pride.

The Air Force Association obviously chooses carefully who will be the recipient of an award in "Hap" Arnold's name. But those of us familiar with HOWARD CANNON's record in the Senate as a forceful and respected voice for air defense know the association chose well. As its president, George M. Douglas, said in announcing the award's recipient:

> Senator Cannon is being honored for his enlightened leadership in Congress on defense issues based on hard-won air combat experience, on his currency in weapon systems technology and on his intimate knowledge, as a pilot, of the most advanced fighters.

Mr. Douglas pointed out that Senator CANNON has chaired the Tactical Air Power Subcommittee of the Armed Services Committee since its inception and added:

> He has played an indispensable role in the modernization of U.S. tactical aircraft and missiles. In so doing he has enhanced national security and that of the entire free world.

Some of you may remember a few years back when the National Aeronautic Association presented the Wright Brothers Memorial Trophy—considered the most prestigious award in civilian aviation—to Senator CANNON. Thus, our colleague has received the highest honors for his leadership and expertise in both civilian and military aviation.

I congratulate Senator CANNON for the awards he has received and know he will continue to bring honor both to himself and the Senate for his work in aviation matters.

S. 143—MEDICAID FRAUD

Mr. HATHAWAY. Mr. President, I am pleased to offer my support for S. 143, a bill to strengthen the capability of the Government to detect, prosecute and punish fraudulent activities under the medicaid and medicare programs. In particular, I would like to draw attention to S. 17 which provides Federal assistance for State medicaid fraud control units. This provision, which I supported in committee, is designed to curb the fraudulent practices in the administration of medicaid by encouraging vigorous investigation and prosecution of alleged offenders.

More and more we hear reports of medicaid fraud, costing us all billions of dollars per year. This illegal behavior can only exacerbate the already severe problem of rising health care costs. It has been shown that the existence of a statewide investigative agency, separate from the medicaid agency, results in a substantial increase in the number of prosecutions and convictions for fraudulent practices. This can mean millions of dollars for the States in criminal restitution. In New York State, for example, a successful fraud control program has more than paid for itself.

S. 143 is intended to encourage States to establish independent units to prosecute medicaid violations other than recipient fraud, which is the responsibility of the State medicaid agency. Consequently, the original bill and the House version required the units to be within the State Attorney General's office or another State department with statewide prosecutorial authority, with the exception of units in States with a constitutional prohibition against prosecution by a statewide authority. Such a requirement, also contained in H.R. 3, the companion House bill, would clearly prevent an agency from investigating itself, surely a desired goal.

However, it could also unduly restrict eligibility. For example, in the State of Maine, the attorneys prosecuting fraud cases are appointed by the attorney general and are directly responsible to him. However, the investigators are housed within the State's Human Services Department, the designated medicaid authority. Though these investigators work directly with the attorneys, this State structure would have been barred by the House language. Therefore, in committee I offered an amendment intended to provide greater flexibility in the eligibility requirements, while insuring the overall independence of the fraud control units. As a result of this amendment and subsequent Finance Committee deliberations, the Senate bill now permits fraud units to be eligible which are not directly a part of the State attorney general's office, provided they are independent of the medicaid agency and have a close working relationship with the attorney general.

While this solution may not guarantee the continued eligibility of each State as presently organized, it provides for the greatest administrative flexibility without sacrificing the intent of the law. With some administrative reorganization within the currently unqualified States, eligibility should be attainable with relative ease. I look forward to working toward retention of the Senate language in conference and toward its enactment into law.

A MIDWESTERN CITY WHERE FINE ARTS FLOURISH

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HUMPHREY, I submit the following statement and ask unanimous consent that it, together with an article, be printed in the RECORD.

There being no objection, the statement and article were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

I have, throughout my life, both public and private, sought to further the spread of culture to all of the American people, not just those living near the traditional centers of culture on the east and west coasts.

It always pleased me to hear of the cultural achievements of cities and towns in the American heartland, expecially when, as in this case, the city is one I know well.

An article by John J. Ryan in the Wall Street Journal of September 15, 1977 gives Minneapolis the credit it is due as a cultural center par excellence in the Midwest.

A MIDWESTERN CITY WHERE FINE ARTS FLOURISH

(By John J. Ryan)

MINNEAPOLIS.—Modern America resembles the old Austrian empire in the cultural vitality of its regional urban centers.

Beyond the major metropolitan axis of New York-Philadelphia-Chicago-Los Angeles lies a generous scattering of Prague-like places where the fine arts flourish. Of such cities Minneapolis is an outstanding example. This capital of the upper Midwest, together with neighboring St. Paul, supports a world-renowned symphony orchestra, a cluster of exciting art museums, an innovative opera company and the best repertory theater in the country.

Several factors fuel the renaissance. The state's major university, for example, is in the heart of the city. The people of the Twin Cities are a fundamentally happy, economically secure, well-balanced, friendly lot who like living where they do. Somewhat less sophisticated than, for example, New Yorkers, they provide an audience that's enthusiastic and open to new ideas. And relative isolation of the area (Chicago is 400 miles away) stimulates home-grown cultural institutions.

In Minneapolis, 33 companies allocate a full 5% of their pretax profits to civic projects, many of them in the arts (150 corporations buy blocks of tickets to the Guthrie Theater). The long tradition of corporate backing of culture here stems from the personal involvement of many of the business community's old families. The Pilsburys built up a famous collection of jade, and the Daytons of Dayton-Hudson Corp. are noted art collectors. General Mills' corporate headquarters still houses the art collection begun by the company's founder, James Ford Bell, and continued by his son Charles.

The visitor, then, is assured a cultural feast. Audiences at the famed Guthrie Theater can often see three plays in two days with opportunities to study the actor's craft in repertory. The theater itself is a gem—none of the 1,437 seats is more than 52 feet

from center stage. During September, Goldsmith's "She Stoops to Conquer" and Hungarian playwright Istvan Orkeny's "Catsplay" alternate with John Webster's "The White Devil" and Eugene O'Neill's "A Moon for the Misbegotten." The coming season also brings Noel Coward's "Design for Living," Dickens' "A Christmas Carol" (a Guthrie tradition) and "Pantagleize," by Belgium's Michel de Ghelderode.

For new plays as well as touring productions try the Cricket Theatre downtown. A season from Oct. 21 through June 10 will include the world premiere of Oliver Hailey's "Red Rover, Red Rover" and William Whitehead's "And If That Mockingbird Don't Sing." The Whitehead work tells the story of a has-been country-western singer reduced to running a diner.

Change is afoot at Minneapolis' new Orchestra Hall. After 17 years in the conductorship, previously filed by Ormandy, Mitropoulos and Dorati, Stanislaw Skrowacewski has given notice that the 1978–79 season will be his last. The new leader will inherit an orchestra generally ranked sixth or seventh nationally and an auditorium with stunning acoustical engineering by Cyril Harris.

The Minnesota orchestra's 75th season opens Sept. 23 with "In Praise of Music," an orchestral work by Minnesota's Pulitzer Prize composer, Dominick Argento. Eugene Ormandy returns in early November for three concerts marking his 78th birthday, and January will bring Isaac Stern and the American premiere of a Krystof Penderecki violin concerto.

The St. Paul Chamber Orchestra is marking its 10th anniversary with a season extending from mid-September into June 1978. The 26-member group is the only full-time chamber orchestra in the United States and ranks among the best in the world.

Consider the new works the Minnesota Opera Company is offering its residents this season: the world premiere of Robert Ward's "Claudia LeGare," a resetting of Ibsen's "Hedda Gabler" in the Reconstruction South; an American premiere of "The Knott Garden," by England's Michael Trippett, and an unusual "new" offering of Jacques Offenbach's "Christopher Columbus." Offenbach's work, commissioned for the U.S. centennial in 1876 but left unfinished, received a new libretto in London last year.

Twin Cities folk dote on the fine arts, too. Playgoers at the Guthrie often double their cultural dose by strolling the galleries of the adjacent, ultramodern Walker Art Center. The Walker's orientation is contemporary and a recent show, Calder's Universe, which New Yorkers will remember from the Whitney last winter, drew record crowds. At the more traditional Minneapolis Institute of Arts the principal treasure is Rembrandt's "Lucretia."

For dining before a show or concert here one can't do better than the elegant Rosewood Room of the Northstar Inn. After the theater, Minneapolitan's, as they have for decades, head for Charlie's Cafe Exceptionale, where the visitor is well advised to sample what surely must be the creamiest potato salad in the world.

Whoever partakes of this city's cultural delights—including, for architecture buffs, a futuristic downtown where many buildings are linked by enclosed high-level passageways—is likely to agree with Charles N. Kimball of the Midwest Research Institute in Kansas City. Minneapolis, he says, is one of a new breed of American cities likely to supersede the "fading dowagers of the Northeast."

THE NATION'S MORAL PRIORITY: A FULL EMPLOYMENT ECONOMY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY) I ask unanimous consent that a statement by him entitled "The Nation's Moral Priority: A Full Employment Economy," be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

THE NATION'S MORAL PRIORITY: A FULL EMPLOYMENT ECONOMY

Millions of American workers are demanding that Congress and the Administration make achievement of a full employment economy the first priority of government.

This is a concerted and determined effort being made by representatives of church, organized labor, civil rights and community action organizations throughout the nation.

The renewed campaign for full employment, aimed squarely at enactment of the Full Employment and Balanced Growth Act of 1977, was launched during Labor Day Week earlier this month.

The message these groups are sending to Congress and the White House says, in effect, that the nation's worst recession since the Depression has not ended for nearly 10 million Americans who are either out of work, forced into part time work, or who are so discouraged that they have dropped out of the labor force altogether.

Ten million Americans, Mr. President. That's nearly 10 percent of the country's entire labor force. Ten million Americans who are victims of the government's failure to establish the procedures and the framework by which we can achieve and sustain a full employment economy.

The right to a decent job opportunity is more than a major economic and political issue. It is a paramount moral issue as well. Recognition of this point is forcefully made by the Catholic Bishops of the United States who have issued a statement to the entire Catholic community of the nation. I ask unanimous consent that the following excerpts from that statement be printed at this point in the RECORD.

UNEMPLOYMENT: THE DATA

The United States is experiencing very high levels of joblessness with enormous economic and human costs. In June, nearly 7 million Americans were out of work, according to official government measures. These official figures do not include the one million persons who have given up looking for work or the approximately 3.3 million who are working part-time although they desire full-time jobs. Unemployment declined slightly in the first part of 1977, but in June it rose again to over 7 percent. Clearly, the United States has a very serious unemployment problem. This problem is intensified by the inequitable distribution of jobs in our society. Joblessness disproportionately affects minorities, youth, women and blue collar workers.

The following table, drawn from Labor Department data, documents the tragic dimensions of our unemployment situation.

UNEMPLOYMENT

	1st quarter 1977	2d quarter 1977	June 1977
Unemployment	7,068,000	6,816,000	6,967,000
Discouraged workers [1]	929,000	1,061,000	NA
Part-time workers for economic reasons [2]	3,345,000	3,277,000	3,368,000
Unemployment rates:			
All workers	7.4	7.0	7.1
Adult men	5.6	5.1	5.0
Adult women	7.1	6.9	7.2
Teenagers	18.6	18.1	18.6
White	17.0	16.0	16.1
Black and other	37.8	38.2	39.4
White	6.7	6.3	6.3
Black	12.8	12.8	13.2
White collar	4.6	4.3	4.2
Blue collar	8.5	7.8	7.7

[1] Dropped out of labor force; have given up looking for work
[2] Desire full-time work, but cannot obtain it.

Source: Bureau of Labor Statistics, U.S. Department of Labor

The Church's involvement in unemployment issues flows from its consistent teaching on economic justice and the human and spiritual suffering resulting from joblessness. Joblessness is not simply an economic condition or political matter; it is a moral issue as well. It has profound human, social and ethical dimensions. It affects not only the individual out of work, but also his or her family, the community and society as a whole. It involves basic issues of human dignity and social justice and, therefore, requires a response from Christians and all people of good will.

Catholic social teaching has consistently maintained that work is more than a way to earn a livelihood. It is an expression of the human person and an exercise of God-given talents. A person's work is a gift to the whole community and a way of participating in God's plan for the world and our own salvation.

Over the last one hundred years, the Church has taught that people have a right and a duty to work and that denial of employment is a form of injustice. The Popes, as well as the Councils and Synods, have pointed out that society and government have a responsibility to find employment for their people and that economic life should serve human needs, respect human rights and reflect the principles of social justice and morality.

Unemployment represents a form of oppression for those who suffer its impact. Beyond its obvious economic consequences, it can harm family and community life and contribute to a loss of confidence and hope as well as increased anxiety, alcoholism and mental illness. Joblessness can threaten basic human dignity and create conditions where a decent quality of life becomes exceedingly difficult, if not impossible. Human life is diminished where people cannot find creative expression for their talents and provide for themselves and their families through work and the income which it provides.

Our response to joblessness cannot be limited to assistance to its individual victim, although such aid is clearly required. Individual help is inadequate when so many families suffer with serious consequences for our community, nation and globe. The unemployed for the most part are not the cause of their problems. Rather, economic forces, attitudes of discrimination and insensitivity, as well as misplaced priorities are the causes of joblessness. Our response must include action to change the policies and structures which permit and even require the idleness of so many persons.

As the Catholic Bishops of the United States said in their 1975 statement on economic justice:

"Our concern is not with technical fiscal matters, particular economic theories or political programs, but rather the moral aspects of economic policy and the impact of these policies on people. Our economic life must reflect broad values of social justice and human rights.

"Our own rich heritage of Catholic teaching offers important direction and insight. Most importantly, we are guided by the concern for the poor and afflicted shown by Jesus, who came to 'bring good news to the poor, to proclaim liberty to captives, new sight to the blind, and to set the downtrodden free'" (Luke 4:18).

The current levels of unemployment are unacceptable and their tremendous human costs are intolerable. Unemployment represents a vast and tragic waste of our human and material resources. We are disturbed not only by the present levels of joblessness, but also by official government projections of massive unemployment for the rest of this decade. We sincerely hope that these figures

do not represent resignation to the human and economic waste implied in these rates of unemployment. As a society, we cannot accept the notion that some will have jobs and income while others will be told to wait a few years and to subsist on welfare in the interim. For work is more than a way to earn a living. It represents a deep human need, desired not only for income, but also for the sense of worth which it provides the individual.

Fundamentally, our nation must provide jobs for those who can and should work and a decent income for those who cannot. An effective national commitment to full employment is needed to protect the basic human right to useful employment for all Americans. It ought to guarantee, through appropriate mechanisms, that no one seeking work would be denied an opportunity to earn a livelihood. Full employment is the foundation of a just economic policy; it should not be sacrificed for other political and economic goals.

We pledge our best efforts in support of these goals. We call on local parishes, dioceses, Catholic institutions and organizations to undertake education and action programs on issues of economic justice. We renew our commitment to assist the needy and victims of economic turmoil through programs of financial assistance and active participation in the dialogue over the formulation and implementation of just economic policies. We call on our people to pray for our country in this time of need and to participate in the difficult decisions which can still fulfill the promise of our land.

OCEAN MANAGEMENT

Mr. ROBERT C. BYRD. Mr. President on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him entitled "Ocean Management" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

OCEAN MANAGEMENT

In January of this year I introduced S. 447, a bill to provide for a comprehensive, long-range and coordinated national program of marine science through creation of a National Council on Marine Science, Engineering and Resources Development, and an advisory panel.

As you know, such a Council was established in 1966 to serve as a focus for national ocean policy. The authorizing legislation for the Marine Science Council, as it was known, was allowed to lapse in 1971, and ocean policy reverted to subcabinet coordinating bodies. These interim bodies have played a useful role in chronicling federal government activities, in promoting program development, and in exchanging information. They were not, and are not, equipped to provide the leadership, direction, coherence and impact of an overall policy and planning agency.

The original Marine Science Council created by Congress reflected its recognition of the need for comprehensive and integrated federal ocean policy. The Stratton Commission, created by the same legislation, issued a report which set forth objectives that have continued to guide Congressional work and progress. But the process has been an uphill struggle, impeded by inadequate executive leadership and support, and persistent fragmentation and even rivalry among executive agencies with respect to the operation of various parts of the ocean program.

Time after time, members of the Senate have made heated and eloquent pleas for the establishment and implementation of a national ocean policy. My purpose in calling attention to the proposal to recreate a Marine Council is to identify and underline important developments that suggest the time is ripe, and that our current administration is receptive to this goal.

Indeed, there has never been a more opportune moment to shape national ocean policy, nor a more imperative necessity to do so. We have delayed too long. Promises not realized, and leadership abdicated, have aggravated problems and permitted some needs to balloon to crisis proportions.

A fragmented, improvisational approach to marine affairs is certainly a factor in the unsatisfactory performance of our fishing industry, which produces a meager four percent of the world catch. Imports totaling 60 percent of fish consumption in the United States impose a tremendous drain on our balance of payments.

The same weaknesses contribute to a merchant fleet that, despite subsidies, carries only five percent of our shipping, and is inadequate to either national security or commercial goals and needs. Moreover, decisions with far-reaching consequences will be made somewhat arbitrarily until we can weigh their political, economic and social costs and benefits based on the role and function of our merchant marine in overall ocean policy.

We require technological and management tools and authority to halt abuse and pollution of our fragile coastal waters, to protect the living resources of the sea and to develop rapidly its energy potential. Complex and crucial international negotiations that will determine our access to vitally necessary oil and mineral resources, and research opportunities, require a firm and unified national policy.

Efforts to develop a rational and effective planning mechanism have advanced sluggishly against a tide of indifference. That we have moved forward at all is due in large measure to the vision and determination of ocean advocates such as Senators Magnuson, Hollings and Pell. But at last our efforts appear capable of achieving the force and momentum required to reorder government structures and priorities. Such reorganization is a vital requisite to meeting the challenge of international and domestic marine management and use.

Let me review briefly some of the developments that signal a turning point for ocean policy.

President Carter has committed his Administration to "comprehensive reorganization of the federal Executive Branch to achieve an efficient, economic, purposeful and manageable government." The recently passed Reorganization Act provides the authority to propose the necessary plans to Congress.

A major initial step has been taken, with the creation of the Department of Energy. This important measure laid the foundation for a national energy policy. By consolidating energy functions and agencies, it will reduce duplication, overlap, fragmentation of responsibilities and conflicting mandates that have restricted this nation's ability to devise, implement and enforce a consistent national energy policy.

Various options have been considered in the past to give ocean policy comparable Cabinet stature, including proposals to combine energy, natural resources and oceans in a single department. The immediate and urgent need for a coherent energy policy momentarily eclipsed, but has not eliminated, the need for an ocean policy. In fact, it has set a valuable precedent. A logical next step in realigning government functions to work better is to apply with foresight similar principles to ocean policy in time to avert a crisis and before our position as a major sea power has been irrevocably compromised.

This does not require lumping all marine operating agencies into a single department. For instance, the Navy and the Department of State can be expected to retain functions that relate directly to the implementation of defense and foreign policies. It is clear that no matter how the Executive Branch is to be reorganized, responsibility for implementing some portions of our national ocean policy must reside in more than one agency. Thus, the need for a Marine Council with interagency coordinating responsibilities and with overall policy making responsibilities or some other mechanism to accomplish these functions will remain a vital objective.

Inevitably reorganization reflects, rather than creates, the importance attached to certain activities. Priorities of the past ten years have not supplied the incentive for a rational ocean organizational structure. What is required is perception of the critical and imminent need to integrate national ocean policy, and the nature and extent of the dependence of the U.S. on the use of ocean resources.

In 1974, the National Advisory Committee on Oceans and Atmosphere (NACOA) recommended a broadly-based ocean agency, possibly an expanded National Oceanic and Atmospheric Administration. Repeated hearings on this subject by Congress have failed to yield legislative action.

Created to centralize responsibility for federal civil marine affairs, NOAA was initially engaged primarily in research and development. While it brought together nine existing programs, it still controls only a fourth of federal ocean program funding. Eleven other departments and agencies continue to exercise major responsibilities.

Partly as a result of the absence of clear authorizing legislation, NOAA has fallen far short of the lead agency mission conceived for it by the Stratton Commission. However, Congress has added significant new regulatory management and developmental responsibilities through the Coastal Zone Management Act, the Deepwater Port Act, the Marine Mammal Protection Act, and the Fisheries Conservation and Management Act.

In an encouraging recent development, Administrator Richard A. Frank has proposed, and Secretary of Commerce Juanita Kreps has approved, a reorganization of NOAA which will strengthen NOAA's capacity to carry out its mission, with the increased emphasis on ocean management and policy development.

Whatever its success in conducting a growing range of individual programs, it cannot provide the comprehensive ocean policy that integrates scientific, social, economic, legal and political priorities in support of operational goals.

These added responsibilities, sometimes shared by several agencies, have highlighted the need for an overall ocean policy to insure that all ocean activities are consistent and compatible with our national objectives.

In its July 1977 report to the President and Congress, NACOA stressed that consolidation of marine programs cannot alone create an oceans policy. It recommends that Congress or the President establish in the White House a Cabinet-level Marine Affairs Council to develop a national marine strategy and to coordinate Federal agency programs for its implementation. In an atmosphere of intense international competition, we can ill afford an ocean policy which is the accidental, incremental result of scattered, narrowly focused programs whose functions overlap, or even conflict, and the jockeying of special interests.

Proposals to strengthen NOAA as the lead agency, to consolidate ocean functions as an element of a separate natural resources department, or to create improved coordinating mechanisms are at best a partial solution, neither essential to, nor incompatible with, the Council I have proposed.

A top echelon coordinating and policymaking body does not require immediate consolidation of all domestic and international marine programs, but would permit an inclusive definition of marine functions, needs, objectives and priorities. The Council would develop, execute and oversee ocean policy without exercising operating responsibilities.

While we may differ on the details of forging an effective ocean policy, Senators Magnuson and Hollings have provided vigorous, enlightened and persistent leadership toward this goal since Congress first became, almost by default, the primary advocate of an adequate marine policy.

I strongly support their request to the President for a new ocean initiative, symbolized and synthesized in an ocean policy message. I urge my colleagues and the President to consider the need for ocean representation, direction and leadership at the highest level.

The President has asked the Secretary of Commerce to undertake a study of current ocean policy and options for reorganization of other federal marine programs. The National Ocean Policy Study in the Senate and the House Ocean Policy Advisory Committee must be major participants in the creation of national policy and strategy. I urge that the council I have proposed be carefully reviewed in this context. I have no doubt that constructive modifications can be suggested with respect to its mission, its composition, and its operation. I welcome the thoughtful suggestions of NACOA to expand and improve this concept.

The basic issue is not whose bill becomes law, but this nation's readiness to respond to the concerns expressed by the original Marine Science Council and Stratton Commission and in every major marine initiative since that time.

These concerns and needs have been accentuated by the passage of time, and domestic and global developments. Three decades have made abundantly clear the nature and elements of the needed solution. What is required is a forthright presidential commitment to a program of sound conservation and management, equitable use, and wise development of this nation's, and the world's, last frontier.

VICTIMS OF CRIME

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him entitled "Victims of Crime" together with an article from the Wall Street Journal, be printed in the RECORD.

There being no objection, the statement and article were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

VICTIMS OF CRIME

Earlier in this session I introduced S. 551, a bill which would go a small way toward compensating victims of crimes.

In the House similar legislation has already been reported out of committee and taken up on the floor.

Of course we cannot undo the harm suffered by the victims, but we should and must ease the financial burden they suffer.

An article by Earl C. Gottschalk, Jr., in the Wall Street Journal of August 22, 1977 describes how much similar programs, funded through LEAA grants, have been able to offer some relief to victims of crime.

Mr. President, I ask that this article be printed in the Record.

[From the Wall Street Journal, Aug. 22, 1977]

VICTIMS OF CRIMES GET COUNSELING, OTHER AID IN MANY AREAS OF UNITED STATES

(By Earl C. Gottschalk Jr.)

TUCSON, Ariz.—Last November, a 34-year-old auto mechanic was working in his service garage here when a mentally disturbed neighbor entered and, for no apparent reason, pumped two bullets into him. The mechanic staggered into an adjoining office and died in his father's arms.

He left a young wife and two children. Ordinarily, they would have been ignored by a criminal-justice system concerned only with the killer. In Tucson, however, the family got special treatment.

Gary M. Downs, a counselor working for the Pima County victim-witness advocate program, was notified. In the following months, he met with the widow often and helped her cope with psychological problems common in such cases, problems she couldn't discuss with her in-laws—rage at being left alone with two children, and guilt that she hadn't, she thought, been a better wife.

Meanwhile, Mr. Downs slashed through governmental red tape and arranged for the woman's parents to immigrate to the U.S. from Canada. Now they live with her and provide financial and emotional support.

MANY SUCH PROGRAMS

After decades of neglect for crime victims and courtroom witnesses (who often also suffer economic and psychological damage at the hands of the law), programs like Tucson's have spread through the U.S. Currently, there are at least 114 of them; 67 are operated from district attorneys' offices. Most have been largely financed by $49.3 million in grants from the Law Enforcement Assistance Administration, which has been supporting these experiments since 1973. In addition, about 20 states (though not Arizona) now offer some cash compensation to victims, and federal legislation to provide states with more such money now stands a fair chance in Congress after three years of rejection.

"The criminal-justice system is on the threshold of a new era," says Richard P. Lynch, head of the National District Attorneys Association's commission on victim-witness assistance. "But we aren't there yet. Victims are still treated in a callous, perfunctory manner, like so many pieces of evidence."

In most jurisdictions, victims and witnesses still must endure a heartless, mechanical process in which police agencies extract information from them without much thought to the shock, sorrow or physical harm that they may have suffered. They spend hours or days waiting for interviews or legal proceedings that are then capriciously postponed. Often they are harassed or insulted by defendants sitting only a few feet away in courthouse corridors. "Victim-witness intimidation is epidemic in the system," one judge says.

WIDE VARIATION

The new programs, dependng on their focus, have been strikingly successful in reducing or eliminating such abuses. However, the programs vary widely in scope. For example, Los Angeles County, the nation's most populous, has a relatively modest program. It provides free parking or transportation for witnesses and victims to court proceedings in downtown Los Angeles, as well as child care and a lounge and service center separate from the defendants' area.

Fort Lauderdale, Fla., goes further. There, two victim-witness advocates, attached to the police department, monitor police radio traffic and drive to the scenes of crimes to aid victims on the spot. Later, advocates may arrange transportation to welfare or doctors' offices, intervene with landlords for delays in rent payments by burglary victims and do other chores. "I even go grocery shopping for elderly victims who are afraid to go out of their apartments anymore," advocate Shelley A. Bauman says.

In New York's borough of Brooklyn, a project operated by the Vera Institute of Justice zeroes in on a major problem: the inconvenience and economic damage often suffered by people called to court appearances and then confronted with one postponement after another.

"We judges cost people their jobs all the time," says Eric E. Younger, chairman of the American Bar Association's Committee on Victims and a municipal court judge in Los Angeles. "Judges are sometimes rigid folk; they close the court at 4:30 and make a witness, ordered to testify by subpoena, come back the next day. Often this guy's not a lawyer, or a newspaper reporter. He washes cars for a living, and if he isn't there two days in a row, the boss will fire him."

COMPUTERIZED SYSTEM

The Brooklyn program mitigates this problem through a computerized notification system that processes 50,000 notices and subpoenas a year for 12 criminal courts there. Witnesses aren't forced to come to court on a given day; instead, they are put on "telephone alert" and are called only when actually needed, with half an hour to get to the courthouse. The system has also helped policemen, who had wasted time sitting around waiting to testify. They, too, are put on alert status and go to court only when called by phone or police radio.

"We've found that a police officer is really needed to testify in only 10% to 15% of the cases," says Mark B. Feinstein, executive director of the victim-witness project. "We're saving the city $3 million a year in police officers' time." Officers also have more time for patrol work because they no longer have to deliver subpoenas, which now are mailed.

Tucson's program, which serves a metropolitan area of 450,000 people, is considered a model one by legal authorities because of its extensive range of services and the manpower available—a paid staff of seven augmented by 40 trained volunteers. The program is tied in with the Tucson police, the Pima County attorney's office and the sheriff's department. Among other things, victim-witness advocates try to keep lawyers, witnesses and police alerted to court-appearance dates, mediate with employers to get time off for witnesses to testify and tell burglary victims where and how to recover stolen property.

The heart of the program, however, is its "crisis counseling" service. Operating telephones around the clock, advocate-counselors respond to an average of 45 calls a month from police and deputies when a victim or witness is in need of help that the officers can't readily provide. As the mechanic's widow discovered, the assistance doesn't stop with an initial visit; counselors make at least two follow-up calls and often refer clients to social-service agencies.

Counselors sometimes devote a great deal of time to clients. "We'll drive a victim to the hospital, stay all night with someone who's afraid because her home has been broken into, or even provide some emergency food and shelter," says David Lowenberg, the 27-year-old director of the project.

Tucson is a major entry point for smuggled Mexican heroin, and advocates often hide narcotics-case witnesses who fear that defendants or their associates will try to kill them. Recently, for example, Gary Downs installed one such witness in a small house in the desert and placed her children temporarily with a social-service agency. Then, he

drove her to and from the courthouse in his own car, with the witness crouched down in the back seat under a blanket. She gave damaging testimony, and the defendant was convicted.

Now and then, advocates have intervened successfully on behalf of victims when offenders are sentenced. In April, for example, two escapees from a juvenile home here stole a 1971 Toyota belonging to Gerald Plunkett, a partially disabled Vietnam veteran whose family was living on welfare. The thieves were apprehended, but only after they had run the car off a cliff and destroyed it.

To Mr. Plunkett, his wife Carmine and their two young children, the loss of the car was a heavy blow. His insurance had expired, and he was broke and jobless; problems with his back had forced him out of construction work. But he had been driving to school to take accounting courses in an attempt to get himself retrained. "Things were just starting to look up a little when they stole the car," he says.

ROLE IN SENTENCING

Now Mr. Plunkett had to hitchhike to school, the doctor's office and the grocery store; public transit is poor in spread-out Tucson. Ordinarily, his loss and the attendant hardships would have little effect on the court. The pleas of victims, if mentioned at all, are usually summarized in a probation officer's report to the judge. Victims generally aren't even told the sentencing date.

In this case, however, Yvonne Tellez, the victim-witness advocate, intervened. She secured permission for Mr. Plunkett to tell his story to the judge sentencing the offenders. The judge then ordered the thieves to repay Mr. Plunkett for the car. He put them in another juvenile home with instructions that they get the chance to earn enough money to pay the debt.

Most of the time, advocates simply try to ease the pain and shock felt by crime victims. The paid professionals handle the most sensitive cases, including rape and child molestation; they also try to dissuade would-be suicides. Volunteers ranging from 19-year-old college students to retired businessmen do the rest.

Most get a deep sense of fulfillment from the work. Volunteer Jean Phillips, a junior at the University of Arizona, recalls a typical job: helping a 63-year-old widow, who lost all her money in a burglary, by convincing her landlord to postpone rent collection, drop plans to evict her, and put new locks on the doors. "I got a lot of satisfaction from that," Miss Phillips says.

PRAISE FROM POLICE

The Tucson police, who contend with one of the highest street-crime rates in the U.S., praise the project. "It's saved us money and saved us hours." Capt. Peter Ronstadt says. "You can't measure the value of getting a patrol officer back in service quickly instead of staying five or six hours with a terrified victim." Counselors now teach police recruits crisis-intervention skills and how to handle victims and witnesses humanely. About 80 veteran officers, too, have completed a similar course.

Pima County prosecutors also praise the counselors. "All our overloaded criminal attorneys can do—with 120 cases each per year—is prosecute," says Stephen P. Neely, county attorney. "Without a special program to aid victims, it's a tremendously insensitive process."

Victim-witness projects across the country generally get similar compliments, but a small number are in danger of being cut back or eliminated by cost-conscious local governments. That's because the Law Enforcement Assistance Administration, the principal funding agency in the experimental phase of these projects, is withdrawing in favor of local funding. But in a few areas, local money isn't materializing.

CUTBACK IN MILWAUKEE

Milwaukee, for example, has declined to pick up the cost burden once carried by LEAA for its Project Turnaround, one of the biggest and most expensive of the victim-witness programs. This refusal has forced a cut of more than two-thirds in the staff and reductions in the program's scope. Says James Schiller, former program administrator who lost his job in the cutback: "Victims and witnesses aren't organized, and the county felt the program wasn't something it just had to fund, like mandatory maintenance of the jail."

The Tucson project's $164,000 annual budget is still financed primarily by the LEAA, but that support is scheduled to stop next year. However, Conrad Joyner, a county supervisor and professor of political science at the University of Arizona, expects the victim-witness project to be continued, with local authorities picking up the bill.

"My only question is this: Why did we wait so long to finally give some help to the victim?" Mr. Joyner asks. "After all, he's the guy who pays the taxes."

COMPREHENSIVE NATURAL GAS POLICY

(The VICE PRESIDENT assumed the chair.)

MOTION TO RECOMMIT

Mr. ROBERT C. BYRD. Mr. President, first let me say I am delighted to see the distinguished Vice President of the United States gracing the Senate Chamber tonight. [Applause.]

Mr. President, we have now debated this bill for 9 days. I have heard that the world was created in 7. [Laughter.]

These 9 days and 1 night have been long, and they have been hard for all of us. Strong convictions have been expressed on all sides of the issue. Sometimes our deepseated differences created tension situations. I feel a little tense right now myself. That is understandable, considering the controversial and emotional nature of the issue.

For my part, I hope my colleagues understand that my actions over the last several days have been governed by a desire to find a way to get this bill to conference, find a way to break the impasse.

The question we now face is whether we are going to obtain a worthwhile compromise, a worthwhile compromise which will fulfill our duty to the public, even though it may not satisfy each of us, or any of us, completely.

I believe that such a proposal may be in the making if we are able to consider it in a cool and dispassionate manner.

I urge each of my colleagues to consider the proposition, and I seek your careful consideration of the motion which I shall make because we need to solve our natural gas problems in a timely manner, not next winter or this winter but now.

I also urge all of us to consider how energy market forces have changed since enactment of the Natural Gas Act in 1938, particularly since October 1973 when OPEC first exercised cartel pricing power. These forces have changed, and no matter how much we would prefer a different energy marketplace, we must adjust to this one in which we find ourselves.

Now, Mr. President, I have sought throughout the day and before today to get people together, to get Senators to reason with one another, to see if we could find some compromise that would appeal to a majority of the Members of this body so that we could reach a final conclusion on the bill that is before us, send it to conference, and get on with other business. That is the purpose of the motion that I am about to make.

Before I make the motion, may I say that it is debatable; it is subject to a tabling motion; and so if Senators wish to debate it for a while tonight that is all right with me. If they want to debate it tomorrow, we will go out soon, come back tomorrow, and debate it then.

After I make the motion, I will be glad to answer any questions, if I have enough time left, concerning the procedural aspects.

Mr. President, I move that the bill be recommitted with instructions, that it be reported back forthwith with an amendment in the nature of a substitute for amendment No. 862 embodying the language of amendment No. 1022 as amended, and including therein the language of amendment No. 1043 as a defnition of new natural gas.

Mr. President, what this means is this: That if the motion is adopted the bill would be recommitted and reported back forthwith, and when it is reported back forthwith, it would embody the language of the Jackson substitute, and the Pearson-Bentsen substitutes No. 1 and No. 2 would be wiped out. The Jackson substitute would remain, and the Jackson substitute would carry with it an amendment which is amendment No. 1043 at the desk which defines new natural gas.

Mr. PEARSON. Mr. President, will the Senator yield so that I might make a parliamentary inquiry?

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I would like to yield, if I may, so that the Senator from Kansas can gain recognition for the purpose of making a parliamentary inquiry.

Mr. PEARSON. Mr. President, I inquire as to what is now the pending business before the Senate.

The VICE PRESIDENT. The pending question, before the Senator made his motion was amendment No. 1039 to amendment No. 1022 to amendment 862 to S. 2104.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PEARSON. I will be pleased to yield to the leader.

Mr. ROBERT C. BYRD. Mr. President, the pending question immediately before the Senate is my motion; am I not correct?

The VICE PRESIDENT. The Senator is correct. The Parliamentarian so advises me.

Mr. PEARSON. The Chair has answered my inquiry.

I understand the motion by the majority leader is the pending question, but prior to that the pending matter before the Senate, as the Chair has stated, was amendment No. 1039, which is popularly known as Pearson-Bentsen No. 2.

Mr. President, I make the following inquiry: Would it not have been possible for any Member, including the Senator from Kansas who drafted amendment 1043, to offer the definition of new gas embodied in 1043 to the Jackson substitute No. 1022 at this present time?

The VICE PRESIDENT. The Senator is correct.

Mr. PEARSON. Mr. President, the following additional parliamentary inquiry: If the Senate agrees to the motion made by the majority leader, and the Jackson amendment embodying the Pearson definition of new gas is returned forthwith to the Senate, is it amendable?

The VICE PRESIDENT. It is amendable in two degrees.

Mr. PEARSON. But the amendment as returned subject to the motion of the majority leader is then amendable by the Senate?

The VICE PRESIDENT. That is correct, in two degrees.

Mr. PEARSON. The following parliamentary inquiry: If the amendment is returned forthwith consistent with the motion of the majority leader, is it then subject to the provisions of the cloture rule?

The VICE PRESIDENT. It is subject to the cloture rule.

Mr. PEARSON. The only amendments thereby which can be offered to the Jackson amendment at that time would be those amendments which have been filed and qualified prior to the cloture vote?

The VICE PRESIDENT. The Senator is correct.

Mr. PEARSON. Mr. President, I want to first compliment the majority leader for his efforts. He is correct. He has tried very hard to have those who have opposing views in a very difficult subject meet and have some accommodation, some compromise. At times not only was the issue difficult, but there were times when minds and wills were frayed and fatigued.

The majority leader approached me today in that manner, and I appreciate his courtesy in that regard.

What this motion does is to remove what was the pending business, the Pearson-Bentsen proposal or amendment, which was subject on last evening to a tabling motion which was defeated at that time.

There is nothing askew, nothing improper by the procedure offered here tonight. As a matter of fact, it might constitute a shortcut to some resolution of this matter.

But I do want to indicate that those of us who still hold to the provisions as to the best possible alternative to a long-range energy program in this country still feel and maintain that the provision we have, and which was the pending business, is the correct approach on which to proceed, and which it was the judgment of the Senate up to this evening to be the proper vehicle to operate on.

It is in that regard, and not without respect for the efforts of the majority leader to seek some compromise, that I indicate I would hope the recommendation and the motion of the majority leader would be defeated.

Mr. BAKER. Mr. President, I join with the distinguished Senator from Kansas in extending my congratulations to the majority leader.

In the course of the last few days we have gone through a torture that the Senate has seldom encountered, including not just an all-night session, but an all-night session that was unique and different from others, as we all painfully know, because the rollcalls and quorum calls came at 15, 30, and 45-minute intervals.

The temptation was great, Mr. President, to torture, to change, to force the rules and precedents of the Senate into a configuration that would yield a quick result and disposition of the issues before this body.

But the proposal made by the majority leader at this time has avoided all of those pitfalls. It is indeed fair, honest, equitable, and straightforward, and I congratulate him for it.

Mr. President, this motion is fully debatable, and I suppose the first issue that addresses all of us here is whether or not, at this hour of 9:15 p.m., we wish to debate the issue now or try to establish an orderly procedure for doing it tomorrow or at some other time.

My own personal preference—and I reiterate this is just a personal preference—my personal preference would be not to try to bring this matter to a conclusion tonight, but to let it sleep—which will be a unique experience for some of us—to let it sleep overnight, and to begin our debate on this motion tomorrow, to come in at a reasonable hour—I would even suggest that we might consider a modification of the unanimous-consent order that is already entered providing for a 9 o'clock convening time tomorrow; we might make it just a little later—that we come in and address ourselves to the intricacies of this matter.

All of us here know this is an accepted precedental technique that will permit us to join issue on the fundamental concern of the Senate; that is, whether we are going to have a form of natural gas deregulation or not. That will be determined as a result of this debate.

Mr. President, before I yield, and before I direct my questions to the majority leader—and by the way, I will be glad to yield on my time for his responses, if he cares to respond—I have one or two parliamentary inquiries to address to the Chair.

The VICE PRESIDENT. The Senator will state his inquiries.

Mr. BAKER. I believe I understood the Chair to say, and I now propound an inquiry to this effect: Would the bill, if reported back under the resolution if adopted, be amendable in two degrees?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. A further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Would the amendment at the desk, or even the amendment now pending, prior to the pendency of the motion by the distinguished majority leader, which is what I refer to as Pearson-Bentsen No. 2—would all of the amendments after this be available as qualified amendments under rule XXII for offering to the measure that would be reported back?

The VICE PRESIDENT. If they were so drafted.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Would the Pearson-Bentsen amendment No. 1 qualify to be offered to this measure if the motion were adopted?

I am sorry; I did not hear the Chair's response.

The VICE PRESIDENT. Nothing was said.

Mr. BAKER. Then that very clearly explains why I did not hear it. I must say to the Chair that after 36 hours on this floor, I find it reassuring that nothing was said.

The VICE PRESIDENT. The answer is no, for the amendment would have to be properly drafted as a substitute to the substitute to be in order.

Mr. BAKER. Mr. President, I call the Chair's attention to a fact that I am sure he is aware of, and that is that cloture was invoked against Pearson-Bentsen No. 1, not against the bill.

The VICE PRESIDENT. Amendment No. 862.

Mr. BAKER. May I propound a further parliamentary inquiry?

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. I ask whether or not, when this measure is reported back, in case this motion is adopted, is it necessary to qualify amendments at the desk in order to offer them to the bill reported back?

The VICE PRESIDENT. Cloture still obtains, and the Parliamentarian advises me the amendment No. 1039, Pearson-Bentsen No. 2, to which the Senator referred would be eligible to be offered.

Mr. BAKER. A further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Is any revision or change of the amendment necessary to qualify it, under the circumstances that would obtain after this measure were reported back, if it were reported back?

The VICE PRESIDENT. It could be offered without being subject to a point of order as presently drafted.

Mr. TOWER. Mr. President, will the Senator from Tennessee yield for a parliamentary inquiry?

Mr. BAKER. I am happy to yield for that purpose.

Mr. TOWER. It is my understanding, then, that cloture would lie, again should the motion of the Senator from West Virginia be adopted and the bill be immediately reported with the Jackson amendment, then cloture would lie only against the Jackson amendment and not against the bill; is that correct?

The VICE PRESIDENT. It would lie against amendment 862, all amendments thereto, and amendments to the bill, but not against the bill.

Mr. TOWER. Therefore, once the amendment in the nature of a substitute is disposed of, there would still be unlimited debate on the bill until such time as cloture might be invoked against the bill?

The VICE PRESIDENT. The Senator is correct, and no further amendments would be in order.

Several Senators addressed the Chair.

Mr. BAKER. I have the floor, Mr. President.

The VICE PRESIDENT. The Senator from Tennessee has the floor.

Mr. JOHNSTON. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. BAKER. Let me put one more; then I will be happy to yield to my friend from Louisiana.

Mr. President, would the bill itself be amendable after the third reading of the measure contemplated by the motion of the distinguished majority leader?

The VICE PRESIDENT. No.

Mr. BAKER. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. JOHNSTON. Is there not a unanimous-consent agreement that involved all energy bills, to the effect that when they reach third reading, they shall proceed immediately to vote, the only debatable motion being the motion to proceed to consider? Is that correct?

The VICE PRESIDENT. There is a unanimous-consent order in place which provides that on all the energy measures, when they have reached third reading, the manager of the bill is authorized to proceed, without debate or intervening motions, to an appropriate vehicle, a House bill, and add the text of the Senate bill and the appropriate parts of the House energy package, H.R. 8444, as amendments thereto.

Mr. JOHNSTON. As I understood the answer of the Chair, the answer to my question was, in effect, yes, that the only thing that can be debated once third reading is had is a motion to proceed to the consideration of that bill, and once we proceed to the consideration of the bill, then the manager of the bill may immediately substitute the text without further debates; is that correct?

The VICE PRESIDENT. There would be no motion to proceed. It would be automatic, at the discretion of the manager.

Mr. JOHNSTON. So it is not debatable, then?

The VICE PRESIDENT. The Senator is correct.

Mr. JOHNSTON. If the Senator will yield for one more parliamentary inquiry, did I correctly understand the answer to be that if an amendment were drafted as a susbtitute for amendment 1039 or a perfecting amendment for 1039, it would not be in order, or if it were drafted as a substitute or perfecting amendment for amendment 1022 it would not be in order, or if it were drafted as a substitute or perfecting amendment to the bill, S. 2104, it would not be in order; the only way an amendment would be in order would be either as a substitute or a perfecting amendment to Pearson-Bentsen amendment No. 862; is that correct?

The VICE PRESIDENT. Amendment 1022 as amended becomes No. 832, Pearson-Bentsen No. 1, and it would have to be drafted as an amendment to that or to the bill.

Mr. JOHNSTON. Or to the bill?

The VICE PRESIDENT. Or to the bill.

Mr. JOHNSTON. In other words, a substitute for the bill would be in order before amendment 1022 is disposed of?

The VICE PRESIDENT. Not a substitute, but a perfecting amendment.

Mr. JOHNSTON. Only a perfecting amendment and not a substitute; so if you have an amendment at the desk which was drafted as a substitute for S. 2104, it would not be in order?

The VICE PRESIDENT. Not at that point, but if Pearson-Bentsen, as changed by amendment No. 1022, were defeated, it would then be in order.

Mr. JOHNSTON. I thank the Chair.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. BAKER. Mr. President, I will not be much longer. I want to reserve my time until a little later so I can have a brief colloquy with the majority leader on housekeeping details, and let other Senators propound whatever parliamentary inquiries they wish.

Mr. President, I want to make sure I understand the situation that will obtain if the motion of the majority leader is adopted, and if the bill is reported back forthwith.

It is my understanding, then, that that bill would be amendable in two degrees. It is my further understanding that that bill would be subject to the provisions of rule XXII as in cloture, meaning, in this case, that the amendments, to qualify for offering to the bill as reported, would have to be at the desk and qualified.

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. But notwithstanding that they could be drafted to the amendment which is pending now before the Senate, which is Pearson-Bentsen, just prior to the making of the motion by the distinguished majority leader, they also would qualify?

The VICE PRESIDENT. That is correct, if properly drafted.

Mr. BAKER. Notwithstanding that it had been called up and reported, it would still qualify under the rule?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. And no further revision or doctoring of the amendments would be necessary in order to comply with the provisions of rule XXII or any other rule, in order to offer them as amendments to this bill?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. And, Mr. President, the bill itself, as amended if amended, would be subject to debate without restriction except as to any restriction that might be implied by subsequent invocation of cloture under rule XXII?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Would a motion to recommit the bill, as amended if amended, be in order at that point?

The VICE PRESIDENT. Will the Senator repeat his question?

Mr. BAKER. Would a motion to recommit the bill with instructions, the bill as amended if amended with instructions to report back forthwith, on whatever basis, be in order at that point?

The VICE PRESIDENT. That would only obtain up to third reading, because of the unanimous-consent order previously entered.

Mr. BAKER. Yes; but any time prior to third reading, would it be in order to make a motion to recommit with further instructions?

The VICE PRESIDENT. The answer is yes, unless it were an attempt to do indirectly what could not be done directly by the instructions.

Mr. BAKER. I thank the Chair. A final question at this point, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. Under the terms of the unanimous-consent order entered previously to permit the Senate to deliberate on these energy measures and to attach them to appropriate House numbers, is it in order to move to proceed to third reading of the bill at the appropriate time?

The VICE PRESIDENT. Is the Senator referring to the appropriate vehicle, or the——

Mr. BAKER. Mr. President, I am referring to that time just prior to our going to third reading under the terms of the unanimous-consent order, or otherwise, is it not in order then to move to third reading of the bill?

The VICE PRESIDENT. The bill being in front of us now, S. 2104?

Mr. BAKER. The bill as reported back with amendments and as subseqeuntly amended, if amended.

The VICE PRESIDENT. A motion at the proper time to go to third reading and engrossment would be in order.

Mr. BAKER. In accordance with the precedent established by this body only a few days ago in respect to another bill?

The VICE PRESIDENT. And the Parliamentarian tells me, and much prior to that.

Mr. BAKER. And is that motion to proceed to third reading debatable?

The VICE PRESIDENT. Yes. It would be debatable because cloture would be off once amendment No. 862 is agreed to.

Mr. BAKER. Mr. President, would a cloture motion lie against such a motion to proceed to third reading and engrossment?

The VICE PRESIDENT. Yes, it would.

Mr. BAKER. Mr. President, I reserve the remainder of my time and I thank the Chair.

Several Senators addressed the Chair.

Mr. JACKSON. Mr. President, I want to commend the majority leader for undertaking to make the motion now pending before the Senate.

I think those of us who have been involved in the negotiations and discussions can fairly say that there has been an ongoing dialog between the majority and the majority, between those who have offered one plan versus another plan. This has been going on now for quite a while.

If I understand the mood, Mr. President, of this body, it is that the Senate would like to have before it a specific motion, a specific course of conduct that we can follow in connection with the pending measures—and they are measures for all practical purposes—before the Senate.

I refer specifically to the original bill, which was the administration bill. I refer further to the first Pearson-Bentsen substitute. Then, my compromise substitute and the second Pearson-Bentsen substitute, Mr. President.

I want to commend the minority leader as well as the majority leader—who have brought us together—Senator PEARSON; Senator BENTSEN; Senator HART, who has his own proposal relating to independent producers; and Senator HANSEN, the ranking minority member on that side, and his colleagues. All of us, Mr. President, have advanced our views. We have made suggestions and recommendations.

Now, what the distinguished majority leader has tried to do is to give us a measure of where we stand at this point. I think the Senate wants to move on because this is only a part of the journey to the conference between the House and Senate.

Mr. President, it will be in that forum where the ultimate differences between the House and Senate can be resolved.

I want to compliment the leadership on both sides who have proceeded to act on this matter without rancor, without any animosity. I think we all are in the mood to vote. Let us define the issues, so that we can get this behind us and get on with the other bills that are pending before this body.

We have, indeed, a lot of legislation in the energy area as well as in the other areas.

Mr. STONE. Will the Senator yield for a question?

Mr. JACKSON. Certainly.

Mr. STONE. Would the Senator from Washington express the understanding that if the majority leader's motion carries and that Jackson substitute is debated and voted on, that if the Jackson substitute is either further amended or not further amended, there will not be dilatory amendments or tactics used, and that if the Jackson substitute does not carry a majority, that those who want to vote on Pearson-Bentsen No. 2 will have an opportunity to do it, assuming that the vehicle that we are talking about now is not satisfactorily amended—it might be—but is that the understanding?

In other words, are we going to get to the vote on the substance and meat of this coconut, or are we going to vote on the Jackson substitute, but that is all?

Mr. JACKSON. Mr. President, I can only answer the question for myself. I know what I am going to do. I am supporting the efforts of the majority leader to act on specific substitutes and amendments.

Mr. STONE. I think——

Mr. JACKSON. May I just finish?

Mr. STONE. Yes.

Mr. JACKSON. Mr. President, I would only observe that we have made some movement here and we can get a better feel as to where the Senate stands vis-a-vis Pearson-Bentsen, vis-a-vis the Jackson compromise, vis-a-vis other important and I think very earnest and sincere amendments. I refer to the Senator from Colorado who has an amendment pending.

As the Senator knows, we were locked in when the Presiding Officer announced the vote on cloture, and only those amendments specifically addressed to the bill or to the amendments can be offered.

But this is an effort to expedite the proceedings of the Senate.

Mr. STONE. Under this compromise, this motion of the majority leader, we get to vote up or down, presumably, on the Senator's substitute proposal, possibly with perfecting amendments.

Mr. JACKSON. And indirectly you are voting, also, may I say——

Mr. STONE. At least on part.

Mr. JACKSON. I mean, you are indirectly voting also on Pearson-Bentsen No. 1, Pearson-Bentsen No. 2

Mr. STONE. At least as to the definition of new gas.

Mr. JACKSON. I am talking about—because that would fall. They would fall in the process of the motion offered by the distinguished majority leader.

I think that is clearly what the Chair has previously indicated in connection with the parliamentary inquiry.

Mr. STONE. If the Senator will yield for one last point, it was not the understanding of the Senator from Florida that Pearson-Bentsen No. 2 would fall automatically, but that, rather, under the cloture rule it still is eligible as a substitute to the Senator's substitute.

Mr. JACKSON. Well, let me be very candid. The motion would not leave Pearson-Bentsen No. 862 in its present form, which is the first Pearson-Bentsen.

Mr. STONE. That is the first.

Mr. JACKSON. No. The number would be there, but substituted in lieu of the language of 862 would be the language of the pending instructions——

Mr. STONE. That is clear. But is it not also clear that 1022——

Mr. JACKSON. Including the additional amendment originally introduced by the distinguished Senator from Kansan (Mr. PEARSON) known as amendment 1043, defining new natural gas.

Mr. STONE. But is it not true, Pearson-Bentsen No. 2, which was all along drafted as a substitute for your substitute, would under the cloture rule still be eligible as a substitute?

Mr. JACKSON. You can offer it.

Mr. STONE. The Senator said it will fall.

Mr. JACKSON. It falls, but the Senator is not prevented from offering it again to the reported substitute when it comes before the Senate.

Mr. STONE. That is what I meant.

Mr. JACKSON. Which will be 862.

Mr. STONE. That is what I meant.

Mr. JACKSON. I want to make it clear, in voting for this motion, that the two Pearson-Bentsen substitutes are involved.

That is just the reality of the thing.

But amendments can be offered, indeed. And the substance of the Pearson-Bentsen No. 2 could be offered.

Mr. STONE. If I may ask one more question, the Senator does not mean it automatically is canceled, made ineligible, the second Pearson-Bentsen?

Mr. JACKSON. I did not say that. I said it would fall. I said it would not prevent it from being reoffered.

Mr. STONE. OK.

Mr. STEVENS. Will the Senator yield to me for one question?

Mr. JACKSON. Yes.

Mr. STEVENS. It is the Senator from Alaska's understanding there are no amendments to the Jackson amendment which could add the concept of deregulation to the Jackson amendment.

Is it the Senator from Washington's understanding that if this motion carries, the bill is recommitted and comes back in the form described by the majority leader's motion, that there is any amendment that qualifies under the cloture motion that is before us now, or the cloture procedure we are under now, that could restore to the Jackson amendment any concept of deregulation?

Mr. ROBERT C. BYRD. Mr. President, could I answer that?

Mr. JACKSON. I yield to the Senator, the distinguished majority leader.

Mr. ROBERT C. BYRD. If the motion carries, the bill would be open, when reported back, to amendment in two degrees and the Jackson amendment would be open to amendments in two degrees, provided those amendments were qualified and were properly drafted and at the desk at the time cloture was invoked.

Mr. STEVENS. Does that include Pearson-Bentsen No. 2 as being an amendment to the Jackson amendment as described by the majority leader's procedure so that deregulation could still be considered by a majority vote as an addition to or a substitute to the Jackson amendment, as amended?

Mr. ROBERT C. BYRD. If that amendment was properly drafted to the Jackson amendment and at the desk at the time cloture was invoked, the answer is yes, and I assumed that was the case because I think the Chair already indicated that and it was already an amendment to the Jackson substitute.

Several Senators addressed the Chair.

Mr. JACKSON. I yield the floor.

Several Senators addressed the Chair.

Mr. BAKER. Was that not included in the parliamentary inquiry I made previously? That is, specifically, would Pearson-Bentsen No. 2, without further modification, be eligible to be offered to the bill as reported back under this motion?

The VICE PRESIDENT. The Senator is correct.

Mr. BAKER. I thank the Chair.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama.

Mr. ALLEN. Mr. President, I commend the distinguished majority leader for his ingenuity and resourcefulness in suggesting this motion to recommit with instructions to report back forthwith.

I hope that the motion will carry because I believe that it does move us on a great distance toward a final resolution of this impasse.

I feel, however, that this motion to recommit with instructions is, in effect, an amendment itself and it seems to me that it does enlarge the scope of rule XXII as to the permissible amendments that may be filed to a bill which has been clotured, without this amendment having been filed at the desk as required by rule XXII.

The motion, as I say, is in effect an amendment not filed at the desk prior to the invoking of cloture, and if this motion is accepted without a point of order being raised, it would not serve as a precedent for future consideration of bills under cloture; whereas, if the Chair does hold that the motion is in order, it will have a profound effect on future consideration of bills under cloture, because it will make this vehicle available for amendment without the amendment having been filed at the desk.

I hope the Chair will rule that the motion is in order. It will set a precedent for the future. Without the point of order being raised, no precedent will have been established.

Therefore, Mr. President, I raise the point of order as to the motion, that the motion is itself, in effect, an amendment, and that it is not in order because it has not been filed at the desk prior to the invocation of cloture. I hope the Chair's ruling will be that the point of order is not well taken. It will establish a good precedent.

[Laughter.]

The PRESIDING OFFICER. The point of order is not well taken, for the following reasons: A motion to recommit is permitted under these terms, under cloture, with instructions, under the precedents and the rules, and the amendment to be reported back under this motion, which includes other amendments, have all been qualified under cloture.

Mr. ALLEN. Did the Chair, then, rule that the motion is in order?

The PRESIDING OFFICER. The Chair so rules.

Mr. ALLEN. I thank the Chair for the ruling. It can be used in the future.

[Laughter.]

Mr. BENTSEN. Mr. President, I think the Senator from Alabama, the Senator from Florida, the Senator from Tennessee, the Senator from Washington, and the others who have made parliamentary inquiries have shown us some of the complexities of this problem and one of the reasons why I think that, whereas we have had this Jackson amendment as the first order of business for a very minimal period of time, we should debate this tomorrow, make our decision tomorrow.

I certainly do not intend to participate in any dilatory actions. That has been evidenced by my demeanor during this entire debate for these several days.

I join in commending the majority leader, because he has tried to bring about a resolution of the differing viewpoints.

I have discussed it with the Senator from Washington, Senator PEARSON has, and many others, but we have one irreconcilable difference, and that is the question of the extension of regulation totally into the free market system in the States where you do not have regulation—the free market system, which has brought on supplies of gas in Texas, for example, and that has given us a surplus.

We have had people tell us that they are concerned about the homeowner. The Senator from Washington has said that he has compromised his plan and moved it some, and I agree with him, but so have we. When you talk about a compromise proposal, the one we introduced is one that had been debated for weeks on end in 1975. The end product, after all the amendments from the many Senators involved, was, in effect, what we introduced this time.

After that, we had people say, "What about the homeowner? Utility rates are too high already." I could not agree more. "The homeowner can't put in a coal chute. Who is going to pay for this price of new gas?"

We changed our amendment. We compromised it. We put in an incremental pricing provision to see that, in the main part, industry picks up the tab. Industry has the ability often to convert to other types of energy, alternative kinds of fuel. It would be an economic decision for them, and the homeowner was protected with the old gas so long as it might last. That was a major move by compromise.

Then it was said that some of these people cheat; some withhold gas. Some cap gas that should be produced. There are times when there are legitimate reasons to cap gas, to hold it for a while. They find a new reserve way out in the boondocks. There is the question of drilling enough wells to be able to build a pipeline to bring it to the markeplace.

So we wrote in a provision to try to get the cheaters, to say that the Energy Commission could decide if it was wrongfully withheld; and if it was wrongfully withheld, they would not get the price for reregulated gas.

The statement was made, "Well, you Texans are going to withhold all that gas. You're going to build a big barrier around your State and we will be able to get it."

We put a provision in the compromise, Pearson-Bentsen, to say that you could come and compete, that you could bid above what you were bidding on your interstate rollover contracts—a major concession.

Those are the things we have been discussing. I think we should address ourselves to the Jackson amendment. It is a major amendment and a major proposal. That should be the focal point of attention. But we should be discussing that one when we have the time to cover the subject. I am not talking about a filibuster, and I am not talking about dilatory tactics. This Senator will not participate in such. I would like to see us have an opportunity to discuss this tomorrow morning.

The Senate has been in session for a long time. I say to my colleagues that with all of the frustrations of last week, with all the possible irritations, with all the delays and the differing opinions and the emotions, I think the Senate and its membership behaved remarkably well. I am very proud to be a Member of this body. They did a great job.

[Applause.]

Mr. HART. Mr. President, a parliamentary inquiry. The Senator from Colorado understands the Chair to have ruled that what the majority leader called the bill itself will be open to amendment. I take that to mean the basic bill reported by the committee, S. 2104.

The question that the Senator from Colorado asks is whether amendments must be at the desk at the present time to qualify as amendments acceptable to the bill itself, S. 2104?

The VICE PRESIDENT. The answer to that is "yes," the amendments must have been at the desk at the time cloture was invoked.

Mr. HART. So only amendments at the desk now will qualify to be added to the Jackson amendment or the bill itself—no other amendments?

The VICE PRESIDENT. The Senator is correct.

Mr. HART. I thank the Chair.

Mr. JOHNSTON. Mr. President, I think we have established a little earlier, by the parliamentary inquiry, that by this device we do not get rid of the filibuster. We do not get rid of the device of bringing up amendments. Indeed, with the new precedent, we can bring up additional amendments by virtue of the new device of referring it back. Once it comes from the committee, it can be referred back by motion apparently directed to bring back a new bill.

We do not get rid of the filibuster. Indeed, we undo cloture, as I understand it, once we get past Pearson-Bentsen No. 1.

My question is this: If we go with this motion, which is sponsored by the leadership do we then get the support of the administration on the package, or do we merely establish the top line, not the bottom line, with which to go to conference?

I wonder whether the distinguished Senator from Washington can answer that question.

Mr. JACKSON. Mr. President, at this point I can only speak for myself.

The so-called compromise substitute was drafted by my staff. We worked quite some time on this. The administration was not involved in the drafting of it. I think we will have a better idea shortly as to the administration's position regarding a compromise amendment.

It is my understanding that they do not oppose it, but I have not had anything in writing saying that they support it.

Mr. JOHNSTON. I appreciate that answer. I asked the question for this reason: Whatever compromise we come up with, if there is any compromise, in my view, to be considered by the Senate, if we are going to get anything from what we already passed in the Pearson-Bentsen amendment, it has to have the backing of the White House all the way through the House and through the conference committee. Otherwise, we are just bargaining with ourselves. I suggest that we would simply be buying a pig in a poke.

Frankly, I do not like this compromise, for reasons which I will state tomorrow. Whatever it is, I think we need the backing of the White House.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. METZENBAUM. I first understood that if the Jackson amendment came out of committee, it would then be subject to amendment by the Pearson-Bentsen amendment, No. 1039. It is my understanding that at that point cloture would not have been invoked. Am I correct about that?

The VICE PRESIDENT. Cloture has been invoked against amendment No. 862 and would stay in force.

Mr. METZENBAUM. Did I correctly understand the Chair to rule that cloture was not invoked with respect to the bill itself?

The VICE PRESIDENT. That is correct.

Mr. METZENBAUM. Therefore, is the Chair saying that if the Jackson amendment comes out of committee as a substitute, no further amendments may be made to the basic bill because there is then a substitute before the Senate?

The VICE PRESIDENT. The basic bill, as the Chair earlier ruled, is amendable in two degrees, and the amendments to the basic bill would take precedence over amendments to the substitute.

Mr. METZENBAUM. I am unclear as to the Chair's ruling that if it is subject to amendment in two degrees, the basis on which it would be necessary to have the amendments at the desk prior to cloture having been invoked.

The VICE PRESIDENT. Cloture having been invoked against the substitute, No. 862, under the precedents, it applies to amendments thereto and to amendments to the original bill. Otherwise, invoking cloture would be meaningless.

Mr. METZENBAUM. And cloture has been invoked with respect to the original bill as well. Is that what the Chair is saying?

The VICE PRESIDENT. It has not been.

Mr. METZENBAUM. If it has not been invoked, then why is it necessary to have amendments at the desk at this point?

The VICE PRESIDENT. Under the precedents, that has been the traditional ruling.

Mr. METZENBAUM. I thank the Chair.

Mr. TOWER addressed the Chair.

The VICE PRESIDENT. The Senator from Texas.

Mr. TOWER. Mr. President, but for the redeeming feature that the bill as reported by instruction can be amended by the address of Bentsen-Pearson to it, then this motion would have proven the efficacy of post-cloture filibuster. This is indeed not a compromise. It is certainly more to the liking of those who have delayed these proceedings for days and days with dilatory amendments. That point should be made clear that the fact that the instruction requires that the committee report the bill with the Jackson amendment is indeed a concession to those who have prolonged these proceedings. If it were not with a redeeming feature of its amendability it would indeed be tantamount to capitulation.

I commend my distinguished colleague from Texas, and I am proud of him for his steadfastness throughout this, for the wise remarks he made here this evening. It is apparent that a majority of the Senate agrees with the position taken by him and with my equally distinguished colleague from Kansas (Mr. PEARSON).

So let us understand what we are about. We are considering now a measure that is a concession to a minority, willful, talented, and dedicated, who have prolonged these proceedings thus far, and I hope that we will have a good and spirited debate on this matter tomorrow.

Mr. ALLEN. Mr. President, in order to further define the parameters of the parliamentary situation, I wish to propound another parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. ALLEN. As the Chair well knows where without cloture a motion is made to recommit a bill with instructions to report forthwith under which the members of the committee do not even touch the bill, do not even leave their seats, and making the motion in effect an amendment, under such conditions the motion itself is amendable. Therefore, I make the parliamentary inquiry, inasmuch as this motion is filed and accepted by a ruling of the Chair as being in order without having been filed at the desk prior to the invoking of cloture, would not it necessarily follow then that amendments could be offered to the very motion itself without having been filed at the desk prior to the invoking of cloture?

The VICE PRESIDENT. In the first place the motion is not amendable. The instructions are, in two degrees.

Mr. ALLEN. Yes.

Very well. Instructions are what I am talking about. The instructions. Instructions to report back certain divisions.

The VICE PRESIDENT. And the instructions in this case contain amendments that were filed and do qualify.

Mr. ALLEN. Then as to amendments that were filed and are filed could they be offered to the instructions prior to a vote on the motion?

The VICE PRESIDENT. As the Chair has earlier stated the instructions are amendable in two degrees as long as they are not attempting to do indirectly that which cannot be done directly.

Mr. ALLEN. The instructions could be amended then prior to the vote on the motion.

The VICE PRESIDENT. That is correct.

Mr. ALLEN. I thank the Senator.

Mr. MELCHER addressed the Chair.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. Mr. President, the motion of the majority leader requires that the language of amendment No. 1043 be attached to amendment No. 1022, as amended.

Parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. MELCHER. Could not that amendment be offered to amendment No. 1022 at any point?

The VICE PRESIDENT. Will the Senator restate his question?

Mr. MELCHER. The majority leader's motion is that amendment No. 1022, as amended, be brought back after recommittal with only one addition and that is amendment No. 1043. My parliamentary inquiry——

The VICE PRESIDENT. But it comes back in the form of amendment No. 862.

Mr. MELCHER. I did not hear that.

The VICE PRESIDENT. However, it is important to note that it would come back in amendment No. 862 carrying that number.

Mr. MELCHER. My question, Mr. President, is cannot amendment No. 1043 be offered at any time to amendment No. 1022 without a recommittal motion or without anything being done, just offer it?

The VICE PRESIDENT. That is correct, unless there were other amendments pending that took precedence to that amendment.

Mr. ALLEN. I ask for the yeas and nays on the motion, Mr. President.

Mr. MELCHER. I had not finished with my parliamentary inquiry.

Mr. ALLEN. I am sorry. I thought the Senator had and the Chair responded.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. Mr. President, then in effect the mere offering of amendment No. 1022 would accomplish everything that the recommittal motion would do except what?

The VICE PRESIDENT. Is the Senator asking what the effect of the recommittal motion is?

Mr. MELCHER. Yes, other than attaching amendment No. 1043 to amendment No. 1022 what is accomplished by the recommittal motion?

The VICE PRESIDENT. For one thing, it puts amendment No. 1043 in place without having to be separately offered.

Mr. MELCHER. Without having to be separately offered.

The VICE PRESIDENT. That is correct.

Mr. ROBERT C. BYRD and Mr. MELCHER addressed the Chair.

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. There is something that has escaped me here. Perhaps I could, while I have the floor, inquire of the majority leader why a simple offering of amendment No. 1043 to amendment No. 1022 would not accomplish what the recommittal motion would accomplish?

Mr. ROBERT C. BYRD. I would hope that would pick up some votes.

Mr. MELCHER. Mr. President, I only want to say that if amendment No. 1022 is more attractive by adding amendment No. 1043 which is the "new gas" definition of Pearson-Bentsen to it, that opportunity is available for anyone who has the floor, and we could find out then how attractive amendment No. 1022 has become at that time without a recommittal motion.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 a.m. under the order that has been previously entered. I ask unanimous consent that that time be changed to 10 a.m.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess under the order——

Mr. STEVENS. Mr. President, will the Senator withhold that?

Mr. ALLEN. Will the Senator yield until I ask for the yeas and nays?

Mr. ROBERT C. BYRD. I will not yield for that purpose.

Mr. STEVENS. Will the Senator hold that for clarification of the previous ruling of the Chair?

Mr. ROBERT C. BYRD. As long as I do not lose my right to the floor and for that purpose only.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, there has been a previous inquiry about the status of the Pearson-Bentsen amendments, and I would like a specific ruling of the Chair as to whether amendment 1039 to amendment 1022, amendment 1041 to amendment 862, and amendment 1042 to the basic bill S. 2104—these are the Pearsen-Bentsen versions that are before the body and were at the desk when cloture was adopted—specifically will be in order as amendments to the bill when it is reported back to the floor if the majority leader's motion is agreed to.

The VICE PRESIDENT. If the motion is agreed to, amendment No. 1042 would be in order at the proper time as a substitute for the bill, and amendments numbered 1039 and 1041 would both be in order as substitutes for the so-called Jackson substitute.

Mr. STEVENS. I wish to make one further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. STEVENS. To clarify for the Chair, when the bill returns from the committee it will have new page and lineage proportions because we will have combined amendment No. 1022 and amendment No. 1043, and by doing so some of the lines in particular and the pages will be changed because there is additional material in amendment No. 1022. What will be the status of amendments that were filed to amendment No. 1022 that would be affected by the adoption of amendment No. 1043 in order to make it a clean bill as it comes back from the committee under this recommittal motion?

The VICE PRESIDENT. They can still be offered to amendment No. 1022, if they fit properly. They cannot be changed, except by unanimous consent.

Mr. STEVENS. Let me clarify that a little further. By having filed at the desk an amendment to amendment No. 1022 with specific pages and lines such as the amendment No. 1059 of the Senator from Alaska, to page 9, line 20, the adoption of amendment No. 1043, which adds four lines to the bill on page 6, will change the lineage of all succeeding pages. Do the amendments that were on the desk to amendment No. 1022 even though they were not affected by amendment No. 1043 automatically become disqualified because they refer to the original page and line number of amendment No. 1022?

The VICE PRESIDENT. It is unlikely that will happen because the bill is not being reprinted, and the same pagination would hold. The prior amendments, however, might rule out an amendment.

Mr. STEVENS. I understand that where it would touch the same.

The VICE PRESIDENT. But that would be the case anyway.

Mr. STEVENS. But the bill as it comes back as the original text subject to two amendments in two degrees and amendments at the desk if they refer to amendment No. 1022 or amendments to amendment No. 1043 will be subject to consideration on the basis of their submission to the original page and lineage of the amendments that they seek to amend.

The VICE PRESIDENT. The Senator is correct.

Mr. STEVENS. I thank the Senate and I thank the Chair.

The VICE PRESIDENT. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, with further reference to Mr. MELCHER's inquiry of me, amendment No. 1043 would significantly expand the definition of "new gas." Gas from newly discovered resources would qualify as new gas.

Gas from extensions of existing reservoirs would qualify as new gas.

It was felt that by including this amendment in the motion to recommit, it would further liberalize the Jackson amendment and, therefore, would be worthy of the support of those Members who believe that there should be an expanded definition of new gas.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I am prepared to move that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 10:16 p.m., the Senate recessed until tomorrow, Thursday, September 29, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 1977:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Barry M. Blechman, of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency, vice Robert M. Behr, resigned.

THE JUDICIARY

Damon J. Keith, of Michigan, to be U.S. circuit judge for the sixth circuit, vice Wade H. McCree, Jr., resigned.

FEDERAL ENERGY REGULATORY COMMISSION

Don Sanders Smith, of Arkansas, to be a member of the Federal Energy Regulatory Commission for a term of 2 years (new position).

PEACE CORPS

Carolyn R. Payton, of the District of Columbia, to be Director of the Peace Corps.

PUBLIC PRINTER

John J. Boyle, of Maryland, to be Public Printer, vice Thomas F. McCormick, resigned.

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Abbott, Wilfred K., [redacted]
Abernathy, John B., [redacted]
Ackerlund, Walter E., [redacted]
Ackermann, Carl A., [redacted]
Ackerson, Robert D., [redacted]
Acree, George W., II, [redacted]
Adam, Wallace B., [redacted]
Adams, Charles G., [redacted]
Adams, James J., [redacted]
Adams, Jimmie V., [redacted]
Adams, Jordan E., III, [redacted]
Adams, Lynn D., [redacted]
Adelsperger, Russell W., [redacted]
Ahearn, Joseph A., [redacted]
Aho, Douglas D., [redacted]
Aiello, Charles F., [redacted]
Akerson, Edward A., Jr., [redacted]
Aldred, William M., Jr., [redacted]
Aldridge, Donald O., [redacted]
Alexander, Jack L., [redacted]
Allee, Richard K., [redacted]
Allen, Gerald L., [redacted]
Allen, Melvin A., [redacted]
Alley, Eugene R., [redacted]
Ambs, Phillip H., [redacted]
Amer, Robert L., [redacted]
Ames, Richard K., [redacted]
Amtmann, Neal H. R., [redacted]
Anderson, George G., [redacted]
Anderson, Joseph C., [redacted]
Anderson, Richard N., [redacted]
Anderson, Wilbur E., [redacted]
Anderson, William H., [redacted]
Angel, Marion M., [redacted]
Angell, David R., [redacted]
Anzalone, Samuel L., [redacted]
Appelle, Walter W., Jr., [redacted]
Arbaugh, Edward D., [redacted]
Argumedo, Bobby J., [redacted]
Armstrong, Henry W., [redacted]
Arner, Harold L., [redacted]
Arneson, David P., [redacted]
Arnett, Ronald E., [redacted]
Arnold, Lawrence D., [redacted]
Atorino, Loring R., [redacted]

Atwell, Glen D., xxx-xx-xxxx.
Aunan, Wallace N., xxx-xx-xxxx.
Avent, Edward W., III., xxx-xx-xxxx.
Babineau, Alphee A, xxx-xx-xxxx.
Baca, Cres C., xxx-xx-xxxx.
Baccus, Euell B., xxx-xx-xxxx.
Bache, Alexander D., xxx-xx-xxxx.
Bachmann, Richard E., xxx-xx-xxxx.
Bailey, William D., Jr., xxx-xx-xxxx.
Baird, Bennett D., xxx-xx-xxxx.
Baker, Cecil R., xxx-xx-xxxx.
Baker, Thomas A., xxx-xx-xxxx.
Baldwin, Virgil L., xxx-xx-xxxx.
Ball, Harold R., Jr., xxx-xx-xxxx.
Ballance, Robert O., Jr., xxx-xx-xxxx.
Ballentine, George D., xxx-xx-xxxx.
Balthazar, Lantz A., xxx-xx-xxxx.
Bannach, Robert J., xxx-xx-xxxx.
Barbero, Albert L., xxx-xx-xxxx.
Barlow, Charles R., Jr., xxx-xx-xxxx.
Barndt, Stephen E., xxx-xx-xxxx.
Barnes, George W., xxx-xx-xxxx.
Barnes, Ronald C., xxx-xx-xxxx.
Barnes, Thomas B., xxx-xx-xxxx.
Barnes, Walter J., xxx-xx-xxxx.
Barnette, Benjamin H., Jr., xxx-xx-xxxx.
Barney, Joseph P., xxx-xx-xxxx.
Barnhart, William C., xxx-xx-xxxx.
Barnheiser, Bruce L., xxx-xx-xxxx.
Barrett, Kenneth L., Jr., xxx-xx-xxxx.
Barrow, Claude N., xxx-xx-xxxx.
Bartlett, Leslie J., xxx-xx-xxxx.
Bartlett, Russell H., xxx-xx-xxxx.
Bartley, Loren E., xxx-xx-xxxx.
Bartos, John E., xxx-xx-xxxx.
Bass, Jesse J., Jr., xxx-xx-xxxx.
Bassett, Wayne R., xxx-xx-xxxx.
Baumgartner, Thomas H., xxx-xx-xxxx.
Becker, Kenneth R., xxx-xx-xxxx.
Beers, Larry D., xxx-xx-xxxx.
Belsom, Cletus A., xxx-xx-xxxx.
Belt, Charles D., xxx-xx-xxxx.
Bennett, Cyril A., xxx-xx-xxxx.
Bennett, Harry E., Jr., xxx-xx-xxxx.
Bennett, Richard O., xxx-xx-xxxx.
Benoit, George L., xxx-xx-xxxx.
Benshoof, William B., xxx-xx-xxxx.
Bentley, David M., xxx-xx-xxxx.
Berg, Johnny L., xxx-xx-xxxx.
Berg, Robert M., xxx-xx-xxxx.
Berkey, John W., xxx-xx-xxxx.
Berry, Alan B., xxx-xx-xxxx.
Berry, John K. D., xxx-xx-xxxx.
Beyea, Richard S., Jr., xxx-xx-xxxx.
Beyer, Douglas A., xxx-xx-xxxx.
Bicher, William N., xxx-xx-xxxx.
Bielinski, Henry E., Jr., xxx-xx-xxxx.
Biggs, James L., xxx-xx-xxxx.
Biggs, Samuel S., xxx-xx-xxxx.
Bigham, Larry J., xxx-xx-xxxx.
Biliunas, Roman, xxx-xx-xxxx.
Binford, Richard L., xxx-xx-xxxx.
Birkelo, Harry G., xxx-xx-xxxx.
Bishop, Henry J., xxx-xx-xxxx.
Bishop, Roger H., xxx-xx-xxxx.
Bissey, Robert O., xxx-xx-xxxx.
Bjornson, Donald P., xxx-xx-xxxx.
Bjornson, Loren F., xxx-xx-xxxx.
Black, Cornelius J., xxx-xx-xxxx.
Black, Harrison E., Jr., xxx-xx-xxxx.
Black, Walter D., III, xxx-xx-xxxx.
Blackwell, Nathan C., xxx-xx-xxxx.
Blagg, Harold D., xxx-xx-xxxx.
Blake, Gary R., xxx-xx-xxxx.
Blake, Gerald A., xxx-xx-xxxx.
Blake, John C., xxx-xx-xxxx.
Blake, Roy G., xxx-xx-xxxx.
Bloom, Gordon E., xxx-xx-xxxx.
Bock, Robert W., xxx-xx-xxxx.
Bohart, Donald O., xxx-xx-xxxx.
Bohinc, Stanley A., xxx-xx-xxxx.
Bohlen, George A., xxx-xx-xxxx.
Bolen, Clyde T., Jr., xxx-xx-xxxx.
Boles, Samuel J., Jr., xxx-xx-xxxx.
Bollenbach, Merle E., xxx-xx-xxxx.
Bollert, Dale W., xxx-xx-xxxx.
Bond, Charles W., xxx-xx-xxxx.
Bond, Robert L., xxx-xx-xxxx.
Bonham, Arthur E., xxx-xx-xxxx.
Bonner, Albert A., III, xxx-xx-xxxx.
Boone, Roy H., xxx-xx-xxxx.
Bopp, Charles E., xxx-xx-xxxx.
Bopp, Delwin K., xxx-xx-xxxx.
Borden, Andrew G., Jr., xxx-xx-xxxx.
Boschian, Remo A., xxx-xx-xxxx.
Bossier, Malcolm O., Jr., xxx-xx-xxxx.
Bowen, Billy M., xxx-xx-xxxx.
Bowen, Royce D., xxx-xx-xxxx.
Bowles, Oscar E., xxx-xx-xxxx.
Bowman, Emerson W., xxx-xx-xxxx.
Bowman, Larry L., xxx-xx-xxxx.
Bowman, Wilfred R., xxx-xx-xxxx.
Boyer, Arlet I., xxx-xx-xxxx.
Boyett, Joseph E., Jr., xxx-xx-xxxx.
Brace, Richard C., xxx-xx-xxxx.
Bracken, William C., xxx-xx-xxxx.
Bradley, Frederic W., Jr., xxx-xx-xxxx.
Bradley, James D., xxx-xx-xxxx.
Bradley, John B., xxx-xx-xxxx.
Bradley, Vaynus D., xxx-xx-xxxx.
Bradshaw, Robert G., Jr., xxx-xx-xxxx.
Braman, Ellis J., xxx-xx-xxxx.
Brandau, Robert E., xxx-xx-xxxx.
Braun, Moodie E., Jr., xxx-xx-xxxx.
Braunschweig, Ernie D., xxx-xx-xxxx.
Brees, Anton D., xxx-xx-xxxx.
Brence, Ronald E., xxx-xx-xxxx.
Brenholdt, James P., xxx-xx-xxxx.
Bretzer, Robert E., xxx-xx-xxxx.
Bridges, Edward S., II, xxx-xx-xxxx.
Bridwell, Rossor E., Jr., xxx-xx-xxxx.
Bright, John E., xxx-xx-xxxx.
Bringhurst, Frederick R., Jr., xxx-xx-xxxx.
Briscoe, Thomas R., xxx-xx-xxxx.
Britt, John R., xxx-xx-xxxx.
Broadway, Joe E., Jr., xxx-xx-xxxx.
Brodeur, Richard H., xxx-xx-xxxx.
Brollier, Grant E., xxx-xx-xxxx.
Brooks, Jack D., xxx-xx-xxxx.
Brooks, Phillip F., xxx-xx-xxxx.
Brotnov, Kenneth W., xxx-xx-xxxx.
Brown, Benjamin C., xxx-xx-xxxx.
Brown, Charles W., xxx-xx-xxxx.
Brown, Eldon P., xxx-xx-xxxx.
Brown, Harry W., III, xxx-xx-xxxx.
Brown, Jack W., xxx-xx-xxxx.
Brown, James H., Jr., xxx-xx-xxxx.
Brown, Lloyd W., Jr., xxx-xx-xxxx.
Brown, Richard S., Jr., xxx-xx-xxxx.
Brown, Wallace E., xxx-xx-xxxx.
Brown, William M., xxx-xx-xxxx.
Broyles, Gene T., xxx-xx-xxxx.
Brubaker, Howard J., xxx-xx-xxxx.
Bruce, John R., xxx-xx-xxxx.
Brumfield, Tom W., Jr., xxx-xx-xxxx.
Bryan, Hayes R., xxx-xx-xxxx.
Bryant, Jackie D., xxx-xx-xxxx.
Brymer, Gordon J., xxx-xx-xxxx.
Buchart, Carlton E., xxx-xx-xxxx.
Bucher, Richard H., xxx-xx-xxxx.
Bucholz, Norman F., xxx-xx-xxxx.
Buckelew, Wilfred F., xxx-xx-xxxx.
Bujalski, Jack P., xxx-xx-xxxx.
Bulin, George V., Jr., xxx-xx-xxxx.
Bullard, Charles A., xxx-xx-xxxx.
Bullock, Thomas L., Jr., xxx-xx-xxxx.
Bullock, Warren P., Jr., xxx-xx-xxxx.
Bunce, Dean R., xxx-xx-xxxx.
Bunce, Joseph R., Jr., xxx-xx-xxxx.
Burchard, Donald C., xxx-xx-xxxx.
Burdulis, Peter C., xxx-xx-xxxx.
Burgess, John C., xxx-xx-xxxx.
Burkett, Theodore J., xxx-xx-xxxx.
Burton, James R., xxx-xx-xxxx.
Burton, Kenneth E., xxx-xx-xxxx.
Bustle, James A., xxx-xx-xxxx.
Butera, James L., xxx-xx-xxxx.
Butler, William C., Jr., xxx-xx-xxxx.
Byrd, Herman L., xxx-xx-xxxx.
Byrne, William B., Jr., xxx-xx-xxxx.
Cabell, Charles P., Jr., xxx-xx-xxxx.
Caddell Harold L., xxx-xx-xxxx.
Caldwell, James M., Jr., xxx-xx-xxxx.
Calkin, Maynard S., Jr., xxx-xx-xxxx.
Callicotte Edward L., xxx-xx-xxxx.
Cameron, Max F., xxx-xx-xxxx.
Campbell, Donald J., xxx-xx-xxxx.
Campbell, Gary L., xxx-xx-xxxx.
Canaday, James J., xxx-xx-xxxx.
Cannaday, John E., Jr., xxx-xx-xxxx.
Cantey, John A. Jr., xxx-xx-xxxx.
Cantwell, Nicholas D., xxx-xx-xxxx.
Capone, Frank, xxx-xx-xxxx.
Card, Bernard R., xxx-xx-xxxx.
Cariveau, Howard T., xxx-xx-xxxx.
Carlson, Dayle W., xxx-xx-xxxx.
Carlson, Michael R., xxx-xx-xxxx.
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CONFIRMATIONS

Executive nominations confirmed by the Senate September 28, 1977:

NATIONAL SCIENCE FOUNDATION

George Claude Pimentel, of California, to be Deputy Director of the National Science Foundation.

Floyd James Rutherford, of New York, to be an Assistant Director of the National Science Foundation.

John B. Slaughter, of Washington, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Robert R. Humphreys, of Virginia, to be Commissioner of the Rehabilitation Services Administration.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

POOR HEALTH FORCES RESIGNATION OF PHILADELPHIA'S DIRECTOR OF FINANCE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. EILBERG. Mr. Speaker, it is with a great deal of personal regret that I announce that Mr. Lennox L. Moak, who has served for 5 years as Philadelphia's director of finance, has been forced to resign for reasons of poor health.

Len Moak, who is recognized as one of the world's leading authorities on local government finance, has been under a physician's care ever since last June, when he suffered a heart attack while attending a meeting of a U.S. Securities and Exchange Commission Board in Portland, Maine.

He has been convalescing at his home, but his health has not returned as any of us would have liked. And it is typical of Len Moak that, rather than leave the city without the services of a full-time director of finance, he has chosen instead to resign.

An administrator, teacher, researcher, and author, Len Moak has been intimately involved in political science and public finance for 37 years, starting with his first assignment as a budget officer in 1940 for the State of Louisiana.

Len Moak came to Philadelphia in 1949 as head of the Bureau of Municipal Research—a private, nonprofit agency for sound governmental practices. He previously served as city director of finance from 1952 to 1954, when he rejoined the Bureau of Municipal Research and became director of the Eastern Division of the Pennsylvania Economy League when it merged with the bureau.

He is the author of numerous books concerning various aspects of municipal financing, including budgeting, taxation, capital, and operating programming, and local government debt administration. He has also contributed to professional journals and participated in over 350 research projects in connection with consulting assignments throughout the United States and Canada.

On special assignments, he has helped guide many U.S. cities in forming new charters, financing local government systems and administering taxation programs.

Len Moak has held several teaching assignments, including senior lecturer at the Fels Institute of State and Local Government at the University of Pennsylvania. He taught political science and public finance courses at Tulane University from 1942 to 1949. He also has taught at the Wharton School of Finance and the School of Fine Arts at the University of Pennsylvania.

He was born in Boque Chitto, Miss., on December 14, 1912, and attended public schools in Lincoln County, Miss., and Port Arthur, Tex. He earned his bachelor degree at Southwest Texas State University in 1932, and his master from Texas University in 1940.

Len Moak was a research assistant in the Citizens Planning Committee for Public Education in New Orleans, La., in 1938. He became executive director of the Bureau of Governmental Research of New Orleans in 1938, and executive director of the bureau in 1942, where he remained until he became director of the Bureau of Municipal Research in Philadelphia in 1949.

The retiring finance director is a member of the American Political Science Association, the American Society for Public Administration, a member and past president of the Municipal Finance Officers' Association of the United States and Canada, and past president of the Governmental Research Association.

His skills will be sorely missed by the city and people of Philadelphia, Mr. Speaker. My wish is for his speedy and full recovery. In this wish, I am certain that all Philadelphians join me wholeheartedly.

ONE ANSWER TO OUR COYOTE PROBLEM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. BROWN of California. Mr. Speaker, since the Federal Insecticide, Fungicide, and Rodenticide Act will soon be up for House consideration, it seems an appropriate time to call your attention to a new type of electric fence that protects sheep against coyotes and at the same time is environmentally safe. It is being tested by the Agricultural Research Service of the U.S. Department of Agriculture. There has been quite a bit of controversy in the past over Federal laws on the use of certain poisons used to kill coyotes due to the environmental and wildlife hazards, and this fence may prove one answer to the problem.

The fence has proven 100 percent effective in all tests so far in keeping coyotes away from sheep. It should be acceptable to the environmental and wildlife interests since it does not kill the coyotes. The fence only repels coyotes and causes no injury. This feature also makes it safe for sheep or dogs that accidentally touch the wires.

The Agricultural Research Service has been seeking a way to protect sheep against coyotes that also would be acceptable to other interests since the ban on the use of poisons on Federal lands several years ago. Previous efforts, including the use of electric and conventional fencing, have provided only limited protection. Failure of standard electric fences to deter coyotes resulted from lack of grounding. The new fence alternates charged and ground wires from top to bottom making it impossible for the coyote to avoid simultaneous contact with a charged and ground wire. An added benefit of the new fence is that it costs considerably less to install than conventional fencing.

Perhaps we are beginning to see the light at the end of the tunnel on this issue which has created much controversy in recent years and has cost sheep producers and consumers millions of dollars a year.

The following press release on this subject by the Department of Agriculture further summarizes this research:

NEW COYOTE-PROOF ELECTRIC FENCE TESTED BY USDA:

WASHINGTON, August 12.—A new type of electric fence has proven 100 percent effective in protecting sheep from coyotes in tests by scientists of the U.S. Department of Agriculture (USDA).

This fence, developed by USDA's Agricultural Research Service (ARS), succeeds where past efforts have failed because the new fence grounds and shocks coyotes no matter where on the fence the animal makes contact.

Coyotes are responsible for 35 percent of all lamb deaths, plus a sizeable percentage of adult sheep deaths, according to estimates by USDA's Economic Research Service.

Previous electric fencing featured all charged wires. The new one alternates electrified and ground wires from top to bottom—making it impossible for the coyote to avoid simultaneous contact with a charged and a ground wire.

The shock from the fence—generated by either a 110 volt or 12 volt battery energizer—repels, but does not injure coyotes. Thus, the fence is safe for dogs or sheep that accidentally touch the wires.

An added benefit of the new experimental fence is that it costs considerably less to install than conventional fencing.

ARS' Sheep Experiment Station, Dubois, Idaho, brought Robert Piesse of Melbourne, Australia, who invented the new fence, to this country to demonstrate his work. ARS scientists have modified and refined Mr. Piesse's invention to repel coyotes.

IMPRESSIVE DEDICATION OF OESCHGER FIELD

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, the city of Ferndale is noted for many things not the least of which is its location as the most westerly city in the Continental United States.

One of its most famous citizens is Joe Oeschger who pitched the longest game in baseball history, 26 innings, for the Boston Braves on May 1, 1920, against the Brooklyn Dodgers. In addition, Joe Oeschger and the Congressman from that area have something in common—we were both born in Ferndale, Calif.

The Ferndale Enterprise has written an interesting article telling how the citizens of Ferndale have demonstrated their

admiration for Joe Oeschger by dedicating the local ballpark as Joseph A. Oeschger Field.

The article follows:

IMPRESSIVE DEDICATION OF OESCHGER FIELD

Sunny skies greeted a large group of Ferndalers and visitors on Sunday for the dedication of Oeschger Field at Firemen's Park in Ferndale. The grand marshal of the "Horse and Buggy" parade arrived in a horse-drawn carriage with Tom Brown as his driver. Waiting and ready to take part in the impressive ceremonies arranged by Ferndale Parlor, Native Sons of the Golden West, were members of the Grand Parlor, Native Sons; City Officials; members of the family of the honored Joseph Oeschger; local Native Sons and Daughters and their families; plus many friends, infants, young people and adults.

The Dedication and Plaque placed in honor of Joseph Oeschger was in commemoration of his remarkable career in baseball, for the "longest game in history" in which he pitched on May 1, 1920, a 26-inning game for the Boston Braves against the Brooklyn Dodgers.

The plaque and flag-pole were projects of Ferndale Parlor, Native Sons of the Golden West.

Mr. Oeschger's fame also reflects from his many years as physical education teacher and as coach in San Francisco High Schools, and his association with so many youthful athletes there and throughout the United States during his long athletic career.

Clem Lautze of Ferndale, a longtime friend of Mr. Oeschger, served as Master of Ceremonies at the Dedication, opening his remarks with a letter written by another long-time friend, George Waldner, who was unable to be present. The letter follows:

"I regret not being present for this great occasion honoring my friend, Joe Oeschger. As a boy in Eureka I knew of the Ferndale kid with the mighty arm and super athletic ability. I admired his career at St. Mary's and on into Big League Baseball. His longest game pitching duel in May 1920 thrilled us and was the talk for days on my own U. campus at Berkeley . . . a master ball player who hit as well as he pitched.

"Yet today he is more pleased with his career as a coach and physical education instructor in San Francisco than with his baseball career. In San Francisco he gave purpose and directions to hundreds of young men who today are guided by the examples he set for them.

"Joe, in my opinion, is the epitome of opportunity in the United States . . . a child of immigrant Swiss parents, he earned his way at home, at school, in adult life. When rewarded by success, he never lost sight of his old friends, his family, or his former home.

"My congratulations to Joe and to the Native Sons of the Golden West for recognizing him in this most appropriate and permanent manner.

"I am deeply gratified in being numbered among Joe's host of friends."

George Waldner

The Invocation was given by the Rev. Father Thomas Devereaux of the Church of the Assumption. A color guard from Naval Facility Centerville Beach led the parade. They included S. A. Vera Miguez, B.U.C.N. Charles Stout, S.N. Lisa Johnston and O.T3 Gary Blanton. Raising the flag of the United States and the Bear Flag of California were S.A. Vera Miguez and OT3 Gary Blanton. The Ferndale Union High School band, directed by Miss Marsha Siipola, played the Star Spangled Banner.

Remarks were given by Richard L. Barnes, Grand President of the Native Sons of the Golden West, and by Charles Lakin, a member of the Ferndale Recreation Commission. Other members of the Native Sons, taking part in the ceremonies were Joseph Geer Oeschger of San Carlos, son of Joseph Oeschger of Ferndale, took the place of second vice president of the Grand Parlor. He is a Past Grand President and a native of Ferndale. Also participating were Robert Jensen of Redwood City Parlor, who took the part of first vice president of the Grand Lodge, Jerry Miller of Ferndale, Junior Past President of Ferndale Parlor, Native Sons of the Golden West, also took part in the rites; and Bernard Katri of Ferndale Parlor, who acted in place of the third vice president of the Grand Lodge.

Stan Dixon, Mayor of the City of Ferndale, spoke in acceptance of the Plaque.

Mr. Oeschger, in his response, credited much of his success through life to his early training and the influence of his pioneer parents, their deeply religious home life and dependence upon God, and Christian training. He expressed appreciation to all his neighbors and friends, to members of his family, to the Native Sons of the Golden West, and to the many organizations and people of the community who helped to make the dedication possible.

At the close, the band played "Take Me Out to the Ball Game". Immediately following was an exhibition baseball game by the Red Sox and the Cardinals, Ferndale Little League teams. The final score was 10–7, in favor of the Red Sox.

Players of the two teams are listed as follows/ for the Red Sox, coached by Bob Martella and Kevin Frey, are Mariette Dwight (only girl on the team); Scott Fournier, Marty Polasek, John Paul Martella, John McManus, Kevin Miceli, Mike Leonardo, Brian Doward, Greg Gomes, Stanley Mansfield, Robert Martella, Grant Pedrotti and Adam Tate.

On the Cardinals team were Kent Lourenzo, Joel Toste, Pat Nunes, Bobby Bertelsen, Chris Wagner, Daniel Millich, Johnny Gomes, Shannon Dixon, John Nichols, Ivan Enos, Tony Lewis, Rogan Davis and Steven Borges. They are coached by Tom Cox and Bill Becker.

Many gathered for a Beef Barbecue provided by members of the Native Sons of Ferndale and visited at the picnic tables in Firemen's Park. Beef, beans, salad, bread and coffee were served with Native Sons doing the serving and providing utensils for the long lines of visitors.

NOAA REEMPHASIS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ANDERSON of California. Mr. Speaker, I would like to take a moment today and commend Secretary of Commerce Juanita M. Kreps on the proposed rorganization of the National Oceanic and Atmospheric Administration (NOAA). This action is likely to produce the most significant improvement in the civilian oceanic field in recent years.

Since its creation in 1970, NOAA has been emphasizing the atmospheric sciences, according to those in the oceanographic field. The new organizational structure does not in any way downgrade the importance of the atmospheric sciences, but in Secretary Kreps' words, "addresses a growing concern for this country to have a national ocean policy which reflects the emerging importance of the oceans."

This philosophy and type of action will greatly help the legislative drive by Chairman MURPHY of the Merchant Marine and Fisheries Committee, and by Chairman BREAUX of the Subcommittee on Oceanography, to form a coherent national ocean policy for today and the years to come.

This reorganization, as outlined by NOAA Administrator Richard A. Frank will:

Create within NOAA an Office of Ocean Management, reporting to the Administrator, "to develop plans for the wise and productive use of ocean areas and to evaluate proposals by others for ocean projects. The office will engage in the marine analogue to land use planning."

Upgrade the Office of Marine Mammals "to report directly to the Assistant Administrator for Fisheries, in light of the increasingly significant impact of marine mammal and endangered species protection regulations."

Establish an Office of Ocean Minerals "to work with Congress, the executive branch, industry, and environmental and other concerned organizations in moving forward with and managing a national program for deep ocean mineral resources development."

This reorganization, which will go into effect on October 1, if approved by the OMB reorganization project, furnishes proof that President Carter, the Commerce Department, and NOAA itself now share the long-held belief on Capital Hill that the solution to many of our country's and the world's most urgent problems can be found on, in, and under the oceans of the Earth.

TWO BOMBERS BEHIND AND TRAILING—POSTSCRIPT TO THE B–1

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. McDONALD. Mr. Speaker, in my view, one of the biggest mistakes that has been made by President Carter was the cancellation of the B–1 bomber. We not only lost a leg of our triad for defense, but we threw away the millions of taxpayer dollars that went into the most tested and researched plane of our time. Now we are in the midst of trying to decide whether to upgrade a bomber of the fifties—the B–52, with Scotch tape and paper clips, or whether to hang a lot of flashing lights and tinsel on the F–111—a plane of the early sixties and call it a strategic bomber.

While this futile debate gots on and we fumble with the cruise missile, the magazine International Defense Review, August 1977, reports that the Soviets are developing a successor to the Backfire, a strategic bomber it already has in squadron strength. This new plane appears to be a supersonic version of the Soviet Tu–144—the "Concordski." Thus, whatever decision we make, our bombers will be two generations behind the Soviets. Perhaps what is needed at this point is for a new "Billy Mitchell" to come forth and expose our glaring weakness in the air. However, given the precedent of the

"Singlaub affair" and the present obsession of most senior officers today with covering their political flanks, no new Billy Mitchell is likely to appear.

QUESTIONNAIRE

HON. RALPH H. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. REGULA. Mr. Speaker, more than 18,000 of my constituents in the 16th District of Ohio responded to my most recent questionnaire.

Their responses, and the comments which accompany them, are always very informative. They provide considerable insight as to the views of the people on the major issues before the Congress. These results always are helpful to me and I would like to share them with my colleagues.

The yes-or-no questions and the responses in percentages follows:

[Percentage of Vote]

1. Do you agree with President Carter that the federal government should achieve a balanced budget by 1981, even if it means not increasing spending for programs you might favor?

Yes---------- 84
No---------- 16

2. Should control of the Postal Service be returned to the Congress?

Yes---------- 57
No---------- 43

3. Are you in favor of using tax dollars to help finance campaigns of candidates for Representative and Senator?

Yes---------- 21
No---------- 79

4. Do you believe environmental controls should be relaxed to ease the energy shortage?

Yes---------- 69
No---------- 31

5. Should wage and price controls be reimposed?

Yes---------- 48
No---------- 52

6. Do you favor permitting the armed services to be unionized?

Yes---------- 4
No---------- 96

7. Should the government spend more tax money to create public service jobs for the unemployed?

Yes---------- 38
No---------- 62

8. Are you in favor of a permanent reduction in income tax rates to stimulate the economy?

Yes---------- 71
No---------- 29

9. Should Congress establish a national health insurance program, federally administered and tax financed?

Yes---------- 30
No---------- 70

10. Do you favor an increase in the minimum wage?

Yes---------- 38
No---------- 62

11. Would you support an amendment to the Constitution that would prohibit abortions except when an abortion is necessary to save the life of the mother?

Yes---------- 50
No---------- 50

13. Do you favor federal legislation to encourage energy conservation by raising fuel prices through taxation?

Yes---------- 13
No---------- 87

13. Do you favor federal legislation which would levy a tax on large, low-gas-mileage cars to encourage conservation?

Yes---------- 44
No---------- 56

14. Should the United States intervene in the internal affairs of other nations to preserve peace?

Yes---------- 21
No---------- 79

15. Do you favor the enactment of federal laws to further restrict the sale or possession of firearms?

Yes---------- 36
No---------- 64

16. Should the federal government require states to allow voters to register and vote at the same time?

Yes---------- 24
No---------- 76

BOYERTOWN BEARS IN AMERICAN LEGION BASEBALL WORLD SERIES

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. YATRON. Mr. Speaker, it is unfortunate that, too often, in our achievement-oriented society, the accomplishments of our young people go unnoticed. I derive a great sense of encouragement and optimism from the many unpublicized examples of youthful industry and spirit.

Such an example is the recent accomplishment of the Boyertown, Pa., American Legion Post 471 baseball team. Earlier this month, the Boyertown Bears advanced to the American Legion Baseball World Series after winning both the 1977 Pennsylvania State Championship—for the second season in a row—and the 1977 Middle Atlantic Regional Championship. The Bears combined an overwhelmingly potent hitting attack with consistently powerful pitching on their way to the World Series in Manchester, N.H. While they ultimately fell victim to teams from South Bend, Ind., and Trumbull, Conn., the Bears put up a spirited fight in representing Pennsylvania and the Middle Atlantic Region.

Throughout the season, the play of the Boyertown Bears was characterized by team effort and an overpowering taste for the competition which is the essence of success in America. At the same time, their sense of sportsmanship brought them still greater credit: in winning, they always have been courteous, and even humble; in losing, they have dedicated themselves to future victory. The members of the team and coaching staff, as well as their sponsors, American Legion Post 471, are deserving of the highest praise and recognition.

The members of the 1977 Boyertown Bears include: Charlie Baer, Jeff Benyo, Ricky Erb, Denny Frain, Kevin Frain, Steve Gehringer, Den Girton, Pete Hiryak, Bob Kish, Mike Kline, Roger Kolarz, Tony Lambert, Mark Lessig, Brian Moatz, Barry Moyer, Mark Nuscher, Rich Rush, Ed Schiavo; head coach Dick Ludy; assistant coaches Ribby Houck, Buck Rhoads and Dave Specht; business manager Pidge Kepner; assistant business manager Don Specht; treasurer Ken Ellis; trainer Reverend Max Nuscher; batboy Allan Gehringer; and batgirl Janel Mest.

NATIONAL BARRIER AWARENESS WEEK

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. RUSSO. Mr. Speaker, I am pleased to add my name to a growing list of cosponsors of the House concurrent resolution to proclaim the third week of July 1978 and 1979 as "National Barrier Awareness Week." The purpose of the resolution is to bring greater public awareness to the day-to-day obstacles handicapped persons face in activities which most all of us take for granted. Another goal is to publicize the tax provision, passed by Congress last year, which encourages private individuals and businesses to make improvements on their property to aid the handicapped. Money spent on such improvements as building ramps into curbs, widening doorways, and installing special restroom facilities would all be tax deductible—$25,000 per year limit.

In recent years our Nation's handicapped citizens have shown exceptional energy and dedication in their efforts to organize and bring about political and environmental changes which improve their status. The National Architectural Barrier Awareness Week would reinforce these pioneering efforts by spreading awareness of handicapped needs and rights among the general population.

The provision of a tax incentive for renovation of old properties is certainly very important, but another goal is to imprint an awareness of barrier free design in the minds of those people and organizations engaged in the design and construction of new buildings and facilities. Simple and inexpensive ideas, such as lowered control panels in automatic elevators and extended handrails to the bottom and top of stairwells for the blind and elderly can be easily implemented. Other original ideas such as the use of nonslip flooring in lobbies and other public access areas, braille on elevator control panels, and strategically placed rest areas for the elderly should be incorporated into building designs as a general rule.

I am sure that the rest of my col-

leagues have noticed the excellent work being done by the Architect of the Capitol in building ramps at all building entrances to the Capitol, lowering curbs at most crosswalks, and converting public restrooms. Passage of this resolution would further encourage all sectors of the public to formulate and execute similar plans.

Passage of the barrier awareness resolution will represent an important expression of support for the needs and rights of the handicapped. We need approximately 100 more cosponsors in order to have the resolution brought before the full House for final action. I urge all of my colleagues, who are not yet cosponsors, to consider lending their support to this worthy resolution.

GLAUCOMA ALERT WEEK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. RODINO. Mr. Speaker, I would like to bring to the attention of my colleagues a very special and important week, Glaucoma Alert Week. The purpose of designating Glaucoma Alert Week in September of each year, is to draw to the attention of the American people this insidious disease that affects those precious organs of sight, the eyes. Unless it is detected and treated, glaucoma can lead to blindness.

Today, in this country alone, there are between 2 and 4 million of our fellow citizens suffering from glaucoma. Half of these people have had their eyes examined by medical specialists and, therefore, have had the disease detected. They are now under treatment and if they continue to follow their physicians' recommendations and their prescribed medication, their eyesight will be saved. I know this from experience. As many of you know, I have had glaucoma for a number of years, but I have brought it under control with medication.

The health problem is the fact that there are at least 1 million people, perhaps another million more, walking around with undetected glaucoma. A visit to an ophthalmologist, a physician specializing in the eye, can check the deterioration of vision. Glaucoma is a condition caused by a buildup of fluid pressure in the eyeball. This pressure affects the optic nerve, which is the main connector between the eye and the brain. That damage is irreversible, but the damage can be stopped by medication, which the ophthalmologist will prescribe.

So I urge my fellow citizens, particularly those over 40 years of age, since glaucoma is primarily a disease of aging, to have their eyes examined regularly; perhaps every year or two at the physicians' recommendations.

I also want to publicly acknowledge those organizations that are making a special effort to communicate to the public the facts about glaucoma and the need for regular eye examinations. They are the National Committee of Glaucoma Education, which was sponsored by the National Society for Prevention of Blindness and by Lederle Laboratories, and the American Society of Contemporary Ophthalmology.

TEEN CHALLENGE

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. GOLDWATER. Mr. Speaker, an organization known as the Southern California Teen Challenge is the largest private sector drug rehabilitation and drug education prevention program in southern California. It is designed to help the drug user, delinquent and troubled youth, while communicating in a total program physically, mentally, socially, and spiritually to both youth and adults.

Southern California Teen Challenge has been very successful in its rehabilitation efforts at the Teen Challenge Christian Life School in Riverside, Calif., as well as at the Los Angeles Teen Challenge Center for males and the Ventura and San Diego Centers for females. Recently, in a national evaluation and research project sponsored by the National Institute of Drug Abuse, Southern California Teen Challenge was found to have a 70 percent cure rate on a national level.

A drug addict may visit a Teen Challenge Center, at no cost, and voluntarily participate in a total program of detoxification, rehabilitation, and reentry, receive counseling, go into group discussion, work assignments, education, recreation, spiritual therapy, and participate in community outreach programs.

There are 24-hour Helplines, with counseling available to both parents and youth, with professional staff members as consultants.

It is not difficult to see why the Southern California Teen Challenge has been the recipient of many awards, including the Disneyland Outstanding Community Service Award, which carried an honorarium of $10,000.

I, personally, am proud to be associated with this group, and to serve on their board of reference, along with Pat Boone, Herb Ellingwood, Paul Crouch, Dr. Millard Sall, Dean Jones, and William F. Wenke.

Teen Challenge is not new. It has been effectively helping people for 19 years. This year, the week of November 13 through November 20, has been designated "Southern California Teen Challenge Week."

I would encourage everyone in southern California to attend the many functions and to visit the many Teen Challenge facilities throughout the southern California area during that special week. Mr. Jene C. Wilson, the director, and Richard Fort, the administrator, would welcome and encourage all those interested to attend.

I hope my colleagues will take a moment to join me in honoring those who have made the Southern California Teen Challenge what it is today—a strong and effective organization committed to helping our young people.

DELIGHTFUL DISCIPLINE

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, I am sure that in my years within these halls I have talked to countless Members of my colleagues about the wonderful forests of northern California. I am not sure that I have ever mentioned that in addition to redwood and redwood products, we are also well known for our woodshed wisdom.

Louis R. Goodgame, a history teacher in the Del Norte school system and a long-time personal friend has written an entertaining book entitled "Delightful Discipline." The Del Norte Triplicate in Crescent City has reviewed the book adding biographic sketches of Louis Goodgame to show how his background and upbringing influenced his life.

In this permissive society my colleagues may find it refreshing to recall how discipline was handled in the "old days." As we constantly search for people dedicated to "quality education" objectives, I suggest to my colleagues that this outstanding educator has something of great significance to offer:

DEL NORTE TEACHER PUBLISHES BOOK ON DISCIPLINE

(By Bridget M. Yarbrough)

When one reaches the age of 50 years, one is usually well settled into a life-time career, and may even be thinking about the coming of retirement and a life of leisure. Fifty years is probably also as good a time as any to embark upon a career.

That is what Del Norte teacher Louis Goodgame has done. After 17 years in education, Goodgame is now a published author. Two years in the making, "Delightful Discipline: Humorous Stories of Woodshed Wisdom and Biblical Principles" is now on bookstore shelves.

TRUE STORIES

This 184-page paperback volume is a collection of true stories from Goodgame's early years. Each story is based on a childhood experience, and is chosen because it taught the author something about discipline. Some illustrate aspects of self-discipline while others will be useful to parents in disciplining their children.

Each episode is followed by sections on "Discipline Principles, Practices, and Proverbs". While many of these maxims are selections from various translations of the Bible, or from other sources, most of them are the original thoughts of the author.

In the introduction to the book, Goodgame states:

"My purpose in writing this book is to present discipline in an atmosphere of delight and pleasure. Life, even at its worst, should be enjoyed. I have not attempted to explain everything at the end of each story, and the reader is invited to make up his own conclusions.

"There are several ways this book can be read: for entertainment, gaining what humor and laughter is available from the experiences of others; to discover insights, concepts and ideas which will enable the reader

to become more effective in discipline techniques; or as a read-aloud sharing time with a child.

"The reader would be ill-advised to accept everything I have written and attempt to practice it. What works for one may fail for another. David, after trying on Saul's armour, wisely took it off before facing Goliath (1 Samuel 17: 38, 39)."

WEALTH OF MATERIAL

Goodgame has a wealth of background material to draw upon in his writings. Born into a Polish family, he spent his earliest years in Chicago.

As soon as he was able to crawl, a Polish custom was enacted whereby young "Jack" was to choose his destiny. He was set on a bedsheet in the middle of the living room floor. Around the edges of the sheet were placed a piece of fresh baked bread, a bright silver dollar, and a Polish prayer book. Lurching forward to grasp his guiding star, Goodgame clutched the sacred book.

His relatives saw various meanings in this—a lover of books, a college student, a priest, a teacher. Years later he became the first college graduate of the family, as well as becoming a teacher—in a Christian school as well as public. (Story taken from chapter one of the "Delightful Discipline").

While working as a waitress at the Chicago World's Fair in 1933, Goodgame's mother met a man from the state of Washington. Next to the cafe where she worked was a logging exhibition. The man whom she met was the World's Champion Log Roller for three years, which is why he was part of the logging show.

It is to this man, Pete Hooper, that Goodgame partially dedicates his book, because he "taught me that a stepfather can love a boy as his very own, took time to be a real friend, taught me how to shave with a straightedge razor".

The book is also partially dedicated to the author's grandparents, with whom he stayed for a while while his parents were on the road.

Being a construction worker, Hooper and his family were often traveling to where the jobs were in those days. They spent the Depression years in Baker, Washington, and in 1939 the family moved to California.

Goodgame graduated from high school in California, put in a stint in the army during World War II, and attended Stanford University in Palo Alto for a while. He graduated from Pacific Union College, has a Master's Degree from Andrews University, and has done graduate work in education.

His job experiences through the years have varied from painting creosote, working as a carpenter's helper and as part of a crew laying railroad track in an ammunition dump to being an orderly in a state hospital for emotionally disturbed children and teaching for four years in Christian day schools.

DEL NORTE YEARS

Pulling green chain was Goodgame's first job in Del Norte County. That was in 1959. He later worked as chief appraiser in the county assessor's office before deciding to go back into teaching.

While trying to decide whether or not to go back to college to obtain enough credits to teach in a Christian school, he discovered that he had already met the requirements for a state teaching credential on the elementary and junior high levels.

It was then that Goodgame began teaching at Redwood School, in 1964. He first taught in a self-contained sixth grade class, and now teaches seventh and eighth grade history in the departmentalized system. He enjoys working in the public school system, where he feels there is a need for Christian teachers.

CHRISTIAN FELLOWSHIP

Newly-elected president of the Del Norte chapter of the California Teachers Association, Goodgame is also a member of the National Educators Fellowship, Inc., an organization of Christian professional educators. He will be attending one of their conventions in Portland later this summer. The group meets for fellowship as well as to exchange ideas about the position of being a Christian educator.

It was the Executive Secretary of the National Educators Fellowship, Pat Patchen, who prompted Goodgame to write this book, "Delightful Discipline". The original idea was to write a book on discipline which would be helpful to both parents and teachers. Finding that to be too much for one volume, this first book deals mostly with discipline in the home and in life in general.

Goodgame is now working on a second book, designed primarily for teachers, which will be based on his experiences in the classroom. He says he has no discipline problems in his room. Not only has he never had to send a student to the principal to be taken care of, many times other teachers will send their students to him.

The book will be of the same format—a story followed by discipline principles, practices, and proverbs. While some of the episodes will relate methods of dealing with discipline problems as they occur, most of the book will be devoted to how to avoid such problems from occurring at all.

A parent himself, with five children and two grandchildren, Goodgame feels there should be more parental involvement in the schools. Despite the two scheduled conference times and open house night during Public Schools Week, there are still many parents who do not visit the schools or meet their child's teachers until a discipline problem arises. Goodgame feels this is a sad thing because those are usually exactly the parents who should be involved sooner.

Although the educational reports and articles for religious magazines which he has written in the past may not constitute a career as a writer, the publication of one book with another in the works is a definite sign that Louis Goodgame has indeed embarked upon a new career. Maybe there was even more meaning than the relatives saw in a baby's grasping of a Polish prayer book.

("Delightful Discipline: Humorous Stories of Woodshed Wisdom and Biblical Principles" by Louis R. Goodgame; 184 pages; published by Mott Media, Milford, Mi.; copyright 1977 by Louis R. Goodgame)

NO NEED TO SWEETEN THE POT

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. FORSYTHE. Mr. Speaker, on Friday, September 23, I was not able to be present on the floor of the House due to congressional business in Philadelphia and in my district. If I had been here, I would have taken strong exception to consideration of H.R. 9262 and in particular to section 2(a):

For purposes of computing the annuity under section 8339 of title 5, United States Code, of any Member resigning on or after October 1, 1978 and before January 3, 1979, the term "final basic pay" shall be substituted for the term "average pay."

There was no notice that this measure was to be brought before the Members; if there had been, I am sure the consideration would not have been as swift as it was.

I do not believe it is necessary to sweeten the pot to encourage Members to retire; our retirement program is adequate. We are once again taking it out of the hides of the taxpayer, who has been gouged enough recently.

SLUM PRIEST LOOKS BACK ON 50 YEARS

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. DON H. CLAUSEN. Mr. Speaker, some people commit the Golden Rule to memory, others commit it to their lives. A splendid example of the latter is the Reverend Alfred Boedekker of St. Boniface's Church in San Francisco, who recently observed the 50th anniversary of his ordination as a Roman Catholic priest.

Father Boedekker, among many other things, has attempted to recognize the special problems of the elderly, and has developed two informational publications for their use.

Mr. Carl Irving of the San Francisco Examiner has written a moving article on many of Father Boedekker's accomplishments. In these days when we are constantly bombarded with stories of high crime and moral decay, when the contemporary philosophy is "looking out for No. 1," my colleagues may find it comforting and reassuring to be reminded that we still have people like Father Boedekker with us—dedicated to carrying forward and living the Christian ethic.

[From the San Francisco Examiner, June 13, 1977]

SLUM PRIEST LOOKS BACK ON 50 YEARS

(By Carl Irving)

The old priest, heaped in a wrinkled Franciscan robe that needed cleaning, sat in a second-hand chair and spread big hands on a second-hand desk.

"No use fooling anybody. There are links in the chain. You can pray to God in heaven and all that. Yet it's the do proximate—whatever we can for our neighbor."

The Rev. Alfred Boedekker, 74, trained as a scholar, born less than a mile from where he sat at a time when people spoke German around there, was marking an anniversary in a San Francisco slum.

Next week, Father Boedekker will be among nine national recipients of the 1977 Jefferson Award, given by the American Institute for Public Service.

This week Father Boedekker will have been a priest 50 years, the last 27 of them here, where he was baptized, at St. Boniface—something of a circle, although the neighborhood has changed quite a lot around the 100 block of Golden Gate Avenue.

In the late 1940s, Boedekker had been all set to go off to the Far East, after studies at UC-Berkeley, to do missionary work when the Communists forbade Christian missionaries.

He found himself with his family back at

St. Boniface, which he'd left when the earthquake leveled it in 1906.

After a while, he closed down a school, and expanded St. Anthony's free lunch program. St. Anthony's prospered, in its way. With no overhead to speak of, it was a private enterprise kind of charity for the very poor.

"I figured 200 the opening day. We started with 380, on the feast of St. Francis. Then, it went to 2,000 during the recessions. Now we get 4,000 on Thanksgiving."

Father Boedekker has been termed publicity hungry, what with all the attention he's received, together with his dining room. But the project prospers, without government or church aid, with volunteer help from people without thought to creed or background.

Father Boedekker looks back on a satisfying life.

"We seek goodness and love all the time, I think. But when we have to give something first, that seems to make the difference. We have to give love to get it. I think people who won't give themselves remain stagnent and sterile."

He slams a big first on the desk for emphasis. Big, vigorous, warm, systematic, Father Boedekker has become known one of the best San Francisco clerics.

He's a product of the German immigrants who had settled around St. Boniface, named after the patron saint of Germany. They left decades ago, but some of their descendants still return occasionally for Mass.

He was one of eight children. He was ordained at the Santa Barbara Mission in 1927, at age 24. In the early 1930s he studied in Rome, and then taught at Santa Barbara for 15 years.

Over the years, he learned Latin, Italian, French, Spanish, Chinese and Japanese and continued to speak the rough German he had learned at home.

In 1949 he came to St. Boniface, "when the Tenderloin was nothing like this. There was a school for 300 children, but as the years went by there were no more children."

He has strengthened the dining room with lease of 500 acres in Sonoma County, where some who come to St. Anthony's go to "restore themselves."

Their duties include milking 400 cows, tending to 1,200 pigs and farming crops. He estimates 8,200 men have spent an average of 30 days there over the years.

He receives $150 a month as pastor and no more. He and his five priests make do. "If we'd taken salaries, we'd have collected a million and a half by now," he says.

There's St. Anthony Thrift Shop, St. Anthony Clinic, St. Anthony Employment Office, St. Anthony Residence and St. Anthony Farms.

In his old age, Father Boedekker has developed two publications for the elderly, Second Spring and Adult Information Digest. He's planning for a Union Square rally later this summer for the aged, the people he calls the "new breed of poor."

St. Anthony's is what he comes back to thought in reminiscing. "Twelve million, two hundred thousand meals in 26 years. Mostly donated by individuals. No public relations man, no campaigns. We go from month to month and never figure out what it will cost.

"It has to be divine providence, trust in almighty God."

NATIONAL MEDICAL PLAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MILLER of California. Mr. Speaker, I wish to direct the attention of my colleagues to this article on the current status of an national health care system in the United States. It is an excellent summary of the various proposals before this Congress, and also discusses the various benefits and costs associated with a national health plan. While we await President Carter's expected proposal for a national health plan, it is imperative that we read all the available information on this important subject:

HIGH BILL OF HEALTH: NATIONAL MEDICAL PLAN—ITS TIME MAY BE HERE

(By Paul E. Steiger)

WASHINGTON.—For nearly 60 percent of Americans, medical bills are not a worry. Private insurance or government health programs provide ample coverage for most costs they are likely to incur.

But for many other citizens, the ability to pay for needed medical care is far from assured.

By next year, according to projections by the Congressional Budget Office, 18 million persons, or 8 percent of the population, still will have no coverage at all under private or government programs. Another 74 million, or 34 percent, will have coverage that is inadequate for some significant contingency: major surgery, a prolonged hospital stay, long-term nursing care.

Over more than six decades, advocates of national health insurance have struggled to enact federal coverage for this unprotected or poorly protected group, several times getting close to their goal only to have their hopes dashed by the White House or Congress.

Now, however, proponents of such a program believe their time has come—even though the number of unprotected or poorly protected citizens bulks nowhere near as large in the total population as when their efforts began. In fact, many of the proponents are betting Congress will enact a national health insurance program in some form soon, perhaps before the end of next year.

Among the reasons for such optimism:

FAMILIARITY

Since the 1960s, when they were enacted, experience with the Medicare program of federal insurance for the elderly and disabled and with the Medicaid system of federal-state cost sharing of health care for the poor has made the idea of national health insurance seem less revolutionary than it once might have.

SOFTENING OF SOME OPPOSITION

Many once adamant opponents of national health insurance have grown more flexible. The American Medical Assn., the U.S. Chamber of Commerce, and the National Assn. of Manufacturers, for example, all endorse some form of national health insurance, although they still resist the more sweeping proposals.

OBVIOUS GAPS AND INEQUITIES IN THE PRESENT SYSTEM

Creation of Medicare and Medicaid has exacerbated disparities in insurance protection between various groups in society, compared to what they were when the crazy-quilt system was a product entirely of decisions by individuals and private companies.

Thus, where once nearly all the poor lacked any significant insurance protection, now 24 million of the very poorest citizens—primarily welfare recipients—have substantially all their health care costs paid by the government under Medicaid, while the families of those with somewhat higher incomes (those working in jobs at or slightly above the minimum wage) remain almost totally exposed.

Meanwhile, workers for small companies tend to have less insurance protection than those at big ones, retirees under age 65 often have no coverage while those above it receive the relatively broad benefits of Medicare, and the self-employed have to pay more for what insurance they can get than those eligible for Company-paid group plans.

SUPPORT FROM THE WHITE HOUSE

Of all the factors contributing to optimism among national health insurance's proponents, this is the most important.

Despite his announced determination to balance the federal budget by 1981 and his fiscal conservatism with respect to a number fo the pet domestic spending programs of his fellow Democrats in organized labor and the big cities, President Carter has proclaimed firm support for a "comprehensive" national health insurance program. He did so before his election and also since taking office, most notably in a speech to a United Auto Workers convention in Los Angeles in May.

"Teddy Roosevelt was right," said Max W. Fine, executive director of the Committee for National Health Insurance, a lobbying group financed by all four major labor organizations: the AFL–CIO, the Teamsters, the UAW, and the United Mine Workers. "The White House is the bully pulpit. You never get any social legislation that is worth a darn without the active participation of the President. And this time we're going to get that participation."

For most of its eight years of existence, Fine's committee has directed its efforts primarily toward the Democratic Congress, where sympathy for national health insurance was generally greater than in the Republican White House of Presidents Richard M. Nixon and Gerald R. Ford. Both Nixon and Ford devised health insurance proposals but did not push them.

Carter, for his part, was ambiguous on the issue after taking office until his May speech to the auto workers. But there and in subsequent statements and actions, his commitment had been unequivocal.

He has promised to submit a proposal to Congress by early next year, and according to Department of Health, Education and Welfare officials working feverishly to develop options for him to consider, the target is a lot closer to January than to May.

At the same time, Carter has set up an Advisory Committee on National Health Insurance Issues composed of physicians, hospital officials, insurance specialists and others to obtain testimony and cull research on advantages and disadvantages of various types of plans.

The committee has held hearings in Los Angeles and San Francisco already, and will hold another one soon in San Antonio. Sessions elsewhere in the country will follow.

Carter and his advisers will have plenty of measures from which to choose. More than a dozen separate national health insurance bills have been introduced in Congress already this year, and numerous others, introduced in previous years, are waiting in the wings.

The various approaches range from the Kennedy-Corman plan, named after sponsors Sen. Edward M. Kennedy (D-Mass.) and Rep. James C. Corman (D-Calif.), which would have the government pay nearly all of the nation's $139 billion in annual medical bills, to the Long-Ribicoff plan, proposed by Sens. Russell B. Long (D-La.) and Abraham A. Ribicoff (D. Conn.), which would cover only catastrophic illnesses costing more than $2,000 in any year for a family.

The variations also include how the money is to be raised: half from special payroll taxes on employers and employes and half from general federal revenues, under the Kennedy-Corman plan; insurance premiums whose cost is divided 65 percent to 35 percent or 75 percent to 25 percent between employers and employes under several of the other plans; a choice for employers between buying approved private insurance plans or paying a 1-percent tax on each employe's earnings under the Long-Ribicoff proposal.

Other funding approaches involve the use of income tax credits (or cash payments from the Treasury to people who owe no tax) to offset all or part of the cost of either insurance premiums or actual medical bills.

Another variation among the numerous proposals concerns how the program would be administered: directly by the federal government as under the Kennedy-Corman plan; by the federal government using private insurance companies as agents for paying bills, as is now done with Medicare; or by the insurance companies, guided by federal regulation.

In addition, there in the question of whether participation would be mandatory. Some proposals would require employers to provide their workers with a specific, government-designed insurance plan, while others call for the employer to offer a plan at least as generous as the government model. A few call for optional participation but with government subsidies designed to spur enrollment.

Finally, the proposals differ in the extent to which they would require "cost sharing" by the beneficiaries. This includes use of deductibles, under which the first $50, $100, $200 or so per year in medical costs is not covered; coinsurance, under which patients must pay perhaps 10 percent or 20 percent of the costs they incur; and copayments, under which individuals must pay a flat amount for certain specified services (such as $2.50 for each visit to a pediatrician).

The last issue is part of a major problem no cost sharing. Most of the others would require some.

This last issue is part of a major problem that proponents of national health insurance must face, one that poses the greatest single threat to their achieving their long-sought goal in the next few years. That problem is cost.

Part of the cost problem is cosmetic. To the extent that under a national health insurance program some or all of the nation's medical cost would be paid by or through the federal government, and the funds to pay them raised through some form of tax, the reported size of the federal budget would grow.

In itself, such a change would have little real significance. The size of the deficit would not be altered. Individuals would be paying more money in taxes each year, but less in insurance premiums or in direct payments to hospitals and physicians.

Nevertheless, the reported size of the federal budget is something that few members of Congress—and few Presidents, for that matter—can afford to take lightly these days. And a proposal like the Kennedy-Corman one, which would essentially transfer the financing of the entire $139-billion-a-year medical industry to the federal government, would boost the size of the budget by about 20 percent.

For this reason, many members of Congress are reluctant to accept direct government financing of health care costs, and lean toward systems that would work through the private insurance industry instead. Carter's advisers are seen as leaning that way, too.

Under such approaches, relatively small increments would be added to the federal budget.

Another way of avoiding any staggering jump in the size of the budget would be to enact a national health insurance program on the phased basis, such as by beginning with coverage of children and adding other segments of society over a period of years. The Administration also is considering that approach.

The other part of the cost problem is more significant, and is far more difficult to handle Any national health insurance program is going to give people who do not now have it the ability to pay for medical care that they currently are not getting. Such a change, as occurred for the aged and the very poor after Medicare and Medicaid were enacted would cause a sharp new expansion of the nation's already ballooning annual medical bill.

Estimates of the potential expenditure increase range from $10 billion to $25 billion a year, depending on the type of program enacted.

Moreover, that could be just the beginning. The public's eagerness for more and more medical care evidently is boundless, and is matched by an apparently infinite willingness of physicians and hospitals to provide such care in ever bigger and technologically more sophisticated doses.

Thus, to some members of Congress, enacting national health insurance soon would present them with a Hobson's choice: either to ratify progressively massive increases in federal outlays or subsidies for health care, or get into the business of putting limits on the amount of such care Americans could buy each year.

In the view of proponents of national health insurance, there is no escape from this challenge anyway. Medicare and Medicaid already are showing such huge cost increases each year that the federal government will have to take steps to control medical costs even if it does not enact a comprehensive national insurance program, they contend. In addition, they argue, establishing such a program would give federal regulators greater leverage over medical costs.

Mindful of the cost problem, the Carter Administration has proposed a plan to set a ceiling on annual charges by hospitals—the biggest single source of expanding costs—and has said it may propose limits on physicians' fees or incomes, a smaller but still significant element of the cost picture.

In addition, Carter has indicated that his health insurance proposal will place heavy emphasis on encouraging use of health maintenance organizations, or HMOs. These organizations tend to reduce costs because participants pay a fixed fee set in advance to cover all care that may prove necessary. Physicians therefore have a certain incentive to avoid unnecessary surgery or other costly medical procedures not actually required.

But whatever devices are used, the government ultimately will find itself between an irresistible force and an immovable object in its efforts to limit medical expenditures, some analysts contend.

Some fat—in the form of pure waste such as duplicative tests, hospitalization when home care would be adequate, and administrative red tape—undoubtedly can be found and cut out. At some point, however, efforts to control costs will mean decisions to ration the amount of medical care available, and such judgments are not likely to be popular.

"If you decide the nation can only afford X number of kidney machines, and X plus 1,000 people need to use them, you've got yourself a problem," an Administration official conceded.

Besides the cost problem, proponents of national health insurance face the problem of having to steer a bill—any bill—through a tortuous legislative labyrinth.

In addition to a massive number of interest groups—patients, physicians, unions, companies, hospitals, insurers—whose views will need to be balanced and reconciled, they must deal with the prejudices and prerogatives of the key figures on four separate congressional committees.

These include Reps. Dan Rostenkowski (D-Ill.), chairman of the Ways and Means Committee's health subcommittee, Paul G. Rogers (D-Fla.), chairman of the House Commerce Committee's health and environment subcommittees and at least two other Ways and Means members, Corman and the committee's chairman, Al Ullman (D-Ore.).

On the Senate side, the list includes Kennedy, who chairs the health and scientific research subcommittee of the Human Resources Committee; Long, who heads the Finance Committee, and Sen. Herman E. Talmadge (D-Ga.), who chairs the Finance Committee, health subcommittee and has firm ideas on how best to control hospital costs.

Despite this large and daunting array, Carter's advisers are hoping they can anticipate most of the key congressional views and reflect them in the bill the President is due to propose early next year. That way, the advisers believe, legislative delays will be minimized.

But no one is betting the process will be smooth. "A lot of people are going to have their say before national health insurance becomes law," one Administration official said.

ALTERNATIVE TO LAMMENNAIS' SYNDROME

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mrs. SCHROEDER. Mr. Speaker, we have been barraged with consumer legislation this session. While some of these proposals have stressed style over substance, the FTC Amendments Act, which we will vote on tomorrow, offers us a real opportunity to help consumers.

Section 7 of the bill removes some of the procedural barriers created by the Supreme Court in the last few years and allows private citizens to bring class action suits against companies that violate FTC cease-and-desist orders or FTC rules. Rather than centralizing more authority in one overloaded and often slow-moving agency (remember Lammennais' observation that centralization breeds apoplexy at the center and anemia at the extremities), these two proposals will open up the consumer protection process to more and more citizens.

I urge your support of H.R. 3816, the FTC Amendments Act. I want to share with you a letter from the National Association of Veterans' Program Administrators:

JULY 28, 1977.

Hon. BOB ECKHARDT,
Chairman, Committee on Consumer Protection and Finance, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the complete membership of the National Association of Veterans Program Administrators, I strongly urge your support of H.R. 3816, particularly the language contained in section 7. NAVPA is the professional organization representing 1400 institutional and community programs serving veterans. Section 7 has direct bearing on veterans. Specifically, it gives consumers injured by unfair and fraudulent practices in the marketplace a chance to help themselves.

The section authorizes consumer suits for damages against persons who violate FTC cease and desist orders or FTC rules. Injured consumers can ask the court to require the defendant to refund money, return property, rescind a contract, or take any other action necessary to compensate the consumer for his losses.

NAVPA believes this section to be especially important for veterans because they

have been and continue to be the target of deceptive advertising practices by unscrupulous trade and vocational schools. The schools promise excellent training, high job-placement rates, etc., to persuade veterans to enroll in their courses. Only after the veteran has signed a contract and paid enrollment fees does he discover that the training is inadequate and that there is little or no hope of getting a job as a result of the training.

Enactment of section 7 of H.R. 3816 would give veterans cheated by such methods a chance to get their money back. FTC has proposed a rule to require vocational schools to furnish prospective students with such information as the drop-out rate and the number and percentage of course graduates who got a job as a result of the school's training. If the FTC rule becomes effective, under H.R. 3816 veterans who are cheated by a school which does not make the necessary disclosure could sue to get their money back. Private legal action is necessary because the FTC's record as well as its own testimony on H.R. 3816 indicates it doesn't have sufficient resources to obtain redress for most injured consumers.

NAVPA believes that section 7 is very definitely in the best interest of the American consumer in general and veterans in particular. We very strongly urge your support of H.R. 3816 and especially section 7 when the bill comes to the floor for the full House vote.

Thank you for your attention and consideration on this important matter affecting veterans.

Sincerely yours,

THOMAS J. WINCEK.

FARM INCOME PROTECTION ACT OF 1977

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MADIGAN. Mr. Speaker, today I am introducing, at the request of the National Crop Insurance Association, the Farm Income Protection Act of 1977. This bill was developed and written by the National Crop Insurance Association, a voluntary, nonprofit organization representing 104 insurance companies who write hail, fire, and multiperil coverage on growing crops.

Although I earlier introduced an expanded crop insurance bill, H.R. 5011, on March 14, I believe that it is in the interest of developing good legislation that as many differing views and aspects of this most difficult subject be brought to light.

Like most members of the Agriculture Committee, I do not have a closed mind as to what an expanded "all risk" crop insurance program should encompass.

Therefore, I submit this bill as one of many possible solutions to the problem of providing increased risk protection to this country's farmers.

The essential features of the proposed legislation are as follows:

A. FARMERS INCOME PROTECTION PLAN

Uses federal income tax farm schedule as the vehicle for guarantee base and the determination of contribution, indemnity incurred, and the recovery of benefit.

Provides guarantee options of 35 percent, 40 percent, 45 percent, 50 percent (maximum) of average annual income from sale of farm produce, for contribution of 1 percent, 2 percent, 4 percent and 6 percent thereof, respectively.

Eligibility extends to all producers of all crops, irrespective of how marketed, but does not apply to such specialty operations as feedlots.

Would be administered by Farm Credit Administration.

Limits premium subsidy to forgiveness of contribution for years of or/and following year of benefit received.

B. FEDERAL CROP INSURANCE CORPORATION

Authorizes and mandates collection of actual yield data from policyholders to be used in establishing individual risk underwriting criteria for level of guarantee.

Requires that rate structure include the direct and indirect costs of administration except reinsurance.

Provides premium subsidy only for the years of or/and following a year for which indemnity is paid.

C. REINSURANCE FACILITY FOR PRIVATE INDUSTRY CROP INSURANCE

Would reinsure private industry companies or groups of companies writing all risk crop insurance under forms and rates approved by the respective state regulatory bodies, presumably sufficient over time to meet all costs.

At no cost for reinsurance, in recognition of tax effects or limitations on reserving for catastrophe years.

Would be administered by Farm Credit Administration rather than FCIC (whose employees naturally regard industry as "competitors").

Would provide that whatever premium subsidy is granted to policyholders of FCIC would also be granted to the policyholders of the private insurers. (Assumes that subsidy would be restricted to the years of or/and following years in which indemnity is received.)

HOSPITAL COST CONTROLS—THE BRITISH EXAMPLE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. CRANE. Mr. Speaker, the Ways and Means and Interstate and Foreign Commerce Committees are presently conducting subcommittee markup sessions on H.R. 6575, the President's hospital cost containment proposal. On several occasions before this body I have made my objections to this proposal quite clear.

One of my greatest concerns has been that by limiting hospital revenues and capital expenditures, H.R. 6575 will inhibit the development and availability of new medical technology, to the detriment of all Americans. The savings in human life and suffering that can be realized as the result of such technology cannot be measured in terms of dollars and cents, yet the President's proposal attempts to do just that. When health care is rationed because of shortages of personnel or equipment, the quality of medical care must inevitably decline. Americans have a right to expect that the best medical care will be available to them when they need it—care which should not be denied because of a waiting list for surgery or the lack of diagnostic equipment, as is often the case in other countries.

If there are some who doubt my fears that hospital cost controls will adversely affect our health care system, I would advise them to study the British National Health System very closely, as I have done. When the Government decides how much the Nation will spend for health, it is inevitable that this figure will be far too low to serve the needs of the public. After three decades of the NHS, it is readily apparent that socialized medicine is a failure, with long waiting lists for surgery, inadequate facilities, and huge administrative expenses.

Recently, the Birmingham Post reported that due to a very tight budget for medical and scientific machines, a local hospital could not even afford a revolutionary diagnostic machine costing only £17,000 ($30,000). This machine, which is used to detect cervical precancer, vastly reduces the time, expense, and pain involved in such testing. Its cost is well within the budget of even the smallest American hospital, yet its use will be denied to British physicians and their patients because of bureaucratic decisionmaking.

Before we impose burdensome cost controls on our hospitals with all their adverse effects, we must decide whether we really want to put a price tag on our Nation's health. Granted, there are many ways in which costs can be reduced without affecting the quality of care, but mandatory controls can only lead to disaster for our health care system and those in need of medical care.

For the benefit of my colleagues, I am inserting the full text of the British example cited herein:

[From the Birmingham Post, Sept. 8, 1977]

HOSPITAL CANNOT AFFORD £17,000 LASER MACHINE

(By Christopher Bond)

A machine using lasers which has revolutionized the treatment of cervical pre-cancer has been flown more than 5,000 miles from San Francisco for patients at the Birmingham and Midland Hospital for Women.

It is the first time the machine has been used in Europe, and in the last ten days has treated more than 50 women from all parts of the West Midlands.

The women are all suffering from cervical pre-cancer, a condition which, if untreated, can lead to cervical cancer, a potential killer.

Treatment with the machine which utilises laser beams is painless and takes only three minutes. Women undergoing traditional treatment for cervical pre-cancer have to stay in hospital for up to a week.

But because no funds are available to buy the £17,000 laser machine, it will be returned to America next week.

Now, Mr. Joseph Jordan, a consultant gynaecologist at the hospital, is attempting to raise the money to buy one. He said yesterday: "When I first saw the machine, it seemed almost a miracle.

CHEAP TO RUN

When the traditional or laser treatment against cervical pre-cancer has been completed, Mr. Jordan said, the danger of the women developing cervical cancer could be virtually ruled out.

At present, cervical cancer kills about one per cent of the women in Britain.

Mr. Jordan said that the laser machine could pay for itself in a year from the saving on hospital time.

It is cheap to run and has the added advantage of possibly eliminating occasional complications in the treatment of younger women which could lead to difficulty in conceiving.

Mr. Jordan said: "I will make a formal report and request for money to buy the machine after this testing period to the West Midlands Regional Health Authority.

PUBLIC APPEAL

"But I have been led to believe that there is very little hope of getting the money, so I have been attempting to raise funds privately and I am considering a public appeal."

Younger women have become more prone to cervical pre-cancer, possibly because of a change in sexual habits over the last 15 years, Mr. Jordan said.

A spokesman for the Regional Health Authority said yesterday that latest figures showed that the number of cases of cervical cancer had fallen by about 10 per cent in the West Midlands between 1965 and 1974.

He said: "The budget for all medical and scientific machines in the region is very tight."

TRUCKERS NEED UNIFORM STATE REQUIREMENTS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. FINDLEY. Mr. Speaker, American truckers, especially the independents, deserve a better shake from their Government than they are getting. It is popular today to complain about the tons of Government paperwork and miles of redtape that confuse and confound private citizens. Truckers have the same problem—times 50.

Not only must they conform to the rules and regulations issued by the Federal Department of Transportation and the Interstate Commerce Commission, but they must also adhere to the different regulations and laws of each of the 50 States. For example, each State has its own regulations governing height, weight, length, maximum axle load, and licensing requirements for trucks. A truck driver making a cross country run, then, is confronted with a bewildering and almost insurmountable task as he tries to adhere to the requirements of the various jurisdictions.

There is certainly no logic to the system that has grown up like topsy. In fact, it is hard to imagine one which could be more contrived to the disadvantage of those who make their living jockeying the big rigs down our Nation's highways. Incredibly, there is a belt of States stretching from Wisconsin on the north to Mississippi on the south with unrealistically low weight limits for single and tandem axle loads and maximum gross weight. Thus, a trucker beginning a cross country trip cannot load up to the legal limit in an east coast State and set out on his long journey to California, Oregon, or Washington because when he gets to Indiana, Illinois, Tennessee, or Mississippi he will find he is greatly overweight. Thus, the maximum standards established by the few Midwestern States in many cases become the maximum national standards for all the States. The alternative, which all too often happens, is that truckers disregard the unreasonable standards and, when their violations are discovered, accept fines and other penalties.

Even a truck driver who hauls grain from the fields in Nebraska to a grain elevator in Iowa has two different sets of standards to meet.

The situation makes no sense at all, undermines public confidence in the Government, and desperately needs to be changed.

In fact, it is without a doubt one of the most serious problems facing truck drivers today. The Federal Highway Administration, in its report on the effects of current State licensing, permits, and fee requirements on trucks involved in interstate commerce, concluded that truck drivers complained that "The most frequently mentioned problem was truck size and weight. * * * Most of the comments related to the need for uniformity among such regulations, both between States and between road types within a State."

The report also found that—

The second most common complaint [was] about the difficulty of keeping informed of the states' requirements.

Ironically, truckers are as upset by the wide variety of rules, regulations, fees, and restrictions which confront them as they are about the fees and restrictions themselves.

According to the report—

The third most important problem, in the mind of many drivers, related to size and weight limits—their uniformity among states and within states, as well as the value such limits should take.

Finally, the report found that—

Multiple licensing, and a desire for a single license which would be accepted in all states, was the fourth most commonly mentioned problem.

There is simply no justification for the Congress of the United States to continue to permit such an illogical system to operate. It benefits no one, neither trucker, nor consumer, nor manufacturer. The United States is truly one nation. Many truck drivers make weekly round trips from coast to coast. They should have one clear standard to adhere to, not 50 different ones.

To achieve this goal, I am today introducing legislation to require the Secretary of Transportation to set uniform standards for trucks carrying freight in interstate commerce. The standards would include maximum limits on weight, both gross and per axle, height, width, and length. Under my bill, the Secretary is also directed to prescribe standards for State taxation and regulation of trucks.

Since I first introduced similar legislation in 1974, many of the truckers I have talked with have told me that the different standards they must meet for each State cause them as many problems as the energy shortage of several years ago and the constantly spiraling price of diesel fuel. The Congress of the United States can at least do something about the problem caused by the lack of uniformity. I hope that the House Interstate and Foreign Commerce Committee will schedule hearings on this legislation at an early date.

AMTRAK

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. PICKLE. Mr. Speaker, the Congress is presently considering whether or not to give Amtrak a $50- to $60-million supplemental appropriation.

Personally, I have not committed myself on this request by Amtrak. Many Members, myself included, have been supporters of Amtrak. At the same time, we are growing leery of pouring more and more money into Amtrak without seeing better service. For example, the train running through my district was recently cut back from daily service to thrice weekly service. Connecting schedules have been horrendous.

So we look at this appropriations request objectively. The facts of our train service are going to have to speak for themselves.

Recently, I came across an article in the Round Rock Leader of Round Rock, Tex., which describes a train ride in my area, warts and all. The article is well written and right on target with its observations. The article neither condemns Amtrak nor lauds the service now being offered, but it does describe the overall problems.

I place this article in the RECORD at this point:

AMTRAK: THE SILVER STREAK IT'S NOT

(By Larry Jackson)

If you call something new and improved, maybe people won't notice that it's really worse.

That, at least, seems to be the way Amtrak is handling its Inter-American line.

Twice a day now, a shiny new Amtrak locomotive hurtles through Round Rock, pulling behind it the highly touted Amfleet cars introduced to this route just last week.

And they are improved. Manufactured by the Budd Corporation, the Amfleet coaches ride smoother, quieter and more comfortable than the older day coaches did. They have air-conditioners that really work. There's plush new carpeting to walk on and wider, more comfortable reclining seats to relax in.

Amtrak has added new drop-down trays behind the coach seats. You can eat, drink or even get some work done while you watch the miles go by through the slightly more tinted windows. In the old coaches, there was a shade you could pull down to adjust the brightness, but now there's a uniform bus-like illumination. Introduced only three years ago on the Boston-Washington corridor, Amfleet is modern in every way.

That's the good news.

The bad news can be guessed when you hear what they call their Amfleet food service car—an "Amdinette." And that since the coaches have been upgraded, they have discontinued sleeping car service. That may not make much difference to the weekender off to Laredo, but to Mrs. W. S. Giorda, who was headed from Austin to St. Louis with her daughter Marie, it was important indeed.

It meant that she and her little girl would sit in the coach from 3:50 Sunday afternoon

until 2 p.m. Monday when it pulled into St. Louis. If she had gone a week earlier, there was a sleeping car with compartments and roomettes on the "old" equipment.

She said she had already routed her return through Oklahoma City on the Lone Star route instead of the Inter-American. The Lone Star runs from Chicago to Houston, so husband Bill will have to pick her up at Temple, but the Lone Star does provide complete dining and beverage service, lounge service, sleeping car service and Hi-Level Coach service.

Until the Amfleet came, the Inter-American also had complete dining and beverage service. Now it has an Amdinette.

Two weeks ago, the southbound Inter-American had two coach cars, a sleeping car, a baggage car and a dining-lounge car. Don Poy, a four-year Amtrak employee from Chicago, was the steward in charge of the food service unit. At one end of the car was a bar, which he tended, at the other was a galley-style kitchen under the supervision of an old-time railroad cook.

In between were tables. The back half of the car was set up lounge style, with comfortable seats for card playing or conversation. In the front half, eight tables were each set for four, covered with a white linen cloth and sporting a vased carnation.

The waiter had begun his career in 1934 with the Pennsylvania Railroad, working out of Chicago. He transferred to Amtrak after the National Railroad Passenger Corporation (NRPC) took over virtually all inter-city rail transit on May 1, 1971.

With Amfleet, the whole operation has been reduced to a single man running a snack bar. Instead of a full meal served by a 40-year professional, you get a cellophane sealed sandwich heated in a microwave oven.

There are compensations, of course. A hamburger costs a dollar instead of $2.35. Coffee is only 30 cents instead of 75. A soft drink is 40 cents.

The snack bar itself is located in the center of the car. To one end is nearly half a car of coach style seating, leaving only the other end for booths to eat in.

Still, it's a pleasant way to travel. People talk on the trains—it's hard not to get acquainted. The passengers are almost universally friendly and easy going. If they weren't, they'd never ride a train. And the crews are courteous and helpful, too.

The personnel in the dining and sleeping cars, incidentally, are about the only Amtrak employees on the train. The operating crew, including conductors, work for the railroads on whose tracks the train runs.

The Inter-American, for example, runs basically on Missouri-Pacific tracks from Laredo to Taylor, then on MKT (Katy) tracks from Taylor to Temple, and on Sante Fe tracks as far as Fort Worth. The distance from Fort Worth to San Antonio is about a day's work (trainmen get paid by the mile, not by the hour, which blew up one theory about why Amtrak runs so late all the time). The railroads divide up the jobs between them on the basis of amount of tracks used. A MoPac crew works from Laredo to San Antonio and back, for example, while MoPac and Santa Fe alternate on the San Antonio to Fort Worth section.

For the most part, even though they don't work for Amtrak directly, they enjoy their jobs and support passenger service. Many other employees on the railroads don't share this view, however.

The passenger trains have priority on the rails, causing the freight personnel problems. As one commented, "Here I've got a mile-long train and I've got to find a siding to get on because a blankety-blank passenger train is coming. And I hear they're talking about putting another route through here. If they do, I'm transferring to the yards for sure."

That attitude, of course, goes back long before Amtrak, when both freight and passenger service were run by most every railroad. The freight people won, and now the government runs the passenger service, contracting with the same old railroads to actually do the work.

Back in 1971, before Amtrak began, MoPac had passenger service from Laredo to St. Louis. The typical train leaving Laredo was one locomotive and one coach. A second coach and, if you were lucky, a diner were added at San Antonio. The air conditioning never worked, the toilets wouldn't flush, there were unbelievable, unexplainable delays.

With Amfleet, the air conditioning works, the toilets flush, and two out of three ain't bad.

Who rides the trains? Children do.

Trains are much cheaper than airlines, and they offer attractive family plan fares. Buses are generally faster and just a little cheaper, but a long bus journey with children is a nightmare.

Weekenders ride the trains, too. You can go to Laredo, for example, for $18. If you come back within five days, you can go round trip for $31.50.

Retired folks ride the trains. "I'm not in any big rush to get anywhere, anyway," one man said. "We used to ride trains back East all the time, so now when we can, we take Amtrak."

Even railroaders ride the train. Jimmy Tieman, a track maintenance man with MoPac was getting off at Taylor. He and Joe Alaniz of Laredo had been to San Antonio for the weekend. Joe was headed to MoPac offices farther up the line.

"Taylor next stop," calls out the conductor. The timetable says we should be in Taylor at 4:45 p.m. My watch says 4:50 as I get off. The first 268 miles of its northbound run were over and the Inter-American was only five minutes late.

It could never happen again.

CHILD ABUSE AND PORNOGRAPHY MUST STOP

HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ARMSTRONG. Mr. Speaker, today I am pleased to join in sponsoring legislation to halt the growing use of children in pornography. So-called child pornography is one of the most degrading and inhumane practices in any culture, and its elimination should be a top priority.

Last Monday, September 26, when the House considered H.R. 6693, the Child Abuse Prevention and Treatment Act Amendments, I was one of a few Members who opposed the bill.

Like the other Members of the House, I totally support the aims of the legislation, and indeed would have supported the bill as it was originally recommended to the House.

Unfortunately, we considered the bill under a suspension of the rules of the House with the included amendment on child pornography. Like all right-thinking Americans, I am also opposed to the sexual exploitation and abuse of children and looked forward to supporting an amendment which I understood would curb this heinous practice. But as the debate on the amendment, the proposed section 9, continued, I realized that the antipornography amendment was not only badly drafted legislation, but probably unconstitutional.

A series of Members of the Judiciary Committee announced to this body that the bill as presented would be declared unconstitutional in its first court test, and even the chairman of the Judiciary Committee was "troubled by the constitutional questions raised by this particular committee amendment."

The proposed section 9 of H.R. 6693 would amend the Public Health and Welfare section of the U.S. Code, title 42, by providing that any person who "receives for the purpose of selling or knowingly sells" films or photographs of children under the age of 16 engaged in certain specified sexual acts will be punished by fines of up to $25,000 and jail sentences of up to 15 years, or both.

While I applaud the purpose of this section, it is just not a workable law . . . neither the Justice Department witnesses nor the Judiciary Committee found this language constitutional in the hearings on the matter. All the laws on obscenity, including the Supreme Court decisions, require that the material be evaluated as a whole.

Yet this bill, strictly applied, could probably apply to a number of films recently released, such as "The Exorcist," "Taxi Driver," and others which contain as little as a single minute of the material which section 9 prohibits.

Under the question of balance, the Supreme Court has ruled that such overbroad prohibitions on free speech are unconstitutional. As a result we are likely to have passed a bill which will end up protecting the producers of smut because the courts will throw it out . . . and this is bound only to delay workable and legal legislation.

Another point to be considered is that H.R. 6693 places this criminal penalty, not in title 18, the Criminal Code, but in with the health statutes, which is scarcely the place for a criminal violation. This could also lead to problems.

The Judiciary Committee has been working long and diligently on legislation which would curb child pornography and remain constitutional. H.R. 6693 ignores these efforts in an attempt to come up with an "instant solution," despite the fact that the Judiciary bill is likely to be ready in a few weeks.

For these reasons, and to support the work of the Judiciary Committee in its efforts to recommend a workable and legal bill to stop child pornography, I am pleased to join in sponsoring this legislation to halt the use of children in sexually exploitive materials.

I would like to commend the gentleman from Illinois, Mr. RAILSBACK, for his efforts to clarify the situation, and I am pleased to support his legislation. Child pornography should and must be stopped.

THE PANAMA CANAL TREATY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for

Wednesday, September 28, 1977, into the CONGRESSIONAL RECORD:

THE PANAMA CANAL TREATY

The fight over ratification of the Panama Canal treaties may have taken on a symbolic value far more consequential than its intrinsic value. Nonetheless, there are many Americans who are expressing grave doubts and patriotic concern about the proposed treaties and they are entitled to a full, honest, and responsive answer.

Two separate treaties are involved. Under one treaty, which lasts until the end of the century, the United States will retain control of operations and defense, with Panama taking part in both activities. When this particular treaty expires, the United States will still retain very important rights. Another separate treaty commits the United States and Panama to maintain the neutrality of the Canal indefinitely. This treaty places no limitation on our ability to take such action as may be necessary in the event the Canal's neutrality is threatened or violated, and insures that no foreign country can operate the Canal or station troops in Panama after the year 2000.

Under the terms of the treaties, the United States will pay Panama $40 to $50 million annually for revenue from canal tolls, with an additional payment if canal revenues permit. In addition, there is a package of loans, loan guarantees and credits, which are subject to existing statutory procedures. With one small exception, none of these arrangements will require appropriations from the Congress. The treaties will involve little, if any, additional expense for the American taxpayer.

The United States has two principal foreign policy interests at stake in the fight over ratification of the new treaties: 1) the continued efficient operation, security and neutrality of the Canal and 2) the maintenance of cooperative and productive relations with the countries of Latin America.

In my judgment a new treaty is the most practical way of protecting and promoting these American interests. If a new treaty is not negotiated, our interests will be jeopardized. The choice for the United States is not between a new treaty and the present treaty, but between a new treaty and the consequences if we insist on maintaining the status quo. Without a new treaty we run grave risk of harm to a broad range of American political and economic interests in Latin America, including damage to, or even closure of, the Canal.

The Canal is not simply a problem between the U.S. and Panama. The Panama Canal issue involves far more than our relationship with Panama. All of the countries of Latin America are urging a new treaty and they will judge the outcome of the negotiations as a test of our relationship with them. Without a new treaty which properly provides for the Panamanians' just aspirations and which takes into account our national needs, the U.S. may well find itself in the position of having to defend the Canal by force against a hostile population and in the face of widespread, if not universal, condemnation.

Several arguments against the treaties, and the responses, are as follows:

1. The new treaties signify a surrender of U.S. sovereignty and ownership of the Canal: The simple answer is that the U.S. never had either sovereignty or ownership of the Canal. Unlike the purchase of Alaska and Louisiana, the U.S. in Panama was given certain rights "as if it were the sovereign." Obviously these words would not have been necessary if the U.S. were intended to be sovereign.

2. The new treaties prejudice our national security: The greatest threat to our national security in the Canal Zone would be an insistence on maintaining the status quo. The Canal is clearly no longer as vital or as useful as it once was. Our top military leaders have agreed that the new treaties not only preserve, but enhance, our security interests.

3. The new treaties will harm our economic interests: While the Canal is still significant economically, its importance has diminished. Larger vessel cannot use it. Only 8% of U.S. exports-imports pass through the Canal each year.

4. We should not negotiate with the present government of Panama: The present government is fully supported by the people of Panama, and every government of Panama since 1903 has agreed with the present government's position, irrespective of any ideological differences.

The support for the new treaties is impressive. Four Presidents of both political parties have recognized that our nation's interets require reform of the present treaty. The top military leaders, all the nation's diplomats, responsible conservative business interests and organized labor all support the treaties. In my judgment the new treaties ensure the efficient operation of the Canal, and enable the U.S. to protect the Canal and to guarantee its neutrality permanently. The new treaties also provide an economic settlement that is fair and reasonable, and establish a firm foundation for long-term cooperation between the United States and Panama.

PHILADELPHIA CATHOLIC ARCHDIOCESE OFFERS PRESCRIPTION FOR PORNOGRAPHY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. EILBERG. Mr. Speaker, the problem of pornography continues to plague America, raising serious concerns among thoughtful parents and religious organizations about the permanent damage which pornography can do to the individual, to the family unit, and to society as a whole.

The September 15, 1977, issue of the Catholic Standard and Times, the weekly newspaper of the Roman Catholic Archdiocese of Philadelphia, contains a very thoughtful editorial on this subject. Because I am anxious to share these views with my colleagues in the Congress, I am placing the full text of that editorial into the RECORD. I commend it to all Members of the Congress:

[From the Catholic Standard and Times]

PRESCRIPTION FOR PORNOGRAPHY

The proliferation of pornography has become a cancer in our cities. Citizens are corrupted and city centers are defaced by X-rated movies, "adult" book stores and massage parlors.

The ordinary citizen, however, is not helpless in the battle against filth.

First, of course, the ordinary citizen can and should avoid places of business which are dangerous to his moral well-being just as carefully as he avoids places dangerous to his physical health.

Second, he can take advantage of his right of privacy and of existing laws and postal regulations to make sure that no pornographic materials are mailed to his home by unscrupulous dealers who send random mailings to corrupt the unwary. Any person can enter a prohibitory order with the U.S. Postal Service requiring the mailer of offensive materials not to send such items again. Even better, any person can have his name placed on a computerized list maintained by the U.S. Postal Service of those persons who do not wish to receive pornographic materials in the mail. This list must be purchased by those who engage in the mailing of pornography so that they may purge their own mailing lists of the names of those who have explicitly requested to keep their homes free of mailed pornographic literature. Both these methods put the purveyors of pornography to trouble and expense—and they provide an economic deterrent to the pornography trade.

Third, all persons can urge civil officials to adopt laws forbidding the public display of salacious advertising or pornographic materials in public places where they could easily be seen by minors. Public authority has the right and the responsibility to act for the common good on behalf of parents in taking measures to prevent the corruption of the young.

Fourth, citizens can encourage the adoption of zoning regulations which would prevent the grouping of pornography shops and which would restrict the types of signs and displays such stores could have.

Fifth, as a last resort, concerned citizens could peacefully protest the presence of such stores in their neighborhoods by picketing designed to discourage patronage and manifest moral outrage at the existence of smut stores.

Finally, parents, teachers and all those concerned with the formation of young people should not only attempt to inculcate good reading habits in children but should also give them a reverence for the human body as the sacred temple of God which is to be respected and nurtured, not exploited and debased. Such an attitude of regard for God's law, respect for the human body, concern for human rights, awareness of personal responsibility and concern for the welfare of the community can eventually overcome evil with good.

RELIGIOUS FREEDOM OF CHOICE

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ERLENBORN. Mr. Speaker, a significant step to reaffirm this Nation's belief in individual freedoms—human rights, if you will—took place yesterday. The Education and Labor Committee approved H.R. 3384, a measure which says that people whose religious beliefs prohibit union membership need not choose between their religion and their jobs.

To my knowledge, seven religious groups in America prohibit joining or financially supporting labor unions. The Seventh-Day Adventists, with more than 500,000 members, is the largest; so we are not talking about millions of people. Yet, it has not been uncommon for these good people to be denied jobs, because they hold conscientious objections to participation in unions.

The drive to correct this sad situation began more than a decade ago. The congressional standard bearer then was the gentle lady and our esteemed former colleague Edith Green. She and another Northwesterner, then Congressman Floyd Hicks of Washington, continued the struggle throughout their congressional careers.

Finally, in 1974, a measure of progress was made when the Congress passed legislation bringing health care workers

under the National Labor Relations Act. That law included my amendment to exempt those workers who have such religious convictions from joining unions and, instead, to pay the equivalent of union dues to a charitable organization. Now a law is needed to protect the rights of all of these people, regardless of their jobs, because not all unions are amenable to accomodating religious beliefs.

Our colleagues (Mr. DON H. CLAUSEN, Mrs. PETTIS, Mr. DUNCAN of Oregon, and Mr. STUMP), and I applaud the gentleman from New Jersey (Mr. THOMPSON), the author of H.R. 3384, for taking this action to respect the religious convictions of but a comparative handful of people. As authors of similar bills and the moving spirit behind the quest for this legislation, we are joining today in introducing an identical bill. We call for the support of our colleagues in making this religious freedom of choice a reality.

WISCONSIN CITIZEN SPEAKS OUT ON SOCIAL SECURITY

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. KASTEN. Mr. Speaker, I would like to share with my colleagues a letter written by one of my constituents to the Waukesha Freeman, a daily Wisconsin newspaper.

Mr. Ray Wendland, a resident of Waukesha, explains the injustice of a proposal before Congress to withhold full social security benefits until people reach age 68, instead of 65.

He also argues effectively against an existing injustice to senior citizens that, as he notes, has lasted too long already—the social security outside earnings limitation.

Mr. Speaker, we have a commitment to millions of Americans who have contributed to social security all of their working lives, believing they would receive benefits at age 65. While we must keep that commitment—we must also remove the limitation on how much senior citizens can earn and still keep their benefits.

As Mr. Wendland says:

We must fight for the right to receive a full Social Security pension when it is earned and due . . . and any additional earnings should be the the full credit of the worker.

The letter follows:

NEW ECONOMICS: WITHHOLD SS UNTIL 68

To the Freeman:

From Washington, D.C., that amazing wonderland inhabited by controllers, directors, regulators, enforcers and investigators, has come a clever scheme from Juanita Kreps, the Countess of Commerce.

It seems Juanita had been reflecting on paying pensions of $200 to $400 per month to Social Security persons, 65 or older.

So, guess what? The Countess proposes that the Social Security pensioners should have to wait a little longer to get their pensions. She said, "If we were to extend work life to 68, and not start SS benefits until 68, you would reduce enormously the Social Security burden."

Now, Juanita could have gone further. She could have proposed that work life should extend to age 70, 75, or beyond, thus saving Washington a greater bundle of money for more essential purposes, like Congressional pay raises, foreign aid, and bigger bombers. It is to her credit and to her dear generous soul that she stopped at 68 years. (Too bad some people can't work anymore even at 65, and of course they'll be very hungry and cold by 68—if they last that long. But that's life, you know.)

We should fight for the right to receive a full Social Security pension when it is earned and due. This means no deductions for earnings that a person receives if he works after age 65. A pension once earned should be received in full, and any additional earnings should be to the full credit of the worker. I.R.S., needless to say, will impose taxes depending on the size of the extra earnings.

A successful business or banking executive retires at 65, and he receives three incomes ("unearned" according to I.R.S. rules):

His company pension of $10,000 to $100,000 per year,

Dividend income from corporation stocks acquired during his active years, in amounts ranging from $10,000 to $500,000 per year,

His Social Security pension, probably $440 per month.

The latter is drawn in full. Reason: He does no outside work because he needs no additional income, and managing his investments, and profits, if any, does not interfere with his Social Security income.

Persons retiring from the Armed Forces after 20 or more years of duty. (Many will be less than 45 years old!) They take another job, as able-bodied men under 60 should. Their extra earnings do not affect their military pensions which are drawn in full.

The injustice of penalizing an old man or woman for working beyond retirement age by reducing his or her benefits has lasted too long already. The time to stop is now.

Congress and the President must get this message loud and clear. But we cannot expect from them the sympathy of a common cause; they are safe and secure in their own lush pensions, which, of course, are free of penalties on extra earnings! It is clear that we citizens have a lot of persuading to do.

—Ray Wendland, Waukesha

THOSE FANTASTIC PHILLIES

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. EILBERG. Mr. Speaker, as a native Philadelphian who has had the honor of being part of the city's congressional delegation for 11 years, it gives me great pleasure to express to my colleagues the pride that my constituents and I feel on the victory yesterday which gave the Philadelphia Phillies their second consecutive title in the National Baseball League's Eastern Division.

This year, the Phillies have thrilled more than 2.5 million fans in Veterans Stadium. On several occasions I have had the opportunity to be part of the crowd, and have witnessed the exciting brand of baseball which has brought this team to victory.

With all due respect to my colleagues from California, I would like to take this opportunity to offer my best wishes to manager Danny Ozark and his players as they prepare to face the Los Angeles Dodgers in the playoffs for the world's series. I hope they will be successful and that we will see, for the first time since 1950, a world's series in Philadelphia.

Mr. Speaker, I believe the pride that Philadelphians feel in the Phillies is illustrated by the following editorial in the Philadelphia Inquirer of September 28, 1977:

THOSE FANTASTIC PHILLIES, AGAIN

In their first 93 seasons — 1883 through 1975—the Philadelphia Phillies finished first only twice, in 1915 and 1950. Now they have captured first place twice again in two consecutive years, 1976 and 1977. It is getting to be a delightful habit.

While toasting the '77 Phillies for winning another National League East division title we include words of praise for Pennsylvania's other major league baseball team, the Pittsburgh Pirates, who made a valiant run against the Phillies. The tenacity of the Bucs, hanging in there with win after win, forced the race into the final week of the season before the Phillies could clinch.

Chicago, as it turned out, was an appropriate place for the Phillies to finally nail it down and break out the champagne. It was those resilient Cubs in the Windy City, let us remember, who held first place most of the season until the Phillies overtook them.

The Phillies, off to a moderately slow start, moved into high gear as spring turned to summer and were magnificent in the stretch. It was a team effort, including superb support from the bench and the bullpen. Singling out individuals for special praise on such a team is difficult, but surely Greg Luzinski and Steve Carlton rate honorable mention of the highest order.

Bake McBride, acquired from St. Louis in an early season trade, gave the Phillies a big lift. So did newcomers Dave Johnson, Ted Sizemore and Richie Hebner. And, it was another sterling season for old hands Mike Schmidt, Garry Maddox, Larry Bowa, Bob Boone, Tim McCarver, Larry Christensen and Jim Lonborg. Tug McGraw, Gene Garber and Ron Reed led a super relief corps.

Then there's Danny Ozark—manager of the year in 1976 who guided the Phillies through another outstanding season with skillful use of an abundance of talent.

Phillies fans were great too—setting another home attendance record on top of last year's record.

Next: Bring on the Dodgers and then the American League champs.

RAND CORP. REPORT ON THE ALL-VOLUNTEER FORCE: A SUMMARY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. STEIGER. Mr. Speaker, Dr. Richard V. L. Cooper has just published his report for the Rand Corp. on "Military Manpower and the All-Volunteer Force."

Dr. Cooper is widely respected for his expertise in military manpower policy. He is a senior analyst for Rand, a California-based nonprofit research firm.

Rick Cooper's conclusion, after 4 years of studying the All-Volunteer Force

(AVF) is that it "has worked." He found it is representative economically and geographically, and the quality of new recruits has actually increased since the end of the draft.

Criticisms of the cost of the AVF are totally unfounded, Dr. Cooper said. The AVF has added less than $300 million to the cost of defense manpower, about two-tenths of 1 percent of the defense budget. Factors leading to the growth in manpower costs can in fact be traced to events that began nearly three decades ago, he said.

Rick Cooper found that removal of the draft has been beneficial in causing the Pentagon to look for cost-effective solutions to manpower problems. He found that nearly three decades of post-war conscription encouraged the military to develop and maintain patterns of manpower use and management that may be neither cost-effective nor equitable, and, as a result, may add needless constraints and costs to the manpower system.

There is a wealth of information in this superb study. So that all who read the RECORD can have the benefit of his insights and analyses, I am placing into the RECORD his well-stated summary. It deserves the closest, most thoughtful attention. The summary follows:

SUMMARY

The advent of the All-Volunteer Force (VF) in 1973 marked the beginning of a new era for the United States military and, indeed, for American society in general. Without the pressure of the draft, the Armed Forces would be forced to rely on true volunteers as their sole source of military manpower for the first time in more than three decades.[1]

Although the AVF has been viewed since its inception almost entirely in terms of its ability to attract the desired numbers and types of recruits, the implications of the volunteer force are clearly much larger, touching on virtually all aspects of the defense effort. Moreover, and whether intended or not, the draft and its removal were and are an integral part of U.S. economic and social policy, with effects going far beyond the narrower confines of defense.

THE DECISION TO END THE DRAFT

Although the demise of the draft has generally been credited to the Vietnam War, the AVF was actually the result of far more fundamental concerns. The concept of the volunteer force emerged in the late 1960s as one of the very few alternatives for dealing with the growing inequities of the Selective Service draft. The number of young men reaching military age each year was increasing, while force sizes were remaining constant (or were decreasing), which means that a smaller proportion would have to serve in the military. Since the pay for junior military personnel was substantially below that of comparably aged and educated civilian workers, those who were not forced to serve—about 80 percent of the military-age male population—benefited substantially, while the other 20 percent carried the full burden

The issue of draft versus volunteer manpower procurement policies was debated extensively during this period, and several advisory groups were commissioned to consider the problem. The debate culminated in 1970 with the report of one of these groups, the President's Commission on an All-Volunteer Armed Force (named the Gates Commission, after its chairman, former Secretary of Defense Thomas S. Gates, Jr.). The Gates Commission argued persuasively that those forced to serve should not have to pay a large financial price in addition to the other burdens of involuntary servitude, and it recommended that first-term military pay be raised to a level commensurate with earnings of comparably aged and educated civilian workers (i.e., 18 to 21 year old male high-school graduates). The Congress concurred with this recommendation and raised first-term pay in 1971. Interestingly, this pay raise meant that the Services would be able to attract enough volunteers so that a draft would no longer be necessary. In other words, achieving an all-volunteer military would not require any extraordinary measures; it basically meant the payment of a "market wage" to new recruits.

The substantive debate having taken place two years earlier, the end of the draft came rather quietly in 1973. Because of the rapid force reductions following the disengagement from Southeast Asia, Secretary of Defense Melvin Laird announced the end of draft calls in January 1973, six months before the expiration of draft authority.

EARLY AVF EXPERIENCE

Perhaps the most important conclusion to emerge from the first four and a half years of experience without the draft (i.e., since January 1973) is that the volunteer force has worked. It has been shown that the military services can attract a socially representative mix of the desired quantity and quality of new recruits without the pressure of the draft and at a cost substantially lower than commonly assumed. Moreover, the success of the volunteer force is not due to high unemployment rates, although unemployment certainly aided the recruiting effort, but rather can be attributed to the fact that military service is apparently seen as an attractive employment option by a broad cross-section of American youth.

With the exception of modest Army and Marine Corps recruiting shortfalls during the first year of the AVF, and again during the summer of 1976, the Services have successfully met their quantitative recruiting objectives since the removal of the draft. Moreover, these recruiting shortfalls can be shown to be largely the result of shortages of recruiters in the field, unnecessarily restrictive quality standards, and unusually large enlisted accession requirements. These difficulties thus do not seem to be indicative of longer-run recruiting problems, but they do show that recruiting problems can occur if the force is not properly managed.

The key AVF issue is therefore not manpower supply; it is enlisted accession requirements. Service policies such as limiting the flow of manpower into the career force (which is due in part to Congressional limitations on the numbers of personnel in the senior pay grades) have resulted in enlisted accession requirements that are actually higher under the volunteer force than they were under the draft, relative to force sizes—just the reverse of what would be expected. The long-run success of the volunteer force therefore depends upon reducing enlisted accession requirements—and, hence, reducing personnel turnover rates. This, in turn, is the means to more cost-effective management of enlisted manpower.

The quality of new recruits, as measured by such indicators as mental aptitude and educational attainment, has actually increased since the removal of the draft, and substantially so since about 1975. The real quality issues therefore concern whether the Services' current quality-maximizing philosophy yields standards that are too restrictive (rather than too lenient) and whether the right balance is being maintained among individual quality criteria such as mental aptitude and educational attainment. Specifically, the evidence suggests that current quality standards are too strict, that the Services should accept more Category IV high-school graduates (i.e., those who score in the 10th to 30th percentile on Service-administered mental aptitude tests), and that some of the medical standards should probably be relaxed.

The question of social representation has frequently been raised by those who are opposed to the concept of a volunteer force, as black participation in the Armed Forces has increased significantly during the past 15 years. However, this increase is largely unrelated to the volunteer force; it is instead due mainly to the increasing numbers of blacks found eligible for military service and to the unusually high unemployment rates experienced by black males of military age (relative to whites). Although blacks continue to score lower than whites on mental aptitude screening tests, the proportion of blacks failing to qualify for military service has decreased significantly over the past 20 years. Because of this, the black proportion of the prime manpower pool—that is, military-age males of average and above-average mental aptitude—has increased from a little under 3 percent in 1960 to more than 7 percent in the mid-1970s, a more than two-fold increase.

Moreover, the increasing proportion of blacks in the force does not indicate that the AVF has resulted in an Army of the poor; there are as many new recruits from middle- and high-income areas under the volunteer force as there were during the lottery draft, which was presumably the most socially representative period of peacetime conscription. Also, the regional composition and the urban/rural makeup of the volunteer force are remarkably similar to what they were under the draft. In other words, the military continues to draw a socially representative sample of American youth.

Another major issue raised by critics of the AVF is that of costs. Indeed, it is easy to see why manpower costs in general and the presumed cost of the volunteer force have become so important. Manpower costs have increased from about $25 billion in 1964 to the more than $60 billion projected for 1978. However, the attribution of these increased costs to the volunteer force is plainly incorrect. The factors leading to the considerable growth in manpower costs can in fact be traced to events that began nearly three decades ago. For example, whereas the military career has historically consisted of 30 years of service, the immediate post-World War II period saw the widespread implementation and use of the 20-year military career—a policy that would come to have a dramatic effect on defense manpower costs about 25 years later.

Similarly, the 1960s marked the implementation of comparability pay for civilian employees of the DoD, the beginning of annual pay increases for military personnel, the so-called "catch up" pay increase for career military personnel, and the "one-percent kicker" for adjusting Federal military and civilian retired pay.

In short, the only increases in manpower costs that can be even remotely related to the volunteer force are the large pay increase for first-term personnel implemented in 1971 and the increased recruiting and bonus costs for these individuals. And even the pay increase cannot properly be viewed as an AVF cost, since the Gates Commission argued vigorously that pay discrimination against junior military personnel ought to be eliminated for equity reasons alone, irrespective of the decision to end the draft.

The end result is that the volunteer force has added less than $300 million to the cost of defense manpower—about two-tenths of one percent of the defense budget. The reason why the proportion of manpower cost

[1] With the exception of a short 18-month hiatus following World War II, the U.S. military was not without the authority to conscript young men between 1940 and 1972.

growth that can be attributed to the AVF is so small is that the draft provides very little leverage over total manpower costs. That is, whereas the basic effect of the draft is to reduce budget outlays for those in their first two years of service, the total cost of these personnel amounts to only about $6 billion—just a little over 10 percent of the total defense manpower outlay.

For the most part, then, the story of the volunteer force has been one of success. To be sure, there have been problems, such as the first-year recruiting shortfalls experienced by the Army and the Marine Corps, but these have been laregly problems with the way the transition was managed, not with the fundamental concept or policy. Other problems remain, such as those of reserve forces manning and first-term enlisted attrition. However, these problems probably have more to do with finding the right management and/or force structure solutions than with the implementation of the volunteer force per se.

For example, although the reserves have historically been structured as a "mirror image" of the active forces, common sense would seem to argue for alternative solutions, such as a more experienced force (where capability is maintained but not developed). These problems with the reserves should not, of course, be oversimplified. Nevertheless, the fundamental problem is that the reserve forces are showing the effects of more than 25 years of neglect. As a result, far closer attention must be paid to determining the appropriate manning configurations and personnel policies for maintaining an effective reserve force, instead of viewing the problem as a simple one of draft versus volunteer procurement policies.

MANPOWER MANAGEMENT AND UTILIZATION IN A VOLUNTEER ENVIRONMENT

Although conscription has not been used for more than four and a half years, to assume that the draft is entirely history would fail to recognize the imprint that it has left throughout the defense establishment, especially on the way the military manages and uses its personnel. Dealing effectively with this legacy will be one of the most formidable obstacles that the Department of Defense and the Congress must face during the next decade.

In a managerial sense, the elimination of the draft was a major shock. The immediate effect of ending the draft was to substantially increase the budget cost and scarcity of new recruits. The full impact, though, is clearly much larger. In a draft environment, the military could afford to be dominated by policies and traditions that ran counter to the general thrust of change in the civilian world—the draft insured an adequate supply of manpower, almost no matter what personnel policies the Services followed. In a volunteer environment, however, the Armed Forces must be responsive to the conditions of change in the civilian world.

The removal of the draft has thus altered the entire philosophy under which the military must manage its human resources. The nearly three decades of post-war conscription encouraged the military to develop and maintain patterns of manpower utilization and management that may be neither cost-effective nor equitable and, as a result, may add needless constraints and costs to the manpower system. But manpower, which was once plentiful and seemingly cheap, is now scarce and expensive. Policies adopted for reasons of convenience and equity must therefore be evaluated in terms of efficiency as well. In short, manpower is important, so cost-effective solutions to the management problem must be developed and implemented.

The possible efficiency gains that could result from new policies of manpower management and utilization—and the corresponding cost savings—have so far gone largely unrealized. These improvements will require greater understanding of the AVF, since the AVF provides the context for improved management; but more important, it is essential to address the major areas in need of reform: manpower requirements; compensation, retirement, and tenure policy; and military training.

To illustrate, the cost of manpower has risen substantially relative to the cost of capital equipment—about 40 percent—during the past decade, yet there has been little or no change in the mix of manpower and equipment used in the defense mission. Consideration should therefore be given to finding ways of substituting equipment for manpower, especially in the support areas.

Similarly, the costs of military personnel have risen substantially relative to the cost of DoD civilian employees since the removal of the draft. The DoD has in fact responded to much of this increase, but primarily by substituting direct-hire civilian employees for military personnel. Alternatively—and this is an issue that is only beginning to receive much attention—analysis indicates that cost savings of up to $1 billion per year might be realized by contracting out for 250,000 direct-hire and in direct-hire civilian positions. Thus, the cost-effective solution may lie not in substituting direct hires for military personnel, but in substituting contract hires for direct hires.

Perhaps the most important, but least recognized, type of resource-allocation issue raised by the removal of the draft, however, concerns the experience mix of the force. Because of first-term pay increases and recruiting costs, the costs of first-term personnel have increased dramatically relative to the costs of career personnel. Yet the Services continue to rely on approximately the same mix of first-term and career personnel as they did during the pre-Vietnam draft era. The substitution of experienced personnel for first-termers would not only help to reduce enlisted accession requirements, it could result in substantial cost savings as well. Shifting from the current mix of 60 percent first-termers and 40 percent careerists to a 55/45 mix or a 50/50 mix could lead to better utilization of junior members by having them serve in jobs for which they are better suited and, as a consequence, could yield cost savings of up to $1 to $2 billion per year.

These are only three examples of the ways in which resources can be allocated within a given force structure to achieve cost savings or increases in capability. But they illustrate how manpower requirements ought to be a function of the cost of particular inputs to the defense mission.

Equally important with these questions of resource allocation are those concerning the ways the DoD manages its uniformed personnel. Individual military training, with costs amounting to more than $6 billion per year, is clearly one of the key policy problems and is recognized as such. However, attention in this area has focused almost exclusively on improving the efficiency of the training establishment in the narrow sense—that is, on designing better courses, reducing the student/staff ratio, and so forth. Equally important is the impact of today's manpower requirements system on the magnitude of first-term enlisted training, the single largest component of the training establishment.

First-term enlisted training costs are determined largely by the numbers of personnel receiving training and by course length. Shifting to a somewhat more career-intensive force could dramatically reduce the number of personnel who receive basic and skill training and could also lead to shorter courses. Thus, what at first appears to be a training problem is in reality a requirements problem.

With respect to promotion and tenure, the personnel policies developed over the last 30 years reflect a management orientation frequently geared more toward structuring an internally coherent personnel system than toward achieving the desired force structure in terms of requirements. They are based largely on the provision of predictable career patterns followed by early retirement.

Fundamental changes in the system should be considered, but there is a persistent tendency to focus on symptoms rather than causes. For instance, the up-or-out promotion system helps to prevent the military from encountering many of the problems associated with the Civil Service system, yet it is continually questioned. The problem with up-or-out is not the basic concept, but rather the ways in which it has come to be applied over the years. A recent survey shows that nearly 50 percent of all enlisted personnel would prefer to remain technical specialists rather than assume supervisory responsibilities, but the promotion system forces them either into supervisory positions or out of the military altogether. A personnel management system that would allow senior service members to be promoted into either technical or supervisory positions would enable the integrity of the up-or-out system to be maintained while simultaneously meeting mission requirements.

The military compensation system is likewise in need of a major overhaul. It was developed for the needs of a basically different environment, and although marginal adjustments have been made in the system to solve specific problems over the years (e.g., the introduction of bonuses and flight pay), there has been no systematic or thorough revamping of the system. The result is that the current system is a patchwork of separate legislative and regulatory changes that may be ill-equipped to deal with the needs of the post-draft environment.

The current system was originally intended to keep Federal pay (both military and civilian) competitive with wages in the civilian sector, but it has evolved to the point where far more than necessary is paid. Summing all the components of the compensation package reveals that military officers, for example, earn about 70 percent more, and enlisted personnel about 30 percent more, than comparably aged and educated civilian workers. This did not happen by design, but by accident.

Military retirement is part of the compensation system that is particularly in need of thorough review. Retirement costs are among the largest and fastest growing components of manpower spending, having increased from $477 million in 1956 to the more than $9 billion projected for 1978. The present retirement system is also based in many ways on conditions that no longer prevail, such as having a small standing military, a heavy concentration in the combat arms, and limited pay. Originally, retirement compensation was intended more as a form of deferred payment than as old-age sustenance. Now that military pay equals or exceeds civilian pay, the retirement system should be reexamined in terms of its basic purposes.

The reason for today's enormous retirement costs can be seen in the fact that the actuarial cost of the current system adds between 40 and 55 percent to the military pay (regular military compensation) of those who retire; in contrast, the contribution for standard private retirement programs is between 5 and 20 percent of salaries and wages. Yet the Services have little incentive under current policy to economize on retirement costs, both because the costs do not appear in the Services' own budgets and because they appear in the DoD budget when paid rather than when incurred. Equally important, the current policy of retirement vesting after 20 years of service but not before means that there is very little turnover between the

8th and 20th years, but there are large losses at the 20-year point. Consequently, the DoD has little flexibility in adjusting career personnel to meet requirements. At the same time, strong financial incentives for early retirement mean that many outstanding officers and enlisted personnel are lost to the Services just as they are entering their most productive years.

CONCLUSIONS

The removal of the draft presents an opportunity to make better use of defense resources—an opportunity that was not always present under or encouraged by the draft. The importance of this point is dramatically underlined by the fact that the relatively modest changes that have been suggested here could yield long-run cost savings of from $5 to $10 billion per year.

To summarize, the AVF can be made to fail. But it can also be made to work—and perhaps much better than its draft-dependent predecessor. Whether or not the potential of the AVF is realized will depend critically on the policies that the DoD and the Congress adopt during the next ten years, for the true test will occur in the 1980s. If this potential is not realized, society may not be willing to pay the escalating costs emanating from the current approach and, as a consequence, may simply cut forces.

H.R. 3816, FEDERAL TRADE COMMISSION AMENDMENTS

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MOSS. Mr. Speaker, the House of Representatives will soon vote on H.R. 3816, the Federal Trade Commission amendments. This measure corrects some of the problems remaining after we passed the Magnuson-Moss Act in 1974. I strongly support H.R. 3816, because I believe that a tough and efficient FTC can do a tremendous amount to protect American consumers.

One of the reforms brought about by the Magnuson-Moss Act was that the FTC was specifically granted authority to promulgate trade regulation rules which would govern an entire industry. This reform was sought largely by the business community, because many companies felt that the traditional cease and desist order, which runs against a single corporation, put that company at a competitive disadvantage. Industrywide trade rules would allow all firms in a market to compete under the same basic ground rules.

Since the passage of the Magnuson-Moss Act, the FTC has commenced work on a number of trade regulation rules. These rules are designed to fulfill the statutory mandate of the Commission to prevent persons, partnerships, and corporations from using unfair or deceptive acts or practices in or affecting commerce. Some examples of types of rules which the FTC is considering are:

Used car rule—Through an investigation, the Commission found that many used cars were sold with mechanical defects which were not disclosed to the customer. The investigation found that many dealers reconditioned the appearance of the car to make the customer think that the engine was in similarly good shape. Dealers were also found to refuse to describe the previous use of the car from customers and to make oral representations about warranties which were useless, because the car was sold with a written disclaimer of warranty. The rule seeks to prevent used car dealers from fraudulently misleading consumers in these ways.

Estimating the savings to consumers from such a rule is, of course, very inexact. However, such an estimate can be made by looking at the Wisconsin experience. For the past 2 years, Wisconsin has had a narrower rule, one just requiring the disclosure of the mechanical condition of the used car at the time of sale. The neighboring State of Minnesota has no similar regulation. A study of the regulation's effect on the purchase price of used cars and on the cost of repairs in the first year after the purchase yields these results:

	Wisconsin	Minnesota
Purchase price of used car (using a $1,000 vehicle as the basis)	$977.50	$1,008.26
Repairs needed during 1st yr	10.04	96.69
Total	987.54	1,104.95

Hence, the Wisconsin regulation saves a used car purchaser $117.41 on a $1,000 car. Assuming that this difference holds for the Nation, the total annual savings to consumers (using the 1973 figures of 12.5 million used cars sold by dealers at an average price of $1,288 less trade-in) would be $1.89 billion. This figure is likely to be low, because the Wisconsin rule is narrower than the FTC rule, because both the number and price of used cars sold has surely increased since 1973 and because the value of the trade-in is not included.

The savings to consumers is startling. The Wisconsin rule is enforced by a 12-person unit in the department of motor vehicles. For the FTC to enforce its rule by itself, an additional 700 employees would be needed, or a 40-percent increase in the size of the FTC. Far more efficient would be to allow individual consumers who are cheated by the violation of this rule to sue on their own behalf to enforce the rule. In this way, the size of the Federal payroll does not have to be increased while, at the same time, the rule can reach its full potential of saving consumers money.

Hearing aid rule—An FTC hearing examiner, after receiving the testimony of over 200 witnesses during 58 days of public hearings, concluded that the sale of hearing aids was rife with consumer fraud. He noted that the hearing aid industry preys on the vulnerability of individuals losing their hearing for the first time by using supposedly "expert" sales personnel, who in actuality have no qualifications to administer or analyze hearing tests. The FTC also found that sales persons routinely overstate the benefits of amplification. All this was found to result in the "dresser drawer syndrome," where purchasers simply stop wearing their hearing aids after finding that they receive no benefit from it. A 1962 Public Health Service study found that 36.6 percent of persons who had bought a hearing aid had stopped using it. The proposed rule would mandate the right to cancel for a limited period of time, require certain disclosures about the hearing aid, and prohibit certain false representations about both the qualifications of the sales person and the capabilities of the hearing aid.

Again, it is difficult to estimate the exact savings that will flow to consumers as a result of this rule. The hearing aid industry reports an annual production of 600,000 units at an average cost of $350. A witness from the hearing aid industry conference estimated that 4.5 percent of all units are returned. While this figure is likely to be very low—because it is industry supplied, because many hearing aid sellers do not give refunds for returns, and because those sellers who do make refunds tend to be those who give comprehensive audiological examinations prior to purchase—such a return rate suggests a total savings to consumers of around $9.5 million per year. This savings would go disproportionately to elderly citizens on fixed or limited incomes.

Funeral industry rule—The FTC found that the funeral industry takes advantage of the particularly vulnerable class of consumers, the bereaved. Practices found to be prevalent include obtaining custody of and embalming corpses without the family's permission, requiring the use of a casket for immediate cremation, profiting on cash advances, and concealing the availability of less expensive caskets. It has proposed a rule to ban certain exploitative practices and misrepresentations as well as require disclosure of service options, merchandise availability, and prices.

The savings from a rule prohibiting each of these practices has been estimated based on 1976 figures of 1,592,000 deaths, 1,560,160 embalmings, 79,800 cremations, and 1,464,640 ground burials. For example, an estimated 78,000 people were embalmed without permission at an average cost of $125 for the embalming and $1,000 for other goods and services purchased as part of the embalming. If the figure of 5 percent is used for those who would be cremated if they had the choice (this is the figure for the general population), the total cost to consumers is $87.8 million. Many experts, however, estimate that 30 percent of the deceased would choose cremation if the options were fully disclosed. If this figure is used, instead, the total savings to consumers would be $526.6 million. Assuming that only 5 percent of consumers will comparison shop for a less expensive casket, the total savings to consumers from casket price lists would be $63.7 million. Requiring caskets for immediate cremations cost consumers $8 million in 1976. Although it is impossible to estimate the total consumer savings from the funeral industry rule, it is clear that many hundreds of millions of dollars are involved.

These savings can be fully realized only if the rules are widely complied with. When the economic incentives for noncompliance are as high as they are in trade regulation, compliance can best be increased by strict enforcement. The FTC lacks the resources to serve as the lone

policeman of the marketplace. This problem is ameliorated by section 7 of H.R. 3816 which establishes a private right of action for consumers to enforce FTC rules when they have been injured. Class action mechanisms are provided to facilitate efficient enforcement. Without the possibility of a class action, firms could systematically violate the FTC rules so long as the amount of money which they cheat any one consumer out of is less than the cost of a lawsuit. Section 7, by providing private consumer actions and class action procedures, assures that systematic violations of FTC rules will be very expensive for any company.

H.R. 3816 seems to me to be an essential element of the strong FTC which Congress reaffirmed with the Magnuson-Moss Act. I urge my colleagues to support the Commerce Committee's bill.

ABORTION

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. STUMP. Mr. Speaker, as we again consider the language concerning abortion in the Labor-HEW appropriations bill, I would like to share the following excerpts from an article appearing in These Times, published by the Southern Publishing Association of the Seventh Day Adventists:

ABORTION

Many issues face modern man in the late 1970's that previous generations never even anticipated. Abortion is one of these issues, and merely to ignore it won't cause it to go away. In order to be able to discuss this issue meaningfully, many of the confused notions that are accepted practically as legal tender in our society today must be clarified. Among these are the following:

1. The 1973 Supreme Court decision has solved the moral issue of abortion. Shortly after that famous decision a radio announcer began his broadcast by saying, "Now that the Supreme Court has solved the moral issue of abortion, what will be the next big moral issue?" Obviously he was confusing a legal solution with a moral one. There are many things that are legal which ministers refuse to do because of moral principles. In many places prostitution and gambling are legalized, but such laws do not soften the Christian opposition to these acts. It is legal to kill in war, but Christians sometimes ask to be excused from bearing arms.

The state must make laws on pragmatic grounds, often as a compromise between an ideal and the stark realities of life in a society which is not governed by moral ideals. The distinction between legal and moral becomes greater and greater as countries that once claimed to be Christian surrender their religious inheritance. We cannot accept a court decision as a moral absolute.

2. A woman should be free to do what she wants with her own body. This seems to clinch the decision for many people. A woman should have the right to control the use of her body as she wishes. She should not be forced to have sexual intercourse with people who are repugnant to her. That is why rape is such a heinous crime. A woman should not be forced to conceive merely to gratify a husband's virile ego, as is the case in many parts of the world. A woman's body should not be an object that can be handled, multilated, purchased, or used as if it were a possession of someone who is stronger than she. This point will be readily granted by Christians, but the real issue with abortion is whether the fetus is the woman's body or not.

If it can be proved that the fetus is merely a bit of the woman's flesh, the problem can be solved rather readily. But it is very difficult to admit that a fetus is "the woman's body" in the same way that we say the head or the arms are "the woman's body." The fetus is implanted in a woman's uterus, but it has its own genes, its own DNA; it cannot remain a part of its mother's body. In fact, to survive in the uterus the fetus has to induce important physiological changes without which it would be rejected as a foreign body.

3. Abortion should be granted on demand in order to be fair to the poor. This argument is used extensively. It is well known that where abortion is illegal rich women can have abortions under safe conditions while women with low economic resources must face butcherlike, unsafe procedures. Where abortion is a crime, there is no recourse for the patient who has not received proper care. Thus, for the sake of economic justice at least, many will argue abortion should remain legalized. We are obviously talking of legal considerations here rather than moral principles.

Besides, there is an amount of sophistry in playing up so much the plight of poor people when calling for abortion on demand, for abortion statistics show that abortion clinics do much of their business with well-to-do or middle-class women.

Actually liberalization of abortion has done little to cut down the number of births among the poor. Ignorance must be taken into consideration, of course, but we must also recognize that family bonds among the poor are just as significant as among the rich, perhaps even greater. Beyond this, there are, of course, other ways to control the size of the family that are far less questionable.

4. Unwanted children will be unloved children. This argument also touches a responsive chord in Christian hearts. We hear more and more about brutal child abuse in America and feel like supporting anything that might stop or at least lessen that social horror. It is, however, a fallacy to generalize and assert that "unwanted" children will be unloved children. All of us know cases of "unwanted" children who have been dearly loved. I know of a charming minister's wife, mother of five children, who has added much radiance to her husband's ministry. But she was an "unwanted" child if ever there was one. Her mother had been advised not to have any more children and had to stay in bed for the entire time of the pregnancy. On several occasions that mother's life seemed to be in peril, but no baby could have been loved more than the baby girl was when she was born. I know, because she is my own sister.

5. A fetus is a subhuman form of life. Consciously or unconsciously this idea is held by all proponents of abortion on demand. Obviously the fetus cannot live independently from its mother for many months, but does that make it a subhuman being anymore than the person who must rely upon a pacemaker or a kidney machine? Can self-sufficiency become the criterion of human dignity? Besides, fetologists have learned that the fetus is a very remarkable being. A recognized New Zealand fetologist writes:

"Biologically, at no stage can we subscribe to the view that the foetus is a mere appendage of the mother. Genetically, mother and baby are separate individuals from conception. Physiologically, we must accept that the conceptus is, in very large measure, in charge of the pregnancy, in command of his own environment and destiny with a tenacious purpose. . . .

"Most of our studies of foetal behavior have been made later in pregnancy, partly because we lack techniques for investigation earlier and partly because it is only the exigencies of late pregnancy which provide us with opportunities to invade the privacy of the foetus. We know that he moves with a delightful easy grace in his buoyant world, that foetal comfort determines foetal position. He is responsive to pain and touch and cold and sound and light. He drinks his amniotic fluid, more if it is artificially sweetened and less if it is given an unpleasant taste. He gets hiccups and sucks his thumb. He wakes and sleeps. He gets bored with repetitive signals but can be taught to be alerted by a first signal for a second different one. . . .

"This then is the foetus we know and indeed each once was. This is the foetus we look after in modern obstetrics, the same baby we are caring for before and after birth, who before birth can be ill and need diagnosis and treatment just like any other patient. This is also the foetus whose existence and identity must be so callously ignored or energetically denied by advocates of abortion."

The basic issue. Any denial that the fetus is a real life evades the basic issue, which is this: Are there certain circumstances in which a human life should be terminated?

An editorial in the journal of the California Medical Association stated: "The process of eroding the old ethic and substituting the new has already begun. It may be seen most clearly in changing attitudes toward human abortion. In defiance of the long-held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition, or status, abortion is becoming accepted by society as moral, right, and even necessary. It is worth nothing that this shift in public attitude has affected the churches, the laws, and public policy rather than the reverse.

"Since the old ethic has not yet been fully displaced, it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death.

"The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected." The editorial concludes with the prophecy that death selection and death control by the individual or society will inevitably follow.

CALIFORNIA ADOPTS 0.4 NO_x FOR 1982 PASSENGER CARS

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ROGERS. Mr. Speaker, we have just been through a summer of the dirtiest air ever recorded in the Washington area.

The Metropolitan Washington Council of Government between May 20 and September 3 announced a record 30 days in which air pollution alerts were in effect, and a record 47 days in which the air

quality index reached the very unhealthy mark of 100 or more.

The Washington Star recently carried reports from physicians at area hospitals that the record air pollution was accompanied by an increase in respiratory ailments.

The air was dirty this summer because we faced a combination of sunlight and auto exhaust similar to that which California discovered years ago. Since it is recognized that this is a transportation caused problem, the D.C. area governments are seeking to change transportation patterns—construction of the metro system, opening of priority bus lanes, and institution of commercial parking rates at Federal agencies. These are all desirable steps, but the bottom line is that people are not going to give up the convenience of their cars, and they need not.

California has long recognized that to make any progress against this increase in air pollution and its attendant bad health effects, the pollution must be attacked at its source—the automobile itself.

And so California has now adopted the nitrogen oxide standard of 0.4 grams per mile which Congress wrote into the Clean Air Act of 1970, but which unfortunately was weakened by this year's Clean Air Act amendments. The standard will be applicable to 1982 model year passenger cars. The move is significant, because we have recently empowered other States to adopt California's standards with 2 years' notice.

Mr. Speaker, I insert at this point in the RECORD an article from the September 12, 1977, Automotive News magazine which I believe will be of interest to my colleagues and to any State which is considering the use of its new authority to adopt California's approach.

The article follows:

[From Automotive News, Sept. 12, 1977]

CALIFORNIA ADOPTS 0.4 NO_x FOR 1982 PASSENGER CARS

SACRAMENTO.—California's Air Resources Board has settled a 10-year debate over car manufacturers' most difficult air pollution problem by adopting an oxides of nitrogen standard reducing emissions by 90 percent as required by Clean Air Act amendments of 1970.

The new California standard, according to ARB Chairman Tom Quinn, is more than twice as strict as required by amendments to the act adopted by Congress for application in other states.

"Other states," Quinn said, "are now empowered to adopt the California auto emission standards after providing the car makers two years' advance notice."

The new NO_x standard adopted by the ARB is 0.4 gram per mile. It will apply to 1982-model passenger cars and to some 1983-model light-duty trucks and medium-duty vehicles.

The ARB also has adopted an optional standard of 1.0 GPM for vehicles certified for 100,000 rather than 50,000 miles.

"That standard," Quinn said, "is expected to encourage development of more durable emission control systems while providing approximately the same degree of pollutant control for 100,000 miles as does the 0.4-GPM standard for 50,000-mile cars."

California's current NO_x emission standard of 1.5 GPM will be reduced to 1 gram per mile by 1980. Cars sold in other states now must meet a standard of 2 GPM standard until 1981 after which it will remain indefinitely at 1 GPM.

AIR FORCE CHIEF OF STAFF ADDRESSES AIR FORCE ASSOCIATION CONVENTION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. ALEXANDER. Mr. Speaker, it was my privilege last week to attend the annual convention luncheon meeting of the Air Force Association. Addressing the group was Air Force Chief of Staff, Gen. David C. Jones. I think my colleagues will be interested in General Jones' observations on where the Air Force has been in its 35-year history and where it should be going and I commend General Jones' comments to my colleagues:

REMARKS BY GEN. DAVID C. JONES

Mr. Secretary, members of the Air Force Association, ladies and gentlemen.

On of the highlights for the Chief of Staff of the Air Force each year is the annual convention of the Air Force Association. I always welcome this opportunity to get together with many friends and to say thanks to the great supporters of the Air Force and of a strong national posture.

As you know, this year's convention, marking the Air Force's 30th birthday, will be my last as Air Force Chief. I would like to use this opportunity to share with you a few summary observations about how far we have come and some judgments about where we should be going.

As I look back at events over the 30 years of our history, the phenomenon that strikes me most is the tremendous explosion of technology. The progress has been revolutionary and new opportunities are emerging almost daily.

The same year AFA was formed, scientists at the University of Pennsylvania unveiled the first practical digital computer. It contained 19,000 vacuum tubes, sprawled over 15,000 square feet, weighed 30 tons. That same computing power is available today in an integrated circuit the size of a suger cube!

Technological changes have permeated our entire society, and because ours is such a highly technical service, the impact on the Air Force has been continuous and dramatic. Moreover, the rate of technological breakthrough in the days ahead will increase almost exponentially.

One of the key challenges of the future—for the Air Force and for the nation—is to continue to act responsibly and wisely as we soar up the technological curve.

For, when I see man's giant strides in technology in only a few years—from being totally earthbound to walking on the moon—and compare this to the lack of progress man has made in dealing with man, I am struck by the stark contrast. The ideals of human dignity, charity, brotherhood, and justice have been recognized for thousands of years. Yet we are little closer to achieving them on a global scale than when Christ preached the Sermon on the Mount. To this day, man abuses man. There is hostility, false pride, inability to work with each other. This was brought home to me very clearly two weeks ago when I was in Korea. At Panmunjon, I looked at the hostility in the eyes of the North Korean soldiers, then went by the stump of the tree where the two American Army officers were so tragically and brutally murdered just a year ago. The experience caused me to reflect once again that we live in a world with far too many fences and not enough bridges.

Thirty years ago, there were barely 50 nation states on the earth, and now there are more than three times that many. This growth in the family of nations has many good aspects, for it is a consequence of eliminating many of the vestiges of colonialism. But there are many old and some new frictions. Many of these states are not economically viable and face great difficulty in the days ahead. We have finite resources on this beautiful planet. Appetites are growing and the resources are diminishing. A rise in terrorism and the threat of nuclear proliferation pose continuing problems for man in his dealings with man—competition, hostility, continuing tension—even if we did not have differences between the Soviet Union and the United States.

The key consideration for us, and perhaps for this planet, is the relationship between our two countries. There are very fundamental differences—differences that will continue regardless of cooperation and negotiations. We are an open society; they are a closed society. When we try to exercise influence, it is to maintain access, to work on a cooperative basis; their influence is typically used to gain control. We generally want stability in the world so we can encourage international progress and improvements in an evolutionary way. The Soviets often promote instability, except in their own sphere of influence—instability where vacuums could be created allowing them to gain a foothold. Cooperation between our societies has seldom been unequivocal.

So, unfortunately, we must anticipate continuing differences—different ideals, different goals and means, different priorities. It is important that we understand the Soviets, that we not mirror image, and not assume that they think as we do.

In order to prevent this in the Air Force, we formed a group in the Pentagon called CHECKMATE. We have a "Red" team and a "Blue" team. The "Red" team has been told to "think Soviet"—study the history, read everything available in classified and open literature, get inside the Soviet mind. We try to get the Red team thinking from the Soviet perspective, examining what they might do, what options are feasible and appealing. Then the Blue team, faced with this simulated confrontation, reacts to see how we and the West should respond.

I would like to put on the "Red" hat for just a few moments and invite you to imagine yourself in the Kremlin to see how the world might look from that perspective. The view is mixed—some minuses and pluses.

On the one hand, we face some serious problems. Our GNP growth is slowing and there are many who predict that it will be almost stagnant in the 1980s. We face chronic problems in our agriculture—some good crop years but in general a need to use hard currency to import foodstuffs. There is reason to believe we could have an energy problem and move from being a net exporter to net importer of petroleum. We have a vast oil reservoir in Siberia, but it is imprisoned in permafrost and to exploit this resource will demand tremendous capital investment. Tapping that oil and transporting it West of the Urals will be a very difficult and expensive undertaking.

There is some restlessness in our Soviet republics and in our East European nations. We have a lid on it now, but we have long memories; our experiences in Poland, East Germany, Hungary, and Czechoslovakia have taught us that, if we do have problems in the economy or with our agriculture, or if we

relax our vigilance and controls, there are seeds of great dissension ready to sprout overnight.

We look beyond our borders and see the pressure of a billion Chinese at our back door. In the Middle East, we took two steps forward and three back, with scant political return on decades of military investment. In Africa, it is a mixed bag. We see opportunities, involvement, footholds—but with Soviet arms clashing with Soviet arms in Ethiopia and mistrust elsewhere, we face difficulties and uncertainty as to where we will stand in the long run. Overall in our diplomacy, we find some bargain hunters, some hangers on, but few friends.

As we look across the ocean at our principal adversary, the United States, we see a very resilient society. It has bounced back from the body blows dealt by Watergate, Vietnam, and riots in the streets. It has climbed out of the depth of recession and the economy is on the upturn, though at an uncertain pace. After 60 years we are still compelled, in so many ways, to look up to America—and things are looking up in America.

Despite all these minuses, there are some pluses in our Kremlin tally sheet. I won't try to enumerate all, but will touch on some key ones. First, America's dynamic chain of economic and social vitality has some fragile links. One is a self-inflicted dependence on foreign sources of oil—sources not far from my borders. Another is an excessive social and economic intricacy, in which a power failure in her largest city spawned virtually a shutdown of the city and widespread looting. A third is a uniquely American ingenuousness, sometimes bordering on the naive: a tendency to become complacent, to expect the best from others because they wish it so, to be caught off guard and less than ready if attacked. They always respond when the signals are unmistakable or the first blow has been received, but the response often takes a long time. Finally, I see a nation never completely at ease with the power—especially the military might—it has so patiently built.

Meanwhile, the biggest plus that I see from the Kremlin is my own military capability. For the first time in our history, there is no serious threat of invasion of Mother Russia. We have now matched the United States in the strategic field. (Even the Americans admit this, and there are some who say we have surpassed the Americans in this all-important area of strategic power.) We have the largest ICBM force in the world—the most megatonnage, the most destructive capability. We have the largest army in the world, well equipped, mobile, and heavily armored. We have a new navy—not long ago a coastal force and now a true blue water fleet—modern, well equipped, with range almost worldwide. And we have a new air force. Formerly, our aircraft were limited by very short range, small payload and not much sophistication in their avionics. All that has changed and our equipment is modern and highly capable. In sum, we're strong at home and in our neighborhood, but we have also achieved a substantial and growing capability to project that strength to many parts of the world.

Despite the great production capacity in the United States, we in the Soviet Union outproduce our opponent in military hardware in almost every respect. And during a crisis or buildup, we could continue to outproduce them in hardware for many months and in some cases for years.

From the Kremlin, I see a mixture—constraints and options and opportunities. And I may hear voices—voices on the one hand saying, "We face problems in our economy, in tapping the oil in Siberia, many challenges, a need for Western capital and technology. It would be best if we cut back on our investment in military hardware and expanded cooperation with the West—that course would provide the greatest opportunity for the Soviet Union in the days ahead."

On the other hand, I may hear other voices, likely to be louder, saying, "That is not the path. It is only our military power that gives us influence abroad. We are not a superpower from an economic standpoint; we are not a superpower from a technological standpoint. Our political influence in the world stems from our military capability, and our opportunities may come externally. There will be vacuums and confusion in the world—there will be opportunities, and we must continue to expand this military might."

Which voices will prevail is hard to predict, but as we step out of the Kremlin, we have to ask ourselves what all this means in terms of U.S. security interests.

The mix of technological power and unpredictable mankind puts a premium on military vision and readiness. Today we have an uneasy balance of forces. Tomorrow's challenges will be greater.

We need vision not only in the sense of military hardware and skills, but also in the impact our initiatives have on the broader dynamics of international relations. We must follow the avenues of stability in SALT and other arms negotiations. We must always keep an eye cocked to margins, to restraint, to weapons and programs that stabilize the chemistry of strategic deterrence.

It is essential for the future of our country that we continue to pursue negotiation rather than confrontation, with strategic negotiations as a first priority.

But in these negotiations, we must assure that the equal sign in the deterrent equation does not become blurred. I am in wholehearted agreement with the position of the current administration—reiterated by Secretary Brown last week—that essential equivalence is the policy of this nation—that we will maintain a strategic balance with the Soviet Union. We should support negotiations and reductions on both sides, with an eye to sustained parity. This presents a special challenge to us in the United States Air Force, for we are the keepers of the majority of the nation's strategic weapons and the country looks to us for innovative strategic concepts and well-managed strategic programs.

We were naturally disappointed with the decision on the B-1. However, no single weapon system spells the difference between success or failure of strategic deterrence. The key is in the aggregate TRIAD capability and we are working on alternatives to the B-1—cruise missiles as well as other initiatives—to keep the TRIAD modern and impregnable.

We believe it is important that this country continue to have a manned penetrating aircraft. The B-52 can continue in this role for many years, and we advocate an option for an FB-111H—a much improved version of the current FB-111 using B-1 engines and other B-1 technology features.

We are not faced with "all or nothing" issues in our programs. We have a menu of options for the years ahead. I am confident that national wisdom will maintain a rough strategic balance and an overall military balance. To that end, the Secretary of Defense has said that, "we plan to raise the level of U.S. defense spending by approximately three percent a year in real terms."

We need vision, and in the face of technology's indifferent power we also need readiness—for today's forces and tomorrow's. If someone years from now writes a history of the Air Force, I hope when he comes to my name he'll say, "He helped to make readiness our watchword."

What we have lost in military matters in this generation is time. Time has been our solvent, our teacher and our friend in all the wars of our history. It's no longer there and, in its place, we must substitute a readiness composed of several ingredients.

First, contemporary readiness requires modern weapons—new systems like the F-15, new kinds of systems like the AWACS. It also takes parts and supplies on hand, a taut posture, realistic training—the kind we have at Red Flag, where our crews go to mock war day after day against the kind of forces and tactics they are most likely to face.

We must be able to respond any place in the world quickly, in some places with stationed forces, in others with autonomous mobility.

However, we must recognize that, except in the realm of strategic warfare, we do not have a go-it-alone capability for major conflict. This applies particularly in Europe, but the point is valid for most other areas in the world where our national interests are at risk.

Therefore, readiness requires coalition—a concept we have not always emphasized in our thinking and planning. We could have done better in Southeast Asia, for example, as we shaped a coalition fighting force. We left the South Vietnamese excessively dependent upon our "calling the shots" and did not do enough to develop their own capability and confidence. We have a chance now to do it right in Korea—to share our arms and training in a way that will assure a strong and confident deterrent and defense.

We have to think hard in this area—about interoperability, rationalization, standardization. It has to take on renewed meaning and be translated into real initiatives. There is great emphasis here in the Pentagon. Ambassador Bob Komer, Advisor to the Secretary and Deputy Secretary of Defense for NATO Affairs, with Assistant Secretary of Defense rank, has been charged to zero in on the NATO issues. He is working with the Services to ensure that all our programs take into account the need to cooperate with our NATO allies across the whole spectrum of R&D, procurement, and employment. The Department of Defense and the Services are seeking new ideas, new incentives, new techniques to foster a fresh climate of cooperation and mutual benefit with the Alliance, and to make NATO standardization a two way street. To you in industry, that poses a special challenge: to fit corporate and technical priorities into this broader framework.

Finally, and perhaps most important of all, readiness takes strong professionalism—from the top down. People are the key. Today, we have the best in our history—the best commanders, the best discipline, the best esprit, the cream of our country's youth and talent. Deputy Secretary of Defense Duncan visited one of our bases not long ago and came back delighted with the Air Force men and women he saw. "Give me half a dozen of those young people for any business," he said, "and I'll guarantee success before the start."

That's a spirit and advantage we must preserve. The Soviets do not have it—their discipline, in general, is based on fear and locked into rote patterns, their initiative is the kind that wears blinders and collapses with disruption, their morale is low. The people's contrasts are startling.

We have a good thing going—a great nation moving down an open road, and a great Air Force helping to defend it. You in this audience have helped to make that true.

We'll have changes ahead—shifts and challenges far greater than you and I have seen in 30 years—new weapons, new tensions, new questions.

Somewhere out in the Air Force this afternoon there are young people who will be our senior leaders 30 years from now—somewhere the officer who will stand where I'm standing and look back with a feeling of gratitude and awe over our future and his past. He'll talk of change and concern, and I'm confident that he'll talk with pride.

In conclusion, I'd like to borrow something Bill McBride, our Vice Chief, said last night: "The U.S. Air Force of today is second only to one—the U.S. Air Force of tomorrow."

AIR BAG RULE OPPOSED

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. BROYHILL. Mr. Speaker, the House Interstate and Foreign Commerce Committee, on which I serve, will soon Consider House Concurrent Resolution 273 which disapproves Secretary of Transportation Brock Adams' passive restraint order of June 30, 1977. I strongly believe this is a critical issue which merits the full and undivided attention of the Members.

Recently, the Subcommittee on Consumer Protection and Finance, on which I serve as the ranking minority member, completed hearings on the Secretary's rule which orders automobile manufacturers to provide front seat passive restraint protection—air bags—in all passenger cars beginning in model year 1982. On September 21, 1977, the subcommittee reported to the full Commerce Committee House Concurrent Resolution 273 with a recommendation that it not be approved.

After lengthy and careful consideration of this complex issue, I decided that the Secretary's decision is clearly premature due to the lack of definitive answers to the many questions and criticisms which have been raised over the passive restraint order. Therefore, I disagreed with the recommendation of the subcommittee. I am taking this opportunity to submit in the RECORD an explanation of the reasons why Mr. RINALDO and I oppose the subcommittee's action. I hope that the Members will carefully study these views and feel free to ask us or our staffs any questions with respect to our decision:

MINORITY VIEWS OF JAMES T. BROYHILL AND MATTHEW J. RINALDO ON HOUSE CONCURRENT RESOLUTION 273

On September 21, 1977, the Subcommittee on Consumer Protection and Finance reported to the full Committee on Interstate and Foreign Commerce H. Con. Res. 273 with a recommendation that it not be approved. This concurrent resolution provides that the passive restraint standard (commonly referred to as the air bag standard) transmitted to Congress on June 30, 1977, be disapproved. We disagree with the recommendation of the Subcommittee that the Resolution not be approved.

On December 6, 1976, Secretary of Transportation, William T. Coleman, issued a decision concerning motor vehicle occupant crash protection. In that decision, the Secretary called for a nationwide demonstration program to obtain more experience with air cushion restraint systems, to familiarize the American people with the benefits of air cushions, and to foster the continued development of passive restraint technology. The Secretary proposed to carry out this demonstration program by entering into agreements with automobile manufacturers to produce and sell, over a two-year period, 500,000 passenger cars equipped with an air cushion restraint system on a nationwide basis. The Department of Transportation later entered into agreements with Ford, General Motors, Mercedes-Benz, and Volkswagen of America to carry out the objectives of this demonstration program.

However, on June 30, 1977, Secretary of Transportation, Brock Adams, rejected the Coleman approach and mandated a new occupant restraint standard which requires that front seat passive restraints be phased in all new cars between the 1982 and 1984 model years. We feel constrained to oppose that decision and to assist in such efforts as are necessary to assure that the standard is disapproved by the full House. We will here attempt to detail various factors and considerations which we believe clearly indicate that the decision of Secretary Adams is both premature and unwise as a national policy decision.

DATA SUFFICIENCY

The National Highway Traffic Safety Administration began gathering data on air bag experiences in the real world traffic environment in early 1973 with 831, 1972 Mercurys, and 1,000, 1973 Chevrolets. These air bag equipped vehicles were used in the manufacturers' test fleets. To these were added 75, 1975 Volvos, and 10,000 Buicks, Cadillacs, and Oldsmobiles between model years 1974 and 1976. The General Motors fleet of 10,000 vehicles is unique in that it is the only group of air bag-equipped cars which were sold to the public. Together, these vehicles make up the total of 12,000 vehicles from which NHTSA has derived its assessment of air bag performance in the field. As of September 1, 1977, these vehicles had travelled in excess of 480 million miles, 390 of which are attributable to the GM fleet. It is generally agreed that real world data is the soundest indicator of a safety device's performance. As Dr. Lawrence Goldmuntz testified before the Subcommittee, "we have come to the conclusion that there is a variety of data sources and that most reliably by far is real world data."

However, out of 12,000 vehicles which have travelled over 480 million miles there have been only 165 air bag crash deployments. In her letter dated July 21, 1977, responding to a request for comments from Honorable John E. Moss, Ms. Joan Claybrook, NHTSA Administrator, stated that "[a]lthough this field experience provides valuable information as to the practicability and reliability of air bags, all knowledgeable parties agree the fatality data are insufficient to permit drawing statistically supportable conclusions."

In its "Summary of Air Bag Experience 1973–1977", dated May 31, 1977, NHTSA admitted it was true that "there are simply not enough cars in the field to permit statistically significant estimates of their effectiveness." The need for more data is obvious. This need is reinforced by the fact that there have been 15 non-crash deployments as of September 1, three of which occurred on the road.

As noted by DOT in its discussion of considerations underlying the standard which accompanied the proposed FMSS 208, "[t]he frequency of inadvertent deployment is . . . of special concern." They state that "[t]here is little question, however, that inadvertent actuation could cause loss of control by some segments (aged, inexperienced, distracted) of the driving population, and it must not be viewed as a small but real cost of air bag protection." While DOT argues that the causes of the inadvertent deployments are known and can be eliminated, they continue to occur. The need for further design improvements to eliminate this occurrence is obvious, particularly since DOT estimates 7,000 on-the-road inadvertent actuations annually, or one for every 15,000 vehicles.

EFFECTIVENESS

The DOT has estimated that approximately 9,000 lives could be saved each year if all cars are equipped with air bags. This estimate is based on the use of assumptions, adjustments, and effectiveness factors, all of which have become critical in light of the very limited real world data. Other groups, such as GM, Economics and Science Planning, Inc., and the Cornell Aeronautical Laboratory have reached differing conclusions on the air bag's effectiveness. Even the DOT reached the paradoxical conclusion (Docket 74–12, Notice 10) that the air bag is more effective in all modes of impact (front, side, rollover, rear) than it is in frontal impacts, the crash mode for which the air bag system was designed.

GM took issue with the DOT effectiveness estimates, because they are based on not only data from laboratory tests but also the subjective judgment of evaluators who have direct knowledge of how the value of their estimates will affect the overall outcome. The potential for bias is great. GM used a "matching case" technique with a case selection procedure which substantially reduced the chance for bias and found that the DOT estimates for air bag effectiveness appear to be significantly overstated. GM asked DOT to commission an independent group to review the basic data and analyses of both the DOT and GM in order to determine the validity of each.

In an independent study conducted by the Cornell Aeronautical Laboratory, a nonprofit research organization, automobiles were crashed in offset front end collisions in a manner that simulated real world auto accidents. These tests, which used dummies and cadavers in the driver and passenger seat positions, were designed to determine the effectiveness of air bags as compared to seatbelts for drivers and right front seat passengers. In all of the tests, with both dummies and cadavers seated as drivers and passengers, the seatbelt restraint systems did a better job in protecting the test subjects than did the air bag. None of the four occupants wearing seatbelts sustained gravitational forces above the standard for fatality. But three of the four air bag cases showed fatal forces. To our knowledge, DOT has never issued a substantive comment or analysis regarding these tests.

A discussion of air bag effectiveness should include some discussion of seatbelts and their relative merits in light of their availability and economy. Seat belts are present in over 90 percent of the cars on our highways today. A set of 5 seatbelts (2 lap/shoulder harnesses in the front seat and 3 lap belts in the back seat) costs $85 on the average in a new car today. In the testimony before the Subcommittee, all parties, including the DOT, agreed that a seatbelt usage rate of between 50 percent and 65 percent (usage percentages vary somewhat) would result in comparable, if not greater, protection for auto occupants. While air bags only provide protection in frontal and angular frontal collisions, seatbelts provide protection in these collisions as well as in rollovers and side and rear collisions. All of these factors constitute a solid argument for the seatbelt which, if combined with substantial effort to promote greater usage, could save more lives than the air bag.

SODIUM AZIDE

Sodium azide is currently being used by all of the major air bag suppliers as the solid propellant for inflation of the air bag. Each air bag is equipped with a canister containing approximately 1¼ pounds of sodium azide. This compound has been found to be a potent mutagen in a wide variety of organisms by two Washington State University geneticists, Professors Nilan and Kleinhofs. This finding has been confirmed by Dr. Bruce Ames, Chairman of the Genetics Department at the University of California at Berkeley. No genetic tests have been made on humans or human cell cultures but the likelihood of its being mutagenic in humans is high in view of the compound's mutagenicity in a relatively wide variety of organisms. The possibility also exists that sodium azide is a carcinogen since most mutagens are carcinogens. The carcinogenicity tests have not been exten-

sive, however; and this aspect requires additional testing.

The Toxic Substances Control Act, which was approved by this Committee and by the Congress in 1976, not only granted authority to EPA to restrict or prohibit the production and sale of chemical substances for which there were insufficient data regarding their toxicity, but also encouraged the Administrator to take actions promptly to keep such substances out of commerce. Now, another government agency, the Department of Transportation, has mandated an automobile safety standard which it knows will result in widespread use of a known mutagen and possible carcinogen, sodium azide. The agency has not mandated the use of this substance, but it is fully aware that the substance will be used extensively as a propellant for the air bag and has taken no action to restrict its use. This substance may well be banned by EPA at a later time for this particular use on the ground that it presents an unreasonable risk to our environment and to the health of our citizens.

Before the Federal Government mandates an action which it knows will result in an increased use of a known mutagen, it should engage in an extensive effort to clarify the risk and the long-term effects of this substance, determine if adequate and effective alternatives are available, and obtain proper assurances that alternative substances will be available in amounts necessary to meet the large demand of the automobile manufacturers. We have seen no evidence that the agency undertook such an analysis prior to its issuance of the regulation, nor have we seen such an effort since the regulation has been issued, even though strong and numerous concerns have been expressed regarding the use of sodium azide.

This is one more area in which we firmly believe more data and information is needed before we reach a final decision concerning air bags.

COST TO CONSUMERS

While we are concerned about the effectiveness of air bags as projected from the limited data presently available, we are also concerned about unnecessary costs to consumers for a device which may prove to be a disappointment from a safety standpoint. Cost estimates for the air bag system vary substantially. Although NHTSA estimates the installation cost at $112 and the replacement cost at $325, their estimates are the lowest. (Ford Motor Company in its petition dated August 4, 1977, to DOT for reconsideration of the air bag standard indicated that DOT has in its possession supplier data which shows that the cost of air bag components alone exceeds the $112 DOT estimate.) Estimates from the auto manufacturers range from $193 to $250 for installation and from $300 to $600 for replacement. These estimates should be viewed as additional costs to consumers who have been paying for lap and shoulder belts in all cars manufactured since 1968 and who will continue to pay for 5 lap belts on the average (2 in the front seat and 3 in the back seat) under the mandate.

NHTSA's argument that air bag costs will be offset by savings which will be realized by car owners of the 1980's from the fuel economy standards announced by Secretary Adams in June, 1977, must be countered with the fact that the air bag system will add a minimum of 38 pounds to the car which will increase, by DOT's calculation, the annual consumption of fuel by automobiles by 0.71 percent (about 521 million gallons annually).

CONCLUSIONS

There is little question that the data and experience regarding air bags are totally insufficient to make a meaningful evaluation of their effectiveness. As we mentioned earlier, the data base used by DOT is so sparce that its conclusions from the data indicate that air bags offered a greater degree of protection in those types of crashes in which the air bag was not designed to deploy (non-frontal crashes) than it did in those types of crashes in which the air bag was designed to offer protection to automobile occupants (frontal crashes). These conclusions alone should indicate that the data used by DOT to evaluate the effectiveness of the air bag is totally incomplete and inadequate.

However, despite the fact that its conclusions are completely inconsistent, DOT chose to ignore General Motors' extensive evaluation of basically the same data using different methodologies in which serious questions were raised as to the air bag's effectiveness. Not only did DOT take the incredible action of dismissing the GM study, without substantive comment, on the grounds that "General Motors is a vastly interested party in these proceedings", but it also rejected GM's request to have independent and disinterested experts review the basic data and analyses of both DOT and GM in order to determine the validity of both. In addition, the potentially serious questions raised by the Cornell Aeronautical Laboratory regarding the safety and effectiveness of air bags have not been addressed by DOT in any substantive manner.

While we do not take the position that the studies conducted by General Motors and Cornell provide the correct analysis regarding the effectiveness of air bags, we do firmly believe that these studies taken in conjunction with the obvious inconsistencies in the DOT study make it abundantly clear that much more data and experience are needed before the Federal Government mandates the use of air bags.

The testimony before the Consumer Protection and Finance Subcommittee from both proponents and opponents of the passive restraint standard makes it clear that if seatbelts were used more extensively by the public they would provide comparable, if not greater, protection than air bags. Also, the very critical fact that air bags would not be available in our overall automobile population for at least 14 years, while seatbelts are now contained in over 90% of the cars now on the road should not be overlooked.

We should certainly not, as a matter of national policy, mandate the substitution of a proven restraint system for one that may well prove to be less effective once sufficient data and experience is available. The lack of wisdom of the DOT decision becomes even more apparent when taking into account the fact that the implementation of this standard will cost the American public in excess of $2 billion a year and place into our environment large quantities of a known mutagen which will be distributed geographically throughout all regions of our country. In addition, such an action may well have the adverse effect of casting public suspicion on the effective belt system and thereby discourage its use.

If the air bag proves to be ineffective or if the toxic chemical sodium azide proves to present a substantial risk to our citizens, it will be years before we can fully correct the situation.

We sincerely believe that the wiser and more sensible approach would be to expeditiously reinstate the Coleman decision and enact such legislation with such funding as may be necessary to carry out extensive, intense, and comprehensive programs to educate the American public as to the value of seatbelts and strongly encourage their use. Unfortunately, a program of the magnitude necessary to accomplish this objective has never been undertaken by the Federal Government and is well overdue.

The decision of DOT to mandate the use of air bags in our automobiles is clearly premature, and we ask the support of our colleagues in our efforts to disapprove this action.

THE 1977 PRODUCT ADVANCEMENT AWARD

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MINISH. Mr. Speaker, recently the Apollo Chemical Corp. of Whippany, N.J., was awarded the 1977 Product Advancement Award for developing a unique, low cost, pollution control system.

I want to commend the officers and employees of Apollo for this achievement and to commend them for their outstanding contribution to environmental quality.

At this point, I insert a news release detailing the award:

APOLLO CHEMICAL WINS 1ST PLACE AWARD FOR AIR POLLUTION CONTROL

UNIQUE SYSTEM TO CONDITION FLUE GAS FROM BURNING COAL IMPROVES OPERATING COSTS

WHIPPANY, N.J.—Apollo Chemical Corp. was selected as 1st Place Award Winner in the 1977 Product Advancement competition sponsored by Pollution Engineering. The award recognizes Apollo's unique flue gas conditioning system for its unique contribution to low cost air pollution control. This system makes it possible for coal burning power plants to use its existing precipitators to meet current EPA requirements for emissions without having to spend any significant sums of capital investment for new precipitators or other capital-intense collection systems.

According to Dr. Ira Kukin, president of Apollo: this flue gas conditioning system which already is in use at over 30 major power plants in the United States, from coast to coast, has now been tested with smaller industrial coal burning plants and is available for immediate wide scale usage. It makes it possible to burn low sulfur coal, and in many cases even higher sulfur coal where allowed by statute. It also saves the power plants money because they don't have to derate the boilers to meet the emission requirements. In many cases the improved power gain by using this system results in direct savings to the utility or the refinery or the industrial plants faced with the problem of meeting particulate emissions.

Dr. Kukin further adds that this flue gas conditioning system can save the power generation industry in excess of $1 billion in capitalization costs and adds that, "This is a conservative estimate".

Commenting on the award that was presented to Dr. Ira Kukin, president and founder of Apollo, and to Dr. Robert Bennett, research director of Apollo, Richard Young, editor of Pollution Engineering, said: "Congratulations to your company for its efforts in the development of a product in 1977 which is truly a major state of the art advancement to our industry". A special marble award plaque to Apollo was presented at an awards luncheon at the Army-Navy Town Club in Washington, D.C.

The selection was made by a distinguished panel of 36 engineers and scientists from the pollution control industry, government and the electric utility industry. Among the organizations represented on the panel were the Energy Research and Development Administration (ERDA), Occupational Safety and Health Administration (OSHA), California Department of Health, Illinois Gas and Electric, Mobil Chemical Company and Shell Oil Company.

The award recognizes Apollo's flue gas conditioning system for its valuable contribution to low-cost air pollution control.

In summarizing how this unique flue gas conditioning system works, Dr. Bennett ex-

plained that it conditions the fly ash formed when burning low sulfur coal. The chemicals supplied by Apollo are sprayed into the exit outlet of the boiler. They cause the particles to be collected more completely and readily by electrostatic precipitators and mechanical collectors. Its successful use at both utilities and industrial plants has significantly reduced the overall amount of particulate emissions in the atmosphere, improving the air quality, yet providing substantial savings to the users. It further was noted by Dr. Kukin that this system already has gained acceptance by the State and EPA regulatory agencies.

It is significant that in many cases the EPA agencies have recommended to operators of power plants that they actually try the Apollo flue gas conditioning system because it permits them to meet the existing regulations for emissions immediately. This provides more than adequate breathing spell for the utilities and industrial power managers because it takes the immediate pressure off them and permits them to plan more carefully their power and pollution control requirements for the 1980's.

Today, Apollo is the only company to offer a full-service treatment approach to meet a utility's needs: site surveys; professional stack testing and fuel sampling; design, fabrication and installation of equipment; manufacture of chemicals; program optimization for maximum performance and emissions compliance; and follow-up testing and service.

SHARE-A-MEAL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. MILLER of California. Mr. Speaker, companionship is cited as the most important ingredient in the share-a-meal program of Catholic Charities, one of some 1,100 privately operated meals-on-wheels programs in the United States. Such dedicated groups would receive a much-needed boost if legislation I, along with over 100 cosponsors, becomes law. My legislation would amend title VII of the Older Americans Act to include a national meals-on-wheels program for the homebound.

The following article from the Christian Science Monitor outlines some of the problems and solutions for the homebound:

[From the Christian Science Monitor, Sept. 15, 1977]

"MEALS-ON-WHEELS" GET PUSH FROM U.S. FOR SHUT-INS

(By Edward R. Walsh)

Blanche is blind. Locked indoors, she seldom ventures out for fear of falling. Pierre, nearly 90 now, is lonely, restive, discouraged. Marilyn, bright, blond, and 60 years Pierre's junior, has been confined to a wheelchair since an auto crash.

These three, residents of Westbury, New York, have one thing in common: They lack companionship. Trapped by disability and declining expectations, they have become part of a silent minority known as the homebound handicapped. And America has some 5 million more like them.

Most are poor and elderly and live in rural areas, says a recent report of the U.S. Senate Select Committee on Nutrition and Human Needs. About 60 percent are over 60 years old. Too often they become "isolated, lonely, and malnourished," with such basic needs as adequate nutrition and companionship going unmet.

NATIONAL PATTERN?

To help meet the nutritional needs of these neglected Americans—and provide them some companionship—Congress has appropriated funds for a number of "meals-on-wheels" pilot projects by which local volunteers will bring food and friendship to shut-ins. These few pilot projects, which will operate on grants from the Department of Health, Education, and Welfare, would give way to a nationwide program if legislation now before the Senate's Nutrition and Human Needs Committee becomes law.

Already, private organizations operate some 1,100 meals-on-wheels programs in the United States, reports Joseph Brown, president of the National Association of Home Delivered and Congregate Meal Programs.

Under the new national pilot program, federal grants will be given to private groups. One of the few federally funded pilot projects is on Long Island, New York. It starts this fall in Suffolk County, to be operated by the Roman Catholic Diocese of Rockville Centre.

FIVE-MEMBER TEAMS

Diocesan Catholic Charities phased out its own Meals-on-Wheels program in January, 1975, when it organized its Share-A-Meal venture. Local Share-A-Meal teams consisting of five volunteers adopt a homebound person and provide a hot meal once a day for five days. So far, more than 600 volunteers have served 132 shut-ins in Nassau and Suffolk Counties—people such as Blanche, Pierre, and Marilyn.

"It's really beautiful," says Mary Bannon, Share-A-Meal coordinator for Catholic Charities. "You should see their faces when they know someone cares." Maureen McKew, a team coordinator from Malverne, New York, concurs. "The meals are one thing, but the companionship is more important."

Along with 24 other public and private agencies servicing the homebound, the diocese has formed a coalition to foster public awareness and to ensure fair treatment for Long Island's 60,000 shut-ins. The Council of Agencies to Coordinate Homebound Services, founded in 1970, assists member agencies in locating shut-ins and in recruiting, training, and placing volunteer visitors. The nonprofit group provides information, referral, consultation, and advocacy services. Its primary purpose is to persuade more local officials to commit financial and manpower resources for new homebound programs.

SPECIAL WEEK

To spur such commitment the council's member organizations plan a week-long campaign to identify hard-to-reach shut-ins and sign up volunteers. Long Island Shut-In Week will be ushered in by National Shut-In Day on Sunday, Oct. 16. Homebound hot lines will be activated and special promotions will be launched by participating agencies.

National Shut-In Day, started seven years ago, was established by presidential decree to be set aside as a special occasion for visiting the sick, elderly, disabled, and incarcerated.

EDITOR OF JANE'S CALLS U.S. VOLUNTEER FORCE ASSET

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. STEIGER. Mr. Speaker, Jane's Fighting Ships is considered the authoritative guide to the world's warships. The 80-year old publication has been recognized over the years for its accuracy in assessing the strengths and weaknesses of naval forces throughout the world.

The latest edition of Jane's then, should give heart to those who have been concerned about the quality of the U.S. Navy. In his forward to the publication's 1977–78 edition, its editor, Capt. John Moore, has words of praise for U.S. naval forces.

He sharply criticizes those who compare fleets on the basis of numbers or tonnage of ships. There are qualitative factors too, he says.

"Only when capabilities, training, and a dozen other factors are included in the argument is there any hope of making a sensible comparison," writes Captain Moore, "Let us get off the adding machine and think about men. It is here that the All-Volunteer U.S. Navy has the edge on so many rivals."

Captain Moore's words are a strong endorsement for the U.S. All-Volunteer Force. Following are a New York Times story and a Chicago Tribune editorial giving greater detail on his assessment of our volunteer Navy:

[From the New York Times, Aug. 25, 1977]

EDITOR OF JANE'S CALLS U.S. VOLUNTEER FORCE ASSET

LONDON, August 24.—The new edition of Jane's Fighting Ships says the all-volunteer United States Navy has the edge over conscript rivals. The book also has high praise for what it calls the Soviet Union's "very powerful and well-knit fleet" and for France's achievement of global sea power.

The editor of the 80-year-old authoritative guide to the world's warships opens the new volume with sharp criticism of the practice of comparing fleets on the basis of numbers or tonnage of ships.

"Only when capabilities, training and a dozen other factors are included in the argument is there any hope of making a sensible comparison," wrote Capt. John Moore in a foreword. "Let us get off the adding machine and think about men. It is here that the all-volunteer U.S. Navy has the edge on so many rivals."

The editor also said recent increases in American shipbuilding helped give the United States Navy its advantage.

"Despite carping," he wrote, "the plain fact is that after a slump in building, available numbers in the active [American] fleet are rising, and this is vital for a navy with worldwide commitments."

Tonnage comparisons prove little while obscuring other factors, he said, adding: "What it can obscure is that 91,400 tons of Nimitz [the American aircraft carrier] can be in only one place at a time, despite the range of her aircraft, while 18 5,000-ton ships can be in 18 places."

"MOST DRAMATIC OF UNVEILINGS"

Comparing numbers of ships in rival fleets can mean little more, he wrote.

Captain Moore said that Soviet builders were steadily improving the quality of their ships and submarines, and "the overall picture is of a very powerful and well-knit navy whose capabilities, if not numbers, are increasing month by month."

He described as "the most dramatic of unveilings" in the last 12 months the commissioning of the 54,000-ton Soviet aircraft carrier Kiev, which Moscow calls an antisubmarine cruiser.

He speculated that the Kiev might carry 500 soldiers if need be, providing "a powerful intervention force should the use of surrogate troops in a crisis, real or engineered, be impracticable or inefficient."

The editor had high praise for the home-built French fleet and what he called its "brilliant designers." He said France could

now claim worldwide sea deployment along with the United States and the Soviet Union.

"Already its capabilities have been recognized abroad in the considerable orders for French ships and craft from other navies," he wrote.

Captain Moore said that despite the Soviet Navy's strength—including the ability to strike American Pacific Coast cities, Hawaii, Brazil, Mozambique or Indonesia with missiles launched from the Barents Sea—the Russians had manpower problems stemming from centralized control. He did not elaborate.

He also questioned whether the new American nuclear-powered cruisers of the Virginia and Californa classes were worth their high costs.

"Costs of the former, for many reasons, almost trebled over the years," he said. "Is the return on $300 million really cost-effective for a ship whose only surface-to-surface capability is currently a pair of five-inch guns?"

[From the Chicago Tribune, Aug. 26, 1977]

A KIND WORD FOR VOLUNTEERS

No one can accuse the publication Jane's Fighting Ships of being a Polyanna. Through the years it has issued candid and early warnings about increases in Soviet military power, and in general its warnings have proved right. Away back in 1950 it was saying the Soviet Union was rushing to build a navy "far in excess of the normal requirements of defense." Now that some Americans have discovered Russia has accomplished this, they are wondering why they weren't warned.

Occasionally the authoritative British publication has some encouraging words. In 1943, while the Japanese military forces seemed to be riding high, Jane's said that Japanese naval losses in the battle of Midway might "well prove fatal." This, too, proved true.

So we can take some comfort from the fact that the new issue of Jane's says the all-volunteer status of United States Navy personnel is a big plus for our fleet. The editor, Capt. John Moore of the Royal Navy [retired], deplores purely quantitative comparisons of fleets on the basis of numbers of ships or tonnage. There are qualitative factors, too. "Only when capabilities, training, and a dozen other factors are included in the argument is there any hope of making a sensible comparison," writes Capt. Moore. "Let's get off the adding machine and think about men. It is here that the all-volunteer U.S. Navy has the edge on so many rivals."

We have long believed that military organizations in a time of so-called peace should be composed of people who really want to be in them. But we've had doubts from time to time that a voluntary system attracted enough well-equipped personnel. Capt. Moore does not share those doubts. In fact, in an interview last year with The Tribune's Robert Merry, he said that a conscript force was one of the great weaknesses of the Soviet navy.

"The Soviet fleet suffers from the enormous task of having to train 100,000 new conscripts every year," he said. "That's one-fifth of the total force. After three years' service, most draftees return home."

Because of the high rate of turnover, he said, draftees are not trained broadly enough to be innovative and flexible in their jobs: "The conscript is trained to look at one dial and twiddle one knob and that's about it."

Our volunteers tend to serve longer and become more widely competent. A "free" Navy, like a free society, undoubtedly operates more effectively than a captive one.

With this encouragement, we can face the new warnings that accompany Capt. Moore's compliments. He reminds us that the Soviets are steadily improving the quality of their ships and submarines, and that "the overall picture is of a very powerful and well-knit navy whose capabilities, if not numbers, are increasing month by month." Couple those facts with what is known about Soviet global ambitions and one must hope that Congress will do its job as well as the volunteers in service.

SURVIVAL OF THE BOWHEAD WHALE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. FORSYTHE. Mr. Speaker, at its last meeting, the International Whaling Commission voted unanimously to end, temporarily, all taking of a long protected species of great whale, the bowhead whale. This species has been excluded from commercial harvesting for years but has been open to subsistence taking by Natives in Alaska and in the Soviet Union. In recent years, however, the number of bowheads killed by Natives in Alaska has jumped considerably. Most of those killed by the exploding harpoons now used in the hunt are never landed.

I am appalled that at this late date there are a small number of people who are still pushing to have the United States file an objection to the IWC's ruling on the bowhead quota. I have made my position in opposition to the filing of any objection to the zero quota on bowheads very clear. I feel that a recent letter sent to Secretary of State Cyrus Vance by Project Monitor on behalf of numerous environmental groups sets forth the facts of the bowhead situation in a form which will aid my colleagues in their understanding of the problems involved.

I am therefore including a copy of the letter to Cyrus Vance by Project Monitor for the attention of my colleagues. I hope that those Members concerned with the survival of this species and of the International Whaling Commission itself will make their concern known to the Secretary of State.

The letter follows:

MONITOR, THE CONSERVATION, ENVIRONMENTAL AND ANIMAL WELFARE CONSORTIUM,
Washington, D.C., September 22, 1977.

Hon. CYRUS VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: The Monitor member organizations listed below endorse the contents of this letter:

Defenders of Wildlife
Humane Society of the United States
The Fund for Animals
Connecticut Cetacean Society
Animal Welfare Institute
International Fund for Animal Welfare
Audubon Naturalist Society of the Central Atlantic States
Committee for the Preservation of the Tule Elk
Let Live
International Primate Protection League
Washington Humane Society
American Littoral Society
Chesapeake Chapter American Littoral Society
Society for Animal Protective Legislation
Rare Animal Relief Effort

There are reports that the State Department is considering recommending that the United States file an objection to the zero quota set on bowhead whales by the International Whaling Commission.

We strenuously oppose such action by the State Department. An objection would destroy U.S. credibility in the IWC and other international fora. An objection would likely precipitate objections to other whale quotas from Japan, the Soviet Union, and other whaling nations. The hard-won whale conservation measures adopted over the last five years would be wiped out by such ill-considered action.

The State Department would make President Carter look like a hypocrite if an objection is filed to the bowhead quota.

President Carter has been a leader in the whale conservation campaign since 1971. During the 1976 Presidential campaign, he issued a position paper stating:

"I have a longstanding commitment to protect the oceans and the animals that live therein. The United Nations Conference on the Human Environment took place in Stockholm, Sweden, in 1972. I was a member of the advisory commission to the United States delegation. At that time, I worked to make preservation of whales a major issue at the conference. Since then, I have been concerned about the destruction of many stocks of marine mammals and fish.

"I have supported the Marine Mammal Protection Act of 1972 since its passage. So far, implementation has been slow and timid. Under the Carter Administration that will not be the case. We must join together with other nations to preserve the species in the oceans that are endangered or threatened."

On May 23, 1977, President Carter issued his environmental message. "In order to provide additional protection for whales," the message stated, "the Secretary of Commerce, with the foreign policy guidance of the Secretary of State, have been directed to pursue negotiations within the International Whaling Commission for a stronger international conservation regime for whales and other cetaceans, affording protection for them throughout their range."

In a personal message to the opening session of the annual meeting of the IWC, at Canberra, Australia, on June 20, 1977, President Carter stated: "Whales have become symbolic of our environmental problems as a whole. No longer are they viewed as a product from the sea available to those with the technology for their harvest."

The President called for a ten-year moratorium on commercial whaling and issued a clear warning to nations "which diminish the effectiveness of the conservation regime of the IWC."

The IWC acted to set a zero quota and remove the native exemption after it was apparent that the U.S. government has failed to regulate the Eskimo killing. As far back as 1972, the IWC expressed concern over the increasing hunting of the bowhead. Of all the ten species of great whale, the bowhead is the most endangered. Its population is estimated to be just 6 percent to 10 percent of original size. Other whale stocks are given full protection by the IWC when they reach 54 percent of original population.

In 1976, the IWC adopted a strong resolution calling for the U.S. to institute regulations to reduce the bowhead kill. When the IWC scientific committee this year learned that the spring hunt in Alaska had been the largest in history, the 31 scientists unanimously called for a halt to the killing for one year.

Rep. Paul N. McCloskey, a U.S. delegate to the IWC meeting, commented that "the Executive Branch of the U.S. Government has been delinquent" in controlling the bowhead kill. Indeed, it was only in June of this year that the National Marine Fisheries Serv-

ice moved to declare the bowhead population depleted, the first step toward imposing regulations on the Eskimos. Three years ago, Monitor groups petitioned the NMFS to find the bowhead depleted.

The chairman of the IWC scientific committee, Dr. K. Radway Allen of Australia, warned that the biological survival of the bowhead was at stake, and therefore "all exploitation should stop."

The U.S. delegation sat in embarrassed silence as the Danish whaling commissioner Einar Lemche, observed acidly: "The United States has been conservative in all whaling matters except its own whaling."

The U.S. has the opportunity to raise the bowhead issue in December when the IWC holds a special meeting in Tokyo. If the U.S. can present a credible proposal for a strictly-controlled bowhead take, based upon historical kill-rates and without the atrocious waste of recent years, then we believe the IWC will agree to reinstate the aboriginal exemption, possibly for the 1978 spring hunt.

The IWC sets whale quotas for one year at a time. Next June, if not in December, the IWC will again reconsider the status of the bowhead and aboriginal whaling.

Even if the December meeting should reject a spring hunt, it would be no great tragedy for the Eskimos to halt the killing for just one year. Every Eskimo village has had several years this century when no whales where caught. This was caused by ice and weather conditions and the inability of the Eskimos to kill and secure the whales.

The Eskimo villages were not wiped out in those years when there was no whale kill. Indeed, the largest whaling village by far, Barrow, has had seven zero-kill years, including a three-year stretch (1957–59). Barrow has grown steadily despite those years of no whales.

The one hard truth in this controversy is that the bowhead whale population cannot survive the uncontrolled and increasing destruction by the Eskimo whalers.

There is very little tradition left in modern Eskimo whaling. The real traditional kill of bowhead whales averaged less than 10 whales per year between 1942 and 1969. Since 1970, the level of hunting has expanded several times. The average kill has been almost 30 per year, with three times that number struck but lost.

This extraordinary increase has been caused by the rising affluence in Eskimo villages. Young men working in oil and construction had money to buy boats, outboard motors, and bombs. Totally inexperienced in the skills of harpooning and securing a whale, these new whalers have decimated the bowhead stocks.

The natural growth rate of the bowhead stock is believed to be about three or four percent per year. The Eskimo take in recent years has far exceeded this rate. We must therefore assume that the already-endangered species is becoming more endangered each year. Eskimo society will suffer far more if they extirpate this marine mammal, around which so much of their culture revolves, than if they are forced to reduce or temporarily halt the killing.

We must recognize that tens of thousands of other peoples around the world have suffered heavily because of the strong whale-conservation measures adopted under U.S. leadership. The major whaling industries in Japan and the Soviet Union have been forced to lay off thousands of workers, most of them older employees who have spent a lifetime in whaling. The President's Council on Environmental Quality estimates that the reduced IWC quotas have cost the foreign whaling industries more than half a billion dollars in gross value of whales.

If the U.S. were to file an objection to the bowhead quota—an insignificant cutback compared to the tens of thousands of whales cut from Japanese and Soviet quotas—then we would be telling the world that there is a double standard in whale conservation.

The credibility of the United States and our sorely-needed leadership in protecting our planet's escosystem would be severely damaged by an objection.

Respectfully,

CRAIG VAN NOTE,
Executive Vice President.

FARMERS HOME ADMINISTRATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. AUCOIN. Mr. Speaker, I would like to enter into the RECORD today a set of correspondence between me, the President, and the Office of Management and Budget that bears upon the staffing levels of the Farmers Home Administration.

The purpose of laying out this exchange of letters is to convey my discouragement that the advent of a Democratic administration apparently has not resulted in new outlooks at OMB.

The exchange also serves to alert my colleagues to a fight we may be facing not only in connection with FmHA but with other vital programs that serve valid and important needs for the people of this Nation:

WASHINGTON, D.C.,
September 26, 1977.

Hon. JAMES EARL CARTER,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Few federal agencies are as important to the well-being of rural America as is the Farmers Home Administration. This agency provides direct services to millions of rural people and countless communities. Operating out of 1,762 county offices, plus district, state and national offices, Farmers Home Administration is the largest direct lending federal agency. FmHA is responsible for servicing $18 billion in loans for all of its various programs that range from housing and home rehabilitation to community facilities such as water and sewer systems.

Beyond this, FmHA is more than a conventional lending institution. For many rural people, including small farmers and poor families, it represents the only financial resource available to them. FmHA provides technical assistance when nobody else can or will provide it.

In short, Mr. President, Farmers Home Administration is an integral part of life in rural areas, much more so than the majority of federal agencies. Its employees work and live in the communities they serve. They have a stake in those communities and their work reflects that.

For these reasons, I have been unswerving in my support for the Farmers Home Administration, not because I believe it is without fault, but because I believe it is a valuable resource that must be cultivated for the good of rural America.

I recently wrote a letter to Congressman Jamie Whitten, Chairman of the Appropriations Subcommittee on Agriculture, in which I described some of the rural families who are receiving the assistance they desperately need through one of FmHA's programs. That letter underscores that abject poverty still exists in rural areas today just as it does in urban areas, and to emphasize my commitment to do something about it.

This brings me to the point I want to raise with you in this letter. During consideration of the Fiscal Year 1978 appropriations bill for the Department of Agriculture, I offered an amendment on the House Floor to provide additional funds to enable the hiring of 500 additional full-time employees for FmHA. This was in addition to the 40 which were proposed in the House bill and would have been closer to the 1,000 new employees recommended in the corresponding Senate bill.

I withdrew my amendment before a vote was taken and subsequent to that, House/Senate conferees agreed to a 300-employee increase for FmHA.

I cite this legislative history so you can understand my concern and displeasure upon receipt of a letter from the Office of Management and Budget on this very point. The letters I sent to OMB and their responses are enclosed for your inspection.

In my correspondence with OBM, I drew a comparison between the functions of FmHA and the U.S. Forest Service, noting that both are involved in productive ventures. The Forest Service manages timberlands that return a handsome dividend for each dollar invested. FmHA does, too, in that it stimulates housing and community development. The byproducts of both agencies' work are the creation of jobs, the generation of taxes for local, state and federal governments and the satisfaction of critical needs of our citizenry. Their work is good for the economy, and at the same time meets important social needs for the country.

There should be no question of their priority when it comes to allocating funds necessary for these agencies to perform as we expect them to perform. But apparently there is. And for that reason I find the OMB response to my letters absolutely unacceptable.

While OMB has given temporary relief to the Forest Service by agreeing to 1,500 "other than full-time employees," its game plan for FmHA is disgraceful. OMB, if it would have its way, wants FmHA to retreat from its traditional and essential role as a direct insured lender of last resort in rural areas. Instead, OMB would have FmHA move more into guaranteeing loans that conventional lenders are willing to write.

I believe the FmHA guaranteed loan program has value. But, Mr. President, it is meaningless to the literally hundreds of thousands of low-income, poverty-level rural residents, many of them elderly or disabled, who cannot qualify for a loan even with the enticement of a federal government guarantee.

There are few Members of Congress more uneasy about federal spending than I am. I do not believe we can solve every problem in the country or the world by throwing money at it. Nor do I believe we can support every program that we can think of just because it would do good. We must recognize our spendable resources are finite just like our natural resources such as oil and natural gas are finite.

Thus, I wholeheartedly support your pledge to balance the federal budget by 1981 and your zeal in cutting away the fat in the federal government. In that, I will be your constant ally.

But I cannot stand by and watch vital programs that help people and help communities suffer at the hands of a management agency that does not fathom this issue. I opposed this when James Lynn was head of OMB under your predecessor and I will oppose it now.

In addition to the exchange of correspondence between OMB and me, I am also enclosing a memorandum to head of department agencies within the Department of

Agriculture that is most revealing. It shows that not only is OMB resisting hiring the new employees Congress authorized in the FY 1978 appropriations bill, it is plotting to axe as many as 825 full-time positions in the department.

I am advised, Mr. President, that the figure may actually be closer to 1,600 and that half of those may come from FmHA alone.

If this comes about, it will be a staggering turn of events. It would represent the most short-sighted sort of thinking. At a time when genuine voices of concern are being raised about conditions in rural America, this action would appear as an uncaring, insensitive act of betrayal.

Mr. President, you grew up and prospered in a rural area in Georgia. I come from a rural area of Oregon. Both of us know the pressures facing rural areas—the squeeze on the small family farm, the decay of rural cities, the deterioration of rural economies, the flight of the dispossessed to big cities—creating the urban problems others are now pressing your administration to address. I would make this point as an advocate of a vigorous urban policy: to solve the urban crisis, we must keep rural communities decent places to live. The alternative is further population impaction on the cities.

Let's end capricious spending. But let's not substitute a Scrooge-like economic philosophy that scrutinizes every expenditure without looking up to see what good it does.

FmHA is entering a new era. It has expanded its vision. It has many new programs to administer. Those of us who have fought for those new programs did so because we had faith in FmHA's tradition and ability to give direct service to the most needy persons in rural areas.

Increasing the staff of FmHA will not solve all the problems in rural America. But cutting the staff, impairing FmHA's ability to carry out its duties and responsibilities in the most responsive way possible, will exacerbate already existing problems.

Rural America is a valuable resource. But like big cities, the existing investment we have made needs to be enhanced and enriched. These are costs we must agree to make if we are to keep these areas viable.

With warmest personal regards,

Sincerely,

LES AUCOIN,
Member of Congress.

WASHINGTON, D.C.,
July 11, 1977.

Mr. BERT LANCE,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. LANCE: On March 4, I led a delegation of representatives of the forest products industry, homebuilders, and construction trade unions who came to talk with you about the importance of viewing monies spent on federal timberlands as an investment that will yield rich dividends in the future. I was convinced then and remain convinced now that, given your business background, you had a firm grasp of the point the delegation and I attempted to make.

Thus, it is disturbing for me to learn that the Office of Management and Budget has refused to increase the personnel ceilings for the U.S. Forest Service in Fiscal Year 1977 despite a clear indication of support from Congress in the FY 77 Supplemental Appropriations bill.

This action severely undermines the efforts of Congress to carry out the goals of the Forest and Rangeland Renewable Resources Planning Act and to bring about common sense management of the vast natural resources in the West. Its implication for FY 1978 is quite troubling.

I presume OMB's action is predicated on the Administration's pledge to hold the line on growth of the federal bureaucracy. However, in this instance, this is short-sighted economy. In the case of the Forest Service, we are talking about a productive area of the federal government that has control over what is virtually a treasure house of natural wealth. It is not good business to hamstring this agency, preventing it from carrying out management functions such as timber sale preparation, reforestation and recreation development. The price to be paid if we do hamstring this agency is further uncertainty over timber supply, lumber shortages, rising prices for building materials and housing and, ultimately, more unemployment in a sector of the economy that has suffered enough.

I cannot help but compare this situation to another agency within the Department of Agriculture—the Farmers Home Administration. As perhaps you know, I proposed an amendment on the House floor to provide monies to enable FmHA to increase its full-time permanent personnel level by 500 positions. My reason was that as I viewed the $18 billion outstanding principal of FmHA and the unfathomable jury-rigged nature of the agency's staffing, I became alarmed. I said to myself that if the president of a corporation doing business on this scale tried to run his operation with permanent part-time, temporary full-time and CETA and VISTA workers in the field, his stockholders would fire him in a minute. They would rightly argue that good economy is one thing, but short-cuts like this are dangerous and lead to trouble.

I am sympathetic with curbing the growth of the federal government and bridling federal spending. But I do not construe that to mean we ought to run a ship that is Scotch-taped together. That's particularly so in areas that are productive and so vital to the public's welfare, including the activities carried out by the Forest Service and Farmers Home Administration.

I urge your personal attention to these issues which while not glamorous in the eyes of some, are sound, sensible ways the federal government can contribute to a table economy and an improved standard of living for our citizens.

With warmest personal regards,

Sincerely,

LES AUCOIN,
Member of Congress.

JULY 12, 1977.

Mr. BERT LANCE,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. LANCE: Since sending my letter to you dated July 11, 1977, it has come to my attention that the Office of Management and Budget has agreed to permit the U.S. Forest Service to hire 1,500 less than permanent employees, thus allowing the agency to use most, if not all, of its additional FY 1977 supplemental appropriation.

While I am encouraged by that, I still feel it is important for Members of Congress such as myself to reinforce our strong feelings on the importance of equipping the Forest Service so it can operate effectively toward intensely managing our national timberlands.

As I indicated in my first letter, I have confidence you have the issues at hand in this matter firmly in mind and will act accordingly, as you have shown by the step to increase the Forest Service's personnel level for this year.

With warm regards,

Sincerely,

LES AUCOIN,
Member of Congress.

WASHINGTON, D.C.,
September 2, 1977.

Hon. LES AUCOIN,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN AUCOIN: This is in response to your letters to the Director concerning personnel ceilings for the Forest Service and the Farmers Home Administration.

As you are aware, the Forest Service ceiling for other than full-time permanent employees has been increased by 1,500 positions for fiscal year 1977. In addition, the President has asked the Secretary of Agriculture to carefully review Forest Service personnel requirements ". . . to determine the minimum adjustment in your Department's employment ceiling for fiscal year 1978 required to implement the funded programs."

With respect to the Farmers Home Administration, a number of steps have been taken and are being coinsidered to assure effective administration of this agency's loan and grant programs:

Legislation has been proposed by this Administration to authorize loan guarantees for many of the loan programs. Enactment will enable private lenders to assume a major share of the loan origination and loan servicing functions presently performed by FmHA under its direct loan programs.

Financial management systems serving FmHA field offices are being improved and augmented by additional data processing capacity.

The Department of Agriculture is exploring opportunities for utilizing staff resources in other USDA agencies to assist FmHA during peak workload periods.

The Administration shares your concern that appropriate resources be made available to assure effective and efficient management of these programs. We believe that this objective can be attained together with the objective of controlling the growth in overall Federal employment.

We appreciate knowing of your concerns on these matters and assure you that they will be carefully considered.

Sincerely,

HUBERT L. HARRIS, Jr.,
Assistant to the Director.

MEMORANDUM TO HEADS OF DEPARTMENT AGENCIES

REDUCTION IN EMPLOYMENT CEILINGS

WASHINGTON, D.C.,
August 26, 1977.

The Office of Management and Budget has reduced the Department's ceiling for permanent full-time employees by 825 from the ceilings previously given to you. The Department is expected to be at or below this ceiling by September. Further, the President has indicated his personal interest in maintaining effective controls over employment and has asked to be advised of any agency which exceeds its ceiling.

We have been given the following guidelines to be followed in maintaining employment controls:

Ceilings should not be circumvented by temporary layoffs or other actions to attain ceiling levels only for the date that the ceilings are effective.

Unavoidable increases in workload should be absorbed.

Contracting should be used only in accordance with policies established in OMB Circular No. A-76.

Reallocations should be made to meet highest priority programs, especially those vital to human health and safety.

Attention should be given to management improvements, more productive workload arrangements, and organizational changes in order to meet the ceilings.

Reductions should be accomplished through attrition and reductions-in-force used only if required by program considerations.

Discussions with agency officials indicate that several agencies will be below their ceilings for various reasons in September. Therefore, rather than imposing a new set of ceilings this late in the fiscal year, I am asking that you voluntarily exercise restraint in the hiring of new employees through the remainder of the fiscal year. Only those positions absolutely necessary to carry out your highest priority program responsibilities should be filled, even though your agency may currently be below its previously established ceiling. If we exercise such voluntary restraint, we will be able to meet the President's goal for 1977. On this basis, I am lifting the three-for-four hiring limitation imposed by my memorandum of March 9.

Mr. Lance's letter also establishes a further reduction in our employment ceiling for 1978. I am asking Director Hjort and the Office of Budget, Planning and Evaluation to work with you in reevaluating your 1978 personnel requirements based on the 1978 Appropriations Bill as approved by the Congress. I expect this evaluation to reveal areas where we can make reductions in personnel without eliminating necessary ongoing services. When this review has been completed, we will establish our ceilings for 1978.

JOHN C. WHITE,
Acting Secretary of Agriculture.

COMMON AUDIT

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. HANNAFORD. Mr. Speaker, I have been working for almost a year to extend the Department of Health, Education, and Welfare's experimental hospital common audit program. This voluntary program consolidates Federal and State hospital audits conducted under the medicare, medicaid, and maternal and child health programs into a single, Federal audit. It means less harassment of participating hospitals, less bureaucratic overlapping, better auditing of Federal health programs, fewer audits, and substantial economy in both bureaucratic expenses and Federal health disbursements. I hope that for these reasons my colleagues support this program.

There will be several opportunities in the 95th Congress to mandate an extension of this program to all hospitals in all States. For the benefit of the Members of the House, I submit for the RECORD a letter from HEW Secretary Califano which concisely places the common audit program into historical perspective. The enclosures mentioned in the letter are available for examination in my office:

WASHINGTON, D.C.,
July 21, 1977.

HON. MARK W. HANNAFORD,
House of Representatives,
Washington, D.C.

DEAR MR. HANNAFORD: Thank you for your letter regarding consolidation of hospital audits for Medicare, Medicaid, and associated private intermediaries. I appreciate your interest in the potential savings which a consolidation program of this type might effect.

You have asked who conducts program audits and to what extent the information requested overlaps between the two programs. You have also asked how much duplication exists in these audits. I would be pleased to describe the audit activities currently pursued under these programs.

As you know, Medicare reimburses hospitals for reasonable costs. Hospitals submit cost reports which represent their statement of costs to be reimbursed by the program. These are settled on the basis of annual audits which are conducted, in most cases, by the private insurance organizations which serve as Medicare intermediaries.

The procedures used under Medicaid are slightly different, since Medicaid is administered by States. Some States conduct these audits themselves. In others, the State's intermediaries (called fiscal agents) conduct the audits, using their own staff and resources, or that of outside audit firms.

The area of greatest potential overlap between Medicare and Medicaid audits is in the review of providers' indirect operating expenses. This accounting category includes general administrative, plant operation, maintenance, repair, and laundry or linen service costs. Overlap in this area may result from two factors: (1) duplicative program audit requirements to review allocation of indirect operating expenses; (2) possible differences of opinion between the programs on the allocation rates established for these costs.

Recognizing that some economy was possible, the Department has developed and implemented a common audit program on a voluntary basis for any State wishing to participate. The purpose of this effort is to minimize program overlap and to reduce the cost of provider auditing under Medicare and Medicaid.

Through the coordination of Medicare regional offices, we have urged Medicaid agencies to negotiate common audit agreements between the two programs. State or Medicare intermediary staff and other resources are used to conduct audits for all or a subgroup of providers participating in the two programs. States and the Federal government, through Medicare fiscal intermediaries, share audit costs based upon the ratio of benefits or reimbursements paid by the respective programs.

Thirty-seven Medicaid State agencies have initiated common audit programs, with 61 Medicare intermediaries. Similar arrangements have been developed between 26 Maternal and Child Health State agencies and 42 Medicare intermediaries. A few intermediaries are also participating with respect to their private business.

This common audit approach has already resulted in substantial administrative economies for hospitals and for the Medicare and Medicaid programs. We are considering issuing a notice of proposed rulemaking that would, if adopted in final form, mandate State agency participation. We will continue to encourage intermediaries to participate voluntarily on a full cost sharing basis for their private business. However, legislation would be required to mandate private sector participation in common audits.

I enclose a copy of the common audit program instructions and a copy of the most recent status report on this initiative for your review. I have also requested Robert Derzon, Administrator of the Health Care Financing Administration, to arrange a briefing meeting on this program for you and your staff if you seek additional information on this subject.

Sincerely,

JOSEPH A. CALIFANO, Jr.

SICKENING SIGHTS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. BAUMAN. Mr. Speaker, the Baltimore News-American has commented editorially on the scene which occurred at the recent opening of the United Nations 32d General Assembly. They have my agreement in their revulsion against the unwarranted and insulting actions of Ambassador Andrew Young when he publicly went out of his way to welcome the Vietnamese butchers into the U.N. Of course, had not Mr. Young's boss, Mr. Carter, permitted it, the Red Vietnamese would never have gained entrance to the U.N. The selective Carter human rights policy, however, allowed the administration to overlook the current death and brutality occurring in Vietnam as well as the fact that more than 50,000 Americans gave their lives in this struggle. Mr. Young, in his U.N. remarks, even went so far as to boast about his opposition to the war in Vietnam while he was in Congress, an opposition which helped to make the no-win policy succeed.

Mr. Speaker, not to be outdone, the Director of ACTION, Mr. Sam Brown, equaled Ambassador Young's sickening performance. The radical Mr. Brown showed up the following night at a New York rally heavily weighted with Communists and fellow-travelers to welcome the Red Vietnamese into the U.N. He smiled his approval as the enemies of America attacked the country he has sworn an oath to uphold.

Mr. Speaker, both of these so-called public servants should be dismissed from office by President Carter. Their pro-Communist, anti-American actions far outweigh any activities engaged in by Bert Lance and the President should not tolerate them any longer.

The article follows:

SICKENING SIGHTS

Two sights which should give sore eyes to many Americans marked the opening last Tuesday (Sept. 20) of the 32nd United Nations General Assembly session in New York City.

One was the hoisting of the bloody red flag of the Socialist Republic of Vietnam, the Communist tyranny admitted to UN membership this year with the tacit consent of the Carter administration.

There it was, flapping triumphantly in the breeze on United States soil along with the flags of the other 148 UN members whose emblems are displayed in front of the UN great glass Palace of Palaver.

Some 50,000 U.S. servicemen who lost their lives in the badly directed attempt to merely restrain Communist aggression in Vietnam, instead of smashing it in a war to win (along with their families and the hundreds of thousands who were wounded) henceforth are to have their sacrifices denigrated by that flapping red flag.

The second and equally distressing sight took place inside the glass palace.

Before taking his seat at the opening General Assembly session, U.S. ambassador Andrew Young made a point of seeking out the

new Vietnamese delegation and warmly shaking hands with all of them.

He didn't have to do that. He shouldn't have done that.

But this black racist, who has been stirring up the hornet's nest of racial conflict in southern Africa, was only acting true to form as a sneerer at his country's major convictions and attitudes.

Andrew Young, in spite of his admitted brilliance and presentability, is another serious appointive mistake by President Carter. He has been keeping his big mouth under reasonable control recently, obviously under White House orders, but that is quite unnatural for him. Eventually, whether in the UN or outside it, he is going to reopen his mouth and say something that will make the furor over Bert Lance look like peanuts.

SMALL HEATING OIL DISTRIBUTORS

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. BALDUS. Mr. Speaker, the Small Business Subcommittee on Energy, Environment, Safety and Research held hearings today on the problems of small heating oil distributors. Their specific problems center around a package of incentives that the major oil companies offer to these small heating oil distributors to market heating oil in the off-season.

Three major refiners of the four that the subcommittee requested to testify appeared, and were cooperative in providing a candid discussion of the issues involved. One did not. Texaco informed us that they would not be coming, and did not come.

I insert in the RECORD at this point the correspondence surrounding the request sent to Texaco to testify before our subcommittee. I believe it might be of some interest to our colleagues in the Senate, as they consider the energy bill, to take note of various levels of cooperation Congress receives from these energy companies:

SEPTEMBER 7, 1977.

Mr. WILLIAM K. TELL, Jr.,
Vice President, Texaco, Inc.,
Washington, D.C.

Re Hearings, Summerfill 1977, September 28, 1977, 10 a.m., 2361 Rayburn HOB.

DEAR MR. TELL: Please consider this an invitation and request to testify at the above hearings on Summerfill 1977.

Your company has been co-operative recently in bringing the Subcommittee to a fuller understanding of the reasons for certain changes in Summerfill terms, and their effects on small business. We would like to continue that dialogue in hearings on the above date.

It is my hope at that time that you will have a more complete set of figures on numbers of jobbers participating in the 1977 Summerfill program and the gallons involved. We would like to discuss these figures with you, as well as representative figures of several other companies.

Committee policy requires me to request forty copies of your written testimony to be submitted at least forty-eight hours in advance of the hearings to the Subcommittee, 2361 Rayburn House Office Building, Washington, D.C. 20515.

Thank you in advance for your testimony; if you have questions regarding the above, please feel free to contact my Subcommittee Counsel, David Metzger, at (202) 225-6025.

Sincerely,

ALVIN BALDUS,
Chairman.

TEXACO, INC.,
Washington, D.C., September 16, 1977.

Hon. ALVIN BALDUS,
Chairman, Committee on Small Business, Subcommittee on Energy, Environment, Safety and Research, Washington, D.C.

DEAR MR. BALDUS: This is in response to your letter of September 7, 1977, requesting that a Texaco representative appear at your subcommittee hearings September 28 concerning the summerfill 1977 program.

Texaco is very much aware of the interest which your subcommittee has shown in studying the effects of petroleum marketing activities on small businessmen, and we are most willing to provide appropriate data and information to assist you in your review of this matter. I think this is borne out by the appearance of Mr. Annon M. Card, a Senior Vice-President of Texaco, at your subcommittee hearings on April 30, 1977 and by the detailed answers to questions on the summerfill program which we submitted on July 27, 1977.

I regret, however, that previous commitments and the press of business will make it impossible for Mr. Card or any other qualified Texaco marketing executive to appear personally at the September 28 hearing. At the same time, we in no way wish to be uncooperative in your search for additional information. We would be pleased to submit a written statement or provide answers to any specific questions which you or subcommittee members might have on this subject.

I hope you will understand our position and advise me of what data or information you would like us to provide.

Very truly yours,

WILLIAM K. TELL, Jr.

SEPTEMBER 23, 1977.

Mr. WILLIAM K. TELL, Jr.,
Vice President, Texaco, Inc., Washington, D.C.

Re Hearings, Summerfill, 1977, September 28, 1977, 10 a.m., 2359 Rayburn House Office Building.

DEAR MR. TELL: This letter is in response to your September 23, 1977 telephone conversation with my Subcommittee Counsel, Mr. David Metzger, wherein you declined this Subcommittee's September 7, 1977 written invitation and request to Texaco to testify before this Subcommittee on September 28, 1977.

I am extremely disappointed by your inability to arrange for an appearance on September 28, 1977. As I have informed you in my letter of September 7, this Subcommittee does appreciate your cooperation in testifying before our Subcommittee on matters relating to the Impact of Weather Related Energy Shortages on Small Business in April of this year. We also appreciate your July 27th and July 5th letters, supplying information to the Subcommittee, in response to our inquiries, on the situation of Summerfill, 1977. In view of that past cooperation, I thought it would be appropriate to make one additional attempt to obtain your voluntary cooperation in this matter.

The Subcommittee feels justified in requesting the testimony of Texaco, and in particular, Mr. Annon Card. The importance of having Mr. Card appear rests on the discrepancy between his testimony before the Subcommittee on April 20, 1977 regarding Texaco's promised Summerfills policies, and the subsequent actual policies. Specifically, Mr. Card advised the Subcommittee that no major changes would be forthcoming on the Summerfill program for 1977. Yet, one month later, Texaco joined every other major oil company that we know of in eliminating the one percent discount. This Subcommittee naturally has questions about whether it interpreted Mr. Card's testimony correctly in April, and are eager to allow Texaco the opportunity of a full explanation of these and other matters.

It is my feeling that the public has a right to know that its interest in having sufficient early storage of heating oil for the winter is being protected. Consumers have a right to know why prices are likely to increase for their heating oil. Those are the reasons we are holding these hearings. Given the complexity of the issues, they do not lend themselves to simple discussion in a letter. There is a need on the part of the public to air the matter thoroughly.

In light of these circumstances and your past cooperation, I wish to express my personal desire to resolve this difficulty voluntarily. I shall therefore, extend to you again the Subcommittee's request to testify; We appreciate your consideration of the Subcommittee's strong desire and ultimate determination to obtain Mr. Card's testimony.

In your discussion with my Subcommittee Counsel, you mentioned your letter of September 16 to me declining my request for Texaco to testify at the hearing. I am not in receipt of that letter. However, in the event that you have found the September 28 date inconvenient to testify before the Subcommittee, I am willing to offer alternative dates for the purpose of having Mr. Annon Card testify alone before the Subcommittee.

Thank you for your cooperation in this matter.

Sincerely,

ALVIN BALDUS,
Chairman.

VILLAGE OF GREAT NECK IN NEW YORK WINS AAA PEDESTRIAN SAFETY AWARD

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. WOLFF. Mr. Speaker, I am pleased to announce that the Village of Great Neck in the Sixth Congressional District of New York, has been presented with the "AAA Pedestrian Safety Citation Award" for not having a pedestrian fatality during the past 5 years.

The award was presented to village representatives on September 19, 1977, at special ceremony sponsored by the Automobile Club of New York.

I take this opportunity to inform my colleagues of this award and particularly to congratulate the Village of Great Neck for their superlative efforts in maintaining a safe pedestrian environment for its residents.

ABORTION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1977

Mr. NOLAN. Mr. Speaker, it is with deep regret that I presently address the

House regarding the Hyde amendment which was voted upon yesterday. A close and very dear friend passed away and it was necessary for me to be with the family. My return to Minnesota precluded my vote on the Hyde amendment, an amendment which was extremely important to me. Only the most serious circumstances prevented my being present for the vote on this crucial matter and had I been here I would like to make it known that I would have voted in favor of a strict proposal preventing the use of public funds for abortion with the sole exception of when the mother's life is endangered. My constituents know that I have taken a very strong pro-life stand and because of this commitment it is important for me to now publicly state my position on the Hyde amendment.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 29, 1977, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 30

8:00 a.m.
Energy and Natural Resources
To resume hearings on the following Department of Energy nominations: John F. O'Leary, of New Mexico, to be Deputy Secretary; Dale D. Myers, of California, to be Under Secretary; Alvin L. Alm, of the District of Columbia, to be an Assistant Secretary for Policy and Evaluation; Harry E. Bergold, Jr., of Florida, to be an Assistant Secretary for International Affairs; and Phillip S. Hughes, of Maryland, to be an Assistant Secretary for Intergovernmental and Institutional Relations.
3110 Dirksen Building

9:00 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings on the disposition of U.S. holdings in the Panama Canal Zone.
1318 Dirksen Building

Select Nutrition and Human Needs
To resume oversight hearings on food quality in the Federal food program.
Until 1 p.m. 6202 Dirksen Building

9:30 a.m.
Foreign Relations
To receive testimony on economic considerations from Executive branch officials on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).
318 Russell Building

Human Resources
To mark up S. 1784, to amend the Age Discrimination in Employment Act so as to protect the employment rights of older workers; S. 2108, to amend the Indochina Migration and Refugee Assistance Act of 1975; S. 1328, to encourage the implementation of career education programs; and the nomination of Bertram R. Cottine, of the District of Columbia, to be a Member of the Occupational Safety and Health Review Commission.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 2008, to provide a three-year period for the U.S. to reach a permanent solution of the rebating and other malpractices in our foreign ocean trades.
5110 Dirksen Building

Joint Defense Production
To continue to receive testimony from DOD officials and defense contractors on defense procurement practices.
5302 Dirksen Building

Finance
Business meeting to consider pending calendar business.
2221 Dirksen Building

Veterans' Affairs
To hold hearings on a study by the National Academy of Science on health care for American veterans.
Until 12:15 p.m. 4221 Dirksen Building

Select Intelligence
Special Investigations Subcommittee
Closed business meeting.
S-407, Capitol

OCTOBER 3

9:30 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1720 and 1721, to provide for improved administrative procedures.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Business meeting to consider pending calendar business.
3110 Dirksen Building

Select Small Business
To review title I of S. 1815, Small Business Venture Capital Act of 1977.
424 Russell Building

OCTOBER 4

9:00 a.m.
Select Indian Affairs
To mark up S. 1214, to establish standards for the placement of Indian children in foster or adoptive homes.
4202 Dirksen Building

9:30 a.m.
Foreign Relations
To receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N. 95th Cong., 1st sess.).
318 Russell Building

Human Resources
Aging Subcommittee
To hold hearings on S. 1282, to provide assistance for legal services projects for the elderly.
1224 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Nutrition Subcommittee
To hold hearings on the role of the USDA in nutrition research.
322 Russell Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To hold hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Commerce, Science, and Transportation
To resume hearings jointly with the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources on S. 2053, proposed deep seabed mining legislation.
3110 Dirksen Building

Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
4232 Dirksen Building

Select Indian Affairs
To resume hearings on Federal Indian Domestic Assistance programs.
6202 Dirksen Building

OCTOBER 5

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To hold hearings to review a report by the Congressional Budget Office on energy conservation through public transportation.
4200 Dirksen Building

Foreign Relations
To continue to receive testimony from Members of Congress on the proposed Panama Canal Treaty (Exec. N, 95th Cong., 1st Sess.).
318 Russell Building

Human Resources
To hold hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on S. 2065, to provide consumer rights and remedies in electronic fund transfer systems.
5302 Dirksen Building

Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6226 Dirksen Building
Commerce, Science and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building
Energy and Natural Resources
Parks and Recreation Subcommittee
To continue hearings on S. 1976, to add certain lands to the Redwood National Park, California.
3110 Dirksen Building
Rules and Administration
To hold hearings on S. Res. 166, to create a coordinated administrative management system for the Senate.
301 Russell Building

OCTOBER 6

9:00 a.m.
*Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the Freedom of Information Act.
1202 Dirksen Building
9:30 a.m.
Armed Services
General Legislation Subcommittee
To hold oversight hearings on the Defense Civil Preparedness Agency.
224 Russell Building
Human Resources
To continue hearings to receive testimony from Executive branch officials in connection with recent studies on human resource programs.
4232 Dirksen Building
Veterans' Affairs
To resume hearings on a study by the National Academy of Science on health care for American veterans.
Until 1:00 p.m. 6226 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building
Banking, Housing, and Urban Affairs
Rural Housing Subcommittee
To continue hearings on S. 1150, Rural Housing Act of 1977.
6202 Dirksen Building
Energy and Natural Resources
Business meeting to consider pending calendar business.
3110 Dirksen Building
Select Indian Affairs
To hold hearings on the concept of creating an independent Indian agency.
357 Russell Building
Select Small Business
To receive testimony on the implementation of that part of P.L. 95-89 which established priorities for the awarding of contracts to firms located in labor surplus areas.
424 Russell Building

OCTOBER 7

9:00 a.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings on the activities of the Exchange Stabilization Fund.
6226 Dirksen Building
9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on S. 61, requiring that a certain percentage of U.S. oil imports be carried on U.S. flag vessels.
5110 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1974, the Regulatory Flexibility Act.
424 Russell Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue oversight hearings on variable rate mortgages and on alternative mortgage instruments.
5302 Dirksen Building
Human Resources
Health and Scientific Research Subcommittee
To hold oversight hearings on the implementation of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
6202 Dirksen Building

OCTOBER 10

9:30 a.m.
Environment and Public Works
To hold hearings to review plans for the White House Conference on Balanced National Growth and Economic Development.
4200 Dirksen Building
Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building
Veterans' Affairs
To resume hearings on S. 364, proposed Veterans' Administration Administrative Procedure and Judicial Review Act.
Until 1:30 p.m. 6226 Dirksen Building

OCTOBER 11

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
1114 Dirksen Building
Human Resources
Labor Subcommittee
To hold hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until noon 4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building

OCTOBER 12

9:00 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearing on activities of the Civil Rights Commission.
2228 Dirksen Building
9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To continue hearings to review the needs of the Federal-Aid Highway Program and the Administration's options paper on highway legislation.
4200 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the pricing of Federal Reserve services.
5302 Dirksen Building
Governmental Affairs
To hold hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To resume hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 13

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue oversight hearings on activities of the Civil Rights Commission.
2228 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To resume hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building
10:00 a.m.
Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building
Human Resources
Education, Arts, and the Humanities Subcommittee
To continue hearings on S. 1753, to extend the Elementary and Secondary Education Act of 1965.
6202 Dirksen Building

OCTOBER 14

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 2125, to amend title IV of the ERISA Act of 1974, to permit the Pension Benefit Guaranty Corporation to extend the effective date for mandatory multiemployer plan coverage.
Until 12:30 p.m. 4232 Dirksen Building
10:00 a.m.
*Banking, Housing, and Urban Affairs
To hold oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building
Governmental Affairs
To continue hearings on S. 991, to create a separate Cabinet-level Department of Education in the Federal Government.
3302 Dirksen Building

OCTOBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
4200 Dirksen Building

10:00 a.m.
*Banking, Housing, and Urban Affairs
To continue oversight hearings on issues facing HUD concerning operating costs on distressed FHA multi-family housing projects.
5302 Dirksen Building

OCTOBER 18

9:30 a.m.
Commerce, Science and Transportation
To hold hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings jointly with the Health and Scientific Research Subcommittee of Human Resources Committee on the regulatory and competitive aspects of the health care industry.
4232 Dirksen Building

OCTOBER 19

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 2036, the Amateur Sports Act of 1977.
5110 Dirksen Building

9:30 a.m.
*Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

OCTOBER 20

9:30 a.m.
*Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on proposed legislation dealing with the Department of Agriculture's policies, practices, and procedures regarding family farmers.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 21

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings in connection with recent increases in lumber prices and their effects on the Nation's housing industry.
5302 Dirksen Building

OCTOBER 25

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 26

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 27

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue oversight hearings on the coal leasing program and its general impact on coal development in the West.
3110 Dirksen Building

OCTOBER 28

9:30 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S. 35, proposed Civil Rights Improvements Act of 1977.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the role of the FHA in home financing.
5302 Dirksen Building

OCTOBER 31

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 1

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 1879, to bar the granting of pipeline rights-of-way to applicants who produce oil products.
3110 Dirksen Building

NOVEMBER 2

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receieve testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 3

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to, receive testimony on the possible effect of recombinant DNA research on the field of scientific inquiries.
5110 Dirksen Building

NOVEMBER 9

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 10

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on U.S. monetary policy.
5302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 1845, the Polygraph Control and Civil Liberties Protection Act of 1977.
2228 Dirksen Building

NOVEMBER 14

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 15

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 16

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 17

10:00 a.m.
Judiciary
Improvement in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

NOVEMBER 18

10:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To continue hearings on S. 2014, to provide greater protection to consumers in bankruptcy proceedings.
2228 Dirksen Building

DECEMBER 13

10:00 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

DECEMBER 14

10:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 67, proposing an amendment to the Constitution with respect to the proposal and the enactment of laws by popular vote of the people of the United States.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 30

9:30 a.m.
Human Resources
Labor Subcommittee
To continue hearings on S. 1883 and 1855, to strengthen the remedies and expedite the procedures under the National Labor Relations Act.
4232 Dirksen Building

OCTOBER 11

10:00 a.m.
Foreign Relations
To hold hearings on H.R. 7810, S. 1256, and S. 1257, to amend the laws relating to diplomatic immunity.
4221 Dirksen Building